

**1046 Avenue Road – Draft Plan of Common Elements
Condominium Application and Part Lot Control
Exemption Application – Final Report**

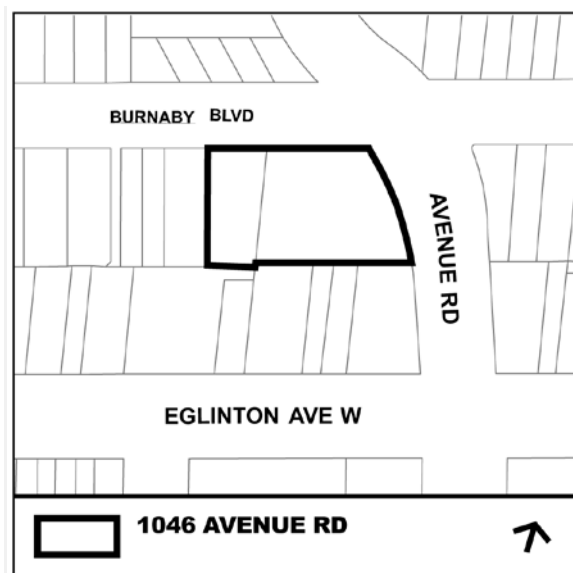
Date:	March 20, 2015
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 16 – Eglinton-Lawrence
Reference Number:	14 189797 NNY 16 CD and 14 189809 NNY 16 PL

SUMMARY

This application proposes to establish an underground garage and landscape area as a common element at 1046 Avenue Road. The common elements condominium is required to provide legal pedestrian and vehicular access to eighteen residential townhouse units and to ensure shared ownership and maintenance of the common elements by the condominium corporation.

The requested exemption from the Part Lot Control provisions of the *Planning Act* is required to permit the creation of conveyable lots for the eighteen residential townhouse units fronting Avenue Road and Burnaby Boulevard.

This report reviews and recommends approval of the Draft Plan of Common Elements Condominium and Part Lot Control Exemption. 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 prior consent of the Chief Planner or her designate.



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 1046 Avenue Road, as generally illustrated on Attachment 1 to this report, subject to:
 - (a) the conditions as generally listed in Attachment 2 this report, 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 1046 Avenue 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.
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 her 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 consent application was submitted to the Committee of Adjustment in August 2010 to facilitate the development proposal (file no. B0047/10NY). The application proposed to relocate the existing shared private driveway between 55 Burnaby Boulevard and 1046 Avenue Road westwards between 59 Burnaby Boulevard and the proposed new townhouse development. The applicant has advised that the driveway is currently used, and would continue to be used, for vehicular and pedestrian access to the rear of the properties to the west of the subject lands at 59 to 77 Burnaby Boulevard. The consent application was reviewed concurrently with the rezoning and site plan applications and was appealed to the Ontario Municipal Board.

The Zoning By-law Amendment (file no. 10 293313 NNY 16 OZ) and Site Plan application (10 293317 NNY 16 SA) were submitted for the subject property on November 8, 2010 seeking permission for a 20 unit townhouse development with 20 parking spaces located within a shared underground garage. On February 16, 2011 North York Community Council considered a Preliminary Report on the application. Community Council directed that City Planning staff schedule a community consultation meeting with the Ward Councillor with an expanded notice area, and that notice for the public meeting be given according to regulations of the *Planning Act*.

The Preliminary Report is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.NY4.36>

In August 2011 the applicant appealed the Zoning By-law Amendment, Site Plan Control and Consent applications to the Ontario Municipal Board (OMB) citing Council's and the Secretary Treasurer's failure to make a decision within the time prescribed by the *Planning Act*.

On May 8, 2012 City Council considered a Directions Report on the application. It was the Decision of City Council to support the revised development proposal submitted by the applicant in February 2012. City Council directed that City Planning staff to appear before the OMB in support of the revised proposal.

