

36, 38 and 40 Churchill Ave –Part Lot Control Exemption Applications – Approval Report

Date: February 28, 2023

To: North York Community Council

From: Director, Community Planning, North District

Wards: Ward 18 – Willowdale

Planning Application Number: 22 234879 NNY 18 PL

Related Application Number: 22 154657 NNY 18 CD

SUMMARY

A part-lot control exemption application has been submitted to facilitate the townhouse development at 36, 38 and 40 Churchill Ave (Attachment 1).

This application requests exemption from the Part Lot Control provisions of the Planning Act to permit the creation of conveyable lots for 14 townhouse units which would ultimately be held under freehold ownership and become the Parcels of Tied Land (POTLs) to the Common Elements Condominium (22 154657 NNY 18 CD).

The proposed exemption from the part lot control provisions of the *Planning Act* has been requested by the owner to permit the division of the lands into a number of parcels that will enable the applicant to transfer or mortgage title for portions of the lands.

This report reviews and recommends approval of approval of Part Lot Control Exemption. In addition, this report recommends that the owner of the lands be required to register a Section 118 Restriction under the *Land Titles Act* agreeing not to convey or mortgage any part of the lands without prior consent of the Chief Planner and Executive Director, City Planning or their designate.

The related application for a Common Elements Condominium will be considered and approved through delegated authority to the Chief Planner and Executive Director or their designate for the lands at 36, 38 and 40 Churchill Avenue (22 154657 NNY 18 CD).

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.

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 36, 38 and 40 Churchill Ave substantially in accordance with the Draft Part-Lot Control Exemption By-law attached as Attachment 1, and as generally illustrated on the Part-Lot Control Exemption Plan on Attachment 2, 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

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

An application for Official Plan and Zoning Bylaw Amendments for a residential development consisting of 18 townhouse dwelling units for the lands located at 36, 38, and 40 Churchill Avenue was received and deemed complete as of December 5, 2014. A Preliminary Report was adopted by the February 18, 2015 meeting of North York Community Council authorizing staff to conduct a

community consultation meeting with an expanded notification area. The preliminary report is available at:

<http://www.toronto.ca/legdocs/mmis/2015/ny/bgrd/backgroundfile-75326.pdf>

The applications were appealed on July 16, 2015 to the Ontario Municipal Board (OMB), citing Council's failure to make a decision within the time prescribed by the *Planning Act*. A Request for Direction Report was considered by City Council on September 30, 2015. This report recommended City Council authorize City Planning staff to oppose applications in their current form and continue discussions with the applicant. The Request for Direction Report is available at: <https://www.toronto.ca/legdocs/mmis/2015/ny/bgrd/backgroundfile-82929.pdf>

A hearing before the OMB was held on November 22, 2017 with respect to appeals to the Official Plan Amendment, Zoning By-law Amendments, and Site Plan Approval applications. The hearing dealt with two primary considerations: first, whether townhouses, as a type of residential land use, are permitted on the subject property under the Official Plan designation regulating its use; and second, whether the proposed 18-townhouse scheme represented good planning and is appropriate given the subject property's context. Concerning the first question, the Board determined that townhouses are a permitted use on the subject property; concerning the second, the Board determined that the 18-townhouse scheme represented an overdevelopment of the subject property and did not represent good planning.

The OMB directed the applicant and the City to attempt to come to a consensus, providing six months to do so, and deferred approval of the proposed Zoning Bylaw Amendments. In addition, the Board withheld its consideration of Site Plan Approval pending the outcome of these efforts. The OMB Decision can be found here:

<https://www.omb.gov.on.ca/e-decisions/PL150631-NOV-22-2017.pdf>

A second hearing was considered by the Local Planning Appeal Tribunal (LPAT) on December 11, 2018 to continue consideration of the remaining appeals after the applicant and the City came to an agreement on a revised 14-unit townhouse scheme. The Tribunal allowed the appeal to the Zoning Bylaw Amendment but withheld its Order until it received confirmation that the implementing instruments were in a form acceptable to City staff. The remaining appeal of the application for Site Plan Approval was deferred. The LPAT Decision can be found here:

<https://www.omb.gov.on.ca/e-decisions/PL150631-DEC-11-2018.doc>

The Tribunal issued an oral Decision on February 20, 2019 determining the referral by the applicants of its Site Plan Approval application generally in accordance with the drawings and conditions previously filed with the Tribunal. The applicant and City entered into a Site Plan Agreement registered on June 22, 2020.

