

Development in Toronto: New Employment Policies, Appeal Authority and Approval Process July 2014

Province's Final Say on Toronto's Employment Lands

On July 9th, the Province issued its Notice of Decision respecting the City of Toronto's Official Plan Amendment No. 231 (OPA 231). OPA 231 deals with the conversion of Employment Lands and the introduction of new economic health and employment policies considered through the City's Municipal Comprehensive Review. The Province approved the majority of OPA 231 but withheld its decision on the portion applying to the Lower Don Lands. The last day to appeal this decision is **July 29, 2014**.

Local Appeal Body for Toronto

While calls for reform of the Ontario Municipal Board (OMB) continue throughout the Province, the City of Toronto has made the first step in removing itself from the OMB's jurisdiction. Toronto's consideration of establishing a Local Appeal Body (LAB) dates back to 2004 and at its recent July meeting, Council approved the establishment of a LAB to hear appeals of minor variances and consent applications made after **September 1, 2015**. Toronto's authority to establish a LAB comes from Section 115 of the *City of Toronto Act, 2006*.

Following Council's decision, the City will also be making a formal request to the Province to amend the *Planning Act*, the *Heritage Act* and the *City of Toronto Act* to further abolish the OMB's jurisdiction over Toronto including its Zoning By-law Amendments, Official Plan Amendments, Site Plan, Subdivision and Condominium Plan Approvals, and Community Improvement Plans and appeals under the Heritage Act.

Council has directed staff to consider the governance and administration of the LAB and report back in early 2015 on the number of members required, their remuneration and a proposed fee structure.

For more information on how the LAB may affect your appeals and for status updates on its establishment, please visit www.toronto.ca.

A Green Light for Toronto's Development Permit System

In our December newsletter we highlighted the City of Toronto's proposed **Development Permit System (DPS)**. At the time planning staff had drafted an Official Plan Amendment (OPA) to enable the enactment of a Development Permit By-law. At the July City Council meeting, that enabling OPA was approved.

What is it?

The DPS combines the current zoning, site plan and minor variance processes into one application and approval process. The DPS is a comprehensive, area-based planning

exercise that will result in new development standards and performance criteria. These will be tailored to a specific area of the City and solidified through a new by-law (a Development Permit By-law). These by-laws will replace the Zoning By-law, as well as the entire regulatory framework through which development applications were made in that specific area of the City.

Preparing the Development Permit By-law will involve area-wide studies and community consultation to establish the appropriate massing and height of buildings, parks and open space requirements, and transportation, transit and hard infrastructure needs. Once a plan for an area has been established, it will be implemented through a Development Permit By-law.

A Development Permit By-law will include the following:

- minimum and maximum standards and permissible uses (much like a zoning by-law);
- criteria for evaluating, testing or assessing development proposals (i.e. test of compatibility with surrounding buildings, open spaces and uses);
- conditions of approval; and
- formula for the provision of community benefits (replacing Section 37 agreements).

A development application cannot go beyond what is provided in the Development Permit By-law (i.e. it cannot propose greater height or density as rezoning or minor variance applications would today). A development application will be reviewed for compliance with the by-law (similar to a Site Plan application). If it is compliant, a development permit can be issued by City Staff or an appointed committee. The DPS removes the need for technical studies (i.e. planning justification reports, traffic or parking studies, etc.) and community consultation to assess the appropriateness of the development application since the long-term planning studies and community consultation that were conducted to initially create the Development Permit By-law are deemed satisfactory.

Appeals

Under the DPS, public participation is focused at the front-end of the process when the long-term comprehensive planning is taking place and the Development Permit By-law is first being established. Anyone can appeal the implementation of a Development Permit By-law. However, once the By-law is in force, only an applicant has the right of appeal to the OMB on a development permit application. In other words, third party appeals from development permit application decisions are not permitted. This is similar to the existing appeal structure for Site Plan applications.

