



Addendum to the Regional Council Agenda

Regional Council Chambers
Regional Headquarters Building
605 Rossland Road East, Whitby

Wednesday, September 30, 2020

9:30 AM

5. Presentations

- 5.1 Dr. Robert Kyle, Commissioner & Medical Officer of Health re:
COVID-19 Update

8. Communications

- CC 37 Sarah Moore, Acting Manager of Legislative Services/Deputy Clerk, Town of Ajax writing to Mariska Thomas, Ajax Anti-Black Racism Task Force advising of a motion that was passed at their September 21, 2020 Ajax Town Council meeting re: Durham Regional Police Body-Worn Camera Project (Our File: C12)

Recommendation: Receive for Information

(See attached correspondence on pages 2-3)

12. Other Business

- 12.1 Request by the Owner of the Durham Live Lands for a Minister's Zoning Order in the City of Pickering (2020-A-19)

Pages 4 - 15



TOWN OF AJAX
65 Harwood Avenue South
Ajax ON L1S 3S9
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Mariska Thomas
Ajax Anti-Black Racism Task Force
marisk1@sympatico.ca

Sent by E-Mail

September 24, 2020

Re: Durham Regional Police Body-Worn Camera Project

The following resolution was passed by Ajax Town Council at its meeting held September 21, 2020:

WHEREAS the Durham Region Police Service (DRPS) released its Body-Worn Camera (BWC) Pilot Evaluation Report on September 14th for consideration by Durham Region Police Services Board ("the Board");

AND WHEREAS the report concludes that the deployment of BWCs to Frontline Members of DRPS will provide value to DRPS, its partners and the community, and it aligns with the strategic plans of the Region, Town and DRPS;

AND WHEREAS the report further states that an investment in BWCs has tremendous potential to be an enabler of transformative and restorative change for the DRPS;

AND WHEREAS the Board's Finance Committee recommended the following on Sept 14th:

"THAT the Finance Committee recommend that the Board approve in principle the adoption of body-worn cameras for the DRPS; and

THAT cost details and a phased implementation plan be finalized for deployment beginning in 2021 and that the necessary funding be sought from Regional Council separate and apart from the budget process;"

AND WHEREAS Regional Council will be considering the BWC Pilot Evaluation Report at its meeting on September 30th;

NOW THEREFORE BE IT RESOLVED:

THAT Ajax Council supports the adoption of body-worn cameras (BWC) for the Durham Region Police Service, and recommends that the necessary funding for the program be allocated by Regional Council and/or through the reallocation of funds or resources from the DRPS budget;

AND THAT a copy of this motion be shared with the Ajax Anti-Black Racism Task Force, MP Mark Holland, MPP Rod Phillips, the Region of Durham, the Durham Region Police Services Board, and all Durham municipalities.

If you require further information please contact me at 905-619-2529 ext. 3347 or sarah.moore@ajax.ca

Sincerely,

A handwritten signature in cursive script, appearing to read "S. Moore".

Sarah Moore
Acting Manager of Legislative Services/Deputy Clerk

Copy: Regional Councillor M. Crawford
Regional Councillor S. Lee
MP Mark Holland
MPP Rod Phillips
Region of Durham
Durham Region Police Services Board
all Durham municipalities.



The Regional Municipality of Durham Report

To: Regional Council
From: Chief Administrative Officer
Report: #2020-A-19
Date: September 30, 2020

Subject:

Request by the Owner of the Durham Live Lands for a Minister's Zoning Order in the City of Pickering

Recommendation:

It is recommended to Regional Council:

- A) That the Region's Chief Administrative Officer be authorized by Regional Council to execute an Agreement between the Region of Durham, the Owner of the Durham Live lands and the impacted municipalities, satisfactory to the Chief Administrative Officer, in a form acceptable to the Director of Legal Services, which Agreement provides Regional support for the Owner's request for a Minister's Zoning Order (MZO) in exchange for certain commitments, namely that the Owner will:
- i) Prepare Terms of Reference for a Transportation Study (or studies) and a Servicing Study (or studies) to the Region's and impacted municipalities' satisfaction;
 - ii) Complete these transportation and servicing studies to the Region's and impacted municipalities' satisfaction at the Owner's expense;
 - iii) Commit to implement and fund the recommendations of these studies that are necessary to accommodate the Owner's proposed development;
 - iv) Commit to entering into good faith negotiations regarding the funding, design, and construction of any works required to accommodate development in the surrounding area with the Region, the affected Area Municipalities, the Province of Ontario, or any other impacted party; and

