

TORONTO STAFF REPORT

July 28, 2003

To: Toronto East York Community Council

From: Director of Community Planning - South

Subject: Final Report
Official Plan Amendment Application 02 035372 STE 27 OZ and Draft
Plan of Condominium Application 02 035372 STE 27 CD
Applicant: 414 Jarvis Residences Corporation
414 Jarvis Street
Toronto Centre-Rosedale Ward No. 27

Purpose:

This report reviews and recommends approval of an application for Official Plan Amendment to permit conversion of the 35-unit rental apartment building at 414 Jarvis Street to condominium, and recommends approval of a Draft Plan of Condominium for the property, subject to a number of conditions.

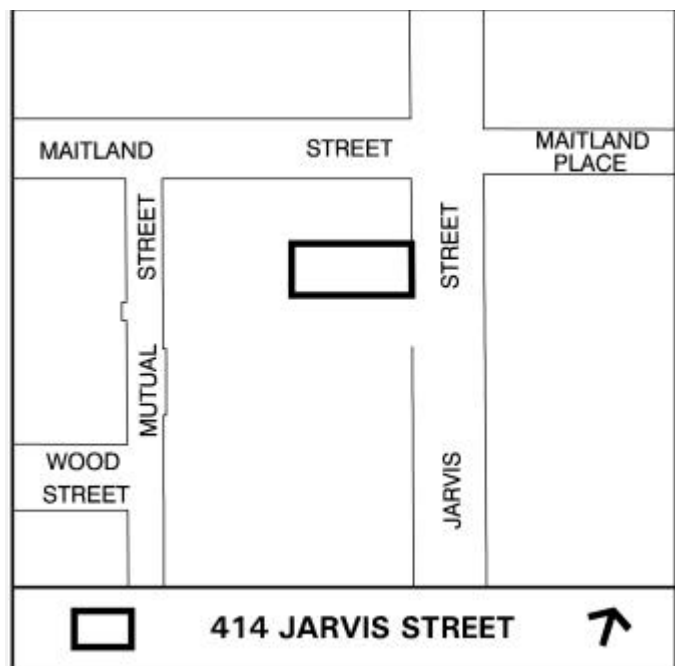
Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations

It is recommended that City Council:

- (1) amend the Official Plan for the former City of Toronto substantially in accordance with the draft Official Plan Amendment attached as Attachment No. 5;
- (2) authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment as may be required;



- (3) authorize the Draft Approval of the Plan of Condominium for 414 Jarvis Street, substantially in accordance with the plans date stamped as received on December 31, 2002;
- (4) require the owner to fulfill the following conditions of Draft Approval prior to the City's consent for final registration and authorize the City Solicitor to prepare any necessary condominium agreement for the conditions, as she deems necessary:
 - A. The plan of condominium (declaration and description) shall be registered within 3 years from the date of draft approval, 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, 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 plan 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 owner 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 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, we have prepared this study for the Owner and the Condominium Corporation which will be created upon registration of the plan of condominium (the “Condominium Corporation”) and we acknowledge that this study will be turned over to the Board of Directors of the Condominium Corporation 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 plan 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 C(3)(b)(i), (ii) and (iii) above as detailed in the comprehensive study; and
 - (2) provide to the City of Toronto’s Commissioner of Urban Development Services (“the Commissioner”) 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 C(3)(b)(i), (ii) and (iii) have been satisfactorily completed.
- D. The declarant shall, prior to registration of the plan of condominium (declaration and description) at its own expense, establish a reserve fund for the benefit of the condominium corporation to be created in 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 2 above, including the matters required in condition B(3) above, to

the Commissioner prior to the registration of the plan of condominium (declaration and description).

- F. The declarant 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:
- (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 included the statement required in condition B(3)(c) above.
- G. Upon presentation to the Commissioner 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 2, 3, 4 and 6 have been satisfied and provided Conditions 1, 5 and 8 have been satisfied, the plan may be registered.
- H. The condominium declaration shall clearly identify and explain the nature of any short-term residential uses permitted in the condominium, to the satisfaction of the Commissioner of Urban Development Services.
- I. The owner shall provide a tax certificate which confirms that all municipal taxes have been paid in full.

