

**From:** Sandra Boersen  
**Sent:** Monday, March 12, 2012 9:00 AM  
**To:** Bunn, Jerri-Joanne  
**Subject:** Agenda Item for March 20, 2012

We are here because we believe the zoning requested by the developer is not consistent with the type of business being proposed.

We would like it to be known that we do not object to the current Official Plan designation of Multi Family High Density Residential (In fact, we see this as reinforcing the residential character of Huron Street and drawing a distinction from the arterial roads which intersect at that location. We also believe that this type of structure would act as a sound and light barrier to the commercial operations and traffic generated on Adelaide. We imagine these structures would be similar in nature to the Multi Family High Density Residential buildings that currently exist harmoniously at the intersection of Adelaide and Cheapside).

We would also like it to be know that we do not object to a rezoning of that property to a Neighbourhood Commercial Node (NCN).

However, what is being proposed is not consistent with, nor supported by, the very clear definition of what constitutes a Neighbourhood Commercial Node (NCN).

A Neighbourhood Commercial Node permits small retail stores; food stores; pharmacies; convenience commercial uses; personal services; financial institutions; service-oriented office uses such as real estate, insurance and travel agencies; community facilities such as libraries, or day care centres; professional and medical/dental offices; **small scale restaurants**; commercial recreation establishments; and similar uses that **draw customers from a neighbourhood scale trade area**.

A Neighbourhood Commercial Node is intended to provide for the daily/weekly convenience shopping or service **needs of nearby residents and to a lesser extent passing motorist**. They should contain uses that are convenience oriented and **are unlikely to draw customers beyond the local area**.

They permit bake shops, catalogue stores, clinics, convenience service establishments, food stores, libraries, medical/dental offices, offices, day care centres, duplicating shops, financial institutions, personal service, restaurants, retail shops, service and repair establishments, studios, video rental establishments and brewing on premises establishments.

Note that the NCN permits only small scale restaurants. There are only two types of operations in the list of acceptable business within this zoning that are limited in scale, a small retail store and a small scale restaurant. This was not done by accident. Because one of the criteria of planning objectives for a commercial land use is to **minimize the impact of commercial development on adjacent land uses and on the traffic-carrying capacity of adjacent roads**. Small scale in this case, refers not only to size (gross floor area), but ALSO to the number of patrons the establishment will serve.

In the case of the proposed use, the gross Floor area is 416.4 m<sup>2</sup> **whereas 150 m<sup>2</sup> is permitted**. We note that this is just under 3 times the maximum size allowed. "In order to recognize the Official Plan policy framework which provides for a commercial hierarchy, the commercial Zones contain maximum Gross Floor Area (GFA) regulations to ensure that some form of commercial hierarchy is maintained." Yet clearly the proposed use neither fits the definition of small scale nor follows the Official Plan policy framework.

Furthermore, the definition of allowable business does not include drive throughs. This is both explicit and implicit by limiting the size of the restaurant and by requiring that allowable businesses **draw customers from a neighbourhood scale trade area**. Furthermore, a NCN is intended to provide for the daily/weekly convenience shopping or service **needs of nearby residents and to a lesser extent passing motorist**. They (NCN) should contain uses that are convenience oriented and **are unlikely to draw customers beyond the local area**.

A drive through by its very nature must maintain a customer base that draws beyond the local area and to a great extent passing motorists, hence the location on Adelaide Street. In order to justify the cost of the drive through plus the on going labour costs to staff that drive through, this proposed use can no longer be small scale, nor will it meet the standard of "**unlikely to draw customers beyond the local area**". The drive through will in fact encourage use by passing motorists, which is why these types of enterprises are often located on high traffic density roads.

The low initial response (4) to the notice of this application is directly related to the inconsistency of the zoning requested and the proposed use. Once the community became aware of the intent to place a fast

food drive through rather than what is known as appropriate uses under the NCN, than the response from the community increased significantly.

The proposed use is not consistent with a Neighbourhood Commercial Node and will have a significant impact on the viability of the surrounding area.

The City of London requires that Neighbourhood Commercial Nodes shall be located:

- i) at the intersection of arterial roads, primary collectors and secondary collector roads;
- ii) on sites close to pedestrian and bicycle pathways and transit services;
- iii) **on site(s) large enough to accommodate all buildings plus parking, loading facilities and measures to provide adequate buffering and setbacks from adjacent residential uses;** and
- iv) **on sites with good pedestrian access to the neighbourhood.**

Special provisions required to support the proposed use include a reduction in rear yard setback from the minimum of 8 meters to 3.4 meters, the reduction of road allowance setbacks from a minimum of 3 meters to 0 meters (to accommodate parking), the reduction in property line setbacks from the minimum of 3 meters to 0 (to accommodate parking), reduction of drive through setback from a minimum of 30 meters (or 15 if a 2.4 meter high noise wall is required) to 0, reduction of loading space from the minimum of 1 space to 0, and the increase of GFA from the allowable 150 m<sup>2</sup> to 416.4 m<sup>2</sup>.

