

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** May 02, 2014

**CASE NO(S):** PL060668

Metro Ontario Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, C. p.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Toronto to redesignate lands respecting 5559 Dundas Street West and 25 Vickers Road from Industrial and District Retail to Mixed Use  
Municipal File No. 05 117975 WET 05 OZ  
OMB File No. O060124

Metro Ontario Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Etobicoke Zoning Code to rezone lands respecting 5559 Dundas Street West and 25 Vickers Road to permit for redevelopment as an office campus  
OMB File No. PL111133 & PL111134

1212736 Ontario Limited & 1212765 Ontario Limited (together, "Azuria Group") has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, C. p.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Toronto to redesignate lands respecting 5555 Dundas Street West and 10 Shorncliffe Road to permit the mixed use development of 2,400 residential units and retail commercial space  
Municipal File No. 05 114554 WET 05 OZ  
OMB File No. PL110757

1212736 Ontario Limited & 1212765 Ontario Limited (together, "Azuria Group") has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Etobicoke Zoning Code to rezone lands respecting 5555 Dundas Street West and 10 Shorncliffe Road to permit the mixed use development of 2,400 residential units and 4,116 sq.m. retail commercial space  
OMB File No. PL110758

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: 1212736 Ontario Limited & 1212765  
Ontario Limited  
(together, "Azuria Group")  
Subject: Proposed Official Plan Amendment  
No. 156  
Municipality: City of Toronto  
OMB Case No.: PL110880  
OMB File No.: PL110880

### **APPEARANCES:**

#### **Parties**

#### **Counsel\*/Representative**

Metro Ontario Inc.

S. O'Melia

Azuria Group

M. Flynn-Guglietti

City of Toronto

S. Haniford  
S. Nowoselski (student-at-law)

### **HEARING EVENT INFORMATION:**

Hearing: Held in Toronto, Ontario on February 18, 2014

### **DECISION OF THE BOARD DELIVERED BY JASON CHEE-HING AND ORDER OF THE BOARD**

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#### **CONTEXT**

[1] By way of brief background, on March 2, 2012, the Parties had reached a settlement and the Board heard expert planning evidence on three Zoning By-law amendments ("ZBA") and s. 37 agreements which would facilitate the redevelopment of the subject lands into a Mixed-Use and Employment community of substantial size. When taken together, the mixed-use proposals contemplated the phased development of approximately 4500 residential condominium units and significant retail/office/commercial floor space for these lands located in the southeast quadrant of

the intersection of Highway 427 and Dundas Street West in the former borough of Etobicoke.

[2] These proposals represented a very substantial redevelopment undertaking. The Board rendered an oral disposition allowing the appeals but withheld its Order pending fulfillment of three conditions (Board decision issued on March 26, 2012). One of the conditions was the execution and registration of s. 37 Agreements with the City. Since that time the Parties had worked with the City to finalize the three ZBAs and the s. 37 Agreements.

[3] At this hearing the Parties advised that the three ZBAs have been finalized – two relating to the Metro Ontario Inc. (“Metro”) appeals and one for the Azuria Group (“Azuria”) appeals. However the Parties were unable to agree on the wording of the s. 37 Agreement. The Parties disagreements were argued before the Board with all counsels making submissions. The Proponents (Metro and Azuria) wanted insertion of the words “acting reasonably” in certain clauses of the s. 37 Agreement where discretionary decisions are left with City officials. The City argued that s. 37 of the *Planning Act* (“Act”) does not give this Board the jurisdiction to alter or amend the wording of s. 37 Agreements. Additionally, the insertion of the words “acting reasonably” is inappropriate and not warranted. The Board will deal these arguments and submissions further on.

## **EVIDENCE AND SUBMISSIONS**

### **The Zoning By-law Amendments**

[4] On consent of all the Parties, the City’s planner, Derek Waltho provided planning evidence on the three ZBAs which are provided as Exhibits 10-12. Mr. Waltho gave the planning opinion that the three ZBAs implemented Official Plan Amendment (“OPA”) 156. OPA 156 is the secondary plan for this area that was adopted by Council in June of 2011. It was his opinion that the ZBAs conformed to the applicable Official Plans and represented good planning. Mr. Waltho recommended to the Board that it approve only Metro’s ZBA on its lands zoned for employment uses as this ZBA did not involve the provision of s. 37 benefits (Exhibit 11). The remaining two ZBAs dealt with mixed-uses including residential on lands owned by both Proponents (Exhibits 10, 12). It was his recommendation that approval of the remaining ZBAs be withheld pending the execution and registration of the s. 37 Agreements.

