Date: April 15, 2014
To: Toronto and East York Community Council
From: Director, Community Planning, Toronto and East York District
Wards: Ward 19 – Trinity-Spadina
Reference Number: 13 257954 STE 19 RH

SUMMARY

The applicant has submitted an application for a Section 111 permit to demolish 4 residential rental units, comprised of 1 four-bedroom and 3 one-bedroom units, in a 525 unit rental apartment building at 798 and 800 Richmond Street West under Chapter 667 of the Toronto Municipal Code, pursuant to Section 111 of the City of Toronto Act and to replace them with 6 bachelor units, 2 one-bedroom units and 1 two-bedroom unit.

The applicant has also applied to legalize the previous demolition of 22 bachelor rental units that were replaced with 11 one-bedroom rental units by the former owners of the property during the period between 2007 and 2009.

When there are more than six residential units and any one of them is rental, the demolition of residential rental housing is prohibited under Chapter 667 of the Toronto Municipal Code unless a Section 111 permit has been issued.

This report recommends the issuance of a Section 111 permit for the demolition of 1 four-bedroom rental unit to be replaced by
two rental units, comprising 1 one-bedroom unit and 1 two-bedroom unit, subject to conditions. It also recommends the issuance of a Section 111 permit for the previous demolition of 22 former bachelor rental units that were replaced by 11 one-bedroom rental units. The report recommends refusal of the application for a Section 111 permit to demolish 3 one-bedroom rental units and to replace them with 6 bachelor rental units.

**RECOMMENDATIONS**

The City Planning Division recommends that:

1. City Council approve the application for a Section 111 permit to demolish one four-bedroom residential rental unit, Unit 111, at 800 Richmond Street West pursuant to Municipal Code Chapter 667, subject to the following conditions:
   
a. the owner shall provide and maintain one (1) one-bedroom replacement rental unit and one (1) two-bedroom replacement rental unit at 800 Richmond Street West, and the plans for replacement of the rental units shall be to the satisfaction of the Chief Planner and Executive Director, City Planning, with rents that shall be no higher than mid-range rents for a period of at least ten years from the date of first occupancy of the new units;

   b. the owner shall upgrade the laundry facilities within two years of the date of this approval by providing at least 16 new washing and drying machines, with the final number of machines and the plans for the improvements to be to the satisfaction of the Chief Planner and Executive Director, City Planning, and which will be located on the ground floor of 800 Richmond Street West for the use and enjoyment of residents in the existing rental building;

   c. the owner shall provide a Construction Mitigation and Tenant Communication Plan to the satisfaction of the Chief Planner and Executive Director, City Planning to deal with the construction disruption relating to the changes listed in (a) and (b) respectively;

   d. the owner shall enter into and register one or more Section 111 Agreement(s) to secure the conditions outlined in (a) and (b) above to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning; and

   e. 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 subject to the Section 111 Agreement, without the written consent of the Chief Planner and Executive Director, City Planning or their designate to assist with securing 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 approve the application for a Section 111 permit pursuant to Chapter 667 of the Municipal Code for the previous demolition of twenty-two (22) bachelor rental units (Units 121, 123, 125, 127, 128, 130, 225, 227, 244, 246, 331, 333, 425, 427, 469, 471, 473, 475, 541, 543, 625, and 627) at 798 and 800 Richmond Street West and their replacement with 11 one-bedroom rental apartments (Units 121, 125, 128, 227, 244, 331, 427, 471, 475, 543, and 627), the work for which was completed between 2007 and 2009, subject to the following conditions:

a. that these 11 units will be maintained as one-bedroom rental units; and

b. the owner shall enter into and register one or more Section 111 Agreement(s) to secure the conditions outlined in (a) above to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning; and

c. 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 subject to the Section 111 Agreement, without the written consent of the Chief Planner and Executive Director, City Planning or their designate to assist with securing 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.

3. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue the Section 111 permit to the applications for demolition for the rental units in Recommendation # 1 and 2 under Municipal Code Chapter 667 after the following has occurred;

a) A Construction Mitigation and Tenant Communication Plan has been submitted and approved to the satisfaction of the Chief Planner and Executive Director, City Planning;

b) The Section 111 Agreement(s) and a Section 118 Restriction, pursuant to the Land Titles Act required in recommendations 1 and 2 above have been entered into and registered on title;

c) The applicant has submitted the plans for the 2 replacement rental units in Recommendation 1 a) and the plans for the laundry facility improvements in Recommendation 1 b) and received the approval of the Chief Planner; After receiving the Chief Planner's approvals for the plans as required in 3 c), the applicant has submitted all the required building permit applications based on the approved plans for the approved alterations to the laundry facilities and the two replacement rental units.
4. City Council refuse the application for a Section 111 permit to demolish the 3 one-bedroom units (# 523, 535, and 635), and to replace them with 6 bachelor rental units.

**Financial Impact**
The recommendations in this report have no financial impact.

**DECISION HISTORY**
On May 31, 2013, the owner applied for a Building Permit (Building Permit Application No: 13 178866 BLD 00 BA) for interior alterations and renovations to eleven one-bedroom rental units (Units 121, 125, 128, 227, 244, 331, 427, 471, 475, 543, and 627) at 798 and 800 Richmond Street West. Toronto Building was unable to issue permits for the proposed work as these units had been illegally created from 22 previous bachelor units which had undergone interior demolition sometime during the period between 2007 and 2009, when the rental building was under previous ownership. Toronto Building now requires a Section 111 permit under Chapter 667 to legalize the previous demolition and replacement rental units that were created, prior to issuing interior alteration permits for the proposed alterations and renovations. The proposed renovations will not change the number or type of these 11 rental units.

On October 29, 2013, a rental housing demolition application was submitted under Chapter 667 to demolish a total of 26 residential rental units, including the 22 previously demolished units. In addition to dealing with the previous demolition of the 22 bachelor units, the application proposed to demolish a vacant four bedroom unit at 800 Richmond Street West (Unit 111) to create a one-bedroom unit and a two-bedroom unit; and to demolish three one-bedroom units at 798 Richmond Street West (Units 523, 535, 635) to create six bachelor units. Chapter 667 applies to all of these demolitions as the previous demolitions were undertaken without a Section 111 permit after the enactment of the by-law which established Chapter 667 in July 2007. Since more than 6 rental units are affected by the application, this report is required to be considered by City Council for a decision on approving, or refusing the Section 111 permit applications.

As a related application, the owner has also applied for a building permit for alterations to convert a non-residential building storage space in the building to a single residential rental unit. This conversion of non-residential space that was not supportive of the existing rental units to residential rental use is not subject to Chapter 667.

**ISSUE BACKGROUND**

**Proposal**
This application for a Section 111 permit proposes to demolish 4 residential rental units in order to construct 9 replacement rental units, comprising 6 bachelor units, 2 one-bedroom units and 1 two-bedroom unit.

The applicant has also applied to legalize the previous demolition of 22 bachelor rental units and to regularize the 11 one-bedroom replacement rental units that were created.
sometime during the period between 2007 and 2009, which work was undertaken by previous owners of the property.

**Site and Surrounding Area**
The subject site is located 1 block south of Queen Street West and is comprised of 525 residential rental units in an apartment building known municipally as 798 and 800 Richmond Street West. The site is bounded by Niagara Street to the east, Richmond Street West to the south, Walnut Avenue to the west and the South Queen West Niagara Laneway to the north.

This is a predominately 6-storey building, with a portion of the building reaching 7 storeys. The existing apartment building has a unit mix of 357 bachelor units, 134 one-bedroom units, 28 two-bedroom units, 3 three-bedroom units, 1 four-bedroom unit and 12 three-bedroom townhouse units. The units range in size as follows:

- Bachelor 236 square feet
- One-bedroom 472-557 square feet
- Two-bedroom 650 square feet
- Three-bedroom 970 square feet
- Four-bedroom 1,050 square feet
- Three-bedroom Townhouses 1,150 square feet

Facilities include a shared laundry room with 12 washers and 12 dryers, 30 lockers for apartment units, parking, and amenity rooms in the basement including a media room and gym facilities. Of the 525 units in the building 149 were deemed to have affordable rents, 360 have mid-range rents and 26 have high end rents.

Surrounding the site are:

North: A parking lot, beyond which is a three-storey mixed-use building fronting onto Queen Street West.

East: Niagara Street, beyond which is a low-rise residential neighbourhood.

South: Richmond Street West, beyond which is a two-storey commercial building.

