

**61 Overlea Boulevard
Rezoning Application
Refusal Report**

Date:	June 1, 2011
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 26 – Don Valley West
Reference Number:	11 144488 NNY 26 OZ

SUMMARY

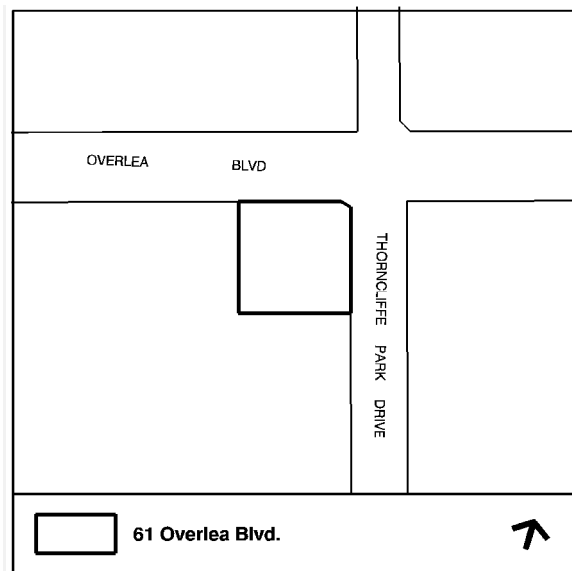
An application has been submitted to amend Leaside Zoning By-law 1916 to permit a new gas station and a related commercial building containing a retail store and a drive-through restaurant. The existing gas pumps and buildings would be demolished and a new 4 bay gas station would be constructed. The proposed building on the site would contain a retail store and a restaurant drive-in.

The proposed drive-through facility and associated restaurant drive-in does not meet the requirements for a drive-through facility and is not appropriate for the subject site. As such, staff are recommending the subject application be refused.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the application to amend the Zoning By-laws to permit a drive-through facility and a



- restaurant drive-in for the reasons outlined in this report.
2. Should the Zoning By-law Amendment application be appealed to the Ontario Municipal Board, the City Solicitor and appropriate City staff be authorized to appear before the Ontario Municipal Board in support of Council's refusal of the Zoning By-law Amendment and the associated Site Plan application.

Financial Impact

The recommendations in this report have no financial impact.

Pre-Application Consultation

A pre-application consultation meeting was held with the applicant to discuss complete application submission requirements. The applicant was advised at this meeting that a drive-through facility was not appropriate for the site.

ISSUE BACKGROUND

Proposal

The applicant is proposing to replace the existing gas station and Mr. Lube facility with a new gas bar with four pumps and a retail building containing a convenience store and a Tim Horton's. The Tim Horton's would include a drive-through facility with a stacking lane for eleven automobiles. The building would have a gross floor area of 220 m².

Site and Surrounding Area

The property is approximately 2838 m² in size and fronts on Overlea Boulevard to the north and Thorncliffe Park Drive to the east. The site currently contains an ESSO gas station and also includes a Mr. Lube service facility. The residential area to the south and east is made up of a large number of residential towers. Pedestrian traffic is significant in this area.

Abutting uses include:

North: Single-storey commercial buildings.

East: A five-storey commercial building and a high-rise residential building

South: East York Town Centre shopping mall and Thorncliffe Park Public School

West: East York Town Centre shopping mall

Provincial Policy Statement and Provincial Plans

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.

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 to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The Official Plan designates the site, on Map 20, as *Mixed Use Areas* which provides for a broad range of uses. The policies of Chapter 4 indicate that development in these areas will provide a balance of high quality commercial, residential and institutional uses. These uses should reduce automobile dependency and meet the needs of the local community. It is expected that *Mixed Use Areas* will absorb a large amount of the expected growth within the city. The Official Plan also contains policies respecting built form, transportation and the public realm.

Zoning

The site is zoned C1 by Leaside Zoning By-law 1916, which is a general commercial zone. This zone allows for many retail and commercial uses as well as dwelling units above any permitted use, except for commercial or public garages or service stations. In addition, the site is also subject to By-law 780-2002 which amends By-law 1916. This by-law limits the locations in which drive-through facilities are permitted and recognizes drive-throughs as separate land uses and not as an ancillary use to another primary use. The By-law states that these facilities may not be located:

- (a) within any zone which permits residential uses, and
- (b) within any commercial or industrial zone that abuts a zone permitting residential uses except where a minimum distance of 30 metres separates all points of the drive-through facility including stacking lanes from any lot within the zone permitting residential uses and provided all other applicable development standards are satisfied.

