

**1477 Bayview Avenue
Official Plan Amendment, Rental Housing Conversion
under Municipal Code Chapter 667, and Draft Plan of
Condominium Applications – Refusal Report**

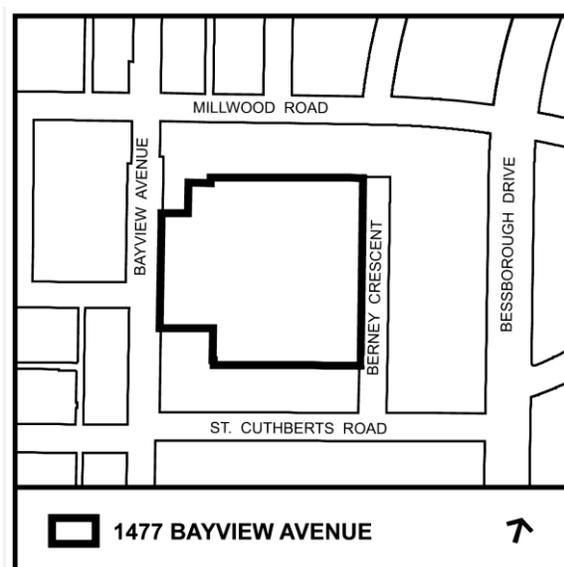
Date:	July 21, 2014
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 26 – Don Valley West
Reference Number:	12 287930 NNY 26 OZ 12 288059 NNY 26 RH 12 288046 NNY 26 CD

SUMMARY

The Official Plan Amendment, Residential Rental Housing Conversion, and Draft Plan of Condominium applications propose to convert the existing 10 rental residential buildings containing 104 rental units into a condominium.

This report reviews and recommends refusal of these three applications, and seeks Council's direction for staff to appear at the Ontario Municipal Board should any appeals be filed on the Official Plan Amendment and Draft Plan of Condominium applications. The Residential Rental Housing Conversion application is not appealable to the Ontario Municipal Board.

This report also sets out staff's comments on the applications and discusses the results of the public consultation.



RECOMMENDATIONS

The City Planning Division recommends that City Council:

1. Refuse Official Plan Amendment application 12 287930 NNY 26 OZ, Residential Rental Demolition and Conversion application 12 288059 NNY 26 RH, and Draft Plan of Condominium Application 12 288046 NNY 26 CD.
2. If the Official Plan Amendment and Draft Plan of Condominium applications are appealed to the Ontario Municipal Board, direct the City Solicitor together with other appropriate City staff to appear before the Board in opposition to any appeals filed in respect to these applications.
3. Authorize and direct the appropriate City officials to take the necessary action to give effect thereto.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

A Preliminary Report outlining this application was presented to the North York Community Council on June 18, 2013. The Preliminary Report can be viewed at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.NY25.36>

ISSUE BACKGROUND

Proposal

The applicant is seeking to convert the existing 10 residential rental buildings containing 104 rental units to residential condominium. About 63% of the units had mid-range or affordable rents at the time of application. The entire property is currently designated as a heritage property under Part IV of the *Ontario Heritage Act*. No renovations, improvements, major repairs or significant changes to the building are proposed to be undertaken in conjunction with the condominium conversion. However, some minor changes might be necessary as part of the application for condominium to better unitize and upgrade the apartments. Any repairs that are to be undertaken to the exterior of the buildings would have to conform to the heritage designation.

Site and Surrounding Area

The 2.1 hectare site is located on the east side of Bayview Avenue just south of Millwood Road. There are 10 residential buildings on the site that contain 104 rental units (78

apartment units and 26 townhouse units) with a total of 104 residential units consisting of:

- 50 1-bedroom units;
- 51 2-bedroom units; and
- 3 3-bedroom units.

The buildings have heights of 2 and 3 storeys. The gross floor area of all buildings on the site is 8,647 m² with a floor space index of 0.4.

The 2 storey buildings contain townhouses and the 3 storey buildings, some of which are adjoining 2 storey townhouses are apartments. In the centre of all the buildings is a large landscaped courtyard that is internal to the site.

The buildings were constructed from 1939 to 1941. The property has been designated as being historically significant. The important heritage features are highlighted later under the section on Heritage Designation.

The applications show there are 91 parking spaces on the site. Nine are surface spaces and 82 are in single-storey garages that flank the site on the perimeters of the north and south sides of the lot.

Surrounding the site are:

North: two storey commercial buildings along Bayview Avenue and low rise apartments, semi-detached and detached homes along Millwood Road.

South: a four storey apartment building and funeral home along Bayview Avenue and detached homes along St. Cuthberts Road.

East: detached homes.

West: on the west side of Bayview Avenue are 2 storey retail-commercial buildings, detached homes, and a 7 storey apartment building.

The applicant submitted the current proposal on December 3, 2012. At this time, 63% of the rents on the site were deemed to be affordable or mid-range after the inclusion of hydro costs as per the following table:

Rent Levels	One-bedroom Apt. Units		Two-bedroom Apt. Units		Townhouse Units		Total Units	
	before hydro	after hydro	before hydro	after hydro	before hydro	after hydro	before hydro	after hydro
Affordable	9	9	1	1			10	10
Mid-range	40	36	21	15	4	4	65	55
High-end	1	5	6	12	22	22	29	39
All Rent Levels	50	50	28	28	26	26	104	104

*rents submitted Dec. 2012 compared to Official Plan rent thresholds by unit type for City of Toronto

A detailed discussion of the Official Plan policies and rental housing issues is provided later in this report. The following provides a description of the planning legislation that must be reviewed in the context of this application.

LEGISLATIVE AND POLICY FRAMEWORK

Planning Act

Section 2 of the *Planning Act* requires that:

“the council of a municipality... in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as...

- j) the adequate provision of a full range of housing, including affordable housing;...
- l) the protection of the financial and economic well-being of the Province and its municipalities;... and
- p) the appropriate location of growth and development.”

The *Condominium Act* states that the provisions of Section 51, 51.1 and 51.2 of the *Planning Act* that apply to a plan of subdivision also apply to plans of condominium.

Section 51(24) of the *Planning Act* sets forth criteria that the City must consider in determining whether to allow the draft plan of subdivision [condominium]. Specifically, and relevant to this application, this section requires that:

“in considering a draft plan of subdivision [condominium], regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to:

- a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in Section 2;
- b) whether the proposed subdivision is premature or in the public interest;
- c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- d) the suitability of the land for the purposes for which it is to be subdivided;...
- f) the dimensions and shapes of the proposed lots;
- g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land”

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS), 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy

objectives include: building strong healthy communities; wise use and management of resources; and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. City Council's planning decisions must be consistent with the PPS.

The housing policies in the 2014 PPS require planning authorities to provide for an appropriate range of housing, including affordable housing, to meet the requirements of current and future residents, and the provision of housing in locations with appropriate levels of infrastructure and services.

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; and planning for a range and mix of housing. 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.

This report will later review the proposed development for consistency with the PPS and for conformity with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The site is designated *Neighbourhoods* in the Official Plan. The Official Plan indicates that *Neighbourhoods* are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes and townhouses, as well as interspersed walk-up apartments that are no higher than four storeys. Parks, low scale local institutions, home occupations, cultural and recreational facilities and small-scale retail, service and office uses are also provided for in *Neighbourhoods*.

Policy 4.1 of the Official Plan contains specific development criteria related to lands designated *Neighbourhoods*. Policy 4.1.5 states that development in established *Neighbourhoods* will respect and reinforce the existing physical character of the neighbourhood, including the heights, massing, scale and dwelling type of nearby residential properties, the prevailing building types, and setbacks of buildings from the street. The policy indicates that no changes will be made through rezonings that are out of keeping with the physical character of the neighbourhood.

