

February 10, 2024

By E-Mail

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

Dear Minister Calandra:

**Re: ERO Number 019-7731, Ministry Reference Number 20-OP-238506
City of Toronto Official Plan Amendment No. 653
Request to modify proposed Site and Area Specific Policy 833**

We represent Choice Properties Limited Partnership ("**Choice**"), owners of the property municipally known as 2541-2549 Weston Road (the "**Property**"). The Property, along with the neighbouring property at 2625 Weston Road, was converted from *General Employment Areas* to *Regeneration Areas* within Official Plan Amendment No. 653 ("**OPA 653**"), adopted by Council for the City of Toronto on July 19, 2023. OPA 653 amends the City's Official Plan to include a new Site and Area Specific Policy 833 ("**SASP 833**") with respect to the Property and its neighbour. SASP 833 requires that a Secondary Plan be adopted prior to the introduction of residential uses, and sets out the requirements to be included in that Secondary Plan. A copy of SASP 833 is attached to this letter as **Appendix 1**.

Choice is pleased that its Property has been selected for conversion, and is willing to undertake a Secondary Plan process in order to ultimately develop the site as a *Mixed Use Area*. However, in adopting OPA 653, the City included requirements with respect to affordable housing and minimum non-residential gross floor area ("**GFA**") that were not discussed with Choice, were not referenced in the Staff Report, and have no basis in policy. Choice raised these issues with the City prior to adoption, as did many landowners in similar situations, but its concerns were entirely ignored.

We write, therefore, to request that you use your authority under section 17(43)(a) of the *Planning Act*, as the approval authority, to modify OPA 653 as set out further below.

The Property

The Property is located at the northeast corner of Weston Road and Oak Street within the Pelmo-Park Humberlea neighbourhood. It is surrounded by mixed-use and residential areas to the west, residential uses to the south, potential residential uses immediately east, and a large retail cluster to the north. The Property is 47,300 square metres and is currently occupied by a Real Canadian Superstore grocery store, a TD Bank branch, a Mobil gas station, a Mr. Lube and a large surface parking lot. These retail and service uses comprise approximately 14,000 square meters of non-residential GFA.

The Property is not within a Major Transit Station Area (“MTSA”) or a Protected Major Transit Station Area (“PMTSA”).

The Affordable Housing Provisions of SASP 833

SASP 833 permits all uses permitted by the *Regeneration Areas* designation on the Property with the exception of residential uses, overnight accommodation, and live work uses prior to the adoption of a Secondary Plan. It sets out the study requirements for inclusion in the Secondary Plan, which include a Land Use Plan, a Phasing Strategy and Implementation Plan, a Community Services and Facilities Strategy, a Block Context Plan, a Parks and Open Space Plan, etc.

Importantly, policy 833(d) includes the requirement for a Housing Plan where new development containing residential units on the lands will secure a minimum of 7 percent of new residential gross floor area as affordable for condominium development, or 5 percent of new residential gross floor area as affordable for rental housing. Both forms of affordable housing are to be secured for 99 years.

These affordable housing rates are consistent with the City’s rates for Market Area C under its Inclusionary Zoning framework, notwithstanding that the Property is not within an PMTSA and would not be subject to the City’s Inclusionary Zoning policies.

Policy 833(e), however, provides that where a complete application for a Zoning By-law Amendment has not been filed prior to January 1, 2025, the affordable rental housing required will increase by 1.5 percent per year for rental housing. Affordable ownership housing requirements will be set at 1.4 times the affordable housing requirements.

In other words, starting in January 2025, affordable housing rates will be 9.1% for condo development and 6.5% for rental developments. By 2026, the rates will increase to 11.2% for condos, and 8% for rentals. There is no cap in the policy to limit how high the minimum affordable rates can go. The rate of increase proposed through policy 833(e) is significantly higher than the annual increases for properties in Market Area C that are subject to Inclusionary Zoning.

Finally, 833(h) provides that if Inclusionary Zoning ever takes effect on the lands, then those rates will prevail, but only if they are higher than the rates prescribed in SASP 833.

Affordable Housing Policies should not be arbitrary

Choice supports the provision of affordable housing in Toronto. However, the requirement to provide affordable housing should not be applied arbitrarily or as a blanket policy throughout the City. The Provincial Legislature created a statutory framework for inclusionary zoning within the *Planning Act* to be applied in PMTSAs within a municipality. The City’s inclusionary zoning policies follow that framework and provide for a comprehensive program for the delivery of affordable housing within in the City. This framework was rigorously studied and discussed, and was subject to considerable public consultation and transparency.

