

**Final Report
Demolition Application under Municipal Code Chapter 667
530-532 St. Clair Avenue West**

Date:	June 5, 2008
To:	Toronto and East York District Community Council
From:	Acting Director, Community Planning, Toronto and East York District
Wards:	Ward 21 St. Paul's
Reference Number:	08-160693 STE 21 RH

SUMMARY

This application seeks permission to demolish six residential rental dwelling units, located at 530-532 St. Clair Avenue West. The demolition of residential rental property is prohibited under Chapter 667 of the Toronto Municipal Code unless a permit has been issued under Section 111 of the *City of Toronto Act*.

The applicant has approvals and is currently constructing a 22-storey mixed use development at 500 St. Clair Avenue West, situated on the same block as the subject property. Once demolished, the applicant proposes to use the property at 530-532 St. Clair Avenue West as construction access and staging for the approved 22-storey development, which is under construction.

Staff support the conditional demolition approval in order to avoid closing a lane of traffic on either St. Clair Avenue West or Bathurst Street, which already experiences heavy levels of congestion. The applicant has yet to submit a development application under the Planning Act to amend the Zoning By-Law to permit the redevelopment of the rest of the block, westbound to Raglan Avenue, which includes 524 to 534 St. Clair Avenue West.



This report recommends approval of the application to demolish the building containing 6 residential rental dwelling units, subject to conditions under Chapter 667 of the Municipal Code and pursuant to Section 111 of the *City of Toronto Act*.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the application to demolish the existing buildings at 530-532 St. Clair Avenue West which contain 6 residential rental units, pursuant to Municipal Code Chapters 667 and 363, subject to the following conditions under Chapter 667:
 - a. The owner of the property shall provide 6 residential rental units with affordable rents in a redevelopment on the subject lands no later than five (5) years from the day demolition of the existing buildings is commenced;
 - b. The owner of the lands shall submit an application for required Planning approvals to permit the redevelopment of the subject lands and adjacent properties on St. Clair Avenue West for the remainder of the block no later than two (2) years from the day demolition of the existing buildings is commenced ;
 - c. The owner of the property shall provide the City with a Letter of Credit in the amount of \$450,000.00 (\$75,000 per unit);
 - d. The owner of the property register a restriction on title to the property pursuant to section 118 of the Land Titles Act to the satisfaction of the City Solicitor; and
 - e. The owner of the property shall enter into an agreement to the satisfaction of the Chief Planner and Executive Director and the City Solicitor to secure the foregoing conditions pursuant to Municipal Code 667 and Section 111 of the City of Toronto Act.
2. City Council authorize the Chief Planner and Executive Director, City Planning to issue a preliminary approval to the application to demolish the residential rental units under Municipal Code Chapter 667 after the satisfaction of the conditions in Recommendation 1 c, d and e.
3. City Council authorize the Chief Building Official to issue a Section 111 permit under Municipal Code Chapter 667 after the Chief Planner has issued the preliminary approval in Recommendation 2, on the condition that:

- a. The Owner remove all debris and rubble from the site immediately after demolition;
 - b. The Owner erect a fence in accordance with the provisions of Municipal Code Chapter 363, Article III if deemed appropriate by the Chief Building Official;
 - c. The Owner maintain the site free of garbage and weeds in accordance with the Municipal Code Chapters 632-5 and 629-10, Paragraph B;
 - d. The Owner backfill any holes on the property with clean fill; and
 - e. In accordance with Section 33 of the Planning Act, on the Owner's failure to complete the new building within the time specified in condition 1 (a), the City Clerk shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, the sum of twenty-thousand (\$20,000) dollars for each dwelling unit contained for which the demolition permits are issued, and that each sum shall, until payment, be a lien or charge upon the land in respect of which the permit to demolish residential property is issued, such payment, lien or charge will be mutually exclusive of securities held by the City through an agreement pursuant to Section 111 of the City of Toronto Act.
4. City Council authorize the Chief Building Official to issue a permit under Section 33 of the *Planning Act*, after the Chief Planner and Executive Director has given preliminary approval under Recommendation 2, which permit may be included in the demolition permit for Chapter 667 under § 363-11.1E, of the Municipal Code.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

This site is related to a planning application at 500 St. Clair Avenue West, which permits the construction of a 22-storey mixed-use development. After receiving municipal approvals for the mixed use development, the applicant subsequently assembled 4 commercial/residential properties immediately to the west: 524, 528, 530 and 532 St. Clair Avenue West. The applicant has stated that they intend to submit a development application under the Planning Act to amend the Zoning By-Law to permit the redevelopment of the rest of the block, westbound to Raglan Avenue, which includes the properties at 524 to 534 St. Clair Avenue West.

