



REPORT FOR ACTION

**743 Warden Avenue (Block 19 Parts 22, 25, 27 to 29)
and (Block 25 Parts 30 to 34) – Common Elements
Condominium and 743 Warden Avenue (Block 19
Parts 1 to 21, 23, 24, 26 and 35 to 44) – Part Lot
Control Exemption Applications – Final Report**

Date: February 20, 2019

To: Scarborough Community Council

From: Director, Community Planning, Scarborough District

Wards: Ward 20 - Scarborough Southwest

Planning Application Number: 17 276967 ESC 35 CD & 17 276966 ESC 35 PL

SUMMARY

The common elements condominium application is required to provide legal vehicular access and service access to 21 townhouse lots on Block 19 (Parts 22, 25, 27 to 29) and Block 25 (Parts 30 to 34) known municipally as 743 Warden Avenue. This condominium application proposes to establish a driveway and landscape strip as a common element for Block 19 (Parts 22, 25, 27 to 29) and Block 25 (Parts 30 to 34).

This application requests exemption from the Part Lot Control provision of the *Planning Act* to allow the creation of 21 standard townhouse lots on Block 19 (Parts 1 to 21, 23, 24, 26 and 35 to 44). The subject lands are within a registered plan of subdivision that was registered on June 25, 2018 as Plan 66M-2549.

This report reviews and recommends approval of the Draft Plan of Common Elements Condominium and Part Lot Control Exemption. The proposal complies with the Official Plan and Zoning By-law, is consistent with the Provincial Policy Statement (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (2017). The lifting of the Part Lot Control for a period of two years is considered appropriate for the orderly development of the lands. 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 his 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 and Executive Director, City Planning intends to approve the draft plan of Common Elements Condominium for the lands at 743 Warden Avenue Block 19 (Parts 22, 25, 27 to 29) and Block 25 (Parts 30 to 34), as generally illustrated on Attachment 2 to this report, subject to:
 - a. the conditions, as generally listed in Attachment 3 to this report, which, except as otherwise noted, must be fulfilled prior to final approval and 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 and Executive Director, City Planning 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 743 Warden Avenue Block 19 (Parts 1 to 21, 23, 24, 26 and 35 to 44) on Plan of Subdivision 66M-2549, as generally illustrated on Attachment 4 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 *Lands 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

At its meeting of August 5, 2009, City Council amended the former City of Scarborough Employment Districts Zoning By-law 24982, as amended, to rezone the subject lands at 743 Warden Avenue from Industrial (M) and Special Industrial (MS) to Community Commercial (CC) along the Warden Avenue frontage and Industrial (M) in the interior, with site-specific provisions. This was intended to permit retail/commercial uses along Warden Avenue, with the interior portion to retain employment uses. The staff report and Council's decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.SC27.26>

On April 13, 2011, the applicant requested that the subject lands at 743 Warden Avenue be re-designated from *Employment Areas* to *Mixed Use Areas* as part of the City's Municipal Comprehensive Review (MCR).

At its meeting of December 16, 17 and 18, 2013, City Council considered the request to convert these employment lands for non-employment purposes as part of the MCR. City Council adopted staff's recommendations pertaining to the conversion request that the lands be maintained for employment purposes. At the same meeting City Council adopted OPA 231. Among other things, OPA 231 designates the lands as General Employment Areas. The decision of City Council and OPA 231 can be found at the following links:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

<http://www.toronto.ca/legdocs/bylaws/2013/law1714.pdf>

In January 2014, the City submitted OPA 231 to the Minister of Municipal Affairs and Housing (MMAH) for approval. On July 9, 2014, the Minister confirmed Council's action in not re-designating the subject lands for non-employment purposes. The owner appealed this decision to the OMB, which was the subject of a separate hearing process.

In November and December, 2013, Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision and Site Plan Control applications were submitted for the subject lands at 743 Warden Avenue. The applications sought permission for 202 residential townhouse units, three commercial buildings, and a network of public roads and lanes, and a storm water management pond.

