

## 3360 Kingston Road – Common Elements Condominium Application and Part Lot Control Exemption Application – Final Report

|                          |  |
|--------------------------|--|
| <b>Date:</b>             | January 31, 2014                                   |
| <b>To:</b>               | Scarborough Community Council                      |
| <b>From:</b>             | Director, Community Planning, Scarborough District |
| <b>Wards:</b>            | Ward 36 – Scarborough Southwest                    |
| <b>Reference Number:</b> | 11 260587 ESC 36 CD and 13 104375 ESC 36 PL        |

### SUMMARY

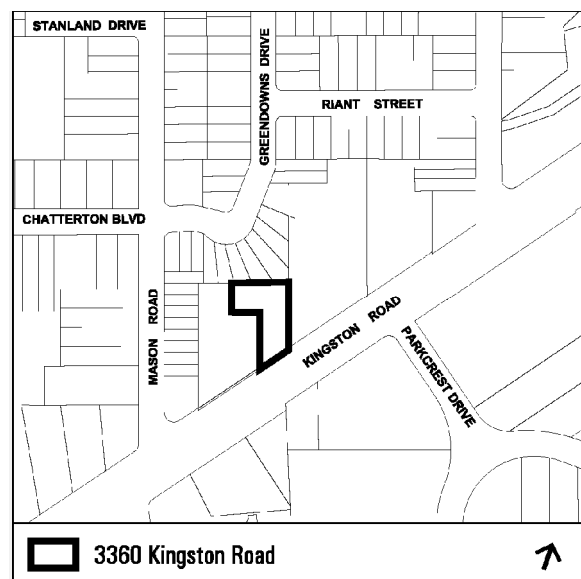
These applications were made after January 1, 2007 and are subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

The draft plan of Common Element Condominium application (11 260587 ESC 36 CD) is required to provide legal access to the ten (10) approved townhouse units and to ensure shared ownership and maintenance of private driveways, walkways, visitor parking spaces and landscaped areas by the condominium corporation.

The Part Lot Control Exemption application (13 104195 ESC 36 PL) is required to create ten (10) separate, conveyable townhouse parcels within two (2) townhouse blocks on the subject property.

The development is currently under construction.

This report reviews and recommends approval of the Draft Plan of Common Elements Condominium and the Part Lot Control applications. 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 her designate.

## **RECOMMENDATIONS**

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### **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 for the lands at 3360 Kingston Road, as generally illustrated on Attachment 1 to report dated January 31, 2014, subject to:
  - (a) the conditions as generally listed in Attachment 2 to report dated January 31, 2014, 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 at 3360 Kingston Road as generally illustrated on Attachment 3 to report dated January 31, 2014, 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. Prior to the introduction of the Part Lot Control Exemption Bill, 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 charge any part of the lands without the written consent of the Chief Planner or his designate.
5. Prior to the introduction of the Part Lot Control Exemption Bill, City Council shall require the owner to provide, to the satisfaction of the City Solicitor, proof that consent application B052/13SC has provided the necessary reciprocal easements for vehicular and pedestrian access.
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 has been registered.

7. City Council authorize and direct the City Solicitor to register the Part Lot Control Exemption By-law on title.
8. 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**

At their meeting of July 13, 2012, City Council adopted By-law No. 990-2012 <http://www.toronto.ca/legdocs/bylaws/2012/law0990.pdf>, an amendment to the Scarborough Village Community Zoning By-law for the lands at 3360 Kingston Road. This by-law rezoned the subject lands from Highway Commercial (HC) to Multiple Family Residential (M) subject to the removal of a Holding Provision (H). Until the (H) is removed, the existing "HC" uses remain in effect for the lands.

At their meeting of June 13, 2013, City Council adopted By-law 775-2013, <http://www.toronto.ca/legdocs/bylaws/2013/law0775.pdf>, which further amended the Scarborough Village Community Zoning By-law for the lands at 3360 Kingston Road to remove the Holding Provision (H) from the lands. The lands are now zoned Multiple Family Residential (M).

The subject lands are subject to site plan control. The Notice of Approval Conditions (NOAC), which is a conditional approval, was issued on March 13, 2013 for the proposed development. The applicant has now entered into a Site Plan Agreement with the City, the document will be registered on title for the lands once confirmation that all required reciprocal easements are in place has been received.

### **ISSUE BACKGROUND**

#### **Proposal**

This development, currently under construction, is for 10 three-storey townhouses of 10.5 metres in height. The townhouses are arranged in two blocks; one block is located along the Kingston Road frontage and contains three units, and the second block is located along the northern portion of the property and contains seven units. Each of the proposed townhouses would have a single private garage, and access from Kingston Road is via an internal private driveway.

