

1100-1150 Caledonia Road Interpretation of the Official Plan

Date:	August 19, 2009
To:	North York Community Council and Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning Division
Wards:	Ward 15 – Eglinton-Lawrence
Reference Number:	File No. 09 153993 NNY 15 TM

SUMMARY

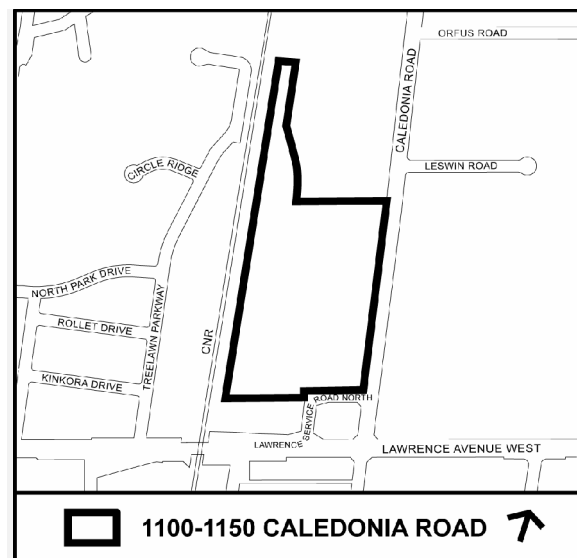
This report responds to City Council's May 25, 26 and 27, 2009 direction that City Planning staff provide an interpretation of the *Employment Areas* policies of the Official Plan as they apply to lands known municipally as 1100-1150 Caledonia Road and report to North York Community Council and Planning and Growth Management Committee with respect to the interpretation of the applicable policy. City Planning staff, in consultation with the General Manager, Economic Development and the City Solicitor are of the opinion that Policy 4.6.3 would apply to an application proposing major retail uses on these lands.

Financial Impact

There are no financial impacts associated with this report.

ISSUE BACKGROUND

On May 25, 26 and 27, 2009 City Council adopted city-initiated Official Plan Amendment No. 72 which proposes amendments to the Official Plan to bring the Plan into conformity with the Province's Growth Plan for the Greater Golden Horseshoe.



Among other matters, Amendment No. 72 deletes Policy 4.6.4 of the *Employment Areas* policies which provides for the consideration of large scale retail uses on lands on major streets in *Employment Areas* that do not form the boundary of an *Employment Areas*, subject to specific criteria.

In its consideration of the amendment, Council adopted the following motion regarding Amendment No. 72 in response to correspondence from Aird and Berlis LLP, solicitors for the owners of lands located at 1100-1150 Caledonia Road and in response to correspondence from Councillor Moscoe:

“City Council refer the communication (May 11, 2009) from Kim M. Kovar, Aird and Berlis LLP [PG25.2.3] and the responses filed by Councillor Moscoe [PG25.2.9] to the Chief Planner and Executive Director, City Planning, with a request that he report in consultation with the General Manager, Economic Development, and the City Solicitor, to the North York Community Council and the Planning and Growth Management Committee on the interpretation of the Official Plan for employment districts as it applies to 1100-1150 Caledonia Road.”

The letter dated May 11, 2009 from Aird and Berlis LLP to the Council [PG25.2.3] regarding proposed Official Plan Amendment No. 72 advises that the owners of these lands are preparing to submit applications for a proposed commercial development on the lands (see Attachment 1). The letter states that the client held a pre-application discussion with City Planning staff in May 2009 during which staff confirmed that an application for major retail uses on the lands would be considered under *Employment Areas* Policy 4.6.3, and not Policy 4.6.4. The letter further advises that based on staff’s advice, the landowner takes no position regarding the proposed deletion of Policy 4.6.4.

COMMENTS

Official Plan

The majority of the 9.7 hectare site is designated as *Employment Areas*, with a narrow strip of lands at the rear designated as *Utility Corridors* (see Attachment 2). The subject lands are within an *Employment District* on Map 2, Urban Structure (see Attachment 3) and subject to the *Employment District* policies. The lands front onto Caledonia Road, a major street shown on Map 3, Right-of-Way Widths Associated with Existing Major Streets (see Attachment 4).

