

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 Policy 765
33 & 39 Davies Avenue, Toronto**

We act for Davies Ave Holdings Inc., 39 Davies Ave Holdings Inc., and First Gulf (collectively, “First Gulf”), owners of the lands at 33 & 39 Davies Avenue in the City of Toronto. The subject lands are within Site and Area Specific Policy area 765 (in this case Leslieville Protected Major Transit Station Area) established by Toronto Official Plan Amendment 570.

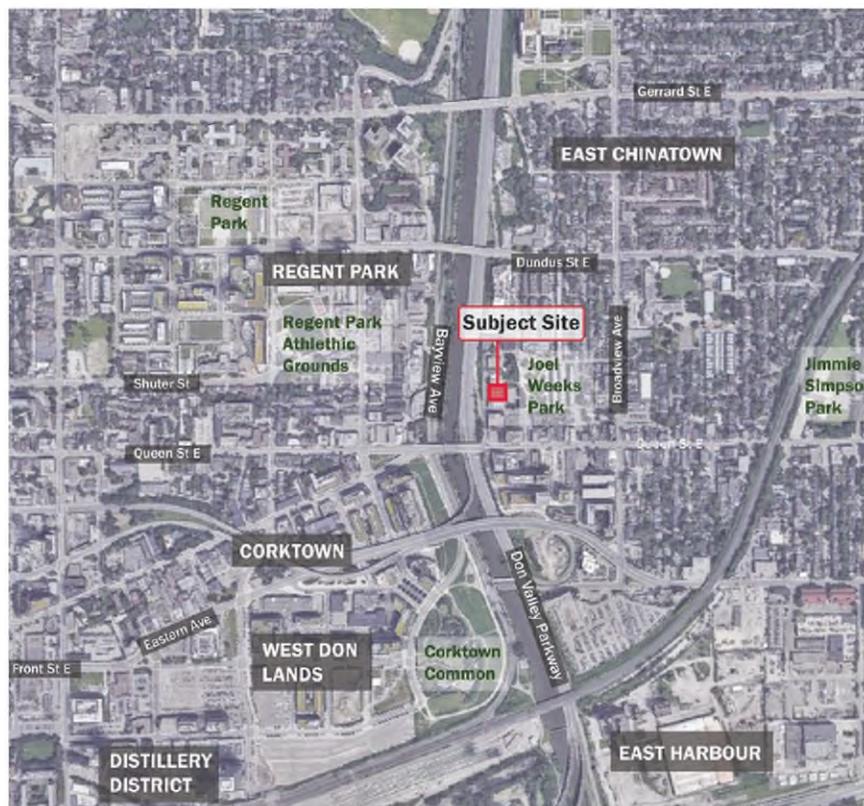
The amendment includes mapping that establishes artificially low minimum densities for the subject lands. They are especially low in view of the fact that the lands are designated *Core Employment* and are intended to be used for a new office development.

We are writing to request that the policies of SASP 765 be modified to encourage greater densities on sites within the major transit station area where higher employment density uses, such as office, are proposed. An alternative minimum density map, and additional policy language for Site and Area Specific Policy 765 are proposed as modifications in this submission.

Encouraging higher densities for employment uses will serve as an incentive to achieve significant office intensification and bring new jobs into the relevant transit station area and therefore contribute to meeting the goal of increasing the number of people and jobs around the future Leslieville Ontario Line station. This submission is also accompanied by a planning report from Urban Strategies Inc. (“USI”).

The City of Toronto has adopted Official Plan Amendment 570, which establishes Major Transit Station Area policies for 57 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 of both homes and jobs at major transit stations. In addition, the proposed densities do not account for the unique requirements of employment uses in places like this. Office uses, like those proposed on First Gulf's site, require additional density permissions to make the projects functional as well as viable. Nowhere do the City's adopted policies and minimum density mapping recognize the importance of encouraging office employment uses within major transit station areas. The Growth Plan clearly requires transit-supportive densities for both housing, as well as jobs to support the new residents.



First Gulf site indicated in red.

