

Final Report - 971 to 979 Warden Avenue Part-Lot Control Exemption Application

Date: August 20, 2021

To: Scarborough Community Council

From: Director, Community Planning, Scarborough District

Wards: 21 - Scarborough Centre

Planning Application Number: 21 106928 ESC 21 PL

Related Planning Application Number: 21 206807 ESC 21 CD

SUMMARY

This Part-Lot Control Exemption application has been submitted to create conveyable lots for 26 detached houses on the subject lands, previously developed with five detached houses on oversized lots. The new detached house lots will become Parcels of Tied Land ("POTLS") to the Common Elements of a Common Elements Condominium, which includes an 8.0 metre wide private road and landscaping. The private road will provide shared access and servicing to the houses and two visitor parking spaces.

This report reviews and recommends approval of a Part-Lot Control Exemption By-law, lifting Part-Lot Control for a period of two years, subject to conditions, on the subject lands. This report also recommends that the owner 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 their designate.

The application is consistent with the Provincial Policy Statement (PPS) and conforms to the Growth Plan and Official Plan, and will implement the Plan of Condominium at the subject lands. The exemption from Part-Lot Control is considered appropriate for the orderly development of the subject 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 971 to 979 Warden Avenue as generally illustrated on Attachment 1 to the report dated August 20, 2021 from the Director, Community Planning, Scarborough District, to be prepared to the satisfaction of the City Solicitor and to expire two 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 without the written consent of the Chief Planner and Executive Director, City Planning.

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 make such stylistic and technical changes to the draft Part Lot Control Exemption By-law as may be required.

5. City Council authorize City staff 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.

FINANCIAL IMPACT

There are no financial implications resulting from the recommendations included in this report in the current budget year, or in future years.

PROPOSAL

The subject lands are located on the east side of Warden Avenue, between Minford Avenue to the north and the Gatineau Hydro Corridor to the south (See Attachment 1: Location Map).

The site was previously occupied by five large residential lots, each with a detached dwelling and accessory buildings, constructed between 1950 and 1953. A 1.89 metre road widening along the entire frontage of Warden Avenue has been conveyed to the City to satisfy the Official Plan requirement of a 30.0 metre wide right-of-way.

The remaining combined lot area is 7,569 square metres with a lot frontage of 112 metres on Warden Avenue and an approximate lot depth of 85 metres. The lowest point on the site is at the southwest corner with a grade change of approximately three metres northward along Warden Avenue and approximately four metres eastward along the hydro corridor.

Surrounding land uses include: detached dwellings fronting Warden Avenue and Minford Avenue to the north; the Gatineau Hydro Corridor (The Meadoway) and Golden

Mile district to the south; detached dwellings on Kilpatrick Place and employment uses to the east; and detached dwellings to the west.

Construction of the new development on the subject lands is close to completion. The proposed exemption from the Part-Lot Control provisions of the *Planning Act* is required to permit the creation of separate conveyable lots for 26 detached residential dwellings at 971 to 979 Warden Avenue. The conveyable lots will become POTLs to a Common Elements Condominium. The associated Common Elements Condominium Application proposes to establish a shared private road, with servicing, a private laneway, a sidewalk and landscaped areas as the Common Elements. An easement in favour of the condominium corporation to maintain a retaining wall is proposed on five of the POTLs at the northeast boundary of the site.

The proposed residential lots range in area from 175 square metres to 392 square metres, with lot frontages ranging from 4.1 metres to 11.1 metres. The total area for residential use is 6,157 square metres, with the remainder of the site consisting of the proposed Common Elements.

The Draft Plan of Condominium and Part Lot Control Exemption Plan are included as Attachment 2: Draft Plan of Condominium and Attachment 3: Part-Lot Control Exemption Plan this report.

APPLICATION BACKGROUND

On June 26, 2018 City Council adopted recommendations to amend the Wexford Community Zoning By-law 9511, as amended, and Zoning By-law 569-2013, as amended, to permit the proposed development of 26 detached dwellings on a private road and to establish appropriate performance standards to enable the proposed development.

The City Council decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaltemHistory.do?item=2018.SC31.4>

As described in the May 16, 2018 Final Staff Report from the Director of Community Planning, Scarborough District on this rezoning application, a Part Lot Control Exemption application is required to create the residential lots and a Draft Plan of Condominium Application is required to create Common Elements, including the private road.

Application Submission Requirements

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

- Existing Plan of Subdivision;
- Plan of Survey;
- Draft Reference Plan (Part Lot Control Plan); and
- Draft Plan of Common Elements Condominium.

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

Agency Circulation

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

POLICY CONSIDERATIONS

Planning Act

Section 2 of the *Planning Act* sets out matters of provincial interest which City Council shall have regard to in carrying out its responsibilities, including: the orderly development of safe and healthy communities; the adequate provision of a full range of housing, including affordable housing; and the appropriate location of growth and development.

