

ONTARIO LAND TRIBUNAL

Tribunal de l'aménagement du territoire Ontario

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant and Appellant: Burgess Heritage Group Inc.
Subject: Request to amend the Official Plan – Failure of the Town of Grimsby to adopt the requested amendment
Existing Designation: Neighbourhood Commercial Areas
Proposed Designated: Site specific (To be determined)
Purpose: To permit a five storey mixed use building
Property Address/Description: 133-137 Main St. E.
Municipality: Town of Grimsby
Approval Authority File No.: 260-16-1901
OLT Case No.: OLT-21-001631
OLT File No.: PL200201
OLT Case Name: Burgess Heritage Group Inc. v. Grimsby (Town)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant and Appellant: Burgess Heritage Group Inc.
Subject: Application to amend Zoning By-law No. 14-45 – Refusal or neglect of the Town of Grimsby to make a decision
Existing Zoning: Neighbourhood Commercial
Proposed Zoning: site specific exceptions (to be determined)
Purpose: To permit a five storey mixed use building
Property Address/Description: 133-137 Main St. E.
Municipality: Town of Grimsby
Municipality File No.: 26Z-16-1904
OLT Case No.: OLT-21-001631
OLT File No.: PL200201

**WITNESS STATEMENT of
ALLAN RAMSAY**

Allan Ramsay Planning Associates Inc.
11058 First Line, Moffat, ON, L0P 1J0

A. INTRODUCTION

1. This Witness Statement has been prepared by:

Allan Ramsay, M.C.I.P., R.P.P.
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B. QUALIFICATIONS

2. I am a land use planner, in practice since 1981. I hold an undergraduate degree in Urban and Regional Planning and a graduate degree in Applied Sciences-Engineering. I am a member of the Canadian Institute of Planners (MCIP) and a Registered Professional Planner (RPP) in the Province of Ontario. My curriculum vitae is attached at **Appendix 1** of this Witness Statement.
3. I am a Principal in Allan Ramsay Planning Associates Inc. My practice is focused on providing advice on policy planning and development planning matters to public and private sector clients. Prior to establishing my own consulting practice in 2008 I held senior positions in planning departments with the City of Burlington (22 years) and the Town of Oakville (5 years). As part of my regular practice I have been qualified to provide land use planning evidence before the Ontario Municipal Board, the Local Planning Appeal Tribunal and the Ontario Land Tribunal on numerous occasions. I have experience working on planning matters within the Town of Grimsby.
4. In my written evidence and testimony on this matter I will be providing both factual and opinion evidence. The opinion evidence will be related to matters of land use planning and public policy.
5. In accordance with the Tribunal's Rules of Practice, I have read, understood and signed an Acknowledgement of Expert's Duty, which is attached as **Appendix 2** to this Witness Statement.

C. RETAINER AND TASKS COMPLETED

6. In June, 2021 I was contacted by legal counsel for the Town of Grimsby (the "**Town**") in connection with the appeal of the failure of the Town's Council to approve applications for Official Plan and Zoning By-law Amendments (the "**Applications**") made by Burgess Heritage Group Inc. ("**Burgess**" or the "**Appellant**") at lands located on the north-east corner of Main Street E. and Nelles Road (the "**Subject Lands**" or the "**Site**") in the Town of Grimsby. Specifically I was asked to evaluate, and provide a professional planning opinion on whether or not the Applications could be supported from a land use planning perspective.

7. In response to the Town's request I conducted a review of the Applications, the available supporting material, the relevant planning documents, the Town Staff Reports and public and agency comments. Following my review I advised legal counsel for the Town of my opinion that the proposed Official Plan Amendment and proposed Zoning By-law Amendment was not consistent with the Provincial Policy Statement (the "**PPS**"), did not conform to the Growth Plan for the Greater Golden Horseshoe (the "**Growth Plan**"), the Region of Niagara Official Plan (the "**Niagara OP**") and the Town of Grimsby Official Plan (the "**GOP**").
8. After receiving my advice, the Town requested that I provide on-going planning analysis and advice with respect to the subject matter of the appeal including the preparation of a witness statement and attendance at the appeal hearing.
9. I have carried out the following tasks during the course of my retainer and in preparation for the hearing on this matter:
 - (i) A review of the Applications and supporting documents submitted to the Town including the September, 2021 resubmission and the updated site plan from August, 2022.
 - (ii) Site visits to the Subject Lands and surrounding neighbourhood.
 - (iii) An assessment of the Applications in the context of the applicable policy documents including the PPS, Growth Plan, Niagara OP, GOP and Town of Grimsby Zoning By-law 14-45, as amended (the "**ZBL 14-45**").
 - (iv) A review of public and department comments submitted to the Town.
 - (v) A review of the Staff Report, video recording and meeting minutes related to the December 10, 2019 Open House held by the Town.
10. Discussed the Applications and reviewed the witness statement of the other expert retained by the Town, Ms. Catherine Jay, on matters related to urban design.
11. **Appendix 3** to this Witness Statement is a bibliography of the various documents reviewed in the course of this assignment and in preparing evidence for this hearing.
12. Based on the above, I have prepared this Witness Statement that sets out my opinion on this matter.

D. BACKGROUND

Site Description

13. The Subject Lands are located at the northeast corner of Main Street East and Nelles Road and are known municipally as 133 and 137 Main Street East.
14. The Site originally comprised two lots. The westerly lot currently occupied by vacant 2 storey dwelling, known locally as the Nelles House. The Nelles House is a designated

property under the *Ontario Heritage Act*. The easterly lot previously contained a coach house but is currently vacant. The lots have now been merged in title.

15. The Site can be more particularly described as:
- (i) approximately 0.64 hectares in size and has frontage of approximately 73 m along Nelles Road and a flankage of approximately 81 m along Main St. E.
 - (ii) the Site is generally flat.
 - (iii) mature trees are found adjacent to Main Street E. and Nelles Road and within a cluster along the westerly side and rear property lines.

Surrounding Neighbourhood

16. The Subject Lands are located within an area surrounded by low-rise residential, commercial, institutional and office uses. Surrounding land uses include:
- (i) North:
 - Lands north of the subject lands are part of a stable residential neighbourhood and consist primarily of low-rise residential dwellings in the form of detached dwellings and townhouses.
 - The lands abutting the Subject Lands are part of the Josie's Landing development consisting of two blocks of townhouse dwellings. One of the townhouse blocks contains eight, one-storey units that face the Subject Lands. The other block is made up of eight, two-storey units oriented perpendicular to the Subject Lands.
 - To the northeast is a cluster of 1 ½ storey townhouses with rear yard amenity areas on the south side of the units closest to the Subject Lands
 - (ii) East:
 - Immediately east of the Subject Lands at 141, 147 and 149 Main Street East is Cole's Florist and Garden Centre. This site contains two, 2-storey buildings, originally constructed as single-detached dwellings and now utilized as a garden centre use, greenhouses, shade structures and surface parking area. This site is subject to Official Plan and Zoning applications to permit a 6-storey mixed use building with 215 residential units and 929 m² of commercial floor area. These applications were appealed to the Ontario Land Tribunal (hereinafter the "OLT") and were the subject of an OLT hearing held in July, 2022. A decision and interim order was issued by the OLT on September 8, 2022. The decision recommended that the site be designated under the Ontario Heritage Act; denied the request for demolition permits affecting all or parts of 141 and 147 Main Street; and allowed the official plan and zoning appeals, in part, directing the parties to prepare Amendments in accordance with the following:
 - permit medium-scale development on this site in the OPA (if considered necessary by the Parties);

- between 141 and 147, maintain the proposed setbacks along Main, being somewhat deeper than the setbacks of the heritage structures;
 - provide sufficient sidewall setbacks from the heritage structures to maintain their detached appearance;
 - the new building may be close to or connect with the rear walls of 141 and 147;
 - include similar setbacks and stepbacks as proposed for the northwest and southeast wings;
 - commercial/office space should dominate those parts of the ground floor that face Main or Wentworth, and result in a substantial portion of the total ground floor in commercial/office space, while also providing visible residential access and the permitted residential occupancy of the northwest wing's ground floor.
- At the north-west corner of Main Street E. and Wentworth Drive is the Orchardview Village Square, a neighborhood plaza containing retail, personal services uses (bank, nail salon, dry cleaners) and professional and medical offices.
 - Further east is a small plaza with a medical office, dental office and restaurant.
 - The West Lincoln Memorial Hospital is located further to the east. The Hospital is a 2 storey building. Expansion plans have been announced by Infrastructure Ontario that will result in construction of a new, larger 3-storey hospital building on the property behind the existing facility. In April, 2022 a contract was awarded for the design and build of the new hospital facility. The preliminary designs for the new facility indicate a setback of approximately 80 m from Main Street East.
- (iii) West:
- Opposite the Subject Lands on the west side of Nelles Road is a mix of 1½- and 2 storey detached dwellings. Further west are several 1-, 1½- and 2-storey detached dwellings fronting onto Main Street E.
- (iv) South:
- Opposite the Subject Lands on the south side of Main Street E. is a mix of commercial, medical and residential uses including a hearing aid service use in a converted dwelling, a small plaza, a freestanding restaurant (Tim Hortons), a stand-alone dental office, a neighbourhood shopping plaza (general merchandise, pharmacy, bank and medical offices).
 - West of Nelles Road on the south side of Main Street East are several 1-, 1½- and 2-storey detached dwellings.
 - Further south towards the Escarpment is a low-rise residential neighbourhood.
17. The Town of Grimsby does not have its own transit service. Instead the Town is serviced through an on-demand service that also runs in Pelham, Lincoln, West Lincoln, Wainfleet,

Niagara-on-the-Lake, and Port Colborne by the Niagara Region Transit. This transit system is called NRT OnDemand and it operates similar to UBER and Lyft services.

