

BETWEEN:

CITY OF TORONTO

Applicant

- and -

**2059946 ONTARIO LIMITED,
VEDIROC DEVELOPMENT CORPORATION,
LANDMARK DEVELOPMENTS INC.,
WESTSIDE LOFTS AND TOWNS INC.,
EMBASSY RESIDENCES INC.,
ACTIVE 18 COMMUNITY ASSOCIATION,
ABELL INVESTMENTS LIMITED
CANADIAN NATIONAL RAILWAY COMPANY and
GREATER TORONTO TRANSIT AUTHORITY**

Respondents

AFFIDAVIT OF JOHN GLADKI

I, John Gladki of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

A. Introduction

1. I am a planning consultant in private practice with 33 years of planning experience with the public and private sectors. I have a Masters degree in Environmental Studies from York University and am a member of the Canadian Institute of Planners and a Registered Professional Planner. Over the years I have worked on a large number of planning related files including the preparation of city wide Official Plans, area wide comprehensive land use plans, planning policy and site specific applications. I have appeared at the OMB on numerous occasions and provided expert testimony on development applications and area wide planning policies. In the early 1990's I was the Director of Policy and Strategic Planning at the City of Toronto where I was responsible for preparing the in force Official Plan that is the subject of this application for review. A copy of my curriculum vitae is attached as exhibit A to this affidavit.
2. On September 21 and 22, 2006 I appeared and gave evidence on behalf of the Active 18 Community Association at the hearing concerning the development proposals that are at issue. I had previously prepared a witness statement which

was provided to the parties in July of 2006. A copy of my witness statement is included as Exhibit B to this affidavit.

3. I have reviewed the City's request for review of the Board's interim decision on this matter, dated March 16, 2007 and the affidavits of Elise Hug and Paul Bain in support of the City's request. I have also reviewed the affidavits prepared by Peter Smith and Jeanette Gillezeau in reply to these submissions. Finally I have reviewed the letter submitted by counsel for the Active 18 Community Association dated April 13, 2007 in support of the City's request for review, as well as outlining matters that are of particular interest to the Active 18 Community Association. I have prepared this Affidavit in support of the City's request for review of the interim decisions referred to above. I will focus on elaborating on the City's reasons where appropriate, while adding reasons not covered by the City, but of importance to Active 18. As outlined in this affidavit, it is my respectful opinion that the Board erred in coming to its decisions.

B. Background

4. Interim decisions Nos. 0052, 0053 and 0054 issued by the Ontario Municipal Board dated January 10, 2007 pertain to three applications for contiguous pieces of land in the area known as the West Queen West Triangle. The first parts of these decisions are identical, dealing with the "macro" planning context, followed by specific details of each development application reflecting the order of the hearings. Decision 0052 approves with a high density residential development at 1171 and 1171R Queen Street West. Decision 0053 approves with a high density residential development at 48 Abell Street. Decision 0054 approves with a high density residential development at 150 Sudbury Street. Each of the decisions approves developments that significantly exceed the density limits of the in force Official Plan for the area.

C. Application of the Planning Act and Provincial Policy Statement

5. Mr. Bain, in paragraphs 19 and 24 to 40 of his affidavit, provides opinion that the Board erred in its decision pertaining to these applications as these relate to Section 1.1 Part I Section 2(h), (k) and (l) of the Planning Act and Provincial Policy Statement (1997, 2005). I support Mr. Bain's opinion on these matters.
6. Section 1.1 of the Planning Act clearly states that it is the purpose of the Act to promote sustainable economic development, provide for a land use system led by Provincial policy and to recognize the decision making authority and accountability of municipal councils in planning. Section 2 k) states that decision making bodies including the OMB will have regard to matters of provincial interest including the adequate provision of employment opportunities. The Board's decisions erred in not taking proper account of these provisions of the Planning Act. As stated in Mr. Bain's affidavit, the decisions do not support the promotion of sustainable economic development, nor are they consistent with the

provincial interest regarding the adequate provision of employment opportunities. Evidence presented at the hearings and repeated in Mr. Bain's affidavit stresses the importance of achieving a significant mix of employment related development in the West Queen West Triangle to achieve the Provincial objective regarding sustainable economic development and provision of employment opportunities for the City of Toronto. The Board ignored this evidence in its decisions.

