

**335 Lonsdale Road
Recommending Approval of Official Plan Amendment &
Draft Plan of Condominium Applications
05 109405 STE 21 OZ and 04 196593 STE 21 CD
Final Report**

Date:	June 8, 2007
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	St Paul's - Ward 21
Reference Number:	File No. 05 109405 STE 21 OZ and 04 196593 STE 21 CD

SUMMARY

These applications propose the conversion to condominium of a 62 unit co-ownership apartment building containing a mix of co-owner and tenant-occupied units.

This report reviews and recommends approval of the applications to amend the Official Plan and for Draft Plan of Condominium, subject to a number of conditions being satisfied.

RECOMMENDATIONS

The City Planning Division recommends that City Council:

1. Approve the application for Official Plan Amendment No. 05 109405 STE 21 OZ, substantially in accordance with Attachment No.4, and authorize Draft Approval of the Plan of Condominium Application No. 04 196593 STE 21 CD



2. Require the owner to fulfill the conditions of Draft Plan of Condominium Approval as set out in Attachment 5, 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 and authorize the City Solicitor to prepare any agreements to secure the conditions, as the City Solicitor deems necessary;
3. Authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment and Draft Plan of Condominium Approval as may be required; and
4. Authorize and direct City Officials to take necessary actions to give effect thereto.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

The subject lands are developed with a 6-storey residential apartment building containing 62 units. Municipal records indicate that the structure was originally constructed in 1966 as a rental apartment building.

The applicant has indicated that in 1979 the building was converted to a co-ownership with the incorporation of "335 Lonsdale Apartments Co-ownership Ltd." This conversion allowed people to acquire an undivided percentage interest in the entire property. Each co-owner is entitled to exclusive use and occupancy of a designated unit in perpetuity. Each co-owner is also entitled to rent their specific unit. In some cases, co-owners have chosen to personally occupy their units, while in other instances, the units are being rented to tenants.

Presently, 40 of the units are co-owner occupied and 22 are rented. However, as is explained later in this report, few of these particular rental units now offer security of tenure to their tenants.

Proposal

The applicant is seeking to convert the 62 rental apartments into residential condominiums. If the application is approved and the co-owners register the property as a condominium, each co-owner would own their own unit outright and a condominium corporation governed by the *Condominium Act* would be established to manage the property.

The draft plan of condominium proposes the existing configuration of the building, which consists of 39 one-bedroom, 17 two-bedroom and 6 three-bedrooms units would be unchanged following the conversion (refer to Attachment 3).

The applicant advises that there are no improvements, repairs or changes to the building proposed to be undertaken in conjunction with the application.

Site and Surrounding Area

The 1,920 square metre site is located west of Spadina Road and north of St Clair Avenue West, and contains a 6 storey residential apartment building. Uses in the vicinity can be described as follows:

North: 6 storey residential apartment

South: Several 6 to 8 storey residential apartments

East: 2 storey mixed use buildings fronting Spadina Road

West: 5 storey residential apartment

Official Plan

At its meeting of November 26, 2002, City Council adopted the new Official Plan for the City of Toronto. The Minister of Municipal Affairs approved the plan, in part, with modifications. The Minister's decision was appealed in its entirety. On July 6, 2006 and November 10, 2006 the Ontario Municipal Board issued Orders No. 1928 and 3190 bringing the new Official Plan into full force and effect (with the exception of certain site-specific appeals and two housing policies not related to this application). The orders also repealed the policies of the former City of Toronto Official Plan and Metro Plan that were previously in effect.

Under the new in-force Plan, the subject site is designated as "Apartment Neighbourhoods".

Zoning

The site is zoned R2 Z2.0 with a maximum permitted building height of 18 metres. This zone permits most residential building types including apartment buildings to a maximum gross floor area of 2.0 times the area of the lot.

Rezoning is not required to permit the proposed conversion of the co-ownership apartment building to a residential condominium. The Draft Plan of Condominium has been circulated to the Building Division for review and staff has not raised any concern with respect to zoning compliance.

