

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 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 648
Warden Major Transit Station Area
683-685 Warden Road - Choice Properties**

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

We act for Choice Properties REIT with respect to the lands at 683 to 685 Warden Avenue. The subject lands are within Site and Area Specific Policy Area 648 (in this case a Major Transit Station Area) established by Toronto Official Plan Amendment 570.



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 transit station area. 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 648 in Official Plan Amendment 570 to reflect higher minimum densities, that are based upon the opportunities to deliver meaningful housing in the unique geography and built-environment of the Warden Major Transit Station Area. **An alternative minimum density map is provided, which designates the site at a minimum density of 4.5 FSI.**

In addition, we are requesting that the following provision be added to Site and Area Specific Policy 648:

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 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.

**Warden Major Transit Station Area has Unusual Geography and Local Built Environment
- 693-685 Warden is Uniquely Well-Positioned to Aid in Achieving Intensification
Objectives of this MTSA**

The Warden Major Transit Station Area has unique and unusual geography. The angled presence of the TTC subway, that runs at surface here, crosses the area, producing a pattern of unusually shaped lots.

The hydro corridor abuts the subway line, reinforcing the angular effect on the area. Beside the corridor, on the east side of Warden, is the space extensive Warden Hydro Transformer Station.

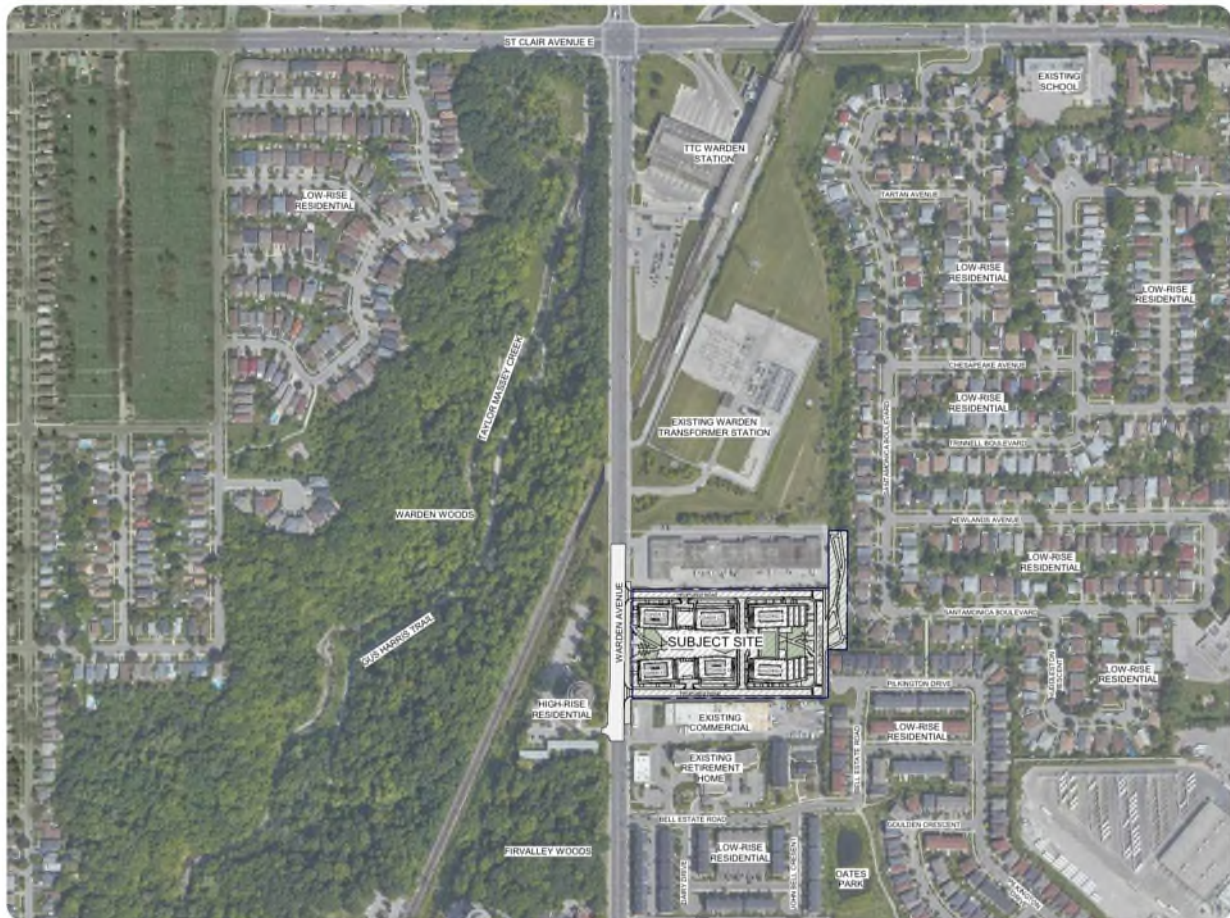


Figure 5 - Context Plan (Prepared by: Turner Fleischer Architects)

