

**3765 St. Clair Avenue East - Common Elements  
Condominium Application and Part Lot Control  
Exemption Application - Final Report**

<b>Date:</b>	August 5, 2016
<b>To:</b>	Scarborough Community Council
<b>From:</b>	Acting Director, Community Planning, Scarborough District
<b>Wards:</b>	Ward 36 – Scarborough Southwest
<b>Reference Number:</b>	16 144330 ESC 36 CD and 16 144323 ESC 36 PL

**SUMMARY**

This condominium application proposes to create common element driveways and visitor parking for a 21 unit townhouse development at 3765 St Clair Ave E. The accompanying part lot control exemption application proposes to create one lot for each townhouse unit, for a total 21 conveyable lots.

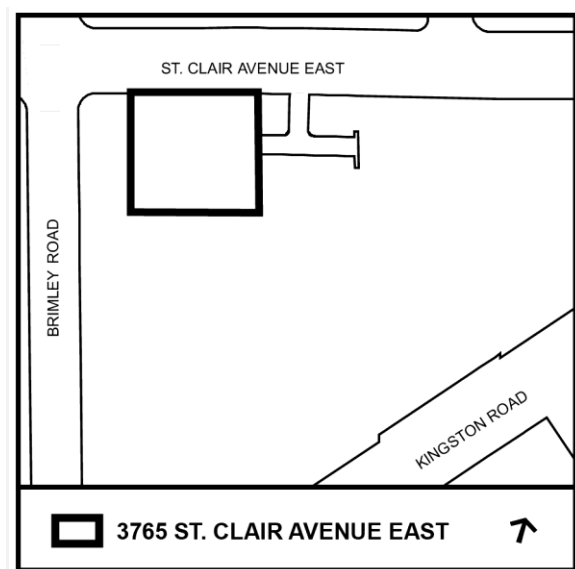
The applications meet all of the applicable requirements and are consistent with the approved site plan.

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 3765 St Clair Avenue E, as generally illustrated on Attachment 1 to report dated August 5, 2016, subject to:
- (a) the conditions as generally listed in Attachment 2 to report dated August 5, 2016, 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 3765 St Clair Avenue E as generally illustrated on Attachment 3 to report dated August 5, 2016, 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/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**

In 2012 City Planning received an application to amend the zoning by-law at 3765 St. Clair Avenue E. (file number 12 240757 ESC 36 OZ). The application proposed 21 three storey townhouse units organized in four blocks, two of which would front onto St Clair Avenue E while two internal blocks would be arranged perpendicular to the fronting

blocks and face each other on a private street. A remainder portion of the property that fronts onto Brimley Road would be severed to create two single family home lots. Scarborough Community Council considered this application at its meeting of June 18, 2013. The final report can be found at:

<http://www.toronto.ca/legdocs/mmis/2013/sc/bgrd/backgroundfile-58791.pdf>

A concurrent application for Site Plan approval accompanied the zoning amendment application as file 12 240764 ESC 36 SA. A Notice of Approval Conditions was issued on August 13, 2015 and final approval was issued on January 27, 2016.

An application for consent to sever the two single family home lots was approved by the Committee of Adjustment at its meeting of September 11, 2014 under file number B030/14SC.

## **ISSUE BACKGROUND**

### **Proposal**

The application for common element condominium proposes to designate the private driveways and visitor parking of the development as common elements to be tied to the townhouse units. The part lot control exemption application proposes to partition the units to create 21 conveyable lots. The land areas affected by the two applications are mutually exclusive, but together encompass all of the lands at 3765 St Clair Avenue E excepting those lands which were previously severed to create the two single family home lots on Brimley Road.

The first and second floor plans shown in Attachments 1 and 3 differ slightly in that the rear of the second floor of units 1 through 11 cantilever slightly over the common element driveway. Hence the need for two sets of plans, one for each of the first and second floor of the project.

