

MEMORANDUM

DATE: January 15, 2019
TO: Chairman and Members, Committee of Adjustment
FILE: A/170/18
ADDRESS: 100 Carlton Rd, Markham
HEARING DATE: Wednesday January 23, 2019

The following comments are provided on behalf of the Central Team:

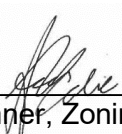
The applicant is requesting relief from the following requirements of By-law 11-72, NC, as amended:

- a) **Section 8.1:**
to permit a commercial school, whereas the By-law does not permit a commercial school.

Comments

The Committee of Adjustment deferred the application on December 12, 2018. In response the applicant submitted additional information on December 20, 2018 (Appendix A1). Staff's comments dated December 03, 2018 (Appendix B1) remain applicable.

PREPARED BY:


Aqsa Malik, Planner, Zoning and Special Projects

Appendices

Appendix A1 – Additional Information

Appendix B1 – Staff Report (December 03, 2018)

From: [Charezenko, David](#)
To: [Leung, Justin](#); [Malik, Aqsa](#)
Cc: sidjelinek@hotmail.com
Subject: RE: A.170.18 - 100 Carlton Rd
Date: Thursday, December 20, 2018 4:09:31 PM

Justin and Aqsa,

Further to the Committee's comments on the above noted matter at the Dec 12 hearing, we have collected more information about the proposed Tutor Centre and analyzed the potential impacts.

The proposed Tutor Centre is called Upper Markham Learning Centre. Upper Markham Learning Centre plan to lease the unit current vacant (formerly the convenience store) with 4 classrooms that can accommodate up to 4 students per classroom at a time. The hours of operation at 3:30-8pm Monday to Fridays and 9am-8pm Saturday and Sundays. The students will be aged 10 years old and up and come from the surrounding neighbourhood. Most students are anticipated to come from William Berzcy Public School and are encouraged to walk and carpool, where necessary, to their tutoring session. Tutoring sessions are scheduled up to 2.5 hours but each class has its own scheduled start and finish times depending on the availability of students.

Jason Zhou, P.Eng., M.Eng., Transportation Engineer, in our office has reviewed the about tutoring centre information as offers the following analysis.

"Base on the information provided, there would be no more than 16 trips generated from the tutoring centre during the peak hour. The Tutoring Centre will be targeting students, largely, from the nearby William Berzcy Public School, which means new trips generated onto the surrounding road network would be even less, as students can walk directly from the public school to the tutoring centre. Therefore, it is our opinion that the proposed tutoring centre would not have a noticeable impact on the road network in terms of traffic operations."

We trust the about information satisfies the Committee's request for a description of the proposed tutoring centre.

Please reschedule this matter for the next available Committee of Adjustment Hearing.

Regards

David

David Charezenko, MCIP RPP

Senior Urban Planner
 Urban Places - Canada

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Stantec Consulting Ltd.
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From: Leung, Justin <JLeung@markham.ca>
Sent: Thursday, December 13, 2018 2:07 PM
To: sidjelinek@hotmail.com; Charezenko, David <David.Charezenko@stantec.com>
Subject: A.170.18 - 100 Carlton Rd

Do note this minor variance was DEFERRED at yesterday's Committee of Adjustment (COA) meeting. Do contact Aqsa Malik, Planner I-Zoning and Special Projects, 905-477-7000 ext. 2944 or amalik@markham.ca, regarding how to proceed with application. Thank you.

