

**115 Torbarrie Road (Plan 66M-2436, Block 151) -
Common Elements Condominium Application and Part
Lot Control Exemption Application – Final Report**

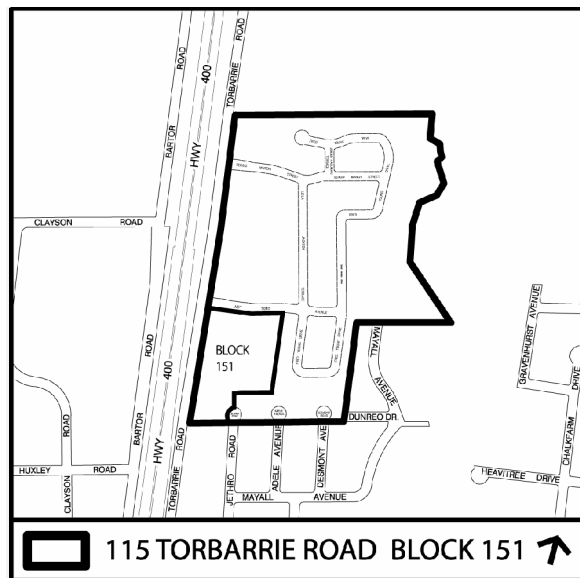
Date:	June 12, 2007
To:	Etobicoke York Community Council
From:	Director, Community Planning, Etobicoke York District
Wards:	Ward 7 - York West
Reference Number:	File Nos: 07 118135 WET 07 CD and 07 118133 07 PL

SUMMARY

The applications for Draft Plan of Common Elements Condominium and Part Lot Control Exemption were made on or after January 1, 2007 and are subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

The applications propose a common elements condominium consisting of a common driveway, visitor parking spaces and walkways and requests exemption from Part Lot Control provisions of the Planning Act on Block 151 of Registered Plan of Subdivision 66M-2436 forming part of the lands at 115 Torbarrie Road to create 191 separate conveyable townhouse lots.

The application for common elements condominium is necessary to provide legal access to the individual townhouse units proposed on Block 151 and to ensure ongoing shared ownership and maintenance of the driveway, visitor parking spaces and



other shared aspects of the development by the condominium corporation.

This report reviews and recommends approval of the Draft Plan of Common Elements Condominium and approval of the application for Part Lot Control Exemption.

RECOMMENDATIONS

The City Planning Division recommends that:

1. In accordance with the delegated approval under By-law No. 229-2000, City Council be advised that the Chief Planner or his designate intends to approve the draft plan of common elements condominium, as generally illustrated on Attachment 1, subject to:
 - (a) the conditions as generally listed in Attachment 2, which unless otherwise noted must be fulfilled prior to the release of the plan of condominium for registration; and
 - (b) such revisions to the proposed condominium plan or such additional or modified conditions as the Chief Planner or his designate may deem to be appropriate to address matters arising from the on-going technical review of this development.
2. City Council direct that a Part Lot Control Exemption By-law with respect to the subject lands be prepared to the satisfaction of the City Solicitor, and that such By-law shall expire one year after it has been enacted;
3. City Council authorize the City Solicitor to introduce the necessary Bill provided that:
 - (a) all tax arrears and current taxes owing be paid in full; and
 - (b) the owner of the subject lands has registered, satisfactory to the City Solicitor, a Section 118 restriction under the Land Titles Act agreeing not to transfer or charge any part of the lands without the prior written consent of the Chief Planner or his designate;
4. City Council authorize the City Solicitor to take the necessary steps to release the Section 118 restriction at such time as final Site Plan Approval and the Common Elements Condominium Plan has been registered; and
5. City Council authorize and direct the appropriate City Officials to register the Part Lot Control Exemption By-law on title.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

On April 14, 15 and 16, 2003, City of Toronto Council, authorized amendments to the Official Plan and Zoning By-law No. 7625 of the former City of North York and approved a Draft Plan of Subdivision to permit the proposed residential development of the property municipally known as 115 Torbarrie Road. Bylaw No. 415-2003, adopting OPA No. 537 and Zoning By-law 416-2003 governs development on this site. Draft Approval of a Plan of Subdivision was issued by the Chief Planner August 8, 2003. The Plan of Subdivision was registered in the Land Registry Office on April 12, 2007 as Plan 66M-2436.

