

WITNESS STATEMENT OF S. PAUL BAIN

A. Qualifications

1. I am a Registered Professional Planner with 28 years of professional planning experience, and am currently employed as a Project Manager with the City of Toronto Planning Department, Policy and Research Division. I have been qualified as an expert witness before the OMB in land use and policy planning matters on many occasions from 1978 to the present. I have worked as a community planner in the west-central portion of the City of Toronto, and was part of the team that wrote the Official Plan for the former City of Toronto and defended it before the Ontario Municipal Board in the period 1990-1996. Since 1999, I have worked continuously with the staff team that researched and prepared the new Official Plan for the City of Toronto and appeared as an expert witness in that OMB hearing. My curriculum vitae is attached to this witness statement.

B. Purpose of Witness Statement

2. The purpose of this witness statement is to set out the statutory planning framework and policies addressing both land use and the need for comprehensive planning for large sites and new neighbourhoods, and their applicability to the sites subject to this hearing.

C. Provincial Policy Framework

3. The Planning Act is the statute that provides for a land use system led by provincial policy. Section 1.1 sets out the purposes of the Act. Section 2 of the Act sets out matters of Provincial interest that all Councils and boards must have regard for. Among these matters of Provincial interest are the orderly development of safe and healthy communities, the adequate provision of a full range of housing opportunities, adequate provision of employment opportunities, the resolution of planning conflicts involving public and private interests and the appropriate location of growth and development.
4. Section 3 of the Planning Act enables the Province to issue Provincial Policy Statements which all Councils and Boards must be consistent with in exercising their authority.
5. The Provincial Policy Statement issued in May 22, 1996 and amended in February 1, 1997 was intended to promote a policy-led system which recognizes that there are complex inter-relationships among environmental, economic and social factors in land use planning. (from the preamble) Among the policies is Policy 1 – Efficient, Cost Effective Development and Land Use Patterns.

6. The latest version of the Provincial Policy Statements was approved in 2005, and is the document I will be referencing. Provincial Policy Statement 1.1.1 provides that healthy, liveable and safe communities are sustained by:
- b) accommodating an appropriate range and mix of residential, employment, recreational and open space uses to meet long-term needs; and
 - e) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs.

It is my professional opinion that the applications currently before the Board fail to provide the mix of residential and non-residential land uses that are appropriate for, and have been the basis of planning for, the area in question. It is also my opinion that the applications do not collectively implement comprehensive planning for the Queen West Triangle to ensure necessary infrastructure, including the local road system, will be available for future residents of the area and the City.

7. Provincial Policy Statement 1.1 requires that sufficient land shall be made available through intensification and redevelopment to accommodate an appropriate range and mix of employment opportunities, housing and other land uses to meet projected needs for a time horizon of up to 20 years. The Minister of Municipal Affairs and Housing, in approving the new Official Plan for Toronto modified the Plan to add policy 2.1.3 stating that Toronto should accommodate a minimum of 3 million residents and 1.835 million jobs by the year 2031. This would require the addition of approximately 540,000 new Torontonians and 540,000 new jobs by 2031. This population target is relatively modest and would easily be met by development in other identified growth areas. The addition of 540,000 new jobs would require the retention of key Employment districts and commercial office areas for business purposes, but would also benefit from the retention of employment in areas such as the Queen West Triangle where the retention of a mix of employment and residential uses has consistently been envisioned in planning documents.
8. Provincial Policy Statement 1.1.3.3 provides that planning authorities will identify and promote opportunities for intensification and redevelopment where this can be accommodated and the availability of suitable existing or planned infrastructure and public service facilities to accommodate the intensification. The City, through its designation of this area as a 'Regeneration Area' in the Official Plan has identified the Queen West Triangle as an area suitable for intensification and redevelopment. However, the City stipulated that prior to significant development an area study must be undertaken to identify the framework for comprehensive development including the necessary public infrastructure. The applications before the Board do not collectively provide for key elements of the public infrastructure identified in the area study, and could therefore be considered to be inconsistent with this Provincial Policy Statement.
9. Provincial Policy Statement 1.1.3.7 provides that new development taking place in designated growth areas should occur adjacent to the existing built-up area and

shall have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities. Because the Official Plan designates these lands as 'Regeneration Areas' where additional growth and development will occur, they are a 'designated growth area' for the purposes of the Provincial Policy Statements. While development in the Queen West Triangle will almost inevitably be consistent with this policy statement, a mix of residential and employment uses that allows people to live and work in the same area provides for the most efficient use of land, infrastructure and public service facilities.

