

1001 Ellesmere Road – Part Lot Control Exemption Applications – Final Report

Date: June 12, 2019

To: Scarborough Community Council

From: Director, Community Planning, Scarborough District

Ward: Ward 21 - Scarborough Centre

Planning Application Number: 18 174513 ESC 37 PL & 18 174528 ESC 37 PL

SUMMARY

The subject applications request exemption from the Part Lot Control provisions of the *Planning Act* to allow the creation of 45 townhouse lots within a future common elements condominium on Block 1 (Parts 1 to 45) under application 18 174528 ESC 37 PL, and 22 standard townhouse lots on Block 2 (Parts 1 to 24) under application 18 174513 ESC 37 PL. The subject lands are within a registered plan of subdivision that was registered on June 12, 2019 as Plan 66M-2555.

This report reviews and recommends approval of Part Lot Control Exemption. The proposals comply with the Official Plan and Zoning By-law, are consistent with the Provincial Policy Statement (2014) and conform to the Growth Plan for the Greater Golden Horseshoe (2019). The lifting of the Part Lot Control for a period of two years is considered appropriate for the orderly development of the lands.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council enact a Part Lot Control Exemption By-law with respect to the subject lands at 1001 Ellesmere Road Block 1 (Parts 1 to 45) and Block 2 (Parts 1 to 24) on Plan of Subdivision 66M-2555, as generally illustrated on Attachment 2 to the report from the Director, Community Planning, Scarborough District dated June 12, 2019, to be prepared to the satisfaction of the City Solicitor and to expire two years following enactment by City Council.
2. 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.
3. City Council authorize and direct the City Solicitor to register the Part Lot Control Exemption By-law on title.

4. 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

On November 16, 2011, the owner requested that the subject lands at 1001 Ellesmere Road be re-designated from *Employment Areas* to *Mixed Use Areas* as part of the City's Municipal Comprehensive Review ("MCR"). The request was revised by the owner on February 25, 2013 to re-designate the westerly half of the property with a 'Retail Employment Areas' designation and the easterly half as *Mixed Use Areas*. (The request was ultimately not supported by City Planning staff conducting the MCR.)

On November 20, 2013, Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Subdivision were also submitted for the subject lands at 1001 Ellesmere Road. The applications sought permission for 95, 3-storey townhouses on a number of blocks served by rear public lanes on approximately three-quarters of the site, a 4-storey, 11,475 square metre commercial retail/office building on the western portion of the site, and a new U-shaped internal public street providing two connections to Ellesmere Road.

At its meeting of December 16, 17 and 18, 2013, City Council adopted the recommendations of Planning and Growth Management Committee dated November 21, 2013 in regard to the recommendations contained in the Final Report on the MCR dated November 5, 2013 from the Chief Planner and Executive Director, City Planning Division. City Council on December 18, 2013 adopted Official Plan Amendment No. 232 ("OPA 231") by By-law No. 1714-2013. In regard to the subject lands specifically, the western half of the site was redesignated to *General Employment Areas* and the eastern half to *Mixed Use Areas*. Site and Area Specific Policy No. 457 was also added to the Official Plan, as detailed later in this report.

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 redesignating just the east half of the lands to *Mixed Use Areas*. The owner appealed this decision to the Ontario Municipal Board ("OMB") in order to expand the the new *Mixed Use Areas* designation westerly, from one-half of the subject site as approved through OPA 231, to approximately three-quarters of the site.

The owner also appealed its Official Plan Amendment and rezoning application, as well as its subdivision application, on May 1 and June 30, 2014 respectively to the OMB, due to the City's lack of decision within the statutory timeframes. The applications at that

time, again, proposed residential development inconsistent with the extent of new *Mixed Use Areas* designation under OPA 231 but reflective of the owner's separate appeal thereon.

On August 25, 2014, City Council adopted the August 7, 2014 recommendations of Planning and Transportation Committee, in regard to a Request for Directions Report dated July 15, 2014 from Chief Planner and Executive Director, City Planning on the appealed planning applications noted above. The City Solicitor was directed, in part, to oppose the applications in their current form at the OMB, with City Planning staff directed to continue negotiations with the owner to achieve revised applications consistent with OPA 231.

