

742-744 Kennedy Road – Common Elements Condominium and Part Lot Control Applications – Final Report

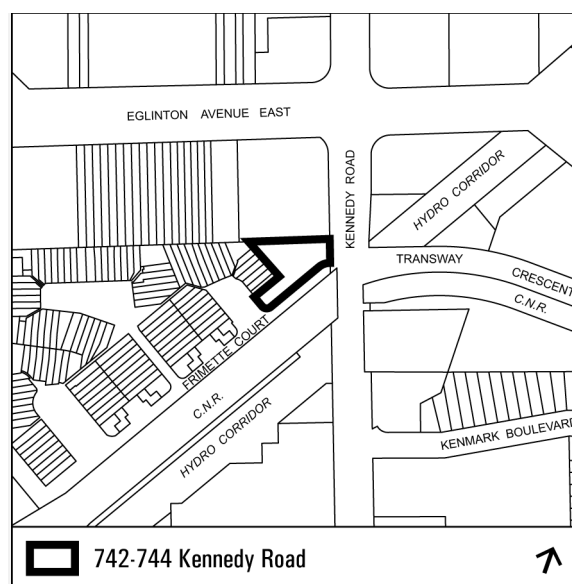
Date:	December 30, 2009
To:	Scarborough Community Council
From:	Director, Community Planning, Scarborough District
Wards:	Ward 35 – Scarborough Southwest
Reference Number:	09 182756 ESC 35 CD & 09 176264 ESC 35 PL

SUMMARY

These applications were made after January 1, 2007 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 public meeting be held.

The application for a common elements condominium proposes a common driveway on lands known municipally as 742-744 Kennedy Road, located on the west side of Kennedy Road south of Eglinton Avenue and in close proximity to the Kennedy Subway Station. The common elements condominium is required to provide shared vehicular access and other amenities for two semi-detached and seven townhouse units recently constructed on this site, and to ensure shared ownership and maintenance of the common elements 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 nine units intended for freehold ownership.



This report reviews and recommends approval of the draft plan of common elements condominium and approval of the application for part lot control exemption. 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. In addition, this report recommends that a part lot control exemption by-law be enacted for a period of two years.

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 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

The subject lands previously comprised part of 740 Kennedy Road to the rear, which had been developed with 110 rental townhouse units in the 1950's. In 1999, the owner proposed a plan of subdivision to enable conversion of the rental units to freehold ownership, the construction of 20 new townhouses and creation of a common element parcel to provide for access, parking and pedestrian connections.

The subdivision application was approved by City Council on July 27 to 30, 1999. As the proposal was also being exempted from the City's rental housing conversion policies and restrictions in place at the time, a condition was added to the approval requiring the owner to construct a 27-unit affordable rental apartment building on the subject lands (known as Block 131). The subdivision agreement was registered in 2001.

The owner subsequently requested that the subdivision agreement be amended to delete the requirement to provide a 27-unit apartment building, and also filed Site Plan Control Application No. 05 144956 ESC 35 SA for the subject 9 dwelling units. On May 23, 24 and 25, 2006, City Council considered a Request for Direction report in this regard dated April 20, 2006 from the Director, Community Planning, Scarborough District. Council adopted the recommendations of Scarborough Community Council and authorized that the agreement be so amended, subject to the owner providing \$50,000 to the City for affordable housing purposes. The required payment was submitted, and the amended subdivision agreement was registered on May 4, 2009.

ISSUE BACKGROUND

Proposal

The recently constructed development consists of two townhouse units facing Kennedy Road, five adjacent townhouses facing the main access driveway shared with the above-noted townhouse common elements condominium to the rear, and two semi-detached dwellings on the south-westerly extension of Block 131. An easement established through the 2001 subdivision provides for vehicular access to the site via the shared driveway from Kennedy Road. All but the three easterly units will have integral garages for resident parking. Three parking spaces for exclusive use by the three easterly units and one visitor parking space are provided within the common element access driveway.

As illustrated on Attachment 1, the common element overall will consist of Parts 5 and 6 (the access driveway and parking area as noted above), together with Parts 2, 4, 7, 10, 13, 16, 19, 22 and 25 along the main shared access driveway for pedestrian sidewalk and buried utility purposes. In this regard, all parts containing the sidewalk adjacent to the main shared access driveway (as shaded on Attachment 1) will also be subject to a pedestrian easement for the benefit of residents and visitors from the adjacent townhouse common elements condominium at 740 Kennedy Road. Refer to Attachment No. 3 for additional project data.

Site and Surrounding Area

The nine unit development is nearing completion on the previously vacant Block 131, which comprises approximately 1 813 hectares (0.45 acres). To the west is the above noted common elements townhouse condominium, with Taylor-Massey Creek beyond. To the south is the C.N. Rail/Subway right-of-way. To the north is a commercial strip plaza on Eglinton Avenue, with an office building and the Kennedy Subway station to the east.

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. 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 Neighbourhoods, which provides for the housing development form constructed on the site.

Zoning

The subject site is zoned Multiple Family Residential (M) in the Ionview Community Zoning By-law No. 9089 (as amended), which permits townhouse and semi-detached

dwellings. The development as constructed complies with all zoning requirements.

Site Plan Control

The site plan agreement was registered on August 4, 2009 and the Final Statement of Approval was issued by the Director, Community Planning, Scarborough District on August 12, 2009.

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 Block 131, Registered Plan 66M-2361. 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 seven townhouse and two semi-detached parcels.

