

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 570
ERO Number 019-5937
Ministry Reference Number 20-OP-227259**

**Toronto Official Plan Amendment
Major Transit Station Areas
Request for Modifications to Site and Area Specific Policy 692
Mimico GO Transit Oriented Community**

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

We act for Vandyk, owners of the lands at 315-327 Royal York Road, 27-39 Newcastle Street, 48-52 Newcastle Street and 23 Buckingham Street in Mimico, in the City of Toronto. The subject lands are within Site and Area Specific Policy area 692 (in this case Mimico GO Major Transit Station Area) established by Toronto Official Plan Amendment 570.

This submission is accompanied by a planning report from Opus Management Inc. and another planning report from Bousfields.

Official Plan Amendment 570 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 - including by already approved projects - at the relevant transit station area.

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 at major transit stations. In many cases, the minimum densities are well below the densities of existing buildings, or approved development proposals. That is dramatically the case for the Mimico GO Station Major Transit Station Area, which is Site and Area Specific Policy Area 692 in Official Plan Amendment 570.

We are requesting that the Minister modify the minimum density mapping applicable to lands in Site and Area Specific Policy 692 in Official Plan Amendment 570 to reflect higher minimum densities, reflective of existing planning approvals. Such modifications will help to accelerate the process of approving implementing site plan approvals and any other approvals that may be required. 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 approach - including 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.

Vandyk Proposals and Approvals for Mimico GO Offers Significant Housing Supply - Will Deliver 3262 Units of Housing

The Vandyk development proposals and approvals for Mimico offer the potential for a significant addition of new housing supply in an ideal location - at a GO Station that will be rebuilt and upgraded. The proposals includes a total of 3262 units - a significant component of which will be affordable in nature.

In addition, lands owned by others will add hundreds more units, under existing approvals.

As such, modifications to the Official Plan Amendment to secure 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.

Existing Approvals in Mimico on Vandyk Lands Include Decisions By Provincial Authorities

It is significant that provincial authorities have been directly involved in planning the existing development approvals in the Mimico GO Major Transit Station Area. The Minister has been directly involved, approving a Minister's Zoning Order for the lands closest to the GO Station - which actually include the GO Station Lands and parking lot. These parcels were already approved by the Minister for 2,108 units of housing. The density on the two parcels of land subject to the Minister's Zoning Order are 15.4 FSI and 12.1 FSI, respectively.

In addition, the provincial tribunal approved an application for 23 Buckingham consisting of 749 units of housing. That parcel has an approved density of 7.3 FSI.

The provincial tribunal has approved other projects in the Mimico GO MTSA owned by others.

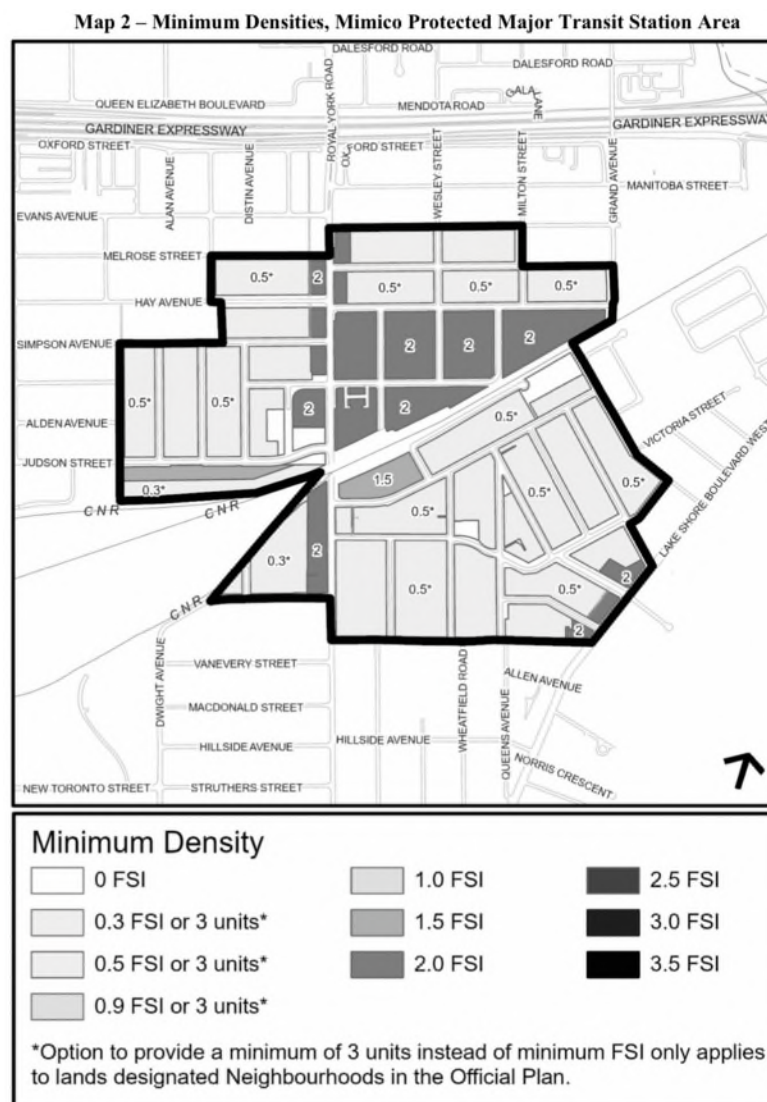
It is clear that provincial authorities have been very involved in granting planning approvals in the Mimico Major Transit Station Area. However, these approvals have not been reflected in Toronto OPA 570.

