

850-858 York Mills Road Rezoning Application – Refusal Report

Date:	July 30, 2010
To:	Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning Division
Wards:	Ward 34 – Don Valley East
Reference Number:	pg10062 (09 165590 NNY 34 OZ)

SUMMARY

This application was made on September 3, 2009 and is subject to the new provisions of the *Planning Act* and the *City of Toronto Act, 2006*.

This application proposes to rezone the lands at 850-858 York Mills Road to permit what is described as a 15 storey 438 unit all-suites hotel with accessory retail, service commercial, restaurant and professional/medical office uses.

The Preliminary Report dated October 22, 2009 raised concerns that the proposed development was a seniors care/residential facility which is not permitted in Employment Areas, and requested the applicant to provide additional information to clarify the proposed use. The applicant has not provided the requested information.

This report recommends refusal of the application.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the application



as the proposal does not conform to the Official Plan.

2. Should the Zoning By-law Amendment application be appealed to the Ontario Municipal Board, the City Solicitor and City staff be authorized to appear before the Ontario Municipal Board in support of Council's refusal.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

At its meeting of November 10, 2009 North York Community Council directed that City Planning staff schedule a community consultation meeting on the proposed development after the applicant has submitted information clarifying the proposed hotel use. The applicant has not yet submitted any information in this regard.

ISSUE BACKGROUND

Proposal

The applicant is seeking to redevelop the site with what is described as a 15 storey all-suites hotel with accessory retail, service commercial, restaurant and professional/medical office uses including a pharmacy and fitness centre. The hotel would have a total of 438 suites comprised of 312 one-bedroom units and 126 two-bedroom units. Each of the suites would have kitchen facilities containing a cook-top and fridge. The applicant advises the hotel is intended for use by seniors such as seniors who live with their relatives and would stay in the hotel while their relatives are away and by seniors who are visiting their relatives from overseas for extended periods of time (2 to 3 months). The hotel would provide extended care and housekeeping.

The ground floor of the hotel would have a variety of commercial uses including a 227 m² medical centre, 280 m² pharmacy, hair salon and bank. The second floor of the hotel would include a restaurant and dining room, fitness facilities, conference and meeting rooms. In addition, the applicant is seeking to permit a range of other accessory uses including: adult education school, artist studio, commercial gallery, commercial school, community centre, day nursery, financial institution, laundry, office uses, outdoor café, personal service shop, restaurant, take-out restaurant, retail store and service shop.

A total of 474 parking spaces would be provided of which 175 would be surface spaces and 299 spaces would be provided in a below grade garage. The total proposed gross floor area is 34,021 m² representing a density of 2.4 FSI.

Site and Surrounding Area

The 1.42 hectare site is located on the north-west corner of York Mills Road and Lesmill Road. A significant grade change occurs along York Mills Road west of Lesmill Road as York Mills Road rises over the railway tracks in order to provide for a grade separation. Vehicular access to the site is provided from the portion of York Mills Road that goes under the York Mills Road overpass. In addition, there is a curb cut on Lesmill Road north of York Mills Road. The site is currently vacant with part of the site being used as parking for Rogers Communications.

Land uses surrounding the site are as follows:

North: industrial use.

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

East: on the east side of Lesmill Road are industrial, commercial and restaurant uses.
To the east is the Prince Hotel.

West: industrial use.

Lands abutting the site to the west and north are subject to an application by Home Depot for large-scale retail uses with a 2 storey parking garage.

Planning Act

In order to protect and preserve employment lands from conversion to non-employment uses such as residential, Section 22(7.3) of the *Planning Act* denies the right of appeal to the Ontario Municipal Board for Official Plan amendment applications which seek to remove any land from an area of employment that are refused by City Council.

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. The key objectives include: building strong communities; wise use and management of resources; and protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

Section 1.3 of the PPS includes policies on employment areas. In particular, section 1.3.1 requires the City to

- provide for a mix and range of employment uses (including industrial, commercial and institutional uses) to meet long-term needs;
- provide opportunities for a diversified economic base including maintaining a range and choice of suitable sites for employment activities;
- protect and preserve employment areas for current and future uses; and
- ensure that 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”.

Section 1.3.2 states that municipalities may permit conversion of lands within employment areas to non-employment uses 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.

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. City Council’s planning decisions are required to conform, or not conflict, with the *Growth Plan for the Greater Golden Horseshoe*.

Section 2.2.6 of the Growth Plan includes policies on employment lands. The Growth Plan requires the City to maintain an adequate supply of lands providing locations for a variety of appropriate employment uses to accommodate the employment growth forecasts of the Plan. Section 2.2.6.2 of the Growth Plan identifies the same criteria by which municipalities are to promote economic development and competitiveness as outlined in Section 1.3.1 of the PPS. The definition of an employment area in the Growth Plan is the same as that used in the PPS. The Growth Plan also states that municipalities may only permit conversion of lands within employment areas to non-employment uses through a municipal initiated comprehensive review.

