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March 6, 2012

Mr. Gregg Lintern
Director, Community Planning, Toronto & East York District
City Hall, 19th Floor, East Tower
100 Queen Street West, Toronto, ON M5H 2N2

Dear Mr. Lintern:

Thank you for responding regarding the application for 998 College St. – I will follow-up on that at a future time, but I am happy to see that the rules are to be followed on that application.

I am writing this letter to follow up on an email you wrote to me on December 20, 2011 regarding the use of an Interim Control Bylaw (ICBL) – Gary Wright and Councillor McMahon and her Executive Assistant were cc'ed on this email, and I believe that the Councillor is relying on your opinion on this issue as it relates to requests by her constituents to get such a bylaw implemented.

I believe that your interpretation of ICBLs is very narrow and that there are many specific examples that contradict your position, and would support an ICBL while a study is being done on Queen Street East.

I have attached a copy of what you wrote in that email, but essentially you made 3 points in the 3 main paragraphs, which I would shortened and reworked into the following summary:

1. The use of interim control is generally guided by a concern that a use that is currently permitted as of right is not desirable or at least requires study. Interim control would prevent that use for a period of one or two years. For anyone seeking to undertake a mixed use project in full compliance with the zoning, they would be prevented from undertaking that project if Interim Control was in place.
2. Interim Control is not required to prevent development that already requires a zoning amendment to proceed, it must be approved before it can proceed.
3. Interim Control is used to prevent as-of-right development because there is something concerning about the land use permitted as of right that requires study. Interim Control actually takes away existing rights for the period of time the by-law is in place. Interim Control could be put in place to prevent auto body repair uses for a period of one or two years while the issue was studied to determine if that was a compatible land use with residential.

<u>Point 1</u>

This is mainly a summary of what an ICBL is and does, and I assume that your point here is that this is a restriction of property rights, albeit temporary. If an ICBL is not justifiable, the owner can appeal to

the OMB and have it overturned due to “bad faith” (not being “fair and just”) or some other flaw or technicality.

This ICBL legislation would not exist if it were not a reasonable limitation on property rights, particularly given that a new building might exist for a century or more and it will have an irreversible and permanent impact on the community around it.

If there is some serious question about the current policies governing “as-of-right development” and the City is going to undertake a study to resolve this and which might result in some changes (including not just to specific uses but to changes to zoning relating to height, setbacks or other things), then this is what the provincial laws allow, and any temporary infringement of property rights is reasonable.

Canadians are all subject to reasonable infringements of rights when public interest requires it - including such things as jury duty or conscription that are far more onerous.

The responsibility of the Planning Department is not to uphold property rights or to defend them to the utmost, it is only to not violate property rights in ways that are not legally permitted or will not withstand OMB scrutiny. The Planning Department is supposed to look out for the public interest and put this above the rights of specific property owners who might be affected by the ICBL.

And our City will not suffer irreparable economic damage if development is delayed in one small part of the City for “up to” two years – for condos, there is not an inexhaustible pool of people needing housing – purchasers will buy elsewhere, and there are plenty of other property owners with mixed use zoning who might benefit, so there will likely be no net economic loss to the City as a whole.

<u>Point 2</u>

It is true that without an ICBL, rezoning applications can be refused by the Planning Department and/or Council, but Council can have greater certainty that rezonings will not occur, except in exceptional circumstances where Council deems it appropriate, if an ICBL is put in place. An ICBL exists in legislation because there are times when other approaches are not adequate, and I would even say it is fairer to property owners if Council’s intention to refuse rezonings is explicitly known and implemented evenly and openly.

An ICBL also covers Committee of Adjustment decisions, and of course, “as-of-right” development. But in addition, even if Council does refuse a rezoning application, without an ICBL there is a high probability that the OMB might overturn that refusal.

In particular, the OMB is likely to overturn a Council decision refusing a development if staff has recommended it, even if there is widespread public and political support for a refusal.

