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File No: P-8830
Planner: C. Smith

TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT:	APPLICATION FOR EXEMPTION OF PART LOT CONTROL TOWN AND COUNTRY DEVELOPMENTS (2005) INC. 2313 AND 2373 CALLINGHAM DRIVE (BLOCKS 2 AND 3 PLAN 33M-664) MEETING ON DECEMBER 4, 2017

RECOMMENDATION

That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to the application by Town and Country Developments (2005) Inc. to exempt lands from Part Lot Control:

- (a) pursuant to subsection 50(7) of the *Planning Act, R.S.O. 1990, c. P.13*, the attached proposed by-law **BE INTRODUCED** at a future Council meeting, to exempt Block 2 and 3, Plan 33M-664 from the Part Lot Control provisions of subsection 50(5) of the said *Act*, for a period not to exceed three (3) years;
- (b) the following conditions of approval **BE REQUIRED** to be completed prior to the passage of a Part Lot Control Bylaw for Block 2 and 3, Plan 33M-664 as noted in clause (a) above:
 - i. The Applicant submit a draft reference plan to Development Services for review and approval to ensure the proposed part lots and development plans comply with the regulations of the Zoning By-law, prior to the reference plan being deposited in the land registry office;
 - ii. The Applicant submits to Development Services a digital copy together with a hard copy of each reference plan to be deposited. The digital file shall be assembled in accordance with the City of London's Digital Submission / Drafting Standards and be referenced to the City's NAD83 UTM Control Reference;
 - iii. The Applicant submit each draft reference plan to London Hydro showing driveway locations and obtain approval for hydro servicing locations and above ground hydro equipment locations prior to the reference plan being deposited in the land registry office;
 - iv. The Applicant submit to the City for review and approval prior to the reference plan being deposited in the land registry office; any revised lot grading and servicing plans in accordance with the final lot layout to divide the blocks should there be further division of property contemplated as a result of the approval of the reference plan;
 - v. The Applicant shall enter into any amending subdivision agreement with the City, if necessary;
 - vi. The Applicant shall agree to construct all services, including private drain connections and water services, in accordance with the approved final design of the lots;

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- vii. The Applicant shall obtain confirmation from Development Services that the assignment of municipal numbering has been completed in accordance with the reference plan(s) to be deposited;
 - viii. The Applicant shall obtain approval from Development Services for each reference plan to be registered prior to the reference plan being registered in the land registry office;
 - ix. The Applicant shall submit to the City confirmation that an approved reference plan for final lot development has been deposited in the Land Registry Office;
 - x. The Applicant shall obtain clearance from the City that requirements iii), iv) and v) inclusive, outlined above, are satisfactorily completed, prior to any issuance of building permits by the Building Division for lots being developed in any future reference plan;
- (c) the Approval Authority (Municipal Council) **BE REQUESTED** to approve this by-law; and,
- (d) the Applicant **BE ADVISED** that the cost of registration of this by-law is to be borne by the applicant in accordance with City policy.

HISTORY PERTINENT TO THIS MATTER

On July 29, 2013, the City of London Approval Authority granted final approval to Phase 1 of the Norquay Sunningdale Subdivision (39T-11504) which created Block 2 and 3 (subject site). The plan was registered on August 21, 2013 as Plan 33M-664.

On August 3, 2017 Town and Country Developments (2005) Inc. applied for Site Plan Approval (SP17-066) to construct 27 street townhouse units fronting on Callingham Drive.

On October 2, 2017 Town and Country Developments (2005) Inc. applied for a Plan of Common Elements Condominium (39CD-17508) to create a block that accommodates servicing to the townhouse units.

