

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 524  
ERO Number 019-5228  
Ministry Reference Number 20-OP-219126**

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**Toronto Official Plan Amendment 524  
Major Transit Station Areas  
Request for Modifications to Site and Area Specific Policies 607  
Choice Properties - 10 Lower Jarvis Street**

**Toronto Official Plan Amendment 524 Should be Modified to Establish Meaningful  
Minimum Densities in Union Major Transit Station Area**

We act for CP REIT Ontario Properties Limited, owner of the lands at 10 Lower Jarvis Street in the City of Toronto. The site is within Site and Area Specific Policy areas 607 (in this case Union Station Major Transit Station Area) established by Toronto Official Plan Amendment 524.

The lands are in part of an area known as the Lower Yonge Precinct Plan, an area-specific amendment to Toronto's Central Waterfront Secondary Plan. The Precinct Plan identifies the site, along with the other parcels running west to Yonge Street between The Gardiner Expressway and Queen's Quay, for redevelopment for a "complete community" with largely residential buildings. The Secondary Plan already designates the 10 Lower Jarvis Street site with a density of 12.5 FSI. However, Toronto Official Plan Amendment 524, before the Minister, designates the site at a minimum density of only 3 FSI. Urban Strategies have indicated in a letter that a minimum density of 14 FSI is appropriate.

The 3 FSI density is the highest density appearing in the Union Station Major Transit Station Area. This artificially low density is applied by the City - despite the Union Station Major Transit Station Area constituting the largest concentration of density and tall buildings in all of Canada!

The subject lands are shown below:



The 10 Lower Jarvis site is shown in red in the photo above. To the west of the site, moving through to Yonge Street, one can already see numerous construction cranes at work building approved mostly residential towers in the Precinct.

Modification to Official Plan Amendment 524 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 letter from Urban Strategies.

The City of Toronto has adopted Official Plan Amendment 524, which establishes Major Transit Station Area policies for 16 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 607 in Official Plan Amendment 524 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 524 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.

### **Union Station is Unique - As the Most Significant Transit Hub in All of Canada It Should Have Official Plan Policies That Reflect Its Intensity**

Union Station is the central hub of all public transit in the Greater Golden Horseshoe. Regional GO Train routes all radiate into and out from this central destination, in all directions. Even GO destinations to the south across Lake Ontario start here, heading west before looping across Hamilton Harbour and heading back to Niagara. The TTC subway converges here. A GO bus terminal is located at Union. And long distance passenger rail, in the shape of Canada’s VIA Rail, and Amtrak to US destinations, originates at Union Station. The Union Pearson Express links Union Station to Toronto’s International Airport. Even the Queen’s Quay LRT line loops in, and the Island Ferry is a short distance away.

In summary, there is no greater public transit hub in the country than Union Station.

Every day, more than 300,000 passengers travel through Union Station. Many step out the station doors just yards from their jobs in the tallest office towers in the country. Some live in the neighbourhood, and travel through the station on their way to jobs, or school elsewhere in the Greater Golden Horseshoe. For many, Union Station is the connection point, where they transfer from one mode or transit line to another on the way to their destination. For many tourists, Union Station is their point of arrival in the City. It is the station of choice for many Greater Golden Horseshoe residents coming to enjoy sporting events at the directly connected Scotiabank Arena, or Rogers Centre Stadium. Many use it to visit the theatres, concert halls, convention centre, and major tourist attractions like the CN Tower, Ripley's Arena and the Hockey Hall of Fame, all of which are located in the Union Station Major Transit Station Area.

Clearly, Union Station has a uniquely strong set of attributes in Toronto's Transit Framework. This also makes it a particularly sensible area for intensification. Remaining available sites for such intensification in the Major Transit Station Area are few in number. Recent developments include the CIBC Square at 81 Bay Street, the Pinnacle Centre at 7 Yonge Street, and the Sugar Wharf Condominiums including at 100 Queen's Quay East. The 10 Lower Jarvis Street site is one of the last remaining opportunities to see significant intensification in the Union Station Major Transit Station Area.

### **The Lower Yonge Precinct Plan Designates 10 Lower Jarvis for High Density as Part of A Complete Community - Urban Strategies' Planning Opinion is that a Minimum Density of 14 FSI is Appropriate**

The 10 Lower Jarvis site is in an area known as the Lower Yonge Precinct Plan, an area-specific amendment to Toronto's Central Waterfront Secondary Plan. The Precinct Plan identifies the site, along with the other parcels running west to Yonge Street between the Gardiner Expressway and Queen's Quay, for redevelopment for a "complete community" with mixed use, largely residential buildings.

