

NOTICE OF MOTION

54-74 Berwick & 191-211 Duplex Avenue

Request for Approval of Residential Demolition Permit

Moved by: Councillor Matlow

SUMMARY:

At its meeting of July 6, 7 & 8, 2010 City Council authorized a zoning by-law amendment and conditions of approval for the demolition of rental housing for the lands municipally known as 54-74 Berwick Avenue and 191-211 Duplex Avenue (together the “Berwick/Duplex Properties”) (TE35.5). The City Council decision is attached as Appendix A to this motion.

On December 16, 2011, the owner of the lands, Andrin Cherrytree Limited, submitted an application to demolish the Berwick/Duplex Properties.

The owner has secured and/or achieved all conditions under Municipal Code Chapter 667 related to the demolition of residential rental housing. The owner applied for Site Plan Approval on February 4, 2011 and the application is currently under review.

The following recommendations would permit the owner to demolish the Berwick/Duplex Properties in advance of obtaining Site Plan Approval and the issuance of a foundation permit.

RECOMMENDATIONS:

1. That City Council approve the application to demolish the existing residential units at 54-74 Berwick Avenue and 191-211 Duplex Avenue pursuant to Municipal Code Chapter 363 under Section 33 of the Planning Act and amend the following conditions in the City Council decision made at its meeting of July 6, 7 & 8, 2010 with respect to the rezoning and rental demolition applications:
 - i. Replace Recommendation 5 with the following: “City Council require that before the issuance of any building permit, including foundation permit, the applicant shall apply for Site Plan Approval under Section 41(16) of the Planning Act and Section 114 of the City of Toronto Act”.
 - ii. Replace Recommendation 12 with the following: “City Council authorize the Chief Building Official to issue a demolition permit under Section 33 of the Planning Act after the Chief Planner and Executive Director, City Planning Division has given preliminary approval in Recommendation 10, which permit may be included in the demolition permit for Chapter 667 under 363.11E, of the Municipal Code, on condition that:

- i. prior to the issuance of a demolition permit, the owner provide to the City of a letter of credit satisfactory to the City Solicitor in the amount of Seven Hundred Twenty Thousand Dollars (\$720,000) to secure the provision and completion of the 12 replacement rental units in a timely manner. The letter of credit will be released upon the issuance of the foundation permit required for the development of the building containing the required rental replacement dwelling units, provided the foundation permit is issued within the one (1) year period specified in condition (iv);
- ii. the owner erect a residential building on site no later than three (3) years from the day demolition of the buildings is commenced;
- iii. should the owner fail to complete the new building within the time specified in condition (ii), 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) for each dwelling unit for which a demolition permit is issued, and that sum shall, until payment, be a lien or charge upon the land for which the demolition permit is issued;
- iv. should the owner fail to obtain the foundation permit for the construction of the below ground concrete structure required for the development of the building containing the 12 replacement rental units within one (1) year of the date the first demolition permit is issued for all or any portion of the site, the letter of credit may be cashed and the funds may be retained by the City and used toward the provision of affordable rental housing, at the sole discretion of the Chief Planner, in addition to any other remedy the City may have;
- v. that a construction fence be erected in accordance with the provisions of the Municipal Code, Chapter 363, Article III, if deemed appropriate by the Chief Building Official;
- vi. that all debris and rubble be removed immediately after demolition;
- vii. that sod be laid on the site and be maintained free of garbage and weeds, in accordance with the Municipal Code Chapter 623-5, and 629-10, paragraph B; and
- viii. that any holes on the property are backfilled with clean fill".

2. City Council request that the owner retain the services of a certified pest control specialist for the purposes of developing an adequate rodent control strategy for the dwellings at 54-74 Berwick Avenue & 191-211 Duplex Avenue and that this strategy is provided to the Chief Building Official. Significant measures under the strategy must be taken prior to the issuance of the demolition permit.