The affordable housing rates applied to the Property through SASP 833 go beyond the statutory framework for inclusionary zoning and the City’s own implementing policies enacted only two years ago. SASP 833 applies inclusionary zoning rates outside of the contemplated zones for

such housing. These rates are unsupported by any study, and do not reflect any official City policy, Provincial policy, or legislated framework.

The Affordable Housing Rates, including the annual increase, were included without consultation

The rates included in the adopted OPA 653 were applied to the draft SASP for the Property at the last minute without consultation with Choice or its consultants, and with no opportunity to discuss or negotiate alternative rates. The annual increase in affordable housing rates set out in 833(e) were not even referenced in the City's final staff report recommending that Council adopt OPA 653.

The timing of the annual increase is impractical given the Secondary Plan requirements

Policy 833(e) requires that a complete zoning by-law amendment application be submitted before January 1, 2025 in order to avoid an increase in the affordable housing rates. That is less than a year from now.

Practically speaking, the Property is several years away from redevelopment. This is precisely what the *Regeneration Areas* designation contemplates. It is a designation designed for studying and facilitating land use transition. Among other things, the *Regeneration Areas* designation and OPA 833 requires the following to be completed *prior* to a rezoning of the lands:

- A Land Use Plan providing for redesignation of the lands from *Regeneration Areas* to another designation that includes direction on: (i) building heights and densities; (ii) minimum non-residential gross floor area; and (iii) permitted uses;
- A Phasing Strategy and Implementation Plan;
- A Community Services and Facilities Strategy;
- A Block Context Plan setting out a network of public streets, development blocks, parks and open spaces, etc.;
- A Parks and Open Space Plan;
- Urban Design Guidelines;
- An Infrastructure Master Plan;
- A Green Infrastructure Strategy; and
- A Housing Plan.

Complicating this work is the fact that SASP 833 not only includes the Property, but the neighbouring lands at 2625 Weston Road. Choice, therefore, must coordinate each of the above studies and plans with other landowners prior to adoption of the Secondary Plan and prior to the submission of a complete zoning by-law amendment application.

The required annual increase in affordable housing rates may make more sense for lands immediately converted to Mixed Use, but is entirely impractical for *Regeneration Areas* and the redevelopment of the Property.

Modifications can be made while ensuring the provision of affordable housing

The provision of affordable housing is an important Provincial priority that Choice supports. We are not asking, therefore, for the affordable housing rates to be removed from SASP 833. However, the implementation of the affordable housing requirements by the City through these policies is impractical and inconsistent with local and provincial policy frameworks. Instead, we request the following modifications to SASP 833:

d) The Secondary Plan will also include a Housing Plan where new development containing residential units on the lands will secure a minimum amount of affordable housing as follows:

i) if a condominium development is proposed, a minimum of 7 percent of the total new residential gross floor area shall be secured as affordable ownership housing or a minimum of 5 percent of the total new residential gross floor area shall be secured as affordable rental housing;

ii) the affordable housing shall be secured at affordable rents or affordable ownership prices for a period of at least 99 years from the date of first residential occupancy of the unit;

iii) the unit mix of the affordable housing shall reflect the market component of the development, as appropriate, to achieve a balanced mix of unit types and sizes and support the creation of affordable housing suitable for families; and

iv) if a purpose-built rental development is proposed there is no requirement for affordable rental housing.

~~*e) Where a complete application for a Zoning By-law Amendment has not been filed prior to January 1, 2025, the affordable rental housing required in Policy d) i) will increase by 1.5 percent per year. Affordable ownership housing requirements will be set at 1.4 times the affordable rental housing requirements.*~~

~~*f) The provision of affordable housing required by Policy d) and Policy e) shall be secured through one or more agreements with the City.*~~

~~*h) If an Inclusionary Zoning By-law takes effect and becomes applicable to any development on the lands, then the Official Plan Inclusionary Zoning policies and by-law, as may be amended, will prevail and the affordable housing requirements in Policy d) and Policy e) will no longer apply, but only provided the applicable Inclusionary Zoning policy and by-law requirements meet or exceed the requirements of Policy d) and Policy e) above.*~~

The effect of these modifications would be to secure affordable housing on the Property that is consistent with and reflective of existing City and Provincial policy frameworks, and that acknowledges the realities and timelines required for the ultimate redevelopment of the Property. In this way, both Provincial and Municipal priorities are achieved, and the potential for redevelopment of the Property is not stymied before the requisite studies and plans are complete to permit residential uses on Choice's lands.

The minimum requirement for non-residential GFA is impractical and unobtainable

Schedule 1 of SASP 833 dictates that a minimum of 28,000 square meters or 15 percent of the total GFA on the Property is required to be non-residential GFA. This is double the existing non-residential GFA, which includes a large, recently renovated Real Canadian Superstore grocery location.

The effect of SASP 833 would be to require the equivalent of a second Real Canadian Superstore on the Property. Even for an organization like Choice, this is an impractical proposition.