The Toronto Planning report included the following vision for the area:

*"It is anticipated to be a high-density, sustainable neighbourhood with an animated public realm, large central park, well-designed buildings, range of housing options and commensurate community services and facilities."*

This Precinct has already received special attention from the Ontario Government - which last year announced \$44 million for the first ever funding and construction of a school in a condominium building, as is fitting for this most urban neighbourhood in the province.

As noted, the complete community envisaged in the Precinct Plan includes a large centrally located park, and an animated public realm. The area is also walking distance from the highest concentration of sports and entertainment options in the country, services, and employment opportunities. In addition, the entire Toronto waterfront, with its extensive miles of trails, and other recreation amenities, is just steps away.

In summary, this is an ideal location for intensified residential development

The Lower Yonge Precinct Plan (which predates Major Transit Station Area Official Plan Amendment) already designates the 10 Lower Jarvis Street site at a density of 12.5 FSI - which is much higher than the adopted minimum density in OPA 524.

The rest of the Lower Yonge Precinct neighbourhood (in which 10 Jarvis is located), which is all part of the Union Major Transit Station Area, has seen considerable development approval and construction activity. New development is approved at heights of up to 95 storeys and recent proposals are seeking building heights up to 105 storeys. Development densities of up to 30.65 FSI are approved in the immediate area, and there are proposed densities ranging from 18.4 to 35.14 FSI.

In consideration of this context, Urban Strategies has indicated in a planning opinion letter that a minimum density of 14 FSI is appropriate.

It is reasonable that the Major Transit Station Area mapping for the site in in OPA 624 (Site and Area Specific Policy 607) should be in the minimum 14 FSI range, in order to take advantage of the opportunity for this site to deliver significant new housing supply in this unique Major Transit Station Area..

### **Choice is Planning for a Proposal for 10 Lower Jarvis that Would Deliver Housing, and a Supermarket as Components of a Complete Community In a Key Major Transit Station Area**

The subject lands are the best remaining with development potential to achieve intensification within this area.

Choice is planning for a mixed-use development. It is anticipated to include a number of residential towers and a large-sized supermarket, replacing the existing successful store, which serves many local residents. The supermarket will continue to perform an important role as part of the array of services and amenities for residents that is essential in a complete community.

**Choice Proposal in Union MTSA Offers Significant Housing Supply - Has Potential to Deliver More Than 1500 Units of New Housing on the Site**

The 10 Lower Jarvis site is well-positioned to deliver significant new housing supply, as part of an area that is being designed and developed as a complete community to specifically accommodate housing - all in the Union Major Transit Station Area.

It is anticipated that the site could accommodate more than 1500 new residential units, in a wide range of unit sizes, many suitable for families with children.

