

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: September 26, 2018

CASE NO(S):

PL170395
PL140905

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Bateg Investments Limited, Upper Village Investments Limited
Subject:	Application to amend Zoning By-law No. 1-83 - Refusal or neglect of City of Toronto to make a decision
Existing Zoning:	MCR
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit a mixed-use building with an overall height maximum of 16-storeys consisting of 2 distinct components: a terraced 11-storey element and a 16-storey element
Property Address/Description:	859, 861 and 875 Eglinton Avenue West
Municipality:	City of Toronto
Municipality File No.:	16 198806 STE 21 OZ
OMB Case No.:	PL170395
OMB File No.:	PL170395
OMB Case Name:	Bateg Investments Limited v. Toronto (City)

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	90 Eglinton West Limited
Appellant:	Leaside Property Owners Association Incorporated
Appellant:	Upper Village Investments Ltd.
Appellant:	RioCan Holdings (Sunnybrook) Inc.
Subject:	Proposed Official Plan Amendment No. OPA

Municipality: 253
City of Toronto
OMB Case No.: PL140905
OMB File No.: PL140905
OMB Case Name: RioCan Holdings (Sunnybrook) Inc. v. Toronto (City)

Heard: July 23, 2018 in Toronto, Ontario

APPEARANCES:

Parties

Bateg Investments Ltd.
Upper Village Investments Ltd.
2629322 Ont. Inc.
City of Toronto

Counsel

P. Devine and M. Cook
P. Devine and M. Cook
M. McDermid
A. Suriano and L. Bisset

MEMORANDUM OF ORAL DECISION OF THE TRIBUNAL DELIVERED BY C. J. BRYSON ON JULY 23, 2018

INTRODUCTION

[1] The appeals before the Tribunal originated with applications of Bateg Investments Ltd. and Upper Village Investments Ltd. (collectively “the Applicants”) for an amendment to the former City of York Zoning By-law No. 1-83 (the “ZBA”), and to the City of Toronto Official Plan Amendment No. 253 (the “OPA”), which is currently under separate appeal before the Tribunal and not in force at this time.

[2] The OPA appeal pertains to the implementation of the Eglinton Connects Planning Study. The ZBA appeal pertains to the refusal of the Applicants’ proposal to develop an 11 storey and a 16 storey pair of residential buildings, containing a combined 253 residential units and retail uses at grade, at 859, 861 and 875 Eglinton Avenue West (the “Site”) in the City of Toronto (the “City”). Pursuant to an earlier motion

for consolidation of the appeals, the then Ontario Municipal Board ordered they be heard together.

[3] The parties earlier requested and participated in Tribunal led mediation. While the Tribunal mediation did not directly result in a settlement, it sparked ongoing discussions amongst the parties that led to the settlement proposed at this time. Given the proposed settlement addresses both appeals, the Tribunal considered the evidence presented collectively.

EVIDENCE AND SUBMISSIONS

[4] At the hearing, the Parties advised the Tribunal that a settlement had been reached upon a revised development proposal for the Site.

[5] Further, the Applicants undertook to the Tribunal that PL140905, being the appeal of the OPA, is to be withdrawn should the Tribunal approve the settlement and upon the Tribunal receiving the final draft of the ZBA subject of PL170395.

[6] The Tribunal heard planning opinion evidence in support of the settlement from Andrew Ferancik, a registered Professional Planner and Principal with Walker, Nott, Dragicevic Associates Ltd.. Mr. Ferancik has been involved in the underlying applications and within appeals since 2007, including community and City consultation meetings, development of the revised applications, settlement discussions and preparation of the evidence placed before the Tribunal regarding the settlement proposal. Mr. Ferancik has previously been qualified by the Tribunal to provide opinion evidence and was qualified at the hearing to provide expert planning opinion evidence, without objection. The Tribunal heard no other evidence related to the appeals and proposed settlement.

[7] The planning evidence provided by Mr. Ferancik outlined the nature of the Site, the surrounding area and the proposed settlement through current visual evidence

(Exhibit 3), architectural plans (Exhibit 4) and shadow studies (Exhibit 5), as well as executed Minutes of Settlement between the Applicants and 2629322 Ont. Inc. (Tab 14, Exhibit 2).

