

February 2, 2023

Hon. Steve Clark
Minister of Municipal Affairs and Housing
777 Bay Street - 17th Floor
Toronto, Ontario
M7A 2J3

Dear Minister Clark:

**Re: Toronto Official Plan Amendment 570
ERO Number 019-5937
Ministry Reference Number 20-OP-227259**

**Toronto Official Plan Amendment 570
Major Transit Station Areas
Request for Modifications to Site and Area Specific Policies 624
Scarborough GO Major Transit Station Area
347-375 Kennedy Road**

**Toronto Official Plan Amendment 570 Should be Modified to Establish Meaningful
Minimum Densities in Scarborough GO Major Transit Station Area**

We act for Laurier Paradise Kennedy (Laurier Paradise Kennedy CC 347-357 Kennedy Inc. and Laurier Paradise Kennedy CC 375 Kennedy Inc.) with respect to the lands at 347 to 375 Kennedy Road, in the Scarborough Junction Triangle, Toronto. The subject lands are within Site and Area Specific Policy Area 624 (in this case a Major Transit Station Area) established by Toronto Official Plan Amendment 570.



Figure 3 - Aerial Photo - Scarborough Junction Triangle Lands

Official Plan Amendment 570 includes mapping that establishes artificially low minimum densities for the subject lands. We are writing to request that the policy be modified to include more meaningful minimum densities, that will serve as an incentive to achieve intensification at the relevant transit station areas. This submission is also accompanied by a planning report from Bousfields.

The City of Toronto Official Plan Amendment 570 establishes Major Transit Station Area policies for 57 Major Transit Station Areas. The amendment includes mapping for each major transit station area, which includes minimum densities.

However, these densities have been set at such artificially low levels that the policies will fail to achieve the principal objective of encouraging intensification at major transit stations. In many cases, the minimum densities are well below the densities of existing buildings, or approved development proposals. Virtually nowhere will the proposed minimum densities serve as meaningful incentives to intensify development.

We are requesting that the Minister modify the minimum density mapping applicable to lands in Site and Area Specific Policy 624 in Official Plan Amendment 570 to reflect higher minimum densities, reflective of existing planning approvals and active development applications. Such modifications will help to accelerate the process of approving intensification applications. It will deliver housing and economic activity consistent with the provincial vision, with less excessive process, and in a faster time frame.

Major Transit Station Areas Have Been Established in the Planning Act as Locations Where the Province Envisions Intensification and Concentrations of Population and Jobs that Will be Transit-Reliant

Previous provincial Governments amended the Planning Act introducing sections 17 (15) and (16) which provide for the establishment of Protected Major Transit Station Areas. Among other things, these sections include provisions for the establishment of minimum densities in these areas. To reflect the priority that the province places on the importance of delivering growth in the Protected Major Transit Station Areas, the statute does not permit appeals to the Tribunal of any of the minimum density policies. The policy direction inherent in these changes has been maintained by the current Government.

At the time the Planning Act changes were presented to the Legislature, the Minister outlined the objectives as follows:

“To make the best possible use of our government’s transit investments and to help support municipal control over local planning, we are proposing a new planning tool that municipalities can use. This tool would allow municipalities to designate and zone protected major transit station areas. The province or an approval authority would approve these policies when they’re being put in place and whenever they are being changed. When the municipality designates these areas, there would be no appeal of the official plan policies on the number of residents and jobs in the area or on building densities and heights. Once designated, the municipality would zone for density and height requirements meant to support transit service.”

“There would only be limited opportunities to appeal the zoning requirements. Zoning would need to conform with the provisions and standards set out in the official plan and provincial plans and policies. Municipalities would be able to plan for and develop transit-supportive densities to ensure that they have residents close to transit to encourage the transit ridership that makes the operation of transit cost-effective.”

The clear intention of the new statutory provisions was to smooth the way for the intensification of areas around transit stations. This was seen both as a sound planning approach that will reduce congestion and encourage use of public transit. This was also seen as a way of ensuring that public investment in transit infrastructure was then used efficiently by ensuring development in the vicinity of stations.

