SWANSEA AREA RATEPAYERS' ASSOCIATION

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SWANSEA AREA RATEPAYERS' GROUP

Swansea Town Hall

95 Lavinia, Box 103

Toronto, Ontario.M6S 3H9

Direct Line: 416-769-3162

24 November, 2023

To: Planning and Housing Committee

And To: Councillor Perks, Chair

And To: Jamie Atkinson, Planner, Zoning Section of the City Planning Division

Re: Amendment to Citywide Zoning By-law 569-2013 with respect to bars, restaurants and other entertainment venues PH 8.2

The Swansea Area Ratepayers' Group (SARG) and the Swansea Area Ratepayers' Association (SARA) wish to raise our concerns with the proposed changes both from a procedural point of view and from a substantive viewpoint.

FAILURE TO MEET THE NOTICE REQUIREMENTS SET OUT IN THE OFFICIAL PLAN

We do want to thank Jamie Atkinson, Planner, Zoning Section of the City Planning Division for responding to our request for the specific amendments to 569-2013 on the 20th of November, 2023.

Having said that SARG notes that Official Plan 5.5 outlines the policy of the City in support of participatory planning. It places on providing adequate opportunities for those affected by planning decisions to be informed and to contribute.

Specifically 5.5.1. c) iv stipulates endeavouring to make draft Zoning By-law amendments available to the public for review **at least ten days prior to the statutory meetings.**

Please find attached the full Official Plan Policy 5.5.1 as Schedule B..

SARG attended the public consultation meetings and SARG notes that assurances made at those meetings are not contained in the specific amendments. The public was assured that the by-law would require that " a minimum of 5 per cent of the interior floor area of a nightclub must be for the entry of patrons to deal with nuisance issues (e. g. lineups and crowds on sidewalks). No such condition appears. SARG therefore concludes this was a promise made and broken before the ink was dry. SARG would not view such a provision as sufficient to reduce the impacts on nightclubs on adjacent residential streets or adjacent residential buildings. It does bespeak to a concern that these changes are being done to benefit nightclubs not the general public.

SARG notes in regard to amusement arcades there was a similar promise that the maximum of 36 machines and 6 sq. m. for each amusement device were to be maintained. Again with the removal of all conditions set out in 40.10.20.(23) by the deletion of the same has also been broken.

These are not insignificant changes. SARG has the ability to read and understand the layout of the by-law and how to interpret the amendments which the general public may not have such knowledge. More importantly groups must have sufficient time to review and consider the specific wording of any amendments to by-laws.

The former City of Toronto, resolved this by not permitting a notice for a statutory public hearing to occur unless the specific wording of the proposed amendments were in place. This was done by having all the reports and the draft zoning be sent to the Committee which was to hold the statutory meeting, at a committee meeting where a request to hold the statutory meeting was preseented. That committee meeting would normally be at least one meeting prior to the Statutory meeting. This allowed persons who were interested to have sufficient time to review the proposal and the specifics of the same and to provide comments in advance of the statutory public meeting.

SARG RECOMMENDS:

1. **DEFER THE MATTER TO THE NEXT MEETING OF YOUR COMMITTEE.**

2. **AMEND YOUR PROCEDURES TO REQUIRE ALL SUPPORTING REPORTS AND THE SPECIFICS OF ANY AMENDMENTS TO BE PRESENTED TO YOUR COMMITTEE ALONG WITH THE REQUEST TO HOLD A STATUTORY PUBLIC MEETING.**

SPECIFIC ISSUES WITH THE DRAFT AMENDMENTS

SARG will now review problems with each of the categories but some of the comments are applicable to more than one category.

Amusement Arcades

The suggestion that the two conditions in regard to amusement arcades be deleted being (23) and (47) have not been justified other than to say they are archaic.

It is SARG's understanding that in the 1990s schools and parents reported problems with students spending their money and lunch hours and after school at pin ball and electronic games establishments. To discourage this, by-laws were passed limited the number of machines to two and requiring the establishments to be 300 m. from any school. The other provisions regarding amusement arcades were done to further control the negative impacts of amusement arcades. SARG was involved when those by-laws were developed in the former City of Toronto.

