

**9 & 11 Clairtrel Road - Common Elements
Condominium Application and Part Lot Control
Exemption Application - Final Report**

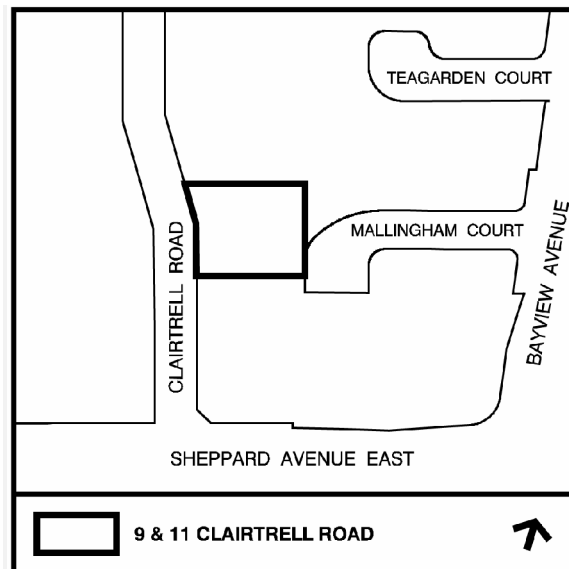
Date:	June 18, 2008
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 23 – Willowdale
Reference Number:	08 142295 NNY 23 CD & 08 142300 NNY 23 PL

SUMMARY

These applications for Draft Plan of Common Elements Condominium and Part Lot Control Exemption were made on April 1, 2008 and are subject to the new provisions of the *Planning Act* and the *City of Toronto Act, 2006*. The new provisions for Draft Plan of Common Elements Condominium now require that a Public Meeting be held.

The Draft Plan of Common Elements Condominium application proposes to create a common elements condominium consisting of a driveway, landscape areas and walkway access on lands known municipally as 9 and 11 Clairtrel Road. The common elements condominium is required to provide legal access to the individual garages of the units and to ensure shared ownership and maintenance of the driveway and landscaping by the condominium corporation.

The requested exemption from the Part Lot Control provisions of the *Planning Act* is required in order to permit the creation of conveyable lots for 17, 3-storey townhouses.



This report advises that the Chief Planner or designate intends, under delegated authority, to approve the Draft Plan of Common Elements Condominium for a 17-unit townhouse development at 9 and 11 Clairtrell Road. This report also recommends approval of the application for Part Lot Control Exemption, and that the owner of the lands be required to register a Section 118 Restriction under the *Land Titles Act* agreeing not to convey or mortgage any part of the lands without prior consent of the Chief Planner or designate.

RECOMMENDATIONS

The City Planning Division recommends that:

1. In accordance with the delegated approval under By-law 229-2000, City Council be advised that the Chief Planner or 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, except as otherwise noted, must be fulfilled prior to the release of the plan of condominium for registration; and
 - (b) any such revisions to the proposed condominium plan or any such additional or modified conditions as the Chief Planner or designate may deem to be appropriate to address matters arising from the on-going technical review of this development.
2. City Council enact a Part Lot Control Exemption By-law with respect to the subject lands, to be prepared to the satisfaction of the City Solicitor, and that such By-law shall expire 2 years after it has been enacted.
3. City Council authorize the City Solicitor to introduce the necessary Bill, provided that prior to the introduction of the Bill:
 - (a) the owner shall provide to the Director, Community Planning, North York District, confirmation of payment of outstanding taxes to the satisfaction of the Revenue Services Division, City of Toronto (statement of account or Tax Clearance Certificate); 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 convey or mortgage any part of the lands without the prior written consent of the Chief Planner or designate.

4. City Council authorize and direct the appropriate City Officials to register the Part Lot Control Exemption By-law on title.
5. City Council authorize the City Solicitor to take the necessary steps to release the Section 118 Restriction at such time as the Common Elements Condominium Plan has been registered.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

On March 11, 2005, Planning staff recommended approval of a Zoning By-law Amendment to allow the construction of 17, 3-storey townhouses at a density of 1.7 FSI. North York Community Council deferred the matter until such time as the project was brought into compliance with City Council direction to design new townhouse developments to permit curbside garbage collection by City vehicles.

The applicant appealed to the Ontario Municipal Board (the Board) citing Council's lack of a decision on the proposed Zoning By-law Amendment and Site Plan Control Applications.

On September 9, 2005 the Board approved the Zoning By-law Amendment and Site Plan Control Application as substantially outlined in the staff report of March 11, 2005.

ISSUE BACKGROUND

Proposal

The project has received Zoning and Site Plan Control approval for a redevelopment consisting of 17, 3-storey townhouses at a density of 1.7 FSI. The project has been developed in two blocks, with 7 of the units fronting onto Clairtrell Road and 10 of the units fronting onto Mallingham Court. The townhouses are proposed to be freehold in tenure, with vehicular access via Clairtrell Road connecting with a common elements condominium driveway. Thirty-four parking spaces are proposed (see the Application Data Sheet, Attachment 3, for additional details).

