

Authority: Etobicoke York Community Council Item EY11.5, as adopted by City of Toronto Council on November 29, 30 and December 1, 2011; Etobicoke York Community Council Item EY12.8, adopted as amended, by City of Toronto Council on February 6 and 7, 2012 and MM20.23, moved by Councillor Justin J. Di Ciano, seconded by Councillor John Campbell, as adopted by City of Toronto Council on July 12, 13, 14 and 15, 2016

## CITY OF TORONTO

**Bill No. 1095**

**BY-LAW No. -2016**

**To amend the Etobicoke Zoning Code and By-law 1088-2002, as amended, with respect to the lands municipally known in 2015 as 5485 and 5487 Dundas Street West and to remove the holding symbol (H) and to impose a new holding symbol (H) for the lands.**

Whereas authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas authority is given to Council by Section 34 and Section 36 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to impose the holding symbol (H) and to remove the holding symbol (H) when Council is satisfied that the conditions relating to the holding symbol have been satisfied; and

Whereas Council has provided notice of the intent to pass this By-law and to remove the holding symbol (H); and

Whereas Section 5.1.1 of the City of Toronto Official Plan contains provisions relating to the authorization of increases in density and height of development; and

Whereas pursuant to Section 37 of the *Planning Act*, the Council of a municipality may, in a By-law passed under Section 34 of the *Planning Act*, authorize increases in height and density beyond those otherwise permitted in return for the provision of such facilities, services and matters as set out in the By-law; and

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; and

Whereas the owners of the lands referred to herein have elected to provide the facilities, services and matters as hereinafter set forth; and

Whereas the increase in density and height of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law, which are to be secured by one or more agreements between the owners of such lands and the City of Toronto; and

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*;

The Council of the City of Toronto enacts:

1. Notwithstanding the Etobicoke Zoning Code, the following provisions and development standards shall apply to the Lands described in Schedule 'A' attached.

Where the provisions of this By-law conflict with the provisions of the Etobicoke Zoning Code or By-law 1088-2002, the provisions of this By-law shall apply.

2. **Definitions**

For the purposes of this By-law the following definitions will apply:

"Building Envelope" means the area delineated by heavy lines and identified as Tower Element, Base Building Element and Rear Building Element on Schedule 'B' to this By-law;

"Building Permit" means a permit issued under Section 8 of the *Building Code Act, 2005*, including a permit for excavation or shoring;

"Gross Floor Area" shall have the same meaning as the Zoning Code definition in Section 304-3, except that the following areas shall also be excluded: Mechanical Floor Area; Indoor Amenity Areas up to 2 square metres per unit; storage areas, underground garage levels and unenclosed balconies;

"Indoor Amenity Area" means an indoor common area or areas provided for the exclusive use of residents of the building, and their guests, for recreational or social purposes;

"Lands" means the lands described in Schedule 'A' attached hereto;

"Landscaped Open Space" means an area on the Lands located at grade, above an underground parking area and/or on a roof top, which contains landscaping. It shall include any part of the Lands occupied by outdoor recreational buildings including such elements as gazebos, surfaced walks, patios or similar areas, sports or recreational areas and outdoor ornamental or swimming pools, but shall exclude driveways or ramps;

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

"Minor Projections" means minor building elements which may project from the main walls of the buildings into required yards and beyond the Building Envelopes, including roof eaves, window sills, railings, cornices, guard rails, balustrades, porches, balconies and bay windows, doors, canopies, exterior stairs and covered ramps, parapets and vents, all to a maximum projection of 1.5 metres;

"Outdoor Amenity Area" means an outdoor common area or areas which are provided for the use of residents of the building, and their guests, for recreational or social purposes;

"Site Plan Approval" means approval by the Chief Planner and Executive Director, City Planning Division or City Council, pursuant to Section 114 of the *City of Toronto Act, 2006*; and

"Tower Element" means the portion of the building above 8 storeys.

### **3. Permitted Use**

Notwithstanding Section 3 of By-law 1088-2002, for the purposes of this By-law, no building or structures shall be erected or used on the Lands with a Zone Symbol EC2 except for the following uses:

- (a) All uses permitted under Section 3 (B) of By-law 1088-2002 except the following uses, which are not permitted: public parking areas, elementary schools and secondary schools;
- (b) Accessory structures, including access roads, underground parking garages, television antennae, private swimming pools and structures in conjunction with such pools, covered ramps, exterior stairs, stair enclosures, noise barriers and ventilation shafts; and
- (c) Townhouse dwelling units.

