



**VIA EMAIL**

July 29, 2025

Jose Alberto Veloso  
Municipal Services Office – Central Ontario  
777 Bay Street, 13<sup>th</sup> Floor  
Toronto, ON  
M7A 2J3

Attn: Jose Alberto Veloso

**Re: Comments and Request to Modify Town of Whitby Official Plan (OPA 139) - ERO # 025-0675 - Ministry Reference 18-OP-252602  
Comments on Behalf of RioKim Holdings (Ontario) Inc.  
1629, 1635, 1650, 1741, 1751, and 1761 Victoria Street East  
Whitby, Ontario**

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We are the planning consultants for RioKim Holdings (Ontario) Inc. (“RioCan”), for the Whitby Official Plan Review. RioCan is the owner of the approximately 16.9 ha of lands in the Town of Whitby known municipally as 1629, 1635, 1650, 1741, 1751, and 1761 Victoria Street East, and known as Thickson Ridge (the “RioCan Lands”). The RioCan Lands are developed as a large commercial / retail centre.

On behalf of RioCan, we have been monitoring the Town of Whitby Official Plan Review process and provided preliminary comments to the City dated November 21, 2024 (see Appendix A), January 8, 2025 (see Appendix B), and met with Staff on December 2, 2024. We understand that OPA 139 seeks to implement Strategic Growth Areas that are identified for intensification through Envision Durham, into the Town of Whitby’s Official Plan. Specifically, OPA 139 is a comprehensive review and update of the Whitby Official Plan, in the context of the new Provincial Planning Statement, 2024.

**Based on our review, the Town of Whitby Official Plan policies for the RioCan Lands are not proposed to be updated by OPA 139. Accordingly, it is our professional planning opinion that the RioCan Lands should be redesignated to a more appropriate Land Use Designation and should be considered an Intensification Area, in the context of the *Planning Act* (Bill 97) and 2024 Provincial Planning Statement (“PPS 2024”), for the reasons as noted below.**

**BACKGROUND**

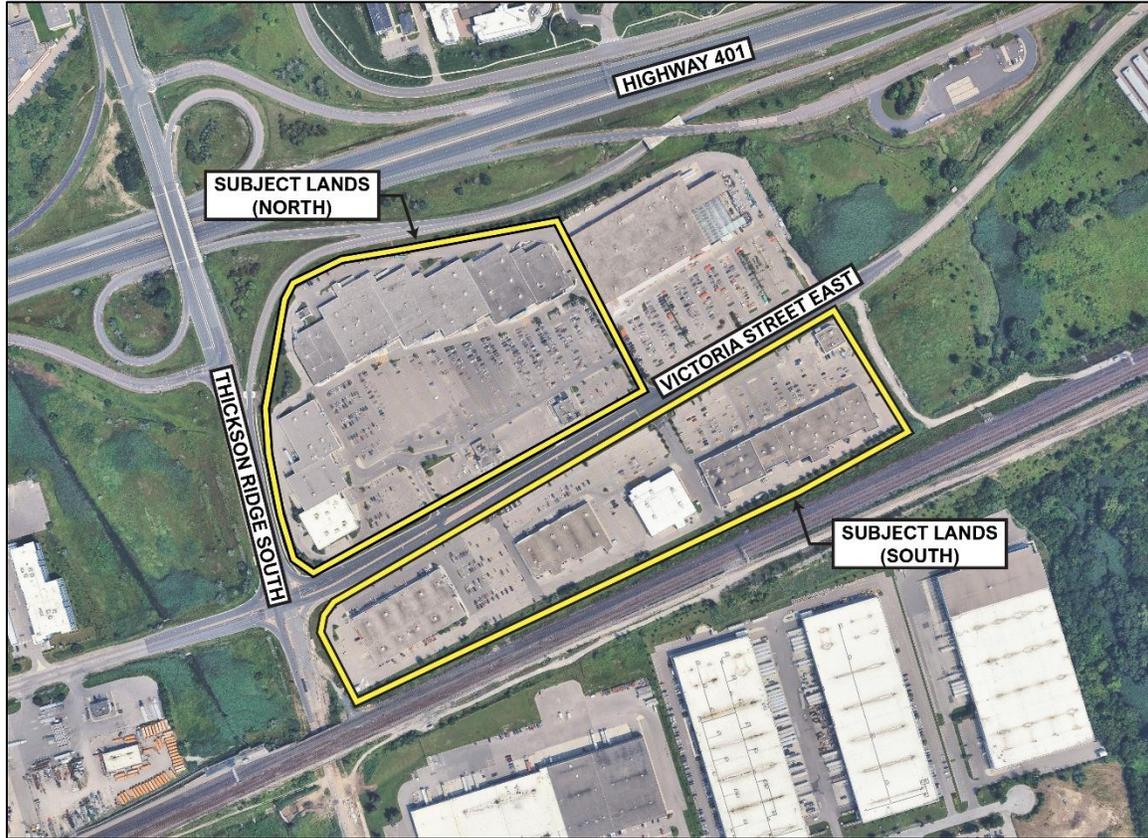
**The RioCan Lands**

The RioCan Lands are generally located south of Highway 401 to the east of Thickson Road South, and to the north and south of Victoria Street East in the Town of Whitby (see Figure 1, following page).

The RioCan Lands are developed as a multi-tenant major commercial shopping centre known as RioCan Thickson Ridge, with 28 independently operating tenants, including Best Buy; HomeSense; Winners; Ashley Home Store; and a number of other commercial retail and restaurant establishments.

There are no manufacturing or warehousing uses existing on this developed commercial site. Any traditional manufacturing or warehousing uses in proximity of the subject lands are separated by physical buffers from the RioCan Lands, including: rail corridors (to the south); the Natural Heritage System (to the west and east); and major roadways (to the north and west).

**Figure 1: Locational Context of the RioCan Lands**



### **In-Effect Town of Whitby Official Plan**

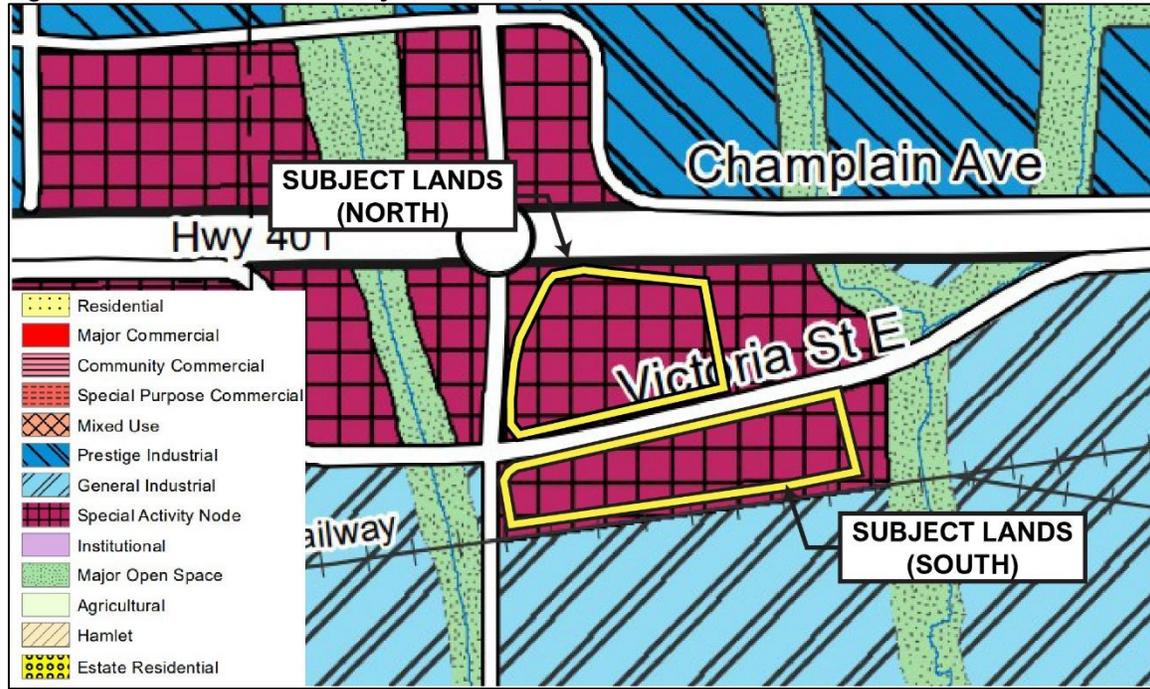
The existing in effect Envision Durham Regional Official Plan (“Envision Durham”) that was approved by the Ministry on September 3, 2024, designates the RioCan Lands as Employment Areas, according to Schedule A, Map A4 Regional Structure.

According to Schedule A Land Use of the Town of Whitby Official Plan, the RioCan Lands are designated Special Activity Node, and are specifically considered Special Activity Node B (see Figure 2, following page). The policies for the Special Activity Node B are described under the “Commercial” land use category; the goal of which is “To ensure the provision of a full range of commercial, residential, institutional, and community uses to accommodate the needs of the Municipality, the Region, and the visiting public” (Section 4.5.1.1). Special Activity Node B is further described by the Whitby Official Plan as follows (Section 4.5.3.6.1):

*“The area designated as Special Activity Node B on Schedule “A” is located at the Highway 401/Thickson Road interchange. Permitted uses shall include major retail uses, offices, including major offices, community and recreational uses, entertainment uses, financial institutions, restaurants, banquet halls, hotels,*

*private clubs, and light industrial uses within enclosed buildings such as data processing centres, commercial or technical schools, and research and development facilities. Notwithstanding any other provisions of this Plan to the contrary, a major retail use in Special Activity Node B does not include supermarkets and department stores.”*

**Figure 2: In-Effect Town of Whitby Official Plan, Schedule A – Land Use**



### **Employment Conversion Request**

As part of the Envision Durham Regional Official Plan Review (Municipal Comprehensive Review), on September 23, 2020, RioCan submitted a request for employment conversion from an Employment Areas designation to a Community Areas designation, for the RioCan Lands. The request was outlined and justified in a Planning Justification Report (“PJR”) dated September 23, 2024 (see Appendix C).

The employment conversion request was made in the context of the previous Municipal Comprehensive Review and the 2020 Provincial Policy Statement and Growth Plan. Since that time, the PPS 2024 has come into effect and the Province has made clear what is, and what is not considered a business and economic use, as is expanded on below.

Please find enclosed to this letter, our submission dated August 9, 2023, to the Minister of Municipal Affairs and Housing and the enclosed Planning Justification Report with comments related to Envision Durham and the request for employment conversion.

### **COMMENTS AND REQUESTED MODIFICATIONS TO OPA 139:**

#### **Planning Act Changes (Bill 97)**

Under Bill 97, the new “area of employment” definition came into effect on October 20, 2024, which states:

“area of employment” means an area of land designated in an official plan for clusters of business and economic uses, those being uses that meet the following criteria: 1. The uses consist of business and economic uses, other than uses referred to in paragraph 2, including any of the following: i. Manufacturing uses. ii. Uses related to research and development in connection with manufacturing anything. iii. Warehousing uses, including uses related to the movement of goods. iv. Retail uses and office uses that are associated with uses mentioned in subparagraphs i to iii. v. Facilities that are ancillary to the uses mentioned in subparagraphs i to iv. vi. Any other prescribed business and economic uses. 2. The uses are not any of the following uses: i. Institutional uses. ii. Commercial uses, including retail and office uses not referred to in subparagraph 1 iv; (‘zone d’emploi”).

The Province has made a clear distinction of what uses are and importantly are not considered a “business and economic” use for the purpose of defining “Area of Employment”. **In our submission, the intent of the Province is for a comprehensive review of municipalities’ lands to evaluate the Official Plan designations that apply to properties that do not align with the new definition of Areas of Employment established by Bill 97.**

**It is our professional planning opinion that the RioCan Lands are not appropriate to consider as an Area of Employment, as they are an independently functioning commercial/retail node, separated from any “business and economic uses”.** It is not expected that the RioCan Lands can feasibly redevelop with warehousing or manufacturing uses, and the identification of the RioCan Lands as Employment Areas is inconsistent with their context as a retail node.

### **New Provincial Planning Statement (2024)**

The “PPS 2024” came into effect on October 20, 2024, and replaced the 2020 Provincial Policy Statement and removed the Growth Plan for the Greater Golden Horseshoe (2020). The PPS 2024 is a policy statement issued under Section 3 of the *Planning Act*, and all decisions that affect planning matters “shall be consistent with” the PPS 2024.

Chapter 6.1 of the PPS 2024 addresses Implementation and Interpretation, including:

- Policy 6.1.5 *“Official plans shall identify provincial interests and set out appropriate land use designations and policies. Official plans shall provide clear, reasonable and attainable policies to protect provincial interests and facilitate development in suitable areas. In order to protect provincial interests, planning authorities shall keep their official plans up-to date with the Provincial Planning Statement. The policies of the Provincial Planning Statement continue to apply after adoption and approval of an official plan.”*
- Policy 6.1.7 *“Where a planning authority must decide on a planning matter before their official plan has been updated to be consistent with the Provincial Planning Statement, or before other applicable planning instruments have been updated accordingly, it must still make a decision that is consistent with the Provincial Planning Statement.”*

**It is our professional planning opinion that the Town has not demonstrated consistency of OPA 139 with the PPS 2024, including as it relates to the RioCan Lands and what is considered to be a “Strategic Growth Area” by the PPS 2024.** In particular, we understand that OPA 139 is intended to be a review of the Town’s Strategic Growth Areas. The PPS 2024 modified what is understood as a “Strategic Growth Area”, and defines it as follows:

*“means within settlement areas, nodes, corridors, and other areas that have been identified by municipalities to be the focus for accommodating intensification and higher density mixed uses in a more compact built form.*

*Strategic growth areas include major transit station areas, existing and emerging downtowns, lands in close proximity to publicly-assisted postsecondary institutions and other areas where growth or development will be focused, that may include infill, redevelopment (**e.g., underutilized shopping malls and plazas**), brownfield sites, the expansion or conversion of existing buildings, or greyfields. Lands along major roads, arterials, or other areas with existing or planned frequent transit service or higher order transit corridors may also be identified as strategic growth areas.” [emphasis added]*

“Intensification” is defined by the PPS 2024 as follows:

*“means the development of a property, site or area at a higher density than currently exists through: a) redevelopment, including the reuse of brownfield sites and **underutilized shopping malls and plazas**; b) the development of vacant and/or underutilized lots within previously developed areas; c) infill development; and d) the expansion or conversion of existing buildings.” [emphasis added]*

The PPS 2024 provides guidance to focus intensification and growth within key areas, including notably “shopping malls and plazas”. Relevant PPS 2024 policies in this regard include Policies 2.2.1; 2.3.1; and 2.4.1. Further, as per Policy 2.8.2.4 of the PPS 2024, “*Planning authorities shall assess and update employment areas identified in official plans to ensure that this designation is appropriate to the planned function of employment areas...*” In our opinion, the RioCan Lands are appropriate for classification as an Intensification Area, in the context of PPS 2024 policy, and their existing function as an expansive retail node.

### **Town of Whitby OPA 139**

We understand that the intent of OPA 139 is to implement Envision Durham Official Plan, particularly as it pertains to the Region’s Strategic Growth Areas. However, given that Envision Durham was approved prior to the release of the PPS 2024, Envision Durham is not consistent with the PPS, specially as it relates to the definition of Strategic Growth Areas.

