

**1051 Ellesmere Rd – Common Elements Condominium Application and Part Lot Control Exemption Application – Final Report**

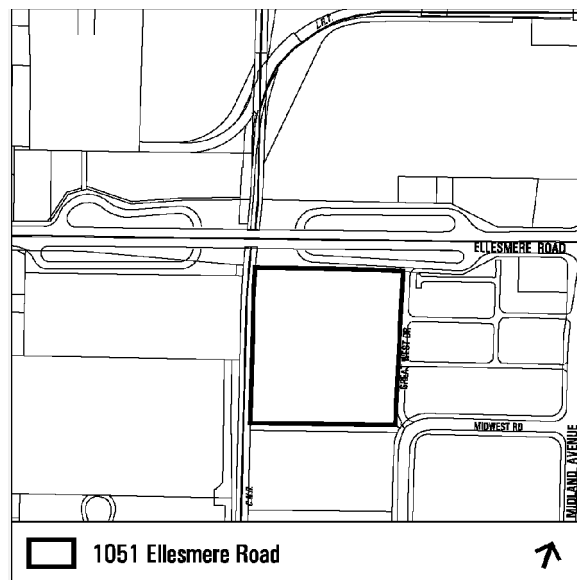
<b>Date:</b>	May 23, 2013
<b>To:</b>	Scarborough Community Council
<b>From:</b>	Director, Community Planning, Scarborough District
<b>Wards:</b>	Ward 37 – Scarborough Centre
<b>Reference Number:</b>	12 263268 ESC 37 CD and 13 133973 ESC 37 PL

**SUMMARY**

This application was made after January 1, 2007 and is subject to the changes to the Planning Act that came into effect on that date or the City of Toronto Act, 2006.

The Common Elements Condominium application (12 263268 ESC 37 CD) is required to provide legal vehicular access by private rear laneway to individual garages behind 37 ‘freehold’ townhouses currently under construction on a portion of 1051 Ellesmere Rd. (Block 6 on Plan 66M-2506). The application is also required to ensure the shared ownership and maintenance of the laneway, a retaining wall with berm along the west side of the laneway for crash protection along the adjacent Scarborough RT/GO Transit rail corridor and associated and landscaped areas by the condominium corporation.

The Part Lot Control Exemption application (13 133973 ESC 37 PL) is required to create the above noted 37 townhouses, together with 125 additional townhouse dwelling units also under construction on the balance of lands at 1051 Ellesmere Road, as separately conveyable townhouse dwelling units.



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 1051 Ellesmere Road, as generally illustrated on Attachment 1 to report dated May 23, 2013, subject to:
  - (a) the conditions as generally listed in Attachment 2 to report dated May 23, 2013, 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 1051 Ellesmere Road as generally illustrated on Attachment 3 to report dated May 23, 2013, 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**

This development, currently under construction, was previously subject to Zoning By-law amendment (11 141212 ESC 37 OZ), draft plan of subdivision (11 141240 ESC SB) and site plan (11 141145 ESC 37 SA) applications. City Council on Nov. 29, 2011 approved the Zoning By-law amendment, and the Chief Planner subsequently on Mar. 6, 2012 approved the draft plan of subdivision to create 6 development blocks and a number of new public streets and lanes. Both approvals were appealed by the adjacent owner to the south. On May 15, 2012, the Ontario Municipal Board approved both the rezoning and draft plan of subdivision on the basis of a settlement having been reached between the parties. The Notice of Approval Conditions for the site plan application was issued by the Director, Community Planning, Scarborough District on Apr. 2, 2012. The subdivision agreement and plan of subdivision 66M-2506 creating six development blocks overall with new public streets and lanes were registered as Instrument No. AT3269134 on Apr. 3, 2013.

## **ISSUE BACKGROUND**

### **Proposal**

The approved plan of subdivision has created 6 development blocks for 162 townhouse dwelling units overall as provided for under the recent rezoning and site plan approvals for this site. All of the townhouse units, having frontages on new public streets, are proposed to become 'free-hold' and separately conveyable through the subject application for exemption from part lot control. Refer to Attachment No. 4 for additional project data on this application.

