

## **71-81 (formerly 71-73) Saulter Street – Part-Lot Control Exemption Application – Final Report**

Date: May 22, 2020

To: Toronto and East York Community Council

From: Director, Community Planning, Toronto and East York District

Ward 14 - Toronto-East York

**Planning Application Numbers:** *19 237491 STE 14 PL and 15 115050 STE 30 CD*

### **SUMMARY**

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This application for part-lot control (File No. 19 237491 STE 14 PL) (the "Application") has been submitted to facilitate the registration of a draft-approved plan of common elements condominium (the "Plan of Condominium") comprised of five freehold three-storey townhouse units and a shared private driveway, as contemplated by condominium application No. 15 115050 STE 30 CD (the "Condominium Application") at 71-81 (formerly 71-73) Saulter Street (the "Subject Lands"). The development has already been constructed.

In particular, the Application requests exemption from the part-lot control provisions of the Planning Act in order to rectify an error made in the earlier creation of the five parcels of tied land (the "POTLs") and private driveway comprising the common elements portion of the Plan of Condominium (the "Condominium Driveway"), as described in greater detail in this report.

This report reviews and recommends approval of the Application. The Application, which reflects the same proposal as the draft-approved Plan of Condominium, is consistent with the Provincial Policy Statement (2020) and conforms with the Growth Plan for the Greater Golden Horseshoe (2019) and the City of Toronto's Official Plan. The lifting of part-lot control for a period of two years is appropriate for the implementation of the Plan of Condominium and for the orderly development of the Subject Lands.

The report additionally recommends that the owner of the Subject Lands be required to register a Section 118 Restriction under the Land Titles Act agreeing not to convey or mortgage any part of the Subject Lands without prior consent of the Chief Planner and Executive Director, City Planning or his/her designate.

## **RECOMMENDATIONS**

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The City Planning Division recommends that:

1. City Council enact a Part-Lot Control Exemption By-law with respect to the Subject Lands, as generally illustrated on Attachment 2 to the report dated May 22, 2020 from the Director, Community Planning, Toronto and East York District, to be prepared to the satisfaction of the City Solicitor and to expire two years following the enactment of the Part-Lot Control Exemption By-law.
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. Prior to the introduction of the Part-Lot Control Exemption By-law, City Council require the owner to register on title to the Subject Lands, 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 Subject Lands without the written consent of the Chief Planner and Executive Director or his/her designate.
4. City Council authorize and direct the City Solicitor to register the Part-Lot Control Exemption By-law on title to the Subject Lands.
5. City Council authorize the City Solicitor to take the necessary steps to release the Section 118 Restriction from title to the Subject Lands at such time as confirmation is received that the Plan of Condominium has been registered.
6. 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**

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The recommendations in this report have no financial impact.

## **PROPOSAL**

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The Application seeks exemption from the part-lot control provisions of the Planning Act to facilitate the creation of five individual POTLs and the Condominium Driveway at the rear of the development, as contemplated by the Condominium Application. Each POTL is comprised of a freehold three-storey townhouse unit that faces Saulter Street and includes a rear integral garage accessible from the Condominium Driveway. The Plan of Condominium was draft approved by the Chief Planner and Executive Director, City Planning Division, on February 18, 2016. The development has already been constructed.

The five POTLs are to be respectively comprised of the following five parcels, as illustrated in Plan of Reference 66R-28826 attached as Attachment 2 to this report (the "Part-Lot Control Exemption Plan"):

- Part 1
- Part 4
- Part 6
- Part 8
- Part 10

The Condominium Driveway is to be collectively comprised of the following 6 parcels, distinct from the POTLs, as illustrated in the Part-Lot Control Exemption Plan:

- Part 2
- Part 3
- Part 5
- Part 7
- Part 9
- Part 11

The exemption from the part-lot control provisions of the Planning Act would permit the creation of separately conveyable parcels and allow for financing and the registering of mortgages on the parcels.

The purpose of this report is to recommend approval of the Application and request that City Council enact a by-law to lift part-lot control for the Subject Lands, subject to the conditions recommended herein.