Policy 4.6.3

Policy 4.6.3 provides that large scale, stand-alone retail stores and “power centres” are not permitted in *Employment Areas* in the *Central Waterfront* and are only permitted in other *Employment Areas* fronting onto major streets as shown on Map 3 that also form the boundary of the *Employment Areas* through the enactment of a zoning by-law. Where a site meets this locational requirement, new large scale, stand-alone retail stores and “power centres” may be permitted if it can be demonstrated that there is sufficient transportation capacity available to accommodate the proposed traffic generated by the

development and that the functioning of other economic activities within the *Employment Areas* and the economic health of nearby shopping districts are not adversely affected (see Attachment 5).

Policy 4.6.4

Policy 4.6.4 provides that consideration may also be given to permit large-scale and stand-alone retail stores in locations on major streets, as shown on Map 3, that do not form the boundary of *Employment Areas*, other than in the *Central Waterfront*, only by way of an Official Plan Amendment, if it can be demonstrated, among other matters, that:

- a) such development will not undermine the stability of the *Employment Area* and will have particular regard for the viability of industrial uses;
 - b) sufficient transportation capacity is available to accommodate the extra traffic generated by the development, resulting in an acceptable level of traffic on adjacent and nearby streets; and
 - c) the economic health of nearby shopping districts is not adversely affected.
- (see Attachment 5)

Policy Interpretation

It is staff's interpretation that an application for large scale, stand-alone retail stores on these lands would be considered to be subject to the *Employment Areas* Policy 4.6.3 of the Official Plan. The subject lands front onto a major street shown on Map 3 that also forms the boundary of the *Employment Area* at that location. Caledonia Road abuts the site to the east and forms the boundary of the *Employment Area*. The subject lands are also located at the boundary of the *Employment Area* as the lands to the east comprise Caledonia Park which is designated as *Parks and Open Space Areas – Parks* (see Attachment 2). Furthermore, Caledonia Park is not shown within an *Employment District* on Map 2, Urban Structure (see Attachment 3).

While a proposal for large scale, stand-alone retail stores would be subject to Policy 4.6.3, it would also be subject to the criteria of this policy among other Official Plan policy matters that would have to be addressed in order for staff to support a rezoning of the subject site.

Policy 4.6.4 provides for Council's consideration of major retail uses in *Employment Areas* outside of the *Central Waterfront* on those sites located on major streets shown on Map 3 that do not form the boundary of an *Employment Area*. The permission would be achieved only through an Official Plan Amendment and subject to meeting impact criteria. Given the location of the property, Policy 4.6.4 would not be the operative policy applicable to these lands.

CONCLUSION

This report responds to City Council's direction on May 25, 26, and 27, 2009 that staff interpret the *Employment Areas* policies of the Official Plan as they apply to lands municipally known as 1100-1150 Caledonia Road. Staff in consultation with the General Manager, Economic Development and the City Solicitor are of the opinion that Policy 4.6.3 would apply to an application proposing major retail uses on these lands, and that

Policy 4.6.4 would not apply to the subject lands. This interpretation does not convey any recommendations or support by staff that such an application would be approved. The interpretation simply identifies the applicable *Employment Areas* policy by which an application would be considered.

CONTACT

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Director, Policy and Research
City Planning Division
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E-mail: bleonha@toronto.ca

SIGNATURE

Gary Wright, Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

- Attachment 1: Communications of Aird and Berlis, LLP and Councillor Moscoe – PG25.2.3 and PG25.2.9, May 25, 26 & 27, 2009 Council Minutes
- Attachment 2: Official Plan – Land Use Plan
- Attachment 3: Official Plan – Map 2, Urban Structure
- Attachment 4: Official Plan – Map 3, Right-of-Way Widths Associated with Existing Major Streets
- Attachment 5: *Employment Area* Policies of the Official Plan – Policies 4.6.3 and 4.6.4

