

1625, 1633 and 1641 Kingston Road and 52 Birchcliff Avenue - Rental Housing Demolition Application – Final Report

Date: January 11, 2023

To: Scarborough Community Council

From: Director, Community Planning, Scarborough District

Ward: 20 - Scarborough Southwest

Rental Housing Demolition Application Number: 17 139152 NNY 23 RH

Related Planning Application Number: 20 203471 ESC 20 OZ

SUMMARY

This Rental Housing Demolition application proposes the demolition of 33 rental dwelling units including 32 units at 1625, 1633 and 1641 Kingston Road and one unit at 52 Birchcliff Avenue. Associated Official Plan and Zoning By-law Amendment applications propose two new buildings comprising 278 new dwelling units, including replacement rental units for all 33 demolished rental units. The 33 replacement rental units are proposed to be located in a four-storey standalone building containing only the replacement units and associated indoor amenity space.

The proposal also includes a Tenant Relocation and Assistance Plan that addresses the right for existing tenants to return to a replacement rental unit at similar rent and financial compensation to mitigate hardship.

Associated Official Plan Amendment and Zoning By-law Amendment applications were appealed to the Ontario Land Tribunal (OLT). A settlement offer was endorsed by City Council on July 19, 2022. Council deferred making a decision on the Rental Housing Demolition application and directed staff to request the OLT to withhold its Order on the appeals until such time as the Rental Housing Demolition application has been approved by Council and all appropriate conditions have been satisfied, including the execution of any necessary agreements.

On October 31, 2022 the OLT held a settlement hearing and approved the Official Plan and Zoning By-law Amendment applications subject to a number of conditions as expressed through an interim oral decision.

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 application for a Rental Housing Demolition Permit in accordance with Chapter 667 of the Toronto Municipal Code to allow for the demolition of 33 existing rental dwelling units located at 1625, 1633 and 1641 Kingston Road and 52 Birchcliff Avenue subject to the following conditions:

a. The owner shall provide and maintain 33 replacement rental dwelling units for a period of at least 20 years beginning from the date that each replacement rental unit is first occupied. During such 20-year period, no replacement rental dwelling unit shall be registered as a condominium or any other form of ownership housing that provides a right to exclusive possession of a dwelling unit, including life-lease or co-ownership, and no application shall be made to demolish any replacement rental dwelling unit or convert any replacement rental unit to a non-residential rental purpose. The replacement rental dwelling units shall be comprised of fourteen (14) one-bedroom units, eighteen (18) two-bedroom units, and one (1) three-bedroom unit, as generally illustrated in the plans submitted to the City Planning Division September 23, 2022 and any revision to these plans shall be to the satisfaction of the Chief Planner and Executive Director, City Planning Division;

b. The owner shall provide and maintain 32 replacement rental units comprised of fourteen (14) one-bedroom units and eighteen (18) two-bedroom units, at affordable rents, as currently defined in the Toronto Official Plan, and one (1) three-bedroom replacement rental unit at mid-range rent, as currently defined in the Toronto Official Plan, for a period of at least ten (10) years beginning from the date of first occupancy of each unit;

c. The owner shall provide an acceptable Tenant Relocation and Assistance Plan to all Eligible Tenants, addressing the right to return to occupy one of the replacement rental dwelling units, and other assistance, including a rent gap payment, to mitigate hardship. The Tenant Relocation and Assistance Plan shall be developed in consultation with, and to the satisfaction of, the Chief Planner and Executive Director, City Planning;

d. The owner shall provide tenants of all replacement rental dwelling units with the following, at no additional cost:

1. access to, and use of, all indoor and outdoor amenities in the proposed rental replacement building;
2. ensuite laundry in each replacement rental dwelling unit; and
3. central air conditioning in each replacement rental dwelling unit;

e. The owner shall provide and make available for rent a minimum of thirteen (13) vehicle parking spaces to tenants of the replacement rental dwelling units.

Such parking spaces shall be made available firstly to returning tenants who previously rented a vehicle parking space, secondly to returning tenants who did not previously rent a vehicle parking space, and thirdly to new tenants of the rental replacement dwelling units. The terms and conditions for renting parking spots to tenants of the replacement units shall be to the satisfaction of the Chief Planner;

f. The owner shall provide tenants of the replacement rental dwelling units with access to all bicycle and visitor parking on the same terms and conditions as any other resident of the proposed development, and in accordance with the Zoning By-law;

g. The owner shall provide at least fourteen (14) storage lockers to tenants of the replacement rental dwelling units at the same ratio they are provided to all other new dwelling units in the proposed development. The terms and conditions for renting storage lockers to tenants of the replacement units shall be to the satisfaction of the Chief Planner;