The drive-through By-law was appealed to the Ontario Municipal Board (OMB) and the OMB upheld the City By-law amendment and subsequently approved it in its current form. The OMB agreed that a drive-through "is not consistent with residential areas of the City...where public transit is available and heavily relied upon and there is a high level of pedestrian activity". The Board's decision indicates that a rezoning application should be considered based on the characteristics of a specific site and area.

Urban Design Guidelines

As a result of the OMB upholding By-law 780-2002, City Council directed staff to develop Urban Design Guidelines for drive-through facilities. In response to this

direction, the Draft Urban Design Guidelines for Sites with Drive-Through Facilities was created in 2005. The Guidelines assist in identifying the most appropriate site layout and setbacks for a drive-through facility on a site where they are permitted. They establish principals and criteria for the review of development applications which include drive-through facilities. In addition to meeting the zoning requirements, development applications for drive-through facilities should meet the standards of the Guidelines.

Site Plan Control

The applicant has submitted a Site Plan application and it is being reviewed concurrently with this application. The applicant should amend the Site Plan application eliminating the drive-through facility. Should this rezoning application be approved, a number of site design issues have been identified. These issues include the location of the building, the location of the current TTC bus stops and shelters relative to the proposed driveways, site circulation and compliance with the Urban Design Guidelines for Sites with Drive-Through Facilities. Other issues may be identified should the review of the application proceed.

Reasons for the Application

A Zoning By-law amendment is required as the zoning does not permit drive-through facilities. The zoning by-law provisions which apply to this site require that a drive-through facility not be located on a lot or within a minimum of 30 metres from a lot which is zoned to permit residential uses. The proposed drive-through would be located on a site which is zoned to permit residential uses as well as being setback less than 2 metres from the adjacent site to the south which is also zoned to permit residential uses.

Application Submission

The following reports/studies were submitted with the application:

- Planning Rationale Report
- Arborist Report
- Traffic Impact Study
- Environmental Noise Analysis
- Site Stormwater Management Report

A Notification of Complete Application was issued on April 6, 2011.

COMMENTS

The applicant is proposing the following uses on the site: an automobile service station, a retail store, a restaurant drive-in, and a drive-through facility. The Zoning By-law provisions do not permit a restaurant drive-in and drive-through facility on the site.

A drive-through facility is only permitted on a lot when it meets two criteria:

- a) it is not located on a lot which permits residential uses; and
- b) it may not be located in any commercial or industrial zone that abuts a zone permitting residential uses except where a minimum distance of 30 metres separates all points of the drive-through facility including the stacking lanes from any lot within the zone permitting residential uses and provided all other applicable development standards are satisfied.

The applicant is proposing a drive-through facility on a lot which permits residential uses and the proposed stacking lane would be located 1.4 metres from a zone which permits residential uses. The Official Plan designates the site as *Mixed-Use Areas* which are expected to absorb much of the new housing in the City. While the subject site and adjacent mall site do not currently contain residential uses, the use is permitted and the Official Plan and Zoning By-law provide that the lands could be developed for residential uses in the future. The drive-through facility, which does not comply with the required setbacks from a zone which permits residential uses, is not appropriate.

The intent of By-law 780-2002, is to remove drive-through permissions in areas which are more pedestrian oriented, heavily populated and to provide adequate separation from residential uses. Thorncliffe Park Drive is a crescent that connects with Overlea Boulevard to the west of where the subject site is located. Thorncliffe Park Drive provides the only public street access to a densely built up residential neighbourhood. The neighbourhood is made up of a number of high-rise residential buildings and experiences a significant amount of pedestrian traffic. The drive-through By-law was approved by the OMB, partly so that each proposed drive-through facility could be evaluated on the site specific conditions and impacts that it may have. The specifics of the site, the high amount of pedestrian activity, and its location within and adjacent to a zone which permits residential uses makes this an unacceptable use for the site.