[8] Mr. Ferancik testified the large rectangular Site is currently occupied in part by a vacant, former Scotiabank building and is currently being used as a staging area for Metrolinx LRT construction. It is located on the southwest corner of Eglinton Avenue West and Bathurst Street, consisting of 71.61 metres (“m”) of frontage on Eglinton Avenue West, 50.27 m on Peveril Hill North to the west, and 45 m on Bathurst Street to the east. It is backed by a public laneway, south of which 2629322 Ont. Ltd. owns two adjacent lots.

[9] The north side of Eglinton Avenue West consists generally of two-storey mixed use buildings, behind which are low scale and density residential neighbourhoods. Apartment neighbourhoods are found further to the northeast, which consist of buildings ranging from 6 to 14 storeys in height.

[10] To the west of the Site, a range of mixed use retail and commercial buildings are found along with apartment and condominium buildings ranging from 2 to 9 storeys in height. Similarly, a mix of 2 to 4 storey mixed use and retail commercial buildings and 3 to 5 storey residential apartment buildings are found to the east.

[11] The public laneway to the south of the Site services single detached residences along Peveril Hill North and mixed use 2 to 3 storey buildings along Bathurst Street. Further to the south are again low scale and density residential neighbourhoods.

[12] The taller mixed use buildings in the vicinity are generally found on the immediate south side of Eglinton Avenue West due to the presence of deep lots and lesser shadowing impacts. There are also several tall mixed use buildings in development and or construction in this area, due in large part to the construction of the Eglinton Ave LRT and Forest Hill LRT station as well as the existence of multiple nearby

transit and mixed use retail and commercial services.

[13] The settlement proposal presented envisions a single 14 storey mixed use building, containing 186 one-bedroom units, 53 two-bedroom units and 28 three-bedroom units. The eastern portion of the building would frame the corner of Eglinton Avenue West and Bathurst Street and rise to 14 storeys, while the western portion would consist of 8 terraced storeys to address the mid-rise character of Eglinton Avenue West to the west and the low rise residential neighbourhoods to the south.

[14] The proposal provides for a variety of setbacks and step backs or terraces to address neighbouring streets and properties, including those owned by 2629322 Ont. Inc., which is the owner of 2010-2016 Bathurst Street, as described in Tab 14, Exhibit 2.

[15] 2629322 Ont. Inc. is an associated company of Orpheus Investment Company Ltd., which was noted as the party in earlier proceedings in this matter. 2629322 Ontario Inc. requested the noted party name change, without objection.

[16] 2629322 Ont. Inc. informed the Tribunal that the original development proposal included a terrace at the seventh floor on the south side of a building abutting the public laneway to the south of the Site, which would have interfered with its ability to build on its properties to eight storeys as of right at a future date. The settlement proposal addresses this concern by adjusting the originally proposed terrace upwards, as reflected in the minutes of settlement between the Applicants and 2629322 Ont. Inc. (Tab 14, Exhibit 2).

[17] The settlement proposal also includes wider sidewalks to enhance pedestrian activity and access to retail components at grade, along both Eglinton Avenue West and Bathurst Street, and two at grade resident lobby entrances, one off of Peveril Hill North and one off of Bathurst Street.

[18] The Forest Hill LRT station along the evolving Eglinton LRT line is currently

under construction. The settlement proposal includes construction of a ground level entrance to the forthcoming Forest Hill LRT station from the Site's frontage along Eglinton Avenue West.

[19] Vehicular access is proposed by driveway and ramp access from Bathurst Street to a three level underground garage. The garage would also allow for an enclosed loading area and garbage and recycling collection; a total of 242 combined residential, visitor and retail patron vehicular parking spaces, and; 276 combined residential, visitor and retail patron bicycle parking spaces.

[20] Finally, the proposal includes 1068 square metres ("sq m") of amenity space, divided equally between indoor and outdoor components, representing 2 sq m of amenity space per unit, in addition to that which would be provided by individual unit balconies and or terraces.

[21] According to Mr. Ferancik's uncontested evidence and planning opinion, the proposed development is appropriate for the Site and vicinity. He opined that intensification on the Site is appropriate within this established settlement area given the unique depth and location of the Site, the proposed range of units and mixed uses near existing services, resulting employment creation, and the major transit station development in an urban area. On this basis, he provided his opinion that the settlement proposed is consistent with the Provincial Policy Statement 2014 (the "PPS") and conforms to the Growth Plan for the Greater Golden Horseshoe (the "Growth Plan").

