

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 PEGAH FAHIMIAN, M. Arch, MUD

Title: Senior Urban Designer
Company: The Corporation of the City of Kitchener
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A. WITNESS QUALIFICATIONS

1. I am a Senior Urban Designer within the Planning Division for the City of Kitchener. A copy of my curriculum vitae is attached. A copy of my Acknowledge of Expert's Duty Form is also attached.
2. I am responsible for providing urban design comments as well as review and approvals for a wide range of current development applications and special projects within the City of Kitchener. I review and provide approvals and clearances for Tree Management, Landscape, and Lighting plans, as well as exterior Building Elevations, wind studies and shadow studies as well as massing models associated with site plan approvals, Official Plan Amendment and Zoning By-law Amendment applications. I provide urban design comments on behalf of the City of Kitchener on all development applications.
3. I have more than 10 years of professional experience in urban design, architecture, and development planning within the private sector, including 5 years with the City of Kitchener in my current role.
4. I hold a graduate degree in Architecture from Iran University of Science and Technology and a graduate degree in Urban Design from the University of Toronto along with a Bachelor's of Science in Architecture from the Azad University of Art and Architecture, in Tehran. I am a member of the Ontario Association of Architects.

B. PURPOSE OF THE WITNESS STATEMENT

5. This witness statement has been prepared to provide background context and to address issues related to urban design on the Issues List for the City of Kitchener. My evidence concerning these issues should be considered in conjunction with the evidence presented by other City of Kitchener staff.

6. This witness statement will provide my expert opinion on the proposed development applications (proposed Official Plan Amendment and Zoning By-law Amendment applications) related to urban design matters.

C. CONTEXT AND OVERVIEW

7. The development that is the subject of the within appeal is proposed to be located on lands municipally addressed as 22 Weber Street West, and legally described as Lot 5, Plan 390, in the City of Kitchener (the “Subject Lands”)
8. The Subject Lands are located within the Civic Centre Neighborhood Heritage Conservation District and is designated under Part V of the Ontario Heritage Act, RSO 1990, c O18.
9. The Subject Lands are also located within the Civic Centre Neighbourhood Cultural Heritage Landscape (CHL), as identified in the City of Kitchener Cultural Heritage Landscape Study, dated December 2024.
10. The Subject Lands are currently used as a surface parking lot.
11. The Subject Lands are designated High Density Commercial Residential in the City of Kitchener 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.
12. The proposed zoning by-law amendment application now requests 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.

D. SUMMARY OPINION

13. It is my professional opinion that the proposed development, Architectural Design Package, and the Urban Design Brief does not conform to the City of Kitchener Official Plan and City's Urban Design Guidelines. My evidence is limited to these criteria, while other City witnesses will address additional criteria.

E. POLICY FRAMEWORK

14. City of Kitchener Official Plan contains in-effect policies relevant to the proposed development and issues related to the urban design objectives and policies, Part C, Section 11 Urban Design.

15. The City of Kitchener Urban Design Manual, Part A, Section 9, Tall Building Guidelines is relevant to the proposed development and issues related to the built form, physical separation, height, transition and compatibility.

F. APPLICATIONS SUBMITTED BY THE PROPONENTS

16. This witness statement reviews the following reports that have been submitted and/or revised by the Applicant:

- a) Urban Design Brief, MHBC, submitted July 2020, revised December 2021
- b) Architectural floor plan and rendering, VG Architects, September 2024
- c) Revised Site plan, VG Architect, January 2025
- d) Pedestrian Wind Study Addendum Letter (RWDI, December 4, 2024)

ISSUES AND OPINIONS

City of Kitchener Official Plan

Issue #9: 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)?

17. The City of Kitchener's Official Plan Urban Structure policies in Part C (3.C.2.9), include objectives and policies related to appropriate urban design requirements, affecting but not limited to site landscaping, as well as the massing and placement of buildings.

18. In my professional opinion, the proposed development does not meet the required built form and massing standards for tall building design, particularly regarding tower placement, setbacks, and site landscaping, all as further elaborated upon below. As such, the proposed development does not conform with Section 3.C.2.9 of the Urban Structure Policies in Part C.

Issue #10: 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)?

19. The City of Kitchener Official Plan objectives and policies in Section 4 (4.C.1.7, 4.C.1.8, 4.C.1.9) require that any new buildings, additions, or modifications to existing buildings be appropriate in massing and scale, compatible with the built form and community character of the established neighborhood, and in accordance with Section 11 of this Plan, the City's Urban Design Manual, and any site-specific Urban Design Brief or Urban Design Report. Additionally, these policies require that the lands function appropriately and do not create unacceptable adverse impacts on adjacent properties.

