

WQW - Active 18 in Planning Land
2007 Summary
 By Charles Campbell

What follows is a summary of the main events of 2007 in the A18 fight for better planning in the West Queen West Triangle from a somewhat personal perspective, my Queen West Fandango.

This is fairly detailed. If you like it short, crisp and snappy Go straight to Appendix One – my ‘Jane Jacobs Report Card’.

Round One of my adventure in planning land was 2006, the preparation for, and attendance at, the original, three month OMB Hearing before Vice-Chair Granger. Conveniently it lasted until December 2006. Round Two is 2007, the aftermath of that – the receipt of the Reasons, the reaction to them, the various appeals from them, the separate settlements with the developers, including the Artscape deal with UrbanCorp/Westside announced in October as if it undid the bad news of Granger’s original decision and the earlier settlements. Even after the settlement of the three appeals there were several further OMB appearances which dealt with the details of the Bylaws and therein were a few surprises.

And as matters wound to a close in November/ December 2007 new issues emerged for the community. These were planning for the new park and the design of the three additional Baywood buildings on Queen Street. These are the introduction to ‘chapter three’ - 2008, if my planning adventure goes on that long.

Very little of the 2007 activity was stand up advocacy before the OMB or in Court. Most was letter writing, politicking, deal making and all manner of lobbying. All this is a certain kind of ‘fun’ to me. The attempt at precise logic, which is what we lawyers (are suppose to) do in court has long gone overboard both at the OMB and in the broader political forum. Being a planning activist is mostly organizing, then posturing then reorganizing then bluffing then phoning people then reorganizing then posturing and bargaining at the same time. Then drinking.

Appendix One is my ‘Jane Jacobs Report Card’ on the overall result of the WQW Triangle case so far. It is entirely my (depressingly negative) opinion.

Appendix Two is a rough Chronology of the year’s events.

Appendix Three is a quick and dirty summary of the planning process drafted for the People Plan Toronto Summit in April 2007.

In the following text K.D. refers to Key Documents which are available on line in the ‘documents’ folder beneath where you obtained this report.

The Decision

Mr. Granger, gave three identical interim decisions which were announced January 10, 2007. The developers (except Westside) got more or less everything they asked for. Westside Loft, a.k.a. 150 Sudbury (owned by Landmark owned by UrbanCorp Developments, owned by Alan Saskin) got two buildings, 13 storeys and 9 storeys. (K.D. #1) at 150 Sudbury St. More on their special problems and separate settlement below. At 48 Abell owner Merv Hollander and Verdiroc Development Corp. got two buildings, 18 storeys and 14 storeys and an 8 storey base building between. (K.D. #2) At 1171 Queen, marketed as 'the Bohemian Embassy' and owned by Baywood Homes, the developer got 19 storeys and 8 storeys on Queen. (K.D. #3) These six buildings in total added far greater additional density to the Triangle than is sensible, in my view.¹ The density of the three properties is greater than St Jamestown. While Mr Granger did treat the three proposals from an area perspective when dealing with roads and parks – good on him, given the City's failure to have an area plan in place - he utterly failed to limit the gross density of the total area. Height was not the issue to me, or Active 18, except on Queen St itself. We always said 'tall and skinny is good'. Granger forgot the skinny.

A second area of great disappointment for the City, and Active 18 Community Association, 'A18' to her friends, concerned the OMB's refusal to impose any requirements of non-residential ("non-res") uses to replace the existing requirement of at least 1x coverage industrial. The City offered a compromise position of .7x coverage. Granger rejected that position. Yes, this City compromise proposal came late in the process, and was ragged in its theoretical underpinning, but a minimum requirement of some sort was obviously necessary. But out went the baby with the bath water. This was a defeat for the City of broad consequences because it signals trouble ahead for the protection of employment space in all mixed use designations across the City. Granger seemed to think that the only protected space could be in the few purely 'industrial' areas. Mixed use designation seems to mean total residential conversion is ok.