## The Section 37 Agreements

[5] The Proponents' counsels led by Mary Flynn-Guglietti submitted that where discretion is applied by the City staff it must be done in a "reasonable" manner. She identified a number of clauses in the proposed s. 37 Agreement where "reasonable" should be inserted (Exhibit 17). Ms. Flynn-Guglietti argued that the insertion of "acting reasonably" in those clauses brings clarity and would prevent staff from inserting a political dimension into the decision making process to the detriment of the Proponents. She argued that it would be decades before the full build-out of these developments occur. Key officials may change over time and this may bring uncertainty to the staff decision making process.

[6] Ms. Flynn-Guglietti submitted that the Board does have the jurisdiction to alter wording contained in the s. 37 Agreement when the Parties cannot agree. She submitted that this authority flows from the Board's zoning powers under s. 34 of the Act. Ms. Flynn-Guglietti argued that the Board can alter the wording of a s. 37 Agreement since the Agreement was a condition of the Board withholding its order on the proposed ZBAs. Additionally, it was her submission that the Board has the ancillary power under the *Ontario Municipal Board Act* ("OMBA") that is similar to the ancillary power of the courts to determine quantum, application of benefits or wording of the s. 37 Agreements.

[7] Ms. Flynn-Guglietti presented to the Board a number of court cases which dealt with good faith. She submitted a review of the case law on the requirement to exercise contractual discretion reasonably. She argued that by inserting "acting reasonably", if there is a disagreement in the future and the matter is litigated, the courts would look to the wording of the contract rather than the implied wording. The courts would look to whether the discretion of staff was done in a reasonable manner. She argued that staff could exercise its discretion in good faith but at the same time could be unreasonable.

[8] The City's counsel, Sharon Haniford submitted that the Board does not have the jurisdiction to alter the wording of agreements made under s. 37 of the Act. She submitted that unlike the authority given to the Board under the Act for appeals dealing with official plans, zoning, minor variances, plan of subdivision and site plan, s. 37 of the Act does not contain any appeal mechanism for a proponent to appeal an agreement. She argued that if the legislature had intended that such agreements could be appealed to this Board it would have done so. She submitted that nothing in the Act directs the

Board to alter or change the wording in an agreement made pursuant to s. 37. She cited the rules of statutory interpretation.

[9] Leaving the jurisdictional issue aside, Ms. Haniford argued that the insertion of “acting reasonably” into certain clauses in s. 37 agreement would become very problematic for the City. It would enable the Proponents to challenge any discretionary decision of City staff and encourage litigation in the courts. She submitted that it is the duty of staff to act reasonably, fairly and in good faith in discharging their duties. She submitted that City staff must be given the unfettered discretion to act reasonably in the discharge of their duties and that it is not necessary to insert these words in those clauses.

[10] Ms. Haniford submitted that there must be certainty and finality in the s. 37 Agreements. Inserting “acting reasonably” in the certain clauses as the Proponents want would fetter the discretion of staff and increase the potential for litigation in the courts. She argued that if the Proponents disagreed with any future discretionary decision of staff they have the remedy of litigating the matter in the courts. The courts will look at the reasonableness of the decision taken even when that term is not in the contract. Ms. Haniford presented a number of court cases in support of the City’s position. She submitted that the City has drafted and executed many s. 37 Agreements with developers and there has not been an issue of concern over City staff exercising their discretion in such agreements.

## **FINDINGS OF THE BOARD**

[11] The Board finds that it does not need to make a finding on the jurisdictional issue with respect to altering the wording of s. 37 Agreements as the parties have urged the Board to do and within the narrow parameters as framed in their submissions.

[12] In its decision issued on March 26, 2012, the Board approved the proposed ZBAs but withheld its order pending fulfillment of certain conditions which included the execution of a s. 37 Agreement. When an appeal of a proposed ZBA comes before this Board, it can allow the appeal if it is satisfied that the ZBA conforms to the applicable OP; it is consistent/conforms to the provincial plans; and it represents good planning. What is most important to the Board is its obligation to make an independent finding that the proposed planning instrument represents good planning and is in the public interest.

