

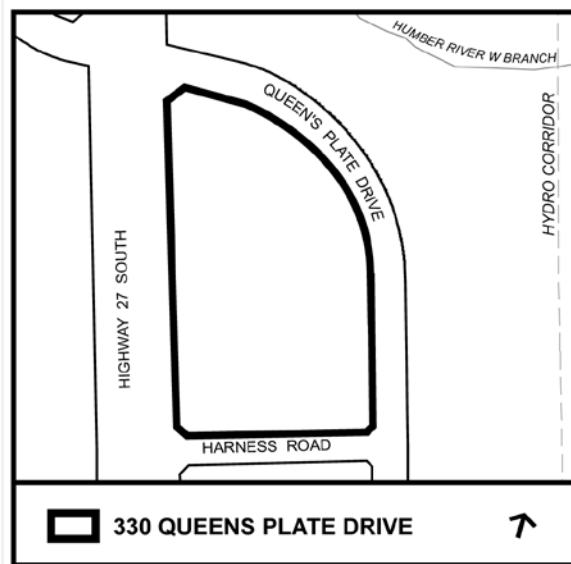
**330 Queens Plate Drive – Committee of Adjustment Decision
– Request for Direction Report**

Date:	March 23, 2015
To:	Etobicoke York Community Council
From:	Director, Community Planning, Etobicoke York District
Wards:	Ward 2 – Etobicoke North
Reference Number:	A779/14EYK

SUMMARY

This report seeks City Council authorization for the City Solicitor to continue the City's appeal of the Etobicoke York Committee of Adjustment panel's approval of a Minor Variance application (A779/14EYK) for the lands municipally known as 330 Queens Plate Drive, and to authorize the City Solicitor and staff to attend a future Ontario Municipal Board (OMB) hearing in opposition to the Committee's approval. The Minor Variance application sought approval for a drive-through facility on this property, a reduced setback for the drive-through facility, and a decreased building setback from Highway No. 27, which would permit a one-storey bank building with a drive-through facility to be located in the southwest corner of the site. Planning staff recommended the application be refused because the requested variances would not meet the intent and purpose of the Zoning By-law.

At the request of City Planning staff, the City Solicitor appealed the Committee of Adjustment decision to the OMB in order to preserve the City's right to appeal. A hearing date has not yet been scheduled.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor to continue the City's appeal of the Etobicoke York Committee of Adjustment panel's approval of a Minor Variance application (A779/14EYK) for the lands municipally known as 330 Queens Plate Drive.
2. City Council authorize the City Solicitor and City Planning staff to attend the Ontario Municipal Board hearing to oppose the Minor Variance decision as approved by the Committee of Adjustment.

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

On February 12, 2015, the Etobicoke York Committee of Adjustment panel approved Minor Variance application #A779/14EYK for the lands municipally known as 330 Queens Plate Drive. The Notice of Decision from the Committee of Adjustment is attached as Attachment 1.

In a Staff Report to the Committee of Adjustment, dated February 6, 2015, Planning staff recommended refusal of the application because the requested variances do not meet the intent and purpose of the Zoning By-law. The Staff Report is attached as Attachment 2.

At the request of City Planning staff, the City Solicitor appealed the Committee of Adjustment decision to the OMB on March 4, 2015. Given the recent submission of the appeal, a hearing date has not yet been scheduled.

ISSUE BACKGROUND

On December 19, 2014, the applicant submitted a Site Plan Control application (14 266305 WET 02 SA) to City Planning to amend an existing Site Plan Agreement for 330 Queens Plate Drive in order to develop a one-storey commercial building at the southwest corner of the property that would be occupied by a bank with a drive-through facility. The Site Plan Control application was submitted after a pre-consultation meeting to discuss the development proposal and complete application submission requirements. At the pre-application meeting, staff identified concerns with the building orientation/access, pedestrian circulation and landscaping, as well as the proposed drive-through. Planning staff advised the applicant to submit a Preliminary Project Review to confirm the zoning requirements of the site.

