



## STAFF REPORT ACTION REQUIRED

### 3101 Kennedy Road – Zoning Application – Refusal Report

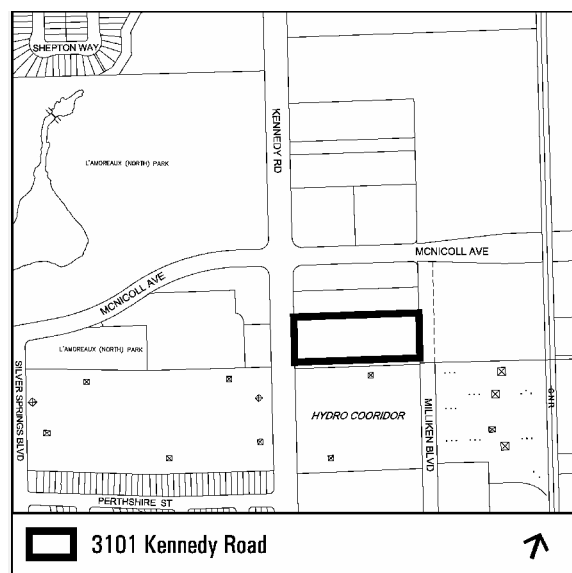
<b>Date:</b>	January 20, 2009
<b>To:</b>	Planning and Growth Management Committee
<b>From:</b>	Chief Planner and Executive Director
<b>Wards:</b>	Ward 39 – Scarborough-Agincourt
<b>Reference Number:</b>	08 147003 ESC 39 OZ

#### SUMMARY

This application was made on or after January 1, 2007 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

This application proposes to amend the existing industrial zoning of the site to expand the range of permitted uses to include retail stores, restaurants, personal service shops, libraries, financial institutions and medical and dental offices. The uses would be contained within three proposed separate single storey buildings with 229 parking spaces at grade at 3101 Kennedy Road.

The proposal to permit a commercial shopping centre in an employment area does not conform to the Toronto Official Plan and the Province's Growth Plan for the Greater Golden Horseshoe. This report recommends refusal of the proposal in its current form. The broad range of retail and service uses requested would require an official plan amendment. 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, or not conflict with the Growth Plan.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. City Council refuse the application in its current form as the proposal does not conform to the Official Plan, conflicts and does not conform with the Growth Plan for the Greater Golden Horseshoe and is inconsistent with the Provincial Policy Statement.
2. Should the applicant wish to reconsider the retail and service use components of their proposal, City staff and the applicant work together on a rezoning proposal which would conform and be consistent with the Official Plan and the Growth Plan and be consistent with the Provincial Policy Statement.

### **Financial Impact**

The recommendations in this report have no financial impact.

## **ISSUE BACKGROUND**

### **Proposal**

On April 14, 2008 Gatzios Planning & Development Consultants Inc., on behalf of Scrillion Developments Inc. applied for a zoning by-law amendment to construct 3, single storey buildings containing commercial units. The applicant has advised that the rezoning is seeking permission for a wide range of retail and service uses.

The proposed total gross floor area is 4,808 square metres (51,754 sq. ft.) or 0.35 times the area of the lot and the proposed height is 5 to 8 metres. A total of 229 parking spaces located at grade are proposed. See Attachment 4: Application Data Sheet.

### **Preliminary Report**

In the Preliminary Report submitted to the June 12, 2008, Scarborough Community Council, staff advised that a determination on Official Plan conformity was outstanding due to insufficient information. The report indicated that once additional information was provided by the applicant clearly indicating types/size/employment uses proposed, a determination of conformity to the Official Plan would be made. The applicant has not identified the specific retail and service businesses that would locate within the development. The applicant has requested a wide range of retail and service uses and has not agreed to any limitations on the type and amount of retail uses and services.

### **Site and Surrounding Area**

The 13,597 square metre (3.36 acres) site is located on the east side of Kennedy Road, just south of McNicoll Avenue. The site also abuts the proposed future extension of

Milliken Boulevard to the east, which will allow future points of access and egress. The site is currently vacant with only sparse vegetation located predominantly along the edges of the property.

