

# TORONTO STAFF REPORT

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August 11, 2003

To: Toronto East York Community Council

From: Director, Community Planning, South District

Subject: Final Report  
Application to amend the Official Plan and for Draft Plan of Condominium  
74 Spadina Road Limited  
74 Spadina Road  
TE OPA 20020003, TE CDC 20020002, 102028, 402028  
Trinity-Spadina, Ward 20

Purpose:

This report reviews and recommends approval of an application for an Official Plan Amendment to permit the conversion of an equity co-operative building at 74 Spadina Road to condominium, and recommends approval of a Draft Plan of Condominium for the property, subject to 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 Appendix No. 1;
- (2) authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment as may be required;
- (3) authorize Draft Approval of the Plan of Condominium for 74 Spadina Road,



date stamped as received on June 24, 2003; and

- (4) require the owner to meet the following conditions of Draft Approval of the Plan of Condominium prior to the City's consent for final registration and authorize the City Solicitor to prepare any necessary condominium agreements for the conditions, as she deems necessary:
- (a) the owner shall provide a tax certificate which confirms that all municipal taxes have been paid; and
  - (b) the owner shall register the condominium within 3 years after the date that Council approves this Draft Plan of Condominium, otherwise the approval shall lapse and be of no further force and effect.

Background:

Proposal

74 Spadina Road Ltd. (Corporation) proposes to convert the existing 43-unit apartment building from an equity co-operative rental building to condominium. The effect of approval would be that individual apartment units could be sold to the current tenants or to other purchasers, and the building may cease to operate as a rental apartment building.

At the time of application, of the 43 units, 5 units were used as rental and the remainder were occupied by shareholders/owners. The rents for the 5 rental units did not exceed mid-range rents. The Canadian Mortgage and Housing Corporation (CHMC) defines maximum mid-range rents as being equal to 1.5 times CMHC city-wide average rents by unit type.

Site Description

The site is located on the west side of Spadina Road, north of Kendal Avenue. The property accommodates an existing 10-storey, 43-unit residential apartment building. The equity co-operative was created in 1957 and acquired title that year.

The following uses occupy the abutting properties to the:

- North: 22-storey apartment building;
- South: 11-storey apartment building;
- East: Residential uses in house form buildings; and
- West: Residential uses in house form buildings.

Official Plan Designation

The site is currently designated "Medium Density Residence Area 'A'" by the Annex Part II Plan. This designation permits residential buildings having a gross floor area of up to 2.0 times the area of the lot.

### New Toronto Official Plan Designation

At its meeting of November 26-28, 2002, Council adopted the new Official Plan for the City of Toronto. Once the Plan comes into force and effect, it will designate the subject site "Apartment Neighbourhood."

### Zoning By-law 438-86

The site is currently zoned R2 Z2.0 which permits a range of residential building types having a maximum gross floor area of 2.0 times the area of the lot (Attachment 1). A maximum height of 14 meters is permitted. Rezoning is not required to permit the proposed conversion to condominium.

### Site Plan Control

The application does not involve new construction and does not otherwise require Site Plan Approval.

### Reasons for the Application

The proposed conversion of the equity co-operative at 74 Spadina Road to condominium does not comply with in-force and effect policy of the (former) City of Toronto Official Plan or the emerging City policies of the new Official Plan for the City of Toronto. However, at the time of the application, Official Plan Amendment No. 2 (OPA 2) represented emerging City policy and reflected the latest thinking of Planning staff and most recent Council position in regard to these matters. As such, it is a relevant consideration with respect to the application. The applicant has applied for an Official Plan Amendment and for Draft Plan of Condominium on the basis of this policy.

### Community Consultation

A public meeting was held in the neighbourhood to discuss this proposal on May 28, 2003. Approximately 10 people attended the meeting. Issues that were discussed included planning process and policies regarding condominium conversion.

### Agency Circulation

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

Comments:

Official Plan

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 housing policy framework, including the in-force policies of the former City of Toronto Official Plan, calls for the retention and conservation of the existing stock of private rental housing. Policy 6.17 states that it is Council's goal to encourage retention and conservation of the existing stock of private rental housing, and shall discourage conversion of which in Council's opinion is undesirable. Policy 6.18 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 regularly returns to at least 2.5 per cent.”