City Council at its meeting of December 5, 6 and 7, 2005 adopted Clause 29 of Etobicoke York Community Council Report 9 and granted site plan approval in principle, for the townhouse development on Blocks 151 and 152 and issued the Notice of Approval Conditions for the site plan application. City Council also authorized the Chief Planner to give final approval to the site plan when the conditions to be satisfied prior to site plan approval have been fulfilled. The applicant is currently satisfying these conditions.

ISSUE BACKGROUND

Proposal

The proposal is to grant Part Lot Control exemption to allow the 191 townhouses currently being constructed on Block 151 to be conveyed separately and to approve a plan of common elements condominium for the shared ownership and maintenance of the driveway, visitor parking spaces and other common elements associated with the townhouses. Refer to Attachment No. 3 for project data.

Site and Surrounding Area

The property is located on the east side of Torbarrie Road, adjacent to Highway 400 and midway between Wilson Avenue and Sheppard Avenue West. The site was formerly the location of the Workplace Safety Insurance Board (WSIB) rehabilitation facility. The development block (Block 151) which is the subject of these applications is located on the south western boundary of the subdivision and fronts on to Torbarrie Road.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS. In the opinion of City Planning staff, the proposal is consistent with the Provincial Policy Statement.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to

grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. The proposal conforms to and does not conflict with the Growth Plan for the Greater Golden Horseshoe

Official Plan

The property is designated as Neighbourhoods in the Official Plan and is subject to Site and Area Specific Policy No. 242. Townhouses are a permitted use.

Zoning

The property is zoned RM1(51) by the former City of North York Zoning By-law application. Townhouses are a permitted use.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate by-law standards and conditions of Draft Plan of Common Elements Condominium Approval.

COMMENTS

Section 50(7) of the Planning Act, R.S.O. 1990, authorizes City Council to adopt a by-law exempting lands within a registered plan of subdivision from Part Lot Control. The subject lands are within a registered plan of subdivision (Block 151 - Registered Plan 66M-2436). Thus, exemption from Part Lot Control may be employed as an effective means of further subdividing the lands to create the townhouse lots.

To ensure that final Site Plan Approval is given and that the creation of the Common Elements Condominium Corporation is completed and registered before lots are conveyed, it is recommended that the owner of the lands first register a Section 118 Restriction under the land Titles Act. The Restriction requires the owner to agree not to convey or mortgage any part of the lands without the prior written consent of the Chief Planner or his designate. Once final Site Plan Approval has been given and confirmation is received from the owner that the Common Elements Condominium Plan has been registered, the City Solicitor will take the necessary steps to delete the Section 118 Restriction from the title of the lands.

To ensure that Part Lot Exemption does not remain in force indefinitely, it is recommended that the exempting By-law contain an expiration date. In this instance, the By-law should expire one year after being enacted. This will provide sufficient time for the completion of the project and the conveyance of the lots.

The proposal complies with the Official Plan and Zoning By-law and was circulated to various Divisions and Agencies for comments. Any requested conditions to approval will be addressed or secured as part of the draft plan approval of the common elements condominium.

