SUBJECT: Application for Approval of a Draft Plan of Condominium Conversion, "East Mount Village", for Lands Located at 423 and 425 East 42nd Street (Hamilton) (PED06401) (Ward 6)

RECOMMENDATION:

That approval be given to Condominium Conversion Application 25CDM-CONV-06-01, by 2052093 Ontario Ltd. (Greg Romundt), owner, to establish a Draft Plan of Condominium for 12 existing townhouse units, located at 423 and 425 East 42nd Street (Hamilton), as shown on the attached map marked as Appendix “A” to Report PED06401, subject to the following conditions:

(a) That this approval apply to the plan, prepared by Schaeffer & Dzaldov Limited, and certified by Ophir N. Dzaldov. O.L.S., dated September 18, 2006, showing a total of 12 residential townhouse units, attached as Appendix “B” to Report PED06401.

(b) That the following conditions shall apply to the Draft Plan of Condominium approval:

Development Planning and Engineering:

1. That the Final Plan of Condominium comply with all of the applicable provisions of the applicable Zoning By-law.

2. That the owner satisfy all conditions, financial or otherwise, of the City of Hamilton.
3. 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 buildings and any Owner initiated measures required to correct any deficiencies prior to the release of the final plan for registration.

4. That the owner pays all outstanding municipal taxes, to the satisfaction of the Corporate Services Department (Tax Administration/Banking Section).

**Bell Canada:**

5. That the Owner shall agree in the Agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required subject to final servicing decisions. In the event of any conflict with existing Bell Canada facilities or easements, the owner/developer shall be responsible for the relocation of such facilities or easements.

---

Lee Ann Coveyduck  
General Manager  
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The purpose of this application is to establish a Plan of Condominium for 12 existing rental townhouse units. The existing tenants are protected under the **Tenant Protection Act**.

The proposed condominium conversion has merit and can be supported as it conforms to the City of Hamilton Official Plan, the “Urban Policies” of the Hamilton-Wentworth Official Plan, and is consistent with the Provincial Policy Statement.

**BACKGROUND:**

**Proposal**

The subject properties contain two block townhouse buildings, each containing 6 units. The lands are located on the east side of East 42nd Street between Tenth Avenue and Eleventh Avenue, generally located north of Mohawk Road and east of Upper Gage Street, on the east Hamilton Mountain (see Appendix “A”). There are 12 existing
townhouse units, and 16 existing parking spaces. There are 8 two-bedroom units and 4 three-bedroom units. This proposal is for a change in tenure from rental townhouse units to condominium townhouse units.

**Location:**
423 and 425 East 42\textsuperscript{nd} Street

**Owner:**
Centurion Properties Associates Inc.

**Applicant:**
2052093 Ontario Ltd. (c/o Greg Romundt)

**Property Description:**
- **Lot Area:** 0.13 hectares
- **Lot Frontage:** 45.72 metres
- **Lot Depth:** 58.86 metres

**Existing Land Use and Zoning**

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<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>Townhouse Units</td>
<td>“E” (Multiple Dwellings) District</td>
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</table>

**Surrounding Land Uses**

| North: | Single Detached Dwellings | “E” (Multiple Dwellings) District |
| East: | Single Detached Dwellings | “C” (Urban Protected Residential, etc.) District |

**West:**
Apartment Units

**South:**
Single Detached Dwellings

**Analysis/Rationale:**

1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement.

   (ii) It conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

   (iii) It is considered to be compatible with existing uses in the surrounding area.
2. The City of Hamilton Official Plan housing policies are intended to guide future growth and development, which includes fostering a healthy rental housing market within the City. In this regard, 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; and,

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.