Clearly the number and degree of special provisions required to accommodate the proposed business does not conform to the description of a NCN as stated in the above iii).

Furthermore **good pedestrian access to the neighbourhood** is hampered by the drive through and by the increase in traffic generated by the site.

While many of these special provisions are required in order to maintain the footprint of the existing structure, should that structure be razed or not exist the proposed use would be located in the south east corner of the site. Rezoning needs to take into account the adjacent land use, not the developer's need to increase usable square footage. There is nothing of value to the existing building, its only value lay in its footprint on the property. This is not a reason to override safety measures required to minimize the impact of the proposed use or the viability of the area. Even by maintaining the existing footprint the site is not large enough to accommodate the proposed use. Therefore it does not meet the requirement of a NCN.

The surrounding land uses are residential to the north, south and west with mixed commercial to the east.

"The Official Plan contains objectives and policies to guide the short term and long term development of the municipality. The policies promote orderly urban growth and **compatibility among land uses**. While the objectives and policies in the Official Plan primarily relate to the physical development of the municipality, they also have **regard for social**, economic and environmental matters." Note that the land use proposed is not compatible with the adjacent single family homes, particularly for those directly across from the proposed drive through, nor does the proposed use show regard for the social well being of the residential properties nearby.

Furthermore, the Planning Objectives for all Commercial Land Use Designations should

- i) promote the orderly distribution and development of commercial uses to satisfy the shopping and service needs of residents and shoppers;
- ii) **Minimize the impact of commercial development on adjacent land uses and on the traffic-carrying capacity of adjacent roads;**
- iii) Provide sufficient land at appropriate locations to meet the need for new commercial development;
- iv) Encourage intensification and redevelopment in existing commercial areas within the built-up area of the City to meet commercial needs, **to make better use of existing City infrastructure and to strengthen the vitality of these areas**

Comments made in the staff report regarding transportation include the following:

- i) a drive through restaurant will increase traffic generated by this site
- ii) particularly concerned with Huron Street west of Adelaide where full access to this site will be located
- iii) movement at the intersection of Huron street and Adelaide are at congestion levels during peak time periods
- iv) requires road widening to accommodate a business
- v) given the intensity of the proposed development, concern was raised about the ability of the subject site to adequately accommodate peak hour traffic activity, provide access for vehicles entering/exiting the site, and facilitate internal traffic flow given the drive through facility

This clearly demonstrates that the above (**Minimize the impact of commercial development on adjacent land uses and on the traffic-carrying capacity of adjacent roads**) is not met.

Additionally, the proposed site requires work be undertaken on City infrastructure including a sanitary inspection manhole and a backflow preventer, extension of the eastbound left turn lane, and road widening. This is not making use of existing City infrastructure but rather requiring that extra work be done to accommodate the proposed use. And finally, the planning objective of strengthening the vitality of the area is not achievable with a drive through at this location given the proximity to residential properties.

Comments from the urban design peer review panel reiterate that the type of business that is proposed is inconsistent with a Neighbourhood Commercial Node and note that the current proposal is lacking area for exterior eating in front of restaurant, internal sidewalks to enhance pedestrian experience, proposed layout does not facilitate access and use by handicapped persons and/or seniors, high design standards required but not met, landscaping not present, traffic study not met, no resource conservation met, special concern regarding parking and traffic. The panel is of the opinion that significant benefit in the way of compliance with the Official Plan Urban Design Principles **must be conditioned** within the special zoning provisions to justify recommendation of this relaxation provided any and all traffic concerns can be appropriately mitigated.

Furthermore they recommend that the project be resubmitted and appropriate conditions be placed within the proposed zoning special provisions.

Comments from Urban Forestry again suggest that what is being proposed lacks the characteristics of businesses within a NCN. These comments include a need for replanting of existing private green space (between sidewalk and parking lot) with the aim of enhancing the streetscape with new trees and shrubs, and taking into account the proximity of overhead cables in the boulevard and where illuminated billboards/signage would best be placed. These enhancements are not achievable with the proposed use.

Comments regarding form suggest that the **design, appearance, and scale shall be in harmony with the surrounding residential area with adequate screening and buffering between uses. Parking areas should be carefully designed.** Yet these have been conveniently removed through special provision, thus side stepping the safety nets provided through NCN zoning.

Finally, staff indicate that none of the proposed conceptual site plans presented can be achieved on the site.