

1 Heathcote Avenue – Part-Lot Control Exemption Application– Final Report

Date: April 28, 2022

To: North York Community Council

From: Director, Community Planning, North York District

Ward: 15 – Don Valley West

Planning Application Number: 21 231949 NNY 15 PL and 21 231948 NNY 15 CD

SUMMARY

This application is requesting exemption from the Part-Lot Control provisions of the Planning Act for the lands municipally known as 1 Heathcote Avenue. The exemption request is to facilitate the creation and conveyance of six lots for a three-storey townhouse block development. An application for Draft Plan of Common Element Condominium (21 231948 NNY 15) has also been submitted for approval in conjunction with this application. The Common Element Condominium application is currently under review by the Chief Planner, pursuant to delegated approval under By-law 229-2000, which proposes to establish a private vehicular rear driveway accessed from Heathcote Avenue.

The requested Part-Lot Control Exemption is required to permit the creation of the 6 conveyable lots for the townhouses, which will become Parcels of Tied Land (POTLs) to the Common Element Condominium. The Common Element Condominium Corporation will be established to ensure vehicular access and maintenance of the shared private driveway comprising the common elements portion of the Plan of Condominium (the "Condominium Driveway").

The proposed development is consistent with the Provincial Policy Statement (2020), conforms with the Growth Plan for the Greater Golden Horseshoe (2020), and conforms to the Official Plan. The lifting of Part-Lot Control is appropriate for the orderly development of these lands.

This report reviews and recommends approval of the Part-Lot Control Exemption By-law that would be in effect for a maximum of two years. Furthermore, this report recommends that the owner of the lands be required to register a Section 118 Restriction under the Lands Titles Act against the subject lands. This is to ensure that no part of the lands can be conveyed or mortgaged without prior consent of the Chief Planner or his 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 1 Heathcote Avenue, substantially in accordance with the Draft Part-Lot Control Exemption By-law attached as Attachment 2, and as generally illustrated on the Part-Lot Control Exemption Plan on Attachment 3, to the report dated April 28, 2022, 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 to:
 - A. provide proof of payment of all current property taxes for the subject lands to the satisfaction of the City Solicitor; and
 - B. register, to the satisfaction of the City Solicitor, a Section 118 Restriction under the Land Titles Act agreeing not to transfer or charge any part of the subject lands described in Schedule "A" to this report, without the written consent of the Chief Planner or his/her designate.
3. City Council authorize the City Solicitor to take the necessary steps to release the Section 118 Restriction from all or any portion of the lands in the City Solicitor's sole discretion after consulting with the Chief Planner and Executive Director, City Planning at such a time as confirmation is received that the Common Elements Condominium has been registered to the satisfaction of the Chief Planner and Executive Director.
4. 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.
5. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Part-Lot Control Exemption By-law as may be required.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

On January 31, 2018 City Council approved a Zoning By-law amendment (application 15 251059 NNY 25 OZ) for the lands municipally known as 1 Heathcote Avenue to permit a six-unit townhouse block fronting on to Bayview avenue. The Final Report is available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.NY26.2>

On February 15, 2019 a site plan control application (15 251084 NNY 25 SA) was issued final approval.

The applications for Part-Lot Control Exemption and Common Element Condominium (21 196282 NNY 15 CD) both were submitted on November 17, 2021 and deemed complete on December 15, 2021.

PROPOSAL

The Application seeks exemption from the part-lot control provisions of the *Planning Act* to facilitate the creation of six individual POTLs. Each POTL is comprised of a freehold three-storey townhouse unit that faces Bayview Avenue and includes a rear integral garage accessible from the Condominium Driveway.

Each POTL also includes lands that are subject to a sewer easement in favour of the City (Instrument No. A23120) that is registered on title. These easements are illustrated as Parts 8 through 13 on Attachment 3: Part-Lot Control Exemption Plan. In addition, Part 14 forms part of a future private easement in favour of the future Condominium Corporation to maintain and repair a storm service.

The six POTLs are to be comprised of the following six parcels inclusive of their respective Parts as illustrated in Attachment 3: Part-Lot Control Exemption Plan:

- Part 1 and Part 13
- Part 2 and Part 12
- Part 3 and Part 11
- Part 4 and Part 10
- Part 5 and Part 9
- Part 6, Part 8 and Part 14.

