

February 3, 2023

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

Dear Minister Clark:

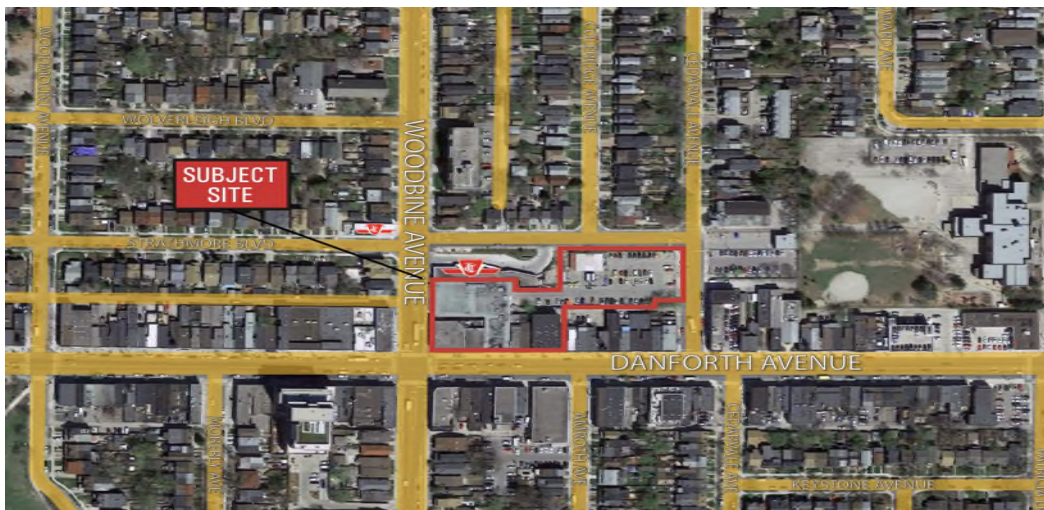
**Re: Toronto Official Plan Amendment 540
ERO Number 019-5936
Ministry Reference Number 20-OP-221476**

**Toronto Official Plan Amendment 540
Major Transit Station Areas
Request for Modifications to Site and Area Specific Policy 620
Choice Properties - Danforth & Woodbine**

**Toronto Official Plan Amendment 540 Should be Modified to Establish Meaningful
Minimum Densities in Major Transit Station Areas**

We act for CP Reit Ontario Properties Limited, owners of the lands at 985 Woodbine Avenue and 2078-2106 Danforth Avenue in the City of Toronto. The subject lands are within Site and Area Specific Policy area 620 (in this case Major Transit Station Areas) established by Toronto Official Plan Amendment 540.

The subject lands are shown below:



Modification to Official Plan Amendment 540 is being requested because the amendment includes mapping that establishes artificially low minimum densities for the subject lands. We are writing to request that the policies 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 opinion from Bousfields.

The City of Toronto has adopted Official Plan Amendment 540, which establishes Major Transit Station Area policies for 23 Major Transit Station Areas. The amendment includes mapping for each major transit station area that 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 620 in Official Plan Amendment 540 to reflect higher minimum densities, reflective of specific site locational attributes of size and location. An alternative minimum density map is provided, which designates the site at a minimum density of 7.0 FSI.

In addition, we are requesting that the following provision be added to Site and Area Specific Policy 620:

e) Minimum Density Targets

The minimum intensification and density targets in this Site and Area Specific Policy are minimum standards and the City is encouraged to go beyond these minimums, where appropriate, except where doing so would conflict with any policy of the Growth Plan, the Provincial Policy Statement, or any other provincial plan.

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 540 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 540 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 540 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.

Subject Lands are Directly Beside the Woodbine Subway Station Entrance

The Choice site at Danforth and Woodbine is ideally-suited for a transit-supportive development at higher densities, including significant residential intensification.

The site is literally next door to, and abutting the Woodbine TTC Subway Station entrance, The station also serves as a bus bay for several TTC bus routes. The site currently features a Valu-Mart supermarket, with entrances facing both Woodbine and Danforth.

The photo below illustrates the proximity of the subway entrance to the existing grocery store entrance on the site.



Woodbine TTC Subway Station

As such, a potential mixed use development on site would have a direct nexus to the subway, a few seconds walk away.

Choice Site Is Larger Than Other Lots along Danforth Avenue and Woodbine Avenue - Creating Opportunity for Comprehensive Development at Higher Densities

The Choice site represents a large site, at a critical intersection and beside the subway station. It is the only site in the Woodbine Major Transit Station Area that features these advantageous attributes for supporting intensification, and can be described as the anchor site of the Woodbine Major Transit Station Area.

As a result of these site and locational attributes, the location represents an opportunity to plan a mixed use development at higher densities.

