



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	June 5, 2018
SUBJECT/REPORT NO:	Application for a Condominium Conversion for lands known as 115 Main Street East, Hamilton (PED18080) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Daniel Barnett (905) 546-2424 Ext. 4445
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Condominium Conversion Application CDM-CONV-14-02, by Old Colony Properties Ltd. c/o David Horwood, Owner**, to establish a Draft Plan of Condominium for the existing multiple dwelling, consisting of 128 dwelling units, located at 115 Main Street East (Hamilton), as shown on the attached map marked as Appendix "A" to Report PED18080, be **DENIED** on the following basis:

- (a) That the proposed Draft Plan of Condominium is not consistent with the intent of the Provincial Policy Statement (2014) in respect to maintaining a range and mix of housing types to meet the requirements of current and future residents; and,
- (b) That the effect of the application would be to convert 28 affordable rental dwelling units which would not comply with the Urban Hamilton Official Plan, in that 28 dwelling units have a rent level (approximately 10%) below the average market rent levels, which among other criteria, is a precondition for the conversion of rental housing stock.

EXECUTIVE SUMMARY

The purpose of this application is for a Draft Plan of Condominium (Condominium Conversion) for 128 existing dwelling units located at 115 Main Street East (Hamilton), to allow for the tenure of the units to change from rental to condominium ownership. The existing tenants are protected under the *Residential Tenancies Act*.

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As the proposed Condominium Conversion is not consistent with the intent of the PPS, and does not conform to the policies of the Growth Plan and the Urban Hamilton Official Plan (UHOP) the proposal should be denied.

The proposed Draft Plan of Condominium (Condominium Conversion) cannot be supported as the effect of the application would be the removal of affordable rental units. As such, the application does not comply with the criteria and intent of the Condominium Conversion of Rental Housing Units Policy B.3.2.5.1.

Policy B.3.2.5.1 a) requires that the existing market rent levels for the units proposed to be converted are not below the average market rent levels (approximately 10%) for the City and the respective local housing market zone for rental units of a similar dwelling unit and structure type and size. A total of 28 of the one bedroom units within the building have current rent levels that are more than 10% below the average market rent level for one bedroom units, and therefore does not comply with to Policy B.3.2.5.1 a). Specifically the units rent levels for one bedroom units are \$602 – \$1,898, whereas the average market rent is \$833 in the local housing market zone.

Alternatives for Consideration – See Page 20

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 existing residents.

HISTORICAL BACKGROUND

The applicant is seeking approval of a Draft Plan of Condominium (Condominium Conversion) to allow a change in tenure from rental to condominium units for the residential dwelling units that currently exist within the building located at 115 Main Street East, Hamilton. The 16 storey building was constructed in 1968 and contains commercial and office uses on the first, second, and third floors, parking on the fourth floor, and the fifth through sixteenth floors contain 128 dwelling units (34 are bachelor units, 69 one bedroom units, 24 two bedroom units, and one three bedroom unit). The building is known as Effort Square.

The subject property is approximately 0.6 ha (6,300 sq m) in size, and is located at the north east corner of Main Street East and Catharine Street South within the Beasley Neighbourhood. The proposed Draft Plan of Condominium does not include the entire

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property and the applicant is only for the residential uses on the fifth through sixteenth floors. The commercial and offices uses on the first, second, and third floors along with the parking located on the fourth floor do not form part of the proposed Draft Plan of Condominium.

On May 15, 2013, a tenant information meeting was held by the applicant to inform existing tenants of the proposed Condominium Conversion and to provide tenants with an opportunity to ask questions. An information package was delivered to all existing tenants at 115 Main Street East which included a notice of Condominium Conversion, a Memorandum from Effort Trust to tenants, a tenant questionnaire, and a list of frequently asked questions and answers. Sixteen questionnaires were submitted at the meeting. Twelve individuals signed the attendance register and were present at the meeting.

Information respecting vacancy rates was submitted with the application in 2014 for Condominium Conversion to demonstrate conformity with the policies of the UHOP. During the review of the application and prior to the application being heard by Planning Committee, new information became available in 2015 which demonstrated that the vacancy rates had changed and that the vacancy rate for two bedroom units no longer conformed to the policies of the UHOP respecting Condominium Conversions. As the policies of the UHOP require that vacancy rates for all unit types must be above 2% for the past two years, the Condominium Conversion application could therefore not move forward until the vacancy rate remained 2% for two consecutive years for all unit types. In addition, it was noted in 2015 that three, one bedroom units and five, two bedroom units met the affordability criteria being more than 10% below the average market rent level for the housing type and therefore the proposal was contrary to the UHOP.