h. The rental dwelling units required in Parts 1a and 1b above shall be made ready and available for occupancy no later than the date by which seventy percent (70%) of the new dwelling units in the proposed development, exclusive of the replacement rental units, are made available and ready for occupancy; and

i. The owner shall enter into, and register on title to the lands 1625, 1633 and 1641 Kingston Road and 52 Birchcliff Avenue, one or more agreement(s) to secure the conditions outlined in Parts 1a. through 1l. above, including an agreement pursuant to Section 111 of the City of Toronto Act, 2006, all 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 Preliminary Approval for the Rental Housing Demolition Permit under Chapter 667 of the Toronto Municipal Code for the demolition of all or any of the 33 existing rental dwelling units at 1625, 1633 and 1641 Kingston Road and 52 Birchcliff Avenue after all of the following have occurred:

a. The 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 (conditional or full permit) for the proposed building which includes the replacement rental units on the subject site; and

e. The City's receipt of conformation that the existing rental dwelling units to be demolished are vacant.

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 a Residential Demolition Permit under Section 33 of the *Planning Act* no earlier than the issuance of the excavation and shoring permit for the proposed development, and after the Chief Planner and Executive Director, City Planning Division, has issued the Preliminary Approval referred to in Recommendation 2, which may be included in the demolition permit for Chapter 667 under 363-6.2, of the Toronto Municipal Code, on condition that:

a. The owner shall remove all debris and rubble from the site immediately after demolition;

b. The owner shall erect solid construction hoarding to the satisfaction of the Chief Building Official and Executive Director, Toronto Building;

c. The owner erects a building containing the replacement rental dwelling units on the site no later than three (3) years from the day demolition of the existing buildings is commenced, subject to the timeframe being extended to the discretion of the Chief Planner and Executive Director, City Planning; and

d. Should the owner fail to complete the new building within the time specified in condition 4 (c) 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. City 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 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

A Preliminary Report on these applications was adopted with amendments at Scarborough Community Council on January 6, 2021, authorizing staff to conduct a

community consultation meeting. The Preliminary Report can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.SC21.1>

The applicant appealed City Council's neglect or failure to make a decision on the Official Plan Amendment and Zoning By-law Amendment applications to the OLT on August 13, 2021.

A Request for Directions Report was adopted by City Council on July 19, 2022. City Council accepted a Settlement Offer with respect to the Official Plan and Zoning By-Law Amendment applications. The Request for Directions Report and City Council's Decision can be viewed at: <https://secure.toronto.ca/council/agenda-item.do?item=2022.CC47.15>

On October 31, 2022, the Ontario Land Tribunal issued an interim oral decision approving the Official Plan and Zoning By-law Amendments in principle. City Staff requested that the final Order be withheld until all outstanding matters, are secured, including matters related to the rental housing demolition application, which requires City Council approval.

THE APPLICATION

Rental Replacement and Tenant Assistance Proposal

The Rental Housing Demolition application proposes to demolish 33 rental dwelling units within the existing buildings at 1625, 1633 and 1641 Kingston Road and 52 Birchcliff Avenue in association with Official Plan Amendment and Zoning By-law Amendment applications to construct two buildings: a nine-storey building comprising 237 residential units and 8 live-work units and a four-storey building containing 33 rental replacement units.

Tenant assistance will be provided to all eligible tenants residing in the 33 existing rental dwelling units to be demolished. All eligible tenants will receive the following:

- at least six months' notice of the date that they must vacate their rental unit;

And either:

- the right to return to a rental replacement unit of the same type, at similar rent;
- compensation equal to three months' rent pursuant to the *Residential Tenancies Act*;
- a rent gap payment, to mitigate financial hardship during the period between when tenants must leave their existing unit and can return to a replacement unit;
- move-out and move-back moving allowances; and
- additional compensation and assistance for special needs tenants, with the final determination by the Chief Planner and Executive Director, City Planning.

Or:

- the right to return to a rental replacement unit of the same type, at similar rent;
- a suitable alternative rental unit to the satisfaction of the tenant for the period between when the tenant must leave their existing unit and can return to a replacement unit;
- move-out and move-back moving allowances; and
- additional compensation and assistance for special needs tenants, with the final determination by the Chief Planner and Executive Director, City Planning

Existing Rental Dwelling Units

According to the plans provided by the applicant and a site visit conducted by City Planning staff the existing rental dwelling units are comprised of the following unit types and rent levels:

Unit Type	Affordable Rent	Mid-Range Rent	Total
One-Bedroom	14	0	14
Two-Bedroom	18	0	18
Three-Bedroom	0	1	1
Total	32	1	33

Thirty two of the units are located in the three-storey apartment buildings at 1625-1641 Kingston Road. The first floor units in these buildings are not fully above grade. The other rental unit (a three-bedroom unit) is located in the single detached house at 32 Birchcliff Avenue in the basement.