Attachment

Appendix A: City Council Decision, July 6, 7 & 8, 2010

January 10, 2012

Appendix: City Council Decision, July 6, 7 & 8, 2010

TE35.5	ACTION	Adopted on Consent	Ward:22
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Final Report - 54-74 Berwick Avenue and 191-211 Duplex Avenue - Rezoning and Rental Demolition Application

City Council Decision

City Council on July 6, 7 and 8, 2010, adopted the following:

1. City Council amend Zoning By-law 438-86 as amended by By-law 236-2009 for 54-74 Berwick Avenue and 191-211 Duplex Avenue, substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 13 to the report dated May 24, 2010, from the Director Community Planning, Toronto and East York District.
2. City Council amend Zoning By-law 236-2009 by replacing Map 1 (Zoning Map) to remove the holding symbol (“H”) from Block C, being the lands municipally known as 54-74 Berwick Avenue and 191-211 Duplex Avenue.
3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
4. Before introducing the necessary Bills to City Council for enactment, City Council require the owner of the lands at 54-74 Berwick Avenue and 191-211 Duplex Avenue (subject of this report) to enter into an agreement under Section 37 of the Planning Act, to be registered on title, to the satisfaction of the City Solicitor, to secure the following:
 - a. A payment of \$100,000.00 prior to the introduction of the necessary Bills to City Council. Such payment will be directed to the Planning Act Reserve Fund to be budgeted for the purchase, design and construction of a new park on the lands south of the TTC bus barns at Yonge Street and Eglinton Avenue West.
 - b. The provision and maintenance on the site of not less than 12 new replacement rental dwelling units, comprising six (6) one-bedroom units and six (6) two-bedroom units, all of which shall have mid-range rents, in accordance with more detailed terms as set forth in the draft by-law attached as Attachment 13.
 - c. A cash payment to the City in the amount of \$440,000 in lieu of replacing four (4) residential rental units contained on the subject properties, prior to the issuance by the Chief Planner of preliminary approval of the application under

Chapter 667. This payment is to be directed to the Capital Revolving Fund for Affordable Housing.

The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support the development:

- d. Incorporation in the construction of the building, exterior materials shown on 1:50 scale drawings, approved by the Chief Planner and Executive Director, submitted for the development's frontages along Duplex Avenue and Berwick Avenue.
- e. Submission of a wind tunnel analysis to the satisfaction of the Chief Planner and Executive Director and the provision of any required mitigation measures contained therein to the satisfaction of the Chief Planner and Executive Director prior to the issuance of site plan approval.
- f. Conveyance to the City, prior to registration of the condominium, at a nominal cost, a 6.0 metre wide strip of land to the full extent of the site abutting the east limit of the site. The lands to be conveyed must be free and clear of all encumbrances other than an easement for access purposes registered in favour of the owner which will expire at such time as the said lands have been laid out and dedicated for public highway purposes. Such easement shall not preclude the City from providing the owner with alternative access during the construction of the public road.
- g. A covenant by the owner that it will maintain the easement lands, accept liability for the easement lands and fully indemnify the City against all claims relating to the easement lands such that the City has no responsibility for the maintenance of and no liability in relation to the said lands until such time as a public road is opened at this location.
- h. Pay all costs, before introducing the necessary Bills to City Council for enactment, associated with and/or provide adequate securities to cover the subject owner's share of the construction costs of the future road, including applicable engineering review and inspection fees.
- i. Convey 290 square metres of land as noted on the accepted plans as parkland and submit the remaining parkland dedication requirement and stratified value adjustments in the form of a certified cheque prior to the issuance of the first above grade building permit.
- j. Maintain the parkland, noted in 4.i above, to the satisfaction of the General Manager of Parks, Forestry and Recreation until such time as the larger park, that is planned within the Yonge-Eglinton Focussed Review area, of which these parkland dedication lands shall form a part, has been constructed.
- k. Complete a Toronto Transit Commission ("TTC") Level 2 Technical Review of the proposed development, prior to starting any demolition or construction or the

issuance of the first or any building permit, as applicable to the particular permit under application, and obtain the TTC's written acknowledgement that the owner has satisfied all of the conditions arising out of the review. As part of the review process, the owner shall provide the requisite information, and pay the associated review fee to the TTC.

