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Patent and Trade-mark Agents

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FASKEN
MARTINEAU 

P. Martin Emmons
Direct: 416 868 3473
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November 25, 2013

**VIA OVERNIGHT COURIER
AND ELECTRONIC MAIL**

City of Toronto
Toronto City Hall
12th Floor East
100 Queen Street West
Toronto, Ontario M5H 2N2

Attention: Ulli S. Watkiss, City Clerk

AND TO:

City of Toronto
City Planning Division,
Toronto City Hall
12th Floor East
100 Queen Street West
Toronto, Ontario M5H 2N2

Attention: Jennifer Keesmaat, Chief Planner and Executive Director

Dear Sir/Madame:

**Subject: Official Plan/Municipal Comprehensive Review - Amendments to the
Official Plan for Employment Lands Policies and Designations and
Recommendations on Conversion Requests**

We are solicitors for Woodbine Entertainment Group (“Woodbine”), the owner of the property known municipally as 555 Rexdale Blvd. (the “Property”). Woodbine has operated a race track and associated stables at the Property since 1956, and since March, 2000, the Ontario Lottery and Gaming Corporation has operated slot machines at the Property.

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Woodbine has reviewed the Report dated November 5, 2013 to the Planning and Growth Committee (the “**Report**”) prepared by the Chief Planner and Executive Director, City Planning Division. Woodbine has also reviewed Planning Division’s recommendation forming part of the Report with respect to Woodbine’s request, submitted on December 21, 2011, to convert a portion of the Property to Mixed Use Areas to permit residential uses for a southern portion of the Property that is outside of the Airport Operating Area.

Woodbine does not support and accordingly objects to the recommendations in the Report that the Property be designated as Core Employment Areas. The basis of Woodbine’s objection is set out in prior letters submitted by Woodbine to the City with respect to this matter, dated November 12, 2012, December 11, 2012 and November 6, 2013. Copies of each of these letters are attached for your convenient reference.

We also wish to comment on Planning Division’s analysis of Woodbine’s conversion request, forming part of the Report. The summary of the existing zoning designation of the Property prepared by Planning Division does not identify that the Property is subject to By-law No. 8777 passed on September 8, 1953 that permits the erection and operation of a race track on the Property. The analysis also omits to refer to the Minister’s Zoning Order dated December 17, 1998 that permits the location, installation, operation and use of slot machines at the Property.

Further, Planning Division’s analysis of Site and Area Specific Policy (“**SASP**”) No. 29 is incorrect. The Planning Division’s analysis mis-characterizes the provisions of the existing policies in SASP No. 29, which specifically indicate that new residential and other sensitive land uses may be permitted on the portion of the Property outside of the Transport Canada approved thirty NEF/NEP Composite Noise Corridor. Planning Division has also misinterpreted Woodbine’s conversion request in its letter dated December 21, 2011, by stating that the area requested for conversion is not contemplated by SASP No. 29 for residential or other sensitive uses. In fact, the conversion request specifically applies to the portion of the Property which is outside of the Airport Operating Area, which pursuant to SASP No. 29 may be permitted for residential uses.

Please advise us of the decision of Council on the Report when it is made. Please also provide us with written notice of any meetings of Council or any Committee of Council at which the Report and its recommendations are to be considered. Finally, please provide us with notice of the adoption by City of Council of any Official Plan Amendments arising out of the Report.

Thank you for your cooperation.

Yours truly,



P. Martin Emmons
PME/AD

c.c. Bill Ford
Garth Essery
Peter Walker
Paul Bain
Neil Smiley

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P. Martin Emmons
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November 12, 2012

VIA ELECTRONIC MAIL

City of Toronto
Toronto City Hall
12th Floor East
100 Queen Street West
Toronto, Ontario M5H 2N2

Attention: Ulli S. Watkiss, City Clerk

AND TO:

City of Toronto
City Planning Division,
Toronto City Hall
12th Floor East
100 Queen Street West
Toronto, Ontario M5H 2N2

Attention: Jennifer Keesmaat, Chief Planner and Executive Director

Dear Sir/Madame:

Subject: Official Plan/Municipal Comprehensive Review - Draft Policies and Designations for Employment

We are solicitors for Woodbine Entertainment Group (“**Woodbine**”), the owner of the property known municipally as 555 Rexdale Blvd. (the “**Property**”). Woodbine has operated a race track and associated stables at the Property since 1956, and since March, 2000, the Ontario Lottery and Gaming Corporation has operated slot machines at the Property.

City Planning Division has addressed the Property in the Planning Division’s Report dated October 23, 2012 presenting draft Official Plan Employment Policies for the City (the “**Report**”). The proposed designation of the Property in the Report is primarily Core Employment, with the westerly and north westerly portion of the Property designated General Employment and the north easterly corner designated Retail Employment.

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In proposing these designations, the Planning Division has ignored, and therefore eliminated, the following specific permissions that Woodbine has obtained from the City over a number of years, as well as the actual uses that are currently carried on at the Property and that have been carried on since 1956 in the case of the racetrack and since 2000 in the case of the slot machines:

1. **Racetrack Operations:**

The majority of the Property is used for the purposes of Woodbine Racetrack pursuant to site specific By-laws 8777 and 8798 approved in 1953 to permit the racetrack and associated uses. The portion of the Property designated Core Employment includes the portion of the Property used as a racetrack and associated uses. The Core Employment designation does not recognize or permit such existing racetrack uses.

2. **Slot Machines:**

A significant portion of the grandstand at the Property is used by the Ontario Lottery and Gaming Corporation for slot machines. This use is permitted on the Property pursuant to a 1998 Minister's Zoning Order. The Core Employment designation proposed in the Report does not recognize or permit the use of slot machines at the Property which has been carried on for 12 years pursuant to the Minister's Zoning Order.

3. **Site and Area Specific Policy 29:**

Site and Area Specific Policy 29 ("**Policy 29**") addresses land use requirements within the Lester B. Pearson International Airport Operating Area ("**AOA**") and includes all but a portion of the southeast corner of the Property. While protecting the original permission for the racetrack, including housing, dormitories and other noise sensitive land uses associated or accessory thereto, Policy 29 also provides for new residential and other sensitive land uses within the AOA provided they are located outside Transport Canada's 30 NEF/NEP Composite Noise Contour ("**30 NEF/NEP Contour**"). Policy 29 carried forward Policy 185.5 of the Official Plan of the former Municipality of Metropolitan Toronto ("**Metro Plan**"), which was adopted by way of Amendment No. 7 to the Metro Plan (By-law 470-2002). Policy 185.5 was the product of a settlement between the Greater Toronto Airport Authority ("**GTAA**"), the City and Woodbine reached at an Ontario Municipal Board hearing in June, 2001 to identify an Airport Operating Area in the applicable Official Plan documents. The settlement is referred to in the OMB Decision issued August 27, 2001 (Decision/Order No. 1391, PL00959). The residential uses permitted on the



southeast corner of the Property by this OMB approved settlement were inadvertently removed from the Official Plan when the City adopted Policy 296 (described below).

By letter dated December 21, 2011 submitted by Woodbine to City Planning Division, Woodbine requested a housekeeping amendment to the Official Plan to reinstate the provisions of Policy 29 permitting new residential and other sensitive land uses on the southern portion of the Property within the AOA provided they are located outside the 30 NEF/NEP Contour. City Planning has apparently interpreted this request for a housekeeping amendment as a request for "conversion" of employment uses, which clearly is not the case. As noted above, Policy 29 was the product of a settlement reached at and approved by the Ontario Municipal Board. The permission for new residential and other sensitive land uses contained in Policy 29 has not been recognized in the proposed designation of the Property as Core Employment. This needs to be corrected.