We are requesting that the Minister modify the policies in site and area specific policy 765 in Official Plan Amendment 570 to encourage densities higher than the prescribed minimum densities where employment uses, such as office, are proposed. Such modification will help to accelerate the process of approving employment and office intensification development in the Leslieville Major Transit Station Area. It will deliver jobs 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 the minimum numbers of residents and jobs per hectare require 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:

“We need to support the achievement of complete communities that offer more options for living, working, learning, shopping and playing—communities that reduce traffic gridlock by improving access to a greater range of transportation options, that provide housing options to meet the needs of people at any age, and that work to revitalize downtowns to become more vibrant and to provide convenient access to an appropriate mix of jobs, local services, public service facilities and a full range of housing. ...

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 with both new housing and new employment uses. 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 policies and minimum density designations in the newly delineated major transit station areas.

However, the City of Toronto’s approach in Official Plan Amendment 570 fails to do this in two important ways. Firstly, it 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 employment and residential development contemplated by the Growth Plan. Secondly, the policies of Official Plan Amendment 570 fail to address the specific needs of employment uses, which must be supported by even greater densities to be both functional from a built form perspective and viable from a market perspective.

It is also significant that the Minister has identified the need for official plan policies and zoning to be in place quickly to “get shovels in the ground faster” in delivering new development at transit station areas. The approach of the City of Toronto, in setting artificially low minimum densities seeks to do exactly the opposite.

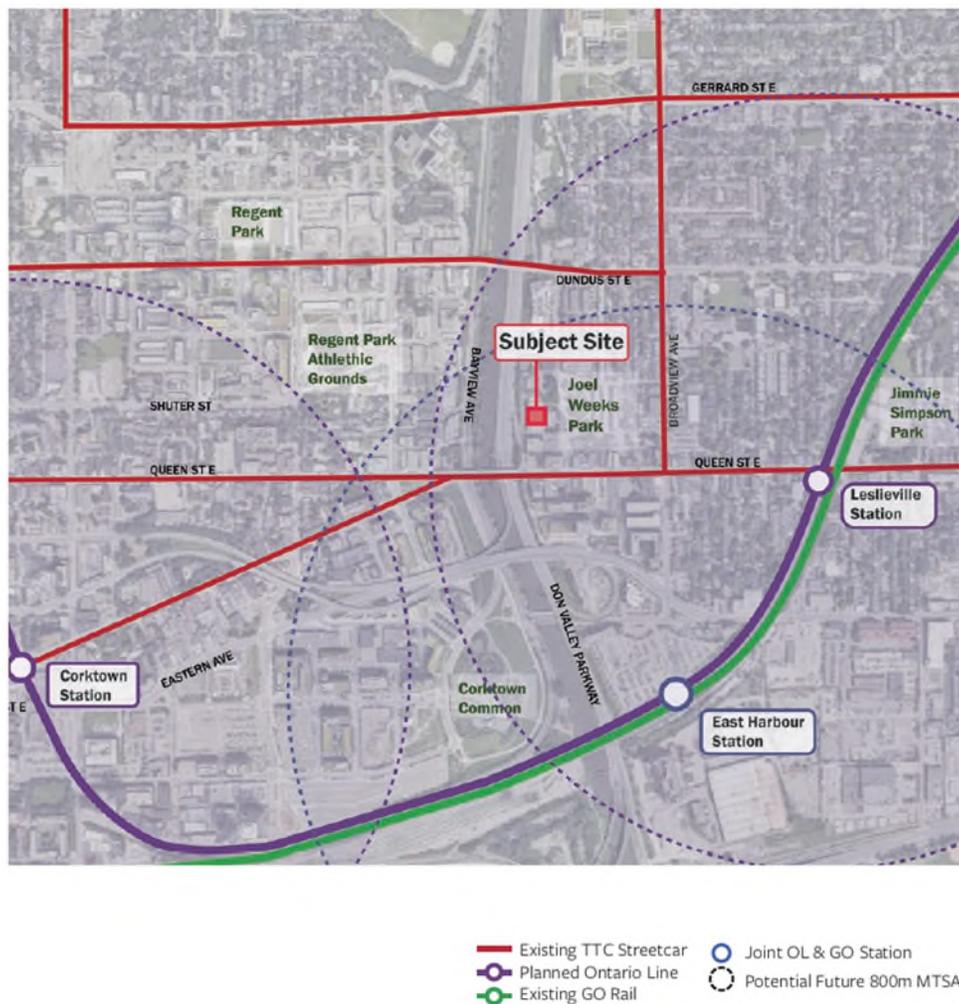
Toronto is creating a situation where further Official Plan amendment and rezoning applications (and the years of related process) are required before the hoped for transit supportive development approvals can be achieved, further delaying the delivery of new jobs and housing supply. Simply put, the 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 jobs and housing to proceed with less red tape and process delays.

