



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	December 1, 2015
SUBJECT/REPORT NO:	Application for a Condominium Conversion for Lands Known as 275 King Street West (Hamilton) (PED15174) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Gerry Tchisler Planner (905) 546-2424 Ext. 4148 Stephen Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That approval be given to **Condominium Conversion Application 25CDM-CONV-15-01, by Hess Village Real Estate Corporation, Owner**, to establish a Draft Plan of Condominium for the existing apartment building, consisting of 29 dwelling units, located at 275 King Street West (Hamilton), as shown on the attached map marked as Appendix “A” to Report PED15174, subject to the following:

- (a) That this approval for Draft Plan of Condominium application 25CDM-CONV-15-01 applies to the red-lined plan, prepared by A.J. Clarke and Associates certified by B.J. Clarke, O.L.S., dated April 15, 2014, showing a total of 29 dwelling units, attached as Appendix “B” to Report PED15174;
- (b) That the conditions of Draft Plan of Condominium Approval attached as Appendix “C” to Report PED15174 be received and endorsed by City Council.

EXECUTIVE SUMMARY

The purpose of this application is to create a Plan of Condominium for 29 existing dwelling units located at 275 King Street West (Hamilton). The condominium conversion will allow for the tenure of the units to change from rental to condominium ownership. The existing tenants are protected under the *Residential Tenancies Act*.

The proposed condominium conversion, subject to the recommended draft plan conditions, has merit and can be supported, with conditions, as the proposal is consistent with the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe, and complies with the “Housing” policies of the Urban Hamilton Official Plan.

Alternatives for Consideration – See Page 12

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Recent condominium conversions have generally seen a doubling in property value. The property is currently taxed at the Multi-Residential tax rate. After conversion, the property will be taxed at the Residential tax rate. The Multi-Residential rate is 2.74 times higher than the Residential rate which may represent a net loss to the City in property taxes. However, the net effect cannot be determined until the Municipal Property Assessment Corporation (MPAC) re-values the building. This is done after the condominium plan is registered.

The property is currently assessed at \$3,456,345 with yearly taxes of \$119,282 comprising \$112,542 municipal and \$6,740 education. If the value doubles as in past conversions the assessment will go to \$6,912,690. Yearly taxes at the Residential rate would be \$95,628 comprising \$82,148 municipal and \$13,480 education. This would be a potential loss of tax dollars to the municipality of \$30,394. That loss would be higher or lower depending on the new value created by MPAC.

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 existing tenants.

HISTORICAL BACKGROUND

Proposal:

The applicant is seeking approval of a Draft Plan of Condominium to allow a change in tenure from rental to condominium ownership of 29 existing dwelling units, located within a four-storey building at 275 King Street West. The building contains a total of eight bachelor units and 21 one-bedroom units. The site does not contain any parking spaces nor is there any possibility of adding parking as the existing building represents an almost full build-out of the lot. The individual dwelling units would form the exclusive use areas, while the remainder of the property, including any landscaped areas, elevators, stairways and hallways, would form the common element areas (see Appendix “B”).

The subject property is approximately 661 sq m in size, and is located at the southwest corner of King Street West and Hess Street South. The property is located at the northern edge of Hess Village. Abutting the westerly property line is an existing three-storey apartment building. Across King Street West are existing commercial-at-grade uses with residential on the upper floors.

Chronology:

- April 20, 2015: An information package was sent to all residents of 275 King Street West which included notice of the condominium conversion, a highlight of tenant’s rights under the *Residential Tenancy Act, 2005*, and Sections 48 and 49 of the Act.
- June 5, 2015: Condominium Conversion Application 25CDM-CONV-15-01 received by the Planning and Economic Development Department.
- June 12, 2015: Condominium Conversion Application 25CDM-CONV-15-01 deemed complete and subsequently circulated for comments to internal municipal departments and external agencies.
- September 30, 2015: Tenants meeting hosted by applicant for all residents of 275 King Street West.
- October 30, 2015: Notification of Public Meeting provided to all residents of 275 King Street West and posted in the common areas of the building by the applicant.

Details of Submitted Applications:

Location: 275 King Street West (Hamilton)
Owner/Applicant: Hess Village Real Estate Corporation
Agent: A.J. Clarke and Associates Ltd.

