

**TO:** Mayor and Members of Council

**FROM:** Storey Samways Planning Ltd.

**DATE:** August 6, 2008

**SUBJECT:** Planning Services Report

**GENERAL FILE INFORMATION  
AND KEY MAP:**

**Application:** Condominium Conversion  
(Files D-12 C/02/08/E and  
36 CDM-08502)

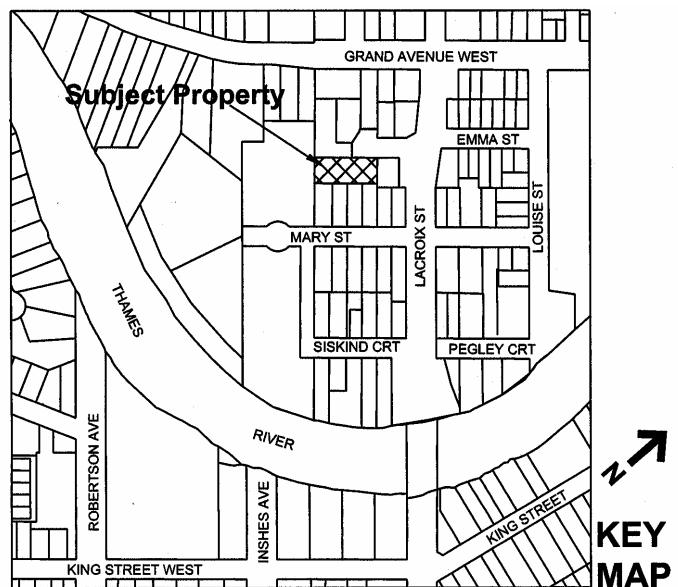
**Hansen#:** 4884

**Applicant:** Emma Heights Inc.

**Location:** 200 Emma Street  
Part of Lot 1, Plan 521

**Roll Numbers:** 3650 420 033 02101

**Community:** Chatham (City)



**RECOMMENDATIONS:**

It is recommended that:

1. Council exempt the application for condominium conversion, Files D-12 C/02/08/E and 36 CDM-08502, at 200 Emma Street, in the Community of Chatham (City), from the provisions of Sections 51 and 51.1 of the Planning Act and that Council issue a Certificate of Exemption under Section 9(3) of the Condominium Act, S.O.1998, c.19, subject to the following condition:
  - a) that the applicant's company guarantee that there are sufficient funds in the Condominium Reserve Fund under Section 93 of the Condominium Act to cover the costs of the necessary repair work of the common elements as outlined in the Engineering Report dated March 24, 2008, prepared by Carson Dunlop Weldon & Associates Ltd., to the satisfaction of the Municipality, specifically those repairs outlined in the attached cost estimate. (see Appendix "A")

2. The Mayor and Clerk be authorized, by by-law, to sign the condominium description, when the conditions are satisfied.

### **DESCRIPTION OF PROPOSAL:**

The Municipality has received the above-noted application for exemption from Sections 51 and 51.1 of the Planning Act to allow for an existing apartment complex to be converted to a Condominium form of tenure. Under Section 9 of the new Condominium Act (proclaimed on May 2, 2001), Sections 51 and 51.1 of the Planning Act apply to condominiums unless exempted by Council. In doing so, Council must issue a Certificate of Exemption. Generally, the conversion of an existing apartment building to a condominium is an example of when an exemption would be appropriate. Any reasonable condition can be applied before a Certificate of Exemption is issued. In this particular case, the application applies to a 2-storey apartment building located at 200 Emma St. The property is designated General Residential by the Official Plan and zoned "RH2, Residential – High Density Second". The building is approximately 36 years old and is located on a 0.165 ha (0.41 acre) site. The building contains 13 dwelling units (6 two bedroom units and 7 one bedroom units). There are a total of 15 on-site parking spaces.

