

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: Exemption from Part-Lot Control
Application By: Sifton Properties Ltd.
Address: 890 Upperpoint Avenue**

Meeting on: December 13, 2021

Recommendation

That, on the recommendation of the Director, Planning and Development, the following actions be taken with respect to the application by Sifton Properties Ltd. to exempt Block 141, Plan 33M-754 and Block 42, Plan 33M-810 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 141, Plan 33M-754 and Block 42, Plan 33M-810 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 R1 (h*R1-4) in Zoning By-law No. Z.-1, which permits single detached dwellings;
- (b) The following conditions of approval **BE REQUIRED** to be completed prior to the passage of a Part-Lot Control By-law for Block 141, Plan 33M-754 and Block 42, Plan 33M-810 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 Planning and Development 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 City 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 Deputy City Manager, Environment and Infrastructure or designate 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 City 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 City 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 Deputy City Manager, Environment and Infrastructure 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 141 in Registered Plan 33M-754 and Block 42 in Registered Plan 33M-810 from the Part-Lot Control provisions of the Planning Act.

Purpose and the Effect of Recommended Action

Exemption from Part-Lot Control will facilitate the creation of fourteen (14) single detached dwellings with frontage on Fountain Grass Drive.

Rationale of 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

The subject site is located on Fountain Grass Drive to the east of Upperpoint Avenue, which is generally located east of Westdel Bourne and east of Middleton Avenue. The site is currently vacant with existing low density residential to the north and east, and vacant future residential lands to the south, and existing and planned medium density residential lands to the west. A neighbourhood park is planned southwest of the subject lands. The subject lands are proposed to be developed as fourteen (14) single detached dwellings.

1.1 Previous Reports Related to this Matter

March 23, 2015 - Report to Planning Committee to recommend approval of the Riverbend South Secondary Plan and amendment to the Official Plan.

November 14, 2016 - Report to Planning and Environment Committee to recommend approval of the Warbler Woods draft plan of subdivision and associated zoning by-law amendments (39T-16502/Z-8621).

July 16, 2018 - Report to Planning and Environment Committee to recommend approval of the Special Provisions for Warbler Woods Subdivision Phase 2 (39T-16502).

March 29, 2021 - Report to Planning and Environment Committee to recommend approval of the Wagner draft plan of subdivision and associated zoning by-law amendments (39T-20503/Z-9278).

October 18, 2021 - Report to Planning and Environment Committee to recommend approval of the Special Provisions for Wagner Subdivision Phase 1 (39T-20503).

1.2 Planning History

The majority of the subject lands are located within the Warbler Woods Subdivision (Block 141 in Plan 33M-754). On October 24, 2018, the City of London Approval Authority granted final approval and Phase 2 of the Warbler Woods 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.

A small portion of the subject lands, as well as the street onto which all the lots front, is located within the Wagner Subdivision (Block 42 in Plan 33M-810). On November 18, 2021, the City of London Approval Authority granted final approval and Phase 1 of the Wagner subdivision was registered as Plan 33M-810 on November 29, 2021. The final plan consisted of 39 single detached residential lots, two (4) medium density residential blocks, one (1) future development block, one (1) park block, one (1) road widening block, two (2) reserve blocks, and the extensions of two (2) local streets.

A concurrent application for removal of the 'h' holding provision requiring the submission of necessary securities to the City of London and the execution of a development agreement has also been submitted.

