

STAFF REPORT ACTION REQUIRED

Refusal Report 1325, 1351 and 1365 Bayview Avenue – Official Plan Amendment and Zoning By-law Amendment Application

Date:	June 17, 2008
То:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 26 – Don Valley West
Reference Number:	08 119032 NNY 26 OZ

SUMMARY

This application was filed on March 13, 2008 and is subject to the new provisions of the *Planning Act* and the *City of Toronto Act*, 2006.

This report recommends refusal of an application to amend the Official Plan and former East York Zoning By-law to permit an 8-storey apartment building and 54 townhouses at 1325, 1351 and 1365 Bayview Avenue resulting in a total of 194 residential units. The

applicant proposes to demolish the existing 2-storey apartment buildings and coach houses containing 116 rental units and replace those rental units in the 8-storey apartment building. At it's meeting of October 22 and 23, 2007, Council passed its Intent to Designate these properties under the *Ontario Heritage Act*.

This application does not meet the intent of the Official Plan in respecting and reinforcing the physical character of a stable residential neighbourhood nor does it meet the intent of the Official Plan in protecting heritage resources. Within the local context and on a City-wide basis, there is no need to redesignate lands in *Neighbourhoods* to meet population goals



as there are sufficient lands available in designated growth areas to accommodate the City's anticipated population increase.

RECOMMENDATIONS

The City Planning Division recommends that:

- 1. City Council refuse the proposed Official Plan and Zoning By-law Amendment applications.
- 2. Should the Official Plan and Zoning By-law Amendment applications be appealed to the Ontario Municipal Board, the City Solicitor and City Staff be authorized to attend the Ontario Municipal Board hearing.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

At it's meeting of October 22 and 23, 2007 Council passed its Intent to Designate these properties under the *Ontario Heritage Act*. The coach houses, located above garages are not included in the designation. On December 7, 2007, the City received an appeal by ADMNS Kelvingrove Investment Corporation against Council's Intent to Designate and has notified the Conservation Review Board. A pre-hearing conference has been scheduled for July 7, 2008.

ISSUE BACKGROUND

Proposal

This is an application to amend the Official Plan from *Neighbourhoods* to *Mixed Use Areas* to permit the redevelopment of the existing apartment buildings known municipally as 1325, 1351 and 1365 Bayview Avenue. The proposal applies to two sites, a southern site containing 1325-1347 Bayview Avenue which is 0.56 hectares in area and a northern block containing 1351-1365 Bayview Avenue and which is 0.70 hectares in size. The proposal is for an 8-storey, 140 unit apartment building and 20 townhouses on the southern site and 34 townhouses on the northern site. The site plan is shown on Attachment 1.

The southern site proposes an 8-storey apartment building fronting onto Bayview Avenue with an internal courtyard behind the building. The building steps back at the 7th and 8th floors with smaller floor plates for these two storeys. The back to back 3 and a half

storey townhouses front onto the internal courtyard, Sutherland Drive and Airdrie Road. These townhouses step down in height, adjacent to the single detached neighbourhood, from 13 metres to 10.7 metres. Underground parking is provided for the apartment building and the townhouses.

The northern site proposes a courtyard fronting onto Bayview Avenue with 30, 3-storey, 13 metre townhouses surrounding and fronting onto the courtyard. The townhouses are in the "back to back" form with frontages on an internal driveway, Airdrie Road and an internal sidewalk. Four townhouses with integral garages are proposed on an existing open space area located on the northeast portion of the site and front onto an internal driveway. Parking for the northern site is underground with each of the units having direct access to the underground garage. There are 3 surface parking spaces located at the rear of the site.

The following table and description below compares existing and proposed densities for the subject site and its context.

	South Block	North Block	
Existing Density	0.69 FSI	0.45 FSI	
Proposed	2.4 FSI	1.0 FSI	
Density			

The permitted density in the single detached area to the east is 0.60 FSI. The permitted density of the apartment buildings to the north of the subject site is 0.84 FSI and the permitted density of the apartment buildings located to the south is 1.25 FSI.