Prior to a pre-hearing scheduled by the OMB for April 8, 2015, the owner's solicitor presented a "without prejudice" settlement offer to the City Solicitor in regard to a revised development proposal. The revised proposal included, in part, introduction of a new public park between the residential and commercial developments, a reduction from 95 to 91 townhouses, a smaller 6,500 square metre but taller 6-storey commercial office building, conversion of one rear public lane along the south and east sides of the property to a private lane in conjunction with a future common elements condominium for the townhouses on that block, and a commitment to provide \$226,000 in section 37 community benefits.

On March 31, 2015, City Council adopted the recommendations of the City Solicitor in a further Request for Directions Report (with confidential attachment) dated March 25, 2015 to, in part, accept the proposed settlement offer at the OMB hearing. That decision and background information can be found at:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC5.14>

In accordance with Council's instructions, the April 8, 2015 pre-hearing was converted to a settlement hearing. The OMB issued its decision on June 2, 2015 allowing the owner's planning application appeals. The Official Plan was amended to establish the expanded Mixed Use Areas designation on the property. The former City of Scarborough Employment Districts Zoning By-law (Dorset Park) No. 24982, as amended, was further amended to accommodate the new development proposed under the settlement. The decision also approved the City's proposed conditions of draft plan of subdivision approval which included, in part, a specific requirement that construction of townhouses on the northerly Block 3, the lands adjacent to the Ellesmere Road Service Road, is not to proceed until 'substantial completion' (being completion of the building superstructure, roof, finished exterior cladding and installation of all exterior doors and windows) of the commercial office building on the western portion of the site. This OMB decision is available at:
<http://www.omb.gov.on.ca/pl140391-jun-02-2015.pdf>

On July 31, 2015, the owner filed Site Plan Control application 15 200160 ESC 37 SA for approval for the proposed townhouse development in accordance with the 2015 OMB approvals. (Timing for construction of the commercial building remains uncertain and it is not currently proceeding through the site plan approval process. Accordingly, a Part Lot Control Exemption application for Block 3 will be required at a later date.)

On December 17, 2015, a separate panel of the OMB hearing the appeals on OPA 231, having regard to the June 2, 2015 OMB decision on the planning application appeals and based on a settlement reached with the City, issued a decision. The Decision allowed the owner's appeal of OPA 231 and amended the Official Plan to expand the *Mixed Use Areas* designation to encompass the easterly approximately three-quarters of the subject lands.

On December 21, 2018, the Director, Community Planning, Scarborough District issued Notice of Approval Conditions ("NOAC") approving site plan application for Blocks 1 and 2 specifically (the subject of the Part Lot Control Exemption applications discussed in this report). The site plan agreement is currently with Legal Services awaiting registration on title.

ISSUE BACKGROUND

Proposal

The subject applications request exemption from Part Lot Control provisions of the *Planning Act* to create separate conveyable lots of 45 townhouse lots within a future common elements condominium on Block 1 (Parts 1 to 45) under application 18 174528 ESC 37 PL, and 22 standard townhouse lots on Block 2 (Parts 1 to 24) under application 18 174513 ESC 37 PL. The lot areas for each unit on Block 1 range from 117.19 square metres to 341.46 square metres, and the lot frontages range from 4.5 metres to 11.77 metres. The lot areas for each unit on Block 2 range from 99.87 square metres to 179.25 square metres, and the lot frontages range from 4.2 metres to 7.19 metres.

The plan identifying the proposed part lot control exemption lands is included as Attachment 2: Part Lot Control Exemption Plan to this report.

Site and Surrounding Area

The subject 2.76 hectare (6.8 acre) site was previously occupied by a vacant 17 744 square metre (191,000 square foot) building formerly occupied by a metal-stamping assembly plant which ceased operations in 2008. That building has been demolished with construction of the new townhouses on Blocks 1 and 2 now underway. The overall property has 274 metres (900 feet) of frontage and a lot depth of 105 metres (345 feet). Vehicular access to the site from Ellesmere Road (both directions) is provided via the West Service Road under the Ellesmere Road overpass above the adjacent Scarborough RT and GO Transit rail lines and which provides access directly to the Ellesmere RT Station immediately north-east of the site. For additional information, refer to Attachment 1: Location Plan attached to this report.

Surrounding land uses include:

North: On the north side of Ellesmere Road are the Fieldstone Commons Care Community nursing home, with the Roadsport Honda car dealership to the west.

