SUBJECT: Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 86 Herkimer Street and 260 Bay Street South, Hamilton (PED06114) (Ward 2)

RECOMMENDATION:

That approval be given to Condominium Conversion Application CDM-CONV-05-04, 1407912 Ontario Inc., (Douglas McKerlie), owner, to establish a Draft Plan of Condominium for twenty-three residential units within the existing buildings located at 86 Herkimer Street and 260 Bay Street South (Hamilton), as shown on the attached map marked as Appendix “A” to Report PED06114, subject to the following conditions:

(a) That this approval apply to the plan prepared by A.T. McLaren Limited, and certified by S.D. McLaren, O.L.S., dated December 8, 2005, attached as Appendix “B” to Report PED06114.

(b) That the following standard conditions from Appendix “B” of Report PD01184 - Streamlining and Harmonization of Subdivision, Condominium and Part-Lot Control Approvals and Administration Process shall apply:

(i) Development Planning and Engineering Conditions - No. 16 and,

1. That the Owner shall submit a report in accordance with Section 9(4) of The Ontario Condominium Act, 1998, prepared and certified by a qualified Registered Professional Engineer or Licensed Architect, to the satisfaction of the Chief Building Official of the City of Hamilton, to confirm the structural and mechanical integrity of the building and any Owner initiated measures required to correct any deficiencies prior to the release of the final plan for registration.
2. That the owner pays all outstanding municipal taxes, to the satisfaction of the Corporate Services Department (Tax Administration/Banking Section).

(ii) Traffic Engineering and Operations

1. That the applicant/owner enter into an encroachment agreement with the City of Hamilton, to the satisfaction of the Supervisor, Traffic Engineering and Operation Section, Public Works Department.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of the application is to establish a Plan of Condominium for two existing multiple residential buildings having a total of twenty-three units, and a parking structure with twenty-three parking spaces.

The application can be supported in view of the fact it is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan and the Hamilton Official Plan.

BACKGROUND:

Proposal

1407912 Ontario Inc. (Douglas McKerlie) has applied to establish a Plan of Condominium for two existing multiple dwellings located at 86 Herkimer Street and 260 Bay Street South. The subject lands contain a total of three buildings, two of which are multiple dwellings and the third building is a one storey accessory structure used for parking. The building located at 86 Herkimer Street is a four and a half storey building, containing a total of twenty units. The dwelling units have predominantly two bedrooms and an average floor area of approximately 155.0 square metres. The building located at 260 Bay Street South is two and a half storeys, containing a total of three dwelling units comprised of two bedrooms per unit (Appendix “A”). The third building on the property is used for parking. A total of twenty-three parking spaces will be provided on-site, comprised of both surface parking, and the parking that is located within the accessory structure. The existing building entrances, stairways, and hallways will be retained as common elements. No new development is proposed, as the condominium will reflect the existing floor plans and parking layout.
**SUBJECT:** Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 86 Herkimer Street and 260 Bay Street South, Hamilton (PED06114) (Ward 2) - Page 3 of 10

**Location:** 86 Herkimer Street and 260 Bay Street South

**Applicant:** 1407912 Ontario Inc. (Douglas McKerlie)

**Agent:** Webb Planning Consultants

**Property Description:**
- **Width:** 39.014m on Herkimer Street
- **Depth:** 45.110m on Bay Street South
- **Area:** 0.175 hectares

**Servicing:** Full Municipal Services

**EXISTING LAND USE AND ZONING**

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Lands</td>
<td>Multiple Dwellings (23 rental units)</td>
<td>“DE-3” (Multiple Dwellings) District</td>
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<table>
<thead>
<tr>
<th>Surrounding Land Use</th>
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<th>West</th>
<th>South</th>
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<tr>
<td></td>
<td>Multiple Dwelling</td>
<td>Multiple Dwelling and Semi-Detached Dwelling</td>
<td>Multiple Dwellings and Single Detached Dwellings</td>
<td>Retirement Home</td>
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<td></td>
<td>“DE-3” (Multiple Dwellings) District</td>
<td>“DE-3” (Multiple Dwellings) District</td>
<td>“DE-3” (Multiple Dwellings) District</td>
<td>“DE-3” (Multiple Dwellings) District</td>
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**ANALYSIS/RATIONALE:**

1. The proposal has merit and can be supported for the following reasons:
   
   (i) It is consistent with the Provincial Policy Statement and conforms with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.
   