20. In my professional opinion, the proposed development does not conform with the maximum height permitted under the current and proposed (under appeal) zoning regulations for adjacent properties along Weber Street and lacks a proper transition to the adjacent low-rise heritage conservation district to the rear, making it incompatible with the existing and future built form along Weber Street West and the existing built form in the adjacent heritage conservation district. Furthermore, the proposed development does not meet the required setbacks and physical separation, which could constrain potential development (rear yard additions, etc.) on adjacent properties. While complete redevelopment of 18 and 28 Weber Street West is not anticipated given the existing designated buildings, each rear yard could have some potential for a building addition.

Issue #11: Do the proposed applications conform to the Private Greenspace and Facilities policies in Section 8 (8.C.1.21 and 8.C.1.23)?

21. The City of Kitchener Official Plan policies 8.C.1.21 and 8.C.1.23 outline objectives that promote on-site recreation facilities and usable greenspace areas in multiple housing developments and affordable housing developments, particularly in multiple dwelling and cluster townhouse developments.

22. According to the City of Kitchener Urban Design Manual, Part C, Sections 11 and 12, the required outdoor amenity area is calculated as:
 $(2 \text{ sq.m} \times \# \text{ units}) + (2.5 \text{ sq.m} \times \# \text{ bedrooms} - \# \text{ units}) = \text{outdoor amenity space}$. The amenity space should be of high quality and should connect to the building.
23. Based on the site plan provided (dated Jan 22, 2025) showing 168 one bedroom units, the required amenity area would be 588 square metres based on the calculation of $(2 \text{ sq.m} \times 168 \text{ units}) + (2.5 \text{ sq.m} \times 168 \text{ bedrooms} - 168 \text{ units})$.
24. Only an indoor amenity room of approximately 50 square metres is shown on the site plan on the ground floor. A 4 square metre and 39 square metre landscape areas are shown on the site plan which are not suitable for outdoor amenity space. The total landscape area is 71 square metres (5.44% of the lot), including a narrow interior side yard that is not suitable for outdoor amenity space.
25. The proposed development does not show any rooftop, outdoor, or at-grade amenity space. In my professional opinion, the proposed development does not meet the required landscaped area and outdoor amenity areas outlined in Official Plan Section 8 and the Urban Design Manual, Part C, Sections 11 & 12.

Issue #12: Do the proposed applications conform to the Urban Design objectives in Section 11 (11.1.1 through 11.1.8)?

Issue # 13: Do the proposed applications conform to the Urban Design policies in Section 11 (11.C.1.4, 11.C.1.11, 11.C.1.12, 11.C.1.21, 11.C.1.29, 11.C.1.30, 11.C.1.31, 11.C.1.32, and 11.C.1.33).

26. The City of Kitchener Official Plan objectives and policies require a built environment of human scale that respects and enhances cultural heritage resources, natural heritage features, community character, and the streetscape. OP objectives 11.1.2 - 11.1.8 and subsections 11.C.1.4, 11.C.1.11, 11.C.1.12, 11.C.1.21, 11.C.1.29, 11.C.1.30 (site design), and 11.C.1.31 (building design, massing, and scale design), 11.C.1.32, and 11.C.1.33 apply. Furthermore, development and infrastructure projects should be carefully designed to minimize and mitigate potential adverse impacts on surrounding land uses, the built environment, and natural environments.
27. The appropriateness of a tower will partly depend on site size, shape, and orientation, and whether it can achieve good separation and compatibility while mitigating unwanted impacts. The proposed building, due to its height, mass, and proximity to the right-of-way (ROW), will create an enclosed streetscape that hinders sky views and results in an

overwhelming scale in the public realm. According to the Tall Building Design Guidelines found in section 9 of the City's Urban Design Manual, the proposed development does not meet the target for physical separation, and as a result, it does not demonstrate compatibility with its surroundings.

28. In my professional opinion, the proposed development does not meet the required separation. Overall, the proposed development has not been carefully sited, massed or designed to feature a thoughtful landscape, public realm or built form which is intentionally designed to make positive contributions to city-building in this part of the city. Also, the proposed tower would significantly restrict and negatively impact the ability of the remainder of the block to be developed in a way that aligns with the vision the city has for this neighborhood.

Issue #16: Do the proposed applications conform to the Active Transportation objectives in Section 13 (13.1.1, and 13.1.3)?