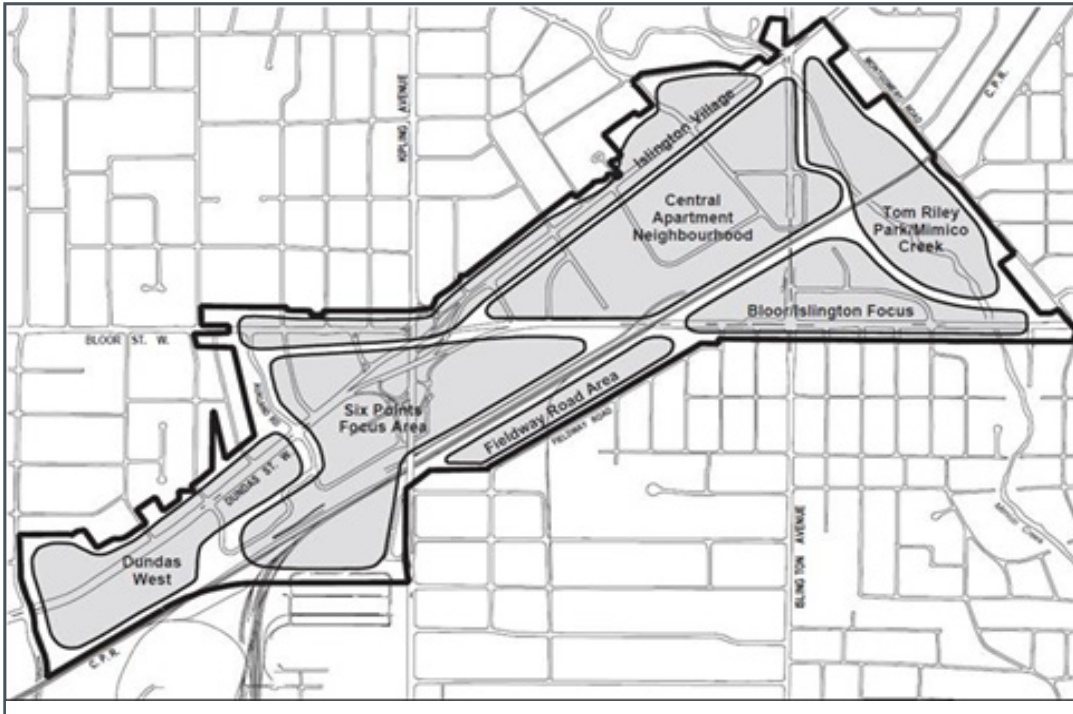
The appeal rights of the applicant are also limited under the DPS. Similar to appeals of a Site Plan, an applicant is allowed to appeal the conditions imposed on the development permit. Conditions can include the provision of community benefits (i.e. public art, streetscape improvements), sustainable design features, tree protection, etc. However, should an application wish to change other standards of the Development Permit By-law (ie. use, height, density) on a site-specific basis, the applicant must provide a planning justification that considers the entire development area. Such an appeal would have to be supported by technical reports, public consultation and evidence that the area has changed since enactment of the Development Permit By-law.