If a democratically elected Council wants to ensure that it will not be in the predicament of facing a Planning Department Final Report that recommends a rezoning, an ICBL sends clear instructions to the Planning Department about the policy (for up to two years), that Council’s policy and instructions to staff that rezonings are not considered acceptable until such time as any study has been completed.

Having a clearly defined ICBL in place is actually fairer to property owners than refusing all applications without an ICBL in place – as the ICBL clearly lets property owners avoid time and

money spent on fruitless applications because of an unwritten consensus that applications are to be refused in the short term while a study take splace.

Point 3

The ICBL itself must cover or prohibit some form of "land use", but the "policies" being studied need not be limited to the just "land use" in the narrow sense of something like "auto body shop".

The OMB decision on 1388688 Ontario Ltd. (RioCan) v. City of Brampton, related to an ICBL which sought to prohibit low-density retail (big-box) development by prohibiting buildings less than a certain height – the Appeal was allowed, as a building's lack of a minimum height was not considered a "land use" under 38(1) of the Planning Act.

The decision seems to indicate that ICBL can limit a land use by virtue of "size, scale or intensity" and not just because there might be a specific use, like an "auto body shop", that might be undesirable or at least is need of being studied.

The decision also said this about using height alone as the criteria for prohibiting a proposed new structure under the ICBL:

> For example, there is no distinction between a small retail use of less than 1000 square feet and major retail use of at least 50,000 square feet in terms of the uses permitted on the subject lands by the zoning by-law, nor is there any distinction in size, scale or intensity of use introduced in ICBL 127-2009.

Along these lines that it is permissible to have an ICBL to cover based on size or configuration alone, and it not be limited by a specific use that might be undesirable, there is an excellent example of an ICBL that I would like to cite – the City of Toronto's own ICBL Bylaw 771-2007 on the residential parts of the Quarrylands.

I should first note that the Bylaw was struck down and only in force for 30 days, due to technicalities dealing with notification of affected property owners and not with its substance, which was upheld.

This bylaw covered residential buildings on mixed-use lands where the issue was not the underlying residential uses themselves, but the potential height, density and configurations of the buildings – the idea was never to prohibit apartment or multiple unit buildings as some sort of nuisance – the bylaw included this provision:

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The following uses are prohibited on any of the lands shown within the heavy lines on Schedule '1' attached to this by-law:

(i) **Apartment Buildings**
(ii) **Multiple-Family Dwellings**
(iii) Nursing Homes
(iv) Senior Citizens Homes

The Staff Report indicated that:

> The appropriateness, distribution and location, densities, built forms and heights of such land uses are currently under review through the Birchcliff Quarry Lands Study.

A review of documents will prove that the reason for the ICBL was clearly the "high-density, high-rise" built form and its location within the properties covered, not an underlying idea of apartments or multiple family dwellings as being inappropriate on these lands, and in favour of other uses.

Another example from Toronto was in 2002, where an ICBL was introduced to prohibit all new buildings in an area while erosion and top-of-bank issues were studied. Bylaw 589-2002 stated:

> WHEREAS the Council of the City of Toronto has directed that a study of the lands bounded by Hilldale Road, Cripps Avenue, Spears Street and Hillborn Avenue be conducted in regard to erosion problems and to establish an appropriate top of bank; and… no person shall use any land, or use or erect any buildings or structures within the lands shown

I agree that it is true that in many cases ICBLs are used to temporarily prohibit one or a few related specific types of land use, not just auto body shops. I found examples applying only to methadone clinics, wind farms, power plants, and similar controversial uses where cries of "NIMBY-ism" might be made. The City of Toronto has similarly used ICBLs to do things like temporarily stop new "places of worship" in employment lands, or for nightclubs or outdoor restaurant patios.

Typically in these cases, of course, only the specific types of uses that are a cause for concern or even NIMBY-ism are prohibited – there is no blanket prohibition of ALL development in the areas covered just to stop one land use for up to two years.

Yet there are many cases where ICBLs have prohibited ALL, or nearly all, new buildings or additions in an area while it is under study for reasons other than one potentially problematic land use.