Parts 2, 3, 4, 5 and 6 are inclusive of upper rear balconies. As seen on Attachment 3: Part-Lot Control Exemption Plan, there are two elevation plans. Part 7 extends further west on the Plan View at Elevation 163.00, whereas the balconies are not included in Part 7 on the Plan View at Elevation 165.00 and are subject to the recommended Part-Lot Control Exemption.

The Condominium Driveway is to be comprised of Part 7 as part of the associated common elements condominium plan that is not part of this application.

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.

Site and Surrounding Area:

The site is located on the southeast corner Heathcote Avenue and Bayview Avenue.

North: Heathcote Avenue and beyond, are one and two-storey detached dwellings; in August of 2017, the Ontario Municipal Board approved a block of six townhouses fronting onto Bayview Avenue on the north side of Heathcote Avenue, which have yet to be constructed (file no. 16 155576 NNY 25 OZ);

South: Two-storey place of worship (Bayview United Church); two-storey nursing home (Cedarhurst Dementia Care Home); and townhouses;

East: One and two-storey detached dwellings; and

West: Bayview Avenue and beyond are one and two-storey detached dwellings; two-storey place of worship.

APPLICATION BACKGROUND

Application Submission Requirements

The following documents were submitted in support of the application:

- Context Plan
- Strata Plan of Survey
- Topographical Survey
- Draft Plan of Common Elements Condominium

The above noted documents can be found on the City of Toronto's Application Information Centre (AIC):

- Part-Lot Control Exemption Application:
<http://app.toronto.ca/AIC/index.do?folderRsn=d4Zn0DVqnTbwhya6phFtqg%3D%3D>
- Draft Plan of Common Elements Condominium Application:
<http://app.toronto.ca/AIC/index.do?folderRsn=d4Zn0DVqnTbwhya6phFtqg%3D%3D>

Agency Circulation Outcomes

The application together with the applicable reports noted above, have been circulated to all appropriate agencies and City Divisions. Responses received have been used to assist in evaluating the application and drafting the Part-Lot Control Exemption By-law.

POLICY CONSIDERATIONS

Provincial Land-Use Policies: Provincial Policy Statement and Provincial Plans

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

The Provincial Policy Statement (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 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) came into effect on August 28, 2020. This was an amendment to the Growth Plan for the Greater Golden Horseshoe, 2019. The Growth Plan (2020) 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 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, 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 (2020), 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 (2020), 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 (2020). Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan (2020).

Toronto Official Plan

The subject site is designated *Neighbourhoods* in the Official Plan (Map 16 –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. The Healthy Neighbourhoods policies in Section 2.3.1

of the Official Plan require that development in *Neighbourhoods* will respect and reinforce the existing physical character of buildings, streetscape and open space patterns in that area.

Zoning

The subject site is zoned *RT (au190.0) (x153)* under City of Toronto Zoning By-law No. 569-2013, as amended by site-specific zoning by-law 599-2018. The *RT* zone permits residential building types which include detached houses, semi-detached houses and townhouses. The site is also zoned *RM1(111)* under former City of North York Zoning By-law No. 7625 as amended by site-specific zoning by-law 600-2018. The site-specific exceptions outline the performance standards for the site which include a maximum building height of 11 metres at 3 storeys; a maximum gross floor area of 1420 square metres and a maximum lot coverage of 45% of the lot area.

Site Plan Control

A Site Plan Control application for the proposed townhouses was submitted on November 13, 2015 and final site plan approval issued on February 15, 2019.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal has been reviewed and evaluated against the PPS (2020) and the Growth Plan (2020). Staff have determined that the proposal is consistent with the PPS (2020) and conforms with the Growth Plan (2020).

Both the PPS (2020) and the Growth Plan (2020) encourage intensification and redevelopment in urban areas. The proposed townhouse development promotes intensification through a compact urban form and allows for the orderly development of the lands that conform to the policies of the Official Plan with respect to the built form and the Neighbourhoods land use designation.

Land Division

Part-Lot Control Exemption is being requested in order to facilitate the creation and conveyance of six lots for a residential townhouse development. A separate Common Element Condominium application is to allow for the proposed condominium driveway. The proposal is appropriate as it implements the previous approvals and complies with the Official Plan and Zoning Bylaws.

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 development currently under construction.