The surrounding uses are as follows:

North: 1 and 2 storey industrial buildings

South: hydro corridor

East: directly abutting proposed future extension of Milliken Boulevard, with vacant industrial lands further east

West: 12 storey residential building

## **Provincial Plans**

### **Provincial Policy Statement**

The 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 key objectives include:

- 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” (emphasis added). 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 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 and cultivating a culture of conservation. City Council's planning decisions are required by the Planning Act, to conform, or not conflict with, the Growth Plan for the Greater Golden Horseshoe.

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” (emphasis added). 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.

Staff have reviewed the proposal and have concluded that without restrictions on the type and amount of retail and service uses, the applicant’s proposal is not consistent with the PPS and does not conform with the Growth Plan of the Greater Golden Horseshoe.

## **Official Plan**

The Official Plan designates the site “Employment Areas”, and permits such uses as: office, 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. (See Attachment 2: Official Plan)

The site is identified as an Employment District on Map 2 Urban Structure. Policy 1 of the Employment District identifies the need to protect and promote these areas for economic activity in order to attract new and expand existing employment clusters that are key to Toronto’s competitive advantage, develop quality Employment Districts that are global and nurture Toronto’s diverse economic base; provide a range of employment opportunities for Toronto residents that can be reached by means other than the private automobile.

Employment Districts will be enhanced to ensure they are attractive and function well, through actions such as: permitting a broad array of economic activity and facilitates firms with functional linkages to locate in close proximity to one another; investing in key infrastructure or facility investment through special tools, programs or partnerships in order to promote the distinctive character or specialized function of a District to attract firms within a particular targeted cluster of economic activity.

In addition to the general policies of the Official Plan, Site and Area Specific Policy No. 104 applies to the subject lands and states that: “Business and trade schools, libraries, fraternal organizations, long term care facilities, recreational uses and places of worship are permitted.”

## **Zoning**

The subject site is located within two zoning categories, the front portion being an Industrial Zone (M), permitting Day Nurseries, Educational and Training Facility Uses, Industrial Uses, Offices, excluding medical and dental offices, Places of Worship, and Recreational Uses. The gross floor area of all buildings is restricted to 0.5 times the area of the lot.

Exception #202 which also relates to the front portion of the site, prohibits non-accessory ground signs (excluding market place signs) and wall signs which are non-accessory.

The rear portion of the site is zoned Industrial (M), General Industrial (MG), and Special Industrial (MS), which permits the same uses as the Industrial zone above plus Open Storage and Special Industrial Uses. As above, the gross floor area of all buildings is restricted to 0.5 times the area of the lot.

## **Site Plan Control**

The proposed development is subject to site plan control. An application for site plan approval has been submitted.

## **Reasons for Application**

The existing zoning on the lands municipally known as 3101 Kennedy Road does not permit the proposed broad range of commercial and employment uses requested by the applicant. The site would need to be rezoned in order to permit additional uses including restaurants, personal service stores, retail stores and medical offices as proposed by the applicant. To allow this proposal in its current form, an official plan amendment is also required but has not been submitted. The applicant's proposal does not comply with the existing zoning requirements respecting density, side, front and rear yard setbacks, and minimum number of parking spaces for restaurant uses.

## **Community Consultation**

A community consultation meeting was scheduled with the local Councillor on September 22, 2008, with approximately 8 residents in attendance. Concerns centered on parking and traffic issues. No other significant issues were raised.

## **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application

## **COMMENTS**

### **Provincial Plans and Policy Statement**

The main issue raised by this application with respect to Provincial plans and policy is the introduction of a broad range of retail and service uses and the resulting 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 to 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 to the Growth Plan.

Under the Provincial Policy Statement, which should be read in conjunction with the Growth Plan, conversion of lands within employment areas to non-employment uses is permitted only through a comprehensive review that has generally demonstrated among other matters 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.

## **Official Plan**

The principal issue with the subject application is the conversion of the lands from employment uses to non-employment uses that are not provided for within the Official Plan's Employment Areas designation.

Policy 1 of Employment Areas provides for uses that support business and economic activity. Employment Areas exist to support business activity by providing land, buildings and infrastructure for employment and employment clusters. To assist employers with their economic function, uses that play a supporting role are permitted. These uses are identified in Policy 1 and include: 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.

