

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> WARD 2
<b>COMMITTEE DATE:</b> May 3, 2011	
<b>SUBJECT/REPORT NO:</b> Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 27, 33, 39, 41 and 43 Herkimer Street (Hamilton) (PED11073) (Ward 2)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Delia McPhail (905) 546-2424, Ext. 6663
<b>SIGNATURE:</b>	

**RECOMMENDATION:**

That approval be given to **Condominium Conversion Application CDM-CONV-10-01, by Knightsbridge Properties and Chancery Properties, Owners**, to establish a Draft Plan of Condominium for 5 existing apartment buildings, consisting of a total of 47 dwelling units, located at 27, 33, 39, 41, and 43 Herkimer Street (Hamilton), as shown on the attached map marked as Appendix "A" to Report PED11073, subject to the following:

- (a) That this approval apply to the plan, prepared by A.T. McLaren Limited and certified by S.D. McLaren, O.L.S., dated July 26, 2010, showing a total of 47 residential apartment units and 32 vehicular parking spaces, attached as Appendix "B" to Report PED11073.
- (b) That the following conditions shall apply to the Draft Plan of Condominium approval:

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- (i) That the Final Plan of Condominium shall comply with all of the applicable provisions of the applicable Zoning By-law, to the satisfaction of the Manager of Development Planning.
- (ii) That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.
- (iii) That the owner shall submit a report in accordance with Section 9 (4) of The Condominium Act, 1998, prepared and certified by a qualified Registered Professional Engineer or Licensed Architect, to the satisfaction of the Chief Building Official of the City of Hamilton, to confirm the structural and mechanical integrity of the buildings and any owner initiated measures required to correct any deficiencies prior to the release of the final plan for registration.
- (iv) That the owner shall include the following warning clause in all Development Agreements and Offers of Purchase and Sale or Lease/Rental Agreements:

“Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality’s and the Ministry of the Environment’s noise criteria.”
- (v) That the owner shall provide the Manager of Design and Construction with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunication services provider, approved by the Canadian Radio and Telecommunication Commission (CRTC), that adequate telecommunication service will be provided to the condominium, including 9-1-1 emergency calling service that identifies, at a minimum, the caller’s name and location information.
- (vi) That if the condominium is registered in phases, then the owner shall prepare and register an easement on title granting reciprocal rights-of-way over all properties to ensure vehicular and pedestrian access, all at his/her own expense, prior to the release of the final plan for registration, to the satisfaction of the City’s Manager of Transportation Planning.

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**EXECUTIVE SUMMARY**

The purpose of this application is to create a Plan of Condominium for 47 existing apartment units located at 27, 33, 39, 41 and 43 Herkimer Street, Hamilton (see Appendix "A"). 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, with conditions, as the proposal is consistent with the Provincial Policy Statement, and conforms to the Places to Grow Plan, the "Urban Area" policies of the Hamilton-Wentworth Official Plan, as well as the "Residential" and "Housing" policies in both the City of Hamilton Official Plan and the new Urban Official Plan.

*Alternatives for Consideration - See Page 15.*

**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**

**Proposal**

The applicants seek approval of a Draft Plan of Condominium to allow a change in tenure from rental of the existing 47 apartment units located within the five (5) existing buildings at 27-43 Herkimer Street (Hamilton) to condominium units. The five buildings contain a combined total of 17 bachelor, 13 one-bedroom, 6 two-bedroom, and 11 three-bedroom dwelling units. The individual units, including 32 parking spaces, would form the exclusive use areas, while the remainder of the property, including the landscaped areas, stairways, and hallways, would form the common element areas (see Appendix "B").

The subject lands are approximately 0.29 hectare in size and are located at the southwest corner of Herkimer Street and MacNab Street South (see Appendix "A"). Uses that surround the subject lands are predominantly residential of varying densities, and a commercial property located to the west.

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**Chronology:**

September 16, 2010: Application is deemed complete.

October 21 2010: Applicants provide rent roll information for subject lands.

November 4, 2010: Applicants request that the application be put on hold until 2010 CMHC Rental Market Data is released.

January 2011: 2010 CMHC Rental Market Data is received by the City.

February 4, 2011: Comments are received that indicate the application conforms to the "Housing" Policies of the City of Hamilton Official Plan.

**Location:** 27, 33, 39, 41 and 43 Herkimer Street (Hamilton)

**Owners/Applicants:** Knightsbridge Properties Inc. and Chancery Properties Inc.

**Agent:** IBI Group (George Zajac)

**Property Description:**

<u>Lot Area:</u>	0.41 hectares
<u>Lot Frontage:</u>	91.74 metres
<u>Lot Depth:</u>	45.42 metres

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**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Rental Apartments	“E” (Multiple Dwellings, Lodges, Clubs, etc.) District
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Rental Apartments Townhouse Condominiums	“E” (Multiple Dwellings, Lodges, Clubs, etc.) District and “DE-3” (Multiple Dwellings) District, Modified
<b>West</b>	Professional Offices	“E/S-303 (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified
<b>South</b>	Single Detached Dwellings	“C” (Urban Protected Residential) District and “C/S-623a” (Urban Protected Residential) District, Modified
<b>East</b>	Single Detached Dwellings	“C” (Urban Protected Residential) District and “DE-3” (Multiple Dwellings) District, Modified