The Canada Mortgage and Housing Corporation (CMHC) provides annual statistical information on the national, provincial and local housing markets. For this exercise, the City uses local housing market data that is specifically-ordered from CMHC. The subject property is located in the Hamilton Mountain (Zone 6). For this Zone, the CHMC vacancy rate for two-bedroom townhouse units was 2.6%, and for three-bedroom units it was 2.9% in 2005. The vacancy rates in 2004 for two and three-bedroom townhouse units were 8.6% and 3.2%, respectively. In 2005, the former City of Hamilton’s average vacancy rate for a two-bedroom townhouse unit was 4.5% and 3.7% for three-bedroom units. In 2004, the vacancy rates for two and three-bedroom apartments were 5.9% and 4.1% respectively.

At the time of submission, the applicant advised that all the units were occupied. However, the number of units would have to be deducted from the rental stock. Therefore, removing the proposed 12 townhouse units from the housing stock creates an average vacancy rate of 3.9% for the City and 4.7% for Zone 6 (total in universe (2004/05) - number of units in proposal / total vacant units (2004/05)). It has therefore been determined that the proposed conversion meets the intent of the Official Plan as it does not negatively impact the vacancy rates such that they will fall below 2%.

Using the same CMHC statistical information, Policy 3 of the Official Plan mentioned above is not negatively effected. According to the information provided, two-bedroom units in the City of Hamilton had an average rent of $810.00 per month and three-bedroom units were $886.00 in 2005. For the Hamilton Mountain Zone, a two-bedroom unit had an average rent of $818.00
and three-bedrooms were $893.00. The proposed units to be converted are currently rented at an average of $752.36 for two bedrooms per month, and $798.83 per month for three bedrooms. In this case, the differences between the average rents are 10.7% for two bedrooms and 11.4% for three bedrooms. The average rents in the existing building are not considered to be significantly lower than the average market rent for two and three-bedroom units in the City of Hamilton and local housing market Zone.

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

3. The applicant has been diligent in advising the existing tenants, staff and the local Ward Councillor of their intent to convert the existing townhouses into condominiums. An information letter was circulated to the tenants of the 24 units (see Appendix “C”). This letter notified the existing tenants of the proposal, provided details of tenant's rights under the Tenant Protection Act, and what the proposed conversion would be in the way of upgrades to the existing units. Further to this letter, the applicant also conducted a tenant information meeting on April 27, 2006. This meeting provided further opportunity for the tenants to ask questions. None of the tenants are opposed to the change in tenure.

4. 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. In addition, the following conditions should also be applied to the Draft Plan of Condominium approval: that the Final Plan of Condominium comply with all the provisions of the Hamilton Zoning By-law; that the owner satisfy all conditions, financial or otherwise, of the City of Hamilton; that the owner pays all outstanding municipal taxes; and, that the owner agrees to grant to Bell Canada any easements that may be required subject to final servicing decisions.

**ALTERNATIVES FOR CONSIDERATION:**

Should the proposed condominium conversion not be approved, the existing townhouse units will continue as rental tenure.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial:** N/A.

**Staffing:** N/A.

**Legal:** The Planning Act, R.S.O. 1990 does not require a notice of Public Meeting for an application for Condominium Conversion. However, formal notice was given to all existing tenants.
POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff notes the subject application is consistent with the policies that focus on growth in settlement areas 1.1.3.1.

Hamilton-Wentworth Official Plan

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

The City of Hamilton Official Plan

The subject lands are designated “Residential” on Schedule “A”, Land Use Concept of the City of Hamilton Official Plan. The proposal conforms to the “Residential” designation of the Official Plan.

As mentioned above, 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.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comment or objections:

- Public Works Department (Traffic)
- Corporate Services Department
- Public Works Department (Forestry)
- Public Works Department (Open Space)
- Corporate Services (Budgets and Finance)
- Hamilton-Wentworth District School Board

Bell Canada has requested their standard condition be incorporated into the Draft Plan of Condominium for this proposal. It is as follows:

“The Owner shall agree in the Agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required subject to final servicing decisions.”
In the event of any conflict with existing Bell Canada facilities or easements, the owner/developer shall be responsible for the relocation of such facilities or easements.

