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STAFF REPORT ACTION REQUIRED

1677-1679 Bathurst Street and 73-75 Elderwood Drive – Official Plan, Zoning Amendment and Rental Housing Demolition and Conversion Applications - Request for Direction Report

Date:	July 27, 2017
То:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 21 – St. Paul's
Reference Number:	16-270455 STE 21 OZ

SUMMARY

This application proposes a 4-storey apartment building containing 45 dwelling units and 41 vehicular parking spaces at 1677-1679 Bathurst Street and 73-75 Elderwood Drive. An application for Rental Housing Demolition and Conversion under Section 111 of the *City of Toronto Act* (Chapter 667 of the Municipal Code) has also been filed. A total of 13 rental units are currently located on the site and are proposed to be demolished and replaced within the proposed building.

The applicant appealed its Official Plan and Zoning By-law Amendment applications to the Ontario Municipal Board due to City Council's failure to make a decision within the time prescribed by the *Planning Act*.

This report recommends that City Council direct the City Solicitor, together with appropriate City Staff, to oppose the appeal of the Zoning By-law Amendment application at the Ontario Municipal Board. It also recommends that Council's decision on the application for Rental Housing Demolition and Conversion under Section 111 of the *City of Toronto Act* be deferred.



RECOMMENDATIONS

The City Planning Division recommends that:

- 1. City Council authorize the City Solicitor, together with City Planning staff and other staff as appropriate, to attend the Ontario Municipal Board hearing to oppose the Zoning By-law Amendment application in its current form for the property at 1677-1679 Bathurst Street and 73-75 Elderwood Drive.
- 2. The City Solicitor and appropriate staff be authorized to continue discussions with the applicant to address the issues outlined in this report and to report back to City Council on the outcome of discussions, if necessary.
- 3. Should the Ontario Municipal Board approve the application, in whole or in part, City Council direct the City Solicitor to advise the Board that the zoning by-law should not be approved without the provisions of such services, facilities or matters pursuant to Section 37 of the *Planning Act*, as may be considered appropriate by the Chief Planner in consultation with the applicant and the Ward Councillor.
- 4. City Council defer making a decision at this time on application No. 16 270465 STE 21 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the *City of Toronto Act, 2006* to demolish the 13 existing rental dwelling units at 1677 Bathurst Street, 1679 Bathurst Street and 73-75 Elderwood Drive and instruct staff to report on the Rental Housing Demolition and Conversion Application to Toronto and East York Community Council once an Ontario Municipal Board order has been issued regarding the Zoning By-law Amendment appeal for such lands at 1677 Bathurst Street, 1679 Bathurst Street and 73-75 Elderwood Drive.
- 5. In the event that the Ontario Municipal Board allows the appeal in whole or in part, City Council direct the City Solicitor to request the Ontario Municipal Board to withhold the issuance of any Order(s) on the Zoning By-law Amendment appeal for the subject lands until such time as the City Solicitor in consultation with the Chief Planner and Executive Director, City Planning and the owner have provided draft by-laws to the Board in a form and with content satisfactory to the Director, Community Planning, Toronto East York District and the City Solicitor, including securing replacement rental dwelling units and rents, tenant assistance and any other rental related matters at least in conformity with Section 3.2.1.6 of the Official Plan, and the owner has entered into and registered a Section 37 Agreement with the City incorporating such replacement rental dwelling units, rents, tenant assistance, any other rental related matters and other section 37 matters, all to the satisfaction of the City Solicitor.
- 6. In the event that the Ontario Municipal Board allows the appeal in whole or in part, City Council direct the City Solicitor to request the Ontario Municipal Board to withhold the issuance of any Order(s) on the Zoning By-law Amendment appeal for

the subject lands pending City Council approval of the application No. 16 270465 STE 21 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the *City of Toronto Act, 2006* to demolish the 13 existing rental dwelling units at 1677 Bathurst Street, 1679 Bathurst Street and 73-75 Elderwood Drive.