Windsor's ICBL 17-2007 prohibited ALL new development in the Olde Sandwich Town area, while a general study of the area was underway. This was renewed for the second year. Similarly, Burlington's ICBL 113-2006 prohibited ALL development in the "Old Lakeshore Road Precinct Special Study Area" for a one year period.

Other bylaws in other cities have prohibited all development (with some typically reasonable exclusions such as landscaping, interior renovations etc.), including ICBLs in Goderich and Ajax.

In 2011, Mississauga passed an Interim Control Bylaw to prohibit ALL new development in its Downtown core (except for leasehold improvements etc.) while it did a study. The intention of the study was similar to the one passed in Brampton that was struck down – to ensure that development is intense and follows the City's vision, instead of large format (big box) retail and auto related uses that the market might prefer as the highest and best use. The Mississauga ICBL did not just prohibit some uses that were undesirable, but all new structures.

St. Catharines and Waterloo have enacted development freezes because of worries over height or building massing (including setbacks) in or near residential areas. I only used the internet to do a quick search, and many more examples likely exist.

In 2006, Councillor Walker introduced an ICBL to Toronto Council for a portion of Avenue Road north of St. Clair. This was deemed necessary due to citizens' concerns about the potential impact of

replacing existing apartment buildings (5 storeys) with ones that would be taller and have higher densities (18 storeys or more) from rezoning applications that had been submitted, and that others were to come. While the ICBL failed to pass, it did garner significant support and does show that there a have been experienced politicians in this city who do not share your narrow interpretation.

Perhaps the best example I found is in Markham in the Hughson Drive area. A stable residential neighbourhood governed by bylaws dating back to 1954 was considered vulnerable to inappropriate changes – such as severances to large lots or the potential construction of monster homes – which were sonsidered inappropriate to the "open" character of the area. The study lead to recommendations dealing with the existing zoning in areas of setbacks, height, building length, frontage and lot area.

An ICBL for Queen Street could justified in that the situation is very similar to the one used in Markham in that there is a need to codify the built form in ways that fit with the Beaches Urban Design guidelines, or even parts of the Avenue & Midrise Buildings Study – including things such as the rear angular plane provisions in the Draft Harmonised Bylaw Zoning Bylaw which has been repealed.

The examples I have found all generally are clear in that the ICBL itself must be worded to apply on the basis of specific land uses, or limiting the size of any new structures or uses, including limiting them to zero. However, the other key issue is that a study must be underway - the study need not be limited to controversial land uses, or it even explained in any detail within the bylaw, all that matters is that a study of some type is legitimately intended to be done and that there is no other "bad faith" to give cause to the OMB to overturn it.

One Specific ICBL Example Examined in Detail

There is one ICBL I would like to cite and examine in some detail, which is from Toronto.

Bylaw 160-2007 is an ICBL covering one block on the north side of Davenport between Alberta Avenue and Winona Drive – it had a mixed use MCR zoning. It was extended by a second year in 2008. In the Motion introduce by Joe Palacio (Seconded by Councillor Mihevc), it was described as:

> Local residents have expressed concern regarding the uses permitted in the Mixed Use Zoning District (MCR) area between Alberta Avenue and Winona Drive on the north side of Davenport Road and their compatibility with the existing low-rise residential dwellings in the neighbourhood. Of particular concern are uses which have the potential to create parking and traffic circulation issues such as auto-related uses.
>
> The implementation of an Interim Control By-law would provide staff with the opportunity to review the MCR zoning in the area along the north side of Davenport Road, between Alberta Avenue and Winona Drive, to determine the appropriateness of the existing zoning provisions.

The above indicates that it is not the activity of something like a parking garage that is at issue, the driving factor is traffic and parking impact on the neighbourhood, and the study needed to justify this ICBL was little more than a vaguely defined internal review by staff.

The Staff Report included this:

> SUMMARY
> The purpose of this report is to recommend the implementation of an Interim Control Bylaw

to provide Planning staff with an opportunity to review the Mixed Use Zoning District (MCR), in the area along the north side of Davenport Road between Alberta Avenue and Winona Drive, to determine the appropriateness of the existing permitted uses and zoning provisions. The review will have regard for the adjacent residential uses and residential zoning district and will assess the compatibility of these uses with the uses permitted in the MCR zoning taking into account such matters as lot configuration and topography.

