

**85-91 Broadway Avenue and 198 Redpath Avenue
– Rental Housing Demolition Application under
Municipal Code 667– Final Report**

Date:	December 12, 2017
To:	Toronto and East York Community Council
From:	Acting Director, Community Planning, Toronto and East York District
Wards:	Ward 22 – St. Paul's
Reference Number:	16 262583 STE 22 RH

SUMMARY

An application for Rental Housing Demolition and Conversion under Section 111 of the *City of Toronto Act* (Chapter 667 of the Municipal Code) has been filed for a residential rental property at 85-91 Broadway Avenue and 198 Redpath Avenue (16 262583 STE 22 RH). This application seeks approval to demolish 12 dwelling units (9 rental dwelling units and 3 owner occupied dwelling units) in 5 house form buildings and proposes to provide 11 rental dwelling units (9 replacement rental dwelling units and 2 new rental dwelling units) within a new residential building as part of the proposed redevelopment of the site.

This property is part of a related group of buildings at 85, 87, 89 and 91 Broadway Avenue and 198 Redpath Avenue that is subject to a Zoning By-law Amendment application (File No. 15 106950 STE 22 OZ) for the development of a 37-storey mixed-use building containing 351 dwelling units. The Zoning By-law Amendment application was the subject of a hearing at the Ontario Municipal Board, with a final Order pending until all



outstanding matters, including the necessary agreements with the City, are secured.

This report recommends approval of the Section 111 permit application under Chapter 667 of the Toronto Municipal Code and the demolition permit under Chapter 363 of the Toronto Municipal Code, subject to conditions.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the application for a Section 111 permit in accordance with Municipal Code Chapter 667 to allow the demolition of nine (9) existing rental dwelling units located at 85, 87, 89 and 91 Broadway Avenue and 198 Redpath Avenue subject to the following conditions:
 - a. The owner shall provide and maintain nine (9) replacement rental dwelling units and two (2) new rental dwelling units, comprised of two (2) bachelor units, two (2) one-bedroom units, six (6) two-bedroom units and one (1) three-bedroom unit, on the subject site for a period of at least twenty (20) years, as generally shown on the plans submitted to the City Planning Division dated November 2, 2017. Any revision to these plans must be to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - b. The owner shall provide at least two (2) bachelor and one (1) two-bedroom replacement rental dwelling units at affordable rents and five (5) two-bedroom and one (1) three-bedroom replacement rental dwelling units at mid-range rent for a period of at least ten (10) years. The owner shall also provide at least two (2) one-bedroom new rental dwelling units at unrestricted rents;
 - c. The owner shall provide ensuite laundry in all replacement rental dwelling units and new rental dwelling units;
 - d. The owner shall provide tenants of the replacement rental dwelling units and new rental dwelling units with access to all indoor and outdoor amenities and bicycle parking on the same terms and conditions as condominium residents;
 - e. The owner shall provide at least two (2) vehicle parking spaces for rent to tenants of the replacement rental dwelling units and new rental dwelling units;
 - f. The owner shall provide at least seven (7) of the replacement rental dwelling units with a balcony or terrace;

- g. The owner shall provide a Tenant Relocation and Assistance Plan to all eligible tenants, including the right to return to a replacement rental dwelling unit, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - h. The owner shall enter into and register on title one or more Agreement(s) to secure the conditions outlined in a, b, c, d, e, f and g above to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and
 - i. The owner shall enter into and register on title, 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 nine (9) replacement rental dwelling units and two (2) new rental dwelling units, without the written consent of the Chief Planner and Executive Director, City Planning Division or their designate, to assist with the securing of the Section 111 Agreement against future owners and encumbrances of the lands until such time as the City Solicitor determines that its registration on title is no longer required to secure the provisions of the Section 111 agreement.
2. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue the Preliminary Approval for the application under Municipal Code Chapter 667 for the demolition of the nine (9) existing rental dwelling units at 85, 87, 89 and 91 Broadway Avenue and 198 Redpath Avenue after all of the following have occurred:
- a. Satisfaction or securing of the conditions in Recommendation 1 above;
 - b. The Zoning By-law amendments which were the subject of a hearing at the Ontario Municipal Board have come into full force and effect;
 - c. The issuance of the Notice of Approval Conditions for site plan approval by the Chief Planner or their designate, pursuant to Section 114 of the *City of Toronto Act, 2006*;
 - d. The issuance of excavation and shoring permits for the approved structure on the site; and
 - e. The execution and registration of a Section 37 Agreement pursuant to the *Planning Act* securing Recommendation 1 a, b, c, d, e, f and g and any other requirements of the Zoning By-law Amendment.

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 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 issuance of the first building permit for excavation and shoring of the development, after the Chief Planner and Executive Director, City Planning Division has given 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 erects 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 above, 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. Council authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 111 Agreement.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

On April 14, 2015, Toronto and East York Community Council (TEYCC) adopted the Preliminary Report dated March 4, 2015 on the Rental Housing Demolition and Zoning By-law Amendment applications. The report can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2015/te/bgrd/backgroundfile-78020.pdf>

On April 10, 2017, the owner appealed the Zoning By-law Amendment to the Ontario Municipal Board (OMB) citing City Council's failure to make a decision within the prescribed time frames set out in the *Planning Act*.

On October 2, 2017, City Council adopted the Request for Direction Report dated August 17, 2017 to authorize the City Solicitor, together with appropriate staff to attend any OMB hearings in opposition to the appeal. City Council also directed City staff to continue discussions with the applicant on a revised proposal.

On November 23, 2017, the OMB issued a decision approving a 37-storey building containing 351 dwelling units (including 9 replacement rental dwelling units and 2 new rental dwelling units).

