



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 17, 2017
SUBJECT/REPORT NO:	Application for a Condominium Conversion for Lands Located at 515 Queen Victoria Drive (Hamilton) (PED17006) (Ward 6)
WARD(S) AFFECTED:	Ward 6
PREPARED BY:	Melanie Schneider (905) 546-2424 Ext. 1224 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-16-01, by First Rock Properties Ltd., Owner**, to establish a Draft Plan of Condominium (Standard) for the existing townhouse blocks, consisting of 68 dwelling units, located at 515 Queen Victoria Drive (Hamilton), as shown on the attached map marked as Appendix "A" to Report PED17006, subject to the following:

- (a) That this approval for Draft Plan of Condominium (Standard) application 25CDM-CONV-16-01 applies to the plan, prepared by Barich Grenkie Surveying Ltd., certified by Edward J. Grenkie, O.L.S., dated July 12, 2016, showing a total of 68 dwelling units, attached as Appendix "B" to Report PED17006;
- (b) That the conditions of Draft Plan of Condominium Approval attached as Appendix "C" to Report PED17006 be received and endorsed by City Council.

EXECUTIVE SUMMARY

The purpose of this application is to create a Draft Plan of Condominium for 68 existing townhouse dwelling units located at 515 Queen Victoria Drive (Hamilton). In accordance with the Urban Hamilton Official Plan (UHOP), the owner received over

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75% of current tenants in support of the condominium conversion. Therefore, vacancy rate policies within the UHOP do not apply to this proposal.

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, has merit and can be supported, subject to a number of recommended draft plan 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 UHOP.

Alternatives for Consideration – See Page 11

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.

This property is currently assessed at \$6,936,000.00 with annual taxes of \$237,070.00 comprised of \$224,030.00 municipal and \$13,040.00 education. If the value doubles, as in past conversions, the assessment will go to \$13,872,000.00 and taxes at the residential tax rate would be \$189,605 comprising \$163,526.00 municipal and \$26,079.00 education. This would be a potential loss of tax dollars to the municipality of \$60,504.00. 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 (Standard) to allow a change in tenure from rental to condominium ownership of 68 existing townhouse dwelling units, located within six blocks at 515 Queen Victoria Drive. The site contains a total of 36 two-bedroom units, 30 three-bedroom units, and two four-bedroom units. The site provides 83 parking spaces and common open amenity space. The individual dwelling units would form the exclusive use areas, while the remainder of the property, including any landscaped areas and parking areas, would form the common element areas (see Appendix “B” to Report PED17006).

Minor Variance Application HM/A-16:343 was submitted to the Committee of Adjustment on September 27, 2016 to recognize a reduction of minimum required parking spaces from 85 parking spaces to 83 parking spaces. The application was approved by the Committee of Adjustment on November 3, 2016 and the last date of appeal for this decision is November 23, 2016. At the time of writing this Report, the decision is not final and binding. However, zoning conformity is a standard draft plan condition for all condominium applications. Accordingly, staff have included Conditions 1 and 2 of Appendix “C” to Report PED17006.

The subject property is approximately 1.13 ha in size, and is located north of Stone Church Road East and east of Upper Gage Avenue (refer to Appendix “A” to Report PED17006).

Chronology:

<u>May 1, 2016:</u>	An information package was sent to all residents of 515 Queen Victoria Drive which included notice of the condominium conversion, a highlight of tenant’s rights under the <i>Residential Tenancy Act, 2005</i> , and Sections 48 and 49 of the Act.
<u>May 12, 2016:</u>	Tenants meeting hosted by applicant for all residents of 515 Queen Victoria Drive.
<u>July 13, 2016:</u>	Condominium Conversion Application 25CDM-CONV-16-01 received.
<u>July 15, 2016:</u>	Condominium Conversion Application 25CDM-CONV-16-01 deemed complete.

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December 18, 2016: Notification of Public Meeting provided to all residents of 515 Queen Victoria Drive and posted in the common areas of the building by the applicant.

Details of Submitted Applications:

Location: 515 Queen Victoria Drive (Hamilton)

Owner/Applicant: First Rock Properties Ltd.

Property Description: Area: 1.13 ha
Frontage: 52.6 m (irregular)
Depth: 85.8 m (irregular)

Servicing: Full Municipal Services

Existing Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Six Townhouse Blocks for a total of 68 units	"DE-2/S-251" (Multiple Dwellings) District, Modified
<u>Surrounding Lands:</u>		
West	Three Townhouse Blocks for a total of 21 units	"RT-20/S-470" (Townhouse – Maisonette) District, Modified
East	Single Detached Dwellings	"C" (Urban Protected Residential, Etc.) District
North	Townhouses & Single Detached Dwellings	"DE/S-226" (Low Density Multiple Dwellings District, Modified & "C" (Urban Protected Residential, Etc.) District
South	Townhouses & Single Detached Dwellings	"RT-10/S-417" (Townhouse) District, Modified & "C" (Urban Protected Residential Etc.) District

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Provincial planning policy framework is established through the *Planning Act* (Section 3), the Provincial Policy Statement (PPS 2014) and the Growth Plan for the

Greater Golden Horseshoe (the Growth Plan). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The *Places to Grow Act* requires that all municipal land use decisions made under the *Planning Act* conform to the Growth Plan.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth and environmental protection) are reviewed and discussed in the Official Plan analysis below.

As the application for a condominium conversion complies with the Official Plan, it is staff's opinion that the application is:

- consistent with Section 3 of the *Planning Act*,
- consistent with the Provincial Policy Statement (2014); and,
- conforms to the Growth Plan for the Greater Golden Horseshoe.

Urban Hamilton Official Plan:

The subject lands are designated "Neighbourhoods" on Schedule E-1 of the UHOP. The lands are also identified as "Attached Housing" in the Quinndale Neighbourhood Plan.

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

- "B.3.2 Housing is fundamental to the economic, social and physical well-being of Hamilton's residents and communities. Housing is a basic human need and is the central place from which people build their lives, nurture their families and themselves, and engage in their communities. Housing needs to change and evolve as social, demographic, and economic conditions change. The long term sustainability of communities is based on building a diverse, flexible housing stock today to meet changing needs at both household and community levels. To ensure that housing is available for all residents with a wide variety of needs, there must be a sufficient supply of housing with a range of housing types, forms, tenures, densities, affordability levels, and housing with support services.
- B.3.2.1.3 Increase Hamilton's stock of affordable housing of all types, particularly in areas of the City with low levels of affordable housing.

- 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.
- B.3.2.4.2 The development of housing with a full range of tenure, affordability, and support services shall be provided for and promoted throughout the City. Where there are documented unmet needs for housing tenure, affordability levels or support services, priority shall be given to development applications that help meet those needs. Housing with a full range of tenure, affordability and support services in a full range of built housing forms means both ownership and primary rental housing with a full range of affordability, social housing, rent-geared-to-income housing, lodging houses, shared and/or congregate-living housing arrangements, housing with supports, emergency and transitional housing, and housing that meets all needs."

The UHOP recognizes that a certain balance is required in maintaining the stock of rental and ownership housing. While converting rental housing to condominium removes units from the stock of rental housing, such conversions can meet other City goals such as affordable home ownership, as stated under Policy B.3.2.4.2 and in the interim, the existing tenants can stay indefinitely. Therefore, Policy B.3.2.5 provides several options by which to assess applications for condominium conversion:

- "B.3.2.5.1 To protect the adequate provision of a full range of housing, conversion to condominium of rental apartment or townhouse buildings or groups of buildings comprised of six or more units shall be permitted if any one of three general criteria are met, outlined as a), b) and c) below:

a) all the following criteria are met:

- 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; and,

- 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; 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; or,
- b) at least 75% of the current tenants support the conversion to condominium, as demonstrated to the satisfaction of the City; or,
- c) the subject building or group of buildings is a protected heritage property on the date of application.

B.3.2.5.5 A complete application for conversion to condominium of rental apartment or townhouse buildings or groups of buildings comprised of six or more rental units shall include, in a manner acceptable to the City, proof of tenant notification of the conversion proposal and proof of notification of the rights of tenants under provincial residential tenancy legislation.”

Policy B.3.5.2.1 allows for condominium conversions to be reviewed under three scenarios; that an overall vacancy rate within the City of Hamilton meets the specified criteria, 75% of the current tenants support the condominium conversion, or the subject lands contain a building or group of buildings protected under the *Ontario Heritage Act*. The applicant is being assessed under the criteria of Policy B.3.2.5.1(b), being that “75% of the current tenants support the conversion to condominium”. 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 “D” to Report PED17006).

As discussed in greater detail in the Analysis and Rationale for Recommendation Section of this Report, the above criteria has been met to the satisfaction of City staff. Therefore, the application complies with the policies of the UHOP.

Hamilton Zoning By-law No. 6593:

The subject lands are zoned “DE-2/S-251” (Multiple Dwellings) District, Modified in the City of Hamilton Zoning By-law No. 6593, which permits the existing townhouse dwellings. Staff note that condominium tenure is one form of ownership that is not regulated by the Zoning By-law.

The provision of 85 parking spaces with no visitor parking would be a legally established non-conforming situation, based on the Site Specific “DE-2/S-251” District and the Minor Variance Approval under application A-75:84. The site specific “DE-2/S-251 District attached a site plan drawing to the by-law that contained specific development details. The Minor Variance amended the approved Site Plan by:

- decreasing the number of approved dwelling units from 74 units to 68 units;
- reduction in the total of number of required parking spaces both at surface and within garages from 89 parking spaces to 85 spaces;
- relocation and change in lay-out of the north westerly access driveway and parking area; and,
- to permit a reduced distance between buildings areas numbers 2 and 3.

The submitted plans for this application show a total of 70 parking spaces at grade and 13 parking spaces on driveways (for use by abutting / respective units as shown on the site information of the draft Plan of Condominium submitted by Barich Grenki Surveying Ltd dated July 12, 2016) for a total of 83 parking spaces which does not conform to the minimum parking requirements. The parking stall sizes are currently at 2.4 m wide and 6.0 m long, which is considered legal non-conforming and no additional variance is required to recognize or any other legal non-conforming deficiencies on site.

The applicant submitted Minor Variance Application HM/A-16:343 to the Committee of Adjustment on September 27, 2016 to allow for the further reduction of minimum required parking spaces from 85 to 83 parking spaces. The application was approved by the Committee of Adjustment on November 3, 2016 and the last date of appeal is November 23, 2016. At the time of writing this Report, the decision is not final and binding. Accordingly, staff have included Condition 2 in Appendix “C” of Report PED17006.

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);
- Source Protection Planning (Public Works Department);
- Bell Canada;
- Recreation Planning (Community & Emergency Services Department); and,
- Strategic Planning (Public Works Department).

The following Departments and Agencies submitted the following comments:

Housing Services Division (Community and Emergency Services Department) advised that if UHOP Policy B.3.2.5.1 a) is not met we may consider policy B.3.2.5.1 b) which, even if B.3.2.5.1 a) is not met, may permit a conversion to condominium provided at least 75% of the tenants support the conversion.

The proponent has provided the following as part of the Planning Justification Report:

- 1) proof that tenants were notified of the proposed conversion;
- 2) proof that tenants have been notified of their rights as tenants under the Residential Tenancies Act;
- 3) a sign-in sheet and minutes for a meeting held with the tenants to ensure they understand the conversion and their rights under the Residential Tenancies Act; and,
- 4) forms completed by 65 tenants showing:
 - a) proof that the tenants were notified of the condominium conversion;
 - b) proof that the tenants are aware of their rights under the *Residential Tenancies Act*;
 - c) indication of support for the condominium conversion;
 - d) basic information about each tenant (unit number, phone number, name); and,
 - e) tenant signatures.

Additionally, Housing staff attended the meeting with a number of tenants and can attest that the conversion application, tenant rights, and other matters were clearly explained to the tenants, and the minutes are accurate.

Accordingly, Housing staff confirm that policy B.3.2.5.1 b) has been met by this proposal.

Engineering Approvals Section (Growth Management Division) confirmed that there are existing municipal services adjacent to the property and advised the owner that individual water meters may be required for each dwelling unit.

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 Condition 4 in Appendix “C” to Report PED17006.

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); and,
 - (ii) It complies with the Residential Condominium Conversion policies of the Urban Hamilton Official Plan, in particular, Policy B.2.3.5.1(b).
- (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 May 12, 2016, with Housing Services staff in attendance as well. Appendix “D” to Report PED17006 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 eleven 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(b) of the Urban Hamilton Official Plan, identifies that “at least 75% of the current tenants support the conversion to condominium, as demonstrated to the satisfaction of the City.”

As a result of the circulation provided to the tenants and the information meeting held by the applicant, the current tenants responded accordingly:

- Of the 68 dwelling units, 64 responses were received;

- 55 of those 68 responses from the tenants were in support of the proposed conversion, which represents 80.9% of the total hand delivered submissions in support of the conversion;
- Nine responses, or 13.2% of the total submissions were not in support of the conversion; and,
- The remaining 5.9%, or four of the hand delivered submissions, did not respond.

Since over 75% of the current tenants have confirmed their support of the proposed conversion, the proposal meets the intent of Policy B.3.2.5.1(b) (see Appendix “E” to Report PED17006).

- (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 as Condition 5 in Appendix “C” to Report PED17006.
- (5) There are existing services adjacent to the subject lands to service the building directly. Separate water meters may be required for each new unit and appropriate staff shall be contacted by the applicant to confirm.
- (6) Staff note that all parking spaces are under the minimum required width of 2.6 m with a current width of 2.4 m. The parking stall sizes are considered legal non-conforming based on previously obtained building permits and therefore, no further action is required. However, there are currently 83 parking spaces on site whereas 85 are required. Since the lands must conform to the Zoning By-law No. 6593, as part of Condition 1 in Appendix “C” to Report PED17006, the applicant must either provide all minimum parking requirements, or receive final approval from the Committee of Adjustment for a reduction in the minimum required parking spaces. Accordingly, staff have included Condition 2 in Appendix “C” to Report PED17006 to address this concern and any other deficiencies identified through the review of the Minor Variance application.

ALTERNATIVES FOR CONSIDERATION

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

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

APPENDICES AND SCHEDULES ATTACHED

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

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