

90 Eastdale Ave and 2 Secord Ave – Residential Rental Demolition Application Under Municipal Code Chapter 667 – Final Report

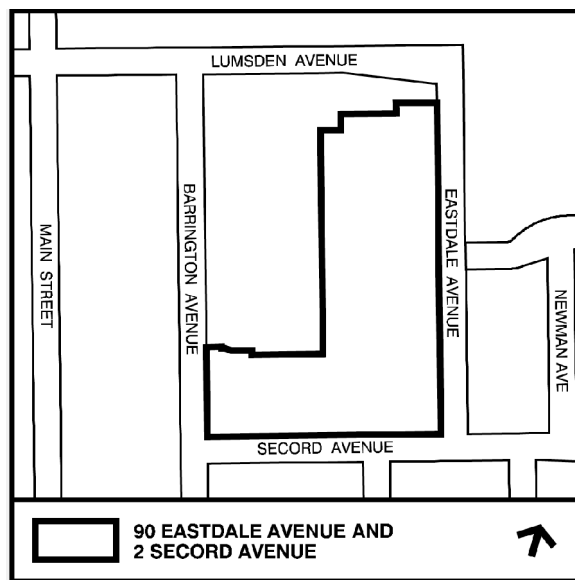
Date:	May 31, 2013
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 31 – Beaches-East York
Reference Number:	12-269076 STE 31 RH

SUMMARY

This application for a Section 111 permit under Municipal Code Chapter 667 proposes to demolish 22 residential rental units comprising 21 three-bedroom row townhouses and one three-bedroom apartment on the subject lands at 2 Secord Avenue and 90 Eastdale Avenue, and to replace them with 24 three-bedroom stacked townhouse units.

Tenants affected by the demolition will have the right to move into the new rental replacement units and will receive financial assistance with the relocation. The Applicant has approval from the Ontario Municipal Board for Official Plan and Zoning By-law amendments to permit a new 24-storey apartment building and the new rental replacement stacked townhouse units while retaining two rental apartment buildings containing 686 rental units and 31 rental townhouses.

This report's recommendations are in regard to the rental demolition application on the subject site under Municipal Code Chapter 667, pursuant to the City of Toronto Act. City Council gave Staff direction to settle the appeals to the Ontario Municipal Board based on, among other



matters, that the applicant submit an application under Chapter 667 for the demolition and replacement of the affected rental units.

This report recommends approval of a Section 111 permit under Chapter 667 and Chapter 363 for the demolition of the 22 existing rental units affected by the new infill development, subject to conditions. The conditions include the full replacement of 24 rental units and the provision of tenant relocation assistance, including the right for tenants to move into a rental unit in the new building. An agreement under Section 111 will secure these conditions.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the application to demolish 22 existing residential rental units located at 90 Eastdale Avenue (92-108 and Unit 101A) and 2 Secord Avenue (Units 8 – 18 and 40 – 50) pursuant to Municipal Code Chapters 667 and 363 subject to the following conditions under Chapter 667 which provide for the replacement of rental housing as outlined in the report dated (May 31, 2013) from the Director of Community Planning, Toronto and East York District:
 - a. the owner shall provide and maintain 24 residential rental units on the subject site as rental housing for a period of at least 20 years, all of which shall be three-bedroom stacked townhouse units, of which at least 10 shall have affordable rents and 14 shall have rents no higher than mid-range rents;
 - b. the owner shall provide tenant relocation assistance including the right for the eligible tenants to move into a rental replacement unit or an available existing rental unit that is to be retained on the site, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - c. the owner shall enter into and register one or more Section 111 Agreement(s) to secure the conditions outlined in (a) and (b) above and as described in the final form of the zoning by-law amendment to be approved by the Ontario Municipal Board, and to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and
 - d. the owner shall enter into and register, a Section 118 Restriction under the Land Titles Act (to the satisfaction of the City Solicitor) agreeing not to transfer or charge those parts of the lands, comprising the 24 rental replacement units, without the written consent of the Chief Planner and Executive Director, City Planning Division or her designate, to assist with securing the Section 111 Agreement against future owners and encumbrances of the lands.

2. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue preliminary approval to the application under Municipal Code Chapter 667 after the latest of the following has occurred:
 - a. satisfaction of the conditions in Recommendation 1;
 - b. after the Official Plan and Zoning By-law amendments to be approved by the Ontario Municipal Board have come into full force and effect; and
 - c. the issuance of the Notice of Approval Conditions for site plan approval by the Chief Planner or her designate, pursuant to Section 114 of the City of Toronto Act, 2006.
3. City Council authorize the Chief Building Official to issue a Section 111 permit under Municipal Code Chapter 667 after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval referred to in Recommendation 2.
4. City Council authorize the Chief Building Official to issue a permit under Section 33 of the Planning Act no earlier than the date the 24 rental replacement units are ready and available for occupancy, and after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval referred to in Recommendation 2, which permit may be included in the demolition permit for Chapter 667 under 363-11.1, of the Municipal Code, on condition that:
 - a. the owner erect a residential building on site no later than three (3) years from the day demolition of the buildings is commenced; and
 - b. should the owner fail to complete the new building within the time specified in condition (a), the City Clerk shall be entitled to enter on the collector's roll, to be collected in a like manner as municipal taxes, the sum of twenty thousand dollars (\$20,000.00) for each dwelling unit for which a demolition permit is issued, and that each sum shall, until payment, be a lien or charge upon the land for which the demolition permit is issued.
5. Authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 111 Agreements.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

A series of development alternatives for the site have been under discussion with the appellant and reported to Community Council over the past five years, leading to the alternate development scheme (Option 2) for which City staff were seeking and given

City Council authorization to support at the OMB, at its meeting of October 2 and 3, 2012. The 2012 Request for Direction can be found at:

<http://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-49892.pdf>

The Supplementary Report to the above linked Request for Directions Report can be found at:

<http://www.toronto.ca/legdocs/mmis/2012/cc/bgrd/backgroundfile-50674.pdf>

In summary, Option 2, as discussed in detail in the report dated September 6, 2012 by the Director of Community Planning Toronto and East York District would permit a new 24-storey apartment building where the City-owned Eastdale Parkette is located on the south-west corner of Lumsden Avenue and Eastdale Avenue. The existing parkland at Eastdale Parkette would be relocated to create a larger public park at the south end of the block at the north-west corner of Secord Avenue and Eastdale Avenue. The site for the new park would be created by replacing 12 existing rental townhouses near Secord Avenue with new stacked rental townhouses on the existing depressed area of open space at the rear of 90 Eastdale Avenue. The existing 24-storey rental building at 90 Eastdale Avenue, the existing 22-storey rental building at 2 Secord Avenue, as well as 31 of the existing 52 rental townhouse units would be retained. Attachment 1 shows the Site Plan for Option 2. It is expected that the final Site Plan would be similar to Attachment 1, however there may be minor mutually agreeable alterations to the plan that would improve the overall function of the site.

Option 2 would be developed in phases. The first phase would be construction of 24 replacement rental townhouses at the rear of 90 Eastdale Avenue, resulting in no tenant having to be relocated off site. Tenant relocation assistance for the affected tenants would be provided. The second phase would be the demolition of the 12 existing townhouses to allow for the construction of the new public park. The second phase would immediately follow the completion of Phase 1 and the relocation of all affected tenants. Upon demolition of the second phase, the owner would immediately implement Phase 3. The third phase entails the construction of the new park to a similar condition as the existing park followed by the land exchange between the City and the appellant. The final phase would include the completion of the park and construction of the proposed 24-storey apartment building. The remaining 9 townhouses to be demolished could be done at either Phase 2 or Phase 3 as they are located on the portion of the property where the new building would be located.

