

346 Jarvis Street – Common Elements Condominium Application and Part Lot Control Application – Final Report

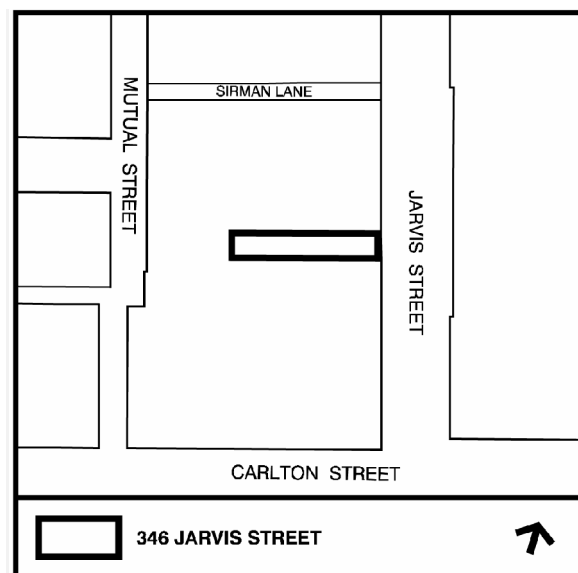
Date:	May 22, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	09 117773 STE 27 PL and 09 113955 STE 27 CD

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 application for a common elements condominium proposes a private common walkway under which facilities (i.e. hydro, gas, and cable) to be shared by six freehold town houses will be located on the lands municipally known as 346 Jarvis Street. The application is required to provide legal access to the individual townhouse units and to ensure the ongoing shared ownership and maintenance of the common elements.

The requested exemption from the Part Lot Control provisions of the Planning Act is required in order to permit the creation of six separate conveyable townhouse lots and two lots that will be used for occupant parking. In addition, this report recommends 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.

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

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 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 3, which, unless 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 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;
3. City Council authorize the City Solicitor to introduce any necessary Bills in Council for a Part Lot Control Exemption By-law to expire (2) years from the date of enactment;
4. City Council require the owner to provide proof of payment to the satisfaction of the City Solicitor that 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 an part of the lands without the written consent of the chief Planner or his designate prior to the introduction of Bills in Council;
6. 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;

7. City Council authorize and direct the City Solicitor to register the Part Lot Control Exemption By-law on title; and
8. Prior to introduction of the Part Lot Control Exemption By-law, the owner shall submit a revised Draft Reference Plan, to the satisfaction of the Executive Director of Technical Services, to show:
 - (a) the co-ordinate values of the main corners of the subject lands, integrated with the Ontario co-ordinate system (3° MTM, Zone 10, NAD 27, 1974 Adjustment; and
 - (b) a list of the referenced horizontal control monuments with their respective values.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

The development was subject to a Site Plan Approval application (File No. 01 035645 STE 27) and a Statement of Approval/Undertaking was issued by City Planning on August 8, 2003.

ISSUE BACKGROUND

Proposal

The proposal is to permit the lifting of Part Lot Control to allow for six townhouses currently being constructed on the site to be sold separately. The proposal is also to allow for the registration of a common elements condominium to accommodate the shared ownership and maintenance of the walkway and shared facilities located beneath the walkway. Refer to Attachment 4 for project data.

Site and Surrounding Area

The property is located at 346 Jarvis Street on the west side of Jarvis Street just north of the intersection of Jarvis Street and Gerrard Street East.

The properties to the north, east, south, and west of the subject site contain a mix of residential, commercial and institutional uses. Immediately north of the site is the school of the National Ballet of Canada. Immediately south of the site on the west side of Jarvis Street is a mix of retail and commercial uses.

Official Plan

This site is designated “Apartment Neighbourhoods” in the Official Plan, which permits townhouses in addition to apartment buildings, and low-rise retail and office uses.