10. Provincial Policy Statement 1.1.3.8 provides that planning authorities shall establish and implement phasing policies to ensure the orderly progression of development within designated growth areas and the timely provision of infrastructure and public service facilities required to meet current and projected needs. Council established the need for a comprehensive area study to be completed in this part of the Garrison Common North Secondary Plan area prior to the approval of significant development, precisely to provide the orderly progression of development and the provision of necessary social and physical infrastructure elements. Approval of development that does not precede and implements the development framework set out in the area study would be consistent with this Provincial Policy Statement.
11. Provincial Policy Statement 1.3.1 provides that planning authorities promote economic development and competitiveness by providing for an appropriate mix and range of employment and provide opportunities for a diversified economic base. The retention of non-residential uses as part of the land use mix in the Queen West Triangle, a long-term policy of the City, provides an exceptional opportunity and ideal locale for employment in the creative arts and new technology industries. This opportunity would be foregone by the proposed collective redevelopment on the appeal sites for residential purposes, rather than a mix and range of residential and compatible employment uses. Retention of employment uses, as well as residential uses, on the appeal sites would be consistent with this Provincial Policy Statement.
12. Provincial Policy Statement 1.4.1 requires planning authorities to maintain the ability to accommodate residential growth for a minimum of 10 years through residential intensification and development, and maintain land with servicing capacity to provide at least a 3 year supply of residential lands through lands suitably zoned to facilitate residential intensification. While the City does anticipate and encourage residential intensification on the appeal sites as part of a mix of residential and compatible employment uses, these units are not required to meet the population targets inserted in Section 2.1.3 of the Official Plan by the Province.
13. Provincial policy statement 1.6.1 provides that infrastructure and public service facilities shall be provided in a co-ordinated, efficient and cost-effective manner

and the planning for infrastructure and public service facilities will be integrated with planning for growth so that these are available to meet current and projected needs. Therefore, the creation of hard and soft infrastructure and services, including the public road system should be integrated with the planning for growth. The piecemeal nature of the three applications does not provide for comprehensive servicing of the area and create a connected local road system, and are not therefore consistent with this Provincial policy statement or in the public interest.

14. Provincial policy statement 1.6.6.1 requires that planning authorities to plan for and protect corridors and rights-of-way for transportation, transit and infrastructure facilities to meet current and projected needs. It is incumbent upon the City to plan for the necessary local road system and protect for local roads when considering development applications. Insofar as the three development applications under appeal do not collectively allow for the development of the local road system they are not consistent with this Provincial policy statement.
15. The Province has enacted the Growth Plan for the Greater Golden Horseshoe, 2006(GPGGH) that is intended to be read in conjunction with the applicable PPS. The lands in the Queen West Triangle that are currently under appeal are not part of Urban Growth Centres identified in the Plan. The policies for managing growth and general intensification would however be relevant to these development applications. The Queen West Triangle is an area that all parties agree should undergo intensification. Among the policies are "The 'Managing Growth' policies in Section 2.2.2 of the GPGGH calls for reducing dependence on the automobile through the development of mixed-use transit-supportive, pedestrian friendly urban environments. This section also calls for balancing jobs and housing in communities to increase the modal share for transit walking and cycling. These objectives would best be achieved by a mix of residential and employment uses in this area of the Garrison Common North.
16. Section 2.2.3 of the GPGGH speaks of a minimum of 40 per cent of all residential development occurring within the built-up area. Given the built-up nature of the City of Toronto, this will inevitably occur. Policy 2.2.3.6 requires all municipalities to develop and implement through their Official Plans and other supporting documents a strategy and policies to phase in and achieve intensification and to identify the appropriate type and scale of development in intensification areas. It is my opinion that the 'area study' that is to be completed prior to the approval of significant development in this portion of the Garrison Common North is precisely the type of intensification strategy called for in this GPGGH policy.
17. Policy 2.2.3.7 of the GPGGH requires that all intensification areas will be planned and designed to:
 - cumulatively attract a significant portion of population and employment growth;

- provide a diverse and compatible mix of land uses, including residential and employment uses to support vibrant neighbourhoods; and
 - achieve an appropriate transition of built form to adjacent areas.
- Retaining a mix of employment and residential uses in Queen West Triangle area would provide the mix of uses contemplated in the GPGGH for intensification areas.

D) Official Plans Applicable to the Queen West Triangle (Lands Bounded by the CN Rail Corridor, Queen Street and Dovercourt Road)

18. The new Official Plan for the City of Toronto was adopted by Council in November 2002 and approved by the Minister of Municipal Affairs and Housing in March 2003. Ultimately 180 appeals of the Minister's approval were received at the Ontario Municipal Board. No property-owner in the Queen West Triangle lands appealed the new Official Plan either in terms of general policies or as it pertains to their specific property.
19. On July 6, 2006 the Ontario Municipal Board approved almost all of the new Official Plan, save and except several policies, except as they relate to sites cited in attachments to Decision/Order No. 1928, and the predecessor municipal Official Plans were repealed. Except for policies relating to housing and Section 37, the new Official Plan is in Force for all of the lands in the Queen West Triangle except for the properties at 48 Abell Street and 150 Sudbury Street. Attachment 7 to Decision/Order 1928 specifically provides that the policies and land use designations of the new Official Plan are not in effect as they pertain to properties listed in the attachment that remain subject to appeals before the Ontario Municipal Board.
20. The lands under appeal PL 060087 (48 Abell) and PL060443 (150 Sudbury, 30 Abell) are listed on Attachment 7 on Decision/Order No. 1928. Therefore, the Official Plans for the former Municipality of Metropolitan Toronto and the former City of Toronto remain in force for these lands. The lands at 1171 and 1171R Queen Street West are not listed on Attachment 7 to the Order. However, it was the intent of the Board to exclude all lands under appeal before the Board from the approval of the new Official Plan. The new Official Plan is in force as it pertains to the majority of the lands bounded by the CN Rail Corridor, Queen Street West and Dovercourt Road.

