

**Request for Direction Report
Official Plan Amendment and Zoning By-law
Amendment Applications
16 Lesmill Road and 840 to 842 York Mills Road**

Date:	January 30, 2008
To:	Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning Division
Wards:	Ward No. 34 – Don Valley East
Reference Number:	pg080008

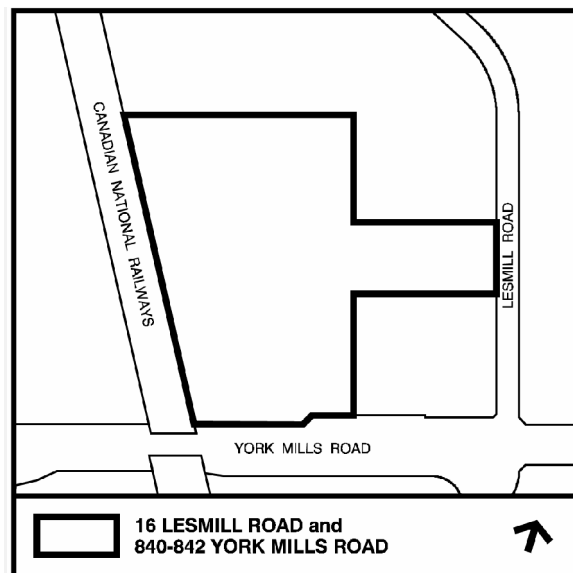
SUMMARY

Applications have been submitted to amend the Toronto Official Plan and North York Zoning By-law to permit the development of a commercial centre consisting of retail uses including a Home Depot, commercial and restaurant uses on the site at 16 Lesmill Road and 840 to 842 York Mills Road. The proposed gross floor area is 27,339 square metres.

Home Depot has appealed their Official Plan amendment application to the Ontario Municipal Board due to the City’s failure to make a decision on the application. They have indicated that they will also be appealing their zoning by-law amendment application to the OMB.

The property is 5.67 ha in size and is located west of the corner of Lesmill Road and York Mills Road. Existing uses on the site include an industrial operation and warehouse.

The proposal to permit major retail uses in an employment area does not conform to the Province’s Growth Plan for the Greater



Golden Horseshoe. This report recommends refusal of the proposal. Approval of the application without first undertaking a municipal comprehensive review which addresses the policies and conversion criteria of the Growth Plan would be contrary to the Places to Grow Act 2005 which requires that all municipal planning decisions conform with a Growth Plan.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the proposed Zoning By-law amendment application.
2. City Council authorize the City Solicitor and appropriate staff to attend the Ontario Municipal Board hearing to oppose the Official Plan and Zoning By-law amendment applications.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

PROPOSAL

The 5.67 ha site was acquired by Home Depot in August 2006. The proposal is for a commercial centre of retail, restaurant and home improvement uses with a total gross floor area of 27,339 square metres in three buildings:

- Home Depot store with a gross floor area of 10,443 square metres at the north part of the site.
- Retail building with a gross floor area of 15,793 square metres at the south part of the site.
- Building with restaurant uses with a gross floor area of 1,103 square metres fronting onto Lesmill Road.

Vehicular access to the site is proposed off Lesmill Road and from the existing entrances off the access to York Mills Road. A total of 1,061 parking spaces are proposed, of which 966 are in an above-ground parking structure.

Site and Surrounding Area

The site is located near the north-west corner of Lesmill Road and York Mills Road. While the site is flat, a significant grade change occurs as York Mills Road, just west of Lesmill Road, rises over the railway tracks in order to provide for the grade separation. Access to the site is off of Lesmill Road and the portion of York Mills Road that goes

under the York Mills Road overpass. This portion of York Mills Road goes under the grade separation and provides access to the site. Existing uses on the site include an industrial operation and warehouse.

Adjacent uses include:

North: office and industrial uses

South: south of York Mills Road are office, industrial and restaurant uses

East: vacant lands; on the east side of Lesmill Road are industrial, commercial and restaurant uses

West: Canadian National Railway line; west of the rail line are industrial uses and a large commercial-retail plaza.

Provincial Plans

Provincial Policy Statement

The 2005 Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. City Council's planning decisions are required to be consistent with the PPS. The PPS requires the City to:

- provide for a mix and range of employment to meet long-term needs;
- provide opportunities for a diversified economic base including maintaining a range and choice of suitable sites for employment activity;
- protect and preserve employment areas for current and future uses; and
- ensure the necessary infrastructure is provided to support current and projected needs.

