

101, 111 and 129 St Clair Avenue West – Part Lot Control Exemption Application – Final Report

Date: June 4, 2021

To: Toronto and East York Community Council

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

Ward: 12 - Toronto-St. Paul's

Planning Application Number: 21 115735 STE 12 PL

SUMMARY

A Part Lot Control Exemption application has been submitted for the properties at 101, 111 and 129 St. Clair Avenue West, to allow for any required minor alignments of property boundary lines to coincide with foundations which have already been poured, with various easements and rights-of-way for both vehicular and pedestrian access to be properly established together with the necessary servicing, maintenance and support easements, to facilitate financing of the developments, and to potentially allow for the strata conveyance of the proposed retail space within the restored Deer Park Church at 129 St. Clair Avenue West, proposed to be a 500 square metre café.

This report reviews and recommends approval of a Part Lot Control Exemption By-law, lifting Part Lot Control for a period of two years and requires 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 the prior consent of the Chief Planner and Executive Director, City Planning. The lifting of Part Lot Control for a period of two years is considered appropriate for the orderly development of these 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 101, 111 and 129 St Clair Avenue West as generally illustrated on Attachment 2: the Part Lot Control Exemption Plan and substantially in accordance with Attachment: 3: Draft Part Lot Control Exemption By-law to the report dated June 4, 2021 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 enactment by City Council.

2. Prior to the introduction of the Part Lot Control Exemption Bill for enactment, City Council requires 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*, with priority, agreeing not to convey or charge any part of the lands subject to the Part Lot Control Exemption By-law 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 execution of an agreement with the owner, in a form and containing conditions satisfactory to the City Solicitor, whereby the Section 118 Restriction would be removed from title upon the request of the owner, on reasonable notice to the City permitting the City to repeal the Part Lot Control Exemption By-law.
5. City Council enact a By-law repealing the Part Lot Control Exemption By-law, substantially in accordance with the Draft Part Lot Control Exemption Repeal By-law attached as Attachment No. 5, in the event the owner of the lands at 101, 111 and 129 St. Clair Avenue West or any part thereof, requests the City to consent to the removal of the Section 118 Restriction from the lands or any part thereof while the Part Lot Control Exemption By-law is in effect.
6. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Part Lot Control Exemption By-law and the associated repealing By-law as may be required.
7. 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, or its repeal, to give effect to the above-noted recommendations.

FINANCIAL IMPACT

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

DECISION HISTORY

Heritage

City Council, at its meeting of January 26 and 27, 2010, designated the property at 129 St. Clair Avenue West, under Part IV of the *Ontario Heritage Act* as being of cultural heritage value or interest. On August 27, 2010, City Council enacted By-law 1052-2010 to designate the property at 129 St. Clair Avenue West.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.TE30.10>

City Council, at its meeting of September 21 and 22, 2011, stated its intention to designate the property at 111 St. Clair Avenue West, under Part IV of the *Ontario Heritage Act* as being of cultural heritage value or interest. On October 4, 2012, City Council enacted By-law 1234-2012 to designate the property at 111 St. Clair Avenue West.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.TE9.13>

Official Plan and Zoning By-law Amendments

City Council, at its meeting of April 10 and 11, 2012, passed By-law 536-2012 to permit a new 28-storey residential building and twelve 3-storey townhouses at 101 St. Clair Avenue West, By-law 538-2012 to permit a new 27-storey residential building and six 3-storey townhouses at 129 St. Clair Avenue West, and By-laws 535-2012 and 537-2012 to amend the Official Plan to allow below-grade garages within the developments at 101 and 129 St. Clair Avenue West.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.TE13.2>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.TE13.3>

Part Lot Control

City Council, at its meeting of June 10, 11 and 12, 2015, approved a Part Lot Control Exemption application. The Part Lot Control Exemption By-law 771-2015 was enacted July 9, 2015.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.TE6.2>

Consent Applications

On July 13, 2011, the Committee of Adjustment approved a consent application (B0043/11TEY) to convey an 802 square metre parcel of land from 111 St. Clair Avenue West to 129 St. Clair Avenue West. The decision was appealed to the Ontario Municipal Board (OMB File No. PL110773). The appeal, however, was withdrawn the day of the OMB Hearing (November 14, 2011) and the decision of the Committee of Adjustment to approve the consent is now final and binding. This subject parcel is generally where the six townhouses are proposed in conjunction with a proposal on the adjacent parcel at 129 St. Clair Avenue West.