On July 21, 2020, the Tribunal issued its Final Order allowing, in part, the appeals to the Official Plan Amendment, Zoning Bylaw Amendments, and Site Plan Approval applications. The LPAT Decision can be found here:

<https://www.omb.gov.on.ca/e-decisions/PL150631-JUL-21-2020-ORD.pdf>

The application for Draft Plan of Common Element Condominium (22 154657 NNY 18 CD) was submitted and deemed complete on June 17, 2022. The Part Lot Control Exemption application (22 234879 NNY 18 PL) was submitted and deemed complete on January 5, 2023.

PROPOSAL

The Application seeks exemption from the Part Lot Control provisions of the *Planning Act* to facilitate the creation of 14 conveyable lots to be future POTLs through the registration of the draft Plan of Common Element Condominium. The 14 townhouses with integral garages will be organized into two blocks with 4 units fronting along Churchill Avenue and 10 units fronting along the internal road accessing the site off of Churchill Avenue.

The development consists of 14 freehold townhouse units and shared common elements for a total of 19 parts as illustrated on Attachment 3:

- Parts 1 to 13 and 15 are freehold parcels – POTLs;
- Parts 14 and 16 to 19, collectively called Common Elements, shall include the following structures and facilities included in the Common Elements are for the use the owners and will be maintained by the condominium corporation:
 - Parts 14 and 16 shall contain the sprinkler rooms;
 - Part 17 shall contain:
 - Visitor Parking Areas
 - Internal Road – a concrete internal road leading to POTLs and Visitor Parking Areas;
 - Utility pedestals, hydro tap boxes and hydro transformer;
 - Sidewalks and curbs;
 - Landscaped Area;
 - Pad containing centralized mailbox facilities;
 - Fences; and,
 - Structure housing the Centralized garbage collection facilities.
 - Parts 18 and 19 will be designated as an easement for the purpose of accessing the sprinkler rooms;

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 subject lands are located on the north side of Churchill Avenue, west of Yonge Street and south of Finch Avenue West.

Land uses surrounding the site area are as follows:

North: Two-storey single-detached residential dwellings.

South: A block containing two-storey detached dwellings bounded by Beecroft Road and Basswood Road

East: Immediately east and adjacent to the site is a vacant parcel of land which is part of the open space network along Beecroft Road. Across Beecroft Road is the North York Centre Secondary Plan Area comprised of a mix of uses and building types.

West: Two-storey single-detached residential dwellings.

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 including affordable housing;
- ensuring opportunities for job creation;
- encouraging a sense of place, by promoting well-designed built form and cultural planning, and by conserving features that help define character, including built heritage resources;
- 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."

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

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) (the "Growth Plan (2020)") came into effect on August 28, 2020. The Growth Plan (2020) continues to provide a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region (the "GGH"), 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;

- Conserve cultural heritage resources in order to foster a sense of place and benefit communities, particularly in strategic growth areas;
- 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 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 (2020). Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan (2020).

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 RT(x354) under City of Toronto Zoning By-law No. 569-2013.

The site is also zoned RM1(131) under former City of North York Zoning By-law No. 7625.

Site Plan Control

A Site Plan application was submitted for the redevelopment of the Subject Land dated December 3, 2014 (14 260010 NNY 23 SA). The applicant and City entered into a Site Plan Agreement registered on June 22, 2020.

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

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 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 By-law will facilitate the development of the site including the creation of lots and multiple ownerships, and the establishment of easements and rights-of-ways to ensure appropriate pedestrian, servicing and vehicular access between properties.

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 without the prior written consent of the Chief Planner and Executive Director, City Planning. This enables the City to 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, given the scale of the project, it is recommended that the By-law expire 2 years following enactment by City Council. This time frame is expected to provide sufficient time for the completion of the proposed development.