- l. Insert warning clauses regarding TTC operations in all offers to purchase, agreements of purchase and sale or agreements to lease, and condominium declaration document(s) for each affected residential or commercial unit, and/or block within the proposed development. Such warning clauses shall advise of the potential for noise, vibration, smoke, particulate matter, electromagnetic interference and stray current impacts on the proposed development, and that the TTC accepts no responsibility for such effects.
 - m. Prepare a Construction Management Plan and Neighbourhood Communication Strategy, prior to the issuance of the first building permit (including demolition and/or excavation permit), to the satisfaction of the Chief Planner and Executive Director of the City of Toronto Planning Division.
5. City Council require that before the issuance of any building permit, including foundation permit, the applicant shall enter into a Site Plan Agreement under Section 41(16) of the Planning Act and Section 114 of the City of Toronto Act.
 6. City Council require the owner to, as part of site plan approval, provide and maintain an irrigation system including an automatic timer for the proposed trees within the public road allowance to the satisfaction of the General Manager of Parks, Forestry and Recreation.
 7. City Council require that the owner provide any necessary improvements to the municipal infrastructure in connection with the site servicing review, if it is determined that upgrades are required to the infrastructure to support this development according to the site servicing review accepted by the Executive Director of Technical Services.
 8. City Council require that, before introducing the necessary Bills to City Council for enactment, the owner submit a site servicing review to the Executive Director of Technical Services for review and acceptance.
 9. City Council approve the application to demolish the 20 existing residential houses, containing 22 residential units of which 20 are residential rental housing units located at 54-74 Berwick Avenue and 191-211 Duplex Avenue pursuant to Municipal Code Chapters 667 and 363 subject to the following conditions under Chapter 667 which provide for the replacement of rental housing:
 - a. The owner shall provide and maintain twelve (12) residential rental units on the subject site for a period of at least 20 years, comprising six (6) one-bedroom units and six (6) two-bedroom units, all of which shall have mid-range rents.
 - b. The owner of the property to make a cash payment to the City in the amount of

\$440,000 in lieu of replacing four (4) residential rental units contained on the subject properties, prior to the issuance by the Chief Planner of preliminary approval of the application under Chapter 667. This payment is to be directed to the Capital Revolving Fund for Affordable Housing.

- c. The owner shall enter into and register one or more Section 111 Agreements to secure the conditions outlined in (a) above and as described in the draft Zoning By-law Amendment as any requirements may relate to rental replacement and protection (refer to Attachment 13: Draft Zoning By-law Amendment) to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division.
 - d. The owner shall enter into and register, a Section 118 Restriction under the Land Titles Act (to the satisfaction of the City Solicitor) agreeing not to transfer or charge those parts of the lands, comprising the 12 replacement rental units, without the written consent of the Chief Planner and Executive Director, City Planning Division or his designate, to assist with securing the Section 111 Agreement against future owners and encumbrances of the lands to be released only upon the owner obtaining the necessary approvals including the zoning by-law amendment.
10. 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 after the satisfaction of the conditions in Recommendation 9, and after the Zoning By-law amendments referred to in Recommendations 1 and 2 have come into full force and effect.
 11. 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 10.
 12. City Council authorize the Chief Building Official to issue a permit under Section 33 of the Planning Act no earlier than issuance of the first building permit for the foundation of the development, and after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval in Recommendation 10, which permit may be included in the demolition permit for Chapter 667 under 363-11.1E, of the Municipal Code, on condition that:
 - a. The Owner erect a residential building on site no later than three (3) years from the day demolition of the buildings is commenced.
 - b. Should the Owner fail to complete the new building within the time specified in condition a., the City Clerk shall be entitled to enter on the collector's roll, to be collected in a like manner as municipal taxes, the sum of twenty thousand dollars (\$20,000) 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.

13. Authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 37 and Section 111 Agreements.