

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: February 28, 2017

CASE NO.:

PL160033

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Riverside Ratepayers Association Inc.
Subject: By-law No. 14 176212 STE 30 OZ
Municipality: City of Toronto
OMB Case No.: PL160033
OMB File No.: PL160033
OMB Case Name: Riverside Ratepayers Association Inc. v. Toronto (City)

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Appellant: Riverside Ratepayers Association Inc.
Subject: By-law No. 14 176221 STE 30 OZ
Municipality: City of Toronto
OMB Case No.: PL160033
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Heard: August 9 to 11, 2016 in Toronto, Ontario

APPEARANCES:

Parties

Counsel

2079766 Ontario Inc.

K. Kovar

City of Toronto

M. Longo

Riverside Ratepayers Association Inc.

B. Teichman

DECISION DELIVERED BY M. A. SILLS AND ORDER OF THE BOARD

[1] The Riverside Ratepayers Association Inc. (“Appellant”) has appealed the passing of Zoning By-law Amendments (“ZBAs”) by the Council of the City of Toronto (“City”) respecting the lands owned by 2079766 Ontario Limited (“Applicant”). The lands which are the subject of the proposed ZBAs are known municipally as 661, 663, 669 and 677 Queen Street East (“661 – 677 QSE”), and 77, 79 and 79A East Don Roadway (“77 – 79 EDR) (the “subject property/site”). The purpose and effect of the subject ZBAs is to amend Zoning By-law (“ZBL”) Nos. 438-86 and 569-2013.

Site and Area Context

[2] The subject site is approximately 1.74 hectares (“ha”) in size and is comprised of two assembled properties, resulting in an irregular L-shaped development site with frontage of approximately 97.9 meters (“m”) on both Queen Street East (“QSE”) and of approximately 80.8 m on East Don Roadway (“EDR”). The site is located within an “intensification area” as defined by the Growth Plan for the Greater Golden Horseshoe (“GP”).

[3] The 77 – 79 EDR property comprises an area of approximately 9,448 square meters (“sq m”) and forms the western portion of the site. This property was formerly developed with two structures – a three-storey storage warehouse located along the south edge (77 EDR) and a three-storey converted industrial building along the north edge (79 EDR). The interior and exterior walls of the 77 EDR structure have been removed and only the steel frame remains. The 79 EDR structure has been demolished.

[4] The 661 – 677 QSE property comprises an area of approximately 7,953 sq m and forms the eastern portion of the property. This property is currently occupied with a car dealership (Downtown Toyota). The existing single-storey car dealership and service building is located on the northeastern portion of the property and occupies an

area of approximately 2,839 sq m; the remainder of the property is dedicated to surface parking.

[5] The surrounding area, known as Riverside, contains a broad mix of land uses, including residential, commercial and industrial uses. Riverside consists of 10 blocks located along QSE from the Don Valley Bridge to just east of Degrassi Street, and forms part of the Riverside Business Improvement Area (“BIA”).

[6] Historically, Riverside was a working class neighbourhood, with industrial uses intermingled with workers’ housing. QSE Street maintains a mix of residential and commercial uses. Riverside is also home to historic sites, over 1.6 ha of parkland, two community centres, public art installations, festivals, schools, and The Opera House, in addition to more than 120 boutiques and services including original fashion creations, eclectic home design and décor, and a number of trendy restaurants.

[7] To the immediate north of the subject site is the QSE “mainstreet”, comprising a mix of commercial and residential uses in the form of low and mid-rise buildings on both sides of the street. This area has evolved considerably over the past two decades, albeit, parts of this area continues to maintain its’ original character. The South Riverside residential area is undergoing significant gentrification; specifically, this area is experiencing mid-rise apartment development along QSE and Broadway Avenue, as well as infill townhouse development. QSE has also experienced considerable new commercial development in the form of restaurants, galleries and retail stores.

[8] The subject site is well served by the existing road and transit network. QSE is classified as a Major Arterial street across the frontage of the subject site. QSE is a two-way, four-lane roadway with on-street parking during non-peak hours, and sidewalks on either side of the street. An on-ramp to the Don Valley Parkway is provided off QSE. EDR is classified as a local street with two lanes, on-street parking on the west side and a sidewalk along the east side of the street. EDR currently dead-ends at the Eastern Avenue Diversion.

[9] Current transit services within this area includes street car Routes 501 Queen/301 Queen Blue Night, 502 Downtowner, 503 Kingston Road, 504 King, and bus route 303 Don Mills Blue Night. As well, a number of significant transit improvements for this area are currently in the preliminary planning stages.

[10] The subject site is designated Mixed Use Areas by the Official Plan (“OP”). Auto dealerships are permitted under the Mixed Use Areas designation. The northerly portion of the site to a depth of 39.6 m along QSE, is zoned MCR T2.5 C2.0 R2.0 with a maximum height of 14.0 m, while the southerly portion is zoned I2 D3 with a maximum height of 18.0 m by ZBL No. 438-86. Under the City-wide ZBL No. 569-2013, not yet in force, the portion of the site fronting onto QSE is proposed to be zoned CR 2.5 (s.2.0; r2.0) SS2 (x2294), with a maximum height limit of 14.0 m.

[11] The eastern portion of the subject site at 661 – 677 QSE is currently occupied by an automobile dealership (Downtown Toyota) and surface parking lot. The existing dealership and service building is approximately 2,839 sq m with the remaining lot area dedicated to surface parking.

[12] The zoning for the properties where the Toyota dealership is located is split. The QSE portion of the site is zoned Commercial-Residential – CR 2.5 (c.2.0; r2.0) SS2 (x2294) under City-wide ZBL No. 569-2013, which is currently under appeal. This zoning permits a wide range of commercial and residential uses. The maximum density is 2.5 times the area of the lot, of which a maximum of 2.0 times may be for non-residential uses and a maximum of 2.0 times may be used for residential purposes. The maximum permitted height is 14.0 m. The southern portion of the Toyota dealership and the EDR portion of the site (77 – 79 EDR) is zoned Industrial – I2 D3 under the former City of Toronto ZBL No. 438-86, which permits a range of industrial uses with a maximum density of 3.0 times the area of the lot. Residential uses are not permitted in the I2 D3 zone. The maximum permitted height is 18.0 m. This portion of the site is currently not subject to ZBL No. 569-2013.

[13] Auto dealerships and automobile service and repair shops are permitted in both the MCR and I2 zoning of ZBL No. 438-86. Furthermore, vehicle dealerships and vehicle service shops are permitted within the CR zone in consolidated ZBL No. 569-2013 on major streets with conditions regarding the outdoor storage of vehicles. Based on the lot area associated with each of the zoning designations, approximately 50,000 sq m would be the as-of-right permitted gross floor area (“GFA”) for auto dealerships for these properties. The proposal is for approximately 37,928 sq m of auto dealership uses (13,741 sq m above grade and 24,187 sq m below grade).

[14] The purpose and effect of the proposed ZBAs is to add residential uses to the auto dealerships and to broaden the range of permitted commercial uses - no zoning permissions are required to develop the auto dealership component of the proposal.

The Development Proposal

[15] The proposal is planned in two phases; the 77 – 79 EDR property will be developed as Phase 1, while the development of the 661 – 677 QSE property will occur in Phase 2. The phasing of the development will allow an existing car dealership (Downtown Toyota) located on the 661 – 677 QSE property to continue to operate while Phase 1 is being developed, after which, it will be relocated to the Phase 1 building. The existing dealership and service building will then be demolished to make way for the Phase 2 development.

[16] The development proposal consists of mid-rise and taller buildings residential uses (893 units), and well as non-residential uses, including (six) integrated automobile dealerships (“autoplex”), a grocery store, smaller retail stores, and possibly a daycare centre. A new (781 sq m) public park along the frontage of QSE, and two privately-owned, publicly-accessed lanes (also known as “woonerfs”) are included in the proposal. A (650 sq m) publically accessible private open space (“POPS”) will be located at the south end of this woonerf.

[17] On-site parking and loading operations will be consolidated and located predominantly underground (four levels) with the exception of commercial parking spaces to be provided at, and above-grade in the northwest building of Phase 1. A total of 1,212 parking spaces will be provided; 828 spaces in Phase 1 and 384 spaces in Phase 2. Separate parking areas will be provided for residents, commercial/residential visitors and car storage. Car parking and access for the autoplex use is designed to be completely separate and self-sufficient from the remainder of the proposed development.

[18] Phase 1 involves the development of three mixed-use buildings, including a 13-storey, a 14-storey (plus mezzanine), and a 20-storey, mixed-use building. The proposed 13-storey (southeast) building has a total GFA of 9,595 sq m; 8,303 sq m residential (123 units) and 1,292 sq m retail. The proposed 14-storey (northwest) building (plus mezzanine) has a total GFA of 24,030 sq m; 20,820 sq m residential (308 units), 2,906 sq m auto dealership, and 304 sq m retail. The proposed 20-storey (southwest) building has a total GFA of 29,539 sq m (308 units); 17,275 sq m residential (246 units), 9,605 sq m auto dealership and 199 sq m retail. The existing retained steel building frame will be reused for the 20-storey building. The new park and the north-south and east-west woonerfs are included in the Phase 1 development.

[19] The autoplex use is to be located at the west end of the (14 storey) building within the first four storeys (equivalent to six residential storeys). The auto service shop is located below ground and will be accessed from the EDR. Retail space will be located on the ground and mezzanine levels at the east of the building facing the north-south woonerf.

[20] The Phase 2 development involves the construction of a mixed-use building with a six-storey component fronting onto QSE and a 14-storey tower further south connected by a one-storey building (plus mezzanine) that would also connect to the 13-storey building of Phase 1.

[21] Materials submitted in support of the development proposal included, but was not limited to: Stormwater and Functional Services Reports, Environmental Assessment, Geotechnical Report, Traffic, Parking and Loading Study, Planning Rationale, Avenue Segment Study, Shadow Studies, Landscape Plan, Community Services and Facilities Study, and Heritage Impact Assessment.

The Planning Evidence

[22] Planning evidence and opinion in support of the application was provided by the Applicant's planning consultant, Peter Smith, and City planner, Angela Stea. Both are professional planners and Full Members of the Canadian Institute of Planners and the Ontario Professional Planners Institute.

[23] In sum, it is Mr. Smith's professional opinion that intensification of the subject site is supportive of the policy directions set out in the Provincial Policy Statement, 2014 ("PPS"), the GP and the OP. The subject site is an appropriate and desirable location for intensification. The proposal is an appropriate and desirable mixed-use development which fits harmoniously with the existing and planned context of this area and will result in the intensification of an underutilized site and provide new, intensified employment uses.

[24] The subject site is designated Mixed Use Areas, which are areas intended to accommodate most of the anticipated increase in commercial employment and much of the new housing. QSE is identified as an "intensification corridor" under the GP and an *Avenue* by the OP. The GP promotes increased residential and employment densities to support the viability of existing planned transit services along intensification corridors. The OP supports mixed-use intensification along the *Avenues* in a form which is intended to make efficient use of land and infrastructure and concentrate population and jobs in areas well served by transit.

[25] The site is well served by four separate streetcar lines that run along QSE and provide all-day service throughout the week. As well, the site is in proximity to an approved new GO Station at the Unilever site, and within a 350 m walking distance of the proposed Unilever (Broadway/Eastern) subway station on the Downtown Relief Line and the associated GO/RER Smart Track Station.

[26] The current uses on the site represent an underutilization of land and infrastructure and fail to support the planned function established by the Provincial and municipal policy documents; the proposal effectively promotes infill and intensification of a site within the built-up area which is well-served by municipal infrastructure, including transit services.

[27] Mr. Smith provided detailed analyses of the built form and functional aspects of the proposal relative to building heights, massing and density, separation distances, transitioning and built form impacts, land use compatibility and open space/parkland amenities.

[28] Essentially, Mr. Smith's opinion evidence is that the proposed height and massing will achieve a harmonious fit with the overall block bounded by EDR, QSE, Broadview and Eastern Avenues. The Avenue Segment Study required for this segment of the Queen Street Avenue concluded that the proposal would have no adverse impacts on the area and would establish a desirable positive precedent for the rest of the *Avenue* segment.

[29] The height of the proposed buildings, including the 20-storey building, is in keeping with the existing, approved and proposed heights along the east edge of the Don Valley corridor. The base buildings extend along the QSE and EDR right-of-way, creating a consistent street wall that frames the street and results in a comfortable pedestrian environment. The proposed density of 4.78 floor space index ("FSI") is in keeping with existing and approved densities and is appropriate.

[30] The proposed development is generally in keeping with the City-Wide Tall Buildings Guidelines, and in particular, the proposed building separation distances meet the spirit and intent of the Tall Building Guidelines. The proposed separation distances will adequately limit light, view and privacy impacts between buildings within, and adjacent to, the site. All of the proposed setbacks and separation distances exceed the standards for mid-rise buildings, and in some cases, are close to the recommended standards for tall buildings, even though they are not tall buildings.

[31] The development proposal provides an appropriate built form transition to the residential neighbourhoods to the east and north, and to the mixed-use “main street” character along QSE. All buildings on the site will fall within a 45-degree angular plane, and as a result, there will be no unacceptable built form impacts on QSE or the EDR. Similarly, the proposed heights are well under a 45-degree angular plane taken from the closest low-rise Neighbourhoods area to the north and east. There will be no unacceptable shadow impacts on QSE or the EDR; the shadow impact of the proposed development to an as-of-right construction is negligible.

[32] In terms of land use compatibility, it is Mr. Smith’s opinion that the proposed mixed-use development with residential and commercial uses and public parkland space conforms to the applicable *Avenues* and Mixed Use Areas designation of the OP. The ground floors of the buildings provide uses that enliven sidewalks and create safe pedestrian conditions, and sidewalks are purposely wide enough to include and support trees, generate a lively pedestrian culture and ensure accessibility. Notably, the s. 37 Agreement provides for \$5 Million in funding towards the provision of affordable rental housing.

