

# STAFF REPORT ACTION REQUIRED

# 620 Avenue Road, 215 & 217 Lonsdale Road OPA & Rezoning Application Request for Direction Report

Date:	March 31, 2009
То:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 22 – St. Paul's
Reference Number:	06 130137 STE 22 OZ & 07 287745 STE 22 SA

## SUMMARY

The City received an application to amend the Official Plan and Zoning By-law on April 28, 2006. A related site plan application was submitted on December 18, 2007. Revisions to both applications were made on December 1, 2008. The applicant has appealed these applications to the Ontario Municipal Board for the City's failure to make a decision within the time allotted by the *Planning Act*.

The applications propose to demolish a 5storey, 44-unit, rental apartment building at 620 Avenue Road; a detached dwelling listed on the City's heritage inventory at 215 Lonsdale Road; and a second detached dwelling at 217 Lonsdale Road. The proposal calls for the construction of an 18storey, 58-unit, residential condominium building with 108 underground parking spaces.

The purpose of this report is to oppose the proposal in its current form. Staff is open to continue discussions with the applicant in an attempt to resolve the outstanding matters as outlined in this report.



### RECOMMENDATIONS

#### The City Planning Division recommends that:

- 1. City Council direct the City Solicitor and appropriate staff to attend any Ontario Municipal Board (OMB) hearing to oppose the current applications.
- 2. Subject to the applicant addressing the issues raised in this report to the satisfaction of the Director of Community Planning, Toronto & East York District, City Council direct the City Solicitor to report back to City Council on any proposed settlement.
- 3. City Council authorize the City Solicitor and City staff to take any necessary steps to implement the foregoing.

### **Financial Impact**

There are no financial implications resulting from the adoption of this report.

### **DECISION HISTORY**

At its meeting of September 25, 26 and 27, 2006, City Council adopted the staff recommendations to include the property at 215 Lonsdale Road (Etta Flick House) on the City of Toronto Inventory of Heritage Properties. The report can be accessed at the following link:

http://www.toronto.ca/legdocs/2006/agendas/committees/te/te060913/it034.pdf

In July 2006, the Ontario Municipal Board (OMB) approved the new Official Plan for the City of Toronto. At the OMB hearing, the owner for the subject site was added as a party appealing the City's new Official Plan, as it applied to this particular property. Therefore, the new Official Plan does not apply to this property and this site is subject to the former Metropolitan Toronto Official Plan and the former City of Toronto Official Plan. The subject site is listed on Attachment No. 4 to the approving Order. The decision can be accessed at the following link:

http://www.toronto.ca/torontoplan/pdf/may2006/omb\_order\_2154.pdf

### **ISSUE BACKGROUND**

### Proposal

On April 28, 2006 the applicant submitted an application to demolish a 5-storey, 44-unit, rental apartment building at 620 Avenue Road and two detached dwellings at 215 and 217 Lonsdale Road and construct an 18-storey residential condominium building with 64 residential units. On November 9, 2006 the applicant requested staff to stop processing the application.

On November 28, 2007 the applicant submitted revised plans and additional studies proposing a new 18-storey building design with four wings, varying in height. Residential vehicular access was to be provided via a private driveway off Lonsdale Road, while a service vehicle entrance was to be provided off Avenue Road. In response to the resubmission, City staff held a community meeting on February 20, 2008 to discuss the proposal with the neighbourhood.

A third revision was submitted on December 1, 2008, and is the subject of this report. Alterations were made to the building setbacks, heights, vehicular access, balconies, massing and landscaping. As well, the applicants proposed a new rental housing replacement strategy. The overall density of the project was reduced from 5.6 to 5.25 times the area of the lot.

The current proposal requires the demolition of a 5-storey, 44-unit, rental apartment building at 620 Avenue Road; a detached dwelling listed on the City's heritage inventory at 215 Lonsdale Road; and a second detached dwelling at 217 Lonsdale Road. The applicant does not propose to replace the rental housing units, but has proposed a cash-in-lieu payment of \$35,000 for each of the 44 rental units in the apartment building, totalling \$1,540,000.

Proposed is an 18-storey, 58-unit, irregularly shaped residential condominium building reaching a height of 68.93 metres including a 6 metre mechanical penthouse (see Attachment 1). The proposed building is offset with four wings. The wings range in height from 14, 16 to 18 storeys. In the current proposal, the balcony locations have been reconfigured to be contained within the building mass. The floor plate for the majority of the building is at 850 square metres and is reduced to 735 and 592 square metres on the 15-16 and 17-18 floors, respectively.

Indoor and outdoor amenity spaces are provided on the second level of the proposed building. A total of 370 square metres of indoor amenity space is connected to a 190 square metre outdoor terrace. Also provided is 650 square metres of landscaped open space.

The building is to be set back 4.5 metres from the north property line (Lonsdale Road), 11 metres from the east property line (Avenue Road), 7.5 metres from the south property line (616 Avenue Road) and 12 metres from the west property line (219 Lonsdale Road).

The applicant is proposing 108 vehicular parking spaces, including 99 residential and 9 visitor spaces, in two levels of underground parking. Vehicular access is proposed from Avenue and Lonsdale Roads. The Avenue Road access is provided at the south end of the site and is to be restricted to right-in and right-out movements only. The Lonsdale Road access is provided toward the west end of the site and would prohibit outbound left turn movements. Service vehicles would enter off of Avenue Road and exit onto Lonsdale Road (see Attachment 2). Also proposed are 34 residential bicycle parking spaces on the P1 level and 10 visitor bicycle spaces at grade.

### Site and Surrounding Area

This 2,654 square metre site is located on the southwest corner of Avenue Road and Lonsdale Road. The subject site consists of the following:

Address	Description
620 Avenue Rd	A 5-storey, 44-unit, rental apartment building with 22 indoor parking spaces, known as the Glen Briar Apartments, built in 1954. Vehicular access is provided via a circular driveway from Avenue Rd. A private driveway on the north and south end of the site provide one-way movement to and from the parking garage.
215 Lonsdale Rd	A 2.5-storey detached dwelling (Etta Flick House) listed on the City of Toronto Inventory of Heritage Properties. Vehicle access to the two-car garage is provided via a circular driveway with two curb cuts along Lonsdale Road.
217 Lonsdale Rd	A 2-storey detached dwelling with parking provided in a garage accessed via a private driveway off Lonsdale Road.

