

Authority: Ontario Land Tribunal Decision issued on April 21, 2020 and Order issued July 29, 2022, in Tribunal File PL180386

## CITY OF TORONTO

### BY-LAW 237-2023(OLT)

**To amend the former City of North York Zoning By-law 7625, as amended, with respect to the lands municipally known in the year 2022 as 6020 and 6030 Bathurst Street.**

Whereas the Ontario Land Tribunal, by its Decision issued on April 21, 2020 and Order issued July 29, 2022 in Tribunal File PL180386, approved amendments to the former City of North York Zoning By-law 7625, as amended, with respect to the lands municipally known as 6020 and 6030 Bathurst Street; and

Whereas authority is given by Section 34 and Section 36 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to impose the holding symbol (H) and to remove the holding symbol (H) when Council is satisfied that the conditions relating to the holding symbol have been satisfied; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of a Holding (H) symbol with conditions in the Zoning By-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in the height or density of development; and

Whereas pursuant to Section 37 of the Planning Act, as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020., c. 18 ("COVID-19 Economic Recovery Act, 2020") came into force, a by-law under Section 34 of the Planning Act, may authorize increases in the height and 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 or matters as are set out in the by-law; and

Whereas subsection 37(3) of the Planning Act, as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force, 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 the facilities, services and matters hereinafter set out;

Now therefore pursuant to the Order of the Ontario Land Tribunal, By-law 7625, the General Zoning By-law of the former City of North York, as amended, is further amended as follows:

1. Schedules "B" and "C" of By-law 7625 of the former City of North York, as amended, are amended in accordance with Schedule 1 attached to this By-law.

2. Section 64.20-A of By-law 7625 is amended by adding the following subsection:

**64.20-A(274) RM6(274)(H)**

**DEFINITIONS**

- (a) For the purpose of this exception the following definitions will apply:
- (i) "Apartment House Dwelling" shall mean a building containing more than four (4) dwelling units, each having access either from an internal corridor system or direct access at grade, or any combination thereof.
  - (ii) "Building Height" shall mean the vertical distance between the Established Grade and the highest point of the building or structure (top of structural slab), exclusive of all accessory components such as but not limited to, mechanical penthouse, green roof assemblies, tower structures, cupolas, steeples, antennae, parapets, landscape open structures, acoustic and or wind structures, ornamental structures and mechanical equipment.
  - (iii) "Existing Buildings" shall mean the buildings and associated structures that existed on the lands as of November 17, 2017, as shown on Schedule RM6(274) and identified as Buildings "D" and "E";
  - (iv) For the purpose of this exception, "established grade" shall mean 191.3 metres Canadian Geodetic Datum for Building "A" and 191.9 metres Canadian Geodetic Datum for Buildings "B" and "C".
  - (v) "Recreational Amenity Area" shall mean an area that is communal and available to all occupants of a building or a group of buildings within a zone for social and recreational purposes including indoor or outdoor space, playgrounds, tennis courts, lawn bowling greens, indoor or outdoor swimming pools, exercise or entertainment rooms and other similar uses.
  - (vi) "Type 'G' loading space" shall mean a loading space that is a minimum of 4.0 metres wide, a minimum of 13.0 metres long and has a minimum vertical clearance of 6.1 metres;
  - (vii) "Car-share" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and where such organization may require that use of cars be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization and such car-share motor vehicles are made available to at least the occupants of the building;
  - (viii) "Car-share parking space" means a parking space that is exclusively reserved and actively used for car-sharing;

- (ix) "Gross Floor Area" means the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level. Gross floor area for an apartment house dwelling may be reduced by the area in the building used for:
- a) parking, loading and bicycle parking below-ground;
  - b) required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
  - c) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
  - d) shower and change facilities required by this By-law for required bicycle parking spaces;
  - e) indoor amenity space required by this By-law;
  - f) elevator shafts;
  - g) garbage shafts;
  - h) mechanical penthouse; and
  - i) exit stairwells in the building.
- (x) "stacked bicycle parking space" shall mean a horizontal bicycle parking space that is positioned above or below another bicycle parking space and equipped with a mechanical device providing floor level access to both bicycle parking spaces, with horizontal dimensions of at least 0.4 metres by 1.8 metres, and a minimum vertical dimension of 1.2 metres.

#### **PERMITTED USES**

- (b) In addition to the uses permitted in the RM6 zone, accessory uses including car-share and recreational amenity areas.

#### **EXCEPTION REGULATIONS**

##### **YARD SETBACKS**

- (c) Notwithstanding Section 20-A.2.4 (Yard Setbacks) the required yard setbacks for buildings and structures above established grade shall be as set out on Schedule RM6(274) to this by-law.
- (d) The minimum yard setback for parking structures and structures associated thereto below established grade shall be 0.0 metres from any lot line.