The overall gross floor area proposed for the entire site (90 Eastdale) in Option 2, including the existing apartment buildings and townhouses, is approximately 55,152 m² or 3.3 times the lot area with a total of 664 dwelling units proposed.

With respect to the rental housing matters that involved the existing rental housing to remain, including improvements to the existing buildings and facilities to benefit the tenants of the existing and replacement rental units, Council's requirements were:

1. Maintain the 2 existing apartment buildings with 686 rental units and the 31 rental townhouse units to remain as rental housing for at least 20 years with no applications for conversion to non-rental housing purposes or to demolish without replacement.
2. Provide improvements to the existing buildings and facilities with no cost pass-through of these costs or any of the costs of the new development in the form of rent increases to the tenants of the existing buildings.
3. Develop, prior to final Site Plan Approval, a Construction Mitigation and Tenant Communication Strategy, and implement the Plan.

With respect to the rental demolition and replacement matters, Council's requirements for settlement of the appeal of the redevelopment, to satisfy the Official Plan policy on rental demolition included:

1. Provide and maintain at least 21 rental replacement units with a unit mix, size and rent levels that are satisfactory to the Chief Planner, subject to the City's standard provisions and which comply with the Housing policies of the Official Plan.
2. Provide assistance for the affected tenants of all residential rental units that are proposed to be demolished in Option 2 in accordance with a Tenant Relocation and Assistance Plan, developed and implemented by the Owner to the satisfaction of the Chief Planner.
3. Construct the rental replacement townhouses prior to demolition of any existing rental townhouses so that the affected tenants have the opportunity to relocate directly to a new townhouse on-site and avoid off-site relocation.

The related Zoning and Official Plan Amendment applications for the proposed redevelopment were appealed to the Ontario Municipal Board on February 28, 2012. The Zoning By-law Amendment and Official Plan Amendment were approved by the Board on December 27, 2012 but the final form of the by-laws has been withheld until the final order to allow for agreement of all parties as to the final form of the by-laws. The order has also been withheld pending the agreement on the final form of all other planning instruments, including the Section 37 Agreement and the Site Plan Control Agreement.

This property has not been the subject of a previous application for demolition or conversion of any rental units over the previous five year period.

ISSUE BACKGROUND

Site and Surrounding Area

The subject site is within the Crescent Town Neighbourhood, one of 13 neighbourhoods identified by City Council for priority investment.

The site is comprised of two properties at 90 Eastdale Avenue and 2 Secord Avenue, with a total area of 2.65 hectares. The property at 90 Eastdale Avenue has an approximate lot area of 15,070 m², and currently contains a 24-storey apartment building with 383 rental units, and 30 2-storey townhouse units. The existing development contains 413 residential dwelling units, and has an approximate total gross floor area of 31,012m².

The property at 2 Secord Avenue has an approximate lot area of 11,436 m², and currently contains a 22-storey apartment building with 304 rental units and 22, 2-storey townhouse units. The existing development contains 326 residential dwelling units, and has an approximate overall gross floor area of 25,856 m².

Development near the site is as follows:

North: Immediately north of the site is the Eastdale Parkette at the south-west corner of Lumsden Avenue and Eastdale Avenue. Further north, across Lumsden Avenue is a 24-storey apartment building, 2-storey townhouse dwellings and the Taylor Creek Park.

East: Development to the east of the site across Eastdale Avenue consists of a mix of a 15-storey apartment building, 2-storey townhouses, and single detached and semi-detached dwellings.

South: Development south of the site across Secord Avenue consists of an elementary school and low density residential development.

West: Immediately west of the site in the same city block are two apartment buildings of 20 and 22 storeys in height, and 2-storey townhouse dwellings. Further west, across Barrington Avenue, is low density residential development.

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 by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

This infill development proposal and demolition application was subject to the Official Plan's Housing policies, in particular 3.2.1.5 and 3.2.1.6.