On July 7, 2017, updated information was provided by the applicant to demonstrate that:

- i) The vacancy rate for 2015 and 2016 exceeded the minimum 2% for all unit types.
- ii) The rent levels of all two bedroom units were identified as being within 10% or higher of the average market rent level in the Downtown Core local housing market zone (Zones 1 - 4).
- iii) The rental rate for 28 of the one bedroom units was more than 10% below the average market rent level in the Downtown Core local housing market zone (Zones 1 - 4).

The 28 one bedroom units with rental rates more than 10% below the average rental rate represent 35% of all the one bedroom units within the existing building. The policies of the UHOP require that both the vacancy rate for all unit types be above 2% and that the rental rate not be significantly below the average market rent levels for all

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unit types. Given that the proposal is seeking to convert 28 rental units that have a rental rate more than 10% below the average market rent level, the proposed Condominium Conversion still does not comply with the policies of the UHOP.

Chronology:

- May 15, 2013: Tenant Information Meeting held.
- July 28, 2014: Application for Condominium Conversion submitted.
- August 22, 2014: Condominium Conversion Application 25CDM-CONV-14-02 deemed complete.
- March 4, 2015: Housing Services staff provided comments, expressing concern with respect to existing vacancy rates being less than 2% for two bedroom units and that a total of eight dwelling units met the criteria for affordability.
- July 7, 2017: The applicant provided staff with updated information demonstrating that vacancy rates are greater than 2% for all unit types in the preceding two years.
- September 20, 2017: Housing Service staff provided additional comments advising that based on revised information that the proposal conformed to the policies respecting vacancy rates but that 28 of the one bedroom units met the criteria for affordability.
- May 18, 2018: Formal Notice of the Condominium Conversion application sent to residents of 115 Main Street East.

Details of Submitted Application:

- Location:** 115 Main Street East (Hamilton)
- Owner / Applicant:** 155 Charlton Avenue East (Hamilton) Limited
- Agent:** Urban Solutions Planning and Land Development Consultants Inc. (c/o Matt Johnston)
- Property Size:**
- Lot Area: 0.6 ha (6,300 sq m)
 - Lot Frontage: 84.6 m
 - Lot Depth: 88 m Irregular

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Servicing: Full Municipal Services Available

Existing Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
Subject Land:	Commercial Uses and Multiple Dwelling	Downtown Prime Retail (D2) Zone and Downtown Mixed Use (D3) Zone
Surrounding Land:		
North:	Commercial Uses	Downtown Prime Retail (D2) Zone
East:	Commercial Uses, Multiple Dwelling and Surface Parking Lot	Downtown Prime Retail (D2) Zone and Downtown Mixed Use (D3) Zone
South:	Commercial Uses and Multiple Dwelling	Downtown Mixed Use (D3) Zone
West:	Surface Parking Lot	Downtown Prime Retail (D2) Zone and Downtown Mixed Use (D3) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014):

The following policies, amongst others, apply to the application.

- “1.1.1 Healthy, liveable and safe communities are sustained by:
- b) Accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons).”

As discussed in greater detail in the UHOP policies section of this Report, the proposed is seeking to convert affordable rental housing to condominium ownership. As the proposal would remove affordable units from the long term rental market as reported by the CMHC, the proposal is not consistent with the policies respecting accommodating a range and mix of residential including affordable residential housing.

- “1.4.3 Planning authorities shall provide for an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents of the *regional market area* by:
- a) establishing and implementing minimum targets for the provision of housing which is *affordable to low and moderate income households*. However, where planning is conducted by an upper-tier municipality, the upper-tier municipality in consultation with the lower-tier municipalities may identify a higher target(s) which shall represent the minimum target(s) for these lower-tier municipalities;
 - b) permitting and facilitating:
 - 1. all forms of housing required to meet the social, health and well-being requirements of current and future residents, including *special needs* requirements.”

The UHOP establishes minimum annual targets for new affordable rental units of 377 units per year. A detailed analysis on the annual targets and supply is found in the UHOP policies section of this Report.

