

TORONTO STAFF REPORT

August 15, 2001

To: Etobicoke Community Council

From: Director, Community Planning, West District

Subject: Final Report
Application to Amend the Etobicoke Official Plan
Etobicoke Garden Co-operative Limited
11 Neilson Drive
File Number: TA OPA 2001 0001
Etobicoke Centre (Ward 3)

Purpose:

To consider a proposal for amendments to the Etobicoke Official Plan by Etobicoke Garden Co-operative Limited, with respect to the lands municipally known as 11 Neilson Drive, to permit the conversion of a 55 unit, 6-storey building from an equity co-operative to a condominium.

Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that the application be approved, subject to a Public Meeting of Council to obtain the views of interested parties, and the conditions outlined in this report.

Background:

An application to amend the Etobicoke Official Plan to permit the conversion from equity co-operative to condominium was received on February 2, 2001. Etobicoke City



Council considered the Preliminary Report on April 4, 2001 with respect to this proposal and directed that a Community Information Meeting and Public Meeting under the Planning Act be scheduled.

A Community Information Meeting was held on May 8, 2001 to provide residents with an opportunity to review and comment on the proposed application. Approximately 30 residents attended the meeting. Benefits and costs of the conversion were discussed. No substantive planning issues were raised.

Comments:

Site Description and Surrounding Land Uses:

The 0.64 hectares(1.58 acres) site is located on the north-east corner of Dundas Street West and Neilson Drive and is occupied by a 6-storey, 55 unit equity co-operative building that was built in 1971. The site is adjacent to the following uses (Attachment No. 1):

North:	apartment building
East:	duplexes
West:	apartment building
South:	industrial uses

Proposal:

Owners in the existing equity co-operative are proposing that the tenure of the building change to condominium. The building will remain as it exists today. The reason for the application is to allow the owners to own their individual units rather than shares in the entire building. This allows increased flexibility for the owners to sell their units, undertake improvements to their units without requiring the consent of the entire co-operative, and refinance their units with conventional mortgages. All units except one are owner-occupied.

A detailed summary of the current proposal is set out below.

Existing Use:	55-unit equity co-operative apartment building
Official Plan:	High Density Residential
Zoning Code:	Site Specific By-law No. 1772

Gross Site Area:	0.64 hectares (1.58 acres)
Gross Floor Area:	7 172.7 metres square (77,208.8 square feet)
Floor Space Index:	1.12

Amenity Space:	3 958 metres square (42,570.5 square feet)
Height:	6 storeys
Parking:	55 underground and 34 surface spaces

In-Force Official Plan Policies:

Former City of Etobicoke Official Plan:

The Official Plan designation of High Density Residential allows the use and existing and proposed tenure. Section 2.2.4 defines co-operatives as rental housing and Section 2.2.13 prohibits the conversion of rental housing to condominium tenure unless the overall vacancy rate for the former City of Etobicoke exceeds two percent. The current vacancy rate in this area of the Central Housing District reflects a City-wide vacancy rate average of 0.6 percent and therefore an Official Plan Amendment is required in order to proceed with the conversion.

Emerging Policy Context:

Official Plan Amendment 2:

Following its amalgamation in 1998, the City of Toronto initiated work on a new set of harmonized condominium conversion and rental housing demolition policies. This culminated in council adopting OPA 2, an amendment to Metroplan (By-law No. 147-1999).

OPA 2 was subsequently appealed and, in September 1999, the OMB issued a decision that it was illegal and invalid. City Council directed the City Solicitor to appeal the decision of the OMB to the Superior Court of Justice, Divisional Court. In June 2000, the Divisional Court granted the City leave to appeal and a court date has been set for September 26, 2001.

In considering the current application, OPA 2 policies are relevant even though the issue of their legality is before the court. They represent Council's current position on condominium conversions, as well as the most recent staff recommendations in this regard. They also reflect the City's continued concern for the loss of rental housing.

OPA 2 provides that it is Council policy not to approve the conversion of buildings containing six or more rental units unless the apartment vacancy rate has been at or above 2.5 percent for the preceding two-year period. However, OPA also provides relief from the in-force official plan policies in certain situations. There are two exceptions that allow Council to consider conversions. These are:

- (1) Buildings containing six or more rental units where the rents for all of the units, one year prior to the application, were at or above high-end rent levels prescribed by Council, and 66 percent of the tenanted households expressed their support in writing for the conversion; and,
- (2) Equity co-operative buildings containing six or more rental units where the following criteria are satisfied:
 - (a) the co-operative was legally created prior to June 17, 1998;
 - (b) 50 percent or less of the units are tenanted;

- (c) 66 percent of each of tenant and shareholder households have expressed their support in writing for the conversion application in a manner prescribed by Council; and,
- (d) a condominium application is made within two years following approval of the policy.

