

Memorandum to the City of Markham Committee of Adjustment

November 11, 2020

File: A/094/20
Address: 205 Torbay Road – Markham, ON
Applicant: Weins Canada Inc.
Agent: Macaulay Shiomi Howson
Hearing Date: Wednesday November 18, 2020

The following comments are provided on behalf of the Central Team. The Applicant is requesting relief from the following requirements of the “Industrial Zone – (M)” under By-law 108-81, as amended (“the By-law”), as it relates to a proposed temporary motor vehicle sales facility. The Applicant requests the following variances to permit:

a) By-law 108-81, Section 7.1.1:

an interim motor vehicle sales establishment, for up to 18 months, whereas the By-law does not permit this use

b) By-law 28-97, Section 3.0:

168 parking spaces, whereas the By-law requires 187 parking spaces.

NOTE: The Applicant submitted an e-mail dated November 11, 2020, which confirms their request to formally remove the variance relating to a parking reduction (Appendix “D”). The Applicant has also provided staff with revised plans which show that 187 parking spaces will be provided (Appendix “B”).

BACKGROUND

Property Description

The 2.08 ha (5.13 ac) subject property fronts onto Torbay Road, and is located north of Steeles Avenue East, east of Victoria Park Avenue, south of Steelcase Road East, and east of Woodbine Avenue (the “Subject Property”). A single storey multi-unit office and industrial building with a gross floor area of approximately 8,782.49 m² (94,533.94 ft²) currently occupies the Subject Property. This area is comprised of a mix of employment uses, including industrial, commercial, office, and service. The Subject Property is partially within the Toronto and Region Conservation Authority’s (“TRCA”) Regulated Area.

Proposal

The Applicant is requesting to permit a temporary motor vehicle sales establishment on the Subject Property, specifically in Unit 12 (the “Subject Unit”), for up to 18 months until the completion of the construction of their permanent motor vehicle sales establishment at 7537 Woodbine Avenue. This permanent establishment was endorsed by the City through File SPC 19.141563 (the “Hyundai Dealership”) on October 23, 2020. In light of the current pandemic restrictions relating to social distancing, the Applicant would not be able to meet the Provincial guidelines for their employees of the Hyundai Dealership within the construction trailers.

The Applicant plans for minimal interior renovations to the Subject Unit, which has a gross floor area of 1,788.38 m² (19,249.96 ft²), and no changes are proposed to the exterior of the building. Furthermore, the Applicant originally requested a reduction to the parking

requirement as noted in the variance above that equates to a difference of approximately 19 spaces (or 10%). The Applicant no longer requires this variance.

In their letter addressed to Planning staff (Appendix “C”), the Applicant has described the rationale for requesting to permit a temporary motor vehicle sales establishment in the Subject Unit. If Committee approves this variance, it would enable the Applicant to safely house their sales employees on a temporary basis.

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

The Official Plan designates the Subject Property “General Employment” with a “Greenway” overlay along the south and west property lines. The General Employment designation permits industrial uses, including manufacturing, processing, and warehousing. This designation also permits retail, service, and office uses, provided they are accessory to the primary industrial use, and that specific criteria are met. The Official Plan does not permit motor vehicle sales or rental on lands designated “General Employment.” However, the Official Plan includes policies that set out specific criteria under Section 10.2.6 that must be met in order to allow for temporary use permissions to be granted. The Applicant provided Planning staff with written correspondence, which speaks to the criteria (Appendix “C”).

Zoning By-Law 108-81

The Subject Property is zoned “Industrial Zone – (M)” under the By-law, which permits a range of industrial uses including, but not limited to, warehousing of goods and materials, assembly of manufactured goods, manufacture within enclosed buildings of goods, repair and servicing of goods, and data processing centres and computer related functions. The zone does not permit motor vehicle sales establishments however; the By-law does not explicitly prohibit motor vehicle sales establishments. Consequently, the Applicant requests a variance to permit a motor vehicle sales establishment on a temporary basis, as described above.

Zoning Preliminary Review (“ZPR”) Not Undertaken

The Applicant confirmed that a ZPR has not been conducted. It is the Applicant’s responsibility to ensure that the application has accurately identified all of the variances to the By-law required for the proposed development. If the variances requested 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 (“the Committee”):

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, 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.

Permitting Motor Vehicle Sales Establishment on a Temporary Basis

Although the Official Plan does not permit motor vehicle sales or rental on lands designated “General Employment”, the policies do permit retail sales provided specific

criteria are met, including limits on size, and being accessory to primary manufacturing, processing, and warehousing uses. Furthermore, the By-law does not permit the proposed use.

The Applicant confirmed that the motor vehicle sales establishment, if approved, would temporarily house the employees and warehouse some vehicles internally to the Subject Unit, as described above, with no outside storage of new vehicles, until the construction completion of the Hyundai Dealership. This would enable the Applicant to continue their temporary business activities on the Subject Property during the construction of the Hyundai Dealership, while providing an alternative workplace to meet Provincial guidelines for social distancing requirements and work constraints during the current pandemic.

Although the Official Plan and the By-law do not permit the proposed use, staff acknowledge its temporary nature during these extraordinary circumstances. Staff have reviewed the proposed use in the context of its overall compatibility with adjacent properties, the impact it may have on the greater employment area, and the current state of the pandemic. Staff do not anticipate significant impacts to the abutting properties or to the overall employment area in the long term as the Applicant proposes the use on a temporary basis. If approved, staff would recommend that the use be terminated through a condition of approval at 24 months from the hearing date to cover any unanticipated delays to the construction of the off-site dealership, as provided in Appendix "A".

Reduction in Parking

The Subject Property currently provides 168 parking spaces, including a mix of visitor, barrier-free, and employee parking. The Applicant initially proposed to maintain the existing parking spaces, and requested a reduction to the Parking By-law requirement of 187 parking spaces.

The Applicant has since submitted revised plans that shows an additional 19 parking spaces can be accommodated on site and would meet the parking requirement of 187 parking spaces. Accordingly, the Applicant formally requested the removal of this variance (Appendix "D"). Planning staff recommend that this variance not be included in any approval decision.

