

**555 Midland Avenue – Common Elements Condominium and Part Lot Control Exemption Applications - Final Report**

<b>Date:</b>	May 4, 2011
<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>	10 288116 ESC 36 CD and 11 154633 ESC 36 PL

**SUMMARY**

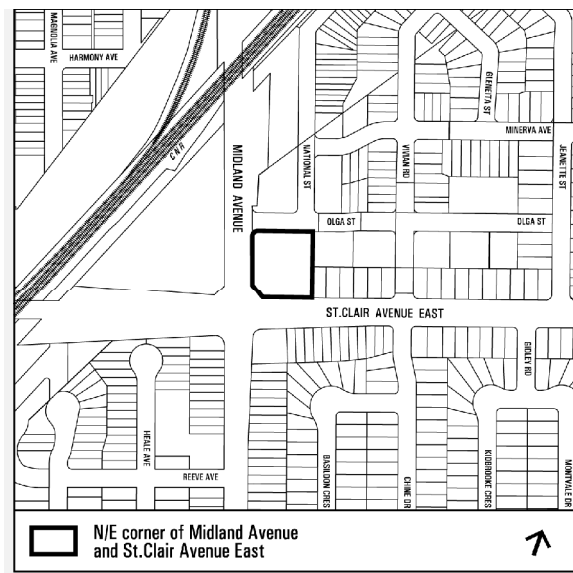
These applications were made after January 1, 2007 and are subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

The part lot control exemption application (file number 11 154633 ESC 36 PL) is required to create twenty-two (22) separate, conveyable townhouse units within three (3) townhouse blocks on the subject property.

The draft plan of common element condominium application (file number 10 288116 ESC 36 CD) is required to provide legal access to nineteen (19) of the twenty-two (22) townhouses and to ensure shared ownership and maintenance of the driveway, walkways, visitor parking spaces and landscaped areas by the condominium corporation.

The development is currently under construction.

This report reviews and recommends approval of the subject applications.



## **RECOMMENDATIONS**

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### **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 for the lands at 555 Midland Avenue, 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 ongoing technical review of this development.
2. 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.
3. 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.
4. 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.
5. City Council enact a part lot control exemption by-law with respect to the subject lands at 555 Midland Avenue to be prepared to the satisfaction of the City Solicitor and to expire two (2) years following enactment by City Council.
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 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.

### **Financial Impact**

The recommendations in this report have no financial impact.

## **DECISION HISTORY**

This development, currently under construction, was subject to a zoning amendment application (file number 10 224994 ESC 36 OZ) filed on July 20, 2011 to permit twenty-two (22) townhouse dwelling units. The required zoning by-laws (345-2011 and 346-2011) to implement the proposed development were adopted by City Council on March 9, 2011 and are now in full force and effect.

The property is under site plan control. A site plan application (file number 10 140731 ESC 36 SA) was filed on March 26, 2010 for the proposed townhouse development. A site plan agreement between the owner and the City was registered on title on April 19, 2011 as Instrument No. AT2669372.

## **ISSUE BACKGROUND**

### **Proposal**

A common element condominium was submitted in November 2010 for a private driveway, walkways, four visitor parking spaces and a landscaped area at the corner of Midland Avenue and St. Clair Avenue East. The part lot control application was filed with the City on March 25, 2011 to create twenty-two (22) separate conveyable townhouse units within three (3) townhouse blocks.

The townhouse block containing three units fronting Olga Street will not share in the common element interest as each of these units will have direct access off of Olga Street. Refer to Attachment 3 for additional project data.

### **Site and Surrounding Area**

The site is located at the northeast corner of Midland Avenue and St. Clair Avenue East and is approximately 0.482 hectares (1.19 acres) in size. This square shaped, relatively flat site has approximately 54 metres (178 feet) of frontage on St. Clair Avenue East, 54 metres (178 feet) of frontage on Midland Avenue and 60 metres (198 feet) of frontage on Olga Street.

