

**91, 93, 95, 97, 99 Finch Avenue West  
Common Elements Condominium and Part Lot Control  
Applications – Final Report**

<b>Date:</b>	September 21, 2009
<b>To:</b>	North York Community Council
<b>From:</b>	Director, Community Planning, North York District
<b>Wards:</b>	Ward 23 – Willowdale
<b>Reference Number:</b>	09 145098 NNY 23 CD and 09 138692 NNY 23 PL

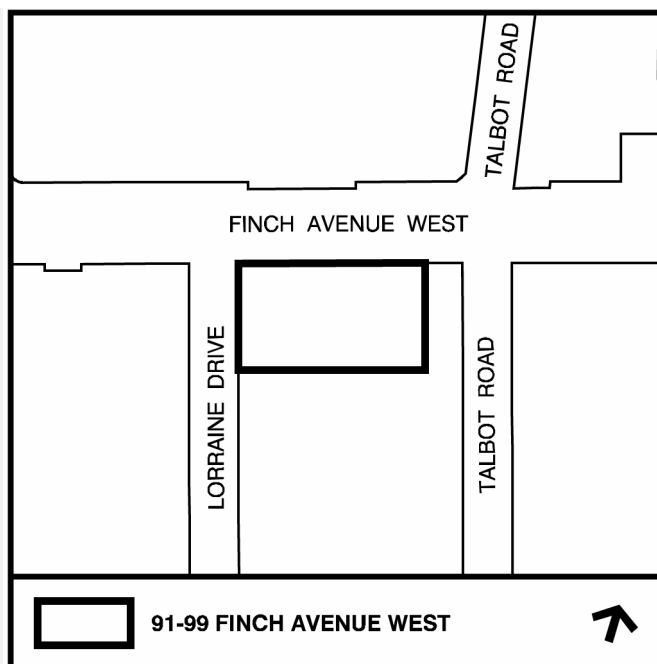
## SUMMARY

These applications were made on June 3, 2009 (CD) and May 15, 2009 (PL) and are subject to the new provisions of the *Planning Act* and the *City of Toronto Act*, 2006.

The Common Elements Condominium application is required to provide legal access to the individual townhouse units and to ensure ongoing shared ownership and maintenance of the common elements including the private driveway.

The exemption from Part Lot Control provisions of the *Planning Act* is required to permit the creation of individual conveyable townhouse and semi-detached lots.

This report recommends approval of the Draft Plan of Common Elements Condominium and approval of the application to lift Part Lot Control subject to the conditions listed below, including 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 the prior consent of the Chief Planner or his designate.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. That in accordance with the delegated approval under by-law 229-2000, City Council be advised that the Chief Planner intends to approve the draft plan of common elements condominium, as generally illustrated on Attachment 1, subject to:
  - a. the conditions generally listed in Attachment 3, which unless otherwise noted, must be fulfilled prior to the release of the plan of condominium for registration;
  - b. any such revisions to the proposed condominium plan or any such additional or modified conditions as the Chief Planner may deem to be appropriate; and
  - c. draft plan approval not being issued until the necessary Bill(s) is in full force and effect.
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.
3. City Council authorize the City Solicitor to introduce any necessary Bills for a Part Lot Control Exemption By-law to expire (2) years from date of enactment.
4. City Council require the owner to provide proof of payment to the satisfaction of the City Solicitor for all current property taxes for the subject site prior to enactment of the Part Lot Control Exemption By-law.
5. City Council require the owner to register, to the satisfaction of the City Solicitor, a Section 118 Restriction under the *Land Titles Act* agreeing not to transfer and charge any part of the lands without the written consent of the Chief Planner or his designate prior to the introduction of Bills in Council.
6. That the Chief Planner or his delegate not provide written consent to transfer and charge any parts of the lands until all appropriate pre-approval conditions in the Site Plan Agreement are fulfilled.
7. City Council authorize the City Solicitor to take the necessary steps to release the Section 118 Restriction from title at such time as confirmation is received that the Common Elements Condominium Plan has been registered.