**POLICY IMPLICATIONS**

**Provincial Policy Statement**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff notes that the subject application is consistent with the policies that focus growth in Settlement Areas 1.1.3.1. However, Policy 1.7.1(e) requires that major facilities (such as transportation corridors) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise, and other contaminants. As the subject lands are within approximately 128m from James Street South and 190m from Bay Street South, a warning clause should be included in all Development Agreements and Offers of Purchase and Sale or Lease/Rental Agreements. This is recommended as a condition of Condominium approval (see Recommendation (b)(iv)).

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Policy 2.6.1 states that significant built heritage resources and significant cultural heritage landscapes shall be conserved. The buildings on the subject lands are identified as having architectural and/or historical interest, and are listed within Hamilton's Heritage Volume II. In addition, the subject lands are located adjacent to the Durand/Markland Heritage Conservation District, which is designated under the Ontario Heritage Act and identified within Hamilton's Heritage Volume II. Because no development or site alteration is proposed, as part of the subject application, heritage attributes of the properties will be conserved, in accordance with Policy 2.6.3.

Based on the foregoing, the proposal is consistent with the policies of the Provincial Policy Statement.

### **Places to Grow**

The application has been reviewed with respect to the Places to Grow Plan. 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, and easy access to local stores and services. As a result, the proposal conforms to the Places to Grow Plan.

### **Hamilton-Wentworth Official Plan**

The subject lands are designated "Urban Area" in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. In addition, as per Part A, Section II, the City has interests in providing for housing which meets the needs of the diversity of households throughout the City.

Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources in the review of development redevelopment proposals. As noted above, the subject lands are identified as having architectural and/or historical interest and are adjacent to the Durand-Markland Heritage Conservation District; however, because no development or site alteration is proposed, no adverse impacts are anticipated and the heritage attributes will be maintained and protected.

As the nature of the application is for the conversion of the existing rental apartment units into a plan of condominium, the proposal conforms to the Hamilton-Wentworth Official Plan.

### **The City of Hamilton Official Plan**

The subject lands are designated “Residential” on Schedule “A”, Land Use Concept of the City of Hamilton Official Plan, and permits the existing residential use. Section 7.3 (i) of the Official Plan encourages the maintenance, renovation, and rehabilitation of residential properties.

This condominium conversion application would allow the rehabilitation of the existing residential stock on the subject land. In addition, Section C.7.3. (v) supports new residential development that provides tenure options and a range of prices for new dwellings that will be affordable to Hamilton residents. Also, Section C.7.3. (ix) supports the concept of a residential community that provides a diversity of dwelling forms and housing options that are accessible to all Hamilton residents.

The Official Plan also provides guidance in assessing the merits of proposed condominium conversions under Section C.7.11. These Official Plan policies are also addressed in the Analysis/Rationale section of this Report.

Based on the foregoing, the proposal conforms to the policies of this Plan.

### **New Urban Hamilton Official Plan (Ministerial Approved)**

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009, and was approved, with modifications, by the Minister of Municipal Affairs and Housing on March 16, 2011. The subject lands are designated “Neighbourhoods” on Schedule E-1 of the Urban Hamilton Official Plan, and permits the existing use.

Housing policies, as found in Chapter B, Section 3.2, of the Urban Hamilton Official Plan, support the proposed conversion of the existing rental townhouse units to a condominium tenure, as housing needs to change and evolve due to the changes in demographic and economic conditions, and that there must be a sufficient supply of housing with a range of affordability types. Section 3.2.1 identifies urban housing goals, which include the following:

- “3.2.1.1 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.
- 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.
- 3.2.1.5 Maintain a balance of primary rental and ownership housing stock, as outlined in the Affordable Housing Strategy.”

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The Urban Hamilton Official Plan also has policies with respect to condominium conversion of rental housing units, as found in Section 3.2.5.1.

“3.2.5.1a) All of 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;
- (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.”

As the proposed condominium conversion meets the above criteria and provides homeownership opportunities for existing tenants and residents in the community, the proposal conforms to the Urban Hamilton Official Plan.

#### **RELEVANT CONSULTATION**

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

- Infrastructure and Source Water Planning Section, Public Works Department.
- Taxation Division, Corporate Services Department.
- Environment and Sustainable Infrastructure Division, Public Works Department.
- Downtown and Community Renewal Division, Planning and Economic Development Department.
- Development Engineering Division, Planning and Economic Development Department.
- Hamilton Emergency Services.
- Hamilton Conservation Authority.
- Union Gas.
- Horizon Utilities.
- Hydro One.
- Canada Post.



