

264 Kenilworth Avenue and 50 Norway Avenue – Official Plan Amendment and Rental Housing Conversion Applications – Decision Report – Approval

Date: August 30, 2023

To: Toronto and East York Community Council

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

Ward: 19 - Beaches-East York

Planning Application Number: 23 135775 STE 19 OZ

Rental Housing Conversion Application Number: 23 150063 STE 19 RH

SUMMARY

The Toronto Community Housing Corporation (TCHC) is applying to amend the Official Plan and seek approval under Chapter 667 of the Toronto Municipal Code to facilitate the severance of the parcels at 264 Kenilworth Avenue and 50 Norway Avenue to allow for the transfer of ownership of 264 Kenilworth Avenue from TCHC to Circle Community LandTrust (“CCL”), a non-profit housing operator. TCHC will retain ownership of 50 Norway Avenue. The applications are in support of the Tenants First initiative.

This proposal does not make any physical changes to the site and all 44 rental housing units will remain intact in their existing buildings, with no impacts to existing tenants and rents. The City of Toronto and CCL have already entered into a Social Housing Agreement, which will be registered on 264 Kenilworth Avenue upon transfer of title. This agreement will ensure that the rental unit at 264 Kenilworth Avenue will continue to be provided and maintained by future owners as social housing with rents-g geared-to-income. There will be no changes to the existing tenancies, and tenants will continue to reserve their existing rights under the Residential Tenancies Act, 2006

The proposal is consistent with the Provincial Policy Statement and conforms with A Place to Grow: Growth Plan for the Greater Golden Horseshoe. This report reviews and recommends approval of the application to amend the Official Plan and the Rental Housing Conversion application under Chapter 667 of the Toronto Municipal Code in order to implement the City's Tenants First Initiative.

RECOMMENDATIONS

The Director, Community Planning, Toronto and East York District, recommends that:

1. City Council amend the Official Plan for the lands at 264 Kenilworth Avenue and 50 Norway Avenue substantially in accordance with the draft Official Plan Amendment included as Attachment 5 to this report.

2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment as may be required.

3. City Council approve the Rental Housing Conversion application (23 150063 STE 19 RH) under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the *City of Toronto Act, 2006* to sever the residential rental property containing forty-four (44) rental dwelling units at 264 Kenilworth Avenue and 50 Norway Avenue into two separate properties, with 264 Kenilworth Avenue containing fewer than six (6) rental dwelling units, subject to the following conditions:

a) The owner shall apply for, and obtain approval of, a Consent from the Committee of Adjustment or the Toronto Local Appeal Body, if applicable, to permit the severance of the lands at 264 Kenilworth Avenue and 50 Norway Avenue into two separate properties for the purposes of conveying 264 Kenilworth Avenue to a qualified non-profit housing provider as part of the Tenants First Initiative.

b) The owner of the lands at 264 Kenilworth shall continue to provide and maintain one (1) three-bedroom rental unit, as a social housing unit for a period of at least 99 years from the date of issuance of the Certificate of Official permitting the severance of the lands at 264 Kenilworth Avenue and 50 Norway Avenue, subject to a social housing program described in Section 453.1 of the *City of Toronto Act, 2006* ("social housing"). During such 99-year period, no social housing 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 or convert any social housing unit to a non-residential rental purpose without replacement of same.

c) The owner of the lands at 264 Kenilworth Avenue shall continue to provide the one (1) social housing unit required in Recommendation 3.c above at rents-gear-to-income for a period of at least 25 years from the date of issuance of the Certificate of Official permitting the severance of the lands at 264 Kenilworth Avenue and 50 Norway Avenue, subject to the continued provision of funding from federal, provincial, and/or municipal government programs;

d) The owner shall enter into, and register on title to the lands at 264 Kenilworth Avenue and 50 Norway Avenue, an agreement pursuant to Section 111 and 453.1 of the *City of Toronto Act, 2006* to secure the conditions outlined in Recommendations 3.b. to 3.c. above, to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning.

