



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	June 3, 2014
SUBJECT/REPORT NO:	Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 12 Proctor Boulevard, Hamilton (PED14095) (Ward 3)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Alvin Chan (905) 546-2424 Ext. 1334
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That approval be given to **Condominium Conversion Application CDM-CONV-12-02, by Radcliffe Properties Inc. c/o: David Horwood, Owner**, to establish a Draft Plan of Condominium for 34 existing apartment units and 35 parking space units, located at 12 Proctor Boulevard, Hamilton, as shown on Appendix "A" to Report PED14095, 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 20, 2012, showing a total of 34 residential dwelling units and 35 parking space units, attached as Appendix "B" to Report PED14095;
- (b) That the Final Plan of Condominium complies with all of the applicable provisions of Zoning By-law No. 6593;
- (c) That the owner satisfies all conditions, financial or otherwise, of the City of Hamilton;
- (d) 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; and,

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- (e) That the owner/applicant shall include the following warning clause in all Development Agreements and all Offers of Purchase and Sale or Lease/Rental Agreements:

“Purchasers/tenants are advised that sound levels, due to increasing road traffic, may occasionally interfere with some activities of the dwelling occupants, as the sound levels may exceed the Municipality’s and the Ministry of the Environment’s noise criteria.”

EXECUTIVE SUMMARY

This application seeks approval of a Draft Plan of Condominium (attached as Appendix “B” to Report PED14095), in order to allow a change in tenure of the existing 34 apartment units (3 bachelor, 24 one-bedroom and 7 two-bedroom), and 35 parking space units, along with common element(s), for lands located within the existing building at 12 Proctor Boulevard, Hamilton, to condominium apartment units under a Standard Form Plan of Condominium. A detailed plan, documenting the existing site conditions, has also been provided (see Appendix “C” to Report PED14095).

The proposal has merit and can be supported since the application is for a change in tenure, and is consistent with the Provincial Policy Statement, and conforms to the Growth Plan for the Greater Golden Horseshoe and the Urban Hamilton Official Plan.

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: The Planning Act does not require a Public Meeting for an application for Condominium Conversion. However, notice was given to the existing residents, via a hand-delivered mailing on May 16, 2014 to 34 tenants/residents by the owner/agent.

HISTORICAL BACKGROUND

Proposal:

This application seeks approval of a Draft Plan of Condominium (Standard Form) to allow for a change in tenure of the existing 34 apartment units (3 bachelor, 24 one-bedroom, and 7 two-bedroom), located within the existing building at 12 Proctor Boulevard, Hamilton, from rental to condominium.

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The proposed Draft Plan of Condominium Conversion will create individual apartment units, including balconies, unit parking spaces (total of 26 spaces), and exclusive use areas, while the remainder of the building (including hallways, laundry rooms, lobby, and storage rooms) and the remainder of the site (including landscaped areas, access areas, amenity space, visitors parking area (total of nine spaces), would form the common use areas (see Appendix “B” to Report PED14095).

A detailed plan documenting the existing site conditions has also been provided (see Appendix “C” to Report PED14095).

Chronology:

- December 24, 2012: Application submitted for a Draft Plan of Condominium Conversion 25CDM-CONV-12-02 by IBI Group (Agent), on behalf of Radcliffe Properties Inc. (Owner).
- January 23, 2013: Application 25CDM-CONV-12-02 is deemed complete.
- February 20, 2013: Applicant/owner hand-delivered notice of Tenant Information Meeting for proposed Condominium Conversion.
- March 5, 2013: Applicant/owner sponsored Tenant Information Meeting.
- November 25, 2013: Application submitted for a Minor Variance HM/A-13:251 by IBI Group (Agent), on behalf of Radcliffe Properties Inc. (Owner).
- January 9, 2014: Approval of Minor Variance Application HM/A-13:251.
- January 30, 2014: Minor Variance Application HM/A-13:251 – Final and Binding.
- March 7, 2014: Existing Conditions Plan for Condominium Conversion application 25CDM-CONV-12-02 submitted for zoning compliance review.
- May 16, 2014: Notice of Planning Committee Meeting to all tenants of 12 Proctor Boulevard hand-delivered by owner/agent.