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**Traffic Engineering Section, Public Works Department:**

The alley shown on the draft Plan of Condominium is not owned by the City of Hamilton. Therefore, easements should be established on title granting reciprocal right-of-way over all the properties to ensure vehicular and pedestrian access (see Recommendation (b)(vi)).

**Urban Forestry, Public Works Department:**

There are 13 Municipal Tree Assets located along Herkimer Street and 2 along the MacNab Street South road allowances. Because no external works are proposed, no impacts are anticipated and, therefore, Tree Management is not required. No additional calliper trees are requested, nor are landscape strips.

**Parking Services, Hamilton Municipal Parking System:**

Staff notes that all existing and future parking requirements shall be met on-site.

**Housing Division, Community Services Department:**

The City's Housing Division has advised that the following Official Plan requirements for both the local housing market zone and the City of Hamilton have been met:

1. The vacancy rate has been above 2% for the past two years by dwelling/structure type for the City and the respective local housing market zone;
2. The proposed conversion will not reduce the rental vacancy rate by dwelling/structure type to below 2.0% for the City and the respective local housing market zone; and,
3. The existing market rent levels for the units proposed to be converted are not significantly below the average market rent levels for the City and the respective local housing market zone.

Initial comments from the City's Housing Division used the 2008 and 2009 Rental Market Report as part of their analysis. Data showed that the vacancy rates for bachelor, one-bedroom, two-bedroom, and three-bedroom units increased from 5.7%, 3.6%, 3.2%, and 0.9% in 2008 for the Downtown and Central Hamilton local housing market zone (Comment 2, Page 10) to 6.2%, 3.9%, 4.9%, and 2.7% in 2009, respectively.

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Although vacancy rates for the local housing market and the City of Hamilton were both above 2% in 2009, the three-bedroom vacancy rate in 2008 was less than 2% for the local housing market. As a result, the Official Plan requirements that vacancy rates have been above 2% for the past two years had not been met for both the City and the local housing market, given the original data provided. However, the Canada Mortgage Housing Corporation released 2010 Housing Data in January which, applying the 2009 and 2010 data, shows that this criterion is now satisfied for the unit type in both the City and the local market housing zone.

Staff noted that although three-bedroom units account for a significant portion of the total units proposed for conversion (23%), the conversion of the subject rental units to condominium does not negatively impact vacancy rates, such that rates would fall below 2% for any unit type for the local housing market zone and for the City of Hamilton. Rent roll information provided by the applicants indicated that average rents were not significantly below either the average market rent for the local housing market zone or the City of Hamilton.

**Bell Canada:**

Bell Canada requires an easement to ensure communications/telecommunications facilities are protected in perpetuity. Bell should also be contacted if any telecommunications infrastructure is to be relocated. Staff has addressed Bell Canada's concerns through the inclusion of Condition (b)(v) in the Recommendation section of this Report.

**ANALYSIS / 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 the Places to Grow Plan and the Hamilton-Wentworth Official Plan;
  - (ii) It conforms to the Residential Condominium Conversion policies of the City of Hamilton Official Plan and the Ministerially Approved Urban Official Plan;
  - (iii) The conversion of the units will not reduce the number of overall affordable rental units for bachelor, one-bedroom, two-bedroom, and three-bedroom apartment dwelling units within the City of Hamilton; and,
  - (iv) It provides for the retention of buildings having architectural and/or historical interest.

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2. The housing policies found in the City of Hamilton Official Plan are intended to guide future growth and development, which includes the protection of a full range of housing, including rental housing, throughout the City. In this regard, Section C.7.11 of the City of Hamilton’s Official Plan identifies the following three conditions that must be satisfied in order to recommend the conversion of rental stock to condominium ownership:

- “(i) The rental vacancy rate by dwelling/structure type for the City and the respective local housing market zone has been at or above 2.0% for the preceding twenty-four months.
- (ii) The proposed conversion will not reduce the rental vacancy rate by dwelling/structure type to below 2.0% for the City and the respective local housing market zone.
- (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 for rental units of a similar dwelling/structure type.”

The Canada Mortgage and Housing Corporation (CMHC) provides annual statistical information on the national, provincial, and local housing markets. 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: Vacancy Rate and Average Market Rent by Unit Type in Zones 1+4 (Downtown + Central Hamilton)

<b>Unit Type</b>	<b>Vacancy Rate (2009)</b>	<b>Average Rent (2009)</b>	<b>Vacancy Rate (2010)</b>	<b>Average Rent (2010)</b>
<b>Bachelor</b>	6.2%	\$507	8.4%	\$507
<b>One-Bedroom</b>	3.9%	\$635	4.1%	\$649
<b>Two-Bedroom</b>	4.9%	\$790	4.8%	\$806
<b>Three-Bedroom</b>	2.7%	\$909	3.0%	\$973

Source: CMHC (2010)

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Table 2: Vacancy Rate and Average Market Rents by Unit Type in the City of Hamilton

<b>Unit Type</b>	<b>Vacancy Rate (2009)</b>	<b>Average Rent (2009)</b>	<b>Vacancy Rate (2010)</b>	<b>Average Rent (2010)</b>
<b>Bachelor</b>	7.0%	\$509	7.8%	\$510
<b>One-Bedroom</b>	3.8%	\$644	4.1%	\$655
<b>Two-Bedroom</b>	4.7%	\$767	3.9%	\$788
<b>Three-Bedroom</b>	3.9%	\$874	5.0%	\$938

Source: CMHC (2010)

The subject lands are located in the Downtown and Central Hamilton (Zones 1 and 4) local market zone. As outlined in the above tables, the vacancy rates for three of the four unit types increased in both the local housing market zone and the City of Hamilton between 2009 and 2010. The Official Plan requirements that the rental vacancy rate for the City and the respective local housing market be above 2% for the preceding 24-months has been met.