29. According to City of Kitchener Official Plan Policy 13.C.1.4.d, the City will design pedestrian-friendly streets by providing more visually appealing, comfortable, and safe streetscapes through means such as coordinating site, building, and landscape design on and between individual sites.
30. In my professional opinion, the proposed building, due to its height, mass, insufficient setback from the base, and proximity to the right-of-way (ROW), will create an enclosed streetscape that obstructs sky views and results in an overwhelming scale within the public realm. As a result, it does not contribute to the streetscape and does not conform to City of Kitchener Official Plan Policy 13.C.1.4.d.

Issue #17: 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)?

31. According to Policy 3.2.5 of the City of Kitchener Official Plan, new development should maintain a compatible interface between Intensification Areas and surrounding areas, achieving an appropriate transition of built form.
32. In my professional opinion, the proposed tower does not meet the required setbacks or provide an appropriate transition to the adjacent low-rise built form in the heritage conservation district which is an area that is planned for significant change over time. As

such, it does not conform with City of Kitchener Official Plan Policy 3.2.5 regarding the appropriate transition of built form.

Kitchener Urban Design Manual

Issue # 23: What weight should be given to the Kitchener Urban Design Manual?

33. A high-rise building is defined in the City of Kitchener's Official Plan as any building that is nine (9) storeys or more, and lays the policy groundwork for the consideration of urban design in the development application process, including at the official plan amendment and zoning by-law amendment stages of the process. The Council-approved urban design guidelines should be applied, as they are officially endorsed by City of Kitchener City Council and must be implemented in order to give effect to the City of Kitchener's Official Plan.
34. It is the City of Kitchener's intention to use the Tall Building Design Guidelines found in the Urban Design Manual to foster constructive discussions and provide a framework for evaluating individual site constraints, broader contexts, and design aspirations.
35. The Tall Building Design Guidelines are part of the Council approved Urban Design Manual and are used and applied to all tall buildings in the City of Kitchener.
36. In my opinion, significant consideration needs to be given to Council approved policy direction when reviewing development applications.
37. Further, if the Urban Design Manual is not considered at the official plan amendment and zoning by-law amendment stage, the Tribunal could approve zoning regulations for the Subject Lands that make it impossible for the urban design guidelines to be implemented at the site planning stage under Section 41 of the Planning Act, R.S.O. 1990, c. P.13. While not all urban design considerations need to be settled at the zoning stage, they do need to be considered as a threshold matter to ensure that any approved development can be approved at all subsequent stages of development.

Issue # 24 : Does the proposed development complement the adjacent built form through compatible height, scale, massing, and materials?

38. According to Section 9.3.3 of the Tall Building Design Guidelines within the Urban Design Manual, it is my professional opinion that the proposed 19-storey tower is not compatible and does not conform to the Guideline requirement regarding physical

separation. Additionally, it has an adverse impact on the low-rise and adjacent properties located on the east and west sides.

39. The proposed development should be designed to minimize its impact on adjacent properties. Both 18 Weber Street West and 28 Weber Street West have potential for modest future development, within the current and proposed (under appeal) zoning. Decisions on the Subject Lands should not limit the existing and proposed (SGA-2 zoning under appeal) development potential of adjacent lands along Weber Street West.
40. The adjacent properties are zoned SGA-2 (under appeal), which allows a maximum building height of eight (8) storeys. The proposed tower is nearly 2.3 times taller than the maximum height permitted for this section of Weber Street. Given the policy direction in the Civic Center Neighbourhood Heritage Conservation District, the 19-storey building does not conform with the planned function of the heritage conservation district and will impact the viewshed from Weber Street West.

Issue # 26: Does the proposed development achieve sufficient transition to the adjacent existing and planned built form of the adjacent properties? Is there a suitable transition in scale, massing, building height, building length and intensity through setbacks, stepbacks, landscaping, and compatible architectural design/material selection?

41. In my professional opinion, the proposed additional height does not contribute to the surrounding uses or the cultural heritage context.
42. In my professional opinion, the proposed tower does not provide an appropriate transition to the existing low-rise development directly adjacent to the site. Further setbacks or buffering should be considered for this location.
43. The 45-degree angular plane is used as a compatibility test for sites adjacent to low-rise or heritage conservation districts. The submitted angular plane analysis does not meet this requirement and, as a result, fails to provide the necessary transition.

Issue # 27: Does the proposed development meet the tower separation guidelines for a Tall Building?

44. The City of Kitchener Urban Design Manual Part A Section 9 contains direction regarding massing, built form, setback, physical separation, height, transition, overlook, and compatibility.

