

**1359 Dupont Street – Common Elements Condominium Application and Part Lot Control Exemption Application – Final Report**

<b>Date:</b>	December 13, 2010
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 18 – Davenport
<b>Reference Number:</b>	10 164270 STE 18 CD 10 164255 STE 18 PL

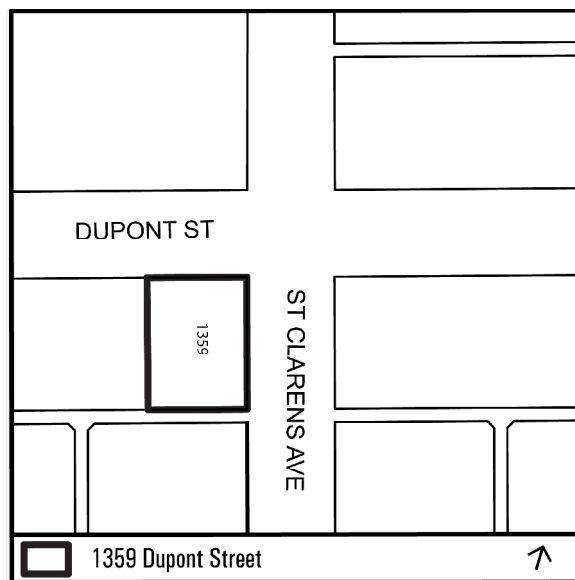
**SUMMARY**

This application was made on or after January 1, 2007 and is subject to the new provisions of the *Planning Act* and the *City of Toronto Act, 2006*.

The application for common elements condominium proposes a private common element driveway on the lands municipally known as 1359 Dupont Street. The application is required to provide legal access to the individual townhouse units and to ensure ongoing shared ownership and maintenance of all the common elements.

The requested exemption from the Part Lot Control provisions of the *Planning Act* is required in order to permit the creation of seven separate conveyable townhouse lots. 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 the prior consent of the Chief Planner or his designate.

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



## 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 1359 Dupont Street, as generally illustrated on Attachment 1, subject to:
  - (a) the conditions as generally listed in Attachment 2 which, except as otherwise noted, must be fulfilled prior to the release of the plan of condominium for registration; and
  - (b) any such revisions to the proposed condominium plan or any such additional or modified conditions as the Chief Planner may deem to be appropriate to address matters arising from the on-going technical review of this development.
2. City Council enact a Part Lot Control Exemption By-law with respect to the subject lands at 1359 Dupont Street as generally illustrated on Attachment 3, 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. 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.
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 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 development was subject to a Rezoning application that was approved by City Council on September 27, 2006 and a Site Plan Approval application that was approved through delegated authority. The Site Plan Agreement was registered on May 4, 2010.

### **ISSUE BACKGROUND**

#### **Proposal**

The applicant proposes the redevelopment of the existing motor vehicle repair shop site for seven three-storey townhomes on the southwest corner of Dupont Street and St. Clarens Avenue. Parking will be provided in a garage at the rear of each unit accessed by a common element driveway off the public laneway to the south of the site.

#### **Site and Surrounding Area**

The rectangular site is located at the south-west corner of Dupont Street and St. Clarens Avenue, just east of Lansdowne Avenue.

The site is surrounded by the following uses:

North: two residential apartment buildings, 22 and 17 storeys in height, on the north side of Dupont Street.

South: a residential neighbourhood consisting of semi-detached and detached houses.

East: semi-detached houses along the south side of Dupont Street.

West: a 1-storey commercial building and adjacent to this, a 7-storey residential condominium.

#### **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. In the opinion of City Planning Staff, the proposal is consistent with the Provincial Policy Statement.

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. The proposal conforms to and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

### **Official Plan**

The site is designated “Neighbourhoods” in the Official Plan which are physically stable areas containing a variety of low-scale residential uses.

### **Zoning**

The subject lands are zoned R2 0.6 under the former City of Toronto By-law 438-86, as amended by site specific By-law 920-2006, that permits the development of the seven townhouses currently under construction on the site.

At its meeting of August 25-27, 2010, City Council adopted a new, harmonized, Zoning By-law for the City of Toronto. By-law 1156-2010 has been appealed in its entirety and is now before the Ontario Municipal Board. The subject lands are zoned Residential (R) under the new Zoning By-law.

While the By-law is under appeal, the provisions of both the former City of Toronto By-law, as amended by site specific By-law 920-2006, and the new Zoning By-law are in effect. The proposed development complies both By-laws.

