

1901 Bayview Avenue – Condominium Application

Date:	August 23, 2010
To:	City Council
From:	Chief Planner and Executive Director, City Planning
Wards:	Ward 26 – Don Valley West
Reference Number:	cc10070 (File No. 06 106481 NNY 26 CD)

SUMMARY

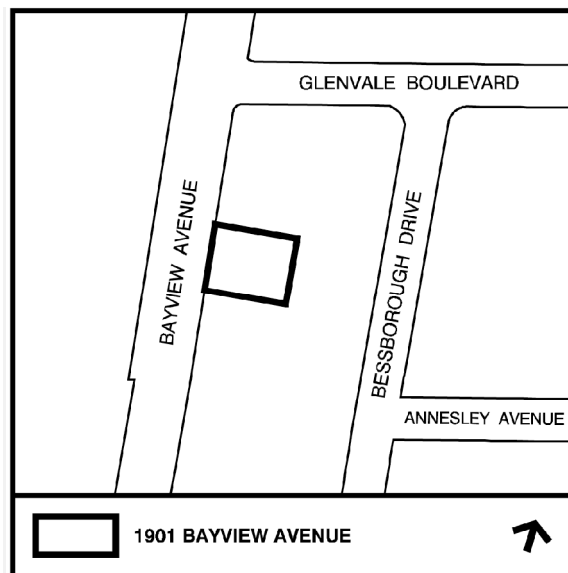
This application involves the conversion of an existing 36 unit equity co-operative to condominium at 1901 Bayview Ave. The three year time limit to register the condominium has lapsed and it is recommended that the approval be reissued to permit fulfillment of the conditions of draft plan approval and registration of the condominium within a one year period ending September 1, 2011. Since the applicant has appealed the original lapsing period to the Ontario Municipal Board and the scheduling of an OMB Hearing is pending, the consideration of this report is an urgent matter.

RECOMMENDATIONS

The City Planning Division recommends that City Council:

1. Reissue the Draft Plan of Condominium approval for 1901 Bayview Avenue with the conditions that were approved at the City Council meeting of September 27, 2006 with the following changes, the reissued conditions to be substantially as set out in Attachment 1 to the report:

- a. the conditions of draft condominium approval be satisfied by September 1, 2011; and



- b. such further changes as the Chief Planner should determine are minor in nature.
2. Determine that the changes referred to in Recommendation No. 1 are minor in nature pursuant to Section 51(47) of the *Planning Act*; and
3. The reissuance of the Draft Plan of Condominium approval as set out in Recommendation 1 is subject to the applicant withdrawing its appeal to the Ontario Municipal Board.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

An application was submitted in February 2006 to convert an existing 36 unit equity co-operative located at 1901 Bayview Avenue to condominium. As the building contained more than five rental units City Council approval for the draft plan of condominium and an Official Plan Amendment were required. At its meeting of September 27, 2006 City Council adopted the report from the Director of Community Planning, North York District dated August 31, 2006 and authorized approval of the draft plan of condominium subject to certain conditions being fulfilled. The conditions of draft approval required, among other matters, that the condominium be registered within three years. In a letter dated October 5, 2006, the City Clerk advised the owner and interested persons of City Council's approval.

In adopting the recommendations of the report, Council also requested that the Ontario Municipal Board modify the Official Plan for the City of Toronto to permit the condominium conversion. As a result the Board approved Site and Area Specific Policy No. 291 to implement the modification.

A copy of the original report and City Council's actions can be found at: <http://www.toronto.ca/legdocs/2006/minutes/council/cc060925.pdf> (see 12.135 J(17) pgs 189-190 and Attachment 8 [Notice of Motion J(17)] pgs 366-380.

COMMENTS

Registration of this condominium has not yet occurred but the applicant is very close to satisfying the conditions of approval and it is anticipated that this will be completed within the timeframe being proposed. Accordingly, it is recommended that the approval be reissued and a revised time limit be established which will require the conditions be met by September 1, 2011.

