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ONTARIO MUNICIPAL BOARD
COMMISSION DES AFFAIRES MUNICIPALES DE L'ONTARIO
WITNESS STATEMENT OF
PETER F. SMITH

Background

1. This witness statement has been prepared by:

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2. I am a consulting land use planner and partner with Bousfields Inc., with over 25 years' experience in a wide variety of planning matters. I have a degree in Environmental Studies (Urban & Regional Planning) from the University of Waterloo and am a member of the Canadian Institute of Planners and a Registered Professional Planner. A copy of my curriculum vitae is attached to this witness statement as Attachment "A".
3. My experience includes a considerable number of mixed-use intensification projects within the amalgamated City of Toronto, and in particular within the former City of Toronto. Specifically, my experience includes the 22-storey Tip Top II building at Lake Shore Boulevard and Stadium Road, a multi-building development at 33 Bay Street (now known as the Pinnacle) within the Central Waterfront, the 18 Yonge condominium (39 storeys) within the Railway Lands, and 40 The Esplanade (two condominium

buildings of 32 storeys and 15 storeys) in the St. Lawrence Neighbourhood. Within the vicinity of the subject lands, my experience includes the King Business Centre development (Sudbury Street) for Bramalea Limited in the early 1990s, and residential infill projects on Delaware Avenue (for Houselink Community Homes) and Hepbourne Avenue.

4. I was retained by Verdiroc Development Corporation with respect to this matter in December 2005. In connection with my retainer, I have attended at the site and area on many occasions. I have reviewed the policy and regulatory context and City staff reports, as well as the supporting technical reports and proposed building plans for the subject site and for the adjacent properties at 1171 Queen Street West and 150 Sudbury Street. I have attended numerous meetings with City staff to work through the details of the proposed development. As well, I attended at two of the Working Group meetings (on April 24, 2006 and May 23, 2006) and attended and spoke at Community Council on June 13, 2006.

Summary Opinion

5. It is my opinion that the proposed Official Plan Amendment and rezoning are desirable and appropriate and should be approved. The proposed development would result in residential intensification in a brownfield location that is well served in terms of commercial services, community facilities and transportation infrastructure. Intensification in this area, and on the subject site, is supported by the applicable policy framework at the Provincial and City (including former Metropolitan Toronto) levels.
6. The proposal includes a mix of affordable rental housing and condominium units and would include workshop and artists' live/work studio space. The provision of a range of housing types and tenures as proposed would assist in meeting the City's housing targets and the specific policies in the new Toronto Official Plan and the Secondary Plan. The mix of uses, together with the proposed art gallery/cafe, would provide activity and vitality along the proposed pedestrian mews, as well as providing appropriate and affordable space for the tenants of the existing building on the site.

The provision of affordable rental housing is also an important public benefit in terms of meeting the critical need for affordable housing across the City.

7. The height, built form and density of the proposed development is compatible with the existing and future surrounding land use context and would not have any unacceptable impacts on surrounding uses or area services.
8. The proposal allows for the future extension of both Sudbury Street and Abell Street, in accordance with recent City Council resolutions. However, neither public street extension is required from a traffic capacity perspective and there is no explicit requirement for either extension in the applicable Official Plans.

Site Description

9. The subject property is located south of Queen Street West, on the west side of the Abell Street stub, and is known municipally as 48 Abell Street. The property is in the shape of an inverted "U", with the north property boundary located parallel to, and approximately 37 metres south of, Queen Street. The southerly limit of the property extends to within approximately 25-30 metres of the rail corridor. The property abuts the Bohemian Embassy Residences Inc. (Bohemian) property at 1171 Queen Street West to the west and the Landmark Developments Inc. (Landmark) property at 150 Sudbury Street to the south and east. It shares a right-of-way along the common property lines with Landmark. The area of the property is approximately 0.76 hectares (1.87 acres).
10. The subject property is currently occupied by a 3-1/2 storey industrial/warehouse building, the majority of which has been converted to residential units and live/work studios for artists. The existing uses within the building also include a lighting manufacturer (Aristocrat Lamps and Lighting), a steel workshop (Imar Steel Ltd.), a photographer (Tom Sandler Photography) and offices (The Clothing Show). Of the remaining 76 units, 21 are used as live/work studios and 55 are used as residential units only. A private lane is located along the north limit of the property.

11. Between the subject property and the rail corridor is a separate property owned by a related company (1199 Queen Street West), which extends northwesterly as far as Queen Street. The property varies in width from 21-23 metres and is bounded by the Landmark property at 150 Sudbury Street to the east and by the Bohemian property at 1171 Queen Street West and the 48 Abell Street property to the north. The area of the 1199 Queen West property is approximately 0.48 hectares (1.20 acres).
12. The 1199 Queen West property is currently occupied by a small 2-storey concrete block and metal building located immediately adjacent to the rail corridor, approximately midway within the property. This building has been in existence for many years and has been occupied by a variety of retail/wholesale uses over that time.

Surroundings

13. The subject site forms part of a larger area of former industrial development associated with the rail corridor, located generally west of Dovercourt Road and bounded by Queen Street West to the north, Dufferin Street to the west and King Street West to the south. Because of the historic industrial uses and the presence of the rail corridor which traverses the area on a diagonal, the fabric of this area is significantly different than the fine-grained grid of the low density residential neighbourhoods to the north, east and west. The area is characterized by large land parcels and a general lack of internal streets. There are vacant and derelict buildings within the area, as well as vacant and underutilized lands.
14. The portion of the area located north of the rail corridor is referred to by the City as the West Queen West Triangle. The Triangle includes the proposed redevelopments at 1171 Queen Street West and 150 Sudbury Street, which are also the subject of appeals to the Board. These are described in detail in paragraphs 26 and 27 below. There are other applications and pending applications within the Triangle i.e. Medallion and Woolfitt, which are not the subject of appeals to the Board. The Triangle also includes an existing 9-storey, 121-unit apartment building at 45 Lisgar Street which was built in approximately 2000.

15. On the south side of the rail corridor is a residential redevelopment at 1100 King Street West, which was approved by the City and the Ontario Municipal Board in 2004. The redevelopment includes a total of 885 residential units, consisting of 385 townhouse units and three apartment buildings ranging in height from 9 storeys along King Street West up to 19 storeys adjacent to the rail corridor. The townhouses have now been built and occupied and the 19-storey condominium apartment building is currently being marketed. The development of the 9-storey apartment buildings is subject to a holding provision related to soil clean-up. The block also includes two 8-storey apartment buildings along the Dufferin Street frontage which were developed in the 1980s.
16. Further to the southeast along the rail corridor are additional large redevelopment projects, including the King Business Centre (former Massey Ferguson lands) and King Liberty Village (former Inglis lands). Similar to the subject area, these areas were formerly industrial areas oriented to the rail corridor. The approved plans for the King Liberty Village include a number of high-rise apartment towers, ranging in height up to 24 storeys. The 23-storey Battery Park condominium building, adjacent to the rail corridor, has recently been completed and occupied.
17. To the east of Dovercourt Road, outside of these former industrial lands, is an additional large redevelopment site, the former Centre for Addiction and Mental Health (CAMH) at 1001 Queen Street West. It is bounded by low density residential neighbourhoods on all four sides, including recently developed townhouses along Sudbury Street to the south. The City has approved redevelopment of the CAMH site for a mix of commercial, residential and institutional units. The implementing zoning by-law (By-law 895-2003) allows a number of buildings, ranging in height up to 41.0 metres.
18. Based on the foregoing description, it is apparent that the urban structure that is evolving within this portion of the City has concentrated the greatest building heights along the rail corridor, with generally lower mid-rise buildings oriented to the surrounding main streets.

Project Description

19. The proposal is for two-phase redevelopment of the site. The first phase will be a 199-unit affordable rental apartment building located at the southwest corner of the site. The building will be oriented north-south, and will step down in height from 19 storeys at the south end to 9 storeys at the north end. It will contain workshop space on the ground floor as well as artist live/work studios on some of the middle and upper floors of the building. As well, it will contain 24 3-bedroom units suitable for households with children. The west wing of the existing building will be demolished to make way for the affordable rental building (Phase 1). The north and east wings of the existing building will be retained as part of Phase 1 and would only be demolished at the time of development of the condominium building as part of Phase 2.
20. Existing tenants at 48 Abell will be given the opportunity to move into the affordable building. The proponents have been working with the existing tenants since February 2006 to identify live/work space needs within the affordable rental building. To date, through this process, a need has been identified for about 30 units of live/work studio space within the building. This process is ongoing and will be finalized in August 2006.
21. The Phase 1 building is proposed to be funded through a Wave 2 allocation under the Canada-Ontario Affordable Housing Program, and would be developed in association with St. Clare's Multifaith Housing as the project sponsor. Because funding will be determined through a competitive Request for Proposals process in late 2006, it is acknowledged that it is possible that funding may not be awarded to this project. While there are a number of reasons to expect that the project will be successful in the RFP process, including Verdiroc's and St. Clare's experience in developing previous projects, options are being considered about the form that the development could take in the event that the funding was not secured.
22. The second phase would involve the development of a 350-unit condominium building on the north and east portions of the site. The tower portion will be oriented north-south along Abell Street and will step down in height from 17 storeys at the south end to 12 storeys at the north end. The east-west portion of the building will step down from 12

storeys at the east end to 9 storeys and then to 6 storeys at the west end. Rooftop amenity spaces will be provided on the terraces at the 9th and 12th storey levels. Stepbacks are provided along the north and east facades at the 6th floor level, associated with a change in materials from brick and glass on the lower 6 storey to glass, steel and masonry above. A pedestrian mews will be created along the north edge of the site which is intended to be fronted by workshops and a 2-storey art gallery/cafe space which will anchor the northwest corner of the building.

