

31-33 Shallmar Boulevard – Draft Plan of Condominium Application – Final Report

Date:	April 4, 2007
To:	Toronto & East York Community Council
From:	Director, Community Planning, Toronto & East York District
Wards:	Ward No. 21 – St. Paul’s
Reference Number:	File No. 06-187002 STE 21 CD

SUMMARY

An application has been submitted to approve a draft plan of condominium allowing the conversion of four existing rental residential units to condominium tenure at 31-33 Shallmar Boulevard.

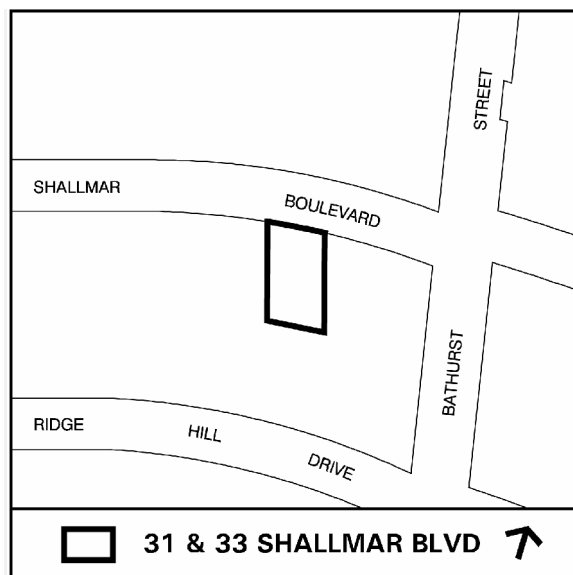
As this application involves fewer than six rental units, an Official Plan Amendment is not required. Also, as there are fewer than six dwelling units, the rental conversion provisions of Section 111 of the new City of Toronto Act do not apply. The application, however, needs to be considered under the Condominium Act and Planning Act, and as approval authority for such applications have not been delegated, Council’s approval is required.

This report reviews and recommends approval of the Draft Plan of Condominium applications subject to certain conditions.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize Draft Approval of the Plans of Condominium for 31-33 Shallmar Boulevard, date stamped as received on October 30, 2006 subject to the conditions set forth in Attachment



No. 1, and authorize the Chief Planner to permit such red line revisions as he may deem appropriate;

2. City Council require the owner to fulfill the conditions of Draft Approval of Condominium set forth in Attachment No. 1, including the execution and satisfactory registration of any condominium agreement deemed necessary by the City Solicitor, prior to the City's consent for final registration and authorize the City Solicitor to prepare any necessary condominium agreement to secure the conditions, as the City Solicitor deems necessary;

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

Proposal

This is an application for Draft Plan of Condominium involving the conversion of four existing rental residential units at 31-33 Shallmar Boulevard to condominium tenure. No additional construction is proposed. Details regarding the proposal are contained in Attachment 2 – Application Data Sheet.

Site and Surrounding Area

The 911.5 m² site is located on the south side of Shallmar Boulevard, west of Bathurst Street. There is an existing two-storey apartment building on the site containing a total of four three-bedroom rental units, one of which is owner-occupied.

The site is surrounded by a stable, low-rise residential neighbourhood to the west; a five-storey, 48-unit apartment building to the north; a four-unit residential building fronting Ridge Hill Drive to the south; and a four-storey, 62-unit apartment building fronting Bathurst Street to the east.

The Condominium Act

The *Condominium Act* states that the provisions of Sections 51, 51.1 and 51.2 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.

The Planning Act

Section 51(24) of the *Planning Act* sets forth the criteria that the City must consider in determining whether to allow the conversion of a rental residential building to a condominium. Specifically, and relevant to this application, this section requires that:

“in considering a draft plan of subdivision [condominium conversion], 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 the proposed subdivision on matters of provincial interest as referred to in Section 2;
- b) whether the proposed subdivision is premature or in the public interest;

- c) whether the proposed plan conforms to the official plan and adjacent plans of subdivision, if any; and
- d) the suitability of the land for the purposes for which it is to be subdivided.

Section 2 of the *Planning Act* includes 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...

- 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;...and
- p) the appropriate location of growth and development.”

Provincial Policy Statement

Issued under the authority of Section 3 of the Planning Act, the Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. Housing policies in the Provincial Policy Statement provide for an appropriate range of housing types and densities to meet the requirements of current and future residents, and the provision of housing in locations with appropriate levels of infrastructure and services. Council is required to make decisions on planning matters that are consistent with the Provincial Policy Statement.

Official Plan

The new Official Plan for the City of Toronto designates this site a *Neighbourhood*. *Neighbourhoods* are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes and townhouses, as well as interspersed walk-up apartments that are no higher than four storeys.

