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March 6, 2023

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Envision Durham
Durham Region Planning and Economic Development Department
605 Rossland Road East
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Re: Envision Durham
Comments on the Draft New Regional Official Plan
Durham Live, Pickering – Land Use Designation (Map 1)

This brief is submitted on behalf of the owners of Durham Live: Pickering Developments (401) Inc., Pickering Developments (Bayly) Inc. and Pickering Developments (Squires) Inc., (herein called “Pickering Developments”).

Property Locations and Designations

Durham Live is situated northwest of the intersection of Bayly Street and Church Street in the City of Pickering (see Figure 1).

Map 1 (Regional Structure) of the Draft new Regional Official Plan designates Durham Live as “Employment Areas” with a “Regional Corridor” overly designation along Bayly Street (see Figure 2).

Figure 1: Location Map

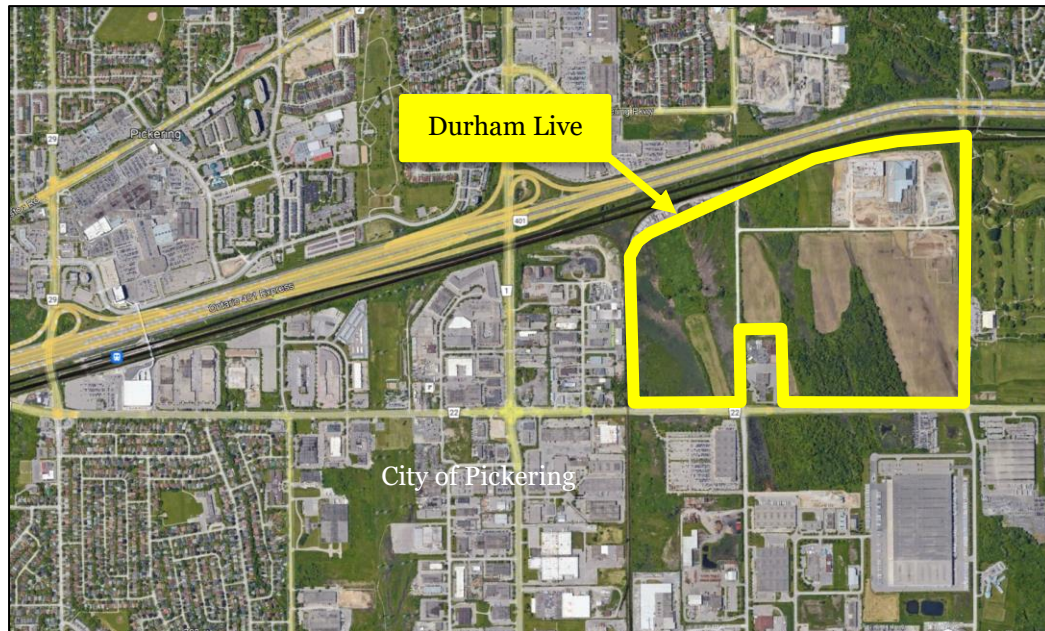
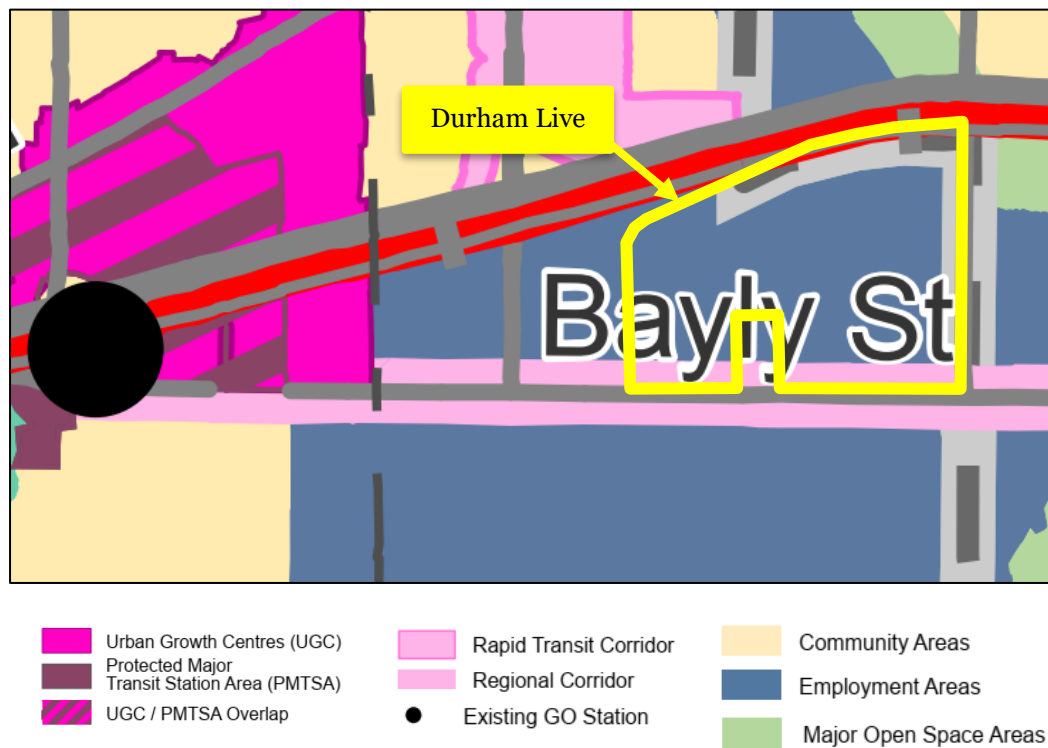