**It is our professional planning opinion that in order for OPA 139 to be consistent with the PPS 2024, the Town cannot rely solely on the Strategic Growth Areas identified in Envision Durham. Adoption of these Strategic Growth Areas alone does not ensure consistency with PPS 2024. Instead, the Town must review and implement Strategic Growth Areas (and their underlying land use designations) as it relates to current Provincial direction related to Strategic Growth Areas, in order to ensure OPA 139 is consistent with the PPS 2024.**

### **Requested Modifications of OPA 139**

The PPS 2024 is clear in its direction that municipalities should review the opportunity to identify “**underutilized shopping malls and plazas**” as areas for intensification and growth. As outlined above, it is evident that under the PPS 2024 the RioCan Lands are a “Strategic Growth Area”. In order for OPA 139 to be consistent with the PPS 2024, we request the following modifications be made:

- **Schedule ‘A’ Land Use be amended so that the RioCan Lands are designated “Mixed Use” (see Figure 3), an appropriate Land Use designation suitable for intensification, consistent with the PPS 2024; and**
- **Schedule ‘B’ Intensification be amended so that the RioCan Lands are shown as “Intensification Area” (see Figure 4), in order to appropriately demonstrate the RioCan Lands as an area that is appropriate for intensification and as a Strategic Growth Area, consistent with the PPS 2024.**

**Figure 3: Requested Modifications to Town of Whitby Official Plan, Schedule A – Land Use**

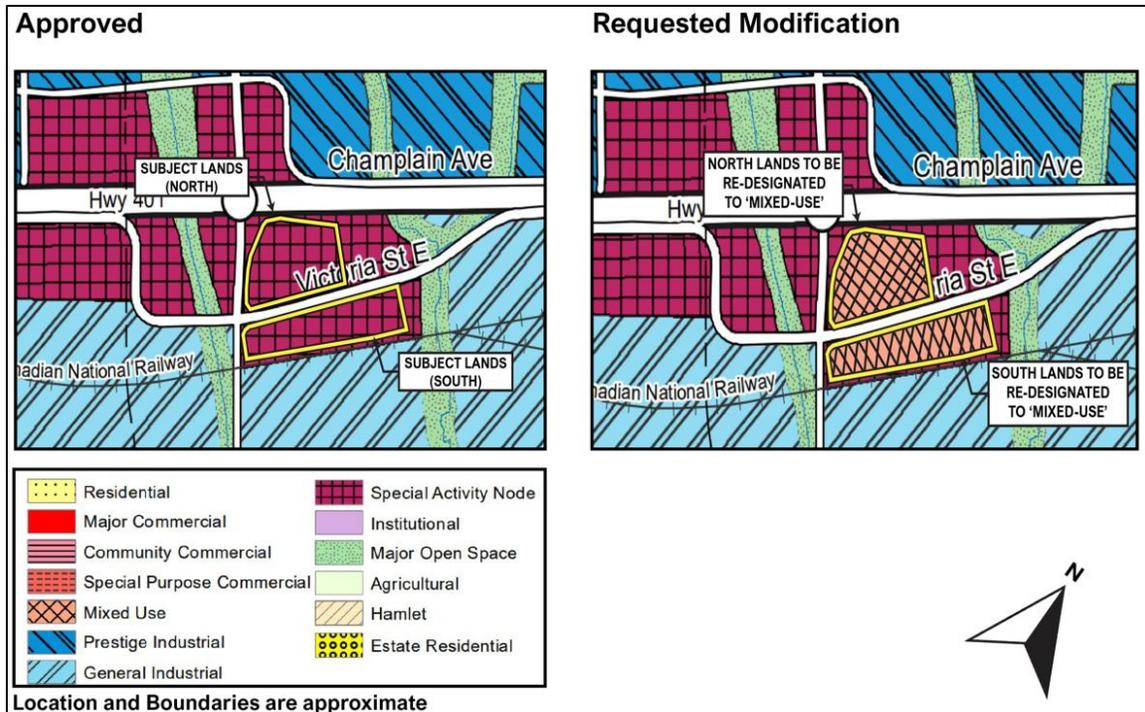
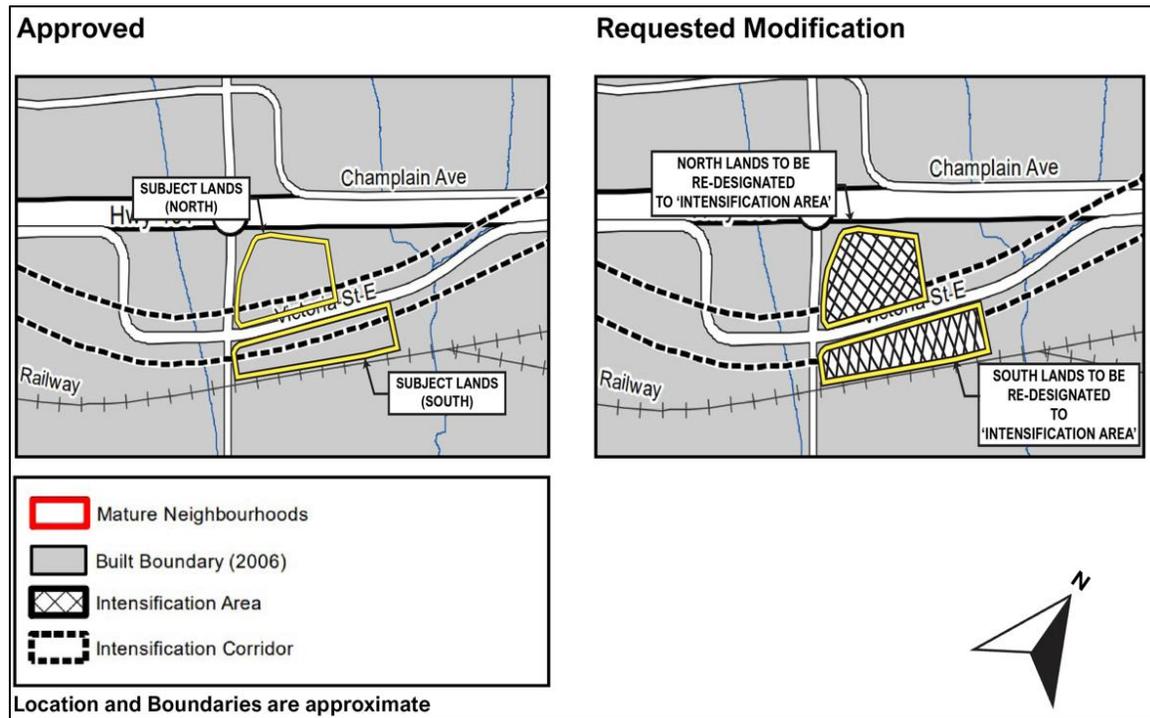


Figure 4: Requested Modifications to Town of Whitby Official Plan, Schedule B – Land Use



It is our professional planning opinion that the requested modifications are consistent with the PPS 2024, are appropriate and represent good land use planning.

Please kindly ensure that the undersigned is notified of any further studies, modifications, approvals and/or notices with respect to this posting. We reserve the opportunity to provide further comments in the event that additional information becomes available.

Yours very truly,

**ZELINKA PRIAMO LTD.**

Rob MacFarlane, MPL, MCIP, RPP  
Senior Associate

cc. RioKim Holdings (Ontario) Inc. (via email)

Appendix A: January 8, 2025, Letter to Whitby Council  
Appendix B: November 15, 2024, Letter to Whitby Staff  
Appendix C: August 9, 2023, Letter to MMAH

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**APPENDIX A – LETTER TO WHITBY COUNCIL, DATED JANUARY 8, 2025**

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**Zelinka Priamo Ltd.**

LAND USE PLANNERS

**VIA EMAIL**

January 8, 2025

Town of Whitby  
575 Rossland Rd E  
Whitby ON  
L1N2M8

Attention: Office of the Town Clerk

**Re: January 13, 2024, Committee of the Whole Meeting – Item No. 5.4.2  
Comments on Behalf of RioKim Holdings (Ontario) Inc.  
1629, 1635, 1650, 1741, 1751, and 1761 Victoria Street East  
Whitby, Ontario**

**Our File: RIO/WHT/20-01**

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We are the planning consultants for RioKim Holdings (Ontario) Inc. (“RioCan”), for the Whitby Official Plan Review. RioCan is the owner of the approximately 16.9 ha of lands in the Town of Whitby known municipally as 1629, 1635, 1650, 1741, 1751, and 1761 Victoria Street East, and known as Thickson Ridge (the “RioCan Lands”). The RioCan Lands are developed as a large commercial / retail centre.

On behalf of RioCan, we have been monitoring the Town of Whitby Official Plan Review process and provided preliminary comments to the City dated November 21, 2024 and met with Staff on December 2, 2024. We have reviewed the Official Plan Review materials and associated schedules in the context of the RioCan Lands, and we have preliminary comments as outlined below and may provide further comments as required.

Based on our preliminary review, the RioCan Lands are not proposed to be impacted by OPA 139. **In our submission, the RioCan Lands are appropriate for consideration as an area for intensification, and we suggest the Town include the RioCan Lands in OPA 139 in the context of the Planning Act (Bill 97) and 2024 Provincial Planning Statement, for the reasons as noted below.**

## **BACKGROUND**

### **The RioCan Lands**

The RioCan Lands are generally located south of Highway 401 to the east of Thickson Road South, and to the north and south of Victoria Street East in the Town of Whitby.

The RioCan Lands are developed as a multi-tenant major commercial shopping centre known as RioCan Thickson Ridge. A total of 28 independently operating tenants currently occupy the site. Existing commercial uses include (but are not limited to): Best Buy; HomeSense; Winners; Ashley Home Store; and a number of other commercial retail and restaurant establishments.

There are no manufacturing or warehousing uses existing on this developed commercial site. Any traditional manufacturing or warehousing uses in proximity of the subject lands are separated by physical buffers from the RioCan Lands, including: rail corridors (to the

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south); the Natural Heritage System (to the west and east); and major roadways (to the north and west).

### **Existing Town of Whitby Planning Context**

The existing in effect Region of Durham Official Plan designates the RioCan Lands as Employment Areas, according to Schedule A, Map A4 Regional Structure.

According to Schedule A Land Use of the Town of Whitby Official Plan, the RioCan Lands are designated Special Activity Node, and are specifically considered Special Activity Node B. The policies for the Special Activity Node B are described under the “Commercial” land use category; the goal of which is, “To ensure the provision of a full range of commercial, residential, institutional, and community uses to accommodate the needs of the Municipality, the Region, and the visiting public.” (Whitby OP Section 4.5.1.1). Special Activity Node B is further described by the Whitby Official Plan as follows (Section 4.5.3.6.1):

*“The area designated as Special Activity Node B on Schedule “A” is located at the Highway 401/Thickson Road interchange. Permitted uses shall include major retail uses, offices, including major offices, community and recreational uses, entertainment uses, financial institutions, restaurants, banquet halls, hotels, private clubs, and light industrial uses within enclosed buildings such as data processing centres, commercial or technical schools, and research and development facilities. Notwithstanding any other provisions of this Plan to the contrary, a major retail use in Special Activity Node B does not include supermarkets and department stores.”*

### **Employment Conversion Request**

As part of the Envision Durham Regional Official Plan Review (Municipal Comprehensive Review), on September 23, 2020, RioCan submitted a request for employment conversion from an Employment Areas designation to a Community Areas designation, for the RioCan Lands. The request was outlined and justified in a Planning Justification Report (“PJR”) dated September 23, 2024.

The employment conversion request was made in the context of the previous Municipal Comprehensive Review and the 2020 Provincial Policy Statement and Growth Plan. Since this time, the 2024 Provincial Planning Statement has come into effect, and the Province has made clear what is, and what is not considered a business and economic use, as is expanded on below.

Please find enclosed to this letter, our submission to the Minister of Municipal Affairs and Housing and the enclosed Planning Justification Report with comments related to Envision Durham and the request for employment conversion.

### **PRELIMINARY COMMENTS ON DRAFT OFFICIAL PLAN AMENDMENT 2 (OPA 139)**

#### **Planning Act Changes (Bill 97)**

Under Bill 97, the new “area of employment” definition came into effect on October 20, 2024, which states:

*“area of employment” means an area of land designated in an official plan for clusters of business and economic uses, those being uses that meet the following criteria: 1. The uses consist of business and economic uses, other than uses referred to in paragraph 2, including any of the following: i. Manufacturing uses. ii. Uses related to research and development in*

*connection with manufacturing anything. iii. Warehousing uses, including uses related to the movement of goods. iv. Retail uses and office uses that are associated with uses mentioned in subparagraphs i to iii. v. Facilities that are ancillary to the uses mentioned in subparagraphs i to iv. vi. Any other prescribed business and economic uses. 2. The uses are not any of the following uses: i. Institutional uses. ii. Commercial uses, including retail and office uses not referred to in subparagraph 1 iv; ('zone d'emploi')".*

The Province has made a clear distinction of what uses are, and importantly are not considered a “business and economic” use for the purpose of defining “Area of Employment”. In our submission, the intent of the Province is for a comprehensive review of municipalities’ lands to evaluate the Official Plan designations that apply to properties that do not align with the new definition of Areas of Employment established by Bill 97.

It is our opinion that the RioCan Lands are not appropriate to consider as an Area of Employment, as they are an independently functioning commercial/retail node, separated from any “business and economic uses”. It is not expected that the RioCan Lands can feasibly redevelop with warehousing or manufacturing uses, and the identification of the RioCan Lands as Employment Areas is inconsistent with their context as a retail node.

### **New Provincial Planning Statement (2024)**

The 2024 Provincial Planning Statement (“PPS 2024”) came into effect on October 20, 2024, and replaced the 2020 Provincial Policy Statement and removed the Growth Plan for the Greater Golden Horseshoe (2020). The PPS 2024 is a policy statement issued under Section 3 of the *Planning Act*, and all decisions that affect planning matters “shall be consistent with” the PPS 2024.

Chapter 6.1 of the PPS 2024 addresses Implementation and Interpretation, including:

- Policy 6.1.5 *“Official plans shall identify provincial interests and set out appropriate land use designations and policies. Official plans shall provide clear, reasonable and attainable policies to protect provincial interests and facilitate development in suitable areas. In order to protect provincial interests, planning authorities shall keep their official plans up-to date with the Provincial Planning Statement. The policies of the Provincial Planning Statement continue to apply after adoption and approval of an official plan.”*
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**In our submission, the Town has not demonstrated consistency of OPA 139 with the PPS 2024, including as it relates to the RioCan Lands and what is considered to be a “Strategic Growth Area” by the PPS 2024.** In particular, we understand that OPA 139 is intended to be a review of the Town’s Strategic Growth Areas. The PPS 2024 modified what is understood as a “Strategic Growth Area”, and defines it as follows:

*“means within settlement areas, nodes, corridors, and other areas that have been identified by municipalities to be the focus for accommodating intensification and higher density mixed uses in a more compact built form.*

*Strategic growth areas include major transit station areas, existing and emerging downtowns, lands in close proximity to publicly-assisted postsecondary institutions and other areas where growth or development will be focused, that may include*

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“Intensification” is defined by the PPS 2024 as follows:

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The PPS 2024 provides guidance to focus intensification and growth within key areas, including notably “shopping malls and plazas”. Relevant PPS 2024 policies in this regard include Policies 2.2.1; 2.3.1; and 2.4.1. Further, as per Policy 2.8.2.4 of the PPS 2024, “*Planning authorities shall assess and update employment areas identified in official plans to ensure that this designation is appropriate to the planned function of employment areas...*”

**It is our submission that OPA 139 should be revised to be consistent with the aforementioned policies of the PPS 2024, including a comprehensive review of underutilized shopping malls and plazas that are appropriate for consideration as an intensification area.**

## **CONCLUSION**

The RioCan Lands are a longstanding commercial node, which do not exhibit any characteristics of what the Planning Act would consider a “business and economic” use for the purposes of defining Areas of Employment. Rather, the PPS 2024 is clear in its direction that municipalities should review the opportunity to identify “underutilized shopping malls and plazas” as areas for intensification and growth.

**We request that the Town include the RioCan Lands as part of the review of OPA 139, whereby the existing function as a retail commercial node can be maintained, and opportunities for intensification and growth may be introduced.**

As noted above, **we request the opportunity to meet with Staff to discuss the comments and clarifications outlined above.**

Please kindly ensure that the undersigned is provided with all future notice related to Whitby Official Plan Review.

Yours very truly,

**ZELINKA PRIAMO LTD.**



Rob MacFarlane, MPL, MCIP, RPP  
Senior Associate

cc. RioKim Holdings (Ontario) Inc. (via email)  
encl. November 15, 2024, Letter to Whitby Staff  
August 9, 2023, Letter to MMAH

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**APPENDIX B – LETTER TO WHITBY STAFF, DATED NOVEMBER 15, 2024**

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**VIA EMAIL**

November 15, 2024

Town of Whitby  
575 Rossland Rd E  
Whitby ON  
L1N2M8

Attention: Lori Tesolin, Principal Planner and Supervisor

Dear Ms. Tesolin

**Re: Whitby Official Plan Review – Official Plan Amendment 2 (OPA 139)  
Comments on Behalf of RioKim Holdings (Ontario) Inc.  
1629, 1635, 1650, 1741, 1751, and 1761 Victoria Street East  
Whitby, Ontario**

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On behalf of RioCan, we have been monitoring the Town of Whitby Official Plan Review process. We have reviewed the Official Plan Review materials and associated schedules in the context of the RioCan Lands, and we have preliminary comments as outlined below and may provide further comments as required.

Based on our preliminary review, the RioCan Lands are not proposed to be impacted by OPA 139. **In our submission, the RioCan Lands are appropriate for consideration as an area for intensification, and we suggest the Town include the RioCan Lands in OPA 139 in the context of the Planning Act (Bill 97) and 2024 Provincial Planning Statement, for the reasons as noted below.**

## **BACKGROUND**

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There are no manufacturing or warehousing uses existing on this developed commercial site. Any traditional manufacturing or warehousing uses in proximity of the subject lands

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are separated by physical buffers from the RioCan Lands, including: rail corridors (to the south); the Natural Heritage System (to the west and east); and major roadways (to the north and west).

### **Existing Town of Whitby Planning Context**

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According to Schedule A Land Use of the Town of Whitby Official Plan, the RioCan Lands are designated Special Activity Node, and are specifically considered Special Activity Node B. The policies for the Special Activity Node B are described under the “Commercial” land use category; the goal of which is, “To ensure the provision of a full range of commercial, residential, institutional, and community uses to accommodate the needs of the Municipality, the Region, and the visiting public.” (Whitby OP Section 4.5.1.1). Special Activity Node B is further described by the Whitby Official Plan as follows (Section 4.5.3.6.1):

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*Manufacturing uses. ii. Uses related to research and development in connection with manufacturing anything. iii. Warehousing uses, including uses related to the movement of goods. iv. Retail uses and office uses that are associated with uses mentioned in subparagraphs i to iii. v. Facilities that are ancillary to the uses mentioned in subparagraphs i to iv. vi. Any other prescribed business and economic uses. 2. The uses are not any of the following uses: i. Institutional uses. ii. Commercial uses, including retail and office uses not referred to in subparagraph 1 iv; ('zone d'emploi')".*

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- Policy 6.1.7 *“Where a planning authority must decide on a planning matter before their official plan has been updated to be consistent with the Provincial Planning Statement, or before other applicable planning instruments have been updated accordingly, it must still make a decision that is consistent with the Provincial Planning Statement.”*

**In our submission, the Town has not demonstrated consistency of OPA 139 with the PPS 2024, including as it relates to the RioCan Lands and what is considered to be a “Strategic Growth Area” by the PPS 2024.** In particular, we understand that OPA 139 is intended to be a review of the Town’s Strategic Growth Areas. The PPS 2024 modified what is understood as a “Strategic Growth Area”, and defines it as follows:

*“means within settlement areas, nodes, corridors, and other areas that have been identified by municipalities to be the focus for accommodating intensification and higher density mixed uses in a more compact built form.*

*Strategic growth areas include major transit station areas, existing and emerging downtowns, lands in close proximity to publicly-assisted postsecondary institutions*

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*and other areas where growth or development will be focused, that may include infill, redevelopment (**e.g., underutilized shopping malls and plazas**), brownfield sites, the expansion or conversion of existing buildings, or greyfields. Lands along major roads, arterials, or other areas with existing or planned frequent transit service or higher order transit corridors may also be identified as strategic growth areas.” [emphasis added]*

“Intensification” is defined by the PPS 2024 as follows:

*“means the development of a property, site or area at a higher density than currently exists through: a) redevelopment, including the reuse of brownfield sites and **underutilized shopping malls and plazas**; b) the development of vacant and/or underutilized lots within previously developed areas; c) infill development; and d) the expansion or conversion of existing buildings.” [emphasis added]*

The PPS 2024 provides guidance to focus intensification and growth within key areas, including notably “shopping malls and plazas”. Relevant PPS 2024 policies in this regard include Policies 2.2.1; 2.3.1; and 2.4.1. Further, as per Policy 2.8.2.4 of the PPS 2024, “*Planning authorities shall assess and update employment areas identified in official plans to ensure that this designation is appropriate to the planned function of employment areas...*”

**It is our submission that OPA 139 should be revised to be consistent with the aforementioned policies of the PPS 2024, including a comprehensive review of underutilized shopping malls and plazas that are appropriate for consideration as an intensification area.**

## **CONCLUSION**

The RioCan Lands are a longstanding commercial node, which do not exhibit any characteristics of what the Planning Act would consider a “business and economic” use for the purposes of defining Areas of Employment. Rather, the PPS 2024 is clear in its direction that municipalities should review the opportunity to identify “underutilized shopping malls and plazas” as areas for intensification and growth.

