

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

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

Subject: Exemption from Part-Lot Control
Application By: Sifton Properties Limited c/o Lindsay Clark
Address: 3740 Southbridge Avenue

Meeting on: September 8, 2020

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 Block 130, Plan 33M-785 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 130, Plan 33M-785 from the Part-Lot Control provisions of subsection 50(5) of the said *Act*, **IT BEING NOTED** that these lands are subject to registered subdivision agreements and are zoned holding Residential R4 Special Provision (h*h-100 R4-6(8)) in Zoning By-law No. Z.-1, which permits street townhouse dwellings with a minimum lot frontage of 7.0m;
- (b) The following conditions of approval **BE REQUIRED** to be completed prior to the passage of a Part-Lot Control By-law for Block 130, Plan 33M-785 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 for the reciprocal use of parts 1, 3, 4, 9, 10, 11, 14, 15, 19, 20, 22, 23, 24, 29, 30 and 31 by parts 2, 5, 6, 7, 8, 12, 13, 16, 17, 18, 21, 25, 26, 27, 28 and 32; 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 130 in Registered Plan 33M-785 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 sixteen (16) street townhouse units, with access provided by means of Southbridge 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

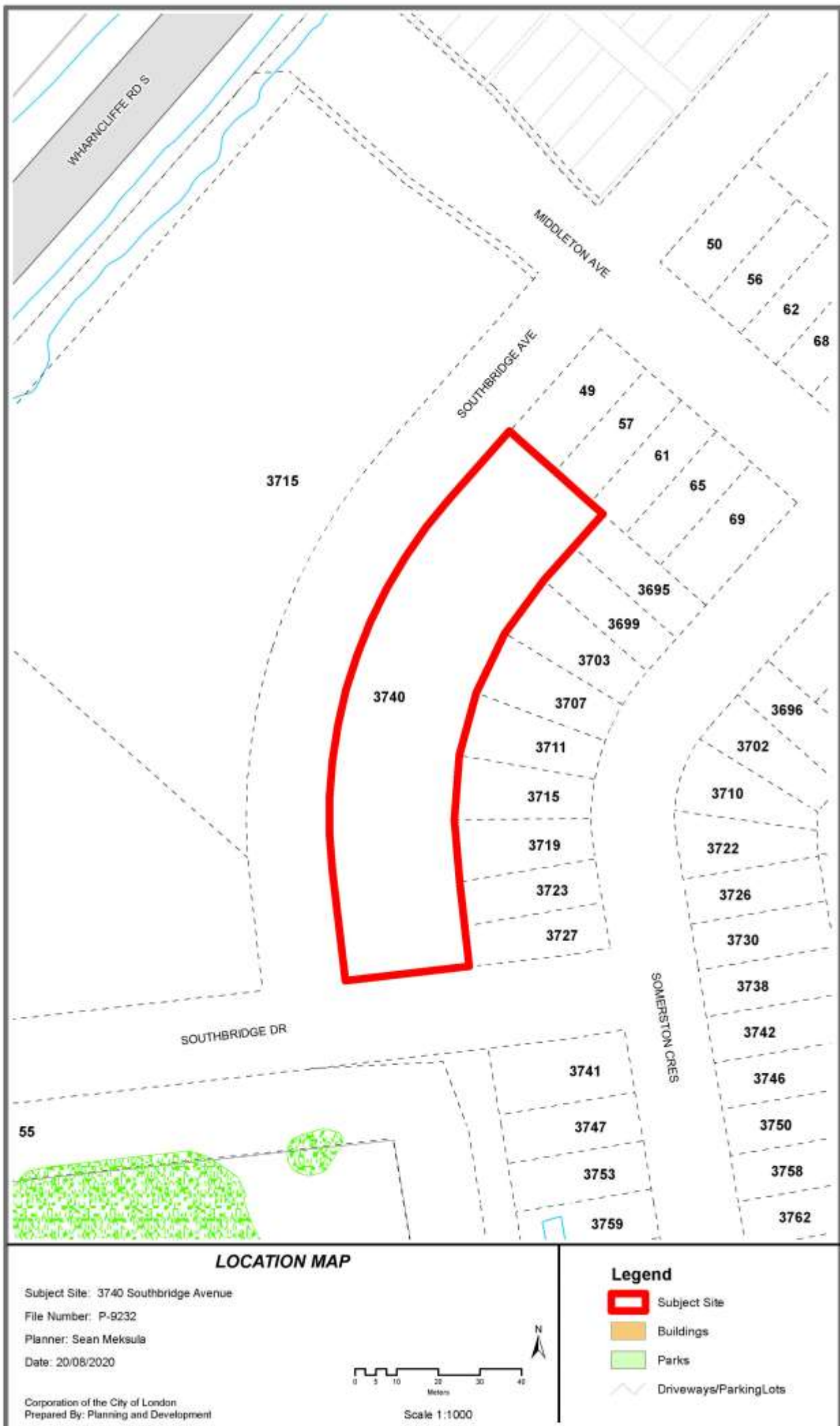
1.0 Property Description

The subject site is located on Southbridge Avenue, which is generally located south of Wharnccliffe Road South, southwest of Middleton Avenue, and north of Exeter Road. The site is currently vacant with a planned vacant land cluster townhouse condominium to the north, medium and low density residential to the west and east, and low density residential to the south. The site has proximity to White Oaks Public School, and Sir Arthur Carty Catholic Elementary School.

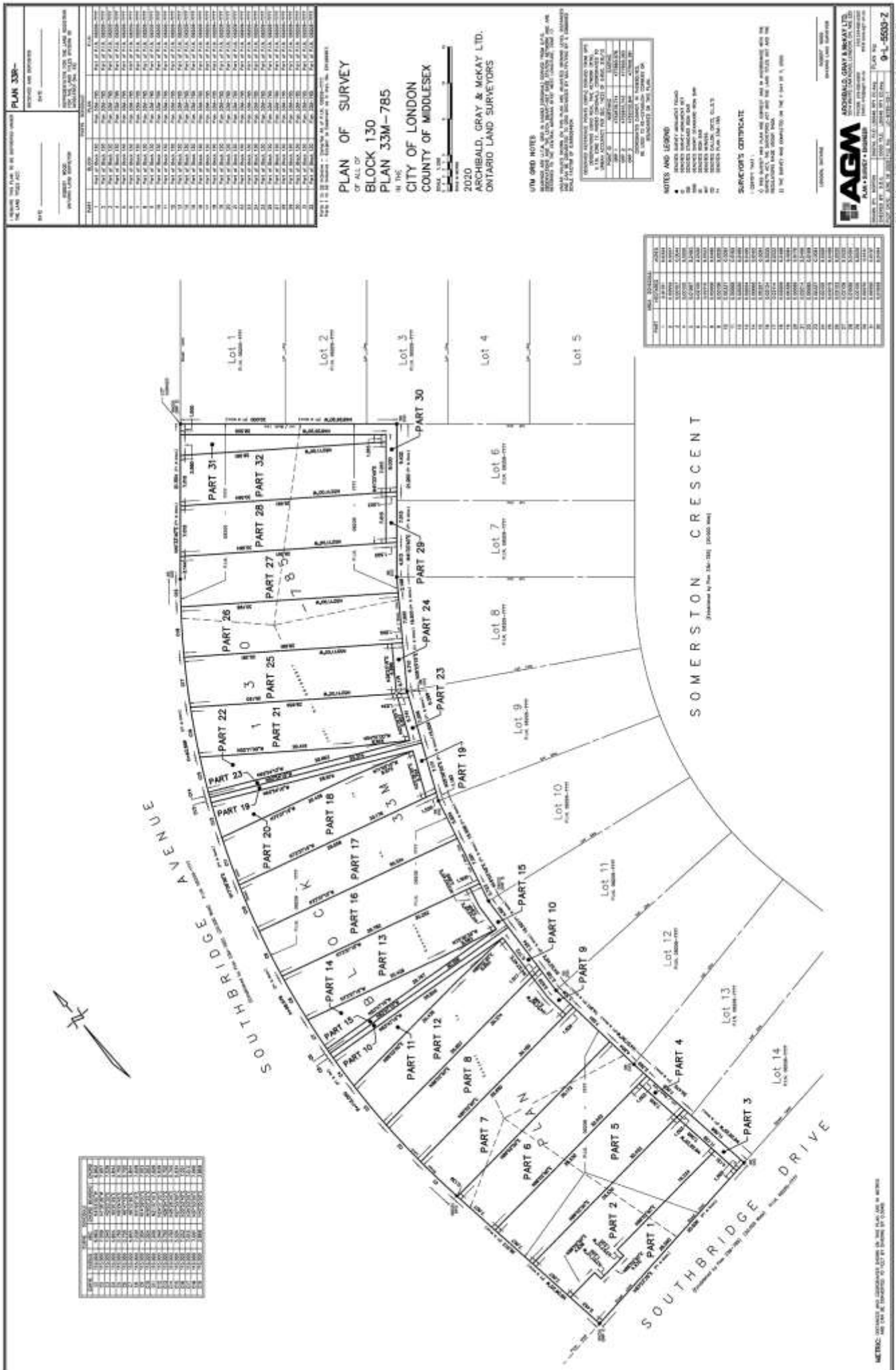
1.1 Current Planning Information

- The London Plan Place Type – Neighbourhoods Place Type
- (1989) Official Plan Designation – Multi Family, Medium Density Residential
- Existing Zoning – Residential R4 Special Provision (R4-6(8)) Zone