The total parking provided on the site is 262 spaces. New driveways are proposed with access onto Bayview Avenue, Airdrie Road and Sutherland Road which replace the existing driveways.

Site and Surrounding Area

The blocks are currently developed with two-storey rental apartment buildings known as the Glen-Leven, Strathavon and Kelvingrove Apartments, which were constructed in 1939. The apartment complex contains a total of 116 rental residential units, consisting of 97 units in the 8 original apartment buildings together with 19 two storey coach house units which were built in the 1990's and consist of dwelling units above garages along internal laneways.

The surrounding uses are as follows: North: 2 and 4 storey apartment buildings West: across Bayview Avenue, the Mount Pleasant Cemetery South: 2 and 3-storey apartment buildings East: single detached homes

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council's planning decisions are required to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

City Council's planning decisions are required by the *Planning Act*, to conform, or not conflict, with the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The site is designated *Neighbourhoods* in the Official Plan. The *Neighbourhoods* designation is intended to protect and reinforce the existing physical character of the surrounding low scale residential area. *Neighbourhoods* contain a full range of residential uses within lower scale buildings, as well as parks, schools, local institutions and small-scale stores and shops serving the needs of area residents. Lower scale buildings consist of detached houses, semi-detached houses, duplexes, triplexes and townhouses as well as interspersed walk-up apartments that are four storeys or less. A key objective to maintaining the stability in *Neighbourhoods* is that physical changes must be sensitive, gradual and generally fit the existing physical character of the area.

The Official Plan indicates that proposals for intensification of land on major streets in *Neighbourhoods* are not encouraged and that applications for development will be reviewed in terms of having regard for both the form of development along the street and its relationship to adjacent development in the *Neighbourhood*.

Housing

Section 3.2.1 of the Official Plan includes housing policies that encourage the provision of a full range of housing, in terms of form, tenure and affordability, and the protection of rental housing units. Policy 6 indicates that new development that would result in the loss of six or more rental housing units will not be approved unless:

- (a) all the rental housing units have rents that exceed the mid-range rents; or
- (b) the following are secured:
 - (i) at least the same number, size and type of rental housing units are replaced and maintained with rents similar to those at the time the redevelopment application is made;

- (ii) for at least 10 years, rents for replacement units will be the rent at first occupancy with annual increases subject to specific limits; and
- (iii) an acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement units at similar rents, the provision of alternative accommodation at similar rents, and other assistance to lessen hardship; or
- (c) in Council's opinion, the supply and availability of rental housing in the City has returned to a healthy state.

Heritage Resources

Section 3.1.5 of the Official Plan indicates that significant heritage resources will be conserved by listing properties of architectural and/or historic interest on the City's Inventory of Heritage Properties, designating them and entering into conservation agreements with owners of designated heritage properties. Heritage resources on properties listed on the City's Inventory will be conserved and a Heritage Impact Statement will be required where the development entails an amendment to the Official Plan and/or Zoning By-law.

An Intent to Designate a property under Part IV of the *Ontario Heritage Act* by a municipal Council can be appealed by a property owner to the Conservation Review Board. After holding a hearing, the Conservation Review Board advises a municipal Council of its recommendation in a report. Municipal Councils then decide whether to confirm or alter their original decision. The final decision rests with Council. However, a property owner may also apply for a demolition permit. If Council refuses that application, the property owner can appeal that refusal to the Ontario Municipal Board. At this time, the applicant has not applied to the City for a demolition permit.

Zoning

The north site is zoned Residential R2B.1(b), R2B.1(c) and R2B.1(d) in the former East York Zoning By-law 1916 while the south site is zoned Residential R2B.1(a). The zoning permits the existing residential uses at the current heights and densities.

Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition and Conversion By-law (885-2007), contained in Chapter 667 of the City's Municipal Code, implements the Official Plan policies protecting rental housing. The By-law prohibits demolition or conversion of rental housing units without obtaining a permit from the City issued under Section 111 of the *City of Toronto Act*. Proposals involving six or more rental housing units require a decision by City Council. Council may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued under the *Building Code Act*.

Where an application for an Official Plan Amendment or rezoning triggers an application under Chapter 667 for rental demolition or conversion, typically City Council decides on both applications at the same time. Unlike *Planning Act* applications, decisions made by the City under By-law 885-2007 are not appealable to the OMB.

On March 13, 2008 the applicant submitted an application for a Section 111 permit pursuant to Chapter 667 of the City of Toronto Municipal Code for the demolition of the existing rental units.

Alternate Rate Parkland Dedication By-law

By-law 1420, enacted by Council on December 13, 2007 provides for an alternate rate for the conveyance of land for parks purposes as a condition of residential development. The By-law identifies parkland acquisition priority areas of the City. The By-law sets a parkland dedication rate of 0.4 hectares for each 300 dwelling units. The applicant's site is within an identified parkland acquisition priority area and is therefore subject to the alternate rate. The By-law indicates that the location and configuration of land required to be conveyed shall be at the discretion of the City. Where the size, shape or location of land proposed for parkland dedication is deemed by Council to be unsuitable for parks or public recreation purposes, Council may require payment of cash-in-lieu of land.

Reasons for the Application

An application to amend the Official Plan is required as the *Neighbourhoods* designation does not permit the proposed 8-storey apartment building. An amendment to the Zoning By-law is required to increase the permitted building height and density of development on the site.

COMMUNITY CONSULTATION

A formal community consultation meeting has not been held. However, prior to the application being filed, the Leaside Property Owners Association Incorporated hosted a meeting on May 2, 2007 for area residents and the local Councillor and City Planning staff. City staff were invited to make presentations at this meeting. Approximately 200 residents attended the meeting and raised the following issues:

- some residents indicated no development on the property is appropriate given its history in the community and the heritage of the buildings and landscape
- some residents indicated sensitive infill which respected the heritage buildings and complied with the Official Plan might be considered
- the proposed intensification would be out of keeping with the physical character of the neighbourhood
- the development is not consistent with the policies of the Official Plan
- the proposed height of the apartment building is not in keeping with current heights in the area
- the reduction in the current open space and green space

On April 30, 2008, the local Councillor held a meeting for tenants of the rental apartment buildings which are located on the subject lands. The purpose of the meeting was to provide information and answer questions on the rental protection provisions of the Rental Housing Demolition and Conversion By-law (By-law 885-2007) and the application for a Section 111 permit.

COMMENTS

The proposed redesignation and rezoning applications are not acceptable and should be refused for the following reasons (which are outlined in further detail below):

- the site is not in an area planned to accommodate the physical changes necessary to absorb future population growth;
- the application is an inappropriate redesignation of a stable, low-scale residential neighbourhood; and
- the proposed development is not compatible with the physical character of the neighbourhood.

Not in a Designated Growth Area

The Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe indicate that it is the role of the municipal Official Plan to direct development to suitable areas. Intensification and redevelopment is to be provided in areas that take into account the existing building stock or the ability of infrastructure and facilities to meet projected needs.

The City of Toronto Official Plan identifies a land use structure to direct redevelopment into areas where intensification is appropriate. Policies in the Official Plan articulate a growth strategy which directs growth to *Centres, Avenues,* the *Downtown and Central Waterfront* and *Employment Districts* as shown on Map 2. These growth areas are expected to absorb the majority of the City's residential and employment growth over the next 25 years. The subject lands do not fall within any of these identified growth areas but are within a stable neighbourhood where little physical change is expected.

Almost three-quarters of the City's land area is taken up by residential neighbourhoods and ravines and parks which are expected to undergo limited physical change. In these areas, the approach to managing change emphasizes the maintenance and enhancement of existing assets.

