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May 14, 2021

RE: City of Toronto

REPORT FOR ACTION
2950-2970 Lake Shore Blvd. West Official Plan and Zoning Amendment Application
– Request for Direction Regarding LPAT Hearing

Date: April 29, 2021
To: Etobicoke York Community Council

Planning Application Number: 19 146505 WET 03 OZ

PART 1

Failure of Proposal to Comply With Growth Plan for the Greater Golden Horseshoe and SASP 21

The core issues regarding this application is its total failure to comply with the requirements of City of Toronto Official Plan (OP) Site and Area Specific Policy No. 21 (SASP 21), in addition to failing to comply with statutory requirements mandated by the *Growth Plan for the Greater Golden Horseshoe* (GPGGH, 'Growth Plan').

Errors in Amendment Application Documents

Documents submitted to the City to support the OP and By-Law amendments application for 2950 and 2970 Lake Shore Boulevard West (LSBW), contain numerous errors and inconsistencies. A

major error repeated over and over is a cross-sectional drawing of the right-of-way for both New Toronto and Long Branch. New Toronto is shown with a r-o-w width of 36 metres *instead of the correct 27 metres* – despite other City information that confirms the 27 m dimension. In addition, incorrect structures that do not apply to New Toronto are illustrated.

As a result, the guidelines information cannot be trusted and, in any event, SASP 21 requirements prevail as it has superior authority as an OP policy.

SASP 21

SASP 21 clearly states that **6-story buildings are only allowed west of Twenty-Second Street**. There is no dispute about that permission. **Only 4-storey buildings are allowed in New Toronto (where the subject property is located), subject to the 45-degree angular plane requirement.**

“CHAPTER 7 SITE AND AREA SPECIFIC POLICIES”

“21. Lake Shore Boulevard Between Etobicoke Creek and Dwight Avenue

- a) Buildings should be built to the Lake Shore Boulevard West street line with a discretionary setback zone of 1.5 metres. Development blocks should provide a continuous building face for at least 70 per cent of the frontage on Lake Shore Boulevard West. **Building heights should not exceed four storeys, except:**

i) **between Twenty Second Street and Twenty Third Street**, where a six storey building is permitted if the extra height is stepped back from the street; and

ii) **for the area between Twenty Third Street and 3829 Lake Shore Boulevard West (one block west of Fortieth Street)**, where a six storey building is permitted; ...

Building height should not exceed a 45-degree angular plane from the property line of the adjacent low-scale residential properties.”

The only reason that buildings of **up to six storeys are permitted to be built in Long Branch is that the right-of-way is considerably wider at 36 metres compared to New Toronto which has a maximum 27 metre r-o-w width**. This considerable difference in width results in a totally different context and character for the two neighbourhoods.

It is also important to note that the applicant's amendment has incorrectly decided that the word “should” *only constitutes a ‘suggestion’* in SASP 21.

In fact, the word “should” is actually the past tense of the word ‘shall’, which is a legal directive that is not subject to any challenge. Therefore, the word “should” is also a legal directive.

As noted in the ‘Report for Action’ regarding OPA 480, because the OPA had been approved by the Minister of Municipal Affairs and Housing **the approval is final and is not subject to appeal**.

Similarly, SASP 21 was reviewed as part of Toronto's Harmonized Zoning By-Law process which was subsequently approved by the Minister; therefore the approval of SASP 21 is also not subject to appeal.

The SASP and the Zoning By-Laws, with their provisions for built form, establish the benchmark for assessing planned context in accordance with the policies of s. 2.2.3 and s. 3.1.2 of the OP.

The planned context as noted above provides the in-force benchmark, and the City's practice *is to give priority to area specific studies over the more general Midrise Guidelines* resulting in the Midrise Guidelines being used as an evaluation tool that does not overtake the local guidelines and zoning provisions.

Because the 45-degree angular plane has become the accepted standard, its requirement brings several benefits: it reduces the imposing nature of a building's mass, reduces overlook, reduces the reach and duration of shadows, and increases sky view.

The proposed building does not satisfy the angular plane of the SASP, Zoning By-Laws or the more recent Midrise Guidelines. Moreover, the negative effects intended to be ameliorated by an angular plane *are exacerbated by the proposed additional five storeys*.

It is also important to note **Zoning By-law No. 569-2013** (May 2013) **restricts maximum building height to a maximum of 14 metres** (see, *Policy Areas Height Overlay Map 231*) on the block where the subject property is located. That corresponds to the SASP 21 requirements for a 4-storey building height which is actually lower than the existing legal non-conforming building at 2970 LSBW.

