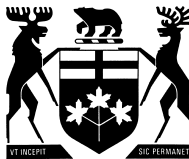


ISSUE DATE:

Sep. 25, 2008



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL070727

536555 Ontario Limited and Emros Development Corporation have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 1998 of the City of Ottawa to rezone lands respecting 747 Richmond Road from CG4 F(1.0) H(13.8) to CG4 [Exception X] to permit the development of two high-rise apartment buildings which include ground floor commercial uses
OMB File No. Z070100

APPEARANCES:

Parties

The City of Ottawa

EMROS Developments Corporation and
536555 Ontario Limited

Counsel

T. Marc

J. Bradley and E. Blanchard

MEMORANDUM OF ORAL DECISION DELIVERED BY N.C. JACKSON ON SEPTEMBER 16, 2008 AND ORDER OF THE BOARD

This hearing is a continuation for two days following a five day first phase hearing and Interim Decision (Attachment 1) issued by this panel of the Board on May 5, 2008. Based upon design criteria set out in the Ottawa Official Plan the Board in the interim decision dismissed the Ottawa position of a 6 storey height limit and directed that the height of the latest proposal of the Appellants at 15 and 12 storeys (2 buildings) revised from initial proposals of 21 and 19 and then 18 and 15, undergo further serious mainstreet architectural treatment and a meaningful architectural transition exercise, to include both height reduction and stepping back so as to reduce impact on the 5 storey condominium building at 727 Richmond Road. That additional planning and architectural work has now taken place as set out in Exhibit 23.

Concept 1 is still 2 buildings at 15 and 12 storeys with significant architectural changes to move upper floors, through stepping back, to the west, and further from the condominium at 727 Richmond Road. Outdoor balconies are to be restricted away from the east wall proposed facing 727 Richmond Road. There is also architectural treatment

on the Richmond Road façade stepping back upper floors so as to provide more human scale at street level.

Concept 2 is a 1 building form of development with height of the easterly wing adjacent to 727 Richmond Road at 8 storeys and the westerly portion at 12 storeys. This is reflective of a 12 and 8 storey proposal floated by City planners in the earlier Design Concept Plan process.

Concept 1 was initially rejected by the City and resident groups appearing as Participants. During the course of this second phase hearing the City opposed Concept 1 but now supports Concept 2. Their position is consistent with that in Phase 1 where City consulting planning evidence and architectural evidence rejected the evolution of 2 buildings and emphasized the traditional mainstreet goals of the Official Plan and design guidelines (Section 3.6.3 of the Official Plan). Planner Nancy Meloche testified that Concept 2 will strengthen and enliven the mainstreet concept at grade (commercial) and provide a reduction of height and so provide the best transition of building heights. It will, in her opinion, remove adverse overlook impact on 727 Richmond Road and reference was made to the absence of balconies on the east wall facing 727 Richmond Road. Professional planner Ted Fobert testifying for the Appellants, gave similar evidence under oath but asked that in a lower project that the issue of balconies in the east wall remain a site plan consideration noting that overview on 727 Richmond Road was to be avoided by evidence in this hearing.

Both planners testified that Concept 2, as now revised, represents conformity with the Ottawa Official Plan and good planning.

Residents Earnest Murray of 727 Richmond Road and Ed Cuylets of the First Unitarian Congregation of Ottawa as Participants, recognize the value of the structure as now reduced in height but seek further reduction to 7 and 9 storeys, less mass, and prefer the openness of Concept 1, but not the height of that Concept 1. The Board accepts the professional planning opinion that there is a need to consider in transition, setback and buffering and that there is a crucial mass necessary to address market for shops on the ground floor as a necessary component of city traditional mainstreet planning particularly here where the location is outside Westboro Village but in an area where city planning mandates tradition mainstreet concepts develop. City staff planners had earlier recognized this in earlier higher proposals and in considering intensification.

Mr. Murray also expressed engineering concerns with possible impact on his neighbouring building during the construction phase for underground parking, access during construction and restriction of blasting (if blasting is necessary) to day hours between 11:00 A.M. to 3:00 P.M. The Board agrees with Mr. Murray that his concerns during construction are legitimate and requires notice of the site plan application to his Condominium Corporation 260. The Board from evidence understands that the City requires such matters to be considered and provided in site plan agreements under the *Planning Act*. That is the planning stage where Mr. Cuylets' concern for further street architectural articulation and for evidence as to the restriction of balconies in the proposed east wall facing 727 Richmond Road to be finally considered and determined. Notice of the Site Plan application is agreed to be given to the Participants in this Hearing fully listed in Attachment 1.

Based upon the Board's findings in the Interim Decision (Attachment 1) this second phase has become a settlement hearing as between Parties. Based upon the joint professional planning evidence given in this second phase hearing, the Board allows the Appeal in part for the 12 and 8 storey Concept 2 now depicted in Exhibit 23, Page 15. City Zoning By-law 93-98 in effect at the time of the application and at the time of the first phase hearing is amended in accordance with Exhibit 26 (Attachment 2). Recent Zoning By-law 2008-250 passed by the City after the first phase decision is also amended in accordance with Exhibit 27 (Attachment 3). The Board considers this conclusion to represent a fair open process now reflective and in conformity with the Ottawa Official Plan, the architectural design study requirements of Phase 1 (Attachment 1) and representative of many varying views. Any open process must have a conclusion and provide certainty for other planning processes to follow, including the site plan process under Section 41 of the *Planning Act*.