### **Site and Surrounding Area**

The subject property is relatively flat, and is separated from the intersection of St Clair Avenue E and Brimley Road by one lot. A place of worship occupied the site from the late 1950s until its recent demolition as part of the present development proposal.

Abutting uses include:

- North: detached dwellings on the north side of St Clair Avenue East
- South: a seven storey apartment building
- East: a two storey townhouse development, Bell utility building, and a retail commercial plaza further east at Kingston Road
- West: a four storey office building on the southeast corner of Brimley Road and St Clair Avenue E and a cemetery on the west side of Brimley Road

## **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, by the *Planning Act*, 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, as the case may be, with the Growth Plan for the Greater Golden Horseshoe.

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.

Staff reviewed the proposed development for consistency with the PPS and for conformity with the Growth Plan for the Greater Golden Horseshoe.

## **Official Plan**

The subject lands are designated *Mixed Use Areas* in the 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 and open spaces and utilities. The Official Plan states that *Mixed Use Areas* will absorb most of the anticipated increase in retail, office and service employment in Toronto in the coming decades, as well as much of the new housing.

## **Zoning**

As per Council's approval of application 12 240757 ESC 36 SA, the zoning designation of the subject lands is Multiple Family Residential (M) Zone, with performance standards tailored to support the proposed townhouse development.

## **Site Plan Control**

The proposed condominium and part lot control exemption applications are consistent with the approved site plan processed under application 12 240764 ESC 36 SA.

## **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 Provincial Policy Statement, 2014. The PPS seeks to create strong healthy communities, and promotes the use of active transportation, transit and transit supportive development. The PPS also stipulates that transportation and land use considerations shall be integrated at all stages of the planning process. The proposed development addresses these policies by focusing growth within an existing settlement area, by intensifying and redeveloping a mixed use site where suitable infrastructure is available, and by including cost effective development standards to minimize land consumption and servicing costs.

The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe. The Growth Plan encourages development of complete communities which include the provision of options for safe non-motorized travel, and by offering a balance of transportation options that reduces reliance upon any single mode and promotes transit, cycling and walking. The proposed development assigns growth within a mixed use built-up area of the community through intensification in a compact urban form and is supportive of transit, walking and cycling for everyday activities.

The Province identifies municipal Official Plans as the guiding documents to implement the policies and directions contained and articulated through the PPS and the Growth Plan. In locating the proposed development within a *Mixed Use Area* as identified in the Official Plan, the proposal achieves provincial objectives while also conforming to the City's planning framework.

### **Official Plan**

The proposed residential townhouses are compatible with the existing fabric of the surrounding area which includes a four storey commercial building, a seven storey apartment building, single detached residential dwellings and two storey townhouse dwellings. The proposed three storey townhouses fronting onto St. Clair Avenue East will continue the built form existing on the lands immediately east of the site. Redeveloping a large area of surface parking associated with the former place of worship with multiple family residential zoning represents a more efficient use of the lands.

Consistent with the *Mixed Use Areas* policies of the official plan, the proposal will contribute to a diverse mix of dwelling unit types and will contribute to an attractive, safe and comfortable pedestrian environment.

### **Common Element Condominium**

The application for a draft plan of common element condominium is necessary to provide legal access to the townhouse units and ensure shared ownership and maintenance of the driveway and visitor parking spaces by the condominium corporation. The subject application provides for satisfactory access to all townhouse units and encompasses all of the visitor parking spaces to ensure they are equally owned and maintained by the owners of the townhouse units.

Section 9 of the Condominium Act states that applications for condominium approval are to follow the processes for the approval of subdivisions established in Sections 51 and 51.1 of the Planning Act, with necessary modifications. A Public Meeting is required prior to Council approval of the common element condominium.