On the crucial question of parks Granger imposed a requirement of .4 hectares. All witnessed accepted this was the minimum necessary to keep the Triangle area from falling further into a park deficit. But he declined to impose a Hold until this land was acquired. Instead he withheld his final decision for six months to allow the City time to complete the park land acquisition. The City witness said it would be a year. And indeed the parks acquisition issue was still hopping at the end of 07.

In summary A18 was completely unsuccessful at the OMB Hearing. The City was no more successful. This wasn't a case where it was the residents against the world. We were backing, and being backed up by the City itself on many, if not most issues. We got

¹ The permitted densities are:
 48 Abell - 4.59
 1171 Queen – 4.29
 150 Sudbury – 2.78
 Total for the three properties – 3.75

no where on the Queen St height issue but I did not expect anything on this front given the City's support for eight storeys along Queen St. at 1171 from the earliest stages. We got no where on the issue of the overall density, which did surprise me. I expected that Granger would cut back on the amount of building. It seemed so obvious there was a problem, a very small area with too many big buildings and limited park land. Our strong support of the City on the "non-res" issue, yielded nothing. This surprised me. I admit I was worried about this not because I thought the City was 'wrong' – though they sure could have been stronger by having their policy in place sooner - but because the tone of the developers' argument was so self-assured I was carried along. Still, I did not expect a virtual total residential conversion to be the end result. The argument is so 'right' and so important to the future of the city.

Couple all this with the fact that, given the size of the units, the majority of the new residents will be young singles, I fear we're heading for a club land disaster zone, with a thin, thin layer of artsy gloss.

A18 staged a press conference right after the decisions were announced. The turn out was good. It was very effective, particularly Ken Greenberg's denunciation of OMB control over planning. Councillor Adam Giambrone raised the issue of an appeal in his speech. The various columnists weighed in on our side. And we were off and running in the 2007 events described below.

You have to ask, seriously, why should community groups put in so much effort just to be brushed aside in this fashion. If we had had a big budget for fancy expert submissions, I'm talking \$150 - \$200,000, would we have been listened to? My view is, not. Only if we had had that big budget and were throwing the expert reports around before the developers went knocking on City Hall door, might we have had a chance. The problem of being effective in massively complex planning fights requires some strategy all by itself. Another essay. Stay turned.

Shortly after the decision was announced Margie Zeidler hosted a meeting at her office of various influential types of her acquaintance to discuss the decision and what to do about it and the OMB generally. I attended with Dina Graser for Active 18. The meeting was spirited but fuzzy on particulars and follow up. I left that meeting with the strong impression that an appeal was expected, which only A18 could do. Oh good, more legal work. At least it court documents and logical arguments and looked like the stuff I was use to.

The Appeals

The City staff lawyers were recommending an appeal but the decision was for City Council and that decision was scheduled for the February 4 meeting. City staff were, rightly, upset with the bald dismissal of the arguments about employment and industrial space which they had based on what seemed to be mandatory Provincial Policies. (See Reasons of Divisional Court, K.D. 15) The word was that the Mayor was upset about this particular aspect of the decision that denied protection for industrial uses and thus some

protection for employment. He pushed through a Council decision to go ahead with the appeal. Good for the mayor.

I had no intention desire to go another round of appeals without some kind of cash coming in. Good luck. But no other lawyer for the appeals was organized and time limits were running. *We had to* be part of the appeal in order to support the City which was, after all, going to bat for us.

There were in fact three types of appeal.

The Minister of Municipal Affairs and Housing has some power to just declare certain zoning, overruling everybody (Section 47, *Planning Act*). It is a power rarely exercised. The Mayor sent a letter to the Minister of Municipal Affairs and Housing asking for this remedy. (K.D. # 4) It was promptly refused. (K.D. #5)

There is also an ‘appeal’ to the OMB itself under sec. 43. This is a strange kind of hearing discussed below. For this I drafted a letter of support for the City’s motion. I have to say I had no appreciation at the time that this would turn into another full week with witnesses before a different O.M.B. panel. More on the Hearing itself below. The documents for this are K.D. 6 – 11)

And finally, there was the possibility of an appeal to the Divisional Court on a point of law, with leave, which is to say we needed to persuade a single judge that the argument had at least some possible merit. Jane Farrow and I canvassed various sources to find another counsel to do the in court case. Our efforts on this front were ultimately unsuccessful and I ended up – once again with the outstanding assistance of Kate McCartney – drafting the Factum and eventually presenting the argument myself. Now I was on my turf with a surer sense of what was expected and what to expect.