45. Physical separation is the measured setback in meters from a tall building tower's face to its side and rear property lines, or to the centerline of an abutting lane.
46. Physical separation is calculated by multiplying the building's height by the tower length and dividing by 200. The required physical separation is:

$$33.68 \text{ m} \times 58.6 \text{ m} / 200 = 9.8 \text{ m (Required Physical Separation)}$$
47. According to Section 9.2.0 of the Tall Building Design Guidelines (Placement), the proposed tower includes a setback from the base podium; however, the upper-floor balconies project outward, which does not mitigate the visual and physical impact of the tower on the public realm.
48. Towers must demonstrate compatibility with their surroundings and transition in height and scale through appropriate design of the proposed project's built form. Since the proposed development does not allow for an appropriate transition between a tower and low-rise neighbourhood, the Subject Lands may not be suitable for a tall building in general, and is not suitable for this specific proposed development.
49. In my professional opinion, the proposed development must fully meet the Tall Building Guidelines, specifically regarding separation, as these guidelines serve as an excellent compatibility test for a proposed development that is exceeding zoning permissions. The tower separation distance for the proposed tower is estimated to be 9.8 m. However, the proposed tower is deficient, showing only 6.8 m on the east side and 4.1 m on the west side.

Issue # 28: Does the proposed development exceed the target overlook guidelines for a Tall Building?

50. In my professional opinion, the proposed development does not meet the required target for physical separation, which may lead to overlook issues if adjacent sites on Weber Street West are further developed.
51. If the same setback and separation are applied to the adjacent property at 28 Weber Street West, there will be a complete overlook, with only a few metres between buildings.
52. Where a tower does not meet its target for overlook, mitigating design techniques should be employed, such as exceeding the target for physical separation, maximizing perceived space between towers through creative tower shape, placement, and orientation, utilizing innovative balcony and unit layouts to enhance privacy, and/or

increasing the difference in relative height. The proposed development concept provided does not adequately demonstrate conformity in this regard.

Issue # 30: Does the proposed development include a sufficient shared outdoor amenity area?

53. According to the Urban Design Manual, Part C, Sections 11 and 12, the required outdoor amenity area is calculated as:

$(2 \text{ sq.m} \times \# \text{ units}) + (2.5 \text{ sq.m} \times \# \text{ bedrooms} - \# \text{ units}) = \text{outdoor amenity space}$. The amenity space should be of high quality and should connect to the building.

54. The proposed development does not show any rooftop outdoor or at-grade amenity space. In my professional opinion, the proposed development does not meet the required landscaped area and outdoor amenity areas outlined in Official Plan Section 8 and the Urban Design Manual, Part C, Sections 11 & 12.

55. While final amenity space and landscape areas will be further confirmed through the site planning stage in accordance with Section 41 of the Planning Act, R.S.O. 1990, c. P.13, a reduction of the minimum landscaped area is requested with the zoning by-law amendment application.

56. Further, while detailed calculations for amenity areas are determined through the site plan stage, the requested built form regulations (reduced stepbacks and setbacks) leave very little space for rooftop or outdoor amenity areas. Amenity area and landscape areas must be considered at the official plan amendment and zoning by-law amendment stage to ensure that any zoning regulations for the Subject Lands will not limit the ability to require these important site features at the site planning stage.

Issue #31: Is the proposed building height compatible and aligned with adjacent neighboring properties?

57. The adjacent lands long Weber Street West are proposed to be zoned SGA 2 (currently under appeal as of the date this witness statement is submitted) which allows maximum building height of 8 storeys. The proposed tower is almost 2.3 times higher than maximum height considered for this neighborhood. Given the direction of the Civic Centre Neighbourhood Conservation Heritage District Plan the 19-storey proposal is not aligned with the plan for this neighborhood.

58. In addition, the existing built form of the neighbourhood comprises of predominately low rise built form, with minor exceptions being 11 Margaret Avenue, 175 Queen Street North, and 119 College Street, although those existed before the neighbourhood was designated before the Civic Centre Neighbourhood Heritage Conservation District Plan came into effect.
59. While there are existing taller buildings on the opposite side of Weber Street West, those lands are outside of the heritage conservation district plan and within the Urban Growth Centre as shown in the Official Plan.
60. The proposed building height is not compatible either with the existing neighbourhood, nor is it compatible with the City's view of the neighbourhood in the future as reflected in the SGA-2 zone proposed to be imposed on the surrounding lands by City of Kitchener Zoning By-law 2024-065 which was passed by City Council, but is under appeal as of the date of this witness statement.

Issue #33: Do the proposed applications respect the Major Transit Station Area guidelines, including but not limited to the following guidelines?

