

90 Eastdale Avenue and 2 Secord Avenue – Rental Housing Demolition Application – Final Report

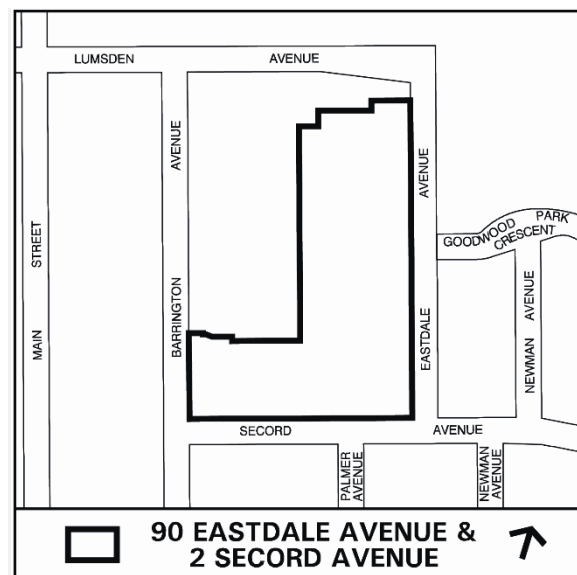
Date:	June 8, 2018
To:	Toronto and East York Community Council
From:	Acting Director, Community Planning, Toronto and East York District
Wards:	Ward 31 – Beaches-East York
Reference Number:	12 269076 STE 31 RH

SUMMARY

This application is for revisions to the conditions of approval of a Rental Housing Demolition application under Chapter 667 of the Toronto Municipal Code (Section 111 of the *City of Toronto Act*) for a residential rental property at 90 Eastdale Avenue and 2 Secord Avenue (File 12 269076 STE 31 RH). This application seeks approval to demolish 21 existing rental townhouses and one existing rental apartment unit and provide 22 replacement rental dwelling units and six new secured rental dwelling units within the new development approved for the lands.

The Rental Housing Demolition application was originally approved by City Council on July 16, 2013, subject to conditions and based on an Ontario Municipal Board approved development proposal that has since been revised.

This revised Zoning By-law Amendment application (File No. 15 209995 STE 31 OZ) was the subject of a hearing at the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, (No. PL170275). An oral decision approving the



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application was given. The final Order is being withheld until all outstanding matters, including the necessary agreements with the City, are secured. The approval permits a 35-storey residential tower and a seven-storey mid-rise building containing a total of 484 residential dwelling units, including the 22 replacement rental dwelling units and six new secured rental units.

Chapter 667 of the Toronto Municipal Code provides that an owner can apply for revisions to the conditions of approval of a Rental Housing Demolition application and that Community Council will consider and make recommendations to Council on the proposed revisions. This report recommends approval of the revised Rental Housing Demolition application under Chapter 667 of the Toronto Municipal Code and the Residential Demolition Permit under Chapter 363 of the Toronto Municipal Code, subject to conditions.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the revised Rental Housing Demolition application in accordance with Chapter 667 of the Toronto Municipal Code to allow for the demolition of 22 existing rental dwelling units located at 90 Eastdale Avenue and 2 Secord Avenue subject to the following conditions:
 - a. The owner shall provide and maintain 22 replacement rental dwelling units and six new secured rental dwelling units comprised of 28 three-bedroom units on the subject site, as illustrated on the plans submitted to the City Planning Division dated April 6, 2018, for a period of at least twenty years beginning from the date that each replacement rental dwelling unit and new secured rental dwelling unit are first occupied. 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 ten three-bedroom replacement rental dwelling units at affordable rents and at least 18 three-bedroom replacement rental dwelling units or new secured rental dwelling units at mid-range rents for a period of at least ten years beginning from the date that each replacement rental dwelling unit or new secured rental unit is first occupied;
 - c. The owner shall provide tenants of the replacement rental dwelling units and new secured rental dwelling units with access to all indoor and outdoor amenities located on the site and as illustrated on the plans submitted to the City Planning Division and any revisions shall be to the satisfaction of the Chief Planner and Executive Director, City Planning;

