

Memorandum to the City of Markham Committee of Adjustment

July 13, 2023

File: A/094/23
Address: 100 Renfrew Drive Markham
Owner: Armadale Property Management (Peter Sestito)
Applicant: Malone Given Parsons Ltd. (Elyse Holwell)
Hearing Date: Wednesday, July 26, 2023

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

The applicant is requesting relief from the following requirements of By-law 165-80, M.C. (60%), as amended:

- a) **By-Law 165-80, Section 6.4.1:** To permit a respite hotel, whereas the By-law does not permit this use; and,
- b) **By-law 165-80, Section 6.4.1(a):** To permit a health care centre for older adults with Alzheimer's and related disabilities, whereas the By-law does not permit this use; as it relates to a proposed health care centre.

BACKGROUND

Property Description

The subject lands (the "Subject Lands") comprise 1.61 ha. (3.98 ac.) and are located on the west side of Renfrew Drive, north of Valleywood Drive, and west of Woodbine Avenue. The Subject Lands contain a two-storey office building and is situated within an established business park area with business and professional office buildings to the north, south and east across Renfrew Drive. The Toronto Buttonville Municipal Airport and Highway 404, are located to the west.

A previous minor variance (File A/118/18) was approved by the Committee of Adjustment to permit a respite hotel to be added to an existing health centre on condition that a maximum of 10 suites be permitted within the ground floor of the existing office building. An additional variance application (File A/122/20) was approved on the condition that a maximum of 11 suites be permitted within the ground floor of the above noted office building. In both instances, Staff did not support the previous applications on the basis that the proposals did not meet the 4 tests for a minor variance under the *Planning Act*.

Proposal

The Owner is proposing to expand the previously approved health centre and respite hotel operation by adding 9 more suites. The Owner is proposing to extend this facility into Unit 130 of the existing office building incorporating 9 additional suites. The health centre and respite hotel would continue to provide short term relief for primary caregivers for individuals with physical and cognitive disabilities, with an emphasis on persons with Alzheimer's and related disabilities.

The Owner also proposes that the expanded operation be approved without limitation to the maximum total number of respite hotel suites to facilitate future expansions of the health centre and respite hotel operation, without the need for additional variance applications.

Official Plan and Zoning

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

The Official Plan 2014 designates the Subject Lands “Business Park Employment”, which provides for a range of uses including offices, hotels that do not include dwelling units, trade and convention centres, a commercial parking garage and retail. Sensitive land uses are restricted to minimize the impacts on the viability of existing and future employment uses. The 2014 Official Plan does not provide for a respite hotel and health centre.

Sensitive land uses include buildings and spaces where routine or normal activities occurring at reasonably expected times would experience adverse effects from contaminant discharges generated by a nearby major facility. Examples of sensitive land uses include residences, day care centres, places of worship and educational and health facilities.

The policy and the more restrictive use permissions included in the new Official Plan reflect an increased understanding of the potential health impacts of locating certain sensitive uses within close proximity to known air emission sources in addition to incompatible uses on the long term viability of employment areas. The Subject Lands are located immediately adjacent to the Toronto Buttonville Airport, and Highway 404. Staff note that the City is in receipt of complete applications for Official Plan and Zoning By-law Amendments and a Draft Plan of Subdivision to permit the redevelopment of the adjacent Buttonville Airport lands for Employment and Industrial uses (PLAN 23 128636). The current development concept includes 2 large development blocks, a network of public and private roads and up to 12 industrial buildings.

The “Business Park Employment” land use policies under Section 8.5.2 of the 2014 Official Plan are currently under appeal at the Ontario Land Tribunal and until such time as an updated plan is approved, the 1987 Official Plan remains in force.

Official Plan 1987

The Subject Lands are designated “INDUSTRIAL (Business Park Area)”, which provides for a range of uses such as offices, light industrial uses, hotels, research and training facilities, banks and financial institutions and other uses consistent with the planned functions and policies of the category of the designation. The 1987 Official Plan does not permit a respite hotel and health centre.

Zoning By-Law 165-80

The Subject Lands are zoned “Select Industrial and Limited Commercial – M.C (60%)” by By-law 165-80, as amended, which permits a range of industrial uses such as warehousing and manufacturing, servicing and commercial uses such as private clubs, health centres and hotels. A hotel is defined as “a building or part thereof on the same site used to accommodate the public for gain or profit, by supplying them with sleeping accommodation (with or without meals) but without individual private cooking facilities”. The Zoning By-law does not specifically define or permit a respite hotel.

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 intent of the Official Plan is to limit the impact of uses on the long term viability of employment areas. Both the 1987 and 2014 Official Plans provide for a number of uses however, the proposed respite hotel is not provided for. It is the opinion of Staff that the respite hotel and health centre uses do not meet the general intent and purpose of both the 1987 Official Plan and the 2014 Official Plan, and do not meet the general intent and purpose of Zoning By-law 165-80, as amended.

Development Engineering

Development Engineering staff has commented that any approval to expand the existing health care and respite hotel facility should be conditional upon the submission of a Functional Servicing Brief to demonstrate that there are no downstream servicing constraints that limit the proposed expansion to the satisfaction of the Director of Engineering or their designate.