The PPS defines employment areas as “areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities”. Conversion of lands within employment areas to non-employment uses is permitted only through a comprehensive review that has demonstrated that the land is not required for employment purposes over the long term and there is a need for the conversion.

The Growth Plan for the Greater Golden Horseshoe

The Growth Plan for the Greater Golden Horseshoe (The Growth Plan) came into effect on June 16, 2006. The Growth Plan provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems. City Council's planning decisions are required to conform, or not conflict with, the Growth Plan.

The Growth Plan requires the City to maintain an adequate supply of lands providing locations for a variety of appropriate employment uses in order to accommodate the employment growth forecasts of the Plan. The Growth Plan includes similar policies to the PPS directed at the preservation of employment areas for future economic opportunities. An employment area is defined as an area “designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices and associated retail and ancillary facilities”. The definition of an employment area in the Growth Plan is the same definition used in the PPS. The Growth Plan clarifies that for the purpose of the conversion policy, major retail uses are considered non-employment uses.

The Growth Plan provides that municipalities may permit conversion of lands within employment areas to non-employment uses only through a municipal initiated comprehensive review. Under the Growth Plan, conversion of lands within an employment area to major retail uses is considered to be a conversion of land to non-employment uses. The conversion may be permitted only where it has been demonstrated through the municipal comprehensive review that it meets a number of criteria.

Official Plan

The Official Plan identifies this site as an Employment District on the Urban Structure Map (Map 2) and designates the lands as Employment Areas on the Land Use Plan, Map 19. It is a key policy directive of the Official Plan to protect Employment Districts from the encroachment of non-economic functions and uses. The Plan’s policies seek to promote Employment Districts exclusively for economic activities and permit uses that support this function including a range of industrial, business and commercial uses.

Employment Areas are intended to be 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. The Plan also provides that places of worship, recreation and entertainment facilities, business and trade schools and branches of community colleges or universities may locate within an Employment Area if the use is to be located on a major street shown on Map 3.

In recognition that some land users require large parcels of land, the Plan also contains policy direction with respect to large scale, stand-alone retail stores. The Plan indicates that while these uses are not directly supportive of the primary employment function of these areas, they have special locational needs which the Plan recognizes. Policy 4.6.3 permits such uses where the proposed use fronts onto a major street shown on Map 3 that also forms the boundary of the Employment Area. Criteria such as transportation capacity availability and the impact of the functioning of the proposed use on other economic activities within the Employment Area will be evaluated.

Policy 4.6.4 of the Official Plan provides for the consideration of an Official Plan amendment to permit large scale and stand alone retail stores in locations on major streets that do not form the boundary of Employment Areas, if it can be demonstrated that:

- the development will not undermine the stability of the Employment Area and will have regard for the viability of industrial uses;
- there is sufficient transportation capacity available to accommodate the extra traffic generated by the development, resulting in an acceptable level of traffic on adjacent and nearby streets; and
- the economic health of nearby shopping districts is not adversely affected.

Policy 4.6.4 was the result of a settlement at the OMB of an appeal by Home Depot of the Employment Areas policy of the Official Plan.

Zoning

The subject site is zoned Industrial-Office Business Park Zone MO(6) in the former City of North York Zoning By-law No. 7625. The MO zone permits a range of industrial, office, business and commercial uses. A retail store is permitted provided it does not exceed 20% of the gross floor area of the largest floor of the building on the lot.

Site Plan Control

No application for Site Plan Control approval has been submitted.

Reasons for the Application

The application for Official Plan and zoning by-law amendments is required because the Official Plan and the North York zoning by-law do not permit large scale retail stores on this site.

COMMENTS

Provincial Plans and Policy Statement

The main issue raised by this application with respect to Provincial plans and policy is the conversion of employment lands.

Under the Growth Plan for the Greater Golden Horseshoe, conversion of lands within employment areas to major retail uses is considered to be a conversion of land to non-employment uses. The Growth Plan clarifies situations where conversion of employment areas to non-employment uses can be considered. Municipalities may permit conversion of lands within employment areas to non-employment uses only through a municipal comprehensive review which is described as an official plan review, or an official plan amendment, initiated by a municipality that comprehensively applies the policies and schedules of the Growth Plan.

The conversion may be permitted only where it has been demonstrated through the municipal comprehensive review that it meets a number of criteria including:

- there is a need for the conversion;
- the municipality will meet the employment forecasts allocated to it pursuant to the Growth Plan;
- the conversion will not adversely affect the overall viability of the employment area;
- there is existing and planned infrastructure to accommodate the proposed conversion; and
- the lands are not required over the long term for the employment purposes for which they are designated.

