

Bill No. 091

BY-LAW NUMBER 2016-117

A By-law of The Corporation of the City of Barrie which amends 2009-141, a land use control by-law to regulate the use of land, and the erection, use, bulk, height, location and spacing of buildings and structures in the City of Barrie.

WHEREAS Pinemount Developments Limited ("Pinemount") appealed to the Ontario Municipal Board the Corporation of the City of Barrie's (the "City") failure to make a decision on its Zoning By-law Amendment Application within 120 days;

AND WHEREAS Pinemount and the City have agreed to resolve the appeal via amending By-law 2009-141 by rezoning a parcel of land known municipally as 400 and 430 Ferndale Drive South and 134 Hawthorne Crescent and by adding certain provisions to the by-law;

NOW THEREFORE the following is enacted:

1. **THAT** the Zoning By-Law Map, is hereby further amended by rezoning lands described as Part of Lot 4 & 5, Concession 13 in the geographic Township of Innisfil, now in the City of Barrie, municipally known as 400 and 430 Ferndale Drive South & 134 Hawthorne Crescent, from the 'Residential Multiple Dwelling Second Density (RM2(SP-191) (H-58)) and 'Residential Multiple Dwelling Second Density (RM2 (SP-82) (H-12)) Zones to the 'Residential Multiple Dwelling Second Density (RM2 (SP-533) (H-134)) Zone, as depicted on Schedule A attached hereto and Schedule "A" attached hereto forms part of By-Law 2009-141, as amended.

2. **THAT** the Special Provisions shall relate to the following:

Notwithstanding anything to the contrary found in this By-law, the following special provisions shall apply to the lands zoned (RM2 (SP-533) (H-134)) being the subject lands

- i) Permit a four (4) storey Walk up Apartment Building;
- ii) Permit a maximum density of 84 units per hectare;
- iii) Permit a maximum GFA of 78% of the lot area;
- iv) Permit a maximum building height of 13m;
- v) Permit a maximum Parking Lot Coverage of 38% of the Lot Area;
- vi) Permit two amenity areas, unconsolidated, in accordance with Section 5.2.5.2 b), such that the retained treed area serves as a passive amenity area, and a second amenity area being the balance of the required amenity area, be included as an active play area; and
- vii) Permit a minimum side yard setback where a secondary means of access is provided of 5.5 metres

3. **THAT** the Holding Provision shall relate to the following:

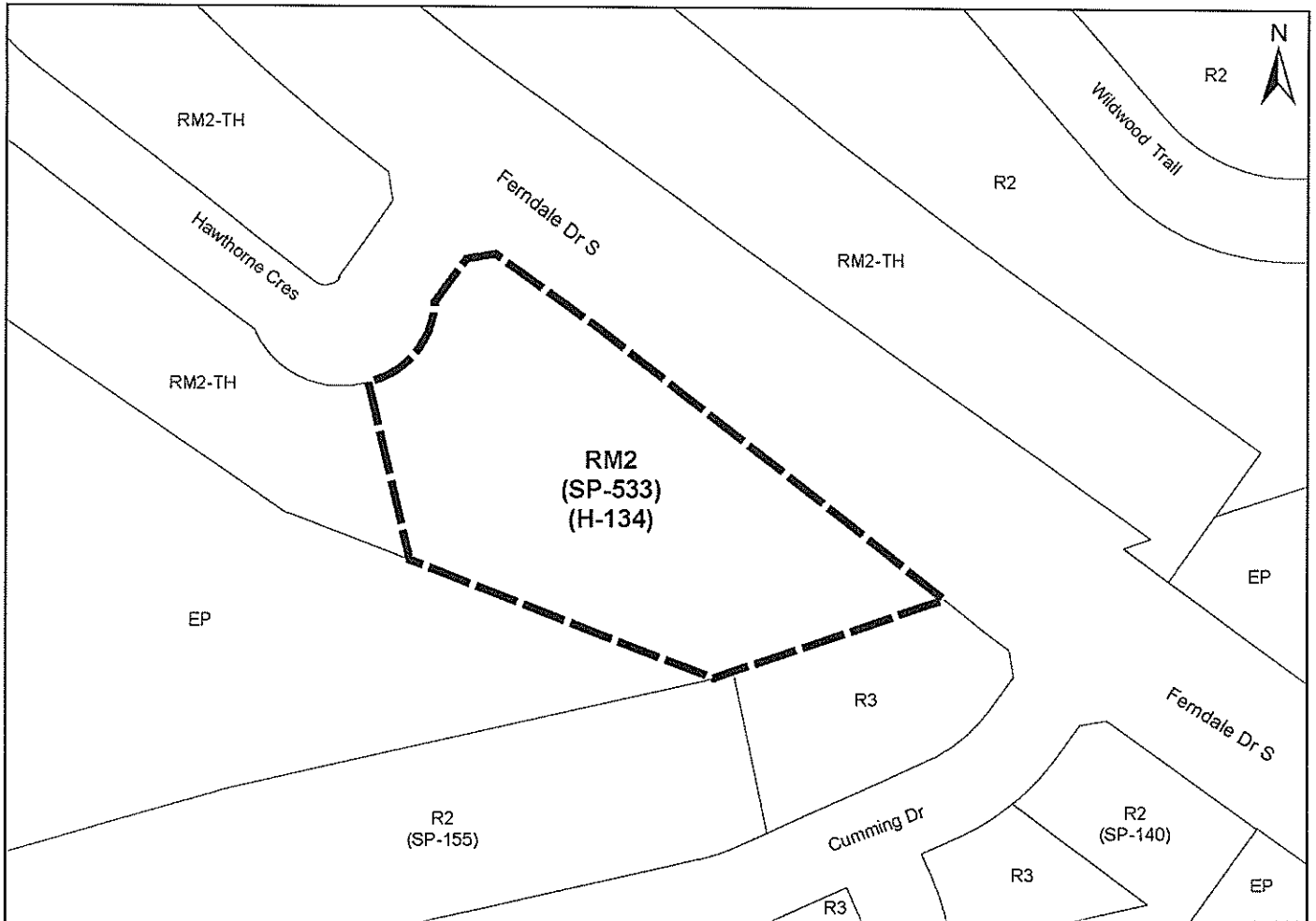
A By-law for the purpose of lifting the Holding provision be brought forward for approval upon the owner/applicant confirming payment of any outstanding local improvements and/or City of Barrie Act Charges; and confirmation that the development can be supported by the existing infrastructure (water, sanitary, and storm) and will pay for any upsizing that may be required as a result of the increased density

4. **THAT** this By-law shall come into force and effect as of the 11th day of October, 2016, as per the order of the Ontario Municipal Board.

THE CORPORATION OF THE CITY OF BARRIE

MAYOR – J.R. LEHMAN

CITY CLERK – DAWN A. MCALPINE



D14-1585
 400/430 Ferndale Dr S
 134 Hawthorne Cres

September 21, 2016

SCHEDULE "A" ATTACHED TO BY-LAW 2016-117

THE CORPORATION OF THE CITY OF BARRIE

MAYOR – J.R. LEHMAN

CITY CLERK – DAWN A. MCALPINE

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: October 11, 2016

CASE NO(S): PL160026

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

Applicant and Appellant:	Pinemount Developments Inc.
Subject:	Application to amend Zoning By-law No. 2009-141 - Refusal or neglect of City of Barrie to make a decision
Existing Zoning:	Residential Second Density RM2(SP-82)(H-12) and RM2(SP-191)(H-58)
Proposed Zoning:	Residential Second Density RM2 with amended Special Provisions
Purpose:	To permit a four storey walk-up apartment building with 65 units
Property Address/Description:	400 and 430 Ferndale Drive, 134 Hawthorne Crescent
Municipality:	City of Barrie
Municipality File No.:	D14-1585
OMB Case No.:	PL160026
OMB File No.:	PL160026
OMB Case Name:	Pinemount Developments Inc. v. Barrie (City)

Heard: September 28, 2016 in Barrie, Ontario

APPEARANCES:

Parties

Pinemount Developments Inc.