The Directions Report is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.NY15.15>

A settlement was ultimately reached between the applicant and the City where the proposal was amended by reducing the number of townhouse units from 20 to 18 having 22 parking spaces (including 4 visitor parking spaces).

On May 22, 2012 the OMB approved the applications as revised in accordance with the settlement (file no. PL110794). The development proposal is now nearing completion of construction.

ISSUE BACKGROUND

Proposal

This application proposes to establish an underground garage and landscaped area as common elements at 1046 Avenue Road to ensure shared access, ownership and maintenance of the common elements by the condominium corporation. The requested exemption from the Part Lot Control of the *Planning Act* is required to permit the creation of conveyable lots for the 18 residential townhouse units fronting Avenue Road and Burnaby Boulevard.

Site and Surrounding Area

The subject site consists of a townhouse development, currently under construction, located at the southwest corner of Avenue Road and Burnaby Boulevard just north of Eglinton Avenue West. The property was an assembly of two properties, one at 1046 Avenue Road was formerly occupied by St. Margaret's Anglican Church and the adjacent property to the west at 55-57 Burnaby Boulevard was occupied by a fourplex rental building. The total development site has a frontage of 37.8 metres on Avenue Road and 49.7 metres on Burnaby Boulevard, and an area of 1,942 m².

Land uses surrounding the subject site are as follows:

North: Directly north of the site across Burnaby Boulevard are five detached dwellings and further north fronting Avenue Road are two 2-storey residential apartment buildings.

West: The south side of Burnaby Boulevard to the west of the site has been developed with fourplex rental buildings, which include detached garages at the rear of the lots accessed from a private driveway. This east-west driveway is accessed from two points off Burnaby Boulevard, the previously identified shared private driveway, located between the two subject properties and a public lane located between 65 and 67 Burnaby Boulevard. The north side of Burnaby Boulevard contains a number of detached residential dwellings with many of these homes divided into duplexes and triplexes.

East: There are a number of low scale detached residential dwellings east and northeast of the site across Avenue Road. These dwellings have rear yard detached garages that are accessed from an east-west driveway accessed from Oriole Parkway.

South: There are predominantly one and two-storey commercial buildings fronting the north and south sides of Eglinton Avenue West. Immediately abutting the site to the south are a number of one-storey commercial uses.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS), 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of

resources and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. 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 *Neighbourhoods* on Map 17, Land Use Plan of the Official Plan. *Neighbourhoods* are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes, townhouses, as well as interspersed walk-up apartments that are no higher than four storeys. The *Neighbourhoods* designation is intended to protect and reinforce the existing physical character of the surrounding low scale residential area.

Secondary Plan

The subject site is designated *Neighbourhoods* in the Yonge-Eglinton Secondary Plan. The Yonge-Eglinton Secondary Plan area consists of a wide variety of residential and commercial areas focused on Yonge Street, Eglinton Avenue, Mount Pleasant Road and Bayview Avenue.

A primary objective of the Secondary Plan is to maintain and encourage a full range of housing forms and tenure suitable for family and other households in a manner that is contextually appropriate and compatible with existing residential uses and residential built form. The stability of *Neighbourhoods* are to be maintained and reinforced to minimize conflicts in terms of land use, scale and vehicular movement. Another objective is to ensure that the form of buildings promote a compatible physical and land use relationship between development within the various land use designations and forms a positive visual relationship to the street. The Yonge-Eglinton Secondary Plan also encourages a variety of unit sizes, and larger units suitable for families.

Zoning

The site is subject to Site Specific By-law 493-2014 (OMB) which permits the 18 townhouse units having a maximum permitted height of 13.5m and maximum residential gross floor area of 3,715m².

Site Plan Control

The Site Plan Control application for this development was approved by the OMB on May 22, 2012 (File No. 10 293317 NNY 16 SA). A Site Plan Agreement between Slubor Group LTD. and the City of Toronto is registered 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.