**PERMITTED PROJECTIONS INTO MINIMUM YARD SETBACKS**

- (e) The minimum yard setbacks for all buildings and structures above established grade shall be as shown on Schedule RM6(274), and all building and structures located above established grade shall be located wholly within the building envelopes as identified and set out on Schedule RM6(274).
- (f) Notwithstanding (e) above, the minimum yard setbacks for parking structures and structures associated thereto above and below established grade shall be 0 metres from any given lot line.
- (g) Notwithstanding (h) above, the following structures and projections are permitted to extend into the required setback and building envelope areas as identified and set out on Schedule RM6(274):
  - (i) exterior stairways, cornices, canopies, wheelchair ramps, balconies, lighting fixtures, awnings, ornamental elements, trellises, eaves, window sills, window washing equipment, balustrades, stairs, stair enclosures, fences, wind or privacy screens, landscape elements, terraces, decorative architectural features, bay windows, ramps, ramp enclosures, retaining walls, pilasters and sills, and porches and decks, either excavated or unexcavated, shall be permitted to project into the minimum setbacks to a maximum of 2.5 metres beyond the building envelope shown on Schedule RM6(274).

**DISTANCE BETWEEN BUILDINGS AND/OR PORTIONS OF BUILDINGS FORMING COURTS**

- (i) Notwithstanding Section 20-A.2.4.1 (Distance Between Buildings and/or Portions of Buildings Forming Courts) the minimum separation between buildings shall be as shown on Schedule RM6(274).

**GROSS FLOOR AREA**

- (j) The maximum gross floor area for all uses on lands zoned as RM6(274) shall be 67,940 square metres;
- (k) A maximum of 40,440 square metres of residential gross floor area shall be provided in Existing Buildings "D" and "E";
- (l) A maximum of 22,900 square metres of residential gross floor area shall be provided in Building A;
- (m) a maximum of 4,600 square metres is permitted for residential uses in Buildings "B" and "C";

**BUILDING HEIGHT**

- (n) Notwithstanding Schedule 'D' of By-law 7625:
  - (i) the maximum number of storeys of any portion of a building or structure shall not exceed the number of storeys shown for that portion of the building on Schedule RM6(274).
  - (ii) the maximum Building Height of any portion of a building or structure shall not exceed the height in metres shown for that portion of the building on Schedule RM6(274).
  - (iii) Notwithstanding (n)(ii) above, the following elements shall be permitted to exceed the heights shown on Schedule RM6(274):
    - a) mechanical penthouses, window washing equipment and elevator overruns to a maximum of 6.0 metres
    - b) cornices, canopies, lighting fixtures, ornamental elements, parapets, trellises, eaves, guardrails, balustrades, safety railings, landscape elements (including green roofs), terraces, skylights, flues, access roof hatch, outdoor furniture, stairs, stair enclosures, vents, stacks, fences, wind or privacy screens, which may project above the height limits shown on Schedule RM6(274) by no more than 3.0 metres
    - c) chimneys, structures on the roof used for outside or open air recreation, decorative or architectural features, retaining walls, underground garage ramps and associated structures, ramp enclosures, heating, cooling or ventilating equipment or a fence, wall or structure enclosing such elements which may project above the height limits shown on Schedule RM6(274) by no more than 5.0 metres.

**RESIDENTIAL RECREATIONAL AMENITY AREA**

- (o) Recreational amenity space shall be provided in accordance with the following minimum requirements:
  - (i) A minimum of 2.0 square metres of indoor residential recreational amenity area shall be provided per dwelling unit in Building A, Building B and Building C and may be provided in any building or structure on the lot.
  - (ii) A minimum of 2.0 square metres of outdoor residential recreational amenity area shall be provided on the lot per dwelling unit in Building A, Building B and Building C.

## VEHICLE PARKING

- (p) Notwithstanding Section 6A(2) (Parking Requirements) of By-law 7625, rental residential parking shall be provided as follows:
- (i) a minimum rate of 0.73 parking spaces per apartment residential dwelling unit;
  - (ii) a minimum rate of 1.0 parking space per multiple attached dwelling unit;
  - (iii) a minimum rate of 0.07 parking spaces per dwelling unit for residential visitors;
- (q) Of the required tenant **parking spaces**, a minimum of 5 **parking spaces**, dedicated to car-sharing, must be provided and maintained on the lands, with each car-sharing **parking space**, being equivalent to 4 **parking spaces** that are not used for car-sharing;
- (r) Any parking spaces, whether above and/or below grade, and drive aisles existing on the lot in the year 2019 are deemed to comply with Section 6A(3) and 6A(5), may have a vertical clearance of less than 2.0 metres and the minimum parking space width is not required to be increased by 0.3 metres for each side of the parking space that is obstructed.

## BICYCLE PARKING SPACES

- (s) The following bicycle parking rates shall apply to Buildings "A", "B" and "C":
- (i) A minimum of 0.68 long-term bicycle parking spaces per dwelling unit for residents; and,
  - (ii) A minimum of 0.07 short-term bicycle parking spaces per dwelling unit for residential visitors.
- (t) Bicycle parking spaces will comply with the following minimum dimensions:
- (i) Minimum length of 1.8 metres, minimum width of 0.6 metres and minimum vertical clearance from the ground of 1.9 metres;
  - (ii) Minimum length of 1.9 metres, minimum width of 0.6 metres and minimum vertical clearance from the ground of 1.2 metres if placed in a vertical position on a wall, structure or mechanical device; and
  - (iii) If a stacked bicycle parking space is provided, the minimum vertical clearance for each bicycle parking space is 1.2 metres.