Official Plan

The Official Plan identifies this site as being in an Employment District on the Urban Structure Map (Map 2) and designates the lands as Employment Areas on the Land Use Plan. The Official Plan seeks to protect and promote Employment Districts exclusively

for economic activity to maintain and grow the City's tax base, attract new and expand existing employment clusters and provide a range of employment opportunities.

Employment Areas are intended to be places of business and economic activity. The Official Plan indicates that 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 located on a major street shown on Map 3. The Plan also contains policy direction with respect to large scale, stand-alone retail stores. In order to ensure that Employment Areas work well and look good, the Plan sets out development criteria including: contributing to the support of the economic function of the area; encouraging key clusters of economic activity and transportation related criteria.

Zoning

The site is zoned Industrial-Office Business Park Zone MO(6). The MO Zone permits industrial, office and a range of commercial uses including a hotel, retail uses, restaurant, fitness centre, commercial school and other commercial uses. The maximum gross floor area permitted by the MO zone is 1.5 FSI.

The site is subject to a site specific zoning MO(6) which was approved in 1982, that only permits business and professional offices, medical offices, personal service shops, financial institutions, fitness centre, restaurants and retail stores. This was based on an office building use with retail and service commercial uses only permitted on the first floor. A maximum gross floor area of 35,510 m² is permitted and each retail store is not to exceed 400 m². All of the required parking is to be provided in a parking structure and there is to be no external advertising of the retail, personal service and fitness centre uses. The development to implement this zoning did not proceed and the site is vacant.

Site Plan Control

An application for Site Plan Control approval has not been filed.

Reasons for Application

The proposed hotel and accessory uses are not permitted by the existing site specific zoning for the site.

Community Consultation

North York Community Council recommended that a community consultation meeting on the proposal be scheduled after the applicant has submitted information clarifying the proposed hotel use. The applicant has not submitted the requested information. Consequently, a community consultation meeting has not been held.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions.

COMMENTS

Provincial Policy Statement and Provincial Plans

If the proposed hotel use is determined to be a residential use then the proposal does not conform to and conflicts with the *Growth Plan for the Greater Golden Horseshoe* and is not consistent with the *Provincial Policy Statement*. Section 14 of the *Places to Grow Act* 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 both the *Provincial Policy Statement* and the Growth Plan, permitting a residential use in an employment area is considered to be a conversion of employment lands. To consider an application for conversion of employment lands to a non-employment use, the PPS requires that a comprehensive review be conducted, and the Growth Plan requires that a municipal comprehensive review be conducted. 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 Growth Plan clarifies the definition of “municipal comprehensive review” by defining it 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 review is to demonstrate among other things, that there is a need for the conversion, the City will meet its employment forecasts, the conversion will not adversely affect the overall viability of the employment area and the lands are not required for employment purposes over the long term. No review has been initiated or completed by the City to demonstrate that any of the conversion criteria of the Growth Plan have been addressed.

Land Use

In the Preliminary Report dated October 22, 2009, staff raised concerns regarding the nature of the proposed hotel use. In a pre-application meeting held with the applicant on March 24, 2009 the applicant indicated that what was being considered was not a hotel but an assisted living seniors facility. At that meeting Planning staff advised that such a facility was not permitted by the Official Plan and the zoning by-law. The rezoning application that was submitted indicates the proposed use is for a hotel and accessory uses. In addition, the supporting material indicates that the proposed hotel is to be condominiumized.

The October 22, 2009 Preliminary Report stated the applicant should submit additional information to demonstrate that the proposed use is a hotel including information on its ownership and operation as a hotel and that compliance with the Official Plan must be confirmed.

On December 3, 2009 Planning staff met with the owner, their solicitor and planning consultant. The owner indicated the proposed use:

- is similar to Baycrest seniors facility;
- will provide temporary accommodation for seniors who are discharged from hospital;
- will provide accommodation for people coming out of hospital who need short-term stays to recover;
- will be marketed only for seniors – aimed at age 65 to 75 years;
- is not a Holiday Inn.

Representatives for the owner indicated they would submit information clarifying the proposed use and addressing concerns raised by staff. On February 23, 2010 staff contacted the applicant and were advised a response was being finalized and would be provided to the City shortly. The applicant has not provided any information clarifying the proposed use or addressing the issues raised in the Preliminary Report.

As a result, concerns remain regarding the nature of the proposed use. Based on what the owner has told staff, the proposed use is not a hotel but may be similar to a seniors residential care facility or retirement home which are uses that are not permitted by the Official Plan Employment Areas land use designation. Given that the applicant has not submitted the requested information, staff recommend that the application be refused. In addition, the application does not address the appropriateness of the proposed use on this site.

Given the fundamental issue of the nature of the proposed use, staff have not reviewed the specifics of the application nor have staff evaluated the application against other Official Plan policies that would otherwise apply.