Section 51 (24) of the *Planning Act* sets out criteria that City Council shall have regard to in making decisions regarding land division including: the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants; the effect of development of the proposed subdivision on matters of provincial interest; whether the plan conforms to the official plan and adjacent plans of subdivision; the dimensions and shapes of the proposed lots; the restrictions on the land proposed to be subdivided and on adjoining land; the adequacy of utilities and municipal services; and the interrelationship between the design of the proposed plan and site plan control matters.

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, site plan agreements, and part-lot control.

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:

- Managing and directing land use to achieve efficient and resilient development patterns;
- Planning for, protecting and preserving employment areas;

- Providing for an appropriate range and mix of housing options and densities to meet projected requirements of current and future residents;
- Providing infrastructure and public service facilities in an efficient manner that prepares for climate change impacts and projected needs;
- Conserving significant cultural heritage and archaeological resources; and
- Directing development away from natural or human-made hazards.

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."

Provincial Plans

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

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

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) ("Growth Plan") came into effect on August 28, 2020. 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 (2020), establishes policies that require implementation through a Municipal Comprehensive Review (MCR), which is a requirement pursuant to Section 26 of the *Planning Act*. 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 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, and better connected 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 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.

City of Toronto Official Plan

The subject lands are designated *Neighbourhoods* as shown on Official Plan Map 20 - Land Use Plan. *Neighbourhoods* are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes and townhouses, as well as interspersed walk-up apartments that are no higher than four storeys.

Neighbourhoods Policies 4.1.5 and 4.1.9 provide guidance for new development in *Neighbourhoods*. Policy 4.1.5 requires new development to respect and reinforce the existing physical character of each geographic neighbourhood, including the prevailing size and configuration of lots. Policy 4.1.9 of the Official Plan provides policies for infill development in established *Neighbourhoods* on properties that vary from the local pattern in terms of lot size, configuration and/or orientation. Policies and development criteria aim to ensure that physical changes to established neighbourhoods are sensitive, gradual and "fit" the existing physical character.

Built Environment Policy 3.1.1 provides guidance on the public realm, which is the network of public and private spaces to which the public has access, which provides the organizing framework and setting for development. The public realm policies provide direction on the expansion, enhancement and maintenance of the public realm through development review and capital projects. Policy 3.1.1.9 states that private streets, where they are deemed to be appropriate, will be designed to connect to and integrate into the broader public street network and meet the design objectives for new public streets.

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 S ("Single-Family Residential") with associated performance standards under the Wexford Community Zoning By-law No. 9511, as amended. These lands are also zoned Residential Detached (RD) under the City-wide Zoning By-law No. 569-2013, as amended.

The City of Toronto Zoning By-law 569-2013 interactive map can be found here: <https://www.toronto.ca/city-government/planning-development/zoning-by-law-preliminary-zoning-reviews/zoning-by-law-569-2013-2/>.

COMMENTS

City Planning recommends approval for Part-Lot Control Exemption to permit the creation of conveyable lots for the 26 detached houses, which will become POTLs to the Common Elements of the Common Elements Condominium, and advises that the Chief Planner and Executive Director, City Planning intends to approve the Draft Plan of Common Elements Condominium for the subject lands.

Planning Act

The application has regard for relevant matters of provincial interest and the criteria for land division as set out in the *Planning Act*.

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the PPS (2020). In particular, the proposed land division will enable infill development consistent with the provincial policy objective of efficient development patterns and will facilitate the provision of additional housing options.

The proposal conforms to the Growth Plan (2020) by enabling intensification within appropriate existing settlement areas, making more efficient use of existing urban land, services and infrastructure through infill development in a more compact built form than previously existed on the subject lands.

Land Division

Section 50(7) of the *Planning Act* authorizes City Council to adopt a by-law exempting land within a registered plan of subdivision from Part-Lot Control. The subject lands are within a plan of subdivision registered in 1946. The lifting of Part-Lot Control on the subject lands is considered appropriate for the orderly infill 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 two years after the date of 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 Control 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.

Visitor Parking

The Draft Plan of Common Elements Condominium includes two additional visitor parking spaces located on the private road. Transportation Services Staff have reviewed the proposal and advised that the proposed visitor parking spaces are acceptable.

Conclusion

The application is consistent with the PPS and conforms to the Growth Plan, Official Plan, and performance standards established through the applicable zoning by-laws. Staff consider the exemption from Part-Lot Control and the creation of the Common Elements Condominium to be appropriate for the orderly development of the lands. Staff recommend that the Part Lot Control Exemption application be approved by City Council.

