SUBJECT: Application for Approval of a Draft Plan of Condominium Conversion, "Belvista Properties", for Lands Located at 416 East 42nd Street (Hamilton) (PED06201) (Ward 6)

RECOMMENDATION:

That approval be given to Condominium Conversion Application 25CDM-CONV-06-03, Belvista Properties Inc. (Ray Ross), owner, to establish a Draft Plan of Condominium for twenty-two existing apartment units, located at 416 East 42nd Street (Hamilton), as shown on the attached map marked as Appendix “A” to Report PED06201, subject to the following conditions:

(a) That this approval applies to the plan, prepared by A.T. McLaren Limited, and certified by S.D. McLaren, O.L.S., dated June 9, 2006, showing a total of twenty-two residential apartment units, attached as Appendix "B" to Report PED06201.

(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. 12, 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 buildings and any Owner initiated measures required to correct any deficiencies prior to the release of the final plan for registration.
2. Bell Canada (Condominium Conversions) Condition No. 3.

3. 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 this application is to establish a Plan of Condominium for an existing apartment building having a total of twenty-two apartment 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 property contains one three-storey building and is located on the west side of East 42nd Street between Pemberton Avenue and Ninth Avenue; generally located north of Mohawk Road and east of Upper Gage Street, on the east Hamilton Mountain (see Appendix “A” to Report PED06201). There are twenty-two existing apartment units, and 23 existing parking spaces. Each unit has two bedrooms and has an average floor area of approximately 74 square metres (796 sq. ft.). This proposal is for a change in tenure from rental apartment units to condominium apartment units.

**Location:** 416 East 42nd Street

**Owner:** Ray Ross

**Applicant:** Belvista Properties Inc.

**Property Description:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>0.46 hectares</td>
</tr>
<tr>
<td>Lot Frontage</td>
<td>30.48 metres</td>
</tr>
</tbody>
</table>
Lot Depth: 60.75 metres

**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><strong>Subject Lands</strong></td>
<td>Apartment Units</td>
<td>“E” (Multiple Dwellings) District</td>
</tr>
<tr>
<td><strong>Surrounding Land Uses</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North:</td>
<td>Apartments Units</td>
<td>“E” (Multiple Dwellings) District</td>
</tr>
<tr>
<td>West:</td>
<td>Single Detached Dwellings</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
</tr>
<tr>
<td>South:</td>
<td>Apartment Units</td>
<td>“E” (Multiple Dwellings) District</td>
</tr>
<tr>
<td>East:</td>
<td>Apartment Units</td>
<td>“E” (Multiple Dwellings) District</td>
</tr>
</tbody>
</table>

**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) The location of the building complies with the City of Hamilton Zoning By-law, and the parking and driveway aisle are legal non-conforming.
   
   (iv) 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 (24) 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 units in both 2004 and 2005 were 3.0%. The vacancy rate for the entire City of Hamilton was 4.2% in 2004 and 5.0% in 2005 for two-bedroom units. When justifying this proposal via this statistical information, two-bedroom units in the entire City of Hamilton included a total 13, 531 units, of which 679 were vacant, putting the vacancy rate at 5.0%. Therefore, removing the twenty-two units from the supply creates only a minor reduction in the vacancy rate to 4.9%. Further, the Hamilton Mountain Zone identifies a total supply of 3,523 two-bedroom units of which 106 are vacant. The existing vacancy rate for this Zone is 3.0% and if the proposed twenty-two units are removed for this housing supply, a reduction to 2.9% is created. 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 not fall below 2%.

Using the same CMHC statistical information, Policy 3 of the Official Plan mentioned above is not compromised. According to the information provided, two-bedroom units in the City of Hamilton (2005) had an average rent of $736.00 per month. For the Hamilton Mountain Zone, a two-bedroom unit had an average rent of $732.00. The proposed conversion units are currently rented at $728.00 per month. Therefore, the average rents in the existing building are not significantly lower than the average market rent for two-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 apartments into condominiums. An information package letter was circulated to the tenants of the twenty-two units on March 10, 2006 (see Appendix “C” to Report PED06201). 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 building. In addition to this information package, the applicant also conducted a tenant information meeting on March 28, 2006, at which 10 of the 22 tenants attended. This meeting provided further opportunity for the tenants to ask questions. In March 2006, the applicant also conducted a survey asking four questions (see “Appendix C”) and all of the twenty-two tenants responded to the questionnaire. The survey results are as follows:

- two tenants are interested in purchasing a unit;
- nine tenants are not currently interested in purchasing but would like to know more about it as the information becomes available;
- nine tenants are not interested in purchasing, but understand their rights; and,
- two tenants are not interested in purchasing, and oppose the change in status.

