

## **3636 Bathurst Street – Rental Housing Demolition Application under Chapter 667 of the Toronto Municipal Code – Final Report**

Date: December 12, 2018

To: North York Community Council

From: Director, Community Planning, North York District

Wards: Ward 8 - Eglinton-Lawrence

**Planning Application Number:** 14 226863 NNY 15 RH

### **SUMMARY**

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A Rental Housing Demolition Application under Section 111 of the *City of Toronto Act* (Chapter 667 of the Toronto Municipal Code) has been filed to permit the demolition of 6 existing rental units at 3636 Bathurst Street to accommodate an expansion of the housing on the site. This application proposes to replace all 6 demolished rental units within the proposed south addition to the existing building and provide tenant relocation and assistance to all eligible tenants.

The related Zoning By-law Amendment for the site (File No. 11 330299 NNY 15 OZ) proposes a 9-storey (68 units) south addition, and a 10-storey (203 units) north addition with an 11th storey amenity roof top, attached to the existing 19-storey rental apartment building at 3636 Bathurst Street. Upon completion, there would be a total of 496 dwelling units. The related Zoning By-law Amendment application approved by City Council at its meeting on April 24, 2018 are the subject of a settlement at the Local Planning Appeal Tribunal (LPAT). An interim Order (PL171356) was issued by the LPAT on December 3, 2018, withholding the final Order subject to conditions being fulfilled.

This report recommends approval of the Section 111 permit application under Chapter 667 of the Toronto Municipal Code to demolish 6 existing rental units at 3636 Bathurst Street, subject to conditions.

### **RECOMMENDATIONS**

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The City Planning Division recommends that:

1. City Council approve the application for a Rental Housing Demolition permit in accordance with Chapter 667 of the Toronto Municipal Code to allow for the demolition of the 6 existing rental units located on the ground floor of the rental building at 3636 Bathurst Street subject to the following conditions:

- a. the Owner shall provide and maintain the 6 replacement rental units on the subject site for a period of at least 20 years, beginning from the date that each replacement rental unit is first occupied and, during which time, no application may be submitted to the City for condominium registration, or for any other conversion to a non-rental housing purposes, or for demolition without providing for replacement during the 20 year period. The 6 replacement rental units shall be comprised of 3 one-bedroom and 3 two-bedroom units, as shown on the August 30, 2017, Floor Plans submitted to the City Planning Division with any revisions to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- b. the Owner shall provide and maintain at least 2 one-bedroom replacement rental units at affordable rents and at least 1 one-bedroom and 3 two-bedroom rental units at mid-range rents, all for a period of at least 10 years beginning from the date that each replacement rental unit is first occupied;
- c. The owner shall provide tenants of the replacement rental units with access to all existing and proposed indoor and outdoor amenities within the existing rental building at no extra charge. Access and use of these amenities shall be on the same terms and conditions as any other resident without the need to pre-book or pay a fee, unless specifically required as customary practices for private bookings;
- d. the Owner shall provide tenant relocation assistance to all eligible tenants occupying the 6 existing rental units proposed to be demolished, including the right to return to a replacement rental unit, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division; and
- e. the Owner shall enter into and register on title one or more Section 111 Agreement(s) to secure the conditions outlined in recommendation 1 (a) through (d) 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 Division to issue a preliminary approval for the application under Chapter 667 of the Toronto Municipal Code for the demolition of the 6 existing rental units at 3636 Bathurst Street East after all of the following have occurred:

- a. the conditions outlined in recommendation 1 above have been fully satisfied;
- b. the Zoning By-law Amendment(s) has come into full force and effect;
- c. the issuance of the Notice of Approval Conditions for site plan approval by the Chief Planner and Executive Director, City Planning, or their designate, pursuant to Section 114 of the *City of Toronto Act, 2006*; and
- d. the issuance of excavation and shoring permits for the approved south addition.

3. City Council authorize the Chief Building Official to issue a Section 111 permit under Chapter 667 of the Toronto Municipal Code after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval referred to in Recommendation 2 for the existing rental units.

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**

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The recommendations in this report have no financial impact.

## **DECISION HISTORY**

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On December 22, 2011, a Zoning By-law Amendment application was submitted, and on September 23, 2014, a Rental Housing Demolition and Conversion application was submitted for the site. The related Zoning By-law Amendment application was seeking permission to develop three new buildings on the subject property - a new 19-storey apartment building, as well as nine and seven storey additions to the existing 19-storey apartment building. Six rental housing units in the existing building would be demolished and replaced.

