

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: George Kotsifas, P. Eng.
Managing Director, Development and Compliance Services
and Chief Building Official

Subject: Exemption from Part-Lot Control
Application By: Sifton Properties Ltd.
Address: 1877 Sandy Somerville Lane

Meeting on: September 9, 2019

Recommendation

That, on the recommendation of the Director, Development Services, the following actions be taken with respect to the application by Sifton Properties Ltd. to exempt Block 1, Plan 33M-758 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 1, Plan 33M-758 from the Part-Lot Control provisions of subsection 50(5) of the said *Act*, **IT BEING NOTED** that these lands are subject to a registered subdivision agreement and are zoned Residential R6 Special Provision (R6-5(49)) which permits cluster single detached dwellings and also zoned Open Space (OS5) which permits conservation lands, conservation works, passive recreation uses and managed woodlots;
- (b) The following conditions of approval **BE REQUIRED** to be completed prior to the passage of a Part-Lot Control By-law for Block 1, Plan 33M-758 as noted in clause (a) above:
 - i. The applicant be advised that the costs of registration of the said by-laws are to be borne by the applicant in accordance with City Policy;
 - ii. The applicant submit a draft reference plan to the 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;
 - iii. The applicant submits to the 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;
 - iv. 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;
 - v. The applicant submit to the City Engineer 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;
 - vi. The applicant shall enter into any amending subdivision agreement with the City, if necessary;

- vii. 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;
- viii. The applicant shall obtain confirmation from the Development Services that the assignment of municipal numbering has been completed in accordance with the reference plan(s) to be deposited, should there be further division of property contemplated as a result of the approval of the reference plan prior to the reference plan being deposited in the land registry office;
- ix. The applicant shall obtain approval from the Development Services of each reference plan to be registered prior to the reference plan being registered in the land registry office;
- x. 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;
- xi. The applicant shall obtain clearance from the City Engineer that requirements iv), v) and vi) inclusive, outlined above, are satisfactorily completed, prior to any issuance of building permits by the Building Controls Division for lots being developed in any future reference plan;
- xii. The applicant shall provide a draft transfer of the easements to be registered on title; and
- xiii. That on notice from the applicant that a reference plan has been registered on a Block, and that Part Lot Control be re-established by the repeal of the bylaw affecting the Lots/Block in question

Executive Summary

Summary of Request

This report is for review and endorsement by Municipal Council to exempt Block 1 in Registered Plan 33M-758 from the Part-Lot Control provisions of the *Planning Act*.

Purpose and Effect of Recommended Action

Exemption from Part-Lot Control will facilitate the creation of eight (8) cluster single detached land leased units, with access provided via private drive.

Rationale for Recommended Action

The standard conditions for passing the Part-Lot Control By-law are attached and are to be reviewed and endorsed by Municipal Council prior to the final by-law.

Analysis

1.0 Property Description

The subject site is located off of Sandy Somerville Lane, which is generally located northeast of Kains Road and Oxford Road West. The site has Riverbend Golf Course located to the north, existing dwellings to the west, Kains Woods ESA and the Thames River to the east, and an existing dwelling, and Kains Woods ESA to the south. The site has proximity to Thamesridge Park, Riverbend Park, St. Nicholas Catholic School.

1.1 Current Planning Information

- The London Plan Place Type – Neighbourhoods Place Type and Open Space
- Official Plan Designation – Low Density Residential and Open Space
- Existing Zoning – Residential R6 Special Provision (R6-5(49)) and Open Space (OS5)

1.2 Location Map



1.5 Site Characteristics

- Current Land Use – vacant
- Frontage – 1m – Private Drive
- Area –1.423 hectares
- Shape – irregular

1.6 Surrounding Land Uses

- North – open space
- East – open space
- South – single detached dwelling
- West – residential

2.0 Description of Proposal

2.1 Development Proposal

The Applicant, Sifton Properties Ltd., has requested exemption from part-lot control to create a total of eight (8) cluster single detached land leased units on a private drive. The plan of subdivision was registered in December of 2000 as a low density residential block. The dwellings will be cluster single detached land leased units, one to two storeys in height, and accessed via a private drive off of Sandy Somerville Lane.

