

TORONTO STAFF REPORT

August 13, 2003

To: Midtown Community Council

From: Director, Community Planning, South District

Subject: Final Report
Application to amend the Official Plan and for Draft Plan of Condominium
22 Shallmar Inc.
22 Shallmar Boulevard
102033, TD OPA 2002 0002, and 402029, TD CDC 2002 0002
St. Paul's, Ward 21

Purpose:

This report reviews and recommends approval of an application to amend the Official Plan to permit the conversion of an equity co-operative apartment building at 22 Shallmar Boulevard to condominium, and recommends approval of a Draft Plan of Condominium for the property, subject to conditions.

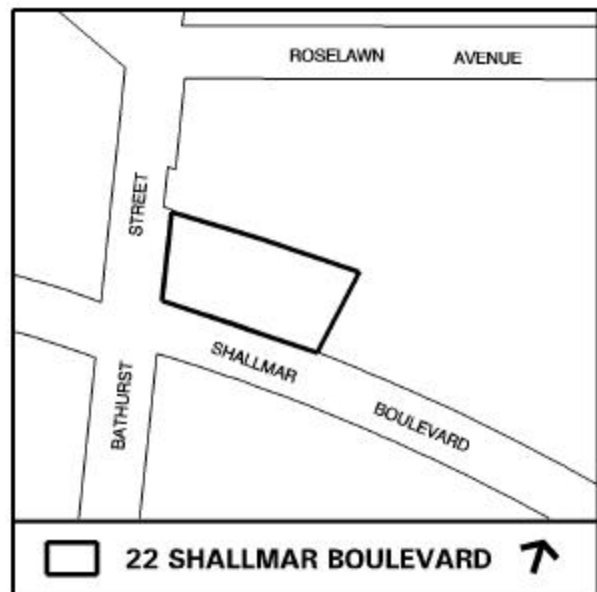
Financial Implications and Impact Statement :

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 Attachment No. 3.
- (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 22 Shallmar Boulevard, stamp dated as received on October 28, 2002.
- (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 the City Solicitor 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.

Proposal

The applicant proposes to amend the Official Plan and approve a Draft Plan of Condominium to permit conversion of the existing 90-unit equity co-operative apartment building at 22 Shallmar Boulevard to condominium. The proposed conversion would change the co-owners' tenure from shareholders in the co-operative that collectively own the building and property, to individual owners of their own units. The draft plan of condominium proposes 90 dwelling units.

No structural changes or additions are proposed in conjunction with the application.

Site Description

The site is located on the north side of Shallmar Boulevard, east of Bathurst Street. The property accommodates an existing 9-storey, 90-unit residential apartment building. The equity co-operative was created in 1994 and acquired title that year.

The following uses occupy the abutting properties to the:

North: 5-storey and 6-storey apartment buildings;
South: 10-storey apartment building;
East: 10-storey apartment building; and
West: 4-storey and 5-storey apartment buildings.

Official Plan Designation

The site is currently designated "High Density Residence Area". 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

At its meeting of November 26-28, 2002, City 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.

Once the Plan comes into full force and effect, it will designate the property as "Apartment Neighbourhood".

Provided the proposal is consistent with the development criteria for Apartment Neighbourhood areas, as well as other policies of the new Official Plan, no amendment to the new Official Plan would be required.

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 21 metres 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 22 Shallmar Boulevard to condominium does not comply with the 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 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 14, 2003. Approximately 15 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 applications.

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 Canada Mortgage and Housing Corporation was 0.6% for the 2000 rental market survey, 0.9% for the 2001 survey and 2.4% for the 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 of November 26-28, 2002, City 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.

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 would require an Official Plan amendment under the new Toronto Plan if the new Official Plan were in effect. The vacancy rate reported by CMHC in its last three rental market surveys has not equalled or exceeded 2.5%.

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 been issued.

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-operative within 2 years following the approval of this policy.

The application for conversion of 22 Shallmar Boulevard appears to meet criteria (a) through (c). The equity co-operative was established in 1994. Based on the information submitted by the applicant, 42% of the units are tenanted. The applicant has also submitted an affidavit demonstrating that 71.1% of the shareholder owners and 89.4% 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 of Condominium

The Draft Plan of Condominium 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), 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 of the municipality. 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 the 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 22 Shallmar Boulevard, and no concerns have been raised with respect to whether the building meets the City's property standards.

Conclusions :

It is recommended that City Council approve an Official Plan amendment to permit the 90-unit equity co-operative building at 22 Shallmar Boulevard to convert to condominium, as this application was submitted to the City for approval based on OPA 2, and prior to Council's consideration of the new Official Plan. 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
Attachment 1: Zoning
Attachment 2: Official Plan
Attachment 3: Draft Official Plan Amendment

APPLICATION DATA SHEET

Site Plan Approval: No File Number: **402029**
Rezoning: No Application Number: **TD CDC 2002 0002**
O.P.A.: No Application Date: 10/28/2002
Municipal Address: 22 Shallmar Blvd
Project Description: Condo Conversion to 90 residential units and OP 102033 -
55CDM02229

Agent:
Miller Thomson Llp
20 Queen Street West
Toronto, Ontario M5H3S1

Owner:
22 Shallmar Inc., As
Attorney For The
Registered Co-Owner - See
Info Above
(416) 595-8501

PLANNING CONTROLS (For verification refer to Chief Building Official)

Official Plan Designation: HDRA Site Specific Provision: No
Zoning District: R2 Z2.0 Historical Status: No
Height Limit (m): 21 Site Plan Control Area: Yes

PROJECT INFORMATION

Site Area: 2355.1 **Height:** Storeys: 0
Frontage: 61.87 Meters: 0
Depth: 34

	IndoorType	OutdoorType
Ground Floor GFA:0	Parking Spaces: 99	0
Residential GFA: 0	Loading Docks: 0	0
Non-Residential GFA:0		
Total GFA: 8688.3		

DWELLING UNITS

Tenure Type: Condominium
Rooms: 0
Bachelor: 7
1 Bedroom: 16
2 Bedroom: 48
3+ Bedroom: 19
Total Units: 0
Total Proposed Density: 780

FLOOR AREA BREAKDOWN

Above Grade
Residential GFA: 8688.3
Retail GFA: 0
Office GFA: 0
Industrial GFA: 0
Industrial/Other GFA:0

COMMENTS

Current Status:	Open	<u>Latest Event</u>	<u>Actual Date</u>
		Received	10/28/2002
Data Valid:	Feb 4, 2003	Planner: Nanos, Joe	Phone: (416) 338-5747
Area:	District - C	Planning Office:	Toronto - North (TD)

Attachment 3

Draft Official Plan Amendment

Authority: Midtown Community Council Report No. xxx, Clause No. xxx, as adopted by City of Toronto Council on xxxxx,2003.

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 22 Shallmar Boulevard

WHEREAS the Council of the City of Toronto has had application made to it for a proposed Official Plan Amendment respecting 22 Shallmar Boulevard;

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 22 Shallmar Boulevard".

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