

WITNESS STATEMENT OF

**Wayne Morgan, MCIP, RPP, MCAHP**

REGARDING THE APPEAL OF  
COUNCIL'S REFUSAL OR NEGLECT TO ENACT  
PROPOSED AMENDMENTS TO THE OFFICIAL PLAN AND  
ZONING BY-LAW  
OF THE FORMER CITY OF TORONTO  
RESPECTING 2 – 4 NEVILLE PARK BOULEVARD AND  
438-440 LAKEFRONT LANE

Case No. PL081443

File No. PL081234

August 21, 2009.

*Qualifications and Involvement*

- 1.1 I am an independent heritage planning consultant. I am a Registered Professional Planner with 34 years of professional experience.
- 1.2 I was a senior planner in the community planning section of the City of Toronto's City Planning Division responsible for the Yonge/St. Clair Part II Plan and community planning in the Yorkville/Annex areas of Toronto from 1997 to August 2000.
- 1.3 I was the Senior Co-ordinator with the City of Toronto's Heritage Preservation Services from August 2000 until my retirement on April 11, 2006.
- 1.4 I am a member of the Canadian Institute of Planners and the Ontario Professional Planners Institute in good standing.
- 1.5 I am a member of the Canadian Association of Heritage Professionals (Planning Category) in good standing.
- 1.6 In related voluntary positions, I was appointed from July 1980 until December 2000 by the municipality of the Town of Newmarket to its heritage advisory committee established under the Ontario Heritage Act and served as the committee chair during that time. I am currently a Director of Community Heritage Ontario, the association of municipal heritage committees in Ontario. I have been appointed by the Minister of Community and Social Services to the Built Environment Standards Committee established under the Accessibility for Ontarians with Disabilities Act, 2005 to advise on accessibility and heritage buildings and landscapes.

- 1.7 I have worked on important development applications with heritage resources involving restoration, adaptive reuse, façade retention and documentation, as well as heritage conservation district studies. While employed by the City, I managed Council’s authority delegated to staff to approve alterations to heritage buildings designated under the *Ontario Heritage Act*. I was responsible for advising Council on the management of heritage resources listed or designated under the *Act*, including the integration of heritage sites into new development. I recommended new listings and designations under the *Act* to Council. I secured, on Council’s behalf, conservation plans for heritage properties and financial securities to implement those plans.
- 1.8 As an independent heritage planning consultant, I have undertaken a number of heritage impact assessments for proposed developments, heritage character statements, heritage conservation district studies and official plan heritage policy studies throughout south-central Ontario
- 1.9 I have been an Expert Witness in many judicial tribunal hearings in Ontario, including the Ontario Municipal Board and the Conservation Review Board, and have been qualified before those Boards to give expert testimony in heritage planning matters. My Curriculum Vitae is attached to this witness statement.

#### *Retainer*

- 2.1 I have been asked to be an expert witness at this hearing on behalf of the Beach Lakefront Neighbourhood Association (BLNA).

#### *Work Undertaken*

- 3.1 I have prepared a study of the history and built and landscape character of the area and drafted a plan for designation of the area as a heritage conservation district under the *Ontario Heritage Act*.
- 3.2 As part of the area study, I have examined each property in terms of history, built form and landscape character, heritage integrity of the principal structure and evaluated the heritage value of each property. I attended in the study area on a number of occasions in the conduct of the area study.
- 3.3 I reviewed the proposed development at 2 – 4 Neville Park Boulevard and 438-440 Lakefront Lane based on drawings submitted by the applicant to the City’s Planning Division.
- 3.4 I have examined the site of the proposed development.

## *Testimony*

- 4.1 I will address issue numbers 3, 4, 5, 10, 13, 14 in the Procedural Order from the perspective of a heritage planner. I will refer, as necessary, to the materials in the document books, the visual evidence of the City and the witness statements of other witnesses. I have ordered my response to the issues starting with the proposed heritage conservation district study and plan and then proceeding to review provincial and municipal planning policies that are relevant to the findings of the heritage conservation district study.
- 4.2 Issue No 14 (a) – *Is the proposed development appropriate for the site having regard to the findings regarding the character of the area identified in the Report titled Munro Park/East Beach, City of Toronto, Heritage Conservation District Study and Plan undertaken by the Beach Lakefront Association?*

### *Initiating the Study*

- 4.2.1 In 2004, the City of Toronto authorized preparation of a heritage conservation district (HCD) study for areas that included the Munro Park area. The by-law authorizing the study included Munro Park Avenue and related lots on Lake Front but not Neville Park Avenue, as the residents on Neville Park had indicated that they did not wish to have such a study undertaken for their street.
- 4.2.2 Subsequent to that By-law there was considerable discussion about pursuing a heritage study for the entire study area and City Council decided to break up the large area addressed in the by-law into smaller areas and conduct votes in each of these areas to determine the interest of the property owners in continuing with the study.
- 4.2.3 In a vote conducted by the City Clerk in 2005, a majority of property owners on Munro Park voted not to continue with the study for their street. It was understood that the matter of proceeding with an HCD study could be revisited after the passage of two years following the vote.
- 4.2.4 In early 2008, a canvas was undertaken by the Beach Lakefront Neighbourhood Association (BLNA) of property owners on Munro Park Avenue, Lake Front and Neville Park Boulevard which indicated sufficient support for conducting a HCD study and plan for the area with a commitment for further consultation regarding HCD plan once the study was completed.
- 4.2.5 I was contacted in March 2008 by the BLNA to conduct a heritage conservation district study and plan of the area. Prior to submitting my proposal for the study, I visited the area to see if there was merit in conducting such a study. Based on that initial inspection, I agreed to undertake the study.