7. The Board also erred in not taking into account the requirement that planning be led by Provincial Policy as outlined in the Provincial Policy Statements of 1997 and 2005. The 2005 statement, in particular, contains strong policy with respect to the need for providing an appropriate range and mix of employment opportunities, housing and other land uses. The Board's decisions provide for an insignificant amount of employment uses on the subject lands (see affidavit of Paul Bain) contrary to the direction contained in the Provincial Policy Statements and the intent of the Official Plan.

D. Employment Uses

8. The City's Official Plan and the Garrison North Part II Plan designate most of these lands, with the exception of the lands fronting on Queen Street West, as "Industrial Residential". This designation contains requirements that employment uses be included for any development in excess of two times the area of the lot up to a maximum density of three times the area of the lot (see Section 9.40 of the in force Official Plan and section 3.12 of the in-force Garrison Common North Part II Plan). There is no policy basis under the in-force Official Plan for exceeding these density provisions and ignoring the mix provisions. In fact, the only provision in the Official Plan for changing these densities is contained in Section 9.40 which states that "Council may establish lower maximum densities than set out in this Section...". The Board erred in approving development for the subject lands in excess of the maximums provided for in the Official Plan and with no effective mix of uses, without any policy foundation in the Official Plan.
9. In making its ruling rejecting the need for a mix of employment uses, the Board states: "the Board notes that the City's reliance on a mix of residential and employment uses under policies of the old OP." It should be noted that the Board had previously determined quite correctly that the old OP is the in-force Official Plan for the purposes of this hearing. The Board goes on to state: "No similar policies were presented suggesting some minimum amount of non-residential land use being applied in the new OP. While the concern of City staff may be well founded in their experience, more work must be done to establish defensible policy if it is the City's intent to achieve certain employment targets through mixed-use developments and regeneration areas in the future." With respect, in my opinion this statement represents an error in law insofar as the Board's decisions rely on the new OP, since this is not the in-force OP for the purposes of the hearing as previously determined by the Board.

10. In my testimony I provided extensive evidence on the importance of retaining a significant component of employment uses on these lands in line with Provincial and City policy. I stated that the subject lands currently include a sizable number of "creative enterprises" located in an older industrial warehouse at 48 Abel and that these uses represent an important contribution to the larger area's artistic and creative employment character. I testified that these uses reflect the existing zoning bylaw permissions and in-force Official Plan policies for the area.
11. Other witnesses from Active 18 described how creative industries have being forced out of the area through competing residential land uses, that they continue to be under threat and that there is a general dearth of suitable land and space for artistic and creative employment activities in the area and the city. The Board's decisions ignore this evidence and make no reference to the extensive testimony of Active 18 witnesses on this matter.

E. Density Limits

12. In its decision the Board states: "...the Board has not found any need to set a maximum density for each application at this time." The Board also does not set a maximum density limit for the lands as a whole. This statement ignores the maximum density provisions contained in the Official Plan, There is no policy framework for increasing the density limits beyond the Official Plan limits. Section 16.7 of the in force Official plan states: "All numerical figures in this Plan, **except density limits** (my emphasis), should not be interpreted as absolute and rigid." The Board ignored this policy and did not reference any basis for its decision.
13. I presented evidence at the hearing which showed that the proposed gross densities of the subject developments, both individually and as a group, were considerably higher than for other recent large scale developments in the City and in the surrounding areas. The gross density of the three developments is over 4 times the area of the lot. As outlined in the affidavit of Elise Hug dated March 16, 2007, the individual gross densities for the three developments as per the Board's decisions are 4.29 times the area of the lot for 1171 Queens Street West, 4.59 times the area of the lot for 48 Abell and 2.78 times the area of the lot for 150 Sudbury Street. This compares to gross densities of 2.1 times the area of the lot for the recently approved Regent Park redevelopment, 2.3 times the area of the lot for the recently approved CAMH redevelopment, 1.4 times the area of the lot for the recently approved West Don Lands development and 2 times the area of the lot for the lands immediately south of the WQWT known as 1100 King Street West.
14. Compared to these measures, as well as the density limits set out in the Official Plan, the subject developments represent significant over-development of the West Queen West Triangle. I testified that there are examples in Toronto of negative over development that has resulted in undesirable living environments