4. **Retail/Entertainment Center Permissions:**

In 2005, the City adopted Amendment No. 30 to the Official Plan which introduced Site and Area Specific Policy 296 ("Policy 296"), which was intended to provide a planning framework for a proposed retail/entertainment development at the Property. Policy 296 describes future development on a significant portion of the Property (approximately 200 acres of the existing 680 acres of the Property) as building on the existing racetrack and associated entertainment uses provided by Woodbine to add more related uses with residential and other sensitive land uses permitted on the northwesterly portion of the Property outside the applicable 30 NEF/NEP Contour. This was consistent with Policy 29. Zoning By-law 864-2007 was subsequently passed by the City to implement Policy 296 and to permit Retail/Entertainment Uses on this significant portion of the Property.

Once again, the proposed Core Employment and General Employment designations for the Property in the Report do not recognize the retail/entertainment and residential uses permitted on the Property by Policy 296 and By-law 864-2007. This omission requires correction.

5. **Transit Station:**

The City's Official Plan adopted in 2002 identifies a GO Train Station at the southeast corner of the Property. The identification of this station in the existing Official Plan has not been reflected in Map 10 of the Report or in the Report itself

dealing with the Property. This omission in the Report and the mapping needs to be corrected.

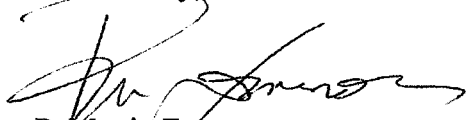
Summary:

Woodbine has serious concerns with the Report and its proposed designations for the Property, which ignore the uses carried on at the Property for many years and the specific permissions and policies that the City has adopted and implemented with respect to the Property as described above. Clearly, there are significant errors in the Report dealing with the Property that need to be corrected.

Representatives of Woodbine and their planning consultants, Walker Nott Dragicevic Associates Ltd., will be contacting the appropriate members of Planning Division staff to discuss the foregoing and to engage in consultation with the City with respect to the proposed Employment policies for the Property. Planning staff should expect to hear from Woodbine and its consultants in this regard.

We trust that this is satisfactory.

Yours truly,



P. Martin Emmons
PME/AD

c.c. Jane Holmes
Bill Ford
Garth Essery
Peter Walker
Members of Etobicoke/York Community Council
Members of the Planning and Growth Management Committee
Paul Bain
Kerri A. Voumvakis
Bill Kiru
Katherine Thom

City Planning
Jennifer Keesmaat, Chief Planner and
Executive Director

Metro Hall
55 John Street 22nd Floor
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kvoumva@toronto.ca

November 21, 2012

Woodbine Entertainment Group
555 Rexdale Boulevard
P.O. Box 156
Toronto ON M9W 5L2

Attention: Jane Holmes, Vice-President, Corporate Affairs

Dear Ms. Holmes,

Thank you for your voice mail message on November 13, 2012, following up on your solicitor's letter dated November 12, 2012, which outlined concerns regarding City staff's preliminary assessment and draft land use designations for the 555 Rexdale Boulevard site ("the Property").

As Jeffrey Cantos conveyed in his voice mail message to you on November 14, 2012, the letter from Faskin Martineau to the City Clerk and to the Chief Planner was premised on a misinterpretation of the City's Official Plan policies. The letter states,

In proposing these designations, the Planning Division has ignored, and therefore eliminated, the following specific permissions that Woodbine has obtained from the City over a number of years, as well as the actual uses that are currently carried on at the Property and that have been carried on since 1956 in the case of the racetrack and since 2000 in the case of the slot machines (Page 2 of 4).

The letter continues to list a number of site specific permissions, which apply to the Property. In interpreting the Staff report (dated October 22, 2012), your counsel is under the impression that the City staff's preliminary assessment and draft land use designations strip away Woodbine's longstanding permissions. In particular, Site and Area Specific Policy 296 (b) that currently permits:

Commercial Retail and Entertainment In addition to Site and Area Specific Policy No. 29 (e) (iii) permitted uses include a horse racetrack and related, associated and accessory uses, including gaming, entertainment, retail, including large scale, stand-alone retail stores, hotel, restaurant and office uses.

It is not the City's intention to ignore or eliminate specific permissions that were obtained through the planning process for the Property. In characterizing City staff's preliminary assessment and draft land use designations for the Property as "significant errors in the Report dealing with the Property that need to be corrected" (Page 4 of 4), your legal counsel have unfortunately not taken into consideration the Implementation policies contained within the Official Plan. In particular, the Interpretation policies in Section 5 of the Official Plan, which clearly articulate how site and area specific policies are to be read in conjunction with the general Official Plan policies and land use designations. Section 5.6.7 states:

The policies of this Plan will apply to areas subject to site/area specific policies contained in Chapters Six and Seven except where in the case of a conflict, the site/area specific policy will prevail.

This Interpretation policy clearly indicates that the in-force site and area specific policies applicable to the Property (namely site and areas specific policies 29 and 296) will prevail in the event of a conflict with policies in the Official Plan. Please note that the City does not wish to frustrate the policy framework in place for the Property and please also rest assured that Woodbine Entertainment Group will continue to enjoy the use of their lands as set out in the site and area specific policies.

Should you wish to discuss the preliminary assessment and draft land use designations for the Property, please feel free to contact the Jeffrey Cantos, Senior Planner assigned to the file, directly at jcantos@toronto.ca or 416-397-0244.

Sincerely,



Paul Bain, MCIP, RPP
Project Manager, Official Plan Team
City Planning Division

Copy: **Coun. Doug Ford**, City Hall, 2nd Floor, Suite C40
Coun. Peter Milczyn, City Hall, 2nd Floor, Suite C51
Kelly Matsumoto, City Legal Services, Metro Hall, 26th Floor
Sharon Hill, Bill Kiru, Kathryn Thom, Community Planning, 2 Civic Centre Crt, 3rd Floor
John Alderdice, 399 The West Mall, Main Floor
P. Martin Emmons, Faskin Martineau 333 Bay St, Suite 2400 Bay Adelaide Centre Box 20 Toronto ON M5H 2T6
Peter Walker, Walker, Nott, Dragicevic Ltd. 90 Eglinton E, Toronto ON M4P 1A6

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December 11, 2012
File No. 208958.00278

VIA ELECTRONIC MAIL

City of Toronto
Planning Division
55 John Street
22nd Floor
Toronto, Ontario M5V 3C6

Attention: Mr. Paul Bain, Project Manager, Official Plan Team

Dear Mr. Bain:

Subject: Official Plan/Municipal Comprehensive Review - Draft Policies and Designations for Employment

We refer to your letter dated November 21, 2012 addressed to Woodbine Entertainment Group (“**Woodbine**”) to the attention of Jane Holmes, Vice-President, Corporate Affairs in response to our letter dated November 12, 2012 outlining Woodbine’s concerns regarding City Planning staff’s preliminary assessment and draft land use designations for Woodbine Race Track known municipally as 555 Rexdale Blvd. (the “**Property**”). Woodbine has asked us to respond to your letter on their behalf.

Woodbine appreciates your timely response in confirming that the existing land uses and permissions applicable to the Property have not been lost. However, Woodbine continues to have concerns with the Planning Division’s Report dated October 23, 2012 presenting Official Plan Employment Policies for the City (the “**Report**”), notwithstanding the comments in your letter. The basis of those concerns is as follows:

- The proposed designation of the Property in the Report is primarily Core Employment, with the westerly and north-westerly portion of the Property designated General Employment and the north-easterly corner designated Retail Employment. The portion of the Property that is used as a race track and for slot machines by the Ontario Lottery and Gaming Corporation is located within the portion of the Property proposed to be designated as Core Employment.

