

NY26.55.2

North York Community Council - North York Community Council -- Item NY26.55

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**To:** "clerk@toronto.ca" <clerk@toronto.ca>, "nycc@toronto.ca" <nycc@toronto.ca>  
**Date:** 9/4/2013 5:49 PM  
**Subject:** North York Community Council -- Item NY26.55  
**CC:** "lpoole@toronto.ca" <lpoole@toronto.ca>, "Susan Smallwood(ssmallwo@toronto.ca)" <ssmallwo@toronto.ca>, "councillor\_parker@toronto.ca" <councillor\_parker@toronto.ca>, "Adam Brown(adam@shermanbrown.com)" <adam@shermanbrown.com>, "snielsen@foresters.com" <snielsen@foresters.com>  
**Attachments:** foresters 1185 eglinton ltrcommunity council re opa and directions rpt signed sept 4 2013.pdf

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Hello,

Please find attached our correspondence in this matter on behalf of the Independent Order of Foresters.

Thank you,  
Chris



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September 4, 2013

**VIA EMAIL**

Mayor Ford and Members of Council  
Toronto City Hall  
100 Queen Street West  
Toronto ON M5H 2N2

North York Community Council  
City Clerk's Office, Ground Floor  
North York Civic Centre  
5100 Yonge Street  
Toronto, ON M2N 5V7

**Attention: City Clerk & North York Community Council**

Your Worship and Members of Council:

**RE: Item NY26.55 – 1185 Eglinton Avenue East Zoning By-law Amendment – Direction Report and City Initiated Amendment to Site and Area Specific Policy 76, dated August 22, 2013 (the “Directions Report”)**

We are the solicitors for the Independent Order of Foresters (“Foresters”), the owner of the property at 789 Don Mills Road, adjacent to the above-noted site which is proposed for redevelopment.

Foresters has been following the progress of the 1185 Eglinton Avenue East (“1185 Eglinton”) rezoning application and participated in the community consultation meeting on February 19, 2013. By correspondence dated April 24, 2013, while with McCarthy Tetrault, the author previously provided comments to North York Community Council. In addition, on May 6, 2013, Foresters and its consultants met with City Planning Staff to discuss both the 1185 Eglinton development as well as the potential redevelopment of the Foresters property.

We have recently had a chance to review the Directions Report. We are writing in advance of the September 10, 2013 North York Community Council meeting to advise that Foresters has comments and concerns with the Directions Report, including but not necessarily limited to the following.

**Access, Parking, and Loading**

Recommendation No. 3 of the Directions Report refers to a Development Engineering memorandum dated July 26, 2013, which appears to request revisions to the proposed road network and the loading and parking aspects of the 1185 Eglinton development.

Foresters has previously expressed concern with the access, loading, and parking arrangements of the 1185 Eglinton development, given the most recent proposal shows all such traffic activity occurring via the privately-owned Foresters Lane, rather than from the proposed east-west public street.

We have not yet been provided with a copy of the July 26, 2013 memorandum. Therefore it is not clear whether Foresters’ concerns respecting access, parking, and loading will be addressed.

### **Proposed Official Plan Amendment – Density**

Planning Staff are proposing an Official Plan Amendment to amend Area Specific Policy No.76 (“ASP 76”). Both the Foresters site and the 1185 Eglinton property are subject to ASP 76, which has been in force for a number of years and permits a maximum of 1.8 FSI over all the lands between Don Mills Road and the Don Valley Parkway and between Eglinton Avenue and Rocherfort Drive (with the exception of the City-owned parcel at the southeast corner of Don Mills and Eglinton).

Planning Staff are proposing that the “West Parcel” of the ASP 76 lands be subject to a revised density cap of 3.2 FSI, including the proposed 1185 Eglinton development which contains approximately 53,000 m<sup>2</sup> of residential floor area.

It is not clear from the Directions Report how the new cap of 3.2 FSI was determined. Foresters is currently reviewing the implications of such a revised cap on the development potential of its own site.

We have requested that Planning Staff provide us with additional details regarding the basis and rationale leading to the proposed “West Parcel” density cap of 3.2 FSI, including any supporting analysis. In the event that the proposed policies unreasonably impact the development potential of the Foresters property, our client would object to them.

### **Proposed Official Plan Amendment – Timing**

The Directions Report recommends that the Public Meeting for the Official Plan Amendment to ASP 76 to be scheduled **after** the OMB hearing for the 1185 Eglinton matter (hearing is scheduled for November 13, 2013; North York Community Council meeting is scheduled for November 19, 2013).

Given that Planning Staff are willing to proceed generally in support of the 1185 Eglinton development, it is not apparent why the proposed Official Plan Amendment to ASP 76 is required to proceed immediately after the OMB hearing. If, in Planning Staff’s view, an Official Plan Amendment is not required to evaluate the 1185 Eglinton application, then the same approach might also be employed with respect to the balance of the development sites in the area. In the case of Foresters, the timing issue is particularly relevant given its ongoing assessment of its real estate portfolio.

If the proposed Official Plan Amendment proceeds along the timeline proposed by Planning Staff, Foresters may have to consider options to safeguard its current development rights, including a potential appeal of the City-initiated Official Plan Amendment if it unduly impacts the development potential of the property.

We would therefore request that the proposed Official Plan Amendment to ASP 76 be deferred at this time until a date early in 2014, and we would welcome the opportunity to meet with Planning Staff to discuss these matters in the intervening period.

### **Proposed Official Plan Amendment – Section 37**

The Proposed Official Plan Amendment to ASP 76 identifies a number of community services and facilities which might be secured as benefits using Section 37 of the *Planning Act*. Foresters is not taking any particular position at this time regarding the list of identified benefits.

The Directions Report also states, however, that the existing base zoning density should be used in calculating the Section 37 benefits. Foresters is of the view that an approach based on the existing industrial zoning of these lands is not an appropriate basis for determining appropriate Section 37 benefits, in particular given the existing Official Plan permissions for these lands.

We intend to be present at the September 10, 2013 North York Community Council meeting to make a deputation.

On behalf of Foresters, we hereby request notice of Council's decision in this matter and of any resulting Official Plan Amendment and/or Zoning By-law Amendment, as well as notice of the consideration of this matter by Community Council, City Council, and any other committee of Council.

Yours truly,  
**Overland LLP**

- Per: Christopher J. Tanzola  
Partner
- c. S. Nielsen (Foresters)  
Councillor J. Parker (Ward 26)  
L. Poole (City Planning)  
A. Brown (counsel for 1185 Eglinton)