

Authority: Planning and Growth Management Committee Item ##, as adopted by City of Toronto Council on ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. XXXX-2018

To amend General Zoning By-law 438-86 of the former City of Toronto, as amended, with respect to the lands municipally known in the year 2018 as 21 Don Valley Parkway, 30 Booth Avenue, and 375 and 385 Eastern Avenue.

Whereas Council of the City of Toronto has the authority to pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, to pass this By-law; 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*; 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 the Official Plan for the City of Toronto contains provisions relating to the use of Holding (H) symbol with conditions in the zoning by-law; and

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

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are 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;

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of development permitted is permitted beyond that

otherwise permitted on the lands shown on Map 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Appendix 1 hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.

2. Where Appendix 1 of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of same.
3. The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Appendix 1 are satisfied.
4. Upon execution and registration of one or more agreements between the City and the owner of the lot on title to the lot pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Schedule A hereof, the lands identified on Map 1 are subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit or a permit issued pursuant to the Ontario Heritage Act, such building may not be erected or used until the owner of the lands identified on Map 1 has satisfied the said requirement or precondition.
5. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement(s) entered into with the City pursuant to Section 37 of the *Planning Act*, then once such agreement(s) 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.
6. Except as otherwise provided herein, the provisions of By-law 483-86, as amended, shall continue to apply to the *lot*.
7. District Maps 52G-321 and 52G-322 contained in Appendix 'A' of By-law No. 438-86, being "A By-law to regulate the use of land and the erection, use, bulk, height, spaces of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto" as amended, is further amended by rezoning from "I3 D5" and "I2 D5" to "IC", "IC(H)", and "G(H)" the lands identified as "IC", "IC(H)" and "G(H)" as outlined on Map 2 attached to and forming part of this By-law.
8. None of the provisions of Section 2(1) with respect to the definition of *grade*, *height*, *lot*, *non-residential gross floor area*, and Sections 4(2), 4(4)(b), 4(4)(l), 4(10), 4(14), 9(2), 9(3)PART II and 12(2)270(a) of By-law No. 438-86, of the former City of Toronto, as amended being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, shall apply to prevent the erection or use of buildings

containing non-residential commercial and office uses, and uses accessory to the foregoing uses on the lot provided that:

- (a) the *lot* comprises the lands delineated by heavy lines on Map 1, attached to and forming part of this By-law, excluding those lands labeled "G(H)";

Permitted Uses

- (b) in addition to uses permitted within a G District, the following uses shall be permitted on lands labeled "G(H)":

- (i) flood protection structures and facilities;
- (ii) playing field
- (iii) community related uses

- (c) the following uses are prohibited on the *lot*:

- (i) arena, stadium, race track
- (ii) *artist live/work studio*
- (iii) *automobile service and repair shop*
- (iv) *ceramics factory*
- (v) cold storage plant
- (vi) *cold storage locker plant*
- (vii) *drive-through facility*
- (viii) *fur goods factory*
- (ix) *garment factory*
- (x) *metal wares factory*
- (xi) *newspaper plant*
- (xii) *packaging plant*
- (xiii) *pharmaceutical factory – secondary*
- (xiv) *place of worship*
- (xv) *plastic products factory – secondary*
- (xvi) *printing plant*

- (d) the following uses are permitted on the *lot*:

- (i) those non-residential uses permitted in the IC District by Section 9(1)(f)(b) of By-law 438-86, as amended, which are not expressly prohibited in Section 8(d) of By-law xxxx-2018.
- (ii) below *grade* facilities for storm water retention
- (iii) *bicycle stacker*
- (iv) car share *parking spaces*
- (v) college or university
- (vi) *common outdoor space*
- (vii) convention centre
- (viii) *district energy facility*
- (ix) *entertainment facility*

- (x) fitness centre
 - (xi) green roof
 - (xii) heating and cooling plant
 - (xiii) *hotel*
 - (xiv) *medical/dental office*
 - (xv) *municipal community centre*
 - (xvi) outdoor art structure
 - (xvii) *outdoor open air market*
 - (xviii) outdoor patio where meals or refreshment or both may be served to patrons
 - (xix) outdoor recreation uses
 - (xx) *parking stacker*
 - (xxi) *performing arts studio*
 - (xxii) post-secondary college or university
 - (xxiii) *public art gallery*
 - (xxiv) *public library*
 - (xxv) *public market*
 - (xxvi) *public museum*
 - (xxvii) *public playground*
 - (xxviii) privately owned publically-accessible open space
 - (xxix) premises of a *charitable institution, non-profit institution* or other community or social agency
 - (xxx) *railway station*
 - (xxxi) research and development institution
 - (xxxii) research facility
 - (xxxiii) *retail-warehouse*
 - (xxxiv) *temporary sale/rental centre*
 - (xxxv) a brewery operated in conjunction with a *restaurant* or a *retail store*; and
 - (xxxvi) a brewery permitted under (xxxv) above, may occupy more than 50 percent of the total *interior floor area* of the *restaurant* or *retail store* provided the total *interior floor area* of the *restaurant* or *retail store* does not exceed a maximum of 5,000 square metres;
- (e) despite the provisions of Section 9(1)(b)(vii), a *car washing establishment* must be below finished ground level in a *parking garage*.
- (f) The qualifications in Section 9(2)1. shall not apply to the uses on the *lot*.

Density

- (g) the total *gross floor area* of all building and structures on the *lot* shall not exceed 926,000 square metres, provided a maximum of 185,200 square metres of gross floor area is occupied by those uses permitted at 9(1)(f)(b)(iv), brewpub, convention centre, *club, place of amusement, place of assembly, entertainment facility*, fitness centre, *public market, outdoor open air market*, and *retail-warehouse*.
- (h) The maximum non-residential *gross floor area* for each quadrant identified on

Map 3 attached to this By-law is as follows:

Quadrant as Shown On Diagram 6	Maximum Non-Residential <i>Gross Floor Area</i> (square metres)
Quadrant 1	314,400 square metres
Quadrant 2	342,600 square metres
Quadrant 3	92,600 square metres
Quadrant 4	176,400 square metres

- (i) No building may be erected or used on the *lot* subject to "Animation" as shown on Map 4 attached to this by-law unless a minimum of 80% of the length of the exterior building wall along the "Animation" frontage at the first *storey* above ground is occupied by: accessible and programmable office and other lobbies, *private art gallery, artist's or photographer's studio, bake shop, brew-on-premises establishment, community centre, day nursery, public art gallery, public library, public markets, public museum, performing arts studio, personal grooming establishment, private art gallery, publicly accessible college or university, restaurant, retail store, showroom; service, rental or repair shop; tailoring shop, and take-out restaurant.*
- (j) A minimum of 40 non-residential units must be provided subject to the following:
- (i) each non-residential unit must not exceed a maximum *interior floor area* of 50 square metres;
 - (ii) a minimum of 20 of the non-residential units are to be provided at the ground floor level; and
 - (iii) a minimum of 10 of the non-residential units are to be provided in Quadrant 1, and a minimum of 20 of the non-residential units are to be provided in Quadrant 2, as shown on Map 3 to this By-law.

