

3258-3260 Dundas Street West – Draft Plan of Common Elements Condominium and Part Lot Control Exemption Applications – Final Report

Date: September 23, 2019

To: Toronto and East York Community Council

From: Director, Community Planning, Etobicoke York District

Ward: 4 – Parkdale - Highpark

Planning Application Numbers: 19 129241 STE 04 CD and 19 129256 STE 04 PL

SUMMARY

The Common Elements Condominium application proposes to establish the drive aisle, driveway, landscape area, parking area, and a shared mechanical and electrical room as a common element for nine townhouses and one commercial unit at 3258-3260 Dundas Street West. The Common Elements Condominium will 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 to permit the creation of conveyable lots for the nine townhouses fronting Gilmour Avenue and the commercial unit fronting Dundas Street West, which will become the Parcels of Tied Land (POTLs) to the Common Elements Condominium. The exemption from the Part Lot Control provisions would also establish an easement for shared access and servicing between the building and the adjacent building at 3256 Dundas Street West. The lifting of Part Lot Control for a period of two years is considered appropriate for the orderly development of these lands.

This report reviews and recommends approval of the Part Lot Control Exemption application. 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 and Executive Director, City Planning or his designate.

The approval of the Draft Plan of Common Elements Condominium application is delegated to the Chief Planner and Executive Director City Planning.

RECOMMENDATIONS

The City Planning Division recommends that:

1. In accordance with the delegated approval under By-law No. 229-2000, 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 3258-3260 Dundas Street West, as generally illustrated on Attachments 2 and 3 to the report dated September 23, 2019 from the Director of Community Planning, Etobicoke York District, subject to:

a. The conditions as generally listed in Attachment 4, which except as otherwise noted, must be fulfilled prior to the release of the Plan of Condominium for registration;

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; and

c. Draft Plan approval not being issued until the necessary Bill(s) for the Part Lot Control Exemption By-law are in full force and effect.

2. City Council enact a Part Lot Control Exemption By-law with respect to the subject lands at 3258-3260 Dundas Street West as generally illustrated on Attachments 5 to 7 of 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 By-law, 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 POTLs without the written consent of the Chief Planner and Executive Director, City Planning or his designate.

5. City Council authorize the City Solicitor to release, or partially release, the Section 118 Restriction from title to all or a portion of the lands in her sole discretion after consulting with the Chief Planner and Executive Director, City Planning.

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 Minor Variance application (File No. A462/15EYK) was submitted to the Committee of Adjustment on July 28, 2015. The application sought relief from City of Toronto Zoning By-law No. 569-2013 and the former City of Toronto Zoning By-law No. 438-86 to provide for the development of nine three-storey townhouses, one commercial unit and parking at grade. The application was approved on September 10, 2015

A Minor Variance application (File No. A635/15EYK) was submitted to the Committee of Adjustment on October 28, 2015. The application sought relief from City of Toronto Zoning By-law No. 569-2013 and the former City of Toronto Zoning By-law No. 438-86 to establish vehicle entrances and exits for the proposed development. The application was approved on December 3, 2015.

A Site Plan Control application (File No. 16 186706 WET 13 SA) was submitted on July 7, 2016 for 3528-3260 Dundas Street West. The application proposed nine townhouses fronting Gilmour Avenue, a commercial unit fronting Dundas Street West and parking at grade. The Statement of Approval was issued on November 7, 2018.

PROPOSAL

The Common Elements Condominium application proposes to establish the drive aisle, driveway, landscape area, parking area, and a shared mechanical and electrical room as a common element for nine townhouses and one commercial unit at 3258-3260 Dundas Street West. This would ensure shared access, ownership and maintenance of these 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 nine residential townhouses fronting Gilmore Avenue and the commercial unit fronting Dundas Street West.

The subject site consists of a townhouse development, currently nearing completion of construction, located at the northeast corner of Dundas Street West and Gilmour Avenue. The development site has an area of 421.6 m² and a frontage of 38.7 m along Gilmour Avenue and 10.95 m along Dundas Street West

For more information, refer to Attachments 2 and 3 Draft Plan of Common Elements Condominium and Attachment 5, 6 and 7 Part Lot Control Exemption Plan.