On November 16, 2011, the Committee of Adjustment issued its decision to approve two applications (B0049/11TEY and B0050/11TEY) for lot additions with associated easements, which were made for the property municipally known as 111 St. Clair Avenue West. The lot conveyance reconfigured two separately owned parcels, which previously made up 111 St. Clair Avenue West, into the current 101 St. Clair Avenue West and 111 St. Clair Avenue West parcels.

On December 21, 2011, the Committee of Adjustment issued its decision to approve two applications (B0081/11TEY and B0082/11TEY) requesting reciprocal easements over the lands proposed to access the common loading driveway between 111 St. Clair Avenue West and 129 St. Clair Avenue West.

THE APPLICATION

Proposal

The proposed exemption from the Part Lot Control provisions of the *Planning Act* has been requested by the owner to allow for any required minor realignments of the property boundary lines to coincide with the foundations which have already been poured, with various easements and rights of way for both vehicular and pedestrian access being properly established together with the necessary servicing, maintenance and support easements, to facilitate financing of the developments, and to potentially allow for strata conveyance of the proposed retail space within the restored Deer Park Church at 129 St. Clair Avenue West, proposed to be a 500 square metre café.

All of the various interests in the land and/or easements and rights of way are being created in specific compliance with the Site Plan Control application approvals. The application allows for the orderly implementation of the approved plans.

A similar Part Lot Control Exemption application was approved in June 2015 by City Council, and Part Lot Control Exemption By-law 771-2015 was enacted on July 9, 2015 to exempt the subject lands from part lot control. The By-law expired on July 9, 2017. The area of the proposed part lot control exemption remains the same.

See Attachment 1 to this report for a map of the location of the subject lands.

See Attachment 2 to this report for an illustration of the Part Lot Control Exemption Plan.

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 conditions.

SITE AND SURROUNDING AREA

The site is located on the south side of St. Clair Avenue West, just east of Foxbar Road. The site is comprised of three properties, municipally known as 101, 111 and 129 St. Clair Avenue West.

Existing features on the site include a 26-storey residential building and townhouse units at 101 St. Clair Avenue West, a mixed-use building formerly used as Imperial Oil's head office at 111 St. Clair Avenue West and the approved 28-storey mixed-use building with six town house units, incorporating the former Deer Park Church, at 129 St. Clair Avenue West.

Adjacent existing land uses are:

North: across St. Clair Avenue West is a four-storey residential building and Amsterdam Square.

South: of Foxbar Road is a low-rise residential neighbourhood and St. Michael's Cemetery.

East: is a 16-storey office building.

West: of Foxbar Road is the 54-metre tall office building currently occupied by the Ontario Ministry of the Environment.

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, 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:

- the efficient use and management of land and infrastructure;
- ensuring the sufficient provision of housing to meet changing needs including affordable housing;
- ensuring opportunities for job creation;

- ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs; and
- protecting people, property and community resources by 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 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 builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH. 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.

Toronto Official Plan

The City of Toronto Official Plan designates the subject site as both *Mixed Use Areas* and *Neighbourhoods* and shows the site on an Avenue on Map 2 (Urban Structure). The site also falls within the boundaries of the Yonge-St. Clair Secondary Plan.

There is a discrepancy between the Land Use Designations Map in the Official Plan and the Mixed Use Areas Map in the Yonge-St. Clair Secondary Plan. Section 5.6, Policy 6

of the Official Plan, states that “The policies of this Plan apply to the areas subject to Secondary Plans contained in Chapter Six, except in the case of a conflict, the Secondary Plan policy will prevail.” Therefore, the majority of the site is considered to be *Mixed Use Areas* except for its small southern portion along Foxbar Road which is designated *Neighbourhoods*.