Common Outdoor Space

- (k) The combined *gross floor area* of all ground floor levels contained in buildings or structures cannot exceed 75,000 square metres.
- (l) *Common outdoor space* must be provided for each quadrant as shown on Map 3 attached to this By-law as follows:

Quadrant as Shown On Map 3	Minimum Common Outdoor Space Provided
Quadrant 1	7,000 square metres
Quadrant 2	5,000 square metres
Quadrant 3	3,000 square metres
Quadrant 4	1,500 square metres

Height

- (m) The maximum building *height* above *grade* for the areas shown on Map 6 attached to this By-law is as follows:

Area Identified on Map 6	Maximum Building Height (m)
Area A1	75 metres
Area B2	200 metres
Area B3	200 metres
Area B4	170 metres
Area B5	170 metres
Area B6	140 metres
Area C1	250 metres
Area C2	250 metres
Area C3	25 metres
Area D2	190 metres
Area D3	75 metres
Area E1	150 metres
Area E2	130 metres
Area E5	50 metres
Area E6	110 metres

- (n) The minimum height of the first *storey*, is measured between the floor of the first *storey* and the ceiling of the first *storey*, is be 5.0 metres.

Setbacks and Separation

- (o) All buildings or structures above *grade* must be set back a minimum of 20.0 metres from the T zone overlaying the Metrolinx rail corridor, except for transportation uses including a railway station, which may also include those uses permitted at 9(1)(f)(b)(iv)permitted in the IC District, a *district energy* facility, and a heating and cooling plant.
- (p) All buildings or structures above *grade* must be set back a minimum of 5.0 metres from the G zone.
- (q) All buildings or *structures* must be setback above *grade* from the curb edge of *streets* shown on Map 7 attached to this By-law, with such setbacks to include public right of way and privately-owned lands as necessary to achieve the following:
- (i) a minimum of 10.0 metres along Broadview Avenue
 - (ii) a minimum of 11.0 metres along New Street E
 - (iii) a minimum of 6.0 metres along Booth Avenue and New Streets A, B, C and D
- (r) For buildings or *structures* with *lot lines* abutting Broadview Avenue, the *main wall* along Broadview Avenue must be set back a minimum of 3.0 metres above

24.0 metres above *grade*, and 5.0 metres for a height above 36.0 metres above *grade*. That portion of a building above 36.0 metres above *grade* shall be the tower portion;

- (s) For buildings or *structures* with *lot lines* abutting New Streets A and E, the *main wall* along New Street A and E must be set back a minimum of 5.0 metres above 24.0 metres above *grade*. That portion of a building above 36.0 metres above *grade* shall be the tower portion;
- (t) For buildings or *structures* with *lot lines* abutting New Streets B, C and D, and Booth Avenue, the *main wall* along New Streets B, C and D and Booth Avenue must be set back a minimum of 5.0 metres above 18.0 metres above *grade*. That portion of a building above 36.0 metres above *grade* shall be the tower portion;
- (u) For the tower portion of buildings, the minimum distance between the *main wall* of a building and the *main wall* of any other building must be a minimum of 25.0 metres measured from building face to building face;
- (v) The maximum number of towers in each quadrant shall be as follows:

Quadrant as Shown On Map 3	Maximum number of Towers
Quadrant 1	2
Quadrant 2	4
Quadrant 3	2
Quadrant 4	3

- (w) No minimum setback requirements apply to the portions of buildings or structures below ground.
- (x) no portion of any building erected or used above finished ground level shall be located within any required setback, with the exception of the following:
 - (i) structural elements related to the Broadview Avenue underpass beneath the railway station;
 - (ii) cornices, sills, eaves, window washing equipment, railings, balustrades, awnings, piers and sun-shades, to a maximum horizontal projection of 0.5 metres into any required setback; and
 - (iii) canopies including supporting structures, covered walkways, privacy screens, planters, awnings, fences, lighting, bollards, safety railings, trellises, guards, guardrails, retaining walls, wheel chair ramps, bicycle parking facilities, ornamental or architectural features, landscape features, facilities accessory to a day nursery, and art installations.
- (y) No part of a building or structure erected or used above finished ground level shall exceed the height limits specified on the attached Map 5 with the exception of:
 - (i) the items listed in subsection (x) above;
 - (ii) structures on any roof used for outdoor amenity space or open air

- recreation, maintenance, safety, wind or green roof purposes to a maximum vertical projection of 3.0 metres above the height limits;
- (iii) elevator overruns and related enclosures to a maximum of 1.5 metres above height limits; and
 - (iv) parapets, chimneys, vents and stacks, provided such are set back a minimum of 10 metres from any main wall.

Parking

(z) Parking

- (i) Required motor vehicle parking spaces for lands within an IC District as shown on Map 2 shall be provided according to the following parking standards:
 - (i) no *parking spaces* are required for uses operated in connection with an *outdoor open air market, restaurants and take-out restaurants*
 - (ii) Parking shall be provided as follows:

Use	Spaces per 100 sq. m. of Non-Residential Gross Floor Area
Uses under 9(1)(f)(b)(v), <i>public art gallery, public library, public museum, community centre</i>	0.5
<i>Day Nursery</i>	0.4
Offices and related uses	0.35
Uses permitted under section 9(1)(f)(b)(i), (ii), (iii), (iv)	0.35
<i>Hotel</i>	0.2
<i>Retail store, and commercial uses, College and University, Places of Assembly</i>	0.1

- (ii) *Parking spaces* must be located in a *below grade parking garage*. Surface *parking spaces* to a total coverage of 40% of Quadrant 1, as shown on Diagram 5 attached to this By-law, may be provided as a temporary use of land to enable construction within Quadrants 1 and 2, for a period of up to three (3) years from the day of lifting of the Holding provision regarding Quadrant 2;
- (iii) The maximum permitted width is 7.2 metres for any portion of a driveway located within 3.0 metres of any *lot line* abutting a *street*

Definitions

9. For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the same meaning as each such word or expression as defined in By-law 438-86, as amended, except for the following:

- (a) "*above-grade building permit*" means a building *permit* for all or any part of the *lot* which permits the construction of a building or *structure*, or portion thereof, *above-grade*, but does not include the construction of a temporary sale/rental centre, a foundation permit, a demolition permit or a heritage permit;
- (b) "*bicycle parking space*" means an area used for storing bicycles having the following minimum dimensions:
- (i) where the bicycles are to be parked on a horizontal surface, has a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical dimension from the ground of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, has a minimum length or vertical clearance from the wall of 1.2 metres, a minimum width of 0.6 metres and a vertical dimension of at least 1.9 metres;
 - (iii) where the bicycles are to be parked in bicycle stacker, has a minimum vertical clearance of 1.2 metres for each bicycle parking space; and
 - (iv) where bicycles are to be parked in an automated bike parking facility, no minimum dimensions are required;
- (c) "*bicycle stacker*" means a device where by a bicycle parking space is positioned above or below another bicycle parking space and is accessed by means of an elevating device;
- (d) "*building permit*" means a permit, for all or any part of the lot, issued pursuant to the Building Code Act, 1992, and includes conditional permits and any permit for excavation or shoring, but does not include a permit for repairs, maintenance and usual and minor works acceptable to the Senior Manager, Heritage Preservation Services, or a permit for interior alterations that do not affect the exterior building features of heritage buildings or a permit for the construction of a temporary sales/rental office on the lot;
- (e) "*custom workshop*" means a premises used for producing or making custom-made goods in limited quantities, using techniques that do not involve mass-production;
- (f) "*district energy*" means a building or structure that is used for the production of electrical power, heating and cooling which is generated/converted at one or more linked locations and then is distributed to the users;
- (g) "*grade*" means 78 metres above sea level;
- (h) "*gross floor area*" means the sum of the total area of each floor level of a building or structure above and below finished ground level, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
- (i) parking, loading and bicycle parking below-ground;

- (ii) required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
- (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
- (iv) voids at the level of each floor with a manufacturing use;
- (v) shower and change facilities required by this By-law for required bicycle parking spaces;
- (vi) elevator shafts, ventilation duct, utility shafts;
- (vii) utility areas, catwalks, service platforms and a mechanical penthouse; and
- (viii) exit stairwells and escalators in the building.