Figure 2: Draft New Regional Official Plan – Map 1 (Regional Structure)



Relevant History – Durham Live Employment Area Conversion Request

- In September 2020 a written submission was provided to Envision Durham to support a request by Pickering Developments for an Employment Area Conversion (see Appendix 1). The request was to establish an “appropriate designation” in the new Regional Official Plan for the Durham Live lands that would broaden and expand the mix of uses on the lands to allow, in addition to currently permitted uses:
 - up to 1,650 residential apartment units; and,
 - up to 32,500 sq. m. (350,00 sq. ft.) gross leasable area for retail stores.
- In May 2020, Pickering Council approved a resolution asking the Minister of Municipal Affairs and Housing, to enact a Minister's Zoning Order (MZO) on the Durham Live lands to allow the residential and retail uses noted above, in addition to the uses currently permitted in the zoning by-law.
- In October 2020, the Minister enacted a MZO (O. Reg. 607/20) to permit the uses requested by the City on the Durham Live lands. The MZO was subsequently amended in July 2021 by O. Reg. 515/21 to remove the lands west of Squires Beach Road from the MZO.
- In June 2021, in response to the Region’s request for local municipal comments on the employment area conversion requests, Pickering Council adopted a resolution endorsing (among other matters) a staff recommendation “that the Employment Area Conversion submission for the Durham Live lands between Squires Beach Road and Church Street, which has been supported by City Council, be considered through the Land Needs Assessment”. The resolution was subsequently forwarded to the Region of Durham.
- In September 2021, Envision Durham released an “Employment Strategy Technical Report” prepared by Watson & Associates and Urban Strategies Inc. The Report evaluated the various requests for employment area conversions received by Envision Durham against specified technical criteria and gave site-specific recommendations. For the Durham Live lands, the Technical Report supported an employment area conversion and recommended that “an appropriate land use designation” be applied in the new Regional Official Plan.

- In December 2021, a staff report was released on the various Employment Area conversion requests that had been received (Report #2021-P-25). The Durham Live lands were included among the requests recommended by staff to be “endorsed and advanced through Envision Durham, and reflected in the land budget being prepared through the ongoing Land Needs Assessment, to be implemented as part of the new Regional Official Plan”.
- Later in December 2021, the staff report was considered by Regional Planning Committee. For the Durham Live lands, the Committee endorsed the staff recommendation as set out in Report #2021-P-25.
- On December 22, 2021, Regional Council adopted Planning and Development Committee’s recommendation for the employment area conversions, including the conversion request for the Durham Live lands. Direction was given as set out in the recommendation by staff in Report #2021-P-25.