Noise

- “1.2.6.1 *Major facilities and sensitive land uses* should be planned to ensure they are appropriately designed, buffered and / or separated from each other to prevent or mitigate *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of *major facilities*.”

The subject property is located on Main Street East and within 75 m of King Street East, both potential noise sources which may impact the existing residential dwelling units that are classified as a sensitive land use. Should the application be approved a noise study would be required to be provided and implemented as a condition of approval.

Cultural Heritage

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 2.6.2 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”

The subject property is included on the City's register of buildings of cultural heritage and / or historical interest. As the proposed application is for a conversion in tenure and as the existing building will be maintained, the proposal is consistent with the policies of the Provincial Policy Statement with respect to conserving built heritage resources.

As the proposal results in a loss of affordable rental housing units, which limits housing options for low and moderate income households, the proposed Condominium Conversion application is not consistent with the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe (2017):

The following policies, amongst others, apply to the application.

“2.2.6 Housing

1. Upper- and single-tier municipalities, in consultation with lower-tier municipalities, the Province, and other appropriate stakeholders, will each develop a housing strategy that:
 - a. supports the achievement of the minimum intensification and density targets in this Plan, as well as the other policies of this Plan by:
 - i. identifying a diverse range and mix of housing options and densities, including second units and *affordable* housing to meet projected needs of current and future residents; and
 - ii. establishing targets for *affordable* ownership housing and rental housing;
 - b. identifies mechanisms, including the use of land use planning and financial tools, to support the implementation of Policy 2.2.6.1 a);
 - c. aligns with applicable housing and homelessness plans required under the *Housing Services Act*, 2011; and
 - d. will be implemented through official plan policies and designations and zoning by-laws.”

The City of Hamilton has established targets for affordable rental housing in the UHOP. A detailed analysis of whether the targets are being met is provided in the UHOP policies section of this Report.

As discussed in the UHOP policy section of this Report, the proposed Condominium Conversion does not comply with the policies of the UHOP in respect to Condominium Conversions, therefore, the proposal does not conform to the intent of the Growth Plan.

Urban Hamilton Official Plan:

The subject property is identified as “Downtown Urban Growth Centre” on Schedule “E” - Urban Structure and is designated “Downtown Mixed Use Area” on Schedule “E-1” - Urban Land Use Designations. The following policies, amongst others, apply to the application.

Land Use

“E.4.4.4 The following uses shall be permitted on lands designated Downtown Mixed Use on Schedule E-1 – Urban Land Use Designations:

- a) commercial uses such as retail stores, auto and home centres, home improvement supply stores, offices, including major offices, personal services, live work units, artist studios, financial establishments, and restaurants;
- b) institutional uses such as hospitals, universities, government offices, places of worship, and schools;
- c) arts, cultural entertainment, and recreational uses;
- d) accommodation such as hotels, motels, conference and convention centres; and residential uses; and,
- e) residential uses.

E.4.4.7 Permitted density and heights shall be set out in the secondary plan for the lands designated Downtown Mixed Use.”

The existing building is used for commercial and residential uses both of which are uses permitted in the “Downtown Mixed Use Area” designation. As the proposed application is only for a change to the tenure of the residential dwelling units, the existing use, density and height of the lands will be maintained and therefore the proposal complies with Policies E.4.4.4 and E.4.4.7.

“B.3.2.2 Housing Targets

The housing targets in Table B.3.2.1 – Housing Targets are based on future population growth forecasts to the year 2031 and future housing

need. Targets for *affordable* rental housing are divided into housing *affordable* for *low and moderate income households*. Meeting the housing targets for housing *affordable* for *low and moderate income households* will require sustainable and predictable funding from senior levels of government.

B.3.2.2.1 In addition to projected housing needs based on population forecasts in Table B.3.2.1 – Housing Targets, the City has a substantial existing shortage of *affordable* rental housing. In particular, 12,650 renter households (1 in 5) are currently paying more than 50% of their income on rent (2006 Census) and are at risk of homelessness. This need shall be addressed through a target of 1,265 new annual rent supplements / housing allowances, over a period of ten years (2006 to 2016), in addition to the targets for future new rental housing shown in Table B.3.2.1 – Housing Targets. This need will require sustainable and predictable funding from senior levels of government to be met.

