

Authority: Ontario Municipal Board Decision/Order issued February 5, 2014 and October 16, 2014 in Board File PL130518

CITY OF TORONTO

BY-LAW 60-2017(OMB)

To amend Chapters 304, 320 and 324 of the Etobicoke Zoning Code with respect to the lands municipally known as 259 and 270 The Kingsway and 1144 Royal York Road.

Whereas the owner of the lands known municipally as 259 and 270 The Kingsway and 1144 Royal York Road has appealed a proposed zoning by-law amendment to the Ontario Municipal Board; and

Whereas the Ontario Municipal Board, by its decision issued February 5, 2014 in Board File PL130518 approved amendments to the former City of Etobicoke Zoning Code with respect to those lands;

The Ontario Municipal Board orders:

1. That By-laws 8498, 1990-178 and 1990-252 of the former City of Etobicoke are repealed.
2. That the zoning map referred to in Section 320-5 of the Etobicoke Zoning Code is amended by reaffirming the classification of the lands located on Schedule 'A' attached as Limited Commercial (CL) to Limited Commercial (CL) subject to site specific By-law provided that the following provisions apply to the development of the CL lands identified on Schedule 'A' attached.
3. Notwithstanding Sections 320-18.B, 320-18.C, 320-18.D, 320-19, 320-23, 320-79, 320-80, 320-82, and 320-93 of the Etobicoke Zoning Code, the following provisions shall apply to the (CL) lands identified on Schedule 'A' and Schedule "B" attached.
4. Definitions

The provisions of Section 304-3 Definitions of the Zoning Code shall apply unless inconsistent with the provisions of this By-law. For the purposes of this By-law, the following words, terms and expressions shall have the following meanings:

"building envelope" means the area delineated by heavy lines and identified on Schedule "B" attached hereto;

"bicycle parking space" means an area that is used for parking or storing a bicycle either above *grade* or below *grade* and may include a *stacked bicycle parking space*;

"car-share motor vehicle" means a motor vehicle available for short term rental, including an option for hourly rental, to members in a car share organization, for the use of at least the occupants of a building erected within the *lot*;

"car-share parking space" means a parking space used exclusively for the parking of a *car-share motor vehicle*;

"*City*" means the City of Toronto;

"*grade*" means the measurement for the geodetic height identified for each of Blocks 1 through 5 on Schedule "B" attached;

"*indoor residential amenity space*" means a common area or areas within a building provided for the exclusive use of residents of a building and their guests, for recreational or social purposes and when located in a *seniors' residence* includes common facilities for the preparation and consumption of food and all accessory uses provided for in the definition of *seniors' residence*;

"*loading space*" means an area used for the loading or unloading of goods or commodities from a vehicle:

- (i) a Type 'A' loading space must have a minimum length of 17.0 metres, minimum width of 3.5 metres, and minimum vertical clearance of 4.3 metres;
- (ii) a Type 'B' loading space must have a minimum length of 11.0 metres, minimum width of 3.5 metres, and minimum vertical clearance of 4.0 metres;
- (iii) a Type 'C' loading space must have a minimum length of 6.0 metres, minimum width of 3.5 metres and a vertical clearance of at least 3.0 metres; and
- (iv) a Type 'G' loading space must have a minimum length of 13.0 metres, minimum width of 4.0 metres, and minimum vertical clearance of 6.1 metres;

"*lot*" means those lands outlined by heavy lines on Schedule 'A' attached;

"*mixed use building*" means the building or buildings permitted by this By-law irrespective of whether they are connected above or below *grade*;

"*non-residential gross floor area*" means the aggregate of the areas of each floor and the spaces occupied by walls, above or below *grade*, of a non-residential building or the non-residential portion of a *mixed use building*, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, exclusive of the following areas:

- (i) a room or enclosed area, including its enclosing walls, within the building or structure above or below *grade* that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical, elevators, waste management facilities (compost, garbage, recycling rooms and chutes), atrium, stairwell, escalator, elevator, ventilation duct or utility shaft or telecommunications equipment that serves the building;
- (ii) bicycle parking and loading facilities, including enclosing walls, above or below *grade*;

