



REPORT FOR ACTION

1548 Kingston Road – Common Elements Condominium Application – Final Report

Date: February 25, 2019

To: Scarborough Community Council

From: Director, Community Planning, Scarborough District

Wards: 20 - Scarborough Southwest

Planning Application Number: 18 260905 ESC 36 CD

SUMMARY

This application proposes to establish a common elements condominium that will facilitate access and servicing to parcels of tied land (the "POTLS"), as well as, easements to enable emergency rooftop egress for a 4-storey building having 12 residential dwelling units at 1548 Kingston Road. The common element portions would include the driveway, walkway, landscape areas, garbage and recycling area, underground servicing, hydro transformer, bicycle rack, stairwells and sprinkler room.

The proposed development is consistent with the Provincial Policy Statement (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (2017).

This report advises that the Chief Planner intends to approve the Draft Plan of Common Elements Condominium, subject to conditions. In addition, this report recommends that the owner of the lands be required to register a Section 118 Restriction on title to the lands under the Land Titles Act, whereby the owner agrees to not convey or mortgage any part of the lands without prior consent of the Chief Planner and Executive Director, City Planning 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 1548 Kingston Road, as generally illustrated on Attachment 4 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 registration of the Plan of Common Elements Condominium;
- 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.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

PROPOSAL

The proposal is to register a Common Elements Condominium for shared ownership and maintenance of the common elements for a 4-storey 12-unit residential building.

Each dwelling unit has pedestrian access from either a private walkway or public sidewalk to the front door of the unit. Vehicles would access the site from Kalmar Avenue into a parking garage.

The site is located at the northwest corner of Kingston Road and Kalmar Avenue. The site is approximately 0.113 hectares in area. The site is generally flat.

To the immediate west of the site is a 3-storey residential apartment building. A vehicle parking lot is adjacent to the north boundary of the site.

Attachment 1 shows a summary of the proposal. Attachment 2 shows the location of the site. Attachment 4 shows the Draft Plan of Common Elements Condominium Plan.

Reasons for Application

A Common Elements Condominium application is required to register the common elements in order for a Common Element Condominium plan to be registered.

Section 9 of the *Condominium Act* states that the provisions of sections 51, 51.1 and 51.2 of the *Planning Act*, that apply to the plan of subdivision apply with necessary modifications to a description or an amendment to a description.

A public meeting is required prior to the City's approval of the Common Elements Condominium. Scarborough Community Council's March 19, 2019 meeting would fulfill this requirement.

APPLICATION BACKGROUND

A portion of the lands are not within a registered plan of subdivision. As such, a Consent Application B0055/16SC was submitted to create parcels of tied land for 12 residential lots and common element parcels for the proposed common elements condominium. On January 30, 2019, the Committee of Adjustment approved the consent application subject to conditions. The decision of the Committee of Adjustment would be considered final and binding on February 26, 2019 should no appeal be filed on the decision.

Agency Circulation Outcomes

The application has been circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate conditions of draft plan approval.

Statutory Public Meeting Comments

In making their decision with regard to this application, Council members will be given the opportunity to view the oral submissions made at the statutory public meeting held by the Scarborough Community Council for this application, as these submissions are broadcast live over the internet.

POLICY CONSIDERATIONS

Provincial Land-Use Policies: Provincial Policy Statement and Provincial Plans

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

Provincial Plans are intended to be read in their entirety and relevant policies are to be applied to each situation. The policies of the Plans represent minimum standards. Council may go beyond these minimum standards to address matters of local importance, unless doing so would conflict with any policies of the Plans.

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS and shall conform with Provincial Plans. All comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS and conform with Provincial Plans.

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 provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.

The PPS is issued under Section 3 of the *Planning Act* and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS. Comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS.

The PPS recognizes and acknowledges the Official Plan as an important document for implementing the policies within the PPS. Policy 4.7 of the PPS states that, "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans."