Section 3.2.1 of the Official Plan includes 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 3.2.1.8, in particular, indicates that the conversion to condominium, or the severance or subdivision, of any building or related group of buildings, containing six or more rental housing units will not be approved unless:

- a) all of the rental housing units have rents that exceed mid-range rents at the time of application, or
- b) in Council's opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents. This decision will be based on a number of factors, including whether:
 - i) rental housing in the City is showing positive, sustained improvement as demonstrated by significant net gains in the supply of rental housing including significant levels of production of rental housing, and continued projected net gains in the supply of rental housing;
 - ii) the overall rental apartment vacancy rate for the City of Toronto, as reported by the Canada Mortgage and Housing Corporation, has been at or above 3.0 per cent for the preceding four consecutive annual surveys;
 - iii) the proposal may negatively affect the supply or availability of rental housing or rental housing sub-sectors including affordable units, units suitable for families, or housing for vulnerable populations such as seniors, persons with special needs, or students, either in the City, or in a geographic sub-area or a neighbourhood of the City; and
 - iv) all provisions of other applicable legislation and policies have been satisfied.

Zoning

On May 9, 2013 City Council enacted the new City wide Zoning By-law No. 569-2013. The By-law has been appealed. Under By-law 569-2013 the site is zoned RM (Residential Multiple Dwelling Zone) which permits a range of residential building types including apartment buildings. The zoning permits a maximum floor space index of 1.25 times the lot area and a maximum height of 16 metres.

Under former Leaside Zoning By-law 1916, the site is zoned R3A High Density Residential which permits apartment buildings with a maximum floor space index of 1.25 and a maximum height of 16 metres.

Site Plan Control

A site plan control application has not been submitted.

City of Toronto Act, Section 111

Section 111 of the *City of Toronto Act*, 2006 authorizes Council to regulate the demolition and conversion of residential rental properties in the City. By-law No. 885-2007 (also known as the Rental Housing Demolition and Conversion By-law), which established Chapter 667 of the Municipal Code, implements the City's Official Plan policies protecting rental housing.

Chapter 667 makes it an offence to demolish or convert to condominium the whole or any part of a residential rental property where there are six or more dwelling units, if any one of them is rental, unless approval has been granted for a Section 111 permit for the demolition or conversion. City Council may refuse an application, or approve the application with conditions.

Where an application for Official Plan Amendment triggers an application under Chapter 667 for rental demolition or conversion, typically City Council considers both applications at the same time. Unlike *Planning Act* applications, decisions made by the City pursuant to Section 111 are not appealable to the Ontario Municipal Board.

The applicant has submitted an application for a Section 111 permit pursuant to Chapter 667 of the City of Toronto Municipal Code for the conversion of the existing rental units.

Heritage Designation

In 1987, the Borough of East York passed By-law 6-87 under Part IV of the *Ontario Heritage Act* designating the site as being of architectural value. The Garden Court apartments and their gardens were recommended for designation on the basis of their "extreme architectural importance":

- The buildings were built in 1939-1941 and were designed by the prominent Toronto architectural firm of Forsey, Page and Steele to provide the residents with quiet, privacy and garden and recreational space in an urban environment.
- Landscaping was designed by Dunnington-Gubb, one of Canada's most noted landscape architects of the day.

Reasons for the Application

The City's Official Plan does not permit the conversion of residential rental units where some units have mid-range and affordable rents. In addition, approval is required under the City's Municipal Code Chapter 667 to convert the existing rental units to condominium. Given the number of rental units on the property, Council approval is required for the Draft Plan of Condominium application.

Community Consultation

Community Council adopted the recommendation of staff to hold a community consultation meeting in conjunction with the ward Councillor. Chapter 667 also requires the City to hold a community consultation meeting to consider certain matters including the impact on tenants, prior to the submission of a final report to Community Council. Invitations were extended to the affected tenants, the local community and other interested parties for a meeting to deal with all three applications to consider the rental housing issues, the Official Plan amendment and the conversion to condominium.

The meeting was held on June 20, 2013 and attended by approximately 140 people from the site and surrounding area. No one at the meeting expressed support for the conversion proposal. The meeting was held in two parts. In the first part, the general community was invited and the City presented the background context and planning framework relating to the proposal, and the applicant presented additional information concerning the proposal. A question and answer period was held for the general audience. A number of issues were raised, including the following:

- Whether the conversion is necessary;
- Many units are being upgraded – can the style and affordability of the units be protected;
- Is essential maintenance of the buildings and site currently being done;
- Would the overall condition of the units be consistently maintained if the units were owned by multiple owners;
- Concern that the buildings might be split up and severed;
- Impact on the heritage designation, heritage character and qualities of the site and buildings; and
- Would public access to the grounds be affected under condominium status.

During the second part of the meeting, tenants of the buildings were given an opportunity to stay and ask City staff and the Councillor additional questions relating to the applications without the presence of their landlord or the general public, in accordance with the requirements for a tenants meeting under Municipal Code Chapter 667. The tenants raised an extensive amount of concern and questions regarding the application if approved, including but not limited to the following:

- Affordability is about/limited by tenant income;
- Any impact on their security of tenure and ability to stay on as tenants under the *Residential Tenancies Act*, and whether there would be additional pressure to move if an individual owner purchased their unit;
- Their ability to afford to pay their rents given other possible increases in costs;
- Many tenants prefer to rent, and enjoy the grounds and the neighbourhood, and don't want to have to move to continue renting;
- If unit rents were to increase beyond their ability to afford them, would they be able to afford other accommodation in the neighbourhood;

- Their ability to afford to purchase their unit, given possible unit prices and costs, and short notice associated with the first right of refusal;
- Tenants said they cannot afford a down payment to buy their unit and then also pay the condo fee;
- Further comments about current maintenance of the property; and
- Concern that adequate information on the proposal has not been made available by the applicant.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate recommendations.

COMMENTS

Planning Act

As mentioned previously, Section 2 of the *Planning Act*, requires that municipalities have regard to a number of matters of provincial interest including:

- j) the adequate provision of a full range of housing, including affordable housing;...
- l) the protection of the financial and economic well-being of the Province and its municipalities;... and
- p) the appropriate location of growth and development.”

While City Planning has a number of concerns with this proposal, staff are particularly concerned that if approved, the proposal would have a negative impact on the provision of a full range of housing. The City maintains the position that a full range of housing includes form, tenure and affordability in neighbourhoods and across the City. This application proposes to remove 104 units from the purpose-built rental housing stock by converting the units to condominium. Many and possibly most of these units over time could become owner-occupied. The subject lands, located in the Leaside-Bennington neighbourhood, are one of the largest consolidations of rental housing in the area and constitute a mix of housing for singles, couples and families with children. Fewer rental units are provided in the Leaside-Bennington neighbourhood, as compared to Toronto as a whole. Of the total residential units in Leaside-Bennington, only about 27% are rental, as compared to 45% of the housing stock which is rented across the City (further information on neighbourhood #56: Leaside-Bennington is provided at www.toronto.ca - Search "Neighbourhood Profiles").

Also as referenced earlier, Section 51(24) of the *Planning Act* sets out the criteria that municipalities must have regard for when reviewing these types of applications. These include:

- a) the effect of development of the proposed subdivision on matters of provincial interest;
- b) whether the proposed subdivision is premature or in the public interest;
- c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- d) the suitability of the land for the purposes for which it is to be subdivided;
- f) the dimensions and shapes of the proposed lots;
- g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land”

The matters of provincial interest have been mentioned in Section 2 above and are elaborated on under the Provincial Policy Statement discussion below. Also as explained in a following section, the proposal does not conform to the City's Official Plan.

Staff also consider that the proposed subdivision/conversion of the land into a condominium is not suitable or necessary. The proposal raises a number of questions including how this heritage property would be maintained under individual unit ownership, and how parking would be allocated and accessed by tenants.

An assessment of whether the proposal is premature and against the public interest is offered in the concluding section of this report.

Provincial Policy Statement and Provincial Plans

The recent changes to the Provincial Policy Statement brought into effect in April of 2014 clarify and include specific language under Part IV, and sections 1.1.1 and 1.4 that require municipalities to plan for an appropriate range and mix of housing types which includes affordable housing to meet the needs of current and future residents and to ensure that healthy, liveable, safe and resilient communities are planned within municipalities.

The site in question currently provides a mix of housing types with prices from the affordable to the "high-end" and provides an important purpose-built rental housing option for various types of households in the Leaside-Bennington neighbourhood. Currently, the subject lands provide ground-related apartment and townhouse units under rental tenure in a neighbourhood where over two-thirds of the residential units are single and semi-detached homes.

The new Provincial Policy Statement explicitly places the onus on municipalities to provide housing not only at a range of affordability levels, but also for seniors. The subject site represents a unique rental housing option for one and two-person households which is beneficial for many choosing to downsize, living on a fixed income, or with impairments that may make home-ownership more onerous. Located a short distance from Sunnybrook Hospital, many seniors currently enjoy living on site and in a

neighbourhood which provides the rental option and can meet all of their every-day needs.

The Growth Plan for the Greater Golden Horseshoe also encourages municipalities to plan for a range and mix of housing types taking into account affordable housing needs (sections 2.2.2 & 2.2.3) and develop and implement housing strategies that meet the needs of all residents, including the need for affordable housing (section 3.2.6). The proposal fails to help municipalities in addressing these directives set out in the Growth Plan.

Based on the above-noted reasons, the proposal is not consistent with the PPS and does not conform to the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The proposal to convert the existing rental buildings to condominium is in direct contravention of policy 3.2.1.8 of the Official Plan which is discussed below. However, several Official Plan policies are relevant to this application. Section 3.2.1 of the Official Plan includes policies that encourage the provision of a full range of housing, in terms of form, tenure and affordability, and the maintenance and protection of rental housing units.

Policy 3.2.1.1, in particular, requires that the City provide and maintain a full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods to meet the needs of current and future residents. Among other types, a full range of housing includes affordable and mid-range rental and ownership housing. As described earlier, about 63% of the rental units in the property had affordable and mid-range rents, at the time of application. No information and no assurances have been provided by the applicant which would suggest that the units if converted to condominium would be sold at affordable or even mid-range levels as defined by the City's Official Plan. In any case, the loss of affordable and mid-range purpose-built rental units, in favour of ownership units of an unknown and unrestricted price cannot be supported by the City's policies or practices. The City continues to seek opportunities for the creation of affordable and mid-range ownership units, but not at the expense of its diminishing supply of rental units.

This Official Plan policy which promotes a full range of housing reinforces the direction taken by the Province in the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe. Staff contend that the proposal would actually decrease the range of housing being provided in the City, and specifically in the subject neighbourhood by converting these purpose-built rental units to condominium. Although some security of tenure is provided to in-situ tenants at the time of registration, all units would eventually be treated the same as those in any other condominium and future tenants could be displaced for an owner's or prospective owner's use. This issue is discussed further in the section on Impact on Existing and Future Tenants.

Policy 3.2.1.8 deals specifically with the conversion of buildings, or related groups of buildings, with six or more rental units to condominium and explicitly states that unless all of the units are above the mid-range rent threshold at the time of application, Council should refuse the application. In 2014, the mid-range threshold was \$1,837, \$1,846 and \$2,275 for two-bedroom apartments, two-bedroom townhouses and three-bedroom townhouses, respectively.

As illustrated in Table 1, when the application was made about 63% of the rents in the building were below the upper mid-range threshold, with some rents being "affordable" or below the average market rent for the City of Toronto.

While the owners' current efforts to upgrade units upon vacancy and tenant turnover may be placing upward pressure on the rents, a substantial number of units have continued to remain in the affordable and mid-range categories. As a result, any attempt to convert the buildings given the rent levels is viewed by staff as premature and unacceptable.

Under 3.2.1.8 b), the policy does allow for conversions to be considered, but only where, in Council's opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents. This decision is to be based on a number of factors, including whether:

- i) rental housing in the City is showing positive, sustained improvement as demonstrated by significant net gains in the supply of rental housing including significant levels of production of rental housing, and continued projected net gains in the supply of rental housing.

In recent years, there has been relatively little purpose-built rental housing constructed in Toronto. It has been estimated that these purpose-built rental units make up only about 5-8% of all housing completions in the City. Although some units are being produced, there continue to be losses in rental stock due to demolition and conversion, particularly in smaller buildings not covered by the City's rental protection policies. As a result, there have not been "significant gains" in the provision of new purpose built or primary rental housing.

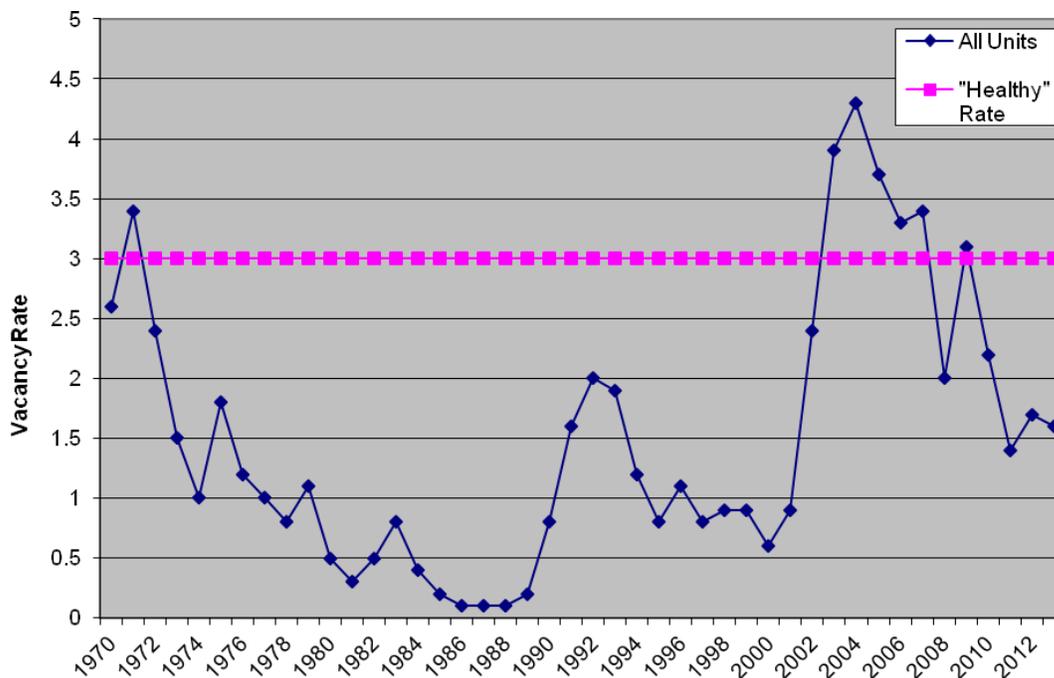
Most residential units that are being constructed are provided in condominium registered buildings. Many of the units that are owned by investors or absentee owners are rented out on a less permanent basis, and flow in and out of rental status. These units form part of the secondary rental market. Generally, they offer less security of tenure as owners may choose to evict tenants for the owners' personal use or for use by family members. These units cannot be relied upon to compensate for the lack of increase in units in the primary rental market. Despite the number of units provided in the secondary rental market, this sector continues to also experience low vacancy rates.