Challenges to Official Plan Policies

LPAT has previously confirmed the City of Toronto's hierarchy of authority of the **Mid-Rise Building Performance Standards Addendum (April 20, 2016)**, which clearly defines that the **Mid-Rise Performance Standards** and non-statutory guidelines, etc. ***cannot be used to challenge the legitimacy of statutory Official Plan policies such as SASP 21.***

LPAT hearing PL 170069 conducted an extensive chronological timeline of Toronto planning policies culminating in the requirements of the 'Mid-Rise Building Performance Standards Addendum' – which is not subject to challenges by lower-level planning instruments.

Mr. Bronskill is well aware of the impact of the Addendum's authority as he was also involved in attempting *to override the requirements of a single Zoning By-Law* enacted in 2003 during the hearing PL 170069. The applicant's argument was that filing a Zoning By-Law amendment application after City Council's direction *to use the Midrise Guidelines for all new applications* and before Council's clarifying direction that reversed those initial instructions, allowed for the Midrise Guidelines to prevail and to set the planned context. LPAT did not agree and decisively ruled against that notion.

From:

Attachment 1: Mid-Rise Building Performance Standards Addendum (April 20, 2016)

"The following chart is a revised version of the "Addendum" included as Attachment 1 in the March 11, 2016 Mid-Rise Building Performance Standards Monitoring report.

"Applicability of the Performance Standards

The Performance Standards are not intended to be used to challenge Council-approved studies or Area-specific policies, by-laws or guidelines, particularly with respect to building heights and matters of transition.”

SASP 21 constitutes Official Plan “Area-specific policies” that resulted from extensive studies and as part of Toronto’s Harmonized Zoning By-Law 569-2013 more recent review and approval - as do two additional zoning by-laws that specifically apply to the subject site, By-Law 569-2013 itself and By-Law No. 2215.

In the case of the current application for 2950 and 2970 LSBW, it was filed long after Toronto City Council approved the **Mid-Rise Building Performance Standards Addendum in 2016**. In addition, Zoning By-Law 569-2013 is far more recent than the 2003 by-law that was challenged under PL 170069.

Since LPAT refused a single by-law amendment under PL 170069, the current application for 2950 and 2970 LSBW attempts to undermine an *Official Plan policy plus two zoning by-laws* – which is a significantly stronger case for refusal than PL 170069 ever was.

See: Excerpts from PLAT Decision PL 170069 that follow at the end of this document.

Shallower than Normal Lot Depth

The application often mentions the lot is unique with a maximum lot depth of 45 metres (for 2950 LSBW) – *but fails to clearly articulate that 2970 LSBW (which comprises greater than 50% of the project’s street frontage) is only 23 metres in depth.*

Loss of Local Employment and Upward Pressure on Residential Taxation Rates

From: ‘Central-Western Lakeshore Area Planning Study – Final Report and Secondary Plan, June 1993, (Malone Given Parsons Ltd.)

“It is generally recognized that most forms of new residential development create net costs to the host municipality. The costs of serving the needs and expectations of the residential population are higher than the revenues the residential tax base generates. Exceptions to the general rule occur with such high assessment/low needs housing forms as luxury condominiums. Commercial and industrial development confer net benefits – the tax revenues they bring are higher than the costs of providing services to these areas.” (pg. 53)

As a result, ***every time a new high-density residential development is constructed, overall residential tax rates must rise to subsidize the tax revenue shortfall caused by new more intensive residential developments.*** Eliminating existing local employment locations and lands in neighbourhoods simply accelerates the loss of tax base and increases the speed at which residential rates must rise to cover the shortfall.

The current application for 2950 and 2970 LSBW not only fails to preserve the minimum of 70 to 80 jobs that previously occupied 2870 LSBW, it fails to comply with the GPGGH requirement to provide the required ratio of jobs to residents in the development. For over a century (since the

1890s), the subject lands have been maintained as 100 per cent non-residential employment lands.

The recently updated Growth Plan with a planning horizon of 2051 *requires over 0.54 jobs per resident in Toronto* (see Schedule 3). The current proposal requires about 103 jobs be created by the development or in New Toronto. Where are these required jobs?

It is important to note that per provincial regulations and the 2020 LPAT hearing on employment areas; minimum-wage retail-sector employment is not considered to be 'jobs'.

As defined by the Growth Plan, *Complete Communities* exist on a neighbourhood scale in cities and towns;

"Complete communities

Places such as mixed-use neighbourhoods or other areas within cities, towns, and settlement areas that offer and support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including **an appropriate mix of jobs**, local stores, and services, a full range of housing, transportation options and *public service facilities*. *Complete communities* are age-friendly and may take different shapes and forms appropriate to their contexts."

Therefore, the appropriate level of jobs mandated in the Growth Plan is required to be maintained and implemented *at the neighbourhood level*.

The reason for maintaining and creating local employment spaces is the Growth Plan policy set out to reduce the need for long-distance commuting to get to work.

