

Jeff Loucks

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended:

Appellant: PROUD Port Dalhousie (Port Realizing Our Unique Distinction)
Appellant: John Bacher
Appellant: James and Marilyn Minards et al
Subject: By-law No. 2006-228
Municipality: City of St. Catharines
OMB Case No.: PL060850
OMB File No.: R060208

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended:

Appellant: PROUD Port Dalhousie (Port Realizing Our Unique Distinction)
Appellant: John Bacher
Appellant: Barbara Chambers et al
Subject: Proposed Official Plan Amendment No. 31
Municipality: City of St. Catharines
OMB Case No.: PL060850
OMB File No.: O060218

IN THE MATTER OF subsection 41(12) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended:

Appellant: Port Dalhousie Vitalization Corp.
Subject: Failure to approve Site Plan Application within 30 days
Municipality: City of St. Catharines
OMB Case No.: PL060850
OMB File No.: M070079

IN THE MATTER OF subsection 42(6) of the *Ontario Heritage Act*, R.S.O, 1990, c.O. 18, as amended:

Appellant: Port Dalhousie Vitalization Corp.
Subject: Refusal of Heritage Permit Application
Municipality: City of St. Catharines
OMB Case No.: PL060850
OMB File No.: M070073

[FINAL ARGUMENT OF JEFF LOUCKS ET AL.]

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I. Community Consensus and Self-Determination

A. How is community consensus for an individual project achieved

1. Community Consensus is achieved for individual projects through compliance with planning by-laws and guidelines.

a) Community consensus[in the sense used by Stovel] is achieved through community participation in the extensive planning process and is communicated through The Niagara Region Official Plan, The City of St.Catharines Official Plan, The Neighbourhood Plan for Port Dalhousie, The designating by-law part and parcel to that designation the Heritage District Plan (Guidelines for Conservation and Change).

b) These planning documents form public consensus of how projects will be judged in order to be said to comply with the goals and aspirations of the City and its citizens in

consensus. This is a proactive step to ensure consensus is formed since individual projects on their own can only form community consensus in the absence of legitimate opposition or through complete compliance. The majority of projects reach community consensus by complying with the planning regime.

2. What does it mean to use 'Notwithstanding' in relation to the community consensus Planning documents.

a) It should be said that notwithstanding the Municipal Official Plans, Neighbourhood Plan and Heritage Protections and Zoning by-laws should be seen as an exception to the community consensus forming process.

b) As a part of this community consensus process, the stated interest* of the Province to protect Heritage Resources was considered and policies, in the form of the Heritage District and the Guidelines for Conservation and**

Change were put in place which represent good planning according to the confirmation of the OMB in 2004.

(1) * PPS Preamble Part I

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment.

(2) ** PPS 2.0

2.0 WISE USE AND MANAGEMENT OF RESOURCES

Ontario's long-term prosperity, environmental health, and social well-being depend on protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits.

c) Once the confirmation by the OMB occurred in 2004, the Heritage District and its Character became a resource of Provincial Interest and as a result from the documents that protects both the district and its character has heightened purpose beyond that which can be seen as merely convenient to the municipality.

d) Each of these Plans has given further definition to the nature of the Heritage Resources which are to be protected and the Heritage act, the Provincial Policy Statement and can

be interpreted to be furthering the objectives and “general welfare” [PPS 2.0] powers.

B. Community consensus existed around the formation of the Heritage District with both sides in agreement.

1. In 2003, The City Planning Staff, Regional Planning Staff, Proud, The community as a whole, even Mr. Bedwell, Mr. Serafino and several including the OMB others agreed with and worked towards the Heritage District and Heritage District Plan. Before that the Neighborhood Plan for Port Dalhousie contained many of the principles enumerated later in the HCD and Guidelines.

2. There was complete consensus within the community at one time on how the future projects should be judged Madam Chair.

3. We ask that you judge this project by that consensus and reject those notwithstanding clauses which would defeat the purpose of going through a consensus building process as intended by the Province’s Planning Act, the Region’s Planning Policies, the City’s planning policies and all the heritage charters we have seen.

4. We ask that you defeat the notwithstanding of the community consensus.

C. Community Spirit

1. Madam chair, I have to say that despite the trials and tribulations of this hearings, the group I represent has never been more filled with pride around it's community. The fund raisers and fraternity have been a wonderful side effect and I am very glad to have been involved with so many outstanding individuals. The solidarity this community has in standing up for the principles by which it wants to develop will stay with us for decades to come. We ask that you maintain this positive momentum into the future.