The Official Plan policies state that 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. The conversion to condominium of any building containing six or more rental housing units is generally discouraged and will not be approved unless a number of conditions are satisfied. Policy 3.2.1.8 of the Official Plan is satisfied where properties contain fewer than six rented units or where all unit rents have high-end rents (defined as rents that are equal to or greater than 1.5x the average City of Toronto rent, by unit type, as reported by CMHC).

Zoning

The property is zoned R2 Z1.0 with a maximum permitted height of 21 metres. The R2 designation permits a range of housing types, including an apartment building.

Other Legislation – City of Toronto Act

Section 111 of the new City of Toronto Act provides the City with enhanced powers to prohibit and regulate the demolition and conversion of residential rental properties containing six or more

dwelling units. As the subject property consists of four units, the new City of Toronto Act provisions do not apply to this application.

Reasons for Application

Under City of Toronto By-law 229-2000 (Chapter 415-17 of the Municipal Code), the authority for the giving of draft condominium approvals, under section 50 of the Condominium Act, is delegated to the Chief Planner except for applications involving the conversion of rental housing. The authority to grant draft condominium approval for this application involving the conversion of four rental units therefore rests with Council.

Community Consultation

Notice of the application was posted on the property as of January 26, 2007. City Planning has not received any objections or other correspondence with respect to this application. No community consultation meeting is required for applications involving fewer than six rental units.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate conditions of draft condominium approval.

COMMENTS

Planning Policy Discussion

As mentioned above, the Official Plan policies provide exceptions for smaller buildings containing fewer than six rental units and for buildings with high-end rent units. As this application involves the conversion of only four rental units, which have high-end rents, the exception is satisfied.

In these situations, consideration should still be given to other Official Plan policies and other planning legislation. The Official Plan policies have been developed in the broader context of Section 51(24) of the Planning Act and the Provincial Policy Statement. It is considered that the proposal will not negatively affect the health, safety, convenience and welfare of the present and future inhabitants of the City as referred to in Section 51(24). Specifically, due to the relatively small number of units, all with high-end rents, the conversion is not inconsistent with the matters of provincial interest or considered to be premature or against the public interest. It is unlikely that the conversion of a building of this size and type would affect the supply and availability of rental housing in the City or this area of the City. As such, Council could reasonably come to the conclusion that the conversion in this particular instance would be acceptable.

Potential Impacts on Tenants

The conversion, if permitted, would not impact on the security of tenure of the existing tenants of the building. Under the *Residential Tenancies Act*, where a building containing rental units is converted to condominium, sitting tenants cannot be evicted on the basis that the new condominium owner requires personal use of the unit for themselves or a member of their immediate family. However, after the first tenant vacates the unit, any future tenant would not be entitled to the security of tenure provisions and could be evicted on the basis of personal use.

The result is that over time as tenant turnover occurs, there would be an erosion of security of tenure rights following a conversion to condominium.

It is not known at this time whether conversion of the building would have a significant impact on property taxes, and by extension, rent levels. The tax rate would not change as a result of conversion, as the property is currently assessed under the residential tax class, which is the same class applied to residential condominiums. However, the conversion to condominium would likely cause the assessed value of the units to increase, resulting in higher property taxes. If the property taxes do increase, the owner of each unit is permitted to apply to the Provincial Landlord and Tenant Board for a rent increase above the guideline, in order to pass the tax increase on to the tenant through a rent increase.

Similarly, a higher assessed value (aside from the potential increase in property taxes) could potentially, over time place some upward pressure on the existing rents to pay higher mortgage costs and associated fees.

There is a related concern with some conversion proposals, that substantial capital expenditure work will be undertaken in order to make the buildings more attractive to prospective buyers. Although existing tenants may be expected to pay for this work in the form of above guideline rent increases, they may not directly benefit from the changes to the building. In this particular case, the applicant has indicated that no building alterations are planned in conjunction with the proposed conversion. In order to provide some safeguards for existing tenants in these situations, a condition of condominium approval has been added. It shall provide that any costs associated with the renovations or alterations of the building related to the conversion or any increase in the property taxes due to a change in the assessed value is not passed on to existing tenants in the form of rent increases.

Building Condition Report

Under Section 9(4) of the Condominium Act, the City may require a report prepared by a qualified professional to determine any deficiencies with respect to building maintenance or other matters of concern. However, given the age of the building, it is recommended that a building condition report be prepared prior to registration to enable first purchasers of the units, prior to finalizing their purchase, to have a timely and meaningful disclosure of the physical condition of the property and costs of needed repairs. These conditions reinforce the requirements for disclosure under the Condominium Act. For greater cost-efficiency, the owner may choose to undertake this building condition report in combination with the comprehensive reserve fund study required under section 27 of Ontario Regulation 48/01 made under the Condominium Act, 1998.

Access, Parking

Access to the on-site parking facilities is proposed to be maintained via an existing driveway extending south off of Shallmar Boulevard, at the west limit of the site. The proposed maintenance of this driveway is acceptable.