Application and Planning History

18. Burgess submitted applications to amend the Official Plan and Zoning By-law to permit a development comprising a 5-storey residential building with commercial space. The Official Plan amendment application would maintain the Neighbourhood Commercial (NC) Area designation and introduce site specific policies to allow the residential uses. The rezoning application would maintain the Neighbourhood Commercial (NC) Area zone and introduce site specific exceptions for residential uses, building height, lot coverage, and parking. As submitted the proposed development contained:
 - 148 residential units (33, 2-bedroom, 40, 1-bedroom plus den and 75, 1-bedroom)
 - Floor space ratio (FSR) of 1.84
 - 305 m² of ground floor commercial floor in the proposed mixed use building
 - 392 m² of office space in the relocated heritage building
 - 5 storey (17.35 m) mixed use building
 - 210 parking spaces and 53 bicycle parking spaces
19. The municipal planning process for the Applications can be summarized as follows:
 - (i) In June, 2019 Burgess submitted applications to amend the Official Plan and Zoning By-law. In support of the Applications were several technical reports including:
 - Planning Justification Report
 - Renderings
 - Heritage Impact Assessment
 - Urban Design Brief
 - Traffic Impact Study
 - Stage 1-2 Archaeological Assessment
 - Functional Servicing and Stormwater Management Report
 - Geotechnical Investigation
 - Landscape Plan
 - Phase I Environmental Site Assessment
 - Site Plan
 - Shadow Impact Analysis
 - Heritage Structural Assessment
 - Topographic Survey
 - Arborist Report
 - Tree Protection Plan and Vegetation Management Chart
 - Draft Official Plan and Zoning By-law Amendments
 - (ii) In September, 2019 the Applications were deemed complete by the Town
 - (iii) On December 10, 2019 the Town held an Open House. An information brief from Town Staff was presented at the meeting. The information brief described the

Applications, summarized the supporting documentation provided by the Appellant, reviewed applicable planning policies and included the Appellant's draft Official Plan and Zoning By-law amendment documents. As well, the Appellant made a presentation at the meeting and indicated consideration was being given to the following modifications to the proposal:

- Retain Nelles House "in situ"
 - Remove 5th Floor
 - Enhance building step back from street
 - Create 550 m² "civic square"
 - 3-4 storey building height
 - 137 Residential units
 - ± 193 m² new Commercial space
 - ± 392 m² Commercial space in Nelles House
 - 32 surface parking spaces, 5 lay-by parking spaces and 150 underground parking spaces
- (iv) In March, 2020 Burgess filed notice of appeal to the Town's failure to adopt the proposed Official Plan Amendment and the Zoning By-Law Amendment.
- (v) Notwithstanding the appeals in September, 2021 Burgess filed revised drawings and reports in support of a revised development proposal (hereinafter the "**Revised Proposal**"). The key revisions to the development proposal included the following:
- Removal of the European Beech Tree
 - Retention of the Nelles House "in situ"
 - A reduction to the commercial/retail floor space
 - A reduction in the amount of parking provided.
- (vi) The September, 2021 resubmission also included updated copies of the proposed Official Plan Amendment (the "**Proposed OPA**") and the proposed Zoning By-law Amendment (the "**Proposed ZBA**"). The Proposed OPA modifies the existing Neighbourhood Commercial Area designation to allow: dwelling units in conjunction with commercial uses, a minimum lot area of 0.6 hectares; a maximum density of 235 units per net residential hectare; and the requirement that the proposed development is to conform with the urban design criteria of Section 3.4.7.7 of the Official Plan. The Proposed ZBA amends the current Neighbourhood Commercial zoning by adding specific regulations for the subject lands, as follows:
- Additional Permitted Uses:
- Apartment building in conjunction with commercial uses
- Special Lot, Building and Structure Exemptions:
- A maximum lot coverage of 50%
 - A maximum gross floor area of 180% of the lot area
 - A minimum 6.0 m side yard setback abutting a Residential Zone for floors 1 to 4
 - A minimum 15.0 m side yard setback abutting a Residential Zone for floor 5

- A minimum 1.7 m exterior side yard setback from Main Street East
- A minimum 5.7 m rear yard setback
- A maximum building height of 4 storeys (13.5 m) and of 5 storeys (17.0 m)
- A minimum landscaping strip of 0.8 m abutting a street and 0.8 m abutting a Residential Zone
- A maximum balcony and canopy projections into a required yard of 1.0 m (side), 2.0 m (rear)

Parking:

- Require a minimum 189 parking spaces
 - Require a minimum of 7 accessible parking spaces
 - Permit reduced loading space and accessible parking stall sizes
 - Permit a minimum width of a driveway entrance of 7.0 m
- (vii) On February 8, 2022 the Town of Grimsby issued a Heritage Permit pursuant to Section 33 and 34 of the Ontario Heritage Act. The permit authorized the restoration of the Nelles House heritage building, the demolition of the coach house structure, and landscape improvements. The Heritage Permit was issued subject to several conditions. The Heritage Permit was amended on August 15, 2022 following a settlement agreement related to an appeal of the heritage permit application.
- (viii) On August 3, 2022 Legal Counsel for Burgess circulated a revised proposal for the redevelopment (the “**Revised Proposal**”) of the Subject Lands and indicated the Revised Proposal will form the basis of Burgess’s submission to the Tribunal at the OLT hearing. The proposed built form of the redevelopment was unchanged from the initial proposal in terms of building height, orientation and setbacks. Vehicular access remains from Nelles Road. Access to the underground parking garage, loading, and drop-off area is to be oriented to the rear of the building. The Revised Proposal includes:
- 148 residential units
 - a 4-storey building element along the northerly portion of the property and a 5-storey building element along the easterly portion of the property
 - a proposed floor space ratio (FSR) of 1.73
 - a proposed floor area of 10,994 m²
 - 228 m² of ground floor commercial floor area in the proposed building and 228 m² of commercial floor area in the existing heritage building
 - a decrease in the number of parking spaces from 210 to 189
 - a decrease in the number of bicycle parking spaces from 53 to 49.

- (ix) An Agreed Statement of Facts (the “**ASF-Planning**”) of the land use planners was finalized on August 26, 2022. Attached to the ASF-Planning is a Preliminary Site Plan dated August 3, 2022.

F. PLANNING ANALYSIS

The Planning Act - Matters of Provincial Interest

20. Section 2 of The *Planning Act* lists matters of Provincial Interest that the Minister, the council of a municipality, a local board, a planning board and the Tribunal must have regard to when carrying out their responsibilities under the Act. Relevant to the Applications are the following matters of Provincial Interest:
- “(h) the orderly development of safe and healthy communities;
 - (n) the resolution of planning conflicts involving public and private interests;
 - (p) the appropriate location of growth and development; and
 - (r) the promotion of built form that,
 - (i) is well-designed,
 - (ii) encourages a sense of place, and
 - (iii) provides for public spaces that are of high quality, safe, accessible, attractive and vibrant”.
21. An evaluation of the Proposed OPA and Proposed ZBA under the above-noted matter of Provincial Interest is outlined in paragraphs 148 to 150 of this Witness Statement.

Provincial Policy Statement (2020)

22. The Provincial Policy Statement, 2020 (“**PPS**”) provides policy direction on matters of Provincial interest on decisions related to land use planning in Ontario. Pursuant to section 3(5)(a) of the Planning Act, all decisions of planning authorities “in the exercise of any authority that affects a planning matter...shall be consistent with” the PPS.
23. An evaluation of the Proposed OPA and Proposed ZBA under the PPS is set out in paragraphs 37 to 49 of this Witness Statement.

Growth Plan for the Greater Golden Horseshoe (2020)

24. Section 3(5) of the *Planning Act* requires all decisions affecting planning matters are to conform with the provincial plans that are in effect or shall not conflict with them. The Growth Plan for the Greater Golden Horseshoe (2020) (the “**Growth Plan**”) is an applicable provincial plan.
25. An evaluation of the Proposed OPA and Proposed ZBA under the Growth Plan is set out in paragraphs 50 to 62 of this Witness Statement.

Region of Niagara Official Plan

26. The Region of Niagara Official Plan (the “**Niagara OP**”) is the policy document that establishes the overall land use strategy for both the Region and City. The Niagara OP was approved on June 18, 2015.
27. The Subject Lands are within the ‘Urban Area Boundary’ Schedule A, Regional Structure. Within the ‘Urban Area Boundary’ on Schedule A, Regional Structure lands are delineated as either ‘Built-up Area’, ‘Designated Greenfield Area’ or ‘Downtown St. Catharines/Urban Growth Centre’. The Subject Lands are shown as ‘Built-up Area’.
28. According to the Growth Management Objectives in Section 4.A.1 the majority of growth and development is directed to Niagara’s existing Urban Areas (4.A.1.1), a significant portion of Niagara’s future growth is directed to the Built-up Area through intensification (4.A.1.2), and intensification is directed to Local Municipally Designated Intensification Areas (4.A.1.3). The Subject Lands are within the Urban Area but are not within a Local Municipally Designated Intensification Area.
29. An evaluation of the Proposed OPA and Proposed ZBA under the Niagara OP is set out in paragraphs 63 to 86 of this Witness Statement.

Town of Grimsby Official PlanMap Schedules

30. The Town of Grimsby Official Plan (the “**GOP**”) designates the Subject Lands as ‘Urban Settlement Area’ on Schedule A, Municipal Structure. According Schedule B, Land Use and B-2, the Land Use – Urban Settlement Area (East), the Subject Lands are designated as ‘Neighbourhood Commercial Area’.
31. Schedule C, Transportation and Trails identifies Main Street as a Regional Arterial and a Bike Route.

Policies

32. The land use designations on Schedule A, Municipal Structure provide for the following:
 - (i) Urban Settlement Area – are the primary focus of, and location for urban growth within the Town of Grimsby. It is intended to provide for a broad range of housing opportunities, commercial facilities and services, recreation, culture, government facilities and services and employment opportunities.
 - (ii) Designated Greenfield Area – Development within these areas shall as a whole achieve the minimum designated greenfield area density target of Section 2.4.3.
 - (iii) Major Intensification Area - the Downtown and the Casablanca interchange area will be the primary focus for intensification and shall be planned and designed to meet the intensification targets set out in the intensification strategy in Section 2.4.6.
33. An evaluation of the Proposed OPA and Proposed ZBA under the GOP policies is outlined in paragraphs 87 to 135 of this Witness Statement.

Town of Grimsby Zoning By-law 14-45

34. The Subject Lands are within the “Neighbourhood Commercial” (NC) Zone in **ZBL 14-45**.
35. The Proposed ZBA maintains the Neighbourhood Commercial (NC) Zone but adds a site specific exception to address matters related to permitted uses, height, lot coverage, other site development regulations and parking. Table 1 provides a summary of the key revisions to the applicable regulations in the NC Zone:

Table 1 – Key Zoning Regulations

NC Zone	Existing	Proposed
Permitted Uses - Commercial	A wide range of use permitted	A wide range of use permitted
Permitted Uses - Residential	Permitted only at or above the second storey	Apartment building permitted in conjunction with commercial uses
Min. Lot Area (m ²)	2,000	2,000
Max. Lot Coverage	30%	50%
Max. Gross Floor Area (% of Lot Area)	-	180%
Min. Lot Frontage (m)	30	30
Min. Front Yard (m) (Nelles Rd.)	3	3
Min. Exterior Side Yard (m) (Main St.)	3	1.7
Min. Interior Side Yard (m)	4.5	6 m (floors 1-4) 15.0 m (floor 5)
Min. Rear Yard (m)	7.5	5.7
Min. Rear Yard-Where Parking Provided (m)	12	12
Max. Height (m)	8.5	13.5 (4 storey) 17.0 (5 storey)
Other Regulations		
Parking		
- spaces per apartment unit	1.25	Minimum 189 spaces
- visitor spaces per apartment unit	0.25	
Min. Landscaping Strip Abutting a Street (m)	3	0.8
Min. Landscaping Strip Abutting a Residential Zone (m)	3	0.8

Issues and Opinion

36. The issues for the hearing on this matter are set out in Attachment 2 to the Procedural Order issued August 5, 2022. The issues pertaining to my expertise and my opinion with respect to each of these issues is set out below:

Issue 1: Are the applications consistent with the Provincial Policy Statement (2020) including in particular policies 1.1.3.2, 1.1.3.3, 1.1.3.4, 1.1.3.5, 1.4.3, 1.5.1, 1.6.6.2, 1.6.6.7, 1.6.7, 1.7.1 d), 1.8, 2.6.1 and 2.6.2?