**LOADING SPACES**

- (u) Notwithstanding Section 6A(16), a minimum of two Type "G" loading spaces shall be provided on the lot.

**LANDSCAPING**

- (v) Notwithstanding Section 15.8 (Landscaping) a minimum of 13,000 square metres of hard and soft landscaping shall be provided.

**OTHER REGULATIONS**

- (w) The provisions of Section 6(7) (Frontage on a Street) shall not apply.

**LAND DIVISION**

- (x) Notwithstanding any existing or future severance, partition or division of the site, the regulations of this exception shall continue to apply to the whole of the site as if no severance, partition or division had occurred.

**TEMPORARY USE**

- (y) None of the provisions of By-law 7625, as amended, apply to prevent the erection and use of "Temporary Rental Office" on the lot for a period of not more than 3 years from the date this By-law comes into full force and effect, provided:
  - (i) A "Temporary Rental Office" means a building, structure, facility or trailer, or portion thereof, on the lands used for the purpose of the leasing of dwelling units to be erected on the lands related to construction on the lands;
  - (ii) The maximum permitted gross floor area is 150 square metres; and
  - (iii) It is used exclusively for the purpose of marketing the rental of dwelling units for Buildings A, B, and C as shown on Schedule RM6(274)(H) of By-law 237-2023(OLT).

**HOLDING PROVISION**

- (z) The lands zoned with the (H) symbol delineated by heavy lines on Schedule "1" attached to and forming part of this By-law must not be used for any purpose other than those uses located in the buildings and structures existing on the lands as of the date of this By-law, and any Temporary Use permitted by paragraph (v), until the (H) symbol has been removed. An amending by-law to remove the (H) symbol may be enacted by City Council when the following conditions have been fulfilled for each respective Area to the satisfaction of, where applicable, the City Solicitor, the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Engineer and Executive

Director, Engineering and Construction Services, and Council, in respect of the lands as follows:

- (i) The owners of 6040 Bathurst Street and 5 Fisherville Road, 25 Fisherville Road, and 6020 and 6030 Bathurst Street submit a Master Functional Servicing and Storm Water Management Report for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (ii) The owners of 6040 Bathurst Street and 5 Fisherville Road, 25 Fisherville Road, and 6020 and 6030 Bathurst Street submit a consolidated Transportation Impact Study for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;
- (iii) The owners of 6040 Bathurst Street and 5 Fisherville Road, 25 Fisherville Road, and 6020 and 6030 Bathurst Street enter into, and register on title, a Joint Section 37 Agreement with the City to secure the matters of legal convenience identified in paragraph 3 of Schedule "2" of this By-law;
- (iv) The owner submits a Traffic Demand Management Plan with respect to the development of 6020 and 6030 Bathurst Street to the satisfaction of the General Manager, Transportation Services;
- (v) The owner provides a site-specific Functional Servicing and Stormwater Management Report, Hydrogeological Report, and Geotechnical Report for 6020 and 6030 Bathurst Street, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (vii) The owner provides a Construction Phasing Plan for the proposed development of 6020 and 6030 Bathurst Street to the satisfaction of the Chief Planner and Executive Director, City Planning Division or designate; and
- (viii) The owner enters into, and registers on title to Lands, a site-specific Section 37 Agreement with the City to secure the community benefits and matters of legal convenience identified in paragraphs 1 and 2 of Schedule "2" of this By-law.