Policy 3.2.1.5 applies to development proposals for sites containing 6 or more rental housing units where existing rental units will be retained. The existing rental housing is to be secured as rental housing, along with improvement to the existing buildings and facilities, with no cost pass-through in the form of rent increases to the tenants.

Policy 3.2.1.6 applies to proposals involving the demolition of 6 or more units of rental housing. Demolition shall not be approved by Council unless all of the rental housing units have rents that exceed mid-range rents at the time of application. Approvals should secure their replacement with at least the same number, size and type of rental housing units. The rental housing is to be maintained as rental housing with no condominium registration, with rents similar to those in effect at the time the application is made, for a period of at least 10 years. An acceptable tenant relocation and assistance plan is required, addressing: the right to return to occupy one of the replacement units at similar rents; the provision of alternative accommodation; and other assistance to lessen hardship.

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 City's Official Plan policies protecting rental housing. The City's Official Plan protects groups of six or more rental units from demolition. The By-law implements the City's policies protecting rental housing, which include providing and maintaining a full range of housing, within neighbourhoods as well as across the City. 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 the loss of six or more residential units, wherein one or more of the units are rental; require the submission of a Section 111 application. 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.

A related application such as an Official Plan amendment or rezoning triggers the requirement for an application under Chapter 667 for rental demolition or conversion, and typically City Council decides on both applications at the same time. Unlike Planning Act applications, decisions made by the City under Chapter 667 pursuant to section 111 of the City of Toronto Act are not appealable to the OMB. In this case, the

development's Official Plan amendment and rezoning have been approved at the Ontario Municipal Board.

Under Section 33 of the *Planning Act* and Municipal Code Chapter 363, council has the authority to approve or refuse a demolition permit, except in cases where a building permit has been issued to construct a new building. The proposed demolition requires approval under both Section 33 of the *Planning Act* and Section 111 of the *City of Toronto Act*. Section 363-11.1 of the Municipal Code provides for the co-ordination of these two processes. The Chief Building Official may issue one demolition permit for the purposes of Section 33 of the *Planning Act* and Chapter 667 of the Municipal Code. The Chief Planner in consultation with the Chief Building Official may report on the application for a City Council Decision.

Toronto Building staff were consulted in the preparation of this report.

Community Consultation

Chapter 667 requires City Planning to hold a community consultation meeting to consider matters under the by-law and the impact on tenants prior to the submission of a report to Community Council. Because the owner did not submit their application for demolition under Chapter 667 until October 2012 following the endorsement by City Council of the Option 2 redevelopment proposal, the meeting required by the by-law was held after that date. Numerous consultation meetings and working group sessions involving the Ward Councillor were held previously, to which tenants were invited. These meetings considered the range of rental housing issues as well as the general development application. A subsequent consultation meeting with the tenants, attended by the Ward Councillor, was held on March 4, 2013 to present the revised plans for the development and rental replacement that was approved by the Ontario Municipal Board on December 27, 2012, and to discuss the recommended conditions for approval by City Council of a Section 111 permit.

Tenants were interested in also having the option of moving into vacancies in the existing rental units, especially among the 31 townhouses to be retained, instead of moving into one of the new stacked townhouse units. While the floor area above grade in the existing townhouse units is comparable to the proposed replacement units, there are important differences including the loss of the basement storage and recreation space, and changing from a row to a stacked configuration. Tenants appreciated that the phasing plan will ensure that no tenants need temporary accommodation or must move off-site, because the 24 replacement units will be completed before the demolition of their own homes.

Rental Housing

The 22 existing rental units to be demolished comprise 21 three-bedroom row townhouses and 1 three-bedroom apartment in the 90 Eastdale building. There are 10 affordable rental units, and 12 with mid-range rents. The rental building is subject to the Residential Tenancies Act, which has provisions for tenants asked to vacate for demolition.