Background:

Proposal

414 Jarvis Residences Corporation proposes to convert the existing 35 unit rental apartment building to a residential condominium. The effect of approval would be that

the individual apartments could be sold to the current tenants or to other purchasers, and over time the building may cease to operate as a rental apartment building. No new development is proposed in conjunction with the application.

Site History

414 Jarvis Street is a 35-unit rental apartment building constructed in 1908. It and the neighbouring building, 412 Jarvis Street, were formerly owned by the City of Toronto, which purchased the properties in 1990 in order to make the two buildings available for renovation by the Wellsboro Mansions Housing Co-operative. After the City purchased the two buildings, the units were vacated as the renovation approval process proceeded. However, renovation of the properties for the housing co-operative did not begin immediately and the project was no longer possible when the Province cancelled funding for social housing in 1995.

In 1997, Council approved the sale of the vacant buildings to Kwang Chull Development Corporation, on condition that it agreed to a business plan that would make a portion of the renovated residential units available at below market rates to the Rainbow Housing Group Inc., which would in turn provide affordable housing for seniors. Since then, the Rainbow Housing Group has become defunct.

In 1999, 414 Jarvis was severed from 412 Jarvis. In 2000, after the building had been vacant for nearly a decade, the new owner of 414 Jarvis Street obtained building permits to renovate the existing apartment units in the building. The owner began to rent the renovated units in April 2002, prior to making this application. Tenants were advised of the owner's intent to apply for condominium at the time that they rented their units. The building is now mostly occupied.

414 Jarvis Street became a co-ownership in February 2001 through registration of a co-ownership agreement on title. A co-ownership is comprised of co-owners who each own one or more shares in the property. While each co-owner has exclusive rights to one of the units, they do not own the unit itself. In this case, 414 Jarvis Residences Corporation owns all of the shares in the building and has exclusive rights to all of the units, although shares could be sold to individual owners. Therefore, despite the building's legal status as a co-ownership, it continues to operate as a rental apartment building.

The present application does not include the neighbouring building, 412 Jarvis Street, which was severed from 414 Jarvis Street in 1999. City Council amended the Official Plan in November 2002 to permit conversion of 412 Jarvis Street to condominium. Draft approval of that plan of condominium was issued in February 2003, subject to a number of conditions to be met prior to registration. 412 Jarvis Street registered as a condominium in May 2003.

Site and Surrounding Area

The site is located on the west side of Jarvis Street between Carlton Street and Maitland Street.

A 5-storey apartment building containing 35 dwelling units occupies the site. The property includes part of a mutual driveway which leads to parking spaces at the rear of the neighbouring property at 412 Jarvis Street.

The site is generally surrounded by other multiple residential uses. A few commercial uses occupy converted house-form buildings on Jarvis Street and Maitland Street. Jarvis Collegiate Institute lies to the northeast on the east side of Jarvis Street.

Official Plan

The former City of Toronto Official Plan designates the site Medium Density Residence Area, which permits residential development having a gross floor area of up to 2.0 times the area of the lot.

At its meeting of November 26-28, 2002, Council adopted the new Official Plan for the City of Toronto. The Minister of Municipal Affairs and Housing approved the new plan, in part with modifications. The Minister's decision has been appealed in its entirety. The Official Plan is now before the Ontario Municipal Board. No hearing date has been set. However, once the new plan comes into force and effect, it will designate the subject site "Apartment Neighborhood", which is an area made up of a full range of residential uses, including multi-family residential buildings in high-rise built form.

Zoning By-law

The property is zoned R3 Z1.0, which permits a range of residential uses at a density of up to 1.0 times the area of the lot. The height limit is 12.0 metres.

A 1999 Committee of Adjustment Decision approved variances for the property which resulted from its severance from 412 Jarvis Street and permitted renovation of the building. The variances regarded the number of parking spaces, residential gross floor area, rear yard setback, and landscaped open space.

Site Plan Control

This application does not require Site Plan Approval.

