STAFF REPORT
ACTION REQUIRED

77, 81, and 83 Mutual Street - Part Lot Control Exemption Application - Final Report

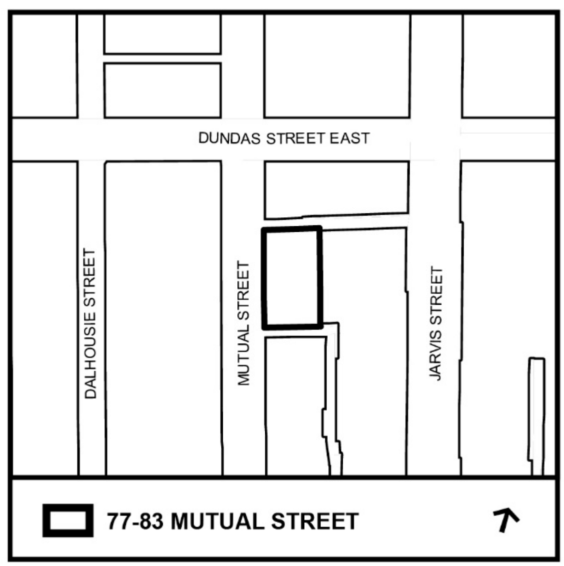
Date: October 19, 2019
To: Toronto and East York Community Council
From: Director, Community Planning, Toronto and East York District
Ward 13 - Toronto Centre

Planning Application Number: 20 148809 STE 13 PL

SUMMARY

This application proposes exemption from the Part Lot Control provisions of the Planning Act for the lands municipally known as 77, 81, and 83 Mutual Street (the "Subject Lands") to facilitate the development of a 36-storey mixed use building on the Subject Lands. Five (5) conveyable lots will be created through this application. The Subject Lands are within a registered plan of subdivision and are therefore subject to Part Lot Control.

The proposed development includes the following in their own separate and conveyable lot, stratified throughout the building: a commercial freehold parcel (partial 1st floor); a commercial parking garage (partial P1, P2 and P3, and 1st floors); a floor of rental replacement dwelling units (partial 3rd floor); shared areas for circulation, servicing, and amenities (parts of all floors); and a residential condominium (parts of all floors).



The application has been requested by the owner to permit the division of the Subject Lands and the constructed 36-storey building into a number of stratified parcels, enabling the applicant to transfer title for the aforesaid stratified portions of the Subject Lands along with easements to facilitate the implementation of the development.

This report reviews and recommends approval of a Part Lot Control Exemption by-law to be enacted for a period of up to three (3) years on the Subject Lands. In addition, this report 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 charge any part of the Subject Lands without prior consent of the Chief Planner and Executive Director or their designate.

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 77, 81, and 83 Mutual St as generally illustrated on Attachments 1 and 2 and substantially in accordance with the Part Lot Control Exemption Plan attached as Attachment 3 and the Draft Part Lot Control Exemption By-law attached as Attachment 4 to the report, from the Director Community Planning, Toronto and East York District, to be prepared to the satisfaction of the City Solicitor and to expire three (3) years following enactment by City Council.

2. Prior to the introduction of the Part Lot Control Exemption Bill for enactment, City Council require the owner:

    a. to provide proof of payment of all current property taxes for the Subject Lands to the satisfaction of the City Solicitor; and

    b. to register, to the satisfaction of the City Solicitor, a Section 118 Restriction under the Land Titles Act agreeing not to convey or charge any part of the lands, excluding any unit forming part of a condominium and any charge on all of the lands, without the written consent of the Chief Planner or their designate.

3. City Council authorize and direct the City Solicitor to register the Part Lot Control Exemption By-law on title to the lands or any portion thereof against which the Section 118 Restriction under the Land Titles Act has been registered.

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

5. City Council authorize City officials to take necessary steps, including the execution of agreements and documents which set out the implementation of the Part Lot Control Exemption By-law to give effect to the above-noted recommendations.

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

City Planning confirms that there are no financial implications resulting from the recommendations included in the report in the current budget year or in future years.

DECISION HISTORY

In July 2014, applications for Zoning By-law Amendment (File No. 14 183553 STE 27 OZ), rental demolition and conversion approval (File No. 14 183555 STE 27 RH), and Site Plan Approval (File No. 14 183547 STE 27 SA) were submitted to the City, for a 38-storey mixed use building development on the Subject Lands, and dedicated parkland on 75 Mutual St. In September 2015, the owner appealed both the Zoning By-law Amendment application and Site Plan Approval application to the Ontario Municipal Board (now known as the Local Planning Appeal Tribunal) based on Council's failure to make a decision within the timeframes prescribed in the Planning Act.

In October 2016, the Ontario Municipal Board approved both the Zoning By-law Amendment and the Site Plan to allow for a 36-storey mixed use building on the Subject Lands and the expansion of the existing low-rise office building at 75 Mutual Street (a former townhouse converted for office use). In 2019, the amending zoning by-laws (By-laws No. 1611-2019 and 1612-2019) were adopted by Council.

Concurrent with the submission of the proposed Part Lot Control Exemption application, was the submission of an application for Plan of Condominium on the Subject Lands; the Plan of Condominium application is currently under review.

ISSUE BACKGROUND

Application Description

This application proposes to exempt the Subject Lands and the constructed 36-storey mixed use building from the Part Lot Control provisions of the Planning Act to facilitate the development. The Subject Lands are within registered plan of subdivision no. CT257819.

The application has been requested by the owner to permit the efficient division of the Subject Lands and the constructed 36-storey building, to serve the various uses and ownership tenures of the development. Easements and a Shared Facilities Agreement will allocate access and cost responsibilities of shared facilities between the various proposed lots, respectively.

The five (5) conveyable lots are proposed to be created and configured as illustrated in Attachment 3. The table below summarizes the configuration of the aforesaid conveyable lots.