The finding of good planning would include consideration of the conditions of its approval which in this instance included the execution of a s. 37 Agreement.

[13] The Board has to be satisfied with the overall intent and purpose of the s. 37 Agreement before it can clear this outstanding condition of approval of the proposed ZBA. The Board can determine through its zoning powers whether the Agreement is satisfactory.

[14] The Board finds that it is unnecessary to include the words “acting reasonably” in the Agreement as the Proponents would want. City officials are expected and entrusted to act in good faith in carrying out their duties and responsibilities. It is the Board’s view that this would include acting reasonably when implementing the terms of a significant financial agreement that serves to benefit the municipality.

[15] It is the Board’s finding that the relief sought by the Proponents is in itself not reasonable. City staff should be given the discretion to act reasonably in the discharge of their duties. City officials are entrusted to act reasonably, fairly and in good faith in discharging their duties. If the Proponents disagreed with the reasonableness of any decision taken by a City official in fulfilling the terms of the s. 37 Agreement, they can litigate this in the courts.

[16] With respect to Metro’s proposed ZBA on its employment lands, the City did not object to its contents as it did not involve the provision of s. 37 benefits. The Board will allow the appeal in part as it relates to this particular ZBA.

## **ORDER**

[17] The Board Orders that:

1. With respect to the appeals of Metro, the Board allows the appeal in part and Chapters 320 and 324 of the Etobicoke Zoning Code is amended as set out in Attachment 1 to this Order.
2. With respect to the remaining zoning appeals of Metro and Azuria, the Board continues to withhold its Order pending fulfillment of the conditions contained in its decision issued on March 26, 2012.

*“Jason Chee-Hing”*

JASON CHEE-HING  
MEMBER

**Ontario Municipal Board**

A constituent tribunal of Environment and Land Tribunals Ontario

Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

**City Draft ZBA Metro Employment Lands Feb.12'14**

**CITY OF TORONTO  
BY-LAW No. \_\_\_\_\_ - 2014 (OMB)**

**To amend Chapters 320 and 324 of the Etobicoke Zoning Code with respect  
to lands municipally known as 25 Vickers Road**

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 pursuant to Section 36 of the *Planning Act*, the Council of a municipality may in an by-law passed under Section 34 of the *Planning Act*, by the use of the holding symbol "H" in conjunction with any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law; and

WHEREAS the City of Toronto Official Plan contains provisions relating to the use of a holding symbol "H"; and

WHEREAS the Ontario Municipal Board, by way of Order \_\_\_\_\_ issued on \_\_\_\_\_, 2014, following an appeal pursuant to Section 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determined to amend the Etobicoke Zoning Code, with respect to lands known municipally in the year 2013 as 25 Vickers Road;

THEREFORE, the Etobicoke Zoning Code is further amended by the Ontario Municipal Board as follows:

1. THAT the zoning map referred to in § 320-5, Article II of the Zoning Code and originally attached to the Township of Etobicoke By-law No. 11,737 be and the same is hereby amended by changing the classification of the lands located in the former Township of Etobicoke as shown in heavy outline on Schedule 'A' attached hereto from ICI Industrial Class 1 to (H)EO Employment Office Holding Zone as shown on Schedule 'A' attached hereto.
2. For the purposes of this by-law the following definitions shall be applicable:

**"Drive-Through Facility"** means premises used to provide or dispense products or services, through an attendant, or a window or an automated machine, to persons remaining in vehicles that are in a designated stacking aisle. A vehicle washing establishment or a vehicle fuel station is not a drive through facility;



**"Floor Space Index"** means the Gross Floor Area of all buildings on the Lands divided by the area of the Lands;

**"Front Lot Line"** means the Lot line that abuts a street. In the case of a corner Lot or a Lot with more than two street frontages, it shall be deemed the shortest Lot line abutting a street. In the case of Lots abutting Vickers Road, Vickers Road shall be deemed the Front Lot Line for zoning purposes;

