

Consolidated Clause in Etobicoke York Community Council Report 7, which was considered by City Council on September 25, 26, 27 and 28, 2006.

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**Refusal Report - 1465 Lawrence Avenue West
Official Plan Amendment; Applicant: Adam Brown, Sherman Brown
(Ward 12 - York South-Weston)**

City Council on September 25, 26, 27 and 28, 2006:

- (1) referred this Clause back to the Etobicoke York Community Council for further consideration at its meeting in January 2007, and requested the City Solicitor to report to the Etobicoke York Community Council at that time, outlining the historical legal issues and agreements between the City and the owner of the property; and*
- (2) referred the Clause to the Tenant Defence Sub-Committee, or its successor Committee, with a request that the Sub-Committee report to the Etobicoke York Community Council.*

Council also considered additional material, which is noted at the end of this Clause.

The Etobicoke York Community Council recommends that City Council:

- (1) receive the Refusal Report (August 25, 2006) from the Director, Community Planning, Etobicoke York District; and**
- (2) amend the former City of North York Official Plan substantially in accordance with Attachment 4: Draft OP Amendment, and modify the City of Toronto Official Plan substantially in accordance with Attachment 5: Proposed Modification No. 88.**

Action taken by the Committee:

The Etobicoke York Community Council requested the Director, Community Planning, Etobicoke York District, to report to the September 25, 2006 meeting of City Council and bring forward a list of conditions to draft condominium approval.

The Etobicoke York Community Council held a statutory public meeting on September 13, 2006, and notice was given in accordance with the *Planning Act*.

The Etobicoke York Community Council submits the report (August 25, 2006) from the Director, Community Planning, Etobicoke York District:

Purpose:

This report reviews and recommends refusal of an application for Draft Plan of Condominium and refusal of the application to amend the Official Plan to convert the existing rental building containing 161 affordable units to separate condominium units at 1465 Lawrence Avenue West.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendation:

It is recommended that City Council refuse the Official Plan Amendment and Condominium Applications to convert 161 affordable rental units to condominium.

Background:

In January 2002, the OMB approved Official Plan Amendment No. 488 to the former City of North York Official Plan and Section 64.20-A (98) RM6 (98) to the North York Zoning By-law No. 7625. The amendments permitted the development of a 10-storey, 63 unit apartment building, in addition to the existing apartment building on the site. The zoning by-law amendment required that the existing and new building be maintained as rental housing for a period of 20 years (approximately until January 2022).

Since then the owner made a consent application to the Committee of Adjustment to sever the property into two separate lots for the existing building and proposed building. The consent application proposed the creation of easements and rights-of-way to each lot to allow access to and from the site and the underground parking garage.

When the severance application was considered by the Committee of Adjustment, the applicant indicated that the purpose of the severance was to create two properties for financial and ownership purposes and the proposed severance would ultimately implement the Ontario Municipal Board's decision.

The consent application was approved by the Committee of Adjustment at its meeting of January 20, 2005. The RM6 (98), site specific zoning, for the site states that "the provisions of this exception shall apply collectively to the lands zoned RM6 (98) notwithstanding their future severance, petition or division for any purpose", therefore no variance to such requirements as setbacks were requested.

City Council at its meeting of July 25, 26 and 27, 2006 directed that the Draft Official Plan Amendment as requested by the applicant be attached to the planning report, that a Public Meeting be held at Etobicoke York Community Council on September 13, 2006 to consider the application and that appropriate notice be given for the Public Meeting. The Draft Official Plan Amendment to the former City of North York Official Plan and the Draft Modification to the Toronto Official Plan are included as Attachments 4 and 5, respectively.

Comments:

Proposal

The applications are to convert the existing rental building to a condominium apartment building with common element areas. No physical changes are being proposed to the existing building. The application to convert the existing building to condominium also requires an amendment to the Site Specific Zoning By-law which currently requires the existing building be maintained as rental housing for 20 years. An application to amend the zoning by-law has not been made.

In a recent meeting the applicant also indicated it was their intent to file an application to amend the previous approvals on the newly severed parcel to increase the permitted height of the second building from 10 to 20 storeys. This proposal is based on the new building being condominium which again would necessitate amending the zoning by-law condition which requires that the new building be rental for 20 years.

Site and Surrounding Areas

The site is located on the south side of Lawrence Avenue West just west of Keele Street. The site has an area of 1.02 hectares and is currently occupied by a 20-storey rental apartment building.

The existing building is comprised of 161 rental units of which 38 are three-bedroom units, 76 are two-bedroom units, 45 are one-bedroom units, 1 is a bachelor unit and 1 is a two-bedroom superintendent's unit. The applicant submitted a rent roll dated April 2005. The rents at 1465 Lawrence Avenue West are within the affordable range, as all rents fall below the 2005 average market rent level as reported by Canada Mortgage and Housing Corporation.

Table 1 Rent Roll Summary for 1465 Lawrence Avenue West April 2005					
Unit Type	# of Units	Rent Range		2005 CMHC Reported Avg Market Rent	Average Rent
		Low	High		
Bachelor	1	\$550		\$730	\$550.00
1-Bedroom	45	\$700	\$875	\$888	\$828.22
2-Bedroom	77	\$900	\$1,020	\$1,061	\$980.57
3-Bedroom	38	\$1,080	\$1,225	\$1,258	\$1,164.54
Total Units	161				

The surrounding area is described below:

North: on the opposite side of Lawrence Avenue West there are two 13-storey apartment buildings and semi-detached dwellings further to the west;

South & West: Amesbury Park with a community centre and fire station; and

East: 20-storey residential condominium building.

Provincial Legislation and Policy Framework

In reviewing these applications, consideration must be given to the in-force provisions and requirements of the Condominium Act, the *Planning Act*, and the 2005 Provincial Policy Statement.

As well, consideration will need to be given to the new Stronger City of Toronto for a Stronger Ontario Act, 2006, (Bill 53) which was given Royal Assent on June 12, 2006 and is expected to be proclaimed December 1st, 2006. In it the City has received specific authority with regard to regulating rental housing properties. Section 111 of the provincial legislation is intended to affirm and enhance the City's ability to prohibit and regulate the conversion and demolition of residential rental properties. Bill 53 demonstrates the Province's acknowledgement of the importance of protecting the City's scarce rental housing stock.