Replacement Rental Housing

The owner has agreed to replace the 22 existing three-bedroom rental units to be demolished with 24 three bedroom stacked townhouse units, at similar rents. They will be located in 2 stacked townhouse rows along a new street in the interior of the site, separated by a new indoor pool amenity. The rental replacement units will be secured as rental housing for at least twenty years with no application during this period for condominium registration, or conversion to any non-rental housing purpose, or for demolition without providing replacement. At least 10 of the replacement units will have affordable rents, with the remaining 14 at mid-range rents.

The replacement proposal, including tenant assistance, meets the Official Plan policy and is consistent with the City's standard practices. The Zoning By-law Amendment will provide for securing these matters in a Section 37 Agreement. The Council directions for a settlement required the replacement of at least 21 rental townhouses. This demolition application is for 22 units, because one apartment on the ground floor of 90 Eastdale is now proposed to be demolished in order to provide a new tenant indoor amenity space in that apartment building. There will be 2 additional mid-range rental units provided for a total of 24 three-bedroom stacked townhouses.

Staff worked with the applicant and is satisfied with the plans for the replacement units, which though not identical, are considered comparable to the existing three bedroom row houses. The new stacked units will not have a basement, but they do include good ensuite storage space and at 125.4 and 153.3 square metres (1,350 and 1,650 square feet), the 2 different layouts will have significant increased floor area between of 10.7 and 38.5 square metres (115 and 415 square feet) respectively. All units will have either a roof deck or front and back patios. There will be a number of additional features not provided to the existing units as detailed below.

These details of the replacement rental housing will be secured in the Section 37 and Section 111 Agreements:

- 12 three bedroom units shall not be less than 120.8 square metres (1,300 square feet), and 12 shall be not less than 148.6 square metres (1,600 square feet)
- The same number of car parking spaces will be provided, and access to new bicycle parking spaces for the entire site
- All units shall have laundry facilities provided en-suite, new appliances including a dishwasher, and air conditioning
- All units shall have either a roof deck, or ground floor front and back patios

- One additional bathroom compared to the existing units, for a total of 2.5 per unit
- Access to the new indoor pool amenity space

Tenant Relocation and Assistance Plan

The proposal goes beyond the minimum requirements of the Residential Tenancies Act by increasing the 4 months notice period for tenants to vacate to 5 months, and by providing additional financial assistance beyond the required payment equal to 3 months rent. This includes a moving allowance, extra compensation on a sliding scale based on length of tenancy for any tenant choosing to move away from the site, and extra assistance for tenants deemed to have special needs.

All tenants who reside in the affected three-bedroom units will have the right to move in to one of the three-bedroom replacement units or to any available vacant units among the 717 existing units that will be retained. The owner has agreed to minimize the disruption to the affected tenants, by constructing the replacement stacked townhouse units in the first phase of the development. Thus, no tenant will need to move away from the site, even temporarily because the demolition of the 22 units will not be permitted until the 24 replacement rental townhouses are available for occupancy.

Rent Provisions

The 10 affordable rental units and 14 mid-range rental units will have rents secured according to the City's standard practices. Rents for tenants moving in during the first 10 years shall be no higher than the CMHC average market rent in the case of affordable rents, and no more than 1.5 times average market rent for the mid-range units. Rents for existing tenants moving into the replacement units will be the same as provided for in their current leases, as if they were not moving, other than for possible adjustments if the responsibility for payment of utilities is changed.

Annual increases are limited to the provincial rent guideline increase, and above-guideline increases if applicable, during this period, and for any tenant who remains after the tenth year, these protections will continue until they move or until the 20th year of the building's occupancy, with a 3 year phase in to unrestricted market rent. Commencing in the 11th year, any new tenants may be charged market rents, unrestricted by the owner's agreement with the City.

Recommendations on rental housing demolition issues

Staff is recommending that Council approve the demolition of 22 residential rental units conditional on the applicant providing the replacement rental housing and tenant assistance as outlined in this report, and entering a Section 111 Agreement to the satisfaction of the Chief Planner to secure these conditions and which is consistent with the provisions of the Zoning By-law in its final form to be approved by the Ontario

Municipal Board, and consistent with the rental housing provisions of the Section 37 Agreement.