- 4.2.6 In consultation with the Executive of the BLNA, I completed my study in draft during the summer and early fall of 2008 and I participated in two Open Houses on the HCD study and plan (one on Munro Park and one on Neville Park) in late October of 2008.
- 4.2.7 Following that process, I completed a final version of my Report *Munro Park/East Beach, City of Toronto, Heritage Conservation District Study and Plan* and supporting inventory, which I will refer to in my testimony, and recommended that the Report be provided to the City through its heritage advisory committee, the Toronto Preservation Board, with a request that it be formally considered for the purposes of HCD designation by City Council.
- 4.2.8 Although the City's Preservation Board responded positively to my Report, City staff, through the Ward Councillor, has advised that consideration of a Heritage Conservation District designation for the study area will not proceed without further community consultation. The timetable for such a process has not be established.
- 4.2.9 I will refer to the City of Toronto's Official Plan heritage policies, in particular policy 3.1.5, which specifies that Council may designate heritage conservation districts anywhere in the municipality where there is a concentration of heritage resources.
- 4.2.10 I will refer to the *Ontario Heritage Act* which, under Section 40, does not require that the municipality undertake or initiate a heritage conservation district study nor does it require that the municipality pass a by-law authorizing a study or designating a study area.
- 4.2.11 It is my understanding that the BLNA considered it important to undertake a study of the area to identify the area's heritage attributes, to justify a boundary and to prepare HCD policies that could be recommended to Council and thus initiated the study with a view to providing it to Council if there was sufficient support for an HCD designation by landowners in the study area.
- 4.2.12 My understanding is that the BLNA foresaw that a detailed study of the character of the study area would be important also in the context of the anticipated OMB hearing on the proposed lakefront apartment building, whether an HCD designation ultimately resulted from the study or not.
- 4.2.13 It is my view that the study which I have carried out is relevant in the context of the policies of the City's Official Plan addressing the character of a neighbourhood and its stability and the policies of the Provincial Policy Statement regarding significant cultural heritage landscapes, regardless of whether that character is ultimately embodied in a HCD designation.

*Scope and Content of the Heritage Conservation District Study*

4.2.14 I will refer to sections 40 (2) and 41.1 (5) of the *Ontario Heritage Act* which provide the legislative framework for the scope and content of a heritage conservation district study and plan. Under this legislation, a District study is undertaken, it must:

4.2.14.1 Examine the character and appearance of the area ... including buildings, structures and other property features of the area;

4.2.14.2 Examine the geographic boundary of the area;

4.2.14.3 Recommend the content of a District Plan; and

4.2.14.4 Recommend any changes to the municipality's official plan and zoning by-law

4.2.15 I will briefly refer to the international charters from the International Council on Monuments and Sites (ICOMOS), in particular the Burra, Appleton and Washington charters. ICOMOS is the international organization of professionals engaged in the conservation and protection of monuments and sites and is the United Nations' Educational and Scientific Committee's (UNESCO) advisor on the conservation and management of heritage resources. These charters provide guidance on the scope and policy direction of heritage district studies and plans. These charters also provide the philosophical underpinnings of *Standards and Guidelines for the Conservation of Historic Places in Canada*, adopted by Parks Canada, and the *Ontario Heritage Act*.

4.2.16 I will refer to my experience as Senior Co-ordinator in the City of Toronto's Heritage Preservation Services Unit in terms of the scope of heritage conservation district studies and plans.

Generally, the studies provide an inventory of individual property characteristics (the inventory), a history of development in the area, and the area's built and landscape characteristics emphasizing what can be viewed from the street and publicly accessible spaces to provide a basis for the HCD plans.

HCD plans in the City are intended to manage change in a District by ensuring that, for heritage buildings, they are not demolished and that additions and alterations maintain and are sympathetic to the heritage attributes of those buildings, that new buildings in the District are in keeping with the character of the District and that landscape features that contribute to the District's character are maintained and enhanced.

### *History and Built and Landscape Characteristics of the Study Area*

4.2.17 I will review the historic development of the district study area, which is distinct from the rest of the Beach area.

4.2.17.1 Prior to 1908, the area south of Queen Street from the lots on the west side of Munro Park Avenue to Nursewood Road, which includes the proposed development site, was leased by the Munro estate to the Toronto Railway Company which constructed an amusement park on the lands. In contrast, the Beach area to the west was subdivided and development initiated much earlier than in the Munro Park/Neville Park area.

4.2.17.2 In 1907, the executors of the Munro estate decided to subdivide the lands. In 1909, the City of Toronto annexed the Munro estate, which included the study area and the subject site. In 1910, construction of buildings in the study area was initiated with only the gate house to the amusement park being retained. By 1924, the area, except for lots fronting on Nursewood Road, was largely developed. Development west of the district study area, in addition to preceding development of the Munro Park/ Neville Park area, was more varied in lot size, character and architectural style than development that occurred within the district study area. I will refer to copies of Insurance Plans in the Heritage Conservation District Study and Plan and the Balmy Beach Heritage Conservation District Study – Balmy Avenue.

4.2.17.3 To the east, development on the west side of Nursewood Road was generally later than on Munro Park or Neville Park, in part because of complications regarding access – Nursewood Road was divided between two municipalities until 1950. In addition, a number of the lots along the west side of Nursewood Road were subdivided resulting in smaller lots and houses on Nursewood than on Munro Park or Neville Park. As a result of this later development, lots on Nursewood exhibit a different built form and architectural character than the Munro Park / Neville Park area. For these reasons, it was not included in the recommended Heritage Conservation District.

