

170 Spadina Avenue and 3, 5 and 7 Cameron Street – Rental Housing Demolition Application and Section 37 Matters – Final Report

Date: April 3, 2019

To: Toronto and East York Community Council

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

Ward 10 – Spadina-Fort York (formerly Ward 20)

Planning Application Number: 16 118053 STE 20 RH and 12 108570 STE 20 OZ

SUMMARY

On January 19, 2012, a Zoning By-law amendment application to redevelop 170 Spadina Avenue with a 19-storey mixed-use building was submitted to the City. In August 2014, the application was revised, proposing a 17-storey building and including 3, 5, and 7 Cameron Street, and was appealed to the Ontario Municipal Board (OMB). On February 19, 2019, the Local Planning Appeal Tribunal (LPAT) approved a 12-storey building on the site but withheld its final order pending the resolution of the Rental Housing Demolition application and the execution and registration of a Section 37 Agreement.

The Rental Housing Demolition application proposes the demolition of 10 existing rental dwelling units at 3, 5 and 7 Cameron Street and replacement of all demolished rental dwelling units with the proposed mixed-use building.

This report reviews and recommends approval of the 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. This report also details the matters to be secured in the Section 37 Agreement, including community benefits and matters of convenience.

RECOMMENDATIONS

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 10 existing rental dwelling units located at 3, 5 and 7 Cameron Street, subject to the following conditions:

- a. the owner will provide and maintain 10 replacement rental dwelling units, comprised of eight one-bedroom and two three-bedroom rental units, within the proposed mixed-use building on the site, for a period of at least 20 years,

beginning from the date that each such replacement rental dwelling unit is first occupied, and as generally illustrated in the plans provided to the City Planning Division dated April 2, 2018. The two three-bedroom replacement rental dwelling units will have unrestricted rents. Any revision to these plans will be to the satisfaction of the Chief Planner and Executive Director, City Planning Division;

b. the owner will provide and maintain at least four one-bedroom replacement rental dwelling units at affordable rents and four one-bedroom replacement rental dwelling units at mid-range rents, for a period of at least 10 years, beginning from the date that each such replacement rental dwelling unit is first occupied.

c. the owner will provide and maintain ensuite laundry facilities in each replacement rental dwelling unit;

d. the owner will provide tenants of the replacement rental dwelling units with access to all indoor and outdoor amenities in the proposed mixed-use building. Access and use of these amenities will be on the same terms and conditions as any resident of the non-replacement dwelling units without the need to pre-book or pay a fee, unless specifically required as customary practices for private bookings;

e. the owner will provide at least two vehicle parking spaces to tenants of the replacement rental dwelling units;

f. the owner will enter into, and register on title to the site, 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.

2. City Council authorize the Chief Planner and Executive Director, City Planning Division, to issue Preliminary Approval for the Rental Housing Demolition Permit under Chapter 667 of the Toronto Municipal Code for the demolition of the 10 existing rental dwelling units at 3, 5 and 7 Cameron Street after all of the following have occurred:

a. satisfaction or securing of the conditions in Recommendation 1 above;

b. the site-specific Zoning By-law Amendments have 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 Division, or their designate, pursuant to Section 114 of the City of Toronto Act, 2006;

d. the issuance of excavation and shoring permits for the approved mixed-use building 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 the Rental Housing Demolition Permit under Chapter 667 of the Toronto Municipal Code after the Chief Planner and Executive Director, City Planning Division, has given preliminary approval referred to in Recommendation 2, above.

4. City Council authorize the Chief Building Official to issue the Residential Demolition Permit under Chapter 363 of the Toronto Municipal Code and Section 33 of the Planning Act no earlier than the issuance of the first building permit for excavation and shoring of the proposed development, and after the Chief Planner and Executive Director, City Planning Division, has given preliminary approval referred to in Recommendation 2, above, which may be included in the Rental Housing Demolition permit under 363-11.1, of the Toronto Municipal Code, on condition that:

- a. the owner remove all debris and rubble from the site immediately after demolition;
- b. the owner erect solid construction hoarding to the satisfaction of the Chief Building Official;
- c. the owner will erect the mixed-use building on the site no later than four (4) years from the day the demolition of the existing buildings commences; and
- d. should the owner fail to complete the proposed mixed-use building within the time specified in condition (c) above, the City Clerk will 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 Residential Demolition Permit is issued, and that each sum will, until payment, be a lien or charge upon the land for which the demolition permit is issued.