East: Beyond the SRT and GO Transit line to the east is a 162-unit townhouse subdivision recently constructed by the same owner, with industrial uses on Midwest Road to the south.

South: Immediately south of the site is a large, multi-tenanted industrial building at 1399 Kennedy. Kingsmill Foods occupies the rear portion of this building, close to the subject property.

West: To the west of the site are commercial uses including Green+Ross Auto Tires on Ellesmere Road, a used car lot at the south-east corner of Kennedy and Ellesmere with an RBC bank to south. The property at 1415/1417 Kennedy Road contains a 26-unit commercial condominium.

POLICY CONSIDERATIONS

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019) (the "Growth Plan (2019)") came into effect on May 16, 2019. This new plan replaces the previous Growth Plan for the Greater Golden Horseshoe, 2017. The Growth Plan (2019) continues to provide a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part. The Growth Plan, 2019 establishes policies that require implementation through a Municipal Comprehensive Review (MCR), which is a requirement pursuant to Section 26 of the Planning Act that comprehensively applies the policies and schedules of the Growth Plan (2019), including the establishment of minimum density targets for and the delineation of strategic growth areas, the conversion of provincially significant employment zones, and others.

Policies not expressly linked to a MCR can be applied as part of the review process for development applications, in advance of the next MCR. These policies include:

- Directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, contribute to environmental sustainability and provide for a more compact built form and a vibrant public realm;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Achieving complete communities with access to a diverse range of housing options, protected employment zones, public service facilities, recreation and green space that better connect transit to where people live and work;
- Retaining viable lands designated as employment areas and ensuring redevelopment of lands outside of employment areas retain space for jobs to be accommodated on site;
- 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 (2019) 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 (2019) 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.

Planning for Major Transit Station Areas

The Growth Plan (2019) contains policies pertaining to population and employment densities that should be planned for in major transit station areas (MTSAs) along priority transit corridors or subway lines. MTSAs are generally defined as the area within an approximately 500 to 800 metre radius of a transit station, representing about a 10-minute walk. The Growth Plan requires that, at the time of the next municipal comprehensive review (MCR), the City update its Official Plan to delineate MTSA boundaries and demonstrate how the MTSAs achieve appropriate densities. Staff have reviewed the proposed development for consistency with the PPS (2014) and for conformity with the Growth Plan (2019). The outcome of staff analysis and review are summarized in the Comments section of the Report.

Toronto Official Plan Policies and Planning Studies

The City of Toronto Official Plan is a comprehensive policy document that guides development in the City, providing direction for managing the size, location, and built form compatibility of different land uses and the provision of municipal services and facilities. Authority for the Official Plan derives from *The Planning Act* of Ontario. The PPS recognizes the Official Plan as the most important document for its implementation. Toronto Official Plan policies related to building complete communities, including heritage preservation and environmental stewardship may be applicable to any application.

The current applications are located on lands shown as *General Employment Areas* on the western portion, with the balance designated *Mixed Use Areas*, on Land Use Map No. 20. The lands are also subject to Site and Area Specific Policy No. 457 which states:

- a. Employment uses on the portion of the site designated *General Employment Areas* will be compatible with adjacent residential and other sensitive uses;
- b. Residential uses on the portion of the site designated *Mixed Use Areas* will be compatible with the new residential development east of GO/ LRT corridor, in terms of height, massing and the provision of landscaped space;

c. Residential uses will be appropriately set back and buffered from the GO/ SRT corridor to the satisfaction of the City;

d. A feasibility analysis and impact assessment as per Section 4.10.3 of the province's D-6 Guidelines for Compatibility Between Industrial Facilities and Sensitive Land Uses is to be completed and necessary mitigation measures will be incorporated into the development design for residential and other sensitive uses, to the satisfaction of the City; and

e. Development of the site will create an attractive and comfortable public realm along the Ellesmere Road (service road) and enhance accessibility to public transit.

Toronto Official Plan policies may be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>

Zoning

The lands to which the subject Part Lot Control Exemption applications apply are zoned Commercial Residential (CR) with associated performance standards under the Scarborough Employment Districts Zoning By-law (Dorset Park) No. 24982, as amended. These lands are also zoned Residential Townhouse Zone (RT) under 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 executed by the owner and is currently with Legal Services for registration on title in the near future. The final Statement of Approval respecting the site plan control application can then be issued forthwith.

Agency Circulation

The applications have been circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application, and no concerns have been raised.

