Authority: Ontario Municipal Board Order issued on February 25, 2005 in Board File

Nos. PL030066 and PL030681

#### **CITY OF TORONTO**

### BY-LAW No. 735-2014(OMB)

To amend Chapters 320 and 324 of the Etobicoke Zoning Code and By-law No. 1088-2002, with respect to certain lands located on the south side of Dundas Street West, known municipally as 5365 Dundas Street West.

Whereas the matters herein set out are in conformity with Official Plan Amendment No. 123-2004 as adopted by the Ontario Municipal Board; and

Chapters 320 and 324 of the Etobicoke Zoning Code and By-law No. 1088-2002 are amended by the Ontario Municipal Board as follows:

- 1. That the Zoning Map referred to in Section 320-5, Article II of the Zoning Code, and originally attached to Township of Etobicoke By-law No. 11737, be and the same is hereby amended by changing the classification of the lands located in the former Township of Etobicoke as described in Schedule 'A' annexed hereto from Limited Commercial (CL) to Etobicoke Centre 2 (EC2) Zone, and by changing the classification of the lands located in By-law No. 1088-2002 from Etobicoke Centre 2 Holding ((H)(EC2)) Zone to Etobicoke Centre 2 (EC2) Zone, provided the following provisions shall apply to the development of the lands identified as EC2 in Schedule 'A' and Schedule 'B' attached hereto.
- 2. For the purposes of this by-law, the following definitions shall be applicable:

"Build-To-Area" means the area of the lands within which a streetwall of a building or structure shall be located.

"Streetwall" means any exterior wall of a building abutting a public street.

"Minor Projections" means minor building elements which may project from the main wall of the building into required years and Build-to Areas, including roof eaves, window sills, railings, cornices, guard rails, balustrades, porches, balconies and bay windows, to a maximum projection of 1.5 metres.

"**Drive-Through Facility**" means a structure or a building or a part thereof which is designated to provide or dispense products or services, either wholly or in part, to persons remaining in automotive vehicles that are queued in a designated services lane.

"Floor Plate Area" shall mean the gross horizontal floor area of a single floor measured from the exterior walls of a building or structure.

"Grade" shall mean the average elevation of the sidewalk or where there is no sidewalk the roadway in front of the lot.

"Height" shall mean the vertical distance between grade and the highest point of the roof surface of the building, but shall exclude mechanical equipment, mechanical penthouses,

decorative features, parapets, stairs and stair enclosures, located on the roof of such building provided the maximum height of the top of such element is no higher than 6 metres above the roof line of the said building.

"Bicycle Parking Spaces - Occupant" means an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles, and:

- a) Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
- b) Where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
- c) In the case of a bicycle rack, is located in a secure room or area.

"Bicycle Parking Space - Visitor" means an area that is equipped with a bicycle rack for the purposes of parking and securing bicycles, and:

- a) Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
- b) Where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
- c) May be located outdoors or indoors but not within a secured room, enclosure or bicycle locker.

"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:

- a) Mechanical Floor Area, which is further defined as a room or enclosed area, including its enclosing walls within the building or structure above, at grade or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical (other than escalators) or telecommunications equipment that serves the building;
- b) Indoor Day Nurseries/Community Facilities;
- c) Indoor Amenity Areas to a maximum of 1.5 square metres per dwelling unit; and
- d) Loading Facilities.

"Landscaped Open Space" means a yard or court on a lot located at grade, above an underground parking area, above an aboveground parking structure, or a roof top, which is suitable for landscaping. It shall include any part of the lot occupied by accessory recreational buildings, surfaced walks, patios or similar area, sports or recreational areas and ornamental or swimming pools, but shall exclude driveways, ramps or motor vehicle parking areas.