4. City Council authorize the Chief Planner and Executive Director, City Planning to issue Preliminary Approval of the application under Chapter 667 of the Toronto Municipal Code for the severance of the residential rental property at 264 Kenilworth Avenue and 50 Norway Avenue after all of the following have occurred:

- a) the conditions in Recommendation 3 above have been fully satisfied and secured;
- b) the severance is final and binding; and
- c) the execution and registration on title of agreements pursuant to Sections 111 and 453.1 of the *City of Toronto Act, 2006* for 264 Kenilworth Avenue respectively, securing the conditions in Recommendation 3 above.

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

On July 12, 2016, City Council adopted Tenants First: A Way Forward for Toronto Community Housing and Social Housing in Toronto and directed staff to develop an implementation plan.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX16.11>

On July 4, 2017, City Council adopted Tenants First Phase One Implementation Plan and directed staff to further develop the governance and service model of the Seniors Housing and Services Entity, and report back on further financial analysis and the results of an REOI for TCHC's "scattered housing" portfolio.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX26.2>

On January 31, 2018, City Council adopted Implementing Tenants First -TCHC Scattered Portfolio Plan and an Interim Selection Process for Tenant Directors on the TCHC Board.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX30.2>

On April 16, 2019, City Council adopted Accelerating the City's Tenants First Project, which included a proposed timeframe of recommendations coming forward in 2019, including recommendations on governance, accountability, and mandate for TCHC's key business areas.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EX4.3>

On October 27, 2020, City Council adopted Implementing Tenants First: 2020 Updates, which made recommendations with respect to an updated mandate for TCHC and the transfer of TCHC's remaining 729-unit scattered house portfolio to the non-profit housing sector.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX17.2>

PROPOSAL

The Toronto Community Housing Corporation (TCHC) is proposing to amend the Official Plan to exempt the lands at 264 Kenilworth Avenue and 50 Norway Avenue from Policy 3.2.1.8 of the Official Plan and permit the severance of the existing social housing property into two separate properties. 264 Kenilworth would be conveyed by TCHC to Circle Community LandTrust as part of the Tenants First initiative. 50 Norway Avenue will remain under TCHC ownership. A related Rental Housing Conversion application has been submitted to permit the proposed severance.

The lands are currently occupied by a semi-detached dwelling at 264 Kenilworth Avenue and a two-storey apartment building at 50 Norway Avenue. The building at 50 Norway Avenue contains 43 dwelling rental dwelling units, which include 30 studio units and 13 one-bedroom units. 264 Kenilworth Avenue contains one three-bedroom unit.

None of the existing buildings would undergo any physical changes as a result of the proposed severance. Tenants' leases would be transferred to the new non-profit owner such that there would be no changes to the existing tenancies.

Attachments are available at the end of this report including: project data, a site plan, Official Plan and zoning maps, and the draft Official Plan Amendment.

Reasons for Application

The Official Plan Amendment application is required as Official Plan Policy 3.2.1.8 prevents the severance or subdivision of any building or related group of buildings containing six or more rental housing units unless all of the units have rents that exceed mid-range rents at the time of application. The subject property contains 44 rental housing units, all with rents that fall below the mid-range rent threshold.

The Rental Housing Conversion application under Chapter 667 is also required to permit the proposed severance since the subject property contains at least six dwelling units, of which at least one is rental and the proposed severance would result in fewer than six rental dwelling units on one of the resulting properties.

APPLICATION BACKGROUND

Application Requirements

The following reports/studies were submitted in support of the application:

- Draft Official Plan Amendment
- Block Context Plan
- Site Plan
- Housing Issues Report
- Social Housing Agreement
- Planning Rationale Report

- Public Consultation Strategy Report
- Rental Housing Declaration of Use and Screening Form
- Survey

Agency Circulation Outcomes

The application, together with the applicable reports noted above, have been circulated to all appropriate agencies and City Divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate Official Plan amendment.

Statutory Public Meeting Comments

In making their decision with regard to this application, Council members will have been given an opportunity to view the oral submissions made at the statutory public meeting held by the Toronto and East York Community Council for this application, as these submissions are broadcast live over the internet and recorded for review.

POLICY & REGULATION 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 (2020), and shall conform to provincial plans, including the Growth Plan (2020) for the Greater Golden Horseshoe, the Greenbelt Plan, and others.