8. City Council authorize and direct the City Solicitor to register the Part Lot Control Exemption By-law on title.

### **Financial Impact**

The recommendations in this report have no financial impact.

### **DECISION HISTORY**

The development was subject of an Official Plan and Zoning By-law Amendment (File 05 125830 NNY 23 OZ) and Site Plan Control application (File 05 125819 NNY 23 SA) to develop the properties with 23 townhouses and 2 semi-detached units. The applications were refused by City Council and the proposal was subject of an OMB hearing as it did not meet the Secondary Plan's height limits, the City's Infill Townhouse Design Guidelines or Development Infrastructure Policy and Standards (DIPS). Ontario Municipal Board Order Number 3450 issued on December 12, 2006 approved the implementing Official Plan Amendment 581, Zoning By-law 136-2008, and Site Plan and associated agreement.

### **ISSUE BACKGROUND**

#### **Proposal**

The Common Elements Condominium application is required to allow for the registration of a common elements condominium that would provide legal access to the individual townhouse units and ensure ongoing shared ownership and maintenance of the common elements including the walkway, driveway, fire hydrant, storm swale, tree protection and Toronto Hydro Equipment.

The lifting of Part Lot Control will allow for the 23 townhouses and 2 semi-detached units constructed on the site to be sold separately.

Please see Attachment 4 for project data.

#### **Site and Surrounding Area**

The 3316.5 square metre site is located at the southeast corner of Finch Avenue West and the western extension of Lorraine Drive. The rectangular site has a width of 76 metres fronting Finch Avenue West, and a depth of 44 metres.

The surrounding land uses are as follows:

- |        |  |
|--------|--|
| North: | across Finch Avenue West there are two places of worship and townhouses.   |
| South: | single detached houses fronting onto Lorraine Drive and Talbot Road.   |
| East:  | a 3-storey mixed use building at 89 Finch Avenue West on the southwest corner of Finch Avenue West and Talbot Road (under construction). |
| West:  | across Lorraine Drive there are single detached houses and the Edithvale Community Centre.   |

## **Official Plan**

The subject lands were designated Central Finch Mixed Use– One (CFMU -1) under the Central Finch Area Secondary Plan pursuant to the North York Official Plan. Official Plan Amendment 581 permitted the 25 unit development and established a 2.0 metre side yard setback for the semi-detached dwellings on Lorraine Drive and a 9.5 metre rear yard rear yard setback for the townhouses, as well as a building height of 9.5 metres. The amendment has since been added as a site-specific policy under the City of Toronto Official Plan.

## **Zoning**

Zoning By-law 136-2008 amended the North York Zoning By-law from R4 to RM2(45) to permit 2 semi-detached houses fronting Lorraine Drive and from R4 to RM1(73) to permit 23 multiple attached dwelling units with a row of units fronting Finch Avenue West and additional units to the rear accessed by a private driveway.

## **Site Plan Control**

The OMB approved Site Plan Agreement has not yet been registered as all appropriate pre-approval conditions have not yet been fulfilled (e.g. a road conveyance). Through the detailed surveying of the as-built units it has been identified that the 17 units fronting onto Finch Avenue West have been built with bay windows and portions of the roof slightly overhanging the 2.76 metre road widening. Rather than having on-going encroachment agreements between the City and each of the 17 unit owners, the road conveyance is to be stratified to carve out the portions that overhang the road conveyance.

The Part Lot Control Exemption By-law would not be enacted until all remaining appropriate site plan conditions have been met.

## **Reasons for Application**

Section 50(7) of the *Planning Act* authorizes Council to adopt a by-law exempting lands within a registered plan of subdivision from Part Lot Control. Passing a Part Lot Control Exemption By-law will allow the owner to convey the 25 parcels into separate ownership. The Part Lot Control Exemption By-law is also required to establish separate parcels for shared rights of way and easements for maintenance purposes and condominium ownership.

To ensure that creation of the Common Elements Condominium Corporation is completed and registered before lots are sold, it is recommended that the owner 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 designate. 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.

