

7A, 7B, 7C Austin Terrace and 1A, 1B, 1C Lyndhurst Court – Common Elements Condominium Application and Part Lot Control Exemption Application – Final Report

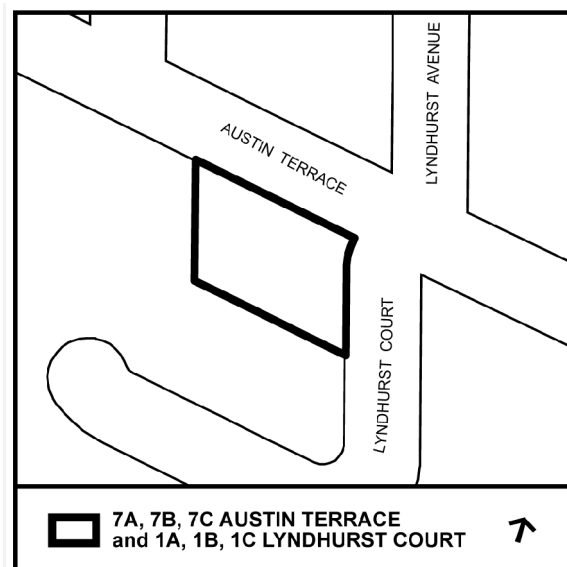
Date:	May 21, 2013
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 21 – St. Paul's
Reference Number:	13 106405 STE 21 CD and 13 106413 STE 21 PL

SUMMARY

The part lot control exemption application (13 106413 STE 21 PL) is required to create 3 separately conveyable townhouse dwelling units (7A, 7B, and 7C Austin Terrace), 2 separately conveyable semi-detached dwelling units (1B and 1C Lyndhurst Court), and 1 detached dwelling (1A Lyndhurst Court) on the subject lands.

The draft plan of common elements condominium application (13 106405 STE 21 CD) is required to provide legal access, at the rear of the site, to the individual underground garages for the units at 7A, 7B, and 7C Austin Terrace and 1B and 1C Lyndhurst Court. The unit at 1A Lyndhurst will not be part of the common element condominium.

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



RECOMMENDATIONS

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 7A, 7B, and 7C Austin Terrace and 1B, and 1C Lyndhurst Court, as generally illustrated on Attachment 1 to report (May 21, 2013), from the Director, Community Planning, Toronto and East York District, subject to:
 - a. the conditions as generally listed in Attachment 2 to the report (May 21, 2013) from the Director, Community Planning, Toronto and East York District, 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 7A, 7B, and 7C Austin Terrace and 1A, 1B, and 1C Lyndhurst Court as generally illustrated on Attachment 3 to report (May 21, 2013) from the Director, Community Planning, Toronto and East York District, 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

A Minor Variance application (File No. A0504/09TEY) and Site Plan Approval application (File No. 09 158112 STE 21) were submitted for the construction of a three storey, eight unit townhouse complex with below-grade garages attached to a new three storey residential rental building containing six stacked units. On February 23, 2011, the Minor Variance application was refused by the Committee of Adjustment. The applicant subsequently appealed the decision to the Ontario Municipal Board (OMB) along with the Site Plan Approval application.

The proposal was revised at the OMB to the current proposal for 3 townhouses and 2 semi-detached dwellings, which will have a shared driveway and below-grade garage to be secured as a common element condominium. As well as, one detached dwelling that will not form part of the common element condominium. The OMB approved the revised Minor Variance and Site Plan Approval applications on August 9, 2011 (Case No, PL101393).

ISSUE BACKGROUND

Proposal

The proposal consists of three townhouse units fronting onto Austin Terrace (7A, 7B, 7C Austin Terrace), two semi-detached dwellings fronting onto Lyndhurst Court (1B and 1C Lyndhurst Court), and one detached dwelling fronting onto Lyndhurst Court (1A Lyndhurst Court) located at the north-east corner of the site. The townhouse units and the semi-detached dwellings will have a shared driveway and underground garage that is accessed from Austin Terrace at the west end of the site. The detached dwelling will have a private garage accessed from Lyndhurst Court.

A common elements condominium application has been filed to guarantee the provision and maintenance of the shared driveway and underground garage, in perpetuity, by the condominium corporation.

Exemption from part lot control is being sought to enable the creation of 6 separately conveyable parcels for the townhouses, semi-detached dwellings, and detached dwelling. The proposal is currently under construction.