On March 20, 2012, North York Community Council adopted the recommendations of the Preliminary Report for 3636 Bathurst Street.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.NY14.20>

The application has been revised multiple times, with the most recent proposal submitted on September 8, 2017, proposing a 9-storey (68 units) south addition, and a 10-storey (203 units) north addition with an 11th storey amenity roof top, attached to the existing 19-storey rental apartment building.

On December 15, 2017, the applicant appealed the Zoning By-law Amendment and Site Plan Control applications to the LPAT due to Council's failure to make a decision with respect to the applications within the time prescribed by the *Planning Act*.

At its meeting of April 24, 2018, City Council authorized the City Solicitor together with appropriate staff to continue negotiations and/or to attend the LPAT hearing to among other matters, oppose the appeals due to identified sewer capacity constraints not being satisfactorily addressed. Staff otherwise supported the revised proposal.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.NY29.5>

An interim Order was issued by the LPAT on December 3, 2018, approving the settlement with the City for the revised proposal and withholding the final Order subject to the LPAT being advised that the conditions have been fulfilled.

## ISSUE BACKGROUND

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### Proposal

The Rental Housing Demolition Application proposes to demolish 6 rental units on the ground floor of the existing rental building at 3636 Bathurst Street and provide 6 replacement rental units on the ground floor of the proposed south addition. The unit mix and total gross floor area of the replacement rental units would be similar to the existing rental units proposed to be demolished. The tenure of the replacement rental units would be secured for at least 20 years and the rents would be secured for at least 10 years from the date of first occupancy.

The related Zoning By-law Amendment and Site Plan Applications, which were the subject of a recent interim Order by the LPAT, propose two additions to the existing 19-storey rental building. These north and south additions are 10-storeys and 9-storeys respectfully, and contain a total of 271 dwelling units, of which 68 would be rental units.

The Draft Zoning by-laws are to be provided to the LPAT within 30 days of Council approving the Rental Housing Demolition Application, the content and form of which are to be satisfactory to the Director, Community Planning, North York District, and the City Solicitor. The By-laws will include:

- securing the tenure and rents for the replacement rental units, a tenant assistance and any other related matters; and
- having the owner enter into a Section 37 Agreement with the City incorporating such replacement rental units, rents, tenant assistance, and any other related matters, all to the satisfaction of the City Solicitor.

The owner will also submit revised functional servicing, storm water management, and geotechnical/hydrogeological reports to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, and enter into necessary financially secured agreements.

### Site and Surrounding Area

The site is located on the west side of Bathurst Street, south of Highway 401 and north of Lawrence Avenue West. The site is developed with a 225 unit, 19-storey rental apartment building with two levels of underground parking as well as surface parking provided to the west of the building.

The 6 existing rental units proposed to be demolished have the following unit mix and rent classification:

- 3 one-bedroom rental units – 2 with affordable rents and 1 mid-range rents; and
- 3 two-bedroom rental units with mid-range rents.

The occupancy status of the 6 existing rental units proposed to be demolished has fluctuated throughout the application review process. At the time of this report, 2 of the 6 impacted rental units were occupied by tenants. A third unit is currently occupied by the

superintendent. The 2 tenant households would be required to relocate if this Rental Housing Demolition Application is approved by Council.

### **Provincial Land-Use Policies: 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; the adequate provision of a full range of housing, including affordable housing, 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; planning for a range and mix of housing, taking into account affordable housing needs, 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.

### **Toronto Official Plan**

This application has been reviewed against the policies of the City of Toronto Official Plan as follows:

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, 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, the provision of alternative

accommodation at similar rents and other assistance to lessen the hardship of relocation.

The site is located within a Mixed Use Areas designation within the Official Plan.

### **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 existing residential rental properties in the City where there are six or more dwelling units on a site or within a 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, 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 a rezoning application 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 Local Planning Appeal Tribunal.

### **Reasons for Application**

An application under Chapter 667 of the Toronto Municipal Code was submitted by the applicant on September 23, 2014 to demolish 6 residential dwelling units of which at least one was used for rental purposes.

### **Tenant Consultation**

On June 27, 2016, City Planning staff held the first of two Tenant Consultation Meetings. This meeting, open to all tenant households at 3636 Bathurst Street, was attended by approximately 50-60 tenants. The Federation of Metro Tenants Association was also in attendance. During this meeting, City Planning staff presented the City's rental housing policies, reviewed the application review process and discussed the various components of the applicant's proposed Tenant Relocation and Assistance Plan. This review was followed by a presentation from the applicant's architect and planning consultant which provided a summary of the revised development proposal and outlined the proposed development phasing. The meeting concluded with a question and answer period.