Far too often City of Toronto staff claim that the Growth Plan policies are only applied over the entire city area – which is clearly incorrect. That is why the Growth Plan states that it represents the minimum required standards *and the entire document must be read* (to prevent and avoid mistakes made by city personnel).

Parking Deficiency and Potential Conversion to Homeless Shelter

The development proposal provides for a severe deficiency in the required number of parking spaces to be provided. Only 32 spaces are proposed, which is approximately 1/3 the required number.

Word on the street is that this project is not providing required parking because it planned to be sold to the City of Toronto after completion, for a homeless shelter at an inflated price – just like the previous homeless shelter proposal.

REPORT FOR ACTION (April 29, 2021)

pg. 9/10 Report notes that under the Growth Plan (2020);

"Policies not expressly linked to a MCR can be applied as part of the review process for development applications, **in advance of the next MCR**. These policies include:

- Retaining viable lands designated as employment areas and **ensuring redevelopment of lands outside of employment areas retain space for jobs to be accommodated on site;**

The proposal for 2950-2970 LSBW fails to comply with this statutory Growth Plan requirement.

pg. 12 Commentary regarding SASP 21;

“Specifically, **the modifications to SASP 21 was to allow for building heights over 4-storeys, up to 6-storeys in certain locations**, with the potential for higher building heights where lot depths exceed 35 metres **within the Long Branch neighbourhood**.”

This discussion does not make it clear that *6-storey buildings are only allowed west of Twenty-Second Street* – not in New Toronto where the height limit is only 4-storeys.

“Although no Avenue Study has been completed for this stretch of Lake Shore Boulevard West, **SASP 21 and the Lake Shore Boulevard West Urban Design Guidelines provide direction on the scale and intensity of development.**”

It is not noted here that SASP 21 take precedence above the guidelines, therefore, is the prevailing planning instrument as per the LPAT PL 170069 decision.

pg. 13;

“Section 3.1.2, Built Form, states that most of the City's future development will be infill and redevelopment sites and, as such, **will need to fit in, respect and improve the character of the surrounding area. It also states that development must be conceived not only in terms of the individual building site and program, but also in terms of how that site, building and its façade fits within the existing and/or planned context of the neighbourhood** and the City. Each new building should promote and achieve the overall objectives of the Official Plan.

Built Form Policy 3.1.2.1 **directs new development to be located and organized to fit with its existing and/or planned context.**”

Here, SASP 21 defines the “planned context” of the New Toronto neighbourhood.

pg. 15 OPA 480 Error regarding mid-rise building height;

“The text of Section 3.1.3 establishes that mid-rise buildings are a transit-supportive form of development that provides a level of intensification at a scale between low-rise and tall building forms. Mid-rise building heights are contextual and are informed by the width of the right-of-way onto which they front. **Mid-rise buildings may vary in height between 4 and 11 storeys** dependent on the adjacent right-of-way.”

The description of Mid-rise buildings being 4-storeys is incorrect. This is a major error as the City of Toronto *has defined Low-rise buildings as being up to 4-storeys.*

“Building types range from townhouses, through to stacked and back-to-back townhouses and low-rise apartment buildings of 4 storeys or less in height.” (pg. 6, City of Toronto, Townhouse and Low-Rise Apartment Guidelines, URBAN DESIGN GUIDELINES 2018) www.toronto.ca/lowriseguidelines

4-storey buildings can either be low-rise or mid-rise – they cannot be both.

From OPA 480;

“2. Townhouse and low-rise apartment buildings are generally no taller than four storeys in height.”

“Mid-rise buildings are a transit-supportive form of development that provides a level of intensification at a scale between low-rise and tall building forms. **Mid-rise building heights are contextual and are informed by the width of the right-of-way onto which they front.** In Toronto, where streets **vary in width from 16.5 metres** to over 40 metres, mid-rise buildings may vary in height between four and 11 storeys for residential uses...”

and,

“4. Mid-rise buildings will be designed to:

a) have heights generally no greater than the width of the right-of-way that it fronts onto;”

A building height **corresponding to 16.5 metres** represents a building with a commercial main floor and 4 storeys of residential above.

It is impossible for a 4-story residential building to be 16.5 metres high when each residential floor has a built height of only 3 metres. That is a 5-storey building – not 4.

Other City of Toronto documentation *defines mid-rise buildings as starting at 5 storeys.*

pg. 16 OPA 480 strengthens SASP 21 built-form policies

“Although the application was not reviewed within these OPA 480 policies as the application submission predates these policies, these revised policies strengthen the existing built form policies and indicate the future direction and appropriate built form that fit within the context for the site, consistent with provincial policies.”