West: Two-storey townhouse buildings.

**Provincial Policy Statement and Provincial Plans**
Section 2 of the *Planning Act* lists the provision of affordable housing as a matter of provincial interest that municipalities shall have regard for when making planning decisions.

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 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 to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

**Official Plan**
The Official Plan contains policies addressing the need to provide and maintain the City’s supply of rental and affordable housing. 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 as well as housing that makes more efficient use of the existing building stock.

Section 3.2.1.2 provides that the existing stock of housing will be maintained and replenished. Applicants proposing to demolish six or more residential rental units, except where all of the rents are above the mid-range rent category, are required by policy 3.2.1.6 to replace the rental units with the same number, size and type of rental housing units and maintain them with rents similar to the rents of existing units on the site.

**Rental Housing Demolition and Conversion By-law**
The Rental Housing Demolition and Conversion By-law (885-2007) established Chapter 667 of the Municipal Code and implements the City’s Official Plan policies protecting rental housing. The By-law prohibits demolition or conversion of rental housing units without obtaining a permit from the City issued under Section 111 of the City of Toronto Act. Proposals involving six or more residential units, where at least one of the units proposed for demolition or conversion is a rental housing unit, require an application for a Section 111 permit.

Under Chapter 667 demolition is defined as "the demolition of all or part of a building and includes interior renovations or alterations that will result in a change to the number of:

A. Dwelling units
B. Dwelling units by bedroom type"

Council may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued. Unlike Planning Act applications, decisions made by City Council under By-law 885-2007 are not appealable to the OMB.
Reasons for the Application
A Rental Housing Demolition and Conversion Application under Section 111 of the City of Toronto Act (Chapter 667 of the Municipal Code) is required for the permit for the proposed demolition of existing rental units and to legalize the previous work that demolished rental units and replaced them with a different number and type of units.

Tenant Consultation
A Tenant Consultation meeting was held under Chapter 667 on April 7, 2014. Approximately a dozen tenants attended and several more contacted Planning staff to discuss the implications to their residencies in the building. Tenants’ concerns included noise, vibration, general disruption and timing of construction hours, including but not limited to; the disruption to the laundry facilities during reconstruction, the notice given for current activities in the building, construction starting before 8 am, the notice on the nature of work to be done on any given day. Many of the attending tenants attested to working from home, or being on shift work that required sleeping during parts of the day.

Tenants expressed concern that the laundry room upgrades, which were greatly supported as they felt that the building was underserved and that many tenants currently use outside Laundromats at this time, would be delayed or would not be undertaken in a timely manner. They expressed a desire to have the construction schedule posted or available to them to be able to better plan their daily activities in the building during the construction period.

Agency Circulation
The application was circulated to all appropriate agencies at the City of Toronto.

COMMENTS

Provincial Policy Statement
As this rental building is currently functioning as a multiunit residential rental building that has a variety of types of units with a wide range of rents, the retention and renewal of this rental building is consistent with the PPS.

The proposal is consistent with the Provincial Policy Statement 2014 and conforms to and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Rental Housing Demolition and Replacement
Rental housing stock is a valued part of the City of Toronto’s provision of housing by type, tenure and affordability throughout the City of Toronto. Retention and maintenance of purpose-built buildings is particularly important to the rental options in the City, and in the local area, and this building supports units from bachelors to three-bedrooms and from affordable to high-end rents. The protection and renewal of this stock is important as a policy consideration in the evaluation of this proposal.
Condition of existing building

The building was constructed in the 1970s and contained a total of 545 units at that time, and shortly after construction, the required amenity space on the ground floor of the 800 Richmond St W building was converted to 5 residential rental units, bringing it to a total of 550 units. The building also formerly had storage rooms, communal kitchens and laundry rooms, typical of buildings with very small units. Much of these common area spaces were also converted to residential rental units in the 1970s. Between 2003 and 2007, 36 bachelor units were converted with building permits to 18 one-bedroom units, and between 2007 and 2009 a further 22 bachelor units were demolished and consolidated into one-bedroom units without building permits. The laundry room at its current state is small for a building of this size. The bachelor units are very small and storage spaces have been eliminated through the years, with space serving 30 units remaining. The building’s security (fob) system has been recently upgraded. The current building has a gym and media room that were recently renovated and located in the basement, both of which appear to be well used. Overall, by today’s standards, the amount of laundry, storage and amenity spaces would be considered inadequate for a building with 525 apartments.

