Witness Statement of

Mark Sterling, BES, B.Arch., OAA, MRAIC, MCIP, RPP

2376 Dundas Street West
CITY OF TORONTO
Zoning By-law Amendment and
Site Plan Approval Applications
O.M.B. Case No. PL121287

Prepared for:

Dun West Properties Ltd.

Dun West Properties Ltd. has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law No. 438-86 of the former City of Toronto to rezone lands respecting 2376 Dundas Street West to permit the development of an 8-storey mid-rise mixed-use building and a 23-storey tower.

23 August 2013

WITNESS STATEMENT OF
Mark Sterling, MCIP RPP OAA MRAIC

1.0 QUALIFICATIONS

1. I, Mark Sterling, am an architect registered to practice in the Province of Ontario, a registered professional planner, and a partner with the firm Sweeny Sterling Finlayson & Co. engaged in a wide spectrum of projects. My experience is focused on urban design for both private and public sector clients. I was the Director of Architecture and Urban Design for the former City of Toronto. I am a sessional lecturer at the University of Toronto's Daniels Faculty of Architecture Landscape and Design where I have taught architecture and urban design since 1987 and the Department of Geography Program in Planning. I am a member of the Urban Design Review Panels for the cities of Mississauga and Ottawa.

2. My experience includes Official Plan policy drafting related to the development and implementation of urban design guidelines for a variety of municipalities. I have also assisted private sector clients in responding to emerging urban design objectives or implementing existing urban design initiatives. I have particular expertise in urban intensification projects and urban built form and architectural design regarding the design of both mid-rise and tall buildings. I have led and participated in several City of Toronto Avenues studies and have prepared several Avenues "Segment Studies" for private clients in the City of Toronto. I have previously been qualified on numerous occasions to give professional architecture, urban design and land use planning evidence at the Ontario Municipal Board.

3. I am a full member of the Ontario Association of Architects (OAA) and the Canadian Institute of Planners (MCIP) and a Registered Professional Planner (RPP). My CV is attached to this document as Appendix "A".

4. I have completed Attachment 5: Acknowledgement of Expert's Duty to the Board's Procedural Order that is attached to this document as Appendix "B".

2.0 RETAINER

5. I was contacted in February 2013 by the appellant Dun West Properties Ltd. (the "Appellant", the "Owner") to provide urban design services for a development proposal at 2376 Dundas Street West.

6. In my initial discussions with the Appellant in February 2013 I reviewed the proposed development program for the site (new 8-storey mixed-use building fronting on Dundas Street West and a 23-storey tower on the eastern portion of the site adjacent to

the rail corridor) and the most recent revised development application and Staff reports (2012/13).

7. Prior to accepting the retainer I also reviewed the existing built form context, the proposed built form and building heights in light of the relevant policy documents including the current City of Toronto Official Plan and relevant zoning by-laws, and in particular, the City's By-law No. 1222-2009, (the "Avenue By-law") which resulted from the Bloor-Dundas Avenue Study. I also reviewed the City's Design Criteria for the Review of Tall Buildings (2006) and the Avenues and Mid Rise Buildings Study (2010).

8. On the basis of my review of the above, I accepted a retainer as an urban design consultant to the design team and agreed to provide urban design expert witness support for the proposed development at the OMB hearing that is scheduled for late September 2013.

9. During the period between February and August 2013 I worked with the design and planning team assembled by the Owner as adjustments to the proposed development were generated. As part of the work of this period, I reviewed the City's newly updated Tall Building Design Guidelines (Adopted May 2013 by City Council). I also provided input on the Site Plan Approval documents that were submitted to the City in August 2013. As part of that work I reviewed City Planning and Urban Design comments on both the Zoning By-law Amendment and for Site Plan Approval applications.

3.0 DESCRIPTION OF THE PROPOSAL

10. A final design proposal for an 8-storey mid-rise building along Dundas Street West, and a 23-storey building at the rear of the site was developed. The proposed development includes an 8-storey podium element that will extend to the rear of the building and connect to the 23-storey building. The proposed development includes 369 units and 548.3 square metres of commercial/retail uses at grade.

11. The proposed development will have a total Gross Floor Area of 25,211.5 square metres and a density of 4.3 times the lot area.

12. Through the process of making minor design changes and updates over the period between February and August 2013 the height and general built form of the proposed development have been maintained.

13. As described above, the proposed development is a mixed use building with elements that can be classified as a "mid-rise building" - the 8 storey building facing Dundas Street West which will create a pedestrian-scaled street wall condition - and elements that fit the definition of a "tall building" – the 23 storey tower element. This latter component is set back approximately 54 metres from Dundas Street West. The Bloor-Dundas Avenue Study recommended a 1:1 ratio between street width and the height of buildings framing the street.

14. Even though the Bloor-Dundas Avenue Study did not investigate the potential for a tall building element as part of a development of the subject property, the proposed tall building at 23 storeys would be contained by a 45 degree angular plane extension of the 1:1 ratio to the east over the depth of the property. In keeping with the City's Design Criteria for Tall Buildings (2006) and the new Tall Building Design Guidelines (2013) the 23-storey building component will have a maximum floor plate of 750 square metres above the 8th floor level. The 23-storey building component establishes separation distances to adjacent buildings that are in keeping with those found in the Design Criteria for Tall Buildings and Tall Building Design Guidelines: approximately 47 metres from the adjacent 29-storey building to the south and approximately 12.3 metres from the property line to the north.

15. The height of the tallest part of the proposed development, the 23 storey tower, will be 72m plus a 5m mechanical penthouse.

16. The height of the 8 storey mid-rise component facing Dundas Street West and the podium that links to the rear of the site will be 28m.

17. The immediate context for the proposed development includes:

17.1. **To the North - Existing:**

The properties immediately to the north on the east side of Dundas Street West are currently occupied by large format retail buildings on the north and south sides of the site surrounding a surface parking lot (2382-2440 Dundas Street West) and further to the north by series of mid-rise mixed use former warehouse buildings between 2 and 5 storeys. These existing warehouse buildings are described as "unlikely to redevelop" by the City's Bloor-Dundas Avenue Study.

17.2. **To the North - Future:**

Future development is anticipated on the properties at 2382-2440 Dundas Street West. These properties are identified in the Bloor-Dundas Avenue Study as "Opportunity Site 7" which it notes as being "…quite large and could be comprehensively planned to provide new open spaces, streets and buildings." The Bloor-Dundas Avenue Study illustrates the potential for a maximum height of 20 metres (6 storeys) "…to relate to the existing warehouse character." The Study also notes that "Because the buildings in this location can be built with a more "warehouse" type character, no step-backs along the street facade are required, except where necessary to provide for sunlight on the opposite sidewalk.

Although "Opportunity Site 7" as it is referred to in the Bloor-Dundas Avenue Study is a site that is deep for the study area, it is not, in my opinion deep enough to accommodate the hybrid mid-rise/tall building typology that has been proposed for the subject property.

Future vehicular access to the combined Bloor GO and Union Pearson Express stations will be through the retail site to the north of the subject property (2382-2440 Dundas Street West).

17.3. **To the East – Existing:**

Immediately to the east is the GO/Metrolinx rail corridor which contains the GO Transit lines and the Union-Pearson Express rail line. Further east on the east side of the rail corridor is the West Toronto Rail Path – a pedestrian pathway situated on abandoned rail corridor lands – and an area between the rail corridor and Perth Avenue containing a mix of residential and employment uses that is part of the neighbourhood known as "The Junction Triangle". In this area there is one small public park, the Perth Avenue Parkette located at the corner of Perth Avenue and Randolph Avenue a dead end street that terminates at and connects to the West Toronto Rail Path;

17.4. **To the East – Future:**

The Bloor GO Station and the Union-Pearson Express station are being combined within the corridor. Passenger pick up and drop off ("PPUDO") facilities for the combined stations will be located on the easternmost portion of the subject property adjacent to the rail corridor. No significant redevelopment is anticipated in the employment or residential lands on the east side of the rail corridor;

17.5. **To the South – Existing:**

On the east side of Dundas Street West is existing "Crossways" development with its two 29 storey slab-towers on a retail-office commercial podium that includes the Crossways Mall. Parking and loading areas and access to underground parking facilities that serve the Crossways are located immediately adjacent to the subject property. The tunnel for the Bloor Danforth Subway is located beneath these adjacent parking, loading and access facilities. Further to the south on the south side of Bloor Street is Bishop Morocco/Thomas Merton Catholic Secondary School. Beyond and still on the east side of Dundas Street West at (2238-2290 Dundas Street West) is a large retail plaza with Loblaws supermarket, a LCBO and a former-Zellers department store as well as an auto repair facility. The plaza includes a large surface parking lot;

17.6. **To the South – Future:**

The Loblaws/LCBO Plaza (2238-2290 Dundas Street West) is referred to in the Bloor-Dundas Avenue Study as "Opportunity Site 8". The Study recommended that redevelopment on this site should range between 3 and 11 storeys based on a "Demonstration Plan" that included a new streets and open space framework.

