

February 2, 2023

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

Dear Minister Clark:

**Re: Toronto Official Plan Amendment 524  
ERO Number 019-5228  
Ministry Reference Number 20-OP-219126**

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**Toronto Official Plan Amendment 524  
Major Transit Station Areas  
Infill, Replacement Interim Use Policy Change  
Choice Properties REIT**

We act for Choice Properties REIT with respect to this matter. We are asking the Minister to modify Official Plan Amendment 524 to permit a broader range of flexibility for existing development - especially supermarket sites - in Major Transit Station Areas across Toronto. This submission is supported by a planning opinion letter from Zelinka Priamo Ltd.

Choice has many properties, anchored by supermarkets, that undergo continual dynamic change and evolution over time as retail and service centres serving local neighbourhoods. The City's adopted Official Plan policies for Major Transit Station Areas allow for minor additions or renovations without triggering the application of the minimum density thresholds. However, these allowances are not sufficiently broad to permit the introduction of new additional stores, or the replacement of dated smaller supermarket buildings, with larger, contemporary formats.

We are asking the Minister to modify the adopted interim use policy in the City's Major Transit Station amendments as follows:

**Policy 5.6.18**

"Minor additions, extensions, conversions and renovations to existing buildings, new ancillary buildings or structures, **replacement of existing buildings, and stand-alone infill development for non-residential uses** are not required to meet the minimum development density within a delineated Protected Major Transit Station Area."

*[modify by adding the words in red].*

The effect of the requested modification would be to allow for the continued operation and evolution of important local community serving supermarket retail facilities, including the addition of new commercial uses like stores, pharmacies, restaurants, banks and fitness centres on the same property, without triggering the requirement for a full-scale redevelopment including high-rise towers.

This requested flexibility would allow for existing uses (including supermarkets) to continue and evolve on-site, until such time as a full-scale comprehensive development is viable and it makes sense to proceed.

The modification, if made by the Minister, would also apply to affected Toronto Major Transit Station Areas in OPA 540 and OPA 570.

**City's Adopted Policy Demonstrates an Intention to Provide Flexibility - Refinement through Modification is Required to Give Proper Effect to the Intended Flexibility for Existing Uses**

In adopting the exemption for changes to existing uses, the City clearly demonstrated an intention to provide some flexibility for these existing uses. The adopted policy is designed to permit flexibility for additions and renovations - even changes of use. It also permits new "ancillary" buildings. Clearly, this demonstrates an intention to provide flexibility for existing uses or buildings to make the necessary changes to continue to operate and evolve.

The policy, as adopted by the City, is below:

***Adopted Policy 5.6.18***

*“Minor additions, extensions, conversions and renovations to existing buildings, or new ancillary buildings or structures are not required to meet the minimum development density within a delineated Protected Major Transit Station Area.”*

Unfortunately, although the intention is to establish flexibility, the drafting falls short of achieving the intended flexibility.

In particular, the types of sites owned by Choice - featuring supermarkets with surface parking lots - are not provided appropriate flexibility to evolve in their current context. Typical changes these sites undergo include the addition of a new store by infill in the parking lot, or the replacement of a dated supermarket unit with an updated larger format of the same banner. These types of changes do not appear to be anticipated or permitted by the adopted policy.

**Supermarket Properties Are Evolving Through the Infill Addition of New Retail or Restaurant and Similar Uses on Available Surface Parking Lots**

When supermarkets began to be commonly established across what is now the City of Toronto, they were typically designed and constructed based on an auto-oriented set of assumptions. The idea was to combine a wide range of traditional shopping options - the butcher, the baker, the fish monger, the deli, the green grocer and more - all in one place, where the week's shopping needs could be fulfilled in one place, with the family automobile returning home from the trip filled with the provisions. The result was a “large” supermarket store, on a main street location, surrounded by a generous supply of available surface parking dominating the streetscape inviting drivers in.

Lots has changed since. Many of these supermarkets were built in “suburban” neighbourhoods that have since become decidedly urban, and more densely populated. More and more shoppers use transit or walk or cycle to do their grocery shopping. Family sizes have become much smaller, reducing the size of the weekly shopping trip. Increased workforce participation has resulted in time-pressed shoppers seeking more prepared meal options, and making more frequent, smaller shopping trips - often on the way home from work by transit. The consequence of all these changing trends is that supermarket sites have less need for large surface parking lots - especially in locations close to transit stations.

This has created the opportunity for these supermarket sites to evolve by introducing new stores such as an LCBO, or new restaurants like a McDonald's or Starbucks, as infill buildings on a surplus portion of the parking lot. This has multiple benefits - including revenue for the landowner, and a new draw bringing more customers to the site. From the public interest perspective, such new uses bring benefits like more locally available amenities, more efficient and intensive use of land, and the opportunity for better urban design and improved streetscapes.