Official Plan

The land use designation for the site is Neighbourhoods. Neighbourhoods contain a full range of residential uses with detached and semi-detached homes, duplexes, townhouses, walk-up apartments and other low-rise housing typologies.

Policy 3.2.1.8 prohibits the conversion and severance of any building or related group of buildings containing six or more rental housing units unless all of the units have rents that exceed mid-range rents at the time of application.

The Official Plan should be read as a whole to understand its comprehensive and integrative intent as a policy framework for priority setting and decision making.

The Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

Zoning

Under Zoning By-law 569-2013, the subject site is zoned Residential (d0.6). Dwelling units are permitted to a maximum allowable density of 0.6 times the area of the lot.

Site Plan Control

The application is not subject to Site Plan Control.

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. Chapter 667 of the Toronto Municipal Code, the Residential Rental Property Demolition and Conversion Control By-law, implements Section 111. The By-law prohibits the conversion of any property containing 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 either City Council or, where delegated, the Chief Planner. Under the By-law, the conversion of a residential rental property includes conversion as a result of a consent to sever land under section 53 of the *Planning Act* if any parcel of land resulting from the severance would contain fewer than six rental units and the original parcel contained at least six dwelling units and one rental unit at the time of application.

COMMENTS

Provincial Policy Statement and Provincial Plans

Staff's review of this application has had regard for the relevant matters of provincial interest set out in the Planning Act. Staff has reviewed the current proposal for consistency with the Provincial Policy Statement (2020) and conformity with the Growth Plan (2020). Staff find the proposal to be consistent with the PPS and conforms with the Growth Plan.

Official Plan

The proposal has been reviewed against the policies and direction contained in the Official Plan and Downtown Plan, and staff have determined that the proposal conforms with the intent of the Official Plan and Downtown Plan.

Housing Issues

The proposal requires Council approval under Chapter 667 of the Toronto Municipal Code because it involves the severance of a property containing 44 rental dwelling units and one parcel resulting from the proposed severance would contain fewer than six rental dwelling units. On May 24, 2023, an application for a Rental Housing Conversion permit was submitted under Chapter 667 of the Toronto Municipal Code to sever the existing rental property at 264 Kenilworth Avenue and 50 Norway Avenue into two separate parcels of land. No changes to the form, function and use of any of the existing rental buildings or existing rental units are proposed.

TCHC is proposing to amend Official Plan policy 3.2.1.8 to permit the severance of the lands into two separate properties. 264 Kenilworth and 50 Norway Avenue would become separate properties. 264 Kenilworth Avenue, which contains 1 rental dwelling

unit, would be conveyed to a qualified non-profit housing agency as part of the Tenants First Initiative, while 50 Norway Avenue, which contains 43 rental dwelling units, would remain under TCHC ownership.

The Circle Community LandTrust (CCL) has already entered into a Social Housing Agreement with the City pursuant to Section 453.1 of the *City of Toronto Act, 2006* to own and operate the existing rental dwelling unit at 264 Kenilworth Avenue and secure this unit as an affordable housing unit in perpetuity. CCL will also be required to enter into an agreement with the City pursuant to Section 111 of the *City of Toronto Act, 2006* to secure the dwelling unit at 264 Kenilworth as affordable rental housing for 99 years. CCL would be prevented from registering the rental unit as a condominium or any other form of ownership housing, and from applying to demolish or convert the rental unit without replacement of the same. Through the Section 111 agreement, the City will also secure the social housing at rents-geared-to-income for a minimum period of 25 years, subject to the continued provision of funding from federal, provincial, and/or municipal government programs, which is the City's standard practice for applications involving the conversion of social housing.

The Section 111 and 453.1 agreements would be registered on title to the properties at 264 Kenilworth Avenue and 50 Norway Avenue at the time of transferring the ownership of 264 Kenilworth Avenue to CCL, and would be in addition to a rent supplement agreement between the City and owner(s) under the non-profit rent supplement program. The latter agreement will set out the details of the funding arrangement between the City and owner(s) for delivering rent-geared-to-income housing in accordance with *Housing Services Act, 2011* regulations.