Justin Leung, MES(PI) ACST(A) MCIP RPP
Secretary-Treasurer, Committee of Adjustment
Development Services Commission
City of Markham

101 Town Centre Boulevard
Markham, Ontario L3R 9W3
Phone: 905-477-7000 ext. 2051
Fax: 905-479-7768
Jleung@markham.ca



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Memorandum to the City of Markham Committee of Adjustment

December 03, 2018

File: A/170/18
Address: 100 Carlton Rd, Markham
Applicant: Craigmere Construction Ltd (Sid Jelinek)
Agent: Stantec Consulting Ltd. (David Charezenko)
Hearing Date: Wednesday December 12, 2018

The following comments are provided on behalf of the Central Team:

The applicant is requesting relief from the following requirements of By-law 11-72, NC, as amended:

a) Section 8.1:

to permit a commercial school, whereas the By-law does not permit a commercial school;

BACKGROUND

Property Description

The 0.4 ha (1 ac) subject property is located on the northeast corner of Carlton Road and Village Parkway, east of Warden Avenue and, south of 16th Avenue. Detached and semi-detached dwellings are located to the north and east of the property. There is a 699.9 m² (7,533.67 ft²) one storey commercial plaza on the property, which contains 5 units including a daycare, dry cleaning depot, deli/bakery, barber shop and formerly a convenience store. The site has vehicular access from Carlton Road and Village Parkway.

Proposal

The applicant is requesting relief from the by-law to establish a commercial school (Tutor Centre) with a floor area of 143.3 m² (1,542.47 ft²) within the former convenience store location/unit. The applicant is not proposing any external changes to the building.

Official Plan and Zoning

Official Plan 2014 (partially approved on Nov 24/17, and further updated on April 9/18)

The 2014 Official Plan designates the subject property 'Mixed Use Low Rise'. This designation provides for a full range of multi-use, multi-purpose areas that offer a diverse range of relatively small scale retail, service, professional office, community, institutional and recreational uses serving nearby residents and businesses. In considering applications for development approval in the "Mixed Use – Low Rise" area which includes variances, development is required to meet the general intent of section 8.3.1.4 of the 2014 Official Plan with respect to setback, height, density, vehicular access and, loading and parking to ensure that the development has adequate transportation, water and wastewater services as well as community infrastructure.

Zoning By-Law 11-72

The subject property is zoned "Neighbourhood Commercial (NC)" in By-law 11-72, as amended, which permits financial institutions, personal services shops, and retail stores among other uses. The proposed use does not comply with the by-law.

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, *"A commercial school is consistent with the uses permitted in the Neighbourhood Commercial (NC) zone. Further, By-law 177-96, permits Commercial School in CA1, CA2, CA4 and MJC Zones, all of which are similar in intent and purpose to the NC zone under By-law 11-72. Therefore, a Commercial School should be considered desirable for the appropriate use of the land"*.

Zoning Preliminary Review Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. It is the owner's responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

COMMENTS

The Planning Act states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

The applicant is proposing a commercial school which will replace the former convenience store and occupy approximately 143.3 m² (1,542.47 ft²) of the existing 699.9 m² (7,533.67 ft²) building. The applicant is not proposing any external changes to the property and has indicated that there is existing parking available on the property.

The "Mixed Use Low-Rise" designation envisions a mix of uses to serve nearby residents and businesses and includes uses such as commercial schools, public and private schools (located on arterial or major collector roads) and, day care centres (in accordance with section 8.13.2). Staff are of the opinion that the proposed commercial school is consistent with the intent and policies of section 8.3.1.2 of the Official Plan and, will not result in any adverse impacts.

The existing zoning permits uses such as financial institutions, personal services shops, and retail stores. None of these uses are defined terms in By-law 11-72 and as such, may be considered general terms. As general terms, it is up to the Committee to determine if any of these uses are similar in manner to that of a commercial school.

PUBLIC INPUT SUMMARY

As of December 03, 2018 the City received 2 letters expressing concerns over the increase of traffic and noise levels that will result from the proposed development. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:



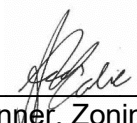
Richard Kendall, Development Manager, Central District
File Path: Amanda\File\ 18 256442 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/170/18

1. The variances apply only to the proposed development as long as it remains;
2. The maximum total gross floor area for commercial school on the subject property is limited to a maximum gross floor area of 204.39 m² (2,200 ft²).

