

510-528 Yonge Street and 7 Breadalbane Street – Rental Housing Demolition Application – Decision Report – Approval

Date: June 6, 2023

To: Toronto and East York Community Council

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

Ward: 13 – Toronto Centre

Rental Housing Demolition Application Number: 20 207360 STE 13 RH

Related Application Numbers: 20 207354 STE 13 OZ and 21 203254 STE 13 SA

SUMMARY

This application proposes to demolish the interior of the mixed-use and commercial buildings at 510-528 Yonge Street and the entire residential building at 7 Breadalbane Street, which collectively contain 19 rental dwelling units, and redevelop the lands with a 59-storey mixed-use building comprised of 587 dwelling units, including 19 replacement rental units.

The properties are also the subject of an Official Plan (OPA) and Zoning By-law Amendment (ZBA) application (20 207354 STE 13 OZ), which was appealed to the Ontario Land Tribunal (OLT) (Case No. OLT-22-002429) on the basis of City Council's failure to make a decision on the application within the statutory timeline under the *Planning Act*. City Council endorsed a settlement offer on July 19, 2022 and directed staff to bring forward a Decision Report on the Rental Housing Demolition application in the second quarter of 2023. The OLT issued a Decision, effective August 5, 2022, approving the OPA and ZBA application appeal.

This report 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 the replacement of the existing rental housing units and provision of a Tenant Relocation and Assistance Plan.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the Rental Housing Demolition application (File No. 20 207360 STE 13 RH) under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the *City of Toronto Act, 2006* to permit the demolition of nineteen (19) existing rental dwelling units at 510-528 Yonge Street and 7 Breadalbane Street, subject to the following conditions:

a) The owner shall provide and maintain nineteen (19) replacement rental dwelling 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. During the 20-year period, no application may be submitted to the City for condominium registration, conversion to a non-residential rental purpose, or demolition without replacement of the rental units proposed to be demolished. The nineteen (19) replacement rental units shall collectively contain a total gross floor area of at least 1,364 square metres and be comprised of five (5) three-bedroom units, three (3) two-bedroom units, and eleven (11) one-bedroom units, as generally illustrated in the plans prepared by BDP Quadrangle and dated February 14, 2023. Any revision to these plans shall be to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

b) As part of the nineteen (19) replacement rental dwelling units required in Recommendation 1.a above, the owner shall provide at least three (3) three-bedroom units, one (1) two-bedroom unit, and two (2) one-bedroom units at affordable rents, as defined in the Toronto Official Plan, and one (1) three-bedroom unit, one (1) two-bedroom unit, and nine (9) one-bedroom units at mid-range rents, as 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. The rents of the remaining two rental units, which include one (1) three-bedroom unit and one (1) two-bedroom unit, shall be unrestricted.

c) The location of the nineteen (19) replacement rental units within the proposed development shall be determined prior to the issuance of Notice of Approval Conditions of site plan approval, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;

d) The owner shall provide an acceptable Tenant Relocation and Assistance Plan to the nine (9) Eligible Tenants of the nineteen (19) existing rental dwelling units proposed to be demolished, addressing the right to return to occupy one of the replacement rental dwelling units at similar rents, the provision of alternative accommodation at similar rents in the form of rent gap payments, and other assistance 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 Division.

- e) The owner shall provide tenants of all nineteen (19) replacement rental dwelling units with access to, and use of, all indoor and outdoor amenities in the proposed development at no extra charge, and on the same terms and conditions as any other resident of the development, without the need to pre-book or pay a fee unless specifically required as a customary practice for private bookings.
- f) The owner shall provide ensuite laundry machines in each replacement rental dwelling unit within the proposed development at no additional cost to tenants.
- g) The owner shall provide central air conditioning in each replacement rental dwelling unit within the proposed development.
- h) The owner shall provide tenants of the replacement rental dwelling units with access to visitor vehicular parking and bicycle parking on the same terms and conditions as it is offered to any other resident of the proposed development.
- i) The nineteen (19) replacement rental dwelling units required in Part 1.a 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.
- j) The owner shall enter into, and register on title to the lands at 510-528 Yonge Street and 7 Breadalbane Street, one or more agreement(s) to secure the conditions outlined in Recommendations 1.a through 1.i 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 Division.

2. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue Preliminary Approval of the Rental Housing Demolition Permit under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the *City of Toronto Act, 2006* for the demolition of the nineteen (19) existing rental dwelling units at 510-528 Yonge Street and 7 Breadalbane Street after all the following have occurred:

- a) all conditions in Recommendation 1 above have been fully satisfied and secured;
- b) the Official Plan Amendment and Zoning By-law Amendment(s) have come into full force and effect;
- c) the issuance of 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*;
- d) the issuance of excavation and shoring permits (conditional or full permits) for the approved development on the site;

e) the owner has confirmed, in writing, that all existing rental dwelling units proposed to be demolished are vacant; and

f) the execution and registration of an agreement pursuant to Section 111 of the *City of Toronto Act, 2006* securing Recommendations 1.a. through 1.i above.

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

4. City Council authorize the Chief Building Official and Executive Director, Toronto Building Division to issue a Residential Demolition Permit under Section 33 of the *Planning Act* and Chapter 363 of the Toronto Municipal Code for 510-528 Yonge Street and 7 Breadalbane Street after the Chief Planner and Executive Director, City Planning has given Preliminary Approval referred to in Recommendation 2 above, which may be included in the Rental Housing Demolition Permit under Chapter 667 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 Division;

c) the owner erects the proposed building no later than three (3) years from the date on which the demolition of the existing buildings commences, subject to the timeframe being extended at the discretion of the Chief Planner and Executive Director, City Planning Division; and

d) should the owner fail to complete the proposed development containing the nineteen (19) replacement rental dwelling units 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 Residential 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

A Preliminary Report on the applications was adopted by Toronto and East York Community Council on February 24, 2021. <https://secure.toronto.ca/council/agenda-item.do?item=2021.TE23.54>

On May 10, 2021, the OPA and ZBA application (20 207354 STE 13 OZ) for 510-528 Yonge Street and 7 Breadalbane Street was appealed by the applicant to the OLT on the basis of City Council's failure to make a decision on the application within the statutory timeline under the *Planning Act*.

On October 1, 2021, City Council directed the City Solicitor, together with City Planning and other appropriate staff, to attend the OLT in opposition to the OPA and ZBA application appeal and to continue discussions with the applicant in an attempt to resolve outstanding issues. <https://secure.toronto.ca/council/agenda-item.do?item=2021.TE27.8>

On December 15, 2021, City Council stated its intention to designate the properties at 516 Yonge Street (including the entrance address at 514 Yonge Street) and 526 Yonge Street (including the entrance addresses at 528 Yonge Street and 7 Breadalbane Street) under Part IV, Section 29 of the *Ontario Heritage Act*. The designating by-laws were enacted and passed on February 3, 2022. <https://secure.toronto.ca/council/agenda-item.do?item=2021.PH29.18>

On July 19, 2022, City Council accepted a settlement offer dated July 8, 2022 to permit a revised development proposal. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE28.5>

On December 22, 2022, the OLT issued a Decision, effective August 5, 2022, approving the OPA and ZBA application appeal for 510-528 Yonge Street and 7 Breadalbane Street. <https://www.omb.gov.on.ca/e-decisions/OLT-22-002429-SEP-16-2022.pdf>

ISSUE BACKGROUND

Subject Site

The subject site is located on the west side of Yonge Street at the southwest corner of Yonge Street and Breadalbane Street, one block south of Wellesley Street, in the Downtown. The site is 1,766.6 square metres in area and consists of an assembly of

commercial, residential, and mixed-use buildings that collectively contain 19 rental dwelling units, of which six had affordable rents and 11 had mid-range rents at the time of application. As of the date of this report, nine of the existing rental units are occupied by tenants.