**"Gross Floor Area"** means the total area of each floor level of a building, above and below grade, measured from the exterior of the main wall of each floor level, including voids at the level of each floor, such as an atrium and mezzanine, but excluding areas used for the purpose of parking or loading, below grade storage areas and mechanical floor area;

**"Height"** means the vertical distance between grade and the highest point of the roof surface of the building, but shall exclude mechanical equipment, mechanical penthouses, parapets, architectural elements, stairs and stair enclosures, located on the roof of such building;

**"Lands"** means the lands described in Schedule 'A' attached hereto and, for the purposes of this by-law, shall be based on the gross land area prior to all dedications, conveyances and Lot divisions;

**"Long-Term Bicycle Parking"** means bicycle parking spaces for use by occupants or tenants of a building;

**"Lot"** means a single parcel or tract of land that may be conveyed in accordance with the provisions of the *Planning Act*;

**"Mechanical Floor Area"** means a room or enclosed area, including its enclosing walls, within a building or structure above or below grade, that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical, elevator shafts, escalator, or telecommunications equipment that serves only such building;

**"Short-Term Bicycle Parking"** means bicycle parking spaces for use by visitors to a building.

### 3. Permitted Uses

Subject to Section 15 of this by-law, at such time as Schedule 'A' attached hereto has been amended to remove the (H) Holding Symbol designation from all or any part of the Lands zoned (H)EO on Schedule 'A' attached hereto, the following uses shall be permitted on any portion of the Lands as are then zoned EO subject to Sections 4 to 14 and Sections 16 to 19 of this by-law:

#### EO Zone

- a. All of the uses permitted under the Etobicoke Zoning Code §304-33 A. Business, B. Manufacturing, C. Medical, D. Institutional, E. Commercial/recreational, and F.

- Retail sales, but excluding A. Business - flea markets, E. Commercial/recreational - horse racing tracks and ancillary facilities, G. Outside storage, and H. Residential
- b. All of the uses permitted under the Etobicoke Zoning Code §304-31 A. Food Services, B. Business, C. Manufacturing, E. Educational/research, F. Institutional and G. Storage (1), but excluding D. Vehicle-related uses, G. Storage (2), (3) and (4), and H. Residential.
  - c. Despite a. and b. above, Drive-Through Facilities shall not be permitted.

#### 4. Floor Space Index

- a. The minimum Floor Space Index permitted on the lands shall be 1.0.
- b. The maximum Floor Space Index permitted on the lands shall be 2.0.

#### 5. Building Height

- a. The minimum building Height shall be the lesser of 3 storeys or 10.5 metres.
- b. The maximum building Height shall be 30.0 metres.
- c. If mechanical equipment, mechanical penthouses, parapets, architectural elements, stairs and stair enclosures located on the roof exceed the maximum building Height, the total area of all these elements together is not to cover more than 40% of the area of the roof and is no higher than 5.0 metres above the roof line.

#### 6. Yard Setbacks

A building or structure on a Lot must be setback:

- a. A minimum of 5.0 metres and a maximum of 9.0 metres from the Front Lot Line;
- b. A minimum of 6.0 metres from a side Lot line that does not abut a street;
- c. A minimum of 9.0 metres from a side Lot line that abuts a street;
- d. A minimum of 7.5 metres from a rear Lot line;
- e. For any portion of any building or structure on a Lot which is located below grade no setback is required with the exception of those setbacks identified in f. below;
- f. Notwithstanding any other setback requirement, buildings must be setback above and below grade a minimum of 14.0 metres from the Vickers Road right-of-way in accordance with Ministry of Transportation Ontario setback requirements;

#### 7. Landscaping

Any Lot abutting a street must have a minimum 3.0 metre wide strip of soft landscaping along the entire length of the Lot line exclusive of driveways and walkways.

#### 8. Minimum lot frontage

The minimum Lot frontage shall be 30.0 metres.