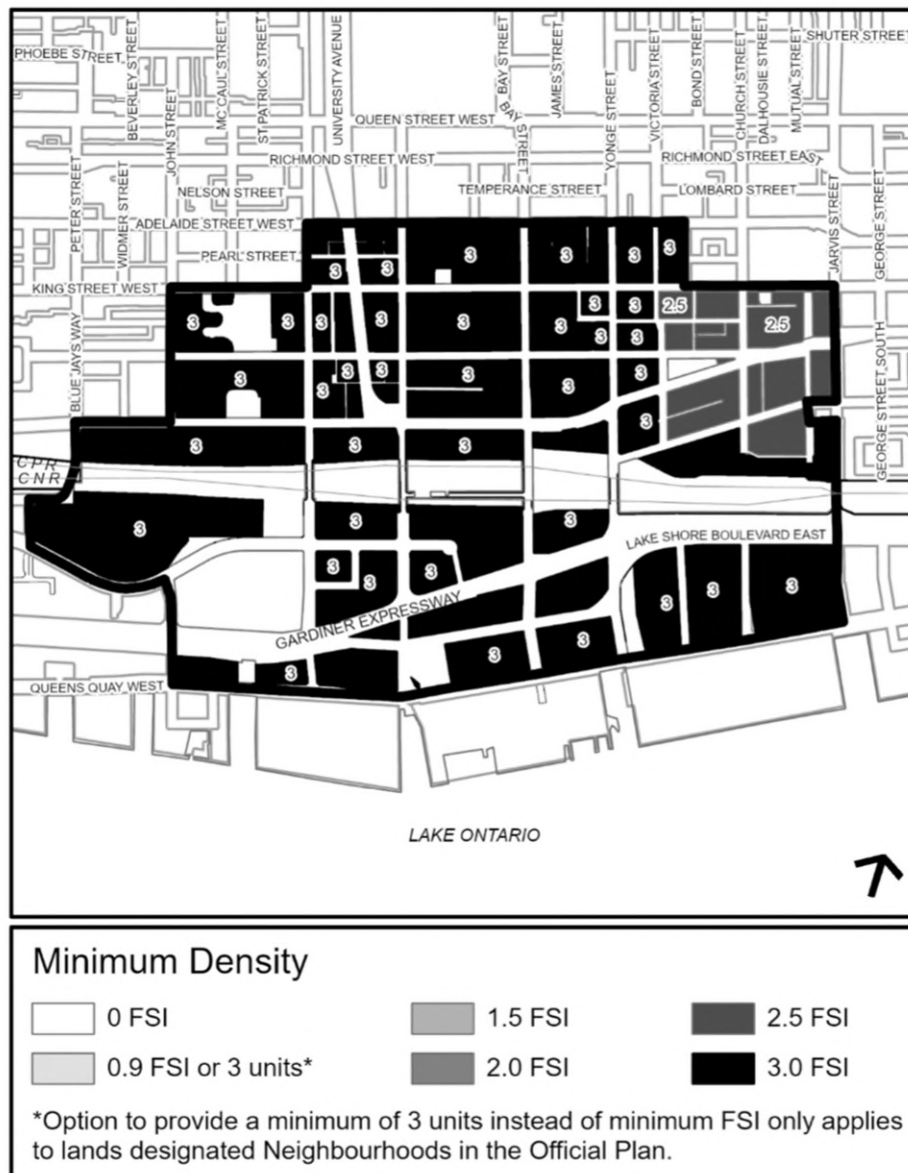
As such, modification to the Official Plan Amendment to facilitate the construction of this housing will offer an opportunity for new homes for thousands of families, and a healthy addition to the supply of housing in the province.

**Mapping in OPA 524 Applies Artificially Low Densities to Union Major Transit Station Area (Site and Area Specific Policies 607)**

As noted, the 10 Lower Jarvis site is located in the Union Major Transit Station Area, which is the most transit intensive hub in the country.

Below is the adopted minimum density map for the Union Major Transit Station Area, Site and Area Specific Policy 607:

**Map 2 – Minimum Densities, Union Protected Major Transit Station Area**



The Subject lands site are designated with a minimum density of 3 times the area of the lot.

It is unlikely that these are the kinds of densities, in Canada's busiest transit hub, that the province would consider to be a high residential density, or meaningful intensification in a transit supportive fashion.

**Minister is Asked to Modify the Minimum Density Mapping for Site and Area Specific Policy Areas 607 in Official Plan Amendment 524**