The City's Official Plan is the result of the last municipal comprehensive review. Approval of this application to convert employment lands to major retail uses would not conform with the Growth Plan without the City first undertaking another comprehensive review addressing the criteria set out in the Growth Plan. Section 14 of The Places to Grow Act 2005 requires that all decisions under the Planning Act made by a municipal council and the Ontario Municipal Board must conform with the Growth Plan.

Under the Provincial Policy Statement, conversion of lands within employment areas to non-employment uses is permitted only through a comprehensive review that has demonstrated that the land is not required for employment purposes over the long term and there is a need for the conversion. Unlike the Growth Plan, the PPS does not specify that large scale retail uses are non-employment uses.

The Places to Grow Act states that where there is a conflict between the PPS and the Growth Plan, the Growth Plan will prevail. The development proposal does not conform to and conflicts with the Growth Plan.

Official Plan

We have been advised by the Ministry of Public Infrastructure Renewal that Employment Areas policy 4.6.4 of the Official Plan, which provides for consideration of an Official Plan amendment to permit large scale retail stores in locations on major streets that do not form the boundary of Employment Areas, does not conform to the Growth Plan. The approval of Employment Areas policy 4.6.4 was not the result of a comprehensive review as set out in the Growth Plan. The Growth Plan requires that conversion of employment lands to non-employment uses such as major retail uses is only permitted through a municipal comprehensive review initiated by a municipality. A municipal comprehensive review would need to be completed prior to policy 4.6.4 being applied.

Policy 4.6.4 of the Official Plan sets out a number of matters that must be addressed for the consideration of an Official Plan amendment to permit large scale stand alone retail stores in locations on major streets that do not form the boundary of Employment Areas:

- the development will not undermine the stability of the Employment Area and will have regard for the viability of industrial uses;
- there is sufficient transportation capacity available to accommodate the extra traffic generated by the development, resulting in an acceptable level of traffic on adjacent and nearby streets; and
- the economic health of nearby shopping districts is not adversely affected.

The applicant has submitted planning, traffic, employment area impact and retail market studies in support of their application. As the proposal does not conform with the Growth Plan, we have not reviewed the specifics of the application nor evaluated the application against Official Plan policies that would otherwise apply. In the fall of 2006, staff met with the applicant and advised them that we were considering refusal of the application on the basis of non-conformity with the Growth Plan.

Conclusion

Home Depot has appealed their Official Plan amendment application to the Ontario Municipal Board due to the City's failure to make a decision on the application. They have indicated that they will also be appealing their zoning by-law amendment application to the OMB. This application should not be supported as it does not conform with the Growth Plan for the Greater Golden Horseshoe. Approval of the conversion application without first undertaking a municipal comprehensive review would be contrary to the Places to Grow Act 2005 which requires that all municipal planning decisions conform with the Growth Plan.