37. Section 3(5) of the *Planning Act* requires all decisions affecting planning matters be consistent with the PPS. Since the Issues List was approved the PPS has been updated. The applicable policy statement is the 2020 PPS.

Issue 1, Section 1.1, Settlement Areas

38. Section 1.1.3.2 indicates:

“Land use patterns within settlement areas to be based on densities and a mix of land uses which:

- a) efficiently use land and resources;
- b) are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;
- c) minimize negative impacts to air quality and climate change, and promote energy efficiency;
- d) prepare for the impacts of a changing climate;
- e) support active transportation;
- f) are transit-supportive, where transit is planned, exists or may be developed; and,
- g) are freight supportive.

Land use patterns in settlement areas shall also be based on a mix of land uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where it can be accommodated.”

39. Under Section 1.1.3.3: “Planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through 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”.

40. In my opinion:

- (i) The proposed amendments will result in an intensification and development that cannot be accommodated on the Subject Lands without adverse privacy, overlook and shadow impacts on nearby residents. The compact urban form of the proposed development is not appropriate in an area that is defined by low-rise development and intended for “small scale infill” development (Section 1.1.3.2).
- (ii) The proposed amendments do not appropriately take into account existing building stock or areas. Within the context of the surrounding area the Subject Lands are not appropriate for the extent of intensification proposed. Some intensification of the Subject Lands may be appropriate, but not at the density, setbacks and overall intensity of development proposed in the Applications (Section 1.1.3.3).

41. Section 1.1.3.4 indicates “...appropriate development standards should be promoted which facilitate *intensification*, *redevelopment* and compact form, while avoiding or mitigating risks to public health and safety”. The Proposed OPA and Proposed ZBA propose new development standards for the Subject Lands that will permit intensification and compact form. However, in my opinion, the proposed amendments are not appropriate for the site and will result in an overdevelopment of the Site resulting in privacy, overlook and shadow impacts on nearby residents.

42. Overall, it is my opinion the Proposed OPA and Proposed ZBA are not consistent with Section 1.1.3.2, 1.1.3.3 and 1.1.3.4 of the PPS.

Issue 1, Section 1.4, Housing

43. Section 1.4.3 indicates:

“1.4.3 Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by:

- a) establishing and implementing minimum targets for the provision of housing which is affordable to low and moderate income households and which aligns with applicable housing and homelessness plans. However, where planning is conducted by an upper-tier municipality, the upper-tier municipality in consultation with the lower-tier municipalities may identify a higher target(s) which shall represent the minimum target(s) for these lower-tier municipalities;
- b) permitting and facilitating:
 - 1. all housing options required to meet the social, health, economic and well-being requirements of current and future residents, including special needs requirements and needs arising from demographic changes and employment opportunities; and
 - 2. all types of residential intensification, including additional residential units, and redevelopment in accordance with policy 1.1.3.3.
- c) directing the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs;
- d) promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities, and support the use of active transportation and transit in areas where it exists or is to be developed;
- e) requiring transit-supportive development and prioritizing intensification, including potential air rights development, in proximity to transit, including corridors and stations; and
- f) establishing development standards for residential intensification, redevelopment and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.”

44. The Revised Proposal contributes additional housing and satisfies several of the policy directions in Section 1.4.3 of the PPS. The proposed development provides a compact and intensified built form that will utilize existing infrastructure. However, the Revised Proposal could provide a greater mix of housing choice by providing three bedroom units. Three-bedroom units would accommodate the needs of larger families.

45. Further, the proposed development has the potential to support public transit. However, given the limited transit service available, the justification of higher density to support public transit is not applicable for the proposed development.

Issue 1, Section 1.5, Public Spaces, Recreation, Parks, Trails and Open Space

46. Section 1.5.1 a) indicates "...healthy, active communities should be promoted by: a) planning public streets, spaces and facilities to be safe, meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity".
47. The Revised Proposal is not consistent with policy 1.5.1.
48. In my opinion, the intent of this policy is to ensure pedestrian spaces are active to facilitate safety and an engaging active public realm. The proposed design of the Site including the limited use of the ground floor for retail and commercial purposes and the location of residential units adjacent to the street does not promote an active public realm. The proposed building does not support convenient pedestrian connections to the building and does not contribute to creating healthy and active communities. There are no patios or courtyard activities that help contribute to active at grade frontages. Furthermore, the proposed 1.92 m setback to Main Street East does not provide opportunities to complement the public realm along the boulevard and sidewalk.

Issue 1, Summary

49. Overall, it is my opinion the Proposed OPA and Proposed ZBA are not consistent with Section 1.1.3.2, 1.1.3.3, 1.1.3.4, 1.4.3 and 1.5.1 of the PPS.

Issue 2: Do the applications conform with the Growth Plan for the Greater Horseshoe (2019), as amended, including in particular policies 1.2.1, 2.2.1.1, 2.2.1.4, 2.2.2.3, 2.2.6.2, 2.2.6.3, 4.1 and 4.2.7?

Issue 2, Section 1.2, Vision and Guiding Principles

50. The Growth Plan provides a framework for implementing the Province's vision for building stronger, prosperous communities by better managing growth. The Growth Plan intends to build towards the "...achievement of complete communities that are compact, transit-supportive, and make effective use of investments in infrastructure and public service facilities" (Section 1.2). The Growth Plan focuses on building complete communities, prioritizing intensification and higher density, supporting a range and mix of housing options and conserving and promoting cultural heritage resources to support the social, economic, and cultural well-being of all communities (Section 1.2.1).
51. In my opinion the Revised Proposal conforms with several of the principles in Section 1.2.1 that deal with prioritizing intensification. However, the Revised Proposal does not conform with the principles set out in Section 1.2.1 supporting a range and mix of housing options. The proposed development does not include any 3 bedroom units that are suitable for larger families.

Issue 2, Section 2.2.1, Managing Growth

52. According to the Growth Plan the vast majority of growth will be directed to settlement areas, and more specifically, as indicated in Section 2.2.1.2 c) growth within settlement areas will be focused in:
- i) delineated built-up areas;
 - ii) strategic growth areas;
 - iii) location with existing or planned transit, with a priority on higher order transit where it exists or is planned; and
 - iv) areas with existing or planned public service facilities.

53. The Subject Lands are within the Town of Grimsby's settlement area and are found within the delineated built-up area and within an area currently or planned with public service facilities. The Site is not within a strategic growth area nor a location with existing or planned transit, with a priority on higher order transit where it exists or is planned.

Issue 2, Section 2.2.2, Delineated Built-up Areas

54. Section 2.2.2 (1) of the Growth Plan requires a minimum intensification target of 50% of all residential development occurring annually within the Region of Niagara to be within the delineated built-up area. It is important to note that this target is applied across the entirety of the Region. In turn, the Region and the Town have assigned in their respective Official Plans a minimum intensification target 80% for the Town of Grimsby.
55. Section 2.2.2 (3) requires all municipalities to develop a strategy to achieve the minimum intensification target and intensification throughout delineated built-up areas. These strategies are to include:
- "a) identify strategic growth areas to support achievement of the intensification target and recognize them as a key focus for development;
 - b) identify the appropriate type and scale of development in strategic growth areas and transition of built form to adjacent areas;
 - c) encourage intensification generally throughout the delineated built-up area;
 - d) ensure lands are zoned and development is designed in a manner that supports the achievement of complete communities;
 - e) prioritize planning and investment in infrastructure and public service facilities that will support intensification; and
 - f) be implemented through official plan policies and designations, updated zoning and other supporting documents".

56. The Intensification Strategy in the GOP includes policies that address each of the strategy items under 2.2.2 (3).
57. The proposed development will contribute to the intensification target as determined by the Growth Plan and the Region and Town Official Plans. However, the proposed development does not conform with several of the elements of the Town's Intensification Strategy that has been prepared under Section 2.2.2 (3). The Town's Intensification Strategy is based on directing significant intensification proposals containing higher densities and taller buildings to two areas: the Downtown and the Casablanca interchange area. These two strategic growth areas are designed to meet the intensification targets set out in the intensification strategy in the Town of Grimsby Official Plan. The Subject Lands are not located within either of these two intensification areas. Under the Town's Intensification Strategy "small-scale infill" development is promoted in other parts of the urban settlement area but must be sensitive to the surrounding housing character.

Issue 2 Section 2.2.6, Housing

58. Section 2.2.6 (2) of the Growth Plan requires municipalities to support the achievement of complete communities by:
- a) planning to accommodate forecasted growth to the horizon of this Plan;
 - b) planning to achieve the minimum intensification and density targets in this Plan;
 - c) considering the range and mix of housing options and densities of the existing housing stock; and
 - d) planning to diversify their overall housing stock across the municipality".
59. The proposed development contributes to the achievement of complete communities by adding additional housing. However, the proposed development contains a limited amount of commercial development and, as a result, will detract from the achievement of complete communities. The 0.64 ha site is currently designated for commercial purposes but, based on the site plan submitted with the Revised Proposal, only 4% of the total floor area is proposed for retail and commercial uses. In my opinion the Revised Proposal lacks a retail and commercial presence to support a mixed use development and contribute to the achievement of a complete community.
60. According to Section 2.2.2(3), as a means of supporting the achievement of *complete communities*, municipalities are directed to consider the use of available tools that require multi-unit residential developments and incorporate a mix of unit sizes to accommodate a diverse range of household sizes and incomes.
61. In my opinion the proposed development does not incorporate an appropriate mix of unit sizes. The Revised Proposal contains a mix of 1- to 2-bedroom dwelling units, but does not contain any larger units with three or more bedrooms.

Issue 2, Summary

62. Overall, it is my opinion the Proposed OPA and Proposed ZBA do not conform with the

Growth Plan particularly with respect to Guiding Principles (s. 1.2.1), Managing Growth (s. 2.2.1.2), Delineated Built-Up Areas (s. 2.2.2) and Housing (s. 2.2.6).

Issue 3: Do the applications conform with the Region of Niagara Official Plan, including policies 3.D.7, 3.D.10, 4.A.1, 4.C.2.1, 4.C.4.2, 4.G.1, 4.G.3, 4.G.11, 4.I, 4.J, 8.B.13, 9.A, 9.E, 10.C.1.5, 10.C.2.1, and 11.A.1, 11.A.2.