[33] The site serves as a mixed-use transition northward from the South of Eglinton employment area to the low-rise neighbourhoods to the north. The proposed auto dealerships will represent approximately 17 percent of the site GFA; other commercial uses represent 6.5 percent and residential use represents 76.5 percent.

The Auto Dealership Component of the Proposal

[34] Mr. Smith's evidence is that auto dealerships are a permitted use under the Mixed Use Areas designation; pursuant to ZBLs Nos. 438-86 and 569-2013 auto dealerships are permitted as-of-right throughout the site to a maximum density of 3.0 FSI (2.0 FSI along QSE). In this case, the purpose and effect of the proposed rezoning is to add residential uses to auto dealerships, and to broaden the range of permitted commercial uses – no rezoning permission is needed to develop the auto component of the development.

[35] It was also Mr. Smith's evidence that auto dealerships are a permitted use under the Mixed Use Areas designation; ZBLs Nos. 438-86 and 569-2013 permit auto dealerships as-of-right throughout the site to a maximum density of 3.0 FSI (2.0 FSE along QSE). In this case, the purpose and effect of the proposed rezoning is to add residential uses and to broaden the range of permitted commercial uses – no rezoning permission is needed to develop the auto component of the development.

[36] The proposal will consolidate four existing dealerships currently located within approximately one kilometer of the subject site (Toyota, Hyundai, Nissan/Infinite and Ford/Lincoln). These existing dealerships will be closed at their current locations and relocated to the subject site, consolidated into one facility representing five brands (Toyota, Hyundai, Nissan/Infinite, Ford and Lincoln).

[37] In terms of design, it is Mr. Smith's opinion that accommodating auto dealerships in a multi-storey mixed use form, with underground parking, is preferable to the existing low-density form on the site consisting of a single-storey building with large expanses of surface parking. The proposal is representative of a desirable broader trend towards urban vehicle dealerships that are more consolidated and less land extensive. The inclusion of the auto dealership use will contribute to an increase in the amount of non-residential GFA on the site and increase the number of jobs on the site, by an estimated 385 to 400 jobs, including a total of 250 at the auto dealerships.

[38] The proposed location of the auto dealerships, on the westerly and southwesterly portions of the site, is a favorable response to the constraints imposed by the Lower Don Special Policy Area (“SPA”). The portions of buildings within the SPA, including the retrofitted building, will consist of non-residential uses (automotive and ancillary office space). The residential components of the proposal will either be located on top of the auto dealership uses or east of the SPA and consequently, above the flood elevation. Safe access and egress to residential uses will be provided via the proposed access from QSE. Notably, comments by the Toronto Region Conservation Authority raised no objections with the proposal.

[39] In regard to compatibility, Mr. Smith opined that the proposed auto dealership uses will be compatible with the on-site residential and adjacent uses. Issues of compatibility have been addressed through the design and configuration of the development proposal. The auto dealerships will be located entirely within the proposed buildings, including the lower floors of the northwest and southwest mixed-use buildings where residential uses will occupy the floors above. Auto storage, parking and maintenance bays have been located below grade in order to ensure that the operations of the dealerships have limited impacts on the residential units. Locating the auto dealerships along the EDR portion (a less travelled, dead-end street) will limit impacts to the pedestrian realm along QSE. In his opinion, the proposal will not have any negative impacts on the QSE *Avenue*, and in fact, is an improvement over the existing condition, whereas the existing dealership occupies most of the QSE frontage.

[40] The proposal includes the provision 781 sq m of parkland on-site, in addition to the appropriate parkland cash-in-lieu contribution. The location of the proposed public park on the QSE frontage and its dimensions (23.48 m wide by 33.3 m deep) are appropriate and desirable in urban design terms. The prominent location of this park, in combination with its appropriate size and configuration, will provide an urban amenity for this segment of the street, and expose the east side of the listed heritage building at 655 QSE. The proposed POPS at the south end of the woonerf will provide additional

high-quality outdoor space (approximately 650 sq m) and enhance the public realm. A portion of the s. 37 contribution will go towards funding and securing an area off-site for the provision of an off-leash dog park.

Auto Dealership Potential for Pollution Impacts

[41] The proposed development site is located immediately east of the Don Valley Parkway (“DVP”). Dominant and prevalent winds from the northwest, west, and southwest all blow across the DVP and carry vehicle emissions onto adjacent downwind properties, including the subject site. The western edge of the development is less than 20 m away from the eastern edge of the DVP right-of-way.

[42] At the request of the Toronto and East York Community Council, a supplementary report co-authored by Dr. Christopher Morgan (Environmental and Energy Division) provided finer detail on the relationship between the auto dealership and any air quality implications. The report concluded that vehicle emissions from the dealership will be equivalent to approximately one percent of the contribution from the DVP; the report further specified that “the accuracy of the one percent estimate can be deemed to be within the statistical errors of the calculation and becomes a statistically insignificant amount”.

[43] The evidence and opinion of Mr. Smith was supported by Ms. Stea. In particular, she emphasized that auto dealerships are permitted on the site as-of-right – the rezoning is required for the purpose of the residential component of the development proposal, and not the auto dealerships.

[44] Ms. Stea told the Board that four public working groups meetings were held in consideration of the proposal, and many revisions were made as a result of this process. To summarize, it is Ms. Stea’s professional opinion that the proposed ZBAs are consistent with the policies of the PPS, and in conformity with the directives of the

GP and the policies of the OP. The overall development proposal is appropriate for this site and represents good land use planning.

[45] Michael Manett, also a registered professional planner, countered with planning evidence and opinion in opposition to the autoplex component of the proposal. Mr. Manett is taking the position that the “massive” auto-oriented retail and servicing component (autoplex) of the proposal is inappropriate for this Mixed Use Area and identified *Avenue* (QSE), and does not represent good planning. He also confirmed that he has no issues with the residential component of the proposal.

[46] It is Mr. Manett’s professional opinion that the proposed mixed use development inclusive of residential uses and a significant autoplex, fails to incorporate transit supportive measures, including restrictions on auto-oriented retailing and services. To the contrary, it promotes uses that do not reduce auto dependency and do not meet the needs of the local community.

[47] Mr. Manett first directed the Board to the PPS (Transportation Systems) policy 1.6.7.4 which sets out that:

A land use pattern, density and mix of uses should be promoted that minimize the length and number of vehicle trips and support current and future use of transit and *active transportation*.

[48] In Mr. Manett’s opinion, the proposed development is not consistent with the PPS. In his view, a significantly sized autoplex, that has as its main intent to sell and service automobiles, clearly does not promote minimizing the length and number of vehicles trips and/or support current and future use of transit and active transportation. Rather, it does the opposite by promoting the use of private vehicles through the sales and servicing of these vehicles, which in turn, does not minimize the length and number of vehicle trips and support current and future use of transit.

[49] It is also Mr. Manett's opinion that the proposed development conflicts with the GP, with respect to the policies aimed at Managing Growth (s. 2.2.2), specifically:

Policy 2.2.2.1 d) – Population and employment growth will be accommodated by – d) reducing dependence on the automobile through the development of mixed-use, *transit-supportive*, pedestrian-friendly urban environments; and,

Policy 2.2.3.7 – All intensification areas will be planned and designed to – b) provide a diverse and compatible mix of land uses, including residential and employment uses, to support vibrant neighbourhoods, and d) support transit, walking and cycling for everyday activities.

[50] He opined that the proposed development, which incorporates a significantly sized autoplex, clearly is in conflict with these directives. The proposed autoplex is not appropriate for a mixed-use development since the intent of mixed-use developments is not to include uses that promote and support the continued use of private vehicles, but rather, are intended to reduce the dependence on automobiles. In the same vein, an autoplex is not a compatible mixed-use with residential development because it is not a use that supports a vibrant neighbourhood, nor does it support transit use, walking and cycling.

[51] Lastly, Mr. Manett pointed out what he considers to be key policies areas of the OP, which in his opinion, are not maintained by the autoplex use component of the development proposal.

[52] The subject lads are designated Mixed Use Areas and the north side of the site is on an *Avenue*. The OP sets out that:

Avenues are important corridors along major streets where urbanization is anticipated and encouraged to create new housing and job opportunities while improving the pedestrian environment, the look of the street, shopping opportunities and transit services for community residents (s. 2.2.3).

[53] The OP further provides that "A framework for change will be tailored to the situation of each *Avenue* through an *Avenue Study*". The *Avenue Study* is to contain a

vision and an implementation plan to show: how the streetscape and pedestrian environment can be improved; and, how use of the road allowance can be optimized and transit services enhanced (s. 2.2.3).

[54] The re-urbanization of the *Avenues* is to be achieved through the preparation of Strategic Studies (s. 2.2.3 1.). Among other things, the Avenue Study is to set out contextually appropriate as-of-right zoning and other regulations designed to achieve high quality development which establishes “restrictions on auto-oriented retailing and services (s. 2.2.3 2 b) v) (3)”. Notably, “These changes to benefit new and established community residents may be gradually implemented as funding and opportunities present themselves and development proceeds” (s. 2.2.3)”.

[55] Although, Mr. Manett acknowledges that an Avenue Segment Study was prepared in support of the application, it is his view that this study did not address the autoplex use and/or the implications on this segment of the Avenue. Specifically, this study did not address how the proposed development has been considered on the basis of all the policies of the OP, and in particular, those policies which direct that which must be set out in the study, including the incorporation of “restrictions on auto-oriented retailing and services” (Policy 2.2.3. 2b) and v)), and Policy 3.

[56] Mr. Manett opines that while the proposed retail, office uses, recreation space and parkland aspects of the proposal may provide benefit to the existing community, the six-dealer autoplex is not a community oriented retail use that will benefit new and established community residents. Furthermore, it can be expected that the autoplex will attract extensive vehicular traffic from outside of the community as a destination retail location that is unrelated to providing additional shopping opportunities for the neighbourhood and improving the pedestrian environment.

[57] Mr. Manett’s opinion evidence is that the growth of *Avenues* should be supported by high quality transit services. Existing streetcar routes support the existing community. The proposed mixed use development inclusive of residential uses and a

significant autoplex does not include transit supportive measures including restrictions on auto-oriented retailing and services; rather, it incorporates uses that do not reduce auto dependency and do not meet the needs of the local community. In fact, rather than supporting and enhancing the existing transit service, the addition of 880 new residential units in combination with the commercial autoplex uses could be detrimental to the existing transit service as a result of the potential for traffic congestion and interference.

[58] Over 1,200 parking spaces will be provided for the proposed development, which clearly, is not transit supportive and will generate significant additional traffic accessing the subject site. The increased vehicular traffic generated by the autoplex in combination with the additional usage of cars by the new residents accessing this mid-block site, will conflict with a street that is safe, comfortable and attractive for pedestrians and cyclists.

[59] Lastly, Mr. Manett pointed to the OP policy set out in s. 3.5.3. – The Future of Retailing. This policy recognizes that traditional shopping streets are more than a place for business – they are centres of community activity that add life to adjacent neighbourhoods and support a walkable City by providing everyday essentials such as food. In this regard, the OP reinforces the role of traditional shopping streets in communities as the fabric of the City continues to unfold. Among other things, these policies establish that:

Policy 3.5.3.2 - Traditional retail shopping streets will be improved as centres of community activity by:

- a) encouraging quality development of a type, density and form that is compatible with the character of the area with adjacent uses;

Policy 3.5.3.3 – Retail development along the *Avenues* is encouraged and will suit the local context of built form and establish a high quality pedestrian environment.

[60] QSE can be considered a traditional shopping street within the City. While Mr. Manett concedes that the proposed development intends to incorporate a grocery store

along QSE in the proposal, which clearly supports the intent of this section, his opinion is that the autoplex use does not.

[61] These policies also encourage development along *Avenues* that promote a high quality pedestrian environment that is compatible with the character of the area and reinforces the role of traditional shopping streets. The addition of five new automotive dealerships (in addition to the existing one) in the form of a six-dealership autoplex, will not improve the shopping opportunities and pedestrian environment for community residents. The vehicular traffic from the site, a significant amount of which will be generated from the autoplex, will feed onto QSE and into the surrounding community, and could have negative impacts on the streetcar service to the community. Moreover, the pedestrian environment will not be enhanced with the addition of significant vehicular traffic exiting the site.

[62] In summation, it is Mr. Manett's opinion that an autoplex is a use that is of a type, density and form that is not compatible with a Mixed Use Area and does not suite the local context of built form or support the establishment of a high quality pedestrian environment. The added traffic and the mix of residential and automobile-related commercial uses will not lead to the provision of an attractive, comfortable and safe pedestrian environment (s. 4.5.2 f)), and the site access and circulation may create conflict situations with pedestrian, cyclist and vehicle traffic and the existing streetcar transit system (s. 4.5.2 i)).

[63] He is further of the opinion that overall, the proposal is counter to the established development criteria for a Mixed Use Area (s. 4.5). The autoplex, a substantive component of the development proposal, does not reduce automobile dependency and is not intended to meet the needs of the local community (s. 4.5.2 a)). Rather, by its very nature, it will attract and encourage business from outside the neighbourhood which will be automobile-oriented.

[64] He concluded that, the development as proposed with the autoplex component does not represent good planning and does not meet the intent of the *Avenue*, Retailing and Mixed Use Areas policies of the OP, and should be refused.

[65] During cross-examination, Mr. Manett affirmed that his issues with the development proposal are solely directed at the auto dealership component of the proposal. He also conceded that no portion of the autoplex fronts onto QSE, and more importantly, that there is no prohibition of auto dealerships in the Mixed Use designation. In his words, “development such as this [autoplex] is not prohibited; it just does not promote the minimizing of the use of automobiles on the site”.