Inappropriate Redesignation of a low-scale Residential Area

The Official Plan growth management strategy directs employment and residential growth to *Centres, Avenues, Employment Districts* and the *Downtown and Central Waterfront* shown on Map 2. The subject lands are not within an area identified for growth. In the growth areas where residential growth is anticipated, there is a sufficient supply of land to accommodate the City's expected population growth. In fact, less than 40 percent of the potential residential supply in growth areas is required for the City to meet its population target. No lands outside of the growth areas are needed to be redesignated for growth in order to meet the population target. As such, there is no larger policy requirement to redesignate the subject lands.

One of the reasons the applicant gives for re-designating the subject lands even though they are outside of a growth area is because they maintain that the 2006 Census shows the City is experiencing low population growth and that it is not meeting its population growth target. The census figures relied upon do not include the net "undercoverage", which accounts for residents not counted during the 2006 survey. Without including this undercount, the determination of population growth is underestimated. When the undercount is taken into consideration, population growth in the City is consistent with the population growth target.

Proposal not in keeping with the Physical Character of the Surrounding Neighbourhood

The Official Plan provides for the protection of stable residential areas from incompatible physical change. This neighbourhood consists of low scale, 2-3 storey walk up apartment buildings located to the north and south of the subject site fronting onto Bayview Avenue, the 2-storey apartment buildings on the subject site and the single detached homes located on the adjacent blocks to the east. This section evaluates the development application in terms of how it fits in its context.

The 2 storey apartment buildings to the north and the 2 and 3 storey apartment buildings to the south of the subject site face Bayview Avenue and are compatible in scale to existing development in the neighbourhood. These buildings are set back from Bayview Avenue with gardens in the setback. The existing apartments on the subject site are organized around courtyards with visual and physical access to Bayview Avenue and driveway access to parking in garages at the rear of the site. The neighbourhood of single detached dwellings located to the east have landscaped front yards which front onto public streets and generous green rear yards. Together these elements characterize this stable residential neighbourhood as it does not respect the following elements of physical character:

(a) Building Height

The *Neighbourhoods* designation permits a maximum of 4-storey heights. The existing buildings in the immediate neighbourhood are in keeping with this height. The proposed development includes an 8-storey apartment building which is double the height permitted in the Official Plan.

(b) Intensity

The proposal represents a significant departure from the character of the neighbourhood in terms of intensity of development. The existing density of the southern site is 0.69 FSI and the proposed density is 2.4 FSI which is 3 and a half times the existing density. The existing density of the northern site is 0.45 FSI and the proposed density is 1.0 FSI, more than double the existing density. In fact, the density of the current development on the site is the same or less than the 0.60 FSI which is permitted in the zoning by-law for the adjacent single detached neighbourhood. The density permitted for the 2 and 3 storey

apartment buildings located to the north of the subject site is 0.84 FSI and to the south is 1.25 FSI.

(c) Built Form

The scale and massing of the apartment building does not respect and reinforce the general physical patterns in the neighbourhood. The proposed building type, an 8-storey apartment building, does not reflect the building type of 2 and 3 storey walk up apartment buildings which make up the prevailing building type within the *Neighbourhoods* designation along Bayview Avenue.

The proposed townhouses are 'back to back' which is a non-street related form of development that does not currently exist in this neighbourhood. The townhouses on the north block that face onto a driveway have a 'front to back' facing relationship with the existing homes on Heather Road which is not consistent with the built form character of the neighbourhood. The four townhouses proposed on the current open space on the site have no relationship to a public frontage and therefore do not meet Council approved DIPS guidelines.

Bayview Avenue is identified as a major street on Map 3 of the Plan. The Official Plan indicates that proposals for intensification of land on major streets in *Neighbourhoods* are not encouraged. The development application represents a significant intensification on Bayview Avenue which is not in keeping with the character of existing development; both along the street and the adjacent development in the *Neighbourhood* in terms of the scale, building type, building massing and intensity of built form.