TRCA Comments

The Subject Property is partially located within TRCA's Regulated Area as it is adjacent to a stream/valley corridor and Regulatory Storm floodplain associated with the Don River Watershed. TRCA provided comments in a letter dated November 9, 2020 (Appendix "E"), indicating no major concerns with the Minor Variance application. TRCA notes that if the proposed scope of work includes the introduction of new building openings, then a TRCA Permit may be required. Should Committee approve the application, staff recommend that the application be subject to a condition of approval, requiring the Applicant to satisfy the requirements of the TRCA, as outlined in their letter.

PUBLIC INPUT SUMMARY

No written submissions were received as of November 11, 2020. 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 note that the proposed use is prohibited by the Official Plan. However, staff acknowledge that the use is being proposed on an interim basis to allow for the temporary housing of sales employees while the owner is entering the final stages of site plan approval for an off site dealership, according to the applicant's submission. Staff are of the opinion that the relationship of the new use and its ability to co-exist on a temporary basis would pose little planning concern to the overarching employment area.

Staff recommend that the Committee satisfy themselves that the four tests under Section 45(1) of the *Planning Act* are met, and that the Committee consider public input in reaching a decision. Staff note that the variance related to a parking reduction is no longer required, and should not be included in any approval decision. Should the use be approved, staff recommend that the conditions of approval provided in Appendix "A" be adopted by the Committee.

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

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

Appendix "C" – Applicant's Comments: October 27, 2020 & November 2, 2020

Appendix "D" – Applicant's Request to Withdraw Parking Variance: November 11, 2020

Appendix "E" – TRCA Comments: November 9, 2020

PREPARED BY:



Stephen Lue, Development Manager, Central District

APPENDIX “A”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/094/20

1. That the variances apply only to the proposed development, in substantial conformity with the batch stamped plans attached as Appendix “B” to this Staff Report, 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.
2. That the variance to permit a motor vehicle sales establishment on a temporary basis applies only to the Subject Unit 12 as identified in Plans A-100 and A-201, created by SR Architecture, and attached as Appendix “B” to this report for as long as it remains.
3. That the variance to permit a motor vehicle sales establishment within Subject Unit 12 shall continue to apply only on a temporary basis for a maximum period of 24 months from the date the application was heard, and therefore, will expire as of November 18, 2022, when the Applicant will be required to confirm in writing that the motor vehicle sales establishment use no longer exists, 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.
4. That the Applicant satisfies the requirements of the Toronto Region and Conservation Authority (“TRCA”), financial or otherwise, as indicated in their letter to the Secretary-Treasurer, attached as Appendix “E” to this Staff Report, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the TRCA.

CONDITIONS PREPARED BY:



Stephen Lue, Development Manager, Central District

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/094/20

PLAN OF SURVEY WITH TOPOGRAPHY OF
LOTS 81 AND 82
REGISTERED PLAN 9001
CITY OF MARKHAM
 REGIONAL MUNICIPALITY OF YORK
 SCALE 1 : 400

SPEIGHT, VAN NOSTRAND & GIBSON LIMITED
 ONTARIO LAND SURVEYORS
 2016

THE REPRODUCTION, ALTERATION OR USE OF THIS PLAN, IN WHOLE OR IN PART, WITHOUT THE EXPRESS PERMISSION OF SPEIGHT, VAN NOSTRAND & GIBSON LIMITED IS STRICTLY PROHIBITED.

METRIC

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

LEGEND

■	DENOTES	SURVEY MONUMENT FOUND
□	WIT	SURVEY MONUMENT PLANTED
○	SIB	WITNESS MONUMENT
○	CP	STANDARD IRON BAR
○	IB	CONCRETE PIN
○	CC	IRON BAR
○	N,S,E,W	CUT CROSS
○	OU	NORTH, SOUTH, EAST, WEST ORIGIN UNKNOWN
○	657	D. HOLSTED, O.L.S.
○	922	F. SCHAEFFER, O.L.S.
○	OU	ORIGIN UNKNOWN
○	P1	PLAN OF SURVEY BY WINTERS, MAUGHAN & GLENDAY, O.L.S. - DATED JULY 28, 1981
○	P2	PLAN OF SURVEY BY WINTERS, MAUGHAN & GLENDAY, O.L.S. - DATED MARCH 27, 1974
○	B	BOLLARD
○	CB	CATCH BASIN
○	FF	FINISHED FLOOR
○	FH	FIRE HYDRANT
○	GV	GAS VALVE
○	HB	HYDRO BOX
○	HW	HAND WELL
○	MH	METER
○	MLS	METAL LIGHT STANDARD
○	PW	PRESSURE INDICATOR VALVE
○	SIA	SIAMISE CONNECTION
○	SMH	SEWER MANHOLE
○	WLS	WOODEN LIGHT STANDARD
○	WP	WOODEN POLE
○	WY	GUY WIRE
○	WV	WATER VALVE
○	OH	OVERHEAD WIRE
○	○	DECIDUOUS TREE
○	○	CONIFEROUS TREE
■	■	CONCRETE
■	■	BRICK
■	■	STONE
■	■	GRAVEL
○	○	TOP ELEVATION
---	---	UNDERGROUND GAS LINE
---	---	UNDERGROUND WATER LINE
---	---	UNDERGROUND HYDRO LINE
---	---	UNDERGROUND CABLE LINE

BEARING NOTE

BEARINGS HEREON ARE ASTROMONIC AND ARE REFERRED TO THE SOUTHERLY LIMIT OF TORBRAY ROAD AS SHOWN ON REGISTERED PLAN 9001 HAVING A BEARING OF N71°55'10"E

ELEVATION NOTE

ELEVATIONS ARE GEODETIC AND ARE DERIVED FROM THE CITY OF TORONTO BENCH MARK No. 5308

LOCATION :

3790 VICTORIA PARK AVENUE PLATE AT SOUTH EAST CORNER AT CENTER OF DIAGONAL WALL 0.46 METRES ABOVE GRADE.

ELEVATION:

PUBLISHED ELEVATION = 188.174 metres.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT :

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON DECEMBER 21, 2016.