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 (2019). 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.

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 through the applicable zoning by-laws, as amended by the 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, including the processing of a further common elements condominium application pertaining to Block 1.

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SIGNATURE

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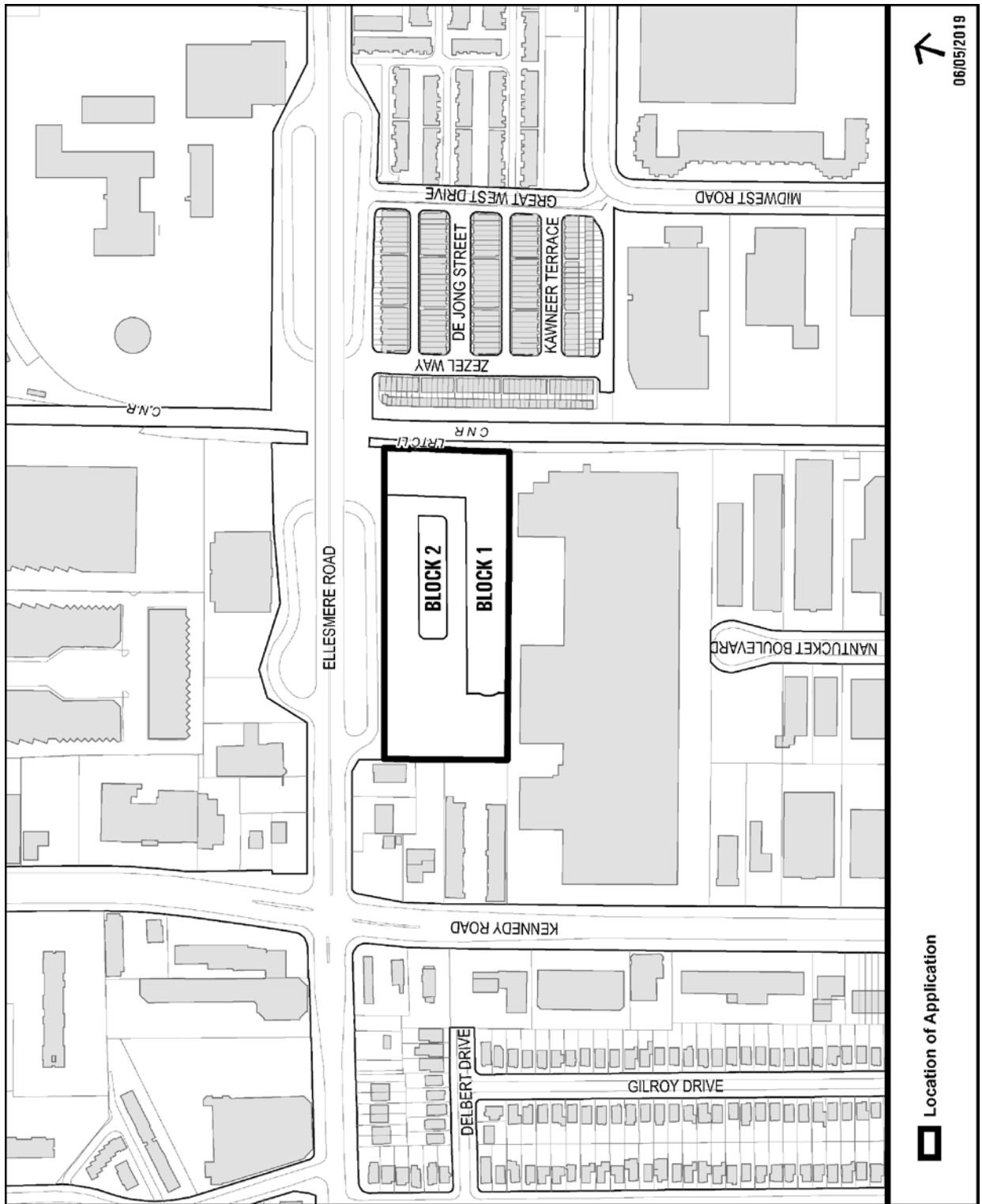
ATTACHMENTS

City of Toronto Data/Drawings

Attachment 1: Location Map

Attachment 2: Part Lot Control Exemption Plan

Attachment 1: Location Map



Attachment 2: Part Lot Control Exemption Plan

