



STAFF REPORT ACTION REQUIRED

31, 33, 35, & 37 Helendale Avenue & 2360-2378 Yonge Street–Residential Rental Demolition Application Under Municipal Code Chapter 667 – Final Report

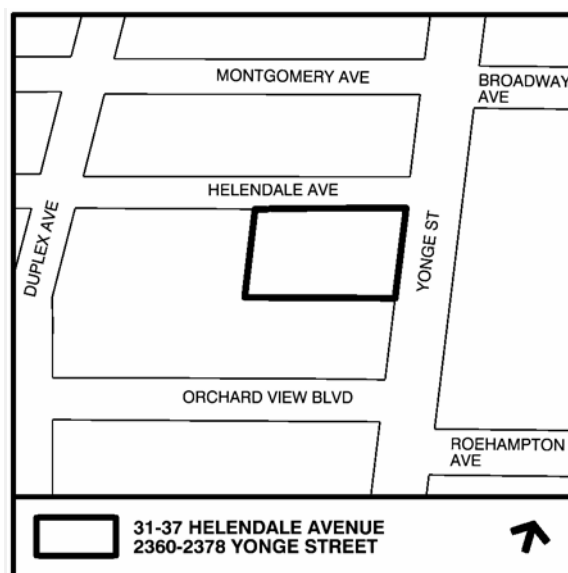
Date:	February 4, 2016
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 16 – Eglinton Lawrence
Reference Number:	12 146523 NNY 16 RH (12 168197 NNY 16 OZ & 12 141927 NNY 16 OZ)

SUMMARY

This application for a Section 111 permit proposes to demolish three existing 3-storey rental apartment buildings with a total of 18 rental units and one house-form building at 31-37 Helendale Avenue with 1 rental unit for a total of 19 rental units. All units were assessed at affordable and mid-range rents. The application proposes a 29-storey mixed-use building with 378 residential units as well as full replacement of the 19 existing rental units plus 1 additional rental unit for a total of 20 rental units within the building.

Originally separate zoning by-law amendment applications were received for the site at 31-37 Helendale Avenue and the adjacent site at 2360-2378 Yonge Street. Each of the applications were appealed to the Ontario Municipal Board by their respective owners due to Council's failure to make a decision on each within the time allotted by the *Planning Act*. Subsequently, the owners of the 2360-2378 Yonge Street site purchased the site at 31-37 Helendale Avenue and filed a consolidated application.

This report's recommendations are in regard to the rental demolition application



on the consolidated site under Municipal Code Chapter 667, pursuant to the *City of Toronto Act*. This report provides the results of the negotiations on the rental housing matters, an overview of the approved development, and makes recommendations to approve a Section 111 permit under Chapter 667 and Chapter 363 for the demolition of the 19 existing rental units subject to conditions of replacement. This report recommends entering into agreements under Section 37 of the *Planning Act* and Section 111 of the *City of Toronto Act* to secure these conditions.

The recommendations of this report fulfill these requirements.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the application to demolish the 19 existing residential rental units located in four buildings at 31, 33, 35 and 37 Helendale Avenue pursuant to Municipal Code Chapters 667 and 363 subject to the following conditions under Chapter 667 which provide for the replacement of nineteen (19) rental housing units as well as one (1) additional rental unit for a total of twenty (20) rental replacement units, but with substantially the same housing mix, as outlined in this report:
 - a. the owner shall provide and maintain twenty (20) residential rental units as shown on the rental floor plans dated December 10, 2015 on the lot with any changes to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - b. the owner shall provide the units in (a) as rental housing for a period of at least 20 years, comprising 18 one-bedroom units and 2 three-bedroom units, of which at least 10 one-bedroom units shall have affordable rents, 9 units shall have rents no higher than mid-range rents and 1 one-bedroom unit shall have no rent limit;
 - c. the owner shall enter into and register one or more Section 111 Agreement(s) to secure the conditions outlined in the Report dated January 26, 2016 from the Director Community Planning, North York District to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and
 - 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 20 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.

2. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue the Preliminary Approval of the Section 111 permit to the application under Municipal Code Chapter 667 after the latest of the following has occurred:
 - a. satisfaction or securing of the conditions in Recommendation 1;
 - b. after the Zoning By-law amendment approved by the Ontario Municipal Board have come into full force and effect;
 - c. after the execution and registration of a Section 37 Agreement pursuant to the *Planning Act* securing Recommendation 1 (a-d), and any other requirements of the Zoning-Bylaw amendment;
 - d. 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,
 - e. 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.
4. 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 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 four (4) 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. Authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 111 Agreements.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

The Zoning By-law application for the site at 31-37 Helendale Avenue, as submitted on March 23, 2012, proposed to demolish the existing three 3-storey rental buildings each with 6 one-bedroom units and one house-form building containing a three-bedroom unit, for a total of 19 rental dwelling units on the site, and construct a new 24-storey residential building with 242 units, including 19 rental units and underground parking.

At its meeting on June 13, 2012 North York Community Council (NYCC) considered Preliminary Reports on two Zoning By-law Amendment applications on sites at 31 - 37 Helendale Avenue and at 2360 – 2378 Yonge Street. Staff recommended that a study be undertaken that included an evaluation of the applications, other potential development sites and existing development within the block and determine if an Area Specific Policy was needed. NYCC adopted staff's recommendation and the Yonge, Duplex, Helendale, Orchard View Planning Study was initiated.

The Preliminary Reports for the two applications are available on the City's website at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.NY17.41> and <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.NY17.40>

Both applications have been appealed to the Ontario Municipal Board (OMB) by the applicants due to Council's failure to make a decision on the applications within the prescribed period under the *Planning Act*.

Subsequently, the owners of the Yonge Street site made arrangements to purchase the Helendale Avenue site. At the Council meeting of July 8, 9, 10 and 11, 2014, Council provided its approval in principle to a consolidated development proposal and set out a number of parameters for that approval, including built form conditions as well as rental housing provisions. With respect to the rental demolition and replacement matters, Council's requirements for settlement of the appeal of the redevelopment, to satisfy the Official Plan policy on rental demolition included:

1. The replacement of all the 19 existing residential rental units at similar rents to the time of application; and,
2. That the OMB be requested to withhold its order until such time as City Council has given its approval under Chapter 667 pursuant to Section 111 of the *City of Toronto Act* that is required for the rental demolition and replacement of the rental housing.

A copy of the public portions of the Request for Directions Report considered by Council in July 2014 is available on the City's website at:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM54.21>

At the prehearing held prior to the scheduled hearing, the parties advised the OMB that approval of a settlement in principle had been endorsed by City Council. The parties asked the OMB to release the hearing dates and advised that they would establish a protocol for detailed review of the development concept by the parties and participants, and then requested the OMB to reschedule a hearing date in order to consider a proposed zoning by-law for the site. Staff will be requesting that the OMB withhold its final order on the zoning by-law until such time as Council has made its decision on the rental residential demolition application.

Since the prehearing, the applicant has proposed built form revisions to the proposal. A Request for Direction Report from the City Solicitor is proposed to be scheduled for Council's consideration at its meeting of February 3, 2016.

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 three storey apartment buildings with a total of 18 residential rental units and a house-form rental building containing one unit for a total of 19 existing residential rental units to be replaced by 20 residential rental units.

This permit and final report satisfy a condition of the settlement before the OMB.

Site and Surrounding Area

The consolidated site is located at the south-west corner of Helendale Avenue and Yonge Street. The site is 3,062 square metres in area. It has a frontage of approximately 43 metres of frontage along Yonge Street and approximately 71 metres of frontage along Helendale Avenue. On the west portion of the site, at 31-37 Helendale Avenue, there are three, 3-storey rental apartment buildings of 6 units each, and a single detached 3-bedroom rental dwelling; all are vacant.