With respect to the last question asked in the survey, the two tenants were spoken to further with regard to their concerns. The first related to noise being emitted as part of the modernization of the units, and the second was with respect to a previous experience the individual had as part of a different condominium conversion. The applicant has assured both tenant’s that their concerns will be taken into consideration as part of this conversion process.

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 Conditions No. 12 and 16 of the City’s standard conditions of approval, which require compliance with the Zoning By-law, and the applicant to satisfy conditions financial and otherwise of the City.

**ALTERNATIVES FOR CONSIDERATION:**

Should the proposed condominium conversion not be approved, the existing apartment 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 Regional 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
- Corporate Services Department

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

The proponent has indicated that the average rent for the units is $728.00.
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 two-bedroom apartment units.

Table 1: Vacancy Rate and Average Market Rent for 2-Bedroom Apartment Units in CMHC Zone 6 - Mountain (Hamilton)

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<tr>
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<tbody>
<tr>
<td>Two-Bed</td>
<td>3.0%</td>
<td>$754</td>
<td>3.0%</td>
<td>$732</td>
</tr>
</tbody>
</table>

Source: CMHC (2005)

Table 2 shows the vacancy rate and average market rent for the former City of Hamilton for privately initiated two-bedroom apartments.

Table 2: Vacancy Rate and Average Market Rents for 2-Bedroom Apartment Units in the former City of Hamilton

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</thead>
<tbody>
<tr>
<td>Two-Bed</td>
<td>4.2%</td>
<td>$744</td>
<td>5.0%</td>
<td>$736</td>
</tr>
</tbody>
</table>

Source: CMHC (2005)

In 2005, the former City of Hamilton’s average vacancy rate for a two-bedroom apartment unit was 5.0%. In 2004, the vacancy rate for two-bedroom apartments was 4.2%. The average vacancy rate for two-bedroom apartment units in Zone 6 was 3.0% in 2005. The vacancy rate in 2004 for two-bedroom apartment units was also 3.0%. 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 information attached with the proponent’s application, the average rents in the complex ($728) are not significantly lower than the average market rent for 2 bedroom units in the former City of Hamilton ($736) and the local housing market zone ($732).

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 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 (24) 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, the 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)
Location Map

File Name/Number: CDM-CON-06-03
Date: May 31, 2006

Appendix “A”

Scale: N.T.S.
Planner/Technician: JM/NB

Subject Property
Condominium Conversion for 416 East 42nd Street, Hamilton

Site of Application

Ward 6 Keymap N.T.S.
## TENANT MEETING SIGN-IN SHEET

Please PRINT your name and address. Meeting hosted by Belvista Properties Inc. and Planning & Engineering Initiatives Ltd.

Held on Tuesday, March 28th 2006 at Trinity Presbyterian Church.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address &amp; Postal Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mark Price</td>
<td>Apt. #202  416 East 42nd St.  L8J 3A9</td>
</tr>
<tr>
<td>Walt Austin</td>
<td>Apt. #105</td>
</tr>
<tr>
<td>Mike Stacey</td>
<td>Apt. #201</td>
</tr>
<tr>
<td>Cindy Nog &amp; Rob Giesche</td>
<td>Apt. #308</td>
</tr>
<tr>
<td>Vicki Garrett</td>
<td>Apt. #206</td>
</tr>
<tr>
<td>Ronald Bowers</td>
<td>Apt. #101</td>
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<td>Richard Bolger</td>
<td>Apt. #102</td>
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<tr>
<td>St. N.</td>
<td>Apt. #305</td>
</tr>
<tr>
<td>Tina Gapic</td>
<td>#302</td>
</tr>
<tr>
<td>Bonnie Ingram</td>
<td>#303</td>
</tr>
</tbody>
</table>
416 EAST 42nd STREET

CONDOMINIUM CONVERSION

WHAT IS THE REASON FOR THIS MEETING?

Application is being made to register the Apartments at 416 East 42nd Street as condominium units.

BACKGROUND:

The current owner's intent was to acquire a moderate sized apartment rental building of good construction values which had the ultimate potential to be upgraded to condominiums. This project had 3 parts and the first 2 have been accomplished:

1. Complete physical improvements to restore the building to its former condition as a first class rental property.
2. Enhance the quality of residents in the property through conscientious hands on management and selective tenant recruitment.
3. Develop the property into its highest use i.e. affordable home ownership. We intend to offer very good value to the first time or senior home buyer. Our foremost consideration is to offer preferential terms to any of our existing residents who may be interested.