ISSUE BACKGROUND

Proposal

On May 21, 2008, the applicant applied under Municipal Code 667 to demolish six rental units located at 530-532 St. Clair Avenue West. The owner is not proposing to replace

the rental housing units on-site at this time, given that no development application has been made to the City. The applicant has agreed to enter into an agreement with the City under section 111 of the *City of Toronto Act* for the replacement of the rental units as part of a future development on the block and to provide a Letter of Credit as security for these replacement units.

Once demolished, the applicant proposes to use the property at 530-532 St. Clair Avenue West as construction access and staging for the approved 22-storey development, directly to the east. The applicant proposes to use the ground floor of the neighbouring building at 524 and 528 St. Clair Avenue West as a sales and décor centre while City staff reviews their pending rezoning application.

Generally, the City would first make a decision on any redevelopment proposal and, if approved, the City would consider the application for demolition of all the existing buildings. In this instance, the objective of the demolition application for one portion of the assembled properties is to avoid closing a lane of traffic at the St. Clair Avenue West and Bathurst Street intersection to facilitate construction staging and access during the development of the mixed use development at 500 St. Clair Avenue West.

Property Information

The site is located on the north side of St. Clair Avenue West, to the west of Bathurst Street. The existing building is three storeys, contains 6 vacant residential rental units and two vacant commercial units on the ground level.

The Goldman Group also owns two adjacent properties, 524 and 528 St. Clair Avenue West. At 524 and 528 St. Clair Avenue West, there is one occupied commercial unit and other vacant commercial units, as well as vacant residential rental units. Although the Goldman Group does not yet own the property at 534 St. Clair Avenue West, they have indicated that they intend to purchase it for the purposes of their proposed Phase 2 building. This property currently contains a bakery on the ground floor and possibly both commercial and residential rental uses on the upper floors.

The final determination of the total number of residential rental apartments for all of the properties that would be subject to the redevelopment application will be made at that time, pursuant to the City's Official Plan and the rental demolition and conversion by-law (Municipal Code 667) under s111 of the City of Toronto Act.

Defining Rental Units

The City's Official Plan and the City's Section 111 By-law provide similar definitions of rental housing. The Official Plan definition states that rental housing is "a building or related group of buildings containing one or more rented residential units including vacant units that have been used for rented residential purposes..." The definition in the Section 111 By-law states that a rental unit is "a dwelling unit used, or intended to be used for residential rental purposes, including: a dwelling that has been used for residential rental purposes and is vacant..." Lastly, the Section 111 By-law also contains a definition of a dwelling unit which states that it "is operated as a single housekeeping

unit, used or intended to be used as a residential premises for one or more persons: and contains kitchen and bathroom facilities that are intended for the use of the unit only.”

Any determination of the number of rental units subject to the City’s policies must include lands subject to a related application or lands that are part of a related group of buildings. Accordingly, the City’s Official Plan also provides a definition of a “related group of buildings” and the City’s Section 111 By-law provides a definition of both a “related application” and a “related group of buildings” These definitions provide that where buildings are located in the same ownership or are on the same lot or are subject to the same development application, such lands and buildings are considered related. Complete definitions are found in Attachment 1 to this report.

Owner’s Determination of Rental Units

The Owner in his Section 111 application is making the claim that 4 of the 6 units at 530-532 St. Clair Avenue West do not currently have kitchens and hence should not be considered as dwelling units and thus not be considered rental units that would be protected by City Official Plan policies and subject to the Section 111 By-law. The Owner has indicated that he can find no evidence of building permits having been issued for the apartments in question. The applicant contends that the apartments are illegal and hence not subject to the City’s rental replacement policies.

For the property at 524-258 St. Clair Avenue West, the Owner concurs with City staff that there are rental units; however the precise number has yet to be determined.

Staff’s Determination of Rental Units

In 2003, the subject property at 530-532 St. Clair Avenue West was the subject of an offer to purchase by the Toronto Parking Authority (TPA), with the intent to demolish the buildings and develop a parking lot. The TPA sought City approval to purchase them, and an in-camera report was considered by the Administration Committee on January 9, 2004 and by City Council on January 27-29, 2004.