### **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.

### **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.

## **CONTACT**

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## **SIGNATURE**

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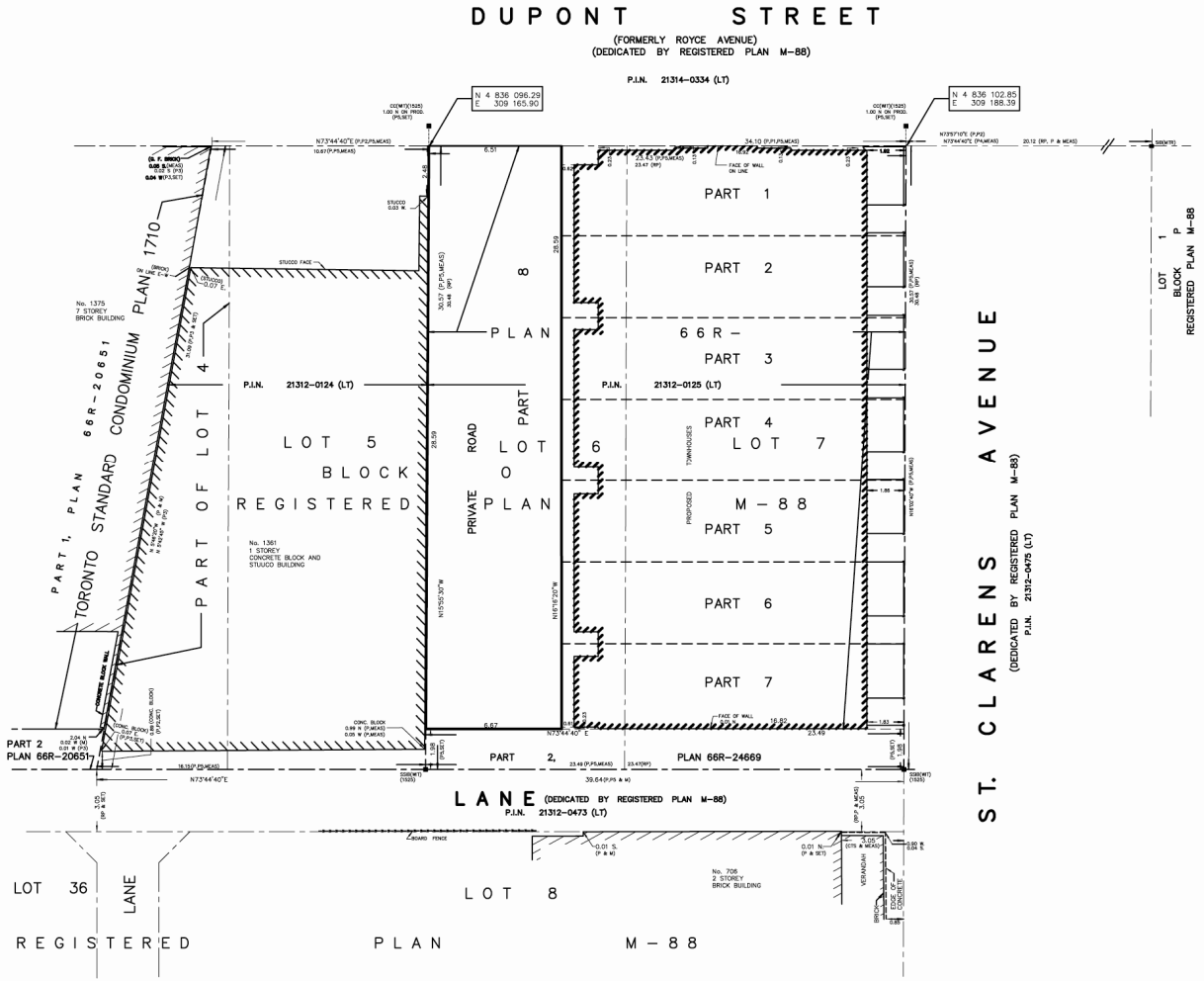
Raymond David, Director  
Community Planning, Toronto and East York District

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## **ATTACHMENTS**

Attachment 1: Draft Plan of Common Elements Condominium  
Attachment 2: Draft Plan Approval Conditions  
Attachment 3: Draft Reference Plan  
Attachment 4: Application Data Sheet