3.0 Relevant Background

3.1 Planning History

The subject site forms part of the River Bend Community Plan which was initiated as a developer led Community Planning process in November of 1996. On June 22, 1998, City Council adopted Official Plan Amendment No. 121 which implemented the River Bend Community Plan. The amendment was subsequently appealed to the Ontario Municipal Board by a number of landowners within the area.

On October 16, 2000, Municipal Council approved a Zoning By-law amendment and recommended approval of the Draft Plan of Subdivision application for the River Bend Phase 1 area. The Zoning Amendment applied a Residential R6 Special Provision (R6-5(7)) Zone to the residential block portion of the subdivision draft plan which comprises an area of 43 hectares (106 acres). The Special Provision R6-5(7) Zone permits cluster housing in the form of single-detached, semi-detached, duplex, triplex, townhouse, stacked townhouse and apartment buildings. The maximum overall density is 30 units per hectare (12 units per acre).

A Residential R1 Special Provision (R1-10(6)) Zone was applied to the area identified on the draft plan as Block 7 consisting of an existing dwelling and a large manicured lawn (now known as 1877 Sandy Somerville Lane). The special provision permitted access via a private right-of-way with access to a public street. An Open Space (OS5) Zone was applied to the remainder of the subject property.

On November 8, 2016, Municipal Council approved a Zoning By-law amendment from a Residential R1 Special Provision (R1-10(6)) Zone to a Residential R6 Special Provision (R6-5(4)) Zone to permit various forms of cluster housing including single detached, semi-detached, duplex, triplex, fourplex, townhouses, stacked townhouses, and apartment buildings, together with a special provisions; an Open Space OS5 Zone; and a Residential R1 Special Provision (R1-10(7)) Zone to permit single detached dwellings with special provisions. The purpose and effect of the recommended action was to amend the zoning to permit the development single detached dwellings in the form of land lease community homes, and to retain the existing residential dwelling with access via a private right-of-way to a public street.

In 2016, the London Consent Authority granted a consent to sever approximately 4.1 hectares for the existing residential use, and retain approximately 1.4 hectares for the purpose of the proposed residential use.

3.3 Community Engagement

There is no legislated Community Engagement component to an Exemption from Part-Lot Control. A notice of the request for exemption from part-lot control and a list of standard draft conditions was circulated to internal departments (such as Engineering and the Building Division) and London Hydro. Development Engineering confirmed that the draft standard conditions are applicable and no additional conditions were needed.

3.4 Policy Context

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 or block within a registered plan of subdivision cannot be transferred without the approval of the municipality. The part-lot control provisions of the *Planning Act* allows 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 or block. 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 to create cluster single detached dwellings lots off of private drives. Part-Lot Control may be exempted to allow a property owner to legally divide a block within their registered plan of subdivision.

4.0 Key Issues and Considerations

Council has adopted a policy to guide consideration of requests for exemption to Part-Lot Control, as follows:

- 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 lands are zoned Residential R6 Special Provision (R6-5(49)) in Zoning By-law No. Z.-1, which permits single detached dwellings with a maximum density of 30 units per hectare, a minimum lot frontage of 0m, a minimum side yard to the OS5 Zone of 1.0m and a minimum side yard depth to R6-5(7) and R1-10(9) Zones of 1.2m, and zoned Open Space (OS5) which permits conservation lands, conservation works, passive recreation uses and managed woodlots;. 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 subject block was registered and intended to be developed for single detached dwellings at the time of the subdivision approval. The division of individual lots is appropriate through part-lot control and successfully attaining site plan approval.

- 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 consistent with the intended use of the block as established through the plan of subdivision and zoning. The development of the site units is consistent with the development in the area.

