

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: Prosperity Homes
Address: 335 Kennington Way and 3959 Mia Avenue

Meeting on: March 29, 2021

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 1, Plan 33M-765, RP 33R-20777 Parts 2 & 3 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-765, RP 33R-20777 Parts 2 & 3 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 Residential R4 Special Provision (R4-6(10)) in Zoning By-law No. Z.-1, which permits street townhouses, with special provisions regulating lot frontage, front yard setback, garage front yard setback and garages shall not project beyond the façade of the dwelling or façade (front face) of any porch, and shall not occupy more than 50% of lot frontage;
- (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-765, RP 33R-20777 Parts 2 & 3 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. 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-765, RP 33R-20777 Parts 2 & 3 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-seven (37) street townhouse units, with access provided by means of Mia Avenue and Kennington Way.

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.

Linkage to the Corporate Strategic Plan

Building a Sustainable City - London's growth and development is well planned and sustainable over the long term.

Analysis

1.0 Background Information

This application for Draft Plan of Subdivision Approval was accepted on March 12, 2015. It was circulated to the required agencies and municipal departments on March 23, 2015 and advertised in the *Londoner* on April 2, 2015. A revised application and plan were received on April 20, 2016 and was advertised in the *Londoner* on May 19, 2016. Notice of Public Meeting was sent out on November 29, 2016 and was advertised in the *Londoner* on November 24, 2016. The Public Meeting was held on December 12, 2016. Draft approval was granted on January 27, 2017.

Since draft approval, the Applicant has registered two phases of the subdivision. Phase 1 consisted of two (2) medium density multi-family blocks, one (1) future street block (Block 2), and six (6) reserve (0.3 m, 1 ft.) blocks, all served by two (2) new local streets, Mia Avenue and Kennington Way. It was registered on July 12, 2019 as 33M-765.

On August 10th, 2020 the Approval Authority for the City of London granted Final Approval for consent B.012/20 to create the lands located at 335 Kennington Way, 3959 and 3964 Mia Avenue. The certificates of consent were subsequently registered creating the medium density Part 2 and Part 3 on reference plan 33R-20777 which are the subject of an application for Site Plan Approval by Stantec Consulting Ltd for a 37 unit, 2-storey street townhouse development (File No. SPA20-084). Block 2 is the subject of an application of Site Plan Approval by Stantec Consulting Ltd. for a 19 unit, 2-storey cluster townhouse development (File No. SPA20-085).

1.1 Previous Reports Related to this Matter

December 12, 2016 - Report to Planning and Environment Committee to recommend approval of the draft plan of subdivision and associated zoning by-law amendments. (39T-15501/Z-8470)

January 21, 2019 – Report to Planning and Environment Committee to rezone a portion of land (Block 30 and portion of Block 31, 39T-15501) within a draft plan of subdivision by adding an additional Residential (R7) Zone to permit a long term care facility in addition to the existing range of residential uses permitted. (Z-8969)

February 19, 2019 - Report to Planning and Environment Committee on Special Provisions for the Subdivision Agreement related to the stormwater management pond. (39T-15501)

April 15, 2019 - Report to Planning and Environment Committee on Special Provisions for the Subdivision Agreement Phase 1. (39T-15501)

April 15, 2019 - Report to Planning and Environment Committee on Special Provisions for the Subdivision Agreement Phase 1A. (39T-15501)

May 27, 2019 - Report to Planning and Environment Committee to re-zone a portion of Block 36 and all of Block 37 in draft approved plan 39T-15501, to permit street townhouse dwellings, in addition to the multi-family uses already permitted. (Z-9034)

May 27, 2019 - Report to Planning and Environment Committee to redesignate the park, stormwater management pond (Pincombe 3) and lands along Middleton Avenue to “Low Density Residential”, and to redesignate a portion of the lands to “Open Space” to recognize a natural heritage component on Schedule “A” of the Official Plan and on Schedule 4 (Southwest Area Land Use Plan) and Schedule 10 (Central Longwoods) of the Southwest Area Secondary Plan, and to re-zone Block 38 from draft approved plan 39T-15501 (Richardson Subdivision) to permit single detached dwellings. (OZ-9038)

January 6, 2020 - Report to Planning and Environment Committee for a three (3) year extension to Draft Approval for the remaining phase(s) within the residential draft plan of subdivision (39T-15501).

August 10, 2020 - Report to the Approval Authority for the City of London which granted Final Approval for Part 1 and Part 2 on Reference Plan 33R-20777 (B.012-20).

February 8, 2021 - Report to Planning and Environment Committee to remove the holding (h, h-100 and h-198) symbols to allow the development of 56 cluster townhouse dwellings permitted under the Residential R4 Special Provision (R4-6(10)) Zone;

1.2 Property Description

The subject site is located on Kennington Way and Mia Avenue, which is generally located north of Exeter Road and east of Middleton Avenue. The site is currently vacant with vacant land to the north, medium and low density residential to the west, and light industrial to the east and south. The site has proximity to White Oaks Public School, and Sir Arthur Carty Catholic Elementary School.