Details of Submitted Application:

Location: 12 Proctor Boulevard, Hamilton (see Appendix “A” to Report PED14095)

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Owner/Applicant: Radcliffe Properties Inc. (c/o David Horwood)

Agent: IBI Group (c/o George Zajac)

Property Description: Lot Frontage: 31.89 m.
Lot Depth: 34.02 m.
Lot Area: 1,200.0 sq. m.
Servicing: Existing municipal services

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Multiple Dwelling – 34 Unit Apartment Building	“E District” (Multiple Dwellings, Lodges, Clubs, Etc.) District
<u>Surrounding Land Uses:</u>		
North	Dental Office	“H” (Community Shopping and Commercial, Etc.) District
South	Single Detached Dwelling	“C” (Urban Protected Residential, Etc.) District
West	Convenience Store	“H” (Community Shopping and Commercial, Etc.) District
East	Single Detached Dwelling	“C” (Urban Protected Residential, Etc.) District

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014):

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognize that the application is consistent with the PPS, as the application simply seeks to establish a Condominium form of tenure through the approval of a Draft Plan of Condominium Conversion, for existing development within the settlement area that efficiently uses land, resources and infrastructure, where full municipal services are available.

Growth Plan for the Greater Golden Horseshoe (Places to Grow):

As the proposal is to establish a Condominium form of tenure through the approval of a Draft Plan of Condominium Conversion, the subject application for lands within the settlement area, which protect, conserve, enhance, and wisely use the valuable natural resources of land, air, and water, for current and future generations; while optimizing the use of existing and new infrastructure to support growth that is in a compact, efficient form; and establishing a built compact, vibrant, and complete community conforms to the policies of the Growth Plan for the Greater Golden Horseshoe (Places to Grow).

Urban Hamilton Official Plan (UHOP):

The subject lands are designated “Neighbourhoods” on Schedule “E” - Urban Structure and Schedule “E-1” – Urban Land Use Designations in the UHOP. Any proposed Condominium Conversion is subject to conversion criteria, as established through Policy B.3.2.5.1. In particular, conversion to condominium of rental apartments shall be permitted if any one of three general criteria of Policy B.3.2.5.1 is met. It should be noted that a “healthy” or “balanced” rental market vacancy rate is generally considered to be between 2% to 3%.

In review, Policy B.3.2.5.1 allows for conversion subject to compliance with one of the sub-policies of this Section, (a) to (c), inclusive. In particular, the proposed condominium conversion has demonstrated conformity with sub-policy (a), being the following criteria:

- “i) The rental vacancy rate by dwelling unit and structure type for the City and the respective local housing market zone, as identified on Schedule G - Local Housing Market Zones and based on CMHC data, has been at or above 2.0% for the preceding twenty-four months;*
- ii) The proposed conversion shall not reduce the rental vacancy rate by dwelling unit and structure type to below 2.0% for the City and the respective local housing market zone;*
- iii) The existing market rent levels for the units proposed to be converted are not significantly (approximately 10%) below the average market rent levels for the City and the respective local housing market zone for rental units of a similar dwelling unit and structure type and size; and,*
- iv) For vacant rental units, the last market rent levels charged prior to vacancy for the units proposed to be converted were not significantly (approximately 10%) below the average market rent levels at the time for the City and the respective local housing market zone for rental units of a similar dwelling unit and structure type and size.”*

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By using specifically-ordered data from Canada Mortgage and Housing Corporation (CMHC), an analysis has been undertaken of rental market activity in the former City of Hamilton and respective CMHC local housing market zone.

Table 1 shows the vacancy rate and average market rent for the local housing market zone (i.e., Zone 1+4) for privately initiated bachelor, one-bedroom and two-bedroom apartment units.