1.3 Current Planning Information (see more detail in Appendix C)

- The London Plan Place Type – Neighbourhoods Place Type
- Riverbend South Secondary Plan – Low Density Residential
- 1989 Official Plan Designation – Low Density Residential
- Existing Zoning – h*R1-4

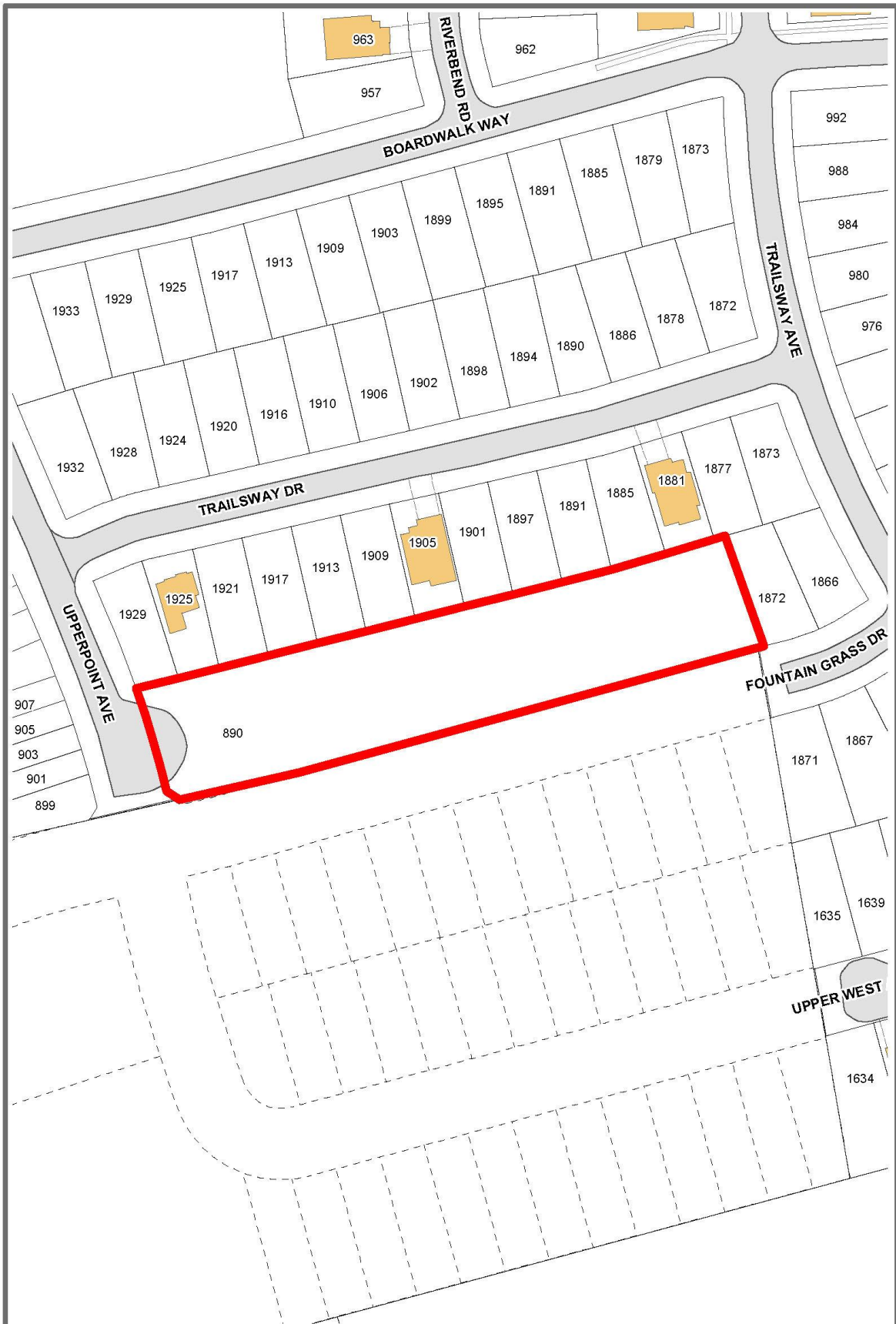
1.4 Site Characteristics

- Current Land Use – Vacant
- Frontage – approx. 33m on Upperpoint Avenue (Neighbourhood Connector) and 172m on Fountain Grass Drive (Neighbourhood Street)
- Area – approx. 5,700 m²
- Shape – Irregular

