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**TO:** GENERAL COMMITTEE

**SUBJECT:** AFFORDABLE HOUSING ACTION ITEM #9: REPORT ON DEMOLITION CONTROL AND DEMOLITION AND CONVERSION OF RESIDENTIAL RENTAL PROPERTIES BY-LAWS

**WARD:** ALL

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### **RECOMMENDED MOTION**

1. That no new by-laws be introduced with respect to demolition and rental conversions at this time.
2. That the Condominium Conversion portion of Section 5 Housing, Condominium Conversion of the Council Policy Manual be deleted in its entirety.

### **PURPOSE & BACKGROUND**

#### Report Overview

3. The purpose of this staff report is to examine the benefits and disadvantages of the creation of a Demolition Control By-law pursuant to Section 33 of the *Planning Act* and a Demolition and Conversion of Residential Rental Properties By-law pursuant to Section 99.1 of the *Municipal Act* and to determine their usefulness to the City of Barrie as a means of achieving affordable housing objectives.
4. On February 18, 2015, City Council adopted motion 15-G-037 regarding the City of Barrie Affordable Housing Strategy, 10-Year Plan, "A Place to Call Home" as follows:

*"2. That staff be directed to implement the Affordable Housing Action Items and report back to General Committee for approvals or further direction as required."*

Implementation of Affordable Housing Action Item #9 of the City of Barrie Affordable Housing Strategy, 10-Year Plan, "A Place to Call Home" is:

*"Preparation of report to outline the benefits and disadvantages of passing a By-law under Section 99.1 of the *Municipal Act* and the passing of a By-law under Section 33 of the *Planning Act*."*

This report will address Affordable Housing Action Item #9.

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### Existing Conditions

5. A healthy rental housing market is defined in the City of Barrie Affordable Housing Strategy, 10-Year Plan, as having a vacancy rate of at least 5% as measured annually by the Canada Mortgage and Housing Corporation (CMHC). In 2014, the vacancy rate in Barrie was 1.6% with a decrease to 1.3% in 2015 but increased to 2.2% in 2016. Although there has been an increase in the last year, the vacancy rate is consistently lower than is required for a healthy rental housing market in the City of Barrie.

### Demolition Control By-law

6. Affordable Housing Action Item #9 of the City of Barrie Affordable Housing Strategy directs staff to consider two by-laws for the protection of affordable housing. The first is a Demolition Control By-law, which would be enacted pursuant to Section 33 of the *Planning Act*. This by-law would prevent the premature demolition of any type of residential unit, regardless of tenure.
7. Currently, a demolition permit is required under the Building By-law 2013-070 for the demolition of a building or part thereof, regardless of use. Under the Demolition Control By-law, residential demolition permits would require the same application, however, the criteria by which they are reviewed would change. The permit would be considered by City Council (or the Chief Building Official should Council choose to delegate the authority) and a decision would be made based on criteria set as part of the Demolition Control By-law. There are instances in which the demolition by-law could not be refused and they include:
  - a) When a building permit has already been approved for the subject property; or,
  - b) Where a property has been deemed unhealthy or unsafe pursuant to any Provincial or Federal Act.
8. Should Council (or its delegated authority) choose to refuse a demolition permit, or if a decision is not provided within 30 days of the application, the applicant may appeal to the Ontario Municipal Board (OMB). Despite this provision, there are proposed changes to the OMB with the possibility of it being dismantled. The Ministry of Municipal Affairs has not yet made any recommendations, however, should changes occur to the OMB it may impact the ability for applicants to appeal decisions and/or non-decisions.
9. If Council (or its delegated authority) chooses to approve the demolition of a residential unit, conditions can be added to the demolition permit. Conditions include:
  - The applicant substantially complete the new building to be erected on the site of the residential property proposed to be demolished by no later than such dates as the permit specifies (cannot be less than two years from the day the demolition of the existing building commences)
  - Failure to meet the timeline would allow for the City Clerk to place a lien against the property for up to \$20,000 for each dwelling unit contained in the proposed building
10. In order to establish a Demolition Control By-law, a property standards by-law must be in effect. The Demolition Control By-law can only be in place in the same geographic area where a property standards by-law is in effect. The City of Barrie has Property Standards By-Law 2011-138 in effect for the entire City, therefore the Demolition Control By-law can apply to any or all lands within the City. The areas of both by-laws do not have to match, however, the Demolition Control By-law cannot extend beyond the borders of the Property Standards By-law. Consequently Council could pass a demolition control by-law for a specific area of the City instead of across the entire City.

