

ONTARIO LAND TRIBUNAL

PROCEEDING COMMENCED UNDER subsection 17(40) of the Planning Act, R.S.O. 1990, c. P. 13, as amended

Appellant/Applicant: 30 Duke Street Limited
 Subject: Failure of Approval Authority to announce a decision respecting a Proposed Official Plan Amendment
 Municipality: City of Kitchener
 Reference No.: OPA 20/005/W/JVW
 Legacy Case No.: PL210104
 OLT Lead Case No.: OLT-22-002377
 Date of Hearing: April 22, 2025
 OLT Case Name: 30 Duke Street Limited v. Kitchener (City)

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

Appellant/Applicant: 30 Duke Street Limited
 Subject: Failure of Approval Authority to announce a decision respecting a Zoning By-law Amendment
 Municipality: City of Kitchener
 Reference No.: ZBA 20/013/W/JVW
 Legacy Case No.: PL210104
 OLT Lead Case No.: OLT-22-002377
 Date of Hearing: April 22, 2025
 OLT Case Name: 30 Duke Street Limited v. Kitchener (City)

PROCEEDING COMMENCED UNDER subsection 42(6) of the Ontario Heritage Act, R.S.O. 1990, c. P. 13, as amended

Appellant/Applicant: 30 Duke Street Limited
 Subject: Failure of Approval Authority to announce a decision respecting a Zoning By-law Amendment
 Municipality: City of Kitchener
 Reference No.: HPA-2022-V-015
 OLT Lead Case No.: OLT-22-002377
 Date of Hearing: April 22, 2025
 OLT Case Name: 30 Duke Street Limited v. Kitchener (City)

WITNESS STATEMENT OF ERIC SCHNEIDER, BES, RPP, MCIP

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BACKGROUND AND WITNESS QUALIFICATIONS

1. This witness statement has been prepared by: Eric Schneider, RPP, MCIP. In this capacity, I am responsible for reviewing and processing Planning Act applications and making recommendations to Kitchener City Council based on provincial policy requirements and good land use planning principles.
2. I am a professional land use planner and employed at the City of Kitchener (the "City") as a Senior Planner. I joined the City in 2014. I have approximately 10 years of professional planning experience. I hold a Bachelor of Environmental Studies degree in Planning with a Geography and Environmental Management Minor from the University of Waterloo (2013).
3. I am a Registered Professional Planner and a member in good standing of the Canadian Institute of Planners.
4. I am providing land use planning evidence on behalf of the City in this proceeding.
5. My curriculum vitae is included in this witness statement at Appendix A and my Acknowledgement of Expert's Duty form is provided as Appendix B

PURPOSE OF WITNESS STATEMENT

6. This witness statement has been prepared to provide background context and my independent professional planning opinion.

DESCRIPTION OF THE SUBJECT LANDS

7. The lands that are the subject of the within appeal are municipally addressed as 22 Weber Street West, Kitchener (the "Subject Lands").
8. The Subject Lands are located on the north side of Weber Street West between Queen Street North and Young Street.
9. The Subject Lands are approximately 0.13 hectares (0.32 acres) in area and have approximately 28 metres of frontage on Weber Street West.

REQUESTED OFFICIAL PLAN AMENDMENT AND ZONING BY-LAW AMENDMENT

10. The Subject Lands are designated High Density Commercial Residential in the City's Civic Centre Secondary Plan. The High Density Commercial Residential designation permits a range of uses, including free standing multiple residential buildings at a maximum Floor Space Ratio ("FSR") of 4.0. The applicant's official plan amendment proposes to retain the existing designation but with an increased FSR permission of 8.0.
11. The proposed zoning by-law amendment now under the Ontario Land Tribunal's consideration requests that the Subject Lands be rezoned Commercial Residential Three (CR-3) Zone with Site Specific Provisions in order to permit the development as proposed:
 - a. A minimum front yard setback of 0.0 metres is proposed along Weber Street West, whereas a minimum front yard of 3.0 metres is required.
 - b. For portions of the building up to 5.0 metres in height, a minimum rear yard setback of 8.0 metres is proposed. For portions of the building greater than 5.0 metres in height, a minimum rear yard setback of 14 metres is proposed. , whereas a minimum setback of one half the building height is required.
 - c. A maximum Floor Space Ratio of 8.0 whereas a maximum Floor Space Ratio of 4.0 is permitted.
 - d. A minimum landscape area of 5% whereas a minimum area of 10% is required.

POLICY FRAMEWORK

Provincial Planning Statement

12. The Provincial Planning Statement 2024 (the 'PPS 2024') provides policy direction on matters of provincial interest related to land use planning and development. The PPS 2024 recognizes that Ontario's land use planning framework, and the decisions that are made, shape how our communities grow and prosper.
13. The PPS 2024 is supportive of promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term by accommodating an appropriate range and mix of housing options and densities required to meet projected requirements of current and future residents.
14. When considering development applications, the PPS requires that Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents of the regional market area. This is accomplished by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents. And by permitting and facilitating all types of residential intensification.
15. The PPS identifies 'Strategic Growth Areas' and encourages Planning authorities to identify and focus growth in those areas. Strategic Growth Areas should be planned to accommodate significant population and employment growth, to be focal areas for education, commercial, recreational and cultural uses, to accommodate and support the transit network, and to support affordable, accessible, and equitable housing.

City of Kitchener Official Plan

16. The Subject Lands are identified as being within a Protected Major Transit Station Area as part of the City's Urban Structure, as shown on Map 2 of the City's Official Plan.
17. Section 3.C.2 of the City's Official Plan identified that "*the Urban Structure is composed of Intensification Areas which include the Urban Growth Centre (Downtown), Protected Major Transit Station Areas, City Nodes, Community Nodes, Neighbourhood Nodes, Urban Corridors and Arterial Corridors. They are connected by transit corridors and the integrated transportation system which are key elements in shaping growth and built*

form. As Intensification Areas, these areas are generally intended to provide for a broad range and mix of uses in an area of higher density and activity than surrounding areas.”