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- The Report provides that Core Employment Areas are reserved for certain identified employment uses. The existing race track and other gaming activities are not permitted in the Core Employment Area.
- The rationale expressed in the letter for proceeding to recommend changing the Official Plan policies for the Property to policies that do not reflect the long-standing existing uses of the Property, and do not recognize specific permissions and policies that apply to the Property, is a section in the implementation policies contained within the Official Plan that provides that, if the policies of the Plan conflict with any site/area specific policies, the site/area specific policy will prevail.
- In our view, it is not clear as a matter of law if the site/area specific policies that have been adopted with respect to the Property will continue to be in force if Council adopts the recommendations expressed in the Report and re-designates the Official Plan policies applicable to the Property as Core Employment. Based upon the provisions of the *Planning Act*, it is at least arguable that the adoption of new policies has the effect of overriding the effect of prior adopted policies.
- Even if the foregoing is not correct and the site and area specific policies will continue to apply to the Property, it is at best cumbersome, potentially confusing and administratively difficult for Woodbine to be able to assess and determine what Official Plan policies apply to the Property if they have to review the site area/specific policies in the Plan to determine if any such policies apply.
- If, as you indicate in your letter, the site and area specific policies continue to apply, it is incongruous to adopt new and different policies that apply to the Property that do not in fact permit the uses that are permitted by the site and area specific policies to which you refer. At the very least, the policies that are adopted for the Property should be consistent with the site and area specific policies that the City has already adopted and which by your own admission, will continue to apply to the Property. If the City is not prepared to include the proper uses in the policies for the Property, the main Land Use Schedule in the Official Plan should include an indication that there are site specific policies in place for the Woodbine Property.
- The adoption of new and difference policies that apply to the Property that do not in fact permit the uses that are permitted by the site and area specific policies is of particular concern having regard to Section 24 of the *Planning Act* which obligates the City to amend its zoning by-law to conform to the policies in the City's Official Plan.



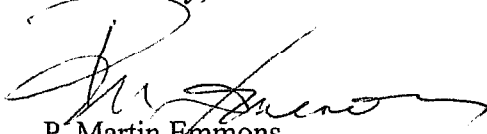
Woodbine has two (2) housekeeping matters with respect to the proposed policies which it wishes to address with the City at this time. Firstly, and as you may be aware, Mr. Nick Eaves, the President and CEO of Woodbine, by letter dated December 21, 2011 sent to the Chief Planner and Executive Director of the Planning Division, requested the City to give positive consideration to designating a small remnant area located on the southeasterly portion of the Property outside of the Airport Operating Area, for a mix of land uses, including but not limited to residential uses. The said area is shown highlighted in orange on Attachment D to Mr. Eaves' letter. An additional copy of that Attachment D is attached for your convenient reference. The City's initial decision on this request, as set out in Attachment 5 to the Report, is to retain all of the Woodbine Property for employment uses. Woodbine is requesting a reconsideration of that recommendation with respect to the southeast corner of the Woodbine Property shown outline in Orange on Attachment D hereto, having regard to the permissions afforded the adjoining lands highlighted in blue on Attachment D pursuant to Site and Area Specific Policy 29 (as confirmed by Gregg Lintern in his letter dated April 18, 2012 (copy attached)).

Secondly, we attach a copy of a letter dated August 8, 2012 sent by Peter R. Walker of Walker, Nott Dragicevic Associates Limited, Woodbine's planning consultants, to Gregg Lintern (the Acting Chief Planner and Executive Director), requesting Mr. Lintern to acknowledge that the revised drawings attached to that letter be utilized by the City to show the Airport Operating Area boundary from SPA 29 on the Woodbine Lands. Woodbine is requesting that the City acknowledge this letter and the location of the AOA boundary referred to in that letter, to ensure that the factual basis of Woodbine's permissions are correct.

Woodbine is anxious to address this matter and accordingly requests a meeting as soon as possible with yourself and Jeffrey Cantos. This meeting will be attended by Jane Holmes and Peter Walker of Walker Nott Dragicevic. Please contact Ms. Holmes at 416-675-3993 to schedule such meeting.

Thank you for your consideration.

Yours truly,



P. Martin Emmons
PME/AD

c.c. Councillor Vince Crisanti
Councillor Doug Ford
Councillor Peter Milczyn
Kerri A. Voumvakis
Jeffrey Cantos
Jane Holmes
Bill Ford
Garth Essery
Peter Walker

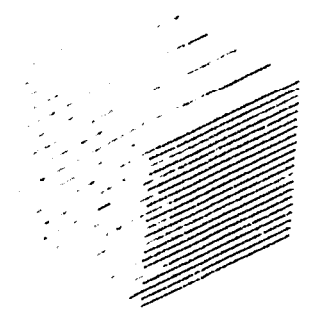
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August 8, 2012

Toronto City Hall
100 Queen Street West
12th Floor, East Tower
Toronto, Ontario
M5H 2N2

**Walker, Nott, Dragicevic
Associates Limited**
Planning
Urban Design

Attention: Mr. Gregg Lintern
Acting Chief Planner and Executive Director



Dear Sirs,

Re: Woodbine Entertainment Group Lands
Our File No.: 90007.41

Dear Gregg:

Following on from our brief discussion attached please find the correction mentioned to the diagram provided to you in the December 13, 2011 of Mr. Nick Eaves, the President and CEO of Woodbine Entertainment Group. This correction outlines the Airport Operating Area boundary from SPA 29 (296) on the aerial photo of the Woodbine Lands (the "Blue" area). The December 2011 version that was originally sent to you was outlined by me in error, as explained to you, and noted below.

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The May 2012 version is the corrected version, and that corrections arose from a closer look at the original AOA boundary (which is provided here in a "blow-up" version to illustrate my point). The only change is in the southwest corner, where the AOA boundary coincides with the southerly property boundary, rather than following the north limit of the east west roadway.

I would appreciate your acknowledgement that the revised drawings now constitute your file version for the aspect of the Woodbine Entertainment Group Lands.

Thank you for meeting with me last week and I hope you had a good weekend.

Yours very truly,

WALKER, NOTT, DRAGICEVIC ASSOCIATES LIMITED
Planning · Urban Design

Peter R. Walker, FCIP, RPP
President and Senior Principal

Peter R. Walker, FCIP, RPP
Wendy Nott, FCIP, RPP
Robert A. Dragicevic, MCIP, RPP
Senior Principals