B.3.2.2.2 The City shall monitor the policies of Section B.3.2 – Housing and B.2.2 – Residential Intensification, for progress in achieving the housing targets of Policy B.3.2.2.1 and Tables B.3.2.1 and B.3.2.2 – Housing Targets.”

Based on table B.3.2.2 – Housing Targets – Rental, annual target of 125 new rental housing affordable to moderate income households and 252 new rental housing affordable to low income households has been set by the City of Hamilton for a total of 377 new affordable rental housing units per year. Housing Service Division staff have advised that in 2016, a total of 101 affordable rental housing units were applied for and in 2017 a total of 110 affordable rental housing units were applied. As projects are always in various stages of construction which may occur over multiple years as well as changes in rent levels, the number of units are tracked by Council Approval of funding not by way of built units for each calendar year. As such, the number of affordable rental units created has been significantly below the targets set by the City of Hamilton for the last two years. The policies respecting housing targets pertain to the creation of new affordable rental housing, whereas the proposal is for the conversion of existing rental housing. It is, however, relevant to note that given the fact that the number of new affordable rental housing has been significantly below the targets set by the City of Hamilton for the past two years, and therefore it is even more important to maintain the existing affordable rental housing stock.

Affordable Housing Policies

“B.3.2.3 Many households in Hamilton cannot obtain housing that is affordable or appropriate to meet their needs. Households and individuals may be at risk of homelessness because of economic and / or personal circumstances where a level of support is required to live independently.

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Hamilton's aging and diversifying population has new and unique housing needs that cannot solely be met through current housing options. The City recognizes the importance of affordable housing and housing with supports in meeting the housing needs of those without the resources to participate in the private housing market.

Rental Housing Protection Policies

B.3.2.5 It is important to maintain a balance of *primary rental* and ownership housing stock. *Primary rental housing* stock lost to condominium conversion or demolition is not being replaced through the building of new units, but condominium conversion and *redevelopment* can meet other City goals such as *affordable* home ownership, neighbourhood revitalization, replacement of aging housing stock and *residential intensification*. The intent of the policies in Section B.3.2.5 is to minimize the loss of *primary rental housing*, particularly *affordable* rental housing, while permitting opportunities for neighbourhood revitalization, *residential intensification*, and *affordable* home ownership when the rental housing market is strong.”

The proposal is seeking to convert existing rental units that are considered to be affordable. Policies B.3.2.3 and B.3.2.5 outline the importance of affordable housing and that it is the goal of the City to maintain adequate affordable housing. Therefore, as the proposal is seeking to convert affordable rental units, the proposed Condominium Conversion does not adhere to the goals of minimizing the loss of primary rental housing and in particular affordable rental housing. It has not been demonstrated that the proposed Condominium Conversion application will result in the creation of opportunities for affordable home ownership.

Condominium Conversion of Rental Housing Units

“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,

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- 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."

Condominium Conversion allows for rental housing to be converted to condominium tenure and can result in the creation of affordable home ownership. The intent of Policy B.3.2.5.1 a) is to: 1) ensure that conversion to condominium dwelling units does not remove rental housing that is in a limited supply or create a supply limitation that would impact the affordability and availability of rental housing; and 2) to ensure that primary affordable rental housing is not lost due to conversion. The proposal does not comply with Policy B.3.2.5 a) as the conversion includes rental units in which the rental levels are significantly (approximately 10%) below the average market rent level.

The existing building on the subject property is included on the City's register of buildings of cultural heritage and / or historical interest, therefore as the property is not designated under Parts IV, V or VI of the *Ontario Heritage Act*, the subject property is not a protected heritage property. In addition, the applicant has not demonstrated that 75% of current tenants support the proposed conversion to condominium ownership. The applicant is seeking Condominium Conversion on the basis of the criteria set out under Policy B.3.2.5.1 a) which requires that all criteria outlined in i) to iv) are met.

In order to satisfy B.3.2.5.1 a), the applicant is required to demonstrate that the rental vacancy rate by dwelling unit and structure type has been above 2% for the preceding 24 months and that the proposed conversion will not reduce the rental vacancy rate by dwelling unit and structure type below 2%. In addition, the existing market rent levels

for the units proposed to be converted cannot be significantly below the average market rent levels (approximately 10%) both for the local housing market zone and the City as a whole, and the last rent levels charged before vacancy must also not be significantly below the average market rent levels.