To ensure that the Part-Lot Control Exemption does not remain open indefinitely, it is recommended that the Part-Lot Control Exemption By-law contain an expiration date two years following the enactment by City Council. This time frame provides sufficient time for the completion of the proposed development.

The Common Element Condominium application is currently under review and draft approval is delegated to the Chief Planner. Before the common element condominium is released for registration, the Part-Lot Exemption By-law must be enacted in order to create the legal description for each of the POTLs. The Section 118 Restriction is used to prevent the conveyance of the POTLs until the common elements condominium is registered.

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 assist in implementing the approved townhouse development for 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

David Sit, MCIP, RPP
Director, Community Planning, North York District

ATTACHMENTS

City of Toronto Data/Drawings

Attachment 1: Location Map

Attachment 2: Draft Part-Lot Control Exemption By-law

Attachment 3: Part-Lot Control Exemption Plan

Attachment 1: Location Map



Attachment 2: Draft Part-Lot Control Exemption By-law

Authority: North York Community Council Item No. NY, as adopted by City of Toronto Council on _____, 2022

CITY OF TORONTO

Bill _____
BY-LAW _____-2022

To exempt a portion of lands municipally known as 1 Heathcote 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:

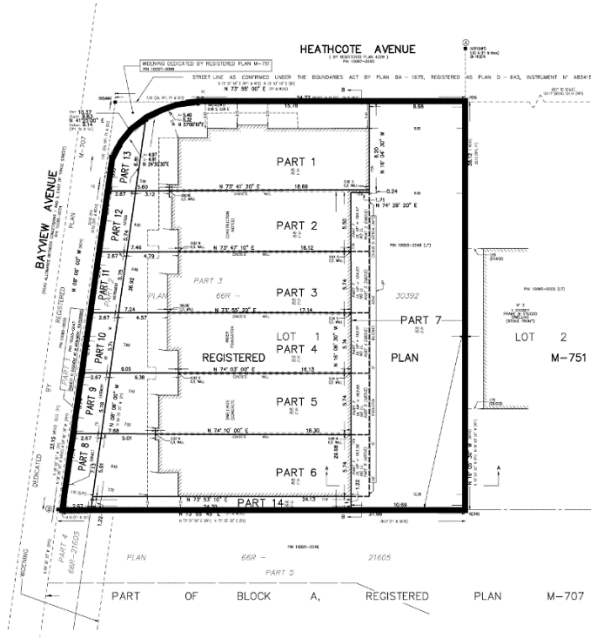
1. Subsection 50(5) of the Planning Act does not apply to the lands described in the attached Schedule "A".
2. This By-law expires two years from the date of its enactment by Council.

Enacted and passed on, _____, 2022.

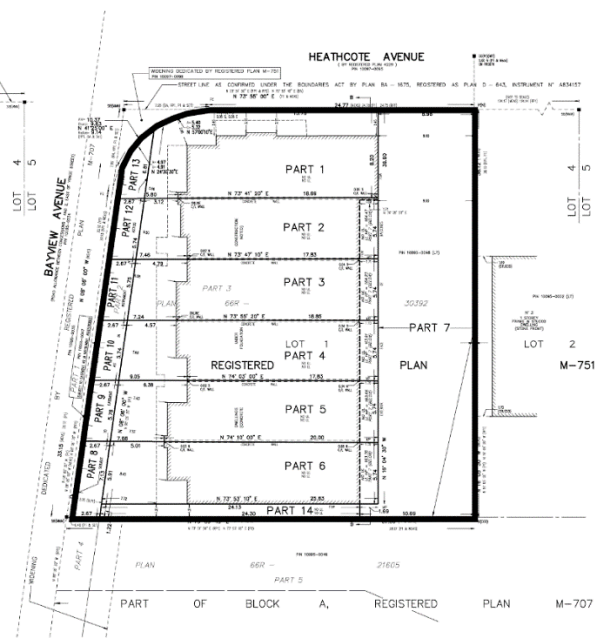
Frances Nunziata, John Elvidge
Speaker City Clerk

(Seal of the City)

Attachment 3: Part-Lot Control Exemption Plan



PLAN VIEW AT ELEVATION 163.00



PLAN VIEW AT ELEVATION 165.00

 Lands Subject to Part Lot Control

Part Lot



Schedule "A"

Municipal Address

1 Heathcote Avenue

Legal Description

Part of Lot 1, Registered Plan M-751, City of Toronto