



## STAFF REPORT ACTION REQUIRED

### 387- 403 Bloor Street East and 28 Selby Street – Residential Rental Demolition Application Under Municipal Code Chapter 667 – Final Report

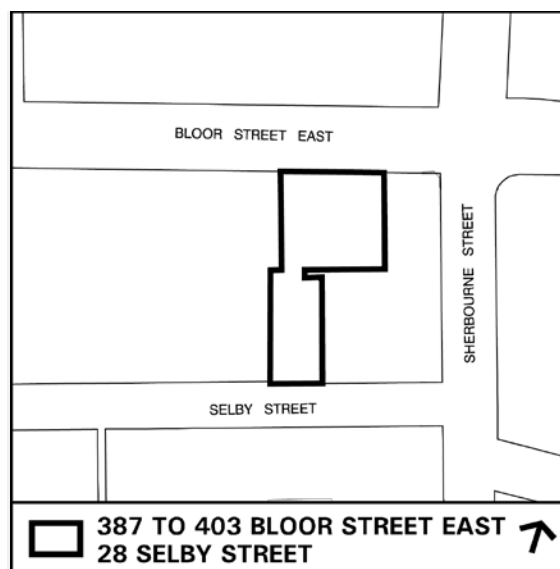
<b>Date:</b>	August 11, 2015
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 27 – Toronto Centre-Rosedale
<b>Reference Number:</b>	13 157626 STE 27 RH (12 290796 STE 27 OZ)

#### SUMMARY

This application for a Section 111 permit proposes to demolish 14 existing dwelling units at 387-403 Bloor Street East, which contain 3 residential rental units constituting a residential rental property under the City's Rental Property Demolition and Conversion Control By-law. The Applicants have reached a settlement with the City at the Ontario Municipal Board to construct a new 52-storey mixed-use commercial-residential building containing 487 residential units, 187 hotel suites and retail space.

This report's recommendations are in regard to the rental demolition application on the subject site under Municipal Code Chapter 667, pursuant to the *City of Toronto Act*. The related Zoning application for the proposed redevelopment was appealed to the Ontario Municipal Board on December 9, 2014.

At the Council meeting of July 7, 8, and 9 2015, Council gave Staff direction to settle the appeals with the applicant provided that the owner enter: into and register an agreement under Section 37 of the *Planning Act*; submit a Functional Servicing Report to



the satisfaction of the Executive Director of Engineering and Construction Services; provide acceptable and legal documentation regarding the nature of the private right-of-way along the easterly property limits from Selby Street that demonstrates that access rights have been granted to the site over this private right-of-way; satisfy the technical requirements of the TTC; and submit a final form of the Zoning By-law amendment to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.

The Board has withheld its final order regarding the rezoning application pending confirmation from the City that, among other matters, the owner provide for tenant relocation and assistance. This report provides the results of the negotiations on the rental housing matters, and makes recommendations to approve a Section 111 permit under Chapter 667 and Chapter 363 for the demolition of the 3 existing rental units subject to conditions. This report recommends entering into an agreement to secure these conditions.

The recommendations of this report fulfill these requirements.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. City Council approve the application to demolish the 3 existing residential rental units located at 403 Bloor Street East pursuant to Municipal Code Chapters 667 and 363 subject to the following conditions under Chapter 667 which provide for the tenant relocation and assistance for all tenants affected by the proposed development:
  - a. the owner shall provide tenant relocation assistance for the residential tenants of the residential rental property to the satisfaction of the Chief Planner and Executive Director, City Planning Division, as set out in Appendix 1 of the report (August 11, 2015) from the Director, Community Planning, Toronto and East York District; and
  - b. the owner shall enter into and register one or more Agreements with the City to secure the conditions outlined in part 1.a. above to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division.
2. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue the Preliminary Approval of the application under Municipal Code Chapter 667 for the demolition of the 3 residential rental units after all of the following have occurred:

- a. satisfaction or securing of the conditions in Recommendation 1;
  - b. the Zoning By-law Amendments approved by 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 her designate, pursuant to Section 114 of the *City of Toronto Act*, 2006; and
  - d. the issuance of excavation and shoring permits for the approved structures on the site.
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 the preliminary approval referred to in Recommendation 2 for the existing residential rental units.
4. City Council authorize the Chief Building Official to issue a demolition permit under Section 33 of the Planning Act for the existing residential units no earlier than issuance of the first building permit for excavation and shoring of the development, and after the Chief Planner and Executive Director, City Planning Division has given the 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 erect 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), 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. City Council authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Agreement(s) to secure conditions for tenant relocation and assistance.

## **Financial Impact**

The recommendations in this report have no financial impact.

## DECISION HISTORY

A zoning by-law amendment application was submitted on December 2, 2012, requesting permission for a 49-storey building that included an 8-storey base that stepped down to 2-storeys at Bloor Street East and a 12-storey building fronting Selby Street with a height of 41 metres. The application proposed 44,455 square metres of residential gross floor area and 1,395 square metres of commercial gross floor area with a total floor space index of 20.1. The application also proposed to demolish the existing residential and commercial buildings on the site, which contain 14 existing dwelling units at 387-403 Bloor Street East, including 3 residential rental units.

