

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: 1031 and 1095 Upperpoint Avenue

Meeting on: November 4, 2019

Recommendation

That, on the recommendation of the Director, Development Services, the following actions be taken with respect to the application by Sifton Properties Limited to exempt Blocks 132/133, Plan 33M-754 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 132/133, Plan 33M-754 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 Holding Residential R4/R5/R6/R8 Special Provision (h*h-54*h-209*R4-6(11)R5-7(9)/R6-5(65)/R8-4(35)) and Holding Residential R4/R5/R6/R9 Special Provision (h*h-54*h-209*R4-6(11)R5-7(9)/R6-5(65)/R9-7(26)*H40) which permits street townhouse dwellings;
- (b) The following conditions of approval **BE REQUIRED** to be completed prior to the passage of a Part-Lot Control By-law for Blocks 132/133, Plan 33M-754 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 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 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 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 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 Development Services 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 Chief Building Official 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 Blocks 132/133 in Registered Plan 33M-754 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 thirty-six (36) street townhouse units, with access provided via Upperpoint Avenue.

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

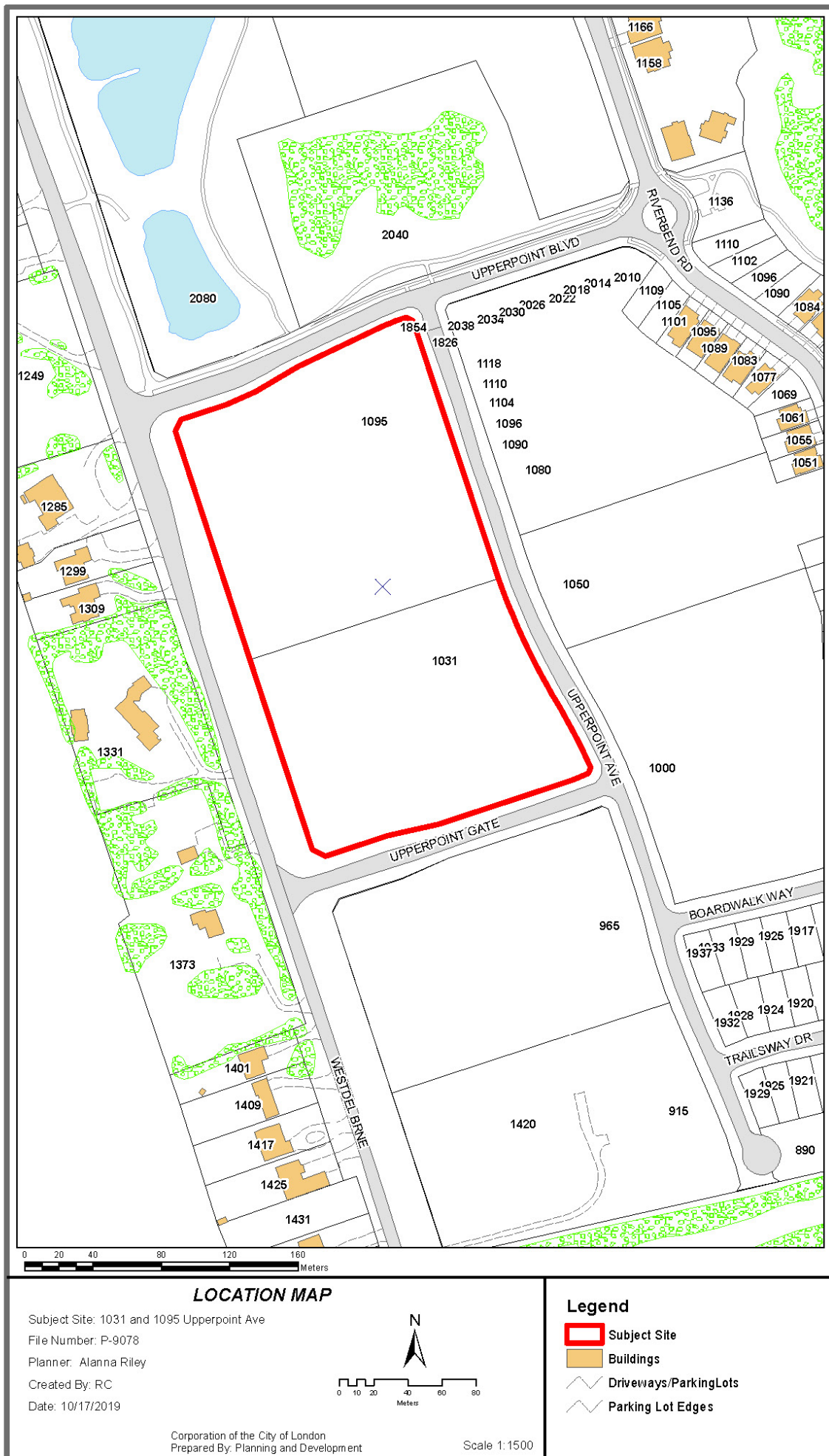
1.0 Property Description

The subject site is located off of Upperpoint Avenue, which is generally located southeast of Oxford Street West and Westdel Bourne. The site has a mix of high and medium density residential located to the north, existing estate residential to the west, low density residential to the east, and future residential to the south. The site has proximity to Hickory Woods Park, the Warbler Woods ESA, Bryon Woods Montessori Private School and Byron Northview Public School.