The OMB decision agreed with the City that drive-through facilities are not appropriate in areas where public transit is available and heavily relied upon. This is a site which is currently well served with transit as it is directly serviced by four regular Toronto Transit Commission (TTC) bus routes. The site is also serviced by two other TTC bus routes: a Blue Night Network and a Community Bus route. With the services of the Blue Night Network, the site can be accessed by public transit 24 hours a day, 7 days a week. There are currently bus stops located along each of the site's frontages which would need to be relocated due to the proposed driveway locations. The location of these stops means that there is steady and significant pedestrian traffic along the frontage of the site of people wishing to use public transit at the corner. The proposed entrance to the drive-through facility would be near the eastern entrance to the site, which the relocated TTC stop would be immediately adjacent to the relocated TTC stop. Vehicular and pedestrian uses should remain separate in order to ensure a safe pedestrian environment.

In addition to the current services provided by the TTC, future planning envisions even more public transit along Overlea Boulevard. The Official Plan designates Overlea Boulevard as a future Transit Corridor and as a Transit Priority Segment. In order to meet this vision, the former Transit City Light Rail Plan called for the Don Mills LRT line to serve Overlea as part of its route. The City is in the process of conducting a study for this project. While the project is currently on hold, the completion of the assessment shows the intent of the City and other government bodies to increase the public transit in the area. The amount of service currently provided, along with the future vision for Overlea is an indication of heavy reliance on public transit in the area.

The retail store and restaurant may still operate without the drive-through facility and could be accessed by pedestrians and by users of the service station as well as others with the addition of parking spaces on the site. Staff will work with the applicant to locate the restaurant/retail building along one of the adjacent streets to define and support safe public sidewalks and provide direct access to the building from the public sidewalk.

CONTACT

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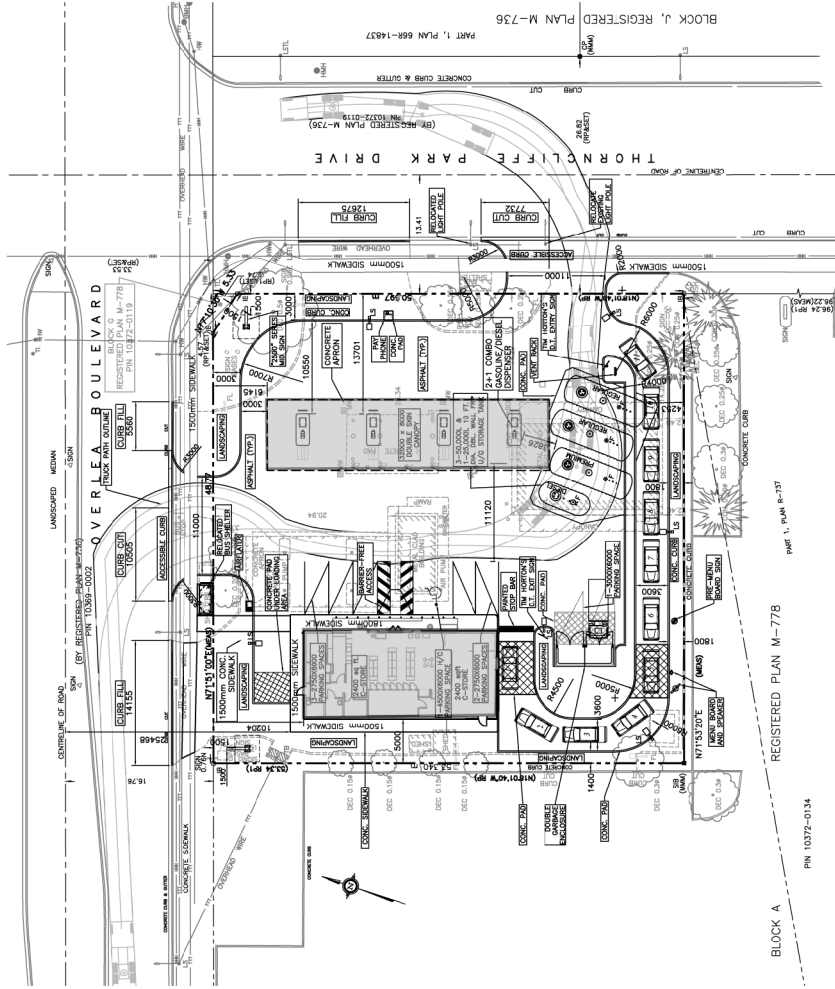
SIGNATURE