CONTACT

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SIGNATURE

Ted Tyndorf
 Chief Planner and Executive Director
 City Planning Division

ATTACHMENTS

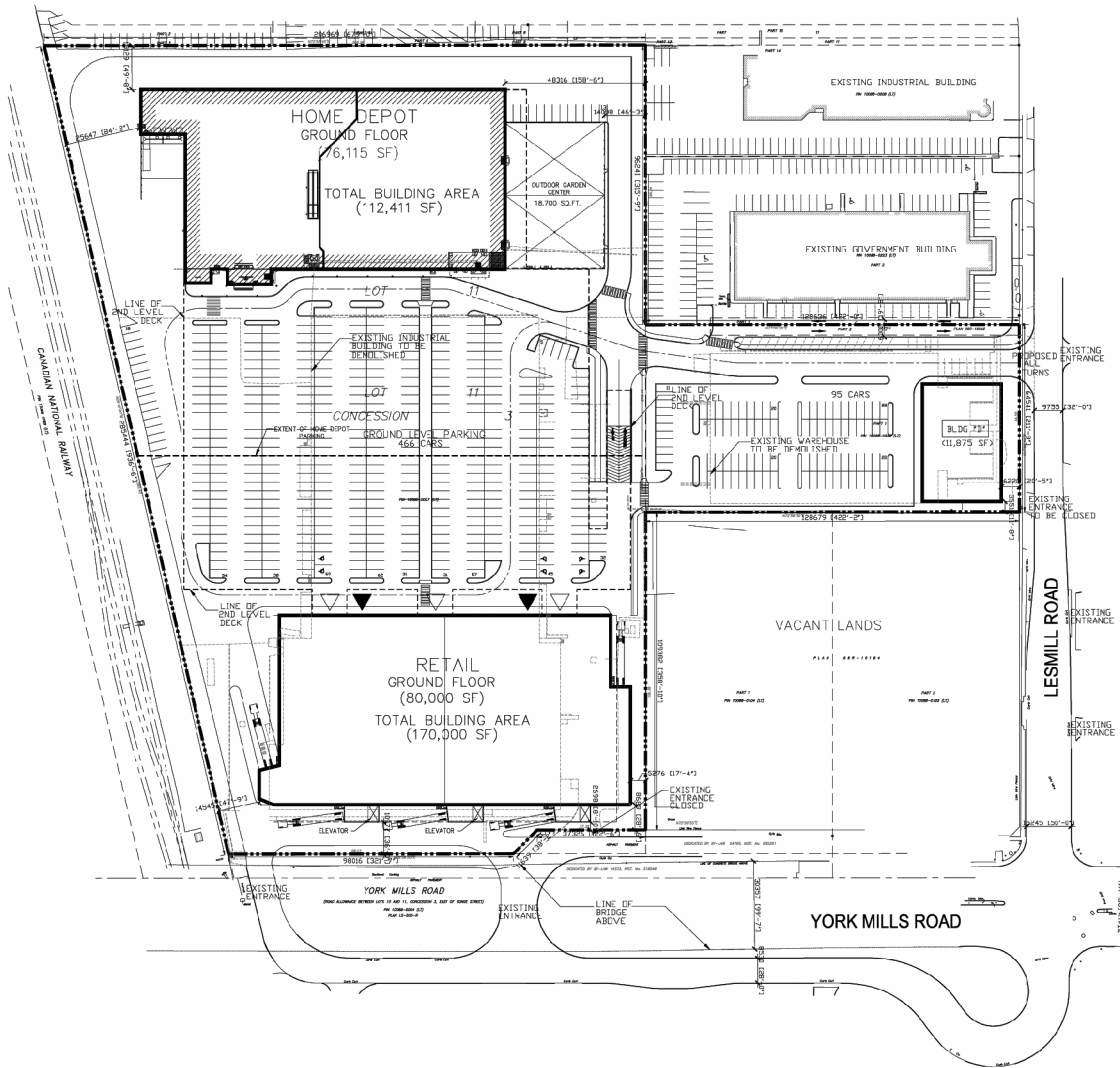
Attachment 1: Site Plan