1.5 Surrounding Land Uses

- North – single detached dwellings
- East – single detached dwellings
- South – single detached dwellings
- West – townhouse dwellings dwellings, municipal park, future medium density residential

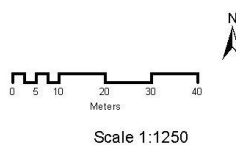
1.6 Location Map



LOCATION MAP

Subject Site: P-9358
File Number: 890 Upperpoint Avenue
Planner: Michael Clark
Date: 03/06/2021

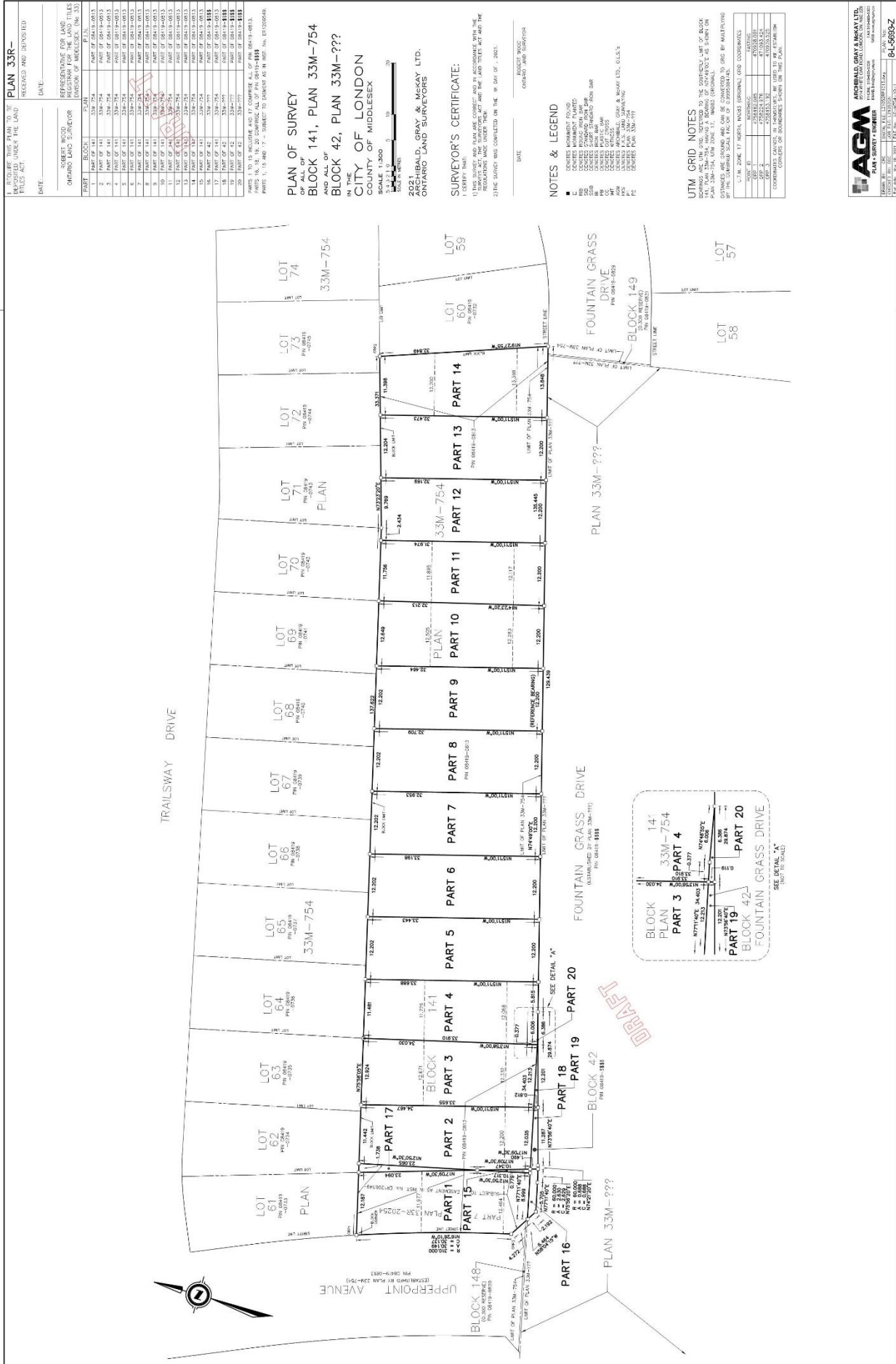
Corporation of the City of London
Prepared By: Planning and Development