Site Plan Control

The application does not propose new construction and does not require site plan approval.

Other Legislation – City of Toronto Act

Section 111 of the new *City of Toronto Act 2006* provides City Council with enhanced powers to prohibit and regulate the demolition and conversion of residential rental properties containing six or more dwelling units. The Act was proclaimed on January 1, 2007 and applies to any application submitted after that date. Given the timing of this application, Section 111 does not apply.

Reasons for Application

Section 9(2) of the *Condominium Act* provides that Section 51 of the *Planning Act* applies to an application for conversion of rental property. The proposed conversion of 335 Lonsdale Road from a co-ownership building containing rental units to residential condominiums must be considered under the criteria set forth in Section 51(24) of the *Planning Act*. One of the criteria of Section 51(24) is whether the application conforms to the official plan. It is clear that this particular criterion cannot be met without an amendment to the Toronto Official Plan.

Community Consultation

A community consultation meeting was held in the neighbourhood to discuss this proposal on June 21, 2005. Approximately 13 members of the public and co-owners attended the meeting.

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 condominium conditions.

COMMENTS

LEGISLATIVE AND POLICY FRAMEWORK

The following provides a description of the planning legislation that must be reviewed in this application.

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;

- d) the suitability of the land for the purposes for which it is to be subdivided; and
- e) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land”

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 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. As this application was made just prior to the new PPS coming into effect (March 1, 2005) the 1997 PPS applies. Section 1.2.1 of that PPS requires that provision be made in all planning jurisdictions for a full range of housing types and densities to meet the projected demographic and market requirements of current and future residents.

Toronto Official Plan

The in-force Official Plan contains a number of policies respecting housing and the need to preserve and increase the City’s supply of rental housing. Relevant 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, 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.”

The above policies recognize the need for a broad, 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. At this point, City Council and staff consider that the rental market is not healthy and should not generally be subjected to conversion or demolition activity, unless the specific exceptions are satisfied.

Exceptions have been identified for buildings containing fewer than six rental units or where all units exceed mid-range rents. As only two units (without security of tenure – see below) have rents that exceed the mid-range threshold, this exception does not apply. The application also clearly has more than six rental units and therefore the Official Plan Amendment is required. Despite the total number of rented units, few of them have security of tenure. A more detailed discussion of the relevance of security and tenure is provided in the next section. As well, further discussion of the applicability of the Official Plan Policies and broader legislative framework is contained in the ‘Planning Assessment’ section of this report.

OTHER CONSIDERATIONS

Present Security of Tenure for Co-ownership Tenants

In many cases, tenants living in co-ownership or equity co-operative buildings are given more protection than those living in condominiums, as they cannot be evicted for the co-owners’ personal use. However, there are several exceptions to this rule. Section 72(2) of the *Residential Tenancies Act* will allow for a tenancy to be terminated for a co-owner’s (landlord’s) personal or

family's use in a few limited instances, including where the current co-owner or his/her immediate family (spouse, parents or children) have previously occupied the unit.

One of the reasons for preserving the co-ownership status of a building is to protect the security of tenure for existing tenants. However, where this security of tenure has already been lost due to a co-owner's previous occupancy, the retention of these units as a co-ownership becomes less important.

In the case of 335 Lonsdale Road, the applicant has supplied detailed documentation and an affidavit to confirm that current co-owners or their immediate families have occupied 19 of the 22 rented units. This means that as few as three units have security of tenure. Even if two of the 19 units that are corporately-owned are considered, given issues concerning a corporation's ability to evict for personal occupancy, there still are only five units of the 22 that have security of tenure.

Potential Impacts of Conversion on Tenants

Under Section 51 of the *Residential Tenancies Act*, where a building containing rental units is converted to condominium, sitting tenants cannot be evicted on the basis that either the landlord or new condominium owner require 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 cause the assessed value of the units to increase, likely resulting in higher property taxes. If the property taxes do increase, the owner of each unit is typically permitted to apply to the 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 typically 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.

