

Memorandum to the City of Markham Committee of Adjustment

June 18, 2018

File: A/73/18
Address: 8570, 8600, 8610, 8630 Woodbine Avenue, Markham
Applicant: Q-West Centre Inc.
Agent: KLM Planning Partners Inc.
Hearing Date: Wednesday June 27, 2018

The following comments are provided on behalf of the West Team. The applicant is requesting relief from By-law 165-80 M.C. (40%), as amended, to permit the following:

- a) **Amending By-law 2015-122, Section 7.115.3 m) 2) i):**
restaurants within shopping centres including associated food courts or eating areas to have a parking rate of 1 parking space per 25 square metres of leasable floor area for that portion which occupies 27 percent or less of the total leasable floor area of the shopping centre, whereas the By-law requires 1 parking space per 25 square metres of leasable floor area for that portion which occupies 20 percent or less of the total leasable floor area of the shopping centre;
 - b) **Amending By-law 2015-122, Section 7.115.3 m) 2) ii):**
restaurants within shopping centres including associated food courts or eating areas to have a parking rate of 1 parking space per 9 metres of leasable floor area for that portion which occupies more than 27 percent of the total leasable floor area of the shopping centre, whereas the By-law requires 1 parking space per 9 metres of leasable floor area for that portion which occupies more than 20 percent of the total leasable floor area of the shopping centre;
 - c) **Amending By-law 2015-122, Section 7.115.3 k):**
a maximum combined gross floor area of 2,620 sq. m for all buildings on a lot, whereas the By-law permits a maximum combined gross floor area of 2,560 sq. m for all buildings on a lot;
- as they relate to a commercial development.

Background

Property Description

The 1.19 ha (2.94 ac) subject lands are located on the west side of Woodbine Avenue, north of Highway 7 and south of Centurian Drive (See Figure 1). Surrounding uses include a gas station (Shell Canada) to the south, retail uses to the east across Woodbine Avenue, warehouse and office to the west and vacant lands to the north.

Zoning By-law Amendment and Site Plan Approval

In June 2015, the City passed Amending Zoning By-law 2015-122 to establish site specific standards for a commercial development on the subject lands (See Appendix A). The approved site plan (SC 15 114185) includes four commercial buildings with a combined gross floor area of 2,531.75 m² (27,251.53 ft²). There are 148 parking spaces at grade and two access points from Woodbine Avenue (See Figure 2). Conditional permit for Building A, B and C have already been issued. The construction for these buildings is nearing completion. No permit has been issued for Building D to date.

Site Plan Amendment

In March 2018, a site plan amendment application (SC 18 177207) was submitted to modify the design of Building D (See Figure 3). The application is currently under review by City staff. The proposed amendment includes the following:

- Elimination of the drive-thru component located on the west side of Building D
- Modification to the parking spaces around Building D. This results in an increase in the total number of parking on site from 148 to 155.
- Increase in gross floor area of Building D from 436.79 m² (4,701.56 ft²) to 511.38 m² (5,504.44 ft²). Consequently, this increases the combined gross floor area of all buildings on site from 2,531.75 m² (27,251.53ft²) to 2,606.34 m² (28,054.41 ft²); whereas the by-law permits 2,560 m² (27,555.61 ft²).

Proposed Minor Variances

The applicant is requesting a number of variances including a request to increase the maximum combined gross floor area allowed on the site to facilitate a 74.59 m² (803 ft²) increase to the size of Building D. This variance applies to the amended site plan, which means a building permit will not be issued for the revision to Building D until the minor variance and site plan amendment are approved.

The other variances being sought are to reduce the parking requirement for restaurant space on site. The variances apply to the approved site plan for a tenant in one of the as-built buildings.

Official Plan and Zoning

2014 Official Plan (as partially approved on Nov 24/17 and further updated on April 9/18)
The lands are designated 'Business Park Office Priority' and are subject to Site Specific Policy 9.20.7 which provides for financial institution, office, restaurant, retail and services. The proposed uses are all contemplated in the 2014 Official Plan.

Zoning By-Law

The subject lands are zoned M.C. (40%) under By-law 165-80, as amended. The subject lands are also subject to Amending By-law 2015-122 which was passed in June 2015 to permit restaurant (including Fast Food and Take-out), retail store and personal service shop (See Appendix A). The proposal does not comply with the standards of Amending By-law 2015-122 with respect to combined gross floor area and parking for restaurant use.

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

According to the information provided in the application form, "The demand for restaurant use is higher than anticipated, which requires that the minimum parking rate be varied to facilitate the interior building permit for a tenant. The minor variance to increase the maximum combined gross floor area for the subject lands is required to facilitate the approval of a site plan amendment application which is currently being processed."