Issue 3, Chapter 3.D, Commercial Areas

63. Policy 3.D.7 indicates the Region will promote "...the "Main Street" form of commercial development, with building facades closer to the street, an efficient use of land, a mix of uses in both new and established areas, and support and access for active transportation". In my opinion the proposed development does not represent a "Main Street" form of commercial development. Only 17.75 m of the 40 m proposed building façade along the Main Street E. frontage contain retail or commercial uses at grade. The remaining 22.25 m of the proposed building façade is intended for residential uses. The limited amount of retail and commercial frontage, coupled with large amounts of residential building frontage does not create a "Main Street" form of development.
64. Under Policy 3.D.10 new commercial development or redevelopment should be assessed in relation to community character and be appropriately located to serve as part of the neighbourhood's existing or proposed fabric. The policy indicates the assessment in relation to community character could include:
- a) The scale of the activity;
 - b) The orientation of the development to adjacent land uses; and,
 - c) The capacity of the development to operate compatibly with housing".
65. The 0.64 ha site is currently designated for commercial purposes but, based on the site plan submitted with the Revised Proposal, only 4% of the total floor area is proposed for retail and commercial uses. In my opinion the Revised Proposal lacks a retail and commercial presence to support a mixed use development. As well, the retail and commercial uses are not oriented to the adjacent residential uses to the north.
66. Section 2.6 of the GOP states that the long term goal of the municipality is to have one job per three residents. In addition to the employment areas within Grimsby, designated commercial areas play a key role in achieving employment targets. The proposed development represents a significant erosion of the employment potential of this site and is not therefore consistent with the intent of the GOP for designated commercial areas.

Issue 3, Chapter 4, Managing Growth

67. Section 4.A.1 provides objectives for managing growth within the Region. Relevant objectives include:

- “Objective 4.A.1.1 Direct the majority of growth and development to Niagara’s existing Urban Areas.
- Objective 4.A.1.2 Direct a significant portion of Niagara’s future growth to the Built-up Area through intensification.
- Objective 4.A.1.3 Direct intensification to Local Municipally Designated Intensification Areas.
- Objective 4.A.1.6 Build compact, mixed use, transit supportive, active transportation friendly communities are to be built in the Built-up Area and in Designated Greenfield Areas.
- Objective 4.A.1.7 Reduce dependence on the automobile through the development of compact, mixed use, transit supportive, active transportation friendly urban environments.
- Objective 4.A.1.10 Provide a framework for developing complete communities all across Niagara, including a diverse mix of land uses, a range of local employment opportunities and housing types, high quality public open spaces, and easy access to local stores and services via automobile, transit and active transportation.”

68. The proposed development satisfies Objective 4.A.1.1 and Objective 4.A.1.2 as the Subject Lands are located within an existing Urban Area and the Town’s Built-up Area. However, the Subject Lands are not located with a Local Municipally Designated Intensification Area (Objective 4.A.1.3). As reviewed in paragraph of this Witness Statement, the Town directs a majority of intensification in two areas: the Downtown and the Casablanca interchange area. These two areas are designed to meet the intensification targets set out in the intensification strategy in the Town of Grimsby Official Plan. The Subject Lands are not located within either of these Intensification Areas specified by the Town.
69. Policies for Local Municipally Designated Intensification Areas are set out in Policy 4.C.2.1:

“Policy 4.C.2.1

Each municipality will develop and implement through its local official plan and other supporting documents, a strategy and policies for promoting intensification and achieving the intensification targets set out in Sub-section 4.C.4 of this Plan. Local official plans shall:

- a) Incorporate the Built Boundary delineated on Schedule A of this Plan as the basis for identifying the Built-up Area;
- b) Generally encourage intensification throughout the Built-up Area;

- c) Identify specific Intensification Areas to support the achievement of the intensification targets, including downtowns, intensification nodes and corridors and strategically located brownfield and greyfield areas.
 - d) Plan Intensification Areas to attract a significant portion of population and employment growth, relative to the shape and character of the community.
 - e) Plan Intensification Areas to provide a diverse mix of land uses that complement and support the overall residential intensification objective. These may include, employment, commercial, recreation, institutional and other compatible land uses in relative proportions dependent on area characteristics and the intended critical mass of residential development.
 - f) Plan Intensification Areas so as to be transit supportive and link intensification opportunities with existing or planned future transit hubs and active transportation routes.
 - g) Plan Intensification Areas so as to reduce traffic congestion, improve circulation, and encourage active transportation. Where opportunities exist, best efforts should be made to establish fine grain, grid street patterns with active transportation facilities and linkages.
 - h) Plan each Intensification Area to achieve higher densities than currently exist within the Intensification Area. It is expected that Intensification Areas will generally achieve higher densities than the surrounding areas.
 - i) Ensure that Intensification Areas provide appropriate densities and transitional areas to ensure relative compatibility with surrounding neighbourhoods including the use of minimum and maximum heights and densities.
 - j) Develop official plan policies and zoning provisions to support and encourage growth and redevelopment within the Intensification Areas.
 - k) Identify opportunities for providing affordable housing within Intensification Areas.
 - l) Make use of other tools, such as the Region's Model Urban Design Guidelines, Alternative Development Standards, Development Permit Systems or Community Improvement Plans to facilitate growth and development within Local Municipally Designated Intensification Areas.
70. The Town of Grimsby has developed in its Official Plan an Intensification Strategy to promote intensification and achieve the intensification targets established in the Niagara OP. In doing so the GOP addresses each of the policy requirements of s. 4.C.4 of the Niagara OP. As noted elsewhere in this Witness Statement, the Subject Lands are not located within one of the specified Major Intensification Areas identified to support the achievement of the intensification targets, including downtowns, intensification nodes and corridors and strategically located brownfield and greyfield areas (s. 4.C.2.1 c)).

71. Policy 4.C.4.2 indicates that local municipalities will develop their own residential intensification targets and strategies, which may equal or exceed these minimum standards, and incorporate the targets into their official plans. The residential intensification target for the Town of Grimsby set out in the Niagara OP is 80%.
72. Under Policy 4.G.1 the objectives of the Urban Community policies are to:
- “Objective 4.G.1.1 Provide a framework for developing sustainable, complete communities.
 - Objective 4.G.1.2 Plan for all of Niagara’s residents, both current and future, by promoting social inclusion, improved access to housing, commercial goods and services, job opportunities and social services.
 - Objective 4.G.1.3 Provide a policy direction for creating healthy, safe, vibrant, transit supportive, active transportation friendly, diverse, mixed use residential areas.
 - Objective 4.G.1.4 Develop a policy framework to ensure that, as urban development occurs, natural resources and ecosystem health and sustainability are maintained, enhanced or restored.
 - Objective 4.G.1.5 Ensure that the Region has an adequate supply of accessible, attractive commercial areas.
 - Objective 4.G.1.6 Promote and facilitate the revitalization and redevelopment of downtowns.
 - Objective 4.G.1.7 Promote the preservation and enhancement of cultural heritage resources.
 - Objective 4.G.1.8 Recognize the importance of a diversified economic base by establishing flexible policies to support the wide variety of employment types in Niagara.
 - Objective 4.G.1.9 Provide a Regional policy framework for guiding the long term development of Niagara’s employment areas.
 - Objective 4.G.1.9 Recognize the unique role of tourism and recreation-based employment in Niagara’s economy”.
73. The proposed development does not satisfy Objective 4.G.1.5. The proposed limited use of the Site for retail and commercial purposes will have little contribution to increasing the supply of accessible and attractive commercial areas.
74. Policy 4.G.11 addresses Local Municipally Designated Intensification Areas. Local Municipally Designated Intensification Areas are specific areas designated in local Official Plans for intensification and redevelopment and are not mapped on Schedule A of the Niagara OP (4.G.11.1).

75. As well, municipalities are directed to define these areas pursuant to the policies of Subsection 4.C.2 of this Plan (4.G.11.2).
76. As noted elsewhere in this Witness Statement, the Subject Lands are not located within either of the Town of Grimsby's Local Municipally Designated Intensification Areas. In my opinion the extent of intensification proposed in the Revised Proposal should be directed to one of the Town's Local Municipally Designated Intensification Areas and not a site located near stable residential areas.
77. Policies for Mixed Use Areas are set out in Policy 4.I and indicate Mixed Use Areas:
- (i) are encouraged in Niagara and should be planned to accommodate a variety of complementary land uses, including residential, commercial, employment, recreation, institutional, the Core Natural Heritage System, hydrological features and open space.(s. 4.I.1)
 - (ii) should be planned to accommodate a variety of housing types, with an emphasis on providing opportunities for medium and high density residential development. (s. 4.I.2)
 - (iii) should be planned to allow for the mixing of land uses at several scales and within neighbourhoods, blocks, parcels and buildings. (s. 4.I.3)
 - (iv) should be planned to accommodate a variety of transportation modes, including walking, cycling and transit. (s. 4.I.4)
 - (v) should be located in both greenfield and intensification areas. (s. 4.I.5)
 - (vi) are encouraged to be identified in official plans with a set of land use policies to guide development in these areas. (s. 4.I.6)
 - (vii) should provide an attractive streetscape environment and public realm. A higher quality of public realm design is expected for mixed use areas compared to other residential areas, as mixed use areas often have a higher proportion of public space as compared to private space. (s. 4.I.7)
78. In my opinion the Proposed OPA and Proposed ZBA do not conform with the above Mixed Use Areas policies as follows:
- (i) Item 4.I.1, Complementary Uses – The Revised Proposal contains a limited range of uses. As noted elsewhere in this Witness Statement, the proposed development is primarily a residential development with a small portion of the first floor area intended for retail and commercial uses.
 - (ii) Item 4.I.2, Dwelling Types – The Revised Proposal contains a mix of 1- to 2-bedroom dwelling units, but does not contain any larger units with three or more bedrooms.
 - (iii) Item 4.I.3, Mix of Land Uses and Scales – The Revised Proposal is a “spot” redesignation and “spot” rezoning applying to only one site and has not been proposed in a broad planning framework. As a result there is no mixing of land uses at different scales within the neighbourhood, blocks, parcels or buildings.