CONDITIONS PREPARED BY:



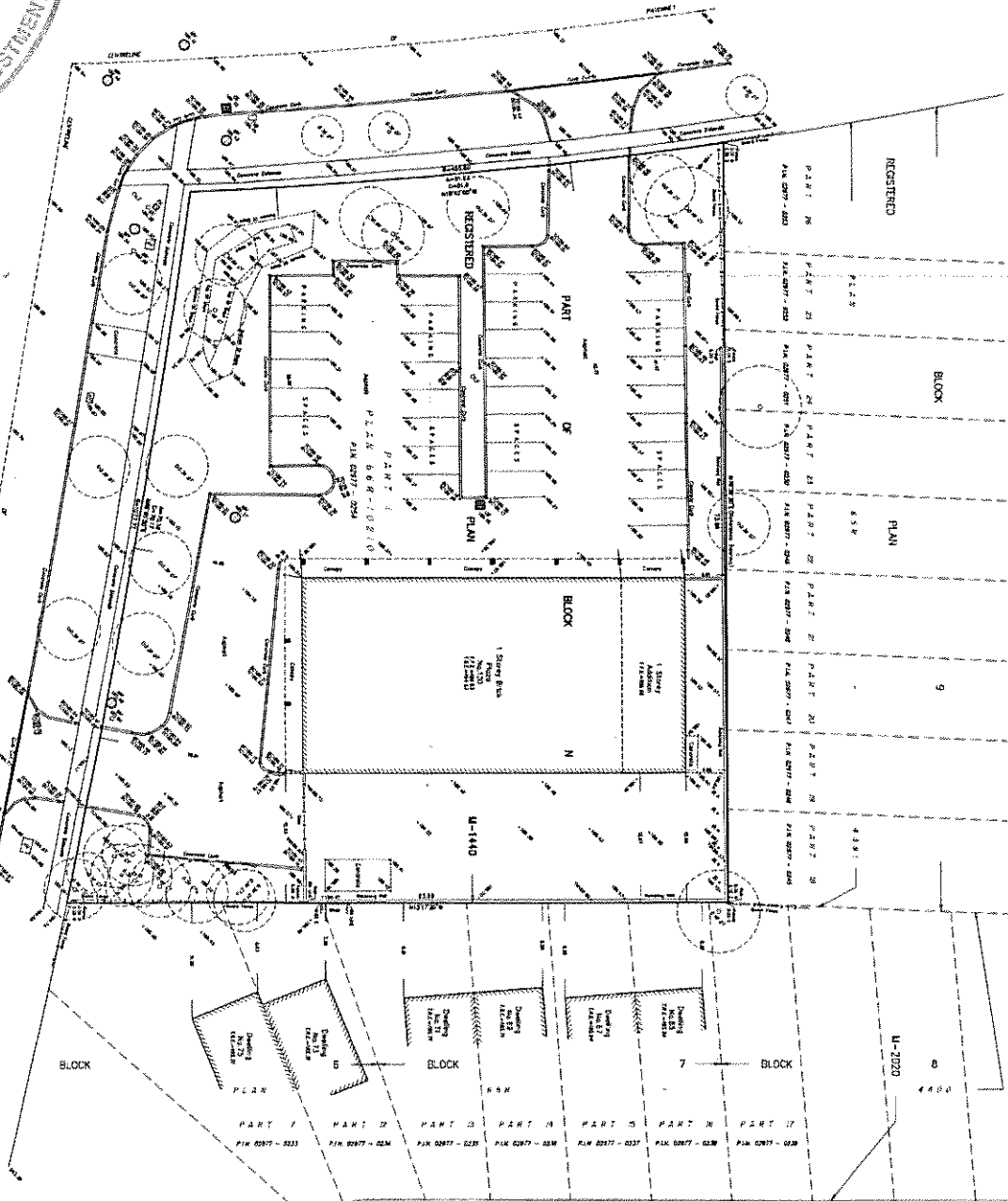
Aqsa Malik, Planner, Zoning and Special Projects