Andrew Ferancik, MCIP, RPP
Senior Associate

Martha Coffey
Controller

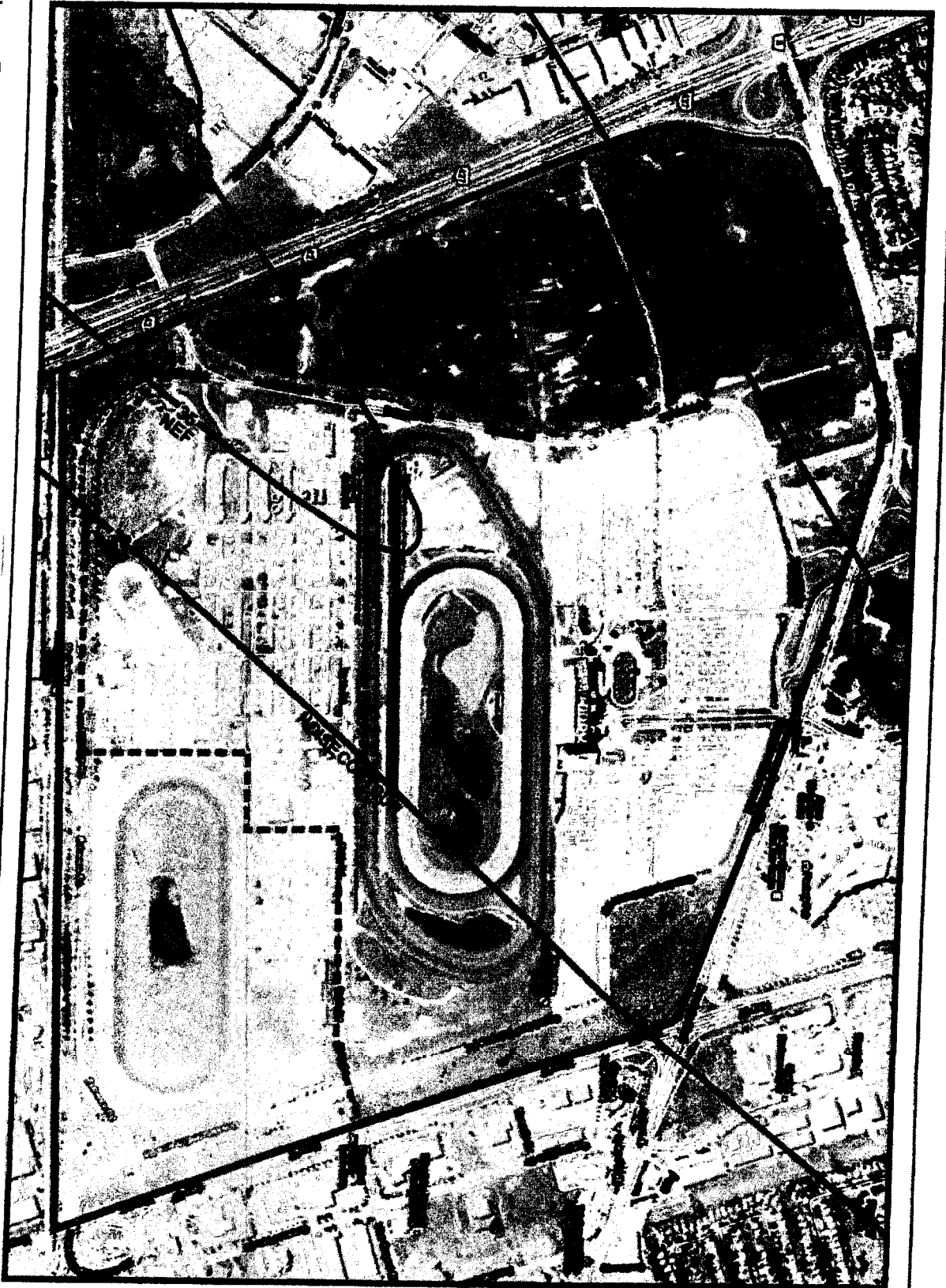
Encl.

cc. Mr. Garth Essery, WEG
Ms. Jane Holmes, WEG

ATTACHMENT D TO NICK EVANS' DECEMBER 21, 2011 LETTER

Southern Portion of 555 Rexdale Boulevard
(Woodbine Entertainment Group)

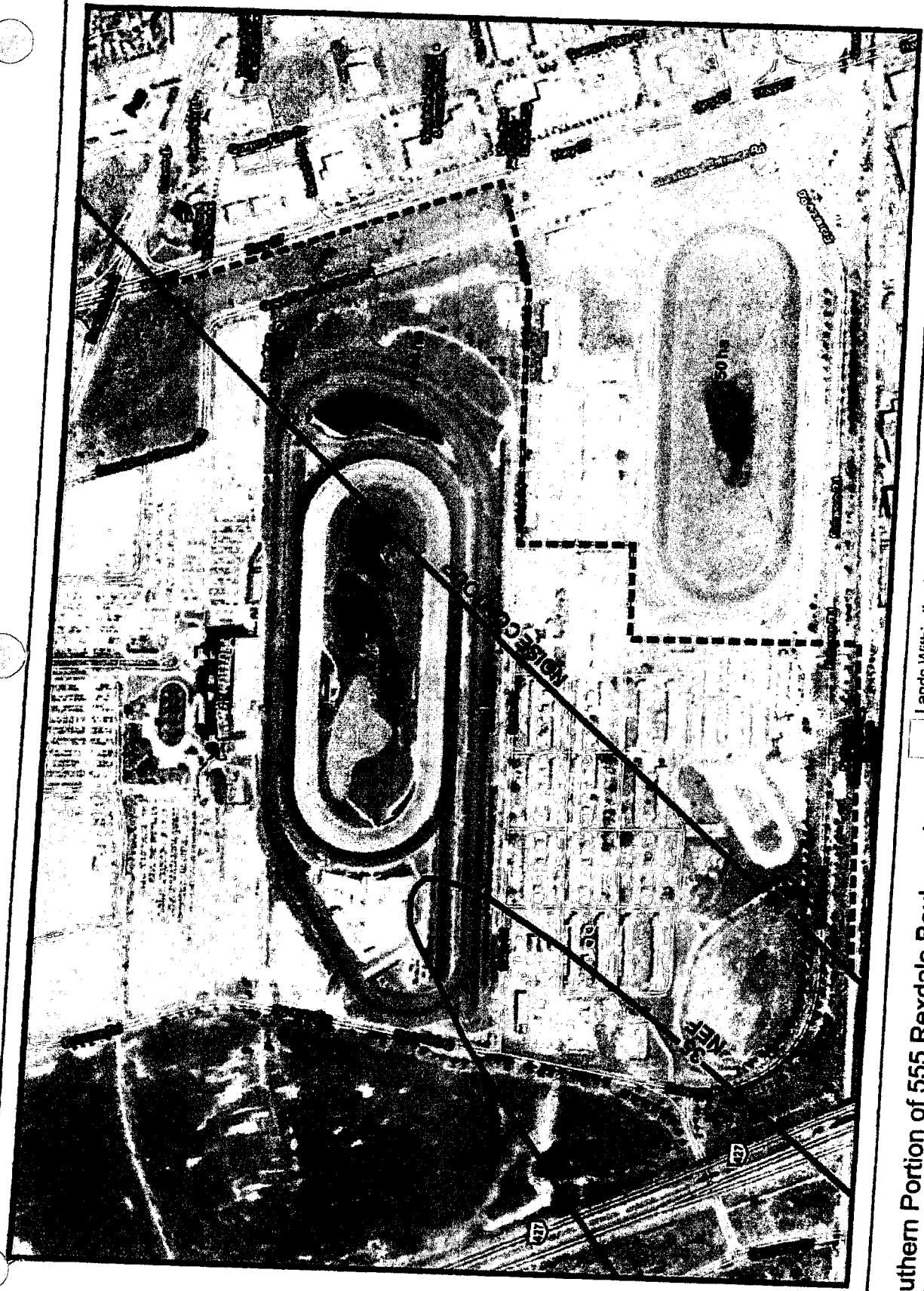
555 Rexdale Blvd.
City of Toronto



- Lands Within the Airport Operating Area and Outside the 30 NEF Noise Contour
- - - Lands Outside the Airport Operating Area and Outside the 30 NEF Noise Contour
- - - Lester B. Pearson Airport Operation Area
- Subject Lands

