



Witness Statement of Pino Di Mascio, MCIP, RPP
August, 2009

Ontario Municipal Board Hearing
City of Toronto
2-4 Neville Park Boulevard and 438-440 Lake Front Lane
OMB Case No. PL081443
OMB File No. PL081234

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1. Introduction

1.1. Purpose

- 1.1.1. The purpose of this witness statement is to provide an overview of the testimony that I will provide in support of the City of Toronto's ("the City") decision and the Beach Lakefront Neighbourhood Association's position with respect to a proposed development (the "Proposal") at 2-4 Neville Park Boulevard and 438-440 Lake Front Lane (the "Site").

1.2. Witness Qualifications

- 1.2.1. I am a Registered Professional Planner and Member of the Canadian Institute of Planners. I have over 14 years of experience and have been a partner at Urban Strategies since 2005. I have a range of relevant experience that is varied and comprehensive, as exhibited in the following projects:

- Vaughan Official Plan, Vaughan
- South of Eastern - OMB Hearing, Toronto
- Waterfront Toronto Program Management, Toronto
- MTO Downsview Master Plan, Toronto
- Parkside Village Master Plan, Mississauga City Centre
- Toronto Sufferance Truck Terminal – Master Plan and OMB Hearing, Scarborough
- 403 Keele Street (Canadian Tire Site Redevelopment) – Master Plan and OMB Hearing, Toronto

- 1.2.2. I have been involved as an expert witness in many OMB hearings and regularly appear before the Board to provide planning evidence. I have been qualified before the OMB to give expert testimony with respect to both planning and urban design.

- 1.2.3. My CV is attached in Appendix A.

1.3. Retainer and History of Involvement with the Project

- 1.3.1. I was contacted by Dennis Wood of Wood Bull LLP, solicitor for the Beach Lakefront Neighbourhood Association, about this hearing on January 7th, 2009 and formally retained by Wood Bull LLP, on behalf of the Beach Lakefront Neighbourhood Association, on January 13th, 2009.

- 1.3.2. In preparation for this hearing I have undertaken the following activities:

- Reviewed the proposed development and application history
- Toured the Site and surrounding area;
- Met with City solicitors and staff from Community Planning;

- Met with the other expert witnesses being called by the Beach Lakefront Neighbourhood Association and exchanged reports, ideas and drafts of our Witness Statements; and,
- Reviewed background material including:
 - Various staff reports and Council decisions on the application;
 - Planning Rationale by &Co dated May 29, 2007;
 - Planning Justification Report by Walker, Nott, Dragicevic Associates Limited dated February 29, 2008;
 - Architectural drawings by &Co submitted to the City on March 4, 2008;
 - Arborist Report by Kelly's Tree Care dated January 23, 2008;
 - Relevant policy documents, including the Planning Act, the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe, The Official Plan of the City of Toronto and Zoning By-Law 438-36;
 - Background material including historical zoning decisions related to the Site;
 - The Heritage Conservation District Study and Plan for Munro Park/East Beach prepared by Wayne Morgan; and,
 - Beach neighbourhood property information from the City of Toronto Land Use Inventory database; and,
- Prepared this Witness Statement and exhibits

1.3.3. The full list of documents reviewed in preparation for this hearing and to which I may be referring in giving evidence are included in Appendix B.

1.3.4. In my evidence, I will address the following issues from the Issues List attached to the May 12, 2009 Procedural Order:

1. Is the proposed development consistent with, and does it have regard to, the matters of provincial interest set forth in Section 2 of the Planning Act, and in particular, subsection (p) dealing with the appropriate location of growth and development?
2. Would approval of the proposed development have regard to the decision of Council as required by Section 2.1 of the Planning Act (City of Toronto Issue)?
3. Is the proposed development consistent with the Provincial Policy Statement (2005), in particular, Policies 1.1.3.3 and 4.5?
4. Does the proposed development conform to the Growth Plan for the Greater Golden Horseshoe (2006), in particular: a) Policy 2.2.2.1, that population growth will be accommodated by focusing intensification in intensification areas; and b) Policy 2.2.3.6(c), that Official Plans will identify intensification areas to support the achievement of the intensification target?

5. Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:
 - a) Section 2.2, Policy 2, that growth will be directed to Centres, Avenues, Employment Districts and Downtown in order to protect *Neighbourhoods*;
 - b) Section 2.3.1, Policy 1, that *Neighbourhoods* are considered physically stable areas, and development will be consistent with this objective and will respect and reinforce the existing physical character;
 - c) Section 3.1.2, Policy 3, that new development will fit harmoniously into its context and limit its impacts on neighbouring streets, parks and open spaces;
 - d) Section 4.1, Policy 1, that *Neighbourhoods* are physically stable areas;
 - e) Section 4.1, Policy 5, that development in *Neighbourhoods* will respect and reinforce the existing physical character of a neighbourhood and that no changes will be made through rezoning or other public action that are out of keeping with the physical character of the neighbourhood;
 - f) Section 4.1, Policy 8, that zoning by-laws will contain numerical standards for matters such as building type and height, density, lot sizes, lot depths, lot frontages, parking, building set backs from lot lines, landscaped open space and any other performance standards to ensure that new development will be compatible with the physical character of established *Neighbourhoods*; and
 - g) Section 5.3.1, Policy 3, that amendments to the Official Plan not consistent with its general intent, are discouraged?
6. Do the subject site and the proposed development constitute infill development as contemplated by Section 4.1 of the City of Toronto Official Plan?
7. Would the consolidation of individual lots into one large development parcel conform with the City of Toronto Official Plan, in particular:
 - a) Section 4.1 requiring development to respect and reinforce the physical character of the neighbourhood; and,
 - b) Section 2.3.1 identifying *Neighbourhoods* as physically stable areas?

8. Will the approval of the proposed development create an undesirable precedent for the area that is contrary the policy intent of the Official Plan for *Neighbourhoods* to be physically stable areas?
9. Is the proposed use and density of the lands appropriate for an R1 Z0.6 zoning category?
10. Given the existing R1 zoning of the site and the zoning of the surrounding area, are the uses, height, density, built form and FSI for the proposed development compatible with the character of the surrounding area, existing use in the area and future uses and intended uses for the area?
11. Is the proposed development consistent with, and does it have adequate regard to the City's goals and objectives with respect to the natural environment and trees as outlined in the City's Official Plan, in particular:
 - b) Section 2.2, Policy 2(i);
 - c) Section 2.3.1, Policy 5;
 - d) Section 3.1.2, Policy 1; and,
 - e) Section 3.4, Policy 1 (d)?
12. (a) Would the removal of healthy mature trees necessary to accommodate the proposed development be good planning; specifically with respect to the planning considerations in the City of Toronto Municipal Code, Chapter 813, Article III, 'Private Tree Protection' (the "City Private Tree By-law")?
 - (b) Is Issue 12 an appropriate way in which to address the issues of "good planning", in light of the manner in which the City Private Tree By-law is intended to be applied?
13. Is the proposed development appropriate having regard to the local context and surrounding neighbourhood, specifically the existing pattern, prevailing building type and adjacent homes?
14. (a) Is the proposed development appropriate for the site having regard to the findings regarding the character of the area identified for the purposes of a Heritage Conservation District Study undertaken by the Beach Lakefront Neighbourhood Association, which study has not been formally authorized by either City Council or any Committee of Council?
 - (b) Is it appropriate to have regard to a study prepared by an association, for an area and site that is not and has never been recommended as having significance from a heritage designation standpoint?

(c) Is Issue 14 (a) even an issue that should be examined given the fact that no such designation applies to the Site and/or surrounding area?

1.3.5. In giving this evidence I will refer to information contained within the document book, and other materials and evidence submitted by other parties, as well as various visual exhibits.

2. Definitions

- 2.1. Neighbourhood: The word 'neighbourhood' is used frequently throughout this Witness Statement, with different meanings depending on the context. It is differentiated as follows:

'Neighbourhood'

'*Neighbourhood*', italicized and with a capital 'N', is defined as the Neighbourhood designation within the Toronto Official Plan.

'neighbourhood'

'*neighbourhood*', italicized and with a small 'n', is defined as all properties south of Queen Street East and north of the public beach between and including the west side of Nursewood Avenue on the east and the west side of Munro Park Avenue the west. This is a fully residential area with a predominantly detached home character. The three streets in the *neighbourhood* are Munro Park Avenue, Neville Park Boulevard and Nursewood Road.

'Neighbourhood' or 'neighbourhood'

'Neighbourhood' or 'neighbourhood', not italicized, either with a capital 'N' or a small 'n', is used when referencing or quoting policies where the word is used without definition or when referring generally to a primarily residential area.

- 2.2. Intensification

'Intensification' or 'intensification'

'*Intensification*' or '*intensification*', italicized and with a capital 'I' or a small 'i', has the same meaning as in the Provincial Policy Statement and the Growth Plan:

"...the development of a property, site or area at a higher density than currently exists through:

- a. *redevelopment*, including the reuse of brownfield sites;
- b. the development of vacant and/or underutilized lots within previously developed areas;
- c. infill development; and,
- d. the expansion or conversion of existing buildings."

'Intensification' or 'intensification'

'Intensification' or 'intensification', not italicized, either with a capital 'I' or a small 'i', is used when speaking generally about development that is at a greater density or scale than that which presently exists on a site or within the surrounding context.

3. Description of Subject Properties and Surrounding Area

3.1. Subject Properties

- 3.1.1. The subject properties are located at 2-4 Neville Park Boulevard and 438-440 Lake Front Lane, in the Beach area of Toronto. They are located directly north of Lake Ontario and border the public beach. The lot area of all properties combined is approximately 2940 m².
- 3.1.2. 2 Neville Park Boulevard has a lot area of approximately 845 m². It is developed with a two storey detached house containing one dwelling unit and has an above floor area of approximately 370 m².
- 3.1.3. 4 Neville Park Boulevard has a lot area of approximately 446 m². It is developed with a three storey detached house containing one dwelling unit and has an above floor area of approximately 551 m².
- 3.1.4. 438 Lake Front Lane has a lot area of approximately 795 m². The property currently contains no buildings. It was previously developed with a detached home that was torn down in 1995. Refer to Appendix C for the historic building footprint as illustrated by the City's online mapping. This condition further indicates that the historic character of the Site and the *neighbourhood* was that of detached homes.
- 3.1.5. 440 Lake Front Lane has a lot area of approximately 855 m². It is developed with a three storey detached house containing one dwelling unit.