Traffic and Transportation Issues

[66] Kenneth Chan, a Professional Traffic Operations Engineer (certified) and Manager of Traffic Engineering at LEA Consulting Ltd., prepared the initial Transportation Impact Study (“TIS”) (Exhibit 23 – dated July 2015) (“2015 TIS report”) and the updated TIS (Exhibit 18 – August 2016) (“2016 TIS report”). He provided supporting technical evidence and opinion in respect to these reports and matters of traffic and transportation.

[67] The intent of the TIS is to quantify the impact that the development of the subject site will have on the surrounding area transportation networks, and to assess the parking, loading and site circulation aspects of the proposal. Mr. Chan provided detailed evidence respecting the methodologies and outcomes of the TIS.

[68] The TIS area was determined in consultation with City staff, and on the basis of the scale of the proposed development. In this case, the defined area encompasses the site and a number of signalized intersections in proximity to the site. Specifically, intersections along QSE between the Don River and Broadview Avenue were surveyed to capture movement along this segment, of which fronts the site. Broadview and

Eastern Avenues were also included as Eastern Avenue is recognized as a viable alternate route to QSE.

[69] The TIS assessed the existing operations of the road network surrounding the site, and involved the inventorying of the existing transportation networks. The TIS then identifies any expected future changes to the existing road network including reductions or increases to capacity. Given the nature of the development proposal, trip generation data was collected over a series of days during weekday a.m. and p.m., and Saturday peak periods.

[70] A summary of findings is found at page 56 of Exhibit 18. Among others, these are: the proposed development will have a net reduction in auto-trips during the a.m., p.m. and Saturday peaks hours as compared to the as-of-right scenario; through traffic along QSE will experience minimal impacts; and the added site traffic will result in a minimal increase in signalized and non-signalized intersections (the anticipated increase in overall signalized intersections delay is less than two seconds).

[71] Mr. Chan submitted that the capacity analysis indicates that based on the proposed development scheme, through traffic along QSE will experience minimal impacts and the proposal will result in reduced vehicle trips as compared to the as-of-right (retail, grocery and auto dealership) scenario.

[72] Mr. Chan further submitted that the TIS did not identify any logical routes where residential drivers would benefit from cutting through existing neighbourhoods. Inbound vehicular movements to the site will not experience any noticeable delays and as such, there is no foreseeable traffic infiltration into neighbourhoods; the micro-simulation would indicate no unacceptable delay resulting in infiltration. Based on the technical review, data and trip generation analysis, all intersections will continue to operate in a manner similar to what is currently occurring.

[73] Mr. Chan indicated that the Toronto Transit Commission (“TTC”) has not identified any capacity concerns or objections with respect to the increased transit demand resulting from the proposed development. The TTC is planning for capacity improvements to the Queen Street streetcar via the rollout of the newer Flexity streetcars, which have a capacity of 130 riders versus the current 108 and 74 rider streetcars. Given the availability of existing transit services and infrastructure, the subject site is ideal for intensification as the opportunity for service improvements exceeds other development sites where similar infrastructure is not available.

[74] The parking proposal for the subject site will exceed the parking requirement for non-residential purposes, but will be lower for residential uses. However, as it is understood that the market demand for parking in this area would be lower than the by-law minimum requirement, the proposed residential parking supply was found to be sufficient. In total, 1,212 parking spaces are being provided – 932 spaces is the required minimum by the existing ZBL. The proposal exceeds the required number of bicycle parking spaces (1,069 versus 903) and the required number of loading spaces (7 versus 3 and 5).

[75] Internal circulations and conflict strategies will be devised to address any anticipated conflicts between pedestrians, cyclists and automobile and truck traffic. Notably, the private laneways internal to the site will not accommodate vehicular traffic. Mr. Chan advised that he has reviewed the contextual layout of the site and is confident that by working with the technical team a safe and efficient internal network can be developed through the site plan process. In this regard, there are no constraints on-site or at any of the access locations which will pose safety issues to the various road users. In this case, the building spacing/separation distances are adequate to accommodate a car carrier, and he is satisfied that there will not be any issues with respect to accessibility to/from or on the site.

[76] Traffic Engineer Jeff Mark, was retained by the Appellant to conduct a peer review of the prepared TIS. He was retained approximately one week prior to this

hearing. Mr. Mark did not undertake a traffic counts or prepare a TIS: rather, his opinions and conclusions were formed on the basis of a detailed review of the 2015 TIS report, and a cursory review of the 2016 TIS report.

[77] Mr. Mark testified that he does not have any issues with respect to the trip generation statistics provided in the TIS relative to the residential, supermarket and retail components of the proposal. However, it was his opinion that the auto dealership trip generation is much more significant than as claimed by Mr. Chan. In this regard, it is his position that the autoplex introduces a use that is not compatible.

[78] In (Exhibit 30), the review prepared by Mr. Mark in response to the TIS, he points out several areas in which the analysis provided by the TIS falls short. It is his opinion that there are a number of situations, assumptions, analyses and surveys that were not addressed in the TIS. He opined that since they have not been addressed, the traffic projections are likely to be unreliable. Therefore, the impacts of the proposed development may be understated - there may be more congestion on QSE than assumed in the report.

[79] Mr. Mark indicated there are a lot of streetcars on QSE, and in viewing the photographs provided by Mr. Manett (Exhibit 33), it appears the cueing of automobile traffic behind street cars is a problem. He also had some concerns with respect to the adequacy of access and on-site turning radius for transports.

[80] In conclusion, Mr. Mark stated that there may be other measures necessary to improve safety. However, he agreed these issues can be resolved through the site plan process.

[81] During cross-examination, Mr. Mark confirmed that he had not collected any traffic data or prepared any modeling. When asked by counsel Kovar why he had not undertaken independent traffic counts, he replied "he didn't have time to".

Analysis and Disposition

[82] In arriving at its decision, the Board reviewed the documentary and technical materials provided, considered the evidence and opinions of the expert witnesses and the submissions of counsel, and had regard for the decision of City Council and the public interest.

[83] The Board has been persuaded by the evidence of Mr. Smith, Ms Stea and Mr. Chan that the development proposal conforms to the GP; it is consistent with the policies of the PPS; it implements the policy objectives established by the OP; it is appropriately responsive to matters concerning the public interest; and, it is in the greater public good. The proposal appropriately adopts land use initiatives established by the current planning regime, and in doing so, advances the principles of good land use planning. The subject ZBAs implement the development proposal, and are appropriate.

[84] In regard to the planning merits of the proposal, the Board prefers and relies on the more comprehensive and apposite planning evidence of Mr. Smith and Ms Stea. By contrast, the planning analysis and opinions of Mr. Manett was primarily premised on a single-themed planning policy initiative - reducing dependence on automobiles and promoting the use of transit. Clearly, it is the auto dealership(s) (autoplex) component of the proposal that is the object of this appeal. In fact, Mr. Manett confirmed "he has no issues with the residential component" of the proposal. However, under the existing zoning, the autoplex uses are permitted on the site as-of-right. In fact, as Mr. Smith testified, an even larger portion of the site than is being proposed could be used for auto dealership uses (approximately 48,284 sq m). The proposed ZBAs provide the necessary zoning permissions for the residential, grocery store and retail aspects of the development proposal; all of which Mr. Manett does not appear to take issue with.

[85] The Board agrees that the policies referenced by Mr. Manett provide useful and important guiding principles for managing growth and creating sustainable, vibrant,

liveable communities. The Board cannot agree that these policies are capable of sustaining an interpretation that auto sales uses represent bad planning, or that the intent of these policies was to eliminate the sales and servicing, ownership and use of automobiles. Were that the case, one would have expected to see City Council prohibit such uses, which it has chosen not to do. To the contrary, these policies essentially offer guidance for managing growth and accommodating development in intensification areas which promotes less dependency on automobile usage, thereby, encouraging use of public transit and alternate means of transportation. The Board agrees with Mr. Smith that while there are Provincial and OP policies intended to encourage a transition away from auto-dependency, restricting the construction of auto dealerships is not an appropriate method for encouraging this transition.

[86] In regard to transportation and traffic matters, the Board relies on the studied technical analysis and opinion evidence of Mr. Chan. Generally, the opinions and predicted performance outcomes provided by Mr. Chan were derived from analyses of actual traffic counts data in combination with observed operational performance. Mr. Mark, on the other hand, formed his opinions primarily on the basis of a review of the 2015 TIS, and to a lesser degree the 2016 TIS, and photographs provided by Mr. Manett; he did not collect any actual traffic data or otherwise monitor the traffic operations/circulation in the vicinity of the site.

[87] Mr. Mark also cited concerns with respect to site access/egress, sufficiency of turning radius, and site circulation. However, after further clarification of the auto storage area and mode of delivery of dealership vehicles, turning radius requirements, and the directional circulation to/from and on the site, Mr. Mark appeared to be satisfied that any remaining issues and/or site safety improvement measures can be resolved in the site plan.

[88] In summation, the Board is satisfied that the development proposal is in-keeping with the planning framework established by the Provincial and local planning regime, and will better serve the public interests.

[89] The size and strategic positioning of this underutilized site renders it particularly suitable for intensification and mixed-use urban development. The development proposal results in an appropriate mix of residential and non-residential uses that are compatible with the planned context of this area, and will not adversely impact or interfere with the existing development, nor will it impede the development potential of surrounding properties.

[90] The redevelopment of this site includes the adaptive reuse of the frame of an existing structure, and an expansive surface parking area and a single-storey (dealership) building fronting onto QSE will be replaced with a vibrant urban form and pedestrian-friendly amenity space. The proposal has been carefully designed to respond to the established urban design policies and guidelines of the OP, and will serve to revitalize and enhance the public realm along this section of QSE. The height, scale and massing of the buildings have been scaled to provide an appropriate transition to QSE, and to eliminate unacceptable built form impacts. The urbanized autoplex format will result in an efficiency of land use, and is an aesthetic improvement over the conventional auto dealership surface parking areas.

[91] Lastly, the redevelopment proposal results in the creation of a new public park and private and public amenity spaces, additional retail opportunities and enhanced employment opportunities, and the greater public interest will be enhanced with a \$5 Million contribution towards the provision of affordable rental housing through the s. 37 Agreement.

ORDER

[92] The Board orders that the appeal is dismissed and Zoning By-law No. 438-86 of the City of Toronto is amended in the manner set out in Attachment 1 to this order; and further, Zoning By-law No. 569-2013 of the City of Toronto is amended in the manner set out in Attachment 2 to this order.

[93] The municipal clerk shall have the authority to assign the appropriate numbers to these by-laws for record-keeping purposes.

"M. A. Sills"

M. A. SILLS
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

PL160033 – Attachment 1

Authority: Toronto and East York Community Council Item TE12.7, as adopted by City of Toronto Council on December 9 and 10, 2015

CITY OF TORONTO

Bill No. 1394

BY-LAW No. -2015

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands known municipally as 661, 663, 669 and 677 Queen Street East and 77, 79, and 79A East Don Roadway.

Whereas authority is given to the Council of the City of Toronto pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law with respect to lands known municipally in the year 2015 as 661, 663, 669 and 677 Queen Street East and 77, 79, and 79A East Don Roadway;

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

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

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

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

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

Whereas the increases in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner of the land and the City of Toronto (hereinafter referred to as the "City");

Whereas the Council of the *City* has required the owner of the aforesaid lands to enter into one or more agreements for the provision of certain facilities, services and matters in return for the increases in height and density permitted by this By-law; and

Whereas the Council of the *City* has determined to amend Zoning By-law No. 438-86, as amended, of the former City of Toronto;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the lands comprising *Parcel A* and on the lands comprising *Parcel B*, are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements between the *City* and the *owner* of the *lot* on title to the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a *building permit*, such building may not be erected or used until the *owner* of the *lot* has satisfied the said requirements.
3. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement(s) entered into with the *City* pursuant to Section 37 of the *Planning Act*, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
4. District Map 52G - 321 contained in Appendix 'A' of *By-law No. 438-86*, as amended, is further amended by re-designating the land outlined by heavy lines on Map 2 attached to and forming part of this By-law to MCR T2.5 C2.0 R2.0, MCR T2.0 C2.0 R0.0 and G, as depicted on Map 2.
5. Height and Minimum Lot Frontage Map 52G – 321 contained in Appendix 'B' of *By-law No. 438-86*, as amended, is further amended in accordance with Map 3 forming part of this By-law.
6. Except as otherwise provided herein, the provisions of *By-law No. 438-86* shall continue to apply to the *lot*.