**We request that the Town include the RioCan Lands as part of the review of OPA 139, whereby the existing function as a retail commercial node can be maintained, and opportunities for intensification and growth may be introduced.**

As noted above, **we request the opportunity to meet with Staff to discuss the comments and clarifications outlined above.**

Please kindly ensure that the undersigned is provided with all future notice related to Whitby Official Plan Review.

Yours very truly,

**ZELINKA PRIAMO LTD.**



Rob MacFarlane, MPL, MCIP, RPP  
Senior Associate

cc. RioKim Holdings (Ontario) Inc. (via email)

encl. August 9, 2023 Letter to MMAH

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**APPENDIX C – LETTER TO MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING,  
DATED AUGUST 9, 2023**

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**VIA EMAIL**

August 9, 2023

Ministry of Municipal Affairs and Housing  
Municipal Services Office  
777 Bay Street, 16<sup>th</sup> Floor  
Toronto, ON  
M7A 2J3

Attention: Andy Doersam

**Re: New Regional Official Plan [ERO # 019-7195 and Ministry Ref # 18-OP-237796]  
Regional Municipality of Durham  
Comments on Behalf of RioKim Holdings (Ontario) Inc.  
Request for Conversion of Employment Lands  
1629, 1635, 1650, 1741, 1751, and 1761 Victoria Street East  
Whitby, Ontario**

**Our File: RIO/WHT/20-01**

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We are the planning consultants for RioKim Holdings (Ontario) Inc. ("RioCan") for the Region of Durham Official Plan Review. RioCan is the owner of the approximately 16.9 ha of lands in the Town of Whitby known municipally as 1629, 1635, 1650, 1741, 1751, and 1761 Victoria Street East, and known as Thickson Ridge (the "RioCan Lands"). The RioCan Lands are developed as a large commercial / retail centre of approximately 128,269 sq.ft (2,626 sq.m) Gross Floor Area.

As part of the Regional Official Plan Review (Municipal Comprehensive Review), on September 23, 2020, RioCan submitted a request for employment conversion from an Employment Areas designation to a Community Areas designation, for the RioCan Lands. This request was outlined and justified in a Planning Justification Report ("PJR") dated September 23, 2020 (enclosed).

We reviewed the New Durham Regional Official Plan and understand that the RioCan Lands have not been recommended for conversion and are proposed to remain as Employment Areas. **In our submission, and for the reasons outlined in the PJR and as summarized below, as well as in the context of the Province's recent direction regarding Employment Areas, we continue to suggest that the RioCan Lands be redesignated to Community Areas on Map 1 of the New Durham Regional Official Plan.**

## **BACKGROUND**

### **The RioCan Lands**

The RioCan Lands are generally located south of Highway 401 to the east of Thickson Road South, and to the north and south of Victoria Street East in the Town of Whitby (see Figure).



The RioCan Lands are developed as a multi-tenant major commercial shopping centre known as RioCan Thickson Ridge. A total of 28 independently operating tenants currently occupy the site. Existing commercial uses include (but are not limited to): Best Buy; HomeSense; Winners; Ashley Home Store; and a number of other commercial retail and restaurant establishments.

### Locational Context

Surrounding land uses can generally be described as follows:

- East of the RioCan Lands is the Natural Heritage System and Natural Hazard limit, generally as part of the Corbett Creek system, beyond which is the Oshawa GO Station;
- South of the RioCan Lands is an existing rail line. Separated from the RioCan Lands beyond the rail line are existing general industrial related uses;
- West of the RioCan Lands is Thickson Road, an Arterial Road where there are existing freeway access ramps (to Highway 401). Separated from the RioCan Lands beyond and fronting on Thickson Road are undeveloped lands, identified in part as the Natural Heritage System and Natural Hazard Limit. Given the positioning of the undeveloped lands to the west with existing natural heritage features and in proximity to the intersections of Arterial Roads and Highway 401 interchange ramps, it is not anticipated that this parcel west of Thickson Road will be developable for an intensive form; and
- North of the RioCan Lands is Highway 401 and interchange ramps that connect to the local road network. Beyond this is the Durham College Whitby Campus, a higher education institution.

The RioCan Lands are generally separated from other parts of the Employment Area due to existing natural and built features, as described above. This includes major roadways

to the north (Highway 401) and west (Thickson Road), a rail line to the south, and natural heritage lands to the east.

**Existing Planning Context**

The existing in effect Region of Durham Official Plan designates the RioCan Lands as Employment Areas, according to Schedule A, Map A4 Regional Structure.

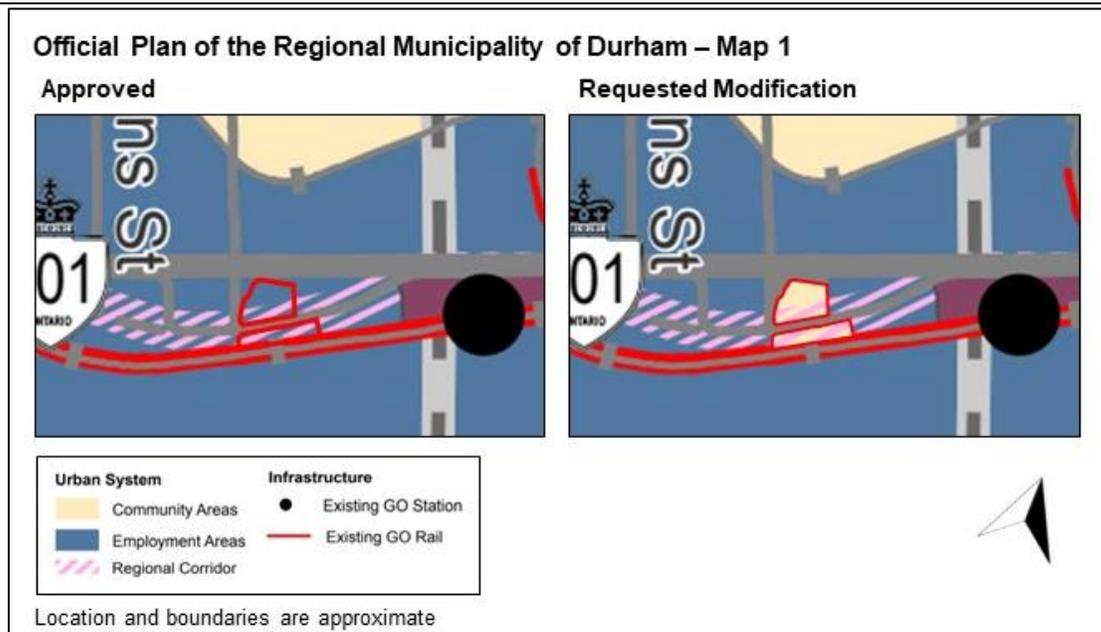
According to Schedule A Land Use of the Town of Whitby Official Plan, the RioCan Lands are designated Special Activity Node, and specifically that the lands are considered Special Activity Node B. The policies for the Special Activity Node are described under the “Commercial” land use category; the goal which is, “To ensure the provision of a full range of commercial, residential, institutional, and community uses to accommodate the needs of the Municipality, the Region, and the visiting public.” (Whitby OP Section 4.5.1.1). Special Activity Node B is further described by the Whitby Official Plan as follows (Section 4.5.3.6.1):

*“The area designated as Special Activity Node B on Schedule “A” is located at the Highway 401/Thickson Road interchange. Permitted uses shall include major retail uses, offices, including major offices, community and recreational uses, entertainment uses, financial institutions, restaurants, banquet halls, hotels, private clubs, and light industrial uses within enclosed buildings such as data processing centres, commercial or technical schools, and research and development facilities. Notwithstanding any other provisions of this Plan to the contrary, a major retail use in Special Activity Node B does not include supermarkets and department stores.”*

**REQUESTED MODIFICATION**

In the PJR submitted for the Employment Conversion request on behalf of RioCan, we set out the planning rationale for the conversion of the RioCan Lands from Employment Areas to Community Areas. The requested modification to the New Region of Durham Official Plan is to modify Map 1 to redesignate the RioCan Lands to Community Areas from Employment Areas.

The conversion request is visually depicted below:



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We continue to be of the opinion that the RioCan Lands are appropriate for employment conversion, for reasons including:

- The conversion conforms with the Growth Plan (2019), including Policy 2.2.5.9 related to the conversion of employment lands, for reasons that include:
  - There is a demonstrated need for the conversion. As a result of the existing development of the RioCan Lands as a retail node, there is limited opportunity for infill, and similarly limited opportunity for the replacement of existing retail uses with more traditional employment (warehousing and manufacturing) uses, which would require demolition of existing buildings that generate employment. The RioCan Lands are identified by both the Region of Durham and Town of Whitby as an area anticipated to accommodate intensification, including minimum growth targets, given their location along Victoria Street. There is limited opportunity under the Employment Areas designation for additional growth, and indeed the Province's recent legislative changes reinforce that standalone retail centres are not the intended function of areas of employment. There is a need to redesignate the lands to Community Areas in order to support the existing retail function of the lands, and to accommodate future growth;
  - The RioCan Lands are not required for employment purposes for which they are designated. The RioCan Lands are developed as a retail plaza, which is not the intended function of areas of employment, which limits opportunity for employment growth, and the Town of Whitby Official Plan designates the RioCan Lands for their commercial / major retail function;
  - The Region will be able to maintain sufficient employment lands to accommodate future growth through existing vacant or underutilized lands. As identified by the Whitby Employment Land Inventory prepared as part of the Municipal Comprehensive Review, there is a supply of 809 ha (49%) of vacant and undeveloped Employment designated lands, and 253 ha (15%) of Employment designated lands are underutilized;
  - The conversion of the RioCan Lands will not adversely impact the viability of the surrounding employment area. This is evidenced by their existing and longstanding function as a retail plaza, which has not resulted in any evidenced detriment to the development and continued function of the surrounding area for employment purposes; and
  - Existing infrastructure and public service facilities are expected to be sufficient to accommodate the conversion of the RioCan Lands, which are existing developed lands within an urban context, located on a corridor identified by the municipality for intensification;
- The conversion is consistent with the PPS (2020) as the RioCan Lands are not required for employment purposes over the long term and there is a demonstrated need for the conversion;
- The conversion is consistent with the existing Region of Durham Official Plan, which identifies that the RioCan Lands are located along a Regional Corridor, which is an area that is intended to intensify and redevelop for a higher order of development, targeted to achieve an overall minimum FSI of 2.5 and 60 dwellings per hectare;
- The conversion is consistent with the Town of Whitby Official Plan, which permits the Major Commercial use of the RioCan Lands and does not permit traditional employment type uses on the RioCan Lands, or on lands in the immediate vicinity;
- The RioCan Lands are well located and positioned to support the conversion:
  - The RioCan Lands function independently as a retail centre;

- The RioCan Lands are separated from the employment function of the surrounding area;
- The RioCan Lands are buffered from adjacent properties and existing employment uses through physical barriers, such as major roads (including Highway 401) a rail corridor, as well as existing natural heritage features;
- The RioCan Lands are located just west of the Whitby GO Station; and
- The RioCan Lands have not historically formed part of the core employment function of the Town of Whitby as the lands are fully developed for existing major retail uses. Redevelopment of the RioCan Lands for employment related purposes would require the demolition of at least portions of the existing developed lands, whereas as identified by the Whitby Employment Land Inventory, there is an undeveloped supply of 809 ha (49%) of Employment designated lands, and 253 ha (15%) Employment designated lands are underutilized;
- The conversion request addressed the Region's established evaluation criteria for consideration, as outlined in our Planning Justification Report;
- Following the Employment Conversion to a Community Area designation under the Region of Durham Official Plan, it is anticipated that further approvals including a local Official Plan Amendment and Zoning By-law Amendment will be required, in addition to Site Plan Approval and a Plan of Condominium or Plan of Subdivision; and
- As noted below, the redesignation of the RioCan Lands to Community Areas is consistent with the Draft Provincial Planning Statement, and is necessary in the context of the revised definition of "area of employment" within the Planning Act, which focuses the definition on manufacturing and warehousing. The use of the RioCan Lands as a commercial centre is not consistent with the Province's direction regarding "areas of employment", which is to explicitly prohibit such uses. Continuing to consider the RioCan Lands as Employment Areas may jeopardize their long term viability as an established commercial node, in the context of what the Province considers as employment.

The rationale for the conversion request is further expanded upon in the Planning Justification Report, enclosed with this letter.

## **BILL 97 AND THE DRAFT PROVINCIAL PLANNING STATEMENT**

On April 6, 2023, the Province released a draft Provincial Planning Statement ("Draft PPS"), which consists of changes proposed to the Planning Act under Bill 97 – *The Helping Homebuyers, Protecting Tenants Act, 2023*. The Draft PPS represents a significant departure as it relates to Provincial Employment Areas policies, and clarifies that "areas of employment" are focused on manufacturing/warehousing, and not retail/office use.

According to the Draft PPS related to Employment Areas:

- Draft Policy 2.8.1.3 states "On lands for employment outside of employment areas, and taking into account the transition of uses to prevent adverse effects, a diverse mix of land uses, including residential, employment, public service facilities and other institutional uses *shall be permitted* [emphasis added] to support the achievement of complete communities."
- Draft Policy 2.8.1.4 states "Official plans and zoning by-laws shall not contain provisions that are more restrictive than policy 2.8.1.3 except for purposes of public health and safety."
- Draft Policy 2.8.2.2 states "Planning authorities shall designate, protect and plan for all employment areas in settlement areas by: a) *planning for employment area*

- uses over the long-term that require those locations including manufacturing, research and development in connection with manufacturing, warehousing and goods movement, and associated retail and office uses and ancillary facilities [emphasis added]; b) prohibiting residential uses, commercial uses, public service facilities and other institutional uses [emphasis added]; c) prohibiting retail and office uses that are not associated with the primary employment use; d) prohibiting other sensitive land uses that are not ancillary to the primary employment use; and [emphasis added] e) including an appropriate transition to adjacent non-employment areas to ensure land use compatibility.”*
- Draft Policy 2.8.2.3 states “Planning authorities shall assess and update employment areas identified in official plans to ensure that this designation is appropriate to the planned function of employment areas.”
  - The Employment Areas definition is proposed to be changed to mean “those areas designated in an official plan for clusters of business and economic activities including manufacturing, research and development in connection with manufacturing, warehousing, goods movement, associated retail and office, and ancillary facilities. *Uses that are excluded from employment areas are institutional and commercial, including retail and office not associated with the primary employment use listed above. [emphasis added]*”

As per the ‘Proposed Approach to Implementation of the Proposed Provincial Planning Statement’ dated April 6, 2023 (“Proposed Implementation Approach”), the “Ministry is proposing to release the final policies for a short period of time before they take effect (targeting fall 2023). Any decision on a planning matter made on or after the effective date of the new policy document would be subject to the new policies”.

Bill 97 received royal assent on June 8, 2023, and on a future date, will replace the definition of “area of employment” with the following:

*“area of employment” means an area of land designated in an official plan for clusters of business and economic uses, those being uses that meet the following criteria:*

1. *The uses consist of business and economic uses, other than uses referred to in paragraph 2, including any of the following:*
  - i. *Manufacturing uses.*
  - ii. *Uses related to research and development in connection with manufacturing anything.*
  - iii. *Warehousing uses, including uses related to the movement of goods.*
  - iv. *Retail uses and office uses that are associated with uses mentioned in subparagraphs i to iii.*
  - v. *Facilities that are ancillary to the uses mentioned in subparagraphs i to iv.*
  - vi. *Any other prescribed business and economic uses.*
2. *The uses are not any of the following uses:*
  - i. *Institutional uses.*
  - ii. *Commercial uses, including retail and office uses not referred to in subparagraph 1 iv.*

The revised definition of “area of employment”, and the Draft PPS, establish a clear framework that the RioCan Lands are not to be considered as employment areas given their function as a multi-tenant major commercial shopping centre. It is necessary to remove the RioCan Lands from the Employment Area, for consistency with the definition of “areas of employment” under the Planning Act, and in the context of the Draft PPS.