Development Proposal

The OPA and ZBA application for the subject site was approved by the OLT through a settlement. The applications encompass the lands municipally known as 510, 512, 514, 516, 518, 518A, 520, 522, 522A, 524, 526, and 528 Yonge Street and 7 Breadalbane Street (see Attachment 1 – Location Map).

The OPA amended the City's North Downtown Yonge Site and Area Specific Policy (SASP 382) by including the subject lands in the Height Transition Area of Map 2, Open Space Network and Height Areas (the lands were previously located in the Height Core Area, which generally limits building heights to four stories or 18 metres), and by adding a policy permitting a mixed-use building with a maximum height of 197 metres (inclusive of the mechanical penthouse) on the lands, notwithstanding the SASP's prescribed height limit of 45 storeys or 170 metres in the Height Transition Area.

The ZBA amended the City-wide Zoning By-law 569-2013 to implement the OPA and permit a building with a maximum height of 186.4 metres (excluding a 10.5-metre permission for a mechanical penthouse), a maximum total GFA of 41,500 square metres, a maximum residential GFA of 40,500 square metres, and a maximum non-residential GFA of 800 metres. The tower will be set back 10.0 metres from Yonge Street at the base building height of 12.7 metres, 11.5 metres from Yonge Street at a height of 57.0 metres, and 13.0 metres from Yonge Street at a height of 121.8 metres. The development will include 25 net new affordable rental housing units, which will be provided at affordable rents, as defined in the Official Plan at the time of application, for a period of at least 99 years from first occupancy. The new affordable housing will be provided as a community benefit under the former Section 37 density bonusing regime.

The Rental Housing Demolition application is proposing to demolish 19 existing rental dwelling units and replace the rental units with the same or larger unit types within the proposed development. Specifically, 11 one-bedroom units, three (3) two-bedroom units, and five (5) three-bedroom units will be replacing one (1) studio unit, 13 one-bedroom units, four (4) two-bedroom units, and one (1) three-bedroom units. The precise location of the replacement rental units will be determined prior to the issuance of Notice of Approval Conditions for site plan approval.

Tenant Relocation and Assistance Plan

The applicant will implement the City's Tenant Relocation and Assistance Plan for the nine (9) Eligible Tenants who continue to reside on the lands. The plan would assist tenants in finding and securing alternative accommodation while the proposed development and replacement rental dwelling units are being constructed. The plan would consist of the following:

For each Eligible Tenant:

- The right to return to a replacement rental unit of the same bedroom type and a similar unit size, and at similar rent, as the rental unit they currently occupy;
- At least six months' notice before having to vacate their existing dwelling unit;
- Financial compensation equal to three months' rent, as required by the *RTA*;
- Financial compensation, above and beyond that required under the *RTA*, in the form of a rent gap payment, where the rent gap would be calculated as the difference between the rent paid by a tenant on the date their tenancy is terminated and the most recent average rent for vacant private rental apartments by unit type in CMHC Rental Market Survey (RMS) Zone 1 – Toronto (Central), which encompasses the development site, over a 36-month period. In the event the proposed development took longer than 36 months to complete, the owner would provide each tenant with additional monthly rent gap payments until the replacement rental units are ready for occupancy;
- Two moving allowances to cover expenses for moving off-site into alternative interim accommodation and then moving back into a replacement rental unit;
- Special needs compensation for applicable tenants, as determined by the Chief Planner and Executive Director, City Planning Division; and
- Upon request, make a rental leasing agent available to the tenant to provide them with a list of rental vacancies in the neighbourhood, co-ordinate referrals and references from the current landlord, and provide similar assistance commensurate with the tenant's needs.

Post-Application Tenants would receive the same amount of notice before having to move as Eligible Tenants, as well as the baseline financial compensation equal to three months' rent or an alternative unit acceptable to the tenant, as required under the *Residential Tenancies Act, 2006*.

The Tenant Relocation and Assistance Plan is consistent with the City's current practices, will ensure that existing tenants can continue to access and afford suitable housing within the neighbourhood until the replacement rental units are complete, 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.