**Attachment 1: Communications of Aird and Berlis, LLP and Councillor Moscoe –
PG25.2.3 and PG25.2.9, May 25, 26 & 27, 2009 Council Minutes**

AIRD & BERLIS LLP

Barristers and Solicitors

Kim Kovar
Direct: 416-865-7769
E-mail: kkovar@airdberlis.com

May 11, 2009

BY E-MAIL

Our File #98814

Mayor and Members of Council
City of Toronto
Toronto City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attn: Ulli Watkiss, City Clerk

Dear Ms. Watkiss:

**Re: Official Plan Conformity to the Growth Plan: Employment Lands
1100-1150 Caledonia Road, City of Toronto**

We act on behalf of the owners of lands known municipally as 1100 to 1150 Caledonia Road ("the site"). Attached to this letter is a map identifying our clients' lands outlined in red.

The site is designated Employment Areas and Utility Corridors and is located on the west side of Caledonia Road, a designated Major Street in the Official Plan. On the east side of Caledonia Road, opposite the subject lands, the lands are designated Parks. The lands on the east side of Caledonia Road are not within the Employment Area, nor are they located in the Employment District shown on Map 2 of the Official Plan.

Our client is in the process of preparing an application for rezoning and site plan approval for a proposed commercial development on the site. The proposed development will renovate and reuse the former industrial buildings located on the site.

On May 1, 2009, we met with Neil Cresswell, Gerry Rogalski and Kerri Voumvakis of your staff to discuss the submission requirements for these applications. As well, we sought to confirm that since the site is located on a Major Street which also forms the boundary of an Employment Area, the application will be subject to Policy 4.6.3. of the Official Plan, and not Policy 4.6.4, and no Official Plan Amendment will therefore be required. Ms. Voumvakis confirmed that the application would be assessed in the context of Policy 4.6.3 of the Official Plan, as the site is located on a Major Street that is the edge of an Employment Area. She confirmed that Policy 4.6.4 would not apply in this case.

As a result of that advice, and as we are aware that Council is considering the deletion of Policy 4.6.4 as part of its ongoing Growth Plan conformity exercise, and no amendment is being considered to Policy 4.6.3, we are writing to confirm that our client takes no position with respect to the proposed deletion of Policy 4.6.4.


Brookfield Place, 181 Bay Street, Suite 1800, Box 754 - Toronto, ON - M5J 2T9 - Canada
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May 11, 2009
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Thank you very much.