Allen Appleby, Director
Community Planning, North York District

ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: Elevations
Attachment 3: Floor Plan
Attachment 4: Zoning
Attachment 5: Official Plan
Attachment 6: Application Data Sheet

Attachment 1: Site Plan



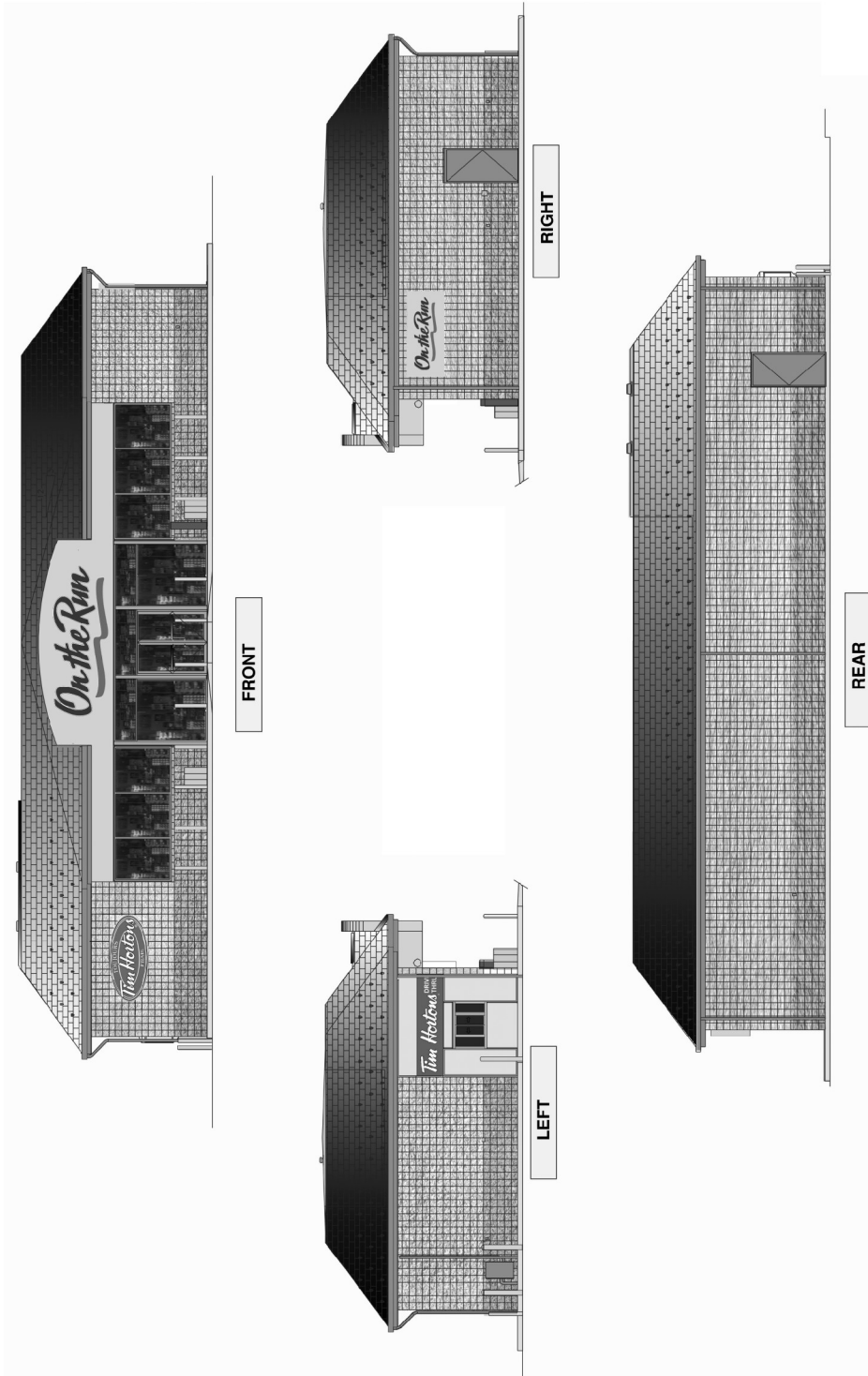
61 Overlea Boulevard

Site Plan
 Applicant's Submitted Drawing

File # 11_144488

Not to Scale
 03/24/2011

Attachment 2: Elevations



Elevations

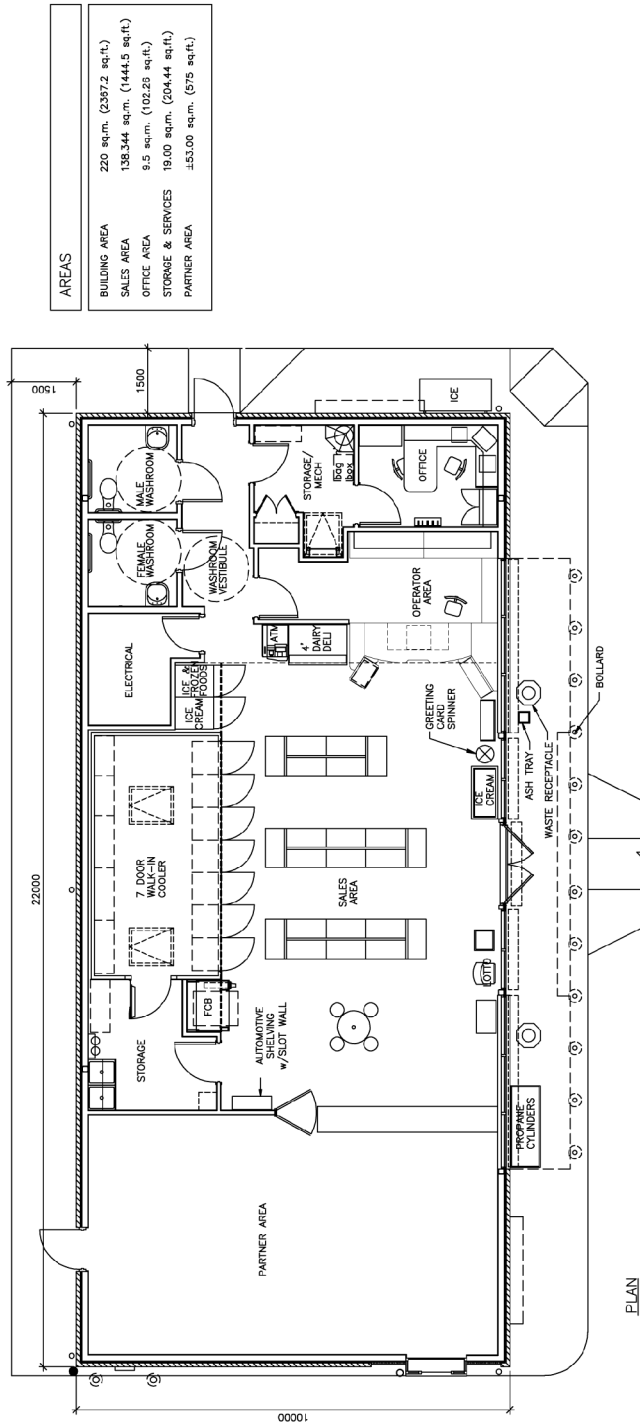
Applicant's Submitted Drawing

Not to Scale
04/05/2011

61 Overlea Blvd.

File # 11_144488

Attachment 3: Floor Plan