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.

PUBLIC INPUT SUMMARY

No written submissions were received as of July 13th, 2023. 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 requested variances do not meet the four tests of the Planning Act. The proposed use does not meet the general intent and purpose of the 1987 and 2014 Official Plans, and is not permitted in the Zoning By-law. However, given that the respite hotel and health centre has been in operation since 2018 without any concerns being raised, Staff are of the opinion that the Committee should satisfy themselves as to the appropriateness of a further expansion to the existing operation within the existing office building on the "Subject Lands".

The onus is ultimately on the Owner to demonstrate as to 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 refer to Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Rick Cefaratti, MCIP, RPP Senior Planner II, West District

REVIEWED BY:



Clement Messere, MCIP, RPP, Development Manager, West District

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APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/094/23

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the application plans submitted with the application (attached as Appendix "B") and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction; and,
3. Submission of a Functional Servicing Brief to demonstrate that there are no downstream servicing constraints that limit the proposed expansion to the satisfaction of the Director of Engineering or their designate.

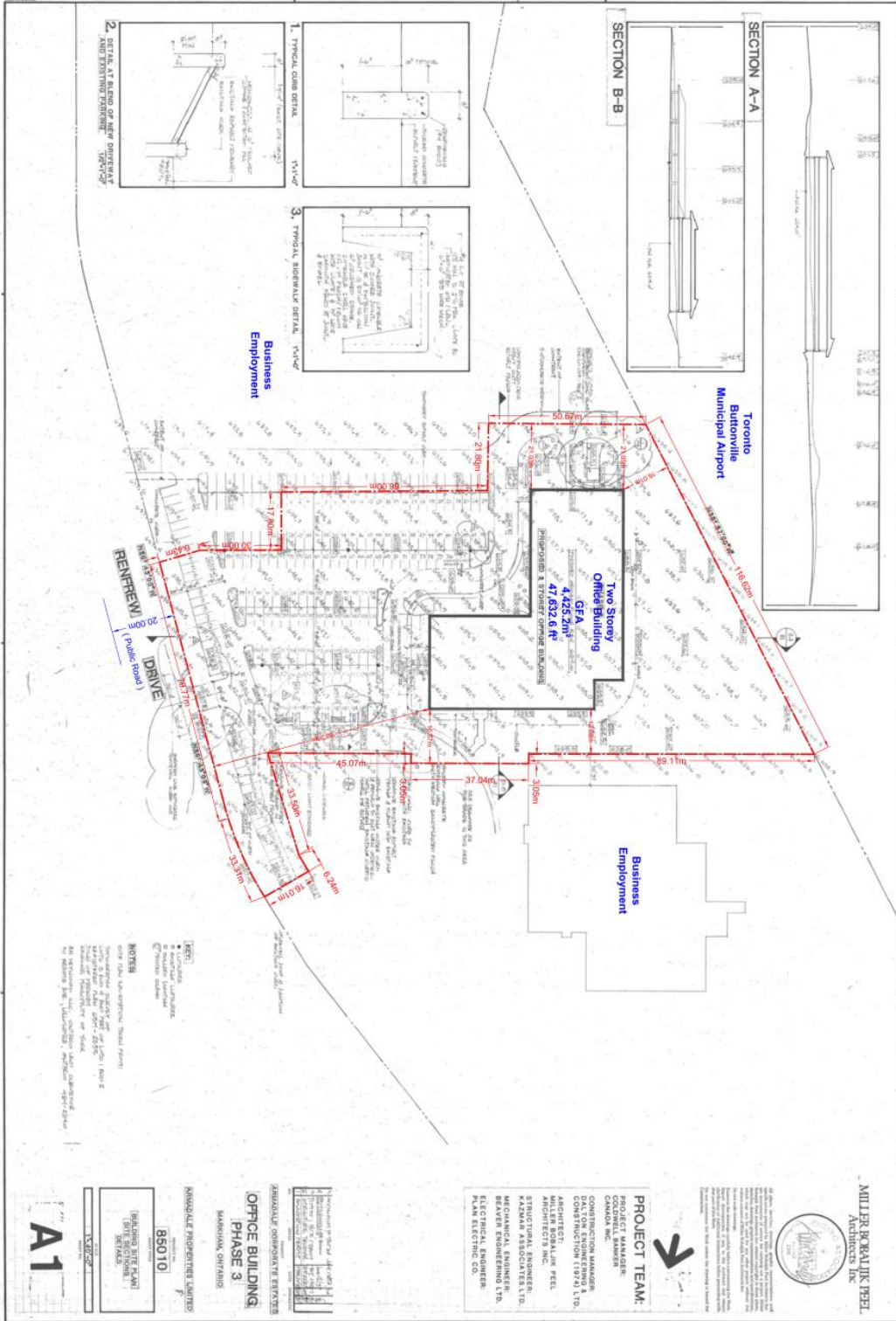
CONDITIONS PREPARED BY:



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Appendix "B" Submitted Plans

Site Plan



Floor Plan