Economic Development

Economic Development Division staff are opposed to the proposal for a number of reasons. The proposed use is not viewed as being a hotel but rather a unique kind of seniors residence. The proposed one and two bedroom suite sizes are considerably larger than the average hotel room size. While hotels are typically intended to provide lodging and other services to members of the travelling public, the proposal's primary use is that of a residence for seniors. Economic Development staff note that the applicant proposes to condominiumize the facility which they indicate is further evidence that the proposal is not a hotel.

The site is located in the York Mills/Leslie Business Park. Economic Development staff advise that the site is surrounded by employment uses which maximizes the potential for land use conflicts between residents of the seniors residence and the surrounding employment uses and may reduce the economic viability of the employment district.

Economic Development staff indicate the land is well suited for employment purposes and the area is a functional, stable and important employment district. The area offers a range of employment opportunities and generates a positive economic impact. Approval of the proposal may set a precedent for future conversion applications which may destabilize the area and place pressure for other conversions in the employment district.

Traffic Impact, Access and Parking

Transportation Services staff have reviewed the proposal and indicate that additional information is required regarding the operating characteristics of the proposed use including the type of seniors residence proposed, whether the proposed residence is for relatively independent residents or for those requiring varying degrees of assistance for daily needs and the staffing requirements for the establishment. Revisions to the traffic impact and parking study are required. In addition, Transportation Services staff indicate concerns with the proposed loading area.

Technical Services staff advise that revisions are required to the site plan to provide for a 1.44 metre widening along the entire Lesmill Road frontage as well as a relocated sidewalk.

Servicing

Technical Services staff advise the applicant is required to submit a sanitary sewer analysis to identify required improvements to the sanitary sewer system.

Conclusions

As indicated in the October 22, 2009 Preliminary Report, staff have concerns whether the proposed use is truly a hotel and requested that the applicant submit additional information to clarify the nature of the proposed use. The applicant has not provided the requested material. Given this, the specifics of the application have not been reviewed nor evaluated against Official Plan policies that would otherwise apply.

Based on the description of the use by the applicant, the proposal does not appear to be a hotel but a retirement home or seniors residential/care facility. If the proposed use is a residential use then the proposal does not conform with the Official Plan and the *Growth Plan for the Greater Golden Horseshoe* and is not consistent with the *Provincial Policy Statement*. As an institutional use, the residential care facility is not permitted by the Official Plan. This report recommends refusal of the application.

CONTACT

Nimrod Salamon
Senior Planner, Community Planning – North York District
Tel. No. (416) 395-7095
Fax No. (416) 395-7155
Email: nsalamon@toronto.ca