DATE : JANUARY 9, 2017

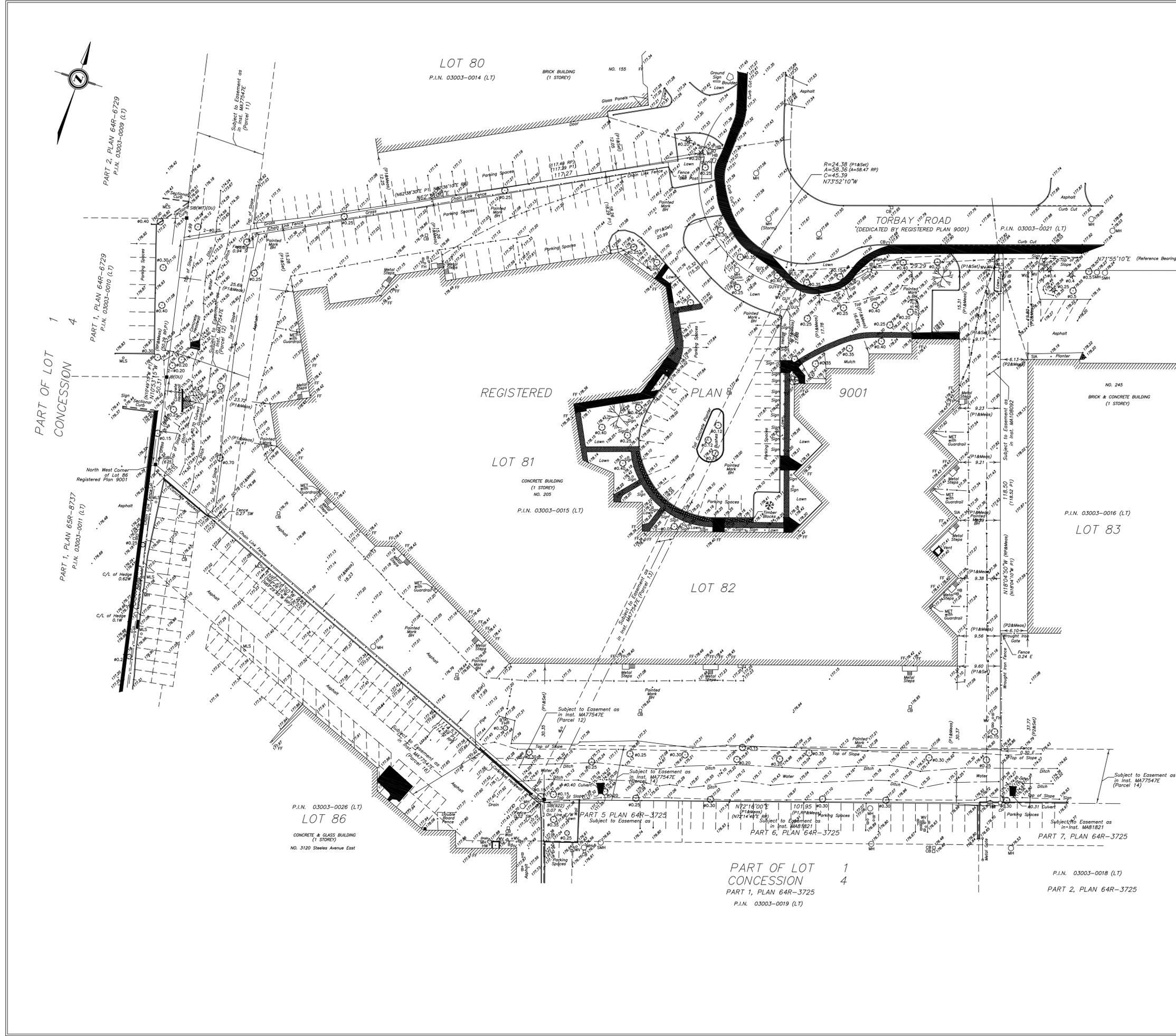
LES RUDNICKI
 ONTARIO LAND SURVEYOR

SPEIGHT, VAN NOSTRAND & GIBSON LIMITED
 ONTARIO LAND SURVEYORS
 750 OAKDALE ROAD, Units 65 & 66
 TORONTO, ONTARIO M3N 2Z4
 TEL. 416 749-SVNG(7864) FAX 416 749-7866
 E-MAIL: toronto@svng.on.ca