The minimum 28,000 square meters of non-residential GFA could only be achievable through the development of at least 15,000 square meters of office space. While this was considered by Choice in its application through the Municipal Comprehensive Review in July 2021, the post-Covid landscape has completely decimated demand for office and related uses and rendered the minimum requirements in SASP 833 virtually unachievable.

The minimum non-residential GFA requirement, therefore, poses an impediment to the achievement of new residential uses on the Property, contrary to the Province's imperative of providing much needed housing to the City. If Choice is required to create 15,000 square meters of unleaseable office or retail space in order to build a single residential unit, the viability of any residential development on the Property is threatened.

A practical solution would be to tie the minimum non-residential GFA to the existing GFA on the Property. A requirement that 120% of existing non-residential GFA be provided would ensure a substantial increase of non-residential and employment uses on the Property, making sure that additional jobs are created through the conversion of these lands from the *General Employment Area* designation. It would do so, however, without sacrificing the ability to create housing to support those jobs, and address the City's housing crisis.

Accordingly, we request the following modification to Schedule 1 of SASP 833:

Schedule 1: Minimum Non-Residential Gross Floor Area

Area A	<i>A minimum of 45,000 square metres or 15 percent of the total gross floor area on Area A, whichever is greater.</i>
Area B	<i>A minimum of 28,000 square metres or 15 percent of the total gross floor area on Area B, whichever is greater.' 120</i>

	<i>percent of the non-residential gross floor area as it existed on January 1, 2024</i>
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Conclusion and Requested Modification

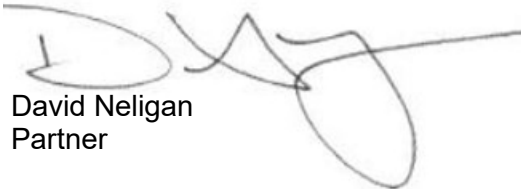
Choice is pleased with the City's decision to redesignate the Property to eventually permit intensification and the introduction of residential uses. It recognizes the importance of the providing affordable housing in a time of a provincial housing crisis, but this cannot be done through the arbitrary application of blanket policies that have not benefitted from study or scrutiny. A practical approach is required to address the housing shortage. We believe the proposed modifications appropriately and practically address the needs of the City, the Province and the landowner, and represent good planning and common sense.

Accordingly, we request that OPA 653 be modified to incorporate the revisions to SASP 833 set out on pages 4 and 5 above.

Should you have any questions or require further information, please do not hesitate to contact the undersigned.

Yours truly,

AIRD & BERLIS LLP



David Neligan
Partner

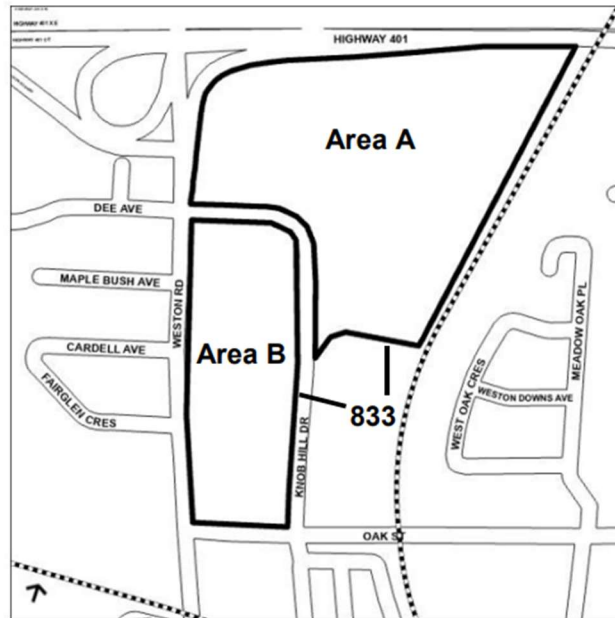
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APPENDIX 1 – SASP 833

- (ix) Chapter 7, Site and Area Specific Policies, is amended by adding Site and Area Specific Policy 833, and the associated map and Schedule 1 below, for the lands known municipally in 2022 as 2541-2549 Weston Road and 2625 Weston Road, as follows:

'833. Southeast of Highway 401 and Weston Road (2541-2549 Weston Road and 2625 Weston Road)



- a) All uses permitted by the *Regeneration Areas* designation, with the exception of residential uses, overnight accommodation and live-work uses, are permitted on the lands prior to the completion of a Secondary Plan.
- b) No form of residential uses, overnight accommodation and/or live-work uses are permitted on the lands prior to the adoption of a Secondary Plan.
- c) In addition to the matters identified in Policy 2 of Section 4.7, *Regeneration Areas*, the area study leading to the Secondary Plan for the lands will include:
 - i) A Land Use Plan that provides for the redesignation of the lands to *Mixed Use Areas* and/or *Apartment Neighbourhoods* and/or *Neighbourhoods* and/or *Parks and Open Space Areas* and/or *General Employment Areas* as appropriate. The Land Use Plan will:
 - A) inform building heights and densities across the lands to be included within the Secondary Plan;