Extensive naturalized lands dominate on the west side of Warden, where Taylor-Massey Creek flows.

The Warden subway station, as a space extensive surface subway station, additionally limits the opportunities for the Warden Major Transit Station Area to achieve the provincial objective of it being a focus for higher density residential development.

Finally, much of the land in this Major Transit Station Area is already developed for grade-related homes, which areas are not appropriate for significant intensification.

As a result of all these local geographical and lotting constraints, there are few opportunities to achieve meaningful intensification in appropriate locations in this Major Transit Station Area.

The key location to achieve intensification is area composed of the few parcels on the east side of Warden, south of the subway and hydro corridor - including 683-685 Warden.

Planning Analysis Identifies that 683-685 Warden and Abutting Properties are Well-Suited to accommodate Significant Mixed Use Development

The lands in question have already been identified as appropriate for mixed use development. Below is the land use designation from the Toronto Official Plan.

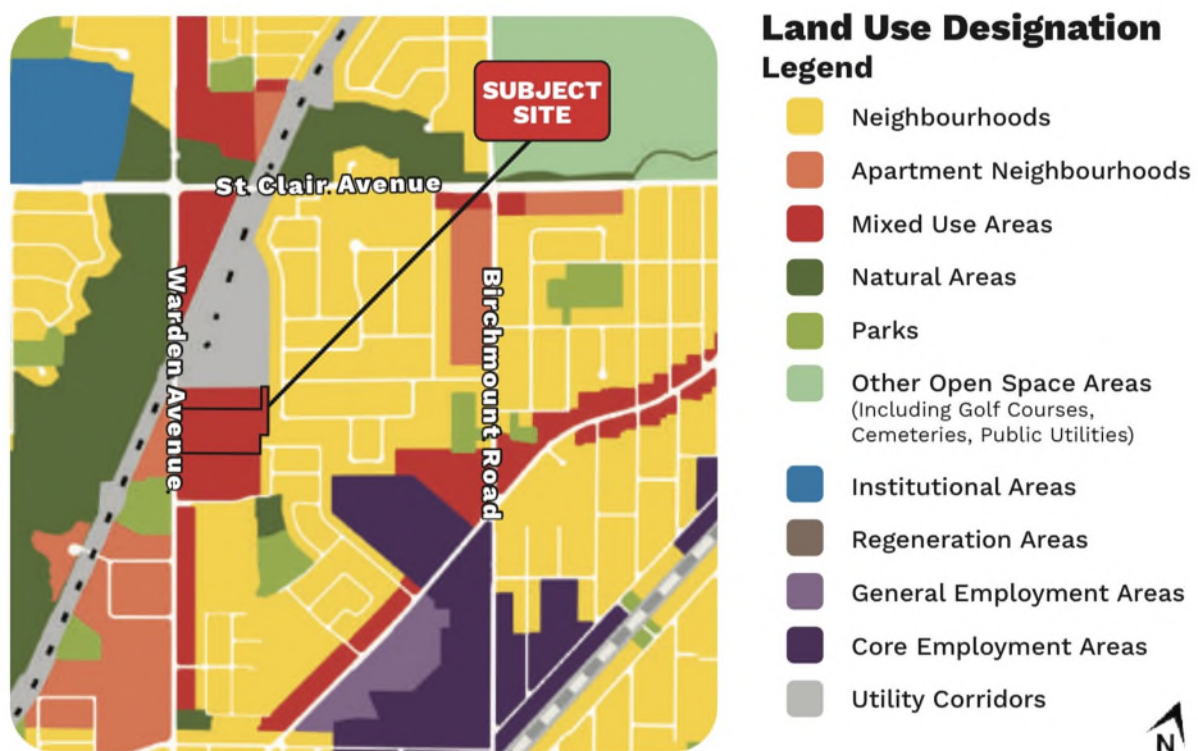


Figure 14 - Toronto Official Plan Map 20

As the Official Plan mapping shows, there are limited opportunities for policy and context-appropriate mixed use intensification in this neighbourhood. The Choice site, and abutting lands on the east side of Warden, represent arguably the best such location.