Legend

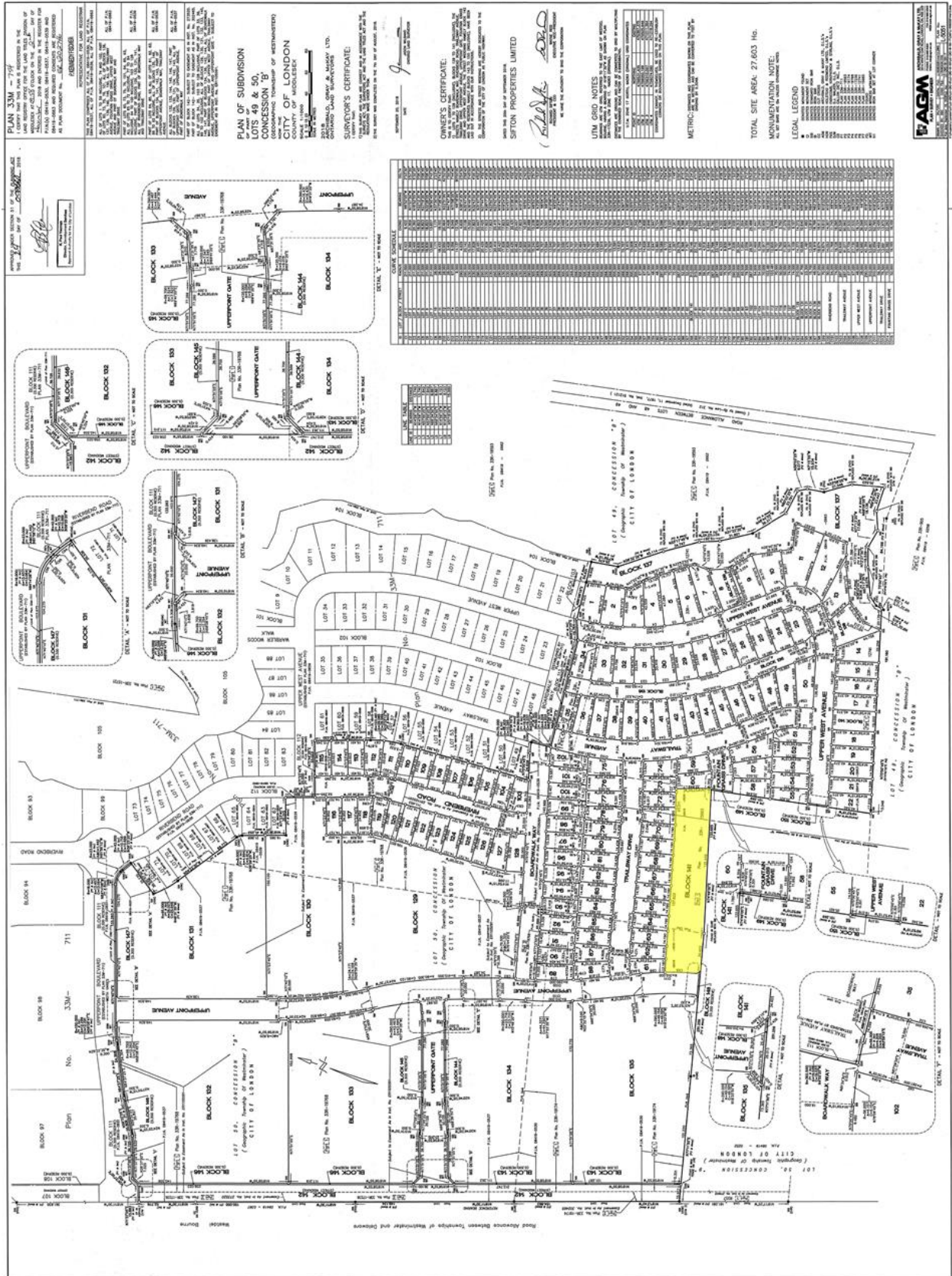
- Subject Site
- Buildings
- Parks
- Draft Approved Subdivisions
- Driveways/Parking Lots