Reasons for Application

The in-force policies of the former City of Toronto Official Plan call for the retention and conservation of the existing stock of private rental housing. These policies include

Section 6.18, which states that, “. . . conversion to condominium of duplexes, triplexes, and all other buildings originally constructed to provide one or more rental apartments is premature and against the public interest, until the vacancy rate for private apartments across Metropolitan Toronto, as reported in the Canada Mortgage and Housing Corporation annual rental market reports, regularly returns to at least 2.5 percent.” The vacancy rate for apartments, as most recently reported by Canada Mortgage and Housing Corporation, is 2.4 percent and had remained below 1.0 percent until CMHC’s 2002 annual report. As the vacancy rate has not regularly returned to 2.5 percent, the proposed conversion requires an amendment to the former City of Toronto Official Plan.

The proposed conversion would not comply with the emerging city policies of the new Official Plan for the City of Toronto. However, as noted under the “Comments” section of this report, the new Official Plan was not adopted with the intent of regulating a building in these unusual circumstances, where all the units have been vacant for a lengthy period of time and where vacancy is unrelated to any efforts to circumvent the condominium conversion policies, and as such, a recommendation to amend the new Official Plan is not being made.

Community Consultation

A public meeting was held in the neighbourhood to discuss this proposal on June 19, 2003. Two members of the public and a representative of the applicant attended the meeting. Issues that were discussed included the need for affordable housing to meet the needs of downtown Toronto’s homeless population, the need to preserve rental housing, the need for affordable rental housing, the lack of government funding for the construction of social housing, and the imbalance in production between rental housing and condominium housing.

Agency Circulation

The application was circulated to all appropriate agencies and City Departments. Responses received have been used to assist in evaluating the application and to formulate appropriate by-law standards.

Comments:

Official Plan Compliance and Preservation of Rental Housing

The Planning Act and Provincial Policy Statement on Housing note the need for municipalities to ensure the availability of a range of housing options for current and future residents, including rental housing.

The Official Plans of Metropolitan Toronto and the former City of Toronto contain policies respecting the preservation and maintenance of existing rental housing as a means of ensuring the adequate provision of a full range and mix of housing. Policy 6.17 of the former City of Toronto Official Plan states that it is Council’s goal to encourage

retention and conservation of the existing stock of private rental housing, and to discourage conversion which in Council's opinion is undesirable. As noted above, Policy 6.18 of the Official Plan provides that the conversion of rental buildings to condominium is premature and against the public interest, unless the vacancy rate has regularly returned to 2.5%.

Similar to the in-force policies, the new Official Plan contains a number of policies respecting housing and underscores the need to preserve the City's supply of rental housing. Policy 3.2.1.8 restricts conversion of rental buildings to condominium:

"The conversion to condominium of any building or related group of buildings containing six or more rental housing units is premature and not in the public interest unless

- (a) the rental apartment vacancy rate for the City of Toronto, as reported by the Canada Mortgage and Housing Corporation, has been at or above 2.5% for the preceding two-year period; or
- (b) all of the rental housing units have rents that exceed mid-range rents at the time of the application."

Although the new Official Plan is not in force and effect, its policies are a relevant consideration. It represents Council's current position about the importance of preserving the existing supply of rental housing as well as the most recent staff recommendations with respect to the conversion of rental housing to condominium.

The proposed conversion does not conform to the policies of either the in-force or the new Official Plans in that the vacancy rate in Toronto, as reported in the last three CMHC rental surveys, has not equaled or exceeded 2.5%. Although the rate was most recently reported at 2.4% in October 2002, it has been generally less than one percent since the early 1990s. In October 2001, the rate was reported at 0.9% and in 2000 it was 0.6%. In addition, not all of the rents exceed the mid-range.

The intention of the in-force policies and the new Official Plan is to preserve the existing supply of rental units. 414 Jarvis Street is an unusual situation, in that the 35 units had not been part of Toronto's rental market for approximately ten years prior to its recent renovation. The building was not vacated as a means of circumventing the condominium conversion policies, but rather to permit renovation of the property for social housing. As part of the purchase from the City in 1997, it was clear from the sale documentation that the buyer's intention was to renovate the building with a view to registering the units as condominiums. It is possible that this vacant building would not otherwise have been restored. The new Official Plan was not adopted with the intent of regulating a building in these unusual circumstances, where all the units have been vacant for a lengthy period of time and where vacancy is unrelated to any efforts to circumvent the condominium conversion policies. In the opinion of Planning staff, the proposal does not contradict the intent of the in-force or new condominium conversion policies. However, an Official Plan amendment is being recommended to the former City of Toronto Official Plan to

enable this application to comply with in-force official plan provisions and proceed to its approval stage.