Yours very truly,

AIRD & BERLIS LLP



Kim M. Kovar
KMK/MC/mn

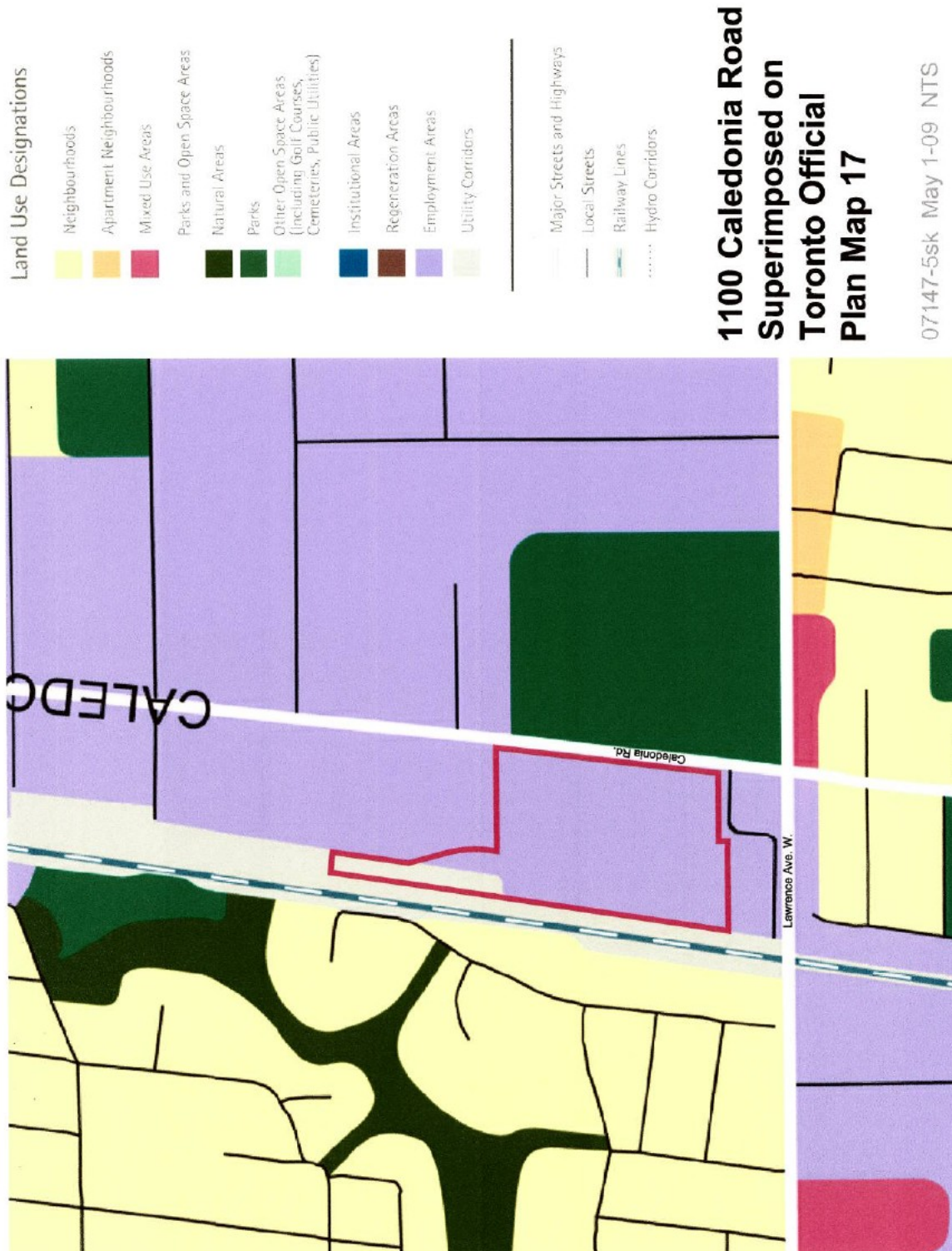
cc: Steven Ruse, Excel Development Corporation
Tony Volpentesta, Bousfields Inc.
Neil Cresswell
Gerry Rogalski
Kerri Voumvakis

attach.

5232997.1

AIRD & BERLIS LLP
Barristers and Solicitors

– Aird & Berlis Attachment
to May 11, 2009 Letter –



May 25, 2009

PG25.2.9



Kim Kovar
Aird and Berlis,
Barristers and Solicitors
181 Bay Street, Suite 1800
Box 754,
Toronto, ON
M5J 2T9

Re: Official Plan Conformity to the Growth Plan
1100-1150 Caledonia Road, City of Toronto
File #98814
Council Reference PG25.2.3

As a member of Toronto City Council and the Councillor for Ward 15 I acknowledge receipt of your letter dated May 11, 2009 addressed to the Mayor and Members of Council which appeared in the general correspondence section of our May 25th Toronto City Council agenda. Please be advised that the interpretation rendered by city staff was a preliminary consideration and should not be considered to be in any way binding.

After a review of the data it is clear that this property is not on a Major Street and would not be considered under policy 4.6.3 of the Official Plan. A simple review of the map indicates that there are intervening properties that separate this site from Lawrence Avenue West. Therefore, the property in question does not abut the boundary of an employment area.

Accordingly then, any application for this property would have to be considered under policy 4.6.4 which is the matter that is presently before Council. It would appear then that an Official Plan Amendment will therefore be required. It would be prudent for your client to take a position on the deletion of Policy 4.6.4 and I would suggest that you forward it to the City Clerk forthwith so that it can be considered at the Council meeting of May 25-26, 2009.

Thank you for your consideration of this matter.

