

July 16

**To Toronto City Council
From Active 18 Community Association
July 12 2007
Re Secondary Plan and Zoning for the West Queen West Triangle
City Council Meeting – July 16, 17, 18, 2007**

Regarding the West Queen West Triangle the following are our comments and requests to amend the Secondary Plan and Zoning Bylaw before you regarding the West Queen West Triangle. We believe there are some significant errors in the Staff recommendations that were adopted by Community Council and which should *not* be adopted by City Council. There are also some items which are important to be adopted at this meeting.

These Secondary Plan and Zoning issues overlap with litigation strategy regarding the first three proposals for the Triangle area which have already been through an OMB Hearing and Section 43 Review Hearing (which has failed). An application to Divisional Court for an appeal on an error of law is pending.

We previously provided to Community Council the opinion of John Gladki, our planning expert, on which we continue to rely.

Summary – Key Points

The detailed changes recommended by the community are in bold in the following report and commentary.

- #1 **Amend the Secondary Plan 2(e) to specify a minimum of .8 hectares, not .4, as the required parkland to support new residential development.**
This should be passed at this meeting.
See Parks, para. 1, page 1 below
- #2 **Amend the Secondary Plan 2(c) to add a maximum gross density for the Triangle Area of 2.4.**
This should be passed at this meeting.
See Gross Density, para. 26, page 6 below
- #3 **Establish minimum sunlight requirements for Lisgar Square in the Secondary Plan by adding a sunlight standard to the Secondary Plan 2(c) which will govern the massing around this park.**
This should be passed at this meeting.
See Parks, para 5, page 4 below.
- #4 **Direct staff to make full disclosure before the resumption of the OMB case of the financial constraints on parkland acquisition and build out.**
This should be passed at this meeting.

See Parks, para. 4 – 5, page 4 below.

- #5 Require re-design of the Mews area (See Streets #20)**
Secondary Plan and Zoning regarding the Queen Street buildings as proposed should not be passed at this meeting. Direct Staff to re-design to improve the quality of this public space.
 See Streets para 20, page 5 – 6
- #6 Require the Northcote Extension to be open to the sky where it joins Queen St.**
Proposed Secondary Plan and Zoning re the Northcote Extension should not be passed at his meeting.
 See Bohemian Tunnel, para. 20 – 22, page 6 below.
- #7 Create a Bylaw offence for excluding the public from the Northcote Extension and other public spaces.**
 See Northcote Extension, para. 23 – 25, page 6.

Introductory

The West Queen West Triangle area is heading for a planning disaster. The gross density of the new neighbourhood will be greater than St Jamestown. Parks for the new population are seriously inadequate. The massing and urban design is seriously deficient. The public realm is a jumble of lanes which are in some places unsafe. The resulting new neighbourhood runs a serious risk of degenerating quickly into an unsafe slum-like area. While the City is making efforts to protect and enhance employment opportunities, the result of the OMB case coupled with bad planning in the proposed Secondary Plan and Zoning will likely defeat that effort.

Active 18 has actively litigated all these issues at the OMB and in the various appeals. We have presented our own expert evidence. On many issues we have supported the City and on some important ones we have strongly disagreed.

Attached to this report to Council are the supporting opinions of our experts.

We are available to answer any questions.

Contact - John Gladki, Planner – 416 362 7755
 Charles Campbell, lawyer – 416 598 0103
 Margie Zeidler, developer – 416 595 5900

WQW Secondary Plan and the OMB Cases

- 1) The proposed Secondary Plan and re-zoning establish a plan for the part of the WQW Triangle that was not litigated by the first three developers in the recent OMB cases. The policy issues are closely related. There is an opportunity to