The vacancy rate reported by CMHC was 0.6% for the 2000 rental market survey, 0.9% for the 2001 survey and 2.4% for 2002 survey. Despite the increase in the vacancy rate in 2002, the vacancy rate has not regularly returned to at least 2.5%. Therefore, the proposed conversion to condominium requires an amendment to the former City of Toronto Official Plan.

At its meeting on November 26, 27, and 28, 2002, Council adopted the new Official Plan for the amalgamated City of Toronto. The new Official Plan for the City of Toronto will come into force and effect pending approval by the Minister of Municipal Affairs, and the resolution of any appeals.

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 addresses 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 reporting 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 conversion of rental housing to condominium.

The application will continue to need an Official Plan amendment under the new Official Plan. The vacancy rate reported by CMHC in its last three rental market surveys has not equalled or exceeded 2.5%. The rents for the 5 units that were rented at the time of the application do not exceed mid-range rents. The CMHC defines maximum mid-range rents as rents that are equal to 1.5 times CMHC city-wide average rents by unit type.

#### Official Plan Amendment No. 2

In April 1999, Council adopted Official Plan Amendment No. 2 (OPA 2) to the former Metropolitan Toronto Official Plan which set out Council's proposed policies for the amalgamated City on the conversion of rental housing to condominium and the demolition of rental housing. OPA 2 was enacted to harmonize and update rental, conversion and demolition policies in the official plans of the former municipalities.

In September 1999, the Ontario Municipal Board determined that OPA 2 was illegal and invalid. The City was granted leave to appeal the OMB decision to Divisional Court, and the appeal was heard on September 26 and 27, 2001. On February 20, 2002, the Divisional Court released its decision which set aside the OMB order and agreed with the City of Toronto on all three points of law raised in their appeal. The Divisional Court decision was subsequently appealed. The appeal hearing was held June 2003, and the decision has not yet issued.

At the time the application was filed, in addition to policy 6.18, OPA2 was the latest opinion provided by Council about the types of conversions which it considered undesirable (per policy 6.17).

OPA 2 provides that it is Council's policy to not approve the conversion of buildings that contain 6 or more rental units unless the vacancy rate has been at or above 2.5% for the preceding 2 year reporting period (three CMHC rental market surveys). OPA 2 provides an exception to the policy as it relates to equity co-operative buildings that is not continued in the new Official Plan for the City of Toronto. OPA 2 states that Council may consider allowing the conversion of equity co-operative buildings containing 6 or more rental units if the following 4 criteria are met:

- (a) the co-operative was legally created prior to June 17, 1998;
- (b) 50% or less of the units are tenanted;
- (c) 66% of each of the tenant and shareholder households have expressed their support in writing for the conversion application in a matter prescribed by Council; and
- (d) an application for condominium approval under the Planning Act has been made by the equity co-operation within 2 years following the approval of this policy.

The application for conversion of 74 Spadina Road appears to meet criteria (a) through (c). The equity co-operative was established in 1957. Based on the information submitted by the applicant, five (11.6%) of the units are tenanted. The applicant has also submitted an affidavit demonstrating that 76.74% of the owners and 100% of the tenants have expressed support in

writing for conversion of the building to condominium. Criteria (d) is not applicable at this time, as OPA 2 has not come into force.

#### Draft Plan Application

As required under Section 9 of the Condominium Act, the draft plan application has been reviewed with respect to sub-section 51(24) of the Planning Act. On the basis of Council's policy at the time the application was made (OPA 2), that the number of rental units is less than 6, that the rents do not exceed mid-range rents as defined by the CMHC, and among other considerations, the application would not be premature or against the public interest, has regard for matters of provincial interest, and also the health, safety, convenience and welfare of present and future inhabitants. With respect to Official Plan conformance, the proposed Official Plan amendment is recommended for approval.

#### Tenant Impacts

##### Security of Tenure

The Tenant Protection Act (TPA) sets out the rules for security of tenure. Tenants are 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 under the TPA for eviction is to permit the landlord or purchaser to obtain the use of the unit for themselves or a member of their family. This is commonly known as "personal use eviction".

The TPA has specific provisions to protect tenants from personal use evictions where the unit is converted to condominium. The purchaser can not evict the tenant who occupies a unit at the time it is converted to condominium for personal use of the unit. 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 as part of the same offer.) Tenants can not be evicted if they decide not to purchase their unit.

