

ISSUE DATE:

November 21, 2013



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL130533

Bannockburn Lands Ltd. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to Zoning By-law 7625 of the City of Toronto to rezone lands respecting 1185 Eglinton Avenue East to permit the proposed development of 2 residential towers and 48 townhouses  
OMB File No. PL130533

## APPEARANCES:

### Parties

City of Toronto

Bannockburn Lands Ltd.

Independent Order of Foresters

### Counsel

Gary McKay

Adam Brown and Jessica Smuskowitz

Chris Tanzola

## MEMORANDUM OF ORAL DECISION DELIVERED BY J. E. SНИЕZEK ON NOVEMBER 13, 2013

[1] Bannockburn Lands Ltd., the Applicant/Appellant applied to amend the former Borough of North York Zoning By-law No. 7625 by changing the zoning from Industrial Business Park Zone – Exception 11 (MO11) and Industrial Zone 2 (M2) to Multiple Family Dwellings Sixth Density Zone with a site specific exception to permit a residential development that includes a 28 storey residential building and a 30 storey residential building connected by a three storey podium and two 4 storey townhouse blocks. The proposed development will consist of 661 residential units including the 48 townhouse units and will be serviced by 550 parking spaces.

[2] The Board was informed that the City of Toronto ("City") and the Applicant/Appellant had reached a settlement of the matter and propose that the by-law presented as Exhibit 1 be approved and that the Board withhold its final order until the Section 37 Agreement (Exhibit 2) has been approved and endorsed by the City.

[3] The Board heard uncontested professional planning evidence in support of the settlement. Mr. Smith, a registered professional planner of considerable experience, opined that the by-law was consistent with the Provincial Policy Statement ("PPS"), conformed to the Growth Plan for the Greater Golden Horseshoe and the City's Official Plan ("OP") and represented "good planning". Mr. Smith reviewed planned transit infrastructure improvements along Eglinton Avenue. He pointed to the fact that the mixed use designation provided for an fsi of 1.8 times and that the proposed density is less than the 1.8 times and leaves sufficient density for remaining parcels to develop at appropriate densities.

[4] Alnoor Gangani and Shanshri Lalani , local residents of the area, expressed concerns about traffic, parking and school capacities. The Applicant/Appellant pointed to traffic studies and the approval of the City's Department of Transportation Services. The Board is satisfied that the traffic and parking concerns have been addressed. The issue of school populations will be addressed once the buildings are occupied.

[5] Based upon the testimony of Mr. Smith, the Board finds that the proposed development conforms to the Growth Plan and the OP; is consistent with the PPS and represents good planning.

[6] The attached by-law (Exhibit 1) will be approved in its final form when the Board receives instructions from the City when the Section 37 Agreement has been executed.

"J. E. Sniezek"

J. E. SNIEZEK  
MEMBER

## ATTACHMENT 1

**Draft Zoning By-law Amendment (November 13, 2013)  
CITY OF TORONTO****BY-LAW No. XXXX-2013**

**To amend former City of North York By-law No. 7625, as amended,  
With respect to lands municipally known as 1185 Eglinton Avenue East.**

WHEREAS the owner of the lands shown on Schedule 1 attached hereto applied for a zoning by-law amendment for the development of the lands shown on Schedule 1 attached hereto and appealed that application to the Ontario Municipal Board; and

WHEREAS pursuant to Section 37 of the *Planning Act*, R.S.O 1990, c.P.13, as amended, the council of a Municipality, and the Ontario Municipal Board on appeal, may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by the by-law, that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

WHEREAS Subsection 37(3) of the *Planning Act* provides that where an owner of lands elects to provide facilities, services or matters in return for an increase in height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with such facilities, services or matters; and

WHEREAS the owner has elected to provide the facilities, services and matters as are hereinafter set forth; and

WHEREAS the increase in the density permitted, beyond that otherwise permitted on the aforesaid lands by former City of North York By-law No. 7625, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law, which is secured by one or more agreements between the owner and the City of Toronto;

WHEREAS the owner of the aforesaid lands has agreed to enter into one or more agreements having been executed dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted by this By-law;

THEREFORE pursuant to the Order of the Ontario Municipal Board issued on \_\_\_\_\_, 2013, in Board Case No. PL130533, By-law No. 7625 of the former City of North York, as amended, is further amended as follows:

1. Schedules "B" and "C" of No. By-law 7625 of the former City of North York are amended in accordance with Schedule "1" of this by-law.
2. Upon Execution and registration of an agreement or agreements with the owner of the site pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities and services and matters set out in Section 3 hereof, the site is subject to the provisions of the By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a

precondition to the issuance of a building permit, the owner may not erect or use such building until the owner has satisfied the said requirement.