Adjacent existing land uses are:

- North: across Lonsdale Road is the campus of Upper Canada College. The campus consists of a number of institutional buildings and vehicle access points. Immediately north of the proposed development site (the southwest corner of the campus) is the Preparatory School and playground area.
- South: is 616 Avenue Road, a 10-storey apartment building with 28 residential units. Further along Avenue Road are a number of residential buildings ranging in height from 10 to 14 storeys.
- East: multi-unit residential buildings line the east side of Avenue Road with heights ranging from 3 to 19 storeys.
- West: an established low-rise residential neighbourhood. Immediately west are two single-detached dwellings which front onto Lonsdale Road as well as the rear yards of the dwellings fronting onto Forest Hill Road.

### **Provincial Planning Framework**

Section 2 of the *Planning Act* identifies matters of provincial interest to which those making decisions under the *Act* shall have regard. Most relevant when considering the issues raised by the demolition of rental housing are Section 2(h), which addresses the orderly development of safe and healthy communities, and Section 2(j), which focuses on "the adequate provision of a full range of housing".

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The assessment of the housing issues involved in this application is informed by several sections of the PPS. Section 1 calls for the wise management of change and support for strong, liveable and healthy communities. Section 1.4.3 requires that planning authorities provide for an appropriate range of housing types and densities to meet projected requirements of current and future residents, by establishing targets for the provision of housing affordable to low and moderate-income households, and permitting and facilitating all forms of housing. The PPS also establishes a definition of affordable rental housing, with which the City's Official Plan definition is consistent.

### Former Metropolitan Toronto Official Plan

### Housing

A principal objective of the former Metropolitan Toronto Official Plan is to ensure the availability of an adequate supply and mix of housing to meet the full range of housing needs, and to attract and accommodate population growth (Section 3.2 Housing).

Policy 125 reinforces the Plan's housing objective. The Plan encourages: investment in new private rental housing; the preservation and maintenance of existing rental housing; and the support of provincial and federal policies in this regard.

Policies 128 and 129 are concerned with ensuring that opportunities are provided to include affordable housing in new residential development, and specifically in new developments with 9 or more units where planning approvals are required.

### Heritage

The Plan also encourages the conservation of heritage resources in any development proposal. Policy 151 states that where appropriate, heritage conservation will be a factor in consideration of development proposals.

### Former City of Toronto Official Plan

#### Designation

The Plan designates the site *High Density Residence Areas* (see Attachment 6) which permits residential buildings having a maximum density of 2.0 times the area of the lot (Policy 12.6). In *Residence Areas* Council may permit land to be used for residential purposes. *Residence Areas* shall be regarded as neighbourhoods which are pleasant,

attractive and provide municipal services, schools, parks, playgrounds and community services, adequate for the needs of residents.

### **Built Form**

The Plan directs that new buildings be designed to fit harmoniously with neighbouring development by:

- a) ensuring that the siting and massing of new buildings is appropriate in relationship to neighbouring development; and
- b) encouraging compatibility of design consistent with the objective of [the Heritage Policies of the Plan] where new developments are proposed for sites adjacent to, or integrated with, existing listed or designated historic buildings, streetscapes, or landscapes. (Policy 3.13)

An objective of the built form policies in the Plan is that the massing of new developments should provide transition between areas of differing development intensity (Policy 3.14). To achieve this and other built form objectives, Council may:

- a) establish consistent minimum and maximum setbacks from the property line, where appropriate;
- b) define maximum desirable building heights at the street edge;
- c) require the upper portions of the building to be massed, if necessary, to ensure comfortable street level conditions; and
- d) establish maximum density limits that, in concert with other built form and siting controls, result in an appropriate building mass.

### **Significant Views**

Map 4 lists the Upper Canada College tower as a major landmark and identifies the significant view from Avenue Road. New development should not obstruct, hinder or detract from designated views along streets and other view corridors (Policy 3.7).

### Heritage

The Plan encourages the preservation and conservation of those buildings which have been evaluated and identified of being of architectural and/or historical importance (Policy 5.1).

#### Housing

The Plan seeks the preservation and improvement of existing housing, and encourages a range of housing types within the City appropriate to the needs of households of varying composition and income, including affordable housing for low and moderate income residents (Policy 6.1). Policy 6.12 is concerned with ensuring that new residential development provide for affordable housing and generally for housing appropriate to the needs of households of varying size and composition.

Policy 6.16 encourages the physical maintenance and upgrading of existing housing stock and 6.17 sets the specific goal of retaining and conserving private rental housing.

Council shall discourage demolition which in Council's opinion is undesirable, and strictly apply the available legislation and policies to control the demolition or conversion of rental housing

Policy 6.19 states that it is the policy of Council not to permit demolition of residential buildings, when in the opinion of Council the demolition would result in the loss of residential property or dwelling units in good structural repair or which serve a necessary social need, or would result in the undue hardship of relocation upon the occupants of the building to be demolished.

### **Development Criteria**

Objectives for development in *High Density Residence Areas* are to provide grade-related uses that animate the street edge; respect light, view, and privacy of other buildings; achieve comfortable pedestrian amenity and desirable vehicular circulation; and have consideration for impact of the built form on adjacent *Low Density Residence Areas* (Policy 12.6(f)).

### **New Official Plan**

While the new Official Plan is not the in-force Plan as pertains to this site, it represents the current policies as adopted by City Council and are applicable to almost the entire city, including the properties surrounding the subject site. The Plan is expected to direct city building for some considerable time into the future. Therefore, the policies of all three Plans will be reviewed for the purpose of assessing this application.

City Council adopted new housing policies in the Official Plan in November 2002 that protected existing rental housing, and adopted modifications in December 2005 updating the policies concerning demolition and conversion of rental housing. This application was made April 28, 2006. These rental housing policies were approved by the Ontario Municipal Board in October 2006. It is appropriate to consider these housing policies in assessing this application, as these formed the policy framework for the City at the time the application was filed.

