SUBJECT: Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 130 St. Joseph’s Drive, Hamilton (PED06141) (Ward 2)

RECOMMENDATION:

That approval be given to Condominium Conversion Application 25CDM-CONV-05-03, Destaron Property Management Ltd., owner, to establish a Draft Plan of Condominium for one hundred and twenty-six dwelling units within the existing apartment building located at 130 St. Joseph’s Drive (Hamilton), as shown on the attached map marked as Appendix “A” to Report PED06141, subject to the following conditions:


(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).

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 an existing apartment building having a total of one hundred and twenty-six units, with one hundred and forty-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 conversion policies of the Hamilton Official Plan.

BACKGROUND:

Proposal

Destaron Property Management Ltd. has applied to establish a Plan of Condominium for an existing apartment building located at 130 St. Joseph’s Drive. The existing building is seventeen storeys in height with a total of one hundred and twenty-six units. Of the one hundred and twenty-six units, eleven units are vacant. Fifty-seven of the units are one bedroom and sixty-nine units contain two bedrooms. The building provides one hundred and forty-three parking spaces, all located in the below grade parking structure (see Appendix “B”). The owner intends to sell one parking space per condominium unit. The remaining seventeen spaces will remain as a common element. The existing building entrances, lobby, stairways, hallways, and laundry areas will also be retained as common elements. No new development is proposed, as the condominium will reflect the existing floor plans and parking layout. The applicant has indicated that interior renovations will be completed in order to modernize and enhance the units.

Location: 130 St. Joseph’s Drive
Applicant: Destaron Property Management Ltd.
Agent: Planning & Engineering Initiatives Ltd.

Property Description:
- Width: 76.05m on St. Joseph’s Drive
- Depth: 74.75m on Arkledun Avenue
- Area: 0.389 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>
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</thead>
<tbody>
<tr>
<td></td>
<td>Apartment Building (126</td>
<td>“E/S-136” (Multiple Dwellings,</td>
</tr>
<tr>
<td></td>
<td>rental units)</td>
<td>Lodges, Clubs, etc.) District,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Modified</td>
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</tbody>
</table>

Surrounding Land Use

North: Single Detached Dwellings (‘D’ (Urban Protected Residential - One and Two Family Dwellings) District)

East: Multiple Dwelling (‘E’ (Multiple Dwellings, Lodges, Clubs, etc.) District)

West: Apartment Building (‘E’ (Multiple Dwellings, Lodges, Clubs, etc.) District)

South: Multiple Dwelling and Vacant Land (‘C/S-154a’ (Urban Protected Residential, etc.) District, Modified)

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) 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 13, 2005, was submitted by the applicant’s agent 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 C7.11 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 Canada Mortgage and Housing Corporation, the Planning Justification Report concluded that the proposed conversion meets the intent of these Official Plan policies 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 in the worst case situation of one-bedroom units for the former City of Hamilton to 3.5% and in the worst case situation for two bedroom units in the Downtown Core to 2.6%, which are above the required 2%; and the average one and two bedroom apartment rents within the subject building are on average $725.00 and $915.00, respectively, which is above the average market rent for the local market zone and the City of Hamilton.

The Public Health & Community Services Department, Program Policy and Planning Division have also provided their analysis of the criteria for conversion in the Official Plan. A detailed review has been provided within the Relevant Consultation Section of this report on Pages 6-8.

Both the conclusions from the Planning Justification Report, and the Program Policy and Planning Division indicate the proposed condominium conversion conforms with the policies of the City of Hamilton Official Plan.

3. As part of the application process, the owner initiated a Tenant Information Meeting on March 23, 2006, advising residents of the intent to convert the tenure of the building from rental to condominium. Twenty-two of the one hundred and twenty-six tenants circulated, attended the meeting.