GENERAL

The conversion of 416 East 42nd Street into a condominium property will provide you, our existing resident, with enhanced tenancy while improving several aspects of your home. Your rights as a tenant remain intact and are unaffected by this development. The Tenant Protection Act – “Conversion to condominium, security of tenure” ensures your continued security of tenure after conversion.

After final approval and registration is complete, several aspects of the property and the building will be upgraded. Additionally, a package of services and apartment upgrades will be offered to those residents who purchase their units as condominiums.

CONTEMPLATED PROPERTY AND BUILDING UPGRADES:

a. Enhanced landscaping.
b. Resurface parking lot.
c. Refinish building exterior.
d. Replace windows/patio doors.
e. Replace boiler.
f. Upgrade electrical service.
g. Install new intercom system.
h. Remodel or refurbish flooring, walls, ceilings and lighting in all common areas.
PLANNED APARTMENT CONDOMINIUM UPGRADES (to be completed when unit becomes vacant or is purchased by a tenant):

a. New flooring and finishes throughout.
b. New lighting fixtures throughout.
c. New interior and closet doors throughout.
d. New high quality appliances i.e. full size stove, full size refrigerator, stacked washer/dryer combination.
e. New kitchen i.e. cupboards, countertops, sink and faucets.
f. New bathroom i.e. tile, tub, showerhead, toilet, sink, and faucets.
g. Upgrade electrical.
h. Air conditioning (optional)

Prior to releasing the apartment condominiums for sale to the general public, you, as a current resident, will be given first opportunity to purchase a condominium at a reduced price with favourable financing terms. One-on-one consultation about mortgage financing is available to those who are interested.

We will keep in communication with you regarding the progress of the conversion process. In this meeting we will try to address any and all issues raised, however we have outlined below some basic issues for you to consider:

1. What happens if I decide to buy my unit?
   a. You would provide a letter of intent to purchase.
   b. You can purchase your own unit at a purchase price of $5,000 below the pricing schedule for third party purchasers.
   c. You can arrange your own financing or TD Canada Trust will offer a first mortgage for up to 95% (or 100% if you wish) to qualified buyers.

2. What if I don’t want to buy my unit now…..but maybe later?
   a. You would provide a letter of intent or an option to purchase the unit within a period of 2 years from the date that condominium status is approved.
   b. You will receive the $5000 price reduction described above.

3. What if I do not want to purchase my unit at all?
   You remain a tenant, as you are now.

4. Can I buy my unit as is, without any of the upgrades?
   a. Yes, you can purchase your unit as it is.
   b. You would provide a letter of intent to purchase.
   c. You can purchase your unit at a purchase price of $10,000 below the pricing schedule for third party purchasers.
5. Can I purchase a different condominium, other than my own, in the project?

   Yes. Apartments will be renovated and upgraded as they become vacant. As a resident you will be made aware of units to be offered for sale before the general public. The same terms and offers will apply.

6. Will the property/ building improvements be completed even though some of the tenants decide not to buy their units?

   Yes.

7. Will my rent go up due to this conversion to condominiums?

   No. The Tenant Protection Act continues to govern all matters pertaining to your tenancy, including allowance for rent increases.

8. If I buy, will I have to upkeep my condominium unit?

   Once the property is fully registered and a condominium board established, monies are set aside for the upkeep of the common element areas like landscaping, parking, building exterior, interior common areas etc. It will be up to you to maintain the interior of your unit itself (in keeping with the condominium declaration and by-laws).
Signature

| I am not interested in purchasing a unit and I oppose the change in status of our building |
| 416 East 42nd St. I therefore do not oppose changing the status of our building |
| and I will now have no additional fees to pay so long as I choose to remain a tenant at |
| guaranteed that the planned conversion will have no effect on my tenancy or rent levels |
| Am not interested in purchasing a unit, but I do understand that the Tenant Protection |
| time and would like to know more about it as the information becomes available |
| Am not ready to commit to purchasing a unit but still may be interested at a future |
| WOULD BE INTERESTED IN PURCHASING A UNIT AND WOULD LIKE TO KNOW MORE ABOUT IT AS THE |
| INFORMATION IN THE ATTACHED REGARDING MY RIGHTS AND OPTIONS AS AN EXISTING TENANT |
| TO COMMUNICATE STANCE AND OR NOT BEING ABLE TO ATTEND THE MEETING BUT STILL INTERESTED |
| AFTER ATTENDING THE INFORMATION MEETING ABOUT THE PLANNED CONVERSION OF 416 EAST 42ND SL |
| OSWEETON 416 416 416 |
| 412 Simcoe St. N. |
| Belvista Properties Inc. |
| March 2006 |