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## MINISTER'S OPTIONS

As the approval authority of the Region of Durham Official Plan, the Minister of Municipal Affairs and Housing may approve, modify and approve as modified or refuse to approve the plan", as outlined in the Planning Act (Section 17). Accordingly, the Minister has the option to revise the Region of Durham Official Plan as part of its review and approval, to identify the RioCan Lands as Community Areas, and can do so without delaying the approvals process. A modification to identify the RioCan Lands as Community Areas would constitute a mapping change to Map 1, as identified within this letter.

As an alternative, the Minister can refer the conversion request for the RioCan Lands to the Ontario Land Tribunal, while also approving other parts of the Official Plan and avoiding delay to the implementation of the balance of the Official Plan.

## CONCLUSION

The Draft PPS and the amendments to the Planning Act represent a significant change to Provincial Employment Areas policies, which include clear direction that "areas of employment" do not include retail or commercial uses, unless accessory to a primary employment function such as warehousing and manufacturing.

Under Bill 97 and the Draft PPS, the RioCan Lands and the existing commercial services provided would not be considered as Employment Areas intended for manufacturing, research and development uses in connection with manufacturing, warehousing, goods movement, associated retail and office, and ancillary. Further, due to their context in isolation from the broader Employment Area, and given the existing site characteristics, it is not anticipated that the RioCan Lands will feasibly redevelop for expanded standalone employment uses such as warehousing or manufacturing, which results in limited intensification opportunity under the existing context. In our submission, the continued identification of the RioCan Lands as Employment Areas is inconsistent with their context as a retail centre, and may indeed jeopardize their long-term viability as an established commercial node, in the emerging context of what the Province considers as employment.

In the context of the Provincial Policy Statement, Growth Plan, Region of Durham Official Plan, Town of Whitby Official Plan, Draft PPS (and the Proposed Implementation Approach), as well as the previously submitted Planning Justification Report, in our submission redesignating the lands to Community Areas is appropriate. Accordingly, **it continues to be our opinion that the RioCan Lands are appropriate for a Community Areas designation, and suggest that the Map 1 of the New Region of Durham Official Plan be modified to redesignate the RioCan Lands to Community Areas from Employment Areas.**

Should you have any questions, or require further information, please do not hesitate to call.

Sincerely,

**ZELINKA PRIAMO LTD.**



Robert MacFarlane, MPL, MCIP, RPP  
Senior Associate

cc. RioCan REIT

encl. Planning Justification Report

# PLANNING JUSTIFICATION REPORT

Request for Employment Area Conversion

Thickson Ridge

PREPARED FOR

RioCan REIT

PREPARED BY



**ZELINKA PRIAMO LTD**

*A Professional Planning Practice*

September 23, 2020

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## TABLE OF CONTENTS

	Page No.
<b>1.0 INTRODUCTION .....</b>	<b>1</b>
1.1 Background .....	1
1.2 Description and Future Vision of the Subject Lands .....	1
1.3 Conversion Criteria and Application Form.....	6
1.4 Request for Employment Area Conversion .....	7
<b>2.0 PLANNING DOCUMENTS .....</b>	<b>9</b>
2.1 Provincial Policy Statement (2020) .....	9
2.2 Growth Plan (2019).....	13
2.3 Region of Durham Official Plan.....	17
2.4 Region of Durham Official Plan Review and MCR .....	23
2.5 Town of Whitby Official Plan .....	26
<b>3.0 CONVERSION CRITERIA.....</b>	<b>34</b>
3.1 Demonstrated Need.....	35
3.2 Compatibility .....	38
3.3 Anticipated Population, Residential Units and Employment (Jobs) .....	39
3.4 Planned Infrastructure and Public Service Facilities.....	42
3.5 Major Transportation Corridors and/or Goods Movement Infrastructure.....	43
3.6 Site Location and Context of the Broader Employment Area .....	44
3.7 Constraints for Employment Uses.....	46
3.8 Major Transit Station Area Boundary .....	47
3.9 Provincially Significant Employment Zone .....	48
<b>4.0 CONCLUSIONS .....</b>	<b>48</b>

## **1.0 INTRODUCTION**

### **1.1 BACKGROUND**

In accordance with the the Region of Durham Official Plan Review and the associated Municipal Comprehensive Review (“MCR”), on behalf of RioKim Holdings (Ontario) Inc. (“RioCan REIT”), Zelinka Priamo Ltd. is pleased to submit a request for conversion from an Employment Areas designation to a Living Areas designation for lands known municipally as 1629, 1635, 1650, 1741, 1751, and 1761 Victoria Street East, Whitby (the “subject lands”). On June 24, 2020, the Region of Durham Council endorsed Staff Report #2020-P-11 for the Proposed Employment Area Conversion Criteria and Submission Review Process. The following land use assessment and conversion criteria evaluation provides planning justification to support the request for conversion of the subject lands.

### **1.2 DESCRIPTION AND FUTURE VISION OF THE SUBJECT LANDS**

The subject lands are generally located south of Highway 401 to the east of Thickson Road South, to the north and south of Victoria Street East in the Town of Whitby (see Figure 1). The subject lands are comprised of a number of parcels that total approximately 16.9 ha. The subject lands, while comprising a number of separate parcels, effectively function as two independent parcels, being the north lands and the south lands.

**Figure 1**  
**Locational Setting**



Location and boundaries are approximate

The subject lands are developed as a multi-tenant major commercial shopping centre known as RioCan Thickson Ridge. Existing commercial uses include (but are not limited to): Best Buy; HomeSense; Winners; Bed Bath and Beyond; Ashley Home Store; and a number of other commercial retail and restaurant establishments. The existing Home Depot lands located just east of the subject lands and forming part of the retail node, is under separate ownership and do not form part of the request for conversion.

Surrounding land uses can generally be described as follows:

- East of the subject lands is the Natural Heritage System and Natural Hazard limit, generally as part of the Corbett Creek system. It is not anticipated that development will occur immediately east of the subject lands due to the existing natural heritage feature;
- South of the subject lands is an existing rail line. Separated from the subject lands beyond the rail line are existing general industrial related uses;

- West of the subject lands is Thickson Road, an Arterial Road where (in proximity to the subject lands) there are existing freeway access ramps. Separated from the subject lands beyond and fronting on Thickson Road are undeveloped lands, identified in part as the Natural Heritage System and Natural Hazard Limit. Given the positioning of the undeveloped lands to the west with existing natural heritage features and in proximity to the intersections of Arterial Roads and Highway 401 interchange ramps, it is not anticipated that this parcel west of Thickson Road will be developable for an intensive form; and
- North of the subject lands is Highway 401 and interchange ramps that connect to the local road network. Beyond this is the Durham College Whitby Campus, a higher education institution.

As described above, the subject lands are an effectively isolated and independently functioning commercial node. The subject lands are buffered from adjacent properties through physical barriers including major road and rail corridors, as well as existing natural heritage features.

RioCan has experienced waning demand for the existing commercial space in Thickson Ridge, which is in part attributed to modified consumer habits towards online shopping. This trend has contributed to an overall lack of demand for new tenants and has been a challenge for supporting and retaining existing tenants. Recent measures taken as a result of the ongoing pandemic have catalyzed this retail shift away from major retail towards online shopping, and could result potential long-term consumer habit changes, which could pose negative consequences for existing bricks and mortar retailers, and in particular major commercial retailers. RioCan notes numerous vacant units, and challenges faced by existing tenants. The future of bricks and mortar retail is uncertain, and it is prudent to ensure a site with as significant of a presence as Thickson Ridge is provided the opportunity to respond to changing market demand. As is described further through this report, the subject lands are in a designation that applies highly specific use policies, including regulating minimum and maximum leasable floor areas and unit sizes, which has historically limited the ability for the subject lands to adapt to changing market demands. The proposed modifications to the land use permissions throughout the subject lands, including a reworking of the existing GFA permissions, would allow for flexibility to respond to market demands to help ensure the functionality of the subject lands in the short and long term.

It is prudent to explore alternative options for the future use of the subject lands, beyond the existing retail permissions. Residential uses are proposed to be introduced to the subject lands, while retaining the permissions for the existing major retail uses. The proposed mix of residential and commercial uses has inherent synergies. The existing retail uses on the subject lands would be supported through the introduction of additional residents, who will have excellent access to local goods and services. There will be access to goods and services by co-locating residential and commercial uses that can have numerous positive outcomes, including a reduction of vehicle trips. The flexibility of high-density residential permissions throughout the subject lands, and the inherent synergies with the commercial uses, is essential for RioCan to be able to appropriately respond to a changing market demand and consumer behaviour. The intended built form would therefore be a mix of residential and commercial uses that are integrated over time.

The initial phase for residential uses on the subject lands would introduce a total of approximately 500 total dwelling units. Figure 2 displays concept massings used as inspiration for the anticipated form of development that is proposed. Due to existing lease constraints and uncertainty for future tenant obligations or challenges, RioCan advises that it would be premature to identify the precise siting of the first phase of redevelopment. Specific site design matters, including compatibility with the existing uses, location of parking (i.e. underground, structured, surface) are to be determined following the Employment Conversion to a Living Area designation. Typical redevelopment scenarios for major commercial sites target existing large parking areas for the siting of infill buildings. The subject lands offer a significant opportunity for intensification potential and the replacement of existing parking areas and retail buildings with a more intensive form of development.

**Figure 2**  
**Precedent Images**



Location and boundaries are approximate

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Due to such uncertainty, the ultimate build out and phasing for the redevelopment of the subject lands would be premature to contemplate. Nevertheless, it is important to establish the permissions that will allow for mixed-use residential. Phased plans would be presented for the redevelopment of the subject lands, following an Employment Conversion.

Following the Employment Conversion to a Living Area designation under the Region of Durham Official Plan, it is anticipated that approvals including a local Official Plan Amendment, Zoning By-law Amendment, Site Plan Approval and a Plan of Condominium or Plan of Subdivision will be required.

### 1.3 CONVERSION CRITERIA AND APPLICATION FORM

On June 24, 2020, the Region of Durham Council endorsed Staff Report #2020-P-11 for the Proposed Employment Area Conversion Criteria and Submission Review Process. The Staff Report outlines evaluation criteria and the formal process for considering requests for Employment Area conversion, based on a May 12, 2020 Watson & Associates Memo.

The Staff Report establishes several criteria for evaluating requests based on provincial policies as well as localized criteria. Based on the Watson Memo, it is our understanding that the criteria are to generally be used as a check-list style, wherein if a criteria is met it receives a check mark and if it is not met, the criteria receives an "X". The Watson Memo notes that a site receiving mostly checks will generally be considered for conversion, and a site not meeting most of the criteria will generally not be considered. That being said, the Watson Report acknowledges that the criteria are simply to be used as a starting point for evaluation, and that sites not meeting most criteria could still be appropriate for conversion, and those meeting most criteria may not be appropriate for conversion. The criteria are to be accompanied by a qualitative evaluation that considers local insights and circumstances. The evaluation criteria is as follows:

- 1) To satisfy Provincial Policy Statement policy, it must be demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.
- 2) To satisfy Growth Plan policy, it must be demonstrated that:
  - a. There is a need for the conversion.
  - b. The lands are not required over the horizon of the Growth Plan for the employment purposes for which they are designated.
  - c. The municipality will maintain sufficient employment lands to accommodate forecasted employment growth to the horizon of the Growth Plan.
  - d. The proposed uses would not adversely affect the overall viability of the Employment Area or the achievement of the minimum intensification and density targets in the Growth Plan, as well any other applicable policies.
  - e. There are existing or planned infrastructure and public service facilities to accommodate the proposed uses.

- 3) The site is not located in proximity to major transportation corridors and goods movement infrastructure.
- 4) The site does not offer direct access to major transportation corridors and goods movement infrastructure.
- 5) The site is located outside or on the fringe of an assembly of Employment Areas.
- 6) The site offers limited market supply potential for Employment Area development due to size, configuration, access, physical conditions, and/or servicing constraints, etc.
- 7) The proposed conversion to non-employment uses is compatible with surrounding land use permissions and potential land use conflicts can be mitigated.
- 8) The conversion of the proposed site to non-employment uses would not compromise the overall supply of large Employment Area sites at the Regional or Area Municipal level.
- 9) The conversion request demonstrates total job yield of the site can be maintained or improved.
- 10) The conversion request is within a proposed Major Transit Station Area.
- 11) The conversion request is supported by Area Municipal staff/Council and does not conflict with municipal interests and policies.
- 12) The conversion of the site would not present negative cross-jurisdictional impacts that could not be overcome.

Appended to the Staff Report is a submission form that Employment Area conversion requests are to execute. The application form includes a total of 10 questions that provide details about the conversion request, and are generally related to the conversion criteria that has been outlined.

Responses to the 10 application form questions and an evaluation of the established conversion criteria are offered in Section 3 of this Report.

#### **1.4 REQUEST FOR EMPLOYMENT AREA CONVERSION**

On behalf of RioCan, Zelinka Priamo Ltd. has submitted a conversion request for the subject lands, which if approved, would convert the subject lands from an Employment Areas to Living Areas designation under the Region of Durham Official Plan. The request has been made to allow for a range of uses permitted under a Living Areas

designation, including residential uses and mixed residential/employment type uses. The major retail uses and retail/commercial uses that currently exist on the subject lands are proposed to be permitted under a Living Areas designation. Major Retail may be entering an inflection point as consumer trends change, and it is appropriate that lands be offered the opportunity to respond to a changing market demand in a way that introduces flexibility in future uses, while maintaining permissions for the continued use of the subject lands for retail purposes.

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## 2.0 PLANNING DOCUMENTS

The following is a summary of provincial, regional and municipal policies that provide the land use planning context for the proposed conversion request.

Where appropriate, the policies below are referenced in the further evaluation of the proposed conversion under Section 3 of this Report.

### 2.1 PROVINCIAL POLICY STATEMENT (2020)

The 2020 Provincial Policy Statement (PPS), issued under the authority of Section 3 of the *Planning Act*, “provides policy direction on matters of provincial interest related to land use planning and development” in order to ensure efficient, cost-effective development and the protection of resources. The PPS requires that decisions affecting planning matters “shall be consistent with” the policy direction established by the Plan.

In particular, Policy 1.1.1 states that healthy, liveable and safe communities are sustained by:

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- b) accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs; and
- e) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.

Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

Policy 1.1.3.2 states that land use patterns within settlement areas shall be based on densities and a mix of land use which: a) efficiently use land and resources; b) are appropriate for, and efficiently use, the infrastructure and public service facilities which

are planned or available, and avoid the need for their unjustified and/or uneconomical expansion; c) minimize negative impacts to air quality and climate change, and promote energy efficiency; e) support active transportation; f) are transit-supportive, where transit is planned, exists or may be developed. Land use patterns within settlement areas shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.

Policy 1.1.3.3 states that planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.

Policy 1.2.6.1 states major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures, where “major facility” means “facilities which may require separation from sensitive land uses, including but not limited to airports, manufacturing uses, transportation infrastructure and corridors, rail facilities, marine facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities” and “sensitive land uses” means “buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities”.

Policy 1.2.6.2 states that where avoidance is not possible in accordance with policy 1.2.6.1, planning authorities shall protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses are only

permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures: a) there is an identified need for the proposed use; b) alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations; c) adverse effects to the proposed sensitive land use are minimized and mitigated; and d) potential impacts to industrial, manufacturing or other uses are minimized and mitigated.

Policy 1.3.1 speaks to employment and requires planning authorities to promote economic development and competitiveness by:

- a) providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs;
- b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;
- c) facilitating the conditions for economic investment by identifying strategic sites for investment, monitoring the availability and suitability of employment sites, including market-ready sites, and seeking to address potential barriers to investment;
- d) encouraging compact, mixed-use development that incorporates compatible employment uses to support liveable and resilient communities, with consideration of housing policy 1.4; and
- e) ensuring the necessary *infrastructure* is provided to support current and projected needs.

An Employment Area means “those areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities.”

Policy 1.3.2.1 states that planning authorities shall plan for, protect and preserve employment areas for current and future uses and ensure that the necessary infrastructure is provided to support current and projected needs.

Policy 1.3.2.2 states that at the time of the official plan review or update, planning authorities should assess employment areas identified in local official plans to ensure

that this designation is appropriate to the planned function of the employment area. Employment areas planned for industrial and manufacturing uses shall provide for separation or mitigation from sensitive land uses to maintain the long-term operational and economic viability of the planned uses and function of these areas.

Policy 1.3.2.3 states that within employment areas planned for industrial or manufacturing uses, planning authorities shall prohibit residential uses and prohibit or limit other sensitive land uses that are not ancillary to the primary employment uses in order to maintain land use compatibility. Employment areas planned for industrial or manufacturing uses should include an appropriate transition to adjacent non-employment areas.

Policy 1.3.2.4 states planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.

Policy 1.3.2.6 states that planning authorities shall protect employment areas in proximity to major goods movement facilities and corridors for employment uses that require those locations.

Policy 1.4.3 states that planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by: b) permitting and facilitating: 2. all types of residential intensification, including additional residential units, and redevelopment in accordance with Policy 1.1.3.3; c) directing the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs; d) promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities, and support the use of active transportation and transit in areas where it exists or is to be developed; e) requiring transit-supportive development and prioritizing intensification, including potential air rights development, in proximity to transit, including corridors and stations.