On June 17, 2014 the applicant appealed the applications to the OMB due to the City's lack of decision within the statutory timeframe. At its meeting of August 25, 26, 27 and 28, 2014, City Council directed the City Solicitor, together with other staff, to attend at the OMB in opposition to the proposed application. That decision and background information can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.10>

At its meeting of July 7, 8 and 9, 2015, City Council adopted the Request for Directions Report with Confidential Attachment, which recommended acceptance of a settlement offer; and that the City Solicitor and other appropriate staff be instructed to implement Confidential Recommendation 1 at the September 2015 OMB hearing. That decision and background information can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC8.2>

September 1, 2015 OMB Hearing

The OMB approved, in principle, the draft Official Plan and Zoning By-law Amendments and Draft Plan of Subdivision to re-designate the lands from *Employment Areas* to *Mixed Use Areas* and *Neighbourhoods*. As per the Request for Directions Report with Confidential Attachment adopted by City Council at its meeting of July 7, 8 and 9, 2015.

As part of the settlement a revised pattern of public streets was approved that included a new public street entering the site directly off Warden Avenue and four new internal streets that extended existing streets in the subdivision to the south; and the elimination of all but one rear lane. The development concept was revised to include: 314 dwelling units consisting of 184 townhouses and 130 apartment units in a new 5-8 storey mixed use building; an increase in the commercial uses from 1,894 square metres to a minimum of 4,645 square metres.

The Plan of Subdivision that created the development blocks, public roads, public park and stormwater management pond was registered on June 25, 2018 as Registered Plan 66M-2549.

On July 23, 2018, City Council approved a Part Lot Control Exemption By-law for 743 Warden Avenue for the creation of 145 standard and back-to-back freehold townhouses on Blocks 1-5, 9-18 and 26.

The staff report and Council's decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.SC32.20>

95 Pidgeon Street

On December 13, 2016, City Council approved Zoning By-law Amendment and Draft Plan of Subdivision applications for the lands at 95 Pidgeon Street a former rail spur. The development comprised 26 three-storey townhouse units. The approval included a condition that a private access and servicing easement be provided over the lands at 95 Pidgeon Street in favour of 743 Warden Avenue. The staff report and Council's decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.SC18.28>

ISSUE BACKGROUND

Proposal

This application proposes to establish an above-grade driveway and landscape strip as a common element at 743 Warden Avenue on Block 19 (Parts 22, 25, 27 to 29) and Block 25 (Parts 30 to 34) to ensure legal vehicular and service access to the 21 townhouse lots.

The plan identifying the proposed common element condominium lands are included as Attachment 3.

This application also requests exemption from Part Lot Control provisions of the *Planning Act* to create separate, conveyable lots for 21 standard townhouse lots on Block 19 (Parts 1 to 21, 23, 24, 26 and 35 to 44) fronting on Cleanside Drive. The lot areas for each unit range from 121.01 square metres to 343.17 square metres, and the lot frontages range from 4.5 metres to 6.45 metres.

The plan identifying the proposed part lot control exemption lands are included as Attachment 4.

Site and Surrounding Area

The subject lands are located on the east side of Warden Avenue, north of St Clair Avenue East. The overall development site is roughly rectangular in shape and is approximately 6.5 hectares in size, of which approximately 0.6 hectares comprise this application, having 108.30 metres frontage on Cleanside Drive and a depth of 38.6 metres.

The remainder of the lands are comprised of residential blocks (Blocks 1-18 & 26), a stormwater management pond (Block 23), a public park (Block 24), a mixed use block (Block 20) and two commercial blocks (Block 21 and 22). The overall development site has a frontage of approximately 132 metres on Warden Avenue and a varying depth of approximately 439 metres on the southern boundary and 537 metres on the northern boundary. The property was formerly occupied by Samuel Strapping Systems, an industrial operation that processed and painted metal, which has consolidated its operations elsewhere in the Toronto area. The Samuel Strapping building has been demolished and the site is currently being prepared to accommodate the proposed development.