17.7. **To the West – Existing:**

On the south west corner of Bloor Street West and Dundas Street West is an existing 12 storey mixed use building housing retail, office and residential uses. At the northwest corner of Bloor Street and Dundas Street West is an existing 2-storey mixed-use building. North of that building between Bloor Street West and Edna Avenue are the TTC Dundas West Subway Station, a 1 storey building with a bus and streetcar loop and waiting area. Between Edna Avenue and Chelsea Avenue, directly across from the subject property to the west are a series of low-rise mixed-use and residential buildings at 2-3 storeys, and a 3-1/2 storey apartment building, containing a variety of small scale retail uses. Further north is a Budget Car rental office.

17.8. **To the West – Future:**

The Bloor-Dundas Avenue Study refers to the properties at the northwest corner of Bloor Street West (1540-1552 Bloor Street West) as "Opportunity Site 3" and examined optional land assemblies along Bloor Street West. The Study recommended 10 – 15 storeys on this site. Some of these properties are subject to an OMB decision that approved future development of up to 12 storeys. The Budget Car Rental site (2293-2401 Dundas Street West) is referred to in the Study as "Opportunity Site 6"). A 6-storey height is recommended for these properties.

4.0 PLANNING and URBAN DESIGN OPINION

18. The proposed development at 2376 Dundas Street West is located on a unique property that affords ample depth for the creation of a hybrid between two development forms – a mid-rise and a tall building – along with the accommodation of elements of the vehicular and pedestrian access infrastructure for the Go Transit Union Pearson Express station located adjacent to it.

19. The design of the proposed development is a combination of: (1) a mid-rise street defining building – that meets the general intent of the City's Bloor-Dundas Avenue Study, the implementing "Avenue By-law" No. 1222-2009 and the City's Avenues and Mid-Rise Building Study (2010); and (2) a slender 23-storey tall building set well back from the "Avenue" itself – that meets the general intent of both the City's Design Criteria for Review of Tall Buildings (2006), which were applicable at the time of the development applications, and with the new city-wide Tall Building Design Guidelines (2013).

20. The two main components of the development are linked together by a podium that is located on the southern side of the site so that it frames a requested pedestrian link between the rail corridor and Dundas Street West – connecting the Go Transit and Union Pearson Express stations to the TTC's Dundas West station on the Bloor Danforth subway line. This disposition of the podium creates an arrival and drop off area for the building's residents adjacent to the main building lobby on the north side.

Garage entrances and service facilities are located on the north face of the building away from the Dundas Street West "Avenue" frontage.

21. Key considerations in the design of the proposed development include:

21.1. Provision of an appropriately scaled street defining building at the Dundas Street West frontage, with the majority of the ground floor dedicated to commercial retail space that will activate the street;

21.2. An appropriate building setback from Dundas Street West at grade to create a wider sidewalk and boulevard with street trees;

21.3. A 4.5m setback at grade along the southern property line that provides for a 3.0m wide public pedestrian walkway between Dundas Street West and the Go Transit Union Pearson Express station and a landscaped buffer. The grade related retail use on Dundas Street West wraps around the corner in order to face the walkway for the initial portion of its length to provide animation and "eyes" on the walkway. Additional "eyes" on this public space are provided by indoor and outdoor amenity areas located continuously along its length, slightly above grade and the south facing dwelling units of the 8 storey podium above the ground floor;

21.4. An access door to the residential lobby from Dundas Street West that occupies the minimal amount of that frontage. This maximizes the ground floor active retail along Dundas Street West.

21.5. Substantial stepbacks of the street edge building above the 4^{th} and 6^{th} floors that respect the range of scales of buildings found along Dundas street in the vicinity and meet the street related step back requirements and implied angular planes of the Avenue Study and associated By-law;

21.6. Parking and loading access points appropriately located away from view from the public realm next to the 2 way driveway that runs the length of the north face of the proposed development;

21.7. A tall building in the form of a 23 storey 72.0m high point tower – with a floor plate of approximately $750m^2$ and a curved feature at its south east corner - set back from Dundas Street West by approximately 53m (varies). With the exception of a small portion of the mechanical penthouse the tall building height and disposition respects the implied angular plane requirements of the street proportions and built form stepbacks of the Avenue Study and the associated By-law; and

21.8. A 20.0m setback of the building from the rail corridor in combination with a 10.0m vertical separation of residential uses and a 3.0m crash wall adjacent to the corridor, satisfy the requirements for rail safety setbacks. In the setback area at grade, the proposed development accommodates the PPUDO for the Go Transit

and Union Pearson Express stations and the eastern end of the public pedestrian walkway.

22. In my opinion, in terms of planning and urban design considerations, the proposed building represents an appropriate form of development on the subject property. It frames the important "Avenue" frontage along Dundas Street West at an appropriate scale. Due to the location of the tall building on the site, it will create no undue adverse visual or shadow impact on the public realm of Dundas Street West or on the neighbourhood areas to the west.

23. Due to its location the tall building will have no undue adverse impacts on the mixed residential and employment areas located to the east beyond the rail corridor.

24. The proposed development conforms to the policies of the City of Toronto Official Plan and is consistent with the relevant recommendations of the City's applicable design guideline documents, as I have set out in the following sections of my Witness Statement. It represents good planning and in my opinion should be approved by the Ontario Municipal Board.

5.0 CITY of TORONTO OFFICIAL PLAN

25. The Official Plan identifies the site as part of a Mixed Use Area. The current underlying zoning for the site is Main Street Commercial Residential (MCR T4.0 C1.5 R3.0 as established through Zoning By-law No. 1222-2009 (the "Avenue By-law"). Zoning By-law No. 1222-2009 implements the recommendations of the Bloor Dundas Avenue Study.

Mixed Use Area Policies

26. The Official Plan contains several specific design related polices regarding development in *Mixed Use Areas* that are relevant in the consideration of the heights and configuration of redevelopment in this type of area. Among these are:

> *"4.5.2(c) locate and mass new buildings to provide a transition between areas of different development intensity and scale, as necessary to achieve the objectives of this Plan, through means such as providing appropriate setbacks and/or a stepping down of heights, particularly towards lower scale Neighbourhoods";*
>
> *"4.5.2(d) locate and mass new buildings so as to adequately limit shadow impacts on adjacent Neighbourhoods, particularly during the spring and fall equinoxes";*
>
> *"4.5.2(e) locate and mass new buildings to frame the edges of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians on adjacent streets, parks and open spaces";*
>
> *"4.5.2(f) provide an attractive, comfortable and safe pedestrian environment".*

Built Form and Tall Building Policies

27. The Official Plan also contains specific design related polices that are relevant to the consideration of the appropriate height in Sections 3.1.2 - Built Form and 3.1.3 - Built Form – Tall Buildings. Among these are:

> *"3.1.2.3. New development will be massed and its exterior façade will be designed to fit harmoniously into its existing and/or planned context, and will limit its impact on neighbouring streets, parks, open spaces and properties by:*
>
> *c) creating appropriate transitions in scale to neighbouring existing and/or planned buildings for the purpose of achieving the objectives of this Plan;*
>
> *d) providing for adequate light and privacy;*
>
> *e) adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas; and*
>
> *f) minimizing any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve their utility."*
>
> *"3.1.2.4. New development will be massed to define the edges of streets, parks and open spaces at good proportion. Taller buildings will be located to ensure adequate access to sky view for the proposed and future use of these areas."*
>
> *"3.1.3.2. Tall building proposals will address key urban design considerations, including:*
>
> *a) meeting the built form principles of this Plan;*
>
> *b) demonstrating how the proposed building and site design will contribute to and reinforce the overall City structure;*
>
> *c) demonstrating how the proposed building and site design relate to the existing and/or planned context;*
>
> *d) taking into account the relationship of the site to topography and other tall buildings;"*

28. I reviewed all of the above noted policies in respect of the built form of the proposed development. In my opinion the disposition of the mid-rise and tall building elements of the proposal effects an appropriate transition to its immediate surroundings – those being the existing an potential future buildings facing Dundas Street West as well as to the lower scale more stable *Neighbourhoods* located to the west behind the Dundas Street West facing properties and to the east on the east side of the rail corridor.

29. The proposal includes stepbacks above the 4th floor level along Dundas Street West that conform to stepbacks established in the Bloor-Dundas Avenue Study and associated by-laws (discussed in detail elsewhere in my witness statement). These are understood to represent measures of appropriate transition in scale which assist in the establishment of compatibility with the built form context of the immediate vicinity as well as protecting for desirable access to sunlight on adjacent streets and open spaces.

