



STAFF REPORT ACTION REQUIRED

33 Holly Street, 44 Dunfield Avenue, 86 & 88 Soudan Avenue – Residential Rental Demolition Application under Municipal Code Chapter 667 – Final Report

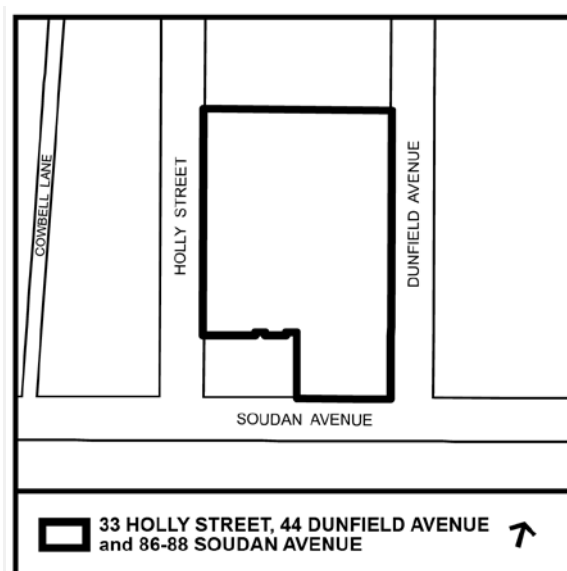
Date:	February 4, 2016
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 22 – St. Paul's
Reference Number:	14 153097 STE 22 RH

SUMMARY

A Section 111 application under Chapter 667 of the Municipal Code has been submitted to demolish two detached houses containing two rental dwelling units at 86 and 88 Soudan Avenue.

The two properties are subject to a related Zoning By-law Amendment application to retain two 14-storey rental buildings at 33 Holly Street and 44 Dunfield Avenue, and permit two new residential buildings of 27 and 34 storeys as well as public parkland. The public parkland is proposed on the two properties subject to the Section 111 application.

The Zoning Amendment application is under appeal to the Ontario Municipal Board (OMB). A hearing is scheduled for March 21, 2016.



On February 3, 2016, City Council approved a report from the City Solicitor on a proposed mediated settlement at the OMB. The OMB hearing on March 21, 2016 will be a settlement hearing seeking approval of a modified development on the site.

This report recommends approval of the Section 111 application subject to conditions.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the application to demolish the two 3-bedroom residential rental units located at 86 and 88 Soudan Avenue pursuant to Municipal Code Chapters 667 and 363 pursuant to Section 111 of the *City of Toronto Act* and Section 33 of the *Planning Act* respectively, subject to the following conditions:
 - a. the owner shall provide and maintain 324 existing dwelling units on the site as rental housing for the period of at least 20 years, from the date of the Zoning By-Law being in force and effect, with all the associated facilities and amenities of the buildings to be secured for the rental housing units;
 - b. the owner shall provide tenant relocation assistance including, an extended notice period, and financial assistance beyond the minimums of the *Residential Tenancies Act* in the amount of a \$500 moving allowance to any tenant of a "dwelling room" within the residential rental unit on the date that the Notice of Termination is given, to the satisfaction of the Chief Planner and Executive Director, City Planning Division; and/or,
 - c. the owner shall provide tenant relocation assistance including, an extended notice period, and financial assistance beyond the minimums of the *Residential Tenancies Act*, in the amount of \$2,100 to any tenant household who is resident of the rental housing unit on the date that the Notice of Termination is given, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - d. the owner shall provide a Tenant Assistance Package, including rent abatement measures, and eligibility for early termination of leases, to the satisfaction of the Chief Planner, Executive Director, City Planning Division;