CONTACT

Gregory Byrne, Senior Planner

Tel. No. 416-394-8238

Fax No. 416-394-6063

E-mail: gbyrne@toronto.ca

SIGNATURE

Gregg Lintern, MCIP, RPP
Director, Community Planning
Etobicoke York District

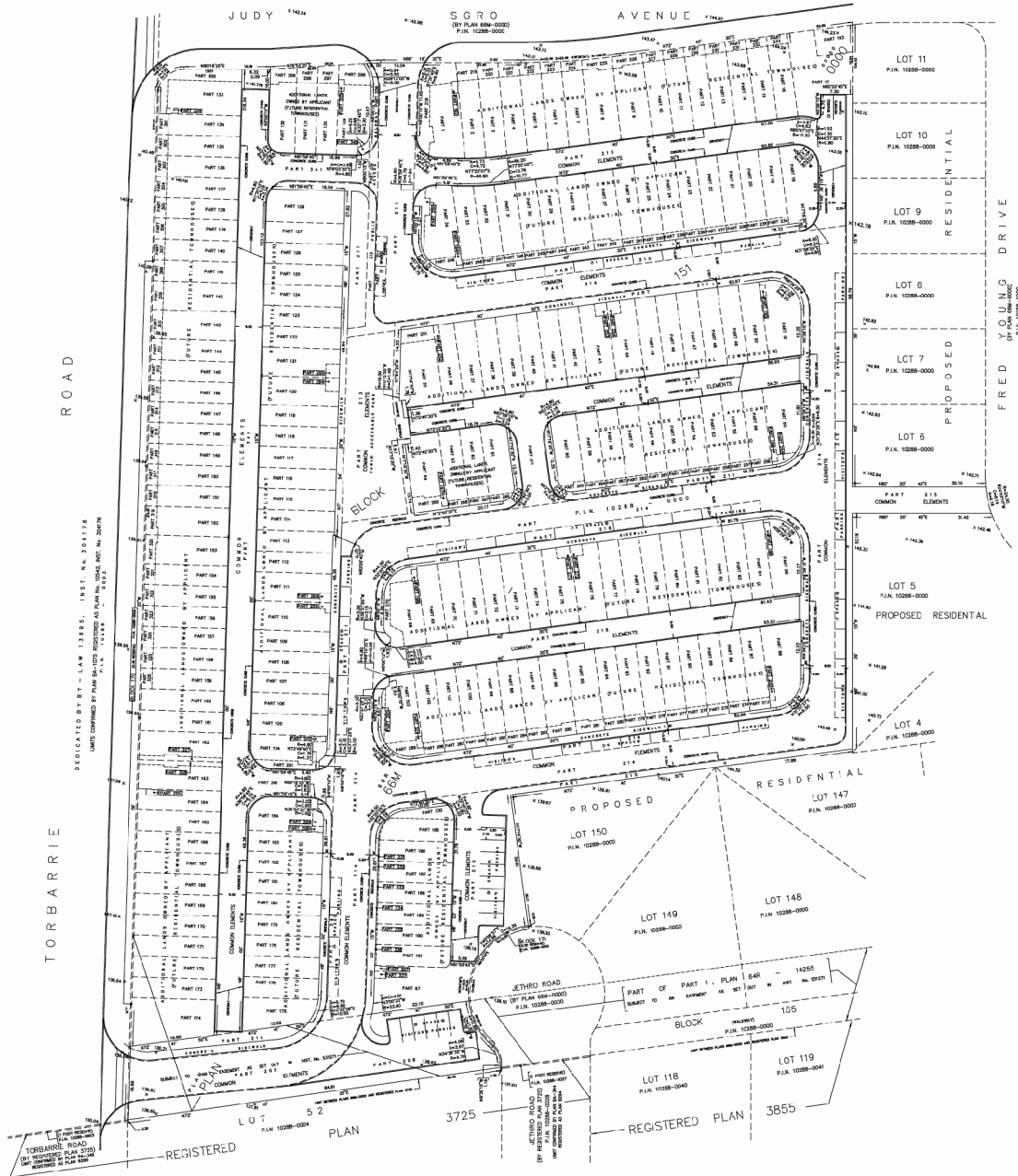
ATTACHMENTS

Attachment 1: Part Lot Control Plan

Attachment 2: Draft Plan of Common Elements Condominium

Attachment 3: Application Data Sheet

Attachment 1: Part Lot Control Plan



Part Lot Control

Applicant's Submitted Drawing

Not to Scale 

115 Torbarrie Road Block 151

File # 07_118133

Attachment 2: Draft Plan of Common Elements Condominium

Conditions for Common Elements Condominiums

- 1) The owner shall provide to the Director Community Planning, Etobicoke York District, confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department, City of Toronto (statement of account or Tax Clearance Certificate)
- 2) All Site Plan matters and facilities have been completed or financially secured to the satisfaction of the City.
- 3) The owner shall file with the Director of Community Planning Etobicoke York District, a copy of the final Declaration and Description containing all necessary schedules and certifications required by the Condominium Act for registration.
- 4) The owner shall file with the Director of Community Planning, Etobicoke York District, a complete copy of the final version of the Declaration and Description to be registered, which includes the following schedules:
 - (i) Schedule “A” containing statement from the declarant’s solicitor that in his or her opinion, based on the parcel register or abstract index and the plans and drawings recorded in them, the legal description is correct and the easements mentioned in the schedule will exist in law upon the registration of the Declaration and Description; and
 - (ii) Schedule “G” being the certification of the project engineer and/or architect that all buildings and structures have been constructed in accordance with the regulations made under the Condominium Act.
- 5) The owner shall provide a copy of the Declaration and Description for the review and comment of the Executive Director of Technical Services and the Declaration and Description shall include:
 - (a) a provision which states that the Condominium Corporation is responsible for maintaining the on-site oil grit separators in accordance with the manufacturer’s maintenance guidelines and the Corporation shall, at least once a year, ensure that the oil/grit separators are inspected and all debris and sediment removed;

- (b) a provision which states that the Condominium Corporation is responsible for maintaining the storm sewer and appurtenance, private driveway and parking lot that encroaches onto the City easement;
 - (c) a provision which states that the internal private road system is for mutual use under Common Elements Condominium status and that the City will not maintain them or clear them of snow or ice;
 - (d) a provision which states that the City cannot enforce parking regulations on the private streets and alleys, and that the Condominium Corporation is responsible for maintaining private policing of these condominium streets and alleys;
