

150 Sudbury Street – Zoning Amendment

Date:	November 23, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward No. 18 – Davenport
Reference Number:	File No. 05-199171 STE 18 OZ

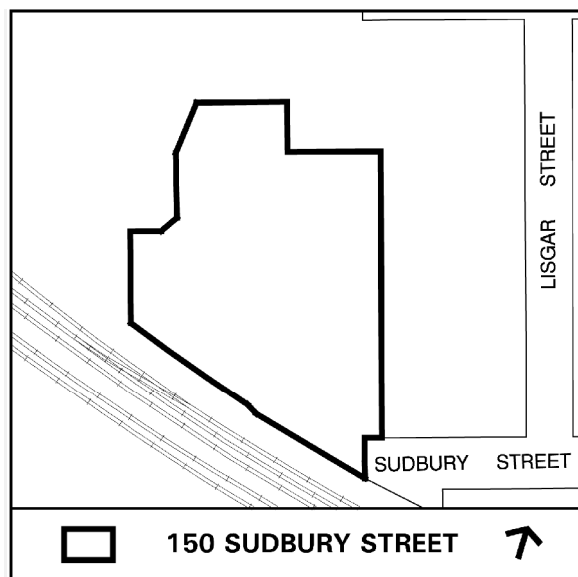
SUMMARY

On January 8, 2008 the Ontario Municipal Board approved By-law No. 1169-2009 with respect to the lands at 150 Sudbury Street. Contained within the By-law was a mechanism allowing Artscape, a non-profit organization that works with artists, to buy units at below market cost from the developer for rent to artists as live/work studios. Artscape, in consultation with city staff, the developer and the local Councillor have determined that the mechanism, and therefore the By-law, needs to be amended to allow Artscape to sell some of the units as below-market ownership units, while maintaining a minimum number of units being retained as affordable rental. This report recommends the required amendment to the By-law. In addition, this report recommends that the City and Artscape enter into an agreement to secure conditions related to the Artscape units.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend the definition of artist live/work studio in zoning By-law No. 1169-2990 , Section 14 to read: *artist live/work studio* shall mean a dwelling unit containing a studio space for the production of art and that a minimum of 20 of such units in Building A will be



- rented at no more than 0.8 times the CMHC average market rent for dwelling units of similar size in the City of Toronto and inhabited only by a working artist and his or her household.
2. City Council authorize the Director of Community Planning, Toronto & East York District to enter into an agreement with Artscape to secure the provision and maintenance of 20 affordable rental units and 48 below-market ownership units, as identified in the amended zoning By-law.
 3. City Council authorize the City Solicitor to amend the Section 37 agreement to address the amendment to Zoning By-law 1169-2009.
 4. City Council direct staff to attend any OMB hearing on this matter in support of the zoning change, if required.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

On January 8, 2008 the Ontario Municipal Board approved By-law 1169-2009 with respect to the lands at 150 Sudbury Street. The proposal consists of 2 buildings, the first of which is under construction and the second of which will start construction in early 2010. As part of the Ontario Municipal Board decision the developer agreed to sell to either the City, or an arts organization approved by the City, 5,200 square meters of space in the first building to be used as artist live/work studios. The space was to be sold at below market costs to ensure that the units were affordable.

ISSUE BACKGROUND

After the OMB decision Artscape committed to purchase the 5200 square metres from the developer. The model, as defined in the in-force By-law is as follows. Artscape would sell approximately 1,500 square metres (the equivalent of 20 units) on the open market to subsidize the creation of 50 rental units (using the remaining 3,700 square metres). These rental units are required to be rented at 80% of Canada Mortgage and Housing Corporation (“CMHC”) average rent to ensure their affordability. The rental units would be managed by Artscape and would be used by artists as live/work studios. As Artscape worked through the financial realities of the model as defined in the By-law it became clear that it would not work. The amount of money raised by the sale of the 20 market units would not raise enough capital to give Artscape the money required to purchase all the space from the developer (\$8.4 million is the total cost). The recession and economic downturn also made the model unworkable.

Artscape then approached the City with an alternate model which included affordable ownership units as a way to make the financial aspects of the project viable.

COMMENTS

The Revised Model

The model as proposed by Artscape and accepted by City staff is as follows. None of the units will be sold on the open market for market prices. Instead, Artscape will sell 48 units as below-market ownership artist live/work studios, 20 units will be maintained as affordable rental and the last two units will be used as a coffee shop and gallery. The rental units will be managed by Artscape as live/work artist units, rented at no more than 80% of CMHC average rent. The gallery and coffee shop will also be owned by Artscape.