The proposed driveway is 8.0 metres in width along the north part of the site, and then tapers to 4.45 metres in width closest to Kingston Road. The connection onto Kingston Road is intended to function as a one-way, right-out exit. The driveway will connect with the driveway which services the lands immediately west of the subject lands, which form part of Toronto Common Element Condominium Plan No. 2206. This driveway connection will result in the relocation of two visitor parking spaces from the adjacent

lands onto the subject lands. A total of four visitor parking spaces are provided, two of which are for the exclusive use of the lands immediately west of this site.

The site is proposed to be developed as a common element condominium, where each of the ten townhouses would eventually form freehold parcels of tied lands associated with a common element that would be comprised of the private drive servicing the development, walkway, landscaped areas and the visitor parking spaces.

Servicing connections are also proposed to be made through the Phase One development. Reciprocal easements between the owner(s) at 3354 Kingston Road and the subject lands for both the servicing, access connections and to allow for the use of the relocated visitor parking spaces have been provided to the satisfaction of City staff. Minor revisions to existing easements were subsequently required, and conditional approval has been granted under consent application B052/13SC. The owners are in the process of clearing conditions of approval and registering the revisions to the easements on title.

## **Site and Surrounding Area**

This irregularly shaped site (forming an inverted "L" shape) is approximately 0.187 hectares in area, with a frontage on the north side of Kingston Road of 27.54 metres and a depth of 51.71 metres. The site slopes away from Kingston Road and is lowest in the north. The site was used as a car repair garage which included auto body repair, with vehicular access from Kingston Road.

North of the site are two-storey single family residential dwellings along Greendowns Drive. The nineteen-unit, three-storey "Guildwood on the Park" Phase One development is located to the west of the site (3354 Kingston Road). These units will form Phase Two of the "Guildwood on the Park" development. To the east is a mid-rise, six-storey apartment building. To the south is Kingston Road, beyond which is an apartment building to the south-east and a commercial plaza to the south-west.

## **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.

The proposal conforms and does not conflict with these plans.

## **Official Plan**

The site is designated *Mixed Use Areas* by the Official Plan. *Mixed Use Areas* are made up of a broad range of commercial, residential and institutional uses, in single or mixed-use buildings, as well as parks, open spaces and utilities. Kingston Road is identified as an "Avenue" by the Official Plan.

Development in *Mixed Use Areas* along an Avenue is to support and promote transit usage, contribute to the range of housing options available in the community and contribute to a positive pedestrian environment. While Avenues are one of the areas within the City intended to accommodate reurbanization and growth, such must occur in a way that supports the existing and/or planned context and provides appropriate transition to designated *Neighbourhoods*, such as those which exist to the immediate north of this site.

## **Zoning**

The site is zoned Multiple Family Residential (M) which permits a variety of residential uses including single-family dwellings, two-family dwellings, multiple-family dwellings, as well as day nurseries, nursing homes and other similar uses.

## **Site Plan Control**

The subject lands are subject to site plan control. The Notice of Approval Conditions (NOAC), which is a conditional approval, was issued on March 13, 2013 for the proposed development. The applicant has now entered into a Site Plan Agreement with the City, the document will be registered on title for the lands once confirmation that all required reciprocal easements are in place has been received.

## **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**

A central storage area for waste and recycling materials is not part of this proposal. As such, refuse and recycling bins are to be stored in the integrated garages for the ten (10) townhouse units. Staff recommend that a clause in the condominium declaration be added to require that the outdoor storage of the waste and recycling bins be prohibited on the common element driveway. Staff are also recommending that a similar clause be added to

the condominium declaration prohibiting parking at all times on the private driveway in order to allow proper operations of waste/recycling trucks into and out of the site.

The application for a draft plan of common element condominium is necessary to provide legal access to the townhouse units and ensure shared ownership and maintenance of the driveway; 4 visitor parking spaces; walkways and landscaped areas by the condominium corporation.

## **Land Division**

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 Part Lot Control Exemption does not remain open indefinitely, it is recommended that the By-law contain an expiration date. In this case, the By-law should expire two years following enactment by City Council. This time frame provides sufficient time for the completion of the proposed development.

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. 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 release the Section 118 Restriction from the title of the lands thus allowing the lots to be conveyed.

The proposed Draft Plan of Common Elements Condominium and the exemption from Part Lot Control are considered appropriate for the orderly development of the lands and are recommended for approval.

## **CONTACT**

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## **SIGNATURE**

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Raymond David, Director  
Community Planning, Scarborough District

## **ATTACHMENTS**

Attachment 1: Draft Plan of Common Elements Condominium

Attachment 2: Draft Plan Approval Conditions

Attachment 3: Part Lot Control Exemption Plan

Attachment 4: Application Data Sheet

[illegible]