3.2. Surrounding Area

Adjacent Properties

- 3.2.1. The properties and uses adjacent to the Site are 6 Neville Park Boulevard and 11 Munro Park Avenue to the north, Neville Park Boulevard right-of-way to the east, Lake Ontario and the public beach to the south and 1 Munro Park Avenue (formerly known as 434 Lake Front Lane) to the west.
- 3.2.2. 6 Neville Park Boulevard has a lot area of approximately 557 m². It is developed with a two storey detached house containing one dwelling unit and has an above floor area of approximately 178 m².
- 3.2.3. 11 Munro Park Avenue has a lot area of approximately 1,003 m². It is developed with a two storey detached house containing one dwelling unit and has an above floor area of approximately 229 m².
- 3.2.4. 1 Munro Park Avenue has a lot area of approximately 858 m². It is developed with a three storey detached house containing one dwelling unit and has an above floor area of approximately 342 m².

neighbourhood

- 3.2.5. Appendix D includes site and built form statistics for the *neighbourhood*, the area south of Queen Street East and north of the public beach between and including the west side of Nursewood Avenue on the east and the west side of Munro Park Avenue to the west.
- 3.2.6. All properties in the *neighbourhood* are zoned R1 Z0.6, a low rise residential category, in the City's Zoning By-law. The *neighbourhood* is fully residential and is primarily characterized by two to three storey detached houses. Of the approximately 85 developed lots in the *neighbourhood* all are developed with detached houses except for an apartment at 2 Nursewood Road. The large majority of detached houses contain 1 unit. The apartment at 2 Nursewood Road was constructed in 1965 and, with a floor area ratio of 0.61, is only slightly in excess of the 0.6 floor area ratio permitted by the Zoning By-law. It is built on a large lot, which is an historic condition and it was unnecessary to combine lots to facilitate its construction.

The Broader Area

- 3.2.7. Queen Street East to the north, the R. C. Harris Water Treatment Plant to the east, the public beach to the south and the area west of Munro Park Avenue to the west are the logical boundaries of the *neighbourhood* as these areas are distinguishable from the *neighbourhood* on the basis of their built form, physical character and/or zoning characteristics.
- 3.2.7.1. East: The R.C. Harris Water Treatment Plant, constructed in the 1930s, is the largest water treatment facility in Toronto. Its grounds are expansive and accessible by the public.
- 3.2.7.2. North: The Queen Street East properties have a different Official Plan designation (*Mixed Use* as opposed to *Neighbourhood*), different zoning category (Commercial Residential as opposed to Residential) and different built form from the properties south of Queen Street East (buildings on Queen Street East tend to be larger and built to a higher density than development south of Queen Street East). The properties on Queen Street East are primarily mixed use, apartments or non-residential. Queen Street East, starting at Nursewood Road and continuing west, is a prominent mixed use Avenue in Toronto and is the commercial focus for the Beach community.
- 3.2.7.3. South: The public beach, south of the *neighbourhood*, is part of a continuous sandy beach that stretches from Nursewood Road to Ashbridges Bay Park, approximately 2 kilometres to the west.
- 3.2.7.4. West: The area west of Munro Park Avenue and south of Queen Street East has different zoning, generally smaller lot

areas, a different mix of residential development and a different street pattern than the *neighbourhood*. It is these differences that distinguish the *neighbourhood* from the residential areas to the west. The *neighbourhood* has developed with a distinct physical character and has been treated as a distinct area with regard to land use policy and zoning for several decades. Appendix D includes the site and built form statistics for the residential area west of the *neighbourhood*.

- 3.2.8. The area west of the *neighbourhood*, between Munro Park Avenue and Lee Avenue, has a different zoning than the *neighbourhood*. That area is zoned R2 Z0.6, which permits small scale apartments; whereas, the *neighbourhood* is zoned R1 Z0.6, which does not permit apartments. The existing apartment at 2 Nursewood Road is an exception that was constructed prior to the applicable zoning being enacted. In conformity with the zoning, no additional apartments have been constructed in the R1 zone.
- 3.2.9. Both the *neighbourhood* and the area west of Munro Park Avenue are, however, designated as *Neighbourhood* in the Official Plan, a physically stable area. The Zoning By-law has established what forms of development would be appropriate for and would not destabilize each of these areas and, in the case of the R1 zone, apartments have not been permitted.
- 3.2.10. The area west of Munro Park Avenue has a different physical character than the *neighbourhood*. Lot areas, particularly with respect to Neville Park Boulevard and Munro Park Avenue, tend to be larger than lot areas west of Munro Park Avenue, though the above floor area of detached homes is similar, yielding somewhat lower densities, on average, in the *neighbourhood*.
- 3.2.11. The *neighbourhood* is comprised of detached homes, along with one small apartment. The area to the west is a more equal mix of detached homes, semi-detached homes and multiplexes, supplemented by a few townhouses and approximately ten small scale apartments.
- 3.2.12. Nursewood Road, Neville Park Boulevard and Munro Park Avenue are the three streets which comprise the *neighbourhood*. These three north south streets are not interconnected as they start at Queen Street East and dead end just north of the public beach. They have no east west pedestrian or vehicular connections between them other than Queen Street East. All north south streets west of Silver Birch Avenue have at least one east west vehicular connection to an adjacent north south street, in addition to their connection by Queen Street East. Silver Birch Avenue has a pedestrian connection to Willow Avenue, near its southern terminus. This street pattern creates internal links throughout the area west of Munro Park Avenue but establishes a distinct separation between the *neighbourhood* and this area.

4. The Proposal Before the Board

- 4.1. The Proposal is for two residential buildings, an apartment building sited on 2 Neville Park Boulevard and 438-440 Lake Front Lane and a detached house sited on 4 Neville Park Boulevard. The four properties will be assembled and the existing homes demolished to facilitate construction of the apartment building, which is proposed to be condominium tenured. The Proposal has an overall floor area ratio of 1.67.
- 4.2. The apartment is proposed to be four storeys (14.17 metres), with an above floor area of 4,561 m², a ground floor area of 1,145 m² and a floor area ratio on its site of 1.79.
- 4.3. The detached house is proposed to be three storeys (11.77 metres), with an above floor area of 451.50 m², a ground floor area of 142 m² and a floor area ratio on its site of 1.01.
- 4.4. City staff recommended, in their Refusal Report to Toronto and East York Community Council dated August 15, 2008, that City Council refuse the proposed Official Plan and Zoning By-law Amendments and Site Plan Control applications. City staff stated that refusal was recommended because the Proposal

“does not meet the intent of the Official Plan for development within or adjacent to stable residential neighbourhoods. The proposed lot size, density and building type do not reinforce or respect the physical character of the existing neighbourhood. The proposal would destabilize the existing building stock and result in inappropriate intensification in an area not identified for growth.”
- 4.5. City Council adopted the report at their meeting on September 24 and 25, 2008, refusing the request to amend the Official Plan and Zoning By-law.
- 4.6. The applicant, 2107639 Ontario Inc, subsequently appealed the decision of City Council to the Ontario Municipal Board.

5. Policy Framework

5.1. The Planning Act

- 5.1.1. As a professional Planner, I have a detailed understanding of the *Planning Act*, its context and how it is used. For the purposes of this hearing I have reviewed specific sections of the *Planning Act*, which I refer to and discuss in Section 6 - Issues, including:
- **Section 2 (p)**
The Minister, the council of a municipality, a local board, a planning board and the Municipal Board, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as...(p) the appropriate location of growth and development
 - **Section 2.1 (a)**
When an approval authority or the Municipal Board makes a decision under this Act that relates to a planning matter, it shall have regard to...(a) any decision that is made under this Act by a municipal council or by an approval authority and relates to the same planning matter
- 5.1.2. As discussed in Section 6, Issues, it is my opinion that approval of the Proposal would not have adequate regard for the matters set out in the Planning Act.

5.2. Provincial Policy Statement 2005

- 5.2.1. The Provincial Policy Statement 2005 (PPS) provides policy direction on matters of provincial interest. The PPS came into effect on March 1, 2005, replacing the 1996 Provincial Policy Statement. The PPS applies to applications, matters, or proceedings that commenced on or after March 1, 2005 (Policy 4.1).
- 5.2.2. Section 3 of the *Planning Act* requires that all decisions affecting planning matters “shall be consistent with” the policies in the PPS.
- 5.2.3. In Section 6 of my witness statement, I refer to and discuss specific sections and policies, including the following:
- **Policy 1.1.3.3**
Planning authorities shall identify and promote opportunities for *intensification* and *redevelopment* where this can be accommodated taking into account existing building stock or areas, including *brownfield sites*, and the availability of suitable existing or planned *infrastructure* and *public service facilities* required to accommodate projected needs.

Intensification and redevelopment shall be directed in accordance with the policies of Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.

- **Policy 4.5**

The official plan is the most important vehicle for implementation of this Provincial Policy Statement.

Comprehensive, integrated and long-term planning is best achieved through municipal official plans. Municipal official plans shall identify provincial interests and set out appropriate land use designations and policies. Municipal official plans should also coordinate cross-boundary matters to complement the actions of other planning authorities and promote mutually beneficial solutions.

Municipal official plans shall provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas.

In order to protect provincial interests, planning authorities shall keep their official plans up-to-date with this Provincial Policy Statement. The policies of this Provincial Policy Statement continue to apply after adoption and approval of a municipal official plan.

- 5.2.4. As discussed in Section 6, Issues, it is my opinion that the approval of the requested Zoning By-law Amendment and Official Plan Amendment would not be consistent with the Provincial Policy Statement.

5.3. Places to Grow: The Growth Plan for the Greater Golden Horseshoe

- 5.3.1. The Growth Plan for the Greater Golden Horseshoe, 2006 (the Growth Plan) was promulgated under the *Places to Grow Act, 2005* and took effect on June 16, 2006.
- 5.3.2. The Growth Plan is a Provincial plan that defines how and where long term growth and development should occur in the Greater Golden Horseshoe region. Addressing the fast-growing municipalities around Lake Ontario as one region working together, the Growth Plan establishes a vision and corresponding policies addressing transportation, infrastructure, land use planning, urban form, housing and natural heritage protection.
- 5.3.3. In Section 6, Issues, I refer to and discuss specific sections and policies, including the following:

- **Section 2.2.2.1- Managing Growth**
Population and employment growth will be accommodated by...b) focusing *intensification* in *intensification areas*
- **Section 2.2.3.6 - General intensification**
All municipalities will develop and implement through their official plans and other supporting documents, a strategy and policies to phase in and achieve *intensification* and the *intensification target*. This strategy and policies will:
 - a) be based on the growth forecasts contained in schedule 3
 - b) encourage *intensification* generally throughout the *built up* area
 - c) identify *intensification areas* to support achievement of the *intensification target*

5.3.4. As discussed in Section 6, Issues, it is my opinion that the Proposal does not conform to the Growth Plan for the Greater Golden Horseshoe.