In June 2021, Bousfields prepared a Planning and Urban Design Rationale report, for a mixed-use development proposal on the site. The proposed development features a significant amount of new residential space, and just over 10,000 square feet of retail. The proposal also includes a generous 0.6 acre park.

Bousfields, in their report, concluded as follows:

Intensification on the subject site is supported by policy directions articulated in the PPS, the Growth Plan, and the City of Toronto Official Plan, all of which promote intensification on sites that are well served by municipal infrastructure, with particular emphasis on those in proximity to higher order transit. In this regard, the Proposal will redevelop an underutilized site within the Warden Woods Community.

The Choice proposal for the site proposes, and the planning and design analysis supports, a density of 4.6 FSI at 683-685 Warden.

Because of its unique context, proximity to the Warden subway station, and the relationship of the lands to the surrounding community, this site and its neighbours on the east side of Warden are well-suited to accommodate the mixed-use intensification needed to fulfil the vision for the Warden Major Transit Station area.

Choice Proposal Offers Significant Housing Supply - Will Deliver 1,519 Units of Housing

The proposal for 683-685 Warden Avenue offers the potential for a significant addition of new housing supply in an ideal location - at a TTC Subway Station Major Transit Station Area. The proposal includes a total of 1,519 units.

As such, modifications to the Official Plan Amendment to facilitate the construction of this housing will offer an opportunity for new homes for over 1,500 families, and a healthy addition to the supply of housing in the province.

Area Has Community Services and Infrastructure to Support New Intensified Residential Development

In addition to the TTC subway station and numerous bus routes converging there, the Warden Major Transit Station Area enjoys many amenities and community services.

Local schools include Taylor Creek Public School, St. Joachim Catholic School, and Birchmount Collegiate.

The area has an abundance of parks and open space offerings starting with the extensive Taylor-Massey Creek ravine and Warden Woods Park. Close by are Oates Park, Cataraqui Park, Moreau Trail Park, St. Clair Ravine Park, and more.

Recreation and community centre facilities nearby include the West Scarborough Neighbourhood Community Centre, with swimming pool, gymnasium, bocce courts, meeting and activity rooms and various community services. The Warden Hilltop Community Centre is also nearby. Birchmount Stadium and Arena serve the wider Scarborough region for football, soccer, hockey and skating.

As part of their Planning study, Bousfields conducted a Community Services and Facilities Study. It reported:

In conclusion, the Community Services and Facilities Study demonstrates that the Study Area is well served by a number of services and facilities that may accommodate the proposed development, including, but not limited to, 3 community centres, 8 human service organizations, 3 libraries, and 18 child-care centres.

...

Overall, it is our opinion that the proposed development is not expected to significantly impact the demand on community services and facilities in the Study Area. There is an acceptable range of services and facilities that currently exist within the Study Area

The future residents of the Warden Major Transit Station Area can expect to enjoy a positive complete community.