# Attachment 1: Draft Plan of Common Elements Condominium



## Draft Plan of Common Element Condominium

1359 Dupont Street

Applicant's Submitted Drawing

Not to Scale 

File # 10\_164270

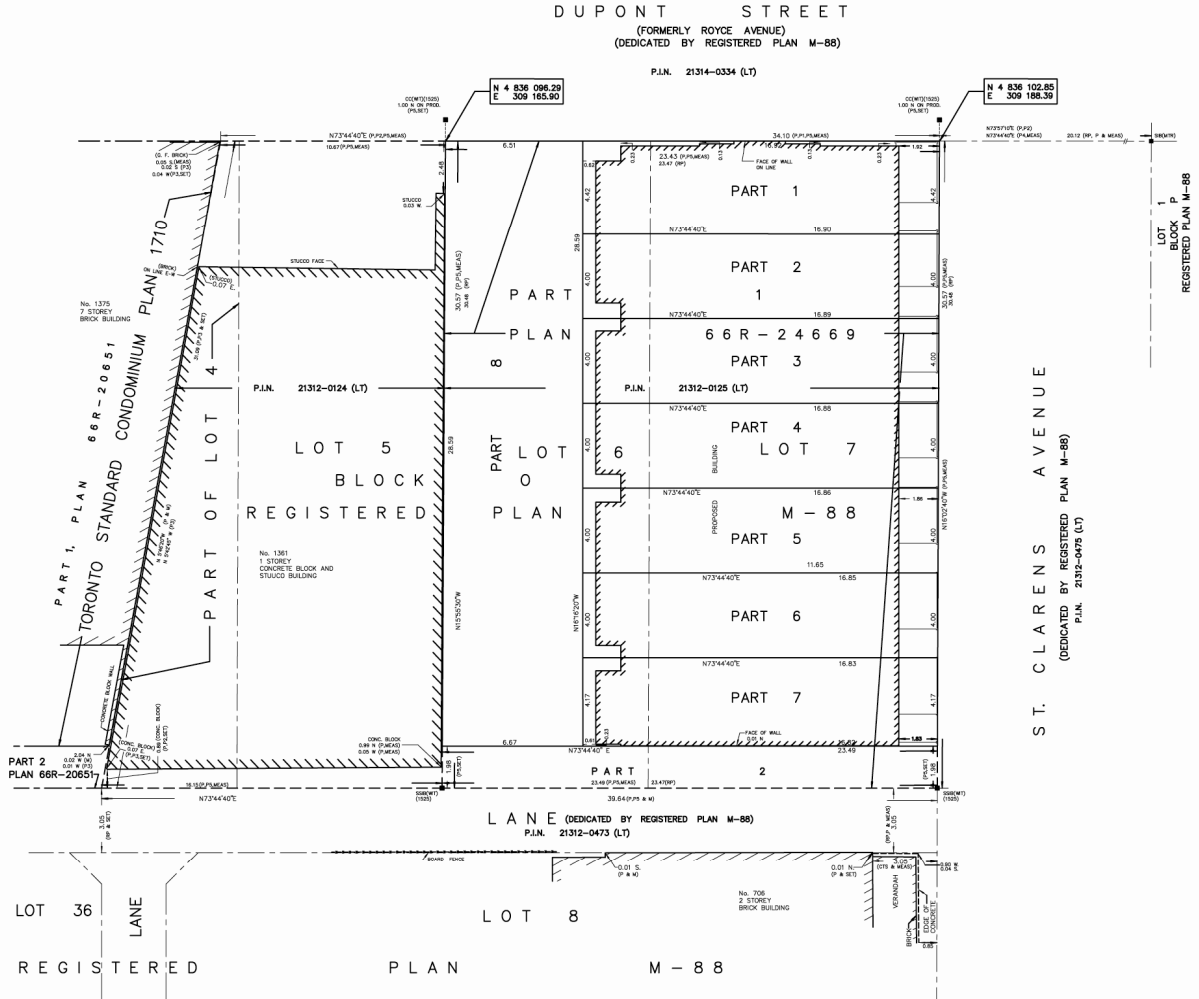
## Attachment 2: Draft Plan Approval Conditions

- (1) The owner shall provide to the Director Community Planning, Toronto and East 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, Toronto and East 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) Include a clause in the declaration of condominium indicating that in accordance with City Council policy, the public lane abutting the site will be given low priority for winter maintenance by the City, and that public lanes are salted only, not ploughed.
- (6) Include a clause in the declaration of condominium with respect to the common element shared driveway, inclusive of its maintenance and any municipal services and utilities within it.
- (7) Submit certification from the solicitor confirming that the required wording in Conditions Nos 5 and 6 have been included in the declaration of condominium.
- (8) Ownership of the lands or any part thereof must not be transferred until such time as the Common Element Condominium Corporation has been registered for the shared driveway and any related municipal services and any related municipal services and utilities within it.

- (9) 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: Draft Reference Plan



Draft Reference Plan

Applicant's Submitted Drawing

Not to Scale 

12/07/10

1359 Dupont Street

File # 10\_164255

## Attachment 4: Application Data Sheet

Application Type	Common Element Condominium	Application Number:	10 164270 STE 18 CD
Details		Application Date:	April 27, 2010

Municipal Address: 1359 Dupont Street  
 Location Description: PLAN M88 BLK 0 LOTS 6 & 7 \*\*GRID S1802  
 Project Description: Common element application to create common element driveway inclusive of its maintenance and any municipal services and utilities within it. Related to 10 164255 STE 18 PL.

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
BRATTY AND PARTNERS LLP			1227831 ONTARIO LIMITED

### PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:
Zoning:	R2 Z0.6	Historical Status:
Height Limit (m):	12	Site Plan Control Area: Y

### PROJECT INFORMATION

Site Area (sq. m):	716.67	Height:	Storeys:	3
Frontage (m):	30.57		Metres:	12.12
Depth (m):	23.47			
Total Ground Floor Area (sq. m):	413.4			<b>Total</b>
Total Residential GFA (sq. m):	1068.35		Parking Spaces:	7
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	1068.35			
Lot Coverage Ratio (%):	57.7			
Floor Space Index:	1.5			

### DWELLING UNITS

Tenure Type:	Freehold
Rooms:	
Bachelor:	0
1 Bedroom:	0
2 Bedroom:	0
3 + Bedroom:	7
Total Units:	7

### FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	1068.35	
Retail GFA (sq. m):	0	
Office GFA (sq. m):	0	
Industrial GFA (sq. m):	0	
Institutional/Other GFA (sq. m):	0	

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