



June 13, 2012

Dear Toronto and East York Community Council,

Re: Authority to attend Ontario Municipal Board 410-446 Bathurst Street

On Wednesday, May 30, 2012, a Committee of Adjustment hearing was held for an application to demolish the existing three buildings and to construct a new three-storey commercial building with a three-level below grade parking garage at 410-446 Bathurst Street. The application included 8 variances including: total non-residential gross floor area, total size of single-use retail, height, density, minimum setback, penetration of the angular plane.

It was the decision of the Committee of Adjustment to **NOT** approve this variance application for the following reasons:

The general intent and purpose of the Official Plan is not maintained:

The applicant did not demonstrate adequately that:

- *impacts on the neighbourhood were minor in relation to Official Plan Section 2.2, Policy 1(i) which states "protect neighbourhoods, green spaces, and natural heritage features and functions from nearby development.";*
- *the proposed development mitigated the transitioning of scale from the mixed use area to the adjacent neighbourhood area with appropriate setbacks or stepping down of heights, as intended by Section 4.5 Mixed Use Areas policy 2.(c) which provides that the development criteria for mixed use development "locate and mass new buildings to provide transition between areas of different development intensity and scale, as necessary to achieve the **objectives of this Plan**, through means such as appropriate setbacks and/or a stepping down of heights, **particularly** towards lower scale **Neighbourhoods**.";* and
- *there is sufficient transportation/traffic capacity and that the "economic health of nearby shopping districts are not adversely affected by this **large scale retail store**" which Official Plan, Section 4.5, Policy 3 permits only by way of zoning by-law amendment in mixed-use areas located outside of the Central Waterfront and Downtown.*

The general intent and purpose of the Zoning By-law is not maintained.

- *Cumulatively, the requested variances to the by-law represent over development with development and zoning complexities that would be more appropriately addressed through a Zoning By-law Amendment.*

The variance(s) is not considered desirable for the appropriate development of the land.

- *The massing transition and the built form relationship of the proposed development with the adjacent Residential Neighbourhood designated areas are not desirable or appropriate; and*

- *The size and purpose of the proposed development was inconsistent with the predominately small scale commercial uses of the community.*

The variance requests are not minor:

- *The impact of the development extends well beyond the immediate neighbourhood defined by the 60 m notification radius prescribed by the Planning Act; and*
- *The general provisions of the as-of-right zoning were generous for the site, and despite this, the proposal sought to exceed the provisions resulting in a scale of development that did not maintain the intent of the by-law.*

The local residential and business community was steadfast against this application which was highlighted at the committee hearing. The applicant has not yet appealed the committee's decision to the Ontario Municipal Board, but a hearing is expected to be called during the summer.

Recommendation

If an appeal is filed to the Ontario Municipal Board by the owner/applicant regarding Minor Variance application No. A0968/11TEY with respect to 410-446 Bathurst Street, that City Council authorize the City Solicitor to appear at the Ontario Municipal Board and to retain outside consultants as necessary to support the decision of the Committee of Adjustment in refusing Application No. A0968/11TEY respecting 410-446 Bathurst Street.

In community,

Mike Layton
City Councillor
Ward 19, Trinity-Spadina