Site and Surrounding Area

The site is located on the south-west corner of the intersection of Austin Terrace and Lyndhurst Court. The site has an area of approximately 0.17 hectares (0.42 acres). It has a frontage of approximately 49.1 metres (161 feet) on Austin Terrace and a depth of 30.4 m (99.6 feet) (See Attachment 4: Application Data sheet). The site is currently occupied by an existing two-storey building.

North: To the north is a low-rise residential neighbourhood made up of detached two and three-storey dwellings.

South: To the south is a low-rise residential neighbourhood made up of detached one, two, and three-storey dwellings. The property abuts the rear yards of 4 detached houses which are on the north side of Lyndhurst Court.

East: To the east is the "Sisters Servants of Mary Immaculate" Place of Worship.

West: Directly abutting the site to the west is a two-storey detached dwelling.

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 subject lands are designated as *Neighbourhoods* in the Toronto Official Plan. *Neighbourhoods* consist of generally low-scale residential buildings, as well as community uses, parks, schools and small-scale stores to serve the needs of area residents. Development within *Neighbourhoods* must respect and reinforce the existing physical character of the neighbourhood. The proposal conforms to the policies of the Official Plan.

Zoning

The zoning for the site in City of Toronto By-law 438-86 is R1S Z0.6. This is a residential zoning designation that allows a number of uses, but does not include townhouse dwelling types. The maximum permitted height is 12.0 metres.

Minor Variance application A0504/09TEY as approved by the OMB permits a total of 6 units on the site, including 3 townhouse units, 2 semi-detached units, and 1 detached dwelling.

Site Plan Control

The lands at 7A, 7B, and 7C Austin Terrace and 1A, 1B, and 1C Lyndhurst Court are subject to site plan control. A site plan application (File No. 09 158112 STE 21) to construct 3 townhouse units, 2 semi-detached units, and 1 detached dwelling was approved by the OMB on August 9, 2011 (Case No, PL101393).

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

The application for a draft plan of common elements condominium is necessary to provide ongoing shared ownership and maintenance of the shared driveway and underground garage, and is appropriate for the orderly development of the lands. The application for the lifting of part lot control is necessary to create separately conveyable parcels for the 6 dwellings.

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the PPS.

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 which is currently under construction.

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.

Conclusion

City Planning Staff have reviewed the development proposal at 7A, 7B, and 7C Austin Terrace and 1A, 1B, and 1C Lyndhurst Court and recommend approval of the proposed Draft Plan of Common Element Condominium and Part Lot Control applications.