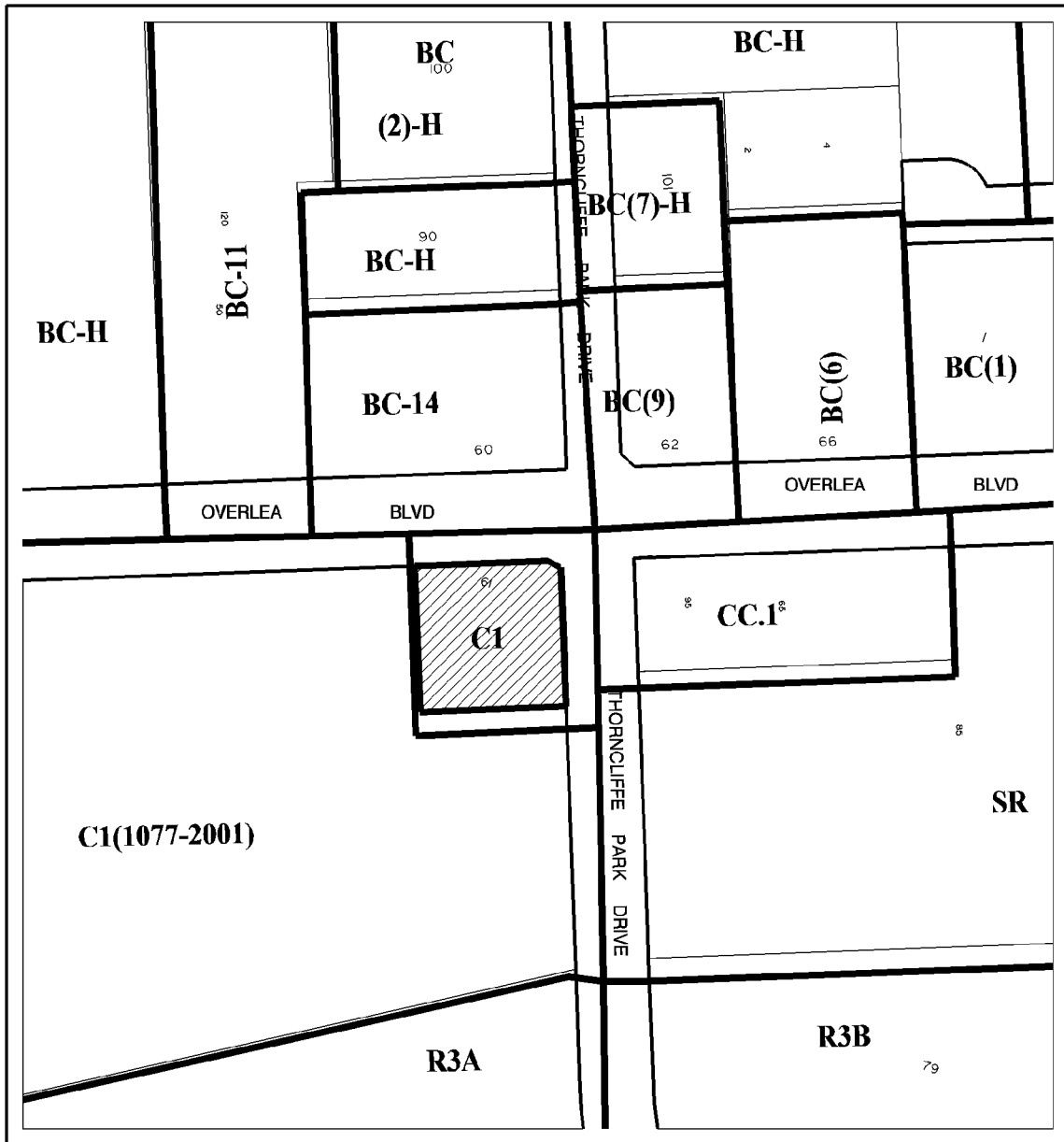


61 Overland Boulevard

File # 11_144488

Floor Plan
 Applicant's Submitted Drawing
 Not to Scale
 05/16/2011

Attachment 4: Zoning



TORONTO City Planning
Zoning

61 Overlea Boulevard

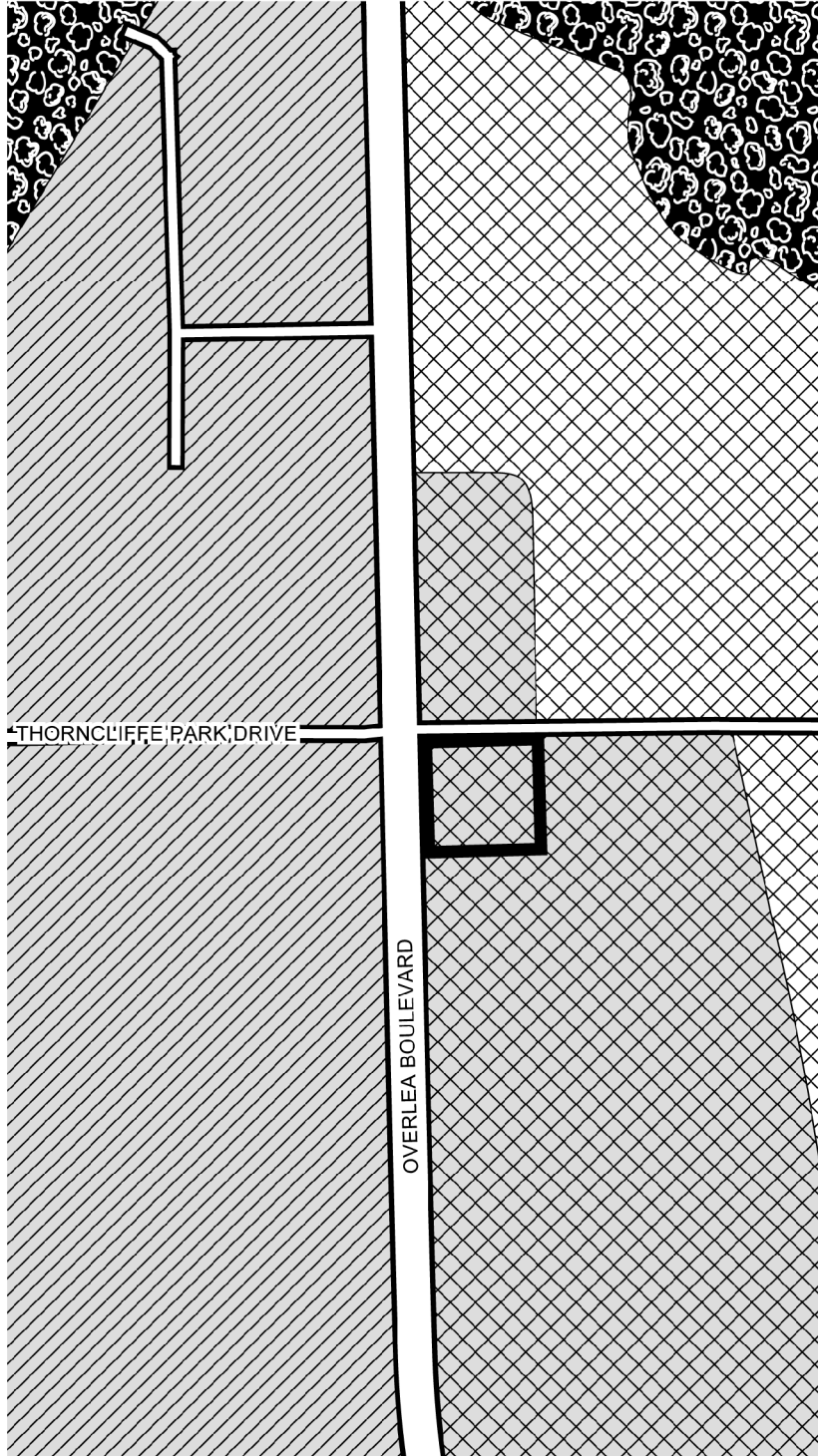
File # 11_144488

R3A	High Density Residential	BC	Business Centre
R3B	High Density Residential		
C.1	Commercial - General		
CC	Commercial Centre		
S.R.	Special Residential High Density		



Not to Scale
Zoning By-law 1916 as amended
Extracted 04/28/2011

Attachment 5: Official Plan



61 Overlea Blvd.

File# 11 14488 NNY 26 0Z



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

