STAFF REPORT
Committee of Adjustment Application

Date:	February 18, 2011
To:	**Chair and Members of the Committee of Adjustment** **North York District**
From:	Director, Community Planning, North York District
Wards:	Ward 08, York West
Reference:	File No. A0739/10NY Address: **3747-3757 Keele Street & 11 Le Page Court** Application to be heard: Wednesday February 23, 2010

RECOMMENDATION

Staff recommend that Committee refuse the application, as the proposal does not meet the intent and purpose of the City's Official Plan.

APPLICATION

This is an application to permit the construction of a one storey retail building on the above noted properties. The existing buildings would be demolished.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

North York Zoning By-law 7625

1. Front yard setback of 4.8m to the proposed building
   WHEREAS a minimum setback of 9m is required;

2. North side yard setback of 0m to the proposed building
   WHEREAS a minimum setback of 7.5m is required;

3. Proposed to have 2 loading spaces on site
   WHEREAS a minimum of 3 loading spaces are required;

4. Proposed Gross Floor Area for a retail store of 9,068m^2
   WHEREAS a maximum Gross Floor Area for a retail store of 5,000m^2 is permitted;

5. The minimum proposed landscaping from the north lot line that abuts Le Page Court is 0m
   WHEREAS the minimum required landscaping is 1m from all lot lines that abut a street;

6. The proposed number of parking spaces is 277 spaces
WHEREAS the minimum required number of parking spaces is 324; and

7. South side yard setback of 0m to the proposed building
WHEREAS a minimum setback of 3m is required.

City of Toronto Zoning By-law 1156-2010 (11 Le Page Court only)

8. The proposed retail store is not ancillary to a manufacturing use
WHEREAS a retail store is permitted if it is ancillary to a manufacturing use;

9. The proposed height of the building is 13.5m
WHEREAS the maximum height of a principal building on a lot located under a flight path regulated by the Government of Canada is subject to the regulations of the Government of Canada;

10 North side lot line setback of 0m to the proposed building
WHEREAS a minimum setback of 3m is required;

11. South side lot line setback of 0m to the proposed building
WHEREAS a minimum setback of 3m is required; and

12. A minimum of 0m of soft landscaping is proposed along the north lot line abutting Le Page Court
WHEREAS any lot line abutting a street must have a minimum of a 3m wide strip of soft landscaping along the entire length of the lot line, excluding land used for driveways and walkways.

COMMENTS

The subject lands are located south of Finch Avenue West, on the east side of Keele Street. The properties on Keele Street are zoned MC(58)(H) under North York Zoning By-law No. 7625 but are not covered by the new City of Toronto Zoning By-law No. 1156-2010. The property at Le Page Court is zoned M2 in By-law 7625 and is covered by By-law 1156-2010 where it is zoned E (Employment Industrial).

The applicant is proposing to consolidate three lots and to construct a large format, one storey retail building. As illustrated in Map 16, Land Use Plan of the Official Plan, the lands are designated *Employment Areas*. As illustrated on Maps 2 and 3 of the Official Plan, the two lots located on Keele Street front onto a major street that is considered to be the boundary of the Employment District. Policy 4.6.3 of the Official Plan speaks to permitting large scale, stand-alone retail stores in these instances, provided they meet certain conditions. Policy 4.6.3 states:

> *Large scale, stand-alone retail stores and "power centres" are…only permitted in other Employment Areas fronting onto major streets…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:*
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> *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.*

The Official Plan clearly states that large scale, stand-alone retail stores are only permitted on lands that form the boundary of an *Employment Area* "through the enactment of a zoning by-law." The intent of this policy is equally clear. City Council turned its mind to the process of allowing these stores to locate in *Employment Areas* and concluded this decision rests with City Council through the enactment of a zoning by-law. The policy does not provide for varying zoning permissions through the Committee of Adjustment. As only City Council has the legal authority to enact a zoning by-law, through Policy 4.6.3, City Council stated its intent to review these proposals, including the fulsome examination of their transportation and economic impacts, and to hold a Public Meeting as required by the *Planning Act* to engage the public in its decision.

As noted above, Policy 4.6.3 states that transportation capacity needs to be sufficient and the functioning of other economic activities not be adversely affected in order for City Council to approve these proposals. The Committee of Adjustment process does not allow for the depth of transportation and economic review to satisfy the policy. It should be noted the applicant has not submitted any transportation or market studies to the City to support the proposal.

In addition, there is some question as to whether Policy 4.6.3 of the Official Plan would apply to the property at 11 Le Page Court as it does not front onto a major street shown in Map 3 of the Official Plan. This also raises the question about the compliance of the proposal to Policy 2.2.6.5 of the Province's Growth Plan, which does not permit the conversion of employment lands to non-employment uses in the absence of a municipal comprehensive review conducted by the City. These issues would be considered through any application for rezoning, a process which would allow for a thorough review of the proposals compliance with the City's Official Plan and the Provincial Growth Plan.

Additionally, staff have concerns regarding the variances being sought and are of the opinion that insufficient information has been provided to determine how appropriate these variances might be. Side yard set backs, parking supply, gross floor area, height and landscaping are all important performance standards for a site. Without more information being examined through a comprehensive review, it is difficult to determine the level of appropriateness of the proposal.

Staff also have concerns regarding the proposed site plan. The design of the site access and parking, the location of the front entrance, the location of the loading and the siting of the building are all areas of concern that require additional information. A thorough review of the technical, urban design and transportation aspects of the proposal is imperative to the evaluation of its appropriateness.

The applicant is relying on Policy 4.6.3 of the Official Plan to support the proposed large scale stand-alone retail store. However, this policy requires "the enactment of a zoning by-law" and staff are of the opinion the Minor Variance process is not an appropriate avenue for such a proposal. As such, staff recommend the Committee refuse the application as it does not meet the intent and purpose of the City's Official Plan.

Respectfully Submitted,

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SIGNATURE

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Community Planning, North York District

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