City Planning staff are satisfied with TCHC's proposal to sever the existing social housing property into two separate properties in order to implement the Tenants First Initiative. The proposal would continue to provide and maintain the existing rental dwelling units as social housing with rents-geared-to-incomes, which is consistent with the housing policy objectives of Section 3.2.1 of the Official Plan.

Tenants Rights

No tenants will be displaced as a result of the Official Plan Amendment or Rental Housing Conversion applications. Existing tenants will remain in their current units with existing lease terms.

Rights under the Residential Tenancies Act

Tenants reserve specific rights under the *Residential Tenancies Act, 2006* (RTA) if a residential rental property such as 264 Kenilworth Avenue undergoes a severance.

Pursuant to section 55 of the RTA, a landlord must compensate a tenant in an amount equal to three months' rent or offer the tenant another rental unit acceptable to the tenant if:

- (a) before the severance, the residential property containing the tenant's rental unit had at least five residential units;

- (b) the new residential property created by the severance, in which the tenant's rental unit is located, has fewer than five residential units; and
- (c) the landlord gives the tenant a notice of termination of their tenancy for the purposes of demolition, conversion, or repairs within two years after the date of the severance.

Pursuant to section 56 of the RTA, where a rental unit becomes separately conveyable property due to a consent, a landlord may not issue, to any person who was a tenant of the rental unit *at the time of the consent*, a notice of termination of their tenancy for the purposes of personal use by the landlord or their family, or by any purchaser of the rental property. However, a landlord may issue a notice of termination of a tenancy for personal use to any tenant who began their tenancy *after* the consent.

Although the existing rental units at 264 Kenilworth Avenue and 50 Norway Avenue are subject to the RTA, sections 55 and 56 of the RTA will not be applicable to the proposed severance, as 264 Kenilworth Avenue would be conveyed to, and managed by, a non-profit housing provider, and because the City would be protecting tenants and the existing social housing from demolition, conversion, and repairs through agreements that would be registered on title to each of the properties.

As previously mentioned, the Section 111 agreement will prevent CCL and any future owner(s) from demolishing or converting the rental dwelling units for a period of 99 years without replacement of same. Should an application be submitted to the City to demolish and replace the existing social housing in the future, the owner(s) would be required to replace the existing social housing unit and develop an acceptable tenant relocation and assistance plan, addressing the right for tenants to return to replacement social housing, in accordance with Official Plan policy 3.2.1.7.

Should any repairs be deemed necessary at 264 Kenilworth Avenue that require tenants to relocate, CCL and any future owner would be required under the Section 111 agreement to develop a tenant relocation and assistance plan that addresses the provision of alternative rent-geared-to-income accommodation within their portfolio as the repairs are underway, as well as the right for tenants to return to their existing rental units after the repairs are complete.

Lastly, since all of the existing rental dwelling units are social housing units that have rents-geared-to-income and will be preserved as such by a non-profit corporation or TCHC, a notice of termination for the purposes of personal use could not be issued to any tenant who occupied a rental unit after the proposed severance.

Internal Transfer Rights

Under TCHC's [Tenant Transfer Policy](#), tenants of TCHC-owned properties may request to transfer to another TCHC rental unit if their health and safety are at risk or if their needs are no longer being met in their existing unit. TCHC only accepts transfers in limited and clearly defined circumstances, which include:

- *Special Priority* – the tenant and/or their children are victims of domestic abuse, sponsorship abuse (in the case of sponsored immigrants), or human trafficking;

- *Crisis Priority* – the tenant is a victim of persistent intimidation or threats of violence, a witness to a crime and suffering intimidation or threats of violence as a result, or a victim or witness of a traumatic incident;
- *Accessibility/Accommodation* – the tenant cannot reasonably be accommodated in their current unit or room because of disability and/or other Ontario Human Rights Code-protected grounds; and
- *Underhoused or Overhoused* – a unit has fewer or too many bedrooms than required for the number of tenants based on the household's composition.

After 264 Kenilworth Avenue is conveyed by TCHC to CCL, tenants will no longer be subject to TCHC's Tenant Transfer Policy. Instead, the CCL will be required to develop their own [Internal Transfer Policy](#) and maintain an internal transfer list of priority households who have requested or are in need of transferring to another unit within the owner's portfolio. A copy of the Internal Transfer Policy will be required to be submitted to the City, who may then establish additional rules or procedures for internal transfers in accordance with the *Housing Services Act, 2011*. The Internal Transfer Policy developed by CCL will be compliant with the City's rules under the authority of the *Housing Services Act, 2011*.