As part of the City's review of the earlier planning applications noted above, it was determined that the presence of the adjacent Scarborough RT and Go Transit rail facilities necessitated particular measures to mitigate safety and noise concerns for the 37 townhouse dwelling units proposed on the westerly Block '6' in the development. This included provision of retaining wall and bermed crash barrier along the west property line, greater separation between the new dwellings and the transit facilities, and by locating the garages for the units to the rear to provide additional noise attenuation with access via a shared private (as opposed to public) rear laneway. To address the ownership and on-going maintenance of these shared lane and retaining wall facilities, the owner has accepted City Planning's suggestion that the Block 6 portion of this development proceed by way of application for common elements condominium approval while also proceeding with the requisite application for exemption from part lot control for the overall development. Refer to Attachment No. 5 for additional project data on this common elements condominium application.

### **Site and Surrounding Area**

The 3.74 hectare (9.1 acre) site is located on the south side of Ellesmere Road, west of Midland Avenue. The site was previously developed with a single-storey industrial

building occupied by Kawneer, a commercial construction supplies company. That building was demolished in the fall of 2011 and site development for the construction of the new townhouses and public streets is currently underway pursuant to the recent draft plan of subdivision and site plan approvals.

The following uses are adjacent to the subject lands:

- North: Ellesmere South Service Road, and the Ellesmere Road overpass with a Toronto Parking Authority parking lot below. North of the overpass are library facilities (currently planned for expansion) and a City maintenance yard. Northwest of the site under the Ellesmere Road overpass is the Ellesmere RT station having access from the service road under Ellesmere Rd., with a seniors' residential care facility to the west.
- South: Industrial buildings with surface parking. East of Midwest Road is an industrial plaza.
- East: On the eastern side of Great West Drive, a condominium townhouse development with 135 four-storey units and a public park. At the northwest corner of Midwest Road and Midland Avenue, a single-storey commercial building with a coffee shop.
- West: Rail tracks belonging to Metrolinx – GO/CNR and the Toronto Transit Commission (Scarborough SRT). West of the tracks are industrial uses.

## **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.

## **Official Plan**

The site is designated Mixed Use Areas by the Toronto Official Plan. Mixed Use Areas are made up of a broad range of commercial, residential and institutional uses, in single use or mixed use buildings, as well as parks, open spaces and utilities. Within Mixed Use Areas, the official plan policies indicate that new buildings should be located and massed

to frame streets and to provide a comfortable, safe pedestrian environment; that new development should take advantage of nearby transit services; and that new development should provide good access, parking and circulation, among other matters.

## **Zoning**

The property is currently zoned Commercial/Residential (CR) Zone in the former City of Scarborough Employment Districts Zoning By-law No. 24982 (Dorset Park), which, by Exception, permits only Multiple Family Dwellings, Group Homes, Day Nurseries and Private Home Day Care. As zoned and with the plan of subdivision now registered, a maximum of 162 dwelling units are permitted on the site (The site is not included in the new City of Toronto Zoning By-law No. 569-2013 enacted by City Council on May 9, 2013.)

## **Site Plan Control**

The site is subject to site plan control, and following the City's review of application 11 141145 ESC 37 SA in this regard, the Notice of Approval Conditions was issued by the Director, Community Planning, Scarborough District on Apr. 2, 2013 as noted above. The site plan agreement is currently being prepared by Legal Services, and once the agreement is executed and registered, the City's Final Statement of Approval can be issued.

In addition, the Chief Planner or her designate will not consent to the transfer of any parcel without the registration of the site plan agreement on title.

## **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 (as set out on Attachment 2: Draft Plan Approval Conditions).

Engineering and Construction Services staff advise that the recently constructed retaining wall along the west property line of the proposed common elements condominium, related to the adjacent rail facilities, extends approximately 10 metres northerly beyond the subject property into the City's Ellesmere Rd. allowance. Ellesmere Rd. at this location is an elevated roadway providing grade-separation over the rail facilities, with a Toronto Parking Authority parking lot below the bridge serving the Ellesmere RT Station. The retaining wall does not physically interfere with any of these facilities. The retaining wall within Block 6 is intended to comprise one of the common elements of the proposed condominium, however the ownership and on-going maintenance responsibilities for the end portion of the wall extending into the road allowance have not otherwise been addressed through the recently registered subdivision agreement noted above.