Reason for the Application

Chapter 667 of the Toronto Municipal Code, the Residential Rental Property Demolition and Conversion Control By-law, prohibits the demolition of rental housing in any building or related group of buildings that contain six or more dwelling units without obtaining a permit from the City. Since the proposal involves the demolition of 19 rental dwelling units, a Rental Housing Demolition application was submitted to the City.

POLICY CONSIDERATIONS

Provincial Policy Statement and Provincial Plans

Provincial policy statements and geographically-specific provincial plans, along with municipal official plans, provide a policy framework for planning and development in Ontario.

Official Plan

The Official Plan outlines City Council's policies and objectives for land use planning and development. Section 3.2.1 of the Official Plan contains the City's policies pertaining to the provision, maintenance, and replacement of rental housing.

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

Rental Housing Demolition and Conversion By-law

This application involves the demolition of rental housing. Since the development site contains six or more residential units, of which at least one unit is a rental unit, an application is required under Chapter 667 of the City's Municipal Code, the Rental Housing Demolition and Conversion By-law. The By-law requires an applicant obtain approval from the City to permit the demolition of the existing rental housing units. The City may impose conditions on the approval that must be satisfied before a demolition permit is issued.

An application is also required under 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, 1992*.

TENANT CONSULTATION

On May 16, 2023, a meeting was held with existing tenants to review the City's housing policies, the impact of the proposed demolition on existing tenants, and the City's Tenant Relocation and Assistance Plan. The meeting was held virtually and attended by 12 individual tenants, representatives of the owner, the owner's legal counsel, and City Planning staff.

During the meeting, tenants asked questions and expressed concerns about:

- The timing of the demolition and estimated date by which tenants would have to provide vacant possession of their existing rental units;
- The timing of payment of the tenant relocation and assistance plan;
- The sizes of the replacement rental units and how they compare to the sizes of the existing rental units;
- The process for selecting and signing a new lease agreement for a replacement rental unit;
- How monthly rent would be established upon returning to a replacement rental unit, and whether tenants would be protected by rent control in the new building; and
- What would happen if tenants were unable to find alternative interim accommodation that they could afford.

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 19 rental dwelling units within a series of two-storey buildings to construct a new 59-storey mixed-use building comprised of 587 dwelling units, including 19 replacement rental units and 25 new affordable rental units, would accommodate new housing supply through intensification and redevelopment, and contribute to a greater mix of housing options to meet the housing needs of current and future residents.

Rental Demolition and Replacement

In accordance with Policy 3.2.1.6 of the Official Plan, the applicant is proposing to replace all 19 existing rental dwelling units by their respective or larger bedroom types, at similar unit sizes, and at similar rents to those in effect at the time of application. All bedrooms in each replacement rental unit are located on an exterior wall, in line with the existing condition, and the percentage difference between the size of each existing rental unit and the size of its corresponding replacement rental unit is no less than -4%.

Each Eligible Tenant would reserve the right to return to a replacement rental unit of a similar unit type at similar rent, and rents for the replacement rental units without returning tenants would not exceed the City's applicable affordable and mid-range rent thresholds for a period of at least 10 years from first occupancy. Tenants who elect to return to a replacement rental unit would also be subject to annual rent increases capped by the provincial rent increase Guideline, irrespective of whether such Guideline applied to the proposed development under the *Residential Tenancies Act 2006* (RTA), until their tenancy ends.

The OPA and ZBA and Rental Housing Demolition applications for the proposed development were submitted on October 16, 2020, prior to OPA 558 coming into force. OPA 558 established new affordable and mid-range rental housing and rent definitions, which apply to development applications submitted after December 14, 2021. Accordingly, the Official Plan affordable and mid-range rental housing and rents definitions in place at the time of application apply to this project. The affordable units will be secured at or below one times the average City of Toronto rent, by unit type (number of bedrooms), as reported annually by the Canada Mortgage and Housing Corporation (CMHC), and the mid-range units will be secured at rents which fall below one and one-half times the average City of Toronto rent, by unit type.

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SIGNATURE

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ATTACHMENT

City of Toronto Data/Drawings

Attachment 1: Location Map

Attachment 1: Location Map

