

# **2962A, 2962B, 2962C, 2966A, & 2966B Bayview Avenue – Draft Plan of Common Elements Condominium and Part Lot Control Exemption Application – Final Report**

Date: June 5, 2019

To: North York Community Council

From: Director, Community Planning, North York District

Wards: Ward 18 - Willowdale

**Planning Application Number:** 19 117833 NNY 18 CD and 19 117836 NNY 18 PL

## **SUMMARY**

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This application proposes to establish a rear drive aisle as a Common Elements Condominium at 2962A, 2962B, 2962C, 2966A, & 2966B Bayview Avenue. The Common Elements Condominium is required to provide legal pedestrian and vehicular access to five townhouses and to ensure shared ownership and maintenance of the common element rear drive aisle by the Common Elements Condominium corporation.

The requested exemption from the Part Lot Control provisions of the *Planning Act* is required to permit the creation of conveyable lots for the five residential townhouses fronting on Bayview Avenue, which will become the Parcels of Tied Land (POTLs) to the Common Elements Condominium.

The proposed development is consistent with the Provincial Policy Statement (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (2019). The lifting of Part Lot Control and the creation of the Common Elements Condominium is appropriate for the orderly development of these lands.

This report reviews and recommends approval of the Draft Plan of Common Elements Condominium and Part Lot Control Exemption By-law. In addition, this report recommends that the owner of the lands be required to register a Section 118 Restriction under the *Land Titles Act* against each POTL appurtenant to the Common Elements Condominium, whereby the owner agrees not to convey or mortgage any part of the POTLs without prior consent of the Chief Planner or his designate, which may be provided following registration of the Common Elements Condominium.

## **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 and Executive Director, City Planning intends to approve the Draft Plan of Common Elements Condominium, as generally illustrated on Attachment 2 to this report, subject to:

- a. the conditions, as generally listed in Attachment 3 to this report which, except as otherwise noted, must be fulfilled prior to the final approval and the release of the Plan of Condominium for registration;
- b. any such revisions to the proposed condominium plan or any such additional or modified conditions as the Chief Planner and Executive Director, City Planning may deem to be appropriate to address matters arising from the on-going technical review of this development; and
- c. draft plan approval not being issued until the necessary Bill(s) are in full force and effect.

2. City Council enact a Part Lot Control Exemption By-law with respect to the subject lands at 2962A, 2962B, 2962C, 2966A, & 2966B Bayview Avenue as generally illustrated on Attachment 4 to this report, 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 POTLs without the written consent of the Chief Planner or his/her designate.

5. City Council authorize the City Solicitor to take the necessary steps to release the Section 118 Restriction from title to the POTLs 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 to the POTL lands.

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**

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The recommendations in this report have no financial impact.

## **PROPOSAL**

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This application proposes to establish a rear drive aisle as the common element portion of a Common Elements Condominium at 2962A, 2962B, 2962C, 2966A, & 2966B Bayview Avenue to ensure shared access, ownership and maintenance of the common element drive aisle by the condominium corporation. The requested exemption from Part Lot Control of the Planning Act is required to permit the creation of conveyable lots for the 5 residential townhouses fronting Bayview Avenue.

The subject site consists of a townhouse development, currently under construction, located at the northwest corner of Bayview Avenue and Hillcrest Avenue, north of Sheppard Avenue East. The total development site has a frontage of 27 metres on Bayview Avenue and 24 metres on Hillcrest Avenue, and an area of 642 square metres.

Land uses surrounding the site are as follows:

North: Single detached dwellings and townhouses. Empress Parkette is located at the southwest corner of Empress Avenue and Bayview Avenue.

South: An 11-unit townhouse development and residential detached dwellings on Bayview Avenue, south of Hillcrest Avenue.

East: Bayview Village Park and residential detached dwellings fronting on residential roads within the neighbourhood further east.

West: Single detached residential dwellings on Hillcrest Avenue.

### **Reasons for Application**

The applications are necessary to establish the ownership structure of the Common Elements Condominium. The subdivision of the townhouse lots through a Part Lot Control Exemption will allow the creation and conveyance of individual lots to purchasers as freehold units. The creation of the Common Elements Condominium will ensure the collective ownership, shared maintenance and access of the common element rear drive aisle.

