

AMENDED BY BY-LAW 139-2006
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27-2007
66-2007, 67-2007

THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 263-2005

To amend Interim Control By-Law 276-2004, applicable to Part of the Area Subject to Zoning By-law 2004.

WHEREAS the interim control by-law provisions of the *Planning Act* permit a municipality to temporarily freeze development in a defined area while the municipality carries out a study in respect of the land use planning policies in this area.

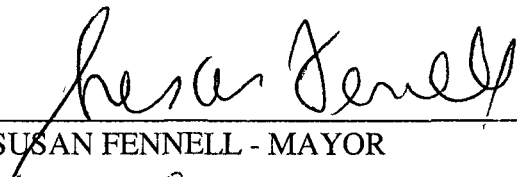
WHEREAS the City of Brampton wishes to freeze development in the area set out on Schedule A attached hereto in order to carry out a study in respect of the land use planning policies that apply to this area.

The Council of the Corporation of the City of Brampton ENACTS as follows:

1. By-Law 276-2004 is hereby amended as follows:
 - 1.1 Section 2 is deleted and replaced with the following:


This By-Law shall be effect until September 10, 2006

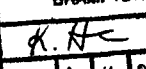
READ a FIRST, SECOND AND THIRD TIME, and PASSED, in OPEN COUNCIL, this 15th day of August 2005.


SUSAN FENNELL - MAYOR


LEONARD J. MIKULICH - CITY CLERK

Approved as to Content:


Adrian Smith, MCIP, RPP
Director, Planning & Land Development Services

APPROVED
AS TO FORM
LAW DEPT.
BRAMPTON

DATE Aug 11 05

ISSUE DATE:

May 18, 2006

DECISION/ORDER NO:

1497



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL050987

100 Kennedy Developments Inc. has appealed to the Ontario Municipal Board under subsection 38(4) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, against Interim Control By-law 263-2005 of the City of Brampton.
OMB File No. R050236

100 Kennedy Developments Inc. has referred to the Ontario Municipal Board under subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determination and settlement of details of a site plan for lands located at 100 Kennedy Road South in the City of Brampton.
OMB File No. M060025

APPEARANCES:

Parties

100 Kennedy Developments Inc.

City of Brampton

Counsel

L.F. Longo

K.G. Hare

MEMORANDUM OF ORAL DECISION DELIVERED BY D. BARBIR AND J. CHEE-HING ON APRIL 11, 2006 AND ORDER OF THE BOARD

The matter before the Board is an application by 100 Kennedy Developments Inc. (the Applicants) respecting 100 Kennedy Road South for an exemption from the Interim Control By-law 263-2005 (ICBL) of the City of Brampton (City). The Applicants also appealed the site plan. The two appeals were consolidated into a single hearing.

The subject property is located at the northeast corner of Kennedy Road South and Stafford Drive. The subject property has an area of approximately 2.88 hectares and there are existing structures on the subject property. It is zoned Industrial Two (M2) in By-law 270-2004, as amended.

At the commencement of the hearing, the Board was informed by the parties that they had reached a settlement. The Minutes of Settlement are filed as Attachment 4 of

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REG. NO. P26SKE
FILE NO.

L-T
CC: Paul Suape
Colin Grant

Exhibit 1. In the light of this agreement, the hearing became a review of the details of the settlement to ensure that it represented good planning and is in the public interest.

Mr. K.G. Hare, counsel for the City of Brampton, on consent of both parties, explained the nature of the application and the conditions of settlement. Mr. L. F. Longo, counsel for the Applicant, was in support. Ms P. Cooper, planner for the City, provided planning evidence in support of the settlement.

Ms Cooper's planning evidence included the following:

1. The City is concerned with the range of uses and the quality of streetscape and built forms along Kennedy Road. The Council passed Interim Control By-law 276-2004 to freeze development in this area of the City until a study regarding appropriate land uses was done. Interim Control By-law 276-2004 was extended by By-law 263-2005 for one more year, expiring on September 10, 2006.
2. The Applicant initially sought an exemption from the Interim ICBL for a transport truck terminal. The City opposed the exemption on the basis that it was not in keeping with the intent of the ongoing study. After discussions between the City and the Applicant, the appropriate use for the site was agreed upon, as shown in Attachments 2 and 3 of Exhibit 1. The Applicant is now proposing a multi-use industrial office proposal for the existing buildings on the subject site which will be renovated.
3. The proposal "Speculative Multi Tenant Industrial Building Renovation", Attachments 2 of Exhibit 1, is consistent with the type of uses that is envisioned by the City for this area. Renovating an existing building will improve the streetscape along Kennedy Road.