Along the property's entire Midland Avenue frontage is a north-south easement in favour of the City of Toronto for sanitary and watermain infrastructure. This easement varies in width from approximately 4 metres (13 feet) to 14.25 metres (47 feet).

The abutting land uses include the following:

North: a storm water management pond related to previously approved phases of the Evergreen subdivision. The CN rail line is located just north of the storm water management area.

South: the south side of St. Clair Avenue East has a single-storey shopping plaza containing retail uses and two three-storey walk-up apartment buildings.

East: a single-storey automotive repair centre is located on St. Clair Avenue East. Beyond the automotive repair centre on St. Clair Avenue East is an animal clinic and a single-storey commercial plaza. Behind these commercial uses are townhouses that front onto Olga Street and form part of the recently developed Monarch (Evergreen) subdivision (Phase 1).

West: a 1.5 hectare (3.8 acres) vacant parcel of City-owned land located at the northwest corner of Midland Avenue and St. Clair Avenue West. At its meeting on May 11, 2010, City Council granted authority to enter into an agreement to transfer part of the property from the Chief Corporate Officer, including agreements related thereto, to Build Toronto.

### **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 Toronto Official Plan designates these lands Mixed Use Areas as identified on Land Use Plan – Map 20.

Mixed Use Areas provide for a broad range of commercial, residential, institutional and parks and open spaces uses in single or mixed buildings which would enable residents to “live, work and shop in the same area, or even the same building, giving people an opportunity to depend less on their cars and create districts along transit routes that are animated, attractive and safe.”

The Toronto Official Plan is available on the City's Website at:  
<http://www.toronto.ca/torontoplan/index.htm>

### **Site and Area Specific Policy**

This site is subject to Site and Area Specific Policy No. 273 in the Toronto Official Plan which limits the types of dwellings permitted in Mixed Use Areas to townhouses and apartments with a maximum height of four storeys.

This policy also recognizes the prominence of the Midland Avenue and St. Clair Avenue East intersection as a gateway to the community and as such, requires a high quality of design with buildings situated close to the street edge, parking areas located to the rear of the buildings or underground and the incorporation of pedestrian amenities and landscaping.

Site and Area Specific Policy No. 273 is available on the City's website at: [http://www.toronto.ca/planning/official\\_plan/pdf\\_sitespecific/sas\\_policies\\_266\\_to\\_278\\_0ct2009.pdf](http://www.toronto.ca/planning/official_plan/pdf_sitespecific/sas_policies_266_to_278_0ct2009.pdf)

This policy also requires that the entire site be designed in accordance with the Midland/St. Clair Urban Design Guidelines.

## **Zoning**

At its meeting of August 25-27, 2010, City Council adopted a new, harmonized zoning by-law for the City of Toronto. By-law No. 1156-2010 has been appealed in its entirety and is now before the Ontario Municipal Board. No hearing dates have been set. While the by-law is under appeal, the provisions of both the former zoning by-laws and the new zoning by-law are in effect for sites that are subject to Zoning By-law No. 1156-2010.

Within the new zoning by-law, as amended by By-law 346-2011, the property is currently zoned Residential Townhouse (RT) Zone which permits the proposed townhouse development. Of note, on April 13, 2011, City Council directed City Planning staff to hold a public meeting to seek public input on repealing By-law No. 1156-2010.

The Midland/St. Clair Community Zoning By-law No. 842-2004, as amended by By-law 345-2011, zones the property Residential Townhouse (TH) Zone which permits townhouse dwellings, correctional group homes and group homes as well as private home day cares as an ancillary use.

## **Site Plan Control**

The property is under site plan control. A site plan application was filed on March 26, 2010 for the proposed townhouse development. A site plan agreement between the owner and the City was registered on title on April 19, 2011 as Instrument No. AT2669372.