Proposal for 33 & 39 Davies Avenue Offers Significant New Supply of Jobs - Will Accommodate Approximately 1000 Full-Time Jobs

The proposal for 33 & 39 Davies Avenue offers the potential for a significant addition of new employment density in an ideal location – within walking distance to the future Leslieville Ontario Line Station. The current proposal is for a 15-storey office building with a proposed density of 13.8 times the area of the lot. An office building of this size has the ability to accommodate approximately 1000 full-time jobs in an area directly accessible to transit, potential new residential intensification, and existing retail and commercial amenities.

The First Gulf site is currently the subject of an application before the City of Toronto. Of significance, the proposed development parcel is located within the Leslieville PMTSA and is designated as *Core Employment Areas* in the Toronto Official Plan. The site is in a highly visible and accessible location, overlooking the Don Valley Parkway and adjacent to Downtown Toronto. It is also separated from more sensitive low-rise *Neighbourhoods* designated properties further east. The site is located close to existing higher-order transit services along Queen Street and Broadview Avenue. Because of these features, the site is a unique opportunity to create significant higher density Class A office space in a central location well serviced by existing and planned transit.

Below is an image illustrating the location of the site and the nearby existing TTC streetcar lines and the planned location of Leslieville Ontario Line station:

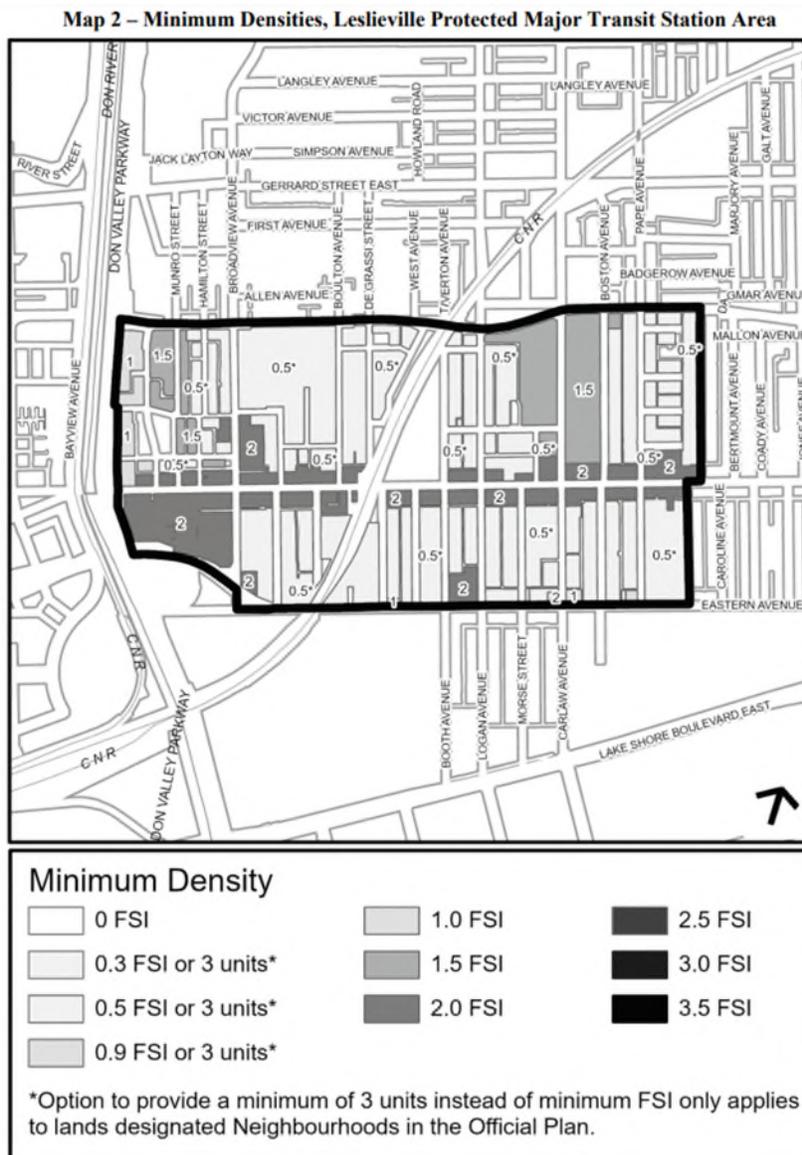


As such, modifications to the Official Plan Amendment to facilitate the construction of this new office space will offer an opportunity for the creation of hundreds of new jobs, and a healthy addition to the supply of new employment uses to support the new homes required to be constructed in Toronto and across the province.