The Growth Plan for the Greater Golden Horseshoe (2017)

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.

The Growth Plan builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise.

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 subject site is designated *Mixed Use Areas* on Map No. 21 in the City of Toronto Official Plan. *Mixed Use Areas*, generally, are made up of a broad range of commercial, residential and institutional uses, in single or mixed use buildings, as well as parks and open spaces and utilities.

The City of Toronto Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

Official Plan Amendment 320

The Local Planning Appeals Tribunal issued an Order on December 7, 2018 to approve and bring into force OPA 320. The approved policies reflect the policies endorsed by Council at its meetings of June 26 to 29, 2018 and July 23 to 30, 2018 in response to mediation and settlement offers from OPA 320 Appellants.

OPA 320 was adopted as part of the Official Plan Five Year Review and contains new and revised policies on Healthy Neighbourhoods, Neighbourhoods and Apartment Neighbourhoods. The approved amendments uphold the Plan's goals to protect and enhance existing neighbourhoods that are considered stable but not static, allow limited infill on underutilized Apartment Neighbourhood sites and help attain Tower Renewal Program goals.

In its Order that approves OPA 320, the LPAT found that the OPA 320 policies are consistent with the Provincial Policy Statement (2014) and conform with the Growth Plan for the Greater Golden Horseshoe (2017).

Zoning

The site is zoned Commercial-Residential (CR) Zone in Birchcliff Community Zoning By-law No. 8786, as amended by By-law 222-2010. The 12-unit residential building is a permitted use under the existing zoning for the site.

On December 8, 2016, the Committee of Adjustment approved a minor variance to permit a parking rate of 0.91 parking spaces per dwelling unit resulting in 11 parking spaces, instead of 12 parking spaces for the 12-unit residential development.

Site Plan Control

Site Plan Control Application 15 211742 ESC 36 SA was approved by Community Planning for the proposed 4-storey, twelve-unit development on March 15, 2017. A site plan agreement executed between the owner and the City was registered as instrument number AT4503023 on March 6, 2017. The proposed Common Elements Condominium application is consistent with the approved Site Plan Control application.

COMMENTS

Provincial Policy Statement and Provincial Plans

The application has been reviewed and evaluated against the PPS (2014) and the Growth Plan (2017). Staff have determined that the application is consistent with the PPS and conforms with the Growth Plan.

Toronto Official Plan

Staff have determined that the proposal generally conforms to the policies of the Official Plan.

Draft Plan of Common Elements Condominium

The application for Common Elements Condominium will allow shared access, ownership and responsibility for maintenance of the common element driveway, walkway, landscape areas, garbage and recycling area, underground servicing, hydro transformer, bicycle rack, stairwells and sprinkler room for the 12-unit residential building. The subject application provides for satisfactory access to all dwelling units and ensures that the common elements will be owned and maintained by the owners of the dwelling units.

Engineering and Construction Services Division has advised that prior to the release of the Draft Plan of Common Elements Condominium for registration, the following condition of draft plan approval is required:

1. The owner/applicant shall complete the required certification letters regarding private water discharge and submit the certification letters to the Chief Engineer and Executive

Director, Engineering and Construction Services for acceptance and satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

As previously noted in this report, a consent application was approved subject to conditions by the Committee of Adjustment to create the 12 parcels of tied lands (POTLS) for the residential 12-unit building. This consent application is currently in the appeal period. The owner has one year to satisfy the conditions of the consent decision for the site in order for the consent to be considered approved.

In order for the City to exercise a degree of caution as a result of the decision of the consent application, staff recommend that a Section 118 Restriction be used to prevent the conveyance of the POTLS to the public until the Common Elements Condominium is registered. Once confirmation is received from the owner that the Common Elements Condominium Plan has been registered, the City Solicitor will take the necessary steps to release the Section 118 Restriction from the title of the lands, thus allowing the lots to be conveyed.