Draft New Regional Official Plan – Map 1 (Regional Structure)

Despite the above-noted recommendations and decisions on Pickering Development’s employment area conversion request, the Draft new Regional Official Plan **did not change or “convert” the land use designation on Durham Live.**

As shown in Figure 2, the Durham Live lands continue to be designated “Employment Areas” – the same designation as in the current Regional Official Plan. Instead of a conversion, a policy exception was added to the draft Plan for the portion of the Durham Live lands affected by the provincial MZO (sec. 10.3.5) to permit “additional uses including but not limited to certain residential, retail, entertainment, and personal service uses, in accordance with the provisions of Ministers Zoning Order 607/20 as amended by Ministers Zoning Order 515-21”.

Comments

Retaining an “Employment Areas” designation on the Durham Live lands and adding a policy exception to permit additional uses, does not fulfil Regional Council’s direction of December 2021 endorsing an employment area “conversion”, and requesting that it be advanced through Envision Durham, reflected in the land budget, and “implemented” as part of the new Regional Official Plan.

In our opinion, adding a policy exception is not an appropriate way of implementing a land use conversion.

To implement Regional Council's direction for an employment area conversion of the Durham Live lands, another land use designation (other than "Employment Areas") would need to be established.

Moreover, "Employment Areas" are intended primary for uses such as manufacturing, assembly, processing, generation, freight and transportation, warehousing, storage, major facilities and similar uses. In comparison, Durham Live is a one-of-a-kind, mixed use integrated major tourist destination.

Durham Live already supports a casino, performing arts centre and hotel, and other synergistic uses are expected to be introduced shortly including a Film Studio and Porsche Experience Centre. And as it continues to evolve and develop, other supportive and complementary uses will be introduced, including residential and retail, that together will help make Durham Live one of the most compelling destination attractions in Durham Region.

An "Employment Areas" designation on the Durham Live lands is clearly not reasonable.

Having reviewed the various land use categories of the Draft new Regional Official Plan, we are of the opinion that to appropriately carry out Regional Council's direction to implement an employment area conversion, the Durham Live lands should be designated "Regional Centre" on Map 1 (Regional Structure).

Pursuant to Policy 5.2.13 of the draft new Regional Official, "Regional Centres" are intended to be hubs for culture, services, and shopping, and be planned:

- a) for a full and integrated array of institutional, commercial (which may include major retail), public service facilities, higher density mixed-use and residential development, recreational, cultural, entertainment, office and major office uses; and
- b) for a built form mix of contextually appropriate high-rise and mid rise development, providing an appropriate transition in building height, density and massing to surrounding areas, and with a mix of uses and public spaces that provide for complete and vibrant communities, as determined by area municipalities.

Durham Live, as currently zoned, developed and envisioned, conforms much more closely with the Draft new Regional Official Plan's "Regional Centre" policies, than with the "Employment Areas" policies. Moreover, a "Regional Centre" designation would allow all

the uses permitted by the MZO that was enacted by the Province for Durham Live, whereas the “Employment Areas” designation does not (which is presumably why an exception policy was added to the Draft new Regional Official Plan).

Conclusion

In conclusion, as explained in this brief and outlined in the previous employment area conversion submission attached as Appendix 1, an “Employment Areas” designation on the Durham Live lands is unacceptable and inappropriate. It should be replaced by a land use designation that recognizes the actual development, vision and intent of Durham Live, and reflects its value and importance to the City of Pickering and Region of Durham as a mixed use integrated major tourist destination and attraction.

To recognize and reflect the distinctiveness of Durham Live, and to achieve Regional Council’s direction to “implement” an employment area conversion, a “Regional Centre” land use designation should be established on Map 1 (Regional Structure) of the new Regional Official Plan.

In summary, Pickering Developments strongly objects to the “Employment Areas” designation on Durham Live and respectfully requests that the lands be designated “Regional Centre”.

Please contact the undersigned should you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'T Melymuk', with a long horizontal flourish extending to the right.