Condominium Act

The Condominium Act states that the provisions of Section 51 (subdivision approval) of the *Planning Act* that apply to a plan of subdivision also apply to plans of condominium with necessary modifications to a description or an amendment to a description.

Planning Act

Section 51(24) of the *Planning Act* sets forth criteria to be used in the consideration of conversion applications including:

“in considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the municipality and to:

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in Section 2 of the *Planning Act*;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided; and
- (e) the restriction or proposed restrictions, if any, on the lands proposed to be subdivided or building and structures proposed to be erected on it and the restrictions, if any, on the adjoining land.”

Section 2 of the *Planning Act* states that:

“the council of a municipality...in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as, but not limited to...

- (h) orderly development of safe and healthy communities;....
- (j) the adequate provision of a full range of housing;....
- (l) the protection of the financial and economic well-being of the Province and its municipalities;....
- (n) the resolution of planning conflicts involving public and private interests;
- (o) the protection of public health and safety; and
- (p) the appropriate location of growth and development.”

Provincial Policy Statement

The Provincial Policy Statement provides policy direction on matters relating to land use planning that are of provincial interest. It is issued under the authority of Section 3 of the *Planning Act*. The 2005 version applies to all matters or proceedings commenced on or after March 1, 2005. The Official Plan Amendment application was submitted in November of 2005 and accordingly is subject to the Provincial Policy Statement, 2005.

Relevant provisions, include Policy 1.4.3 which sets forth the responsibility of planning authorities to provide for an appropriate range of housing types to meet projected requirements of current and future residents of the regional market area.

Pursuant to Section 3 of the *Planning Act*, Council is required to make decisions on planning matters that are consistent with the Provincial Policy Statement, 2005.

Official Plan

The application must be considered in the context of the in-force housing policies of the Official Plan of the former Municipality of Metropolitan Toronto (Metroplan), the Official Plan of the former City of North York, as well as the approved but not yet in-force Housing Policies of the City of Toronto Official Plan.

Metroplan

Relevant housing policies in Metroplan include:

Section 3.2 which sets forth the objective:

“to ensure the availability across Metropolitan Toronto of an adequate supply and mix of housing to meet the full range of housing needs, and to attract and accommodate population growth”.

Policy 123 of the Metroplan states:

“that Area Municipal official plans and zoning by-laws shall provide for a full range of housing types comprising a mix of unit sizes, styles, built forms and on-site facilities.”

Policy 125:

“to encourage investment in new private rental housing and the preservation and maintenance of existing rental housing and to support provincial and federal policies in this regard.”

Former City of North York Official Plan

Housing goals, objectives and policies are referenced in a number of parts of the North York Official Plan (including A-11 and B3), but for the most part are found in Part C.4.

Section 1 of Part C.4 describes the goal of Council to “ensure that adequate, affordable and appropriate housing is available to all current and future residents of North York...” To attain this goal, Council is guided by a number of housing objectives, including:

- 1.1 1) To promote residential neighbourhoods that continue to offer a range of housing opportunities...;
- 1.1 3) To encourage the provision of a wide range of housing types, unit sizes, price levels and tenure arrangements of various densities and scales that are responsive to the changing needs and different incomes of the broader market area;
- 1.1 4) To encourage an adequate supply of housing that is affordable to low and moderate income households; ...and
- 1.1 6) To provide opportunities for sufficient housing to plan for the needs of a maximum projected population ...

In addition to the above-stated general policies, Council shall be guided by additional objectives, including:

- 1.1 e) To encourage the conservation and improvement of the City's existing housing stock, particularly where residential areas are functioning as quality living environments; and
- 1.1 f) To encourage the conservation and rehabilitation of private rental housing.

Relevant provisions of Section 2 of Part C.4, the "Preservation and Maintenance of the City's Housing Supply" include:

- (a) Section 2.6 which states that it is an objective of Council to encourage the preservation, maintenance and upgrading of viable housing that contributes to the overall housing supply;
- (b) Section 2.6.1 states that it is Council's policy to encourage a well balanced mix of both rental accommodation and freehold tenure;
- (c) Section 2.6.2 specifically addresses Condominium Conversion. It sets out criteria that must be considered for applications which concern the conversion of rental housing to condominium.

It states that Council shall not permit the conversion of rental housing to condo unless the vacancy rate for private apartments in North York, as reported by Canada Mortgage and Housing Corporation, exceeds 2.5 percent. However, Council may permit the conversion of rental property to condominium where Council is of the opinion that such conversion will not seriously reduce the supply of affordable rental housing in the City. The policy provides details and states that "When considering applications proposing the conversion of rental housing to condominium, Council shall have regard to the following:"

- (1) The Rental Housing Protection Act, 1989;
 - (2) The Condominium Act;
 - (3) The overall mix of rental and freehold housing in the City;
 - (4) The availability of rental housing within the residential community of the proposed conversion; and
 - (5) Council may require, as a condition of approval, that the owner of the rental property enter into an agreement with the tenants; and
- (d) Section 2.6.3 Retention of Rental Housing states that rental accommodation is recognized by Council as an essential form of housing tenure that must be retained.

New Toronto Official Plan

The Board has approved most of the Plan and the approved portions came into force in July 6, 2006. The housing and Section 37 policies remain under appeal and will be adjudicated in September and October 2006.

The Toronto Official Plan designates the site Apartment Neighbourhood. Apartment Neighbourhoods are made up of apartment buildings and parks, local institutions, cultural and recreational facilities, and small scale retail, service and office uses that serve the needs of area residents.

The new Official Plan contains a number of policies respecting housing and the need to preserve and increase the City's supply of rental and affordable housing. Relevant new Official Plan policies include:

Policy 3.2.1.1

A full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods, will be provided and maintained to meet the current and future needs of residents. A full range of housing includes: ownership and rental housing, affordable and mid-range rental and ownership housing..."

Policy 3.2.1.8

"The conversion to condominium ...of any building or related group of buildings containing six or more rental housing units is premature and not in the public interest unless:

- (a) the rental apartment vacancy rate for the City of Toronto, as reported by the Canada Mortgage and Housing Corporation, has been at or above 2.5% for the preceding two-year reporting period; or
- (b) all of the rental housing units have rents that exceed mid-range rents at the time of the application."