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 properties are not subject to the City of Toronto Zoning By-law 569-2013.

Under the former City of Toronto Zoning By-law 438-86, as amended, the property has two zoning designations. The northern and eastern portions of the site are zoned CR T4.25 C2.0 R3.0 and the western and southern portions of the site are zoned R2 Z0.6.

At 101 St. Clair Avenue West, Site Specific By-law 536-2012 permits a residential building of 82.3 metres in height and townhouses of 10.0 metres in height. A minor variance application (A0727/16TEY) permitted part of the building to be located outside the building envelope and increasing the maximum height in the loading structure area to allow for a more functional layout of the ground and concourse levels.

At 111 St. Clair Avenue West, a minor variance application (A0526/12TEY) permitted the conversion the former Imperial Oil office building into a mixed-use building containing 388 residential units with commercial uses on the ground floor. A minor variance application (A0992/16TEY) permitted an increase in maximum permitted building depth to facilitate an extension to the loading area.

At 129 St. Clair Avenue West, Site Specific By-law 538-2012 permits a residential building of 87.5 metres in height, townhouses of 11.0 metres in height, and non-residential uses in the heritage building at 129 St. Clair Avenue West.

Site Plan Control

The development on the subject properties is subject to Site Plan Control.

At 101 St. Clair Avenue West, the Notice of Approval Conditions for has been issued on October 14, 2020 (13 248729 STE 22 SA).

At 111 St Clair Avenue West, the Statement of Approval was issued on March 22, 2016 (11 184256 STE 22 SA).

At 129 St. Clair Avenue West, the Statement of Approval was issued on January 31, 2019 (13 269709 STE 22 SA).

Tenure

At 101 St. Clair Avenue West, the 26-storey tower consists of residential rental units, with the 11 townhouse units at ground level fronting on Foxbar Road intended to be part of a Plan of Phased Condominium. The first Phase (19 135274 STE 12 CD), which was draft approved on April 8, 2021, consists of 8 townhouse units and 20 parking spaces. The second Phase, anticipated in a future Plan of Condominium application, will consist of the remaining 3 townhouse units and 4 parking spaces.

At 111 St. Clair Avenue West, a Plan of Standard Condominium (14 194589 STE 22 CD) was registered on January 12, 2017 as Toronto Standard Condominium Corporation 2565.

At 129 St. Clair Avenue West, a Plan of Standard Condominium is currently under review (20 203570 STE 12 CD) for the 28-storey tower and 6 townhouse units. The Plan of Condominium does not include the restored Deer Park Church or the landscaped courtyard.

COMMENTS

City Planning recommends approval of the Part Lot Control Exemption to allow for the orderly implementation of the approved plans.

Provincial Policy Statement and Provincial Plans

The application is consistent with the PPS and conforms with the Growth Plan. The lifting of Part Lot Control would allow for the orderly development of the subject lands.

Land Division

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, 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 lots and the establishment of easements and rights-of-way which will allow necessary access for owners across various areas and levels in a manner that is permitted by the Zoning By-law and secured through the Site Plan Control applications.

Prior to the enactment of a 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 without the prior written consent of the Chief Planner and Executive Director, City Planning. This allows for the City to ensure that there is not an unlimited exemption from Part Lot Control and that the appropriate mechanisms are secured to support the existing and future development.

The applicant has requested that, as a pre-condition to registering the Section 118 Restriction, the City enter into an agreement with the owner whereby the City would consent to release of the Section 118 Restriction upon receiving a request from the owner. This agreement would allow, in part, for the release of the lands at 101 and 129 St. Clair Avenue West currently under review for Draft Condominium approval and enable the condominium to be registered when it is appropriate, as well as the registered condominium at 111 St. Clair Avenue West, while the Part Lot Control Exemption By-law and Section 118 Restriction continue to apply for the remainder of the site. City staff can support this request only if the agreement permits the City to have a reasonable opportunity to first repeal the by-law lifting Part Lot Control. The form and content of this agreement must be satisfactory to the City Solicitor. This agreement would provide for the unwinding of the Section 118 Restrictions and Part Lot Control Exemption, in advance of the expiry date of the Part Lot Control Exemption By-law.