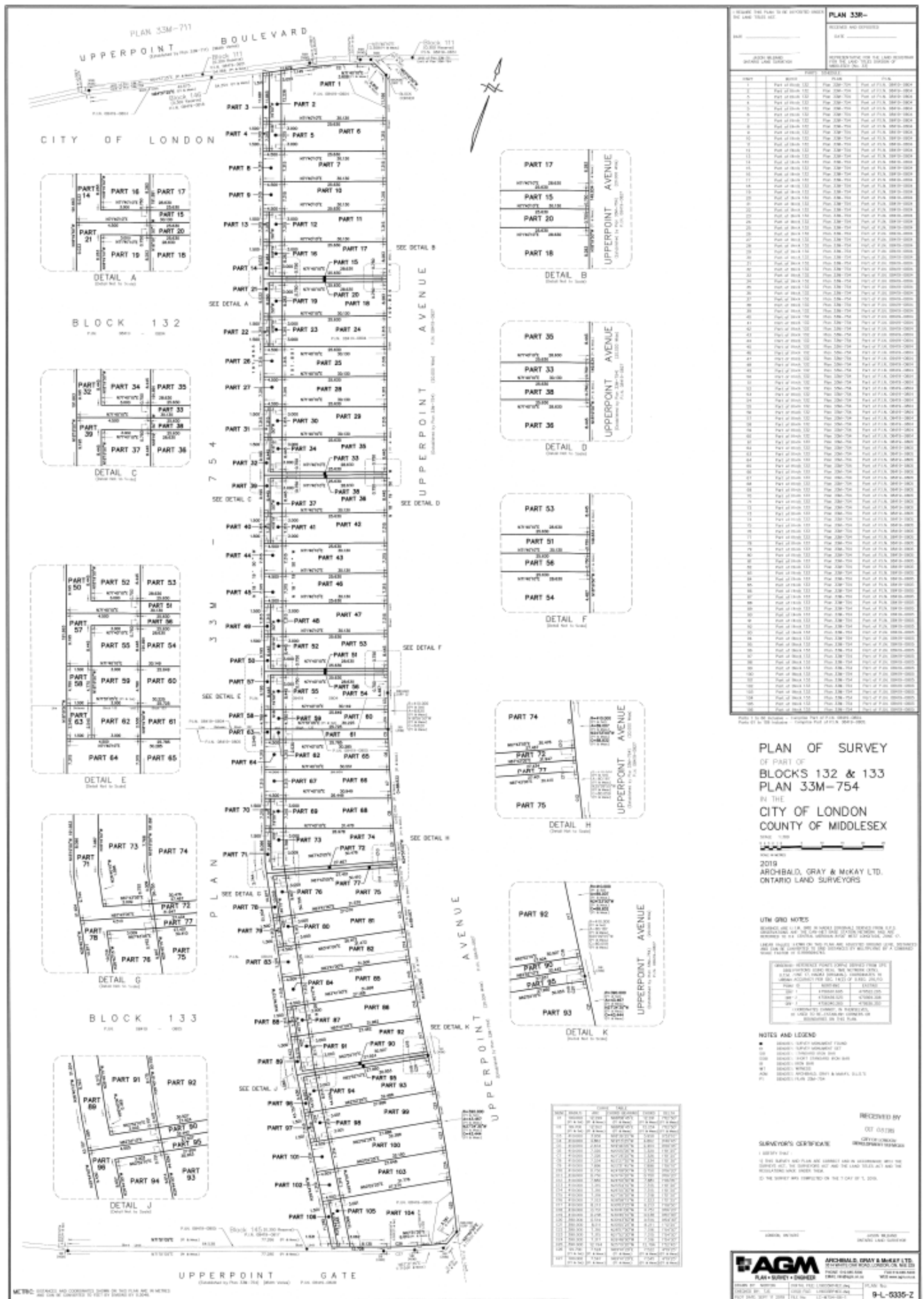
1.1 Current Planning Information

- The London Plan Place Type – Neighbourhoods Place Type
- (1989) Official Plan Designation – Multi-Family, Medium Density Residential
- Existing Zoning – Holding Residential R4/R5/R6/R8 Special Provision (h*h-54*h-209*R4-6(11)R5-7(9)/R6-5(65)/R8-4(35)) and Holding Residential R4/R5/R6/R9 Special Provision (h*h-54*h-209*R4-6(11)R5-7(9)/R6-5(65)/R9-7(26)*H40) which permits street townhouse dwellings.

1.2 Location Map



1.3 Draft Reference Plan



1.4 Site Characteristics

- Current Land Use – vacant
- Frontage – N/A
- Area – N/A
- Shape – irregular

1.5 Surrounding Land Uses

- North – neighbourhood park and stormwater management facilities
- East – future single detached dwellings and multiple-attached dwellings, neighbourhood park, and school site
- South – residential dwelling and former orchard
- West – rural estate dwellings

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 thirty-six (36) street townhouse units. The plan of subdivision was registered in November of 2018 as a multi-family, medium density residential block. The dwellings will be street townhouse units, two storeys in height with access off of Upperpoint Avenue.

3.0 Relevant Background

3.1 Planning History

On October 24, 2018, the City of London Approval Authority granted final approval and the subdivision was registered as Plan 33M-754 on November 2, 2018. The final plan consisted of 128 single detached residential lots, four (4) medium density residential blocks, one (1) high density residential block, one (1) school block, three (3) park blocks, one (1) open space block, one (1) walkway block, two (2) secondary collector roads, and seven (7) local streets.

On September 17, 2019 Municipal Council passed a Zoning By-law amendment to add a Residential R4 Special Provision (R4-6(11)) Zone to permit street townhouse dwellings along with special provisions for lot frontage, front yard setbacks for the main dwellings and garages, and building height.

3.2 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 only one additional condition was required for servicing.

3.3 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 street townhouse units. 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 to permit street townhouse dwellings with a minimum lot frontage of 7.0 metres, a minimum front and exterior yard of 3.0 metres, a minimum side yard depth of 1.5 metres, a maximum height of 13 metres, garages that shall not project beyond the façade of the main dwelling or façade of any porch and a minimum dwelling setback from a high pressure pipeline of 20 metres. 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 street townhouse units at the time of the subdivision approval. The division of individual units are appropriate through part-lot control.