Based on the evidence of the planner for the City, the Board is satisfied that the Applicant's proposal represents good planning and is in the broader public interest. The Board therefore allows the appeal against Interim Control By-law 263-2005 of the City of Brampton and amends the said By-law in accordance with Attachment 1 of Exhibit 1 which is attached hereto.

The Board approves the site plan drawings contained in Attachment 2 of Exhibit 1. The site plan approval is conditional upon both parties executing a site plan agreement. The Board will be notified by the parties of the finalized site plan agreement

on or before May 15, 2006. The Board will set one day aside to hear and settle any outstanding issues of the site plan should this be required.

The Board so Orders.

"D. Barbir"

D. BARBIR
MEMBER

"J. Chee-Hing"

J. CHEE-HING
MEMBER

EXHIBIT 1

Attachment 4

PL050987

Ontario Municipal Board

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OMB File No. R050236

100 Kennedy Developments Inc. has referred to the Ontario Municipal Board under subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determination and settlement of details of a site plan for lands located at 100 Kennedy Road South in the City of Brampton

OMB File No. M060025

MINUTES OF SETTLEMENT

WHEREAS:

- (A) Council of the City of Brampton (the "City") was concerned with the range of uses, the quality of streetscape and built form, and standard of development along Kennedy Road;
- (B) Council directed staff to undertake a planning study and on September 13, 2004 Council passed Interim Control By-law 276-2004 to freeze development along Kennedy Road until such time as the study and its accompanying recommendations regarding land use planning had been completed;
- (C) Interim Control By-law 276-2004 was extended by By-law 263-2005 (collectively the "Interim Control By-law") for an additional year, expiring on September 10, 2006;
- (D) In response to specific requests, and where deemed not to compromise the intent of the ongoing Kennedy Road South Revitalization Study and its anticipated findings, City Council provided 6 exemptions to the Interim Control By-law to permit changes in land use or new development to take place;
- (E) 100 Kennedy Developments Inc. (the "Appellant") is the owner of the parcel of land at 100 Kennedy Road (the "Site") having an area of approximately 7.21 acres being situated at the north east corner of Kennedy Road South and Stafford Drive;

(F) The Appellant sought an exemption from the Interim Control By-law for a transport truck terminal, however, the City opposed such an exemption as it was not be in keeping with the intent of the ongoing study or its anticipated findings;

(G) The Appellant appealed the Interim Control By-law to the Ontario Municipal Board (the "Board");

(H) City staff and the Appellant subsequently engaged in discussions as to what would constitute an appropriate use on the Site, and the Appellant prepared and submitted a site plan application to the City;

(I) In order to provide the Board with jurisdiction to deal with the planning of the Site in a comprehensive manner, the Appellant appealed the site plan to the Board and the two appeals were consolidated into a single hearing; and,

(J) The City and the Appellant (collectively the "parties") seek to resolve the above-captioned appeal in a mutually advantageous manner that recognizes their respective rights and interests.

NOW THEREFORE for the mutual covenants contained herein, and other good and valuable consideration, the parties, by their respective solicitors, agree as follows:

(1) That the foregoing recitals are true.

EXEMPTION FROM INTERIM CONTROL BY-LAW

(2) The parties agree to the exemptions from the Interim Control By-law set out in *Attachment 1* hereto.

(3) The parties agree to request that the Board amend the Interim Control By-law by providing the exemptions set out in *Attachment 1* hereto.

SUBSEQUENT ZONING BY-LAW AMENDMENT(S)

(4) The parties acknowledge that as a result of the Kennedy Road South Revitalization Study the City will likely pass a zoning by-law amendment(s) for the Kennedy Road corridor to give effect to the findings of the study.

(5) The City agrees that the Appellant is not precluded from appealing any future zoning by-law amendment(s) passed by the City with respect to the Kennedy Road corridor, and these Minutes are without prejudice to any such appeal.

- (6) The Appellant agrees that should the Appellant appeal any future zoning by-law amendments for the Kennedy Road corridor, the City may take the position that it has consistently opposed the establishment of a transport truck terminal/logistics use at the Site.