### Designation

The Official Plan for the City of Toronto designates the subject site *Apartment Neighbourhoods* (see Attachment 7). *Apartment Neighbourhoods* are considered to be physically stable areas (Policy 2.3.1.1). They are made up of apartment buildings and parks, local institutions, cultural and recreational facilities, and small-scale retail, service and office uses that serve the needs of area residents. All land uses provided for in the *Neighbourhoods* designation are also permitted in *Apartment Neighbourhoods*.

#### **Built Form**

To the west and north of the subject site are lands designated *Neighbourhoods* which are considered to be physically stable areas. Policy 2 under Section 2.3.1, Healthy Neighbourhoods, states that developments will be compatible with those *Neighbourhoods* that are adjacent to the proposal, by: providing a gradual transition of scale and density;

maintaining adequate light and privacy for residents in those *Neighbourhoods*; and attenuating resulting traffic and parking impacts on adjacent neighbourhood streets so as not to significantly diminish the residential amenity of those *Neighbourhoods*.

Built form policies are provided for in the Plan under Section 3.1.2. Reinforced in the Built Form policies is the need to: create appropriate transitions in scale to neighbouring existing and/or planned buildings; provide for adequate light and privacy; adequately limit any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, and having regard for the varied nature of such areas. Within the Built Form section of the Plan, specific policies are provided for tall buildings (Section 3.1.3).

### Heritage

Heritage policies are found under Section 3.1.5 of the Plan. The Plan states that significant heritage resources will be conserved by listing properties of architectural and/or historic interest on the City's Inventory of Heritage Properties. Heritage resources on properties listed on the City's *Inventory of Heritage Properties* will be conserved. Development adjacent to properties on the City's *Inventory of Heritage Properties* will respect the scale, character and form of the heritage buildings and landscapes.

### Housing

The objective of the housing policies (Section 3.2.1) in the Official Plan is to provide and maintain a full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods, to meet the current and future needs of residents (Policy 1).

Generally, new development that would have the effect of removing a private building or related group of buildings, and would result in the loss of six or more rental housing units will not be approved, unless (1) all the units in the existing building(s) contain rents that exceed mid-range rents; (2) the applicant provides replacement housing for the same number, size and type of rental housing, including an acceptable tenant relocation and assistance plan; or (3) in Council's opinion, the supply and availability of rental housing in the City has returned to a healthy state (Policy 6).

### **Development Criteria**

Development in *Apartment Neighbourhoods* will contribute to the quality of life by: locating and massing new buildings to provide a transition between areas of different development intensity and scale; locating and massing new buildings to adequately limit impacts on properties in adjacent lower-scale *Neighbourhoods*.

The City of Toronto Official Plan is available on the City's website at: www.toronto.ca/planning/official\_plan/introduction.htm

## Zoning

The site is zoned R4 Z2.0 under By-law 438-86, as amended. This is a residential zoning designation that allows a number of uses, including an apartment building having a gross floor area of up to 2.0 times the lot area (see Attachment 5). The maximum permitted height is 10 metres.

## Site Plan Control

The proposal is subject to Site Plan Control. The applicant submitted a site plan application (07 287745 STE 22 SA), which is currently under appeal as well.

## **Tall Buildings Design Guidelines**

Staff are to use the Guidelines in the review and evaluation of all tall buildings in the City. Tall buildings are defined as buildings that are higher than the street is wide. The Avenue Road and Lonsdale Road right-of-way widths are approximately 36-metres and 30-metres, respectively. Given that the proposed building height is 63-metres plus the mechanical penthouse, staff will review it as a tall building.

The Tall Buildings Design Guidelines are available on the City's website at: <u>http://www.toronto.ca/planning/pdf/tallbuildings\_udg\_aug17\_final.pdf</u>

## **Demolition Control**

Pursuant to Section 33 of the *Planning Act*, Council may approve or refuse an application for demolition of residential properties where no building permit has been issued. A demolition permit application (06 200079 DEM 00 DM) was submitted on December 29, 2006, for all three buildings. Given that the applications to amend the Official Plan and Zoning By-law are currently under appeal, and no building permit has been issued, the application to demolish the residential buildings is premature at this time.

Section 111 of the *City of Toronto Act, 2006* provides the City powers to prohibit and regulate the demolition of residential rental properties and conversion to a purpose other than the purpose of residential rental property. City Council has adopted implementing By-law 885-2007 for Section 111 of the *City of Toronto Act, 2006*. Since the development application was filed prior to the proclamation of the *City of Toronto Act, 2006*, this by-law does not apply and a separate application on rental housing demolition and conversion is not required.

## **Reasons for the Application**

The proposal calls for an 18-storey, 68.93 metre (including a 6 metre mechanical penthouse) building with a density of 5.25 times the area of the lot. The proposed density and height exceeds current permissions of 2 times the lot area and 10 metres in height. A Zoning By-law amendment is therefore required.

The former City of Toronto Official Plan limits the gross floor area to 2.0 times the area of the lot. The proposal exceeds this limit and therefore requires an Official Plan amendment. The proposal does not meet the intent of the built form and housing policies. Specifically, the proposal would result in the loss of rental housing.

### **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions and Planning staff held a community meeting. Responses received have been used to assist in evaluating the application.

### COMMENTS

### **Community Consultation Meeting**

Planning staff held a community consultation meeting on February 13, 2008 with approximately 40 residents and the Ward Councillor in attendance. The community expressed concerns, including: opposition to the vehicular access off Lonsdale Road (should be moved to Avenue Road); traffic impact along Lonsdale Road and neighbouring streets; impact on the views of the Upper Canada College clock tower; heritage preservation on-site; the proposed height and massing; light, view and privacy impacts on the homes to the west; and, loss of rental housing.

The Councillor for Ward 22, St. Paul's, has scheduled a final community meeting for April 16, 2009. The subject of the meeting will be the revised proposal, the Ontario Municipal Board appeal, and the recommendations and conclusions found in this report.

### **Tenant Consultation Meeting (620 Avenue Road)**

Planning staff hosted a meeting on February 28, 2008 for tenants living at 620 Avenue Road. Planning staff described the City's policies and practices when considering applications that involve the demolition of rental housing. Tenants at the meeting and in separate communications expressed concern that they had been asked by the owner to move almost immediately. They also indicated that it was their impression that offers of tenant assistance and relocation were linked to their signing an acceptance form and their early departure.

