

368-372 Briar Hill Avenue – Part Lot Control Exemption Application – Decision Report - Approval

Date: February 24, 2023

To: North York Community Council

From: Director, Community Planning, North York District

Wards: Ward 8 – Eglinton-Lawrence

Planning Application Number: 22 165228 NNY 08 PL

Related Application Number: 22 163166 NNY 08 CD

SUMMARY

This application is requesting exemption from the Part Lot Control provisions of the Planning Act for the lands municipally known as 368-372 Briar Hill Avenue. The exemption request is to facilitate the creation of seven conveyable lots for three-storey townhouses (related Site Plan Application No. 17 235785 NNY 16 SA) at 368-372 Briar Hill Avenue.

The related Common Element Condominium (CEC) application (22 163166 NNY 08 CD) is currently under review by staff pursuant to the delegated approval authority under Bylaw 229-2000. The CEC application, if approved would have the effect of establishing a common element condominium over the driveway from Briar Hill Avenue to access parking in the rear of each townhouse unit, and common walkway with stairs, inclusive of maintenance and services and utilities within.

The requested Part Lot Control Exemption is required to permit the creation of seven conveyable lots for the residential townhouses currently under construction, which will become the Parcel of Tied Land (POTL) tied to the Common Elements Condominium.

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 Bylaw. In addition, this report recommends that the owner of the lands be required to register a Section 118 Restriction under the Land Titles Act against the subject lands, whereby the

owner agrees not to convey or mortgage any part of the lands 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 368-372 Briar Hill Avenue substantially in accordance with the Draft Part-Lot Control Exemption By-Law attached as Attachment 2, as generally illustrated on Attachment 3 to this report, 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, 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.
4. City Council authorize and direct the City Solicitor to register the Part Lot Control Exemption By-law on title.
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

The Zoning By-law Amendment (17 235778 NNY 16 OZ) and Site Plan Control (17 235785 NNY 16 SA) applications to permit a seven unit infill townhouse development were appealed to the Ontario Municipal Board on March 29, 2018. On April 2, 2019 the Local Planning Appeal Tribunal (now Ontario Land Tribunal), by its Order/Decision issued in Board Case No. PL150219 amended Zoning By-law No. 569-

2013 and Former City of Toronto Zoning By-law. No. 438-86, with respect to the lands known municipally as 368-372 Briar Hill Avenue to permit the townhouse development.

On October 17, 2022 a site plan control application (17 235785 NNY 16 SA) was issued final approval.

The application for draft Plan of Common Element Condominium (22 163166 NNY 08 CD) was submitted and deemed complete on June 27, 2022 The Part Lot Control Exemption application (22 165228 NNY 08 PL) was submitted and deemed complete on June 27, 2022

PROPOSAL

The Application seeks exemption from the Part Lot Control provisions of the *Planning Act* to facilitate the creation of seven individual conveyable lots to be future POTLS through the registration of the draft Plan of Common Element Condominium. Each POTL is comprised of the following parts and intended to support a three-storey townhouse unit that faces Avenue Road and are described below based on the submitted draft Reference Plan (see Attachment 3: Part-lot Control Exemption Plan):

- Parts 2 and 20;
- Parts 3, 18 and 19;
- Parts 4 and 17;
- Parts 5 and 16;
- Parts 6 and 15;
- Parts 7 and 14;
- Parts 8 and 13.

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.

Link to Application Details:

<http://app.toronto.ca/AIC/index.do?folderRsn=dwjGccdS0uqyVqAPwQeVXA%3D%3D>

Site and Surrounding Area

The subject lands are located on the northeast corner of Avenue Road and Briar Hill Avenue.

North: low density residential;
South: low density residential;

East: low density residential; and

West: low density residential and an elementary school.

POLICY CONSIDERATIONS

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 and 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 interrelationships 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."

The Growth Plan for the Greater Golden Horseshoe (2020)

Growth Plan for the Greater Golden Horseshoe (2020) (the "Growth Plan (2020)") provides a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part. This includes: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

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 GGH 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. Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan.

Toronto Official Plan

The subject site is designated as Neighbourhoods on Map 17 - Land Use of the Official Plan. Neighbourhoods are physically stable areas providing for a variety of lower scale residential uses, 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 townhouse development conforms to the *Neighbourhood* policies.

Zoning

The site is zoned R2 under the Former City of Toronto Zoning By-law No. 438-86, and zoned R (70) under the City of Toronto Zoning By-law No. 569-2013, as amended, which permits residential building types such as townhouse units on the lots.

Site Plan Control

A Site Plan Control application for the proposed townhouses was issued final approval on June 17, 2022.

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 and conforms with the Growth Plan (2020).