Site and Surrounding Area

The 0.24 ha site has frontage on both Clairtrell Road and Mallingham Court and is currently occupied by the development described above. The site slopes downward from east to west and north to south.

Surrounding land uses are as follows:

North: the Church of the Incarnation property;

South: townhouses facing Clairtrell Road and a 14-storey apartment building at the northeast corner of Sheppard Avenue East and Clairtrell Road;

East: townhouses fronting on Mallingham Court; and

West: townhouses on the west side of Clairtrell Road at 8, 10 and 12 Clairtrell 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.

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.

City Council's planning decisions are required by the *Planning Act*, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The subject lands are designated "Apartment Neighbourhoods" within the Sheppard East Subway Corridor Secondary Plan.

Zoning

The site-specific RM1(61) zoning (Multiple-Family Dwellings First Density Zone) permits the 17-unit townhouse development, subject to a minor variance for an existing condition (see comments below).

Site Plan Control

A Site Plan Control Application for the 17-unit townhouse development was approved by the Ontario Municipal Board on September 9, 2005.

Agency Circulation

The applications were circulated to all appropriate agencies and City Divisions. Responses received have been used to assist in evaluating the applications and to formulate appropriate draft plan approval conditions.

COMMENTS

Section 50(7) of the *Planning Act* authorizes City Council to adopt a By-law exempting lands within a registered plan of subdivision from Part Lot Control. The property is described as Lot 10 and part of Lots 9 & 11, Registered Plan 4385. The lifting of Part Lot Control on the subject lands is considered appropriate for the orderly development of the lands and will enable the creation of 17 townhouse lots.

To ensure the creation of the Common Elements Condominium Corporation is completed and registered before the lots are conveyed, it is recommended that the owner of the lands be required to register a Section 118 Restriction under the *Land Titles Act*. The Restriction requires the owner to obtain the written consent of the Chief Planner or designate prior to conveying or mortgaging any part of the lands.

Once 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 thus allowing the lots to be conveyed. To ensure that exemption from Part Lot Control does not remain in force indefinitely, it is recommended that the exempting By-law expire two years after being enacted. This will provide sufficient time for the completion of the project and the conveyance of the lots.

The proposed conditions of Draft Plan of Common Element Condominium approval for the townhouse development at 9 and 11 Clairtrell Road are listed in Attachment 2. Toronto Building staff have identified a variance that will be required, as the front yard (east) setback to the most southerly unit in “Block B” (the easterly block) is 5.38 m as opposed to the 5.48 m required by the site-specific Zoning By-law. The applicant has submitted the necessary variance application. The attached conditions of Draft Plan of Common Elements Condominium approval recommend that the owner obtain approval of the required minor variance prior to approval of the Draft Plan of Common Elements Condominium.