It should remembered that in the 1990s video games were pong, space invader, Pac man. If anything the new versions of such games are more addictive not less. SARG notes that some review of the conditions might potentially be warranted such as the 20,000 sq. m. and looking at a lesser size, but that should be done in consultation with School Boards and PTCs.

The staff noted that one of the reasons for the amendments were crowds generated by arcades and impact on movement by pedestrians, and then dismissed this as an issue with no explanation. It should noted that the consultants recommended that " a minimum of 5 per cent of the interior floor area of a nightclub must be for the entry of patrons to deal with nuisance issues (e. g. lineups and crowds on sidewalks) to deal with concerns raised by the community. Thus it is SARG's position this remains a live concern and supports the need to maintain such provisions.

SARG RECOMMENDS:

THAT CONDITIONS (23) AND (47) BE MAINTAINED FOR AMUSEMENT ARCADES.

Eating and Drinking Establishments

SARG has serious concerns with increasing the entertainment area in eating and drinking establishments from 6% to 25%.

SARG has a unique perspective given what occurred in Bloor West Village which had been dry on both sides of the street between Clendenan and just west of Riverview Gardens.

In the 70's restaurants had to have 70% food sales and 30% alcohol sales. Over the years bar owners complained they could not make a living and so the ratio shifted with an emphasis on alcohol sales. Under Michael Harris there is now no requirement to sell any food only to have the ability to do so. The City facing the issue of restaurants turning into "night clubs" decided to limit the size of entertainment area to 6%. This was to reduce the impacts of noise, rowdiness and other issues related to the operation of bars/nightclubs on adjacent residents.

In the case of Swansea from 1926 to 1990 Bloor West Village was "dry". Alcohol could not be sold. In the 1990's it was discovered a strip on the south side of Bloor between the historic West Toronto Junction and Village of Swansea was annexed by the City in 1925 and so was wet. Several bars came to the south side. Rowdiness, assaults, noise and other forms of nuisance penetrated the main street and streets adjacent to the main street. An interim by-law was passed and studies were done and it was found establishments less than 2,000 sq. ft. operated as local establishments with an emphasis on food sales. Establishments greater than 2,000 sq. ft. operated as district draws and focused more on the sale of alcohol rather than food.

Other areas had similar problems and after study limits appropriate to those areas were passed. The City then decided to pass regulations prohibiting nightclubs adjacent to residential areas, by having a general size limit for Eating and Drinking Establishments of 400 sq. m. with a 6% limit for entertainment areas.

The suggestion that because eating and drinking establishments are 400 sq. m. should be generally applied to nightclubs without noting that Eating and Drinking Establishments were limited to 6% entertainment area is fallacious, since the emphasis of a nightclub is on entertainment not eating.

SARG recognizes 6% may be problematic but raising the area to 25% makes Eating and Drinking Establishments closer to Nightclubs than restaurants.

SARG RECOMMENDS THAT:

THAT THE 6% REQUIREMENT BE RETAINED FOR EATING AND DRINKING ESTABLISHMENTS; IN THE ALTERNATE IF IT CAN BE SHOWN THAT 6% CREATES ENFORCEMENT ISSUES SARG COULD CONSIDER UP TO 10% BEING A ROUND NUMBER.

SARG notes with concerns one of the reasons for increasing the number to 25% is that some nightclubs have eating and drinking licences and are operating illegally as nightclubs. This is not a sufficient reason.

Nightclubs

The proposal is to permit nightclubs adjacent to neighbourhoods with a maximum size of 400 sq. m. with no similar limit on the size of space set aside for entertainment purposes within a Nightclub. Again one of the reasons for the change is that some proprietors are pretending to be Eating and Drinking Establishments and so operate illegally as a Nightclub. The City's proposed solution is to remove the limits so they can freely operate without risk of fines. The 400 sq. m. was picked as an appropriate size limitation because it presently exists in the by-law for Eating and Drinking Establishments but it should be noted that as previously stated that Eating and Drinking Establishments are presently limited to 6% entertainment area so that the focus is on eating rather than drinking while Nightclubs focus on drinking rather than eating.

Eating and Drinking Establishments where the focus is on full kitchens and staff tend to close before midnight because of the cost of staffing a kitchen. Nightclubs tend to open later and remain open for alcohol sales until 2 and close nearer to 3. The impacts of patrons walking back to their cars on side streets is a nuisance late at night that is not common with Eating and Drinking Establishments.