Next Steps

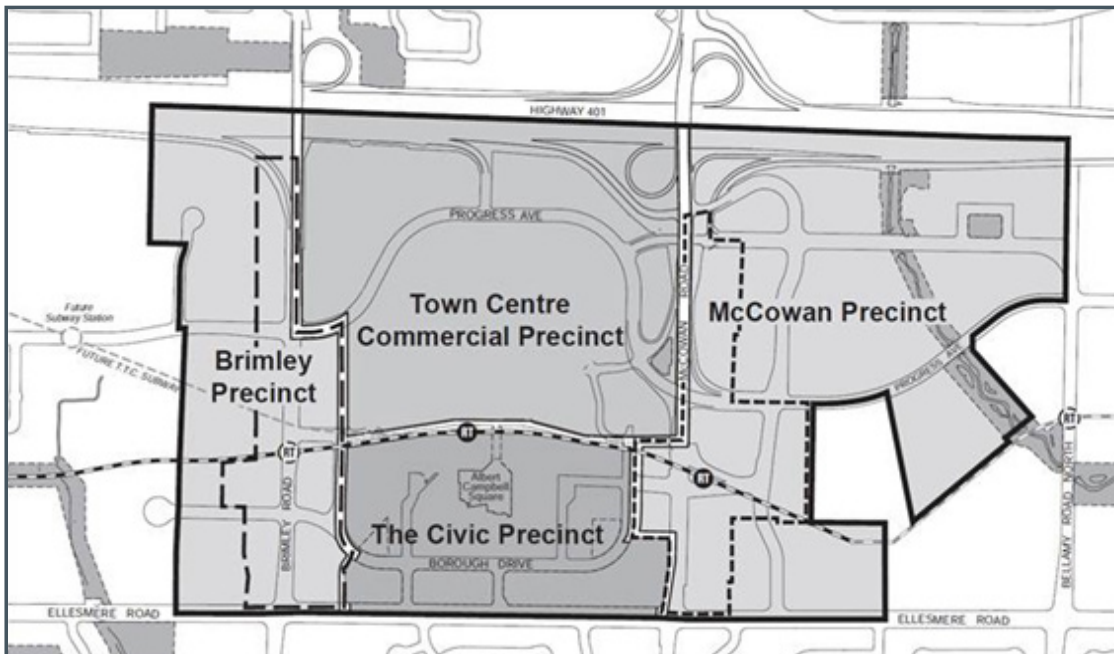
The recently approved OPA identifies the entire City of Toronto as a development permit area, thus enabling the enactment of a Development Permit By-law in any area of the City. However, the OPA also requires that a Development Permit By-law only be prepared for areas selected by Council, as informed by community consultation. There are eight (8) areas identified for initial consideration. (See maps on the following pages.)

If you have land holdings or other interests in any of the following areas, we strongly recommend that you participate in the upcoming community consultation. Notice of community consultations will likely be delivered by mail to all addresses in the area of consideration and posted online at www.toronto.ca.