and problem neighbourhoods. The Board failed to address this fundamental aspect of good planning.

15. I also presented evidence that gross density is the appropriate way to measure intensity of development and is an appropriate basis of comparison with other areas of the City as benchmarks, which represent desirable development, since it accounts for the existence of roads and parks. I testified that where there are roads and parks, relatively high net densities may still achieve good development on particular sites. Where there is a deficiency or absence of roads and parks, as is the case with the subject developments, high net densities, such as those associated with the subject developments, represent inappropriate density levels which will negatively impact on surrounding neighbourhoods, straining services and resulting in undesirable living environments for future inhabitants.
16. The Board erred in choosing not to address either gross or net density. It also failed to address how the approval of significant increases in density over the Official Plan limits would impact on existing services, the public realm and future living conditions. The onus is with the applicants to show that the increases in density would result in an improved development and improved services over what would result within the density limits set out in the Official Plan. This was not done.
17. In my testimony I stated that the WQWT has not been planned comprehensively and that the cumulative impact of the development of these three contiguous parcels needs to be assessed as a whole to determine impact on the public realm, city services and urban design. The need for comprehensive planning is reflected in City policy, particularly in the in-force Garrison Common North Part II Plan which states that development should, amongst other things, integrate the area into the rest of the city by developing the lands so they relate to the established city fabric in terms of streets and blocks, uses and density patterns. The Part II policies also refer to achieving high quality urban design, as well as sensitivity to, and protection of, industrial operations and areas. For large redevelopment sites, in excess of 1 hectare in size, the Plan states that Council shall ensure that the block size and orientation are similar to those of the surrounding neighbourhoods and that new streets are extensions of the existing street grid and align with the existing streets where possible. The surrounding neighbourhoods include a low density residential neighbourhood to the north with a fine-grained streets and blocks pattern. The Board erred in not considering these policies in its decisions.
18. The three subject developments will result in four tall buildings of 19, 18, 15 and 14 storeys as well as four 8 storey slab buildings over an area of 2.4 hectares, or approximately three city blocks. There is no assessment in the Board's decisions of the cumulative impact of these buildings, nor references to policies or objective criteria for assessing the relationships of the buildings to each other and the public realm.

F. Parkland

19. With respect to parkland, the Board states in its decision that "if the city is unable to conclude the duly authorized acquisition of parkland, not disputed to be deficient in the Triangle, the Board will be able to be spoken to." The Board has provided a period of 6 months to resolve this issue. This aspect of the decision leaves the resolution of parkland provision uncertain with the potential for the development to proceed without parkland, resulting in an exacerbated parkland deficiency for the area as a whole.
20. The provision of adequate parkland was presented in my testimony as critically important to Active 18 and the community surrounding the development. The Triangle area under discussion includes 2.4 hectares of land (approximately 5.4 acres). No parkland is to be provided within this area. As the Board states, the parties did not dispute that the area is within a district of the City which is already deficient in parkland.
21. In my testimony I presented evidence comparing the percentage of parkland to be provided in other recently approved development areas within the city. For example, in the Regent Park redevelopment area, 12.5 % of the land will represent dedicated parkland, in CAMH (1001 Queen Street West), the parkland to be conveyed represents 10 % of the land area, in the West Don Lands, this figure is 24.5 % while at 1100 King Street West, 8.8 % will be provided as parkland and an additional equivalent of approximately 4% will be provided as cash in lieu of parkland. In contrast, there has been no attempt on the part of the subject developments to address the need for parkland on their lands.
22. In my testimony I stated that the test of good planning would require that development not proceed until the parkland is secured, either within the Triangle or on adjacent lands. The Board's decisions leave the resolution of parkland uncertain. In my opinion, this does not represent good planning and provides no certainty to the neighbourhood as to whether parkland will be provided or not. My respectful submission is that the Board erred in this aspect of its decision and that the test of good planning needs to include final, conclusive resolution of basic community services such as parks to protect the health and well being of existing and future residents.