SITE PLAN MATTERS

Site Plan Application

- (7) The Appellant submitted the documents set out in *Attachment 2* (collectively the "Site Plan") to the City as part of its site plan application.
- (8) The City approves the Site Plan in principle subject to finalizing the following with the Applicant:
- (a) matters identified in *Attachment 3* hereto;
 - (b) site plan conditions; and,
 - (c) a site plan agreement.
- (9) The City agrees to work with the Appellant to resolve outstanding issues and to process the site plan application. The Appellant agrees to work with the City to resolve outstanding issues, to complete the site plan application process, and to enter into an agreement in accordance with standard City practices.

Conditional Site Plan Approval

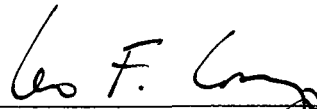
- (10) The parties agree to request that the Board grant site plan approval conditional upon the parties agreeing to and submitting a final Site Plan, conditions, and agreement to the Board on consent.
- (11) If the final site plan, conditions and an agreement are not submitted to the Board on consent before May 15, 2006, then these unresolved matters shall be heard by the Board on _____, 2006. The Appellant and the City acknowledge they may agree to extend this deadline beyond May 15, 2006.

MINUTES OF SETTLEMENT

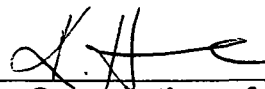
- (12) Should there be a breach of the terms of these Minutes, or should any unresolved site plan matters be appealed to the Board, these Minutes may be presented as evidence "with prejudice" as to what has been agreed upon between the Appellant and the City.
- (13) The Appellant acknowledges and agrees that the City has jurisdiction to enter into these Minutes of Settlement, and agrees not to challenge said jurisdiction at the Board or before the Courts.
- (14) The parties reserve the right to use these Minutes as evidence of the settlement between the parties.
- (15) Any amendment to these Minutes or waiver of any provision herein must be in writing and signed by the parties.
- (16) These Minutes may be executed in counterpart and may be circulated by facsimile.

IN WITNESS WHEREOF the parties have executed these Minutes of Settlement.

Dated April 11, 2006



100 Kennedy Developments Inc.
By its Solicitors, Aird & Berlis LLP and Leo F. Longo.



The Corporation of the City of Brampton
By its Solicitors, Thomson, Rogers and Kenneth G. Hare.

Attachment 1
EXEMPTION BY-LAW

To amend By-Law 276-2004, being an Interim Control By-Law, as amended by By-Law 263-2005,

The Council of the Corporation of the City of Brampton ENACTS as follows:

1 By-Law 276-2004, as amended by By-Law 263-2005, is hereby further amended by adding the following:

1.1 Notwithstanding Section 1, the lands known municipally as 100 Kennedy Road South, described as Part of Lot 3, Concession 2, E.H.S. and referenced as the "Lands Subject to Specific Exemption from Interim Control By-Law 276-2004, as amended by By-Law 263-2005", as amended by By-Law _____, outlined on Schedule A to this by-law shall only be used for the following purposes:

- (a) Industrial
 - (1) a warehouse,
 - (2) the manufacturing, cleaning, packaging, processing, repairing or assembly of goods, foods or materials within an enclosed building.

- (b) Non-Industrial
 - (3) a radio or television broadcasting and transmission establishment,
 - (4) a building supplies sales establishment, with no outside storage,
 - (5) a recreational facility,
 - (6) a community club,
 - (7) an animal hospital,
 - (8) an office, excluding offices for medical, dental or drugless practitioners, administrative offices of school boards and

governments, and offices of accredited or licensed professionals, such as accountants, architects, engineers, financial advisors, insurance agents/brokers, landscape architects, real estate agents/brokers/appraisers and urban planners,

- (9) a bank, trust company or financial institution,
- (10) a commercial, technical or recreational school,
- (11) a banquet hall,
- (12) a dining room restaurant or convenience restaurant.

(c) Accessory

- (13) an associated educational use,
- (14) a retail outlet operated in connection with a particular purpose permitted by this by-law, provided that the total gross commercial floor area of the retail outlet is not more than 15 percent of the total gross industrial floor area of the particular industrial use,
- (15) purposes accessory to the other permitted purposes.