The suggested limit that if a nightclub is on a lot within 6.1m or 20 feet should be limited to 400 sq. m. does not adequately protect adjacent residential zones.

SARG NOTES THAT OUTDOOR PATIOS IN CR ZONES [40.10.20.10 (1) D AND E] have a separation of 30 m. from residential lots at ground level, and 40m if the patio is above the first storey to address issues of noise.

SARG states that nightclubs not be permitted on lots adjacent to residential zones. SARG might consider permitting nightclubs limited to 400 sq. m provided the lot such uses are on are more than 40 m. from adjacent residential zones.

SARG RECOMMENDS:

1. **THE BY-LAW NOT BE AMENDED TO ALLOW NIGHTCLUBS TO BE ON LOTS ADJACENT TO RESIDENTIAL LOTS WHICH IS THE PRESENT REQUIREMENT (MAINTAIN THE PRESENT REQUIREMENT).**

2. **IN THE ALTERNATE THAT NIGHTCLUBS NOT BE PERMITTED ON LOTS THAT ARE WITHIN 40M TO RESIDENTIAL ZONE OR RESIDENTIAL APARTMENT ZONE AND THAT NIGHTCLUBS IN CR ZONES BE LIMITED TO 400 SQ M.**

Entertainment Place of Assembly

SARG notes that Entertainment Place of Assembly under 40.10.20.10 (46) are permitted to have 12 amusement devices. This should be sufficient to provide some flexibility and distinguish them from Amusement Arcades.

SARG RECOMMENDS:

THAT THE REQUIREMENT SET OUT IN 40.10.20.10 (46) BE MAINTAINED AND THAT AMUSEMENT ARCADE NOT BE FOLDED INTO ENTERTAINMENT PLACE OF ASSEMBLY.

AREA SPECIFIC BY-LAW GOVERNING THE SIZE OF EATING AND DRINKING ESTABLISHMENTS

As was previously discussed overall size is a factor in addition to size of space dedicated to entertainment uses.

Kindly find attached the area specific zoning for the Bloor West Village being (1978) Exception CR 1978 which in turn references 12 (2) 257 of By-law 438-86. Both provisions are attached for your assistance.

SARG/SARA does not understand why this provision was not drawn to your attention, and views the said amendments to be contrary to the intent of the same.

A community meeting in the Bloor West Village should have been held given these proposed amendments undermine those provisions by allowing 400 sq m uses where Eating and Drinking Establishments are limited to 200 sq. m.

For your assistance the exception CR 1978 for the Bloor West Area and section 12 (2) 257 of 438-86 are attached as Schedule A.

SUMMARY OF RECOMMENDATIONS AND CONCLUSION

SARG is willing to co-operate in any true attempt to balance public and private interests. SARG views this report as lacking a planning foundation and has no regard for the prior studies that have been done and the problematic role of alcohol on surrounding communities.

SARG RECOMMENDS:

1. **DEFER THE MATTER TO THE NEXT MEETING OF YOUR COMMITTEE.**

2. **AMEND YOUR PROCEDURES TO REQUIRE ALL SUPPORTING REPORTS AND THE SPECIFICS OF ANY AMENDMENTS TO BE PRESENTED TO YOUR COMMITTEE ALONG WITH THE REQUEST TO HOLD A STATUTORY PUBLIC MEETING.**

3. **THAT CONDITIONS (23) AND (47) BE MAINTAINED FOR AMUSEMENT ARCADES AND THAT AMUSEMENT ARCADES REMAINS A SEPARATE USE AND CATEGORY.**

4. **THAT THE 6% REQUIREMENT BE RETAINED FOR EATING AND DRINKING ESTABLISHMENTS; IN THE ALTERNATE IF IT CAN BE SHOWN THAT 6% CREATES ENFORCEMENT ISSUES SARG COULD CONSIDER UP TO 10% BEING A ROUND NUMBER.**

5. **THE BY-LAW NOT BE AMENDED TO ALLOW NIGHTCLUBS TO BE ON LOTS ADJACENT TO RESIDENTIAL LOTS WHICH IS THE PRESENT REQUIREMENT (MAINTAIN THE PRESENT REQUIREMENT).**

6. **IN THE ALTERNATE THAT NIGHTCLUBS NOT BE PERMITTED ON LOTS THAT ARE WITHIN 40M TO RESIDENTIAL ZONE OR RESIDENTIAL APARTMENT ZONE AND THAT NIGHTCLUBS IN CR ZONES BE LIMITED TO 400 SQ M.**

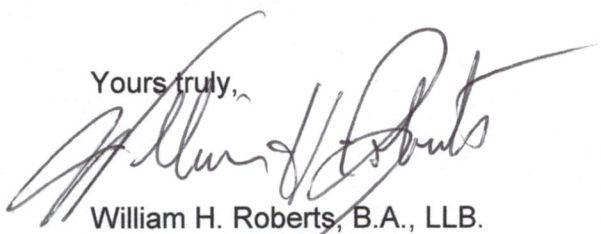
7. **THAT THE REQUIREMENT SET OUT IN 40.10.20.10 (46) BE MAINTAINED AND THAT AMUSEMENT ARCADE NOT BE FOLDED INTO ENTERTAINMENT PLACE OF ASSEMBLY.**

Finally SARG notes that when there were establishments greater than 200 sq. m. both in Bloor West Village and south of the Gardiner the negative impacts were noticeable. The suggestions that the Tourist Trade is generated by the availability of alcohol appears to assume that such uses are more desirable than the quiet enjoyment of neighbourhoods and ensuring

that youth are not exploited.

SARG wonders if the consultants think Toronto can only be enjoyed by having alcohol available.

Yours truly,



William H. Roberts, B.A., LLB.
Director SARA/SARG
203A/881A Jane Street
Toronto, Ontario.M6N 4C4
416-769-3162

Schedule A
Being Exception CR 1978
And 12 (2) 257 of 438-86

(1978) Exception CR 1978
The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections:
Site Specific Provisions:
(A) These premises must comply with Exception 900 11.10(2).
Prevailing By-laws and Prevailing Sections:
(A) Section 12(2) 257 of former City of Toronto By-law 438-86;
(B) Section 12(2) 270(a) of former City of Toronto By-law 438-86;
(C) Section 12(2) 294 of former City of Toronto By-law 438-86;
(D) On 2140 Bloor St. W., former City of Toronto by-law 110-87;
(E) On 2192 Bloor St. W., former City of Toronto by-law 153-78;
(F) On 2383 Bloor St. W., Section 12(1) 452 of By-law 438-86; and
(G) Section 12(1) 329 of former City of Toronto By-law 438-86. [By-law: PL130592 Nov21_2018]

find attached 12(2) 257 of 438-86

257. (a) No person shall on any *lot* within the area shown bounded by heavy lines on the maps at the end of and forming part of this exception, erect or use any building or structure for the purpose of a *restaurant*, *take-out restaurant* or *bake-shop*, unless

(i) the total *non-residential gross floor area* erected or used for one or a combination of two or more of such purposes does not exceed 200 square metres;

(ii) any such building or structure used for any such purpose is located on a *lot* as such *lot* existed on the 13th day of December, 1993; and

(iii) within the area shown hatched on the maps at the end of and forming part of this exception, no part of the roof of a building containing a *restaurant*, *take-out restaurant* or *bake-shop* is used for the purpose of a *patio*.