Use of Interim Control
The implementation of Interim Control By-law would provide Staff with the opportunity to study the Mixed Use District (MCR) zoning in the area along the north side of Davenport Road between Alberta Avenue and Winona Drive. The planning basis for such a study would be to assess:

1. The site, situation, topography and configuration of the properties within the study area and their ability and appropriateness to accommodate permitted uses under the current zoning; and

2. The appropriateness of the permitted MCR uses having regard to the proximity of the Residential District R1- Zoning area and existing residential dwelling house uses adjacent to the study area.

A Staff Report from January 2009 outlined the "local concerns" from a public meeting:

Community Consultation
A community consultation meeting was held on January 19, 2009 to discuss the review of the existing zoning provisions and to respond to community comments and questions. In addition to planning staff, the meeting was also attended by the local councillor and approximately 28 members of the public.

As part of the meeting, Staff presented the findings of the study and a potential course of action which would require changes to the existing boundary of the MCR zone and limiting the range of permitted uses to generally remove automobile related uses such as service and repair shops, service stations, car washing establishments, and motor vehicle repair shops. No one spoke in opposition to this proposal and several individuals voiced their approval of the proposed direction that was presented by Staff.

The following comments and issues were raised:
(a) former motor vehicle repair shop was a nuisance in the area;
(b) the topography and lot configuration may make redevelopment on the northwest corner of Davenport Road and Winona Drive difficult;
(c) permitted uses should be restricted to those uses that will assist in creating a vibrant street and neighbourhood;
(d) in addition to restricting automobile related uses, consideration should be given to restricting a rooming house, parking uses, pawnbroker's shop, and a massage establishment;
(e) on street parking in the area, particularly during the winter is problematic;
(f) local streets are used for parking by patrons of the businesses along Davenport which have limited on-site parking;

(g) the city should investigate opportunities for increasing parking in the area including the possibility of establishing City managed parking lots;
(h) 1130 Davenport and 1136 Davenport have been vacant and in a state despair following the fire that destroyed the former motor vehicle repair shop;
(i) there is a desire to see the vacant buildings and land at the northwest corner of the study area redeveloped; and
j) Winona Drive has a traffic and speeding problem which should be investigated by the City.

A traffic study was also done, and a bylaw was subsequently passed for this section of Davenport in 2009.

And while some residents objected to an "auto body shop" use, it appears that only important reasons for this ICBL were not related to the noise, pollution or industrial nature of an auto body shop, but almost exclusively the documents indicate that the ICBL was driven by parking and traffic concerns, of which an auto body shop was seen as being worse than other allowable uses. However, the resulting bylaw also excluded other stigmatised land uses, such as massage parlours.

If the ICBL is only meant to cover specific uses such as "auto body shops", then why did the ICBL for Davenport freeze ALL new uses, and not just the few land use types at issue? Specifically, it said:

> No person on any land zoned MCR within the area…shall use any land except for the purpose for which the land is used on the day of enactment of this by-law.

Perhaps I need not have gone into so much detail, as it turns out that as the then Director, Community Planning, Etobicoke York District, your signature is on the bottom of the staff report that extended this ICBL entitled *Extension of Interim Control By-law No. 160-2007 applying to the north side of Davenport Road between Alberta Avenue and Winona Drive* (January 21, 2008), though it is not on the documents for the initial imposition of the ICBL in 2007.

Many of the above concerns are no different than those found in The Beach regarding rezonings, Committee of Adjustment Applications and even "as-of-right" development – as many automotive and other uses allowed on the properties on Davenport are not prohibited in the CR zoning on Queen.

From examining all of the 3 points made in your email of December 20th, it is quite clear that it is perfectly reasonable and acceptable for the City to pass an Interim Control Bylaw for Queen Street in the Beach – which could include a prohibition on the erection of any new structures as part of a complete development freeze, or which might even only be limited to new structures that included residential, and/or that were above a certain size or density under the test of "size, scale or intensity".