Site Specific Permitted Uses, Heights and Density Subject to Section 37 *Planning Act*

7. None of the provisions of Sections 2(1) with respect to the definitions of *grade*, *height* and *lot*, 4(2) (a), 4(3)(a) and (b), 4(4)(b), 4(6)(b) and (c), 4(12), 4(13)(a) and (c), 4(14), 8(1), 8(2), 8(3) Part I 1, 2, and 3(a), 8(3) Part II 1(b), 8(3) Part II 4, 12(2) 270(i) and (ii) of *By-law No. 438-86*, shall apply to prevent the erection and use of one or more *mixed use buildings* containing residential and non-residential uses on the lands shown on Map 1 attached hereto, including uses *accessory* thereto, provided:
 - (a) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall not exceed 85,000.0 square metres, of which:
 - (i) the total *residential gross floor area* erected or used on the *lot* shall not exceed 64,000.0 square metres; and the total *non-residential gross floor area* erected or used on the *lot* shall not exceed 21,000.0 square metres;

- (ii) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on *Parcel A* shall not exceed 63,900.0 square metres, of which the total *residential gross floor area* erected or used on *Parcel A* shall not exceed 46,600.0 square metres and the total *non-residential gross floor area* erected or used on *Parcel A* shall not exceed 17,300.0 square metres;
- (iii) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on *Parcel B* shall not exceed 21,100.0 square metres, of which the total *residential gross floor area* erected or used on *Parcel B* shall not exceed 17,400.0 square metres and the total *non-residential gross floor area* erected or used on *Parcel B* shall not exceed 3,700.0 square metres; and
- (iv) the *residential gross floor area* on the 20th storey of Tower A on Map 4 shall not exceed 430.0 square metres;
- (b) a minimum of three (3) non-residential units shall have frontage on Queen Street East and be directly accessible from Queen Street East;
- (c) no portion of any *dwelling unit* erected or used on the *lot* shall be located below *grade* or on or within the ground floor of any building;
- (d) in addition to the uses permitted in Section 8(1)(f)(a) and Section 8(1)(f)(b) of *By-law No. 438-86*, *car-share* and *car-share parking spaces*, as defined by this By-law, are permitted uses on the *lot* provided the number of *car-share parking spaces* located on the *lot* does not exceed 15;
- (e) in addition to the uses permitted in Section 8(1)(f)(a) and Section 8(1)(f)(b) of *By-law No. 438-86*, *automobile service and repair shop*, *motor vehicle repair shop – class A*, *public garage* and *sales or hire garage* and *showroom* are permitted only on *Parcel A*;

Building Envelope

- (f) no portion of any building or structure erected or used on the *lot*, above *grade* or above finished ground, shall be located other than wholly within the areas delineated by lines depicting *height* on the attached Map 4, with the exception of the following:
 - (i) awnings, lighting fixtures, ornamental elements, trellises, window sills, balustrades, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape, window washing equipment, wind mitigation elements and public art features may extend to a maximum of 1.0 metres beyond the lines depicting *height* shown on Map 4; and

- (ii) balconies and dividers not exceeding a maximum horizontal projection of 2.0 metres beyond the areas outlined on Map 4 with such balcony and divider projections not to be permitted for Towers labelled A and B on Map 4;

Height

- (g) no part of any building or structure erected or used on the *lot* above *grade* or above finished ground, including mechanical and elevator/stair overrun, shall exceed the *heights* in either metres or *storeys* specified by the numbers following the symbol "H", shown on the attached Map 4, with the exception of the following:
 - (i) the maximum *height* for parapets, terrace guards and dividers, planters, railings, lighting fixtures, trellises, garbage chute overrun, landscape and public art features, swimming pools and jacuzzis including associated decks, air intakes, vents and ventilating equipments, chimney stacks, exhaust flues, wind mitigation elements, decorative screens, and window washing equipment shall be the sum of 1.6 metres and the applicable *height* limit shown on Map 4; and
 - (ii) a *storey* shall not include a mezzanine;
- (h) the ground floor of any building or structure erected or used on all or part of *Parcel A* shall be setback a minimum of 0.815 metres from any property line along East Don Roadway;

Amenity Space

- (i) *residential amenity space* shall be provided and maintained on the *lot* for the use of all residents of the *lot* in accordance with the following:
 - (i) a minimum of 1.55 square metres of indoor *residential amenity space* for each *dwelling unit* erected on the *lot*, shall be provided in a multi-purpose room or rooms at least one of which shall contain both a kitchen and washroom; and
 - (ii) a minimum of 1.35 square metres of outdoor *residential amenity space* for each *dwelling unit* erected on the *lot* shall be provided, of which at least 40 square metres shall be provided in a location adjoining or directly accessible to indoor *residential amenity space*;

Parking

- (j) parking shall be provided and maintained on the *lot* in accordance with Section 4(4)(b) with the following exemptions:

- (i) for *dwelling units* erected or used on the *lot*, the minimum number of *parking spaces* required are as follows:
- A. for residents 0.52 *parking spaces* per *dwelling unit*; and
- B. for residential visitors 0.15 *parking spaces* per *dwelling unit*;
- (ii) for *retail store and automobile service and repair shop, motor vehicle repair shop – class A, sales or hire garage and showroom* uses erected or used on the *lot*, the minimum number of *parking spaces* required are as follows:
- A. *retail store* - 1 space per 100 square metres of *non-residential gross floor area*; and
- B. *automobile service and repair shop, motor vehicle repair shop – class A, sales or hire garage and showroom* - 1 *parking space* per 100 square metres of *non-residential gross floor area*;
- (iii) sharing of the required *parking spaces* under (j)(i) B. and (j)(ii) above shall be permitted in accordance with the following minimum occupancy rates:

Use	Minimum Parking Occupancy (Percent)		
	AM (6 a.m. to Noon)	PM (Noon to 6 p.m.)	Evening (6 p.m. to 6 a.m)
Residential Visitor	0	35	100
Retail	20	100	100
<i>automobile service and repair shop, motor vehicle repair shop – class A, sales or hire garage and showroom</i>	20	100	100

- (iv) where the calculation of the required number of *parking spaces* results in a number containing a fraction, the number is rounded down to the nearest whole number, but there may not be less than a requirement of one *parking space*;
- (v) a minimum of 5 *car-share parking spaces* in a publicly-accessible location on the *lot*;
- (vi) *car-share parking spaces* may replace the *parking spaces* otherwise required for residential occupants, up to a maximum of 15 *car-share*

parking spaces at a rate of 1 car-share space per 4 required parking spaces;

Loading

- (k) on *Parcel A*, loading facilities shall be provided and maintained at least as follows for the use of buildings and structures erected on the *lot*:
 - (i) Two (2) *loading spaces- type "B"*;
 - (ii) One (1) *loading space- type "C"*;
 - (iii) One (1) *loading space- type "G"*; and
 - (iv) One (1) lay-by for a car-carrier vehicle having a minimum width of 3.4 metres, minimum length of 36.0 metres, and minimum *height* of 6.1 metres; and

- (l) on *Parcel B*, loading facilities shall be provided and maintained at least as follows for the use of buildings and structures erected on *Parcel B*:
 - (i) Two (2) *loading spaces- type "B"*; and
 - (ii) One (1) *loading space- type "G"*, unless already provided on *Parcel A*;

Bicycle Parking Spaces

- (m) bicycle parking shall be provided and maintained on the *lot* in accordance with the following requirements:
 - (i) *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - A. for residents of the *lot*, not less than 0.9 long-term *bicycle parking spaces-occupant* for each *dwelling unit* erected or used on the *lot*;
 - B. for residential visitors to the *lot*, not less than 0.1 short-term *bicycle parking spaces- visitor* for each *dwelling unit* erected or used on the *lot*;
 - C. for retail occupants/employees of *retail stores* erected or used on *Parcel A*, not less than 5 long-term *bicycle parking spaces - visitor* for the use of such occupants/employees;
 - D. for retail occupants/employees of *retail stores* erected or used on *Parcel B*, not less than 10 long-term *bicycle parking spaces* for the use of such retail occupants/employees;

- E. for visitors to *retail stores* erected or used on *Parcel A*, not less than 9 short-term *bicycle parking spaces* for the use of such retail visitors;
 - F. for visitors to retail stores erected or used on *Parcel B*, not less than 16 short-term *bicycle parking spaces* for the use of such retail visitors; and
 - G. for automobile dealership occupants and visitors erected or used on the *lot*, not less than 20 short-term *bicycle parking spaces* for such occupants and visitors;
- (ii) the location of the required *bicycle parking spaces* in (i) shall comply with the following:
- A. long-term *bicycle parking spaces* shall be located in a weather protected location either at *grade* or one level below *grade*; and
 - B. short-term *bicycle parking spaces* must be located at *grade*; and
- (n) a maximum of 898 *dwelling units* shall be permitted on the *lot*.
8. Within the *lot*, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
9. Despite any existing or future severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

Definitions

10. Notwithstanding the definitions provided in Section 2(1) of *By-law No. 438-86*, as amended, for the purposes of this By-law the following definitions will apply to the *lot* unless indicated otherwise in this By-law. Where italicized terms referred to in this By-law are not defined in this By-law, the definitions provided in Section 2(1) of *By-law No. 438-86*, will apply:
- (a) "*above-grade permit*" means the first *building permit* issued respecting all or any part of the *lot* that permits the erection of any above *grade* portion of a building and for clarity does not include a *foundation permit*;

- (b) "*building permit*" means a permit issued under the *Building Code Act, 1992*, S.O. 1992, c.23, as amended or re-enacted from time to time, for a *mixed-use building* permitted by By-law [Clerks to supply bylaw #], including a permit for excavation and shoring but it does not include any permit to construct a temporary *sales office* or a portion thereof, a permit not depending on the zoning by-law amendment, or a permit for repairs or maintenance of any building existing on the *lot* on the date of this By-law;
- (c) "*By-law No. 438-86*" means By-law No. 438-86, as amended, of the former City of Toronto;
- (d) "*car-share*" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization, such *car-share* motor vehicles to be made available for short term rental, including hourly rental, and where such organization may require that the *car-share* motor vehicles be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the *car-sharing* organization, including the payment of a membership fee that may or may not be refundable;
- (e) "*car-share parking space*" means a *parking space* that is signed, reserved and actively and exclusively used only for a motor vehicle for *car-share* purposes and such *car-share* is for the use of at least the occupants of any building erected or used on the *lot*;
- (f) "*Chief Planner*" means the Chief Planner and Executive Director, City Planning;
- (g) "*City*" means the City of Toronto;
- (h) "*foundation permit*" means *building permit* issued to construct all or part of a building foundation;
- (i) "*grade*" means 81.0 metres Canadian Geodetic Datum;
- (j) "*height*" means the vertical distance between *grade* and the highest point of the building or structure;
- (k) "*lot*" means the lands outlined by heavy lines on Map 1 attached to and forming part of this By-law and shall be comprised of at least the lands delineated and identified as *Parcel A* and *Parcel B* on such Map 1;
- (l) "*Parcel A*" means the lands identified as Parcel A on Map 1 attached to and forming part of this By-law;
- (m) "*Parcel B*" means the lands identified as Parcel B on Map 1 attached to and forming part of this By-law; and

- (n) "*sales office*" means a building, structure, facility or trailer used on the *lot* exclusively for the initial sale and/or initial leasing of *dwelling units* and/or *non-residential gross floor area* to be erected on the *lot*.

Enacted and passed on , 2015.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

APPENDIX 1
Section 37 Provisions

The facilities, services and matters set out herein are required to be provided by the *owner* of the *lot* at its expense to the *City* in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for indexing escalation of the financial contributions and letters of credit, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1.
 - a. Prior to the issuance of the first Above-Grade Permit for all or any part of the *lot*, the Owner shall pay to the City a cash contribution of FIVE MILLION DOLLARS (\$5,000,000.00) by certified cheque to the City, which contribution shall be used towards the provision of affordable rental housing on the *lot*, adjacent to the *lot*, and/or within the local area of Ward 30, to be allocated at the discretion of the Chief Planner in consultation with the Ward Councillor;
 - b. Prior to the issuance of the first Above-Grade Permit for all or any part of the *lot*, the Owner shall pay to the City a cash contribution of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) by certified cheque to the City, which contribution shall be used towards the provision of an off-leash dog area in Ward 30 within the local area of the *lot*, to be located and funding allocated at the discretion of the Chief Planner in consultation with the Ward Councillor. In the event the cash contribution referred to in this section has not been used for the intended purpose within three years of the By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*; and
 - c. The payment amounts in clauses 1 a. and b. of this Appendix 1 shall be increased by upwards indexing in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of execution of the Section 37 Agreement required in this Appendix to the date of each such payment to the City.
2. In order to support development on the *lot*:
 - a. Prior to the earlier of any residential or retail use of all or any part of the *lot* and the first Condominium registration of any part of the Site, the Owner shall at its expense, construct, provide and thereafter maintain to the satisfaction of the Chief Planner, a privately owned, publicly-accessible open space having a minimum area of at least 650 square metres, located at the southern terminus of the new north-south private lane, to be constructed by the Owner on the *lot* as part of the Development, including completing the conveyance of the necessary easements, including necessary rights of support, free and clear of encumbrances, to the City for nominal consideration, all to the satisfaction of the Chief Planner and the City