Yours in Government,

Howard Moscoe
Councillor, City of Toronto
Ward 15, Eglinton-Lawrence

cc: Ulli Watkiss, City Clerk

 **TORONTO** Councillor Howard Moscoe, City of Toronto - Eglinton - Lawrence

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100 Queen St. West, Suite B30, Toronto, Ontario M5H 2N2
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Constituency Office:
Telephone: (416) 395-6410 Fax: (416) 392-4191

May 25, 2009

Kim Kovar
Aird and Berlis, Barristers and Solicitors
181 Bay Street, Suite 1800
Box 754
Toronto, ON
M5J 2T9




Re: Official Plan Conformity to the Growth Plan
1100-1150 Caledonia Road, City of Toronto

This will acknowledge receipt of your email response to my e-mail dated May 22, 2009. Thank you for your clarification of this matter, however, I am pleased to have been able to catch this matter at an early stage.

I would not have thought to consider Caledonia Road. Caledonia Road does not form the boundary of an Employment Area but rather intersects an Employment Area. Accordingly, your client's property is not on a major street forming the boundary of an Employment Area and is rather located within the interior of an Employment Area. It would clearly not qualify for consideration under policy 4.6.3. Consequently I would recommend that your client do no further work on this matter until such time as we have been able to resolve this matter.

That being the case, I will be requesting staff to bump this matter up to the North York Community Council for an early determination.

over.....

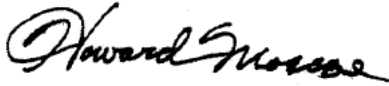
 **TORONTO** Councillor Howard Moscoe, City of Toronto - Eglinton - Lawrence

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100 Queen St. West, Suite 830, Toronto, Ontario M5H 2N2
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I would suggest that you avail yourself of the opportunity to respond to the proposed deletion of policy 4.6.4. since it appears to me that is the policy under which your client's application will have to be considered. I remind you that policy 4.6.4 is being considered by Council on May 25-26, 2009.