Parking

The Draft Plan of Condominium indicates that a total of 62 underground parking spaces are currently provided to serve the existing residents. The City's current Zoning By-law would require that a minimum of 67 parking spaces, including 51 spaces for the use of residents, and 16 spaces for the use of residential visitors be provided to serve this development.

Transportation Services staff has estimated the demand to be a total of 59 parking spaces, including 7 visitor spaces. Given that this is a long-standing pre-existing condition, combined with the impracticality of requiring the conversion of assigned residential spaces to visitor parking use, the proposed parking supply and assignment are acceptable.

Planning Assessment

As previously mentioned, the building at 335 Lonsdale Road contains 62 residential units, 22 of which are rented. After a thorough review of the rental history of the property it appears that no more than five of the 22 rented units have security of tenure under the Province's *Residential Tenancies Act*. As many of the units were previously occupied by current co-owners, the tenants in those units are not protected from personal use evictions and therefore there is less concern about the conversion of the property.

Policy 3.2.1.8 of the Toronto Official Plan provides an exemption for properties which contain fewer than six rented units. As less than six rented units in this particular building have security of tenure, it is considered that this application meets the intent of the policy.

These 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 it is believed that due to the relatively small number of affordable and mid-range rental units with security of tenure, 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 and could be brought into conformity with the Official Plan through an amendment.

Conclusion

For the reasons stated above, it is recommended that the proposed conversion of the subject co-ownership building be approved and that the Toronto Official Plan be amended as described in this report. It is also recommended that Draft Plan of Condominium be granted subject to the satisfaction of certain conditions.

CONTACT

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SIGNATURE

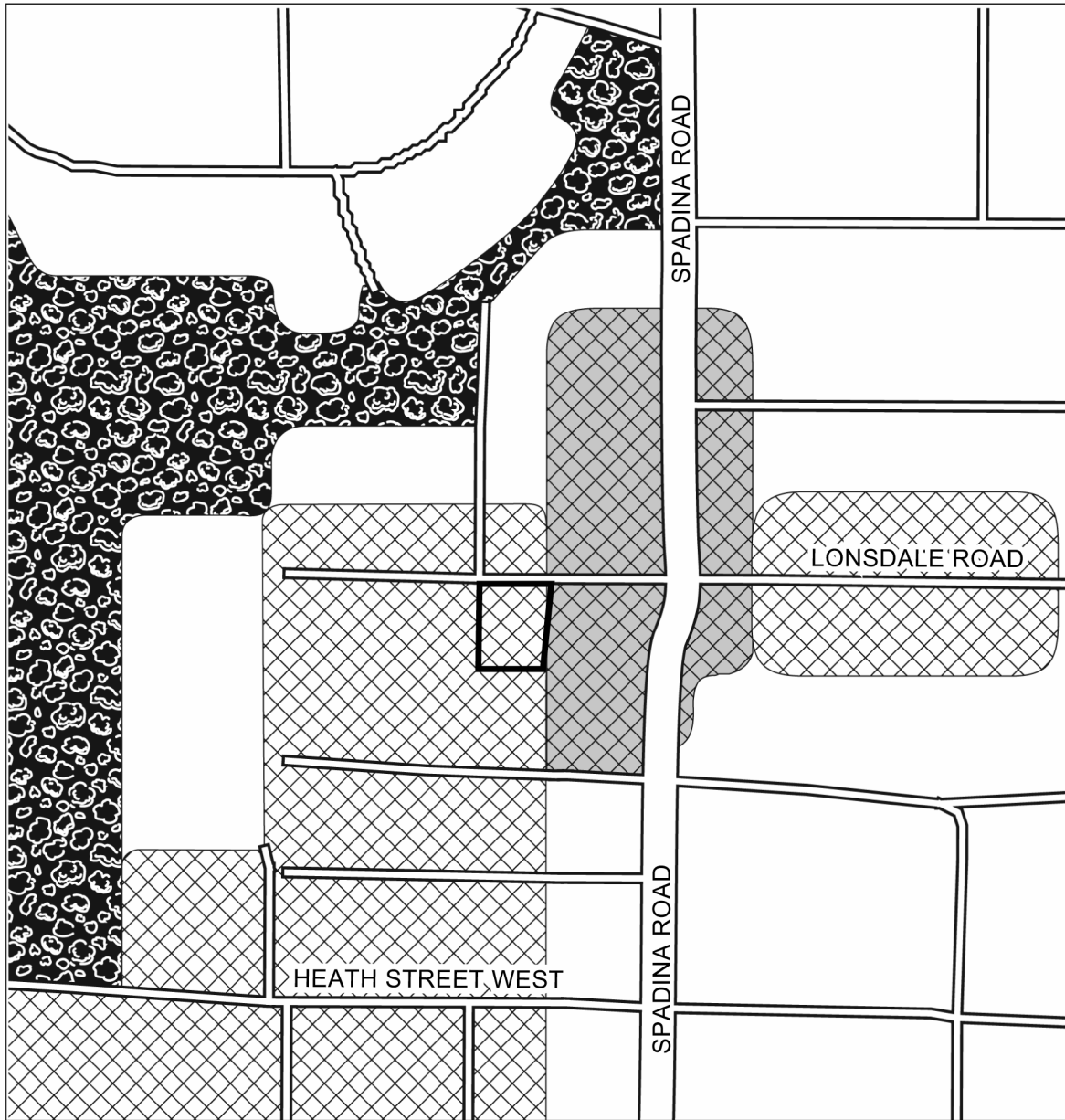
Gary Wright, Director
Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Official Plan
Attachment 2: Zoning
Attachment 3: Application Data Sheet
Attachment 4: Official Plan Amendment
Attachment 5: Conditions of Draft Plan of Condominium Approval