D. Volunteer Efforts

1. You heard from George Darte, who has contributed to 80 million dollars of fund raising and community organizing. He spoke of his love of community and the volunteer efforts he believes form the backbone of our community. Although he did

not participate in the consensus building planning process leading up to drafting the guidelines and designation like the other members of PROUD which at that time included Mr. Bedwell and Mr. Serafino, he asks that you respect those efforts in part to keep people committed to the process of contributing to the city's future.

2. We as a city have a right to determine our future through the process of consensus building. That consensus is developed through participation in the planning process and communicating that vision for the future through planning documents at the heart of this hearing.

II. Economic Revitalization and Tourism

A. PDVC Increased reliance on Bars

1. Summary of the evidence regarding the PDVC's role in increasing the reliance on the bars.

a) Dan Rosetta before entering the incorporated PDVC partnership in the early 1990's purchased the Port Mansion

which had operated as an upscale dining restaurant and had been featured on City promotional materials. [Waters, Kirkland, Chapman, Harte]

b) The use of the ground floor of the Port Mansion under this ownership changed to a Dance Club which it remains to this day. [Higgins, Harte]

c) The PDVC acquired the Lakeside [Austin House] Hotel in 2002-3. Its use as a drinking establishment dates back decades and remained substantially unchanged by the acquisition.

d) 2004 PDVC purchases Sculler's, a family restaurant, and the Jail. Under PDVC ownership Sculler's is converted to a Rum Jungle with a new demographic. The exact demographic they say their development will change. The change during their ownership is documented in different references to the

property in the Diamond Scheme and Kirkland Scheme

[Waters, Harte, several proponents of the proposal]

e) The PDVC's increased reliance on bars changed the mix of business in the commercial core in the last 4 years since the proposal came forward. [Waters, Harte, Kehler, Webb, Blowsowski, Cambray, Benson, Chapman].

f) Another negative impact of the past 4 years was a PR campaign that had begun to emphasize the negative aspects of the community in order to gain support for change [The Rigby Action Committee] and the NCSD. The PDVC started a Public Relations campaign to sway public opinion by emphasizing what was wrong with Port. This has done considerable damage to the current business climate.

g) Flip-Flop justification. People don't like crime, bars and loud rude young people. The mix of businesses start as fine dining and family restaurants, craft and women's shops

apparel and some bars [Cambray, Chapman, Waters, Harte, Kehler, etc] . The Flip - The PDVC bought family (Sculler's) and fine dining restaurants (Port Mansion) and changed them in to bars. They publicized the negative aspects of these businesses. The Flop - we will change it back but we have to sneak in this 17 storey tower.

h) First, change what people like and then offer to change it back in order to gain their support. It has been strange to watch this message take hold on people through the passage of time. People forget that the businesses used to be well painted and well maintained by other owners. They forget that when the decline began was really only 4 years ago. This is something the PDVC has counted on and after 4 years, they have had an impact on the perception of some. The Port Dalhousie core in 2004 had just built the Market Place where Anna Olson's is today.

i) We know that a fresh coat of paint and some love and attention can easily restore the character from four years ago when the community was united in its love of Port Dalhousie and worked to form a community consensus around how to develop it. We ask that you support the community consensus of four years ago.

B. PDVC contends it does not have to prove economic viability

1. PDVC contends the board does not have the ability to assess the economic viability and it is not the obligation of the PDVC to prove that viability. They have therefore not submitted any economic justification, pro forma, feasibility studies or tourism studies to justify their claim that this development will increase tourism or the economic vitality of the area under 16.92.

2. We agree that the Board should accept the PDVCs position that the Board does not possess the ability or expertise to assess economic viability, and we agree that the board should not come to this conclusion on its own expertise. Respectfully, any

**determination of related to Neighborhood Plan 16.92 on
“Enhancing Economic vitality” must be based on evidence.**

3. We therefore contend that the evidence before this board regarding the economic viability should be the basis of your determination and not the suppositions the PDVC.

C. Evidence on reduced tourism and revenue.

1. The PDVC has offered no proof of compliance with 16.92 d) of the Neighbourhood Plan for Port Dalhousie. They have offered no tourism studies and no feasibility studies to the businesses they offer. Yet what are they replacing?

