

97 Scarboro Beach Blvd.
Toronto ON, M4E 2W9

July 31, 2012

Nicole Swerhun,
Independent Facilitators Office,
720 Bathurst Street, Suite 308,
Toronto, Ontario, M5S 2R4.

Dear Nicole:

This is to follow up on the Queen East Visioning Study Community Workshop #2 - July 25, 2012.

As you might recall, at the meeting you said:

So it sounds like a difference of opinion in understanding on an Avenue and what can happen on an Avenue, so we can try and bring back more information about that...

What I have done is taken the transcript of what Jamie McEwan said and tried to answer this for you, and other people involved in the study. This is a little long because of quotes taken from the OP and other sources.

Summary:

While Mr. McEwan is correct that a portion of the City's growth is to be directed into lands that have been broadly identified as Avenues, this is a generalization mainly under the Mixed Use Areas section of the Official Plan and the plan does not require every Avenue to have "incremental growth". In fact, the existing zoning and height limits are the only future "planned context" that the Visioning Study should even be considering.

Lastly, examples show that "maintaining the existing zoning" has been recommended in similar "main street" studies of mixed use parts of Bloor and College Streets.

Analysis:

The first thing to understand is that essentially there were 2 different sections of the Official Plan (OP) being cited – the *Avenues* section and the *Mixed Use Areas* section. There are other sections that are relevant as well, on *Heritage* and *Built Form*.

For example, plus the provincial government has policies that must be followed, not just in terms of intensification, but that the city "shall conserve cultural heritage landscapes" which is being ignored. This section of the Heritage section of the OP has not been implemented or followed here:

3.1.5 9. Heritage landscapes and historic cemeteries will be inventoried and conserved.

Provincial policy since 2005 defines "Cultural Heritage Landscapes" as including main streets – the City has not done an inventory, and certainly Queen in the Beach belongs on any inventory that might be done.

The most important thing to note about the OP is that the planners (or anyone) are not supposed to pick and choose which parts of the OP to use – Section 5.6 has this:

1. The Plan should be read as a whole to understand its comprehensive and integrative intent as a policy framework for priority setting and decision making.

Much of Jamie McEwan’s comments sounded like he is only using the Mixed Use Areas section while ignoring much of the Avenues section, and other sections as well.

This is Council’s direction:

Committee Decision

The Toronto and East York Community Council requested the City Planning Division to undertake a visioning study in 2012 of Queen Street East between Coxwell Avenue and Neville Park Boulevard, in consultation with the Ward Councillor, local community and other appropriate City Divisions, to develop appropriate Design Guidelines that balance the policies of the Official Plan with the desire of the local community to maintain the existing character of this portion of Queen Street East.

I would like to note 2 things.

First is that this resolution was introduced on the agenda the evening before it was passed – the community did want a study of Queen, but had no say in this wording, and in particular, I do not think people in the Community or the residents groups agree with this part of the Summary:

It is recognized by the Ward Councillor, the community and the City Planning Division that the existing "Queen Street East - The Beaches" Design Guidelines are out-of-date and may not fully reflect the policies of the Official Plan and may not result in development that will contribute to creating vibrant, high quality mixed-use development on this portion of Queen Street East.

It is also clear that the Planning Department had a say in writing it, so they cannot just say that they are following “Council’s directions” – their interpretation shaped those directions – they crafted the orders they say they are following.

The Summary also says this:

The City Council adopted the current Official Plan in 2002, which targets growth to Mixed-Use areas and to Avenues, both of which are the designations along Queen Street East...

This is a general statement about the OP – nowhere in the directions does it say that Queen is to be intensified or that this is the only important policy in the OP to be considered or have priority over other parts of the OP. You can see this in the full Agenda Item attached.