DECISION HISTORY

The application was appealed on June 1, 2017 to the Ontario Municipal Board for lack of Council decision. A hearing date has not been set.

ISSUE BACKGROUND

Proposal

The applicant proposes to construct a 4-storey apartment building with 45 dwelling units, a gross floor area of 4,693 square metres and a density of 2.2 times the lot area. The overall height proposed is 13.7 metres (16.6 metres to the top of the rooftop access). There are currently 13 rental units on the site which would be replaced on-site.

To service the development, the applicant proposes 41 parking spaces located in a two level underground garage, with 35 spaces for residents and the remaining 6 spaces for visitors. Access to the garage will be located on Elderwood Drive. There are 48 bicycle parking spaces proposed.

The applicant proposes 130 square metres of indoor amenity space on the ground floor, 71 square metres of indoor amenity space in a room located on the P1 level of the underground garage and 43 square metres of outdoor amenity space at grade.

The Rental Housing Demolition and Conversion application proposes to demolish the three existing rental apartment buildings at 1677 Bathurst Street, 1679 Bathurst Street and 73-75 Elderwood Drive containing 4, 5 and 4 rental dwelling units respectively, and to replace the 13 existing rental dwelling units on floors 1 and 2 of the proposed 4-storey building with units of a similar size and type and at rents similar to those at the time of application. According to the information provided by the applicant at the time of application, these 13 existing rental dwelling units have the following unit mix and rent classification:

- 1 bachelor rental dwelling unit with mid-range rents;
- 4 one-bedroom rental dwelling units with mid-range rents; and
- 8 two-bedroom rental dwelling units 6 with mid-range rents and 2 with high-end rents.

As the current rents include access to a parking space, the rent classifications will need to be confirmed to ensure they fall under the appropriate rent threshold. At the time of application, 12 of the 13 existing rental dwelling units were occupied by tenants.

Site and Surrounding Area

The subject site is located on the east side of Bathurst Street, approximately 600 metres south of Eglinton Avenue West. The site has an overall area of 2,136 square metres and frontages of 54.5 metres and 38.8 metres on Bathurst Street and Elderwood Drive, respectively. The site is currently occupied by three 2-storey walk-up apartment buildings.

Uses surrounding the site include:

- North: On the east side of Bathurst Street are two and 3-storey walk-up apartment buildings.
- South: Two and 3-storey walk up apartment buildings.
- East: Two-storey detached dwellings.
- West: On the west side of Bathurst Street are walk-up apartment buildings ranging from two to 6-storeys and two synagogues.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (2014) provides policy direction province wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- The efficient and wise use and management of land and infrastructure over the long term in order to minimize impacts on air, water and other resources;
- Protection of the natural and built environment;
- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;
- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit; and
- Encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character.

The City of Toronto uses the PPS to guide its Official Plan and to inform decisions on other planning and development matters. The PPS is issued under Section 3 of the Planning Act and all decisions of Council affecting land use planning matters "shall be consistent with" the Provincial Policy Statement.

The Growth Plan for the Greater Golden Horseshoe (2017) provides a strategic framework for managing growth in the Greater Golden Horseshoe region including:

- Setting minimum density targets within settlement areas and related policies directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, cultivate a culture of conservation and promote compact built form and better-designed communities with high quality built form and an attractive and vibrant public realm established through site design and urban design standards;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Building complete communities with a diverse range of housing options, public service facilities, recreation and green space that better connect transit to where people live and work;
- Retaining viable employment lands and encouraging municipalities to develop employment strategies to attract and retain jobs;
- Minimizing the negative impacts of climate change by undertaking stormwater management planning that assesses the impacts of extreme weather events and incorporates green infrastructure; and
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas.

Like other provincial plans, the Growth Plan for the Greater Golden Horseshoe (2017) builds upon the policy foundation provided by the Provincial Policy Statement (2014) and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. All decisions by Council affecting land use planning matters are required by the *Planning Act*, to conform, or not conflict, as the case may be, with the Growth Plan.