Public Health and Community Services Department, Program Policy & Planning Division

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

1. Average rent for a unit in this complex is approximately $767.86.

2. The proponent would give 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.

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 6) for privately initiated townhouse units.

**Table 1: Vacancy Rate and Average Market Rent for Row (Townhouse) Units in CMHC Zone 6 - Mountain (Hamilton).**

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<tbody>
<tr>
<td>Two-Bed</td>
<td>8.6%</td>
<td>$783</td>
<td>2.6%</td>
<td>$818</td>
</tr>
<tr>
<td>Three-Bed+</td>
<td>3.2%</td>
<td>$907</td>
<td>2.9%</td>
<td>$893</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4.5%</strong></td>
<td><strong>---</strong></td>
<td><strong>2.9%</strong></td>
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</table>

Source: CMHC (2005)

**Table 2** shows the vacancy rate and average market rent for the former City of Hamilton for privately initiated rental townhouse units.
Table 2: Vacancy Rate and Average Market Rent for Row (Townhouse) Units in the former City of Hamilton.

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<tbody>
<tr>
<td>Two-Bed</td>
<td>5.9%</td>
<td>---</td>
<td>4.5%</td>
<td>$810</td>
</tr>
<tr>
<td>Three-Bed+</td>
<td>4.1%</td>
<td>$892</td>
<td>3.7%</td>
<td>$886</td>
</tr>
<tr>
<td>Total</td>
<td>4.7%</td>
<td>---</td>
<td>3.9%</td>
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</table>

Source: CMHC (2005)

In 2005, the former City of Hamilton’s average vacancy rate for a 2 bedroom townhouse unit was 4.5% and 3.7% for 3+ bedroom units. In 2004, the vacancy rates for 2 and 3+ bedroom apartments were 5.9% and 4.1% respectively. A similar trend can be observed in the local housing market zone. The average vacancy rate for 2 bedroom townhouse units in Zone 6 was 2.6% and for 3+ bedroom units it was 2.9% in 2005. The vacancy rates in 2004 for 2 and 3+ bedroom townhouse units were 8.6% and 3.2%, respectively. The conversion of the subject rental units to condominiums does not negatively impact the vacancy rates such that rates would fall below 2%.

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 local housing market zone and the former City of Hamilton have been met:

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; and,

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.

Public Consultation

As part of the application process, the applicant has been in consultation with the tenants regarding the condominium conversion process. They have provided the tenants with written notice, a public information meeting, as well as a questionnaire survey, so as to have a mutual exchange of information, listen to tenant’s concerns,
explain tenant rights and the conversion process (see Appendix “C”). The steps taken by the applicant with regards to this information exchange is outlined in the Analysis/Rationale Section of this Report. In addition, a Notice of the Public Meeting was circulated to all current tenants.

**CITY STRATEGIC COMMITMENT:**

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
  The public are involved in the definition and development of local solutions.

- Environmental Well-Being is enhanced. ☑ Yes ☐ No
  Human health and safety 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

:JM
Attachs. (3)
Appendix “A” to Report PED06401

Location Map

File Name/Number: CDM-CONV-2006-02
Date: January 31, 2006

Appendix “A”
Scale: N.T.S.
Planner/Technician: JM/MF

Subject Property
423 and 425 East 42nd Street
Application to Convert 12 existing Townhouse Units to 12 Condominium Units

Ward 6 Keymap N.T.S.
MEMORANDUM

To: File
From: Marc A. Lean
Date: July 30, 2006
File Name: Centurion Property Associates Inc.
File No.: 13392-1
Subject: Condominium Conversion Project
          Tenants Meeting Minutes
          April 27, 2006

We confirm have attended at a Tenants' meeting with Councillor Tom Jackson at 701 Upper Sherman Avenue, Hamilton, Ontario, L8V C2A.

The meeting was conducted for the purpose of advising the current tenants of the proposed plan to convert the property from a single owner, multi-residential rental status to a condominium status.