1.2 The following uses shall not be permitted:

- (a). a motor vehicle repair shop and/or a motor vehicle body shop as a principal or accessory use;
- (b).a transport terminal;
- (c).obnoxious industrial uses involving the manufacture and storage of goods and materials in the open and such uses as the storage, repair, and rental of equipment;
- (d).a salvage, junk, scrap, or bulk storage yard;
- (e).outdoor storage as a primary use;
- (f).parking lot;
- (g).A freight classification yard

- 1.3 no outdoor storage, or outdoor display or outdoor sales of goods and materials shall be permitted accessory to or in association with any of the permitted uses.
- 1.4 50% of the total gross floor area of the building may be used for a single user, provided that the remaining gross floor area is divided into no less than four units, of no less than 745 square metres.
- 1.5 100% of the total gross floor area may be used for a single user, as provided for in section 1.1 (a) (2) of this by-law, provided that the number of loading doors is limited to ten.
- 1.6 Schedule A is deleted and replaced with Schedule A attached to this By-Law.

READ a FIRST, SECOND AND THIRD TIME, and PASSED, in
OPEN COUNCIL, this day of 2006.

SUSAN FENNELL - MAYOR

KATHRYN ZAMMIT – ACTING CITY CLERK

Approved as to Content:

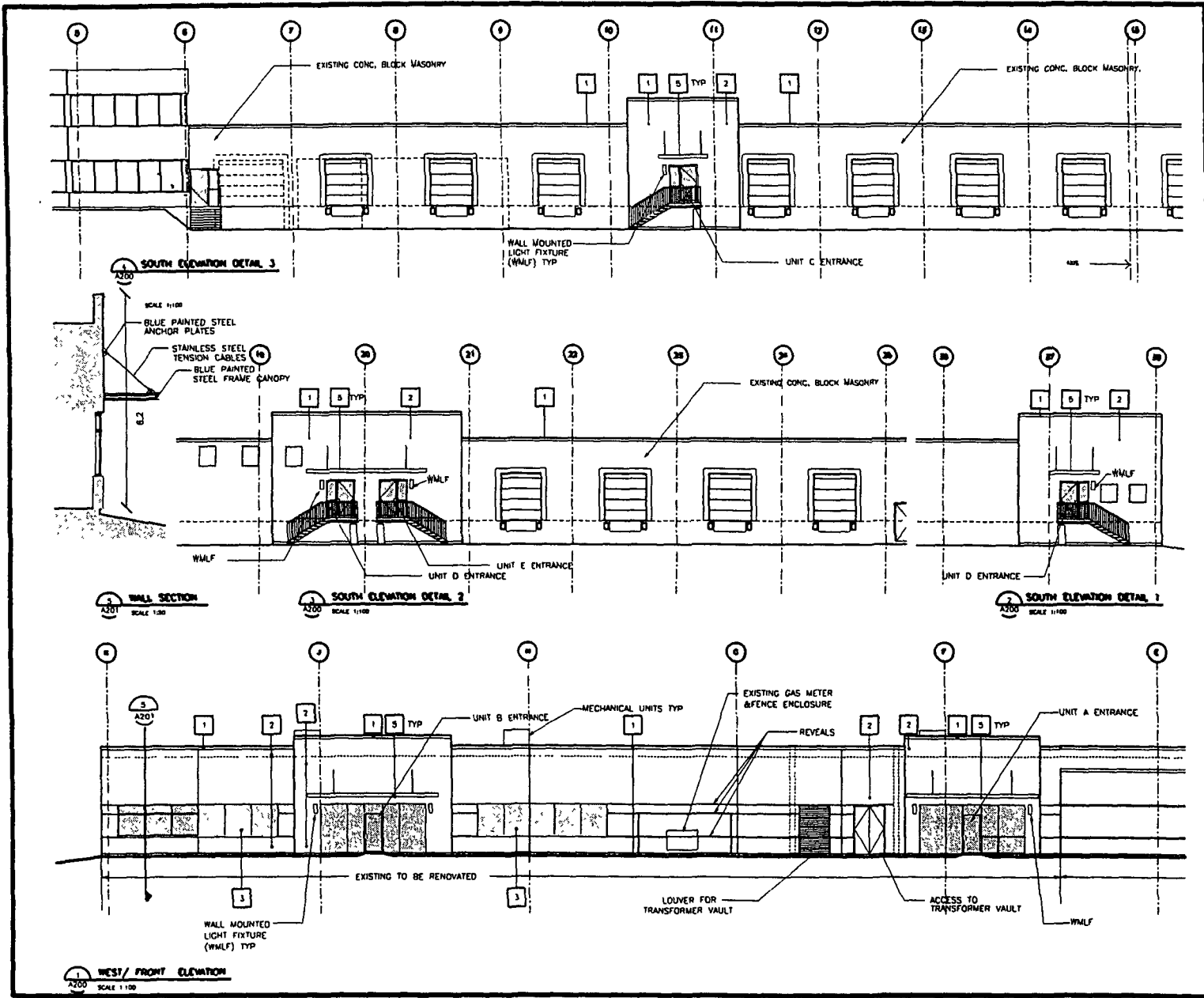
Adrian J. Smith, MCIP, RPP
Director, Planning & Land Development Services