Official Plan

The Official Plan designates the site as *Neighbourhoods*, which are considered physically stable areas made of up 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 institutions, home occupations, cultural and recreational facilities and small–scale retail, service and office uses are also provided for in *Neighbourhoods*.

Section 4.1 of the Official Plan includes policies and development criteria to ensure physical changes to established neighbourhoods are sensitive, gradual and generally "fit" the existing physical character. A key objective for new development is to respect and reinforce the general physical patterns in a *Neighbourhood*.

Policy 4.1.5 in the Official Plan states: "Development in established *Neighbourhoods* will respect and reinforce the existing physical character of the neighbourhood, including in particular:

a) patterns of streets, blocks and lanes, parks and public building sites;

- b) size and configuration of lots;
- c) heights, massing, scale and dwelling type of nearby residential properties;
- d) prevailing building type(s);
- e) setbacks of buildings from the street or streets;
- f) prevailing patterns of rear and side yard setbacks and landscaped open space;
- g) continuation of special landscape or built-form features that contribute to the unique physical character of a neighbourhood; and
- h) conservation of heritage buildings, structures and landscapes."

Policy 4.1.7 states that where a more intense form of residential development than that permitted by existing zoning on a major street in a *Neighbourhood* is proposed, the application will be reviewed in accordance with Policy 5, having regard to both the form of development along the street and its relationship to adjacent development in the *Neighbourhood*.

Chapter Three of the Plan identifies that, for the most part, future development will be built on infill and redevelopment sites and will need to fit in, respecting and improving the character of the surrounding area. Section 3.1.2 outlines that new development will be located, organized and massed to fit harmoniously with the existing and/or planned context. Development will limit its impacts on neighbouring properties and the public realm by respecting street proportions, creating appropriate transitions in scale, providing for adequate light and privacy, limiting impacts of servicing and vehicular access on the property and neighbouring properties; and limiting shadow and wind impacts.

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 3.2.1.6 states that new development that would result in the loss of six or more rental housing units will not be approved unless all of rental housing units have rents that exceed mid-range rents at the time of application, or in cases where planning approvals other than site plan are sought, the following secured:

- at least the same number, size and type of rental housing units are replaced and maintained with similar rents to those in effect at the time the redevelopment application was made;
- 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 or a similar guideline as Council may approve from time to time; and

- An acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement rental units at similar rent, the provision of alternative accommodation at similar rents and other assistance to lessen the hardship of relocation.

Chapter 667 - Rental Demolition and Conversion By-Law

Section 111 of the *City of Toronto Act, 2006* authorizes Council to regulate the demolition and conversion of residential rental properties in the City. Chapter 667 of the City's Municipal Code, the Rental Housing Demolition and Conversion By-law, implements Section 111. Chapter 667 prohibits the demolition or conversion of rental housing units in buildings containing six or more dwelling units, of which at least one unit is rental, without obtaining a permit from the City and requires a decision by either City Council or, where delegated, the Chief Planner.

Pursuant to Chapter 667, Council may refuse an application, or approve the demolition and may impose conditions, including conditions that must be satisfied before a demolition permit is issued. These conditions further the intent of the City's Official Plan policies protecting rental and affordable housing. Pursuant to the City's demolition control by-law Chapter 363 of the Municipal Code, Council approval of the demolition of dwelling units under Section 33 of the *Planning Act* is also required where six or more dwelling units are proposed for demolition, before the Chief Building Official can issue a permit for demolition under the *Building Code Act*.

Where an application for rezoning triggers an application under Chapter 667 for rental demolition or conversion and an application under Chapter 363 for residential demolition control, City Council typically considers both applications at the same time. Unlike *Planning Act* applications, decisions made by City Council under Chapter 667 are not appealable to the OMB.