A condition that requires further attention is the need to bring the stairway handrails up to specifications set out in the City's Property Standards By-law. The owner wishes to pursue its appeal rights to the Property Standards Committee to resolve this matter.

Accordingly, the conditions of draft plan of condominium approval in Attachment 1 include a process for this matter if the applicant pursues this option. The owner agrees to grant access for the purpose of an inspection of the handrails to Municipal Licensing & Standards staff. If the handrail does not satisfy the required standard, an order will be issued and a compliance/appeals process will be initiated. Compliance with the order is secured through the requirement that the owner enter into a Condominium Agreement, and, through the enforcement process under the Property Standards By-law.

The applicant also agrees to withdraw its appeal of the condominium application to the Ontario Municipal Board pending City Council extending the timeframe for satisfying the conditions of draft condominium approval by one year.

CONTACT

Lynn Poole
Senior Planner
Community Planning – North York District
Tel. No. (416) 395-7136
Fax No. (416) 395-7155
E-mail: lpoole@toronto.ca

SIGNATURE

Gary Wright
Chief Planner and Executive Director
City Planning

ATTACHMENTS

Attachment 1: Revised Lapsing Provision and Conditions of Draft Plan of Condominium Approval

Attachment 1: Revised Lapsing Provision and Conditions of Draft Plan of Condominium Approval

- A. The plan of condominium (declaration and description) shall be registered by September 1, 2011, otherwise the approval shall lapse and be of no further force and effect;
- B. Comprehensive Reserve Study
- (1) The declarant shall, at its own expense, not to be passed on to the tenants of the building, 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”, including the matters required in condition B(3) below, to the satisfaction of the Chief Planner;
 - (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) as necessary, 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
 - (ii) 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) and (ii) above as detailed in the comprehensive study;
- (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) and (ii) have been satisfactorily completed; and
- (3) initiate the carrying out of an inspection of the building by the City of Toronto Municipal Licensing and Standards Division with respect to the stairwell railings, whereupon the completion of such inspection the repairs and/or replacement of the stairwell railings shall be deemed excluded from clause (1), including without limitation those repairs and/or replacements of the stairwell railings identified as required by any order issued by the City of Toronto Municipal Licensing and Standards Division pursuant to

section 15(2) of the Building Code Act, S.O. 1992, c. 23, as amended, respecting Toronto Municipal Code Chapter 629, Property Standards (the “**Order**”), provided the owner has entered into and registered, to the satisfaction of the City Solicitor, a Condominium Agreement pursuant to Section 15(26) of the *Planning Act* R.S.O. 1990, c. P. 13 agreeing to:

- (i) expeditiously either comply with the requirements of the Order or in the time periods and manners permitted therefor seek an appeal of the Order and upon exhaustion and completion of available appeal processes comply with the final decision issued and not appealed in relation to the Order; and
- (ii) comply with Section 76 of the *Condominium Act*, 1998, c. 19, and include in all Status Certificates issued thereunder a notation describing the Order and including amongst other things an explanation that it is issued under the City’s Property Standards By-law, relates to stairwell railings, and that the determination of any appeal to the Order may require complete compliance in an expeditious manner which may result in additional costs to all owners of the building for such remediation

D. Prior to the registration of the plan of condominium (declaration and description), the declarant shall provide to the satisfaction of the Chief Planner, a letter from its solicitor confirming that the amount required to be contributed to the reserve fund is being held in trust, and that the solicitor has received instructions to contribute such funds to the reserve fund once it has been established. The declarant shall contribute to the reserve fund, once established, for the benefit of the condominium corporations to be created, an amount not less than the greater of:

- (1) the amount, if any, recommended in the comprehensive study 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) and (ii) 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. The declarant shall provide a tax certificate, which confirms that all municipal taxes have been paid in full.
- H. The declarant agrees not to pass on, in the form of rent increases to existing tenants, any costs associated with the renovations or alterations of the building or any increase in property taxes due to a change in the assessed value of the property identified in this application.