Policy 1.6.9.1 states that planning for land uses in the vicinity of airports, rail facilities and marine facilities shall be undertaken so that: a) their long-term operation and

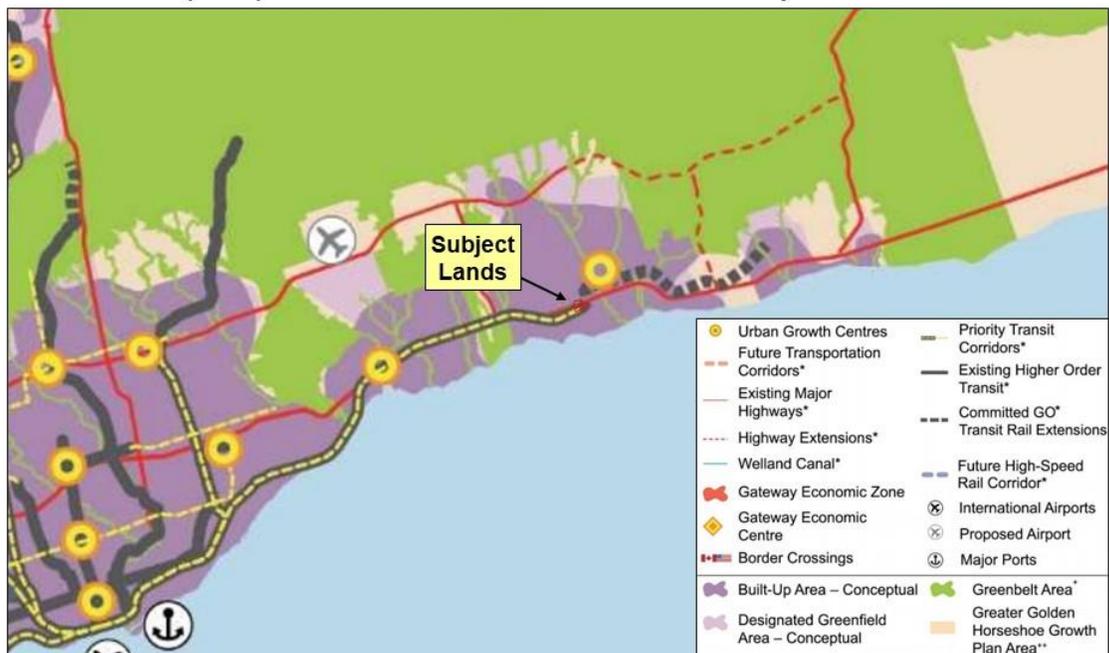
economic role is protected; and b) airports, rail facilities and marine facilities and sensitive land uses are appropriately designed, buffered and/or separated from each other, in accordance with Policy 1.2.6.

With regard to Long Term Economic Prosperity, Policy 1.7.1 states that long term economic prosperity should be supported by: a) promoting opportunities for economic development and community investment-readiness; and b) encouraging residential uses to respond to dynamic market-based needs and provide necessary housing supply and range of housing options for a diverse workforce.

## 2.2 GROWTH PLAN (2019)

The 2019 Growth Plan for the Greater Golden Horseshoe (Growth Plan) provides guidance for policy directions relating to development and growth in the Greater Golden Horseshoe to 2041. Proposed Amendment 1 to the Growth Plan came into effect August 28, 2020. The aim of the Growth Plan is to support economic prosperity, protect the environment and help communities achieve a high quality of life. Under the Growth Plan, the Subject Lands are shown as within the Built-Up Area - Conceptual (see Figure 3).

**Figure 3**  
**Growth Plan (2019) – Schedule 2: A Place to Grow Concept**



Location and boundaries are approximate

Under Policy 2.2.1, Managing Growth policies include:

- The vast majority of growth will be directed to settlement areas that have existing or planned municipal water and wastewater systems and can support the achievement of complete communities (Policy 2.2.1.2.a);
- Upper- and single-tier municipalities will undertake integrated planning to manage forecasted growth to the horizon of this Plan, which will: c) provide direction for an urban form that will optimize infrastructure, particularly along transit and transportation corridors, to support the achievement of complete communities through a more compact built form (Policy 2.2.1.3); and
- Applying the policies of this Plan will support the achievement of complete communities that (Policy 2.2.1.4): a) feature a diverse mix of land uses including convenient access to local stores and services; c) provide a diverse range and mix of housing options, including second units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes; and e) provide for a more compact built form and a vibrant public realm.

Under Policy 2.2.5, Employment policies include:

- Economic development will be promoted by: (a) making more efficient use of existing employment areas and underutilized employment lands and increasing employment densities; b) ensuring the availability of sufficient land, in appropriate locations, for a variety of employment to accommodate forecasted employment growth to the horizon of this Plan; c) planning to better connect areas with high employment densities to transit; and (d) integrating and aligning land use planning and economic development goals and strategies to retain and attract investment and employment (Policy 2.2.5.1);
- Major office and appropriate major institutional development will be directed to urban growth centres, major transit station areas or other strategic growth areas with existing or planned frequent transit service (Policy 2.2.5.2);
- Retail and office uses will be directed to locations that support active transportation and have existing or planned transit (Policy 2.2.5.3);

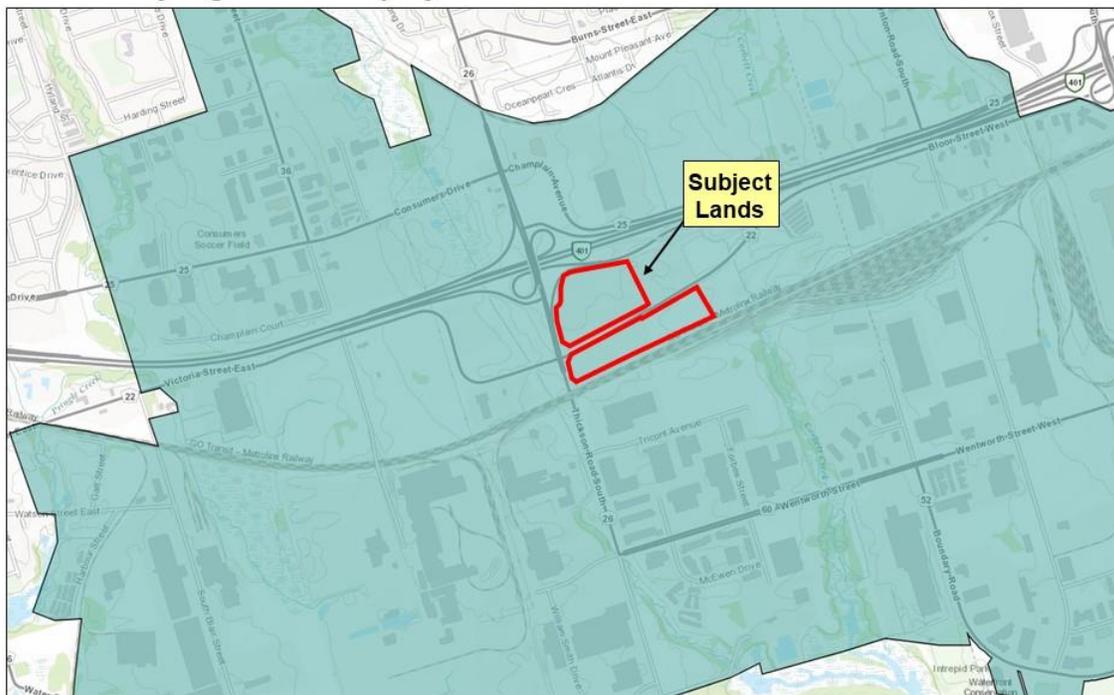
- In planning for employment, surface parking will be minimized and the development of active transportation networks and transit-supportive built form will be facilitated (Policy 2.2.5.4);
- Municipalities should designate and preserve lands within settlement areas located adjacent to or near major goods movement facilities and corridors, including major highway interchanges, as areas for manufacturing, warehousing and logistics, and appropriate associated uses and ancillary facilities (Policy 2.2.5.5);
- Municipalities will plan for all employment areas within settlement areas by: (c) providing an appropriate interface between employment areas and adjacent non-employment areas maintain land use compatibility (Policy 2.2.5.7);
- The development of sensitive land uses, major retail uses or major office uses will, in accordance with provincial guidelines, avoid, or where avoidance is not possible, minimize and mitigate adverse impacts on industrial, manufacturing or other uses that are particularly vulnerable to encroachment (Policy 2.2.5.8);
- The conversion of lands within employment areas to non-employment uses may be permitted only through a municipal comprehensive review where it is demonstrated that (Policy 2.2.5.9): a) there is a need for the conversion; b) the lands are not required over the horizon of this Plan for the employment purposes for which they are designated; c) the municipality will maintain sufficient employment lands to accommodate forecasted employment growth to the horizon of this Plan; d) the proposed uses would not adversely affect the overall viability of the employment area or the achievement of the minimum intensification and density targets in this Plan, as well as the other policies of this Plan; and e) there are existing or planned infrastructure and public service facilities to accommodate the proposed uses;
- Notwithstanding policy 2.2.5.9, until the next municipal comprehensive review, lands within existing employment areas may be converted to a designation that permits non-employment uses, provided the conversion would (Policy 2.2.5.10): a) satisfy the requirements of policy 2.2.5.9 a), d) and e); b) maintain a significant number of jobs on those lands through the establishment of development criteria; and c) not include any part of an employment area identified as a provincially significant employment zone unless the part of the employment area is located

- within a major transit station area as delineated in accordance with the policies in subsection 2.2.4;
- Any change to an official plan to permit new or expanded opportunities for major retail in an employment area may only occur in accordance with policy 2.2.5.9 or 2.2.5.10 (Policy 2.2.5.11);
  - The Minister may identify provincially significant employment zones and may provide specific direction for planning in those areas to be implemented through appropriate official plan policies and designations and economic development strategies (Policy 2.2.5.12). Provincially Significant Employment Zones are areas defined by the Minister in consultation with affected municipalities for the purpose of long-term planning for job creation and economic development. Provincially significant employment zones can consist of employment areas as well as mixed-use areas that contain a significant number of jobs;
  - The retail sector will be supported by promoting compact built form and intensification of retail and service uses and areas and encouraging the integration of those uses with other land uses to support the achievement of complete communities (Policy 2.2.5.15);
  - Upper- and single-tier municipalities, in consultation with lower-tier municipalities, the Province, and other appropriate stakeholders, will: (a) support housing choice through the achievement of the minimum intensification and density targets in this Plan, as well as the other policies of this Plan by: i. identifying a diverse range and mix of housing options and densities, including second units and affordable housing to meet projected needs of current and future residents (Policy 2.2.6.1);
  - Notwithstanding policy 1.4.1 of the PPS, 2014, in implementing policy 2.2.6.1, municipalities will support the achievement of complete communities by (Policy 2.2.6.2): a) planning to accommodate forecasted growth to the horizon of this Plan; b) planning to achieve the minimum intensification and density targets in this Plan; c) considering the range and mix of housing options and densities of the existing housing stock; and d) planning to diversify their overall housing stock across the municipality;
  - Linking major goods movement facilities and corridors, international gateways, and employment areas to facilitate efficient goods movement will be the first priority of highway investment (Policy 3.2.4.1); and

- Municipalities will provide for the establishment of priority routes for goods movement, where feasible, to facilitate the movement of goods into and out of employment areas and other areas of significant commercial activity and to provide alternate routes connecting to the provincial network (Policy 3.2.4.3).

The subject lands are located wholly within the Provincially Significant Employment Zone in Whitby (Durham Zone 2) as identified by the Province in December 2019 (see Figure 4).

**Figure 4**  
**Provincially Significant Employment Zones**

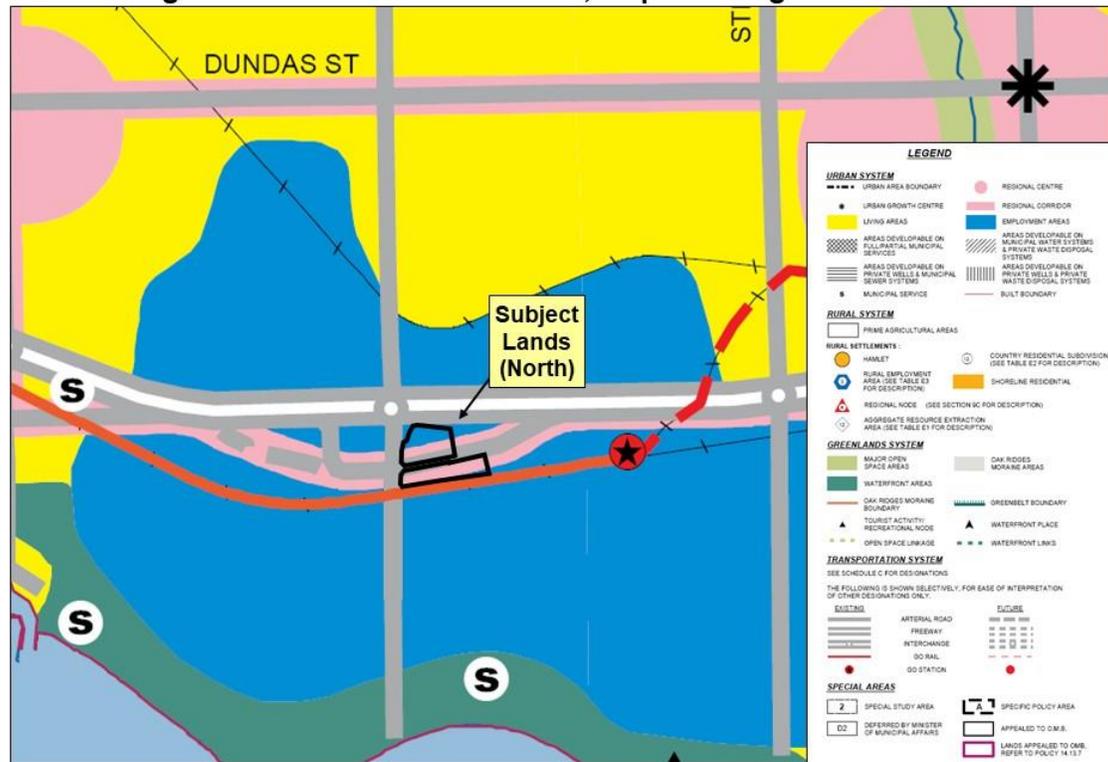


Location and boundaries are approximate

### 2.3 REGION OF DURHAM OFFICIAL PLAN

Under the Region of Durham Official Plan (May 11, 2017 Consolidation), the subject lands are designated Employment Areas, within the Built Boundary and are located along a Regional Corridor according to Schedule A, Map A4 Regional Structure (see Figure 5).

**Figure 5**  
**Durham Region Official Plan – Schedule A, Map A4 – Regional Structure**



Location and boundaries are approximate

Employment Areas are set aside for uses that by their nature may require access to highway, rail and/or shipping facilities, separation from sensitive uses or benefit from locating close to similar uses. Permitted uses may include manufacturing, assembly and processing of goods, services industries, research and development facilities, warehousing, offices and business parks, hotels, storage of goods and materials, freight transfer and transportation facilities. Such uses shall be directed to appropriate locations by designation in the respective area municipal official plan. Office buildings and business parks are encouraged to locate along freeways, Regional Corridors and Local Corridors, adjacent to Type A arterial roads (Policy 8C.2.1).

Residential uses, nursing and retirement homes, elementary and secondary schools, and places of worship shall not be permitted in Employment Areas (Policy 8.C.2.2).

It is the intent of this Plan to encourage prestige employment uses in high employment-generating capacity and greater architectural, landscaping and sign controls along highways 401 and 407, and Regional Corridors. Area municipal official plans shall

designate areas for prestige development and specify design and landscaping controls for such areas (Policy 8C.2.5).

In the development of Employment Areas, provisions shall be made for transit and active transportation, and the development of transit-supportive, compact built form (Policy 8C.2.9).

The Region recognizes the long-term economic importance of designated Employment Areas and associated highway infrastructure for employment uses. Subject to Policy 7.3.11 and a comprehensive review of this Plan, lands in the vicinity of associated highway infrastructure should be designated for employment purposes that rely on this infrastructure once they are deemed to be within the Urban Area (Policy 8C.2.11).

Limited personal service and retail uses, serving immediate designated Employment Area may be permitted as a minor component (e.g., 10%) of the aggregate gross floor area of the uses in the designated Employment Area, subject to the inclusion of appropriate provisions in the area municipal official plan and/or zoning by-law. In any case, a single use shall not exceed 500 sq. m (Policy 8C.2.12).

Major retail uses shall not be permitted in Employment Areas, except where currently designated as a permitted use in an area municipal plan as of June 2, 2009 (Policy 8C.2.14). Major retail uses are defined as large-scale, retail operations and commercial facilities, having a gross leasable area of 2,000 sq. m or greater.

### **2.3.1 Regional Corridor**

The subject lands are located with frontage on Victoria Street, which is identified as a Regional Corridor under the Region of Durham Official Plan. Regional Corridors are designated as an overlay of the underlying land-use designation on Schedule 'A', Regional Structure (Section 8A.2.8)

Regional Corridors shall be planned and developed in accordance with Policy 8A.1.5 and the relevant Policies of the underlying land-use designation, as higher density mixed-use areas, supporting higher order transit services and pedestrian oriented development. The Regional Corridors shall provide efficient transportation links to the Urban Growth Centres and Regional Centres, as well as other centres in adjacent municipalities. Portions of Regional Corridors with an underlying Living Area designation,

which are identified as appropriate for higher density mixed-use development in area municipal official plans, shall support an overall, long-term density target of at least 60 residential units per gross hectare and a floor space index of 2.5. The built form should be a wide variety of building forms, generally mid-rise in height, with some higher buildings, as detailed in area municipal official plans (Section 8A.2.9).

### 2.3.2 Natural Heritage System

The subject lands are located outside of any identified Key Natural Heritage and Hydrologic Features, as identified on Schedule B, Map B1d (see Figure 6).

Figure 6  
Durham Region Official Plan – Schedule B, Map B1d – Natural Heritage System



Location and boundaries are approximate

### 2.3.3 Transportation

According to Schedule C, Map C2 Road Network, Victoria Street and Thickson Road are identified as a Type A Arterial Road (a portion of Thickson Road is identified as a Type C Arterial) (see Figure 7). According to Schedule C, Map C3 Transit Priority Network, the subject lands are identified along an existing Transit Spine and a

Commuter Rail, just west of an identified existing Commuter Station and future Transportation Hub (see Figure 8).