APPENDIX B

VILLAGE PARKWAY
(By Registered Plan M-1440)
P.L.N. 02977 - 0863

CITY OF MARKHAM
RECEIVED
NOV 20 2018
COMMITTEE OF ADJUSTMENT

CARLTON ROAD
(By Registered Plan M-1440)
P.L.N. 02977 - 0863

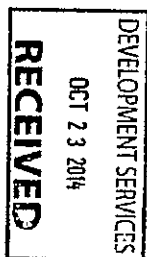


FOXGLOVE COURT
(By Registered Plan M-2020)
P.L.N. 02977 - 0862

REGISTERED PLAN M-1440
CITY OF MARKHAM
APPROVED
DATE 11/20/2018
BY: [Signature]
CITY ENGINEER

LEGEND
1. EXISTING LOT LINES
2. EXISTING LOT AREA
3. EXISTING LOT PERIMETER
4. EXISTING LOT CORNER
5. EXISTING LOT CENTER
6. EXISTING LOT BOUNDARY
7. EXISTING LOT ADJACENT
8. EXISTING LOT INTERSECTION
9. EXISTING LOT JUNCTION
10. EXISTING LOT CONVEYANCE
11. EXISTING LOT TRANSFER
12. EXISTING LOT ASSIGNMENT
13. EXISTING LOT DEED
14. EXISTING LOT MORTGAGE
15. EXISTING LOT EASEMENT
16. EXISTING LOT RIGHT-OF-WAY
17. EXISTING LOT ENCUMBRANCE
18. EXISTING LOT LIEN
19. EXISTING LOT INTEREST
20. EXISTING LOT CLAIM
21. EXISTING LOT DEFENSE
22. EXISTING LOT OBJECTION
23. EXISTING LOT REPLY
24. EXISTING LOT ANSWER
25. EXISTING LOT VERIFICATION
26. EXISTING LOT AFFIDAVIT
27. EXISTING LOT DECLARATION
28. EXISTING LOT CERTIFICATE
29. EXISTING LOT ORDER
30. EXISTING LOT DECREE
31. EXISTING LOT JUDGMENT
32. EXISTING LOT SETTLEMENT
33. EXISTING LOT AGREEMENT
34. EXISTING LOT CONTRACT
35. EXISTING LOT PROMISE
36. EXISTING LOT OBLIGATION
37. EXISTING LOT LIABILITY
38. EXISTING LOT RESPONSIBILITY
39. EXISTING LOT ACCOUNTABILITY
40. EXISTING LOT TRANSPARENCY
41. EXISTING LOT INTEGRITY
42. EXISTING LOT HONESTY
43. EXISTING LOT FAITHFULNESS
44. EXISTING LOT DILIGENCE
45. EXISTING LOT INDUSTRY
46. EXISTING LOT PERSEVERANCE
47. EXISTING LOT COURAGE
48. EXISTING LOT RESOLVE
49. EXISTING LOT DETERMINATION
50. EXISTING LOT COMMITMENT
51. EXISTING LOT DEDICATION
52. EXISTING LOT SACRIFICE
53. EXISTING LOT PATIENCE
54. EXISTING LOT FORGIVENESS
55. EXISTING LOT MERCY
56. EXISTING LOT GRACE
57. EXISTING LOT KINDNESS
58. EXISTING LOT GENTLENESS
59. EXISTING LOT PEACE
60. EXISTING LOT JOY
61. EXISTING LOT LOVE
62. EXISTING LOT HOPE
63. EXISTING LOT FAITH
64. EXISTING LOT CHARITY
65. EXISTING LOT WISDOM
66. EXISTING LOT KNOWLEDGE
67. EXISTING LOT UNDERSTANDING
68. EXISTING LOT INSIGHT
69. EXISTING LOT PERCEPTION
70. EXISTING LOT SENSATION
71. EXISTING LOT FEELING
72. EXISTING LOT EMOTION
73. EXISTING LOT PASSION
74. EXISTING LOT DESIRE
75. EXISTING LOT LONGING
76. EXISTING LOT HUNGER
77. EXISTING LOT THIRST
78. EXISTING LOT COLD
79. EXISTING LOT HEAT
80. EXISTING LOT COMFORT
81. EXISTING LOT INCOMFORT
82. EXISTING LOT PAIN
83. EXISTING LOT SUFFERING
84. EXISTING LOT GRIEF
85. EXISTING LOT LOSS
86. EXISTING LOT SEPARATION
87. EXISTING LOT ISOLATION
88. EXISTING LOT ALIENATION
89. EXISTING LOT REJECTION
90. EXISTING LOT EXCLUSION
91. EXISTING LOT DENIAL
92. EXISTING LOT REFUSAL
93. EXISTING LOT RESISTANCE
94. EXISTING LOT OBSTACLES
95. EXISTING LOT BARRIERS
96. EXISTING LOT HINDRANCES
97. EXISTING LOT IMPEDIMENTS
98. EXISTING LOT OBSTACLES
99. EXISTING LOT BARRIERS
100. EXISTING LOT HINDRANCES

