

**3500 Eglinton Avenue West and 55 Ray Avenue –
Interpretation of Retail Permission**

Date:	September 15, 2009
To:	Planning and Growth Management Committee
From:	Gary Wright, Chief Planner and Executive Director
Ward:	Ward 12 – York South-Weston
Reference Number:	pg090031 (08 230964 WET 12 OZ)

SUMMARY

Planning and Growth Management Committee (P&GM) at its meeting on June 4, 2009 directed that the Chief Planner and Executive Director report to P&GM on a communication from Councillor Nunziata regarding the interpretation of ‘retail use’ on the lands known as 3500 Eglinton Avenue West (former Kodak lands).

This report outlines the existing planning policy context for retail permissions on the former Kodak Lands.

Financial Impact

There is no financial impact arising from this report.

DECISION HISTORY

Etobicoke York Community Council dealt with a Preliminary Report dated April 28, 2009 from the Director, Community Planning, Etobicoke York District, on an application for a mix of office, retail and service commercial uses at 3500 Eglinton Avenue West and 55 Ray Avenue at its meeting on May 14, 2009. The link to the report is: <http://www.toronto.ca/legdocs/mmis/2009/ey/bgrd/backgroundfile-20825.pdf>

On June 4, 2009 the Planning and Growth Management Committee had before it a communication from Councillor Nunziata (Attachment 1) requesting that the Chief Planner and Executive Director, City Planning, report to the P&GM on the interpretation of “retail use” on the Kodak lands. P&GM referred this communication to the Chief Planner for a report thereon as soon as possible.

ISSUE BACKGROUND

General

The communication from Councillor Nunziata broadly seeks an interpretation of retail use for the subject lands. Application of policy generally is best understood in terms of a specific proposal, and in this case there is such a proposal currently before the Etobicoke York Community Council. It is also important to understand the layered application of Provincial Policy as well as the City's own Official Plan as it relates to retail uses. These matters are discussed below.

Proposal

As outlined in the report from the Director, Community Planning, Etobicoke York District, the proposed development is for a mix of office, retail and service commercial uses having a total gross floor area of approximately 75,100 square metres. The office component would have an approximate floor area of 17,500 square metres, the retail component would have an approximate floor area of 55,575 square metres, and the service commercial component would have an approximate floor area of 2,025 square metres. A variety of retail unit sizes is anticipated, ranging from 325 square metres to 10,350 square metres.

The applicant is proposing to construct a four-storey office building fronting on Eglinton Avenue West, which will replace a portion of the retaining wall and provide pedestrian and vehicular access from Eglinton Avenue West to the shopping complex. The shopping complex would consist of a variety of large and small stores fronting on a series of covered pedestrian streets, with common gathering and plaza areas. Additional office and retail uses will be provided along Ray Avenue, with service commercial uses along Industry Street.

Attachment 2 shows the Site Plan for the proposed development.

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 planning in Ontario and among other things requires the City to promote economic development and competitiveness by a number of measures including planning for, protecting and preserving employment areas for current and future uses.

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'. The Kodak Lands are situated in an employment area as defined in the PPS.

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. 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 (similarly defined) for future economic opportunities.

The definition of an employment area in the Growth Plan is the same definition used in the PPS, and is defined 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". The Kodak Lands are situated in an employment area as defined by the Growth Plan for the Greater Golden Horseshoe.

Under the Growth Plan, municipalities may not permit the conversion of lands within employment areas to non-employment on a site specific basis, but may do so only through a "municipal comprehensive review". For the purposes of this "conversion policy", the Growth Plan clarifies that major retail uses are considered to be non-employment uses. The Growth Plan does not define what constitutes a major retail use.

Official Plan

The subject lands are shown on Map 2 - Urban Structure, as an *Avenue* and an *Employment District*. The underlying land use designation of the entire site is *Employment Areas* as shown on Land Use Plan, Map 17. Both Eglinton Avenue West and Black Creek Drive are shown as Major Streets on Map 3, Right-of-Way Widths Associated with Existing Major Streets. There are no Secondary Plan or Site and Area Specific policies that apply to this area.

Policy 1, of Section 2.2.4 of the *Employment District* identifies the need to protect and promote *Employment Districts* 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; to provide a range of employment opportunities for Toronto residents that can be reached by means other than the private automobile.

Policy 4 of Section 2.2.3 *Avenues: Reurbanizing Arterial Corridors* states that the land use designation policies in Chapter 4 apply to and prevail on lands shown as *Avenues* on Map 2. The subject lands are designated *Employment Areas*.

The Official Plan (Policy 4.6.1) permits a variety of employment uses in *Employment Areas*. In addition to uses such as office, manufacturing, warehousing, distribution, research and development facilities, media facilities and hotels, retail outlets ancillary to

these preceding uses as well as restaurants and small scale stores and services that serve area businesses and workers are permitted.