The proposal's conformity with these conditions is discussed in the Planning Considerations Section of this report.

Zoning Code:

Site Specific Zoning By-law No. 1772 places the site in an R4 area that allows the existing 6-storey, 55 unit apartment building with 80 percent of the parking provided underground and 15 percent of the total parking spaces used for visitor parking. The development complies with the by-law and a rezoning is not required.

Planning Considerations:

This application was reviewed with regard to the in-force policies in the former City of Etobicoke Official Plan. The vacancy rate of two percent in the City has not been met however the intent of the in-force policies is to limit adverse impact on the supply of existing rental stock. Since there is only one rental unit in the building, the conversion will not have an impact on the rental housing stock for the former City of Etobicoke or for the City of Toronto as a whole.

OPA 2 provides more information than the in-force policies regarding what constitutes impact on the supply of rental housing in the City by outlining specific exceptions. The application was reviewed with regard to the condominium conversion policies outlined in OPA 2. Section 135.3(b) identifies the criteria that must be met in order to allow a conversion from equity co-operative to condominium in buildings containing more than six units.

The first condition is that the co-operative must have been legally created before June 17, 1998. The applicant has submitted documentation in the form of an affidavit from the Secretary and Director of the co-op and a Certificate of Continuation from the Province of Ontario Ministry of Finance, dated January 16, 1998, that indicates the building continues to be a co-operative under the Co-operative Corporations Act. This satisfies the first condition for conversion under OPA2.

The second condition is that 50 percent or less of the units are required to be tenanted. Based on the owner list for 11 Neilson Drive, 2 percent of the units have tenants and 98 percent of the units are owner-occupied. This is well below the maximum number of tenants allowed; therefore the second condition has also been met.

The existing tenants would be protected under the Tenant Protection Act from evictions as a result of the conversion. If the unit is sold, the purchaser cannot evict the tenant who lived there at the time of the conversion if the purchaser or a member of the family want to move into the unit. Future tenants would not have the same level of protection.

The third condition requires 66 percent of each of the tenant and shareholder households to express their support in writing for the conversion application in a manner prescribed by Council. Council has not yet approved a form, however the owners were sent a one-page consent form that they were asked to complete. The requested information included their name and address and the question “Do you support the conversion of Etobicoke Gardens Co-operative Limited into a condominium corporation?” A “yes” or “no” answer was required, as was the date and signature of the owner. Thirty-nine “yes” answers were received (71 percent of the households). Two households indicated that they did not want the conversion and 16 households did not respond. The one tenant household in the building has also expressed support for the conversion application.

The number of respondents favouring conversion exceed the minimum percentage required by OPA 2, therefore the third condition has been met.

The fourth condition was for the submission of an application for condominium approval under the Planning Act made by the equity co-operative corporation within two years following approval of OPA 2. The policy was approved by City Council of April 15, 1999, however, as it is currently under appeal and therefore not in force and effect, this condition is not relevant at this time.

As discussed earlier, despite not having final approval, OPA 2 is Council policy on the matter of condominium conversions and serves to provide more detailed information about the implementation by considering approval in certain circumstances. The conversion application has met the intent of all the conditions prescribed by OPA 2 and therefore should be allowed to proceed.

Condominium Approval:

As mentioned previously, an application for condominium approval has been made, however it cannot be finalised until Council has approved the Official Plan Amendment and a Draft Plan of Condominium has been received. Matters such as parking standards, safety, etc. are to be considered as part of the Condominium application process.

Department Comments:

Works and Emergency Services require a revised site plan indicating solid waste storage and handling areas. These are to be provided as part of the condominium application conditions.

The Transportation Services Division of Works and Emergency Services requires the number of visitor stalls to be increased to 11 from the current 9 shown on the plans. Plans showing the below-grade-parking layout are required to be submitted, as is a detailed technical report on the condition of the below grade parking structure. The latter is required in order to determine whether it is safe to be used for parking.

The below grade garage illumination levels must be upgraded to current standards and garage security must be provided to the satisfaction of 22 Division of the Toronto Police Service. The required improvements will be secured by a condominium agreement.

Toronto Fire Services has indicated that there is an outstanding Notice of Violation regarding non-compliance with retrofit requirements. The applicant is working on meeting the retrofit requirements and these must be complete and signed off by the Fire Services Division prior to condominium approval.

Conclusions:

The applicant has met the intent of Council approved OPA 2. Given that this conversion application will not have an adverse impact on the supply of rental stock in the City, an amendment from the in-force official plan policies is justified. I am therefore recommending approval of the Official Plan Amendment. The condominium agreement will secure any required improvements for parking and garbage storage/disposal. The retrofit requirements will be met prior to condominium approval. Finalization of the condominium application will occur once the Official Plan Amendment is in full force and effect.