With those things in mind, here is some of what was said at the meeting, based on a recording that I have partially transcribed:

Jamie McEwan: Well the purpose of the study is to balance the Official Plan policy with the community’s interest in maintaining the existing character. And the Official Plan shows Queen Street as being an Avenue, which is an area where growth can occur, as well as a Mixed Use designation

where growth is anticipated. Its incremental growth - its gradual, some Avenues may grow more than others, but there is to be growth.

And shortly later this was said:

Simone Skopek: A couple of people have made the point that the Official Plan does allow for Avenues to not intensify and to maintain their current density and so we meet those criteria, so I think there is a great deal of potential to balance the Official Plan with the wishes of the community to maintain its character.

Nicole Swerhun: So we have a planner here and he's not sure if he agrees with that... that's his job. So Jamie.

Jamie McEwan: I can't really agree with you. The City's Official Plan... after the City amalgamated all the municipalities, we did a new Official Plan that was passed in 2002, and approved in 2006, and it set a basic urban structure to direct and manage growth, anticipating there would be major growth in the Greater Toronto Area, and that the City of Toronto had to capture a sizeable share of that. So it then identified major growth areas – basically a 3 (unintelligible word) approach. We were right back at the outset areas where there would be major growth, areas where there would be incremental growth, and then areas which would be, most of the city, which would be protected, would be little growth.

And the major areas would be Downtown, the major... Etobicoke City Centre, North York City Centre, Scarborough City Centre, Yonge Eglinton, and the Waterfront. Those areas we were anticipating would be transformed over time major development over time. Then there was other areas, corridors basically, some are nodes, where (unintelligible word) there would be some type of incremental growth that would occur over time. And that is the Avenues as well as other areas. And so Queen Street is one of those Avenues. Then there are the stable areas, and much of The Beach is of a Neighbourhood designation, where the policies are oriented to protecting the existing context, while on Avenues the policies are oriented to a planned context with some change. So the zoning for the City hasn't been changed since the Official Plan, so there is often a discrepancy between the two, and the Official Plan anticipates more change, more development than is currently in the existing zoning bylaw.

What I will do is to parse Jamie's comments and show that in fact Simone Skopek's comments are the correct ones.

Well the purpose of the study is to balance the Official Plan policy with the community's interest in maintaining the existing character. And the Official Plan shows Queen Street as being an Avenue, which is an area where growth can occur, as well as a Mixed Use designation where growth is anticipated.

Most of this part is correct. The OP must deal with anticipated population growth of 320,000 between 2011 and 2031. Avenues are areas where some of the grown "can occur" – whereas the residential sidestreets are supposed to have be stable and have little growth. However the part about "as well as a Mixed Use designation where growth is anticipated" is overstating it a little.

The section on Mixed Use Areas covers everything from large parts of the Downtown where the zoning promotes massive high rise towers, to small pockets of mixed use in the middle of a residential neighbourhood, where a couple of small local stores exist. As such, the section is very general and does not say much about where growth is to be located, other than in a section like this one:

Mixed Use Areas will absorb most of the anticipated increase in retail, office and service employment in Toronto in the coming decades, as well as much of the new housing. The proportion of commercial and residential uses will vary widely among *Mixed Use Areas*. For example, office and retail uses will continue to be paramount in the *Financial District*, but much of the new development along the Avenues will have a residential emphasis.

This is not saying anything about Queen – only reiterating that somewhere in the areas designated Avenues growth will occur.

The next part is part of the actual policy of the OP:

Not all *Mixed Use Areas* will experience the same scale or intensity of development. The highest buildings and greatest intensity will typically occur *Downtown*, particularly in the *Financial District*. The *Centres* will develop at differing scales and densities, set out in their respective Secondary Plans and zoning by-laws, reflecting the context of their surroundings and transportation infrastructure. Development along the Avenues will generally be at a much lower scale than in the *Downtown* and most often at a lower scale than in the *Centres*.

This is not a requirement that ALL Avenues be intensified, or that Queen be intensified or have incremental growth – merely indicating the general scale of development when it does occur.