- (iii) a part of the building or structure, including its enclosing walls, that is used for the parking of motor vehicles, storage or other accessory use provided the floor level, excluding any access ramp, is at least 0.9 metres below *grade*; and
- (iv) common pedestrian circulation areas; amenity spaces; staff rooms; storage; public washrooms; and service corridor, including enclosing walls;

"outdoor residential amenity space" means an outdoor common area or areas within a *lot* provided for the exclusive use of residents of a building, and their guests, for recreational or social purposes;

"occupant bicycle parking space" means a *bicycle parking space* for the exclusive use by the occupants or tenants of a *mixed use building*;

"owner" means the registered owner of the *lot* or any part thereof;

"residential gross floor area" means the aggregate of the areas of each floor and the space occupied by walls and corridors of a residential building or the residential portion of a *mixed use building*, measured between the exterior faces of the exterior walls of the building or structure, exclusive of the following areas:

- (i) a room or enclosed area, including its enclosing walls within the building or structure above or below *grade* that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical, elevators, waste management facilities (compost, garbage, recycling rooms and chutes), atrium, stairwell, escalator, elevator, ventilation duct or utility shaft or telecommunications, equipment that serves the building; and
- (ii) any part of the building, or structure that is used for the parking of motor vehicles or bicycles, loading, storage, *indoor residential amenity space* or other accessory use, including enclosing walls;

"seniors' residence" means a residential building or the residential portion of a *mixed use building* that contains self-contained *seniors' suites* and common facilities for the preparation and consumption of food and which may also contain accessory uses such as a beauty salon and spa, library, tuck shop, communal programming space, exercise space, sanctuary space, medical office space and administrative offices, provided these uses are contained within the *seniors' residence* and are intended primarily for use by residents of the building;

"seniors' suite" means a self-contained suite designed for seniors' accommodation in a *seniors' residence* having a separate entrance from a common hall and which may include bedrooms, sitting rooms, sanitary facilities and kitchenettes but which may not include electrical service for a stove or oven;

"site" means those lands outlined by heavy lines on Schedule 'A' attached;

"*stacked bicycle parking space*" means a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*;

"*temporary sales office*" means a temporary building, structure, facility or trailer on the *lot* used for the purpose of the sale or lease of the residential or non-residential uses to be erected on the *lot*; and

"*visitor bicycle parking space*" means a *bicycle parking space* for the exclusive use by visitors of a *mixed use building*.

5. Permitted Uses

In addition to the uses permitted in Section 320-91 of the Etobicoke Zoning Code the following uses are permitted:

- (a) *Mixed use building(s)*; apartment buildings; *seniors' residence*; retail stores; grocery store; other types of retail stores; drug stores; convenience stores; shoe stores; home decorating stores; home furnishings stores; home improvement stores; electronics stores; office equipment and supplies stores; home appliances stores; computers and computer equipment and accessories stores; home entertainment and/or video stores; clothing and wearing apparel stores; arts and crafts stores; fabric yarn and textiles and accessories stores; toys and accessories stores; baby goods and accessories stores; fine art and graphic supplies stores; antique stores; bookstores; camera and accessories stores; sporting goods stores; lawn and garden supplies and furniture stores; card stationary and accessories stores; commercial/recreational uses and ancillary retail uses; health and fitness centres; beer and liquor stores; pet grooming and related products stores; veterinary clinics; convenience restaurants; take-out restaurants and standard restaurants; accessory patios related to all restaurant uses; personal service shops, day spas, banks and financial institutions; dry cleaning establishments; offices, service shops, medical and dental offices, day nurseries, commercial schools, and ancillary uses; underground and surface parking, and accessory uses including *car-share parking spaces*, overhead pedestrian bridge(s) and parking access tunnel(s) connecting portions of below *grade* parking garages; and
- (b) Notwithstanding Section 320-78.A of the Etobicoke Zoning Code, no limits to the operation of a garden centre shall apply.