The provision of 7 parking spaces on site, including 4 spaces for the use of residents and 3 spaces for residential visitors, is acceptable to City staff and the maintenance of this condition is recommended as a condition of draft approval.

Conclusion

The apartment building currently contains four 3-bedroom dwelling units. According to information provided by the applicant, one of the units is owner-occupied and the remaining three pay monthly rents that are beyond the “high-end” threshold. Tenants were notified of the owner’s intent to convert units to condominium tenure through their individual lease agreements, and are given security of tenure to continue renting their units following the conversion.

Given the small scale and nature of the proposal, it is recommended that Draft Plan of Condominium be granted subject to the satisfaction of certain conditions.

CONTACT

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SIGNATURE

Gary Wright, Director
Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Conditions of Draft Plan of Condominium
Attachment 2: Application Data Sheet

Attachment 1:
CONDITIONS OF DRAFT PLAN OF CONDOMINIUM

The owner shall meet the following conditions 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 authorizes 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 owner shall, prior to the registration of the plan of condominium (declaration and description) at its own expense not to be passed on to the tenants of the buildings, carry out and complete a building condition report, including the matters required in condition 4 below to the satisfaction of the Chief Planner and Executive Director.
3. The persons conducting the building condition report shall be either a professional engineer registered as such and holding a certificate of authorization within the meaning of the Professional Engineers Act or an architect registered as such and holding a certificate of practice with the meaning of the Architects Act.
4. The building condition report shall identify the physical state of the building and needed repairs anticipated within the next 30 years, together with the estimated cost of any such repairs. It shall include in addition to a component inventory and assessment of each item within the component inventory, a detailed list of:
 - (a) the repairs and components to be replaced as a result of outstanding work orders issued by the City of Toronto;
 - (b) 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
 - (c) any other repairs and components to be replaced which in the opinion of the consultant(s) carrying out such a report should be completed by the owner prior to registration of the plan of condominium (declaration and description) against the lands.

In addition to their signatures, the persons conducting the building condition report of 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.”

5. The owner shall, prior to the registration of the plan of condominium (declaration and description), at its own expense, complete each of the repairs and replace each of the components set out on the lists compiled pursuant to conditions 4(a) , (b) and (c) above as detailed in the building condition report, and provide to the Chief Planner and Executive Director a certificate from the persons carrying out the study confirming all of the said repairs and replacements have been satisfactorily completed.
6. The owner shall provide a tax certificate, which confirms that all municipal taxes have been paid in full.
7. The owner agrees not to pass on, in the form of rent increases to tenants of the building residing in units on or before the date of registration of the condominium, any costs associated with any renovations or alterations of the building to comply with the conditions herein and which are related to converting the building or readying the building 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 condominium registration.
8. The owner agrees to provide written notice to all tenants residing in the property, from the date of Draft Plan approval to the date of registration of the condominium, regarding their right to security of tenure under Section 51 of the Residential Tenancies Act, 2006.
9. The owner shall provide and maintain on the site not less than 7 parking spaces of which not less than 4 shall be provided for residents and not less than 1 shall comprise visitor parking; and
10. The owner shall install and maintain clearly visible signage designating the residential visitor parking.

**Attachment 2:
APPLICATION DATA SHEET**

Application Type	Condominium Approval	Application Number:	06 187002 STE 21 CD
Details	Standard	Application Date:	October 26, 2006

Municipal Address: 31-33 SHALLMAR BLVD, TORONTO ON
 Location Description: PL 1850 PT LT189 RP63R1699 PT 1 **GRID S2101
 Project Description: Proposal to convert existing building into 4 condominium units. See Building Permit 05 119546.

Applicant:	Agent:	Architect:	Owner:
RABIDEAU AND CZERWINSKI ONTARIO LAND SURVEYORS			CECILE ERLICH

PLANNING CONTROLS

Official Plan Designation:	Neighbourhood	Site Specific Provision:	n/a
Zoning:	R2 Z1.0	Historical Status:	n/a
Height Limit (m):	21	Site Plan Control Area:	

PROJECT INFORMATION

Site Area (sq. m):	39.31	Height: Storeys:	2
Frontage (m):	911.5	Metres:	7.5
Depth (m):	23.27		
Total Ground Floor Area (sq. m):	358.5		Total
Total Residential GFA (sq. m):	975.17	Parking Spaces:	7
Total Non-Residential GFA (sq. m):	0	Loading Docks	0
Total GFA (sq. m):	975.17		
Lot Coverage Ratio (%):	39.3		
Floor Space Index:	1.07		

DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	0
1 Bedroom:	0
2 Bedroom:	0
3 + Bedroom:	4
Total Units:	4

FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	975.17	0
Retail GFA (sq. m):	0	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	0	0

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