2. PDVC and City witnesses agree the PDVC will eliminate 2000 licensed seats and thereby decrease parking requirements between 10 PM and 2 AM by 500-750 parking spaces depending on which parking expert you favor for 60 nights per year. We ask that you consider this decrease in tourism and economic viability as the “Bird in the hand that is worth an Unknown number in the bush”.

3. Oxford Definition

Tourist: noun: a person who travels for pleasure.

4. The evidence before this board is that Port Dalhousie is advertised on regional radio stations in Toronto and Buffalo [Kirkland] to attract young adults to Port Dalhousie.

5. Our respectful submission, is that two thousand seats that PDVC intends to remove are filled with tourist “who travel” by car “for pleasure” in Port Dalhousie.

6. We have therefore prepared the following chart to summarize data presented by the PDVC and City Parking Witnesses on the impact of this plan Exhibit 13 tab 6 Table 2.

Numbers from Parking		Low Estimate	High Estimate
Number Of Cars		-500	-750
People Per Car		2.4	2.4
Number of Days		60	60
Total Number of Tourists per day (60 total days)			
Gained/Lost		(1,200)	(1,800)
Total Number of Tourists per year			
Gained/Lost		(72,000)	(108,000)
Assumptions and Formulas			
Total Number of Tourists per day	=	Number of Cars	x People Per Car
Total Number of Tourists per Year	=	Number of Cars	x People Per Car x 60 days
Total Spent by visitors	=	Number of Cars	x People Per Car x 60 days x enter your assumption

a)

b) This chart summarizes the evidence of the PDVC and City parking witnesses. The evidence shows that the PDVC plan will reduce the number of visits by between 72,000 and 108,000 per year. The question we ask is how much do they spend and what evidence is there that this will be offset? The PDVC has offered no proof and only offered risk in return.

c) It is our submission to the board that the only evidence before this board regarding tourism and economic viability is that which the PDVC and City have provided through the

elimination of 2000 licensed seats in the commercial core.

These are concrete numbers that reflect the intent to Change and thereby remove a significant portion of economic viability.

d) Much of the opposition to the Young Adult scene which operates at night has been related to the need for Policing which has been addressed by this council and acknowledged for reducing the concerns by Mr. Bedwell and Mr. Rockwell.

e) The evidence is that tourism will drop by 72,000 to 108,000 visits per year and there is no evidence to show how this loss is offset. Even if you believe there will be some economic benefit to the proposal, 16.92 calls for enhancing economic viability not changing it [Kirkland]. A simple offset of one business type for another is not enough.

f) The lack of evidence proffered by the PDVC can only be seen as increased risk to the commercial core without evidence of gain.

D. No Tourism Study – no understanding of nature of tourists currently in Port Dalhousie

1. The PDVC has ignored the following contributors to the tourism and economy of Port Dalhousie and has not shown how they accomplish the goals of Neighborhood Plan 16.92 d). They have not assessed the demand for the current businesses that occupy Port Dalhousie and the role they play in attracting people.

- a) Rowing**
- b) Canals and associated Heritage**
- c) Cycling and Waterfront Trail**
- d) Park Visit and Pier**
- e) Boating, Yachting and Harbor**

E. Incremental growth does not equal status quo – it equals bite sized growth with minimal risk.

1. Len Pennachetti – Jordan, Cave Spring Winery and On-The Twenty Restaurant and Inn – Incremental growth over twenty years has been significant and positive in revitalizing Jordan. No towers and no theaters. Jordan became popular as a residential area after the commercial was significantly revitalized by incremental growth.

F. No evidence that heritage restoration is not viable, in fact the evidence shows that heritage restoration projects are viable.

1. Donatelli - The Keg – Adaptive reuse without demolition, highest revenue Keg in Canada. Heritage Preservation adds value, is successful and economically viable.

2. Phil Ritchie - Keefer Mansion – Another example of successful heritage preservation. He has never seen the need to demolish a heritage building and has exclusively purchased heritage buildings for adaptive reuse throughout his career. There is a market for heritage investors.

3. This is a large project with a number of interdependent parts. The shops depend on the theater which depends on the hotel which supports the shops. The risk of failure of one substantially affects the viability of the others. Although this is promoted as an advantage for their complimentary nature, what goes unsaid is the increased risk of one part failing causing the rest to fail. Incremental growth does not have this risk since by nature; these are smaller projects in which a failure is an opportunity for another business.

