

# Memorandum to the City of Markham Committee of Adjustment

March 20, 2018

**File:** A/21/18  
**Address:** 5000 7 Hwy E Markham  
**Applicant:** The Cadillac Fairview Corporation  
**Agent:** Malone Given Parsons Ltd. (Lincoln Lo)  
**Hearing Date:** Wednesday March 28, 2018

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

## **Amending By-law 2017-87, Section 100.2 (a):**

Motor vehicle sales establishments to occupy up to 20% of the permitted gross floor area in the main mall building, whereas the By-law permits one motor vehicle sales establishment.

## **BACKGROUND**

### **Property Description**

The subject lands (Markville Shopping Centre) are located at the northwest quadrant of Highway 7 and McCowan Road and are municipally known as 5000 Highway 7.

### **Previous Related Application**

In September 2017, Council passed a by-law allowing for one (1) motor vehicle sales establishment on the subject lands (By-law 2017-87). The conceptual site plan submitted with the Zoning By-law Amendment application proposed a motor vehicle sales establishment, including repair garage and service station, located on a commercial retail pad outside the mall proper, at the northeast corner of the subject property (southwest corner of Bullock Drive and McCowan Road). An application for site plan approval has been submitted for a car dealership at this location (SC 18 180894) and is currently being processed by City staff.

### **Proposal**

This minor variance application is being requested to allow an existing Mercedes-Benz showroom, currently located within the main mall, to conduct vehicles sales. It should be noted that the 20% permitted gross floor area allowance being sought for motor vehicle sales establishments within the main mall building is larger than the quantum of gross floor area currently occupied by the existing Mercedes-Benz showroom. Accordingly, approval of this minor variance would potentially allow more than one motor vehicle sales establishments in the main mall building, up to a maximum of 20% of the gross floor area of the same, without having to apply for additional relief. The subject minor variance application does not seek to increase the overall gross floor area permitted on the subject lands and is intended to only include additional retail offerings (motor vehicles sales establishments). No service, outdoor storage or repair is proposed.

### **Official Plan**

The subject lands are designated "Major Commercial Area" in the City's in-force Official Plan (1987 Revised). This designation is intended to provide for "a large scale, multi-use, multi-purpose centre or area offering a diverse range of retail, service, community,

institutional and recreational uses serving a major portion of the municipality and/or a broader regional market”.

The subject lands are designated “Mixed Use Mid Rise” in the 2014 Official Plan as approved on October 30, 2015, May 26, 2016, March 10, 2017, April 21, 2017 and November 24, 2017). Uses contemplated in this designation include a mix of residential, retail, restaurant and service uses that contribute to the creation of complete communities. Motor vehicle sales facilities, wholly contained within a building, are also provided for in the “Mixed Use Mid Rise” designation.

### Zoning

The subject lands are zoned “District Commercial” (DC) by By-law 184-78, as amended. Uses permitted within the DC zone include one planned shopping centre (including not more than one automobile service station in it), one gas bar, community institutional uses (such as library or museum), business and professional offices and a taxi stand. As noted previously, in September 2017, Council passed a by-law allowing for one (1) motor vehicle sales establishment and accessory motor vehicle service station and motor vehicle repair garage on a commercial retail pad outside the mall proper.

### **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 proposed use (motor vehicle sales establishment) is also a permitted use on the site, as recently approved by Council, and will give the Applicant additional flexibility in retail options for consumers. The City’s in-force Official Plan (1987 Revised) permits automobile service stations, car washes, automobile repair uses (excluding autobody paint and repair) and retail uses involving accessory storage and/or display of merchandise, within the “Major Commercial Area” designation, subject to the review of a site specific development proposal and rezoning application. As mentioned previously, the 2014 Official Plan provides motor vehicle sales facilities, wholly contained within a building, within the “Mixed Use Mid Rise” designation.

Staff have worked with the Applicant who has agreed to restrict the potential gross floor area of the main mall building devoted to automobile sales establishments to a maximum of 20%. This condition of approval, which has been incorporated into Appendix “A”, will help to maintain the existing character of the shopping mall and alleviate the potential concern that there could be an oversupply of motor vehicle sales establishments within the main mall building.

Similar to Zoning By-law 2017-18, staff recommend that outdoor display and sales areas, associated with motor vehicle sales establishments, be prohibited in order to avoid parking areas being used for such activities. A condition of approval has been included in Appendix "A" to this effect.

Notwithstanding that one automobile service station is permitted as of right within the main mall building through Parent By-law 184-78, as amended, staff recommend that motor vehicle repair garages and motor vehicle service stations, accessory to motor vehicle sales establishments within the main mall building, be prohibited. A condition of approval has been included in Appendix "A" to this effect.

Comments from York Region

McCowan Road and Highway 7 are both Regional roads. As such, the subject minor variance application has been circulated to York Region staff for their review and comments. Any comments/conditions provided by Regional staff will be forwarded under separate cover.

**PUBLIC INPUT SUMMARY**

No written submissions were received as of March 20, 2018.

**CONCLUSION**

It is the opinion of the Planning staff that the proposed variance meets the general intent and purpose of both the Official Plan and Zoning By-law, are minor in nature and are desirable and appropriate for the development of the subject lands.

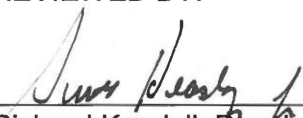
The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

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

PREPARED BY:

  
\_\_\_\_\_  
Sabrina Bordone, Senior Planner

REVIEWED BY:

  
\_\_\_\_\_  
Richard Kendall, Development Manager

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/21/18**

1. The variance applies only to the proposed development as long as it remains.
2. In addition to the one motor vehicles sales establishment permitted through By-law 2017-87, a maximum of 20% of the gross floor area of the main mall building can be used for motor vehicle sales establishments.
3. Outdoor display and sales areas, associated with motor vehicle sales establishments within the main mall building, shall be prohibited.
4. Notwithstanding, the current permission for not more than one (1) automobile service centre permitted in the main mall building, motor vehicle repair garages and motor vehicle service stations, accessory to motor vehicle sales establishments within the main mall building, shall be prohibited.

CONDITIONS PREPARED BY:

  
\_\_\_\_\_  
Sabriha Bordone, Senior Planner