Staff advised the tenants that the redevelopment and demolition, if approved, was not imminent given the planning process still to be completed. If approval is recommended, staff explained, the City's policy is to require a tenant relocation and assistance plan as a condition of approval, and the provincial legislation and City policy is to provide a minimum of 120 days notice before tenants are required to move out of the building.

### **Rental Housing Replacement**

The applicant is not proposing to replace any rental units in the development. At the time of application, 620 Avenue Road was a 44-unit conventional rental apartment building, with a unit mix spread evenly among studio, one-bedroom and two-bedroom apartments.

With respect to the affordability of the rental units, 10 units had affordable rents, 33 units were in the mid-range, and 1 unit had high end rents.

The housing policies in the Official Plans of the former Metropolitan Toronto, the former City of Toronto, as well as the amalgamated City of Toronto seek to preserve and maintain rental housing, and to protect rental units from demolition and any resulting undue hardship to tenants. It has been the City's policy and practice to seek replacement of the rental housing at similar rents within the redevelopment and to provide tenants of the existing building the opportunity to return, if demolition is approved.

In addition to retaining the City's current rental housing stock, these policies also promote the maintenance of a full range of housing within neighbourhoods and healthy communities that are inclusive and diverse in the types of housing and households located there. Tenants, who comprise almost half of all Toronto households, as well as owners contribute to community life and should have the expectation that rental housing already present in a neighbourhood will remain, allowing them to establish and build networks that support their lives in this city.

This site is located near several neighbourhoods, all of which contain a healthy mix of owned and rented dwellings. The building is part of a stretch of mostly apartment buildings on both sides of Avenue Road, between St. Clair Avenue West and Lonsdale Road. Originally, all these buildings were purpose-built rental, though a few have converted to co-ownership or condominium, and these rental buildings are still in high demand as rental housing. Surrounding this stretch of rental buildings. Within the *Neighbourhoods* designation significant intensification is not anticipated or desirable in these surrounding streets. All of these rental properties on Avenue Road, because of their location and residential amenity, are potentially subject to real estate pressure for conversion or redevelopment to condominium.

The intent of both Official Plans from the current and former Toronto is to encourage intensification where it is appropriate and maintains the intent of the Official Plan, including the protection of rental housing and ensuring a full range of housing. New residential development in Toronto, of which about 95 percent is for the ownership market, should not be approved at the expense of existing rental housing. Very little new rental housing is being built in Toronto, and in the vicinity of 620 Avenue Road, new residential construction will tend to be for ownership tenure. In this context, good planning and the City's policies require that if new condominium development is approved, it should be in conjunction with the replacement of the 44 existing rental units.

There are serious planning implications if redevelopment for 58 condominium units is approved without the replacement of the 44 rental units. The market will not likely replace 44 rental units with a range of affordable and mid-range rents in that area. The mix of housing tenures and affordability in the area will move towards more ownership and less affordable housing. The loss of these units will reduce the number of rental units in Toronto, and limit choices for tenants who already live in or would like to live in that part of the City. It can also be anticipated that other rental apartment owners on that stretch of Avenue Road, and in other areas of the City under similar real estate pressures, would seek the same opportunity to convert or redevelop rental housing properties for condominium.

City staff asked the applicant to include rental replacement in a revised proposal. Although the building contains 44 existing units, they are to be replaced with only 58 condominium apartments that are much larger units. The level of gross floor area that the applicant is proposing is about four times the gross floor area of the existing rental building. The proposal could accommodate both replacement rental units and new condominium apartments, with smaller condominium units than currently planned, or fewer large condominium units.

There is no planning rationale that requires the removal of the rental building or the redevelopment of the site. This is not an area needing revitalization, and the site is in a stable *Apartment Neighbourhoods* surrounded by *Neighbourhoods*. The rental building could continue to serve rental needs in a high demand area. The former and new Official Plans contain policies that encourage the retention and maintenance of existing housing stock, especially rental housing, and would support this outcome.

Under the former City of Toronto's Official Plan, demolition permits are not to be issued where in Council's opinion it would result in the loss of dwelling units in good structural repair. No case has been made by the applicant that the building is not in good structural repair. The Plan also provided that Council would discourage demolition it considers undesirable and strictly apply the provisions of the Rental Housing Protection Act (RHPA) and other applicable legislation. At the time of the RHPA, Council's policy was not to approve the conversion of rental housing, nor demolition permits unless replacement was provided. Today, the applicable policies under the new Official Plan also provide for replacement. In addition, applicable legislation now includes the *City of Toronto Act* and, pursuant to its Section 111, the City's by-law that requires a permit for the demolition and conversion of rental housing.

The former Metropolitan Toronto and former City of Toronto Official Plans have housing policies that are concerned with the provision of affordable housing as a portion of new residential developments, and ensuring that a range of housing options appropriate to meet the needs of households of varying composition is available. Failure to replace the rental housing, which contains both affordable and mid-range rental units, and building a condominium building with large units for a different housing market than was represented in the existing building, is contrary to the intent of both Plans.

The City's Official Plan policies and practices supporting the retention or replacement of rental housing are consistent with and support the provincial planning framework, including the *Planning Act* and the Provincial Policy Statement. Ensuring that a full range of housing, including tenure and affordability, is provided in a market where most new residential construction is for ownership requires the protection of rental housing. The City's policies on affordable and rental housing respond to the societal need for

affordable housing that is heightened by growth pressures. The orderly development of safe and healthy communities, and the wise management of change, should seek to minimize the disruption and permanent displacement of its renter households and the rental stock that the City needs for its own continuing economic health.

#### **Cash-in-lieu of Replacement**

The applicant has offered the City a contribution of cash-in-lieu of replacement of \$35,000 for each of the 44 rental units in the apartment building, totalling \$1,540,000.

Staff are not recommending the acceptance of cash-in-lieu for two reasons: replacement of the rental housing is both possible in this redevelopment and it is the appropriate planning choice, and the amount of the proposed contribution is substantially below the levels that would be required to meet the City's Section 37 Guidelines.

