

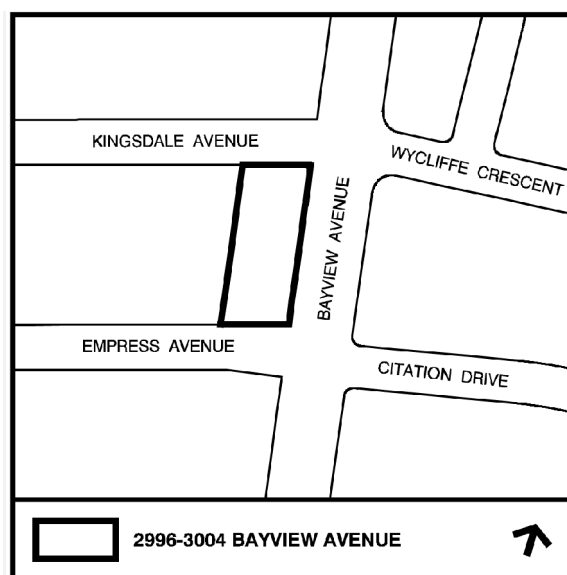
2996 – 3004 Bayview Ave–Common Elements Condominium and Part Lot Control Exemption – Final Report

Date:	December 8, 2009
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 23 – Willowdale
Reference Number:	09 137696 NNY 23 PL and 09 138937 NNY 23 CD

SUMMARY

These applications were made on May 19, 2009 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 require that a statutory public meeting be held.

The application for a common elements condominium proposes a common driveway on lands known municipally as 2996 – 3004 Bayview Avenue, located on the west side of Bayview Avenue, between Empress Avenue and Kingsdale Avenue. The common elements condominium is required to provide legal vehicular access to fourteen 3-storey residential townhouse units and to ensure shared ownership and maintenance of the driveway by the condominium corporation. The application also includes the balconies that extend over the driveway as part of the common



element condominium but they will be for the exclusive use of the adjoining unit.

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 the 14 residential townhouses along Bayview Avenue.

This report reviews and recommends approval of the Draft Plan of Common Elements Condominium and approval of the application for Part Lot Control exemption. 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 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 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 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 two 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 provides proof of payment to the satisfaction of the City Solicitor of all tax arrears and current property taxes for the subject site; 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 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 January 4, 2008, the Ontario Municipal Board issued Decision No. PL070494, approving the rezoning and site plan control applications to permit fourteen 3-storey townhouses and 2 single detached dwellings at 2996-3004 Bayview Avenue.

In August 2008, Committee of Adjustment granted consent to sever the subject lands into three parts: 2 single detached dwelling lots fronting onto Kingsdale and Empress Avenue respectively, and one lot fronting Bayview Avenue to contain the fourteen townhouse units.

ISSUE BACKGROUND

Proposal

The applicant consolidated 5 single lots known municipally as 2996 – 3004 Bayview Avenue and obtained approval for a redevelopment consisting of fourteen 3-storey townhouses fronting onto Bayview Avenue, and two single detached dwellings with one dwelling fronting Empress Avenue, and the second dwelling fronting Kingsdale Avenue.

The townhouse units will be served by a private common element driveway providing vehicular access to garages located at the rear of each unit. The single family dwellings will have their own separate access, and will not form part of the common elements condominium.

The balconies at the rear of the townhouse units form part of the support structures over the common driveway, and therefore will be common element with mutually exclusive use for the adjoining unit.

Site and Surrounding Area

The subject lands are located on the west side of Bayview Avenue, between Empress Avenue and Kingsdale Avenue. The site has a frontage of approximately 76 metres and a combined area of 2,600 m².

Abutting uses are as follows:

North: Empress Parkette, single detached dwellings;

South: single detached dwellings. Further to the south is Bayview Village Park;

East: single detached dwellings; and

West: single detached dwellings.

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. City Planning staff are satisfied that the proposal is consistent with the Provincial Policy Statement and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The subject lands are designated as "*Neighbourhoods*" under the Official Plan. *Neighbourhoods* are considered physically stable areas made up of residential uses in lower scale buildings such as single and semi-detached dwellings, townhouses and interspersed walk-up apartments that are no higher than four storeys. Parks, low scale institutions, home occupations, cultural and recreational facilities and small-scale retail, service and office uses are also provided for in *Neighbourhoods*.

The Official Plan policies states that development in *Neighbourhoods* will respect and reinforce the existing physical character of the neighbourhood. The Plan also states that no changes will be made through rezoning that are out of keeping with the neighbourhood.

Zoning

The subject lands are zoned Multiple-Family Dwellings First Density Zone RM1(74) through site specific Zoning By-law 253-2008.

The development presently under construction complies with this zoning.

Site Plan Control

The site plan control application for this development was approved by the Ontario Municipal Board and the Site Plan Agreement was registered on April 10, 2008.

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 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 consists of Part of Lots 116, 117 and 118 and Part of Lane of Registered Plan 1751, and Part of Lots 393, 394 and 395 and Part of Lane, Registered Plan 1790. 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 14 townhouse lots and two single detached building lots.

To ensure that 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 draft plan of Common Elements Condominium for the site is appropriate as the proposal conforms with the Official Plan and complies with the Zoning By-law, and is consistent with the approved Site Plan Control Application. Upon review by all pertinent City Divisions and external agencies, no adverse impacts are anticipated to

result from this request. As such, the exemption from Part Lot Control and the proposed draft plan of Common Elements Condominium are considered appropriate for the orderly development of the property and are recommended for approval.

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 Approval Conditions

Attachment 3: Application Data Sheet

2996 - 3004 Bayview Avenue

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File # 09 138937

Attachment 2: Draft Plan 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 Revenue Services, 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) 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 DATA SHEET

Application Type	Part Lot Control Exemption	Application Number:	09 137696 NNY 23 PL
Details		Application Date:	May 13, 2009

Municipal Address:	2996 BAYVIEW AVE
Location Description:	PLAN 1751 LOT 116 PT LANE RP 64R12052 PART 1 **GRID N2304
Project Description:	

Applicant:	Agent:	Architect:	Owner:
BABAK AMID			KINGSDALE BAYVIEW ESTATES LIMITED

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	
Zoning:	R4	Historical Status:	
Height Limit (m):	8.8	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	2600	Height:	Storeys:	3
Frontage (m):	76.45		Metres:	8.8
Depth (m):	31.46			
Total Ground Floor Area (sq. m):	1305.52			Total
Total Residential GFA (sq. m):	3779.58		Parking Spaces:	32
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	3779.58			
Lot Coverage Ratio (%):	50.2			
Floor Space Index:	1.45			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Freehold		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	3779.58	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:	16	Institutional/Other GFA (sq. m):	0	0
Total Units:	16			

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