Attendees were provided the details of tenants’ rights under the Tenant Protection Act. During the question and answer portion of the meeting, matters relating to existing tenancies, tenant’s rights, building improvements and who is responsible for covering the associated costs, parking spaces, selling price of units, and timing of approval, were addressed. There were no objections expressed regarding the proposed conversion of the units to condominium tenure. See attached Appendix “C” for a summary of questions asked and answers provided.
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.

5. 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.

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

**ALTERNATIVES FOR CONSIDERATION:**

Should the proposed condominium conversion not be approved, the existing apartment 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.

- **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 subject lands are designated “Residential” on Schedule “A”, General Land Use Plan of the City of Hamilton Official Plan.

The proposal conforms to the “Residential” designation of the Official Plan.

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.

Corktown Neighbourhood Plan

The approved Corktown Neighbourhood Plan designates the subject lands as “Medium Density Apartments”. Within the plan, it is noted that, “Condominium conversions, from rental to owner occupancy will be used to offset the imbalance between rental and ownership housing subject to the policies of Council regarding the criteria for condominium conversions.” 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.

RELEVANT CONSULTATION:

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).
- 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:

1. The proponent estimates the selling value of the units to be between $100,000 to over $200,000.

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 allow the financing to renovate the units prior to their sale.

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 C7.11 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; and,

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.

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 four private rental apartment starts in the (new) City of Hamilton in 2004. In the previous year (2003), there were thirteen private rental apartment starts and ninety-five starts in 2002. The housing market analysis below will assess whether the proposed condominium conversion meets the requirements 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.
Table 1: Vacancy Rate and Average Market Rents in CMHC Zone 1 (Hamilton) in 6+ Privately-Initiated Apartment Buildings

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<tbody>
<tr>
<td>Bachelor</td>
<td>3.33%</td>
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<td>One-Bed</td>
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<td>Two-Bed</td>
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<td>Three-Bed+</td>
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<td>2.59%</td>
<td>$954</td>
</tr>
<tr>
<td>Total</td>
<td>4.46%</td>
<td>$668</td>
<td>3.23%</td>
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Table 2 shows the vacancy rate and average market rent for the former City of Hamilton for privately initiated apartment buildings.

Table 2: Vacancy Rate and Average Market Rents in the City of Hamilton (former) in 6+ Privately-Initiated Apartment Buildings

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<tbody>
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<td>4.29%</td>
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<tr>
<td>One-Bed</td>
<td>3.76%</td>
<td>$613</td>
<td>3.34%</td>
<td>$605</td>
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<tr>
<td>Two-Bed</td>
<td>4.23%</td>
<td>$747</td>
<td>3.25%</td>
<td>$732</td>
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<tr>
<td>Three-Bed+</td>
<td>3.65%</td>
<td>$901</td>
<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>
<td>n/a</td>
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</tbody>
</table>


In 2004, the former City of Hamilton’s average vacancy rate for 1-bedroom units in 6+ privately initiated apartment buildings was 3.76% and 4.23% for 2-bedroom units. In 2003, the vacancy rates for 1- and 2- bedroom apartments were 3.34% and 3.25%, respectively. A similar trend can be observed in the local housing market zone. The average vacancy rate for 1-bedroom units in Zone 1 was 4.69 % and for 2-bedroom units it was 4.64% in 2004. The vacancy rates in 2003 for 1- and 2- bedroom apartments were 2.77% and 3.62%, respectively.

The conversion of the subject rental units to condominiums does not negatively impact the vacancy rates such that rates would fall below 2%.

According to the rent rolls attached with the proponent’s application, almost all units have rents higher than the average market rent for each unit type (i.e., one-bedroom, two-bedroom, etc.) in the former City of Hamilton and local housing market zone for the past two years.
In terms of “affordable” homeownership, the prices quoted by the proponent for the one and two-bedroom units would appear to be modestly priced in comparison to other condominium projects in the 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**

As part of the application process, the owner initiated a Tenant Information Meeting on March 23, 2006, advising residents of the intent to convert the tenure of the building from rental to condominium. Twenty-two of the one hundred and twenty-six tenants circulated, attended the meeting. Issues raised at that meeting are discussed in the Analysis/Rationale Section of this report. There were no objections expressed regarding the proposed conversion of the units to condominium tenure.