Provincial Growth Plan Emphasizes that the Policy Direction of Major Transit Station Areas is to Deliver a “High Level of Employment and Residential Densities”

The Growth Plan for the Greater Golden Horseshoe even more clearly establishes that the provincial objective behind the establishment of Major Transit Station Areas is to achieve intensification - higher densities - around transit stations.

Policy 2.2.4 specifically addresses Transit Corridors and Transit Stations. Policy 2.2.4.8 requires that all Major Transit Station Areas “be planned and designed to be transit supportive”. The Growth Plan defines transit supportive as: “Relating to development that makes transit viable and improves the quality of the experience using transit. It often refers to compact, mixed-use development that has a high level of employment and residential densities. ...”. The clear policy objective is to see higher densities encouraged through the use of minimum density designations.

However, the City of Toronto’s approach in Official Plan Amendment 570 establishes minimum densities in Major Transit Station Areas that are so low that they cannot be considered in any way to be encouraging meaningful intensification and the higher densities of development contemplated by the Growth Plan.

Ontario's Housing Action Plan Highlights the Importance of Higher Densities around Transit Stations

The current Government has been moving aggressively to address the housing supply crisis in Ontario. Throughout, the Government has emphasized the importance of development around transit stations to deliver meaningfully to the supply of housing, in the right places.

In November 2022, the Minister released the most recent version of the Provincial Housing Supply Action Plan, entitled "More Homes Built Faster". The plan includes the following:

"Density near transit hubs"

"Adding more basement apartments will help, but we need to enable more density to truly address the housing crisis. The logical place to put more housing is near major transit hubs, so people can easily get to work, school and back home. Once the minister approves the key development policies for major transit hubs, we're proposing to require municipalities to update their zoning by-laws within one year to help get shovels in the ground faster."

The province has stated clearly that intensification at Major Transit Station Areas is "the logical place to put more housing".

The section from the plan also emphasizes the role of the Minister in ensuring that the "key development policies for major transit hubs" are in place. As such, it is important for the Minister to exercise his powers of modification when considering policies like those in Toronto Official Plan Amendment 570 to ensure that the minimum densities actually encourage housing intensification to happen in major transit station areas.

It is also significant that the Housing Supply Action Plan identifies the need for official plan policies and zoning to be in place quickly to "get shovels in the ground faster" in delivering housing at transit station areas. The approach of the City of Toronto, in setting artificially low minimum densities, seeks to do exactly the opposite. Toronto is creating a situation where further Official Plan amendment and rezoning applications (and the years of related process) are required before the hoped for transit supportive development approvals can be achieved, further delaying the delivery of that housing supply. Simply put, the City's Official Plan Amendment 570 creates a need for additional process, rather than achieving the provincial objective of moving towards higher as-of-right densities allowing the construction of housing to proceed with less red tape and process delays.

Proposal for 347-375 Kennedy Road Offers Significant Housing Supply - Will Deliver 2,345 Units of Housing

The proposal for 347-375 Kennedy Road offers the potential for a significant addition of new housing supply in an ideal location - at a GO Subway Station Major Transit Station Area. The proposal includes a total of 2,345 units.

In addition, other landowners in the Scarborough Junction Triangle are proposing to build additional housing, also numbering in the thousands of units.

As such, modifications to the Official Plan Amendment to facilitate the construction of this housing will offer an opportunity for new homes for thousands of families, and a healthy addition to the supply of housing in the province.