The Board so orders the above.

"N.C. Jackson"

N.C. JACKSON
MEMBER

ISSUE DATE:

May 5, 2008



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

ATTACHMENT 1

PL070727

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OMB File No. Z070100

APPEARANCES:

Parties

City of Ottawa

EMROS Developments Corporation and
536555 Ontario Limited

Counsel

T. Marc

J. Bradley and E. Blanchard

INTERIM DECISION OF THE BOARD DELIVERED BY N. C. JACKSON

EMROS Development Corporation and 536555 Ontario Limited (hereinafter EMROS) applied to the City of Ottawa (City) to change the zoning on their jointly owned property at 747 Richmond Road in the City to permit two high rise residential condominium buildings of 19 and 21 storeys. The application was for a residential unit count of 306 and for 5,500 square feet of commercial on the ground floor. The City failed to make a decision on the Application and the Applicant appealed to this Board. The Applicant formally revised the Application to 18 and 15 storeys and then informally to 15 and 12 storeys. The last position of 15 and 12 was advanced first as a without prejudice offer to community groups prior to this hearing. After rejection, the Applicant has maintained publicly to this Board that 15 and 12 storey position as what is now appealed for. The City position is 6 storeys. Six storeys is also the position of a number of community groups who sought and received Participant status in this Hearing. Those Participants are:

- First Unitarian Congregation of Ottawa as represented by Ed Cuylits, 30 Cleary Avenue, Ottawa K2A 4A1
- Carleton Condominium Corporation 260, 727 Richmond Road as represented by Dan McLellan, President, Ottawa K2A 0G6
- Bruce Bergen, President of McKellar Park Community Association (unincorporated), 440 Mansfield Avenue, Ottawa K2A 257
- Westboro Community Association (incorporated) represented by Gary Ludington, 540 Tweedsmuir Avenue, Ottawa K1Z 5N9
- Hampton Iona Community Group (incorporated) represented by Lorne Cutler, 226 Byron Avenue, Ottawa K1Z 7Y7.

This hearing took place over 5 hearing days, and included a public evening session and a visit to the site with counsel and planners. The site visit was to better appreciate evidence, not to gather new evidence. The five Participants testified in the public evening session. In the hearing the Board heard testimony from Ted Fobert, planner for the Appellants, John Smit and Richard Kilstrom, planners on staff with the City of Ottawa, and summonsed by the Appellants, Nancy Meloche, planner retained by the City, and David McRobie, architect retained by the City. Richard Kilstrom was called to testify by the Board when the Appellants declined to call him. All Parties then cross examined Mr. Kilstrom. There was no objection.

Location and Context

The subject property is currently numbered municipally as 747 Richmond Road. The lot is approximately .6 acres in size. Currently the site is occupied by a strip commercial plaza approximately 30 years of age and slated for demolition if the new development is approved of. The site is located approximately 1 kilometre west of Westboro Village, a popular commercial and residential area in the west end of central Ottawa. The site borders the Ottawa River Parkway (and then the Ottawa River) to the north and Cleary Avenue to the west. There is no development to the north where the

Appellants hope to make use of unimpeded views to the Ottawa River and beyond to the Gatineau Hills. Abutting the subject property to the east is a five storey residential condominium building. This existing Condominium claims impact and played a role in the planning process to be detailed later in this decision. To the south of Richmond Road is low profile residential development separated from the subject property by Richmond Road, the Byron linear parkway and Byron Avenue, at a significant distance, such that there is no apparent impact. To the northwest is the Unitarian Church with seniors and daycare components. The church property is set back with mature landscaping so that there is little impact. Church concerns are whether this development could serve as precedent for other high rise development that might follow that could more directly impact their site. The other Participant resident groups testified as to their involvement and support for a recent Community Development Plan to be described in detail later in this decision. No traffic issues were raised by the City although resident testimony in a limited manner did critique the Appellants' traffic analysis. The only direct evidence was that the development could proceed without causing capacity and operational issues on the existing street network.

Planning Framework

The site is currently zoned General Commercial. This zoning permits a mix of commercial and residential uses including high rise apartment buildings. Height is limited to 4 storeys and the floor space index (FSI) 1.0. The proposal is now heights of 12 and 15 storeys going from east to west with a FSI of approximately 5. The Ottawa Official Plan designates the subject property as Traditional Main Street. There was planning discussion concerning whether OP mapping had imposed an underlay designation of General Urban Area. This was disputed by the City and not further advanced in the hearing by the Appellants. All 4 planners testifying described the Traditional Main Street Designation as operative and as the key for determining height in the Zoning By-law Amendment sought. The Board has considered City Traditional Mainstreet Design Guidelines and Annex 3 attached to but not part of the Official Plan. The Board has also considered the Provincial Policy Statement including the provisions respecting Mainstreets and respecting intensification and infill. Recently, a Community

Development Plan for the Richmond Road Westboro area has been approved by Council. The CDP has not yet the force of *Planning Act* status. A secondary Plan process is now underway to incorporate CDP provisions into the Official Plan. More on the CDP follows, but suffice for now is that it imposed a 6 storey height limitation on the subject property.