Most of the rest of this section is about ensuring that any Mixed Use development is done appropriately, and that Power Centres are discouraged.

Lets continue with Mr. McEwan's later comments:

...after the City amalgamated, all the municipalities we did a new Official Plan that was passed in 2002, and approved in 2006, and it set a basic urban structure to direct and manage growth, anticipating there would be major growth in the Greater Toronto Area, and that the City of Toronto had to capture a sizeable share of that.

This is true – again, Toronto must accommodate job growth and population growth of 320,000 people between 2011's 2.76 million people and the target of 3.08 million in 2031. Most of this is already "in the pipeline" or will occur on the Waterfront, Downsview or many other area's where development is planned or land is already zoned, but not counted in the "pipeline" which only covers current and recent rezoning applications.

Toronto is exceeding its targets, a presentation I made for the Planning and Growth Committee shows this.

Next Mr. McEwan states:

So it then identified major growth areas – basically a 3 (unintelligible word) approach. We were right back at the outset areas where there would be major growth, areas where there would be incremental growth, and then areas which would be, most of the city, which would be protected, would be little growth.

And the major areas would be Downtown, the major.... Etobicoke City Centre, North York City Centre, Scarborough City Centre, Yonge Eglinton, and the Waterfront. Those areas we were anticipating would be transformed over time major development over time.

In general, this is all correct, but the first part says nothing about any requirement for Queen to be required to have incremental growth. Here is where his interpretation is starts to differ from the OP and is problematic:

Then there was other areas, corridors basically, some are nodes, where (unintelligible word) there would be some type of incremental growth that would occur over time. And that is the Avenues as well as other areas. And so Queen Street is one of those Avenues. Then there are the stable areas, and much of The Beach is of a Neighbourhood designation, where the policies are oriented to protecting the existing context, while on Avenues the policies are oriented to a planned context with some change.

Queen Street is an Avenue, and in general Avenues are to have incremental growth, but the Avenues section of the OP contains a great deal of text about where and how this growth will occur, and even where it might not occur, unlike the Mixed Use Section.

The use of the term planned context is another problem – the concepts of “existing context” and “planned context” are precisely described in the OP in the *Built Form* section.

Here are parts of it:

1. New development will be located and organized to fit with its existing and/or planned context...

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

I would suggest looking at the photos and text on the left side of page 3-6 of the OP, which talks about street proportion, sky views etc..

And on the right side of that page is a detailed explanation of “planned context”:

The existing context of any given area refers to what is there now. The planned context refers to what is intended in the future... In growth areas, such as Centres and Avenues, the planned context generally anticipates change.

So there is a general anticipation of change on Avenues, but this is again subject to the Avenues section which provides more detail about where exceptions to the generalization will occur. The removal of Queen from the Avenues & Midrise Study in 2010 would seem to indicate that Council’s direction is that Queen is not subject to the generalization.

The specifics about something generally take precedence over the generalization, limiting its application. An example would be like saying that Fridays are “generally” considered lucky days, but Friday the 13th is to be considered an “unlucky” day, and then to conclude that the first part of that sentence trumps the more specific second part and in fact Friday the 13th is a lucky day.

The sidebar continues:

Height and density aspects of the planned context of new development will be assessed on the basis of the Plan’s policies, including Secondary Plans and site and area specific policies. Where there are no height and density limits in the Plan, height and density limits of area zoning that implements the Plan will be a benchmark for assessment of those aspects of the planned context.

There are no height and density limits in the OP, other than what is in the current guidelines, which are in a companion document to the plan. Typically an Avenue Study or secondary Plan would set out such limits with more power under the OP. So only the existing zoning and guidelines determine the planned context – which is 12m height limit and buildings that appear to be 3 storeys.

Where there are no height and density limits in the Plan and no area zoning implementing the Plan, height and density aspects of the planned context will be determined on the basis of an area review such as that undertaken to implement Subsection 2.2.3.3 b) of the Plan. In this case, in determining an application, Council will have due regard for the existing and planned contexts.