3. Section 64.20-A of No. By-law 7625 of the former City of North York is amended by adding the following subsection:

**“64.20-A(219) RM6(219)**

**DEFINITIONS**

- (a) For the purpose of this exception, “gross floor area” shall mean the aggregate of the areas of each floor, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, but excluding:
- (i) parking loading and bicycle parking below established grade;
  - (ii) required loading spaces and required bicycle parking spaces at or above established grade;
  - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
  - (iv) elevator shafts;
  - (v) garbage shafts;
  - (vi) mechanical penthouse; and
  - (vii) exit stairwells in the building;
- (b) For the purpose of this exception “apartment house dwelling” shall mean a building containing more than four dwelling units, each unit having access either from an internal corridor system or direct access at grade, or any combination thereof;
- (c) For the purpose of this exception “temporary sales office” means a structure on the lot used for the purposes of marketing and sales related to the use permitted on the lot and a temporary sales office shall only be permitted for a period of two years following the issuance of the first above grade building permit issued for the first building to be constructed;
- (d) For the purpose of this exception, “Parcel 1” means the parcel of land shown as Parcel 1 on Schedule RM6(219);
- (e) For the purpose of this exception, “Building A” means Building A as shown on Schedule RM6(219);
- (f) For the purpose of this exception, “Building B” means Building B as shown on Schedule RM6(219);

- (g) For the purpose of this exception, "Building C" means Building C as shown on Schedule RM6(219);
- (h) For the purpose of this exception, "Parcel 2" means the parcel of land shown as Parcel 2 on Schedule RM6(219);
- (i) For the purpose of this exception, "Building D" means Building D as shown on Schedule RM6(219);
- (j) For the purposes of this exception, the lot is shown on Schedule RM6(219) and is comprised of Parcel 1, the 18.5m wide public road allowance and Parcel 2;
- (k) For the purpose of this exception, "established grade" shall mean:
  - (i) a geodetic elevation of 127.33 metres in relation to buildings located within Parcel 1; and
  - (ii) a geodetic elevation of 127.27 metres in relation to buildings located within Parcel 2.

#### **PERMITTED USES**

- (l) The only permitted uses on Parcel 1 shall be:
  - (i) apartment house dwellings and uses accessory thereto; and
  - (ii) multiple attached dwellings.
- (m) The only permitted use on Parcel 2 shall be multiple attached dwellings.
- (n) In addition, a temporary sales office shall be permitted on the lot.

#### **EXCEPTION REGULATIONS**

##### **GROSS FLOOR AREA**

- (o) The maximum gross floor area permitted on the lot shall not exceed 48,500 square metres, provided that:
  - (i) The maximum gross floor area of all buildings permitted on Parcel 1 shall be 46,750 square metres; and
  - (ii) The maximum gross floor area of all buildings permitted on Parcel 2 shall be 1,750 square metres.

##### **DWELLING UNITS**

- (p) The total number of dwelling units on Parcel 1 and Parcel 2 shall not exceed 638 and Parcel 1 shall have a maximum of 625 dwelling units and Parcel 2 shall have a maximum of 13 dwelling units.

**BUILDING HEIGHTS AND BUILDING STEPBACKS**

- (q) Building heights on Parcels 1 and 2 shall not exceed the maximums in metres and in storeys shown on Schedule RM6(219), measured from established grade and subject to clause (y), building stepbacks for Parcel 1 will not be less than the minimums in metres shown on Schedule RM6(219).
- (r) Despite (p) above, a penthouse or other roof structure which is used only as an ornament or to house mechanical equipment of the buildings or stairwells to access the roof does not constitute a storey and will be disregarded in calculating the height of the building in storeys provided it shall not exceed a height of 8.0 metres.
- (s) Despite (p) above, stair and elevator enclosures will be permitted on portions of Building A and Building B with a height limit of 12.0 metres as shown on Schedule RM6(219), provided it shall not exceed a height of 6.0 metres.
- (t) Despite (p) above, rear decks, fences, canopies, guardrails, planters, trellises, screens, railings will be permitted on portions of Building C and Building D with a height limit of 4.0 metres as shown on Schedule RM6(219).
- (u) Despite (p) above, a sloped roof will be permitted on portions of Building C and Building D with a height limit of 12.0 metres as shown on Schedule RM6(219), provided it shall not exceed a height of 3.0 metres.