Land Use and Built Form

No changes are proposed to the existing residential uses that are permitted by both the Neighbourhoods designation in the Official Plan and Residential (R) zone in the Zoning By-law. There are also no changes proposed to the existing buildings. The uses and built form are compatible with adjacent properties and conform to the development criteria in the Official Plan as well as the policies of the Official Plan as a whole.

Community Consultation

On July 17, 2023, staff hosted a virtual community consultation to discuss the application. Twenty-seven members of the public were in attendance as well as staff from the Housing Secretariat, Toronto Community Housing, and the applicant. The Ward Councillor was also in attendance.

Questions raised regarding the applications included:

- Rights of current residential tenants through the City's rental housing conversion process, including their rights to continue living in their units during the application review process and after the proposed severance;
- Supports provided to residents;
- Process of selecting future operator of the properties;
- Clarity on future ownership; and
- Reputation of the future operator.

City Planning staff also organized a virtual tenant consultation meeting on July 17, 2023 to review the proposed severance in relation to the City's housing policies and Tenants First Initiative. Two tenants attended; however, no comments or questions were raised.

Outside of the community consultation and tenant consultation meetings, City Planning staff have received direct correspondence from tenants regarding process and ownership of the subject properties. Tenants have also been assured that there will be no changes to the physical form of the buildings or to their rights as tenants.

Conclusion

The proposal has been reviewed against the policies of the PPS, the Growth Plan, and the Official Plan. Staff are of the opinion that the proposal is consistent with the PPS, conforms with the Growth Plan, and conforms with the intent of the Official Plan. The proposal facilitates the transfer of existing social housing units to a suitable non-profit organization while still ensuring the preservation and long-term affordability of the units. Staff recommend that Council approve the applications.

CONTACT

George Pantazis, Senior Planner
Tel. No. 416-392-3566
E-mail: George.Pantazis@toronto.ca

Andrew Cohrs, Housing Planner
Tel. No. 416-392-4730
E-mail: Andrew.Cohrs@toronto.ca

Camryn Chin, Assistant Planner
Tel. No. 416-392-9318
E-mail: Camryn.Chin@toronto.ca

SIGNATURE

Willie Macrae, BA, MES, MCIP, RPP
Acting Director, Community Planning
Toronto and East York District