Mapping in OPA 570 Applies Artificially Low Densities to the Leslieville Major Transit Station Area (Site and Area Specific Policy 765)

The First Gulf lands are located along Davies Avenue, adjacent to the Don Valley Parkway, within the Leslieville Major Transit Station Area.

Below is the adopted minimum density map:



The First Gulf site is designated with a minimum density of 1 times the area of the lot. It is unlikely that this is the kind of density, (for *Core Employment* designated lands in proximity to an Ontario Line station), that the province would consider to be sufficient to encourage and facilitate the creation of new high density office buildings in a transit-supportive fashion.

Minister is Asked to Modify the Policies for Site and Area Specific Policy Area 765 in Official Plan Amendment 570

We are requesting that the Minister modify the policies related to the minimum densities proscribed in the planning area to reflect the need for increased densities to support the new employment and office uses.

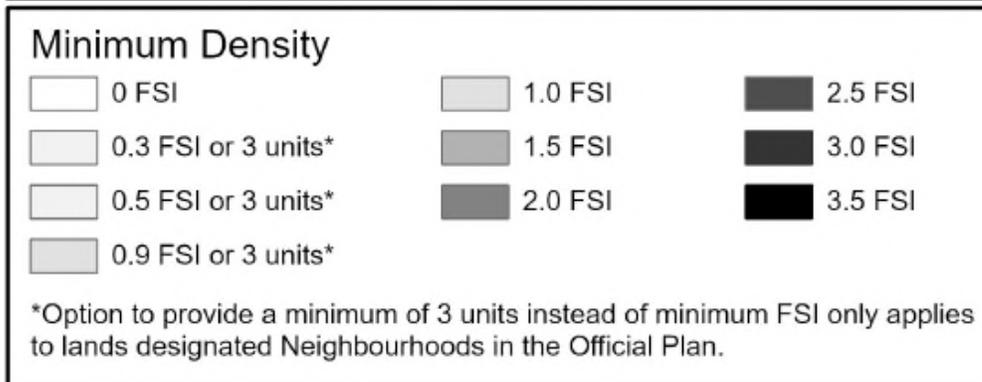
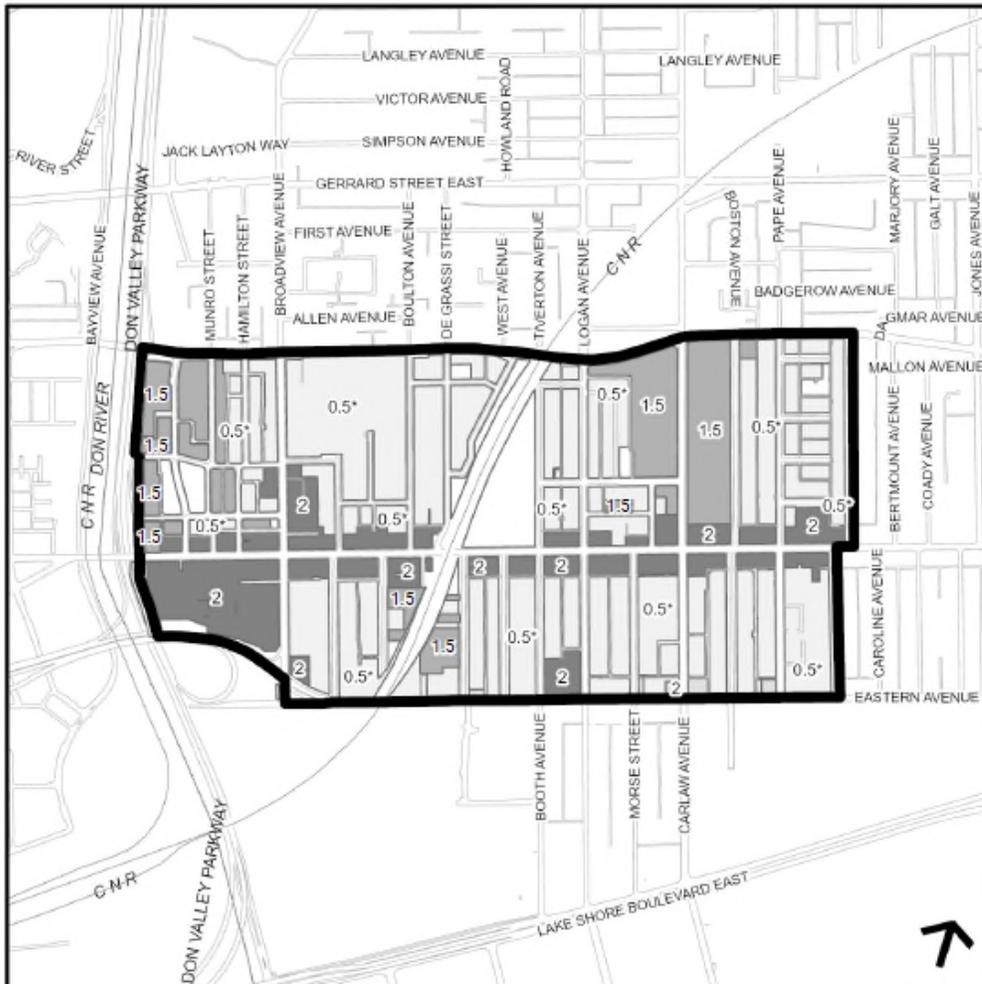
The current minimum densities being proposed for this site and the other *Core Employment Areas* in the Leslieville PMTSA effectively discourage new office use in this area, since they do not provide for sufficient densities to make new office developments both functional and viable. The employment lands in the Don Valley corridor that are near higher order transit are specifically recognized in the Toronto Official Plan as areas where new opportunities for office buildings should be provided (Policy 2.2.4.2.d).