In the above example on Davenport, the ICBL was driven by "local concerns", therefore I will turn my attention to listing times that need to be studied or have been clearly expressed by residents at one or more meetings I have attended, including the Public Meeting in June 2011 for 1960-1962 Queen street East.

Issues To Be Studied While An ICBL Is In Effect

The situation in The Beach is somewhat different from that on Davenport, but there are a wide variety of issues that need to be studied, either as part of the Visioning Study or separately.

Unfortunately, the Avenue Segment Review done for 1960-1962 Queen East is wholly inadequate and lacks things like a Traffic Study, CSFS Study, Shadow Studies, Wind Study etc.

Even if there were no rezonings and development were only to occur on an "as-of-right" basis, the majority of buildings on Queen Street east of Coxwell are well below the currently allowable 2.0 to 2.5 times density – so existing problems will get worse even if densities are not increased to the close to 4.0 times density found with 6 storey or taller condominium projects.

I have listed 15 "Key Issues" that likely would come up at a public consultation, and that provide more than adequate justification for an ICBL. I have attached these to this letter as Attachment 1.

The Visioning Study will likely include a variety of other topics, including looking at ways to revitalise the retail stores and businesses on Queen (reduce vacancies, increase viability), streetscape improvements (eliminating the telephone poles), and others.

Even if your interpretation is correct that ICBLs only deal with as-of-right zoning issues, the recent proposal for the LCBO at 1986 Queen Street East, which was refused by the Committee of adjustment, shows that there is a real need to review the zoning bylaws for Queen Street in The Beach to deal with issues of the façade, and to protect neighbouring residential areas from inappropriate applications.

Lastly, I would like to note that approximately 200 Beach residents turned up for a meeting held on March 15th to discuss planning issues and development on Queen Street. There was a petition (prior to this) with 300 signatures gathered in a few days. The community is extremely anxious that only appropriate changes be made to the streetscape and neighbourhood.

I understand that the Visioning Study will not start until the Fall. An ICBL is the only way to ensure that irreversible negative changes to not occur until public consultations take place and recommendations developed and implemented.

Regards

B r i a n T . G r a f f
M.B.A., B. Arch., B.E.S.

Attachment 1

Reasons to Support an Interim Control Bylaw (Queen St. E. – Coxwell to Victoria Park)

The following 15 "Key Issues" support a freeze on development for up to 2 years, including "as-of-right" development, applications involving variances at the committee of adjustment, and rezonings or Official Plan Amendments

Issue 1: Flooding, Groundwater and Sewers
There is a serious problem with flooding, particularly with houses and buildings south of Queen Street. There are also other areas in The Beach where development might interfere with underground rivers – or where the infrastructure is obsolete or inadequate.

Issue 2: Parking
As with many other areas, there is a shortage of parking in The Beach which affects residents and businesses alike, and which is one reason why many people avoid the area as a shopping or dining destination. There is also concern that added residential density will increase the demand for parking, and that restrictions be put in place in regards prohibit issuance of parking permits to occupants of new condos.

Issue 3: Traffic and Transit Studies
There was a traffic study done for the condominium project at 66 Kippendavie, which is now under construction. This study indicated that the queen and Woodbine intersection was at or above capacity during rush hours, and this is without including several condominium projects that have either been approved or are likely to be approved in the next couple of years. The impact of traffic congestion on the TTC needs to be part of any traffic study.

Issue 3: Official Plan Structure
There is some local debate as to whether or not some or all of Queen Street should be removed from being an "Avenue" in the Official Plan. Clearly, the sections of Queen closest to Victoria Park are mainly residential and have little traffic, as Queen Street is a "dead-end" in that it does not connect to any arterial road.

