

Authority: Local Planning Appeal Tribunal
Orders/Decisions issued on September 26, 2018 and
January 14, 2019 in Tribunal Files PL170395 and
PL140905

CITY OF TORONTO

BY-LAW 554-2019(LPAT)

To amend former City of York Zoning By-law 1-83, as amended, with respect to the lands municipally known in the year 2018 as 859, 861 and 875 Eglinton Avenue West and 2020 Bathurst Street.

Whereas the owner applied for a zoning by-law amendment for the development of the lands subject to this by-law and appealed that application to the Local Planning Appeal Tribunal pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13; and

Whereas pursuant to Section 37 of the Planning Act, the Council of a municipality, and the Local Planning Appeal Tribunal on appeal, may, in a by-law under Section 34 of the Planning Act, authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services and matters as are set out in the by-law; and

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

Whereas the owner of the aforesaid lands has elected to provide facilities, services and matters hereinafter set out; and

Whereas the increases in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 1-83 as amended, is 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 of the land and the City of Toronto;

By-law 1-83, of the former City of York, is further amended by the Local Planning Appeal Tribunal as follows:

1. That Section 6 Amendments of Use Districts and District Maps of former City of York Zoning By-law 1-83, as amended, be further amended by adding a new Subsection (462) as follows:

"(462) Lands – 859, 861 and 875 Eglinton Avenue West and 2020 Bathurst Street"

By changing the area shown on District Map 15 more particularly shown on Schedule A from MCR – Main Street Commercial/Residential Zone to MCR – Main Street Commercial/Residential Zone and Section 16 (462).

2. That Section 16 General Exceptions of former City of York By-law 1-83, as amended, be further amended by adding the following as a new subsection (462) as follows:

"(462) LANDS – 859, 861 and 875 Eglinton Avenue West and 2020 Bathurst Street"
Notwithstanding the provisions of former City of York Zoning By-law 1-83, the *lot*, as delineated by heavy lines on Schedule A attached to and forming part of this By-law, and municipally known as 859, 861 and 875 Eglinton Avenue West and 2030 Bathurst Street in the year 2019, may be used for the purpose of a mixed-use building, provided that the following provisions are complied with:

MAXIMUM GROSS FLOOR AREA

- a) The total gross floor area of all buildings and structures on the *lot* shall not exceed 23,100 square metres, provided that:
- 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 1,000 square metres;

BUILDING HEIGHT

- b) The *height* of the building shall not exceed the maximum *height* in metres measured from established grade shown on Schedule B, excluding: window washing equipment, stair towers, stairs, stair enclosures, parapets elements of a roof assembly, lightning rods, mechanical equipment and rooms, elevator overruns, and exhaust flues, which may project a maximum of 5.0 metres above the *height* limits shown on Schedule B;
- c) The *height* of the building shall not exceed the maximum *height* in metres measured from established grade shown on Schedule B, excluding: railings, cornices, lighting fixtures, trellises, planters, partitions dividing outdoor recreation areas, guard rails, wheelchair ramps, fences, screens, which may project a maximum of 3.0 metres above the *height* limits shown on Schedule B;
- d) Notwithstanding the provisions of Section 2(b), 2(c) and Schedule B, the north main wall at the second, third and fourth floors must be setback an additional 1.5 metres, at a width of 3 metres, in three different areas;
- e) Notwithstanding the provisions of Section 2(b), 2(c) and Schedule B, the north main wall at the fifth to fourteenth floors must be setback an additional 1.5 metres, at a width of 1.5 metres, in three different areas;

YARD SETBACKS

- f) The minimum yard setbacks shall be as shown on Schedule B attached to and forming part of this By-law except that 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, fences, screens, and landscape features shall be permitted to encroach a maximum of 1.5 metres beyond the heavy lines shown on Schedule B, attached;

PARKING

- g) A minimum of 133 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 2(h) above may be provided within a *public garage*;
- j) A *parking space* shall be subject to the following conditions:
 - i. A *parking space* shall have a minimum width of 2.6 metres and a minimum length of 5.6 metres; and
 - ii. Where a *parking space* is limited by a wall or other permanent obstruction, the parking space minimum width is increased by 0.3 metres for each side of the space that is obstructed;
 - iii. Notwithstanding Section 2 j) ii. a maximum of 20 obstructed *parking spaces* shall be permitted on the *lot with a minimum of* width of 2.6 metres and a minimum length of 5.6 metres;

ACCESS

- k) Two vehicle accesses are permitted, one of which must be from a lane, and one of which must be from the right of way municipally known in the year 2019 as Bathurst Street;

LOADING

- l) A minimum of one *Type 'G' loading space* shall be provided and maintained on the *lot*;

BICYCLE PARKING

- m) A minimum of 230 *long-term bicycle parking spaces* and 32 *visitor bicycle parking spaces* shall be provided and maintained on the *lot*;