COMMENTS

Provincial Policy Statement and Provincial Plans

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

Land Division

The applicant is proposing a Common Elements Condominium and Part Lot Control Exemption. This is appropriate as it implements the previous approvals.

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 one year 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.

CONCLUSIONS

The proposed Draft Plan of Common Elements Condominium and the exemption from Part Lot Control are considered appropriate for the orderly development of the lands and are recommended for approval.

CONTACT

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SIGNATURE

Allen Appleby, Director
Community Planning, North York District

ATTACHMENTS

Attachment 1: Draft Plan of Common Elements Condominium

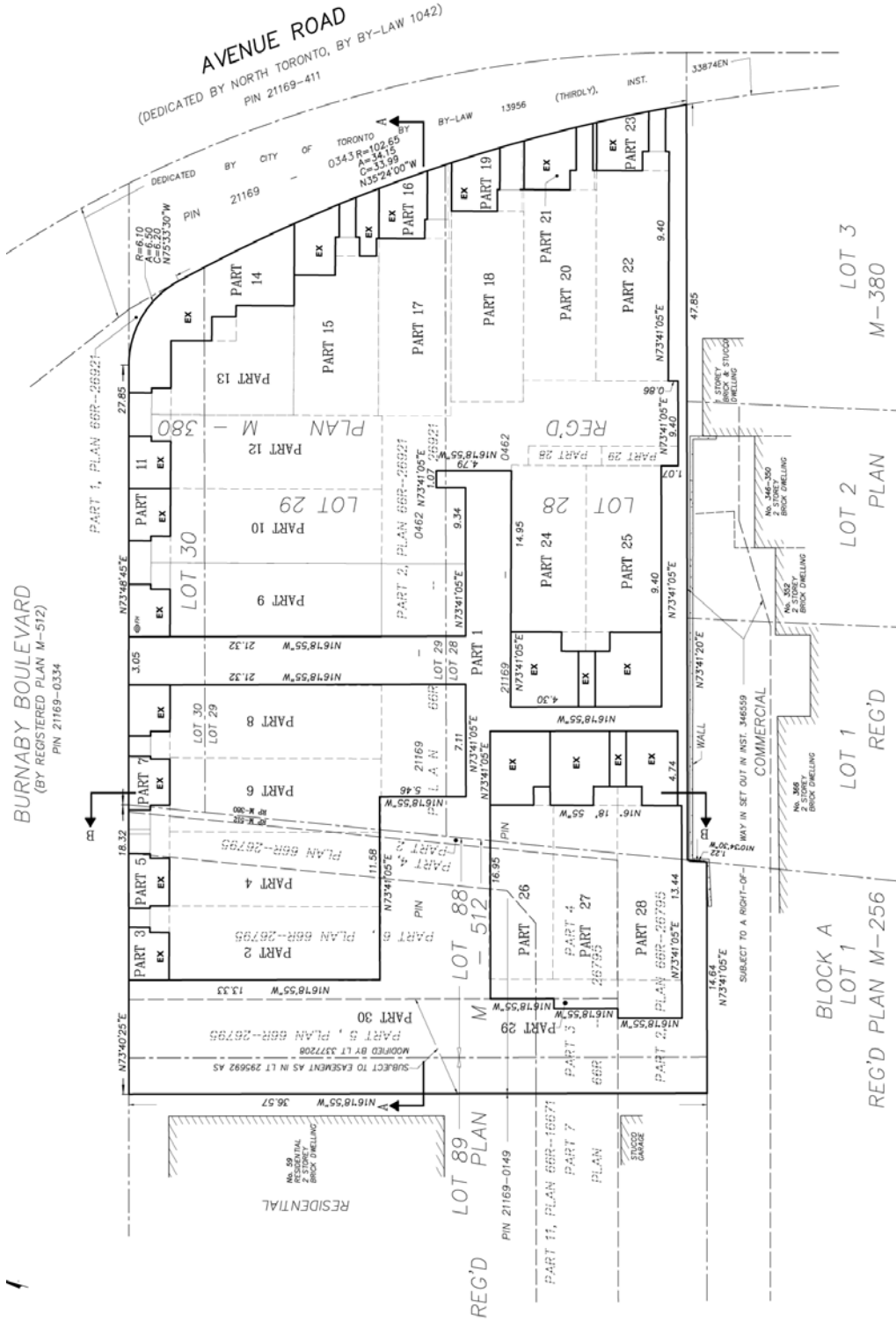
Attachment 2: Draft Plan Approval Conditions