The site represents the best opportunity for the Woodbine Major Transit Station Area to achieve the higher densities, intensification, and delivery of new housing supply, that provincial policy aims to achieve,

The site itself is surrounded by arterial roads on the west and south, with commercial uses on three sides (on the east, and across the road to the south and west), and the Subway station and bus station of the remaining north side as well as Strathmore Avenue - all together providing a buffer from the low density residential neighbourhood in the area.

The site is both well-suited to accommodate higher densities, and uniquely well-positioned to do so in the context of the Woodbine Major Transit Station Area

The Choice Proposal for the Subject Lands Would Deliver Housing, and a Grocery Store as Part of A Complete Community In a Key Major Transit Station Area

The subject lands are the best-suited central parcel with development potential to achieve intensification within the Woodbine Major Transit Station Area.

A development proposal advanced by Choice for the site represents an addition to a vibrant complete community as intended by the Growth Plan. In the broader community context, it represents ideal intensification in an appropriate location, strengthening the assets and amenities of that community.

The proposal would include a significant amount of residential space. A new grocery store would be incorporated.

Proposal in Woodbine MTSA Offers Significant Housing Supply - Has Potential to Deliver Over 400 Units of Housing on the Subject Lands

A proposal that Choice has filed for the Danforth and Woodbine subject lands demonstrates the potential for a significant addition of new housing supply in an ideal location - beside a TTC Subway Station and bus station, and at a major intersection. The proposal included over 400 residential units, in a wide range of unit sizes, many suitable for families with children.

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

Site is Well-Served by Community Amenities and Infrastructure

In addition to the immediately adjacent subway and bus station, the site is well-served by the infrastructure and amenities that future residents will require.

Local schools include Gledhill Junior Public School, D.A. Morrison Middle School, St. Brigid Catholic School, Earl Beatty Junior and Senior Public Schools, and Secord Public School. Monarch Park Collegiate and St. Patrick Catholic Secondary School serve high school students in the area.

Parks in the area include East Lynn Park, Oakcrest Park, Cassels Park, Stephenson Park and Fairmount Park. Stan Wadlow Park serves a larger regional draw with a wide range of sports fields, and the next door East York Memorial Arena. Earl Beatty Community Centre is nearby.

Michael Garron Hospital is ten short blocks away.

An abundance of retail, restaurant and service offerings can be found along the Danforth - including the site, where a supermarket is anticipated to be included in the proposed mixed-use development.

New residents will find that they live in a complete community that is well-served by a wide range of community services and amenities.

Danforth Avenue Planning Study Recognized Unique Locational and Size Attributes of Choice Site at Danforth and Woodbine, Identifying It For Intensification

The City of Toronto conducted a planning study for the future of the Danforth Avenue Corridor, in order to establish a policy approach to manage development applications along this subway lane and important avenue.

The Danforth Corridor is home to one of the City's two principal subway lines, and as such seems an appropriate place for residential intensification. However, it still has a predominantly low scale commercial character for much of its length, with small retail and service businesses lining the corridor in a traditional main street fashion.

While the City's Danforth Avenue Planning Study recognized this character, it also recognized that some locations had particular attributes making them appropriate for well-designed

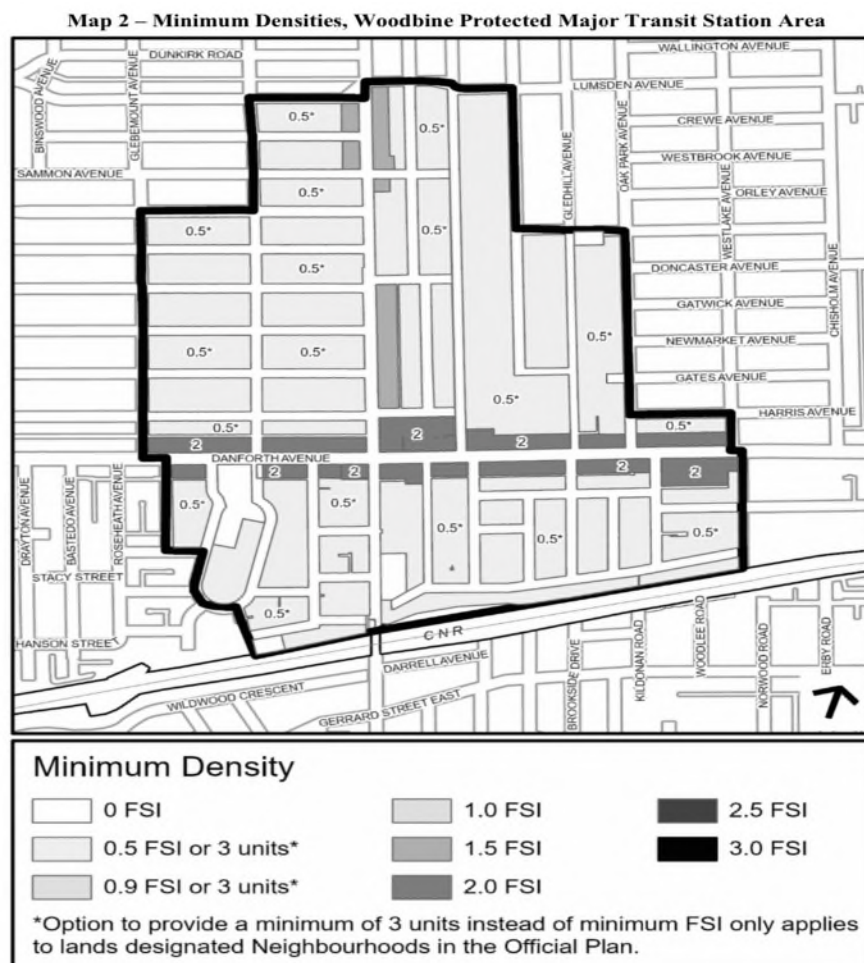
intensification. The study recognized the subject site as such an appropriate location for intensification.