CONTACT

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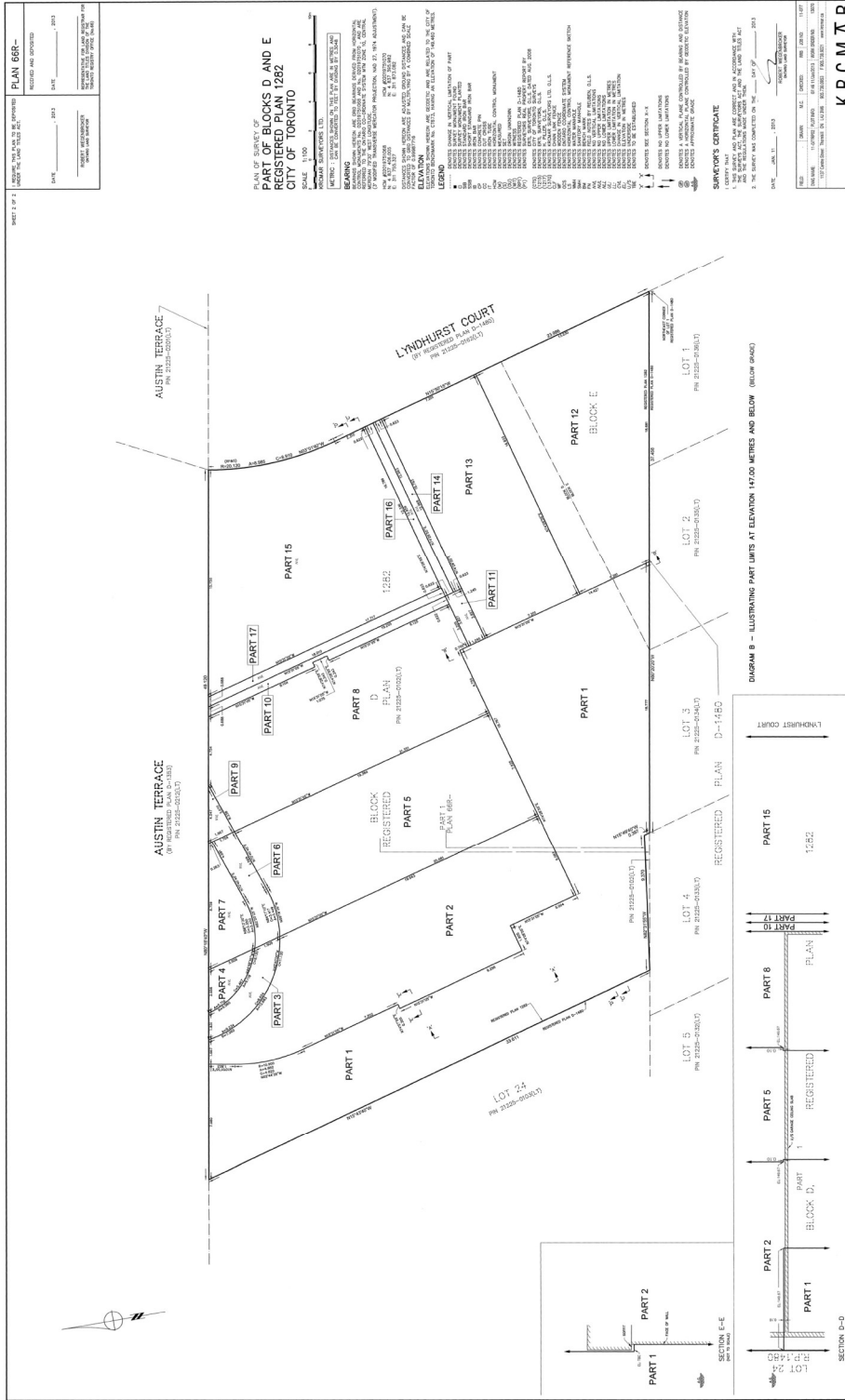
Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: Draft Plan of Common Elements Condominium
Attachment 2: Draft Plan Approval Conditions
Attachment 3: Part Lot Control Exemption Plan
Attachment 4: Application Data Sheet

Attachment 1: Draft Plan of Common Elements Condominium



7 Austin Terrace

Draft Plan of Common Element Condominium

Applicant's Submitted Drawing

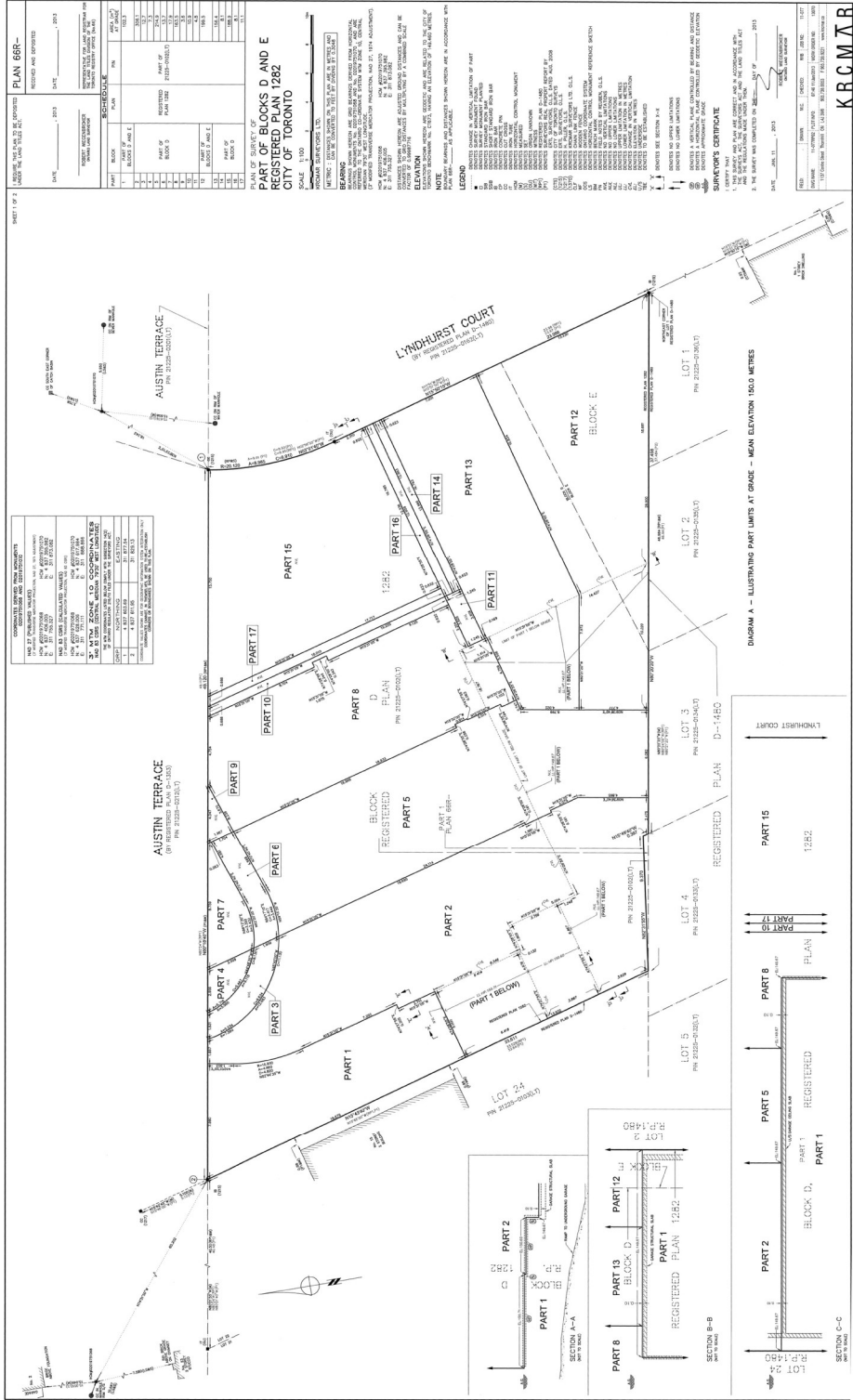
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05/16/2013