**SEPARATION DISTANCE**

- (v) For Building A and Building B on Parcel 1, buildings or portions of buildings above a height of 12.0 metres and 3 storeys will be separated by a minimum distance of 30.0 metres measured to the exterior edge of the building façade.

**FRONT LOT LINE**

- (w) The front lot line for buildings on Parcel 1 shall be the north limit of the future public road allowance as shown on Schedule RM6(219); and
- (x) The front lot line for buildings on Parcel 2 shall be the south limit of the future public road allowance as shown on Schedule RM6(219).

**BUILDING ENVELOPES**

- (y) On Parcel 1 for any portion of a building located above a height of 12.0 metres and 3 storeys the maximum gross floor area of a floor will not exceed 750 square metres.

- (z) No portion of any building erected above established grade within Parcels 1 and 2 shall be located otherwise than within the building envelopes shown on Schedule RM6(219), except for the following:
- (i) belt courses, cornices, eaves or gutters, pilasters and sills, which may project up to 0.5 metres beyond building envelopes into yard and building setbacks;
  - (ii) balconies, which may project up to 2.0 metres beyond building envelopes into yard setbacks, except that on the east elevations of Building A and Building B where balconies shall not project into the 2.0 metre setback as shown on Schedule RM6(219);
  - (iii) notwithstanding (ii) above for all buildings on Parcel 1, no balcony projection beyond the maximum gross floor area of a floor will be located closer than 3.0 metres from an exterior corner of a tower above 15 metres;
  - (iv) canopies and awnings, which may project up to 2.5 metres beyond building envelopes into yard setbacks provided the canopy is no higher than 4.0 metres above the first floor below the canopy;
  - (v) front porches and steps, which may project up to 3.5 metres beyond building envelopes into yard setbacks except for the west yard setbacks for Building A and Building B where the permitted projection is 2m;
  - (vi) For Buildings C and D, rear decks and associated structures such as columns and support structures, which may project up to 5.8 metres beyond building envelopes into yard setbacks provided, except for the 2.0 metre rear yard setback provided for Building C as shown on Schedule RM6(219); and
  - (vii) lighting fixtures, planters, trellises, guardrails, fences and screens, transformer vaults, railings, stairs, stair enclosures, wheelchair ramps and landscape and public art features are permitted to project beyond building envelopes into yard setbacks and building setbacks except for the west yard setbacks for Building A and Building B where the permitted projection is 0.5m.

#### **YARD SETBACKS**

- (z) Subject to the permitted projections listed in subsection (y) of this exception, the minimum yard setbacks shall be as shown on Schedule RM6(219), for buildings located on Parcels 1 and 2.
- (aa) Minimum yard setbacks for underground parking structures shall be 0 metres on Parcel 1 and Parcel 2.

**FRONT DOOR SILL ELEVATION**

- (bb) The finished floor elevation of the front door sill shall not be greater than 1.2 metres above established grade.

**PARKING**

- (cc) The provisions of Sections 6A(3) and 6A(4) of By-law No. 7625, as amended, shall not apply.
- (dd) Parking spaces shall be provided in accordance with the following requirements:

**Number of Parking Spaces**

- (i) Parking spaces shall be provided in accordance with the following requirements:

**Minimum Residential Parking Rates**

Type of Dwelling Unit	Minimum Required Parking Spaces per Dwelling Unit for Residents	Minimum Required Parking Spaces per Dwelling Unit for Visitors
Bachelor	0.7	0.15
One-bedroom	0.8	0.15
Two-bedroom	0.9	0.15
Three-bedroom+	1.1	0.15

**Maximum Residential Parking Rates**

Type of Dwelling Unit	Maximum Required Parking Spaces per Dwelling Unit for Residents
Bachelor	1.0
One-bedroom	1.2
Two-bedroom	1.3
Three-bedroom+	1.6

**Location**



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- (ii) Parking required for residents and visitors may be provided anywhere within the RM6(219) zone, except beneath the public road allowance as shown on Schedule RM6(219);

#### Access

- (iii) All parking spaces shall be accessed by a private street or drive aisle having a minimum unobstructed vertical clearance of 2.0 metres and a width of 6.0 metres or more at the entrance to the parking space;