Within Employment Areas, retail uses that are not large scale, stand-alone or power centres are only provided for when they are ancillary to a manufacturing, distribution or other economic function, or when they are small scale stores and services that primarily or exclusively serve area businesses and workers. Examples of stores and services serving area businesses and workers include banks, personal service shops, photocopy stores, specialized equipment rental stores, and specialized service providers intended primarily for manufacturers or media facilities. As the application does not propose to restrict the range of retail stores or services to small scale stores and services that serve area businesses and workers, the proposed retail stores and services do not conform to the Official Plan and therefore represent a conversion to non-employment uses.

Employment Areas policies do not provide for small or medium scale retail uses that are intended to serve a general public market that is broader than an Employment Area. The Employment Areas are to be protected for business and economic activities, and not for retailing districts. Locating small and medium retail uses in Employment Areas that are specifically intended to serve a broader market, would have a number of negative impacts upon the functioning of the Employment Areas.

Firstly, they would reduce the availability of lands for the prime economic functioning of the Employment Areas. As Hemson has noted in the report “Long Term Employment Land Strategy”, adopted by Council June 4, 2007, Employment Districts are required to remain available for employment purposes, for those uses that support that role, and for the establishment and growth of economic clusters.

Secondly, locating those small and medium scale retail uses intended for a broader market within Employment Areas would have significant impacts upon the interiors of Employment Areas. While the subject application, on a major street at the Employment Area edge, would not have this particular impact at this time, the principle of permitting these types of retail uses could set a precedent for future retail uses within the hearts of the Employment Areas. As noted previously Milliken Boulevard will be extended north to McNicoll Avenue in the future which will provide egress and access opportunities from this site to and from an interior employment area. The establishment of small and medium scale retail uses intended for a broader market along the Milliken Boulevard frontage would set a negative precedent in the interior area and is not supported by staff.

The Official Plan specifically encourages and directs retail uses to locate within Mixed Use Areas and Regeneration Areas. In addition, small scale retail and service uses are provided for in Neighbourhoods, when meeting specific criteria and locating along major streets shown on Map 3. Small scale stores and services are also provided for within the City’s Apartment Neighbourhoods.

It is not possible to determine whether the unspecified retail tenants in the proposed Buildings “A, B and C” will be of a nature provided for within the Employment Areas. In the absence of any restrictions in the proposed zoning of the site the application should be refused.

The applicant continues to maintain the position that the proposal and uses comply with the Official Plan policies. A draft zoning by-law was submitted by the applicant. Based on a review of the submitted material, staff determined that the proposed zoning by-law does not restrict retail and service uses to those designed to support the Employment Area. Therefore the zoning should be opposed as the application does not conform with the Official Plan and the Growth Plan and is not consistent with the PPS.

### **Economic Impact**

The loss and/or conversion of valuable employment lands to various commercial/retail uses are not supported by the Economic Development Division. Staff are of the opinion that the retention of land and floor space for industrial uses is crucial for the following reasons:

Industrial land/floor space offers the City of Toronto creative space that is going to be the cornerstone of Toronto’s economy. Toronto’s Agenda for Prosperity speaks to what will drive Toronto’s economy in the coming years envisioning a global business and an inspiring city being a hub of environmental innovation and a beacon of diversity and cohesion. For the City’s Agenda for Prosperity to be successful, creative space will be required.

Pillar three of the four prosperity pillars identifies creativity as part of the framework for success:

#### **Pillar 3: Creative Toronto: Productivity and Growth**

Anchor and expand strategic industry sectors through increased competition and collaboration

Toronto’s new Financial Incentive Program provides direction into the type of development the City would like to encourage by incenting the manufacturing, creative, biotechnology, environmental, information and communication technology, and tourism industries. The majority of these industries typically locate on industrial land/floor space.

Industrial land/floor space provides a wide range of potential users the opportunity to utilize the area. Industrial land/floor space can be used for manufacturing, distribution, research and development, administration, and artistic/creative ventures.

Manufacturing activity can be found on thousand’s of Toronto’s industrial sites having a profound positive impact on the economies of Toronto and Canada. The following passage, from the publication 'Manufacturing Our Future – Competing to Win' from the Canadian Manufacturing Coalition provides an excellent summary on the importance of manufacturing:



Manufacturing is the most important wealth generating sector of the Canadian economy. It is the largest single business sector in Canada. Manufacturing directly accounts for 17 per cent of the country's GDP. Manufacturers employ over 2.1 million Canadians. They account for two-thirds of Canada's goods and services exports and three-quarters of all private sector research and development activity in Canada. Every dollar in value generated in manufacturing adds an estimated \$3.05 in total economic activity. Manufacturers are an important source of demand for resources, energy and services from all other sectors of the Canadian economy.

