



OAKVILLE

REPORT

Planning and Development Council

Meeting Date: July 10, 2023

FROM: Legal Department

DATE: July 4, 2023

SUBJECT: Oakville Housing Strategy: Rental Housing Protection By-law 2023-102 and Demolition Control By-law 2023-101

LOCATION: Town-wide

WARD: Town-wide

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RECOMMENDATION:

1. That the approach and criteria proposed for the Rental Housing Protection By-law as outlined in the report titled "Oakville Housing Strategy: Rental Housing Protection By-law and Demolition Control By-law" dated July 4, 2023 from the Legal Department be endorsed.
2. That the Rental Housing Protection By-law 2023-102 attached as Appendix A to this report and the Demolition Control By-law 2023-101 attached as Appendix B to this Report be passed.
3. That the Town Solicitor in consultation with the Commissioner of Community Development be directed to prepare all necessary documentation as outlined in this report and the attached by-laws in order to implement the attached by-laws and enable the implementation of the S99.1 Permit Application Process with conditions and agreements for the protection of the rental housing supply of Oakville and affected tenants.

KEY FACTS:

The following are key points for consideration with respect to this report:

- By separate report, Town Council has approved a Housing Strategy and Action Plan.
- To complement that Plan it is recommended Council consider the passage of by-laws which would better protect the present supply of rental housing in the

Town and the tenants to be evicted from proposals to demolish or convert present rental housing and still encourage the physical improvement of the present rental housing supply and the building of more purpose-built rental housing in the Town.

- This need was recently identified by a proposal to demolish a Rental Apartment Building at 50 Speers Rd and replace it with a new larger purpose-built Rental Apartment Building and the fact that there are many other such Apartment Rental Buildings in the Town.
- This report attaches a proposed Rental Housing Protection By-law pursuant to Section 99.1 of the *Municipal Act, 2001* to regulate the demolition and conversion of rental housing and a proposed Demolition Control Area By-law under s.33 of the Planning Act for the Town to prevent a Demolition Permit under the Building Code being issued for residential properties until a plan is in place for a new building on the site so housing is not prematurely demolished and vacant land put in its place and in the case of Rental Residential Properties of 6 units or more until a s.99.1 Permit is in place including any complementary agreement.

BACKGROUND:

The proposed Housing Strategy and Action Plan under separate report provides a comprehensive approach and identifies many opportunities for the Town to strengthen its policies, regulations, programs and by-laws for such matters as inclusionary zoning, rental replacement, affordable housing, and increasing housing supply opportunities, among others that will improve housing across the housing continuum.

Purpose-built rental housing is an important part of the town's housing supply. The loss of rental housing in general and affordable rental housing in particular has become a growing concern in recent years in the Town which recently "came to a head" with a proposal to demolish the affordable rental apartment building at 50 Speers and its 59 present affordable units and replace it with a 309 rental unit apartment building at market rents.

Other communities including Toronto and Mississauga when faced with such a proposal enacted rental housing protection by-laws under the express legislative authority to do so to regulate the demolition of residential rental properties and the conversion of residential rental properties to some other purpose other than rental. These by-laws established a Permit system requiring a proponent to apply for a Permit to carry out the demolition or conversion and in order to obtain the Permit agree to a number of conditions including:

1. the preservation of the existing rental housing supply in terms of numbers, unit mix, and gross floor area for a fixed period of years usually 20;
2. the preservation of the existing “affordable” rental housing supply in terms of numbers, unit mix, gross floor area, and “affordable rent” for a fixed period of years usually 10;
3. an enhanced Existing Tenant Protection Package over that provided by the *Residential Tenancies Act, 2006*; and
4. secured by an executed registered binding agreement on the existing owner and future owners of the subject site

COMMENTS:

How can the Town protect the supply of rental housing?

Section 99.1 of the *Municipal Act, 2001* allows municipalities like Oakville to pass by-laws to prohibit or regulate the demolition and conversion of residential rental properties containing six or more units. The mechanism used to regulate the demolition or conversion is a Permit, often called a s.99.1 Permit, issued with conditions and secured by a registered agreement.