- v) Provide a minimum of 150 units of purpose-built affordable rental housing units on the subject site at not more than 80% of the Region's Average Market Rent with a commitment that these units will be maintained as such for a minimum of 20 years, and further, that not less than one-third of these affordable housing units will be in the first phase of any residential development on the subject lands with the remainder being in the second phase.
 - B) That the Minister be requested to include this affordable housing requirement in the MZO.
 - C) That the Minister be requested not to enact the MZO until the Agreement referenced in Recommendation A has been executed by all parties.
 - D) That the Region retain WeirFoulds LLP as external counsel on this matter with an upset limit of \$75,000 with the source of funds to be at the discretion of the Commissioner of Finance.
 - E) That the Minister be requested to revoke all or part of the MZO for the additional uses defined in Section 5.2 of this report, enabled by the MZO, if the Minister is of the opinion that the Owner has not, within 36 months from the date of the enactment of the MZO, made substantial progress towards the issuance of a building permit for such additional uses by the City of Pickering.
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Report:

1. Purpose

- 1.1 The purpose of this report is for Regional Council to authorize the Region's Chief Administrative Officer to enter into an Agreement with the Owner of the Durham Live lands ("the Owner"), and impacted municipalities whereby the Region would provide its support for Durham Live's request to the Minister of Municipal Affairs and Housing for a Minister's Zoning Order that will permit certain new uses to be built on the site in exchange for certain commitments and conditions.

2. What is a Minister's Zoning Order?

- 2.1 A Minister's Zoning Order (MZO) is a planning tool available under Section 47 of the Planning Act that allows the Minister of Municipal Affairs and Housing to enact zoning regulations on lands without any public notice, public meetings, consultation, or rights of appeal. MZOs override the underlying official plans and zoning by-laws.

In the event of a conflict between an MZO and a local official plan or zoning by-law, the MZO prevails to the extent of such conflict.

- 2.2 While there is no statutory requirement for the Minister to consult prior to the enactment of an MZO, the current Minister of Municipal Affairs and Housing, Steve Clark, has stated that this MZO tool will not be used without Council support.
- 2.3 A cornerstone of the Ontario planning process is the requirement for public consultation, stakeholder engagement, and the public's right to appeal a decision of local Council to the Local Planning Appeal Tribunal ("LPAT", formerly the Ontario Municipal Board). An MZO does not afford this type of public process.
- 2.4 This tool is being used more frequently by the current Provincial government than it has in previous years. The reason for this greater frequency is, in part, to expedite development that will spur economic recovery and deliver affordable housing more quickly.
- 2.5 In most cases, MZOs have been used as an implementation tool to help shovel-ready projects to proceed more quickly than might otherwise be the case if the Planning Act processes were to be followed.
- 2.6 Regional staff are cautious in their support of the MZO tool because it circumvents due process, can raise issues about equity and fairness, and does not enable a fully informed decision-making process which means land use impacts and safeguards to protect the public may be overlooked or missed.
- 2.7 In cases where the MZO is acting as a substitute for an employment land conversion request already being considered under a Municipal Comprehensive Review process, it serves to fetter Council's authority to examine such requests on a Region-wide basis, and represents a piece-meal approach to land use planning.
- 2.8 On the other hand, staff recognize the need for government to seize opportunities that provide immediate economic benefit and deliver new affordable housing.
- 2.9 Used sparingly, MZOs can be an expedient way to advance shovel-ready projects, where the economic benefits are imminent, the social benefits are obvious, and where circumstances clearly warrant the use of this extraordinary regulatory tool.