18. Objective 3.2.2 states that *“to provide a range and mix of housing, including affordable housing, employment, service, amenity and transportation options distributed and connected in a coherent and efficient manner.”*

19. Objective 3.2.4. states *“to achieve higher densities in the Intensification Areas than in surrounding areas and to locate higher densities within walkable proximity of transit stop locations.”*

20. Objective 3.2.5. states *“to maintain a compatible interface between Intensification Areas and surrounding areas and achieve an appropriate transition of built form.”*

21. Policy 3.C.2.17. states:

“The planned function of Major Transit Station Areas, in order to support transit and rapid transit, is to:

- a) provide a focus for accommodating growth through development to support existing and planned transit and rapid transit service levels;*
- b) provide connectivity of various modes of transportation to the transit system; c) achieve a mix of residential, office (including major office), institutional (including major institutional) and commercial development (including retail commercial centres), wherever appropriate; and,*
- d) have streetscapes and a built form that is pedestrian-friendly and transit oriented.*

Notwithstanding a) through d) above, Major Transit Station Areas may include lands within stable residential neighbourhoods which are not the primary focus for intensification. The planned function of these areas will be reviewed and confirmed through the course of future Station Area Planning exercises.”

22. The Subject Lands are designated High Density Commercial Residential in the Civic Centre Secondary Plan.

23. The High Density Commercial Residential designation applies to properties fronting onto Weber Street West between College Street and the St. Andrews Presbyterian Church, certain properties on the south side of Roy Street, and to certain properties on Young and College Streets south of the westerly projection of Roy Street, all as shown on Map 9 of the City’s Official Plan.

24. The aim of this designation is to recognize the proximity of the Civic Centre Neighbourhood to the higher intensity land uses of the Downtown, and the location of

the properties on Primary Roads. High Density Commercial Residential designation permits a range of uses, including free standing multiple residential buildings at a maximum Floor Space Ratio (“FSR”) of 4.0.

City of Kitchener Zoning By-law

25. The Subject Lands are zoned Commercial Residential Three (CR-3) Zone in Zoning By-law 85-1. The CR-3 zone permits a range of commercial and residential uses.

26. The Subject Lands are not in Zoning By-law 2019-051 and were excluded from recent amendments to the Official Plan and Zoning Bylaw 85-1 and Zoning By-law 2019-051 to implement PMTSA land use planning framework, as these lands remain under appeal with the proposed Official Plan Amendment and Zoning By-law Amendment applications.

PLANNING OPINION IN RESPONSE TO ISSUES

Issue 2a): Are the proposed Official Plan Amendment and Zoning By-law Amendment applications (the proposed applications) consistent with the PPS 2024, including but not limited to, sections 2.1.3, 2.1.4, 2.1.6 a), 2.2.1, 2.3.1, 2.4.1, 2.4.2.3, 4.6.1, 4.6.3, 6.1.1, 6.1.5, 6.1.6, 6.1.7, 6.1.11, and 6.1.12?

27. The PPS 2024 was issued by the Minister of Municipal Affairs and Housing under Section 3 of the Planning Act and came into effect on October 20, 2024. In respect of the exercise of any authority that affects a planning matter, section 3(5) of the Planning Act requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act.

28. Policy 2.1.3 of the PPS 2024 speaks to sufficient land being made available to accommodate an appropriate mix and range of land uses.

29. Policy 2.1.3 states “*At the time of creating a new official plan and each official plan update, sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected needs for a time horizon of at least 20 years, but not more than 30 years, informed by provincial guidance. Planning for infrastructure, public service facilities, strategic growth areas and employment areas may extend beyond this time horizon. Where the Minister of Municipal Affairs and Housing has made a zoning order, the resulting development potential shall be in addition to projected*

needs over the planning horizon established in the official plan. At the time of the municipality's next official plan update, this additional growth shall be incorporated into the official plan and related infrastructure plans."

30. The proposed planning applications represent infill development and do not contemplate making additional land available through an Official Plan update.

31. Policy 2.1.4 of the PPS 2024 speaks to providing for an appropriate range and mix of housing options and densities.

32. Policy 2.1.4 of the PPS 2024 states "*To provide for an appropriate range and mix of housing options and densities required to meet projected requirements of current and future residents of the regional market area, planning authorities shall:*

- a. maintain at all times the ability to accommodate residential growth for a minimum of 15 years through lands which are designated and available for residential development; and*
- b. maintain at all times where new development is to occur, land with servicing capacity sufficient to provide at least a three-year supply of residential units available through lands suitably zoned, including units in draft approved or registered plans."*

33. In my professional opinion, the proposed applications are not consistent with this policy.

The way in which a planning authority can provide for an appropriate range and mix of housing options and densities is to identify different parcels of land for different housing densities and apply policies to regulate those densities based on the context of the lands and their ability to contain density, factored by specific parameters such as lot size and surrounding context. The policy direction of Policy 2.1.4 is largely implemented through existing Official Plan policies and Zoning By-law regulations in effect as outlined below. The proposed applications do not evaluate the context of the lands when attempting to establish an appropriate building height, placement, and scale of massing. Therefore, it is my opinion that the proposed applications are not consistent with Policy 2.1.4 of the PPS 2024.

34. Policy 2.1.6a) of the PPS 2024 speaks to supporting the achievement of complete communities by accommodating an appropriate mix of land uses, housing options, etc. to meet long term needs.

35. Policy 2.1.6.a) of the PPS 2024 states "*Planning authorities should support the achievement of complete communities by:*

- a. *accommodating an appropriate range and mix of land uses, housing options, transportation options with multimodal access, employment, public service facilities and other institutional uses (including schools and associated child care facilities, longterm care facilities, places of worship and cemeteries), recreation, parks and open space, and other uses to meet long-term needs.”*

36. In my professional opinion, the proposed applications are not consistent with this policy.

The policy speaks specifically to an appropriate range and mix of housing options. This suggests that a complete community is to be achieved by evaluating land uses, including site specific development applications, that assess where density and different intensities of housing options are appropriate to be located given their context. In my opinion, planning authorities have the responsibility to evaluate lands through the implementation of policy documents, including an Official Plan and Zoning By-law, as well as through site specific development application to determine which lands are better suited for tall buildings of a certain scale, whereas other lands are better suited for medium density, and some lands are better suited for low density based on a number of contextual factors.