Thomas Melymuk MCIP, RPP
President, Melymuk Consulting Limited

Copy: Steve Apostolopoulos, Pickering Developments
Ira Kagan, Kagan Shastri DeMelo Winer Park LLP
Catherine Rose, Chief Planner, City of Pickering

Appendix 1

September 2020 Durham Live Employment Area Conversion Request



Don Given
905 513 0170 x109
DGiven@mgp.ca

September 23, 2020

MGP File: 17-2613

Envision Durham
Durham Region Planning Division
605 Rossland Road East, 4th Floor
Whitby, ON L1N 6A3

via email: EnvisionDurham@durham.ca

Attention: Envision Durham

To Whom it May Concern:

**RE: Durham Live Major Tourist Destination
Employment Conversion Request
Pickering Developments Inc.**

This brief is in support of the Request for an Employment Area Conversion submitted by Malone Given Parsons Ltd. and Melymuk Consulting Limited on behalf of Pickering Developments Inc. for the Durham Live property in Pickering. It is intended to provide context and more fulsome responses to the questions posed in the Region's Submission Form.

1.0 Site Location and Context

Durham Live is an integrated mixed-use major tourist destination located in Pickering, northwest of the intersection of Bayly Street and Church Street. The owners are Pickering Developments (401) Inc., Pickering Developments (Bayly) Inc. and Pickering Developments (Squires) Inc., herein called "Pickering Developments".

The location of the property is shown on Figure 1 below. It includes four parcels of land, one located west of Squires Beach Road, and three located east of Squires Beach Road, including the former Kellino Street which is in the process of being acquired from the City.

Land uses abutting Durham Live include Highway 401 and two rail corridors to the north (Canadian National and Metrolinx); Church Street South and the Annandale Golf Club to the east; Bayly Street, a car dealership, industrial warehousing, and vacant land to the south; and a rail spur line and industrial uses to the west. Other uses abutting the property include a vehicle and trailer storage yard at Highway 401 and Squires Beach Road, and a place of worship at Bayly Street and Squires Beach Road.

Bayly Street and Church Street South are regional roads under the jurisdiction of the Region of Durham, while Squires Beach Road is a local road under the jurisdiction of the City of Pickering. Traffic signals currently exist along Bayly Street at Squires Beach Road and at Church Street South.

Appendix 1 (cont'd)

September 2020 Durham Live Employment Area Conversion Request

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Figure 1: Durham Live Location Map



The total area of the property is approximately 90.5 hectares. Portions of the subject lands include valleyland and stream corridors associated with Duffins Creek as well as a wetland and forested area associated with the Lower Duffins Creek Wetland Complex, a Provincially Significant Wetland complex.

Building permits have been issued for the “Pickering Casino Resort” located north of the Former Kellino Street and construction is nearing completion. The Casino Resort includes a casino with up to 3,700 gaming positions, a 275-room hotel, and a 2,500-seat arena.

Site Plan and building permit applications have been submitted for the development of the “Pickering TriBro Studios” southwest of the Pickering Casino Resort. The Studios will comprise a total floor area of almost 17,500 sq. m. (190,000 sq. ft) including three sound stages with a total area of almost 9,200 sq. m (100,000 sq. ft). When completed Pickering TriBro Studios will be one of the largest film studios in Canada. A rezoning application has been submitted to rezone lands east of Squires Beach Road, including the film studio lands, from “UR” to “MTD (H-3)” and “NHS” as described in the Section 2.

Appendix 1 (cont'd)

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2.0 Planning Context and History

The subject lands are designated as “Employment Areas” in the Durham Regional Official Plan, and “Prestige Employment” and “Mixed Employment” (along the Bayly Street frontage) in the Pickering Official Plan.

In 2014, an application was submitted to the City of Pickering to amend the City’s zoning bylaw to permit an integrated mixed-use major tourist destination on the property. That application was approved by the City in September 2014, and the implementing zoning bylaw (By-law 7404/15) was adopted in January 2015. The City’s approval of the by-law was subsequently appealed by the Town of Ajax. Following an extended Ontario Municipal Board (OMB) hearing, By-law 7404/15 was approved by the OMB in July 2017, with only a minor technical modification that was requested by the City.