### **APPLICATION BACKGROUND**

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A Zoning By-law Amendment Application (File No. 15 139695 NNY 23 OZ) and a Site Plan Control Application (File No. 15 139702 NNY 23 SA) were submitted on April 13, 2015 for 2966 Bayview Avenue (and 400 Hillcrest Avenue). The applications proposed 5 townhouses facing Bayview Avenue and 1 single detached dwelling fronting on Hillcrest Avenue. City Council approved the Zoning By-law Amendment Application on July 12, 13, 14 and 15, 2016. The Final Report can be found here:

<https://www.toronto.ca/legdocs/mmis/2016/ny/bgrd/backgroundfile-93738.pdf>

City Council then approved technical amendments to the Zoning By-law on April 26, 27, and 28, 2017 to correct some omissions in the original By-law. The Technical Amendment Report can be found here:

<https://www.toronto.ca/legdocs/mmis/2017/mm/bgrd/backgroundfile-103316.pdf>

An Application for Consent (File No. B0053/17NY) was submitted on August 24, 2017. The application proposed to divide the subject lands to create one lot for the single detached dwelling and one lot for the 5 townhouses. The application was approved on November 9, 2017.

## **Application Submission Requirements**

The following reports/studies were submitted in support of the application:

- Plan of Survey
- Part Lot Control Exemption Plan
- Draft Plan of Common Elements Condominium

The current planning information for the application can be found on the Application Information Centre (AIC):

<https://www.toronto.ca/city-government/planning-development/application-information-centre>

## **Agency Circulation Outcomes**

The application together with the applicable plans noted above, have been 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 Draft Plan of Common Elements Condominium and drafting the Part Lot Control Exemption By-law.

## **POLICY CONSIDERATIONS**

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### **Provincial Land-Use Policies: Provincial Policy Statement and Provincial Plans**

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

### **The Provincial Policy Statement (2014)**

The Provincial Policy Statement (2014) (the "PPS") provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- The efficient and wise use and management of land and infrastructure over the long term in order to minimize impacts on air, water and other resources;
- Protection of the natural and built environment;
- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;

- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit; and
- Encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character.

The provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.

The PPS is issued under Section 3 of the *Planning Act* and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS. Comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS.

The PPS recognizes and acknowledges the Official Plan as an important document for implementing the policies within the PPS. Policy 4.7 of the PPS states that, "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans."

### **The Growth Plan for the Greater Golden Horseshoe (2019)**

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019) (the "Growth Plan (2019)") came into effect on May 16, 2019. This new plan replaces the previous Growth Plan for the Greater Golden Horseshoe, 2019. The Growth Plan (2019) continues to provide a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part. The Growth Plan, 2019 establishes policies that require implementation through a Municipal Comprehensive Review (MCR), which is a requirement pursuant to Section 26 of the Planning Act that comprehensively applies the policies and schedules of the Growth Plan (2019), including the establishment of minimum density targets for and the delineation of strategic growth areas, the conversion of provincially significant employment zones, and others.

Policies not expressly linked to a MCR can be applied as part of the review process for development applications, in advance of the next MCR. These policies include:

- Directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, contribute to environmental sustainability and provide for a more compact built form and a vibrant public realm;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Achieving complete communities with access to a diverse range of housing options, protected employment zones, public service facilities, recreation and green space that better connect transit to where people live and work;

- Retaining viable lands designated as employment areas and ensuring redevelopment of lands outside of employment areas retain space for jobs to be accommodated on site;
- Minimizing the negative impacts of climate change by undertaking stormwater management planning that assesses the impacts of extreme weather events and incorporates green infrastructure;
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas;

The Growth Plan (2019) builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan (2019) take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise.

In accordance with Section 3 of the Planning Act all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan. Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan.