AMENITY

- n) Indoor and outdoor *residential amenity space* shall be provided and maintained at a minimum rate of 2.0 square metres for each dwelling unit;

LEASING PRESENTATION CENTRE

- o) None of the provisions of By-law 1-83 shall apply to prevent a temporary *sales office* on the *lot* as of the date of the passing of this By-law;

DEFINITIONS

- p) For the purpose of this Exception, each word or expression that is italicized shall have the same meaning as defined in Zoning By-law 1-83, except for the following:
- i. "*lot*" means the lands delineated with heavy lines in Schedule A;
 - ii. "*established grade*" means an elevation of 172.82 metres Canadian Geodetic Datum;
 - iii. "*height*" means the vertical distance between established grade and the highest point of the building or structure, excluding those elements otherwise expressly prescribed in this By-law;
 - iv. "*residential amenity space*" means indoor or outdoor space on a *lot* that is communal and available for use by the occupants of the building on the *lot* for recreational and social activities;
 - v. "*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:
 - a) 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;
 - b) 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;
 - c) Where bicycle parking spaces are in a bicycle rack, or are stacked bicycle spaces located in a secured room or area, or in bicycle lockers or on a rack/hook on a wall associated with a parking space on any parking level, so long as such rack/hook does not encroach into a parking space, the dimensions in subsections (a) and (b) shall not apply; and

- d) May be located indoors including within a secured room or enclosure;
- vi. "*short-term bicycle parking space*" means an area that is equipped with a bicycle rack for the purpose of parking and securing bicycles and:
 - a) 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;
 - b) 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; and
 - c) May be located indoors including within a secured room or enclosure.
- vii. "*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*;
- viii. "*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:
 - a) A minimum length of 5.6 metres;
 - b) A minimum width of 3.9 metres; and
 - c) A minimum vertical clearance of 2.1 metres;
- ix. "*Type 'G' loading space*" means an area used for the loading or unloading of goods or commodities from a vehicle having the following minimum dimensions:
 - a) A minimum length of 13.0 metres;
 - b) A minimum width of 4.0 metres; and
 - c) A minimum vertical clearance of 6.1 metres;

OTHER PROVISIONS

- 3. Sections 3.2.1(v), 3.3, 3.4.7 and 12.3 of former City of York Zoning By-law 1-83, as amended, shall not apply.

4. No person shall use land or erect or use any building or structure on the *lot* unless the following municipal services are provided to the *lot* line and the following provisions are complied with:
 - a) All new public roads have been constructed to a minimum base curb and base asphalt and are connected to an existing public highway; and
 - b) All water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
5. The provisions of this exception shall apply collectively to the lands notwithstanding a future severance, partition or division of the lands.
6. All other provisions of former City of York By-law 1-83 shall continue to apply except in the case where provisions of this Exception are in conflict, in which case the provisions of this Exception shall prevail.