3. What is Durham Live?

- 3.1 Durham Live is a planned entertainment complex, to be anchored by a casino, located on lands between Highway 401 and Bayly Street, west of Church Street in

the City of Pickering. The entire site is approximately 225 acres, (see Attachment #1, Context Map). The owner of the site is Pickering Developments (Bayly) Inc. and Pickering Developments (401) Inc., controlled by Triple Properties, a real estate development company based in Toronto.

- 3.2 The initial phase of the development, which is close to completion, includes the casino, a 275-room hotel, a 2,500 seat multi-purpose arena and two parking structures at the northeast quadrant of the site.
- 3.3 Additional elements of Durham Live, permitted but not yet under construction, include a future convention centre, amphitheatre, restaurants, cinemas, an indoor water park, performance venues, an office tower, and a film studio. A site plan application for the film studio is currently being processed by the City of Pickering.
- 3.4 The casino itself will be operated by Ontario Gaming GTA LP, a partnership between Great Canadian Gaming Corporation and Brookfield Business Partners.
- 3.5 It has been estimated that the overall project will create approximately 10,000 jobs and will provide significant tax revenues to the City and the Region. The casino itself is anticipated to employ approximately 2,000 staff. An estimated 1,500 employees are associated with the film studio.
- 3.6 It was originally expected that the Casino would open in the Spring of 2020, but due to the COVID-19 pandemic, the opening has been delayed. A new opening date is not known at this time.
- 3.7 The Region anticipates receiving a portion of the casino revenues from the City of Pickering's share, although an agreement between the City of Pickering and the Region has not yet been finalized.

4. Existing Approved Zoning

- 4.1 In 2015, City of Pickering Council passed a zoning by-law to permit a substantial portion of the development to proceed on the easterly portion of the site under the zone category "Major Tourist Destination". The balance of the lands were placed within an "Urban Reserve" (UR) Zone which would function in the interim as a development holding category. (See Attachment #2 – Existing Zoning Map).
- 4.2 The by-law was appealed to the Ontario Municipal Board, and following a hearing, the OMB approved the existing zoning by-law in July of 2017. The Region did not

object to the by-law when it was passed by the City of Pickering, and did not take a position at the Hearing.

- 4.3 The approved Durham Live zoning by-law is complex and contains a series of three “Holding” (H) provisions based on trip generation rates, as a way to manage the impacts of the development on the transportation network by tying trip volumes to external transportation infrastructure improvements.
- 4.4 To date, “H1” and “H2” have been lifted which enables a substantial amount of development to occur on the site. The H1 and H2 provisions allow the development of the casino, hotel, restaurant, performance studio and film studio.
- 4.5 The transportation projects that the Owners are obligated to complete under the H1 and H2 agreements include four intersection improvements along Bayly Street, (i.e. at Brock Road, Squires Beach, Church and Westney), as well as intersection improvements and signals at Church Street and former Kellino Street being the main entrance into the site. The intersection works at Church Street and Kellino Street have been completed; however, the remaining four intersection projects along Bayly will be completed in 2021. The map provided in Attachment #1 shows the transportation works that the Owner has agreed to complete.
- 4.6 The H2 agreement requires the construction of an overpass for Notion Road (a City road) across Highway 401, to be secure through an agreement between the Owner and the City of Pickering. The EA for the undertaking is completed. Design and construction will be advanced by the City. It is estimated that completion of this overpass is at least three years away and it is not anticipated to require any financial commitment from the Region.
- 4.7 As per the approved zoning, the lifting of H3 will enable the build-out of the proposed entertainment complex, and specifically requires an arrangement or agreement for the construction of a new freeway interchange at Highway 401 and Church Street in Ajax.
- 4.8 However, it is unlikely that the Ministry of Transportation (MTO) will permit the construction of a new interchange at Highway 401 and Church Street due to technical concerns.
- 4.9 Representatives from the Region, the City of Pickering, Town of Ajax and the Owners have commenced discussions to explore transportation alternatives to the Highway 401/Church Street freeway interchange. In particular, the Owner has

proposed an east/west road connection parallel to Highway 401 connecting the Pickering GO Station to the Ajax GO Station as an option to be explored.