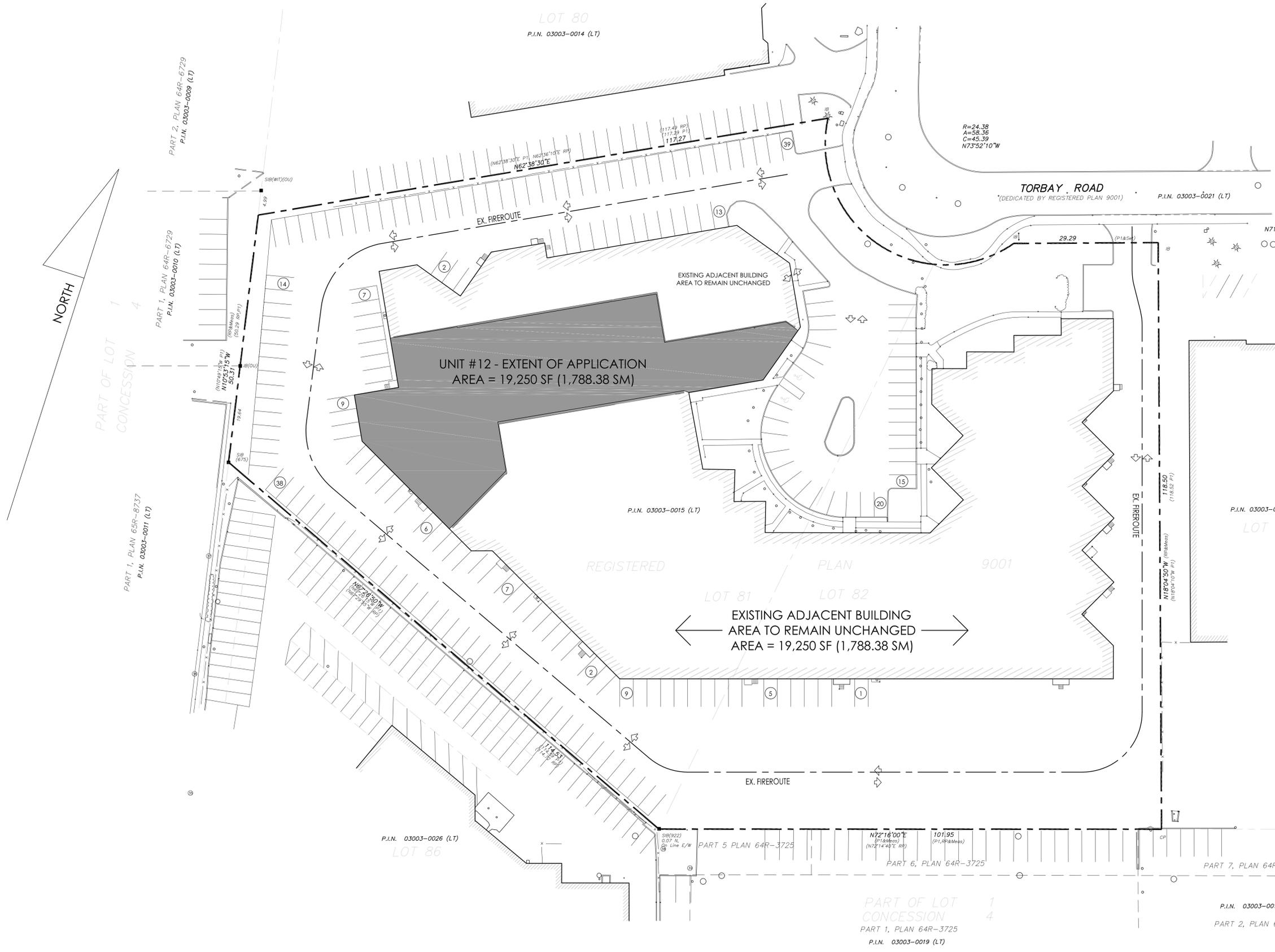
ASSOCIATION OF ONTARIO
 LAND SURVEYORS
 PLAN SUBMISSION FORM
 1994714

DRAWN :	E. D./F. P. B.	FILE NAME :	A1600317.DWG
CHECKED :	L. R.	PLOT SCALE :	MET.1=0.40
JOB No. :	160-0317	PLOTTED :	
REF. No. :	17-9001Y	UPDATED :	

THIS PLAN IS NOT VALID UNLESS IT IS AN EMBOSSED ORIGINAL COPY ISSUED BY THE SURVEYOR in accordance with Regulation 1026, Section 28(3)



17-9001Y



ZONING INFORMATION - ZONING BY-LAW		
CITY OF MARKHAM ZONING BY-LAW No. 108-81, AS AMENDED		
SPECIFIC USES UNDER THIS APPLICATION		
ZONING = "M" SELECT INDUSTRIAL		
OVERALL LOT STATISTICS	REQUIRED (SM/M)	PROVIDED (SM/M)
MINIMUM LOT FRONTAGE	30 M	87.00 M
MAXIMUM BUILDING HEIGHT	14 M	5.43 M
MIN. BUILDING SIZE	1,400 SM	8,782.49 M
MINIMUM LOT AREA	0.4 Ha	20,768.84 100.00%
MAXIMUM LOT COVERAGE (TOTAL BUILDING)	EXISTING TO REMAIN	8,782.49 42.29%
LANDSCAPED OPEN SPACE (SM)	20% OF LOT AREA	3,200.00 15.41%
ASPHALT SURFACE AREA (SM)	N/A	8,786.35 42.31%
BUILDING AREA & DENSITY MATRIX	SF	SM
EXISTING INDUSTRIAL BUILDING AREA TO REMAIN =	94,534 SF	8,782.49 SM
PARKING REQUIREMENTS / CALCULATIONS	REQUIRED	PROVIDED
EXISTING INDUSTRIAL BUILDING TO BE RETAINED:		
EXISTING UNITS: 1-2-3-4-4A-5 TOTAL AREA = 1,851.12 SM (PARKING BASED ON NET FLOOR AREA UP TO 1,200 SM, 1 PARKING SPACE PER 40 SM OF UNIT AREA)	46.28	187
EXISTING UNITS: 6-8 - FIRST 1,200 SM AREA = (PARKING BASED ON NET FLOOR AREA UP TO 1,200 SM, 1 PARKING SPACE PER 40 SM OF UNIT AREA)	30.00	
EXISTING UNITS: 6-8 - REMAINDER 1,054.11 SM AREA = (PARKING BASED ON NET FLOOR AREA BETWEEN 1,200 SM AND 6,000 SM, 1 PARKING SPACE PER 100 SM OF THIS AREA)	10.54	
VACANT UNITS: 9-10-11-13-14 = 2,888.88 SM AREA = (PARKING BASED ON NET FLOOR AREA BETWEEN 1,200 SM AND 6,000 SM, 1 PARKING SPACE PER 100 SM OF THIS AREA)	28.88	
RENOVATED UNIT: 12 = 1,788.38 SM AREA = (PARKING BASED ON RETAIL AUTOMOTIVE) 1 PARKING SPACE PER 25 SM OF THIS AREA)	71.53	
TOTAL PARKING =	187.23	
BARRIER FREE PARKING (5% OF TOTAL REQUIRED) (INCLUDED ABOVE IN TOTAL)	9	2 (EXISTING)
TOTAL SITE EMPLOYEE PARKING	N/A	152
EXISTING VISITOR PARKING LOCATED IN FRONT CUL-DE-SAC SPACES (EX)	N/A	35
EXISTING LOADING SPACE	2	2
PARKING STANDARDS (AUTOMOBILE)	REQ'D (M)	COMPLIANT
PARKING STALL - ABOVE GRADE	2.75 X 5.8	YES
ACCESSIBLE PARKING STALL + 1.5M ACCESS STRIP	2.6 X 5.8 + 1.5M AISLE	YES
SINGLE LOADED DRIVE ISLE	3.0	YES
DOUBLE LOADED DRIVE ISLE - TWO WAY	6.0	YES
SETBACKS	REQ'D (M)	PROVIDED (M)
FRONT (NORTH) TORBAY ROAD	12.0	15.6
SIDE YARD (NORTH)	6.0	18.8
SIDE YARD	6.0	9.2
REAR (EAST)	12.0	32.5

OWNER:
Weins Canada
 3120 Steeles Ave E, Markham, ON L3R 1G9 Tel: 905.475.0308

ARCHITECTURAL CONSULTANT:
S Architecture
 1100 HWY 7 EAST
 555 Denison Rd, Ancaster, ON L9G 4C5
 (905) 238-1742

GENERAL NOTES:
 DO NOT SCALE DRAWINGS. USE ONLY DRAWINGS MARKED "ISSUED FOR CONSTRUCTION". VERIFY CONFIGURATIONS & DIMENSIONS ON SITE BEFORE BEGINNING WORK. NOTIFY ENGINEER IMMEDIATELY OF ANY ERRORS, OMISSIONS OR DISCREPANCIES.