Lot type	**Name description in legend, in Attachment 3**	**Location within the subject lands and building**
Commercial freehold	“COMMERCIAL”	Partial 1st Floor
Commercial parking garage	“COMMERCIAL PARKING (INCLUDING BUILDING VISITOR AND CAR-SHARE PARKING)”	Partial P1-P3 Floors inclusive; 1st Floor
Rental replacement dwelling units	“RENTAL REPLACEMENT”	Partial 3rd Floor
Shared areas for circulation, servicing, and amenities	“CONDOMINIUM – SHARED (INCLUDING COMMON AREAS AND AMENITY SPACE)”	Partial P1 to P5 Floors inclusive; Partial 1st to 36th Floors inclusive.
Residential condominium	“CONDOMINIUM”	Partial P1 to P5 Floors inclusive; Partial 1st to 36th Floors inclusive.

It is noted that the rental replacement dwelling units located on the 3rd Floor will have access to and through the conveyable lot known as “CONDOMINIUM – SHARED (INCLUDING COMMON AREAS AND AMENITY SPACES;” which contains common areas, indoor, outdoor, and other spaces in the building. This access was secured for the rental replacement dwelling units through registered Section 37 agreement no. AT4680488.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

Site and Surrounding Area

The Subject Lands are located in southeast quadrant of Mutual Street and Dundas Street East. The previously existing uses on the Subject Lands, comprised of a building containing 22 rental dwelling units and a surface commercial parking lot. The Subject Lands are surrounded by buildings ranging from low-rise retail buildings to tall buildings.

The surrounding uses and buildings are as follows:

North: Across an abutting lane, are a low-rise commercial retail building and Pace Condos, a 42-storey condominium building at 155 and 159 Dundas St E.

West: On the west side of Mutual Street, is a number of residential co-operative buildings in heights from 12 to 17 storeys, and Arena Gardens, a small City-owned park within this block.

South: 2-storey residential form buildings.

East: A 14-storey condominium building at 192 Jarvis Street, and HOEM, a 30-storey student housing building at 186 Jarvis St.

POLICY CONSIDERATIONS

Provincial Policy Statement and Provincial Plans

Land use planning in the Province of Ontario is a policy led system. Any decision of Council related to this application is required to be consistent with the Provincial Policy Statement (2020) (the "PPS"), and to conform with applicable Provincial Plans which, in the case of the City of Toronto, include: A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) and, where applicable, the Greenbelt Plan (2017). The PPS and all Provincial Plans may be found on the Ministry of Municipal Affairs and Housing website.

The Provincial Policy Statement (2020)

The 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 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 4.6 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."

Growth Plan

Amendment no. 1 to the Growth Plan 2019 came into effect on August 28, 2020. This new amendment updates the Growth Plan for the Greater Golden Horseshoe, 2019. The Growth Plan 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 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, 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 builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the Greater Golden Horseshoe 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 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 MCR, the City update its Official Plan to delineate MTSA boundaries and demonstrate how the MTSAs achieve appropriate densities. At the time of the MCR, municipalities can make a request to the Province for alternative targets to those set out in the Growth Plan. Major Transit Station Area boundaries will not be delineated until such time as the City initiates and completes an MCR in conformity with the Growth Plan.

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 the Report.

Official Plan

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

The application is located on lands within the Downtown and Central Waterfront area on Map 2, and designated Mixed Use Areas on Map 18 of the Official Plan. The application is also located within the Downtown Secondary Plan.

Zoning

The site is zoned CR in Zoning By-law No. 569-2013 and Zoning By-law No. 438-86, both of which permit a mix of commercial and residential uses. The OMB-approved Zoning By-law Amendment introduced performance standards that allowed for the subject 36-storey mixed use building.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal has been reviewed and evaluated against the PPS (2020) and the Growth Plan (2020). The proposed Part Lot Exemption will apply to the development post-construction, facilitating the occupancy and operation of the development, thereby furthering the conformity of the development with the policies of the PPS and the Growth Plan.

These policies include: accommodating and providing for affordable housing and a mix of housing typologies (Section 1.1.1(b) of the PPS and Section 2.2.1.4(c) of the Growth Plan); and efficient use of land and infrastructure through compact form and a mix of uses and densities (Section 1.1.3.6 (a) of the PPS, and Section 2.2.1.4(e) of the Growth Plan).

The development consists of both rental and market housing, providing a dwelling unit type mix that comprises a substantial proportion of 2- and 3-bedroom units; and has provided cash contribution towards affordable housing in the Ward. Furthermore, the development is a compact built form that contains residential and non-residential uses, that maximizes the use of the Subject Lands and the existing hard services. Staff have determined that the proposal is consistent with the PPS and conforms with the Growth Plan.

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 development, subject to the Section 118 Restriction under the Land Titles Act.

The Part Lot Control Exemption will facilitate the development of the site including the creation of stratified lots within the building and multiple ownerships (including a lot for rental replacement), and the establishment of easements and rights-of-ways to ensure appropriate access and use between the stratified properties relating to the adjacent sidewalk zone, building amenities, building circulation spaces, servicing, and vehicular parking.

Prior to enactment of the Part Lot Control Exemption By-law, it is recommended that the owner register a Section 118 Restriction under the Land Titles Act. The restriction requires the owner to agree not to convey or mortgage any part of the lands, excluding the units that are proposed to form part of the residential condominium, without the prior written consent of the Chief Planner. The residential condominium units proposed by the separate Plan of Condominium application, will be not be restricted from such title transfers. Through this recommended approach, the City can facilitate a timely and orderly condominization of dwelling units in the building and ensure that the Part Lot Control exemption is not unlimited and that appropriate mechanisms are secured to support the 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 three (3) years following enactment by City Council. This time frame provides sufficient time for the completion of the proposed development.