In addition, to ensure that the Part Lot Control Exemption does not remain open indefinitely, it is recommended that the By-law contain an expiration date. In this case, the By-law should expire two years following enactment by City Council. This time frame provides sufficient time for the completion of the transactions proposed by the owner. The associated Section 118 Restriction agreement will be deleted after the Part Lot Control Exemption By-law expires or is repealed.

Conclusion

The application is consistent with the PPS and conforms with the Growth Plan and Official Plan, and complies with the Zoning By-law. 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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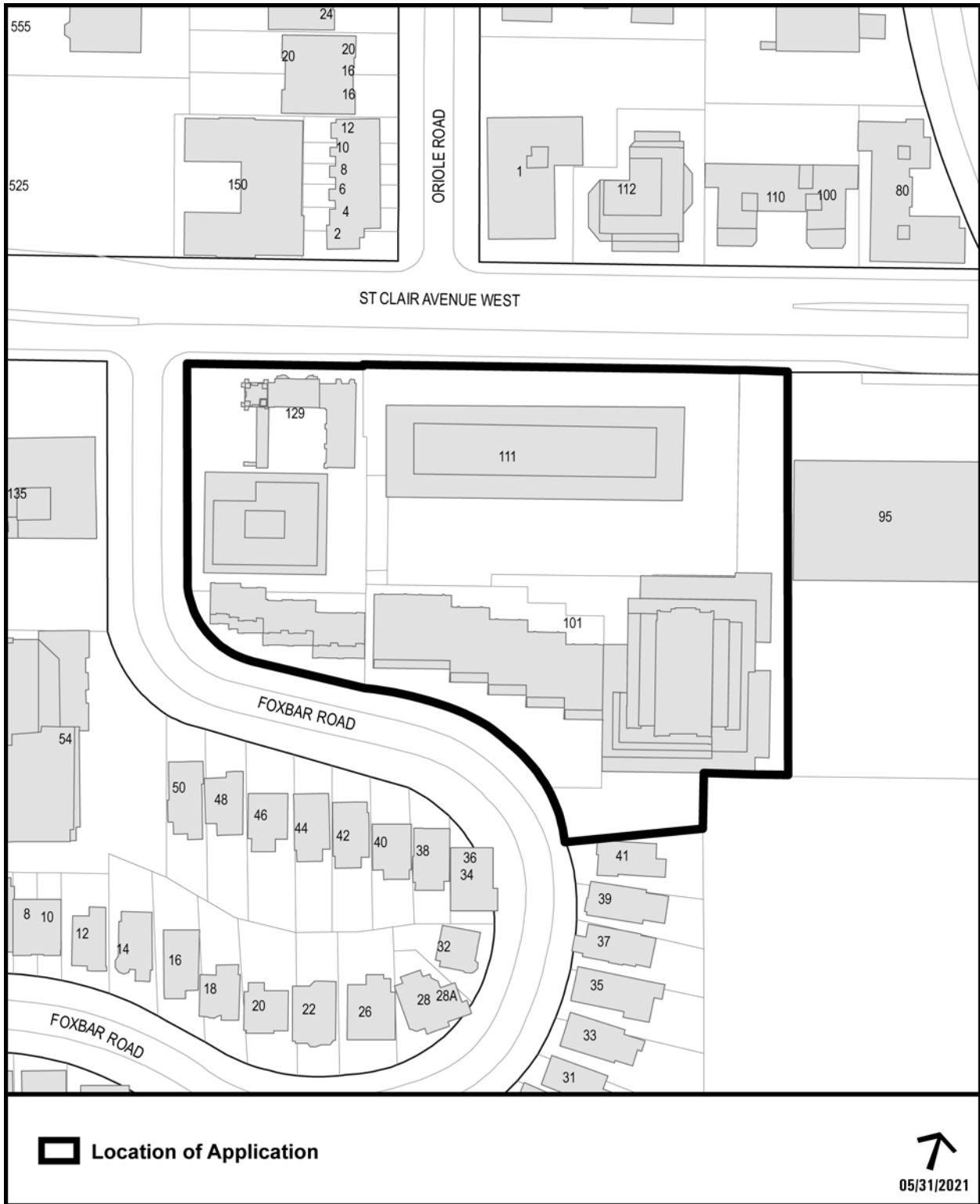
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Lynda H. Macdonald, MCIP, RPP, OALA, FCSLA
Director, Community Planning
Toronto and East York District