- (iv) Item 4.1.7, Streetscape – the Appellant has not provided details outlining how the proposed development will complement the public realm. In particular there is no indication that there will be any publicly accessible open space or courtyard use in front of the Nelles House and there are no plans showing enhancements or improvements to the public boulevard in front of the proposed building. To the contrary the Appellant is proposing layby parking in front of the proposed building which will detract from the attractiveness of the public realm.
79. Policies for Urban Design and the Public Realm are contained in Policy 4.J and directs the Region to:
- (i) promote urban design analysis, municipal beautification, streetscape improvements, public art and the establishment of public gardens to ensure our communities remain attractive places, enhance our quality of life, and encourage tourism. (s. 4.J.1)
 - (ii) promotes adoption of its Model Urban Design Guidelines or similar community design guidelines by the local municipalities to support the development of a strong sense of place and an overall approach to development which considers design at a broader neighbourhood and/or community scale. (s. 4.J.2)
 - (iii) encourage inclusion of urban design analysis in the preparation of local official plans, neighbourhood plans, secondary plans, community improvement plans, public works projects, and private development projects. (s. 4.J.3)
 - (iv) encourage complementary private realm site design that addresses public safety, active transportation, landscaping, and human scale in buildings facing public space. (s. 4.J.4)
 - (v) promote the development of the public realm in a manner that supports vibrant social and cultural gathering spaces easily accessed by a variety of transportation modes. This principle is particularly important in planning for Niagara’s downtowns. (s. 4.J.5)
80. With respect to matters of Urban Design I accept and rely on the evidence of Ms. Jay. Ms. Jay has indicated that the proposal has not undergone an urban design analysis and does not contribute to a complementary private realm site design.
81. Therefore the justification for this type of intense built form and higher density to support future transit is not applicable for the proposed development.

Issue 3, Chapter 11, Housing and Community Services

82. Section 11.A contains policies for Residential Areas and Housing.
83. Under Policy 11.A.1 the Region encourages the provision of a variety of housing types within urban communities and neighbourhoods to serve a variety of people as they age through the life cycle. In my opinion the Revised Proposal contributes to the regional supply of housing. However, according the site plan submitted with the Revised Proposal

the Appellant is proposing a mix of 1 and 2 bedroom units, but does not include any larger units containing 3 or more bedrooms.

84. Policy 11.A.2 address urban design considerations and indicates the Region encourages the development of attractive, well designed residential development that:

- a) Provides for active transportation within neighbourhoods with connections to adjacent residential and commercial areas, parks and schools.
- b) De-emphasizes garages, especially in the front yard.
- c) Emphasises the entrance and points of access to neighbourhoods.
- d) Is accessible to all persons.
- e) Incorporates the principles of sustainability in building design.
- f) Provides functional design solutions for such services as waste collection and recycling.
- g) Provides an attractive, interconnected and active transportation friendly streetscape.
- h) Contributes to a sense of safety within the public realm.
- i) Balances the need for private and public space.
- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.
- k) Encourages a variety of connections based on transportation mode between land uses based on diverse transportation modes, allowing people to move freely between the places where they live, work and play.

85. With respect to matters of Urban Design I accept and rely on the evidence of Ms. Jay. Ms. Jay indicates the Revised Proposal does not conform to policies 11.A.2 e), g) and i) and states:

- (i) Item e) Sustainable Building Design - the Revised Proposal does not contemplate any innovative or sustainable design.
- (ii) Item g) Streetscape – the large scale building mass with a large setback does not encourage a safe and active streetscape.
- (iii) Item i) Private and Public Spaces – the proposed development does not include any at grade amenity space for residents nor any public spaces adjacent to the public boulevard.

Issue 3, Summary

86. Based on the above it is my opinion the proposed development does not conform with the Niagara OP.

Issue 4: Do the applications conform with the Town of Grimsby Official Plan, including policies 1.1, 1.3, 2.1, 2.2, 2.3.2, 2.4.6, 2.5.1, 2.5.4, 2.5.5, 2.6, 2.6.9, 3.4.4, 3.4.5, 3.4.7.2, 3.4.7.4, 3.4.7.8, 3.6.1, 4.5, 5.3, 5.5, 5.6, 7.1, 7.2, 8.1, 8.9, 8.18, 9.4, 9.10.

Issue 4, Section 1, Introduction

87. Section 1.1 of the GOP describes the purpose of the GOP. Among the specific purposes are the following:

- a) To state the long term vision for the Town;
- b) To delineate a municipal structure as the framework for future growth;
- c) To establish general community goals and objectives to guide future land use changes in the municipality, and contribute to the achievement of the vision and municipal structure;
- d) To establish consistent with these goals and objectives, specific policies to guide future change, while maintaining the desired qualities of the Town;
- e) To identify a pattern of compatible land use activities consistent with the goals, objectives and development policies;
- f) To ensure that the level of services provided is consistent with the financial capabilities and resources of the municipality;
- g) To provide land use policies of a local nature to facilitate decision making by Council, the municipal administrators, and the Committee of Adjustment when administering matters such as the Zoning By-law, site plan control, applications for building permits, plans of subdivision and land severances;
- i) To inform the private sector of the municipal policies, and to provide a context for this group to determine their future plans and requirements.”

88. In my opinion the Revised Proposal does not conform with item e) of the above-noted purpose statement to “...identify a pattern of compatible land use activities consistent with the goals, objectives and development policies”. As elaborated upon later in this Witness Statement, the height, massing, length and location of the proposed building will overwhelm the lower height, smaller townhouses buildings to the north and other low-rise buildings in the surrounding area. The larger building mass coupled with the lack of

separation, buffering and screening area adjacent to the townhouses to the north will result in undue adverse privacy, overlook and shadow impacts.

89. Section 1.3 of the GOP describes the assumptions on which the GOP is based. Relevant to the matters before the Tribunal are the following assumptions:

- “a) Grimsby will develop as a complete community, and reduce out-commuting by providing an appropriate mix and range of employment opportunities and community services and facilities to its residents to meet long-term needs.
- b) A range of small and medium size industries and new retail and service developments will be attracted to the community because of good highway accessibility, valuable highway visibility, a vibrant downtown, market opportunities and other factors.
- d) The majority of the residential development in the Town will continue to consist of low rise housing, but new development will provide a greater proportion of multiple unit housing than in the past to meet the needs of the different socio-economic population groups, to create compact settlements, and to meet established intensification targets.
- e) The Town will achieve a population of approximately 33,000 by 2031. The majority of this population will be concentrated in the urban portion of the community north of the Escarpment.”

90. The limited amount of retail and commercial floor area proposed will not contribute significantly to reduce out-commuting (item a) and will not take advantage of good highway accessibility, valuable highway visibility, a vibrant downtown and market opportunities (item b). The proposed residential component adds to the supply of multiple unit housing and contributes to the fulfillment of the Town’s intensification target (item d).

Issue 4, Section 2, Municipal Structure

91. Section 2.1 sets out the Vision that guides the overall strategic direction of the municipality during the planning horizon of the GOP. Relevant to the matters before the Tribunal are the following:

“Grimsby’s future will build on its small town scenic character through managed growth that will provide for a greater choice for housing, alternative modes of transportation, increased employment, a vibrant downtown and an accessible public waterfront. Grimsby’s natural heritage, cultural heritage, and arts will be celebrated and protected. The existing urban settlement area of Grimsby will be intensified in a few key areas while respecting the small town character and cultural heritage of the Town. Small-scale infill will be promoted in other parts of the urban settlement area but will be sensitive to the surrounding housing character. The Downtown will be enhanced as a vibrant and clean place where people can live, work, dine, and shop in a small

town atmosphere. A thriving *employment area* will be focused along the QEW corridor.

Growth will complement the significant natural features of the Town, protect and strengthen the scenic beauty that is provided by the backdrop of the escarpment, the Lake Ontario waterfront, and the rural countryside. Increased public access to, and use of the shoreline will be a draw for community gathering and will be linked to an interconnected parks and trail system.

Transportation choices will be improved with an efficient and connected road network and a future public transit service anchored on Downtown and potential future GO Transit service along the QEW and/or the railway corridor.

Grimsby will continue to be a healthy community through supportive policies to encourage active lifestyles and alternative means of transportation such as walking.

Grimsby's countryside ambiance will be maintained through support for the viability of the farming community. Growth will be based on prudent *infrastructure* planning and strong policies that will define where growth will occur, preserve the *natural environment*, maintain the quiet and peaceful countryside and foster the building of an active, attractive and walkable urban community." (Emphasis Added)

92. The proposed development does not support the overall vision of the GOP. The proposed development will offer more housing choices and may encourage alternative modes of transportation in the future. However, the Proposed OPA and Proposed ZBA will facilitate a major development that is outside of the "key areas identified for intensification" and will not fit the "small-scale infill" promoted in other parts of the urban settlement area.
93. The Municipal Structure Principles are outlined in Section 2.2 of the GOP. Relevant to the matters before the Tribunal are the following principles:

Housing Options and Affordability

9. Ensure a wide range of housing types and location opportunities to accommodate future residents and to meet a diversity of incomes and demographics.

Controlled Growth

10. Provide for controlled and efficient growth that takes advantage of existing infrastructure, and prevents sprawl.
11. Promote efficient development and land use patterns which minimize land consumption through compact development in areas best able to accommodate it.

12. Permit strategic intensification and infill in appropriate areas with high quality design that is sensitive to the surrounding character of the neighbourhood.
15. Ensure that infrastructure and public service facilities are or will be available to meet the needs of the residents by planning for these facilities concurrent with the development process and ensuring development charges and other financial arrangements are updated to deliver the facilities.

Design and Culture

26. Enhance the Town's public and private realm through urban design guidelines.
94. In my opinion the Proposed OPA and Proposed ZBA do not conform with the above Municipal Structure Principles as follows:

(i) Housing Options and Affordability

- The proposed development, that includes 148 dwelling units, will provide more housing in the community, but does not assist in providing larger, 3 bedroom units. (Principle 9)

(ii) Controlled Growth

- While the proposed development will minimize land consumption through compact development in areas, the Site is not located in an area close to transit services and will not result in an efficient land use pattern. In my opinion the proposed development is an isolated pocket of high density development that lacks appropriate transit services. (Principle 11)
- The Subject Lands are not located in one of the Town's strategic intensification areas and, as an infill development, the proposed high density development is not sensitive to the surrounding character of the neighbourhood which is defined exclusively as low-rise residential uses and commercial developments in small plazas, converted dwellings and small stand-alone buildings. (Principle 12)

(iii) Design and Culture

- The proposed development will not enhance the Town's public and private realm. Approximately 22.25 m of the 40 m of the building façade along Main Street E. are intended for residential purposes. This situation will not contribute to an active streetscape and will result in adverse privacy and nuisance impacts on the residents of these units. (Principle 26)

95. As outlined in paragraph 32 of this Witness Statement, the Subject Lands are within the Urban Settlement Area as shown on Schedule A, Municipal Structure. The Urban Settlement Area is the primary focus of, and location for urban growth within the Town of Grimsby. It is intended to provide for a broad range of housing opportunities, commercial

facilities and services, recreation, culture, government facilities and services and employment opportunities (s. 2.3.2).

96. The goals and objectives of the Grimsby Urban Settlement include:

Goals:

To accommodate the majority of the future growth within the Grimsby Urban Settlement Area.