E) Comprehensive Co-ordinated Planning of New Neighbourhoods and Large Development Areas is Necessary and Constitutes Good Planning

19.A fundamental tenet of good planning that is enshrined in all of the Official Plans, past and present, relevant to the Queen West Triangle lands and the sites under appeal, is that it is in the public interest that planning for new neighbourhoods or

large development sites should take place in the context of a comprehensive development framework that:

- sets out the pattern of streets and blocks, and open spaces
- contains a strategy to provide necessary infrastructure, including community facilities and local institutions
- sets out the mix and location of land uses
- connects the development area with the surrounding areas of the City through the extension of adjacent roads, pedestrian pathways and open space corridors.
- provides a strategy for creating sufficient parks and open space for new workers and residents.

The Official Plans provide that no significant development should occur until this framework for development has been established.

Official Plan for the Former City of Toronto

20. The Official Plan for the former City of Toronto contains numerous policies that speak to the need for comprehensive planning where a large area such as the Queen West Triangle is proposed to be redeveloped.
21. Policy 3.10 of the former Toronto Official Plan, still applicable to the appealed sites, provides that in comprehensive redevelopment areas where a new street and block pattern is being established and substantial new building is anticipated, Council will ensure that the development is well integrated with, and fits comfortably into, the surrounding City. To achieve this Council will seek the provision of good vehicular, pedestrian and visual connections to adjacent areas. Where residential neighbourhoods are being established the policy specifically calls for a fine grain of development and lots that relate to public streets. In these areas, Council will define the public realm for the areas and provide for a co-ordinated approach to the incremental development of the area and provide a predictable built form context as the area is redeveloped.
22. Policy 3.11 further provides that Council will restore the integration of poorly connected areas of the City, such as the Queen West Triangle, with their surroundings by restoring or establishing traditional street, open space and built form patterns and improving the continuity of the local street grid and providing pedestrian connections where roads are not feasible.
23. Policy 16.4 of the former Toronto Official Plan specifies that Council will consider large-scale development proposals that may alter the form of streets and blocks in the City, only in light of a study undertaken for the purpose of recommending policies for adoption in a Secondary Plan. Council is prohibited by the Plan from making any zoning by-law amendments to permit such large-scale development without first adopting the necessary Secondary Plan policies.

24. The community improvement policies of the former Toronto Official Plan single out the Garrison Common Area, of which the Queen West Triangle is a part, as an area in need of better integration into the surrounding urban fabric and other improvements. Policy 15.20 of the Official Plan calls on Council to work with the private sector to better integrate the Garrison Common into the urban fabric, improve the environment and transportation services and promote the Plan objectives with respect to housing, economic development, culture and heritage resources, parks and open spaces and community facilities. Some of the measures Council may use to accomplish this are set out in Policy 15.21 and include comprehensive and area-based planning and urban design studies, participating in capital works projects, and acquiring land for amenities such as parks.
25. Section 19.10 of the former City of Toronto Official Plan comprises the Part II Plan, or Secondary Plan, for the Garrison Common North Area, which includes the Queen West Triangle lands generally bounded by the CN Rail Corridor, Queen Street West and Dovercourt Road. Policy 2.1 of this Secondary Plan sets out the principles that will guide development in the Garrison Common North area. The first principle is that development will integrate Garrison Common North into the rest of the City by developing the lands so that they relate to the established city fabric in terms of streets and blocks and density patterns.
26. Policy 2.3 of the Garrison Common North Part II Plan in the former City of Toronto Official Plan provides that Council shall ensure that redevelopment of large sites of 1 ha. or more are well integrated with the surrounding neighbourhoods. The applications at 48 Abell Street/1199 Queen Street and 150 Sudbury Street are individually over 1 ha. in size and the three contiguous applications are collectively over 2.7 ha. in size. To achieve good pedestrian, vehicular and visual connections to adjacent neighbourhoods, this policy calls on Council to ensure that:
- a. block size and orientation are similar to those of surrounding neighbourhoods
 - b. new streets are extensions of the existing street grid and align with existing streets, where possible, allowing for street-oriented developments
 - c. north-south views are preserved
 - d. consideration is given to utilizing the required safety setback from the rail corridors as open space or roadway or both, particularly in residential areas
- The achievement of all of this objectives are in the public interest.
27. The three development applications before the Ontario Municipal Board are premature in that they alter the form of streets and blocks in the City and, under Policy 16.4 of the Plan for the former City of Toronto can proceed only in light of a study undertaken for purposes of adoption of policies in the Secondary Plan. The Plan specifically prohibits Council from amending the zoning by-law without the area study and resultant policies. Council has approved the substance of the

Area Study in June, 2006 and the City is moving forward with the proposed Secondary Plan and Zoning By-law amendments and other implementation measures. The applications fail to meet many of the recommendations of the Study dealing with matters such as: the extension of the local street network, improvements to infrastructure and servicing, rail safety setbacks of buildings, maintaining the area as a mix of residential and non-residential uses, and the heights and massing of the proposed developments.

28. The development applications before the Ontario Municipal Board do not conform to the policies of the former Toronto Official Plan calling for the integration of these large sites into the neighbouring urban fabric. Were the developments to be approved as proposed the proper extension of Sudbury and Abell Streets would not be possible. The developments are premature and do not represent good planning in this respect. There is a need for the comprehensive area study to be implemented in terms of identifying streets and blocks and other matters, and for development applications to take access and frontage on those streets. The piecemeal approach to development collectively represented in the applications before the Board does not represent good planning. This piecemeal approach is exemplified by the extension of Sudbury Avenue in the application for 150 Queen Street but the failure to continue the street in the original application for 48 Abell/1199 Queen Street. The applications do not collectively provide for rational, comprehensive development that is integrated with the fabric of the City. A rational comprehensive approach to development in the area that ensures provision of necessary infrastructure is in the public interest.

