

383 and 387 Sherbourne Street – Rental Housing Demolition Application – Decision Report – Approval

Date: October 27, 2023

To: Toronto and East York Community Council

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

Ward: 13 – Toronto Centre

Rental Housing Demolition Application Number: 21 189637 STE 13 RH

Related Application Numbers: 21 189632 STE 13 OZ; 23 170463 STE 13 SA

SUMMARY

The application proposes to demolish a 3-storey apartment building containing 44 rental units located at 387 Sherbourne Street. The 44 rental units are proposed to be replaced as part of the new 39-storey building comprised of 346 dwelling units. An adjacent 3-storey apartment building at 383 Sherbourne Street with 32 units is proposed to undergo extensive renovation and be retained on the development site.

The properties are also the subject of a Zoning By-law Amendment application (21 189632 STE 13 OZ), which was appealed to the Ontario Land Tribunal (OLT). The OLT issued a written decision on October 6, 2023, approving the Zoning By-law Amendment in principle, with the final Order being withheld until all outstanding matters, including the necessary agreements with the City, are secured, including the rental housing matters.

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 conditions to replace the rental housing and provide Tenant Relocation and Assistance.

RECOMMENDATIONS

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

1. City Council approved the Rental Housing Demolition application (21 189637 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 forty-four (44) existing rental dwelling units at 387 Sherbourne Street, subject to the following conditions:

- a. The owner shall provide and maintain forty-four (44) 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 and, during which time, no application may be submitted to the City for condominium registration, or for any other conversion to a non-rental housing purpose, or for demolition without providing for replacement. The forty-four (44) replacement rental dwelling units shall collectively have a total gross floor area of at least 1,820 square metres and be comprised of twenty-two (22) studio units and twenty-two (22) one-bedroom units, as generally illustrated in the plans submitted to the City Planning Division dated May 19, 2023. Any revision to these plans shall be to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- b. The owner shall, as part of the forty-four (44) replacement rental dwelling units required in Recommendation 1.a. above, provide at least fifteen (15) studio and twelve (12) one-bedroom replacement rental dwelling units at affordable rents, as currently defined in the Toronto Official Plan, all for a period of at least ten (10) years beginning from the date of first occupancy of each unit. The rents of the remaining seventeen (17) replacement rental dwelling units shall be unrestricted;
- c. The owner shall provide an acceptable Tenant Relocation and Assistance Plan to all Eligible Tenants of the forty-four (44) existing rental dwelling units proposed to be demolished at 387 Sherbourne Street, addressing the right to return to occupy one of the replacement rental dwelling units at similar rents, and other assistance to lessen 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 forty-four (44) replacement rental dwelling units with access to, and use of, all indoor and outdoor amenities in the proposed development at no extra charge. Access to, and use of, these amenities shall be 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 in each replacement rental dwelling unit within the proposed development at no extra charge;
- g. The owner shall provide central air conditioning in each replacement rental dwelling unit within the proposed development at no extra charge;
- h. The owner shall provide tenants of the replacement rental dwelling units with access to bicycle and visitor vehicular parking at no charge and on the same terms and conditions as any other resident of the proposed development;
- i. The forty-four (44) replacement rental dwelling units required in recommendation 1.a 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 dwelling units, are made available and ready for occupancy; and

j. The owner shall enter into and register on title to the lands at 387 and 383 Sherbourne Street an agreement pursuant to Section 111 of the City of Toronto Act, 2006 to secure the conditions outlined in Recommendations 1.a through 1.i above, 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 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 forty-four (44) existing rental dwelling units at 387 Sherbourne Street after all the following have occurred:

a. all conditions in Recommendation 1 above have been fully satisfied and secured;

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 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; and

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

3. City Council authorizes 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 Division has given Preliminary Approval referred to in Recommendation 2 above.