Objectives:

1. To permit growth to occur in a controlled, orderly fashion on full municipal services.
 2. To ensure that the land uses in the Urban Settlement Area contribute to and respect Grimsby's cultural heritage and small town character.
 3. To ensure that the Downtown will be enhanced as a vibrant place to live, work, and play.
 4. To recognize the Downtown as the primary location for retail shopping, entertainment, restaurants and personal services including professional and government offices, which serve the residents of the Town.
97. The Revised Proposal proposes growth within the Urban Settlement Area on full municipal services. However, the proposed development does not conform with Objective 2.3.2 (2) that requires land uses to contribute to and respect the Town's small town character. As noted elsewhere in this Witness Statement the proposed development is at a height, scale and massing that does not represent a small scale infill development.
98. According to Section 2.3.2.1 the key structural elements within the Urban Settlement Area include:
- a) The urban settlement area boundary, which is fixed and shall only be changed through a municipal comprehensive review that is undertaken every 5 years as part of the Official Plan Review. The settlement area boundary cannot be expanded into areas designated as Specialty Crop Area,
 - b) The built boundary, which represents the extent of lands within the urban boundary, which were considered built upon as of July 2006. The Minister of Energy and Infrastructure establishes the built boundary. Any development within the built boundary is considered intensification and contributes to the intensification target of this Plan;
 - c) Between the built boundary and the urban boundary lies the designated greenfield area, which is largely undeveloped and in which the designated greenfield density targets of this Plan apply;

- d) Major intensification areas represent two areas where the majority of intensification will be directed;
 - e) The Downtown represents one of the two major intensification areas but it plays a more significant role in the municipal structure than simply as a location for intensification. It is also the primary location for retail goods and services and is the perceived centre of the Town and its meeting place; and,
 - f) The stable residential neighbourhoods represent the existing residential neighbourhoods within the built boundary. These areas are intended to remain stable with change that is in keeping with the established character of the neighbourhoods.”
99. The Subject Lands are within the urban settlement area and built boundaries and are not part of the designated greenfield area, the downtown or the stable residential area. Furthermore, the Site is not within either of the two major intensification areas where the majority of intensification will be directed.
100. According to Section 2.3.2.4 “...Development within the built boundary contributes towards the intensification target in Section 2.4.4. However, within the stable residential neighbourhoods, intensification will be limited. An intensification strategy in Section 2.4.6 sets out the means to achieve the intensification target”.
101. A review of the Town’s Intensification Strategy is provided in paragraphs 107 to 108 of this Witness Statement.
102. Section 2.3.2.6 describes the two Major Intensification Areas identified on Schedule A. These areas are the Downtown and the Casablanca interchange area. According to Section 2.3.26 these two areas “...will be the primary focus for intensification and shall be planned and designed to meet the intensification targets set out in the intensification strategy in Section 2.4.6”.
103. The Subject Lands are not located within or designated as a Major Intensification Area.
104. Section 2.3.2.10 outlines policies of the Stable Residential Neighbourhoods. Under this policy:
- “...outside of the major intensification areas and the Employment Areas, the majority of the Urban Settlement Area within the built boundary is considered a stable residential neighbourhood. Stable residential neighbourhoods are intended to retain their existing character with limited change. This does not mean that new housing must mimic the character, type and density of existing housing but rather it shall fit into and reinforce the stability and character of the neighbourhood. Within this area, infill and intensification may be permitted where it respects the scale and built form of the surrounding neighbourhood, conforms to the land use policies of Section 3.4, and meets the compatibility criteria in Section 3.4.7.”

105. According to the definition in Section 9.20[sic].154 Stable Residential Neighbourhoods are defined as "...the residential designated portions of the built up area but excluding the Major Intensification areas delineated on Schedule A". The Subject Lands are not designated as "residential" and are therefore not considered to be part of a Stable Residential Neighbourhood.
106. Section 2.4.4 establishes the target that approximately 80 per cent of new dwelling units to be provided through intensification after 2015.
107. The Town's Intensification Strategy is outlined in Section 2.4.6 and includes the following:
- "a) Encourage infill and intensification throughout the built-up area of the Urban Settlement Area to achieve higher densities than what currently exist within the Intensification Area subject to the other policies of the intensification strategy and this Plan;
 - b) Direct the majority of intensification to two major intensification areas in the Downtown and Casablanca interchange area;
 - c) Set a minimum density target within the Casablanca interchange area through the implementing Secondary Plan;
 - d) Infill and intensification within the stable residential neighbourhood component of the Urban Settlement Area may be permitted where it respects and reinforces the stability of the residential neighbourhoods and is of a scale and built form that reflects the surrounding neighbourhood. The tests of appropriate infill and intensification shall be determined through the compatibility criteria set out in Section 3.4.7;
 - e) Permit and encourage the creation of secondary suites within the Urban Settlement Area subject to the policies of Section 3.4.1.10;
 - f) All intensification and infill development within the built boundary shall be subject to site plan control to ensure that the built form and physical look of the built form is compatible with the neighbourhood; and
 - g) To facilitate intensification, the Town may offer development incentives such as:
 - i) Reduced parkland dedication requirements;
 - ii) Reduced parking standards;
 - iii) Reduced Development Charges; and,
 - iv) Pre-zoning by the Town".
108. In my opinion the Proposed OPA and Proposed ZBA do not conform with the above Intensification Strategy as follows:

- (i) Item b) Major Intensification Areas - one of the key elements of the Town's Intensification Strategy is to direct the majority of intensification to two major intensification areas in the Downtown and Casablanca interchange area. In these areas the GOP policies permit the densities and building heights that are generally similar to that proposed for the Subject Lands. In my opinion the Revised Proposal is a major intensification proposal that should be directed to one of the two major intensification areas rather than to an area characterized by small scale development.
 - (ii) Item f) Compatibility - the built form and physical look of the built form of all intensification and infill development within the built boundary is to be compatible with the neighbourhood. Compatible Development is defined in the GOP as "...development that is not necessarily the same or similar to development in the vicinity, but it is development that improves the character and image of an area, without causing any undue, adverse impacts on adjacent properties". In my opinion the height, massing, length and location of the proposed building will overshadow the lower height, smaller buildings to the north and will not be an improvement to the character and image of the area. The larger building mass coupled with the lack of separation, buffering and screening area adjacent to the townhouses to the north will result in undue adverse privacy, overlook and shadow impacts.
109. Under Section 2.5.1 the development industry is encouraged to provide housing which includes a variety of dwelling unit types in terms of density, tenure, unit size and price including special needs housing. In my opinion the proposed development does not provide a wide variety of dwelling types, particularly with respect to unit size. According the site plan submitted with the Revised Proposal the Appellant is proposing a mix of 1 to 2 bedroom units, but does not include any larger units containing 3 or more bedrooms.
110. According to Section 2.5.5, in considering applications for infill and intensification, the Town will consider the impact on adjacent residential uses including overlook and shadowing, the character of the surrounding area and the need for a transition in heights and densities adjacent to existing residential uses as per Section 3.4.7.
111. The Revised Proposal does not conform with Section 2.5.5. The height, massing, length and location of the proposed building is not in keeping with the lower height, smaller townhouse buildings to the north and the other low-rise buildings in the surrounding area. The taller, larger building that includes projecting balconies will loom over the surrounding area and the limited separation, buffering and screening will result in undue adverse privacy, overlook and shadow impacts.
112. I agree with the evidence of Ms. Jay that the proposed height and massing creates a large building block that does not provide a transition between the townhouse developments to the north and the proposed building. As Ms. Jay indicates, the proposed massing creates an abrupt 4 storey building wall that does not provide an appropriate transition to the 1-storey townhouse dwellings. The building's scale is not mitigated by any stepbacks and/or an intervening low rise built form to break up the large and long massing.

Issue 4, Section 3, Land Use Policies

113. Section 3.4.4 sets out policies for lands designated as High Density Residential Area on Schedule B. The intent of the High Density Residential Area is to recognize existing locations of high density residential house forms within the Grimsby Urban Settlement Area, and to identify on Schedule B new locations where high density house forms are considered appropriate.
114. The High Density Residential Area policies indicate building forms shall not exceed 8 storeys unless an alternative height is permitted in a Secondary Plan (s. 3.4.4.2), sites are to have direct frontage onto a Town Arterial or Collector Road (s. 3.4.4.3) and new *development* must be compatible with the character and image of the surrounding community (s. 3.4.4.4). Finally, within High Density Residential Area densities are to be between 60 and 120 units per net residential hectare (s 3.4.4.5).
115. The Subject Lands are not designated as High Density Residential Area nor is the Appellant proposing to re-designate the Site as a High Density Residential Area. In my opinion, given the proposed density of 235 units per hectare, the density of the proposed development is well in excess of what would be suitable for the High Density Residential Area designation.
116. Section 3.4.5 sets out policies for lands designated as Residential / Mixed Use Area on Schedule B. The intent of the Residential / Mixed Use Area is to identify locations that have potential for intensified *development* and/or redevelopment in a mixed use form. Lands designated as Residential/Mixed Use Area are ideal locations for a mixture of residential, convenience retail, service commercial, and prestige employment uses. Section 3.4.5 indicates lands designated as Residential/Mixed Use Area are intended for higher density, transit supportive and mixed use developments that take advantage of the attributes of their physical location.
117. The Residential / Mixed Use Area policies indicate building heights shall be within a range of 2 to 4 storeys (s. 3.4.5.2) and permit densities that reflect that of the Medium Density Residential Area designation of between 25 and 60 units per net residential hectare (s. 3.4.5.3). Additionally, within Residential / Mixed Use Areas all development must conform with the Design Policies for Residential Neighbourhoods provided in Section 3.4.7. densities are to be between 60 and 120 units per net residential hectare (s 3.4.5.7).
118. The Revised Proposal is intended as a mixed use development. Rather than redesignate the Subject Lands as a Residential / Mixed Use Area, the Proposed OPA seeks to retain the existing Neighbourhood Commercial designation with site specific modifications to allow “dwelling units in conjunction with commercial uses”. I have undertaken an evaluation of the Revised Proposal under the above-noted Residential / Mixed Use Area policies and note the following:
- (i) The Revised Proposal includes a building height of 5-storeys and does not conform with s. 3.4.5.2 that limits building heights to 2-4 storeys.
 - (ii) The Revised Proposal has a density of approximately 235 unit per ha. (uph) and does not conform with s. 3.4.5.3 that permits a density within the range of 25 to 60 uph.