## **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**

Tom Schwerdtfeger, Planner  
Tel. No. 416-396-7034  
Fax No. 416-396-4265  
E-mail: [tschwer@toronto.ca](mailto:tschwer@toronto.ca)

## **SIGNATURE**

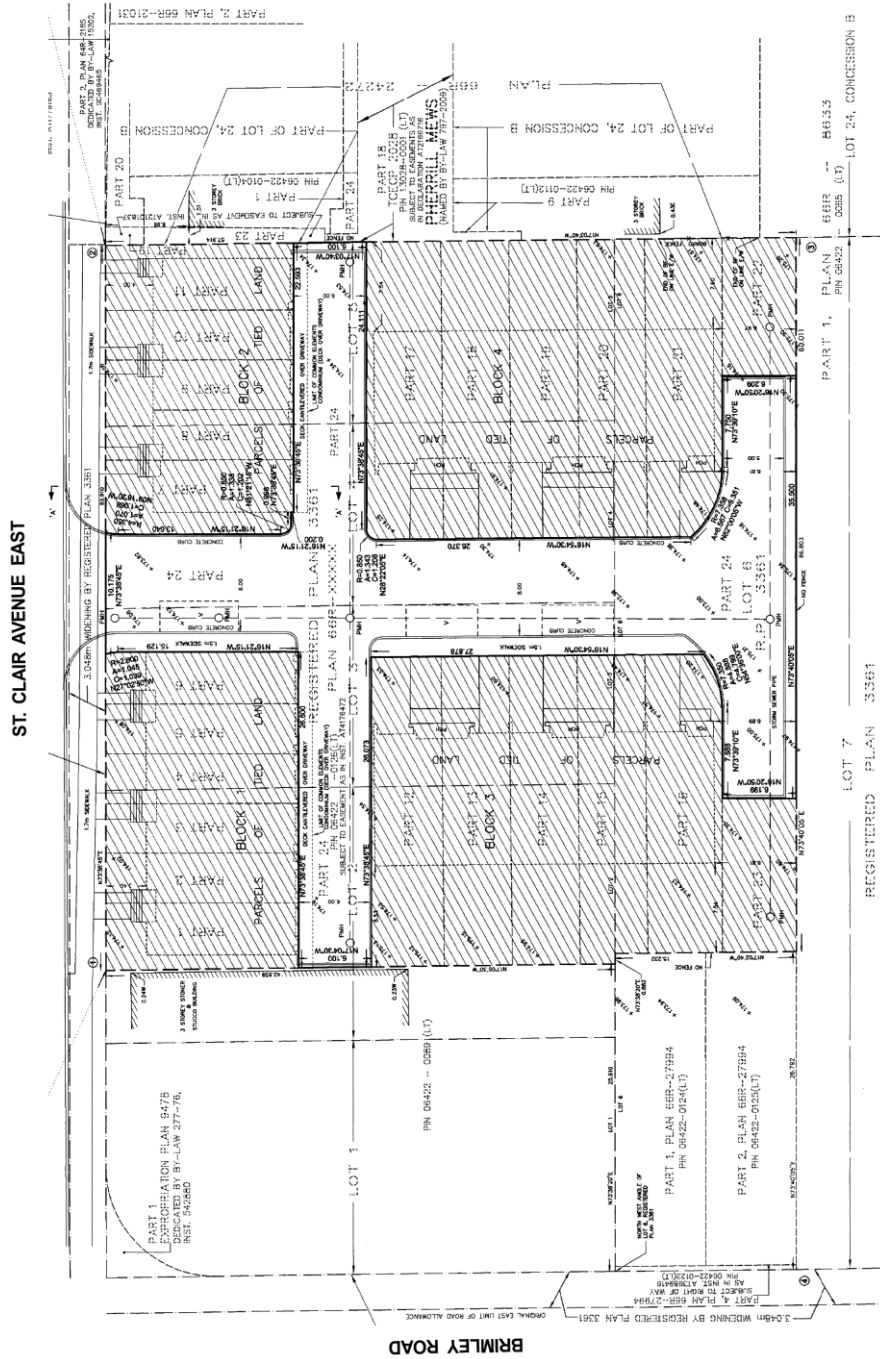
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Paul Zuliani, Acting Director  
Community Planning, Scarborough District