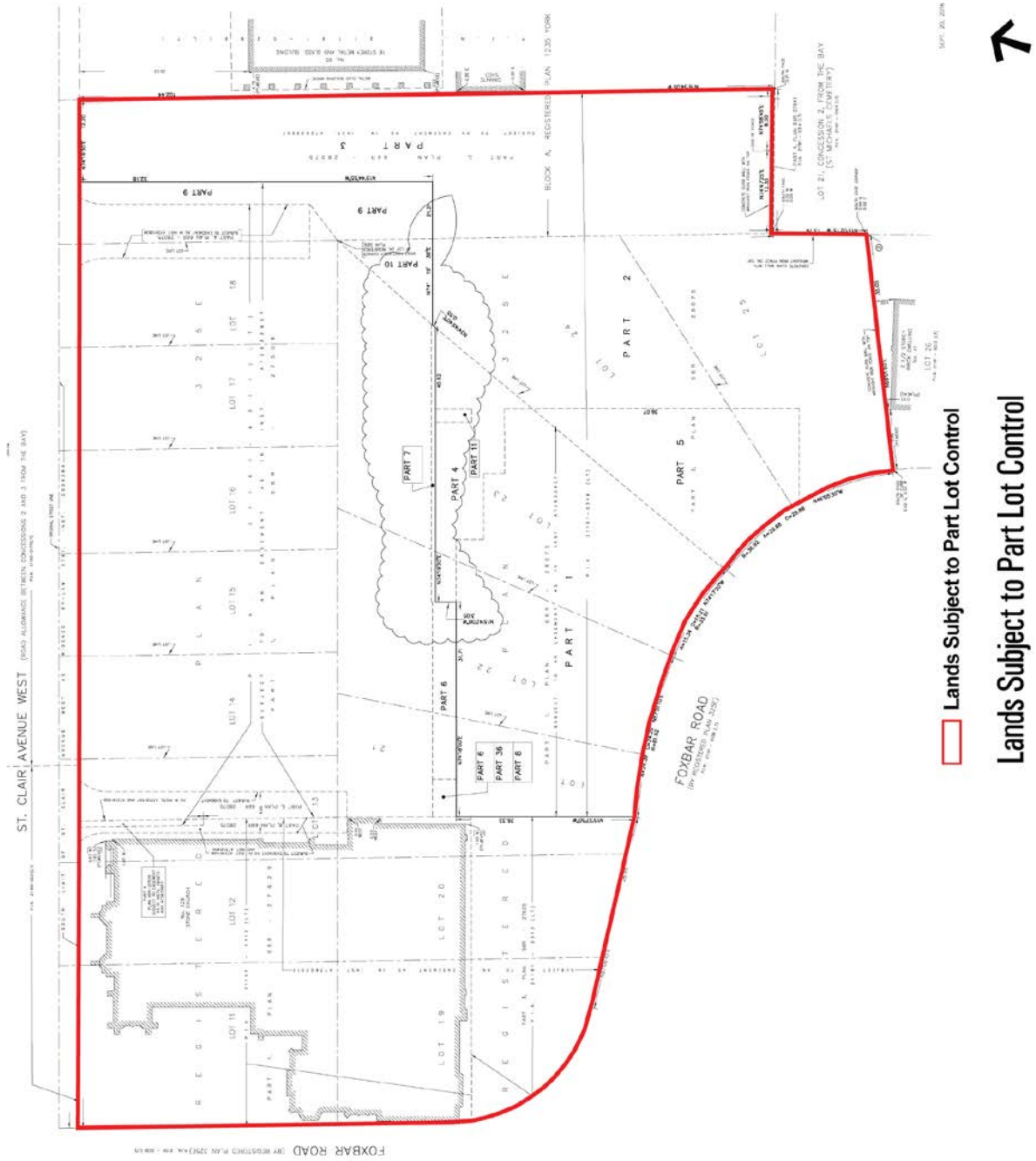
ATTACHMENTS

- Attachment 1: Location Map
- Attachment 2: Part Lot Control Exemption Plan
- Attachment 3: Draft Part Lot Control Exemption By-law
- Attachment 4: Draft Part Lot Control Repeal By-law

Attachment 1: Location Map



Attachment 2: Part Lot Control Exemption Plan



Attachment 3: Draft Part Lot Control Exemption By-law

Authority: Toronto and East York 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 101, 111 and 129 St. Clair Avenue West, 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

JOHN ELVIDGE,
City Clerk

(Corporate Seal)

Schedule "A"

Legal Description of 101, 111 and 129 St. Clair Ave. W.

PIN 21191-0318 – 101 St Clair Ave W

PT OF LOTS 22, 23, 24 AND 25 ON PLN 325E AND PART OF BLOCK A ON PLN 1235 YORK DESIGNATED AS PTS 2, 3, 4, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 26, 27, 28, 29, 30, 31 AND 35 ON PLN 66R-28325; CITY OF TORONTO.

21191-0325 (LT) – 101 St. Clair Ave W

PART OF BLOCK A ON PLN 1235 YORK DESIGNATED AS PART 34 ON PLN 66R-28326; CITY OF TORONTO.

21191-0323 (LT) – 101 St. Clair Ave W

PART OF BLOCK A ON PLN 1235 YORK DESIGNATED AS PTS 8, 9 AND 10 ON PLN 66R-28326; CITY OF TORONTO.

PIN 21191-0321 (LT) – 101 St. Clair Ave W

PART OF LOTS 21, 22, 23 AND 24 ON PLN 325E DESIGNATED AS PTS 1, 5, 23, 24, 25 AND 34 ON PLN 66R-28325; CITY OF TORONTO.

PIN 21191-0332 – 129 St. Clair Ave W