30. The street defining elements of the proposed development appropriately frame the public realm and will create an attractive, comfortable and safe pedestrian environment, one in which there will be good levels of sunlight and comfortable wind conditions for pedestrians. A new and appropriately scaled and framed element of the public realm – in the form of the new public walkway connecting Dundas Street West to the Go Transit Union Pearson Express station - is included as part of the proposed development at the request of the TTC, Metrolinx and City staff.

31. In my opinion, the tall building component of the proposed development is located so as to satisfy the transition and shadow and wind impact policies of the Official Plan. With the exception of a small part of the mechanical penthouse, the proposed tall building respects an angular plane that is implied by the street proportion and step back requirements that apply to the mid-rise part of the development – ensuring that it will create no undue adverse impacts on Dundas Street West or any of the *Neighbourhoods* to the west. The tall building is located approximately 160m from the *Neighbourhoods* to the east and will create no undue adverse impacts there.

Sunlight Access and Shadow Impact Policies

32. Two related "standards" for shadow impact in the Official Plan are "*3.1.2.3.(e) adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas" and "4.5.2(d) locate and mass new buildings so as to adequately limit shadow impacts on adjacent Neighbourhoods, particularly during the spring and fall equinoxes"*.

33. My analysis of the shadow studies prepared by Urban Strategies dated August 2013 according to the City of Toronto's terms of reference for such studies indicates that shadows cast by the proposed development at 8 and 23 storeys on neighbouring streets, properties and open spaces have been adequately limited.

34. The shadow studies have been constructed to identify incremental shadows cast by the proposed development both on its own and in relation to as of right zoning envelopes in the immediate area.

35. In particular, the profile of the Dundas Street West street defining mid-rise base building conforms to the Avenue Study Guidelines with regard to stepbacks and setbacks that protect for sunlight access onto streets in the study area. The tower element does add some incremental increase in shadow – primarily on the street and some properties and associated open spaces in the nearby low rise neighbourhood to

the west during the early morning periods in the spring/fall period. These incremental shadows are modest if not negligible and in any event are no longer present in these areas by approximately 10am.

36. The tower element adds a very small incremental shadow to the low scale neighbourhood to the east at approximately 6pm in the spring/fall period. The presence of incremental shadows at this time is minimal as a result of the low sun angle and the shadows cast by existing houses and garages onto the streets, properties and open spaces in the area.

37. There is no incremental increase in shadow on Dundas Street West from the proposed tower element in the spring/fall period, above that which is anticipated by the zoning envelopes in place on the property to the north. Between approximately 10am and 2:30pm there is some shadow cast on the retail property immediately to the north. These shadows are relatively short and at the 10:18 and 11:18 periods not much longer than those cast by the existing 1 storey retail buildings themselves.

38. In the summer period the shadows from the tower element adds a small incremental increase in shadow on the sidewalk on the west side of Dundas Street West at the corner of Chelsea Avenue for less than ½ hour. The shadow from the tower for the rest of the day in the summer period is contained primarily within the subject property and the rail corridor – with the exception of the morning where there is some shadow cast on the retail property immediately to the north. These shadows are relatively short and are completely off these properties by approximately 1:30 pm.

39. In my opinion the proposed development conforms to OP policies 3.1.2.3(e) and 4.5.2(d).

40. Another "standard" for shadow impact in the Official Plan is "*3.1.2.3.(f) minimizing any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve their utility."*

41. My analysis of the shadow studies prepared by Urban Strategies according to the City of Toronto's terms of reference for such studies indicates that there are no shadows cast by the proposed development on any neighbouring parks – Perth Avenue Parkette in particular.

42. Although it is not a public park, I have considered the shadows cast by the proposed development on the West Toronto Railpath – a multi-use trail on a mixture of rail corridor and city road right-of-way located along the eastern edge of the rail corridor. The upper part of the proposed tower will cast some shadow onto the Railpath. This shadow is present north of Randolph Road starting at approximately 3pm in the spring/fall period and moves south to a position roughly opposite the existing industrial building south of Randolph Road by 6:18pm.

43. In my opinion the proposed development will not create an undue adverse impact on the use or utility of any neighbouring parks. The incremental increase in shadow on the

multi-use trail is minimal and moves quickly over the space in the afternoon conditions in the spring/fall period.

44. In my opinion the proposed development conforms to OP policy 3.1.2.3(f).

Sky View Policies

45. With regard to "sky views", policy 3.1.2.4 of the Official Plan directs that "*New development will be massed to define the edges of streets, parks and open spaces at good proportion. Taller buildings will be located to ensure adequate access to sky view for the proposed and future use of these areas"* although it does not provide more specific guidance or any standard by which such access to sky view is to be assessed.

46. That being said, the consideration of the view of the sky from nearby streets, parks and open spaces is more complex than a simplistic calculation of a "loss" that may occur because of the visible presence of a proposed building that does not currently exist.

47. Even with the presence of a 23 storey tall building element the views of the sky looking from Dundas Street West toward the proposed development will be essentially the same as the condition anticipated in the "Avenues By-law" discussed in detail elsewhere in my witness statement.

48. It is true that the tall building will be visible from oblique points of view to the north and from the *Neighbourhoods* to the east and to the west. These viewpoints however are distant from the subject property. From the street and sidewalks along Prince Rupert Avenue the tower will be essentially invisible with the exception of glimpses of the uppermost parts in gaps between individual buildings and the tree canopy.

49. The tall building element occupies a relatively small proportion of the broader sky plane that would be visible from the points of view described above. From the north the tall building will be seen in front of the two towers of the Crossways – at least in part screening the view of those buildings from this direction.

50. In my opinion, where the tower element is visible from any of the above noted points of view its presence is always mediated by distance and intervening building and landscape elements. In none of these situations would the presence of the tower be "overwhelming" nor would it create concerns regarding overlook or diminution of privacy.

51. In my opinion therefore, the proposed development conforms to the Official Plan policies with regard to ensuring adequate access to sky view for the proposed and future use of streets, parks and open spaces in the immediate surrounding area.

Transition Policies

52. Another key consideration in the discussion of height and configuration of any development is that of transition to existing nearby lower scale development. The Official Plan identifies strategies for achieving appropriate transitions in intensity and

scale such as "*…providing appropriate setbacks and/or a stepping down of heights, particularly towards lower scale Neighbourhoods (4.5.2(c)).*" and "*…creating appropriate transitions in scale to neighbouring existing and/or planned buildings…(3.1.2.3(c)).*"

53. I have opined elsewhere in my witness statement that the position of the tower and its relationship with lower scale neighbouring or existing and/or planned buildings achieves appropriate transition in scale. The proposed development conforms to Official Plan policies (4.5.2(c)) and (3.1.2.3(c)).

6.0 THE BLOOR-DUNDAS AVENUE STUDY

54. The Bloor-Dundas Avenue Study dated September 2009, prepared by Brook McIlroy Planning + Urban Design provides urban design guidelines and implementation strategies that in general are applicable to the subject property. These guidelines and strategies were included in a Staff Report entitled "*City Initiated 'Avenue Study' of Bloor Street West between Keele Street and the rail corridor, and Dundas Street West between Glenlake Avenue and Boustead Avenue Final Report*", dated October 22, 2009. Recommendations of the Staff Report were adopted on December 4, 2009 as were OPA 100 and By-law No. 1222-2009.

55. These documents build upon the 2008 Bloor Street Visioning Initiative. It includes urban design guidelines, provides general built form recommendations, specific opportunity site analyses, as well as transit facility, street and open space improvements – that are similar to those of the 2009 Bloor-Dundas Avenue Study

Avenue Study - Opportunity Sites

56. 8 Opportunity Sites were analysed as part of the Avenue Study, identified as such because they met a series of criteria – including 1) Property Depth; 2) Property Width; 3) Special Sites; 4) Large Buildings; 5) Rental Housing; 6) Lot Ownership; 7) Existing Lot Use; and 8) Likelihood of Current Use being Redeveloped.

57. The Bloor-Dundas Avenue Study stated that because a 1998 OMB decision regarding a previous development proposal for the subject property predated the initiation of the Bloor-Dundas Avenue Study, the subject property was not identified as one of the Opportunity Sites in the Avenue Study.

58. Instead, the Avenue Study identifies the subject property as a "Proposed Development Project" (Section 3.1.10) and adopts the built form that was approved by the OMB in 1998. That proposed development included a Dundas West facing element of 5-storeys (16 metres at street frontage, 21 metres with mechanical penthouse), and a taller element to the east of 11 storeys (31.5 metres, 36.5 metres with mechanical penthouse) facing the rail corridor. The density of that approved development was 2.84 x lot area although this was not mentioned in the Consultant Report. The development approvals secured through that OMB decision never came into force and effect.