[22] In relation to the City of Toronto Official Plan ("OP"), Mr. Ferancik testified the Site is within a designated Avenue on Map 2 – Urban Structure, a Transit Corridor on Map 4 – Higher Order Transit Corridors, a Transit Priority Segment on Map 5 – Surface Transit Priority Network, and within a Mixed Use area on Map 17 – Land Use Plan. He provided his opinion that each of these aspects of the development supports its conformity with the OP.

[23] Further, Mr. Ferancik testified the requisite segment study (the “Study”) for a proposed mixed use development along Eglinton Avenue West was completed (Tab 10, Exhibit 2) and that it satisfactorily addresses the potential impacts of incremental development along the Avenue and upon nearby Neighbourhoods as identified in the OP. He advised the Study demonstrates how the proposed development would support the use of public transit, a range of housing options, a thriving pedestrian environment, universal access to public spaces and buildings, be served by parks and public services, and utilize environmental sustainable design.

[24] The Study identifies the corner of Eglinton Avenue West and Bathurst Street as the only Site in the area appropriate to accommodate the proposed residential development’s height and density given its unique nature; it consists of a full block, has significant depth and a varying grade that limits visual impact from the street, it invokes limited shadow impacts to surrounding properties and streetscapes, it is compatible with neighbouring mixed uses on Eglinton Avenue West and Bathurst Street, and it has direct access to the forthcoming LRT transit in addition to significant existing surface transit services.

[25] The planning evidence provided demonstrated there is no pre-determined height and density limits for Avenues within the OP due to the City practice of requiring a segment study be completed in relation to proposed development of this nature.

[26] The Tribunal accepts Mr. Ferancik’s opinion that Mixed Use developments are promoted upon Avenues under the OP for they provide a balance of housing, retail, commercial, institutional and open space uses, while supporting transit use, a safe and engaging pedestrian environment, providing adequate parking, promoting employment, and engaging in thoughtful transition from the Avenues to surrounding uses and Neighbourhoods.

[27] Mr. Ferancik also testified that the OP Mid-rise and Tall Building Guidelines apply to this settlement proposal. In his opinion, the proposed development is justified in

relation to these Guidelines, again by the nature of the Site, nearby transit development and limited shadow impacts. The proposed development does exceed the Mid-rise Guidelines for height which indicate a maximum of eight storeys in height, but Mr. Ferancik testified it provides for a form that responds to the City's overall vision for Avenues in the OP within the context of the Site and surrounding area and the undertaken Study. Mr. Ferancik correctly reminded the Tribunal that the Tall and Mid-rise Guidelines note that no one size fits all within the intent of the OP.

[28] Finally, Mr. Ferancik opined the proposal has sufficient regard to OP Mixed Use and Urban Design Guidelines relating to built form, transportation, access and parking, and requirements of Building a Successful City. The Tribunal accepts this evidence and Mr. Ferancik's suggestion that many related Site design features would be secured through a later site plan agreement, per the normal course.

[29] The applicable City of York Zoning By-law No. 1-83 only allows for a Mixed Use development at a maximum density of 2.5 FSI and a height of eight storeys or 24 m. The settlement proposal seeks to amend the By-law's height, density, angular plane and parking requirements. In Mr. Ferancik's opinion, the proposal to amend the By-law is appropriate and represents good planning given the suitability of the Site and the proposal's consistency with the PPS, its conformity to the Growth Plan, and its alignment with the City OP in relation to Avenues, Mixed Use areas and the Mid-rise and Tall Building guidelines.

[30] Mr. Ferancik testified the draft ZBA found at Tab 13, Exhibit 2, which is Attachment 1 to this decision, locks in appropriate building setbacks, lane widening through conveyance, depicts the terracing or step-backs on the west and south sides of the proposed development, and locks in floor area, amenity space, parking, and bicycle parking.

[31] He further noted the submitted conditions for the proposed ZBA, as found in Exhibit 6 and Attachment 2 to this decision, resolve remaining issues of concern for the

City. He testified these conditions, in addition to the overall proposal, ZBA and Minutes of Settlement with 2629322 Ont. Inc., are desirable and represent good planning as being consistent with the PPS, and conforming to the Growth Plan and OP.

[32] The City and 2629322 Ont. Inc. expressed no objection to Mr. Ferancik's evidence or the submissions and requests of the Applicant as described herein.