Attachment 2

SITE PLAN

Subject to contents of *Attachment 3*, the following documents attached hereto collectively form the "Site Plan":

- (a) Site Plan drawing A001, revised to April 4, 2006;
- (b) Site Plan drawing A101, revised to April 4, 2006;
- (c) Site Plan drawing A200, revised to April 4, 2006;
- (d) Site Plan drawing A201, revised to April 4, 2006;
- (e) Landscape Plan drawing L1, revised to April 4, 2006;
- (f) Landscape Plan drawing L2, revised to April 4, 2006; and
- (g) Landscape Plan drawing L3, revised to April 4, 2006.



DATE	REVISION	BY
NOV 14 2003	PRELIMINARY REVIEW	A
NOV 18 2003	REVISION REVIEW	B
NOV 21 2003	REVISION REVIEW	C
OCT 09 2003	CO-ORDINATION	D
JAN 08 2004	SITE PLAN APPLICATION	E
MAR 14 2004	SITE PLAN APPLICATION REEVALUATION	F
APR 04 2004	SITE PLAN APPLICATION REEVALUATION	G

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Clon Corp.
Tel. 416-708-8880
Fax. 416-708-8388

Giffels Associates Limited
Consulting Engineers and Architects
Tel. 416-475-8880
Fax. 416-475-8820

USE DRAWING SHALL NOT BE USED FOR
CONSTRUCTION PURPOSES WITHOUT THE WRITTEN
CONSENT OF THE ARCHITECT OR ENGINEER
DESIGNING AND SAID BY THE ARCHITECT OR ENGINEER

ONARIO ASSOCIATION
OF ARCHITECTS
REGISTERED ARCHITECT
ARCHITECT HAS BEEN LICENSED
UNDER THE ARCHITECTS ACT

DETAIL CHECKED
BY
DATE
APPROVED BY
DATE

DESIGN CHECKED BY: [Signature]	DATE: [Date]
PROJECT LEADER BY: [Signature]	DATE: [Date]
DATE: [Date]	DATE: [Date]

OWNER
100 Kennedy Road Developments Inc.

PROJECT
SPECULATIVE MULTI TENANT
INDUSTRIAL BUILDING RENOVATION
100 Kennedy Road
Burlington, ONTARIO

DRAWING TITLE
DETAIL ELEVATION
SITE PLAN APPLICATION NUMBER: SP-08-007

CHECK SCALE (only use for photo-reduced)
DATE: [Date]

CONTRACT NO. 103270
DRAWING NO. A201

13

Attachment 3
SITE PLAN STATUS UPDATE

Date: April 5, 2006
File: SP 06/007
Owner: 100 Kennedy Road Developments Inc.
Location: 100 Kennedy Road
(West side of Kennedy Road, north of Stafford Road)
Size: 2.88 ha (7.11 ac)
Ward: 3
Zoning: Industrial Two (M2), according to By-law 270-2004, as amended.
Proposal: Conversion of an existing vacant industrial building into five units, revision to parking, access and landscaping.

Interdepartmental Comments:

General Issues

(Contact: Bernie Steiger, Planner, 905-874-2097)

- 1) Subject to other comments herein, there are no issues remaining with respect to the site plans at this point.
(Site Plan: Drawing A001 dated April 4, 2006 (Revision G), prepared by Giffels Associates Limited).

Zoning Issues

(Contact: Rose Bruno, 905-874-2093)

- 2) There weren't any significant zoning issues remaining with the last submission. Some dimensions needed to be added. The plan submitted yesterday (Drawing: A001 dated April 4, 2006 (Revision G)) has been forwarded on April 5, 2006 to Zoning for additional comments.

Traffic Issues

(Contact: Brad Hale, 905-874-2573)

- 4) The only remaining comments are with respect to the Stafford Drive access for trucks. The applicant will have to provide appropriate documentation and the legal survey to the satisfaction of the City, prior to release of any securities held for the site, as a condition of approval for the site plan. They will also have to confirm that the gate will remain open during regular business hours. A clause in this regard will have to be included in the site plan agreement.