Publicly Accessible North South Passage

23. In my testimony I gave evidence regarding the importance of providing an entranceway from Queen Street West, south through the interior of the block along a publicly accessible street to join with Sudbury Street. I stated that, for this entranceway to function, and to be perceived, as a publicly accessible street it needs to be open to the sky. This evidence was reinforced by city policy in the Garrison Common North Part II Plan which includes a map showing the extension of Northcote Street through the West Queen West lands as a public street,

reinforcing the written policy in the Plan which states that Council shall ensure that new streets are extensions of the existing street grid and align with the existing streets, where possible.

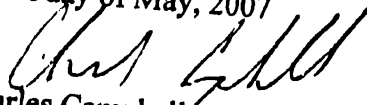
24. The Board, in its decision regarding 1171 Queen Street West ruled that the passageway need not be open to the sky. In my opinion the Board erred in its decision in that it ignored the Plan policies regarding the functioning and alignment of this passageway, provided as a substitute for a public street. A passageway through a building, no matter how large, will always be perceived as private and not accessible.

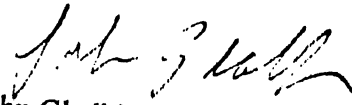
Conclusions

25. In conclusion, it is my professional planning opinion that the Board erred in its decisions/orders 0052, 0053, 0054 as follows:
- It fails to implement the Planning Act and the Provincial Policy Statements regarding economic objectives and employment uses as these pertain to Industrial Residential designations for the subject lands;
 - It fails to provide a policy basis for setting aside the mix-use policies of the in-force Official Plan for Industrial Residential Areas;
 - It erroneously references the new official plan in its decisions regarding the provision of a mix of employment uses, when the in-force plan is the old Official Plan;
 - It ignores the maximum density provisions of the in-force Official Plan, and fails to address density as an aspect of good planning, either for each of the specific developments or for the area as a whole;
 - It fails to assess the cumulative impact of the three contiguous developments as contemplated in the in-force Official Plan;
 - It does not provide certainty regarding the provision of parkland in the subject area as required by good planning;
 - It recommends a private, covered passageway that is intended as a surrogate for a public street, through a building, without regard for the policies of the in-force Official Plan.

It is my opinion that the Board would have reached a different conclusion had these errors not been made.

Sworn before me in the City of Toronto,
in the province of Ontario,
this 5 day of May, 2007


Charles Campbell


John Gladki, MCIP, RPP

To – Toronto and East York Community Council
 From – Active 18 Community Organization
 And from Charles Campbell
 Iler Campbell, Barristers and Solicitors,
 Counsel to Active 18

June 26, 2007

INTRO

The following are comments and suggested amendments and other actions regarding the proposed amended Secondary Plan for the west Queen West Triangle.

Attached, in support, is the expert opinion of John Gladki, Planner. It is, in fact, his Affidavit filed on the recent Application for Review which speaks to many of the issues now before you.

The section references below are to sections of the proposed amendments to the Secondary Plan and Zoning Amendment.