- (i) "*height*" means the highest point of the building or structure above *grade*, except for those elements prescribed by this By-law;
- (j) "*interior floor area*" means the floor area of any part of a building measured to the interior side of an exterior wall, the centerline of an interior wall, or a line delineating the part being measured.
- (k) "*lot*" means in aggregate the lands outlined by heavy lines on Map 1 of this Bylaw, excluding those lands labeled G;
- (l) "*outdoor open air market*" means portion of a lot where, goods, wares, merchandise or a substance, article or thing is offered, kept or stored for retail sales, which may include food sales, retail sales and other uses from kiosks, tents, vehicles, tables or similar facilities;
- (m) "*outdoor patio*" means an outdoor area where meals or refreshments or both may be served to patrons;
- (n) "*public market*" means a portion of the lot that may be occupied by a single use or multiple uses including any permitted non-residential use, marketplace, bazaar and cultural entertainment use such as a cinema, theatre, opera, ballet and music performance;
- (o) "temporary sale/rental centre " means a temporary building, structure, facility or trailer on the lot used exclusively for the purpose of the initial sale (for nonresidential uses only); and
- (p) "upwards indexing" has the meaning set out in clause 9 (v) of Schedule A attached.

10. Despite any existing or future severance, partition, or division of the lot, the provisions of this By-law and By-law 438-86, as amended, shall apply to the whole of the lot as if no severance, partition or division had occurred.

11. Within the lot, no person shall use any land or erect any building or structure unless the following municipal services are provided to the lot line 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, and appropriate appurtenances, have been installed and are operational.

12. Holding Provisions:

The lands that are both delineated by heavy lines and zoned with the "(H)" symbol on Map 2 attached to and forming part of this By-law shall not be used for any purpose other than those uses and buildings as existing on the site as of June 7, 2018 until the "(H)" symbol has been removed. An "(H)" symbol may be removed from a portion of the lands to which it applies, if all conditions have been fulfilled for a given phase of development. An amending by-law to remove the "(H)" symbol shall be enacted by City Council when the following conditions have been fulfilled to the satisfaction of the identified authority in the subject "(H)" condition, and Council:

a. G "(H1)".

- (a) Confirmation of any additional right-of-way requirements along the western property boundary for the Don Roadway, to be an outcome of Gardiner East Environmental Assessment detailed design, which may include identification of permanent land conveyance(s) and/or construction easements over lands required for temporary construction purposes with any required conveyance(s) and/or construction easements to be provided to the City at nominal cost.
- (b) Completion of the detailed design process for the Port Lands Flood Protection Project with respect to the flood protection landform along the Western Property boundary, with the design to be to the satisfaction of the Toronto and Region Conservation Authority and Waterfront Toronto.

b. IC "(H2)"

- i. Satisfaction of the City, the Toronto and Region Conservation Authority (TRCA), and the Province that adequate flood remedial measures can be provided, and that development is compatible, and sensitively integrated with, the planned naturalization of the Don River; only be removed once the flood remedial works are complete and deemed functional by the City and the TRCA and any other applicable regulatory body, or as follows:
 - 1. Occupancy of new buildings can be legally controlled until the required flood remedial works are complete and functional from a floodplain management perspective;
 - 2. Building Code requirements can be met to the satisfaction of the Chief Building Official; and

3. Risks to life and property are adequately addressed to the satisfaction of the City and the TRCA and any other applicable regulatory body.
- ii. Satisfaction of the sufficiency of higher-order transit to service the proposed development, through expanded GO service, SmartTrack service, Relief Line service and/or extended Broadview Streetcar service, and also including the design and sufficiency of any interim bussing arrangements.
- iii. Satisfactory resolution of the location, design and provision of existing and planned transportation networks, both on and off-site, to support re-development, in accordance with the Port Lands and South of Eastern Transportation and Servicing Master Plan Municipal Class Environmental Assessment and Official Plan Amendment No. 387, including any additional required easements, setbacks or roadway conveyances.
- iv. Satisfactory reporting on ongoing monitoring of transportation and traffic management measures' effectiveness prior to the release of any phase of development beyond the initial phase.
- v. The sufficiency of municipal infrastructure, including sewer, water and stormwater provision networks.
- vi. Registration of a plan of subdivision and implementing agreements, as required, at the owner's expense and including provision for required conveyances and securities.
- vii. Construction of, or the securing through an agreement the construction of, railway corridor risk mitigation, in accordance with a derailment safety assessment prepared by a qualified consultant to be prepared to the satisfaction of the Chief Planner and Executive Director, City Planning, and Metrolinx.
- viii. The preparation of area-specific implementing design guidelines, including undertaking appropriate community consultation on guidelines in consultation with City Planning staff and the Area Councillor. Guidelines typically to include:
 1. Public realm considerations, including respecting the streetscape, animation zone, landscape and pedestrian and cyclist amenities;
 2. Built form considerations, including respecting the base building, tower and tower top components, and building orientation and alignment;
 3. Considerations respecting a proposal's contribution to the City's skyline, architectural expression, heritage considerations, and materiality; and
 4. Other considerations, which may include parking, loading and servicing, public art, accessibility, lighting, signage and wayfinding.
- ix. The submission, and securing of, acceptable streetscape plans for all streets surrounding the development site.

- x. Conveyance of required parkland, or demonstration that parkland conveyance requirements have been previously met.
 - xi. Entering into appropriate agreement(s) to secure additional publicly-accessible spaces to support development.
 - xii. The submission to, and acceptance by, the City of a compatibility study or studies, which shall be prepared to the satisfaction of the City of Toronto in consultation with the Ministry of the Environment and Climate Change, evaluating how potentially sensitive uses within 1,000 metres of existing major facilities such as the Enbridge facility located at 405 Eastern Avenue and the City works yard located at 433 Eastern Avenue and 50 Booth Avenue, would affect the ability of those facilities to carry out normal business activities. The compatibility study or studies shall also evaluate potential adverse effects from odour, noise and/or other contaminants on anticipated users of the proposed sensitive uses, and recommend how potential adverse effects may be mitigated to minimize risk to public health and safety and to ensure the long term viability of major facilities. Mitigation measures shall be implemented by the proponent of development and secured through planning instruments.
 - xiii. Satisfactory completing the requirements and related approval processes for the City's Tree By-laws.
 - xiv. A satisfactory review of emergency servicing, including fire service capacity for the given phase and/or development.
- c. IC "(H3)"
- i. Preparation of a design for the subject lands and building(s), including any necessary considerations related to rail safety and the City's Tree By-laws, to the satisfaction of the Chief Planner and Executive Director, City Planning.
 - ii. The provisions By-law 438-86, including Section 12(270) of By-law 438-86 continue to prevail until the provisions of this by-law are brought into force.
- d. IC "(H4)"
- i. The preparation of a POPS design, to the satisfaction of the Chief Planner and Executive Director, City Planning, Metrolinx and the Toronto Transit Commission, to support the western transit plaza's function as both a premiere public space and also as a major transit gateway. The design will include:
 - 1. Detailed pedestrian and cyclist route and capacity modeling, including assessments of required pedestrian clearway dimensions to accommodate surge volumes.
 - 2. Public realm considerations, including landscaping, furnishing, public art, and pedestrian and cyclist amenities.
 - 3. Detailed ground-level pedestrian view modeling looking west from the Broadview exit of the Transit Hub and east from the

Don exit of the Transit Hub, including detailed modeling of any adjacent built form elements.