 - (e) a provision which states that that the private streets can be used by the general public and that the Condominium Corporation shall not install any barrier that will restrict public access to these private streets;
 - (f) a provision which states that the on-street visitor parking stalls shall be maintained for mutual use and shall not be sold, leased, rented, assigned or transferred to residents or persons who do not reside in this development; and
 - (g) a provision which states that the Condominium Corporation is responsible for maintaining the private sidewalks, walkways and the pedestrian connections to Torbarrie Road in a state of good repair, free of graffiti, litter, snow and ice.
- 6) Visitors parking spaces will be clearly delineated on the condominium plan to be registered and the declaration shall contain a clause clearly specifying visitors parking shall form part of the common elements and neither be used by or sold to POTL owners or be considered part of the exclusive use portions of the common elements.
 - 7) If the condominium is not registered within 5 years of the date of draft plan approval, then this approval shall be null and void and the plans and drawings must be resubmitted to the City for approval.
 - 8) Prior to release of the condominium for registration, the declarant's consulting engineer shall certify to the Executive Director of Technical Services that the water and sewer services for the site have been constructed and are operable and that the road has been constructed to base course asphalt.

- 9) Prior to release of the condominium for registration, the owner shall enter into an Encroachment Agreement with the City with respect to the maintenance of the storm sewer and appurtenance, private driveway and parking lot that encroaches onto the City easement.
- 10) The Owner submit a draft reference Plan of Survey, in metric units and integrated with the Ontario Co-ordinate System, showing as separate PARTS thereof the lands for public accessible park and walkways over which an easement is to be conveyed to the City for public access for the for review and approval of the Director of Community Planning prior to release of the condominium for registration.
- 11) The Owner shall convey a public access easement over the areas for which an easement is to be conveyed to the City for public access prior to registration of the Common Elements Condominium.
- 12) The Owner agrees to register the proposed internal private road system on-title for mutual use under Common Elements Condominium status and provide notification on-title to each dwelling unit stating that with the exception of Street 'E', these streets are under private ownership and the City will not maintain them or clear them of snow or ice.
- 13) The Owner agrees to provide certification in writing from the Noise Control Consulting Engineer to the Director of Community Planning, Etobicoke York District and the Deputy Chief Building Official, prior to the earlier of occupancy of any premises or registration of the plan of condominium for the Development containing the premises, that the measures recommended in the accepted Noise Impact Report, related to the premises have been constructed and implemented.