Another factor to be considered in determining the supply and availability of rental housing is based on whether:

- ii) the overall rental apartment vacancy rate for the City of Toronto, as reported by the Canada Mortgage and Housing Corporation, has been at or above 3.0 per cent for the preceding four consecutive annual surveys;

As shown below in Figure 1, there have been few years since 1970 where the vacancy rate for rental housing in the City has been above 3%. As the rate has remained below this threshold for the past several years, and currently stands at 1.6%, this particular criterion has not been satisfied.

Figure 1: Rental Apartment Vacancy Rate, Amalgamated City of Toronto, 1970-2013 (CMHC Rental Market Reports)



Note: Vacancy rate is for an average of unit/bedroom types as shown in CMHC's fall reports. "Healthy rate" is based on the criteria provided in the City's Official Plan. Further clarification on these criteria is offered in Policy 3.2.1.8.

Even where the above two factors or criterion can be satisfied, and at present they are not, Policy 3.2.1.8 b) requires that it be determined if:

- iii) the proposal may negatively affect the supply or availability of rental housing or rental housing sub-sectors including affordable units, units suitable for families, or housing for vulnerable populations such as seniors, persons with special needs, or students, either in the City, or in a geographic sub-area or a neighbourhood of the City.

Staff are of the opinion that the subject lands represent a valuable part of the rental housing stock in the Leaside-Bennington neighbourhood, in particular with respect to the provision of housing for different types of households such as singles and couples, including families with children. As well, many seniors live in the subject buildings. Staff consider that the existing rental units are an important resource in addressing the housing needs of the area residents in particular, and also contribute to the supply of rental housing within the City.

City of Toronto Act, Section 111

As mentioned earlier, the City was given powers by the Province in 2007 under Section 111 of the *City of Toronto Act* to regulate the demolition and conversion of residential rental properties. These powers are implemented under Chapter 667 of the Municipal Code. Under Chapter 667, approval is required by the City to allow the registration of a condominium that involves the "conversion of a residential rental property, expressly or by necessary implication." This process applies to all properties that have six or more residential dwelling units, where one or more units are rental.

When an application is filed that affects six or more residential rental units, City Council may refuse the application or impose conditions on the conversion such as:

- 1) informing tenants of their rights under the *Residential Tenancies Act*;
- 2) in the case of demolition, replacement of the rental units at similar rents; and
- 3) in the case of conversion to a condominium, requirements relating to the cost impacts on tenants.

Any conditions relating to these can be secured on title. Thus far, the applicant has not provided any rationale for the requirements relating to the cost impact on tenants other than by stating that post conversion the units would be available for purchase, and that they would be "affordable to high-income groups".

Generally where approval is considered, the conditions secured are consistent with those imposed under the Official Plan and relate to matters such as the replacement of rental units, moving allowances, compensation for hardship in moving or construction, and extended notice periods beyond what is required in the *Residential Tenancies Act*. However, applications involving the conversion of rental property ultimately result in the loss of rental stock. While there are basic rights such as the right of security of tenure currently offered to existing tenants in conversion projects, future tenants moving in after registration would be required to vacate should the owner or his/her family chose to occupy the condominium unit. This requirement can create hardship, particularly for more vulnerable or senior tenants. It is also noted that under the *Residential Tenancies Act* and the *Energy Consumer Act*, current utilities that are included in rent, could be individually metered, resulting in a further cost to a possibly vulnerable population.

As the buildings represent a valuable part of the local residential rental stock, have a current population that could be unduly affected by conversion, even if mitigation was

provided, and do not meet any of the tests for conversion under the Official Plan, staff recommend refusal of the application for a Residential Rental Demolition and Conversion permit.

Impact on Existing and Future Tenants

As indicated, the Province's *Residential Tenancies Act* does provide some security for existing tenants in buildings subject to conversion. Under this legislation, where a rental unit is converted to condominium, tenants who occupy a unit at the time of conversion cannot be evicted on the basis that the owner of the unit requires personal possession for themselves or a member of their immediate family. After the existing tenant vacates the unit, however, any future tenant would not be entitled to the security of tenure provisions and could be evicted on the basis of personal/family use.

The Act specifically protects only those tenants that are occupying units at the time of registration. It should be noted that, even where the conversion of buildings has been approved (e.g. where all units have high-end rents), a considerable period of time may lapse between when Draft Plan of Condominium approval is granted and the condominium is registered. This lag period may be as much as 8 or more years, based on other applications dealt with by the City. The City cannot provide any assurances that this security of tenure would remain in place, should any changes be made to provincial legislation during this extended period of time.

There is some concern that should approval be given to convert the units to condominium, there may be additional interest in undertaking extensive upgrades or improvements to attract prospective buyers. As well, the conversion to condominium would likely lead to an increase in the assessed value of the property. Should these changes occur, there may be further pressures to increase tenants' rents to pay for such improvements and increased unit prices/carrying costs.

Heritage Designation

This complex of buildings was built by the Jackson Lewis Company in 1939-1941 on land purchased from the Lea family.

Known as the Garden Court Apartments they were designed by the prominent Toronto architectural firm of Forsey, Page and Steele, based on the "New Concept" of Garden City Planning. The apartments were designed to provide their residents with quiet and privacy as well as garden and recreational space in an urban environment. The landscaping of the complex was designed by Dunnington-Grubb, one of Canada's most noted Landscape Architects of that day. The goal of the design was to have a beautiful well-designed garden that would compensate for any long-term depreciation of the buildings. The properties were designated by Council in 1986.

The applicant indicates that preservation of the heritage designated site has been expensive for the owners and claims that the rental tenancy legislation and low turnover

rate has held rents below current market rent levels for this area. The applicant also states that condominium conversion would provide access to additional financing that could be used to maintain the property. However, it is unclear as to the extent to which the current owners would continue to be involved in the property, if individual units were sold. The owners are currently renovating and upgrading individual units as vacancies occur and tenancy turns over, allowing them to charge higher rents upon re-rental of the units.

No information has been submitted by the applicant that would suggest conversion is needed to leverage funds, nor is the financial argument an appropriate planning consideration.

Although there have been City programs which have provided funding to assist in maintaining heritage buildings, it appears that the owners have not applied for such assistance. At present, the Toronto Heritage Grant Program offers grants for up to 50% of the eligible heritage conservation work.

For years, the Heritage Property Tax Rebate Program also provided a property tax rebate of up to 40% on heritage portions of various types of properties. This required that a Heritage Easement Agreement be entered into between the property owner and the City, and the agreement be registered on title. Such agreements typically identify elements of a building which are to be retained in perpetuity and may also set out permitted alterations and development. It should be noted that due to a recent change adopted by City Council, this particular program now only applies to commercial properties.

Conclusion

Based on the information and analysis presented in this report, City Planning staff recommends refusal of the applications for an Official Plan Amendment, Draft Plan of Condominium approval and Section 111 of the *City of Toronto Act* approval.

In staff's opinion, the proposal to convert these 104 residential rental units to condominium does not have adequate regard for the relevant matters of provincial interest under section 2 of *the Planning Act* or for the relevant criteria under section 51(24) of *the Planning Act*. Similarly, staff consider that the applications are not consistent with the Provincial Policy Statement, and do not conform with the Growth Plan for the Greater Golden Horseshoe. As discussed, the applications also do not conform to the relevant policies of the Official Plan, and specifically policies 3.2.1.1 and 3.2.1.8.

Conversion would lead to a reduction in the limited supply of purpose-built rental housing, the eventual loss of security of tenure for future tenants in these buildings, and may place upward pressure on the rents charged for the condominium units.

As such, staff consider that the proposal does not represent good planning, and would be both premature and against the public interest.

Approval of this proposal would not be in keeping with the practice consistently applied by the City, and upheld in the Courts and recognized by the Ontario Municipal Board for similar conversion applications.