The New Official Plan

29. There is considerable consistency in the policies of the Official Plan for the former City of Toronto and the new Official Plan that call for a comprehensive area study prior to significant development in new neighbourhoods such as the Queen West Triangle in order to ensure integration with the surrounding city fabric and the provision of the necessary infrastructure, services and parks and open space.
30. Section 3.3 of the new Official Plan requires a comprehensive planning framework for new neighbourhoods that should include: the patterns of streets, development blocks and open spaces; the mix of land uses; strategies to provide parkland and community services, and an affordable housing strategy. Policy 3 of Section 3.3 states that new neighbourhoods will be carefully integrated into the surrounding fabric of the City and will have good connections to surrounding streets and open spaces; uses and building scales that are compatible with surrounding development; community services and parks that fit within the wider system; and a housing mix that contributes to the full range of housing.

31. Section 3.1.1, the Plan's 'Public Realm' policies call for the maintenance and improvement of the City's road grid in Policy 7. Policy 14 requires that new streets be designed to provide connections with adjacent neighbourhoods and promote a connected grid of streets that offers travel options and extends sight lines.
32. In the May 2002 draft of the new Official Plan, the designation of the Queen West Triangle lands was originally proposed to be Mixed Use Area along the Queen Street frontage and Employment Area on the remaining lands. A solicitor for landowners in the area requested that the City consider designating the area, as well as the rail yards to the south as a 'Regeneration Area'. In the report of the Chief Planner dated September 16 2002 to the statutory public meeting of Transportation and Planning Committee on September 24, 2002, the Chief Planner recommends that the lands instead be designated as a 'Regeneration Area' and that the Garrison Common North Secondary Plan be modified to require an area study that will provide a development framework for the Queen/Dufferin lands. These changes were approved by Planning and Transportation Committee and formed part of the new Official Plan approved by Council in November 2002.
33. Section 4.7 of the new Official Plan sets out the policies for lands designated as 'Regeneration Areas'. These are underutilized areas of the City that are to be opened up to a wide array of uses to help attract investment, re-use buildings, encourage new construction and bring life to the streets. Every 'Regeneration Area' is different and requires 'tailor-made' strategies and frameworks for development provided through a Secondary Plan, the contents of which are generally set out in Policy 2 of the Section. Policy 2 also provides that development should not proceed until the approval of the Secondary Plan. While intensification, including residential intensification is anticipated in 'Regeneration Areas', it is in the public interest that development occur within a development framework to provide the basic roads, infrastructure, community services and parks and open space to serve the new residents and workers.
34. As the lands lie within the Garrison Common North Secondary Plan, that Secondary Plan was amended to add to Policy 10.2 a requirement that an area study be completed to address the matters normally required in a Secondary Plan for Regeneration Areas. The area study is to be completed prior to the approval of significant development.
35. Section 2.1 of the Garrison Common North Secondary Plan has been brought forward into the new Plan and continues to set out the principles for development in the Secondary Plan Area. The first principle continues to be that new development will be integrated into the City fabric in terms of streets and blocks, uses and density patterns.

36. The development applications before the Board are premature and do not conform to the new Official Plan in that they are being brought forward and considered prior to the final completion of the area study and its implementing amendments that set out the framework for development in the Queen West Triangle. As previously stated the applications collectively do not extend the street system to integrate the area into the surrounding fabric of the City and do not provide a development framework as set out in Section 3.3 of the Plan or meet aspects of the development framework of the City's area study. The development applications are premature in terms of both the old and new Official Plans, and do not conform to the policies of either Plan that call for a comprehensive development framework to integrate large new development areas into the existing urban fabric. Given the diverse property ownership pattern in the area, a comprehensive development framework to co-ordinate development and servicing is in the public interest and is even more necessary than in other instances where the entire area is under consolidated ownership.

F. Official Plan Policies Consistent in Requiring a Mix of Residential and Non-Residential Uses in the Queen West Triangle

37. Official Plan policies in the former Metropolitan Toronto, former Toronto and new Official Plans are consistent in calling for a mix of residential and industrial or employment uses. Given the relative underutilization of the lands, there exists an opportunity to add considerable residential development while still maintaining current levels of non-residential gross floor area. A mix of employment and residential uses is desirable to maintain employment opportunities for Torontonians, give an opportunity for people to live and work in the area, create interesting streetscapes and round-the-clock vitality in the district. Given the popularity of other portions of this part of Toronto for media, communications and 'creative' industries and the growing desirability of this area of Queen Street West, there is potential for new employment floor space. Wholly residential development on large portions of the Queen West Triangle would not conform to the intent and policies of any of the Official Plans.

Official Plan for the Municipality of Metropolitan Toronto

38. The Official Plan of the Municipality of Metropolitan Toronto was approved by the Province in 1994 and remains in force as it applies to the development sites that are on appeal before the OMB prior to July 6, 2006. The Queen West Triangle lands represent development outside the Centres and Corridors identified in the Metropolitan Toronto Official Plan. Section 1.1 Purpose of the Plan includes a long-term planning strategy to improve the quality of urban life in Metropolitan Toronto through an integrated approach to land use planning and management of environmental, economic and social change. Among the Policies,

Policy 2.1.1.8 states that area municipal official plans will generally be at a lower scale and density than in Metropolitan Centres and Corridors, and accommodate where feasible a mix of compatible uses to support transit and foster pedestrian activity. This policy can best be achieved by maintaining a mix of residential and employment uses in the Queen West Triangle.