5. The Requested Minister's Zoning Order

5.1 On May 25, 2020, the City of Pickering's Deputy Mayor wrote to the Minister of Municipal Affairs and Housing on behalf of Pickering Council requesting the Minister to enact an MZO for the Durham Live lands. The letter indicated that the MZO was necessary to enable Durham Live to continue the momentum of its building program and to realize the full potential of the project. *"... Durham Live is ideally positioned to be shovel-ready for the economic recovery kick-start which the City, Region and Province must now plan for. The success of Durham Live depends on the inclusion of synergistic and complementary uses to the Casino Resort. The ability of Durham Live to fulfil its planned function as major tourism hub depends on its ability to provide certainty to prospective tenants that they can build and open with as little delay as possible."*

5.2 A copy of the draft MZO being requested by the Owner was attached to the Acting Mayor's letter. The MZO Map is attached as Attachment #3. A summary of the proposed MZO is as follows:

- a. It maintains all the uses currently permitted by the OMB-approved zoning by-law.
- b. In addition, the draft MZO would permit new uses, namely:
 - **1,500 residential apartment units; and**
 - **350,000 square feet of retail uses.**

The subject lands on which the residential and retail uses would be built are currently designated "Employment Areas" in the Regional Official Plan. Residential and major retail uses are not permitted in this designation; hence, the proposed MZO constitutes an employment land conversion because it would establish the principle of residential and major retail development for this area.

- c. The draft MZO amends the Urban Reserve Zone by reducing the extent of the environmental areas from 120 metres to approximately 30 metres. This creates additional developable land on which the **film studio** project, and other uses on the site, will be located.

The film studio lands are currently designated “Employment Areas” in the Regional Official Plan; hence, the film studio use is permitted and the MZO would be implementing those Official Plan permissions.

- d. The MZO facilitates the development of “**Project Lonestar**” an approximately 850,000 to 4 million square foot distribution centre and production facility to be located on the portion of the site west of Squires Beach Road. The subject lands are currently designated “Employment Areas” in the Regional Official Plan; hence the proposed facility is currently permitted. It is noted that these lands are currently encumbered by a Provincially Significant Wetland.
- e. The MZO would override the current zoning which therefore would **extinguish the existing H3 provisions** and the Owner’s obligation to construct the freeway interchange at Highway 401 and Church Street.

6. Proposed Regional Agreement to Support the MZO

- 6.1 The Durham Live site will generate jobs, assessment, and will establish a new tourist designation with the potential for economic spin-offs for the local economy. The proposal represents a unique opportunity to provide a pedestrian-oriented, mixed-use destination that does not fit neatly into the existing planning policy framework.
- 6.2 Despite staff’s reservations with the MZO tool, this MZO is being requested to facilitate shovel-ready development and to advance the climate for investment on the site.
- 6.3 At present, the impacts of the new development being proposed by the draft MZO, on the Region’s and surrounding municipalities’ infrastructure are not known. As noted above, the effect of the MZO would be to extinguish the existing H3 requirements. **It is important, therefore, that the transportation impacts of the proposal be identified and that any necessary transportation infrastructure be determined before further development on the site can proceed. Similarly, the impact of these additional land use permissions, defined in Section 5.2 of this report, on the Region’s water supply and sanitary sewer infrastructure needs to be understood and upgraded if required.** Staff’s preliminary assessment is that the existing water supply and sanitary sewer infrastructure is not sufficient to accommodate the new uses.
- 6.4 Therefore, in order for the Region to provide its support to the Minister for the proposed MZO, it is recommended that an agreement between the Region, the

impacted municipalities and the Owner of Durham Live be required in which the Owner will commit to:

- a. Preparing Terms of Reference for a Transportation Study (or studies) and a Servicing Study (or studies) to the Region's and impacted municipalities' satisfaction;
- b. Completing these transportation and servicing studies to the Region's and impacted municipalities' satisfaction at the Owner's expense;
- c. Committing to implement the recommendations of these studies (i.e. fund, design and construct the works) that are necessary exclusively to accommodate the proposed development;
- d. Committing to entering into good faith negotiations regarding the funding, design and construction of any works required to accommodate both the proposed development and surrounding area with the Region, the affected Area Municipalities, the Province of Ontario, or any other impacted party; and
- e. Providing a minimum of 150 units of purpose-built affordable rental housing units on the subject site at not more than 80% of the Region's Average Market Rent with a commitment that these units will be maintained as such for a minimum of 20 years, and further, that not less than one-third of these affordable housing units will be in the first phase of any residential development on the subject lands, with the remainder being in the second phase.