At its meeting of December 5, 6 and 7, 2005, City Council made modifications to several of the housing policies contained in the November 2002 Official Plan, including policy 3.2.1.8. The City is now seeking the Ontario Municipal Board's approval of the modified policies to reflect Council's and Planning staff's most up to date position on the subject. Staff understands that appeals to the most of the housing policies, including policy 3.2.1.8 above, have been withdrawn and are expected to be ordered into force in Fall, 2006.

Policy 3.2.1.8 as Modified by City Council following its adoption of the Official Plan in November 2002;

"The conversion to condominium, or the severance or subdivision, of any building or related group of buildings, containing six or more rental housing units will not be approved unless:

- (a) all of the rental housing units have rents that exceed mid-range rents at the time of application, or
- (b) in Council's opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents. This decision will be based on a number of factors, including whether:
 - (i) rental housing in the City is showing positive, sustained improvement as demonstrated by significant net gains in the supply of rental housing including significant levels of production of rental housing, and continued projected net gains in the supply of rental housing;
 - (ii) the overall rental apartment vacancy rate for the City of Toronto, as reported by the Canada Mortgage and Housing Corporation, has been at or above 3.0% for the preceding four consecutive annual surveys;
 - (iii) the proposal may negatively affect the supply or availability of rental housing or rental housing sub-sectors including affordable units, units suitable for families, or housing for vulnerable populations such as seniors, persons with special needs, or students, either in the City, or in a geographic sub-area or a neighbourhood of the City; and
 - (iv) all provisions of other applicable legislation and policies have been satisfied."

These changes recognize the need for a broader, more comprehensive approach to determine whether the City's supply and availability of rental housing has returned to a healthy state, and can meet the requirements of current and future residents before losses in the rental stock are permitted to occur.

Zoning

The lands which are the subject of this current application were also the subject of previous planning applications (File No. UDOZ-99-027), which, following an OMB hearing in 2002, in which the City supported the Applicant, resulted in Amendment No. 488 to the former City of North York Official Plan and rezoned the lands to RM6 (98).

The RM6 (98) permits a new 10-storey, 63-unit rental apartment building on the site to the east of the existing 20-storey 161-unit rental apartment building.

Section 64.20-A (98) RM6 (98) 4 (b) requires the owner "to ensure that for the period of twenty (20) years, the existing rental apartment house dwelling on the site will be preserved and maintained as rental housing stock". Subsection 1 (i) states that "the provisions of this exception shall apply collectively to the lands zoned RM6 (98) notwithstanding their future severance, petition or division for any purpose."

Site Plan Control

The applications to date do not propose new construction, therefore site plan approval is not required at this time.

Reasons for the Application

Condominium Application: Pursuant to the provisions of the Condominium Act, an application must be made to the City in order to convert the existing rental building on the site to condominium.

Official Plan Amendment: An Official Plan amendment is required as the applications do not conform with the policies of the Metroplan, the North York Official Plan or the new City of Toronto Official Plan.

Zoning By-law Amendment: In addition, the proposed conversion from rental to condominium is not permitted pursuant to Section 64.20-A (98) RM6 (98) 4 (b) of the North York Zoning By-law, which requires that for a period of 20 years, (approximately until January 2022) the existing rental apartment house building located on the site is preserved and maintained as rental housing stock. The applicant has not applied for a zoning by-law amendment.

Community Consultation

A community consultation meeting was held May 17, 2006 to discuss the proposed applications. Approximately 22 people attended the meeting, of which approximately 12 were tenants of the building. The planning issues that were raised at the meeting relate to the rights of the existing tenants when the units are purchased by someone else, the rights of the existing tenants when it came to purchasing a unit themselves, traffic and parking. Comments were also made about the future development of a second building on the site which was previously approved by the Ontario Municipal Board.

Agency Circulation

The application was circulated to all appropriate agencies and City Departments. Responses received have been used to assist in evaluating the application.

Comments:

Rental Market Context

Rental housing is important to the City. Approximately half of the City's households are renters. It provides a diversity of housing options to residents, both current and future, and it contributes to the health and vibrancy of communities. A full range of housing provides social stability for the City's population, including those who require affordable housing, as well as economic stability by serving the City's labour force.

The overall health of the rental market should be assessed when determining whether the City should permit the loss of rental housing units through demolitions, conversions to condominium, or by severance or subdivision. Among the key factors to consider are the vacancy rates for rental housing, changes to the total amount of rental and affordable housing in Toronto, the rate of new production of rental and affordable housing, and changes to the amount of secondary rental housing such as rented condominium apartments.

Supply of Rental Housing in Toronto Has Not Increased

Almost all new housing produced in Toronto in recent years has been ownership, while the total amount of rental housing units has decreased slightly over the same period. Though there has been a modest increase in the number of newly constructed private and assisted rental units, these have been outstripped by the loss of a greater number of rental units despite the City's strong policies on protection of rental housing.

There are fewer primary rental units in Toronto (both private and assisted rental) in 2005 than in 1996 (see Table 2). From the previous year alone, (2004 to 2005), the City had 1,482 fewer rental units. The total number of rental units represents the net amount of primary rental housing after adding in new completions and subtracting losses.

Table 2							
Primary Rental Housing: Changes to Supply							
City of Toronto 1996-2005							
	1996	2001	2002	2003	2004	2005	Change 1996- 2005
Number of Primary* Rental Housing Units	350,861	350,311	349,343	351,681	349,630	348,148	-2,713
Source: CMHC Rental Market Survey, special data request Prepared by: City of Toronto Planning, March 21, 2006							
*Primary rental housing is purpose built rental housing with 3 or more self-contained units, apartment and row units, private and assisted. However, CMHS also includes in the data on total rental units, condominium registered rental buildings where 50% or more of the units are rented and there is a rental office on site. This data does not include rooming houses, group homes, residential care facilities and secondary rental housing such as individual rented houses, duplexes, secondary suites in houses, and condominium rental units.							

It is not unusual to see fluctuations up and down from one year to the next as occurred in the most recent period from 2001 – 2005. But the expectation is that over time there would be increases in the supply of primary rental housing to help the City continue to meet population growth and rental demand. Clearly this has not been the case.

There are a number of causes for the losses of primary rental units across the City in recent years, including a limited number of small demolitions where there are only 3-5 units (City policies focus on 6 or more units) and a limited number of conversions of high-end rental or co-ownership units to condominium.