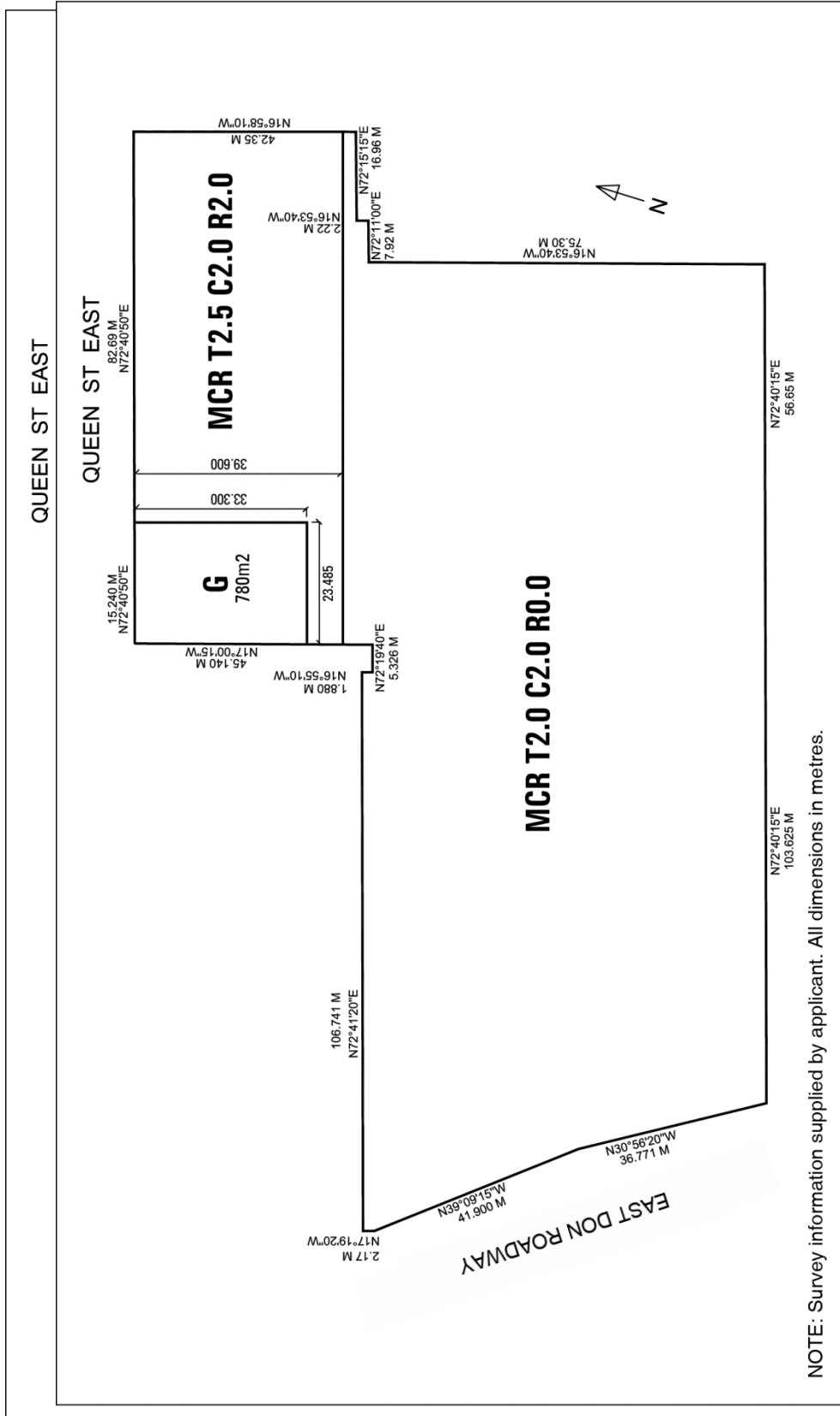
Solicitor, for the purpose of providing a privately-owned, publicly-accessible open space for use by the general public;

- b. Prior to the earlier of any residential or any retail use of all or any part of the *lot* and prior to any condominium registration of any part of the *lot*, the owner of the *lot* shall convey to the City free and clear of encumbrances and obstructions, an easement for public access over the north-south and east-west private lane/woonerf, all to the satisfaction of the *Chief Planner* and the City Solicitor;
- c. Prior to the issuance of the first *above-grade permit* for any part of *Parcel B*, the owner of the *lot* shall provide a letter of credit to the City, to include provision for upwards indexing, in a form and from a bank satisfactory to the City's General Manager, Transportation Services in the amount of TWO HUNDRED AND THIRTY THOUSAND DOLLARS (\$230,000.00) for a possible installation and maintenance of future signalization of new traffic control signals at the intersection of Queen Street East and Munro Street. Such letter of credit to be returned to the owner of the *lot* if such traffic control signal is not justified and/or required for safety reasons within five (5) years of full occupancy of *Parcel B*, all as determined the satisfaction of the General Manager, Transportation Services;
- d. In the event that the traffic signal referred to in clause 2 c. of this Appendix 1 is installed, the owner of the *lot* is required to provide a further letter of credit to the City, to include provision for upwards indexing, in a form and from a bank satisfactory to the City's General Manager, Transportation Services in the amount of TWENTY FIVE THOUSAND DOLLARS (\$25,000) for a possible future removal of the pedestrian cross-over located at Carroll Street. Such letter of credit to be returned to the owner of the *lot* if such signal control at the pedestrian crossover is not justified to be relocated within five (5) years of full occupancy of Phase 2 of this development, all as determined at the discretion of the General Manager, Transportation Services;
- e. Prior to the earlier of issuance of the first *above-grade permit* and the issuance of Notice of Approval Conditions in connection with an application for Site Plan Approval for any part of the *lot*, the owner shall pay to the City by certified cheque the sum determined by the City's Executive Director, Engineering & Construction Services for construction of any improvements to the existing municipal infrastructure required to service the *lot*, as determined by and to the satisfaction of the City's Executive Director, Engineering & Construction Services;
- f. The owner of the *lot* shall convey to the City an on-site parkland dedication of a minimum size of at least 780 square metres, which is identified as Area A in Map 1 of this By-law, to be conveyed to the City in partial fulfilment of the owner's required parkland dedication pursuant to section 42 of the *Planning Act*, and to be secured in the Section 37 Agreement required in this Appendix 1, all to the satisfaction of the Chief Planner, the General Manager, Parks Forestry and Recreation and the City Solicitor in accordance with the following terms and conditions:

- (1) The owner shall in conjunction with the Development, design, construct and provide to the City approved base and above-base park improvements, such above-base park improvements having a value no greater than the remaining cash-in-lieu of parkland contribution owing pursuant to section 42 of the *Planning Act* and the City's Municipal Code, to the satisfaction of the General Manager, Parks, Forestry and Recreation;
- (2) Prior to the issuance of the first *above-grade permit* for any portion of the *lot*, the owner of the *lot* shall provide a letter of credit to the City, to include provision for upwards indexing, in a form and from a bank satisfactory to the City, in the amount of the remaining parkland dedication requirement, as determined by the City's Appraisal Services staff, which will be held as security by the City for the satisfactory completion by the owner of the *lot* of the construction of the required above-base park improvements;
- (3) Prior to the earlier of any residential or any retail use of all or any part of the *lot*, issuance of any *building permit* for *Parcel B* and any condominium registration of any part of the *lot*, the owner of the *lot* shall convey to the City the on-site parkland dedication lands for parkland in base park condition;
- (4) Unless otherwise agreed to by the City's General Manager, Parks, Forestry and Recreation, the owner shall complete the above-base park improvements, as described in 2f.(1) of this Appendix 1 prior to the earlier of any residential or retail use of *Parcel B*, the issuance of any building permit for any part of *Parcel B*, or any condominium registration of any part of the *lot*;
- (5) Prior to conveyance of the land for parkland required in (3) , the owner of the *lot* shall be responsible for completing an environmental assessment of the parkland and shall pay any associated costs or remediation works required as a result of that assessment, all to the satisfaction of the City together with the filing of Record of Site Condition (RSC) in accordance with all applicable Ministry of Environment and Climate Change requirements including completion of a satisfactory peer review by an environmental expert retained by the City, at the owner's expense;
- (6) The land to be conveyed to the City for parkland herein shall be conveyed by way of freehold title and shall be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements; and
- (7) The owner of the *lot* shall pay all costs associated with the conveyance to the City of the land for parkland herein, including all applicable taxes and fees, the cost of preparing all necessary plans, registering all relevant documents, and providing a title opinion demonstrating that the lands are

being conveyed free and clear of all encumbrances, all to the satisfaction of the City Solicitor; and

- g. The owners of the *lot* shall enter into and register on title to the lot one or more agreements with the *City* pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor in consultation with the *Chief Planner*, to secure the facilities, services and matters set forth in this Appendix 1.



NOTE: Survey information supplied by applicant. All dimensions in metres.

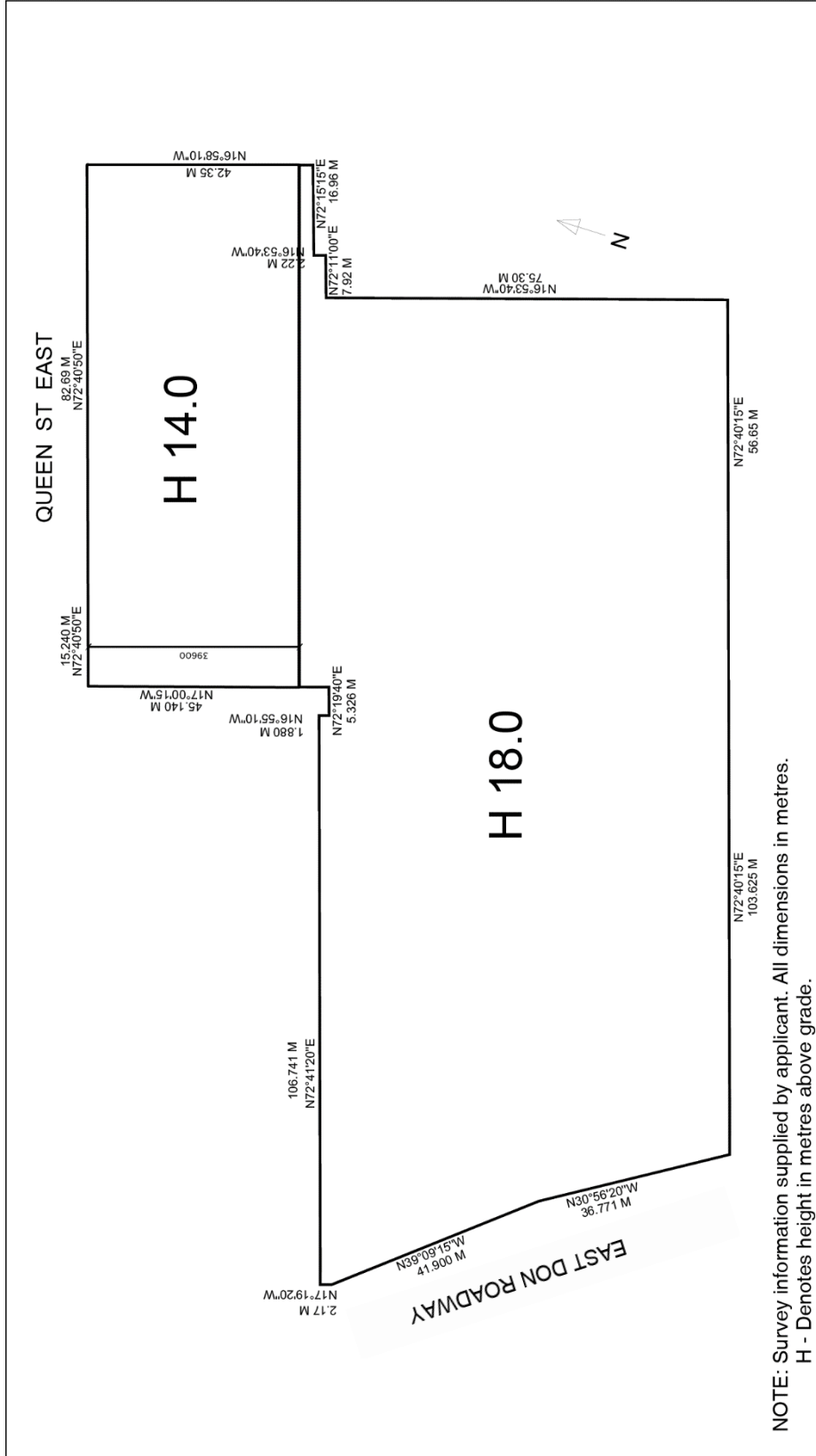


77-79 East Don Roadway and 661-677 Queen Street East

Map 2

File # 14_176221 STE 30 OZ and 14_176212 STE 30 OZ

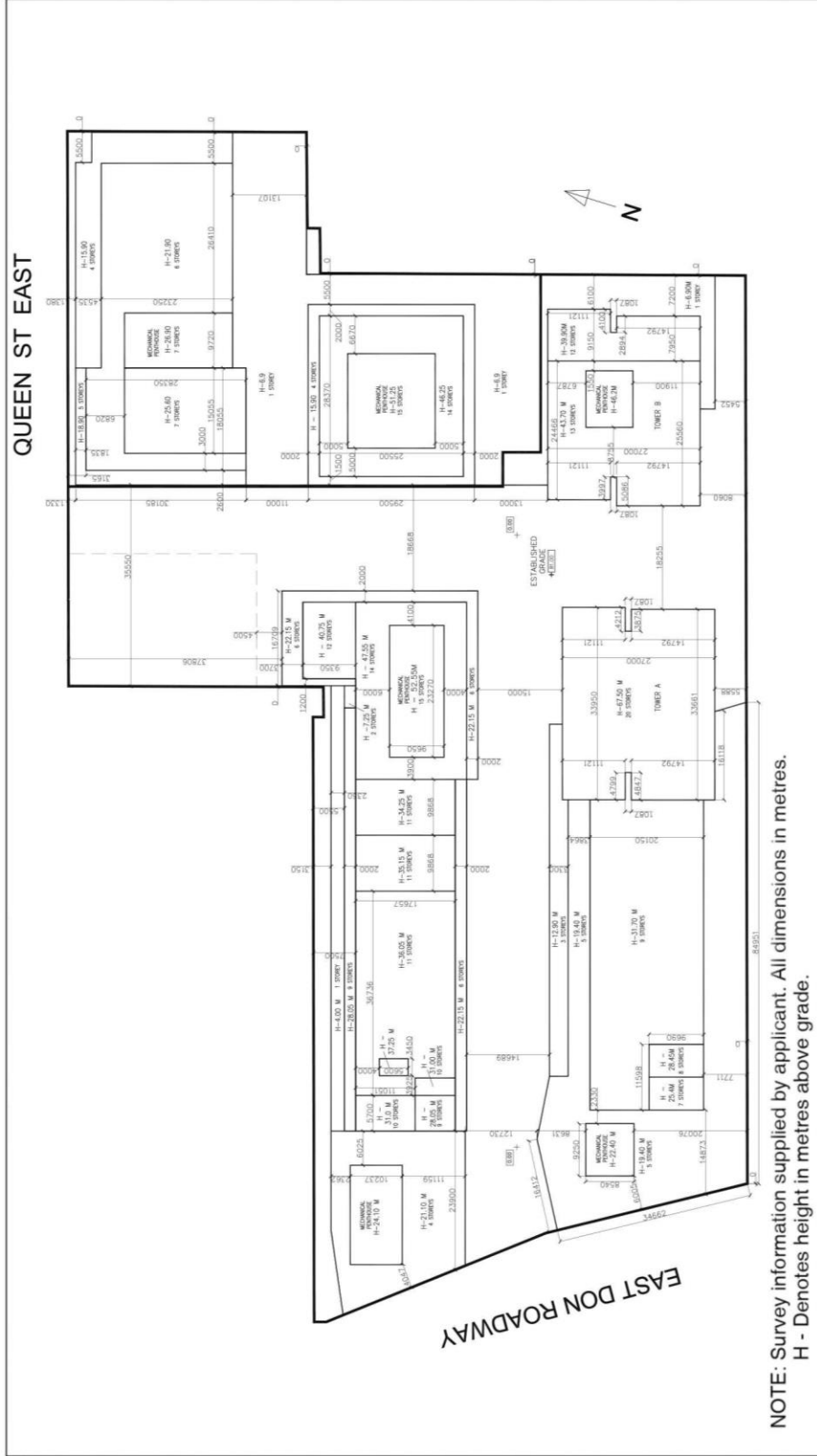




Toronto City Planning
77-79 East Don Roadway and 661-677 Queen Street East

Map 3
 File # 14_176221 STE 30 OZ and 14_176212 STE 30 OZ





NOTE: Survey information supplied by applicant. All dimensions in metres.
 H - Denotes height in metres above grade.