5.4. The Official Plan of the City of Toronto

5.4.1. The Official Plan for the City of Toronto (the “Official Plan”) was partially approved by the Ontario Municipal Board in July 2006. A number of Special Policy Area polices, site specific polices and Secondary Plans remain under appeal. None of the matters still under appeal apply to 2-4 Neville Park Boulevard or 438-440 Lake Front Lane.

5.4.2. In Section 6, Issues, I refer to and discuss specific sections and policies, including the following:

- **Section 2.2, Policy 2 i)**
Growth will be directed to the Centres, Avenues, Employment Districts and Downtown in order to:...i) protect neighbourhoods, green spaces and natural heritage features and functions from the effect of nearby development.
- **Section 2.3.1, Policy 1**
Neighbourhoods and Apartment Neighbourhoods are considered to be physically stable areas. Development within *Neighbourhoods* and Apartment Neighbourhoods will be consistent with this objective and will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas.
- **Section 2.3.1, Policy 5**
Environmental sustainability will be promoted in *Neighbourhoods* and Apartment Neighbourhoods by investing in naturalization and landscaping improvements, tree planting and preservation, sustainable technologies for stormwater management and energy

efficiency and programs for reducing waste and conserving water and energy.

- **Section 3.1.2, Policy 1 (d)**

New development will be located and organized to fit with its existing and/or planned context. It will frame and support adjacent streets, parks and open spaces to improve the safety, pedestrian interest and casual views to these spaces from the development by...(d) preserving existing mature trees wherever possible and incorporating them into landscaping designs.

- **Section 3.1.2, Policy 3**

New development will be massed to fit harmoniously into its existing and/or planned context, and will limit its impacts on neighbouring streets, parks, open spaces and properties by:

- a) massing new buildings to frame adjacent streets and open spaces in a way that respects the existing and/or planned street proportion;
- b) creating appropriate transitions in scale to neighbouring existing and/or planned buildings for the purpose of achieving the objectives of this Plan
- c) providing for adequate light and privacy
- d) adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas; and,
- e) minimizing any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve their utility.

- **Section 3.4, Policy 1 (d)**

To support strong communities, a competitive economy and a high quality of life, public and private city-building activities and changes to the built environment, including public works, will be environmentally friendly, based on...(d) preserving and enhancing the urban forest by:

- i) providing suitable growing environments for trees;
- ii) increasing tree canopy coverage and diversity, especially of long-lived native and large shade trees; and
- iii) regulating the injury and destruction of trees;

- **Section 4.1, Policy 1**

Neighbourhoods are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes and townhouses, as well as interspersed walk-up apartments that are no higher than four storeys. Parks, low scale local institutions, home occupations,

cultural and recreational facilities and small-scale retail, service and office uses are also provided for in *Neighbourhoods*.

- **Section 4.1, Policy 5**

Development in established *Neighbourhoods* will respect and reinforce the existing physical character of the neighbourhood, including in particular:

- a) Pattern of streets, blocks and lanes, parks and public building sites;
- b) Size and configuration of lots;
- c) Heights, massing, scale and dwelling type of nearby residential properties;
- d) Prevailing building type(s);
- e) Setbacks of buildings from the street or streets;
- f) Prevailing patterns of rear and side yard setbacks and landscaped open space;
- g) Continuation of special landscape or built-form features that contribute to the unique physical character of a neighbourhood; and
- h) Conservation of heritage buildings, structures and landscapes.

No change will be made through rezoning, minor variance, consent or other public action that are out of keeping with the physical character of the neighbourhood.

The prevailing building type will be the predominant form of development in the neighbourhood. Some *Neighbourhoods* will have more than one prevailing building type. In such cases, a prevailing building type in one neighbourhood will not be considered when determining the prevailing building type in another neighbourhood.

- **Section 4.1, Policy 8**

Zoning by-laws will contain numerical site standards for matters such as building type and height, density, lot sizes, lot depths, lot frontages, parking, building setbacks from lot lines, landscaped open space and any other performance standards to ensure that new development will be compatible with the physical character of established residential *Neighbourhoods*.

- **Section 4.1, Policy 9**

Infill development on properties that vary from the local pattern in terms of lot size, configuration and/or orientation in established *Neighbourhoods* will:

- a) Have heights, massing and scale appropriate for the site and compatible with that permitted by the zoning for adjacent and nearby residential properties;

- b) Provide adequate privacy, sunlight and sky views for residents of new and existing buildings by ensuring adequate distance and separation between building walls and using landscaping, planting and fencing to enhance privacy where needed;
- c) Front onto existing or newly created public streets wherever possible, with no gates limiting public access; and,
- d) Locate and screen services areas and garbage storage to minimize the impact on existing and new streets and residences.

- **Section 5.3.1, Policy 3**

Amendments to this Official Plan that are not consistent with its general intent will be discouraged. Council will be satisfied that any development permitted under an amendment to the Plan is compatible with its physical context and will not affect nearby *Neighbourhoods* or *Apartment Neighbourhoods* in a manner contrary to the neighbourhood protection policies of this Plan. When considering a site specific amendment to the Plan, at the earliest point in the process the planning review will examine whether the application should be considered within the immediate planning context or whether a broader review and possible area specific policy or general policy change are appropriate.

- **Section 5.6, Policy 13**

When an application for rezoning or minor variance is received in a *Neighbourhood*, *Apartment Neighbourhood* or *Mixed Use Area* adjacent to a *Neighbourhood* or an *Apartment Neighbourhood* for which an Avenue Study or a zoning review has been completed, and where no numeric height or density limit is specified in this Plan:

- a) A determination will be made as to whether or not such height and/or density limits as are contained in the applicable Zoning By-law implement the Plan, irrespective of whether enactment of the By-law pre-dates approval of the Plan; and
- b) Where they implement the Plan, such limits will be considered to be an important element and point of reference in the assessment of the application. Any increase beyond these limits will require appropriate planning justification consistent with the policies of the Plan.

5.4.3. As discussed in Section 6, Issues, it is my opinion that the Proposal does not conform to the policies of the Toronto Official Plan.

5.5. Zoning By-law 438-86

5.5.1. The Zoning By-law for the former City of Toronto, #438-86 (the "By-law"), was passed by City Council on June 16, 1986 and amended from time to time. In Section 6, Issues, I refer to and discuss several permissions and restrictions in the By-law.

- 5.5.2. The Site is zoned R1 Z0.6. (Map 50G-323). This designation permits detached houses as a residential use. Height is limited to 12 metres. Minimum setbacks are:
- Front Yard: in line with adjacent development (4 Neville Park Boulevard)
 - Rear Yard: 7.5 metres
 - Side Yard: .9 metres for a 17 metre or less building depth; 7.5 metres on that portion of the building which extends beyond 17 metres
- 5.5.3. The Site is also subject to Permissive Exception 12 (1) 243 which states that “None of the provisions of the By-law applies:
- (a) to prevent, within the area designated R1 Z0.6 located south of Queen Street East, east of Silver Birch Avenue:
- (i) the erection or use of a duplex; or
 - (ii) the alteration or conversion of a detached house pursuant to section 6(2) 3 provided the residential building as altered or converted, contains no more than 2 dwelling units
- (b) to prevent the erection or use on the lot known in the year 1985 as 2 Nursewood Road of an apartment building.”
- 5.5.4. This zoning applies to all properties on Munro Park Avenue, Neville Park Boulevard and Nursewood Road, south of Queen Street East.
- 5.5.5. Other than 2 Nursewood Road, apartments are not permitted in the *neighbourhood*. Setback and building depth permissions in a zone that permits four storey apartments are:
- Front Yard: in line with adjacent development
 - Rear Yard: 7.5 metres
 - Side Yard: 0.45 metres
 - Building Depth: 14 metres
- 5.5.6. As discussed in Section 6, Issues, it is my opinion that the proposed use (four storey apartment) and the density of the proposed apartment are not appropriate for an R1 Z0.6 zoning category

6. Issues

6.1. Provincial Policy: Planning Act

Issue 1

- 6.1.1. Is the proposed development consistent with, and does it have regard to, the matters of provincial interest set forth in Section 2 of the Planning Act, and in particular, subsection (p) dealing with the appropriate location of growth and development?

Opinion Issue 1: Section 2 - Provincial Interest

- 6.1.2. The Planning Act identifies the appropriate location of growth and development as a matter of provincial interest. The Act states that there are appropriate locations for growth and development; conversely, it implies that growth and development are not appropriate in every location. There are locations that are meant to change through growth and development and locations that are meant to remain stable.
- 6.1.3. The Planning Act does not give specific direction as to the appropriate location for growth and development. This direction is provided through the Provincial Policy Statement, the Growth Plan and Municipal official plans and by-laws. As discussed in greater detail in responding to Issue 5 (below), the City of Toronto's Official Plan designates 2-4 Neville Park Boulevard and 438-440 Lake Front Lane as *Neighbourhood*, a physically stable area and not an area where intensification is to be directed.
- 6.1.4. It is my opinion that the Proposal does not have adequate regard for the matters in Section 2 of the Planning Act. 2-4 Neville Park Boulevard and 438-440 Lake Front Lane are not appropriate locations for growth and development, as they are designated *Neighbourhood*, a physically stable area. The proposed development of them would create instability in the *neighbourhood* and, in doing so, would encourage further similar growth and development where it has explicitly been determined to be inappropriate.

Issue 2

- 6.1.5. Would approval of the proposed development have regard to the decision of Council as required by Section 2.1 of the Planning Act?

Opinion Issue 2

- 6.1.6. I have not addressed this issue as it is an issue that the City of Toronto will address; of course, my evidence supports the decision of the Council and urges the Board to confirm this decision.

6.2. Provincial Policy: Provincial Policy Statement 2005

Issue 3

- 6.2.1. Is the proposed development consistent with the Provincial Policy Statement (2005), in particular, Policies 1.1.3.3 and 4.5?