Because of interim environmental considerations, By-law 7404/15 allowed development only on the eastern portion of the Durham Live property, on lands that are at least 120 metres from the environmental features. These easterly lands were zoned “MTD” (Major Tourist Destination) with three “H” holding provisions [(H-1), (H-2) and (H-3)]. The first two holding symbols have since been removed by the City. The H-3 holding symbol remains. It requires that the owner make appropriate arrangements and/or agreements with the City, Region and Province as necessary, for site development, servicing, and financial matters, including a new partial interchange on Highway 401 at Church Street.

The Major Tourist Destination zone permits various principal, secondary and support uses as shown in Table 1 below.

Table 1: Uses Permitted in the MTD Zone of Pickering By-law 7404/15

| Principal Uses | Secondary Uses | Support Uses |
|---------------------------------|---|-----------------------------------|
| Amphitheatre | Art Gallery | Bake Shop |
| Arena | Banquet Facilities | Business Support Services |
| Convention or Conference Centre | Botanical Gardens | Commercial School |
| Film Studio | Cinema | Day Care Centre |
| Gaming Establishment/Casino | Commercial Fitness / Recreation Centre | Dry-Cleaner's Distribution Centre |
| Hotel | Commercial Parking Lot and Commercial Parking Lot Structure | Personal Service Establishment |
| Medical Office | Community Centre | Place of Amusement |
| Major Tourist Establishment | Community Gardens | Private Club |
| Office | Curling Rinks, Tennis Courts, Bowling Alleys or similar recreational facilities | Retail Sales, Ancillary |
| Performance Arts Centre | Financial Institution | Restaurant |
| Restaurant Plaza | Museum | Travel Agent |
| Stadium | Nightclub | Travel Information Centre |
| Waterpark/Wave Pool | Spa | Vehicle Rental Establishment |

Source: Pickering By-law 7404/15

Appendix 1 (cont'd)

September 2020 Durham Live Employment Area Conversion Request

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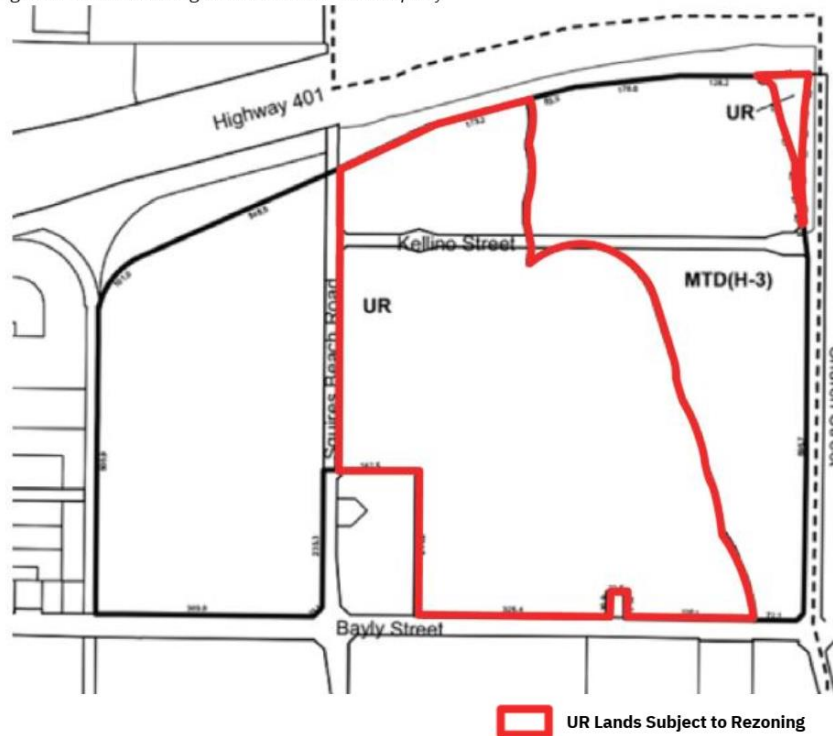
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The MTD zone also sets out several other by-law provisions, including the following:

- establishes a maximum building height of 25 storeys except for landmark buildings which can have a maximum building height of 35 storeys;
- requires that any gaming establishment/ casino use be part of a hotel, convention or conference centre, entertainment complex;
- restricts the total gross floor area of all secondary and support uses to no more than 15 percent of the total gross floor area of all existing or proposed principal uses;
- limits the total gross floor area of all restaurant plazas to no more than 15 percent of the total gross floor area of all uses within the zone; and,
- limits the maximum gross leasable area of any individual dry-cleaner's distribution centre, personal service establishment, ancillary retail sales use; and travel information centre to 500 square metres per individual use.