77-79 East Don Roadway and 661-677 Queen Street East

Map 4

File # 14_176221 STE 30 0Z and 14_176212 STE 30 0Z

↑
 Not to Scale
 08/09/2016

PL160033 – Attachment 2

Authority: Toronto and East York Community Council Item TE12.7, as adopted by City of Toronto Council on December 9 and 10, 2015

CITY OF TORONTO

Bill No. 1395

BY-LAW No. -2015

To amend the Zoning By-law for the City of Toronto, being No. 569-2013, as amended, with respect to the lands municipally known in 2015 as 661, 663, 669 and 677 Queen Street East and 77, 79 and 79A East Don Roadway.

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;

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

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

Whereas pursuant to Section 37 of the *Planning Act*, 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;

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

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

Whereas the increases in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 569-2013 as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto (hereinafter referred to as the "City");

Whereas the Council of the City has required the owner of the aforesaid lands to enter into one or more agreements for the provision of certain facilities, services and matters in return for the increases in height and density permitted by this By-law; and

Whereas Council of the City of Toronto, at its meeting on December 9 and 10, 2015, determined to amend the City of Toronto Zoning By-law No. 569-2013 with respect to lands known municipally in the year 2015 as 661, 663, 669 and 677 Queen Street East and portions of 677 Queen Street East and 77, 79 and 79A East Don Roadway;

The Council of the City of Toronto enacts:

1. The lands subject to this By-law are municipally known in 2015 as 661, 663, 669 and 677 Queen Street East and 77, 79 and 79A East Don Roadway, as delineated by heavy lines on Diagram 1 attached to and forming part of this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law No. 569-2013, Chapter 800 Definitions.
3. Zoning By-law No. 569-2013, as amended, is further amended by amending the zoning label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy lines on Diagram 2 attached to and forming part of this By-law to CR 2.5 (c2.0; r2.0) SS2 (x32), CR 2.0 (c2.0; r0.0) SS2 (x32) and O, as shown on Diagram 2 to the By-law.
4. Zoning By-law No. 569-2013, as amended, is further amended by adding the lands outlined by a heavy line on Diagram 4 attached to and forming part of this By-law, to the Zoning By-law Map in Section 990.10, and applying the following zone labels to the lands delineated by heavy black lines on Diagram 4 attached to a forming part of this By-law: CR 2.0 (c2.0; r0.0) SS2 (x32) , as shown on Diagram 2 attached to this By-law.
5. Zoning By-law No. 569-2013, as amended, is further amended by adding the lands outlined by a heavy line on Diagram 4 attached to this By-law to the Policy Areas Overlay Map in Section 995.10.1.
6. Zoning By-law No. 569 -2013, as amended, is further amended by adding the lands outlined by a heavy line on Diagram 5 attached to this By-law to the Height Overlay Map in Section 995.20.1, and applying the following height label to said lands: HT 18.0, as shown on Diagram 5 attached to this By-law.
7. Zoning By-law No. 569 -2013, as amended, is further amended by adding the lands outlined by a heavy line on Diagram 6 attached to this By-law to the Rooming House Overlay Map in Section 995.40.1, and applying the following Rooming House label of B3 as shown on Diagram 6 attached to this By-law.
8. Zoning By-law No. 569 -2013, as amended, is further amended by adding the lands outlined by a heavy line on Diagram 4 attached to this By-law to the Lot Coverage Overlay Map in Section 995.30.1.
9. Zoning By-law No. 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number (32) so that it reads:

Exception CR 32

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions

- (A) On 661, 663, 669 and 677 Queen Street East and 77, 79 and 79A East Don Roadway, if the requirements of By-law [Clerks to supply by-law ##], including

the portions relating to agreements pursuant to section 37 of the *Planning Act*, are complied with, none of the provisions of Clauses and Regulations 5.10.40.70 (1) to (4), 40.5.40.10 (1), (2), (3), (4), (5), (6) and (7), 40.10.20.100 (13), (17), (26) and (39), 40.10.40.1 (1), 40.10.40.10 (2) and (5), 40.10.40.11, 40.10.40.40 (1), 40.10.40.50 (1), 40.10.40.60, 40.10.40.70 (2), 40.10.40.80 (2), 40.10.90.40 (1), 40.10.100.10 (1), 150.90.20.1 (1), 150.94.30.1, 150.94.40.1 (1), 150.94.50.1, 200.5.10.1, 200.15.1.5, 220.5.1 (2), 220.5.10.1, 230.5.1.10 (9), 230.5.10.1 (1), (2), and (5), and 230.40.1.20 (2), apply to prevent the erection or use of a **building, structure**, addition or enlargement, uses **ancillary** thereto, permitted by (B) to (V) below;

- (B) The total **gross floor area** of all **buildings** and **structures** on the **lot** must not exceed 85,000.0 square metres; and:
- (i) the total residential **gross floor area** must not exceed 63,300.0 square metres; and
 - (ii) the total non-residential **gross floor area** must not exceed 21,700.0 square metres;
- (C) Height is measured from 81.0 metres above sea level based on the Canadian Geodetic elevation datum, to the highest point of the **building** or **structure**;
- (D) No portion of any **building** or **structure** on the **lot** may exceed the height specified in **storeys**, excluding mezzanines, or the height in metres specified by the number following the H symbol as shown on Diagram 3 of By-law [Clerks to supply By-law #], excluding canopies, awnings, building cornices, window washing equipment, lighting fixtures, ornamental elements, lightning rods, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, balconies, terraces, stairs, stair enclosures, wheel chair ramps, underground garage ramps, landscape and green roof elements, swimming pools and jacuzzis including associated decks, partitions dividing outdoor recreation areas, wind mitigation and public art elements, air intakes, vents and ventilating equipment, chimney stacks, exhaust flues and garbage chute overruns and associated structures, which may have a height of 1.6 metres greater than the height in metres specified by the number following the H symbol as shown on Diagram 3 of By-law [Clerks to supply By-law #];
- (E) The portions of a **building** or **structure** above grade must be located within the areas outlined in Diagram 3 of By-law [Clerks to supply by-law ##], except that canopies, awnings, building cornices, window washing equipment, lighting fixtures, ornamental elements, lightning rods, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, terraces, stairs, stair enclosures, wheel chair ramps, underground garage ramps, landscape and green roof elements, swimming pools and jacuzzis including associated decks, partitions dividing outdoor recreation areas, wind mitigation and public art elements, air intakes, vents and ventilating equipment, chimney stacks, exhaust flues and garbage chute overruns

and associated structures may extend 1.0 metres beyond the areas outlined in heavy lines shown on Diagram 3 of By-law [Clerks to supply By-law #];

- (F) The portions of a **building** or **structure** above grade must be located within the areas outlined in Diagram 3 of By-law [Clerks to supply by-law ##], except that balconies and dividers may extend a maximum of 2.0 metres beyond the heavy lines shown on Diagram 3 as measured perpendicular to the exterior walls of the **building** with such balcony and divider projections not to be permitted for Towers labelled A and B on Diagram 3;
- (G) **Amenity space** must be provided and maintained on the **lot** in accordance with the following:
- (i) a minimum of 1.55 square metres of indoor residential **amenity space** per **dwelling unit** must be provided and maintained on the **lot** in a multi-purpose room or rooms at least one of which contains a kitchen and a washroom; and
 - (ii) a minimum of 1.35 square metres of outdoor **amenity space** per **dwelling unit** must be provided and maintained on the **lot**, a minimum of 40 square metres of which must be in a location adjoining or directly accessible from a portion of the indoor residential **amenity space**;
- (H) **Parking spaces** must be provided and maintained on the **lot** in accordance with the following:
- (i) a minimum of 0.52 **parking spaces** per **dwelling unit** for residents;
 - (ii) a minimum of 0.15 **parking spaces** per **dwelling unit** for residential visitors;
 - (iii) a minimum of 1 **parking space** per 100 square metres of non-residential **gross floor area**, excluding the **gross floor area** of a **vehicle dealership** and a **vehicle service shop**;
 - (iv) a minimum of 1 **parking space** 100 square metres of **gross floor area** used for a **vehicle dealership** or **vehicle service shop** that is located above grade;
 - (v) **parking spaces** used for an automobile showroom, automobile servicing, or automobile inventory associated with a **vehicle dealership** or **vehicle service shop** on the **lot**, may be provided in tandem despite the definition of **parking space** in By-law No. 569-2013 and may have dimensions which are smaller than otherwise required by section 200.5.1.10(2) of By-law No. 569-2013;
 - (vi) a minimum of 5 **auto-share parking spaces** in a publicly-accessible location on the **lot**; and

- (vii) The required **auto-share parking spaces** may replace the **parking spaces** otherwise required for residential occupants, up to a maximum of 15 **auto-share parking spaces**;
- (I) Sharing of **parking spaces** required under (H)(ii), (H)(iii) and (H)(iv) above can permitted in accordance with the Parking Space occupancy rates outlined in Table 200.5.10.1 of By-law No. 569-2013;
- (J) Despite the parking occupancy rates in Table 200.5.10.1 – the following uses may have morning occupancy rates of:
 - (i) Residential Visitor 0 percent;
 - (ii) **Retail Store** 20 percent; and
 - (iii) **Vehicle Dealership** 20 percent;
- (K) A minimum of amount of **bicycle parking spaces** must be provided and maintained on the **lot** in accordance with the following:
 - (i) 0.9 long-term **bicycle parking spaces** per **dwelling unit** for residents;
 - (ii) 0.1 short-term **bicycle parking spaces** per **dwelling unit** for residential visitors;
 - (iii) 5 long-term **bicycle parking spaces** for retail occupants/employees located in **Parcel A**;
 - (iv) 10 long-term **bicycle parking spaces** for retail occupants/employees for **retail stores** or **retail services** located in **Parcel B**;
 - (v) 9 short-term **bicycle parking spaces** for retail visitors for **retail stores** or **retail services** located in **Parcel A**;
 - (vi) 16 short-term **bicycle parking spaces** for retail visitors for **retail stores** or **retail services** located in **Parcel B**;
 - (vii) 20 **bicycle parking spaces** for **vehicle dealership** and **vehicle service shop** occupants and visitors; and
 - (viii) the location of the required long-term **bicycle parking spaces** must be located on the **lot** in a weather protected location either at grade or one level below grade and the location of required short-term **bicycle parking spaces** must be located on the **lot** at grade;
- (L) A minimum of two Type "B" **loading spaces**, one Type "C" **loading space**, one Type "G" **loading space**, and one lay-by for a car-carrier vehicle having a

minimum width of 3.4 metres, minimum length of 36.0 metres, and minimum height of 6.1 metres must be provided on **Parcel A**;

- (M) A minimum of two Type "B" **loading spaces** must be provided on **Parcel B**;
- (N) A minimum of one Type "G" **loading space** must be provided on **Parcel B**, unless already provided on **Parcel A**;
- (O) In addition to the permitted uses identified in Section 40.10.20.10 of **By-law No. 569-2013**, **auto-share**, **auto-share parking space**, and **public parking** are also permitted uses on the **lot**;
- (P) A minimum of three (3) non-residential units must have frontage on Queen Street East and be directly accessible from Queen Street East;
- (Q) A maximum of 898 **dwelling units** shall be permitted on the **lot** and **dwelling units** are not permitted on the **first floor** or any level below grade;
- (R) A **vehicle dealership** and **vehicle service shop** are only permitted on Parcel A;
- (S) The **first floor** of the **building or structure** on **Parcel A** must be setback a minimum of 0.815 metres from the property line along East Don Roadway;
- (T) Despite any other provisions of this By-law, if construction proceeds in phases, the first phase of construction must occur on **Parcel A** and despite Sections (E), (F), (G), (H) and (I) herein, prior to the completion of construction on **Parcel B**:
 - (i) the combined residential **gross floor area** and non-residential **gross floor area** erected or used on Parcel A must not exceed 64,400.0 square metres, of which not more than 46,400.0 square metres can be residential **gross floor area** and not more than 18,000.0 square metres can be non-residential **gross floor area**;
- (U) **Parcel A** and **Parcel B** mean the lands identified as **Parcel A** and **Parcel B** respectively on Diagram 1 of By-law **[Clerks to supply By-law #]**;
- (V) Exception CR (x32) shall apply to all of the lands collectively regardless of future severance, partition or division;
- (W) For the purpose of this Exception CR (x32), all bold-type words and expressions have the same meaning as defined in By-law No. 569-2013, as amended, with the exception of the following:
 - (i) **Auto-share** means the practice where a number of people share the use of one or more automobiles that are owned by a profit or non-profit automobile-sharing organization and where such organization may require that use of automobiles reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the

automobile-sharing organization, including the payment of a membership fee that may or may not be refundable;

- (ii) **Auto-share parking space** means a parking space that is reserved and actively used for **auto-share**; and
- (S) The residential **gross floor area** on the 20th **storey** of Tower A on Diagram 3 shall not exceed 430.0 square metres.