59. In my opinion, it was not appropriate to exclude the subject property from the Opportunity Sites that were analysed, on the basis of an earlier OMB decision, although it may have simplified the scope of the Avenue Study.

60. In my opinion the subject property meets all of the relevant criteria for inclusion in the list of Opportunity Sites.

    60.1. At 122.7m it is one of the deepest properties in the study area – offering flexibility in design responses. Only the properties to the north at 2382-2440 Dundas Street West and the Loblaws site south of Bloor have depths greater than 41m within the list of "Opportunity Sites" ;

    60.2. At 53.3m it is an appropriate width to accommodate mixed use development and to provide access to service and parking facilities away from the "Avenue" frontage. It is very similar in width to "Opportunity Site 2" – which backs onto the TTC Keele Subway station parking lot, to "Opportunity Site 1" and "Opportunity Site 3" - all three of which are much shallower and have been allocated heights that would be considered to be "tall buildings" under the definitions in both the City's Design Criteria for Review of Tall Building Proposals (2006) and the new city wide "Tall Building Design Guidelines (2013)";

    60.3. It is a special site in that it is in a "major transit station area", and along an "intensification corridor" at the centre of a designated "mobility hub" where the highest densities not only in the area but also in the entire city are expected. It backs onto the rail corridor and therefore has the ability to implement a much needed pedestrian connection between Dundas Street West (and the Dundas West subway station) and the Go Transit Union Pearson Express stations. Despite being located immediately adjacent to the major transit station facilities (both existing and proposed), the subject property is allocated some of the lowest height limits and lowest densities of any of the other potentially developable properties within the Avenue Study area;

    60.4. It is a large site capable of accommodating a large building;

    60.5. It is in consolidated ownership;

    60.6. It is vacant and in need of some soil remediation; and

    60.7. Its former use was as a used car lot. It has been underutilized for a long period of time and it has a high likelihood of being redeveloped.

Avenue Study - Building Heights

61. It is also my opinion that having excluded the subject property from the Opportunity Sites considered in the Avenue Study on the basis that its future built form and density had been determined by the 1998 OMB decision, to then in the Avenue Study assign different zoning standards for height and density from those that were set out in that

OMB decision without sufficient planning justification is not appropriate, nor is it understandable.

62. It is difficult if not impossible to understand the logic behind the zoning standards for height density and other measures that *were* assigned to the subject property when these are compared to those that were assigned to the Opportunity Sites considered by the Avenue Study.

63. Furthermore, the Staff Report on the Avenue Study (also discussed in detail below) permitted heights on the subject property of 20m and 23m (approximately 6 and 7 storeys) where the OMB and the Consultant Study permitted 5 and 11 storeys. There is no rationale for this change, even though the Staff Report refers to the 1998 OMB decision on p. 17.

64. This reduction of height permission on the subject property in my opinion contradicts the Avenue Study's assertion that sites along the rail corridor and deep sites could actually accommodate taller buildings.

Avenue Study - Densities

65. The staff report on the Bloor-Dundas Avenue Study also recommended a density for the subject property of 4.0 FSI, (as opposed to the 2.84 set out in the 1998 OMB decision). As with the change in height permitted on the subject property, the higher density is ascribed to the site without a site-specific analysis.

66. Taken together, the inconsistent and contradictory recommendations of built form, height and density to the subject property and the included reduction of previously approved heights adjacent to a major transit station contained in the Bloor-Dundas Avenue Study and Staff Report do not provide useful direction for the development of the site and therefore in my opinion do not represent good planning.

Avenue Study - Built Form Recommendations

67. That being said, there are more general built form recommendations that apply to other properties in the Avenue Study area which are, in my opinion useful in the consideration of the appropriate built form for the subject property and with which the proposed development is consistent.

68. Section 5.2 of the Avenue Study details Built Form Recommendations for the study area. - The general recommendations state that new built form should:

> *"Generally be mid-rise and provide a street-wall podium that strengthens the existing main street condition;*
>
> *Contribute to a comfortable pedestrian realm by providing active ground floor uses;*

Provide high-quality exterior materials and design that supports the character and function of Bloor Street West and Dundas Street West; and

Be massed to fit harmoniously with existing smaller scale buildings and to minimize adverse impacts including traffic, shadows, and overlook on adjacent neighbourhoods." (p. 35).

69. Section 5.2 also generally recommends 20 metres (6 storeys) as the maximum allowable building height along Dundas Street West and Bloor Street West. The Study also notes that:

"… there are sites some that, because of their location, adjacency and physical characteristics, can accommodate buildings taller than the base height of 6 storeys, or even a 1:1 ratio of building height to street width. While these sites can be taller than the maximum allowable height, they should continue to address and be sensitive to the existing context, as well as conform to other built form recommendations (these sites and conditions are outlined in Section 5.3.3 Demonstration Plans)." (p. 36)

70. With regard to step-backs the Avenue Study recommends that:

"Dundas Street West, north of Bloor Street, front step-backs may not be required or may occur above the top of the 4th storey in keeping with the existing warehouse character";

"The application of a second step-back above the podium height should also be considered where it will provide increased sunlight access. This is only required where buildings are as tall, or taller, as the width of the R.O.W.".

71. With regard to ground floor uses and heights the Avenue Study recommends that:

"Ground floor on buildings on Bloor Street West and Dundas Street West should be entirely non-residential.";

"Ground floor uses along Dundas Street West north of Bloor should be a combination of office and retail use."; and

"The minimum floor to ceiling height for the ground floors of mid-rise buildings is 4.5 metres to allow for flexibility of uses.";

72. With regard to Front Property Setbacks – The Avenue Study notes that front property setbacks along the east side of Dundas Street West are particularly important and recommends front property setbacks in this area in order to establish 4.8 metre sidewalk.

73. With regard to rear transition the Avenue Study recommends that the MCR Zoning regulations for rear transitions to a Neighbourhood or open space land use should be continued to be utilized in the Study Area.

74. With regard to Rooftops the Avenue Study recommends that:

> *"Roofs and mechanical penthouses should be incorporated into the architecture of buildings…"; and*
>
> *"Mechanical penthouses or other rooftop structures should not exceed the maximum allowable height by more than 5 metres, penetrate rear angular planes, or create additional shadow impacts."*

75. In adopting the Avenue Study the final staff report (dated October 22, 2009) recommended modifications to the built form recommendations including:

    75.1. A podium height of 13.5 metres (approximately 4-storeys) with a step-back of 2.5 metres above for Dundas Street West is required. Balconies are not permitted to project into the step-back zone;

    75.2. Side yard step-backs when a building abuts another property. The side yard step-back is required a minimum of 1.2 metres above the podium height. For buildings with heights above 20 metres, a minimum 5.5 metre setback is required adjacent to the side lot line;

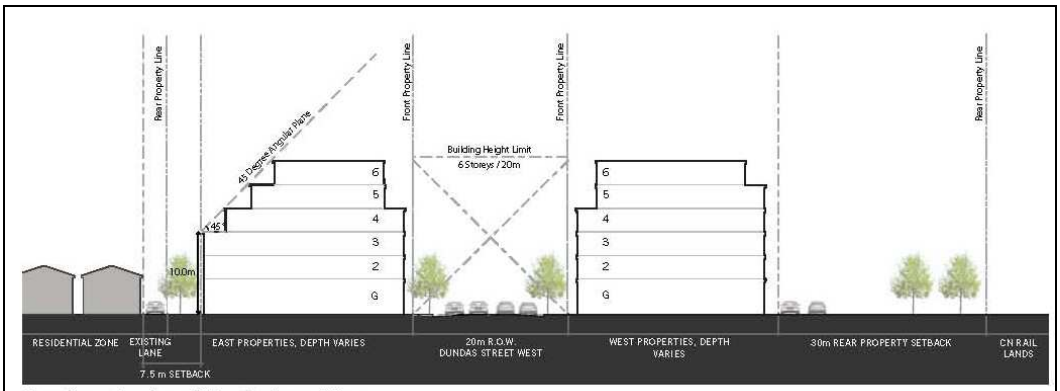
    75.3. Upper storey setback requirement, recommending a 2.5 metre step-back above 32-metres (10-storeys);

    75.4. In order to achieve the 4.8 metre sidewalk width, Staff recommended a 2.0 setback on the east side of Dundas Street West; and

    75.5. Minimum 'build-to' standards: a minimum building height of 10.5 metres (approximately 3 storeys) or the podium height of 13.5 metres (approximately 4 storeys) must occupy a minimum of 80% of the frontage on Bloor Street and Dundas Street West.

76. In my opinion the proposed development satisfies all of these built form recommendations with the exception of the side yard step backs to the southern property line, which in my opinion are not relevant to the subject property given the conditions that exist to the south.