Surrounding uses include:

North: Industrial lots fronting on Upton Road, Youth Link and other service agencies at 747 Warden and the Institute of Technical Trades is located at 749 Warden Avenue.

South: Warden Woods Community including the Mattamy "Summerside" residential subdivision at 725 Warden Avenue; Community Centre, TTC commuter parking and subway line.

East: 95 Pidgeon Street (former CNR rail corridor) that has approval for 26, three-storey townhouses; Hydro Corridor and Birchmount Park Community further east.

West: Tim Horton's restaurant at the northwest corner of Warden Avenue and Fairfax Crescent, automotive supply and repair shops at 730 and 740 Warden Avenue.

The Provincial Policy Statement (2014)

The Provincial Policy Statement (2014) (the "PPS") provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- The efficient and wise use and management of land and infrastructure over the long term in order to minimize impacts on air, water and other resources;
- Protection of the natural and built environment;
- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;
- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit; and
- Encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character.

The Growth Plan for the Greater Golden Horseshoe (2017) (the "Growth Plan") provides a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part, including:

- Establishing minimum density targets within strategic growth areas and related policies directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, cultivate a culture of conservation and promote compact built form and better-designed communities with high quality built form and an attractive and vibrant public realm established through site design and urban design standards;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Building complete communities with a diverse range of housing options, public service facilities, recreation and green space that better connect transit to where people live and work;
- Retaining viable employment lands and encouraging municipalities to develop employment strategies to attract and retain jobs;
- Minimizing the negative impacts of climate change by undertaking stormwater management planning that assesses the impacts of extreme weather events and incorporates green infrastructure; and
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas.

In accordance with Section 3 of the *Planning Act* all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan. Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan.

Staff have reviewed the proposed development for consistency with the PPS (2014) and for conformity with the Growth Plan (2017). The outcome of staff analysis and review are summarized in the Comments section of the Report.

Toronto Official Plan

The lands subject to this application are designated *Neighbourhoods* in the Official Plan. The Healthy Neighbourhoods policies of the Official Plan contained in Section 2.3.1, state that *Neighbourhoods* are considered physically stable areas. Development within *Neighbourhoods* will be consistent with this objective and will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas.

Neighbourhoods are physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes and townhouses. Policies and development criteria aim to ensure that physical changes to established neighbourhoods must be sensitive, gradual and generally "fit" the existing physical character.

Zoning

The subject lands are zoned Townhouse (TH) with associated performance standards under the Warden Woods Community Zoning By-law No. 950-2005, as amended. These lands are not subject to the City-wide Zoning By-law 569-2013, as amended.

Site Plan Control

The lands are subject to site plan control. A site plan agreement for the development has been registered on title and the final Statement of Approval respecting the site plan control application filed with the City for the development will be issued shortly.

Agency Circulation

The application together with the applicable reports noted above, have been circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the PPS. Among other things, the PPS encourages healthy, liveable and safe communities that are sustained by efficient development and land use patterns, accommodating an appropriate range and mix of residential housing, promoting cost-effective land use patterns and standards to minimize land consumption and servicing costs.

The proposal conforms with the Growth Plan for the Greater Golden Horseshoe. The guiding principles of the Growth Plan are, including among others, to build compact, vibrant and complete communities and to optimize the use of existing and new infrastructure to support growth in a compact, efficient form.

Common Elements Condominium

The application for a Common Elements Condominium is necessary to provide legal vehicular and service access to the 21 townhouse lots.

Section 9 of the *Condominium Act* states that applications for condominium approval are to follow the processes for approval of subdivisions established in Section 51 and 51.1 of the *Planning Act*, with necessary modifications. A public meeting is required prior to Council approval of the Common Elements Condominium.

Land Division

Section 50(7) of the *Planning Act*, R.S.O. 1990, as amended, authorizes City Council to adopt a new 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.