#### **3.** Permitted Uses

For the purposes of this By-law, the following uses shall be permitted:

- a) Apartment houses, townhouses, a senior citizen apartment building and a seniors community house; a lodging house; a nursing home; a hotel, theatres/cinemas, undertaking establishments, health centres, medical centres and laboratories, convention centres, hospitals, museums, television and radio studios and movie film studios;
- b) Neighbourhood stores; bakery shops; banks; municipal uses; temporary sales offices for the purposes of marketing and sales related to use(s) permitted on the property within a building on the same lot; administrative/business/professional offices; photographers; shoe repair shops; tailor; public parking areas; customer operated automatic laundries; nursery schools and day nurseries; health centres; commercial schools; athletic/fitness clubs; convenience/take-out/standard restaurants, with or without patios; one (1) food vending cart, except on a corner lot where a second food vending cart will be permitted; medical and dental offices; dry cleaners; service rental shops; duplicating stores; personal service/grooming shops; community centres; places of worship; veterinary hospitals; retail stores; supermarket/convenience food stores; craft and art galleries; temporary construction facilities/operations/fencing and hoarding;
- c) Drive-through facilities shall not be permitted;
- d) Notwithstanding provisions a) and b) above, lands shown as Part A on Schedule 'B', attached hereto, shall be used for an at grade private open space having public access and shall have a minimum area of 1,000 square metres; and
- e) Notwithstanding provisions a), b) and d) above, lands shown as Building Envelope 8 on Schedule 'B' attached hereto, shall be used for parking and loading facilities only.

# 4. Minimum/Maximum Density

For the purposes of this By-law, the maximum gross Floor Space Index (FSI) permitted shall be 4.23 times the lot area, as the lot area existed on the date this By-law comes into force, and in no case shall the FSI be less than 2.0 times the lot area.

# 5. Minimum/Maximum Height

For the purpose of this By-law, the maximum building height to be permitted on each Building Envelope as shown on Schedule 'B', attached hereto, shall be as follows:

Building Envelope	Maximum Height
Number 8	10 metres
Numbers 1 and 4	24 metres
Number 7	36 metres
Numbers 2, 3 and 5	60 metres
Number 6	69 metres

The minimum building height shall be two storeys.

### **6.** Setbacks/Build-to Areas/Floor Plate Restrictions

For the purposes of this By-law, the Setbacks, Build-to Areas and Floor Plate Restrictions shall be as follows:

- a) Buildings or structures within Building Envelope 1, as shown on Schedule 'B', attached hereto, shall provide a 3 metre front yard building setback;
- b) All buildings and structures shall be subject to Setback and Build-to Area requirements and Floor Plate restrictions in accordance with the following regulations:
  - i) The Build-to Area for the lands identified in Schedule 'A', attached hereto, shall be a minimum of 60 percent of the lot frontage abutting Dundas Street West, to a minimum height of 6 metres, and a maximum height of 12 metres;
  - ii) The minimum building setbacks for any building shall be as specified on Schedule 'B', attached hereto;
  - iii) For any portion of a building, within Building Envelope 1 on Schedule 'B' attached hereto, above 12 metres, a minimum of 1.5 metres setback from any face of the building wall at grade shall be required;
  - iv) For any portion of a building, within Building Envelopes 2 and 3 on Schedule 'B' attached hereto, above 12 metres, a minimum of 1.5 metres setback from any face of the building wall at grade shall be required. Above 24 metres, a minimum setback of 3 metres from any face of the building wall at grade shall be required;
  - v) For any portion of a building within Building Envelopes 4, 5, 6, and 7 on Schedule 'B' attached hereto, above 12 metres, a minimum of 1.5 metres setback from any face of the building wall at grade shall be required. Above 36 metres, a minimum setback of 3 metres from any face of the

building wall at grade shall be required. Above 60 metres, a minimum setback of 4.5 metres from any face of the building wall at grade shall be required;

- vi) Notwithstanding the provisions of this By-law, a maximum floor plate area restriction of 825 square metres shall be applied to the portion of any building or structure located between 36 metres and 60 metres in height. For any portion of a building or structure above 60 metres in height, the maximum floor plate area shall be restricted to 750 square metres;
- vii) Notwithstanding any of the required building setback, Minor Projections shall be permitted to encroach into the required building setbacks;
- viii) Notwithstanding the provisions of this By-law, an 11 metre separation distance to a window of another dwelling unit (other than a window of a kitchen or bathroom) on the same lot or abutting lot shall be required; and
- ix) Building Envelope 6 shall be centred on the axis of the centreline of Wilmar Road

# 7. Area Requirements

Notwithstanding the provisions of the Zoning Code, the following area requirements shall apply to the lands designated as EC2 on Schedule 'A', attached hereto:

- a) Lot Frontage: minimum twenty-four (24) metres;
- b) Landscaped Open Space: a minimum 25 percent of the lot area shall be reserved for Lanscaped Open Space; and
- c) Indoor Amenity Space: a minimum 1.5 square metres per dwelling unit of Indoor Amenity Space shall be provided.