CONTACTS

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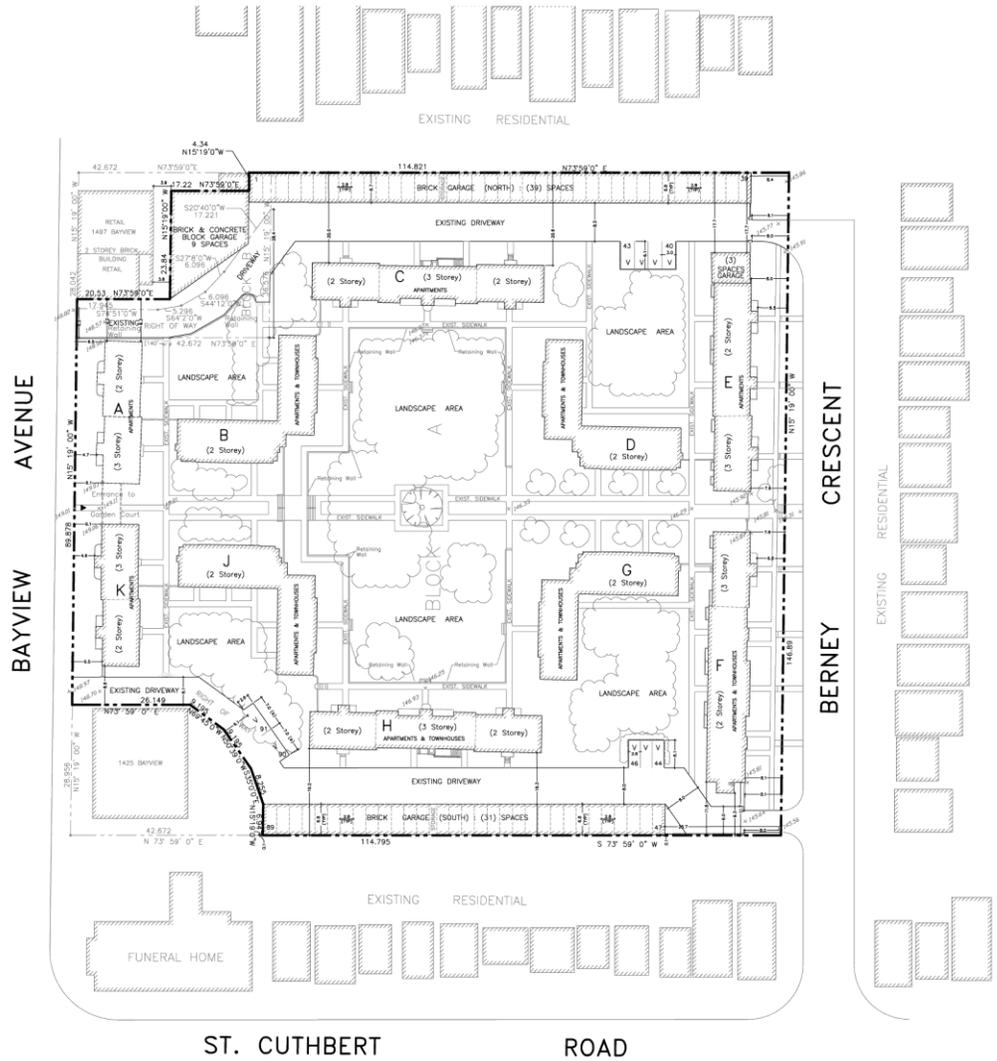
SIGNATURE

Allen Appleby
Director, Community Planning
North York District

ATTACHMENTS

Attachment 1: Draft Plan of Condominium
Attachment 2: Elevations as provided by applicant
Attachment 3: Zoning
Attachment 4: Official Plan
Attachment 5: Application Data Sheet

Attachment 1: Draft Plan of Condominium



Draft Plan of Condominium

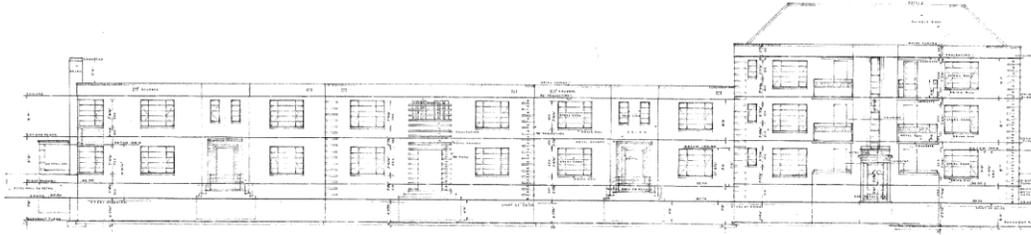
1477 Bayview Avenue

Applicant's Submitted Drawing

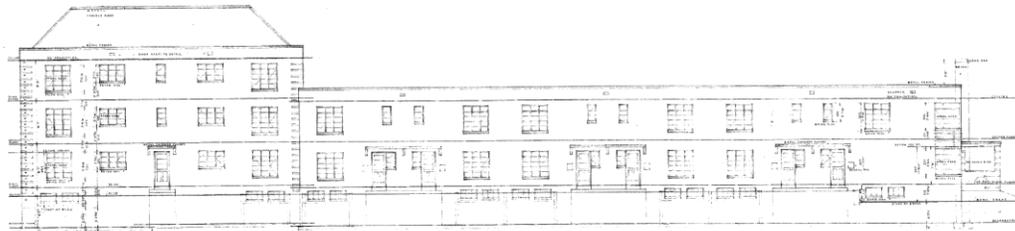
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File # 12 287930 NNY 26 0Z

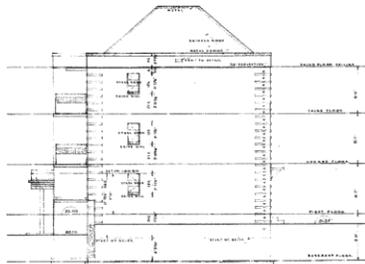
Attachment 2: Elevations



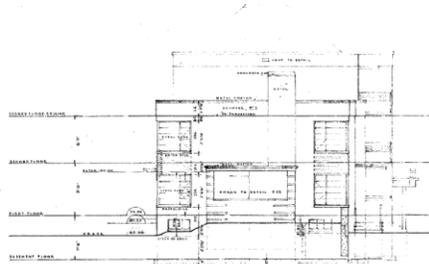
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WEST ELEVATION - 1477 BAYVIEW AVENUE - BUILDING F