Parkland Dedication

The current proposal does not accommodate the requirement for on-site parkland dedication as set out below. The site is located within a Parkland Acquisition Priority Area and as such is subject to By-law 1420-2007, the Alternate Rate Parkland Dedication By-law. The total parkland dedication for this development will be $1,865 \text{ m}^2$.

If this application were to be approved, Parks, Forestry & Recreation will be seeking an on site parkland dedication. The dedication would be unencumbered table land and uniform in shape and topography in order to optimize programming of the public space and would have frontage on a public road.

Heritage Preservation

Prior to this application being filed, City of Toronto Heritage Preservation Services submitted a report dated June 13, 2007 to the Toronto Preservation Board which recommended that City Council include 1325, 1351 and 1365 Bayview Avenue on the Inventory of Heritage Properties and state its Intent to Designate the property at 1325 Bayview Avenue under the *Ontario Heritage Act*.

Heritage Preservation Services staff have assessed the three sites and determined they are worthy of inclusion on the Inventory of Heritage Properties. The three apartment complexes date to the 1930's and have design, historical and contextual value. They are good examples of apartment houses from the WW II era that are distinguished by their low scale, red brick cladding, Classical features inspired by Georgian Revival styling and orientation on the east side of Bayview Avenue. Contextually, the complexes have an important visual presence on Bayview Avenue in Leaside.

The property at 1325 Bayview Avenue meets the criteria for municipal designation prescribed by the Province of Ontario under the three categories of design, historical and contextual value. The layout of the buildings, with a large three-part U-shaped structure is organized around a deep courtyard which fronts onto Bayview Avenue with unit entrances either overlooking the adjacent streets or facing the central courtyard. These apartments are associated with the evolution of Leaside as the community matured after WW I. The property at 1325 Bayview Avenue is historically associated with Howard Talbot who was Mayor of Leaside from 1938 – 1947. This property, together with the neighbouring apartments at 1351 and 1365 Bayview Avenue defines the character of Bayview Avenue near the south end of Leaside.

At its meeting of September 12, 2007, the Toronto Preservation Board recommended to City Council that the properties at 1325, 1351 and 1365 Bayview Avenue be included on the Inventory of Heritage Properties and that Council state its Intent to Designate these properties under the *Ontario Heritage Act*. At its meeting of October 22 and 23, 2007 City Council stated its Intent to Designate the properties at 1325, 1351 and 1365 Bayview Avenue under the *Ontario Heritage Act*. The coach houses and garages are not included in the designation.

The applicant has filed an appeal of Council's notice of Intention to Designate and has provided a report entitled "Assessment of Heritage Value or Interest" prepared by Philip H. Carter which indicates that the property and its buildings do not possess the design or physical value to merit designation. Heritage Preservation Services has advised that the proposal is to demolish the existing apartment buildings does not meet Council's Intent to Designate these properties and preserve their design, historic and contextual value. A pre-conference hearing before the Conservation Review Board has been scheduled for July 7, 2008.

Housing Policies

These applications propose to demolish the existing 116 rental units located on the site. The 116 rental units would be replaced in the proposed 8-storey apartment building on floors one to six and there would be an additional 24 market rental units located on floors seven and eight for a total of 140 units in the apartment building. The remainder of the site is proposed to be developed with 54 condominium townhouses.

The existing development consists of 4 affordable rental units and 112 mid-range units as defined by the Official Plan and these are to be replaced as affordable and mid-range

units. The applicant's proposal for rental replacement generally conforms to the Official Plan policies.

The applicant has submitted a Housing Issues Report and proposes a Tenant Assistance and Relocation Package which is under review.

Traffic and Parking

A Traffic Impact Assessment and parking analysis was submitted by iTrans Consulting on behalf of the applicant. It concludes that the traffic generated by the proposed development can be accommodated on the local road network and that a reduction in the number of parking spaces required for the apartment units is appropriate. Transportation Services has reviewed the Traffic Impact Assessment and the proposed parking supply and accepts these conclusions.