On December 23, 2016, the applicant made an application for a Rental Housing Demolition and Conversion permit pursuant to Chapter 667 of the City of Toronto Municipal Code. A Housing Issues Report has been submitted with the required application and is currently under review for consistency with the Official Plan. As per Chapter 667-14, a tenant consultation meeting is required to be held to review the impact of the proposal on tenants of the residential rental property and matters under Section 111.

The City of Toronto Official Plan is available on the City's website at <u>http://www.toronto.ca/planning/official_plan</u>

Official Plan Amendment 320

As part of the City's ongoing Official Plan Five Year Review, City Council adopted Official Plan Amendment No. 320 on December 10, 2015. OPA 320 strengthens and refines the Healthy Neighbourhoods, *Neighbourhoods* and *Apartment Neighbourhoods* policies to support Council's goals to protect and enhance existing neighbourhoods and to allow limited infill on underutilized apartment sites in *Apartment Neighbourhoods*.

The Minister of Municipal Affairs modified and approved OPA 320 on July 4, 2016. The Ministry received 57 appeals to OPA 320 and it has been appealed in its entirety. OPA No. 320 as approved and modified by the Minister is relevant but not determinative in terms of the Official Plan policy framework.

Design Guidelines for Townhouse and Low-Rise Apartments

The Urban Design Guidelines for Infill Townhouses (2003) assist in the implementation of Official Plan policies with a focus on preserving and enhancing streetscapes, respecting and reinforcing the prevailing physical character of the surrounding context and mitigating the impact of new development on adjacent and nearby properties and the public realm. The Guidelines provide an evaluation framework for site design and built form matters to achieve high quality urban design outcomes for low-rise, grade related residential units constructed in rows or blocks. The Guidelines can be viewed at: http://www1.toronto.ca/city_of_toronto/city_planning/urban_design/files/pdf/

A comprehensive update to the Infill Townhouse Guidelines is currently underway. Updated Townhouse and Low-Rise Apartment Guidelines (draft August 2016) further clarify and expand upon the 2003 Council-approved Infill Townhouse Guidelines to address current policy directions and best practices for a broader range of multi-dwelling developments up to four storeys in height.

The latest draft of the Townhouse and Low Rise Apartment Guidelines can be viewed online at: http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=f3064af89de0c410VgnVCM1

0000071d60f89RCRD.

Prior to presenting a finalized version of these Guidelines for City Council consideration and adoption, City staff are currently refining and consulting about the draft Guidelines, in part through their use during the review of development applications.

The Urban Design Guidelines for Infill Townhouses were considered together with the draft Townhouse and Low-Rise Apartment Guidelines in the evaluation of the application.

Zoning

The site is zoned $R(u_2; d_{1.0})(x946)$ in the City of Toronto Zoning By-law 569-2013, which permits low density residential uses including apartment buildings up to a density of 1.0 times the lot area, a maximum of two dwelling units and a maximum height of 10 metres.

The site is zoned R1S Z1.0 in the former City of Toronto Zoning By-law 438-86, which permits detached, semi-detached and semi-detached duplex dwellings up to a density of 1.0 times the lot area and a maximum height of 10 metres.

Reasons for Application

An Official Plan Amendment was submitted out of an abundance of caution in consideration to OPA 320.

A Zoning By-law amendment application was submitted because the proposed apartment building is within a residential zone with a maximum permitted density of 1.0 times the area of the lot and a height limit of 10 metres. The proposed density is 2.2 times the area of the lot and, the proposed height is 13.7 metres (16.6 metres including the rooftop access). The proposed density and height exceed the maximum permitted in both Zoning By-law 438-86 and 569-2013. Therefore a zoning by-law amendment is required. Through the review of the application, staff may identify additional areas of non-compliance with the zoning by-law.

COMMENTS

Provincial Policy Statement and Provincial Plans

Policy 4.7 of the PPS emphasizes that the Official Plan is the most important vehicle for implementing the PPS. Comprehensive, integrated, and long-term planning is best achieved through municipal official plans, which shall identify provincial interests, and set out appropriate land use designations and policies.