The conversion of the apartment dwelling units from rental to condominium will not negatively impact the vacancy rate such that the vacancy rate will fall below 2% for three-bedroom townhouse units in local housing market Zones 1 and 4 and the City of Hamilton.

The proposed apartment units to be converted are currently rented at a cost ranging from \$483.00 to \$605.00 for a bachelor, \$613.00 to \$753.00 for a one-bedroom, \$734.00 to \$865.00 for a two-bedroom, and \$896.00 to \$970.00 for a three-bedroom apartment. Based on the rent roll information provided by the applicants, it appears that none of the units have rents significantly (10%) below either the average market rent for the local housing market zone or the City of Hamilton.

In summary, the proposed condominium conversion conforms to the policies of the City of Hamilton Official Plan.

3. The owner of the subject lands is proposing to offer homeownership to existing tenants. Despite their decision, existing tenants at the time of conversion will continue to have the benefit of security of tenure, which allows them to remain in the units without the ability of a new landlord to force displacement. The applicants did not provide information concerning estimated selling prices for the proposed condominium units.

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4. The new Urban Official Plan was approved by the Minister of Municipal Affairs and Housing on March 16, 2011, however, it is not yet in force and effect. Notwithstanding, there are certain policies in the new Urban Official Plan which assist in the assessment of this condominium conversion application. Housing markets change due to changes in demographic and economic conditions, and the new Urban Official Plan supports conversions of existing rental apartments to condominium tenure. In addition, Section 3.2.1 identifies urban housing goals, which include providing a range of housing types, forms, and densities to meet the social, health, and well-being of current and future residents (Section 3.2.1.1), increasing Hamilton's stock of affordable housing in areas of low levels of affordable housing (Section 3.2.1.3), and maintaining a balance of primary rental and ownership housing stock (Section 3.2.1.5). Based on the foregoing, the proposal conforms to the Urban Hamilton Official Plan.
  
5. The applicants have been diligent in advising the existing tenants and staff of the owner's intent to convert the existing apartments into condominiums. On July 30, 2010, the applicants hand delivered a notice of an "Information Meeting" to be held on August 10, 2010, and also provided existing tenants with a brief overview of their rights according to "security of tenure". The Ward Councillor and City of Hamilton Planning staff received a copy of the invitation via email. Twenty residents from all five apartment buildings on the subject lands attended the meeting, at which time the applicants advised the tenants that the owner intended to make an application to the City for the conversion of the subject lands to ownership tenure. The applicants explained to the tenants the condominium conversion process, the tenant's rights under the Residential Tenancies Act, and provided an opportunity for the tenants to ask questions. A further information sheet was circulated to all tenants outlining the application process and the existing tenants' rights under the Residential Tenancies Act, including confirmation that existing residents not committing to purchase their units will be allowed to continue to rent. Minutes of the Tenant "Information Meeting" on August 10, 2010, are attached as Appendix "C" to this Report.
  
6. 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/applicants to retain a qualified professional to inspect the property and report to the municipality all matters that it considers may be of concern. As such, in order to ensure the quality and safety of future residents, it is essential that the City receives an engineering report that is signed by a professional engineer or architect which will address all requirements that are set out within the present Building Code. As a condition of approval (Recommendation (b) (iii)), staff has recommended that the owner submit a report to confirm the structural and mechanical integrity of the building(s), and implement any measures required to correct any deficiencies.

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7. Staff has noted the following zoning deficiencies in the Draft Plan of Condominium:
- Section 4(3) restricts one multiple dwelling per lot, therefore, a minor variance is required to permit the subject multiple dwellings on one lot, unless the situation has existed prior to March 29, 1960, when the said requirement was passed.
  - The City of Hamilton Zoning By-law requires a total of 47 parking spaces be provided of which 10 shall be for visitor parking, whereas the Draft Plan of condominium shows 31 existing parking spaces are provided.
  - The Draft Plan of Condominium shows different dimensions for each parking stall provided, which are less than the minimum dimensions, being 2.7 metres by 6.0 metres. As a result, the parking space dimensions do not conform to the minimum requirements of the parking dimensions of the Zoning By-law.
  - No loading spaces are shown on the Draft Plan of Condominium, whereas a total of 4 loading spaces (one for each building), being a minimum of 3.7 metres wide by 9.0 metres long with a vertical clearance of 4.3 metres, are required.
  - Compliance with additional Zoning By-law requirements, including building location and size, gross floor area, and landscaping could not be determined as details have not been provided by the applicants.