6. Gross Floor Area and Dwelling Units

- (a) The maximum *residential gross floor area* and *non-residential gross floor area* permitted on the *lot* shall not exceed 73,042 square metres, subject to the following:
 - (i) the *residential gross floor area* shall not exceed 51,202 square metres;
 - (ii) non-residential gross floor area shall not exceed 21,840 square metres;

- (iii) no more than 17,472 square metres of non-residential gross floor area may be used for the following uses: retail stores; convenience stores; grocery store; other types of retail stores; drug stores; shoe stores; home decorating stores; home furnishings; home improvement stores; electronics stores; office equipment and supplies stores; home appliances stores; computers and computer equipment and accessories stores; home entertainment and/or video stores; clothing and wearing apparel stores; arts and crafts stores; fabric yam and textiles and accessories stores; toys and accessories stores; baby goods and accessories stores; fine art and graphic supplies stores; antique stores; bookstores; camera and accessories stores; sporting goods stores; lawn and garden supplies and furniture stores; card stationary and accessories stores; beer and liquor stores; pet stores; and
- (iv) no individual retail store shall exceed 8,000 square metres of non-residential gross floor area;
- (b) The maximum number of dwelling units on the *lot* shall not exceed 455 and the maximum number of *seniors' suites* on the *lot* shall not exceed 160; and
- (c) Dwelling units shall not be permitted on Block 3.

7. Maximum Height

- (a) No portion of a building or structure erected above *grade* shall exceed the maximum height in metres as shown following the symbol H on Schedule "B" for the corresponding *building envelope* area, except for:
 - (i) railings, parapet walls, window washing equipment, stair towers, lanterns, partitions dividing outdoor recreation areas and trellises, terrace guards and dividers, structural supports and other elements of a green roof, planters, railings, decorative screens, chimney stack or other heating, cooling, electrical, mechanical or ventilating equipment, solar panels, window washing equipment, lightning rods, and exhaust flues, extending to a maximum vertical projection of 3.0 metres above the height limits shown on Schedule "B";
 - (ii) canopies, to a maximum vertical projection of 1.5 metres above the height limits shown on Schedule "B";
 - (iii) a mechanical penthouse, elements designed to achieve LEED Certification not located within the mechanical penthouse, and elevator overrun shall be permitted above the permitted height as shown on Schedule "B" to a maximum of 5.5 metres above the said permitted height and solar panels located above the mechanical penthouse may exceed the height of the mechanical penthouse by 3.0 metres;
 - (iv) landscape and public art features; and

- (v) overhead pedestrian bridges.

8. Parking, Bicycle Parking and Loading Provisions

- (a) A minimum number of vehicular parking spaces shall be provided and maintained on the *lot* in accordance with the following:
 - (i) 0.8 spaces per bachelor unit, 0.9 spaces per 1 bedroom unit, 1.0 spaces per 2 bedroom unit, and 1.2 spaces per three bedroom unit for the use of the residents of the dwelling units, and 0.5 spaces per *seniors' suite* for the use of residents of the *seniors' suites*;
 - (ii) 3.5 spaces per 100 square metres of non-residential gross floor area for the shared use by visitors to the dwelling units and seniors' suites and customers of the non-residential uses;
 - (iii) accessible parking spaces shall be provided and reserved at a rate of: 1.0 designated space for every 25 parking spaces up to the first 100; and 1.0 space for every 50 additional required spaces or part thereof; and
 - (iv) during construction of the site and prior to the earlier of occupancy, or the registration of the condominium of the final residential building of the site, an interim parking standard of 3.0 spaces per 100 square metres of non-residential gross floor area shall apply;
- (b) Loading spaces shall be provided on the lot in accordance with the following:
 - (i) on Blocks 1 and 2 a minimum of 1 Type G *loading space*, 3 Type B *loading spaces* and 3 Type A *loading spaces*;
 - (ii) on Block 3 a minimum of 1 Type G and 1 Type B *loading space*;
 - (iii) on Block 4 a minimum of 2 Type B and 1 Type C *loading space*; and
 - (iv) on Block 5 a minimum of 1 Type G *loading space* and 2 Type B *loading spaces*;
- (c) A minimum number of *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following ratios:
 - (i) 0.6 occupant bicycle parking spaces per dwelling unit;
 - (ii) 0.15 visitor bicycle parking spaces per dwelling unit;
 - (iii) 0.20 occupant bicycle parking spaces per seniors' suite;
 - (iv) 0.05 visitor bicycle parking spaces per seniors' suite;