## **Community Consultation**

Community Consultation was conducted in the fall of 2005 for the Official Plan Amendment, Zoning By-law and Site Plan applications that were approved by the OMB in 2006. No community consultation was conducted for the Part Lot Control or Common Elements Condominium application, however because the Common Elements Condominium application was submitted after January 1, 2007, the new provisions of the *Planning Act* require a statutory Public Meeting and notice prior to approval of the common elements condominium. A sign providing notice of the public meeting for the common element condominium has also been posted on the property.

## **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the applications.

## **COMMENTS**

The development is currently nearing completion and this application will effectively implement the OMB ordered Official Plan Amendment, Zoning By-law and Site Plan approvals.

It is recommended that the Chief Planner approve the Draft Plan of Common Elements Condominium subject to the conditions contained in this report.

## **CONTACT**

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## **SIGNATURE**

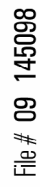
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Thomas C. Keefe, Director  
Community Planning, North York District

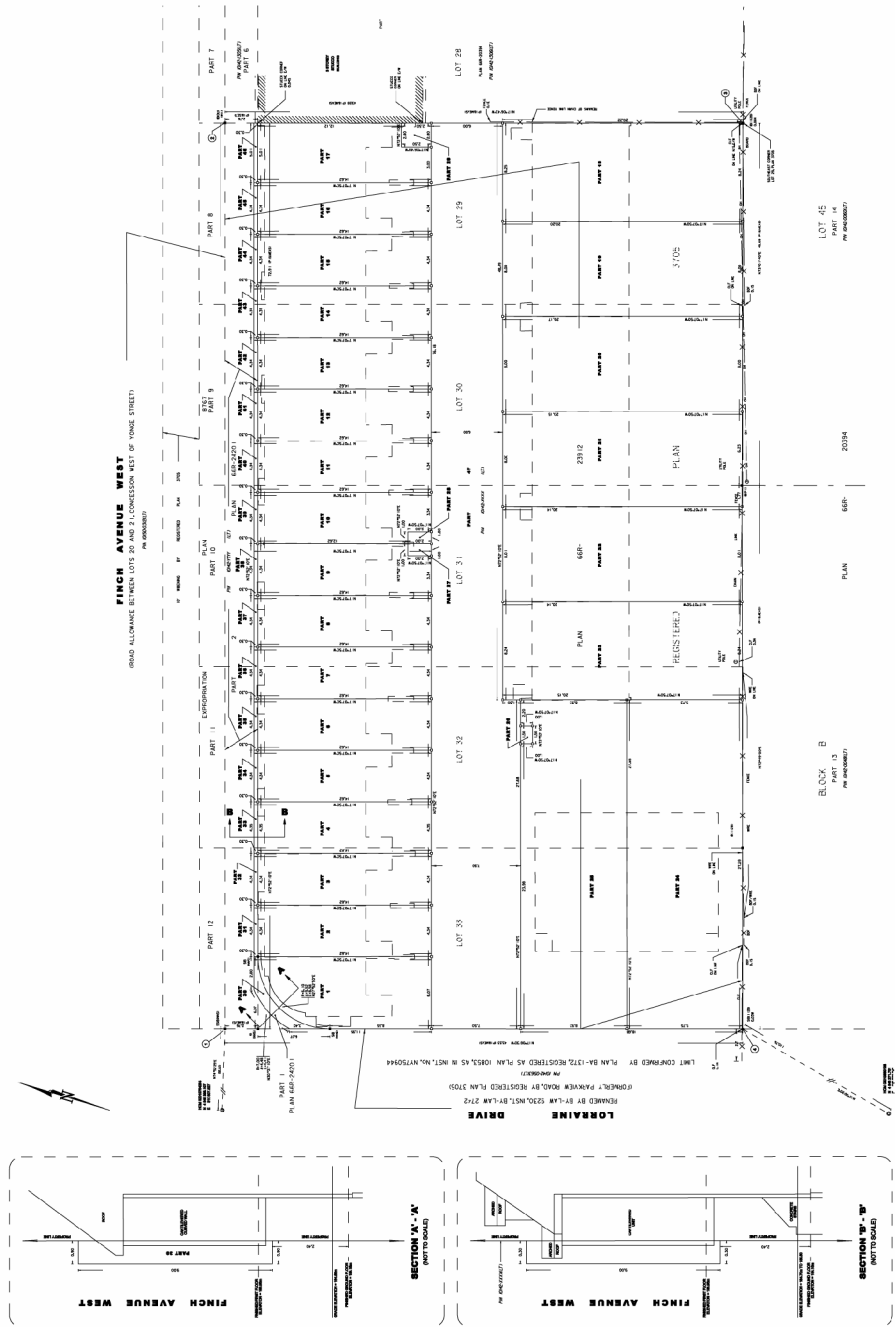
## **ATTACHMENTS**

Attachment 1: Draft Plan of Common Elements Condominium  
Attachment 2: Draft Plan of Reference  
Attachment 3: Draft Plan Approval Conditions  
Attachment 4: Application Data Sheet

Staff report for action – Final Report – 91, 93, 95, 97, 99 Finch Avenue West



Attachment 2: Draft Plan of Reference



91, 93, 95, 97, 99 Finch Ave. W.

Plan of Survey  
Applicant's Submitted Drawing

File # 09\_145098

Not to Scale  
09/17/2009

### **Attachment 3: Draft Plan Approval Conditions**

- (1) The owner shall provide to the Director of Community Planning, North York District, confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department, City of Toronto (i.e. a 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, 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) Together with the final version of the Declaration, the Owner shall provide a solicitor's undertaking indicating that:
  - i. The Declaration provided to the City is the final Declaration to be submitted for registration, subject only to changes requested by the Land Registrar;