Our Factum on the Leave Application is K.D. #12. The City’s Factum is K.D. #13 and the Developers’ Factum #14.

Standing

One twist in the Court branch of the appeals was the question of our standing. I filed appeals for A18 early to make sure there were appeals on the record within the specifies time limits. Yes, it put a little pressure on the City. But when the City finally decided to proceed with their appeals we revisited whether it was necessary that A18 be a formal appellant. The City was the better, more prestigious and logical appellant. I had a discussion this with Dawn Jubb, the City lawyer, and Linda Rothstein, a fine counsel who was giving us sideline advice at the time. Dawn assured us that the City would not pull out without consulting us. My main concern, other than the work involved, was that I was worried that if we lost, as had to be expected, and got hit for costs, it would finish A18. We were incorporated and so individual liability was not the issue. But I knew that if A18 had a formal corporate debt of many thousands, it would evaporate as an organization

and political force. I discussed this with Jane Farrow, our Chair, who took my recommendation to the Steering Committee while I was on holidays that we abandoned our appeals and fell back as a Respondent to the City's appeal. Read on to see the consequences of this.

The OMB Review

The first appeal to get argued was the 'internal' review under Section 43 of the OMB Act. Here a separate panel of the OMB reviews the decision of the earlier Board and decides whether there should be a rehearing. It seemed set up like a Leave argument. Except at the actual Hearing there were affidavits from the experts asserting the decision was correct. To my legal ear it was very odd, experts testifying on an appeal that the decision was a good one! It wasn't like an appeal as I know such arguments, looking for obvious errors in the Reasons or gross inconsistencies of the reasons and the evidence. (There is no record of the evidence before the OMB tribunal.) So we heard the same experts who testified earlier testifying that they were right then and still are. Weird.

There were moments in this Hearing when we were optimistic. The best argument was that there was in the existing Secondary Plan a *requirement* of an Area Study before any development in the Triangle which was never done. But that fell away because in the very early stages the City had not *insisted* on an adjournment to complete the Area Plan. I remembered that discussion at the very first Hearing I went to. At that earlier point in the proceedings the City lawyer sounded reasonable saying 'we'll probably have the Area Study done, soon, we're not sure, but let's go ahead. We don't want to postpone setting a date to start.' Planning staff, with all the other work under way, never had the time to complete this study and the whole OMB Hearing was conducted and the study had still not been adopted by City Council.

Would it have mattered? The study eventually proposed a minimum .7 coverage for industrial uses in mixed industrial areas as a means of preserving some industrial space for employment. This was what the City had said in the Hearing as a compromise. It would have addressed the O.M.B.'s concern that the City policy was being made up on the run. But the O.M.B. just didn't like this limitation. I doubt it would have made a difference.

In retrospect, this was another instance where the lack of resources in the Planning Department undermined the Department's own efforts. The 'planning process' is full of required studies like this, Avenue Studies, Heritage Studies etc. One conclusion, and it's mine, is that the Planning Department just isn't funded to do job required.

The Decision of the OMB Review Panel is K.D. #7.

Divisional Court and the July Settlement

The Court argument for leave was postponed twice and eventually scheduled for July 16. When I arrived in Court that Monday morning for the argument it was announced that the case would be adjourned for settlement discussions. The City's lawyer on the Div Court case, Tom Wall, told me he knew nothing of this until late the evening before. We learned the details in a meeting between Active 18 and the Planning staff on the Tuesday evening of that week. At the meeting the staff were clear – it was a 'done deal'. By that point I was not surprised at the settlement behind our backs. It was interesting later that the Councillor's office thought that this meeting constituted 'consultation' with Active 18.

The City's promise through Dawn Jubb to actually consult with us before any change of position was ignored. Once the City settled with the two developers and abandoned those appeals, we, as mere Respondents, had no say in the matter.