119. The Revised Proposal is a mixed use development with approximately 96% of the total gross floor area devoted to the residential component of the development. Retail and commercial uses are limited to 4% of the total gross floor area and will be located on the ground floor in a portion of the easterly wing of the building. As reviewed in paragraph 132 of this Witness Statement, the Revised Proposal does not fit with the purpose, intent and policies of the Neighbourhood Commercial designation and is better suited to be considered in the context of the Residential / Mixed Use designation policies subject to revisions to the proposed height and density. Maintaining a significant commercial presence on the Site is an important element of the Neighbourhood Commercial designation and the intent of the GOP.
120. General Built Form policies are described in Section 3.4.7.2. Relevant to the Burgess proposal are the following:
- a) New development shall be compatible with adjacent and neighbouring built-form by ensuring that the siting and massing of new buildings does not result in undue adverse privacy, overlook and shadow impacts on adjacent properties particularly in regard to adequate privacy conditions for residential buildings and their outdoor amenity areas.
 - b) To ensure that the compatibility referenced in a) is achieved; the implementing Zoning By-law will establish appropriate setback and yard requirements which recognize the existing built-form character.
 - c) To support public transit and for reasons of public safety and convenience, the main entrances to homes and multi-residential buildings shall be clearly visible and located on a public road or onto public open spaces.
 - d) Access from sidewalks and public open space areas to primary building entrances shall be convenient and direct, with minimum changes in grade.
 - e) To minimize disruptions to traffic flow and to maximize safety and the attractiveness of Arterial Roads, individual direct vehicular access shall be minimized, and, in some cases prohibited.
 - f) To enhance the quality and safety of the public streetscapes, the construction of parking lots/structures, which occupy significant proportions of the at-grade frontage of public roads, shall not be permitted.
 - g) To reduce the impact of surface parking and to provide at-grade amenity areas, the provision of structured parking shall be encouraged for higher density forms of development. Where it is not feasible to locate parking in structures either below or above grade, parking should be located to the rear of principle buildings and/or within the exterior side yard”.

121. In my opinion the Proposed OPA and Proposed ZBA do not conform with the above General Built Form policies as follows:

- (i) Items a) and b) Compatibility – The proposed development is not compatible with the adjacent townhouse development to the north and the detached dwellings along Nelles Road. The proposed development does not represent Compatible Development as defined in the GOP (see paragraph 108 (ii)). The siting and massing of the proposed building adjacent to the townhouses will result in undue adverse privacy, overlook and shadow impacts on the townhouses to the north and undue adverse shadow impacts for properties along Nelles Road. As depicted on the site plan submitted with the Revised Proposal the 4 storey portion of the proposed building is only located 6.4 m from the northerly property line and the adjacent townhouses.
- (ii) Item c) and Item d) Pedestrian Access – As noted elsewhere in this Witness Statement, the proposed building entrance is 9.9 m from the Main Street E. property line. The proposed development does not conform with the Built Form requirement that building entrances be visible from a public road (item c) and the requirement that access from sidewalks and public open space areas to primary building entrances be convenient and direct (item d).

122. Section 3.4.7.4 establishes Compatibility Criteria for Stable Residential Neighbourhoods. Though strictly speaking, not applicable given the Site's location adjacent to the Stable Residential Area to the north the Compatibility Criteria are nevertheless informative of general design principles. Relevant to the Revised Proposal are the following elements of the Compatibility Criteria:

- “a) It is a fundamental principle to avoid and/or mitigate any inappropriate interface between buildings and/or uses. As such, the concept of compatible development is of paramount importance throughout Residential Neighbourhood areas. All development applications shall be reviewed with respect to their compatibility with existing and/or approved developments.
- d) Notwithstanding subsection b), on larger infill properties where new streets and blocks are created, greater variation from the existing conditions may be considered, provided a transition is created between existing housing and the new dwellings wherein the dwelling meet the requirements of subsection b).
- g) Townhouses and other multiple unit dwellings should only be considered in stable residential neighbourhoods when the following policies are met:
 - i) Development proceeds by way of an official plan amendment to change the lands to a medium density residential designation and the policies of Section 3.4.3 are met;
 - ii) The development conforms to the development criteria of Section 3.4.7.6; and
 - iii) The development incorporates a transition area of single detached lots which meet the requirements of subsection d) and e)”.

123. In my opinion the Proposed OPA and Proposed ZBA do not conform with the above Compatibility Criteria for Stable Residential Neighbourhoods as follows:

- (i) Items a) and d) Transition/Interface – The height, massing, length and location of the Revised Proposal do not have an appropriate interface between the proposed building and the adjacent 1-storey townhouse dwellings to the north and the proposed development to the east on 141-149 Main Street East. The proposed building elevations facing the northerly and easterly do not contain any stepbacks and maintain setbacks ranging between 6.4 m and 5.4 m respectively. Furthermore, along these building elevations are balconies on all levels that project to within 4.2 m and 5.2 m of the property lines. Furthermore, the Revised Proposal does not represent Compatible Development as defined in the GOP (see paragraph 108 (ii)). In my opinion the height, massing, length and location of the proposed building will overshadow the lower height, smaller buildings to the north and will not be an improvement to the character and image of the area.
- (ii) Item g) Multiple Unit Dwellings – The Revised Proposal does not conform with the requirements of sub-section g). The proposed density of 235 uph far exceeds the permitted density of between 25 to 60 uph in the Medium Density Residential designation. Similarly the proposed 5-storey building height exceeds the maximum 3-storey building permitted in the Medium Density Residential designation.

124. Section 3.4.7.7 establishes Development Criteria for Mixed Use / Residential Designations as follows.

- “a) Development shall meet the criteria set out in Section 3.4.7.6 in addition to the criteria within this Section.
- b) Garage access/service facilities shall not dominate the view of the streetscape.
- c) The implementing Zoning By-law shall include details with respect to Build - Within Zones for front and exterior side yards, for the various anticipated development types and forms.
- d) Parking lots shall not be located on any front yard within the Residential/Mixed Use designation.
- e) Where a rear or exterior lot line or the rear or side building façade abuts a public road, public open space, and/or a residential lot, special landscaping/building treatments shall be required to ensure that building façades and servicing areas are attractive and/or appropriately screened from view.”

125. As part of the Proposed OPA the Appellant is requesting that the above criteria apply to the proposed development. In my opinion the proposed development does not conform with the above criteria as follows:

- (i) Build Within Zones – the Proposed ZBA does not include build within zones.

- (ii) Special Landscaping – the Proposed ZBA does not include any requirement for special landscaping or building treatment along Nelles Road or Main Street E. to ensure that building façades and service areas are attractive and appropriately screened from view.
- (iii) Parking Lot Location – the proposed site plan identifies parking areas in the front yard adjacent to Nelles Road.

126. Section 3.4.7.8 establishes the following development criteria for Apartment Buildings:

- a) Apartment buildings should be oriented to front, face and feature the public road. A substantial portion of the building should front the public road at a minimum setback.
- b) Entrances should be located and oriented to public roads.
- c) Permanent parking, loading and service areas should be located in side or rear yards and set back from the front facade of the building.
- d) Rooftop mechanical equipment should be screened with materials that are complementary to the building.
- e) Where an apartment building in excess of 4 storeys in height abuts a Low or Medium Density Residential designation or existing *development*, a 45 degree angular plan shall be established at a point 7.5 metres directly above the abutting interior side and/or rear property line.
- f) Where adjacent lands are designated Low or Medium Density Residential, the height of all new buildings, within 25 metres of the property line of these designations, shall not be greater than 2 storeys above the existing adjacent buildings, or, if vacant, 2 storeys above the maximum permitted height in the adjacent designation.
- g) Alternative concept plans including computer generated perspectives showing the massing, orientation and urban design of the building as well as streetscape within the context of the site shall be required as part of any application for High Density Residential *development* together with traffic, parking, Hydrogeological, shadowing, servicing and planning justification studies.

127. Although the proposed development is a mixed use building and not an apartment building, consideration of the apartment building compatibility criteria is informative of the Town's approach to integrating new development within existing development areas. In my opinion the proposed OPA and Proposed ZBA do not conform form with the above development criteria as follows:

- (i) Item b) Building Entrances – The main entrance to the new building is approximately 9.9 m from Main Street East. A secondary entrance is located along the easterly side elevation and is approximately 4.9 m from Main Street East. The proposed site design does not conform with Development Criteria b) that requires entrances to be “...located and oriented to public roads”.
 - (ii) Item f) Building Height – The Development Criteria requires the height of all new buildings, within 25 metres of the property line of Low or Medium Residential Density designations, to be not greater than 2-storeys above the existing adjacent buildings. In this instance the adjacent townhouses to the north are 1-storey dwellings and the maximum height permitted under the policy is 3-storeys. Portions of the proposed building extend within the transition area.
128. Policies for lands designated as Neighbourhood Commercial Area on Schedule B are set out in Section 3.6.1.
129. Within the Neighbourhood Commercial Area designation, permitted uses shall include grocery stores, retail stores servicing the local neighbourhood, studios, personal services, pharmacies, banks, restaurants, and coffee shops as well as institutions, recreation, medical clinics, offices, and places of worship (s. 3.6.1.1). Residential uses are not explicitly listed as a permitted use in this designation.
130. According to s. 3.6.1.2 Neighbourhood Commercial Areas are intended to serve the day-to-day convenience shopping needs of the surrounding residents as well as the weekly needs for groceries, personal care products, and services and are not intended to usurp the function or range of uses provided by the Downtown.
131. Key development policies in the Neighbourhood Commercial designation include:
- (i) shall be situated on sites in the range of 3 to 6 hectares (s. 3.6.1.3).
 - (ii) should be integrated into the street network of the neighbourhood and not separated from it and located in highly visible and accessible locations to the residents of the neighbourhood they are serving (s. 3.6.1.4).
 - (iii) shall provide adequate on-site parking and appropriate landscape and screening treatment of the parking areas (s. 3.6.1.5).
 - (iv) shall be subject to Site Plan Approval (s. 3.6.1.6).
 - (v) shall screen and orient loading docks away from residential areas (s. 3.6.1.7).
 - (vi) shall provide adequate setbacks, fencing and landscape screening abutting residential *development* (s. 3.6.1.8).
 - (vii) shall orient lighting away from residential areas and have minimal impact on existing and new residential uses (s. 3.6.1.9).
132. The above-noted policies of the Neighbourhood Commercial designation are focussed on the retail and commercial function of the designation. This is particularly evident in policies 3.6.1.2, 3.6.1.4, 3.6.1.4 and 3.6.1.7. Consequently, it is my opinion that the Neighbourhood Commercial designation is not intended nor is it appropriate to

accommodate large-scale, mixed use developments such as what is proposed on the Subject Lands.

Issue 4, Section 7, Streetscape Design Policies

133. Sections 7.1, 7.2 and 7.3 deal with streetscape design matters. Ms. Jay has indicated in her Witness Statement that Section 7.3.1 c) of the Town's Official Plan requires larger building setbacks to maintain the existing streetscape character. However, Ms. Jay indicates the Revised Proposal does not respect the streetscape character and Scenic Highway Heritage Route in the context of the existing heritage resources and does not improve upon it.
134. I accept and rely on the above evidence of Ms. Jay.

Issue 4, Summary

135. Based on the above it is my opinion the proposed development does not conform with the GOP.

Issue 5: Do the applications represent good planning?