NO.	ISSUE BY	DESCRIPTION	DATE
1	SW	TEMPORARY REZONING SUB. - REV-1	20-10-05

DRAWING TITLE:
 EXISTING OVERALL SITE PLAN

BY: [] CHECKED: [] ISSUED FOR: SW TEMPORARY REZONING SUB. - REV-1

PROJECT NO: 109 SHEET NO: 1

SCALE: AS NOTED

ISSUE DATE (YYYYMMDD): 20/11/03

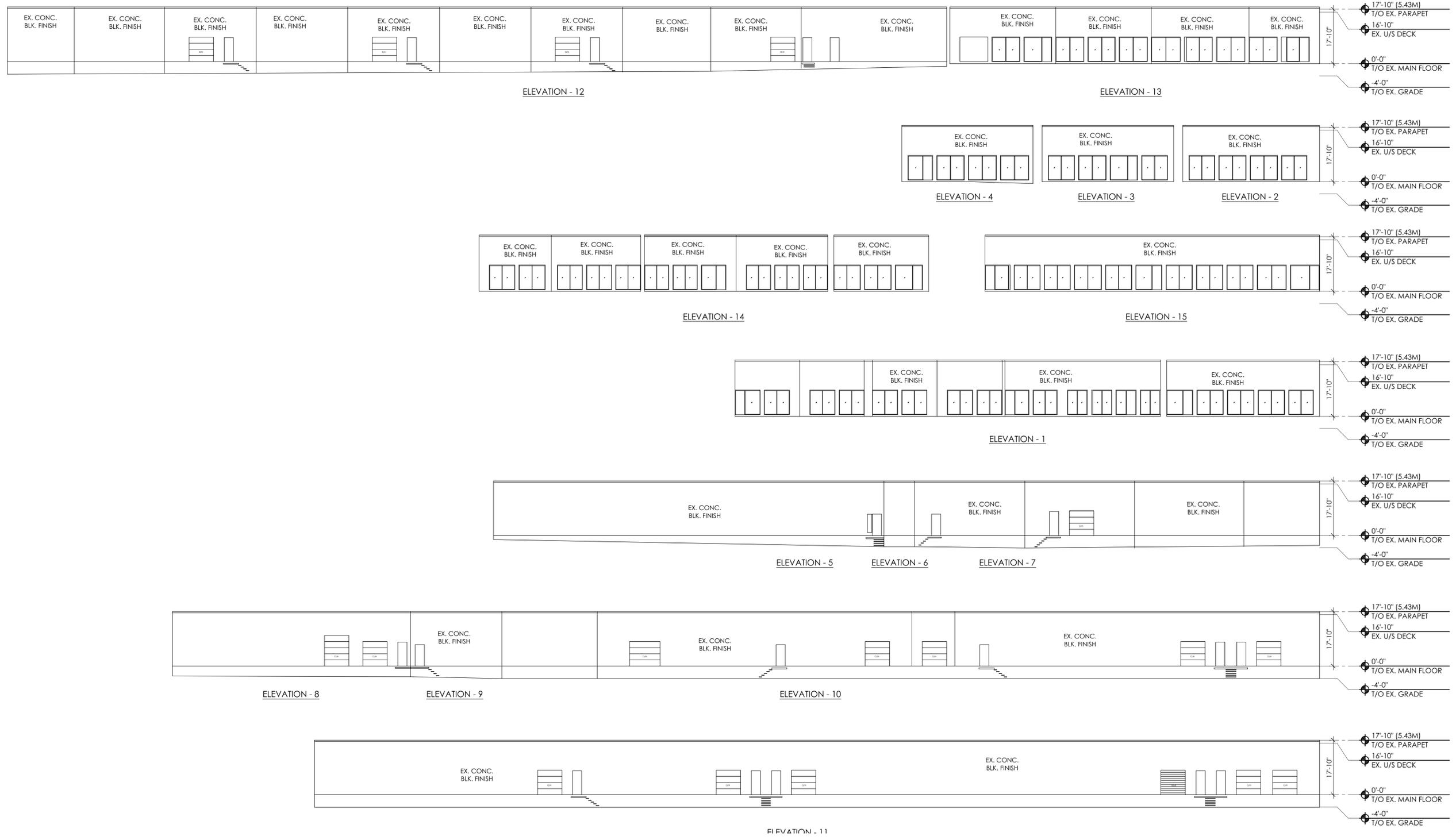
A-100

1 SHEET REV

TORBAY SITE DEVELOPMENT
 205 Torbay Road, Markham, ON L3R 3W4

PROJECT NAME & ADDRESS

PROFESSIONAL CERTIFICATION



OWNER:
Weins Canada
 3120 Steeles Ave E, Markham, ON L3R 1G9 Tel: 905.475.0308

ARCHITECTURAL CONSULTANT:
S Architecture
 555 Denison Road, Ancaster, ON L9G 4C5 (905) 206-1762

GENERAL NOTES:
 DO NOT SCALE DRAWINGS. USE ONLY DRAWINGS MARKED "ISSUED FOR CONSTRUCTION". VERIFY CONFIGURATIONS & DIMENSIONS ON SITE BEFORE BEGINNING WORK. NOTIFY ENGINEER IMMEDIATELY OF ANY ERRORS, OMISSIONS OR DISCREPANCIES.

