

239-251 and 265 Balliol Street – Rental Housing Demolition Application – Final Report

Date: September 21, 2020

To: Toronto and East York Community Council

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

Ward: 12 - Toronto-St. Paul's

Rental Housing Application Number: 17 224019 STE 22 RH

Related Planning Application Number: 17 223999 STE 22 OZ

SUMMARY

A Rental Housing Demolition application (17 224019 STE 22 RH) has been submitted under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the *City of Toronto Act, 2006* for a residential rental property at 239-251 and 265 Balliol Street. The application proposes to demolish seven rental townhouse units at 239-251 Balliol Street. A new purpose-built rental apartment building comprised of 233 rental dwelling units, of which approximately 10 percent would be affordable rental units, would be built on the site of the seven townhouse units. The existing rental apartment building adjacent to the townhouses at 265 Balliol Street will be retained.

The properties are also the subject of a Zoning By-law Amendment application (17 223999 STE 22 OZ), which was appealed to the Local Planning Appeal Tribunal (LPAT) on March 2, 2018 (Case No. PL180213). A settlement offer was endorsed by City Council on January 29, 2020. Council deferred making a decision on the Rental Housing Demolition application and directed staff to request the LPAT to withhold its final Order on the Zoning By-law Amendment appeal until Council has authorized the Rental Housing Demolition application and the owner has entered into, and registered on title, an agreement pursuant to Section 111 of the *City of Toronto Act, 2006*.

On August 4, 2020, the LPAT issued its Decision, approving the Zoning By-law Amendment application in principle and withholding the final Order until outstanding matters, including the Rental Housing Demolition application, are resolved.

This report recommends approval of the Rental Housing Demolition application under Chapter 667 of the Toronto Municipal Code and the 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 Rental Housing Demolition Application under Chapter 667 of Toronto Municipal Code to permit the demolition of seven (7) rental dwelling units at 239-251 Balliol Street, subject to the following conditions:

- a. The owner shall provide tenant relocation and assistance to all Eligible Tenants of the seven (7) existing rental dwelling units proposed to be demolished at 239-251 Balliol Street, including the right to return to a rental dwelling unit of a similar unit type and at a similar rent, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division; and
- b. The owner shall enter into, and register on title at 239-251 and 265 Balliol Street, an agreement pursuant to Section 111 of the *City of Toronto Act, 2006* and an agreement pursuant to Section 37 of the *Planning Act*, to secure the condition outlined in 1.a 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 of the application under Chapter 667 of the Toronto Municipal Code for the demolition of the seven (7) existing rental dwelling units at 239-251 Balliol Street after all of the following have occurred:

- a. The conditions in Recommendation 1 above have been fully satisfied;
- b. The Zoning By-law Amendment 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 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 structure on site;
- e. The execution and registration of agreements pursuant to Section 111 of the *City of Toronto Act, 2006* and Section 37 of the *Planning Act* securing the condition in Recommendation 1.a above; and
- f. The City has received confirmation that all seven (7) of the existing rental dwelling units proposed to be demolished are vacant.

3. City Council authorize the Chief Building Official to issue a Rental Housing Demolition permit under Chapter 667 of the Toronto Municipal Code after the Chief Planner and Executive Director, City Planning Division has issued the Preliminary Approval referred to in Recommendation 2 above.

4. City Council authorize the Chief Building Official and Executive Director, Toronto Building to issue a residential demolition permit under Section 33 of the *Planning Act* and Chapter 363 of the Toronto Municipal Code for 239-251 Balliol Street after the Chief Planner and Executive Director, City Planning Division has issued the Preliminary Approval referred to in Recommendation 2 above, which may be included in the Rental Housing Demolition permit pursuant to section 6.2 of Chapter 363, on condition that:

- a. The owner removes all debris and rubble from the site immediately after demolition;
- b. The owner erects solid construction hoarding to the satisfaction of the Chief Building Official and Executive Director, Toronto Building;
- c. The owner erects the proposed new rental building no later than four (4) years from the date that the demolition of such building commences; and
- d. Should the owner fail to complete the proposed new rental building within the time specified in Recommendation 4(c) above, the City Clerk shall be entitled to enter on the collector's roll, as with municipal property taxes, an amount equal to the sum of twenty thousand dollars (\$20,000.00) per dwelling unit for which a demolition permit is issued, and that such amount shall, until payment, be a lien or charge upon the land for which the demolition permit is issued.