37. Policy 2.2.1 of the PPS 2024 speaks to providing for an appropriate range and mix of housing options and densities, by establishing minimum targets for provision of affordable housing, permitting a facilitating all housing options and all types of residential intensification, promoting densities for new housing which efficiently uses land, and requiring transit supportive development.

38. Specifically, Policy 2.2.1 of the PPS 2024 states: *“Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents of the regional market area by:*

- a. *establishing and implementing minimum targets for the provision of housing that is affordable to low and moderate income households, and coordinating land use planning and planning for housing with Service Managers to address the full range of housing options including affordable housing needs;*
- b. *permitting and facilitating:*
 1. *all housing options required to meet the social, health, economic and wellbeing requirements of current and future residents, including additional needs housing and needs arising from demographic changes and employment opportunities; and*

2. all types of residential intensification, including the development and redevelopment of underutilized commercial and institutional sites (e.g., shopping malls and plazas) for residential use, development and introduction of new housing options within previously developed areas, and redevelopment, which results in a net increase in residential units in accordance with policy 2.3.1.3;

- c. promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities, and support the use of active transportation; and*
- d. d) requiring transit-supportive development and prioritizing intensification, including potential air rights development, in proximity to transit, including corridors and stations.”*

39. In my professional opinion, the proposed applications are not consistent with this policy.

While the promotion of residential intensification can include development applications to increase density, any increased density and resulting buildings and structures need to be at an appropriate scale and density in order to meet the social, health, economic and well-being requirements of current and future residents. The proposed applications contemplate a height and density that will, in my opinion, cause adverse impacts to abutting lands and therefore do not meet the health and well-being requirements of current and future residents. The policy also speaks to promoting densities to efficiently use land and resources. In my opinion, the efficient use of land applies to the area as a whole and should not be narrowly focused on the subject lands. The potential overdevelopment of the subject lands could affect the viability of efficient and orderly development on surrounding adjacent lands, although redevelopment potential of 18 and 28 Weber Street West is somewhat limited, and could have negative impacts on the overall efficient use of land and resources when assessing the best use of each parcel in the immediate area.

40. Policy 2.3.1 of the PPS 2024 speaks to general policies for settlement areas. While intensification and redevelopment are encouraged, it shall be based on local conditions.

41. Policy 2.31 of the PPS 2024 states

“1. Settlement areas shall be the focus of growth and development. Within settlement areas, growth should be focused in, where applicable, strategic growth areas, including major transit station areas.

2. Land use patterns within settlement areas should be based on densities and a mix of land uses which:

- a) efficiently use land and resources;*
- b) optimize existing and planned infrastructure and public service facilities;*
- c) support active transportation;*
- d) are transit-supportive, as appropriate; and*
- e) are freight-supportive.*

3. Planning authorities shall support general intensification and redevelopment to support the achievement of complete communities, including by planning for a range and mix of housing options and prioritizing planning and investment in the necessary infrastructure and public service facilities.

4. Planning authorities shall establish and implement minimum targets for intensification and redevelopment within built-up areas, based on local conditions.

5. Planning authorities are encouraged to establish density targets for designated growth areas, based on local conditions. Large and fast-growing municipalities are encouraged to plan for a target of 50 residents and jobs per gross hectare in designated growth areas.

6. Planning authorities should establish and implement phasing policies, where appropriate, to ensure that development within designated growth areas is orderly and aligns with the timely provision of the infrastructure and public service facilities.”

42. In my professional opinion, the proposed applications are not consistent with this policy.

The local conditions should direct the general policies that regulate the use, density, building placement, and other factors in order to mitigate potential impacts to surrounding lands and existing context. Further, it is my opinion that the subject lands can be redeveloped with a development concept that is less dense and respects the context of the abutting low-rise residential uses through adequate transition of height and massing. The proposed applications represent a height and density that exceeds what is appropriate based on local conditions.

43. Policy 2.4.1 of the PPS 2024 speaks to general policies for strategic growth areas.

Strategic growth areas are to be focal points of intensification. Sub-policy 2.4.1.3b)

states that planning authorities should identify the appropriate type and scale of development in strategic growth areas and the transition of built form to adjacent areas.

44. Policy 2.4.1 of the PPS 2024 states:

“1. Planning authorities are encouraged to identify and focus growth and development in strategic growth areas.

2. To support the achievement of complete communities, a range and mix of housing options, intensification and more mixed-use development, strategic growth areas should be planned:

a) to accommodate significant population and employment growth;

b) as focal areas for education, commercial, recreational, and cultural uses;

c) to accommodate and support the transit network and provide connection points for inter- and intra-regional transit; and

d) to support affordable, accessible, and equitable housing. 9 Provincial Planning Statement, 2024

3. Planning authorities should:

a) prioritize planning and investment for infrastructure and public service facilities in strategic growth areas;

b) identify the appropriate type and scale of development in strategic growth areas and the transition of built form to adjacent areas;

c) permit development and intensification in strategic growth areas to support the achievement of complete communities and a compact built form;

d) consider a student housing strategy when planning for strategic growth areas; and

e) support redevelopment of commercially-designated retail lands (e.g., underutilized shopping malls and plazas), to support mixed-use residential.”

45. In my professional opinion, the scale and transition that is contemplated in the proposed applications are not appropriate and are not consistent with this policy. In the City's Council-approved Strategic Growth Area zoning (not applicable to the subject lands due to current appeal of the implementing zoning by-law), the transition regulation restricts building heights to 30 metres within 30 metres, and 20 metres within 15 metres, of a lot with a low-rise residential zone or low rise growth zone. The proposed applications would not meet both of those transition requirements, as the tower portion of the building is 58.6 metres tall within 14.6 metres that abutting lot line. When evaluating this policy of the PPS 2024, it is prudent to consider the transition policies within the Council-

approved zoning for strategic growth areas. The proposed applications are not consistent with this policy in my opinion.