4.2.18 I will review the built form attributes of the study area. These characteristics are massing/built form, height, roof shape, materials, verandas, decorative treatments and architecture styles.

4.2.18.1 Of note, all principal structures in the area are single detached dwellings ranging in height from one storey to two and half storeys.

- 4.2.18.2 The predominant roof shapes are gable, hip or gambrel. The predominant exterior building materials are brick and stucco.
  - 4.2.18.3 Almost all buildings have front verandas, porticos or entrance canopies.
  - 4.2.18.4 Most buildings are embellished with decorative trim and/or decorative brick detailing.
  - 4.2.18.5 Architectural styles include Edwardian Classicism, Bungalow, Queen Anne and Dutch Colonial Revival.
- 4.2.19 I will briefly review the landscape characteristics of the study area. The main landscape characteristics are the gentle slope of the land towards Lake Ontario, the remnants of the ravine east of Neville Park, the beach area at the south end of the District, the lakeshore treed bluff and the end of the streets and north of the beach and the streets with a treed canopy and views of the Lake Ontario.
- 4.2.20 I will briefly review the recommended guidelines for managing change in the area. In summary:
- 4.2.20.1 I have recommended that heritage buildings should be retained.
  - 4.2.20.2 Proposed alterations to heritage buildings must be sympathetic to the character of the buildings.
  - 4.2.20.3 Non-heritage buildings may be demolished, but only if the replacement building fits within the character of the District including a height not greater than 2 ½ storeys and building width, ratio of solids to voids (windows and doors), cladding and roof type characteristic of the District.
- 4.2.21 With respect to the proposed development site, only 2 Neville Park Boulevard is identified as a heritage property.
- 4.2.22 In my opinion, which is based on my study, the study area has sufficient merit to be a significant cultural heritage landscape and to warrant designation as a Heritage Conservation District.
- 4.2.23 The Heritage Conservation District Study and Plan have been submitted to the Toronto Preservation Board, the City of Toronto's advisory committee established under the *Ontario Heritage Act*. It is currently under review by City staff and is subject to the statutory public meeting required by the *Act*, Council approval and any possible Ontario Municipal Board appeals.

4.2.24 I will review the proposed development relative to the character of the area as identified in my study. Following, I will compare the physical characteristics of the proposed development with the important physical characteristics (heritage attributes) of my study area, including the properties near the proposed development.

4.2.24.1 Massing/Built Form – The proposal is an apartment building at 2 Neville Park Boulevard and 438 to 440 Lake Front and a single detached dwelling at 4 Neville Park Boulevard. The study area character is entirely single detached dwellings. The immediate context of the development proposal, in terms of principal structures is single detached dwellings to the west, north and east. While the proposal for 4 Neville Park Boulevard is consistent with the single detached built form character of the area, the apartment building is not consistent with the built form character of the area.

The proposed apartment building has a larger mass than the existing buildings in the area. The building width and height on Neville Park Boulevard will be approximately twice the width and height of the existing building (6 Neville Park) immediately to the north of the development site, excluding the southern most 7.9 metres of the apartment which will be recessed from the principal elevation on Neville Park by 7.95 metres. On the south elevation, the width of the proposed apartment building will be more than 4 times the width of the building immediately to the west and approximately twice its height. When combined with the meagre setback to the building on the west, the mass of the proposed apartment building will have an overbearing presence on the building to the west. The mass of the proposed apartment building is not consistent with the predominant character of the area.

4.2.24.2 Height – The proposed apartment building is four storeys plus a roof terrace with a penthouse structure on the east elevation. As a result of the grade change on the site, the parking level is partially above grade on a portion of the west elevation and 2/3 of the south elevation. This results in the proposed apartment building having an appearance of an additional one half storey, at a minimum, resulting in the appearance of at least a 4 ½ storey apartment building with a roof terrace and two penthouse structures on the south elevation.

The proposal for 4 Neville Park Boulevard is a 3 storey single detached dwelling plus a roof terrace.

These heights exceed the maximum building height that is characteristic of the study area - 2 ½ storeys. However, the immediate context of the development proposal, in terms of the



height of any adjacent principal structures, is between 1 ½ and 2 storeys making the additional heights being proposed that much more inappropriate. The heights of the proposed apartment building and the dwelling at 4 Neville Park Boulevard are not consistent with the characteristic height of the area.

While there is a slight increase in the height of land immediately north of the development site reflecting the overall slope of the land down towards Lake Ontario, the proposed developments should acknowledge the topographical character of the area and tier the development in accordance with the topography of the area. The proposal does not tier the buildings down with the drop in the height of the land towards the Lake; rather the buildings rise in height towards the Lake. This is a marked difference that the prevailing pattern of development in the area.

- 4.2.24.3 Roof Shape – The proposal for both the apartment and the single detached dwelling at 4 Neville Park Boulevard is for flat roofs with roof terraces. The area is characterized by gable, hip and gambrel roofs. The immediate context of the proposed development is gable and hip roofs. The proposal is inconsistent with the characteristic shape of roofs of the area; in fact the contrast is quite stark and would result in a significant departure with the heritage characteristics of the area. The presence of the two penthouse structures on the flat roof of the apartment building serves to accentuate this significant contrast.
- 4.2.24.4 Predominant Building Materials – The apartment building is proposed to be clad in glass, wood panels and rectangular stone, which does not conform to the predominant building material character of the area. The dwelling at 4 Neville Park Boulevard is proposed to be clad in the same rectangular stone, glass and wood screens. The area is characterized by brick and stucco cladding. Where stone is used on existing buildings in the area, it is usually rounded lake stone. The one red brick heritage building with rectangular red Credit Valley stone (10 Neville Park), uses the stone so discretely that the predominant image of the building is of red brick. The immediate context of the development proposal, in terms of building materials is red brick, stucco and vinyl (which imitates wood clapboard). The proposed apartment building and single detached dwelling are not consistent with the heritage character of the area in terms of use of building materials.
- 4.2.24.5 Windows – The proposed apartment building and single detached dwelling are characterized by large vertical and horizontal bands of glass composed of large glazed panels, usually frameless except for the doors and the oversized glazing units. On the south elevation of

the apartment building, glazing (both windows and doors) account for more than 60% of the elevation. On the east (Neville Park) elevation, the southern third of the building is almost entirely glazing.