- 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 recent zoning zoning by-law amendment (Z-9057). 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 thirty-six (36) street townhouse units 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 Multi-Family, Medium Density Residential in the (1989) Official Plan, which permits street townhouse 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 off of Upperpoint Avenue.

- 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 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 thirty-six (36) street townhouse 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 Blocks 132/133 in Plan 33M-754 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 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 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;
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- 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 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 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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issuance of building permits by the Chief Building Official 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.

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 thirty-six (36) street townhouse units, with access off Upperpoint Avenue, 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 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

October 15, 2019

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Appendix A

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

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

A by-law to exempt from Part-Lot Control, lands located at 1031 and 1095 Upperpoint Avenue legally described as Block 132/133 in Registered Plan 33M-754.

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 Ltd. it is expedient to exempt lands located at 1031 and 1095 Upperpoint Avenue, legally described as Block 132/133 in Registered Plan 33M-754, from Part Lot Control;

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

1. Blocks 132/133 in Registered Plan 33M-754, located at 1031 and 1095 Upperpoint Avenue, 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 street townhouse units in conformity with the Holding Residential R4/R5/R6/R8 Special Provision (h*h-54*h-209*R4-6(11)R5-7(9)/R6-5(65)/R8-4(35)) and Holding Residential R4/R5/R6/R9 Special Provision (h*h-54*h-209*R4-6(11)R5-7(9)/R6-5(65)/R9-7(26)*H40) Zone which permits street townhouse dwellings 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 –