- a) Compatibility (section 02.2.6, p. 5, items 2 and 4)**
- b) Cultural and Natural Heritage (section 02.2.7, p. 5, item 1)**
- c) Built Form (section 02.3.1, p. 6, items 2 and 4)**
- d) PARTS Central (section 02.4.2, p. 12, item 7)**

61. According to the Compatibility Section (Section 02.2.6) of the City's Urban Design Manual, higher-density development adjacent to established neighborhood areas must provide a suitable transition in scale, massing, building height, building length, and intensity through setbacks, landscaping, and compatible architectural design and material selection.
62. A transition in height, density, and mass between the proposed development and low-rise established neighborhoods is necessary to preserve compatibility, privacy, and access to sunlight.
63. According to the Built Form Section of the City's Urban Design Manual (Section 02.3.1): "Stepbacks should be provided for upper levels in mid-rise and tall buildings to mitigate impacts and create street-facing shared amenity spaces. All building forms must adhere to the guidelines outlined in their respective sections of the manual."
64. The proposed tower does not provide for an adequate stepback in upper levels along Weber Street West - approximately 55% of the front face along Weber Street West (9.65

metres) of the building has no stepback, and 8.125 metres has a stepback of approximately 2 metres, and therefore does not meet this policy fully.

65. In my professional opinion, the proposed tower does not provide a sufficient transition in scale, massing, and building height and is deficient in terms of setbacks and landscaped areas.

Issue #34: Do the proposed applications respect the Tall Buildings guidelines, including but not limited to the following guidelines?

- a) **Relative Height, For towers adjacent to low-rise surrounding areas (p. 6)**
- b) **Compatibility (p. 15)**
- c) **Heritage, When a tall building is adjacent to a built heritage resource (p. 16, items 1, 3 and 4)**

66. According to the Relative Height section of the Tall Building Design Guidelines, a tower's height when compared to neighbouring towers or the existing and planned surrounding context is a crucial factor in tall building design. The proposed tower's height is 2.3 times greater than the maximum permitted height in this context; therefore, it does not meet the relative height requirements for this neighborhood.

67. The proposed development does not meet the required physical separation or provide an appropriate transition to the adjacent low-rise buildings. As a result, it does not achieve a compatible built form and does not conform to the requirements for Tall building design guidelines.

Issue #35: Do the proposed applications respect the City-Wide guidelines, including but not limited to the following guidelines?

- a) **Focal Points & Gateways (section 01.2.5, p. 15, item 4),**
- b) **Cultural & Natural Heritage (section 01.2.8, p. 18, item 7)**
- c) **Built Form (section 01.3.1, p. 19, item 9)**
- d) **Site Function (section 01.3.3, p. 23, items 8 and 9)**

68. According to the City-Wide Guidelines (Section 01.2.5) Focal Points & Gateways: Use massing and architectural expression to create landmark structures in locations that terminate views or streets. Use Viewshed Analysis for prominent developments to empirically determine their visual impact and design accordingly.

69. Protect existing views and vistas to and from existing and planned built and natural landmarks.
70. Due to the proposed tower's height, mass, and proximity to the right-of-way (ROW), the proposed building will create an enclosed streetscape that obstructs sky views and results in an overwhelming scale, both visually and physically affecting the viewshed from Weber Street West.
71. According to Section 01.3.1: Design massing to conserve and enhance local contextual conditions, including significant buildings, open spaces, civic resources, and pedestrian safety and comfort. The built form should be designed with regard for adjacent properties to create coherent streetscapes. The proposed development does not meet the required separation target, which will negatively impact adjacent properties.
72. According to Section 01.3.3 of the City Wide Guidelines: "Use landscaping to screen parking areas and prevent automobile headlights from illuminating adjacent properties and the public realm." In my professional opinion, the proposed development does not provide sufficient landscaped area to screen the driveway.

CONCLUDING OPINION

73. The proposed development is situated in a highly visible location, adjacent to the Civic Centre Neighbourhood Heritage Conservation District. Given its prominence along Weber Street West and its location with the heritage conservation district, special attention should be given to reinforcing a sense of attractive arrival to the Civic Center Neighbourhood and fostering a strong connection in terms of height, scale and massing to its surroundings. The proposed 19-storey tower does not convey a well-designed built form that reflects the significance of this key gateway to the City.
74. In my opinion, significant consideration needs to be given to Council approved policy direction when reviewing development applications. Consideration also needs to be given to the totality of the relief being sought from Urban Design Official Plan policies, zoning regulations, and Urban Design Guidelines.
75. In summary, it is my professional opinion that the proposed development represents an overbuild and an overdevelopment of the Subject Lands given the site-specific context. The proposed development is not suitable for the Subject Lands. The proposed development applications should not be approved as the requested land use designations and zoning regulations would facilitate an inappropriate built form that:

- e) Does not meet the necessary transition when applying the Civic Centre Neighborhood Heritage Conservation District Plan policy for the 45-degree angular plane, which is used as a compatibility test for sites adjacent to low-rise or heritage conservation districts,
- f) Is 2.3 times taller than the maximum height permitted by the proposed SGA-2 zone (under appeal) that has been approved by Kitchener City Council for this section of Weber Street West,
- g) Does not conform with the planned function of the Civic Centre Neighbourhood Heritage Conservation District and will impact the viewshed from Weber Street West,
- h) Lacks a proper transition to the adjacent low-rise heritage conservation district to the rear, making it incompatible with the existing and future built form along Weber Street West and the existing built form in the adjacent heritage conservation district, and
- i) Does not conform with the City's Urban Design Tall Building Guidelines, specifically regarding:
 - i. Separation - the tower separation distance is estimated to be 9.8 m; however, the proposed tower is deficient, showing only 6.8 m on the east side and 4.1 m on the west side. Overall, the proposed development has not been carefully sited, massed or designed to feature a thoughtful public realm or built form which is intentionally designed to make positive contributions to city-building.
 - ii. Overlook - where a tower does not meet its target for overlook, mitigating design techniques should be employed, such as exceeding the target for physical separation, maximizing perceived space between towers through creative tower shape, placement, and orientation, utilizing innovative balcony and unit layouts to enhance privacy, and/or increasing the difference in relative height. This has not been demonstrated.
 - iii. Built Form - Stepbacks are not provided for upper levels to mitigate impacts and create street-facing shared amenity spaces.
 - iv. Amenity – no rooftop outdoor or at-grade amenity space is provided. Only an indoor amenity room of approximately 50 square metres is shown on the site plan on the ground floor. A 4 square metre and 39 square metre landscape areas are shown on the site plan which are not suitable for outdoor amenity. The total landscape area is 71 square metres (5.44% of

the lot), including a narrow interior side yard that is not suitable for outdoor amenity.

- v. Landscaped Area - the proposed development does not meet the required landscaped area.
- vi. Built form and massing - standards for tall building design are not met for tower placement, setbacks, and stepbacks.

76. It is my professional opinion that the proposed development is not appropriate as it does not conform to the City of Kitchener Official Plan and Urban Design guidelines related to Tall Building Design and massing, and specifically the provision of adequate transition, building separation and compatible setback relative to the existing neighbourhood. When considering the totality of the requested relief, the development proposal is not compatible is an over build of the Subject Lands.

77. It is my professional opinion that the Subject Lands can be developed with a more compatible development within the current land use permission that still provides additional housing in the Strategic Growth Area intensification area that is appropriate and compatible with the planned function of Weber Street West and the Civic Centre Neighbourhood Heritage Conservation District.

APPENDIX A

CURRICULUM VITAE OF Pegah Fahimian, B.Arch., M. Arch, MUD

EMPLOYMENT PROFILE

2021 – present	Senior Urban Designer, City of Kitchener
2019 – 2021	Urban Designer, City of Kitchener
2013 –2019	Urban Designer / Intern Architect, Adamson Associates, Toronto
2009-2011	Architectural Technologist, Core Architects

EDUCATION

2011-2013	Master of Urban Design	University of Toronto
2006-2008	Master of Architecture	University of Science and Technology, Tehran
2001-2006	B.Sc. Architecture	Azad University of Art and Architecture, Tehran

PROFESSIONAL AFFILIATIONS

- Member of the Ontario Association of Architects, Intern Architect

SELECTED PROFESSIONAL EXPERIENCE

City of Kitchener (2019- Present) **Senior Urban Designer**

- Reviewed development applications from an urban design perspective. Provided professional design input to city-wide projects, master plans and studies.
- Managed files after approval in the principal stage for site plan applications.
- Conducted site inspections and coordinated the release of securities after the construction of sites
- Assisted in preparing the city-wide urban design guideline as part of a comprehensive review of the Kitchener Urban Design Manual and proposed new structure for Urban Design- Part C.
- Developed new prototypes for infill developments in long-narrow lots.
- Provided technical advice for the Modernization of Development Review project and contributed to the reorganization of development review processes through digitization
- Reviewed site plan applications and assessed site design and public realm impacts, including projects that require architectural expertise concerning build-form and building performance. Actively managed the proposals from the initial submission to completion.
- Assisted and provided visualization, urban design support, planning and modelling for Belmont village and development applications.
- Reviewed development applications and commented on the landscape, site designs and urban design briefs, as well as the design implications for urban design, heritage and architectural conservation, zoning and neighborhood planning. Made recommendations and provided advice to achieve the City’s strategic goals.
- Researched and reviewed the City of Kitchener’s new Urban Design Manual (Part C).
- Developed SOP for site plan applications and lead the digital transformation of development review through file management and coordination in Bluebeam
- Lead the Bluebeam training of staff in Planning, Engineering, Transportation, Parks and Development and utilities division. Scheduled workshops, training material and recorded videos. Setup standard for markup, custom stamps, profile and tool chests, assisted users with troubleshooting.
- Provided expert advice for document management and cloud-based collaboration in Bluebeam studio

