

**7 Austin Terrace – Residential Rental Demolition
Application and City Initiated Official Plan Amendment –
Final Report**

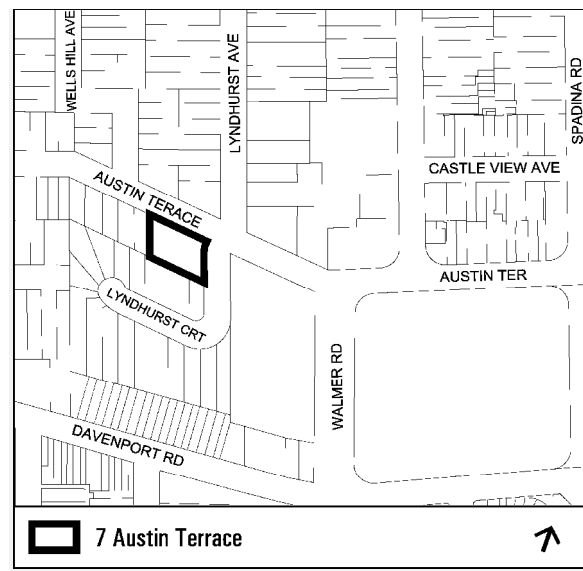
Date:	May 26, 2011
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 21 – St. Paul’s
Reference Number:	09-158104 STE 21 RH and 11-197693-000-00 OZ

SUMMARY

This Rental Housing Demolition application and City-initiated Official Plan Amendment are subject to the new provisions of the *Planning Act* and the *City of Toronto Act, 2006*.

At its meeting on May 17, 18 & 19, 2011, City Council accepted a settlement proposal related to an Ontario Municipal Board appeal for 7 Austin Terrace and directed City Planning staff to initiate an Official Plan Amendment for the property in order to permit the redevelopment of the site without the replacement of the 9 existing rental housing units and approve a permit under Municipal Code Chapter 667 (Section 111 of the *City of Toronto Act*) to demolish the 9 rental housing units on the site.

The applicant has proposed to demolish 9 existing rental housing units located within an existing heritage designated building. Under the settlement proposal, the heritage structure would be retained on the property, but altered to allow for the creation of three attached town house units with additions at the rear of the building. As well, an additional three dwellings are proposed to be built on the eastern portion of the site. The applicant has agreed to provide



\$250,000 to the City for deposit into the City's Capital Revolving Fund for Affordable Housing in lieu of replacing the existing rental units.

This report discusses and recommends approval of the City initiated amendment to the Official Plan and Rental Housing Demolition application.

RECOMMENDATIONS

In response to City Council's direction of May 17, 18 and 19, 2011, the City Planning Division recommends that:

1. City Council authorize an amendment to the Official Plan substantially in accordance with the draft Official Plan Amendment attached as Attachment No.1 to the report from the Director, Community Planning Toronto and East York District (dated May 26, 2011) headed, "7 Austin Terrace – Residential Rental Demolition Application and City Initiated Official Plan Amendment– Final Report".
2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment as may be required.
3. City Council approve the application to demolish the 9 rental housing units located at 7 Austin Terrace pursuant to Municipal Code Chapters 667 and 363, subject to the following condition under Chapter 667:
 - a. the owner make a cash payment to the City in the amount of \$250,000 in lieu of replacing the 9 rental housing units located on the property. This payment is to be directed to an affordable rental housing project at 200 Madison Avenue through the City's Capital Revolving Fund for Affordable Housing.
4. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue a preliminary approval to the application under Municipal Code Chapter 667 pursuant to Section 111 of the *City of Toronto Act* after the satisfaction of the following conditions:
 - a. that the Official Plan Amendment has come into full force and effect;
 - b. that the condition in Recommendation 3 of the report from the Director, Community Planning Toronto and East York District (dated May 26, 2011) headed, "7 Austin Terrace – Residential Rental Demolition Application and City Initiated Official Plan Amendment– Final Report" has been satisfied;

- c. that Site Plan Approval for the proposed development is issued pursuant to Section 114 of the *City of Toronto Act, 2006*; and
 - d. that an alteration permit has been issued pursuant to Section 33 of the *Ontario Heritage Act*
5. City Council authorize the Chief Building Official to issue a Section 111 permit under Municipal Code Chapter 667 after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval in Recommendation 4 of the report from the Director, Community Planning Toronto and East York District (dated May 26, 2011) headed, "7 Austin Terrace – Residential Rental Demolition Application and City Initiated Official Plan Amendment– Final Report ".
6. 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 the development, and after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval in Recommendation 4 of the report from the Director, Community Planning Toronto and East York District (dated May 26, 2011) headed, "7 Austin Terrace – Residential Rental Demolition Application and City Initiated Official Plan Amendment– Final Report ", which permit may be included in the demolition permit for Chapter 667 under 363-11.1E, of the Municipal Code.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

City Council

At its meeting on May 17, 18 & 19, 2011, City Council adopted recommendations from the City Solicitor to accept an offer to settle outstanding appeals before the Ontario Municipal Board. In order to ratify the offer, Council directed staff to initiate an amendment to the City's Official Plan housing policies to permit redevelopment of the property at 7 Austin Terrace without the replacement of the rental housing. City Council also directed staff to bring forward conditions of approval for the application to demolish rental housing. The recommendation and related report can be viewed through the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.CC8.2>

Residential Rental Demolition Application

On March 8 & 9, 2011, City Council refused a previous application to demolish rental housing at 7 Austin Terrace and approved with conditions an application for residential demolition. City Council's decision and the related staff report can be viewed through the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.TE4.3>