Not to Scale
December, 2011
90.007.11

Walker, Nutt, Dragicevic
Associates Limited
Planning
Urban Design



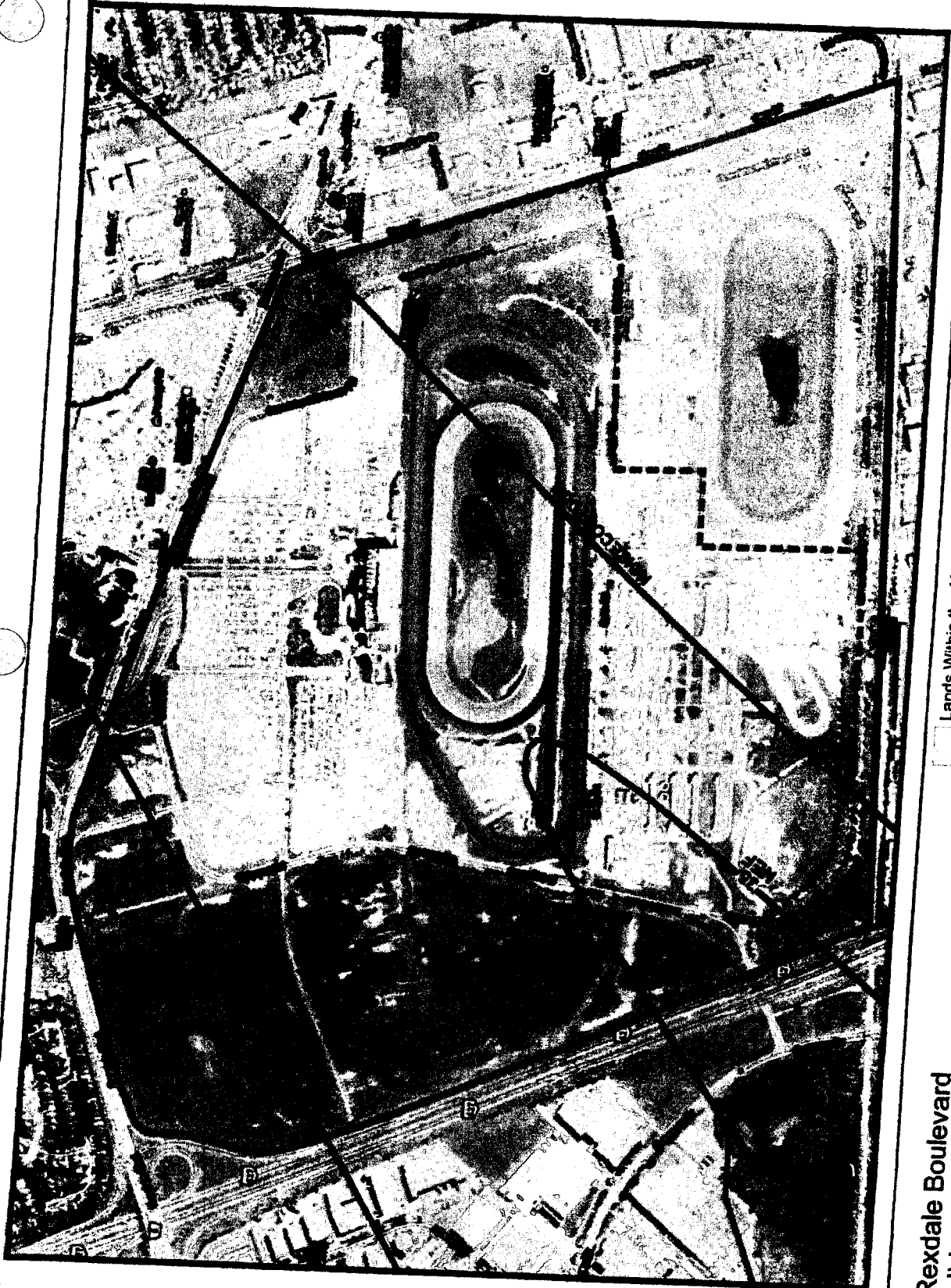
**Southern Portion of 555 Rexdale Boulevard
(Woodbine Entertainment Group)**

555 Rexdale Blvd.
City of Toronto

- Lands Within the Airport Operating Area and Outside the 30 NEF Noise Contour
- Lands Outside the Airport Operating Area and Outside the 30 NEF Noise Contour
- Lester B. Pearson Airport Operation Area

Not to Scale
May, 2012
90.007.11

Walker, Nott, Dragcovic
Associates Limited
Planning
Urban Design



**555 Rexdale Boulevard
(Woodbine Entertainment Group)**

555 Rexdale Blvd.
City of Toronto

- Lands Within the Airport Operating Area and Outside the 30 NEF Noise Contour
- Lands Outside the Airport Operating Area and Outside the 30 NEF Noise Contour
- Lester B. Pearson Airport Operation Area
- Subject Lands Owned By Woodbine Entertainment Group

Not to Scale
December, 2011
90.007.11

Walker, Nott, Dragicevic
Associates Limited
Planning
Urban Design

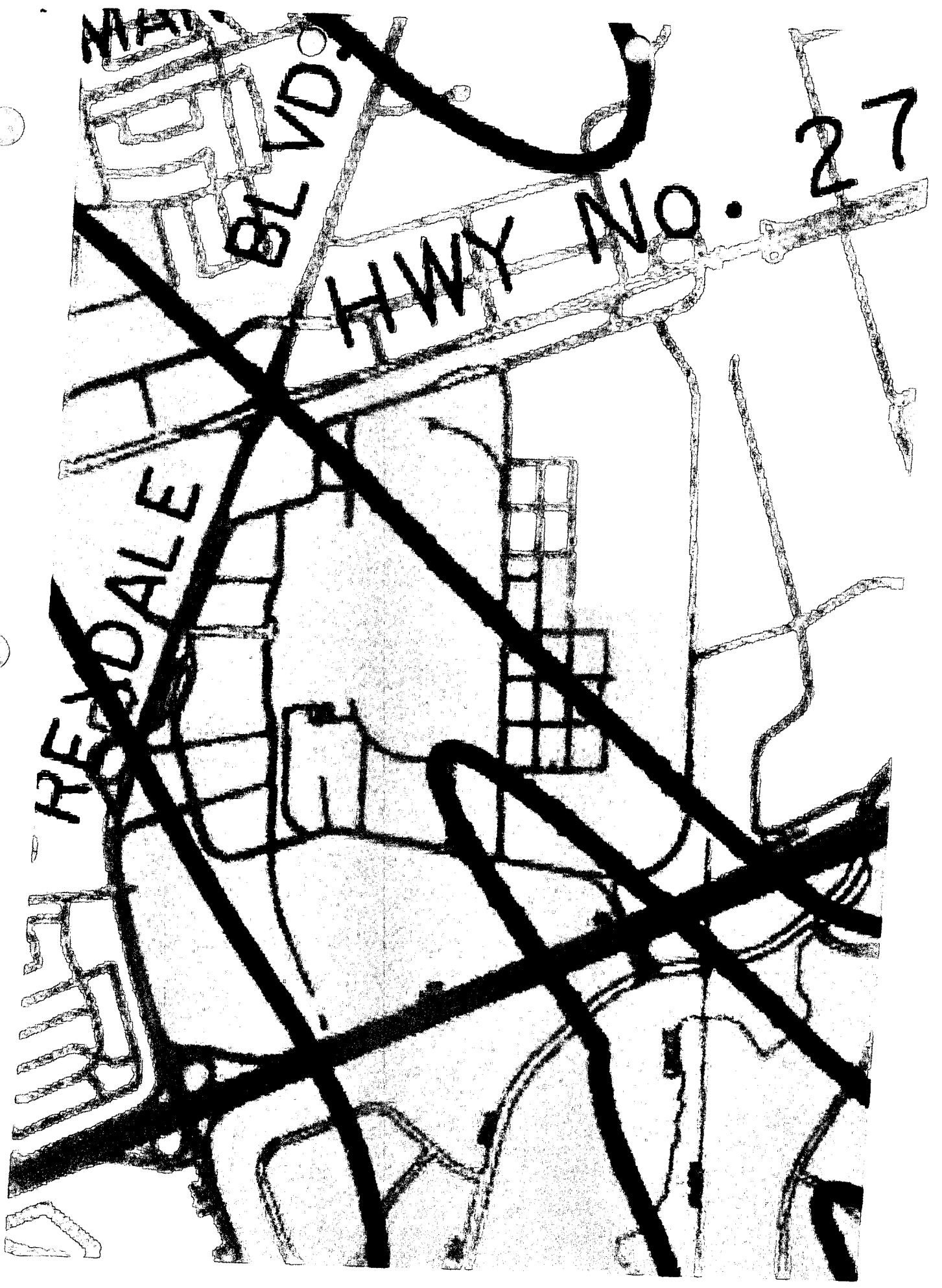
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BLVD.

HWY NO.