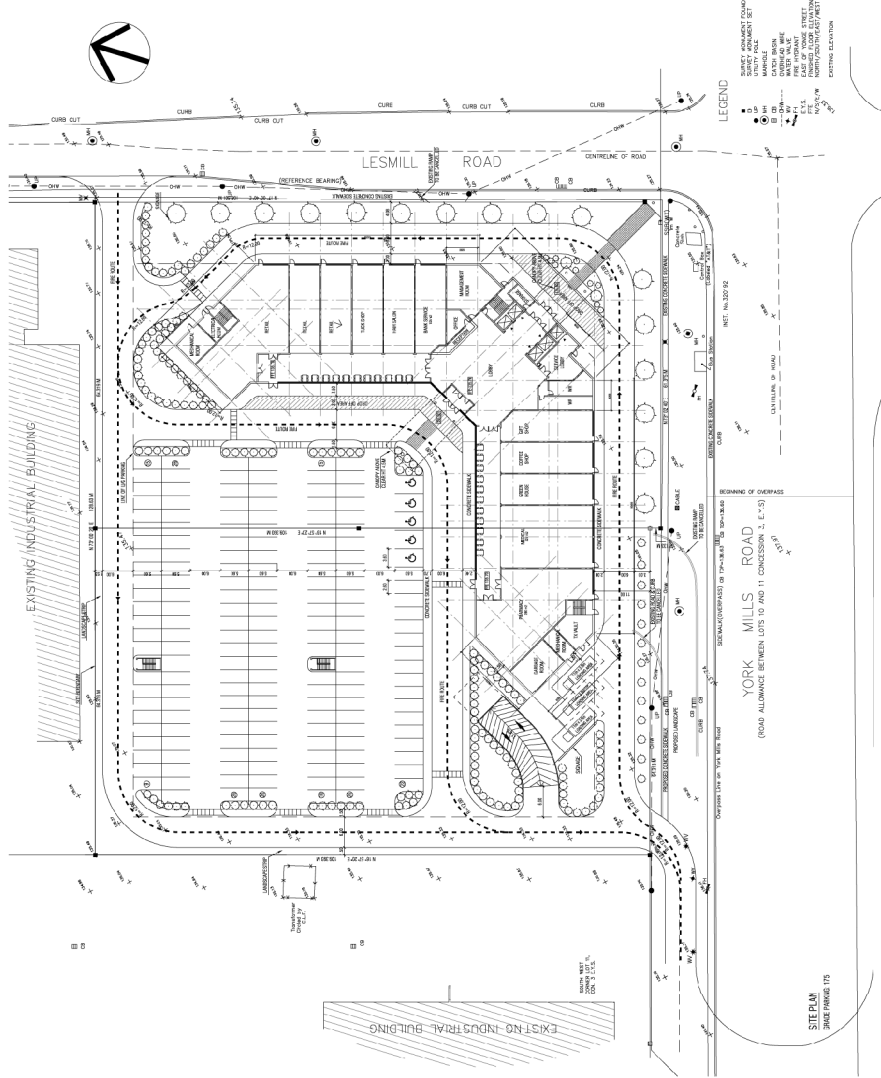
SIGNATURE

Gary Wright
Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: Elevations
Attachment 3: Zoning
Attachment 4: Official Plan
Attachment 5: Application Data Sheet

