

TORONTO STAFF REPORT

August 8, 2005

To: Toronto and East York Community Council

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

Subject: Preliminary Report
Application to amend the Official Plan and for Draft Plan of Condominium
05 138729 STE 22 OZ and 05 138730 STE 22 CD
Applicant: Ernie Victor, Aird And Berlis
317-319 Lonsdale Rd
Ward 22 - St. Paul's

Purpose:

To provide preliminary information on the above-noted applications and to seek Community Council's directions on further processing of the applications and on the community consultation process.

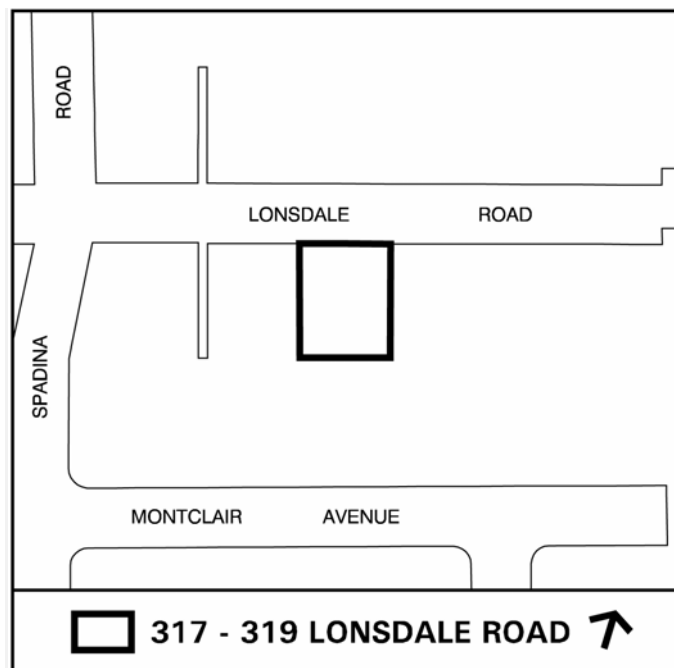
Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that:

- (1) staff be directed to schedule a community consultation meeting together with the Ward Councillor;
- (2) notice for the community consultation meeting be given to tenants and owner of the subject building, and residents within 120 metres of the site; and
- (3) notice for the Public Meeting under the Planning Act be given according to the regulations under the Planning Act, and serve



as notice of the public meeting required by Council approved meeting requirements for condominium conversion.

Background:

The subject lands are developed with two 3-storey residential apartment buildings containing 12 units. Municipal records indicate that the structures were originally constructed in 1928 as rental apartment buildings.

Comments:

Proposal

The applicant is seeking to convert the 12 apartment units into residential condominiums. If the application is approved and the property registered as a condominium, a condominium corporation governed by the Condominium Act would be established to manage the property.

The draft plan of condominium proposes the existing configuration of the building, which consists of 12 two-bedrooms units would be unchanged following the conversion (refer to Attachment 1).

The applicant advises that there are no improvements, repairs or changes to the building proposed to be undertaken in conjunction with the application.

Site Description

The 1,185 square metre site is located on Lonsdale Road just east of Spadina Road, and contains two 3 storey residential apartment buildings. Uses in the vicinity can be described as follows:

North: 3 storey residential apartment building
South: low-density residential neighbourhood
East: 3 storey residential apartment building
West: 4 storey residential apartment building

Rents for the 12 two-bedroom apartments range from \$1,588/month to \$1,896/month. More specific information on the affordability of the units will be provided in the final report.

Planning Legislation and Official Plan Policies:

The following provides an overview of the planning legislation that must be reviewed in this context. A further analysis of this legislation and policies relating to this application will be presented in the final report.

The Condominium Act

The Condominium Act states that the provisions of Sections 51, 51.1 and 51.2 of the Planning Act that apply to a plan of subdivision also apply to plans of condominium with necessary modifications to a description or an amendment to a description.

The Planning Act

Section 51(24) of the Planning Act sets forth the criteria that the City must consider in determining whether to allow the conversion of a rental residential building to a condominium. These criteria include:

- the health, safety, convenience and welfare of the present and future inhabitants of the City;
- the effect of the proposed condominium on matters of provincial interest as referred to in Section 2 of the Act, which includes the adequate provision of a full range of housing;
- whether the proposed condominium is premature or in the public interest;
- whether the proposed plan of condominium conforms to the Official Plan; and
- the suitability of the land for the purposes for which it is to be subdivided.