Replacing the rental housing is the recommended option for 620 Avenue Road for the reasons noted in this report, and because cash-in-lieu is only used as a last resort option under the City's Official Plan policies and Section 37 Guidelines. Policy 3.2.1.6 does not specifically identify cash-in-lieu as an option when considering rental demolition. The approved Section 37 Guidelines for replacement of private rental housing support the use of cash-in-lieu in very limited situations, primarily involving only a small number of units and when only partial replacement on a site is possible. In such cases payment to the City's Capital Revolving Fund for Affordable Housing is made for some of the units not replaced on-site.

This 44-unit apartment building is not a candidate for consideration under the guidelines, nor has the City previously agreed to cash-in-lieu for such a large number of rental units, with one exception. Women's College Hospital received approval earlier in 2009 to demolish a 59-unit rental building for its hospital development, and cash-in-lieu was provided rather than rental replacement, in recognition of a needed public hospital.

Pursuant to the Guidelines, the amount of the cash-in-lieu will generally be based on the subsidy cost to build the same rental unit types with similar rents. Planning staff obtained updated estimates from the Affordable Housing Office on the total public subsidy cost to construct new rental housing at average market rents. The most recent estimate from the Affordable Housing Office for a typical apartment building with one and two-bedroom apartments is \$135,000 per unit, substantially more than the applicant's offer of \$35,000. At their offered price, the City would only be able to replace about 11 of the 44 rental units at average market rents.

In the case of 620 Avenue Road, 14 of the apartments are studio (bachelor) units, which would bring the average per unit cost slightly lower than the typical average estimate to \$115,670 per unit.

### The Supply and Availability of Rental Housing

Policy 3.2.1.6 in the new Official Plan provides that demolition of 6 or more rental units will not be approved unless in Council's opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents. The factors to be considered include, among other matters, whether there are significant net gains in the supply of rental housing, if the overall rental apartment vacancy rate for the City has been at or above 3 percent for the preceding four consecutive annual surveys, and if the proposal may negatively affect the supply or availability of rental units, affordable units, or housing for vulnerable populations such as seniors, in a neighbourhood of the City.

The supply of rental housing has not increased in many years. Between 1996 and 2006, there has been a net decrease of about 1,000 units of primary rental housing, which includes the total number of rental apartments and row houses, in both private and assisted rental housing. Without the City's consistent application of its rental housing protection policies, the decrease over the period from 1996 would have been much greater.

This decrease occurs even when there has been some new rental units constructed, because the low rate of new production has not kept pace with the annual attrition caused by the demolition or conversion of rental housing. Over the previous 10 years, rental housing completions in Toronto have averaged only about 5 percent of all new residential units constructed. At 95 percent of all completions, new housing for owners completely dominates the market. With probably the largest new condominium market in North America, there are many locations in Toronto where new condominium apartments are being constructed on sites that do not involve the demolition of existing rental housing.

According to a 2006 City Planning research report (Flashforward Addendum) which projected housing demand by tenure, there may be 93,000 additional renter households in Toronto by 2031. The city needs to make gains in the future supply of rental housing to meet the needs of these future residents, and until there has been significant gains cannot afford to lose rental buildings like that at 620 Avenue Road.

The vacancy rate for rental housing is declining, and at 2 percent in 2008, is below the City's policy threshold of 3 percent. The 2008 vacancy rate was the lowest rate since 2001. The vacancy rate for the rental market zone in which 620 Avenue Road is located was even lower, at 1.4 percent. Canada Mortgage and Housing Corporation (CMHC) has projected that vacancy rates overall for the Toronto area will remain at low levels during 2009.

Between 2005 and 2008, the number of private rental units in the CMHC zone which includes 620 Avenue Road declined by 412 units. Demolition of 620 Avenue Road without replacement will cause a further decline of 44 units, and the loss of 10 affordable rental units, some of which have housed longer-term tenants who are seniors. An essential part of the City's affordable housing strategy is to maintain and replenish the existing private rental housing supply, recognizing that most of the City's affordable rental units are in the private rental sector.

This assessment of the considerations in Policy 3.2.1.6 clearly demonstrates that the supply and availability of rental housing has not returned to a healthy state either in the City as a whole or in the areas surrounding 620 Avenue Road.

#### **Tenant Relocation and Assistance**

The City's Official Plan policy 3.2.1.6, and City practices based on the former City of Toronto Official Plan, require that with demolition involving 6 or more rental units, that the City secure with the owner "an acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement units at similar rents, the provision of alternative accommodation at similar rents, and other assistance to lessen hardship."

The building was largely occupied at the time of the application and the tenants included a number with longer term tenancies ranging from 19-32 years. Some of the longer term tenants were elderly, and occupied some of the affordable rental units in the building.

As noted in the tenant consultation meeting summary, tenants were asked by the owner and applicant in February 2008 to consider leaving early in return for financial assistance. This was contrary to the City's practices and the policy direction in the new Official Plan and the City's approved Section 37 Guidelines. Staff had previously reminded the applicant of those guidelines. The owner is encouraged to maintain full occupancy of the building, refrain from asking tenants to leave prior to Council approving a satisfactory tenant relocation and assistance plan, and to avoid adding to the hardship that would be caused by the eventual relocation if the demolition were approved.

It appears that since the date of application, the owner has been leaving units vacant as tenants move out, or making them available on a short term rental basis. In February 2008 there were 14 'traditional tenants' remaining when they were offered incentives to vacate early, though no official notices to vacate were issued. The owner and applicant's offer to the tenants had not been reviewed with City staff, nor did it meet all the City's requirements. No provision was made for the tenants' right to return to replacement rental units, nor were they informed that the City would normally be involved in approving a satisfactory relocation and assistance plan, nor were any provisions made for special needs tenants.

City staff subsequently called a meeting of tenants and distributed a letter to tenants informing them of the City's policies, practices and the process to make a decision on the demolition. Staff identified 3 of the 14 'traditional tenants' remaining as having special needs, and all of them were elderly. One of those tenants had been relocated to another building owned by the applicant, paying the same rent. The other two were living on fixed incomes and expressed concerns about the difficulty in finding comparable accommodation they could afford in the same neighbourhood. After discussions between the applicant and City staff, the applicant agreed in November 2008 to provide additional assistance for the special needs tenants and this has been confirmed with those tenants.