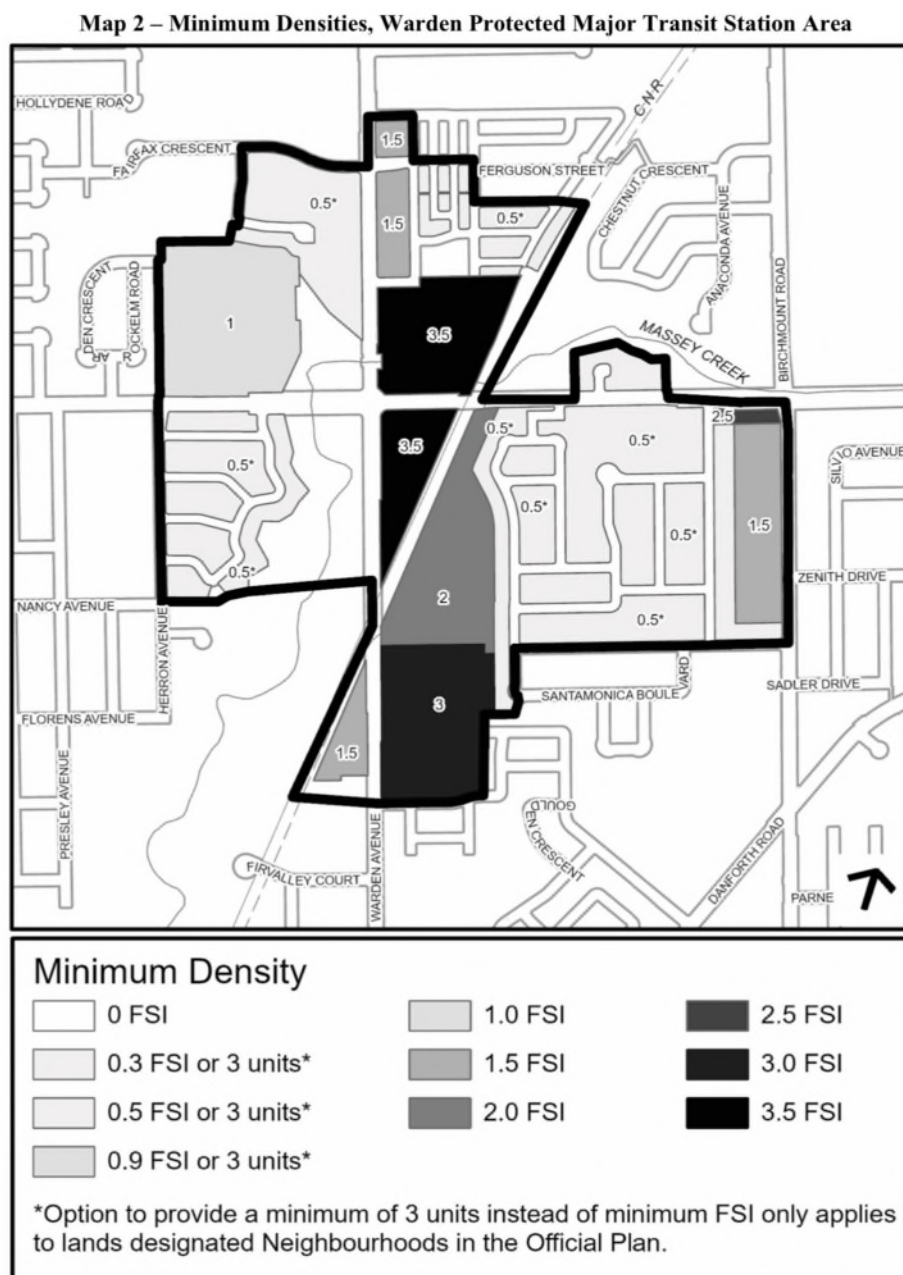
Mapping in OPA 570 Applies Artificially Low Densities to Warden Major Transit Station Area (Site and Area Specific Policy 648)

The Choice site is located a short walk - without crossing any roads - from the Warden Subway Station, and is relatively central to the Major Transit Station Area.

It is logical that the most significant densities should be concentrated upon these lands, as a relatively large parcel, where comprehensive development is possible, and impacts upon stable neighbourhoods further afield is limited.

However, the minimum densities for the Choice lands have been set at an unreasonably low 3.0 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:



At a TTC Subway Station (with all the provincial infrastructure investment that implies), it is unlikely that 3.0 FSI 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 development approvals in place so far for the redevelopment within the Warden 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
Warden	225 people/jobs/HA	200 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 Warden MTSA Due to Its Unusual Geometry and Geography

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)
Warden	225/HA	85/HA (approx)