23. The design of the proposal also provides for publicly-accessible private open space along the south face of the building which is proposed to be designed and improved in conjunction with the proposed private open space within the Landmark property to the south. The publicly-accessible open space would be accessed through covered passageways from the mews to the north and from the proposed north-south pedestrian route within the 1171 Queen redevelopment to the west.
24. Vehicular access to the condominium building is to be provided by way of a southerly extension of Abell Street, over property currently owned by 48 Abell. Vehicular access to the affordable rental building is proposed to be provided by way of an extension of Sudbury Street westerly from its existing terminus. Initially, it was proposed that the extension occur as a private driveway across the 150 Sudbury Street property and a portion of the 1199 Queen Street property. In order to provide for the extension of the private driveway to service the 1171 Queen redevelopment as well, approximately 0.17 hectares (0.41 acres) of the 1199 Queen Street West property was incorporated into the Official Plan Amendment and rezoning applications for the subject site. Subsequently, as part of the evaluation process, the City has proposed to acquire some or all of the 1199 Queen Street West property, so as to facilitate the extension of Sudbury Street to Queen Street as a public road.
25. The proposed density for the subject proposal works out to 4.62 FSI on the lands that were included as part of the Official Plan Amendment and rezoning applications. If density were calculated with the inclusion of the entire 1199 Queen Street parcel, it would work out to 3.44 FSI. Of this total, the condominium building represents 2.11

FSI, the affordable rental building represents 1.29 FSI and the art gallery/cafe represents 0.04 FSI.

Description of the 1171 Queen West and 150 Sudbury Proposals

26. Bohemian's proposal for the redevelopment of 1171 Queen Street West comprises a 9-storey street-related mixed-use building fronting on Queen Street West and a 19-storey condominium tower located on the southerly portion of the site. The proposed development includes 956 square metres of retail area within the Queen Street building and a total of 342 residential units, of which 14 are grade-related townhouse type units fronting on the proposed Sudbury Street Extension and the north-south linear landscaped open space, which provide the opportunity for live/work occupancy. The resulting density is 4.81 FSI.

27. Landmark's proposal for the redevelopment of 150 Sudbury Street comprises two residential buildings, a 19-storey building, stepping to 11 storeys and 8 storeys, aligned along the extension of Abell Street, and a curved 13-storey building, stepping to 8 storeys, located to the west of, and generally parallel to, the Abell Street building. A total of 533 residential units are proposed. The proposed development provides for the extension of Sudbury Street across the southerly portion of the site and the westerly portion of the lands required for the Abell Street extension (the easterly portion will be acquired at the time of redevelopment of the property to the east). The proposed density is 3.78 FSI, inclusive of the lands to be dedicated for the road extensions.

Policy and Regulatory Framework

28. The 1996 Provincial Policy Statement is applicable to the subject application as it was initiated prior to March 1, 2005. The 1996 PPS encourages efficient, cost-effective development patterns and specifically promotes increased densities and housing intensification in areas well-served by municipal infrastructure, including transit (Policies 1.1.2(b), 1.1.2(e) and 1.2.1(d)).

29. The Metropolitan Toronto Official Plan (see paragraphs 30 to 32 below) and the Official Plan for the former City of Toronto (see paragraphs 33 to 44 below) are the applicable

policy documents. The new Official Plan for the amalgamated City of Toronto (see paragraphs 45 to 57 below) was adopted in November 2002 and was approved in part in July 2006 by the Ontario Municipal Board. However, the approval provides that the new Official Plan is not approved insofar as it applies to the subject site, 1171 Queen Street West and 150 Sudbury Street and that the existing Official Plans will remain in force until the appeals are disposed of under those Plans. Therefore, the new Toronto Official Plan is not part of the applicable policy framework.

Metro Official Plan

30. One of the key elements of the Metropolitan Toronto Official Plan is the overall reurbanization strategy set out in Section 2.1. Among other matters, the reurbanization strategy is based on using land, infrastructure and other services efficiently, concentrating employment and population in areas well-served by transit, promoting living close to work and promoting walking, cycling and the use of transit. To that end, the Plan establishes housing targets, specifically 200,000-245,000 additional housing units from 1991-2011, of which 60,000-70,000 are to be located in the former City of Toronto.
31. The Housing objective of the Metro Official Plan is to ensure the availability of an adequate supply and mix of housing across Metro to meet the full range of housing needs and to attract and accommodate population growth (Section 3.2). Following therefrom, Policy 122 encourages local Official Plan policies and private sector and non-profit sector production aimed at increasing the supply of housing to achieve the Plan's housing targets. The increase in housing supply is to be achieved in a manner consistent with the efficient utilization of lands and the optimizing of infrastructure investment through measures such as redevelopment of obsolete industrial lands and residential development within "Local Corridor Reurbanization Areas". A "Local Corridor Reurbanization Area" is defined as a stretch of road, well served by surface transit, that has the potential to accommodate redevelopment and intensification.
32. Policy 125 provides general encouragement for investment in new private rental housing. Specifically, Policy 127 encourages initiatives to reduce housing costs

through the co-operative efforts of all levels of government and the private and non-profit sectors, through means such as flexibility in regulatory and zoning standards and innovative financing mechanisms for providing affordable rental and ownership housing.

City of Toronto Part I Official Plan

33. The Part I Official Plan for the former City of Toronto sets out a number of principles in Section 1 that are relevant to residential intensification, including the following:
- to promote more intensive development of the existing urban area, particularly through residential intensification, subject to neighbourhood compatibility considerations (Section 1.2)
 - to support residential intensification throughout the City, primarily through residential development in underutilized areas of the City and along Main Streets and, in so doing, to promote affordable housing for those of low to moderate income (Section 1.8(b))
 - to achieve an overall population of at least 725,000 by 2011 through balanced growth and residential intensification (Section 1.9).
34. With respect to housing intensification, Section 6.2 establishes an objective of providing the opportunity for 45,000 new dwelling units to be built in the City between 1991 and 2001, including at least 22,500 new affordable housing units. In order to accommodate future housing demand in the City, residential intensification is promoted through new construction, conversion, infill and redevelopment (Section 6.14).
35. In order to achieve the objective that at least 50% of the new housing built in the City be provided as affordable housing and low-end-of-market housing units, Section 6.12 states that the City will provide opportunities for the development of affordable housing. In the context of the approval of a rezoning involving an increase in density for major new residential development (defined as over one hectare in size and which can reasonably accommodate two or more residential buildings), the City will seek to ensure that a minimum of 25% of the residential units to be constructed as a result of the increase in density be affordable housing. (In this regard, "affordable housing" is

defined as housing that would be affordable to lowest 60th percentile of tenant households based on housing costs not to exceed 25% of income.)

36. The Transportation policies of the Plan encourage the integration of transportation and development by providing for development to be focused at locations served by a full range of transportation services, predominantly public transit (Section 8.2).
37. With respect to Built Form policies, Section 3.13 encourages a high quality of urban design for new buildings, which are to harmonize with neighbouring development by ensuring appropriate siting and massing. Section 3.14 provides that the siting and massing of a new building should ensure an appropriate degree of continuity and enclosure to the street spaces it frames and that the building's massing should respect the existing street proportions and provide transition between areas of differing development intensity. Adequate sunlight access and sky views as well as comfortable wind conditions and public safety should be maintained or improved in the streets and public open spaces surrounding buildings. It is noted that Queen Street in the vicinity of the subject site is not subject to any of the specific sunlight standards set out in Section 3.27.
38. The subject site is designated *Mixed Industrial-Residential Areas* in the Part I Official Plan. The designation permits industrial uses up to a maximum density of 3.0 times, residential uses at up to 2.0 times density and mixed-use buildings with a maximum density of 3.0 times. The lands to the north of the subject site, along Queen Street West, are designated *Low Density Mixed Commercial-Residential Area (LDMCRA)*. The LDMCRA designation permits a mix of commercial, residential and institutional uses in a low-rise form, generally within the range of 3-5 storeys. The maximum permitted density is 3.0 times the area of the lot. The Queen Street frontage is also identified as a *Main Street*. Housing intensification along *Main Streets* is specifically encouraged (Section 13.5).

Garrison Common North Part II Plan

39. The existing Garrison Common North Part II Plan designates the subject site as *Mixed Industrial-Residential Area 'B'*. The permitted density is up to 3.0 times for industrial uses, up to 2.0 times for residential uses, including live/work units, and up to 3.0 times for mixed-use buildings containing industrial and residential uses. The Queen Street frontage is designated *Low Density Mixed Commercial-Residential Areas* in the Part II Plan.
40. Section 2.1 sets out six general principles for the Garrison Common North area i.e.:
- to integrate the area into the rest of the City by developing lands so that they relate to the established city fabric in terms of streets and blocks, uses and density patterns
 - to complete the north-south public open space system, providing both visual and physical connections to Fort York and the waterfront
 - to introduce a variety of land uses and densities and provide a range of housing types in terms of built form, affordability and tenure
 - to provide adequate community services and facilities
 - to develop the area in a manner sensitive to industrial operations and areas
 - to provide a high level of environmental quality.
41. The Part II Plan's urban design policies (Section 2.2) include the following:
- locating buildings so that they define and form edges of streets, parks and open spaces and that building heights and scale are compatible with adjacent buildings and streets
 - designing new buildings to easily adapt to conversion (in order to promote future flexibility in use)
 - orienting buildings to face into parks and open space to animate the edges and increase surveillance
 - designing buildings adjacent to parks and open space to minimize wind and shadowing impacts

- including a range of building types and styles for residential development (or mixed-use development with residential components), including grade related units suitable for families with children
- sharing open space, parking facilities and servicing areas among development parcels within the same block, where possible
- maximizing good pedestrian views and taking advantage of significant axial viewing lines
- enhancing ground level conditions through the provision of weather-protected pedestrian ways along the building edge of major pedestrian routes and the location of vehicular service entrances to minimize pedestrian and vehicular conflicts.