#### 9. Permitted Encroachments

- a. Exterior Main Wall Surface  
Cladding added to the original exterior surface of the main wall of a principal building, may encroach into a required yard setback a maximum of 0.15 metres, if the building is at least 5 years old.

b. **Architectural Features**

A pilaster, decorative column, cornice, sill, belt course or other similar architectural feature on a principal building may encroach into a required yard setback a maximum of 0.6 metres, if it is no closer to the Lot line than 0.3 metres.

c. **Equipment**

On a principal building, wall mounted equipment may encroach into a required yard setback as follows, if they are no closer to the Lot line than 0.3 metres:

1. A satellite dish may encroach into a required yard setback a maximum of 0.9 metres;
2. An antenna or pole used to hold an antenna may encroach into a required rear or side yard setback a maximum of 0.9 metres; and
3. A vent or pipe may encroach into a required rear yard setback or side yard setback a maximum of 0.6 metres.

d. **Utilities**

Service connections to public utilities at any Lot line may encroach into a required yard setback.

e. **Notwithstanding any other encroachment provision, encroachments shall not be permitted within the Ministry of Transportation Ontario Vickers Road setback requirements.**

10. **Parking shall be provided in accordance with the provisions of the Etobicoke Zoning Code with the following exceptions:**

- a. For office uses, parking shall be provided at a minimum rate of 1.0 space for each 100.0 square metres of Gross Floor Area and a maximum rate of 1.4 spaces for each 100.0 square metres of Gross Floor Area.
- b. For hotel uses, parking shall be provided at a minimum rate of 0.2 spaces for each 100.0 square metres of Gross Floor Area and a maximum rate of 1.0 space for each 100.0 square metres of Gross Floor Area.
- c. For manufacturing uses, parking shall be provided at a minimum rate of 0.5 space for each 100.0 square metres of Gross Floor Area
- d. For retail uses parking shall be provided at a minimum rate of 1.0 space for each 100 square metres of Gross Floor Area and a maximum rate of 4.0 spaces for each 100.0 square metres of Gross Floor Area
- e. Parking space dimensions shall have a minimum 5.6 metre length, 2.6 metre width and 2.0 metre vertical clearance and have a 6.0 metre aisle
- f. Parking spaces shall not be located in the front yard.

11. **Accessible Parking shall be provided in accordance with the following:**

- a. Accessible parking spaces shall have a minimum dimension of 5.6 metre length, 3.9 metre width and 2.1 metre vertical clearance.
- b. A minimum of 1 accessible parking space for each 100 parking spaces or part thereof must be provided.

12. **Bicycle parking shall be provided in accordance with the following:**

- a. For Retail uses, Long-Term Bicycle Parking must be provided at a rate of 0.13 spaces per 100.0 square metres of Gross Floor Area and Short-Term Bicycle Parking must be

provided at the rate of the greater of 0.25 spaces per 100.0 square metres of Gross Floor Area or 6 spaces.

- b. For Office/Institutional uses, Long-Term Bicycle Parking must be provided at a rate of 0.13 spaces per 100 square metres of Gross Floor Area and Short-Term Bicycle Parking must be provided at the greater of 0.15 spaces per 100 square metres of Gross Floor Area or 6 spaces.
- c. For Manufacturing uses, bicycle parking for use by occupants, tenants and visitors must be provided, in aggregate, at a rate of 5% of the total number of required vehicle parking spaces.

13. Loading spaces shall be provided in accordance with the following table:

a.

Gross Floor Area in m <sup>2</sup>	Type A (17m x 3.5 m)	Type B (11m x 3.5m)	Type C (6m x 3.5m)
<b>Retail/Commercial</b>			
500-1999		1	
2000-5000		2	
5000-9999		3	
10000+	1	3	
<b>Office</b>			
500-999		1	
1000-1999		1	1
2000-3999		1	2
4000-27999		2	2
28000+		2	3
<b>Hotel</b>			
0-4999		1	
5000-9999		1	1
10000-19999		2	1
20000-49999		2	2
50000+	1	1	2
<b>Manufacturing</b>			
100-499			1
500-999		1	
1000-4999	1		
5000-9999	2		
10000 +	3		

- b. Loading spaces shall have a minimum 4.5 metre vertical height clearance.
- c. Loading spaces shall not be located in the front yard or any yard adjacent to The East Mall.

14. Waste material and recyclable material must be stored in a wholly enclosed building.

15. Section 36 Requirements – Holding Provisions

- a. Despite any other provision of this by-law, the Lands shown on Schedule 'A' attached hereto and identified as Holding Zone are zoned with the Holding Symbol (H) pursuant to Section 36 of the *Planning Act*, and shall not be used other than as provided for in subsection b. below until the (H) has been removed by amendment to this by-law.