The applicant submitted a Minor Variance application to the Committee of Adjustment on December 22, 2014. The key issues related to the Minor Variance application are:

- Drive-through facilities are restricted to industrial zones and commercial zones, and are prohibited in commercial zones where residential dwelling units above business uses are permitted whereas the proposed drive-through would be located on a property that permits residential uses; and
- A minimum 30 m separation distance is required at all points of a drive-through building or stacking lane from any residential or commercial zone whereas the proposed drive-through stacking lane would be located 26 m from the adjacent property.

Planning staff recommended refusal of the application because the requested variances do not meet the intent and purpose of the Zoning By-law.

Proposal

The application proposes a one storey, commercial building of approximately 550 m² which would be occupied by a bank. The building would also include a drive-through facility for an Automated Banking Machine (ABM) with a stacking lane for 5 automobiles abutting Harness Road (see Attachment 5: Site Plan).

Site and Surrounding Area

The site is located on the east side of Highway No. 27, north of Rexdale Boulevard. The site is irregular in shape and has an area of approximately 4 ha. The site has access from Highway No. 27, Queens Plate Drive and Harness Road. The site currently contains a large grocery store on the east portion of the site and a gas station in the northwest corner. There is a small amount of landscaped area in the southwest corner of the site, where the proposed bank building would be located. The balance of the site is comprised of surface parking.

Surrounding land uses are as follows:

- North: A one-storey commercial/industrial building on the north side of Queens Plate Drive. Beyond this site is the Humber River.
- South: A multi-tenant, retail plaza also having access from Highway No. 27, Queens Plate Drive and Harness Road.
- West: Woodbine Shopping Centre.
- East: One and two-storey office, commercial and industrial buildings fronting Queens Plate Drive. Beyond these buildings is a hydro corridor which separates the office, commercial, and industrial buildings from a residential neighbourhood consisting of primarily single-detached homes.

Site Plan Control

The proposal is subject to Site Plan Control. A Site Plan Control application (14 266305 WET 02 SA) has been submitted and is currently under review.

Official Plan

The property is designated *Employment Areas* on Map 13- Land Use Plan in the Official Plan. *Employment Areas* are places of business and economic activity. Uses that support this

function consist of: offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, retail outlets ancillary to the preceding uses, and restaurants and small scale stores and services that serve area businesses and workers.

Toronto City Council adopted Official Plan Amendment No. 231 in November 2013 which contains new economic policies and new policies and designations for *Employment Areas*. Official Plan Amendment No. 231 designated the subject site '*General Employment Areas*'. Official Plan Amendment No. 231 was approved by the Province on July 9, 2014 and over 178 appeals of the Minister's decision have been forwarded to the Ontario Municipal Board (OMB). As a result, OPA No. 231 is not in full force and effect.

Zoning

The subject site is zoned Limited Commercial (CL) under the former City of Etobicoke Zoning Code. The CL zoning permits a wide variety of uses including: residential (including dwelling units above a business use), business, institutional, public, accessory and parking. The 'Supplementary Regulations for drive-through facilities' section in the former City of Etobicoke Zoning Code states that "in commercial zones where residential dwelling units above business uses are permitted on the same lot, drive-through facilities shall be prohibited." The site is not subject to City-wide Zoning By-law 569-2013.

Drive-Through By-law

In 2002, City Planning staff undertook an extensive review of the Zoning regulations governing drive-through facilities in the City. The fundamental issue at the time was that the Zoning By-laws of the former municipalities were largely developed before drive-throughs became commonplace. None of these Zoning By-laws identified drive-throughs as a distinct land use activity or applied any special or significant development standards or guidelines. Consequently, drive-throughs were being permitted wherever another 'associated' use, such as a restaurant, was permitted, and they were only subject to design review if site plan approval was required. This led to an inconsistent City-wide approach to the review of drive-through developments.

New zoning regulations and associated Official Plan policies and Urban Design Guidelines were adopted for drive-through facilities, reinforcing the City's overall city building objectives to promote pedestrian and transit-oriented development and to minimize conflicts between drive-through facilities and residential uses. On October 3, 2002, City Council enacted By-laws 776-2002 to 811-2002, inclusive. These by-laws amended all the Zoning By-laws of the former municipalities (specifically, By-law No. 776-2002 amended the former City of Etobicoke Zoning Code) to include regulations for where drive-through facilities may or may not be located. By-laws 776-2002 to 811-2002 were appealed to the Ontario Municipal Board (OMB) and subsequently were approved by the OMB in January 2004.