The decision by the City to settle with the two developers, Baywood and 48 Abell, was terrible, in my view. The City got virtually no concessions from them. The City would say they got \$500,000 cash in Section 37 benefits from 1171 but that was already in the works. The City agreed to spend that money buying six units (3,600 sq. ft.) along the Mews in Phase Two of 48 Abell at \$250 @ square foot. This was absurd. There was no guarantee that the building would ever be built. And the Mews, at that point was a planning disaster. It was and is nothing more than a long passage with, eventually, eight storeys on each side and no Queen St access except at the ends. Planning staff were themselves distressed about the Mews. Why was the City buying space here? Adam G. defended this decision to me at one point on the basis that the City had no chance in the Court case and by the settlement escaped costs against. This was very strange. The lawyers involved had not deviated from their view that the argument was decent. (No argument for Leave is ever strong.) The legal opinion sent to Council in February that the case should be appealed had not changed. I know about legal costs and the costs here were not that great (there was only one lawyer for the three developers). Costs should be evaluated in terms of possible return. Why bail out at that point? The work was done except for a half day of argument. I respect the point that there is a higher vantage point and responsibility than the local community. But still this was not only a sell out of the community but a stupid one. The City gave away a respectable chance for much greater bargaining power in exchange for nothing of significance. There has never been an explanation of why.

The settlement correspondence and 'deal' for 1171 Queen is at K.D. # 27 and 31.
The settlement correspondence and 'deal' for 48 Abell is at K.D. # 28 and 30.

This escapade follows a trend of last minute settlements by the City after seeming to fight for what the local community wants. The lesson for community groups is that the City just can't be trusted in these kinds of situations.

Two days after the settlement was announced we appeared before Justice Lax on the third appeal file regarding Westside Lofts, the one the City did not settle. The argument went well. I left court feeling optimistic.

And indeed Justice Lax granted leave for the full appeal. (K.D. 15) This is not the same thing by any means, as winning the full appeal. But the way she wrote her reasons made it sound like she was convinced not just that there might be an error worthy of consideration by the full court, but that there was indeed an error. Hurrah! She was strongly critical of the OMB decision for failing to deal explicitly with the mandatory Provincial Policies. So we finally developed some traction albeit with a single developer. And, as explained below, we settled with that developer in the fall on a reasonable basis. If the City had not caved so ignominiously days before we might have achieved a better result with them as well.

So by the end of July we had lost altogether against Baywood for 1171 and for 48 Abel and had a chance we might win against Westside Lofts when the full appeal would be argued.

The possibility of that full appeal meant re-writing the Leave Factum for purposes of a proper appeal argument. I dragged my heels on this as the possibility of a settlement with Westside developed over the summer.

The Artscape Settlement

Over the prior year I had repeatedly encouraged Artscape to speak with the various developers to see if there might be any possible creative arrangements for section 37 benefits. Tim Jones, the Artscape boss, tried but nothing came of it. The developers (except Merv Hollander) just didn't want artists in their buildings. Now, as the appeal date approached, Tim and Alan Saskin, the owner of Westside came up with a plan to enlarge the Westside building and 'give' Artscape 60+ units, (56,000 sq. ft.) at raw construction cost. There was a twist here. Westside had special problems with its site. Since it was more than one hectare the Official Plan provisions requiring actual land dedication for park came into play and there was a strong argument that Westside would have to donate a piece of its property to the City. This went beyond the normal requirement of 5% cash for parks for all developments. There was an argument whether the City could enforce this because the claim was not announced until very late in the process. There was a fight which piece of the property would be transferred. There was a fight whether the density to be allowed to Westside would be reduced. It was a mess. The deal allowed Westside to get out of the extra parkland contribution in exchange for the Artscape units. We lost a little bit of parkland in the deal but gained a good chunk of artist housing. Westside got a taller building. Westside also gave \$1M dollars to the Carnegie Library project noted below.

Active 18 signed on with Saskin and Tim Jones to make this proposal to the City. The City seemed reluctant to accept this although who knows what internally-generated

strategies were at play here. As these negotiations progressed, with A18 watching from the sidelines, the deadline for filing the argument for the full appeal approached.