4. City Council authorizes 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 387 Sherbourne Street after the Chief Planner and Executive Director, City Planning Division has given Preliminary Approval referred to in Recommendation 2 above, which may be included in the Rental Housing Demolition Permit under 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 four (4) years from the date on which the demolition of the existing rental dwelling units commences, subject to the timeframe being extended to 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 forty-four (44) 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 recommends that the Chief Planner and Executive Director, City Planning Division secure through one or more agreements to the satisfaction of the City Solicitor the owner's obligation to:

a. Continue to provide and maintain the existing thirty-two (32) rental dwelling units at 383 Sherbourne Street as rental housing for a period of at least 20 years commencing from the date the Zoning By-law Amendment comes into force and effect, with no application for demolition or conversion from residential rental use during the 20-year period, all to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and,

b. Undertake improvements to the existing rental building, at its sole expense and at no cost to tenants, at 383 Sherbourne Street, as follows:

1. Interior renovations of each rental unit including: high-efficiency water upgrades with all toilets converted to low flow and shower fixtures retrofitted, ceiling fans, triple glazed windows, new kitchen appliances, cabinets and plumbing, new flooring, and in-suite laundry in all rental dwelling units.

2. Exterior and interior common area renovations including: high-efficiency lighting and new carpet tile in all common areas, brick repair and tuck pointing on the south side exterior wall, front façade improvements, triple glazed windows, and repair of walls for continuous fire separations between suites.

3. Building system upgrades including: new water tank installed, heating upgrades and replacement of steam traps and condensation tank, new intercom system, new fire alarm system, central low energy cooling, new plumbing system, modernized electrical system, and direct ducting for fresh air supply in suites with heat supply.

c. The owner shall provide access to new outdoor amenities, indoor amenities, and indoor bicycle parking in the proposed new building for tenants of the existing rental apartment building; and

d. The owner shall provide an acceptable Tenant Relocation and Assistance Plan to all Eligible Tenants of the thirty-two (32) retained rental dwelling units at 383 Sherbourne Street, addressing the right to return to occupy one of the retained rental dwelling units at similar rents, the provision of rent gap assistance, and other assistance to lessen 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.

6. City Council authorizes 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

On January 26, 2022, the applicant appealed its zoning by-law amendment application to the OLT due to Council's failure to make a decision on the application within the time prescribed by the Planning Act.

On June 15, 2022, City Council adopted a Request for Directions report from the Director, Community Planning, Toronto and East York District and directed the City Solicitor and appropriate City staff to oppose the application and continue discussions with the applicant to resolve matters. The Decision of City Council may be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2022.TE33.10>

On July 19, 2023 City Council adopted a Request for Directions Report from the City Solicitor and endorsed a settlement offer to permit a revised development proposal. The Decision of City Council may be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2023.CC8.22>

On October 6, 2023, the OLT issued a Decision and Interim Order approving in principle the Zoning By-law Amendment for 383 and 387 Sherbourne Street, subject to conditions. <https://www.omb.gov.on.ca/e-decisions/OLT-21-001365-OCT-06-2023-ORD.pdf>

ISSUE BACKGROUND

Reason for Application

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 rental housing, 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 that an applicant obtain a permit from the City allowing the demolition of the existing rental housing units. The City may impose conditions that must be satisfied before a demolition permit is issued.

Development Proposal

The Zoning By-law Amendment application for the subject site was approved in principle by the OLT on October 6, 2023, subject to City Council's approval of the Rental Housing Demolition application. The applications encompass the lands municipally known as 383 and 387 Sherbourne Street (see Attachment 1 – Location Map).

Once finalized, the Zoning By-law Amendment would permit the redevelopment of the lands with a 39-storey residential development. The proposed development would contain a total of 44 replacement rental dwelling units, 32 retained rental dwelling units, and 302 new dwelling units, including 116 (39%) studio units, 109 (36%) one-bedroom units, 46 (15%) two-bedroom units, and 31 (10%) three-bedroom units. The replacement rental units would be located on the second through seventh floors of the development and be comprised of 22 studio units and 22 one-bedroom units, of which 27 units would have affordable rents and 17 would have unrestricted rents. Residents would have access to 935-square metre indoor amenity spaces and 450-square metre outdoor amenity spaces. The development would be serviced by 8 vehicular parking spaces (6 residential and 2 visitor/commercial spaces) and 417 bicycle parking spaces (341 long-term and 76 short-term).

The 3-storey apartment building at 383 Sherbourne Street with 32 units is proposed to be renovated and retained on the development site for heritage purposes and will be incorporated into the base of the new building.

Existing Rental Dwelling Units

The building at 387 Sherbourne Street currently contains a total of 44 rental dwelling units including 22 studio and 22 one-bedroom units. In 2017, a fire occurred in one of the rental units at 387 Sherbourne Street and the building was vacated to address fire remediation work. It has not been occupied since that time. As a result, all of the existing rental dwelling units at 387 Sherbourne Street were vacant at the time of application.