Issue 4: Inappropriate Land Uses Under the Current CR Zoning
The "Harmonised Bylaw" that will likely be amended is available online and it indicates the following for a CR Zone

> (1) Principal Use – Conditional – CR Zone
> In a CR zone, the following uses are permitted if they comply with the specific conditions set out for each use in Clause 40.10.20.100, and the maximum **floor space index** value associated with the letter 'c' :
>
> **Amusement Arcade** (23, 46, 47)
> **Eating Establishment** (1,33, 22)
> **Take-out Eating Establishment** (1, 35, 22)
> **Cabaret** (1)
> **Nightclub** (2,36)
> **Hotel** (4, 47)
> **Personal Service Shop** (22)

Recreation Use (1, 46)
Entertainment Place of Assembly (1, 46)
Sports Place of Assembly (46)
Retail Store (5, 22)
Retail Service (17)
Funeral Home (24)
Vehicle Washing Establishment (25)
Vehicle Dealership (26)
Service Shop (6)
Public Parking (7,8,9,10,11)
Drive Through Facility (12,37)
Vehicle Fuel Station (13,38)
Vehicle Service Shop (13,39)
Club (1)
Day Nursery (27)
Place of Worship (14,40)
Laboratory (15)
Private School(28)
Public School (28)
Place of Assembly (1, 29)
Custom Workshop (16)

In a CR zone, the following uses are permitted if they comply with the specific conditions set out for each use in Clause 40.10.20.100, and the maximum **floor space index** value associated with the letter 'r' :

Dwelling Unit (18)
Nursing Home (41)
Seniors Community House (42)
Crisis Care Shelter (43)
Group Home (30)
Municipal Shelter (31)
Rooming House (48)

(#) The number after the listed use is the condition number reference in Clause 40.10.20.100

None of these appears to be excluded in the Exceptions sections of the Bylaw.

Queen Street East is a local mainstreet, but also a major tourist area. Except where grandfathered, the CR zoning should be revised to likely exclude at least the following:

1. Sports Place of Assembly
2. Drive Though Facility
3. Funeral Home
4. Vehicle Dealership
5. Vehicle Washing Establishment
6. Vehicle Fuel Station
7. Vehicle Service Shop
8. Laboratory
9. Rooming House

Issue 5: Updating the Urban Design Guidelines

Queen Street has changed since the existing *Queen East - The Beaches Urban Design Guidelines* were written in 1987 – many uses that existed then have diminished, and should be limited and not allowed to ever return to what is a major tourist area. The Guidelines need to be updated to remove or change things such as:

- Auto related uses such as gas stations, sales lots or parking lots will be buffered from Queen Street East through the use of landscaping or fencing.
- Auto showrooms will replace open auto sale lots and be built to the streetline.

Issue 6: Secondary Plan

Once revised and updated, the *Queen East - The Beaches Urban Design Guidelines* should be put back into the Official Plan with the status of a Secondary Plan, which will limit the ability of the OMB to use conflicting policies within the Official Plan to allow development that is contrary to the guidelines.

Issue 7: Beach Triangle

The existing *Queen East - The Beaches Urban Design Guidelines* only cover from Woodbine Avenue eastwards, with 4 sets of guildeines for each or 4 regions – there is a need to write new sections to the guildeiens covering the north side of Queen from Coxwell to Woodbine.

Issue 8: Angular Planes on Walls facing a Street

The existing Queen East - The Beaches Urban Design Guidelines call for things such as

> Mixed use buildings will be 3 storeys in height and/or will be perceived as 3 storeys.

This is very vague and there is a need to put in a clearer rule. My suggestion would be to establish a "cornice line" at the top of the streetwall, no higher than 10m above grade, and from this "cornice line" then to have a 30 degree angular plane.

The Avenues and Midrise Guidelines provisions for angular planes do little to maintain the appearance of 3 storey buildings, in part because 45 degrees is inadequate, but also because the 45 degrees starts from a point that could be in mid-air as opposed to being from an opaque wall that does serve to hide any additional floors.