TORONTO GREEN DEVELOPMENT STANDARD CHECKLIST

The applicant has not completed and submitted a Green Development Standard Checklist with this application.

CONCLUSIONS

This report recommends that the Official Plan and zoning amendments to permit the redevelopment of 1325, 1351 and 1365 Bayview Avenue be refused.. The subject site is not identified as a growth area on Map 2 – Urban Structure of the Official Plan and significant residential intensification here is not needed to accommodate the population growth projections contained in the Official Plan. The proposed development contravenes the Official Plan policies for Neighbourhoods that development will respect and reinforce the existing physical character of the neighbourhood. Finally, Council has stated it's Intent to Designate the subject property under the Ontario Heritage Act but the development proposed requires the demolition of the existing apartment buildings.

CONTACT

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SIGNATURE

Thomas C. Keefe, Director Community Planning, North York District

ATTACHMENTS

Attachment 1(a)(b): Site Plans Attachment 2(a)(b)(c): Elevations Attachment 3: Zoning Attachment 4: Official Plan Attachment 5: Application Data Sheet



Attachment 1(a): Site Plan – North Block



Attachment 1(b): Site Plan – South Block



Attachment 2(a): Elevations



Attachment 2(b): Elevations



Attachment 3: Zoning



- R2 **Residential District**
- G Parks District
- CR **Mixed-Use District**
- R1B Low Density Residential
- R2B Medium Density Residential
- R3A High Density Residential
- C.1 Commercial - General

Not to Scale Zoning Bylaws 438-86 and 1916 as amended Extracted 04/01/2008



Mixed Use Areas

हिंदुर्ध Parks Other Open Space Areas



Attachment 5: Application Data Sheet

(Development proposal statistics taken from applicant's drawings dated February 29/08 date stamped received March 13/08)

APPLICATION TYPE	Official Plan and Rezoning			cation Number:	08 119032 OZ March 13, 2008			
Municipal Address:	1325, 1351, 1365 Bayview Avenue							
Location Description:	East side of Bayview Avenue at Sutherland Drive							
Project Description:	To permit the development of an 8-storey, 140-unit apartment building of are replacement rental and 24 are market rental. Also proposed are 54 tow							
Applicant:	Agent:		Architect:		Owner:			
Context Development Inc. Same 229 Yonge Street Suite 500		applicant Sweeny Sterling Finlayson & Co 468 Wellington Street West Suite 200		ADMS Kelvingrove Investment Corp c/o Bogart, Roberston, Chui Suite 1608 - 141 Adelaide Street West				
PLANNING CONTROLS								
Official Plan Designation: Ne		urhood Area						
Zoning: R2 B.1			Historical Status:		Designated			
Height Limit: 4 store 8.5 m (s (Official Plan) oning)	Site Plan Control Area:		yes			
PROJECT INFORMATION								
Site Area (sq. m):		1.26 ha (3.1 ac)	Height:	Storeys: Metres:	8 and 3 25, 13 and 11			
Gross Floor Area - North Bloc	k(sq. m):	7,553		Parking Spaces:				
Floor Space Index:		1.1						
Gross Floor Area -South Block	: (sq. m):	13,616						
Floor Space Index:		2.4						
Total Gross Floor Area (sq. m)	:	21,169						
Total Floor Space Index:		1.7						
Lot Coverage:		North block 33%	South Block 4	0%				
DWELLING UNITS								
Bachelor:	Rental Apartme 10	Townhouses	S					
1 Bedroom:	81							
1 Bdrm + Den:	1							
2 Bedroom:	48							
Total Units:	40 140	54						
CONTACT: PLANNER			Senior Planner	(416) 395-7136				
Staff report for action - Refused Benert - 1225 - 1251 - 1265 Benericus Ave								

Staff report for action - Refusal Report - 1325, 1351, 1365 Bayview Ave