The following materials (attached hereto) were circulated at the meeting:

1. Sign in sheet (a copy of the completed form is enclosed)
   Ms. Sandra Miller of Unit E-425 contacted Marc Lean at Aylesworth LLP and advised him of her support for the application but advised that she would be unable to attend;

2. Additional Information Sheet – a copy of which is attached;

3. Tenant's Support Letter – Three of which were returned and copies of which are attached hereto;

Also in attendance was Marc Lean of Aylesworth LLP and Greg Romundt a officer of the Management Corporation, Centurion Property Associates Inc.

Although the entire tenant list was served with notice of the meeting, interest was minimal (notwithstanding an evening date, fine weather and the offer of food and refreshments).

Because the meeting was amongst a small group, the meeting was short – not more than 45 minutes in length.

Much of the time was used to explain to the tenants to matters:

1) their continued rights under the TPA and a walk through of the handout regarding the TPA:
2) An explanation of the conversion process; and

3) Discussions related to a condominium status.

Matters under the TPA discussed were the extension of rights regarding notice under sections 51 and 52 of the Act and rights of first refusal regarding sale of a unit.

The conversion process dealt with the application itself and the approval process – in particular landscaping issues and fencing.

Discussions with respect to the condominium related to private ownership and what the status of the tenant was in a condominium unit. In the end, discussions centred around the fact that the rights of the Tenant remain unaffected and in fact, enhanced – with the opportunity of private ownership.

Only one party remained unconvinced, although not objectors to the process, the Winwoods were concerned about landscaping and fencing. They were advised that both landscaping and fencing were issues usually addressed in the application process.

Three of the five parties attending executed a Tenants' Support Letter. While there were no out right objections to the conversion, not all parties signed the support letter.
## SIGN IN SHEET

**East 42nd Street Condominium Conversion**

Centurion Property Associates Inc. and 2052093 Ontario Ltd.

**PLEASE PRINT YOUR NAME AND SUITE NUMBER**

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<tr>
<th></th>
<th>Name</th>
<th>Suite</th>
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<tr>
<td>1</td>
<td>KAY SWANN &amp; AL STATION</td>
<td>395-A</td>
</tr>
<tr>
<td>2</td>
<td>SHAUN PEARSON</td>
<td>423-C</td>
</tr>
<tr>
<td>3</td>
<td>DEBBIE THOMAS</td>
<td>425-F</td>
</tr>
<tr>
<td>4</td>
<td>MR &amp; MRS B. DINWOOD</td>
<td>387-D</td>
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<tr>
<td>5</td>
<td>MR &amp; MRS GUILLE</td>
<td>425-A</td>
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<td>6</td>
<td>Councillor Tom Jackson</td>
<td>CITY HALL</td>
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TENANT'S SUPPORT LETTER

To Whom it May Concern:

I, [Tenant's Name], the current tenant of [Suite Number] East 42nd Street, Hamilton, Ontario support the application of Centurion Property Associates Inc. and 2052093 Ontario Ltd. to change the current rental ownership of 387, 391, 395, 399 East 42nd Street, and 423 - 425 East 42nd Street Apartment Suites into Condominium Units.

EXECUTED at Hamilton this 27th day of April, 2006.

[Signature]

COMMENTS:

- Leak in the basement creating mold - worked on 3 times
- Air coming through most of windows which is making it costly to heat in winter
- We see the sunlight coming through and a big draft
- Any repairs done have not been finished and look horrible (paint over nails, plaster, foam around fan in bathroom and no cover)
- No underpad under carpet and nails coming through
- Tiles are not sealed, cracking great, moving
- When we were deciding to rent told that our rent was decided on what was being done in and out of our niche.
not done but still paying same rent
- most importantly we have been charged an illegal fee for even 1 day's late payment of rent as told by landlord tenant act where as some tenants have never even heard of this fee.
TENANT’S SUPPORT LETTER

To Whom it May Concern:

I, Ray Swann, the current tenant of 395-A (insert suite number) East 42nd Street, Hamilton, Ontario support the application of Centurion Property Associates Inc. and 2052093 Ontario Ltd. to change the current rental ownership of 387, 391, 395, 399 East 42nd Street, and 423 - 425 East 42nd Street Apartment Suites into Condominium Units.

