

TORONTO STAFF REPORT

January 14, 2002

To: Midtown Community Council

From: Director, Community Planning, South District

Subject: Final Report
Applications to Amend the Official Plan and for Draft Plan of Condominium
619 & 625 Avenue Road and 80 – 86 Oriole Road
Kenair Apartments Ltd.
Application Nos. 101008 and 401011, TD CDC 20010001 and TD OPA
20010001
St. Paul's, Ward 22

Purpose:

This report reviews and recommends approval of an application to amend the Official Plan to permit conversion of a 116-unit apartment building and four townhouses from rental to condominium. The report also recommends approval of a Draft Plan of Condominium for the property, subject to conditions.

Financial Implications and Impact Statement:

None.

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 B;
- (2) authorize the City Solicitor to make such stylistic and technical changes to the Official Plan Amendment as may be required;



- (3) authorize Draft Approval of the Plan of Condominium for 619 and 625 Avenue Road and 80 - 86 Oriole Road, with Sheet 1 date stamped as received on June 21, 2001 and Sheets 2 - 4 date stamped as received on March 13, 2001;
- (4) require the owner to meet 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 he deems necessary:
 - (a) The owner shall provide all legal descriptions and surveys of the lands required in connection with the processing of the subject application.
 - (b) The owner shall provide a strata Reference Plan of Survey for the portion of the underground parking garage extending beneath the public highways, Avenue Road and Lonsdale Road, as widened by Metro By-law 171-79.
 - (c) The owner shall obtain Site Plan Approval with respect to enclosure of balconies on the subject building, as required by the Committee of Adjustment decision dated October 19, 2001.
 - (d) The facilities and matters required by the Site Plan Undertaking, or agreement if there is a registered agreement, and all other relevant agreements, including landscaping and paving, shall be completed, or financially secured, to the City's satisfaction.
 - (e) All work on the premises shall be carried out to the standard required by the Condominium Act and Regulations.
 - (f) The owner shall register the condominium within two 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;
- (5) advise the owner of the need to receive the approval of the Commissioner of Works and Emergency Services for any work to be carried out within the public rights-of-way.

Background:

Proposal

619 and 625 and 80 - 86 Oriole Road is a single property developed with two apartment towers and four townhouses. The property has operated as a rental apartment property since construction was completed in 1969. The owner has applied for an Official Plan Amendment and a Draft Plan of Condominium to convert the tenure of the buildings from rental to condominium. As a condominium, individual apartment units could be sold to current tenants or to other purchasers. The applicant intends to sell the condominium units and the buildings would cease to operate as rental apartment buildings.

Concurrent to the application for condominium conversion, the applicant has applied for Site Plan Approval for the enclosure of the balconies on the apartment towers. The Site Plan application is not the subject of this report.

Site and Surrounding Area

The site is bounded by Avenue Road on the west, Lonsdale Road on the north, and Oriole Road on the east. A 17-storey building and a 19-storey building occupy the site. The two towers contain 116 residential units and are joined by a one-storey building (lobby and walkway). Four townhouses occupy the southeast quadrant of the property, fronting onto Oriole Road. The entire property contains a total of 120 rental dwelling units.

Opposite the site, on the north side of Lonsdale Road, is Upper Canada College, a private school. The site is otherwise surrounded by a mix of high-density and low density residential developments.

Official Plan

The former City of Toronto Official Plan and the Yonge-St. Clair Part II Plan designate the site High Density Residence Area, which permits residential development having a gross floor area of 2.0 times the area of the lot.

There are a number of relevant policies in the in force Official Plans that address preservation of the existing supply of rental housing in the City, including, Section 6.18 of the (former) City of Toronto Official Plan which prohibits the conversion to condominium of any buildings which were originally constructed to provide one or more rental apartments unless the vacancy rate for private apartments across the City regularly returns to at least 2.5 percent. As of the October 2001 CMHC rental market survey, the vacancy rate is 0.9 percent.