Mapping in OPA 570 Applies Artificially Low Densities to Mimico GO Major Transit Station Area (Site and Area Specific Policy 692)

The Vandyk lands are located in the area north of the railway, and east of Royal York Road generally. The site is in the Mimico GO Major Transit Station Area.

There is an existing GO station at Royal York Road, essentially within the Vandyk lands. It is to be rebuilt and enhanced as a result of a Minister's Zoning Order approving the development of Vandyk's Mimico GO Transit Oriented Community. This station is the focus of the Mimico GO Station Area Specific Policy Area 692.

Below is the current minimum density map from Toronto Official Plan Amendment 570:



The Vandyk lands are all designated with a minimum density of 2 times the area of the lot. This is dramatically different than approved densities for the lands.

It is unlikely that this is the kind of density, at a GO 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 table below shows a comparison of the minimum densities reflected for the Mimico Major Transit Station Area in Official Plan Amendment 570, compared with approved densities of the various approved parcels. The approved densities exceed those in the Official Plan Amendment on every parcel of land in question.

The differences are not minor - approved densities range from just under 300% to well over 700% of the OPA 570 densities.

Table 1 – Densities of Approved Developments in the Area

Address	Mimico-Judson Secondary Plan Designation	Mimico-Judson Secondary Plan Block	MTSA Min. Density (FSI)	Approved Net Density (FSI)
23 Buckingham St	<i>Mixed Use Areas</i>	D	2.0	7.3
25 Audley St	<i>Mixed Use Areas</i>	D	2.0	5.9
2-10 Audley St, and 29-71 Portland St	<i>Mixed Use Areas</i>	E	2.0	6.1
1 Audley St and 8 Newcastle St	<i>Mixed Use Areas</i>	D	2.0	11.6
315-327 Royal York Road	N/A	N/A	2.0	15.4
27-39 Newcastle St	<i>Mixed Use Areas</i>	C	2.0	12.1

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 significantly 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.

New Planning Act Changes Set Stage for City to Reverse Provincial and Tribunal Approvals in Mimico GO Area, Unless Minimum Density Mapping is Corrected

In the recent Bill 23 changes to the Planning Act, the Provincial Government amended the statute by introducing section 16 (20).

The new clause reads as follows:

Updating zoning by-laws

(20) No later than one year after the official plan policies described in paragraph 1 or 2 of subsection (21) come into effect, the council of the local municipality shall amend all zoning by-laws that are in effect in the municipality to ensure that they conform with the policies.

This means that the City of Toronto must - within 12 months of the Minister approving OPA 570 - amend its zoning by-law to be in conformity with the new official plan policy and its minimum density mapping. If the Minister approves the artificially low densities in OPA 570, that do not reflect the Minister's own zoning order and Tribunal approvals, it will open the door to the City rezoning properties at lower densities. They would do so on the basis that they are seeking to conform with the Minister's new approved minimum density mapping for the Mimico Major Transit Station Area - taking the provincial approval as a direction.