136. In my opinion, the Proposed OPA and Proposed ZBA do not represent good planning and are not in the public interest.
137. The proposal is an overdevelopment of the site, is not in keeping with the character and scale of the area and will be incompatible with the existing and planned uses located within the immediate vicinity of the site. The proposal does not represent a "small scale infill" development that is planned for lands outside of the Town's Major Intensification areas.
138. A form of development of the Subject Lands is possible within the context of good land use planning. However, such a proposal requires a reduction in the overall intensity of the development on the site in order to balance the interests of all stakeholders, the developer and the public interest.

Issue 6: Do the applications conform with the Town of Grimsby Zoning By-law?

139. As outlined in Table 1 above, the proposed development does not comply with several regulations of the Neighbourhood Commercial zone and the Appellant is proposing a series of site specific zoning exceptions. The key areas of non-compliance include:
- Use of the ground floor for residential purposes
 - An increase in building height
 - An increase in lot coverage
 - Reductions in building setbacks
 - Reductions in landscape requirements

140. In my opinion neither the Neighbourhood Commercial land use designation under the GOP or the Neighbourhood Commercial Zone in the ZBL 14-45 contemplate the type and scale of development proposed by Burgess.

Issue 9: Are the applications appropriate from the perspective of coverage, height, massing, and urban design?

141. The lot coverage, height, massing and urban design of the proposed building are not appropriate given the character of the surrounding area that is defined by low-rise buildings. The proposed building would overwhelm the lower height, smaller townhouse buildings to the north and the smaller detached dwellings on Nelles Road. The proposed development does not include any design features such as stepbacks, increase setbacks or buffering to mitigate its impacts on the surrounding area.

Issue 10: Do the applications provide an appropriate transition to the adjacent stable residential neighbourhood?

142. As outlined in paragraph 112 of this Witness Statement I agree with the evidence of Ms. Jay that the proposed height and massing create a large building block that do not provide a transition between the townhouse developments to the north and the proposed building. As Ms. Jay indicates, the proposed massing creates an abrupt 4-5 storey building wall that does not provide an appropriate transition to the 1-storey townhouse dwellings. The building's scale is not mitigated by any stepbacks and/or an intervening low rise built form to break up the large and long massing.

Issue 11: Do the applications contribute to enhancing the streetscape character along Main Street East?

143. More than one half of the building frontage along Main Street East is intended for residential purposes. Locating residential units within 1.92 m of the Main Street East property line would negatively impact rather than enhance the streetscape character.

Issue 12: Do the applications represent appropriate intensification outside the designated Major Intensification Area?

144. In my opinion, outside of Major Intensification Areas, the GOP provides for "small-scale infill" development. The proposed density of 235 uph and the corresponding FSI of 1.73 does not represent "small scale infill" development. The height, massing and location of the proposed building would overshadow the lower height, smaller buildings to the north and will not fit with the character of the area. The Revised Proposal is a major intensification proposal that should be directed to one of the two major intensification areas rather than to an area characterized by low-rise buildings. It is important to note that the Revised Proposal is similar in density and height to what is permitted in the Town's two Major Intensification Areas.

Issue 13: Is the planned function of the proposal appropriate for the Neighbourhood Commercial designation?

145. The Revised Proposal is a mixed use development with approximately 96% of the total gross floor area devoted to the residential component of the development. Retail and

commercial uses are limited to 4% of the total gross floor area and will be located on the ground floor in the easterly wing of the building. As reviewed in paragraph 132 of this witness statement the Revised Proposal does not fit with the purpose, intent and policies of the Neighbourhood Commercial designation and is better suited to be considered in the context of the Residential / Mixed Use designation policies.

Issue 16: Are the applications compatible with adjacent uses and the surrounding community?

- 146. The Applications are not compatible with adjacent uses and the surrounding community. As noted above Compatible Development is defined in the GOP as “...development that is not necessarily the same or similar to development in the vicinity, but it is development that improves the character and image of an area, without causing any undue, adverse impacts on adjacent properties”.
- 147. In my opinion the height, massing and location of the proposed building will overshadow the lower height, smaller buildings to the north and will not be an improvement to the character and image of the area. The larger building mass coupled with the lack of buffering and screening area adjacent to the townhouses to the north and north-east will result in undue adverse privacy, overlook and shadow impacts.

G. ADDITIONAL CONSIDERATIONS-MATTERS OF PROVINCIAL INTEREST

- 148. All planning decisions must have regard for matters of provincial interest set out in Section 2 of the *Planning Act*.
- 149. It is my opinion that the Proposed OPA and Proposed ZBA do not have appropriate regard to the following matters of Provincial Interest as set out in Section 2 of The *Planning Act*:

Provincial Interest	Comment/Analysis
(h) the orderly development of safe and healthy communities;	- the proposal does not represent orderly development. The proposed development is an overdevelopment site and will have undue adverse privacy, overlook and shadow impacts on surrounding properties and the streetscape.

Provincial Interest	Comment/Analysis
(n) the resolution of planning conflicts involving public and private interests;	<ul style="list-style-type: none"> - the proposed development will result in planning conflicts involving public and private interests. The proposal seeks to provide additional housing in the community, however, the proposal with its higher density is an overdevelopment of the site and will result in undue adverse privacy, overlook and shadow impacts on neighbouring properties. The proposal will also create streetscape impacts as a result of the massing and the location of residential units in close proximity to the sidewalk.
(p) the appropriate location of growth and development; and	<ul style="list-style-type: none"> - the Subject Lands are an appropriate location for some modest growth and development. However, the Site is not appropriate for the extent of the growth and development proposed. The Site is situated adjacent to a stable residential neighbourhood. The proposed development, particularly the overall height, massing and extended building facade does not respect the existing character that is defined by low-rise dwellings.
(r) the promotion of built form that, <ul style="list-style-type: none"> (i) is well-designed, (ii) encourages a sense of place, and (iii) provides for public spaces that are of high quality, safe, accessible, attractive and vibrant. 	<ul style="list-style-type: none"> - the proposed development with its increase height, massing and scale will not result in an appropriate built form that is well designed, encourages a sense of place or provides public spaces. - in particular, the larger building will not fit harmoniously with the existing neighbourhood context, will not be well integrated into the streetscape and will not contribute to a sense of place within the established neighbourhood setting.

150. Overall it is my opinion the proposed development does not have regard for matters of Provincial Interest as set out in Section 2(h), 2(n), 2(p) and 2(r) of the *Planning Act*.

H. CONCLUSION AND RECOMMENDATIONS

151. The Proposed OPA and Proposed ZBA would permit an overdevelopment of the site, are not in keeping with the character of the area and will be incompatible with the existing and planned uses located adjacent to the site.

152. The Proposed OPA and Proposed ZBA do not have sufficient regard for matters of Provincial Interest in Section 2 of the *Planning Act* and are not consistent with the Provincial Policy Statement. The Proposed OPA and Proposed ZBA do not conform with the Growth Plan for the Greater Golden Horseshoe.
153. The Proposed OPA and Proposed ZBA would authorize a form of intensification on the Subject Lands that does not conform with the Intensification Strategy outlined in the GOP. According to the Intensification Strategy, the Town has two Major Intensification Areas. The Subject Lands are not situated in either of these Major Intensification Areas. Further, the extent of intensification proposed in the Revised Proposal is similar to the scale of development permitted in Major Intensification Areas and would not be compatible with the low-rise character of the surrounding area.
154. The Proposed OPA and Proposed ZBA do not represent good planning and should not be approved.
155. I recommend the appeals by the Burgess not be allowed.

Respectfully Submitted:



September 20, 2022

Date

Signature

APPENDIX 1**Curriculum Vitae – Allan Ramsay****PROFILE**

Allan Ramsay is the Principal and founder of Allan Ramsay Planning Associates Inc.

Allan is well known and highly respected in the planning community. He brings over 35 years of extensive experience in land use planning, policy development, development planning, and public consultation.

Prior to founding his own private practice, Allan was the Manager of Long Range Planning with the Town of Oakville and has also held senior positions with the City of Burlington Planning Department.

Allan provides professional planning services to a variety of public and private sector projects. He has been project manager for the preparation of comprehensive Official Plans and area specific secondary plans. He has undertaken planning research and completed land use studies dealing with a wide range of issues including commercial policies, employment land needs, housing and intensification, growth management, community facilities, renewable energy and waste management facilities. He has provided professional planning advice and analysis on development applications, policy proposals, land evaluations, expropriations and other planning issues. His experience also includes undertaking community consultation and public meeting facilitation and providing mediation and negotiation services.

Providing expert testimony at the Ontario Municipal Board and Local Planning Appeal Tribunal complements Allan's consulting experience. He has provided evidence on a variety of issues ranging from major

development applications, residential intensification proposals, employment land conversions, commercial developments, secondary plans, residential intensification, waste management facilities, land expropriations and consent and minor variance appeals.

EDUCATION

Masters of Applied Science (Engineering - Management Sciences), University of Waterloo

Bachelors of Environmental Studies (Urban and Regional Planning), University of Waterloo

PROFESSIONAL MEMBERSHIPS

Member Canadian Institute of Planners
Member Ontario Professional Planners Institute

Registered Professional Planner

PROFESSIONAL EXPERIENCE

2008-Present Principal, Allan Ramsay Planning Associates Inc.

2003-2008 Manager - Long Range Planning / Senior Planner
Town of Oakville

1981-2003 Official Plan Review Co-ordinator / Senior Planner / Planner/Environmental Management Co-ordinator
City of Burlington



APPENDIX 2

**LOCAL PLANNING APPEAL TRIBUNAL
Tribunal d'appel de l'aménagement local**

ACKNOWLEDGMENT OF EXPERT'S DUTY

Case Number	Municipality
OLT-21-001631	Town of Grimsby

1. My name is Allan Ramsay. I live at the Town of Milton in the Region of Halton in the Province of Ontario.
2. I have been engaged by or on behalf of the Town of Grimsby to provide evidence in relation to the above-noted Tribunal proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
 - a. to provide opinion evidence that is fair, objective and non-partisan;
 - b. to provide opinion evidence that is related only to matters that are within my area of expertise; and
 - c. to provide such additional assistance as the Tribunal may reasonably require, to determine a matter in issue.
 - d. not to or seek or receive assistance or communication, except technical support, while under cross examination, through any means including any electronic means, from any third party, including but not limited to legal counsel or client.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date: September 20, 2022

Signature

APPENDIX 3

LIST OF DOCUMENTS TO BE REFERRED TO:

1. The Planning Act
2. Provincial Policy Statement
3. A Place to Grow: Growth Plan for the Greater Golden Horseshoe
4. Region of Niagara Official Plan
5. Town of Grimsby Official Plan
6. Town of Grimsby Zoning By-law 45-14, as amended
7. Materials submitted in support of the Applications and resubmission of the Applications
8. Related staff, agency and public comments
9. Staff Reports on the Applications
10. Witness Statement and other materials provided at the hearing.