5. City Council instruct the City Solicitor to enter into an Agreement pursuant to Section 37 of the Planning Act satisfactory to the City Solicitor, together with satisfactory provisions in the amending By-laws, to secure the following, at the owner's expense, in connection with the development at 170 Spadina, 3, 5, and 7 Cameron Street, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor, with such agreement to be registered to the satisfaction of the City Solicitor:

a. The following community benefit is recommended to be secured in a Section 37 Agreement:

1. A financial contribution of \$575,000.00, indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date of the execution of the Section 37 Agreement to the date of payment, towards the provision of affordable rental housing within Ward 10, in the vicinity of the site, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor.

2. In the event the financial contribution referred to in recommendation 5.a.1. has not been used for the intended purpose within five (5) years of this By-law coming into full force and effect, the financial contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, provided that the purpose(s) is/are identified in the Toronto Official Plan and will benefit the community in the vicinity of the site.

b. The following matters of convenience are recommended to be secured in a Section 37 Agreement:

1. Prior to the issuance of the first above grade permit, the owner will submit a Wind Study which identifies recommendations for the pedestrian realm and the outdoor areas of the podiums to mitigate wind impacts year-round, which the owner will then implement and maintain;

2. the owner will design and construct the required improvements to municipal infrastructure identified in the Functional Servicing and Stormwater Management Reports; and,

3. Prior to the issuance of a permit for excavation and shoring work, the owner will submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor, and thereafter will implement the plan during the course of construction. The Construction Management Plan will include the size and location of construction staging areas, dates of significant concrete pouring, lighting details, construction vehicle parking and queuing locations, refuse storage, site security, site supervisor contact information, a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, the General Manager of Transportation Services, in consultation with the Ward Councillor.

6. City Council authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 37 and Section 111 Agreements.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

On March 20, 2012, Toronto East York Community Council (TEYCC) adopted the Preliminary Report dated February 13, 2012, on the Zoning By-law Amendment application. The report can be accessed at:

<https://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-45443.pdf>

In August 2014, following the acquisition of 3, 5, and 7 Cameron Street, the owner appealed the Zoning By-law Amendment 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 September 30, 2015, City Council adopted the Request for Directions Report dated August 19, 2015, authorizing the City Solicitor, together with appropriate staff to continue discussions with the applicant in an attempt to resolve the issues and, if negotiations are unsuccessful, to attend any OMB hearings in opposition to the appeal. The report can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.TE10.10>

On February 6, 2017, the OMB issued a decision to withhold its Order dismissing the appeal and give the applicant an opportunity to work with the other parties and revise its proposal (Case No. PL140705).

On December 4, 2018, City Council adopted the Request for Directions Report dated December 3, 2018, to authorize the City Solicitor, together with appropriate staff to attend any Local Planning Appeal Tribunal (LPAT) - formerly the Ontario Municipal Board - hearings in support of a settlement offer. The report can be accessed at:

<https://www.toronto.ca/legdocs/mmis/2019/cc/bgrd/backgroundfile-122272.pdf>

On February 19, 2019, the LPAT issued a decision to approve the revised application, consistent with the proposal described in the December 3, 2018 staff report, withholding its order until the final form of the implementing by-laws is provided to the Board, the Section 37 Agreement between the applicant and the City is satisfactorily entered into and registered on title and the board is advised that City Council has approved the Rental Housing Demolition application under Chapter 667 of the Toronto Municipal Code.

ISSUE BACKGROUND

Proposal

The LPAT-approved Zoning By-law Amendment application comprises a 12-storey mixed-use building (46 metres including mechanical space) with 164 residential units and 420 square metres of commercial space located on the ground floor facing Spadina Avenue, and one level of underground parking accessed from Cameron Street. The mix of units comprises 52% one-bedroom units, 37% two-bedroom units 10% three-bedroom units, and 1% townhouse units. Two townhouse units front on Cameron Street. The application includes a total of 171 bike parking spaces and 36 vehicle parking spaces, of which 10 are for visitors.

The Rental Housing Demolition application, submitted on February 18, 2016, proposes to demolish the existing residential rental buildings at 3, 5, and 7 Cameron Street containing a total of 10 existing rental dwelling units and provide 10 replacement rental dwelling units within the proposed mixed-use building.

