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April 11, 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

Re: Use of Guidelines for 1960-1962 Queen Street East

Dear Mr. Lintern:

I am writing to you because I am concerned that the Queen East – The Beaches Urban Design Guidelines will not be used for 1960-1962 Queen Street East.

Your letter of January 17, 2012 to Councillor McMahon outlined the process and evaluation criteria for the application:

Going forward, the process for this application will include evaluation of:

- consistency with the Queen Street East Guidelines and consideration of the current zoning by-law standards, an understanding of the deviations and impact
- *through the Avenue Segment Study, the potential built form implications for the portion of the Queen Street East resulting from the proposed development and whether the proposed development would be setting a positive precedent for future development of the remainder of the Avenue*
- the application based on the current Official Plan policy framework, including development criteria and performance standards that best achieve policy objectives.

The last point leaves the door open to ignore the Beaches Guidelines and to bring in other, in particular, the Avenues & Midrise Buildings Study (A&MRB Study) Guidelines passed in July 2010, even if there is only the slightest pretext under the Official Plan to do so.

What I hope to show is that even if such guidelines were used, the project clearly violates even these guidelines, and that the application needs to be refused outright regardless of which guidelines are applied.

On October 12, 2011, Leontine Major wrote the following in an email to me:

Buildings has and will continue to review the plans as they are revised. **You are correct in saying that the existing plans are not 100% compliant with the Mid-rise guidelines. There**

are encroachments into the building envelope that they have been advised to remove, ie. they are required to be 100% compliant. The exception to the height limit is the mechanical penthouse, as you pointed out and as is the case in most development, but we will limit the height of this too. I expect that revised plans will be submitted in the next few weeks.

I would assume that the “100% compliance” extends to all of the guidelines (unless some extenuating reasons clearly justify non-compliance) as Ms. Major did not limit it to just being compliant on the building envelope issues.

However, the drawing submitted on November 18th still clearly violate the building envelope, as well as many other guidelines.

I have prepared a spreadsheet which lists all of the guidelines and I have used this previously to analyse other projects for compliance – in particular, applications at 856 and 1243 Dundas West. See the attached version I have prepared for 1960-1962 Queen Street East, based on drawing submitted to your department and were stamped on November 18th, as these are the latest ones available to the public.

The A&MRB Study guidelines run from #1 to #19G – there are 36 or 37 various tests, depending on how they are counted. I count the “Shadow Testing” analysis under both #5A and #5B as a separate test.

Many of the 37 guidelines do not apply to this site, as for example, some only apply to Heritage Conservation Districts.

By my count, the following 18 guidelines are violated by the proposed design:

- Performance Standard #1: Maximum Allowable Height
- Performance Standard #4A: Front Façade: Angular Plane
- Performance Standard #5A: Rear Transition to Neighbourhoods: Deep Properties
- Performance Standards #5A & 5B (See Note): Shadow Testing
- Performance Standard #6: Corner Sites: Heights & Angular Planes
- Performance Standard #7A: Minimum Sidewalk Zones
- Performance Standard #8B: Side Property Line: Limiting Blank Side Walls
- Performance Standard #8C: Side Property Line: Step-backs at Upper Storeys
- Performance Standard #8E: Side Property Line: Side Street Setbacks
- Performance Standard #12: Balconies & Projections
- Performance Standard #13: Roofs & Roofscapes
- Performance Standard #16A: Vehicular Access
- Performance Standard #16B: Mid-Block Vehicular Access for Constrained Sites
- Performance Standard #17: Loading & Servicing
- Performance Standard #19A: Heritage & Character Areas
- Performance Standard #19D: Character Area: Fine Grain Fabric
- Performance Standard #19E: Character Area: Consistent Cornice Line
- Performance Standard #19G: Character Area: Other Considerations

While this is not a mid-block site, Performance Standard #16B: Mid-Block Vehicular Access for Constrained Sites applies in relation to potential development of the entire block.

Conversely, only the following 7 ones seem to have been met:

- Performance Standard #2: Minimum Building Height
- Performance Standard #3: Minimum Ground Floor Height
- Performance Standard #4C: Front Façade: Alignment
- Performance Standard #8A: Side Property Line: Continuous Street Walls
- Performance Standard #14: Exterior Building Materials
- Performance Standard #15: Façade Design & Articulation
- Performance Standard #18: Design Quality

Even then, many of the ones which arguable have been met are highly subjective, particularly “Façade Design”, “Exterior Building Materials” and “Design Quality” – and many residents feel that the entire design and choice of materials is not appropriate.

I want to draw your attention to several specific guidelines and to discuss them in more detail.