Now A18 turned into bosom buddies with the developer, Alan Saskin, a charming fellow. Who wouldn't even meet with us a year earlier. Too bad it took him a year to decide to talk to us. But better late than never.

Did I hear someone accuse me of 'let's make a deal' development strategies. At that point I, we, were as guilty as sin.

The settlement proposal from Artscape, Landmark and A18 is at K.D. # 37

Medallion – 45 Lisgar

In the fall of 2007 there was a fourth major project in the Triangle with a looming OMB date and negotiations going on simultaneously with the big three. Active 18 had signed on as a party at the OMB though my intention was to attend only for selected issues.

I haven't mentioned Medallion so far. This was another developer which owned the west side of the block between Dovercourt and Lisgar. They wanted to build a large rental project. Height was a big issue for the City. A18 was more interested in section 37 benefits.

It was with Medallion that the City finally made a Section 37 deal for free office space for the Department of Health staff now located in the Carnegie Library building. This was a space trade I had pushed with the other developers. It finally clicked here. So we got the Library building cleared out for theatre use and \$1 million from Westside, to launch the rehab of the building and a functioning theatre. This is good. And this is the only time in this whole mess I can say this.

The October Press Conference

All this lead to a press conference at the end of October to announce these two settlements. To A18 it was galling to see City Hall types claiming credit for this when they had screwed up so much and had to be pushed hard to take the Saskin deal. That's politics at City Hall. It was even more annoying to see the effort to massage the good news of October into a cover-up of the overall disaster of the OMB decision and appeal settlements.

But we used the press conference to announce the new park. I set this strategy because it seemed that this was a chance for a fresh start in a positive voice and an opportunity to build up some pressure for the resources necessary to make the new park click as a neighbourhood focus. As I write I expect park planning to be a major new focus of our organizing. Maybe a whole new organization!

The Hold

But these settlements were not the end of the OMB case. The decision which we fought about all year in the appeals was an ‘interim’ one, general principles, without details. Now the particulars had to be worked out and if not, there could be more argument. Granger had reserved his final decision – in effect a temporary Hold – until the road acquisition and the financing of road construction was worked out and until .4 hectares of parkland was acquired.

The Balance of the Parkland

I had made park acquisition my special mission in this planning fandango because, because, it was so motherhood. It turns out, however, motherhood is complicated.

As the appeals and manoeuvring was unfolding, the 1171 developer, Baywood, bought four more properties in the Triangle, three facing on Queen Street and the entire block south of the Post Office where the City hoped to put the new park! So now the City had to acquire the parkland from Baywood.

The details of all the manoeuvring by the City’s various departments regarding the parks acquisition is told in the documentary summary, K.D. 19 – 39. It is too detailed to recount here except for a few highlights. Notwithstanding the instructions in 2006 that the City staff move to acquire the Lisgar Square land they had not done by 2007 - when Baywood bought the whole block out from under them. What was going on for a year was never explained So the City was in the invidious position of having to buy the north portion of the block back from Baywood at the same time it was bargaining about other issues.

In the July settlement the City staff agreed with Baywood the City would buy .3 hectares of land from them for the Lisgar Square but, incredibly still did set a price! The City thought they could complete the necessary .4 hectares by virtue of taking over the small parking lot that fronts on Queen and which joins the new park on its northern boundary. But Planning had not negotiated that with the Parking Authority. I insisted that that negotiation be completed or I would argue that the Hold be continued. As I pressed for the balance, I got vague assurances that since the City owned the parking lot that fronted on Queen it’s conversion to park could be arranged later. Or, the public Access Open Space in and around the other buildings was a sufficient substitute. Having seen the problems Planning had getting the Department of Health out of the Carnegie Library I had no faith that the Councillor could control the Parking Authority. We had leverage at that point. I threatened to hold everything up in new appeals if that land were not delivered to Parks. To their credit, my ‘threat’ was well received by the Councillor’s office as ammo.