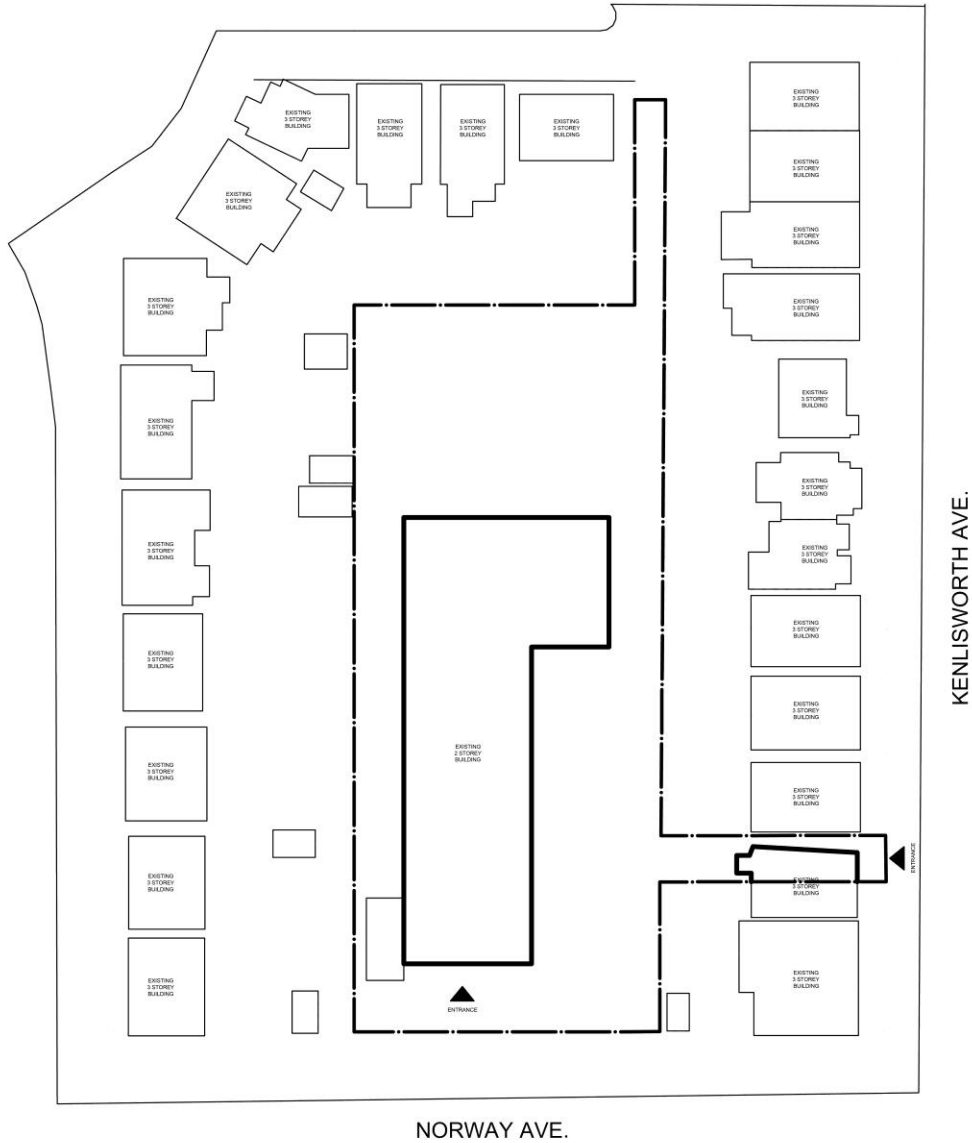
ATTACHMENTS

Attachment 1: Location Map
Attachment 2: Site Plan
Attachment 3: Official Plan Map
Attachment 4: Zoning Map
Attachment 5: Draft Official Plan Amendment