Opinion Issue 3: Policy 1.1.3.3 - Managing and Directing Land Use and Policy 4.5 – Implementation and Interpretation

- 6.2.2. Policy 1.1.3.3 states that planning authorities shall identify and promote opportunities for *intensification* and *redevelopment* where this can be accommodated taking into account existing building stock or areas, including *brownfield sites*, and the availability of suitable existing or planned *infrastructure* and *public service facilities* required to accommodate projected needs.
- 6.2.3. The PPS defines *intensification* as "...the development of a property, site or area at a higher density than currently exists through:
- a. *redevelopment*, including the reuse of brownfield sites;
 - b. the development of vacant and/or underutilized lots within previously developed areas;
 - c. infill development; and,
 - d. the expansion or conversion of existing buildings."
- 6.2.4. The PPS defines *redevelopment* as "...the creation of new units, uses or lots on previously developed land in existing communities, including brownfield sites."
- 6.2.5. The Proposal for 2-4 Neville Park Boulevard and 438-440 Lake Front Lane is a *redevelopment* of these properties as it creates new units on previously developed land in an existing community. It is also an *intensification* of these properties as the *redevelopment* will be at a higher density than currently exists.
- 6.2.6. The PPS directs municipalities to identify opportunities for *intensification* and *redevelopment* where it can be accommodated. This policy recognizes that not all locations can accommodate *intensification* and *redevelopment*. It establishes that there are areas that are meant to change through *intensification* and *redevelopment*, and there are areas that are meant to remain stable.
- 6.2.7. This policy delegates the identification and promotion of opportunities for *intensification* and *redevelopment* to planning authorities, such as the City of Toronto, which is accomplished through official plans and zoning by-laws. As discussed in greater detail in responding to Issue 5 (below), the City of Toronto's Official Plan designates 2-4 Neville Park Boulevard and 438-440 Lake Front Lane as *Neighbourhood*, a physically stable area and not an area where intensification is to be directed. The applicant has not

addressed why or how the City's existing policy structure is inappropriate and has not demonstrated any public interest favouring changes to the existing policy structure.

- 6.2.8. Policy 4.5 states that official plans are the most important vehicles for implementation of the PPS and that official plans shall:
- Identify provincial interests;
 - Set out appropriate land use designations and policies; and,
 - Provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas.
- 6.2.9. The Planning Act states that the appropriate location of growth and development is a matter of provincial interest and the PPS states that official plans shall provide policies that protect provincial interests. Based on Policy 4.5, this protection is achieved in official plans by setting out appropriate land use designations and policies and by directing development to suitable areas.
- 6.2.10. It is my opinion that the Proposal is inconsistent with the PPS. The Proposal does not protect the provincial interest of appropriately locating growth and development. 2-4 Neville Park Boulevard and 438-440 Lake Front Lane are not properties that have been identified as opportunities for *intensification* and redevelopment. The proposed development of the Site does not conform to the Official Plan land use designation of *Neighbourhood*, as the Site is a physically stable area and not an area where intensification is to be directed. There is no indication that the designation of 2-4 Neville Park and 438-440 Lake Front Lane as *Neighbourhood* in Toronto's Official Plan is inappropriate and no public interest favouring changes. The proposed development of the Site would create instability in the *neighbourhood* and, in doing so, would encourage further similar growth and development where it has explicitly been determined to be inappropriate.

6.3. Provincial Policy: Growth Plan

Issue 4 a)

- 6.3.1. Does the proposed development conform to the Growth Plan for the Greater Golden Horseshoe (2006), in particular:
- a) Policy 2.2.2.1, that population growth will be accommodated by focusing *intensification* in *intensification areas*?

Issue 4 b)

- 6.3.2. Does the proposed development conform to the Growth Plan for the Greater Golden Horseshoe (2006), in particular:

- b) Policy 2.2.3.6(c), that Official Plans will identify *intensification areas* to support the achievement of the *intensification target*?

Opinion Issue 4 a): Policy 2.2.2.1 - Managing Growth and 4 b) Policy 2.2.3.6 c) - General Intensification

- 6.3.3. The Growth Plan uses the same definition of *intensification* as the PPS - "...the development of a property, site or area at a higher density than currently exists through:
- a. *redevelopment*, including the reuse of brownfield sites;
 - b. the development of vacant and/or underutilized lots within previously developed areas;
 - c. infill development; and,
 - d. the expansion or conversion of existing buildings."
- 6.3.4. The Growth Plan defines *intensification area* as "lands identified by municipalities or the Minister of Public Infrastructure Renewal within a settlement area that are to be the focus for accommodating *intensification*." *Intensification areas* include urban growth centres, intensification corridors, major transit station areas, and other major opportunities that may include infill, *redevelopment*, brownfield sites, the expansion or conversion of existing buildings and greyfields.
- 6.3.5. The Growth Plan uses the same definition of *redevelopment* as the PPS: "...the creation of new units, uses or lots on previously developed land in existing communities, including brownfield sites."
- 6.3.6. The Proposal for 2-4 Neville Park Boulevard and 438-440 Lake Front Lane is a *redevelopment* of these properties as it creates new units on previously developed land in an existing community and is an *intensification* of these properties as the *redevelopment* will be at a higher density than currently exists.
- 6.3.7. Given that the Growth Plan states that *intensification areas* are to be the focus for accommodating *intensification*, this implies that not all locations are to be a focus for accommodating *intensification*. There are areas that are meant to change and areas that are meant to remain stable.
- 6.3.8. This policy delegates the identification of *intensification areas* to municipalities, such as the City of Toronto, through their official plans.
- 6.3.9. Policy 2.2.3.6 a) states that to achieve the *intensification target* policies and strategies in official plans will be based on the growth forecasts contained in Schedule 3 of the Growth Plan. Schedule 3 estimates that Toronto will have a population of 3,080,000 by 2031. Section 2.1, Policy 3 of the Toronto Official Plan states that Toronto should accommodate a minimum of 3 million residents by 2031. It is my opinion that there are sufficient opportunities for *intensification* within *intensification areas* for Toronto to achieve either of these growth forecasts. These *intensification*

areas are the appropriate locations for this type of Proposal because of their proximity to transit corridors and the scale and type of development in the surrounding context.

6.3.10. Policy 2.2.3.6 b) encourages *intensification* generally throughout the *built up area* and Policy 2.2.3.6 c) states that there will be specific *intensification areas* to support achieving the *intensification target*. Read together, it is my opinion that while *intensification* may be permitted generally throughout the built up area, the Growth Plan requires Official Plans to include a strategy and to identify specific areas for *intensification* to meet the *intensification target*.

6.3.11. It is my opinion that the Proposal is inconsistent with the Growth Plan. As discussed in greater detail in responding to Issue 5 (below), the City of Toronto's Official Plan designates 2-4 Neville Park Boulevard and 438-440 Lake Front Lane and the surrounding area south of Queen Street East as *Neighbourhood*, a physically stable area. They have not been identified as an area where *intensification* is appropriate such as the *Downtown*, the *Centres* and along *Avenues* (Official Plan, page 3-5) and the Proposal does not focus *intensification* in an *intensification area*. The proposed development of the Site would create instability in the *neighbourhood* and, in doing so, would encourage further similar growth and development where it has explicitly been determined to be inappropriate.

6.4. Municipal Policy: City of Toronto Official Plan

Issue 5 a)

6.4.1. Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:

- a) Section 2.2, Policy 2, that growth will be directed to Centres, Avenues, Employment Districts and Downtown in order to protect *Neighbourhoods*?

Opinion Issue 5 a): Section 2.2, Policy 2 – Structuring Growth

6.4.2. This policy implements the direction provided by the PPS and Growth Plan policies (discussed in the context of Issues 1, 3 and 4 above). It is not only about growth but also about stability as it specifically states in subsection i) that growth will be directed to certain areas to “protect neighbourhoods, green spaces and natural heritage features and functions from the effect of nearby development.” The overall approach of the Official Plan is to balance growth with stability by defining areas where physical change is appropriate or expected (such as Centres and Avenues) and areas where physical change is not desirable, such as parks, heritage buildings and neighbourhoods of single family homes. If this delineation is not upheld then there is little reason for the City to define specific areas where intensification should and should not occur.

- 6.4.3. The City of Toronto discussion paper “Toronto at the Crossroads”, released in 2000, was a background report to the Official Plan. The paper laid out a One Vision, Three Lenses approach to the City of Toronto stating on page 27 that:

“Toronto’s new Official Plan will present one integrated vision for the City. But it will be one vision viewed through three lenses. It will view different districts of the City according to the degree of physical change that is desirable, and the different tools and processes that can best accomplish it:

- Areas where the City would like to help initiate major reinvestment and development will be given a new array of creative tools to kick-start and facilitate change;
- In established, relatively stable districts where major physical change is not desired, the Official Plan policies and zoning by-law will reinforce the existing physical character; and,
- In areas where gradual change is expected, new development will be guided by a local vision for change and design-based zoning.”

- 6.4.4. On page 33 the paper discusses the physical stability of neighbourhoods:

“But the physical changes to our neighbourhoods are gradual and tend to reinforce the existing built character through house additions, decks, and infill or replacement homes. The new Official Plan will recognize the stable physical character of existing neighbourhoods, and include policies to ensure that civic actions and applications for development:

- Respect the general physical character of these communities;
- Improve community amenities;
- Promote environmental sustainability; and,
- Boost economic activity.”

- 6.4.5. On page 34, the paper summarizes the City of Toronto Council’s intent in *Residential Neighbourhoods* (*Neighbourhood*’ designations in the Official Plan) as:

- Reinforcing and enhancing the established physical character;
- Improving community amenities; and,
- Promoting environmental sustainability.

- 6.4.6. The three lenses approach is echoed in the Official Plan on page 2-3:

“The process of managing growth and change will be different in different parts of the City because some areas will have a greater or lesser capacity to accommodate growth. The scale of change will vary

depending on the existing conditions of land use, infrastructure needs and opportunities for realizing reurbanization goals.

We can view Toronto's future through one of three different 'lenses':

- Almost three-quarters of the City's land area is taken up by our residential neighbourhoods, watercourse, ravines and parks. These areas can expect to see little physical change.
- There are parts of the City which are ripe for major growth such as the Centres, the Port Lands and large vacant sites. Their unique situations require local plans.
- Other parts of the city present opportunities for a more gradual process of incremental change, such as the City's main shopping streets and certain institutional lands."

6.4.7. It is stated on page 2-21 of the Official Plan that "By focusing most new residential development in the Centres, along the Avenues, and in other strategic locations, we can preserve the shape and feel of our neighbourhoods. However, these neighbourhoods will not stay frozen in time....Some physical change will occur over time as enhancements, additions and infill housing occurs on individual sites. A cornerstone policy is to ensure that new development in our neighbourhoods respects the existing physical character of the area, reinforcing the stability of the neighbourhood."

6.4.8. It is my opinion that the Proposal does not conform to Section 2.2, Policy 2 of the Official Plan. The Official Plan directs the type of growth reflected by the Proposal to Centres, Avenues, Employment Districts and the Downtown, but the Proposal is located within a *Neighbourhood*. It is clear from the policy and from the Official Plan background discussion paper that *Neighbourhoods* are considered stable areas and are not areas for the type of growth reflected by the Proposal. The Official Plan does not envision the introduction of a four storey apartment, which is of a larger scale than all existing residential buildings, into an area, such as the *neighbourhood*, that is predominantly comprised of detached homes. The applicant has not identified any public interest in support of changing this fundamental policy structure of the Toronto Official Plan.