Reasons for the Applications

The applications are required to establish the conveyable lots and the ownership structure of the Common Elements Condominium. The subdivision of the townhouse lots through a Part Lot Control Exemption will allow for the creation and conveyance of individual lots to purchasers as freehold lots. The creation of the Common Elements Condominium will ensure the collective ownership, shared maintenance and access of the common elements.

APPLICATION BACKGROUND

Application Submission Requirements

The following reports/studies were submitted in support of the application:

- Plan of Survey;
- Part Lot Control Exemption Plan; and
- Draft Plan of Common Elements Condominium.

The current planning information for the applications can be found on the Application Information Centre (AIC): <https://www.toronto.ca/city-government/planning-development/application-information-centre/>.

Agency Circulation Outcomes

The applications together with the applicable plans noted above were circulated to all appropriate agencies and City Divisions. Responses received have been used to assist in evaluating the applications and to formulate appropriate conditions of Draft Plan of Common Elements Condominium approval.

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.

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 City 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 City 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 (2019)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019) (the "Growth Plan") 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;
- 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 City 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 City Council shall also conform with the Growth Plan.

Toronto Official Plan

The subject lands are designated *Mixed Use Areas* in the Official Plan on Map 14 - Land Use Plan of 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. *Mixed Use Areas* are intended to absorb most of the anticipated increase in retail, office, service employment and new housing in Toronto. Not all *Mixed Use Areas* will experience the same scale or intensity of development. The Official Plan includes criteria that direct the form and quality of development in this land use designation.

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

Zoning

The subject lands are zoned Commercial Residential (CR) in City of Toronto Zoning By-law No. 569-2013 which permits a maximum building height of 14.0 m.

A Minor Variance application (File No. A462/15EYK) was submitted to the Committee of Adjustment on July 28, 2015 to permit the townhouse building type. The application sought relief from City of Toronto Zoning By-law No. 569-2013 and the former City of Toronto Zoning By-law No. 438-86 to permit the proposed floor space index, setbacks, angular plane and building type. The application was approved on September 10, 2015.

Site Plan Control

A Site Plan Control application was submitted on July 7, 2016 (Application No. 16 186706 WET 13 SA). The application proposed nine townhouses fronting Gilmour Avenue, a commercial unit fronting Dundas Street West and parking at grade. The Statement of Approval was issued on November 7, 2018.

COMMENTS

Provincial Policy Statement and Provincial Plans

The applications are 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 uses which includes affordable housing, promoting cost-effective land use patterns and standards to minimize land consumption and servicing costs, as well as those which conserve biodiversity and consider the impacts of a changing climate.

The applications also conform to and do not conflict with the Growth Plan for the Greater Golden Horseshoe (2019). The guiding principles of the Growth Plan include: to build compact, vibrant and complete communities; to protect, conserve, enhance and wisely use the valuable natural resources of land, air and water for current and future generations; and to optimize the use of existing and new infrastructure to support growth in a compact, efficient form.

The exemption from Part Lot Control would allow for the orderly development of the proposed residential buildings.

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 approved development.

The proposed Part Lot Control Exemption complies with the Official Plan and Zoning By-law. The Part Lot Control Exemption application was circulated to various Divisions and agencies for comment and no issues were identified.

To ensure the Part Lot Control Exemption does not remain open indefinitely, it is recommended that the Part Lot Control Exemption By-law contain an expiration date. In this case, the By-law would expire two years following enactment by City Council. This time frame would provide sufficient time for the completion of the 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 POTLs. The Section 118 Restriction is used to prevent the conveyance of the POTLs until the Common Elements Condominium is registered.