Attachment 3: Part Lot Control Exemption Plan

Attachment 4: Application Data Sheet

Attachment 5: Draft Part Lot Control Exemption By-law

Attachment 1: Draft Plan of Common Elements Condominium



1046 Avenue Road

Draft Plan of Common Elements Condominium - At Grade

Applicant's Submitted Drawing

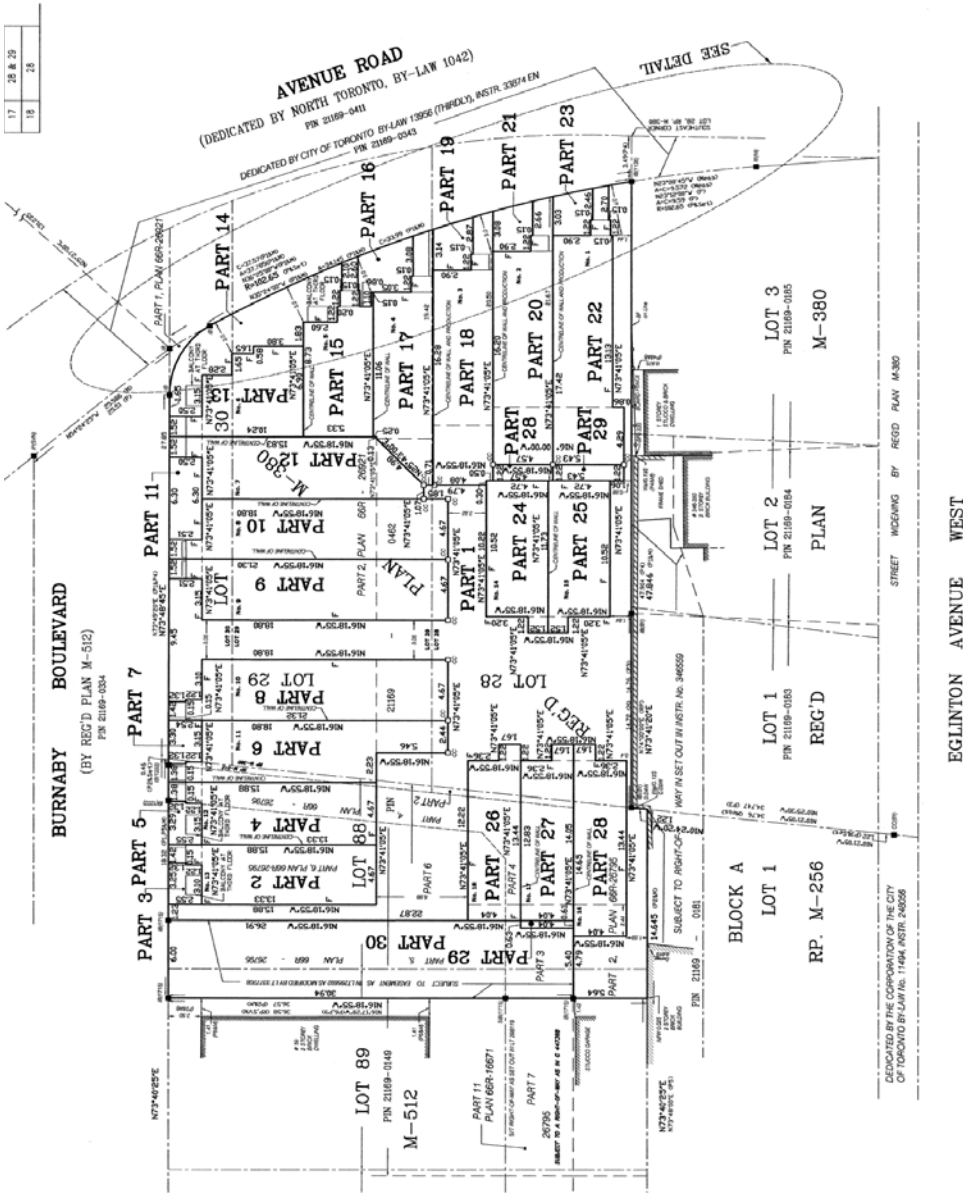
Not to Scale
03/19/2015

File # 14 189797 & 14 189809

Attachment 2: Draft Plan Approval Conditions