(b) For the purposes of this exception,

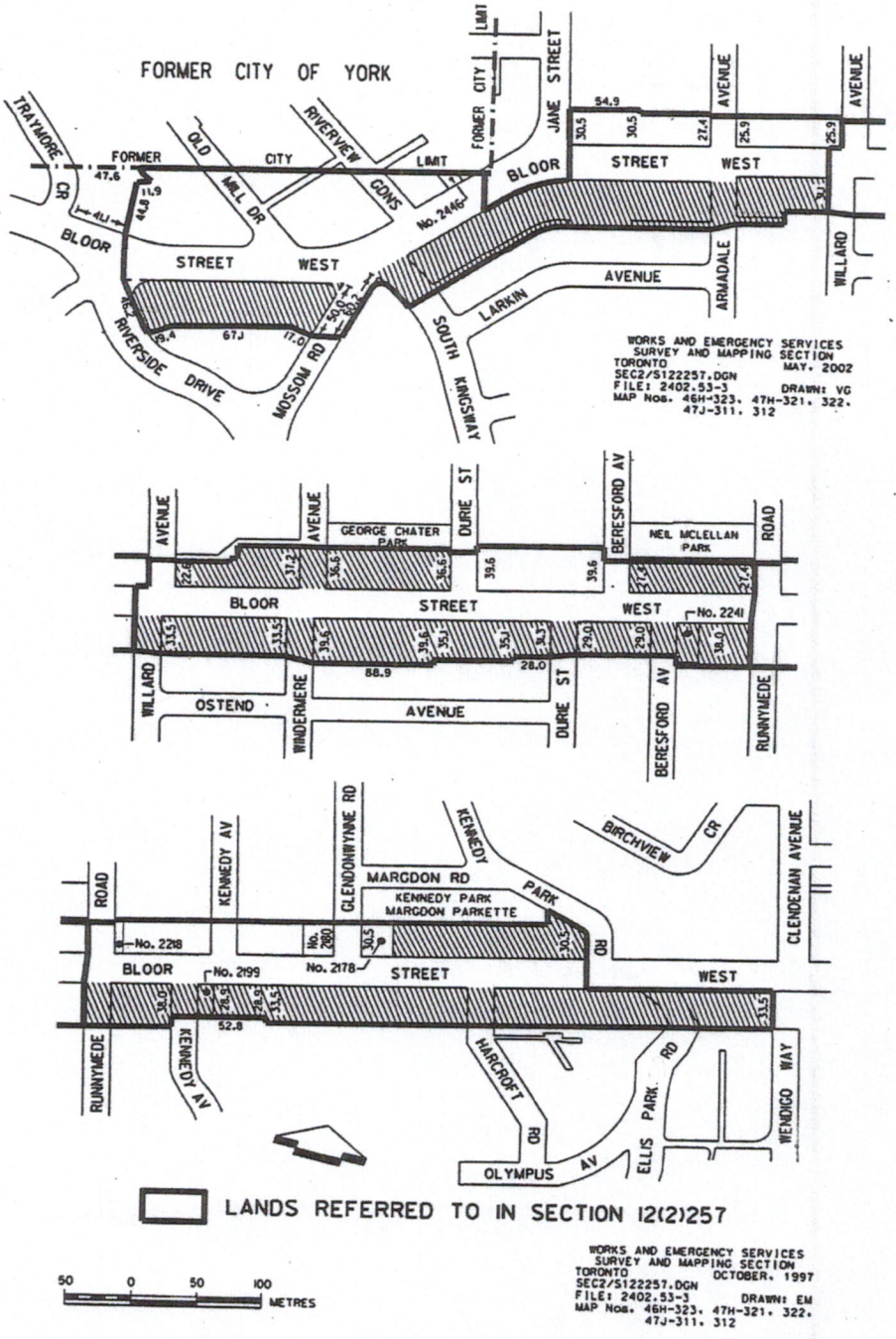
(i) in calculating the *non-residential gross floor area* of a *restaurant*, *take-out restaurant* or *bake-shop*, the following areas should be excluded:

public corridors not provided for the exclusive use of such establishments, stairways, elevators and washrooms; and

(ii) "*patio*" means, when used in conjunction with a *restaurant*, *take-out restaurant* or *bake-shop*, an outdoor area located on the same lot as the *restaurant*, *take-out restaurant* or *bake-shop*, where meals or refreshments or both may be served to patrons.

(c) None of the provisions of this exception shall apply to the buildings or structures existing on the lands known municipally in the year 1993 as Nos. 2180, 2199, 2218, 2241 and 2446 Bloor Street West and shown on the maps at the end of and forming part of this exception provided the total *non-residential gross floor area* erected or used on any such *lot* for *restaurants*, *take-out restaurants* or *bake-shops* does not exceed that existing or for which a building permit had been issued, on the 13th day of December, 1993. (1997-0273)

(1994-0028)



(1994-0028) (1997-0604) (1997-0273, OMB File No. R970191, PL970829 issued on July 15, 2003)

258. No person shall use any *lot* designated CR in *Massey-Ferguson* for a *commercial parking lot* or a *commercial parking garage*. (425-93) (1997-0521)

Schedule B

being Official Plan Policy 5.5.1

d) changes in the legislative environment; and
e) social and physical infrastructure improvements required and provided to serve growth in population and employment.