CONTACT

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SIGNATURE

Neil Cresswell, MCIP, RPP
Director of Community Planning
Etobicoke York District

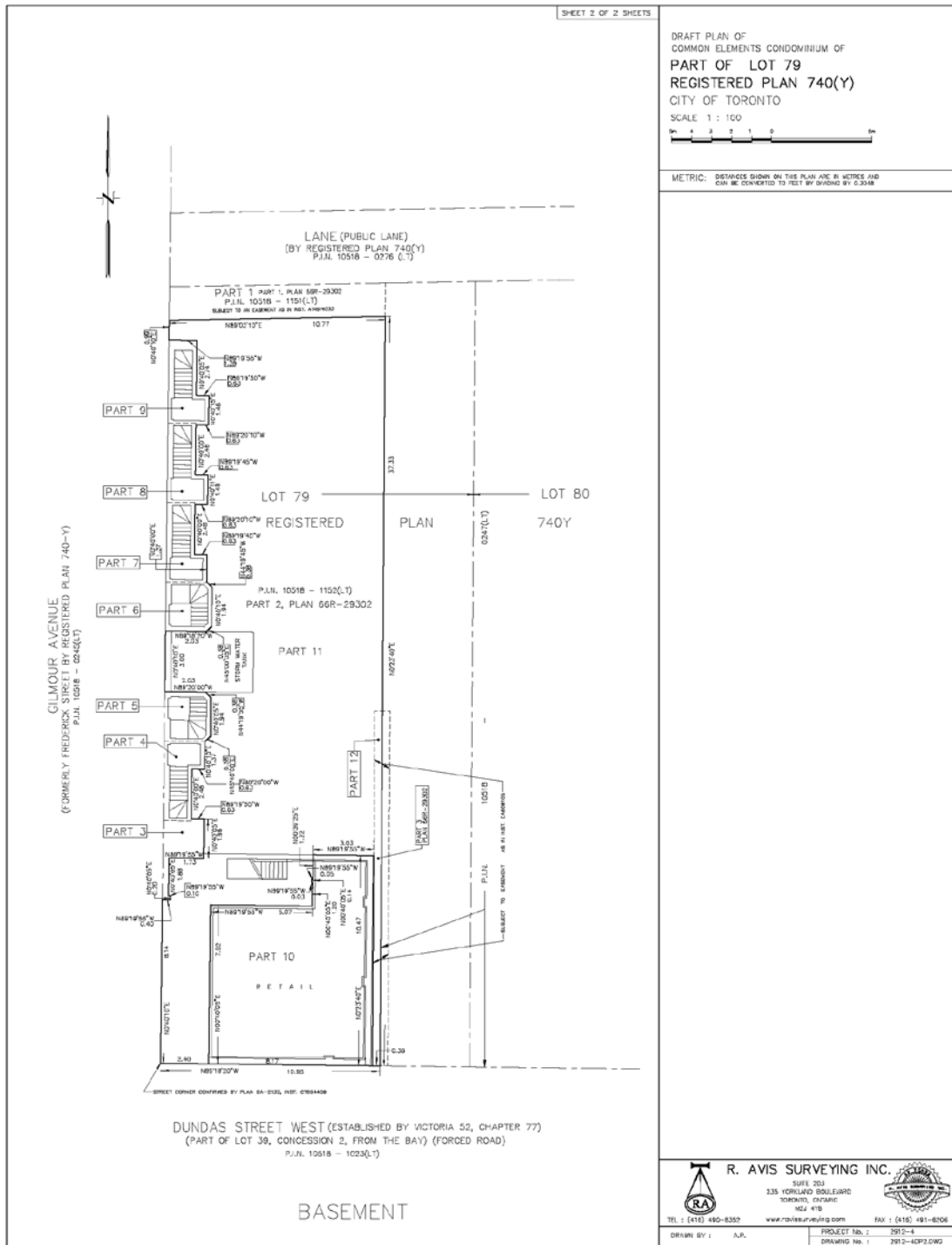
ATTACHMENTS

- Attachment 1: Location of Application
- Attachment 2: Draft Plan of Common Elements Condominium (Part 1 of 2)
- Attachment 3: Draft Plan of Common Elements Condominium (Part 2 of 2)
- Attachment 4: Draft Plan of Common Elements Condominium Approval Conditions
- Attachment 5: Part Lot Control Exemption Plan (Part 1 of 3)
- Attachment 6: Part Lot Control Exemption Plan (Part 2 of 3)
- Attachment 7: Part Lot Control Exemption Plan (Part 3 of 3)
- Attachment 8: Application Data Sheet

Attachment 1: Location of Application



Attachment 2: Draft Plan of Common Elements Condominium (Part 1 of 2)



Draft Plan of Condominium

Attachment 4: Draft Plan of Common Elements Condominium Approval Conditions

(1) The plans submitted for final approval and registration must be substantially in accordance with the draft plans approved by the Chief Planner and Executive Director, City Planning. Any revisions to these plans must be approved by the Chief Planner's designate, the Director of Community Planning, Toronto and East York District.

(2) The owner shall provide to the Director of Community Planning, Toronto and East York 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 Toronto and East 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) 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.

(6) The owner is required to ensure all Site Plan matters and facilities have been completed or financially secured to the satisfaction of the City.

(7) The owner is required to register the internal drive aisle as a common element for the benefit of all condominium unit owners.

(8) The owner agrees that, in order to provide appropriate sightlines for the proposed driveway, and avoid intersection congestion, parking will be prohibited on both sides of Gilmour Avenue for a distance of 30.5 metres from the signalized intersection of Dundas Street West/Gilmour Avenue. The owner is responsible for paying all costs associated with these parking prohibitions, as determined by Traffic Operations staff.

(8) Prior to registration, the owner shall submit an application to Toronto Water (Environmental Monitoring & Protection) for any permanent dewatering system that is required for the building, and enter into an agreement and/or permit to discharge groundwater as required by the General Manager, Toronto Water.

(9) Prior to registration, the owner shall submit a copy of the relevant section(s) of the proposed Condominium Declaration that disclose(s) the obligations of the owner in respect of the discharge of groundwater ("Private Water") to a City sewer pursuant to Toronto Municipal Code Chapter 681, to the satisfaction of the Executive Director of Engineering and Construction Services.

(10) Prior to registration, the owner shall provide certification to the Executive Director of Engineering and Construction Services by the Professional Engineer who designed and supervised the construction, that the stormwater management facilities and site grading have been constructed in accordance with the accepted Stormwater Management Report and the accepted Grading Plans.

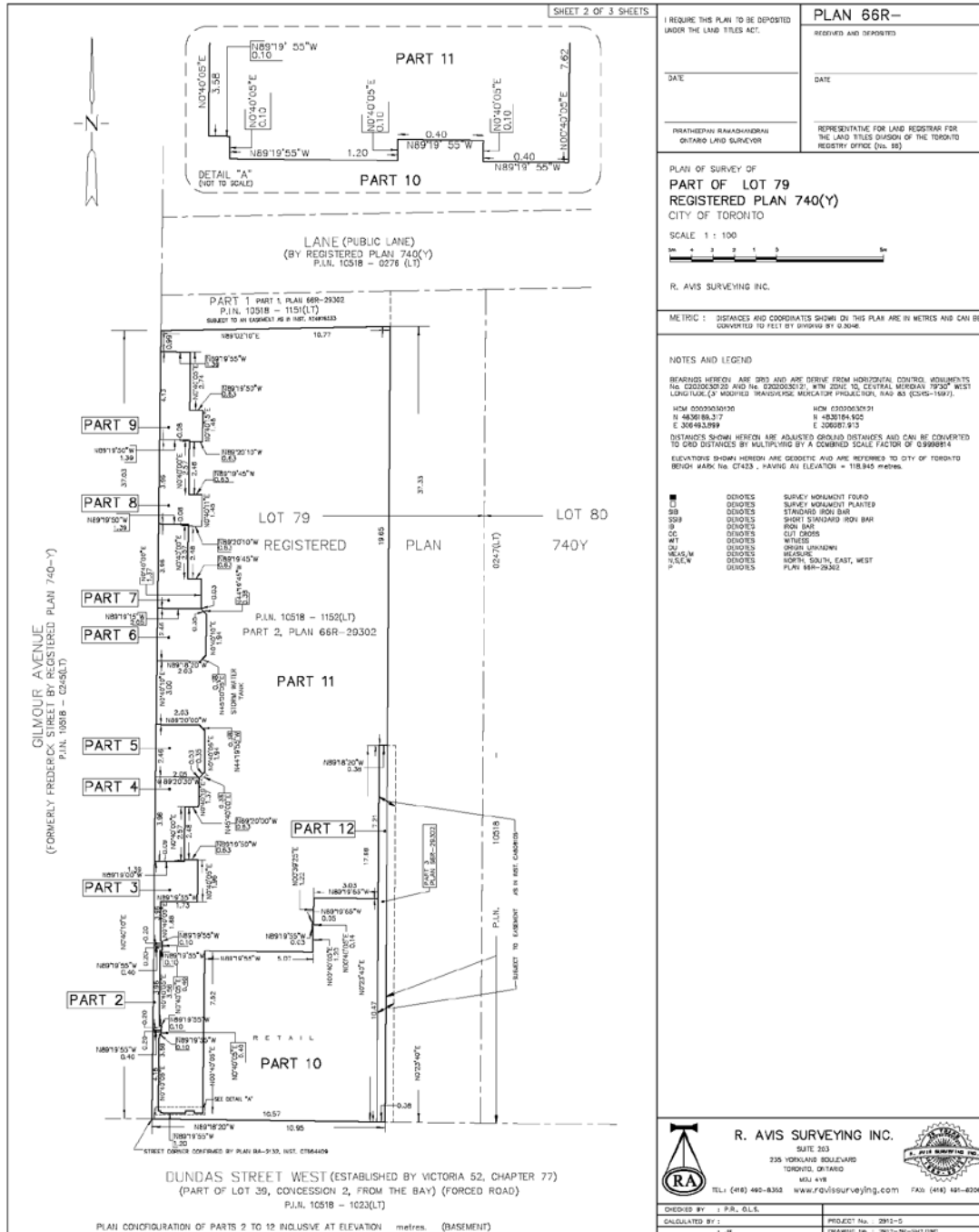
(11) Prior to registration, the owner shall provide certification to the Executive Director of Engineering and Construction Services by the Professional Engineer who designed and supervised the construction, that the site servicing facilities have been constructed in accordance with the accepted drawings.