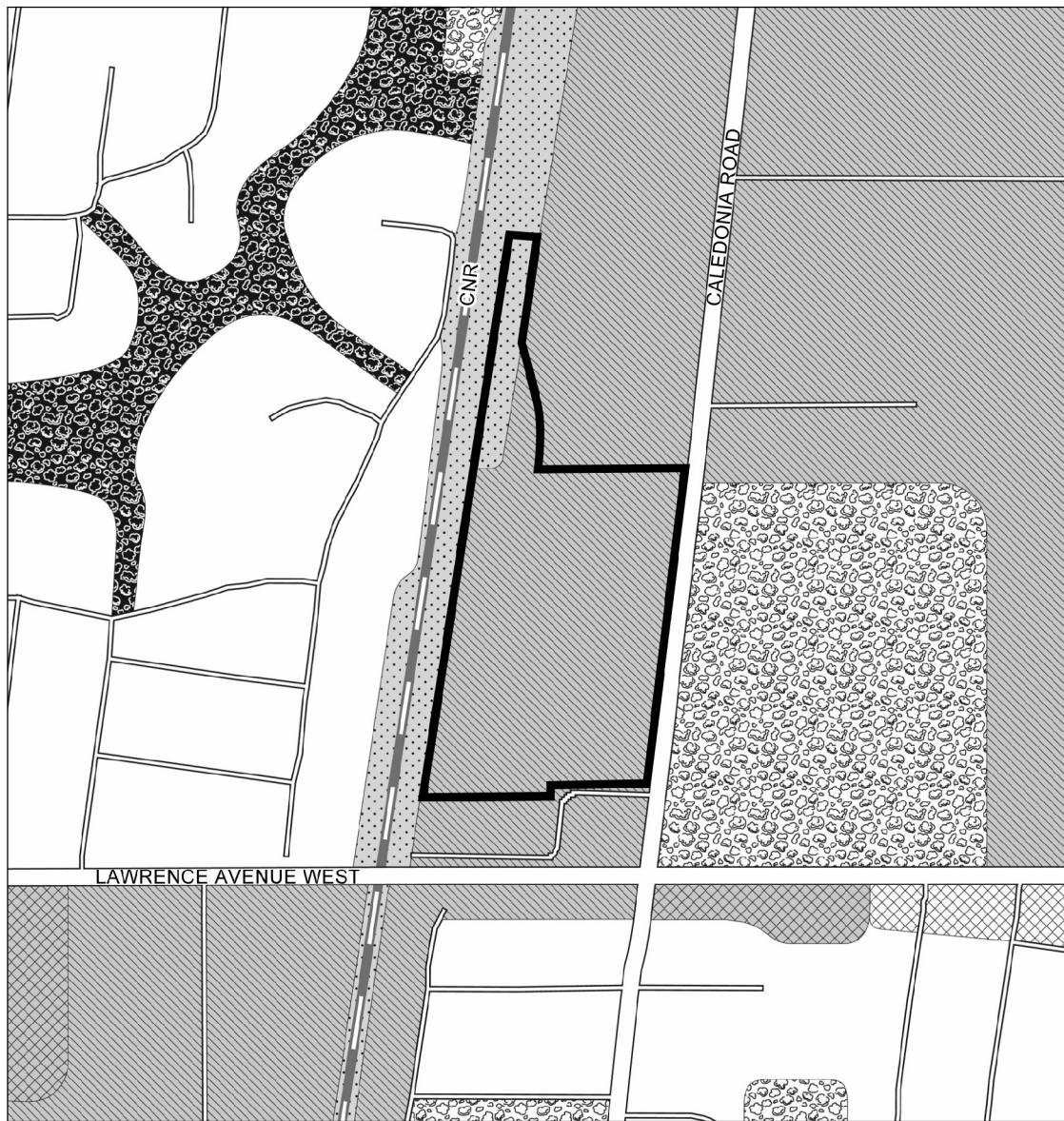
Yours in Government,

A handwritten signature in black ink, appearing to read "Howard Moscoe". The signature is fluid and cursive, with the first name "Howard" being more prominent than the last name "Moscoe".