Mapping in OPA 570 Applies Artificially Low Densities to Scarborough GO Major Transit Station Area (Site and Area Specific Policy 624)

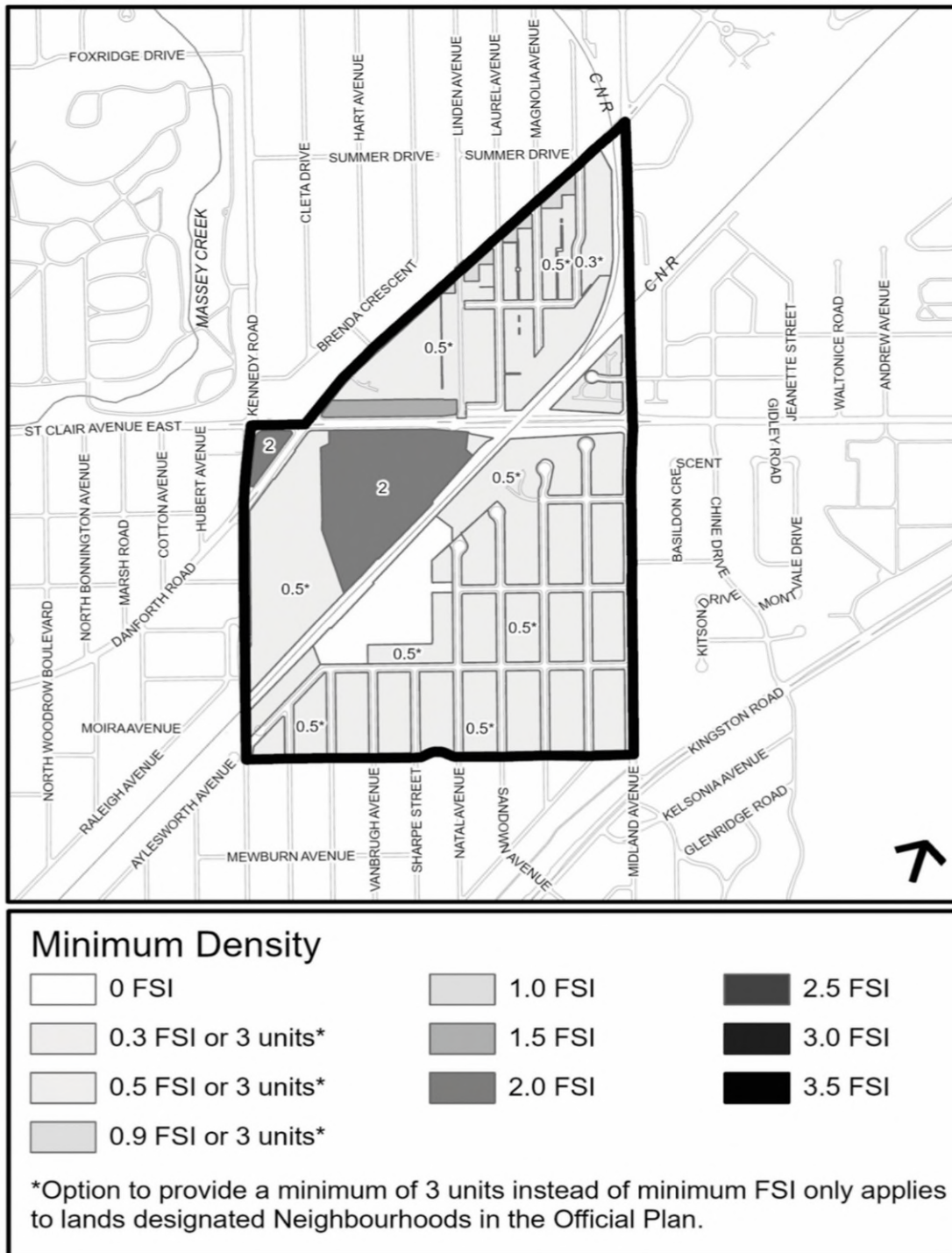
The Laurier Paradise Kennedy lands are located in the southwest portion of the Scarborough Junction Triangle. The site is in the Scarborough GO Protected Major Transit Station Areas.

The Scarborough GO Station itself, is located within the Scarborough Junction Triangle lands, with the Laurier Paradise Kennedy lands just a short walk away within that triangle. It is logical that the most significant densities should be concentrated upon the Scarborough Junction Triangle land itself, as it is composed of large parcels, where comprehensive development is possible, and impacts upon stable neighbourhoods further afield is limited.