A significant change affecting condominium conversion also occurred on June 17, 1998, when the Rental Housing Protection Act, was repealed and replaced by the Tenant Protection Act. Under the former, the removal of rental residential units for conversion to condominium required that an application be made to the Municipality and, before approving it, either Council had to find that the proposal did not affect the supply of affordable rental housing in the Municipality or the applicant had to agreed to provide alternative rental accommodation.

Under the Tenant Protection Act an application to the Municipality is not required and rental units may be converted as-of-right. However, the new legislation also contains two key elements of protection to sitting tenants. First, such tenants have security of tenure until they decide to terminate it, with minor exceptions. Second, the tenant must be given the right of first refusal to purchase the unit when an Offer to Purchase is made by a third party, under the same conditions as the third party offer. Again, there are minor exceptions. This ensures that the conversion of any apartment building from rental to condo tenure will not forcibly displace existing residents.

**BACKGROUND:**

Subject Lands	Frontage – 85.66’F x 208.7’D Lot Area – 0.41 acres Building Area - 4,400 sq. ft. foot print Lot Coverage - 25.0 % No. of Dwelling Units - 13 (6 - 2-bedroom units; 7 - 1-bedroom units) No. of Parking Spaces - 15
Surrounding Uses	North & West - apartments South & East – single detached dwellings
Official Plan	Residential
Existing Zoning	“RH2, Residential – High Density Second”

**CONSULTATION:**

At the time of writing, no unfavourable comments have been received from any of the agencies canvassed. The Technical Advisory Committee (TAC) has requested that the applicant company submit a Condominium Conversion Analysis Report (Property Condition Assessment).

The applicant has submitted a Condominium Conversion Analysis Report (Property Condition Assessment) concerning the property, which was prepared by Gerard Gransaul, P.Eng. of Carson Dunlop Weldon & Associates Ltd. There are no code issues noted in the report that would require attention. A number of cosmetic/updates and preventative maintenance issues were noted in the report and an approximate cost estimate for those repairs was listed as \$34,000. As has been practice in the past, by the Municipality, this amount is to be made available in the Condominium Reserve Fund as a condition of the conversion process. During the site visit it was observed that some of the outside work noted in the assessment report was being completed.

Chatham-Kent Fire Department noted that a recent inspection of the building was undertaken and no issues were identified.

**ANALYSIS:**

*Community Strategic Plan*

The recommendations in this report do not support, negatively or positively, a specific objective of the Community Strategic Plan. It is a neutral issue.

### *Provincial Policy Statement*

Given the effect of the Tenant Protection Act on condominium conversions, as discussed earlier, the proposal does not raise any concerns relative to PPS.

### *Condominium Act*

Under Section 9 of the new Condominium Act, the subdivision sections of the Planning Act apply to condominiums unless exempted by the approval authority (in this case, Council). An exemption has been requested and it may be granted, if Council deems it appropriate. The request has been examined having regard to the following:

- a) conformity with the Official Plan
- b) compliance with the Zoning By-law
- c) compliance with Building and Fire Codes
- d) on-site physical deficiencies that are a municipal interest, if any
- e) departmental requests for requirements or conditions of approval, if any
- f) Provincial concerns, if any

I conclude and recommend that the exemption is appropriate. As noted earlier, an inspection of the property by a Professional Engineer has been conducted and a report submitted to the Municipality.

### *Planning Act*

Subsection 51(24) lists the matters to which regard must be had in considering the conversion for approval, including the Provincial interests of Section 2. I believe all have been satisfied.

Subsection 51(25) allows the approval authority to impose any reasonable conditions on the owner. As noted earlier, TAC has required an Engineer's Report on the building; however the report has not indicated any issues which require attention. Therefore no conditions of approval are necessary.