Other Conditions for approval of Demolition

It is recommended that the issuance of the demolition permit as provided for in this report's recommendations be authorized no earlier than the date that the 24 rental replacement units are ready and available for occupancy.

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SIGNATURE

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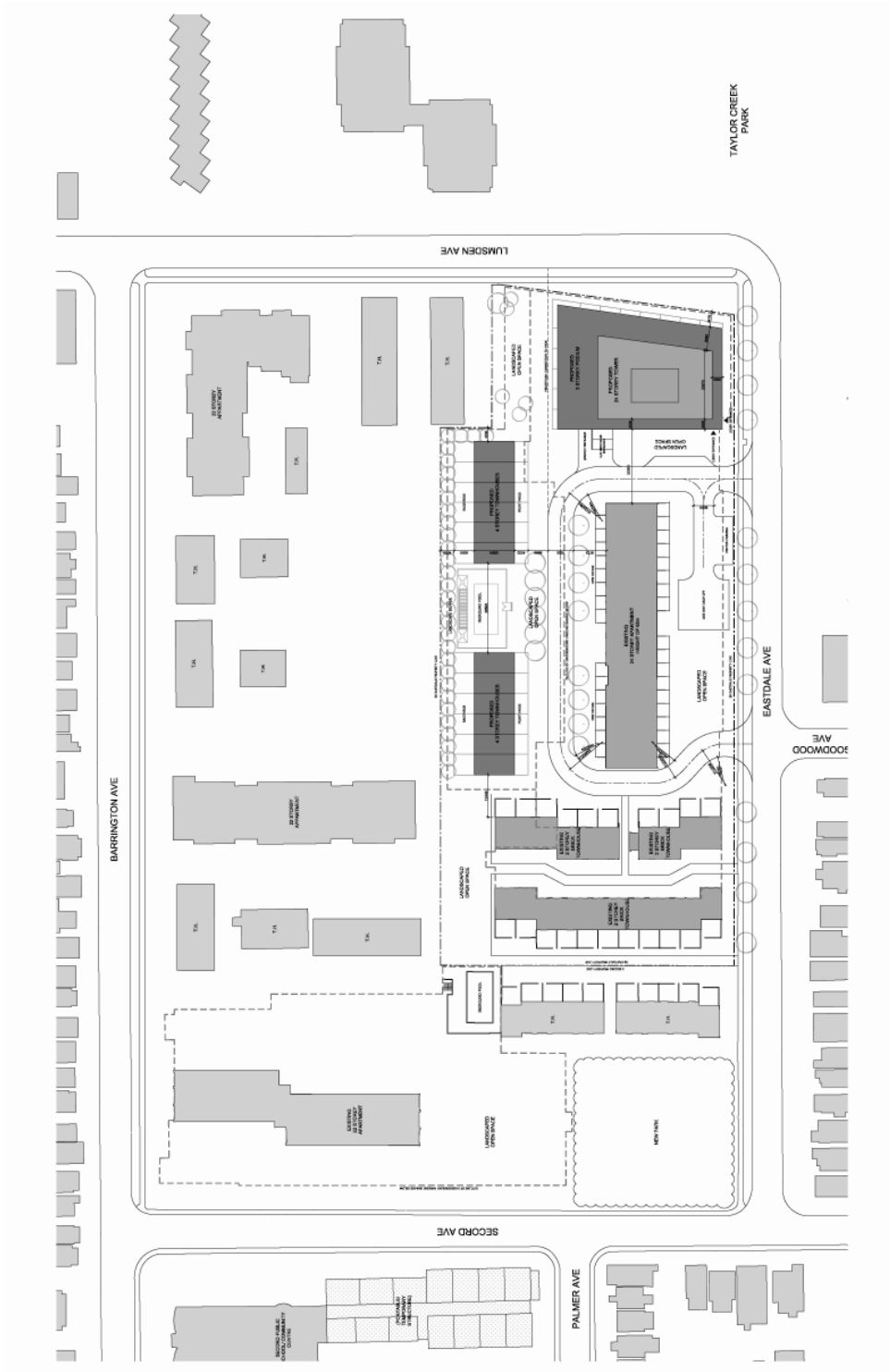
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ATTACHMENTS