Official Plan for the Former City of Toronto

39. The Official Plan for the former City of Toronto remains in force for the applications sites at 48 Abell Street and 150 Sudbury Street. With the exception of the 'Low Density Mixed Commercial Residential' area designation on the Queen Street frontage the Queen West Triangle is designated as a 'Mixed Industrial-Residential Area' in that Plan. Section 9.37 of the Plan provides that 'Mixed Industrial-Residential Areas' are areas containing a mix of a wide range of residential uses, community services and facilities, street-related retail and service uses and industrial uses which are environmentally compatible with adjacent and neighbouring uses. Typically, areas with this designation are zoned I1 which provides for light environmentally benign employment uses, and uses such as non-profit artists live-work are permitted. Insofar as the applications collectively propose only residential uses for a considerable portion of the area, they would not conform to the requirement for a mix of residential and non-residential uses.

40. Section 9.40 of the former City of Toronto Official Plan provides density incentives for the retention of a mix of residential and non-residential uses in a 'Mixed Industrial-Residential Area'. Wholly industrial buildings are permitted up to a density of 3 times the area of the lot, but wholly residential buildings are only permitted up to a density of 2 times the lot area. Buildings with a mix of residential and industrial uses are permitted to have a density of up to 3 times the lot area, but the residential gross floor area is limited to a density of 2 times the lot area. Further, prior to passing by-laws to permit a change from residential to industrial use Council must have regard for the advisability of retaining existing industrial buildings or uses in terms of the retention of industrial jobs and the retention of industrial buildings.

41. Section 3.10 of the Garrison Common North Part II Plan in the former Toronto Official Plan reiterates that 'Mixed Industrial-Residential Areas' are areas containing a mix of a wide range of residential uses including live-work units, community services and facilities and those industrial uses which are environmentally compatible with adjacent and neighbouring uses. While wholly industrial or wholly residential buildings may be permitted within the mix, the area is envisioned as a mix of residential and employment uses. Insofar as the applications collectively propose only residential uses for a considerable portion of the area, they would not conform to the requirement for a mix of residential and non-residential uses.

42. Section 2.1 of the Part II Plan in the former Toronto Official Plan sets out the principles for new development in the Garrison Common North area. In policy 2.1c) it is once more reiterated that the plan area should contain a mix of

residential, retail, commercial, industrial and community services and facilities so that development can respond to changing market demands for different uses over time. Policy 2.1e) provides that Garrison Common North will be developed in a manner that is sensitive to and protects industrial operations and areas. The development of the Queen Triangle for residential uses in a primarily condominium form of tenure will neither protect industrial operations and areas or give the flexibility to respond to market demands for non-residential uses as market demands change.

Toronto Official Plan

43. The lands in the Queen West Triangle were designated as 'Employment Areas' in the draft Official Plan released for public discussion in May, 2002. However, Policy 10.2 in Section 19.14, the Garrison Common North Secondary Plan would have prevailed to provide for a mix of employment and residential uses on these lands. After discussions with a solicitor representing a property owner, it was concluded that the lands generally located between King, Queen and Dufferin Streets and Dovercourt Road represented a considerable opportunity for revitalization and were recommended to be designated as a 'Regeneration Area'.
44. 'Regeneration Areas' provide for a broad mix of commercial, residential, light industrial, parks and open spaces, institutional, live/work and utility uses that, among other matters, create and sustain well-paid, stable, safe and fulfilling employment opportunities for all Torontonians. Each 'Regeneration Area' requires a Secondary Plan to set out the framework for revitalization and development, and no significant development should occur until that Secondary Plan is approved. As the Queen West Triangle lands were already part of the Garrison Common North Secondary Plan, an amendment was instead made to the Secondary Plan to add to Section 10.2 a policy requiring an area study with the same type of development framework as Regeneration Area Secondary Plans. That policy states that a 'mix of employment and residential uses is permitted'. Reference is now made to employment uses rather than industrial uses as offices were envisioned as well as more traditional industrial uses.
45. Policy 2.1e) of the Garrison Common North Secondary Plan provides that new development in the Garrison Common North will be sensitive to and protect industrial, communications and media operations, solidifying the area as one of the leading locations for new industry technologies (sic new industrial technologies).
46. Residential intensification in the Queen West Triangle is not required to meet the population target of 3 million people by the year 2031, as set out in Section 2.1, Policy 3 of the new Official Plan. The background research paper for the new Official Plan, 'Flashforward', published in June 2002 showed that this population target could be met through development on the minority of 'Avenue' parcels deemed to have development potential, on opportunity sites identified in the

report and on underutilized sites in the Downtown. Even on deeper parcels on the Avenues deemed to have development potential only the lands within 100 metres of the street were calculated as having residential potential. Apart from larger lots on the Queen Street frontage, none of the Queen West triangle was entered into calculations as having residential potential for the purpose of meeting the population targets.