Attachment 1: Site Plan



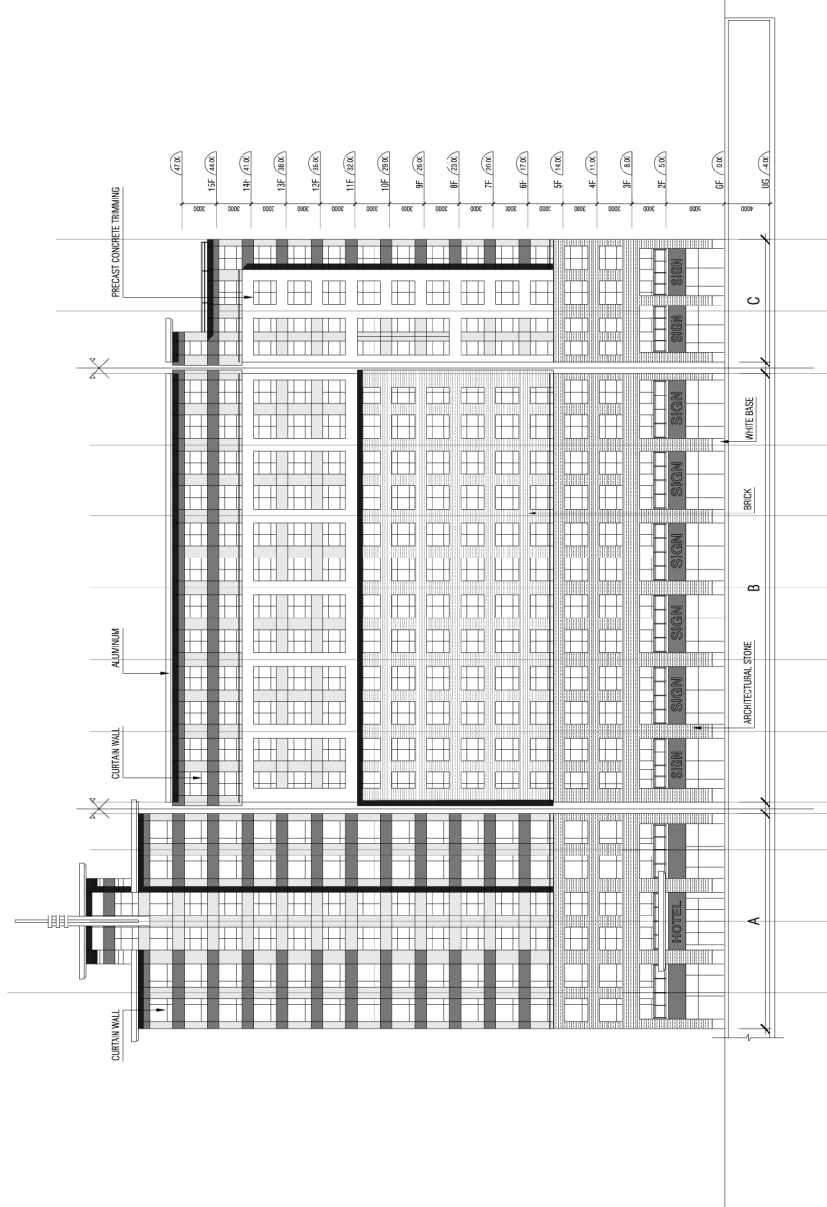
850 - 858 York Mills Road

File # 09_165590

Site Plan
 Applicant's Submitted Drawing

Not to Scale
 09/17/2009

Attachment 2: Elevations



North Elevation

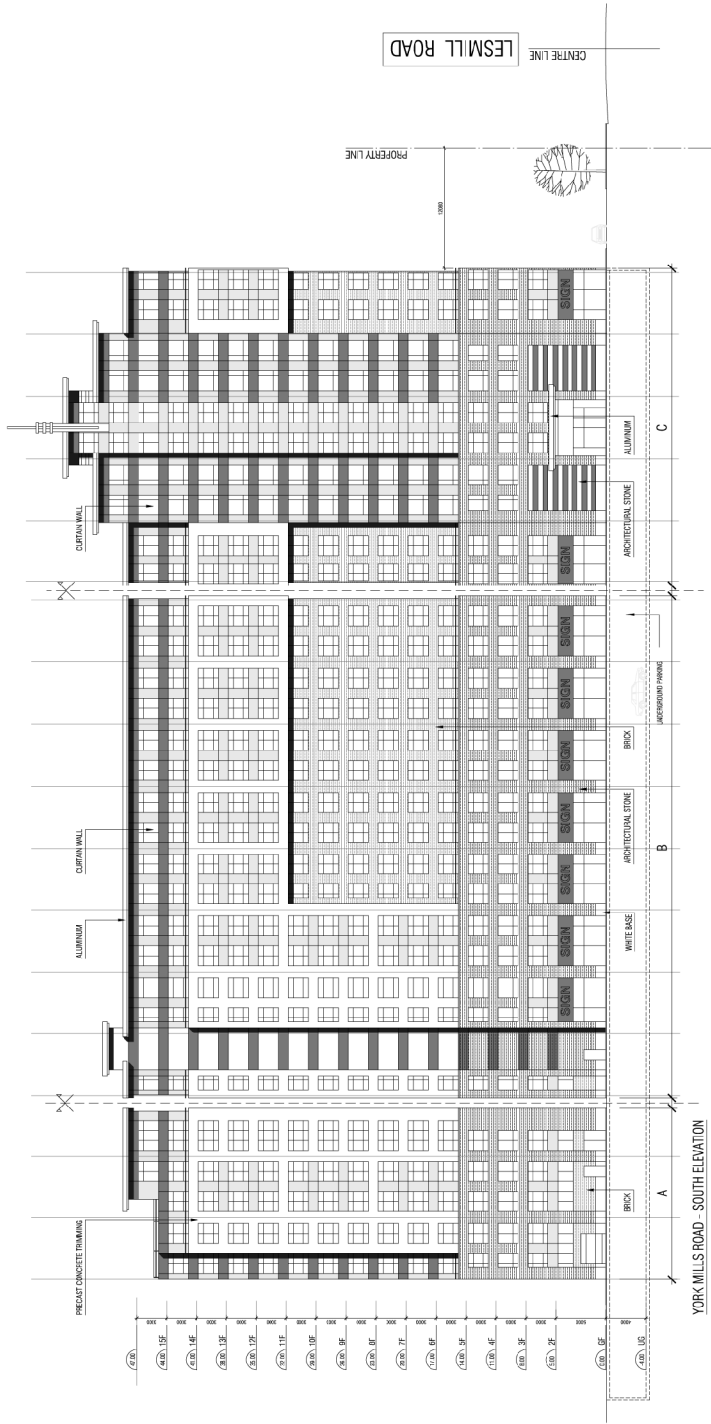
Elevations

Applicant's Submitted Drawing

Not to Scale
09/17/2009

850 - 858 York Mills Road

File # 09_165590



South Elevation

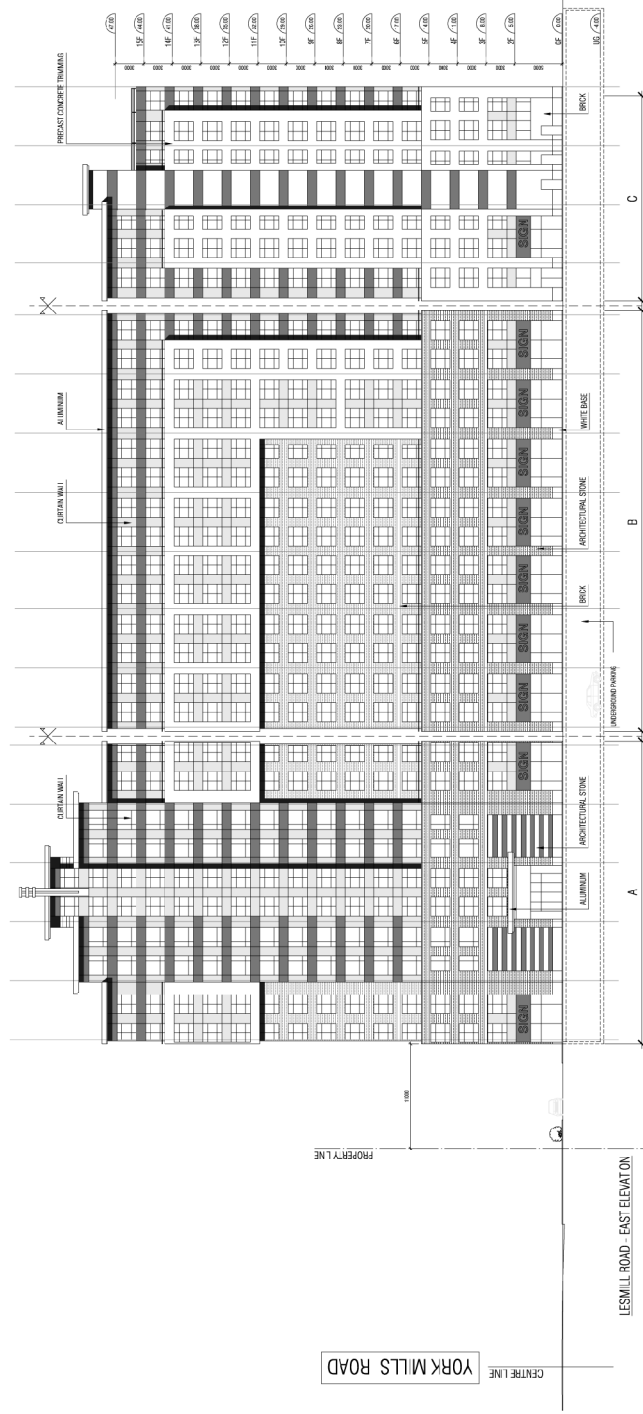
Elevations

Applicant's Submitted Drawing

Not to Scale
09/17/2009

850 - 858 York Mills Road

File # 09_165590



East Elevation

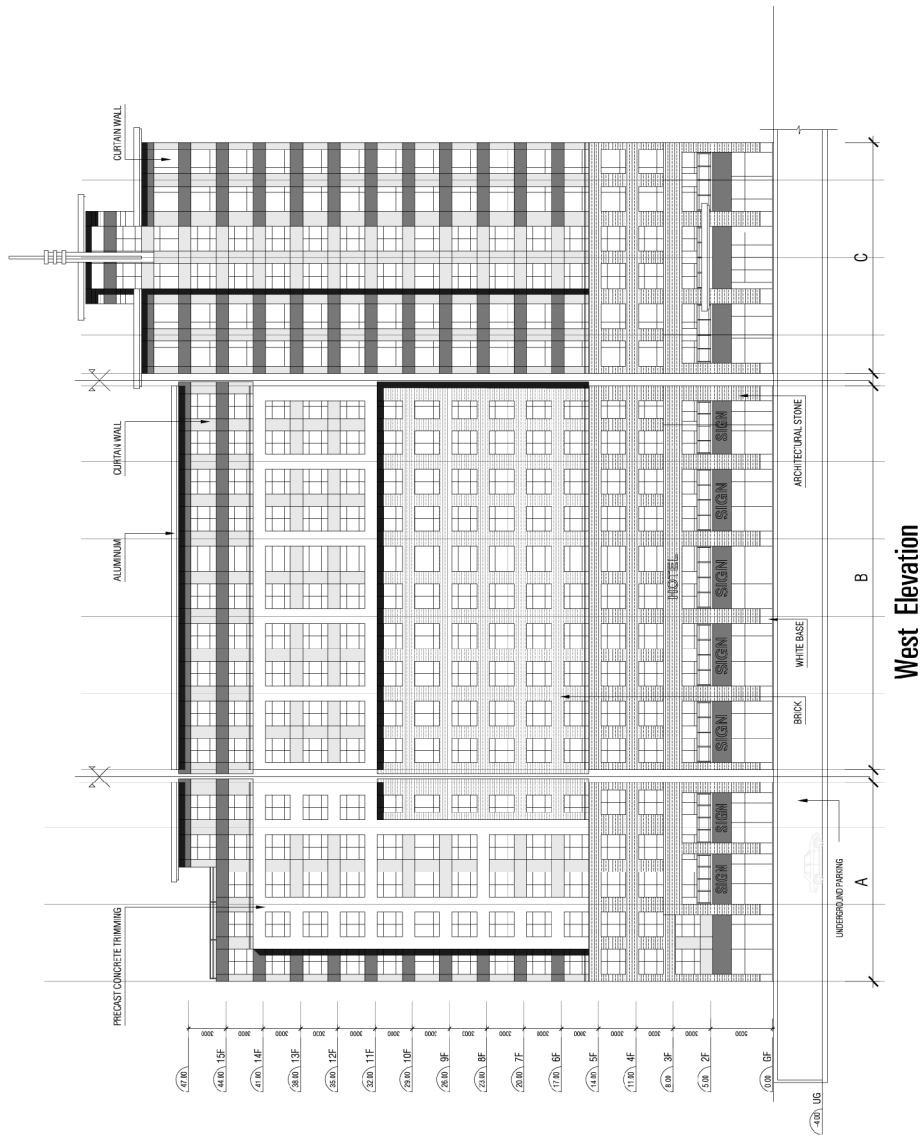
Elevations

Applicant's Submitted Drawing

Not to Scale
09/17/2009

850 - 858 York Mills Road

File # 09_165590