46. Policy 2.4.2.3 of the PPS 2024 states that planning authorities are encouraged to promote development and intensification within major transit station areas including supporting the redevelopment of surface parking lots, where appropriate.
47. In my professional opinion, intensification and redevelopment of surface parking lots are encouraged, but the inclusion of the phrase “where appropriate” contends that site context, surrounding uses, and presence of existing features such as the Civic Centre Neighbourhood Heritage Conservation District would determine which locations and what sites are appropriate for certain types of development and intensification. The current land use designation and zoning permit infill development at a scale that can be appropriately transitioned to the adjacent low rise heritage conservation district.
48. Policy 6.1.1 of the PPS 2024 states “*that the PPS shall be read in its entirety and all relevant policies are to be applied to each situation.*” In my opinion, it is important to consider all policies in the PPS 2024, including policies above referencing local context. It is not appropriate to interpret the PPS 2024 to mean that all lands in all intensification areas can be developed to any density and scale and not have regard for other factors, including other policy direction within the PPS 2024, such as cultural heritage conservation and compatibility.
49. Policy 6.1.5 of the PPS 2024 speaks to official plans and states “*Official plans shall identify provincial interests and set out appropriate land use designations and policies. Official plans shall provide clear, reasonable and attainable policies to protect provincial interests and facilitate development in suitable areas. In order to protect provincial interests, planning authorities shall keep their official plans up-to date with the Provincial Planning Statement. The policies of the Provincial Planning Statement continue to apply after adoption and approval of an official plan.*”
50. The City of Kitchener Official Plan has not been updated since the PPS 2024 came into effect in October 2024. In my professional opinion, Policy 6.1.5 of the PPS 2024 contains the language “in suitable areas” in relation to facilitating development because it recognizes that there are some areas that have specific context and existing factors that may not make them suitable for all kinds of redevelopment. In my professional opinion, the proposed applications are not consistent with this policy as they do not consider the development in the context of being within suitable areas.

51. Policy 6.1.6 of the PPS 2024 speaks to Zoning By-laws and states “*Planning authorities shall keep their zoning and development permit by-laws up-to-date with their official plans and the Provincial Planning Statement by establishing permitted uses, minimum densities, heights and other development standards to accommodate growth and development.*”
52. The current Zoning By-law regulations (CR-3 zone, Section 46 in Zoning by-law 85-1) for the Subject Lands establish permitted uses, minimum densities (minimum Floor Space Ratio of 1.0), maximum heights through setback regulations and maximum floor space ratio regulations, and other development standards. In my professional opinion, the current zoning contains development standards that accommodate an appropriate level of development and guide the planned function of the area with those specific development standards.
53. Policy 6.1.7 of PPS 2024 states “*Where a planning authority must decide on a planning matter before their official plan has been updated to be consistent with the Provincial Planning Statement, or before other applicable planning instruments have been updated accordingly, it must still make a decision that is consistent with the Provincial Planning Statement.*” In my professional opinion, the application is not consistent with the Provincial Planning Statement for the reasons mentioned in paragraphs 28-53 of this witness statement.
54. Policy 6.1.11 of PPS 2024 states: “*Strategic growth areas and designated growth areas are not land use designations and their delineation does not confer any new land use designations, nor alter existing land use designations. Any development on lands within the boundary of these identified areas is still subject to the relevant provincial and municipal land use planning policies and approval processes.*” In my opinion, the proposed applications do not conform to the Official Plan. The requested amendments to the regulations of the Zoning By-law for maximum floor space ratio, minimum front and rear yard setbacks, and minimum landscaped area would permit a development that would not be in conformity with the entirety of the PPS 2024. Existing land use permissions, including land use designation in the Official Plan and zoning by-law regulations, permit development of the lands with an appropriate scaled development that implements the policies direction of the PPS 2024 for the PMTSA strategic growth area.
55. Policy 6.1.12 of the PPS 2024 states that “*density targets represent minimums and planning authorities are encouraged to go beyond the minimum targets, where*

appropriate, except where doing so would conflict with any policy of the Provincial Planning Statement or any other provincial plan.” In my professional opinion, the site context of the subject lands being adjacent to an existing low-rise residential neighbourhood and the Civic Centre Neighbourhood Heritage Conservation District, means that exceeding minimum targets would not be appropriate for the proposed applications and would conflict with other policies of the PPS 2024 that speak to appropriate redevelopment.

Issue 5: Regional Official Plan (ROP). Do the proposed applications conform to the Urban Area Development policies in chapter 2.D (2.D.1, 2.D.2, 2.D.6, 2.D.10)?

56. Policy 2.D.1 of the ROP contains general development policies in urban areas. Sub policy (f) of the ROP speaks to area municipalities ensuring that development is planned and developed to respect the scale, physical character, and context of established neighborhoods where reurbanization is to occur.
57. Policy 2.D.2 of the ROP contains Transit Oriented Development policies that encourage area municipalities to consider Transit Oriented Development provisions in reviewing development applications on or near sites that are served by existing rapid transit.
58. Policy 2.D.6 of the ROP contains policies for Major Transit Station Areas. MTSAs are to achieve increased densities to support rapid transit service and a mix of residential, office, institutional, and commercial uses where appropriate.
59. Policy 2.D.10 of the ROP states that until the area municipality has established policies for its MTSAs, development applications shall be reviewed with the Transit Oriented Development provisions in policy 2.D.2.
60. In my professional opinion, the proposed applications do not conform to the Urban Area Development policies in the ROP as the proposed building height, massing, and resulting built form proposed through the applications do not respect the scale, physical character, and context the adjacent established neighbourhood. The zoning by-law regulates overall massing, building location, and height with the intention to regulate a development to ensure an appropriate scale on the subject lands which respects the surrounding context. Further it is my opinion that while some form of medium and high density development on the Subject Lands may be appropriate if designed to conform to the City's Official Plan and Regional Official Plan, Zoning By-law, the Civic Centre Neighbourhood Heritage Conservation District Plan, and Urban Design Manual, the

scale that the proposed applications exceeds what can be considered appropriate and compatible. ROP Policy 2.D.1 clearly directs the City to implement policies to ensure that development is planned which respects the scale, physical character, and context of established neighborhoods.

Issue 6: Do the proposed applications conform to the Liveability in Waterloo Region policies in chapter 3 (3.A, 3.B, 3.C, 3.G.1, 3.G.6)?