4. Suppose for a minute that the developer runs out of money building the residential tower and the superstructure looms over the rest of the commercial core. What is the effect on the theater, the hotel and the shops? Suppose the theater never works. Each part pulls down the others.

5. However, if an individual incremental building strategy is used and a clothing store, restaurant, fruit market or butcher fails, the building has a new use and the surrounding businesses continue on.

G. Retail – Expert says – Will not work

1. The uncontroverted evidence by Retail Expert Sam Biao is that the retail environment is not conducive to success and his opinion is that it will fail. Here is why:

a) No Parking –

(1) Mr. Biao stated the current economic conditions facing Port Dalhousie are largely because people have a hard time finding parking. To the extent that parking will be exacerbated during the day time hours retail will continue to struggle since the condition related to parking now is a problem in his opinion.

(2) The evidence is that Parking problems during retail hours will compete with theater in a successful theater environment and will drastically reduce available space in the lower parking lot, regardless of reductions at night when retail is closed.

(3) Mr. Biao stated there are studies on how far people will walk from parking and it is on average about 2 minutes and confirmed in his experience this to be true of most retail environments with a few exceptions where people are protected from the elements.

b) Effect of Stair case in [Exhibit 17 pg 47]

(1) Mr. Biao mentioned the effects of a staircase are disastrous to retail and pointed to the two storey stair case in Exhibit 17 pg 47 and stated “They cannot seriously believe shoppers are going to use those stairs, it is just not going to happen. Water features, slippery conditions with swirling winds in winter conditions, almost no one will use it”. He cited examples in Pittsburg, Vancouver, Ottawa and gave a description of a choice he had to make on a location in Banff.

(2) He choose a store in location referring to a football field analogy where the best location is at midfield or the middle of a good commercial downtown street, “We choose

a 20 yard line ground level entrance vs. the 50 yard line 4 stairs up to the entrance.”

(3) “Second storey retail that is connected by stairs inevitably does poorly. There are only a few examples where escalators make the difference such as in mall setting. Even so the ground floor does 20%-50% more volume.” Said Mr. Biao.

(4) “People don’t think about elevators and you couldn’t put an escalator in with winter conditions.” He concluded “Stairs just reduce the number of people” and continued, “there are no alternative methods that makes sense from that parking lot. It is not a good retail environment from that perspective alone.”

c) Interior Court Yards

(1) Citing examples like Burlington, Ontario he said “They just don’t work. I don’t know why but in my experience they have never worked in Canada.”

d) Effect of the extra residences

(1) Mr. Baio "It is just not enough, retail needs thousands to support itself. 160 people are just a drop in the bucket." The competition for onsite parking with the Condo Tower residences is a problem. 140 Spaces dedicated to residential.

e) Mix of uses

(1) It is good to have complementary businesses, however if business starts to fail that the place it will never recover. The Theater is not going to support shopping and it would be better to have more restaurants and retail than a theater. In general, it would be better to have more retail and no theater since they will compete for parking."

f) The tower and heritage impacts

(1) Mr. Biao "There are different types of shoppers, those who are going to shop in malls and those who are going to shop in places like Port Dalhousie." "Shopper who

shop in places like Port Dalhousie want romance and crafty stores, they want that sense of Authenticity.” “They will come once to see it [the tower], but I doubt they will return. It is about authenticity, destination and romance, all of which are missing ” “It will not have that sense of unique charm that attracts the kind of people you see in Niagara-On-The-Lake or other commercial areas around Canada and the US that have been successful with similar circumstances.”.

(2) Pat Waters – “In the eighties and early nineties when I was involved there was a sense craftiness and authenticity which people and businesses really supported.”

H. Events – These could happen now – Kirkland said events required to bring success to new tower.

1. There are many events in Port Dalhousie now. The Restaurant Walk, January Chicken Chucking, Rowing Events, May 24 Weekend Carnival, July 1st Carnival, 2-3 Fitness Runs per year, Sailing events all summer.

2. We stipulate events are a part of Port Dalhousie now and new events are always welcome. With or without the development, citizens will continue to organize events.