Policy 2.2.2.4(b) of the Growth Plan states that all municipalities will develop a strategy to achieve the minimum intensification target and *intensification* throughout *delineated built-up areas*, which will identify the appropriate type and scale of development and transition of built form to adjacent areas.

Staff are of the opinion that the proposed Zoning By-law Amendment application is not consistent with the Provincial Policy Statement (2014) and does not conform to (and does conflict with) the Growth Plan for the Greater Golden Horseshoe (2017), because the proposal does not meet the intent and purpose of the Official Plan; nor does the proposed development transition sufficiently to adjacent areas. Should the built form be modified, as discussed below, the proposal would be consistent with the PPS and would conform and not conflict with the Growth Plan.

Land Use

The site is designated *Neighbourhoods* in the Official Plan. Apartment buildings up to 4storeys in height are permitted within *Neighbourhoods*. This portion of Bathurst Street is characterized largely by walk up apartment buildings ranging in height between 2 and 3 storeys, with 5 and 7 storey apartment buildings on the west side of Bathurst Street which is designated *Apartment Neighbourhoods* in the Official Plan. Staff are of the opinion the proposed 4-storey apartment building would not be out of character with the area and is appropriate within the *Neighbourhoods* designation.

Built Form

The Built Form policies in Section 3.1.2 of the Official Plan require that new development create appropriate transitions in scale to neighbouring existing and planned

buildings. As part of the in force Healthy Neighbourhoods policies in Section 2.3.1 of the Official Plan, development in *Neighbourhoods* will provide a gradual transition of scale and density to adjacent *Neighbourhoods*.

Policy 3 in section 3.1.2 of the Official Plan requires that "new development will be massed and its exterior façade will be designed to fit harmoniously into its existing and/or planned context".

The Healthy Neighbourhoods policies of the Official Plan require that new buildings maintain light and privacy for residents in adjacent *Neighbourhoods*. The Built Form policies require that new development limit its impact on neighbouring properties by providing for adequate light and privacy.

The proposed building replaces three existing buildings. The existing buildings maintained rear setbacks ranging between 12 and 21 metres and setbacks between the buildings of 5 and 5.4 metres. The proposed building is set back 7.5 to 7.7 metres from the east (rear) property line and the proposed balconies project into that setback. The proposed building is both longer and wider than what currently exists.

The Townhouse and Low Rise Apartment Guidelines outline an angular plane for appropriate transition. The proposed building penetrates the rear angular plane at the 4th floor and roof levels. The proposed building would have a privacy impact on the adjacent dwellings located to the east. The lack of appropriate setback, the balcony protrusions into the setback and the penetration into the rear angular plane create unacceptable privacy and overlook impacts.

A portion of the proposed building has a setback of 1.79 to 2.58 metres on the south side. This portion of the building has windows and a balcony facing south. The proximity of the windows has privacy and overlook impacts on the neighbours to the south.

The combined effect of the increased length, width and height of the proposed building in a *Neighbourhoods* to *Neighbourhoods* context, results in a proposal that does not adequately address appropriate transition. Staff continue to have discussions with the applicant about modifications that would address these concerns.