The low production of new rental housing has not been able to keep up with these types of regular losses that occur in the primary rental market. The rate of new production of both private and assisted primary rental housing is low, and has not returned to the healthier levels seen during the 1980's and the early 90's. Rental completions since 1997 have comprised only 5 percent of all housing production in Toronto, in contrast to the previous 10 year period when 37 percent of all new units were rental. A similar comparison can be made for the former North York. Rental completions since 1997 have comprised only 3 percent of all housing production in former North York, in contrast to the previous 10 year period when 28 percent of all new units were rental. (CMHC, 2005) Clearly, the production of new ownership units has far exceeded the production of new private rental (See Table 3). This very low level of new rental units will not be able to keep up with losses to the rental housing stock that may occur if applications, such as this one, to convert to condominium are allowed to occur.

Table 3 Former City of North York Completions Data		
Year(s)	Ownership Units (Freehold & Condo)	Rental Units
1987-1996	11,003	4,273
1997-2005	25,180	814
<i>Source: CMHC Local Housing Market Tables, 2005</i>		

No Increase in Rented Condominium Apartments and Other Secondary Rental Housing

There are some indications that the amount of secondary rental housing has been declining by reverting to ownership. Accurate counting of these secondary rental units in a city as large as Toronto is difficult. The Census every 5 years provides the best opportunity to identify all renter households, including those in the secondary rental market. Between the 2001 Census and the 1996 Census, there were approximately 10,000 fewer renter households, while there was almost no change in the number of primary rental units or vacant apartments during that period. This suggests that there were fewer secondary rental market units, a conclusion which was borne out in part by CMHC data showing a decline of almost 4,100 condominium rental units over the same period. Since that time, there has been some pick-up in the number of condominium rental units, but there were still fewer rented condominium apartments in 2005 than in 1996.

Rental Demand and Vacancy Rates

Vacancy rate is just one way to attempt to measure the health of the market. Clearly emerging policies of the Province as well as the City of Toronto recognize this, and recent policy direction reflects this.

In the short term, rental demand for available units in the market can be assessed to some extent by rental vacancy rates. The obvious limitation to this use of vacancy rates is that it does not speak to the demand for rental units by those who cannot afford to pay what the market charges for the type of housing required, nor does it account for other factors which may temporarily affect demand (e.g. lower immigration rates due to world events).

Another limitation is that current or recent vacancy rates do not predict future vacancy rates, nor do they speak to medium and long term rental demand. Planning decisions involving the loss or provision of affordable rental housing must be concerned with both the current and future needs of the residents of the City.

There is also some debate as to what vacancy rate should be used to help determine the “health” of a rental market. While some government agencies and municipalities have used rates of 2.5 to 3.0 percent (including the City of Toronto and the former City of North York), other housing experts have suggested that rates of between 5.0 and 6.0 percent are required before market equilibrium can be achieved.

While the vacancy rate in the City of Toronto and the former City of North York for private rental units currently exceeds 2.5 percent, there has been a sharp decline, particularly in North York. In 2004, the vacancy rate in North York was 5.0 percent, however, in 2005 there was a dramatic decline to 3.6 percent, which is less than the City of Toronto’s overall reported vacancy rate in 2005 of 3.7 percent.

Recent factors which may have contributed to the moderating vacancy rates include a temporary drop in immigration and a significant increase in homeownership due to favourable market conditions, including low interest rates. These factors affecting rental demand in Toronto could change quickly. Average rents have remained relatively flat over the last two years, while sale prices for houses and condominium units have increased sharply. Interest rates have remained low, but the affordability of ownership in Toronto relative to renting may begin to deteriorate for first-time buyers. Immigration has recently increased. In the short term, rental demand in Toronto could begin to increase also, which would result in lower vacancy rates.

In the medium and longer term, Toronto and its economy will remain attractive to both international immigrants and in-migrants seeking education, jobs, family re-unification and a vibrant urban community. A high proportion of these households will rent initially. The City’s population growth projections point to in-migration as being the biggest component of population growth until 2031, and especially in the period until 2011.

Population projections created by the City of Toronto for the preparation of the 2002 new Official Plan indicated that the number of new households from 1996 to 2031 would be 224,609. Since that time, there has been some indication that the eventual number of new households could be higher, even if the population growth remained the same, as there is a trend in the City for smaller household sizes. If this trend holds, there would be a need for more, but smaller units.

The Official Plan for the former City of North York, indicates that the overall mix of rental and freehold (owned) housing in the City should be considered when reviewing applications to convert rental housing to condominium. The renter/owner split has not been projected at this time, but it is reasonable to expect a significant proportion of demand will be rental. Over the previous 30 years, and as reported in the last Census of Canada, 2001, the renter/owner split in Toronto and North York, has been about 50/50 (See Table 4). Even if the current increased tendency towards ownership continues for the next few years, the rental share of the growth in households will demand many more rental units.

Table 4
Occupied Private Dwellings by Tenure, 2001*

Former North York		
	Units	Percentage
Owned	110,690	50.8%
Rented	107,307	49.2%
City of Toronto		
	Units	Percentage
Owned	478,545	50.7%
Rented	464,535	49.3%

*Source: Statistics Canada, Census of Canada, 2001

Both the primary and secondary rental markets will be involved in meeting this new demand, but planning must take into account limitations on the role that can realistically be played by the secondary rental market. It represents only about a quarter to a third of all rental housing, and real estate cycles will result in secondary rental units reverting to ownership when conditions favour ownership, as appears to have been the case since 1996. The total number of primary rental units has also not increased on a net basis, after accounting for the loss of rental units during this same period.

Rental demand is not simply about matching the numbers of tenants to units. Some moderation in rental vacancies is important and healthy, in that it helps to provide a greater degree of rental housing choice in the City. This choice can have a positive impact on the City's economy as it attracts renters that, amongst other things, make up a large part of the skilled labour force.

Increasing Shortage of Affordable Rental Housing

Average rents across the City rose sharply between 1998 and 2000, partly due to the vacancy decontrol provisions of the Tenant Protection Act, which permit landlords to increase rents above the guideline when a unit is rented to a new tenant.

Though average rents have remained essentially flat since 2002, due to the unusual (for Toronto) moderate vacancy rates, over the longer term, rents have persistently risen at a faster rate than inflation. By 2005, the cumulative impact was that rents had risen one and a half times the rate of inflation. CMHC Rental Market Reports show that rents for the average 2-bedroom apartment since 1991 rose by 46 percent, compared to the rate of inflation as reported by the Consumer Price Index for Toronto which rose by 30 percent.