Background

On November 17, 2005, Application was made to rezone the subject property for 21 and 19 storeys with ground floor commercial and 306 dwelling units. This Application followed earlier consultation with the City of Ottawa planning department and a change from an earlier concept of one more massive high rise to two more slender buildings so as to open up more of the site at ground level.

On January 12, 2006, the Councillor representing the area proposed a Motion before the Planning and Environment Committee to enact an Interim Control By-law for the area in which the subject property is located until a Community Design Plan had been completed and adopted by Council. City Council on January 25, 2006, did not pass an Interim Control By-law but did pass a general deferral of all rezoning and Official Plan amendment applications for the Richmond Road/Westboro Design Study area until the completion and approval by Council of the Community Design Plan process.

The Applicants determined to play a role in the Community Design Plan process. At first they sought, through their planner, to be part of the Planning Advisory Committee (PAC) undertaking the Community Design Plan (CDP). The PAC was composed primarily of Community groups with elected officials and their staff, planning staff and one business representative for a limited time. That request was denied. The Applicants did make a presentation to PAC on August 2, 2006.

A draft report from PAC in March 2007, noted the approval of a 15 storey building at 793 Richmond Road, first at City Council in 2005, the OMB in 2006 at a settlement hearing and Committee of Adjustment in 2007. The draft report did not propose to

change the height of 793 Richmond Road but went on to describe 747 Richmond Road as follows:

“On the northeast corner of Cleary and Richmond Road, 747 Richmond Road is one of the more controversial sites in the Planning Area. Although there is stakeholder agreement that the existing four storey height limit can be increased, a divergence of views emerged over what the increase should be.

The residents of the 5 storey 727 Richmond Road (Parkway Terrace Condominium) to the east proposed a maximum height of six storeys, as per the policies of Traditional Mainstreets. Several site development conditions were set forth if anything higher than 6 storeys is proposed. The Unitarian Church, an adjacent landowner supports this position, as does the rest of the PAC.

The proponent for the rezoning of the site for a 19 and 21 storey condominium development stated it conforms to the City’s Intensification policies, enhances the pedestrian environment and that the proposed height is supported by the compatibility policies of the Official Plan. The proponent noted that the site was relatively isolated, with no adverse impact on adjacent uses, and that the area was in transition as demonstrated by the approval of a 15 storey building at 793 Richmond.

Both these positions were considered in developing the CDP recommendations for this site, along with the Official Plan policies and the unifying and principles set out in this document. The CDP recommends an increase in the maximum height from four to eight storeys for the eastern half, adjacent to the five storey Parkway Terrace. The western half should be a maximum of 12 storeys. This recommendation is based on the following:

The site backs onto the Ottawa River Parkway and is relatively isolated from other existing development, but does border the five storey Parkway Terrace to the east; and

The east-west transition in maximum building heights along Richmond Road, as set out in the CDP vision, should be sensitive to both the nature of the adjoining land uses and the need to create an appropriate and gradual transition in building scale.

Guided by the CDP and zoning designations, which support a transition to traditional mainstreet land uses, compatible with existing residential communities between Richmond Road and the Ottawa River Parkway, this section of Richmond Road can become an attractive and viable place for current and future residents.”

The final CDP draft report dated June of 2007 contains the same background information but the recommendations were changed to the following:

"In April 2007, in response to community concerns, the proponent revised their application and reduced the heights to 15 storeys for the east tower and 18 storeys for the west tower of 747 Richmond Road. Staff proposed a compromise of eight storeys on the west half of the site and twelve storeys on the west, but the compromise was not acceptable to either side.

The development of 747 Richmond Road raises some significant and far-reaching policy issues with respect to intensification, compatibility and collaborative community building. In recognition of these important implications, City staff is recommending that 747 Richmond Road not be rezoned as part of the Richmond Road/Westboro Community Design Plan. Instead staff will bring forward a separate report, dealing specifically with the existing rezoning application submitted for this property, for consideration by the Planning and Environment Committee and City Council."

The CDP was before the Environmental and Planning Committee on June 26, 2007. The accompanying planning staff report (2 planning staff worked with PAC on the CDP) provided similar language to the final draft CDP of June 2007 but then went further as to their compromise of 8 and 12 storeys indicating that staff as well as the applicant and the community did not consider it the best solution for this particular site with its unique context. The staff position was that 2 narrow towers leave a significant portion of the ground plane open for views to the Ottawa River Parkway and to the river itself from Richmond Road, and that was superior to a building of lesser height which fills the site and perpetuates the lack of views to the river that currently exists with the adjacent five storey condominium which covers well over 100 metres of its Richmond Road frontage. The staff report then repeated the CDP that staff decided not to recommend the rezoning of 747 Richmond in the CDP process but would deal with the rezoning in a separate report and that an amendment to the CDP would be considered at the time of the rezoning of 747 Richmond Road.

The Planning and Environment Committee instead of adopting the planning staff position, voted to impose a 6 storey height limitation on 747 Richmond Road.

Following City Council adoption of Planning Committee position, Planning staff advised the Applicants on July 31, 2007 that staff would not be bringing a separate report on zoning to Planning committee

The Appeal to this Board was made by the Applicants on August 23, 2007.