Existing development in the area is characterized by smaller window and door openings framing windows with multiple sashes, frequently containing multiple lites. Often the framing is distinct with pronounced headers and sills. On front elevations, the voids in the walls occupied by windows and doors generally account for one quarter to one third of the area of the elevation as found in the houses adjacent to the proposed development.

The proposed development is not characteristic of the area in terms of the proportion of the principal elevations devoted to glazing (the proposal would have nearly twice as much area devoted to glazing), and with respect to the size and framing of those glazing panels (the proposal recommending significantly larger windows than are characteristic of the area.

- 4.2.24.6 Verandas, porticos and entrance canopies – The proposal is devoid of verandas, porticos or entrance canopies, which are an important characteristic of the area.

While there are balconies/terraces on the apartment building, the glazed paneling will have limited visual impact compared to the visual prominence of verandas, porticos and entrance canopies that are characteristic of the area. Verandas, porticos or entrance canopies give variability and depth to the front elevation of the buildings. Immediately adjacent to the proposed development all buildings have verandas. The proposed development is not characteristic of the area in terms of the lack of use of verandas, porticos or entrance canopies.

- 4.2.24.7 Decorative Treatment – The proposed apartment building makes use of zinc panel strips to denote the cornice of the building and changes in floor levels (except for the areas clad in stone). In contrast, the area is characterized by numerous decorative treatments including projecting eaves with a variety of types of brackets, decorative brickwork, and faux or half timbering.

Buildings adjacent to the proposed development incorporate brackets and projecting eaves, decorative balustrades and the pairing of veranda columns. Although the proposed development would include some decorative treatments, albeit in a modern architectural vocabulary, they are inconsistent with the decorative treatments characteristic of the area as they lack the variability and three dimensional quality of existing decorative treatments in the area.

4.2.24.8 Garages – The area is characterized by separate garage structures generally set well back from the front elevation of the principal structures although there have been two recent cases of attached garages being built to the side of the house but still set back from the front of the house. The proposed apartment building will have a large overhead garage door on the ground floor of the Neville Park elevation. That door would be only slightly recessed from the front wall of the building. The proposed single detached dwelling will have a garage set well back from the front elevation of the building.

Adjacent to the development, the existing house at 1 Munro Park has a integral garage but it is not accessible or generally visible from Munro Park Avenue; being accessed from the lane to the north so that the garage door does not front on Munro Park. To the north, garages are in separate structures to the rear of the lots. To the east, the garage is to the rear of the lot or there is no garage.

The garage for the proposed single detached building, which is towards the rear of the lot, would be compatible with the character of the area. However, the proposed apartment development, with a large garage door on the front elevation, is not characteristic of the area, and would represent a significant and inappropriate change from the predominant character of the area.

4.2.24.9 Setbacks – The setback of the proposed development from Neville Park Boulevard is comparable to the existing developments on the subject site and the setbacks generally along the rest of the street and therefore are consistent with the setback character of the street. Similarly, the setbacks of the proposed apartment building from Lake Ontario, although less than the existing buildings, are comparable to 1 Munro Park Avenue, immediately to the west.

4.2.24.10 Landscaping – The area is characterized by trees along the top of the bluff that forms the south edge of the built-up area and that leads down to the beach. The proposed policies of the HCD Plan encourage owners to maintain existing trees. The proposed development of the apartment building will remove a number of trees, including several significant red oak trees, and, according to the BLNA arborist, would jeopardize the existence of several large red oak trees that are proposed to be retained and protected. These large red oaks are visually prominent along the top of the bluff. The proposed development, in my opinion, will adversely affect the treed character of the area when viewed from the public realm.

- 4.2.25 In my opinion, the proposed development is not appropriate for the site based on character of the area identified in the study *Munro Park/East Beach, City of “Toronto, Heritage Conservation District Study and Plan.*
- 4.2.25.1 The proposed apartment building is incompatible with the character of the area in terms of built form, massing, height, roof shape, predominant materials, glazing and the proportion of the front elevation devoted to glazing, decorative treatment and the garage door on the street elevation and impact of trees along the top of the bluff.
- 4.2.25.2 The proposed single detached building at 4 Neville Park Boulevard is incompatible with the character of the area in terms of height, roof shape, predominant materials, glazing and the proportion of the front elevation devoted to glazing and decorative treatment.
- 4.2.25.3 In my opinion, the proposed development is not appropriate for the site based upon the character of a larger area than is considered in the *Munro Park/East Beach, City of “Toronto, Heritage Conservation District Study and Plan* which larger area is inclusive of the residential development on Nursewood Road.
- 4.3 Issue No 14 (b) – *Is it appropriate to have regard to a study by an association, which study has not been formally authorized by either City Council or any Committee of Council, for an area and site that is not and has never been recommended as having significance from a heritage designation standpoint?*
- 4.3.1 As stated previously, the *Ontario Heritage Act* does not require that a municipality pass a by-law authorizing a study or defining a study area for such a study to be undertaken. The City may choose to designate the area a HCD and adopt a Plan or not. Regardless of the source of the study and proposed plan, it is clear that the *Act* requires that a public process be followed by a municipality before it designates a HCD and adopts a Plan.
- 4.3.2 In this area, the City did pass by-law 0546-2004 recognizing all of the properties on Munro Park Avenue and the adjacent properties on Lake Front including 438 Lake Front, the latter being part of the subject development site, as a HCD study area, although it did not include properties fronting on Neville Park Boulevard and the adjacent Lake Front properties. Based on the City’s inclusion of part of the development site within a HCD study area, in my opinion, it is appropriate to consider the results of my HCD study and, in particular, its findings as to the character and physical stability of the study area, in the context of a consideration of a proposed development of the subject site and its fit with this identified character and stability.