- d. The owner shall provide at least 16 vehicle parking spaces to tenants of the replacement rental dwelling units and new secured rental dwelling units, and any revisions shall be to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - e. The owner shall provide ensuite laundry facilities in each of the replacement rental dwelling units and new secured rental dwelling units, at no additional cost to the tenants;
 - f. The owner shall provide tenant relocation and assistance to all eligible tenants, including the right to return to a replacement rental dwelling unit or new secured rental dwelling unit, to the satisfaction of the Chief Planner and Executive Director, City Planning; and
 - g. The owner shall enter into and register on title one or more Agreement(s) to secure the conditions outlined in recommendations 1.a. through 1.f. above to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning.
2. City Council authorize the Chief Planner and Executive Director, City Planning, to issue the Preliminary Approval for the permit under Chapter 667 of the Toronto Municipal Code for the demolition of 22 existing rental dwelling units at 90 Eastdale Avenue and 2 Secord Avenue after all the following have occurred:
- a. Satisfying or securing of the conditions in Recommendation 1. above;
 - b. The Zoning By-law Amendments, which were the subject of a decision of the Local Planning Appeal Tribunal, have come into full force and effect;
 - c. The issuance of a Site Plan Approval by the Local Planning Appeal Tribunal pursuant to Section 114 of the *City of Toronto Act, 2006*;
 - d. The issuance of excavation and shoring permits for the approved development of the site; and
 - e. The execution and registration of a Section 37 Agreement pursuant to the *Planning Act* securing Recommendation 1.a. through 1.f. and any other requirements of the Zoning By-law Amendment.
3. City Council authorize the Chief Building Official to issue the Rental Housing Demolition Permit under Chapter 667 of the Toronto Municipal Code after the Chief Planner and Executive Director, City Planning has issued the Preliminary Approval referred to in Recommendation 2.

4. City Council authorize the Chief Building Official to issue a Residential Demolition 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, has issued the Preliminary Approval referred to in Recommendation 2., which may be included in the demolition permit for Chapter 667 under 363-11.1, of the Toronto Municipal Code, on condition that:
 - a. The owner erects a residential building on site no later than three 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 4.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 rental 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

The Official Plan Amendment and Rezoning application submitted in 2010 was the subject of a number of reports and an Ontario Municipal Board (OMB) hearing approving the development.

On July 16, 2013, City Council adopted the Final Report dated May 31, 2013, approving the Rental Housing Demolition application, subject to conditions which were based on the OMB approved development. The relevant reports can be accessed at:

<https://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-49892.pdf>

<https://www.toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-59029.pdf>

The applicant did not pursue the OMB approved development and submitted a new application on August 20, 2015. On March 14, 2017, the City Clerk's Office received notification that the applicant filed an appeal of the Zoning By-law Amendment application to the Ontario Municipal Board (OMB), citing Council's failure to make a decision on the application within the time frame prescribed by the *Planning Act*.

On July 4, 2017, City Council adopted the Request for Directions Report dated May 25, 2017, authorizing the City Solicitor, together with appropriate staff to attend any LPAT in opposition to the appeal. The report can be accessed at:

<https://www.toronto.ca/legdocs/mmis/2017/te/bgrd/backgroundfile-104490.pdf>

On April 24, 2018, City Council adopted the Request for Further Directions Report dated April 16, 2018, to adopt the recommendations set out in a confidential attachment. The report can be accessed at:

<https://www.toronto.ca/legdocs/mmis/2018/cc/bgrd/backgroundfile-114291.pdf>

The Local Planning Appeal Tribunal (LPAT) heard the appeal on May 22 and 23, 2018 and gave an oral decision approving the Council endorsed settlement. The order has been withheld pending finalization of the By-laws, Section 37 Agreement and Site Plan matters.

ISSUE BACKGROUND

Proposal

The LPAT-approved proposal consists of a 35-storey residential tower and a seven-storey mid-rise building containing a total of 484 residential dwelling units, including the 22 replacement rental dwelling units and six new secured rental dwelling units.

Replacement Rental Proposal

The revised Rental Housing Demolition application proposes to demolish 22 existing three-bedroom rental units at 90 Eastdale Avenue and 2 Secord Avenue and construct and maintain 22 replacement rental dwelling units and six new secured rental units. All 28 replacement and new secured rental dwelling units would be comprised of three-bedroom units located within the proposed seven-storey mid-rise building.

Similar to the revised application, the original previously approved by Council in July 2013 proposal sought permission to demolish the same 22 existing three-bedroom rental units at 90 Eastdale Avenue and 2 Secord Avenue. Conversely, the approved rental demolition application at that time proposed to construct only 22 replacement rental dwelling units and two new secured rental dwelling units. All 24 replacement and new secured rental dwelling units were comprised of three-bedroom units located within two blocks of stacked townhouses.