[33] Upon conclusion of Mr. Ferancik's evidence, the Applicants requested the Tribunal to allow the ZBA appeal in PL170395 and approve the revised proposal, including the adoption of the conditions in Exhibit 6. They further requested that the Tribunal withhold its final order until the final form and content of the ZBA are provided to the Tribunal by the City, along with its confirmation that the conditions in Exhibit 6 have been met to the City's satisfaction.

ANALYSIS AND FINDINGS

[34] The Tribunal considered the evidence and submissions provided by the Parties in reaching its findings.

[35] The Tribunal accepts and agrees with the uncontested planning evidence of Mr. Ferancik in support of the ZBA and regarding the lack of need for the originally requested OPA should the ZBA be approved.

[36] Upon the uncontested opinion evidence provided and the submissions of the Parties, the Tribunal is satisfied the ZBA presented in draft form is consistent with the PPS, conforms to the Growth Plan and with the existing, 'in force' OP.

[37] Accordingly, the Tribunal provisionally approves the ZBA substantially in the form and content as set out in Tab 13, Exhibit 2 and Attachment 1 to this decision, and adopts the conditions of contained in Exhibit 6 and Attachment 2 to this decision.

[38] The Tribunal will withhold its final order approving the ZBA until such time that it is informed by the City that it is satisfied with the final proposed form and content of the ZBA and that the Applicants have met the conditions in Exhibit 6 to the City's satisfaction.

[39] The Tribunal is further prepared to adjourn the consolidated OPA appeal in matter PL140905 *sine die* on the undertaking of the Applicants that the OPA appeal will be withdrawn upon the issuance of the Tribunal's final ZBA order.

[40] It is understood by the Tribunal that the Parties intend to file the final form of the ZBA and be able to confirm to the Tribunal that the conditions in Exhibit 6 have been met by October 1, 2018. Should that not be possible, the parties agreed to update the Tribunal by a Telephone Conference Call, to be scheduled as required.

Decision

[41] The Tribunal will allow the appeal in part and approves the ZBA to the former City of York By-law 1-18 in principle, and as set out in Tab 13, Exhibit 2 and Attachment 1 to this Decision. The Tribunal will withhold its Order pending the following:

1. The Tribunal final order respecting the approval of the Zoning By-law Amendment form and content is withheld pending notification to the Tribunal by the City that the conditions set out in Exhibit 6 and Attachment 2 to this decision have been satisfied, the final draft ZBA has been approved by the City as to form and content, and the final ZBA has been provided to the Tribunal;
2. Should the City be satisfied that the conditions set out in Exhibit 6 have been met, the Parties will file the final draft ZBA with the Tribunal, indicating what, if any, changes have been made to the draft ZBA set out in Exhibit 2, Tab 13 and Attachment 1 to this decision, for final approval of the Tribunal;

3. The Tribunal retains jurisdiction over determining the final form and content of the ZBA;
4. The Parties will update the Tribunal as to the satisfaction of the conditions set out in Exhibit 6 and the final form and content of the ZBA by October 1, 2018;
5. The OPA appeal in matter PL140905 is adjourned *sine die* on the undertaking of the Applicants to withdraw it upon final Tribunal approval of the ZBA;
6. Member Bryson remains seized of consolidated matters PL170395 and PL140905.

“C.J. BRYSON”

C.J. BRYSON
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

CITY OF TORONTO

BY-LAW No. ____-2018

To amend the former City of York Zoning By-law No. 1-83, as amended, with respect to the lands known municipally in the year 2018 as 859, 861 and 875 Eglinton Avenue West and 2030 Bathurst Street

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

- 1) This By-law applies to the lands delineated by heavy lines on Schedule 1 attached to and forming part of this By-law;
- 2) Despite any existing or future consent, severance, partition or division of the lot, the provisions of this By-law shall apply to the lot, as identified on Schedule 1, as if no consent, severance, partition or division occurred;
- 3) Section 16, General Exceptions, of By-law No. 1-83 of the former City of York, as amended, is hereby further amended by adding the following as a new Subsection 16 (xxx):

“(xxx) Lands – 859, 861 and 875 Eglinton Avenue West and 2030 Bathurst Street, as shown on Schedule 1, attached hereto;