Attachment 1: Location Map



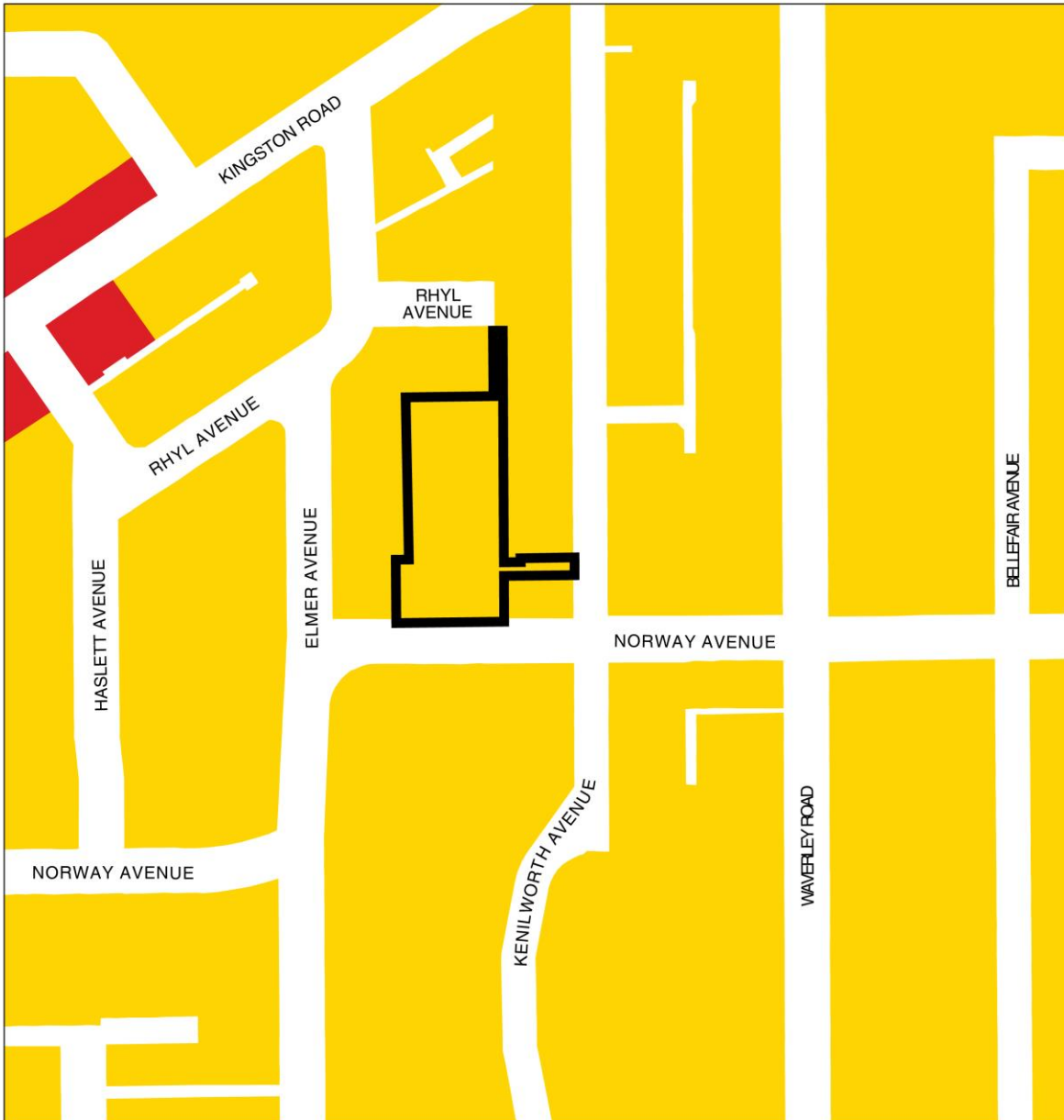
Attachment 2: Site Plan



Site Plan



Attachment 3: Official Plan Map



Official Plan Land Use Map #21

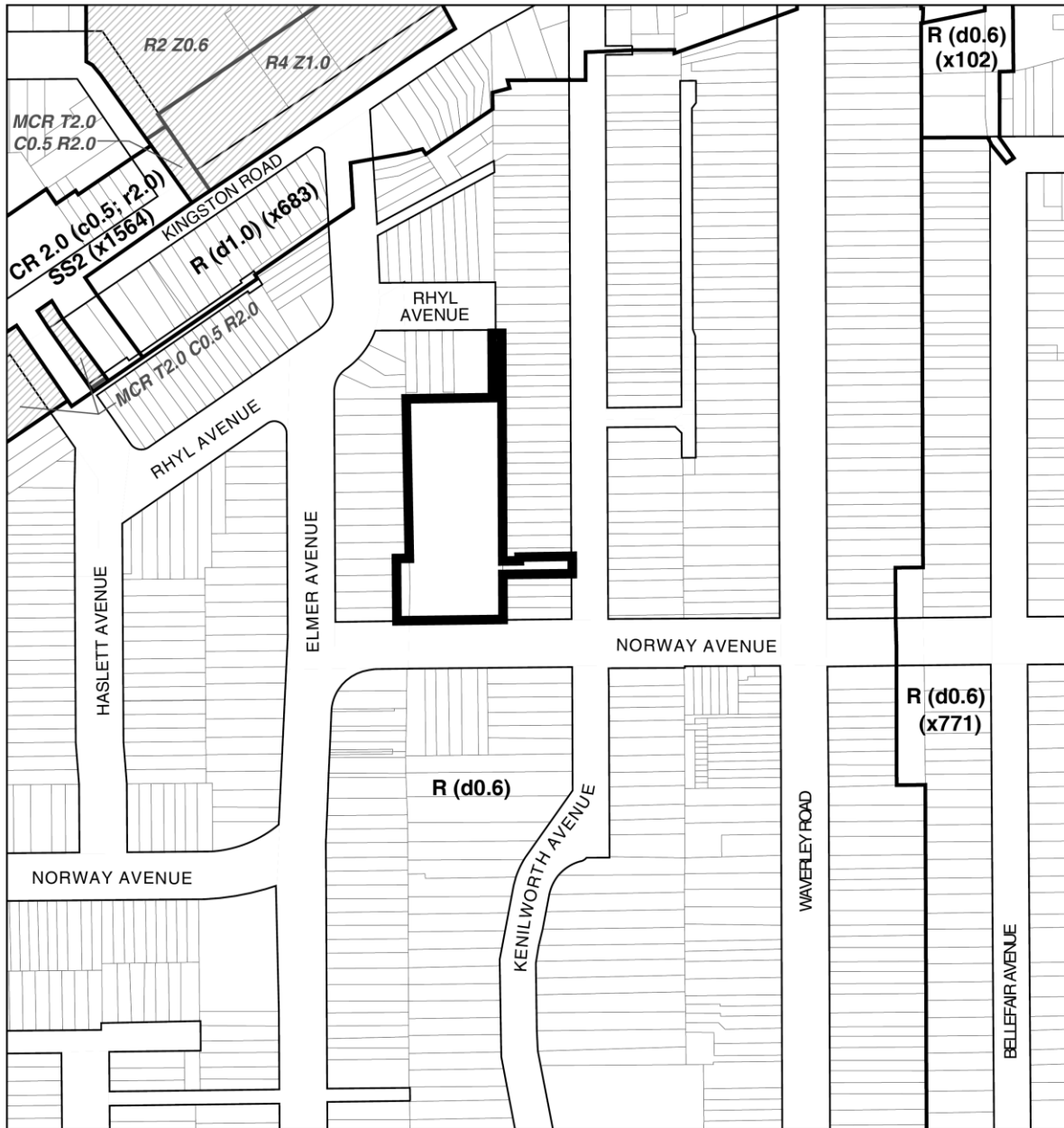
264 Kenilworth Avenue and 50 Norway Avenue