In rendering its decision, the OMB upheld the City's position and adopted the by-laws. Specifically, the OMB decision stated that "the policy choice that the City has made, taken together with the public concern expressed by the participants when they provided their evidence to the Board, leads the Board to the conclusion that caution is warranted. That is, the

zoning restrictions will afford an adequate level of protection, they are not a prohibition on drive-throughs across the City, and there is opportunity for exceptions to be made through site specific rezoning applications."

COMMENTS

City Planning staff are of the opinion that a drive-through facility is not an appropriate land use activity on the subject property, given that the existing zoning permits residential uses on the site and the proposed stacking lane would not maintain the appropriate separation distance from an abutting property that contains a residential use permission. While there are currently no residential uses on the subject site or the adjacent site, the residential permissions could be compromised by the introduction of a drive-through facility.

In addition, the current zoning expressly prohibits drive-through facilities at this location. As such, staff are of the opinion the Committee of Adjustment is not the venue for a change in use of this nature and that a Zoning By-law Amendment application would be more appropriate. Planning staff advised the applicant of this opinion and recommended the permission for a drive-through facility be sought by way of a Zoning By-law Amendment application. The applicant declined to do so.

Conclusion

Planning staff are of the opinion that allowing a drive-through on a site that permits residential uses is not appropriate and has the potential to establish a City-wide precedent. The drive-through policies were approved by City Council after a fulsome review in 2002. They were subsequently challenged at the Ontario Municipal Board, and upheld in 2004. Planning staff maintain the opinion that the existing drive-through policies reinforce the City's overall city-building objectives.

As such, staff are seeking City Council authorization to attend a future Ontario Municipal Board hearing in opposition to the approval, once it is scheduled. Should City Council not authorize staff to attend the hearing, the City Solicitor will be required to withdraw the appeal to the Ontario Municipal Board.

CONTACT

Anthony Hommik, Assistant Planner
Tel. No. (416) 394-6006
Fax No. (416) 394-6063
E-mail: ahommik@toronto.ca

SIGNATURE

Neil Cresswell, MCIP, RPP
Director, Community Planning
Etobicoke York District

ATTACHMENTS

- Attachment 1: Committee of Adjustment Notice of Decision
- Attachment 2: Planning Staff Report to Committee of Adjustment
- Attachment 3: Official Plan
- Attachment 4: Zoning
- Attachment 5: Site Plan

Attachment 1: Committee of Adjustment Notice of Decision



Committee of Adjustment
Etobicoke York Panel
2 Civic Centre Court
Toronto, Ontario M9C 5A3
T:416-394-8080
F:416-394-8042

Thursday, February 12, 2015

NOTICE OF DECISION MINOR VARIANCE/PERMISSION (Section 45 of the Planning Act)

File Number:	A779/14EYK	Zoning:	CL
Owner(s):	LOBLAW PROPERTIES LIMITED	Ward:	Etobicoke North (02)
Agent:	JONATHAN RODGER		
Property Address:	330 QUEENS PLATE DR	Community:	
Legal Description:	CON 2 FTH PT LOT 31 RP 66R15341 PART 1		

Notice was given and a Public Hearing was held on Thursday, February 12, 2015, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a new retail building (bank) with a drive-through along the south-west corner of the property.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

- Section 1.(o), By-law 1990-97**
No buildings or structure shall be erected closer than 7.5 m from the westerly property line abutting Highway #27, nor closer than 3 m from all other lot lines, public road allowances and lands to be dedicated for public road allowances.
The proposed bank will be located 4 m from the west lot line abutting Highway #27.
- Section 320-24.8.A.**
Drive-through facilities shall be restricted to industrial zones and commercial zone. In commercial zones where residential dwelling units above business uses are permitted on the same lot, drive-through facilities shall be prohibited.
The proposed drive-through facility is prohibited in a CL zone.
- Section 320-24.8.B.**
A minimum of 30 m shall separate all points of the drive-through building or stacking lanes from any residential or commercial zone.
The proposed drive-through stacking lane will be located 26 m south of the adjacent property.