ISSUE BACKGROUND

Proposal

The OMB approved proposal is comprised of a 37-storey, 23,000 square metre, condominium building containing 351 residential units, of which 9 would be replacement rental dwelling units and 2 would be new rental units.

Common amenity space would consist of 718 square metres of indoor space and 669 square metres of outdoor amenity space.

The residential rental demolition application proposes to provide 9 replacement rental dwelling units with the same unit mix as the 9 existing rental dwelling units (2 bachelor units, 6 two-bedroom units, and 1 three-bedroom unit) and provide 2 new rental dwelling units within the new building. The replacement rental dwelling units would be secured at affordable and mid-range rents for 10 years.

Site and Surrounding Area

The subject site is located at the southwest corner of Broadway Avenue and Redpath Avenue. The site is a consolidation of properties comprised of two single-detached dwellings and three duplexes containing a total of 12 dwelling units as follows.

- 85 Broadway Avenue: Single-detached house containing 3 rental dwelling units;
- 87 Broadway Avenue: Single-detached house containing 2 rental dwelling units;
- 89 Broadway Avenue: Duplex containing 2 rental dwelling units;
- 91 Broadway Avenue: Duplex containing 3 dwelling units, 2 owner-occupied dwelling units and 1 rental dwelling unit; and
- 198 Redpath Avenue: Duplex containing 2 dwelling units, 1 owner-occupied dwelling unit and 1 rental dwelling units;

At the time of application, all 12 dwelling units were vacant.

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; and

- Residential development promoting a mix of housing types and affordability to meet projected requirements of current and future residents; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit;

The City of Toronto uses the PPS to guide its official plan and to inform decisions on other planning and development matters. Policy 4.7 states that the Official Plan is the most important vehicle for implementing the PPS. 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 PPS.

The Growth Plan for the Greater Golden Horseshoe (GGH) (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. It provides a framework for managing growth in the GGH 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. The application of the Growth Plan's policies is intended to support the achievement of complete communities.

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

- 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.

The Growth Plan also requires the City to prioritize planning and investment in infrastructure and public service facilities that will support intensification within delineated built-up areas, and is explicit in its policy direction that "applying the policies of this Plan will support the achievement of complete communities..."

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.

The Growth Plan directs municipalities to develop Official Plan policies and other supporting documents to guide intensification. City Council's planning decisions are required, by the *Planning Act*, to conform, or not conflict, as the case may be, with the Growth Plan for the Greater Golden Horseshoe.

Staff reviewed the proposed development for consistency with the PPS and for conformity with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

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, that the following be 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.

Rental Housing 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 residential 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 residential dwelling units under Section 33 of the Planning Act is also required where six or more residential 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 Ontario Municipal Board.

On December 9, 2016 the applicant made an application for a Section 111 permit pursuant to Chapter 667 of the City of Toronto Municipal Code.

Reasons for Application

An application to permit the demolition of the 9 existing rental dwelling units is required under Chapter 667 of the Toronto Municipal Code as the site contains at least 6 residential dwelling units of which at least one was used for residential rental purposes.

Tenant Consultation

The required Tenant Consultation meeting was not held as all existing rental dwelling units were vacant at the time of application.

COMMENTS

Rental Housing Units

The applicant proposes to replace the 9 existing rental dwelling units at 85, 87, 89 and 91 Broadway and 198 Redpath Avenue with 9 replacement rental dwelling with a similar unit mix of 2 bachelor units, 6 two-bedroom units and 1 three-bedroom unit. In addition, the applicant proposes to provide 2 new one-bedroom rental dwelling units.

Upon completion, the total gross floor area for the 11 rental dwelling units (9 replacement rental dwelling units and 2 new rental dwelling units) would be slightly greater than the total gross floor area for the 9 existing rental dwelling units. The average unit size for the bachelor and three-bedroom replacement rental dwelling units would be larger than that of the existing rental dwelling units. The average unit size of the two-bedroom replacement rental units would be slightly smaller.

All replacement rental dwelling units and new rental dwelling units would be provided with ensuite laundry facilities. Tenants of the replacement rental units and new rental dwelling would have access to bicycle parking and all indoor and outdoor amenities on the same terms and conditions as condominium residents. Tenants of the replacement rental dwelling units and new rental dwelling units would have access to at least 2 vehicle parking spaces available to serve the 11 rental units.

The Section 37 and Section 111 agreements would secure all details regarding minimum unit sizes and future tenants' access to all facilities and amenities.

Tenure and Rents for the New and Replacement Rental Dwelling Units

The applicant has agreed to provide and maintain the 9 replacement rental dwelling units and 2 new rental dwelling units within the proposed building for at least 20 years, beginning from the date that each replacement rental dwelling unit is first occupied and until the owner obtains approvals for a Zoning By-law Amendment removing the requirement for the replacement rental dwelling units to be maintained as rental units.

At the time of application, the existing building contained 3 affordable (2 bachelor units and 1 one-bedroom unit) and 6 mid-range rental units (5 two-bedroom units and 1 three-bedroom unit). The applicant has agreed to secure the rents for the 3 affordable and 9 mid-range replacement rental units for at least 10 years. The 2 new one-bedroom rental dwelling units will have unrestricted rents.

Tenant Relocation and Assistance Plan

Based on the information provided by the applicant, all 9 existing rental dwelling units were vacant at the time of application. Should an eligible tenant of the 9 existing rental dwelling units be identified prior to the registration of the agreement(s), the applicant would be required to provide such tenant with tenant assistance, all to the satisfaction of the Chief Planner.

Conclusion

Staff are recommending that Council approve the demolition of the 9 existing rental dwelling units located at 85, 87, 89 and 91 Broadway Avenue and 198 Redpath Avenue subject to the conditions set out in the recommendations in this report.

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SIGNATURE

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