Land uses surrounding the site include:

North: The historically significant Postal Station K building is situated opposite the site on the north side of Helendale Avenue. A 27-storey mixed use building that incorporates the historic building is currently under construction on this site (File No. 13 127993 NNY 16 OZ). There is a low-rise residential neighbourhood to the west of Postal Station K.

- East: To the east opposite the site on the east side of Yonge Street are 1 to 4-storey mixed-use buildings. Further east is an apartment neighbourhood with a number of high-rise apartment buildings.
- West: To the west is the Northern District Public Library and Stanley Knowles Cooperative building. Further west are an apartment building at the northeast corner of Duplex Avenue and Orchard View Boulevard, and single-detached dwellings.
- South: The Northern District Public Library, a surface commercial parking lot and a 2-storey commercial building are adjacent to the south of the site. There are 2 and 3-storey commercial buildings further south fronting Yonge Street.

The Planning Act

Section 2 (j) of the *Planning Act* lists "the provision of a full range of housing, including affordable housing" as a matter of provincial interest that municipalities shall have regard for when making planning decisions under the *Planning Act*.

Provincial Policy Statement and Provincial Plans

The 2014 Provincial Policy Statement (PPS) 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 recently updated housing policies of the PPS require planning authorities to provide for an appropriate range of housing, including affordable housing, to meet the needs of current and future residents.

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

Section 3.2.1 Housing Policy

This redevelopment proposal and demolition application is subject to the Official Plan's Housing policies, in particular Section 3.2.1.6.

The Official Plan requires that proposals involving the demolition of 6 or more units of rental housing shall not be approved by Council unless all of the rental housing units have rents that exceed mid-range rents at the time of application. Approvals should provide for their replacement with at least the same number, size and type of rental housing units. The rental housing is to be maintained as rental housing with no condominium registration, with rents similar to those in effect at the time the application was made, for a period of at least 10 years. An acceptable tenant relocation and assistance plan is required, addressing: the right to return to occupy one of the replacement units at similar rents; the provision of alternative accommodation; and other assistance to lessen hardship such as the provision of moving allowances both out of the existing building and for tenants who choose to return, a moving in allowance.

Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition and Conversion By-law (885-2007), contained in Chapter 667 of the City's Municipal Code, implements the City's Official Plan policies protecting rental housing. The City's Official Plan protects groups of six or more rental units from demolition. The By-law implements the City's policies protecting rental housing, which include providing and maintaining a full range of housing, within neighbourhoods as well as across the City. 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 the loss of six or more residential 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 of the Municipal Code 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 (File Nos. 12 168197 NNY 16 OZ and 12 141927 NNY 16 OZ).

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 four existing residential buildings which contain a total of 19 rental dwelling units at affordable and mid-range rents.

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 prior to the submission of a report to Community Council. In this case the meeting was combined with the Community Consultation meeting on the Zoning By-law Amendment applications held on June 18, 2013 as the buildings had been vacated some time prior to the application, with the final tenants leaving in June 2012. The notice was given in combination with the Community Consultation notice which was sent to all landowners and residents within 120 metres of the site as well as, to all landowners and residents in the area bounded by Yonge Street to the east, Edith Avenue to the west, Roselawn Avenue to the north, and Eglinton Avenue to the south. A presentation was made at the Community Consultation by City Planning staff who explained the rental housing application under consideration and a handout was available to those who were interested in this aspect of the application. Since then, the Stanley Knowles Co-operative has expressed interest in replacement rental housing and affordable housing options in the area.

Agency Circulation

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

COMMENTS

The Planning Act

The proposal is consistent with the *Planning Act*.

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the PPS and Growth Plan.

Rental Housing

The existing buildings are three 3-storey residential rental buildings with 6 one-bedroom units in each building, and a 3-bedroom two-storey house with a yard and parking that was last rented in 2012. A total of 19 rental units exist. The units are all currently vacant, with some having been vacated in 2004.