In the weeks prior to this hearing the Appellants made an offer without prejudice to the community groups forming PAC to again reduce their proposal, this time to 15 and 12 storeys. Following rejection, the appellants decided to maintain the 15 and 12 storeys as their position in this Appeal hearing.

The City does not argue that the CDP is binding, since it is not yet in a *Planning Act* instrument. The City position is that the CDP has relevance as to the planning merits. The inconsistent positions taken with changes made to the CDP do assist in the understanding of the evolving concepts but not as to how the firm position on 6 storeys was determined at Council. The Board prefers to place the most weight on City of Ottawa Official Plan policies that have been tested and approved under the *Planning Act*.

The Ottawa Official Plan

The Ottawa Official Plan was adopted in 2003 and approved in 2006 respecting Mainstreets following the hearing of Appeals. The Official Plan is the main test at the local level to determine the appropriateness of Zoning By-laws - Section 24 of the *Planning Act* requires that Zoning By-laws conform with the Official Plan.

The Official Plan in section 1 speaks to green spaces and public transit considerations. Section 2 speaks to the growth projected of 190,000 new homes most of which will be in the form of apartments. The subject property already zoned for apartments, with nearby bus routes, and with Ottawa River amenity area to the north and the former Byron rail now green area to the south is an excellent candidate for the managed growth called for by the Official Plan. Section 2.2.3 directs growth to certain areas referred to as significant development potential. One such area identified are Mainstreets. Section 2 of the Official Plan states:

“Mainstreets – These are the arterial roads that have developed as focal points for shopping, offices and community interaction. Additional development in these locations can reinforce these functions and achieve a more urban, densely developed form. Mainstreets can be developed in a manner that sensitively builds on existing neighbourhoods and is more pedestrian supportive. New Mainstreets may emerge over time through infilling of areas that are now vacant or underused.”

Section 2 speaks to intensification of land uses indicating that scale of development will be evaluated along with the design and its compatibility.

The Mainstreet Designation is explained in detail in policy language in section 3.6.3 of the Official Plan:

“The Mainstreet designation in this Plan identifies streets that offer some of the most significant opportunities in the city for intensification through more compact forms of development, a lively mix of uses and a pedestrian-friendly environment.

Mainstreets are at different stages of development. Each of these streets displays its own distinctive character depending largely upon the period during which it developed. The policies acknowledge this diversity and provide for change and renewal that takes into account the character of the street and adjacent areas. Over time, it is the City’s intent that Mainstreets will achieve more compact, mixed use, pedestrian-oriented development patterns. In older Mainstreets these patterns will be reinforced.

This Plan encourages intensification along Mainstreets. Intensification is most likely to occur through the redevelopment of such sites as vacant lots, aging strip malls, and former automobile sales lots, parking lots and gas stations, as well as through additions to existing buildings.”

The Plan along this Richmond Road mainstreet location encourages intensification and contemplates it on a site such as this existing strip mall.

The Plan divides Mainstreet designations into two categories. The subject property is Traditional Mainstreet developed prior to 1945, with tight knit urban fabric more pedestrian-oriented and transit friendly. Arterial Mainstreets are noted as post 1945 development, with larger lots and buildings, more automobile oriented. The Official Plan recognizes that there are stretches of Traditional Mainstreets that do not entirely reflect the aforementioned pre-war vintage description. These inner suburban areas, built in the 1950s and 1960s display a blend of Traditional and Arterial characteristics. For these areas, the Plan promotes redevelopment in a fashion that locates buildings close to the street and is more pedestrian oriented. Traditional Mainstreets are planned as compact, mixed use, pedestrian oriented streets that provide for access by foot, cycle, transit and automobile. Uses may be mixed in individual buildings or occur side by side in separate buildings.

The Official Plan by policy has addressed height. Policy 8 of section 2.6.3 provides the tests to evaluate height:

“Redevelopment and infill are encouraged on Traditional and Arterial Mainstreets in order to optimize the use of land through increase in building height and density. Any proposal for infill or redevelopment will be evaluated in light of the objectives of this Plan. This Plan supports building heights in the range of four to six storeys on Traditional Mainstreets and up to eight storeys on Arterial Mainstreets.”

This wording supports the City position of 6 storeys on the subject property as a recognition of the encouragement of the Official Plan for increased building height:

However policy 8 does not end here but goes on to permit greater building heights under criteria set out:

“Greater building heights will be considered in any of the following circumstances:

- a) Specific building heights are established in the Zoning by-law based upon a Community Design Plan or other Council-approved study;
- b) the proposed building height conforms with prevailing building heights or provides a transition between existing buildings;
- c) the development fosters the creation of a community focus where the proposal is on a corner lot or at a gateway location or at a location where there are opportunities to support transit at a transit stop or station;
- d) the development incorporates facilities, services or matters set out in section 5.2.1 with respect to the authorization of increases in height and density that, in the opinion of the City, significantly advance the vision for Mainstreets;
- e) Where the application of the provisions of section 2.5.1 and section 4.11 determine that additional height is appropriate.”

Respecting paragraph (a) above, it is unfortunate that that 2 year exercise, that formed the basis of deferral of this Application and others did not resolve the height issue on 747 Richmond Road. Paragraph (a) above contemplates the CDP as a planning tool. Neither party in this hearing relies upon the CDP as determinative. The

CDP is well based in section 2.5.6 of the Official Plan. The DCP is intended to be the backbone of any significant change in the community with opportunity for early involvement and discussion by parties about how future development can occur.