A779/14EYK

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Minor Variance Application is Approved

It is the decision of the Committee of Adjustment to authorize this variance application for the following reasons:

- The general intent and purpose of the Official Plan is maintained.
- The general intent and purpose of the Zoning By-law is maintained.
- The variance(s) is considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is minor.

Attachment 2: Planning Staff Report to Committee of Adjustment



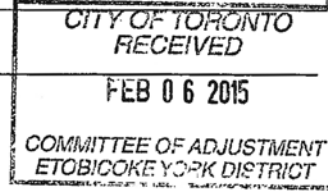
**STAFF REPORT
Committee of Adjustment
Application**

Date:	Friday, February 6, 2015
To:	Chair and Committee Members of the Committee of Adjustment Etobicoke York Panel
From:	Director, Community Planning, Etobicoke York District
Wards:	Ward 2
Reference:	File No. A779/14EYK Address: 330 Queens Plate Drive Application to be heard: Thursday, February 12, 2015

RECOMMENDATION

Planning staff recommended that the application be refused.

APPLICATION



The application is to construct a new retail building (bank) with a drive-through along the south-west corner of the property.

The following variances are being requested:

- 1. Section 1.(o), By-law 1990-97**
No buildings or structure shall be erected closer than 7.5 m from the westerly property line abutting Highway #27, nor closer than 3 m from all other lot lines, public road allowances and lands to be dedicated for public road allowances.
The proposed bank will be located 4 m from the west lot line abutting Highway #27.
- 2. Section 320-24.8.A.**
Drive-through facilities shall be restricted to industrial zones and commercial zone. In commercial zones where residential dwelling units above business uses are permitted on the same lot, drive-through facilities shall be prohibited.
The proposed drive-through facility is prohibited in a CL zone.
- 3. Section 320-24.8.B.**
A minimum of 30 m shall separate all points of the drive-through building or stacking lanes from any residential or commercial zone.
The proposed drive-through stacking lane will be located 26 m south of the adjacent property.

COMMENTS

The Toronto Official Plan designates the site as *Employment Areas*. The site is zoned Limited Commercial (CL) under the former Etobicoke Zoning Code, as amended by By-laws No. 1990-97 and 1991-145. The property is not subject to City-wide Zoning By-law No. 569-2013.

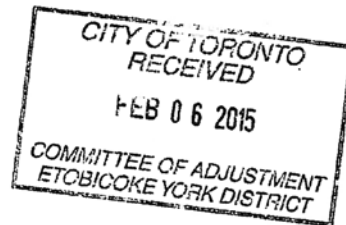
City Planning staff has reviewed the application and supporting materials and conducted a site visit. Based on this review, staff identified concerns with the variances associated with the proposed drive-through.


In 2002, City Planning staff undertook an extensive review of the Zoning regulations governing drive-through facilities in the City. New zoning regulations and associated Official Plan policies and Urban Design guidelines were adopted reinforcing City Planning's overall city building objectives that promote pedestrian and transit oriented development. The new by-law was appealed to the Ontario Municipal Board (OMB). In rendering its decision, the OMB upheld the City's position and adopted the by-law which relates to all aspects of drive-throughs including drive aisles and order boards.

Since residential uses are permitted on the subject site and the proposed stacking lane would not maintain the appropriate separation distance from an abutting property with zoning that also permits residential uses, the requested variance does not meet the intent and purpose of the Zoning By-law. As such, staff recommend that the application be refused.