- e. the owner shall provide a Construction Mitigation Plan, including and not limited to, two respite rooms, and noise cancelling headphones for each unit for the residents of 33 Holly Street and 44 Dunfield Avenue, to the satisfaction of the Chief Planner, Executive Director, City Planning Division;
 - f. the owner shall provide a Tenant Communication Plan to the satisfaction of the Chief Planner, Executive Director, City Planning Division;
 - g. the owner shall enter into and register one or more Section 111 Agreement(s) to secure the conditions outlined in (a), (b), (c),(d), (e) and (f) above and as described in the Zoning By-law Amendment, and Section 37 Agreement, substantially in accordance with the confidential attachment from the report by the City Solicitor titled: "33 Holly Street, 44 Dunfield Avenue, 86 & 88 Soudan Avenue – Zoning Amendment Application – Request for Directions Report" and dated January 28, 2016, to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and,
 - h. 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 single family rental dwelling units at 86 and 88 Soudan, without the written consent of the Chief Planner and Executive Director, City Planning Division 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 authorize the Chief Planner and Executive Director, City Planning Division to issue preliminary approval to the application under Municipal Code Chapter 667 after the following has occurred:
- a. satisfaction or securing of the conditions in Recommendation 1;
 - b. the Zoning By-law amendment is approved in principle by the Ontario Municipal Board;
 - c. after the execution and registration of a Section 37 Agreement pursuant to the *Planning Act* securing the conditions in Recommendations 1 (a-h) and any other required conditions of the Zoning By-law Amendment; and

- d. The issuance of the Notice Of Approval Conditions for site plan approval by the Chief Planner and Executive Director, City Planning Division or their designate, pursuant to Section 114 of the City of Toronto Act, 2006.
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, and no earlier than the issuance of the first building permit.
4. City Council 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

On October 17, 2013, Toronto and East York Community Council adopted the recommendations of the report dated September 20, 2013, from the Director, Community Planning, Toronto and East York District, titled: "Preliminary Report - 33 Holly Street, 44 Dunfield Avenue, 86 and 88 Soudan Avenue - Zoning Amendment Application", with an amendment to expand the notification area for the community consultation meeting. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.TE27.31>

The applicant appealed the file to the OMB in August, 2014 [case # PL 140898].

On May 5, 2015, City Council adopted the recommendations of the report dated April 8, 2015 from the Director, Community Planning, Toronto and East York District, titled "33 Holly Street, 44 Dunfield Avenue, 86 & 88 Soudan Avenue – Zoning Amendment Application and Rental Housing Demolition Application- Request for Directions Report" <http://www.toronto.ca/legdocs/mmis/2015/te/bgrd/backgroundfile-78891.pdf>

City Council's requirements for settlement of the appeal of the Zoning Amendment application, in order to satisfy the Official Plan policies on rental demolition and intensification, include that staff advise the OMB of Council's position that the redevelopment of the lands should include:

- "the provision of residential amenity space and/or access to new amenity space, both outdoor and indoor, on the site for use by residents of the existing buildings to be retained on the site and any new buildings, in keeping with current zoning by-law standards and at no cost to residents;
- a Tenant Relocation and Assistance Plan for tenants of the existing buildings to be retained on the site who would be adversely impacted and should be relocated during construction at the election of such tenants, if this or some form of this development

is approved. The Tenant Relocation and Assistance Plan should include the tenants' right to return to their previously occupied or new rental units at similar rents and assistance to alleviate hardship; and

- the provision and implementation of a Construction Mitigation and Communication Plan satisfactory to the Chief Planner for residents of the site who remain on site during construction, if this or some form of the development is approved."

The report also recommended that City Council defer its decision on the rental housing demolition application pending an OMB decision on the appeal of the related Zoning By-law Amendment application.

Prehearings for 33 Holly Street, 44 Dunfield Avenue, 86 and 88 Soudan Avenue were held on January 30, 2015, May 25, 2015 and June 25, 2015. Mediation was requested and was held on December 10th and 11th 2015. A settlement hearing is scheduled for March 21, 2016.

ISSUE BACKGROUND

Proposal

This application for a Section 111 permit proposes to demolish two residential buildings, each of which are 3-bedroom rental dwelling units under Chapter 667 of the Municipal Code. No replacement is proposed; the lands will be developed as a 1150.4 m² public park as part of the redevelopment of the lands subject to the related Zoning By-law Amendment application.

At the time of application, both rental units had rents in excess of mid-range rents. Tenants of the houses on each of the properties have sublet rooms within their rental units. This conversion from residential rental use to rooming houses was done without application to the City for a Section 111 permit.

The proposed settlement includes a new 27-storey condominium tower abutting the south end of the existing building at 33 Holly Street, and a new 34-storey condominium building abutting the existing building at 44 Dunfield Avenue. Shared parking for the buildings will be located underground below and between the four buildings. Amenity spaces to be provided in the new condominium towers will be shared between all residents. An acceptable Tenant Mitigation and Communication Plan is proposed for the existing tenants.