SUMMARY OF PRIORITY ACTIONS REQUESTED

- #1 **DIRECT STAFF TO DISCLOSE THE DETAILS OF ANY CITY COMMITMENT TO FUND PARK ACQUISITIONS AND BUILD OUT.**
- #2 **AMEND THE PROPOSED SECONDARY PLAN TO REQUIRE .8 HECTARES OF PARKLAND FOR THE BUILD OUT OF THE FULL TRIANGLE AREA.**
- #3 **AMEND THE PROPOSED SECONDARY PLAN SO THAT THE NORTHCOTE EXTENSION WILL BE THE FULL WIDTH OF A STREET AND THAT AT THE NORTH END THE PLAN SPECIFY THAT IT BE OPEN TO THE SKY.**
- #4 **AMEND THE PROPOSED SECONDARY PLAN TO SPECIFY THAT THE MAXIMUM GROSS DENSITY FOR THE TRIANGLE BE 2.4X COVERAGE.**

Re Parks - 2(e)

- #1) It is good to specify new residential development will be *prohibited* until parks are acquired. We suggested this a year ago. The Hold mechanism is not good enough. However the *minimum parkland at .4 hectares is insufficient* for the WQW Triangle area covered by the proposed Secondary Plan.
- #2) History

- The staff report to Community Council in June 2006 commented that the area already was already in the “lowest per capita level of parkland” in the City.
- An “H” was imposed at that meeting to be lifted when “the minimum amount of parkland that must be acquired for parkland purposes... until the Director was satisfied about adequate parks acquisition.
- July 4 2006 Admin Committee specified the amount of parkland required to lift the H was specified at .4 hectares. (Item 5.35)
- This was affirmed July 25, 2006 by City Council. (Item 27)
- In this same sequence of meeting staff were directed put the park acquisition in the 2007 Capital and Operations Budget, and get going with negotiations or expropriation to acquire.
- At no point was it put to the community, or City Council, that .4
- hectares would be sufficient for the entire West Queen West Triangle build out.
- At the OMB Hearing in the fall of 2006 part of the evidence of the City - reflected in the finding – was that the City was proceeding to acquire the 4 hectares of parkland. If it is not acquired, the Board reserved the right to reconsider the approvals granted for the massive construction.
- The wording of the decision is that if parks are not acquired by September 1 the Board “can be spoken to.”
- In fact the City has not acquired any parkland in the Triangle area, despite the instructions referred to above.
- One of the developers has now optioned the land the City was supposed to acquire.
- Active 18 would ‘speak’ to the OMB if the .4 hectares has not been acquired and is beyond the City’s budget and say the obvious, the scale of the developments must be cut back *if there are to be no parks*.
- The problem is that City staff need to admit the City can’t afford the necessary parks before the argument can be made.
- There have been recent community consultations (May 2007) on the Secondary Plan issues. Nowhere in that process has staff obtained the community views on the issue of the quantity of parks for the Triangle area beyond the three projects before the OMB. Nowhere has been disclosed that the position of the Department is that .4 hectares of park for the whole of the Triangle was now the position and that this probably represented a worsening of the per capita park space in the area given the number of further residents now contemplated.

#3) We request that you direct staff to be forthright and disclose the fact the City cannot afford to acquire the necessary parkland instead of pretending this will be done. Then Active 18 can make the obvious argument to the OMB, even if the City will not. If it is the case that some kind of a park can be afforded, exactly what? A time line should be produced. Buying the land is not enough. There has to be money to build out the park at a quality level. *These financial facts are, or should be, an issue in the planning argument.* Parks are not an abstract idea on a

map. If there is no money to put them in place, construction plans must be modified accordingly.

I note that this problem intersects with the fact that one of the developers now owns the intended parkland and the City will have to pay more at this late date for that land. Further, that developer is now bargaining with the City regarding that land *and* other issues regarding land in the Triangle. The parkland is hostage.

Action Required – Direction to Staff – produce clear explicit budgets and statements regarding what parks the City can afford. Direct legal staff to oppose development of the current three projects *if* sufficient funds for .4 hectare acquisition and quality build out are not available.

#4) Re Amount of Parkland .

The Secondary Plan expands the amount of new residential development at a mid-rise level to an area yet again as big as the area we have been litigating. The number of new people in the neighborhood doubles from the figures discussed at the OMB.