The planning analysis by USI supports the need for policies that promote higher densities to support new office development on land designated as *Core Employment*, such as the First Gulf site, within the Leslieville PMTSA.

As a result of their review USI recommends an amendment to the minimum density mapping for Site and Area Specific Policy 765 that would increase the minimum density on lands designated *Core Employment* in the Leslieville PMTSA to 1.5 times the area of the lot.

Below is the recommended minimum density mapping for Site and Area Specific Policy 765 Leslieville:

Map 2 – Minimum Densities, Leslieville Protected Major Transit Station Area



Secondly, USI recommends an amendment to the policy text of Site and Area Specific Policy 765 that will support higher density development employment lands by encouraging new office projects to exceed the minimum densities.

Below is USI's recommended added policy language for Site and Area Specific Policy 765 (added text is underlined):

SASP 765. Protected Major Transit Station Area – Leslieville Station

a) Protected Major Transit Station Area Delineation

The area surrounding and including the planned Leslieville Subway Station is a protected major transit station area shown as the Leslieville Protected Major Transit Station Area on Map 1.

b) Residents and Jobs per Hectare

Existing and permitted development within the Protected Major Transit Station Area – Leslieville Station is planned for a minimum population and employment target of 300 residents and jobs combined per hectare.

c) Authorized Uses of Land

The authorized uses of land are as identified by the land use designations on Maps 18 and 21 and associated land use permissions in Chapter 4 of the Official Plan, applicable Secondary Plans and Site and Area Specific policies.

d) Minimum Densities

Minimum density requirements are shown on Map 2, represented in Floor Space Index. Within Core Employment areas where higher employment density uses, such as office, are proposed, densities which exceed the minimum densities shall be encouraged.

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 765 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 alternative minimum density mapping and policy language for Site and Area Specific Policy 765.

Such modification would ensure that more appropriate minimum densities are established and the policies encourage higher densities for new employment and office developments to ensure their functionality and viability. 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 employment sites like 33 & 39 Davies Avenue. The outcome will make possible the delivery of a meaningful increase in jobs to support the much needed new housing supply at an early date.

As noted, the First Gulf proposal is currently designed to deliver new office space for approximately 1000 full-time jobs. This represents an opportunity to deliver a significant addition to the office supply in exactly the type of location the Province has identified as ideal for new employment development - a site in an Ontario Line 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 765 to the Ontario Land Tribunal for a hearing.

Yours sincerely,



AIRD & BERLIS LLP

Hon. Peter Van Loan
Partner

HV

AIRD BERLIS