This notes that the OPA 480 policies strengthen the built-form policies of SASP 21.

pg. 16/17 Employment requirements for mixed-use areas

“Policy 4.5 of the Official Plan includes criterion that directs the form and quality of development in *Mixed Use Areas*. It is the intent that development in *Mixed Use Areas* will (among other matters):

b) Provide for new jobs and homes for Toronto's growing population on underutilized lands in the *Downtown*, the *Central Waterfront*, *Centres*, *Avenues* and other lands designated *Mixed Use Areas*, **creating and sustaining well-paid, stable, safe and fulfilling employment;”**

This reference clearly directs that higher-quality jobs (not minimum-wage retail jobs) are prioritized by Toronto's OP and is consistent with the 2020 LPAT decision regarding the status of retail employment.

The current proposal eliminates at least 70 existing non-retail jobs, and fails to comply with the Growth Plan and OP employment requirements for mixed-use areas.

pg. 18 Lake Shore Boulevard West Urban Design Guidelines

"Lake Shore Boulevard West Urban Design Guidelines

The Lake Shore Boulevard West Urban Design Guidelines provide direction on how development will occur on both sides of Lake Shore Boulevard West between Etobicoke Creek and Dwight Avenue, **including the subject lands**. The following are key built-form guidelines for development:

- Building profiles along the commercial-residential strip will be 4-storeys, **rising to 6-storeys at major intersections** and will include a 45 degree angular plane from adjacent existing residential uses."

Because SASP 21 supersedes the guidelines only 4-storey buildings are allowed east of Twenty-Second Street in New Toronto because of the narrow r-o-w, subject to the 45-degree angular plane requirement.

It is also important to note **Zoning By-law No. 569-2013** (May 2013) **restricts maximum building height to a maximum of 14 metres** (see, *Policy Areas Height Overlay Map 231*) on the block where the subject property is located. That corresponds to a 4-storey building height, which is lower than the existing legal non-conforming building at 2970 LSBW.

pg. 19 Performance standards not to challenge area specific plans (SASP 21)

"The Mid-Rise Building Performance Standards may serve to supplement the Lake Shore Boulevard West Urban Design Guidelines and help guide the review of this application. However, **it is not the intent that the Performance Standards be used on a site-by-site basis to challenge Council-approved area specific plans**, studies, by-laws or guidelines, particularly with respect to building heights or matters of transition."

This section reflects the policies of the Mid-Rise Addendum that SASP 21 cannot be challenged because of its statutory hierarchy, as also noted by LPAT in the PL170069 decision.

pg. 20 RE: The Provincial Policy Statement

"Through its Official Plan, the City has identified appropriate locations and opportunities for intensification. Although growth is intended to occur on this site as it is located along an *Avenue* and designated *Mixed Use Areas*, the level of intensification must reflect the existing and planned context as established by Official Plan policies, **including in particular SASP 21**, and the Official Plan aligned

Lake Shore Boulevard West Urban Design Guidelines and the Mid-rise Building Performance Standards.”

Again, this denotes the superior authority of SASP 21 with respect to lower-level planning documents.

pg. 21 RE: Growth Plan

“**The Growth Plan also emphasizes the importance of complete communities** where a range of housing options are to be provided, and that new development should provide high quality compact built form and an attractive and vibrant public realm.”

“The Official Plan, and specifically SASP 21 provide direction and have established built form parameters for the growth envisioned for this site located on an *Avenue* that is consistent with the Growth Plan. **The proposal for a 9-storey building does not conform with the policies of the Official Plan and SASP 21 which establish a building typology with heights of 4 to 6-storeys.** The proposed development, particularly with respect to building height and built form does not fit within the existing and planned context of the area.”

The paragraph referencing complete communities fails to note the job target requirement at the neighbourhood level (of *complete communities*).

Again, there is no clarification that 4-storey buildings are only allowed *east of Twenty-Second Street* in New Toronto and 6-storeys may be allowed in Long Branch due to the significantly wider right-of-way (36 metres).

pg. 22 Non-relevant examples of a minimal number of taller buildings

“The existing *Avenue* area context is dominated by 1 to 3-storey buildings with the majority being 2-storey commercial and mixed-use buildings. There are two 8-storey co-op apartment buildings located at the intersection of Lake Shore Boulevard West and Thirteenth Street and a 9-storey senior's centre at the corner of Lake Shore Boulevard West and Fourth Street **which were large scale redevelopments on large and deep sites. The existing 4-storey building on the subject site is the tallest building along this segment of Lake Shore Boulevard West in New Toronto.** As of the date of this report, no applications for buildings greater than 3-storeys have been received for this stretch of Lake Shore Boulevard West in New Toronto.”