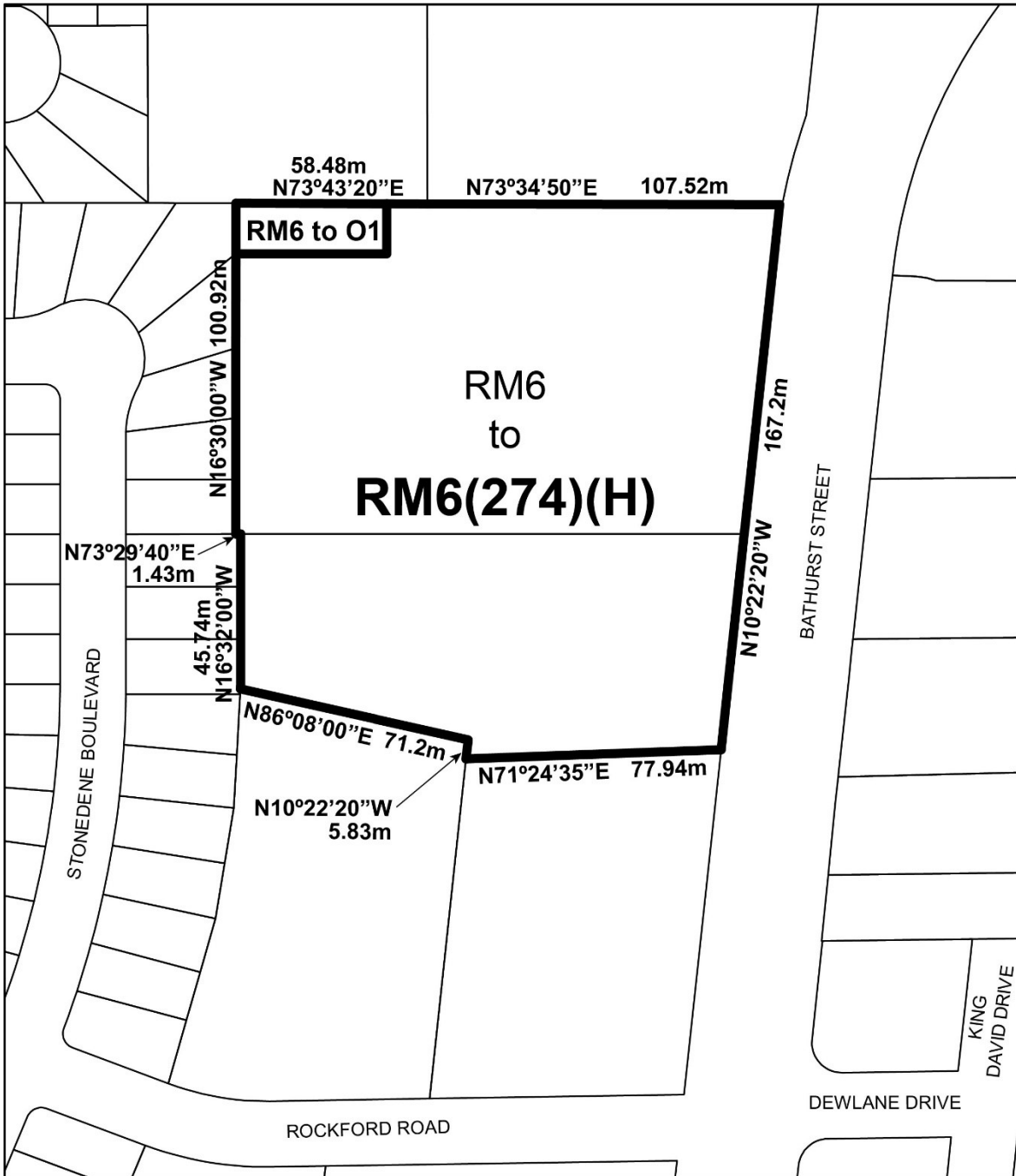
### **SECTION 37**

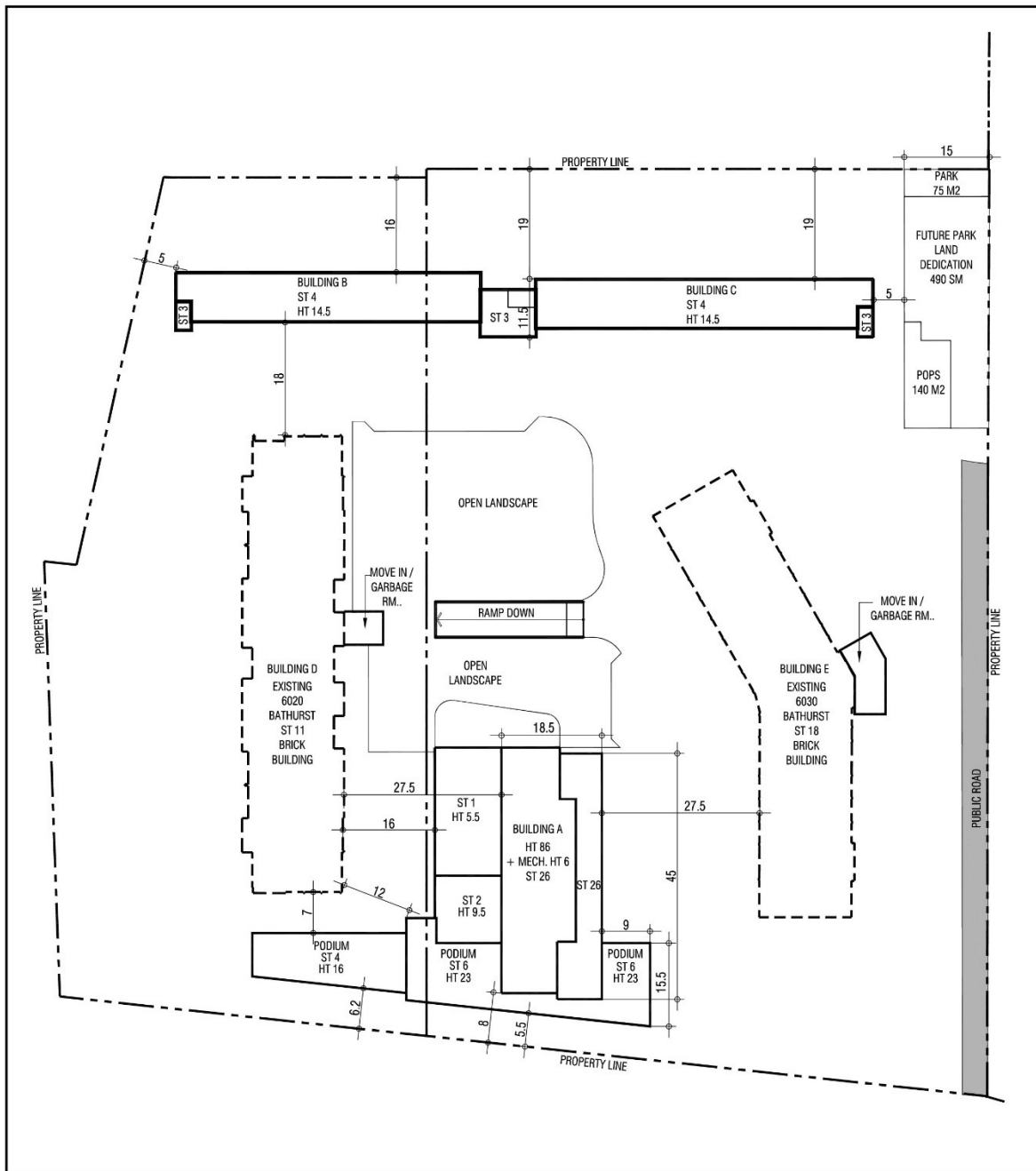
- (aa) Pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, and subject to compliance with this By-law, the increase in height and density of the