4.3.3 In addition, the designation by City Council of a HCD either larger or smaller than the study area proposed in a by-law identifying a study area has occurred in Toronto as a result of the undertaking of the HCD study. For example, in studying Hazelton Avenue in the Yorkville area, the HCD study recommended to Council that areas on streets contiguous to the study area be included for reasons of historical development and architectural compatibility. The district designated by Council, the Yorkville-Hazelton Area HCD, was larger than the original study area. The rights of the property owners in these contiguous areas were not compromised by the inclusion of those properties in the District. They were notified of the study when it was clear that they might be included in the District, they had the opportunity to comment during the study and to depute to Council. Ultimately, every effected property owner has the right to appeal to the Ontario Municipal Board (OMB), which an owner in the contiguous area in Yorkville did. The OMB ruled in favour of the City and the property was included in the Heritage Conservation District.

In the case of Munro Park/Neville Park area, I thought it appropriate that properties on Neville Park Boulevard and the adjacent properties on Lake Front be included in the proposed HCD, notwithstanding that they were not included in the original by-law, for reasons of historical development, similar built and landscape architectural qualities and the presence of a concentration of heritage buildings.

4.3.4 My HCD study provides a comprehensive overview of the character of the area adjacent to and near the proposed development site. The character overview, as previously described, includes the unusual historical development of the area, its built form and the landscape qualities of the area when viewed from the public realm.

4.3.5 Given this comprehensive overview of the area character, it is my opinion that it is appropriate to consider the findings of the HCD study for the Munro Park/East Beach area when considering the established character and physical stability of the area. These findings provide a context for the consideration of the policies of the City's Official Plan related to the protection of neighbourhoods from physically incompatible and out of character development.

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

4.4.1 For the reasons cited in my response to Issue No. 14 (b), it is my opinion Issue No. 14 (a) has merit and should be considered by the Board.

4.4.2 The findings of my study related to the physical and heritage character of the study area provides useful information within the context of the City's Official Plan neighbourhood policies (as has been noted previously). These findings are

relevant to a consideration of the proposed apartment building, whether they are ultimately embodied in a HCD Plan or not.

- 4.5 Issue No. 3 – *Is the proposed development consistent with the Provincial Policy Statement (2005), in particular, Policies 1.1.3.3 and 4.5?*
- 4.5.1 The Provincial Policy Statement (2005) – (PPS) establishes an integrated planning approach that requires consideration of “complex inter-relationships among environmental, economic and social factors in land use planning.”
- 4.5.2 Policy 1.1.3.3 speaks to intensification and redevelopment in identified areas of opportunity and that such intensification and redevelopment “shall be directed in accordance with the policies of Section 2: Wise Use and Management of Resources.
- 4.5.3 Policy 4.5 of the PPS states that the official plan is the most important vehicle for the implementation of the PPS.
- 4.5.4 In preparing the HCD Study for the area, I considered the PPS and was required to consider the municipal official plan.
- 4.5.5 As the most important vehicle for implementing the PPS, the City’s Official Plan designates the development site and the adjacent areas “Neighbourhoods” and, along the Lake Ontario shoreline, “Natural Areas”. Neighbourhoods are defined in the Official Plan as “physically stable areas” where development will respect and reinforce the existing physical character which includes:
- c. heights, massing, scale and dwelling type of nearby residential properties;
  - d. prevailing building type(s);
  - h conservation of heritage buildings, structures and landscapes.
- 4.5.6 As required by policy 1.1.3.3 of the PPS, the City’s Official Plan identifies areas where intensification is to be directed; however, the subject site is not within an area identified by the City as a location where intensification and redevelopment is to be directed.
- 4.5.7 The development and redevelopment of the area which is permitted by the City’s Official Plan is required to respect the physical characteristic of the area. As I have previously discussed the prevailing building type is single detached

dwellings. I have also discussed the height, massing, scale and dwelling type of nearby residential properties. The proposed apartment building is not consistent with the prevailing building, height, massing, scale and dwelling type in the area.

- 4.5.8 As the proposal constitutes intensification as defined in the PPS, but the subject site is not within an area identified for intensification by the City, it is my opinion that the proposal does not conform to the PPS. This opinion is supported by my review of the policies of the City's Official Plan related to Neighbourhoods and my study of the character and stability of the neighbourhood.
- 4.5.9 Furthermore, PPS Policy 1.1.3.3 requires consideration of policies in section 2 when intensification and redevelopment is proposed.
- 4.5.10 Policy 2.6 deals with cultural heritage and archaeology.
- 4.5.11 Policy 2.6.1 requires that "Significant built heritage resources and significant cultural heritage landscapes shall be conserved."
- 4.5.12 In my opinion, the Munro Park/East Beach area is a significant cultural heritage landscape within the definition of the PPS and this landscape shall be conserved.
- 4.5.12.1 My study has demonstrated that the area involves a grouping of individual heritage features which together form a distinctive heritage area; a geographic area modified by human activities.
- 4.5.12.2 The area is valued by the community – the community requested my study; many property owners in the area have conserved their individual properties in a manner that maintains the heritage character of their property and the area; the members of the Toronto Preservation Board, at its meeting held in January 2009, expressed support for the proposal for this area to be a HCD when they referred the matter to staff for review; Council has identified the Munro Park portion as a HCD study area; and the City, through its Official Plan and zoning by-law, has policies intended to maintain and reinforce the area character.
- 4.5.12.3 In my opinion the area is a neighbourhood, one of the types of cultural heritage landscapes listed in the definition. The PPS does not require that significant cultural heritage landscapes be designated under the *Ontario Heritage Act*.
- 4.5.12.4 The area has significance in that it has a concentration of heritage buildings which contribute to our understanding of the history of the