- Participated in reports and studies initiated by internal stakeholders. Reviewed, evaluated, and processed development applications from an urban design perspective to achieve design excellence.

Adamson Associates, Toronto (2013-2019)

Urban Designer / Intern Architect

The Well- Toronto's Largest Mixed-Use Project.

7 Towers (Retail, Office, Residential)- 7.5 acres

- Examined and developed site plans and building permit package submitted for compliance with the City Zoning By-Laws and Ontario Building Code (Part 3 and Part 9) and applicable laws
- Reviewed and developed architectural plans and specifications for compliance with the City zoning By-laws, Building code, Fire life safety regulations and municipal regulations
- Developed design concepts for buildings and landscapes and presented them to clients.
- Reviewed planning development package by completing detailed urban design comments, creating design sketches that demonstrate conformity with design guidelines, standards, and policies,
- Implemented and reviewed Regional urban design guidelines, standards, and policies and assisted in urban design review of mixed-use development.
- Reviewed urban design guidelines associated with the Secondary Plan
- Conducted research on related urban design guidelines and briefs concerning regional and local design guidelines, standards and policies and prepared detailed comments, concepts, or diagrams.
- Interpreted local zoning regulations and official plan policy associated with landscape architecture, urban design, community planning, built form, and transportation.
- Translated urban design concept sketches into CAD drawings and provided statistical information.
- Reviewed and evaluated the process of development applications from an urban design perspective to achieve design excellence.
- Interpreted and applied local zoning regulations and official plan policies to conceptualize and demonstrate development options and presented work to clients and consultants.
- Reviewed the implementation of the Public Realm improvement strategy
- Conducted site visits to perform condition analyses, such as streetscape inventories, built form analysis, and various user and spatial analyses.
- Assisted in the design of the public realm by providing design input for streetscapes, public spaces, gateways and other related improvements.

American Dream Meadowlands, Retail & Entertainment,

Second-largest U.S. mall, 3-million-square-foot East Rutherford, New Jersey- 3,000,000 SF

- Developed design development, construction documents, working drawings and contract admin; coordinated projects with structural, mechanical and landscape consultants.
- Developed proposal packages and presentations for business development activities
- Reviewed and coordinated design studies prepared by external consultants
- Conducted research and reviewed site records, zoning maps, plans of survey and property data maps for restrictive by-laws and zoning designations and developed plans for exact locations of property corner lots, public lanes, rights of way
- Participated in consultant coordination meetings and provided information to resolve problems
- Interpreted local zoning regulations and official plan policy associated with landscape architecture, urban design, community planning, built form, and transportation.
- Provided site plan concept design layouts and options for development
- Translated urban design concept sketches into CAD drawings and provided statistical information
- Assisted in the design of the public realm by providing design input for streetscapes, public spaces, gateways, and other related improvements.

Light Rail Transit Project Ottawa,

12.5 km, 13 new Stations (10 above-ground and 3 underground)

- Conducted preliminary plan examination and site plan approval and provided written comments for compliance with Zoning By-laws and municipal regulations
- Reviewed and developed architectural plans and specifications for compliance with the City zoning By-laws, Building code, Fire life safety regulations and municipal regulations
- Developed master planning, design development drawings for client review.
- Reviewed and interpreted related By-Laws, agreements, regulations and other urban design guidelines.
- Evaluated development proposals to identify compliance with Zoning By-laws, OBC and NFPA.
- Coordinated project information and work with all internal and/or external disciplines
- Attended community workshops and public meetings related to master plan vision
- Created design panels illustrating existing conditions and built forms
- Conducted research and reviewed site records, zoning maps, plans of survey and property data maps for restrictive by-laws and zoning designations
- Involved in preparation of background report study on the planning framework, urban design analysis of the existing conditions and the master plan vision
- Developed proposal packages and presentations for business development activities
- Reviewed and coordinate design studies prepared by external consultants and ensure the quality of final deliverables.
- Conducted calculation of required and proposed Gross Floor Area and Gross Leasable Floor Area
- Applied development regulations and technical standards that included Zoning by-laws, accessibility, site servicing and grading, drainage, and landscaping
- Reviewed site plan designs and building permit package and prepared optional schemes for revisions and variance
- Prepared site plan approval drawings (SA-Drawings) through the process for site plan approval
- Performed required calculations to evaluate land-use restrictions such as density and landscape