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### Demolition and Conversion of Residential Rental Properties By-law

11. The second by-law that can be considered in the protection of affordable housing is a Demolition and Conversion of Residential Rental Properties By-law pursuant to Section 99.1 of the *Municipal Act*. This by-law has two functions: it would allow for the City of Barrie to prohibit the demolition of a residential rental property and it would prohibit and regulate the conversion of residential rental property to a non-rental use, typically condominiums. This by-law is limited in that it applies only to buildings with rental units, containing at least six rental units.
12. The process for review of a Demolition or Conversion application under this By-law would be identical to the process outlined above for a Demolition Control by-law. However, unlike a Demolition Control By-law, the Demolition and Conversion of Residential Rental Properties By-law is not pursuant to the *Planning Act*, therefore decisions or lack thereof cannot be appealed to the OMB.

### Other Tools

13. The *Residential Tenancies Act* provides that if a landlord intends to convert a residential property to non-residential uses, it must provide to the tenants:
  - a) 120 days notice of termination;
  - b) a first right of refusal to purchase a condominium unit; and,
  - c) either another comparable rental unit or three months rent as compensation.

The tenant has the right to terminate the tenancy at any time after he or she receives notice of the conversion.

14. Section 5 Housing, Condominium Conversion of the Council Policy Manual addresses condominium conversion and provides direction on condominium conversion applications. This policy has not been updated since 1983 and makes reference to applications which are no longer in use. A more pressing issue is that the policy contemplates the City of Barrie actively engaging private developments to convert rental units to condominium units should a rental vacancy of 5% or greater be achieved across the City. This is contrary to the goals of the Affordable Housing Strategy. Please see Appendix A for a review of Section 5 Housing, Condominium Conversion of the Council Policy Manual.

### Implementation

15. The practice of including specific policies relating to a Demolition Control By-Law varies across the province. Some municipalities include specific policies in their Official Plans, including the City of Hamilton and the City of Brantford, however, many do not, including the City of Waterloo and the City of Toronto. Should the City of Barrie see merit in including policy specifically relating to either by-law, it can be included in a future Official Plan update. As Official Plans are pursuant to the *Planning Act*, by-laws passed pursuant to other legislation, such as the *Municipal Act*, do not have policy within the Official Plan. Therefore no policy regarding the Demolition and Conversion of Residential Rental Properties By-law would be included in the Official Plan.
16. Finally, staff recommend a public engagement process, (although not required for the adoption of either a Demolition Control By-law or a Demolition and Conversion of Residential Rental Properties By-law), to inform the community of Council's intent. Sufficient information and material should be made available to the public at a public open house, as well as an opportunity for the public to provide feedback. Staff would also engage with key stakeholders such as the Simcoe County Home Builders' Association and the Building Industry and Land Development Association (BILD). Given

that the by-laws are similar in nature, they should be presented to the public at the same time to avoid confusion and to ensure transparency.

**ANALYSIS**

- 17. It should be noted that there is no provision that excludes any person from renting a condominium that is owned privately, even after rental units are converted to non-rental condominiums. It is difficult for City to measure this, as it is a difficult metric to monitor and track.
- 18. Despite the seeming overlap between the Demolition Control By-law and the Demolition and Conversion of Residential Rental Properties By-law, there are some distinct and important differences, which can be seen in the table below.

Demolition Control By-law	Demolition and Conversion of Residential Rental Properties By-law
Applies to residential properties of any tenure	Applies <i>only</i> to residential <i>rental</i> properties where there are 6 or more units within the building
Can prevent untimely demolition of residential buildings, including buildings with five or less rental units	Can prevent untimely demolition as well as the conversion to non-rental uses
Is pursuant to the <i>Planning Act</i> , decisions pursuant to such a by-law can be appealed to the Ontario Municipal Board (OMB)	Is pursuant to the <i>Municipal Act</i> , and therefore decisions pursuant to such a by-law cannot be appealed to the OMB

As such, the two by-laws could act in tandem to help the City protect and maintain its housing stock.