Performance Standard #5A: Rear Transition to Neighbourhoods: Deep Properties

The following table is in the A&MRB Study

R.O.W. Width	Definition of Deep Lot is greater than:
20m	32.6m
27m	41.0m
30m	44.6m
36m	51.8m

Queen Street is a 20m R.O.W, and so for properties under 32.6m in length, angular plane under #5B for Shallow Lots is to be used, but on all other properties, the Deep Lot angular planes, under #5B, are to be used.

The Staff Report clearly identifies the property as being 45.72m in depth – not even close to consideration for this to be a Shallow Lot.

The drawings submitted in November for 1960-1962 Queen Street clearly show an angular plane which does not intersect the rear lot-line, but which comes in 3m higher.

The applicant is clearly using the “Shallow Lot” rear angular plane on a “Deep Lot”!

So, while the drawings show violations of the angular planes at the rear, of up to 3.0m, in fact the angular planes are being violated by another 3m which is not indicated because the line is incorrect to begin with.

Not only does the design proposed for 1960 Queen violate the Avenues Guidelines “Rear Angular Plane”, it also would not be have been allowed under the new zoning bylaws that the City is currently revising.

Under the temporarily repealed Harmonised Zoning Bylaw, this section of Queen Street was zoned CR 2.0 SS2. The designation “SS2” means “Standard Set 2”.

- (D) If a lot is in a CR Zone, and the zone abuts an O, ON or OR zone or a Residential Zone category, then every building on the lot in the CR Zone must not penetrate a 45 degree angular plane projected:
- (i) over a shallow lot, along the entire rear lot line, starting at an elevation of 10.5 metres above the average elevation of the ground along the rear lot line; and
 - (ii) over a deep lot, along the entire rear lot line, starting at an elevation of 7.5 metres above the average elevation of the ground along the rear lot line.

Based on this table:

<u>Width of street right-of-way</u> (column A)	<u>Lot depth</u> (column B)
20 metres	32.6 metres

The Staff Report clearly identifies the property as being 45.72m in depth – not even close to consideration for this to be a Shallow Lot.

Performance Standard #8E: Side Property Line: Side Street Setbacks

Kenilworth is an unusual street in that there is a fork in the road just north of Queen Street – with part of the road running straight north, up a slope (where it dead-ends) and the other fork jogging to the east and continuing north towards connecting streets.

This means that the rear of 1960-1962 Queen Street is clearly visible to people driving or walking south on Kenilworth, and the residential building to the north is set back 7.0m from the lot line and proposed west wall of 1960-1962 Queen Street.

In effect, most of the rear of the new condo will be visible for hundreds of feet, and the rear façade is thus very public as opposed to being a typical laneway elevation that is not seen from the street.

Performance Standard #8E would soften the abrupt transition by setting back the rear corner of the new condo by between 2.0m and 5.0m from the lot-line, and to design this part of the building to be more in keeping with its high visibility instead of being treated as a typical service side of the building, with visitor parking and the door to the underground garage being clearly visible to people on Kenilworth.

In this case, as the neighbouring building is 7.0m, the full 5.0m setback from Kenilworth, for 15% of the west façade, should have been required

Performance Standard #8B: Side Property Line: Limiting Blank Side Walls & Performance Standard #8C: Side Property Line: Step-backs at Upper Storeys

The proposed rezoning would result in a blank sidewall in excess of 6 storeys tall. The proposal is for a 20.6m tall building (as measured from the drawings, the 20.15 is incorrect) plus there is a stairwell.

The A&MRB Study says that:

Blank sidewalls should be designed as an architecturally finished surface and large expanses of blank sidewalls should be avoided.

- Blank side wall conditions may be acceptable up to a height of 6 storeys if treated properly.

- Required side step-back walls should be a minimum of 5.5 metres from the property line to allow for sufficient glazing.

The text goes on to state that:

As the Avenues reurbanize with mid-rise buildings, some buildings will be taller than existing structures or new structures that are not built to the full height limit. The extent of these blank walls is a result of both the height of adjacent buildings and whether the upper storeys of the new building step back at the sides. **While exposed blank sidewalls are to be expected during this period of transition, design standards are required to mitigate the appearance and height of blank walls.**

What the above section indicates is that blank sidewalls as a permanent feature of the street are not desirable and should be avoided. Where they will be seen during the “period of transition”, the idea is to make them as attractive as possible.

Where this is not likely to be temporary, typically the way to mitigate this is to step back the upper floors of a building by 5.5m from the side lot-line.

In the case of 1960-1962 Queen, the property should have a 5.5m setback above the 3rd or 4th floor (above 12m) on the east side if the properties to the east are “unlikely to be redeveloped, as the Segment review study classifies them. This would allow the 6th, 5th, and possibly 4th floors to be glazed on the east side, instead of having a blank wall that is at least 20m tall, and is over 23m at some points.

Performance Standard #16A: Vehicular Access & Performance Standard #16B: Mid-Block Vehicular Access for Constrained Sites

While the proposed design does have all of its vehicular access away from the Avenue as it is provided off the local street (Kenilworth), certain aspects of guideline #16A are not fully observed.