In terms of wages, the average weekly earnings (including overtime) for all employees in Canada in August 2008 in Manufacturing was \$955.30 compared to Other services (excluding public administration) at \$611.90, Retail at \$509.55 and Accommodation and Food Services at \$345.51 (Statistics Canada, 'The Daily', Oct 29, 2008).

Toronto has a limited amount of land available for industrial uses. Due to rezonings and redesignations, Toronto has lost hundreds of acres of industrial land and thousands of square feet of industrial floor area since 1998. Most of this land and floor space is now residential permanently removing this land/floor space from the potential of industrial uses. It is important to retain this important resource for future industrial uses.

### **Traffic Impact, Access, Parking**

Traffic, access and parking have not adequately been addressed to satisfy staff's concerns. Further information will be required to make an assessment on the appropriateness of the proposal.

### **Servicing**

Servicing for the site has not been fully designed. Technical Services staff have advised additional information relating to servicing will be required in order to determine the appropriateness of the proposal.

### **Toronto Green Development Standard**

The applicant has not indicated their intentions in relation to the Green Development Standards or the Design Guidelines for 'Greening' Surface Parking Lots. Both of these documents would be applicable to these applications.

### **Conclusion**

City Planning staff do not support the proposal in its current form. Staff met with the applicant on a number of occasions to discuss the proposal and attempt to reach an agreement on an acceptable amount of small scale stores and services that serve area businesses and workers. However, the applicant was not agreeable to limiting the type or amount of retail and service uses. On this basis, the application should be refused as it does not conform to the City's Official Plan and the Growth Plan for the Greater Golden Horseshoe and is not consistent with the Provincial Policy Statement. 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 to the Growth Plan. Should the applicant be prepared to revise the proposal in compliance with the City's Official Plan, a supportable development on this site may be possible.

## **CONTACT**

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## **SIGNATURE**

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Gary Wright, Chief Planner and Executive Director  
City Planning Division