Zoning By-law

The underlying zoning on the property is R4 Z2.0, which permits a range of residential uses at a density of up to 2.0 times the area of the lot.

The southern tower of the apartment building (619 Avenue Road) was constructed in 1965, permitted through a Committee of Adjustment decision. Site-specific Zoning By-law 369-78 permitted the development of the northern tower (625 Avenue Road) of the apartment building, the one-storey connecting building, and the four townhouses fronting onto Oriole Road. No rezoning is required to permit conversion to condominium.

Building staff have reviewed the application and have determined that it complies with applicable zoning regulations.

Site Plan Control

On October 11, 2001, the Committee of Adjustment granted a minor variance with respect to gross floor area to allow the enclosure of many of the balconies on the apartment towers. As a condition of approval, the Committee required that the proposal undergo site plan review, although it would not otherwise be required. The applicant has submitted a Site Plan application for the enclosure of the balconies. The Site Plan application has been delegated to staff for approval and is under review. The proposed Draft Plan of Condominium reflects the enclosed balconies, anticipating the form the building will have when the condominium is registered.

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 policy 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 regularly returns to at least 2.5 percent. The vacancy rate for apartments, as most recently reported by Canada Mortgage and Housing Corporation, is 0.9 percent. The proposed conversion to condominium requires an amendment to the former City of Toronto Official Plan.

Community Consultation

A public meeting was held in the neighbourhood to discuss this proposal on December 12, 2001. The meeting was attended by five members of the public, who were mostly tenants of the buildings and their family-members. Tenants asked a number of questions regarding the legal rights of tenants under a condominium conversion with respect to security of tenure and protection from rent increases, as well as the implications of conversion for building maintenance.

I have not received any letters of support for or objection to the application.

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 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 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 sought leave to appeal the OMB decision to Divisional Court. Leave was granted and the appeal was heard on September 26 and 27, 2001. At the time this report was written, no court decision had yet issued on the appeal.

OPA 2 represents emerging City policy and reflects the latest thinking of Planning staff and most recent Council position in regard to these matters. As such, it is a relevant consideration in respect of the application. The applicant has applied for an Official Plan Amendment and for Draft Plan of Condominium on the basis of the new policy.

Similar to Section 6.18 of the Official Plan, 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 period. OPA 2 provides an exception to the policy as it relates to high-end rental units. Council may consider allowing the conversion of a building containing 6 or more rental units if the following two criteria are met:

- (a) the rents that were charged for each unit in the building one year prior to the application were at or above the average high-end rent level by unit type prescribed by Council from time to time;
- (b) at least 66 percent of the tenanted households have expressed their support in writing for the conversion.

The applicant has submitted an affidavit with supporting documentation which demonstrate that the proposal meets the criteria of OPA 2.

The high-end rent level currently prescribed by Council is defined as 1.5 times the CMHC city-wide average rents by unit type, as per the October Rental Market Survey. The applicant has submitted the March 2000 rent roll for the building, which shows that all of the apartment units rented at rates considerably above the high-end rent level one year prior to this application. The table below summarizes information on rent levels in the buildings.

Unit Type	Number of Units	Range of Rents (March 2000)	High-end rent level (based on October 1999 CMHC survey)
Bachelor	0	--	\$939.00
1-Bedroom	13	\$1464.04 – \$2151.69	\$1158.00
2-Bedroom	57	\$2144.78 – \$3068.62	\$1386.00
3-Bedroom +	49	\$3518.42 – \$7500.00	\$1648.50

Rent rolls at the time of the application in March 2001 show that the units continue to earn rents higher than the high-end threshold.

73% of the tenanted households (88 of 120 households) have expressed support in writing for conversion of the buildings to condominium.

The proposal meets the criteria of OPA 2 to permit conversion of the property to condominium.

Tenant Impacts

A number of tenants in the buildings have raised questions regarding the impact of condominium conversion on their security of tenure. The rights of tenants who remain in the buildings will continue to be governed by the Tenant Protection Act, although their landlord would be the owner of the individual unit, rather than the owner of the entire property.