The proposal complies with the Official Plan and the land use and performance standards established by Site Specific Zoning By-law No. 528-2016 (OMB). The Part Lot Control Exemption application was circulated to various Divisions and agencies for comment and no issues were identified. The lifting of Part Lot Control on the subject lands is considered appropriate for the orderly development of the lands and will facilitate 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

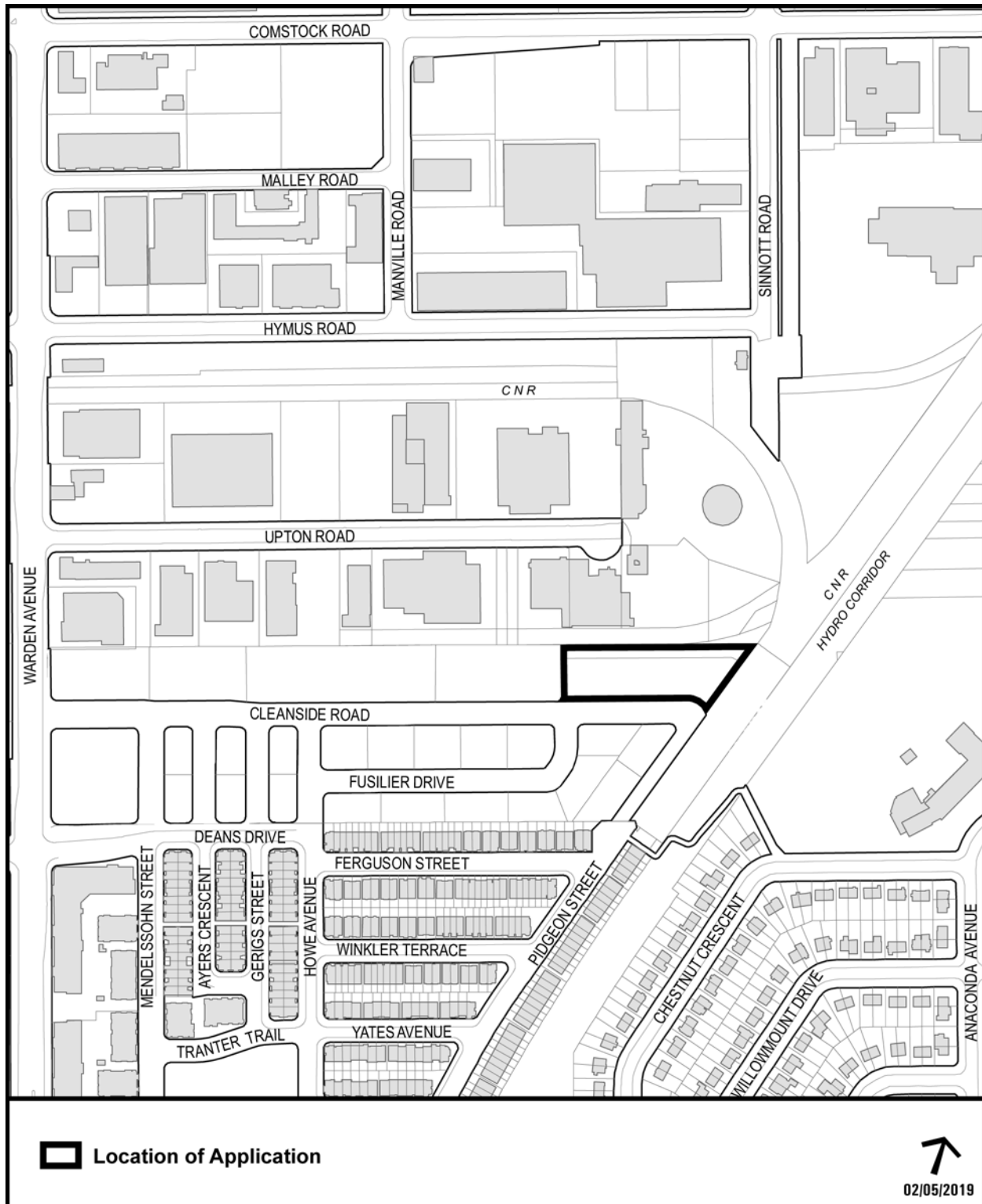
Paul Zuliani, Director
Community Planning, Scarborough District