development is permitted beyond that otherwise permitted on the lands shown on Schedule 1 of this By-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule 2 hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.

- (bb) Where Schedule 2 of this By-law requires the owner to provide certain facilities, services or matters and to enter into an agreement prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of same.
- (cc) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule 2 are satisfied.

Ontario Land Tribunal Decision issued on April 21, 2020 and Order issued July 29, 2022, in Tribunal File PL180386.





 **TORONTO**  
Schedule RM6(274)(H)

6020 - 6030 Bathurst Street

File # 17 264641 NNY 10 0Z

  
Former City of North York By-law 7625  
Not to Scale  
07/21/2022

**SCHEDULE 2**  
**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 lands as shown in Schedule 1 and Schedule 3 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act, in a form satisfactory to the City, with provisions providing for the indexing escalation of financial contributions where applicable, no credit for development charges, indemnity, insurance, payments of taxes, termination and unwinding, and registration of the agreement in priority, whereby the owner agrees as follows:

1. The following facilities, services, and matters are to be secured as community benefits:
  - (a) Prior to issuance of the first above grade building permit for the lands the owner shall make a cash payment to the City in the amount of \$1,250,000, which shall be allocated to towards park improvements and/or community facility improvements in the immediate vicinity of the lands, to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the Ward Councillor;
  - (b) The financial contribution referred to in paragraph 1(a) above shall be indexed in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the Owner to the City;
  - (c) Prior to final site plan approval for the lands, the owner shall make a public art contribution with a value of no less than \$166,666 in the form of public art or a cash payment to the City in accordance with the terms and the conditions of the Section 37 Agreement, to be used for public art in the vicinity of the lands;
  - (d) The owner shall provide 10 one-bedroom apartment units secured as affordable rental apartment units, in a size and location to the satisfaction of the Chief Planner and Executive Director, City Planning Division, within the lands in accordance with the terms and conditions of the Section 37 Agreement. These units would be provided and maintained as rental units for no less than 20 years beginning with the date each such unit is first occupied, with no application to demolish or convert the units to any other form of tenure during that period, and the owner will continue to provide the units as rental apartment units following the expiry of the 20 year period until such time as it has applied for and received all necessary approvals. The owner shall provide and maintain the same units as affordable rental dwelling units for no less than 15 years beginning with the date each such unit is first occupied in accordance with the terms and conditions of the Section 37 Agreement; and
  - (e) Prior to the issuance of the first above grade building permit for the lands, the owner shall convey to the City the fee simple interest in no less than 75 square metres of the lands as an over-dedication of unencumbered parkland in base park condition and in compliance with the City's policy for the acceptance of

potentially contaminated lands as a condition of development approval, as may be amended by City Council from time to time, at no cost to the City and in a location and configuration to the satisfaction of the General Manager, Parks, Forestry and Recreation and in accordance with the terms and conditions of the Section 37 Agreement.

2. The following facilities, services and matters are to be secured as legal conveniences to support development:
  - (a) Pursuant to the site plan control application process, but in any event prior to final site plan approval, the owner shall provide a Transportation Demand Management Plan to the satisfaction of the Chief Planning and Executive Director, City Planning Division and thereafter the owner shall construct and maintain the development in accordance with the approved Transportation Demand Management Plan;
  - (b) Pursuant to the site plan control application process, but in any event prior to final site plan approval, the owner shall provide a Construction Phasing Plan for the lands, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the owner shall thereafter construct the development in accordance with the approved Construction Phasing Plan;
  - (c) Pursuant to the site plan control application process, but in any event prior to final site plan approval for the proposed development, the owner shall provide a Construction Mitigation & Tenant Communication Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
  - (d) In the event a Functional Servicing and Storm Water Management Report for the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street (the "Functional Servicing and Storm Water Management Report") concludes upgrades to existing municipal infrastructure or new municipal infrastructure are required then the owner shall enter into the City's then current form of municipal infrastructure agreement with the City and provide financial security in an amount satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services to secure the construction of the said upgrades or said new infrastructure in accordance with all City standards and specifications prior to the issuance of the first building permit for any part of the lands;
  - (e) In the event the Functional Servicing and Storm Water Management Report concludes upgrades to existing municipal infrastructure or new municipal infrastructure are required then the owner shall design, construct, and make operational, to the satisfaction of the appropriate City official, all said upgrades to existing municipal infrastructure or design, construct, and make operational all said new municipal infrastructure, as the case may be, in accordance with the terms of the City's then current form of municipal infrastructure agreement, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services prior to the issuance of the first above grade building permit for the lands;