Discussion of Proposed Changes

The removal of four units and replacement with different unit types by bedroom would normally be a matter of delegated approval by the Chief Planner. If approved, they would be subject to the usual conditions, such as relocation assistance to tenants of affected units, and conditions affecting the rents for the replacement units.

In this case, the application also involves the previous removal by interior demolition of 22 bachelor units, raising the total number of affected rental units to 26. What follows is a discussion of the three groups of rental units proposed for demolition:

   a) The proposed demolition of one (1) four-bedroom rental unit, formerly occupied by a building superintendent (#111) and its replacement with 2 rental units: a one-bedroom and two-bedroom unit. The current unit is large and poorly laid out, having possibly had been created by combining four bachelor units in the past. While family units are desirable downtown, there are currently both three-bedroom apartments and three-bedroom townhouses in this complex and the existing four-bedroom unit is of an awkward layout. Staff accept the proposal to create two good quality units, a one-bedroom and a two-bedroom, as a reasonable use of the space rather than a sub-standard three bedroom unit. As one of the units occupied by a former superintendent in the building, this unit is currently vacant and no tenants would be affected.

   b) The proposed demolition of three (3) one-bedroom units for the creation of six (6) bachelor units. This 525-unit building is already predominately comprised of small units, with bachelor units in the majority (357 bachelor units, 134 one-bedroom units, 28 two-bedroom units, 3 three-bedroom units and 12 three-bedroom townhouse units). Many of the previous alterations over time have been to consolidate a number of bachelor units to create one-bedroom units, as the
bachelor units are very small. The one-bedroom units are of a functional size to support an individual or a couple and are supportive of a larger demographic than can be served by small bachelor apartments. At this time, given the large number of existing bachelors in the building, staff cannot support the eviction of current tenants for the creation of a product that does not increase the mix of unit types in the building in a measurable way.

c) The proposed regularization of the 11 units that were illegally converted from 22 bachelor units demolished in the period between 2007 and 2009: As Chapter 667 of the Municipal Code was in force and effect at the time of the prior demolition, it is an offence under the Code to demolish residential rental units without a Section 111 permit. Staff determined that the units were illegally demolished and considered requiring that they be returned to their original state of 22 bachelor apartments. It was also an option to consider prosecution for the offense under Chapter 667. Staff concluded that prosecution would be inappropriate in these circumstances, and are not recommending returning the 11 units to the original 22 units for the reasons noted in b), as the building's unit mix is diversified by providing more one-bedroom units, and returning them to bachelors would require the relocation or eviction of sitting tenants. Staff recommend accepting the current configuration of units and by regularizing their status as this will facilitate property maintenance, insurance, financing and building inspections.

It is customary as a condition of approval in minor intensifications of rental properties to secure minor improvements to buildings to increase their vibrancy and replenishment. Due to the nature of the incremental changes to the building's unit mix by previous owners and the loss of both amenity spaces and rental supportive facilities, such as communal kitchens, storage lockers and laundry rooms, the applicant and staff have agreed to conditions of approval that include improving the laundry facilities available at the building, which will help improve the building's overall viability.

It is customary with tenanted residential buildings to request a Construction Mitigation and Tenant Communication Plan to keep tenants informed during the construction period and to help them manage to make alternate arrangements on days when dust, noise, vibration and service interruptions will occur and help them retain reasonable enjoyment of their premises throughout the process.

**Conclusion**

Through discussions with the current owner, staff have come to support the minor intensification of this rental building by recommending approval of the demolition of a four bedroom apartment to be replaced by one (1) one-bedroom and one (1) two-bedroom rental units, to be maintained at mid-range rents, but refusing the demolition of the 3 one-bedroom apartments to create six (6) bachelor units. Staff also recommend the regularization of the former owner's illegal demolition of twenty-two (22) bachelor units and their replacement with eleven (11) larger, brighter one-bedroom units. Conditions also include the provision of a satisfactory Construction Mitigation and Tenant
Communication Plan, and upgraded laundry facilities to provide for the maintenance and replenishment of the existing rental housing stock through reinvestment.

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**SIGNATURE**

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