Proposal Characteristics	Rental Housing Replacement – Approved Proposal - July 16, 2013	Rental Housing Replacement - Revised Proposal – Council Endorsed settlement April 24, 2018
Number and Type of Replacement Rental Units	22 three-bedroom units	22 three-bedroom units

Number of New Mid-range Rental Units	2 three-bedroom units	6 three-bedroom units
Proposed Built-form	Stacked Townhouses	Rental Apartment Building
Unit Size	Min.: 1,300ft ² Max.: 1,600ft ² Average: 1,450ft ²	Min.: 1,270ft ² Max.: 1,600ft ² Average: 1,414ft ²
Total GFA - Replacement Rental and New Rental Units	34,800ft ²	39,596ft ²
Number of Bathrooms per Unit	2.5	2.5
Private Outdoor Space	Roof-top terrace or ground floor front and back patios	Patio or roof-top terrace
Ensuite Laundry	Yes	Yes
Additional Storage Space	Yes	Yes
Number of Accessible Units	0 units	4 units

As part of the revised proposal, the rental tenure for the proposed replacement rental units and new secured rental dwelling units would be secured for at least 20 years. Rents for the replacement rental dwelling units and new secured rental dwelling units would be secured at either affordable or mid-range rents for at least 10 years from the date of first occupancy. The securing of rents and tenure also formed part of the original proposal.

Revised Approval Conditions

Based on the 2018 LPAT approved development proposal for 90 Eastdale Avenue and 2 Secord Avenue, approval conditions of the Council-approved Rental Housing Demolition application within the May 31, 2013, staff report would be revised as follows:

- Replace recommendation 1.a. within the original staff report with recommendation 1.a and b. provided within this report to reflect the increased number of new secured rental dwelling units and changes to the proposed built form;

- Add recommendations 1.d. and e. provided within this report to reflect current standard practices to secure vehicle parking and access to on-site amenities; and
- Remove recommendation 1.d. within the original staff report as Section 118 Agreements are no longer needed as Section 111 Agreements now run with title.

Site and Surrounding Area

The subject site is within the Crescent Town Neighbourhood, one of 13 neighbourhoods identified by City Council for priority investment.

The site is comprised of two properties at 90 Eastdale Avenue and 2 Secord Avenue, with a total lot area of 2.65 hectares. The property at 90 Eastdale Avenue currently contains a 24-storey rental apartment building with 383 rental units and 30 two-storey townhouse units. The property at 2 Secord Avenue contains a 22-storey apartment building with 304 rental units and 22 two-storey townhouse units. In total, the site contains 739 existing rental dwelling units.

The 22 existing rental dwelling units located at 90 Eastdale Avenue and 2 Secord Avenue proposed to be demolished, are comprised of the following unit mix and rent classifications:

- 21 three-bedroom townhouse units, nine with affordable rents and 12 with mid-range rents; and
- one three-bedroom apartment unit with affordable rent

At the time of this report, approximately 20 of the existing rental dwelling were occupied

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) 2014 provides policy direction Province wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment; and
- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit.

The City of Toronto uses the PPS to guide its Official Plan and inform decisions on planning and development matters. The PPS is issued under Section 3 of the Planning

Act and all decisions of Council affecting land use planning matters shall be consistent with the Provincial Policy Statement.

The Growth Plan for the Greater Golden Horseshoe (2017) provides a strategic framework for managing growth in the Greater Golden Horseshoe region including:

- Setting minimum density targets within settlement areas and related policies directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, cultivate a culture of conservation and promote compact built form and better designed communities with high quality built form and an attractive and vibrant public realm established through site design and urban design standards; and
- Building complete communities with a diverse range of housing options, public service facilities, recreation and green space that better connect transit to where people live and work.

Like other provincial plans, the Growth Plan for the Greater Golden Horseshoe (2017) builds upon the policy foundation provided by the Provincial Policy Statement (2014) and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. All decisions by City Council affecting land use planning matters are required by the Planning Act, to conform, or not conflict, as the case may be, with the Growth Plan.

Staff have reviewed the proposed development for consistency with the PPS and for conformity 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 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 Toronto 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 and Executive Director, City Planning.

Pursuant to Chapter 667, City 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 housing.

Pursuant to the City's Residential Demolition Control By-law Chapter 363 of the Toronto Municipal Code, City 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 Local Planning Appeal Tribunal (LPAT).