All the examples of taller buildings noted by the applicant as examples of ongoing intensification *are totally irrelevant to the current redevelopment application*. The buildings at Thirteenth Street were constructed in and occupied in 1983 and 1993. The senior's building at Fourth Street dates from around the mid to late 1970s. All of these buildings are legal non-conforming and do not set any precedent for allowable building heights.

Other examples of more recent developments are all located away from Lake Shore Blvd. West in New Toronto, including one or two that are located in Long Branch on the 36-metre right-of-way. Again, these examples *are totally irrelevant to the current redevelopment application*.

“The existing character of Lake Shore Boulevard West is that of 2 to 4-storey commercial main street. The Lake Shore Boulevard West Urban Design Guidelines and **SASP 21 envision a low to mid-rise built form with maximum heights of 4-storeys** or 6-storeys at major intersections. The subject site is not located at a major intersection.

The Mid-Rise Building Performance Standards apply only to the extent they supplement **and do not override the intent of SASP 21** and the Lake Shore Boulevard West Urban Design Guidelines. The Mid-Rise Building Performance Standards identifies a key provision of mid-rise projects on *Avenues* to be heights no greater than the Right of Way (ROW) width. Lake Shore Boulevard West has a ROW width of 27 m through the New Toronto neighbourhood. In addition, **the Mid-Rise Building Performance Standards Addendum clarifies that the maximum allowable height for mid-rise buildings must take into consideration:**

- **the existing and planned context; and**
- **setbacks, stepbacks, angular planes and other building envelop controls required through zoning and guidelines.”**

Again, there is no clarification that SASP 21 only allows 4-storey buildings east of Twenty-Second Street in New Toronto and no 6-storey buildings are allowed at major intersections. Only to the west in Long Branch may 6-storey buildings be allowed because of the 36-metre r-o-w. Because of the superior statutory authority of SASP 21 it is the planning document that prevails over all others regarding development along Lake Shore Blvd. West.

Attachment 5 Shallow lot depth for 2970 LSBW, restriction on Eighth Street

This attachment does not clearly illustrate that 2970 LSBW is on a shallow lot that is only 23 metres deep, which is unique in New Toronto.

Also, there is an additional height restriction on the Eighth Street frontage because of the narrower right-of-way.

Excerpts from LPAT Decision PL 170069

“[4] **At its core, this dispute is about building height, and specifically whether two more storeys should be allowed above the as-of-right zoning height limit.** Height has implications for skyview, sunlight (shading), massing and overlook. The dispute is also about urban design and street presence regarding massing, stepbacks and open space. All of these matters hinge on the notion of the development’s “fit” with its existing and planned context. In other words, the question is whether the building appropriately addresses its location in physical and planning terms.”

“LEGISLATIVE TESTS

[9] In making a decision under the Act with respect to this appeal, the Tribunal must have regard to matters of provincial interest as set out in s. 2 of the Act, and must have regard to the decision of the approval authority and the information considered by the approval authority under s. 2.1(1) of the Act. The decision must be consistent with the Provincial Policy Statement, 2014 (“PPS”) and must conform with or not conflict with the Growth Plan for the Greater Golden Horseshoe, 2017 (“GP”) under s. 3(5) of the Act. In addition, the ZBA must conform with the City’s Official Plan (“OP”) under s. 24(1) of the Act.”

“[17] Among other matters, the ZBA primarily seeks relief from the provisions of the ZBL to permit:

- an 8 storey building with a height of 26.2 m **where the ZBL permits 6 storeys and 18 m maximum height;**
- **encroachments into the angular plane;**
- **an FSI of 4.85, where the ZBL permits 3.0;**
- a side setback of 3 m above the 6th storey, where the ZBL requires the setback above the 5th storey; and
- **101 parking spaces, where the ZBL requires 107.”**

“[42] In November 2002, the City adopted a new Toronto OP for the amalgamated City, including the former City of Etobicoke. **The OP was approved by the OMB in 2006.** As noted earlier, **the OP is the source of the policy requirement that “new development will be located and organized to fit with its existing and/or planned context” (s. 3.1.2.1)”**

“[49] Next, after a few years of experience with the Midrise Guidelines, City staff reported to Council on various issues requiring refinement or clarification by way of an “addendum” to the Midrise Guidelines. In response to ongoing confusion around where the guidelines were to apply, ... **“The Performance Standards are not intended to be used to challenge Council-approved studies or Area-specific policies, by-laws or guidelines, particularly with respect to building heights and matters of transition” (p. 655).** In June 2016, **Council approved the report and directed staff to use the report”**

“[50] In summary, ... The Chief Planner’s subsequent memo to staff, while not entirely clear, appears to suggest that within exempted Avenues (such as The Kingsway), the Midrise Guidelines may be used as a supplementary evaluation tool. **This direction was later reinforced with Council’s approval of the addendum that the Midrise Guidelines are not to be used to challenge standards in areas with approved studies or by-laws.**