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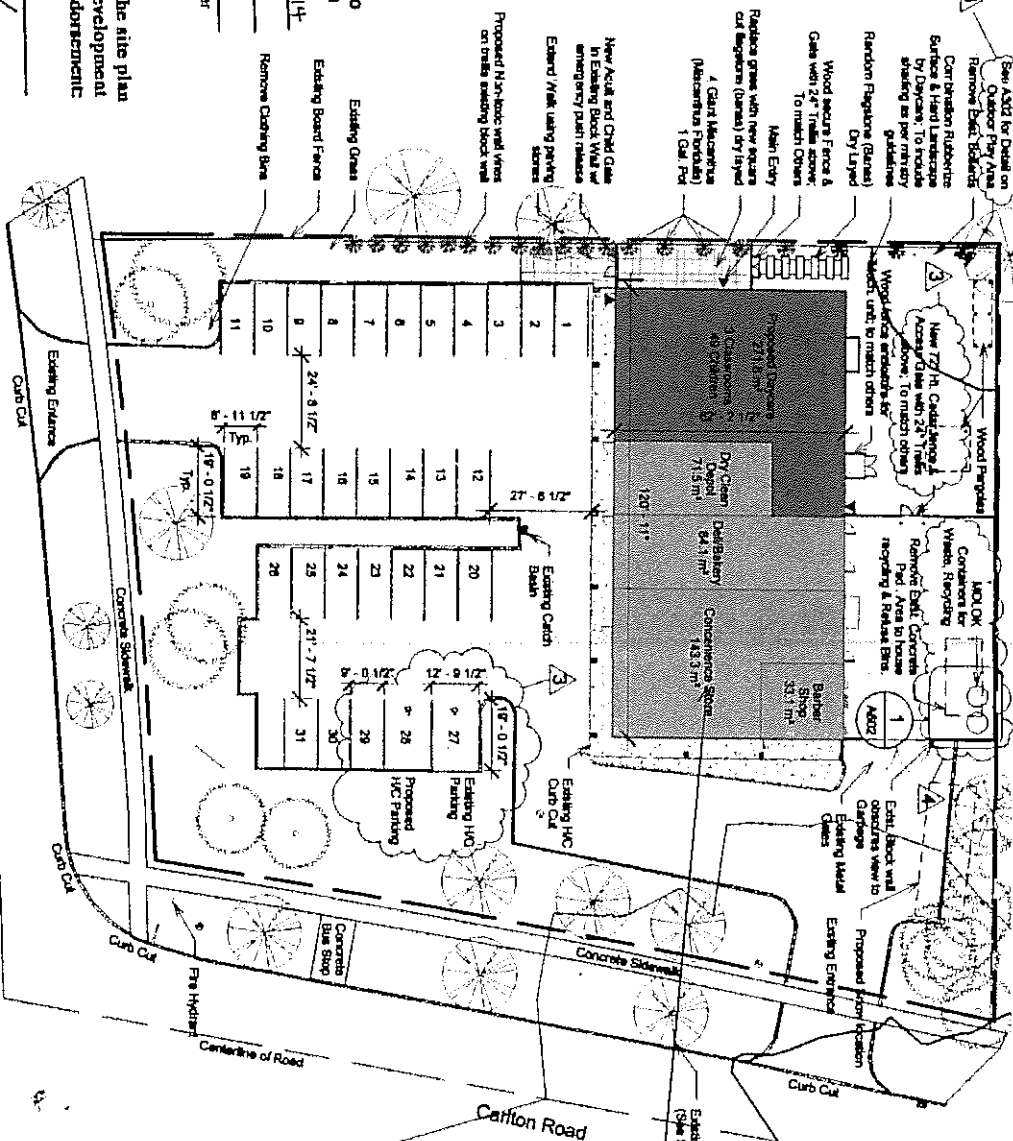