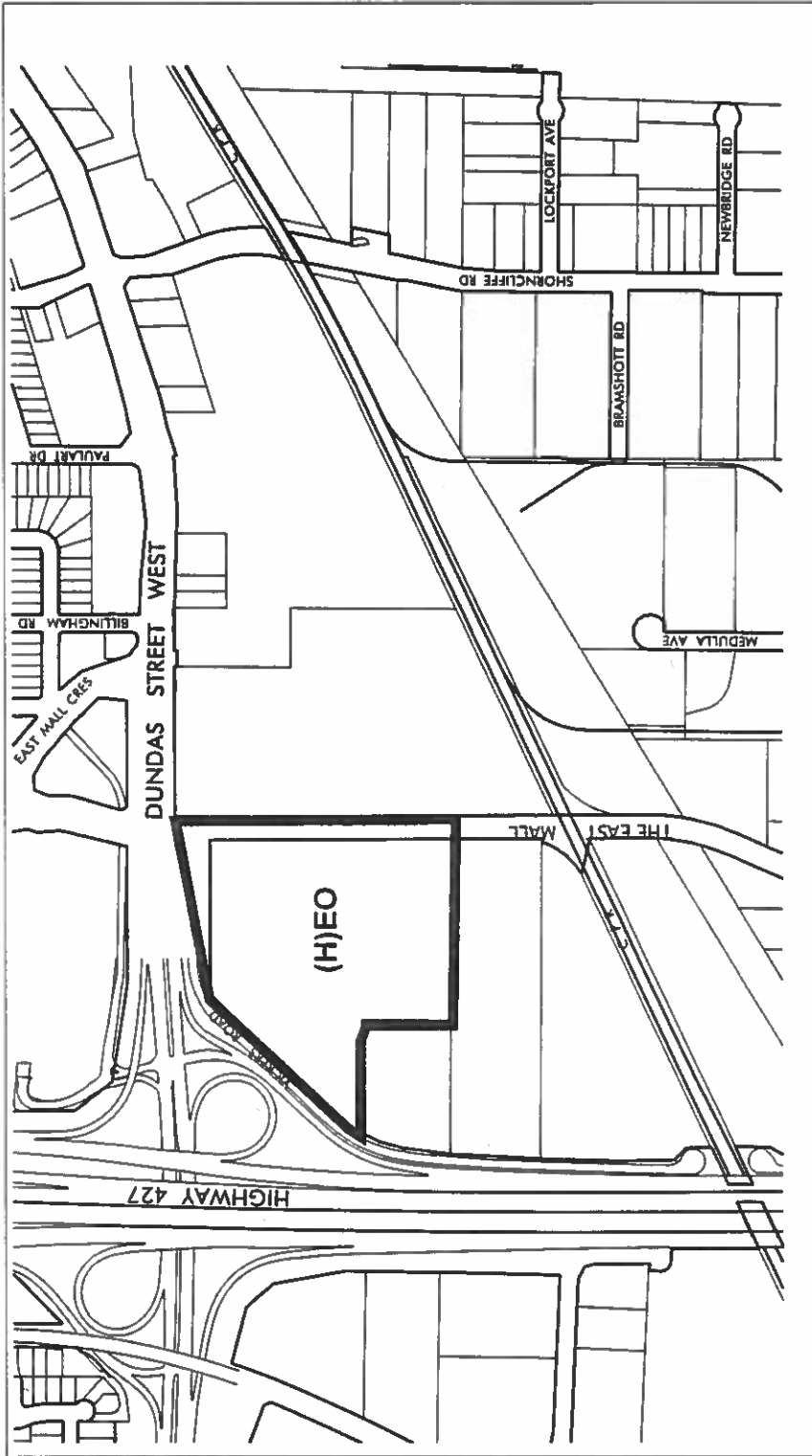
- b. The uses permitted on the Lands shown on Schedule 'A' attached hereto and identified as Holding Zone shall not exceed a maximum Floor Space Index of 0.6 until the (H) has been removed by amendment to this by-law.
- c. In accordance with the provisions of Section 36 of the *Planning Act*, an amending by-law to remove the Holding Symbol (H) symbol in whole or in part from the Lands identified as Holding Zone on Schedule 'A' attached hereto shall be enacted by City Council when the following have been provided and their implementation secured through the execution and registration on title of an agreement or agreements pursuant to Sections 51 and/or 53 of the *Planning Act*, as appropriate and pursuant to Section 114 of the *City of Toronto Act, 2006*, all to the satisfaction of the City of Toronto:
  1. A phasing plan for the Lands identifying: the sequence of new development including the phasing and timing for the provision of municipal infrastructure to support development; the phasing and timing for the construction and conveyance to the City of new public streets, right-of-ways and the disposition of existing buildings;
  2. The registration of plans of subdivision, consents to sever, and agreements, as appropriate, providing for amongst other things: new public streets, municipal services and infrastructure, stormwater management facilities and development blocks as may be applicable and required to support development on the Lands;
  3. An addendum/update to the Urban Transportation Considerations Report prepared by the BA Group Transportation Consultants dated January 2012, confirming and identifying:
    - a. the impacts and level of service of the development on the existing and proposed street network;
    - b. any required improvements to support the development and to minimize any negative level of service impacts; and
    - c. how appropriate connections between adjacent properties, including the abutting lands will achieve a continuous and connected public street network;
  4. An addendum/update to the "Dundas Street West/Highway 427 Future Development Servicing Study" prepared by MMM Group dated January, 2012 and the "Addendum #1 to the Dundas Street West/Highway 427 Future Development Servicing Study" prepared by MMM Group dated February, 2012 in order to confirm and identify that capacity remains in the trunk and local sanitary sewers to accommodate anticipated build out of the development and to identify any required improvements or mitigation measures necessary to minimize any impacts to the existing servicing network;
  5. The owner of the Lands shown on Schedule 'A' to this by-law enters into and registers one or more financially secured development agreements with the City for the construction and where appropriate, conveyance to the City, of any improvements to the municipal infrastructure including off-site improvements, should it be determined that upgrades are required to the infrastructure to support development as identified in