### **Reasons for Application**

The Application is necessary to establish the common elements condominium ownership structure of this development. The creation of the POTLs will allow the conveyance of the freehold units to individual purchasers, while the creation of the Condominium Driveway will facilitate a shared ownership and maintenance arrangement of the driveway by the condominium corporation, as well as provide shared access to the rear of each of the five townhouses. Specifically, the Condominium Driveway provides one-way vehicular access to the rear of the townhouse units from Woodgreen Place (a laneway behind the Subject Lands that is accessed off Queen Street East) and through to Saulter Street.

The applicant previously sought to create the POTLs and Condominium Driveway by seeking consent to sever the Subject Lands at the Committee of Adjustment, as described in greater detail in "Decision History" below. While the requested relief was previously granted at the Ontario Municipal Board ("OMB"), the individual lots were incorrectly described. The Application seeks to remedy this error.

## **APPLICATION BACKGROUND**

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### **Decision History**

On April 29, 2015, the Committee of Adjustment refused consent to sever applications No. B0011/TEY15 and B0012/TEY15 (the "Consent Applications") and associated minor variance applications No. A0144/15TEY, A0145/15TEY, A0146/15TEY, A0147/15TEY and A0148/15TEY (the "Minor Variance Applications"), which collectively sought to create five new lots to facilitate the development of five three-storey townhouse units. Planning staff did not comment on these applications.

The applicant appealed the decisions of the Committee of Adjustment to the OMB. Pursuant to two orders dated August 25, 2015 and October 23, 2015, the OMB allowed the appeal, ordering provisional consent be given and authorizing the requested minor variances. The consents were finalized pursuant to Certificates of Official issued by the Deputy Secretary-Treasurer of the Committee of Adjustment, Toronto and East York District, on August 23, 2016. This led to the Subject Property being renumbered from 71-73 Saulter Street to 71-81 Saulter Street.

On February 3, 2016, City Council adopted the final report dated December 4, 2015 from the Director, Community Planning, Toronto and East York District, in which Council was advised of the Chief Planner's intention to draft approve the Plan of Condominium, subject to certain conditions. The draft approval was issued on February 18, 2016. The applicant is currently in the process of satisfying the conditions of draft approval.

The intent of the Consent Applications was to create six parcels collectively forming the Condominium Driveway and five conveyable POTLs. However, the parcels that were supposed to comprise the Condominium Driveway were erroneously described as forming part of the POTLs, in contravention of the Condominium Act, which requires common elements and POTLs to be separately conveyable parcels of land. This issue arose in the context of preparing to register the draft-approved Plan of Condominium.

### **Agency Circulation Outcomes**

The Application has been circulated to all appropriate agencies and City divisions. Responses received have been used to assist staff in evaluating the Application and formulating appropriate conditions of approval.

## **POLICY CONSIDERATIONS**

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### **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 of Ontario. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision, site plans and plans of condominium, among others.

### **Provincial Policy Statement (2020)**

The recently updated Provincial Policy Statement (2020) (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. 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 is more than a set of individual policies. It is to be read in its entirety and the relevant policies are to be applied to each situation. The PPS recognizes and acknowledges the official plan as the most important document for implementing the policies within the PPS. Specifically, Policy 4.6 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 PPS can be found at <https://files.ontario.ca/mmah-provincial-policy-statement-2020-accessible-final-en-2020-02-14.pdf>.

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

The Growth Plan for the Greater Golden Horseshoe (2019) (the "Growth Plan") provides a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe ("GGH") region, of which Toronto 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.

The Growth Plan can be found at <https://www.ontario.ca/document/place-grow-growth-plan-greater-golden-horseshoe>.

Staff have reviewed the proposed development for consistency with the PPS and for conformity with the Growth Plan. The outcome of staff analysis and review are summarized in the "Comments" section of this report.

