

4442-4450 Bathurst Street–Common Elements Condominium and Part Lot Control Exemption Applications– Final Report

Date:	May 23, 2010
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 10 – York Centre
Reference Number:	10 119929 NNY 10 CD and 10 119916 NNY 10 PL

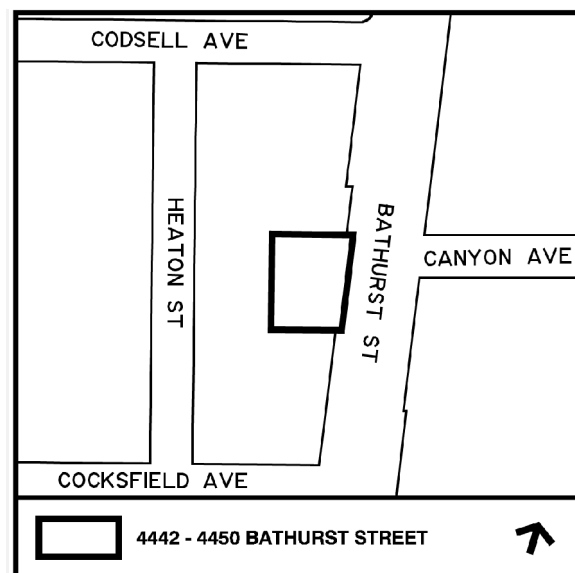
SUMMARY

These applications were made on February 18, 2010 and are subject to the new provisions of the *Planning Act* and the *City of Toronto Act*, 2006. The 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 municipally known as 4442 - 4450 Bathurst Street, located on the west side of Bathurst Street, north of Sheppard Avenue West. The common elements condominium is required to provide legal vehicular access to eight, 3-storey residential townhouse units and to ensure shared ownership and maintenance of the driveway 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 the eight townhouse units.

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



RECOMMENDATIONS

The City Planning Division recommends that:

1. In accordance with the delegated approval under By-law 229-2000, as amended, 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 to expire two years following enactment by City Council.
3. City Council require the owner to provide proof of payment of all current property taxes for the subject lands to the satisfaction of the City Solicitor, prior to the 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 or mortgage any part of the lands without the written consent of the Chief Planner or his designate.
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 has been registered.
6. City Council authorize and direct the City Solicitor to register the Part Lot Control Exemption By-law on title.
7. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Part Lot Control Exemption By-law as may be required.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

On September 27, 2006, Toronto City Council enacted Zoning By-law No. 847-2006 approving the application to permit nine, 3-storey residential townhouses with detached garages at 4442-4450 Bathurst Street. The report on this application can be accessed via the following link:

<http://www.toronto.ca/legdocs/2006/agendas/committees/ny/ny060913/it082.pdf>

ISSUE BACKGROUND

Proposal

The applicant has received site plan approval for eight, 3-storey (10.65 metres) townhouse units with integral garages. Each lot would have a frontage ranging from 4.43 metres to 4.87 metres. The gross floor area for the dwelling units range from 187 m² to 213 m². Overall gross floor area for the development is 1,572 m² resulting in a Floor Space Index of 1.04.

There will be a total of 18 parking spaces for the complex. An integral garage and a surface parking space will be provided at the rear of each townhouse unit. Two surface parking spaces will be provided at the rear of the complex to accommodate visitor parking. Access to the parking at the rear of each townhouse unit and visitor parking area will be from a mutual driveway located at the north and west ends of the site.

Site and Surrounding Area

The site is located on the west side of Bathurst Street, north of Sheppard Avenue West. The site is an assembly of three lots with a combined frontage of 46 metres and an overall area of 1,504 m².

Development in the vicinity of the site can be described as follows:

- North:* Single detached dwellings fronting on Bathurst Street;
- South:* Five-storey office building and further south on Bathurst Street is a commercial strip plaza at Bathurst Street and Sheppard Avenue West;
- East:* High-rise apartment buildings fronting on Bathurst Street; 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.

Official Plan

The Official Plan designates the subject site *Neighbourhoods*. *Neighbourhoods* are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes, townhouses and interspersed walk-up apartment buildings. Policy 4.1.5 states that development in the *Neighbourhoods* designation will respect and reinforce the physical patterns and character of established neighbourhoods with particular regard to size and configuration of lots, heights, massing, scale and type of dwelling units, prevailing building types and setbacks.

Zoning

The subject lands are zoned Multiple-Family Dwellings First Density Zone RM1(69) through the enactment of Zoning By-law No. 847-2006. This zoning permits a maximum of 9 townhouses with accessory structures and a maximum height of 10.65 metres.

Site Plan Control

On May 20, 2009, Site Plan Control approval was issued approving the revised plans for eight, 3-storey residential townhouse units with integral garages.

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 consists of lands 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 previously approved by City Council.

To ensure the creation of the Common Elements Condominium Corporation is completed and registered before the lots are conveyed, it is recommended 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 his 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.

Before the Common Elements Condominium is released for registration, the Part Lot Exemption By-law must be enacted in order to create the legal descriptions for each of the parcels of tied lands (the “POTLS”). The Section 118 Restriction is used to prevent the conveyance of the POTLS to the public until the common elements condominium is registered.

To ensure the Part Lot Control Exemption does not remain indefinitely, it is recommended that the exempting By-law expire two years after being enacted. This provides sufficient time for the completion of the proposed development.

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. Approval of the applications is consistent with the PPS and would conform with the Growth Plan for the Greater Golden Horseshoe. As such, the exemption from Part Lot Control and proposed Draft Plan of Common Elements Condominium are considered appropriate for the orderly development of the property and are recommended for approval.

CONTACT

Jenny Choi, Assistant Planner
Tel. No. (416) 395-7176
Fax No. (416) 395-7155
E-mail: jchoi@toronto.ca

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

File # 10 119916

Attachment 2: Draft Plan of Common Elements Condominium 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, 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 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) Visitors parking spaces will be clearly delineated on the condominium plan to be registered.
- (6) 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:	10 119916 NNY 10 PL
Details		Application Date:	February 18, 2010

Municipal Address:	4442-4450 BATHURST ST
Location Description:	PLAN 2064 LOT 5 **GRID N1003
Project Description:	Part Lot Control exemption to create 8 Freehold Common Elements townhouse lots into separate ownership.

Applicant:	Agent:	Architect:	Owner:
SASHA MILENOV			NINA MIRONOVA

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	
Zoning:	RM1(69)	Historical Status:	
Height Limit (m):	10.65	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	1504.31	Height:	Storeys:	3	
Frontage (m):	45.9		Metres:	10.21	
Depth (m):	35.43				
Total Ground Floor Area (sq. m):	524.14				Total
Total Residential GFA (sq. m):	1572.42		Parking Spaces:	18	
Total Non-Residential GFA (sq. m):	0		Loading Docks	0	
Total GFA (sq. m):	1572.42				
Lot Coverage Ratio (%):	34.84				
Floor Space Index:	1.04				

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Freehold		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	1572.42	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:	8	Institutional/Other GFA (sq. m):	0	0
Total Units:	8			

CONTACT:	PLANNER NAME:	Jenny Choi, Assistant Planner
	TELEPHONE:	(416) 395-7176