III. Heritage

A. Authenticity of building form

a) In this case, in my respectful submission, if the Board cannot determine full compliance with preserving the character of Port Dalhousie commercial core, the Board cannot approve this project. Our position is that this proposal most notably does not preserve the

(1) “two- to three storey terrace block” character

(a) it inserts large portions of 4, 6, 8, 17 storey terrace blocks which is incongruent [Higgins, Martindale, Blowsowski, Stovel, Goldsmith]

(b) there are no two-storey blocks and no three-storey blocks within the development [Kirkland & Higgins]

(2) “Individual Hotel” character of the Port Dalhousie Commercial Core [Stovel, Cambray, Benson, Martindale]

(a) As each existing building within the district is unique In appearance each new structure to be constructed within the Port Dalhousie Heritage Conservation District will be constructed in a manner that avoids replication of any single style, type or appearance whether of heritage or contemporary design. The intent is that no two buildings should look exactly alike. [Exhibit 5D pg 193 5.5 New Construction] Exhibit 17 pg 32.

(3) Furthermore, we ask that the Board considers introducing a new use for a ground to ceiling (alternatively stated, Elevator Entrance to Penthouse) residential condominium tower at the “Cardo Decumanus” [Kirkland] of Port Dalhousie’s Commercial heritage to be contrary to the character of the Port Dalhousie commercial core. It is not at the rear or above any street facing commercial property.

(a) This property is closest to the 1st Canal and Main Street [Smart, Kirkland, Higgins, Chapman, Cambray, Benson, Martindale, Blowsowski] and should continue to represent the relationship between the commercial nature of the Port Dalhsousie core and the Canal and Park. [Stovel, Martindale, Goldsmith]

(b) This property borders the historic park [Kirkland, Higgins, Smart, Chapman, Cambray, Benson, Martindale, Blowsowski, Kehler]

(c) Building fronts on to the Lakeport Rd. Wrap-Around and Lakeside Park [Kirkland, Higgins “Reorientation towards the Park and Port”]

b) 11 Meters and Two- to Three-Storey Terrace Blocks

(1) The Zoning By-law before the Heritage District passed was 11 meters; the Zoning By-Law after the Heritage District Passed was 11 meters. The zoning by-law has been in place defining the character of Port Dalhousie for decades. It is a clearly defined character of this area. At no time has the PDVC possessed the right to more than 11 meters. It has been crystal clear since the beginning.

c) To the extent that the PDVC has argued they had a right to appeal a Heritage District Plan [HDP] had the city brought forward an altered HDP under the Heritage Act Amendments in 2006 on the basis of two- three storey terrace block or 11 meter height limit we say this:

(1) We adopt the argument of Ms. Pepino in that the use of the word 'may' in Ontario Heritage Act 41.1(2) gives option to the city to revisit their Heritage District Plans. We submit that cities may choose to 'reformat' their existing plans to more consistently meet the formatting requirements of 41.1(5) and in so doing would make changes which might form the basis of an appeal.

(2) We adopt the City's submission that it has not done so because the constituent parts of 41.1(5) are there and we have heard expert testimony that easily identifiable [Morgan, Martindale, McCelland, Goldsmith, Stovel, Blowsowski].

(3) Our submission is that only those changes required from reformatting and any new additions would form the basis of an appeal and not the entire plan itself. However, our submission is that it was the not intent of the amendments to create two distinct types Heritage Districts those with Heritage District Plans pre-2006 and those with Heritage District Plans after 2006. We submit that the intent was to Protect Heritage Resource which the Province has already recognized through the designation process.

(4) On this basis to appeal the right to appeal around 11 meters height limit or the “two- to three-storey terrace block” heritage character never existed. We submit to the board that the PDVC is arguing in defense of a property right they simply never had. Building rights over 11 meters has never existed at any time during the PDVC’s ownership or in excess of 30 years since the zoning by-law came in to force.

B. Clearly defines the attributes of a 2-3 story commercial district

- 1. The zoning by-law 88-72 clearly sets the height at 11 meters. This zoning was in place at the time the heritage district was designated and had been in excess of 30 years.**
- 2. The commercial core is defined two- to three storey terrace blocks.**
- 3. The tower simply doesn't conserve these characteristics.
[Morgan, Martindale, Goldsmith, Cambray, Benson, Blowsowski, Kehler, Webb, Higgins]**
- 4. Goldsmith - Villageness. The tower has an overriding effect on the 'villageness'. This helps us understand the sense of place.**

C. The Port Mansion

- 1. Exhibit 5D pg 37**
 - a) The Port Hotel was initially two separate hotels, The McGrath, owned by Bernard McGrath and The Union House,**

owned by Squire Nathan Pawling. The hotel changed ownership in 1877, with Captain Alex Reed proprietor, Harvey Neelon in 1880.