 - A. None of the provisions of Sections 12.3 and 3.2.1 shall apply to the lands bounded by heavy lines on Schedule 1, attached hereto;
 - B. Subsection 16 (xxx) shall apply to all of the lands bounded by heavy lines on Schedule 2, attached hereto, regardless of future consent, severance, partition or division;
 - C. All other provisions of former City of York By-law No. 1-83, as amended, shall continue to apply to the lands shown on Schedule 1, attached hereto, except in the case where provisions of this Exception are in conflict in which case the provisions of this Exception shall prevail;
- 4) The following provisions shall apply to the whole of the lands as shown on Schedule 1, attached hereto:
 - A. For the purposes of this subsection of the By-law, the following definitions shall apply:
 - i) “GRADE” means 172.82 metres Canadian Geodetic Datum;
 - ii) “HEIGHT OF BUILDING” means the vertical distance between grade and the highest point of the building or structure except for those elements otherwise expressly prescribed in this By-law;

- iii) "LOT" means the lands delineated by heavy lines shown on Schedule 1, attached hereto; and
 - iv) "SALES OFFICE" means a building, structure, facility or trailer on the lot used for the purpose of the sale of dwelling units or gross floor area to be erected on the lot.
- B. No portion of a building or structure erected on the lot identified on Schedule 1, attached hereto, is to have a height in metres greater than the height in metres specified by the numbers following the symbol H on attached Schedule 2, attached hereto, except that:
- i) Railings, parapets, balconies, cornices, window washing equipment, lighting fixtures, ornamental elements, stair towers, trellises, planters, partitions dividing outdoor recreation areas, guard rails, stairs, stair enclosures, wheelchair ramps, vents, fences, screens, architectural features, elements of a roof assembly, elements of a green roof, lightning rods, mechanical equipment and rooms, elevator overruns, and exhaust flues, located above the heights shown on Schedule 2, attached hereto.
- C. The height of a building or structure on the lot is measured as the vertical distance between grade and the highest point of the building or structure except for those elements prescribed in Section 5.B.(i) above;
- D. No portion of the building or structure erected or used above grade is located otherwise than within the lot and wholly within the areas delineated by solid heavy lines on Schedule 2, attached hereto, except that:
- i) balconies, canopies, cornices, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, planters, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, vents, underground garage ramps and their associated structures, fences, screens, landscape and public art features, and outdoor furniture may extend beyond the heavy lines shown on Schedule 2, attached hereto.
- E. The total gross floor area of buildings and structures erected or used on the lot does not exceed 23,100 square metres, provided:
- i) The total residential gross floor area erected or used on the lot does not exceed 22,100 square metres; and
 - ii) The total non-residential gross floor area erected or used on the lot does not exceed 1,050 square metres.
- F. A minimum of 1,050 square metres of amenity space shall be provided and maintained on the lot as follows:
- i) 534 square metres of amenity space shall be located indoors; and
 - ii) 534 square metres of amenity space shall be located outdoors.
- G. A minimum of 205 residential parking spaces shall be provided and maintained on the lot

- H. A minimum of 27 Non-residential parking spaces shall be provided and maintained on the lot
- I. The parking spaces required to be provided under subsection 4.H. above may be provided within a *public garage*
- J. A maximum of 20 parking spaces which are obstructed on one or two sides are permitted on the lot, which may have minimum dimensions of 5.6 metres in length and 2.6 metres in width;
- K. A minimum of one Type-G loading space shall be provided and maintained on the lot;
- L. A minimum of 230 long-term bicycle parking spaces and 32 short-term bicycle parking spaces must be provided and maintained on the lot;
- M. A temporary sales office shall be permitted on the lot.
- N. All other provisions of By-law No. 1-83, as amended, shall continue to apply to the Lands shown on Schedule 1 attached hereto, except in the cases where provisions of this Subsection are in conflict with By-law No. 1-83, as amended, the provisions of this By-law shall prevail.
- O. For the purposes of this By-law, the words highlighted in bold type in this Exception have the meaning provided in Zoning By-law No. 1-83, save and except for
 - i) **Long-Term Bicycle Parking Space** means an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles, and:
 - (1) Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (2) Where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
 - (3) Where the bicycles are to be parked in a bicycle rack or in a stacked manner, bicycles may be located in a secured room or area, in caged bicycle lockers or on a rack/hook on a wall associated with a vehicle parking space and in all such cases the dimensions in subsections (a) and (b) shall not apply; and