Attachment 1: Site Plan (Option 2)

Attachment 2: Key Elements (Option 2)

Attachment 1: Site Plan



90 Eastdale Avenue

Option 2 - Site Plan

Applicant's Submitted Drawing

Not to Scale
08/21/2012

File # 10_119850

Attachment 2: Alternate Development (Option 2) Key Elements

	<i>Staff Recommended Development Strategy</i>
Built Form Concept	<ol style="list-style-type: none"> 1. Construction of 22 stacked townhouses behind existing 90 Eastdale Avenue apartment building. (Phase 1) 2. Demolition of 12 rental townhouses at 2 Secord Avenue (located at the corner of Secord and Eastdale Avenues where the new park is to be located) and demolition of 9 rental townhouses at 90 Eastdale Avenue (adjacent to the south side of the existing park). (Phase 2) 3. Construction of the new park to a similar condition as the existing park. (Phase 3) 4. exchange of land with city for parks purposes. (Phase 3) 5. Construction of new residential building. (Phase 4)
Tower Height	3 storey podium with a 21 storey point tower (total height 24 stories and 79 metres including mechanical penthouse).
Maximum Floor Plate Size above podium	750 square metres.
Building separation	25 metres minimum.
Total Building Area	Maximum of 20,650 square metres.
Number of Units	260 units maximum.
Rental Housing Replacement and Tenant Relocation and Assistance	<ul style="list-style-type: none"> • Replacement of all rental units proposed for demolition with the same number, size and type of rental housing units and maintain them with rents similar to the rents of existing units on site for a period of at least 20 years. • For a period of at least 10 years, rents for replacement units will be the rent at first occupancy increased annually by not more than the Provincial Rent Increase Guideline. • Acceptable tenant relocation and assistance plan addressing such matters as the right for tenants to return to a new unit at a similar rent, financial assistance for moving costs, longer notice period before having to vacate their units, and additional financial assistance for tenants with special needs. • Construct the rental replacement townhouses prior to demolition of any existing rental townhouses so that the affected tenants have the opportunity to relocate directly to a new townhouse on-site and avoid off-site relocation.

Existing Rental Housing	<ul style="list-style-type: none"> • The apartment buildings at 2 Secord Avenue and 90 Eastdale Avenue as well as the remaining 31 existing rental townhouse units on-site to be secured as rental housing with no conversion to condominium, co-ownership or any other form of ownership housing or for any non-rental housing purpose. • Improvements to the existing rental buildings at 2 Secord Avenue and 90 Eastdale Avenue. • These capital improvements shall be beyond those which may be required in any event for repairs and maintenance or for non-durable landscaping or matters required for the new development. • There shall be no pass-through of any of the related costs of the improvements for the rental building to the tenants of 2 Secord Avenue and 90 Eastdale Avenue in the form of above-guideline rent increases.
Parking spaces	239 additional spaces.
Amenity space	The normal requirement for the 223 units in new building when townhouses are excluded is 2 m2 per unit of both indoor and outdoor amenity space which would be 446 m2 of indoor amenity space and 446 m2 for outdoor amenity space. The drawings have not been revised to this detail but staff will attempt to secure as close to this amount as possible.
Bike parking	130 spaces minimum.
Additional Required applications	Rental Housing Demolition and Conversion application and a tree removal application.
Section 37 Amount	A cash contribution for local improvements, the amount of which is to be reported directly to City Council at its meeting of October 2, 2012. In addition, the Section 37 Agreement will be used as a convenience to secure the new park improvements, the replacement of rental housing, and all other matters required to meet the City's Official Plan policies for improvements to the existing rental housing.