

**18-30 Erskine Avenue – Residential Rental Demolition
Application Under Municipal Code 667– Final Report**

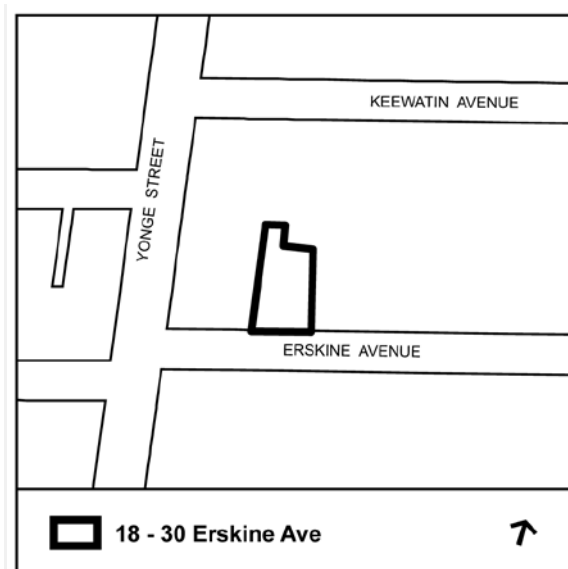
Date:	October 25, 2016
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 25 – Don Valley West
Reference Number:	13 116882 NNY 25 RH (12 267217 NNY 25 OZ / 12 267211 NNY 25 SA)

SUMMARY

This application seeks approval to demolish a residential property at 30 Erskine Avenue containing a total of 6 rental dwelling units. This property is also subject to related Zoning By-law Amendment and Site Plan Control applications for the development of a 35-storey rental apartment building containing 315 dwelling units and 131 parking spaces (File No.'s 12 267217 NNY 25 OZ and 12 267211 NNY 25 SA) at 18-30 Erskine Avenue. The Zoning By-law Amendment and Site Plan Control applications are currently before the Ontario Municipal Board (OMB).

An application for Rental Housing Demolition and Conversion under Section 111 of the *City of Toronto Act* (Chapter 667 of the Municipal Code) has been filed to permit the demolition of the existing rental dwelling units. The applicant has proposed to replace all 6 existing rental dwelling units within the proposed development and provide tenant relocation and assistance to all eligible tenants.

This report recommends approval of the Section 111 permit application under Chapters 667 and 363 of the Toronto Municipal Code for the demolition of a residential property containing 6 rental dwelling units, subject to conditions.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the application for a Section 111 permit in accordance with Municipal Code Chapter 667 to allow the demolition of six (6) rental dwelling units located at 30 Erskine Avenue subject to the following conditions:
 - a. The owner shall provide and maintain 315 rental dwelling units, inclusive of the six (6) two-bedroom replacement rental dwelling units, on the subject site at 18-30 Erskine Avenue for a period of at least 20 years, as shown on the plans submitted to City Planning Division dated August 25, 2016 with any revisions to the satisfaction of the Chief Planner and Executive Director City Planning;
 - b. The owner shall provide the six (6) replacement rental dwelling units at mid-range rents for a minimum of 10 years. The 309 new rental dwelling units will have unrestricted rents;
 - c. The owner shall provide tenant relocation assistance to all eligible tenants, including the right to return to a replacement rental dwelling unit, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - d. The owner shall enter into and register on title one or more Agreement(s) to secure the conditions outlined in (a), (b) and (c) above to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and
 - e. The owner shall enter into and register on title, 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 315 rental dwelling units, without the written consent of the Chief Planner and Executive Director, City Planning Division or her 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 authorize the Chief Planner and Executive Director, City Planning Division to issue the Preliminary Approval for the application under Municipal Code Chapter 667 for the demolition of the six (6) rental dwelling units at 30 Erskine Avenue after all of the following have occurred:

- a. Satisfaction or securing of the conditions in Recommendation 1 above;
 - 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*;
 - d. The issuance of excavation and shoring permits for the approved structure on the site; and
 - e. The execution and registration of a Section 37 Agreement pursuant to the *Planning Act* securing Recommendation 1 (a), (b) and (c), and any other requirements of the Zoning-Bylaw Amendment;
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 the 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. Council authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 111 Agreement.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

On January 22, 2013 North York Community Council had before it a Preliminary Report from the Director, Community Planning, North York District on a Zoning By-law Amendment application proposing a 35-storey, 300-unit residential condominium building with 153 parking spaces. The application proposed a gross floor area of 21,260 square metres resulting in a density of 14.9 FSI. Community Council adopted the staff recommendations and directed that the notice area for the community consultation meeting be expanded beyond the 120 metres radius of the site.