#### Obstructions

- (iv) Every parking space shall have a minimum unobstructed vertical clearance of 2.0 metres for the entire length and width of the parking space;

#### Dimensions - Parking Spaces

- (v) Except for parallel parking spaces, whose minimum length shall be 6.7 metres, all parking spaces, including handicapped parking spaces, shall have a minimum length of 5.6 metres; and
- (vi) All standard parking spaces shall have a minimum width of 2.6 metres and a minimum clear height of 2.0 metres, except that the minimum width shall be 2.9 metres for one obstructed side and 3.2 metres for two obstructed sides. All handicapped parking spaces shall have a minimum width of 3.9 metres and a minimum clear height of 2.0 metres. The side of a parking space shall be considered to be obstructed when any part of a fixed object such as, but not limited to, a wall, column, bollard, fence or pipe is situated within 0.3 metres of the side of the parking space, measured at right angles, and more than 1.0 metres from the front or the rear of the parking space.

#### LOADING

- (ee) The provisions of Sections 6A(16)(a)(ii), 6A(16)(a)(iv), 6A(16)(c)(i) and 6A(16)(d)(iv) of By-law No. 7625, as amended, shall not apply.
- (ff) A minimum of one Type 'G' and one Type 'C' loading space for the buildings on Parcel 1 shall be provided.
- (gg) Type 'C' loading space means a loading space that is a minimum of 3.5 metres wide, 6.0 metres long and has a minimum vertical clearance of 3.0 metres.
- (hh) Type 'G' loading space means a loading space that is a minimum of 4.0 metres wide, 13.0 metres long and has a minimum vertical clearance of 6.1 metres.

**LOT COVERAGE**

- (ii) The provisions of Section 20-A.2.2 of By-law No. 7625, as amended, shall not apply.

**LANDSCAPING**

- (jj) The provisions of Section 15.8 of By-law No. 7625, as amended, shall not apply.
- (kk) A 3.0-metre wide publicly accessible pedestrian walkway shall be located on Parcel 1 as shown on Schedule RM6(219).
- (ll) The landscaped area provided at finished grade on Parcel 1 as shown on Schedule RM6(219) shall have a minimum area of 1,725 square metres.

**UNEXCAVATED DECKS IN R AND RM ZONES**

- (mm) The provisions of Section 6(24) of By-law No. 7625, as amended, shall not apply, except that unexcavated porches or decks attached to or detached from the main building shall not be located closer to the side lot lines than the minimum side yard setback for the main building.

**FRONTAGE ON A STREET**

- (nn) The provisions of Section 6(7) of By-law No. 7625, as amended, shall not apply.

**DIVISION OF LANDS**

- (oo) Notwithstanding any future severance, partition or division of the lands shown on Schedule "RM6(219)", the provisions of this By-law shall apply to the whole of the lands as if no severance, partition or division occurred.

**MUNICIPAL SERVICING**

- (pp) Prior to any above grade building permit for any building or structure on Parcel 1 or on Parcel 2 as shown on Schedule RM6(219), the following municipal services shall be provided to the lot line and the following provisions shall be complied with:
  - (i) All new public roads necessary to serve the building or structure have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
  - (ii) All water main and sanitary sewers and appropriate appurtenances have been installed and are operational.

**SECTION 37 AGREEMENT**

- (qq) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with the provisions of this By-law, the increase in density of development on the lands is permitted in return for provision by the owner of the following facilities, services and matters to the City at the owner's sole expense, in accordance with an agreement or agreements, in a form satisfactory to the Chief Planner and Executive Director and the City Solicitor and such agreement(s) shall be registered against title to the lands outlined in heavy lines on Schedule 1 to secure the following facilities, services or matters:
- (i) A contribution of \$1,500,000 toward the development of any of the following: community service space, childcare facilities, upgrades to the Flemingdon Park Neighbourhood Library and expansion of existing City recreational facilities or new recreational facilities. The contribution shall be indexed in accordance with the Statistics Canada Quarterly Capital Expenditure Price Statistics from the date this Zoning By-law exception comes into force to the date of submission of the funds by the owner to the City. The sum of \$1,500,000 (indexed) is to be paid prior to the issuance of the first above grade building permit, except for a temporary sales office, on any of the lands outlined in heavy lines on Schedule 1.
4. Section 64.20-A of By-law No. 7625 is amended by adding Schedule RM6(219) attached to this By-law.