NORTH ELEVATION
1477 BAYVIEW AVENUE - BUILDING F



SOUTH ELEVATION
1477 BAYVIEW AVENUE - BUILDING F

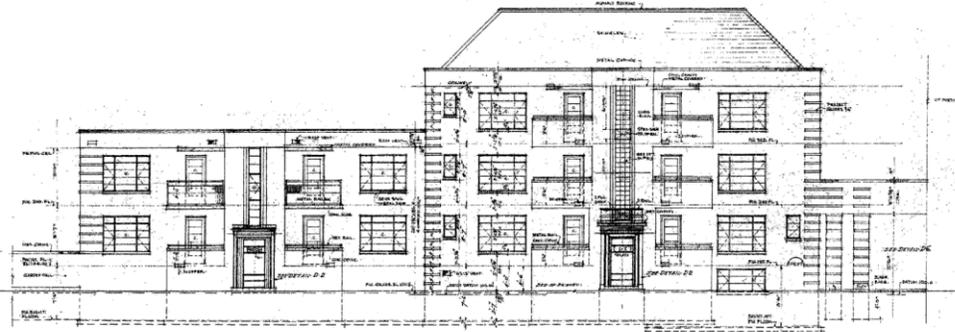
Elevations - Building F

Applicant's Submitted Drawing

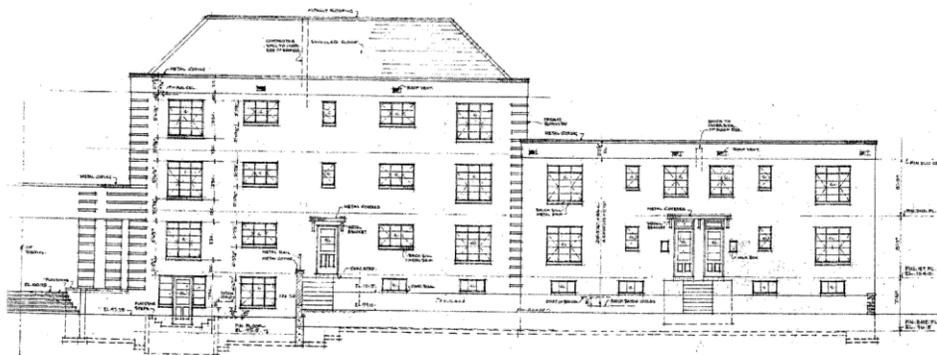
Not to Scale
12/17/2012

1477 Bayview Avenue

File # 12 287930 NNY 26 0Z



WEST ELEVATION — 1477 BAYVIEW AVENUE — BUILDING A & K



EAST ELEVATION — 1477 BAYVIEW AVENUE — BUILDING A & K

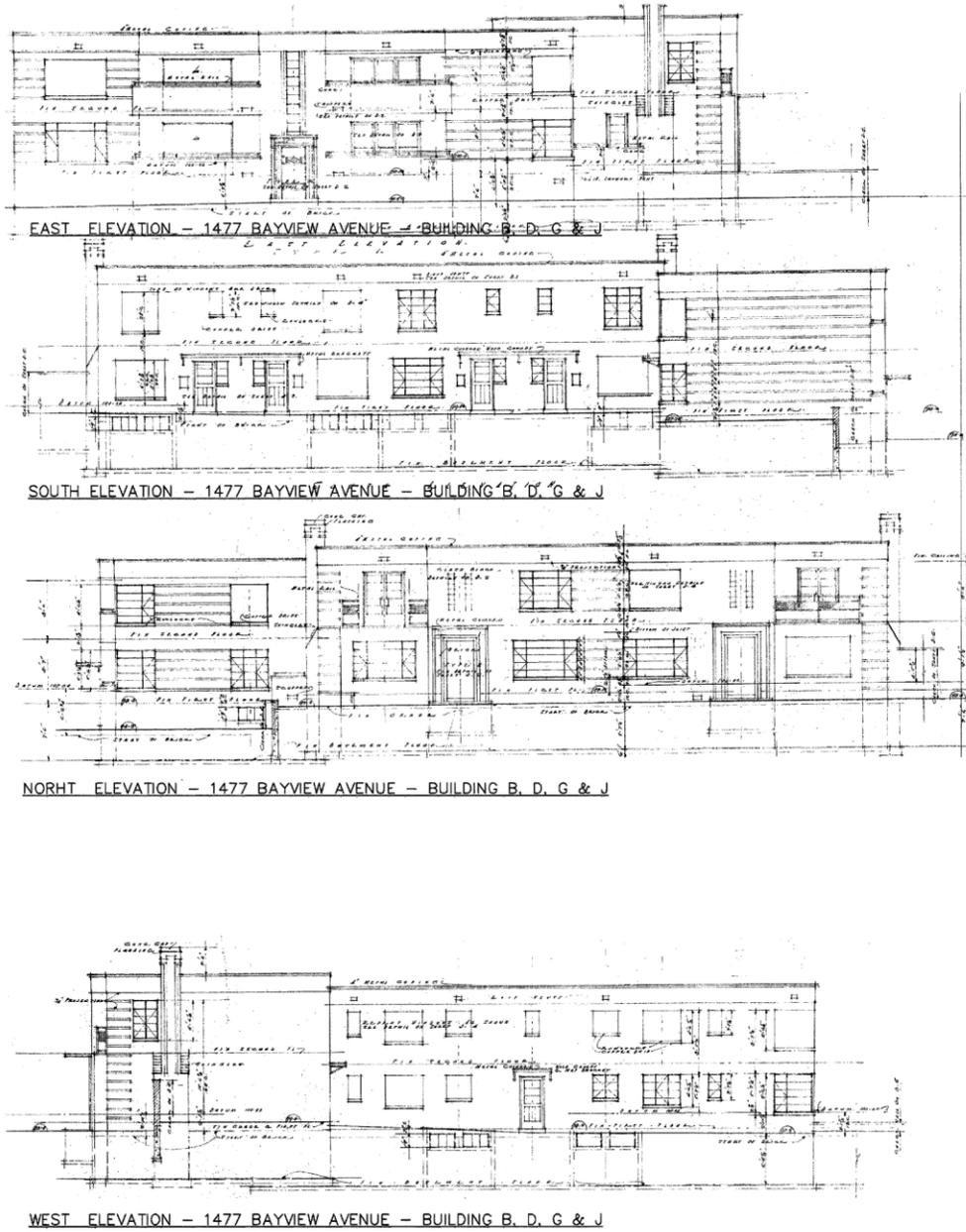
Elevations - Building A & K

Applicant's Submitted Drawing

Not to Scale
12/17/2012

1477 Bayview Avenue

File # 12 287930 NNY 26 0Z



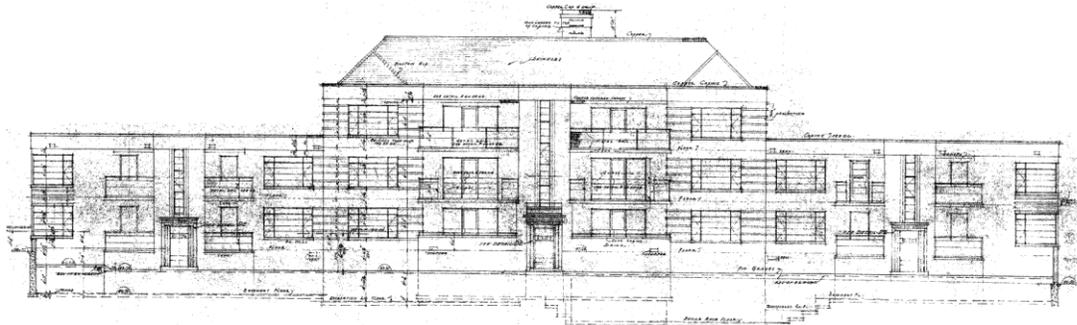
Elevations - Building B,D,G & J

1477 Bayview Avenue

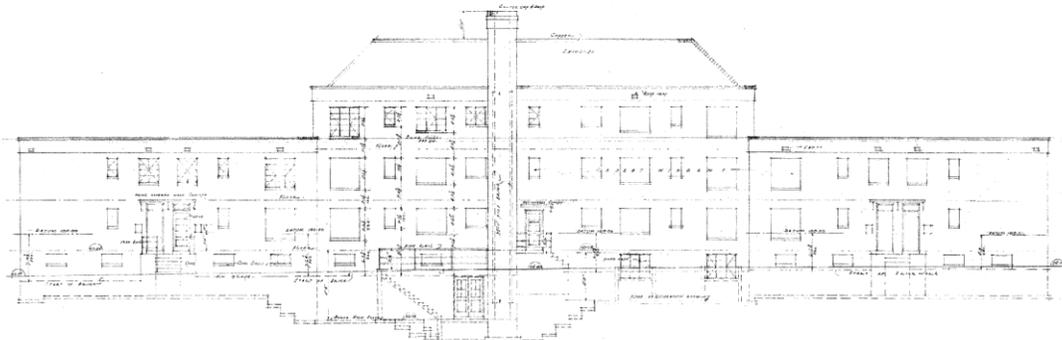
Applicant's Submitted Drawing

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12/17/2012

File # 12 287930 NNY 26 0Z