Elevations

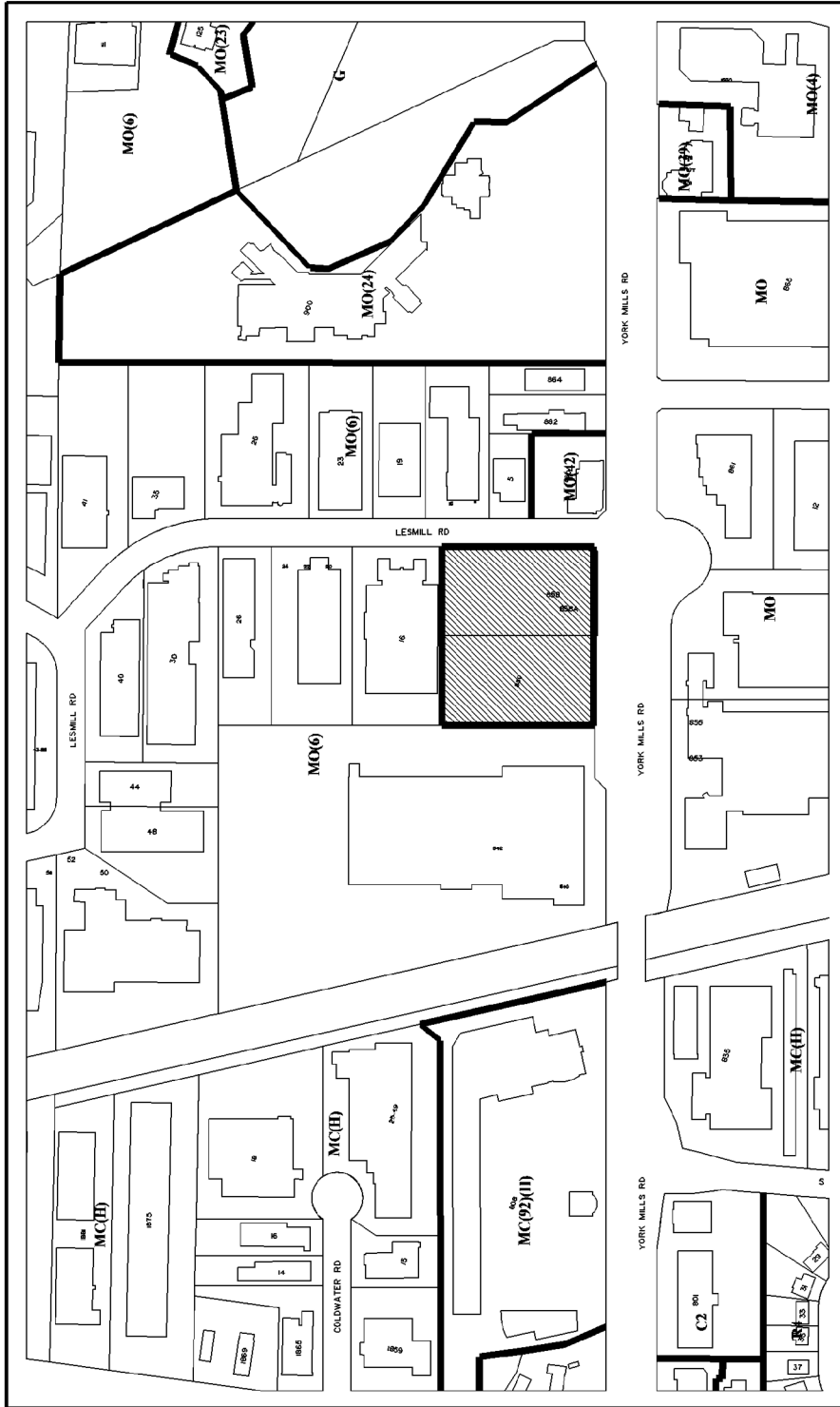
Applicant's Submitted Drawing

Not to Scale
09/17/2009

850 - 858 York Mills Road

File # 09_165590

Attachment 3: Zoning



Toronto City Planning
Zoning
850 - 858 York Mills Road
 File # 09 165590

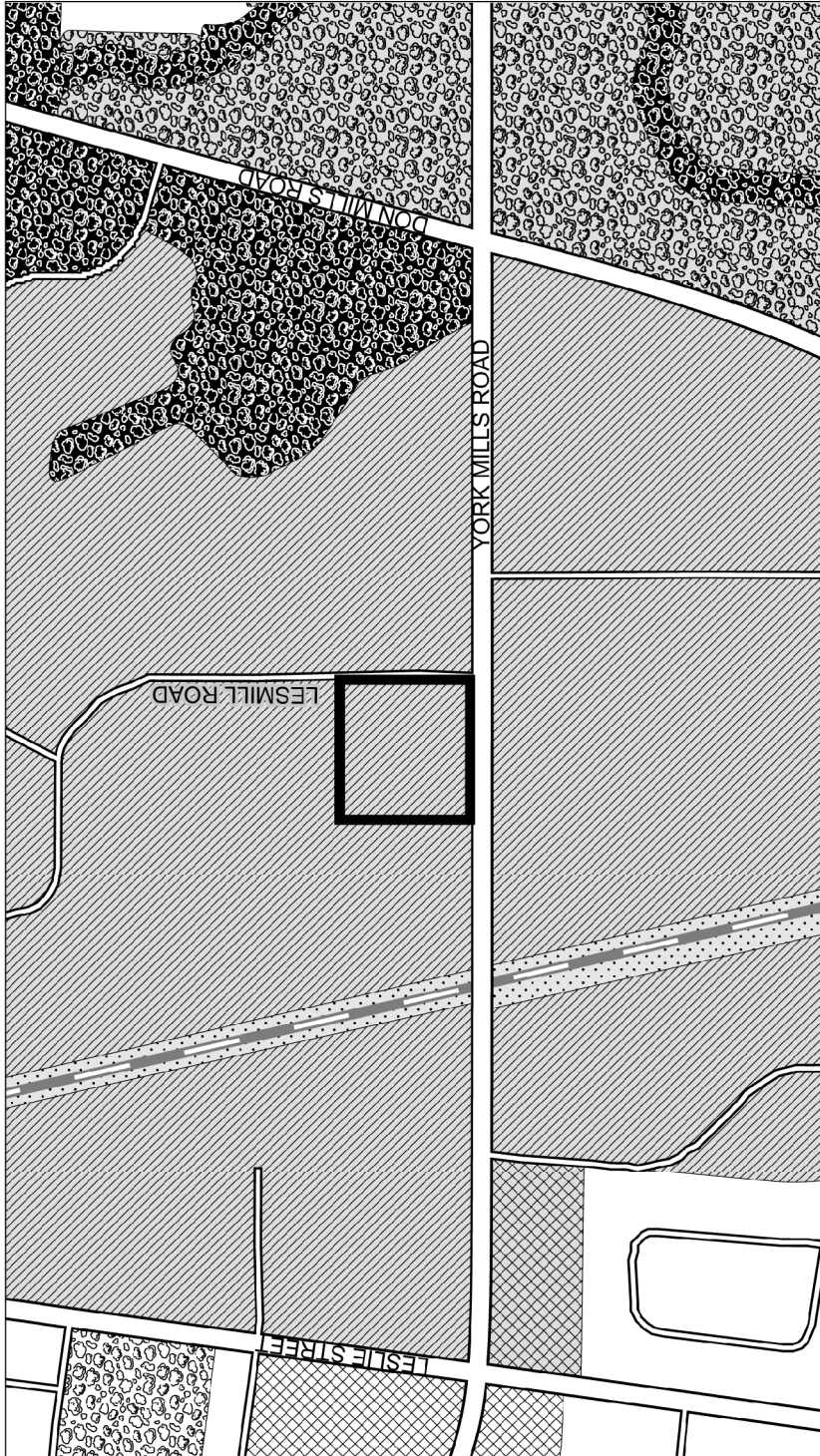
↗
 Not to Scale
 Zoning Bylaw 7625
 Extracted 09/17/2009

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

RR One-Family Detached Dwelling Fourth Density Zone
 C2 Local Shopping Centre Zone
 G Greenbelt Zone

NOTE: Numbers in Brackets Denote Exceptions to the Zoning Category

Attachment 4: Official Plan



850-858 York Mills Road

Toronto City Planning
Official Plan

File # 09_165590



↑
Not to Scale
06/08/2010