Section 2.5.6 of the Official Plan states:

“Community Design Plans will be of sufficient detail to guide a wide range of implementation tools as identified in Figure 2.5.6 including the Zoning By-law. However, it is not intended that a level of detail equivalent to a zoning by-law become part of the Official Plan. Therefore, when a Community Design Plan is undertaken primarily to direct changes to the Zoning By-law, it need not be adopted by amendment to this Official Plan.”

Figure 2.5.6 in the Official Plan describes the structure of the CDP and describes Implementation to be zoning by-laws.

The CDP in this case has attributes even according to those in opposition to the City position. However, PAC and the CDP appears to have had difficulty with a specific height limit on the subject property. Significant changes to that position and the attempted withdrawal of the City's professional planners from that process as it determines height so that they could prepare a separate report (not proceeded with) is of concern. Height to be determined by the Official Plan particularly in excess of 6 storeys is a complicated process under policy 8 involving important design criterion. There is little discussion of such in the CDP, and instead rather a short cut reference to 6 storeys based upon the Official Plan. Perhaps the collaborative approach referred to in the Official Plan for the CDP, to be undertaken by City departments, residents, landowners, businesses and other interested parties was not as inclusive as the Official Plan intended. Several residents who were on the PAC testified in this hearing that they would have welcomed more owner or business involvement. Mr. Fobert asked to sit on the PAC and was refused. He cannot be expected to write for PAC the zoning height desired on behalf of his clients, but more involvement could have been collaborative in the wording of the Official Plan. Or it may be that the DCP was becoming too prescriptive in its results. One must refer to the *Planning Act* from time to time and see that the legislative authority of Council to regulate the height of buildings is clearly set out in section 34(1)4 under Zoning By-laws.

Policy 8 (b) test is dual from the word or. Either one considers prevailing building heights or the transition between existing buildings. Reference is made in the evidence to the five storey condominium to the east and the recently approved 15 storey Charleton building to the west. The City strongly argues that the Charleton is not existing (not constructed) and should not be considered. The evidence of Mr. Smit, City planner, is that the Charleton has zoning and that its construction is imminent. Mr. Smit testified that site plan approval was about to be granted and preparatory work on site with a steam shovel had started. Planning is best applied in a forward thinking manner and the Official Plan as policy to guide future growth and development. In terms of *Planning Act* processes, the Charleton could be considered for its height and in the alternative test for transition between it and the 5 storey condominium. The Charleton by itself however does not establish the prevailing height of 15 storeys - rather it is one high building proposed among lower structures. The Charleton could be considered as an end with the 5 storey condo on the other extreme. The Charleton is not in the same block but with fair transition is a proper consideration, if not existing, then certainly in test policy 8(e) to follow.

Policy 8 (c) - this proposal would assist in focus but it is premature to find community focus at this time. While the proposal will be on a bus route, it would be a stretch to suggest that is the type of transit the City intended would provide the opportunity to intensify with higher heights.

Policy 8 (d) - this provision was not relied upon in the hearing.

Policy 8 (e) - Considering compatibility, sections 2.5.1 and section 4.11 of the Official Plan, height in excess of 6 storeys is warranted. This is the most helpful test in applying planning criterion to height as it may impact the neighbouring 5 storey condominium. Section 2.5.1 states that introducing new development in existing areas that have developed over a long period of time requires a sensitive approach to differences between the new development and the established area. The Plan provides guidance to mitigate differences and help achieve compatibility of form and function. Allowing for some flexibility and variation that complements the character of existing communities is central to successful intensification.

The Official Plan states:

"In general terms, compatible development means development that, although it is not necessarily the same as or similar to existing buildings in the vicinity, nonetheless enhances an established community and coexists with existing development without causing undue adverse impact on surrounding properties. It fits well within its physical context and works well among those functions that surround it. Generally speaking, the more a new development can incorporate the common characteristics of its setting in its design, the more compatible it will be. Nonetheless, a development can be designed to fit and work well in a certain existing context without being the same as the existing development."

Design principles set out in the Official Plan that are met by this development include:

Connect public and private spaces – the project will be set at the street boundary and provides a connectivity between the 2 buildings intended as both a public entry to the Ottawa River Parkway and as a patio where people can gather and serve the ground floor commercial. Conveyance of the central property between the buildings is offered to the City. This will meet the needs of pedestrian movement as a priority and contributes to an attractive public space.

The height of the new buildings will contribute to vistas and safety in that the new residents will serve as eyes on the street from new residences and in public space.

Design Principles in the Plan also include the relationship between buildings and the continuity of street frontages. Design is intended to achieve a more compact urban form over time. Design is intended to integrate new development, complement and enliven surroundings, allow built form to evolve and complement the massing patterns. These design principles cannot all be met. The Official Plan recognizes that "Design Considerations are not meant to be prescriptive, and will not constitute a checklist. Proponents are free to respond in creative ways to the Design Objectives and Principles and are not limited only to those suggested by the Design Considerations."

City Traditional Mainstreet Guidelines are set out in Exhibit 2, tab 47. These Guidelines suggest: aligning street wall buildings with the existing built form so as to:

- Create a continuous streetscape;
- Use periodic breaks in the street wall to add interest to the streetscape;

- Create attractive public and semi public outdoor amenity areas such as green spaces, courtyards, cafes; and
- Set back the upper floors of taller buildings to achieve a human scale and more light on sidewalks.