There is no ability to appeal the by-law to the Ontario Land Tribunal. However, an application can be made to the Superior Court to quash the municipal by-law for illegality or bad faith within one year of its passage.

Section 33 of the Planning Act permits municipalities to declare the Town a Demolition Control Area and prevent premature demolition of residential properties in the Town pending a plan being put in place for building replacement on the lot concerned. Such a by-law complements a s.99.1 by-law and prevents demolition until a s.99.1 Permit is applied for and received.

This report proposes a S99.1 Rental Housing Protection By-law to protect existing rental housing from demolition or conversion to condominium or other non-residential rental purposes or to non-residential purposes by way of a Section 99.1 Permit with conditions. The aim of the proposed by-law is to protect the present supply of rental housing units in town and yet not discourage the upgrading of older rental housing stock and the supply of new and modern purpose-built rental housing stock.

What types of units are affected?

The by-law will apply to demolition or conversion proposals of residential rental properties containing six or more rental units. This includes apartments or townhouses that were built at the outset as rental housing often called the *primary rental market*. The minimum number six comes from section 99.1 of the Municipal Act.

Units in the *secondary rental market* (e.g. rented condominiums, second units in homes) are not included as stipulated by section 99.1 of the Municipal Act. Rental units that would also be exempt include: equity co-operatives, co-ownership properties, lodging homes, designated and non-profit housing projects owned, operated or managed by Halton Region.

How will the by-law work?

Demolition and conversion applications are proposed to be evaluated on a case-by-case basis and conditions for approvals established that aim to mitigate any adverse effects on the current supply of rental housing, on the current supply of affordable rental housing and on the existing tenants beyond the minimum requirements of the *Residential Tenancies Act, 2006*. Demolition or conversion Section 99.1 Permit Applications and approvals will be delegated to the Commissioner of Community Development except when Town Council as a whole or the Mayor or any of the Ward Councillors in which the subject site is located request any particular application (s) to be considered and decided upon by Town Council., Application Forms, Notice Procedures To Existing Tenants and others , Process, Procedures, Fees and Agreements will be established through “Section 99.1 Permit Guidelines” to be developed by the Commissioner of Community Development in consultation with the Town Solicitor. For each Section 99.1 Permit Application a staff report will be prepared for the consideration of the Commissioner or Town Council, as the case may be.

When an application to demolish or convert a residential rental property with six or more units is received the Section 99.1 Process under the “Guidelines” will be triggered resulting in a Section 99.1 Permit approval with appropriate conditions imposed and secured by an agreement registered on title which may include:

- For conversions, retain the existing rental units as rental for a period of at least 20 years and at similar rents subject to the guideline increases permitted pursuant to the Residential Tenancies Act, 2006
- For demolitions replace the units (either on or off-site) in terms of numbers with a similar or greater number, a similar unit mix, a similar gross floor area, similar amenities and a similar rent subject to the guideline increases

permitted pursuant to the Residential Tenancies Act, 2006 and where “off – site” in a comparable geographic area for a period of at least 20 years and in the case of any of the replacement units having affordable rents then preserving the replacements of those affordable units in terms of numbers at affordable rents for a period of at least 10 years.

- For either demolitions or conversions, a cash-in-lieu contribution to a rental housing reserve fund to be established by the town may be permitted for all or some of the units in-lieu of replacement or retention where there are significant constraints associated with replacement or retention requirements.
- For either demolitions or conversions, an enhanced Existing Tenant Protection Package beyond the minimum requirements of the Residential Tenancies Act 2006 to better assist existing tenants to exercise a right of return in case of demolition or applicable conversions and /or to better assist existing tenants to exercise a right to stay in case of conversions and to assist existing tenants being evicted with establishing themselves elsewhere should that right not be exercised by the tenant due to their own personal circumstances.

The above conditions are intended to provide a range of options for applicants to meet the objectives of no net loss of rental units and no net loss of affordable rental units as a result of their Section 99.1 Permit Application.

What other initiatives are needed to support the by-law?

Should the by-law be approved there are a number of administrative and processing matters that will need to be put in place.