Attachment 2: Zoning

Attachment 3: Official Plan

Attachment 4: Application Data Sheet

Attachment 1: Site Plan



Site Plan

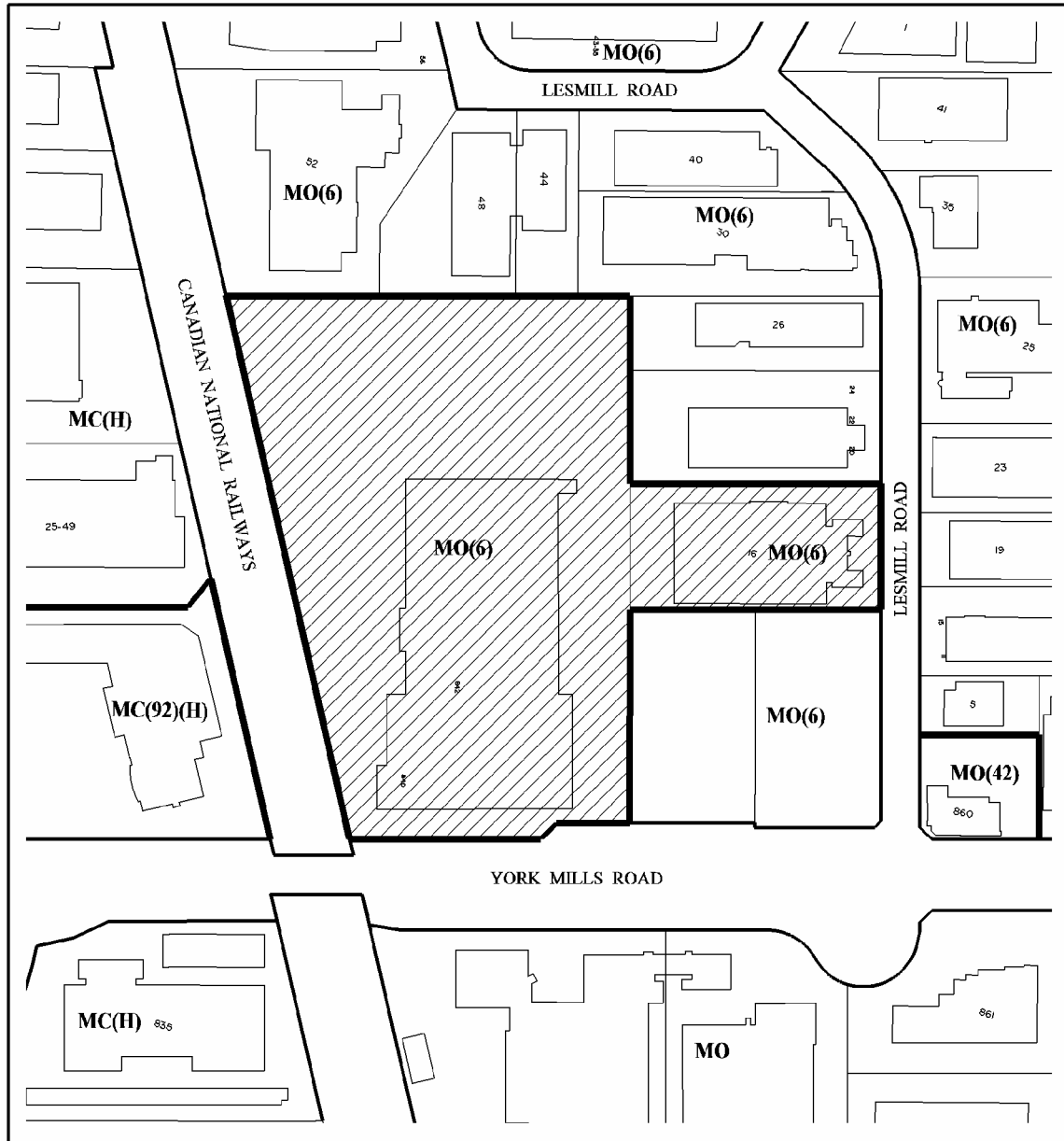
16 Lesmill Road and 840-842 York Mills Road