The Plan also contains policy direction with respect to large scale, stand-alone retail stores and ‘power centres’ in *Employment Areas*. While these uses are not directly supportive of the primary employment function of these areas, the Plan recognizes that limited permissions in these areas may be needed to accommodate this form of retailing in the City. The limited locations for these permissions are set out in Policy 4.6.3.

Policy 4.6.3 of the Official Plan provides that large scale, stand-alone retail stores and “power centres” are only permitted on sites in *Employment Areas* fronting onto major streets as shown on Map 3, that also form the boundary of the *Employment Area*, and only 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:

- 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.

In other words, this permission for retail is conditional.

COMMENTS

Policy Interpretation

It has been determined by the Province that Policy 4.6.3 of the Official Plan is in conformity with and does not conflict with the Growth Plan. This is the only policy dealing with large scale retail and “power centres” under which such uses could be considered in *Employment Areas* in the Plan that conforms to the Growth Plan. Conformity with the Growth Plan with respect to major retail uses in employment areas consequently relies largely upon a proposal’s conformity with Policy 4.6.3 of the Official Plan.

In terms of the extensive amount of smaller scale retail uses proposed on the site, the policy intent in Policy 4.6.1 is relevant.

In response to P&GM’s request, it is staff’s interpretation that the retail features of the current proposal raises conformity issues with Policy 4.6.3 of the Official Plan and potentially 4.6.1., as discussed below. These matters are being considered by staff in the evaluation of the current proposal.

Policy 4.6.3

While the site has frontage on Eglinton Avenue West and will have direct access via a proposed a connection from Eglinton Avenue West to the interior of the site, the current site plan situates all of the retail and service commercial uses behind the office building fronting Eglinton Avenue West, extending towards the rear of the site and onto Industry Street.

Because the current proposal provides for major retail activities to extend northerly to Industry Street, which is not a Major Street on Map 3 and does not form the boundary of the *Employment Area*, major retail activity on this street would not meet the locational criteria of Policy 4.6.3.

To meet the intent of the Official Plan's *Employment Areas* policies, substantial non-retail employment uses would need to be provided along the entire frontage of Industry Street for a significant depth of the site. The lack of an extensive non-retail employment along Industry Street would offend the intent of the Official Plan.

As well, the extensive retail generally, and major large-scale retail uses in particular, must be evaluated in terms of the impact on the functioning of other economic activities within the *Employment Area* within which the lands are located, as well as on the economic health of nearby shopping districts. The "test" in Policy 4.6.3 (b) for large scale retail and "power centres" is that these not be adversely affected.

Given the relatively small geographic size of this particular *Employment Area/District*, and the significant proportion of the *Employment Area/District* occupied by the former Kodak lands (approximately 38%), it is important for the continuing functioning of the remainder of the *Employment Area/District* that there be a substantial "critical mass" of non-retail employment uses along Industry Street for a significant depth of the site. This is currently not the case in the proposal before staff.

Policy 4.6.1

It must be determined whether the substantial amount of smaller scale retail proposed for the Kodak lands can satisfy the qualification in Policy 4.6.1 that retail outlets be either ancillary to the other employment uses permitted in the area or that they be small scale stores and services uses that serve area businesses and workers. The intent of Policy 4.6.1 was not to promote or permit a broad range of small scale retail uses, but to provide for limited retail uses that directly supported the primary business function of the *Employment Area*.

CONCLUSION

This report responds to P&GM's direction on June, 2009 that staff provide an interpretation of 'retail use' as it applies to the lands at 3500 Eglinton Avenue (former Kodak lands). There are permissions for retail uses, both small scale and large scale in the Official Plan for these lands, but these permissions are conditional and specific tests must be met in order to conform to the Plan.

It is staff's interpretation that the extensive small scale retail, the proposed location for the large scale, stand-alone retail uses as shown on the site plan and the lack of a substantial non-retail employment component on the site along Industry Street raises conformity issues with respect to both Policy 4.6.1 and Policy 4.6.3 of the Plan. These matters are all under consideration by City Planning staff in the evaluation of the current application.

CONTACT

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SIGNATURE

Gary Wright
Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

Attachment 1 – Motion Request from Councillor Frances Nunziata

Attachment 2 – Site Plan

[P:\2008\Cluster B\PLN/pg090031]

Attachment 1



Councillor Frances Nunziata
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Toronto City Council
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York South-Weston

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June 2nd, 2009

Attn: Chair & Members of the Planning and Growth Management Committee

From: Councillor Frances Nunziata

Re: Rezoning application for 3500 Eglinton Avenue West: Commercial Development proposal consisting of office, retail, and service commercial uses

Metrus Development Inc. submitted an application for zoning by-law amendment in December 2008. The applicant proposes to permit a commercial development at 3500 Eglinton Avenue West, consisting of office, retail, and service commercial uses. A Preliminary Report on the zoning by-law amendment application was submitted to the Etobicoke-York Community Council on April 28, 2009.