Both mid-range and affordable rental units are of particular importance for the City. The loss of these rental units, when the overall supply of rental housing is not increasing tends to reduce the number of rental units with affordable rents. Increased demand for a shrinking supply of units tends to result in higher rents.

Current Legislative and Policy Framework

The proposed conversion does not meet the criteria set forth in the *Planning Act*. In particular, the application does not comply with the criteria under section 51(24). The conversion of 161 affordable rental units would clearly have a negative impact on the health, ...convenience and welfare of both present and future inhabitants of the City by further eroding the choice and availability of accommodation. The production of purpose-built rental housing has been minimal over the last several years and has frequently involved public funds to achieve. . If new rental completions cannot replace losses in the primary rental market, the City will not be able to satisfy the housing needs of future inhabitants and choices and availability will be further limited.

Accordingly, the proposal is premature, is not in the public interest and does not meet the criteria under this section of the Act.

The conversion would not be a suitable or appropriate choice in the area, as it would diminish the amount of rental housing available. A dramatic reduction in affordable rental accommodation, would reduce the range of housing required in section 2 of the *Planning Act*, and the full range of housing types and densities to meet projected demographic and market requirements of current and future residents outlined in the Provincial Policy Statement (1997). Providing a full or appropriate range of housing must take into account the provision of a full range of tenure forms, including rental and a full range of rent levels, including that which is affordable to low and moderate income households. As stated earlier, all of the units in 1465 Lawrence Avenue West have rents in the affordable range.

Similarly, both Metroplan and the former North York plan include policies to encourage a range and mix of housing types appropriate to the needs of households of different sizes, and income.

This type of conversion would also run counter to Policy 125 of Metroplan which “encourages...the preservation and maintenance of existing rental housing”.

The in-force plan for the former City of North York also notes “Council may permit the conversion of rental property to condominium where Council is of the opinion that such conversion will not seriously reduce the supply of affordable rental housing in the City.” Clearly

conversion of 161 affordable rental units would have a significant impact on the availability of affordable rental units in North York.

Within the Toronto Census Metropolitan Area, 1465 Lawrence Avenue West is located in Zone 15 – North York (Southwest). Within North York’s five zones, Zone 15 has the fewest private rental units with less than 14 percent of North York’s rental apartment housing stock. Conversion of 1465 Lawrence Avenue West will essentially remove 2 percent of the rental housing stock in Zone 15, and likely a significant portion of the neighborhood’s affordable rental housing.

It should be noted that the in-force North York Official Plan references the Rental Housing Protection Act, 1989; (RHPA) as a document that Council should have regard for when considering applications which propose rental housing conversion to condominium. While this legislation was replaced by the Tenant Protection Act, 1998, the RHPA had clear intentions with regard to rental housing preservation. And reference to the RHPA in the in-force North York Official Plan shows that Council at that time recognized the importance of rental housing and felt that the tone and direction of the RHPA was one that should be used as guidance when considering applications that dealt with rental housing North York.

Emerging Policy Context

As discussed previously in this report, the new Toronto Official Plan housing policies and its recent modifications, which are now before the Ontario Municipal Board, continue to recognize the importance of preserving existing and promoting new rental housing. These policies build on the policy foundation established in the Official Plans of Metropolitan Toronto, Former City of North York, Official Plan Amendment No. 2, as well as the Rental Housing Protection Act, 1998.

The above discussion on rental demand and vacancy rates, coupled with the issue of the City’s overall rental stock not increasing and the impact of a reduced mix and range of housing types within a specific neighbourhood if rental loss occurs, make clear that a variety of factors need to be examined before it can be determined that a conversion meets the criteria and is appropriate. Vacancy rate is just one way to attempt to measure the health of the market.

Zoning Compliance

The site was the subject of previous planning applications (File No. UDOZ-99-027), which, following an OMB hearing in 2002, in which the City supported the Applicant, resulted in Amendment No. 488 to the former City of North York Official Plan and rezoned the lands to RM6 (98). The zoning amendment requires the owner “to ensure that for the period of twenty (20) years, the existing rental apartment house dwelling on the site will be preserved and maintained as rental housing stock”. In addition, the new building is also to be provided as rental housing. The provisions of this exception apply collectively to the lands zoned RM6 (98) notwithstanding any severance, petition or division for any purpose.

The OMB approved the current site specific official plan amendment and the RM6(98) zoning in part on the basis that the existing rental units would be retained and added to with the second rental building on the site. The severance was obtained in January, 2005 on the basis that it implemented the RM6(98) zoning provisions and the OMB decision. Only a few months later, in March 2005, the applicant filed the application for conversion that is the subject of this report contrary to the intent represented in the planning application approvals that were previously obtained.

The applicant has indicated it is not bound by the RM6(98) zoning. However, if the regulations of the underlying RM6 zone were applied to the existing building as currently severed, the property would not comply with such zoning. This would make the existing building illegal and non-conforming, and would be contrary to the position put forward by the applicant in the consent application. The consent could not have been issued pursuant to the RM6 underlying zoning. It is the RM6(98) zoning which enabled and pursuant to which, the severance was granted.

The proposal is not in compliance with current zoning for the site, which requires the owner to ensure that for a period of 20 years, the existing rental apartment house dwelling on the site will be preserved and maintained as rental housing stock. The applicant has not applied for a zoning by-law amendment.

Parking

When reviewing new residential condominium developments, staff of Transportation Services Division calculate, and impose parking requirements based on the results of parking demand surveys of residential condominiums. These requirements are also considered in the context of applications to convert rental buildings to condominium, as it is anticipated that the parking demand generated by such proposals may increase as a result of the change in tenure. Further review of the potential parking demands and requirements for the building arising from any conversion is required. The applicant has indicated that there are currently 133 indoor, 26 outdoor and 20 visitor parking spaces on site. In the Etobicoke York District, high-rise apartment condominium buildings are generally required to provide on-site parking as follows:

- (i) for units consisting of two bedrooms or less, parking is required at a minimum ratio of 1.20 stalls per dwelling unit, including 0.20 stalls per dwelling unit for visitors; and
- (ii) for units consisting of three bedrooms or more, parking is required at a minimum ratio of 1.40 stalls per dwelling unit, including 0.20 stalls per dwelling unit for visitors.