Prevailing By-law and Prevailing Sections: (None Apply).

10. Section 37 Provisions

- (A) Pursuant to Section 37 of the *Planning Act*, 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 Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A 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;
- (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- (C) 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 A are satisfied.

Enacted and passed on , 2015.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out herein are required to be provided by the owner of the **lot** at its expense to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for indexing escalation of the financial contributions and letters of credit, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1.
 - a. Prior to the issuance of the first Above-Grade Permit for all or any part of the **lot**, the Owner shall pay to the City a cash contribution of FIVE MILLION DOLLARS (\$5,000,000.00) by certified cheque to the City, which contribution shall be used towards the provision of affordable rental housing on the **lot**, adjacent to the **lot**, and/or within the local area of Ward 30, to be allocated at the discretion of the Chief Planner in consultation with the Ward Councillor;
 - b. Prior to the issuance of the first Above-Grade Permit for all or any part of the **lot**, the Owner shall pay to the City a cash contribution of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) by certified cheque to the City, which contribution shall be used towards the provision of an off-leash dog area in Ward 30 within the local area of the **lot**, to be located and funding allocated at the discretion of the Chief Planner in consultation with the Ward Councillor. In the event the cash contribution referred to in this section has not been used for the intended purpose within three years of the By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the property; and
 - c. The payment amounts in clauses 1 a. and b. of this Appendix 1 shall be increased by upwards indexing in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of execution of the Section 37 Agreement required in this Appendix to the date of each such payment to the City.
2. In order to support development on the **lot**:
 - a. Prior to the earlier of any residential or retail use of all or any part of the **lot** and the first Condominium registration of any part of the **lot**, the Owner shall at its expense, construct, provide and thereafter maintain to the satisfaction of the Chief Planner, a privately owned, publicly-accessible open space having a minimum area of at least 650 square metres, at the southern terminus of the new north-south private lane, to be constructed by the Owner on the Site as part of the Development, including completing the conveyance of the necessary easements, including necessary rights of support, free and clear of encumbrances, to the City for nominal consideration, all to the satisfaction of the Chief Planner and the City

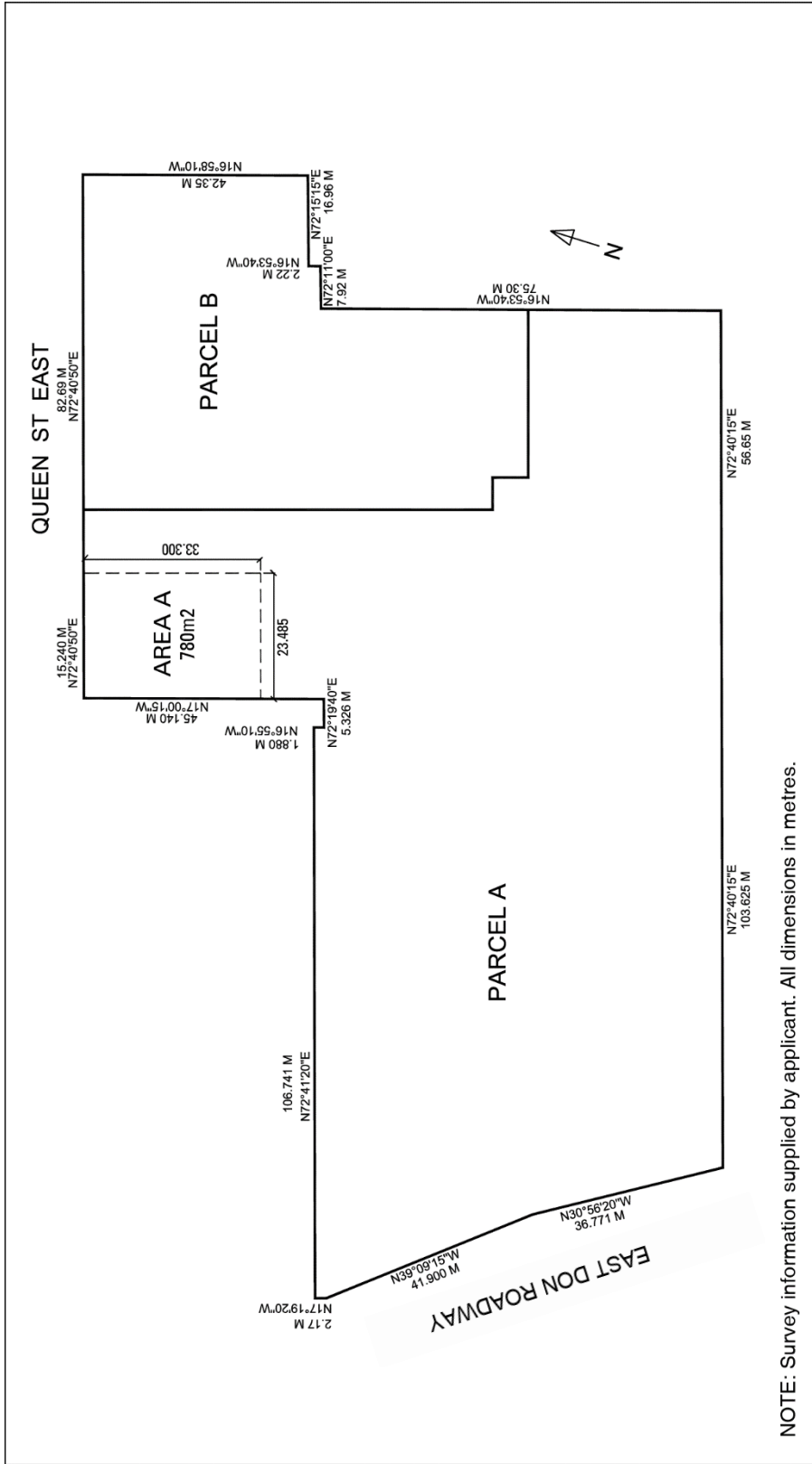
Solicitor, for the purpose of providing a privately-owned, publicly-accessible open space for use by the general public;

- b. Prior to the earlier of any residential or any retail use of all or any part of the **lot** and prior to any condominium registration of any part of the **lot**, the owner of the **lot** shall convey to the City free and clear of encumbrances and obstructions, an easement for public access over the north-south and east-west private lane/woonerf, all to the satisfaction of the Chief Planner and the City Solicitor;
- c. Prior to the issuance of the first above-grade permit for any part of **Parcel B**, the owner of the **lot** shall provide a letter of credit to the City, to include provision for upwards indexing, in a form and from a bank satisfactory to the City's General Manager, Transportation Services in the amount of TWO HUNDRED AND THIRTY THOUSAND DOLLARS (\$230,000.00) for a possible installation and maintenance of future signalization of new traffic control signals at the intersection of Queen Street East and Munro Street. Such letter of credit to be returned to the owner of the **lot** if such traffic control signal is not justified and/or required for safety reasons within five (5) years of full occupancy of **Parcel B**, all as determined the satisfaction of the General Manager, Transportation Services;
- d. In the event that the traffic signal referred to in clause 2 c. of this Appendix 1 is installed, the owner of the **lot** is required to provide a further letter of credit to the City, to include provision for upwards indexing, in a form and from a bank satisfactory to the City's General Manager, Transportation Services in the amount of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) for a possible future removal of the pedestrian cross-over located at Carroll Street. Such letter of credit to be returned to the owner of the **lot** if such signal control at the pedestrian crossover is not justified to be relocated within five (5) years of full occupancy of Phase 2 of this development, all as determined at the discretion of the General Manager, Transportation Services;
- e. Prior to the earlier of issuance of any above-grade building permit and issuance of Notice of Approval Conditions in connection with an application for Site Plan Approval for any part of the **lot**, the owner shall pay to the City by certified cheque the sum determined by the City's Executive Director, Engineering & Construction Services for construction of any improvements to the existing municipal infrastructure required to service the **lot**, as determined by and to the satisfaction of the City's Executive Director, Engineering & Construction Services;
- f. The owner of the **lot** shall convey to the City an on-site parkland dedication of a minimum size of at least 780 square metres, which is identified as Area A in Diagram 1 of By-law [Clerks to supply by-law ##], to be conveyed to the City in partial fulfilment of the owner's required parkland dedication pursuant to section 42 of the *Planning Act*, and to be secured in the Section 37 Agreement required in this Appendix 1, all to the satisfaction of the Chief Planner, the General Manager, Parks Forestry and Recreation and the City Solicitor in accordance with the following terms and conditions:

- (1) The owner shall in conjunction with the Development, design, construct and provide to the City approved base and above-base park improvements, such above-base park improvements having a value no greater than the remaining cash-in-lieu of parkland contribution owing pursuant to section 42 of the *Planning Act* and the City's Municipal Code, to the satisfaction of the General Manager, Parks, Forestry and Recreation;
- (2) Prior to the issuance of the first above-grade permit for any portion of the **lot**, the owner of the **lot** shall provide a letter of credit to the City, to include provision for upwards indexing, in a form and from a bank satisfactory to the City, in the amount of the remaining parkland dedication requirement, as determined by the City's Appraisal Services staff, which will be held as security by the City for the satisfactory completion by the owner of the **lot** of the construction of the required above-base park improvements;
- (3) Prior to the earlier of any residential or any retail use of all or any part of the **lot**, issuance of any building permit for **Parcel B** and any condominium registration of any part of the **lot**, the owner of the **lot** shall convey to the City the on-site parkland dedication lands for parkland in base park condition;
- (4) Unless otherwise agreed to by the City's General Manager, Parks, Forestry and Recreation, the owner shall complete the above-base park improvements, as described in 2f.(1) of this Appendix 1 prior to the earlier of any residential or retail use of Parcel B, issuance of any building permit for any part of **Parcel B** or any condominium registration of any part of the **lot**;
- (5) Prior to conveyance of the land for parkland required in (3) , the owner of the **lot** shall be responsible for completing an environmental assessment of the parkland and shall pay any associated costs or remediation works required as a result of that assessment, all to the satisfaction of the City together with the filing of Record of Site Condition (RSC) in accordance with all applicable Ministry of Environment and Climate Change requirements including completion of a satisfactory peer review by an environmental expert retained by the City, at the owner's expense;
- (6) The land to be conveyed to the City for parkland herein shall be conveyed by way of freehold title and shall be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements; and
- (7) The owner of the **lot** shall pay all costs associated with the conveyance to the City of the land for parkland herein, including all applicable taxes and fees, the cost of preparing all necessary plans, registering all relevant documents, and providing a title opinion demonstrating that the lands are

being conveyed free and clear of all encumbrances, all to the satisfaction of the City Solicitor; and

- g. The owners of the **lot** shall enter into and register on title to the lot one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor in consultation with the Chief Planner, to secure the facilities, services and matters set forth in this Appendix 1.



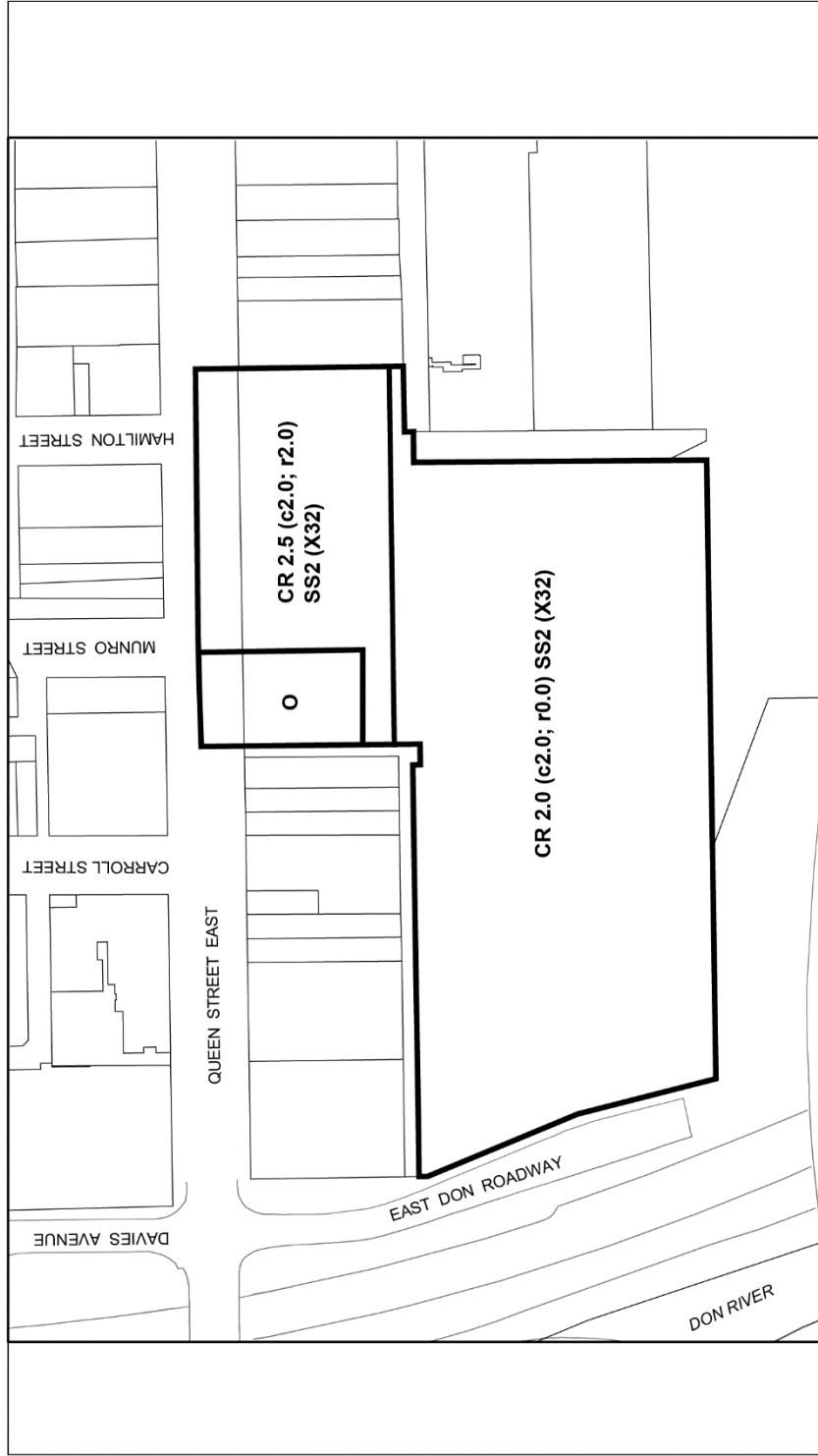
77-79 East Don Roadway and 661-677 Queen Street East