City staff do not propose that the City assume any maintenance responsibilities for that portion of the wall extending onto City lands, nor that any transfer of ownership for this portion of the road allowance to the condominium be considered. Engineering and Staff report for action – Final Report - Common Elements Condominium and Part Lot Control Exemption – 1051 Ellesmere Road

Construction Services staff, in consultation with Transportation Services staff, however, do recommend that an appropriate draft plan approval condition would be to require the owner, prior to condominium registration, to enter into an encroachment agreement with the City which sets out the condominium's on-going maintenance responsibilities satisfactory to the General Manager, Transportation Services for that portion of the retaining wall within the road allowance.

## **COMMENTS**

The application for a draft plan of common elements condominium is necessary for providing ongoing shared ownership and maintenance of the internal rear laneway, site servicing, the retaining wall and berm associated with adjacent rail activities and associated landscaping serving the 37 townhouse dwelling units on Block 6, and is appropriate for the orderly development of the lands. The application for lifting of part lot control is necessary to create separately conveyable parcels for all 162 townhouse dwelling units overall on this site.

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

The proposal is consistent with the PPS by contributing to meeting the housing needs of Toronto's growing population and by making efficient use of available municipal infrastructure including nearby public transit services..

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

## **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 site plan agreement and common elements condominium are registered.

## **CONTACT**

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E-mail: hines@toronto.ca

## **SIGNATURE**

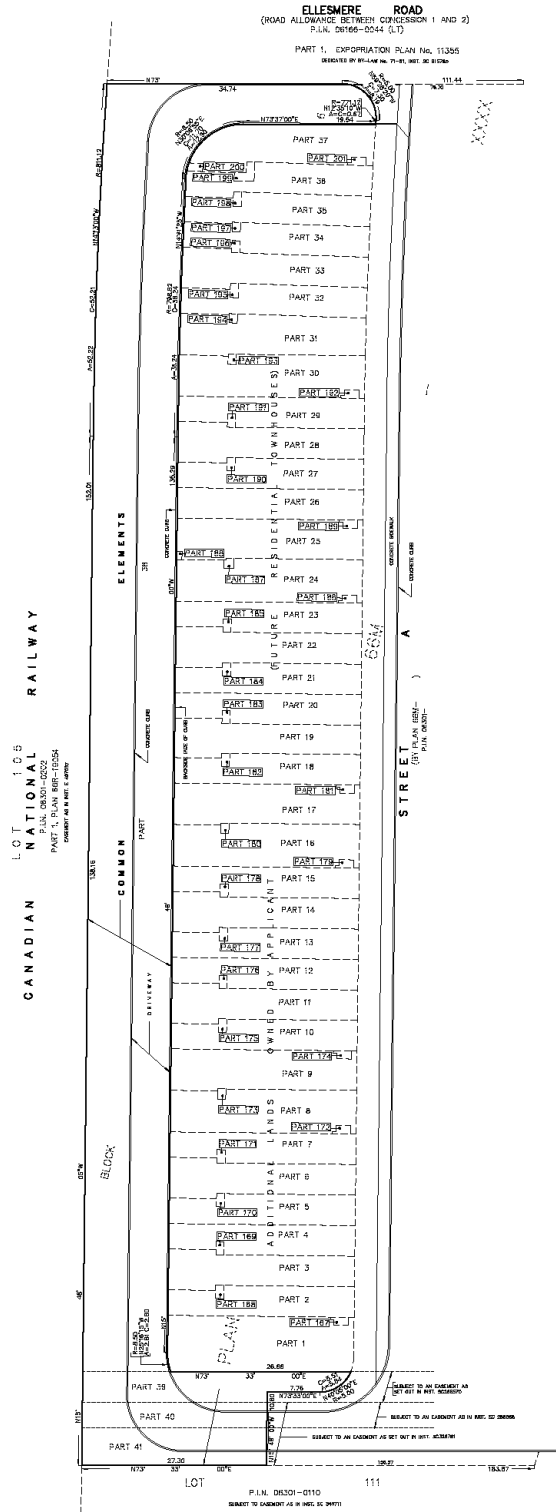
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Raymond David, Director  
Community Planning, Scarborough District