77. With particular reference to the step back provisions noted above it is important to highlight the discussion of the relationship between the street ROW and height buildings that frame the street. A typical 1:1 relationship between height and ROW width is invoked here as a measure of how buildings that are as tall as the width of the R.O.W. or taller can be massed to allow for sunlight penetration on the opposite sidewalk. 1:1 ratio and an associated 45 degree angular plane extension of that ratio has been used to assist in the location and configuration of the tall building element on the eastern part of the subject property. Please see the excerpted illustration of the 1:1 street width to building height ratio from the Avenue Study below. (Note: east and west seem to have been transposed in the labels included in the illustration)



Sample section through Dundas Street West

78. In my opinion the extension of a 45 degree angular plane beyond the street ROW itself is an appropriate extension of the logic of the recommended street proportion and building step back measures found in Avenue Study and the Avenue Study By-law. Application of such an angular plane to the design of taller elements of a proposal set back from the street will assure that the resulting built form will protect for sunlight penetration on the opposite sidewalk.

Avenue Study - Public Realm

79. In Section 5.5 the Bloor-Dundas Avenue Study identifies opportunities for improvements to the public and private realm to provide new green space opportunities. This includes opportunities to incorporate open green space in "Opportunity Site 7" (Fresh Co./Shoppers Drug Mart site) and "Opportunity Site 8" (Loblaws site), as well as along the rail corridor on the east side of Dundas Street West. The Avenue Study also identifies streetscape improvements, noting that any landscape treatment along Dundas Street West will have to allow a minimum of 2.0 metres clear sidewalk.

80. The proposed development includes setbacks and widening of the Dundas Street West Sidewalk that meet the recommendations of the Avenue Study. The proposed development includes the provision of a new public pedestrian connection between Dundas Street West (and the Dundas West subway station) and the Go Transit Union Pearson Express station.

81. In Section 6 the Avenue Study includes Urban Design Guidelines that address both the public and private realms. Public realm guidelines address boulevard treatments, parks and open space, public art, signage and accessibility. Private realm guidelines address building orientation, built form, façade articulation and sustainability, all focused on encouraging high-quality and context-appropriate development. The Guidelines are consistent with the Built Form Recommendations, as described in section 5.2 of the Avenue Study, and outlined above and *"…build on the feedback received throughout the course of this Avenue Study and incorporates best practices for buildings and streetscape design*."

82. In my opinion, the proposed development is consistent with the Avenue Study Urban Design Guidelines.

7.0 THE AVENUE STUDY BY-LAW

83. By-law No.1222-2009 the "Avenue Study By-law" establishes heights and densities for the subject property.

84. Zoning By-law No. 1222-2009 provides for heights of up to 20 metres on the western portion of the site and 23 metres on the eastern portion. The By-law also establishes site specific restrictive exceptions to By-law No. 438-86 (347) that include requirements, among others, for: (1) Heights and Podium Step-Backs; (2)(a) Building Setbacks from Dundas Street West; (2)(b) Rear Yard Setbacks; (2)(c) Side Yard Setbacks above 20 metres; (3)(a) an Angular Plane for the South side of Bloor Street West, and west side of Dundas Street West; (4) Build-To-Area; (7) Access; and (8) Ground Floor Uses.

85. The OMB decision permitted 5 and 11 storey buildings at a density of 2.84 times the lot. The "Avenue Study By-law" permits 6 and 7 storey buildings at a density of 4.0 times the site area.

86. I have prepared simple design tests for the subject property to investigate the development potential (i.e. density) that would actually be achievable under the application of the heights and setbacks found in Avenue Study By-law and in the 1998 OMB decision).

87. At the 6 and 7 storey maximum heights assigned to the subject property in the Avenues Study Bylaw, my design tests indicate that it would not be possible to achieve a development of 4.0 FSI in an appropriate built form on the subject property. My tests indicate that the heights in the Avenue Study Bylaw would yield development outcomes of between 2.13 FSI and 2.45 FSI. These densities are less than the density anticipated in the 1998 OMB decision – 2.84 FSI.

88. At the 5 and 11 storeys permitted in the 1998 OMB decision and illustrated in the built form modeling of the Bloor-Dundas Avenue Study, my design tests indicate that it would not be possible to achieve a development of 4.0 FSI. My tests suggest that the heights in the 1998 OMB decision would yield development outcomes of approximately 2.84 FSI as anticipated in that decision.

89. I have opined elsewhere in this witness statement that the combination of heights and density assigned to the subject property is not appropriate or workable and is in conflict with the Avenue Study. Therefore in my opinion the "Avenue Study By-law" does not represent good planning for the subject property.

8.0 DESIGN CRITERIA for REVIEW OF TALL BUILDING PROPOSALS (2006)

90. The Guideline document entitled "Design Criteria for Review of Tall Building Proposals (2006)" contains several recommendations regarding the configuration for tall buildings. These Guidelines were operative at the time of the development applications for the subject property. The proposed development has been considered in relation to these 2006 Guidelines and to the recently adopted city-wide "Tall Building Design Guidelines" (2013), that are discussed later in my witness statement.

91. Among the Design Criteria in this guideline document are:

> *"3.2 Tall Building Floor Plates:*
>
> *With respect to the size and massing of tall buildings:*
>
> *• Point tower form is preferred. (See definition p.4)*
>
> *• Middle (shafts) will be located to minimize the shadowing of adjacent streets, open spaces and buildings.*
>
> *• Middle (shafts) that have small floor plates are encouraged since they have the least impact on shadowing, winds and views.*
>
> *• When siting tall buildings that have elongated slab floor plates that cast biggest shadows, North-South orientation is preferred.*
>
> *• Articulate the uppermost floors of tall buildings to achieve a distinctive skyline profile.*
>
> *• Residential floor plates larger than 8,000 SF (743 m2) and commercial floor plates exceeding 20,000 SF (1860 m2) of Gross Floor Construction Area will be articulated architecturally to minimize shadows, loss of sky view and wind conditions in adjacent open space."*
>
> This guideline document defines a point tower as a *"… tall building with a typical Gross Floor Construction Area not exceeding 8,000 SF (743m2)."*
>
> *"3.3 Spatial Separation:*
>
> *Appropriate space between towers allows for appropriate light and privacy for new and existing buildings as well as allowing appropriate sunlight, wind and skyview to the adjacent streets, parks, open spaces and properties…*
>
> *An adequate condition of privacy is achieved when orientation, facing distances or space exists to mitigate overlooks between the residential windows and balconies of one building and the residential windows and balconies of another.*

An adequate level of natural light into a dwelling can be said to be achieved when the orientation, facing distance and space between building walls and windows is sufficient to allow daylight for part of the day to enter through the windows into the main living space.

These conditions vary depending on the urban context and intensity of planned development."

The guideline document notes that:

"Conditions beyond the required By-law minimums are often necessary to achieve light, view and privacy.

• The minimum spacing between the shafts of two tall buildings will equal the widest tower width measured perpendicularly to building face, but it will be no less than 25 metres.

• Similarly, on compact urban sites where a tall building is proposed the shaft of the tall building must be located a minimum of 12.5m away from the property line."

In *"4.3 Sun, Shadow and Sky View"* the guideline document makes recommendations for measures to evaluate the impact of a proposed development on sunlight and sky view in adjacent streets, parks, buildings and spaces. This includes among others:

"Designing a small floor plate that allows for more sunlight and sky view. Evaluations need to be made between the impacts of taller thin buildings and lower thick buildings."; and

"Sky view can be measured by creating an imaginary box floating above the site between the height of the base and the maximum building height. The sky view will be the percentage of the space left after the building mass has been subtracted from this box."

92. Official Plan Policy 5.3.2.1, "Implementation Plans and Strategies for City-Building", speaks directly to the weight that should be ascribed to guidelines related to Official Plan policies. This policy directs that: *"…guidelines will be adopted to advance the vision, objectives and policies of this Plan. These…guidelines…are not part of the Plan unless the Plan has been specifically amended to include them, in whole or in part, and do not have the status of policies in this Plan adopted under the Planning Act."*

93. The proposed development is consistent with the City's Design Criteria for Review of Tall Building Proposals (July 2006) including:

- The use of a point tower form;

- Floor plate size that approximates the recommended 743m2;
- Articulation of the upper parts of the tall building to create a distinctive "top";
- A substantial approximately 54m setback from Dundas Street West; and
- Substantial separation distance to the existing Crossways towers and any low scale Neighbourhoods to both the east and west and appropriate setbacks from the common property line to the north that is shared with future development sites.

94. The proposed development achieves or exceeds the 12.5m side and rear yard setbacks recommended in the Design Criteria for Review of Tall Building Proposals with the exception of the setback to the north property line where the tall building is set back 12.3m. As described above (and as anticipated in Design Criteria 3.3 Spatial Separation) the design of the proposed development ensures appropriate light and privacy for new and existing buildings as well as allowing appropriate sunlight, wind and sky view to the adjacent streets, parks, open spaces and properties.