Since the applicant has not agreed to replace the rental housing, they have not agreed to provide any of the 'traditional tenants' with the right to return. Currently, a few of the traditional tenants are still occupying their units, though most have left as the building has emptied.

The financial assistance offered to the traditional tenants was equivalent of 12 months rent and a moving allowance. Staff reviewed the financial assistance package after it was offered to the tenant and were satisfied that the amount would generally compensate for temporary accommodation needed between the building's demolition and the availability of the replacement rental units. As tenants were provided with an option form by the owner that the City had not approved, and that did not inform tenants of the City's practice to provide the right to return, the provision of the right to return should be deemed by the City to remain for these 14 tenants. The acceptance of financial assistance for leaving the building early does not waive the tenant's right to return if it is secured with replacement rental housing.

If replacement housing is secured, any returning tenant would be entitled to a similar rent to what they last paid, increased by the standard City provisions for annual and other increases. New tenants would pay either affordable or mid-range rents, depending on the units that they occupied.

#### Heritage Preservation

Constructed in 1925, the Etta Flick House, located at 215 Lonsdale Road, is a two-and-ahalf storey single family residence. The building was placed on the City of Toronto's Inventory of Heritage Properties by City Council on September 25, 2007. Its design and physical value, as noted in the reasons for listing the property, is a representative example of Tudor Revival styling with a high degree of craftsmanship.

Heritage Preservation Services (HPS) staff have reviewed the Heritage Impact Statement (HIS) and Addendum, dated March 28, 2008 and prepared by E.R.A. Architects Inc. While HPS encourages the preservation of the listed property for its contextual contribution within the area, HPS agrees with the conclusions within the HIS Addendum, that due to multiple renovations and alterations to this property, its integrity has been compromised to the point that it can no longer fully represent the cultural heritage values as expressed in the reasons for listing.

With respect to the views towards the Upper Canada College clock tower from surrounding public rights-of-way, HPS staff agree with the conclusion of the E.R.A Architects' HIS and Addendum. The proposed building's setbacks from Lonsdale Road and Avenue Road provide sufficient spatial separation from the listed structures of Upper Canada College that development within the proposed envelope will not negatively impact the heritage resources.

HPS staff determined that the subject property is within an area of archaeological potential. In response, a Stage 1 and 2 Archaeological Resource Assessment, was

prepared by Archaeological Consultants and Contractors on May 2008, and has received all clearances from the City of Toronto and the Ministry of Culture.

#### Height, Massing and Density

In its current form the proposed 18-storey building does not adequately respect and relate to its existing context. The Plan directs that new buildings be designed to fit harmoniously with neighbouring development by ensuring that the siting and massing of new buildings is appropriate in relationship to neighbouring development (Policy 3.13). The siting, height and massing of the proposed building fail to provide an adequate transition to the low-density neighbourhood to the west.

The applicant has proposed a 'pinwheel' design. The irregularly shaped building is offset with four wings ranging in height from 14, 16 to 18 storeys. The building design has the opportunity to respond to the characteristics of this prominent corner site and to relate to the low-rise neighbourhood to the west and the apartment neighbourhood to the south. An objective of the built form policies in the Plan is that the massing of new developments should provide transition between areas of differing development intensity (Policy 3.14) through setbacks, heights, massing and density. Cumulatively the current design fails to satisfy the built form policies in either Official Plan.

The City's Tall Building Guidelines suggest that residential floor plates larger than 742 square metres will be articulated architecturally to minimize shadow, loss of sky view and wind conditions. The proposed floor plate is generally 850 square metres. The building is articulated and casts minimal shadow on the neighbourhood to west. During the equinoxes a shadow is cast over the streets and the playground and some open spaces in front of Upper Canada College. The balconies have been inset to limit overlook, thus the privacy impact on the adjacent neighbourhood is comparable to other existing apartments along the west side of Avenue Road.

Transition between areas of differing development intensity can be achieved through the regulation of a number of development standards, including: setbacks, stepbacks, angular planes, height, ground floor uses and access. This proposal relies primarily on the building's setback to help achieve a sense of transition, which it does not achieve.

The building is set back 12 metres from the west property line, with an articulated façade. The 13.5 metre setback for the portion of the building with a height of 18-storeys (12 metres to 16 storeys) is insufficient transition to the low-rise neighbourhood to the west. The setback from the south property line is currently at 7.5 metres, which satisfies the general requirement of the Zoning By-law, but the southern face of the building does not provide sufficient articulation and is not consistent with the 'pinwheel' design. Additional articulation is required in the south façade especially above the 9<sup>th</sup> storey, where the building is visible from the south.

Generally, all buildings should be located parallel to the street's edge, though given the characteristics of this significant site, which is located along the curve of Avenue Road at

Lonsdale Road, an offset-well-articulated building can be justified since the setback from Avenue Road is respected. The building has a setback from the east property line similar to other apartments on the west side of Avenue Road and a setback from the north property line similar to the dwellings along Lonsdale. The building is to be set back 4.5 metres from the north property line (Lonsdale Road), and 11 metres from the east property line (Avenue Road). The typology of the buildings along Avenue Road is that of low-rise to tall buildings with a landscaped setback.

Currently the proposed ground level design is inconsistent with the established built form in the area. The proposal calls for grade-related units at the corner of Avenue Road and Lonsdale with the principal entrance off Lonsdale Road. Development in *High Density Residence Areas* are to provide grade-related uses that animate the street edge, respecting light, view, and privacy of other buildings, achieving comfortable pedestrian amenity and desirable vehicular circulation, and having consideration for impact of the built form on adjacent *Low Density Residence Areas* (Policy 12.6(f)). Grade-related units would be more appropriate and encouraged along the Lonsdale Road frontage.

A building's façade should provide architectural expression that relates to its surroundings. Lonsdale Road is a low-scale residential neighbourhood with single detached homes. The design of the building should respond and respect the human scale and rhythm of Lonsdale Road. The proposed townhouses, or grade-related units are appropriate, but should be located along Lonsdale Road. Well-designed townhouses can provide a better transition to the neighbourhood, by creating a podium to the west. Should vehicular access be required at Lonsdale Road, this could become a secondary entrance, by minimizing the garage door access and openings from the Lonsdale frontage.