- (1) The owner shall provide to the Director Community Planning, North 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, North 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) Visitors parking spaces will be clearly delineated on the condominium plan to be registered.
- (6) 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



1046 Avenue Road

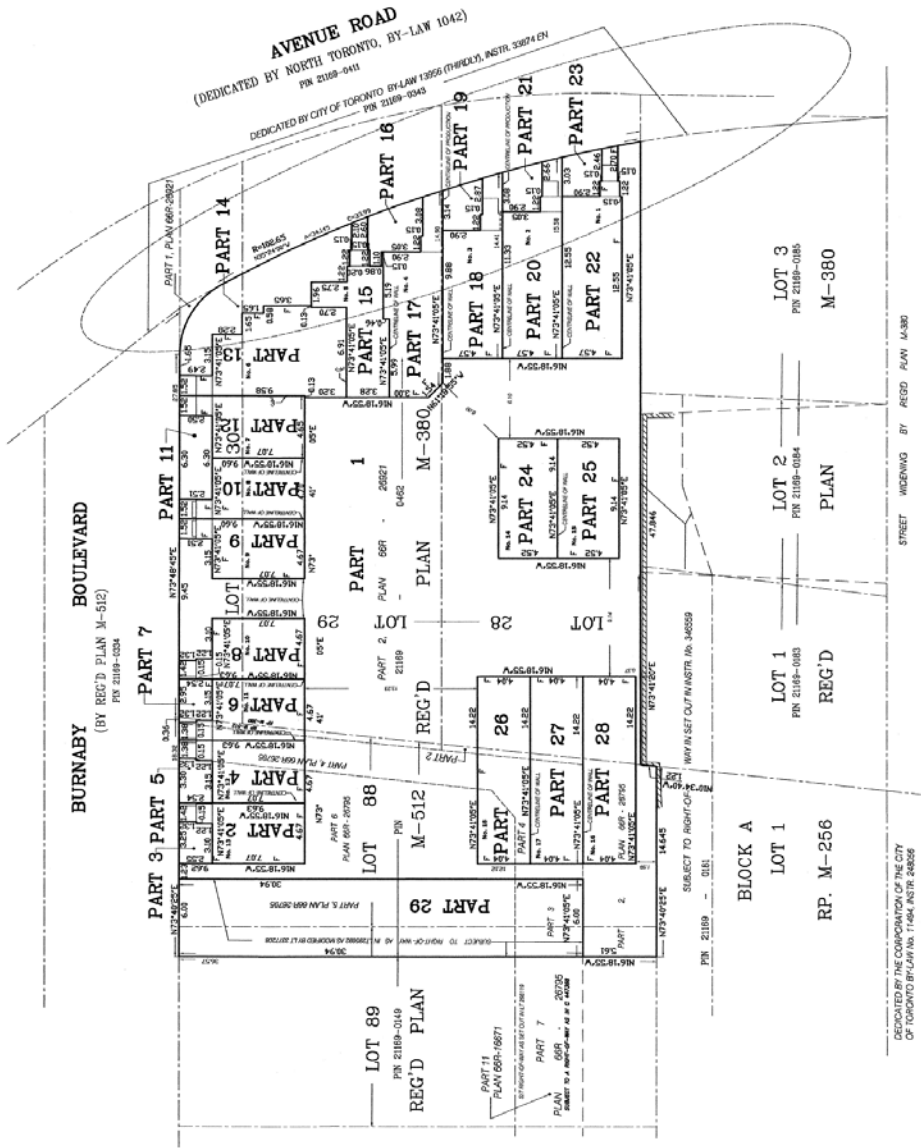
Part Lot Control Exemption Plan - At Grade