4. Other considerations, which may include servicing, accessibility, lighting, signage and wayfinding.

13. Section 37 Provisions

- (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Map 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
- (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Enacted and passed on month ##, 20##

Name,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of City)

SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the **owner** at their expense to the City in accordance with one or more agreements pursuant to section 37(3) of the Planning Act, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement in return for the increase in height of the proposed development on the lands as shown on Map 1 of this By-law and as secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the **owner** agrees as follows:

1. The **owner** of 21 Don Valley Parkway, 30 Booth Avenue, and 375 and 385 Eastern Avenue (the "East Harbour Lands") shall provide the community benefits set out in Table 1 below, all to the satisfaction of the Chief Planner and Executive Director, City Planning, subject to clause (2) below, at the **owner's** sole expense, to be secured in a Master Agreement(s) pursuant to Section 37 of the Planning Act:
 - (a) The provision by the **owner** of public art of a value of at least \$11,000,000 on the **lot**;
 - (b) The provision by the **owner** of public realm improvements of a value of at least \$1,500,000 on top of a flood protection landform on lands zoned G(H) and subject to this zoning by-law, to the satisfaction of the Toronto and Region Conservation Authority and the City Planner and Executive Director, City Planning Division;
 - (c) The provision by the **owner** of above-base park improvements of a value of at least \$500,000 on lands zoned G(H) and subject to this zoning by-law, to the satisfaction of the General Manager, Parks Forestry and Recreation and the Chief Planner and Executive Director, City Planning;
 - (d) The provision, including the design and construction, by the **owner** of a minimum of 1,400 square metres of gross floor area to be to be used as affordable incubator employment space, and a cash contribution of \$613,291 towards the fit-out of the space, all subject to the terms set out in Schedule B;
 - (e) The provision, including the design and construction, by the **owner** of a minimum of 2,800 square metres of gross floor area to be to be used as community and/or cultural space, and a cash contribution of \$1,226,581 towards the fit-out of the space, all subject to the terms set out in Schedule B;
 - (f) A cash contribution by the **owner** to the City of \$2,500,000 to be allocated to support the construction of off-site affordable rental housing in the immediate area of the **lot**;
 - (g) A cash contribution by the **owner** to the City of \$500,000 to be allocated to public realm enhancements within the Broadview Avenue Underpass, which may include lighting and public art (e.g. mural) installations; and
 - (h) A cash contribution by the **owner** to the City of \$4,000,000 to be allocated to community services and facilities priorities to serve the area worker population as well as the adjacent neighbourhood, including:
 - i. non-profit licensed workplace ancillary daycare facilities to serve the worker population;

- ii. multi-purpose community space to be located in an accessible and highly visible location for non-profit community organizations to deliver human services and/or arts and cultural programs;
 - iii. improvements to library and recreation facilities that serve the area; and/or
 - iv. the refurbishment and adaptive reuse of the listed buildings at 433 and 447 Eastern Avenue buildings, in the event that these buildings are no longer required for municipal works yard purposes and surplus, with such contribution to be specifically targeted towards the adaptive reuse of these buildings for arts and cultural uses.
2. The **lot** shall be developed in phases, and the **owner** shall provide the community benefits set out in Section (1) in accordance with the phases set out below in Table 1, with the phases as generally illustrated on Attachment 7 to the staff report of May 24, 2018. The community benefits for each phase, including the timing and location thereof, shall be secured in phase-specific Section 37 Agreement(s), to be executed prior to the issuance of the first above-grade building permit for each phase, as applicable. Each phase-specific agreement(s) shall address the appropriate timing of the contributions in relation to the gross floor area under development.

Table 1

Phase	Section 37 Obligation
A	<ul style="list-style-type: none"> 1. Design and construction of incubator space in the amount of 1,400 square metres, in accordance with Schedule B to this by-law. 2. Financial contribution towards fit-out costs to a minimum value of \$613,291.
B	<ul style="list-style-type: none"> 1. Delivery of public art to a minimum value of \$4,070,000. 2. Design and construction of public realm improvements on top of a flood protection landform, at a minimum value of \$1,500,000, to the satisfaction of the Toronto and Region Conservation Authority and the Chief Planner and Executive Director, City Planning. 3. Design and construction of above-base park improvements at a minimum value of \$500,000, to the satisfaction of the General Manager, Parks, Forestry & Recreation and the Chief Planner and Executive Director, City Planning. 4. Financial contribution of \$500,000 to the City to support enhancements to the public realm within the Broadview Avenue Underpass. 5. Financial contribution of \$1,000,000 to the City, to be allocated to community services and facilities priorities as set out in Section 1(H) of Schedule A to this by-law.
C	<ul style="list-style-type: none"> 1. Delivery of public art to a minimum value of \$3,735,000. 2. Design and construction of non-profit community/cultural space in the amount of 2,800 square metres, in accordance with Schedule B to this by-law. 3. Financial contribution towards fit-out costs to a minimum value of \$1,226,581.
D	<ul style="list-style-type: none"> 1. Delivery of public art to a minimum value of \$1,100,000. 2. A financial contribution of \$1,500,000 to the City, to be allocated to off-site affordable rental housing. 3. A financial contribution of \$1,500,000 to the City, to be allocated to community services and facilities priorities to serve the neighbourhood, as identified in Section 1(H) of Schedule A to this by-law.

E	<ol style="list-style-type: none">1. Delivery of public art to a minimum value of \$2,095,000.2. A financial contribution of \$1,000,000 to the City, to be allocated to off-site affordable rental housing.3. A financial contribution of \$1,500,000 to the City, to be allocated to community services and facilities priorities to serve the neighbourhood, as identified in Section 1(H) of Schedule A to this by-law.
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3. Council authorizes the moving of the community benefits in Table 1 between phases, without requiring an amendment to this Schedule A, as long as any such changes are secured in the phase-specific agreement(s) pursuant to Section 37(3) of the Planning Act, or amendments thereto, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor.
4. The financial amounts in Sections (1) and (2) shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication No. 327-0058, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Local Planning Appeal Tribunal, from the date of the Tribunal order approving the by-laws, to the date of submission of the funds by the owner to the City.
5. In the event the cash contributions required by subsections 1(f), (g) and (h) have not been used for the intended purpose within ten (10) years of payment to the City, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lot.
6. The following matters are also to be secured in the Section 37 Agreement(s) as a legal convenience to support development:
 - (a) Transportation, streetscape, intersection and public realm improvements linked to the development proposal, including letters of credit to secure works.
 - (b) Construction of a Flood Protection Landform, in accordance with the final detailed design of the Port Lands Flood Protection project, and conveyance of the constructed landform in its entirety to the Toronto and Region Conservation Authority.
 - (c) Submission of a Construction Management Plan and Traffic Mitigation Plan for each phase of development, to the satisfaction of the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor.
 - (d) Creation of area-specific design guidelines to the satisfaction of the Chief Planner and Executive Director, City Planning, to govern design excellence and high quality materials for the future buildings within the Precinct.