There was the possibility that Kyle Rae would block the transfer on behalf the Parking Authority because of loss of revenue concerns and because of the loss of parking in the

neighbourhood. The latter was certainly a valid concern. I wrote to Kyle assuring him that we still felt the trade-off of park, parking and artist housing was the best in the circumstances. Whether that letter mattered, who knows? At the end of the day the .1 hectares was delivered from Parking to Parks. I had prepared an argument for the OMB that there should be a permanent Hold until the full .4 hectares was in hand. At the last minute – it is always the last minute – the balance of the parkland was secure, as secure as the City could ever deliver.

One lesson here is that, notwithstanding the rule of thumb that the local councillor rules on local planning issues, it isn't always smooth sailing. Relations between councillors are endless horse-trading. Sometimes the local councillor does not have the ability to get things through City Hall just so.

For the City and the developers the cost of the parkland was part of a larger financial negotiation which included the cost of acquiring the land for the extension of Sudbury Street and Abell then the cost of paving these new streets. We did not even try to participate in the endless discussions on the road issue. It was huge for the other players.

The underlying problem here was, as always money. The developers were / are required to make a contribution to the City for parkland for each new development. And the City is, sort of, obliged, to build new parks. The statutory amount required of developer, five percent, is fine for suburban development no where near enough for downtown parks. (The amount has been increased to 10% in the recent amendments but it still too small for the park needs of the booming downtown areas.) The City has some accumulated trust funds available for parks acquisitions. We were consuming them all. I don't apologize for insisting on this. I observe the under-funding of parks in the City is pathetic.

In the end land for a park was secured. It will be a small square. But it will have an opening to Queen. It will be a space with the classic proportions of a city square. It is not ideal but it has great potential.

It is amazing to me to think back over the last two years on the fact that we had to fight to get the park land. Parks!

The Detailed Zoning Bylaw

We ended up back before Granger December 17. The final form of the Zoning Bylaw was presented. I thought this would be the implementation of what had been decided in principle by the interim decision. I had not attended the numerous meetings on these various details. We were relying on the City to tidy this up. But I what I found, I caught, were two instances where the City had agreed to wording with Baywood that concerned me.

One had to do with a slight increase in the height of the building along Queen which had been so contentious at the original hearing. The Board had required a 45* angular plane to allow reasonable sunlight on the north side of Queen. The City had agreed the building

could be higher but then that railing would have to be transparent. Supposedly this would have no net effect on the sunlight on the north side of Queen. I was left uncertain whether this would in fact be so. The City witness said there had been no new shadow studies. Let me assume there is no net effect. What disturbed me even more was that the original evidence never mentioned the right to put up solid railings and parapets with additional shadow effects. So the presentation of shadow studies in the original OMB Hearing by all the witnesses is now suspect to me. People care a great deal about sunlight! And I am just not sure of the end result.

The other change concerned fine grain retail on Queen St. Here there was no specific finding in the Interim reasons. The City's evidence had been in favour of fine grain retail, albeit not so fine grain as we wanted. What does 'fine grain retail' mean? It means that the zoning would require narrow stores to replicate the traditional pattern of Queen St. But in the Bylaw the City was presenting it approved ninety foot frontage for the portion of the 1171 building on Queen east of the Northcote tunnel. I objected to this change in the City's position. The city witness then agreed with me. And the City changed its position in Reply argument to agree with me. Still the Board approved the Bylaw [See K.D. #19A] because the appearance of the building was of smaller 'bays'.

Appearance was all that mattered to the Board. This aspect of the decision is disastrous to the mews idea, in my view. It will likely mean a large chain restaurant with a Queen St entrance and no pedestrian traffic on mews side to the south. The mews design was/is touch and go.

This was the last straw for me with the O.M.B.

The draft final Bylaws as presented by the City are at:

1171 Queen - K.D. 17
 48 Abell - K.D. 18
 150 Sudbury - K.D. 19

The final Bylaw as approved by the O.M.B. is at K.D. 19A.

Baywood and the Queen Street Façade

I have noted that during 2007 Baywood bought three more properties on Queen St. (and a fourth that is the entire block south of the Federal Post Office between Abell and Lisgar. Development proposals for them were submitted to the City and were presented to a public meeting in November. That meeting was interesting to me in that the proposals were roasted by people who, to my knowledge, had nothing to do with Active 18. We are not alone.