While these ratios are not specific zoning bylaw requirements, they were empirically derived through area parking demand surveys of existing condominium apartment buildings. Based on these ratios there would be an approximate 49 stall parking shortfall if the proposal were permitted.

Conclusions:

These applications have been circulated for comment to relevant departments and agencies. The policy framework must be considered in its entirety in addressing these applications. The *Planning Act* required the criteria of Section 51(24) be addressed and the application for Official Plan Amendment must be consistent with the new Provincial Policy Statement. This application for a residential condominium conversion of the existing building at 1465 Lawrence Avenue West and an Official Plan Amendment does not meet the Section 51(24) criteria. The application does not conform to or maintain the intent of a number of important policies and goals of the in-force Official Plans and the new City of Toronto Official Plan. In addition, the proposal does not comply with Section 64.20-A (98) RM6 (98) of the former City of North York Zoning By-law No. 7625 which was recently approved by the OMB in 2002 pursuant to which, if successful, the applications would appear to put the property into nonconformity with the in-force zoning by-law. Lastly, the severance of the site was obtained on the basis that it implemented the site specific official plan amendment and zoning by-law amendment allowed by the Ontario Municipal Board in 2002, which required the retention of and addition to the rental housing stock on the site. It is recommended that the Official Plan Amendment application be refused and the application for condominium registration be refused.

Contact:

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List of Attachments:

Attachment 1: Official Plan
Attachment 2: Zoning
Application 3: Application Data Sheet
Attachment 4: Draft OP Amendment
Attachment 5: Proposed Modification No. 88

(Attachments 1, 2 and 3, referred to in this report, were forwarded to all Members of the Etobicoke York Community Council with the agenda for its meeting on September 13, 2006, and copies are on file in the City Clerk's Office, Etobicoke Civic Centre.)

Attachment 4: Draft OP Amendment

Authority: Community Council Report No. ~, Clause No. ~,
as adopted by City of Toronto Council on ~, 2006
Enacted by Council: ~, 2006

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-2006

To adopt an amendment to the Official Plan
for the former City of North York
respecting the lands municipally known as,
1465 Lawrence Ave W

WHEREAS authority is given to Council under the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Amendment No. 578 to the Official Plan of the former City of North York, consisting of the attached text and schedules, is hereby adopted.
2. This By-law shall come into force and take effect on the day of its final passing.

ENACTED AND PASSED this ~ day of ~, A.D. 2006.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)

City of Toronto By-law No. xxx-2006

AMENDMENT NO. 578

TO THE OFFICIAL PLAN FOR THE
CITY OF NORTH YORK

The following text and schedule constitute Amendment No. 578 to the Official Plan for the former City of North York.

ITEM 1

Part C.9– Specific Development – of the Official Plan is amended by adding the following text to Section C.9.222 LANDS ON THE SOUTH SIDE OF LAWRENCE AVENUE WEST WEST OF KEELE STREET

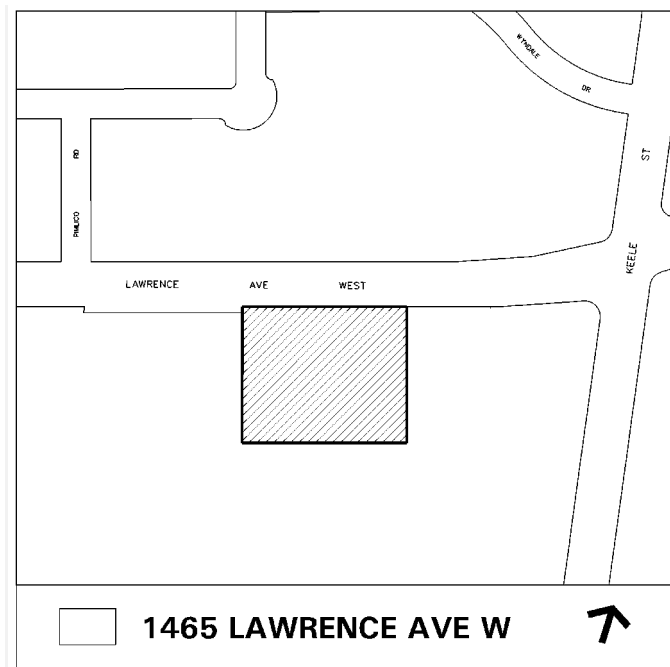
The conversion to condominium of the existing 161 unit rental building is permitted subject to appropriate conditions being required at the time of draft plan approval and provided registration takes place within 4 years from the date this amendment is authorized by council.

Attachment 5: Proposed Modification No. 88

The Official Plan of the City of Toronto is modified as follows:

1. Chapter 7, Site and Area Specific Policies, is amended by adding Site and Area Specific Policy No.289 for the lands known municipally in 2006 as 1465 Lawrence Avenue West, as follows:

“289 1465 Lawrence Avenue West



The conversion to condominium of the existing 161 unit rental building is permitted subject to appropriate conditions being required at the time of draft plan approval and provided registration takes place within 4 years from the date this amendment is authorized by Council.

”

2. Map 27, Site and Area Specific Policies, is amended by adding the lands known municipally in 2006 as 1465 Lawrence Avenue West, as shown on the map above as Site and Area Specific Policy No. 289.

The Etobicoke York Community Council also considered a communication (September 4, 2006) from Tony Pace, President, Ward 12 Rate Payers & Community Association.

The following addressed the Etobicoke York Community Council:

- Adam Brown, Sherman Brown Dryer Karol Gold Lebow; and
- Joe Renda.

City Council – September 25, 26 and 27, 2006

Council also considered the following:

- *Report (September 25, 2006) from the Chief Planner and Executive Director, City Planning [Communication 30(b)]:*

*Subject: Supplementary Report
Etobicoke York Community Council Report 7 Clause 24
Official Plan Amendment Application 05 202527 WET 12 OZ
Draft Condominium Approval Application 05 173995 WET 12 CD
Applicant: Sherman Brown Dryer Karol
1465 Lawrence Ave W
Ward 12 - York South-Weston*

Purpose:

To report on the list of conditions on the Draft Condominium Approval Application 05 173995 WET 12 CD for 1465 Lawrence Avenue West. Etobicoke York Community Council (Report 7 Clause 24) requested the Director of Community Planning, Etobicoke York District to report to the September 25, 2005 meeting of City Council on the list of conditions to draft condominium approval.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

That this report be received for information.