City of Barrie

Counsel

H. Elston

P. Krysiak

**MEMORANDUM OF ORAL DECISION DELIVERED BY SHARYN VINCENT ON
SEPTEMBER 28, 2016, AND ORDER OF THE BOARD**

- [1] This was a settlement hearing related to the City of Barrie's ("City") failure to make a decision on an application by Pinemount Developments Inc. to amend Zoning By-law No. 2009-141 for properties at 400 and 430 Ferndale Drive and 134 Hawthorne Crescent.
- [2] The existing Residential Second Density (RM2) zoning permits development of a three-storey walk up apartment building with up to 43 units. The proposal, subject of the settlement, proposes four stories containing 65 units.
- [3] The original application had proposed a six-storey 90 unit apartment which was revised following each of the two neighbourhood meetings.
- [4] Darren Vella was qualified to give expert independent testimony on matters of land use and planning. Three interested neighbours were in attendance to observe the proceedings.
- [5] It was Mr. Vella's professional opinion that the proposal is consistent with the policies of the Provincial Policy Statement 2014, by encouraging compatible intensification and furthering the mix and range of housing options on the last vacant development parcel in the otherwise fully developed low density neighbourhood. The site is well serviced by transit along the Ferndale frontage, is within a five minute walk of neighbourhood commercial amenities, and provides passive on site amenity areas to compliment the site's linkage to the Ardagh Bluffs Area of Natural and Scientific Interest (ANSI) abutting to the south.
- [6] The proposal also conforms to the Growth Plan for the Greater Golden Horseshoe ("Growth Plan") contributing to a compact urban form, while making efficient use of the existing infrastructure and transit on the adjacent arterial road.
- [7] All of these site characteristics conform to the locational criteria set out in s.

4.2.2.3 of the City's Official Plan ("OP") which directs medium density residential development towards areas that are:

- i) adjacent to arterial and collector roads;
- ii) in close proximity to public transit, and facilities such as schools, parks, accessible commercial development; and
- iii) where planned services and facilities such as roads, sewers, and watermains, or other municipal services are adequate.

[8] The one additional storey resulting in a four storey built form is compatible with the surrounding two and three storey structures and the siting of the building maximizes the spatial separation from the rear yards of homes to the south. The proposed 32.7 metres setback, the on-site mature wood lot to be protected and retained, and the heavily treed Ardagh Bluff lands owned and maintained by the City provide both passive amenity and buffering of the site, the parking and the building for neighbours on Cumming Drive.

[9] The Minutes of Settlement were executed by the parties following the adoption of the staff recommendations supporting the revised four storey proposal during the summer. Exhibit 1, Tab 5 includes a draft amending by-law agreed to by the parties and in the form of the City.

FINDINGS

[10] The Board finds that the proposed development of a four storey walk up apartment on the subject lands is consistent with the Provincial Policy Statement and conforms to the Growth Plan and the City's OP.

ORDER

[11] The Board orders that the appeal is allowed in part, and that Zoning By-law No. 2009-141 of the Municipality is hereby amended in the manner set out in Attachment 1

to this order. The Board authorizes the municipal clerk to assign a number to this by-law for record keeping purposes. In all other respects, the Board orders the appeal is dismissed.

[12] **Board Rule 107 states:**

107. Effective Date of Board Decision A Board decision is effective on the date that the decision or order is issued in hard copy, unless it states otherwise.

[13] Pursuant to Board Rule 107, this decision takes effect on the date that it is e-mailed by Board administrative staff to the clerk of the municipality where the property is located.

"Sharyn Vincent"

SHARYN VINCENT
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.

Ontario Municipal Board

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

ATTACHMENT 1



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THE CORPORATION OF THE CITY OF BARRIE

MAYOR – J.R. LEHMAN

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