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REDDALE



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November 6, 2013

DELIVERED

COPY

City of Toronto
Toronto City Hall
12th Floor East
100 Queen Street West
Toronto, Ontario M5H 2N2

Attention: Ulli S. Watkiss, City Clerk

AND TO:

City of Toronto
City Planning Division,
Toronto City Hall
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Toronto, Ontario M5H 2N2

Attention: Jennifer Keesmaat, Chief Planner and Executive Director

Dear Sir/Madame:

Subject: Official Plan/Municipal Comprehensive Review - Draft Policies and Designations for Employment

We are solicitors for Woodbine Entertainment Group (“**Woodbine**”), the owner of the property known municipally as 555 Rexdale Blvd. (the “**Property**”). Woodbine has operated a race track and associated stables at the Property since 1956, and since March, 2000, the Ontario Lottery and Gaming Corporation has operated slot machines at the Property.

As we advised you in our letter dated November 12, 2012 and a subsequent letter dated December 11, 2012 addressed to the attention of Paul Bain, Project Manager, Official Plan Team, Woodbine has serious concerns with the Planning Division’s proposal to amend the Official Plan policies applicable to the Property to designate the majority of the Property, including the portion operated as a race track and for slot machines, as Core

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Employment, with the westerly and north-westerly portion designated General Employment and the north-easterly corner designated Retail Employment. Such concerns arise from the fact that the uses permitted in the Core Employment designation do not permit or resemble the uses that have been carried on at the Woodbine Property for over 50 years. In Woodbine's view, it is not good planning to apply a designation to the Property that does not reflect the uses carried on at the Property and permitted under Site Specific Exceptions to the Official Plan. The Property and its uses have been and continue to be a "destination" large-scale use that is not typical and which should be reflected in the Official Plan designations applicable to the Property.

In summary, Woodbine does not support the proposal to designate its Property as Core Employment.

Please provide us with copies of the City's proposals arising from this Official Plan/Comprehensive Review when they are issued. Please also provide us with written notice of any meetings of Council or any committee of Council at which those proposed policies are to be considered.

Thank you for your cooperation.

Yours truly,

P. Martin Emmons
PME/AD

c.c. Bill Ford
Garth Essery
Peter Walker
Paul Bain

Fasken Martineau DuMoulin LLP
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December 11, 2012
File No. 208958.00278

VIA ELECTRONIC MAIL

City of Toronto
Planning Division
55 John Street
22nd Floor
Toronto, Ontario M5V 3C6

Attention: Mr. Paul Bain, Project Manager, Official Plan Team

Dear Mr. Bain:

Subject: Official Plan/Municipal Comprehensive Review - Draft Policies and Designations for Employment

We refer to your letter dated November 21, 2012 addressed to Woodbine Entertainment Group (“**Woodbine**”) to the attention of Jane Holmes, Vice-President, Corporate Affairs in response to our letter dated November 12, 2012 outlining Woodbine’s concerns regarding City Planning staff’s preliminary assessment and draft land use designations for Woodbine Race Track known municipally as 555 Rexdale Blvd. (the “**Property**”). Woodbine has asked us to respond to your letter on their behalf.

Woodbine appreciates your timely response in confirming that the existing land uses and permissions applicable to the Property have not been lost. However, Woodbine continues to have concerns with the Planning Division’s Report dated October 23, 2012 presenting Official Plan Employment Policies for the City (the “**Report**”), notwithstanding the comments in your letter. The basis of those concerns is as follows:

- The proposed designation of the Property in the Report is primarily Core Employment, with the westerly and north-westerly portion of the Property designated General Employment and the north-easterly corner designated Retail Employment. The portion of the Property that is used as a race track and for slot machines by the Ontario Lottery and Gaming Corporation is located within the portion of the Property proposed to be designated as Core Employment.

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Vancouver Calgary Toronto Ottawa Montréal Québec City London Paris Johannesburg

- The Report provides that Core Employment Areas are reserved for certain identified employment uses. The existing race track and other gaming activities are not permitted in the Core Employment Area.
- The rationale expressed in the letter for proceeding to recommend changing the Official Plan policies for the Property to policies that do not reflect the long-standing existing uses of the Property, and do not recognize specific permissions and policies that apply to the Property, is a section in the implementation policies contained within the Official Plan that provides that, if the policies of the Plan conflict with any site/area specific policies, the site/area specific policy will prevail.
- In our view, it is not clear as a matter of law if the site/area specific policies that have been adopted with respect to the Property will continue to be in force if Council adopts the recommendations expressed in the Report and re-designates the Official Plan policies applicable to the Property as Core Employment. Based upon the provisions of the *Planning Act*, it is at least arguable that the adoption of new policies has the effect of overriding the effect of prior adopted policies.
- Even if the foregoing is not correct and the site and area specific policies will continue to apply to the Property, it is at best cumbersome, potentially confusing and administratively difficult for Woodbine to be able to assess and determine what Official Plan policies apply to the Property if they have to review the site area/specific policies in the Plan to determine if any such policies apply.
- If, as you indicate in your letter, the site and area specific policies continue to apply, it is incongruous to adopt new and different policies that apply to the Property that do not in fact permit the uses that are permitted by the site and area specific policies to which you refer. At the very least, the policies that are adopted for the Property should be consistent with the site and area specific policies that the City has already adopted and which by your own admission, will continue to apply to the Property. If the City is not prepared to include the proper uses in the policies for the Property, the main Land Use Schedule in the Official Plan should include an indication that there are site specific policies in place for the Woodbine Property.
- The adoption of new and difference⁺ policies that apply to the Property that do not in fact permit the uses that are permitted by the site and area specific policies is of particular concern having regard to Section 24 of the *Planning Act* which obligates the City to amend its zoning by-law to conform to the policies in the City's Official Plan.

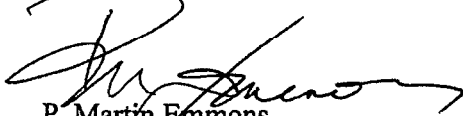
Woodbine has two (2) housekeeping matters with respect to the proposed policies which it wishes to address with the City at this time. Firstly, and as you may be aware, Mr. Nick Eaves, the President and CEO of Woodbine, by letter dated December 21, 2011 sent to the Chief Planner and Executive Director of the Planning Division, requested the City to give positive consideration to designating a small remnant area located on the southeasterly portion of the Property outside of the Airport Operating Area, for a mix of land uses, including but not limited to residential uses. The said area is shown highlighted in orange on Attachment D to Mr. Eaves' letter. An additional copy of that Attachment D is attached for your convenient reference. The City's initial decision on this request, as set out in Attachment 5 to the Report, is to retain all of the Woodbine Property for employment uses. Woodbine is requesting a reconsideration of that recommendation with respect to the southeast corner of the Woodbine Property shown outline in Orange on Attachment D hereto, having regard to the permissions afforded the adjoining lands highlighted in blue on Attachment D pursuant to Site and Area Specific Policy 29 (as confirmed by Gregg Lintern in his letter dated April 18, 2012 (copy attached)).

Secondly, we attach a copy of a letter dated August 8, 2012 sent by Peter R. Walker of Walker, Nott Dragicevic Associates Limited, Woodbine's planning consultants, to Gregg Lintern (the Acting Chief Planner and Executive Director), requesting Mr. Lintern to acknowledge that the revised drawings attached to that letter be utilized by the City to show the Airport Operating Area boundary from SPA 29 on the Woodbine Lands. Woodbine is requesting that the City acknowledge this letter and the location of the AOA boundary referred to in that letter, to ensure that the factual basis of Woodbine's permissions are correct.

Woodbine is anxious to address this matter and accordingly requests a meeting as soon as possible with yourself and Jeffrey Cantos. This meeting will be attended by Jane Holmes and Peter Walker of Walker Nott Dragicevic. Please contact Ms. Holmes at 416-675-3993 to schedule such meeting.

Thank you for your consideration.