Zoning Preliminary Review Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been undertaken for the proposal. Consequently, 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 variances in the application contains errors, or if the need for additional variances are 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.

Increase in Combined Gross Floor Area

The applicant is requesting a variance for the amended site plan to permit a combined gross floor area of 2,620 m² (28,201.45 ft²) for all buildings on the subject lands, whereas the by-law permits a maximum combined gross floor area of 2,560 m² (27,555.61 ft²). This is to facilitate an increase in gross floor area of Building D to approximately 511.38 m² (5,504.44 ft²). The variance represents an increase of approximately 60 m² (645.83 ft²) or 2.34 percent from the by-law requirement.

Building D will extend into the area to the west where the drive-thru aisle was originally located. The east side of the building will be approximately 2.3 m (7.54 ft) closer to Woodbine Avenue. No concern was raised by other departments and external agencies on the increased floor area. Planning staff have no objection to the proposed variance. Staff recommend a condition that the variance does not come into effect until the site plan amendment (SC 18 177207) is approved by the City.

Parking Reduction for Restaurant Spaces

By-law 2015-122 requires restaurant space that occupies 20% or less of the total leasable floor area of the shopping centre to provide 1 parking space per 25 m² (269 ft²); and any remaining portion of restaurant space to provide 1 space per 9 m² (96.87 ft²). The total floor area of restaurant space being proposed on site is approximately 1,365.89 m² (14,702.31 ft²). Consequently, the property requires a total of 160 parking spaces, whereas the approved site plan provides 148 spaces. This represents a deficiency of 12 spaces or 7.5% (See Table 1).

The applicant is requesting a variance to allow restaurant space that occupy up to 27% of the total leasable floor area of the building to provide 1 parking space per 25 m² (269 ft²). This would reduce the total parking requirement to 148 spaces to reflect what is provided in the approved site plan (See Table 2). The variance is to allow a tenant in one of the as-built buildings to obtain a permit before the approval of the site plan amendment.

The parking deficiency will be reduced to 7 spaces or 4.25% after the site plan amendment is approved (See Table 3). Transportation staff are of the opinion that the variance is minor and will unlikely result in any significant impact on the parking supply of the site. Planning staff recommend a condition that the total gross floor area devoted to restaurant uses on the subject lands be limited to a maximum of 1,370 m² (14,746.56 ft²).

PUBLIC INPUT SUMMARY

No written submissions were received as of June 18th, 2018. 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 are of the opinion that the variance requests meet the four tests of the Planning Act and have no objection.

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 "B" for conditions to be attached to any approval of this application.

PREPARED BY:



Carlson Tsang, Planner II, West District

REVIEWED BY:



David Miller, Development Manager, West District

File Path: Amanda\File\ 18 234764 \Documents\District Team Comments Memo

Figure 1- Location Map

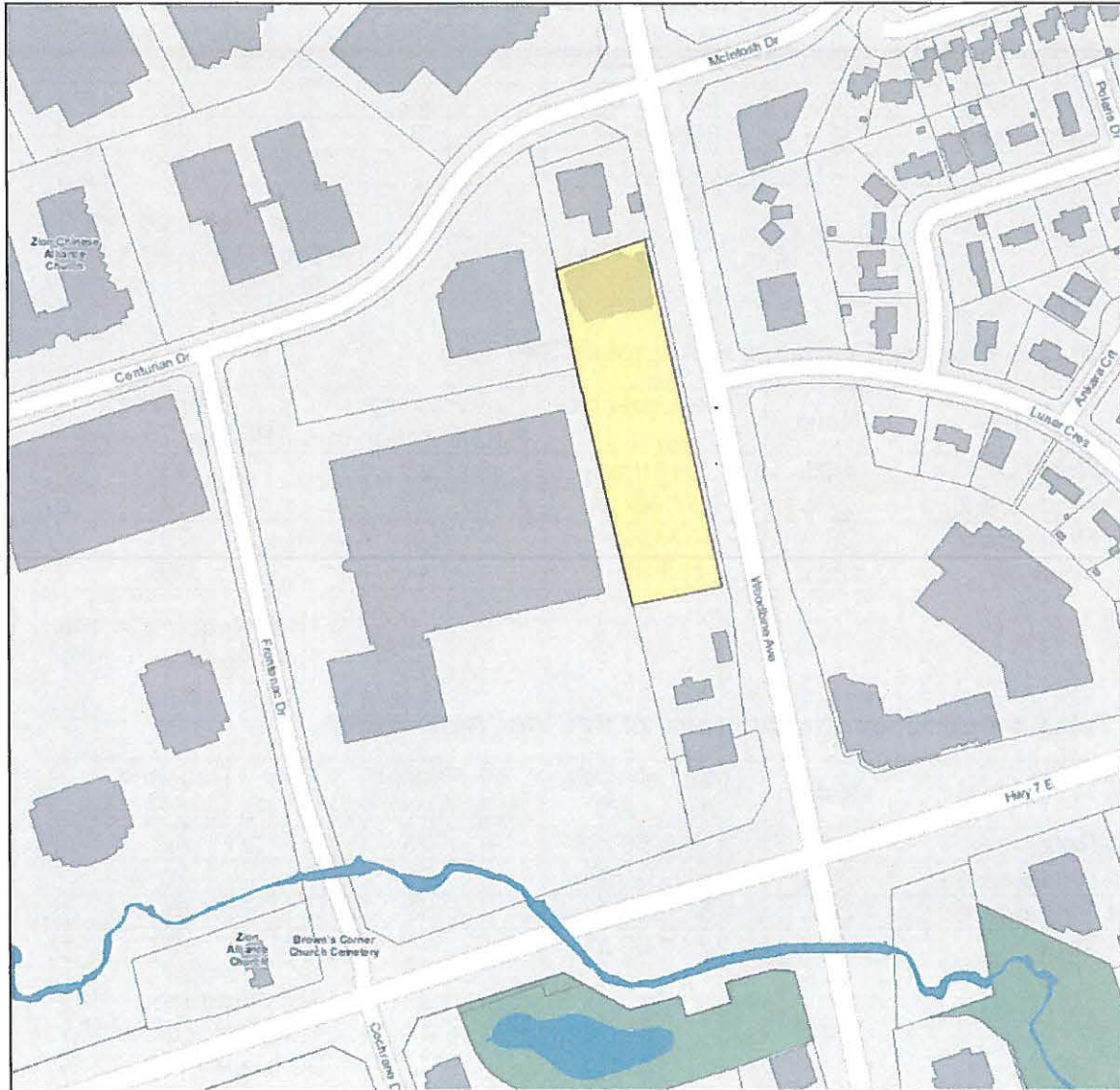


Table 1 – Parking Deficiency based on Approved Site Plan

Uses	Ratio	Total Leasable Area (m ²)	Parking Requirement (m ²)	Required Parking Spaces
Retail	44%	1,071 m ²	25	43
Restaurant	20%	487.38 m ²	25	19
Restaurant	36%	878.51 m ²	9	98
Total	100%	2,436.89 m ²	--	160

Total Required = 160
 Total Provided = 148
 Deficiency = 12 (7.5 %)

Table 2- Proposed Variance to Approved Site Plan

Uses	Ratio	Total Leasable Area (m ²)	Parking Requirement (m ²)	Required Parking Spaces
Retail	44%	1,071 m ²	25	43
Restaurant	27%	657.96 m ²	25	26
Restaurant	29%	707.93m ²	9	79
Total	100%	2,436.89 m ²	--	148

Total Required = 148
 Total Provided = 148

Table 3- Deficiency after Approval of Site Plan Amendment

Uses	Ratio	Total Leasable Area (m ²)	Parking Requirement (m ²)	Required Parking Spaces
Retail	44%	1,145.66 m ²	25	46
Restaurant	20%	502.31 m ²	25	20
Restaurant	29%	863.58m ²	9	96
Total	100%	2,511.55 m ²	--	162

Total Required = 162
 Total Provided = 155
 Deficiency = 7 (4.3 %)



By-law 2015-122

A By-law to amend By-law 165-80, as amended

The Council of the Corporation of the City of Markham hereby enacts as follows:

1. THAT By-law 165-80, as amended, is hereby further amended as follows:

1.1 By adding to Section 7 – Exceptions the following subsection:

“7.115 Notwithstanding any other provisions of this By-law, the provisions in this Section shall apply to those lands zoned Major Commercial M.C. (40%) on Schedule ‘A’ to this By-law. All other provisions of By-law 165-80, unless specifically modified/amended by this Section, continue to apply to the lands subject to this Section.

7.115.1 Definitions

For the purposes of this exception a *Drive-Through Service Facility* means a *building or structure* or part thereof where goods and/or services are offered to the public within a parked or stationary vehicle by way of a service window or kiosk, where goods, money or materials are exchanged. Kiosks within a parking garage or associated with a surface parking area are not considered to be drive-through service facilities.