Conclusion

The proposal has been reviewed against the policies of the PPS (2020), the Growth Plan (2020), and the Toronto Official Plan. Staff are of the opinion that the proposal is consistent with the PPS (2020), does not conflict with the Growth

Plan (2020), and conforms to the Official Plan. The lifting of Part Lot Control is appropriate for the orderly development of these lands. Staff recommend that Council support approval of the application

CONTACT

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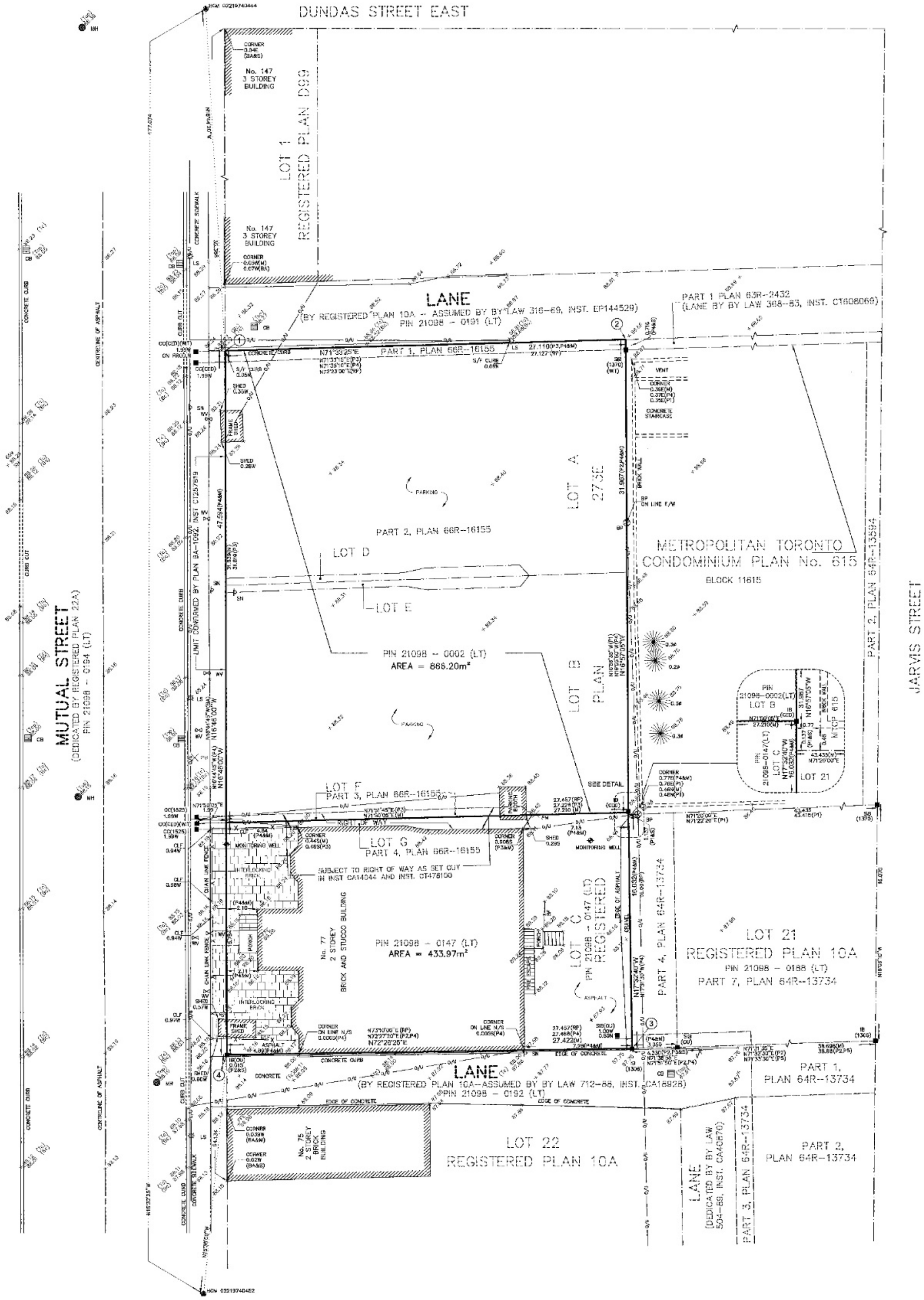
SIGNATURE

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

ATTACHMENTS

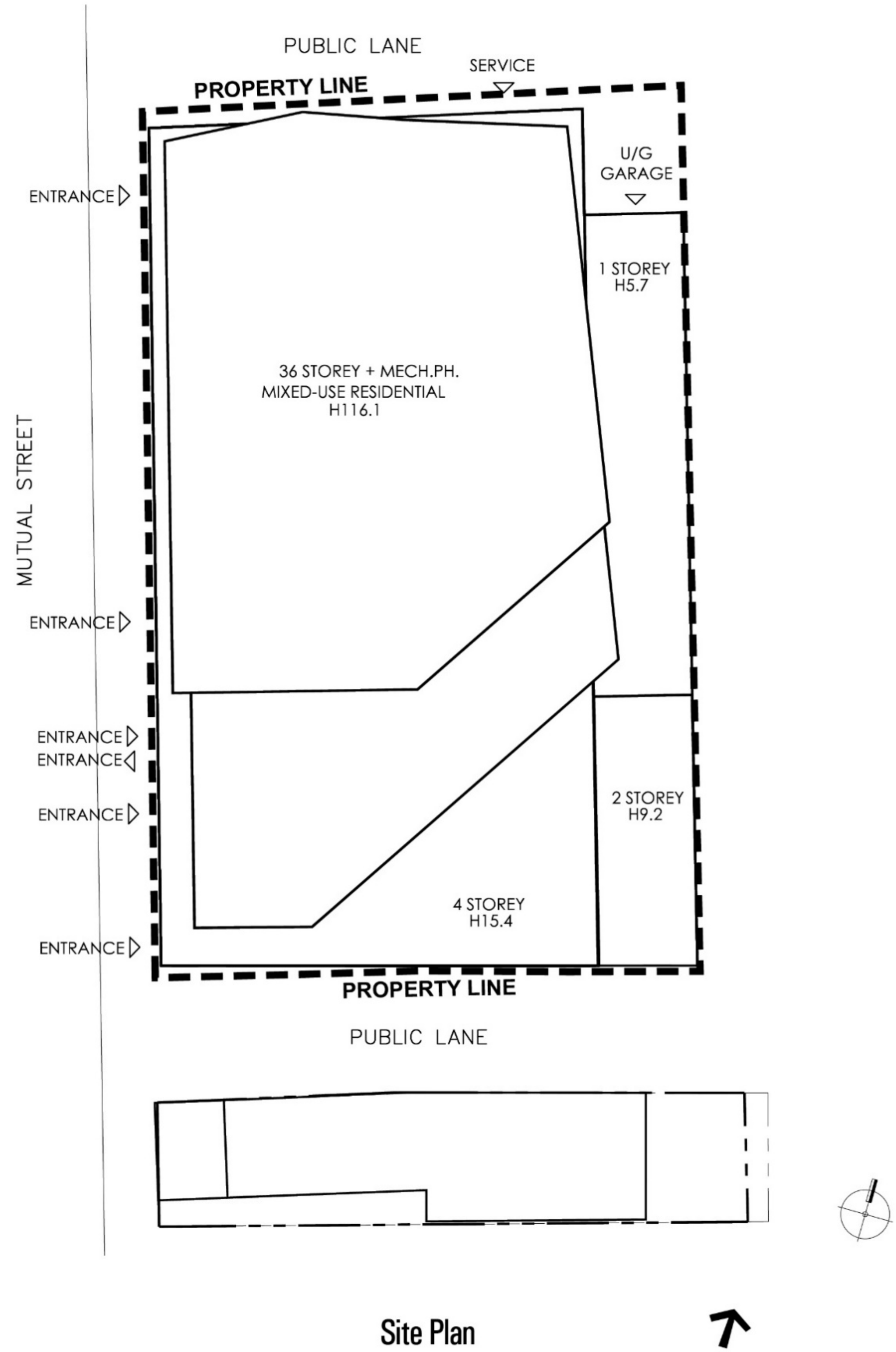
Attachment 1: Survey Plan
Attachment 2: Site Plan
Attachment 3: Part Lot Control Exemption Plan
Attachment 4: Draft Part Lot Control Exemption By-law