## **ATTACHMENTS**

Attachment 1: Draft Plan of Common Elements Condominium, Ground Floor  
Attachment 2: Draft Plan of Common Elements Condominium, Second Floor  
Attachment 3: Draft Plan Approval Conditions  
Attachment 4: Part Lot Control Exemption Plan, Ground Floor  
Attachment 5: Part Lot Control Exemption Plan, Second Floor  
Attachment 6: Application Data Sheet

# Attachment 1: Draft Plan of Common Elements Condominium, Ground Floor



## Draft Plan of Common Elements Ground Floor

Applicant's Submitted Drawing

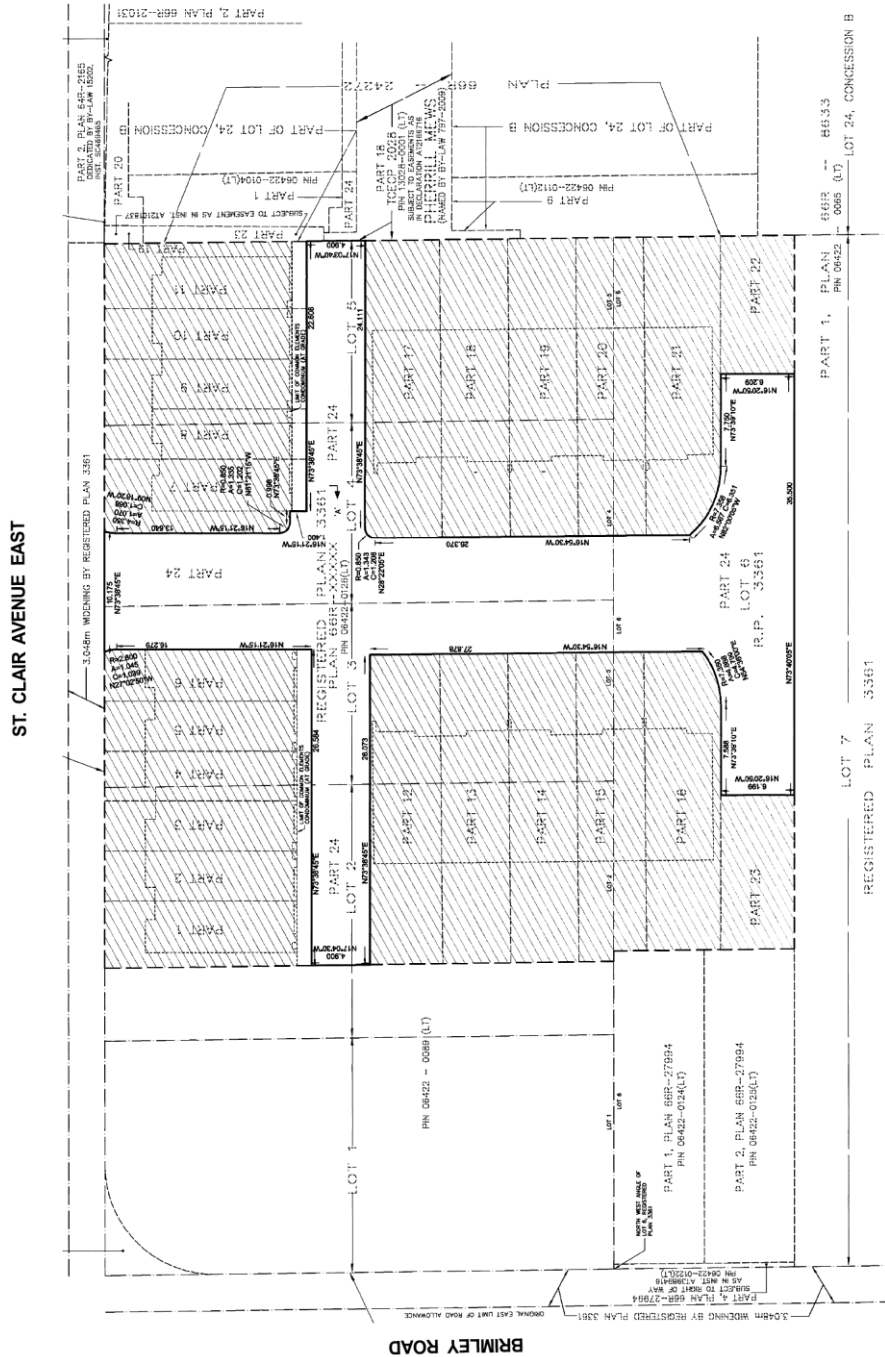
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## 3765 St. Clair Avenue East