- (e) Construction and maintenance of the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of item PG32.3 of the Planning and Growth Management Committee, as further amended by City Council from time to time;
- (f) Provision and implementation of landscape phasing plans to reflect interim conditions for each development phase during its construction period.
- (g) Publicly-Accessible Privately Owned Space (POPS), easements over the POPS, and other public access easements as necessary over privately-owned open spaces, all to provide public access for use by the general public, which easements shall include provisions for rights of support if necessary, and insurance and indemnification of the City by the owner, to the satisfaction of the Director, Real Estate Services, the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor. The public access easements are to be conveyed to the City free and clear of all physical and title encumbrances unless otherwise agreed to by City Planning and the City Solicitor. The owner shall own, operate, maintain and repair the POPS and other publicly accessible spaces. The owner shall install and maintain signage within the POPS, in accordance with the City's Urban Design Guidelines for POPS.
- (h) Prior to issuance of the first above grade building permit for any phase or building, the owner shall, at the request of the Chief Planner and Executive Director, City Planning, submit an updated, detailed Wind Study including wind tunnel analysis, satisfactory to the Chief Planner and Executive Director, City Planning, which identifies recommendations for the pedestrian realm and the outdoor areas of the podiums to mitigate wind impacts year-round, and the owner shall implement and maintain in support of the development all recommended mitigation measures to the satisfaction of the Chief Planner and Executive Director, City Planning.
- (i) Prior to issuance of the first above grade building permit for any phase or building, the owner shall submit, or provide updated submissions of, a compatibility study or studies, which shall be prepared to the satisfaction of the City of Toronto in consultation with the Ministry of the Environment and Climate Change, evaluating how potentially sensitive uses within 1,000 metres of existing major facilities such as the Enbridge facility located at 405 Eastern Avenue and the City works yard located at 433 Eastern Avenue and 50 Booth Avenue, would affect the ability of those facilities to carry out normal business activities. The compatibility study or studies shall also evaluate potential adverse effects from odour, noise and/or other contaminants on anticipated users of the proposed sensitive uses, and recommend how potential adverse effects may be mitigated to minimize risk to public health and safety and to ensure the long term viability of major facilities. Mitigation measures shall be implemented by the proponent of development and secured through planning instruments;
- (j) At the time of registration of draft plan of subdivision, in accordance with Section 42 of the Planning Act, the owner shall convey to the City an on-site parkland dedication with direct frontage on New Street E, south of New Street E and east of the Don Roadway, as shown generally on the Master Plan Update dated May

2018, page 13, prepared by Urban Strategies Inc., to the satisfaction of the General Manager, Parks, Forestry & Recreation (PFR), and the City Solicitor.

- (k) The owner shall at its expense provide knock-out panels along the north walls of any future concourse level of the buildings immediately adjacent to the Transit Hub, for potential future underground pedestrian network connections, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- (l) The owner shall, at the request of the Toronto Transit Commission (TTC), agree to complete a TTC technical review(s) respecting the development and a potential future Relief Line TTC second exit/entrance facility, and shall address all concerns arising from the technical review(s) to the satisfaction of the TTC in consultation with the Chief Planner and Executive Director, City Planning Division, and Metrolinx;
- (m) The owner shall convey an easement or fee simple conveyance to the City and Toronto Transit Commission (TTC), at its election, for access and other rights as may be required for the TTC second exit/entrance facility over and through the portion of development lands owned by the Owner, should such be requested to connect to the Relief Line in future; and
- (n) The owner shall enter into agreement(s) with the Toronto Transit Commission that will set out the Owner's obligations to construct and maintain a new exit/entrance within the development and the necessary easements in place for public egress and ingress. The terms of the agreement shall be negotiated with the Owner, in consultation with the Chief Planner and Executive Director, City Planning Division and the agreement shall be to the satisfaction of TTC in consultation with the Chief Planner and Executive Director, City Planning Division.

SCHEDULE B
Term Sheet, Services and Facilities

The Term Sheet is to guide Section 37 the securing of incubator and community cultural services and facilities space under the City's Community Space Tenancies (CST) Policy.

The term **incubator** should be read throughout the document to include incubators, accelerators, co-location facilities, or other types of collaborative spaces.

Section 37 secures provision of on-site business incubator workspace and community cultural space for a minimum of 4,200 m² space that meets the criteria noted below.