95. The Guidelines adopt a relatively quantitative approach to the evaluation of sky view – one which I have seen used on some occasions. The approach suggested in the Guidelines involves a "before and after development" calculation of the amount of sky present and visible on a property (shown in elevation). In my opinion this approach to "measuring" impact is not appropriate as it dose not take into account the normally moving viewpoints from which an observer generally experiences the presence of the sky (or buildings for that matter in favour of a single fixed view point). This method also contains an arbitrarily established upper limit for the "frame" of this area to be measured. Lastly there are no "standards" against which such measurements can be evaluated. This is not a method that I would recommend for evaluating such complex phenomena.

96. Instead of this approach, in my opinion it is more appropriate to examine the visual presence of the proposed tall building from significant points of view form the public realm in the surrounding area. This is the approach that I have taken in my analysis of the effect of the proposed development on the sky view as described elsewhere in this witness statement.

97. In my opinion the building separations in the proposed development will result in the achievement of appropriate access to light, view and privacy and will create appropriate sunlight, wind and sky view, particularly having regard to the context of the subject site and its surroundings.

98. In my opinion the proposed development conforms to the intent of the Design Criteria for Review of Tall Building Proposals (2006).

9.0 TALL BUILDING DESIGN GUIDELINES (2013)

99. The City now has city-wide "Tall Building Design Guidelines". These were adopted in May 2013. They substantially consolidate and integrate the "performance standards" of the previous Downtown Tall Buildings Vision and Performance Standards Design Guidelines (adopted July 2012) and apply them to the review of all tall building proposals on a city-wide basis. These 2013 Design Guidelines were not operative at the time of the development application or at the outset of my retainer. However, I understand that this document represents the current state of thinking by planning staff and Council about tall buildings in Toronto. I have included a review of the proposed development in relation to these Guidelines as a result of that understanding.

100. The City-wide Guidelines are structured in 4 sections: 1.0 Site Context; 2.0 Site Organization; 3.0 Tall Building Design; 4.0 The Pedestrian Realm.

1.0 Site Context

101. In 1.0 Site Context the City-wide Guidelines call for a "Walkable" context analysis, showing the tall building proposal. This has been provided as part of the development application for the subject property meeting Guideline 1.1.

102. Guidelines 1.2 which requires a Master Plan for large sites, 1.5 prominent Sites and Views from the Public Realm and 1.6 Heritage Properties and Heritage Conservation Districts, do not apply to the subject property.

103. The proposed development effects an appropriate transition at the scale of the block and at the scale of the district by: locating the tall building element as part of an existing cluster of tall buildings within (but at the edge of) an identified growth area at a height that is progressively lower in height than those in the "centre" of the area (see Guidelines figure 1 p.19) ; providing horizontal separation distance and a change in base building height and form to support tall building transition down to a lower-scale area. (see Guidelines figure 3 p.19) including a base building that relates directly to the height and typology of the existing or planned street wall context (see Guidelines figure 4 p.19).

104. The existing pattern of lower scale mixed use buildings lining Dundas Street West on the west side, is not unduly impacted by the proposed tall building element development, the mid rise element of the proposed development or the future development potential on the nearby "Opportunity Site" identified in the Avenue Study. The position of the tower minimizes its visibility and limits the potential for any shadow impacts on Dundas Street and Prince Rupert Avenue further to the west. The siting of the building therefore has the effect of minimizing impacts on access to sunlight and sky view in the nearby low-scaled areas.

105. In this way the proposal meets the intent of Guidelines: 1.3 Fit and Transition in Scale; 1.4 Sunlight and Sky View; as well as 2.1 Building Placement (discussed below).

2.0 Site Organization

106. The proposed development is sited to continuously frame Dundas Street West, providing both its well-defined primary residential entrance clearly visible, and an active retail frontage facing the street, both and universally accessible from the adjacent public sidewalk.

107. Loading and servicing facilities, utilities, and vehicle parking, are all located underground or within the building mass, away from the public realm and public view. Access to the vehicular drop off and the underground parking garage is by means of a driveway from Dundas Street West. Access to loading, garbage handling will take place from this same driveway at the east end of the proposed development.

108. Grade-related, publicly accessible open space in the form of a pedestrian/cyclist links through the site is provided at the south edge of the site where the proposed walkway connects Dundas Street West to the GO Transit Union Pearson Express station. A range of high-quality, comfortable private and shared outdoor amenity spaces are provided, primarily at the ground and 8th floor levels where the majority of the indoor and outdoor amenity spaces are located.

109. In my opinion the proposed development meets the intent of the relevant Tall Building Design Guidelines with respect to 2.0 Site Organization.

3.0 Tall Building Design

3.1 Base Building

110. The 8 storey stepped form base building element of the proposed development responds to its mid-block street fronting condition by massing the base building to respect the prevailing height of the older, low and mid-rise buildings in the area which are generally between 2 and 5 storeys in height. The form of the base building conforms to the requirements of the Avenues Study By-law that also apply to the development site immediately to the north.

111. In my opinion the proposed development satisfies the intent of all of the relevant guidelines with respect to the 3.1 Base Building.

3.2 Middle (Tower)

112. The proposed development includes a “point tower” with a floor plate of approximately 750m2 above the 8th floor. These floor plates conform to the 750 m2 (8,073ft2) recommended in Guideline 3.2.1 Floor Plate Size and Shape.

113. The 23-storey building component establishes separation distances to adjacent buildings that are in keeping with and in some cases significantly exceed those found in Guideline 3.2.3 Separation Distances.

114. The proposed development provides a substantial base building to tower step-back of approximately 54.0m from Dundas Street West. The tower meets or exceeds the provisions for separation distance between tall buildings with the exception of the setback to the north property line where the tall building is set back 12.3m as opposed to the recommended 12.5m.

115. Where the proposed development does not comply specifically with the recommendations of the city-wide Tall Building Design Guidelines in the area of setbacks for tall building separations, the difference between the recommended standard and the proposal is minimal.

116. In my opinion the subject property is of sufficient size to accommodate a tall building. The proposed development will not result in negative impacts on the quality of the public realm, neighbouring properties, the living and working conditions for building occupants, or the overall liveability of this part of the City.

117. With regard to 3.2.4 Tower Orientation and Articulation the proposed development has a well-articulated tower element above the podium or base building with high-quality, sustainable materials and finishes including In particular, the tower design includes a curving south east faced that adds architectural interest and serves to differentiate the tower from its more angular neighbours to the south.

118. With regard to 3.2.5 Balconies the approach taken in the design has been to provide a variety of balcony conditions that in effect treat each face of the tower differently. This will assist in the fulfillment of recommendations in the previous section (3.2.4 Tower Orientation and Articulation). On the southeast curving section of the tower the balconies are arrayed in a long continuous form that will accentuate the curve. This will contrast the pattern of both recessed and inside corner balcony configurations on the other faces of the tower.

119. With the above taken into account in my opinion the tower setbacks and step-backs and the overall design approach to the tower element in the proposed development meet the intent of the relevant Guidelines found in 3.2. Middle (Tower).

3.3 Tower Top

120. The proposed development includes and articulated mechanical penthouse element that is clad in high quality materials that are complementary to those of the rest of the building. In my opinion the proposed development satisfies the intent of guidelines with respect to the 3.3 Tower Top.

4.0 The Pedestrian Realm

121. With regard to 4.0 The Pedestrian Realm The proposed development includes setbacks and widening of the Dundas Street West Sidewalk and the provision of street trees that meet the recommendations of the Guidelines. The proposed development includes the provision of a new public pedestrian connection between Dundas Street West (and the Dundas West subway station) and the Go Transit Union Pearson Express station

122. In my opinion the proposed development satisfies the intent of Guidelines with respect to 4.0 The Pedestrian Realm.

123. In Summary, in my opinion the proposed development satisfies the intent of the city wide Tall Building Design Guidelines (2013).

10.0 AVENUES and MID-RISE BUILDING STUDY.

124. July 8, 2010 meeting, adopted, with modifications the recommendations contained in the Staff Report prepared by City Planning entitled "Avenues and Mid-Rise Building Study." Council requested staff to use the "Mid-Rise Building Performance Guidelines" contained in Section 3 of the Consultant Report entitled "Avenues & Mid-Rise Building Study (May 2010) in the evaluation of all new and current mid-rise development proposals on the Avenues and in the implementation of the future Avenue studies. The main objective of the city-wide study is to encourage future intensification along Toronto's Avenues that is compatible with adjacent neighbourhoods through appropriately designed and scales buildings.

125. The Avenues & Mid-Rise Building Study excluded the subject property and other nearby properties as they were subject to other "City initiated studies" – in this case the Bloor-Dundas Avenue Study.