Issue 9: Rear Angular Planes and Other Provisions from the Avenues and Midrise Guidelines

Many local residents agree that 20m is too tall for Queen Street East, and many of the other provisions of the Avenues and Midrise Guidelines are similarly insufficient or inappropriate for Queen Street East. while others, like the Rear Angular Plane provisions for Deep Lots and for Shallow lots, or ones calling for a 6m wide rear laneway, might be very beneficially to the long term planning of the street. Since Queen was removed from the Study Area by Council in 2010, some of these provisions should be put directly into the zoning

Issue 10: Fire Hall No. 227 "View Corridor"

The historic fire Hall 227 is the true gateway to The Beach, and is one of the main architectural symbols of the neighbourhood, along with the Lifeguard Station at Kew Beach.

The City is examining view corridors of major public buildings in other parts of the City – specific protections are needed for the Fire hall to ensure that the clock tower is still visible from the east and west to people using Queen Street East, and in particular, height limits and or stepbacks on properties

near the Fire Hall need to be put into place, particularly on the former Shell Gas Station site, which will likely be redeveloped within the next year or two.

Issue 11: Restaurants and Food Stores in Condominiums
There is a concern that new condominium projects will have restrictive covenants or condominium agreements that preclude these uses, and that the required ventilation or other provisions needed for these uses will not be built-in to retail units that are in condominium buildings – a strategy to ensure that that these uses will continue and will not be squeezed out through redevelopment is needed.

Issue 12: Cultural Heritage Landscape
Queen Street was identified as a potential Heritage Conservation District under bylaw 1118-2008. It is unlikely that the street will get HCD status in the next few years, but nevertheless, the Provincial Policy Statement does say that:

> *Significant built heritage resources* and *significant cultural heritage landscapes* shall be *conserved.*

How the city can do this until an HCD is in place needs to be examined, including a review of the 31 listed or designated Heritage buildings, and the potential inclusion of others.

Issue 13: Height of Ground Floor Retail Spaces
The City is insisting that new ground-floor retail spaces have a minimum height of 4.5m. This provision is probably appropriate in suburban areas, but is not in character with pre-WW2 Avenues like Queen, with existing "fine grain retail".

Most of the existing retail on Queen has heights of 4.0m or even less – the 4.5m minimum might be appropriate for any one-story commercial buildings, but for buildings with a second floor, it means that new buildings will be much taller and the floors levels will vary greatly from neighbouring buildings

I would recommend that this be studied and that for commercial buildings (or parts of buildings with commercial uses) with a second floor, a minimum floor height of 3.5m and a maximum of 4.0m should be included in the zoning.

Issue 14: Infrastructure
In the absence of any Segment Review study for 1864-1876 Queen Street, and given the lack of the required studies in the 1960-1964 Queen Street East applications's Segement Review study, and given the number of new condo development occurring or likely to occur on the 4 "sioft Sites" identified, plus the other soft Site at 1919-1925 Queen street east that the consulants failed to identify despite it currently being for sale on MLS as a development opportunity, thereis a need for full study of infrastructure in the area – including day and schools and other things that are covered by a Community Services and Facilities Study, which is supposed to be part of a Segment Review study according to the Appendix 2: Terms of Reference document of the Toronto Development Guide.

Issue 15: Removal of Queen Street from the Avenues & Midrise Buildings Study Area
In the absence of other measures, there is concern that the removal of Queen Street from the Avenues & Midrise Buildings Study did not go far enough in determining the appropriate built form for Queen Street – and that the intention of the Motion introduced by Councillor Fletcher in July 2010 was for the "existing context" of a street with a low-rise character with heritage attributes was to be maintained and that the idea of a "planned context" of midrise buildings was explicitly rejected by Council.

This is transcribed precisely from the Minutes:

> **Councillor Fletcher (9:55am)**: I have a motion That City Council amend the Study Area Map in Attachment 2 of the report (May 4, 2010) from the Chief Planner and Executive Director, City Planning, by ***removing Queen Street East from the Avenue and Mid-Rise Buildings Study Area***. In consultation with Planning staff and yourself (Bussin), ***because of the heritage nature of many parts of Queen Street and this as-of-right nature of the buildings***.

Actions to create an HCD or even to enshrine the existing guidelines in the Official Plan might resolve the issues as to the legal meaning of the above motion, but the community clearly wants the intention of this motion to be respected and to be have some means of enforcing it.