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 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 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 as part of the same offer.) Tenants cannot be evicted if they decide not to purchase their unit.

These rights apply only to tenants who occupy the unit at the time of the conversion. Future tenants are not protected from personal use evictions and do not have a right of first refusal.

Tenants have also raised questions regarding maintenance of the property and its services upon conversion to condominium. Once a condominium is established, a board of directors of the condominium corporation will be responsible for decisions regarding building maintenance. They will be governed by the rules and regulations of the Condominium Act. The City’s property standards and the Ontario Building Code will continue to apply to this property, regardless of whether it is a rental building or a condominium.

Site Plan Approval

Site Plan approval for the proposed enclosure of the balconies had not been issued at the time this report was written. Review of the Site Plan application by staff has raised only minor issues. In order to ensure consistency between the Draft Plan of Condominium and any future approved Site Plan, I am recommending as conditions of draft approval that the owner obtain Site Plan Approval for the enclosure of balconies and complete the facilities and matters required by the Site Plan Undertaking prior to registration of the condominium.

Underground Parking Garage

The northwest corner of the buildings' underground parking garage lies underneath the Avenue Road and Lonsdale Road rights-of-way, as a result of a widening of the public right-of way in 1979, after the construction of the buildings. The Commissioner of Works and Emergency Services has requested as a condition of draft approval that the owner submit a strata Reference Plan of Survey for this portion of the underground garage.

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, and the community consultation process has not raised concerns with respect to whether the buildings meet the City's property standards. Therefore, I am not recommending that a building condition report be required as a condition of draft plan approval.

Conclusions:

I am recommending that Council approve an Official Plan amendment to permit the 120-unit rental property at 619 and 625 Avenue Road and 80 – 86 Oriole Road to convert to condominium. I am also recommending approval of the Draft Plan of Condominium subject to a number of conditions. The proposal meets the criteria set out in Official Plan Amendment No. 2 with respect to conversion of high-end rental buildings to condominium.

Contact:

Kyle Knoeck, Planner
Community Planning, East Section
Tel. (416) 392-7215
Fax (416) 392-1330
Kknoeck@city.toronto.on.ca

Beate Bowron
Director, Community Planning, South District

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List of Attachments:

Application Data Sheet
Appendix A: Comments

Appendix B: Draft Official Plan Amendment

Attachment 1: Site Plan

Attachment 2: Official Plan

Attachment 3: Zoning

Application Data Sheet

Official Plan Amendment

Site Plan Approval: No	File Number: 101008
Rezoning: No	Application Number: TD OPA 2001 0001
O.P.A.: Yes	Application Date: 03/13/2001
Municipal Address: 619 Avenue Rd	Revised Date: 05/12/2001

Nearest Intersection:

Project Description: Official Plan Amendment for 120 unit condominium conversion

Applicant: Kenair Apartments Ltd. 500 Avenue Road Toronto M4V2J6	Agent: McCarthy Tetrault Box 48 Toronto Dominion Bank Toronto M5K1E6 (416) 362-1812	Architect:	Owner: Ken Apartments Ltd. 500 Avenue Road Toronto M4V2J6
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PLANNING CONTROLS (For verification refer to Chief Building Official)

Official Plan Designation: HDRA	Site Specific Provision: 369-78
Zoning District: R4 Z2.0	Historical Status: No
Height Limit (m): 16	Site Plan Control Area: No

PROJECT INFORMATION

Site Area: 10338.7	Height: Storeys: 19
Frontage: 99.24	Meters: 53.3
Depth: 106	

	Indoor Type	Outdoor Type
Ground Floor GFA: 2136.7	Parking Spaces: 168	30
Residential GFA: 24693.1	Loading Docks: 0	0
Non-Residential GFA: 0	0	0
Total GFA: 24693.1	0	0

DWELLING

Tenure Type: Condominium
Rooms: 0
Bachelor: 0
1 Bedroom: 13
2 Bedroom: 58
3+ Bedroom: 49
Total Units: 120
Total Proposed Density: 3.01