The resulting adopted policies recognized the intent to intensify the TTC Station block and the ability to do so based on the size of the site in its context.

Mapping in OPA 540 Applies Artificially Low Densities to Major Transit Station Areas (Site and Area Specific Policies 620)

Despite the superior locational attributes of the Choice site at Danforth and Woodbine for intensification, the City has established artificially low densities in OPA 540.

Below is the adopted minimum density map for the Woodbine MTSA, Site and Area Specific Policy 620:



The Subject lands site are designated with a minimum density of only 2 times the area of the lot.

It is unlikely that this is the kind of density, at a subway station and bus station, 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. What that tool reveals for the two areas in question is that they already have higher density permissions generally than the minimum densities established by Official Plan Amendment 540. 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.

In the table below, the “planned density” taken from the City’s interactive tool is based upon all sites developing in accordance with their existing planning permissions. These planned density figure accounts 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
Woodbine	217 people/jobs/HA	200 people/jobs/HA

The above figures indicate how meaningless the minimum densities proposed for Major Transit Station Areas in OPA 540 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 540 are Unlikely to Be Achieved as Mapped

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 particularly 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 540 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 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)
Woodbine	217 /HA	100/HA (approx)

The above figures demonstrate that existing planning permissions substantially exceed what actually gets built - by a factor of more than double 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.

Minister is Asked to Modify the Minimum Density Mapping for Site and Area Specific Policy Area 620 in Official Plan Amendment 540

We are requesting that the Minister modify the mapping of minimum densities in the two planning areas to reflect increased minimum density in the areas closest to the Woodbine transit station.

It makes sense that the highest densities should be located where subway station are located.