- 6.5 It is recommended that Council direct the CAO to negotiate and execute an agreement which addresses the Region's interests as set out in this report to the satisfaction of staff. While it is not the final version of the agreement, a confidential memorandum with an attached confidential draft of agreement will accompany this memo for Council's review.
- 6.6 It is recommended that the Minister be requested to include this affordable housing requirement in the MZO.
- 6.7 To ensure that the development proceeds in an expeditious manner, it is also staff's recommendation that the Minister be requested to revoke the MZO in whole or in part for the additional uses defined in Section 5.2 of this report, enabled by the MZO, if the Minister is of the opinion that the Owner has not, within 36 months from the date of enactment of the MZO, made substantial progress toward the issuance of a building permit for such additional uses by the City of Pickering.

- 6.8 Since a large number of residential units would be permitted by the MZO and given the immediate need to increase the supply of affordable housing in Durham, it is appropriate that a commitment be included to provide 150 units of purpose-built affordable rental accommodation for at least a 20 year period, in the initial phases of the residential development. These 150 units would be in addition to the 1,500 units noted in Section 5.2(b) of this report.

7. Conclusion

- 7.1 Staff are of the view that the broad interests of the Region and the impacted municipalities can be protected by ensuring the Owner agrees to construct the necessary infrastructure to accommodate the development and in the near term, deliver a significant component of affordable housing.
- 7.2 It is recommended that the Chief Administrative Officer be authorized by Regional Council to execute an Agreement between the Region of Durham, the Owner of the Durham Live lands, and impacted municipalities, as described in this report.

8. Attachments

Attachment #1:	Context Map
Attachment #2:	Current Approved Zoning
Attachment #3:	MZO Map
Confidential Attachment #4:	Confidential memorandum from the Director of Legal Services