Attachment 1: Survey Plan



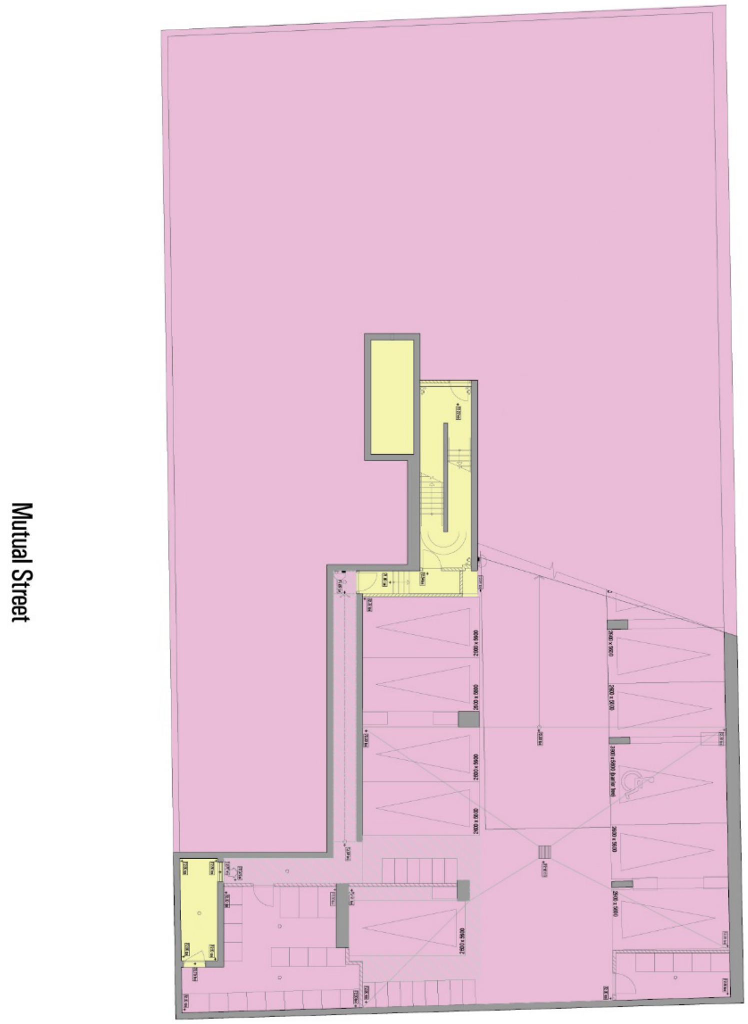
Site Plan

Attachment 2: Site Plan



Site Plan

Attachment 3: Part Lot Control Exemption Plan



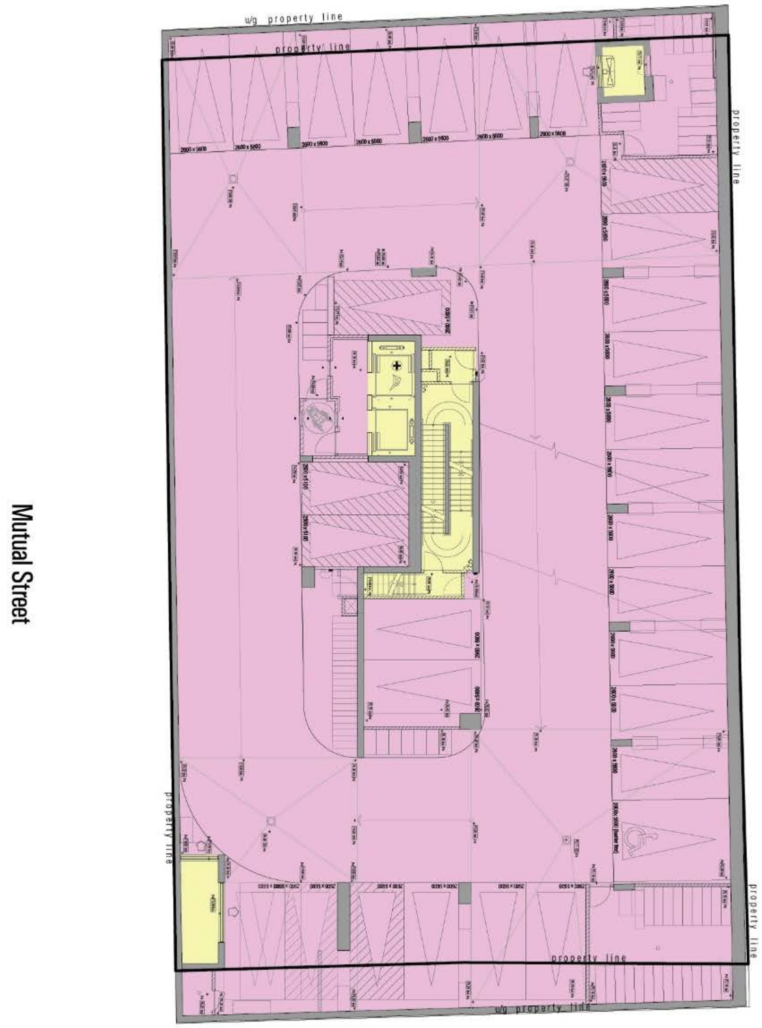
LEGEND
COMMERCIAL
COMMERCIAL PARKING (INCLUDING BUILDING VISITOR AND CAR-SHARE PARKING)
RENTAL REPLACEMENT
CONDOMINIUM - SHARED (INCLUDING COMMON AREAS AND AMENITY SPACE)
CONDOMINIUM