- 19. Section 33 Demolition Control Area of the *Planning Act* and Section 99.1 Demolition and Conversion of Residential Rental Properties of the *Municipal Act* were introduced into legislation as tools for municipalities to protect their housing stock. Enacting these by-laws offer a number of potential benefits, namely:

- a) Maintaining an appropriate stock of rental units, preventing demand driven rents;

The City of Barrie is one of the most expensive rental markets in Ontario, with the average monthly rent for a two bedroom apartment at \$1,150. The only two rental markets that are more costly are the Cities of Ottawa and Toronto (Rental Market Report, Fall 2016). According to the CMHC, the low vacancy rate in the City of Barrie is a major driver for the increased rents. Managing demolition and conversion to non-rental uses can help to maintain an appropriate stock of rental units and help prevent demand driven rents.

- b) Ensuring adequate availability of housing options for the community;

Eliminating rental units by way of demolition or conversion to non-rental uses removes the units from the already depleted stock of rental units. Since 1992, the vacancy rate has only once been measured above 3.5%. Despite the growth in purpose-built rental units, mostly in one and two bedroom units, the demand for rental units grows.

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- c) Preventing the demolition of older, often more affordable, housing options;
- Older rental units are typically rented at lower rates, however, they are often the first to be demolished.
- d) Maintaining a healthy housing system, which contributes to a healthy economy;
- A healthy housing market is defined in the City of Barrie Affordable Housing Strategy, 10-Year Plan, as having a vacancy rate of at least 5%. From 1992-2016, the vacancy rate has only once increased beyond 3.5%, in 2009, to 3.9%. By controlling demolition and the conversion of rental units to non-rental uses, the City is combatting the reduction in the vacancy rate and working to maintain a healthy housing system.
20. There are additional potential benefits to enacting Demolition Control and Demolition and Conversion of Residential Rental Properties by-laws not relating to affordable housing, namely:
- a) Preventing creation of vacant parcels and 'block busting';
- Demolition of residential parcels can disrupt the form and character of the neighbourhood.
- b) Retention of residential use until such time that further consideration can be given to future development;
- In order to expedite the development process, existing buildings may be demolished while plans are still being finalized by Planning staff. This demolition prematurely removes housing stock from the market.
- c) Elimination of use of demolition as a means to reduce maintenance costs; and,
- When future development is anticipated, existing residential structures may be demolished to reduce maintenance costs during the planning phase of future development.
- d) Prevention of use of demolition as a tactic to obtain City approvals.
- The most nefarious of tactics would be to demolish existing residential stock in order to obtain City approvals for future redevelopment. Staff cannot recommend refusal of a rezoning to protect the existing rental stock if it is demolished ahead of rezoning.
21. Despite the many benefits, there are disadvantages to adopting Demolition Control and Demolition and Conversion of Residential Rental Properties by-laws; Council must hear the applications and make decisions (unless authority is delegated to a member of staff). Additional by-laws increase the number of potential appeals to the Ontario Municipal Board, costing the City further time and money (should the OMB remain as it is).
22. There are also costs for developers, both in time and money, in processing these applications. There could be delays in the process, or the project could be stopped entirely if a demolition or conversion to non-rental use is not approved.
23. The most significant consideration is, however, whether or not the City of Barrie is in need of such protection of its housing stock. Below is the data showing how many residential units have been demolished between 1997 to April 2017 compared to the number of units constructed.

Type of Unit	Number Demolished	Number Built
Single Detached	421	13,838
Duplex	14	5
Semi-Detached	6	787
Townhouse	0	3,380
Low Rise Apartment	7	69
High Rise Apartment	0	11
Cottage	16	0
<b>Total</b>	<b>464</b>	<b>18,090</b>

24. Since 1997, the City of Barrie has lost a total of 464 residential buildings. Unfortunately, the number of units within multiple unit buildings are not captured in demolition permits making it impossible determine the total number of units that have been lost since 1997. This data also makes it difficult to determine whether or not these units were demolished prematurely and whether or not they were replaced.
25. In comparison, a total of 18,090 residential buildings were constructed in that same time frame. The net gain in residential buildings in the approximately twenty years of tracking is 17,626 buildings. Although the building permit does not indicate number of units constructed, based on the added 69 low rise and 11 high rise buildings, it would be safe to assume that more than 17,626 residential units were built between 1997 and spring 2017.
26. Since 1997 there has been no conversion of residential rental units to non-rental uses. From anecdotal evidence, developers typically register their multi-unit developments as condominiums but choose to rent the units initially. When these units are actually sold, no applications are required and the City would not be made aware that rental units were lost.
27. Given that there isn't a significant loss in residential units through demolition or conversion, it would indicate that the two proposed by-laws are not required.
28. The Condominium Conversion Council Policy, however, does not aid in the protection of housing stock. The policy is outdated and without context. Having City Staff approach a private land owner to convert residential rental units to condominium is unprecedented and, more importantly, is in direct opposition of the Affordable Housing Strategy in that it encourages the removal of rental stock. It is recommended that the Council remove Section 5 Housing, Condominium Conversion of the Council Policy Manual.