Issue 5 b)

6.4.9. Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:

- b) Section 2.3.1, Policy 1, that *Neighbourhoods* are considered physically stable areas, and development will be consistent with this objective and will respect and reinforce the existing physical character?

Opinion Issue 5 b): Section 2.3.1, Policy 1 – Healthy Neighbourhoods

- 6.4.10. The character of neighbourhoods within the *Neighbourhood* designation varies throughout the City of Toronto. The character of this *neighbourhood* is predominantly detached houses. The character of the area west of Munro Park Avenue, the broader residential area, is predominantly smaller scale residential buildings (detached houses, semi-detached houses, townhouses and multiplexes).
- 6.4.11. Even when compared to the lone existing apartment building within the *neighbourhood*, and the limited number of existing apartment buildings in the broader residential area, the proposal is out of character. The existing apartment within the *neighbourhood* and all of the existing apartments in the area west of Munro Park Avenue are of a smaller scale than the proposed apartment building.
- 6.4.12. The *neighbourhood* is predominantly comprised of detached homes. The maximum height of these buildings is three storeys. The *neighbourhood* also includes one three to four storey apartment at 2 Nursewood Road. The Zoning for *the neighbourhood* does not permit apartments, except for the site specific permission to recognize the historic apartment building at 2 Nursewood Road. In this respect the *neighbourhood's* zoning is distinguishable from the residential area to the west of Munro Park Avenue where apartments are permitted.
- 6.4.13. The physical character of the three streets in the *neighbourhood* is also different from the area west of Munro Park Avenue. Though the scale of development in the *neighbourhood* is similar to the residential area to the west (excluding apartments), *neighbourhood* lots, on average, are larger, and densities and lot coverage tends to be lower than in the residential area west of Munro Park Avenue.
- 6.4.14. The apartment at 2 Nursewood Road was constructed in 1965. It is separated from adjacent homes by a parking area and by a grade change. While the above floor area of this apartment building is larger than that of the other buildings in the *neighbourhood*, the overall density of development on the lot (0.61 FSI) is similar to other properties in the *neighbourhood*, as its lot is proportionately larger. This density is also only slightly greater than the 0.60 maximum floor area ratio permitted for the area in the Zoning By-law.
- 6.4.15. This apartment building has a site specific exception recognizing its use, introduced in 1986 by By-law 179-86, which was included at the request of the then owner so that they were not faced with a legal non-confirming use when the apartment permissions was removed from the zoning permissions for the rest of the area. This illustrates that there was a clear intention by the City and the residents, who supported the 1986 zoning amendment, to preserve the existing character by ensuring no new apartment buildings were constructed in the area.

- 6.4.16. The proposal before the Board has a significantly larger lot size, above floor area and density than 2 Nursewood Road.
- 6.4.17. In terms of the broader residential area, the proposed apartment building would have the largest above floor area, 4,561 m², of all residential buildings south of Queen Street East between Nursewood Road and Lee Avenue. All of the apartment buildings in the broader residential area have an above floor area which is less than half the above floor area of the proposed apartment building.
- 6.4.18. In terms of the broader residential area, the proposed apartment building would be sited on the second largest lot, 2,551 m², of all residential buildings south of Queen Street East between Nursewood Road and Lee Avenue. The only larger lot is the apartment at 30 Beech Avenue with a lot area of 3,781 m². The size of this lot is an anomaly and is inconsistent with all other properties in the broader residential area as it is approximately twice the size of the next largest existing residential lot. As well, the apartment at 30 Beech Avenue is significantly different than the proposal. It is only two to three storeys in height and it has a density of 0.60 which conforms to the site's zoning. The size of the lot combined with the low density limits the physical and visual impact on surrounding properties. All other apartments in this area are sited on lots with an area less than 2,000 m².
- 6.4.19. In terms of the broader residential area, the proposed apartment building would have the largest ground floor area, 1,145 m², of all residential buildings south of Queen Street East between Nursewood Road and Lee Avenue. The largest existing apartment in the broader residential area is at 30 Beech Avenue, which has a ground floor area of 1,129 m². However, the built form of this apartment is different than the proposal, as it does not have the height, density, massing and scale of the proposed apartment. The ground floor areas of all other apartments in this area are less than 650 m², just over half that of the proposed apartment building.
- 6.4.20. It is my opinion that the Proposal does not conform to Section 2.3.1, Policy 1 of the Toronto Official Plan. The lot size, density and height of the Proposal do not reinforce the existing physical character of the *neighbourhood*, which is predominately comprised of detached homes. It is also my opinion that the Proposal does not reinforce the existing physical character of the broader residential area. The above floor area, lot size and floor plate, combined with the four storey height, of the proposed apartment building is significantly out of context with the hundreds of smaller scale residential buildings and with the eleven apartment buildings in the broader residential area, which are all of a smaller scale.

Issue 5 c)

6.4.21. Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:

- c) Section 3.1.2, Policy 3, that new development will fit harmoniously into its context and limit its impacts on neighbouring streets, parks and open spaces?

Opinion Issue 5 c): Section 3.1.2, Policy 3 – Built Form

6.4.22. As discussed in Issue 5 b) above, it is my opinion that the proposed development would not fit harmoniously in the neighbourhood. This issue is addressed in the witness statement of Wayne Morgan and, we understand, of Sharon Mackenzie.

Issue 5 d)

6.4.23. Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:

- d) Section 4.1, Policy 1, that *Neighbourhoods* are physically stable areas?

Opinion Issue 5 d): Section 4.1, Policy 1 – Neighbourhoods

6.4.24. It is my opinion that the Proposal does not conform to Section 4.1, Policy 1. Although a new four storey apartment may be appropriate in certain neighbourhoods, where detached houses do not constitute the prevailing building type in the neighbourhood, it is not appropriate to develop a new apartment building in this *neighbourhood* where detached houses are the prevailing building type.

6.4.25. The reference in the Policy to “interspersed walk-up apartments that are no higher than four storeys” does not permit an apartment building which is not a walk-up apartment (as that term is understood and as are the two existing apartment buildings in proximity to the proposal, 2 Nursewood Road and 15 Glenfern Avenue) solely on the basis of that reference, in particular where the proposed development would not contribute to the physical stability of the *neighbourhood*.

6.4.26. The Proposal introduces a building scale to the *neighbourhood*, in terms of ground floor area, lot area, above floor area, density and height that does not currently exist and which would negatively impact the physical stability of and would create an inappropriate benchmark as to permissible development in the *neighbourhood*. The demolition of detached homes for the purpose of consolidating lots to allow for a substantially higher intensity development than exists in the surrounding context is fundamentally at odds with the Policy.

Issue 5 e)

6.4.27. Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:

- e) Section 4.1, Policy 5, that development in *Neighbourhoods* will respect and reinforce the existing physical character of a neighbourhood and that no changes will be made through rezoning or other public action that are out of keeping with the physical character of the neighbourhood?

Opinion Issue 5 e): Section 4.1, Policy 5 – Development Criteria in Neighbourhoods

- 6.4.28. The non policy language on page 4-3 of the Official Plan provides guidance on the intention of the policy language in Section 4.1, Policy 5 as follows:

“The stability of our *Neighbourhood’s* physical character is one of the keys to Toronto’s success. While communities experience constant social and demographic change, the general physical character of Toronto’s residential neighbourhoods endures. Physical changes to our established *Neighbourhoods* must be sensitive, gradual and generally fit the existing physical character. A key objective of this Plan is that new development respect and reinforce the general physical patterns in a *Neighbourhood.*”

- 6.4.29. It is my opinion that the proposal is not sensitive or gradual and does not generally fit the existing physical character of the *neighbourhood* for the reasons discussed below and in other parts of this witness statement.

- 6.4.30. Policy 5 lists several aspects of physical character of a neighbourhood, including:

- b) Size and configuration of lots;
- c) Heights, massing, scale and dwelling type of nearby residential properties;
- d) Prevailing building type(s);
- h) Conservation of heritage buildings, structures and landscapes.

- 6.4.30.1. Lot Size and Configuration: It is my opinion that the Proposal does not conform to Section 4.1, Policy 5 b) as it creates a lot size that is out of character with all other properties in the *neighbourhood* and in the broader residential area. The proposed lot area for the apartment building, 438 – 440 Lake Front Lane and 2 Neville Park Boulevard, is 57% larger than the lot for the apartment at 2 Nursewood Road and is more than double the size of all other lots in the *neighbourhood*. The proposed lot area is larger than all other residential lots in the broader residential area, except for the property at 30 Beech Avenue which, as noted in Issue 5 b), is an anomaly property that is inconsistent with the development pattern of the neighbourhood and the broader residential. The range

and average lot areas for the different building types in the *neighbourhood* and the broader residential area are:

Residential Lot Area (m²)*			
Building Type	Low	High	Average
Proposal			
Apartment only	N/A	N/A	2,551
neighbourhood			
Non-apartment	232	1,198	549
Apartment	N/A	N/A	1,621
Broader residential area			
Non-apartment	87	966	292
Apartment	278	3,781	1,114
*All numbers are approximate and taken from the City's database			

- 6.4.30.2. Height: The height of the proposed apartment building is four storeys, which is taller than all other buildings in the *neighbourhood*. The tallest existing building in the *neighbourhood* is the apartment at 2 Nursewood Road, which has a height of four storeys along its southern edge, although grade is at a significantly lower elevation on this edge of the building than it is for all other properties in the *neighbourhood*. All other buildings in the *neighbourhood* are three storeys or less, the majority of which are either two or two and a half storeys.
- 6.4.30.3. Massing and Scale: It is my opinion that the Proposal does not conform to Section 4.1, Policy 5 c) as it proposes an apartment building with a massing/above floor area and scale/ground floor area that is out of character with all other buildings in the *neighbourhood* and the broader residential area.