The Decision Document and Preliminary Report is available at the following web link:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.NY21.48>

On April 21, 2015 the owner appealed the application to the OMB citing City Council's failure to make a decision within the prescribed time frames set out in the Planning Act. A 4-day hearing was scheduled to commence on August 11, 2015.

On July 7, 8 and 9, 2015, City Council gave confidential instructions to the City Solicitor for the August 11, 2015 OMB hearing. The Decision Document and report (July 9, 2015) from the City Solicitor is available at the following web link:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.MM8.54>

The August 11, 2015 OMB hearing was adjourned for a 2-day mediation session over August 13 and 14, 2015. January 6, 2016 was then set for the continuation of the hearing.

On December 9, 2015, City Council directed the City Solicitor to attend the hearing in support of a settlement offer from the applicant. The settlement offer was also accepted by the Parties at the conclusion of the mediation session. The City Council Decision Document and report (November 16, 2015) from the City Solicitor is available at the following web link:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC11.2>

On January 6, 2016 the OMB approved the development. The Order will be issued following receipt of the final zoning by-law amendment and the Section 37 agreement, which will, among other matters, secure the rental housing replacement as set out in this report.

ISSUE BACKGROUND

Proposal

The development comprises a 35-storey (101.5 metres) rental apartment building having a gross floor area of 19,971 square metres and a density of 14 times the lot area. The tower would step down towards the north from 35 to 32 storeys and would sit on a 3-storey base building. The ground floor of the podium would be set back 7.6 metres from Erskine Avenue and 3 metres from the east property line where the site abuts John Fisher Public School.

The apartment building would contain 315 rental dwelling units comprising 209 one-bedroom units and 106 two-bedroom units, of which, 6 two-bedroom units would be rental replacement units dispersed throughout the building. A total of 131 parking spaces are proposed together with 336 bicycle parking spaces. The parking spaces would be located below grade in a 4-level underground parking garage. Vehicular access/egress would be from Erskine Avenue, on the western portion of the site leading to a ramp to the 4-level below grade parking garage and at-grade loading and refuse collection area. The ground floor plan layout would also include the entrance lobby/lounge, mailroom, bicycle parking and accessory offices.

Common recreation amenity space is proposed on the second and third floors of the base building and comprise 409 square metres of indoor space (1.3 per unit) and 425 square metres of adjoining outdoor amenity space (1.3 square metres per unit). The outdoor amenity areas would be located at grade at the northwest corner of the site and the roof of the base building along the west side of the tower.

The residential rental demolition application proposes to replace all 6 existing dwelling units with replacement rental dwelling units of the same type and approximately the same size, secured at mid-range rents for 10 years, and provide tenant relocation.

Site and Surrounding Area

The site is located on the north side of Erskine Avenue (three blocks north of Eglinton Avenue East) and just east of Yonge Street. The site is irregular in shape with an area of approximately 1,423 square metres, a frontage of approximately 30 metres on Erskine Avenue, a lot depth of approximately 44 metres along the easterly boundary of the site and approximately 57 metres along the western boundary. The development site comprises three properties municipally known as 18-22, 24-26 and 30 Erskine Avenue. The lands at 18-26 Erskine Avenue are currently developed with a commercial surface parking lot. Until 2011, they were developed with two, 2-storey commercial buildings.

The property at 30 Erskine Avenue contains a 3-storey rental apartment building with a total of 6 two-bedroom rental dwelling units. At the time of application, all 6 rental dwelling units had mid-range rents.

The area immediately surrounding the Yonge-Eglinton intersection is comprised primarily of retail and commercial uses with predominantly residential uses further north and east. The area includes a variety of built forms including detached and semi-detached homes, walk-up apartment buildings from the 1940's and 1950's, high-rise slab apartment towers from the 1960's and 1970's and more recent townhouses and high-rise apartment buildings.

Surrounding uses are as follows:

North: immediately to the north of the site are playing fields associated with John Fisher Public School, 4-storey townhouses (17-29 Keewatin Avenue) and a 4-storey apartment building (65 Keewatin Avenue) fronting the south side of Keewatin Avenue, then lands designated *Neighbourhoods* north of Keewatin Avenue;

South: Erskine Avenue then a 16-storey residential apartment building (15 Erskine Avenue), a 10-storey residential apartment building (33 Erskine Avenue) and 2-5 storey commercial buildings fronting Yonge Street;

East: immediately to the east of the site is John Fisher Public School (a listed heritage building), then a series of apartment buildings ranging from 7 storeys (70 Erskine Avenue) to 30 storeys (140 Erskine Avenue) in height; and

West: a single storey commercial building currently occupied by Erskine Food Market (10 Erskine Avenue) and the rear yards of 1-3 storey commercial buildings that front the east side of Yonge Street between Erskine Avenue and Keewatin Avenue to the north.

Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* sets out matters of provincial interest which City Council shall have regard to carrying out its responsibilities, including: the orderly development of safe and healthy communities; the conservation of features of significant architectural, cultural and historical interest; the adequate provision of employment opportunities; and the appropriate location of growth and development.

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; providing an appropriate range of housing types and affordability to meet projected requirements of current and future residents; wise use and management of resources and protecting public health and healthy communities. 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; providing housing options to meet the needs of people at any age; 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 lands are designated *Mixed Use Areas* on Land Use Map 17 of the Toronto Official

Plan. This designation provides for a broad range of commercial, residential and institutional uses in single-use or mixed-use buildings as well as parks and open spaces.

Section 3.2.1 Housing Policy

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. Policy 3.2.1.6 states that new development that would result in the loss of six or more rental housing units will not be approved unless all of the rental housing units have rents that exceed mid-range rents at the time of application, or in cases where planning approvals other than site plan are sought, the following is secured:

- at least the same number, size and type of rental housing units are replaced and maintained with similar rents to those in effect at the time the redevelopment application was made;
- 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
- An acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement rental units at similar rent, and other assistance to lessen the hardship of relocation.

Rental Housing Demolition and Conversion By-law

Section 111 of the *City of Toronto Act, 2006* authorizes Council to regulate the demolition and conversion of residential rental properties in the City where there are six or more dwelling units on a site or within related group of buildings, of which at least one unit has been used, or intended for use, for residential rental purposes.

Chapter 667 of the City's Municipal Code, the Rental Housing Demolition and Conversion By-law (885-2007), implements Section 111 of the *City of Toronto Act, 2006*. The By-law prohibits the demolition or conversion of rental housing units in buildings containing six or more residential units, of which at least one unit is rental, without obtaining a permit from the City. Council may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued. These conditions often implement the City's Official Plan policies protecting rental housing. Council approval of demolition under Section 33 of the *Planning Act* may also be required where six or more residential units are proposed for demolition before the Chief Building Official can issue a permit for demolition under the *Building Code Act*.

Where an application for rezoning triggers an application under Chapter 667 for rental demolition or conversion, City Council typically considers both applications at the same time. Unlike *Planning Act* applications, decisions made by City Council under By-law 885-2007 are not appealable to the Ontario Municipal Board.

Reasons for Application

An application to permit the demolition of the 6 rental dwelling units is required under Chapter 667 of the Toronto Municipal Code as the site contains 6 residential dwelling units of which at least one was used for residential rental purposes.

Tenant Consultation

On October 19, 2015, City Planning hosted a Tenant Consultation Meeting with the one known tenant who has since vacated their rental dwelling unit at 30 Erskine Avenue. Planning staff described the City's housing policies and practices when reviewing development applications involving the demolition of rental housing and outlined the various components of a Tenant Relocation and Assistance Plan. During the meeting, the tenant described the circumstances under which they were forced to leave their rental apartment at 30 Erskine Avenue being maintenance of the building and security concerns.

COMMENTS

Rental Housing

The existing three-storey rental building at 30 Erskine Avenue contains 6 two-bedroom rental dwelling units. The application proposes to replace all existing dwelling units with replacement rental dwelling units of the same type and approximately the same size.

Tenure and Rents for the New and Replacement Rental Dwelling Units

The applicant has agreed to provide and maintain 315 rental dwelling units (6 replacement rental dwelling units and 309 new rental dwelling units) within the proposed rental building at 18-30 Erskine Avenue for at least 20 years. This period would begin on the date that each rental unit is first occupied and end when the owner obtains approvals for a Zoning By-law Amendment removing the requirement for the replacement rental dwelling units to be maintained as rental units.

At the time of application, the existing building contained 6 mid-range rental units. The applicant has agreed to secure the rents for the 6 mid-range rental dwelling units for at least 10 years. The remaining 309 new rental dwelling units will have unrestricted rents.

Tenant Relocation and Assistance Plan

The owner has agreed to provide tenant relocation and assistance beyond what is required under provincial legislation to the one eligible tenant, including moving allowance(s) and the right to return to a replacement rental dwelling unit within the proposed building at similar rent, all of which will be to the satisfaction of the Chief Planner.

CONCLUSION

Staff is recommending that Council approve the demolition of the 6 rental dwelling units located at 30 Erskine Avenue. The owner has agreed to provide 6 replacement rental

units within the proposed building at 18-30 Erskine Avenue, secured at mid-range rents for 10 years, and provide tenant relocation. All of the above will be to the satisfaction of the Chief Planner.

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SIGNATURE

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