Conclusion

Staff are of the opinion that the proposed Draft Plan of Common Elements Condominium is consistent with the PPS (2014) and does not conflict with the Growth Plan (2017). The application is in keeping with the intent of the Toronto Official Plan, and is considered appropriate for the orderly development of the site. Staff recommend that Council support approval of the application.

CONTACT

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SIGNATURE

Paul Zuliani, Director
Community Planning, Scarborough District

ATTACHMENTS

City of Toronto Data/Drawings

Attachment 1: Application Data Sheet

Attachment 2: Location Map

Attachment 3: Draft Plan of Common Elements Condominium Conditions

Applicant Submitted Drawings

Attachment 4: Draft Plan of Common Elements Condominium -Sheet 1 of 2 and Sheet 2 of 2

Attachment 1: Application Data Sheet

Municipal Address: 1548 KINGSTON RD Date Received: November 26, 2018
Application Number: 18 260905 ESC 36 CD
Application Type: Condominium Approval, Common Elements
Project Description: Draft Plan of Common Element Condominium for a 4-storey, 12-unit residential development.

Applicant	Agent	Architect	Owner
KLM PLANNING PARTNERS INC			MANORGATE ESTATES

EXISTING PLANNING CONTROLS

Official Plan Designation:	<i>Mixed Use Areas</i>	Site Specific Provision:	325
Zoning:	CR	Heritage Designation:	N/A
Height Limit (m):	20	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq m):	1,130.2	Frontage (m):	30.42	Depth (m):	38.87
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Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			759.19	759
Residential GFA (sq m):			2,091.4	2,091.4
Non-Residential GFA (sq m):			417.8	417.8
Total GFA (sq m):			2,091.4	2,091.4
Height - Storeys:			4	4
Height - Metres:			13.9	13.9

Lot Coverage Ratio (%)	72.29	Floor Space Index:	1.85
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Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	2,091.4	
Retail GFA:		
Office GFA:		

Industrial GFA:

Institutional/Other GFA:

Residential Units by Tenure	Existing	Retained	Proposed	Total
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Rental:

Freehold:

Condominium:			12	12
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Other:

Total Units:			12	12
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Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
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Retained:

Proposed:					12
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Total Units:					12
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Parking and Loading