### **Toronto Official Plan**

The subject site is designated as *Neighbourhoods* on Map 16 - Land Use of the Official Plan. *Neighbourhoods* are physically stable areas providing for a variety of lower scale residential uses, 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. Policies and development criteria aim to ensure that physical changes to established neighbourhoods are sensitive, gradual and generally “fit” the existing physical character.

The City of Toronto Official Plan can be found here:

<https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

### **Official Plan Amendment 320 ("OPA 320")**

The Local Planning Appeal Tribunal ("LPAT") issued an Order on December 7, 2018 to approve and bring into force OPA 320. The approved policies reflect the policies endorsed by Council at its meetings of June 26 to 29, 2018 and July 23 to 30, 2018 in response to mediation and settlement offers from OPA 320 Appellants.

OPA 320 was adopted as part of the Official Plan Five Year Review and contains new and revised policies on Healthy Neighbourhoods, *Neighbourhoods* and *Apartment Neighbourhoods*. The approved amendments uphold the Plan's goals to protect and enhance existing neighbourhoods that are considered stable but not static, allow limited infill on underutilized *Apartment Neighbourhood* sites and help attain Tower Renewal Program goals.

In its Order that approves OPA 320, the LPAT found that the OPA 320 policies are consistent with the Provincial Policy Statement (2014) and conform with the Growth Plan for the Greater Golden Horseshoe.

### **Zoning By-laws**

The site is subject to Site Specific By-law 581-2017 and 582-2017 which permits the 5 townhouse units having a maximum permitted height of 11.5 metres above established grade and setbacks as constructed.

### **Site Plan Control**

The Site Plan Control application (File No. 15 139702 NNY 23 SA) for this development was approved on December 13, 2018. A Site Plan Agreement was registered on title on March 14, 2018.

## **COMMENTS**

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### **Provincial Policy Statement and Provincial Plans**

The proposal has been reviewed and evaluated against the PPS (2014) and the Growth Plan (2019). Staff have determined that the proposal is consistent with the PPS and conforms with the Growth Plan.

Both the PPS and the Growth Plan encourage intensification and redevelopment in urban areas. In accordance with Policy 1.1.3.6 of the PPS, the proposed townhouse development promotes intensification through a compact urban form. Policy 1.1.3.2 of the PPS states that development shall make efficient use of land and resources, infrastructure and public service facilities. The proposal promotes a diversity of housing stock, is located along a TTC bus route on Bayview Avenue, and is within a 10 minute walk to the Bayview subway station. The proposal is consistent with the PPS and conforms to the Growth Plan. The lifting of Part Lot Control and creation of the Common Elements Condominium would allow for the orderly development of the site.

### **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 POTLs. The Section 118 Restriction is used to prevent the conveyance of the POTLs until the common elements condominium is registered.

The proposal is appropriate as it implements the previous approvals for the site for five townhouses on a common elements driveway.

## **CONCLUSIONS**

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The proposal has been reviewed against the policies of the PPS (2014), the Growth Plan (2019), and the Toronto Official Plan. Staff are of the opinion that the proposal is consistent with the PPS (2014), conforms with the Official Plan, and does not conflict with the Growth Plan (2019). Staff recommend that Council support approval of the application.

## **CONTACT**

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E-mail: Ameena.Khan@toronto.ca

## **SIGNATURE**

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Joe Nanos, Director  
Community Planning, North York District