The TPA prepared the report in consultation with City Planning, as it was determined that there were rental housing units proposed for demolition and Official Plan policies were involved. Based on November 30, 2003 rent rolls provided by the property owner, and an inspection of the properties by the TPA, it was determined that there were 4 one-bedroom apartments and 2 two bedroom apartments, for a total of 6 rental units on the second and third floors of 530-532 St. Clair Avenue West.

The rent rolls identified the 4 tenant households resident in 2003, their length of tenancy and the rent paid, in addition to the tenant acting as superintendent and the one vacant unit. Occupancy for the 4 tenant households ranged from 2 years to 25 years. The tenant acting as superintendent had been a tenant for 13 years. All rents were in the affordable rent category, and the amounts were commensurate with apartment rents as opposed to dwelling house rooms that would not have a kitchen and bathroom.

A subsequent site visit by staff in January 2008 showed that all residential units were vacant and 4 of the 6 kitchens had been removed from the apartments, but City records show no building permits applied for, nor change of use applications made since the properties were determined to contain 6 rental apartments in 2003. The rent rolls from November 30, 2003 also refer to landlord's chattels of fridges and stoves, lending further evidence that kitchens did exist.

In determining how many rental units exist for the purposes of the City's Official Plan housing policies and the application of the City's Section 111 By-law, no consideration can be given to whether the units are currently vacant or occupied. At any given point in time units can be vacant; however, they remain part of the City's valued rental housing stock. Additionally, if vacant units were not to be included, this would offer incentive to landlords to evict tenants in order to relieve themselves of the City's policies protecting rental housing.

In considering what a "dwelling unit" is, the City must also look not only at whether both kitchens and bathrooms currently exist but whether they once did. If the City only looked at whether kitchens and bathrooms currently exist, it would give owners impetus to tear out such facilities to get out from under rental protection policies.

Regarding the issue of whether building permits needed to have been issued to make the apartment units legal, Provincial tenant legislation as well as the City's Official Plan policies do indeed cover units provided that residential zoning is in place on the property (which is the case in this instance). To determine otherwise, would reward landlords who failed to take out a building permit when creating a unit by allowing such units to not be protected by Provincial and City policies and regulations.

Lastly, the City must consider related buildings and related applications. In this instance, the property at 524-528 St. Clair Avenue West is also owned by the Goldman Group who wishes to demolish 530-532 St. Clair Avenue West. These lands, although not subject to a current development application, are part of the lands where the Goldman Group proposes to develop their second building in the future. Accordingly, the vacant rental units in 524-528 will bring the overall total of rental residential units to a number greater than 6.

Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition and Conversion By-law (885-2007) implements the City's policies protecting rental housing contained within the Official Plan, and established Municipal Code 667 concerning demolition permits for residential rental properties. These policies include providing and maintaining a full range of housing, within neighbourhoods as well as across the City. A full range of housing includes rental and ownership as well as a range of affordability, and other special housing needs. Policy 3.2.1.6 provides that where development would remove six or more rental housing units, approvals should require the replacement of rental units and an acceptable tenant relocation and assistance plan.

Reasons for Application

Where six or more dwelling units are involved, the demolition of any number of rental units is prohibited under Chapter 667 of the Municipal Code unless a permit has been received under Section 111 of the *City of Toronto Act*. An application under Chapter 667 is required because the dwelling units to be demolished contained rental housing units. Based on the definitions in the City's Official Plan and the City's Section 111 By-law, the total of residential rental units eventually to be involved in the redevelopment application must be considered. Six units are proposed for demolition under this application and several more at 524-528 St. Clair Avenue West will be involved through the related application/related buildings definitions.

City Council must also provide the authority for the issuance of a permit to demolish the buildings at 530-532 under Municipal Code 363, pursuant to section 33 of the Planning Act. When City Council makes a decision on the demolition permit, it will do so pursuant to both Municipal Code Chapters 363 and 667.

Community Consultation

Chapter 667 requires City Planning to hold a community consultation meeting to consider the matters under the by-law and the impact on tenants prior to the submission of a report to Community Council. At the time of the application under Chapter 667, there were no tenants residing on the property. City staff held a Community Consultation Meeting on June 4, 2008, at Wychwood Public Library, which was attended by representatives from the local Councillor's office, Community Planning, Community Policy, the applicant and one local resident. A presentation was made on the proposal and a discussion of the City's rental housing protection policies and by-law were discussed. The local resident made no comments concerning the protection of the rental housing. Representatives from the Federation of Metro Tenants Association and York Community Legal Services were also invited to attend the meeting but were not in attendance. In consultation with representatives from both organization they expressed they may give comments via a fax, which would then be presented, to Toronto and East York District Community Council.