The revised site plan submitted (Drawing: A001 dated April 4, 2006 (Revision G)) has been forwarded to Brad Hale for information.

Grading/Servicing and Storm Water Management Issues

(Contact: Tahar Singh, 905-874-2564)

- 5) Grading issues are being reviewed directly with the Engineering Consultant. Comments have been provided to the applicant's engineer. But a resubmission has not been received. Tahar advises that the issues generally include the following:
- a) Overland flow from the site
 - b) Adjacent existing properties may be affected from this development drainage.
 - c) Overland flow within the site.
 - d) Storage of water to the 100-year storm within the site - quantity control.
 - e) Quality control within the site.

Architectural Elevation Issues

(Contact: Khaldoon Ahmad 905-874-2928)

- 6) Revised elevations were submitted April 4, 2006 (Drawings: A200 (Elevation) and A201 (Detail Elevation), dated April 4, 2006, (Revision G), prepared by Giffels Associates Limited). The following comments were sent to the applicant with respect to outstanding issues that need to be addressed before we find the elevations satisfactory:
- a) score lines should be added to the front elevations and the entrance areas as per Urban Design's previous comments

- b) where the entrance areas "pop up" beyond the normal roof height, returns or a "box" structure should be incorporated
- c) a canopy is to be provided by the existing office entrance, to highlight that entrance
- d) elevations should show that the windows in the office component to be replaced with windows of the same blue tint to match the proposed windows.
- e) the site plan should show the existing brick areas on the south portion to be painted an appropriate colour to freshen the appearance of the building and provide a consistent finish.
- f) the elevations should show the sign locations
- g) the entrance areas should be shown as a different colour from the adjacent stucco colour (mainly on front elevation) to provide contrast

Landscape Plan Review

(Contact: Shawn Chevalier, 905- 874-2083)

- 7) Revised landscape plans were received April 4, 2006. A cost estimate was received on April 5, 2006. The landscape plans have been approved. The consist of the following drawing:
- 1) Landscape Master Key Plan: Drawing L1, prepared by Insite Landscape Architects Inc./Giffels Associates Limited, dated April 4, 2006
 - 2) Landscape Enlargement: Drawing L2, prepared by Insite Landscape Architects Inc./Giffels Associates Limited, dated April 4, 2006
 - 3) Landscape Enlargement, Stafford Rd and Notes and Details: Drawing L3, prepared by Insite Landscape Architects Inc./Giffels Associates Limited, dated April 4, 2006

Conditions and confirmation of security amounts with respect to landscaping will follow shortly.

Region Issues

- 9) The Region of Peel has a number of requirements including provision for a turn lane and that the site plan show a road widening along Kennedy Road. These are shown on the revised site plan (Drawing A001 dated April 4, 2006 (Revision G), prepared by Giffels Associates Limited).

Building Permit Issues

(Contact: Patrick Cheeseman, 905-874-2478)

- 10) Building's issues related primarily to achieving fire protection requirements of the building code, including the provision of an appropriate fire route. From discussions with Patrick on the previous version of the plan, it did not seem that these requirements could not be addressed on the plan. It appeared to be essentially a matter of providing the needed information on the site plan. I forwarded a copy of the most recent revised plan (Drawing A001 dated April 4, 2006 (Revision G), prepared by Giffels Associates Limited) to Building on April 5, 2006.

Transmission Report

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Local Name
Company Logo

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(reduced sample and details below)
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May 18, 2006
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<u>Parties</u>	<u>Counsel</u>
100 Kennedy Developments Inc.	LF Longo
City of Brampton	K G. Hani

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CP : Completed	RM: Receive to Memory	DR: Document Removed	TM: Terminated by user
HS : Jst Scan	HP: Host Print	FO: Forced Output	WT: Waiting Transfer
HF: Host Fax	HR: Host Receive	FM: Forward Mailbox Doc.	WS: Waiting Send

Transmission Report

Date/Time
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Local Name
Company Logo

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This document was confirmed.
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Document Size Letter-S

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City of Brampton	K.G. Hare

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CP: Completed	RM: Receive to Memory	DR: Document Removed	TM: Terminated by user
HS: Host Scan	HP: Host Print	FO: Forced Output	WT: Waiting Transfer
HF: Host Fax	HR: Host Receive	FM: Forward Mailbox Doc.	WS: Waiting Send