61. Policy 3.A speaks to a range and mix of housing and Policy 3.A.2 states that “*Area Municipalities will plan to provide an appropriate range of housing in terms of form, tenure, density and affordability to satisfy the various physical, social, economic and personal support needs of current and future residents.*”
62. In my professional opinion, the proposed applications do not conform to policy 3.A of the Liveability in Waterloo Region policies as the proposed building height, massing, and scale do not represent an appropriate form or scale of density on the subject lands. While this policy directs municipalities to provide for an “appropriate range” of housing, this should not be narrowly applied to mean all lands with a strategic growth area will be planned for a complete range of density – land use permissions must be based on local context as required by the PPS. This site has contextual features, namely the abutting rear lot line to the existing low-rise residential neighbourhood, that limits the type of housing density permitted in close proximity to that abutting lot line which is reflected in the current zoning regulations. The proposed applications do not meet the criterion of being “appropriate” when considering the proposed location and massing of tower in proximity to the rear lot line.
63. Policy 3.B of the ROP speaks to walking and cycling. Walking and cycling are encouraged through the provision of facilities whenever feasible. In my professional opinion, the proposed applications conform to policy 3.B of the Liveability in Waterloo Region policies.
64. Policy 3.C of the ROP speaks to Transportation Demand Management. These policies strive to reduce demand for roadways and motor vehicles and reduce the total number of automobile trips. The proposed development and proposed applications do not contain automobile parking on-site and bicycle parking is provided at 1 space per unit. In my professional opinion, the proposed applications conform to policy 3.C of the Liveability in Waterloo Region policies in the ROP as the subject lands are within the

PMTSA strategic growth area, no significant automobile trips will be generated as a result of the development, and bicycle parking will be provided to support active transportation.

Issue 9: Kitchener Official Plan. Do the proposed applications conform to the Urban Structure policies in Part C (3.C.2.9, 3.C.2.10, 3.C.2.17, 3.C.2.20, and 3.C.2.22)?

65. Policy 3.C.2.9 of the Kitchener Official Plan speaks to a high level of urban design for development, and that the City may impose regulations to control the massing and placement of buildings.

66. Policy 3.C.2.10 of the City of Kitchener Official Plan speaks to development of mixed use lands and provision of commercial development to meet future growth needs.

67. City of Kitchener Official Plan Policy 3.C.2.17. states

“The planned function of Protected Major Transit Station Areas, in order to support transit and rapid transit, is to:

- a) provide a focus for accommodating growth through development to support existing and planned transit and rapid transit service levels;*
- b) provide connectivity of various modes of transportation to the transit system;*
- c) achieve a mix of residential, office (including major office), institutional (including major institutional) and commercial development (including retail commercial centres), wherever appropriate; and,*
- d) have streetscapes and a built form that is pedestrian-friendly and transit oriented.*

Policies a) through d) above should not be interpreted to mean that every property located within a Protected Major Transit Station Area is necessarily appropriate for major intensification. [emphasis added]

68. Policy 3.C.2.17 of the City of Kitchener Official Plan states that *“it should not be interpreted to mean that every property located within a Protected Major Transit Station Area is necessarily appropriate for major intensification”*. This suggests that factors such as lot size and the surrounding context can determine if sites are able to facilitate certain scales or intensities of development without causing adverse impacts. The proposed applications do not adequately recognize the unique characteristics of the subject lands including the lot size and the proximity to adjacent low-rise lands to the north.

69. Policy 3.C.2.20 of the City of Kitchener Official Plan speaks to Station Area Plans. Station Area Plans shall define the areas boundaries, unique characteristics, development concepts, minimum density requirements, and recommendations for land use.
70. Policy 3.C.2.22 of the City of Kitchener Official Plan speaks to if development applications are received prior to Station Area Plans being completed, they will be reviewed generally in accordance with the City's Planning Around Rapid Transit Station Areas (PARTS) project plan.
71. The proposed building placement contains massing and density that does not contribute to a high level of urban design, as the massing and scale is inappropriate for the size and context of the subject lands, and has negative impacts on the streetscape and the use and functionality of the right of way.
72. In my professional opinion, the objectives of the urban structure policies in regard to accommodating growth could be achieved on the subject lands with an alternate development proposal of a smaller scale and with better consideration of the policies ensure compatibility to abutting established neighbourhoods.

Issue 10: Kitchener Official Plan. Do the proposed applications conform to the Housing policies in Section 4 (4.C.1.7, 4.C.1.8, 4.C.1.9, 4.C.1.13, and 4.C.1.19)?

73. Policy 4.C.1.7 of the City of Kitchener Official Plan states that *"The City may require a site plan, elevation drawings, landscaping plans and any other appropriate plans and/or studies, to support and demonstrate that a proposed development or redevelopment is compatible with respect to built form, architectural design, landscaping, screening and/or buffering. These requirements are intended to address the relationship to adjacent residential development, to ensure compatibility with the existing built form and the community character of the established neighbourhood and to minimize adverse impacts."* These requirements are intended to address the relationship to adjacent residential development, to ensure compatibility with the existing built form and the community character of the established neighbourhood and to minimize adverse impacts.
74. Policy 4.C.1.8 of the City of Kitchener Official Plan states *"Where a special zoning regulation(s) or minor variance(s) is/are requested, proposed or required to facilitate residential intensification or a redevelopment of lands, the overall*

impact of the special zoning regulation(s) or minor variance(s) will be reviewed, but not limited to the following to ensure, that:

a) Any new buildings and any additions and/or modifications to existing buildings are appropriate in massing and scale and are compatible with the built form and the community character of the established neighbourhood.

b) Where front yard setback reductions are proposed for new buildings in established neighbourhoods, the requested front yard setback should be similar to adjacent properties and supports and maintain the character of the streetscape and the neighbourhood.

c) New additions and modifications to existing buildings are to be directed to the rear yard and are to be discouraged in the front yard and side yard abutting a street, except where it can be demonstrated that the addition and/or modification is compatible in scale, massing, design and character of adjacent properties and is in keeping with the character of the streetscape.

d) New buildings, additions, modifications and conversions are sensitive to the exterior areas of adjacent properties and that the appropriate screening and/or buffering is provided to mitigate any adverse impacts, particularly with respect to privacy.

e) The lands can function appropriately and not create unacceptable adverse impacts for adjacent properties by providing both an appropriate number of parking spaces and an appropriate landscaped/amenity area on the site.

f) The impact of each special zoning regulation or variance will be reviewed prior to formulating a recommendation to ensure that a deficiency in the one zoning requirement does not compromise the site in achieving objectives of compatible and appropriate site and neighbourhood design and does not create further zoning deficiencies.”