Avenue Road can be characterized as a *High Density Residence Areas* or *Apartment Neighbourhoods*. Between St. Clair Avenue West and Lonsdale Road the street is lined with modernist apartment buildings, with landscaped front yards. Typically the residential entrances and vehicular circulation are fronting Avenue Road. The current proposal uses Lonsdale Road as its primary lobby and vehicular entrance.

Circulation, drop-off and a well defined front entrance should be oriented towards the Avenue Road entrance. Generally, Planning staff's practice is to encourage vehicular access off a side street or laneway, to prevent the disruption to pedestrians and the rhythm of the street wall. However, the character along Avenue Road is one of significant landscaped setbacks with vehicular circulation being accommodated and designed within the landscaped front yards.

The landscaping of this corner site should respond and reinforce the respective character of the Avenue and Lonsdale Roads setbacks and address the corner. The proposed projections of stairs and walls into those setbacks must be reviewed further. There is an opportunity to provide for publicly accessible private space across the corner of the site.

#### Access, Parking and Traffic

To satisfy the parking demand generated by the development, 108 underground vehicular parking spaces (99 residential and 9 visitor) are proposed in a two-level underground garage. Technical Services Division staff require a minimum of 59 residential spaces and 7 visitor spaces. The applicant's proposal exceeds those requirements.

Vehicular access is proposed from Avenue and Lonsdale Roads. The Avenue Road access is provided at the south end of the site and is to be restricted to right-in and right-out movements only. The Lonsdale Road access is provided at the west end of the site and would prohibit outbound left-turn movements. Service vehicles will enter off Avenue Road and exit onto Lonsdale Road.

At the community meeting and in separate correspondence, local residents expressed concern over the Lonsdale Road access. Many residents would prefer all vehicles to exit to and from Avenue Road to limit vehicular traffic through their neighbourhood and to limit any traffic conflicts along Lonsdale Road.

Planning and Technical Services staff have reviewed this issue extensively. If the Lonsdale Access were to be eliminated then all vehicular movements would enter and exit the site from the Avenue Road access. According to the BA Group Transportation Consultant's study dated February 18, 2009, the Avenue Road access must be limited to right-in and right-out movements due to safety concerns. These safety concerns are the result of limited availability of gaps in the north-south traffic stream to accommodate left-turn movements to/from the driveway, particularly during the AM peak period, and limited sightlines for drivers. BA Group also notes in their report that currently there is extensive queuing activity along Avenue Road particularly during the AM peak period where southbound vehicles extend northward from St. Clair Avenue West past the Avenue Road site access, at times. In the PM, the opposite occurs. Vehicular queuing activity extends from the traffic signals at Lonsdale and Avenue Roads southward towards St. Clair Avenue West.

Our Transportation Services Division generally concurs with the conclusion in the BA Group report. However, the consultant recommends in this report that the Avenue Road access driveway be regulated to right-in, right-out movement through the implementation of left-turn prohibitions. However, further analysis is needed to determine whether the northbound left-turn prohibition would conflict with the existing driveway access immediately to the south. Even though, currently, there are no turning prohibitions off the existing building's driveway, this provides an opportunity to improve the safety condition in the area for motorist and pedestrians using the sidewalk along Avenue Road.

Given the right-in, right-out restriction at Avenue Road, eliminating the Lonsdale Road access will increase neighbourhood traffic infiltration, rather than limiting it. Motorists wanting to travel north along Avenue Road from the site would have to travel south and then navigate through the neighbourhood to join the northbound Avenue Road traffic. The Lonsdale Road access provides an opportunity for the motorist to turn right and then travel north along Avenue Road without entering the neighbourhood. Motorists

approaching the site from the south, would have to travel through the neighbourhood to enter the site, whether the Lonsdale Road access is provided or not.

BA Group concludes that the proposed development would have no noticeable impacts on traffic volumes on the neighbourhood street west of the site.

#### Trees

Urban Forestry, Tree Protection & Plan Review staff have reviewed the Arborist report and Landscape Plan, and provided the following comments. The subject site and area contain remnant native, indigenous trees which formed part of the original oak forest that once covered this area of the City and are a valuable part of Toronto's Urban Forest. The City's Official Plan recommends policies that have been adopted by Council that call for an increase in the amount of tree canopy coverage, throughout the City.

Both private and public trees will be affected by this proposal. Private trees with a diameter of 30cm or more are protected under what is commonly known as the "Private Tree By-law" (City of Toronto Municipal code Chapter 813, Threes, Article II). A number of private trees are proposed to be removed from the property. Staff have outstanding concerns with the removal of tree No. T7, as identified by the Arborist Report prepared by Ferris & Associates Inc. and dated October 23, 2007. Tree No. T7 has been identified as a healthy, mature red oak tree, which has a diameter of 111cm and is of a high value and significance to the neighbourhood and City. A follow-up site visit by staff, raised questions regarding the status and health of this tree. Staff have requested further analysis to be conducted by a registered professional Forester, Certified Arborist, or registered consulting Arborist.

Under the provisions of the Private Tree By-law, private trees are to be replaced on-site at a 3:1 ratio. If it is not physically possible to replace the trees on-site, then the owner will be required to make a cash-in-lieu payment in the amount of \$583 per tree.

City owned trees situated on the City's road allowance are protected under the "City Street Tree By-law" (City of Toronto Municipal code Chapter 813, Trees, Article III, 'Private Tree Protection'). Red oak trees Nos. T1 and T4 have already been removed by the City of Toronto, due to the declining health of the trees. The remaining red oak trees are proposed to be protected, though the Arborist report fails to identify a 78cm diameter red oak, but the revised Landscape Layout Plan illustrates a Tree Preservation Zone around this tree. A number of other street trees are proposed to be removed. It will be necessary for the applicant to submit an application requesting permission to remove street trees.

Staff have a number of concerns with respect to the tree protection zones and methodology of protection with respect to City owned trees. Additional notations and details to the Landscape Plans are required illustrating the measures to be taken in the tree protection zones. Staff have identified possible conflicts between the proposed sanitary sewer connection and the proposed landscape plan. To fully assess both the Site Servicing Plan and the Landscape Plan, a revised landscape plan is required showing locations and dimensions of all existing and proposed above and underground utility services and structures within the City public rights-of-way.