1.7 Site Plan



AGM ARCHIBALD, GRAY & MCKAY LTD.
ONTOARIO LAND SURVEYORS
1000 SHEPPARD AVENUE EAST, SUITE 200
SCARBOROUGH, ONTARIO M1S 1T7
TEL: (416) 291-1100
FAX: (416) 291-1101
WWW.AGM-SURVEYORS.COM

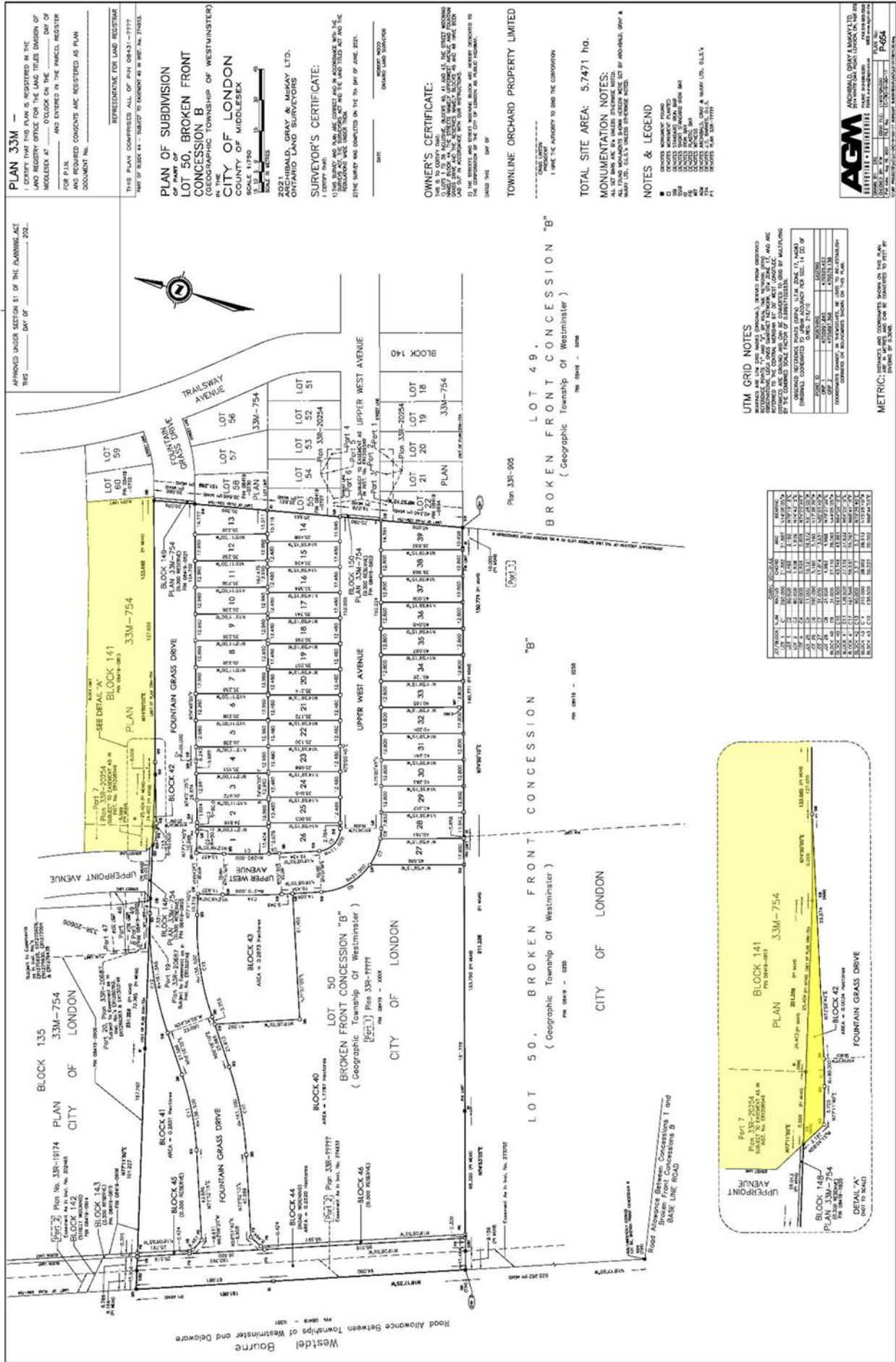
1.8 Warbler Woods Subdivision (Registered Plan 33M-754)