Property Description: Area: 661 sq m
Frontage: 28.96 m (along King Street West)
Depth: 22.86 m (along Hess Street South)

Servicing: Full Municipal Services

Existing Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Multiple Dwelling	“D2” (Downtown Prime Retail Streets)
<u>Surrounding Lands:</u>		
West	Multiple Dwelling	“D2” (Downtown Prime Retail Streets)
East	Municipal Parking Lot	“P4” (Open Space)
North	Commercial	D2” (Downtown Prime Retail Streets)
South	Commercial	D2” (Downtown Prime Retail Streets)

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014):

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff note that the subject application is consistent with the policies that focus growth in Settlement Areas within Policy 1.1.3.1, including opportunities for redevelopment (Policy 1.1.2) and those that encourage the provision of a variety of housing types (both form and tenure) to meet the needs of current and future residents (Policies 1.1.1 and 1.4.3).

Policy 1.2.6.1 requires that major facilities (such as transportation corridors) and sensitive land uses are appropriately designed, buffered, and / or separated from each other to prevent adverse effects from odour, noise, and other contaminants. As the subject lands are adjacent to King Street West, a warning clause shall be included in all Development Agreements and Offers of Purchase and Sale or Lease / Rental

Agreements. This requirement is recommended as a condition of Condominium approval (see Recommendation (b)(iv)(1)).

Based on the foregoing, the proposal is consistent with the policies of the PPS.

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

The application has been reviewed with respect to the Growth Plan for the Greater Golden Horseshoe. The application is consistent with the guiding principles of Policy 1.2.2 with respect to building compact, vibrant, and complete communities, and providing for different approaches to managing growth that recognize the diversity of communities in the Greater Golden Horseshoe. In addition, Policy 2.2.2.1 (h) encourages cities and towns to develop as complete communities with a diverse mix of land uses, a range of housing types (both form and tenure), and easy access to local stores and services. Since the proposal provides an opportunity for a range of housing types in providing an opportunity for apartment home ownership in an area that does not contain many condominium tenure buildings, the proposal conforms to the Places to Grow Plan.

Urban Hamilton Official Plan:

The subject lands are designated “Downtown Mixed Use Area” on Schedule E-1 of the Urban Hamilton Official Plan (UHOP) and “Prime Retail Streets” on Map B.6.6-1 of the Downtown Hamilton Secondary Plan. A multiple dwelling is a permitted use within these designations.

The UHOP contains several housing policies dealing with residential tenure including:

- “B.3.2.1.4 Increase Hamilton’s stock of housing for those whose needs are inadequately met by existing housing forms or tenure, affordability or support options.
- B.3.2.1.5 Maintain a balance of primary rental and ownership housing stock as outlined in the Affordable Housing Strategy.
- B.3.2.1.6 Increase the mix and range of housing types, forms, tenures, densities, affordability levels, and housing with supports throughout the urban area of the City.”

Additionally, the Downtown Hamilton Secondary Plan provides further direction on residential tenure with the following goal:

- “B6.1.9.1(b) Create a diversified housing supply in the Downtown geared to the needs of various age groups with increased opportunities for home ownership.”

The UHOP recognizes that a certain balance is required in maintaining the stock of rental and ownership housing. And, while converting rental housing to condominium takes away the stock of rental housing, such conversions can meet other City goals like affordable home ownership as stated under Policy B.6.1.9.(b). Therefore, Policy B.3.2.5 provides several options by which to assess applications for condominium conversion. The applicants have chosen to satisfy the criteria of Policy B.3.2.5.1(a) and therefore must meet 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 24 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.

Additionally, as per Policy B.3.2.5.5, an application for condominium conversion must include proof of tenant notification of the conversion proposal and proof of notification of the rights of tenants under provincial residential tenancy legislation. The applicant has submitted a copy of the information package that was distributed as proof that the above policy has been satisfied (see Appendix “C”).

As discussed in greater detail in the Analysis and Rationale for Recommendation Section of this Report, the above criteria have been met in full. Therefore, the application complies with the policies of the UHOP.

RELEVANT CONSULTATION

The following Departments and Agencies have indicated that they have no comments or objections:

- Corridor Management (Public Works Department);
- Operations Division (Public Works Department);

SUBJECT: Application for a Condominium Conversion for Lands Known as 275 King Street West (Hamilton) (PED15174) (Ward 2) – Page 7 of 12

- Source Protection Planning (Public Works Department); and,
- Horizon Utilities.