126. The Mid-Rise Building Performance Guidelines dealing with the relationship between mid-rise buildings and the public realm are none the less relevant to the evaluation of the street facing components of the proposed development. As noted elsewhere in my witness statement, the proposed development satisfies the built form recommendations with regard to street defining heights and stepbacks in the Avenue Study. These are consistent with the relevant built form principles in the Mid Rise Guidelines. The Mid Rise document also includes a number of performance standards regarding the relationship of mid-rise development to adjacent lower scale Neighbourhoods (which are typically located to the rear of sites with and "Avenues" designation). There are no lower scale *Neighbourhoods* adjacent to the subject property. It also includes very general performance standards regarding rear transition to employment areas which are to be effected through a combination of setback and step back provisions.

127. In my opinion where there are relevant guidelines provided, the proposed development complies with the intent of the relevant Mid-Rise Building Performance Guidelines.

11.0 SITE PLAN APPROVAL

128. The Site Plan Approval applications for the proposed development have been appealed to the Board. I have reviewed the City Planning and urban Design comments on both the Zoning By-law Amendment and Site Plan Approval applications. I have provided input on the development of responses to those comments. Responses to those comments have been incorporated into the revised design drawings, Draft Zoning By-law, Site Plan Approval Documents and the associated approval conditions that are before the Board.

129. In my opinion, the revised documents that are before the board appropriately address the relevant Planning and Urban Design comments.

12.0 CONCLUSION

130. On the basis of the foregoing, it is my opinion that the proposed development represents an appropriate built form response to the immediate site conditions and its built form context. It is located in a part of the City where there are already some tall buildings that coexist with low rise built forms of all types. The proposed design achieves general and broad development objectives that are consistent with the direction and intent of the Official Plan, the Avenue Study, and the two versions of the city-wide Tall Buildings Design Guidelines (2006 and 2013). It ensures that appropriate levels of light, view and privacy will be achieved for both existing and new residents and that there will be no undue impacts with regard to shadowing, overlook or pedestrian level wind created by the development. The street defining configuration, scale, setbacks and landscape design of the proposed development are compatible with the surrounding context and will result in appropriate visual and functional relationships with the surrounding built form context.

12.0 URBAN DESIGN OPINION ON THE ISSUES

131. I will specifically comment on the following issues: 3, 4, 5, 6, 11 and 12 as set out in the Procedural Order. My evidence on each issue is summarized below.

Issue 3: Does the application conform to the City of Toronto Official Plan (the Official Plan)?

132. Yes. Please refer to section 5.0 of my witness statement.

Issue 4: Given: principles of good planning and urban design and the relevant provisions of the Planning Act, the PPS, the Growth Plan, the Official Plan and other relevant policy documents and guidelines; are the residential density, the scale, the mass, and the built form of the proposed development (including the tower and podium heights) appropriate, with particular regard to; its relationship to the surrounding context; its context within the City; transition; shadows, sky-views and the public realm?

133. Yes. Please refer to Sections 5.0–10.0 of my witness statement.

Issue 5: Should the application be refused for failure to comply with the principles and recommendations of the Bloor-Dundas Avenue Study and the implementing Zoning By-law No. 1222-2009 (the "Avenue By-law")?

134. No. Please refer to paragraphs 6.0-7.0 of my witness statement. As stated in those paragraphs in my opinion the *Bloor-Dundas Avenue Study and the implementing Zoning By-law No. 1222-2009 (the "Avenue By-law")* do not represent good planning with regard to the subject property. The development potential and appropriate built form for the subject property were not appropriately analysed in the study and as a

result the specific heights and densities in By-law1222-2009 do not reflect what in my opinion would be the appropriate measures for the subject property.

Issue 6: Would the proposed development set an inappropriate precedent for other potential developments within the area governed by the Avenue By-law?

135. No. In my opinion, approval of the proposed development would not set an inappropriate precedent for other potential developments within the area governed by the Avenue By-law. I have opined elsewhere in my witness statement that the subject property is unique in depth and configuration and in its location immediately adjacent to and providing vital vehicular and pedestrian access to the Go Transit Union Pearson Express station. The site is sufficiently large to accommodate both a mid-rise building and a tall building in a form that is similar in plan to that which is anticipated in the Avenue Study. The height of the mid-rise building and the height of the tall building beyond that which is set out in the Avenues By-law can be accommodated on the subject property without the creation of any undue adverse impact in the terms by which such impacts are identified in the applicable policy documents and guidelines – including light, view and privacy, shadow, sky view or pedestrian level wind.

136. In my opinion the proposed development is compatible with its surroundings. It appropriately frames the street and provides a front yard setback that is similar to those of the immediately adjacent existing and approved developments. It appropriately locates the main entrances to the building and provides ground floor retail uses that will have views into and access to the adjacent street. It provides good site access and circulation integrating service access and access to the underground parking – minimizing the impact of vehicular movements into and out of the site. It will create an improved safer and more attractive public realm on Dundas Street West.

Issue 11: Does the issue identified below by Dundas West Properties Ltd. justify the approval of the residential density, the scale, the mass, and the built form of the proposed development?

137. Yes. I have reviewed the evidence of the land use planner for Dun West Properties Ltd., Mr. Pino Dimascio regarding the Provincial policies encouraging the intensification of major transit station areas, and the current Provincial investment in the area that the proposed development is appropriate specifically because of its proximity to and ability to make use of the transit infrastructure. I agree with his opinion that the proposed development will have no negative impact on surrounding uses, that Provincial legislation, policies and guidelines specifically require this kind of development in such locations and have been established to specifically ensure that such sites are not underutilized as this would not be in the public interest.

138. I agree with Mr. Dimascio that the City position to limit height (where it has no impact on surrounding uses) and, in turn, to limit development on the subject property, therefore, is not in the public interest.

Issue 12: Is the proposed development appropriate given the proximity of the site to multi-modal rapid transit options (including a subway, multiple streetcar and bus routes, a GO Transit Station and a proposed AirLink Station), having regard to Official Plan policies and Provincial policies related to development in proximity to public transit stations, including among others, the policies of the Big Move Regional Transit Plan related to mobility hubs (Big Move #7, Policies 7.8, 7.10, 7.10, 7.14, and 7.15)?

139. Yes. I have reviewed the evidence of the land use planner for Dun West Properties Ltd., Mr. Pino Dimascio regarding the emphasis that Provincial and Municipal policies place on ensuring the efficient use of transit infrastructure and that appropriate land use policies are established and appropriate transit-supportive developments are realized to support transit infrastructure and make use of transit investments.

140. I agree with Mr. Dimascio that the proposed development is appropriate for the site having regard for the policies identified in Issue 12.

6.0 CONCLUSION

141. The proposed development conforms to the policies of the City of Toronto Official Plan and is consistent with the relevant recommendations of the City's applicable design guideline documents as I have set out in my Witness Statement. It represents good planning and in my opinion should be approved by the Ontario Municipal Board.

142. I recommend to the Board that it allow the appeal by Dun West Properties Ltd. and approve the requested zoning by-law amendments.

All of which is respectfully submitted:

Mark Sterling, OAA, MRAIC, MCIP, RPP

23 August 2013

Documents to which I may refer in my testimony include:

City of Toronto Official Plan;

City of Toronto Zoning By-law 438-86;

City of Toronto Design Criteria for Review of Tall Buildings (June 2006) and related City of Toronto Staff Reports;

City of Toronto Bloor Street West Visioning Initiative (2008);

City of Toronto Bloor Dundas Avenue Study (September 2009) and related City of Toronto Staff Reports;

City of Toronto Avenues & Mid-Rise Buildings Study (May 2010);

City of Toronto Tall Building Design Guidelines (May 2013);

City of Toronto Zoning Amendment Application - Preliminary Report (February 17, 2012)

City of Toronto Zoning Amendment Application - Request for Direction Report (January 14, 2013);

Revised Design Drawings prepared by E.I Richmond Architects Ltd. (August 2013); and

Shadow Studies prepared by Urban Strategies (August 2013).

Mark Sterling

OAA, MCIP, RPP

&Co Sweeny Sterling Finlayson &Co Architects Inc.

Principal

A founding partner of Sweeny Sterling Finlayson &Co. Architects (&Co), Mark is an architect, urban designer and professional planner who brings 30 years of experience. Mark is a leading thinker on new approaches to compact urban form and an innovator in exploring intelligent development scenarios through a variety of approaches to digital visualization.