Proposed Land Use Variance: remove "Convenience Store" and replace with "Commercial School"

Site Information	Existing	Proposed
Lot Area (m ²)	0.4	0.4
Lot Coverage (%)	17.3	17.3
Building Footprint (m ²)	69.8	69.8
Building Height (m)	1 (Storey)	1 (Storey)
Parking Spaces	34	31
Proposed Parking Spaces	1	2
Proposed Floor Area (m ²)	1,430.2 (38.5%)	1,164.7 (29.5%)

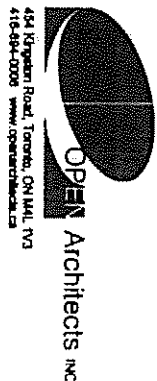
Parking Calculations (per By-law 28-97)
 Shopping Centre = 1 parking space per 23 square metres of leasable floor area
 Leasable Floor Area = 603.6 m²
 Required Parking Spaces = 26.25
 Existing Spaces Provided = 28 + 2 accessible (31 total)

NOTE: Landscaping NIC, See Landscape Drawings



Date: October 29/2014
 Signature: [Signature]
 Title: Senior Development Manager

Plans endorsed in principle subject to compliance with conditions set out in Memorandum dated Oct 29/14
 Date: Oct 29/14
 Signature: [Signature]
 Title: Senior Development Manager



454 Kingston Road, Toronto, ON M4L 1V3
 416-864-0006 www.openarchitects.ca

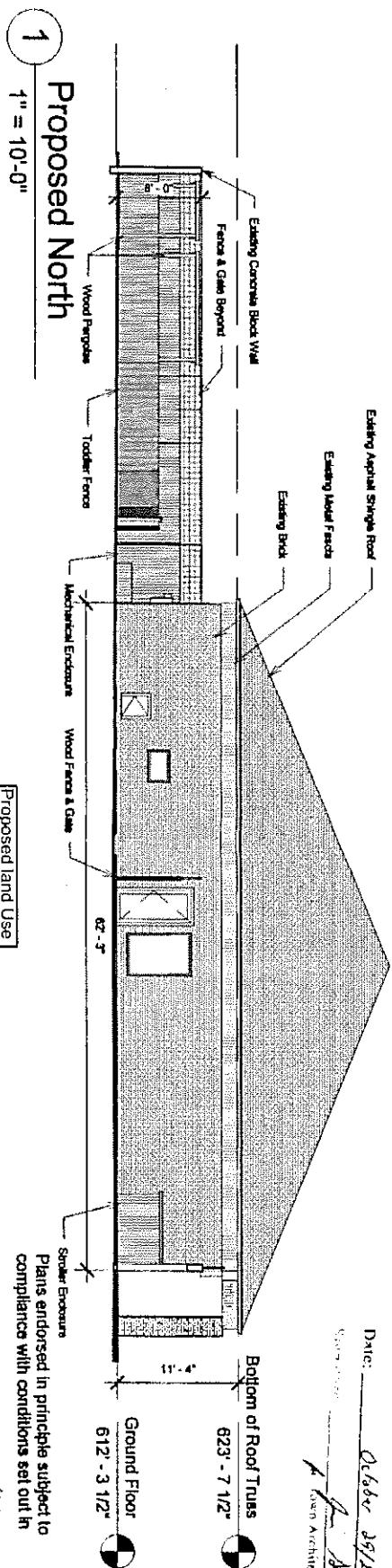
No.	Description	Date
1	Issued For Site Plan Amendment Application	14/09/28
2	Issued For Daycare Licensing Application	14/09/18
3	Issued For Revision to Site Plan Amendment	14/09/06
4	Issued To Village Management	20/10/14