The following Departments and Agencies submitted the following comments:

Housing Services Division (Community and Emergency Services Department)

advised that the application meets the criteria for condominium conversion under Policy B.3.2.5.1(a), namely that:

- i. vacancy rates have been above 2% for the past two years;
- ii the loss of rental stock does not negatively affect vacancy rates;
- iii. 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; and,
- iv. compliance with criteria iv for Policy B.3.2.5.1(a) is not applicable as there are currently no vacant units in the building.

Housing Services staff also confirmed compliance with Policy B.3.2.5.5, in that the tenants have been informed about the conversion and their rights under the *Residential Tenancies Act*.

Engineering Approvals Section (Growth Management Division) confirmed that there are existing municipal services adjacent to the property and advised the owner that Vertical Multi Unit Residential developments (apartments) require a master meter for the entire development, while satellite meters are optional, but subject to the owner entering into an agreement for individual water meters in vertical buildings.

Hamilton Municipal Parking System (HMPS) requested that the following warning clause regarding parking be added to any purchase and sale agreements:

“It is the responsibility of the property owner / tenant to ensure that the parking provided on site is sufficient for his / her needs. Parking in the surrounding neighbourhood is highly restrictive and on-street parking permits / time limit exemption permits are not available to multi-tenant buildings”.

This clause is a condition included as Recommendation (b)(iv)(2).

Hamilton Street Railway indicated that they support the inclusion of high quality pedestrian amenities at this development like walkways, lighting etc.

Union Gas requested a standard condition of approval that the owner provide to Union Gas Limited any necessary easements and / or agreements required by Union Gas

Limited for the provision of gas services. This condition is included as Recommendation (b)(vi).

Bell Canada requires that prior to commencing any work within the plan, the Developer must confirm that sufficient wire-line communication / telecommunication is available within the proposed development to provide, at a minimum, the effective delivery of communication / telecommunication services for emergency management services.

Canada Post requires that the applicant maintain the existing lock boxes for mail delivery purposes. This condition is included as Recommendation (b)(v).

Transportation Management (Public Works) recommended that a Transportation Demand Management memo be completed for this development. Staff have also advised that under the Hamilton Pedestrian Mobility Plan, *Accessibility for Ontarians with Disabilities Act* and barrier free design should be considered, and that King Street West must have a clear width of 2.0 m and include trees in the boulevard. However, since no new development is proposed under this application, these comments are regarded as advisory in nature.

PUBLIC CONSULTATION

The *Planning Act* does not require a notice of Public Meeting for an application for Condominium Conversion. However, a formal notice was given to all existing tenants. An information package was sent to all existing tenants on April 20, 2015 giving notice of the proposed conversion and informing them of their tenant rights (see Appendix “C”). In addition, the applicant hosted an Information Meeting for tenants on September 30, 2015 (see Appendix “D” for tenant meeting documentation).

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 to Places to Grow (Growth Plan for the Greater Golden Horseshoe);
 - (ii) It complies with the Residential Condominium Conversion policies of the Urban Hamilton Official Plan, in particular, Policy B.2.3.5.1(a); and,
 - (iii) The proposed condominium conversion does not have a negative impact of the adequate supply of rental tenure in the City of Hamilton.
2. An information package, containing notification of the proposed conversion and tenant rights under the *Residential Tenancies Act*, was distributed to all tenants. All tenants were also invited to attend an Information Meeting held on September 30, 2015. Appendix “D” contains the meeting invitation (hand delivered to all

residents and posted in all common areas), agenda, sign-in sheet, minutes, and a “Frequently Asked Questions” handout that was provided at the meeting and hand-delivered to all residents with the meeting invitation. The sign-in sheet indicates that four tenants attended the meeting. During the meeting, the applicant explained the condominium conversion process, further discussed tenant rights under the *Residential Tenancies Act*, and provided an opportunity for the tenants to ask questions.

The above-noted tenant information meeting and information package meets the “proof of tenant notification of the conversion proposal and proof of notification of the rights of tenants under provincial residential tenancy legislation” requirement from Policy B.3.2.5.5 of the Urban Hamilton Official Plan.

3. Chapter B, Section 3.2.5.1(a) of the Urban Hamilton Official Plan, identifies the conditions that must be satisfied in order to recommend the conversion of rental stock to condominium ownership:
 - (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 Canada Mortgage and Housing Corporation (CMHC) data, has been at or above 2.0% for the preceding 24 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; and,
 - (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.

The Canadian Mortgage and Housing Corporation provides annual statistical information on the national, Provincial, and local housing markets. In order to evaluate the proposal against the above-noted Official Plan Policies, the City uses local housing market data that is specifically ordered from CMHC (see Tables 1 and 2).