The Baywood proposals as submitted to City Hall and presented to the meeting are:

1093 Queen, Queen and Dovercourt, K.D. 41.
 1155 Queen, the Car Wash site, K.D. 42.

1181 Queen, opposite the Gladstone Hotel, K.D. 43.

The key issue at the meeting was ‘design’ generally, the scale of the buildings, again eight storeys, more at 1093 Queen and the appearance of the three adjoining Baywood buildings at 1155, 1171 and 1181 Queen. These three are designed so that they would all have common garbage, parking etc. Good. But the Queen St façade will look like one massive building. Not good.

Two days later I discovered by accident that there was to be a private ‘peer review’ at the architects’ office. I insisted Active 18 be invited. Surprisingly, we were. At the very last minute. Not surprising. Michelle Gay and I attended at the architect’s office for A18.

The meeting had no formal status and was fairly casual and friendly. . Two highly reputable architects heard a brief description, saw some drawings and made some comments. There were quite a few people from the City present and they expressed some tepid concerns about design. The “peers” were slightly critical of the height. They thought that the ten storeys proposed at Queen and Dovercourt was too much but there could be more height at the west end of the Triangle opposite the Gladstone Hotel. (They were not told the permissible height to start with, maybe they knew.) They made some further slight remarks about design. I finally interjected that slight changes in the façade, would not alleviate the effect of the massive street wall of the three adjoining and similar buildings. If we are stuck with eight storeys we need dramatically different styles for the three buildings. All the “peers’ would say was that the west building opposite the Gladstone could be “contemporary”.

By my rough and tumble lawyer standards this was so polite it seemed like nothing at all. We’ll see whether there is any improvement to the design. I left thinking that ‘peer review’ is no solution.

In all this City Planning Department was objecting to the massive scale of the Queen St façade, the same position A18 was taking. But having approved 8 storeys for 1171 Queen they were hard pressed to deny it for the balance of the street. Technically the zoning sets the height at five storeys. The City’s Secondary Plan for the balance of the street, technically not yet been passed, gives the go ahead for eight storeys. There are no detailed design details. It’s a little late for the City to wake up. There is a gross failure here. This issue is a live one for 2008, how to improve the design of the Queen St buildings.

Secondary Plans

One of the root problems of the Triangle fight was the fact a detailed Secondary Plan was not in place for the area before the development wave hit. The O.M.B. can overrule a Secondary Plan but it is harder to justify with the recent changes to the *Planning Act*. A clear and current Secondary Plan is a key tool for community control.

The Area Study required for the WQW Triangle could have been the basis for a fresh Secondary Plan for the Triangle with some teeth if it had been in place before the development applications hit City Hall. Developers generally have the right to have their applications considered based on the in-force zoning and plans.

What happened with the Area Study and Secondary Plan that was developed after this fight got started is highly confusing. The required public meeting to discuss it took place May 2, 2007. [K.D. 21] A Plan was presented to Community Council and passed over our objections. The local Councillor declined to make any of changes we suggested. In practice the local councillor is the only voice that counts. But then at our July meeting with Planning staff, when the settlements were announced, they told us they were putting off their proposed Plan amendments for some revisions. But, then it was passed City Council anyhow, by adopting the staff report. But then the staff report was not translated in a formal Bylaw and presented back to Council for formally adoption. Got it! What is its formal status right now? When is a chicken not a streetcar?

This Plan might have mattered if it had been in place before the three fresh Baywood proposals were presented – which is unclear, see above - and if it addressed the Queen St. height and design issues properly. It does not.

The Official Plan requires that for a Regeneration area – that’s us – there be an Area Study which, among other things, set out design guidelines. All we got by way of design was the eight storey height allowance. We needed something better, especially if we are to be stuck with the eight storey street wall.