7.115.2 Additional Permitted Uses

The following additional uses are permitted:

- a) *Restaurant*
- b) *Fast Food Restaurant*
- c) *Take-Out Restaurant*
- d) *Retail Store*
- e) *Personal Service Shop*

7.115.3 Specific Zone Standards

The following specific Zone Standards apply:

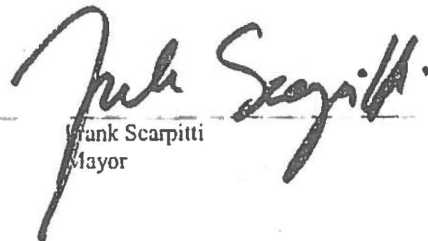
- a) For the purposes of this By-law, the *front lot line* is deemed to be the *lot line* adjacent to Woodbine Avenue;
- b) Minimum required *front yard* – 2.0 metres;
- c) Notwithstanding the provisions of b) above, the minimum setback to a daylighting triangle that forms a part of the regional road allowance – 0.0 metres;
- d) Sections 4.6.2, 5.2 e) and f) and 6.4.1 c) shall not apply;
- e) No *building* shall be permitted between 42.0 metres and 61.0 metres of the *south lot line*;
- f) Minimum required width of *landscaped open space* abutting the *front lot line* – 2.0 metres;
- g) Notwithstanding the provisions of f) above, the minimum width of *landscape open space* abutting a daylighting triangle that forms a part of the regional road allowance – 0.0 metres

- h) Minimum gross ground floor area per building 370 square metres;
- i) *Drive-Through Service Facilities:*
 - (i) Maximum number one (1); and
 - (ii) Not permitted except in association with a bank or financial institution;
- j) the lands shown on Schedule 'A' shall be deemed to be one lot for the purposes of this By-law;
- k) Maximum combined gross floor area for all buildings on a lot - 2,560 square metres;
- l) *Outdoor patios, roof overhangs and canopies* shall be permitted to encroach into the *landscaped open space* area to 0.3 metres from the *front lot line*;
- m) Required Parking:
 - 1) 1 parking space per 25 square metres of leasable floor area;
 - 2) Restaurants within such shopping centres including associated food courts or eating areas are subject to the following requirements:
 - i) 1 parking space per 25 square metres of leasable floor area for that portion which occupies 20% or less of the total leasable floor area of the shopping centre;
 - ii) 1 parking space per 9 square metres of leasable floor area for that portion which occupies more than 20% of the total leasable floor area of the shopping centre;
- n) *Loading spaces:*
 - (i) Minimum number - two (2);
 - (ii) Minimum width - 3.5 metres,
 - (iii) Minimum length - 12 metres; and
 - (iv) Minimum vertical clearance - 4.2 metres;
- o) The setback to the centerline of any arterial road or provincial highway shall not apply
- p) *Retail Store:*
 - (i) Shall not exceed a gross floor area of 1,000 square metres per premises; and
 - (ii) An office supply or computer supply store shall not exceed a gross floor area of 3,000 square metres per premises;
 - (iii) The total gross floor area shall not exceed 3,000 square metres."

2. All other provisions of By-law 165-80, as amended, not inconsistent with the provisions of this by-law, shall continue to apply.

Read a first, second, and third time and passed on June 23, 2015.


Kimberley Kitteringham
City Clerk


Frank Scarpitti
Mayor



SCHEDULE "A " TO BY-LAW 2015-122
 AMENDING BY-LAW 165-80 DATED June 23, 2015



 BOUNDARY OF AREA COVERED BY THIS SCHEDULE

 SELECT INDUSTRIAL AND LIMITED COMMERCIAL

Q:\Geomatics\New Operation\By-Laws\ZA\ZA14114185\ZA14114185.mxd

 MARKHAM DEVELOPMENT SERVICES COMMISSION  Meters Drawn By CPW Checked By GD DATE 02/06/2015

NOTE: This Schedule should be read in conjunction with the signed original By-Law filed with the City of Markham Clerk's Office

APPENDIX "B"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/73/18

1. The variances apply only to the proposed development as long as it remains;
2. That the variance to permit a maximum combined gross floor area of 2,620 m² (28,201.45 ft²) on the subject lands does not come into effect until Site Plan Application File: SC 18 177207 is approved;
3. That the total gross floor area devoted to restaurant uses on the subject lands be limited to a maximum of 1,370 m² (14,746.56 ft²)
4. That the drive-thru component of the proposal be eliminated.

PREPARED BY:



Carlson Tsang, Planner II, West District