INCREASES IN HEIGHT AND DENSITY

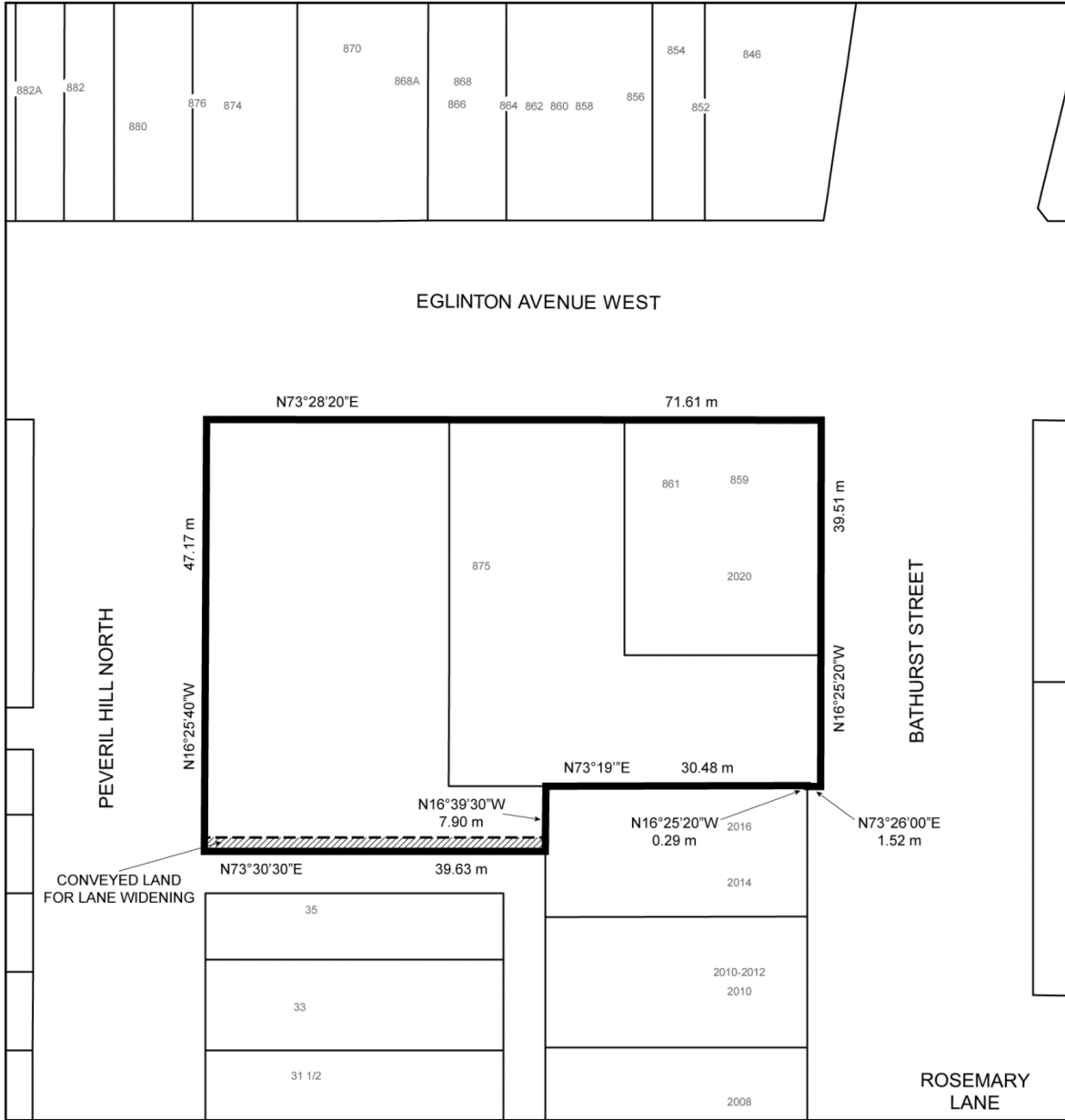
7. Matters which are to be provided pursuant to Section 37 of the Planning Act, as amended, in order to permit the increased density for the proposed development authorized under section 2(a) and 2(b) of this Exception are:
 - a) Pursuant to Section 37 of the Planning Act, the *heights* and density of development permitted in this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the Planning Act.
 - b) Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the Planning Act securing the provision of the facilities, services and matters set out in Appendix 1, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) require(s) 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 requirements.
 - c) Whenever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the *City* pursuant to Section 37 of the Planning Act, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.

Appendix 1
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lot and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

1. Prior to the issuance of the first above-grade building permit, the owner shall pay a cash contribution of \$2,339,200.00 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 Division, in consultation with the Ward Councillor.
2. The payment amount identified in section 1 above shall 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 327-0058, or its successor, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment.
3. The following matters are recommended to be secured in the Section 37 Agreement as a legal convenience at the owner's expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor:
 - a) The owner shall dedicate an off-site park to the City in satisfaction of the Applicant's required parkland contribution pursuant to Section 42 of the Planning Act, with the location and configuration of the off-site parkland to be to the satisfaction of the General Manager, Parks, Forestry and Recreation in consultation with the Ward Councillor. The off-site parkland to be transferred to the City shall be free and clear, above and below grade, of all easements, encumbrances, and encroachments and is to be conveyed to the City prior to the issuance of the first above-grade building permit to the satisfaction of the General Manager, Parks, Forestry, and Recreation and the City Solicitor;
 - b) The City shall grant a development charge credit against the Parks and Recreation component of the development charges for the design and construction by the Owner of any above base park improvements completed to the satisfaction of the General Manager, Parks, Forestry and Recreation. The development charge credit shall be in an amount that is the lesser of the cost to the Owner of designing and constructing the above base park improvements, as approved by the General Manager, Parks, Forestry, and Recreation, and the Parks and Recreation component of development charges payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time.
 - c) The owner shall construct an entrance and connection to the planned future Forest Hill LRT Station, to be incorporated in the proposed building in a location and configuration to be secured through the site plan approval process.

- d) Prior to the issuance of an above grade building permit, the Owner shall design, construct and pay for any necessary improvements to the municipal infrastructure external to the lands shown on Diagram 1, including approximately 53 metres of 450 millimetre storm sewer, one maintenance hole, the disconnection and reconnection of two catch basins with leads including full surface restoration all located on Dewborne Avenue, or other municipal infrastructure improvements necessary to comply with MECP Procedure F-5-5, based on the Functional Servicing Report prepared by WSP Canada Group Limited, dated November 14, 2018, accepted by the Chief Engineer and Executive Director, Engineering and Construction Services. The final technical details and detailed engineering design of the Infrastructure Improvements will be finally determined and approved, to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services, in an Infrastructure Agreement, to be entered into between the Owner and the City prior to the issuance of an above grade building permit.



 **TORONTO**
Schedule A

**859, 861, 875 Eglinton Avenue West
& 2020 Bathurst Street**

File # 16 198806 STE 21 OZ