File # 13 106405 CD

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) 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



7 Austin Terrace

Part Lot Control Exemption Plan

Applicant's Submitted Drawing

Not to Scale
05/16/2013

File # 13 106405 CD

Attachment 4: Application Data Sheet

Application Type	Condominium Approval and Part Lot Control	Application Number:	13 106405 STE 21 CD, 13 106413 STE 21 PL
Details	Common Elements	Application Date:	January 16, 2013
Municipal Address:	7 AUSTIN TER		
Location Description:	PLAN 1282 PT LOTS D AND E **GRID S2109		
Project Description:	Applications for a plan of Common Element Condominium and Part Lot Control Exemption in relation to 6 unit freehold town homes (7A to C Austin Terrace) and 2 semi-detached homes (1B and C Lyndhurst Court) with common element driveway at the rear, and a detached dwelling (1A Lyndhurst Court) that will not be part of the common element condominium.		

Applicant:	Agent:	Architect:	Owner:
Sherman Brown Dryer Karol LLP , 5075 Yonge St, Suite 900, Toronto, ON M2N 6C6	Sherman Brown Dryer Karol LLP , 5075 Yonge St, Suite 900, Toronto, ON M2N 6C6		2293273 ONTARIO INC, 97 Heritage Hollow Estate St., Richmond Hill, ON L4S2X2

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:
Zoning:	R1S Z0.6	Historical Status: Designated
Height Limit (m):	12, 0, 0	Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq. m):	1430.97	Height:	Storeys:	3
Frontage (m):	49.1		Metres:	13.81
Depth (m):	30.36			
Total Ground Floor Area (sq. m):				Total
Total Residential GFA (sq. m):	2251.2		Parking Spaces:	6
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	2251.2			
Lot Coverage Ratio (%):	53.6			
Floor Space Index:	1.31			

DWELLING UNITS

		FLOOR AREA BREAKDOWN (upon project completion)		
Tenure Type:	Common Element, Freehold		Above Grade	Below Grade
	Residential GFA (sq. m):		1875.2	376
	Retail GFA (sq. m):		0	0
Townhouse dwelling:	3	Office GFA (sq. m):	0	0
Semi-detached dwelling:	2	Industrial GFA (sq. m):	0	0
Detached dwelling:	1	Institutional/Other GFA (sq. m):	0	0
Total Units:	6			

CONTACT: PLANNER NAME: David Driedger, Planner TELEPHONE: 416-392-7613