

## 1 Clarendon Ave - Condominium Application

<b>Date:</b>	December 6, 2010
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 22 – St. Paul's
<b>Reference Number:</b>	06 143056 STE 22 CD

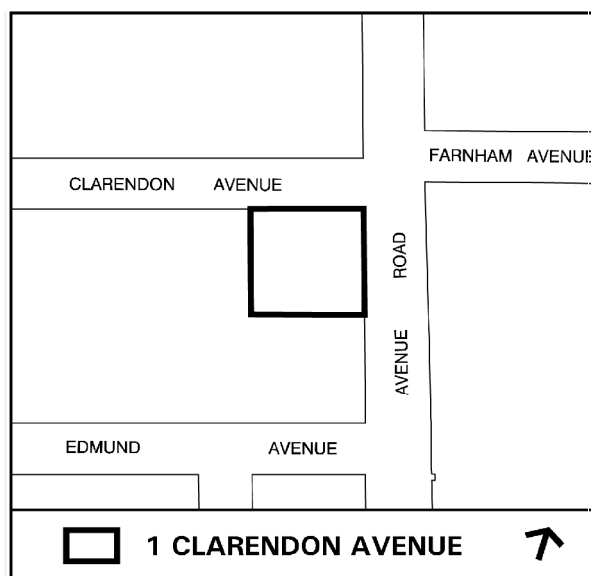
### SUMMARY

This application involves the conversion of a 40-unit rental residential apartment building at 1 Clarendon Avenue to condominium. The three year time limit to register the condominium lapsed on November 20, 2010. It is recommended that the draft condominium approval be re-issued to allow a further three years in order to permit the fulfillment of the conditions of Draft Plan approval and registration of the condominium.

### RECOMMENDATIONS

**The City Planning Division recommends that City Council:**

1. Reissue the Draft Plan of Condominium approval for 1 Clarendon Avenue with the conditions that were approved at the City Council meeting of November 20, 2007, with the following change, as set out in Attachment 1 to this report:
  - a. The conditions of draft condominium approval be satisfied and the condominium be registered by November 20, 2013, unless an extension is granted by the City pursuant to



Section 51(33) of the *Planning Act*.

**Financial Impact**

The recommendations in this report have no financial impact.

**ISSUE BACKGROUND**

An application was submitted in June 2006, to convert an existing 40-unit rental residential building at 1 Clarendon Avenue to condominium ownership. Due to the number of rental units, City Council approval was required for the Draft Plan of Condominium Approval and Official Plan Amendment. At its meeting of November 20, 2007, City Council adopted the report from the Director of Community Planning, Toronto and East York District recommending draft plan approval.

**COMMENTS**

Registration of this condominium has not yet occurred, and the applicant is requesting additional time to satisfy the remaining conditions of approval respecting the historically important building. Accordingly, it is recommended that draft plan approval be re-issued and a revised time limit be established which will require that the draft plan conditions be met by November 20, 2013.

**CONTACT**

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**SIGNATURE**

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Raymond David, Director  
Community Planning, Toronto and East York District

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**ATTACHMENTS**

Attachment 1: Revised Conditions of Draft Plan of Condominium Approval

**Attachment 1:  
Revised Conditions of Draft Plan of Condominium Approval**

**CONDITIONS**

1. The plan of condominium (declaration and description) shall be registered on or before November 20, 2013, 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 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 4 below, to the satisfaction of the Chief Planner and Executive Director.
3. The persons conducting the physical analysis of the comprehensive study described in conditions 2 and 4, shall include 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*.
4. 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.”
5. The owner shall, prior to 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(b) (i), (ii) and (iii) above as detailed in the comprehensive study, 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. Prior to the registration of the plan of condominium (Declaration and Description), the owner shall provide to the satisfaction of the Chief Planner and Executive Director 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 owner shall contribute to the reserve fund, once established, for the benefit of the condominium corporation to be created, an amount not less than the greater of,
- (a) the amount recommended in the comprehensive study required in conditions 2 and 4 above, and
  - (b) the amount required pursuant to the *Condominium Act, 1998*.
7. In the event the Owner of the Site has entered into one or more agreements to convey any of the proposed units, the owner 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,

- (a) include a copy of the table required to be prepared in condition 4(a) above as updated and signed by the person who carried out the financial analysis component of the comprehensive study required in condition 2 to reflect the amount to be contributed to the reserve fund and being held in trust pursuant to condition 6 above, and
- (b) that such updated table include the statement required in condition 4(c) above, or

alternatively, if the Owner has not entered into any agreement to convey one or more units, the owner shall provide its solicitors confirmation such is the case.

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

- (a) The condominium corporation shall, at its expense update the table required pursuant to conditions 4(a) 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 4(a) above;

- (b) 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 4(a) 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;
- (c) 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.

- (d) Conditions 4(a), (b) and (c) above shall cease to apply on the date that is one year following the date the condominium corporation has,
    - (i) conducted its first comprehensive reserve fund study (a “comprehensive study”) and,
    - (ii) 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*.
- 9. The provisions in the Declaration and Description dealing with conditions 8(a) to (d) above, inclusive shall not be amended without the written consent of the City of Toronto.
- 10. The owner of the Site shall provide a tax certificate which confirms that all municipal taxes have been paid in full.
- 11. The owner of the Site 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 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.

For the sake of clarity and without limiting the foregoing, any costs related to the following shall not be passed on to such tenants:

- (i) Window air conditioning units with split or built in systems, wherever possible,
  - (ii) Replacing elevator controls to state of the art electronics without any negative impact on design,
  - (iii) Brick and gargoyle restoration where necessary,
  - (iv) Installation of gas stoves where possible to increase hydro capacity for the building and individual units,
  - (v) Exterior improvements as mandated by the City
  - (vi) New garbage and recycling room
  - (vii) Extended security camera system
  - (viii) Upgraded laundry facility and where possible in-suite laundry facilities
- 12. The owner shall, prior to registration of the plan of condominium (declaration and description) to the satisfaction of the Manager of Heritage Preservation Services:
  - (a) enter into a Heritage Easement Agreement with the City; and

- (b) provide a restoration plan and schedule.
- 13. The owner shall, prior to registration of the plan of condominium (declaration and description) to the satisfaction of the Executive Director of Technical Services:
  - (a) install and maintain a “Yield to oncoming traffic” sign located within the underground garage to advise outgoing motorists of such; and
  - (b) include a clause in the declaration of condominium, advising prospective owners of the substandard parking spaces that these spaces are substandard in size and are intended for use of compact-sized vehicles only. The owner’s solicitor shall submit certification that the said clause has been included in the declaration of condominium.
- 14. The owner of the Site agrees that any units that remain rented to existing tenants will not be sold to individual condominium buyers until the tenant terminates his or her tenancy and the unit becomes vacant, unless the tenant consents to such a sale.