- 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;*

The exemption of part lot control creates eight (8) individual lots and one private drive as one transaction instead of requiring separate and individual land divisions to create the interests in land.

- 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 within the Neighbourhoods Place Type in The London Plan and designated Low Density Residential in the 1989 Official Plan, which permits cluster single detached dwellings. The proposal will facilitate the development of the parcel 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. Access will be provided by a private drive off of Sandy Somerville Lane.

- 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.

The applicant has applied for and received site plan approval (SPA18-090) to construct eight (8) cluster single detached dwelling units on a private street which was registered on title as a Development Agreement. Securities have also been taken through the site plan process.

The applicant has requested exemption from Part-Lot Control as an alternative to submitting an application through the Consent Authority. The applicant requested exemption from the Part-Lot Control provisions of the *Planning Act* to facilitate the creation of eight (8) single detached dwelling units. The proposed plan has been reviewed with regards to the City's Policy on Exemption from Part-Lot Control, the 1989 Official Plan, The London Plan and the applicable zoning, and has been determined to meet existing policies and the City's Zoning By-law.

4.1 Conditions

It is recommended that the following conditions be applied and that the By-law for Block 1 in Plan 33M-758 be passed at a future meeting of Municipal Council only when the following conditions have been complied with:

- i. The applicant be advised that the costs of registration of the said by-laws are to be borne by the applicant in accordance with City Policy;
- ii. The applicant submit a draft reference plan to the 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;
- iii. The applicant submits to the 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;

- iv. 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;
- v. The applicant submit to the City Engineer 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;
- vi. The applicant shall enter into any amending subdivision agreement with the City, if necessary;
- vii. 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;
- viii. The applicant shall obtain confirmation from the Development Services that the assignment of municipal numbering has been completed in accordance with the reference plan(s) to be deposited, should there be further division of property contemplated as a result of the approval of the reference plan prior to the reference plan being deposited in the land registry office;
- ix. The applicant shall obtain approval from the Development Services of each reference plan to be registered prior to the reference plan being registered in the land registry office;
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- xii. The applicant shall provide a draft transfer of the easements to be registered on title; and
- xiii. That on notice from the applicant that a reference plan has been registered on a Block, and that Part Lot Control be re-established by the repeal of the bylaw affecting the Lots/Block in question.

5.0 Conclusion

In accordance with the provisions of the *Planning Act*, Municipal Council may pass by-laws to exempt all, or parts of registered plans of subdivision from part-lot control. The applicant has requested exemption from the Part-Lot Control provisions of the *Planning Act* to facilitate the creation of eight (8) cluster single detached land leased units, with access provided via private drive, which is appropriate to allow for the sale of these units to future homeowners. The recommended exemption is considered appropriate and in keeping with the registered phases of the Riverbend subdivision, subject to the completion of the proposed conditions.

Prepared by:	Alanna Riley, MCIP, RPP Senior Planner, Development Services
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P.ENG Managing Director, Development and Compliance Services and Chief Building Official
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.	

cc: Matt Feldberg, Manager, Development Services (Subdivisions)
Lou Pompilii, Manager, Development Planning
Ismail Abushehada, Manager, Development Engineering

August 20, 2019

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Appendix A

Bill No. *Number inserted by Clerk's Office*
2019

Office

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

A by-law to exempt from Part-Lot Control, lands located at 1877 Sandy Somerville Lane, legally described as Block 1 in Registered Plan 33M-758.

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 Sifton Properties Limited, it is expedient to exempt lands located at 1877 Sandy Somerville Lane, legally described as Block 1 in Registered Plan 33M-758, from Part Lot Control;

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

1. Block 1 in Registered Plan 33M-758, located at 1877 Sandy Somerville Lane, 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; it being noted that these lands are zoned to permit cluster single detached land leased units in conformity with the Residential R6 Special Provision (R6-5(49)) Zone of the City of London Zoning By-law No. Z-1.
2. This by-law comes into force when it is registered at the Land Registry Office.

PASSED in Open Council on

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –