

15 Mallow Road – Part Lot Control Exemption Application – Final Report

Date: November 12, 2020

To: North York Community Council

From: Director (Acting), Community Planning, North York District

Wards: Ward 16 - Don Valley East

Planning Application Number: 20 168566 NNY 16 PL

SUMMARY

This application is requesting exemption from the Part Lot Control provisions of the *Planning Act* for a portion of the lands municipally known as 15 Mallow Road to facilitate the construction of 33 three-storey freehold townhouses with integral garages. An application for Draft Plan of Common Element Condominium (20 168572 NNY 16 CD) has also been submitted for approval in conjunction with this application. The common element condominium application is currently under review by the Chief Planner pursuant to the delegated approval under By-law 229-2000, which proposes to establish two private vehicular laneways and a pedestrian sidewalk.

The requested Part Lot Control Exemption is required to permit the creation of the 33 conveyable townhouse lots currently under construction, which will become the Parcels of Tied Land (POTLs) to the Common Element Condominium.

The proposed development is consistent with the *Provincial Policy Statement (2020)*, conforms with the *Growth Plan for the Greater Golden Horseshoe (2020)*, and conforms to the Official Plan. The lifting of Part Lot Control is appropriate for the orderly development of these lands.

This report reviews and recommends approval of the Part Lot Control Exemption By-law. Furthermore, this report recommends that the owner of the lands be required to register a Section 118 Restriction under the Lands Titles Act against the subject lands, as described in "Schedule A" in Attachment 5 of this report. This is to ensure the owner agrees to not convey or mortgage any part of the lands without prior consent of the Chief Planner or his designate.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council enact a Part Lot Control Exemption By-law with respect to the subject lands at 15 Mallow Road, as generally illustrated on Attachment 3 to this report, to be prepared to the satisfaction of the City Solicitor and to expire two years following enactment by City Council.
2. Prior to the introduction of the Part Lot Control Exemption Bill, City Council require the owner to:
 - a. 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; and
 - b. 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 subject lands described in Schedule "A" in Attachment 5 to this report, without the written consent of the Chief Planner or his/her designate.
3. City Council authorize the City Solicitor to take the necessary steps to release the Section 118 Restriction from all or any portion of the lands in the City Solicitor's sole discretion after consulting with the Chief Planner and Executive Director, City Planning at such a time as confirmation is received that the Common Elements Condominium has been registered.
4. City Council authorize and direct the City Solicitor to register the Part Lot Control Exemption By-law on title.
5. 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

The application for Part Lot Control Exemption was submitted on July 23, 2020 and deemed complete on August 19, 2020. The Common Elements Condominium application (20 168572 NNY 16 CD) was submitted on July 28, 2020 and deemed complete on August 19, 2020.

The site has been subject to rezoning application (14 264875 NNY 34 OZ) that was appealed to the Local Planning Appeal Tribunal (LPAT) in November 2015 due to Council's failure to make a decision on the application within the timeframe prescribed by the *Planning Act* (LPAT Case No PL 151138). The site has also been subject to a plan of subdivision application (17 169632 NNY 34 SB) that was appealed by the applicant to the LPAT in November 2017. A settlement was reached between the applicant and the City for both the rezoning and the plan of subdivision applications with the LPAT issuing a decision on October 23, 2018 and an order on July 4, 2019 approving the settlement.

The request for directions report regarding the settlement is available at the following: <https://www.toronto.ca/legdocs/mmis/2018/ny/bgrd/backgroundfile-116963.pdf>.

The 33 townhouse dwellings have been site plan approved (18 180190 NNY 34 SA) and are currently under construction.

PROPOSAL

This application is requesting exemption from the Part Lot Control provisions of the *Planning Act* to allow for the creation of the conveyable lots for a portion of 15 Mallow Road for the 33 three-storey freehold townhouse dwellings currently under construction. The townhouses are broken into five blocks consisting of the following:

Block 1: Six townhouses fronting The Donway East and backing on a common element private north-south laneway to be created.

Blocks 2 and 3: Fourteen townhouses in total fronting a public park and backing onto a common element private east-west laneway to be created.

Blocks 4 and 5: Thirteen townhouses in total fronting on a public street (Hollyhock Court) and backing on a common element private east-west laneway to be created.

A Common Element Condominium application has been submitted in conjunction with the Part Lot Control exemption request. The common elements consist of private east-west and north-south laneways to access the rear integral garages of the townhouses, as well as a pedestrian sidewalk on the northern perimeter of the site separating Blocks 2 and 3 and the public park. The Common Element Condominium application will ensure shared ownership and maintenance of these common element features by the condominium corporation.

As seen on the Draft Part Lot Control Exemption Plan (Attachment 3), Parts 1 through 33 are for the proposed 33 townhouse dwellings, while Parts 34 and 35 are the common element portions. Parts 36 through 61 are for the purpose of establishing maintenance easements for the future homeowners to access a portion of their wall by accessing their neighbour's property.

Although not part of the Part Lot Control and Common Element Condominium applications, 14 new detached dwellings located to the south of townhouse Blocks 4 and 5 are also currently under construction and were part of the rezoning and plan of subdivision applications. Once the townhouses are completed, the site will have a total of 47 new residential dwellings. A new public street (Hollyhock Court) has also been created through the plan of subdivision and will separate the detached and townhouse dwellings. The detached dwellings are located on the south side of Hollyhock Court and the townhouses will be located on the north side. A new public park to the east of Blocks 3 and 4 will be connected to the newly created public park to the north of the site.

Site and Surrounding Area

The site is located east of The Donway East and south of Mallow Road.

Land uses surrounding the site include:

North: A newly created public park on lands which were previously owned by the Toronto District School Board (TDSB). At the southeast corner of The Donway East and Mallow Road is a place of worship. On the north side of Mallow Road are detached dwellings.

South: A newly created public street (Hollyhock Court) with 14 detached dwellings currently under construction on the south side of the street. Further south of the proposed detached dwellings are existing detached dwellings that front on Broadleaf Road.

East: Detached dwellings that front on Mallow Road.

West: On the west side of The Donway East are three-storey townhouse dwellings and three-storey apartment buildings.

Reasons for Application

The Part Lot Control Exemption will allow the creation and conveyance of 33 individual lots with freehold townhouse units and will form Parcels of Tied Land (POTLs) to the Common Element Condominium.

The associated common element condominium application will establish the vehicular and pedestrian access and ownership structure of the laneway and sidewalk.

APPLICATION BACKGROUND

Application Submission Requirements

The following documents were submitted in support of the application:

- Plan of Survey
- Part Lot Control Exemption Plan
- Frontage and Area Certificate
- Draft Plan of Common Elements Condominium.

The above noted documents can be found on the Application Information Centre (AIC):

- Part Lot Control Exemption application: <http://app.toronto.ca/AIC/index.do#detail1>
- Common Elements Condominium application: <http://app.toronto.ca/AIC/index.do#detail2>

Agency Circulation Outcomes

The application together with the applicable information noted above, have been circulated to all appropriate agencies and City Divisions. Responses received have been used to assist in evaluating the application and drafting the Part Lot Control Exemption By-law.

POLICY CONSIDERATIONS

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 (2020)

The *Provincial Policy Statement (2020)* (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 use and management of land and infrastructure;
- ensuring the sufficient provision of housing to meet changing needs including affordable housing;
- ensuring opportunities for job creation;
- ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs; and

- protecting people, property and community resources by directing development away from natural or human-made hazards.

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 4.6 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."

Provincial Plans

Provincial Plans are intended to be read in their entirety and relevant policies are to be applied to each situation. The policies of the Plans represent minimum standards. Council may go beyond these minimum standards to address matters of local importance, unless doing so would conflict with any policies of the Plans.

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS and shall conform with Provincial Plans. All comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS and conform with Provincial Plans.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) came into effect on May 16, 2019. This new plan replaces the previous Growth Plan for the Greater Golden Horseshoe, 2017. On August 28, 2020, the Province brought into force Amendment 1 (2020) to the *A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)* (the "Growth Plan (2020)"). The Growth Plan (2020) 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 (2020) 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 (2020), 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 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, and better connected 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; and
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas.

The Growth Plan (2020) 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 (2020) 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 *Neighbourhoods* in the Official Plan. The Official Plan indicates that *Neighbourhoods* are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes, and townhouses, as well as walk-up apartments that are no higher than four storeys. Parks, low scale local institutions including schools, places of worship, home occupations, cultural and recreational facilities and small scale retail, service and office uses are also provided for in *Neighbourhoods*.

The site is located within the Central Don Mills Secondary Plan that identifies a number of basic elements that characterize the Central Don Mills neighbourhood. The general goal of the Secondary Plan is to manage change in the community in a manner that retains and enhances the existing basic elements of the community, in addition to the objectives of:

- preserving and protecting stable residential neighbourhoods;

- preserving the scale, height and built form relationships originally provided for in the development concept of Don Mills;
- preserving and enhancing the role of school sites as a focal point of community and neighbourhood activity, as such they will continue to serve as open space and important links in the park and sidewalk system;
- enhancing and improving the sidewalk/link system to facilitate pedestrian and cycling connections and access to public transit in the community and to the Don Mills Centre; and,
- Preserving and enhancing streetscapes and landscaped areas in keeping with the garden city concept that formed part of the original concept for Don Mills.

The Secondary Plan also addresses lands designated *Neighbourhoods* and the goal of maintaining a balanced housing mix. Don Mills was planned to provide a mix of housing forms, with generally higher density within The Donways, and lower density outside The Donways.

Zoning

The site is subject to Site-specific By-law 369-2020 (LPAT) and is zoned RM3(16.4). The site is not subject to City of Toronto Zoning By-law 569-2013.

Draft Plan of Subdivision

An application for Draft Plan of Subdivision was submitted on May 30, 2017 and final approval was issued on April 24, 2020.

The plan of subdivision application has facilitated the creation of a new public park fronting Mallow Road, a new public street (Hollyhock Court), the townhouse block, and the lots for the proposed 14 detached dwellings on the south side of Hollyhock Court currently under construction.

Site Plan Control

A Site Plan Control application for the proposed townhouses was submitted on June 18, 2018. The Notice of Approved Conditions was issued May 14, 2020 with final site plan approval issued June 11, 2020.

Draft Plan of Condominium

A Plan of Common Element Condominium application for the proposed private laneway and pedestrian sidewalk was submitted July 16, 2020, and is being reviewed together with this Part Lot Control Exemption application.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal has been reviewed and evaluated against the PPS (2020) and the Growth Plan (2020). Staff have determined that the proposal is consistent with the PPS (2020) and conforms with the Growth Plan (2020).

Both the PPS (2020) and the Growth Plan (2020) encourage intensification and redevelopment in urban areas. The proposed townhouse development promotes intensification through a compact urban form and allows for the orderly development of the lands that conform to the policies of the Official Plan and respect and reinforce the existing physical character of the neighbourhood.

Land Division

Part Lot Control Exemption is being requested in order to facilitate the creation of 33 freehold townhouse lots. Each of the proposed townhouses would have an integral garage that can be accessed by a 6.0 metre wide common element private laneway located at the rear of the dwellings.

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 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 currently under construction.

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

The Common Element Condominium application is currently under review and draft approval is delegated to the Chief Planner. Before the common element condominium is released for registration, the Part Lot Exemption By-law must be enacted in order to create the legal description 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.

Conclusion

The proposal has been reviewed against the policies of the PPS (2020), the Growth Plan (2020), and the Toronto Official Plan. Staff are of the opinion that the proposal is consistent with the PPS (2020), does not conflict with the Growth Plan (2020), and conforms with the Official Plan.

Staff recommend that Council approve the request for Part Lot Control Exemption and enact a Part Lot Control Exemption By-law with respect to the subject lands. Staff also recommend that the owner of the lands be required to register a Section 118 Restriction under the Lands Titles Act against the subject lands, as noted in the Recommendation section of this report.

CONTACT

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SIGNATURE

John Andreevski, Director (Acting)
Community Planning, North York District

ATTACHMENTS

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

Attachment 1: Application Data Sheet

APPLICATION DATA SHEET

Municipal Address: 15 MALLOW RD **Date Received:** July 23, 2020

Application Number: 20 168566 NNY 16 PL

Application Type: Part Lot Control Exemption

Project Description: Part Lot Control Exemption application to permit five blocks of three-storey townhouse lots with integral garages for a total of 33 freehold townhouses on-site. This application is related to Common Element Condominium application 20 168572 NNY 16 CD where the common element portions include a private vehicular/pedestrian laneway located in the middle of the site and a pedestrian sidewalk located on the northern perimeter of the site. Other related applications include rezoning application 14 264875 NNY 34 OZ, subdivision application 17 169632 NNY 34 SB, and site plan application 18 180190 NNY 34 SA.