   (ii) The location of the existing buildings and accessory parking area is considered to be legal non-conforming in respect to the City of Hamilton Zoning By-law.
   
   (iii) It is considered to be compatible with the existing land uses in the immediate area.
2. In support of the application, a Planning Justification Report, dated December 2005, was submitted and reviewed by the Program Policy and Planning Division of the Public Health and Community Services Department. Official Plan policies are intended to guide the future growth and development of a community which includes fostering a healthy rental housing market. A “healthy” or “balanced” rental market vacancy rate is generally considered to be between 2% to 3%. Section 7.11 of the City of Hamilton’s Official Plan identifies three conditions that must be satisfied in order to recommend condominium conversion. These conditions are as follows:

1. the rental vacancy rate by dwelling/structure type for the City and the respective local housing market zone has been at or above 2.0% for the preceding twenty-four months.

2. the proposed conversion will not reduce the rental vacancy rate by dwelling/structure type to below 2.0% for the City and the respective local housing market zone.

3. the existing market rent levels for the units proposed to be converted are not significantly below the average market rent levels for the City and the respective local housing market zone for rental units of a similar dwelling/structure type.

Using statistical information provided by the Canada Mortgage and Housing Corporation, the Planning Justification Report concluded that the proposed conversion meets the intent of the Official Plan as the vacancy rates have been above 2.0% for the preceding twenty-four months for the City and the respective local housing market; the proposed conversion will reduce the vacancy rate to 3.9%, which is above the required 2%; and all of the twenty-three units are currently occupied for an average rent of $1,102, which is above the average market rent for the local market zone and the City of Hamilton.

In summary, the proposed condominium conversion conforms with the policies of the City of Hamilton Official Plan.

3. Prior to the submission of this application, a letter was circulated to the existing tenants on October 31, 2005, advising residents of the intent to convert the tenure of the building from rental to condominium.

Once the application was submitted, an additional letter was circulated on March 6, 2006, to the tenants of the twenty-three units. The letter notified the existing tenants of the proposed conversion, provided details of tenants’ rights under the Tenant Protection Act, and requested confirmation on whether or not the tenant was in support of the application. Of the twenty-three letters that were circulated, fourteen of the respondents indicated support of the proposed conversion, six did not provide an indication, and three tenants did not respond.
4. The subject residential buildings at 86 Herkimer Street and 260 Bay Street South are both listed on the City of Hamilton’s Inventory of Buildings of Architectural and/or Historical Interest. Both are well-preserved examples of early twentieth century Edwardian architecture and serve as important contextual heritage resources in the Durand Neighbourhood. Staff notes that the proposed conversion of the buildings do not involve any alterations or changes to the exterior of the buildings. However, it is recommended that any future physical changes to the exterior of the building, as may be required by the amended use, be in accordance with heritage best practices.

5. In order to ensure the quality and safety of future residents, it is essential that the City receives an engineering report that is signed by a professional engineer or architect which will address all requirements that are set out within the present Building Code.

6. Traffic Engineering and Operations will require an encroachment agreement from the owner for various existing encroachments on the south and east sides of the building.

7. Approval of this Draft Plan of Condominium will be subject to Condition 16 of the City’s standard conditions of approval, which requires the applicant to satisfy conditions financial and otherwise of the City.

