

## **77 Mutual Street – Rental Housing Demolition Application Under Municipal Code 667– Final Report**

**Date:** January 13, 2017

**To:** Toronto East York Community Council

**From:** Director, Community Planning, Toronto East York District

**Wards:** Ward 27 – Toronto Centre - Rosedale

### **SUMMARY**

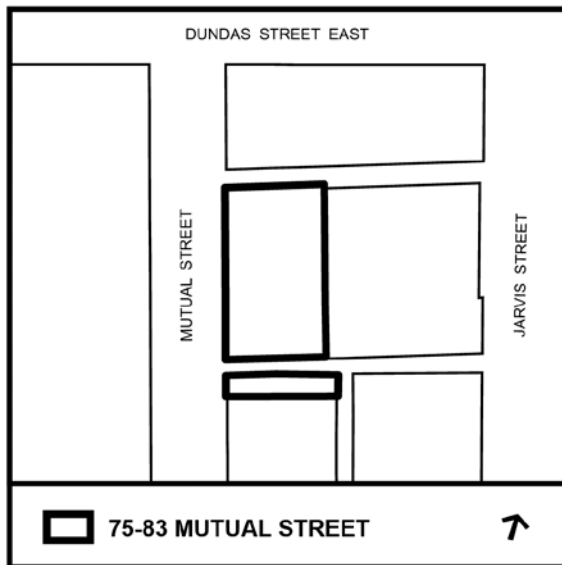
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An application for Rental Housing Demolition and Conversion under Section 111 of the *City of Toronto Act* (Chapter 667 of the Municipal Code) has been filed for a residential property at 77 Mutual Street (14 183555 STE 27 RH). This application seeks approval to demolish the 22 rental dwelling units in the existing rental building and proposes to replace all 22 existing rental dwelling units within a new residential building as part of the proposed redevelopment of this property and provide tenant relocation and assistance to all eligible tenants.

This property is part of a related group of buildings at 75, 77 and 83 Mutual Street that are subject to a Zoning By-law Amendment application and Site Plan Control application (File Nos. 14 183553 STE 27 OZ and 14 183547 STE 27 SA) for the development of a 36-storey mixed-use building containing 385 dwelling units (including 22 replacement rental dwelling units). The Zoning By-law Amendment and Site Plan Control applications are the subject of a hearing at the Ontario Municipal Board, with a final Order pending until all outstanding matters, including the necessary agreements with the City, are secured.

This report recommends approval of the Section 111 permit application under Chapter 667 of the Toronto Municipal Code and demolition permit under Chapter 363 of the Toronto Municipal Code, subject to conditions.

Table 1: Site Map; 75 -83 Mutual Street



## RECOMMENDATIONS

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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 twenty-two (22) existing rental dwelling units located at 77 Mutual Street subject to the following conditions:
  - a. The owner shall provide and maintain 22 replacement rental dwelling units, comprised of 18 bachelor units and 4 one-bedroom units, on the subject site for a period of at least 20 years, as generally shown on the plans submitted to the City Planning Division dated November 14, 2016. Any revision to these plans must be to the satisfaction of the Chief Planner and Executive Director City Planning;
  - b. The owner shall provide at least eighteen (18) bachelor and three (3) one-bedroom replacement rental dwelling units at affordable rents and one (1) one-bedroom replacement rental dwelling unit at mid-range rent for a period of at least 10 years;
  - c. The owner shall provide ensuite laundry in all replacement rental dwelling units;

- d. The owner shall provide tenants of the replacement rental dwelling units with access to all indoor and outdoor amenities and bicycle parking on the same terms and conditions as condominium residents;
  - e. The owner shall provide tenant relocation and 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;
  - f. The owner shall enter into and register on title one or more Agreement(s) to secure the conditions outlined in a, b, c, d and e above to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and
  - g. 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 22 replacement rental dwelling units, without the written consent of the Chief Planner and Executive Director, City Planning Division or her designate, to assist with the securing of 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 twenty-two (22) existing rental dwelling units at 77 Mutual Street after all of the following have occurred:
- a. Satisfaction or securing of the conditions in Recommendation 1 above;
  - b. The Zoning By-law amendments which were subject of a hearing at 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, c, d and e, 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 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 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" above, 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**

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The recommendations in this report have no financial impact.