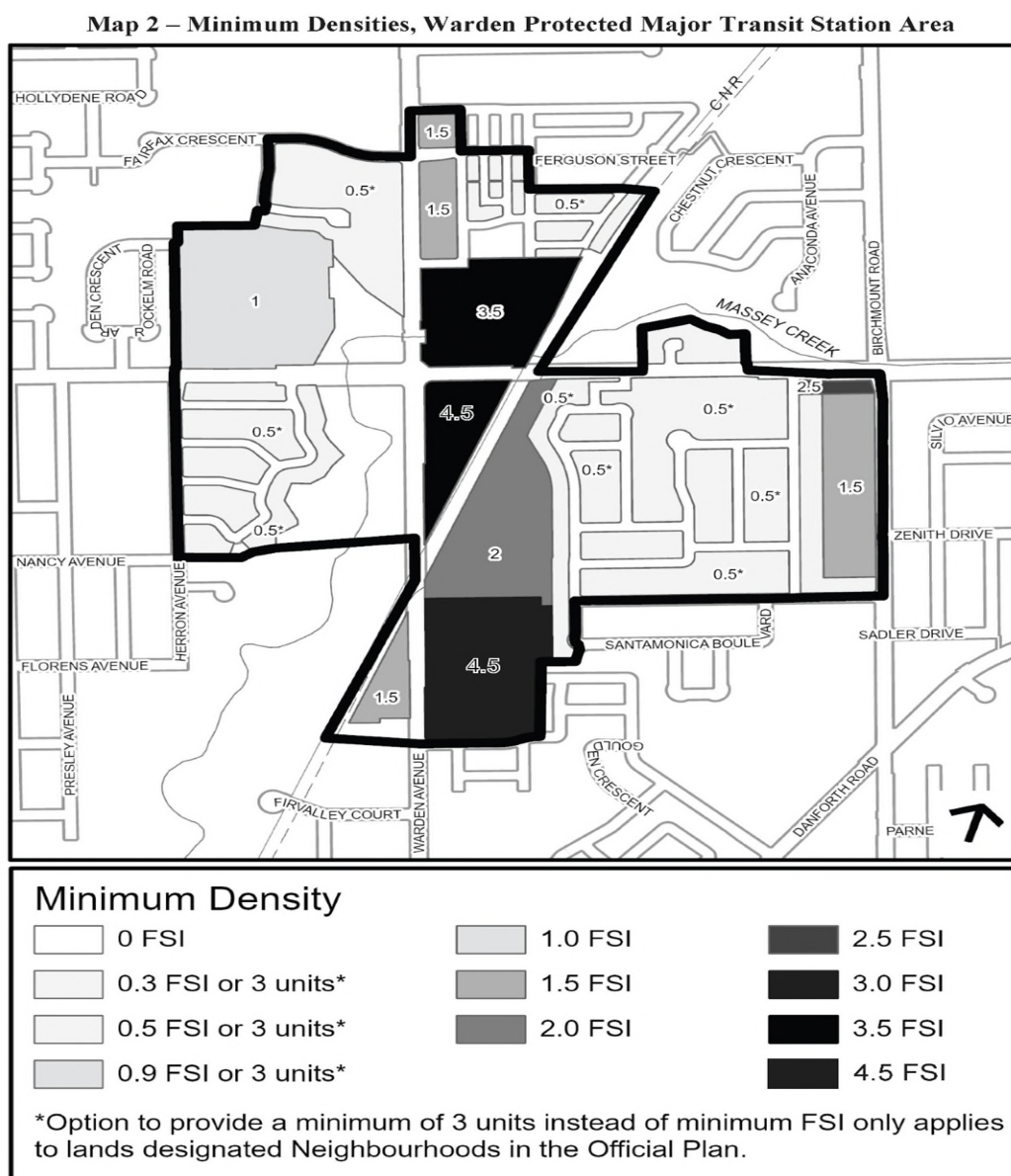
The above figures demonstrate that existing planning permissions substantially exceed what is now built - by a factor of more than 150% in this area. This underlines the importance of establishing minimum densities that are meaningful if the intensification and increased housing supply sought by the province is to result.

It also highlights the importance of recognizing that the best and most practical approach to achieving meaningful intensification in the Warden Major Transit Station Area will be through supporting and encouraging redevelopment of the large, underutilized parcels in close proximity to the TTC Station, like 683-685 Warden.

Minister is Asked to Modify the Minimum Density Mapping of Site and Area Specific Policy 648, 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 on the east side of Warden Avenue. 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 subway station location.

Below is the recommended minimum density mapping for Site and Area Specific Policy 648 Warden:



Innovative Policy Approaches Should be Included By Modification to OPA 570 SASP 648 - The Limited Land Available for Intensification in Warden 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 648.

The limited land available for intensification in the Warden 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 648 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 570 as Requested, and Add the Requested Additional Policy Wording - In the Alternative, The Minister Should Refer the Minimum Density Mapping and Requested Policy for OPA 570, SASP 648, 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, 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 at 347-375 Kennedy Road. The outcome will make possible the delivery of a meaningful increase in the housing supply at an early date.

It would also open the door to encouraging even more substantial intensification, where appropriate.

As noted, the Choice proposal for 683-685 Warden Avenue alone is currently designed to deliver 1,519 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 TTC TransitMajor 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 and policies for SASP 648 to the Ontario Land Tribunal for a hearing.

Yours sincerely,



AIRD & BERLIS LLP

Hon. Peter Van Loan
Partner

HV