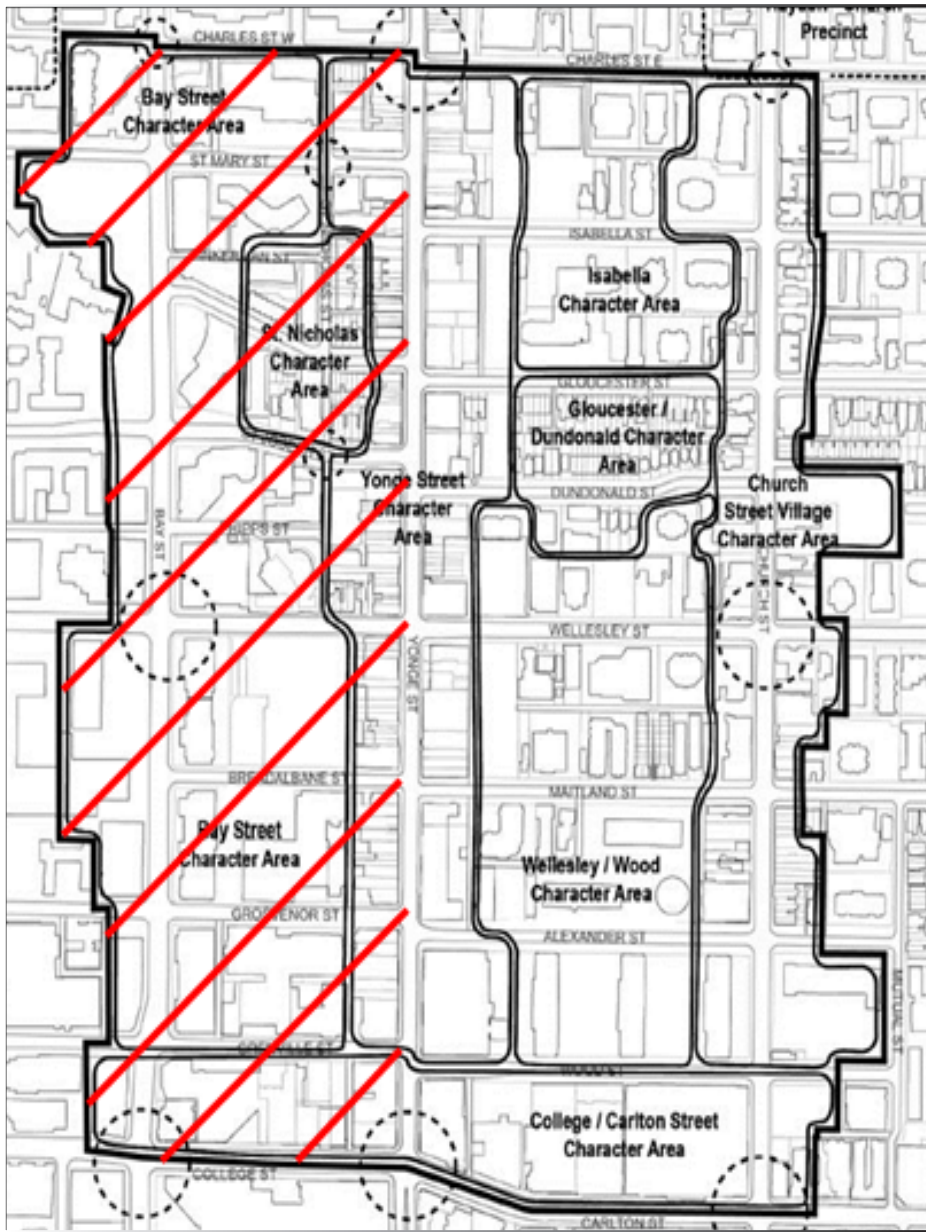
1. Etobicoke Centre Secondary Plan area



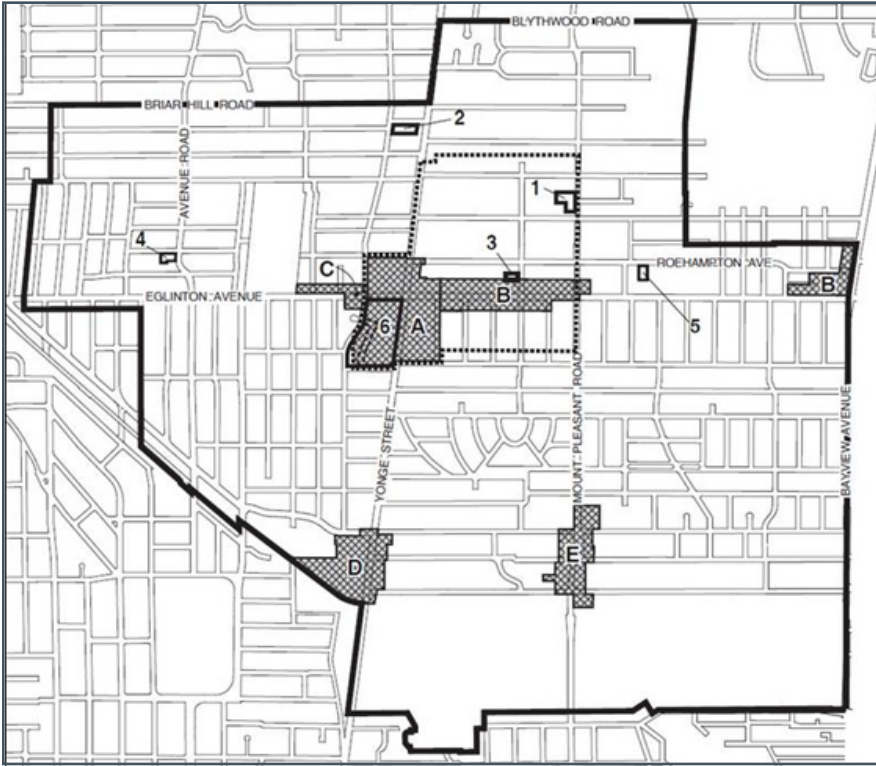
2. Scarborough Centre Secondary Plan area