The owner must demonstrate legal non-conforming status, or submit an application to the Committee of Adjustment to seek relief for the above deficiencies in the Zoning By-law, or rebuild the parking lot in order to be in compliance with the Zoning By-law. This is a condition of Draft Plan of Condominium approval (see Recommendation (b) (i)).

8. The application was made by Knightsbridge Properties, however, City records indicate that the subject lands are comprised of two separate properties, one of which is owned by Chancery Properties Inc. Staff has been advised that different nominee titleholders were used, as these multiple municipal addresses were acquired over time, however, the properties share the same beneficial ownership. It is the intent of the applicants that should the condominium conversion be approved, the subject lands will become one entity under single ownership. Therefore, the application has been amended to clarify the ownership structure.

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9. The subject lands are serviced by existing municipal services, and there are no grading or drainage concerns. In addition, there are no future road allowance widenings along the frontage or flankage of the subject lands onto Herkimer Street and MacNab Street South. However, in the event that the condominium is registered in phases, then reciprocal rights-of-way should be registered on title in order to ensure vehicular and pedestrian access over all properties (see Recommendation (b) (vi)).

**ALTERNATIVES FOR CONSIDERATION:**

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

**CORPORATE STRATEGIC PLAN**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

**Financial Sustainability**

- ◆ Generate assessment growth/non-tax revenues.

**Social Development**

- ◆ Everyone has a home they can afford that is well maintained and safe.

**Healthy Community**

- ◆ Plan and manage the built environment.
- ◆ Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services).

**APPENDICES / SCHEDULES**

- Appendix "A": Location Map
- Appendix "B": Draft Plan of Condominium
- Appendix "C": Minutes of the Tenant Information Meeting on August 10, 2010

:DM

Attachs. (3)



● Site of the Application



Ward 2 Key Map

N.T.S.

## Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
25CDM-CONV-10-01

Date:  
November 3, 2010

Appendix "A"

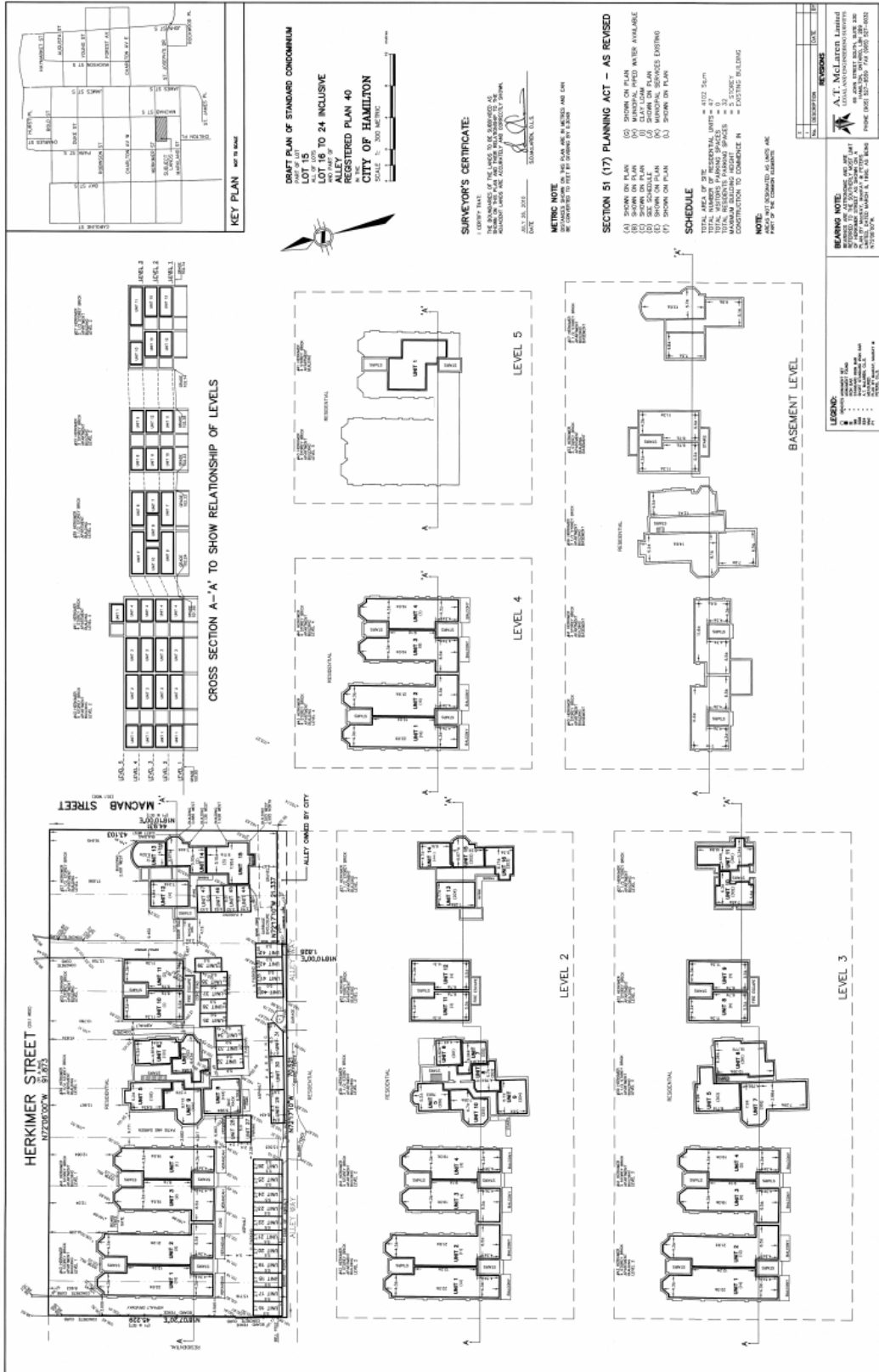
Scale:  
N.T.S.