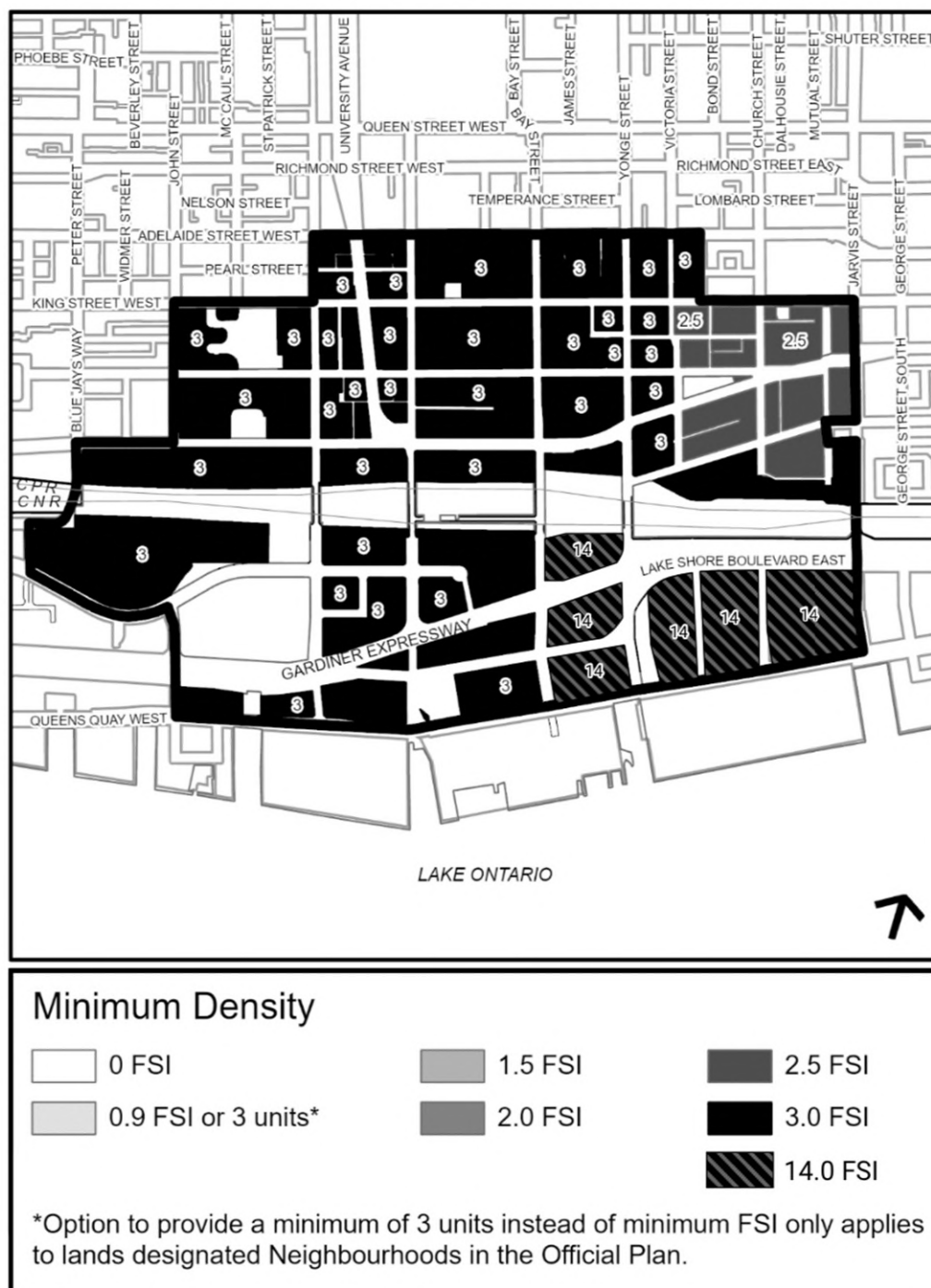
We are requesting that the Minister modify the mapping of minimum densities in the Union Major Transit Station Area planning area to reflect increased minimum densities .

Highest densities are essential at this, the most intensive transit hub in the county, and an area which already accommodates the highest built densities in the country.

To support the determination of appropriate alternative minimum density numbers, planning and design analysis which looked at approved and in-progress development applications. The focus of this analysis, and the resulting recommended alternative density mapping, is on the south-east quadrant of the Union Major Transit Station Area - east of Bay Street and south of the Gardiner Expressway.

Below is the recommended minimum density mapping for Site and Area Specific Policy 607 Union Station.

**Map 2 – Minimum Densities, Union Protected Major Transit Station A**



**Minister Should Modify Toronto Official Plan Amendment 524 as Requested - In the Alternative, The Minister Should Refer the Minimum Density Mapping in OPA 524, SASP 607 to the Tribunal for a Hearing**

It is clear that the City of Toronto's Official Plan Amendment 524 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.

The City's actions in this regard are particularly egregious in the highly significant Major Transit Station Area focused around Union Station, and the unique concentration of public transit options (and public investment) located there. 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 524 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 524 by substituting the alternative minimum density mapping for site and area specific policy area 607.

Such modification 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 10 Lower Jarvis Street. The outcome will make possible the delivery of a meaningful increase in the housing supply.

As noted, the potential for 10 Lower Jarvis is to deliver more than 1500 units of housing. This represents an opportunity to deliver a significant addition to the housing supply in exactly the archetypical location in the Province - which is ideal for new housing - a site in the best transit-served Major Transit Station Area in Ontario.

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 607 to the Ontario Land Tribunal for a hearing.

Yours sincerely,



AIRD & BERLIS LLP

Hon. Peter Van Loan  
Partner

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