The current legal status of the building as a co-ownership has no bearing on the consideration of the relevant condominium conversion policies.

Planning Act

Section 51(24) of the Planning Act sets forth matters to consider when reviewing an application for draft plan of condominium, including: the health, safety, convenience, accessibility, and welfare of present and future inhabitants of the City; conformity to the Official Plan; whether the proposed subdivision is premature or in the public interest; and matters of provincial interest, including the adequate provision of a full range of housing.

Staff are satisfied that the proposal meets the objectives of these considerations, since until recently the building had not been a part of the city's rental market, the building was retained and renovated with the intent to register as condominium and the tenants were advised of this situation prior to moving into the building. Under these circumstances, the conversion does not represent a loss of rental housing.

Tenant Impacts

The Tenant Protection Act (TPA) sets out the rules for security of tenure. A tenant is permitted to continue renting their unit for as long as they wish, unless they are evicted for a specific reason under the TPA or wish to end the tenancy themselves. One specific reason for eviction under the TPA is to permit the landlord or purchaser to obtain the use of the unit for themselves or a member of their immediate family. This is commonly known as "personal use eviction."

Despite the rules respecting personal use evictions, the TPA has additional specific provisions to protect tenants from personal use evictions where the unit is converted to condominium. The tenant who occupies a unit at the time it is converted to condominium cannot be evicted for personal use of the unit by the purchaser. In addition, if the owner receives an acceptable offer to purchase the unit, the tenant has 72 hours to match the offer and, if they do so, the landlord must accept the tenant's offer. (This does not apply if more than one unit is being purchased by a single investor as part of the same offer.) Tenants cannot be evicted if they decide not to purchase their unit. This protection applies to tenants who occupy a unit at the time of the conversion; it does not protect future tenants who move into a unit after it has converted to condominium.

Tenant Notification

The owner has sworn an affidavit stating that each tenant household has been informed in writing of the application to convert the building to condominium. The owner has also advised that each tenant was informed of the application at the time they moved into the building through a clause in the rental application form.

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. There is one outstanding investigation request against the property with respect to a property standards matter, although the community consultation process has not raised any concerns with respect to whether the building meets City property standards. Because this building is not new, I am recommending certain draft plan of condominium conditions which are primarily directed at enabling 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 the implications of such condition for the reserve fund and future common expenses. These conditions reinforce the requirements for disclosure under the Condominium Act.

Conclusions:

Based on the history of this building, including the fact that until the recent renovations it had not been part of the rental market for more than a decade, I am recommending that Council approve an Official Plan amendment to permit the 35 unit rental apartment building at 414 Jarvis Street to convert to condominium. I am also recommending approval of the Draft Plan of condominium, subject to a number of conditions.

Contact

Kyle Knoeck, Planner - East Section
(416) 392-7215
kknoeck@toronto.ca

Ted Tyndorf
Director, Community Planning, South District

(p:\2003\upd\pln\21212729065.pln) - tm

List of Attachments:

Application Data Sheet
Attachment 1: Zoning
Attachment 2: Official Plan
Attachment 3: Agency Comments
Attachment 4: Draft Official Plan Amendment

APPLICATION DATA SHEET

Application Type: Condominium Conversion Application Number: 02 035372 STE 27 OZ
 Details: OPA, Draft Plan of Condominium Application Date: December 31, 2002

Municipal Address: 414 JARVIS ST, Toronto ON
 Location Description: 414 JARVIS ST
 Project Description: Official Plan Amendment application to permit conversion of rental building to condominium. See also Condominium Conversion application 402035.