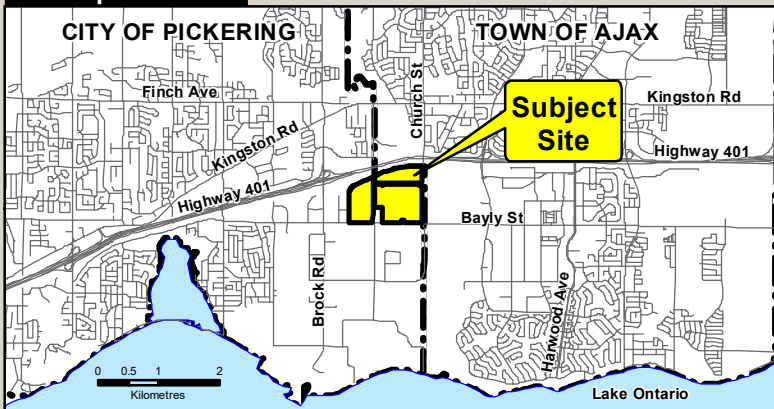
Respectfully submitted,

Original signed by

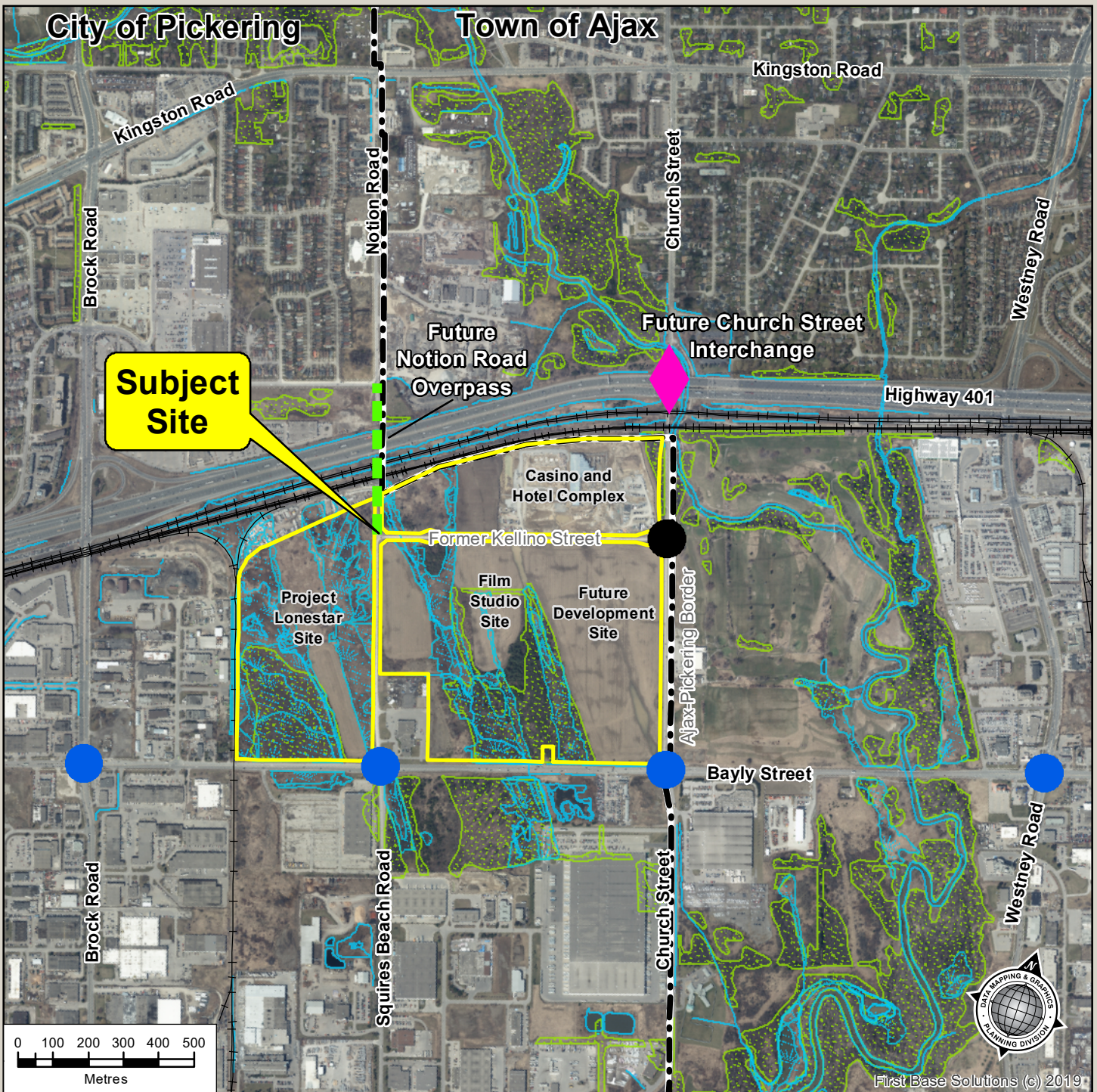
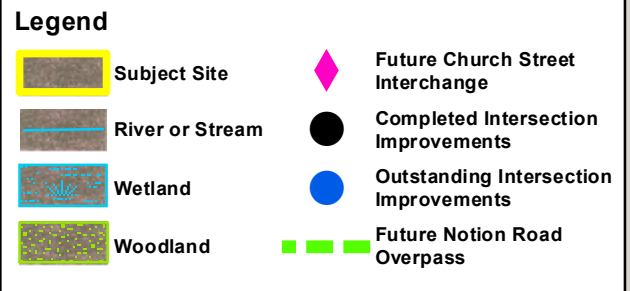
Elaine C. Baxter-Trahair
Chief Administrative Officer

Contact: Brian Bridgeman, Commissioner of Planning and Economic Development, at 905-668-7711, extension 2535, for additional information.