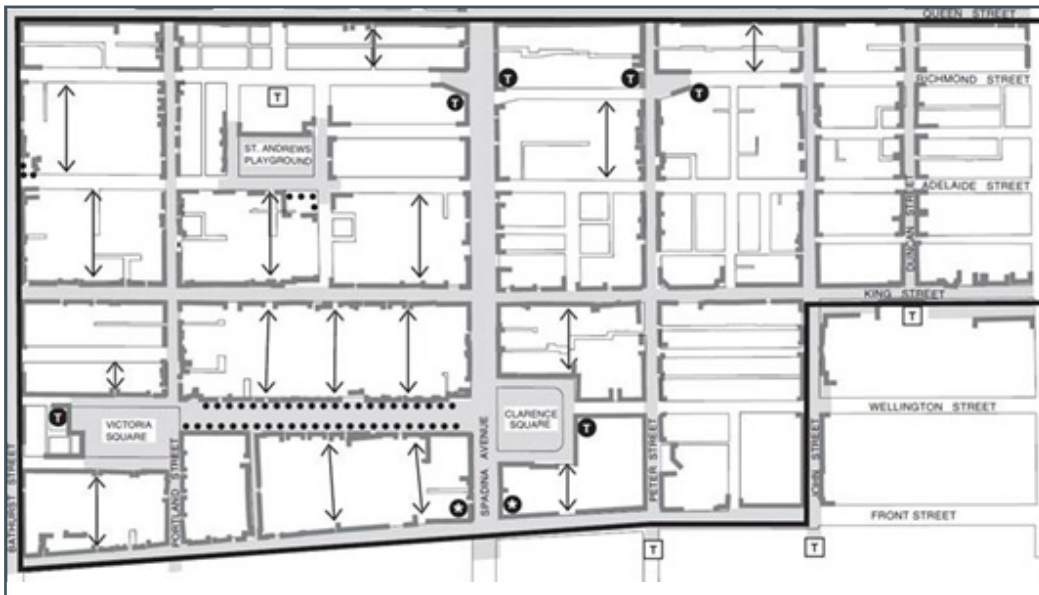
3. North York Secondary Plan area (except for the west side of Yonge Street)



4. Yonge Eglinton Centre area (Yonge-Eglinton Secondary Plan)



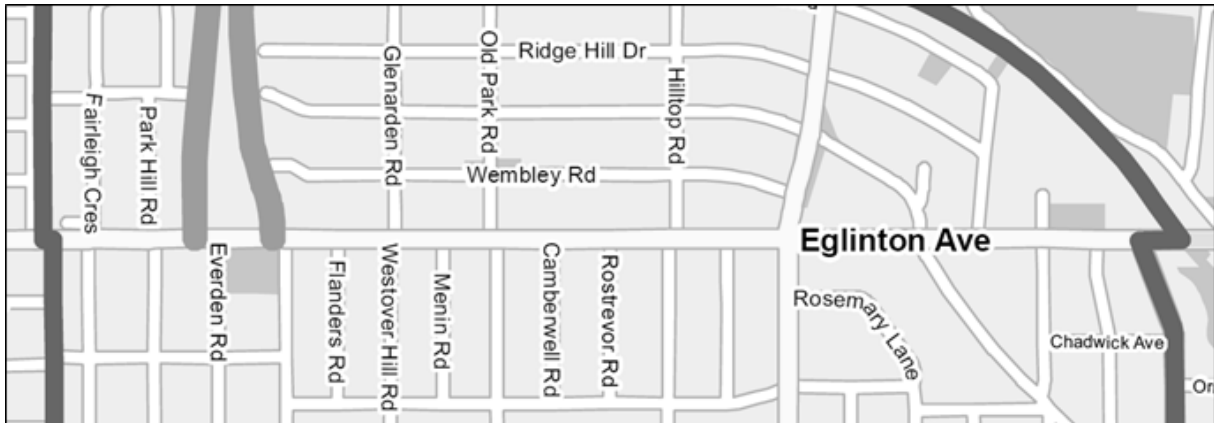
5. King Spadina Planning District (King-Spadina Secondary Plan)