- **Demolition Control By-law** – A separate Demolition Control By-law under section 33 of the Planning Act is required so the Town may withhold a demolition permit for the removal of rental units when there is no immediate plan for redevelopment. It would avoid premature demolitions, loss of housing stock and early displacement of tenants. It is attached as Appendix B to this Report.
- **New Application Process and Fees** -The application process for conversion and demolition of rental housing will be administered by the Commissioner of Community Development through the Planning Services and Legal Departments. Staff will estimate and document costs for the Applications that are processed to establish an Initial Fee Structure and then to refine same in the future. Where a demolition or conversion Section 99.1 Permit requires another planning application, (OPA, ZBA, Site Plan, Minor Variance, Consent) in order for the proposed development to proceed (called a “Related Application”), the issuance of the Section 99.1 Permit and the other

approval(s) will be coordinated. It is proposed that existing fees remain and no new fee structure be introduced for conversion and demolition applications during the two-year pilot.

- **Cash-in-lieu Contribution** – Cash-in-lieu contribution rates will need to be determined and a corporate report for the use of those funds developed.
- **Rental Housing Reserve Fund** -A rental housing reserve fund will need to be established to receive cash-in-lieu contributions. The Town could explore a partnership with the Region regarding the potential allocation of funds received from a cash-in-lieu contribution.
- **Legal Agreement** – Legal agreements will need to be developed to secure conditions of approvals.
- **Online** – It will need to be determined how demolition and conversion applications could be accommodated online.
- **Future Official Plan Amendment** – Oakville Official Plan housing policies will need to be updated to reflect Provincial and Regional requirements and to align with the by-law.
- **Communication Plan** – A communication plan will be needed to inform the public and stakeholders of the by-law.

CONCLUSION:

The proposed Rental Housing Protection By-law and proposed Demolition Control By-law attached to this Report are recommended for passage to proactively address present and future proposals to either demolish existing residential rental housing properties, in whole or in part, containing six or more existing residential rental units and/or to convert such properties in whole or in part to some other use other than residential rental units by way of issuing a Section 99.1 Permit with conditions and secured by a registered agreement on title.

The conditions would include as part of the new development the protection, at least in number, of the existing supply of residential rental units for a fixed period into the future along with the affordable rental unit supply for a fixed period into the future and provide for an enhanced tenant protection package for existing tenants affected by such proposals. At the same time the processing of any application would balance any of those requirements against the desire to improve the existing stock of rental housing supply in Oakville and the desire to increase the supply of purpose-built rental housing supply in Oakville, especially affordable rental housing stock.

One caution: While many proposals to demolish and/or convert residential rental housing properties have been received and applications successfully processed in the City of Toronto, under its Municipal Code provisions which are similar to those being proposed in this Report, not so many have been received and processed in the City of Mississauga under its Rental Housing Protection By-law. Whether the adoption of the two by-laws recommended in this report will have any impact on proposed development applications in the Town in the future remains to be seen. Staff of the Planning Services Department will monitor that issue and report to Town Council if there appears to be a negative impact by virtue of the adoption of these by-laws in the future.

CONSIDERATIONS:

(A) PUBLIC

The Staff Reports on each Rental Housing Demolition or Conversion Application are intended to be public although some may have a Confidential Appendix to address any confidential negotiations required to achieve the desired conditions and agreement for issuance of a Section 99.1 Permit.

(B) FINANCIAL

The review of rental housing demolition and conversion applications after the passing of the Rental Housing Protection By-law represent new processes for the Town that may impact existing staff resources.

Staff are proposing that an initial processing fee be developed for the Town's Annual Rates and Fees Schedule by estimation for a Rental Housing Protection By-law Application and then refined as the process is itself refined and the costs of processing become better known.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The departments that are expected to have direct involvement in the processing of rental housing demolition and conversion applications will be the Planning Services Department and the Legal Departments. There may also be involvement from time to time with the Building Services Department

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal(s) of livability and accountability:

(E) CLIMATE CHANGE/ACTION

N/A

APPENDICES:

Appendix A-Proposed Town of Oakville Rental Housing Protection By-law 2023-102

Appendix B-Proposed Town of Oakville Demolition Control By-law 2023-101

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