Planner/Technician:  
DM/AL

### Subject Property

27, 33, 39, 41 & 43 Herkimer Street





Resident Information Meeting  
6:00 – 6:50pm; August 10th, 2010.

## Minutes

<b>To/Attention</b>	Jason Thompson, City of Hamilton	<b>Date of Meeting</b>	August 10 <sup>th</sup> , 2010
<b>From</b>	IBI Group (Hamilton) c/o George Zajac		
<b>Subject</b>	Resident Information Meeting 6:00 – 6:50pm; August 10 <sup>th</sup> , 2010.		
<b>Location</b>	Church of the Ascension – Parish Hall 64 Forest Avenue, Hamilton		

### **Present:**

#### **IBI Group:**

Mr. George Zajac, Planner - Agent on behalf of the Owner  
Mr. Fernando Puga, Planner - Agent on behalf of the Owner

#### **Clients:**

Mr. David Horwood, on behalf of Effort Trust Property Management

#### **City of Hamilton:**

Mr. Cameron Thomas, Planner – City of Hamilton.

**Tenants of 27, 33, 39, 41 & 43 Herkimer Street, as indicated by attached Sign-In sheet.**

Resident Information Meeting  
6:00 – 6:50pm; August 10th, 2010.

	Speaker
<p><b>Meeting is called to commence by Mr. Zajac; 6:00pm</b></p> <ul style="list-style-type: none"> <li>• <b>Administrative Issues are addressed;</b> <ul style="list-style-type: none"> <li>All attendees are asked to sign the sign-in sheet.</li> <li>Clarification if Notice to Residents had been received.</li> </ul> </li> <li>• <b>Introductions are made in respect to;</b> <ul style="list-style-type: none"> <li>Mr. G. Zajac</li> <li>Mr. F. Puga</li> <li>Mr. C. Thomas</li> </ul> </li> </ul> <p><b>Introduction from Mr. G. Zajac to Residents.</b></p> <ul style="list-style-type: none"> <li>• Mr. Zajac addresses why the meeting has been called and explains that it is the intent of the owner to submit to the City of Hamilton an application for Condominium Conversion.</li> <li>• This conversion will occur by means of a Draft Plan of Condominium. Mr. Zajac explains that this is similar in nature to a Draft Plan of Subdivision.</li> <li>• He notes that as part of this application the condominium portion will consist of the existing units with the stairwells, hallways, parking area, green space being part of the common element portion.</li> </ul> <p><b>Mr. G. Zajac explains to the Residential Tenancy Act and Security of Tenure.</b></p> <ul style="list-style-type: none"> <li>• Mr. Zajac explains to the residents that if the application was approved, they would enjoy the benefits of Security of Tenure (SOT).</li> <li>• Mr. Zajac clarified that even if approval was given and the units were sold, the new landlord would not be able to displace the existing tenant.</li> <li>• As part of SOT the existing tenant would enjoy the Right of First Refusal. Mr. Zajac explains that if the conversion was approved and the units were being sold, the existing tenant would have the right to purchase their unit first.</li> <li>• Mr. Zajac explains that he hopes or anticipates that submission and decision process of the application could take approximately 4-6 months.</li> <li>• Mr. Zajac explains that the City of Hamilton's planning staff would prepare a report which would recommend approval or denial of the application. If approval was recommended a series of conditions would need to be satisfied, including an Engineer's Report.</li> </ul>	<p>Mr. G. Zajac</p> <p>Mr. G. Zajac</p> <p>Mr. G. Zajac</p>

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**Mr. G. Zajac explains the need for an Engineer's Report as part of the Condominium Conversion Approval.**

- Mr. Zajac informs the residents that as part of the approval process an Engineer's Report will be completed. This report will address the condition of the building at the time of the conversion.
- The report will review the existing condition of the site and address any of the deficiencies which will need to be repaired prior to final approval. This will ensure that the building is in compliance with the Ontario Building Code.
- Mr. Zajac explains that this is a standard condition of approval ever since an incident in Mississauga forced the Provincial Government to reevaluate the Condominium Conversion process.
- It is from this report that the Reserve Fund Study (RFS) will be based. The RFS will allow for an appropriate amount of money to be set aside for future repairs prior to the establishment of the condominium corporation.