BACKGROUND

Understanding Part Lot Control

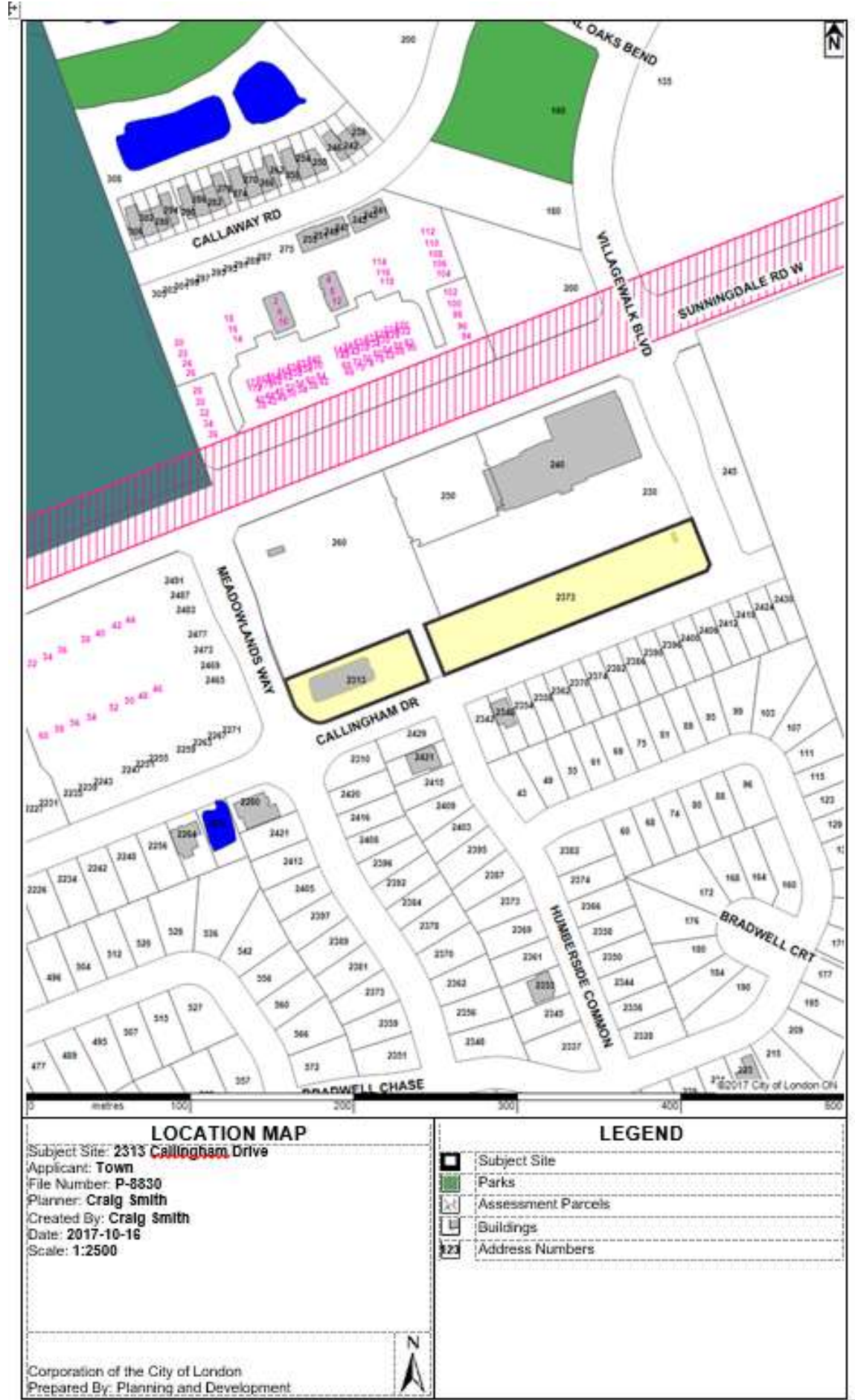
In Ontario, the subdivision of land is governed by the *Planning Act*. Under this legislation, lot creation is permitted through the approval of a plan of subdivision, the granting of a Consent (commonly described as a “severance”) or, for lots within a registered plan of subdivision, through a by-law exemption from part-lot control. Section 50(28) of the *Planning Act*, R.S.O. 1990, c.P13, includes provisions to ensure that part of a lot within a registered plan of subdivision cannot be transferred without the approval of the municipality. The part-lot control provisions of the Planning Act allow a municipality to pass by-laws to remove part-lot control from all or any part of a registered plan of subdivision. Such a by-law has the effect of allowing the conveyance of a portion of a lot. Exemption from part-lot control is appropriate when a number of land transactions are involved, and the resulting changes will not affect the nature or character of the subdivision.

Exemption from part-lot control is used for relotting single detached dwellings on a plan of subdivision (to make the lots smaller or bigger), and to create lots for semi-detached and street townhouse developments. Individual lots for semi-detached or townhouse lots are not normally created through a registered plan of subdivision. Often times, the developer will wait to create the lots for semi-detached or street townhomes, in order to ensure that the eventual lot line matches the foundation for the building. This approach is used to address challenges builders encounter in ensuring that the common centre wall between two or more dwelling units was constructed exactly on the property line. Part-Lot Control may be exempted to allow a property owner to legally divide lots within their registered plan of subdivision.