The remainder of the property is zoned "UR" (Urban Reserve), as shown on Figure 2 below. The UR zoning was established as an interim measure pending further environmental investigations. These investigations have since been completed for the lands east of Squires Beach Road, and in March 2020, the owners applied to rezone these lands from UR to MTD (H-3) (Major Tourist Destination with a holding symbol) and NHS (Natural Heritage System). The application is currently under review by the City. If approved, the zoning on the Durham Live property would be as shown on Figure 3.

Figure 2: Current Zoning on the Durham Live Property



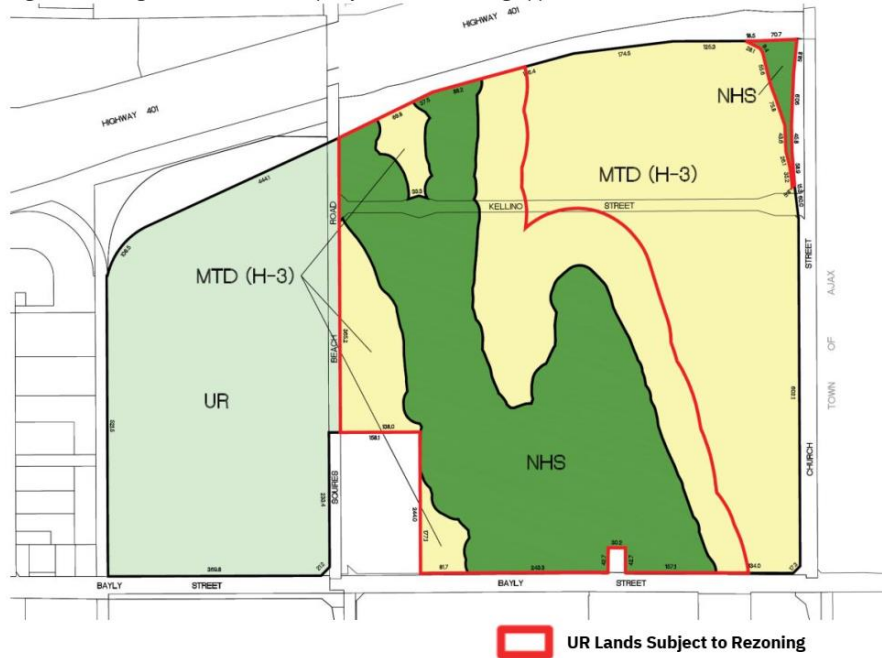
Appendix 1 (cont'd)

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Figure 3: Zoning on Durham Live Property with UR Rezoning Approval



The UR rezoning would extend the MTD (H-3) zone boundary to within approximately 30 metres of the significant natural features east of Squires Beach Road. No changes would be made to the MTD zoning provisions, the (H-3) holding provisions, or the UR zoning designation west of Squires Beach Road.

3.0 Conversion Request

This Request for an Employment Area Conversion is necessary to enable the site synergies essential to realizing the full potential of the Major Tourism Destination envisioned for the Durham Live lands. The request is to broaden and expand the mix of uses on the property, not to replace or eliminate any of the employment uses currently permitted in the MTD zone.

The request is to establish an appropriate designation on the property that would allow the following, in addition to all currently permitted employment uses:

- up to 1,650 residential apartment units including at least 150 affordable units; and,
- up to 32,500 sq. m. (350,00 sq. ft.) gross leasable area for retail stores.

4.0 Durham Live Conceptual Master Plan

While the details of scale and design are still under development, Figure 4 provides a Conceptual Master Plan of the Durham Live development that shows how the requested residential and retail uses would be incorporated into the site design. The lands subject to the Employment Conversion Request are outlined in red.