Mr. G. Zajac

**Q1. What is the timeline for the proposed condominium conversion?**

- Mr. Zajac explains that the application will be submitted to the City of Hamilton within 3 to 4 weeks.
- Once the application has been submitted to the City, it will go before the Economic Development and Planning Committee in 4 to 6 months. A report from the City of Hamilton planning staff will be prepared and presented at this meeting recommending approval or denial.
- If approval of the condominium conversion application is given, then final approval and registration could be achieved in approximately 1 to 2 years.

Resident

Mr. G. Zajac

**Q2. What will be the next step? When will the upgrades and sale of the units occur?**

- Mr. Zajac notes that it is too early to know when the sale of the units will occur.
- The upgrades which are planned at this time will only be the deficiencies that are acknowledged in the Engineer's Report.

Resident

Mr. G. Zajac

**Q3. During the renovations of the units, what will happen to the tenants? Are we going to be displaced? This is going to cause our rents to go up.**

- Mr. Zajac reinforces the point that this is the initial phase of the condominium application process. No major renovations are planned at this time.
- Mr. Horwood introduces himself as a representative of the property management company, and that this meeting is the first step in the application phase.
- This meeting is being held in order to inform the existing residents of the condominium conversion application.
- Mr. Horwood explains that there are many different examples of condominium conversion which have taken place in the City. They were built as rental apartment buildings but over time they have been converted to condominiums. They appear no different from any other apartment building.

Resident

Mr. G. Zajac

Mr. D. Horwood

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**The resident does not believe that this will work for these buildings. These are turn of the century buildings and it will be expensive to repair the buildings. This will cause our rents to increase drastically.**

Resident

- Mr. Horwood explains that rent is governed by Residential Tenancy Act (RTA). RTA strictly controls increases in rent. He informs the residents that there is only three ways that the rent can be increased;
  - (i) An increase based on the annual Provincial set rate.
  - (ii) An "above-guideline" increase which needs to be applied for and must appear before a rental tribunal.
  - (iii) An increase based on an agreement between the tenant and landlord.

Mr. D. Horwood

**The resident does not believe Mr. Horwood and points to the Condominium conversion across the street (which had previously been reported in the Hamilton Spectator) where existing residents were forced out of their units.**

Resident

- Mr. Horwood again informs the residents that the Hamilton Spectator article did not reveal or include all of the circumstances and relevant legal information.
- He also again indicates that this is only the first step in the condominium conversion process. If they are converted, they could simply remain to be rented without ever being sold.
- They could of course be sold to the existing tenants or external purchasers.

Mr. D. Horwood

**Q4. What are the options for the existing tenants?**

Resident

- Mr. Horwood informs the residents that they will continue to be covered by the Residential Tenancy Act (RTA).
- Additionally, as part of the conversion, the existing residents at the time of conversion will enjoy Security of Tenure (SOT), as previously mentioned by Mr. Zajac.
- It is the RTA which will continue to govern any increase in their rent.

Mr. D. Horwood

**Q5. Who will be purchasing the units once the conversion is complete?**

Resident

- Mr. Horwood advises the residents that it is too early to determine who could potentially be purchasing the units.
- He indicates that at this stage it will simply be a change in the planning and legal status of the building.
- The process is still in the initial phase but a series of requirements will need to take place;
  - I. Approval of the Condominium Conversion would need to be granted.
  - ii. Engineers Report will need to be completed.
  - iii. Based on the conclusion of the Engineers Report, a Reserve Fund will be established,
  - iv. Funding will need to be established in order to fulfill the requirements of the Reserve Fund.

Mr. D. Horwood

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- Because of the Condominium conversion, it is likely that the property tax will decrease leading to the potential for a decrease rent.
- Mr. Horwood indicates that he is not trying to withhold any information, which is why we are having this resident information meeting.

Mr. D. Horwood

**Q6. What is the price range of the Condominium units? The resident indicates that she loves the idea of the units being converted to condominiums. She also loves the existing buildings.**

Resident

- Mr. Horwood explains that this too far down the road, so he does not know what they would sell for.
- He explains that after the conversion process was complete, a marketing exercise would have to be undertaken.
- He would expect that the price range would vary based on each of the individual units and each of the buildings. This is because each of the units and buildings are very unique.
- Mr. Horwood informs the tenants that although Effort Trust is only the property manager, that he sees an inherent value in these buildings. Because of this, it is impossible to know if rents could be affected with an increase or decrease.
- He anticipates that the approval process will take approximately two years, at which time a better understanding of estimated sale values could be determined.