I request that Planning and Growth Management Committee please move the following recommendation:

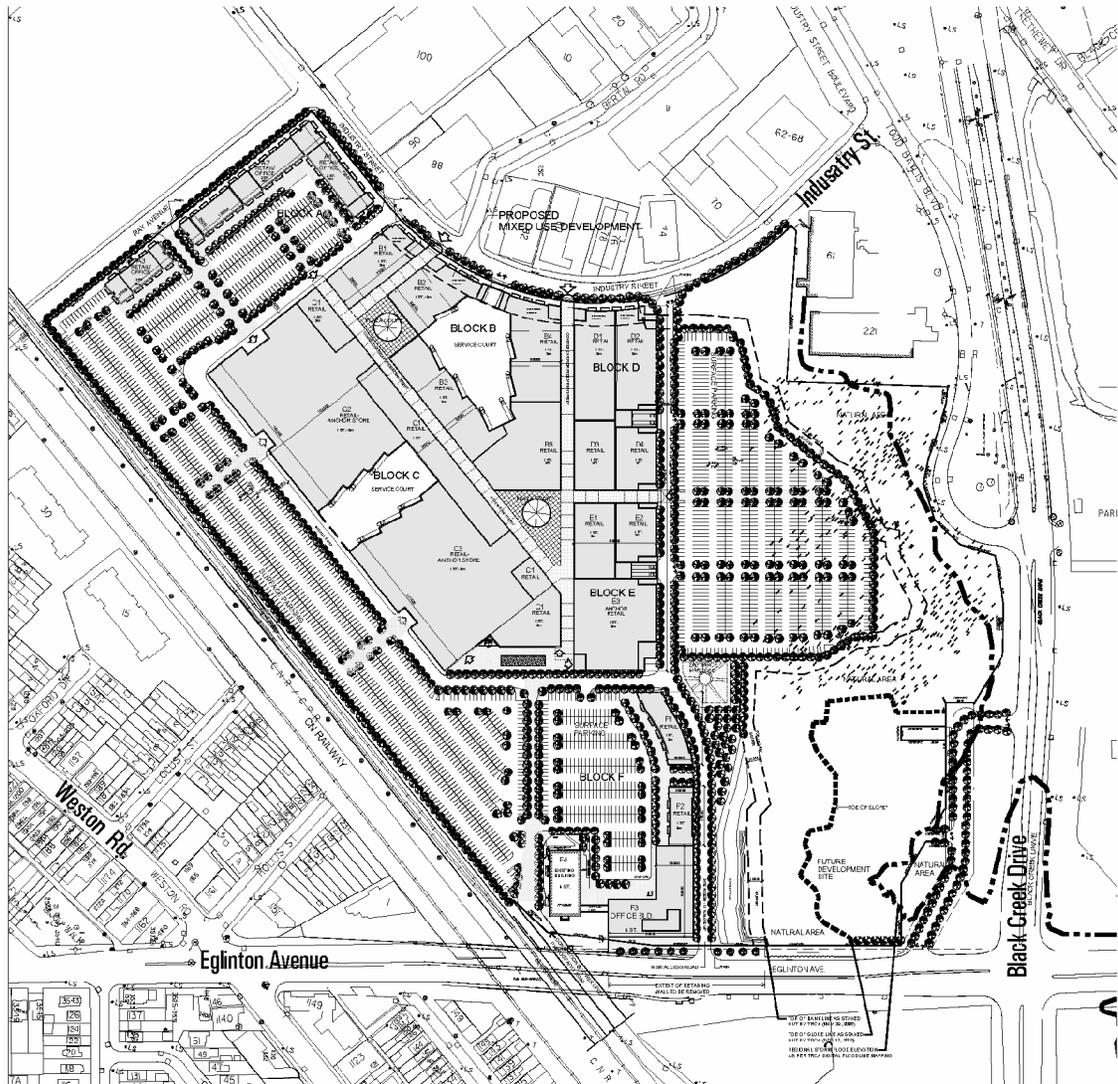
1. That the Chief Planner and Executive Director, City Planning, report to the Planning and Growth Management Committee, on the interpretation of "retail use" on the Kodak lands.

Yours Sincerely,

A handwritten signature in cursive script that reads "Frances Nunziata".

Frances Nunziata
Councillor, Ward 11, York South-Weston
Chair, Etobicoke Community Council

Attachment 2: Site Plan



Site Plan

3500 Eglinton Avenue

Applicant's Submitted Drawing

Not to Scale
03/18/2009



File # 08_230964