File # 16 144330 ESC 36 CD, 16 144323 ESC 36 PL

# Attachment 2: Draft Plan of Common Elements Condominium, Second Floor



3765 St. Clair Avenue East

Draft Plan of Common Elements Second Floor

Applicant's Submitted Drawing

Not to Scale  
8/3/16

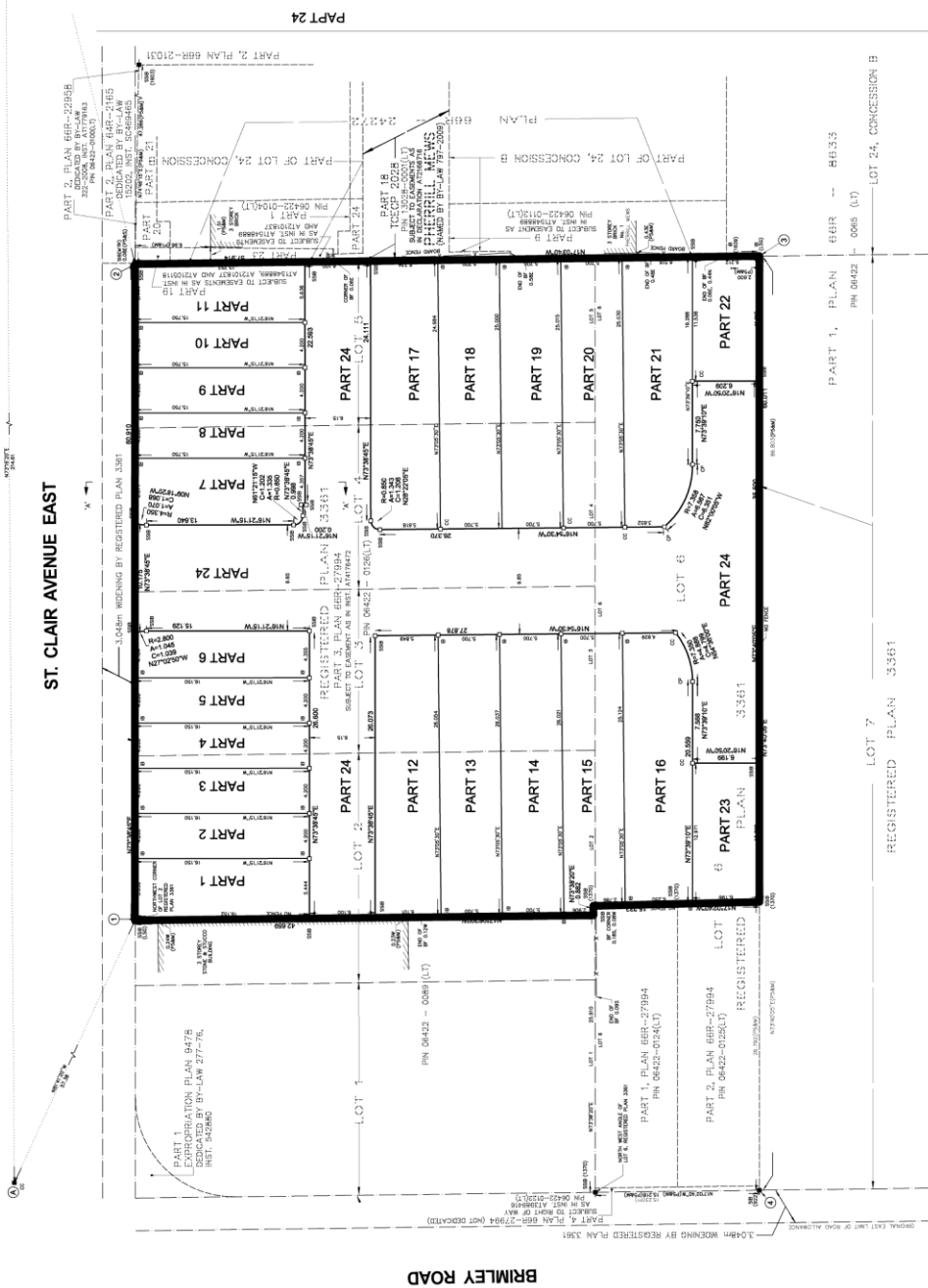
File # 16 144330 ESC 36 CD, 16 144323 ESC 36 PL