To ensure that the common elements condominium corporation is created 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

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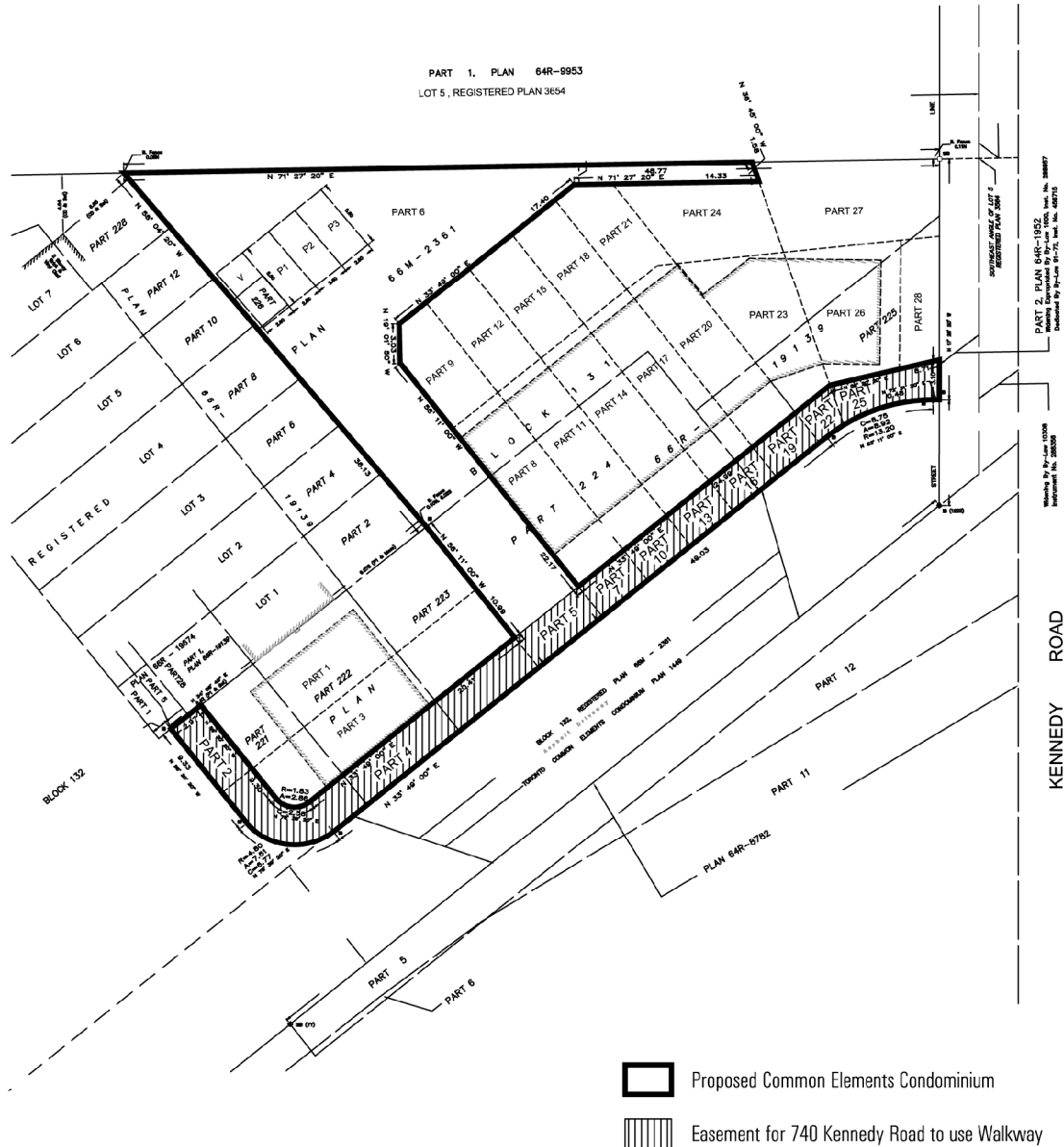
ATTACHMENTS

Attachment 1: Draft Plan of Common Elements Condominium

Attachment 2: Draft Plan Approval Conditions

Attachment 3: Application Data Sheet

Attachment 1: Draft Plan of Common Elements Condominium



Draft Plan of Common Elements Condominium

Applicant's Submitted Drawing

742 Kennedy Road

Not to Scale
1/6/10



File # 09-182756 CD

Attachment 2: Draft Plan Approval Conditions

- (1) The owner shall provide to the Director Community Planning, Scarborough 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, Scarborough 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 and exclusive use parking spaces will be clearly delineated within the common element on the condominium plan to be registered. The declaration shall contain a clause clearly specifying that the visitor parking space shall form part of the common elements and neither be used by or sold to unit owners or be considered part of the exclusive use portions of the common elements.
- (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 Type	Common Elements Condominium	Application Number:	09 182756 ESC 35 CD
Details	Part Lot Control Exemption	Application Date:	09 176264 ESC 35 PL Oct. 6 and 27, 2009

Municipal Address:	744 KENNEDY RD
Location Description:	CON C PT LOT 29 CON C E160FT TRI **GRID E3503
Project Description:	PART LOT CONTROL EXEMPTION TO CREATE LAND PARCELS FOR 7 TOWNHOUSES, 2 SEMI-DETACHED UNITS AND CONDOMINIUM COMMON ELEMENTS.

Applicant:	Agent:	Architect:	Owner:
VARDA JOURDAN			KENNEDY BIRCH PROPERTIES INC.

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	
Zoning:	M-Multiple Family Residential	Historical Status:	
Height Limit (m):		Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	1813	Height:	Storeys:	3
Frontage (m):	18.72		Metres:	9.3
Depth (m):	0			
Total Ground Floor Area (sq. m):	476			Total
Total Residential GFA (sq. m):	1245		Parking Spaces:	10
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	1245			
Lot Coverage Ratio (%):	24			
Floor Space Index:	0.7			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Freehold		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	1245	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:	9	Institutional/Other GFA (sq. m):	0	0
Total Units:	9			

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