However, the minimum densities for the Laurier Paradise Kennedy lands have been set at an unreasonably low 0.5 FSI in Toronto Official Plan Amendment 570.

Below is the current minimum density map for Site and Area Specific Policy 624 in Official Plan Amendment 570:

Map 2 – Minimum Densities, Scarborough GO Protected Major Transit Station Area



In the case of the City's adopted map above, a large part of the Scarborough Junction Triangle is designated with a minimum density of 2 times the area of the lot directly on the St. Clair frontage with the balance having a minimum density of 0.5 times the area of the lot. As noted, all of the Laurier Paradise Kennedy lands are designated with a minimum density of 0.5 FSI - or an even more absurd alternative of three units!

At a GO Station (with all the provincial infrastructure investment that implies), it is unlikely that this is the kind of density that the province would consider to be a high residential density, or meaningful intensification in a transit supportive fashion.

City's Adopted Minimum Densities Are Actually Below Already Planned and Approved Density Permissions

The City of Toronto has established an interactive tool for Major Transit Station Areas. The tool reveals that the area in question already has generally higher density permissions than the minimum densities established by Official Plan Amendment 570. This demonstrates the extent to which the minimum densities in the amendment are artificially low - and so low as to not serve as an incentive for intensification.

This is remarkable, in view of the fact that there are only very limited approvals in place so far for the redevelopment of the Scarborough Junction Triangle lands within the Scarborough GO Major Transit Station Area.

In the table below, the "planned densities" taken from the City's interactive tool are based upon all sites developing in accordance with their existing planning permissions. These planned density figures account for the in effect Official Plan land use designations, zoning by-law permissions, densities in secondary plans, and approved developments that have not yet been built.

MTSA	Currently Planned Density	OPA Minimum Density
Scarborough GO	241 people/jobs/HA	150 people/jobs/HA

The above figures indicate how meaningless the minimum densities proposed for Major Transit Station Areas in OPA 570 are. They can hardly be seen to serve as an incentive to increase densities, when existing planning permissions ALREADY permit higher densities. It is clear that the City's exercise in conforming with the Growth Plan, clearly does not conform with the provincial policy direction to meaningfully intensify in Major Transit Station Areas.

Even the Minimum Densities In Official Plan Amendment 570 are Unlikely to Be Achieved as Mapped Across the Entirety of the Scarborough GO MTSA

The City's analysis and calculations are based on a highly unlikely assumption: That all land parcels will develop according to their full potential under the proposed densities.

This assumption is unlikely to be realized for a number of reasons including, among others, the following:

- It is virtually never the case that all land parcels in a particular area develop at the permitted densities. Some landowners are always "waiting" for better circumstances in the future.
- Many existing structures are economically viable as built, and will not be replaced.
- The densities in OPA 570 are not sufficiently high to make the replacement of existing low density structures, with only modestly larger buildings, economically viable.

Similar factors are in play with respect to the existing planning permissions. According to the information in the City's interactive tool for Major Transit Station Areas, existing development (2016) in the area is well-below the currently permitted planning permissions. This reflects, in part, the practical reality that it does not make sense for small parcels to redevelop to higher densities if the gains are only modest. The difference must be sufficient to make sense, if actual intensification and development to planning potential is to be achieved.

Paradoxically, the new minimum densities adopted are so low as to not meaningfully encourage redevelopment proposals - meaning the area will be more inclined to stagnate, rather than revitalize.

MTSA	Existing Planned Density	Actual Current Density(2016)
Scarborough GO	241 /HA	40/HA (approx)

The above figures demonstrate that existing planning permissions substantially exceed what is now built - by a factor of more than 600% in this area. This underlines the importance of establishing minimum densities that are meaningful if the intensification and increased housing supply sought by the province is to result.

It also highlights the importance of recognizing that the best and most practical approach to achieving meaningful intensification in the Scarborough GO Major Transit Station Area will be through supporting and encouraging redevelopment of the large, underutilized parcels in the Scarborough Junction Triangle, in which the GO Station is located.