Rental Housing Replacement

Policy 3.2.1.6 of the Official Plan applies to the proposed development of the site as it would result in the loss of at least six rental dwelling units with affordable and/or midrange rents and because City Council has not determined that the supply and availability of rental housing in the City has returned to a healthy state. Conditions of any official plan or zoning approval would include requiring the full replacement of all existing rental dwelling units at similar rents and the provision of an acceptable Tenant Relocation and Assistance Plan, all to the satisfaction of the Chief Planner. A permit under Section 111 of the *City of Toronto Act* and Chapter 667 of the Municipal Code is also required as the development proposal involves the demolition of at least 6 dwelling units of which at least one was used for residential rental purposes. The details of the applicant's replacement proposal and Tenant Relocation and Assistance Plan for the purposes of complying with section 3.2.1.6 of the Official Plan have not been finalized. Staff will continue to work with the applicant to resolve these outstanding matters to the satisfaction of the Chief Planner, to be secured in any by-law amendments and through one or more agreements with the City pursuant to Section 37 of the *Planning Act*, in the event that the Board were to allow the appeal in whole or in part. In addition, in the event that the Board were to allow the appeal in whole or in part no Board order should be issued until such time as the form of any implementing By-laws is satisfactory to the Chief Planner and the City Solicitor and until a section 37 Agreement with the City has been executed and registered to the satisfaction of the City, securing such matters.

CONCLUSION

The proposed land use is consistent and compatible with the *Neighbourhoods* designation and staff do not oppose the Official Plan Amendment application.

From a built form perspective, the proposal in its current form does not meet the Healthy Neighbourhoods or Built Form policies of the Official Plan. The proposed building, in its current form, does not provide appropriate transition to the adjacent dwellings, also located in the *Neighbourhoods* designation. Staff are recommending that the appeal of the Zoning Amendment application be opposed at the Ontario Municipal Board. As noted above, staff continue to have discussions with the applicant regarding modifications to the built form to address these issues.

Staff recommend that Council's decision on the application for Rental Housing Demolition under Chapter 667 of the Municipal Code pursuant to Section 111 of the *City of Toronto Act* be deferred until the Ontario Municipal Board has made a decision on the Zoning By-law Amendment appeal, following which the Rental Housing Demolition and Conversion permit application would return to Council for consideration.

CONTACT

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SIGNATURE

Gregg Lintern, MCIP, RPP Director, Community Planning Toronto and East York District

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ATTACHMENTS

Attachment 1: Site Plan/Subdivision Plan

- Attachment 2: Elevations
- Attachment 3: Zoning
- Attachment 4: Official Plan
- Attachment 5: Application Data Sheet



Attachment 1: Site Plan



Attachment 2: Elevations



File # 16 270455 STE 21 02

Not to Scale 04/07/2017



1677-1679 Bathurst Street & 73-75 Elderwood Drive

North Elevation Applicant's Submitted Drawing Not to Scale 0407/2017



File # 16 270455 STE 21 0Z

1677-1679 Bathurst Street & 73-75 Elderwood Drive

South Elevation Applicant's Submitted Drawing Not to Scale 0407/2017







Attachment 4: Official Plan



Application Type Details	Official Plan Amendme Rezoning OPA & Rezoning, Stand	Number:	(6 270455 STE 21 DZ December 23, 2016		
Municipal Address: Location Description: Project Description:	1677 BATHURST ST PLAN M347 LOT 24 P' A 4-storey apartment bu					
Applicant:	Agent:	Architect:	Owner:			
Bousfields Inc			Elderwood T	ownhomes II Inc		
PLANNING CONTROLS						
Official Plan Designation Zoning: Height Limit (m):		-		N N Y		
PROJECT INFORMATION						
Site Area (sq. m): Frontage (m): Depth (m): Total Ground Floor Area Total Residential GFA (s Total Non-Residential G Total GFA (sq. m): Lot Coverage Ratio (%): Floor Space Index:	sq. m): 4676 FA (sq. m): 0 4676	Met	reys: 4 tres: 12. king Spaces: ading Docks	98 Total 41 1		
DWELLING UNITS	FLOOR AI	FLOOR AREA BREAKDOWN (upon project completion)				
Rooms:0Bachelor:11 Bedroom:12 Bedroom:33 + Bedroom:0Total Units:4	Retail GFA O Office GFA Industrial G Institutional	(sq. m): FA (sq. m): /Other GFA (sq. m	Above Grade 4283 0 0 0 0 0): 0	Below Grade 393 0 0 0 0 0		
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