Parking Spaces:	11	Bicycle Parking Spaces:	8	Loading Docks:	N/A
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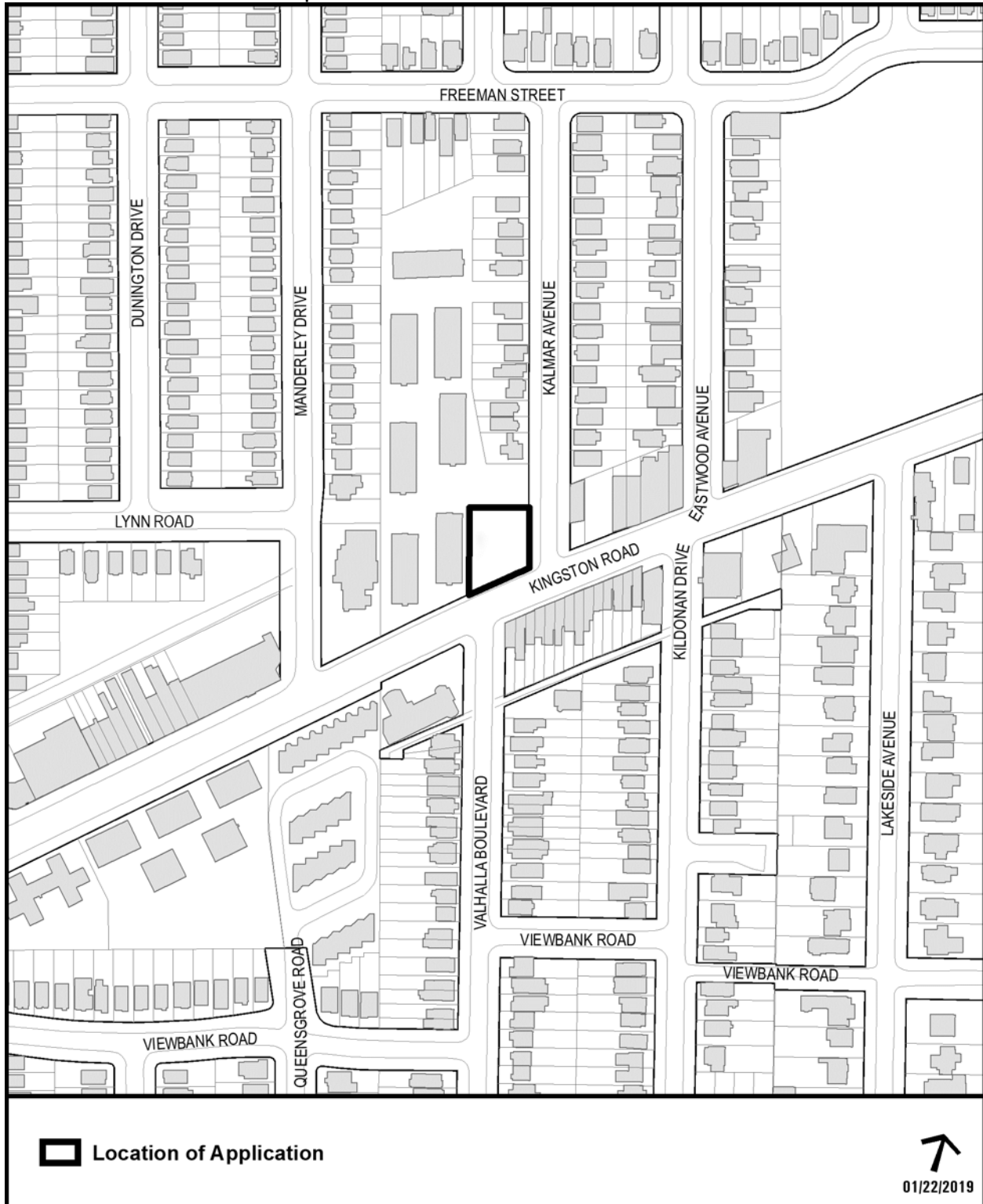
CONTACT:

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Attachment 2: Location Map



CONDITIONS

This approval applies to Draft Plan of Common Elements Condominium Part of Lot 1 Registered Plan 730 and Part of Lots 1, 2 & 252 Registered Plan 1812 City of Toronto, Sheet 1 of 2 and Sheet 2 of 2 prepared by David J. Hawley, Ontario Land Surveyor, and dated November 12, 2018.

(1) The plans submitted for final approval and registration must be substantially in accordance with the approved draft plans specified above. Any revisions to these plans 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 of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department, City of Toronto (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 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.