↑
Not to Scale
05/10/2011

Attachment 6: Application Data Sheet

Application Type	Rezoning	Application Number:	11 144488 NNY 26 OZ
Details	Rezoning, Standard	Application Date:	March 14, 2011

Municipal Address: 61 OVERLEA BLVD
 Location Description: PLAN M778 PT BLK C **GRID N2605
 Project Description: To replace the existing gas/service station with a new gas station which includes a Tim Horton's drive-through

Applicant:	Agent:	Architect:	Owner:
GOLDBERG GROUP			IMPERIAL OIL LIMITED

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	
Zoning:		Historical Status:	
Height Limit (m):		Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	2837.9	Height:	Storeys:	1	
Frontage (m):	48.77		Metres:	4.8	
Depth (m):	53.34				
Total Ground Floor Area (sq. m):	220				Total
Total Residential GFA (sq. m):	0		Parking Spaces:	7	
Total Non-Residential GFA (sq. m):	220		Loading Docks	2	
Total GFA (sq. m):	220				
Lot Coverage Ratio (%):	7.7				
Floor Space Index:	0.077				

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

			Above Grade	Below Grade
Tenure Type:				
Rooms:	0	Residential GFA (sq. m):	0	0
Bachelor:	0	Retail GFA (sq. m):	220	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			

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