The Site

The subject site is comprised of three residential rental properties at 3, 5 and 7 Cameron Street and a vacant commercial property, formerly a Blockbuster Video, at 170 Spadina Avenue. The three residential rental properties include the following number and type of residential units:

- 3 Cameron Street: one three-bedroom rental unit located within a semi-detached house;
- 5 Cameron Street: one three-bedroom rental unit located within a semi-detached house; and
- 7 Cameron Street: four bachelor and four one-bedroom units located within a 3-storey apartment building.

At the time of application, only the three-bedroom rental unit at 3 Cameron Street was occupied by a tenant. The remaining rental units were either vacant or used as short term rental accommodations. Through the application review process, all rental units have become vacant and all short term rentals have ceased.

Based on the information provided by the applicant at the time of application and throughout the application review process, limited information on the rental history of the existing rental dwelling units has become available. As a result, the last known rents are generally unknown. Only the three-bedroom rental unit at 3 Cameron Street, which had high-end rents at the time of application, has a verified rental history and last known rent.

Provincial Land-Use Policies: 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; and

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 will 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 greater Golden Horseshoe 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.

City Planning Staff have reviewed the proposed development for consistency with the PPS and for conformity with the Growth Plan for the Greater Golden Horseshoe.

Toronto Official Plan

This application was reviewed against all the policies of the Official Plan including the Housing Policies contained within Chapter 3 - Building a Successful City <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>

The housing policies of the Official Plan include 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 provides that when new development requires the removal or the partial removal of rental housing containing six or more units, and any one of the units is affordable or mid-range, the units must be replaced by size, number, type and at rents similar to those at the time of application. The policy further requires that the rents of those units will be secured for at least 10 years and that an acceptable tenant relocation and assistance plan will address the right to return to a replacement unit and mitigation to lessen hardship.

The Official Plan is intended to be read and interpreted as a comprehensive and cohesive whole. This application was reviewed against all the policies of the Official Plan including the "Downtown", "Transportation", "Environment", "Public Realm", "Built Form", "Parks and Open Space", and "Implementation" sections of the Plan. The Official Plan is available at: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/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 residential rental properties in the City. By-law No. 885-2007 (also known as the Rental Housing Demolition and Conversion By-law) established Chapter 667 of the Toronto Municipal Code and implements Section 111. 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 and requires a decision by either City Council or the Chief Planner.

Council may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued. These conditions implement the City's Official Plan policies protecting rental housing. Council approval of a demolition under Section 33 of the Planning Act may also be required where six or more residential units are proposed to be demolished before the Chief Building Official can issue a permit for demolition under the Building Code Act.

Where a Zoning By-law Amendment 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.

On February 18, 2016, the applicant submitted an application for a Rental Housing Demolition Permit application pursuant to Chapter 667 of the Toronto Municipal Code.

Reasons for Application

A Rental Housing Demolition Permit application is required because the proposed development requires the demolition of at least six residential dwelling units and at least one rental dwelling unit.

A Zoning By-law Amendment application is required to permit the development of a building that exceeds the permitted height and density in the Zoning By-law. Relief from setbacks, parking, and other performance standards is also required to permit the proposed building.

Tenant Consultation

A site visit was conducted on February 10, 2016. All but one of the 10 existing rental units on site was vacant when City Planning Staff conducted the visit. Several of the units appeared to be set up as short term rentals. During the site visit, City Planning Staff informed the one remaining tenant of the Rental Housing Demolition application review process and their rights under the Residential Tenancies Act. Shortly after this site visit, all existing rental dwelling units became vacant.

Site Plan Control

A Site Plan Control application has been submitted for this site and is currently under review as file number 18 149665 STE 20 OZ.

COMMENTS

City Planning Staff are satisfied with the applicant's proposed approach to replacement of the existing rental units as it conforms to the intent of the City's replacement rental policies and standard practices, maintaining at least the same number, size and type of rental housing units at similar rents. All details regarding replacement unit mix, unit sizes, tenure, permitted rents and other related rental matters, will be secured in Section 37 and Section 111 Agreements.

Rental Demolition and Replacement

The applicant proposes to demolish all 10 existing rental dwelling units at 3, 5 and 7 Cameron Street and construct and maintain 10 replacement rental dwelling units within the proposed mixed-use building. The unit mix for the replacement rental dwelling units will be comprised of eight one-bedroom and two three-bedroom units. This proposed unit mix is slightly different than the existing rental dwelling units as four bachelor units are being replaced with four one-bedroom units.