Client: **S. Jelinek**
 Project: **Site Plan Amendment**
 Description: **Carlton Rd, Markham**

Sheet Name:	Site Plan
Project Number:	0104-1
Date:	22/10/2014
Drawn by:	LMK
Checked by:	DAJ
Scale:	As Indicated
Number:	A002

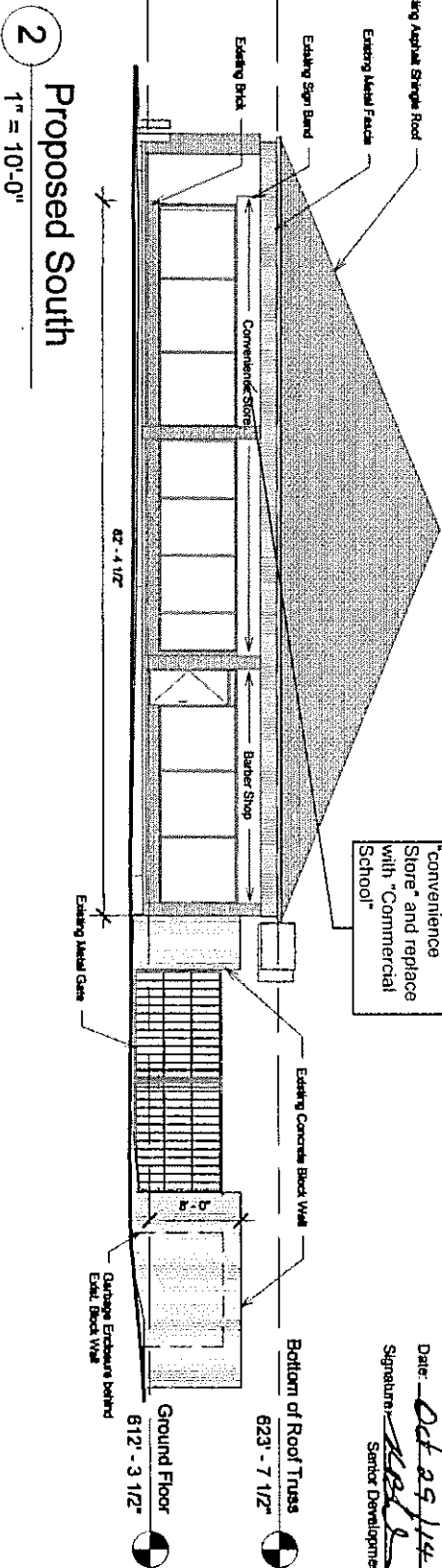
The Design Group has reviewed the site plan and elevation drawings for this development proposal and recommend their endorsement:

Date: October 29/2014
[Signature]
 OPEN Architects



Proposed land Use
 Variance: remove
 "convenience
 Store" and replace
 with "Commercial
 School"

Memorandum dated: Oct 29/14
 Date: Oct 29/14
 Signature: [Signature]
 Senior Development Manager



OPEN Architects INC.
 454 Vaughan Road, Toronto, ON M4L 1V3
 416-594-0000 www.openarchitects.ca

No.	Description	Date
1	Issued For Site Plan Amendment Application	14/09/13
2	Issued For Ontario Licensing Application	14/09/13
3	Issued For Revision to Site Plan Amendment	14/09/13
4	Issued For Endorsement	14/10/14

Client: S. Jelinek		Sheet Name: North & South Elevation	
Project: Site Plan Amendment		Project Number: 0104-1	
Description: Carlton Rd, Markham		Date: 22/10/2014	
		Drawn By: LAK	
		Checked By: QAI	
		Scale: 1" = 10'-0"	
		Sheet Number: A401	