## **DECISION HISTORY**

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On January 13, 2015, Toronto and East York Community Council (TEYCC) adopted the Preliminary Report dated December 15, 2014 on the Rental Housing Demolition and Zoning By-law Amendment applications. The report can be accessed at: <http://www.toronto.ca/legdocs/mmis/2015/te/bgrd/backgroundfile-74229.pdf>

On September 4, 2015, the owner appealed both the Zoning By-law Amendment and Site Plan Control applications to the Ontario Municipal Board (OMB) citing City Council's failure to make a decision within the prescribed time frames set out in the *Planning Act*.

On December 9 and 10, 2015, City Council adopted the Request for Directions Report dated October 15, 2015 to authorize the City Solicitor, together with appropriate staff to attend any OMB hearings in opposition to the appeal. City Council also directed City staff to continue discussions with the applicant on a revised proposal.

On July 12, 13, 14 and 15, 2016, City Council directed and gave confidential instructions to the City Solicitor for the OMB hearing. City Council's decision and the City Solicitor report can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.CC20.16>

On August 11, 2016, the OMB hearing was adjourned for a 2-day mediation session over August 13 and 14, 2016, during which an approval was given for a 36-storey building containing 385 dwelling units (including 22 replacement rental dwelling units).

## **ISSUE BACKGROUND**

### **Proposal**

The OMB approved proposal is comprised of a: 36-storey mixed-use building containing 385 residential units, of which 22 will be replacement rental dwelling units; 297 square metres of retail space; 105 vehicular parking spaces; and 391 bicycle parking spaces. The development will also include a 1.5 storey expansion to the existing 2.5-storey office building at 75 Mutual Street. The development will have an overall gross floor area of 26,010 square metres, with a floor space index of 17.3.

Common recreation amenity space will consist of 520 square metres of indoor space and 540 square metres of outdoor amenity space.

The residential rental demolition application proposes to replace all 22 existing rental dwelling units with 22 replacement rental dwelling units of at least the same unit type and size. The replacement rental dwelling units will be secured at affordable and mid-range rents for 10 years and all eligible tenants will receive tenant assistance.

### **Site and Surrounding Area**

The site is comprised of a 2.5 storey rental apartment building at 77 Mutual Street containing 22 bachelor rental dwelling units. According to the August 2016 rent rolls submitted to the City by the applicant, 21 of the existing rental dwelling

units at 77 Mutual Street have affordable rents (approximately \$750 per month). At the time of application, all 22 rental dwelling units were occupied.

The related group of buildings at 75, 77 and 83 Mutual Street together form a rectangular shaped parcel located in the northwest quadrant within the block bordered by Dundas Street East to the north, Jarvis Street to the east, Shuter Street to the south, and Mutual Street to the west. An east-west City-owned laneway bisects the site.

### **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**

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 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, that the following be 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, the provision of alternative accommodation at similar rents 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. Chapter 667 of the City's Municipal Code, the Rental Housing Demolition and Conversion By-law, implements Section 111. Chapter 667 prohibits the demolition or conversion of rental housing units in buildings containing six or more residential dwelling units, of which at least one unit is rental, without obtaining a permit from the City and requires a decision by either City Council or, where delegated, the Chief Planner.

Pursuant to Chapter 667, Council may refuse an application, or approve the demolition and may impose conditions, including conditions that must be satisfied before a demolition permit is issued. These conditions further the intent of the City's Official plan policies protecting rental and affordable housing.

Pursuant to the City's demolition control by-law Chapter 363 of the Municipal Code, Council approval of the demolition of residential dwelling units under Section 33 of the Planning Act is also required where six or more residential dwelling 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 and an application under Chapter 363 for residential demolition control, City Council typically considers both applications at the same time. Unlike *Planning Act* applications, decisions made by City Council under Chapter 667 are not appealable to the Ontario Municipal Board.

On July 2, 2014, the applicant made an application for a Section 111 permit pursuant to Chapter 667 of the City of Toronto Municipal Code.

## **Reasons for Application**

An application to permit the demolition of the 22 existing rental dwelling units is required under Chapter 667 of the Toronto Municipal Code as the site contains at least 6 residential dwelling units of which at least one was used for residential rental purposes.

## **Tenant Consultation**

On December 5, 2015, City Planning hosted the first of two Tenant Consultation Meetings to review the City's housing policies and outline the various components of a typical Tenant Relocation and Assistance Plan. This initial meeting was attended by approximately 7 tenants, City Planning staff and the applicant. During this meeting tenants asked questions about the proposed development, the process for finding alternative accommodations and rents for the replacement rental dwelling units.