NOTE:

"CONDOMINIUM - SHARED (INCLUDING COMMON AREAS AND AMENITY SPACE)" AS SHADED IN YELLOW, IS ACCESSIBLE TO THE RENTAL REPLACEMENT UNITS.

P5 Floor Plan

Attachment 3: Part Lot Control Exemption Plan



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P4 Floor Plan

Attachment 3: Part Lot Control Exemption Plan

Mutual Street

LEGEND
COMMERCIAL
COMMERCIAL PARKING (INCLUDING BUILDING VISITOR AND CAR-SHARE PARKING)
RENTAL REPLACEMENT
CONDOMINIUM - SHARED (INCLUDING COMMON AREAS AND AMENITY SPACE)
CONDOMINIUM

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P3 Floor Plan

Attachment 3: Part Lot Control Exemption Plan

LEGEND	
	COMMERCIAL
	COMMERCIAL PARKING (INCLUDING BUILDING VISITOR AND CAR-SHARE PARKING)
	RENTAL REPLACEMENT
	CONDOMINIUM - SHARED (INCLUDING COMMON AREAS AND AMENITY SPACE)
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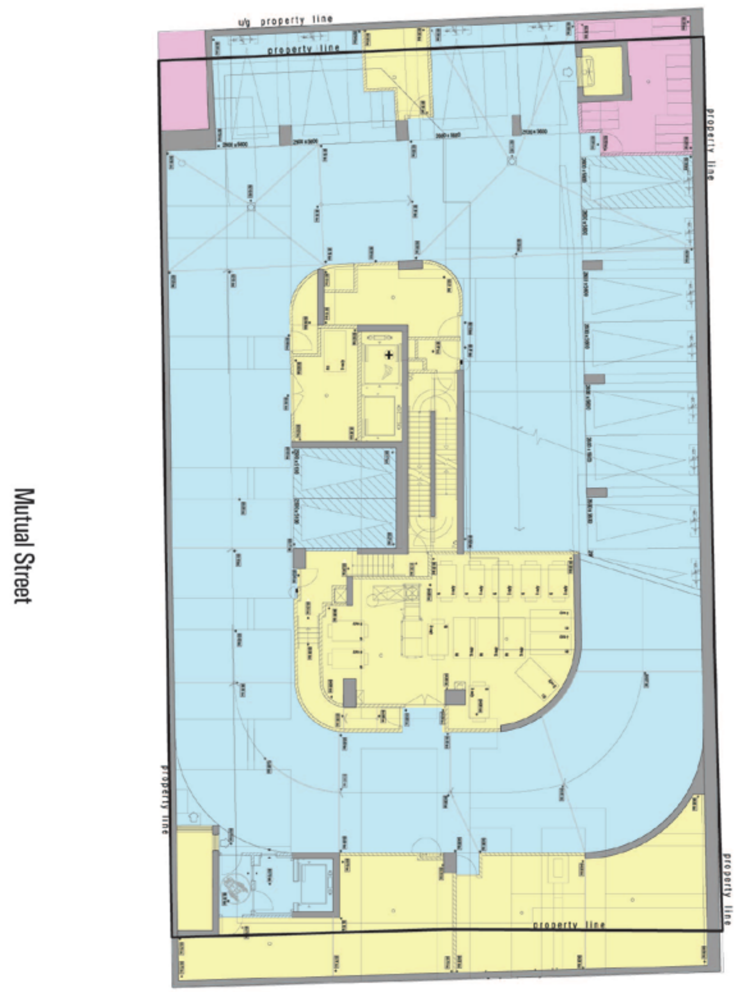
P2 Floor Plan