1.2 Location Map



1.3 Site Plan



1.4 Plan of Subdivision 33M-785



1.5 Site Characteristics

- Current Land Use – vacant
- Frontage – 182 m (597 ft.) along Southbridge Avenue
- Area – 5,319m² (57,253 sq. ft.)
- Depth – 30m (98.43 ft.)
- Shape – irregular

1.6 Surrounding Land Uses

- North – future townhouses
- East – future single detached dwellings
- South – future single detached dwellings
- West – future townhouses

2.0 Description of Proposal

2.1 Development Proposal

The Applicant, Sifton Properties Limited, has requested exemption from part-lot control to create a total of sixteen (16) two-storey freehold street townhouse units on a local street (Southbridge Avenue).

3.0 Revelant Background

3.1 Planning History

The application for Draft Plan of Subdivision Approval (file 39T-15501/Z-8470) was submitted for the lands located at 132, 146 and 184 Exeter Road on March 12, 2015. Municipal Council approved the plan and the associated zoning by-law amendment, and the Approval Authority granted draft approval on January 27, 2017.

Phase 1a consisted of two (2) medium density multi-family blocks, one future street block, and 6 reserve (0.3 m, 1 ft.) blocks, all served by two new local streets, Mia Avenue and Kennington Way, was registered on July 12, 2019 as 33M-765. Phase 1b, consisting of forty two (42) single family lots, one (1) medium density blocks, two (2) open space blocks, four (4) 0.3 metre reserves, all served by two (2) new streets, Middleton Avenue and Kennington Way, was registered on October 9, 2019 as 33M-769.

Phase 2, which includes the subject lands (Block 130), consists of one hundred twenty-three (123) single detached lots, four (4) multi-family blocks, two (2) street townhouse blocks, one (1) open space block, four (4) pathway blocks, one (1) park block, and six (6) one foot reserve blocks, all served by one (1) new secondary collector/neighbourhood connector road (Middleton Avenue), and six (6) new local/neighbourhood streets (Southbridge Drive, Southbridge Avenue, Somerston Crescent, Lynds Street, Knott Drive, Earlston Crossing), was registered on June 8th, 2020 as plan 33M-785.

Through the original draft plan of subdivision, staff interpreted these lands to be within the Medium Density Residential designation of the SWAP and the (1989) Official Plan. The same interpretation has been applied to this application.

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 street townhouse lots to ensure that the eventual lot lines match the foundation for the building, and are constructed exactly on the property boundaries. 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 subject lands are zoned holding Residential R4 Special Provision (h*h-100 R4-6(8)) 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 subject block was registered and intended to be developed for street townhouse units at the time of the subdivision approval. The division of individual lots at the time of the subdivision was not practical, and 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 for sixteen (16) street townhouse units is consistent with the development in the area and specifically to the lands located to the east.

- 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 sixteen (16) individual lots and sixteen (16) easements 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 Multi-Family, Medium Density Residential in the 1989 Official Plan, which permits street townhouses. 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 Southbridge Avenue and no private roads are proposed.

- 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 sixteen (16) 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 Block 130 in Plan 33M-785 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;

- 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 for the reciprocal use of parts 1, 3, 4, 9, 10, 11, 14, 15, 19, 20, 22, 23, 24, 29, 30 and 31 by parts 2, 5, 6, 7, 8, 12, 13, 16, 17, 18, 21, 25, 26, 27, 28 and 32; 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 establish lot lines for the individual townhouse units, 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 Richardson/Middleton, Phase 2 subdivision, subject to the completion of the proposed conditions.

Prepared by:	Sean Meksula, MCIP, RPP 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: Lou Pompilii, Manager, Development Planning
cc: Matt Feldberg, Manager, Development Services (Subdivisions)
cc: Ted Koza, Manager, Development Engineering

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Appendix A

Bill No. **Number inserted by Clerk's Office**
2020

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

A by-law to exempt from Part-Lot Control, lands located at 3740 Southbridge Avenue, legally described as Block 130 in Registered Plan 33M-785.

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 3740 Southbridge Avenue, legally described as Block 130 in Registered Plan 33M-785, from Part Lot Control;

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

1. Block 130 in Registered Plan 33M-785, located at 3740 Southbridge Avenue, west of Middleton 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 dwellings in conformity with the holding Residential R4 Special Provision (h*h-100 R4-6(8)) Zone of the City of London Zoning By-law No. Z-1.
3. 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 –