CONTACT

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SIGNATURE

Paul Zuliani, MBA, RPP, Director
Community Planning, Scarborough District

ATTACHMENTS

City of Toronto Data/Drawings

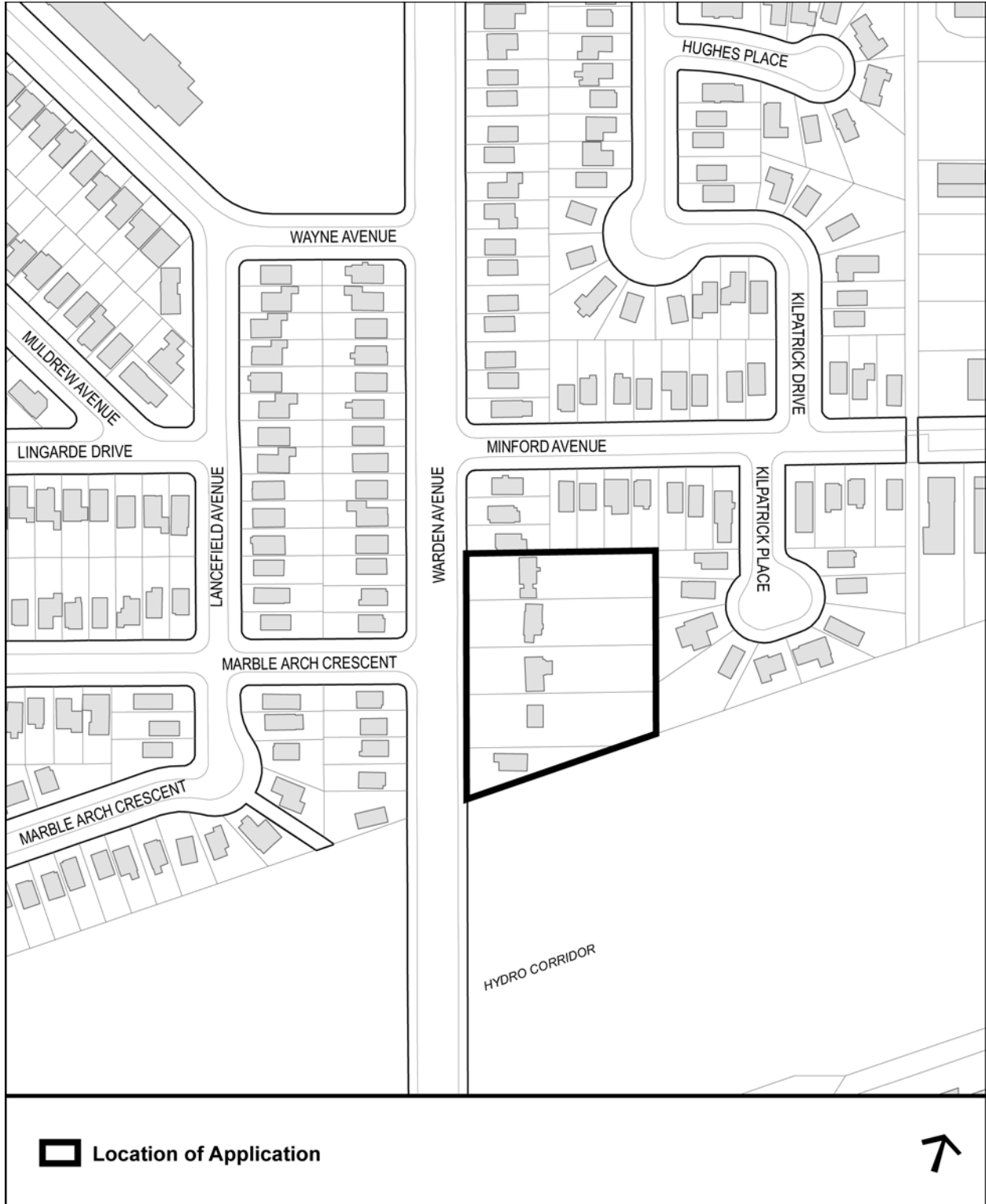
Attachment 1: Location Map

Attachment 2: Draft Plan of Common Elements Condominium

Attachment 3: Part-Lot Control Exemption Plan

Attachment 4: Draft Part-Lot Control Exemption By-law

Attachment 1: Location Map



Attachment 4: Draft Part-Lot Control Exemption By-law

Authority: Scarborough Community Council Report Number~, as adopted by City of Toronto Council on ~, 2021

Enacted by Council: ~, 2021

**CITY OF TORONTO
BY-LAW Number --20~**

To exempt lands municipally known as 971, 973, 975, 977 and 979 Warden Avenue 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~.

Speaker

(Corporate Seal)

JOHN ELVIDGE,
City Clerk

Schedule "A"

Legal Description:

Lots A, B, C, D, and E Registered Plan 3376 City of Toronto