the approved traffic impact study, stormwater management master report and functional servicing report and/or associated addendums/updates to those studies/reports.

16. Notwithstanding any severance, partition, division, consolidation, lot addition or merging of the Lands, the provisions of this by-law shall apply to the whole of the Lands as described in Schedule 'A' to this By-law as if no severance, partition, divisions, consolidation, lot addition or merging of the Lands occurred.
17. No person shall use the Lands shown on Schedule 'A' to this By-law or erect or use any buildings or structures on the Lands shown on Schedule 'A' to this By-law, with the exception of existing buildings and uses as of the date of the enactment of this by-law, unless the following municipal services are provided to the Lot line:
  - a. All new public roads required to service the new buildings or structures which are applicable to such portion of the Lands have been constructed to a minimum of base curb and base asphalt and are connected to an existing public road; and,
  - b. All water mains and sanitary sewers, and appropriate appurtenances required to service the new buildings or structures which are applicable to such portion of the Lands have been installed and are operational.
18. Zoning by-law 2792 is hereby repealed on the coming into force of this by-law.
19. Where the provisions of this by-law conflict with the Etobicoke Zoning Code, the provisions of this by-law shall apply.
20. The Lands which are subject to this by-law, comprising the Lands shown on Schedule 'A' attached hereto shall be subject to site plan control pursuant to Section 114 of the *City of Toronto Act, 2006* and Section 41(16) of the *Planning Act*.
21. Chapter 324-1 of the Etobicoke Zoning Code is amended by adding the following to Table of Site Specific By-laws:

<b>BY-LAW NUMBER AND ADOPTION DATE</b>	<b>DESCRIPTION OF PROPERTY</b>	<b>PURPOSE OF BY-LAW</b>
XXXXX 2014-XX-XX	Those lands on the south side of Dundas Street West between East Mall Crescent and Vickers Road	To implement the recommendations of the Dundas Street West Highway 427 Planning Framework Study

PURSUANT TO Order No. \_\_\_\_\_ OF THE ONTARIO MUNICIPAL BOARD ISSUED ON \_\_\_\_\_, 2014 IN BOARD CASE NO. PL060668



Schedule A to By-Law \_\_\_\_\_ 2013



Area Affected by this By-Law



Not to Scale  
By-Law 11,737 as amended  
28/10/2013