### **Attachment 3: 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) The Applicant must comply with all Conditions of Approval for Site Plan Control Application No. 12 240764 ESC 36 SA secured in the Site Plan Agreement, dated October 23, 2015 between Brownstones on St. Clair Inc and City of Toronto, registered on title on January 21, 2016 as Instrument No. AT4125197C.
- (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) Visitors parking spaces will be clearly delineated on the condominium plan to be registered.
- (6) The Owner shall indicate in the Agreement, in words satisfactory to Bell Canada, that it will grant to Bell Canada any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements.
- (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 4: Part Lot Control Exemption Plan, Ground Floor



3765 St. Clair Avenue East

Part Lot Control Exemption Plan - Parts 1-24 at Grade

Applicant's Submitted Drawing

Not to Scale  
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File # 16 144330 ESC 36 CD, 16 144323 ESC 36 PL

# Attachment 5: Part Lot Control Exemption Plan, Second Floor

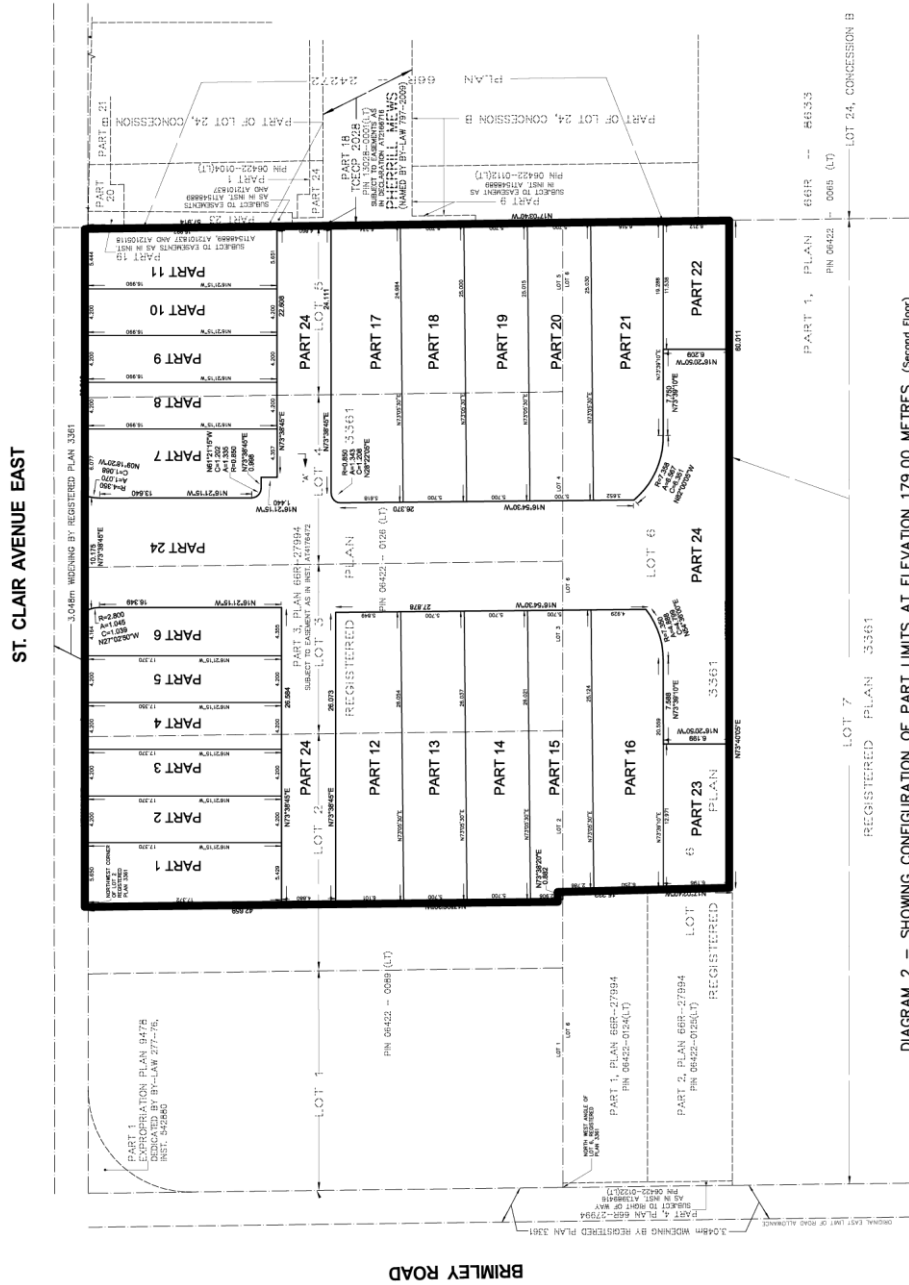


DIAGRAM 2 - SHOWING CONFIGURATION OF PART LIMITS AT ELEVATION 179.00 METRES (Second Floor)

## Part Lot Control Exemption Plan - Parts 1-24 (second floor)

Applicant's Submitted Drawing

Not to Scale  
8/3/16

File # 16 144330 ESC 36 CD, 16 144323 ESC 36 PL

## Attachment 6: Application Data Sheet

Application Type	Part Lot Control Exemption	Application Number:	16 144323 ESC 36 PL
Details		Application Date:	April 21, 2016

Municipal Address:	3765 ST CLAIR AVE E
Location Description:	PLAN 3361 LOT 3 TO 6 & PART LOT 2 **GRID E3605
Project Description:	Proposed 21 lots on existing site.

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
MALONE GIVEN PARSONS LTD			BROWNSTONES ON ST. CLAIR INC.

### PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	
Zoning:	PW & HC	Historical Status:	
Height Limit (m):	0, 0, 0	Site Plan Control Area:	Y

### PROJECT INFORMATION

Site Area (sq. m):	3505.3	Height:	Storeys:	3
Frontage (m):	60.91		Metres:	12.5
Depth (m):	57.91			
Total Ground Floor Area (sq. m):	0			<b>Total</b>
Total Residential GFA (sq. m):	3108		Parking Spaces:	34
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	3108			
Lot Coverage Ratio (%):	0			
Floor Space Index:	0.89			

### DWELLING UNITS

### FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Tenure Type:	Condo, Freehold		
Rooms:	0	Residential GFA (sq. m):	3108
Bachelor:	0	Retail GFA (sq. m):	0
1 Bedroom:	0	Office GFA (sq. m):	0
2 Bedroom:	0	Industrial GFA (sq. m):	0
3 + Bedroom:	21	Institutional/Other GFA (sq. m):	0
Total Units:	21		

<b>CONTACT:</b>	<b>PLANNER NAME:</b>	<b>Tom Schwerdtfeger, Planner</b>
	<b>TELEPHONE:</b>	<b>416-396-7034</b>