area. My study has evaluated the area and determined that it has a significance that encompasses all properties within the area, including those in the public realm.

The proposed development does not conserve this significant cultural heritage landscape and the integrity of the area as defined by the PPS. It does not maintain the heritage values and attributes of the area as identified in my study (these attributes include building type/massing, height, predominant building materials, roof shape, windows and doors, decorative treatments and landscaping) since, as I have previously shown, the proposed apartment building is almost entirely inconsistent with the character of the area. Further, the proposed apartment building will compromise the integrity of the area by introducing a relatively large incompatible structure in the area.

4.5.13 In my opinion, the proposed development (and any official plan amendment and zoning by-law amendment which would permit it) is not consistent with the Provincial Policy Statement 2005.

4.6 Issue No. 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.*

4.6.1 Policies 2.2.2.1 (a) and (b) of the Growth Plan for the GGH specify that a significant portion of new growth will be directed to the built up areas of the community through intensification and that intensification will be directed to intensification areas.

4.6.2 Policy 2.2.3.6 (c) directs municipalities, through their official plans, to identify intensification areas to support achievement of the intensification target.

4.6.3 The City, in policy 2.2 of its Official Plan directs growth to the growth areas shown on Map 2 – “the Downtown, including the Central Waterfront, the Centres, the Avenues and the Employment Districts”. The municipality has clearly defined intensification areas. The subject site is not part of an intensification area shown on Map 2. In directing growth to the identified areas, the City’s Official Plan acknowledges that the balance of the municipality beyond these growth areas, employment areas and open space areas will remain stable, but not static. Specifically in the introduction to Section 2.3.1 it states “A cornerstone policy is to ensure that new development in our neighbourhoods respects the existing physical character of the area, reinforcing that stability of the neighbourhood.” As I have previously discussed, the proposed development does not respect the existing physical character of the area and does not reinforce the stability of the



neighbourhood; to the contrary it will undermine the stability of the neighbourhood.

- 4.6.4 Policy 4.2.4 of the Growth Plan for the GGH deals with a culture of conservation.
- 4.6.5 Specifically policy 4.2.4 (e) identifies the conservation of cultural heritage as an objective, where feasible, as built-up areas are intensified. My report *Munro Park/East Beach, City of Toronto, Heritage Conservation District Study and Plan* has shown that the site is part of a cultural heritage landscape. In my opinion, this cultural heritage landscape can be conserved through the maintenance of the existing built form of the area, which includes opportunities to add to existing structures or to build new structures of a similar type, such as on the vacant area upon which 438 Lakefront was once built. Such development is feasible and would respect the built-form character of the area while ensuring that growth occurs in the intensification areas identified in the City's Official Plan.
- 4.6.6 In policy 1.4 of the Growth Plan for the GGH, it states that the Provincial Policy Statement applies and should be read in conjunction with the Growth Plan. Only in instances where there is a conflict between the policies of the Growth Plan and the PPS does the Growth Plan prevail. In my opinion there is no conflict between the Growth Plan and the PPS; therefore the PPS, and the most important vehicle for implementing the PPS, the City's Official Plan, prevail. Accordingly, any redevelopment should respect and reinforce the existing character of the area as required by the City's Official Plan.
- 4.6.7 In my opinion, since the proposed development is not in an area identified for intensification and does not respect and reinforce the existing physical character of the area, it is not consistent with the Growth Plan for the Greater Golden Horseshoe.
- 4.7 Issue No. 5 (b) – *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*
- 4.7.1 The built-form physical character of the *Neighbourhoods* area within which the proposed development would be located (Munro Park Avenue and Neville Park Boulevard inclusive of the Lake Front properties, south of the *Mixed Use Areas* along Queen Street East) is single detached dwelling structures with a maximum height of 2 ½ stories. The proposed development, which includes a four storey apartment building with roof terrace with penthouse structures and partially exposed parking basement level, and a three storey single detached dwelling with a roof terrace, is inconsistent with and does not respect the built-form physical character of the immediate area being comprised of the HCD study area.