COMMENTS

City staff held numerous meetings with the applicant and the local Councillor and have agreed to an arrangement that will permit the demolition of the existing building at 530-532 St. Clair Avenue West in advance of Council's determination of a planning application on the subject lands and those comprising 524-528 St. Clair Avenue West.

Council's early approval of the demolition will avert any lane closures for construction staging for the development of the property at 500 St. Clair Avenue West. This approval should be subject to the conditions outlined in this report, and the issuance of the permit to demolish be authorized upon the Chief Planner being satisfied that the conditions have been met or secured in a legal agreement.

The conditions deal with two kinds of planning concerns: ensuring that a comprehensive redevelopment application for the remainder of the block is forthcoming to avoid empty lots being left in the middle of the block, and that affordable rental replacement units are

provided. As there are no longer any residential tenants in occupancy, the provisions for tenant relocation and assistance are not a current concern. In order to secure the replacement of 6 residential rental units, the applicant is required to provide an irrevocable, unconditional Letter of Credit in the amount of \$450,000.00 (\$75,000 per unit) and enter into an agreement to replace the rental housing and to bring forward a redevelopment application in a reasonable amount of time.

The City shall retain the Letter of Credit, until the Chief Planner is satisfied that adequate replacement rental units have been provided in the forthcoming development application at 524-534 St. Clair Avenue West. Notwithstanding the applicant's agreement to provide the Letter of Credit, the Goldman Group maintains their position that only two rental units exist at 530-532 St. Clair Avenue West and several others exist at 524-528 St. Clair Avenue West. The Goldman Group wishes to retain the ability to bring forth further evidence to the City at a later date and have Council reconsider the number of rental residential units existing on the properties comprising 524-532 St. Clair Avenue West.

As this will occur at the time that a redevelopment application for the combined assembled properties is being considered, City Planning and City Council will in any event be considering the rental status of all the properties, and whether any other rental units should be replaced. Should Council determine at that time that new information changes Council's opinion on the applicability of the City's Official Plan Policies and the Section 111 By-law, Council may return the Letter of Credit and relieve the Goldman Group of the need to replace any rental units that have been or will be demolished on the subject lands. Such a decision would require an amendment to the Section 111 agreement required in Recommendation 1 of this report, which recommendation would be included in the new report on the redevelopment of the assembled properties.

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ATTACHMENTS

Attachment 1: Definitions

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Official Plan Definition of “A related Group of Buildings”

“A related group of buildings are buildings that are under the same ownership and on the same parcel of land as defined in Section 46 of the Planning Act , as may be amended from time to time or form part of the same development application”

Section 111 By-law definition of “Related Application”

“RELATED APPLICATION:

- A. An application that provides for the demolition of rental property or the conversion of rental property to a purpose other than the purpose of a residential rental property, expressly or by implication.
- B. For greater certainty, Subsection A includes, but is not limited to, an application for the following:
 - 1) A permit under section 8 or 10 of the *Building Code Act*, 1992.
 - 2) A demolition permit under Section 33 of the *Planning Act*.
 - 3) A consent or permit to alter part of a property or to demolish or remove a building or structure under section 33, 34, 34.5 or 42 of the *Ontario Heritage Act*.
 - 4) Approval or registration of a description for a proposed condominium or exemption from approval for a condominium, under Section 9 of the *Condominium Act*, 1998.
 - 5) An amendment to the Official Plan under Section 22 of the *Planning Act*.
 - 6) A zoning By-law amendment under Section 34 of the *Planning Act*.
 - 7) A minor variance application under section 45 of the *Planning Act*.
 - 8) Approval of plans and drawings under subsection 114(5) of the *City of Toronto Act, 2006* or subsection 41(4) of the *Planning Act*.
 - 9) Approval of a plan of subdivision under section 51 of the *Planning Act*.
 - 10) A consent under section 53 of the *Planning Act*.
- C. Despite Subsection B(6), Subsection A does not include a City initiated general zoning by-law amendment to implement area land use studies and other general policies (for example to implement the designation of a redevelopment or growth area of the City), except for any site specific exemptions or other site specific provisions at the request of a land owner.”