- (4) May be located outdoors or indoors including within a secured room or enclosure.
- ii) **Short-Term Bicycle Parking Space** means an area that is equipped with a bicycle rack for the purpose of parking and securing bicycles, and:
 - (1) Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (2) Where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres a vertical dimension of at least 1.9 metres; and
 - (3) May be located outdoors or indoors including within a secured room or enclosure.
- iii) **Sales Office** means a building, structure, facility or trailer on the lot used for the purpose of the sale of dwelling units to be erected on the lot and/or the administration and management of construction activity related to construction on the lot;
- iv) **Accessible Parking Space** means an unimpeded area that is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another motor vehicle having the following minimum dimensions:
 - (1) Length – 5.6 metres;
 - (2) Width 3.9 metres; and
 - (3) Vertical Clearance – 2.1 metres

P. None of the provisions of City of Toronto By-law No. 1107-2016 shall apply to the lot;

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

JOHN TORY,
Mayor

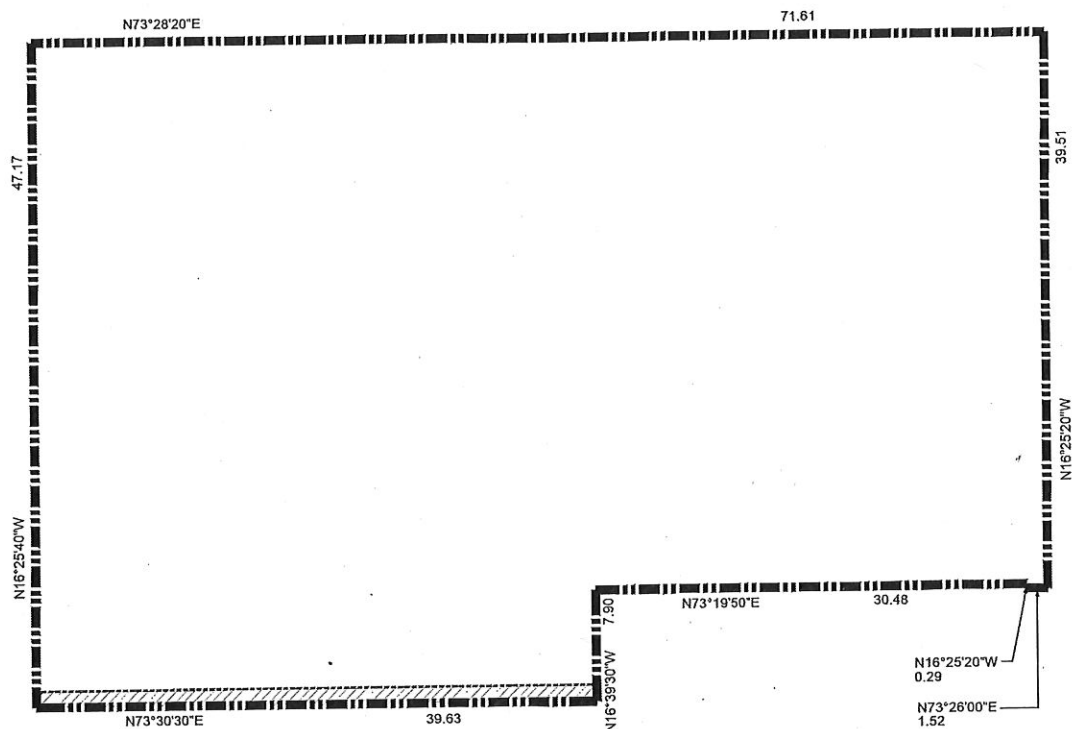
ULLI S. WATKISS,
City Clerk

(Corporate Seal)

EGLINTON AVENUE WEST

PEVERIL HILL NORTH

BATHURST STREET



NOTE: Survey information supplied by applicant. All dimensions in metres.