- 4.7.2 Even when viewed within the larger area between Nursewood Road and Silver Birch Avenue, the predominant built-form character is single detached houses, and to a lesser extent, semi-detached houses. I acknowledge that there are two 3/4 storey apartments in this larger area, one on Glenfern Avenue and one on Nursewood Road. However such apartment structures are not the predominant or prevailing built form structure of the area. Furthermore, these buildings are considerably smaller in scale and massing from the proposed development.
- 4.7.3 In my opinion, the proposed apartment component of the development does not conform to Section 2.3.1, Policy 1 of the City's Official Plan in that it does not respect and reinforce the existing physical character (the predominant built-form) within the *Neighbourhoods* area where the development site is located and is not consistent with the policy intention that such neighbourhoods be physically stable areas.
- 4.8 Issue No. 5 (c) – *Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:*  
*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.*
- 4.8.1 The proposed apartment building, because of its height, does not frame the adjacent street (Neville Park) and open space in a way that respects the existing street proportion which is defined as the height of the buildings along the edge of the street and the width of the space between the buildings. This is evident along Neville Park Boulevard and adjacent to the park (the south elevation) where the height of the building and its mass is not harmonious with its existing context.
- 4.8.2 It does not fit harmoniously into the natural treed canopy context on the property which continues onto adjacent and nearby properties along the lakeshore bluff. The removal of a number of red oak trees constituting this treed canopy will have a significant adverse impact on the enjoyment of the public of the forested canopy along the bluff. The preservation of this treed canopy which is part of the larger treed canopy character of the neighbourhood is important to maintaining the character of the area.
- 4.8.3 In my opinion, the proposed development does not conform to Section 3.1.1, Policy 3 of the City's Official Plan that it fit harmoniously into its context.

4.9 Issue No. 5 (d) – *Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:*  
*Section 4.1, Policy 1, that Neighbourhoods are physically stable areas.*

4.9.1 *Neighbourhoods* designated areas are “physically stable areas made up of residential uses in lower scale buildings.” Although the policies state that *Neighbourhoods* may be “made up” of “interspersed walk-up apartments that are no higher than four storeys”, the side note to the *Neighbourhoods* policy section provides guidance as to how “prevailing building types” within a neighbourhood are to be determined:

“Many zoning by-laws currently permit only single family houses. The type of dwellings permitted varies amongst 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, 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.”

4.9.2 The prevailing (predominant) building type in the HCD study area is single detached dwellings. Even extending the area to include the lands between Silver Birch Avenue and Nursewood Road south of the *Mixed Use Areas* on Queen Street East, the prevailing (predominant) building type is single detached dwellings.

4.9.3 The zoning by-law permits only detached houses and converted houses (subject to qualifications) with a permissive exception for duplexes in the HCD study area and for residential properties on Nursewood Road. The zoning by-law does not permit apartment buildings in this area. As is explained in the witness statement of Mr Di Mascio the zoning district applicable to the area delineated by Munro Park/Neville Park/Nursewood was established in the 1980s as a result of a resident initiative to remove as a permitted use in this area, amongst other uses, an apartment building.

4.9.4 In my opinion, the policy 4.1.9 governing infill development does not apply to the proposed development. The introduction to the development criteria in *Neighbourhoods* states:

“Scattered throughout many *Neighbourhoods* are properties that differ from the prevailing patterns of lots 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.”

- 4.9.4.1 Firstly, this policy does not apply because the lots that form part of the development site are not of former non-residential uses such as an industry, institution, retail store, a utility corridor or are lots that were passed over in the first wave of urbanization. All lots that form part of the development site were originally built upon with single detached dwellings; in fact three of the lots are still occupied by single detached dwellings.
- 4.9.4.2 Secondly, the lots that constitute the proposed development site do not vary from the size, configuration or orientation from other lots in the area. The lots fronting on Lake Front are typical in size, configuration and orientation to other lots fronting on Lake Front.
- 4.9.4.3 Further, infill policy 4.9.1.a provides that “infill development will “have heights, massing and scale appropriate for the site and compatible with that permitted by the zoning for adjacent and nearby residential properties.”
- 4.9.5 It is my opinion that the proposed development does not have a height, massing and scale which is appropriate for the site and is not compatible with that permitted by the zoning for adjacent and nearby existing residential developments.
- 4.9.6 In my opinion, in summary, the proposed development does not conform to City’s Official Plan which seeks to ensure residential *Neighbourhoods* are physically stable areas. An apartment building is not consistent with the physical stability of the neighbourhood as a predominantly single detached house area.
- 4.10 Issue No. 5 (e) – *Does the proposed development conform to the Policies of the City of Toronto Official Plan, in particular:*
  - 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.*
- 4.10.1 As previously stated, the prevailing building type within the HCD study area and within the larger area beyond it, whether over to the east to include Nursewood or further over to the west to include areas along Silverbirch are single detached dwellings. This prevailing building type defines the existing character of the neighbourhood, where it is the HCD study area or the larger

area. The proposed apartment building does not respect and reinforce this prevailing building type.

- 4.10.2 As noted earlier, the side note to the *Neighbourhoods* policy makes clear that the combination of zoning restrictions (apartments not permitted) and the prevailing (predominant) existing built form (single detached dwellings) means that the proposed apartment building is considered, in policy terms, to not “respect the and reinforce the established physical character of the neighbourhood” The language in the introduction of Section 4.1 Policy 5 of “respecting and reinforcing” and “fit the existing physical character” parallels and reinforces the side note to the Neighbourhoods policies.
- 4.10.3 I have previously discussed the various ways in which the proposal is out of keeping with the physical character of the neighbourhood in terms of the size and configuration of lots, heights, massing and scale.
- 4.10.4 The proposal includes a 4 storey apartment with roof top terrace and two penthouses structures and underground parking which is partially above grade.

The Neville Park elevation of the proposed apartment building is 26.7 metres in width, more than 40% wider than the existing building (including the garage) at 2 Neville Park and approximately 2 ½ times the width of 6 Neville Park, the house immediately north of the proposed development. The width of the building is only slightly greater than the existing building at 1 Munro Park but, when combined with the height, the much larger mass of the proposed structure is accentuated when compared to 1 Munro Park.

The Lake Front elevation of the proposed apartment building is 49.3 metres, approximately 4 times the width of the existing building at 2 Neville Park and other existing buildings adjacent to it, including 1 Munro Park.