The section also states that Urban Design Guidelines will be prepared to "provide a context for co-ordinated incremental development".

42. Section 2.3 of the Part II Plan provides that redevelopment of large sites of one hectare or more are to be well integrated with surrounding neighbourhoods through the provision of good pedestrian, vehicular and visual connections. In this regard, the City is to ensure that:

- block size and orientation are similar to those of the surrounding neighbourhoods
- new streets are extensions of the existing street grid
- north-south views are preserved in the form of streets, view corridors, pedestrian connections and open spaces
- consideration is given to using the required rail setback for open space or roadway purposes, or both
- the development of the street network will have particular regard to the separation of industrial and residential traffic
- access for servicing and parking is from rear lanes, rather than streets
- a high standard of residential amenity is provided on local streets
- existing streetscapes and pedestrian walkways are improved.

43. Section 3.13 sets out criteria to be considered in rezonings to permit land use changes within the *Mixed Industrial-Residential Area* designation, including:
- the advisability of retaining existing industrial buildings or uses, in terms of the retention of industrial jobs and the retention of industrial buildings in good structural condition or which may have architectural or historical merit
 - the advisability of retaining existing residential buildings or uses
 - the extent to which a change in use would adversely affect the continued compatibility of neighbouring uses, particularly in those areas where identifiable pockets of a consistent use exist (whether industrial or residential)
 - the provisions of Provincial legislation either governing the issuance of Certificates of Approval for industrial uses or, in any other manner, regulating the standards of industrial performance.
44. It is noted that, although the base mapping for Map A shows the extension of Sudbury Street along the north side of the rail corridor as well as the southerly extensions of Northcote Avenue and Abell Street, there are no specific policies or provisions related to these potential road extensions.

New City of Toronto Official Plan

45. The new City of Toronto Official Plan, as approved in part by the Ontario Municipal Board on July 6, 2006, identifies the Queen Street frontage in the vicinity of the subject site as an *Avenue* on Map 2 (Urban Structure). The lands south of the Queen Street frontage had been identified as an *Employment District* in the Plan as adopted by Council on November 26, 2002, however, this identification was deleted by Ministerial modification at the time the notice of approval was issued on March 17, 2003.
46. The Plan provides that future growth will be steered to areas which are well served by transit and the existing road network and which have a number of properties with redevelopment potential. Areas that can accommodate this growth include the mixed-use *Avenues*, which will emphasize residential growth (Section 2.2).

47. On the Land Use Plan (Map 18), the subject site is designated *Regeneration Areas*, as are the lands to the east and west (including 1171 Queen Street West and 150 Sudbury Street) and the lands on the south side of the rail corridor. The Plan states that the *Regeneration Areas* designation is one of four land use designations that distribute most of the increased jobs and population anticipated by the Plan's growth strategy. It is applied to areas with significant vacant lands and/or buildings in need of revitalization as a means of fostering growth and physical change. The applicable policies are intended to attract investment, fill the buildings and bring new life to the streets. From an inspection of the Land Use Plan maps, it is apparent that the *Regeneration Areas* designation applies generally to former industrial lands e.g. the lands located east and west of the Financial District in the King-Spadina and King-Parliament areas (colloquially referred to as "the Kings"), the East Bayfront, the Port Lands, etc.
48. The *Regeneration Areas* designation would permit a broad mix of uses in an urban form, including commercial, residential, light industrial, institutional and live/work uses, as well as parks and open space and utility uses (Section 4.7). The intent of the designation is to:
- revitalize areas of the City that are largely vacant or underused
 - create new jobs and homes that use existing infrastructure
 - restore, re-use and retain existing buildings that are economically adaptable for re-use
 - achieve streetscape improvements and the extension of the open space network, and
 - promote the environmental clean-up and re-use of contaminated lands.

While the applicable policies for the *Regeneration Areas* designation require the preparation of a Secondary Plan to set out a framework for new development, it is noted that a Secondary Plan is already in place for the subject lands, as described in paragraphs 52 to 57 below.

49. The new Official Plan contains a sub-section on Tall Buildings (Section 3.1.3) in the Built Environment section (Section 3.1), which seeks to ensure that tall buildings fit within their existing and/or planned context and limit local impacts. The subsection recognizes that tall buildings are desirable in the right places and that, when appropriately located and designed, can support and draw attention to the city structure.

50. The provisions of the new Official Plan with respect to Housing are found at Section 3.2.1. (It is noted that these policies are not yet approved.) Policy 1 of Section 3.2.1 provides that “a full range of housing, in terms of form, tenure and affordability across the City and within neighbourhoods, will be provided and maintained to meet the current and future needs of residents”. Policy 2 provides that the existing housing stock will be maintained and replenished and that new housing supply will be encouraged through intensification and infill that is consistent with the Plan. In conjunction with the foregoing, the Plan establishes a target of 537,000 additional residents by the year 2031.

51. With respect to affordable rental housing, Policy 3 of Section 3.2.1 provides that investment in new rental housing, particularly affordable rental housing, will be encouraged by a co-ordinated effort from all levels of government, using a range of strategies including effective taxation, regulatory, administrative policies and incentives. Further, Policy 4 provides that assistance will be provided where appropriate to encourage the production of affordable housing by the City and/or senior governments, including, in the case of affordable rental housing, measures such as loans and grants, land at or below market rates, fees and property tax exemptions, rent supplement and other appropriate assistance.

Garrison Common North Secondary Plan

52. The Garrison Common North Secondary Plan replaces the previous Garrison Common North Part II Plan. While it carries through certain of the policies of the Part II Plan, it is generally much shorter and has fewer policies.

53. For the purposes of the Secondary Plan, the subject site is located within Area 2, which applies to the lands south of the Queen Street West frontage and also includes the lands south of the rail corridor extending to King Street West. The Plan provides that a mix of residential and environmentally compatible employment uses is permitted within Area 2. Unlike the current Part II Plan, no maximum densities are specified. Section 10.2 states that, prior to the approval of "significant development" in Area 2, an "area study" will be completed which will include matters such as urban design guidelines, a parks and open space plan, a community improvement strategy, a community services strategy, environmental policies (site clean-up and separation/buffering from rail corridors) and transportation policies (to encourage transit, walking and cycling).
54. The major objectives for new development within the Secondary Plan area include:
- integration into the established city fabric in terms of streets and blocks, uses and density patterns
 - completion of the north-south public open space system, providing both visual and physical connections to Fort York and the waterfront
 - inclusion of a variety of land uses and densities, including community services and facilities, so that development can respond to changing market demands over time
 - provision of a range of housing types in terms of size, type, affordability and tenure (to encourage households of all sizes to locate in the area)
 - sensitivity to and protection of industrial, communications and media operations (solidifying the area as a leading location for new industry technologies).
55. The urban design policies of the Secondary Plan (Section 3.1) require that:
- new buildings will be designed to easily adapt to conversion, with particular focus on street level spaces, to facilitate changes in market demand and promote future flexibility in use
 - new developments will provide for a range of dwelling types, with an emphasis on grade related units suitable for households with children
 - development parcels within the same block will share open space, parking facilities and servicing areas, where possible.

56. The transportation policies of the Plan provide that, where land is adjacent to a lane, vehicular access should be taken from the lane and the existing lane system should be enhanced. Although the Plan's base mapping shows the extension of Sudbury Street along the north side of the rail corridor as well as the southerly extensions of Northcote Avenue and Abell Street, there are no specific policies or provisions related to these potential road extensions.
57. Other relevant policies include:
- Policy 4.2 states that, in assessing applications to re-use industrial lands for non-industrial uses, uses that provide employment opportunities will be encouraged.
 - Policy 8.1 provides that proponents of development adjacent to a rail corridor will be required to complete an air quality assessment and a noise and vibration impact study.

Zoning

58. The subject site is currently zoned primarily I1 D3, which permits a limited range of light industrial uses, community services and retail and service shops, at a maximum density of 3.0 times the area of the lot. The maximum height permitted is 18.0 metres. While lands to the east and west are also zoned I1 D3, with a maximum height of 18.0 metres, the Landmark property is subject to a site-specific by-law (832-2000) allowing up to 120 townhouse units as an exception to the I1 D3 zoning. In addition, within the *Mixed Industrial-Residential Area 'B'* designation, the northerly portion of the property at 45 Lisgar Street was rezoned in 2000 to R4 Z4.0, with specific provisions to permit a height of 24.6 metres and a density of approximately 4.3 FSI.
59. Lands along the frontage of Queen Street West to a depth of 45.7 metres, including the northerly approximately 9 metres of the subject site, are zoned MCR T3.0 C1.0 R2.5, with a maximum height of 16.0 metres. The MCR zoning also imposes an additional height restriction which requires that the portion of the building above 13 metres in height be subject to a 45 degree angular plane.

60. Among other uses, the current I1 D3 zoning permits a range of workshops and studios, including artist live/work studios, artist's or photographer's studios, designer's studios, performing arts studios and custom workshops. An "artist live/work studio" is defined as a suite consisting of a combination of a studio area used for the production of art and a living area containing not more than one habitable room, subject to an additional requirement that it be provided as part of a social housing project.