ATTACHMENTS

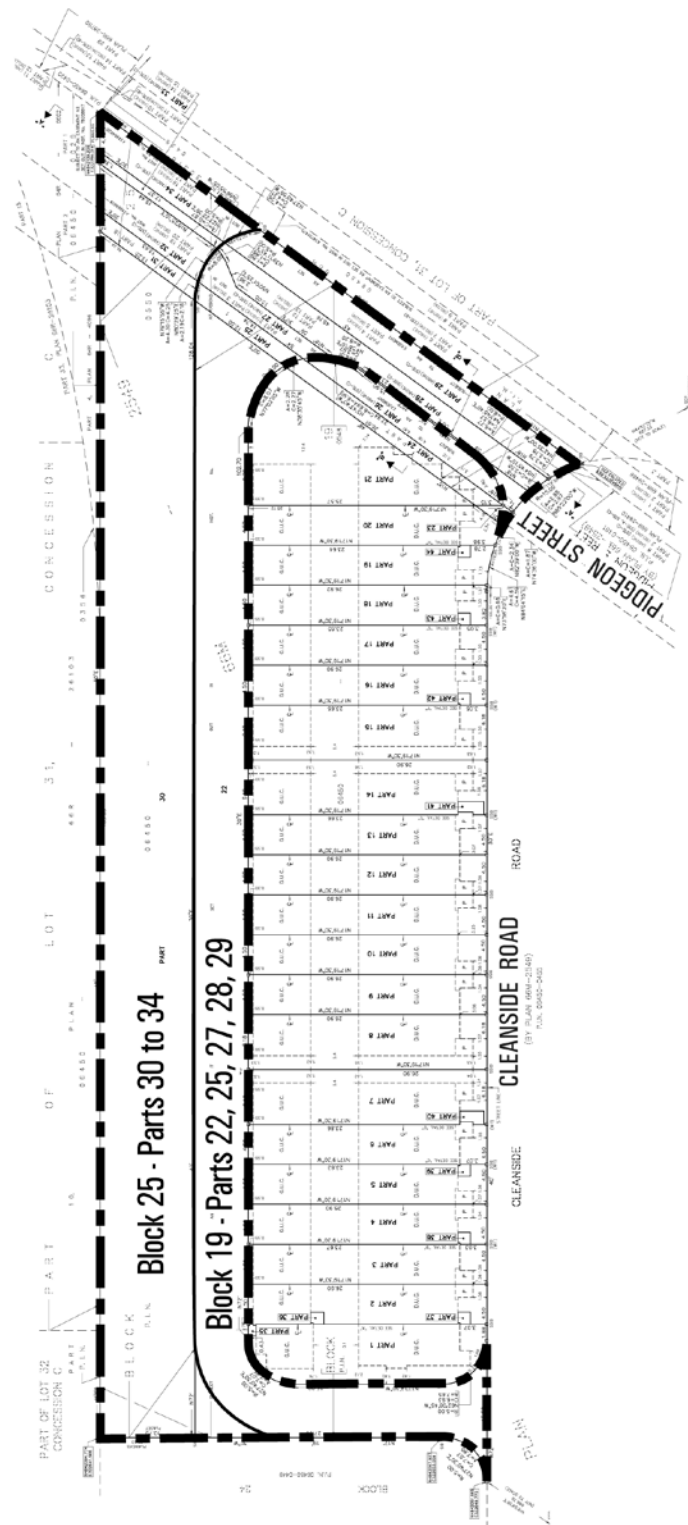
City of Toronto Data/Drawings

- Attachment 1: Location Map
- Attachment 2: Draft Plan of Common Elements Condominium
- Attachment 3: Draft Plan Approval Conditions
- Attachment 4: Part Lot Control Exemption Plan
- Attachment 5: Application Data Sheet