1.3 Current Planning Information

- The London Plan Place Type – Neighbourhoods Place Type
- (1989) Official Plan Designation – Low Density Residential
- Existing Zoning – Residential R4 Special Provision/R5 Special Provision/R6 Special Provision R4-6(10)/R5-4(23)/R6-5(51) Zone

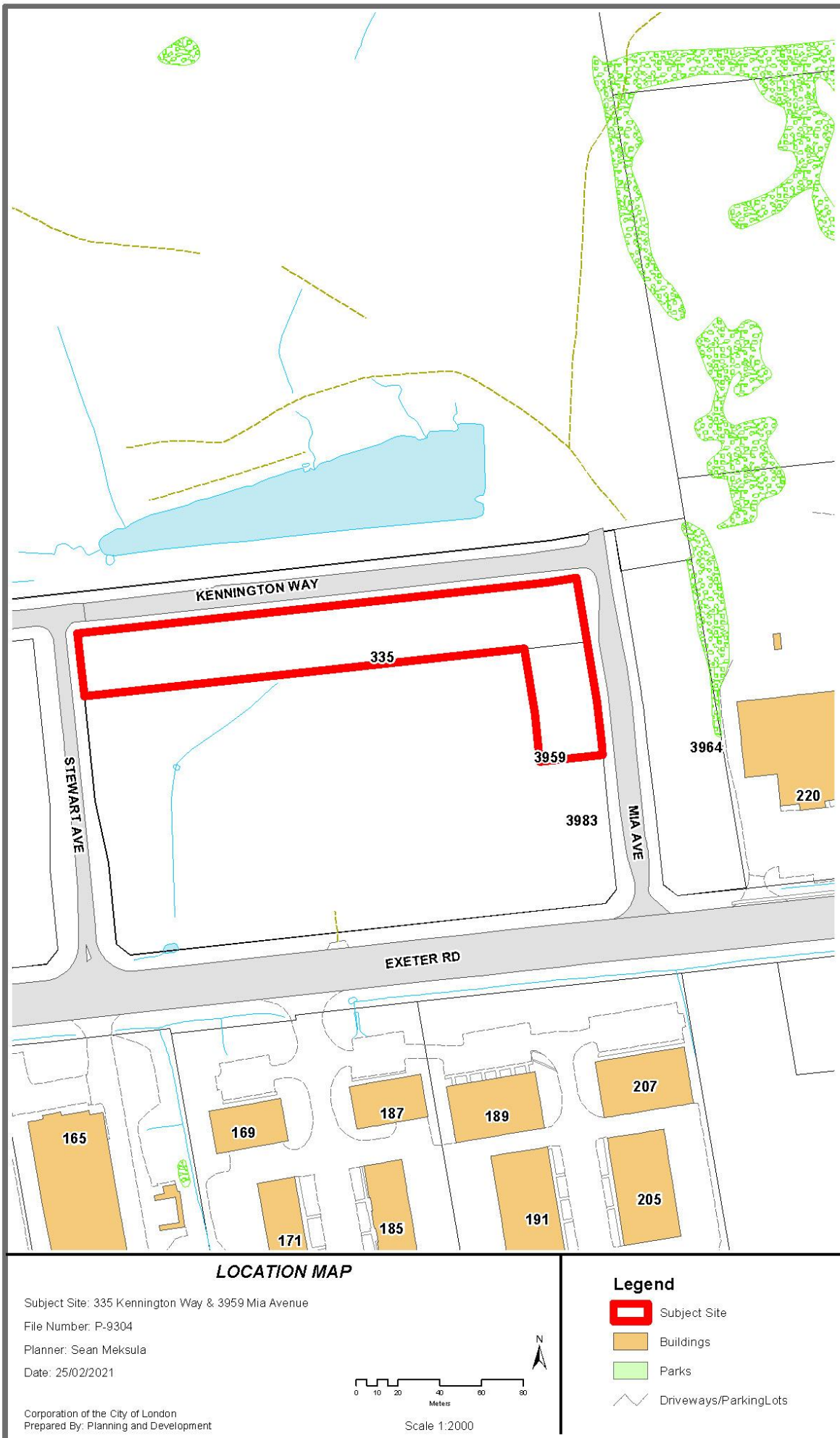
1.4 Site Characteristics

- Current Land Use – vacant
- Frontage – 240 m (787.4 ft.) along Kennington Way and along 50 m (374.0 ft.) Mia Avenue
- Area – 8,851m² (95,271 sq. ft.)
- Depth – 30m (98.43 ft.)
- Shape – rectangular

1.5 Surrounding Land Uses

- North – urban reserve
- East – future low and medium density residential
- South – future medium density residential
- West – future low and medium density residential

1.6 Location Map



2.0 Discussion and Considerations

The Applicant, Prosperity Homes, has requested exemption from part-lot control to create a total of thirty-seven (37) two-storey freehold street townhouse units on two local streets (Kennington Way and Mia Avenue).

3.0 Financial Impact/Considerations

Through the completion of the works associated with this application fees, development charges and taxes will be collected. There are no direct financial expenditures associated with this application.

3.1 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.

3.2 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 Residential R4 Special Provision (R4-6(10)) 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 thirty-seven (37) 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 thirty-seven (37) individual lots 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 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 Kennington Way and Mia 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 thirty-seven (37) 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 1, Plan 33M-765, RP 33R-20777 Parts 2 & 3 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. 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.

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 Subdivision, subject to the completion of the proposed conditions.

Prepared by: Sean Meksula, 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

cc: Matt Feldberg, Manager, Development Services (Subdivisions)
cc: Bruce Page, Manager, Development Services (Subdivisions)
cc: Peter Kavcic, Manager, Development Services (Subdivisions)
cc: Michael Pease, Manager, Development Services (Site Plan)

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Appendix A

Bill No.
2021

By-law No. C.P.-

A by-law to exempt from Part-Lot Control, lands located at 335 Kennington Way and 3959 Mia Avenue, legally described as Block 1 in Registered Plan 33M-765, RP 33R-20777 Parts 2 & 3.

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 335 Kennington Way and 3959 Mia Avenue, legally described as Block 1, Plan 33M-765, Reference Plan 33R-20777 Parts 2 & 3, from Part Lot Control;

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

1. Block 1, Plan 33M-765, RP 33R-20777 Parts 2 & 3, located at 335 Kennington Way and 3959 Mia 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 Residential R4 Special Provision (R4-6(10)) 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 –