Issues in this hearing as to the appropriate height revolve upon whether the City evidence of compact development at the street need necessarily amount to an intrusive wall. Or put the other way, is the proposal at a height greater than 6 storeys so foreign to the Mainstreet concept of compact form and street wall buildings that architectural form and design fails. The Board's finding is that the proposed concept needs serious Mainstreet architectural treatment but that there are examples of recent development in the area that demonstrate that with such treatment development height higher than 6 storeys can fit, will work in the context and can serve to enliven the area. I refer to the Domicile recently constructed on Richmond Road at Golden Avenue at a height approximate to what is proposed (9 floors but with higher ceilings so that overall height is similar to the lower building proposed) and the Charlesfort proposed at 793 Richmond Road. Both recent projects had City staff and Council support and approval and demonstrate a high degree of architectural design so that although tall, they do and will fit in the City's Traditional Mainstreet vision, design and Official Plan Policies. I note that in the Charlesfort public process there was support from the local councillor in public meeting minutes and Council to a higher, more slender building opening up that site and support from some in opposition to the proposal now before this Board. The Charlesfort planning process also included a Fotenn planning analysis as to character analysis. That analysis accepted by the City planning department found that there would not likely be further similar high rise in the areas of concern near the Unitarian Church due to location more closely proximate lower sensitive development.

Actual building height is to be based upon such enhanced architectural design and the compatibility policy 4.11 of the Official Plan. The Official Plan states that to arrive at compatibility of scale, will demand a careful design response, one that appropriately addresses the impact generated by infill or intensification. The Official Plan contemplates specifically that as it manages growth, an amendment to the zoning by-law may be required for height, and in such circumstances, the compatibility of the

proposed development must be considered. Height is to be one of the objective criteria to evaluate compatibility. The proposed development addresses issues of traffic, access on Cleary and parking below grade. The Official Plan states in section 4, Policy 2 (d) that where variation in building height is appropriate, transition in building heights is desirable. The desire for transition in building heights can be offset through natural buffers and setbacks and or through appropriate design measures to create a more pedestrian at grade environment. The Official Plan notes that where the height varies from the pattern in the area the proposed design may compensate for this variation through its treatment of characteristics common in the surrounding community. The Plan further states the development should respect the privacy of outdoor amenity areas of adjacent residential units and minimize undesirable impacts through siting and design of the buildings. Shadowing is to be minimized.

Annex 3 to the Official Plan—The Design Framework – includes:

- the enhancing or creating of nodes of activity,
- contributing to views and vistas and the consideration of adjoining buildings to determine the scale and height of the development,
- creating continuous street oriented building form, using architectural treatments and incorporating interruptions of continuous building facades to provide pocket parks and plazas,
- embracing fresh architectural approaches where there isn't a cohesive historic building fabric,
- addressing the impact of tall building by maintaining lower building profiles adjacent to streets,
- providing transitions, addressing the impact of tall buildings by incremental changes in height, creating a sense of human scale within the first three floors by means such as architectural massing, and detailing.

The Board finds that undue adverse impact is decidedly lacking on all sides of the proposal excepting the east - the existing 5 storey condominium. That condominium

has approximately 5 balconies facing the proposal. There is reasonable setback of 9 metres proposed but in the view of the Condominium residents there will be shadowing and in the view of the City witness, Meloche, overview. Shadowing is depicted in the proponent's drawings. There is no contrary evidence. Any increase in shadowing is minimal and not beyond what might be expected in an urban area already permitting apartment buildings. The overview is more of a concern that feeds undue impact. The Board finds that additional consideration to the height proposed particularly on the most easterly building is required. The present proposal on the easterly building is 12 storeys. The Board requires a meaningful architectural transition exercise to consider the reduction of impact on the five storey condominium. That is to include consideration of both height reduction and stepping back as a form of transition for the higher storeys. This design exercise is also to include the streetscape for both buildings - its continuation with consideration of human scale on the first 2 or 3 floors with architectural consideration and setback of the higher floors above street level. There was some discussion and acceptance in revised zoning during the hearing of this concept at street level.

The Board notes that in earlier appeals to the current Official Plan that this Board held in Decision 2649 of 2006 that even though the Richmond Road area in question, among other streets, did not then meet the criteria for Traditional Mainstreets that it was appropriate for the City, as part of its long range planning responsibilities, to implement this designation with the hope and intention that these will evolve as such in the future.

The Board is aware that elevation drawings are normally part of site plan approval under section 41 of the *Planning Act*. In this case, height can only be considered by use of all the design criterion set out in the Official Plan. That design criterion, in the Board's view, has not been fully considered in the CDP process. The Board notes an earlier concept of 12 and 8 floors was a consideration of the CDP and that it was apparently "floated" by City planners and then withdrawn and not agreed to by any of the Parties or PAC. The Board expects professional planners to bring recommendations in the planning process with land use planning reasons. Some reasons for the 12 and 8 scheme respecting appropriate transition east-west were apparent in the initial drafting of the CDP. The Board also notes that two members of

PAC representing community groups, testifying in this hearing, noted that while they supported 6 storeys at PAC, to provide a unified position with the Condo Corporation to the east, that they could support development higher than 6 storeys. The City planning consultant also saw some merit when considering height in excess of six stories as an alternative, to consideration of transition east to west.

The Board will allow up to 6 weeks for consideration of the findings in this interim decision. For reasons given above, the City position of 6 storeys is dismissed. Actual height of the 2 buildings proposed, but particularly of the 12 proposed storey building, is be considered in further evidence to include architectural design treatment with emphasis on transition and streetscape. Should the Appellant proceed, revised drawings are to be reviewed with the City and the Participants in this Hearing. The Board will then on the direction of the Appellant and the City forthwith schedule a continuation to hear further evidence to establish final height gradations. Should the Appellant not wish to proceed based upon these findings within the time stipulated the Board will issue its order dismissing the Appeal.

"N. C. Jackson"

N. C. JACKSON
MEMBER

BY-LAW NO. 2008-XX

A by-law of the City of Ottawa to amend Zoning By-law 1998 (**By-law No. 93-98**) of the former City of Ottawa to change the zoning for the property known municipally as 747 Richmond Road.

The Council of the City of Ottawa, pursuant to Section 34 of the Planning Act, R.S.O.1990, enacts as follows:

1. Zoning Map 4 Sub Area 7 of Part XVIII – Zoning Maps, of the aforementioned by-law is amended by rezoning the land shown on Document 1 from CG 4 F(1.0) H(13.8) to **CG [Exception X]**.
2. Despite anything to the contrary in this by-law, for the lands zoned **CG [Exception X]**, the following provisions shall apply:
 - a. A maximum of one high-rise apartment, including ground floor commercial uses, is permitted on the property subject to the following regulations:
 - i. The high-rise apartment must not exceed a height of 38.0 metres (12 storeys).
 - ii. Richmond Road shall be considered the front yard for the purposes of this by-law, and the following yard setbacks shall apply:

| I ZONING MECHANISM | II REGULATIONS | |
|---|---|------------|
| i. Front yard setback | Minimum | No minimum |
| | Maximum | 3.0 m |
| | An added 2.0 m setback from the provided front yard setback at grade shall apply above the 5 th storey or 18.0 m. for the middle 1/3 of the length of the front building facade, otherwise the added 2.0 m setback from the provided front yard setback at grade shall apply above the 4 th storey or 15.0 m. | |
| ii. Side yard setback abutting a street | Minimum | No minimum |
| | Maximum | 3.0 m |
| | An added 2.0 m setback from the provided side yard setback at grade shall apply above the 4 th storey or 15.0 m. | |
| iii. Interior side yard setback | Minimum | 9.0 m |
| | An added 2.0 m setback shall apply above the 4 th storey or above 15.0 m, whichever is the lesser; | |
| | An added 22.3 m setback shall apply above the 8 th storey or above 27.0 m, whichever is the lesser; although an enclosed exit corridor (not to exceed 2.5 m in height, and 3 m in width) shall be permitted to exceed the 8 storey/ 27.0 m height limit within this setback. | |
| iv. Rear yard setback | Minimum | No minimum |

- iii. Floor space index restrictions shall not apply.

- iv. Ground floor uses, abutting Richmond Road, must consist entirely of commercial uses within a depth 6m of the front wall of the main building abutting a street, excluding lobby area, mechanical rooms, garbage room, access to other floors, and any other floor area occupied by similar facilities. Beyond the aforementioned 6m depth, residential uses are permitted on the ground floor.

ENACTED AND PASSED this day of , 2008

City Clerk

Mayor



REVISION DATE DE REVISION

1. *What is the main purpose of the study?*

2. *What are the research objectives?*

3. *What is the research methodology?*

4. *What are the results of the study?*

5. *What are the conclusions of the study?*

6. *What are the limitations of the study?*

7. *What are the implications of the study?*

8. *What are the future research directions?*

9. *What are the contributions of the study?*

10. *What are the key findings of the study?*

CG4 F(1.0) H (13.8) to CG [Exception X]

$\frac{1}{2} \times \frac{1}{2} = \frac{1}{4}$
 $\frac{1}{4} \times \frac{1}{4} = \frac{1}{16}$
 $\frac{1}{16} \times \frac{1}{16} = \frac{1}{256}$

BY-LAW NO. 2008-XX

A by-law of the City of Ottawa to amend Zoning By-law 2008-250 of the City of Ottawa to change the zoning for the property known municipally as 747 Richmond Road.

The Council of the City of Ottawa, pursuant to Section 34 of the Planning Act, R.S.O.1990, enacts as follows:

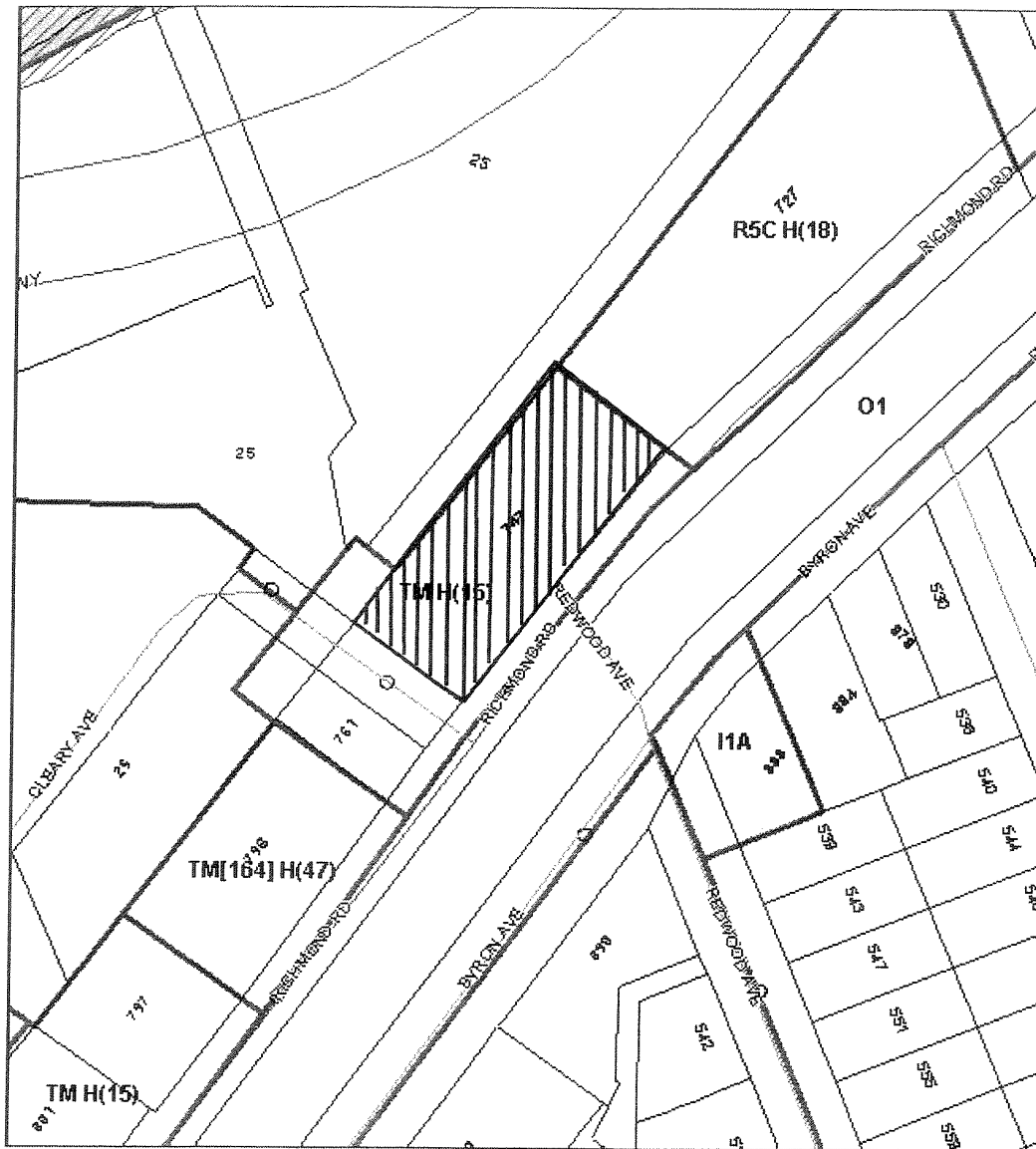
1. The Zoning of the aforementioned by-law is amended by rezoning the land shown on Document 1 from TM H(15) to **TM [Exception X]**.
2. Despite anything to the contrary in this by-law, for the lands zoned **TM [Exception X]**, the following provisions shall apply:
 - a. A maximum of one high-rise apartment, including ground floor commercial uses, is permitted on the property subject to the following regulations:
 - i. Notwithstanding the building height provisions of Table 197 (g), the high-rise apartment must not exceed a height of 38.0 metres (12 storeys).
 - ii. The setbacks established in Table 197 and subsection 197(4) do not apply and the following yard setbacks shall apply:

| I ZONING MECHANISM | II REGULATIONS | |
|-----------------------------------|---|------------|
| i. Front yard setback | Minimum | No minimum |
| | Maximum | 3.0 m |
| | An added 2.0 metre setback from the provided front yard setback at grade shall occur above the 5 th storey or 18 metres whichever is the lesser for the middle 1/3 of the length of the front building facade, otherwise the added 2.0 m setback from the provided front yard setback at grade shall apply above the 4 th storey or 15.0 m. | |
| ii. Corner side yard setback | Minimum | No minimum |
| | Maximum | 3.0 m |
| iii. Interior side yard setback | Minimum | 9.0 m |
| | An added 2.0 m setback from the provided interior side yard setback at grade shall apply above the 4 th storey or above 15.0 m, whichever is the lesser; | |
| | An added 22.3 m setback shall apply above the 8 th storey or above 27.0 m. whichever is the lesser; although an enclosed exit corridor (not to exceed 2.5 m in height, and 3 m in width) shall be permitted to exceed the 8 storey/ 27.0 m height limit within this setback. | |
| iv. Rear yard setback | Minimum | No minimum |

ENACTED AND PASSED this day of , 2008

City Clerk

Mayor



SEPTEMBER 12, 2008

REVISION DATE DE RÉVISION

LOCATION MAP / Plan de revision
ZONING KEY PLAN / Schema de zonage



747 RICHMOND

TM H (15) to TM [Exception X]