Attachment 1: Location Map



Attachment 2: Draft Plan of Common Elements Condominium



Draft Plan of Common Elements Condominium

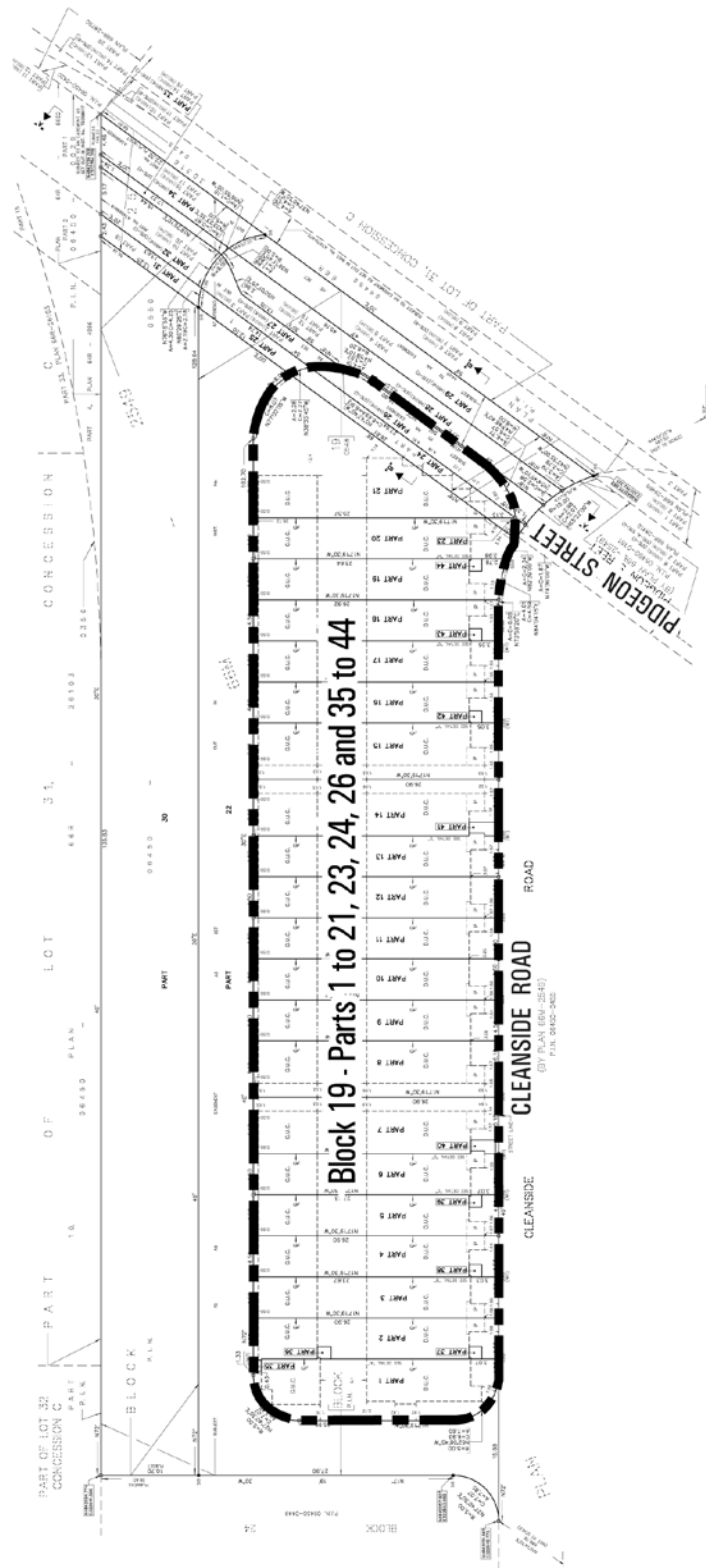
Attachment 3: Draft Plan Approval Conditions

This approval applies to Drawing No. 15-262, prepared by R-PE Surveying LTD, dated January 18, 2019:

- (1) The owner is advised that the plan submitted for final approval and registration must be substantially in accordance with the approved draft plan specified above. Any revisions to these plan must be approved by the Chief Planner's designate, the Director of Community Planning, Scarborough District.
- (2) The owner shall provide to the Director of Community Planning, Scarborough District, confirmation that the taxes have been paid in full (statement of account or Tax Clearance Certificate) and that there are no outstanding City initiated assessment or tax appeals made pursuant to section 40 of the *Assessment Act* or the provisions of the *City of Toronto Act*, 2006. In the event that there is an outstanding City initiated assessment or tax appeal, the Owner shall enter into a financially secured agreement with the City satisfactory to the City Solicitor to secure payment of property taxes in the event the City is successful with the appeal.
- (3) The owner shall file with the Director of Community Planning Scarborough District, a complete copy of the final version of the Declaration and Description to be registered, which includes the following schedules:
 - (i) Schedule "A" containing statement from the declarant's solicitor that in his or her opinion, based on the parcel register or abstract index and the plans and drawings recorded in them, the legal description is correct and the easements mentioned in the schedule will exist in law upon the registration of the Declaration and Description; and
 - (ii) Schedule "G" being the certification of the project engineer and/or architect that all buildings have been constructed in accordance with the regulations made under the *Condominium Act*.
- (4) When the Owner files a copy of the Declaration with the City of Toronto, it shall be accompanied with a letter of undertaking, stating that, "This is our undertaking to register the Declaration in the same form and content as was provided to you, subject to any changes the Land Registrar may require. This is also our undertaking to provide you with a registered copy of the Declaration once it is registered. If the Land Registrar requires any amendments to the Declaration, we will advise you."
- (5) The Owner shall obtain all necessary approvals for private access and servicing easement(s) over the site in favour of Block 3 on the adjacent plan of subdivision known as 95 Pidgeon Street, Application No. 15 183205 ESC 35 SB, and shall convey and register such easements on title, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager of Transportation.

- (6) The Owner shall must submit a Certification, Infiltration - Letter by Professional Engineer or Professional Geoscientists, to the satisfaction of General Manager of Toronto Water.
- (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 of Toronto for approval.

Attachment 4: Part Lot Control Exemption Plan



Part Lot Control Exemption Plan

Attachment 5: Application Data Sheet

APPLICATION DATA SHEET

Municipal Address: 743 WARDEN AVE Date Received: December 18, 2017

Application Number: 17 276967 ESC 35 CD
and
17 276966 ESC 35 PL

Application Type: Common Elements Condominium and Part Lot Control
Exemption Applications

Project Description: Common Elements Condominium application to establish a driveway as a common element on Block 19 (Parts 22, 25 and 27 to 29) and Block 25 (Parts 30-34). Part Lot Control Exemption application for the creation of 21 townhouse lots on Block 19 (Parts 1 to 21, 23, 24, 26 and 35 to 44). This application is related to Site Plan Application No. 13 275737 ESC 35 SA and Draft Plan of Subdivision Application No. 13 268270 ESC 35 SB.

Applicant	Agent	Architect	Owner
R- PE SURVEYING LTD			ZAHAVISH DOWNTOWN DEVELOPMENTS LTD

EXISTING PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	N
Zoning:	Townhouse (TH)	Heritage Designation:	N
Height Limit (m):	14	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq m):	65,497	Frontage (m):	132	Depth (m):	439 to 537
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Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			1,765	1,765
Residential GFA (sq m):			3,242	3,242
Non-Residential GFA (sq m):				
Total GFA (sq m):			3,242	3,242
Height - Storeys:				
Height - Metres:				

Lot Coverage Ratio (%) 58.74 Floor Space Index: 1.08

Floor Area Breakdown Above Grade (sq m) Below Grade (sq m)

Residential GFA: 3,242

Retail GFA:

Office GFA:

Industrial GFA:

Institutional/Other GFA:

Residential Units by Tenure	Existing	Retained	Proposed	Total
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Rental:

Freehold:

Condominium:			21	21
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Other:

Total Units:			21	21
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Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
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Retained:

Proposed:

Total Units:

Parking and Loading

Parking Spaces:	Bicycle Parking Spaces:	Loading Docks:
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CONTACT: **Planner Name:** Bruna Nigro **Telephone:** (416) 396-7037