Planning Opinion

61. The subject site is well suited for intensification, as are the adjoining areas within the block bounded by Queen, Dufferin, King and Dovercourt. The site is well-served by public transit, in particular the Dufferin 29 bus and the Queen 501 streetcar, which runs on 5-6 headways. By streetcar, the site is only 12-15 minutes from the Financial District and the Osgoode subway station. The site is also well-served by commercial, entertainment and institutional uses along the Queen Street frontage. The designation of the area in the new Official Plan as a *Regeneration Area* recognizes the desirability of revitalizing and redeveloping this underutilized area to create new housing and jobs. The applicable *Mixed Industrial-Residential Area* designation in the Part I and Part II Official Plans also recognizes the potential for residential redevelopment and intensification within the area.
62. Because of the size of the redevelopment area and its separation from low density residential neighbourhoods, there is an opportunity to develop higher-rise buildings which are able to effectively achieve the goals of intensification, while having minimal or no adverse built form impacts on the surrounding shopping streets or residential neighbourhoods. While typically the pattern of intensification within the City locates the tallest building elements along the arterial road frontages in order to achieve a satisfactory built form relationship with lower-rise development within the interior of the block, the size of the redevelopment area and the presence of the diagonal rail corridor in this instance allow the deployment of height with the higher-rise building elements located within the interior of the block and the lower mid-rise elements along the Queen Street edge. This pattern of heights is reflected in the approvals for development within the larger area, including the 1100 King Street West development

to the south and the King Liberty Village and King Business Centre developments to the southeast.

63. Within this overall built-form context, the proposed 17-storey and 19-storey tower elements proposed on the subject site are appropriate and desirable. In fact, greater heights would be possible without any unacceptable impacts. Due to the substantial setback of the buildings from the Queen Street frontage, the shadow analysis demonstrates that there would be no shadow impacts on the low-rise residential neighbourhoods to the north or on the sidewalk on the north side of Queen Street and the material times of year (i.e. between the spring and fall equinoxes). From the perspective of visual impact and sky view, both proposed buildings would be well below a notional 45 degree angular plane constructed from the north side of Queen Street. The proposed 17-storey condominium building would have acceptable shadow impacts on the potential park site on the east side of Abell Street; any shadowing would be limited to the late afternoon. There is no reason to anticipate any adverse wind impacts on either Queen Street or the potential park site.
64. City staff's proposal to limit heights within the area to a maximum of 14 storeys represents an arbitrary reduction with no apparent planning or urban design basis. It appears to be based primarily on a "benchmark" established by the previous CAMH approvals. Quite apart from the inappropriateness of transporting benchmarks to different sets of circumstances without undertaking the necessary site-specific analysis, it is quite apparent that height on the CAMH site is constrained in a manner that it is not on the subject site or within its larger area. While large, the CAMH site is surrounded on all four sides by low-rise residential neighbourhoods; therefore, the approved heights and built form on that site had to be sensitive to establishing an appropriate transition to those areas. It is not a comparable physical context to the subject site. If "benchmarking" has any validity as an approach, it would make considerably more sense to benchmark the heights within the subject area to the 19-storey height approved by the City within this same *Regeneration Area* on the south side of the rail corridor.

65. The proposed mix of uses within the subject development will ensure that existing employment in the arts and cultural industries will be retained. One of the main intents in developing the affordable rental building is to continue to provide suitable affordable spaces for the tenants who currently live and work in the existing 48 Abell Street building. The condominium building will also contain affordable workshops along the pedestrian mews, anchored by the art gallery/cafe. The composition of the proposal in terms of its design, its tenure and its internal spaces is intended to reflect and nurture the unique artistic character of the West Queen West area.
66. The affordable housing building is also of critical importance. There is a recognized need for the provision of new affordable rental housing across the City, which is clearly articulated in the new Toronto Official Plan.
67. In my testimony, I will address Issues 1-21, 24, 28, 29, 34 and 35 on the Issues List. Paragraphs 68 to 93 below address each of the relevant issues in turn.
68. ***Issue 1: Are the proposed amendments consistent with the purposes of the Planning Act as set forth in Section 1.1 of the Act?***

Yes. There are 6 purposes listed in Section 1.1. In particular, the proposed amendments are consistent with (c) the integration of matters of provincial interest and (b) provincial policy (see Issues 2 and 3 below), and (a) would promote sustainable economic development. As well, the extensive public process that has occurred to date has addressed (d) the provision of fair and open and open planning processes and (e) the encouragement of co-operation and co-ordination among various interests. Finally, the proposed amendments (f) recognize both the decision-making authority and the accountability of municipal councils in the planning process. The applications were filed in 1999 and no decision was made within the timeframes established by the Planning Act. The Act explicitly provides for appeals to be made to the Ontario Municipal Board when the municipality has not acted expeditiously in responding to development applications.

69. ***Issue 2: Do the proposed amendments have appropriate regard to the matters of provincial interest set forth in Section 2 of the Planning Act and in particular, subsections (d), (f), (h), (i), (j), (k), (l), (m), (n), (o) and (p)?***

Yes. With respect to each of the listed subsections, my opinion is as follows:

- (d) There are no features of significant architectural, cultural, historical, archaeological or scientific interest on the site. The City has determined that it would not be appropriate to designate or list the existing building under the Ontario Heritage Act (see also Issue 34).
- (f) The intensification and redevelopment of the subject site would promote the efficient use of communication, transportation, sewage and water services and waste management systems.
- (h) The intensification and redevelopment of the subject site would promote the orderly development of safe and healthy communities.
- (i) Adequate educational, health, social, cultural and recreational facilities are in place to support the proposed residential intensification project.
- (j) The proposed development, with a mix of affordable rental housing and condominium housing and the inclusion of live/work studios, would promote the provision of a full range of housing.
- (k) The inclusion of live/work studios, workshops and the art gallery/cafe in the proposed development is consistent with the adequate provision of employment opportunities.
- (l) No issue has been raised with respect to any impact on the financial and economic well-being of the Province or the City.

- (m) The co-ordination of planning activities of public bodies is not relevant as the City of Toronto is responsible for virtually all aspects of the proposal.
- (n) The proposed development is in the broader public interest, particularly having regard for the provision of residential intensification, generally, and affordable rental housing, specifically. There are no planning conflicts with private interests or other elements of the public interest.
- (o) No issue has been raised regarding public health and safety.
- (p) The intensification and redevelopment of the subject site would result in growth and development being directed to an appropriate location (i.e. within the built-up urban area on a site identified for regeneration).

70. ***Issue 3: Do the proposed amendments have appropriate regard to matters of provincial interest set forth in the Provincial Policy Statement (1997) pursuant to Section 3 of the Planning Act?***

Yes. Given that the subject applications were filed before March 1, 2005, the Provincial Policy Statement (1996, amended 1997) applies and the relevant test is that the amendments "have regard to" the policy statement.

In my opinion, the proposed amendments have appropriate regard for the policies of the PPS which encourage efficient, cost-effective development patterns and promote increased densities and housing intensification in areas well-served by municipal infrastructure, including transit, as set out in paragraph 28 of this Witness Statement.

71. ***Issue 4: Do the proposed amendments comply with or maintain the intent of the in-force Official Plan of the (former) Metropolitan Toronto?***

Yes. As set out in paragraphs 30 to 32 of this Witness Statement, it is my opinion that the proposed amendments comply with the intent of the Metro Official Plan, given that

they provide for an increase in the supply of housing to achieve the Plan's housing targets, in a manner consistent with the efficient utilization of lands and the optimizing of infrastructure investment.

72. ***Issue 5: Do the proposed amendments comply with or maintain the intent of the in-force policies of the Official Plan and the Garrison Common North Part II Plan of the (former) City of Toronto?***

Yes. As set out in paragraphs 33 to 38 of this Witness Statement, it is my opinion that the proposed amendments comply with the intent of the City of Toronto Part I Official Plan, given that they are consistent with the policy directions of supporting residential intensification, particularly in areas that are well-served by transit, and promoting affordable housing. The amendments also maintain the intent of the *Mixed Industrial-Residential* designation in the Part I and Part II Official Plans in that they provide for an intensified form of residential redevelopment. While the proposed residential density is greater than permitted by the applicable policies in the Part I and Part II Official Plans, the increase in density is appropriate and desirable in terms of furthering the Plan's overall intent. As noted in the response to Issue 6 below, neither the new Toronto Official Plan nor the new Garrison Common North Secondary Plan specify a maximum residential density. Therefore, once they are in force, an Official Plan Amendment would no longer be required for the subject development to proceed.

73. ***Issue 6: Do the proposed amendments comply with or maintain the intent of the policies of the new City of Toronto Official Plan, the new Garrison Common North Secondary Plan and the Places to Grow Act?***

Yes. As set out in paragraphs 45 to 57 of this Witness Statement, it is my opinion that the proposed amendments comply with the intent of the new City of Toronto Official Plan, given that they are consistent with the policy direction steering growth to locations well-served by public transit, such as the *Avenues* and *Regeneration Areas*. The proposed development is permitted by the applicable designations and policies in the new Official Plan and Secondary Plan; no Official Plan Amendment would be required.

Although the evaluation of the applications is not bound by the policies of the new Official Plan, given that they were filed prior to the adoption and approval of the new Official Plan, it is my opinion that the analysis undertaken through the course of the review of the subject application, the Bohemian application and the Landmark application maintains the intent of the Secondary Plan policy requiring an area study prior to the approval of significant development.

The Places to Grow Act received Royal Assent on June 13, 2005. Pursuant to the Places to Grow Act, a Growth Plan for the Greater Golden Horseshoe was released on June 16, 2006. The applicable regulation under the Act (O. Reg. 311/06, as amended) provides that the subject applications will be continued and disposed of as if the Plan had not come into effect. Although the Growth Plan is therefore not applicable, it is my opinion that the proposed amendments would maintain the intent of the Act and the Growth Plan inasmuch as they contribute to "increasing intensification of the existing built-up area, with a focus on urban growth centres, intensification corridors, major transit station areas, brownfield sites and greyfields". The proposal is prime example of the type of brownfields development that is encouraged by the Growth Plan.