Provincial Policy Statement

Issued under the authority of Section 3 of the Planning Act, the Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. On March 1, 2005, a new Provincial Policy Statement came into effect and replaces the policies that had been issued on May 22, 1996 and amended in 1997. Provincial Policy Statement housing policies include the provision of an appropriate range of housing types and densities to meet the requirements of current and future residents, and the provision of housing in locations with appropriate levels of infrastructure and services. Council is required to make decisions on planning matters that are consistent with Provincial Policy Statement policies.

In-Force Official Plan

The former City of Toronto Part 1 Official Plan designates this site as “High Density Residence Area”(refer to Attachment 3). This designation permits residential buildings having a gross floor area of up to 2.0 times the area of the lot.

The former City of Toronto Official Plan contains a number of relevant policies, including:

Section 6.18 of the former City of Toronto Official Plan, which states that the conversion of any building originally constructed to provide one or more rental apartments, is premature and against the public interest, unless the vacancy rate for private apartments across the City regularly returns to at least 2.5 per cent; and

Section 6.17 which states that it is Council's goal to encourage retention and conservation of the existing stock of private rental housing and accordingly that Council shall discourage conversion which in Council's opinion is undesirable and strictly apply Council's condominium conversion policy and any other applicable legislation in considering applications to convert rental property.

With respect to the vacancy rate threshold under Section 6.18, vacancy rates in Toronto have with only a few exceptions remained at an extremely low level for over 30 years. The first time the rate for the amalgamated City exceeded the 2.5% threshold was in October 2003 when it reached 3.9%. In the October 2004 survey the rate was 4.3%. The vacancy rate for 2005 will not be known until at least late November, although it is expected that rate at that time will remain higher than historic rates pre-2003. Given that the City has only experienced moderate rates for a relatively short period of time, it is premature to conclude that rates have regularly returned to the identified threshold.

The Metropolitan Toronto Official Plan also contain policies encouraging the preservation of existing rental housing.

In April 1999, Council adopted Official Plan Amendment No. 2 (OPA 2) to the former Metropolitan Toronto and former municipal in-force official plans. This set out Council's proposed harmonized policies for the amalgamated City on the conversion of rental housing to condominium and demolition of rental housing.

Although the Ontario Court of Appeal determined that Official Plan Amendment 2 was legal and within the jurisdiction of the City to enact, the policies did not come into force as no hearing on the planning merits occurred at the Ontario Municipal Board. The housing policies of the new Toronto Official Plan have superseded Official Plan Amendment 2.

New Toronto Official Plan

At its meeting of November 26-28, 2002, City Council adopted the new Official Plan for the City of Toronto. The Minister of Municipal Affairs and Housing approved the new plan, in part, with modifications. The Minister's decision has been appealed in its entirety. The Official Plan is now before the Ontario Municipal Board. The hearing began this past June, and will continue in the fall.

Once the Plan comes into force and effect, it will designate the subject site "Apartment Neighbourhoods".

The new Official Plan contains a number of policies respecting housing and the need to preserve and increase the City's supply of rental housing. Relevant new Plan policies include Policy 3.2.1.8:

"The conversion to condominium...of any building or related group of buildings containing six or more rental housing units is premature and not in the public interest unless:

- (a) the rental apartment vacancy rate for the City of Toronto as reported by the Canada Mortgage and Housing Corporation (CMHC), has been at or above 2.5% for the preceding two-year reporting period; or
- (b) all of the rental housing units have rents that exceed mid-range rents at the time of the application.”

As set out in “b” above, the new Toronto Official Plan provides an exception for buildings where all unit rents are above the mid-range. To qualify for this exception, all rents in the building at the date of application must be equal to, or exceed, one and one-half times the average City of Toronto rent. For two-bedrooms units in 2005, the upper threshold of the mid-range (including hydro, heat and hot water) is \$1,592/month. An initial review of the rents suggests that all of the units may be above this threshold, however, a more detailed assessment of the current unit rents and other issues is required.

The above-noted policy of the new Toronto Plan is similar to Section 6.18 of the former City of Toronto Official Plan but requires that the rental vacancy rate remain at least 2.5% for a specified period of time, before conversion would be considered. To satisfy the full two-year reporting period under the new Plan, the City of Toronto vacancy rate must be at or above this threshold for three consecutive CMHC annual surveys.

Both the in-force and new official plan policies respecting the conversion of rental housing have been developed within the framework of Section 51(24) of the Planning Act.

Although the new Official Plan is not in force and effect, its policies are a relevant consideration. It represents Council’s current position about the importance of preserving the existing supply of rental housing as well as the most recent staff recommendations with respect to conversion of rental housing to condominium.