5. City Council authorize the appropriate City officials to take such actions as are necessary to implement City Council's decision, including execution of the Section 111 agreement and other related agreements.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

DECISION HISTORY

At its meeting of January 16, 2018, Toronto and East York Community Council considered a preliminary report on the Zoning By-law Amendment and Rental Housing Demolition applications for 265 Balliol Street, a copy of which is available on the City's website at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE29.37>

On March 2, 2018, the applicant appealed the Zoning By-law Amendment application for 265 Balliol Street to the LPAT, citing Council's failure to make a decision on the application within the timeframe prescribed by the *Planning Act*.

At its meeting of March 27 and 28, 2019, City Council adopted staff's recommendation to authorize the City Solicitor and appropriate City staff to attend the LPAT hearing to oppose the appeal respecting the Zoning By-law Amendment application for 265 Balliol

Street in a Request for Direction report dated February 26, 2019. Council's decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE4.19>

At its meeting of January 29, 2020, City Council adopted a Request for Direction report with instructions to authorize the City Solicitor and appropriate City staff to attend the LPAT in support of a settlement offer on the Zoning By-law Amendment application for 265 Balliol Street and to direct the City Solicitor to request the LPAT to withhold its Order(s) on the Zoning By-law Amendments until such time as City Council has authorized the Rental Housing Demolition application under Chapter 667 of the Toronto Municipal Code. The report and instructions can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC14.8>

On August 4, 2020, the LPAT issued a Decision, approving the Zoning By-law Amendment application in principle and withholding the final Order until such time as City Council has authorized the Rental Housing Demolition application under Chapter 667 of the Toronto Municipal Code and the owner has entered into a Section 111 agreement pursuant to Section 111 of the *City of Toronto Act, 2006*, and registered such Agreement on title to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning.

ISSUE BACKGROUND

Proposal

The applicant proposes to demolish a two-storey residential rental townhouse block at 239-251 Balliol Street consisting of seven 3-bedroom rental dwelling units, all of which were occupied at the time of application, in order to construct a 27-storey purpose-built rental apartment building comprised of 233 rental dwelling units. An existing 26-storey rental apartment building, located directly east of the townhouse block on the lands municipally known as 265 Balliol Street, would be retained.

The proposal does not include replacement rental housing since all seven rental units proposed to be demolished have high-end rents (as defined in the Official Plan). However, the proposal includes a Tenant Relocation and Assistance Plan, including the right to return to a new market dwelling unit of a similar unit type and at a similar rent in the new building, for six Eligible Tenants who resided in the townhouse units at 239-251 Balliol Street on the date of application.

Subject Site

The site at 239-251 and 265 Balliol Street is 5,182 square metres. Located at 239-251 Balliol Street is a two-storey residential townhouse block comprised of seven rental dwelling units, all of which are 3-bedroom units with high-end rents. Located at 265 Balliol Street is a 26-storey rental apartment building comprised of 202 rental dwelling units, consisting of one bachelor unit (0.05%), 151 1-bedroom units (74.75%), and 50 2-bedroom units (24.75%).

Reason for Application

Seven rental dwelling units at 239-251 Balliol Street are proposed to be demolished. Chapter 667 of the Toronto Municipal Code, the Rental Housing Demolition and Conversion Control By-law, prohibits the demolition of all or part of a building that contains six or more dwelling units, of which at least one is a rental unit, without obtaining a permit from the City.

POLICY CONSIDERATIONS

Provincial Land-Use Policies: Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement, 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS is issued under Section 3 of the *Planning Act* and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS.

The PPS encourages planning authorities to permit and facilitate a range of housing options, including new development as well as residential intensification, to respond to current and future needs.

Policy 1.1.1 of the PPS states that healthy, liveable and safe communities are sustained by accommodating an appropriate affordable and market-based range and mix of residential types, including additional residential units, multi-unit housing, and affordable housing.

Policy 1.1.3.3 states that planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account the existing building stock.