On November 5, 2016, City Planning hosted the second Tenant Consultation meeting to provide tenants with an update on the development application and review typical aspects of a Tenant Relocation and Assistance Plan. This meeting was attended by 9 tenants. Similar to the initial meeting, tenants had concerns about finding alternative accommodations and asked questions about the proposal.

On November 21, 2016, City Planning and Shelter, Support and Housing Administration staff undertook a site visit and met with many tenants individually to establish a better understanding of tenants' needs and the hardships that they might experience during the relocation process. Tenants were asked to provide staff with information about their age, length of tenure and monthly rent and identify if they are on a fixed income (Ontario Works or Ontario Disabilities Support Program) and would have difficulty finding and moving to a new home. Staff noted during this site visit that many of the existing tenants would likely experience hardships finding, securing, moving to and maintaining alternative accommodations within their neighbourhood due to a number of compounding factors which include, but are not limited to, limited financial resources and physical limitations. Staff were also informed that some of the existing tenants receive various support services through the City's Streets to Homes program.

## **COMMENTS**

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### **Rental Housing**

The existing 2.5 storey rental building at 77 Mutual Street contains 22 small bachelor rental dwelling units with an average size of approximately 308ft<sup>2</sup> (28m<sup>2</sup>). The applicant has proposed to locate all 22 replacement rental dwelling units on third floor of the proposed condominium building. The unit mix for the proposed replacement rental dwelling units will be slightly different than the existing unit mix as four bachelor units will be replaced with four one-bedroom

units. The average unit size and total gross floor area of the proposed replacement rental dwelling units will be approximately 18% larger than the existing rental dwelling units.

All replacement rental dwelling units will be provided with ensuite laundry facilities, a sliding door or Juliette balcony and open concept layouts. Tenants of the replacement rental units will have access to a storage locker, bicycle parking and all indoor and outdoor amenities on the same terms and conditions as condominium residents.

The Section 37 and Section 111 agreements will secure all details regarding minimum unit sizes and future tenants' access to all facilities and amenities.

### **Tenure and Rents for the New and Replacement Rental Dwelling Units**

The applicant has agreed to provide and maintain the 22 replacement rental dwelling units within the proposed building for at least 20 years, beginning from the date that each replacement rental dwelling unit is first occupied and until 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 21 affordable and 1 mid-range rental units. The applicant has agreed to secure the rents for the 21 affordable and 1 mid-range replacement rental units for at least 10 years.

### **Tenant Relocation and Assistance Plan**

The owner has agreed to provide tenant relocation and assistance which will be to the satisfaction of the Chief Planner and secured through the Section 37 and Section 111 Agreements with the City.

This Tenant Relocation and Assistance Plan will assist this particularly vulnerable tenant group find, secure and maintain alternative accommodations while the replacement rental dwelling units are being constructed. As part of this Plan, tenants will:

- Receive at least 5 months' notice of the date that they must vacate their rental unit;
- Have the right to return to one of the replacement rental units in the new building, with rent protected for up to 20 years;
- Receive compensation equal to 3 month's rent or an acceptable alternative rental dwelling units, pursuant to *the Residential Tenancies Act*;
- Receive a move-out moving allowance of \$1,700 and, if they decide to exercise their right to return to a replacement rental dwelling unit in the new building, a move-back moving allowance of \$1,700;
- Receive a monthly Rent-Gap Payment from the date that they provide vacant possession and until the replacement rental dwelling units are made ready for

occupancy. All monthly Rent-Gap Payments will be administered through a City approved trusteeship for the duration of construction;

- Have access to Housing Access Support Services provided by a City approved community agency for up to 5 months. Services which will include assistance to:
  - Conduct on-line searches for rental housing listings;
  - Contact potential landlords on behalf of a client;
  - Accompaniment to view potential apartments and mediate with landlords;
  - Assistance completing the required tenant leases; and
  - Assistance arranging payment of first and last months' rent through the tenant's financial compensation identified above;
- Have access to Housing Follow-up Services provided by a City approved community agency for at least 6 months, commencing from the date that the Notice to Vacate is issued. These services will help tenants develop the necessary skills to maintain their housing independently.

## **CONCLUSION**

Staff is recommending that Council approve the demolition of the 22 existing rental dwelling units located at 77 Mutual Street subject to the conditions set out in the recommendations in this report

## **CONTACT**

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## **SIGNATURE**

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Gregg Lintern, Director, Community Planning, Toronto East York District

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