The above floor area of the proposed apartment building is more than four times larger than the existing apartment building at 2 Nursewood Road and is more than eight times larger than the gross floor area of all other buildings in the *neighbourhood*. As well, it is twice as large as the largest existing apartment in the broader residential area, which is located at 30 Beech Avenue. The range and average above floor areas for the different building types in the *neighbourhood* and the broader residential area are:

Above Floor Area (m ²)*			
Building Type	Low	High	Average
Proposal			
Apartment only	N/A	N/A	4,561
neighbourhood			
Non-apartment	78	551	209
Apartment	N/A	N/A	984
Broader residential area			
Non-apartment	58	576	192
Apartment	455	2,254	1,123
*All numbers are approximate and taken from the City's database			

The ground floor area of the proposed apartment building is more than three times larger than the existing apartment building at 2 Nursewood Road and is more than five times larger than the ground floor area of all other buildings in the *neighbourhood*. As well, it would have the largest ground floor area of all residential buildings in the broader residential area. The range and average ground floor areas for the different building types in the *neighbourhood* and the broader residential area are:

Ground Floor Area (m ²)*			
Building Type	Low	High	Average
Proposal			
Apartment only	N/A	N/A	1,145
neighbourhood			
Non-apartment	52	208	99
Apartment	N/A	N/A	328
Broader residential area			
Non-apartment	25	244	92
Apartment	114	1,129	388
*All numbers are approximate and taken from the City's database			

- 6.4.30.4. **Building Type:** It is my opinion that the Proposal does not conform to Section 4.1, Policy 5 d) as it proposes a building type that is out of character with the prevailing building type in the *neighbourhood*. Of the over 80 properties in the *neighbourhood* all are detached houses (the prevailing building type), except the one apartment at 2 Nursewood Road, and all buildings are of a smaller scale than the proposed apartment building.

Policy 5 states that “the prevailing building type will be the predominant form of development in the neighbourhood. Some *Neighbourhoods* will have more than one prevailing building type. In such cases, a prevailing building type in one

neighbourhood will not be considered when determining the prevailing building type in another neighbourhood.”

Page 4-2, Section 4.1 of the Official Plan (marginal notes) provides a more detailed discussion of Prevailing Building Types:

“Many zoning by-laws currently permit only single detached houses. The type of dwellings permitted varies among neighbourhoods and these detailed residential use lists are contained in the established zoning by-laws which will remain in place and establish the benchmark for what is to be permitted in the future. If, for example, an existing zoning by-law permits only single detached houses in a particular neighbourhood and the prevailing (predominant) building type in that neighbourhood is single detached dwellings, then the Plan’s policies are to be interpreted to allow only single detached dwellings in order to respect and reinforce the established physical character of the neighbourhood, except where the infill development policies of Section 4.1.9 would be applicable.” The infill development policies are discussed in Issue 6.

In this *neighbourhood*, the Zoning By-law permits single detached dwellings, with one or two units, and duplexes and the prevailing building type is single detached dwellings and it is clear from Section 4.1 of the Official Plan that only buildings that reinforce the established physical character, such as single detached dwellings and duplexes, should be permitted.

- 6.4.30.5. Conservation of heritage buildings, structure and landscapes: It is my opinion that the Proposal does not meet the intent of Section 4.1, Policy 5 h) as it does not conserve 2 Neville Park which is considered to be a heritage building worthy of preservation within the context of Wayne Morgan’s October 2008 Heritage Conservation District Study and Plan for Munro Park/East Beach. Wayne Morgan also addresses this policy in his witness statement in a different context.

- 6.4.31. It is my opinion that the detached houses on the proposed development site should not be torn down, the lots should not be consolidated and the consolidated lots should not be rezoned to permit a development that is out of keeping with the physical character of the *neighbourhood*, as the proposal before the Board seeks to do. Such action is not in the public interest.

Issue 5 f)

- 6.4.32. Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:

- f) Section 4.1, Policy 8, that zoning by-laws will contain numerical standards for matters such as building type and height, density, lot sizes, lot depths, lot frontages, parking, building set backs from lot lines, landscaped open space and any other performance standards to ensure that new development will be compatible with the physical character of established *Neighbourhoods*?

Opinion Issue 5 f): Section 4.1, Policy 8 – Development Criteria in Neighbourhoods

- 6.4.33. Both the zoning of and the existing development within a neighbourhood provide a good indication of what should be considered as compatible with the physical character of the neighbourhood. In terms of Zoning, the *neighbourhood* is distinct from the broader residential area as the area west of Munro Park Avenue is zoned R2 Z0.6, which permits apartments. The Proposal does not conform to the Zoning By-law and the apartment requires a rezoning for:

Requirement	By-law	Proposal
Height	12 metres	14.17 metres
Density	0.60	1.67 – full proposal 1.79 – apartment
Use*	Detached home (1 or 2 units), duplex	Apartment
Front Yard Setback	In line with adjacent property to the north	4.3 metres
Rear Yard Setback	7.5 metres	1.5 metres
Building Length	14 metres	> 14 metres
*Note: the By-law has a site specific permission to recognize the historic apartment building at 2 Nursewood		

- 6.4.34. In terms of building height, no other building in the *neighbourhood* exceeds three storeys, except the southern portion of the apartment at 2 Nursewood, which is four storeys. The vast majority of residential houses are either 2 or 2.5 storeys. The proposed apartment will be the tallest building in the *neighbourhood*. The proposed apartment would also exceed the height permitted by the By-law on Queen Street East north of the *neighbourhood*, which is 12 metres.
- 6.4.35. In terms of density, only nine properties in the *neighbourhood* exceed the density permitted by the By-law, as follows:

Address	Use	Density
4 Neville Park Blvd	Detached – 1 unit	1.24
45 Munro Park Av	Detached – 1 unit	0.83
2A Nursewood Rd	Detached – 1 unit	0.83
4 Nursewood Rd	Detached – 1 unit	0.79
33 Munro Park Av	Detached – 1 unit	0.78
16 Nursewood Rd	Detached – 1 unit	0.71

15 Neville Park Blvd	Detached – 1 unit	0.62
22 Neville Park Blvd	Detached – 1 unit	0.62
2 Nursewood Rd	Apartment	0.61
*All numbers are approximate and taken from the City's database		

These developments have a far smaller above floor area than the proposed apartment and do not vary significantly from the typical built form throughout the *neighbourhood*. The proposed apartment will be the highest density development in the *neighbourhood*, with a density approximately three times that permitted by the Zoning By-law.

- 6.4.36. In terms of building type, the large majority of houses are single detached with 1 unit. The few detached houses with 2 units and the one apartment, 2 Nursewood Road which was built in 1965 under the then permissive zoning, are all expressly permitted by an exception in the Zoning By-law.
- 6.4.37. It is my opinion that the Proposal does not conform to Section 4.1, Policy 8. It does not conform to the Zoning By-law, as it requires several significant amendments and particularly amendments for height, density and use. Section 4.1, Policy 5 specifically states that “no changes will be made through rezoning, minor variance, consent or other public action that are out of keeping with the physical character of the neighbourhood”. As discussed above and in Issue 5 d, the ground floor area, lot area, above floor area, density, height and building type are not in keeping with the physical character of the *neighbourhood*, an R1 zone. The applicant has not demonstrated a public interest in favour of changing the existing zoning to allow for the proposed development.
- 6.4.38. Note also in Section 5.6, Policy 13 that “when an application for rezoning or minor variance is received in a Neighbourhood...for which an Avenue Study or a zoning review has been completed, and where no numeric height or density limit is specified in this Plan:
- a) A determination will be made as to whether or not such height and/or density limits as are contained in the applicable Zoning By-law implement the Plan, irrespective of whether enactment of the By-law pre-dates approval of the Plan; and
 - b) Where they implement the Plan, such limits will be considered to be an important element and point of reference in the assessment of the application. Any increase beyond these limits will require appropriate planning justification consistent with the policies of the Plan.”

This policy emphasizes the significance of the existing zoning when reviewing an application for rezoning and it is my opinion that the height and density limits in the Zoning By-law implement the Official Plan and that approval of the increases beyond these as contemplated by the Proposal would not be consistent with the policies of the Plan.

Issue 5 g)

6.4.39. Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:

g) Section 5.3.1, Policy 3, that amendments to the Official Plan not consistent with its general intent, are discouraged?

Opinion Issue 5 g): Section 5.3.1, Policy 3 – The Official Plan Guides City Actions

6.4.40. The policy states that “Amendments to this Official Plan that are not consistent with its general intent will be discouraged. Council will be satisfied that any development permitted under an amendment to the Plan is compatible with its physical context and will not affect nearby *Neighbourhoods* or *Apartment Neighbourhoods* in a manner contrary to the neighbourhood protection policies of this Plan.”

6.4.41. It is my opinion that the Proposal does not conform to Section 5.3.1, Policy 3 as it requires amendments to the Official Plan that are not consistent with the general intent of the Plan.

6.4.42. For the reasons discussed throughout Issue 5, protecting neighbourhoods is just as central to the purpose of the Official Plan as is managing growth and intensification. The proposed development is out of character with the prevailing building type of the *neighbourhood*, it does not reinforce and respect the established physical character of the *neighbourhood* and it does not direct growth to an area that has been identified to accommodate change but rather to a *Neighbourhood*, which is a physically stable area. Demolishing detached homes for the purpose of consolidating lots to allow for a development that is of a significantly larger scale than all other residential developments in the neighbourhood, in this case both the *neighbourhood* and the broader residential area, is not within the general intent of the Official Plan.

Issue 6

6.4.43. Do the subject site and the proposed development constitute infill development as contemplated by Section 4.1 of the City of Toronto Official Plan?

Opinion Issue 6: Section 4.1. Policy 9 – Infill Development

6.4.44. On page 34 of *Toronto at the Crossroads*, the paper discusses how infill development should be treated in the Official Plan. It states that

“the City also receives applications for infill development from time to time on properties that do not fit the local lot pattern — lands that were formerly isolated industrial sites, part of a utility corridor or simply passed over in the first generation of urbanization. Often the lot configuration and standards cannot mirror that of the adjacent residential district, but the Plan should include criteria to ensure that infill developments fit in with the district and reinforce the quality of the lives of existing residents.”

- 6.4.45. Policy 9 is preceded by the following non-policy guidance to the intention of the policy:

“Scattered throughout many *Neighbourhoods* are properties that differ from the prevailing patterns of lot size, configuration and orientation. Typically, these lots are sites of former non-residential uses such as an industry, institution, retail stores, a utility corridor, or are lots that were passed over in the first wave of urbanization....Due to the site configuration and orientation, it is often not possible or desirable to provide the same site standards and pattern of development in these infill projects as in the surrounding *Neighbourhood*. Special infill criteria are provided for dealing with the integration of new development for these sites, and for intensification on existing apartment sites in *Neighbourhoods*.”

- 6.4.46. It is my opinion that the Proposal does not constitute infill development as contemplated by Policy 9 in Section 4.1.

- 6.4.47. The properties are not of the type described in the non-policy language noted above.