75. Policy 4.C.1.9 of the City of Kitchener Official Plan states that *"Residential intensification and/or redevelopment within existing neighbourhoods will be designed to respect existing character. A high degree of sensitivity to surrounding context is important in considering compatibility."*

76. Policy 4.C.1.13 of the City of Kitchener Official Plan states

"The City will work with the development industry and other community members to identify and encourage innovative housing types and designs in the city where such innovation would:

- a) *be compatible with surrounding land uses;*
- b) *support the development of complete communities;*
- c) *provide live/work and home occupation opportunities;* d) *incorporate energy conservation features and the use of alternative energy systems and/or renewable energy systems;*
- e) *reduce municipal expenditures*
- f) *protect natural heritage features;*
- g) *provide accessible and affordable housing to residents;*
- h) *conserve and/or enhance our cultural heritage resources;*
- i) *celebrate the cultural diversity of the community;*
- j) *be transit-supportive and/or transit-oriented; or,*
- k) *reflect, add and/or enhance architectural interest and character.”*

77. Policy 4.C.1.19 of the City of Kitchener Official Plan states *“the City will encourage and support affordable housing to locate in close proximity to public transit, commercial uses and other compatible non-residential land uses, parks and community facilities and have convenient access to community, social and health services.”*

78. In my professional opinion, the proposed applications do not meet the housing policies pertaining to redevelopment in existing neighborhoods and compatibility in the City of Kitchener Official Plan. The proposed massing, scale, and setbacks are not sensitive to the adjacent existing low-rise residential uses to the north, and do not respect existing character with the proposed building height and placement. The requested special zoning regulations to increase the Floor Space Ratio, decrease the required front and rear yard setbacks, and decrease the minimum required landscape area have potential impacts that can be considered adverse to the abutting low rise residential lands for reasons including privacy, overlook, shadow impacts, adequate building separation, functionality of building interface with the right of way, adequate on site amenity space, and transition to low-rise residential uses.

Issue 16: City of Kitchener Official Plan. Do the proposed applications conform to the Active Transportation objectives in Section 13 (13.1.1, 13.1.3)?

79. Policy 13.1.1 of the City of Kitchener Official Plan states that an objective is that City is *“to enhance the pedestrian realm in order to increase levels of convenience, comfort and safety, and encourage more pedestrian movement and trips.”*

80. Policy 13.1.3 of the City of Kitchener Official Plan states that an objective is that City will *“ensure universally accessible pedestrian elements are planned for in the development of buildings, sites, public spaces and transportation facilities.”*

81. In my professional opinion, the proposed applications do not conform to policies 13.1.1 and 13.1.3 as the proposed front yard setback of 0 metres potentially conflicts with future pedestrian or cycling facilities within the right of way, or streetscape features such as trees or street furniture, or utilities that could be located in the right of way. The required front yard setback allows sites to provide features such as ramps, railings, and canopies that assist in providing universally accessible elements within the site boundaries without encroaching into the right of way. The proposed applications do not conform to this policy, as the request for a 0 metre front yard setback does not allow for these features to be contained on site.

Issue 17: Kitchener Official Plan. Do the proposed applications conform to the Transportation policies in Section 13 (13.C.1.4.d, 13.C.1.6, 13.C.1.13, 13.C.3.12, 13.C.7.3 and 13.C.8.4)?

82. Policy 13.C.1.4 d) of the City of Kitchener Official Plan states that the City will design pedestrian-friendly streets by providing *“more visually appealing, comfortable and safe streetscapes through such means as implementing a high standard of urban design for the scale and siting of buildings; implementing a high standard of urban design for the façades and the signage addressing the street; installing street furniture and incorporating public art at priority locations; coordinating site, building and landscape design on and between individual sites; providing shade as an essential component of streetscape design; and, installing adequate lighting.”*

83. Policy 13.C.1.6 of the City of Kitchener Official Plan states that *“the City will encourage a mix of land uses to ensure that residents’ access to basic community infrastructure, amenities and services does not depend on car ownership or public transit use.”*

84. Policy 13.C.1.13 of the City of Kitchener Official Plan states that *“the City will require new, multi-unit residential, commercial, industrial, office and institutional developments to provide secure bicycle parking and will encourage, where appropriate, shower/change facilities for cycling commuters.”*

85. Policy 13.C.3.12 states

“The City will apply the following Transit-Oriented Development provisions as contained in the Regional Official Plan in reviewing development and/or redevelopment applications on or near sites that are served by existing or planned rapid transit, or higher frequency transit to ensure that development and/or redevelopment:

a) creates an interconnected and multi-modal street pattern that encourages walking, cycling or the use of transit and supports mixed use development;

b) supports a more compact urban form that locates the majority of transit-supportive uses within a comfortable walking distance of the transit stop or Protected Major Transit Station Area;

c) provides an appropriate mix of land uses, including a range of food destinations, that allows people to walk or take transit to work, and also provides for a variety of services and amenities that foster vibrant, transit-supportive neighbourhoods;

d) promotes medium and higher density development as close as possible to the transit stop to support higher frequency transit service and optimize transit rider convenience;

e) fosters walkability by creating pedestrian-friendly environments that allow walking to be a safe, comfortable, barrier-free and convenient form of urban travel;

f) supports a high quality public realm to enhance the identity of the area and create gathering points for social interaction, community events and other activities; and,

g) provides access from various transportation modes to the transit facility, including consideration of pedestrians, bicycle parking, and where applicable, passenger transfer and commuter pick-up/drop off areas.”

86. Policy 13.C.7.3 of the City of Kitchener Official Plan states that *“the City may require the incorporation of Transportation Demand Management measures.”*

87. Policy 13.C.7.4 states that *“the City will consider reduced parking requirements for development and/or redevelopment in accordance with Policy 13.C.8.2 where a comprehensive Transportation Demand Management Report is submitted to the satisfaction of the City.”*

88. Policy 13.C.8.4 of the City of Kitchener Official Plan states that *“all parking areas or facilities will be designed, constructed and maintained: to be consistent with the City’s Urban Design Manual; for the safe and efficient movement of all users, on the site, and at points of ingress and egress related to the site; so that runoff from the parking area drains properly from the site; to minimize negative impacts on the environment; to provide the required amount and design of barrier-free spaces; and, to result in*

aesthetically acceptable parking areas which blend into the general environment of the area.”