Attachment 1: Official Plan



TORONTO City Planning Division
Official Plan

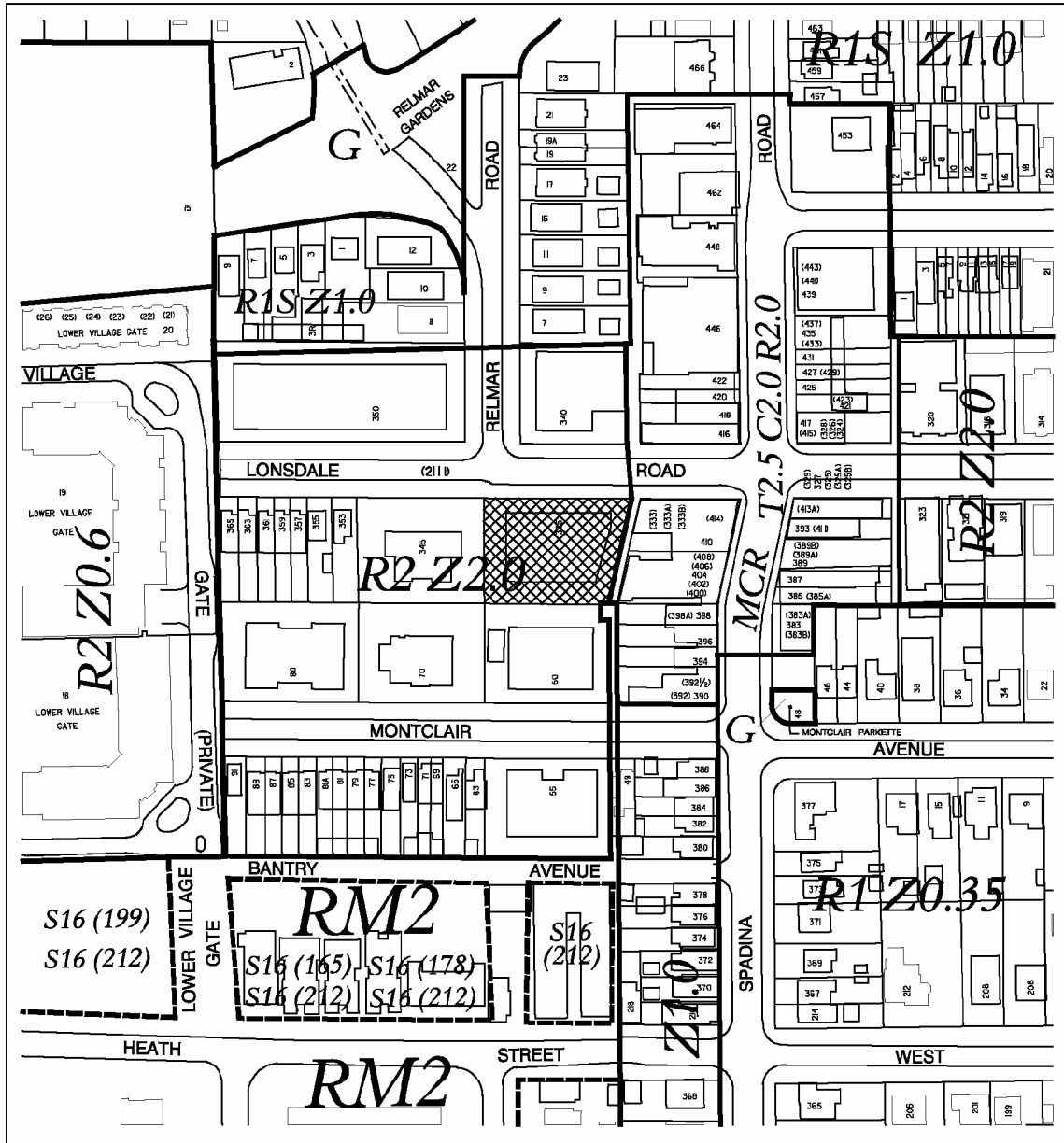
335 Lonsdale Road

File # 05_109405

-  Site Location
-  Neighbourhoods
-  Apartment Neighbourhoods
-  Mixed Use Areas
-  Natural Areas

↑
 Not to Scale
 06/08/07

Attachment 2: Zoning



335 Lonsdale Road
File # 05_109405

- G Parks District
- R1 Residential District
- R2 Residential District
- RM2 Residential Multiple Zone

Not to Scale
 Zoning By-laws 438-86 & 1-83 as amended
 Extracted 05/11/05 - DR

Attachment 3: Application Data Sheet

APPLICATION DATA SHEET

Application Type	Official Plan Amendment	Application Number:	05 109405 STE 21 OZ
Details	OPA, Standard	Application Date:	February 16, 2005

Municipal Address: 335 LONSDALE RD, Toronto ON
 Location Description: PL M70 LTS 26 TO 28 **GRID S2106
 Project Description: Proposed condominium conversion of existing co-ownership apartment building. Condominium Approval application #05-196593 STE 21 CD has already been made.

Applicant:	Agent:	Architect:	Owner:
335 Lonsdale Apartments Co-ownership Ltd.			335 Lonsdale Apartments Co-ownership Ltd.

PLANNING CONTROLS

Official Plan Designation:	Site Specific Provision:
Zoning: R2 Z2.0	Historical Status:
Height Limit (m): 18	Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq. m):	1920.1	Height:	Storeys:	6	