### **4. Gross Floor Area**

Notwithstanding Section 4 of By-law 1088-2002, for the purposes of this By-law, on the Lands with a Zone Symbol EC2:

- (a) The maximum Gross Floor Area (GFA) permitted on the Lands shall be 33,488 square metres; and
- (b) A minimum of 1,380 square metres of non-residential GFA must be provided on the ground floor of the building. This GFA is included in the maximum GFA permitted in Section 4(a) of this By-law.

### **5. Maximum Height**

Notwithstanding Section 5 of By-law 1088-2002, for the purposes of this By-law, on the Lands with a Zone Symbol EC2, the maximum heights permitted within the Building Envelope, shall be the lower of the maximum permitted height in metres above grade or number of storeys as shown on Schedule 'B', attached hereto.

**6. Setbacks /Floor Plate Restrictions**

For the purposes of this By-law,

- (a) Notwithstanding Section 6 of By-law 1088-2002, on the Lands with a Zone Symbol EC2, no building or structure shall be located other than within the Building Envelope shown on Schedule 'B';
- (b) Notwithstanding Section 6 of By-law 1088-2002, on the Lands with a Zone Symbol EC2, all buildings or structures shall have a setback of 3.0 metres from the Dundas Street West boundary of the Lands;
- (c) Notwithstanding Section 6 (i) of By-law 1088-2002 and Section 5 of this By-law, on the Lands with a Zone Symbol EC2, for any portion of a building above 13.0 metres above grade, a minimum 3.0 metre setback from any face of the building at grade shall be required, except that for the face of the Building facing Dundas Street West for which the setback above 13.00 metres above grade shall be a minimum of 1.5 metres from the face of the building at grade and for the face of the Building facing Shorncliffe Road and the south face of the building the setback shall be a minimum of 0.0 metres from face of the building at grade;
- (d) Notwithstanding Section 6 (ii) of By-law 1088-2002, on the Lands with a Zone Symbol EC2, the maximum floor plate area for the Tower Element shall be 750.0 square metres;
- (e) Notwithstanding Section 6 (v) of By-law 1088-2002 and Section 5 of this By-law, on the Lands with a Zone Symbol EC2, the minimum separation distance between the Tower Element on the Lands and the portion of any building above 8 storeys on an abutting lot shall be twenty-five 25.0 metres;
- (f) Notwithstanding Section 6 (a) of this By-law, on the Lands with a Zone Symbol EC2, the following provisions shall apply:
  - (i) Any portion of any building or structure which is located below the finished exterior ground level along Dundas Street West may be located outside of the Building Envelope, provided that in no case shall any portion of any building or structure, above or to a depth of 1.5 metres below grade, project into the 3.0 metre setback from the Dundas Street West property boundary required in Section 6 (b) of this By-law;
  - (ii) Notwithstanding Section 6 (iii) of By-law 1088-2002, Minor Projections shall be permitted to project outside the Building Envelope, provided that in no case shall any portion of any building or structure project into the 3.0 metre setback from the Dundas Street West property boundary required in Section 6 (b) of this By-law;
  - (iii) Permitted accessory structures, wheelchair and covered ramps, exterior stairs and associated covering, parapets and railings related to

underground parking structures, vents, temporary sales offices, safety railings and other landscape features, including gazebos to a maximum aggregate covered area of 200.0 square metres, shall be permitted outside the Building Envelope provided that in no case shall any permitted accessory structure project into the 3.0 metre setback from the Dundas Street West property boundary required in Section 6 (b) of this By-law; and

- (iv) Notwithstanding Section 6 (a) of this By-law, canopies shall be permitted outside the Building Envelope.