SOUTH ELEVATION - 1477 BAYVIEW AVENUE - BUILDING C
BUILDING (H) SIMILAR



NORTH ELEVATION - 1477 BAYVIEW AVENUE - BUILDING C
BUILDING (H) SIMILAR

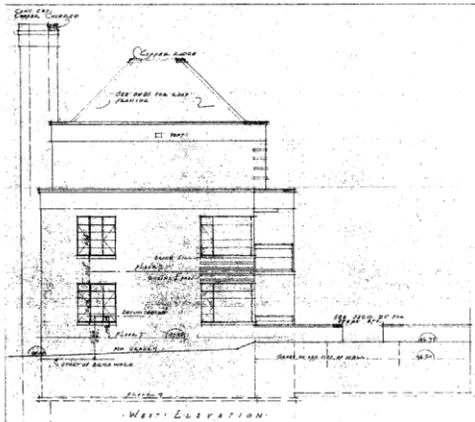
Elevations - Building C

Applicant's Submitted Drawing

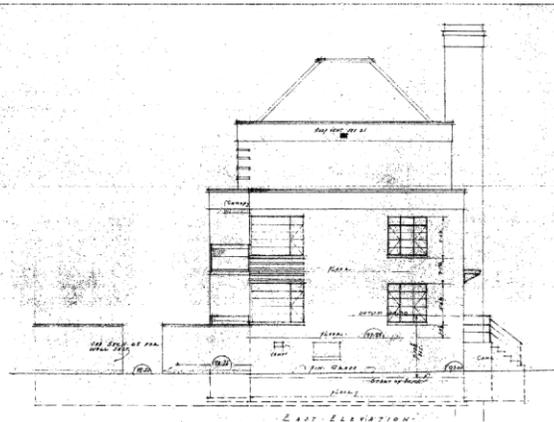
Not to Scale
12/17/2012

1477 Bayview Avenue

File # 12 287930 NNY 26 0Z



WEST ELEVATION - 1477 BAYVIEW AVENUE - BUILDING C
BUILDING (H) SIMILAR



EAST ELEVATION - 1477 BAYVIEW AVENUE - BUILDING C
BUILDING (H) SIMILAR

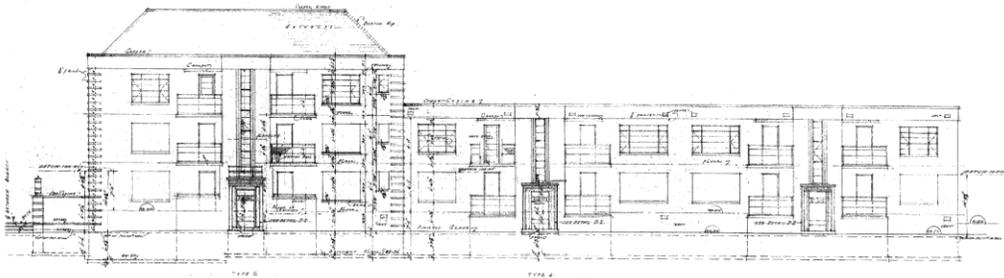
Elevations - Building C

Applicant's Submitted Drawing

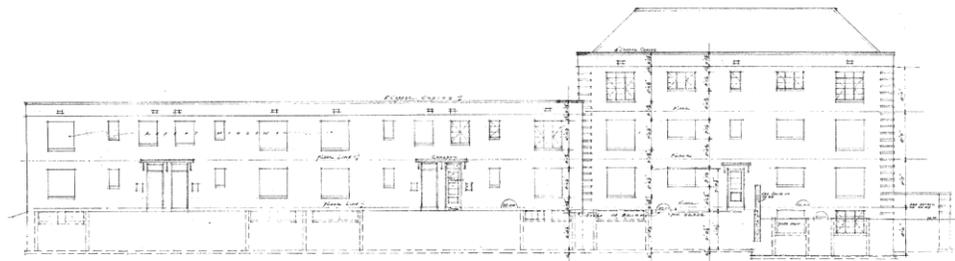
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1477 Bayview Avenue

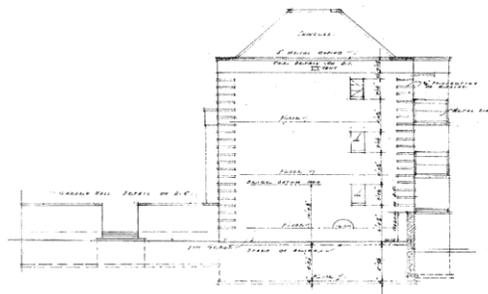
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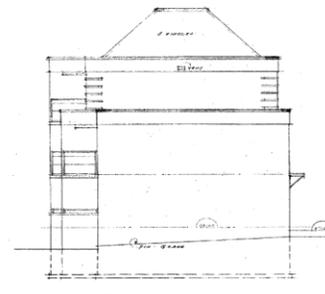
EAST ELEVATION — 1477 BAYVIEW AVENUE — BUILDING E