Yours truly,



P. Martin Emmons
PME/AD

c.c. Councillor Vince Crisanti
Councillor Doug Ford
Councillor Peter Milczyn
Kerri A. Voumvakis
Jeffrey Cantos
Jane Holmes
Bill Ford
Garth Essery
Peter Walker

August 8, 2012

Toronto City Hall
100 Queen Street West
12th Floor, East Tower
Toronto, Ontario
M5H 2N2

Attention: Mr. Gregg Lintern
Acting Chief Planner and Executive Director

Dear Sirs,

Re: Woodbine Entertainment Group Lands
Our File No.: 90007.41

Dear Gregg:

Following on from our brief discussion attached please find the correction mentioned to the diagram provided to you in the December 13, 2011 of Mr. Nick Eaves, the President and CEO of Woodbine Entertainment Group. This correction outlines the Airport Operating Area boundary from SPA 29 (296) on the aerial photo of the Woodbine Lands (the "Blue" area). The December 2011 version that was originally sent to you was outlined by me in error, as explained to you, and noted below.

The May 2012 version is the corrected version, and that corrections arose from a closer look at the original AOA boundary (which is provided here in a "blow-up" version to illustrate my point). The only change is in the southwest corner, where the AOA boundary coincides with the southerly property boundary, rather than following the north limit of the east west roadway.

I would appreciate your acknowledgement that the revised drawings now constitute your file version for the aspect of the Woodbine Entertainment Group Lands.

Thank you for meeting with me last week and I hope you had a good weekend.

Yours very truly,

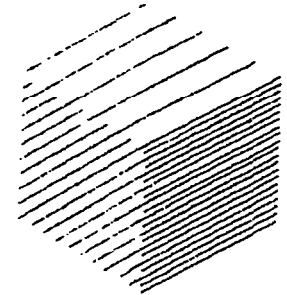
WALKER, NOTT, DRAGICEVIC ASSOCIATES LIMITED
Planning · Urban Design



Peter R. Walker, FCIP, RPP
President and Senior Principal

Encl.
cc. Mr. Garth Essery, WEG
Ms. Jane Holmes, WEG

Walker, Nott, Dragicevic
Associates Limited
Planning
Urban Design



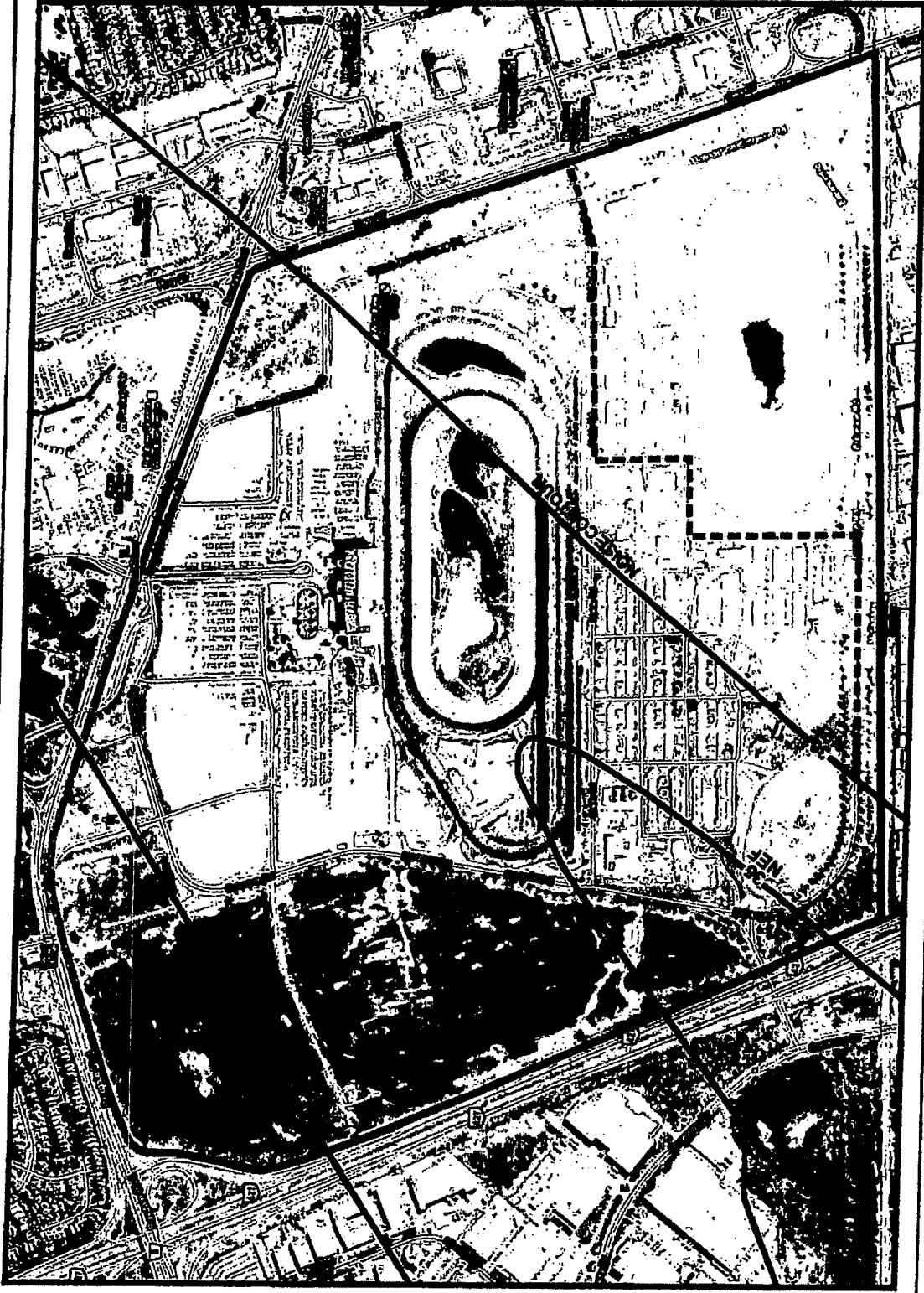
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Peter R. Walker, FCIP, RPP
Wandy Nott, FCIP, RPP
Robert A. Dragicevic, MCIP, RPP
Senior Principals