Applicant	Agent	Architect	Owner
RADY-PENTEK & EDWARD SURVEYING LTD. GEORGE PIETRACCI		HUNT DESIGN ASSOCIATES INC.	MATTAMY (NORTH YORK) LIMITED

EXISTING PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	N
Zoning:	RM(16.4), as amended by Site-specific Zoning By-law 369-2020 (LPAT)	Heritage Designation:	N
Height Limit (m):	13	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq m): 5,298 Frontage (m): 36 Depth (m): 117

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			1,377	1,377
Residential GFA (sq m):			8,207	8,207

Non-Residential GFA (sq m):	-	-
Total GFA (sq m):	8,207	8,207
Height - Storeys:	3	3
Height - Metres:	13	13

Lot Coverage Ratio (%)	26	Floor Space Index:	1.55
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Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	6,814	1,393
Retail GFA:		
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:		

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:				
Freehold:				
Condominium:			33	33
Other:				
Total Units:			33	33

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:					33
Total Units:					33

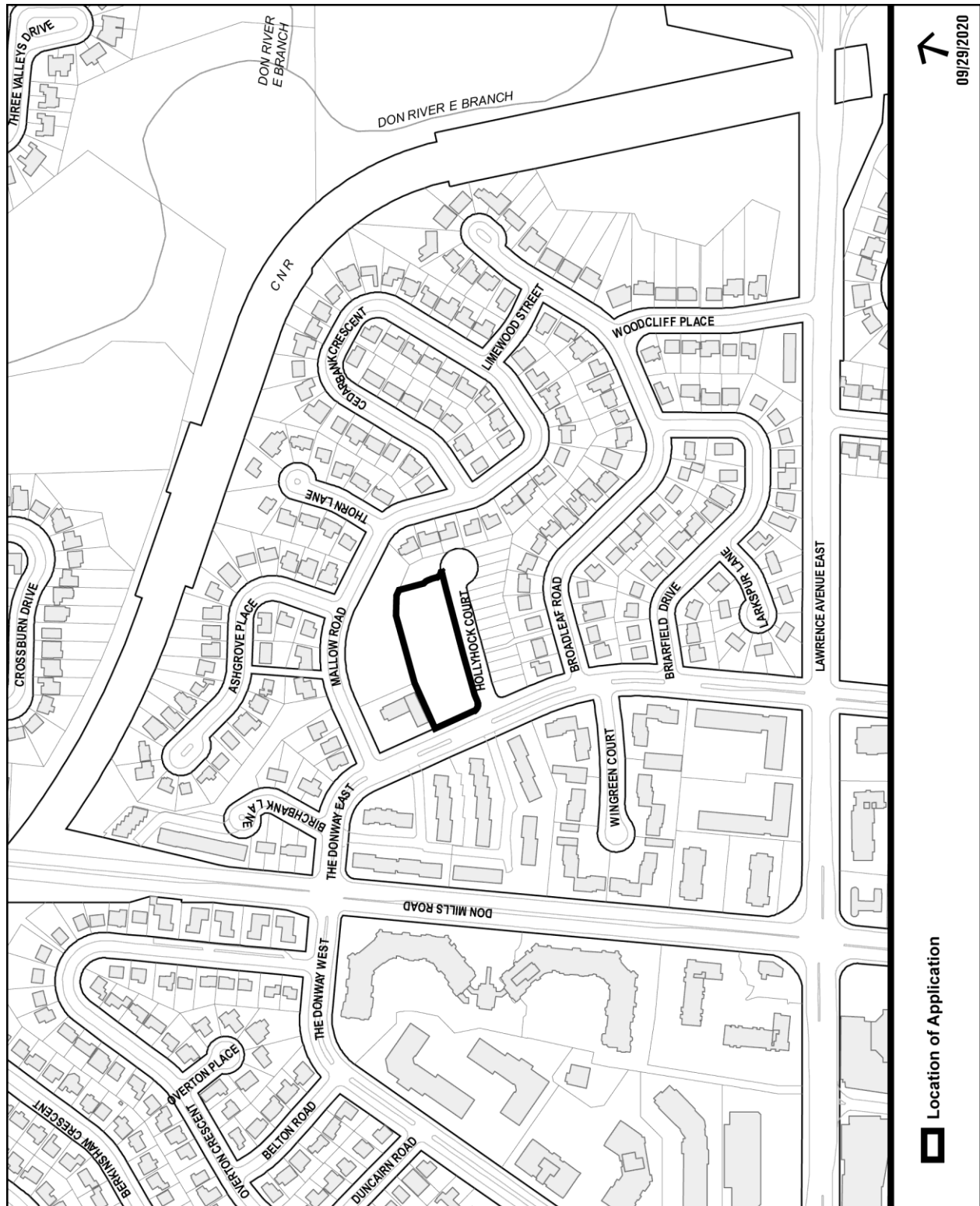
Parking and Loading

Parking Spaces:	33	Bicycle Parking Spaces:	Loading Docks:
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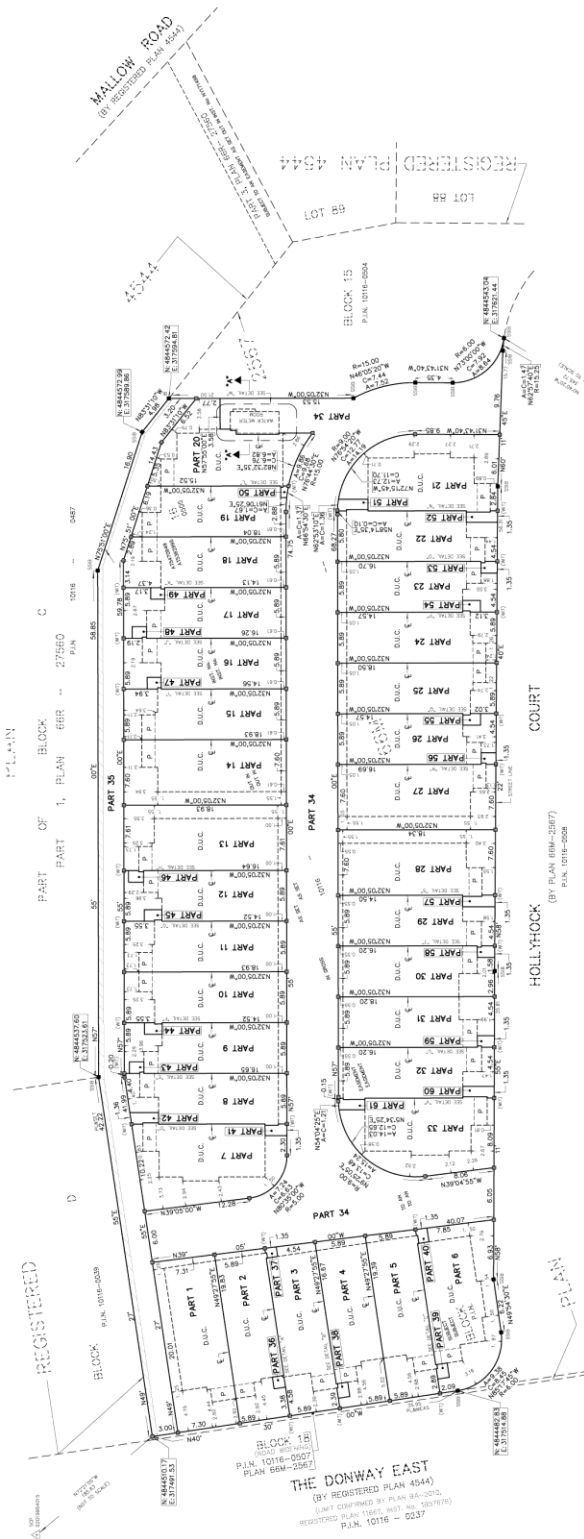
CONTACT:

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Attachment 2: Location Map

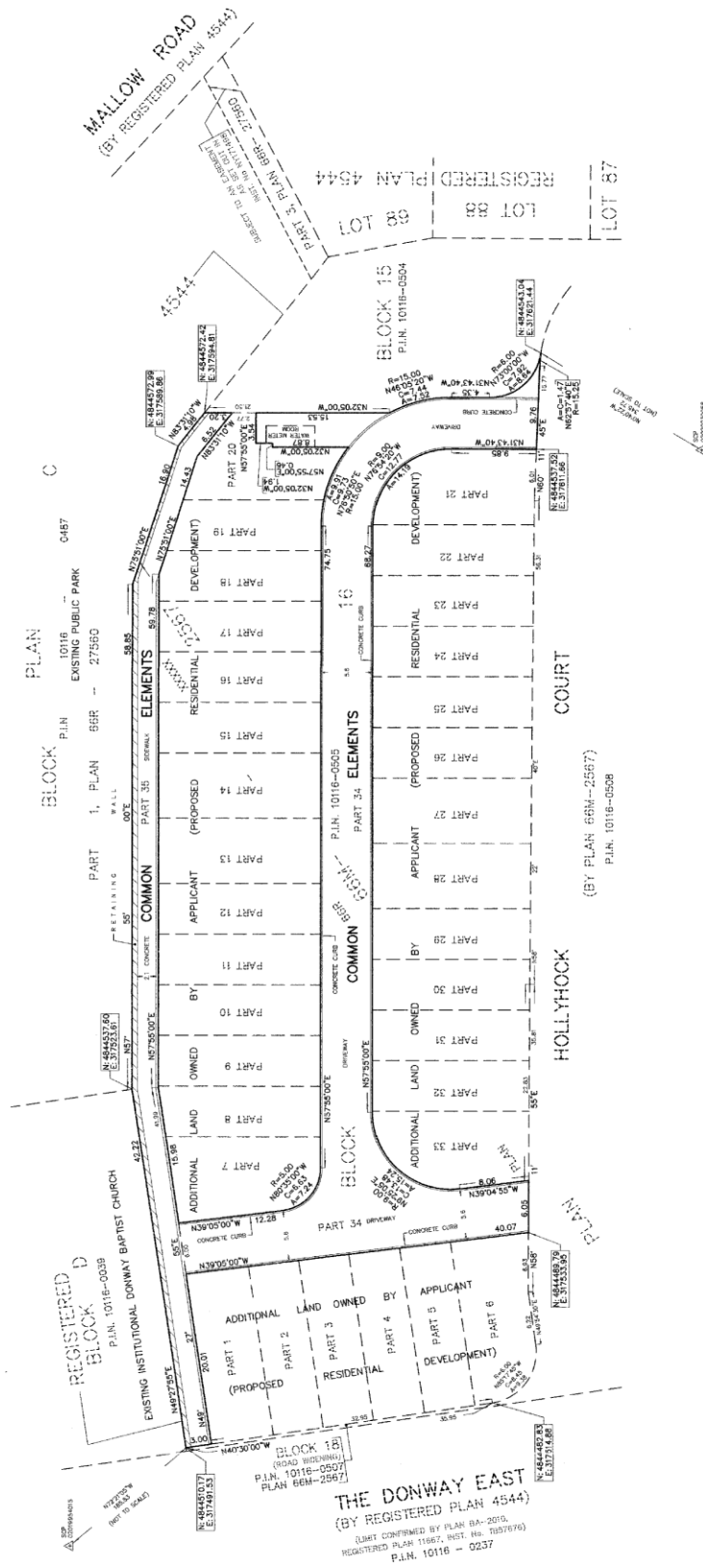


Attachment 3: Part Lot Control Exemption Plan



Draft Part Lot Exemption

Attachment 4: Draft Plan of Common Element Condominium



Draft Plan of Condominium

Attachment 5: Draft Part Lot Control Exemption By-law

Authority: North York Community Council Item No. NY, as adopted by City of Toronto Council on _____, 2020

CITY OF TORONTO

Bill _____

BY-LAW _____-2020

To exempt a portion of lands municipally known as 15 Mallow Road 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 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 on, _____, 2020.

Frances Nunziata, Ulli S. Watkiss,
Speaker City Clerk

(Seal of the City)

Schedule "A"

Legal Description:

Block 16, Registered Plan 66M-2567 City of Toronto.