## **ATTACHMENTS**

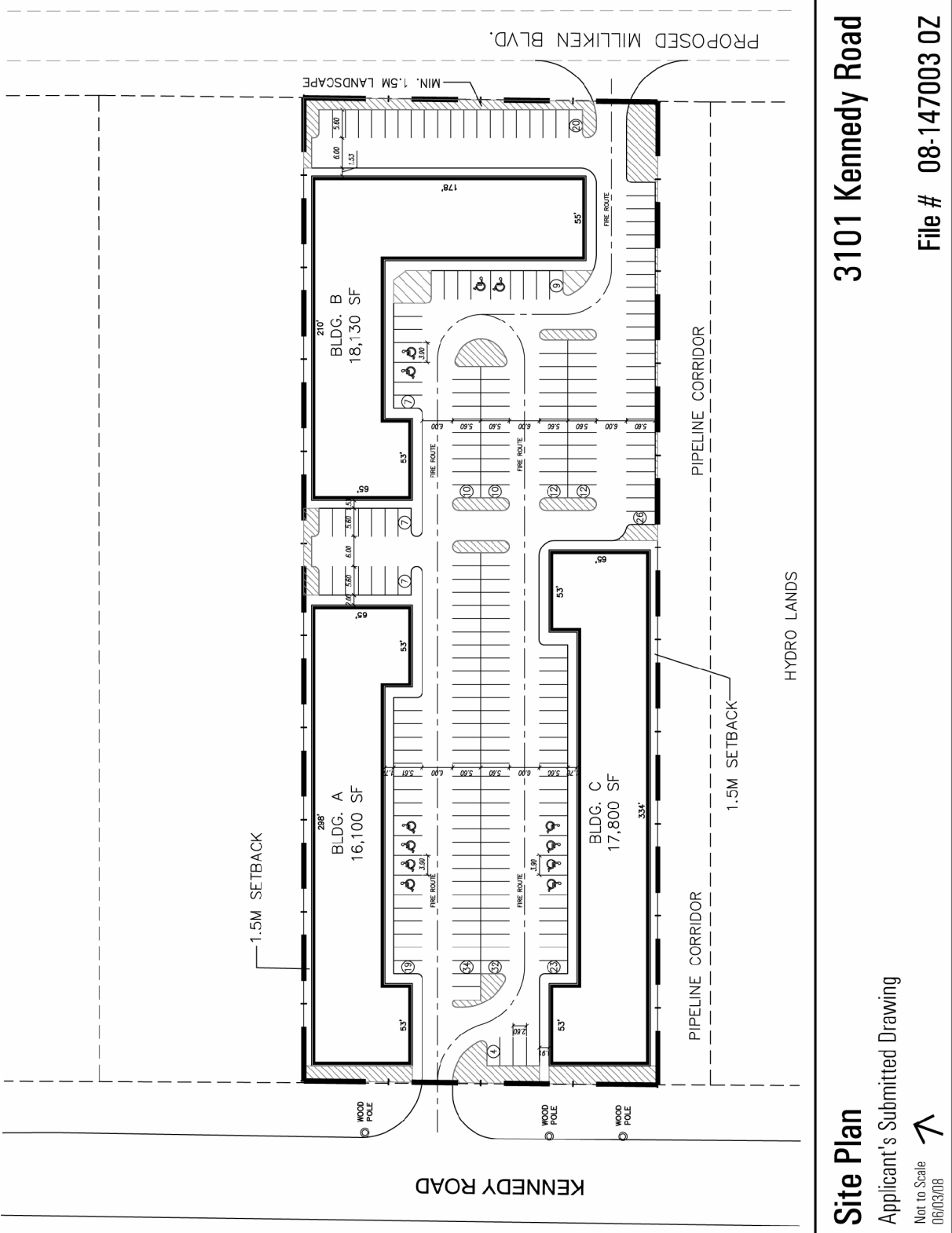
Attachment 1: Site Plan

Attachment 2: Official Plan

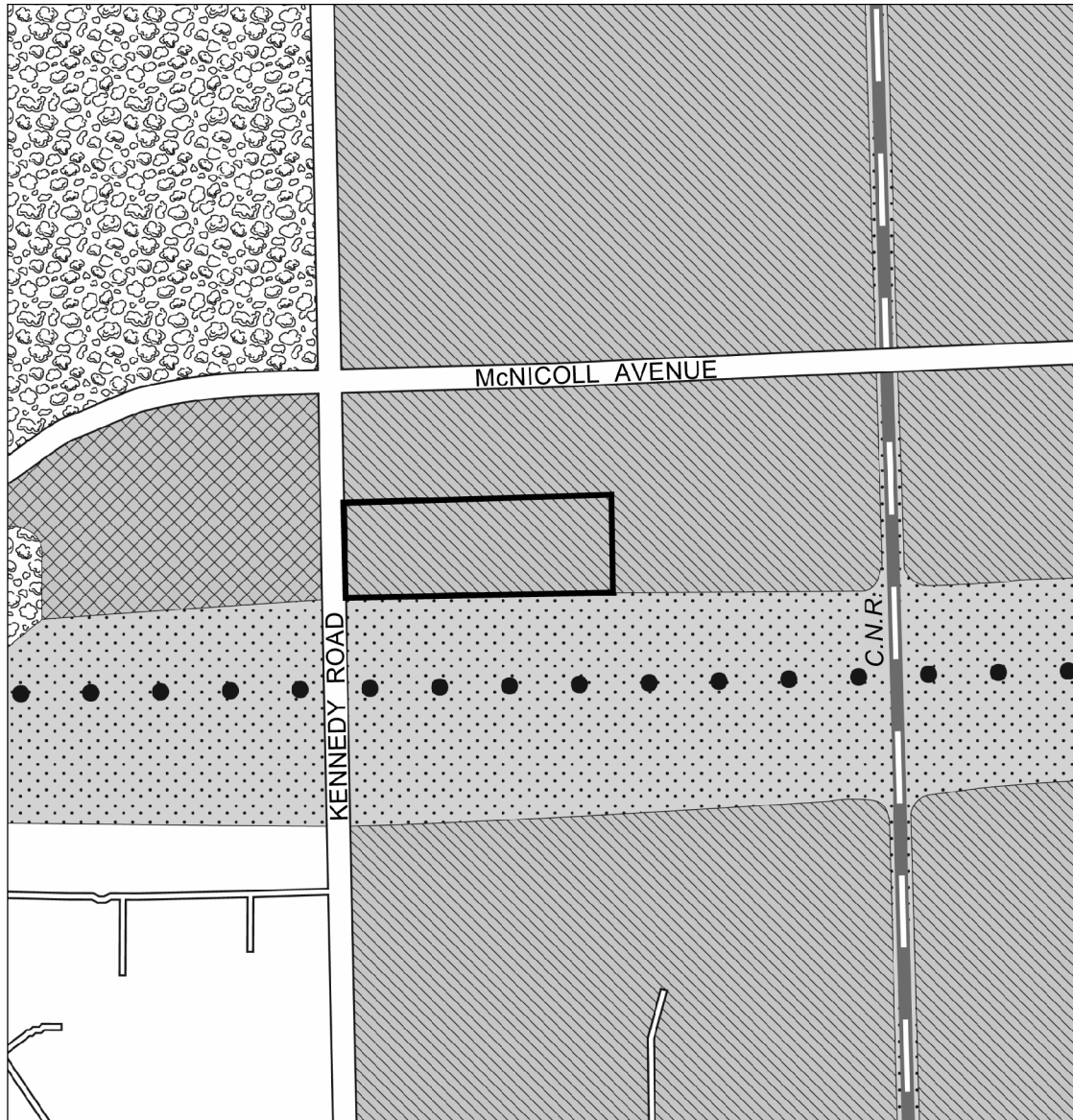
Attachment 3: Zoning

Attachment 4: Application Data Sheet