Also, the applicant has not demonstrated that they meet Policies B.3.2.5.1 b) or c). Therefore, the proposed Condominium Conversion does not comply with the Condominium Conversion of Rental Housing Units Policy B.3.2.5.1.

"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."

An information package respecting Condominium Conversion was delivered to all existing residents of the building and a tenant information meeting was held on May 15, 2013, which was attended by twelve individuals who signed the attendance register and were present at the meeting. A copy of the information provided to the tenants was provided to City staff and deemed acceptable. Therefore, the proposed application of Condominium Conversion complies with Policy B.3.2.5.5.

As discussed in greater detail in the Analysis and Rationale for Recommendation Section of this Report, the proposal does not meet the criteria for Condominium Conversion under the UHOP. Therefore, the application does not comply with the policies of the UHOP.

Downtown Hamilton Secondary Plan (In Force and Effect, 2013 U.H.O.P.)

The subject property is within in the Downtown Hamilton Secondary Plan area (2013). The subject property is designated "Central Business District" on Map B.6.1-1, Land Use Plan for the Downtown Hamilton Secondary Plan.

"6.1.8.3 The Central Business District

The Central Business District shall accommodate the highest densities of commercial development within the Downtown. It is the office, cultural and government centre for the entire City and an important retail area for the Downtown and adjacent residential areas. The Central Business District incorporates three distinct commercial areas: the Jackson Square Complex, the Civic Cultural Area and the Main Street Corridor as shown on Map B.6.1-2 - Downtown Hamilton – Downtown Commercial Areas.

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- a) The Central Business District shall be the primary location for new office development in Downtown Hamilton. The construction of buildings whose primary use is commercial offices shall be discouraged elsewhere in the Downtown. Alternatively, mixed use buildings comprising residential and offices and commercial uses shall be encouraged and promoted.

6.1.8.6 Main Street Corridor

The Main Street Corridor describes the north and south sides of Main Street, east of Catharine Street and the area west of Bay Street, as shown on Map B.6.1-2 – Downtown Hamilton - Downtown Commercial Areas. It shall continue to be a mixed-use area containing office, institutional, residential and retail uses."

The existing building is used for commercial and residential uses both of which are uses permitted in the "Central Business District" designation and as the proposed application is only in respect to the tenure of the residential dwelling units, the existing uses, density and height of the lands will be maintained and will continue to comply.

Downtown Hamilton Secondary Plan (Council Adopted, 2018)

The subject property is within in the Downtown Hamilton Secondary Plan area (2018). The subject property is designated "Downtown Mixed Use" on Map B.6.1-1, Land Use Plan for the Downtown Hamilton Secondary Plan.

"6.1.3.3 Create Quality Residential Neighbourhoods

The Downtown Hamilton Secondary Plan supports creating new housing throughout the Downtown as well as improving the quality of the existing residential neighbourhoods. The Secondary Plan policies aim to ensure that new residential areas in the Downtown are compatible with the scale and character of nearby historical neighbourhoods. To achieve these objectives *development* shall:

- b) Create a diversified housing supply in the Downtown geared to the needs of various age groups, household size, and income levels with increased opportunities for affordable housing.

6.1.3.7 Diversity of Housing

Housing is fundamental to the economic, social, and physical well-being of Downtown's residents and neighbourhoods, Housing is a basic human need and is the central place from which people build their lives, nurture

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their families and themselves, and engage in their communities. Downtown's livability and prosperity is connected to the provision of housing that meets the requirements of a diverse population with varying housing needs. Downtown offers various built form housing options, including grade-related, mid-rise, and tall buildings with a variety of ownership and tenancy. Providing housing to a wide range of residents that is affordable, secure, of an appropriate size, and located to meet the needs of people throughout their life is the goal of an inclusive Downtown and essential to the creation of *complete communities*. To achieve these objectives *development* shall:

- a) Provide for a range of housing types, forms, and densities to meet the social, health, and well-being requirements of all current and future residents.

6.1.4.10 The *development* of housing with a full range of tenure, affordability, and support services shall be provided for and promoted throughout the Downtown in a full range of built housing forms in accordance with the policies of Section B.3.2 – Housing Policies of Volume 1.

6.1.6 Downtown Mixed Use Designation

Downtown Hamilton shall continue to maintain its key role as the governmental, institutional, educational, cultural, and residential centre of the City. The Downtown Mixed Use policies of the Secondary Plan are intended to support intensive, urban-scale mixed use *development*.”

The application was submitted prior to the Council adoption of the new Downtown Hamilton Secondary Plan. As such, the 2018 policies are informative and not determinative as the Clergy principle would apply. The existing building is used for commercial and residential uses both of which are uses permitted in the “Downtown Mixed Use” designation. The policies of the Downtown Hamilton Secondary Plan seek the development of housing with a full range of tenures and affordability, as well as create a diversified housing supply geared to the needs of various income levels with increased opportunities for affordable housing. As the proposal is to replace existing affordable rental housing with condominium housing the proposal does not conform to the policies respecting creating a full range of tenures and affordability nor does the proposal create a diversified housing supply with increased opportunities for affordable housing.

City of Hamilton Zoning By-law No. 05-200

The subject property is zoned "D2" Downtown Prime Retail Streets Zone and "D3" Downtown Mixed Use Zone in the City of Hamilton Zoning By-law No. 05-200. The

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extent of the proposed Condominium Conversion is located within the portion of the property zoned "D3" Downtown Mixed Use Zone. Furthermore, office and multiple dwelling uses are both permitted within the "D2" Downtown Prime Retail Streets Zone and "D3" Downtown Mixed Use Zone. The proposal to change the tenure from rental to condominium ownership does not change the use of the lands.

RELEVANT CONSULTATION

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

- Alectra Utilities (formerly Horizon Utilities Corporation).

Forestry and Horticulture Section, Public Works Department advised that there are no Municipal Tree Assets located on the road allowance and therefore no Tree Management Plan is required. In addition, no new landscape strips were shown nor are any required by the Forestry and Horticulture Section.

Operations Division, Public Works Department advise that collection of garbage, recycling, organics as well as leaf and yard waste will be status quo. The property will continue to receive municipal waste collection service. However, Operations Division staff note that the frequency of collection along with the amount that is acceptable for collection may change based on the number of occupied units.

Transportation Management, Public Works Department advised that they cannot confirm if there is an existing encroachment agreement registered for the subject property with the City of Hamilton. Staff advised that if there is an existing encroachment agreement then it will need to be determined if the proposed Condominium Conversion will require any modifications to the agreement.

Housing Service Division, Community and Emergency Services Department advised in their comments dated March 4, 2015 that the UHOP sets policies to guide future growth and development of a community which includes fostering a healthy rental housing market. Policy B.3.2.5.1 a) of the UHOP identifies four conditions that must be satisfied in order to recommend condominium conversion approval. Housing Division staff advised that if the above criteria are not met then Policy B.3.2.5.1 b) respecting receiving 75% support from current tenants can be applied.

In 2015, Housing Service Division staff provided analysis as to whether the proposed Condominium Conversion meets the criteria of the UHOP. Vacancy rate data for 2013 demonstrated that the vacancy rate for all dwelling unit types was above 2% and the vacancy rate data for 2014 demonstrated that the vacancy rate for bachelor, one bedroom, and three bedroom units had vacancy rates above 2%. The two bedroom

units had a vacancy rate of 1.6% and therefore below the 2% vacancy rate criteria of the UHOP.

Based on the rent rolls provided by the applicant in 2014 average market rent level data, all of the bachelor and three bedroom units met the average market rent threshold. Three of the one bedroom units, and five of the two bedroom units met the affordability criteria in that they had rent levels that were below the 10% average market rent level for the housing type. Therefore, eight of the dwelling units met the criteria for affordable dwelling units.

Consequently the proposed Condominium Conversion did not comply with to the vacancy rate criteria for two bedroom units and eight dwelling units did not comply with the affordability criteria for Condominium Conversion under the UHOP.

Housing Service Division staff further advised that as the affordability criteria were not met staff reviewed the Condominium Conversion with respect to whether 75% of current tenants support of the conversion to condominium. As only 16 questionnaires were received for 103 occupied units, this policy was not met.