Zoning

The site is zoned R3 Z2.0, which permits residential uses including townhouses (referred to as rowhouses in the zoning by-law). At a public hearing held on June 5, 2005 the Committee of Adjustment approved minor variances for the property for parking, density, setbacks, building depth and landscaped open space. At a public hearing held on May 6, 2009, the Committee of Adjustment approved a minor variance to permit the townhouses to share a single parcel of land (the by-law requires each principal building to be assigned a defined parcel of land).

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 conditions of Draft Plan Approval.

COMMENTS

Section 50(7) of the Planning Act, R.S.O. 1990, as amended, 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. The lifting of Part Lot Control on the subject lands is considered appropriate for the orderly development of the lands and will facilitate the development.

To ensure that the creation of the Common Elements Condominium Corporation is completed and registered before the lots are sold, it is recommended that the owner of the lands be required to 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 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 the Part Lot Control Exemption does not remain open indefinitely, it is recommended that the exempting By-law contain an expiration date. In this instance, the By-law should expire two years after being enacted. The two year time frame normally provides sufficient time for completion of the project.

CONTACT

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SIGNATURE

Raymond David, Director
Community Planning, Toronto and East York District

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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

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Draft Plan of Common Elements Condominium Type

Not to Scale
05/01/09

File # 09_113955

JARVIS STREET
(OPENED FROM QUEEN STREET TO BLOOR STREET BY CITY IN 1848)
(ASSUMED AS METROPOLITAN TORONTO ROAD BY BY-LAW NO 31)
PLAN 2197 - 1946



File # 09_113955

Plan of Survey

Applicant's Submitted Drawing

Not to Scale
03/18/09

Attachment 3: Draft Plan Approval Conditions

- (1) The owner shall provide to the Director of Community Planning, Toronto and East 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 Toronto and East 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 walkway, lighting, water distribution, sanitary or storm water 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 Toronto and East 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 9, 10, 11, 12 and 13 as identified on the Draft R-Plan prepared by C. E. Dotterhill Limited and date stamped May 13, 2009.

Attachment 4: Application Data Sheet

Application Type	Common Elements Condominium and Part Lot Control Exemption	Application Numbers:	09 113955 STE 27 CD 09 117773 STE 27 PL
Details	Common Elements	Application Date:	March 4, 2009 (CD) April 2, 2009 (PL)

Municipal Address: 346 JARVIS STREET

Location Description: PL D 17 PT LT2 **GRID S2710

Project Description: Applications propose a Common Elements Condominium consisting of a common private walkway and exemption from Part Lot Control for the purpose of creating six separate townhouse lots for conveyance.

Applicant:

Norma Walton, Walton
Advocates30 Hazelton Ave.
Toronto ON, M5R 2E2

Agent:

Architect:

Owner:

1780355 Ontario Inc.
30 Hazelton Ave.
Toronto ON, M5R 2E2

PLANNING CONTROLS

Official Plan	Apartment Neighbourhood	Site Specific Provision:	425-93
Designation:		Historical Status:	
Zoning:	R3 Z2.0	Site Plan Control Area:	Y
Height Limit (m):	30		

PROJECT INFORMATION

Site Area (sq. m):	467.2	Height:	Storeys: 3
Frontage (m):	8.83		Metres: 13.2
Depth (m):	51.8		
Total Ground Floor Area (sq. m):	229.47		Total
Total Residential GFA (sq. m):	1078.4	Parking Spaces:	6
Total Non-Residential GFA (sq. m):	0	Loading Docks	0
Total GFA (sq. m):	1078.4		
Lot Coverage Ratio (%):	49.1		
Floor Space Index:	2.31		

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Freehold		
		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	1078.4
Bachelor:	0	Retail GFA (sq. m):	0
1 Bedroom:	0	Office GFA (sq. m):	0
2 Bedroom:	0	Industrial GFA (sq. m):	0
3 + Bedroom:	6	Institutional/Other GFA (sq. m):	0
Total Units:	6		

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