Recommendations:

It is recommended that Council approve the amendment to the Etobicoke Official Plan to allow for the conversion of the equity co-operative to condominium.

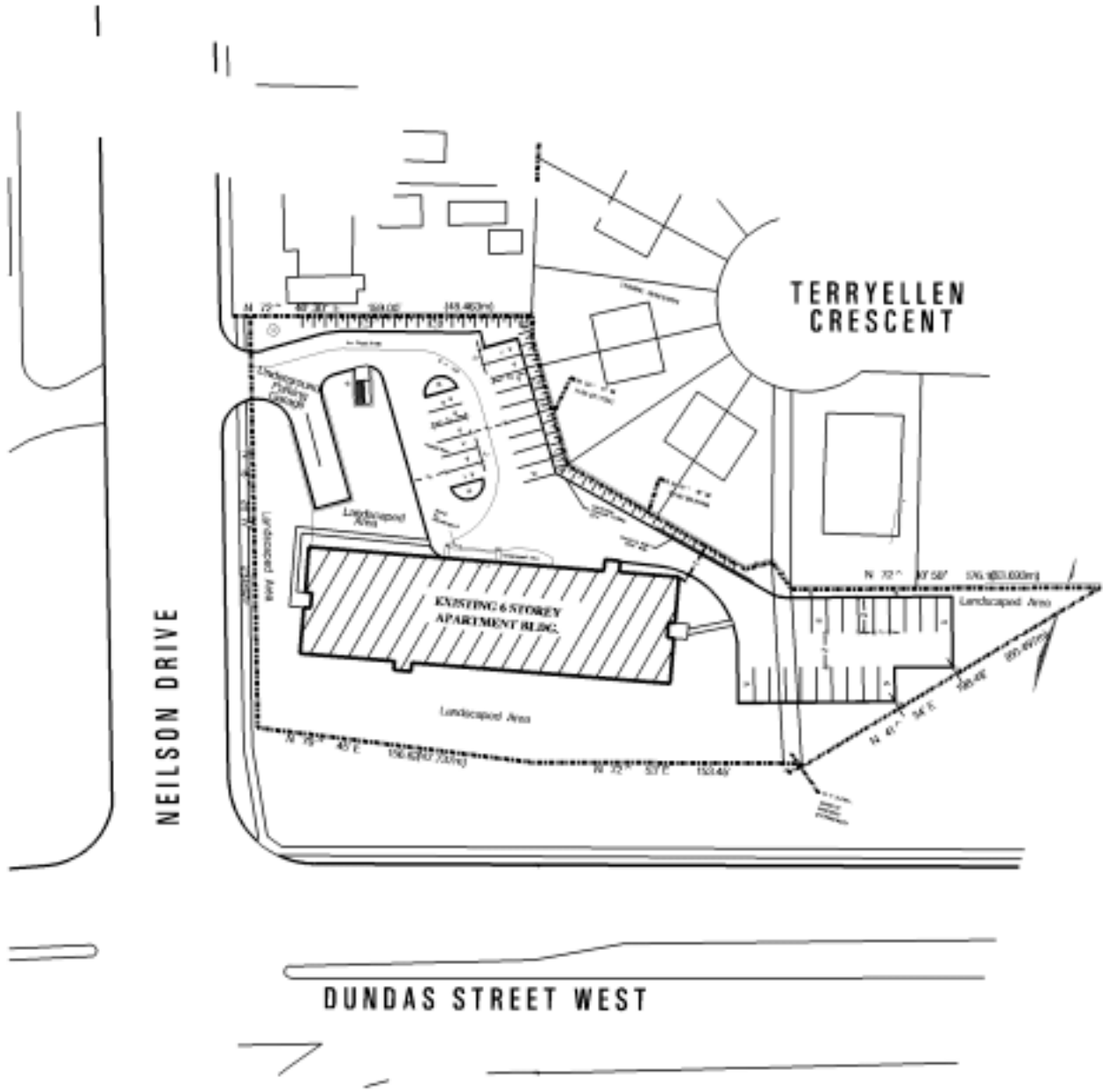
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List of Attachments:

Attachment 1: Site Plan
Attachment 2: Application Data Sheet
Attachment 3: Draft Official Plan Amendment



Site Plan

Applicant's Submitted Drawing

11 Neilson Dr.

File # TA OPA 2001 0001/s

↑ Not to Scale
19 / 03 / 2001

Attachment 1

Attachment No. 2

APPLICATION DATA SHEET

Official Plan Amendment

Site Plan Approval:	No	File Number:	
Rezoning:	No	Application Number:	TA OPA 2001 0001
O.P.A.:	Yes	Application Date:	02/02/2001

Municipal Address: 11 Neilson Dr
 Nearest Intersection: east side of Neilson Drive, north of Dundas Street west
 Project Description: Proposed amendments to the Etobicoke Official Plan to permit the conversion of an existing co-operative apartment building to condominium.