Attachment 3: Part Lot Control Exemption Plan



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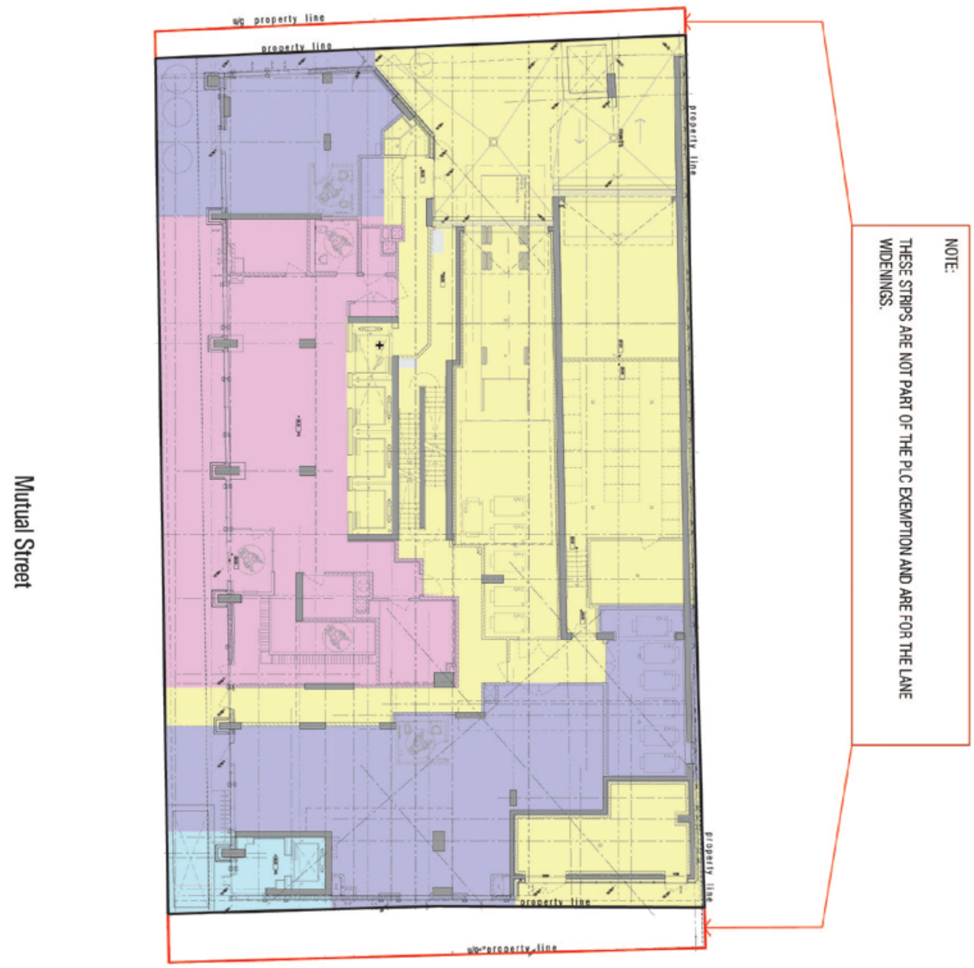
P1 Floor Plan

Attachment 3: Part Lot Control Exemption Plan



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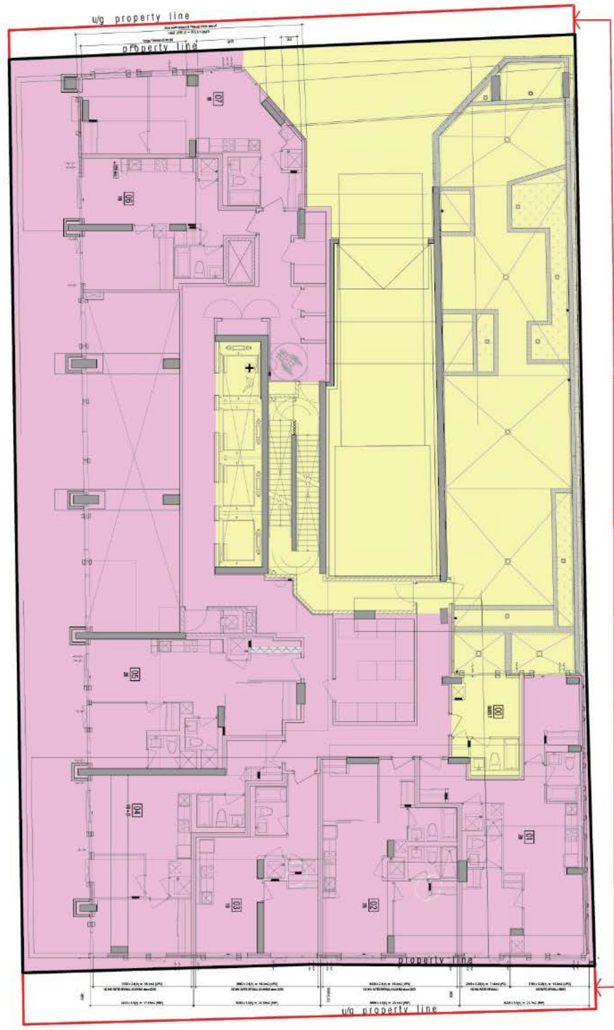
1 Floor Plan

Attachment 3: Part Lot Control Exemption Plan

Mutual Street



NOTE:

THESE STRIPS ARE NOT PART OF THE PLC EXEMPTION AND ARE FOR THE LANE WIDENINGS.

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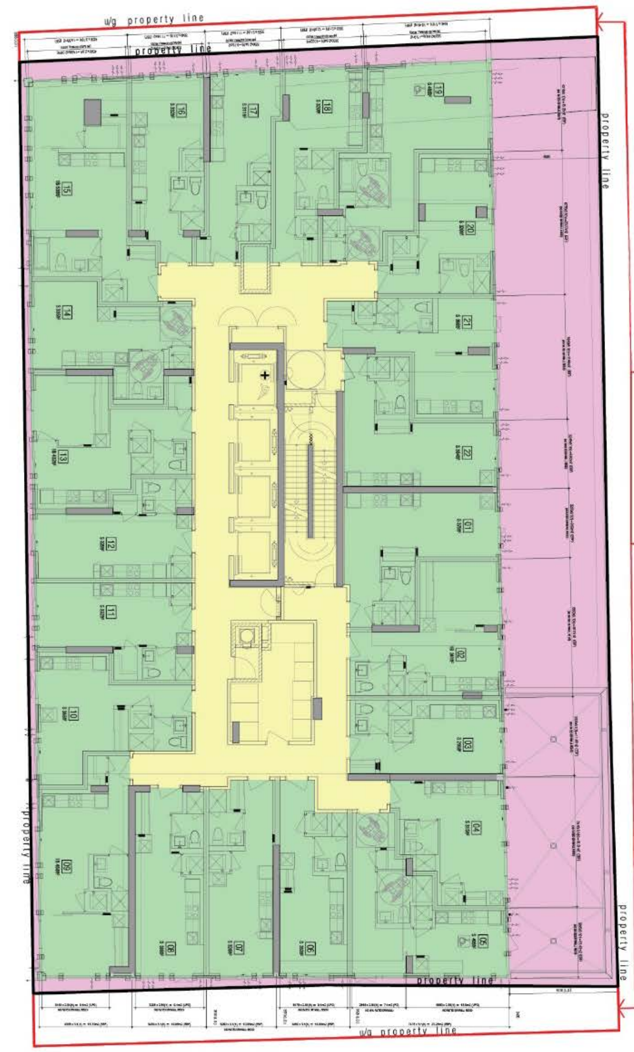
2 Floor Plan