On October 26, 2012, the applicant made an application for a Rental Housing Demolition permit pursuant to Chapter 667 of the City of Toronto Municipal Code.

Reasons for Application

A Rental Housing Demolition Permit under Chapter 667 of the Toronto Municipal Code is required as the site contains at least six residential dwelling units of which at least one was used for residential rental purposes.

As a result of the revised development proposal, an application to revise the Council-approved conditions of approval of the Rental Housing Demolition application is required.

Tenant Consultation

On June 4, 2018, planning staff hosted a Tenant Consultation Meetings to review the City's rental housing policies, provide information on the revised redevelopment of the site and outline the various components of the proposed Tenant Relocation and Assistance Plan. This meeting was attended by approximately 25 tenants, the local councillor, planning staff and the applicant.

During this meeting, tenants asked specific questions about the provision of interim on-site rental accommodations, provision of storage lockers during construction, expected length of construction, timing of the notice to vacate, timing of compensation payments and permitted rent increases for the replacement rental dwelling units. During the meeting, a number of tenants expressed concerns about their ability to find interim or alternative accommodations within their established neighbourhood given low vacancy rates and rising average market rents.

COMMENTS

Replacement Rental Dwelling Units

As currently proposed, the revised replacement rental proposal satisfies the City's rental replacement policy and reflects the rental replacement proposal approved by Council in July 2013. The Section 37 and Section 111 Agreements will secure all details regarding minimum unit sizes, tenure and future rents.

Tenant Relocation and Assistance Plan

The owner has agreed to provide tenant relocation and assistance to all affected tenants residing at 90 Eastdale Avenue and 2 Secord Avenue, all of which would be to the satisfaction of the Chief Planner and Executive Director, City Planning, and secured through the Section 37 and Section 111 Agreements with the City.

The proposed Tenant Relocation and Assistance Plan will assist affected tenants in finding and securing interim accommodations while the replacement rental dwelling units and new secured rental dwelling units are being constructed. As a part of this plan, all affected tenants would be able to select from one of the following two options, subject to seniority and the availability of interim rental dwelling units located on site.

Option 1

- At least 6 months notice of the date that they must vacate their rental unit;
- An interim rental unit located on site, if available and to the satisfaction of the eligible tenants;
- A move-out moving allowance and a move-back moving allowance if they exercise their right to return to a replacement rental dwelling unit; and

- Special needs compensation as determined by the Chief Planner and Executive Director, City Planning.
- Option 2
- The right to return to a replacement rental unit in the new building, with rent protected for at least to 20 years;
 - Compensation equal to 3 month's rent pursuant to the *Residential Tenancies Act*;
 - Additional compensation based on length of tenure;
 - Additional compensation should the construction and occupancy of replacement rental dwelling units take longer than 24 months;
 - A move-out moving allowance and a move-back moving allowance if they exercise their right to return to a replacement rental dwelling unit; and
 - Special needs compensation as determined by the Chief Planner and Executive Director, City Planning.

As a result of the revised development proposal, affected tenant households residing in the 22 existing rental dwelling units proposed to be demolished will need to find interim accommodations while the replacement rental dwelling units are being constructed. The applicant has proposed to provide affected tenants with the right of first refusal to occupy other vacant rental units on site until the replacement rental units are ready for occupancy. Alternatively, should an interim rental unit not be available on site or not to the satisfaction of the tenant household, an enhanced financial compensation package will be provided to tenants to help address hardship while the replacement rental dwelling units are being constructed.

Other Tenant Concerns

During the tenant consultation meeting, a number of tenants, interested in moving to an interim unit provided on site, expressed concerns about the possibility of downsizing and the need for storage space during construction. In response, the applicant expressed a willingness to explore the possibility of converting several vacant parking spaces within the existing underground garage to storage lockers. Staff will continue to work with the applicant to determine location, design and size of these storage spaces.

Housing Access Plan

Staff are currently in discussions with the owner about developing a housing access plan. In consultation with the City of Toronto's Shelter, Support and Housing Administration Division, a number of affordable replacement rental units may then be made available to tenant households on the City's centralized waiting list. Details regarding the house access plan would be secured through one or more agreements with the City.

CONCLUSION

Staff are recommending that City Council approve the demolition of the 22 existing rental dwelling units located at 90 Eastdale Avenue and 2 Secord Avenue subject to the conditions set out in the Recommendations of this report.

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SIGNATURE

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