2. The need to review and revise this Plan will be considered every five years to ensure the continued relevance of the Plan's policies and objectives in light of changing social, economic, environmental, legislative and fiscal circumstances. This assessment will examine achievements in the Plan's growth management strategy, the quality of the living and working environments created, the impact of growth in population and employment upon the services and quality of life enjoyed by residents and workers and Toronto's evolving relationship with the broader urban region, among other matters. The need for new implementation initiatives will also be considered at least every five years, or sooner as circumstances warrant.

5.5 THE PLANNING PROCESS

The *Planning Act* encourages public involvement in the planning process and enables Council to require an applicant to provide, at the time a planning application is made, information Council determines is needed to make an informed decision. Regulations under the *Planning Act* and the *City of Toronto Act* prescribe application requirements. The legislation also enables a municipality to identify requirements, beyond those prescribed, by having complete application policies in the Official Plan. The prescribed requirements of the *Planning Act* and the *City of Toronto Act*, in addition to the Official Plan requirements, form the City's minimum application requirements. Council may refuse to accept or further consider a planning application until all such materials have been received.

Applicants are required to attend a pre-application consultation meeting with City staff prior to submission of a planning application. Applicants are also encouraged, but not required, to consult with the Ward Councillor and local community prior to submission of a planning application.

Following the submission of a planning application, Council will determine whether the City is satisfied with pre-application community consultation, in particular any pre-application community meeting(s) held in accordance with City standards, and whether one or more subsequent community meetings will be required under the provisions of Policy 5.5.1(c)(ii).

In accordance with the *City of Toronto Act*, Council may delegate by by-law its duty to notify applicants whether their submission is complete or incomplete.

The City will make materials related to a complete application available to the public in accordance with the requirements of the *Planning Act* and the provisions of this Plan.

Policies

1. Public Involvement

   A fair, open and accessible public process for amending, implementing and reviewing this Plan will be achieved by:

   a) encouraging participation by all segments of the population, recognizing the ethno-racial diversity of the community and with special consideration to the needs of individuals of all ages and abilities;

   b) promoting community awareness of planning issues and decisions, through use of clear, understandable language and employing innovative processes to inform the public, including the use of traditional and electronic media; and

   c) providing adequate and various opportunities for those affected by planning decisions to be informed and contribute to planning processes, including:

      i. encouraging pre-application community consultation;

      ii. holding at least one community meeting in the affected area, in addition to the minimum statutory meeting requirements of the *Planning Act*, for proposed Official Plan and/or Zoning By-law amendments prior to approval;

      iii. ensuring that information and materials submitted to the City as part of an application during the course of its processing are made available to the public; and

      iv. ensuring that draft Official Plan amendments are made available to the public for review at least twenty days prior to statutory public meetings, and endeavouring to make draft Zoning By-law amendments available to the public for review at least ten days prior to statutory public meetings, and if the draft amendments are substantively modified, further endeavouring to make the modified amendments publicly available at least five days prior to consideration by Council.

Information and materials to be made available to the public for review will be provided upon request in electronic and/or paper copy form at a fee not to exceed the City's actual cost in providing such information or material.

2. Mandatory Pre-Application Consultation and Complete Applications

   A pre-application consultation meeting with City staff shall be required prior to the submission of an application for Official Plan Amendment, Zoning By-law Amendment, Plan of Subdivision, and/or Site Plan Control Approval, in accordance with the pre-application consultation by-law pursuant to the *Planning Act* and the *City of Toronto Act*. Applications to amend the Official Plan, to amend the Zoning By-law and applications for Plan of Subdivision, Site Plan Control Approval, Plan of Condominium or Consent to Sever will comply with the City's minimum application requirements. For all lands in the City of Toronto, the Official Plan requirements are identified in Schedule 3 of the Official Plan and Chapters 2 to 4 of the Official Plan. For specified lands, additional Official Plan requirements may also be contained within applicable Secondary Plans and Site and Area Specific Policies.

"Minimum application requirements" refers to all requirements of the *Planning Act*, the *City of Toronto Act* and the City of Toronto's Official Plan. Application requirements will be discussed during a mandatory pre-application consultation meeting.

When seeking development approvals from the City, applicants should refer to the City of Toronto Development Guide which outlines the City's development review process.