Applicant's Submitted Drawing

Not to Scale 

File # 06_199374

Attachment 2: Zoning




Toronto City Planning
Division
Zoning

16 Lesmill Road and 840-842 York Mills Road

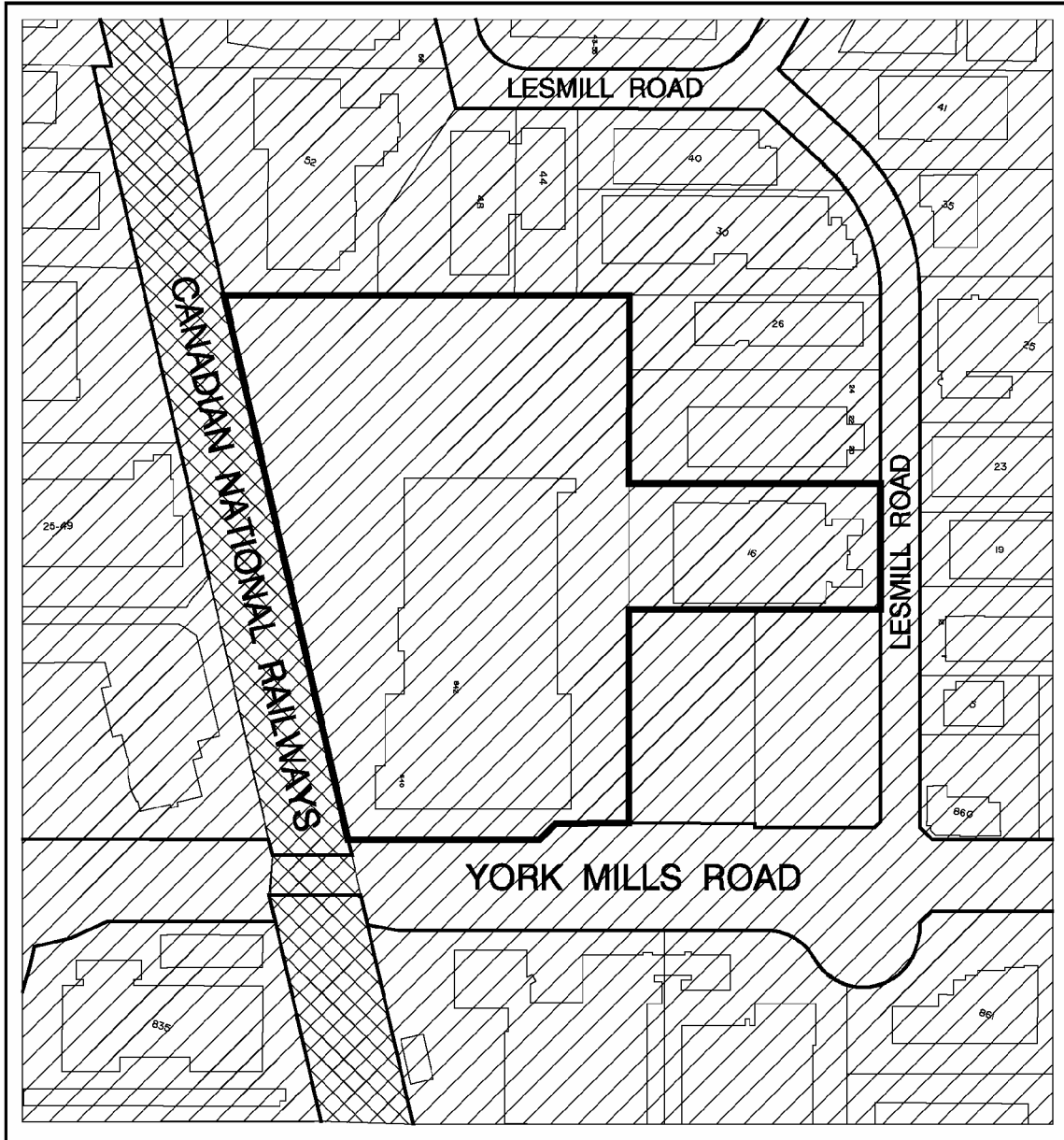
File # 06_199374

MO Industrial-Office Business Park Zone
MC Industrial-Commercial Zone

NOTE: Numbers in Brackets Denote Exceptions to the Zoning Category


 Not to Scale
 Zoning By-law 7625
 Extracted 02/01/07

Attachment 3: Official Plan



 **TORONTO** City Planning
Division
Official Plan

16 Lesmill Road and 840-842 York Mills Road

File # 06_199374

-  Employment Areas
-  Utility Corridors


Not to Scale

Attachment 4: APPLICATION DATA SHEET

Application Type	Official Plan Amendment & Rezoning	Application Number: 06 199374 NNY 34 OZ
Details	OPA & Rezoning, Standard	Application Date: December 21, 2006
Municipal Address:	16 LESMILL RD AND 840-842 YORK MILLS RD, TORONTO ON	
Location Description:	CON 3 EY LOT 11 **GRID N3401	
Project Description:	The property is 5.67 ha in size and is located just west of the corner of Lesmill Road and York Mills Road. The proposal is for a commercial centre with 3 buildings for retail, restaurant and home improvement uses including a Home Depot, with a total gross floor area of 27,339 square metres.	

Applicant:	Agent:	Architect:	Owner:
MacNaughton Hermes Britton Clarkson Planning Ltd.			Home Depot Holdings Inc.

PLANNING CONTROLS

Official Plan Designation:	Employment Areas	Site Specific Provision:
Zoning:	MO(6)	Historical Status:
Height Limit (m):		Site Plan Control Area:

PROJECT INFORMATION

Site Area (sq. m):	56700	Height:	Storeys:	2
Frontage (m):	64.5		Metres:	14
Depth (m):	335.6			
Total Ground Floor Area (sq. m):	16066			Total
Total Residential GFA (sq. m):			Parking Spaces:	1061
Total Non-Residential GFA (sq. m):	27339		Loading Docks	8
Total GFA (sq. m):	27339			
Lot Coverage Ratio (%):	28.3			
Floor Space Index:	0.48			

DWELLING UNITS

Tenure Type:	
Rooms:	0
Bachelor:	0
1 Bedroom:	0
2 Bedroom:	0
3 + Bedroom:	0
Total Units:	0

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Residential GFA (sq. m):	0	0	0
Retail GFA (sq. m):	27339	27339	0
Office GFA (sq. m):	0	0	0
Industrial GFA (sq. m):	0	0	0
Institutional/Other GFA (sq. m):	0	0	0

CONTACT:	PLANNER NAME:	Nimrod Salamon, Senior Planner
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