2(e) should be amended to provide for a minimum of **.8 hectares**, half of which might be provided outside but close to the Triangle.

Action Required - Amend Section 2(e) to specify .8 hectares

#5) Active 18 supported a .4 hectares park for the first three developments only on the basis that the park(s) to be provided would be well funded to compensate for the insufficient size. That condition of our support has been ignored.

The City witness at the OMB disclosed that money for park build out is so scarce that we can expect to wait years for build out. (See Above)

Action Required - Amend Add - Because the parkland for the Triangle is much less than appropriate the policy of Council will be that quality park build out and street amenities shall be provided as new construction is completed.

#6) The location of buildings relative to parks is an issue because, as Section 2(c) provides, sunlight on the parks is essential. Because the City has not identified where the parks will be (although it is open secret the piece of land the City might acquire) the massing of the buildings in the Triangle has proceeded without reference to sun on the park. This is another grave failure of planning in the Triangle.

This problems could be addressed, although not perfectly, by amending 2(c) to identify *.4 hectares of land south of the Post Office (the land intended as park) as parkland in the Secondary Plan* and specifying *that buildings surrounding it shall*

be set back and stepped back so that sunlight on this park location is excellent all day.

Action Required – Amend as above

Re Streets

Re Northcote Extension – Section 1 and Map

The Northcote Extension should be left on the map. If the Bohemian proposal collapses, as these things sometimes do, the grave mistake of allowing this street closing should not be passed on.

Action Required - Amend Map

2(h) provides that if the OMB decision stands, then it prevails over the new Secondary Plan. This seems unnecessary in a Secondary Plan but is not objectionable.

2(j) can be left in place as a way of indicating how the public interest in a street can be satisfied – subject to the following qualifications about the tunnel entrance.

Re Northcote Extension – Width

While the width of the open space for the Northcote Extension according the Secondary Plan proposed is 11 meters the proposed Zoning Amendment (#6) requires only a width of 3 meters for pedestrians and bicycles. The rest of the open space can be closed off for private use. If there ever was any thought we were preserving some kind of a public ‘street’, this puts the boot to it.

Re Northcote Extension – the Tunnel

2(j) re ... “access through a building ...”

The Planning Department agreed to a tunnel entrance for the Northcote (pedestrian) Extension in discussions with the developers before the matter came up for public discussion. This was, and is, a grave planning error. Re-development of this scale *requires* penetration by public streets. We agreed a pedestrian and bike route would be satisfactory. But the small tunnel entrance off Queen Street

makes a joke of the public nature of this thoroughfare. [In the Review Hearing just completed the developer announced this supposedly public space would be locked down at certain unspecified hours.]

At the OMB Hearing the City defended this and quibbled about the size of the tunnel entrance.

Northcote Extension is a substitute for a public street and must be seen as such. The Secondary Plan should reflect that the entrance should be "open to the sky".

Action Required – Amend 2(j) – The entrance to the Northcote Extension should be open to the sky.

It may be that the OMB decision is upheld. Section 2(h) provides for that. But that decision may not stand and if not, the position of Planning staff needlessly giving away public space should be corrected in this Secondary Plan.

Re Cross Street

The Triangle area, at this level of development, should have street penetration, north-south and east-west.

Amend Map – Add an east-west cross street between Abell and Lisgar, mid-block.

Re Queen St Façade

Aside from the height, the façade of new buildings on the south side of Queen Street are of great concern to residents. Part of this is settled – or perhaps not- by the OMB decision already taken (and appealed). But part of this issue involves the rest of the Queen St. frontage not covered by the existing OMB proposal. It is noted that the same owner has acquired land to the east and west of 1171 Queen. We face the prospect of a massive wall of glass devastating to the character of Queen St.

The proposed Secondary Plan mentions "urban design guidelines" [2(i)(i)] and massing and "articulation" to respect and reinforce the traditional rhythm of narrow lot frontages and retail bays."