FLOOR AREA BREAKDOWN

	Above Grade	Below Grade
Residential GFA: 24693.1		
Retail GFA: 0		
Office GFA: 0		
Industrial GFA: 0		
Industrial/Other GFA: 0		

COMMENTS

Current Status: Open	<u>Latest Event</u> Revision	<u>Target Date</u>	<u>Actual Date</u> 05/12/2001	<u>Outcome</u>
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Suppl. Submission 03/21/2001
Received 03/13/2001

Data Valid: Aug 15, 2001
Area: District - C

Planner: Knoeck, Kyle Phone: (416) 392-7215
Planning Office: Toronto - North (TD)

Appendix A
Comment

Works and Emergency Services, Technical Services, dated August 13, 2001

This is in reference to the application by McCarthy Tetrault, on behalf of the owners of Kenair Apartments Limited, for the project on the above-noted site located on the southeast corner of Avenue Road and Lonsdale Road. The proposal is to convert a 119-unit apartment building into a 119-unit residential condominium.

The site is currently the subject of Rezoning Application No. 101008.

Parking and Access

A total of 198 existing parking spaces will be maintained to serve this project, consisting of 160 spaces in an underground parking garage, 30 residential visitor surface spaces and 8 spaces at the rear of the townhouse units within private garages. The parking supply satisfies the estimated parking demand generated by this project for 139 spaces including 14 spaces for visitors. As far as can be ascertained, the Zoning By-law requirement is for 272 parking spaces, including 30 spaces for residential visitors. The parking supply is satisfactory.

The existing access to the underground and surface parking spaces and a separate existing access to the loading space and private garages from Avenue Road will be maintained and are acceptable.

Loading

The existing loading area will be maintained and is acceptable.

Solid Waste

Solid Waste Management Services will continue to provide collection of garbage and recyclable materials in accordance with the provisions of the Municipal Code, Chapter 309, Solid Waste. Storage of garbage and recyclable materials, on non-collection days, must continue to be stored on private property in rodent proof containers.

Work Within the Public Right-of-Way

The Draft Plan of Condominium shows the underground garage extending into the public right-of-way. The applicant will be required to submit a strata Reference Plan of Survey for this portion of the underground garage. For more information regarding details of the strata Reference Plan of Survey the applicant should contact Virgilio Gomes of Survey and Mapping at 416-338-5033.

The applicant is proposing to undertake landscaping of the property. The proposed landscaping has yet to be finalized and is not included as part of the Draft Plan of Condominium. The

applicant should be advised that, if the proposed landscaping includes work within the public rights-of-way, approval for the work must be received from this Department and the work must meet City Standards. For clarification on how these will apply to this site, the applicant should contact the Right-of-Way Management Section, District 1, Construction Activities at (416) 392-7877.

Recommendations

As a result of the forgoing, it is recommended that:

1. The owner be required, prior to the release of the final plan for registration, to provide a strata Reference Plan of Survey for the portion of the underground parking garage extending beneath the public highways, Avenue Road and Lonsdale Road, as widened by Metro By-law 171-79.
2. The owner should be advised of the need to receive the approval of the Commissioner of Works and Emergency Services for any work to be carried out within the public rights-of-way.

Appendix B
Draft Official Plan Amendment

Authority: Midtown Community Council Report No. xxx, Clause No. xxx, as adopted by
City of Toronto Council on xxxxxxxx, 2002

Enacted by Council:

CITY OF TORONTO

Bill No.

BY-LAW No. xxx-2002

To adopt an amendment to the Official Plan for the former
City of Toronto respecting lands known as 619 Avenue Road

WHEREAS the Council of the City of Toronto has had application made to it for a proposed
Official Plan Amendment respecting 619 Avenue 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., 2002.

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 619 Avenue 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 120 residential units existing on those lands on February xx, 2002, provided the condominium is registered within two years after the enactment of this amendment.