NO.	ISSUE BY	DESCRIPTION	DATE
1	SW	TEMPORARY REZONING SUB. - REV-1	20-10-05

DRAWING TITLE:
EXISTING ELEVATIONS

BY: [] CHECKED: [] ISSUED FOR:
 BP SW TEMPORARY REZONING SUB. - REV-1

PROJECT NO: **18-109** SHEET NO:
A-300

SCALE: AS NOTED
 ISSUE DATE (YYYYMMDD): 20/10/26

1
 SHEET REV

PROJECT NAME & ADDRESS:
TORBAY SITE DEVELOPMENT
 205 Torbay Road, Markham, ON L3R 3W4

PROFESSIONAL CERTIFICATION

APPENDIX "C"

APPLICANT'S COMMENTS: OCTOBER 27, 2020 & NOVEMBER 2, 2020

October 27, 2020

Attn: Stephen Lue, Manager – Central District, Planning Department

Re: Proposed Interim Use – Minor Variance
205 Torbay Road (Unit 12)
City of Markham

Dear Mr. Lue,

Macaulay Shiomi Howson Ltd. (MSH) are the planning consultants for Weins Canada, owners of the subject property which is located on Torbay Road, which is northwest of the intersection of Steeles Ave. and Victoria Park Dr. in the City of Markham. The property is occupied by an industrial building.

Figure 1 – Location/Context Map



Official Plan

The subject lands are designated Employment Area – General Employment in the City of Markham Official Plan. Per section 8.5.5.2, the primary uses permitted on lands designated 'General Employment' include; manufacturing, processing and

warehousing, retail and/or service use that is accessory to the primary manufacturing, processing or warehousing use, and located in the same premise as the primary use, office use and trade schools. Section 8.5.5.3 provides for additional uses permitted as *discretionary uses*, subject to site-specific development and zoning approval in accordance with Sections 8.5.1.2 and 8.5.1.3.

Zoning By-law (108-81 as amended)

The subject lands are zoned Select Industrial (M) by By-law 108-81 as amended,

The permitted used under the 'M' zone include the following;

- Warehousing of good and materials
- Assembly of manufactured goods
- Manufacturing within enclosed buildings
- Repair and servicing of goods
- Data processing center and computer related functions
- Research Laboratories
- Printing Establishments
- Other industrial uses similar to the above uses

The Proposal

Don Valley North Hyundai Genesis (DVNHG) is in the final stages of site plan approval and the majority of the sales use on that site (7537 Woodbine Ave.) will be subject to a 12-18 month construction program and rebuild.

The Property at 205 Torbay Rd. is also owned by the same parent company and is the subject of a development application to demolish part of the building and construct a new motor vehicle repair facility on the site.

Initially, DVNHG had proposed to house employees on-site during construction at 7537 Woodbine Ave., however, with new physical distancing requirements, the number of additional trailers and space required to accommodate employees on the site during construction is no longer feasible.

Therefore, the Owner now proposes to temporarily house employees at 205 Torbay and allow motor vehicle sales in one of the units at 205 Torbay. This would include housing the sales staff and related offices and some vehicles in the unit (similar to a showroom area). This portion of the building at 205 Torbay is currently vacant and is the portion of the building that is subject to the above noted development application.

Therefore, the request is to permit a minor variance to allow a motor vehicle sales use at 205 Torbay, within the area outlined on the submitted plans (Unit 12). This

request is for a limited time, a proposed condition of the requested variance is that it would expire after 18 months, or once occupancy is granted at 7537 Woodbine Ave.

In addition, based on the current parking by-law, the proposed use would be considered 'other' and brings with it an increased parking ratio, compared to the previous use on the site. This creates an overall deficiency of parking of nineteen (19) spaces. The proposed minor variance application will also seek to reduce the required number of parking spaces on the site.

Discussion/Analysis

In order to be considered for a minor variance, an application must meet four tests, outlined in the Planning Act, and below:

The four tests and the justification are outlined below:

- 1) The proposal maintains the general purpose and intent of the Official Plan;

The General Employment designation permits a retail and/or service use that is accessory to the primary manufacturing, processing or warehousing use. This introduces the notion that 'retail' and/or 'commercial' uses are generally acceptable in the General Employment designation.

The proposed motor vehicles sales use is similarly a 'retail/service' use and will be permitted on an interim basis (up to 18 months) to accommodate construction off-site. It is my opinion that the proposed interim use meets the intent of the Official Plan.

- 2) The proposal maintains the general purpose and intent of the Zoning By-law;

Similar to the Official Plan, the zoning by-law permits other industrial uses similar to the above uses. Office and sales uses are often found in and compatible with Industrial uses. The proposed interim sales use/showroom use will be located internal to the building and no new vehicles will be stored outdoors on the site. It is my opinion that the proposed interim use meets the intent of the zoning by-law.

- 3) The proposal is desirable for the appropriate development or use of the land, building or structure;

The proposed interim sales/showroom use is appropriate and desirable for the following reasons:

- It will allow for faster construction on the DVNHG site;
- It will allow staff to be housed in a building, rather than in trailers for a short period of time;

- Logistically, it will allow for construction on the DVNHG site to continue unimpeded by numerous trailers (which logistically can no longer be accommodated due to the larger number of trailers required);
- It will allow DVNHG staff and customers to comply with Public Health requirements regarding COVID 19;
- Off-site outdoor vehicle storage in the area, owned by Weins, means that the proposed use can be fully incorporated interior to the building;
- There is no risk of the proposed use becoming permanent as; 1) The Owner/DVNHG wants to be in the permanent location for DVNHG, as soon as possible and 2) The Owner has filed a development application for a new motor vehicle repair facility on the Torbay site, which contemplates this portion of the Torbay building being demolished.

4) The proposal is minor.

It is my view that the proposed temporary use will have little to no impact to the existing building, with Direct Buy (the previous tenant) having vacated, the staff housed on site will likely create a similar amount of activity as the previous use. In addition, the Owner has the nearby infrastructure to allow for the storage of vehicles, meaning vehicles will not be stored on site (some vehicles will be inside the building, similar to a showroom).

Staff will be able to be accommodated within a building (especially in winter and during COVID 19) rather than in trailers and without causing logistical issues on a construction site.

Finally, the deficiency of parking spaces on the site is less than 10% of the overall parking requirement. In addition, two of the units adjacent to the unit to be used for motor vehicles sales are currently vacant and due to the pending development application on the site, are likely to remain vacant for the duration of this interim use, meaning that parking spaces normally required for these units will be vacant.