- B) determine the minimum non-residential gross floor area on the lands, as set out in Schedule 1; and
 - C) determine the list of permitted non-residential uses as well as maximum percentages of these uses that contribute to the non-residential gross floor area.
- ii) A Phasing Strategy and Implementation Plan to provide for the sequencing of development, including the provision of infrastructure and services:
 - A) the Phasing Strategy must set out the amount of non-residential gross floor area to be constructed in each phase, prior to, or concurrent with residential gross floor area to provide a balance of employment and residential growth in all phases of development;
- iii) A Community Services and Facilities Strategy that identifies community space and facilities needs and sets out priorities to support growth which may include potential locations and phasing as well as opportunities for co-location;
- iv) A Block Context Plan that applies the City's "Complete Streets" principles and establishes a network of public streets, development blocks, pedestrian and cycling facilities and connections, and parks and open spaces that contributes to a safe, comfortable and connected public realm, and is coordinated with development planned northeast of Oak Street and Knob Hill Drive;
- v) A Parks and Open Space Plan that identifies locations of new public parks;
- vi) Urban Design Guidelines that set out the framework for the appropriate built form;
- vii) An Infrastructure Master Plan that identifies water, sanitary, stormwater and hydro infrastructure requirements and development strategy;
- viii) A Green Infrastructure Strategy that includes consideration of low impact development, stormwater management systems, and trees; and
- ix) A requirement that where appropriate a Rail Safety and Rail Mitigation Report be part of a complete Zoning By-law Amendment application, and that the report be

submitted, peer reviewed and implemented to the City's satisfaction, and reviewed by the applicable rail operator.

- d) The Secondary Plan will also include a Housing Plan where new development containing residential units on the lands will secure a minimum amount of affordable housing as follows:
 - i) if a condominium development is proposed, a minimum of 7 percent of the total new residential gross floor area shall be secured as affordable ownership housing or a minimum of 5 percent of the total new residential gross floor area shall be secured as affordable rental housing;
 - ii) the affordable housing shall be secured at affordable rents or affordable ownership prices for a period of at least 99 years from the date of first residential occupancy of the unit;
 - iii) the unit mix of the affordable housing shall reflect the market component of the development, as appropriate, to achieve a balanced mix of unit types and sizes and support the creation of affordable housing suitable for families; and
 - iv) if a purpose-built rental development is proposed there is no requirement for affordable rental housing.
- e) Where a complete application for a Zoning By-law Amendment has not been filed prior to January 1, 2025, the affordable rental housing required in Policy d) i) will increase by 1.5 percent per year. Affordable ownership housing requirements will be set at 1.4 times the affordable rental housing requirements.
- f) The provision of affordable housing required by Policy d) and Policy e) shall be secured through one or more agreements with the City.
- g) Conditions to be met prior to the removal of a holding ("H") provision on the lands shall include the following:
 - i) entering into a Municipal Housing Project Facility Agreement or such other agreement(s) as may be satisfactory to the City Solicitor to secure the provision of affordable housing; and
 - ii) the submission and acceptance of a Housing Issues Report, to the satisfaction of the Chief Planner and Executive Director, that identifies the unit mix, unit sizes, and how affordable housing requirements will be met.

- h) If an Inclusionary Zoning By-law takes effect and becomes applicable to any development on the lands, then the Official Plan Inclusionary Zoning policies and by-law, as may be amended, will prevail and the affordable housing requirements in Policy d) and Policy e) will no longer apply, but only provided the applicable Inclusionary Zoning policy and by-law requirements meet or exceed the requirements of Policy d) and Policy e) above.

Schedule 1: Minimum Non-Residential Gross Floor Area

Area A	A minimum of 45,000 square metres or 15 percent of the total gross floor area on Area A, whichever is greater.
Area B	A minimum of 28,000 square metres or 15 percent of the total gross floor area on Area B, whichever is greater.'

- (x) Chapter 7, Site and Area Specific Policies, is amended by adding Site and Area Specific Policy 834, and the associated map and Schedule 1 below, for the lands known municipally in 2022 as 920 and 930 Progress Avenue, as follows:

'834. 920 and 930 Progress Avenue



- a) Seniors accommodation facilities are permitted on the entire site, including:
- i) Nursing home and/or long term care facility as defined in *the Long-Term Care Homes Act, 2007*, as amended, replaced or superseded; and