Now there are development pressures north of Queen and west of Gladstone Ave. We need a clear Secondary Plan here. My initial discussion on this was brushed aside by Elise Hug, the area planner, and Adam Giambrone who seemed to think the existing planning there is clear enough. Later Kevin B., Adam’s assistant asked me for an A18 position on development there. This is another new issue for the neighbourhood. We have the same need in the “North West Triangle” to control building volume, to insist on better design and to preserve work space.

I would like to use this area as a pilot project for a community driven Secondary Plan, community driven because the Planning Department just isn’t cranking out the work. The problem is whether we have the resources to take this on.

2 Gladstone

There is a proposed eight storey building at 2 Gladstone, the northwest corner of Queen And Gladstone across from the hotel. At one point it was destined to be social housing but the project was not accepted for government subsidy. Now it’s a condo. This case is going to the O.M.B. The Zeidlers who own the Gladstone are opposing. A18 is not active on this file at this point. We had previously said we would not oppose the project.

Observations, Conclusions and Forward Strategy

My personal assessment of the result is set out in my 'Jane Jacobs Report Card' at Appendix One. There is no need for further comment about the quality of the result.

There are three big issues for Active 18 for the coming year.

The New Park

As noted above there will be new park in the middle of all this. It has considerable potential to be an important public space. And it is an opportunity for a fresh start on an urban design issue of great interest to many people. Our park charrette hopefully marks the beginning of a new and positive chapter in the redevelopment of our neighbourhood.

Queen Street Façade

The disaster of Queen Street still requires our attention. The proposals for three more eight storey buildings on the south side is hardly surprising in the circumstances. The City has invited this by its planning position and is in a weak position to bargain for something better. Baywood's plans are monotonous and will create one massive wall on the south side of the street. The Baywood plans as submitted to City Hall are at K.D. 41, 42 and 43.] There are three important historic buildings on this strip of Queen that we want to protect if at all possible.

There is some opportunity, I hope, to influence Baywood in some negotiations. The Steering Committee has already started planning for this.

Secondary Plan and Heritage Studies

What we have learned is that the planning process does not work for the community once the development applications are filed at City Hall. We need to get ahead of the curve and get strong plans in place before this happens. City Hall resists doing this - because the Planning Department does not have the budget. This is a fundamental error which we should address by a strong dose of friendly pressure.

There are two areas which require attention. One is the area north of Queen and west of Gladstone where a strong Secondary Plan may help save cheaper industrial space.

Another approach is to complete the Heritage Study on the north side of Queen. This is technically a different 'planning' mechanism. But it's not that different, it requires lots of man hours to make it work for the community.

The OMB

There is a general consensus that the OMB has to go as the arbiter of Toronto planning. I am in reluctant agreement with this. The understaffed Planning Department makes so many mistakes that I often feel we need someone to 'save' us. But as saviours go, the OMB is a big disappointment.

As long there is the O.M.B. excuse exists for City politicians, there will be no willingness to do the more careful work at the Council level.

People Plan Toronto, which Active 18 members took a big role in launching, has taken a position for OMB reform. Alas, that issue fell flat in the recent provincial election. So we've got to deal with the O.M.B. for some time to come.

The A18 experience with the OMB has been very bad. There was nothing we proposed or suggested – unless the developers or the City were also backing it – that was accepted! While I had some satisfaction from learning a lot about a process that interested me from a political and 'academic' perspective, I felt I was totally wasting my time as an advocate. The question for community groups is this - even if you have a huge budget for experts and lawyers will they listen?

The Amount of Work

A central problem for community groups is the amount of work required to make a dent. This is a huge process problem that requires a lot more thought. But here are a few tentative observations:

- the Planning Department needs more money to do its job
- community groups need to get ahead of the curve and work on Secondary Plans and Heritage studies *before* the development wave hits
- *make* the Councillor's office do the work
- create and sustain powerful community organizations
- write a lot of letters
- demand to be present at the earliest stage of consultation making. The formalities of "community consultation" are almost way too late in the process

Thank You

Thank you to so many people for so much help over the last year, two in particular who continued their professional assistance through 2007, planner John Gladki and Kate McCartney, who will soon be a real lawyer, and no doubt a great one.

CMC

Jan. 11, 2008.