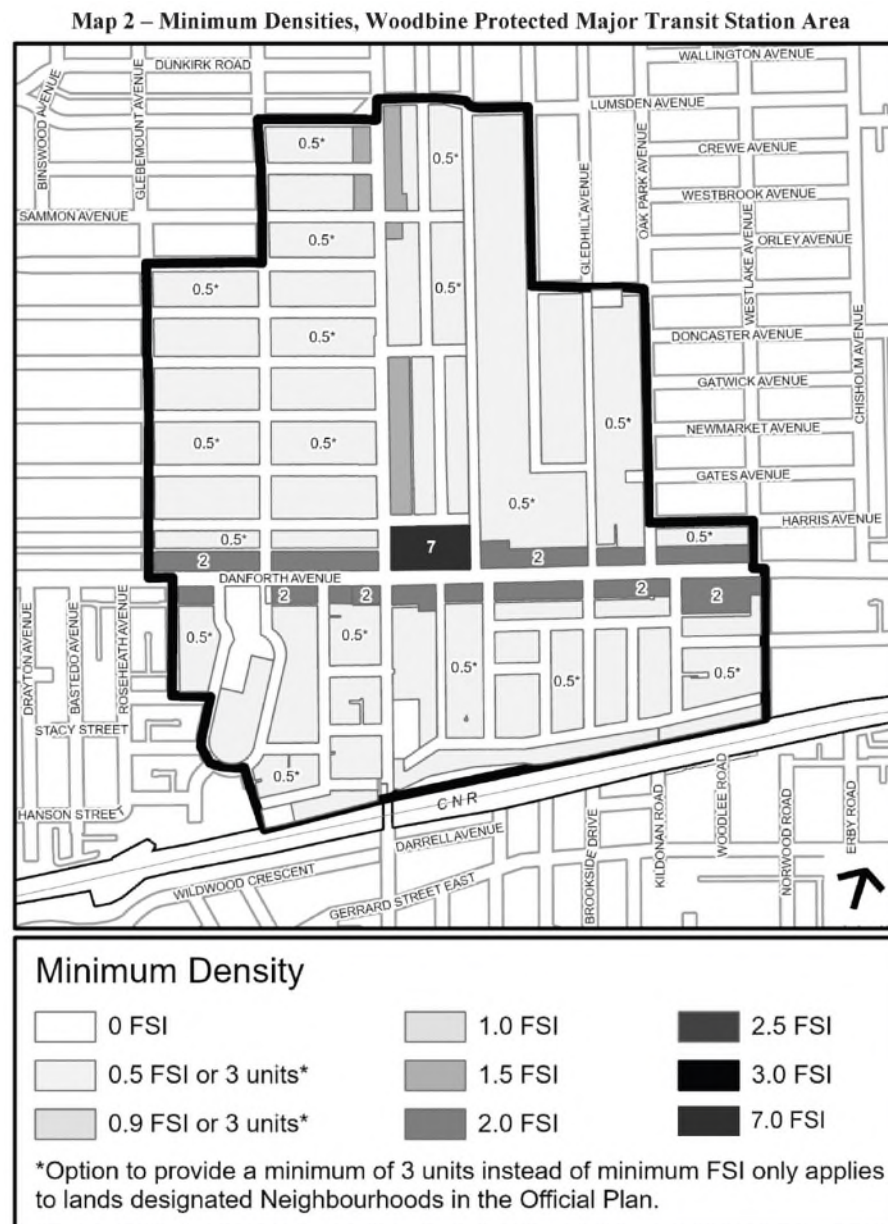
A planning analysis was done to investigate alternative minimum densities for properties within key locations in the Woodbine PMTSA.

The analysis assessed two key criteria for determining where greater densities may be warranted/feasibly accommodated:

- 1) Proximity to transit stations - in line with planning policy direction, the greatest heights and densities are assigned nearest to the station, with a gradual downward transition as one moves away from the station.
- 2) Size of parcel - large sites (either existing or where logical land assemblies could feasibly occur) are generally assigned lower densities, even with close proximity to transit, as they are thought to be more likely to develop with on-site open spaces (thus bringing down the overall density of the site).

As noted, to support the determination of appropriate alternative minimum density numbers, the planning analysis examined at approved and in-progress development applications.

Below is the recommended minimum density mapping for Site and Area Specific Policy 620 Woodbine Station:



Innovative Policy Approaches Should be Included By Modification to OPA 570 SASP 620 - The Limited Number of Large Sites Available for Intensification in Woodbine MTSA Calls For Creative Approaches to Optimize Intensification Opportunities

This submission is requesting the introduction of an innovative policy approach by modification to Official Plan Amendment 570, Site and Area Specific Policy 620

There are very few large sites available that can effectively be developed to deliver intensification in the Woodbine Major Transit Station Area creates a unique set of challenges in achieving the provincial vision of making this area a location with transit-supportive development, at higher densities. As a result, we are suggesting that policy should open the door to creative approaches to optimize the relatively few intensification opportunities that exist.

As a result, the Minister is asked to modify the policies in Site and Area Specific Policy 620 through the addition of the following policy:

e) Minimum Density Targets

The minimum intensification and density targets in this Site and Area Specific Policy are minimum standards and the City is encouraged to go beyond these minimums, where appropriate, except where doing so would conflict with any policy of the Growth Plan, the Provincial Policy Statement, or any other provincial plan.

Minister Should Modify Toronto Official Plan Amendment 540 as Requested - In the Alternative, The Minister Should Refer the Minimum Density Mapping in OPA 540, SASP 620 to the Tribunal for a Hearing

It is clear that the City of Toronto's Official Plan Amendment 540 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 540 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 540 by substituting the alternative minimum density mapping for site and area specific policy area 620, and add the following requested policy:

e) Minimum Density Targets

The minimum intensification and density targets in this Site and Area Specific Policies are minimum standards and the City is encouraged to go beyond these minimums, where appropriate, except where doing so would conflict with any policy of the Growth Plan, the Provincial Policy Statement, or any other provincial plan.

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 that at the subject lands. The outcome will make possible the delivery of a meaningful increase in the housing supply at an early date.

As noted, the Danforth and Woodbine subject lands have the potential to deliver over 400 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 beside a TTC Subway station which is the anchor site of the 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 620 to the Ontario Land Tribunal for a hearing.

Yours sincerely,



AIRD & BERLIS LLP

Hon. Peter Van Loan
Partner

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