Applicant: MAINLINE PLANNING SERVICES PO Box 319 Kleinburg, Ont (905) 893-3556	Agent:	Architect:	Owner: Etobicoke Garden Co-operative Limited
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PLANNING CONTROLS (For verification refer to Chief Building Official)

Official Plan Designation:	Site Specific Provision:	By-law 1772
Zoning District:	Historical Status:	
Height Limit (m): 0	Site Plan Control Area:	

PROJECT INFORMATION

Site Area: 6404.23	Height: Storeys: 6			
Frontage: 71.557	Meters: 0			
Depth: 48.46				
Ground Floor GFA: 0	Parking Spaces: 55	Outdoor: 34	Off Site: 0	Leased: 0
Residential GFA: 7190.88	Loading Docks: 0	0		
Non-Residential GFA: 0	0	0		
Total GFA: 7190.88	0	0		

DWELLING

Tenure Type: Rental

Rooms: 0
 Bachelor: 0
 1 Bedroom: 0
 2 Bedroom: 0
 3+ Bedroom: 55
 Total Units: 0
 Total Proposed Density: 112.3

FLOOR AREA BREAKDOWN

	Above Grade	Below Grade
Residential GFA:	7190.88	
Retail GFA:	0	
Office GFA:	0	
Industrial GFA:	0	
Industrial/Other GFA:	0	

Attachment No. 3

Authority: Etobicoke Community Council Report No. , Clause No. , as adopted by Council
of the City of Toronto at its meeting held on .
Enacted by Council:

CITY OF TORONTO

Bill No.

BY-LAW No. - 2001

To adopt Amendment No. to the Official Plan of the Etobicoke Planning Area in order to implement a site-specific amendment affecting the lands located on the east side of Neilson Drive, north of Dundas Street West, municipally known as 11 Neilson Drive

WHEREAS authority is given to Council by the *Planning Act*, R.S.O. 1990, c.P.13, as amended, to pass this by-law;

AND WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

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

1. THAT the attached Amendment No. -2001 to the Official Plan of the Etobicoke Planning Area, consisting of Part Two of the accompanying amendment, is hereby adopted pursuant to the *Planning Act*, R.S.O. 1990, c.P. 13.

ENACTED AND PASSED this day of A.D. 2001.

Mayor

City Clerk

PART ONE – PREAMBLE

1.1 PURPOSE/LOCATION

Official Plan Amendment No. -2001 applies to an existing equity co-operative located at 11 Neilson Drive on the east side of Neilson Drive, north of Dundas Street West.

The purpose of this amendment is to exempt this site from the former City of Etobicoke Official Plan policy 2.2.13 regarding conversion of rental housing to condominium. This allows the equity co-operative to become a condominium without a 2 percent vacancy rate for this type of development in the Housing District in which it is located.

1.2 BASIS

On February 2, 2001 the applicant submitted an application to request the conversion of the 55-unit, 6-storey equity co-operative building to condominium tenure to allow the owners to own individual units rather than shares in the whole building. Toronto City Council adopted OPA 2 in 1998 that allowed such a conversion under certain situations. OPA 2 has been appealed and is not an in-force policy as yet, however it provides a clearer direction for conversions of this type.

The staff report of August 14, 2001 concluded that the proposal to change the tenure of the building meets the emerging policy conditions of OPA 2.

PART TWO – THE AMENDMENT

2.1 INTRODUCTION

All of this part of the Amendment, consisting of the following text and attached map designated Schedule ‘A’ – constitute Amendment No. -2001 to the Official Plan for the Etobicoke Planning Area. The Plan is hereby amended as follows:

2.2 MAP CHANGES (SCHEDULE ‘A’)

Map 5 – “Site Specific Policies” of the Etobicoke Official Plan is hereby amended by adding Site Specific Policy No. .

2.3 TEXT CHANGES

The lands affected by this Amendment will be consistent with the applicable policies contained in the Official Plan of the Etobicoke Planning Area and with the following Site Specific Policy which is hereby added to Section 5.1.2:

“ . Lands located at the north-east corner of Neilson Drive and Dundas Street West.

Notwithstanding Section 2.2.13 of the Etobicoke Official Plan, the existing 55 unit equity co-operative will be allowed to convert to condominium.”

3. IMPLEMENTATION

The policy established by this Amendment will be implemented through approval of a condominium application and the signing of appropriate agreements.

4. INTERPRETATION

The provisions of the Official Plan as they may be amended from time to time with respect to the interpretation of the Plan shall apply with respect to this Amendment.