- (f) The Owner shall continue to provide and maintain the 149 existing rental dwelling units in the existing apartment building at 6020 Bathurst Street and the 246 existing rental dwelling units in the existing apartment building at 6030 Bathurst Street as residential rental dwelling units, together with the associated spaces located within the two existing apartment buildings, for a minimum period of 20 years commencing from the date of this By-law, with no application to demolish or convert the existing rental units to another tenure or use during that period of time, in accordance with the terms and conditions of the Section 37 Agreement;
- (g) Prior to final Site Plan Approval for the development, the Owner will design the following improvements to the existing apartment building at 6020 Bathurst Street and the existing apartment building at 6030 Bathurst Street, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the Owner will, prior to the issuance of the first above grade building permit for the development, provide the following improvements to the said existing apartment buildings, with no cost pass through to the existing and future tenants and residents in any form, including by way of an application to the Landlord Tenant Board, or to any successor tribunal with jurisdiction to hear applications made under the Residential Tenancies Act, for the purpose of obtaining an increase in residential rent above the applicable guideline, or in the form of any additional costs and charges:
  - (i) Provide centralized garbage storage, staging and pickup within a closed structure adjacent to the existing building at 6030 Bathurst Street for waste associated with the same building and the new stacked townhouse units;
  - (ii) provide a hand delivered refuse drop-off area for kitchen waste and recycling within both existing buildings;
  - (iii) Provide push button automatic door openers for common doors and a clothes folding table which is universally accessible within the laundry room;
  - (iv) provide long-term storage located inside the existing buildings or within the basement accessible to tenants within the existing buildings municipally known as of the date of this By-law as 6020 Bathurst Street and 6030 Bathurst Street; and
  - (v) provide short-term bike visitor bike racks located in close proximity to the front entrances of both existing buildings municipally known as of the date of this By-law as 6020 Bathurst Street and 6030 Bathurst Street.
- (h) Prior to the first occupancy of Building A of the development, the Owner shall complete the following improvements at its sole cost and expense to the satisfaction of the Chief Planner and following their completion the Owner covenants and agrees to provide, repair, operate, and/or maintain, at its sole cost

and expense, all of the following improvements, to the satisfaction of the Chief Planner and Executive Director, City Planning:

- (i) Provide centralized garbage storage, staging and pickup within the new tower building for waste associated with the existing building at 6020 Bathurst Street and new tower building.
- (i) The Owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as amended by City Council from time to time;
- (j) Prior to final site plan approval, the owner will design and secure the privately-owned publicly accessible open space (POPS) with a minimum area of 140 square metres adjacent to the onsite parkland dedication to be provided by the owner, to the satisfaction of the Chief Planner and Executive Director, City Planning and the owner will construct the POPS in accordance with the approved site plans (the POPS referred to in this paragraph being the "Park POPS");
- (k) Upon the earlier of (i) condominium registration of any part of a building on the lands, (ii) the first residential occupancy of a building on the lands, and (iii) 3 years from the date of the first above grade building permit for the lands, the owner will grant an easement to the City along with all necessary rights of support, for nominal consideration and in priority, to the satisfaction of the City Solicitor, over and upon the Park POPS for the purpose of privately-owned publicly accessible open space in favour of the general public, in accordance with the terms and conditions of the Section 37 Agreement;
- (l) Upon the earlier of (i) condominium registration of any part of a building on the lands, (ii) the first residential occupancy of a building on the lands, and (iii) 3 years from the date of the first above grade building permit for the lands, the Owner shall grant an easement to the City along with all necessary rights of support, for nominal consideration to the satisfaction of the City Solicitor, over and upon the internal private driveway through its lands connecting to the new local public street and Bathurst Street, for the purpose of privately-owned publicly accessible use of the private driveway in favour of the general public, in accordance with the terms and conditions of the Section 37 Agreement;
- (m) The Owner shall implement the recommended measures of a consolidated Wind Study for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 and 6030 Bathurst Street, and 25 Fisherville Road pursuant to site plan control application process for the lands, to the satisfaction of the Chief Planner and Executive Director, City Planning, and will construct the development in accordance with the consolidated Wind Study;
- (n) Prior to the issuance of the first above grade building permit for the lands, the Owner shall convey to the City the fee simple interest in no less than 490 square metres of the lands to the City as an unencumbered parkland dedication in base park condition, in compliance with the City's policy for the acceptance of

potentially contaminated lands as a condition of development approval, as may be amended by City Council from time to time, to the satisfaction of the General Manager, Parks, Forestry and Recreation and in accordance with the terms and conditions of the Section 37 Agreement.

