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Via email lisa.palermo@burlington.ca

October 5, 2016

To: City of Burlington
Committee of the Whole
Attn: Committee Clerk, Ms. Lisa Palermo
426 Brant Street
Burlington, Ontario L7R 3Z6

Attn: Committee of the Whole Chair, Jack Dennison & Members of Committee
c/o Ms. Palermo;

Re: Official Plan Project: Employment Land Conversion
Preliminary Recommendations and Policy Directions
Report No. PB-30-16 - File No. 505-08-02
Date to Committee October 6, 2016
Paletta International Corporation
Bronte Creek Meadows
Our File No. 13122

We are counsel to Penta Properties/Paletta International Corporation ("Paletta") in this matter. Paletta owns a large vacant site north of Mainway, west of Burloak Drive and south of Upper Middle Road known as Bronte Creek Meadows ("BCM"). As part of the City's employment land conversion exercise, Paletta submitted a request to convert BCM from its employment land designations.

STAFF'S RECOMMENDATION WILL LEAVE BCM VACANT

Staff has recommended against the conversion of BCM. This recommendation ignores decades of experience with the site.

To say that BCM has a long history would be an understatement. Paletta has owned BCM for nearly 20 years, and it has been designated for employment uses since the 1960s.

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Throughout that time, the City has claimed that BCM is required for employment uses over the City's planning period. This came to a head in 2004 when Paletta's applications for residential uses were contested at an Ontario Municipal Board hearing. The City insisted that BCM was required for employment uses over the planning period to the year 2021. Paletta's consultants concluded otherwise and opined that BCM would not be used for employment purposes over the planning period to 2021.

It will soon be 2017. With the exception of a school site, BCM remains vacant despite years of effort to promote the site for employment uses. Simply put, Paletta's consultants were right and the City's contention has proven to be wrong.

The fundamental reason for this disconnect is that BCM is not appropriately located to attract employment uses. BCM has no visibility and relatively poor access to 400 series highways. It has no access to rail. It is surrounded on three sides by sensitive land uses. It is not part of an intensification area or mobility hub. It is not part of a strategic growth area. As an employment site, BCM simply cannot compete with the many superior locations in Burlington and across the GTHA.

The only possible exception might be a post-secondary institution looking for a traditional campus setting and only if the eastern part of Burlington is a desirable setting. To date, no such opportunity has arisen and even if it did – it would certainly not require 125 ha of land.

In addition to recommending against the conversion, staff recommend that Council prioritize area specific planning for BCM. Staff propose that an Area Specific Plan be provided in the "near term" to support the development of BCM. Staff also make this crucial observation:

"Partnership with the owner of the property to develop the land for employment uses will be an important element related to moving forward."

This is certainly correct. Paletta was under the impression that it was proceeding in partnership with the City since the 2009 Minutes of Settlement which included the promotion of a portion of BCM (known as the Burloak Employment Estates) for employment purposes. Paletta has actively marketed the Burloak Employment Estates for employment uses. It has cooperated fully with the BEDC to advance the development of the lands. Unfortunately, this has resulted in no substantial interest in BCM for employment uses. Each employment user declined to seriously consider BCM as a location for its business. In no case did the topic of price even come up because the lands were deemed unsuitable.

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More recently, Paletta continued to cooperate with the City to consider alternatives for BCM. This has included meetings with senior staff and the BEDC and included a site visit to more innovative, mixed-use developments in other regions in Ontario.

Paletta has no objection to the proposed Area Specific Plan, in principle. However, this planning exercise must include consideration of a full, mixed use plan with the potential for all land uses, not exclusively employment uses. At this stage, this is fundamental to our client and is the only basis upon which it could continue this partnership with the City. The inherent conclusion in the Staff Report, that the entirety of the 125 ha in BCM will be used for employment purposes, defies the facts, the history and the relative planning merits of this site for employment uses. Left exclusively in an employment designation, these lands will continue to languish unused and underutilized for decades, if not longer.

REQUEST

We respectfully request that the Committee (and Council) modify the recommendations in Report PB-30-16 to defer any decision on the conversion of BCM and direct the preparation of an Area Specific Plan for BCM which considers mixed use and all potential land uses, not simply employment uses. Again, any decision on the conversion of BCM to non-employment uses should be deferred until the completion of the Area Specific Plan.

Staff should also be directed to update Figure 4-1 from the Dillon Employment Lands Conversion Assessment to show BCM as subject to an Area Specific Planning Study, rather than in blue: "Employment Lands to Remain".

If the City has a genuine interest in conducting a planning study rooted in reality and sound planning principles, our client would agree to continue to partner in that exercise.

2004 OMB DECISION

It is absolutely essential to understand the Board's findings and the fundamental basis for its decision to refuse Paletta's applications. The Board found that BCM was suitable for either residential or employment uses. The Board noted as follows:

"The developable portions of Bronte Creek Meadows present no constraints to residential development. The site is well serviced by arterial roads and can be integrated into the City's public transit system."

"The Board is satisfied the City has put forward a bona fide and a reasonable position that the continued designation of the Bronte Creek Meadows lands for a

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use other than residential is a valid and appropriate one. The City has assured Paletta that it intends to review the designation of the subject site from time to time, in the context of a wider review of all of the other lands within its boundaries. The Board heard no evidence or suggestion that the City will not do so, when it considers it to be in the public interest." (at p. 40, emphasis added)

Simply put – this has never occurred. These assurances provided by the City to the Board need to be fulfilled. Now is the time to consider all uses for BCM as part of a “wider review”.

Through this deferral and the Study, Paletta is asking that the City fulfill its commitment to the Board and to Paletta.

CONCLUSION

Should Council simply adopt Staff's recommendations and reject any opportunity for non-employment uses for BCM, there will be no basis for ongoing cooperation. This would also signal Council's refusal to even consider a compromise. How could the City expect a continuing partnership on that basis?

Yours truly,



Scott Snider

cc: Angelo Paletta
Dave Pitblado
Peter Walker

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