Housing Service Division staff provided revised comments on September 20, 2017 in response to revised information was provided by the applicant respecting CMHC vacancy rates for the past two years and updated rent levels for the existing units to demonstrate conformity with respect to the UHOP criteria. Based on the review of the revised information, Housing Service staff advised that the Condominium Conversion meets the vacancy rate policies of the UHOP as each unit type have had vacancy rates above 2% for the past 24 months and will remain above 2% after the Condominium Conversion. Furthermore, staff advised that all bachelor, two bedroom and three bedroom units have rent levels above the CMHC affordability threshold and are therefore not considered to be affordable. However, in respect to one bedroom units, a total of 28 of the one bedroom units did not meet the affordability criteria as they had rent levels below \$750 per month which constitutes a rent level of 10% below the average market rent level of \$833 per month. The 28 one bedroom units account for 35% of one bedroom units in the building and 22% of all dwelling units in the building.

Housing Service Division staff advised that converting all units to condominiums would mean taking a number of affordable rental units off the market in a climate where conditions are such that there is a limited amount of new affordable rental housing stock being created. Housing Service Division staff, therefore, recommended against the approval of the Condominium Conversion application as it falls short of meeting all of the criteria set out in Policy B.3.2.5.1 a) of the UHOP.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposed Condominium Conversion application cannot be supported for the following reasons:
 - (i) That the proposed Draft Plan of Condominium is not consistent with the Provincial Policy Statement (2014) in respect to maintaining a range and mix of residential including affordable housing; and,
 - (ii) That the effect of the application would be to convert 28 affordable rental dwelling units which would not comply with the Urban Hamilton Official Plan, in particular the Condominium Conversion of Rental Housing Units Policy B.3.2.5.1 a) in that 28 dwelling units have a rent level significantly (approximately 10%) below the average market rent levels, which among other criteria, is a precondition for the conversion of rental housing stock.
2. Prior to submission of the application an information package respecting Condominium Conversion was delivered to all existing residents of the building and a tenant information meeting was held on May 15, 2013, which was attended by twelve individuals who signed the attendance register and were present at the meeting. A copy of the information provided to the tenants was provided to City staff and deemed acceptable. Furthermore, staff initially proposed to bring forward a staff report on the application to the April 17, 2018 Planning Committee, however, the agent requested a six week deferral to provide them with additional time to consult with the tenants. As of the time of preparation of this Report, it is staff's understanding that the agent has not been able to secure 75% tenant support for the proposed condominium conversion.
3. All four criteria outlined under Policy B.3.2.5.1 a) must be met in order for a Condominium Conversion to be supported.

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

Table 1: Vacancy Rate and Average Market Rents by Unit Type in City of Hamilton Source: CMHC (2015, 2016)

Unit Type	Vacancy Rate (2015)	Vacancy Rate (2016)	Average Rent (2015)	Average Rent (2016)
Bachelor	6.3%	9.0%	\$604	\$680
One Bedroom	3.4%	4.0%	\$756	\$816
Two Bedroom	4.0%	4.0%	\$920	\$967

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SUBJECT: Application for a Condominium Conversion for Lands Known as 115 Main Street East, Hamilton (PED18080) (Ward 2) - Page 18 of 21

Three Bedroom	4.7%	10.2%	\$1,065	\$1,108
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Table 2 shows the vacancy rate and average market rents for the Downtown Core local housing market zone (Zones 1 - 4), for bachelor, one bedroom, two bedroom, and three bedroom apartment units.

Table 2: Vacancy Rate and Average Market Rents by Unit Type in Local Housing Market (Downtown + Central Core) Source: CMHC (2015, 2016)

Unit Type	Vacancy Rate (2015)	Vacancy Rate (2016)	Average Rent (2015)	Average Rent (2016)
Bachelor	No Data	11.1%	\$609	\$686
One Bedroom	3.6%	4.1%	\$766	\$833
Two Bedroom	4.4%	5.0%	\$960	\$1,030
Three Bedroom	2.8%	2.2%	\$1,179	\$1,234

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

Table 3 shows the affordable rent threshold of approximately 10% below average market rent level, the lowest and highest rent levels for bachelor, one bedroom, two bedroom, and three bedroom apartment units at 115 Main Street East and the number of units with rent levels below the affordability threshold.