Policy 1.4.3 (b) states that planning authorities shall provide for an appropriate range and mix of housing options and densities to meet the projected market-based and affordable housing needs of current and future residents by permitting and facilitating all types of residential intensification, including additional residential units and redevelopment in accordance with policy 1.1.3.3.

A Place to Grow: The Growth Plan for the Greater Golden Horseshoe (2020) builds upon the policy foundation of the PPS and provides a strategic framework for managing growth in the Greater Golden Horseshoe (GGH) region. The Growth Plan establishes minimum density targets within settlement areas and directs municipalities to make more efficient use of land, resources, and infrastructure in order to reduce sprawl, cultivate a culture of conservation, and ultimately promote a more compact built form. The Growth Plan is issued under Section 7 of the *Places to Grow Act, 2005* and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan.

Among the guiding principles of the Growth Plan is to support a range and mix of housing options to serve all sizes, incomes, and ages of households, and to prioritize

intensification and higher densities in strategic growth areas to make efficient use of land and infrastructure.

Policy 2.2.6.1 of the Growth Plan states that municipalities, in consultation with the Province and other appropriate stakeholders, will support housing choice through the achievement of the Plan's minimum intensification and density targets by identifying a diverse range and mix of housing options and densities to meet projected needs of current and future residents.

Policy 2.2.6.2 (c) states that municipalities will support the achievement of complete communities by considering the range and mix of housing options and densities of the existing housing stock.

Toronto Official Plan

Section 3.2.1 of the Official Plan contains the City's policies pertaining to the provision, preservation, and replacement of housing.

Policy 3.2.1.6 states that new development that would have the effect of removing all or a part of a private building and would result in the loss of six or more rental housing units will not be approved unless all of the 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, at least the same number, size and type of rental units are replaced and maintained with rents similar to those in effect at the time of application.

Rental Housing Demolition and Conversion By-law

Section 111 of the *City of Toronto Act, 2006* authorizes City 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 Control By-law, implements Section 111. The By-law prohibits the demolition and conversion of all or part of any building or related group of buildings that together contain six or more dwelling units, of which at least one is a rental unit, without obtaining a permit from the City and requires a decision by City Council or, where delegated, the Chief Planner and Executive Director, City Planning Division.

Council may refuse an application or approve an application with conditions, including conditions requiring an applicant to replace the rental units and/or to provide tenant relocation and other assistance, which must be satisfied before a Rental Housing Demolition permit is issued. These conditions implement the City's rental housing protection policies in the Official Plan. Decisions made by City Council under Chapter 667 are not appealable to the LPAT.

Section 33 of the *Planning Act* also authorizes Council to regulate the demolition of residential properties. Section 33 is implemented through Chapter 363 of the Toronto Municipal Code, the Building Construction and Demolition By-law, which requires Council approval of any demolition of a residential property that contains six or more dwelling units (irrespective of whether any are rental) before the Chief Building Official can issue a demolition permit under the *Building Code Act*. Where a proposal requires

Council approval of a demolition application under Chapter 363 and a Rental Housing Demolition application under Chapter 667, City Council typically considers both applications at the same time.

The proposal to demolish seven rental dwelling units at 239-251 Balliol Street requires approval under both Chapters 363 and 667 of the Toronto Municipal Code because it involves the demolition of at least six dwelling units and at least one rental unit. Section 6.2 of Chapter 363 provides for the coordination of approval processes, allowing the Chief Building Official to issue a single demolition permit for the purposes of Chapters 363 and 667.

COMMENTS

Provincial Policy Statement and Provincial Plans

City staff have determined that the application is consistent with the PPS (2020) and conforms with the provincial Growth Plan (2020). The proposal to demolish seven ground-related rental dwelling units in order to construct a new purpose-built rental apartment building comprised of approximately 233 rental dwelling units, of which 10 percent would be affordable rental units, will accommodate new housing supply through intensification and redevelopment and will contribute to a greater mix of housing options to meet the market-based and affordable housing needs of current and future residents.

Toronto Official Plan

The proposal conforms with the housing policies of the Official Plan, as it will result in new purpose-built rental housing supply as well as new affordable rental housing. The seven 3-bedroom rental townhouses proposed to be demolished all had high-end rents (rents equal to, or higher than, one-and-a-half times the average City of Toronto rent, by unit type, as reported annually by Canada Mortgage and Housing Corporation) at the time of application. Therefore, the proposal meets the criteria in Policy 3.2.1.6 (a) of the Official Plan and replacement rental housing is not required as a condition of approval.