89. In my professional opinion, the proposed applications do not conform to policy 13.C.1.4 d) of the City of Kitchener Official Plan. The proposed siting of the building results in a front yard setback of 0 metres. This proposed building siting/front yard setback has the potential to conflict with future pedestrian or cycling facilities, or streetscape features such as trees or street furniture, or utilities that could be located in the right of way.

90. In my professional opinion, the proposed applications conform to policies 13.C.1.6, 13.C.1.13, and 13.C.3.12.

91. In my professional opinion, policies 13.C.7.3, 13.C.7.4, and 13.C.8.4 of the City of Kitchener Official Plan, do not apply as the Planning Act was amended through Bill 185 on June 6, 2024 that prohibits official plans and zoning by-laws from requiring minimum parking standards within a Protected Major Transit Station Area (PMTSA).

Issue 19: City of Kitchener Civic Centre Secondary Plan. Do the proposed applications conform to the General Policies in Section 13.1.1 (13.1.1.1, and 13.1.1.7)?

92. Policy 13.1.1.1 of the City of Kitchener Official Plan states that *“approval under Section 41 of the Planning Act shall be required for any development which includes redevelopment or conversions considered development under the Planning Act. It is intended that development should be of a siting and design which will be compatible with the existing development and particularly the single detached dwellings in the interior of the neighbourhood.”*

93. Policy 13.1.1.7 of the City of Kitchener Official Plan states that *“any redevelopment will take into account the limited amount of park space available within the Civic Centre Neighbourhood. All redevelopment proposals will be evaluated to determine their ability to provide parkland dedication or cash in lieu of land for park purposes under the provisions of the Planning Act. The possibility of using monies from the Park Trust Fund to acquire additional lands for park land is a comprehensive and strategic decision of Kitchener City Council that is not directly applicable to site specific applications where cash in lieu of land is provided.”*

94. In my professional opinion, the proposed applications do not conform to the general policies in section 13.1.1 of the City of Kitchener Official Plan. The siting and design of the building are not compatible with the existing development, particularly the single

detached dwellings to the interior of the neighbourhood. Siting of the building to be compatible would mean that the transition in scale should be appropriate, reasonable, and contain sufficient buffer space. The proposed applications propose a denser building that permitted, and propose to locate it closer to the existing detached dwellings to the interior of the neighbourhood than is permitted. Therefore, the proposed applications do not conform to this policy in my opinion.

95. Further, the High Density Multiple Residential land use designation (Policy 13.1.2.5) states that *“the aim of the High Density Multiple Residential designation is to recognize the existing high rise apartment buildings located at 119 College Street, 11 Margaret Avenue, 100 Queen Street North, and 175 Queen Street North, all which have been constructed in excess of 200 units per hectare. Permitted uses are restricted to multiple dwellings in excess of 200 units per hectare, home businesses, private home day care, lodging houses, parks, and large and small residential care facilities. Day care facilities are permitted provided they are on the same lot as a large multiple dwelling. The maximum floor space ratio shall be 4.0, meaning the above grade gross floor area shall not exceed 4.0 times the lot area.”*

96. In my opinion, the High Density Multiple Residential land use designation was intentionally applied to existing high rise residential buildings in the Civic Centre Neighbourhood and this was intentional to limit any further high rise residential developments.

Issue 20: City of Kitchener Civic Centre Secondary Plan. Do the proposed applications conform to the Land Use Designation policies in Section 13.1.2 (13.1.2.8)?

97. Policy 13.1.2.8 of the City of Kitchener Civic Centre Secondary Plan speaks to the High Density Commercial Residential land use designation. The High Density Commercial Residential designation permits a range of uses, including free standing multiple residential buildings at a maximum Floor Space Ratio (“FSR”) of 4.0.

98. In my professional opinion, the proposed applications do not conform to the land use designation policies in the Official Plan (Secondary Plan). The proposed applications are requesting a Floor Space Ratio of 8.0, double the maximum permitted FSR in the High Density Commercial Residential Designation. The maximum Floor Space Ratio figure is important in regulating the massing and scale of proposed buildings to ensure lands are not overbuilt, which can lead to adverse impacts to abutting lands. The size of the lands

is directly proportional to the FSR figure, as smaller sites are not able to provide as much functionality, setbacks, or buffer to adjacent sites. The requested FSR of 8.0 is indicative of too much density on a small site that has potential to cause adverse impacts to surrounding lands.

Issue 22: City of Kitchener Zoning By-law. Do the requested site specific zoning regulations address compatibility between the proposed development, the existing community, and the planned function of the immediate area, including: adequate setbacks from existing low density uses, maximum building heights and step backs regulations to regulate built form, setbacks for surface parking facilities from the public realm, as well as setbacks and step backs from other properties? Do the requested site specific zoning regulations address adequate setbacks and driveway visibility triangles?

99. The Subject Lands are currently zoned Commercial Residential Three Zone (CR-3) in City of Kitchener Zoning By-law 85-1. There are regulations for maximum Floor Space Ratio, minimum yard setbacks that directly regulate building massing, placement, and indirectly regulate building height. These measures can be considered when evaluating compatibility with surrounding lands.

100. In my professional opinion, the proposed applications do not address compatibility to the existing community, and the planned function of the immediate area. The proposed applications request site specific zoning regulations to increase the proposed Floor Space Ratio, while simultaneously decreasing the minimum required building setbacks on the front and the rear of the site, and to decrease the minimum required landscaped area.

101. In regard to Floor Space Ratio, the maximum Floor Space Ratio figure is intended to control the massing and scale of proposed buildings to ensure lands are not overbuilt, which can lead to adverse impacts to abutting lands. The massing and scale of buildings can have direct impacts on surrounding lands and by requesting to exceed the maximum by doubling the permitted Floor Space Ratio will result in a larger building floorplate, a taller building, and a building with less separation than if the maximum Floor Space Ratio was adhered to. In my professional opinion, the requested figure of an 8.0 Floor Space Ratio is not appropriate for the lands and the impacts of the larger floor plate, taller building, and less building separation will be adverse to surrounding lands.