Upon completion, the total gross floor area for the 10 replacement rental dwelling units would be 96% of the total gross floor area for the 10 existing rental dwelling units proposed to be demolished. The average size of the replacement one-bedroom rental units is approximately 25% larger than the average size of the existing bachelor and one-bedroom rental units. The average replacement three-bedroom rental unit is approximately 30% smaller than the three bedroom units that currently exist on site. This reduction is due to the existing three-bedroom rental units at 3 and 5 Cameron Street each occupying entire semi-detached houses, including basements; whereas, the two three-bedroom replacement rental units would be located within the proposed mixed-use building.

The 10 replacement rental dwelling units will be provided with ensuite laundry and central air conditioning. Tenants of the replacement rental dwelling units will have access to a private balcony or terrace, all indoor and outdoor amenity space within the proposed building, all required bicycle parking and visitor parking, and at least two designated vehicle parking spaces.

Rental Tenure and Rents

The applicant has agreed to provide, maintain and secure the rental tenure of the 10 replacement rental dwelling units within the proposed mixed-use building for at least 20 years, beginning from the date that each replacement rental dwelling unit is first occupied and until the owner obtains any necessary approvals removing the requirement for the replacement rental dwelling units to be maintained as rental units.

The applicant has agreed to secure the rents for the four affordable one-bedroom and four mid-range one-bedroom replacement rental dwelling units for at least ten (10)

years, beginning from the date that each replacement rental dwelling unit is first occupied. The two three-bedroom replacement rental units would have unrestricted rents.

Tenant Relocation and Assistance Plan

As of the date of this report, all existing rental dwelling units are vacant and there are no tenants eligible to return to the replacement rental units. In this case, a Tenant Relocation and Assistance Plan is not required.

Section 37

Section 37 of the Planning Act authorizes a municipality with appropriate Official Plan provisions to pass Zoning By-laws involving increases in the height and/or density otherwise permitted by the Zoning By-law in return for the provision of community benefits by the owner. The community benefits must bear a reasonable planning relationship to the proposed development including at a minimum, an appropriate geographic relationship and addressing planning issues associated with the development. Official Plan Policy 5.1.1 states that Section 37 community benefits are capital facilities and/or cash contributions toward specific capital facilities and include amongst other matters, community facilities, affordable rental housing, day care space, and area park improvements.

The following community benefits are recommended to be secured in the Section 37 Agreement and be provided prior to the issuance of the first above-grade building permit for a building on the lot:

- A financial contribution in the amount of \$575,000.00 toward the provision of affordable rental housing in the vicinity of the site, with such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date of payment.

The following matters of legal convenience are also recommended to be secured in the Section 37 Agreement:

- Prior to the issuance of the first above grade permit, the owner will submit a Wind Study which identifies recommendations for the pedestrian realm and the outdoor areas of the podiums to mitigate wind impacts year-round, which the owner will then implement and maintain;
- The owner will design and construct the required improvements to municipal infrastructure identified in the Functional Servicing and Stormwater Management Reports; and,
- Prior to the issuance of a permit for excavation and shoring work, the owner will submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor, and thereafter will implement the plan during the course of construction. The

Construction Management Plan will include the size and location of construction staging areas, dates of significant concrete pouring, lighting details, construction vehicle parking and queuing locations, refuse storage, site security, site supervisor contact information, a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, the General Manager of Transportation Services, in consultation with the Ward Councillor.

Conclusion

City Planning staff recommend the Section 37 community benefits and matters of convenience, as detailed in this report, be secured in a Section 37 Agreement to be executed and registered on the subject site prior to the Local Planning Appeal Tribunal issuing its order to approve a Zoning By-law amendment permitting the development of a 12-storey building on the subject site.

City Planning Staff have reviewed the Rental Housing Demolition Permit application and have determined that the applicant's demolition and replacement proposal for 170 Spadina Avenue and 3, 5 and 7 Cameron Street satisfies the City's requirements. City Planning staff recommend that City Council approve, with conditions, the application for a Rental Housing Demolition and Replacement in accordance with Chapter 667 of the Toronto Municipal Code to allow for the demolition of the 10 existing rental units at 3, 5 and 7 Cameron Street.

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