All of these benefits from new infill uses on supermarket sites should be encouraged. However, the City flexibility policy does not capture them. Only new "ancillary" buildings are permitted. Under the City of Toronto general zoning by-law, "ancillary" is a defined term:

**30. Ancillary,**  
*means naturally and normally incidental, subordinate in purpose or floor area, and exclusively devoted to a permitted use, **building**, or **structure**.*

A potential infill LCBO store, or Starbucks restaurant, on its own pad in the parking lot, with its wall brought towards the front lot line to create a positive pedestrian environment, would no longer be a possible introduction in a Major Transit Station Area. These new freestanding uses would not be "incidental", "subordinate in purpose" and "exclusively devoted to" the existing supermarket use. As a result, the new development that these new infill uses would represent would be seen as triggering the minimum density requirements for new development. They could only happen in the context of a new comprehensive redevelopment of the site achieving at least the minimum density in the Major Transit Station Area policy.

Policy 5.6.18 should be modified to create the flexibility for the introduction of such new infill uses on supermarket sites.

### **Another Trend In Supermarket Retailing - The Replacement of Small, Dated Units With Larger Format, Modern Supermarkets - Would Not Be Permitted Under the City's Adopted Flexibility Policy 5.6.18**

When supermarkets were first introduced, they were in what were considered large sizes for food stores at the time - many in the 20,000 square foot size range. As the years have passed, there has been a trend towards larger store sizes - often up to 60,000 square feet in size or more, depending on the store type.

This growth in size has been driven primarily by a growth in the range of offerings in such stores. Simply put, the larger store sizes have been driven by a rise in the number of stock-keeping units in each store. That trend includes manufacturers offering a broader range of products - whether it be more flavours, or more sizes. Many more new types of food products have been introduced to consumers, broadening both the range of food options, and the number of choices in any one food type. The multi-cultural nature of Canada - and especially Toronto - means that many new Canadians seek a range of products familiar in their country of origin, with the increased demand now justifying space on Canadian supermarket shelves. Supermarkets have wisely expanded their range of offerings to capture that market. In addition, consumers are constantly being introduced to new foods from other cultures, and adding elements to their menus.

All of these trends combined have created an impetus towards larger supermarket sizes, to accommodate this broader range of offerings to shoppers.

Another factor leading to store replacement, beyond the impetus to larger size units, is the increasingly discerning nature of shoppers. The overall shopping experience benefits from a larger format, with spacious aisles, and updated decor and appearance. Simply put, supermarkets need to be larger and more attractive environments in order to compete and succeed.

Thus, a common phenomenon in recent years has been the replacement of smaller store units, with larger format stores, where the site can accommodate such a replacement store. However, policy 5.6.18, as adopted by the City, does not properly anticipate or accommodate such replacement stores. Only “minor additions” would be allowed. This both limits the potential change in store size, and also eliminates the potential to relocate the store on the site to achieve a better pedestrian environment through good urban design. For example, a move that would take a supermarket from the back of a site behind an expanse of parking, and relocate the front building wall along the street, with parking primarily in-behind, would not be permitted - despite the potential to significantly improve the streetscape and pedestrian environment. The proposal would trigger the requirement for a comprehensive redevelopment that satisfies the minimum density requirements.

Supermarkets are an essential part of serving and supporting neighbourhoods, in complete communities. A policy that makes it impossible for such essential supermarket uses to evolve and continue to operate on existing store sites, is clearly insufficiently flexible. The policy should be modified to permit replacement of existing supermarkets with new, larger format supermarkets on the same site.

**Modification of Policy 5.6.18 to Introduce Additional Flexibility would be Good Planning, and Would Better Fulfil the Intention Behind the Policy**

It is good planning to allow existing supermarket sites the flexibility to continue to evolve and change where they are, in a dynamic and dramatically changing retail environment.

In order to more fully achieve the flexibility objectives and intentions behind policy 5.6.18, in OPA 524, the Minister should modify the policy as follows:

**Policy 5.6.18**

“Minor additions, extensions, conversions and renovations to existing buildings, new ancillary buildings or structures, **replacement of existing buildings, and stand-alone infill development for non-residential uses** are not required to meet the minimum development density within a delineated Protected Major Transit Station Area.”

*[modify by adding the words in red].*

Such a change would avoid potentially unintended negative consequences of the introduction of Major Transit Station Area policies that include minimum density provisions, and would ensure continued long-term availability, and improvement of supermarket options for residents.

Yours sincerely,



AIRD & BERLIS LLP

Hon. Peter Van Loan  
Partner

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