- improve upon the disaster of the OMB result by a better Secondary Plan and Zoning Bylaw for the rest of the Triangle.
- 2) Those first three cases (1171 Queen, 48 Abell and 150 Sudbury) proceeded, over the City's objection, without an area plan. You are now seeing the Area Plan. If the Divisional Court Application is successful, leading to a re-Hearing, then a number of the provisions in the proposed Secondary Plan and Zoning Bylaw will be relevant in that Hearing and some may prove highly regrettable. But the proposals before you have significance far beyond the first three cases.
 - 3) The Secondary Plan and Zoning as passed by Community Council and presented to City Council have some provisions we support and should be passed promptly (e.g. mixed use and minimum non-residential requirements), some which simply re-state the City's final position on massing as given in evidence at the OMB Hearing but which we opposed at the time and still do (e.g. regarding the Northcote tunnel).
 - 4) The new Secondary Plan is not necessary for the completion of the OMB cases. Where there is uncertainty regarding 'good planning' the matter should be deferred for further thought.
 - 5) As we write this we do not know the result of the Div Court appeals. The present wording in many places concedes things that even the City should not support and would not want to be faced with as City policy in a new Hearing, for example, the 'mews' that has become a no exit laneway and service route. (See para 14 - 19 below.)
 - 6) The proposed Secondary Plan entrenches as policy, and confers a right to Build, regarding certain matters which in our view represent serious planning errors, such at the tunnel entrance to the Northcote Extension and the abandonment of the Northcote street plan altogether. There is no guarantee that Baywood will in fact proceed with construction. We note that the OMB result supersedes anything in the Plan or Zoning. But if they do not build, why are putting a bad plan in place for the next owner? (See Section 20 - 25)

Parks

- 1) .4 hectares of parkland was the amount necessary so that WQW would not be more parks deficient after the first three projects, i.e., Baywood, 48 Abell and 150 Sudbury. The proposed Secondary Plan adds as many more residents in the projects slated for the balance of the Triangle. This means the area will be *more* parks deficient at the end of day unless the Secondary Plan requires more parkland than .4 hectares. The target for the full build out of the Triangle should be .8 hectares. Some of this could be just outside the Triangle.

Amend - Sec 2(e) - change .4 to .8

- 2) Our agreement to a .4 hectare park size was contingent on a generous parks budget for a build out of a quality park - to compensate for inadequate parkland. This should be written into the Secondary Plan as policy.

Amend – 2(c) - Add - Because this area is seriously under-serviced by parkland especially for substantial new residential development, it is the policy of Council that parks and street amenities should be generous.

- 3) The failure of the City to make a park purchase on a timely basis means much more costly park costs to the City. The full extent of the extra cost has not been disclosed yet.
- 4) Community Council failed to direct staff to make full and complete disclosure of park acquisition and budget as we requested. This was a major error. We have the option of arguing to Mr Granger when the OMB Hearing resumes, if it resumes, that since there will be no parks acquisition, or proper build out, or less than the .4 hectares, as all agreed was the necessary amount for the first three projects, then the first three projects should be curtailed. With proper disclosure we can at least argue that the first three projects have to be cut back because the parks will be inadequate.

Direction to Staff required

- 5) The Lisgar Square site will be a 'park-in-the-dark' if built to the maximum allowed and proposed. The massing of buildings around it has to be adjusted to allow for substantial sun.

Direction to Staff – prepare a shadow study of the proposed park showing sunlight on various scenarios

Amend Secondary Plan 2(c) to add – “The Lisgar Square site should not be regarded as acceptable parkland unless the massing of the surrounding buildings is such that there is sun on the ground all day for 50% of the parkland at the equinox dates.

- 6) The problem of the 'park in the dark' might be remedied somewhat if a new Hearing is granted and we have the opportunity to re-argue massing around a known location, ie Lisgar Square. For Example, if the 'tall element' to the west of the Lisgar Square, i.e. 48 Abell's east tower, should be reduced in height. The City position of six storeys for this location is good. Our position of three is better. But the City's position is indefensible when the City advocated eight storeys on Queen Street just to the north. If there is a re-Hearing the City has to reconsider its position. The proposed Secondary Plan and Zoning for the Queen Street buildings entrenches a bad position and should not be adopted.

Amend Maps 4(a)(b) and (l) to reduce the height from 25 meters to 13

- 7) The SE corner of the 150 Sudbury site must remain as park. At least it is a sunny spot. The City should not agree to take more money and allow the builder to build as they request on that corner. It is noted that there is no guarantee that this developer will proceed with this project. It has the right to build stacked townhouses and if it proceeds in that direction there will be no SE corner park.
 - 8) Notice of expropriation should not be further delayed.
- Direction to Staff required**
- 9) It is essential that if the Lisgar Square is to be used as a park that the Municipal parking lot which fronts on Queen and connects to the proposed

Square should be converted to the Square contemporaneous with the build out, not years later.

- 10) Parks should be built out contemporaneous with the new construction.