Minister is Asked to Modify the Minimum Density Mapping of Site and Area Specific Policy 624, in Official Plan Amendment 570

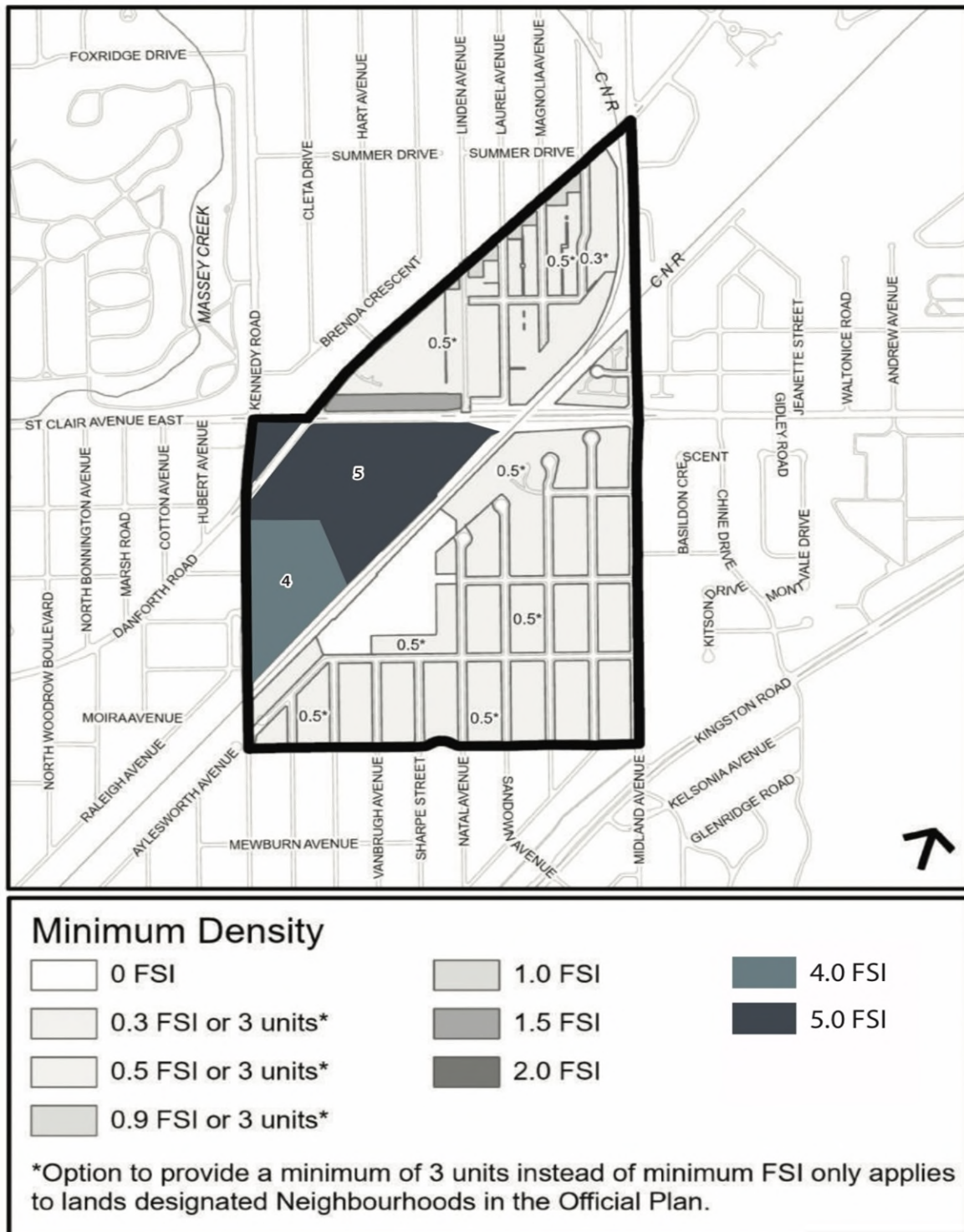
We are requesting that the Minister modify the mapping of minimum density in the planning area to reflect increased minimum densities - particularly in the Scarborough Junction Triangle areas.