# **8.** Parking and Loading Requirements

Notwithstanding Section 320-18B, C, D and E of the Zoning Code, the following requirements shall apply to the lands designated as EC2 on Schedule 'A', attached hereto, save and except that Section 320-23A and C of the Zoning Code shall apply to any restaurants over 150 square metres in gross floor area:

a) Parking spaces shall be provided in accordance with the following minimum and maximum requirements:

Ī	i)	Non-residential -	the Zoning Code provisions shall apply;
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ii)	Residential (less than 3 bedrooms) -	minimum 1.0 parking space per dwelling unit, of which 0.2 parking spaces shall be reserved for visitor parking, and	
		maximum 1.25 parking spaces per unit of which 0.2 parking spaces per unit are reserved for visitor parking; and	
iii)	Residential (3 bedrooms or greater) -	minimum 1.0 parking space per dwelling unit, of which 0.2 parking spaces shall be reserved for visitor parking, and	
		maximum 1.4 parking spaces per unit of which 0.2 parking spaces per unit are reserved for visitor parking.	

- b) For the purposes of this By-law, the reserved on-site residential visitor parking requirements on Section 8 a) ii) and iii) and be shared with, and used to meet the parking requirements for non-residential uses within the same building or structure;
- c) Bicycle parking shall be provided with the exception of senior citizens apartment buildings and seniors community houses, in accordance with the following minimum requirements:

i)	Residential -	0.75 bicycle parking spaces for each dwelling unit	
		in a building containing greater than ten (10)	
		dwelling units, to a maximum of 200 bicycle	
		parking spaces; and	
ii)	Non-Residential -	In buildings with greater than 2,000 square metres	
		of non-residential gross floor area, one bicycle	
		parking space for every 1,250 square metres of net	
		non-residential floor area.	

- d) Notwithstanding Section 8 c) i) of this By-law, 80 percent of all required residential bicycle parking spaces shall be deemed as bicycle parking space occupant and 20 percent as bicycle parking space visitor;
- e) No person shall use any portion of a lot located between the main front wall of a building and the street, at or above the natural ground level of the ground, for the purposes of parking or storing a motor vehicle; and
- f) Every building or connecting building containing more than 420 square metres of gross floor area shall provide a loading space with dimensions of 12 metres in length, 3.0 metres in width, and with a vertical clearance of 4.5 metres.

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

Where any building face is located within 20 metres of a public road allowance, that building face shall contain a public pedestrian entrance and exit to and from the building.

#### **10.** Miscellaneous

Prior to the issuance of a Building Permit (pursuant to the Ontario Building Code) for any residential development, as described in this By-law, commercial uses shall be permitted on the lands described on Schedule 'A', attached hereto, subject to the provisions of the Limited Commercial Zone (CL) category and the General Regulations for Commercial Zones of the Etobicoke Zoning Code.

- 11. Where the provisions of this By-law conflict with the provisions of the Etobicoke Zoning Code, the provisions of this By-law shall apply.
- **12.** Zoning By-law No. 1986-134 of the former City of Etobicoke as it applies to the subject lands is hereby repealed.

## **13.** Section 37 Agreement

The owner of the site shall provide the City of Toronto with the following facilities, services and matters, which would otherwise have been required in the absence of using Section 37 and are secured in the Section 37 agreement because it serves as a convenient legal mechanism.

### Public Benefit

The owner of the land will be required to provide the City with a cash contribution in the amount of \$266,000.00 to be used for local street improvements, public art, a contribution to the local Business Improvement Area, and local parkland improvements, which contribution shall be provided prior to the issuance of a building permit. Said financial contribution shall be indexed, commencing 2 years from the date of issuance of the OMB Order.

#### Parkland

The owner will be required to provide a 5 percent cash-in-lieu of parkland dedication payment, as well as an additional parkland payment, to the satisfaction of the Commissioner of Economic Development, Culture and Tourism.