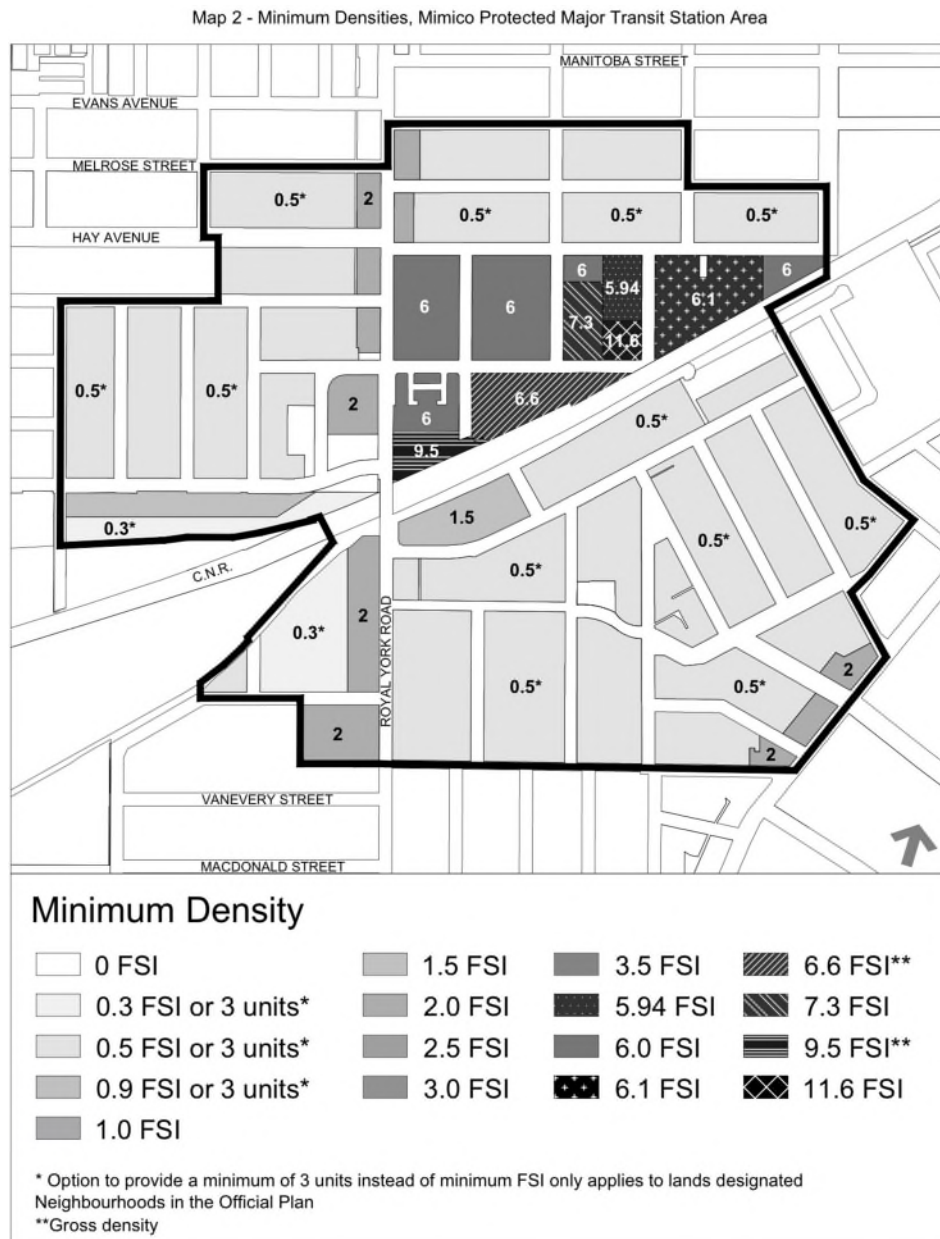
The Minister's Zoning Order for the Mimico GO transit-oriented community includes a provision (as do all recent zoning orders) that the provision is part of the municipality's by-law. This allows the municipality to amend the zoning granted by the Minister. This could potentially include a downzoning justified on the basis that the newly approved Major Transit Station Area policy has lower densities, and the municipality must bring the zoning into conformity with these new lower densities.

To prevent the risk of such a municipal reversal of the Minister's Zoning Order or of previous Tribunal approvals in this area, OPA 570 should be modified by the Minister to substitute the proposed alternative minimum density mapping in this submission that reflects the Minister's Zoning Order and Tribunal decisions.

Minister is Asked to Modify the Minimum Density Mapping for Site and Area Specific Policy Area 692 in Official Plan Amendment 570

We are requesting that the Minister modify the mapping of minimum densities to reflect increased minimum densities - to reflect the existing approvals.

Below is the recommended minimum density mapping for Site and Area Specific Policy 692 Mimico:



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 692 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. It does not even reflect existing approved densities in a Minister's Zoning Order, and approvals from the provincial Tribunal. On the contrary, the City has set the minimum densities at such a low level, that any even minor changes will likely be said by City planning staff to 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 692.

Such a modification would ensure that more appropriate minimum densities were established. The outcome will make possible the delivery of a meaningful increase in the housing supply at an early date.

As noted, the Vandyk Mimico proposals are currently designed to deliver 3262 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 GO Transit 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 692 to the Ontario Land Tribunal for a hearing.

Yours sincerely,



AIRD & BERLIS LLP

Hon. Peter Van Loan
Partner

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