(12) Prior to registration, the owner shall provide written certification to the Executive Director of Engineering and Construction Services by the "qualified professional" who designed and supervised the construction that the waste management facilities have been constructed in accordance with the accepted Site Plan and Waste Management Report.

(13) The following warning clause shall be inserted in all Declarations, offers to purchase and agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the railway right-of-way:

Warning: Metrolinx, carrying on business as GO Transit, and its assigns and successors in interest operate commuter transit service within 300 metres from the land which is the subject hereof. In addition to the current use of these lands, there may be alterations to or expansions of the rail and other facilities on such lands in the future including the possibility that GO Transit or any railway entering into an agreement with GO Transit or any railway assigns or successors as aforesaid may expand their operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings. Metrolinx will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under these lands.

Attachment 6: Part Lot Control Exemption Plan (Part 2 of 3)



Part Lot Control 2

Attachment 8: Application Data Sheet

Municipal Address: 3258-3260 Dundas Street West
Date Received: March 22, 2019
Application Number: 19 129241 STE 04 CD and 19 129256 STE 04 PL
Application Type: Draft Plan of Condominium Approval to create Common Elements and Part Lot Control Exemption

Project Description: Nine townhouses and a commercial unit with at grade parking have been constructed on site. The condominium application (19 129241 STE 04 CD) seeks to obtain approval of the common elements of the development, which consists of the drive aisle, at grade parking and a shared mechanical and electrical room. The application for exemption from Part Lot Control (19 129256 STE 04 PL) would legally divide the existing townhouse units for separate ownership.

Applicant	Agent	Architect	Owner
Deco Towns Inc. 332 High Park Ave, Unit 101 Toronto, ON M6P 2S7	N/A	N/A	Deco Towns Inc. 332 High Park Ave, Unit 101 Toronto, ON M6P 2S7

EXISTING PLANNING CONTROLS

Official Plan Designation: Mixed Use Areas Site Specific Provision:
Zoning: CR 2.5 Heritage Designation:
Height Limit (m): 14.0 Site Plan Control Area: Yes

PROJECT INFORMATION

Site Area (sq m): 421.6 Frontage (m): 10.95 Depth (m): 38.7

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):	384	384		384
Residential GFA (sq m):	1,242	1,242		1,242
Non-Residential GFA (sq m):	94	94		94
Total GFA (sq m):	1,336	1,336		1,336
Height - Storeys:	4	4		4
Height - Metres:	12.34	12.34		12.34

Lot Coverage Ratio (%): 91.2 (combined) Floor Space Index: 3.25 (combined)

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

Residential GFA: 1,242
 Retail GFA: 94
 Office GFA:
 Industrial GFA:
 Institutional/Other GFA:

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:				
Freehold:				
Condominium:	9	9		9
Other:				
Total Units:	9	9		9

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					9
Proposed:					
Total Units:					9

Parking and Loading

Parking Spaces: 9 Bicycle Parking Spaces: Loading Docks:

CONTACT:

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