- (v) 0.13 occupant bicycle parking spaces per 100 square metres of *non-residential gross floor area*;
 - (vi) 0.15 visitor bicycle parking spaces per 100 square metres of *gross floor area* for commercial and office uses; and
 - (vii) 0.25 *visitor bicycle parking spaces* per 100 square metres of *gross floor area* for retail uses;
- (d) A *bicycle parking space* must comply with the following:
- (i) the minimum dimension of a *bicycle parking space* is:
 - (A) Minimum length of 1.8 metres;
 - (B) Minimum width of 0.6 metres; and
 - (C) Minimum vertical clearance from the ground of 1.9 metres;
 - (ii) the minimum dimension of a *bicycle parking space* if placed in a vertical position on a wall, structure or mechanical device is:
 - (A) Minimum length or vertical clearance of 1.9 metres;
 - (B) Minimum width of 0.6 metres; and
 - (C) Minimum horizontal clearance from the wall of 1.2 metres; and
 - (iii) if a *stacked bicycle parking space* is provided, the minimum vertical clearance for each *bicycle parking space* is 1.2 metres.

9. Landscape and Amenity Space

- (a) Landscaped open space a minimum 15 percent of the *lot* area shall be reserved for publicly accessible landscaped open space;
- (b) A minimum of 2.0 square metres of outdoor residential amenity space per dwelling unit shall be provided;
- (c) A minimum of 2.0 square metres of indoor residential amenity space per dwelling unit shall be provided in a multi-purpose room or rooms in the building, at least one of which contains a kitchen and a washroom; and
- (d) A minimum of 2.0 square metres of outdoor residential amenity space and a minimum of 2.0 square metres of indoor residential amenity space per seniors' suite shall be provided.

10. Setbacks and Permitted Projections

- (a) No portion of the building or structure erected or used above *grade* and below *grade* shall be located otherwise than wholly within the *building envelope* delineated by the heavy lines on the attached Schedule "B", with the exception of the following:
- (i) eaves, cornices, lighting fixtures, ornamental elements, window washing equipment, trellises, window sills, planters, balustrades, guard rails, landscape, and green roof features which may extend to a maximum of 1.5 metres beyond the *building envelopes* as shown on Schedule "B" provided that if they project beyond the heavy lines delineated on Schedule 'A', they will require Council approval;
 - (ii) architectural elements, canopies, balconies and awnings which may extend to a maximum of 2.0 metres beyond the building envelopes shown on Schedule "B"; and
 - (iii) overhead pedestrian bridges, stairs, stair enclosures, wheelchair ramps, underground garage ramps, and public art features; and
- (b) Notwithstanding the *building envelopes* shown on Schedule "B" nothing in this By-law shall prohibit underground parking or structures from extending to the lot lines as identified on Schedule 'A'.

11. Section 37 Contributions

Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the *site* 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 Site of the facilities, services and matters set out in this Section, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act* and in a form satisfactory to the City, with conditions providing for indexed escalation of financial contributions where applicable, no credit for development charges, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement. Upon execution and registration of an agreement or agreements with the owner of the Site, pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out herein, the Site 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, the owner may not erect or use such building until the owner has satisfied the said requirements. The owner of the *Site*, at the owner's expense and in accordance with, and subject to the agreements referred to above, shall provide or fund the following facilities, services and/or matters on terms satisfactory to the City of Toronto, in order to permit the increase in gross floor area and height authorized under this By-law:

- (A) A cash contribution of \$2,424,039 to be paid to the City prior to the issuance of the first above-grade building permit, to be allocated generally as follows:

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- (i) \$1,224,039 for capital improvements to Humber Valley Park and Humber Valley Arena and Ice Rink or other qualifying community benefit;
 - (ii) \$17, 000 towards the installation of a mural along the underpass of the Canadian Pacific Rail bridge north of the intersection of Dundas and Royal York Road; and
 - (iii) provide and maintain works of public art within the lands, or provide cash in *lieu* thereof, of a value not less than \$1,183,000.00, implemented under the City's Public Art Program;
- (B) Require that the cash amounts identified in (a) above shall be indexed annually in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the owner to the City. As a legal convenience, the following matters should be secured in the Section 37 Agreement;
- (C) The owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of Item PG32.3 of the Planning and Growth Management Committee;
- (D) The owner shall, at its expense complete the following transportation improvements, including satisfactory detailed functional and engineering design drawings, cost estimates, financial guarantees, engineering and inspection fees, and insurance to the satisfaction of the Executive Director, Engineering and Construction Services, specifically:

Royal York Road

- (i) resurface the full width of Royal York Road, from a point 25 metres north of the north limit of Ashley Road, to Royal York Court, within two years of project build-out;

Ashley Road/ The Kingsway

- (ii) reconstruct the full width of The Kingsway, from a point 25 metres north of the north limit of Ashley Road, to the south limit of Lambeth Road, within two years of project build-out;
- (iii) provide the City with a certified cheque in the amount of \$300,000 payable to the Treasurer, City of Toronto, to cover the City's costs of undertaking an environmental assessment, if required, for the proposed widening of Ashley Road from two lanes to four, such monies to be returned if an environmental assessment is not necessary. If an

environmental assessment is required, any unspent portion of this amount is to be returned;

- (iv) provide a detailed design, financial securities, and engineering and inspection fees for the construction of the pavement widening on Ashley Road, between Royal York Road and The Kingsway;
- (v) provide the City with a certified cheque in the amount of \$500,000, payable to the Treasurer, City of Toronto, for the installation of traffic control signals, excluding any required intersection improvements that would be required at the owner's additional expense, at the intersection of Ashley Road/Royal York Road, and the possible future signalization of Ashley Road/ The Kingsway, following signal warrant studies to be conducted by the applicant within two years of project build-out;
- (vi) design and construct a separate left turn storage lane at the north approach to The Kingsway/Ashley Road intersection with a 70 metre storage lane length and a 15 metre transition taper, and a separate left turn storage lane at the south intersection approach with a 15 metre storage lane length and a 15 metre transition taper;

Lambeth Road

- (vii) reconstruct the full width of Lambeth Road, from Royal York Road to a point 25 metres north of the existing north plaza entrance on Lambeth Road, within two years of project build-out;
- (viii) provide a detailed design, financial securities, and construct the realignment of the Lambeth Road and The Kingsway intersection;

The Kingsway

- (ix) provide the City with a certified cheque in the amount of \$250,000, payable to the Treasurer, City of Toronto, excluding any intersection improvements that would be required at the owner's additional expense, for the installation of a pedestrian activated traffic signal at The Kingsway/Private Street B intersection following a warrant study to be conducted by the applicant within two years of project build-out; and