Comments:

At its meeting of September 13, 2006 Etobicoke York Community Council had before it the report (August 25, 2006) of the Director Community Planning Etobicoke York District recommending refusal of the Official Plan Amendment and Draft Condominium applications. The Etobicoke York Community Council recommended that City Council receive the refusal report and amend the former City of North York Official Plan and modify the City of Toronto Official Plan substantially in accordance with the Draft Official Plan Amendment, (Attachment 4) and the Proposed Modification Number 88, (Attachment 5) respectively. Etobicoke York Community

Council also requested the Director, Community Planning, Etobicoke York District, to report to the September 25, 2006 meeting of City Council and bring forward a list of conditions to draft condominium approval. Attached to this report as Attachment 1 is a list of conditions of Draft Approval in the event City Council approves the Condominium Conversion Application. As the draft plan of condominium application deals with the conversion of an existing rental building the application requires City Council's approval.

The application has been circulated to all appropriate agencies and City Divisions. Responses received have been used to formulate the list of conditions of approval.

Conclusions:

This report puts forward the list of conditions for draft condominium approval for the condominium application at 1465 Lawrence Avenue West as requested by Etobicoke York Community Council.

Contact:

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List of Attachments:

Attachment No.1 List of Conditions to Draft Condominium Approval

Attachment 1: List of Conditions of Draft Approval

The owner shall meet the following conditions of Draft Approval of the Plan of Condominium, including the execution and satisfactory registration of any condominium agreements deemed necessary by the City Solicitor, prior to the City's consent for final registration of the plan of condominium:

- 1. The plan of condominium (declaration and description) shall be registered within 3 years from the date Council approves this Draft Plan of Condominium, otherwise the approval shall lapse and be of no further force and effect unless an extension is granted by the City pursuant to Section 51(33) of the Planning Act.*
- 2. The declarant shall, at its own expense not to be passed on to the tenants of the buildings, carry out and complete a comprehensive reserve fund study, as defined in s. 27 of O Reg. 48/01 made under the Condominium Act, 1998 as a "comprehensive study", prior to registration of the plan of condominium (declaration and description).*

- 2.1 *The comprehensive study required in condition 2 above shall be carried out in accordance with the requirements of the Condominium Act, 1998 and the regulations made thereunder, provided that the persons conducting the study shall include in connection with the physical analysis, both an architect registered as such and holding a certificate of practice within the meaning of the Architects Act and a professional engineer registered as such and holding a certificate of authorization within the meaning of the Professional Engineers Act.*
- 2.2 *In addition to the requirements under the regulations made under the Condominium Act, 1998,*
- (a) the financial analysis component of the comprehensive study shall include a simple, easily read table setting out, by unit type, the recommended dollar amount of contributions to the reserve fund that will be required to be paid annually by each individual unit owner for each year covered by the study (not less than 30 years) based on the reserve fund required to be established by the owner in accordance with condition 4 below.*
 - (b) the physical analysis component of the comprehensive study shall include in addition to the component inventory and assessment of each item within the component inventory, a detailed list of,*
 - (i) the repairs and components to be replaced as a result of outstanding work orders issued by the City of Toronto,*
 - (ii) the repairs and components to be replaced in order to bring the building into compliance with c. 629, Property Standards, of the City of Toronto Municipal Code, and*
 - (iii) any other repairs and components to be replaced which in the opinion of the consultant(s) carrying out such study should be completed by the owner prior to registration of the plan of condominium (declaration and description) against the lands; and*
 - (c) in addition to their signatures, the persons conducting the comprehensive study in respect of the property shall include the following statement in the study:*

“Notwithstanding that our fee for this study will be paid by the Owner (or Condominium Corporation as the case may be) and that we have prepared this study for the Owner (or Condominium Corporation as the case may be), we acknowledge that the Condominium Corporation which will be created upon registration of the plan of condominium and the purchasers and prospective purchasers of units within the building are relying upon this study and the opinions and findings expressed herein, and consent and agree to such reliance.”

3. *The declarant shall, prior to registration of the plan of condominium (declaration and description), at its own expense,*
 - (i) *complete each of the repairs and replace each of the components set out on the lists compiled pursuant to conditions 2(3)(b) (i), (ii) and (iii) above as detailed in the comprehensive study, and*
 - (ii) *provide to the City of Toronto's Chief Planner a certificate from the persons carrying out the study confirming all of the repairs and replacements set out on the lists compiled pursuant to conditions 2(3)(b)(i), (ii) and (iii) have been satisfactorily completed.*
4. *The declarant shall, prior to registration of the plan of condominium (declaration and description), at its own expense, establish a reserve fund for the benefit of the condominium corporation to be created in an amount not less than the greater of,*
 - (i) *the amount recommended in the comprehensive study required in condition 2 above, and*
 - (ii) *the amount required pursuant to the Condominium Act, 1998.*
5. *The declarant shall provide a copy of the comprehensive study required in condition 2 above, including the matters required in condition 2.2 above, to the Chief Planner prior to the registration of the plan of condominium (declaration and description).*
6. *In the event the Owner of the Site has entered into one or more agreements to convey any of the proposed units, the declarant shall, prior to the registration of the plan of condominium (declaration and description) provide it's solicitors confirmation that the disclosure statement required to be delivered to every person who purchases a unit or a proposed unit pursuant to Section 72 of the Condominium Act, 1998, did in addition to the matters specified in such Act,*
 - (i) *include a copy of the table required to be prepared in condition 2.2(a) above as updated and signed by the person who carried out the financial analysis component of the comprehensive study required in condition 2(1) to reflect the actual reserve fund established by the declarant pursuant to condition 4 above, and*
 - (ii) *that such updated table included the statement required in condition 2.2(c) above, or*
alternatively, if the Owner has not entered into any agreement to convey one or more units, the declarant shall provide it's solicitors confirmation such is the case.