**Figure 7**  
**Durham Region Official Plan – Schedule C, Map C2 – Road Network**



Location and boundaries are approximate

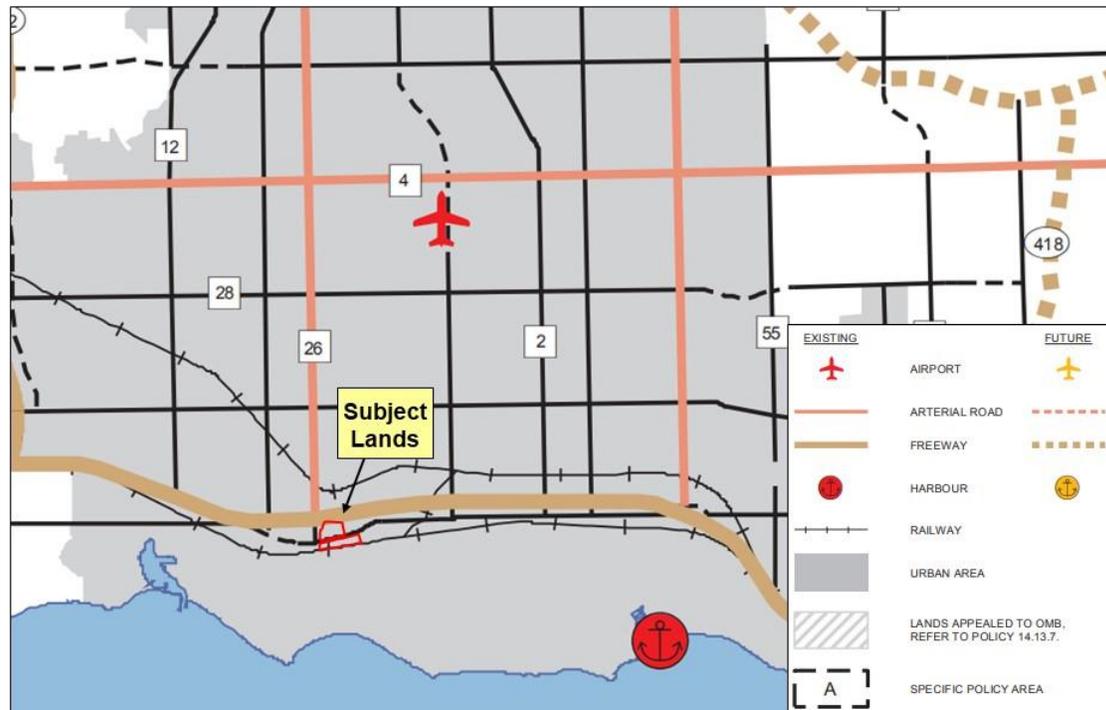
**Figure 8**  
**Durham Region Official Plan – Schedule C, Map C3 – Transit Priority Network**



Location and boundaries are approximate

According to Schedule C, Map C4 Strategic Goods Movement Network, Highway 401 forms part of the Region's Strategic Goods Movement Network (see Figure 9). Under Policy 11.3.5, the Strategic Goods Movement Network identifies preferred haul routes that are planned to accommodate commercial vehicles on a year round basis, and which link major generators of traffic.

**Figure 9**  
**Durham Region Official Plan – Schedule C, Map C4 – Strategic Goods Movement Network**



Location and boundaries are approximate

## 2.4 REGION OF DURHAM OFFICIAL PLAN REVIEW AND MCR

The Region of Durham is currently undertaking an Official Plan Review and MCR.

According to Region of Durham Report #2020-P-11, dated June 2, 2020, regarding Proposed Employment Area Conversion Criteria and Submission Review Process:

- Under the Region's MCR, the Growth Management Study is being completed in two phases: Phase 1 is the Land Needs Assessment (LNA) and Phase 2 will focus on determining the most appropriate location for Urban Boundary Expansion.
- The Growth Management Study "includes an Employment Analysis to understand employment trends and opportunities in the Region, develop an Employment Area density target, and assess the ability of the Region, and especially its Employment Areas, to accommodate the employment forecast. Evaluating the conversion of Employment Area lands is a key step in the LNA to

- determine where and how much Employment Area lands may be re-designated to permit non-employment uses (e.g. residential).” (p. 2)
- “Inappropriate Employment Area conversions can have substantial and long-term impacts which may include the encroachment of sensitive land uses into an otherwise stable Employment Area. This may cause land use compatibility issues, reduce the viability of existing/future employment uses, and create pressure for additional conversions of the Employment Area. It is essential to have an adequate supply of designated employment land to accommodate the employment forecasts contained within the Growth Plan. Once converted, it is unlikely the lands will ever return to an employment use. Accordingly, requests for Employment Area conversion must be carefully evaluated.” (pp. 8-9)
  - Attachment #15: Employment Land Inventory – Whitby shows the 2019 Employment Land Inventory, where the subject lands are shown with a Development Status as “Built” and “Fully Serviced” and do not form part of the Region’s “Underutilized” or “Vacant” land supply. It is identified that a total of 809 ha, or 49% of the Town’s employment area designated lands are vacant, while a further 253 ha (15%) of the employment lands are underutilized (see Figure 10).

**Figure 10**  
**Region of Durham – Employment Lands Inventory (2018), Region of Durham**  
**Report #2020-P-11 dated June 2, 2020 – Attachment #15**



Location and boundaries are approximate

Growth Management Urban System – Discussion Paper dated June 2019 (Staff Report #2019-P-31), Section 8.3 states “The conversion of Employment Areas to non-employment uses will be considered if, for example, the LNA concludes there is a surplus of Employment Lands. Conversion requests would be evaluated against several criteria, including the requirements of A Place to Grow, to determine the suitability of non-employment uses. Additional criteria for employment conversions may include proximity to transit, availability of infrastructure, land use compatibility, the characteristics of the surrounding area, as well as the existing health and long-term viability of the surrounding employment area. Based on the evaluation, any potential candidate areas would be ranked or prioritized”. Following the Discussion Paper, the next phase of the Growth Management Study will include a LNA, after which the Growth Management Study will recommend the most suitable locations for settlement boundary expansions and/or employment area conversions, if any are required.

## **2.5 TOWN OF WHITBY OFFICIAL PLAN**

### **2.5.1 Economic Prosperity**

Section 3 of the Town of Whitby Official Plan outlines goals, objectives and policies related to economic prosperity and sustainable community planning. It is the overarching goal of the Town “To plan for, and provide opportunities for, economic development and job creation, and to enhance the opportunities for new business development in the Municipality” (Section 3.1.1).

The Municipality shall promote, diversify, and expand the employment opportunities in the Municipality while preserving the existing employment base, and shall monitor employment activity (Section 3.1.3.1).

The Municipality shall coordinate with the Region of Durham, to maintain a sufficient supply of serviced industrial land that is available for development at all times and in appropriate and strategic locations (Section 3.1.3.2).

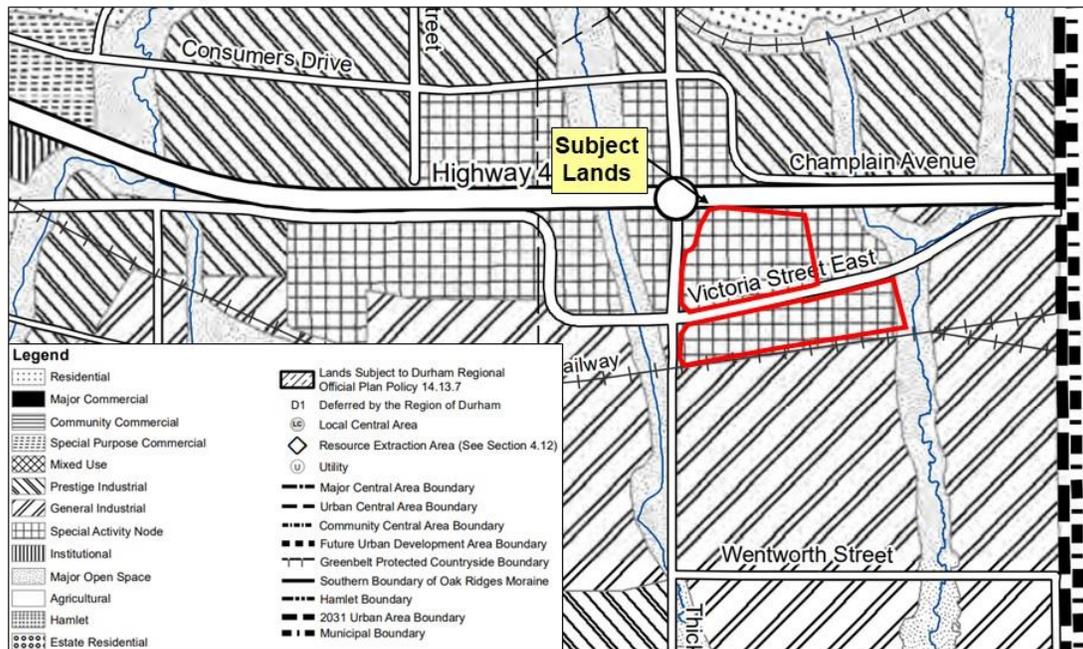
The Municipality shall maintain a range of site sizes in various Industrial areas in order to provide choice for a range of economic activities, wherever possible (Section 3.1.3.4).

The Municipality shall encourage the healthy and balanced development of all commercial areas and promote the Downtown Whitby and Downtown Brooklin Major Central Areas for commercial, higher order office development, and community uses and government services (Section 3.1.3.6).

### **2.5.2 Special Activity Node**

According to Schedule A Land Use of the Town of Whitby Official Plan, the subject lands are designated Special Activity Node (see Figure 11).

**Figure 11**  
**Town of Whitby – Schedule A Land Use**



Location and boundaries are approximate

The subject lands are located within the Special Activity Node designation as shown on Schedule A of the Official Plan. The policies for the Special Activity Node are described under the “Commercial” land use category. The goal of the Commercial land use category is described under Section 4.5.1.1 as follows: “To ensure the provision of a full range of commercial, residential, institutional, and community uses to accommodate the needs of the Municipality, the Region, and the visiting public.”

The subject lands are understood as Special Activity Node B, which is described in Section 4.5.3.6.1 as follows:

The area designated as Special Activity Node B on Schedule “A” is located at the Highway 401/Thickson Road interchange. Permitted uses shall include major retail uses, offices, including major offices, community and recreational uses, entertainment uses, financial institutions, restaurants, banquet halls, hotels, private clubs, and light industrial uses within enclosed buildings such as data processing centres, commercial or technical schools, and research and development facilities. Notwithstanding any other provisions of this Plan to the

contrary, a major retail use in Special Activity Node B does not include supermarkets and department stores.

Major Retail Uses are defined by the Official Plan as “Large-scale, retail operations and commercial facilities, having a gross leasable area of 2,000 square metres or greater.”

Maximum gross leasable floor space for major retail uses in areas designated as Special Activity Node B have been allocated to each quadrant, including the southeast where the subject lands are located, which is as follows (Section 4.5.3.6.2): The lands located within the southeast quadrant of the designated Special Activity Node B area shall have a maximum gross leasable floor space of up to 59,400 square metres for the purpose of major retail uses.

Only one major retail use containing space where food products are displayed and kept for sale is permitted in Special Activity Node B. The maximum amount of food space contained in this major retail use shall not exceed 5,000 square metres of gross leasable floor space. The amount of floor space devoted to the sale, display and storage of food products is restricted to a portion of the total floor space contained in the major retail use so that the major retail use does not constitute a supermarket. In addition to complying with the foregoing, the applicable major retail use shall have a total size of a minimum of 7,500 square metres of gross leasable floor space (Section 4.5.6.3).

Additional major retail uses within Special Activity Node B shall only be permitted by amendment to the Zoning By-law. Council, in considering amendments for major retail uses, shall be satisfied that such uses are of a substantial size and scale and would generally not locate in a traditionally commercial area, and are of a high quality which would not detract from the character of the area. Through the development review process, it shall be demonstrated to the satisfaction of the appropriate agencies that the road network can adequately support the proposed major retail use (Section 4.5.3.6.4).

A Comprehensive Block Plan shall be required in accordance with Section 6.2.4.2 incorporating an overall design to achieve proper access, internal traffic circulation, adequate parking, and urban design and landscape standards prior to approval of a specific development application in Special Activity Node B. Outdoor storage on lots abutting arterial roads and Provincial highways shall be prohibited and outdoor display areas shall be restricted and regulated by the Zoning By-law (Section 4.5.3.6.5).

### **2.5.3 Industrial**

There are two primary industrial categories established by the Town of Whitby Official Plan, being the General Industrial and Prestige Industrial categories. A number of industrial uses are permitted within each designation, however neither designation would permit the range and scope of uses currently occupied by the subject lands, generally reflective of a major commercial centre.

Limited sales, service and office uses accessory to a primary use are permitted in the General Industrial designation (Section 4.7.3.1.3)

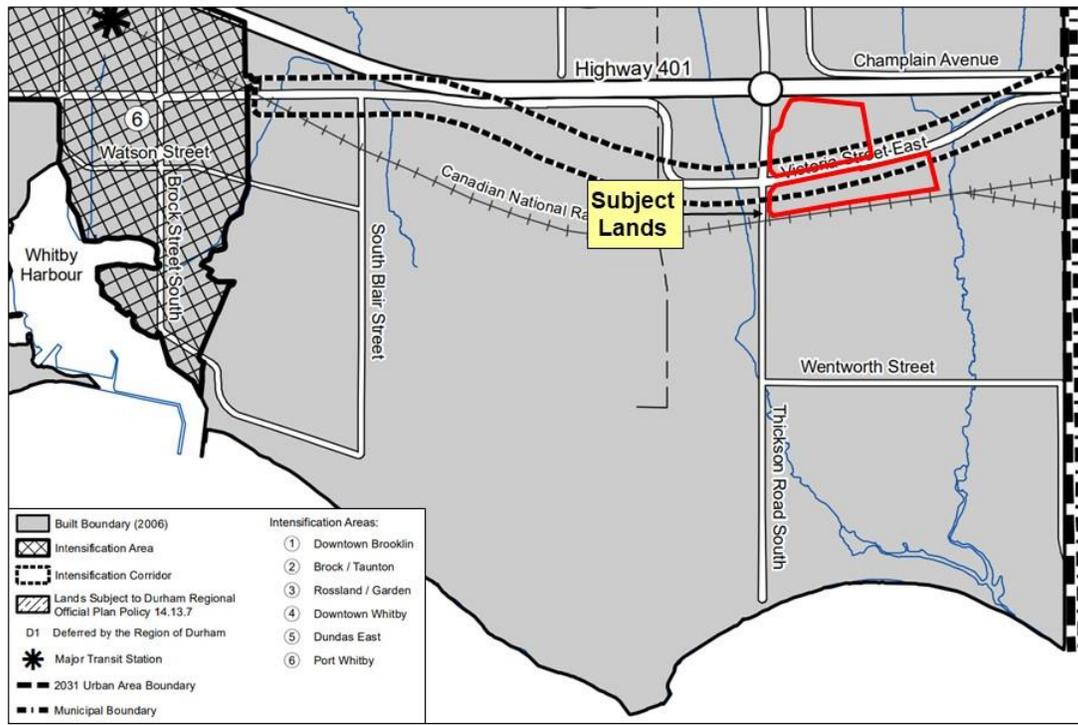
Limited personal service uses, restaurants, and financial institutions serving the immediate designated Industrial Area, as well as health and athletic clubs are permitted in the Prestige Industrial designation, subject to specific criteria as follows (Section 3.7.3.2.4): The maximum gross floor area permitted for individual personal service uses, restaurants, and financial institution uses is 500 square metres. The locations for and number of such uses on a lot shall be restricted in the Zoning By-law to ensure that these uses are complementary to Prestige Industrial uses and do not detract from the planned function of the Prestige Industrial designation, and generally comprise no more than 10 per cent of the aggregate floor area of the uses within each Prestige Industrial area, as generally bounded by arterial roads and highways, and natural features.

Major commercial uses, as defined by the Official Plan, are not permitted uses under either the General Industrial or Prestige Industrial designations.

### **2.5.4 Intensification**

The Official Plan establishes a number of Intensification Areas and Intensification Corridors within the Municipality's Built Boundary as shown on Schedule "B". The Intensification Areas and Intensification Corridors are the locations where the majority of expected intensification in the Municipality is planned to occur during the planning period (Section 4.2.1). The subject lands have frontage along Victoria Street, which in this location is identified as an Intensification Corridor on Schedule B Intensification of the Town of Whitby Official Plan (see Figure 12).

**Figure 12**  
**Town of Whitby – Schedule B Intensification**



Location and boundaries are approximate

Relevant Intensification Corridor policies are outlined below:

- Intensification Corridors are identified on Schedule “B” along portions of the Regional Corridors, including Dundas Street, Taunton Road, Brock Street/Baldwin Street, Victoria Street, Winchester Road, and Columbus Road (Section 4.2.7.1);
- In accordance with the Durham Regional Official Plan, the long-term overall density target is at least 60 residential units per gross hectare and the overall long-term floor space index target is 2.5 within Intensification Corridors identified on Schedule “B” (Section 4.2.7.2);
- The minimum building height for new residential and mixed-use buildings in Intensification Corridors shall be 2 storeys and the maximum building height shall be 8 storeys. Buildings that have a height of between 4 and 8 storeys are to be located at intersections, wherever possible, to take advantage of the location of transit stops and to establish neighbourhood focal points and landmarks; and

Notwithstanding the foregoing, consideration may be given to building heights of up to 12 storeys on sites that meet the requirements of Section 4.4.3.10.2 and are located adjacent to natural features and front on an arterial road (Section 4.2.7.3).