File # 11 260587 ESC 36 CD & 13 104375 ESC 36 PL



## **Attachment 2: Draft Plan Approval Conditions**

- (1) The owner shall provide to the Director of Community Planning, Scarborough District, confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department, City of Toronto (statement of account or Tax Clearance Certificate) and that there are no outstanding City initiated assessment or tax appeals made pursuant to section 40 of the Assessment Act or the provisions of the City of Toronto Act, 2006. In the event that there is an outstanding City initiated assessment or tax appeal, the Owner shall enter into a financially secured agreement with the City satisfactory to the City Solicitor to secure payment of property taxes in the event the City is successful with the appeal.
- (2) 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.
- (3) 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.
- (4) Visitors parking spaces will be clearly delineated on the condominium plan to be registered.
- (5) The Declaration and Description shall contain wording, to the satisfaction of the Director of Community Planning, Scarborough District, advising future owners of the requirements that:
  - (i) All owners and future tenants/purchasers acknowledge and agree that snow removal and the ownership and maintenance of private driveways shall remain the sole responsibility of the condominium corporation and the City of Toronto will not own, operate or maintain any common element facilities including private roads and services and will retain no future liability within private driveways with the exception of water and sewer within the City easement.

- (ii) All owners and future tenants/purchasers acknowledge and agree to maintain the private driveway as unobstructed at all times to ensure safe operations within this development.
  - (iii) All owners and future tenants/purchasers acknowledge and agree that in the event of insufficient on-site snow storage, contracting for private snow removal from the site, shall remain the sole responsibility of the condominium corporation.
  - (iv) All owners and future tenants/purchasers acknowledge and agree that the maintenance of the common element areas within shall remain the sole responsibility of the condominium corporation.
  - (v) All owners and future tenants/purchasers acknowledge and agree that outdoor storage refuse materials, recycling materials, refuse containers and recycling containers within all common element condominium areas is strictly prohibited and that enforcement of these outdoor storage restrictions shall remain the sole responsibility of the condominium corporation.
  - (vi) All owners and future tenants/purchasers acknowledge and agree that refuse containers and recycling containers shall not be stored outside of the dwelling units/buildings.
- (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.

## Schedule '1'



**3360 Kingston Road**

11

## Scarborough Village Community Bylaws

**Not to Scale**

01/21/14

## Attachment 4: Application Data Sheet

|                  |                             |                     |   |
|------------------|-----------------------------|---------------------|---|
| Application Type | Common Element Condominium  | Application Number: | 11 260587 ESC 36 CD                           |
|                  | Approval & Part Lot Control |                     | 13 104375 ESC 36 PL                           |
| Details          |                             | Application Date:   | August 19, 2011 (CD)<br>January 11, 2013 (PL) |

|                       |  |
|-----------------------|--|
| Municipal Address:    | 3360 KINGSTON RD   |
| Location Description: | PLAN 1834 PT BLK Q **GRID E3606  |
| Project Description:  | Common element condominium application for driveway and 4 visitor parking spaces associated with 10 townhouse units. |

|                     |               |                   |  |
|---------------------|---------------|-------------------|--|
| <b>Applicant:</b>   | <b>Agent:</b> | <b>Architect:</b> | <b>Owner:</b>                                  |
| TUNNEY PLANNING INC |               |                   | MAINBRAM<br>SCARBOROUGH II<br>DEVELOPMENTS INC |

### PLANNING CONTROLS

|                            |                    |                           |
|----------------------------|--------------------|---------------------------|
| Official Plan Designation: | Mixed Use Areas    | Site Specific Provision:  |
| Zoning:                    | Highway Commercial | Historical Status:        |
| Height Limit (m):          |                    | Site Plan Control Area: Y |

### PROJECT INFORMATION

|                                    |         |         |                 |              |
|------------------------------------|---------|---------|-----------------|--------------|
| Site Area (sq. m):                 | 1875.68 | Height: | Storeys:        | 3            |
| Frontage (m):                      | 27.54   |         | Metres:         | 10.5         |
| Depth (m):                         | 51.71   |         |                 |              |
| Total Ground Floor Area (sq. m):   | 580.71  |         |                 | <b>Total</b> |
| Total Residential GFA (sq. m):     | 1458.62 |         | Parking Spaces: | 20           |
| Total Non-Residential GFA (sq. m): | 0       |         | Loading Docks   | 0            |
| Total GFA (sq. m):                 | 1458.62 |         |                 |              |
| Lot Coverage Ratio (%):            | 31      |         |                 |              |
| Floor Space Index:                 | 0.78    |         |                 |              |

### DWELLING UNITS

### FLOOR AREA BREAKDOWN (upon project completion)

|              |       |                                  |                    |                    |
|--------------|-------|----------------------------------|--------------------|--------------------|
| Tenure Type: | Condo |                                  | <b>Above Grade</b> | <b>Below Grade</b> |
| Rooms:       | 0     | Residential GFA (sq. m):         | 1458.62            | 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: | 10    | Institutional/Other GFA (sq. m): | 0                  | 0                  |
| Total Units: | 10    |                                  |                    |                    |

|                 |                      |                                      |
|-----------------|----------------------|--------------------------------------|
| <b>CONTACT:</b> | <b>PLANNER NAME:</b> | <b>Andrea Reaney, Senior Planner</b> |
|                 | <b>TELEPHONE:</b>    | <b>(416) 396-7023</b>                |