  - ii. The City will be notified of any required changes prior to registration; and,
  - iii. Forthwith following registration of the Declaration, a copy will be provided to the City.
- (5) 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.
- (6) The Owner shall include wording in the Declaration that the City will not accept, assume or maintain the common element or any facilities located within the common element including the driveway, walkway, lighting, water distribution, sanitary or stormwater systems and that all such facilities are to be owned, operated and maintained under a common elements condominium corporation.
- (7) The owner shall file with the Director of Community Planning, North York District, satisfactory to said Director, a letter of certification from their Solicitor with respect to the creation of the necessary easements with regards to Parts 21,23,24,26,27,29,30,32,34,35,36,37,38 and 56 as identified on the Draft R-Plan prepared by nanfara & ng surveyors inc. date stamped June 3, 2009.



## Attachment 4: Application Data Sheet

Application Types	Common Element Condominium & Part Lot Control Exemption	Application Numbers:	09 145098 NNY 23 CD 09 138692 NNY 23 PL
Details	Common Element Driveway	Application Dates:	June 3, 2009 May 15, 2009

Municipal Address: 91,93,95,97 and 99 FINCH AVE W, TORONTO ON

Location Description: PLAN 3705 LOT 29 \*\*GRID N2302

Project Description: 17 townhouse units fronting onto Finch Avenue West, 6 townhouse units fronting onto a shared common element drive, and 2 semi-detached units fronting onto Lorraine Drive.

### PLANNING CONTROLS

Official Plan Designation:	CFMU-1	Site Specific Provision:	OPA 581
Zoning:	RM1(73) RM2(45)	Historical Status:	
Height Limit (m):	4 storeys and 12.0	Site Plan Control Area:	Y

### PROJECT INFORMATION

Site Area (sq. m):	3316.5	Height:	Storeys:	4	
Frontage (m):	76.17		Metres:	12.0	
Depth (m):	43.53				
Total Ground Floor Area (sq. m):	1269.28				<b>Total</b>
Total Residential GFA (sq. m):	4180.00		Parking Spaces:	50	
Total Non-Residential GFA (sq. m):	0		Loading Docks	0	
Total GFA (sq. m):	4179.43				
Lot Coverage Ratio (%):	38.27				
Floor Space Index:	1.26				

### DWELLING UNITS

### FLOOR AREA BREAKDOWN (upon project completion)

			Above Grade	Below Grade
Tenure Type:				
Rooms:	0	Residential GFA (sq. m):	4179.43	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:	25	Institutional/Other GFA (sq. m):	0	0
Total Units:	25			

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