

55 Charles Street West – Supplementary Report Draft Plan of Condominium Application

Date:	October 2, 2012
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	05 112260 STE 27 CD

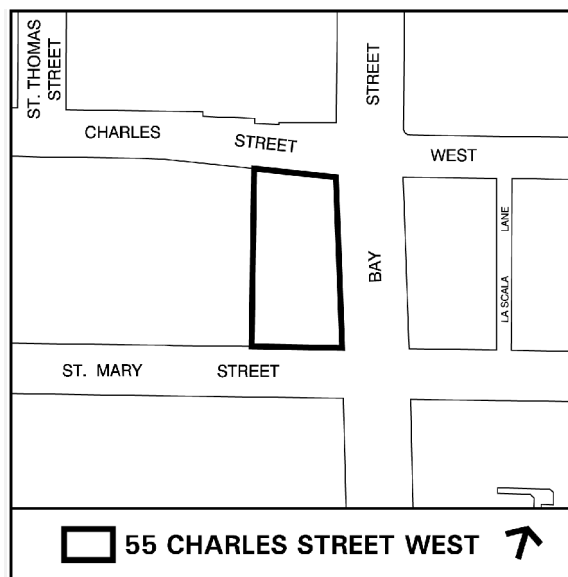
SUMMARY

This application involves the conversion of a 32-storey, 148 unit high-end of market rental apartment building into a residential condominium building at 55 Charles Street West. The three year time limit to register the condominium will lapse on February 23, 2013. It is recommended that the draft condominium approval be extended to allow a further two 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:

1. City Council extend the Draft Plan of Condominium approval for 55 Charles Street West with the conditions that were approved at the City Council meeting of February 22 and 23, 2010, with the following change, as set out in Attachment 1 to the report (October 2, 2012) from the Director, Community Planning, Toronto and East York District:



- a. The conditions of draft condominium approval be satisfied and the condominium be registered by February 23, 2015, 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.

COMMENTS

At its meeting of February 22 and 23, 2010, City Council approved the conversion of this high-end of market rental building to condominium subject to certain Conditions of Draft Plan of Condominium being satisfied within a three year period. The original City Planning report can be found at:

<http://www.toronto.ca/legdocs/mmis/2010/te/bgrd/backgroundfile-26824.pdf>

Registration of this condominium has not yet occurred, and the applicant is requesting additional time to satisfy the conditions of approval.

A Comprehensive Reserve Fund Study has been completed as required, which among other things, identifies repairs and renovations to be undertaken prior to final approval and registration of the condominium. While many of these repairs have been completed, the applicant has not been able to complete them all due to the scope and magnitude of the work. These outstanding items include major exterior renovations such as the complete replacement of all windows, and major interior improvements such as the renovations and upgrading of the fitness/recreation facilities. Accordingly, it is recommended that draft plan approval be extended and a revised time limit be established which will require that the draft plan conditions be met by February 23, 2015.

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SIGNATURE

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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

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 on or before February 23, 2015, 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 physical analysis of the comprehensive study described in conditions 2 and 4 shall be conducted by 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 6 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, or from such other duly qualified engineer, 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 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,

- (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 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 condition 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 8(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 Declaration shall contain a clause stating that the provisions in the Declaration dealing with conditions 8(a) to (d) above, inclusive shall not be amended without the written consent of the approval authority, under the Condominium Act, 1998.
- 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.

The costs of renovations or alterations not to be passed on in the form of rent increases to tenants, includes but is not limited to the following building improvements that are proposed as part of the conversion plans:

- improvements and upgrading to the lobby and parking lobbies and garage
 - improvements to or new amenity rooms (such as fitness, pool and audio visual rooms)
 - replacement of corridor ventilation system and the addition of cooling capability
 - upgrading of the plumbing system to individual units.
- 12. Prior to the registration of the plan of condominium (Declaration and Description), the owner shall provide the Chief Planner and Executive Director written confirmation that written notice has been provided to all existing tenants that:
 - (a) Registration of the condominium is imminent;
 - (b) The owner has provided sitting tenants a copy of Condition 11 above; and
 - (c) The owner has provided sitting tenants with a copy of the relevant provisions under the Residential Tenancies Act, 2006 concerning their security of tenure and right of first refusal.

13. The owner shall, prior to registration of the plan of condominium (Declaration and Description) and to the satisfaction of the Executive Director of Technical Services:
- (a) include wording in the Declaration and Description clearly specifying that the residential visitor parking cannot be sold to or owned by residential unit owners other than the Declarant, its affiliate, or the Condominium Corporation;
 - (b) Provide and maintain a minimum of 120 parking spaces on the site to serve this project, including a minimum of 118 resident spaces and 2 Car-share spaces; and
 - (c) Secure a car-share provider for the proposed Car-share parking spaces.