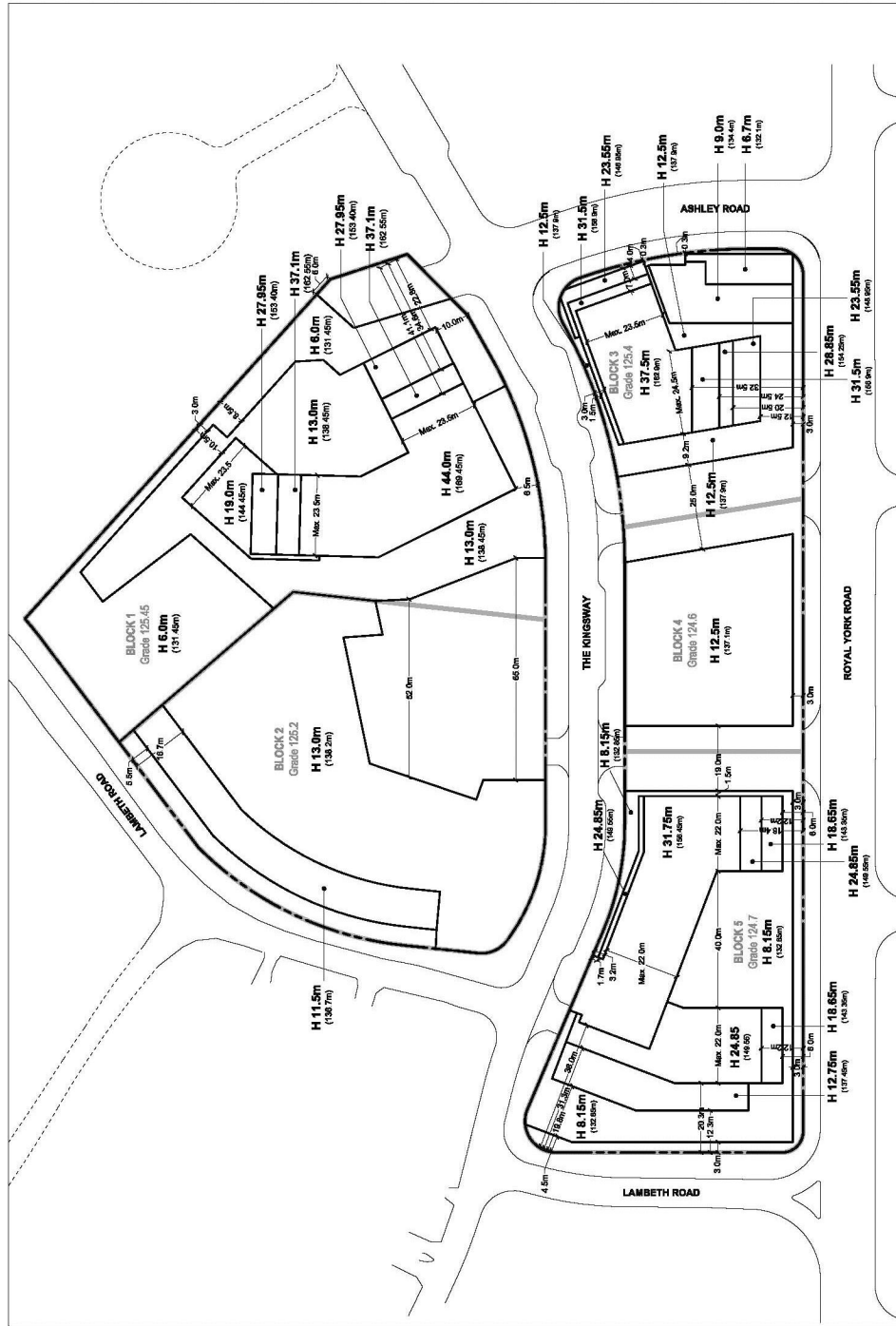
Humber Valley Neighbourhood

- (x) provide the City with a certified cheque in the amount of \$100,000 payable to the Treasurer, City of Toronto, to cover the City's cost of introducing traffic calming measures in the area bordered by Islington Avenue to the west, Dundas Street West to the south, Royal York Road (from Dundas Street West to Edgehill Road) and Edgehill Road (from Royal York Road to Edenbridge Drive) to the east, and The Kingsway/Edenbridge Drive to the north.

12. None of the provisions of the Etobicoke Zoning Code or this By-law shall apply to prevent a *temporary sales office* on the *lot*.
13. For clarity, all Schedules attached to this By-law are incorporated into this By-law and are deemed a part of this By-law.
14. Notwithstanding any 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 had occurred.
15. Where the provisions of this By-law conflict with the provisions of the Etobicoke Zoning Code, the provisions of this By-law shall apply.
16. Chapter 324, Site Specifics, of the Etobicoke Zoning Code is amended to include reference to this By-law by adding the following to Section 324.1, Table of Site Specific By-laws:

BY-LAW NUMBER AND ADOPTION DATE	DESCRIPTION OF PROPERTY	PURPOSE OF BY-LAW
60-2017(OMB) October 16, 2014	Lands located on the east and west side of The Kingsway north of Lambeth Road known as 259 and 270 The Kingsway and 1144 Royal York Road	To reaffirm the Limited Commercial (CL) zoning subject to site specific development standards to permit residential and commercial uses including a seniors' residence

Ontario Municipal Board Decision/Order issued February 5, 2014 and October 16, 2014 in Board File PL130518



May26, 2014 Schedule "B"
259 & 270 THE KINGSWAY, AND 1114 ROYAL YORK ROAD

LEGEND:
PROPERTY LINE
BUILDING ENVELOPE
BLOCK LINE
NOTE: ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE NOTED