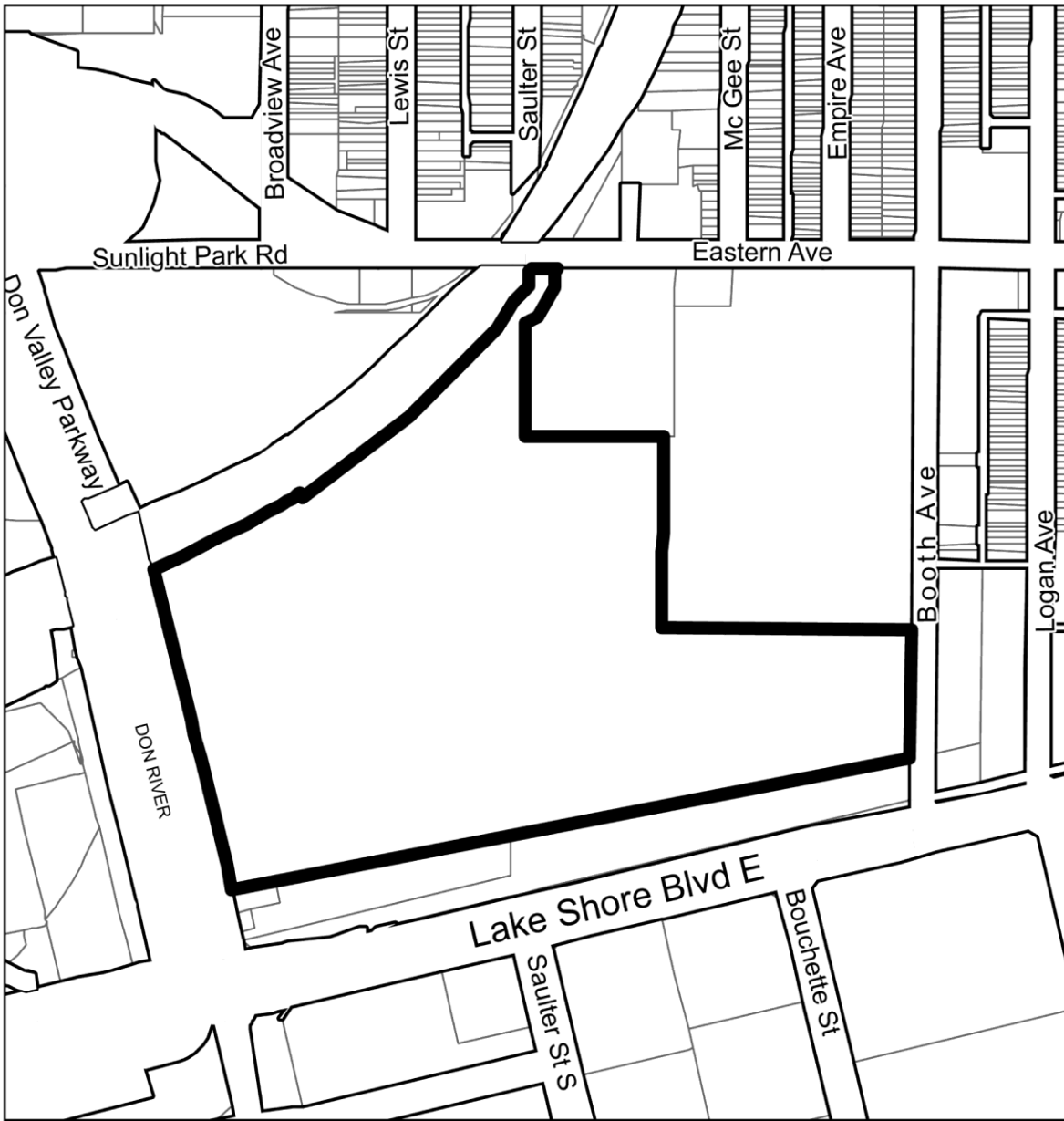
1. Incubator Space – Phase A

- 1.1. The owner will provide a minimum of 1,400 m² of non-residential gross floor area within the first phase of development (priority location being the Soap Factory building, with any alternate location to be to the satisfaction of City Planning and Economic Development and Culture) to be used as incubator workspace.
- 1.2. The owner will enter into a 25-year lease with the City for approximately 1,400 m² of identified incubator workspace, being leasable space within the first phase of development (priority location being the Soap Factory building, with any alternate location to be to the satisfaction of City Planning and Economic Development and Culture), to be used by the City to establish a business incubation centre.
- 1.3. The owner consents to the City subleasing the incubator workspace to qualified not-for-profit partners or a post-secondary institution that will operate the space and deliver business incubation programming. The City will consult with the owner while identifying and selecting not-for-profit partners or a post-secondary institution that will operate the business incubation centre space.
- 1.4. For the term of the 25-year lease the City shall pay rent at a rate of \$1 per year, plus T.M.I. (taxes, maintenance and insurance). No ongoing operating subsidy is required to be provided by the owner.
- 1.5. The City shall have the opportunity to renew the lease at the end of the 25-year lease at market rental rates.
- 1.6. The owner shall finish the leased incubator workspace to base condition which shall include concrete floors, electrical, HVAC, plumbing and fire services entering the space, a finished washroom but otherwise no partitioning or drywall.
- 1.7. The owner shall install a servicing elevator that can be used by the incubator workspace for its operations.
- 1.8. Provision shall be made for staff/visitors parking, drop off and pick up, and service access and garbage pick-up area.
- 1.9. The Owner shall provide a cash payment to the City in the amount of \$613,291 to be used by the City toward finishing said space or otherwise enabling the City to secure quality tenants.
- 1.10. The lease will contain a termination clause, effective at the 10th year of the lease and every 5 years thereafter, to allow the City to elect to cease leasing the space and take any pro-rata remaining Section 37 funds (to be based upon 1.(d) indexed from the Section 37 Schedule A, less the \$613,291 payment referred to in 1.9 above and less all

discounted rents already accrued to the City). Those funds shall be used towards other local benefits at the discretion of the Chief Planner and Executive Director, City Planning in consultation the Ward Councillor and in consultation with Economic Development and Culture.

2. Cultural and/or Community Space – Phase C


- 2.1. The owner will provide a minimum of 2,800 m² of non-residential gross floor area in Phase C of the development to be used as non-profit community and/or cultural space.
- 2.2. The owner will enter into a 25-year lease with the City for approximately 2,800 m² of cultural and/or community space, being leasable space on the ground and second stories with a transparent, highly visible ground floor presence that includes accessible space for signage, display, meeting/waiting areas, a reception area, and other key ground floor programmed elements as may be identified by City Planning and Economic Development and Culture.
- 2.3. The owner consents to the City subleasing the cultural and/or community space to qualified not-for-profit partners or a post-secondary institution that will operate the space and deliver cultural programming. The City will consult with the owner while identifying and selecting not-for-profit partners that will operate the community and/or cultural space.
- 2.4. For the term of the 25-year lease the City shall pay rent at a rate of \$1 per year, plus T.M.I. (taxes, maintenance and insurance). No ongoing operating subsidy is required to be provided by the owner.
- 2.5. The City shall have the opportunity to renew the lease at the end of the 25-year lease at market rental rates.
- 2.6. The owner shall finish the leased cultural and/or community space to base condition which shall include concrete floors, electrical, HVAC, plumbing and fire services entering the space, a finished washroom but otherwise no partitioning or drywall.
- 2.7. Provision shall be made for staff/visitors parking, drop off and pick up, and service access and garbage pick-up area.
- 2.8. The Owner shall provide a cash payment to the City in the amount of \$1,226,581 to be used by the City toward finishing said space or otherwise enabling the City to secure quality tenants.
- 2.9. The lease will contain a termination clause, effective at the 10th year of the lease and every 5 years thereafter, to allow the City to elect to cease leasing the space and take any pro-rata remaining Section 37 funds (to be based upon 1.(e) indexed from the Section 37 Schedule A, less the \$1,226,581 payment referred to in 2.8 above and less all discounted rents already accrued to the City). Those funds shall be used towards other local benefits at the discretion of the Chief Planner and Executive Director, City Planning in consultation the Ward Councillor and in consultation with Economic Development and Culture.