WEST ELEVATION — 1477 BAYVIEW AVENUE — BUILDING E



SOUTH ELEVATION
1477 BAYVIEW AVENUE — BUILDING E



NORTH ELEVATION
1477 BAYVIEW AVENUE — BUILDING E

Elevations - Building E

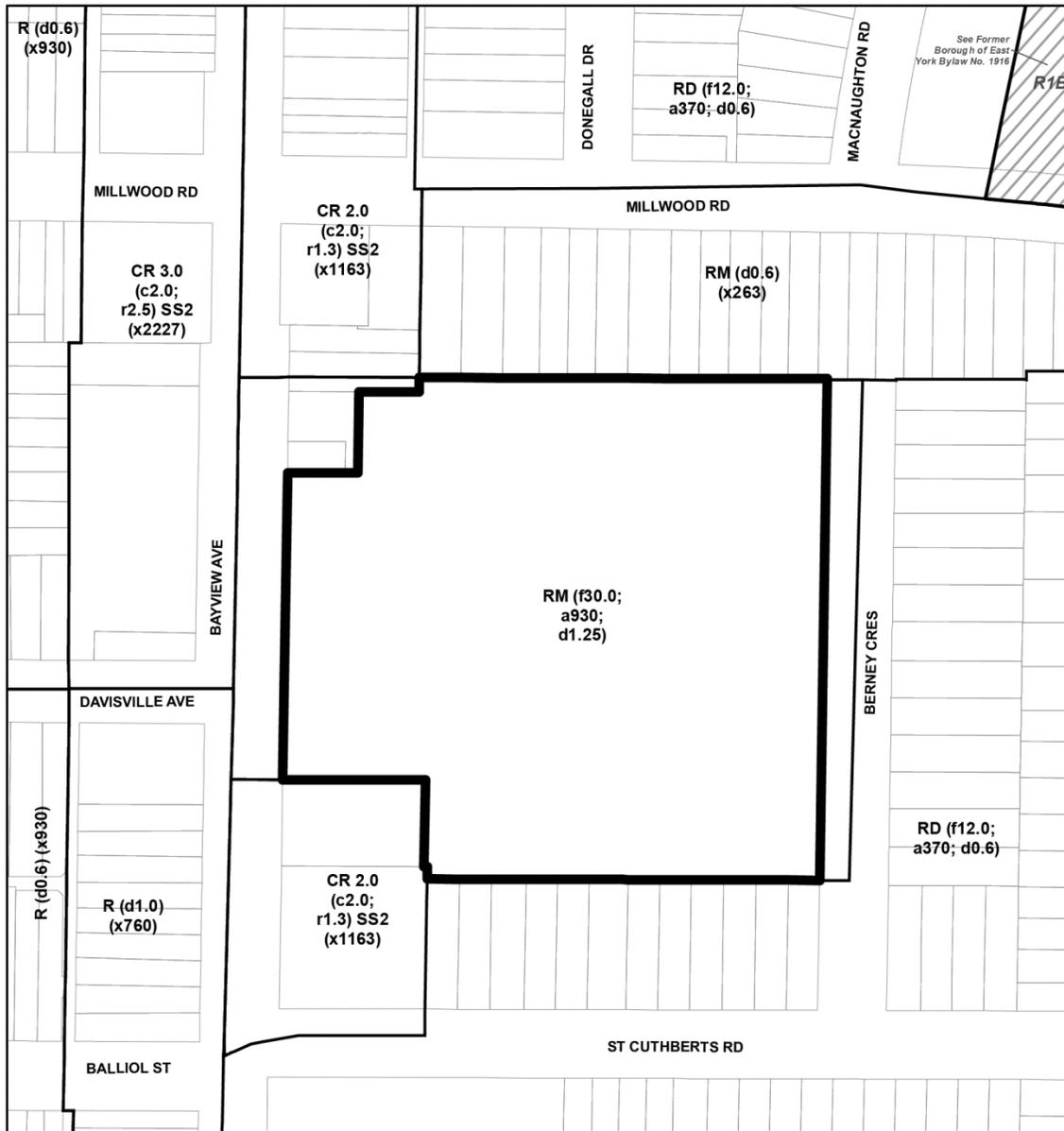
Applicant's Submitted Drawing

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12/17/2012

1477 Bayview Avenue

File # 12 287930 NNY 26 0Z

Attachment 3: Zoning



Zoning By-law 569-2013

1477 Bayview Avenue

File # 12 287930 NNY 26 02



Location of Application



See Former Borough of East York Bylaw No. 1916

R

Residential

RM

Residential Multiple

R1B

Low Density Residential

RD

Residential Detached

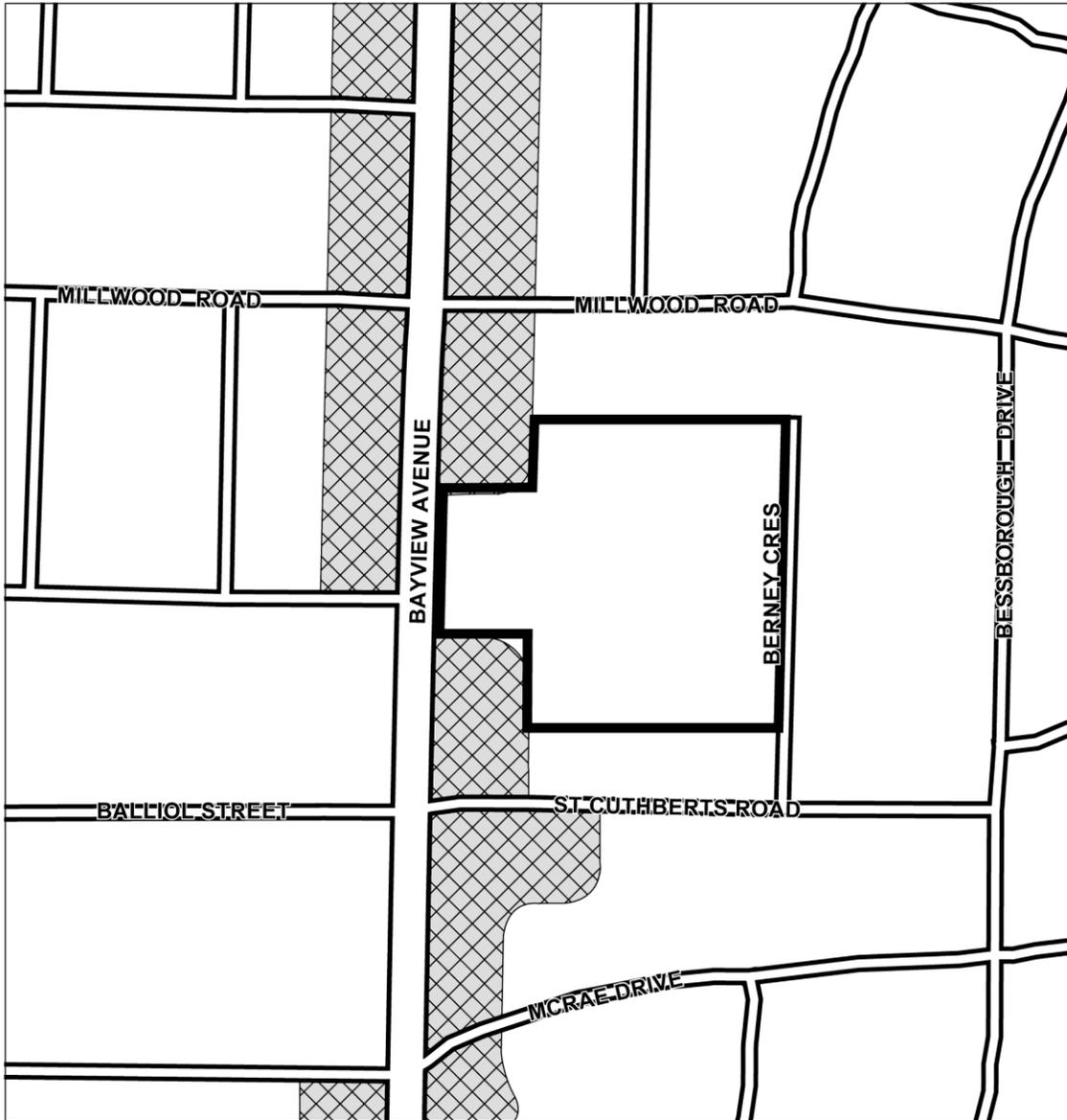
CR

Commercial Residential



Not to Scale
Extracted: 07/02/2014

Attachment 4: Official Plan



 **TORONTO** City Planning
Official Plan

1477 Bayview Avenue

File # 12 287930 NNY 26 0Z

-  Site Location
-  Neighbourhoods
-  Mixed Use Areas


Not to Scale
12/07/2012

Attachment 5: APPLICATION DATA SHEET

Application Type	Official Plan, Rental Housing Conversion & Draft Plan of Condominium	Application Number:	12 287930 NNY 26 OZ 12 288059 NNY 26 RH 12 288046 NNY 26 CD
Details	OPA, Standard	Application Date:	December 3, 2012

Municipal Address: 1477 BAYVIEW AVE
 Location Description: PLAN 2920 PT BLKS A AND B **GRID N2607
 Project Description: Convert a rental residential property into a condominium. The property is comprised of 10 buildings with 104 rental units (78 apartment units and 26 townhouse units).

Applicant:	Agent:	Architect:	Owner:
1330192 ONTARIO INC.	Mainline Planning Services Inc.		1330192 ONTARIO INC.

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:
Zoning:	RM/R3A	Historical Status:
Height Limit (m):		Site Plan Control Area:

PROJECT INFORMATION

Site Area (sq. m):	21363.31	Height:	Storeys:	3
Frontage (m):	89.88		Metres:	12
Depth (m):	152.5			
Total Ground Floor Area (sq. m):	5305.3			Total
Total Residential GFA (sq. m):	8647.28		Parking Spaces:	91
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	8647.28			
Lot Coverage Ratio (%):	24.8			
Floor Space Index:	0.4			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

			Above Grade	Below Grade
Tenure Type:	Condo			
Rooms:	0	Residential GFA (sq. m):	8641.7	0
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	50	Office GFA (sq. m):	0	0
2 Bedroom:	51	Industrial GFA (sq. m):	0	0
3 + Bedroom:	3	Institutional/Other GFA (sq. m):	0	0
Total Units:	104			

CONTACT: PLANNER NAME: Nimrod Salamon, Senior Planner
TELEPHONE: (416) 395-7095