On July 27, 2016, City Planning Staff held a second Tenant Consultation meeting for the tenants occupying the impacted rental units. Approximately 30-40 tenants and the Federation of Metro Tenants Association were in attendance. During this meeting, staff

presented the various components of the applicant's revised Tenant Relocation and Assistance Plan and reviewed the proposed development phasing. The meeting concluded with a question and answer period.

## COMMENTS

Staff have reviewed the Rental Demolition Application against the City's rental housing demolition policies and have determined that the applicant's demolition and replacement proposal for 3636 Bathurst Street satisfy all of the required approval conditions. This report recommends that City Council approve, with conditions, the application for a Section 111 permit in accordance with Chapter 667 of the Toronto Municipal Code to allow for the demolition of the 6 existing rental units.

### Replacement Rental Units

According to the August 30, 2017, floor plans submitted by the applicant, the 6 replacement rental units to be provided on the ground floor of the south addition would be of at least the same number, type and size as the 6 existing rental units proposed to be demolished, satisfying policy 3.2.1.6 b (i) of the City's Official Plan. The 6 replacement units would also have modern layout, ensuite laundry, air conditioning and access to private ground-related outdoor amenity space. All of the above would be secured in one or more agreements with the City.

**Table 1: Existing Rental Units to be Demolished vs. Replacement Rental Units – by Unit Type and Total GFA**

Unit Type	Existing Rental Units to be Demolished		Replacement Rental Units	
	Number	Total GFA (m <sup>2</sup> )	Number	Total GFA (m <sup>2</sup> )
One-bedroom	3	206	3	225
Two-bedroom	3	352	3	362
<b>Total</b>	<b>6</b>	<b>558</b>	<b>6</b>	<b>587</b>

### Tenure and Rents for the Replacement Rental Units

The owner has agreed to provide and maintain the 6 replacement rental units as rental units for at least 20 years, beginning from the date that each such unit is first occupied. The owner has also agreed to secure the rents for the 6 replacement rental units for at least 10 years in accordance with the table below. These secured rents are similar to those of the existing rental units at the time of application, satisfying policy 3.2.1.6 b (ii) of the Official Plan. All of the above would be secured in one or more agreements with the City.

**Table 2: Summary of Existing Rental Units by Rent Classification**

Unit Type	Rent Classification			
	Affordable	Mid-range	High-End	Total
One-bedroom	2	1	0	3
Two-bedroom	0	3	0	3
<b>Total</b>	<b>2</b>	<b>4</b>	<b>0</b>	<b>6</b>

## Tenant Relocation and Assistance Plan

Under the provincial *Residential Tenancies Act*, all tenants who receive notice to terminate their tenancies for the purpose of demolition, conversion or repairs are to be eligible for financial compensation or an acceptable alternative rental unit and a minimum notice period before they are required to vacate their unit.

As of the date of this report, there are two households that would need to relocate due to the proposed demolition of the 6 existing rental units on the ground floor of 3636 Bathurst Street. Each of these tenant households took up occupancy of their existing rental units after the date of application and were made aware of the proposed redevelopment prior to signing a lease. As such, they understood that their tenancy would be generally short in nature. The following is a summary of the Tenant Relocation and Assistance Plan that would be provided to each impacted tenant household:

- 180 days' (6 months') notice to vacate their apartment. This notice period is 60 days longer than that which is required under the *Residential Tenancies Act*,
- 3 months compensation or an alternative rental unit as per the *Residential Tenancies Act*; and
- Special needs compensation equal to 2 months' rent will be provided to all tenants who are over the age of 70 or have a significant physical or mental health impairment.

The applicant's proposed Tenant Relocation and Assistance Plan is in accordance with the *Residential Tenancies Act* and the City's standard practices. All of the above would be secured in one or more agreements with the City.

## Conclusion

The applicant's proposal would satisfy Official Plan Policy 3.2.1.6 and Chapter 667 of the Toronto Municipal. Staff is recommending that Council approve the Rental Housing Demolition Application, with conditions, to demolish 6 existing rental units located on the ground floor of 3636 Bathurst Street, subject to the conditions of approval identified within this report.

## CONTACT

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## SIGNATURE

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Joe Nanos, Director  
Community Planning, North York District



## ATTACHMENTS

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**City of Toronto Data/Drawings**  
Attachment 1: Location Map

Attachment 1: Location Map