## **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 (Part Lot Control Exemption)  
Attachment 5: Application Data Sheet (Common Elements Condominium)

# Attachment 1: Draft Plan of Common Elements Condominium



1051 Ellesmere Road

Draft Plan of Common Element Condominium

Applicant's Submitted Drawing

Not to Scale  
01/08/13

File # 12 263268 CD

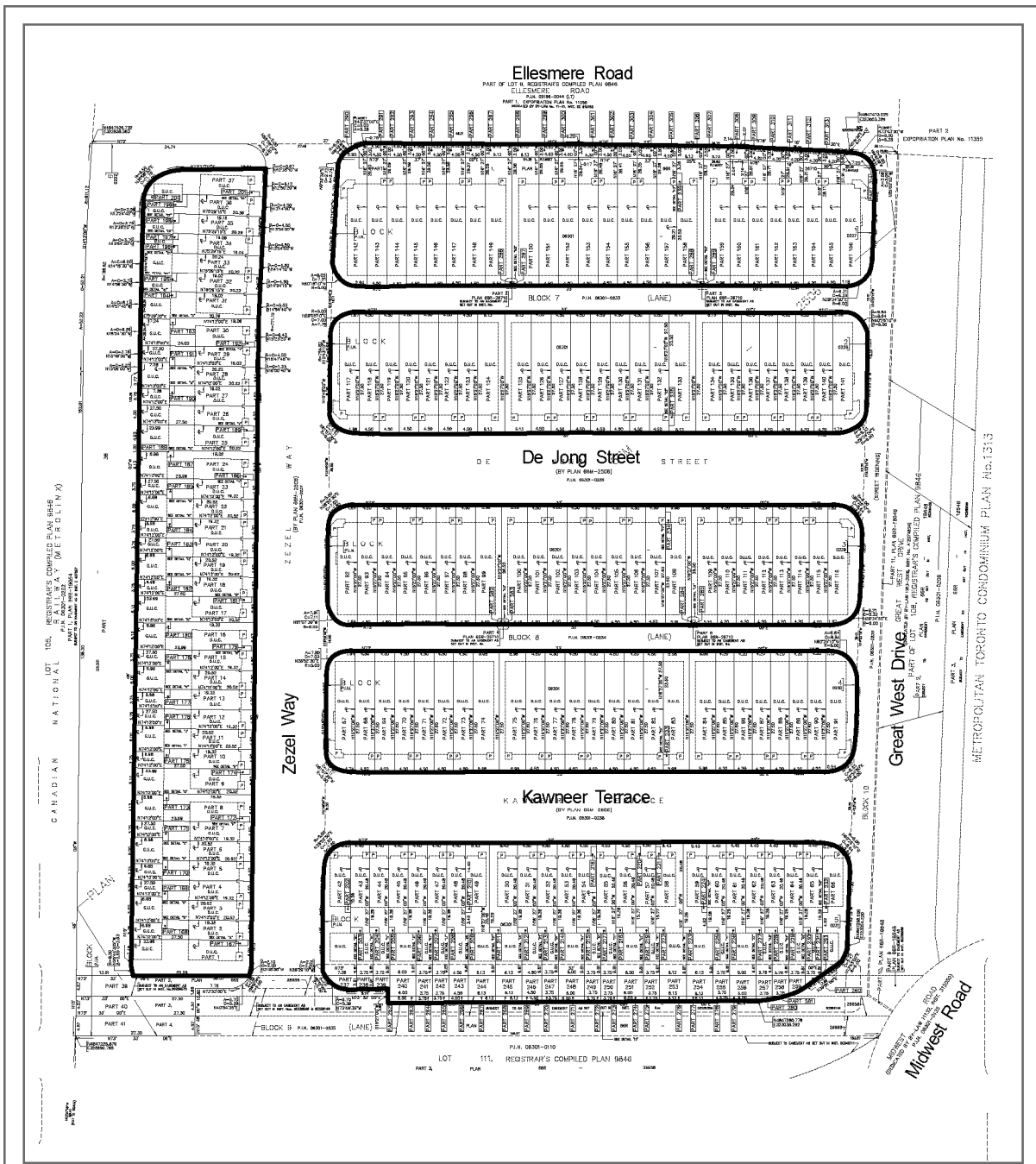


## Attachment 2: Draft Plan Approval Conditions

- (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) 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.
- (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) The owner shall provide the following information to the Executive Director, Technical Services prior to the release of the final plan for condominium registration:
  - a) Provide certification to the Executive Director, Technical Services by the Professional Engineer who designed the retaining walls that the walls were constructed in accordance to the accepted drawings;
  - b) Provide certification to the Executive Director of Technical Services from the Professional Engineer who designed and supervised the construction, confirming that the stormwater management facilities and site grading have been constructed in accordance with the accepted Stormwater Management Report and the accepted Grading Plans;
  - c) 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.

- (6) Prior to the release of the final plan for condominium registration, the owner shall enter an encroachment agreement with the City satisfactory to the General Manager, Transportation Services which sets out the owner's responsibilities for the maintenance of the retaining wall situated within the Ellesmere Rd. allowance.
- (7) 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: Part Lot Control Exemption Plan



## Part Lot Control Exemption Plan

1051 Ellesmere Road

Applicant's Submitted Drawing

Not to Scale  
05/21/13



File # 13 133973 PL, 12 263268 CD

**Attachment 4: Application Data Sheet  
(Part Lot Control Exemption)**

Application Type	Part Lot Control Exemption	Application Number:	13 1339738 ESC 37 PL
Details		Application Date:	March 15, 2013

Municipal Address: 1051 ELLESMERE RD.  
 Location Description: CON 1 PT LOT 27 PLAN 9846 RCP LOT 109 \*\*GRID E3705  
 Project Description: Part Lot Control Exemption to create 162 lots for a townhouse project currently under construction.