EXECUTED at Hamilton this 27th day of April, 2006.

Ray Swann

COMMENTS:
TENANT'S SUPPORT LETTER

To Whom it May Concern:

I, [Tenant's Name], the current tenant of [Suite Number] East 42nd Street, Hamilton, Ontario support the application of Centurion Property Associates Inc. and 2052093 Ontario Ltd. to change the current rental ownership of 387, 391, 395, 399 East 42nd Street, and 423 - 425 East 42nd Street Apartment Suites into Condominium Units.

EXECUTED at Hamilton this 27th day of April, 2006.

[Signature]

COMMENTS:
Appendix “C” to Report PED06401

Dear Tenant:

You are invited to attend a Tenant’s Information Meeting. This meeting will be from 7 p.m. to 9 p.m. on April 27, 2006 at the following location:

Macassa Lodge
City of Hamilton
701 Upper Sherman Ave
Hamilton, ON L8V 3M7

CENTURION
PROPERTY ASSOCIATES INC

Centurion Property Associates Inc. and 2052093 Ontario Ltd. have submitted an application to change the current rental ownership of 387, 391, 395, 399 East 42nd Street, and 423 - 425 East 42nd Street Apartment Units into Condominium Units.

What Does This Mean to You As A Tenant?

• Approval of this application for a Draft Plan of Condominium will NOT change your rights as a tenant.

• If you wish, you may remain as a tenant as long as you want, continue to pay rent and enjoy the facilities.

• 2052093 Ontario Ltd. will still own your rental unit.

• The persons controlling and maintaining the building will remain the same.

• The regulation of the Tenant Protection Act will continue to apply to you. In other words, if you are a tenant at the time of approval, you may remain a tenant for as long as you like.

• All costs associated with the conversion process will be paid by the Landlord, and there will be NO incremental rent increases related to the condominium conversion.

What is the Approval Process?

• A Draft Plan of Condominium application was submitted for the conversion of the units.

• The City of Hamilton will review the application and prepare a Staff Report.

• This Report will be presented to the public at the Planning and Economic Development Committee Meeting following this Tenant’s Meeting. The City will be mailing out a notice to all residents to attend this meeting. Your support at this meeting is greatly appreciated.

• If approval of the application/report is granted, the report will be presented to Council the following week for final approval.

What is a Condominium?

• Condominium is a legal term for a form of home ownership.

• Condominium means that the homeowner owns the individual residential unit, PLUS a proportionate share of the common areas.
How Does a Condominium Operate Where the Owner Sells a Majority of the Units?

- Condominium projects are managed by a Board of Directors, elected from within the homeowners. Typically, the Board of Directors retains the services of a Management Company that will make the day-to-day operational decisions.

- For now, 2052093 Ontario Ltd. will continue to own all of the Units that are occupied by the tenants.

- Condominium ownership is premised on payment of a monthly Maintenance Fee. This Fee will be used to pay for the upkeep, maintenance and repairs of all the common elements including: landscaped areas, snow removal etc.

- Items included in the Maintenance Fee can differ from one condominium project to another, i.e. certain utilities may be charged to individual units in one building and metered to the condominium corporation in another.

- As a Tenant, you will NEVER be responsible for the payment of maintenance fees or any other incremental fees associated with the conversion of these properties into a condominium.

We look forward to seeing you at the Tenant’s Meeting on April 27th, 2006. Please note that any questions or issues regarding the Draft Plan of Condominium Process will be answered at this meeting. If you are unable to attend, do not hesitate to contact Marc Lean at 416-777-4015 following the Tenants Meeting for further Insight regarding the condominium conversion.

Regards,

[Signature]

Centurion Property Associates Inc.