Replacement Rental Housing

The owner has agreed to replace 19 rental units, in a mix of 10 affordable one-bedroom units, 7 mid-range one-bedroom units, 1 high-end one-bedroom unit and 2 mid-range three-bedroom units. The applicant is proposing that 7 of the 20 rental replacement units be smaller than the current rental units, and has proposed the 20th unit in compensation for the reduction in floor area for some of the one-bedroom units and the loss of ground related family appropriate rental housing.

It was agreed that the City would not prescribe the rent on the extra one-bedroom unit, and the owner of the rental component would be free to rent it for whatever the market would bear, although the tenure would be guaranteed. This results in a 108% proposed replacement of the rental gross floor area on the site.

The rental replacement units are proposed to be located on the fourth and fifth floors of the new residential component of the building. The rental units will be secured as rental housing for at least twenty years with no application for condominium registration during this period. Staff worked with the applicant, and are satisfied with the revised plans for the replacement units that were improved from the previous submission. In particular the two three-bedroom replacement apartments have wider balconies for more flexible use. The three bedroom units will have an associated parking spot and two bike storage lockers as is appropriate to replace a previously occupied home. Although the Zoning By-law and Section 37 and Section 111 agreements will require that cumulatively the new units be at least 99% of the size of the existing units, the current plans actually achieve a 108 % replacement floor area at 1,561 square metres.

The proposed unit mix and rental range are shown in Table 1.

Table 1: Proposed Rental Unit Mix & Rents: 31-37 Helendale Ave. & 2360-2378 Yonge St.

Type of Unit	Number of Units	Affordable Rent	Mid-range Rent	Unlimited Rent
One bedroom	18	10	7	1
Three bedroom	2		2	
Total	20	10	9	1

Further Details of the Replacement Rental Housing

The Zoning By-law Amendment and Section 37 Agreement will specify the minimum requirements as follows:

- a) Six (6) one-bedroom units shall be at least 61 square metres in area;
- b) Four (4) one-bedroom units shall be at least 68 square metres in area;
- c) Eight (8) one-bedroom units shall be at least 71 square metres in area;
- d) Each of the three-bedroom units shall be at least 98 square metres in area; and
- e) The total area of all the replacement rental dwelling units shall be at least 1,324 square metres.

Currently the applicant's plans exceed the minimum size of the three-bedroom units which are currently proposed at 120 square metres in area. Furthermore, the rental component will have at least 21 bicycle parking spaces, and 7 vehicle parking spaces. Each unit will have laundry facilities in the unit, and central air conditioning. Tenants will have access to outdoor and indoor amenity areas on the same basis as the condominium residents and at no extra cost.

Rent Provisions

The 10 affordable rental units and 9 mid-range rental units will have rents secured according to the City's standard practices. Rents for tenants moving in during the first 10 years shall be no higher than the CMHC average market rent in the case of affordable rents, and no more than 1.5 times average market rent for the mid-range units.

Annual increases are limited to the provincial rent guideline increase, and above-guideline increases if applicable, during this first 10 year period. For any tenant who remains after the tenth year, these protections will continue until the earlier of when they move out or the 20th year of the new building's occupancy, followed by a 3 year phase-in to unrestricted market rent.

Commencing in the 11th year, any new tenants may be charged market rents, unrestricted by the owner's agreement with the City.

The replacement proposal meets the Official Plan policy and generally is consistent with the City's standard practices. The Zoning By-law Amendment provides for securing these matters in a Section 37 Agreement.

Conclusion

The Ontario Municipal Board is holding its Order until, among other matters, City Council approves the Section 111 Rental Housing and Demolition application. Staff is recommending that Council approve the demolition of 19 residential rental units conditional on the applicant providing the replacement rental housing as outlined in this report, and entering a Section 111 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, and consistent with the rental housing provisions of the Section 37 Agreement.

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