### **2.5.5 Housing**

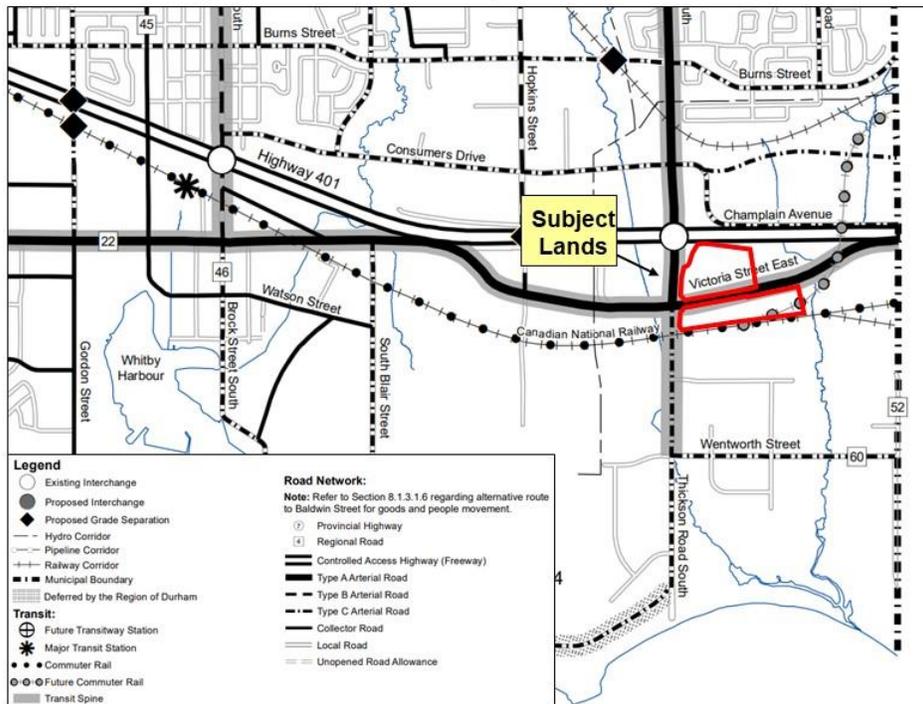
The Municipality shall encourage the provision of a range of residential accommodation by type, tenure, size, location, density and affordability to meet the Municipality's housing needs (Section 7.4.1).

The Municipality shall support opportunities for residential intensification in order to increase the supply of housing in urban areas and achieve the Municipality's intensification allocation and to provide more cost-efficient use of municipal services (Section 7.5.1).

### **2.5.6 Transportation**

Schedule D of the Town of Whitby Official Plan presents the Town's transportation network. The subject lands have frontage along Victoria Street and Thickson Road. Victoria Street is identified as a Type A Arterial Road and Transit Spine on Schedule D. Thickson Road is identified as a Type A and C Arterial Road and a Transit Spine on Schedule D. In proximity to the subject lands is an identified rail line (Canadian National Railway) immediately to the south, and north of the subject lands is Highway 401, an identified Controlled Access Highway with an existing interchange identified at Thickson Road (see Figure 13).

**Figure 13**  
**Town of Whitby – Schedule D Transportation**



Location and boundaries are approximate

The arterial roads in proximity to the subject lands are described under Section 8.1.3.3.2 as follows:

- Type A arterial roads are designed to accommodate the movement of large volumes of traffic at moderate to high speeds over relatively long distances. Such roads provide the highest level of service relative to other types of arterial roads and generally extend beyond the Regional boundaries. These roads are intended to intersect primarily with freeways and other arterial roads; and
- Type C arterial roads are designed to move lower volumes of traffic at slower speeds over relatively short distances. When considering local road intersection and private access, the needs of abutting land uses will be given paramount consideration subject to site specific conditions and accepted traffic engineering principles. The location of accesses to adjacent lands and intersections should not impact efficient transit operation or public safety.

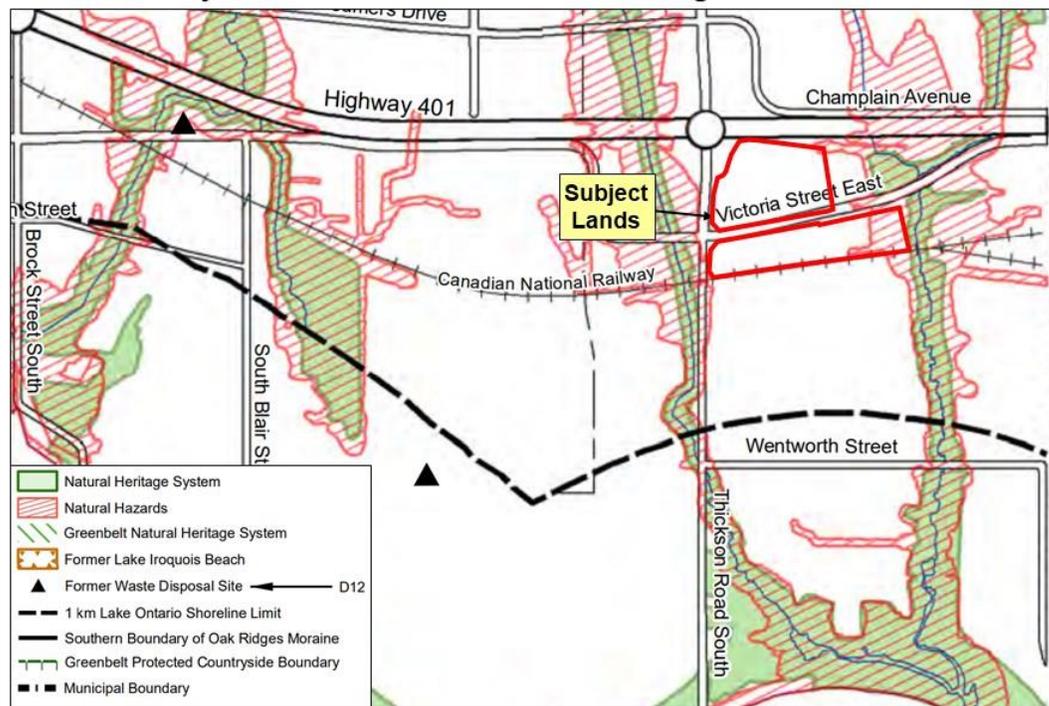
Transit Spines, identified on Schedule “D”, facilitate inter-regional and inter-municipal transit services along arterial roads which intersect with local transit services. Where

Transit Spines are coincident with Intensification Corridors, the relevant provisions of Section 4.2 and 6.2 shall apply to achieve a more intensive mixed-use built form that is transit-supportive.

### 2.5.7 Environmental Management

Schedule C Environmental Management of the Official Plan in part identifies the Natural Heritage System and Natural Hazards within the Town (see Figure 14). The eastern portion of the lower parcel of the subject lands is within the Natural Hazards overlay limit. The lands to the east and west of the subject lands are identified as part of the Natural Heritage System and within the Natural Hazards overlay.

Figure 14  
Town of Whitby – Schedule C Environmental Management



### 3.0 CONVERSION CRITERIA

The Proposed Employment Area Conversion Criteria and Submission Review Process, as outlined in Staff Report #2020-P-11 and including the questions contained within the appended submission form, are used to guide the following analysis of the proposed Employment Conversion of the subject lands. There are a total of 12 evaluation criteria, from which the submission form questions are based. It is noted that consideration of sites for conversion potential will rely in part on the checklist style criteria, however a more qualitative analysis is also to be undertaken when reviewing an application. Sites are not disqualified from employment conversion just based on the Employment Conversion Criteria.

Based on our review, the proposed Employment Conversion meets 8 of the 12 evaluation criteria, with one of the criteria noted as To Be Determined due to the nature of this criteria requiring input from Area Municipal Staff and Council. The following table offers a summary of the established review criteria as they relate to the proposed Employment Conversion.

RioCan Thickson Ridge: Conversion Criteria		
No.	Criteria	(√/X)
1.	To satisfy Provincial Policy Statement policy, it must be demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.	√
2.	To satisfy Growth Plan policy, it must be demonstrated that: <ul style="list-style-type: none"> <li>a) There is a need for the conversion.</li> <li>b) The lands are not required over the horizon of the Growth Plan for the employment purposes for which they are designated.</li> <li>c) The municipality will maintain sufficient employment lands to accommodate forecasted employment growth to the horizon of the Growth Plan.</li> <li>d) The proposed uses would not adversely affect the overall viability of the Employment Area or the achievement of the minimum intensification and density targets in the Growth Plan, as well any other applicable policies.</li> </ul>	a) √ b) √ c) √ d) √ e) √

	e) There are existing or planned infrastructure and public service facilities to accommodate the proposed uses.	
3.	The site is not located in proximity to major transportation corridors and goods movement infrastructure.	X
4.	The site does not offer direct access to major transportation corridors and goods movement infrastructure.	X
5.	The site is located outside or on the fringe of an assembly of Employment Areas.	✓
6.	The site offers limited market supply potential for Employment Area development due to size, configuration, access, physical conditions, and/or servicing constraints, etc.	✓
7.	The proposed conversion to non-employment uses is compatible with surrounding land use permissions and potential land use conflicts can be mitigated.	✓
8.	The conversion of the proposed site to non-employment uses would not compromise the overall supply of large Employment Area sites at the Regional or Area Municipal level.	✓
9.	The conversion request demonstrates total job yield of the site can be maintained or improved.	✓
10.	The conversion request is within a proposed Major Transit Station Area.	X
11.	The conversion request is supported by Area Municipal staff/Council and does not conflict with municipal interests and policies.	TBD
12.	The conversion of the site would not present negative cross-jurisdictional impacts that could not be overcome.	✓

The remainder of this section responds to the numerous questions posed by the Region of Durham Submission Form for Requests for Employment Area Conversion. These questions generally align with the 12 conversion criteria in the above noted table, and help to inform the analysis.

### 3.1 DEMONSTRATED NEED

***Question: Is there a demonstrated need for the Employment Area conversion?***

There is demonstrated need for the requested Employment Area conversion for reasons including:

- The proposed residential uses under a Living Areas designation will help to fulfill a market need by providing a diverse range of housing. According to the Growth Management Urban System – Discussion Paper dated June 2019, there is a trend in Durham towards smaller households (p. 27), which can be accommodated in smaller units within higher-density housing developments including in apartment buildings. The smaller dwelling units result in a more affordable housing option (either for sale or for rent) (Growth Plan Policy 2.2.6.1);
- The proposed residential infill on the subject lands under a Living Areas designation represents infill development/intensification within the existing built boundary (PPS Policy 1.1.1.e), which will put less pressure on expansion of the settlement area to accommodate population growth, where settlement areas shall be the focus of growth and development (PPS Policy 1.1.3.1);
- The subject lands are identified as an area for intensification along Victoria Street under both the Region of Durham and Town of Whitby Official Plans, which call for an FSI of at least 2.5 and 60 persons per hectare. To achieve the intensification and built form anticipated along the Victoria Street corridor, an Employment Area conversion would be required in order to permit residential uses under a Living Areas designation;
- The conversion request will promote efficient development and land use patterns (PPS Policy 1.1.1.a) while adding to the range and mix of residential types to meet long-term needs in allocation with appropriate infrastructure and public service facilities (PPS Policies 1.1.1.b and 1.4.3; Growth Plan Policies 2.2.1.3 and 2.2.1.4). The proposed conversion to permit residential uses will respond to market-based needs and provide housing and broaden the range of housing options (PPS Policy 1.7.1.b);
- While the RioCan site has been fully built out and has historically secured tenants throughout all units, recent challenges have been faced by RioCan in retaining existing and securing new tenants. This is generally attributed to significant changes to consumer habits and how retailers view and value storefronts, and stringent GFA and unit size requirements. The shifts in consumer habits have been exacerbated by the ongoing pandemic and an introduction of modified safety measures, with uncertainty as to the potential

- longstanding consequences. There is potential for existing store fronts to become vacant and remain as such for years to come, which becomes a snowball effect for other retailers as the desirability of the retail node is negatively impacted by longstanding vacancies. The introduction of residential uses provides additional market demand in the immediate proximity to the existing retail uses, which coupled with modified permissions for the existing retail uses, supports their long-term viability by providing the ability to respond to an uncertain market, where currently that ability does not exist (Growth Plan Section 2.2.5.15);
- Attachment #15 to Staff Report 2020-P-11 and the Employment Land Inventory – Whitby shows the 2019 Employment Land Inventory, where the subject lands are shown with a Development Status of “Built” and “Fully Serviced” and do not form part of the Region’s “Underutilized” or “Vacant” land supply. It is identified that a total of 809 ha, or 49% of the Town’s employment area designated lands are vacant, while a further 253 ha (15%) of the employment lands are underutilized (see Figure 10) (Whitby OP Policies 3.1.3.2 and 3.1.3.4). The vacant and underdeveloped supply of Employment Lands in Whitby is significant, and is expected to be sufficient to accommodate future demand of employment use through infill and new developments (PPS Policy 1.3.2.1; Growth Plan Policy 2.2.5.1);
  - There would be no strategic purpose in the Town retaining the subject lands for Employment purposes as the subject lands are identified as “Built” under the Employment Land Inventory, while at the same time the existing Major Commercial use of the subject lands is not reflective of the intended function of Employment Areas (Growth Plan Policy 2.2.5.7 and 2.2.5.8); and
  - There are no critical or strategic reasons for protecting the subject lands as Employment Lands (PPS Policy 1.3.2.4) under the Region’s MCR. The Employment Areas designation is no longer appropriate for the planned function of the subject lands (PPS Policy 1.3.2.2). The existing major commercial/retail uses, would continue to be permitted under a Living Areas designation whereby an appropriate mix and range of employment and mixed uses will continue to be provided to meet long-term needs (PPS Policy 1.3.1) while promoting economic development (PPS Policy 1.7.1.a).

## 3.2 COMPATIBILITY

***Question: Is the proposed Employment Area conversion compatible with the surrounding existing land uses and/or planning permissions? If yes, please explain how the proposed Employment Area conversion will not have an adverse impact on surrounding land uses and the broader Employment Area.***

The proposed Employment Area conversion is compatible with the surrounding existing land uses and planning permissions for the following reasons (PPS Policy 1.2.6.1):

- The requested conversion does not represent encroachment into the main part of the surrounding employment area and will not adversely affect the overall stability of the Employment Area (Growth Plan Policy 2.2.5.8). The subject lands are relatively separated from the broader employment function of the Employment Area by built and natural features including Highway 401 to the north, an existing rail line to the south, an arterial road to the west, and natural heritage features to the east and west (PPS Policy 1.3.2.3; Growth Plan Policy 2.2.5.7). The subject lands are a significant portion of an established commercial node that effectively separates the Prestige Industrial lands to the north from the General Industrial lands to the south. The Employment Conversion of the subject lands would be compatible with the function of the existing established commercial node that the subject lands form a part of;
- The existing major retail node includes a parcel that is under separate ownership and built as a Home Depot store, which generally functions as part of the overall node. The Home Depot lands are developed for a similar retail function to what is existing on the subject lands. The continued use of the Home Depot lands for retail purposes would be compatible with the continued use of the subject lands for major commercial purposes, and would be compatible with the introduction of residential uses on the subject lands, which would further support the continued retail function of the Home Depot lands (PPS Policy 1.3.1). The proposed Employment Conversion is compatible with and beneficial to the adjacent Home Depot lands;
- North of the subject lands, beyond Highway 401, is the Durham College Whitby Campus. According to Durham College, the Whitby campus is currently home to more than 2,100 post-secondary students, 1,300 skilled-trade apprentices, and thousands of other part-time students and corporate clients. The Whitby campus

is under a phase 4 expansion, which is currently under construction and will result in a 60,000 sq. ft. expansion that will allow an additional 700 to 750 students to attend the campus. The proposed Employment Conversion is compatible and desirable as it relates to the existing higher education facility. The maintenance of the existing retail component on the subject lands will help serve the large student population that attends the Whitby Campus of Durham College. Further, the introduction of residential uses at the subject lands will expand the opportunity for students to live in proximity to the campus, reducing overall trip length and increasing convenience for the student hub;

- Residential uses are compatible and desirable to locate in proximity to transportation infrastructure options, which at the subject lands includes Highway 401 to the north with an interchange at Thickson Road, and the two existing/proposed rail stations to the east of the subject lands. In addition, three Durham Transit bus routes (922, 403 and 408) operate along Victoria Street adjacent to the subject lands and provide direct connection to the existing Oshawa GO station, which currently acts as a hub for additional transit routes and intermodal connections. While the subject lands are not located within an identified Major Transit Station Area, they are within proximity to the existing and proposed station locations, as well as other transit opportunities. The proximity of the existing and proposed transit stations will help to create a more healthy and active lifestyle and ensure transit is coordinated in accordance with land use planning, should the subject lands be considered for Employment Conversion; and
- The subject lands are of a sufficient size and dimension to incorporate potential mitigation measures and buffers if required for adjacent properties and transportation infrastructure, for the future redevelopment which is proposed to incorporate sensitive land uses (PPS Policies 1.2.6.2 and 1.6.9.1).

### **3.3 ANTICIPATED POPULATION, RESIDENTIAL UNITS AND EMPLOYMENT (JOBS)**

***Question: What is the anticipated population, residential unit count and type (single, semi, townhouse, apartment, etc.), and employment (jobs) that would be created through development of the subject site if the Employment Area conversion request is granted?***

RioCan has identified that a first phase of redevelopment of the subject lands would likely proceed with the development of existing parking areas, for two buildings containing a total of approximately 500 combined dwelling units. Due to existing lease constraints and uncertainty for future tenant obligations or challenges as noted, RioCan advises that it would be premature to identify the precise siting of the first phase of redevelopment. Utilizing the scope of the first phase of development provides a basis for evaluating the initial impact of the Employment Conversion to residential population and jobs.