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Location Map



LOCATION MAP

Subject Site: 2313 Callingham Drive
 Applicant: Town
 File Number: P-8830
 Planner: Craig Smith
 Created By: Craig Smith
 Date: 2017-10-16
 Scale: 1:2500

LEGEND

- Subject Site
- Parks
- Assessment Parcels
- Buildings
- Address Numbers

Corporation of the City of London
Prepared By: Planning and Development

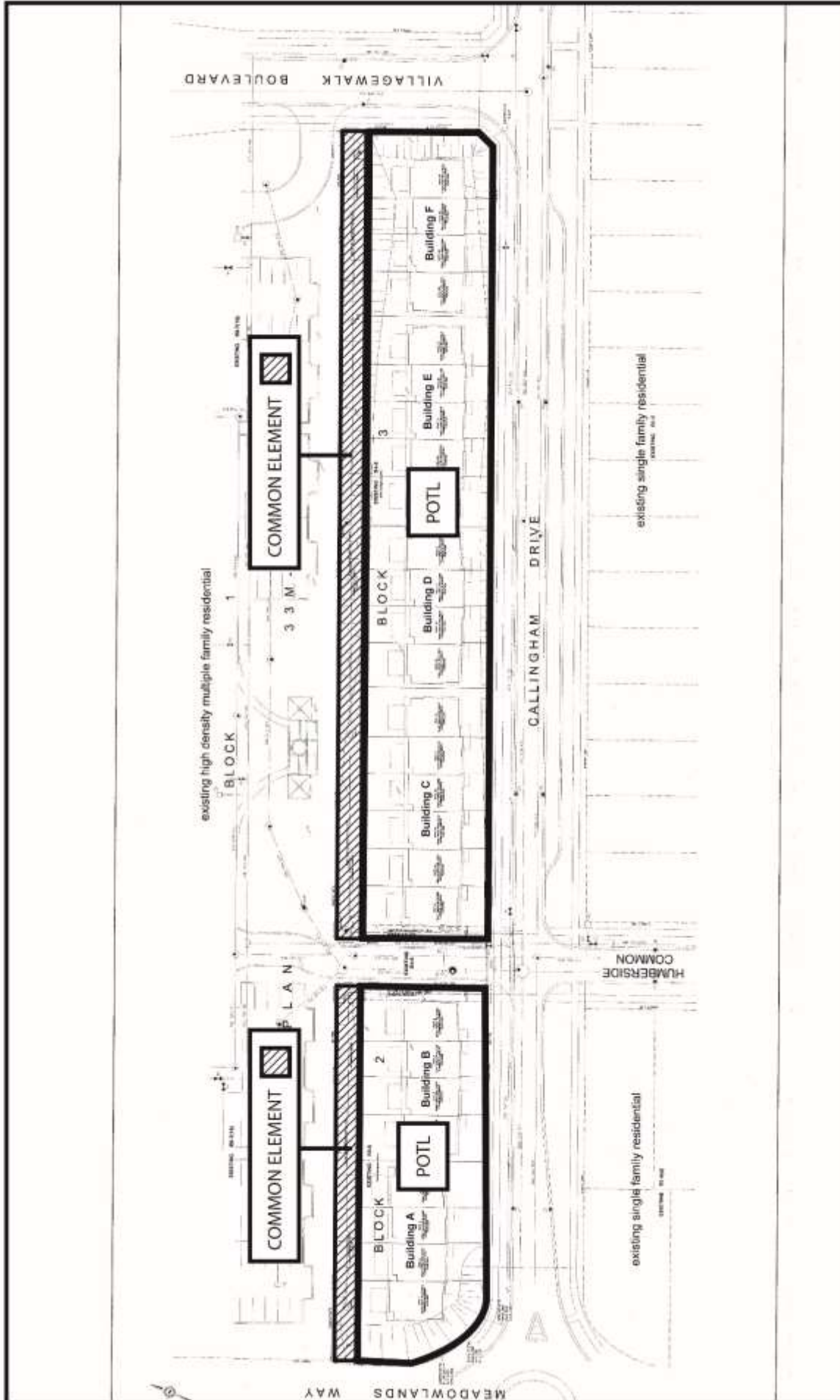


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Proposed Site Plan (SP17-066) and Reference Plan

(POTL = Parcels of Tied Land)



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DEPARTMENT/AGENCY COMMENTS

Engineering Related Comments

The standard conditions to be applied for exemption from Part Lot Control are satisfactory and no further revisions/additions are required.

ANALYSIS

Council has adopted a policy to guide staff when considering requests for exemption to Part-Lot Control (19(24), adopted in December 1983) and it contains the following:

- a) *appropriately zoned lots and blocks of registered plans of subdivision may be exempted from part-lot control for the purpose of establishing individual properties for conveyance or other purposes where municipal services or agreements for extension of services are in place;*

The subject lands are zoned Holding Residential R4 (h*R4-6)) which permits street townhouse units. The applicant will be required to submit a draft reference plan to Development Services for review and approval to ensure the proposed lots and development plans comply with the regulations of the Zoning By-law, prior to the reference plan being deposited in the Land Registry Office.

- b) *exemption from part-lot control is used to implement the intended lotting of a portion of a registered plan where the complete division of land was not practical at the time of subdivision approval and registration;*

The blocks were registered and intended to be developed with a street townhouse from development at the time of the subdivision approval. To create the individual units it is required that Exemption from Part-Lot Control be obtained to create the separated street townhouse units. The complete division of all these blocks was not practical at the time of draft approval and is appropriate following obtaining site plan approval and construction.