3. The following facilities, services and matters in respect of a new local public street and other matters relating to the implementation of a block plan for the lands and the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road are to be secured as legal conveniences to support development by a Section 37 Agreement among the City, the owner, the owner of the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street, and the owner of the lands municipally known as 25 Fisherville Road:
  - (a) The owners shall construct and convey lands to the City for the purpose of a new local public street with a width of 16.5 metres as shown on Diagram 4 attached to this By-law with a general alignment in a north/south direction from Fisherville Road along the shared property line between the lands municipally known as 25 Fisherville Road and 6040 Bathurst Street and 5 Fisherville Road and in an east/west direction to Bathurst Street along the shared property line between the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, and 6020 and 6030 Bathurst Street, in accordance with this Schedule A and the terms and conditions of the Section 37 Agreement;
  - (b) Prior to the issuance of the first building permit for any part of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, the owners shall:
    - (i) submit a draft reference plan describing the lands to be conveyed to the City as the new local public street satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and following approval shall deposit said plan with the Land Registry Office, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
    - (ii) pay all fees to be paid for the issuance of the first building permit in relation to that part of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road for which a building permit has been requested and is to be issued;
    - (iii) satisfy the City's policies in respect of the conveyance of potentially contaminated lands as a condition of development approval, as may be amended from time to time, in respect of the new local public street to be conveyed to the City, save and except for the north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road which shall be subject to paragraph 3(c) below, to the satisfaction of to the

satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and

- (iv) otherwise satisfy all remaining requirements for release for construction of services, said services to be provided in no more than two separate phases, all in accordance with the terms and conditions of the Section 37 Agreement;
- (c) If a Master Functional Servicing and Storm Water Management Report for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road (the "Master Functional Servicing Report") or the Functional Servicing and Storm Water Management Report concludes that municipal infrastructure to be located within the new local public street is required to accommodate groundwater discharge from the below grade construction of the lands and such discharge cannot be otherwise accommodated in compliance with applicable laws, prior to the issuance of the first building permit for excavation and shoring for any structure for any part of the lands known municipally as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, the owners of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road shall:
  - (i) construct and make operational all municipal services necessary for issuance of a building permit, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
  - (ii) lay base course asphalt including base curb on the lands to be conveyed to the City as the new local public street, save and except for the north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, extending to the existing City roads that abut the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
  - (iii) provide certification from a civil engineer in respect of the base course asphalt and base curb base referred to in paragraph 3(c)(ii) above, to the satisfaction of Engineering and Construction Services;
  - (iv) construct, install, connect, and make operational the sanitary sewer system, storm sewer system and water system, including fire hydrants, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
  - (v) provide certification from a civil engineer in respect of all the services referred to in paragraph 3(c)(iv) above, to the satisfaction of Chief

Engineer and Executive Director, Engineering and Construction Services;  
and

- (vi) install all temporary street signs, to the satisfaction of Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;
- (d) Notwithstanding paragraph 3(c) above, if the Master Functional Servicing and Storm Water Management Report or the Functional Servicing and Storm Water Management Report concludes that municipal infrastructure to be located within the new local public street is not required to accommodate groundwater discharge from the below grade construction of the lands or if it is determined that such discharge can be otherwise accommodated in compliance with applicable laws, the owners of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road shall complete those matters listed in paragraphs 3(c) above prior to the issuance of the first above grade building permit for any part of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road;
- (e) Prior to the issuance of the first above grade building permit for any part of the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street or 25 Fisherville Road, the owners of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road shall transfer to the City their respective fee simple interests in the lands to be used as the new local public street, save and except for the fee simple interest in the north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road which shall be subject to the conveyance and construction time of paragraph 3(f) below, and save and except for the fee simple interest in the south boulevard of the east/west section of the new local public street located within the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street which shall be subject to the conveyance of the real property interest and construction and conveyance timing of paragraph 3(g) below, all for nominal consideration, and all support rights in and through the soil and all structural members, columns, load bearing walls, beams, footings, foundations, floor, and roof slabs and any other component of any building, structure or improvement situate or to be situate within the above referred to lands necessary for the support of the new local public street, to the satisfaction of the City Solicitor in consultation with the General Manager, Transportation Services;
- (f) Prior to the earlier of the issuance of the first above grade building permit for Building A within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road and twenty (20) years from the date of this By-law, the owner of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road shall:
  - (i) satisfy the City's policies in respect of the conveyance of potentially contaminated lands as a condition of development approval, as may be