BOUNDARY LINE
 CONVEYED LAND FOR LANE WIDENING

LANE WIDENING BOUNDARY LINE



Schedule 1

859, 861, 875 Eglinton Avenue West
and 2030 Bathurst Street

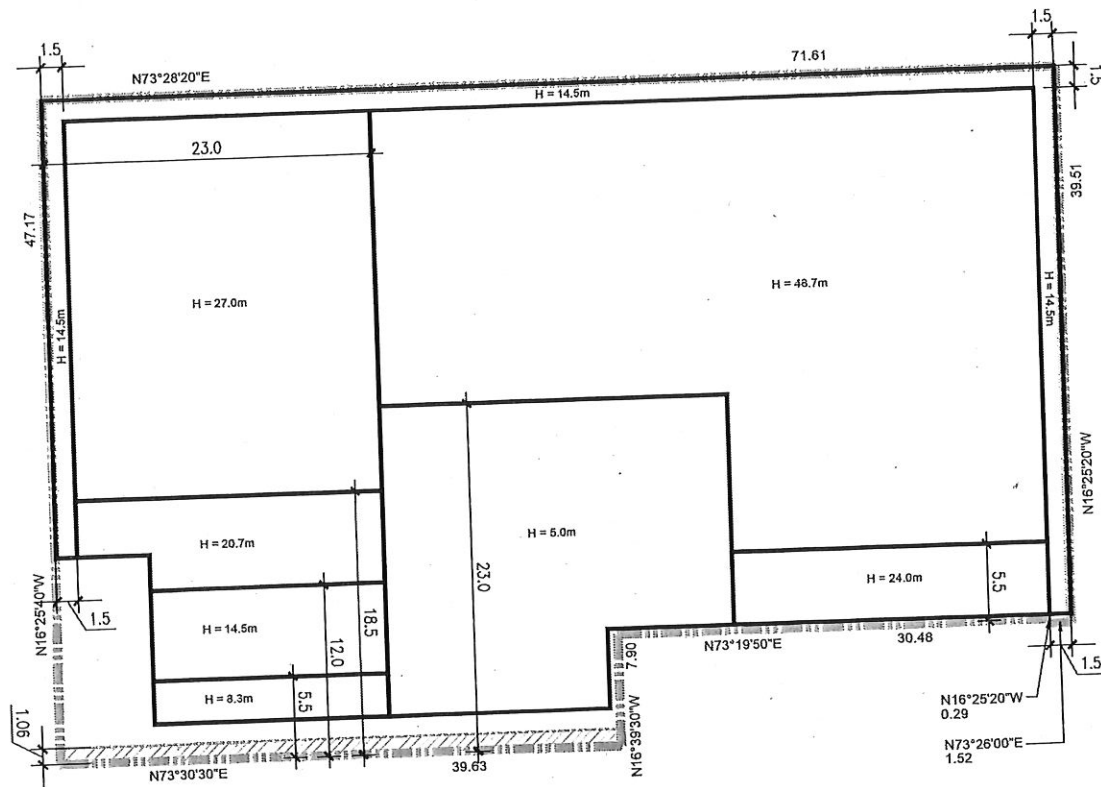
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EGLINTON AVENUE WEST

PEVERIL HILL NORTH

BATHURST STREET



BOUNDARY LINE
LANE WIDENING BOUNDARY LINE

CONVEYED LAND FOR LANE WIDENING
H MAXIMUM BUILDING HEIGHT IN METRES ABOVE AVERAGE GRADE

Toronto City Planning
Schedule 2

859, 861, 875 Eglinton Avenue West
and 2030 Bathurst Street
File # _____

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ATTACHMENT 2

859, 861, and 875 Eglinton Avenue West
PL170395

Ex. #: 6

LIST OF CONDITIONS TO FINAL ORDER

The Local Planning Appeal Tribunal shall withhold its final Order regarding the Zoning By-law Amendment application until such time as the Tribunal has been advised by the City Solicitor that:

1. the Local Planning Appeals Tribunal has been advised by the City Solicitor that the proposed zoning by-law amendments are in a form satisfactory to the City;
2. the City has received an executed Section 37 Agreement securing the benefits set out below and the Section 37 Agreement has been registered on title to the Subject Property:
 - a. the community benefits to be secured in the Section 37 Agreement are as follows:
 - i. a cash contribution of \$2,339,200.00 to be paid by the owner prior to the issuance of the first above-grade building permit for the proposed development and to be allocated for uses that will benefit the community in the vicinity of the Subject Site at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor; and
 - ii. the \$2,339,200.00 cash contribution is to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication No. 327-0058, or its successor, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment; all cash contributions will be payable prior to issuance of the first above-grade building permit;
 - b. the following are to be secured in the Section 37 Agreement as a legal convenience to support development:
 - i. the above base improvements for the off-site parkland dedication and the development charge credit; and
 - ii. an entrance and connection to the planned future Toronto Transit Commission Forest Hill LRT Station incorporated in the proposed building in a location and configuration to be secured through the site plan approval process.
3. the Chief Engineer and Executive Director, Engineering and Construction Services has confirmed that all engineering matters have been addressed to his satisfaction.