8. There are full municipal services available for this site.

**ALTERNATIVES FOR CONSIDERATION:**

Should the proposed condominium conversion not be approved, the existing multiple residential building will continue as a rental tenure.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: The Planning Act does not require a notice of Public Meeting for an application for Condominium Conversion. However, formal notice was given to all the existing tenants.
POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff notes that the application is consistent with the principles and the policies of the PPS.

The Provincial Policy Statement states: Significant built heritage resources and significant cultural heritage landscapes shall be conserved (Section 2.6.1). The retention and continued residential use of the heritage buildings at Herkimer and Bay Streets, as part of this current application, would fulfil these policies and is, therefore, encouraged.

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” within the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area Municipal Plans and based on full municipal services, will be concentrated in the Urban Areas. As well, Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

Therefore, as the nature of the application is for the conversion of the existing residential units (rental) into a plan of condominium, the proposal conforms with the intent of the Hamilton-Wentworth Official Plan policies.

City of Hamilton Official Plan


The proposal conforms to the “Residential” designation of the Official Plan and Special Policy Area 3.

The Official Plan also provides guidance in assessing the merits of proposed condominium conversions under Section C.7.11. These Official Plan policies have been addressed in the Analysis/Rationale and the Relevant Consultation Sections of this report. The proposal satisfies the conversion policies of the Plan.

Durand Neighbourhood Plan

The approved Durand Neighbourhood Plan designates the subject lands as “Low Density Residential”. Within the plan, it is noted that, “Condominium conversions will not be permitted where they result in significant adverse impacts on the rental housing supply.” The proposed condominium conversion will not have an adverse impact on the rental housing supply, as the proposal conforms to the vacancy rates in accordance with the Official Plan policies, as noted in the Analysis/Rationale Section of this Report.
The following Departments and Agencies had no comments or objections:

- Parking Services, Downtown Renewal Division.
- Corporate Services Department (Budgets & Finance Division).
- Public Works Department (Traffic Engineering & Operations).
- Public Works Department (Capital Planning & Implementation Division).
- Public Health & Community Services Department (Culture & Recreation Division).
- Hamilton-Wentworth District School Board.

Public Health & Community Services Department, Program Policy and Planning Division has reviewed the applicant’s Planning Justification Report and has advised of the following:

“The following information on the proposed condominium conversion has been provided:

1. Average rent for a unit in this complex is approximately $1,102.

2. The proponent would give the current tenants first right of refusal to purchase their units. You should be aware that the Tenant Protection Act already provides for this right.

3. The proponent would register as condominium with the intent to sell. Under the right of first refusal in the Tenant Protection Act, tenants have 72 hours to match an offer on the same terms and conditions, or they can continue to rent their unit. The proponent indicated that the conversion would occur gradually, possibly ‘floor by floor’ to acquire the financing to renovate the units prior to their sale.

4. The proponent has made the tenants at 86 Herkimer St. aware of this proposal.

The Official Plan sets policies to guide the future growth and development of a community which includes fostering a healthy rental housing market. A “healthy” or “balanced” rental market vacancy rate is generally considered to be between 2% to 3%. Section 7.11 of the former City of Hamilton’s Official Plan identifies three conditions that must be satisfied in order to recommend condominium conversion. The conditions are as follows:

1. The rental vacancy rate by dwelling/structure type for the City and the respective local housing market zone has been at or above 2.0% for the preceding twenty-four months.

2. The proposed conversion will not reduce the rental vacancy rate by dwelling/structure type to below 2.0% for the City and the respective local housing market zone.
3. The existing market rent levels for the units proposed to be converted are not significantly below the average market rent levels for the City and the respective local housing market zone for rental units of a similar dwelling/structure type.

In addition, Keys to the Home: A Housing Strategy For Hamilton highlights the importance of maintaining and/or increasing the current rental housing market stock, particularly for low income households. Preserving the rental housing stock is essential given that there were only 4 private rental apartment starts in the (new) City of Hamilton in 2004. In the previous year (2003), there were 13 private rental apartment starts, and 95 starts in 2002. The housing market analysis below will assess whether the proposed condominium conversion meets the above conditions of the Official Plan.