**ENVIRONMENTAL MATTERS**

29. There are no environmental matters related to the recommendation.

## ALTERNATIVES

30. The following alternatives are available for consideration by General Committee:

### Alternative #1

General Committee could direct staff to create both a Demolition Control By-law pursuant to Section 33 of the *Planning Act* and a Demolition and Conversion of Residential Rental Properties By-law pursuant to Section 99.1 of the *Municipal Act*.

This alternative is not recommended as there is currently no need for such by-laws. However, should General Committee deem it appropriate, staff could prepare the by-laws.

### Alternative #2

General Committee could alter the proposed recommendation by directing staff to create *only* a Demolition Control By-law pursuant to Section 33 of the *Planning Act*.

This alternative is a viable option as it appears from current trends that loss of housing stock comes only from the demolition of residential units.

### Alternative #3

General Committee could alter the proposed recommendation by directing staff to create *only* a Demolition and Conversion of Residential Rental Properties By-Law pursuant to Section 99.1 of the *Municipal Act*.

This alternative is not recommended as the loss of residential units is historically from demolition, not from conversion to non-residential uses.

## FINANCIAL

31. There would be an associated fee for the developer to pay upon submission of an application pursuant to either the Demolition Control By-law or the Demolition and Conversion of Residential Rental Properties By-law. The fee would cover the cost to the City for processing and approving/refusing the application. Therefore, there is no anticipated cost in establishing these by-laws.

## LINKAGE TO 2014-2018 STRATEGIC PLAN

32. The recommendation(s) included in this Staff Report support the following goals identified in the 2014-2018 Strategic Plan:

Inclusive Community

33. The introduction of these by-laws would help to protect housing stock, particularly affordable rental options for a variety of lifestyles and life stages.

Attachments – Appendix “A” – Review of Section 5 Housing, Condominium Conversion of the Council Policy Manual



**APPENDIX "A"**

**Review of Section 5: Housing, Condominium Conversion of the Council Policy Manual**

1. Most municipalities require a minimum rental vacancy to consider conversion of rental units to non-rental uses, typically at a rate of 3% vacancy across the municipality. Under the current Condominium Conversion Council policy, there is no minimum rental vacancy required to consider a condominium conversion application. However;

*"a minimum rental vacancy rate of 5% as last measured by Central (Canada) Mortgage and Housing Corporation may cause the process for condominium conversion to be initiated by the City of Barrie".*

If a conversion is proposed privately, two public meetings are required:

*"The Barrie Planning Committee shall hold a Public Meeting immediately after an application for condominium conversion is received to review with the tenants, the contents of the condominium policy. A second Public Meeting shall be held to review with the tenants the contents of the draft agreement".*

The applicant must enter into an agreement with the City:

*"The City of Barrie and the applicant shall enter into an agreement enforce the requirements of the agreement".*

The applicant must:

*"undertake to construct a new rental building that shall incorporate the same number of units as the building being converted to condominium tenure."*

The tenants shall:

*"have the first choice of renting units within the building to be converted if units are available for such purposes and have the first choice of rental units to be made available in the new rental building. The tenants shall also have the first choice of condominium purchase."*

The applicant shall pay:

*"upon the request by the tenants, the moving expenses of tenants being relocated to another unit within the building to be converted (the unit is considered a unit available for rental) or to any other accommodation or household storage area within the City of Barrie."*

Finally, the applicant must agree to:

*"subsidize the rents for a period of one year for those tenants who elect to move into the new building. The tenants receiving a rental subsidy shall be guaranteed that for their first year in the new building their rents shall not increase more than the percentage increase allowed under the provisions of the Residential Premises Rent Review Act".*

These provisions are onerous for any developer and may be excessive. Additionally, the policy references a Planning Committee that does not exist, the *Residential Premises Rent Review Act*, which was repealed in 1992, and actively suggests the City of Barrie pursue the conversion of rental units to non-rental uses, despite that such actions would be completely contradictory to the goals of the Affordable Housing Strategy the City is pursuing. As such, this policy should be deleted in its entirety.