Streets - Northcote Extension and the Mews

- 11) The Triangle area does not have streets because it was once fully occupied as industrial land. A street pattern to integrate new developments into the pattern of the local community is basic planning. The extension of Sudbury Street along the southern boundary is planned and partly addresses this. But street penetration is required through the Triangle, not just at its perimeters.
- 12) The in-force Secondary Plan shows an extension of Northcote Avenue south of Queen to join the Extension of Sudbury. But this has now been so compromised that the function of a public street has been virtually lost.
- 13) The network of lanes and passages which has been put forward as a substitute for public streets has also been so compromised that this function will fail.

The result of this failure of parks and road in an area of high density new residential construction will be a highly undesirable area.

The Mews Canyon

- 14) As described in the Bylaw passed by Community Council there will be a laneway behind the Queen St buildings which was supposed to be an 'arts' mews. It is now a narrow passage (6 meters) with eight storeys on each side. This will be a canyon of unique, but not desirable, architecture quality. It will have to function as the service lane for the Queen St buildings. There is no place for trucks to turn. Will the trucks exit at the west end through the Northcote Extension, to the north or south?
- 15) Further, there is no requirement of a pedestrian entrance/exit to Queen St for this lane other than the Bohemian tunnel at the extreme west end. *In its present configuration this 'mews' space is unsafe for individuals, especially at night.* It should be gated for reasons of public safety. The idea of a commercial mews is unrealistic.
- 16) This is ought to be seen as a major problem for access to the 48 Abell west building residential building. To get access from Queen Street to the 18 storey building at the west end of 48 Abell will require passing through tunnels and lanes that are likely unsafe after dark.
- 17) There are residences on both sides of this canyon, far too close for comfort, or good planning.
- 18) There will never be sun in this space.
- 19) The City fought for less height along the south side of this lane (six storeys) at the OMB but was a victim of its own position on Queen St height on the north side (eight storeys). At any new OMB Hearing the City has to revise its position. Entrenching the bad design of the buildings bordering on the Mews

in the draft bylaw will make that impossible. This is an example where the City is giving away too much too early in the draft Secondary Plan and Bylaw.

Require a re-design of this space. Reject all Maps showing height along the Canyon Mews.

There is no reason why this part of the Secondary Plan has to rushed through at this meeting.

Bohemian Tunnel

- 20) Regarding the Northcote Extension, the tunnel entrance is bad planning. It should not be entrenched in the Secondary Plan and Zoning Bylaw. If there is a re-Hearing the City will be trapped. The City only agreed to this because of Baywood's awkward property configuration straddling what should have been the Northcote Extension. That situation has changed – Baywood has bought the adjoining property - and so should the position of the City for any rehearing.
- 21) Access to the Northcote Extension should be open to the sky. Anything less is bad planning.
- 22) In the present configuration as approved by the OMB and accepted by the City, the tunnel entrance is likely unsafe at night and problems with the condo corp. wanting to lock this up are inevitable.

Amend Map 4(l) and 5 of the Zoning Bylaw to show the Northcote Extension at Queen 'open-to-the-sky'

Northcote Extension

- 23) The south end of the Northcote Extension is reduced to an 11ft bike path. This makes a joke of the OP provision that this should be a street.
- 24) Efforts to ensure the public has access to the open space by a Section 37 Agreement registered on title will fail. Enforcement against the condo corp. will be politically impossible and prohibitively expensive for the City.
- 25) Treating this space as a substitute for park land is false and unacceptable. This is one reason why the .8 target for parkland in the Triangle is necessary.

Amend 2 (c) Make closure of the Northcote Extension a Bylaw offence

Gross Density

- 26) The Secondary Plan should specify a gross density of 2.4 for the Triangle area.
- 27) Whether there is a re-Hearing or whether we are dealing with proposals in the balance of the Triangle governed by the Secondary Plan and Zoning Bylaw, we need a target reflecting the overall population target.