Applicant:	Agent:	Architect:	Owner:
414 JARVIS RESIDENCES COR JONATHAN MAIR			414 JARVIS RESIDENCES COR JONATHAN MAIR

PLANNING CONTROLS

Official Plan Designation:	MDRA	Site Specific Provision:	none
Zoning:	R3 Z1.0	Historical Status:	no
Height Limit (m):	12	Site Plan Control Area:	no

PROJECT INFORMATION

Site Area:	700.1	Height:	Storeys:	4
Frontage:	17.39		Metres:	0
Depth:	40.3			
Ground Floor GFA:	approx. 500		Total	
Residential GFA:	approx. 2500	Parking Spaces:		0
Non-Residential GFA:	0	Loading Docks		0
Total GFA:	2500			
Lot Coverage Ratio:	n/a			
Floor Space Index:	3.57			

DWELLING UNITS

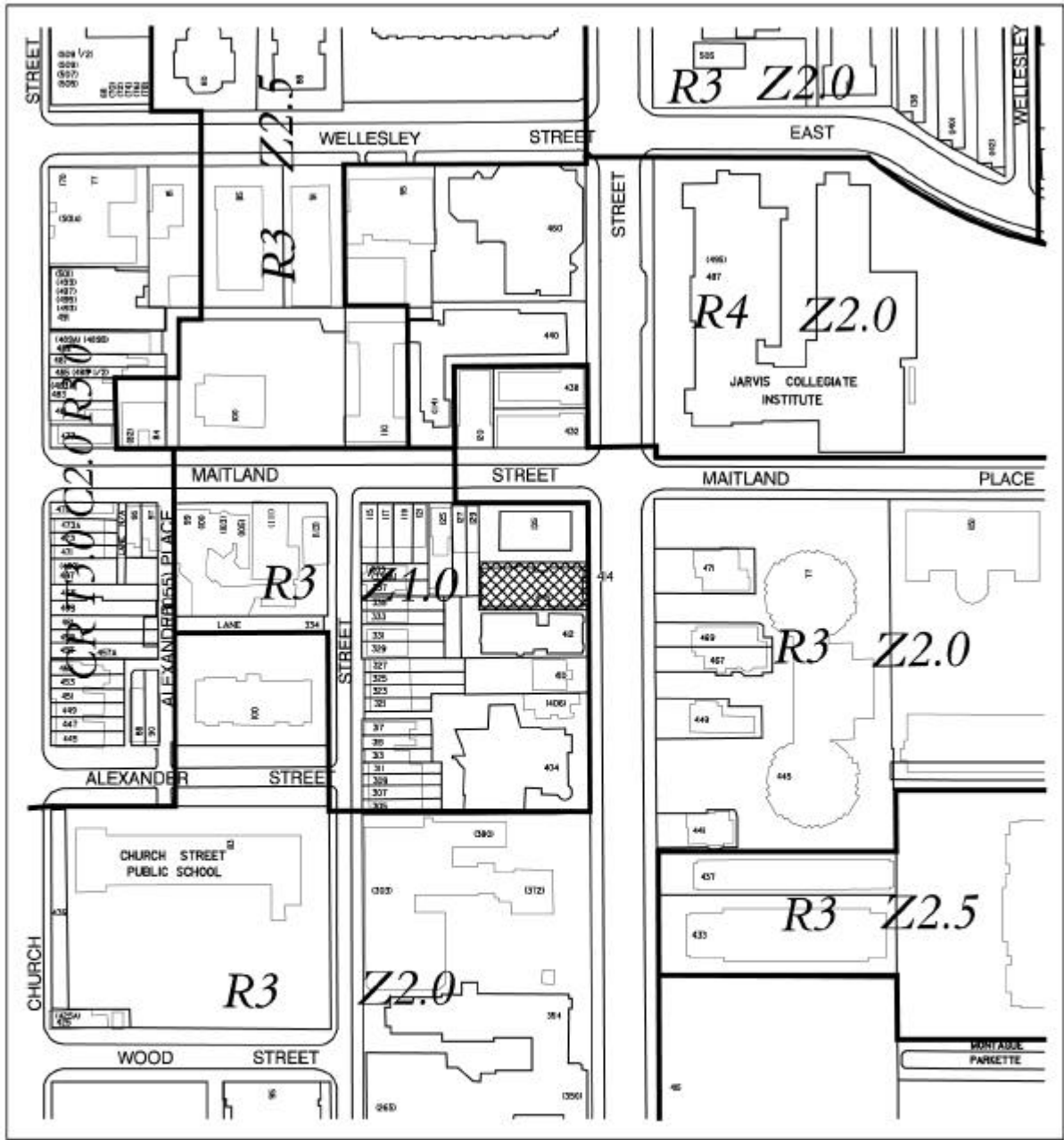
Tenure Type:	
Rooms:	0
Bachelor:	5
1 Bedroom:	23
2 Bedroom:	7
3 + Bedroom:	0
Total Units:	35