Conclusion

Staff are of the opinion that the Application is consistent with the PPS and conforms with the Growth Plan. The Application also conform 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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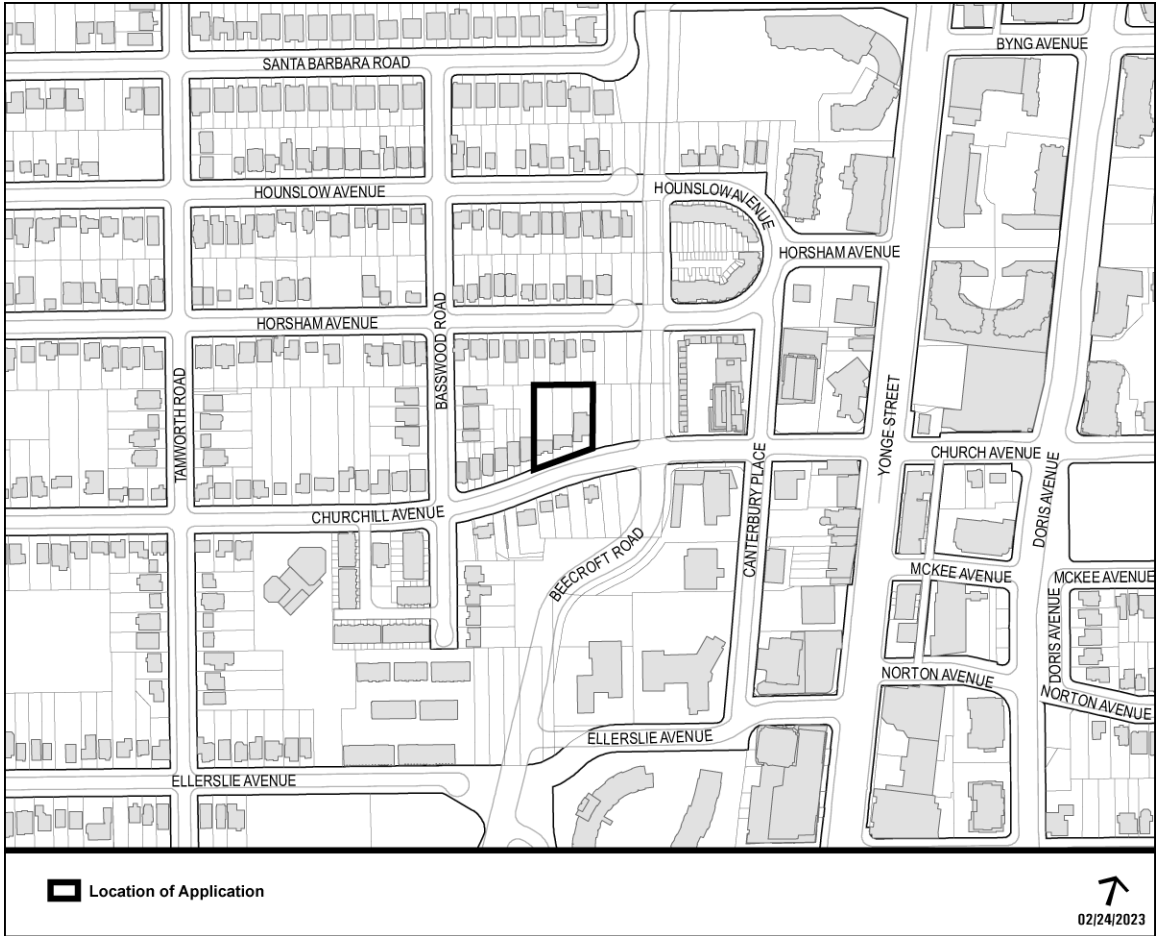
SIGNATURE

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

ATTACHMENTS

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 Report No.~, as adopted by City of Toronto Council on ~, 2023

Enacted by Council: ~, 2023

CITY OF TORONTO
BY-LAW No. ~-2023

To exempt lands municipally known as 36, 38 and 40 Churchill 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:

Subsection 50(5) of the Planning Act does not apply to the lands described in the attached Schedule "A".

This By-law expires two years from the date of its enactment by Council.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

FRANCES NUNZIATA
Speaker

JOHN D. ELVIDGE
City Clerk

(Corporate Seal)

Schedule "A"

Municipal Address

36, 38 and 40 Churchill Avenue

Legal Description

Part of Lot 41, Plan 66R-3163, City of Toronto

Attachment 3: Part Lot Control Exemption Plan