102. In regard to front yard setback, the proposed reduction to 0 metres does not adequately provide for on-site functionality of on-site congregation areas near the entrance, or other typical front of building site functions such as bike racks, hydro transformers, entrance features etc. Rather, the proposed applications would result in a building that directly abuts the public right of way and will with site functions onto public land that is intended for public uses such as pedestrian and cycling facilities, street trees, utilities, and other infrastructure. It is my professional opinion that the request for a 0 metre front yard setback does not adequately address compatibility with the existing community.

103. In regards to rear yard setback, the proposed reduction to 14.1 metres for the tower portion of the building does not adequately provide for building separation to the existing neighbourhood to the north. Under the current zoning, the minimum rear yard setback is half the building height, which in this case for the proposed tower height would be 29.3 metres. If the proposed applications were to meet the rear yard setback requirement of half the building height it would reduce the footprint of the proposed tower considerably. The required rear yard setback of half the building height is meant to provide an angular plane direction for the relationship between the building height and the setback. Essentially, the taller the building is, the greater the setback shall be. In this case, the application represents an overbuild of the subject lands as the application is asking for both an increase in density and a decrease in setback, reducing adequate building separation, buffering, and compatibility.

104. In regards to building height, it is my professional opinion that the height of buildings is regulated a combination of the maximum Floor Space Ratio regulation and the rear yard setback regulation that requires half the building height as building separation to the rear property line. The size of any given site will dictate how tall a building can be based on how much building separation can be provided to the rear lot line using the figure of half the building height. For example, the proposed rear yard setback for the tower portion of the proposed building of 14.1 metres would facilitate a building height of 28.2 metres, whereas 58.6 metres is proposed. The building height of 28.2 metres would facilitate a tower height of approximately 8-9 storeys, whereas a tower height of 19 storeys is proposed. For these reasons, it is my professional opinion that the proposed applications represent a development concept is overbuilt for the size, context, and planned function of the subject lands.

SUMMARY OF OPINION

105. In summary, it is my opinion that the proposed development:

- Is not consistent with the policies of the Provincial Planning Statement, 2024.
- Does not conform to the policies of the Region of Waterloo Official Plan.
- Does not conform to the City of Kitchener Official Plan, and
- Does not conform to the policies of the Kitchener Civic Centre Secondary Plan.

106. It is my opinion that the site can be developed with a building of smaller scale, under the current land use designation and zoning regulations, with a more thoughtful placement to achieve compatible infill development that provides housing in this intensification area that is appropriate and compatible with the existing neighbourhood and the Civic Centre Neighbourhood Heritage Conservation District.

107. It is also my opinion that the subject lands can achieve the planned function of the PMTSA without the proposed applications. The proposed development is an overbuild of the site that will lead to incompatibility with the planned function of the adjacent Civic Centre Neighbourhood Heritage Conservation District. A mid-rise building can be easily accommodated on the site that would achieve a balance of planning interests, without compromising the planned function of adjacent lands.

APPENDIX A

CURRICULUM VITAE OF ERIC SCHNEIDER, BES, RPP, MCIP

EMPLOYMENT PROFILE

09/2021 - present Senior Planner, City of Kitchener

05/2018 – 09/2021 Planner, City of Kitchener

11/2014 – 05/2018 Technical Assistant, City of Kitchener

EDUCATION

05/2013 Bachelor of Environmental Studies, Planning Honours
 School of Planning
 University of Waterloo, Waterloo, Ontario
 Minor in Geography
 Department of Geography
 University of Waterloo, Waterloo, Ontario

PROFESSIONAL AFFILIATIONS

Registered Professional Planner, Ontario Professional Planners Institute
 Member, Canadian Institute of Planners

RELEVANT WORK EXPERIENCE

Project Manager Experience

Fence By-law Update

Project Manager responsible for updating the City of Kitchener Fence By-law (under municipal code). Included leading public engagement, evaluating survey results, and presenting recommendation to Committee and Council.

Planning Application Experience

Official Plan and Zoning By-law Amendment Applications

File lead on several Zoning By-law amendment and Official Plan Amendment applications for the City of Kitchener. Present and answer questions representing the Planning Division at Committee and Council meetings.

Residential Subdivision

File lead on residential subdivision modifications and registrations in the City of Kitchener.

Site Plan Approval

File lead on over 120 formal site plan applications which have varied in complexity from commercial or industrial developments, low rise multiple dwellings, to dense mixed use high rise developments.

Plans of Condominium

File lead for over 20 plans of condominium, including standard, common element, vacant land, conversion and amalgamation applications. Experience with residential, commercial, and mixed-use condominiums.

Demolition Control

File Lead for over 40 Demolition Control applications for the City of Kitchener.

Committee of Adjustment

File Lead responsible for making recommendations to the Committee of Adjustment on consent and minor variances applications for the City of Kitchener for over 150 applications. Experience with recommendations to Committee for expansions of a legal non-conforming use through Section 45 of the Planning Act.

Other Related Experience**Customer Inquiries**

Customer Service experience as a Technical Assistant providing planning advice to customers in person at the counter, by email, or over the phone on behalf of the Planning Division for the City of Kitchener. Customer Service Representative providing guidance to customers in filing planning applications by answering their questions, interpreting the Official Plan and Zoning Bylaw, and informing the customer of how the polices apply to their specific property - Reviewer of planning applications at the counter to ensure completeness.

Neighbourhood Meeting Facilitator

Acted as meeting facilitator for over 30 neighbourhood meetings. Facilitate discussion between the public, staff, and applicant. Experience in both in person and virtual neighbourhood meetings.

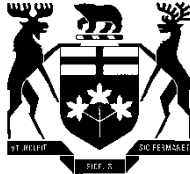
VOLUNTEER EXPERIENCE

05/2016-03/2020: City of Kitchener Wellness Committee, Member

03/2019 – present: City of Kitchener City Hall Joint Health and Safety Committee, Co-Chair

10/2022 – present: OPPI Southwest District Program Committee, Events Lead

APPENDIX B



Ontario
Ontario Land Tribunal
Tribunal ontarien de l'aménagement du territoire

Acknowledgment Of Expert's Duty

OLT Case Number	Municipality
OLT-22-002377	Kitchener

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

Date February 25, 2025

Signature