FLOOR AREA BREAKDOWN

	Above Grade	Below Grade
Residential GFA:	2500	0
Retail GFA:	0	0
Office GFA:	0	0
Industrial GFA:	0	0
Institutional/Other GFA:	0	0

CONTACT: **PLANNER NAME:** Kyle Knoeck, Planner - East Section
TELEPHONE: (416) 392-7215

Attachment 1: Zoning (Map)



 **TORONTO** Urban Development Services
Zoning

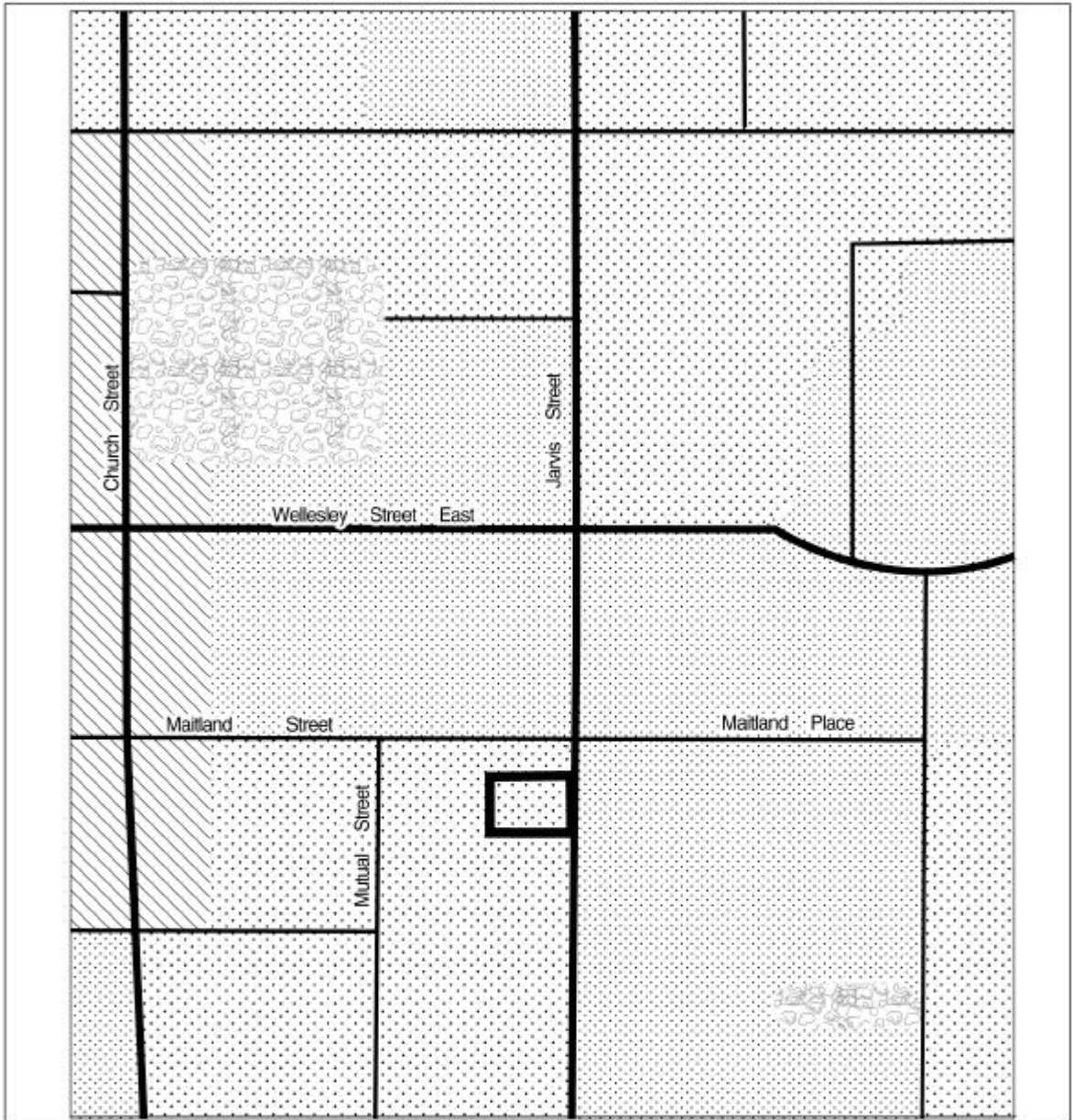
414 Jarvis Street
File # 02_035340 & 02_035372