**7. Area Requirements**

Notwithstanding Section 7 of By-law 1088-2002, for the purposes of this By-law, on the Lands with a Zone Symbol EC2, the following area requirements shall apply to the Lands:

- (a) Landscaped Open Space: a minimum 25 percent of the area of the Lands shall be provided as Landscaped Open Space;
- (b) Indoor Amenity Space: a minimum 2.0 square metres per dwelling unit of Indoor Amenity Space shall be provided; and
- (c) Outdoor Amenity Space: a minimum of 2.0 square metres per dwelling unit of Outdoor Amenity Space shall be provided.

**8. Parking and Loading Requirements**

For the purposes of this By-law, on the Lands with a Zone Symbol EC2, the following requirements shall apply:

- (a) Notwithstanding Section 8 (i) of By-law 1088-2002, vehicle parking shall be provided on the Lands in accordance with the following table:

Unit Type	Minimum per unit	Maximum per unit
Bachelor	0.6 vehicle space	0.9 vehicle space
1 Bedroom	0.7 vehicle space	1.05 vehicle spaces
2 Bedrooms	0.9 vehicle space	1.35 vehicle spaces
3 Bedrooms	1.0 vehicle space	1.5 vehicle spaces
Visitors	0.1 vehicle space per dwelling unit	
Non-residential Uses	Maximum 3 vehicle spaces per 93 square metres of Non-residential GFA	
Handicapped Parking	1 space of each 100 spaces or part thereof provided	

- (b) Notwithstanding Section 8 (ii) of By-law 1088-2002, up to 50 percent of the required residential visitor parking requirement in Section 8 (a) of this By-law can be shared with and used to meet the parking requirements for Non-residential uses within the same building or structure;

- (c) Minimum vehicle parking stall dimensions, excluding parking stalls for the handicapped, shall be 2.6 metres wide, 5.6 metres in perpendicular length, with a minimum 6.0 metre wide access aisle. Parking stall dimensions for the handicapped shall be as above except they shall be 3.65 metres wide and shall be located in the area reserved for parking which is closest to the building elevators;
- (d) Notwithstanding Sections 8 (iii) and (iv) of By-law 1088-2002, bicycle parking shall be provided on the Lands in accordance with the following table:

<b>Purpose</b>	<b>Minimum Bicycle Spaces Per Unit</b> (other than in dwelling units or privately owned locker areas)
For occupants	0.8 space per unit
For visitors	0.2 spaces per unit
For Non-residential use	0.5 spaces per 100 square metres of Non-residential GFA
Occupant spaces to be provided at ground level	5 percent of the occupant spaces required

- (e) Sections 8 (v) of By-law 1088-2002 does not apply to the Lands; and
- (f) Notwithstanding Section 8 (vi) of By-law 1088-2002, no person shall use any portion of the Lands for surface or above-grade parking.

## **9. Public Pedestrian Entrances and Exits**

Notwithstanding Section 9 of By-law 1088-2002, for the purposes of this By-law, a building face facing Shorncliffe Road shall not be required to contain a public pedestrian entrance and exit to and from the building.

## **10. Removing the existing "H" Holding Symbol**

By-law 1088-2002 is amended by removing the holding symbol (H) from the Lands shown on the attached Schedule 'A'.

## **11. Imposing the new "H" Holding Symbol**

Despite Section 3 of this By-law, the uses permitted in this Bylaw are not permitted in respect of lands shown on Schedule 'A' to this Bylaw with a zone symbol that possesses an "H" Holding Symbol prefix until such time as the holding symbol is removed by amendment to this By-law.

## **12. Removal of the new "H" Holding Symbol**

In accordance with the provisions of Section 36 of the *Planning Act*, the Holding Symbol "H" will be removed from the lands shown on Schedule 'A' to this Bylaw upon fulfillment, all to the satisfaction of the City Solicitor; the Director, Community Planning, Etobicoke York District and the Executive Director, Engineering and Construction Services of Subsections (a) and (b) below:

- (a) The execution and registration of a development agreement between the Owner of the Lands and the City, securing the financing and construction of any improvements that may be required to the City's sanitary sewer, storm sewer and water supply systems to accommodate the proposed development; and
- (b) The receipt of all necessary approvals for the infrastructure required in Section 11 (a) of this By-law.

### 13. Section 37

The density and heights of development permitted by this By-law are subject to the Owner of the Lands, at its sole expense, providing the following facilities and/or cash contributions toward specific facilities in accordance with and subject to the Agreement required in this Section, pursuant to Section 37 of the *Planning Act* as follows, including insurance, indemnity, and letters of credit.