“[51] The foregoing summary is supported by the planning testimony. Mr. Krubnik testified that he **does not apply the Midrise Guidelines to applications in exempted Avenues where Avenue Studies or other city-led studies have resulted in area specific requirements.** He confirmed that **the City’s practice is to give priority to area specific studies over the more general Midrise Guidelines**

“[53] In full view of this complicated history and extensive testimony, **the Tribunal finds that the applicable documents to define the planned context of The Kingsway, in conformity with the directions of the OP, are the provisions of the ZBL ..., would also be found to be consistent with the PPS and to conform with the GP. These findings accord with the planning evidence of the City”**

“[54] **If not a complete Avenue Study, the BK Guidelines resulted from an early version of an Avenue Study, and are certainly an example of an “other City-led study” for which area the Midrise Guidelines were not initially intended to apply.** Council’s apparent direction to apply the Midrise Guidelines more broadly **was soon tempered by direction from the Chief Planner**

to staff to use them as a guide in areas not intended to be covered by the original study. Mr. Krubnik was steadfast in his testimony that in areas such as The Kingsway, the Midrise Guidelines have been used as an evaluation tool **but do not overtake the local guidelines and zoning provisions. This approach, if not originally clear from Council, became clear when Council endorsed the addendum.**"

"[55] With reference to the Clergy principle, **the Applicant argues** that the filing of this application *after Council's direction to use the Midrise Guidelines for all new applications and before Council's clarifying direction that appears to reverse the initial instructions*, allows for the Midrise Guidelines to prevail here and to set the planned context. **The Tribunal is not persuaded.** Despite the Midrise Guidelines' confusing implementation path, Mr. Krubnik's evidence on the City's practice is supported by the OP policies for built form on the Avenues and aligns with the intent of the OP as described in the explanatory text for existing and planned context. In the case of The Kingsway, **the Tribunal finds that the ZBL, with its provisions for built form, establish the benchmark for assessing planned context in accordance with the policies of s. 2.2.3 and s. 3.1.2 of the OP.**"

"[57] This finding ... does, however, consider how the OP is implemented, as directed by its policies, through the ZBL and subsequent amendments such as the current ZBA. The OP ascribes development standards to various defined areas of the City by way of its implementing planning instruments where such areas have been studied and provisions have been established."

"[58] The Applicant argues that the ZBA should not be held to a standard set by a ZBL that it argues does not reflect current provincial policy. However, **the Tribunal does not find the existing ZBL, passed in conformity with the OP, to be out of step with the PPS and GP.**"

"[60] **... the planned context as noted above provides the in-force benchmark.** ... The Tribunal is satisfied that The Kingsway already has "contextually appropriate as-of-right zoning and other regulations designed to achieve high quality development along the Avenue" as a product of such studies anticipated by the OP (s. 2.2.3.2(b)). **Segment studies are a method for evaluation where the local planned context is as yet undefined, and should not alter the planned context established by City-led initiatives with their attendant community consultation that resulted in specific development requirements considered suitable for the area.**"

"[64] By the evidence of all of the expert witnesses, **the 45-degree angular plane ("angular plane") ... has become the accepted standard.** ... This design requirement brings several benefits: it reduces the imposing nature of a building's mass, reduces overlook, reduces the reach and duration of shadows, and increases sky view. **The proposed building does not satisfy the angular plane of either the ZBL or the more recent Midrise Guidelines. Moreover, the negative effects intended to be ameliorated by an angular plane are exacerbated by the proposed additional two storeys.**

"[68] In closing, planning documents evolve slowly over time and require periodic review to remain current. In the case at hand, **despite the relative longevity of the ZBL and BK Guidelines, their contents were developed with intention based on community input, and, at least for the implementing ZBL, passed after the new OP was adopted and in conformity with it.**"

"[69] There is no doubt that **the Midrise Guidelines, ... represent a state-of-the-art set of standards** for the design of city-building along the Avenues. And yet ***that study itself***

recommended not imposing its guidelines on Avenues with their own standards already in place. The Kingsway, albeit an early example, underwent an Avenue Study that led to the BK Guidelines and the ZBL that remain relevant today.”

Urban Design Guidelines for Lake Shore Blvd. West (June 2004)

Because the drawing is totally incorrect, it cannot be used for reference and does not comply with SASP 21. The drawing also only applies to the area west of Twenty-Second Street, as SASP 21 directs that only 4-storey buildings are allowed in New Toronto and 6-storeys may be built in Long Branch (due to 36m r-o-w).