Site and Surrounding Area

The two properties subject to this application are located on the north side of Soudan Avenue, east of Dunfield Avenue and are part of a larger parcel extending north on Soudan Avenue between Holly Street and Dunfield Avenue.

Two existing 14-storey rental apartment buildings (33 Holly and 44 Dunfield) with 324 rental units are located on the main portion of the site. At the time of the Zoning Amendment application, all units at 33 Holly and 44 Dunfield had mid-range rents. There are currently 225 parking spaces within two parking areas and locker rooms in the basement of the buildings. The site does not have bicycle parking. A central courtyard between the buildings is used primarily for surface parking. There are no other amenities for the existing buildings.

Surrounding Uses:

North: An 8-storey Toronto Community Housing (TCH) apartment building at 69 Holly Street, a 5-level, above-grade commercial parking garage at 75 Holly Street, and a 16-storey TCH apartment building at 70 Dunfield Avenue.

South: Across Soudan Avenue are generally 2-storey detached and semi-detached houses.

East: Across Dunfield Avenue is an apartment building complex that occupies most of the block between Eglinton Avenue and Soudan Avenue. At the south end is a small public park (Dunfield Park), and playground northeast of Dunfield and Soudan Avenues.

West: Across Holly Street, on the north side of Soudan Avenue, is an 18-storey mixed-use building at 40 Soudan Avenue.

Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* sets out matters of provincial interest that include the adequate provision of a full range of housing and the orderly development of safe and healthy communities.

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. The PPS provides a policy framework for the provision of a full range of housing to meet the needs of current and future residents, and for municipalities to establish housing strategies, including appropriate Official Plan policies, and affordable housing targets.

City Council's planning decisions are required to be consistent with the PPS.

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 3.2.1 which provides that a full range of housing in terms of form, tenure and affordability will be kept and maintained to meet the current and future needs of residents throughout the city and neighbourhoods.

Further, policy 3.2.1(5) relates to the intensification of rental properties and provides that significant new development on sites containing 6 or more rental units, where the existing rental units will be kept in the new development, will secure the tenure of buildings where there are affordable or mid-range rents, and may also secure improvements to the existing buildings at no extra cost to the tenants.

Policy 3.2.1.6 relates to the demolition and conversion of rental housing and requires that proposals involving the demolition or conversion 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.

An acceptable tenant relocation and assistance plan is required to lessen hardship. It is the practice of City staff to implement the tenant relocation and assistance plan portion of the policy when less than 6 units of rental housing are proposed for demolition or conversion and have rents in excess of mid-range, as is the case with the subject application.

Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition and Conversion By-law (885-2007), established Chapter 667 of the City's 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 the loss or conversion of six or more residential units in a related group of buildings by size, type or number, where one or more of the affected units are rental, require the submission of a Section 111 application for the affected rental units. Council may refuse an application, or approve the conversion with conditions that must be satisfied before permits are issued under the *Building Code Act*.

A related application such as for a Zoning By-law Amendment triggers the requirement for an application under Chapter 667 for rental demolition, 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, which also provides for Section 37 community benefits, is anticipated to be approved at the OMB.

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 two existing rental dwelling units in the related group of buildings.

Community Consultation

A community consultation meeting on April 29, 2014 at the North Toronto Community Church was attended by approximately 70 residents. Issues related to the rental housing raised in the community meeting and written submissions include:

- preference for the southeast portion of the site on Soudan Avenue to become a public park;
- structural capability of the two existing apartment buildings to support 5-storey additions;
- impact and duration of construction on residents of buildings on the site and in surrounding buildings, particularly units directly under or beside construction;
- lack of access for tenants of the existing buildings to new amenity areas in the proposed development; and
- the generally poor state of repair of existing buildings on the site.

Tenant Consultation

A tenant consultation meeting on July 23, 2014 at the North Toronto Community Church was attended by approximately 40 tenants and some neighbours. Issues raised include:

- construction disruption if tenants remain in the existing buildings during construction e.g. loss of parking, nuisances such as dust, noise and vibration, and safety concerns;
- current building condition and maintenance e.g. mould, broken fans, brown water, leaks in parking garage, removal of visitor parking, cracks in walls;
- lack of integration of tenants and new condominium residents as the only shared space is the central courtyard;
- lack of access by tenants to proposed amenity areas for condominium residents;
- structural capability of the existing apartment buildings to support 5-storey additions;
- disruption to entrances/exits of the buildings during and after construction;

- duration of the construction and amount of prior notice to tenants;
- lack of parks and open space to serve the area's growing population;
- proposed design of the new buildings;
- need for rent abatement by owner; and
- over development of the Yonge-Eglinton area.