Mark leads major strategic planning and intensification projects. Mark's campus planning and urban design experience includes the Hamilton Airport Employment Area, University of Toronto at Mississauga Campus Master Plan, and the Port Lands Implementation Strategy. He is the multidisciplinary team lead for award-winning projects such as the Lawrence Heights Redevelopment Plan and "Making Waves: Principles for Toronto's Waterfront", and urban design lead for West Don Lands Public Realm Plan. On a finer urban design scale, Mark led components in the City of Toronto Avenues studies for St. Clair West, Lake Shore Boulevard and O'Connor Road, open space and streetscape studies. In the GTA, Mark directed the Highway 7 Land Use Futures Study in Vaughan and subsequent York Region Urban Design Futures study that accompanied new rapid transit proposals, and created strategies to increase density around proposed transit corridors for Markham and Newmarket in response to Ontario's Places to Grow legislation. As Director of Architecture and Urban Design for the former City of Toronto, Mark led the development of civic improvement projects and new urban design and planning frameworks for several of the city's most important districts. Outside of Ontario, Mark is leading the Saskatoon Public Space, Activity + Public Space Strategic Framework and directed the Taiwan Waterfront, "Floating Hills, Living Islands", Kaohsiung waterfront master plan.

Education

_Bachelor of Architecture, University of Waterloo. 1981

_Bachelor of Environmental Studies, University of Waterloo. 1979.

Registration

_Fellow, Institute for Urban Design.

_Member, Canadian Institute of Planners.

_Registered Professional Planner, Ontario Professional Planners Institute.

_Member, Ontario Association of Architects.

Professional Experience

_Sweeny Sterling Finlayson &Co Architects Inc., Principal. Toronto, Canada. 2005–present.

_Sterling Finlayson Architects Inc., Principal. Toronto, Canada. 1996–2005.

_City of Toronto, Director of Architecture and Urban Design, Planning and Development Department. Toronto, Canada. 1996–1997.

_The Kirkland Partnership Inc., Director of Urban Design, Senior Associate. Toronto, Canada. 1991–1995.

_Sterling & James Architects, Partner. Toronto, Canada. 1987–1991.

_Jones and Kirkland Architects, Associate. Toronto, Canada. 1983–1987.

_A.J. Diamond and Partners Architects, Staff Architect. Toronto, Canada. 1981–1983.

Affiliations

_Inaugural Urban Design Advisory Panel, City of Mississauga. Founding member.

_Ottawa Design Review Panel

Recent Awards

_IDA Merit Award in Planning, 2012. International Downtown Association.

_New and Emerging Planning Initiatives Award 2012, Canadian Institute of Planners

_Premier's Award for Excellence in Community Planning, 2011. Saskatchewan Design Council, Saskatoon, Canada.

_Honourable Mention. Toronto Urban Design Awards, 2011.Toronto, Canada.

Academic Experience

_Adjunct Assistant Professor, Graduate Programs in Architecture and Urban Design, University of Toronto. 2001–present.

_Adjunct Assistant Professor, studios and lecture courses in all years, University of Toronto. 1987–present.

_Adjunct Lecturer, second year studio to final year thesis, University of Waterloo. 1985–1991.

_Tutor, Graduate Degree Program in Architecture, State University of New York at Buffalo. 1987.

_Adjunct Lecturer, University of Waterloo study abroad program (Rome, Italy), University of Waterloo. 1984.

Selected Presentations

_Canadian Institute of Planners "Deep Roots in an New Energy City". St. John's Canada. 2012

_Transforming and Revitalizing Downtown Summit, Hamilton, Canada. 2012.

_OPPI Conference "Tangible Speculation, Urban Design Futures", Ottawa. 2011.

_Canadian Institute of Planners "Grow Ops – New Transit Cities in Ontario", Montreal. 2010.

_International Downtown Association, "Beyond Management to Leadership", Toronto. 2010.

_Canadian Urban Institute, "Designing the City of Tomorrow", Toronto. 2010.

Recognition

_The Globe and Mail "David Pecaut Square: First a new name, next a new look"' John Lorinc , July 2011.

_The Toronto Star. "Rebuilding the 'Jungle'", Feb 26, 2010.

_The National Post. "100 Acres to be levelled in Lawrence Hts", Natalie Alcoba, Feb 26, 2010.

_The Globe and Mail. "Nothing modest about Lawrence Heights plan", A. Paperny, Feb 26, 2010.

_The Toronto Star. "Plan to re-create Lawrence Heights unveiled", Denise Balkissoon, Feb 25, 2010.

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Relevant Experience

50 Bloor St. West, Toronto
Client: Morguard Investments Ltd.
Role: Partner-in-charge and Lead Planner
Scope: The redevelopment of a prominent retail site to accommodate a high-rise residential tower

Lawrence Heights, Toronto
Client: Toronto Community Housing Corporation
Role: Partner-in-charge and Lead Planner
Scope: Revitalization of existing TCH stock into an integrated transit-oriented neighbourhood.

West Don Lands Public Realm Master Plan, Toronto
Client: Waterfront Toronto
Role: Partner-in-charge and Lead Planner
Scope: Public realm plan including streetscape design and built form guidelines

Markham Built Form Study and Precinct Plan
Client: City of Markham
Role: Partner-in-charge and Lead Planner
Scope: Built form economic and visual impact analysis, massing studies.

Newmarket Visualization and Growth Plan
Client: Town of Newmarket
Role: Partner-in-charge and Lead Planner
Scope: Visual and economic analysis of downtown growth and massing.

Public Spaces, Activity and Urban Form Strategic Framework. Saskatoon, Canada.
Client: City of Saskatoon
Role: Partner-in-charge and Lead Planner
Scope: Public space and urban quality plan

Liberty Village New Street EA. Toronto, Canada.
Client: City of Toronto
Role: Partner-in-charge and Lead Planner
Scope: Complete Street designs and visualizations for EA options including on and off-street cycle lanes

Selected Experience

2013

_2376 Dundas Street West – Mid Rise Mixed Use Residential Urban Design

2012

_1603 Eglinton Avenue West – Mid Rise Mixed Use Residential Building

_Port Credit Strategic Master Plan – City of Mississauga

_Confidential – High Rise Mixed Used Hotel, Residential, Retail Open Space Project

_50 Bloor Street West – High Rise Mixed Use Commercial Retail Residential Urban Design

_Main & Lloyd Redevelopment, Stouffville - Mid Rise Mixed Use Residential Building

_40 Wellesley Street East – High Rise Mixed Use Retail Residential Building

2011

_1 York Street - High Rise Mixed Use Commercial Retail Residential Urban Design

_5 Arthur Street, Guelph - Mid Rise Mixed Use Commercial Retail Residential Urban Design

_Filmport District Planning – Mid Rise Mixed Use Urban Design

_Waterloo Northdale Land Use and Community Improvement Plan Study

_Markham Hwy 48 Precinct Plan

_297 College Street - Mid Rise Mixed Use Commercial Retail Residential Urban Design

_University of Toronto St. George Campus – Border Lands Development Feasibility Analyses

_Jubail City, Saudi Arabia – Urban Design and Streetscape Master Plan

2010

_Steeles Avenue Corridor Urban Design and Streetscape Master Plan (City of Vaughan)

_Saskatoon Public Spaces, Activity and Urban Form Study (City of Saskatoon)

_CAMH Block C1 Residential – Mid Rise Mixed Use Retail Residential Building

_West Don Lands Plan of Subdivision (Waterfront Toronto)

_Toronto Liberty Village Collector Road Environmental Assessment – Urban Design Streetscape

_Dufferin Street Bridge Environmental Assessment – Urban Design Streetscape

_York University Pond Road Redevelopment – Mid Rise Mixed Use Student Residence and Retail

_230-240 Richmond Street West OCADU – Mid Rise Institutional Redevelopment

_60 Harbour Street - High Rise Mixed Use Commercial Retail Residential Urban Design

_Birchcliff Quarry Lands Build Toronto - Mid Rise Mixed Use Community Plan and Zoning

2009

_St. Clair West Avenue Study (City of Toronto) – Mid Rise Mixed Use Urban Design

_Markham Centre Precinct Plan (City of Markham) - Mid Rise Mixed Use Urban Design

_Gardiner / Lakeshore Environmental Assessment - Urban Design

_Downtown 21 Mississauga Community Plans - Urban Design

_OCADU Capital Master Plan – Mid Rise Institutional Redevelopment Master Plan

_2008

_Markham Urban Design Plan and Guidelines (City of Markham)

_Newmarket Visualization Transformation Exercise - Mid Rise Mixed Use Urban Design

_Lawrence Heights Revitalization - Mid Rise Mixed Use Community Plan and Zoning

_West Don Lands (Waterfront Toronto) – Cherry Street Detail Design

_Hamilton Airport Employment Growth District - Mid Rise Mixed Use Urban Design

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

ACKNOWLEDGMENT OF EXPERT'S DUTY

Case Number	Municipality
PL121287	City of Toronto

1. My name is Mark Sterling. I live in the City of Toronto in the Province of Ontario.

2. I have been engaged by or on behalf of Dun West Properties Ltd. to provide evidence in relation to the above-noted Board 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 Board may reasonably require, to determine a matter in issue.

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.

23 August, 2013
Date

Signature