CONTACT

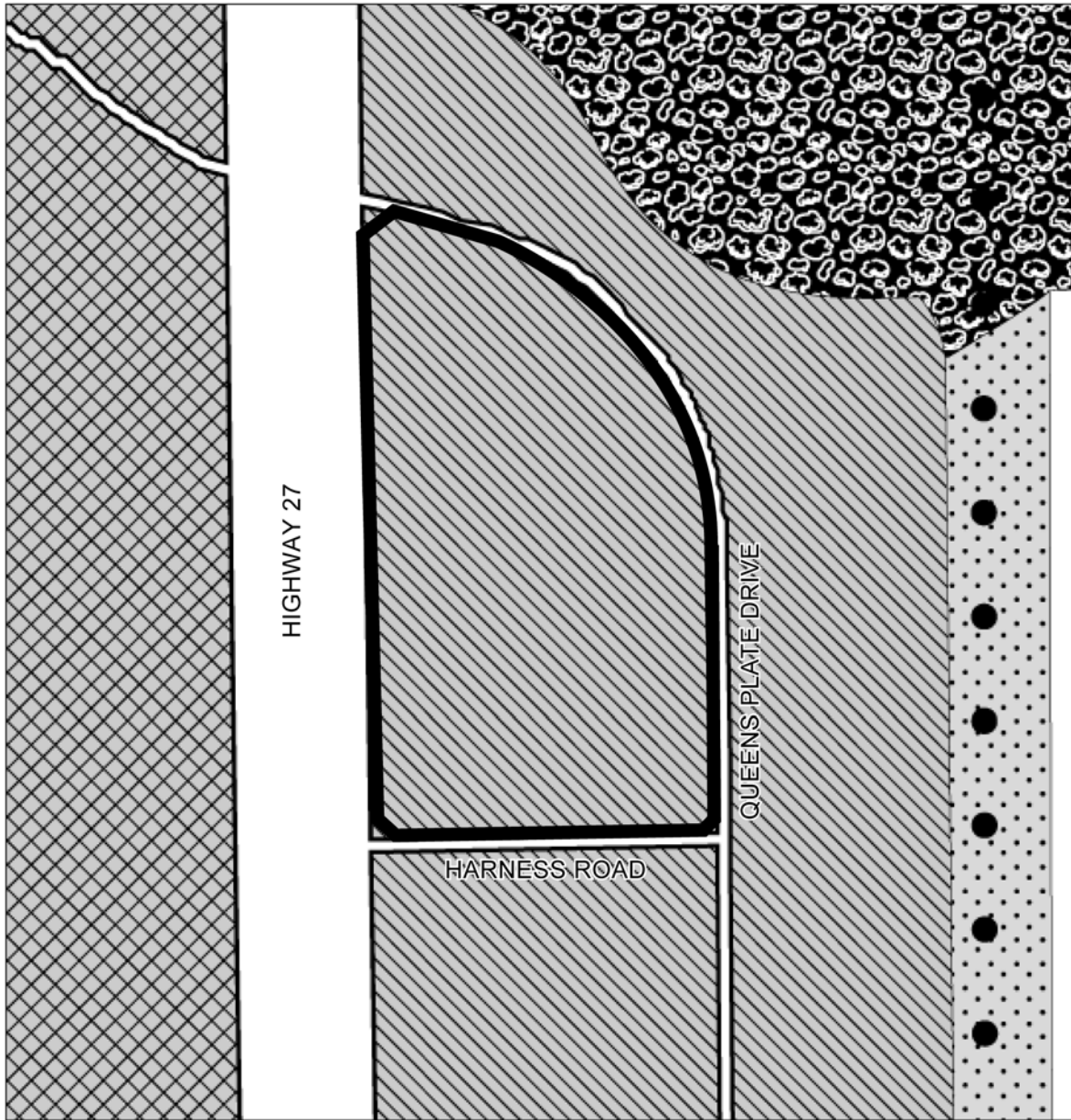
Anthony Hommik, Assistant Planner
Tel: 416-394-6006
Fax: 416-394-6063
E-mail: ahommik@toronto.ca



