



# *The Fife and Drum*

The Newsletter of the Friends of Fort York and Garrison Common

Volume 5 No.3  
December 7, 2001

*Above all, we wish all of our members and supporters a very joyous holiday season.*

The Ontario Municipal Board Hearings finished on November 28. We must now wait until mid to late January for the Board to issue its Order. Led by our legal counsel, Marc Kemerer of Cassels Brock and Blackwell, all of our witnesses presented superbly. Overall our case was argued better than any of us could have expected.

Most of this issue of the Fife and Drum is devoted to a commentary on the OMB hearings and the events leading up to the hearings. The first issue of the Fife and Drum for 2002 will include an update on all of the other activities of the Friends that have been overshadowed in recent months.

## **Upcoming Events**

### **Queen Charlotte's Birthday**

Historic Fort York is presenting an afternoon dance workshop followed by a Georgian supper ("A Profusion of Every Delicacy") and an elegant Ball to celebrate Queen Charlotte's birthday. The evening event will take place in the newly expanded Blue Barracks. The date is Saturday, January 26, 2002. See flyer on page 2. For more information call the fort at 416-392-6907 and ask for extension 100 or Melanie Garrison. It sounds like a very special day!

### **2002 Lecture Series**

The Friends 2002 lecture series will commence on Wednesday, January 30. Vic Suthren will be speaking on the subject of Captain Cook (Fort York connection? Governor Simcoe resided in Captain Cook's tent during his first summer at Fort York). Remember the date.

Wednesday, January 30, 2001 – 7:30 p.m.  
Royal Canadian Military Institute  
426 University Avenue (Westside, just south of Dundas)  
(Tie and jacket dress code).

## Friends of Fort York go to the Ontario Municipal Board

In the last issue of *The Fife and Drum* in October, 2001, we reported on the controversial H&R proposal to build condo-towers south of Fort York that was awaiting consideration by a committee of City Council and by the full Council itself. Here we describe events since then, including our opposition to H&R's proposal at a hearing of the Ontario Municipal Board.

### City Council

Efforts to protect and preserve Fort York have been landmarks in the history of conservation in Canada for over a century, and have given rise to some of the best moments, but also some less admirable, in the annals of Toronto City Council.

One of the best moments came on October 23 when Toronto Downtown East York Community Council turned down 5-1 H&R's proposal for a change in the Official Plan for the Fort York area to permit four towers—two of 30 and 26 storeys on the south side of Fort York Blvd. and two of 38 and 12 storeys on Fleet Street, connected by buildings of 2 to 12 storeys. The scheme's lone supporter was Councillor Joe Pantalone who represents the ward where the fort is located and who has been in the past a strong advocate for the site. Remarkably, all his colleagues broke with general practice by not following either his lead as local councillor or that of the Planning staff. The Parks and Culture departments broke with Planning too to oppose the proposal and recommend that it be brought into greater conformity with the Official Plan.

The Friends of Fort York, backed by twenty deputants and many letters (including one from David Crombie), argued that the towers did not need to be so high—the same density could be achieved within a lower massing—and that if the proposal were approved it would overwhelm the modestly-scaled buildings in the fort. Again, computer-based images generated by the Centre for Landscape Research, University of Toronto, were invaluable in making our points, as they had been earlier in persuading H&R to trim back from 38 to 12 stories one tower that intruded into the flight path of the Toronto Island Airport.

Following the Community Council meeting, H&R made changes to come up with a plan for one tower of 28 storeys on Fort York Blvd., and one of 12 at the corner of Fleet and Fort York Blvd. joined by a 7-storey street-wall structure. Two towers of 36 storeys were placed on Fleet Street, and a 15-storey structure along the eastern edge of the property. Because the tallest were twice the height of the buildings at the west end of Queen's Quay or at the foot of Bathurst Street, the Friends pressed unsuccessfully to have H&R move more density into medium-rise buildings.

This proposal was discussed at Council at 6:00 p.m. on November 8, the last day of a three-day meeting. Also before Council then was a related report from the Commissioner of Urban Services, distributed only that afternoon. In spite of strong pleas by several Councillors, the application was approved by a vote of 19-13. Since the public cannot address full Council, when the proposal was being discussed the Friends had limited scope to argue on behalf of Fort York's integrity and protection, urge support for the Official Plan and caution against creating poor precedents. The official record of the vote is as follows:

Approve: Lastman, Altobello, Berardinetti, Di Giorgio, Disero, Duguid, Feldman, Ford, Hall, Holyday, Mihevc, Nunziata, Ootes, Pantalone, Rae, Shaw, Shiner, Silva, Soknacki (19).

Reject: Ashton, Bussin, Chow, Flint, Jones, Korwin-Kuczynski, Layton, Lindsay Luby, McConnell, Milczyn, Pitfield, Sutherland, Walker (13).

Absent: Augimeri, Balkissoon, Cho, Filion, Johnston, Kelly, Li Preti, Mammoliti, Miller, Moeser, Moscoe, Minnan-Wong (12)

Mr. Wilson Lee and Ms. Marie Hubbard formed the OMB panel for the hearing. The developers' position was put first: their witnesses said that the density could not be accommodated on the site without removing the height restrictions; that the view corridors provided through the project were more important than meeting height limits; and that three tall "slim" towers would have an impact similar to two shorter, wider towers. Next, the City called upon two of its planners to give evidence that the accommodation in taller towers would be superior to that in lower alternatives.