- 6.4.48. Further, it is the Proposal that creates a new lot that would vary from the local pattern in terms of lot size, configuration and/or orientation. The existing lot sizes and configurations do not significantly vary from the local pattern. Though amongst the largest lot areas in the *neighbourhood*, the lot areas and orientation of 2 Neville Park and 438 to 440 Lake Front Lane are typical of the lot pattern and lot sizes along the lakefront between the 15 Glenfern Avenue apartment on the west and 2 Nursewood Road apartment on the east.

- 6.4.49. Further, in the context of the language of Policy 9 a), the Proposal is not proposed for properties that vary from the local pattern in terms of lot size, configuration and/or orientation in the established neighbourhood:

“Infill development on properties that vary from the local pattern in terms of lot size, configuration and/or orientation in established *Neighbourhoods* will:

- a) Have heights, massing and scale appropriate for the site and compatible with that permitted by the zoning for adjacent and nearby residential properties”

- 6.4.50. These lakefront properties are generally developed with detached houses that are in keeping with the physical character of the *neighbourhood*.

- 6.4.51. The City has contemplated infill development on properties that do not fit the local lot pattern in terms of lot size, configuration and orientation where because of these characteristics “it is not possible or desirable to

provide the same site standards and pattern of development ...as in the surrounding Neighbourhood.” (Policy Guidance in OP)

- 6.4.52. Not only is it possible and desirable to provide the same site standards and patterns of development for the properties within the development site, those standards are being met now. As noted above, it is only with the consolidation of the lots that the lotting pattern will vary from the existing pattern.
- 6.4.53. The policy refers to the “zoning for adjacent and nearby residential properties” and, on a plain reading of the words, it would appear to apply to properties that are not subject to the same zoning as the nearby residential properties. In this case, the Site has the same zoning as adjacent properties and all properties throughout the neighbourhood.
- 6.4.54. It is my opinion that the Proposal is an example of substantial intensification, rather than infill and, therefore, is not in conformity with Section 4.1 Policy 9.
- 6.4.55. If the Ontario Municipal Board determines that the Proposal constitutes infill development as contemplated by this policy, it is my opinion that the Proposal still does not conform to Section 4.1, Policy 9.
- 6.4.56. The policy states that infill development on properties that vary from the local lot pattern in established *Neighbourhoods* will have (i) heights, (ii) massing and (iii) scale appropriate for the site and compatible with that permitted by the zoning for adjacent and nearby residential properties.
- 6.4.57. As discussed above in response to issues 1-5, the height, massing and scale are not compatible with the zoning for nearby residential properties. as the proposed apartment exceeds:
- the height, density, ground floor area and above floor area of existing development on adjacent properties and on properties throughout the *neighbourhood*; and,
 - the height and density permitted by the Zoning By-law on this Site and throughout the *neighbourhood*.

Issue 7 a)

- 6.4.58. Would the consolidation of individual lots into one large development parcel conform with the City of Toronto Official Plan, in particular:
- a) Section 4.1 requiring development to respect and reinforce the physical character of the neighbourhood?

Opinion Issue 7 a): Section 4.1 – Development Criteria in *Neighbourhoods*

- 6.4.59. It is my opinion that, as discussed in Issue 5 e), the Proposal does not conform to Section 4.1. The consolidation of lots allows for a development that does not reinforce the physical character of the

neighbourhood and that could not be built without consolidation of the lots. As discussed in Issue 5 f), even with consolidation of the lots, the Proposal does not conform to several requirements of the Zoning By-law.

Issue 7 b)

- 6.4.60. Would the consolidation of individual lots into one large development parcel conform with the City of Toronto Official Plan, in particular:
- b) Section 2.3.1 identifying *Neighbourhoods* as physically stable areas?

Opinion Issue 7 b): Section 2.3.1 – Healthy Neighbourhoods

- 6.4.61. It is my opinion that, as discussed in Issue 5 b), the Proposal does not conform to Section 2.3.1. The consolidation of individual lots that do not significantly vary from the local lot pattern creates a development parcel that does not conform to the local pattern. Intensification, not just on one of the lots but on the consolidated lots, creates a development which negatively impacts the physical stability of the *neighbourhood*.

Issue 8

- 6.4.62. Will the approval of the proposed development create an undesirable precedent for the area that is contrary to the policy intent of the Official Plan for *Neighbourhoods* to be physically stable areas?

Opinion Issue 8: Undesirable Precedent

- 6.4.63. It is my opinion that an approval would create an undesirable precedent of what property owners can expect the Official Plan and Zoning By-law to permit, not just for the *neighbourhood* but for the City of Toronto as a whole, as it would create an expectation that this type of redevelopment is consistent with the Official Plan policies for stable neighbourhoods generally. The Official Plan and background paper 'Toronto at the Crossroads' clearly establish that there are areas of the City that are meant to change and areas where major physical change is not desired. Management of growth means identifying where growth should and should not occur. This area is not identified for growth.
- 6.4.64. The Province has given Municipalities, including the City of Toronto, the responsibility to decide which areas should be intensified and which areas should remain stable. The City has identified *Neighbourhood* designations and established policies applicable to those designations with the clear intention that *Neighbourhoods* are physically stable areas; they are not areas for intensification.
- 6.4.65. This *neighbourhood* is not an appropriate location for a new four storey apartment building as the *neighbourhood* is comprised primarily of detached homes. The proposed development does not reinforce the prevailing building type as it has a height, massing and scale this is not compatible with adjacent properties, with properties throughout the *neighbourhood*, nor with properties in the broader residential area.

- 6.4.66. The Site is not an appropriate location for a new four storey apartment building as it cannot be developed on a lot that is consistent with the lot pattern in the *neighbourhood*. The Proposal requires the consolidation of several existing lots and the demolition of three houses so as to create a new lot that is configured significantly larger than the other lots in the *neighbourhood*. Even with the assembled lots, the proposed height and massing are not appropriate for the Site as they would exceed the height and density of development permitted by the Zoning By-law and currently existing on this Site, on adjacent properties and on all properties throughout the *neighbourhood*.
- 6.4.67. In summary, it is not the intent of the *Neighbourhood* policies for existing homes, in any area of Toronto where the prevailing building type is detached homes, to be torn down so that the lots can be assembled in a manner that is not consistent with the local lot pattern, and intensified with a four storey apartment building that does not conform to the existing zoning.

6.5. Municipal Policy: City of Toronto Zoning By-Law 438-86

Issue 9

- 6.5.1. Is the proposed use and density of the lands appropriate for an R1 Z0.6 zoning category?

Opinion Issue 9: R1 Z0.6 Zoning

- 6.5.2. In my opinion the proposed use (four storey apartment) and density of the proposed apartment is not appropriate for an R1 Z0.6 zoning category. The current R1 Z0.6 zoning permits only detached homes (1 or 2 units), duplexes and the existing apartment building at 2 Nursewood Road. There is only one apartment in this R1 zone and it was built over 40 years ago, prior to the current zoning.

The zoning to the west of Munro Park Avenue is R2 Z0.6, which permits apartment buildings. There are apartment buildings in this R2 zone, although the vast majority of buildings are smaller scale residential buildings and include detached and semi-detached houses, townhouses and multiplexes. This R2 zone includes all properties south of Queen Street East, west of Munro Park Avenue and east of Kew Gardens. The R1 and R2 zones permit different residential uses and have developed with a different character.

- 6.5.3. On February 24, 1986 the City of Toronto added restrictions to the existing zoning, known at the time as R1A Z2, in response to community concerns that the zoning permitted uses other than single detached family dwellings, such as apartment houses and double duplex dwelling houses. There was, however, a desire to permit conversions of existing houses into no more than two dwelling units and a request by the owner

of the apartment at 2 Nursewood to permit the apartment building to avoid complications with the use becoming a legal non-conforming use. There was also a concern that the existing controls on density, height of buildings and lot frontage did not provide the level of protection necessary to ensure that the character of the area was maintained.

- 6.5.4. In a background report by the Land Use Committee, dated September 19, 1984, the City reviewed several zoning revision options, with an emphasis on determining what would preserve the present character of the neighbourhood. In describing the area, the Report notes that it is occupied mainly by single family detached houses, except for a few multiple dwelling houses and an apartment building and that the area is characterized by considerably large lots, particularly those along the lakefront. It also notes that the Official Plan designates the area a Low Density Residence Area which emphasizes the importance of stability and quality of living.
- 6.5.5. The City determined that zoning which would allow for increased flexibility in dwelling conversions but would also permit construction of duplexes, triplexes, double duplexes and double triplexes would not preserve the present character of the neighbourhood as these building types were not consistent with existing buildings.
- 6.5.6. Ultimately, the City maintained the zoning that was in place (R1A Z2) but added specific restrictions and permissions as this would satisfy the community's desire to maintain the existing character of the neighbourhood. The specific clauses prohibited:
- Erection of an apartment house or double duplex dwelling house; and,
 - Conversion of a private detached dwelling house into more than 2 dwelling units.

In August 1988 the R1A zoning category was eliminated and the area was rezoned to R1 Z2. Duplexes were permitted, conversions of a detached dwelling house were limited to no more than 2 dwelling units and apartments and double duplexes were prohibited.

- 6.5.7. The zoning has since been revised to the current R1 Z0.6, where Z0.6 indicates the density permitted to be developed on the Site, which is 0.6. The Z2 in the previous zoning was a classification number and did not represent a density of 2.
- 6.5.8. In my opinion the use (four storey apartment) and density proposed within the Proposal is not appropriate for the *neighbourhood's* zoning category in this location. Based on the R1 zone's zoning history, it is clear that uses other than detached houses and duplexes were expressly excluded from the *neighbourhood's* zoning as they would not preserve the physical character of the area and the building types were not

consistent with existing buildings. The zoning has not changed since that time, and the introduction of the new Official Plan in 2006 has reinforced this perspective.

- 6.5.9. On May 29, 2009, the City of Toronto released a draft version of a proposed new zoning by-law that will replace the existing zoning by-laws, including By-law 438-86, within the former cities of Toronto, North York, Etobicoke, York and Scarborough, and the former Borough of East York.
- 6.5.10. The proposed zoning for 2-4 Neville Park and 438-440 Lake Front Lane and throughout the existing R1 zone is RD(f10.5). The purpose of the RD (Residential Detached) zone is to provide a zone for detached houses, as well as a limited set of other uses suited to the residential setting, such as a park, library or community centre.
- 6.5.11. The proposed zoning in the existing R2 zone to the west is R(d0.6). The purpose of the R (Residential) zone is to provide a zone for a variety of residential building types, including detached houses, semi-detached houses, townhouses, duplexes, triplexes, fourplexes and apartment buildings, as well as a limited set of other uses suited to the residential setting.
- 6.5.12. Zoning within the proposed zoning by-law indicates the City's intention with respect to height, density and built form for this Site, the neighbourhood (the existing R1 zone) and the broader residential area (the existing R2 zone). It is clear from both the existing and the proposed zoning that 2-4 Neville Park and 438-440 Lake Front Lane, and Nursewood Road, Neville Park Boulevard and Munro Park Avenue, south of Queen Street East, are zoned for detached houses (1 or 2 units) and duplexes and that the zoning intention for the R2 zone to the west is different as it expressly includes apartment buildings.