Current Housing Market Analysis

By using specifically-ordered data from Canada Mortgage and Housing Corporation (CMHC), we are able to provide an analysis of the rental market activity in the former City of Hamilton. Table 1 shows the vacancy rate and average market rent for the local housing market zone (i.e., Zone 1) for privately initiated apartment buildings with 6+ units.

Table 1: Vacancy Rate and Average Market Rents in CMHC Zone 1 (Hamilton) in 6+ Unit Privately-Initiated Apartment Buildings

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<tbody>
<tr>
<td>Bachelor</td>
<td>3.33%</td>
<td>$509</td>
<td>4.67%</td>
<td>$487</td>
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<tr>
<td>One-Bed</td>
<td>4.69%</td>
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<td>Two-Bed</td>
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<td>Three-Bed+</td>
<td>1.53%</td>
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<td>2.59%</td>
<td>$954</td>
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<tr>
<td>Total</td>
<td>4.46%</td>
<td>$668</td>
<td>3.23%</td>
<td>n/a</td>
</tr>
</tbody>
</table>


Within the local housing market (i.e., Zone 1), the average vacancy rate for 2 bedroom apartments was 4.64% in 2004 and 3.62% in 2003.

Table 2 shows the vacancy rate and average market rent for the former City of Hamilton for privately initiated apartment buildings. Average vacancy rate in the former City of Hamilton for 2 bedroom units in 6+ unit privately initiated apartment buildings was 4.23% in 2004 and 3.25% in 2003.
Table 2: Vacancy Rate and Average Market Rents in the City of Hamilton (former) in 6+ Unit Privately-Initiated Apartment Buildings

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<tr>
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<tbody>
<tr>
<td>Bachelor</td>
<td>3.72%</td>
<td>$511</td>
<td>4.29%</td>
<td>$497</td>
</tr>
<tr>
<td>One-Bed</td>
<td>3.76%</td>
<td>$613</td>
<td>3.34%</td>
<td>$605</td>
</tr>
<tr>
<td>Two-Bed</td>
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<td>Three-Bed+</td>
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<td>2.27%</td>
<td>$875</td>
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<tr>
<td>Total</td>
<td>3.96%</td>
<td>$679</td>
<td>3.31%</td>
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</tbody>
</table>


All of the 23 units are currently occupied for an average rent of $1102. The average rent for these units is, therefore, not significantly below average market rent for the local market zone or former City of Hamilton.

Conclusion

The City of Hamilton recognizes the importance of maintaining and increasing the number of affordable rental units in Hamilton.

The following Official Plan requirements for both the local housing market zone and (former) City of Hamilton have been met:

1. vacancy rates have been above 2% for the past two years.
2. the loss of stock does not negatively affect vacancy rates.
3. the majority of units are renting above average market rent.

Public Consultation

Prior to the submission of this application, a letter was circulated to the existing tenants on October 31, 2005, advising residents of the intent to convert the tenure of the building from rental to condominium.

Once the application was submitted, an additional letter was circulated on March 6, 2006, to the twenty-three units. The letter notified the existing tenants of the proposed conversion, provided details of tenants' rights under the Tenant Protection Act, and requested confirmation on whether or not the tenant was in support of the application. Of the twenty-three letters that were circulated, fourteen of the respondents indicated support of the proposed conversion, six did not provide an indication, and three tenants did not respond.

The Notice of Public Meeting was circulated to all current tenants on March 31, 2006.
By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes □ No
Shelter, care and satisfying employment are accessible to all Hamiltonians.

Environmental Well-Being is enhanced. ☑ Yes □ No
Ecological function and the natural heritage system are protected.

Economic Well-Being is enhanced. ☑ Yes □ No
Infrastructure and compact, mixed use development minimize land consumption and servicing costs.

Does the option you are recommending create value across all three bottom lines? ☑ Yes □ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? □ Yes ☑ No

:SM
Attachs. (2)