### Private Park

The owner will be required to provide an at grade private open space having public access and a minimum area of 1,000 square metres abutting the Dundas Street West frontage.

# **Transportation Improvements**

To accommodate the additional vehicle traffic to be introduced by the subject development, the owner shall be responsible for access modifications to neighbouring properties, intersection improvements, and traffic control signalization.

#### Private Road

The owner will be required to provide a private road having public access, with said road extending to the westerly limit of the site in order to provide access for the properties located to the west of the subject lands.

# Sidewalk and Streetscape Improvements

The applicant agrees to design and construct to the satisfaction of the Commissioner of Urban Development Services and Works and Emergency Services sidewalk and streetscape improvements along its public frontages to current city standards.

#### School Board Notice

The applicant agrees to provide the Toronto District School Board and the Toronto Catholic District School Board with appropriate notice of its intention to apply for building permits.

The applicant also agrees to install on-site signage and insert warning clauses in offers of purchase and sale, advising purchasers that students may be accommodated outside the area to the satisfaction of the Toronto District School Board.

#### **Environmental Assessment**

The applicant is required to satisfy the City with respect to the environmental (soil and groundwater) suitability of the subject site to the satisfaction of the Commissioner of Works and Emergency Services.

#### **Toronto Transit Commission**

The applicant agrees to acknowledge that the acquisition of the future TTC easement will be dealt with at site plan; that the development of the site must not preclude the future construction of the subway extension and that the applicant will be required to submit for a TTC technical review at site plan.

### Canadian Pacific Railway

The owner will be required to provide the necessary studies to the Canadian Pacific Railway relating to noise and vibration matters, in connection with the location of buildings or structures within 30 metres of the rail lands, including the provision of appropriate warning clauses in all purchase and sale, or lease agreements.

# Execution and Registration of Section 37 Agreement

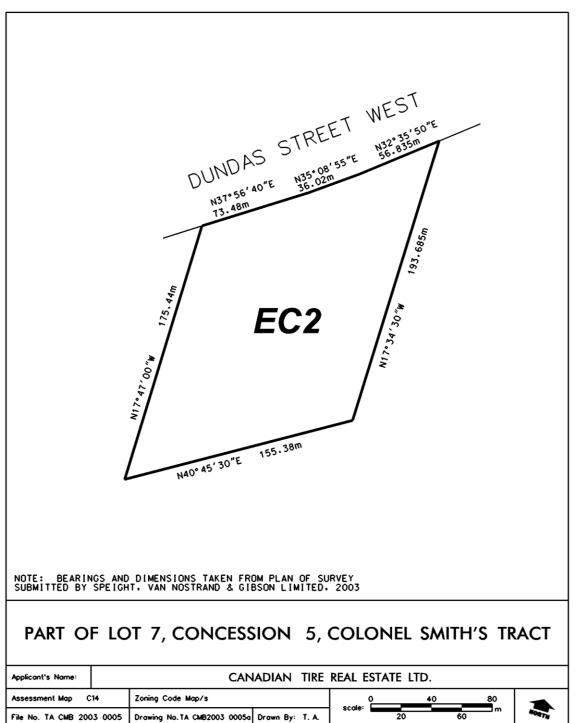
The owner of the Site shall enter into an Agreement with the City of Toronto pursuant to Section 37 of the *Planning Act*, to secure the facilities, services and matters provided for under subsection (2) herein and such Agreement shall be in a form satisfactory to the City and registered on title to the Site as a first priority, subject only to the fee interest in the Site.

14. 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:

BY-LAW NUMBER AND	DESCRIPTION OF	PURPOSE OF BY-LAW
ADOPTION DATE	PROPERTY	
735-2014(OMB)	5365 Dundas Street West.	To rezone the lands to
		permit a mixed use
February 25, 2005		development and
		implement the policies of
		the Official Plan
		Amendment.

PURSUANT TO DECISION/ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED FEBRUARY 25, 2005 IN BOARD CASE NOS. PL030066 AND PL030681.

# TORONTO Schedule 'A' BY-LAW



# TORONTO Schedule 'B' BY-LAW