Attachment 5: Application Data Sheet

Application Type	Rezoning	Application Number:	09 165590 NNY 34 OZ
Details	Rezoning	Application Date:	September 3, 2009

Municipal Address: 850-858 YORK MILLS RD
 Location Description: CON 3 EY LOT 11 **GRID N3401
 Project Description: Proposal is for a 15 storey all-suites hotel catered to seniors as well as retail, service commercial, pharmacy, restaurant and professional/medical office uses. Total of 438 suites, each suite would have kitchen facilities.

Applicant:	Agent:	Architect:	Owner:
MAY LUONG Borden, Ladner, Gervais			Kingsberg Property Inv. Kingsberg Monetary Corp.

PLANNING CONTROLS

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

PROJECT INFORMATION

Site Area (sq. m):	14209.36	Height:	Storeys:	15	
Frontage (m):	128.68		Metres:	47	
Depth (m):	110.42				
Total Ground Floor Area (sq. m):	2899				Total
Total Residential GFA (sq. m):			Parking Spaces:	474	
Total Non-Residential GFA (sq. m):			Loading Docks	3	
Total GFA (sq. m):	34021				
Lot Coverage Ratio (%):	20.4				
Floor Space Index:	2.39				

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Tenure Type:			
Rooms:	Residential GFA (sq. m):		
Bachelor:	Retail GFA (sq. m):	280	0
1 Bedroom:	Office GFA (sq. m):	227	0
2 Bedroom:	Industrial GFA (sq. m):	0	0
3 + Bedroom:	Institutional/Other GFA (sq. m):	33514	0
Total Units:			

CONTACT:	PLANNER NAME:	Nimrod Salamon, Senior Planner
	TELEPHONE:	(416) 395-7095