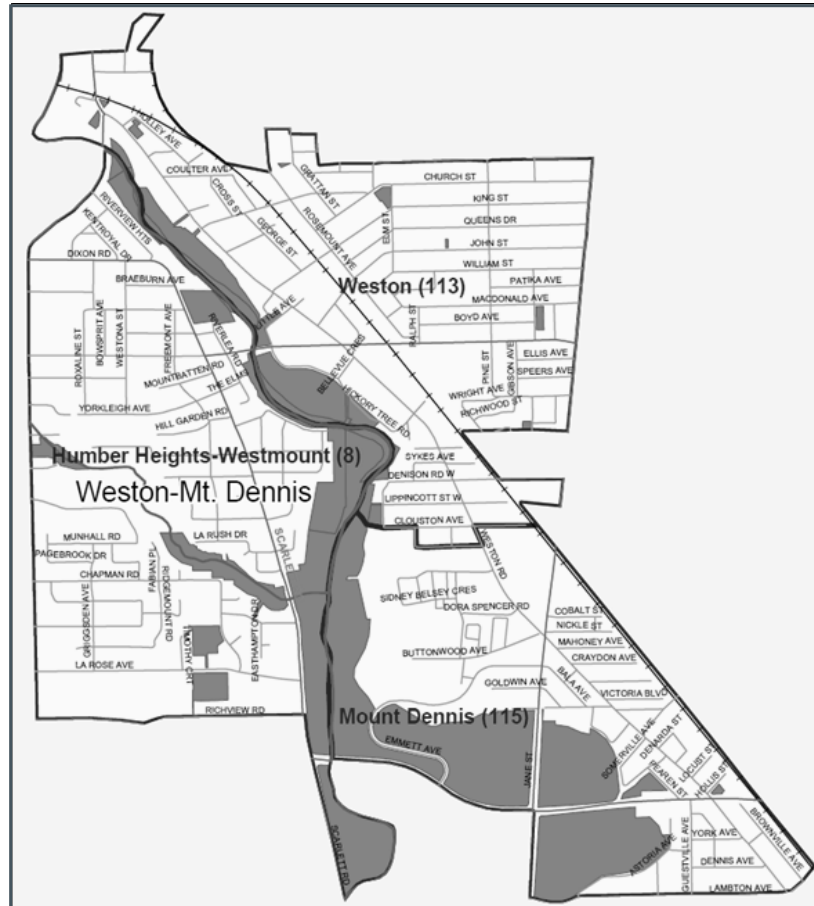
6. Bloor West Village (between Keele and Humber River, fronting on Bloor St. W.)



7. Eglinton Avenue West (between Marlee and Spadina)



8. Weston-Mount Dennis area (neighbourhood Improvement Area shown)



FOR MORE INFORMATION OR INQUIRIES



Questions? WeirFoulds would be pleased to assist with any inquiries. Please contact **Julia Croome** at 416.947.5044 or jcroome@weirfoulds.com.

Prior to joining WeirFoulds, Julia practised at a litigation boutique in downtown Toronto. Julia has regularly appeared before the Ontario Court of Justice, Superior Court, Divisional Court, Court of Appeal and the Ontario Municipal Board.

ABOUT THIS NEWSLETTER

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