The building at 383 Sherbourne Street currently contains a total of 32 rental dwelling units including 18 studio and 14 one-bedroom units. It is proposed to be retained and renovated. All units have affordable or mid-range rents and all but 3 units are currently occupied.

Tenant Consultation

On July 5, 2023, a tenant consultation meeting was held pursuant to section 14B of Chapter 667 to review the City's housing policies, the impact of the proposed development on existing tenants, and the proposed Tenant Relocation and Assistance Plan. The meeting was held in person, for tenants of 383 and 387 Sherbourne Street, including tenants whose units are proposed to be demolished and tenants whose units would be retained but undergo extensive renovations that will require tenants to move to interim accommodation. The meeting was attended by approximately 25 tenants, including a tenant of 387 Sherbourne who retains the right to move into a replacement unit, representatives of the applicant, a representative from the local councillor's office and City Planning staff.

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

- The timing of the application and overall development, including the length of time tenants would be displaced from their units.
- The proposed replacement rental unit layouts, including their size;
- The process for how replacement units will be selected by eligible tenants and how rents would be calculated;
- The provision of trustee services for tenants who require additional assistance managing finances.

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 (2020), and shall conform to provincial plans, including the Growth Plan (2020) for the Greater Golden Horseshoe.

Official Plan

The Official Plan outlines the City'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 housing.

Policy 3.2.1.5 and Policy 4.2.3 state that compatible infill development that improves the existing site conditions and livability for existing residents may be permitted on a site containing existing rental buildings. The policies contemplate securing the rental tenure

of the existing rental units, securing needed improvements and renovations to extend the life of any retained buildings to contribute to quality of life and revitalization efforts, and promoting environmental sustainability.

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 the applicant to develop an acceptable tenant relocation and assistance plan, addressing the right to return to the replacement units at similar rents and other assistance to lessen hardship.

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. The proposal to demolish 44 rental dwelling units within a 3-storey apartment building to construct a new apartment building comprised of 302 net new residential units, 44 replacement rental units, and 32 retained rental units would accommodate new housing supply through intensification and redevelopment, and contribute to a greater mix of housing options to meet the market-based housing needs of current and future residents.

Retained Rental Housing

The residential building at 383 Sherbourne Street with 18 studio units and 14 one-bedroom units is proposed to be retained on the development site. As part of the OLT settlement, the applicant has agreed to provide tenant assistance to tenants of 383 Sherbourne Street and undertake significant renovations of 383 Sherbourne Street that include:

- Interior renovations of each rental unit including: high-efficiency water upgrades with all toilets converted to low flow and shower fixtures retrofitted, ceiling fans, triple glazed windows, new kitchen appliances, cabinets and plumbing, new flooring, and in-suite laundry in all rental dwelling units.
- Exterior and interior common area renovations including: High-efficiency lighting and new carpet tile in all common areas, brick repair and tuck pointing on the south side exterior wall, front facade improvements, triple glazed windows, and repair of walls for continuous fire separations between suites.
- Building system upgrades including: new water tank installed, heating upgrades and replacement of steam traps and condensation tank, new intercom system, new fire alarm system, central low energy cooling, new plumbing system, modernized electrical system, and direct ducting for fresh air supply in suites with heat supply.

The applicant has agreed that the costs of all the improvements to the existing rental building listed above will not be passed on to tenants of the existing building in any form, including by way of an application to the Ontario Landlord Tenant Board for the purpose of obtaining an increase in residential rent above the applicable guideline.

The new building is proposed to be constructed directly adjacent and over the existing building at 383 Sherbourne Street. In addition, the new building will be constructed directly adjacent to the north elevation of 383 Sherbourne Street and as a result, north facing units will result in a loss of some exterior windows. Along with the significant renovations, tenants will need to vacate their units during the renovation and construction of the new building but would retain, under the Residential Tenancies Act (RTA), the right to return to their unit at the same rent, subject to annual permitted provincial Guideline increases. The owner has also agreed to provide a Tenant Relocation and Assistance Plan to all tenants of 383 Sherbourne Street, including rent gap assistance for the duration of construction. Tenants may be able to move back into 383 Sherbourne Street prior to the new building being fully completed. Tenants with units that have north facing windows can elect to move back into their units or an alternative unit of the same type of size.