BN 

Neil Cresswell, MCIP, RPP
Director, Community Planning
Etobicoke York District

Attachment 3: Official Plan



TORONTO City Planning
Official Plan

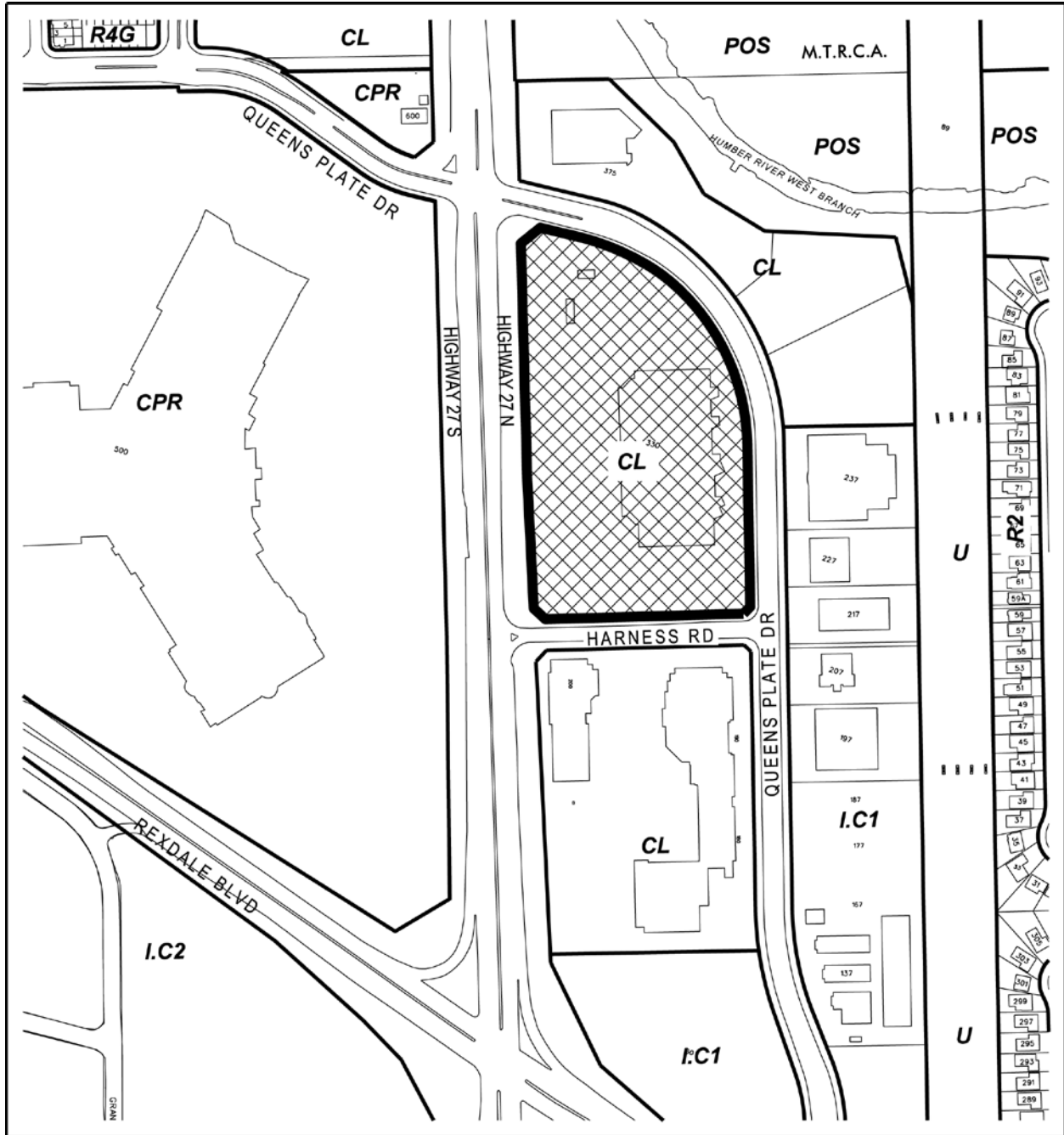
330 Queens Plate Drive

File # TBA

- | | |
|--|--|
|  Site Location |  Parks & Open Space Areas |
|  Neighbourhoods |  Natural Areas |
|  Mixed Use Areas |  Utility Corridors |
|  Employment Areas | |


Not to Scale
03/12/15

Attachment 4: Zoning



Toronto City Planning
Zoning

330 Queens Plate Drive
File # xx xxxxx xx xx xx

- | | |
|---|-------------------------|
| R2 Second Density Residential | I.C1 Class 1 Industrial |
| R4G Fourth Density Residential Group Area | I.C2 Class 2 Industrial |
| CL Limited Commercial | U Utilities |
| CPR Regional Planned Commercial | |
| POS Private Open Space | |



Not to Scale
Zoning By-law 11,737 as amended
Extracted 03/12/2015