Municipal Context



Attachment #1
 CAO's Report: 2020-A-19
 File: Durham Live - Minister's Zoning Order
 Municipality: City of Pickering



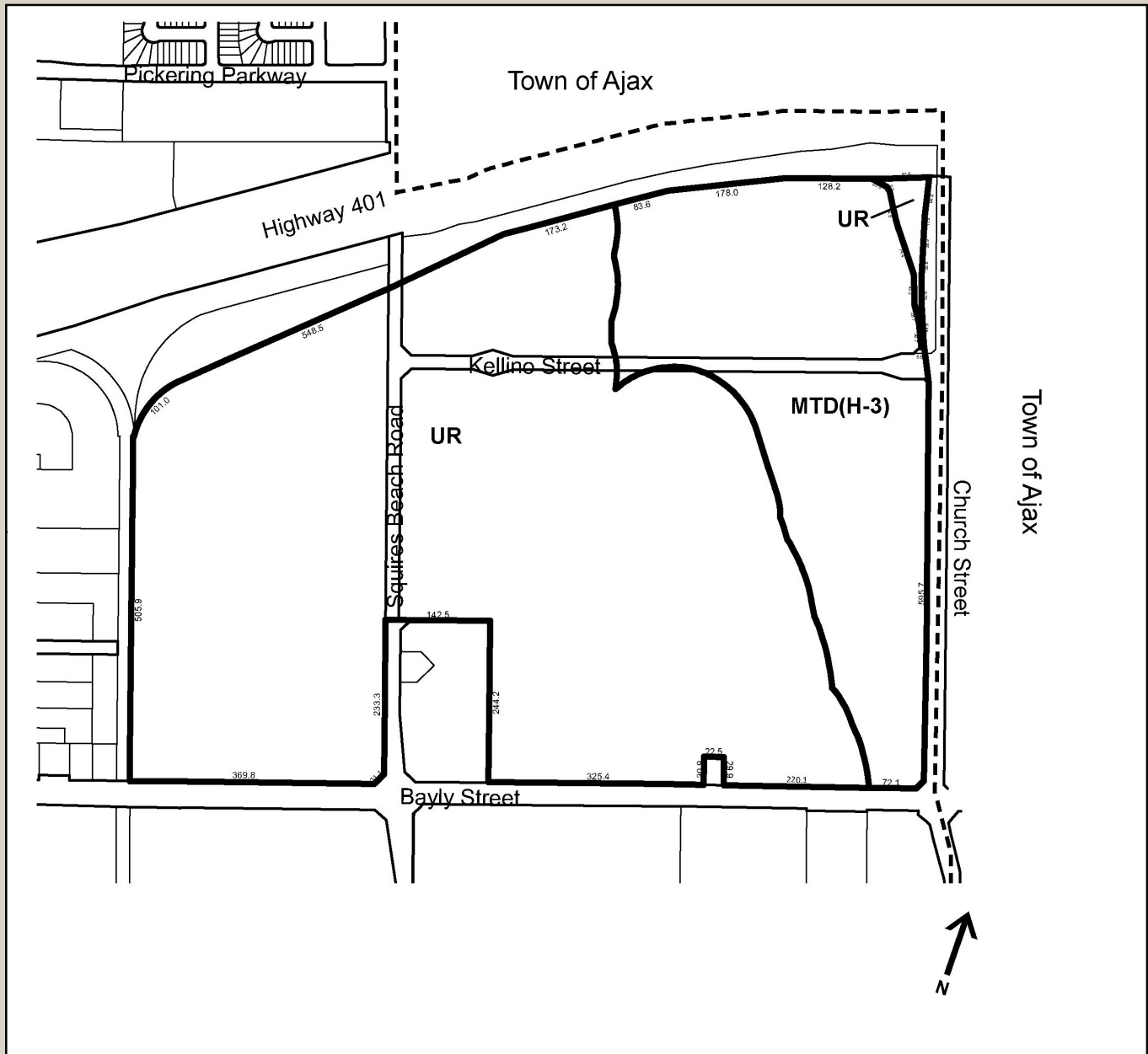
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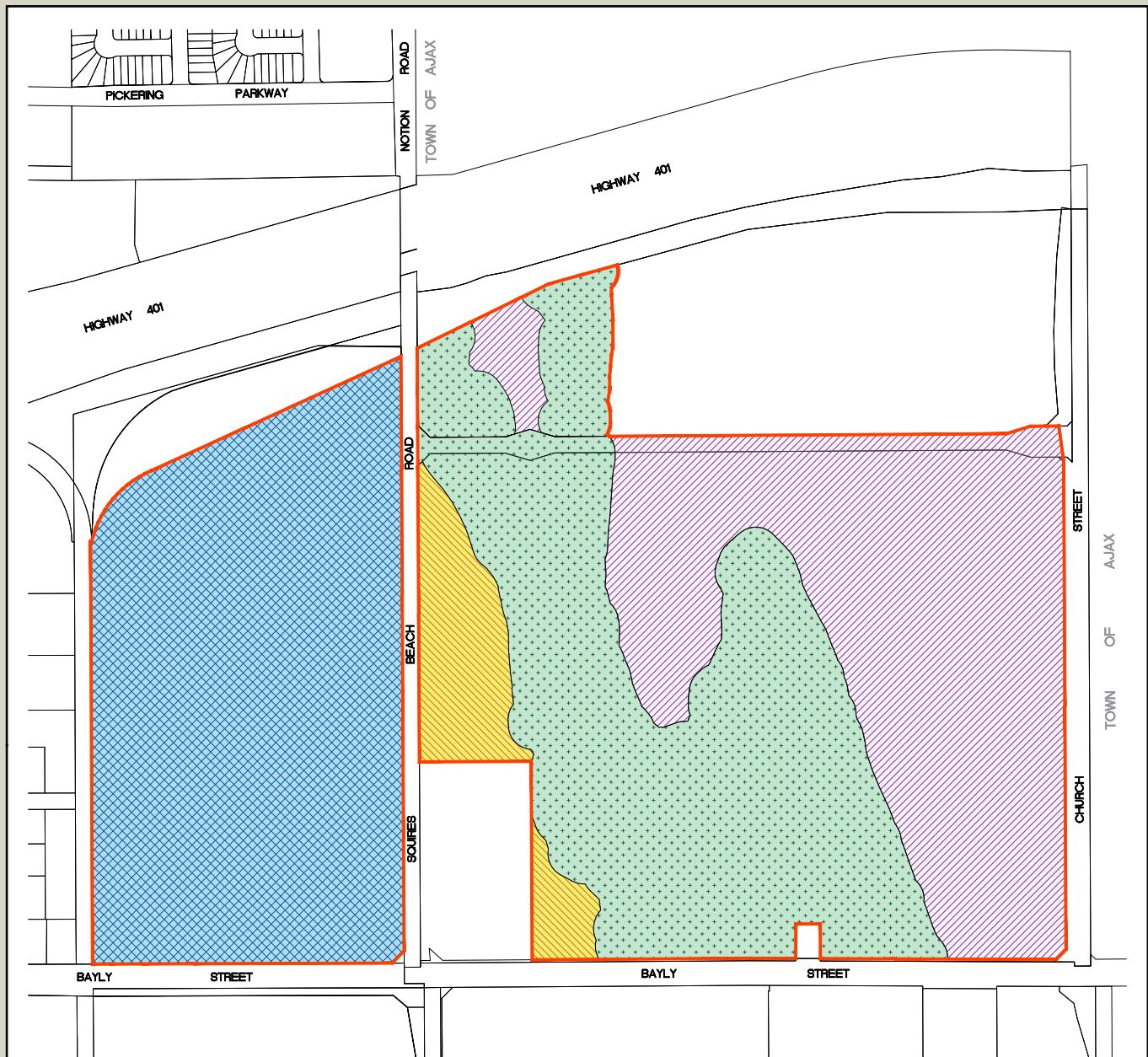


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Attachment #2 - Existing Zoning Map
 CAO's Report: 2020-A-19
 File: Durham Live - Minister's Zoning Order
 Municipality: City of Pickering



Attachment #3 - Requested MZO Map
 CAO's Report: 2020-A-19
 File: Durham Live - Minister's Zoning Order
 Municipality: City of Pickering



LEGEND

- Parcel Boundary
- Land Subject to Zoning Order
- Mixed Use Major Tourist and Entertainment Zone
- Warehousing and Logistics Zone
- Mixed Employment Zone
- Natural Heritage and Open Space Zone