Based on Town of Whitby Development Charges Background study prepared by Hemson Consulting Inc. dated April 10, 2017, a rate of approximately 1.46 people per apartment unit was employed as an average for calculating how many new residents are expected (in calculating the development charge rate). Assuming the same ratio of people per unit, the proposed first phase of development, of 500 residential dwelling units, would be expected to result in a population of approximately 730 persons.

Future phases of development beyond the 500 dwelling units proposed as part of phase one, would be considered and evaluated on a needs basis and in response to market demand. To provide preliminary estimates on housing and residents at full build out, we have considered the Region and Town's direction for the future development of the subject lands under the respective Official Plans. The Region of Durham identifies Victoria Street as a Regional Corridor under the Official Plan, which under Section 8A.2.9 targets a minimum intensification target for lands along the corridor as a minimum Floor Space Index of 2.5 and achieving a minimum density of approximately 60 residents per hectare. The Town of Whitby Official Plan Section 4.2.7.2 reiterates these growth targets on the subject lands. These intensification goals can be translated as a conservative estimate of full redevelopment of the subject lands. With a total land area of approximately 16.9 ha, the subject lands would, upon full build out:

- Assuming a minimum Floor Space Index target of 2.5, achieve approximately 423,593.25 sq. m of floor space; and
- Assuming a minimum density of 60 residents per hectare, result in approximately 1,014 residents.

On a preliminary basis and in our estimation, the Regional and Town targets could be easily met and far exceeded on the subject lands upon full build out. Therefore, we

would consider the above estimates conservative and representing an absolute minimum that could be achievable.

The redevelopment of the subject lands for high density residential purposes inherently creates a number of jobs, both temporary and permanent. Jobs are created for the design and construction of the proposed development, which would likely span several years and hundreds of temporary long-term jobs. Several jobs could be created to service the residential development, including security and condominium management jobs, site maintenance and/or cleaning staff.

It is important to note that the existing Major Retail permissions are proposed to be carried through for the subject lands as part of the Employment Conversion. The jobs at the existing retailers would be maintained throughout the site while those uses continue to operate. Redevelopment would target underutilized areas throughout the site, in an attempt to retain as much commercial GFA as possible and respect existing lease agreements. To this end, it would also be the intent to modify the existing permissions to allow for a greater range of commercial unit sizes, to help fill out gaps as part of redevelopment. Accordingly, and while no specific plan is proposed for the redevelopment, it would be anticipated that jobs would generally be maintained throughout the site, and the loss of jobs would be minimized to the extent possible. If commercial units are replaced as future phases are contemplated, it is anticipated that commercial uses will be located at grade, where appropriate, of newly proposed buildings. Accordingly, while detailed design has not yet been undertaken, there is high potential for retail and service commercial employment to be carried through to the redeveloped lands as retail is replaced by mixed use residential and commercial development.

The future of the subject lands as a strictly major retail centre creates the risk of a loss of jobs. Specifically, if individual retailers are unable to maintain existing lease agreements and are no longer profitable, jobs could be at risk or reduced to save costs. The introduction of residents in the immediate proximity will strengthen the local commercial market and increase demand, while also creating a significant job pool.

### 3.4 PLANNED INFRASTRUCTURE AND PUBLIC SERVICE FACILITIES

**Question: Are there existing or planned infrastructure<sup>1</sup> and public service facilities<sup>2</sup> needed to accommodate the proposed use(s)? If yes, please provide additional details below.**

Existing infrastructure and public service facilities are expected to be sufficient to accommodate residential infill uses as proposed on the subject lands (Growth Plan Policy 2.2.1.2a):

- The subject lands are existing developed lands on full municipal services (PPS Policy 1.3.1d)). The impacts of a proposed residential development on the Regional and Town servicing infrastructure and utilities are expected to be confirmed through a future Zoning By-law Amendment application in the context of the Town of Whitby Official Plan policies for a complete application (Section 10.1.14), which requires specific technical reports to be prepared related to existing services;
- The subject lands are in proximity to public services, primarily located towards the north of the subject lands, including a number of educational facilities. Most notably is the Durham College Whitby Campus, which is currently undergoing expansion to accommodate an addition 700-750 students. In addition, there are a number of options for the various school boards in proximity to the subject lands, including: Bellwood Public School (elementary and middle); Kendalwood Montessori and Elementary School; École élémentaire catholique Jean-Paul II; and Anderson CVI (high school);
- The subject lands are in proximity to existing and planned major transportation infrastructure, as well as local transit service. Specifically, Highway 401 is located to the north with an interchange at Thickson Road, and there are two existing/proposed rail stations to the east of the subject lands that provide inter-regional transit options via GO Transit or VIA Rail. In addition, three Durham

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<sup>1</sup> As defined in the Growth Plan (2019) as “Physical structures (facilities and corridors) that form the foundation for development. Infrastructure includes: sewage and water systems, septage treatment systems, stormwater management systems, waste management systems, electricity generation facilities, electricity transmission and distribution systems, communications/telecommunications, transit and transportation corridors and facilities, oil and gas pipelines and associated facilities”.

<sup>2</sup> As defined in the Growth Plan, 2019 as “Lands, buildings and structures for the provision of programs and services provided or subsidized by a government or other body, such as social assistance, recreation, police and fire protection, health and educational programs, and cultural services. Public service facilities do not include infrastructure”.

Transit bus routes (922, 403 and 408) operate along Victoria Street adjacent to the subject lands and provide direct connection to the existing Oshawa GO station, which currently acts as a hub for additional transit routes and intermodal connections. While the subject lands are not located within an identified Major Transit Station Area, they are within proximity to the existing and proposed station locations, as well as other transit opportunities. Both Thickson Road and Victoria Street are identified as arterial roads; and

- As part of the existing commercial hub, the subject lands are well served by existing and planned retail and commercial uses, including those located on the subject lands. The introduction of residential uses on the subject lands while retaining the commercial functionality and permission, creates synergies between these uses that can result in fewer vehicle trips and accomplish numerous goals and objectives.

### **3.5 MAJOR TRANSPORTATION CORRIDORS AND/OR GOODS MOVEMENT INFRASTRUCTURE**

***Question: Is the site within proximity to major transportation corridors and/or goods movement infrastructure (arterial roads, highways, airports, harbours/ports, railways)? If yes, identify which transportation corridors and/or goods movement infrastructure (arterial roads, highways, airports, harbours/ports, railways) are nearby and their approximate distance (measured in metres).***

The subject lands are within proximity to major transportation corridors and/or goods movement infrastructure, including:

- Highway 401 abutting the subject lands to the north;
- Canadian National Railway line abutting the subject lands to the south;
- Victoria Street, identified as an Arterial Road extends east-west through the subject lands; and
- Thickson Road, identified as an Arterial Road is located west of the subject lands.

Municipalities are directed to protect lands in proximity to major goods movement facilities and corridors for employment uses that require those locations (PPS Policy 1.3.2.6; Growth Plan Policy 2.2.5.5). The subject lands are developed and used entirely

for major commercial purposes, which benefit from proximity to and sightlines from major transportation infrastructure, such as Highway 401 to the north. The major retail permissions of the lands are proposed to be maintained as part of the Employment Conversion.

***Question: Does the site offer direct access to major transportation corridors and/or goods movement infrastructure (arterial roads, highways, airports, harbours/ports, railways)? If yes, identify which transportation corridors and/or goods movement infrastructure (arterial roads, highways, airports, harbours/ports, railways) and describe how direct access is provided from the site.***

The subject lands offer direct access to major transportation corridors and/or goods movement infrastructure, as follows:

- The subject lands have existing access points to Victoria Street, an Arterial Road. Victoria Street provides further direct connection to Thickson Road and subsequently to the Highway 401 and Thickson Road interchange; and
- The subject lands do not have direct connection to the adjacent Canadian National Railway line.

### **3.6 SITE LOCATION AND CONTEXT OF THE BROADER EMPLOYMENT AREA**

***Question: Describe the site's location within the context of the broader Employment Area. Is the site best described as: Located on the edge/fringe of an Employment Area; Located within an Employment Area with existing employment uses/planning permissions for employment use(s) on 1 or more sides of the subject site; or Located wholly within an Employment Area and surrounded by existing employment uses/planning permissions for employment use(s) on all sides of the subject site.***

The subject lands, while within a broader employment area, are relatively separated from other employment uses by means of physical barriers. It is not anticipated that the permissions for lands immediately abutting the subject lands will result in future employment uses that would result in land use conflicts:

- The subject lands have been identified by the province as within Provincially Significant Employment Zone (Durham Zone 2) as shown in Figure 4;

- Under the Region of Durham Official Plan Regional Structure, the subject lands are located within an Employment Area as shown in Figure 5. The portion of the Employment Area in which the subject lands are located (as shown in the Regional Structure Schedule) is a relatively fragmented and independent node in the context of the broader Employment Area. Specifically, while the subject lands are within a broader Employment Area, at a more localized scale and taking into consideration existing physical features (i.e. existing roadways/railways and natural features), the subject lands are within, and form a majority of an independent node within the Employment Area;
- At a local policy context, the subject lands are located outside of an Employment Area designation under the Town of Whitby Official Plan. The subject lands are designated for commercial purposes (Special Activity Node) under the Town of Whitby Official Plan as shown in Figure 11, and do not form a part of the identified Industrial (Employment) area at a localized level. The subject lands form a part of a node at the intersection of Highway 401 and Thickson Road that is identified for commercial purposes. This area intended for commercial purposes is surrounded by areas identified for Prestige Industrial uses generally to the north and General Industrial uses generally to the south. The lands to the east and west are generally designated for a similar commercial purpose, but also contain a Natural Heritage System designation that is reflective of an existing natural heritage feature, intended to restrict future development. Abutting the lands to the north and south are transportation corridors, which further buffers the subject lands from the surrounding employment lands;
- Beyond the employment policy context, it is important to explore the immediate locational context. As is described below, the subject lands are a relatively independent node that are not immediately abutting Employment type uses. Surrounding lands uses are generally as follows:
  - East of the subject lands is the Natural Heritage System and Natural Hazard limit, generally as part of the Corbett Creek system. It is not anticipated that development will occur immediately east of the subject lands due to the existing natural heritage feature;
  - South of the subject lands is an existing rail line. Separated from the subject lands beyond the rail line are existing general industrial related uses;

- West of the subject lands is Thickson Road, an Arterial Road where (in proximity to the subject lands) there are existing freeway access ramps connecting. Separated from the subject lands beyond Thickson Road are undeveloped lands, identified in part as the Natural Heritage System and Natural Hazard Limit. Given the positioning of the undeveloped lands to the west with existing natural heritage features and in proximity to the intersections of Arterial Roads and Highway 401 interchange ramps, it is not anticipated that this parcel will be developable for an intensive form; and
- North of the subject lands is Highway 401 and interchange ramps that connect to the local road network. Beyond this is the Durham College Whitby Campus, a higher education institution.
- It is not anticipated that the lands immediately surrounding the subject lands will develop in the future for industrial uses that would result in land use conflicts, should the subject lands be converted. Specifically, the immediate surrounding lands are comprised primarily of transportation corridors (arterial roads, railways, and provincial highways), natural heritage systems, and existing major retail uses, all of which are not forecasted for redevelopment that would potentially result in land use conflicts.

### 3.7 CONSTRAINTS FOR EMPLOYMENT USES

***Question: Is the site constrained for employment use due to the site size, configuration, access, physical conditions and/or servicing availability? If yes, explain and demonstrate why the lands are constrained for employment uses due to site size, configuration, physical conditions, and/or servicing availability.***

The subject lands are effectively split into two parcels by Victoria Street, with separate parcels on the north and south side of the street. While the existing site conditions overall would not prevent employment uses from locating on either the north or south parcel, the existing context is not favourable for future employment uses for reasons including:

- The southern parcel is a relatively narrow parcel, which creates challenges for potential warehousing or industrial purposes. The inefficient configuration of the southern parcel is a constraint for potential employment uses;

- The northern parcel is generally not constrained due to the existing size. However, the northern parcel is much more desirable from a retail perspective with direct line of site from Highway 401, which is important for the continued function and draw to this retail centre;
- In the Region of Durham Report #2020-P-11 dated June 2, 2020, the subject lands are considered "Built" in the inventory, which means "the property is occupied by a constructed building, with no obvious opportunity for further development". Accordingly, the requested conversion will not impact the supply of underutilized or vacant Employment lands and the Town's ability to achieve the employment forecasts. As noted above, the subject lands are built for major retail purposes, which is not the intent of the Employment Areas policies (Region OP Policies 8C2.1, 8C.2.12, and 9C.2.14). With no feasible opportunity for infill of employment uses due to the subject lands being fully built, any future employment uses on the subject lands would be a replacement of existing retail uses. Prestige industrial type uses such as major office or major institutional developments are to be directed to urban growth centres, major transit station areas, or other strategic growth areas with existing or planned frequent transit service, which is not reflective of the existing context of the subject lands (Growth Plan Policies 2.2.5.2 and 2.2.5.3). A change in use from retail to traditional or prestige employment uses is therefore unlikely to occur, and so the existing physical conditions (land use and built form) of the subject lands is a constraint for the potential future development of employment use.

### **3.8 MAJOR TRANSIT STATION AREA BOUNDARY**

***Question: Is the site located partially or wholly within a proposed Major Transit Station Area boundary as identified in the Region's Urban System Discussion Paper? If yes, which proposed Major Transit Station Area boundary is the site located within?***

The subject lands are not located partially or wholly within the proposed Major Transit Station Area boundary for the Town of Whitby as identified in the Region's Urban System Discussion Paper. The Thornton Corners MTSA is generally northeast of the subject lands, while the Bloor Street MTSA is located east of the subject lands at the

existing Oshawa GO Station. The subject lands have proximity to the existing GO station, and will also be in proximity to the proposed Thornton Corners MTSA.

### **3.9 PROVINCIALY SIGNIFICANT EMPLOYMENT ZONE**

***Question: Is the site located partially or wholly within a Provincially Significant Employment Zone? If yes, which Provincially Significant Employment Zone is the site located within?***

The RioCan Lands are wholly within the Provincial Significant Employment Zone (Durham Zone 2) in Whitby as identified by the Province in December 2019 (see Figure 3). Therefore, it is only possible for the owner to consider an employment conversion through a Municipal Comprehensive Review process, as is currently being undertaken by the municipality.

## **4.0 CONCLUSIONS**

Given the findings of this Report and the supporting materials, it can be concluded that the requested conversion from an Employment Areas designation in order to permit a mix of uses including residential and commercial uses under a Living Areas designation for the RioCan Lands is appropriate:

- Consistent with the PPS (2020) as the subject lands are not required for employment purposes over the long-term and that there is a demonstrated need for the conversion;
- Conforms with the Growth Plan (2019), since the proposed infill would contribute to a more compact built form, would support the creation of a complete community within the existing built boundary, make efficient use of existing land and infrastructure, while there are no strategic reasons for protecting the subject lands as Employment Lands;
- Consistent with the Region of Durham Official Plan, which identifies that the subject lands are located along a Regional Corridor, which is an area that is intended to intensify and redevelop for a higher order of development, targeted to achieve an overall minimum FSI of 2.5 and 60 dwellings per hectare. The proposed Employment Conversion is consistent with and contributes to this policy direction;

- Consistent with the Town of Whitby Official Plan, which permits the Major Commercial use of the subject lands and does not permit traditional employment type uses on the subject lands, or on lands in the immediate vicinity;
- As noted by the Watson Memo, a property does not need to meet all criteria in order to be considered. Based on our review, the subject lands meet 8 of 12 of the identified criteria, while one of the unmet criteria is unable to be evaluated, as it requires Staff input;
- The subject lands have not historically formed part of the core employment function of the Town of Whitby as the subject lands are fully developed for existing major retail uses. Redevelopment of the subject lands for employment related purposes would require the demolition of at least portions of the existing developed lands, whereas as identified by the Whitby Employment Land Inventory, there is an undeveloped supply of 809 ha (49%) of Employment designated lands, and 253 ha (15%) Employment designated lands are underutilized;
- In summary, the subject lands satisfy the Evaluation Criteria from the Region of Durham Submission Form for Requests for Employment Area Conversion as follows:
  - The Employment Conversion of the subject lands is consistent with the PPS, as the subject lands are not required for employment purposes over the long term and there is a demonstrated need for the conversion;
  - The Employment Conversion of the subject lands conforms with the Growth Plan as there is a demonstrated need for the conversion, and as demonstrated by the Employment Land Inventory, the lands are not required for the employment purposes for which they were designated and the municipality will be able to accommodate forecasted employment growth through vacant or underutilized Employment Lands. The proposed introduction of residential uses and the retention of the retail function of the subject lands will not adversely affect the overall viability of the Employment Area or the achievement of the minimum intensification and growth targets. There are existing and planned infrastructure and public service facilities that are expected to accommodate the proposed Employment Area conversion;

- The subject lands are effectively disconnected from the surrounding and broader employment area, divided from the broader employment function of the Town by built and natural physical features;
- The subject lands are fully developed commercial retail lands, and therefore offer limited opportunity for future Employment Area redevelopment;
- The subject lands are relatively separated from neighbouring employment lands. The proposed employment conversion is compatible with the surrounding lands and it is desirable from a compatibility perspective to introduce residential permissions while retaining the commercial function of the subject lands;
- The subject lands are an independent node, the conversion of which would not compromise the overall supply or functionality of existing Employment Areas. As demonstrated by the Employment Inventory, there is a significant surplus of undeveloped Employment Land inventory, as well as a significant supply of underutilized lands;
- The maintenance of the Major Retail function of the subject lands will help to maintain the job yield of the subject lands. Further, a declining retail node risks a loss in overall jobs if residential uses are not introduced on the subject lands; and
- There are no anticipated cross-jurisdictional issues anticipated as a result of the proposed Employment Conversion.