2. We have heard at this hearing through Dr. John Bacher, David Webb and others that Nathan Pawling was an early settler settled in this area before the first Canal. We heard he was member of the Land Board and member of Upper Canada legislature. This building has Provincial Significance as defined by regulation 10/06. The Port Mansion should not be left unrecognizably different as it would in the PDVC proposal to what is seen today as its evolution in time. [Stovel, Morgan, Martidale]

D. Relationship of Commercial Core to the rest of the heritage district

1. Dr. John Bacher – The commercial core forms the interpretive key for the rest of the heritage district. The formative buildings in the commercial core which are being replaced help us understand the evolution of the various residential districts such as the cottage district and other settlement areas. With a large

clean crisp modern commercial core one might start to judge these other residential buildings as primitive rather than forming the character of the area. This could accelerate a change in character such as the one we have seen in the unprotected heritage areas in which Dr. Bacher lives in Downtown St.Catharines.

2. Mr. Page: 34

Goldsmith – The village resulted out of the geography of the place. It is a self contained peninsula. This [development in the commercial core] should allow for the retention of our understanding of the area. Preserve it for our understanding of our history. The PDVC proposal does not preserve our understanding of the Heritage District.

3. Dr. H. Stovel – We have to understand the interdependencies of how the elements fit together and ensure that we preserve the essence of understanding of the heritage we are protecting. We cannot simply change one element in the absence of consideration for the others. The commercial core forms our understanding of the rest of the heritage district. The

people who worked and operated businesses here lived within the residential areas. The various uses of the commercial core through time effected the development of the residential area.

IV. Smart Growth

A. Principles used as a test rather than a policy development tool.

- 1. Mr. Brickell used the policy development Principles of Smart Growth as a test. Clearly did not understand the intention or methodology for implementing the Principles of Smart Growth.**
- 2. Brickel did not use any tests to determine this development represents smart growth and when given the Smart Growth Walkability Test put forward by the Ontario Government Smart Growth Network he concluded the area is smart growth now and would be with or without the development. Respectfully, he has no idea how to determine if something is smart growth or not.**
- 3. Mr. Cambray - The principles of Smart Growth are not a test and are meant to form policy proactively such as the way it was done in Merriton. We look at the area and determine what is**

present and what is missing using the Principles as a framework to develop policy. It is possible in residential areas that no further residential is required. Therefore using this principle as a test would not make sense. In Mr. Cambray's opinion this development is contrary to the principles of Smart Growth.

4. In our submission the Walkability Test is meant to guide the application of which Principles of Smart Growth apply to a specific area. In the case of Port Dalhousie, a predominantly residential area, coming to the conclusion that more residential development is required where essential services such as food markets, pharmacies, banks and doctors offices are only reachable after a thirty minute walk is exactly why Mr. Cambray concluded that this development is contrary to the principles of Smart Growth.

B. Village with the things that a small village would need

1. Port Dalhousie Commerical Core should develop along the principles of Smart Growth which would provide through items a community needs as defined in the Walkability Test.

V. Parking and Traffic

1. I adopt the positions of the Hank Beekhuis and the city regarding parking.

2. Perhaps the greatest problem with the residential tower is its competition with the commercial space for onsite parking.

There are over two hundred onsite parking spaces of which few if any are available to accommodate the commercial and theater uses. We have to consider the evidence of Mr. Biao on the effect of parking conditions on retail and restaurant trade and own good judgment as to the importance of Parking to the viability of the commercial core.

VI. Conclusion

A. We agree with Mssr. Morgan, Stovel, Martidale, Webb, Blowsowski, Goldsmith, Cambray and Benson. Closing Hogan's Alley, demolition of Port Mansion, size of tower, effect on jail – all impact on guidelines set out in PPS, Neighbourhood plan, district designation.

B. The community formed consensus around the way that future development proposal would be judged. We ask that you apply that consensus.

C. We ask that you reject the Ammendment and By-aws required by this proposal.

VII. The Decision:

Madam Chair, I submit to you that in the end your choice will come down to this.

Good Planning or Notwithstanding

A. We respectfully requests that the Board grant the appeals.

B. Further, in accordance with Rules 99 and 100 of the O.M.B. Rules of Practice and Procedure, I and those who I represent reserves the right to make a request for an award of costs from the date of the appeal to the Board of the matters herein, and asks that it be permitted to make any such request within 45 days of the date of

this Board's decision herein, to be considered at a later date in the manner directed by this Board.

Jeff Loucks et al.

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