### *Official Plan*

The Plan's housing objective relative to condominium conversion is, in Section 3.5.1(e),

*To regulate the conversion of existing rental properties to condominium ownership in order to maintain an adequate supply of rental housing.*

This is subsequently followed by Policy 3.5.3, setting out these evaluation guidelines:

1.2 *When considering applications for condominium conversion, Council shall have regard for:*

*(a) the number of units included in the conversion application,*

*(b) the number of rental units under construction at the time of application for conversion,*

*(c) the impact of the conversion on the rental housing market, i.e. anticipated change in vacancy rates.*

1.3 *Where Council is satisfied that comparable alternative accommodation can be found for the existing households in a housing project the City may approve the application.*

At the time Policy 3.5.3 was formulated, conversions were subject to the Rental Housing Protection Act (RHPA), unless exempted, in order to ensure that the supply of rental housing did not drop to an unacceptable level. With the Tenant Protection Act having come into effect in June 1998, the RHPA is now repealed. Moreover, the new legislation provides very important protection to renters in that where a conversion takes place, tenants have lifetime security of tenure if they want it and they have the right of first refusal to purchase their unit. With this in mind, I believe this proposal can be said to meet the requirement expressed in Policy 1.3 above and that the guidelines of Policy 1.2 need not be addressed.

### *New Chatham-Kent Official Plan*

The new Chatham-Kent Official Plan states under section 2.3.4.2.8 that, *"the conversion of rental housing to ownership housing should be discouraged when the vacancy rate falls below 2.5% for all unit types, subject to an analysis of the impact of conversions on the rental market."*

**Comment:** The current vacancy rate, based on the 2005 CMHC rental housing survey,

is 7.4%, well above the 2.5% threshold. With this in mind, I believe this proposal can be said to meet the conversion policies of the new OP.

*Zoning By-law*

The application states that the apartment building is approximately 36 years old. The subject building does not comply with a number of the requirements of the "RH2" zone including the northerly side yard setback and rear yard setback. Both of these requirements would be included in the C-K "grandfather" by-law. Parking is less than required with only 15 parking spaces provided, whereas, the parking requirement under By-law 9317 would require 20 spaces. Parking deficiencies are not included in the C-K "grandfather" by-law but the current situation can be considered a legal non-compliance.

*Conclusion*

I support the application.

**FINANCIAL IMPLICATIONS:**

There is a nominal change in property taxes anticipated as a result of this application.

Prepared by:

Reviewed by:

\_\_\_\_\_  
Robert Brown, MCIP, RPP  
Storey Samways Planning Ltd.

\_\_\_\_\_  
Ralph Pugliese, MCIP, RPP, DPA  
Director, Planning Services

Reviewed by:

Reviewed by:

\_\_\_\_\_  
Evelyn Bish, B.A.  
Acting General Manager  
Community & Development Services

\_\_\_\_\_  
C.D. Weldon  
Chief Administrative Officer



Looking southwest at the building on the subject property



Looking west at the building on the subject property



Looking south across the parking area

## Appendix "A"

March 24, 2008

### Property Condition Assessment Report

Property: 200 Emma Street, Chatham, Ontario

#### 1.0 SUMMARY

This is a property condition assessment report (PCR) of the property at 200 Emma Street, Chatham, Ontario.

This is a three-storey multi-unit residential building. The main section of the building has a footprint covering approximately 3,200 square feet. The single-storey east section of the building covers approximately 1,200 square feet.

The building has six two-bedroom apartments on the upper floors, and seven one-bedroom apartments on the ground floor. The laundry, mechanical, and storage rooms are in the east side single-storey section.

The visible evidence suggests that the building was constructed in 1972.

This report has been prepared by Carson Dunlop Weldon & Associates Ltd. on behalf of our client, Mr. David Vyner of M.A.M.A.O.A. CORP. #203. Our client is a prospective purchaser of the property and this report has been prepared to provide general information on the condition of the property.

The site inspection was carried out on March 24, 2008, in the company of Mr. Mello Walker representing the building owner, and Mr. David Vyner of M.A.M.A.O.A. CORP. #203. Our inspection was limited to components that were readily visible and not obstructed by storage, finishes, vegetation, etc.