This refers to an Avenue Segment Study such as the one done for 1960 Queen Street. An Avenue Segment Study should have been done for 1864 Queen (the condos being built now at Rainsford), but the planners did not follow the OP section requiring one to be done in the absence of an Avenue Study.

Most of Queen Street has never had an Avenue Segment Review study, and the one done for only one small part of Queen concluded that only 4 sites were likely to be developed – it does not argue that the whole street should have a “planned context” of 6 storey buildings and incrementally become lined with 6 storey buildings similar to 1960 Queen.

Given all of this, then the planned context is not one of midrise buildings and incremental redevelopment of the entire portion of the Avenue.

Mr. McEwan’s final words on this topic were:

So the zoning for the City hasn’t been changed since the Official Plan, so there is often a discrepancy between the two, and the Official Plan anticipates more change, more development than is currently in the existing zoning bylaw.

Other than for a section of residential zoning around Lark Street, the existing zoning, bylaw, which does predate amalgamation, is 2.0 times coverage (T2.0 C1.0 R2.0), with a 12m height limit. The current MCR zoning dates from 1994 – it was created at that time to encourage intensification under the *Mainstreets* initiative.

The City did pass a new Harmonised Zoning Bylaw in 2010, but it was repealed in 2011 due to various problems. This “new” zoning bylaw had the same height and density provisions on Queen Street as the pre-amalgamation zoning – 2.0 times coverage and a 12m height limit.

The City has now prepared a NEW Draft Zoning Bylaw – the new zoning 12 CR 2.0 (C1.0 R2.0) – again this is essentially no different than the pre-amalgamation zoning.

The Draft Zoning Bylaw is different in certain details about specific uses, and in the angular planes, from the current MCR Zoning. The only major differences are that the new zoning has a MINIMUM ground floor height of 4.5m, and a MINIMUM building height of 10.5m and 3 storeys.

So Mr. McEwan cannot claim that the current zoning is in conflict with the 2002 Official Plan when the 201 and 2012 zoning bylaws BOTH keep the same maximum height and density.

Turning now to Ms. Skopek's comments, her view is supported by key parts of the Avenues Section itself, namely:

Not all lands that fall within Avenues are designated for growth. These Avenues have been identified at a broad scale to help assess urban design, transit and service delivery issues. However, where a portion of an Avenue is designated as a neighbourhood, the neighbourhood protection policies of Chapter 4.1 will prevail to ensure that any new development respects and reinforces the general physical character of established neighbourhoods.

The identification of Avenues is meant as a broad tool to be used, it is not an automatic identification for incremental growth.

The latter part of the paragraph refers to residential areas – ones like the north side of Queen around Lark Street in the Beach Triangle. Please note that the first sentence does not indicate that residential areas are the only areas that might not be “designated for growth”

The Avenues section continues:

Each Avenue is different in terms of lot sizes and configuration, street width, existing uses, neighbouring uses, transit service and streetscape potential. There is no “one size fits all” program for reurbanizing the Avenues. A framework for change will be tailored to the situation of each Avenue through a local Avenue Study that will involve local residents, businesses and other stakeholders for each Avenue, or sections of longer Avenues.

A sidebar notes that:

The opportunities for reurbanization through the Avenues are greatest in the post-war city: areas that were urbanized for the first time during the 1950s, 1960s and 1970s

Mr. McEwan, and Mr. Parakh, cannot automatically assume that the model of “building height = width of street right-of Way”, which results in a 20m height limit, is to apply everywhere. That is a “one size fits all” program, and the removal of Queen from the Avenues & Midrise Buildings Study in 2010 means it is not to be used, as the motion was to protect the heritage and as-of-right zoning on Queen.

This “Visioning Study” is not a full and proper Avenue Study as described elsewhere in the Avenues section.