On May 2, 2013, a Rental Housing Demolition and Conversion application was submitted under Chapter 667 of the Municipal Code and Section 111 of the City of Toronto Act. This application was reviewed concurrently with the related Planning application for a Zoning By-law amendment.

The applicant appealed the Zoning By-law amendment application to the Ontario Municipal Board (OMB) on December 9, 2014, due to Council's failure to make a decision with respect to the applications within the time prescribed by the *Planning Act*. An OMB prehearing took place on April 2, 2015, and a Revised Proposal was submitted to the City on April 15, 2015.

On July 7, 8 and 9, 2015, City Council considered a confidential attachment to a report on the Zoning By-law amendment application. City Council gave direction to staff to settle the matters substantially in accordance with the recommendations contained in the report.

On July 16<sup>th</sup> 2015, the Board issued an oral decision and approved the draft zoning by-law amendment as described in the Staff Report dated July 3, 2015 (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC8.10>). The OMB has withheld its final Order with regard to the Zoning By-law amendment application pending confirmation from the City that the following matters have been resolved to the satisfaction of the City:

- a. A finalized form of the Zoning By-law Amendment;
- b., An executed Section 37 agreement;
- c. Submission of a Functional Servicing Report and legal documentation and/or registered instruments for private rights-of-way; and
- d. Satisfaction of technical requirements of the TTC,

With respect to the rental demolition matters, Council's requirements for settlement of the appeal of the redevelopment included securing tenant relocation and assistance for the tenants of this rental property.

This property has not been the subject of a previous application for demolition or conversion of any rental units during the previous five year period.

## ISSUE BACKGROUND

### Proposal

This application for a Section 111 permit proposes to demolish three existing residential rental units on a residential rental property containing a total of 14 residential dwelling units. The existing rental units are located at 403 Bloor Street East and consist of 1 two-bedroom and 2 one-bedroom units at affordable rents. The rental property also contains 8 rented condominium units at high-end rents and 3 owner-occupied condominium units.

The Applicant has settled with the City to construct a new 52-storey and a 10-storey mixed-use commercial/residential building containing 487 residential units, 188 hotel suites and retail uses on the first two floors of the taller tower. This permit and final report satisfy a condition of approval from the OMB decision.

### Site and Surrounding Area

The properties at 395 to 403 Bloor Street contain low-rise commercial buildings. The property at 387 Bloor Street East contains a 6-storey residential condominium building with 11 residential condominium units and commercial space at grade. The property located at 403 Bloor Street East is listed on the City's Heritage Register and contains 3 residential rental units. The property at 28 Selby Street is a surface parking lot. The north portion of the property is crossed by the TTC Bloor Danforth subway tunnel. The overall development site is irregular in shape, with frontage on both Bloor Street East and Selby Street, and has a total site area of 2,280 square metres.

#### Surrounding Uses:

South: Selby Street is south of the site. Directly across on Selby Street is the Clarion Hotel & Selby Suites property located at the southwest corner of Sherbourne Street and Selby Street, one block south of Bloor Street East. A development application has been approved to permit a 50-storey (165 metre) tall residential tower including a 3-storey base with grade-related units along Selby Street.

Also south of the site is the James Cooper Heritage Mansion, which is a 32-storey residential tower building.

Directly southwest of the site is an area designated *Neighbourhoods* in the Official Plan with low-rise 2 to 3-storey house-form dwellings. Some of the dwellings have been converted to bed and breakfast uses. Further west on Jarvis Street are existing and recently approved residential towers ranging from 27 to 49-storeys in height. Southeast of the site is an existing 10-storey medical condominium office building.

West: A 20-storey commercial office tower is located on the south side of Bloor Street East, and just west of this property towards Jarvis Street is a 26-storey residential building.

East: Directly east of the site is a 16-storey residential condominium building. On the east side of Sherbourne Street are low rise mixed-use commercial retail and residential uses, heritage rowhouses at 603 to 607 Sherbourne Street, St. James Town West Park and Trinity Evangelical Lutheran Church. Northeast of the site, at the southeast corner of Bloor Street East and Sherbourne Street is an office building of approximately 10 storeys and the Sherbourne Subway Station. Further northeast is the Rosedale Valley ravine. A development application on the east side of Sherbourne approved by the OMB consists of 3 towers ranging in height from 37 to 50 storeys.

North: An 18-storey residential condominium building (388 Bloor Street East – Rosedale Condominiums and the 17-storey residential condominium (360 Bloor Street East) as well as the bank building at the northwest corner of Bloor Street East and Sherbourne Street. Further north is the Rosedale Valley ravine.