Thunder Bay Consolidated Courthouse,

Thunder Bay, Ontario, 250,000 SF, Target LEED Silver

- Reviewed and interpreted by-laws, agreements, regulations and other urban policies and related documentation
- Coordinated project information and worked with all internal and/or external disciplines, including architectural, structural, landscape and urban designers as required
- Reviewed and developed architectural plans and specifications submitted for the building permit

Core Architects, Toronto (2009-2011)

Urban Designer / Architectural Designer

FASHION HOUSE Condo (560 King St West)

Toronto, Residential/Commercial/Heritage 291,000 sf

1201 DUNDAS:

Street West Condo Toronto - 80,000 sf

THE NINETY Lofts:

Toronto. 9-storey

REGENT PARK BLOCK 12:

Toronto, 13-storey

FLATIRON Lofts

Toronto. 11- story

CINEPLEX Theatres:

Chilliwack, Abbotsford, BC

- Developed design development, construction documents, working drawings and contract admin; coordinated projects with structural, mechanical and landscape consultants.
- Examined and reviewed site plans and architectural drawings for compliance with the City Zoning By-Laws and Ontario Building Code (Part 3 and Part 9)
- Examined plans and related documents submitted for compliance with the Official Plan and related Regulations
- Attended meetings regarding community conversation sessions, public events organization, and preparing the ground for local planning initiatives and answered inquiries related to residential construction concerning the Ontario Building Code, Zoning by-laws and Applicable Laws.
- Experienced in resolving and answering public inquiries and concerns
- Reviewed plans and examined planning studies and related documents
- Conducted research and reviewed site records, zoning maps, urban design guidelines, plans of survey and property data maps for restrictive by-laws and zoning designations
- Provided development project statistics such as Total GFA, Gross Density, Number of Units

MEGA Prime, Tehran, Iran (2006-2008)

Architectural Designer

Azad University Administration Office

8-storey, Tehran, 720,000 SF

Residential development and site plan of

“Zaferanieh”, 10-storey, Tehran, 2,300,000 SF

Land Development and Subdivision Design of Abbas Abad,

Tehran, 350,000 SF

- Created design development and prepared schematic designs, site analysis and technical drawings
- Examined and developed site plans and architectural drawings for compliance with the City regulations
- Created the base plan of the proposed landscape development within the development area

SMN Group, Tehran, Iran (2005-2006)

Architectural Technologist

Revitalization and Master Plan of “Persia Complex,”

Tehran, 120,000 SF

Master planning of Academy of science and Literature,

Tehran, 3,200,000 SF

- Created optional design schemes and prepared design development packages and 3D modelling
- Provided master plan vision and Geographic Information System (GIS) to collect data and information
- Reviewed site plan and building permit packages and prepared optional schemes for revisions

SELECTED ACADEMIC PROJECTS: University of Toronto-Daniels School of Architecture:

- Master Planning of Coastal Energy Park, Toward Regenerative Urbanism (Thesis), Vancouver, BC
- University of Toronto Master Plan (St. George Campus), Toronto
- Alexandra Park Revitalization Plan- Phase One, Toronto
- Inspiration Lakeview Revitalization and Master Plan, Mississauga, ON
- Master planning of Medellin Airport Runways to Greenways, 130 Hectare, Columbia
- Gerald D. Hines Student Urban Design Competition, The Lots, Minneapolis, USA

MAJOR QUALIFICATIONS:

- Urban Design Guidelines, Official Plan and Zoning By-laws
- Master Planning and Site Planning,
- Landscape Plan & Streetscape Design
- Residential, Commercial and Transit Development
- LEED Green Associate Course

APPENDIX B



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

Acknowledgment Of Expert's Duty

OLT Case Number	Municipality
22-00 23 77	City of Kitchener ✓

1. My name is... Pegah Fahimian(name)
 I live at the 533 Doonwoods Crescent... Kitchener (municipality)
 in the Canada(county or region)
 in the Ontario(province)

2. I have been engaged by or on behalf of City of Kitchener (name of party/parties) 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 Feb 26, 2025

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 Signature 