

16 to 20 Kimberley Ave – Part Lot Control Application – Final Report

Date:	May 13, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 32 – Beaches-East York
Reference Number:	09-128521 STE 32 PL

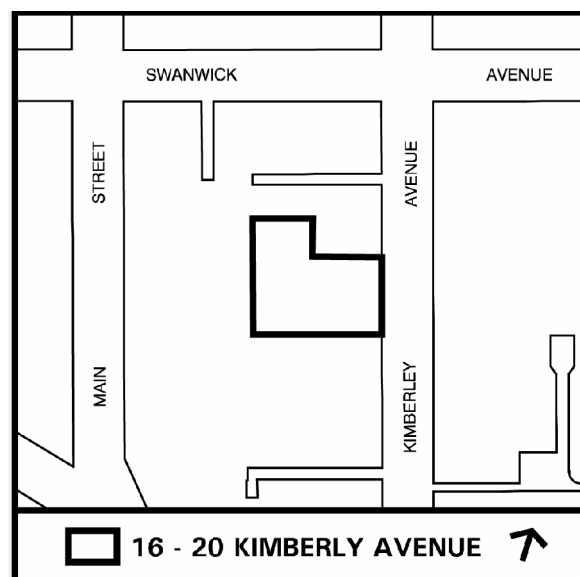
SUMMARY

The application for Part Lot Control Exemption was made on or after January 1, 2007 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

An application has been submitted to permit exemption from part lot control for the properties known as 16 to 20 Kimberley Avenue.

The requested exemption from the Part Lot Control provisions of the Planning Act is required in order to permit the creation of 7 separate conveyable townhouse lots. 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 Part Lot Exemption.



RECOMMENDATIONS

The City Planning Division recommends that:

1. 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;
2. 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;
3. 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;
4. 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;
5. 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; and
6. 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, which is currently under construction, was subject of a Rezoning application that was approved by City Council by the passing of By-law 169-2006 on February 14, 2006. The development was also subject to Site Plan Approval and there is a Site Plan Agreement registered on the title of the property, to ensure that the project is developed in accordance with the plans approved by the City.

ISSUE BACKGROUND

Proposal

The application seeks exemption from part lot control in order to enable the division of land to create parcels conveyable as separate ownerships for 7 townhouses and two detached houses.

Site and Surrounding Area

The site is located on the west side of Kimberley Avenue, mid-block between Lyall Avenue and Swanwick Avenue.

The site is bounded by single detached homes on the east, north and south. A 3-storey nursing home is located to the west, fronting onto Main Street.

Official Plan

The subject property is designated as Neighbourhoods in the City of Toronto Official Plan. These areas are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes and townhouses, as well as interspersed walk-up apartments that are no higher than four storeys.

Zoning

The site is subject to site specific zoning by-law 169-2006 that permits the development of the 7 row houses and 2 detached dwellings which are currently under construction on the site.

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 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

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ATTACHMENTS

Attachment 1: Plan of Survey

This is a registered plan of a residential property located at Kimberley Avenue. The plan shows a series of lots (1-13) and various parts of the property (PART 1 through PART 11). A 2-storey brick dwelling is shown on the right side of the plan, with a frame garage and a board fence. The plan includes dimensions, bearings, and area calculations. Key features include:

- LOT 13** (leftmost lot) with a width of 16.89m and a depth of 2.10m.
- LOT 12** (middle lot) with a width of 16.89m and a depth of 5.72m.
- LOT 11** (rightmost lot) with a width of 16.89m and a depth of 6.01m.
- PART 1** (top part of LOT 11) with a width of 16.89m and a depth of 6.01m.
- PART 2** (middle part of LOT 11) with a width of 16.89m and a depth of 6.01m.
- PART 3** (bottom part of LOT 11) with a width of 16.89m and a depth of 6.01m.
- PART 4** (top part of LOT 12) with a width of 16.89m and a depth of 5.72m.
- PART 5** (middle part of LOT 12) with a width of 16.89m and a depth of 5.72m.
- PART 6** (bottom part of LOT 12) with a width of 16.89m and a depth of 5.72m.
- PART 7** (top part of LOT 13) with a width of 16.89m and a depth of 5.72m.
- PART 8** (middle part of LOT 13) with a width of 16.89m and a depth of 5.72m.
- PART 9** (bottom part of LOT 13) with a width of 16.89m and a depth of 5.72m.
- PART 10** (top part of LOT 11) with a width of 16.89m and a depth of 6.01m.
- PART 11** (bottom part of LOT 11) with a width of 16.89m and a depth of 6.01m.
- 2-STOREY BRICK DWELLING** (on the right side of the plan) with a width of 16.89m and a depth of 6.01m.
- FRAME GARAGE** (adjacent to the dwelling) with a width of 16.89m and a depth of 6.01m.
- BOARD FENCE** (along the boundary between LOT 12 and LOT 11) with a width of 16.89m and a depth of 6.01m.
- AREA CALCULATIONS** (in the center of the plan) showing a total area of 10.00m² and a sub-area of 4.14m².
- BEARINGS AND DIMENSIONS** (along the boundaries) including N 73°11'40"E, N 73°09'00"E, N 16°51'00"W, and N 28°05'00"E.
- REGISTERED PLAN** (text on the right side of the plan) indicating the plan is registered.
- KIMBERLEY AVENUE** (text at the bottom of the plan) indicating the street name.
- (FORMERLY MARY STREET BY REGISTERED PLAN 635)** (text at the bottom of the plan) indicating the former name of the street.
- P. I. N. 21012-0263** (text at the bottom of the plan) indicating the plan number.
- P. I. N. 21012-0264** (text at the bottom of the plan) indicating the plan number.
- P. I. N. 21012-0268** (text at the bottom of the plan) indicating the plan number.
- P. I. N. 21012-0287** (text at the bottom of the plan) indicating the plan number.

File # 09 128521