At the time of this report, 29 of the existing rental dwelling units proposed to be demolished are occupied by tenants.

Reason for Application

Chapter 667 of the Toronto Municipal Code, the Residential Rental Property Demolition and Conversion Control By-law, prohibits the demolition of one or more rental units in any building or related group of buildings that contain six or more residential units without obtaining a permit from the City. Since the proposal involves the demolition of 33 rental dwelling units, a Rental Housing Demolition application was submitted under Chapter 667 of the Toronto Municipal Code.

Tenant Consultation

On December 14, 2022, staff held a tenant consultation meeting with impacted tenants to provide an overview of the City's housing policies, the impact of the rental demolition proposal on tenants, and the proposed tenant relocation assistance plan. The meeting

was held virtually and attended by tenant households, City Staff and the applicant and their architect.

Tenants raised questions related to the project timeline, eligibility requirements for the proposed tenant relocation and assistance plan, access to amenities in the condo building, and the rent gap calculation.

POLICY CONSIDERATIONS

Provincial Land-Use Policies

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (PPS), and shall conform to provincial plans.

Toronto Official Plan

Official Plan Policy 3.2.1.6 requires that new development that would result in the loss of six or more rental dwelling units replace at least the same number, size, and type of rental units as exist on the site and maintain rents similar to those in effect at the time of application. The policy also requires an acceptable tenant relocation and assistance plan, addressing the right for tenants to return to one of the replacement units at similar rents and other assistance to mitigate hardship.

Rental Housing Demolition and Conversion By-law

Section 111 of the *City of Toronto Act, 2006* authorizes Council to regulate the demolition 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 of rental housing units in buildings containing six or more residential dwelling units, of which at least one is a rental unit, 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 Division.

Council may refuse an application or approve an application with conditions, including requirements to replace the rental units and/or to provide tenant relocation and other assistance, which must be satisfied before a demolition permit is issued. Decisions made by City Council under Chapter 667 are not appealable to the Ontario Land Tribunal.

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. 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 33 rental dwelling units at 1625, 1633 and 1641 Kingston Road and 52 Birchcliff Avenue 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

Staff have evaluated the proposal and determined that it is consistent with the PPS and conforms with the provincial Growth Plan. The proposal to demolish 33 rental dwelling units and construct two new buildings resulting in a total of 278 new dwelling units (inclusive of 33 replacement units) on the subject site will help meet the housing needs of current and future residents.

Demolished Rental Housing and Tenant Relocation Assistance Plan

In accordance with Official Plan policy 3.2.1.6, all 33 existing rental units will be replaced in the new development with new units of the same type, and of similar size. The replacement rental units would be located in a standalone rental replacement building on the site.

Staff have reviewed the unit layouts and deployment of the units in the new 4-storey building fronting Birchmount Avenue, and are of the opinion that the replacement units represent a good outcome. The replacement units will have washers and dryers, as well as a dishwasher. City Planning staff worked with the applicant to maximize the number of bedrooms with windows: apart from one of the bedrooms in the 3-bedroom replacement unit, all bedrooms in the replacement units have a window. In addition, three of the units will include a private outdoor terrace.

A Tenant Relocation and Assistance Plan, as outlined previously in this report, will be provided to all eligible tenants that addresses tenants' right to return to a replacement unit and assistance to mitigate hardship. The financial assistance provided will be based on rent gaps, specific to the current rent paid by each eligible tenant household to help mitigate the financial hardship faced by each eligible household. This approach reflects the City's expectations for financial assistance provided to eligible tenants.

Staff are satisfied with the proposed approach to replacing demolished rental units, and with the proposed Tenant Relocation and Assistance Plan.

Conclusion

City Planning Staff have reviewed the Rental Housing Demolition Application for 1625, 1633 and 1641 Kingston Road and 52 Birchcliff Avenue and recommend that City Council approve, with conditions, this Rental Housing Demolition Permit application in accordance with Chapter 667 of the Toronto Municipal Code to allow for the demolition of the 33 existing rental dwelling units on the subject site.

CONTACT

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SIGNATURE

Paul Zuliani, MBA, RPP, Director
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ATTACHMENTS

City of Toronto Data/Drawings
Attachment 1: Location Map

Attachment 1: Location Map