Diagram 1

File # 14_176221 STE 30 OZ and 14_176212 STE 30 OZ



Not to Scale
 10/20/2015

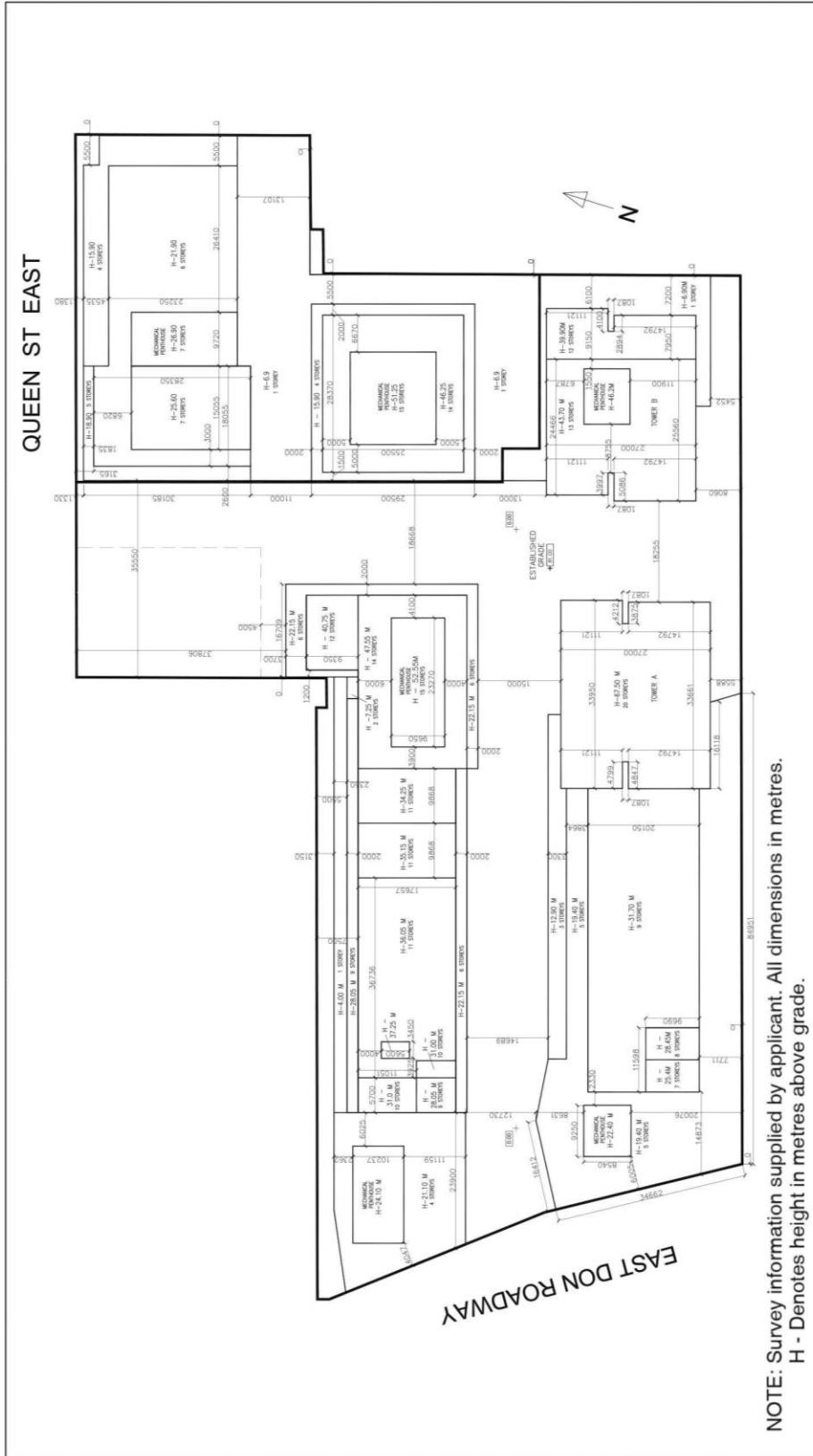


77-79 East Don Roadway and 661-677 Queen Street East

Diagram 2

File # 14_176221 STE 30 0Z and 14_176212 STE 30 0Z

↑
Not to Scale
12/08/2015



NOTE: Survey information supplied by applicant. All dimensions in metres.
H - Denotes height in metres above grade.



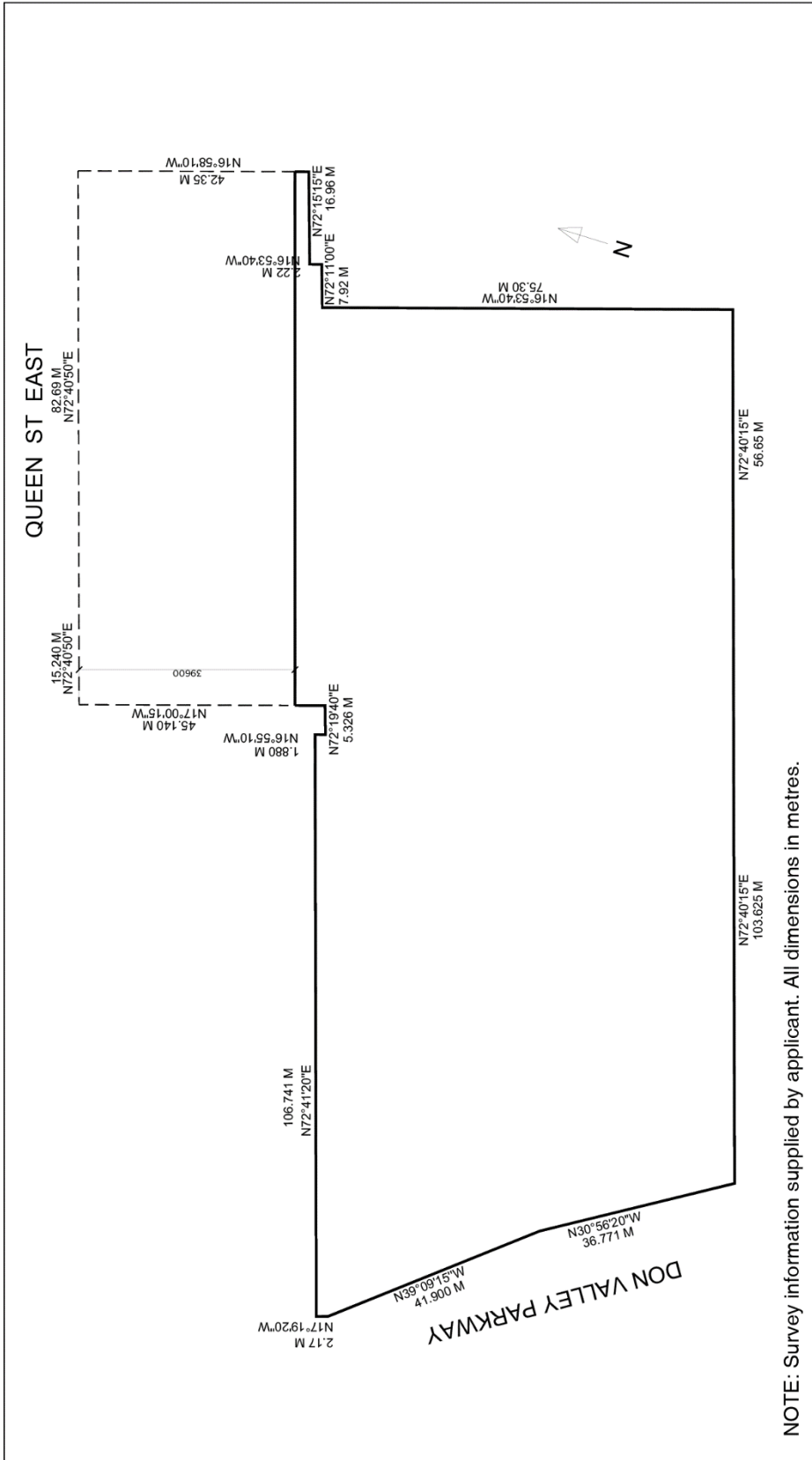
77-79 East Don Roadway and 661-677 Queen Street East

Diagram 3

File # 14_176221 STE 30 0Z and 14_176212 STE 30 0Z



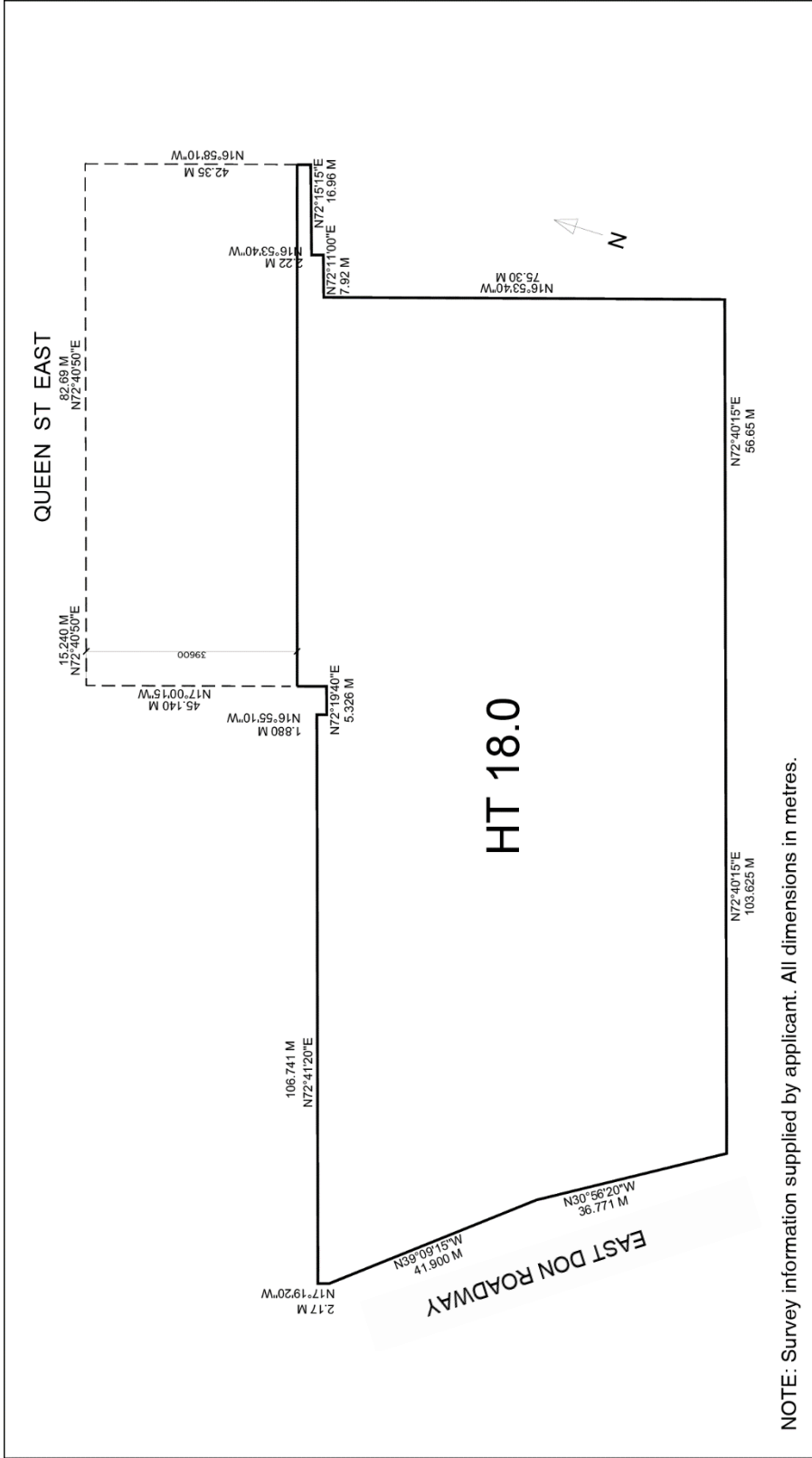
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TORONTO City Planning
77-79 East Don Roadway and 661-677 Queen Street East

Diagram 4 File # 14_176221 STE 30 0Z and 14_176212 STE 30 0Z

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 Not to Scale
 10/20/2015



NOTE: Survey information supplied by applicant. All dimensions in metres.



77-79 East Don Roadway and 661-677 Queen Street East

Diagram 5

File # 14_176221 STE 30 0Z and 14_176212 STE 30 0Z

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 Not to Scale
 10/20/2015