The text says this:

To improve on existing laneway systems along the Avenues, the City should seek to acquire land to extend laneways to full block length. The Performance Standards for rear transitions (see Performance Standards 5A - 5C) require a minimum 7.5 metre setback from the rear property line which would allow for two-way lane access.

This is not being done, and the portions of the 7.5m setback from the rear lot line is being used for things such as the stormwater storage tank (underground) and other uses or objects (retaining wall) that will prevent a 6m wide laneway from easily being created in future.

Instead of two-way lane access, the existing one lane right-of-way will continue to exist – which will cause problems in so far as the right of way will be used by cars travelling in both directions, while there is also a driveway immediately to the south of it – in order to turn into the vehicle elevator, cars will swing wide to get in by using the right-of-way, and potentially line-ups of cars will occur in the evening that could back up traffic onto Kenilworth.

Performance Standard #16B does not apply to 1960-1962 Queen directly, but it will apply to 1964, 1966 and 1968 Queen if any or all of these properties should ever be redeveloped beyond the existing one to two storey buildings.

As part of #16B, mid-block sites without a laneway are supposed to provide a 6.0m laneway which in future is supposed to connect to the sidestreet – it says:

Mid-block vehicular access should be avoided wherever possible. However, there are instances where this is the only point of access for certain Avenue sites. For mid-block sites without rear lane access, a front driveway may be permitted, provided established criteria are met, including:

- A 6.0 metre public lane is provided at the rear of the property which will form part of a continuous laneway system within the block as adjacent properties redevelop;
- As redevelopment occurs, approved midblock driveways to the Avenue should be designated for shared access to serve adjacent properties in lieu of, and until a rear public laneway is established;

If 1960-1962 Queen Street is built now without a proper rear laneway being part of the conditions for approval, then in future the properties to the east either cannot be developed, or will require a driveway directly off of Queen, as the single-lane right-of-way will likely be inadequate. Yet, the conditions listed under #16B cannot be met as the properties to the east of 1968 Queen Street are shorter than 1968 and the others to the west.

There is currently a driveway crossing the sidewalk at 1972 Queen Street that could be incorporated into a development covering all of the properties between 1964 and 1972 Queen – but it is far from certain that such a development will ever in fact occur without leaving out some of the properties.

It should also be noted that in the case of 1864 Queen Street East, a nearby rezoning from 2009, the applicants were required to convey portions of land to the city in order to widen the laneway to two lanes. Similar requirements for the conveyance of land also occurred at 854 Dundas West and 1243 Dundas West.

Here is a section from a Staff Report on 323 King Street – it deals with a “Tall Building” but the ideas are relevant wherever a proposal is significantly taller than the surrounding buildings:

Tall buildings, where appropriate, must meet the policies of the Official Plan and Urban Design Guidelines, achieve adequate light, privacy and views, and **maintain the potential for adjacent sites to develop in a similar manner.** New development should reinforce a street wall height that reflects the character and scale of the area, particularly that of heritage buildings on the same block face.

(While there are no heritage buildings on the block face, there are 2 across the street, to the immediate west and the immediate south)

In short, the proposed development should not be allowed to proceed unless the applicants agree to convey the necessary 6.0m wide strip of land for a public laneway in place of the existing right-of-way. Not to require this will mean that the neighbouring properties will likely not be able to be redeveloped “in a similar manner” but instead would leave a street with only one 6-storey building on a portion of an Avenue with historic buildings at one and two storeys – contrary to the Built form sections of the OP.

Without a 6.0m wide laneway being conveyed to the city now, then the blank east wall (see Performance Guidelines #8B & 8C) will be a permanent eyesore on the street – creating the laneway now at least provides some faint hope that the wall will eventually be hidden by a future redevelopment of 1964 Queen Street.

Character Areas and Bylaw 1118-2008

Pages 19 to 21 of the A&MRB Study discuss Character Areas.

I had asked about this in my emails in the fall, but no answer was provided in your letter of January 17, 2012 to Councillor McMahon.

In an email I wrote to Leontine Major on October 12, 2011, I specifically asked about this section and guidelines #19A to #19G, but have yet to have any answer to this from her, or from you, as it was not discussed in your January 17th letter to Councillor McMahon.

Character Areas were identified by the authors of the A&MRB Study. The Maps included in the report do not show this section of Queen as a “Character Area”, but in fact it is covered by these provisions.