Andrew Ferencik, MCIP, RPP
Senior Associate

Martha Coffey
Controller

ATTACHMENT D TO NICK SPAN'S
 DECEMBER 21, 2011 LETTER



**Southern Portion of 555 Rexdale Boulevard
 (Woodbine Entertainment Group)**

555 Rexdale Blvd.
 City of Toronto

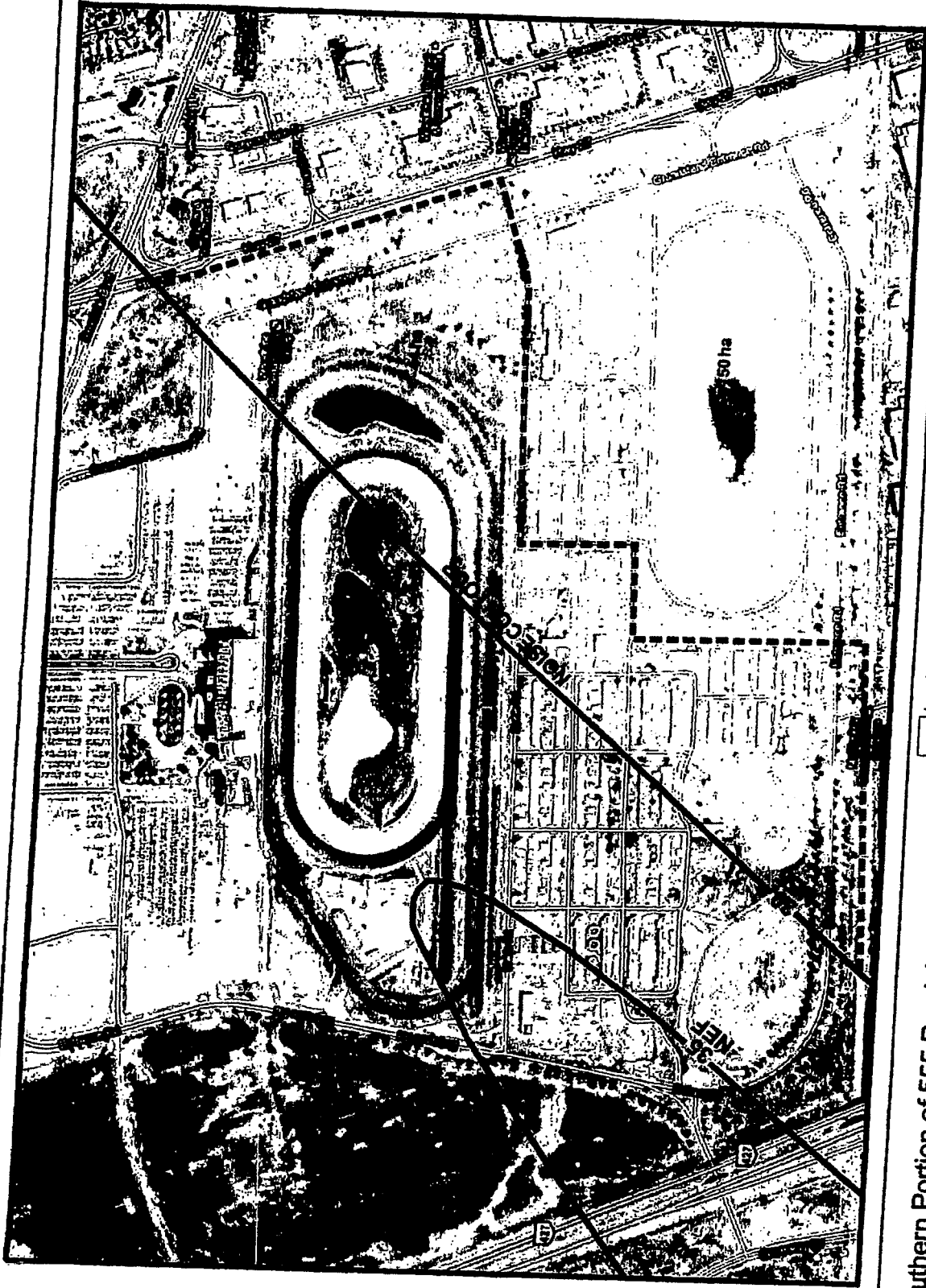
- Lands Within the Airport Operating Area and Outside the 30 NEF Noise Contour
- Lands Outside the Airport Operating Area and Outside the 30 NEF Noise Contour
- Lester B. Pearson Airport Operation Area
- Subject Lands



Walker, Nott, Dragicevic
 Associates Limited
 Planning
 Urban Design

Not to Scale
 December, 2011
 90.007.11





**Southern Portion of 555 Rexdale Boulevard
(Woodbine Entertainment Group)**

555 Rexdale Blvd.
City of Toronto

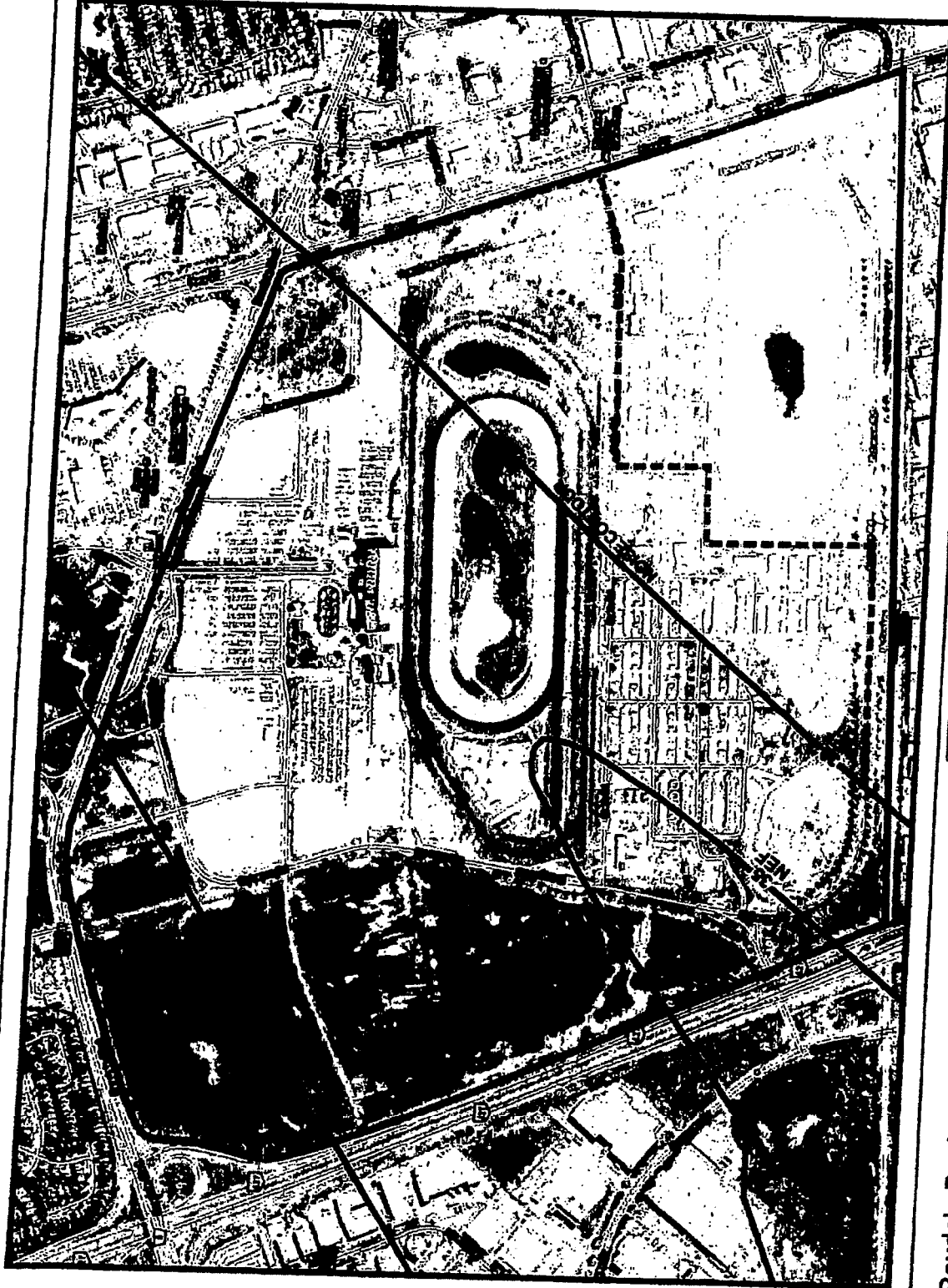
- Lands Within the Airport Operating Area and Outside the 30 NEF Noise Contour
- Lands Outside the Airport Operating Area and Outside the 30 NEF Noise Contour
- Lester B. Pearson Airport Operation Area

Not to Scale
May, 2012
90.007.11







Walker, Nutt, Dragicevic
Associates Limited
Planning
Urban Design





**555 Rexdale Boulevard
(Woodbine Entertainment Group)**

555 Rexdale Blvd.
City of Toronto

-  Lands Within the Airport Operating Area and Outside the 30 NEF Noise Contour
-  Lands Outside the Airport Operating Area and Outside the 30 NEF Noise Contour
-  Lester B. Pearson Airport Operation Area
-  Subject Lands Owned By Woodbine Entertainment Group



Walker, Nott, Dragovic
Associates Limited
Planning
Urban Design



Not to Scale
December, 2011
90.007.11



HUNTER HENDALE

BLVD.

HUNK NO. 27