Howard Moscoe,
Councillor, City of Toronto
Ward 15 - Eglinton-Lawrence

cc: Ulli Watkiss, City Clerk

Attachment 2: Official Plan – Land Use Plan



Toronto City Planning
Official Plan

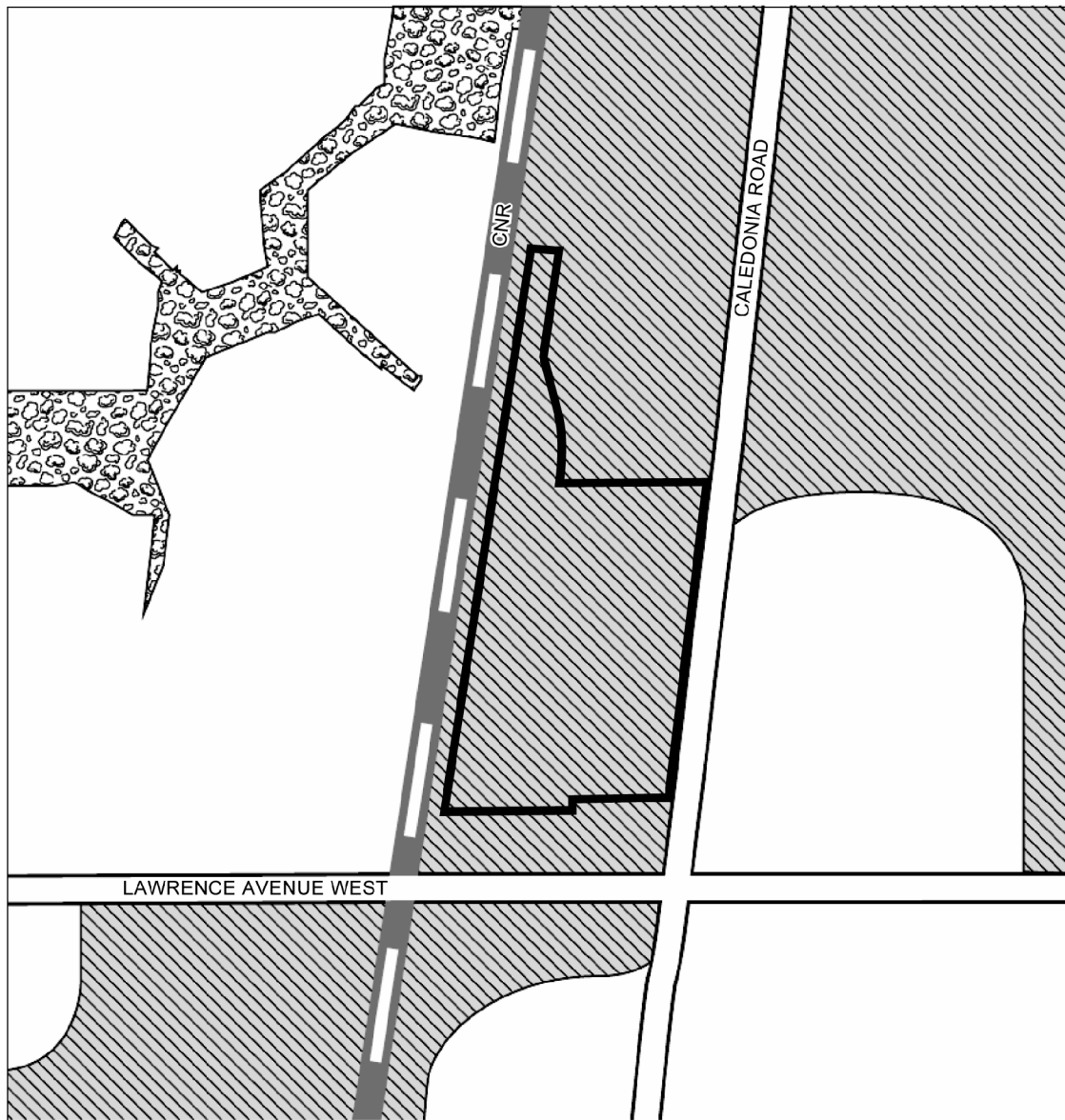
1100-1150 Caledonia Road

File # 09_153993

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

↑
Not to Scale
08/14/09

Attachment 3: Official Plan – Map 2, Urban Structure



Toronto City Planning

Official Plan Map 2 - Urban Structure

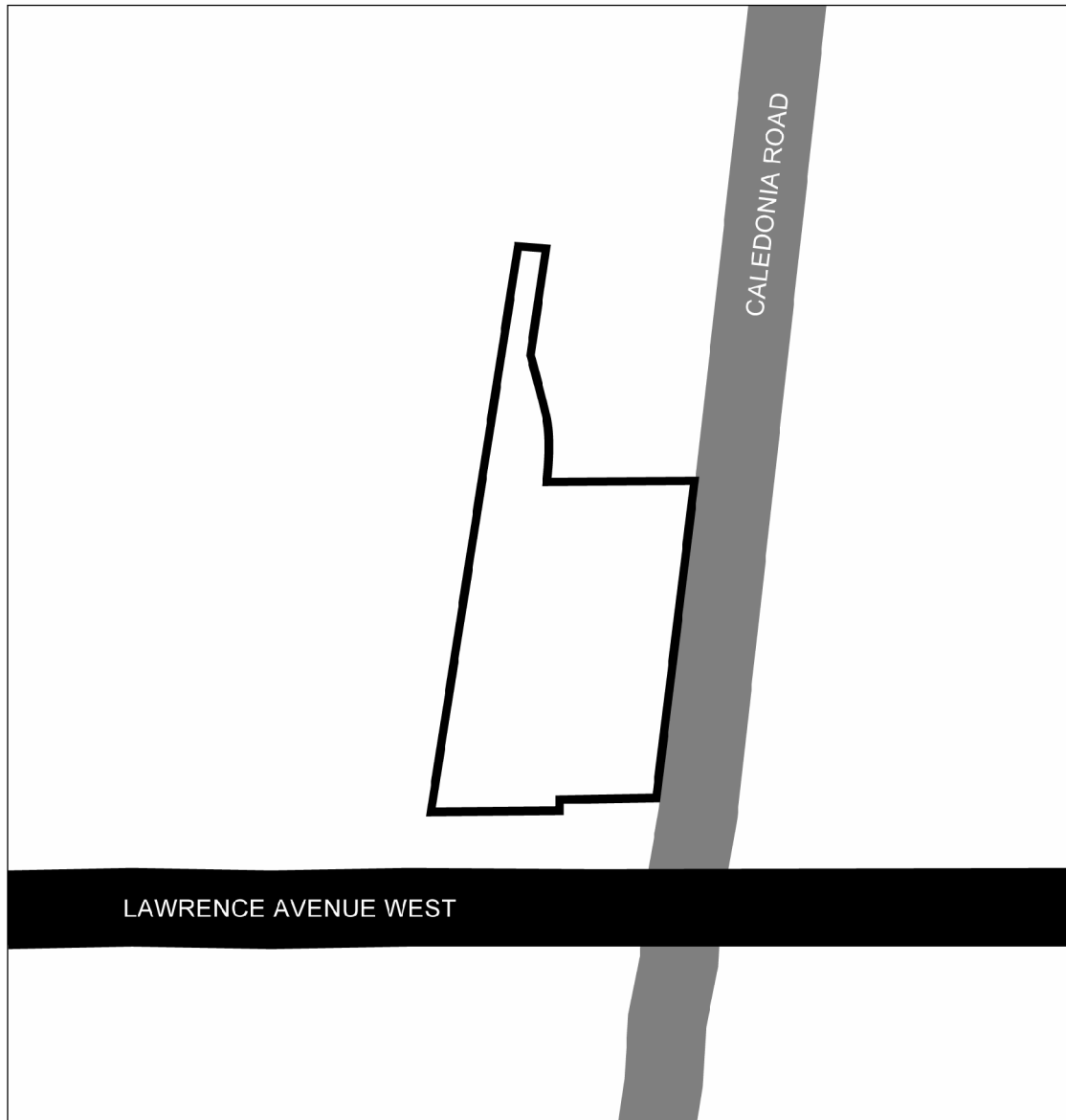
1100 -1150 Caledonia Road

File # 09_153993



Not to Scale
08/14/09

Attachment 4: Official Plan – Map 3, Right-of-Way Widths Associated with Existing Major Streets



Toronto City Planning

Official Plan Map 3 - Right-of-Way Widths Associated with Existing Major Streets

1100 -1150 Caledonia Road

File # 09_153993




 Not to Scale
 08/14/09

**Attachment 5: *Employment Areas* Policies of the Official Plan –
Policies 4.6.3 and 4.6.4**

Policy 4.6.3

- “3. Large scale, stand-alone retail stores and “power centres” are not permitted in *Employment Areas* in the *Central Waterfront* and are only permitted in other *Employment Areas* fronting onto major streets as shown on Map 3, that also form the boundary of the *Employment Areas* through the enactment of a zoning by-law. Where permitted, new large scale, stand-alone retail stores and “power centres” will ensure that:
- a) sufficient transportation capacity is available to accommodate the extra traffic generated by the development, resulting in an acceptable level of traffic on adjacent and nearby streets; and
 - b) the functioning of other economic activities within the *Employment Areas* and the economic health of nearby shopping districts are not adversely affected.”

Policy 4.6.4

- “4. Consideration may also be given to permit large-scale and stand-alone retail stores in locations on major streets, as shown on Map 3, that do not form the boundary of *Employment Areas*, other than in the *Central Waterfront*, only by way of an Official Plan Amendment, if it can be demonstrated, among other matters, that:
- a) such development will not undermine the stability of the *Employment Area* and will have particular regard for the viability of industrial uses;
 - b) sufficient transportation capacity is available to accommodate the extra traffic generated by the development, resulting in an acceptable level of traffic on adjacent and nearby streets; and
 - c) the economic health of nearby shopping districts is not adversely affected.”
-