Attachment 3: Part Lot Control Exemption Plan

Mutual Street



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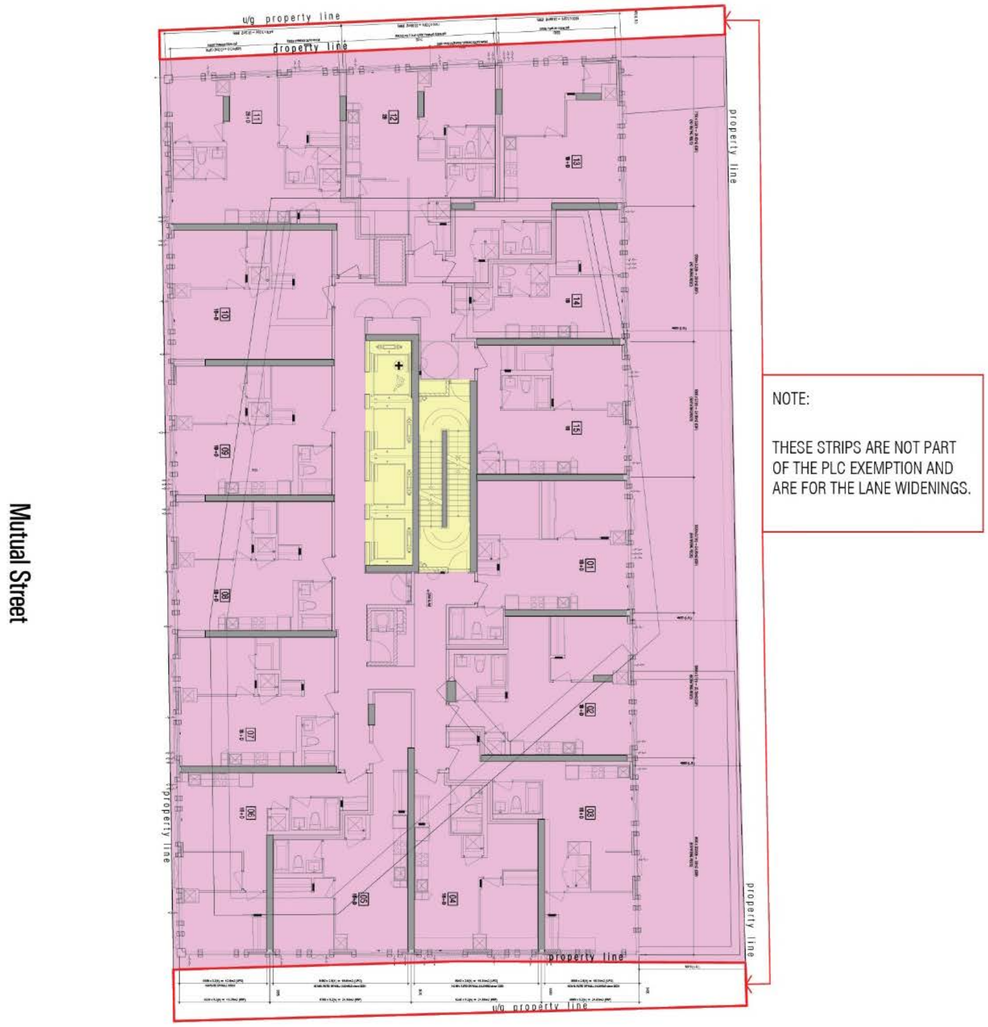
3 Floor Plan

Attachment 3: Part Lot Control Exemption Plan



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4 Floor Plan

Attachment 3: Part Lot Control Exemption Plan

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RENTAL REPLACEMENT
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CONDOMINIUM

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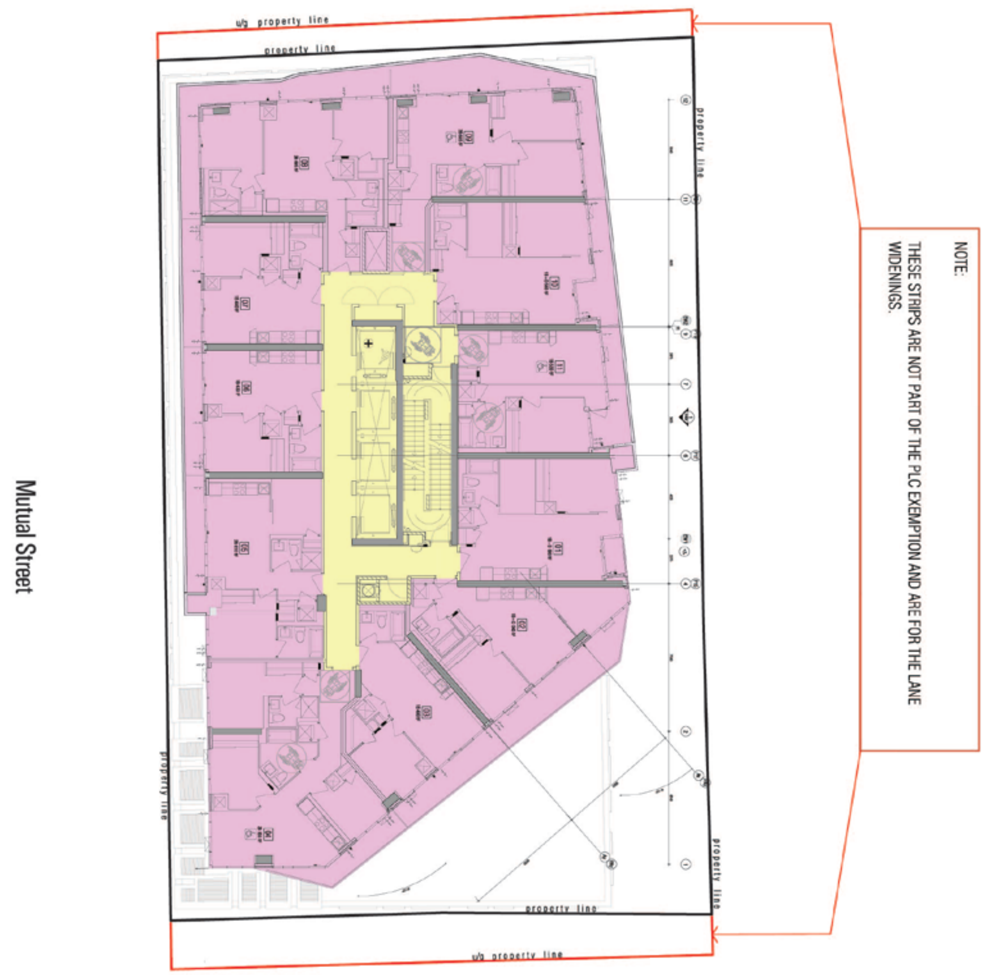
5 Floor Plan