Frontage (m):	54.69		Metres:	17.93	
Depth (m):	38.4				
Total Ground Floor Area (sq. m):	952.7				Total
Total Residential GFA (sq. m):	5298.8		Parking Spaces:	62	
Total Non-Residential GFA (sq. m):	0		Loading Docks	0	
Total GFA (sq. m):	5298				
Lot Coverage Ratio (%):	50				
Floor Space Index:	2.76				

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

			Above Grade	Below Grade
Tenure Type:	Condo			
Rooms:	0	Residential GFA (sq. m):	5298.8	0
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	39	Office GFA (sq. m):	0	0
2 Bedroom:	17	Industrial GFA (sq. m):	0	0
3 + Bedroom:	6	Institutional/Other GFA (sq. m):	0	0
Total Units:	62			

CONTACT: PLANNER NAME: Michael Mestyan, Planner
TELEPHONE: (416) 397-4487

Attachment 4: Official Plan Amendment No. 31

The Official Plan for the City of Toronto is amended as follows:

1. Chapter 7, Site and Area Specific Policies is amended by adding Site and Area Specific Policy No. 297 for the lands known municipally in 2007 as 335 Lonsdale Road, as follows:

297. 335 Lonsdale Road

Conversion to condominium of an existing co-ownership apartment building containing 62 residential units as of June 8, 2007 is permitted, provided the condominium is registered within 3 years of draft approval.