Zoning

The site is zoned R2 Z2.0 with a maximum permitted building height of 11 metres. This zone permits most residential building types including apartment buildings to a maximum gross floor area of 2.0 times the area of the lot.

Rezoning is not required to permit the proposed conversion of the apartment building to a residential condominium. However, the Draft Plan of Condominium has been circulated to the Building Division for review and to determine zoning compliance.

Site Plan Control

The application does not propose new construction and does not require site plan approval.

Potential Impacts on Tenants

The conversion, if permitted, would not impact on the security of tenure of most existing tenants. Under the Tenant Protection Act, where a rental unit is converted to condominium, tenants who

occupy a unit in a rental building at the time of the conversion cannot be evicted on the basis that the shareholder of the unit requires personal use of the unit for themselves or a member of their immediate family (except where the shareholder has previously occupied the unit). After the first tenant vacates the unit, however, any future tenant would not be entitled to the security of tenure provisions and could be evicted on the basis of personal use.

Due to shifts in tax rates and assessed value resulting from conversion to condominium, property taxes payable on the property may change. It cannot be known, at this time, whether conversion of the buildings would have a significant impact on property taxes and by extension on rent levels. The existing property falls under the multi-residential tax class. If the conversion to condominium was approved, the buildings would then be considered under the residential tax class, which has a lower tax rate. However, a reduction in the tax rate would not necessarily lead to a lower tax bill. It is expected that the assessed value of the buildings would increase following their conversion to condominium. An increase in the assessed value could offset, at least in part, savings due to the lower tax rate.

Reasons for the Application

Section 9(2) of the Condominium Act provides that Section 51 of the Planning Act applies to an application for conversion. The proposed conversion of 317-319 Lonsdale Road from a rental building to residential condominiums must be considered under the criteria set forth in Section 51(24) of the Planning Act. One of the criteria of Section 51(24) is whether the application conforms to the official plan. It is clear that this particular criterion cannot be met without an amendment to the in-force former City of Toronto Official Plan.

The Applicant has provided a Statement of Planning Rationale setting out their planning justification for the proposal. Their stated reasons include, among others, that the application:

- is appropriate for the lands and will not result in any adverse or other impacts on surrounding properties; and
- will not result in the loss of affordable rental housing and will not offend existing approved housing policies.

The final report will address the applicant's justification for the conversion.

Issues to be Resolved

1. Review of the Planning Rationale and Housing Issues Report. The information supplied by the applicant will be reviewed in the context of the application, the rationale and legislative framework. Any Official Plan Amendment that City Council may pass to permit the conversion of rental apartment units to condominium units must be in accordance with Section 51(24) of the Planning Act. Staff must resolve whether amendments to the in-force and new Official Plans for the proposed conversion are appropriate and represent good planning.

2. Rent Levels: Staff will evaluate the materials submitted and provide more detailed comments in the final report.
3. Tenant Impact and Input: The proposed community consultation meeting will provide an opportunity to inform the current tenants and nearby community of the proposal and seek their input.
4. An application for draft plan of condominium has been submitted and will be dealt with simultaneously with the Official Plan Amendments. The draft plan of condominium will be addressed in the final report. In the event that this application is recommended for approval, conditions may be imposed including the following:
 - (a) the plan of condominium (declaration and description) may be required to be registered within 3 years, otherwise the approval shall lapse and be of no further force and effect;
 - (b) the applicant may be required to undertake a comprehensive reserve fund study that could include:
 - (i) a physical analysis of the property including the building components, to be undertaken by a qualified consultant, which addresses matters such as structural safety, the general condition of the buildings, servicing and any other matters required by the City. As well, the applicant could be required to correct any deficiencies identified in the building condition report as well as any deficiencies identified in the building condition report as well as any deficiencies identified by the City; and
 - (ii) a financial analysis of the contributions to the reserve fund that will be required to be paid over a period of time (not less than 30 years).

Conclusions:

The application will be reviewed and assessed by City staff. The report recommends that a community consultation meeting be scheduled by staff, in consultation with the Ward Councillor. Once the review is completed, staff will prepare a Final Report for consideration by City Council. The statutory meeting at Community Council, to consider the recommendations of a Final Report, should be held in the first quarter of 2006.

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Gary Wright
Director, Community Planning, South District

List of Attachments:

File: 22173322051

- Attachment 1: Site Plan
- Attachment 2: Official Plan
- Attachment 3: Zoning
- Attachment 4: Application Data Sheet