There is a section that does talk about incremental growth:

The *Avenues* will be transformed incrementally. They will change building-by-building over a number of years. The framework for new development on each *Avenue* will be established by a new zoning by-

law and design guidelines created in consultation with the local community. The zoning by-law will set out the mix of uses, heights, densities, setbacks and other zoning standards.

The first line is a generalization about all the Avenues as a category, as is clear from the second line. It does not say EVERY Avenue will be transformed. And clearly, the study underway is only looking at guidelines and is not authorized to draft new zoning bylaws for Queen – the existing zoning is to be respected.

The text also states that:

Not all of the Avenues can be studied at once, and some, which function well and already have appropriate zoning in place, may not need further study at all. Some of the Avenues already serve as “main streets” that are focal points for the local community with attractive and bustling sidewalks. These traditional “main street” Avenues already have zoning in place to guide mixed use development in a way that fits with the neighbourhood, and will be a low priority for Avenue reurbanization studies.

It has been 10 years since the OP was passed. Queen Street has not had an Avenue study, and while it was initially included as part of the Avenues & Midrise Buildings study, it was removed from that study by council as the guidelines and recommendations did not do enough to protect Queen Street.

Two years have elapsed and Council has not authorized an Avenue study to review the zoning and other matters, only this review of the guidelines. The OBVIOUS implication is that the existing zoning is appropriate.

And other studies have been done of similar “main streets” since 2002, where the recommendation was that the existing zoning was to be maintained intact. Others have allowed for some intensification, but at levels well below the “one size fits all” formula of “Building height = ROW width” which would mean 20m tall buildings on Queen Street as the norm.

I have included a PDF which shows parts of studies done on College Street, between Manning and Ossington, and of Bloor between Bathurst and Walmer Road. Both of these studies recommended keeping the existing zoning, and did not include any built form guidelines or angular plane provisions that included buildings exceeding the zoning. College is a mixed-use Avenue, while Bloor in the Downtown, where as we saw previously, the Mixed use sections call for even greater intensification than on Avenues.

Similarly, a full Avenue Study of Avenue Road did not recommend keeping the existing zoning, but it did have recommendations that were well below the standard formula – Avenue Road is 27m wide but the standard condition is to be 16.5m tall instead of 27m, and only a few large sites will be allowed to exceed this, but they will not result in a form tall blank side walls, as with 1960 Queen or even 1864 Queen.

There is one more – post-amalgamation, and while the new OP was being prepared, Council did give other directions regard Queen, which are being ignored, namely in April 2000 this motion was passed:

The Toronto Community Council recommends that the height restriction of 12 metres along Queen Street East from Victoria Park Avenue to Greenwood Avenue be maintained and that the Director of Planning ensure that his staff and reviews of any development applications on the affected lands respect the height restriction.

This motion was passed in response to the Planning Department supporting an increase in height of two buildings (1717 and 1847 Queen Street East, on the former racetrack lands) from 4 storeys to 5 storeys. This

motion was fresh when the OP was drafted, and has not been reversed or repealed, and it has no sunset clause.

This motion should have applied to 2012 Queen East when it was before the Committee of Adjustment in 2001, as well as to other rezonings at 1986 Queen East in 2007-2009.

Conclusion:

Many people in the community are upset that the Visioning Study's recommendations are not likely to reflect their views, and the results have been pre-determined. I heard that some people walked out of the public meeting because of this feeling.

Mr. McEwan's comments show a sort of "tunnel vision" about intensification being required on Queen when the Official Plan clearly indicates the opposite should be the policy – keeping healthy and vibrant mainstreets intact and directing almost all new development on the Avenues to be elsewhere, like in the suburbs.

The failure of the planners to follow the above sections I have quoted, in opposition to Jamie McEwan's views, should have been used to refuse the application for 1960-1962 Queen, yet as in 2000 and other times, it seems that the Planning Department has its own views that are rarely in line with the public they are supposed to be serving, and Council's directions are often ignored as well.

Regards

Brian Graff
B.E.S., B.Arch., M.B.A.