Attachment 1: Site Plan



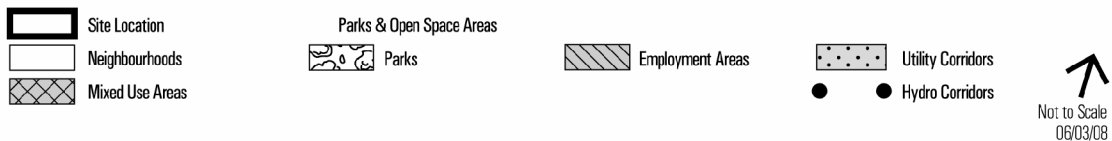
## Attachment 2: Official Plan



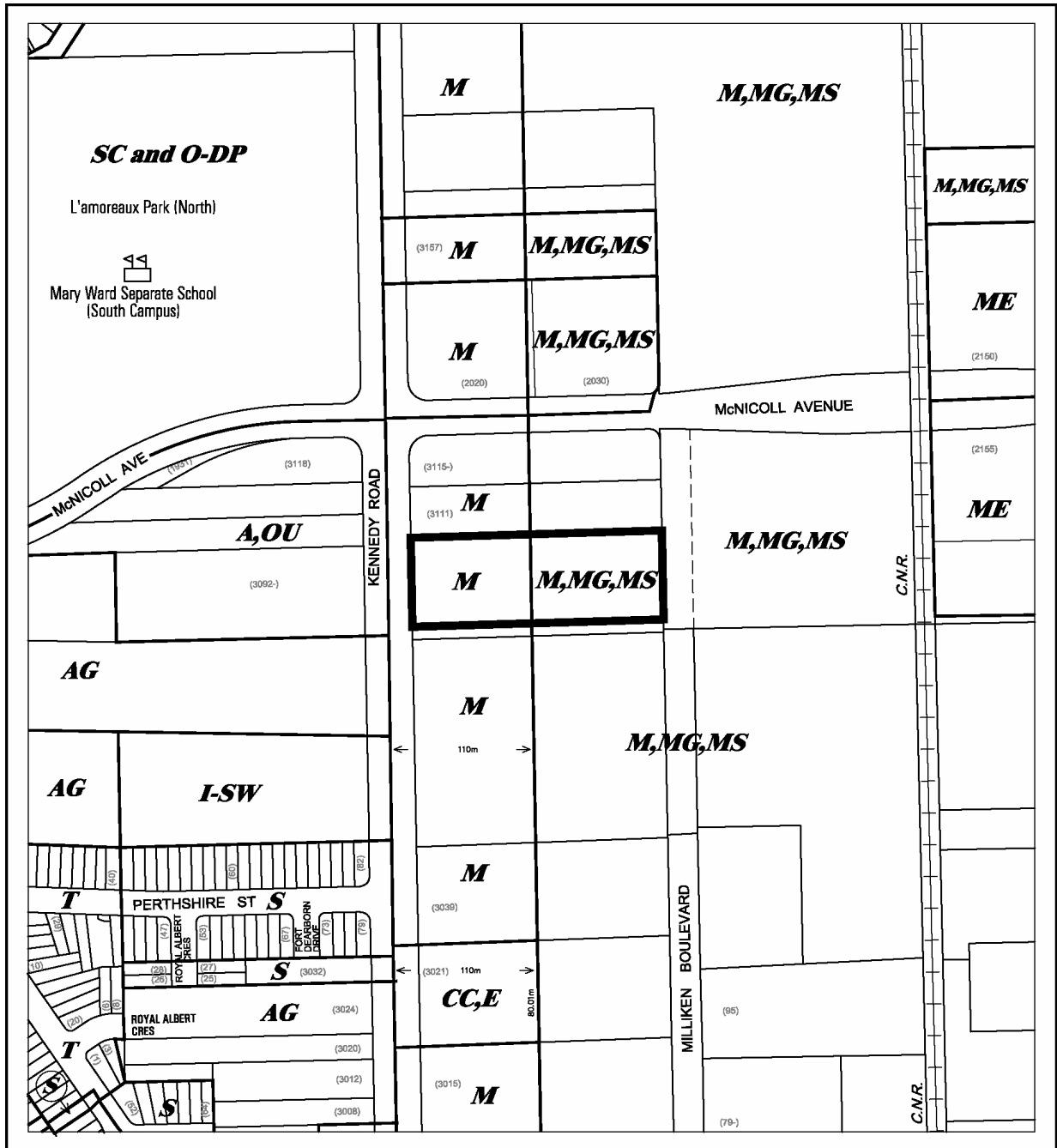
**Toronto** City Planning  
Official Plan