Table 3: Rent Levels and Affordable Rent Threshold by Unit Type

Unit Type	Average Market Rent	Affordable Rent Threshold	Lowest Rent Level (Subject Land)	Highest Rent Level (Subject Lands)	Number of Units Below Rent Threshold
Bachelor	\$686	\$617	\$630	\$1,398	0
One Bedroom	\$833	\$750	\$602	\$1,898	28
Two Bedroom	\$1,030	\$927	\$1,051	\$1,108	0
Three Bedroom	\$1,234	\$1,111	\$1,356	\$1,356	0

As outlined in Tables 1 and 2 the applicant has provided CMHC data that demonstrated that the vacancy rate for all dwelling unit and structure types has been above 2% for the preceding 24 months and will remain above 2% after the Condominium Conversion.

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Also, the rent information provided by the applicant, as outlined in Table 3, showed none of the bachelor, two bedroom or three bedroom units have rents below the affordable rent threshold.

However, upon further review by Housing Section staff, 28 of the one bedroom units (35% of all one bedroom units or 22% of all units in the building) have rents below \$750 per month. A rent of \$750 per month represents a rent level that is 10% below the average market rent level of \$833 per month for the Downtown Core local housing market zone (Zones 1 – 4). As a result, the Condominium Conversion does not meet Policy B.3.2.5.1 a) iii) and iv). If any one of the criteria listed under Policy B.3.2.5.1 a) is not satisfied, the proposal cannot be supported.

As demonstrated in Tables 1 and 2 in the UHOP policy section of this Report, the vacancy rate of all dwelling unit types has been above 2% for the last two years. Furthermore, as demonstrated in Table 3 in the UHOP policy section of this Report, the rent level of all bachelor units are greater than \$617, in addition the rent level of all two bedroom units is greater than \$927, and greater than \$1,111 for all three bedroom apartment unit, and therefore all bachelor, two bedroom, and three bedroom units have rents that are greater than the affordable rent threshold. It is, however, noted in Table 3 that the lowest rent level for a one-bedroom apartment unit is \$148 below the affordable rent threshold and that a total of 28 dwelling units have rent levels below \$750.

As 28 of the one bedroom units are considered to be affordable with rent levels more than 10% below the average market rent level, the proposed Condominium Conversion does not comply with the criteria outlined under Policy B.3.2.5.1 a).

Policy B.3.2.5.1 outlines two additional options for Condominium Conversion, which includes, receiving support from 75% of current tenants for the Condominium Conversion or that the subject property is a protected heritage property. The applicant indicated on February 8, 2018 that they intended to pursue receiving support from 75% of current tenants for the Condominium Conversion, however the applicant has not provided staff with supporting documentation to demonstrate that 75% of current tenants support the Condominium Conversion. Also the subject property is not a protected heritage property. Therefore, the proposed Condominium Conversion does not comply with Policies B.3.2.5.1 b) and c).

As such, the proposed Condominium Conversion has not demonstrated conformity to any of the three options for Condominium Conversion outlined under Policy B.3.2.5.1. Therefore, the proposal does not comply with the policies of the UHOP. As such, the application cannot be supported.

4. There are existing municipal services adjacent to the subject lands to service this site directly. The Owner is advised that vertical multi-unit residential developments (apartments) require a master meter for the entire development. Satellite metres are optional, but subject to the owner entering into an agreement for individual water meters in vertical buildings.
5. No parking is being included in the proposed Condominium Conversion and, therefore, no owner occupied parking is being proposed. There is currently parking within the existing building that can be utilized by the existing residents. As no parking is included in the Draft Plan of Condominium nor are other mechanisms proposed that would guarantee access to parking, staff are therefore concerned that residents would no longer have access to parking. Also, it is noted that a shortage in parking is increasingly becoming a concern in this area. Furthermore, there is already high demand for on-street parking in the area and as such providing zero parking for the condominium units would not be supported.

ALTERNATIVES FOR CONSIDERATION

Alternative 1:

Should the application be approved, staff shall be directed to prepare a list of conditions of Condominium conversion to address matters not limited to: Zoning By-law conformity, reciprocal easements, completing a noise study and including any noise warning clauses, include any warning clauses respecting parking, structural and mechanical integrity, utility and service requirements, master meter requirement, and any other necessary agreements to implement Council's direction.

Alternative 2:

Should the application be denied, the existing dwelling units would remain and the rental tenure of the existing dwelling units will be able to continue.

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.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

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

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Location Map

Appendix "B" – Concept Plan

DB:mo