## **ATTACHMENTS**

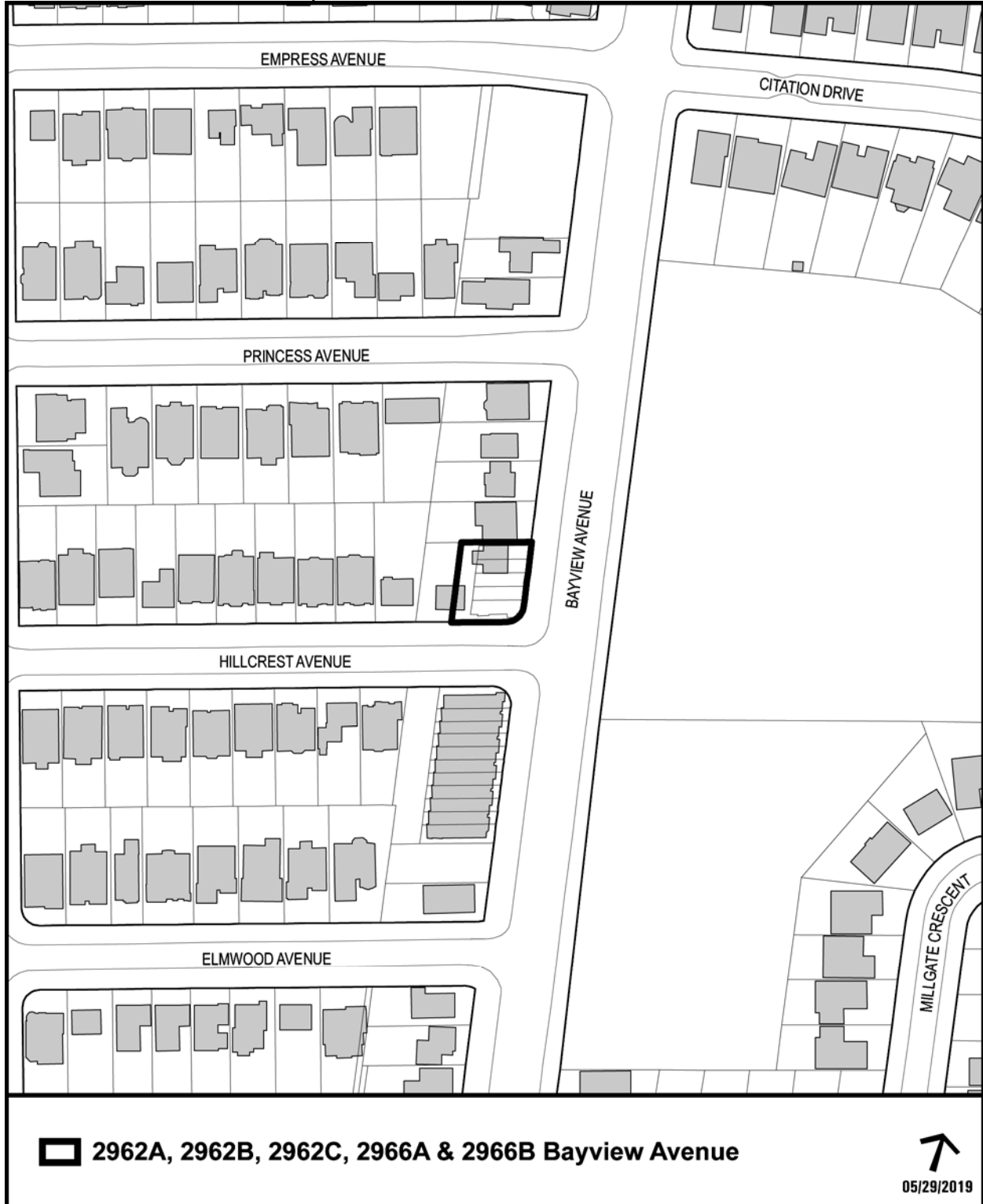
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### **City of Toronto Data/Drawings**