Attachment 3: Part Lot Control Exemption Plan



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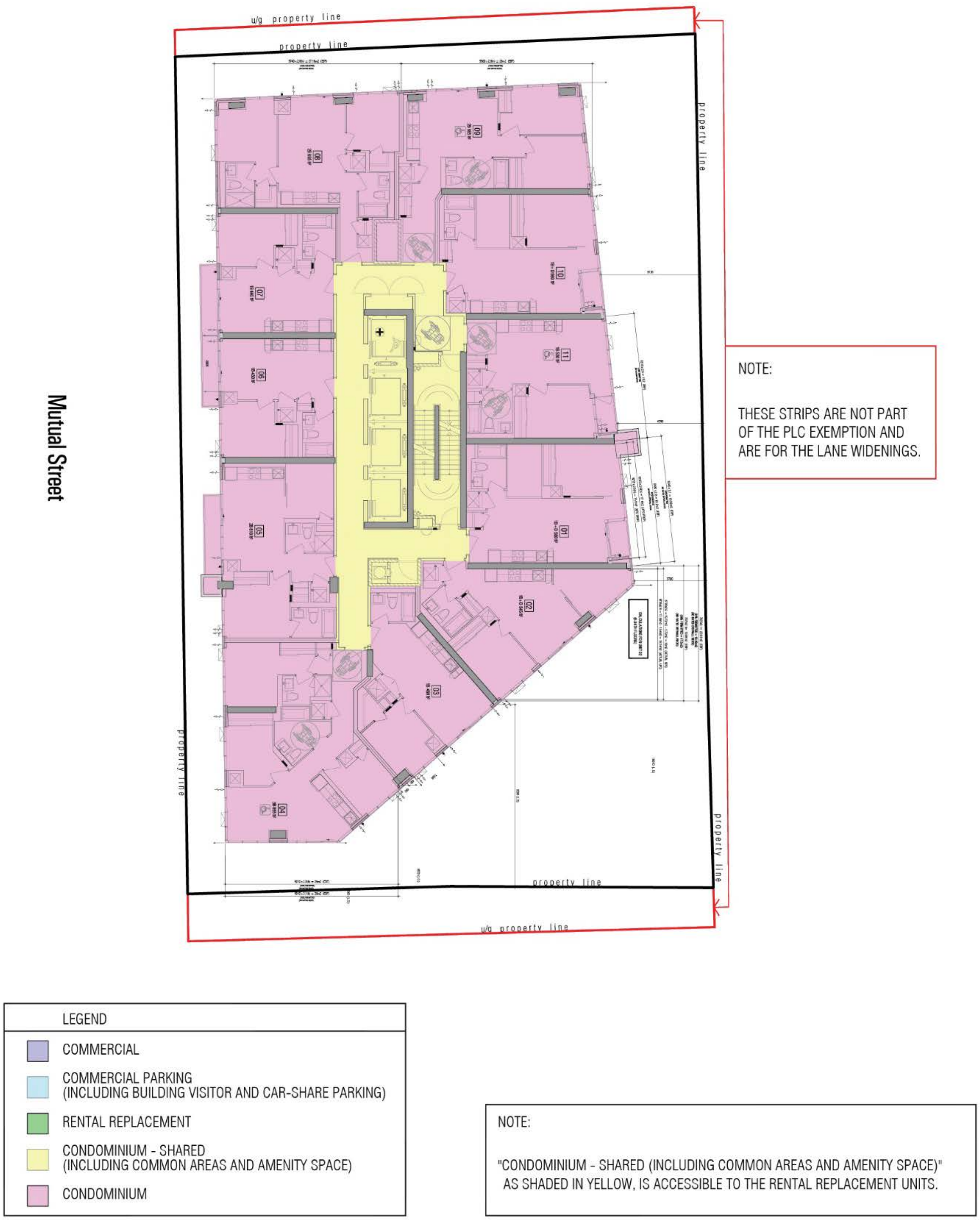
6 Floor Plan

Attachment 3: Part Lot Control Exemption Plan



7-36 Floor Plan

Attachment 4: Draft Part Lot Control Exemption By-law

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 77, 81, and 83 Mutual 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 three (3) 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)

Attachment 4: Draft Part Lot Control Exemption By-law

SCHEDULE “A”
LEGAL DESCRIPTION OF SITE

PIN No. 21098-0292 (LT)

Firstly: Parcel A-1 in Section A273E; Lot A on Plan 273E, City of Toronto; Lot B on Plan 273E, City of Toronto; Lot D on Plan 273E, City of Toronto; Lot E on Plan 273E, City of Toronto; Lot F on Plan 273E, City of Toronto; Parts 1, 2 and 3 on Plan 66R16155; Confirmed by BA1092 registered as CT257819; and

Secondly: Lot G, C Plan 273E, City of Toronto; Subject to an easement as in AT5133767; Subject to an easement as in AT5158701, City of Toronto [PIN No.