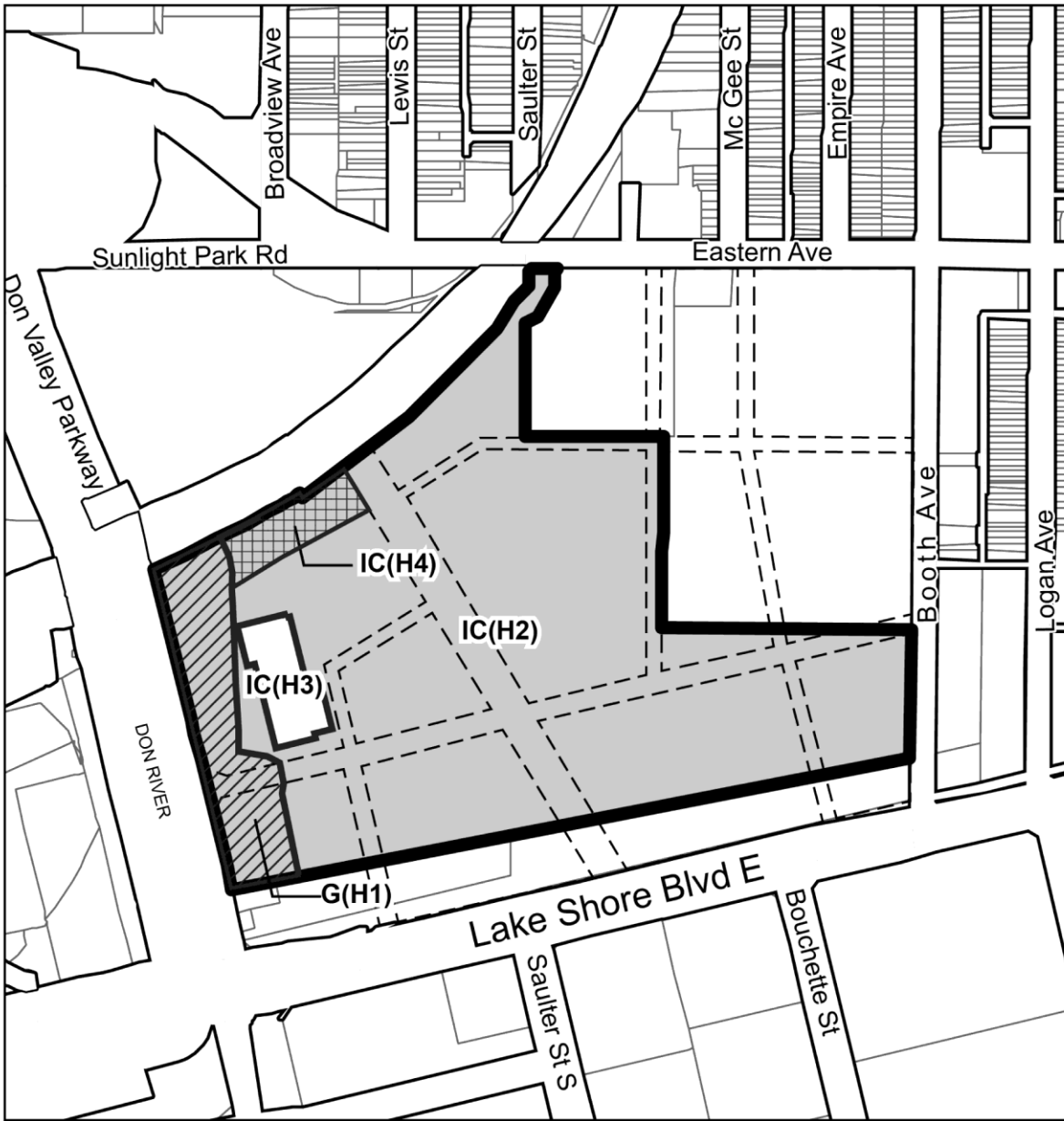


 **TORONTO**
Map 1

21 Don Valley Parkway, 30 Booth Avenue
& 375, 385 Eastern Avenue

 Site Area



City of Toronto By-Law 438-86
Not to Scale
05/31/2018

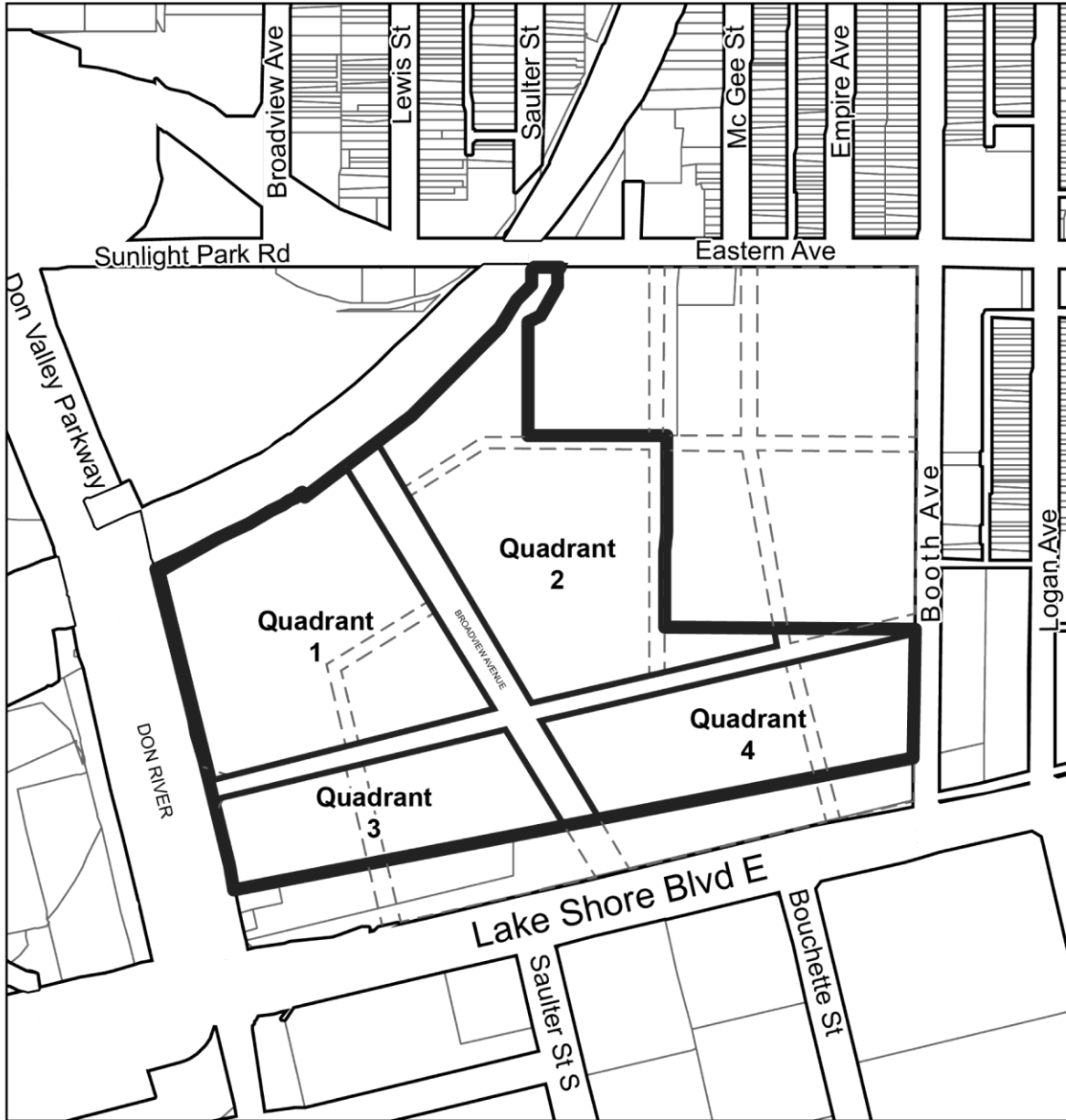


 **TORONTO**
Map 2

21 Don Valley Parkway, 30 Booth Avenue
& 375, 385 Eastern Avenue

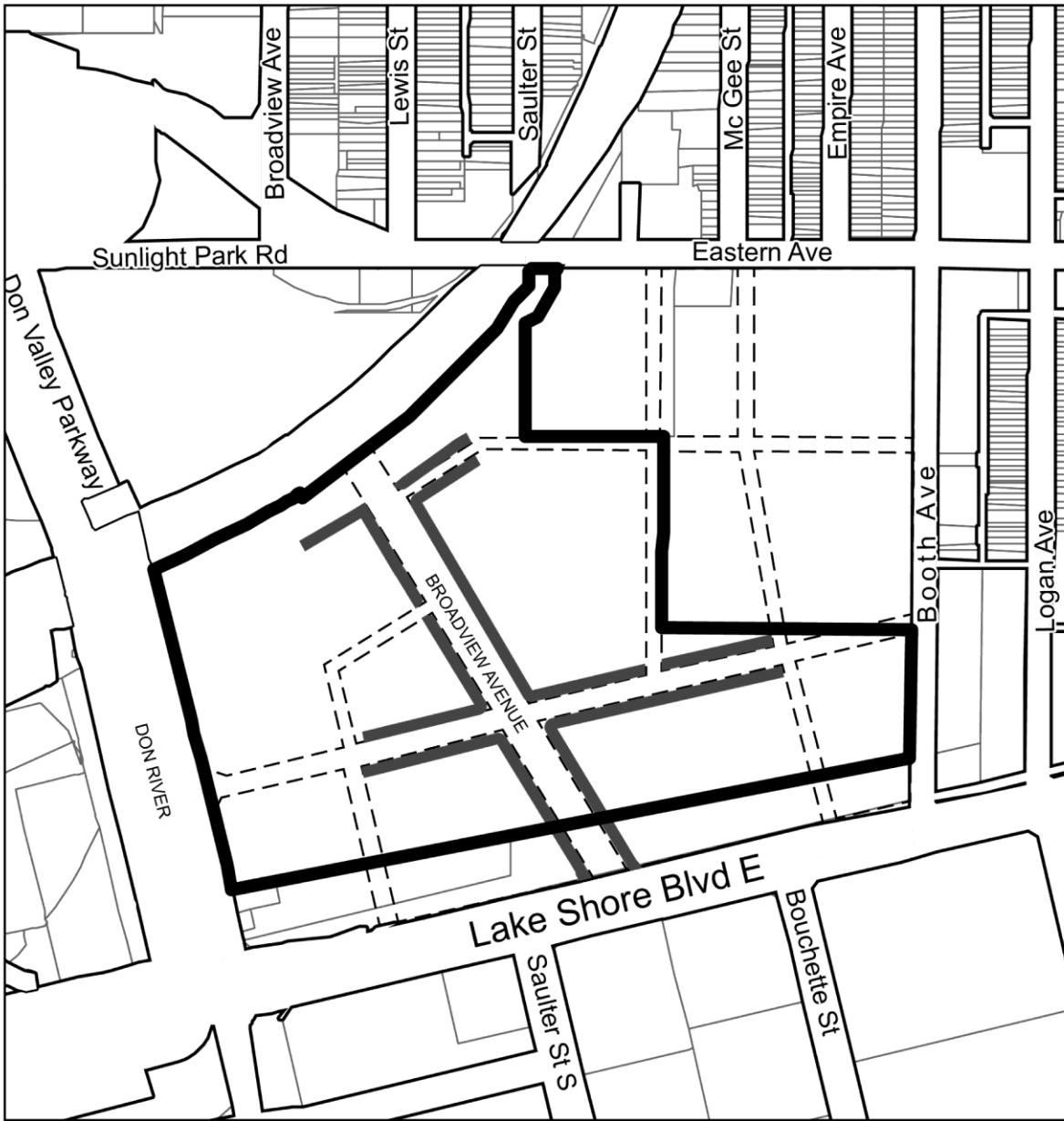
-  First Gulf Lands
-  Additional H1 Zone Boundary
-  H2 Zone Boundary
-  Additional H4 Zone Boundary


 City of Toronto By-Law 438-86
 Not to Scale
 05/31/2018