The City conducted an online tenant survey from September 15 to October 31, 2014 with approximately 80 respondents (53 % from 33 Holly, 47 % from 44 Dunfield). 54% of the respondents are regularly at home during weekdays, 42% have a parking space and 38% have a storage locker. The survey respondents' concerns regarding the proposed development were similar to issues raised at the tenant meeting, with more emphasis on the lack of green space in the neighbourhood (ratio of land to population) and the current poor maintenance of the existing buildings.

Survey respondents also raised issues such as accessibility (handicap/strollers), safety (some common areas due to lighting) and property maintenance (locker areas, parking lot and hallways).

No rooming tenants attended the consultations.

Tenants formed a tenant association for the two buildings at 33 Holly and 44 Dunfield and attended as a party to the OMB mediation, as well as meeting with City staff and the local ward Councillor.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the PPS as the proposal provides for a new community benefit while providing for intensification and retaining valuable housing options.

Rental Housing

When there are less than 6 rental units and/or rents are in excess of mid-range, it is the practice of City staff to implement the Policy 3.2.16 provisions that require an acceptable tenant relocation and assistance plan and that this plan form part of the approval conditions for the Residential Rental Demolition Permit under Chapter 667 of the Municipal Code, pursuant to Section 111 of the *City of Toronto Act*.

Since the current use is by tenants who sublet the two dwelling units into rooms without the landlord's knowledge, no moving allowance or extra compensation is recommended, beyond what is required under the *Residential Tenancies Act* for the Notice of Termination, consisting of 3 months of rent to be given to the "named tenant" of the

lease. Each sub-tenant (roomer/boarder) who is there on the day of the Notice being issued, would be given a moving allowance of \$500 in lieu of any other compensation for the demolition. Early vacancy will be discouraged. Should the use revert to use as a single family rental dwelling in the interim, a moving allowance of \$2,100 is recommended per dwelling.

With respect to the policy requirements related to residential intensification that form part of the settlement for OMB is being sought, the existing 324 rental residential units in the two 14-storey apartment buildings will be secured for 20 years in accordance with the requirements of Policy 3.2.1.5a). In accordance with Policy 3.2.1.5 b) regarding improvements, access to amenity space in the new residential buildings, and improvements to laundry facilities, repairs to storage lockers, and replacement of lighting and carpeting in the existing 14-storey rental buildings will be secured at no extra cost to tenants.

As part of the settlement, the tenants also agreed to a Tenant Assistance Package, and Tenant Construction Mitigation and Communication Plan for the residents of the two 14-storey rental buildings.

The Tenant Assistance Package will consist of:

- Rent abatements for all tenants of the existing buildings, and an increased increment of abatement based on the proximity of units to active construction by phase;
- Extra abatement for tenants with special needs;
- Early termination of lease provisions with a moving allowance for those who choose to depart early in construction;
- An offer of a discount on the new condominium units prior to their release for sale to the public; and,
- The ability to forgo rent compensation in return for a "unit renovation" at with no application for an Above Guideline Increase.

The Tenant Construction Mitigation and Communication Plan will consist of:

- A commitment that there will be no major interruptions of services throughout the process;
- A commitment that a respite room shall be available to the tenants at all times during construction, and may be relocated to be as far from construction at all times;

- For those with parking, that they will have continuous access to parking either on the lot or at an alternative location nearby;
- That continuous access to laundry facilities will be provided in either one or the other building at all times;
- The issuance of a set of noise cancelling earphones to each unit at 33 Holly Street and 44 Dunfield Avenue;
- Shortened construction hours, with no construction starting before 8:00 am on weekdays, and no more than one Saturday per month;
- Frequent cleaning for construction related dust and debris; and
- Posting written notices and disseminating information regularly and providing a 24 hour contact for construction-related complaints and inquiries.

The tenant relocation and assistance plan for the two properties subject to this rental housing demolition application, and the securing of rental tenure and improvements to the existing 14-storey rental buildings and related Tenant Assistance and Tenant Construction Mitigation and Communication Plans, will be secured through Section 111 and Section 37 Agreements.

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SIGNATURE

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