A few days into the hearing St. Mary's Cement, until then an opponent to H&R's scheme, informed the Board that it had settled most of its differences with H&R and, with the latter's support, asked the Board to withhold its order on part of the subject property until a proposal for the development of St. Mary's adjacent lands could be considered. The panel agreed to be "seized" of the matter and put it down to hear next June, at which point St. Mary's withdrew from the current hearing. This means the Friends could be facing another expensive hearing within six months, depending on what St. Mary's proposes to do.

The Friends' evidence was then presented. It focussed on the Part II Official Plan approved by City Council in 1995, which was based on the report of the Bathurst Strachan Working Committee. Our position was that while we supported development on the H&R site, the height and built-form controls in the Part II Plan are so important to creating a compatible setting for Fort York that dramatic changes to these controls constitute an abandonment of the Plan. The Plan used several prescriptive tools to establish the new neighbourhood and create an appropriate setting for the fort:

1. new streets located so as to provide views to and from the fort
2. built-form, height and massing controls to define the public realm, give an edge to the Fort York Heritage Conservation district, limit the number of tall buildings, and keep them as far away as possible from the fort

One of the Plan's most unusual aspects is a statement that the full density is only granted if it fits within the built-form, height and massing controls. Also, it called for Urban Design Guidelines to ensure that the neighbourhood, and in particular the edge of the Heritage Conservation District, is compatible in scale, material and character with Fort York. We felt keenly that the Plan should not be changed in major ways without the participation of all landowners in the area, nearby residents and public-interest advocates like the Friends who were involved in its creation through the Working Committee process.

### **Our Evidence**

Thanks to extraordinary amounts of donated time and expertise, our case was well argued and impressive.

Dr. Carl Benn, Curator of the City's Museums, was subpoenaed to outline the fort's history, military importance and place in the city. He also placed several earlier efforts to restore the site and protect it from "progress" in the context of the preservation movement in Toronto and elsewhere in the country.

Ron Dale, Superintendent of Parks Canada's Niagara National Historic Sites, then offered his opinion that inappropriate development near the fort would have a negative impact on the ability of visitors to suspend belief and imagine the site in earlier times. He spoke too of the importance of authenticity to the visitors' experience.

Stephen Otto gave an account of the founding of the Friends of Fort York and the process of the Working Committee in creating the Official Plan.

In summation, the Friends of Fort York asked the OMB:

1. to dismiss the application because it does not conform with the principles and policies in force,
2. to prefer the evidence of the Friends who have a profound understanding of the background and policies of the existing Part II Official Plan,
3. in the event it is inclined to support the application, to modify the proposal to bring it into greater conformity with the Part II Official Plan by eliminating the 28-storey tower and decreasing the height of the 36-storey towers,
4. to require a street wall of 8 storeys (maximum and minimum) to be built on Fort York Boulevard to secure the edge of the Heritage Conservation District,
5. to direct and encourage participation by the Friends in the Site-Plan process,
6. to advise and encourage that any changes to the Part II Plan be subjected to extensive consultation using appropriate measures of assessment including three-dimensional modelling,
7. to require the applicant to provide a warning in its purchase and sale agreements about noise emanating from Fort York.

At the end of summations, the OMB panel took the unusual step of complimenting both sides for presenting very good cases. The decision, expected to be a difficult one, is not anticipated before the New Year.

#### **And with Many Thanks To . . .**

Marc Kemerer, our smart and principled lawyer, and his firm, Cassels, Brock & Blackwell, particularly partner Stan Makuch, who were very generous in their support for our case.

Our very credible witnesses Carl Benn, Steve Otto, Ron Dale (and Parks Canada for releasing him to testify), Carl Bray and Ken Greenberg. Our gratitude to Ken also for his op-ed piece in *The Globe & Mail*.

Prof. John Danahy and graduate student, Mark Lindquist, at the Centre for Landscape Research, U of T, for untold hours of work creating the three-dimensional computer simulation of Fort York and its environs.

Du Toit Allsopp Hillier, who spared Robert Allsopp for over three weeks to work on preparing our visual evidence. As well, to Robert himself and staff members Tanya Brown, Donna Diakun, John Prentice and Peter Smith who volunteered their time.

John Adams, Bill Greer, Nick Holman, Ward McBurney, Elizabeth Quance and John Sewell for being Participants. Some of them made deputations at Community Council too.

Alan Gottlieb, chairman of the Ontario Heritage Foundation, John Sewell and Eb Zeidler for writing to the Board in support of our position. Also, to the many people who sent letters and made deputations to Community Council.

Eudora Pendergrast for her advice on the meaning of some of the language in the Part II Plan.

Our friends in the print and broadcast media for their interest and support.

Eb, Jane and Margie Zeidler for throwing a fundraising event for us— a wonderful occasion and real morale booster.

Those six dozen people who have contributed funds to support our case at the OMB. While have raised much of what is needed, we still have another \$10,000 to go!

And finally, to the H&R-project committee of the Friends—Robert Allsopp, Geordie Beal, Joe Gill, Rollo Myers, Cathy Nasmith and Steve Otto—for their hard work, and to the Friends' Board for their support.