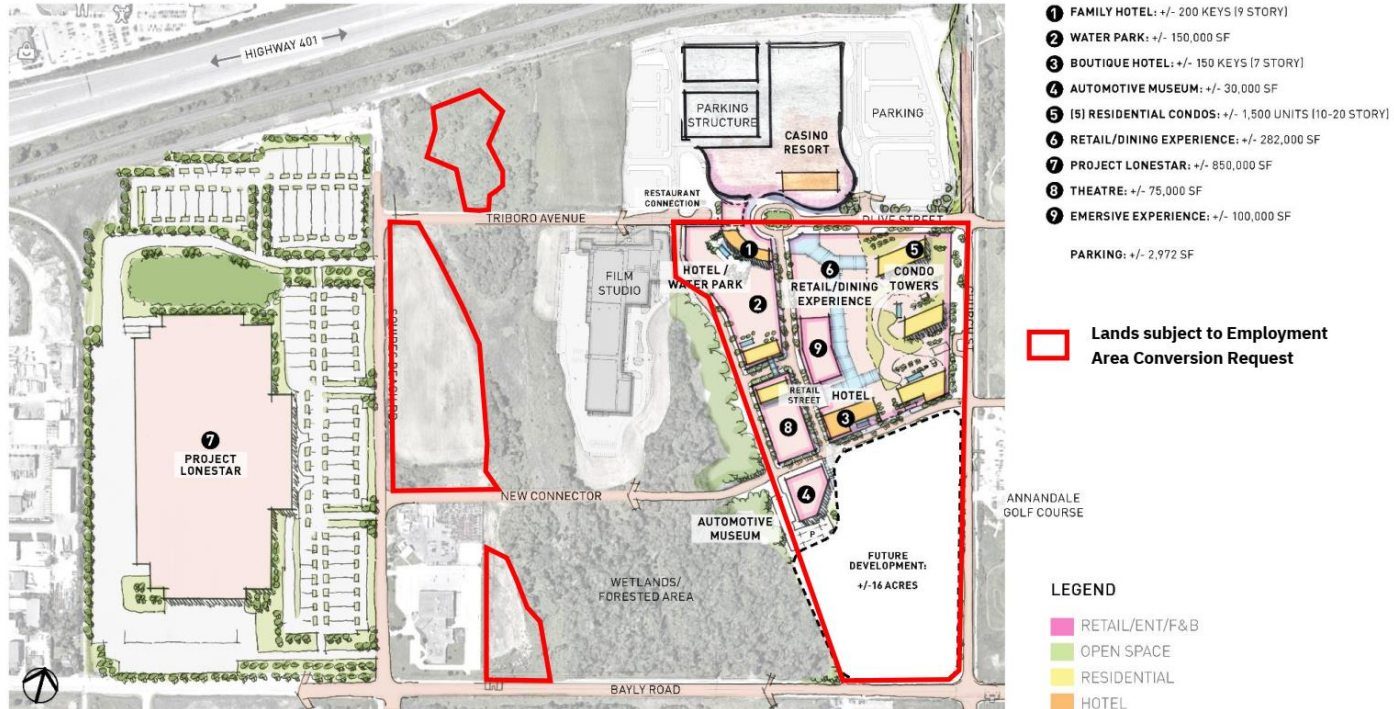
Appendix 1 (cont'd)

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Figure 4: Durham Live Conceptual Master Plan



Appendix 1 (cont'd)

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The requested residential apartment units are proposed in 5 condominium towers adjacent to Church Street. The requested retail floor area is proposed in a retail/dining area south of the Casino Resort. In the event not all the requested retail floor area is built in this area, it may be introduced elsewhere on the site in the areas highlighted in red on Figure 4.

5.0 Employment Impacts and Opportunities

Durham Live is envisioned as the most compelling destination attraction in Durham Region, a synergetic ensemble with complementary parts each playing a role in the greater whole. The retail/dining area is intended to support the Casino Resort which does not provide significant opportunities to dine or shop, or browse, stroll or people watch in an engaging environment. In concert with the Casino Resort, the waterpark and other attractions, the retail/dining area becomes part of the attractiveness of the Durham Live tourist destination.

The residential component is considered critical to fostering 24/7 vitality, by building in a market for the retail, restaurant, and other uses and, as importantly, bringing street level activity through-out the day, evening, and year. The logic is the same as that driving the awareness that downtowns need a significant residential component to support vitality and safety outside working hours.