The A&MRB Study has this passage:

There are four types of culturally significant, built and natural resources along the Avenues:

1. Existing Heritage Conservation Districts
(see: http://www.toronto.ca/heritage-preservation/heritage_districts.htm)
2. Heritage Conservation Districts under study
(see: http://www.toronto.ca/heritage-preservation/heritage_districts.htm)
3. Areas that Warrant Further Heritage Analysis
(see: <http://www.toronto.ca/legdocs/bylaws/2008/law1118.pdf>)
4. Character Areas

Queen Street east of Woodbine was clearly identified under Bylaw 1118-2008 as a Potential Heritage Conservation District – listed as #81 – *The Beach*.

The A&MRB Study then lays out the goals for areas like Queen in The Beach:

Existing HCDs, HCDs Under Study, and Areas that Warrant Further Heritage Analysis, include areas of an Avenue that contain:

- Identified and/or designated built and/or natural cultural heritage resources.
- Potential built and natural cultural heritage resources that are not listed or designated.

The desired outcomes for these Avenues is:

- Conservation of the character of the area.
- Alterations and infill development that are sensitive to, and strengthen the character of the area.
- Development that is in accordance with Performance Standard 19A - G, the Ontario Heritage Toolkit and the Parks Canada Standards and Guidelines for Historic Places.

It is very clear, particularly from the strong opposition to this rezoning expressed at the Community Consultation Meeting held last June, that this project and rezoning are not sensitive to the existing character of the area, nor will it help to conserve the area if it sets a precedent for the introduction of similar buildings on the 4-5 “soft-sites” identified or in other places where development might occur over the next 20 years or more.

The above section from the study talks about “alterations and infill” – as opposed to “redevelopment” or “reurbanisation”. The goal is clearly that new buildings should fit into the “existing context” as opposed to there being a “planned context” that is quite different than what exists today.

The “Character Area” designation is *weaker* than the Potential HCD designation, but even for Character Areas these recommendations are supposed to apply:

New mid-rise development in these Character Areas should:

- Mitigate impacts of new development that may destabilize the function and character of the area.
- Be developed through alterations and infill development that are sensitive to, and where
- appropriate, strengthen the character of the area.
- Reference Performance Standard 19A - G

There is very clear concern this rezoning and resulting condo will destabilise the area – only through strict adherence to the Beaches Urban Design Guidelines can this be avoided.

Official Plan & Provincial Policy Statement

The above violations of the A&MRB Study guidelines also seem to violate the Official Plan and Provincial Policy Statement.

Section 2.3.1 of the Official Plan says this:

At the boundary points between the neighbourhoods and the growth areas, development in the mixed use area will have to demonstrate a transition in height, scale and intensity as necessary to ensure that the stability and general amenity of the adjacent residential area are not adversely affected.

And

2. Developments in *Mixed Use Areas, Regeneration Areas* and *Apartment Neighbourhoods* that are adjacent or close to *Neighbourhoods* will:
 - a) be compatible with those *Neighbourhoods*;
 - b) provide a gradual transition of scale and density, as necessary to achieve the objectives of this Plan through the stepping down of buildings towards and setbacks from those *Neighbourhoods*;
 - c) maintain adequate light and privacy for residents in those *Neighbourhoods*; and
 - d) attenuate resulting traffic and parking impacts on adjacent neighbourhood streets so as not to significantly diminish the residential amenity of those *Neighbourhoods*.

By failing to meet the A&MRB Study guidelines on things relating to the north part (the rear) of the lot (for example on the rear angular plane, on balconies, and having principal rooms within 10m and in not setting back the north-west corner by 5m to better align with the residential properties), this section of the Official Plan is being violated.

The following section comes from the Staff Report on 323 King Street, but it fits perfectly into this situation as well:

Chapter Three – Building a Successful City identifies that most of the City’s future development will be infill and redevelopment and, as such, will need to fit in, respect and improve the character of the surrounding area. Section 3.1.2 Built Form provides policies that are aimed at ensuring that new development fits within and supports its surrounding context. Policies 3.1.2.1 to 3.1.2.4 seek to ensure that development is located, organized and massed to fit harmoniously with existing and/or planned context; frames and appropriately defines streets, parks and open spaces at good proportion; and limits impacts of servicing and vehicular access on the property and neighbouring properties. Meeting these objectives requires creating consistent setbacks from the street, massing new buildings to frame adjacent streets and open spaces in a way that respects the existing and/or planned street proportion, creating appropriate transitions in scale to neighbouring existing and/or planned buildings, and limiting shadow and wind impacts on streets, open spaces and parks.

This section of the Official Plan is the key:

3. New development will be massed to fit harmoniously into its existing and/or planned context, and will limit its impacts on neighbouring streets, parks, open spaces and properties by:
 - a) massing new buildings to frame adjacent streets and open spaces in a way that respects the existing and/or planned street proportion;
 - b) creating appropriate transitions in scale to neighbouring existing and/or planned buildings for the purpose of achieving the objectives of this Plan;
 - c) providing for adequate light and privacy;
 - d) adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas; and
 - e) minimizing any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve their utility.

Regards



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