The below-market ownership units are being sold at 75% of the market rate for the equivalent size units in the neighbourhood. Artscape is taking a second mortgage on the units for the remaining 25%. This allows the purchaser, artists who have been screened to ensure compatibility with various conditions, to purchase live/work unit for below market rates. In addition, Artscape has registered an option to purchase on each unit which gives them the first right to purchase the unit when the owner wants to sell. Therefore, when an owner wants to sell the unit, they take 75% of the total selling cost and Artscape receives 25%. Artscape then passes the unit on to the next person on their waiting list for ownership units. Artscape uses the money gained from the sale of the unit, to secure the 25% second mortgage on the re-sold unit. The model is designed to ensure that all the units stay within the Artscape portfolio, and are therefore available only to artists in perpetuity, and are always sold for below-market prices due to the second mortgage.

Comments on the Revised Model

City staff and Artscape have worked since May on the revised model to ensure it complies with the original intent of the By-law. There were 2 main priorities when an agreement was reached with the developer to require artist live/work spaces within the building. The first was the desire to maintain the community of artists which inhabited the West Queen West Triangle. The second was to provide the units at an affordable rate.

The revised model certainly maintains the artist community. In fact, with the revised model there is a total of 68 artist live/work units (with a gallery and coffee shop occupying the other two units). In the original model 20 of the units were to be sold on the open market which would have only left 48 artist live/work units. The provision of 68 live/work artist units will create a large community of artists which will benefit the neighbourhood, and maintain some of the culture and vibrancy which defined the area in the past.

The affordability of the units was the other key aspect of the original model. Under the revised model 20 units will remain as affordable rental, with rents guaranteed at no more than 80% of the CMHC average rent. The requirement for a substantial number of rental units was seen as an important feature of any revised model and staff believe 20 units of rental is appropriate. City staff believe the ownership units, while not affordable, can be considered as below-market. Artists will be able to purchase the units for prices that are below market rates, thereby allowing them the ability to purchase, where they may not

have had that option previously. The city has also asked for, and Artscape has agreed, to ensure that all purchasers, and use of the ownership units, comply with a series of conditions which are detailed in the following section.

Conditions on the Units

City staff and Artscape have agreed to a number of conditions to secure both the rental and ownership units. These conditions will be secured in an agreement between Artscape and the City.

For the below market ownership units the conditions are as follows:

1. All the units sold will be sold at an initial offering of 25% less than the market price for the unit and they will only be sold to those purchasers pre-screened by Artscape.
2. A minimum of 75% of the units sold will be sold to working artists, the remaining 25% may be available to arts professionals if required.
3. Artscape will maintain a minimum second mortgage of 20% in each of the units in perpetuity (regardless on whether the unit has increased or decreased in value when the owner goes to sell the unit).
4. Income limits will be imposed on all units sold so that the monthly carrying cost of the unit is not lower than 25% of the net monthly income of the purchaser.
5. First option to purchase in favour of Artscape must be registered on the title of each unit sold.
6. Unit owner may only sublet to other people pre-screened by Artscape, and the cost cannot be above the carrying cost of the unit.

For the rental units the conditions are as follows:

1. Artscape will provide and maintain 20 rental units to be rented exclusively to qualified artists and non-profit arts professionals. The units must be of various sizes to accommodate a range of tenants and family types.
2. The rental units shall be maintained as rental units for a period of at least 25 years, beginning with the date that each unit is occupied.
3. The units shall be maintained at rents not to exceed 80% of CMHC average rent for the City of Toronto by unit type. Upon turn-over, the rent charged to any new tenant may not exceed the greater of the most recently charged rent or the most recently reported CMHC average rent for the City of Toronto by unit type. Rents may only be increased in accordance with the Provincial rent guideline and, if applicable, permitted above guideline increases for a period of 20 years.

4. Rents charged to tenants occupying a rental unit at the end of the 20 year period shall be subject only to annual increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, so long as they continue to occupy their rental unit or until the expiry of the 25 year rental tenure period with a phase-in period of at least three years for rent increases.
5. Rents charged to tenants newly occupying a rental unit after the completion of the 20 year period will not be subject to any of the conditions on rent increases as outlined above.

Changes to the By-law

There is only a minor change required to the zoning By-law required. The definition of *artist live/work studio* must be revised to the following:

Artist live/work studio shall mean a dwelling unit containing a studio space for the production of art and that a minimum of 20 of such units in Building A will be rented at no more than 0.8 times the CMHC average market rent for dwelling units of similar size in the City of Toronto and inhabited only by a working artist and his or her household.

The developer involved with the project, Urbancorp, is aware of this change to the by-law and does not have concerns with the amendment.

Conclusion

The revised model meets the key priorities when the By-law was first negotiated between the City and the developer. It will allow for 68 artist live/work studios to be developed within the West Queen West Triangle, all of which are either affordable or will be sold at below market rates. City staff recommend the By-law amendment.

CONTACT

Sarah Phipps, Planner
Tel. No. 416-392-7622
Fax No. 416-392-1330
E-mail: sphipps1@toronto.ca

SIGNATURE

Raymond David, Director
Community Planning, Toronto and East York District

(P:\2009\Cluster B\pln\teycc\31506445040.doc) -cc