This needs to be strengthened. If the City's new site plan design control were in place clear power to move in this direction would be in place. [See *Planning Act*, Section 41(4)(2)(d)]

In the meantime the Secondary Plan should require a varied set backs and step backs from the face of the building and varied side yard set backs. **Amend**

Active 18 is aware that the Planning Staff is negotiating with one of the developers which owns multiple pieces of land in the Triangle Area. A proposal has been sent to the Planning Department which covers property within the property before the OMB and also property outside but within the Triangle. This proposal has not been provided to Active 18 for comment. Aside from the 'bad form' of not involving us in case we have actively participated in from the earliest stage, this violates the new provision of the *Planning Act*, Section 1.0.1, which *requires* disclosure to the public of proposals from developers.

Community Council should require disclosure of all discussions, understandings and advice to Baywood before considering the proposed Secondary Plan. This is particularly germane to issues of the Queen St façade and the tunnel entrance to the Northcote Extension.

Re Section 37

2 (m)

(iii) - **DELETE** - "*conversion*" of Carnegie Library

We were promised repeatedly that the cost of relocation of the Health Department staff is not to be part of Section 37. Section 37 money should not be used to pay standard City expenses. There is substantial money available elsewhere for "heritage restoration" but we don't mind making a contribution from Section 37 as a last resort. We are happy to spend Section 37 funds on outfitting a theatrical facility for use by Toronto theatre companies.

(iv) - "cash contribution **ADD in the Triangle**

No Section 37 money for artist studios should leave the Triangle.

ADD - "public art" was added to the list of Section 37 items in the June 27/28/29 '06 meeting for the first three projects. It should be on the list for the whole Triangle.

Height and Density

The Secondary Plan is silent on height and density other than to say {2(c) it will be "low rise and mid-rise buildings framing streets, parks and open space ... with good access to sunlight and sky views."

South of the lane which runs on the south side of the Queen Street buildings, it is intended to allow six stories and "a limited number of taller elements up to 42 meters". There are three sites in the blocks north of the Sudbury Extension in this category and

two other sites south of Sudbury and east of Dovercourt. As a matter of massing, 'tall elements' at the south end of the Triangle are acceptable.

But what is *not* acceptable is the total amount of development being shoe-horned into the Triangle. We appear to be getting four "tall elements". Now five more are possible as a result of this proposed Secondary Plan.

If the OMB decision on the first three projects is upheld the net density of the three projects will be 4.19, 2.78 and 4.59. (See Gladki para.13, quoting Hug). The re-development of CAM-H a few blocks to the east is net 2.3 and for 1100 King West, just to the south across the tracks, is 2.1.

Gross density for the Triangle should have a maximum. The overbuilding on the first three sites should not be an excuse to over-build in the rest. The calculation of gross density for the area obviously depends where the park land will go, if any.

Action Required - Amend Add 2(n)- The gross density for the Triangle should be 2.4 and building heights adjusted accordingly.

Re "No Net Loss" Policy – Section 2(d)

It is good to drop the tag "no net loss" from the amendment to the Secondary Plan *because* the City's rationale and calculation of non-residential space based on a theory of "no net loss" was rejected at the OMB for its technical insufficiency – difficulty of calculation etc. This policy – whatever it is called – will be attacked again. It might survive at the OMB based on the direction to the OMB in the amended Planning Act to give some deference to City wishes. Don't count on it. The criticism of the policy as confused and arbitrary has 'legs'. It led to the rejection of the approach at the OMB and my opinion is the policy will be in repeated difficulty in the future.

We support the City's efforts to require substantial non-residential space as part of *each* development. This is good wording. (It should have been in place three years ago.)

The City **should review this approach** because it is a precedent for a way to protect mixed used in other areas. The weaknesses exposed at the OMB will be the source of attack in the future. This is a critically important policy to support employment space in the "creative city" environment. A better policy should be written.

Action required – REVIEW the strength of this proposed policy