File # 23 135775 STE 19 0Z

-  Location of Application
-  Neighbourhoods
-  Mixed Use Areas


Not to Scale
Extracted: 04/24/2023

Attachment 4: Zoning Map




Zoning By-law 569-2013

264 Kenilworth Avenue and 50 Norway Avenue

File # 23 135775 STE 19 0Z

 Location of Application
R Residential
CR Commercial Residential

 See Former City of Toronto By-law No. 438-86
R2 Residential District
R4 Residential District
MCR Mixed-Use District


 Not to Scale
 Extracted: 04/24/2023

Attachment 5: Draft Official Plan Amendment

Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~

Enacted by Council: ~, 20~

Bill No. ~
CITY OF TORONTO
BY-LAW No. XXX-2023

To adopt an amendment to the Official Plan for the City of Toronto respecting the lands known municipally in the year 2023, as 264 Kenilworth Avenue and 50 Norway Avenue.

WHEREAS authority is given to Council under the Planning Act, R.S.O. 1990, c.P. 13, as amended, to pass this By-law;

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The attached Amendment No. 685 to the Official Plan is hereby adopted pursuant to the Planning Act, as amended.

ENACTED AND PASSED this day of , 2023.

FRANCES NUNZIATA,
Speaker

JOHN ELVIDGE,
City Clerk

(Seal of the City)

AMENDMENT NO. 685 TO THE OFFICIAL PLAN OF THE CITY OF TORONTO

LANDS MUNICIPALLY KNOWN IN THE YEAR 2022 AS 264 KENILWORTH AVENUE
AND 50 NORWAY AVENUE

The Official Plan of the City of Toronto is amended as follows:

1. Chapter 7, Site and Area Specific Policies, is amended by adding Site and Area Specific Policy No. 868 for lands known municipally in 2023 as 264 Kenilworth Avenue and 50 Norway Avenue, as follows:

868. 264 Kenilworth Avenue and 50 Norway Avenue

Notwithstanding Policy 3.2.1.8 of the Official Plan, the social housing property located at 264 Kenilworth Avenue and 50 Norway Avenue may be severed into two conveyable parcels of land for conveyance to non-profit housing providers.

2. Chapter 7, Map 32, Site and Area Specific Policies, is amended to add the lands known municipally in 2023 as 264 Kenilworth Avenue and 50 Norway Avenue shown on the map below as Site and Area Specific Policy No. 868.