The need for the complementary restaurant, retail and residential uses is perhaps best demonstrated by comparing experience in Toronto's Distillery District to that at Ontario Place. While other factors are also at work, the former has emerged as a compelling and highly popular destination for city residents and tourists. Its vitality springs in part from the significant residential presence in its immediate area.

In contrast, Ontario Place has struggled for many years, closed in the winter and with much of its original facilities also closed. It has no residential use in its immediate area. We understand that mixed-use concepts have been considered as part of a potential rejuvenation plan for the site.

The introduction of restaurant, retail, and residential uses at Durham Live will not diminish and should enhance the site's potential for generating significantly more employment than would otherwise be expected from employment lands in south Durham. As outlined below in Table 2, excluding the Future Development Blocks and lands west of Squires Beach Road, the site is expected to yield in the order of 5,800 jobs. On a jobs per developable hectare basis, this would equate to an employment density of 215 jobs per hectare, well in excess of the 50 jobs/ha often targeted for employment areas.

Appendix 1 (cont'd)

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Table 2: Employment Generation for the Durham Live Lands

| Employment Calculation | Sq.m / Job | Total | |
|--|------------|--------|--------------|
| | | Sq.m | Jobs |
| Family Hotel | 74 | 9,290 | 126 |
| Boutique Hotel | 74 | 7,432 | 100 |
| Water Park | 21 | 13,936 | 664 |
| Retail and Restaurant Service | 37 | 26,199 | 705 |
| Theatre | 37 | 6,968 | 188 |
| Museum | 152 | 2,790 | 18 |
| Pickering Casino Resort | | | 2,500 |
| Film Studio | | | 1,500 |
| Total Employment | | | 5,800 |
| Developable Site Area East of Squires Beach Road (ha) ¹ | | | 27 |
| Jobs Density (jobs/ha): | | | 215 |

1. Excluding Future Development Blocks

Sources: Malone Given Parsons Ltd., Hotel & Leisure Advisors: Economic Impact Study Report for the Proposed Waterpark Resort-Cooperstown, and Annual Reports from AGO, Gardiner Museum, and Canadian Canoe Museum

With regard to compatibility with surrounding uses and planning permissions, it is our opinion that the Durham Live site is large and self-contained, bounded by arterial roads, rail lines/highway or open space and well buffered from potentially conflicting uses. We therefore see very little, if any, potential for adverse impacts on surrounding land uses or the functions occurring in the broader employment area.

6.0 Summary / Conclusions

This planning brief is to support the Pickering Developments Inc. request for an employment area conversion, to enable retail, restaurant, and residential uses on portions of the Durham Live development site. Permissions for this broader range of uses would add complementary functions and built-in street life and vitality. They are considered essential to enable the site to reach its full potential as Durham Region's most compelling destination attraction.

The development concept for the lands east of Squires Beach Road, excluding the Future Development Blocks is expected to generate in the order of 5,800 jobs, at an employment density of 215 jobs/ha. These figures are well in excess of the 50 jobs/ha often targeted for employment areas.

The scale and self-contained nature of the site and the manner in which it is bounded by buffering roadways, rail lines/highway and open space uses support a conclusion that the requested permissions can be provided without adverse impact to surrounding uses and the larger employment area.

Appendix 1 (cont'd)
September 2020 Durham Live Employment Area Conversion Request

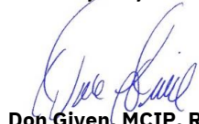
RE: Durham Live – Employment Area Conversion Request

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Pickering Developments Inc. seeks Durham Region's concurrence that the requested employment area conversion is to the benefit of Durham Live's attractiveness as a destination, and to the Region as a whole.

Should you have any questions or wish to discuss in greater detail, please contact Don at 905.513.0170 or Tom at 416.347.7886.

Yours very truly,



Don Given, MCIP, RPP
Malone Given Parsons Ltd.



Thomas Melymuk MCIP, RPP
President, Melymuk Consulting Limited

cc. *Steve Apostolopoulos, Pickering Developments Inc.*
Ira Kagan, Kagan Shastri LLP
Catherine Rose, City of Pickering