As a condition of the approval, it is proposed that the Minor Variance expire 18 months after it takes effect, or once DVNHG building has received full occupancy and the sales staff can be relocated to the new building at 7537 Woodbine Ave., whichever comes first.

Recommendation

Per the Discussion/Analysis section above, the application meets the four tests for minor variance and I would recommend to the Committee that it be approved, with the proposed condition noted herein.

Should you have any questions regarding the information contained herein, please contact me directly, thank you.

Sincerely,

MACAULAY SHIOMI HOWSON LTD.

Nick Pileggi

Nick Pileggi, MCIP, RPP
Associate Principal

Todorovski, Aleks

From: Nick Pileggi <pileggi@mshplan.ca>
Sent: Monday, November 2, 2020 9:24 AM
To: Todorovski, Aleks
Cc: Lue, Stephen; Karumanchery, Biju
Subject: 205 Torbay variance

CAUTION: This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.

Good morning,

I spoke to a couple of people over the weekend who told me that OP conformity for a temporary use by-law (or variance in this case) is demonstrated through the Temporary Use provisions of the OP, there is nothing specifically in the Planning Act which removes the need for OP compliance, just that the rules for that compliance are different.

Therefore, for the proposed application, the OP requirements are as follows:

10.2.6.1.

That in accordance with Section 39 of the Planning Act, a temporary use bylaw may be passed to authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the zoning by-law provided that:

- a) the development proponent demonstrates that the use is temporary in nature and appropriate for a limited time span;

As noted, the purpose of this application is to house sales staff during construction on the Don Valley North Hyundai site. We have requested 18 months but expect to be complete quicker. There is no intention to be on the Torbay site long term, the immediate goal is to get sales staff back to the permanent location ASAP. This is due to no longer being able to accommodate sales staff in trailers due to physical distancing requirements.

- b) no new buildings or expansions of buildings, except for temporary or moveable structures, shall be permitted on the subject lands; and

No new buildings are proposed.

- c) an agreement be entered into to terminate the use upon expiry of the by-law.

If an agreement is required, Weins will enter into it.

10.2.6.2.

That the proposed temporary use permitted in accordance with the temporary use by-law shall:

- a) maintain the long term viability of the lands for the uses permitted in this Plan;

The lands are designated employment and will remain so, the proposed auto sales use will employ approximately 20 people in the interim.

b) be compatible with the adjacent land uses;

Don Valley Lexus, Toyota and the Weins parking garage are all adjacent or nearby and other uses will not be impacted

c) be suitable for the site in terms of site layout, building design, accessibility, provision of landscaping, screening and buffering and available services;

The site is suitable, no new construction is proposed;

d) have no adverse impact on traffic, transportation or parking facilities in the area;

No impact is expected;

e) provide adequate on-site parking facilities;

A parking variance is required, however, 2 adjacent units in the building are vacant.

f) provide sufficient services (e.g., roads, water supply, etc.) to accommodate the proposed temporary use;

Sufficient services exist;

g) be temporary in nature, appropriate for a limited time span and can be terminated when the authorizing by-law expires;

See note above, the intent is to move back into the permanent Hyundai facility ASAP.

h) not entail any major construction or investment on the part of the owner so that the owner will not experience undue hardship in reverting to the original use upon the termination of the temporary use provisions.

Minimal renovation is proposed (to meet the needs of staff and customers)

Please let me know if you require anything further.

Nick Pileggi, MCIP, RPP

Principal

Macaulay Shiomi Howson Ltd.

E pileggi@mshplan.ca

M 647-354-8240

T 905.503.3440

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APPENDIX "D"
APPLICANT'S REQUEST TO WITHDRAW PARKING VARIANCE: NOVEMBER 11, 2020

Todorovski, Aleks

From: Nick Pileggi <pileggi@mshplan.ca>
Sent: Wednesday, November 11, 2020 12:42 PM
To: Lue, Stephen; Todorovski, Aleks
Cc: Amin Tejani; Jesse Wilson
Subject: 205 Torbay Rd (A.094.20)
Attachments: 205 Torbay Road - Unit 12 - DVNH Temp Sales - REV.2-A-100.pdf; 205 Torbay Road - Unit 12 - DVNH Temp Sales - REV.1-A-201.pdf

CAUTION: This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.

Stephen,

I have spoken with Weins Canada and we can formally remove/withdraw the variance for the parking reduction and include parking spaces per the attached site plan to meet the City parking requirement on the subject lands (with the interim use included).

Please let me know if you require anything further.

Nick Pileggi, MCIP, RPP
Principal
Macaulay Shiomi Howson Ltd.

E pileggi@mshplan.ca

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APPENDIX "E"
TRCA COMMENTS: NOVEMBER 9, 2020

November 9, 2020

CFN 62567.08
X Ref: 59098.03

By Email Only (email: JLeung@markham.ca)

Mr. Justin Leung
Secretary-Treasurer
Committee of Adjustment
City of Markham
101 Town Centre Boulevard
Markham, ON L3R 9W3

Dear Mr. Leung:

Re: A/094/20 (Minor Variance Application)
205 Torbay Road, City of Markham
Owner: Wiens Canada Inc.

This letter acknowledges receipt of the above-noted application. Toronto and Region Conservation Authority (TRCA) staff have reviewed this application and our comments are provided herein.

Purpose of the Applications

The applicant is requesting relief from the requirements of City of Markham By-law 108-81 as amended, as it relates to a proposed interim motor vehicle sales facility within a northern unit of an existing building.

Requested variances to the Zoning By Law:

- a) By-law 108-81, Section 7.1.1:
Interim motor vehicle sales establishment, up to 18 months; whereas the by-law does not permit this use
- b) By-law 28-97, Section 3.0:
to permit 168 parking spaces; whereas the by-law requires 187 parking spaces.

It is TRCA staff's understanding that no new building openings to the existing building unit is being proposed, and that there will be no storage of hazardous substances outside of the building which may be associated with the proposed use.

Applicable TRCA Regulations and Policies

The TRCA provides our technical review comments through a number of roles. This includes TRCA's commenting role under the *Planning Act*; the Conservation Authority's delegated responsibility of representing the provincial interest of natural hazards encompassed by Section 3.1 of the Provincial Policy Statement (2020); TRCA's Regulatory Authority under Ontario Regulation 166/06, as amended

(Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses); and our Memorandum of Understanding with the Region of York where we advise our municipal partners on matters related to Provincial Policies relevant to TRCA's jurisdiction.