Amend Secondary Plan 2(c) to set a gross density Target for the Triangle of 2.4

Queen St Façade

- 28) Active 18 opposes the eight storey height on this stretch of Queen St. It will dwarf the buildings on the north side. It is entirely at odds with the character of Queen St for miles. It will dwarf the four historic buildings in this stretch.
- 29) What is to be permitted for the south side is a solid wall about two and half blocks long, eight storeys high. There are no breaks in this length required. This is a disaster.
- 30) Baywood owns most of this land. The Zoning now gives them permission to extend proposed building for this length. It is completely unacceptable.
- 31) The provision in the Secondary Plan requiring 'articulation' along Queen St (Section 2(1)) is weak. It should be amended to make sure that articulation prevents a flat canyon wall at any elevation.
- 32) The provisions of Section 2(1) requiring 'respect for the natural rhythm of Queen St', is weak. Whatever might be implied here is given away in the Zoning Bylaw, Part 4(1)(iv) which allows a maximum store frontage of 15 meters. This is far in excess of the "natural rhythm of Queen St."

Required - Minimum articulation of the Queen Street façade should be spelled out in the Bylaw to ensure the appearance of a varied surface.

Wording required - **Amend to require varied setbacks**

Required – amend - Maximum store frontage of 6 meters.

Employment

- 33) The City's attempt to defend employment space is commendable. Requiring .7 non-res in each building is 'a good thing'. Dropping the name 'no net loss' is wise. It just telegraphs the mechanical problems with the underpinnings of the policy which were strongly criticized by the OMB.
- 34) However difficulties with this approach can be anticipated. Given this is a precedent for the rest of the City regarding mixed use and employment, we recommend the City draft a definition of mixed use that is better and stronger. For now this wording will have to do.
- 35) Further the definition of what uses can satisfy the non-res requirement should not have the effect of making this significant employment efforts a mere phantom.
- 36) One proposed way of satisfying the non-res requirement is 'affordable' artist space. (Secondary Plan 2(1)). But the Zoning Bylaw gives this away by defining 'affordable' as market rent.

- 37) The size of artist live-work or artist studios is not defined in Secondary Plan 2(m). It should be. While some units for miniaturists would be nice, these do not serve the overall employment purpose in any significant way.
- 38) A more basic question is whether the area as now planned is a suitable candidate for artist studio space. Artscape may or may not be interested in administering space in the Triangle – because of the size and cost of the units. But nothing on the scale, i.e. size, and cost, i.e. cheap, of space for the *production* of ‘art’ is on the horizon and it is false to pretend and plan as if this might be a neighbourhood of working artist.
- 39) Gallery and theatre space on Queen St and perhaps Abell and the Bohemian Courtyard still make sense because the area is becoming commercial. Subsidized ‘art’ space, to the right organizations, is good. The model of the Textile Museum is good one. Concentrate the Section 37 benefits in providing simple ownership of suitable space to a few organizations which can then remain in the neighbourhood rent free.
- 40) Parking shouldn’t count as ‘non-res’. It provides no significant employment.
- 41) Secondary Plan 2(m)(iv) should be amended to provide that any cash in lieu of actual artist space must be spent in the Triangle.

Required

Major Review of how to protect employment in Mixed Use Areas.

Amend – Add to 2(m)(iv) – any cash for artist live work in lieu of satisfying the ‘non-res’ requirement must be spent *in the Triangle*.

Section 37

- 42) Supplementary to the City’s efforts to save employment in the WQW Triangle was a plan that some of that employment space would be used for arts production. This is a significant employment source in the Triangle at present and a useful component of an overall City policy favouring creative industries.
- 43) And part of that effort was a plan that some Section 37 benefits be directed to subsidizing arts space.
- 44) However the erosion of design and public space for the first three projects, and now embodied in the Secondary Plan, is so disastrous that it puts at issue whether it is at all sensible to try to preserve the area as one for arts production.
- 45) We note there is no effort to preserve the studio space in the building at the NW corner of Dovercourt and Sudbury. This continues the *de facto* policy of cleaning out the working artists who work here now.
- 46) Unless there are about 40 units of cheap studio space in the first three buildings, and studio space of a size and quality to allow for real arts production, we recommend abandoning this as a target and the subject of

Section 37 money. "Cheap" means less than market. The minimum size should be 800 sq feet of open space.

- 47) Section 37 money could and should still be used for arts retail and theatre uses in the Triangle, eg deed space to a non-profit gallery as a arts hub. That would fit into the emerging neighbourhood.
- 48) Add public art to the list of permitted uses for Section 37 funds.
- 49) Other social service uses would also be sensible beneficiaries such as drug and alcohol rehab, homeless shelters etc.

Amend Add to Section 2(m) as - public art, social agencies
Amend 2(m) of Secondary Plan – Add – All Section 37 benefits must be spent in the Triangle Area.