 **TORONTO**
Map 3


21 Don Valley Parkway, 30 Booth Avenue
& 375, 385 Eastern Avenue

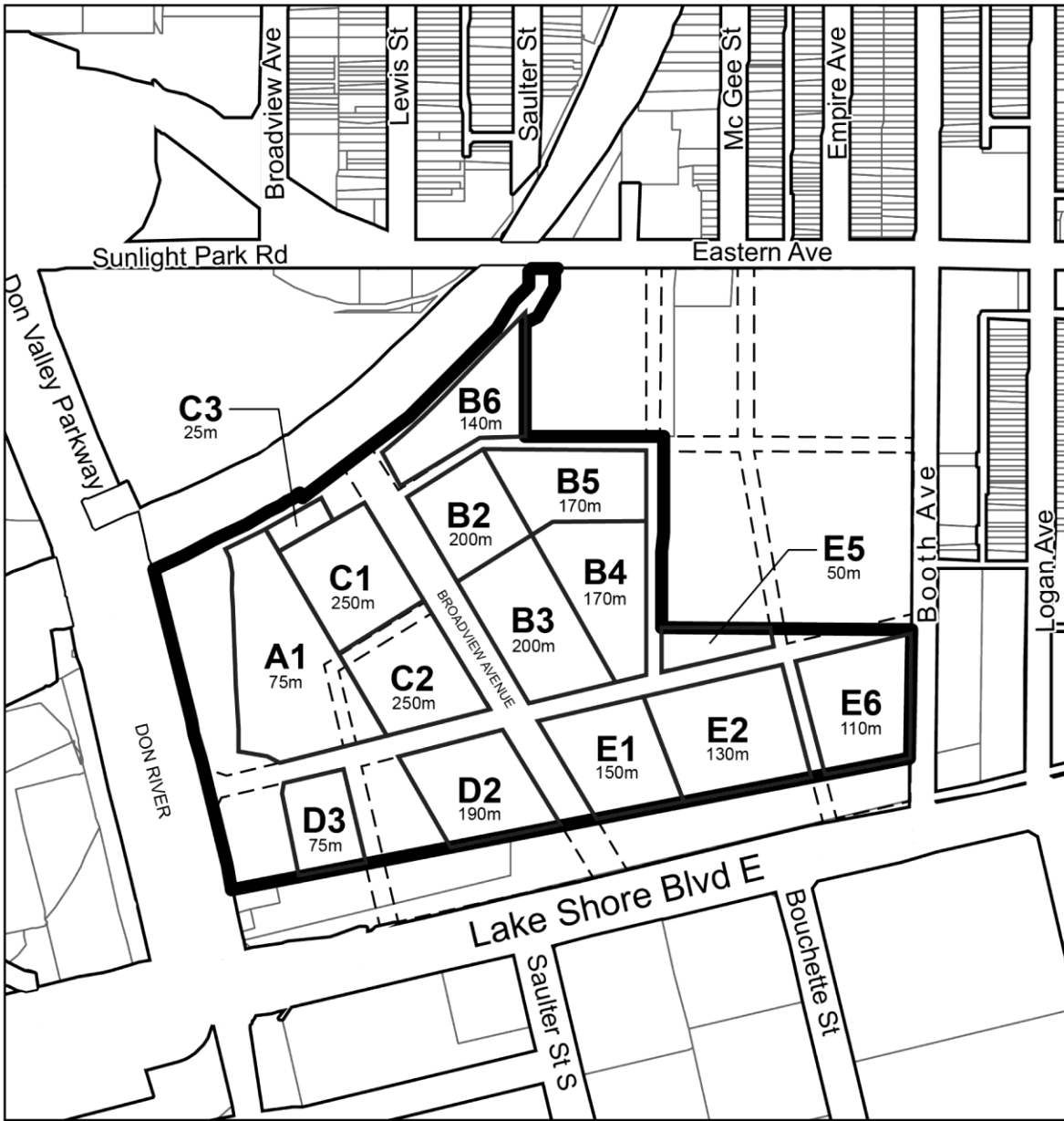


 **TORONTO**
Map 4

21 Don Valley Parkway, 30 Booth Avenue
& 375, 385 Eastern Avenue

-  First Gulf Lands
-  Animation Zone



City of Toronto By-Law 438-86
Not to Scale
05/31/2018



 **TORONTO**
Map 5

21 Don Valley Parkway, 30 Booth Avenue
& 375, 385 Eastern Avenue

-  First Gulf Lands
-  Proposed Public Roads
-  Development Area Boundary


City of Toronto By-Law 438-86
Not to Scale
05/31/2018