### **Rental Housing Demolition and Conversion By-law**

The Rental Housing Demolition and Conversion By-law (885-2007), Chapter 667 of the City's Municipal Code, 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*. The By-law also allows for conditions to be applied with respect to the impact on tenants of a rental property, including relocation or other assistance. Proposals involving the loss of six or more residential dwelling units, wherein one or more of the units are rental; require the submission of a Section 111 application. Council may refuse an application or approve the demolition with conditions that must be satisfied before a demolition permit is issued under the *Building Code Act*.

A related application such as a rezoning triggers the requirement for an application under Chapter 667 for rental demolition or conversion, and typically City Council decides on both applications at the same time. Unlike *Planning Act* applications, decisions made by the City under By-law 885-2007 are not appealable to the OMB. In this case, the development's Zoning By-law amendment will be approved at the Ontario Municipal Board.

Under Section 33 of the *Planning Act* and Municipal Code Chapter 363, Council has the authority to approve or refuse a demolition permit, except in cases where a building permit has been issued to construct a new building. The proposed demolition requires approval under both Section 33 of the *Planning Act* and Section 111 of the *City of Toronto Act*. Section 363-11.1 of the Municipal Code provides for the co-ordination of these two processes. The Chief Building Official may issue one demolition permit for the purposes of Section 33 of the *Planning Act* and Chapter 667 of the Municipal Code.

### **Reasons for 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 to permit the demolition of the 3 existing residential rental units.

## **Community Consultation**

Chapter 667 requires City Planning to hold a community consultation meeting to consider matters under the by-law and the impact on tenants of the residential rental property prior to the submission of a report to Community Council. A tenant consultation meeting was held on August 7<sup>th</sup>, 2014. The meeting provided an overview of the rental housing application under consideration and the tenant relocation and assistance package proposed by the applicant.

## **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions.

## **COMMENTS**

### **Rental Housing**

The proposed development site contains 14 existing dwelling units at 387 and 403 Bloor Street East of which 3 are residential rental units. The existing rental units are located at 403 Bloor Street East and consist of 1 two-bedroom and 2 one-bedroom units at affordable rents. The rental property also contains 8 rented condominium units at high-end rents and 3 owner-occupied condominium units. As a related group of buildings containing one or more rental units, the City's Rental Housing Demolition and Conversion By-law applies.

Eleven of the 14 residential dwelling units were occupied by tenants at the time of application. The City's practice has been to secure that all tenants, including in a mixed-tenure property like this, receive the appropriate tenant relocation and assistance to lessen the hardship of relocation.

At its meeting on July 7, 8 and 9, 2015, City Council took the position that appropriate tenant relocation assistance be secured, including tenants of the condominium units. These matters were made a condition of the OMB's approval of the proposed settlement. The draft zoning by-law and Section 37 Agreement will include provisions for tenant relocation assistance. The recommendations of this Section 111 report are consistent with Council's direction on the related planning application.

The owner has agreed to provide tenant relocation assistance beyond what is required under provincial legislation for tenants of the existing rental property. Tenants will receive: at least 6 months notice before being required to vacate for the demolition; a moving allowance; and additional financial assistance on a sliding scale based on current rents and length of tenure.

Tenants of the 3 affordable rental units will receive a payment equal to the gap in rent between the tenants' current rents and the average market rent for the local area by type for a 12-month period. This rent gap payment is in addition to an amount equal to three months' rent required by provincial legislation and a moving allowance to assist these tenants in finding comparable accommodations within the local area. Tenants renting units in the condominium building will receive a moving allowance and one months' rent

for tenants whose tenancy is five years or more. This is in addition to any financial assistance required under provincial legislation. Staff are satisfied with the proposed tenant relocation and assistance plan.

## **Conclusion**

The Ontario Municipal Board is holding its Order until, among other things, City Council approves the Section 111 Rental Housing and Demolition application. Staff is recommending that Council approve the demolition of 3 residential rental units conditional on the applicant providing the tenant relocation and assistance plan to all eligible tenants as outlined in this report, and entering an agreement to the satisfaction of the Chief Planner to secure these conditions and which is consistent with the provisions of the Zoning By-law as approved by the Ontario Municipal Board.

## **CONTACTS**

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## **SIGNATURE**

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Director Community Planning,  
Toronto and East York District

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## **ATTACHMENTS**

Attachment 1: Tenant Relocation and Assistance Provisions



### **Attachment 1: Tenant Relocation and Assistance Provisions**

The owner shall provide tenant relocation assistance in accordance with the more detailed Tenant Relocation and Assistance Plan to be included in the agreement or agreements, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, for tenants in the existing residential rental property, and that requires at least:

- i. All tenants to receive 6 months notice prior to being required to vacate for demolition;
- ii. All tenants eligible for financial assistance provided for in the Tenant Relocation and Assistance Plan will receive a moving allowance and other financial assistance beyond provincial requirements based on rent level and length of tenure;
- iii. Assistance shall be provided prior to the issuance of any permit to demolish any residential dwelling units on the lot; and,
- iv. An initial payment is to be made at the time that each tenant receives the Notice to Vacate for demolition.