CONTACT

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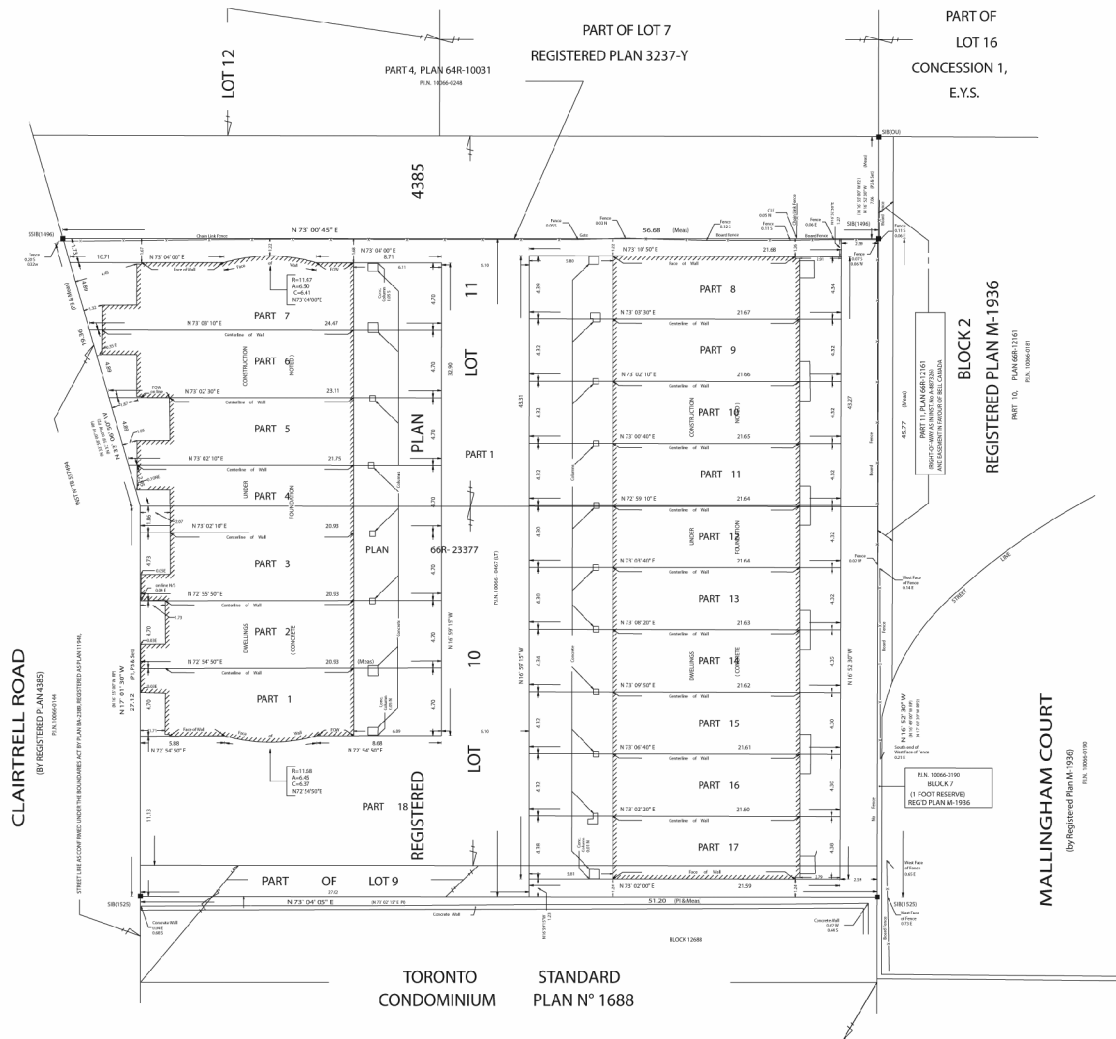
SIGNATURE

Thomas C. Keefe, Director
Community Planning, North York District

ATTACHMENTS

Attachment 1: Draft Plan of Common Elements Condominium
Attachment 2: Draft Plan of Common Elements Condominium Approval Conditions
Attachment 3: Application Data Sheet

Attachment 1: Draft Plan of Common Elements Condominium



Draft Plan of Common Elements Condominium

9 & 11 Clairtrel Road

Applicant's Submitted Drawing

Not to Scale 

File # 08_142295

Attachment 2: Draft Plan of Common Elements Condominium Approval Conditions

- (1) The owner shall provide to the Director, Community Planning, North York District, confirmation of payment of outstanding taxes to the satisfaction of the Revenue Services Division, 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, Community Planning, North York District, a copy of the final Declaration and Description containing all necessary schedules and certifications required by the Condominium Act for registration.
- (4) Any visitors' parking spaces forming part of the common elements 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 unit owners or be considered part of the exclusive use portions of the common elements.
- (5) The owner shall file with the Director, Community Planning, North 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 a 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*.
- (6) The owner shall obtain approval of a minor variance allowing the east setback to a portion of Block B to be maintained at 5.38 m, whereas Zoning By-law 7625, as amended, requires a setback of 5.48 m to Block B. This approval shall be obtained prior to approval of the Draft Plan of Common Elements Condominium by the Chief Planner or designate; and
- (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.

Attachment 3: Application Data Sheet

Application Type: Common Elements Application Number: 08 142295 NNY 23 CD
 Condominium and Part Lot 08 142300 NNY 23 PL
 Control Exemption Applications

Details: Application Date: April 1, 2008

Municipal Address: 9 AND 11 CLAIRTRELL ROAD, TORONTO ON
 Location Description: Lot 10 and part of Lots 9 & 11, RP 4385
 Project Description: Proposed development for a 3-storey, 17 unit townhouse development in two blocks, with a common element condominium road

PLANNING CONTROLS

Official Plan Designation: Apartment Neighbourhoods Site Specific Provision: Y
 Zoning: RM1(61) Historical Status: N
 Height Limit (m): 12 Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq. m):	2364.04	Height:	Storeys:	3.5
Frontage (m):	46.48		Metres:	12
Depth (m):	51.2			
Total Ground Floor Area (sq. m):	1117.05			Total
Total Residential GFA (sq. m):	3927.46		Parking Spaces:	34
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	3927.46			
Lot Coverage Ratio (%):	48			
Floor Space Index:	1.66			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

	Freehold		Above Grade	Below Grade
Tenure Type:	Freehold			
Rooms:	0	Residential GFA (sq. m):	3967.69	0
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	0	Office GFA (sq. m):	0	0
2 Bedroom:	0	Industrial GFA (sq. m):	0	0
3 + Bedroom:	17	Institutional/Other GFA (sq. m):	0	0
Total Units:	17			

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