Heritage Demolition Application

Also on March 8 & 9, 2011, City Council refused a demolition permit for the heritage designated property that was applied for as part of the previous application. City Council's decision and the related staff report can be viewed through the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.TE4.4>

Ontario Municipal Board

The owner has appealed the City's refusal of the heritage demolition permit to the Ontario Municipal Board. As well, the owner appealed the related Minor Variance and Site Plan approval applications, which were based on the previous application. Council's decision on the rental demolition application is not appealable to the Board. A pre-hearing conference on the related appeals has been scheduled by the Ontario Municipal Board for June 27, 2010. Given City Council's May 17, 18 & 19, 2011 decision, the City Solicitor and staff have sufficient Council instruction to attend at the Ontario Municipal Board in support of the proposed settlement offer, subject to the satisfaction of several conditions.

ISSUE BACKGROUND

As noted above, at its May 17, 18 & 19, 2011 meeting, City Council directed staff to initiate planning approvals of the settlement proposal in order to reach a settlement with the owners regarding the Ontario Municipal Board appeals. This City-initiated Official Plan Amendment and Rental Housing Demolition permit recommendations are in response to City Council's direction.

Settlement Proposal

On May 4, 2011, the prospective purchaser of the property at 7 Austin Terrace submitted settlement plans following the various appeals on City decisions. The settlement proposal includes:

- the retention of the 7 Austin Terrace frontage, which was designated heritage by City Council;
- the introduction of three units within the designated portion of the building, with a 3-storey rear addition;
- the addition of a pair of semi-detached dwellings and a single family detached dwelling with frontage on Lyndhurst Court;
- underground parking to accommodate five of the six proposed units;
- no replacement of the existing nine rental units;
- \$250,000 cash contribution in lieu of replacement rental units; and

- \$50,000 cash contribution towards an area specific heritage conservation district study.

The City Solicitor reported to City Council to seek instructions based on the settlement offer submitted to the City.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

City Council's planning decisions are required by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The Official Plan provides for a full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods. The City has well-established practices set out for the protection of rental housing in the case of redevelopment. Applications to demolish six or more units, except where all rents are above mid-range, must replace the demolished rental units with the same number, size and type of rental housing units. The units must be maintained with similar rents as exist on the site.

Specifically, Official Plan Policy 3.2.1.6 states:

“New development that would have the effect of removing all or a part of a private building or related group of buildings, and would result in the loss of 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 cases where planning approvals other than site plan are sought, the following are secured:
 - i. at least the same number, size and type of rental housing units are replaced and maintained with rents similar to those in effect at the time the redevelopment application is made;

- ii. 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
 - iii. an acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement units at similar rents, the provision of alternative accommodation at similar rents, and other assistance to lessen hardship, or
- c. 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...”

COMMENTS

Official Plan Amendment

The Official Plan housing policies require the full replacement of the existing rental housing units for the subject property. The applicant has proposed to demolish the existing rental units on the site without replacement and provide cash-in-lieu of rental replacement. The settlement proposal does not conform to the Official Plan policies in this regard.

The City Council approved Section 37 Guidelines for replacement of private rental housing support the use of cash-in-lieu in very limited situations, primarily involving only a small number of units and when only partial replacement on a site is possible. In such cases payment to the City’s Capital Revolving Fund for Affordable Housing is made for some of the units not replaced on-site. Pursuant to the Guidelines, the amount of the cash-in-lieu is generally based on the subsidy cost to build the same rental unit types with similar rents.

The applicant has proposed to provide a cash payment of \$250,000 – equal to just less than \$28,000 per unit – in lieu of replacing the existing 9 rental units. This is considerably less than the full level of cash-in-lieu required of \$952,000, or approximately \$106,000 per unit. The cash-in-lieu calculation is broken down by unit type, which in this case is equal to \$74,000 for each of the 3 bachelor units, \$115,000 for each of the 5 1-bedroom units and \$155,000 for the 2-bedroom unit.

While the settlement proposal’s level of cash-in-lieu is not an acceptable amount, it is recognized that the uniqueness of the site due to its small size, proposed minimal increase in density and gross floor area and preservation of the designated heritage property make it difficult to replace the rental housing units on-site.

Community Consultation

A community meeting was hosted by Councillor Mihevc on May 17, 2011 to discuss the revised proposal to retain the existing heritage building and demolish and not replace the rental housing on the site. Approximately 40 neighbourhood residents attended the meeting and were generally in support of the new proposal.

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: Draft Official Plan Amendment

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Draft Official Plan Amendment**

Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~

Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

**To adopt an amendment to the Official Plan
for the City of Toronto
respecting the lands known municipally in the year 2010, as
7 Austin Terrace**

WHEREAS authority is given to Council under the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law;

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The attached Amendment No. 157 to the Official Plan is hereby adopted pursuant to the *Planning Act*, as amended.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

ROB FORD,
Mayor
Clerk

ULLI S. WATKISS,
City

(Corporate Seal)

AMENDMENT NO. 157 TO THE OFFICIAL PLAN
LANDS MUNICIPALLY KNOWN IN THE YEAR 2010 AS
7 AUSTIN TERRACE

The Official Plan of the City of Toronto is amended as follows:

1. Chapter 7, Site and Area Specific Policies, is amended by adding Site and Area Specific Policy No. 369 for lands known municipally in 2010 as 7 Austin Terrace, as follows:

“369 7 Austin Terrace

- a) The replacement of the nine (9) existing rental dwelling units is not required provided that cash-in-lieu of rental replacement is provided to the City.”