Replacement Rental Housing

In accordance with Official Plan policy 3.2.1.6, the applicant is proposing to replace the existing 44 rental dwelling units proposed to be demolished at 387 Sherbourne Street by their respective unit types. The replacement rental units are comprised of 22 studio units and 22 one-bedroom units, of which 27 units would have affordable rents and 17 would have unrestricted rents.

The total GFA of the 44 replacement rental units is 1,820 square metres, which is 106% of the GFA of the existing rental units proposed to be demolished. The average size of existing studio units is 34.4 square metres, while the average size of replacement studio units is 30.1 square metres. The average size of existing one-bedroom units is 44.2 square metres, while the average size of replacement one-bedroom units is 52 square metres. While replacement studio units are smaller than existing units, overall the average size of existing units is 38.9 square metres, while the average size of replacement units is 41.3 square metres.

City Planning staff are of the opinion that the proposed replacement plan is appropriate and consistent with the intent of policy 3.2.1.6.

The building is currently vacant, however at least one tenant has maintained their right to return. The applicant has confirmed that should other previous tenants of 387 Sherbourne Street notify the City, they may also be deemed eligible for a replacement unit. Tenants who return to the replacement rental units would be subject to rent increases capped by the provincial rent increase Guideline, irrespective of whether such Guideline applied to the proposed development under the RTA, until their tenancies end. Rents for the affordable replacement rental units without returning tenants would not exceed the City's rent thresholds for a period of at least 10 years.

Tenant Relocation and Assistance Plan

The applicant has agreed to implement a Tenant Relocation and Assistance Plan for all Eligible Tenants who reside at 383 Sherbourne Street. The plan would assist tenants in finding and securing alternative accommodation while the proposed retained rental dwelling units at 383 Sherbourne Street are renovated. The Tenant Relocation and Assistance Plan for tenants of 383 Sherbourne Street would include the following:

- The right to return to the same renovated rental unit or a rental unit of the same bedroom type and similar unit size, and at similar rent, as the rental unit they currently occupy;
- At least six (6) months' notice before having to vacate their existing dwelling unit (inclusive of notice required under the RTA)
- Financial compensation, in addition to the requirements of the Residential Tenancies Act, in the form of rent gap assistance, 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 Canada Mortgage and Housing Corporation's (CMHC) Rental Market Survey (RMS) Zone 1 (Toronto Central) over the period of construction of the renovated units and proposed building (estimated at three years).
- Moving allowances to cover expenses for moving, first, into alternative interim accommodation and, second, from the interim accommodation into a replacement rental unit;
- Additional compensation for tenants with special needs, as determined by the Chief Planner;
- Upon request, services of a rental leasing agent;
- Upon request, access to trusteeship services for administering financial compensation for the duration of the construction and renovation period to assist tenants in managing the rent gap assistance.

Tenants of 387 Sherbourne Street were displaced due to a fire in 2017 and would not be provided with the same Tenant Relocation and Assistance Plan as tenants from 383 Sherbourne Street as they were not displaced due to the demolition application. Tenants of 387 Sherbourne Street who exercise their right to return to a replacement unit will be provided with moving allowances to cover expenses for moving into a replacement rental unit as well as be eligible for additional compensation for tenants with special needs.

The rent gap assistance would be paid by the applicant to each Eligible Tenant on the date they provide vacant possession of their existing rental unit. In the event the proposed development and renovated units take longer than three (3) years to complete, the applicant would provide each tenant with additional rent gap assistance until the rental units are ready for occupancy.

City Planning staff are satisfied with the Tenant Relocation and Assistance Plan as it meets the City's expectations for rental demolition and exceeds the City's practice for renovated rental units. It will allow tenants to continue to access and afford suitable housing within the neighbourhood until the new building, replacement and retained rental units are completed and available for occupancy. The Tenant Relocation and Assistance Plan 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.

CONTACT

Andrew Cohrs, Planner
Strategic Initiatives, Policy & Analysis (Housing)
E-mail: Andrew.Cohrs@toronto.ca
Tel.: 416-392-4730

Abraham Plunkett-Latimer, Planner
Community Planning, Toronto and East York District
Email: Abraham.Plunkett-Latimer@toronto.ca
Tel.: 416-397-1942

SIGNATURE

Oren Tamir
Director, Community Planning
Toronto and East York District

ATTACHMENT

City of Toronto Data/Drawings

Attachment 1: Location Map

Attachment 1: Location Map