#### Section 37

Agreements pursuant to Section 37 of the *Planning Act* for community benefits may be entered into by the City and an applicant when an increase in height and/or density for a particular project is greater than what the zoning by-law would otherwise permit.

If redevelopment of the subject site is approved, Section 37 should be used to secure the replacement of the rental housing units and a tenant relocation and assistance plan as outlined in this report and that meets the City's guidelines as provided for in the approved Section 37 Guidelines.

For 620 Avenue Road this would mean 44 rental units generally of the same unit mix, with a minimum of 15 two-bedroom apartments. At least 10 of the apartments would have affordable rents, and the remainder would have maximum rents no greater than the mid-range rent limit. Tenants who were resident at the date of the application and were still resident at the time the owner of the building and the applicant asked tenants to relocate and offered assistance shall be provided the right to return at similar rents.

#### **Toronto Green Standards**

Staff encourages applicants to implement the Toronto Green Standards, adopted by City Council in July 2006. The City's Green Standards are available on the City's website at: <u>www.toronto.ca/environment/greendevelopment.htm</u>. The applicant has not submitted a Green Standards checklist with their Site Plan application and has not indicated their intention in relation to the Green Standards.

#### Conclusion

City Planning staff do not support the proposal in its current form as it does not meet the City's built form and housing policies. The proposed 18-storey building does not adequately respect and relate to its existing context. The siting, height and massing of the proposed building fail to provide an adequate transition to the low-density neighbourhood to the west. The building's façade should provide architectural expression that relates to its surroundings, thus the circulation and drop-off and a well-defined front entrance should be oriented towards the Avenue Road, and the proposed grade related units should be located along Lonsdale Road.

Redevelopment of 620 Avenue Road and the demolition of the existing 44 unit rental apartment building should not be approved unless it meets the City's requirements for replacement of all the rental units in the redevelopment and the provision of tenant relocation and assistance satisfactory to the City.

Unless this condition is met, and pursuant to the policies in the former City of Toronto's Official Plan, Council should determine that the demolition of the rental housing is undesirable for the reasons outlined in this report. Demolition permits should not be issued without the condition being met, as the demolition would result in the loss of residential property which would cause the undue hardship of relocation upon the occupants and which serves a necessary social housing need. Without replacement, the displaced tenants, especially those needing affordable rental units, will not be able to return.

Council should affirm that as during the time of the *Rental Housing Protection Act*, and now with the new Official Plan policies, replacement of the rental housing is essential to assist the tenants affected by the demolition, replenish the stock of rental housing, and ensure the provision of rental housing to meet the needs of current and future residents.

Cash-in-lieu of replacement is not being supported for the demolition of the rental housing at 620 Avenue Road, but if it were to be considered, it should meet the subsidy cost to the public to replace the 44 rental units at average market rents, based on the estimates from the Affordable Housing Office. For the unit mix at 620 Avenue Road, this cost would average \$115,670 per unit in 2009.

### CONTACT

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### SIGNATURE

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### ATTACHMENTS

Attachment 1: Application Data Sheet

Attachment 2: Site Plan

Attachment 3: South and West Elevations

Attachment 4: North and East Elevations

Attachment 5: Zoning Map

Attachment 6: Former City of Toronto Official Plan Map

Attachment 7: Official Plan Map

## Attachment 1: Application Data Sheet

Application Type	Official Plan	nt &	Applic	ation Numb	er:	r: 06 130137 STE 22 OZ			
Details	Rezoning OPA & Rezo	lard	Application Date:			April 28, 2006			
Municipal Addresses: 620 Avenue Rd, 215 & 217 Lonsdale Rd.									
Location Description:	PL 890 PT LT36 **GRID S2206								
Project Description:	Proposed 18-storey residential building with 58 dwelling units and two levels of below-grade parking -108 parking spaces								
Applicant:		Archite	ct:			Owner:			
McCarthy Tetrault LLP Box 48, Suite 4700 Toronto Dominion Bank Tower Toronto, ON M5K 1E6		Diamond and Schmitt Architects 384 Adelaide Street West, Suite 300 Toronto, ON M5V 1R7				Minto 201 Developments Inc., Harry Nash, and Isaac & Harry Nash Limited.			
PLANNING CONTRO	DLS								
New Official Plan Designation:	t Neighbou	irhoods	Old Official Plan Designation:		1	High Density Residence Area			
Zoning:		Historical Status			: 215 Lonsdale Rd (Listed)				
Height Limit (m):			Site Plan Control Area:			Y			
PROJECT INFORMA	TION								
Site Area (sq. m):		2654	Hei	ght:	Storeys:		18		
Frontage (m):		46.6	Metres:		Metres:	68.93 (6 metre mechanical			al
Depth (m):		57				penthouse included)			
Total Ground Floor Area (sq. m):		680				Total			
Total Residential GFA (sq. m):		13934		Parking			108		
Total Non-Residential GFA (sq. m):		0		Loading I			1		
Total GFA (sq. m):		13934							
Lot Coverage Ratio (%):		25.6							
Floor Space Index:		5.25							
DWELLING UNITS			FLOOR	ARE	A BREAKD	OWN	N (upon pro	ject completio	on)
Tenure Type:	Condo	Condo				Above Grade		Below Grad	e
Rooms: 0		Residential GFA (sq. m):			A (sq. m):	1393	34	0	
Bachelor:	0		Retail GFA (sq. m):			0		0	
1 Bedroom: 0		Offic		GFA (sq. m):		0		0	
2 Bedroom: 54		Industrial GFA (s			(sq. m):	n): 0		0	
3 + Bedroom: 4				onal/Other GFA		0		0	
Total Units:	58		(sq. m):						





#### **Attachment 3: South and West Elevations**



#### **Attachment 4: North and East Elevations**

Attachment 5: Zoning Map



Not to Scale Zoning By-law 438-86 as amended Extracted 11/13/07 - EM



Attachment 6: Former City of Toronto Official Plan Map

Low Density Residence Areas

High Density Residence Areas





Not to Scale 11/21/07