- amended from time to time, in respect of the north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, to the satisfaction of to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (ii) construct and certify the construction of the new local public street within the north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road in accordance with the requirements of section 3(c) of this By-law, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
  - (iii) construct, install, connect, make operational and certify the sanitary sewer system, storm sewer system and water system, including fire hydrants, if required, in accordance with the requirements of section 3(c) of this By-law, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
  - (iv) transfer of the fee simple interest in said lands to the City, for nominal consideration, and all support rights in and through the soil and all structural members, columns, load bearing walls, beams, footings, foundations, floor, and roof slabs and any other component of any building, structure or improvement situate or to be situate within north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road necessary for the support of the new local public street, to the satisfaction of the City Solicitor in consultation with the Chief Engineer and Executive Director, Engineering and Construction Services;
- (g) Prior to the issuance of the first above grade building permit for any part of the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street or 25 Fisherville Road, the owner of the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street shall register a grant of strata easement in favour of the City upon and over south boulevard of the east/west section of the new local public street located within the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street, for nominal consideration, and all support rights in and through the soil and all structural members, columns, load bearing walls, beams, footings, foundations, floor, and roof slabs and any other component of any building, structure or improvement situate or to be situate within the above referred to lands necessary for the support of the new local public street, to the satisfaction of the City Solicitor in consultation with the General Manager, Transportation Services;
- (h) Prior to issuance of the first above grade building permit issued for the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, the owner of the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street shall install bollards or fixtures within the south

boulevard of the east/west section of the new local public street as described in paragraph 3(a) above, to the satisfaction of the Chief Planner and Executive, Director City Planning, in consultation with the General Manager, Transportation Services in accordance with the terms and conditions of the Section 37 Agreement;

- (i) In the event either of a Master Functional Servicing and Storm Water Management Report for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road (the "Master Functional Servicing Report") or the Consolidated Transportation Impact Study for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road (the "Consolidated Transportation Impact Study") concludes upgrades to existing municipal infrastructure are required then the owners shall enter into the City's then current form of municipal infrastructure agreement with the City and provide financial security in an amount satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services, respectively, to secure the construction of the said upgrades in accordance with all City standards and specifications prior to the earlier of final site plan approval and the issuance of the first building permit for any part of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road. For greater clarity, provided the owner satisfies the requirements described in this paragraph 3(i), any requirement for external municipal infrastructure upgrades that are specific to 6040 Bathurst Street and 5 Fisherville Road and/or 25 Fisherville Road, which do not affect the lands will not delay the ability to proceed with the development of the lands;
- (j) Prior to the issuance of the first above grade building permit for any part of lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, the owners shall design, construct, and make operational, to the satisfaction of the appropriate City official, all said upgrades to existing municipal infrastructure as required by the Master Functional Servicing Report and the Consolidated Transportation Impact Study, in accordance with the terms of the City's then current form of municipal infrastructure agreement, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services, respectively, save and except for those matters required to be designed, constructed, and made operational prior to the issuance of the first building permit if identified in the Master Functional Servicing Report or the Functional Servicing and Storm Water Management Report as being required to accommodate groundwater discharge from the below grade construction of the lands and such groundwater discharge cannot be otherwise accommodated in compliance with applicable laws. For greater clarity, provided the owner satisfies the requirements described in this paragraph 3(j), any requirement for external municipal infrastructure upgrades that are not specific to 6040 Bathurst Street and 5 Fisherville Road and/or 25 Fisherville Road, which do not affect the lands will not delay the ability to proceed with the development of the lands;

- (k) The owner shall provide and construct the proposed development in accordance with a phasing plan for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 and 6030 Bathurst Street and 25 Fisherville Road to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- (l) All other specific obligations of the owners with respect to the construction of the new local public street and any required municipal services, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (m) Specific obligations of the owners with respect to the environmental remediation of the lands for the new public street to be conveyed to the City, at no cost to the City including the owner's payment of all costs incurred by the City for a third-party peer review of environmental reports submitted by the owner, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (n) All other specific obligations of the owners with respect to the posting of financial securities in connection with the new local public street and required municipal services, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services. The required financial securities will be based on cost estimates provided by the landowners, subject to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (o) All other specific obligations of the owners the respect to the City's acceptance and assumption of the new local public street and the municipal services related thereto, warranty and/or guarantee periods for the works undertaken by the owner, the provision of insurance and indemnities, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the City Solicitor;
- (p) In respect of any structures within the lands that are located beneath the new local public street, such as a parking garage, prior to the conveyance of the lands to be used for the new local public street the owners shall cause the provision of pre- and post-construction certification from the owner's structural engineer with reliance extended to the City, together with as-built drawings, evidencing compliance with load-bearing standards in accordance with the Canadian Highway Bridge Building Code or the Ontario Building Code (whichever at the time of construction of the new local public street is more stringent), and the provision of drainage system(s) and waterproofing with an appropriate membrane and protection against damage from the use and maintenance of the new local public street, including but not limited to tree root growth, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services, provided that no part of the new local public street, save and except that sidewalks and associated boulevards, will be located above an underground parking garage within the lands. In respect of any below-grade structures that are located adjacent to the

new local public street, prior to the conveyance of the lands to be used for the new local public street the owners shall cause the provision of certification from the owner's structural engineer with reliance extended to the City evidencing compliance with applicable load-bearing standards, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;

- (q) All other specific obligations of the owners to pay all engineering and inspection fees in accordance with the terms and conditions of the Section 37 Agreement, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
- (r) All other specific obligations of the owners for the maintenance and repair of, and liability for, the new local public street prior to its assumption by the City, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