2. Map 28, Site and Area Specific Policies, is amended for the lands known municipally in 2007 as 335 Lonsdale Road shown on the map above as Site and Area Specific Policy No. 297.

Attachment 5: Condition of Draft Plan of Condominium Approval

- A. 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*.
- B. Comprehensive Reserve Study:
- (1) The declarant shall, at its own expense, 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 plans of condominium (declaration and description);
 - (2) The comprehensive study required in condition B(1) 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 in connection with the physical analysis, be a professional engineer registered as such and holding a certificate of authorization within the meaning of the Professional Engineers Act;
 - (3) 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 average dollar amount of contributions to the reserve fund that will be required to be paid annually per unit to the reserve fund for each year covered by the study (not less than 30 years) based on the reserve fund required to be established by the declarant in accordance with condition D below. The table shall be in the form of the Cash Flow Table forming part of Form 15 of O. Reg. 48/01, as amended from time to time, made under the *Condominium Act*, 1998;
 - (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 declarant prior to registration of the plans 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 declarant, we have prepared this study for the declarant and the Condominium Corporations which will be created upon registration of the plans of condominium (the “Condominium Corporations”) and we acknowledge that this study will be turned over to the Board of Directors of the Condominium Corporations and they can rely upon this study and the opinions and findings expressed herein, and consent and agree to such reliance.”

- C. The declarant shall, prior to registration of the plans of condominium (declaration and description), at its own expense:
- (1) complete each of the repairs and replace each of the components set out on the lists compiled pursuant to conditions B(3)(b)(i), (ii) and (iii) above as detailed in the comprehensive study; and
 - (2) provide to the City of Toronto’s Chief Planner & Executive Director (“Chief Planner”) or designate 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 B(3)(b)(i), (ii) and (iii) have been satisfactorily completed.
- D. The declarant shall, prior to registration of the plans of condominium (declaration and description), at its own expense, establish a reserve fund for the benefit of the condominium corporations to be created in an amount not less than the greater of:

- (1) the amount, if any, recommend required in condition B above; and
 - (2) the amount required pursuant to the *Condominium Act*, 1998, if any.
- E. The declarant shall provide a copy of the comprehensive study required in condition B(1) above, including the matters required in condition B(3) above, to the Chief Planner prior to the registration of the plans of condominium (declaration and description).
- F. The declarant shall, prior to the registration of the plans of condominium (declaration and description) provide its 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:
- (1) include a copy of the table required to be prepared in condition B(3)(a) above as updated and signed by the person who carried out the financial analysis component of the comprehensive study required in condition B(1) to:
 - (a) reflect the actual reserve fund established by the declarant pursuant to condition D above;
 - (b) describe the repairs/renovation work that must be completed by the declarant as a condition of registration; and
 - (c) take into account all repairs and renovations completed by the declarant which are set out on the lists compiled pursuant to conditions B(3)(b)(i), (ii) and (iii) above as detailed in the comprehensive study; and
 - (2) that such updated table be included in the statement required in condition B(3)(c) above.
- G. Upon presentation to the Chief Planner of a certificate from a professional engineer registered as such and holding a certificate of authorization within the meaning of the Professional Engineers Act stating that Conditions A, D, E and F have been satisfied and provided Conditions A, E and I have been satisfied, the plans may be registered.
- H. The declarant shall provide a tax certificate, which confirms that all municipal taxes have been paid in full.

- I. The declarant 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 the 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 the condominium registration.