It makes sense that the highest densities should be located in this area which offers the best opportunities for large-scale redevelopment, and which includes the GO station location.

To support the determination of appropriate alternative minimum density numbers, a planning and design analysis which looked at approved and in-progress development applications in the Scarborough Junction Triangle was undertaken. These lands have been the subject of extensive planning study already.

Below is the recommended minimum density mapping for Site and Area Specific Policy 624 Scarborough GO:

Map 2 – Minimum Densities, Scarborough GO Protected Major Transit Station Area



Minister is Currently Considering a Submission to Amend Toronto Official Plan Amendment 591, Site and Area Specific Policy 790, Respecting Conversion of 347-375 Kennedy Road - These Submissions Should be Considered in Co-Ordination

Toronto Official Plan Amendment 591 proposes a number of conversions from employment being approved by the City of Toronto, generally through the use of Site and Area Specific Policies. Two of these Site and Area Specific Policies apply to lands in the Scarborough Junction Triangle.

SASP 790 applies generally to the Laurier-Paradise Kennedy lands - and converts them - but only to a regeneration area designation, which requires years of additional planning process and study before meaningful development can proceed.

SASP 797 applies to the lands directly north of SASP 790, extending up to Danforth Road and St. Clair Avenue - converting them by designating the lands as mixed use.

The Minister has been asked to add the Laurier Paradise Kennedy lands (plus 399 Kennedy) into SASP 797, thus designating them mixed use, to avoid years of process delays in delivering the proposed housing. SASP 790 would be deleted.

It makes sense that this modification request to OPA 570 should be considered together with the modification request for OPA 591 - so that the resulting policies can work together to accelerate the delivery of much needed housing.

Minister Should Modify Toronto Official Plan Amendment 570 as Requested - In the Alternative, The Minister Should Refer the Minimum Density Mapping in OPA 570, SASP 624, to the Tribunal for a Hearing

It is clear that the City of Toronto's Official Plan Amendment 570 is not in conformity with the policies of the Growth Plan, as it does not properly encourage the intensification of Major Transit Station Areas and higher densities in transit supportive development. On the contrary, the City has set the minimum densities at such a low level, that any meaningful intensification will actually require Official Plan Amendment applications and lengthy approval processes, including potential exposure to appeals to the Ontario Land Tribunal. This clearly is not in conformity with provincial policy as articulated in both the Growth Plan and the Housing Supply Action Plan.

Under section 3 of the Planning Act, the Minister is required to act in conformity with Provincial Plans (including the Growth Plan) in making decisions - including exercising his powers as the approval authority for Toronto's Official Plan. Clearly, he cannot approve Official Plan Amendment 570 as adopted by Toronto Council, and be acting in conformity with his section 3 obligations.

The Minister should exercise his authority to make modifications to the amendment as requested in this submission.

In particular, the Minister should modify Toronto Official Plan Amendment 570 by substituting the above alternative minimum density mapping for site and area specific policy area 624.

Such modifications would ensure that more appropriate minimum densities were established. Under the new provincial rules, the City would be required to make zoning changes to conform with the modified Official Plan Amendment within one year. This will accelerate the potential to achieve final planning approvals on numerous sites - including at 347-375 Kennedy Road. The outcome will make possible the delivery of a meaningful increase in the housing supply at an early date.

As noted, the Laurier-Paradise Kennedy proposal for 347-375 Kennedy Road alone is currently designed to deliver 2,345 units of housing. This represents an opportunity to deliver a significant addition to the housing supply in exactly the type of location the Province has identified as ideal for new housing - a site in a GO Transit Major Transit Station Area.

In the alternative, in the event that the Minister is not prepared to make the requested modifications, we request that the Minister refer the question of the appropriate Minimum Density mapping for SASP 624 to the Ontario Land Tribunal for a hearing.

Yours sincerely,



AIRD & BERLIS LLP

Hon. Peter Van Loan
Partner

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