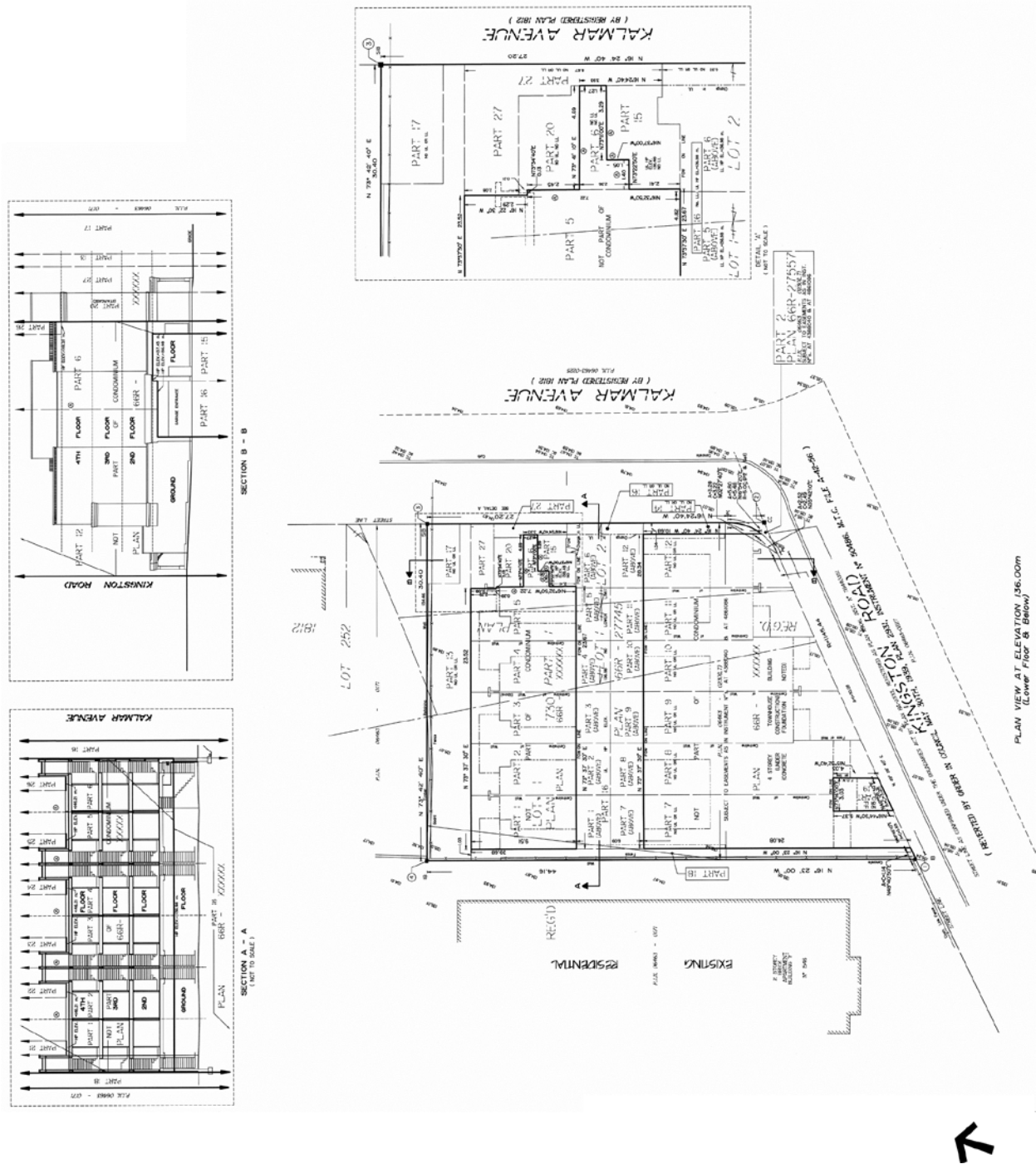
(6) The owner/applicant shall complete the required certification letters regarding private water discharge and submit the certification letters to the Chief Engineer and Executive Director, Engineering and Construction Services for acceptance and satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

(7) Prior to the issuance of the Certificate of Consent, the owner shall, to the satisfaction of the City Solicitor, register on title a Section 118 Restriction under the Land Titles Act, whereby the owner agrees to not transfer or charge any part of the lands without the written consent of the Chief Planner and Executive Director, City Planning or his designate.

(8) The Owner shall obtain consent under File No. B0055/16SC and obtain a Certificate of Official under s.53 (42) of the Planning Act to certify that all conditions of consent have been complied with to the satisfaction of the Deputy Secretary-Treasurer, Committee of Adjustment, Scarborough Panel.

(9) 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: Draft Plan of Common Elements Condominium-Sheet 1 of 2



Attachment 4: Draft Plan of Common Elements Condominium-Sheet 2 of 2