3101 Kennedy Road

File # 08-147003 02



### Attachment 3: Zoning



**Toronto** City Planning  
Division  
**Zoning**

3101 Kennedy Road  
File # 08-147003 OZ

<b>M</b> Industrial Zone	<b>E</b> Employment Zone	<b>AG</b> Agricultural Uses	<b>SC</b> School	Milliken Employment District
<b>ME</b> Mixed Employment Zone	<b>CC</b> Community Commercial Zone	<b>OU</b> Office Uses		Not to Scale
<b>MG</b> General Industrial Zone	<b>S</b> Single-family Residential	<b>I-SW</b> Institutional - Social Welfare		06/02/08
<b>MS</b> Special Industrial Zone	<b>T</b> Two-family Residential	<b>O-DP</b> Open Space District Park		



## Attachment 4: Application Data Sheet

Application Type	Rezoning	Application Number:	08 147003 ESC 39 OZ
Details	Rezoning, Standard	Application Date:	April 14, 2008

Municipal Address: 3101 KENNEDY RD

Location Description: \*\*GRID E3903

Project Description: Application to amend the zoning by-law to introduce additional uses on the subject lands that include: restaurants, personal service stores, retail stores and medical offices, and to reduce the parking ratio for restaurant uses.

### Applicant:

GATZIOS PLANNING  
AND DEVELOPMENT  
CONSULTANTS INC

### Agent:

### Architect:

### Owner:

SCRILLION  
DEVELOPMENTS INC

## PLANNING CONTROLS

Official Plan Designation:	Employment Areas	Site Specific Provision:	
Zoning:	M, MG, MS	Historical Status:	
Height Limit (m):		Site Plan Control Area:	Y

## PROJECT INFORMATION

Site Area (sq. m):	13597	Height:	Storeys:	1
Frontage (m):	70		Metres:	8
Depth (m):	194			
Total Ground Floor Area (sq. m):	4808			<b>Total</b>
Total Residential GFA (sq. m):	0		Parking Spaces:	229
Total Non-Residential GFA (sq. m):	4808		Loading Docks	0
Total GFA (sq. m):	4808			
Lot Coverage Ratio (%):	35.4			
Floor Space Index:	0.35			

## DWELLING UNITS

## FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:			Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	0	0
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	0	Office GFA (sq. m):	0	0
2 Bedroom:	0	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	0			

<b>CONTACT:</b>	<b>PLANNER NAME:</b>	<b>Michael Mestyan, Senior Planner</b>
	<b>TELEPHONE:</b>	<b>416-396-7026</b>