LOTS 19 AND 20 AND PT LOTS 11, 12, 13 AND 21 PL 325E DESIGNATED AS PTS 1, 2 AND 3 ON PL 66R-27629; PT LT 21 ON PLN 325E, DESIGNATED AS PTS 8, 32, 33 AND 36 ON PLN 66R-28325; PT OF LTS 13 AND 21 ON PL 325E DESIGNATED AS PTS 5, 55, 58,60, 72, 73, 74 AND 80 ON PLN 66R28326 EXCEPT PARTS 1,2,3 ON 66R29589; CITY OF TORONTO.

PIN 21191-0322 (LT) – 111 St. Clair Ave W

PART OF LOTS 13, 14, 15, 16, 17, 18 21, 22, 23 AND 24 ON PLN 325E AND PART OF BLOCK A ON PLN 1235 YORK DESIGNATED AS PTS 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 50, 52, 53, 56, 59, 65, 67, 68, 76, 77, 78, 79, 81, 82 AND 83 ON PLN 66R-28326; CITY OF TORONTO.

Attachment 4: Draft Part Lot Control Repeal By-law

Authority: Toronto and East York 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 repeal By-law No. _____ of the City of Toronto, being a By-law to exempt lands municipally known as 101, 111 and 129 St. Clair Avenue West from Part Lot Control.

WHEREAS By-law No. _____ was passed pursuant to subsection 50(7) of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law;

WHEREAS authority is given to Council by subsection 50(7.5) of the Planning Act, R.S.O. 1990, c. P.13, as amended, to repeal or amend a By-law passed under subsection 50(7), to delete part of the land described in it;

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

1. By-law No. _____ is hereby repealed and does not apply to any of the lands described in the attached Schedule "A".

Schedule "A"

Legal Description