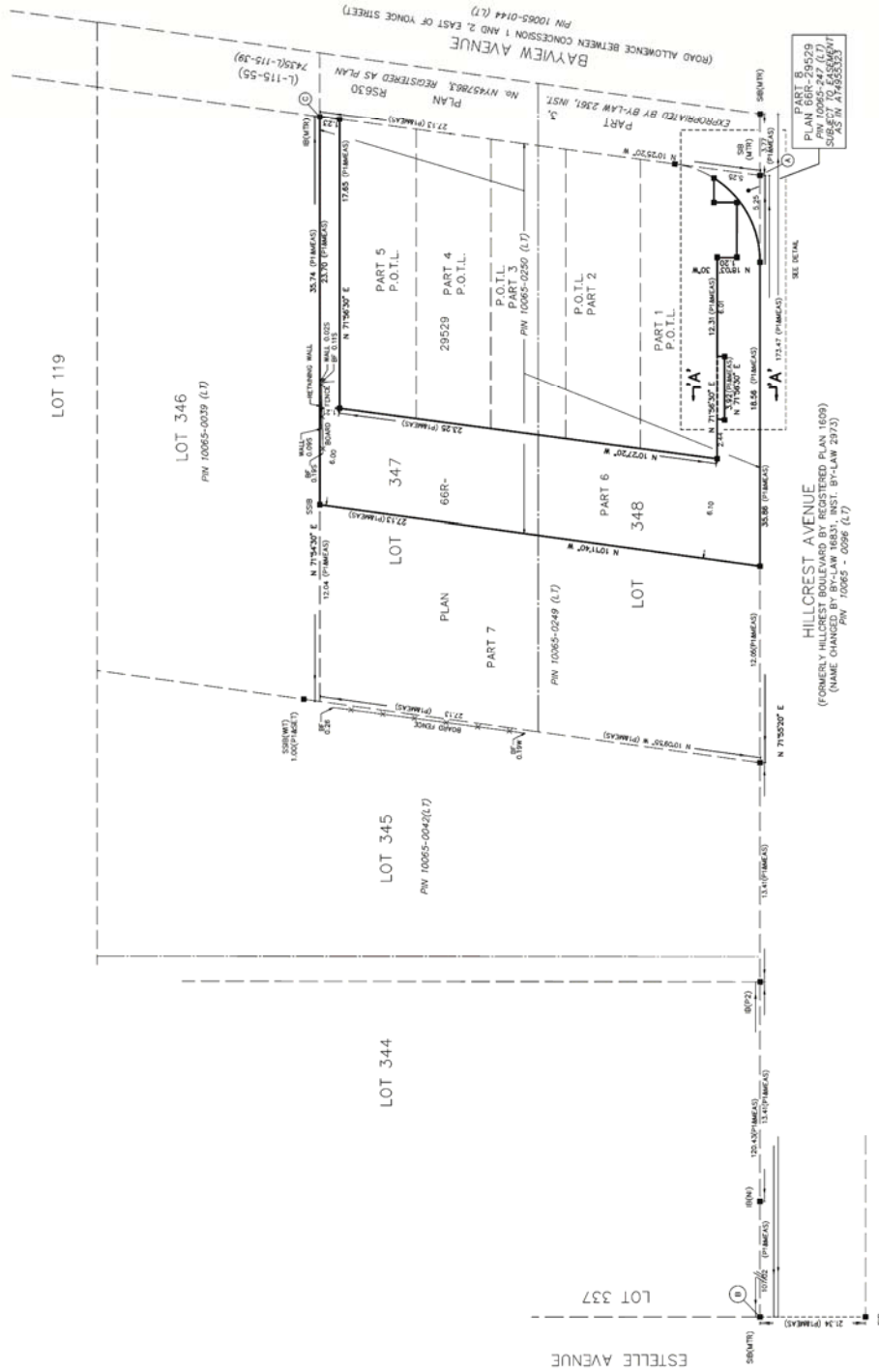
- Attachment 1: Location Map
- Attachment 2: Draft Plan of Common Elements Condominium
- Attachment 3: Draft Plan Approval Conditions
- Attachment 4: Part Lot Control Exemption Plan
- Attachment 5: Application Data Sheet
- Attachment 6: Draft Part Lot Control Exemption By-law



Attachment 1: Location Map



Attachment 2: Draft Plan of Common Elements Condominium



Condominium Plan

### Attachment 3: 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) 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

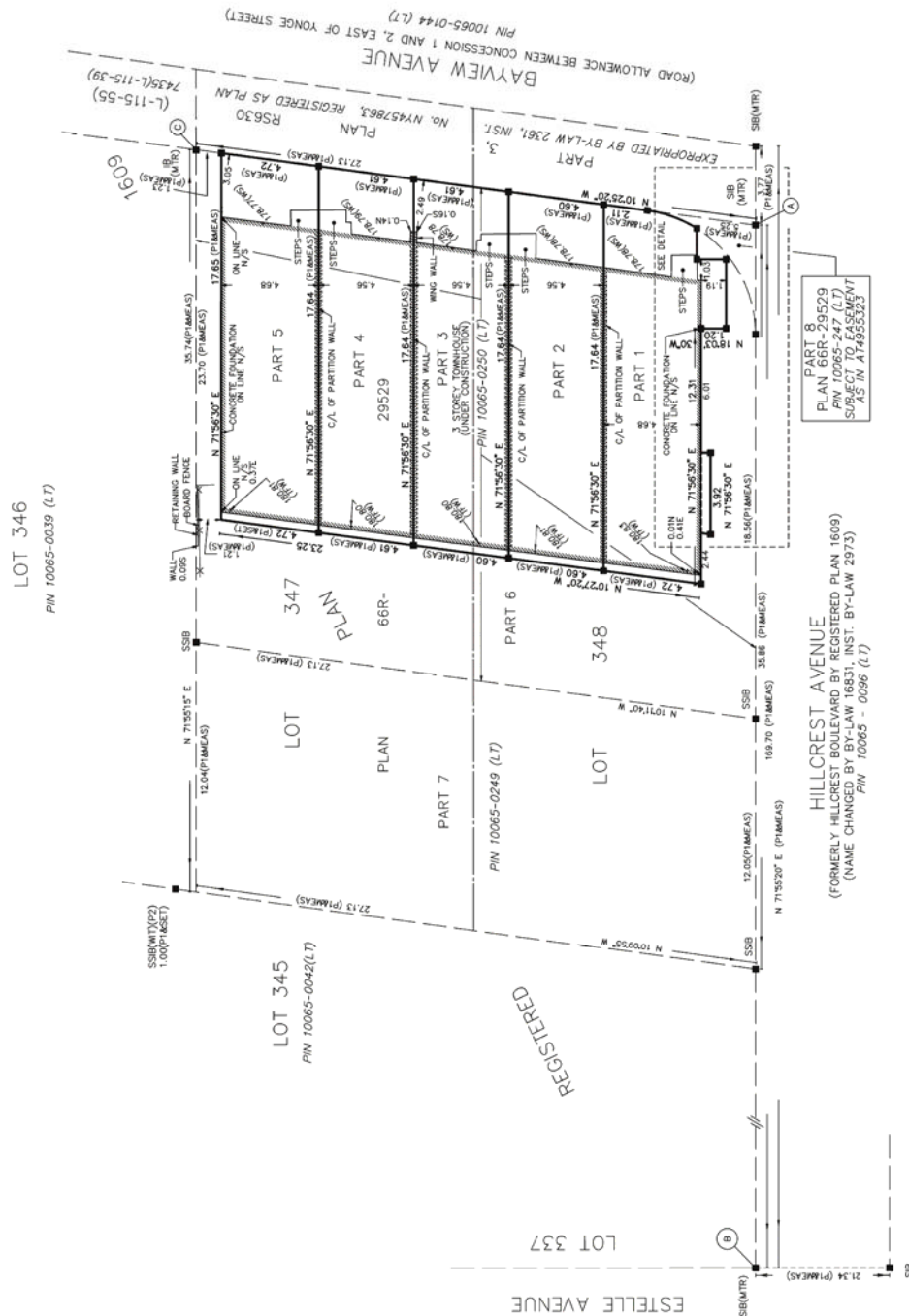
(iii) forthwith following registration of the Declaration, a copy will be provided to the City.

(5) 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.

(6) Prior to the release of the condominium plans for registration, the Owner acknowledges and agrees, to the satisfaction of Engineering and Construction Services, that proper safe mitigation systems, if required by a Professional Engineer qualified in municipal engineering, are in place to protect the site against any surcharge situation in the sanitary system under the extreme wet weather scenario.

(7) Prior to the release of the condominium plans for registration and prior to the occupancy of the buildings, the Owner shall provide, to the satisfaction of Engineering and Construction Services, certification to the Chief Engineer and Executive Director of E&CS by the Professional Engineer who designed and supervised the construction of the mitigation measures to confirm that facilities, if required by a Professional Engineer qualified in municipal engineering, have been constructed. If the above noted mitigation measures are not required as per coordination with a Professional Engineer, qualified in municipal engineering, the Owner shall submit a written confirmation to the Chief Engineer and Executive Director of E&CS prepared by a Professional Engineer qualified in municipal engineering.