Table 1: Vacancy Rate and Average Market Rent by Unit Type in Zones 1+4 (Downtown – Central)

Unit Type	Vacancy Rate (2012)	Average Rent (2012)	Vacancy Rate (2013)	Average Rent (2013)
Bachelor	4.2%	\$542	6.3%	\$570
One-Bedroom	4.6%	\$691	4.5%	\$713
Two-Bedroom	4.8%	\$859	3.5%	\$892

Source: CMHC (2012, 2013)

Table 2 shows the vacancy rate and average market rent for the former City of Hamilton for privately initiated bachelor, one-bedroom and two-bedroom apartment units.

Table 2: Vacancy Rate and Average Market Rents by Unit Type in the Former City of Hamilton Zones 1-6

Unit Type	Vacancy Rate (2012)	Average Rent (2012)	Vacancy Rate (2013)	Average Rent (2013)
Bachelor	5.1%	\$542	6.31%	\$565
One-Bedroom	4.0%	\$691	4.0%	\$720
Two-Bedroom	4.3%	\$814	3.3%	\$864

Source: CMHC (2012, 2013)

As can be seen from the above tables, the vacancy rates for all unit types in the local housing market zone and in the former City of Hamilton in 2012 and 2013 were above 2%. The conversion of the subject rental units to condominium does not negatively impact vacancy rates such that rates would fall below 2% for any unit type in Zone 1+4 and for the former City of Hamilton.

Based on the rent rolls provided by the proponent and the updated data, staff note that none of the 34 units have rents significantly (10%) below the average market rent for Zone 1 and 4, nor the former City of Hamilton. Specifically, in 2013, the bachelor units ranged from \$578-\$657, the one bedroom units ranged from \$652-\$740, and the two

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bedroom units ranged from \$788-910, respectively. As such, the application conforms to the above noted policies.

Based on the foregoing, as the proposal is for a change in tenure for the existing 34 unit apartment building located at 12 Proctor Boulevard, with no proposed physical changes to the existing building and/or site, the proposal conforms to the policies of the UHOP.

Gibson Neighbourhood Plan:

The subject lands are identified as “Medium Density Apartments” in the Gibson Neighbourhood Plan. As the proposal is for a change in tenure to the existing, 34 unit apartment building, it conforms to the “Residential” policies and, as per the implementation policies of Section D of the UHOP, are deemed to also conform to the “Medium Density Apartments” designation of the Gibson Neighbourhood Plan.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections to the application:

- Taxation Division, Corporate Services Department.
- Engineering Services Division, Public Works Department.
- Recreation Division, Community and Emergency Services Department.
- Corporate Assets and Strategic Planning Division, Public Works Department.

Hamilton Municipal Parking System has identified that parking space No.14 within the underground garage appears to be substandard. Furthermore, there is insufficient parking for the 34 residential apartment units to be converted. In particular, 43 parking spaces and a single loading space are required, with all parking spaces to be suitably dimensioned in accordance with the Zoning By-law without encumbrances, including any columns, retaining walls, pillars, etc.

It is noted that Minor Variance Application HM/A-13:251 (see Appendix “F” to Report PED14095), reduced the required parking to 35 spaces, with a new minimum dimension of 2.3 m. x 5.5 m. and removed the loading space requirement.

Based on the foregoing, and as appropriate variances have been obtained, staff are of the opinion that the above comments and/or concerns have been appropriately addressed through the approval of Minor Variance Application HM/A-13:251.

Housing Services Division, Community Services Department have identified that the proposed condominium conversion conforms to the requisite condominium conversion policies of the UHOP, but have also identified that as per Section 3.2.2 of

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the UHOP, an annual target of 629 units of new rental housing supply is required in order to keep pace with projected demand/growth.

The City is not meeting this annual target, and any loss of rental housing through demolition or conversion will compound this deficit.