- 4.10.5 The building height, at 4 stories or 14.17 metres, is approximately 50% higher than adjacent buildings.
- 4.10.6 The proposed dwelling type, apartment building, is not characteristic of nearby residential properties which are single detached dwellings.
- 4.10.7 The proposed dwelling type, apartment building, is not characteristic of prevailing dwelling types throughout the area which are single detached dwellings.
- 4.10.8 The proposed lot would not be of a size and configuration which is not in character for the neighbourhood.

- 4.10.9 The architecture of the proposed building does not continue the built form features that contribute to the unique physical character of the neighbourhood for the reasons reviewed earlier in this statement.
- 4.10.10 The proposed development does not conserve a heritage landscape – the Munro Park – Neville Park neighbourhood.
- 4.10.11 In my opinion, the proposed building type does not comply with Section 4.1, Policy 5 of the City’s Official Plan in that it does not respect and reinforce the existing character of the neighbourhood.
- 4.10.12 In my opinion, the proposed apartment building that would occur would be through “rezoning or other public action that is out of keeping with the physical character of the neighbourhood” and therefore is contrary to Section 4.1 Policy 5.
- 4.11 Issue No. 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?*
- 4.11.1 I have already provided my opinion that the proposed apartment use is not compatible with the character of the surrounding Area and the existing uses in the Area. As to future uses and intended uses for the Area as seen through the existing zoning by-law, the proposed apartment use is not compatible with that future character.
- 4.11.2 The height of the proposed development, in particular the apartment component at 4 storeys plus roof terrace and penthouse structures at 14.17 metres, exceeds the existing by-law limit of 12 metres. I recommended in my study *Munro Park/East Beach City of Toronto Heritage Conservation District Study and Plan* that the maximum height in the zoning by-law should be reduced from 12 to 10 metres to better reflect the character of the existing development in the area. The presence of the penthouse structures on the flat roof accentuates the fact that the built form and height are out of character.
- In my opinion, the height of the proposed development is not compatible with the character of the area either in terms of the existing character or the intended character given the R1 zoning of the area.
- 4.11.3 The built form of the proposed development is an apartment building. The zoning by-law limits the built form on the subject site and the immediate area to detached house, converted house subject to qualifications and duplexes as a permissive exception. The built form character of the immediate area and the proposed heritage district is single detached dwellings (detached house), while the

predominant character of the larger area between Nursewood Road and Silver Birch Avenue is detached house.

4.11.4 In my opinion, the built form of the proposed development (apartment) is not compatible with the built form character of the area either in terms of what currently exists or what is intended in the zoning by-law.

4.12 Issue No. 13 (a) *Is the proposed development appropriate having regard to the local context and surrounding neighbourhood, specifically the existing lot pattern, prevailing building type and adjacent homes?*

4.12.1 The proposed apartment portion of the development seeks the consolidation of four existing lots or three existing lots if 4 Neville Park is sold and developed independently. The new lot for the apartment portion of the development has a frontage of 180 feet (54.864 metres) and a depth ranging from 151.6 feet (46.196 metres) on the east to 160.2 feet (48.824 metres) on the west.

The new apartment lot has a substantially larger frontage (assuming that its frontage to be along the Lake Front), more than three times, than any other lot in the immediate area. Lots on Munro Park Avenue and Neville Park Boulevard generally have a frontage of approximately 50 feet (15.24 metres), while those on Lake Front have a frontage (on the lakeside) of 60 feet (18.29 metres). One property adjacent to the proposed development at 11 Munro Park Avenue has a frontage of 90 feet (27.43 metres).

The resulting development lot would be exceptional and not typical of the area. It would be out of character.

Even compared to the two existing apartment buildings in the larger area, 2 Nursewood Road and 15 Glenfern Avenue, the proposed development has approximately twice the frontage.

The depth of the lot of the proposed apartment development is characteristic of lots fronting on Lake Front, if No. 4 Neville Park is not considered as part of the lot.

As a result of the larger frontage of the proposed apartment development lot, the area of the proposed lot is substantially larger than any of the existing lots in the neighbourhood.

In my opinion, the lot pattern, in terms of frontage and size, created by the proposed apartment development is not characteristic or appropriate given the context and the surrounding neighbourhood.

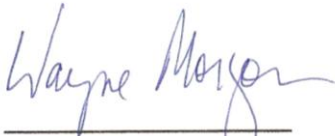
I have no concern with the lot of the proposed single detached house at 4 Neville Park Boulevard if it is considered on its own.

- 4.12.2 The prevailing building type in the area is single detached dwellings. The building type of adjacent homes is single detached dwellings.
- 4.12.3 In my opinion the proposed apartment development is not appropriate having regard to the local context and surrounding neighbourhood, specifically the existing lot pattern, prevailing building type and adjacent structures.

*Opinion Summary*

- 4.13 It is my opinion as a planner, with special expertise in heritage planning, that the proposed development is inappropriate for the reasons provided in this witness statement.
- 4.14 In my opinion, the amendments sought in order to permit the proposed development would not conform with the provincial policy framework discussed in this witness statement, would not conform with the relevant official plan policies reviewed in this witness statement, would not be consistent with the zoning by-law applying to the subject property and the surrounding neighbourhood and would not constitute good planning for the reasons previously stated.

In my opinion, the decision of Toronto City Council to refuse the proposed amendments to the official plan and zoning by-law of the former City of Toronto respecting 2 – 4 Neville Park Boulevard and 438-440 Lakefront Lane should be confirmed and the appeals dismissed. The proposed site plan application should not be approved as it provides for an apartment development which is out of character with the neighbourhood.

  
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Wayne Morgan