# Attachment 4: Part Lot Control Exemption Plan



## Part Lot Control Plan

## Attachment 5: Application Data Sheet

**Municipal Address:** 2962A, 2962B, 2962C, 2966A, & 2966B BAYVIEW AVE  
**Date Received:** February 21, 2019  
**Application Number:** 19 117833 NNY 18 CD & 19 117836 NNY 18 PL  
**Application Type:** Condominium Approval, Common Elements, and Part lot Control Exemption

**Project Description:** Five townhouses have been constructed on site. The condominium application (19 117833 NNY 18 CD) seeks to obtain approval of the common element portion of the development, the drive aisle in the rear of the Site as a shared amenity between the property owners, shown as Part 6 on the Plan of Survey and located to the west of the existing townhouses. The application for exemption from part lot control (19 117836 NNY 18 PL) would legally divide the existing townhouse units for separate ownership.

<b>Applicant</b>	<b>Agent</b>	<b>Architect</b>	<b>Owner</b>
R E MILLWARD & ASSOCIATES	R E MILLWARD & ASSOCIATES	N/A	HILLCREST ON THE PARK LTD

### EXISTING PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:
Zoning:	RT (au164.0) (x90)	Heritage Designation:
Height Limit (m):	11.5	Site Plan Control Area: Y

### PROJECT INFORMATION

Site Area (sq m): 642                      Frontage (m): 27                      Depth (m): 24

<b>Building Data</b>	<b>Existing</b>	<b>Retained</b>	<b>Proposed</b>	<b>Total</b>
Ground Floor Area (sq m):			334	334
Residential GFA (sq m):			985	985
Non-Residential GFA (sq m):				
<b>Total GFA (sq m):</b>			985	985
Height - Storeys:	2		3	3
Height - Metres:			11.5	11.5

Lot Coverage Ratio(%): 52.09

Floor Space Index: 1.53

**Floor Area Breakdown**      **Above Grade (sq m)**      **Below Grade (sq m)**

Residential GFA:                      864                      121

Retail GFA:

Office GFA:

Industrial GFA:

Institutional/Other GFA:

**Residential Units  
by Tenure**

	<b>Existing</b>	<b>Retained</b>	<b>Proposed</b>	<b>Total</b>
Rental:				
Freehold:	1		5	5
Condominium:				
Other:				
<b>Total Units:</b>	1		5	5

**Total Residential Units by Size**

	<b>Rooms</b>	<b>Bachelor</b>	<b>1 Bedroom</b>	<b>2 Bedroom</b>	<b>3+ Bedroom</b>
Retained:					
Proposed:					5
<b>Total Units:</b>					5

**Parking and Loading**

Parking Spaces: 10

Bicycle Parking Spaces:

Loading Docks:

**CONTACT:**

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Ameena.Khan@toronto.ca

Attachment 6: Draft Part Lot Control Exemption By-law

Authority: North York Community Council Item NYXX.XX as adopted by City of Toronto Council on XX, 2019

**CITY OF TORONTO**

**Bill No. ~**

**BY-LAW ~-20~**

**To exempt lands municipally known in 2019 as 2962A, 2962B, 2962C, 2966A, & 2966B Bayview Avenue from part lot control.**

WHEREAS authority is given to Council by subsection 50(7) of the Planning Act, R.S.O. 1990, C. P.13, as amended, to pass this By-law;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Subsection 50(5) of the Planning Act, R.S.O. 1990, C. P.13, as amended, does not apply to the lands described in the attached Schedule "A"
2. This By-law expires two years from the date of its enactment by Council.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

Frances Nunziata, Ulli S. Watkiss,  
Speaker City Clerk

(Seal of the City)

## **Schedule “A”**

**Legal Description:** Part of Lots 347 and 348, Registered Plan 1609, being Part 6, Plan 66R-29529, City of Toronto