## City of Toronto Official Plan

The Subject Lands are designated as *Mixed Use Areas* in the City of Toronto Official Plan (Map 18 - Land Use Plan). This designation permits a broad range of commercial, residential and institutional uses, and includes policies and development criteria to guide development and its transition between areas of different development intensity and scale.

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

## Zoning

The Subject Lands are zoned MCR T2.5 C2.0 R2.0 in Zoning By-law 438-86 of the Former City of Toronto and CR 2.5(c2.0; r2.0) SS2 (x2294) in Zoning By-law 569-2013 of the City of Toronto. These zones permit a wide range of commercial and residential uses with a maximum density of 2.5 times the area of the lot, of which a maximum of 2.0 times may be non-residential and a maximum of 2.0 times may be residential. The maximum permitted height is 14.0 metres.

As noted earlier in "Decision History", the Subject Lands are also subject to the Minor Variance Applications, as approved by the OMB.

The development complies with the zoning by-laws as varied.

## Site Plan Control

The Subject Lands are subject to a site plan agreement (Application No. 13 259561 STE 30 SA), which has been registered on title. The Application complies with the site plan agreement.

## COMMENTS

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### Provincial Policy Statement and Provincial Plans

The Application has been reviewed and evaluated against the PPS and the Growth Plan. Both the PPS and the Growth Plan encourage intensification and redevelopment in urban areas. In accordance with Policy 1.1.3.6 of the PPS, the proposed development promotes intensification through a compact urban form. Policy 1.1.3.2 of the PPS states that development shall make efficient use of land and resources, infrastructure and public service facilities. The proposal is located in close proximity to the Queen Street streetcar line.

The Application is consistent with the PPS and conforms to the Growth Plan. The lifting of part-lot control and creation of the Plan of Condominium would allow for the orderly development of the Subject Lands.

## **Land Division**

The applicant has submitted the Application to remedy a land division error arising from the Consent Applications that impacts registration of the Plan of Condominium.

Section 50(7) of the Planning Act 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 proper implementation of the Condominium Application.

To ensure that the Part-Lot Control Exemption By-law does not lift part-lot control indefinitely, it is recommended that the Part-Lot Control Exemption By-law contain an expiration date. In this case, the By-law should expire on the date that is two years following the enactment of the Part-Lot Control Exemption By-law. This time frame provides sufficient time for the completion of the development.

Before the Plan of 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 will be used to prevent the conveyance of the POTLs until the Plan of Condominium is registered.

## **Conclusion**

Staff are of the opinion that the Application is consistent with the PPS and conforms with the Growth Plan. The Application also conforms with the Official Plan, and will implement the Plan of Condominium that has been draft approved at the Subject Lands.

The exemption from part-lot control is considered appropriate for the orderly development of the Subject Lands and is recommended for approval.

## **CONTACT**

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## **SIGNATURE**

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Lynda H. Macdonald, MCIP, RPP, OALA, FCSLA  
Director, Community Planning  
Toronto and East York District

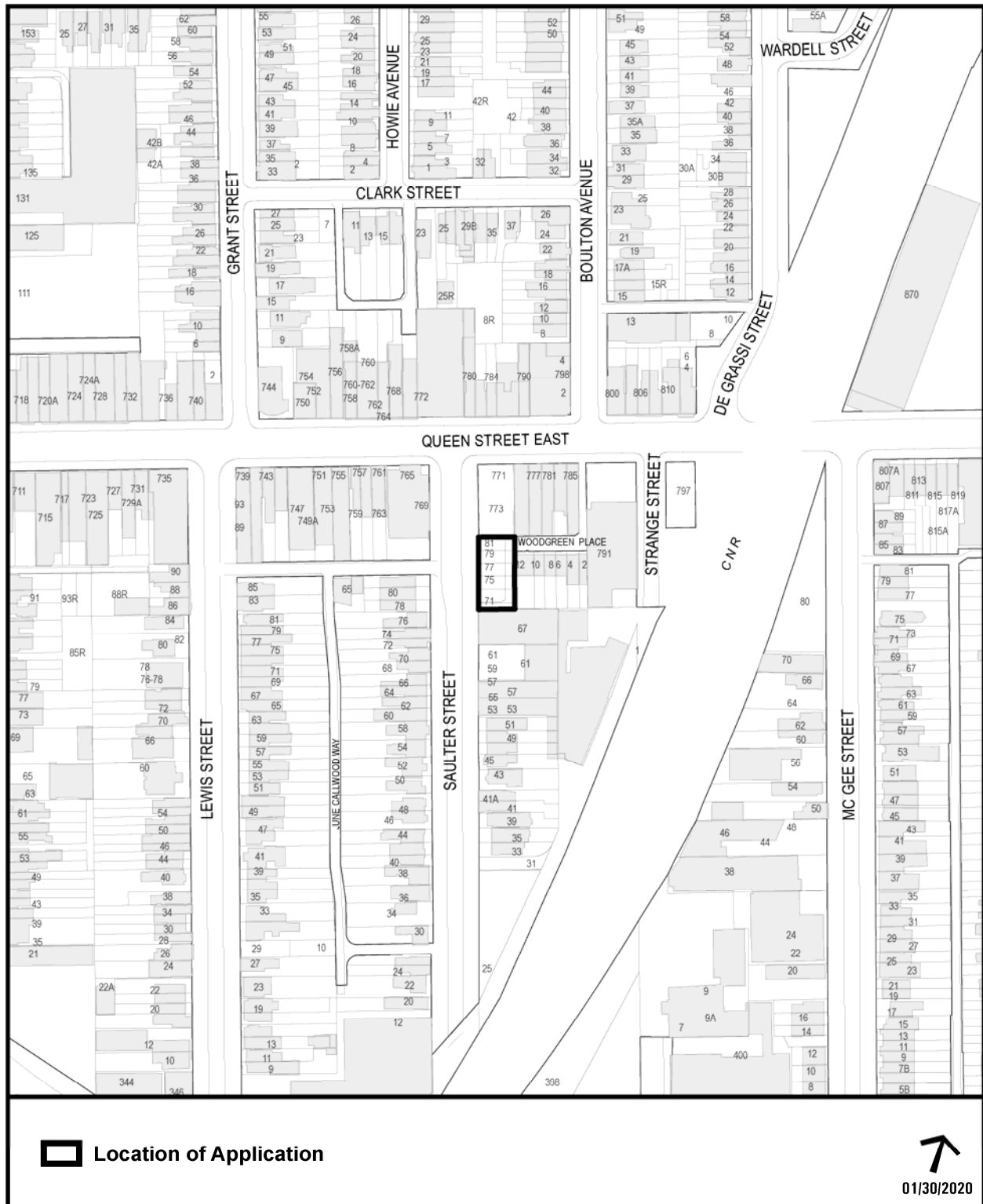


## **ATTACHMENTS**

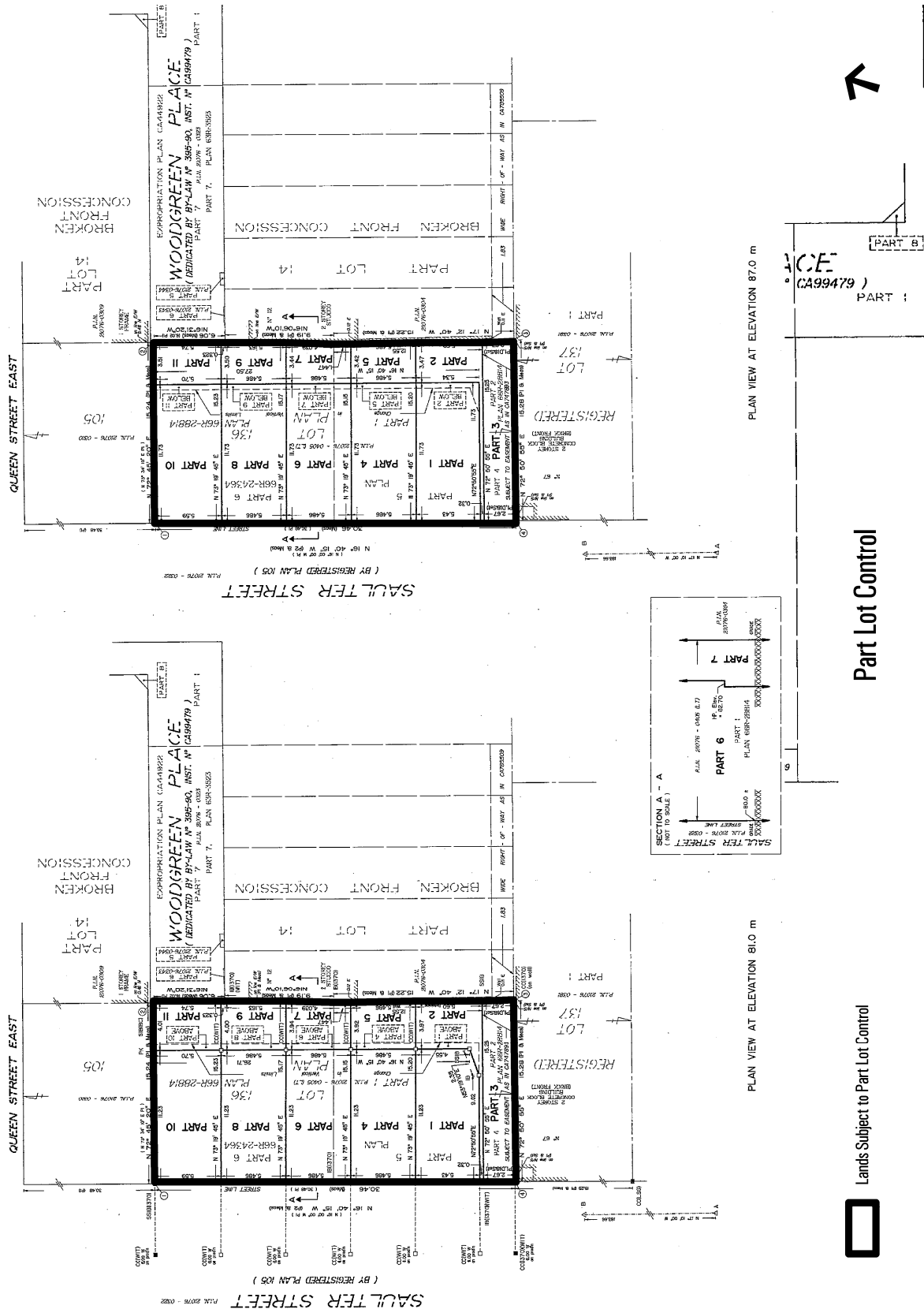
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Attachment 1: Location Map  
Attachment 2: Part-Lot Control Exemption Plan (Plan of Reference 66R-28826)  
Attachment 3: Draft Part-Control Exemption By-law

## Attachment 1: Location Map



# Attachment 2: Part-Lot Control Exemption Plan (Plan of Reference 66R-28826)



### **Attachment 3: Draft Part-Lot Control Exemption Bylaw**

Authority: Toronto and East York Community Council Report No.~, as adopted by City of Toronto Council on ~, 2020

Enacted by Council: ~, 2020

#### **CITY OF TORONTO BY-LAW No. ~-20~**

To exempt lands municipally known as 71-81 Saulters Street (formerly 71-73 Saulters Street), from Part-Lot Control.

WHEREAS authority is given to Council by Subsection 50(7) of the Planning Act, R.S.O. 1990, c.P. 13, as amended, to pass this By-law;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Subsection 50(5) of the Planning Act does not apply to the lands described in the attached Schedule “A”.
2. This By-law expires two years from the date of its enactment by Council.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

FRANCES NUNZIATA  
Speaker

ULLI S. WATKISS,  
City Clerk

(Corporate Seal)

## **Schedule "A"**

**[Insert legal descriptions for 71-81 Saulter Street (formerly 71-73 Saulter Street).]**