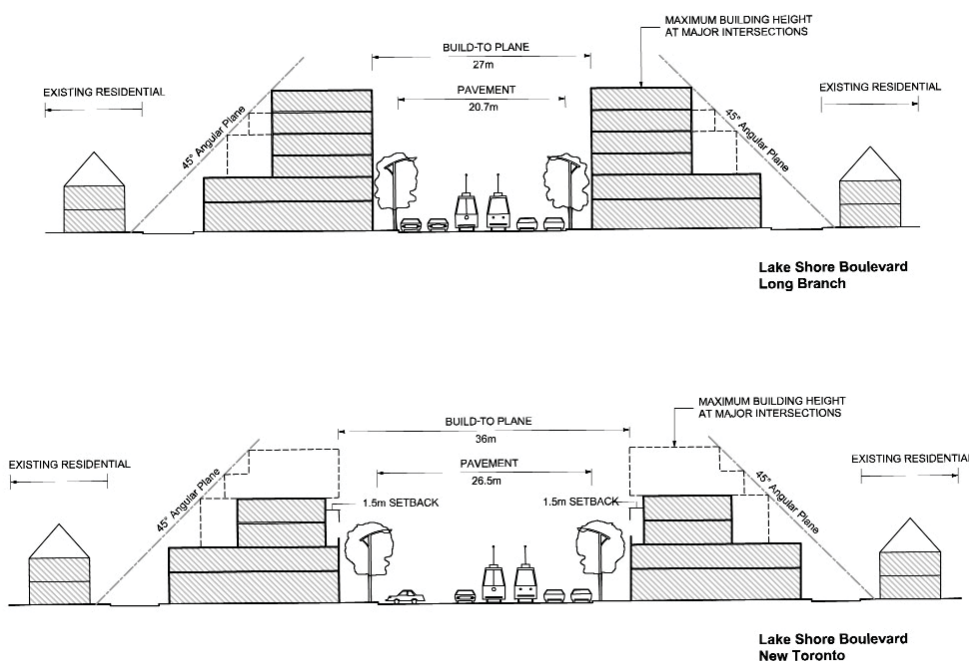
As the directive states the guidelines and drawing are to be read in conjunction with the policies of SASP 21. As per the LPAT decision on PL 170069, SASP 21 prevails and has superior authority over the guidelines because the guidelines cannot be used to challenge SASP 21.

“LAKE SHORE BOULEVARD WEST”

“The guidelines correspond to Site Specific Policy #21 in Chapter 7 of the Official Plan. They are to be read in conjunction with the urban design policies in the Official Plan.”

“LAKE SHORE BOULEVARD WEST: BETWEEN ETOBICOKE CREEK AND DWIGHT AVENUE”

“LOCATION: These guidelines apply to the lands on both sides of Lake Shore Boulevard West between Etobicoke Creek and Dwight Avenue.”



“Building Heights and Massing

Figure A

June 2004

URBAN DESIGN GUIDELINES”

PART 2

New Residential Development, Declining Local Employment Base and Mainstreet Retail Viability

It is well-established worldwide that industrialization leads to urbanization and that urbanization continues onward once an industrial and commercial base is established.

“Industrialization has historically led to urbanization by creating economic growth and job opportunities that draw people to cities. Urbanization typically begins when a factory or multiple factories are established within a region, thus creating a high demand for factory labor. Other businesses such as building manufacturers, retailers, and service providers then follow the factories to meet the product demands of the workers.”

(Reference - How Does Industrialization Lead to Urbanization? By INVESTOPEDIA)

The Town of New Toronto was founded in 1890 as an industrial center in The Lakeshore area of Etobicoke.

After about 30 years, commercial establishments began to be built along the Lake Shore Road. After a sufficient number of retail stores opened, housing began to be built in larger numbers because the goods and services required for daily living became conveniently available.

As proven historically with countless examples worldwide, **main street commercial retail viability is dependent on the local employment base** – not the local residential population. Local customers from the residential area only provide a fraction of customer demand compared to what workers coming into the area on a daily basis do.

A mainstreet commercial survey for New Toronto's Business Improvement Area was conducted in early 2000, with a sample size of 50%. It was clearly noted from some business owners that *workers coming to the area on a daily basis outspent local residents by at least 10 to 20 times*. This is because people always do shopping near to their workplaces, both for convenience and because they have money to spend. 81% of business owners surveyed wanted the local employment area maintained – and no new housing built because it would not support their businesses. Only about 4 people said they thought new housing would be a good idea.

That is easily confirmed by the vibrancy of downtown areas and why there is such a high concentration of small businesses in and around downtown business (office) districts – because of the large concentrated customer base.

It is **daytime population** (local workers) that provides the customer base to support mainstreet retail businesses – *because local residents typically leave the area every day to commute to work somewhere far from where they live*.