Provincial Policy Statement (2020):

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. According to subsections 3 (5) and (6) of the Planning Act, as amended, all planning decisions made by a municipality and all comments provided by the TRCA shall be consistent with the PPS.

TRCA's delegated role under the *Planning Act* to represent the provincial interest in natural hazards. As outlined in the Conservation Ontario / Ministry of Natural Resources and Forestry / Ministry of Municipal Affairs and Housing Memorandum of Understanding (MOU) on Conservation Authorities Delegated Responsibilities, Conservation Authorities have been delegated the responsibility of representing the provincial interest on natural hazards encompassed by Section 3.1 of the PPS 2020.

City of Markham Official Plan (2014):

The Official Plan is a statutory document under the Ontario Planning Act that sets out land use policy to guide future development and to manage growth. It provides a policy framework for Council decisions regarding the use of land, the provision of the municipal services required to support growth, and the phasing of development.

Section 3.4.1.1 of the City of Markham Official Plan outlines that in order to protect the safety of the public and reduce property damage by directing development, redevelopment or site alteration to locations outside of hazardous lands and hazardous sites. Furthermore, Section 3.4.1.2 explicitly prohibits the following uses on hazardous lands, hazardous sites and Special Policy Areas: uses associated with the disposal, manufacture, treatment or storage of hazardous substances. We defer to the City of Markham regarding the proposals consistency with the municipality's Official Plan.

Ontario Regulation 166/06, as amended:

The *Conservation Authorities Act* provides the legal basis for TRCA's mandate to undertake watershed planning and management programs that prevent, eliminate, or reduce the risk to life and property from flood hazards and erosion hazards, as well as encourage the conservation and restoration of natural resources. Under the provisions of Section 28 of the *Conservation Authorities Act*, TRCA administers Ontario Regulation 166/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), as amended.

The subject property is located within TRCA's Regulated Area, as it is adjacent to a stream/valley corridor and Regulatory Storm floodplain associated with the Don River Watershed. In accordance with Ontario Regulation 166/06, as amended, (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit may be required from the TRCA prior to any of the following works taking place:

- a. straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b. development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

Development is defined as:

- i. the construction, reconstruction, erection or placing of a building or structure of any kind;

- ii. any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;
- iii. site grading; or,
- iv. the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

Living City Policies for Planning and Development in the Watersheds of the TRCA:

The Living City Policies for Planning and Development in the Watersheds of the TRCA (LCP) is a TRCA policy document that guides the implementation of TRCA's legislated and delegated roles and responsibilities in the planning and development approvals process. The LCP describes a "Natural System" of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. TRCA policies generally require that natural features within the "Natural System" be protected from development, site alteration and infrastructure. Notwithstanding additional setbacks prescribed by federal, provincial or municipal requirements, TRCA defines the limit of the "Natural System" as the greater of, but not limited to the following:

- Valley and Stream Corridors: 10 metre buffer from the greater of the long-term stable top of slope (LTSTOS), stable toe of slope, Regulatory Floodplain, meander belt and any contiguous natural features or areas;
- Woodlands: 10 metre buffer from the dripline and any contiguous natural features or areas;
- Wetlands: 30 metre buffer from Provincially Significant Wetlands (PSWs) and wetlands on the Oak Ridges Moraine, and a 10 metre buffer from all other wetlands and any contiguous natural features or areas

Section 8.4.2 of the LCP outlines that development will not be permitted within the flood or erosion hazard of valley and stream corridors or hazardous lands, where the use is associated with the disposal, manufacture, treatment, or storage of hazardous substances. The intent of this policy is to protect the safety of the public and to reduce onsite/offsite contamination by redirecting development, re-development or site alteration to locations outside of hazardous lands and hazardous sites.

Application Specific Comments

TRCA staff had the opportunity to review the subject property as part of a pre-consultation request from the City of Markham on February 21, 2020 to remove a portion of the existing industrial building and develop a new industrial building for automotive service and repair. TRCA also note that a previous application for a Zoning By-law Amendment (ZA 18 162895; CFN 59098.03) was made to permit motor vehicle repair and accessory outside storage, utilizing the existing building and parking area, but that this 2018 application appears to be no longer relevant.

Please note that since our pre-consultation review, the Regulatory Flood plain elevation on the subject property has been updated with current flow information. The applicant is advised to contact TRCA staff for the updated flood plain information as part of their future Flood Plain Analysis in support of the re-development proposal on the subject lands.

TRCA staff do not have any major concerns with this Minor Variance Application to permit an interim motor vehicle sales facility within a northern unit of an existing building on the subject property. While the existing building may be within the floodplain, based upon the Finished Floor Elevations indicated, the interior space maybe floodproofed above the current Regulatory Storm elevation. If the proposed scope of work includes the introduction of new building openings (i.e., windows, doors, vents, etc.), then the proposal may be subject to a TRCA permit. The applicant may consult TRCA staff at undersigned for more information. Furthermore, it is our expectation that any disposal, manufacture, treatment, or storage

of hazardous substances associated with the temporary sales facility will be within a space that is not flood prone (i.e. within the building). As such, we would not support outdoor storage of hazardous waste and materials which may be associated with the proposed use.

Application Review Fee

As per TRCA’s role as a commenting agency for *Planning Act* applications circulated by member municipalities to assess whether a proposed development may be impacted by TRCA, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services. This application is subject to a \$1100 review fee (2018 TRCA Planning Fees Schedule – Variance – Industrial/Commercial – Minor).

The applicant is advised to contact the undersigned to arrange payment to the TRCA immediately.

Recommendation

Based on the information submitted to date, we have no objections to the minor variance application of A/041/20, subject to the following conditions:

1. That the applicant remits the outstanding TRCA Planning Services review fee for this application (\$1100) to TRCA.

Any future changes to the proposed work should be screen by TRCA staff to determine if any TRCA permits will be required.

I trust these comments are of assistance. Should you have any questions, please do not hesitate to contact me at the undersigned.

Sincerely,


Andrea Lam
Planner I
Development Planning and Permits
Extension 5306

AL/lb