74. *Issue 7: Do the proposed amendments represent good land use planning?*

Yes. Residential intensification on the subject site results in more efficient use of municipal infrastructure, revitalizes an underutilized brownfield area and results in transit-supportive land use patterns, all of which represent good land use planning practice. Moreover, these objectives are achieved with no adverse impacts, consistent with the land use planning principles of ensuring compatibility with surrounding uses and the public realm.

75. *Issue 8: Are the proposed amendments in the public interest?*

Yes. The public interest is served by the proposed development which is intended to provide needed affordable rental housing. The proposed development will continue to provide affordable live/work space for artists, including those who are currently tenants

at 48 Abell Street. As well, it will result in the creation of an innovative pedestrian mews anchored by a new art gallery/cafe space. Moreover, as noted with respect to Issue 8 above, residential intensification of the subject site is also in the public interest.

76. *Issue 9: Do the proposed amendments maintain the intent of the in-force Zoning By-Law?*

The Zoning By-law is a regulatory instrument, which is proposed to be amended to permit the proposed development. While the current zoning category does not permit residential uses, this does not indicate an "intent" to preclude residential uses. In this respect, the applicable Official Plan policies clearly articulate the intent i.e. that residential uses may be permitted through site-specific rezoning applications within the *Mixed Industrial-Residential Area*. The previous zoning amendments for 150 Sudbury Street and 45 Lisgar Street are consistent with this intent.

77. *Issue 10: Are the proposed setbacks, height, density, access and servicing locations, massing, bulk, scale and building placement of the proposed development appropriate having regard to the site and to the character of the West Queen West Triangle and surrounding lands?*

Yes. The proposed height, massing, bulk and scale (i.e. the built form elements) are appropriate. The proposed development would fit into the character of the area and would have no unacceptable built form impacts, as described in paragraphs 13-18, 62 and 63 of this Witness Statement. The most important consideration in this regard is that the location of the subject site within the interior of the large redevelopment area bounded by Queen, Dufferin, King and Dovercourt allows the opportunity for taller buildings than would generally be desirable along the edges of the area, without any unacceptable built form impacts (in terms of light, view, or privacy).

It should be emphasized that City staff similarly recognize that a high-rise apartment built form is appropriate, although they appear to have arbitrarily "capped" the height at 14 storeys by benchmarking it to the CAMH development. It should also be noted that,

while the proposed heights of 17 and 19 storeys (or 14 storeys, for that matter) represent a high-rise built form, the heights proposed are modest in comparison with the heights of towers that have been approved in other intensification areas (e.g. within the Railway Lands, in the East Bayfront).

Given that the built form elements are appropriate, the resulting density is appropriate (see Issue 19).

The remaining elements (i.e. setbacks, building placement and access and servicing locations) are appropriate, having regard to the site configuration and the surrounding road network (existing and planned). The setbacks and building placement reflect the orientation of the existing building on the site. The higher building elements have been expressed in the form of small floorplate towers (approx. 690-720 square metres GFA) oriented in a north-south direction, thereby minimizing impacts in terms of shadows and sky view from sensitive vantage points to the north. The lower-rise portions of the building (6-12 storeys) have been oriented along the pedestrian mews and the north-south pedestrian route on the Bohemian property in order to define these public spaces.

Details regarding access and servicing locations are currently being refined in consultation with City staff. It is expected that staff's suggestions can be appropriately incorporated into the project design.

David Eckler and Tom Rae will be addressing these matters in greater detail through their evidence.

78. *Issue 11: Is the proposed development appropriate from an urban design perspective?*

Yes. Urban design includes those elements analyzed in detail with respect to Issue 10 above. It also includes the basic materiality and expression of that built form.

While David Eckler will be addressing those matters in greater detail through his evidence, it is my opinion that the design of the project, with a 6-storey brick base, incorporating arches and punched windows which reflect historic building elements, and glass and steel elements above the base, represents an appropriate and desirable design response which will result in a high-quality addition to the urban fabric that will “fit” within its context.

79. ***Issue 12: Does the proposed development function appropriately and efficiently having regard to the site, the pedestrian realm, future or other proposed developments, the current character of the West Queen West Triangle and surrounding lands?***

Yes. The proposed development will function appropriately in terms of vehicular and service access relative to maintaining pedestrian amenity along the streetscape and the proposed internal pedestrian routes, as well as within publicly accessible private open space.

Tom Rae will be addressing these matters in greater detail in his evidence.

80. ***Issue 13: Does the proposed development provide the appropriate amount and configuration of landscaped open space?***

Yes. The proposed development will provide an attractive publicly accessible landscaped open space to the south of the building within the internal courtyard famed by the two building elements. Passageways through the buildings will provide access to this open space from pedestrian routes to the north and west. In addition, private landscaped open space will be provided in the form of rooftop terraces at the 9th floor levels of both the affordable rental building and the condominium building.

81. ***Issue 14: Does the proposed development have regard to applicable environmental planning policies?***

Yes. The proposed development will address the policies regarding noise and vibration associated with the rail corridor as set out in the Part I and Part II Official Plans. Furthermore, there are no apparent land use compatibility issues with remnant industrial uses in the area.

82. ***Issue 15: Is it appropriate to maintain the West Queen West Triangle as a mixed use district? If so, what is the appropriate character and mix of uses within the West Queen West Triangle district? Does the proposed development provide for the appropriate mixture of uses on the site? Is the proposed mix of dwelling units types appropriate for the proposed development?***

In my opinion, it is appropriate to maintain the West Queen West Triangle as a mixed use district. In this regard, it should be noted that the existing character of the area includes a number of vacant and underutilized parcels. The redevelopment of the area will necessarily involve a change in the mix of uses within the district, predominantly through the addition of residential use. This evolution is appropriate and desirable. It is permitted and, in fact, encouraged by the applicable policy framework.

The proposed development on the subject site provides for an appropriate mix of uses and dwelling unit types, specifically including a mix of affordable rental housing and condominium tenure as well as a mix of residential units, live/work studios for artists, workshops and an art gallery/cafe.

83. ***Issue 16: Should the proposed development be required to have certain uses that animate the neighbourhood at the street level?***

No. The approach should generally be permissive rather than mandatory and should be cognizant of market forces. Specifically, the proposed development includes an art gallery/cafe as an anchor to the pedestrian mews that could be specified in the

implementing zoning. However, the workshop uses proposed along the pedestrian mews are dependent on the applicant entering into appropriate arrangements with a non-profit arts organization for the management and operation of these units.

In the event that such arrangements could not be realized, it would be inappropriate, and ultimately counter-productive, for the implementing zoning to preclude the use of such space for other purposes e.g. live/work "townhouse" units. Under such a scenario, an overly restrictive single-use zoning approach would result in unoccupied units fronting on the mews, which would be contrary to the objective of creating an active and vital pedestrian route.

84. ***Issue 17: Should non-residential uses be mandatory as part of the proposed development in keeping with the City of Toronto's policy of no-net-loss of non-residential uses in the West Queen West Triangle? If so, what should constitute non-residential use and what minimum non-residential gross floor area should be required? Does the proposed development provide sufficient non-residential uses?***

No. As noted with respect to Issue 16 above, it is my opinion that the approach should generally be permissive rather than mandatory and should be cognizant of market forces. In particular, there is no policy basis for the City to impose a "no-net-loss" approach. There are no policies in either the in-force Part I or Part II Official Plans or in the new Official Plan and Secondary Plan that would mandate the inclusion of a certain proportion of non-residential space within a redevelopment proposal. The policies explicitly permit exclusively residential developments, to a maximum 2.0 FSI in the in-force Official Plans. However, this density restriction has been removed in the new Official Plan and Secondary Plan.

Therefore, there is no "policy" of no-net-loss. City Council has merely adopted by resolution a staff recommendation (as per staff's May 30, 2006 Request for Directions report) that staff be requested to "report back regarding the possible usage of Section 110 of the Municipal Act to secure no-net-loss of non-residential space in the West

Queen West area". Accordingly, the "no-net-loss" approach does not have the weight of Official Plan policy. Moreover, the Council resolution has come near the end of a review process, many months (and years) following the submission of the development application.

Even if it were applicable, the "no-net-loss" approach is conceptually flawed in a number of respects. Firstly, despite repeated requests, no information has been provided by City staff to support the calculation of 40,000 square metres of existing non-residential space. In this regard, we have been verbally advised that the entire existing building at 48 Abell has been counted as non-residential space, even though today it is predominantly residential in terms of its occupancy. Secondly, it appears that vacant and underutilized industrial buildings have been included in the calculation even though the intent of the Official Plan designations is to revitalize and redevelop the area. Thirdly, there are significant administrative and technical issues associated with the definition of non-residential space, particularly in the case of live/work studios or live/work units. While an "artist live/work studio" is considered to be a non-residential use, it is encumbered by a definition that restricts it to locations in social housing projects. On the other hand, "live/work units" are considered to be residential uses. At some point, these differences become so technical, they lose meaning from a public policy objective.

Within this context, it is my opinion that the proposed development provides a sufficient range of uses, without the necessity to engage the debate about whether the uses should be classified as residential or non-residential. From a public policy perspective, the essential considerations are that the proposed development will include a range of uses (including the art gallery/café, artist live/work studios, workshops and residential units) and that the intent is that affordable studio space will be provided in the redevelopment for the existing tenants at 48 Abell, thereby maintaining the vitality and character of the neighbourhood.

85. ***Issue 18: Does the proposed development contribute appropriately to the mixture of uses outlined in the in-force Official Plan? If not, does the proposed development contribute to the mixture of uses as outlined in the new Official Plan (Regeneration Area)?***

As noted above, neither the in-force Official Plan nor the new Official Plan requires a mixture of uses. While they both permit a mixture of uses, they would permit exclusively residential developments (and, for the matter, exclusively industrial developments).

86. ***Issue 19: Is the density of the proposed development appropriate?***

In my opinion, the proposed density is appropriate. The determination of the appropriateness of the proposed density should be based on an analysis of built form impacts and "fit" as well as on the capacity of infrastructure (roads, transit, sewer, water, community services) to accommodate the proposed development, within the context of the policy framework encouraging intensification on this site. On this basis, the density of the proposed development is appropriate, as there are no unacceptable built form impacts, the development will fit appropriately into the overall physical context and the infrastructure is adequate to support the proposed level of intensification, with the improvements identified through the technical studies.

The determination of whether the proposed density is appropriate should not be based on a numerical calculation, as such calculations can be arbitrary and cannot by definition take into account the results of a careful site-specific examination. In that regard, it should be noted that the new Toronto Official Plan has generally removed limitations on heights and densities, leaving it to the Zoning By-law to regulate such matters. In this instance, density limits have been deleted from the Garrison Common North Secondary Plan. Accordingly, if these applications were proceeding under the new Toronto Official Plan, no Official Plan Amendment would be required.

Notwithstanding the foregoing, the City staff analysis (in the Request for Directions Report dated May 30, 2006) has analyzed the proposed densities in relation to the existing Part II Plan permissions for up to 3.0 times density, with up to 2.0 times residential density, and have suggested that an overall density of 3.0 times or more may be appropriate, subject to the inclusion of a certain amount of non-residential space.

In the case of the subject proposal, the overall density proposed including the 48 Abell Street property and the entire 1199 Queen Street property is 3.44 FSI. If the City were ultimately to purchase some or all of the 1199 Queen Street at market value (see Issue 24), it is understood that there would thereupon be no density attributable to the purchased lands (see supplementary staff report dated June 23, 2006). However, if some or all of the 1199 Queen Street property were deeded gratuitously to the City, it would be reasonable to calculate density over the deeded lands.

This is the approach that has been adopted by the City in terms of the Landmark proposal at 150 Sudbury, in respect of which I understand that Landmark is proposing to gratuitously dedicate the remaining portion of the road allowance for the Sudbury Street extension in return for inclusion of the road allowance in the density calculation. It is noted, however, that the circumstances in respect of 150 Sudbury Street are different as that site would not have legal road frontage unless Sudbury Street were extended as a public road across the frontage of its property.

On this basis, the City's numerical approach would be supportive of a density of 3.44 FSI, or higher, on the following basis:

- it would be appropriate to provide a "bonus" to facilitate the affordable rental housing component of approximately 35% of the gross floor area of the proposed rental building (i.e. equivalent to 0.45 FSI on an overall basis), recognizing that the delivery of the required rents at 80% of the Average Market Rent (AMR) requires the owner to contribute the lands at below market rates

- the proposed FSI includes a "non-residential" component of approximately 3,300 square metres (or 0.27 FSI), comprised of workshops, artists live/work studios and the art gallery/cafe.

As noted above, it is my opinion that the numerical density figure has no importance in and of itself. Accordingly, if the City chose to calculate density on the basis of the original land area of 9,269 sq.m. (i.e. 4.62 FSI), that figure would be appropriate as well (in that the built form would be identical).

87. *Issue 20: Does the proposed height and/or density require a contribution pursuant to Section 37 of the Planning Act? If so, what are the nature and extent of appropriate facilities, services and matters to be secured through Section 37 of the Planning Act?*

No. The provisions of the existing Part I Official Plan do not establish a policy basis whereby applicants may be required to provide contributions pursuant to Section 37 of the Planning Act. However, an applicant may voluntarily elect to provide a contribution pursuant to Section 37 in respect of the proposed height and/or density.

In the case of the subject proposal, it is neither appropriate nor desirable for the affordable rental building to be required to make a contribution pursuant to Section 37, as it would increase the cost of producing the housing which in turn would be directly contrary to achieving affordable housing objectives. In fact, the Official Plan goes further in that it specifically identifies the use of Section 37 as a means to secure non-profit housing as a public benefit. In this regard, the provision of land at below market rates is necessary in order to achieve the required rents under the Canada-Ontario Affordable Housing Program. Accordingly, the provision of land at below market rates to facilitate the development of affordable rental housing should be considered to fully satisfy any voluntary Section 37 contribution from the condominium component of the proposal.

In the alternative, as noted with respect to Issue 19 above, it may be possible to use Section 37 to explicitly grant a "bonus" increasing the overall site density from 3.0 FSI to 3.44 FSI in order to facilitate development of the affordable rental building.

88. ***Issue 21: Is it appropriate to impose holding provisions on lands in the West Queen West Triangle such that the proposed development cannot proceed until the fulfillment of certain conditions: What are the specific conditions for the removal of the "hold"? Is the proposed development subject to these holding provisions?***

No, holding provisions are not necessary or appropriate and should not be imposed on the proposed development. The specific conditions that have been referred to in the City Council resolution at its meeting of June 27, 28 and 29, 2006 are securing the acquisition and construction of the Sudbury Street extension and securing the acquisition of appropriate parkland. It is noted that the City staff report did not recommend the use of holding provisions and that requirement was added by Community Council and Council on their own volition.

In this instance, there is no benefit to be gained in imposing holding provisions because the City already has the necessary authority to address the conditions through other means without the use of holding provisions. With respect to parkland acquisition, the City has determined that it will collect cash-in-lieu of parkland, rather than parkland dedication, and it will use those funds, together with other funds available through the Parks Reserve Fund, to acquire one or more public parks within the area. The collection of cash-in-lieu of parkland will occur at the building permit stage. The City has the responsibility to acquire the lands it has identified and can proceed to do so at its own volition within whatever timeframe it chooses.

Similarly, with respect to the acquisition of the lands required for the Sudbury Street extension, the lands can be purchased or expropriated by the City at any time it chooses, and/or it can acquire the lands as a condition of development approval, subject to the considerations set out below with respect to Issue 24. The timing of

construction can be secured through the Section 37 agreements applicable to each development. Accordingly, there is no need to impose holding provisions.

In the absence of any compelling need to impose holding provisions, they should not be imposed. The use of a holding provision imposes an unnecessary further public process to remove the hold. It also has the potential to raise complicated "chicken-or-egg" timing questions i.e. when funds or lands can be secured in relation to the removal of the holding provision.

89. ***Issue 24: Is the extension of Sudbury Street required for the proposed development? Should the applicant be required to convey the lands required to extend Sudbury Street and Abell Street and construct the streets and provide services within the right-of-way? If so, what is the minimum width required for such conveyance?***

No. The extension of Sudbury Street is not required for the proposed development. The transportation analysis by the Sernas Group confirms that the site can be appropriately serviced from a transportation perspective from Abell Street and Queen Street West only. Furthermore, neither the existing Part II Plan nor the new Secondary Plan explicitly require the extension of Sudbury Street as a public street.

Despite the foregoing, the City has determined that it wishes to have Sudbury Street extended as a public street from its current terminus at Lisgar Street as far as Queen Street West. The applicant would be prepared to convey the lands required for the Sudbury Street extension (i.e. essentially the property at 1199 Queen Street West) for nominal consideration, as a condition of development approval, provided that the lands to be conveyed are included for the purposes of density calculation. In the alternative, if the lands were not included in the density calculation, it would be inappropriate to require the applicant to gratuitously convey the required lands. Under such circumstances, the City would acquire the required lands at fair market value, either through purchase or expropriation.

The June 23, 2006 supplementary report from the Chief Corporate Officer, as adopted by City Council at its meeting on June 27, 28 and 29, 2006, acknowledges that either approach is acceptable in principle, while recommending that, where possible, the lands be acquired through conveyance as a condition of development approval. However, the City has not yet approached the applicant with respect to the purchase of the lands. In addition, there are other possible approaches that would include conveyance of a portion of the 1199 Queen Street property (with density calculated over that portion) and the purchase of the remainder by the City.

It would not be appropriate to require the applicant to construct Sudbury Street at its cost, or to install services within the right-of-way (except as may be necessary to service the development itself), for the reasons noted above i.e. the Sudbury Street extension is not required to service the proposed development (either in terms of public road access or water and sewer services) and its dedication is not required by the Official Plan. Therefore, construction costs should be considered as a Section 37 contribution, as a credit against development charges, or as a combination of the two. However, as noted above, in the case of the proposed development, the provision of land at below market costs for the affordable rental building would constitute the entire Section 37 contribution.

The width of the right-of-way required will be addressed by Tom Rae in his evidence.

90. ***Issue 28: Does the proposed development provide adequate and appropriate sidewalks, street access and publicly accessible space and contribute sufficiently to the open space network for the West Queen West Triangle?***

Yes. The proposed development provides a significant amount of publicly-accessible private open space in the form of both the pedestrian mews and the courtyard contained along the south face of the proposed condominium, as well as the passageways linking between them. The pedestrian routes on the subject site have been designed to link with other external pedestrian routes (i.e. the north-south pedestrian route within the Bohemian property, the Abell Street sidewalks, and the

pedestrian mews extending easterly from Abell Street). In addition, sidewalks will be provided along the extensions of Abell Street and Sudbury Street (subject to the qualifications noted with respect to Issue 24 above).

91. ***Issue 29: Does the proposed development provide for adequate parkland or parkland contribution?***

Yes. The proposed development will be subject to the statutory requirement for payment of cash-in-lieu of parkland dedication equal to 5% of the land area. This approach has been endorsed by Council by resolution at its meeting on June 27, 28 and 29, 2006. In addition, as noted in respect of Issue 28 above, the proposed development will provide publicly-accessible private open space and a pedestrian mews on the subject site, over and above the 5% calculation.

92. ***Issue 34: Does the proposed development appropriately conserve the heritage resources on the site? Should the current structure located at 48 Abell be maintained?***

There are no designated or listed heritage resources on the site. While City Heritage Preservation Services staff had initially brought forward a report recommending designation of the building under the Ontario Heritage Act, the report was withdrawn and the Toronto Preservation Board did not proceed with designation of the building. The decision not to proceed with designation was based primarily on structural feasibility conditions, particularly related to the deterioration of the bricks along the north and east facades of the building. To the best of my knowledge, none of the parties has taken issue with this conclusion and historical designation is no longer being pursued by any party.

Within that context, the current structure located at 48 Abell should not be maintained. The retention of the existing building in its current form would preclude the opportunity for significant intensification on the site, as it occupies virtually all of the site. Furthermore, the building does not lend itself structurally to building on top of, or

beneath, the building. Given the foregoing, and recognizing the policy support for intensification on the site, the current structure should be removed to make way for the proposed development. However, the base building element has been designed to reflect in a contemporary way key design elements of the existing building e.g. brick facade, punched windows, and archways.

David Eckler will address these matters in greater detail in his evidence.

93. ***Issue 35: Are the form and content of the proposed Official Plan amendment and Zoning by-law acceptable?***

Yes. The draft Official Plan Amendment and Zoning By-law submitted in conjunction with the appeals have been updated to reflect the reductions to the heights, gross floor area and number of units that have been made through the process in order to respond to comments received from the staff and public.

The updated draft Official Plan Amendment and Zoning By-law are attached to this Witness Statement as Attachments "B" and "C". In their current form, I believe that they appropriately reflect the proposed development. However, inasmuch as staff have not yet provided any detailed comments regarding the form and content of the documents, I am open to working with staff to refine the details. I would note that, as a result of approval of the new Official Plan, the draft Official Plan Amendment no longer appears to be practically necessary. The proposed Zoning By-law will conform to the new Official Plan and no Official Plan Amendment will be required.

94. For all of the foregoing reasons, I recommend approval of the requested Official Plan Amendment and rezoning for the subject site.

All of which is respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter F. Smith". The signature is written in a cursive style with large, overlapping loops and a prominent "P" at the beginning.

Peter F. Smith, M.C.I.P., R.P.P.

LIST OF DOCUMENTS TO BE REFERRED TO:

1. Provincial Policy Statement (1996)
2. Metropolitan Toronto Official Plan
3. City of Toronto Part I Official Plan
4. Garrison Common North Part II Plan
5. City of Toronto Zoning By-law 438-86, as amended
6. New City of Toronto Official Plan
7. Garrison Common North Secondary Plan
8. Preliminary Report, OPA & Rezoning Application 99 036168 SHY 18 OZ (Verdiroc), October 21, 1999
9. Preliminary Report, OPA & Rezoning Application 05 133454 STE 18 OZ (Baywood Homes), June 14, 2005
10. Further Report, OPA & Rezoning Application 99 036168 SHY 18 OZ (Verdiroc), September 1, 2005
11. Staff Report, Request for Zoning Review for the West Queen West Triangle Area, November 9, 2005
12. Preliminary Report, OPA & Rezoning Application 05 199171 STE 18 OZ (150 Sudbury Street), January 23, 2006
13. Request for Direction Report, Official Plan and Zoning Review in the West Queen West Triangle Area, May 30, 2006
14. Request for Direction Report, OPA & Rezoning Application 99 036168 SHY 18 OZ (Verdiroc), May 30, 2006
15. Request for Direction Report, OPA & Rezoning Application 05 133454 STE 18 OZ (Baywood Homes), May 30, 2006
16. Supplementary Report from the Chief Corporate Officer, Mechanisms for acquiring land necessary for the extension of Sudbury Street, June 23, 2006
17. Request for Direction Report, OPA & Rezoning Application 05 199171 STE 18 OZ (150 Sudbury Street), June 26, 2006
18. Refusal Report, 45 Lisgar Street, June 27, 2006
19. Supplementary Report, Zoning mechanisms to implement mixed use development, June 27, 2006

20. City Council resolutions, June 27, 28 and 29, 2006
21. Staff Report, Tall Buildings Design Guidelines, June 6, 2006
22. Staff Report, Results of Consultation on Proposed Implementation Guidelines for Section 37 of the Planning Act, June 15, 2006



BOUSFIELDS INC.

Peter F. Smith M.C.I.P., R.P.P. Director

CURRICULUM VITAE

EDUCATION, PROFESSIONAL AFFILIATIONS & MEMBERSHIPS

- B.E.S. (Hon. Urban & Regional Planning), University of Waterloo, 1979
- Member, Canadian Institute of Planners

PROFESSIONAL HISTORY

Planner, Paterson Planning & Research Limited 1979-82

- Involved in preparation of retail market reports and housing policy reports.

Planner, Weir & Foulds, Barristers & Solicitors 1982-87

- Responsible for case preparation involving municipal law matters at Ontario Municipal Board and processing of development applications.

Planner III, City of North York 1987

- Responsible for preparation of staff reports on land use applications and presentation to Planning Advisory Committee and Council.

Senior Planner, John Bousfield Associates Limited 1987-90

Director, Bousfields Inc. 1990-Present

- Responsible for a wide range of planning assignments for public and private clients, including:

OFFICIAL PLANS, SECONDARY PLANS AND REVIEWS

- Prince Edward County Growth & Settlement/ Servicing Strategy
- Nobleton Community Plan (for Township of King)
- South Urban Community Secondary Plan (for former City of Gloucester)
- East Terrace Neighbourhood Plan, Grimsby
- York Mills Office Centre Secondary Plan Review, North York
- Highway 7/Highway 400 Land Use and Density Study (for City of Vaughan)

Peter F. Smith continued

COMMUNITY DESIGN PLANS

- Riverside South Community, Ottawa, 55,000 population and business park (for City of Ottawa)
- Georgetown South, Halton Hills, 2,500 residential units (for Halton Hills Village Homes Inc.)
- Port of Newcastle, Clarington, 1,000 residential units (for Kaitlin Group)

RESIDENTIAL/MIXED-USE REDEVELOPMENTS

- N. Y. Towers, North York, 1,164 units (for Daniels Corp.)
- Herons Hill, North York, 1,070 residential units (for Monarch)
- Lakeshore Village, Etobicoke (for Daniels Corp.)
- World Trade Centre, Toronto, 1,500 units and 250 room hotel (for Camrost)
- Bridgehome 2000, North York, 3,700 units
- Sharkey's Site, Oakville (for Daniels Corp.)
- Uptown Residences, Yonge/Bloor, Toronto
- Esplanade/Scott Street, Toronto
- 18 Yonge Street, Toronto (for H & R)
- Inn-on-the-Park, North York, 420 residential units (for Eisen Corp.)
- Village-by-the-Grange Expansion, Toronto (for Tridel)
- 520 Kingston Road, Toronto (Cityhome)
- McGuinness Redevelopment, Etobicoke (for Camrost)
- 186 Redpath, Toronto (for Plazacorp)
- Front/Jarvis, Toronto (for Camrost)

COMMERCIAL DEVELOPMENTS

- New Format Commercial Development, Hurontario/Steeles (for City of Brampton)
- Harmony/Taunton Centre, Oshawa, 750,000 sq. ft. (for First Pro)
- Metro East Trade Centre Commercial Expansion, Pickering, 430,000 sq. ft. (for Gentra Inc.)
- New Format Retail Developments, Airport/Highway 7, Brampton, 650,000 sq. ft. (for First Pro)
- Commercial/Industrial Development, Airport/Bovaird, Brampton, 480,000 sq. ft. (for First Pro)
- Crossroads Centre, Weston Road/Highway 401, North York, 350,000 sq. ft. (for First Pro)
- Hilton Hotel Expansion, Niagara Falls

Peter F. Smith continued

INFILL RESIDENTIAL PROJECTS

- St Paul's Dovercourt, Toronto
- Little Brothers of the Good Shepherd, Toronto
- Waterstone Court, Oakville
- Avenue Homes, Unionville
- St. Jude Community Homes, Toronto
- 117 Eglinton Avenue East, Toronto
- St Clair/Walmer Road Townhouses, Toronto

INSTITUTIONAL PROJECTS

- Regent Park Community Health Centre, Toronto
- Learning Centre for Children with Autism, North York
- St. Stephen's Community House, Toronto

RESIDENTIAL SUBDIVISIONS

- Royal Park, Woodbridge Highlands, Vaughan
- Kipling South, Woodbridge, Vaughan
- Halton Hills Village Homes, Georgetown South, Halton Hills
- Kaitlin, Lake Wilcox, Richmond Hill
- City View, Barrie
- Jofian, Kleinburg

RECREATIONAL/RESIDENTIAL DEVELOPMENTS

- Angus Glen Golf Club, Markham
- King Valley Residences (60 units) and ClubLink Corporate Offices, King Township
- Emerald Hills Golf Course Expansion and Residences (80 units), Whitchurch-Stouffville (for ClubLink)
- Maple Downs Golf Course Expansion

WATERFRONT PLANNING

- Orillia Central Waterfront (for City of Orillia)
- Oshawa Harbour Plan (for Oshawa Harbour Commission)
- Oakville Waterfront Plan, OPA 10 (for Baillie, Dorion et al)

Peter F. Smith *continued*

REPORTS

- Development Permit Demonstration Project, March 2000 (for Ministry of Municipal Affairs and Housing)
- Provincial Policy Statement Five Year Review Stakeholder Consultation, December 2001 (for Ministry of Municipal Affairs and Housing)
- Submission on 1989 Housing Policy Statement (for Urban Development Institute)
- Submission on 1996 Provincial Policy Statement (for Urban Development Institute)

CITY OF TORONTO

BY-LAW No. ____-2006

**To adopt Amendment No. ____ to the Official Plan for the former City of Toronto
with respect to lands municipally known as No. 48 Abell Street.**

WHEREAS authority is given to the Ontario Municipal Board under Sections 17 and 22 of the Planning Act, R.S.O. 1990, c.P.13, as amended, to direct that this by-law be enacted;

THEREFORE the Official Plan for the former City of Toronto is amended as follows:

1. The text and map annexed hereto as Schedule "A" are hereby adopted as an amendment to the Official Plan for the former City of Toronto.
2. This is Official Plan Amendment No ____.

SCHEDULE "A"

1. Section 18 of the Official Plan for the former City of Toronto is hereby amended by adding the following Section 18.____ and the attached Map 18.____:

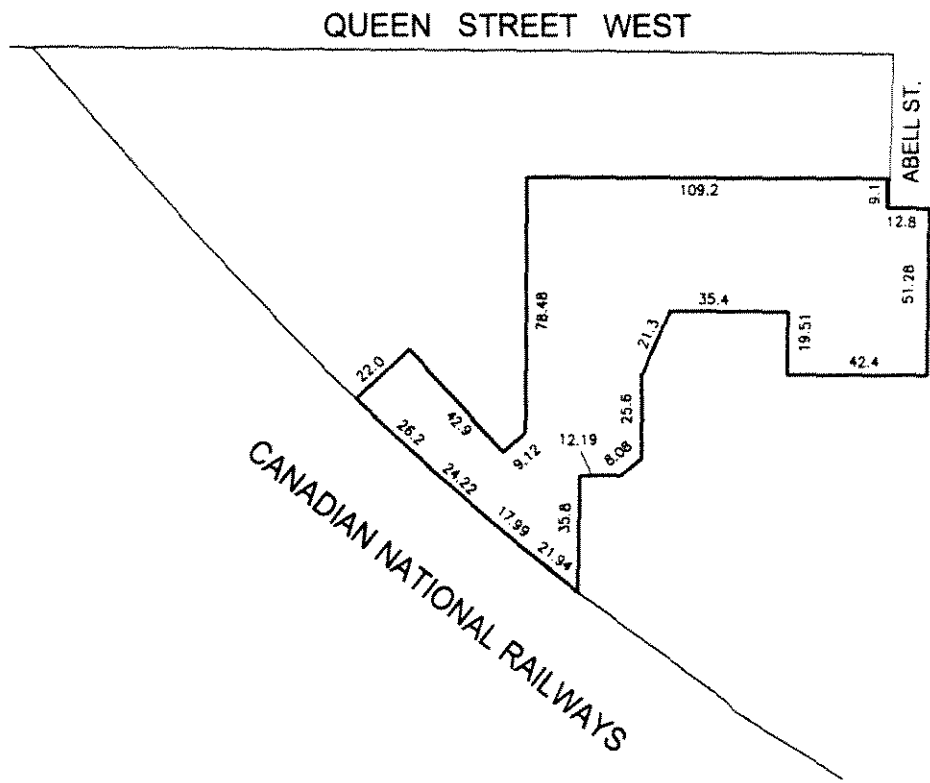
"18.____ Lands municipally known as No. 48 Abell Street.

See Map 18.____ at the end of this Section.

Notwithstanding Section 3.12 of the Garrison Common North Official Plan Part II (Section 19.10 of the Part I Official Plan), and any other provision of such Part II Plan and of this Plan, Council may pass by-laws applying to the lands known municipally in the year 2006 as 48 Abell Street, as shown on Map 18.____ to permit the erection and use of *mixed-use buildings*, including residential units, live-work units, artist live/work studios, custom workshops and an art/gallery cafe, provided that:

- (1) The total *residential and non-residential gross floor area* does not exceed 43,000 m²;
- (2) The *residential gross floor area* does not exceed 42,308 m²;
and
- (3) The *non-residential gross floor area* does not exceed 4,500 m².

MAP 18. _____



CITY OF TORONTO

BY-LAW No. ____ -2006 (OMB)

To amend the General Zoning By- No. 438-86 of the former City of Toronto with respect to lands municipally known as 48 Abell Street.

WHEREAS authority is given to the Ontario Municipal Board under Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

THEREFORE By-law No. 438-86 of the former City of Toronto is amended as follows:

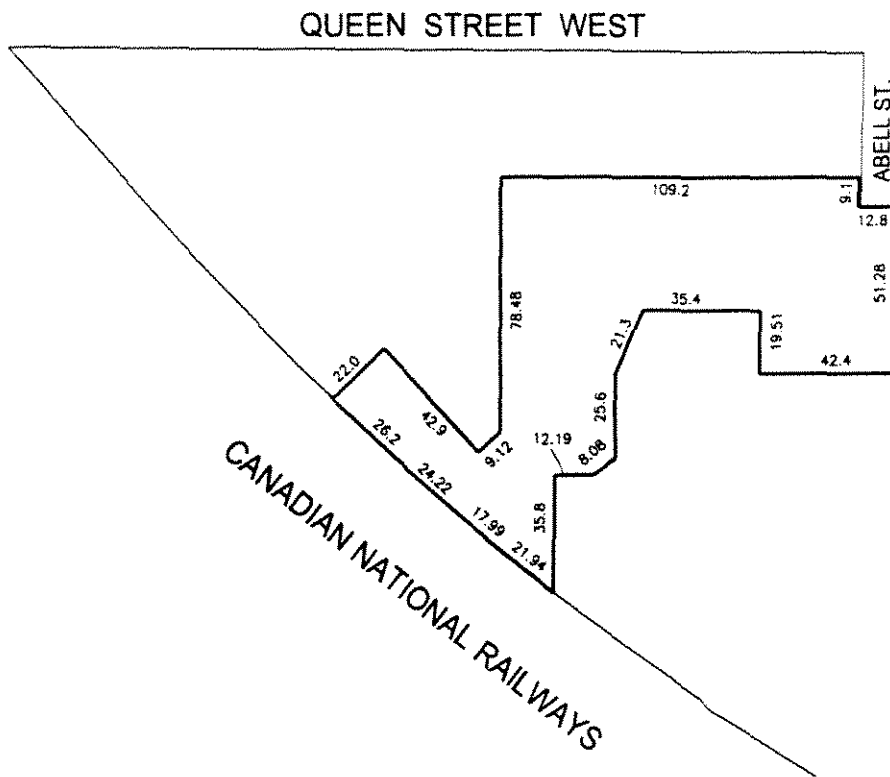
1. None of the provisions of Section 2(1) pertaining to the definitions of *artists live/work studio*, *live-work unit* and *lot*, and Sections 4(4), 4(11), 4(13), 4(16), 9(1), 9(3) Part II 1 and 9(3) Part VIII 1 of By-law No. 438-86, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, shall apply to prevent the erection and use of *mixed-use buildings* containing *dwelling units* alone or in combination with *artist live/work studios*, *live-work units*, *custom workshops* and an art gallery/cafe on the *lot* provided:
 - (1) the *lot* comprises at least those lands delineated by heavy lines on Plan 1 attached to and forming part of this By-law;
 - (2) no portion of any building above *grade* except for projections permitted by the chart in Section 6(3) Part II 8 of the aforesaid By-law No. 438-86, as amended, is located otherwise than wholly within the areas delineated by heavy lines on Plan 2 attached to and forming part of this By-law;
 - (3) no building or structure shall contain more *storeys*, above the finished ground level, than the number shown on Plan 2 attached to and forming part of this By-law;
 - (4) the total *residential* and *non-residential gross floor area* on the *lot* does not exceed 43,000 square metres;
 - (5) the total *residential gross floor area* on the *lot* does not exceed 42,308 square metres;
 - (6) the total *non-residential gross floor area* on the *lot* does not exceed 4,500 square metres;
 - (7) the total number of *dwelling units*, *live-work units* or *artist live/work studios* on the *lot*, alone or in combination, shall not exceed 549;
 - (8) *parking spaces* shall be provided and maintained in accordance with the following:

- (i) 0.3 *parking spaces* for each bachelor *dwelling unit*;
 - (ii) 0.5 *parking spaces* for each one-bedroom *dwelling unit*;
 - (iii) 0.75 *parking spaces* for each two-bedroom *dwelling unit*;
 - (iv) 1.2 *parking spaces* for each three-bedroom *dwelling unit*;
 - (v) 0.5 *parking spaces* for each *live-work unit*;
 - (vi) 0.06 *parking spaces* for each *live-work unit* or *dwelling unit* for visitors' parking; and
- (9) notwithstanding paragraph (6), *parking spaces* shall be provided and maintained for *affordable housing* at a rate of 0.25 *parking spaces* for each *dwelling unit*.

2. For the purposes of this By-law:

- (1) "*affordable housing*" shall mean *dwelling units* which are funded by the Federal-Provincial Affordable Housing Program and which are subject to an agreement securing the long-term operation of such units at rents at or below the average City of Toronto rent, by unit type (number of bedrooms);
- (2) "*artist live/work studio*" shall mean a suite consisting of a combination of a studio area used for the production of art and a living area;
- (3) "*live-work unit*" shall mean a *dwelling unit* that is also used for work purposes by any number of persons;
- (4) "*lot*" shall mean at least those lands shown delineated by heavy lines on Plan 1, which lands shall be deemed to be one *lot*, regardless of whether two or more buildings which are not connected below *grade* are erected thereon, and regardless of any conveyances or easements made or granted to the City after the date of enactment of this By-law; and
- (5) every other word or expression which is italicized herein shall have the same meaning as each word or expression as defined in the aforesaid By-law No. 438-86, as amended.

PLAN 1



PLAN 2

QUEEN STREET WEST