The Notice of Public Meeting was circulated to all current tenants on April 28, 2006.

**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
  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. (3)
MINUTES OF TENANT INFORMATION
MEETING HELD ON MARCH 23, 2006
AT 1702 – 130 ST. JOSEPH’S DRIVE

GUESTS IN ATTENDANCE: George Zajac, Peil
                          Jared Marcus, Peil
                          Alan Buist, lawyer
                          Shannah Murray, City of Hamilton
                          Bob Bratina, City Councilor

Meeting commenced at 6:05 p.m. on Thursday, March 23rd, 2006.

G. Zajac thanked everyone for coming and went through some key points regarding the conversion. He also informed tenants of the hand-outs provided and how important it was to sign-in. Then he opened it up to the tenant’s questions.

Question: If a capital expense needs to be done who is responsible?
Answer: Large expenditures must be approved usually by a meeting with the board and the owners to get approval for a special assessment.

Question: Who is responsible for any updates of the units?
Answer: It is the owner of the units responsibility.

Question: How is the reserve fund maintained?
Answer: The Condo Act requires that part of the maintenance fees go towards the fund monthly.

Question: Does the current owner have to start the reserve fund?
Answer: The fund starts at zero. Only owners contribute to the fund. Tenants do not pay anything.
Question: Do you have any idea of how much the units will sell for?
Answer: A value has not been decided yet. However, the mortgage will probably be less than rent.

Question: How much will the taxes be?
Answer: City taxes are assessed and the condo owners are responsible for the taxes not the tenants.

Question: Time line for approved changes.
Answer: Shannah stated that application is being reviewed by City of Hamilton staff and it will take approximately three months before city meeting. Once approved, it takes another month or so to draw up draft plan with conditions. City of Hamilton staff will inform tenants when city meeting will be held.

Question: What happens to tenants that are renting?
Answer: Existing tenants have the “right of first refusal” to purchase their unit. If they chose not to buy, they can continue to occupy their unit for so long as they do not default under the terms of tenancy arrangements or until they decide to move out. This is referred to as “security of tenure”. The only change would be that the owner of the condo would become the existing tenant’s new landlord.

Question: What happens if someone purchases an entire floor?
Answer: The tenant would not have the right of first refusal. However, if at a later date the purchaser wished to sell the individual unit still occupied by the same tenant, the tenant would be provided with the right of refusal at that time.

Question: Are commons areas going to be upgraded?
Answer: Yes.

Question: Will this affect assessment after work done re price of unit?
Answer: George will check into this. Once converted into condos, the cost of maintenance will be shared by the owners not the tenants.
Question: What happens if, after you purchase a unit, the building needs a new roof?
Answer: Allan advised that a Reserve Fund must be set up and at least 10% of the annual budget must be put into the fund to cover maintenance. Owners must retain an engineer and do a Reserve Fund study prior to approval being granted. Once application approved, must set up a Reserve Fund within nine months.

Representative of Destaron Property Management stated that all major capital projects will be 100% paid for before selling any units.

Question: If whole building becomes condos, who represents tenants?
Answer: The owner of the condo suite.

Question: What about parking spots?
Answer: Allan stated that this has not been decided yet but could be bought and sold with unit or included in common elements for exclusive use of owner of condo.

Shannah advised that, as building is zoned residential, in order to convert to condos must meet following criteria:

1) building vacancy rate 2% or greater in last 24 months
2) conversion rate will not reduce below 2%
3) market rents below average of City

G. Zajac thanked everyone for coming and again expressed the importance of the sign-in sheet. He also asked if anyone was in attendance that was not a tenant of the building, at which point, Councillor Bratina replied.

Meeting adjourned at 7:05 p.m.