G. Consistent and Robust Support for the Arts in all Official Plan Documents

Official Plan for the former City of Toronto

47. Chapter 10 of the former City of Toronto Official Plan deals exclusively with the importance of the Arts in the lives of Torontonians and the means by which the Arts can be supported in the course of the physical growth of the City. It encourages the inclusion of arts facilities in new development through both policies and the incentive of additional gross floor area, and the protection, development and augmentation of 'Arts and Cultural Facilities'. Specific policies support the creation of artists live-work and studio space in public and private developments. These policies would apply to support the retention of both artists live-work space, studio space and other arts facilities as part of the redevelopment of the arts-rich Queen West Triangle.
48. Policy 10.1 acknowledges the important contribution made by the arts and the arts community to the quality of life in the City and commits Council to promote, support and encourage the arts and access to the arts.
49. Policy 10.4 provides that Council will expand its support of the arts by, among other actions: actively participating in the creation of non-profit live-work and work space opportunities for artists; and, increasing opportunities for artists live-work space through zoning changes and considering placing such space in publicly and privately planned developments.
50. Policy 10.7 states that it is the policy of Council to take measures to protect, develop and augment 'arts and cultural facilities' especially for emerging artists and small to mid-sized arts organizations by, among other means, discouraging new development which results in a significant net reduction in the number and quality of 'arts or cultural facilities'. 'Arts and Cultural Facilities' are defined in Chapter 17 of the Plan as being not-for-profit performing or visual arts facilities accessible to the public.
51. Policy 10.8 provides for additional density in a development, provided the additional gross floor area is used for not-for-profit 'Arts and Cultural Facilities'.

Toronto Official Plan

52. The post-amalgamation City of Toronto has placed an even greater emphasis upon the fostering of arts and culture within the City. The City has a Culture Division that is devoted to this task, and adopted, in 2003, a 'Culture Plan for the Creative City' that was developed concurrently and in conjunction with the new Official Plan. Much of the detail of the City's cultural policies are left to the Culture Plan.
53. The new Official Plan contains policies for creating a cultural capital in Section 3.5.2. These policies provide for the promotion of a full range of arts and cultural facilities from community based endeavours to nationally prominent institutions. The policies state that the inclusion of new not-for-profit arts and cultural institutions in new development will be promoted through development incentives and public initiatives. These policies also specifically stipulate that concentrations of cultural activities will be promoted to create arts districts and corridors that can collectively draw visitors and revitalize communities. The West Queen West area is, de facto, an arts district whose artists and venues draw visitors and have given new life to this portion of Queen Street West. The promotions for the condominiums on the appeal sites play heavily on the Queen West 'scene' to attract purchasers. The Plan's policies support development that will include arts and cultural facilities rather than wholly displace them.
54. The policies of the Plan dealing with community benefits that are provided as part of an agreement for additional height or density under Section 37 of the Planning Act are found in Section 5.1.1. These policies remain under appeal to be adjudicated. The potential community benefits that are listed in Section include non-profit arts and cultural institutions and affordable housing. In negotiations with appellants, the inclusion of such arts facilities as potential community benefit are not at issue.
55. It is my professional opinion that both the Official Plan for former Toronto and the new Official Plan provide for the encouragement of arts and cultural facilities, the creation of accommodation and working space for artists and potential incentives for their inclusion in private development. The provision of housing and studio space for artists as part of development in the Queen West Triangle would implement both Official Plans.

S. Paul Bain, MCIP RPP

Documents to be Relied Upon in Testimony

1. Planning Act
2. The Official Plan for the Former City of Toronto
Chapters relevant to witness statement include: 3, 9, 10, 15, 16 and 19.
3. The City of Toronto Official Plan
Chapters relevant to witness statement include: 2, 3, 4, 5 and 6
4. Ontario Municipal Board Order/Decision 1928, dated July 6, 2006
5. 'Flashforward: Projecting Population and Employment to 2031 in a Mature Urban Area', June, 2002, City of Toronto
6. The Official Plan of the Municipality of Metropolitan Toronto, December 1994
7. Places to Grow, The Growth Plan for the Greater Golden Horseshoe, 2006, Ministry of Public Infrastructure Renewal
8. Provincial Policy Statements, 1997 & 2005, Province of Ontario
9. Staff Report from Commissioner, Urban Development Services, September 16, 2002 (Planning and Transportation Committee, Report 11, Clause 1)

CURRICULUM VITAE: S. PAUL BAIN

Education

Honours B.A., Urban Studies, York University, 1974

M.A., Urban Geography, University of British Columbia, 1977

Professional Affiliation

Registered Professional Planner, Ontario Professional Planners Institute, Canadian Institute of Planners

Relevant Work Experience

- A. MacPherson, Walker and Wright, Planning Consultants and Architects
October 1977 to October 1978
Position: Planner
Responsibilities:
- Conducted background research for major planning studies and Official Plans such as the Pickering Town Centre Plan and the Official Plan
 - Prepared background research and analysis of planning issues in support of Ontario Municipal Board appearances of senior staff related to site specific development applications
 - Conducted research in support of development feasibility analyses for firm's private sector clients.
- B. Town of Vaughan, Town of Vaughan Planning Department
October 1978 to June 1980
Position: Planner
Responsibilities:
- Responsible for all stand-alone rezoning applications that did not involve an Official Plan Amendment or a Subdivision Agreement. Circulated applications to other departments, visited sites, negotiated revisions to plans with applicants, reviewed the planning impacts and implications of each application, and wrote reports to Planning Committee with recommendations.
 - Appeared as an expert witness before the Ontario Municipal Board in defense of the position of the Town of Vaughan on zoning and Committee of Adjustment matters.
 - Negotiated and processed site plan agreements.

- Conducted several citywide zoning studies resulting in general amendments to the Town of Vaughan Zoning By-law.

C. City of Toronto, Planning and Development Department
June 1980 to August 1984

Position: Planner

Responsibilities:

- Researched, negotiated and co-authored the Annex Area Part II (Secondary Plan).
- Conducted a zoning study for Ossington Avenue to mediate conflicting land use issues.
- Reviewed, processed and made recommendations on applications for Official Plan and/or Zoning By-law amendments in the west-central portion of Toronto.
- Appeared as an expert witness at the Ontario Municipal Board in defense of the position of the City of Toronto on Official Plan and Zoning matters.
- Carried out research and public consultation on the Central Waterfront Part II (Secondary) Plan. Co-authored the Final Recommendations for the Central Waterfront Part II Plan, subsequently adopted by Council
- Worked as City of Toronto representative with the Metropolitan Corporation on a revitalization plan for the Canadian National Exhibition grounds. Worked with Metro staff and consultants evaluating the feasibility of a domed stadium in the City of Toronto.
- Undertook zoning study of the Toronto Islands. Drafted a detailed comprehensive zoning for the residential portion of the Toronto Islands, subsequently adopted by Council. Appeared at the Ontario Municipal Board as the City's planning witness in defense of retaining the Toronto Island residential communities and recognizing them in the City Zoning By-law.
- Reviewed and reported on the Environmental Assessment for the Dredging of the Keating Channel and the disposal of the dredgeate in open containment cells in the Outer Harbour Headland.

On Leave in Asia Between September 1984 and April 1985

D. City of Toronto, Planning and Development Department
May 1985 to June 1986

Position: Planner

Responsibilities:

- Researched, carried out public consultation and drafted a Part II (Secondary) Plan for the redevelopment of the 27-acre Massey-Ferguson lands brownfield in West-Central Toronto

- Reviewed, processed and made recommendations on applications for Official Plan and/or Zoning By-law amendments in the South-East Spadina area of downtown.
- Worked with arts community to develop co-operative housing for artists.

E. City of Toronto, Public Health Department
 June 1986 to September 1986
 Position: Research Consultant
 Responsibilities:

- Planner assigned to a team setting up a new Environmental Protection Office for the City of Toronto dealing with environmental aspects of land use Planning in Toronto.
- Creation of a process for the review and remediation of potentially contaminated development sites in the City of Toronto.

F. City of Toronto, Planning and Development Department
 October 1986 to August 1987
 Position: Planner
 Responsibilities:

- * Review, Process and make recommendations on applications to amend the Official Plan and Zoning By-law pertaining to condominiums and hotels in the Annex area of Toronto.
- Expert witness for the OMB hearing on the Annex Part II (Secondary) Plan.
- Worked with the Mayor's office, other civic departments and Shelter providers on amendments to the City zoning by-law to ease the creation of housing for persons with special needs.

G. Republic of Malawi, Office of the President and Cabinet, Town and Country Planning Department (Auspices of World University Services Canada)
 August 1987 to August 1989
 Position: Planner
 Responsibilities:

- Completion of the Zomba Master Zoning Scheme, which is similar to an Ontario Official Plan. Adopted by the Cabinet of the Republic of Malawi to guide the growth of the City of Zomba, the former capital city.

- Review all applications and plans for permanent buildings in the City of Zomba and the Town of Liwonde. Circulate the plans to all relevant departments and agencies and convene a meeting of such agencies to review and redline the plans. Report to the Council of the City of Zomba and the Town of Liwonde with recommendations as to whether a building should be approved and conditions of approval.
- Working with municipal Officials in the town of Liwonde to service, subdivide and lease land for the creation of a new Commercial Centre for the Town to supplement the existing market.
- Raised funds and oversaw the creation of new lots and community services in the unplanned Chinamwali area (squatter settlement). The purpose was a site and service scheme to rationalize the expansion of the area, lease lots and provide affordable ownership housing for families leasing rooms in the existing unplanned area. Raised funds and oversaw the survey of lots. Created an athletic playing field for children of Chinamwali. The housing was constructed after my departure from Malawi under the auspices of Habitat for Humanity International.
- Responsible for the assignment of government land for lease for building plots in the City of Zomba.
- Raised funds, hired architect and oversaw the early planning of a children's ward building at the Zomba regional hospital
- Filled in as Regional Planning Officer when the RPO was seconded to complete creation of a National Planning Act, and assisted in training of new planners.
- Worked on approval, funding and site plan for a World Bank Sponsored scheme for affordable ownership housing.

H. City of Toronto, Planning and Development Department

January 1990 to September 1991

Position: Senior Planner

Responsibilities:

- Part of Cityplan '91 team creating a new Official Plan for the City of Toronto

- Worked with Advisory Task Force, wrote final recommendations report for the Task Force.
- Contributed research and drafted portions of the Proposals Report for the new Official Plan dealing with Land Use Designations and Strategy, Heritage, Parks and Open Space. Edited and assisted with drafting of portions of Proposals Report dealing with Urban Design, Implementation, Regional Growth Strategy.
- Part of Supervision Team for several consultants doing background reports on various aspects of the new Plan.
- Organized and attended 40 public meetings on the Proposals report in the summer and fall of 1991. Summarized public input from public meetings and letters and position papers received from the public and stakeholder interests.
- Wrote and edited Plan summaries and other material for the public consultation on the Proposals Report.

September 1991 to August 1994

Position: Acting Manager

Responsibilities:

- Drafted or edited significant portions of the City of Toronto Official Plan adopted by City Council in 1993.
- Co-ordinated and led interdepartmental staff team drafting the comprehensive zoning by-law amendment 425-93 to implement the new Official Plan.
- Supervised consulting studies on aspects of new zoning by-law requirements.
- Background research on new by-law requirements such as mandatory bicycle parking and shower/change rooms.
- Part of team translating the City's Housing on Main Streets initiative into implementing zoning provisions.
- Responsible for City of Toronto response to proposed legislation, such as the Sewell Commission on Planning Act Reform
- Part of staff team reviewing and redrafting the City of Toronto Sign By-law
- For a period of a year supervised staff preparing reports on sign by-law applications and site plan applications.

September 1994 to April 1996

Position: Senior Planner

Responsibilities:

- Was lead staff member dealing with referrals of the new Official plan and appeals of the implementing zoning by-law (approximately 163 referrals/appeals)
- Co-ordinated staff negotiations of appeals and referrals to negotiate settlements
- Reported on recommended Settlements to Land Use Committee and Council and drafted the required Official Plan and/or zoning by-law amendments to implement the settlements
- Provided OMB with affidavits in support of the settlements and appeared before the OMB as an expert witness.
- Drafted and submitted draft OMB orders dealing with settlements to bring into force portions of the Plan and zoning no longer in dispute.
- Appeared as an expert witness on an appeal.

April 1996 to February 1999

City of Toronto Planning (both prior to and after amalgamation)

Position: Senior Planner

Responsibilities:

- Area Planner for portion of West-Central Toronto between Bay Street and Keele Street.
- Co-authored with Urban Design Colleagues an innovative design-based Secondary Plan for the University of Toronto Area and drafted the implementing zoning by-law.
- Organized and initiated a University of Toronto Area Reference group where the University and downtown residents could speak informally, exchange information and views and work together on matters of mutual interest.
- Worked on community development initiatives with residents and businessmen such as the improvement of Bloor Street between Bathurst and Spadina coinciding with the road reconstruction, and the improvement of public parks in the Junction Triangle.
- Reviewed, processed and made recommendations on applications for Official Plan amendments, Zoning By-law amendments and site plan reviews for numerous commercial, residential, institutional and mixed use developments.
- Appeared at the Ontario Municipal Board as an expert witness in support of the City position or under subpoena on developments.

March 1999 to Present

Position: Project Manager, Official Plan

Responsibilities:

- Part of Official Plan Team organizing the conference launching the consultation and research for the new Official Plan
- Organized, facilitated and staffed the Official Plan Heritage Policy Reference Group that drafted the draft heritage policies for the new Official Plan
- Organized, facilitated and staffed the Official Plan Cultural Policy Reference Group that drafted the cultural policies for the new Official Plan
- Researched and wrote report on Heritage Incentive Policies for the City of Toronto. Adopted by Council and key aspects already implemented (eg. Priority processing for development applications involving heritage conservation).
- Researched and made proposals on the type of land use regulatory system and structure of the new Official Plan
- Carried out research and drafted portions of the Directions Report, June 2000 that was a key consultation document for the new Official Plan
- Made presentations and participated in numerous public meetings and open houses regarding the proposed priorities and directions for the new Official Plan
- Reviewed and made notes on hundreds of e-mails and electronic forum messages making recommendations on the direction of the new Official Plan
- Drafted materials and pamphlets to be used as part of the public consultation in 2000-2001, including the draft land use regulatory system.
- Co-ordinated the efforts of Team Land Use, 12 planners who were reducing to 100-plus land use designations to 8 designations, and mapping the city block by block with new designations (October 2000 to February 2001). Participated in site visits and reviewed work in decision-making on the new land use designation maps.
- Worked to develop the concept of the 'Avenues' and the proposed nature of the Avenue studies on key arterial streets. Drafted terms of reference and supervised consultants and half of staff teams that produced the initial pilot 'Avenue Studies.
- Drafted and/or edited portions of the new Official Plan released as a draft in May 2002.
- Participated in review of all 1500 existing site specific exceptions in the existing municipal Official Plans, determining whether they needed to be

carried forward into the new Plan, and reviewed the drafting of the new site and area specific exceptions.

- Participated in review of the 150 Secondary Plans that were part of existing municipal Official Plans. Plans were reviewed clause by clause to compare them against the draft policies of the new Plan. Where Secondary Plans were more specific and had a framework for development they were carried forward. Supervised drafting of site specific exception clauses where policies were not covered in new draft Plan and the secondary plan was not being brought forward.
- Co-ordinated the public consultation in June to August 2002, following the release of the draft Official Plan in May, 2002. Participated in many of the ward by ward public meetings on the new Plan in September 2002.
- Drafted reports to Planning and Transportation Committee in September 2002 to recommend changes to the draft Official Plan coming out of the public consultations.
- Drafted report to Council in October 2002 to recommend changes to the draft Official Plan to reflect deputations at the statutory public meeting and the direction of Committee.
- Participated in Discussions with the Province prior to Ministerial approval of the new Official Plan in March 2003
- Negotiated with appellants to the new Official Plan and drafted settlement reports to Committee and Council.
- Participated in the preparation of materials for the pre-hearings on the new Official Plan.