

## Report to Planning and Environment Committee

**To:** Chair and Members  
Planning & Environment Committee  
**From:** George Kotsifas, P. Eng.  
Deputy City Manager, Planning and Economic Development  
**Subject:** Application By: Prosperity Homes  
335 Kennington Way and 3959 Mia Avenue  
**Meeting on:** May 10, 2021

## Recommendation

That, on the recommendation of the Director, Development Services, with respect to the application by Prosperity Homes, the attached proposed by-law **BE INTRODUCED** at the Municipal Council meeting on May 25, 2021 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 *Planning Act*, for a period not exceeding three (3) years.

## 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 conditions for passing the Part-Lot Control By-law have been satisfied and it is appropriate to allow the exemption from Part-Lot Control. The cost of registration of the by-law is to be borne by the applicant, all in accordance with the previous Council Resolution.

## 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 was 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 10<sup>th</sup>, 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 Previous Meeting

At its meeting held on April 13, 2021, Municipal Council resolved:

That, on the recommendation of the Director, Development Services, the following actions be taken with respect to the application by Prosperity Homes 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.

### **1.3 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.

### **1.4 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

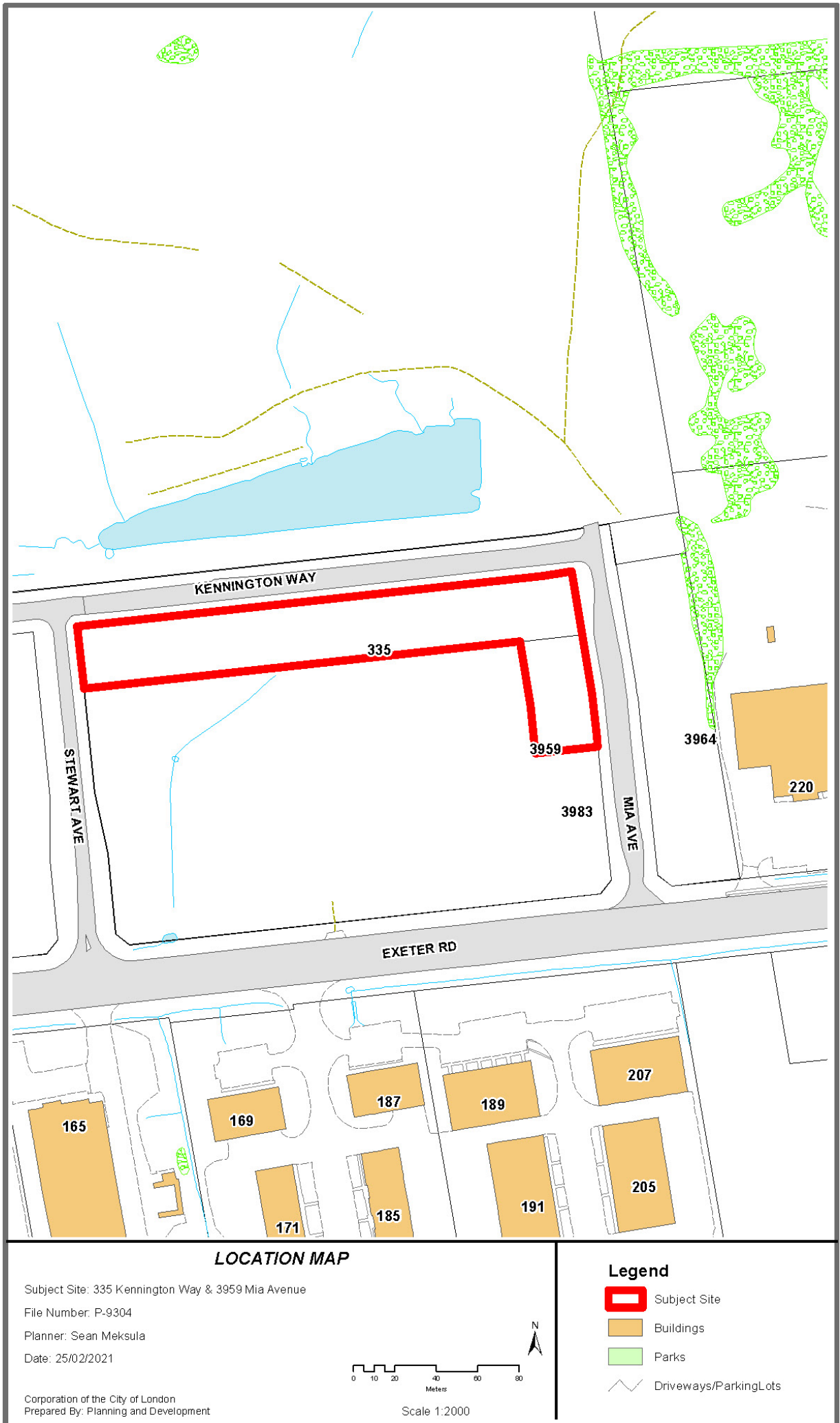
### **1.5 Site Characteristics**

- Current Land Use – vacant
- Frontage – 240 m (787.4 ft.) along Kennington Way and along 50 m (374.0 ft.) Mia Avenue
- Area – 8,851m<sup>2</sup> (95,271 sq. ft.)
- Depth – 30m (98.43 ft.)
- Shape – rectangular

### **1.6 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

# 1.7 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 Exemption from Part-Lot Control

The exemption from Part-Lot Control will allow for lot lines for individual units (lots) to be established on the registered block in a registered plan of subdivision. The conditions noted above have been satisfied as follows:

- 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;*

Acknowledged by the applicant on April 21, 2021.

- 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;*

Satisfied by registration of reference plan 33R-20967.

- 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;*

Satisfied by submission on April 21, 2021 and City staff (GIS Data Technician) confirmed by email on April 22, 2021 that a digital file has been submitted in a format acceptable to the City of London.

- 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;*

Satisfied by approval from London Hydro on March 24, 2021.

- 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;*

Satisfied by the acceptance of Lot Grading and Servicing Plans submitted as per Site Plan Application SPA20-084.

- vi. *The applicant shall enter into any amending subdivision agreement with the City, if necessary;*

Satisfied as the subdivision agreement was registered and no further amendment was required.

- 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;*

The applicant agrees to fulfil this condition in its entirety related to the construction of all services and will be completed in accordance with the approved final designs of the lots through site plan approval.

- 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;*

Satisfied by municipal numbering assigned on March 5, 2021.

- 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;*

Satisfied by reference plan 33R-20967.

- 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;*

Satisfied by reference plan 33R-33R-20967.

- 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;*



The applicant has indicated that this condition will be fulfilled prior to the issue of building permits.

- 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.*

Acknowledged by the applicant on April 21, 2021.

## **Conclusion**

The recommended exemption from Part-Lot Control is considered appropriate and in keeping with the planned intent of the Richardson Subdivision. In accordance with the Council Resolution, the conditions required to be completed prior to the passage of a Part-Lot Control By-law have been satisfied, and the applicant has been advised that the cost of registration of the by-law is to be borne by the applicant.

**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.  
Deputy City Manager, Planning and Economic  
Development

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)  
cc: David Turvey, GIS Data Technician, Development Services

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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 Prosperity Homes, 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 May 25, 2021.

Ed Holder  
Mayor

Catharine Saunders  
City Clerk

First Reading – May 25, 2021  
Second Reading – May 25, 2021  
Third Reading – May 25, 2021