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
MONARCH CORPORATION			GOLDMAN ELLESMERE DEVELOPMENTS INC.

**PLANNING CONTROLS**

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	
Zoning:	CR-Commercial/Residential Zone	Historical Status:	
Height Limit (m):	14.0	Site Plan Control Area:	Yes

**PROJECT INFORMATION**

Site Area (sq. m):	26130.0	Height:	Storeys:	3 to 4
Frontage (m):	Varied		Metres:	11.37 to 12.97
Depth (m):	Varied			
Total Ground Floor Area (sq. m):	12976.4		<b>Total</b>	
Total Residential GFA (sq. m):	29841.0		Parking Spaces:	279
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	29841.0			
Lot Coverage Ratio (%):	49.7			
Floor Space Index:	1.14			

**DWELLING UNITS**

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

Tenure Type:	Freehold		<b>Above Grade</b>	<b>Below Grade</b>
Rooms:	0	Residential GFA (sq. m):	29841.0	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:	162			

**CONTACT: PLANNER NAME: Rod Hines, Principal Planner**  
**TELEPHONE: (416) 396-7020**

**Attachment 5: Application Data Sheet  
(Common Elements Condominium)**

Application Type	Condominium Approval	Application Number:	12 263268 ESC 37 CD
Details	Common Elements	Application Date:	October 16, 2012

Municipal Address: 1051 ELLESMERE RD.  
 Location Description: CON 1 PT LOT 27 PLAN 9846 RCP LOT 109 \*\*GRID E3705  
 Project Description: Common element condominium for one block of approved townhouse development (37 units).

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
MONARCH CORPORATION			GOLDMAN ELLESMERE DEVELOPMENTS INC.

**PLANNING CONTROLS**

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	
Zoning:	CR-Commercial/Residential Zone	Historical Status:	
Height Limit (m):	14.0	Site Plan Control Area:	Yes

**PROJECT INFORMATION**

Site Area (sq. m):	8020.0	Height:	Storeys:	4
Frontage (m):	209.2		Metres:	11.37
Depth (m):	39.5			
Total Ground Floor Area (sq. m):	1600.0			<b>Total</b>
Total Residential GFA (sq. m):	5800.0		Parking Spaces:	53
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	5800.0			
Lot Coverage Ratio (%):	20.0			
Floor Space Index:	0.7			

**DWELLING UNITS**

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

Tenure Type:	Freehold		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	5800.0	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:	37			

**CONTACT: PLANNER NAME: Rod Hines, Principal Planner**  
**TELEPHONE: (416) 396-7020**