Both the PPS and the Growth Plan encourage intensification and redevelopment in urban areas. The proposed development promotes intensification through a compact urban form and allows for the orderly development of the lands that conforms to the Official Plan.

Land Division

Part-Lot Control Exemption is being requested in order to facilitate the creation and conveyance of seven lots for a residential townhouse development. A related Common Element Condominium application for the creation of a common element condominium with POTLs to implement the proposed tenure for this development. The proposal is appropriate as it implements the previous approvals, conforms with the Official Plan and complies with the 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 in effect indefinitely, it is recommended that the By-law expire in two years following enactment by City Council. This time frame provides sufficient time for the completion of the proposed development.

The Common Elements Condominium application is under review and draft approval is delegated to the Chief Planner. Before the common elements 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 future POTLs. The Section 118 Restriction is used to prevent the conveyance of the lands until the common elements condominium is registered.

Conclusion

The proposal has been reviewed against the policies of the PPS (2020), the Growth Plan (2020), and the Toronto Official Plan. Staff is of the opinion that the proposal is consistent with the PPS (2020), conforms with the Growth Plan (2020) and conforms with the Official Plan. Staff recommends that Council approve the Application and enact a Part Lot Control Exemption By-law with respect to the subject lands.

CONTACT

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SIGNATURE

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

ATTACHMENTS

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 _____, 2023

CITY OF TORONTO

Bill _____
BY-LAW _____-2023

To exempt a portion of lands municipally known as 368-372 Briar Hill 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:

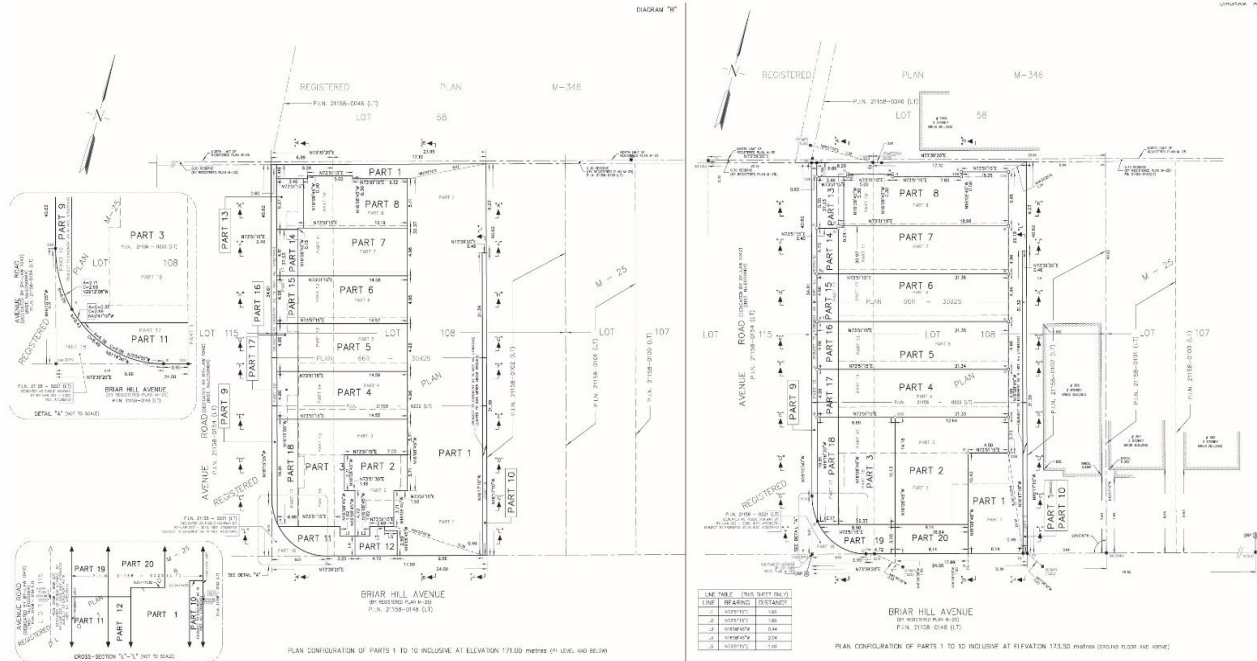
1. Subsection 50(5) of the Planning Act does not apply to the lands described in the attached Schedule "A".
2. This By-law expires two years from the date of its enactment by Council.

Enacted and passed on, _____, 2023.

Frances Nunziata, John Elvidge
Speaker City Clerk

(Seal of the City)

Attachment 3: Part-lot Control Exemption Plan



Part Lot Control Exemption Plan



Schedule "A"

Municipal Address

368-372 Briar Hill Avenue

Legal Description

PLAN M25 PT LOT 108 and PLAN M25 W PT LOT 108, City of Toronto