- (a) Prior to the issuance of the first above ground building permit for all or any portion of the Lands, the Owner shall pay to the City by certified cheque the sum of two hundred and fifty thousand dollars (\$250,000.00) towards the capital needs of a future YMCA facility proposed to be located on the former Westwood Theatre lands and/or local park improvements.
- (b) The cash amounts identified in 13. (a) above shall be indexed upwardly 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 expenditure of the sum by the owner.
- (c) In the event the cash contributions in 13. (a) have not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contributions may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director of 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 lands.
- (d) Prior to the issuance of any Building Permit for all or any portion of the Lands, the Owner of the Lands is required to enter into and register on title to the Lands one or more agreements with the City pursuant to Section 37 of the *Planning Act*, as a method secure the facilities, services, and matters set forth in (i) to (vi) herein, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor, prior to this By-law coming into force and effect, including providing for indexing escalation of both the financial contributions and letters of credit, indemnity, insurance, HST, termination and unwinding, and registration and priority of agreement.

- (i) The Owner of the Lands provide signage and warning clauses in accordance with the requirements of the Toronto District School Board and Toronto Catholic District School Board.
  - (ii) The Owner of the Lands will comply with requirements regarding building modifications and notification to prospective buyers regarding noise levels and noise mitigation measures, as detailed in the Noise Impact Study for the Lands, dated February 11, 2011, to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
  - (iii) Prior to the issuance of the first above ground building permit for all or any part of the Lands, the Owner of the Lands will provide to the City detailed cost estimates and certified cheques for required road and transit signaling improvements, as determined by the City's Executive Director of Engineering and Construction Services.
  - (iv) The Owner of the Lands will enter into and register an agreement with the City securing the financing and construction of any improvements that may be required to the City's sanitary sewer, storm sewer and water supply systems to accommodate the proposed development, including providing letters of credit to secure such work, prior to the earlier of the issuance of Site Plan Approval and the issuance of any Building Permit, for all or any part of the Lands, all to the satisfaction of the City Solicitor and the City's Executive Director of Engineering and Construction Services.
  - (v) The Owner of the Lands will agree to take access to and from the Lands from a Private Road on the abutting lands when it is available and will close any access to and from Shorncliffe Road from the Lands should such access to Shorncliffe Road be in use at the time access is taken to and from the Private Road.
  - (vi) The Owner of the Lands will agree to provide a 3.44 metre wide land dedication for road purposes along the east side of Shorncliffe Road at the time of Site Plan Approval.
- 14.** Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the City pursuant to Section 37 of the *Planning Act* in accordance with the provisions of Section 13(d) hereof, 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.
- 15.** Notwithstanding any of the foregoing provisions, where the provisions of this By-law or an agreement entered into with the City pursuant to Section 37 of the *Planning Act*, require the provision of facilities, services and matters prior to issuance of a Building Permit for the proposed development of the Lands, the Owner may not erect or use any



building or structure on the Lands until the Owner has satisfied the said requirements and Building Permit issuance shall be dependent on the same.

16. Subject to Section 11 of this By-law, nothing in this By-law shall apply to prevent the phased construction of the development permitted by this By-law, provided that the requirements of the By-law are complied with upon full development, or earlier if specified otherwise in this By-law.
16. Notwithstanding any severance, partition or division of the Lands, the provisions of this By-law shall apply to the whole of the Lands as if no severance, partition or division occurred.
17. Within the Lands shown on Schedule 'A' attached to this By-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the Lands 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, including off-site improvements, and appropriate appurtenances, have been installed and are operational.
18. Chapter 324, Site Specifics, of the Zoning Code is hereby amended to include reference to this By-law by adding the following to Section 324.1, Table of Site Specific By-laws.