##### Property Taxes

Due to shifts in tax rates and assessed value resulting from the conversion to condominium, property taxes payable on the property may change, and those changes – whether increased or decreased – may be passed on to tenants.

##### 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. The City has no outstanding work orders against the property at 74 Spadina Road, and no concerns have been raised with respect to whether the building meeting the City's property standards.

Conclusions :

It is recommended that City Council approve an Official Plan amendment to permit the 43-unit equity co-operative building at 74 Spadina Road to convert to condominium. Approval of the Draft Plan of Condominium is also recommended subject to conditions, including that the registration must occur within 3 years of approval.

Contact:

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Ted Tyndorf  
Director, Community Planning, South District

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List of Attachments:

Application Data Sheet  
Appendix 1: Draft Official Plan Amendment  
Attachment 1: Zoning  
Attachment 2: Official Plan

### Application Data Sheet

Site Plan Approval:	No	File Number:	<b>102028</b>
Rezoning:	No	Application Number:	<b>TE OPA 2002 0003</b>
O.P.A.:	No	Application Date:	10/25/2002

Municipal Address: 74 Spadina Road  
Nearest Intersection:  
Project Description: Convert a 43 unit equity co-op to condominiums - see also 402028  
Condominium Application

**Agent:**

Desmond Bill  
74 Spadina Road  
Toronto, Ontario, M5R 2T5  
(416) 969-9923

**Owner:**

74 Spadina Road Limited  
74 Spadina Road  
Toronto, Ontario, M5R 2T5  
(416) 969-9923

**PLANNING CONTROLS (For verification refer to Chief Building Official)**

Official Plan Designation:	Medium Density Residence Area "A"	Site Specific Provision:	No
Zoning District:	R2Z2	Historical Status:	No
Height Limit (m):	14 m	Site Plan Control Area:	No

**PROJECT INFORMATION**

Site Area:	1067.85	<b>Height:</b>	Storeys:	10
Frontage:	27.43		Metres:	29.5
Depth:	38.93			
Ground Floor GFA:	212.07	Parking Spaces:	Indoor	Outdoor
Residential GFA:	3768.76	Loading Docks:	0	32
Non-Residential GFA:	0		0	0
Total GFA:	3768.76			



**DWELLING UNITS**

<b>Tenure Type:</b>	Other
Rooms:	0
Bachelor:	0
1 Bedroom:	1
2 Bedroom:	43
3+ Bedroom:	0
Total Units:	43
Total Proposed Density:	3.53

**FLOOR AREA BREAKDOWN**

	<b>Above Grade</b>
Residential GFA:	3768.76
Retail GFA:	0
Office GFA:	0
Industrial GFA:	0
Industrial/Other GFA:	0

**COMMENTS** Provincial File Number 55CDM02228

Current Status:	Open	<u>Latest Event</u>	<u>Actual Date</u>
		Received	10/25/2002

Data Valid: October 28, 2002 Planner: Russell Crooks Phone: (416) 392-1316

Area: District - C Planning Office: Toronto - South (TE)

Appendix 1  
Draft Official Plan Amendment

Authority: Toronto East York Community Council Report No. xxx, Clause No. xxx, as adopted by City of Toronto Council on xxxxx,2003-06-02

Enacted by Council:

CITY OF TORONTO

Bill No.

BY-LAW No. xxx-2003

To adopt an amendment to the Official Plan for the former City of Toronto respecting lands known as 74 Spadina Road

WHEREAS the Council of the City of Toronto has had application made to it for a proposed Official Plan Amendment respecting 74 Spadina Road;

AND WHEREAS the Council of the City of Toronto conducted a public meeting under Section 17 of the Planning Act, R.S.O., c. P13 regarding proposed Official Plan Amendment.

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The text and map annexed hereto as Schedule "A" are hereby adopted as an amendment to the Official Plan for the former City of Toronto.
2. This is Official Plan Amendment No. xxx.

ENACTED AND PASSED this xxx day of xxxx, A.D., 2003.

Mayor

City Clerk

SCHEDULE "A"

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

- (1) "18.xxx Lands known as 74 Spadina Road".

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 buildings consisting of 43 residential units existing on those lands on September xx, 2003, provided the condominium is registered within three years after the enactment of this amendment.