Applicant's Submitted Drawing

Not to Scale
03/19/2015

File # 14 189797 & 14 189809

PLAN VIEW ELEVATION=174.35



1046 Avenue Road

Part Lot Control Exemption Plan - Below Grade

Applicant's Submitted Drawing

File # 14 189797 & 14 189809

Not to Scale
03/19/2015

Attachment 4: Application Data Sheet

APPLICATION DATA SHEET

Application Type	Draft Plan of Common Elements Condominium Part Lot Control Exemption	Application Number:	14 189797 NNY 16 CD 14 189809 NNY 16 PL
Details		Application Date:	July 14, 2014
Municipal Address:	1046 AVENUE RD		
Location Description:	PLAN M380 PT LOTS 28 TO 30 **GRID N1606		
Project Description:	Application to designate the underground parking and landscaped area as a common element for the 18 townhouses.		

Applicant:	Agent:	Architect:	Owner:
EWGENIY SLUZKIY 17 BELSIZE DR TORONTO ON M4S 1L3	TONY EVANGELISTA 53 BENTWORTH AVE TORONTO ON M6A 1P5		SLUBOR GROUP LTD 17 BELSIZE DR TORONTO ON M4S 1L3

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	N
Zoning:	R(f9.0; d0.6)	Historical Status:	N
Height Limit (m):	13.5	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	1942.3	Height:	Storeys:	3	
Frontage (m):	37.8		Metres:	13.5	
Depth (m):	49.7				
Total Ground Floor Area (sq. m):	996				Total
Total Residential GFA (sq. m):	3510		Parking Spaces:	22	
Total Non-Residential GFA (sq. m):	0		Loading Docks	0	
Total GFA (sq. m):	3510				
Lot Coverage Ratio (%):	51.28				
Floor Space Index:	1.81				

DWELLING UNITS

Tenure Type:	Freehold
Rooms:	0
Bachelor:	0
1 Bedroom:	0
2 Bedroom:	0
3 + Bedroom:	18
Total Units:	18

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Residential GFA (sq. m):	3510		0
Retail GFA (sq. m):	0		0
Office GFA (sq. m):	0		0
Industrial GFA (sq. m):	0		0
Institutional/Other GFA (sq. m):	0		0

CONTACT: **PLANNER NAME:** Sarah Ovens, Assistant Planner, sovens@toronto.ca
TELEPHONE: **416-395-7129**

Attachment 5: Draft Part Lot Control Exemption By-law

Authority: North York Community Council Item No. NYXX.XX, as adopted by City of Toronto Council on May 5 and 6, 2015.

Enacted by Council:

CITY OF TORONTO

Bill No.

BY-LAW No.

To exempt lands municipally known in 2015 as 1046 Avenue 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*, R.S.O. 1990, C. P.13, as amended, 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 this

Mayor

City Clerk

Schedule “A”

Legal Description:

Firstly: Part of Lots 28, 29 and 30, registered plan M-380

Secondly: Lot 88 and Part of Lot 89, registered plan M-512

City of Toronto