7. *The Declaration and Description shall contain wording satisfactory to the City Solicitor to ensure the following conditions:*

- (i) *The condominium corporation shall, at its expense update the table required pursuant to condition 6(i) above on an annual basis commencing with the first reserve fund study conducted by the condominium corporation after the registration of the condominium, so as to reflect the actual reserve fund maintained by the corporation, and shall send a copy of each updated table to each unit owner and to the corporation's auditor as part of the notice required pursuant to Section 94(9) of the Condominium Act, 1998 as well as retaining a copy for its records.*

Nothing herein shall be interpreted as requiring the original author of the table to author the subsequent tables required by this condition but the table shall be prepared by a person authorized by the regulations under the Condominium Act, 1998 to carry out the financial analysis component of a reserve fund study and each updated table shall include the statement required in condition 2.2(a) above;

- (ii) *Prior to entering into an agreement of purchase and sale respecting the sale of a unit, the unit owner shall provide a copy of the most recent table delivered to them pursuant to condition 6(i) above to the prospective purchaser, failing which the purchaser of such unit may rescind the agreement of purchase and sale before accepting a deed to the unit being purchased that is in registerable form;*
- (iii) *On receipt of a request from a prospective purchaser of a unit, the condominium corporation shall, within 10 days of the request being made, provide a copy of the most recent reserve fund study.*
- (iv) *Conditions 7(i), (ii) and (iii) above shall cease to apply on the date that is one year following the date the condominium corporation has,*
 - (a) *conducted its first comprehensive reserve fund study (a "comprehensive study") and,*
 - (b) *sent the required notice to the owners and copies to the auditor arising from such study in accordance with Section 94(9) of the Condominium Act, 1998.*

8. *The provisions in the Declaration and Description dealing with conditions 7(i) to (iv) above, inclusive shall not be amended without the written consent of the City of Toronto.*

9. *The owner of the Site shall provide a tax certificate which confirms that all municipal taxes have been paid.*

10. *The owner of the Site shall not pass on, in the form of rent increases to tenants of the buildings residing in units on or before the date of registration of the condominium, any costs associated with the renovations or alterations of the building to comply with the*

conditions herein and which are related to converting the buildings or readying the buildings for condominium, or any increase in property taxes due to a change in the assessed value of the property identified in this application which may occur due to the condominium registration.

- 11. The owner of the Site shall undertake a parking study for the review and acceptance of the City's General Manager of Transportation Services, to assist in determining an appropriate parking standard for the site, based in part on the results of parking demand surveys of comparable residential condominium buildings in the area.*
- 12. If the parking study is considered acceptable to the City, the owner shall submit plans identifying the following for the review and acceptance of the City's General Manager of Transportation Services, prior to the registration of the condominium (declaration and description):*
 - location, layout and dimensions, of all existing and proposed parking spaces (both on-site and off-site, where required);*
 - the access arrangements provided to the parking facilities;*
 - the location of the residential visitor parking spaces;*
 - the physical separation between the resident and non-resident portions of the parking areas; and*
 - any on-site signage, pavement markings, and/or convex mirrors required to safely control the traffic operations of motorists accessing and egressing the parking areas.*
- 13.. The owner of the Site shall enter into a Condominium Agreement with the City to secure the ongoing provision and maintenance of the parking areas, access arrangements, physical separation, signage, pavement marking and/or mirrors and any other matters deemed appropriate and required in accordance with the above conditions and any other conditions of draft plan approval, to the satisfaction of the City Solicitor in consultation with the City's General Manager of Transportation Services, such agreement to be registered against the property as a first charge to the satisfaction of the City Solicitor, prior to the registration of the condominium (declaration and description).*
- 14. The owner is required to submit an Engineer's Report on Fire Fighting Access, Fire Protection and Early Warning Systems in the building. The report shall be stamped and signed by an engineer.*
- 15. The owner's site plan must be revised to illustrate the location of the existing visitor parking stalls.*
- 16. Visitor parking stalls must be individually signed for the exclusive use of visitors.*
- 17. Visitor parking stalls must be registered on-title for mutual use, and provided to the satisfaction of the City Solicitor.*

18. *The owner's condominium documents must include clauses that are registered on-title advising owners that visitor parking stalls are not to be used by owners/tenants.*
 19. *The owner must register the existing access driveways and surface-below-grade circulation driveways on-title for mutual use under common elements condominium status, to the satisfaction of the City Solicitor.*
 20. *Any joint access arrangements for vehicular and/or pedestrian purposes with the adjacent property to the east, i.e., 1455 Lawrence Avenue West must be recognized and secured through appropriate registered legal arrangements, to the satisfaction of the City Solicitor.*
 21. *The owner must submit and implement to the satisfaction of Technical Services a waste management plan. Please note that the present containers being used for recycling will no longer be allowed and that the chutes and garbage room should be retrofitted to accommodate a tri-sort system.*
 22. *The owner shall agree in the Agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required for telecommunication services. Easements may be required subject to final servicing decisions. In the event of any conflict with existing Bell Canada facilities or easements, the owner/developer shall be responsible for the relocation of such facilities or easements.*
 23. *The owner shall be required to enter into an agreement (Letter of Understanding) with Bell Canada complying with any underground servicing conditions imposed by the municipality, and if no such conditions are imposed, the owner shall advise the municipality of the arrangement made for such servicing.*
 24. *The owner shall provide Bell Canada electrical plans for the building.*
 25. *The owner shall submit to the Director of Community Planning, Etobicoke York District, written confirmation from Bell Canada advising that all of its requirements for Condominium approval have been satisfied. It is noted that Bell Canada requires one or more conduit or conduits of sufficient size from each unit to the room(s) in which the telecommunication facilities are situated and one or more conduits from the room(s) in which the telecommunication facilities are located to the street line.*
 26. *The owner shall submit to the Director of Community Planning, Etobicoke York District, written confirmation from Enbridge advising that all of its requirements for Condominium approval have been satisfied. It is noted that should the owner consider the use of natural gas for this building, Enbridge requests the owner contact them to discuss installation and clearance requirements for service and metering facilities.*
 27. *The owner must obtain the required final and binding relief from the former City of North York Official Plan and Zoning By-law No. 7625 to permit the condominium conversion of the existing rental apartment building.*
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Communications:

- *(September 21, 2006) from Dan McIntyre, Program Co-ordinator, Federation of Metro Tenants' Associations [Communication 30(a)].*
- *(September 25, 2006) from Shawn de Swart, President, Brentwood Towers Tenants' Association [Communication 30(c)].*

Councillor Augimeri declared an interest in this Clause, in that her mother owns a condominium in the immediate area.