## **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**

Solid Waste Management Services has no objection to collecting waste from the private internal driveway for all townhouse dwellings provided that the driveway is unobstructed by vehicles and other such impediments. The private road has been designed to accommodate the turning movements of the City's waste collection vehicles.

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 nineteen (19) townhouse units fronting both Midland Avenue and St. Clair Avenue East. Staff are recommending 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.

## **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 (2) years following enactment by City Council. This timeframe provides sufficient time for the completion of the proposed development.

Prior to the release of the common elements condominium 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.

## **CONTACT**

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## **SIGNATURE**

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Raymond David, Director  
Community Planning, Scarborough District

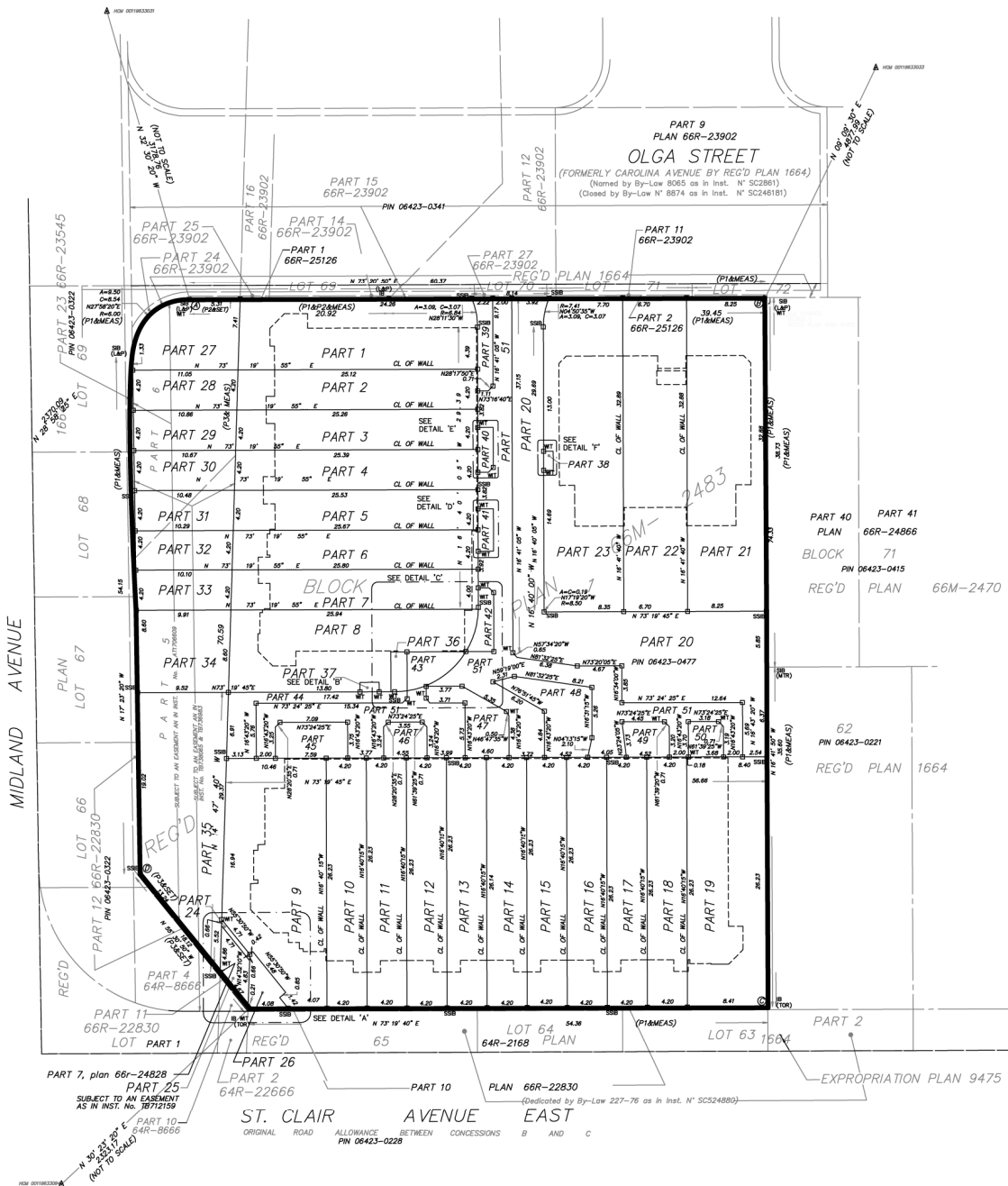
## **ATTACHMENTS**

Attachment 1: Draft Plan of Common Elements Condominium

Attachment 2: Draft Plan Approval Conditions

Attachment 3: Application Data Sheet

# Attachment 1: Draft Plan of Common Elements Condominium



## Draft Plan of Condominium

555 Midland Avenue

Applicant's Submitted Drawing

Not to Scale  
4/11/11



File # 11 154633 ESC 36 PL and 10 288116 ESC 36 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) Provide certification to the Executive Director of Technical Services from the Professional Engineer who designed and supervised the construction, confirming that the storm water management facilities and site grading have been constructed in accordance with the accepted storm water management report and the accepted grading plans.
- (4) Provide certification to the Executive Director of Technical Services from the Professional Engineer who designed and supervised the construction, confirming that the site servicing facilities have been constructed in accordance with the accepted drawings.
- (5) The owner shall provide certification to the Executive Director of Technical Services and/or the general Manager of Transportation Services accurately indicating the as-built location of any equipment, plant, or structure constructed and/or installed within the City street as required by Chapter 743 of the City of Toronto Municipal Code.
- (6) 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.
- (7) 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.
- (8) Visitors parking spaces will be clearly delineated on the condominium plan to be registered.

- (9) 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."
  - (vii) "All owners and future tenants/purchasers acknowledge and agree that parking within all common element condominium areas is strictly prohibited and that enforcement of these restrictions shall remain the sole responsibility of the condominium corporation."
- (10) 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	Condominium Approval	Application Number:	10 288116 ESC 36 CD 11 ESC 36 PL
Details	Common Elements & Part Lot	Application Dates:	October 29, 2010 March 29, 2011

Municipal Address: 555 MIDLAND AVE

Location Description: PLAN 1664 PT LOTS 63 TO 72 RP 66R23545 PARTS 17 TO 22 \*\*GRID E3604

Project Description: Draft plan of condominium application (common elements condo) to construct nineteen, three-storey townhouse dwelling units with integrated garages. The common element condominium will be comprised of a private laneway, four visitor parking spaces and a small landscaped area at the corner of Midland Avenue and St. Clair Avenue.

**Applicant:**  
MONARCH  
CORPORATION

**Agent:**

**Architect:**

**Owner:**  
CITY OF TORONTO  
ECONOMIC  
DEVELOPMENT  
CORPORATION

#### PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas with Site Specific Policy No. 273	Site Specific Provision:	Lands within Scarborough Transportation Corridor Phase 3 Land Use study
Zoning:	TH(Townhouse Residential)	Historical Status:	
Height Limit (m):	RT (Residential Townhouse)	Site Plan Control Area:	Yes

#### PROJECT INFORMATION

Site Area (sq. m):	4054.01	Height:	Storeys:	3
Frontage (m):	0		Metres:	
Depth (m):	0			
Total Ground Floor Area (sq. m):	1774.85			<b>Total</b>
Total Residential GFA (sq. m):	3621.65		Parking Spaces:	23
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	3621.65			
Lot Coverage Ratio (%):	49			
Floor Space Index:	0.89			

#### DWELLING UNITS

#### FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Freehold		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	3621.65	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:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	19			

**CONTACT:** **PLANNER NAME:** Katrien Darling, Senior Planner  
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