Table 1 shows the vacancy rate and average market rent for the whole of the City of Hamilton for private bachelor and one-bedroom apartment units.

Table 1: Vacancy Rate and Average Market Rents by Unit Type in City of Hamilton Source: CMHC (2013, 2014)

Unit Type	Vacancy Rate (2013)	Vacancy Rate (2014)	Average Rent (2013)	Average Rent (2014)
Bachelor	6.1%	4.9%	\$567	\$582
One-Bedroom	4.0%	2.8%	\$724	\$744

Table 2 shows the vacancy rate and average market rents for the Central Hamilton local housing market zone (Zones 1+4), for private bachelor and one-bedroom units for 2013, and 2014.

Table 2: Vacancy Rate and Average Market Rent by Unit Type in Local Housing Market Zones 1+4 (Central Hamilton) Source: CMHC (2013, 2014)

Unit Type	Vacancy Rate (2013)	Vacancy Rate (2014)	Average Rent (2013)	Average Rent (2014)
Bachelor	6.3%	No data ¹	\$570	\$591
One-Bedroom	4.5%	3.2	\$713	\$750

¹ No data means that the response rate was too low, making the data unreliable or suppressed to protect privacy.

Tables 1 and 2 indicate that the vacancy rates for all unit types in both the local housing market zone and the former City of Hamilton, have been above 2% for the past two years. Therefore, the vacancy rate of condominium conversion of the Official Plan has been satisfied (Policy B.3.2.5.1(a)(i)).

Housing staff have confirmed that the conversion of the rental units to condominium tenure does not negatively impact vacancy rates such that rates would fall below 2% for any of the unit types (Policy B.3.2.5.1(a)(ii)).

To determine compliance with Policy B.3.2.5.1(a)(iii), the rents rolls for the existing apartment units (provided by the applicant) need to be compared to the 2014 average market rents (AMR, provided by CMHC) by unit type. Amongst the existing one-bedroom units, the lowest rent charged is \$950 per month, whereas the AMR for this unit type is \$750 for the local housing market zone, and \$744 for the City as a whole. Amongst the bachelor units, the lowest rent is \$650, whereas the AMR for this unit type is \$591 for the local housing market zone, and \$582 for the City as a whole. Therefore, the rents charged for the one-bedroom and bachelor units are not below the average charged within the local housing market zone or the City as a whole.

Based on rent rolls provided by the proponent and the, the rents charged for both unit types are not significantly below the average market rent levels for the City and the respective local housing market zone.

Policy B.3.2.5.1(a)(iv) regarding the previous rent charged for units that are currently vacant does not apply as the building is fully occupied.

The proponent has submitted evidence in regards to Policy B.3.2.5.5 in the form of details, and copies of the components of an information package delivered to all tenants explaining the process and the tenants' rights (attached as Appendix "C").

4. In accordance with Section 9(4) of the *Condominium Act*, 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 professional to inspect the property, and report to the municipality all matters that it considers may be of concern related to structural and mechanical integrity. This has been addressed in Recommendation (b)(iii).
5. There are existing services adjacent to the subject lands to service the building directly. As the building is a vertical multi-unit residential building, the owner is advised that a master water meter is required for the entire building. Should the owner prefer individual (i.e. satellite) meters for each unit, the owner must enter into an agreement with the City accordingly.
6. The subject lands are located in the Downtown Prime Retail Streets (D2) Zone which permits a multiple dwelling. The original multiple dwelling containing 24 dwelling units was constructed prior to the passing of Hamilton Zoning By-law No. 6593; as such, no parking spaces were required at that time. Site Plan Control Application SPA-11-044 was approved to permit the addition of five dwelling units and the construction of three small third storey additions. Parking was only required to be provided for the area contained within the additions. As a result, only five on-site parking spaces were required. Committee of Adjustment Application HM/A-12:65 was approved to reduce the minimum parking requirement to zero spaces and to recognize the building's non-conformities with the By-law. Building Permit 12-110147 was issued on September 26, 2012 to permit the construction.
7. As per the red-lined Draft Plan of Condominium drawing recommended for approval under Recommendation (a), the applicant shall show all external structures (including exterior stairwells, fences, garbage enclosures, sidewalks, etc.)

ALTERNATIVES FOR CONSIDERATION

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

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

1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Draft Plan of Condominium
- Appendix “C”: Conditions of Approval
- Appendix “D”: Tenant Information Package
- Appendix “E”: Tenant Meeting Documentation

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