- c) *the nature and character of the subdivision are not to be changed by part-lot control exemption from that which was established by the subdivision plan and zoning by-law;*

This request is not out of character for the area and permits the townhouse development as established by the subdivision plan and zoning.

- d) *the removal of part-lot control is appropriate when a series of land divisions is necessary to allow sale of the constructed buildings and associated part-lots;*

This condition does not apply.

- e) *references will be made to the land severance guidelines, guidelines for private streets, and other pertinent policies when considering the appropriateness of exemption; and*

The subject lands are designated Medium Density Residential in the Official Plan which permit street townhouse uses. The proposed development will allow development of parcels that are in accordance with the form of development established at the time of subdivision approval. The proposed lots will not result in any traffic problems and will have access to municipal services and utilities.

- f) *the registration costs of by-laws passed at the request of the developer or subdivider, to exempt lands from part-lot control, will be borne by the applicant.*

The applicant is responsible for all costs associated with the Exemption to Part-Lot Control.

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The applicant has applied for site plan approval (SP17-066) to construct 27 street townhouse units with a common elements block along the rear of the townhouse units. The block is intended to provide for sanitary and storm water servicing for all of the units. The servicing strategy is still under review and the ultimate design will form part of the Site Plan Approval and Development Agreement for this site

The applicant has applied for a Common Element Condominium (39CD-17508). A Common Element Condominium is composed of common elements only, with no condominium units being created. The owners of freehold properties within the same land registry division own interests in a common elements condominium corporation. The freehold properties having an interest in the condominium corporation are called "parcels of tied land" (POTL's) and must exist in law prior to the registration of the common elements condominium corporation.

For the purpose of this condominium the freehold properties that will ultimately have the interest in the common elements condominium will be the owners of the residential townhouse units once the condominium is registered.

To proceed with the registration of the Common Elements Condominium at this time the *Condominium Act*, Section 4, requires that in the declaration and description of a common elements condominium corporation the corporation shall not be registered unless, at the time of registration, each parcel of tied land would be capable of being individually conveyed, or otherwise dealt with, without contravening Section 50 of the *Planning Act*. O. Reg. 59/02, s. 1. The proposed exception from part-lot control will permit the registration of the attached reference plan and satisfies the requirement of the Condominium Act and will allow for the proposed Common Elements Condominium to be registered.

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CONCLUSION

The applicant requested exemption from the Part-Lot Control provisions of the *Planning Act* to facilitate the creation of twenty-seven (27) Street Townhouse units. The proposed plan has been reviewed against the City's Policy on Exemption from Part-Lot Control, the Official Plan and the applicable proposed zoning and has been determined to meet existing policies and the City's Zoning By-law.

The requested exemption from the Part-Lot Control provisions of the *Planning Act* will permit the establishment of Parcels of Tied Lands for the purpose of registering the proposed Common Elements Plan of Condominium.

The request represents sound land use planning and is recommended.

RECOMMENDED AND PREPARED BY:	REVIEWED BY:
C. SMITH SENIOR PLANNER, DEVELOPMENT SERVICES	LOU POMPILII MPA RPP MANAGER, DEVELOPMENT PLANNING
REVIEWED BY:	CONCURRED IN BY:
MATT FELDBERG MANAGER, DEVELOPMENT SERVICES (SUBDIVISIONS)	PAUL YEOMAN, RPP, PLE DIRECTOR, DEVELOPMENT SERVICES
SUBMITTED BY:	
G. KOTSIFAS, P.ENG MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL	

November 27, 2017

NP

"Attach."

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Bill No. *Number inserted by Clerk's Office*
2017

By-law No. C.P.- *Number inserted by Clerk's Office*

A by-law to exempt from Part Lot Control, lands located on the north side of Callingham Drive, east of Villagewalk Boulevard, legally described as Block 2 and 3 in Registered Plan 33M-664.

WHEREAS pursuant to subsection 50(7) of the *Planning Act, R.S.O. 1990, c. P. 13*, as amended, and pursuant to the request from Town and Country Developments (2005) Inc., it is expedient to exempt lands located north side of Callingham Drive, east of Villagewalk Boulevard, legally described as Block 2 and 3 in Registered Plan 33M-664, from Part Lot Control;

THEREFORE the Municipal Council of The Corporation of The City of London enacts as follows:

1. Block 2 and 3 in Registered Plan 33M-664, located on the north side of Callingham Drive, east of Villagewalk Boulevard, are hereby exempted from Part Lot Control, pursuant to subsection 50(7) of the *Planning Act, R.S.O. 1990, c.P.13*, as amended, for a period not to exceed three (3) years;
3. This by-law comes into force when it is registered at the Land Registry Office.

PASSED in Open Council on

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading -
Second Reading –
Third Reading -