<b>BY-LAW NUMBER AND ADOPTION DATE</b>	<b>DESCRIPTION OF PROPERTY</b>	<b>PURPOSE OF BY-LAW</b>
_____ - 2016	Lands located on the south-east corner of Dundas Street West and Shorncliffe Road known as 5485 and 5487 Dundas Street West.	To provide site specific development standards to permit a mixed –use development at 5485 and 5487 Dundas Street West and to impose an “H” Holding Symbol regarding provision of water and sewer infrastructure.
_____ - 2016		

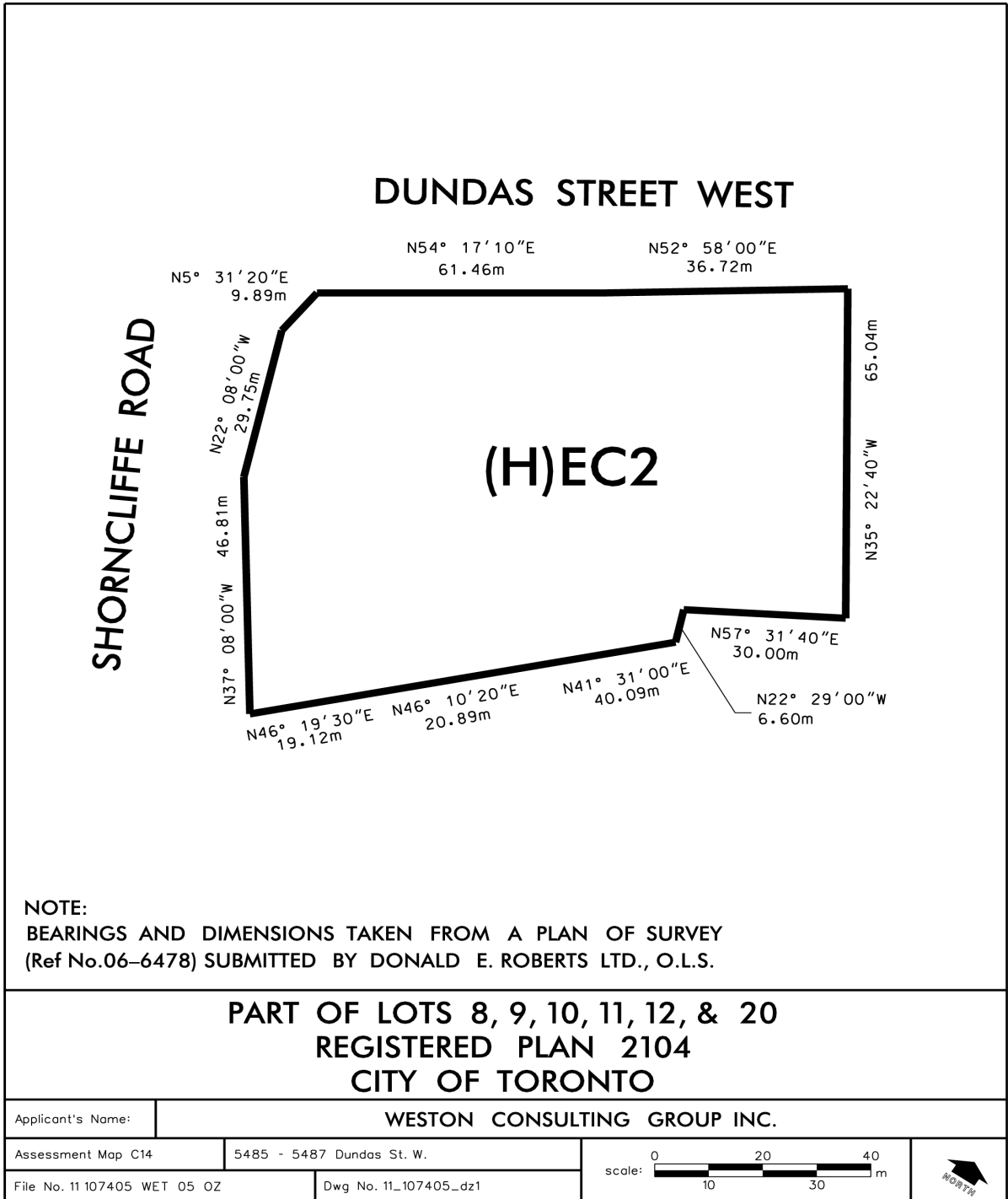
Enacted and passed on November \_\_\_\_\_, 2016.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)

**TORONTO** Schedule 'A' BY-LAW



**TORONTO** Schedule 'B' BY-LAW