The proposed new rental building will contain approximately 233 rental dwelling units. While not required, the seven high-end 3-bedroom rental units proposed to be demolished will effectively be replaced in the new rental building.

Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition application for 239-251 Balliol Street was received on August 28, 2017 and deemed complete by City staff on September 9, 2017. A site visit was subsequently conducted by staff on October 24, 2017 in order to confirm existing conditions on the subject lands.

Tenant Consultation

On March 11, 2020, a tenant consultation meeting was held by City staff pursuant to section 14B of Chapter 667 of the Toronto Municipal Code to review the City's housing policies, the impact of the rental demolition proposal on tenants of the seven rental

townhouse units, and the proposed Tenant Relocation and Assistance Plan for Eligible Tenants. This meeting was attended by all six Eligible Tenants as well as one tenant who moved in after the Rental Housing Demolition application was submitted.

During the tenant consultation meeting, tenants raised questions and concerns about the tenant relocation and assistance plan, including the right to return to a rental unit of a similar unit type in the new building at a similar rent to what they are currently paying and the alternative option of moving to an available rental unit in the existing rental building to be retained at 265 Balliol Street or another rental building owned by the applicant within the vicinity of the lands.

Tenant Relocation and Assistance Plan

The applicant has agreed to develop and implement a Tenant Relocation and Assistance Plan for six Eligible Tenants who resided in the townhouse units at 239-251 Balliol Street on the date of application. One Post-application Tenant who moved in after the Rental Housing Demolition application was submitted was informed of the owner's intent to redevelop the lands prior to signing a lease agreement and will not be eligible for assistance beyond that which is required under the *Residential Tenancies Act, 2006*.

Pursuant to Sections 50 and 52 of *Residential Tenancies Act, 2006*, each Eligible Tenant and Post-application Tenant will receive the following:

- At least four months' prior written notice of the date that the tenant must vacate their rental unit for the purposes of demolition; and
- Financial compensation equivalent to three months' rent or an alternative rental unit acceptable to the tenant.

As part of the proposed Tenant Relocation and Assistance Plan, which shall be required as a condition of approval of the Rental Housing Demolition application pursuant to Section 15B of Chapter 667 of the Toronto Municipal Code, each Eligible Tenant would receive the following additional assistance:

- The right to return to a rental dwelling unit of a similar unit type and at a similar rent – either in the proposed new rental building at 239-251 Balliol Street, in the existing rental building to be retained at 265 Balliol Street, or in another rental building owned by the applicant in the vicinity of the lands;
- Additional financial compensation beyond the requirements of the *Residential Tenancies Act, 2006*, based on the tenant's length of tenure and consistent with the City's standard practice;
- A move-out allowance, based on the Eligible Tenant's existing unit type and consistent with the City's standard practice;
- For each Eligible Tenant who elects to return to a rental unit in the proposed new rental building, a move-back allowance, based on the Eligible Tenant's unit type and consistent with the City's standard practice;
- Two additional months' notice, for a total of six months' notice, of the date that the tenant must vacate their existing rental unit for the purposes of demolition (the Post-application Tenant will also receive six months' notice); and

- Upon request, a rental leasing agent will be made available to provide an Eligible Tenant with a list of rental vacancies, to co-ordinate referrals and references from the current landlord, and to provide similar assistance commensurate with the tenant's needs.

The proposed Tenant Relocation and Assistance Plan is consistent with the City's current practices and will be secured through one or more agreements with the City and to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

Conclusion

This report recommends approval of the application to demolish seven rental townhouse units at 239-251 Balliol Street, subject to the conditions set out in the recommendations of this report. The applicant has developed an acceptable Tenant Relocation and Assistance Plan, addressing the right to return to a rental dwelling unit on the lands at a similar rent as well as additional financial compensation, in order to mitigate hardship from the proposed demolition on existing tenants. The demolition would facilitate new rental supply and contribute to the provision of a diverse range and mix of housing options to accommodate the needs of current and future residents.

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SIGNATURE

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ATTACHMENT

City of Toronto Data/Drawings
Attachment 1: Location Map

Attachment 1: Location Map