In fact, before the late 1980s when many jobs were lost in New Toronto due to land speculation problems, the main street in New Toronto was as busy as Yonge Street in the downtown area at lunchtime. Just to go for lunch local office workers had to send 'runners' out early to secure a table in any of the local restaurants. Otherwise, there was little chance you could eat before lunchtime was over.

On top of that shift workers shopped at local businesses either before or after their shift.

As a result, local small businesses were busy all day from morning, at noontime and into the evening.

When the large number of local industries closed, retail businesses from Mimico to Long Branch saw business typically drop by at least 60%.

(Reference; Bruce Tremblay comment – AT ISSUE: Revitalization remains Lakeshore Planning Council focus 20 years later THE FUTURE OF THE LAKESHORE
DEC 17, 2010 BY TAMARA SHEPHARD ETOBICOKE GUARDIAN)

The current issues facing local retail businesses are because of a lack of reliable customer base – despite massive local residential intensification which has already occurred.

For example, the conversion of the Goodyear Tire and Rubber site to high-density residential uses immediately increased New Toronto's population by over 3,000 residents (or about 30% of existing population) in the summer of 1993 - but retail viability never increased or recovered to anything close to that previously experienced from the former employment base. In fact, local commercial viability declined even more after the replacement residential was built along with no noticeable increase as additional housing has been built on the site.

On top of that, the heightened infestation of significantly higher crime rates with shootings, etc. ongoing to this day does nothing to improve the area surrounding the complex.

Adding massive residential intensification in The Lakeshore area has been well proven to be a total failure in trying to 'revitalize' the area to levels previously experienced prior to the residential building boom. Just east of Mimico, tens of thousands of new residents have settled since about 1989 – but Mimico's retail area is in about the poorest shape it has ever been.

There is over 30 years of local history and first-hand experience to prove it. Doing more of the same failed intensification schemes will simply continue to compound the level of failure already experienced in The Lakeshore area.

With respect to the current development proposal at Eighth Street, for over a century (since the 1890s) the subject lands have been maintained as 100 per cent non-residential employment lands. Before that, the property was open fields.

The subject site in its current configuration has typically provided space for the employment of at least 70 employees at various businesses when the space is fully occupied. Simply replacing

the existing ground-floor retail area will not contribute to replacing the numerous other jobs lost from the upper floors of the present buildings.

There will be a significant gross loss of existing employment space that is not being replaced, in addition to the failure to provide new employment opportunities in proportion to the significantly higher-density of residential intensification as directed by the Growth Plan.

Such a loss of local employment density will certainly result in additional adverse impacts to the viability of the other local main street retail establishments, whose success is primarily dependent on local employment levels (e.g. when Goodyear Tire and Rubber Co. of Canada closed in 1987, retail sales generally dropped about 60 per cent or more across the area from Mimico to Long Branch).

It is important to note that it is not only the workers in 2970 Lake Shore Blvd. West that support local mainstreet businesses, but customers coming to 2970 also tend to shop locally. That is part of the shopping power that local employment provides to mainstreet commercial stores.

The proposed development does not comply with the minimum statutory requirements and policies of the Growth Plan for 'complete communities', as the proposal will result in a significant loss of local employment through the elimination of existing employment space - with neither the employment space nor existing number of jobs being replaced.

The number of new jobs contemplated to be created is basically zero compared to the number required in proportion to the new residential population density envisioned.

The current application for 2950 and 2970 LSBW not only fails to preserve the minimum of 70 to 80 jobs that previously occupied 2870 LSBW, it fails to comply with the Growth Plan requirement to provide the required ratio of 0.54 jobs per resident in the development (totaling about 103 jobs).

It is also important to note that per provincial regulations and the 2020 LPAT hearing on employment areas; minimum-wage retail-sector employment is not considered to be 'jobs'. The emphasis is on "creating and sustaining well-paid, stable, safe and fulfilling employment."

The Growth Plan is clearly specific that 'complete communities' contain a balance of jobs to residents on a local neighbourhood scale - as the overarching intent is to greatly reduce the need for long-distance commuting to get to work. The concurrent emphasis regarding active transportation for getting to work also supports the local enhancement of employment base because active transportation is basically only for local movement – since walking and cycling are not considered to be for long-distance commuting.

That means increasing the number of jobs in the local community is a priority, and legally required by the Growth Plan, so that residents do not need to travel very far to get to their jobs.

Historically, about 35 to 40% of workers living in New Toronto walked or rode a bike to get to work. Having that situation today would considerably reduce stress on Toronto's transportation infrastructure and free up rider capacity at minimal cost.

In conclusion, converting 2950-2970 Lake Shore Blvd. West from employment to high-density residential uses will simply compound the urban planning failures that have reduced The Lakeshore area to a mere shadow of what it once was - and will continue the downward spiral in standard of living and quality of life for area residents.