In review of the above comments, staff note that the proposal conforms to the requisite policies of the UHOP to allow for a condominium conversion. While the proposal would compound the existing rental housing supply deficit, it is noted that the proposed conversion will not reduce the rental vacancy rate by dwelling unit and structure type to below 2.0% for the City, or the respective local housing market zone. Moreover, future owners of these condominium units may still elect to have them available for rent and will not necessarily be owner occupied.

Lastly, the agent has indicated that it is anticipated, based on current market conditions, that the subject units will be classified as affordable housing units, as defined by the UHOP, being 10% below market value. Based on the foregoing, as the proposal conforms to the conversion criteria, will maintain the possibility for rental through future owner(s) and would constitute affordable housing, staff are of the opinion that the proposal conforms to the UHOP and will not compromise the rental housing supply and is, therefore, supportable.

PUBLIC CONSULTATION

The tenants in the building were provided with an information package, and notice of a future Tenant Information Meeting was hand delivered by the consultants to 34 tenants/residents on February 20, 2013 (see Appendix “D” to Report PED14095). Details of the proposal and the tenants’ rights under the Residential Tenancies Act and an associated questionnaire were provided.

Six tenants were in attendance at the Tenant Information Meeting on March 5, 2013, and an additional six written questionnaire responses (two in support, one in opposition, and three not applicable), were submitted (see Appendix “E” to Report PED14095).

There is no statutory requirement for notice of the Planning Committee meeting regarding the proposed Condominium Conversion; however, the owner and/or agent has provided notice to the respective 34 tenants/residents via a hand delivered mailing on May 16, 2014.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

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 Growth Plan for the Greater Golden Horseshoe;
 - (ii) It conforms to the Condominium Conversion policies of the new Urban Hamilton Official Plan; and,
 - (iii) The proposal establishes a new form of tenure for the existing 34 apartment units and 35 parking spaces within the existing multiple dwelling located at 12 Proctor Boulevard, with no changes to the existing site.

In particular, a Standard Form Condominium will be established with individual apartment units, including balconies, unit parking spaces (total of 26 spaces), and exclusive use areas, while the remainder of the building (including hallways, laundry rooms, lobby, and storage rooms) and the remainder of the site (including landscaped areas, access areas, amenity space, and visitor's parking areas, total of nine spaces) would form the common use areas (see Appendix "B" to Report PED14095).

As the proposal conforms to the conversion policies of the Urban Hamilton Official Plan, staff supports the subject application.

2. Engineering Approvals (Development Engineering) has advised there are no concerns respecting the subject application. Information provided identified that there are full municipal services available and no road widenings are required, as Proctor Boulevard provides the required 20.12 m.
3. In accordance with Section 9(4) of the Condominium Act, 1998, when an application is made to convert a residential building from rental to condominium tenure, the municipality shall require the owner/applicant to retain a qualified Registered Professional Engineer or Licensed Architect, to prepare, certify, and 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, to the satisfaction of the Chief Building Official of the City of Hamilton.

Accordingly, staff have included Recommendation (d) to address this requirement.

In addition, due to the proximity of the subject lands to King Street East and Sherman Avenue South, staff have requested that a noise warning clause be

applied to any Purchase and Sale or Lease/Rental Agreements advising all future purchasers/tenants of the following:

“Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality’s and the Ministry of the Environment’s noise criteria.”

Accordingly, staff have included Recommendation (e) to address this requirement.

ALTERNATIVES FOR CONSIDERATION

If the application is denied, the applicant would be able to retain the existing, 34 unit multiple dwelling as a rental apartment building, as it currently operates.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Draft Plan of Condominium Conversion
- Appendix “C”: Existing Conditions Plan
- Appendix “D”: Notice of Tenant Information Meeting, Dated February 20, 2013
- Appendix “E”: Questionnaire Responses from the March 5, 2013, Tenant Information Meeting
- Appendix “F”: Minor Variance HM/A-13:251 Decision - Final and Binding

:AC