Mr. D. Horwood

**Q7. How long will the protection (of tenants) last? Does it matter if you are on a lease or month to month basis? The resident expresses her fear that she will be kicked-out.**

Resident

- Mr. Horwood informs the residents that they are protected by both Residential Tenancy Act and Security of Tenure. This will protect the tenants at the time of conversion in perpetuity.
- Rental increases would occur at the anniversary date of the month to month tenant, which is the current situation.
- New condominium rental tenants would also be subject to the RTA but would not enjoy the SOT which is afforded to the existing residents.
- He expresses that the residents can choose to sign a lease or remain on a month to month basis, it is their choice.

Mr. D. Horwood

**Q8. If we wanted to move to another Effort Trust property is it possible not to pay the 1<sup>st</sup> and last month's rent? If we wish to leave.**

Resident

- Mr. Horwood informs the residents that there is not a formal process for this to be done. However they would not generally object to any reasonable request.
- He also informs the residents again that Effort Trust is the property manager not the Owner.

Mr. D. Horwood

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**Q9. When does this protection come into effect? When does the conversion take place? Does this start with the sale of the majority of units?**

- Mr. Zajac informs the residents that the plan cannot be registered until the approval process is complete including all studies reports and conditions. Only after this has occurred can the sale of the units take place.
- It is not like a vacant (new) condominium situation where the units can be sold prior to construction.
- Mr. Zajac reinforces that the RTA in the case of the condominium conversion process affords the tenants greater security.
- Mr. Horwood informs the residents that once registration occurs there is no requirement for the sale of the units. Also, the SOT would only apply to the residents at the time of the registration of the condominium plan.
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Resident

Mr. G. Zajac

Mr. D. Horwood

Resident

**Q10. A resident apologizes, but he was not present when the application timeline was given. He asks for a timeline.**

- Mr. Zajac explains that a public meeting at the City of Hamilton will take place in approximately 4-6months. The residents should receive a Notice of a complete application in 4-6weeks. Once the application has been deemed complete by the City, it will be circulated for comments from the various departments, agencies, and public.

Mr. G. Zajac

Resident

**Q11. Who will pay the condominium fees? How about the new condominium rules? (Example of no pets)**

- The owners of the units would be responsible for paying the condominium fees not the tenants.
- In regards to any condominium rules, the existing tenants at the time of conversion would be grandfathered. So if a no pet rules was put in place, existing tenants could keep their pets. It would only apply to the new tenants.

Mr. G. Zajac

**Q12. How many months will the renovations take?**

- Mr. Horwood acknowledges that he has not been involved in a condominium conversion where major renovations had taken place.
- He believes that notice of planned renovations would need to be given to any tenants that would be affected. He is uncertain of the exact time frame of the notice, but that the RTA would control this.
- Mr. Horwood indicates that at this time it is impossible to know to what the extent of renovations will be. They will try to minimize any potential impacts on the tenants. He explains that like proposed renovations which are currently done on the rental property, a notice of 60 to 90 days would be given.

Resident

Mr. D. Horwood

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**Q13. Will we be paid for our displacement during the renovations?**

- Mr. Horwood informs the residents that there is no financial obligation on behalf of the owner/landlord for the displacement of the existing residents during the renovations.
- However, the landlord cannot charge for rent during the renovations. Upon completion of the renovations the existing tenant would have the right to move back into their unit.

Resident

Mr. D. Horwood

**Q14. How much notice will the residents be given of renovations? Will you find us another unit to rent?**

- Mr. Horwood explains that the extent of the renovations is unknown and that any potential temporary displacement would be for substantial construction only.
- He also explains that the landlord is not responsible for finding alternative accommodations during any potential displacement.

Resident

Mr. D. Horwood

**Q15. When will the renovations occur, will they happen in stages?**

- Mr. Horwood again explains that there is no obligations to renovate the property other than ones stipulate as conditions of approval.
- Mr. Zajac explains that the renovations which are required as conditions of approval will be indicated within the Engineers Report which is submitted as part of the application.
- Mr. Zajac comments that this requirement for a report is a result of a condominium conversion in Mississauga, where a parking facility collapsed shortly after the conversion process. At this point the Province of Ontario stepped in and now requires that as part of any condominium conversion an Engineer's Report which evaluates the physical state of the building must be completed.
- Mr. Horwood explains that the cost associated with the preparation of the report and costs of any renovations are at the expense of the Owner.

Resident

Mr. D. Horwood

Mr. G. Zajac

Mr. D. Horwood

**Mr. Horwood explains that he needs to leave the meeting but that Mr. Zajac will stay after the meeting to answer any questions.**

- Mr. Zajac explains that the minutes from this meeting will be submitted to the City of Hamilton as part of the application and that they will be available to the public. The Sign-In sheet will also be included.
- Mr. Zajac also asks that the tenants return the questionnaire as this would be part of the record.
- Mr. Horwood also informs the residents that if they indicated on the questionnaire that they were in favour of the project that this was not binding. A resident can change their mind at anytime to be in favour or opposed to the application.

Mr. D. Horwood

Mr. G. Zajac

**The resident information meeting is concluded at approximately 6:50pm and some residents remain to ask questions.**