#### OVERALL CONDITION AND LEVEL OF MAINTENANCE:

The building is reasonably well built; however, general maintenance has been lacking. The majority of the necessary repairs are on the exterior, including repairs and waterproofing of exposed concrete balconies and railings, replacing patio doors, and replacing of the east side single-storey roof.



### ***Structure***

In general, no major structural deficiencies are noted. The exterior concrete balconies require improvements, including the provision of a waterproof membrane of some description, to prevent further deterioration.

### ***Electrical***

No major concerns are noted with the building's 400-amp, single-phase service. Typically, a few minor electrical improvements are required.

### ***Heating***

The building is heated by a 4-year old gas-fired hot water boiler, which supplies baseboard convectors. No major deficiencies are observed.

### ***Ventilation***

No major deficiencies are noted. Bathroom exhaust fans are original and can be replaced as needed.

### ***Plumbing***

The building's 1½-inch copper pipe supplies copper distribution piping. Major drainpipes include copper and cast iron. These materials have an indefinite life span.

As is expected, general maintenance repairs are required in apartment bathrooms and kitchens.

### ***Roofing***

Both roof surfaces on the building, and the stairwells, are covered by single-ply modified bitumen membranes. The installations are of somewhat low quality, and leakage is occurring at the single-storey east roof. This membrane should be replaced in the short term. The main roof should be expected to require replacement within five years.

### ***Exterior Walls***

The majority of the brick veneer and metal siding around the building is satisfactory. Repairs to water-damaged bricks are required at the corners, due primarily to runoff from balconies and roof surfaces.

***Windows and Doors***

The majority of the doors and windows throughout the building are original. Replacement of these components should be anticipated within the next few years. The sliding glass units take priority, and should be replaced when the balcony waterproofing is done.

***Site Work***

The east side parking lot pavement is in good overall condition.

No major deficiencies are noted with the poured-concrete sidewalks. Some minor repairs are required.

**1.1 Five Year Summary of Recommended Repairs**

Please find the following table of recommendations made in this report, the priorities and associated cost estimates. A five-year time frame has been considered. Other minor recommendations can be found in the Recommendation Tables at the end of each building system section.

**Five Year Summary of Recommended Repairs  
(2008 Dollars)**

200 Emma Street, Chatham

March 24, 2008

Report Reference No.	RECOMMENDATION	Quantity	Units	Time Frame (Years)	Present Cost of Replacement	Years out	0	1	2	3	4	5
							2008	2009	2010	2011	2012	2013
<b>MECHANICAL</b>												
<b>Plumbing Fixtures</b>												
7.2.6	Plumbing fixture repairs	1	Jump sum	0	\$ 3,250		3250					
<b>ARCHITECTURAL</b>												
<b>Roof</b>												
8.2.5-6	Repair east side lower roof leak; add roof drainage	1	Jump sum	0	\$ 2,500		2500					
8.2.5-8	Replace east side lower roof	1200	sq ft	5	\$ 9,000							9000
8.2.2	Replace main roof surface	3200	sq ft	5	\$ 22,500							22500
8.2.7	Replace roof surfaces on stairwells	300	sq ft	5	\$ 2,500							2500
<b>Structure</b>												
11.2.3	Balcony repairs and waterproofing	1200	sq ft	1	\$ 15,600			15600				
<b>Windows and Doors</b>												
12.2.5	Replace sliding glass doors	.11	each	1	\$ 17,500			17500				
12.2.4	Replaces windows	350	sq ft	3	\$ 12,250					12250		
12.2.2	Brck cladding repairs	1	Jump sum	1	\$ 3,000			3000				
<b>TOTALS</b>							\$ 5,750	\$ 33,100	\$ -	\$ 12,250	\$ -	\$ 34,000

Note: \* The time frame for replacement is estimated, as the exact time frame is unpredictable by nature.