R3 Residential District
CR Mixed-Use District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 07/29/03 - DR






Attachment 2: Official Plan (Map)



 **TORONTO** Urban
Development Services
Official Plan

414 Jarvis Street

File # 02_035340 & 02_035372

- | | |
|--|---|
|  Site |  Low Density Residential Areas |
|  Medium Density Residential Areas |  Open Space |
|  High Density Residential Areas | |


Not to Scale
07/29/03

Attachment 3 Agency Comments

1. Works and Emergency Services, August 13, 2003

This is in reference to the applications by 414 Jarvis Residences Corporation for the above-noted site, located on the west side of Jarvis Street, south of Maitland Street. The proposal is to convert the existing apartment building into a 35-unit residential condominium. The following recommendations and comments are based on plans and drawings date stamped by Urban Development Services on December 31, 2002.

Please advise me if any changes or modifications are required to the conditions identified in this memorandum.

Conditions

1. The owner be advised:
 - (a) Of the need to make separate applications to the Commissioner of Works and Emergency Services for permits to carry out any works involving the construction in, or occupancy of, the Jarvis Street public right-of-way; and
 - (b) Of the need to provide fire access routes and any necessary hydrants in accordance with the requirements of the Ontario Building Code;

Sidewalks/Public Boulevards/ Streetscaping

Any work to be carried out within the public right-of-way must be approved by this Department and the work must meet City standards. For clarification on how these standards will apply to this site, the applicant should contact the Right-of-Way Management Section, District 1, Construction Activities at (416) 392-7877.

Driveway Access and Site Circulation

There is an existing private right-of-way along the south side of the building, extending westerly from Jarvis Street. It measures 2.74 m in width and is partially located on the subject site. This right-of-way provides vehicular access to a parking area, located at the rear of Premises No. 412 Jarvis Street, which is provided for the exclusive use of the abutting property owners. No changes to the function or layout of the private right-of-way are proposed. This is satisfactory.

Parking

No parking spaces are proposed to serve this project, which is consistent with the existing situation and with the provisions of the Zoning By-law as indicated by the By-law Examiner. Therefore, no parking is acceptable.

Loading

The applicant does not propose any loading spaces. This is consistent with the existing situation and with the provisions of the Zoning By-law as indicated by the By-law Examiner.

Solid Waste and Recycling

The City will provide this project with curb side refuse and recyclable materials collection in accordance with the Municipal Code, Chapter 844 (Waste Collection – Residential Properties).

Fire Services

The plans fail to address the following with respect to Fire access Route requirements of the Ontario Building Code:

- (i) Location - within 3 to 15 metres of every building face having access openings (unsprinklered buildings); and
- (ii) Hydrant – located no more than 90 metres from the “principal entrance” for buildings without a fire department connection.

For further information in this regard, please contact the Fire Prevention Division (telephone 338-9355).

**Attachment 4
Draft Official Plan Amendment**

- 1. Section 18 of the Official Plan for the former City of Toronto is amended by adding a new Section 18.xxx as follows:**

“18.xxx Lands known as 414 Jarvis Street.

Notwithstanding any other provisions of this Plan, Council may pass by-laws applicable to the lands shown on Map 18.xxx to permit the conversion to condominium of the building existing on those lands on September xx, 2003, comprising 35 residential dwelling units, provided the plan of condominium is registered within three years from the date of enactment of this amendment”.