The subject lands are highlighted in yellow.

1.9 Wagner Subdivision (Registered Plan 33M-810)

P-9358
M. Clark



The subject lands are highlighted in yellow.

2.0 Discussion and Considerations

The Applicant, Sifton Properties Ltd., has requested exemption from part-lot control to create a total of fourteen (14) single detached dwellings on Fountain Grass Drive.

2.1 Community Engagement (see more detail in Appendix B)

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.

2.2 Policy Context (see more detail in Appendix C)

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.

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.

4.0 Key Issues and Considerations

Council has enacted a by-law (By-law No. CPOL.-392-153) to guide the consideration of requests for exemption to Part-Lot Control. Requests for exemption to Part-Lot Control will be considered 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 R1 (R1-4) which permits single detached dwellings. The applicant will be required to submit a draft reference plan to Planning and Development 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 in one subdivision and intended to be developed for single detached dwellings at the time of the subdivision approval. The division of individual lots at the time of the subdivision was not possible as the lots would not have had frontage on a public right of way until the adjacent subdivision was registered. Now that the adjacent subdivision (39T-20503) has been registered it is appropriate to create the lots through an exemption from 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 zoning. The development of the site for fourteen (14) single detached dwellings 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 fourteen (14) 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 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 Fountain Grass Drive 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 fourteen (14) single detached dwellings. 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.

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 single detached dwellings, 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 Warbler Woods and Wagner Subdivisions, subject to the completion of the proposed conditions.

Prepared by: Michael Clark, MA
Planner, Subdivision Planning

Reviewed by: Bruce Page, MCIP, RPP
Manager, Subdivision Planning

Recommended by: Gregg Barrett, AICP
Director, Planning and Development

Submitted by: George Kotsifas, P. Eng.
Deputy City Manager,
Planning and Economic Development

cc: Matt Feldberg, Manager, Subdivisions and Development Inspections
cc: Michael Pease, Manager, Site Plans

BP/mc

Appendix A

Bill No. (Number to be inserted by Clerk's Office)
2021

By-law No. Z.-1-_____

A by-law to exempt from Part-Lot Control, lands located at 890 Upperpoint Avenue, legally described as Block 141 in Registered Plan 33M-754 and Block 42 in Registered Plan 33M-810.

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 890 Upperpoint Avenue, legally described as Block 141 in Registered Plan 33M-754 and Block 42 in Registered Plan 33M-810, from Part Lot Control;

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

1. B Block 42 in Registered Plan 33M-810, located at 890 Upperpoint Avenue, north of Fountain Grass Drive 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 single detached dwellings in conformity with the holding Residential R1 (h*R1-4) 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 December 21, 2021

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading - December 21, 2021
Second Reading - December 21, 2021
Third Reading - December 21, 2021