Issue 10

- 6.5.13. Given the existing R1 zoning of the site and the zoning of the surrounding area, are the uses, height, density, built form and FSI for the proposed development compatible with the character of the surrounding area, existing use in the area and future uses and intended uses for the area?

Opinion Issue 10:

- 6.5.14. No. As discussed in Issues 1 to 9, given the R1 zoning, it is my opinion that the Proposal is not appropriate for the Site and is not compatible with the physical character of the *neighbourhood*.

6.6. Trees

Issue 11

- 6.6.1. Is the proposed development consistent with, and does it have adequate regard to the City's goals and objectives with respect to the natural environment and trees as outlined in the City's Official Plan, in particular:
- b) Section 2.2, Policy 2(i);
 - c) Section 2.3.1, Policy 5;
 - d) Section 3.1.2, Policy 1; and
 - e) Section 3.4, Policy 1 (d)?

Opinion Issue 11

- 6.6.2. The Proposal will result in the removal of four protected trees, as well as several other trees less than 30 cm in diameter. The arborist for the Beach Lakefront Neighbourhood Association, Mr White, is of the opinion that the two red oaks proposed to be preserved will, in fact, die.
- 6.6.3. The Toronto Official Plan has several policies respecting trees including:
- Directing growth to the Centres, Avenues, Employment Districts and Downtown in order to protect neighbourhoods, green spaces and natural heritage features (Section 2.2, Policy 2(i));
 - Promoting tree planting and preservation (Section 2.3.1, Policy 5);
 - Locating and organizing new development to fit with its context and preserving existing mature trees wherever possible, incorporating them into landscaping designs, to frame and support adjacent streets and open spaces (Section 3.1.2, Policy 1(d)); and,
 - Regulating the injury and destruction of trees, which they undertake through the City Private Tree By-law; (Section 3.4, Policy 1(d))
- 6.6.4. It is my opinion that the Proposal is not consistent with the Official Plan and does not have adequate regard to the City's goals and objectives with respect to the natural environment and trees. Every effort should be made to ensure that a new development does not injure or destroy a protected tree. The Applicant has not demonstrated the necessity to remove these trees or shown how keeping these trees would preclude redevelopment of the Site.

Issue 12 a)

- 6.6.5. Would the removal of healthy mature trees necessary to accommodate the proposed development be good planning; specifically with respect to the planning considerations in the City of Toronto Municipal Code, Chapter 813, Article III, 'Private Tree Protection' (the "City Private Tree By-law")?

Opinion Issue 12 a)

- 6.6.6. It is my opinion that removal of healthy mature trees to accommodate the proposed development is not good planning with respect to the planning considerations in the City of Toronto Municipal Code – Private Tree Protection. The Code does not indicate that a permit for the destruction of a tree should be issued to allow for development or redevelopment of a site. The Code specifically states in Article 813-15 that a permit for the destruction of a tree shall not be issued where the trees are healthy. Although Article 813-16B identifies exceptions where a permit to injure or destroy a healthy tree may be issued, none of these conditions apply to the proposed development.
- 6.6.7. I agree with the comments of Mr White, the arborist for the Beach Lakefront Neighbourhood Association, regarding the importance of preserving the significant tree canopy of red oaks on the Site.
- 6.6.8. I agree with Mr. Morgan concerning the importance of preserving the treed bluff along this part of the lakefront. Any new development along this bluff should respect this important public interest.

Issue 12 b)

- 6.6.9. Is Issue 12 an appropriate way in which to address the issues of “good planning”, in light of the manner in which the City Private Tree By-law is intended to be applied?

Opinion Issue 12 b)

- 6.6.10. I have expressed my opinion above as to the importance of the trees on the Site from a planning and public interest perspective.
- 6.6.11. In my opinion, it is appropriate for the City to seek to preserve the tree canopy and to oppose development which is not respectful of the importance of the red oaks on the Site. It is my recommendation that the Board exercise its powers under site plan control such as to not allow the removal of this tree canopy.

6.7. General Issues

Issue 13

- 6.7.1. Is the proposed development appropriate having regard to the local context and surrounding neighbourhood, specifically the existing pattern, prevailing building type and adjacent homes?

Opinion Issue 13

- 6.7.2. No. As discussed in Issues 1 to 9, it is my opinion that the Proposal is not appropriate for the Site and is not compatible with the physical character of the surrounding *neighbourhood*.

Issue 14 a)

- 6.7.3. Is the proposed development appropriate for the site having regard to the findings regarding the character of the area identified for the purposes of a Heritage Conservation District Study undertaken by the Beach Lakefront Neighbourhood Association, which study has not been formally authorized by either City Council or any Committee of Council?

Opinion Issue 14 a)

- 6.7.4. It is my opinion that the proposed development is not appropriate for the Site. I have reviewed the Heritage Conservation District Study and rely on and support their findings that:
- 2 Neville Park Boulevard should be considered a heritage building and should be retained (Figure 3.52 page 47 and Objectives page 57); and,
 - New buildings should conform to the character of the District especially in terms of height, setback, massing, relationship of solids to voids, height of openings above grade, use of materials and architectural style (Guidelines page 67)

- 6.7.5. The Proposal would tear down 2 Neville Park Boulevard and the proposed apartment does not conform to the Character of the District in terms of height, massing or architectural style.

Issue 14 b)

- 6.7.6. Is it appropriate to have regard to a study prepared by an association, for an area and site that is not and has never been recommended as having significance from a heritage designation standpoint?

Opinion Issue 14 b)

- 6.7.7. Yes. Various studies are completed as part of the Toronto development application process, as required, including heritage studies. It is my opinion that it is appropriate to have regard to the Heritage Conservation District Study as it represents an opinion by a qualified professional that should be considered as part of the Board's review of this application.
- 6.7.8. I should note that I am unclear as to what is intended by the words "is not and has never been recommended as having significance from a heritage designation standpoint". Mr Morgan has noted in his witness statement that the properties on both sides of Munro Park down to the lakefront, including part of the proposed development site (the former 438 Lake Front Lane property) were included in a 2004 by-law authorizing a heritage conservation district study for the area. This action by council is evidence of its opinion that the area was worthy of study from a heritage designation standpoint.

Issue 14 c)

- 6.7.9. Is Issue 14 a) even an issue that should be examined given the fact that no such designation applies to the Site and/or surrounding area?

Opinion Issue 14 c)

- 6.7.10. It is my opinion that Issue 14 a) is an issue that should be examined. The Heritage Conservation District Study represents a professional opinion about the character of the built form and natural landscape and concludes that there are a sufficient number of properties in the area, including 2 Neville Park, which should be considered as heritage properties, that a Heritage Conservation District designation would be appropriate and that new development should conform to the character of the area. I find the detailed analysis of the housing stock and the character of the area to be instructive in a consideration of the *Neighbourhood* policies in the Official Plan.
- 6.7.11. The Board is not being asked to determine whether a heritage designation should apply to specific properties or whether the area studied by Mr. Morgan should be a Heritage Conservation District. Rather, the Board is being asked to consider the findings of the Study as to the character of the area in terms of built form and heritage qualities as input in the application of the Official Plan policies and the relevant provincial policies. In this context, Mr Morgan's study is quite valuable.
- 6.7.12. The Study entailed a detailed examination of the attributes of the buildings in the *neighbourhood*, much more so than a review typically undertaken as part of a development application. As such, it represents a detailed review of the *neighbourhood's* character, which is relevant to many of the Official Plan policies respecting the stability of and the reinforcement of the physical character of *Neighbourhoods*.

7. Conclusions

- 7.1. It is my opinion that the Proposal does not conform to the Planning Act, or Places to Grow and is not consistent with the PPS (2005)
- 7.2. It is my opinion that the Proposal does not meet the intent of Toronto's Official Plan, in particular the policies regarding development in Neighbourhoods, and the Zoning By-law.
- 7.3. It is my opinion that the Proposal is not compatible with the existing physical character of the *neighbourhood*, does not respect and reinforce the existing physical character of the *neighbourhood* and is out of keeping with that physical character. It will adversely affect the physical stability of the neighbourhood.
- 7.4. It is my opinion that the Proposal is not infill development as contemplated by Policy 4.1.9, and if the Board were to find that it were, it

fails to comply with the policy requirements for infill development set out in Policy 4.1.9 paragraph a) because the height, massing and scale are not appropriate for the Site and are not compatible with that permitted by the Zoning for adjacent and nearby residential properties.

- 7.5. It is my opinion that the Proposal is not an appropriate development of the Site and will create an undesirable precedent for both the *neighbourhood* and the City of Toronto.
- 7.6. It is my opinion that the Proposal and the amendments proposed to implement it do not constitute good planning and are not in the public interest.
- 7.7. It is my opinion that the Board should dismiss the appeal(s).
- 7.8. I reserve the right to provide additional commentary on any new material that may be filed before the Hearing commences, including other Witness Statements or given in oral evidence at the hearing. I may have further comments depending on the evidence provided by the applicant's representatives.

Appendix A

CV of Pino Di Mascio

Appendix B

Document List

- The Planning Act
- Provincial Policy Statement 2005
- Places to Grow: The Growth Plan for the Greater Golden Horseshoe
- The Official Plan for the City of Toronto
- Zoning By law 438-86
- Toronto at the Crossroads: Shaping Our Future
- Heritage Conservation District Study and Plan for Munro Park/East Beach, City of Toronto
- Witness Statement of Wayne Morgan, Heritage Planner
- Witness Statement of Tine Major, City Planner
- Witness Statement of DA White, Arborist
- Planning Rationale by &Co dated May 29, 2007
- Planning Justification Report by Walker, Nott, Dragicevic Associates Limited dated February 29, 2008
- Various staff reports and Council decisions on the application;
- Architectural drawings by &Co submitted to the City on March 4, 2008;
- Arborist Reports by Kelly's Tree Care dated November 13, 2006 and January 23, 2008;
- Historical zoning decisions related to the Site
- Municipal Servicing and Stormwater Management Report by Jain & Associates Ltd dated April 24, 2007

Appendix C

Historic building footprint for 438 Lake Front Lane
(as illustrated by the City's online mapping)



Appendix D

Beach Property Data

(All numbers are approximate, are obtained from the City of Toronto are the best property data available for the Beach.)