

Memorandum to the City of Markham Committee of Adjustment

January 24, 2020

File: A/16/19 & A/151/19
Address: 105 & 107 Main St Unionville
Applicant: Fire-Works Property Group Inc. (Yan Liu)
Agent: Henry W. Chiu Architect (Henry Chiu)
Hearing Date: Wednesday February 05, 2020

The following comments are provided on behalf of the Heritage Districts Team:

The applicant is requesting relief from the following requirements of By-law 122-72, R3 as amended:

Minor Variance Application A/151/19 – 105 Main Street

a) **Amending By-law 404-84, Schedule A:**

to permit 21 parking spaces, whereas Schedule A required 23 parking spaces to be located on-site as it relates to a total net floor area of 826.2m² for the permitted uses;

Minor Variance Application A/16/19 – 107 Main Street

a) **Section 11.1, By-law 122-72**

to permit a rear yard paved parking area solely for the commercial uses located on 105 Main Street, whereas a parking lot in a residential zone is not permitted;

b) **Section 6.2.4.4, By-law 28-97**

to permit a rear driveway, parking pad and parking area to be located at 0.61m from the adjoining lot line; 2.68 from the north lot line; and 5.5m from the side lot line;

as they relate to existing paved parking lots at 105 and 107 Main Street, Unionville.

Note: Consent Application B/09/19, associated with Minor Variance Application A/16/19, was withdrawn by the applicant.

BACKGROUND

Property Description

The 1642.51m² subject property at 105 Main Street is located within the Unionville Heritage Conservation District at the northeast corner of Highway 7 and Main Street. The property contains a Group A heritage building with a modern-era rear addition. The heritage building is a former dwelling that was converted to commercial uses in the 1970s. The commercial uses are served by a paved parking lot in the rear yard.

The adjoining 1318.05m² subject property to the north at 107 Main Street is also located within the Unionville Heritage Conservation District. The property contains a Group A heritage dwelling and a detached garage. There is a paved parking lot in the rear yard,

accessed by a driveway connected to the commercial parking lot serving 105 Main Street to the immediate south.

Both properties are located within TRCA's Regulated Area as the site is bordered by a valley corridor associated with the Rouge River Watershed.

Proposal

The applicant is proposing to legalize a commercial parking lot at the rear of the residentially-zoned property at 107 Main Street, to serve the commercial uses on the adjoining property to the south at 105 Main Street. The applicant is also seeking to bring the property at 105 Main Street into compliance with the By-law by addressing a minor parking shortfall that was created as the result of the introduction of driveway access to the parking area at the rear of 107 Main Street. Please see the site plan for the combined properties (Figure 1).

Official Plan and Zoning

105 Main Street

The property at 105 Main Street is designated "Mixed Use Low Rise" in the Markham Official Plan 2014. The property is zoned R3-Residential under By-law 122-72, as amended. The existing commercial uses are permitted through By-law Amendment 404-85 which added "business and professional offices" to the residential uses permitted on the property.

107 Main Street

The property at 107 Main Street is designated "Residential Low-Rise" in the Markham Official Plan 2014. The property is zoned R3-Residential under By-law 122-72, as amended. The existing residence is permitted under the By-law, however, the existing rear yard parking area is not permitted under the By-law.

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

According to the information provided by the applicant in a cover letter, the reason for not complying with Zoning is, "This existing parking area has been in existence and used on the subject property for many years prior to our client's application".

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR), with a report dated November 26, 2019 to confirm the variances required for the parking lots at 105 and 107 Main Street.

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.

Heritage Planning: Background Information

The requested variances are intended to legalize an existing commercial parking lot in the rear yard of 107 Main Street, a residentially-zoned property. The applications also address

a deficiency in the number of parking spaces at 105 Main Street, which was affected by the removal of 2 of its 23 required parking spaces to gain driveway access to the more recent parking lot at the rear of 107 Main Street.

It appears that a commercial parking lot was constructed in the rear yard of the residentially-zoned property at 107 Main Street a number of years ago. This parking lot served commercial uses that had been illegally installed in the existing dwelling at 107 Main Street without municipal approval, and parking was accessed through an older commercial parking lot at 105 Main Street. The parking lot at 107 Main Street did not go through any approval process and its installation was not reported to the municipality at the time of its construction in the early 2000s. Staff was not aware of any public complaints concerning the parking lot. It should be noted that this site alteration occurred under a previous property ownership.

The City's By-law Enforcement officers were later alerted to the unauthorized commercial uses at 107 Main Street and through that process, the building has since reverted back to residential use. However, the current property owners wish to retain the parking lot at 107 Main Street and in order to bring the property into compliance, they have applied for variances. This process also involves bringing the number of parking spaces at 105 Main Street into compliance by addressing the parking shortfall of 2 spaces.

Heritage Planning Comments

The Planning and Urban Design Department has concerns about the spread of commercial uses into the stable residential neighbourhood of Main Street Unionville to the north of 105 Main Street. There is also a concern that a future request to permit commercial uses within the heritage dwelling at 107 Main Street may come forward in the future based on the fact that a parking lot is located in its rear yard. The existing residential lot fabric is disrupted by the parking lot and the residential amenity area is minimized and out of character with the other surrounding residential properties. Planning staff are therefore recommending that the parking lot at 107 Main Street be removed and returned to greenspace. Through the Zoning Preliminary Review, it has been determined that the number of parking spaces at 105 Main Street could be brought back into compliance with the By-law by re-instating the 2 parking spaces removed to create the driveway into the parking lot at 107 Main Street, if the parking lot at 107 Main Street was removed.

Heritage Markham Committee

Heritage Markham Committee reviewed the Minor Variance Applications at its meeting of January 8, 2020. The committee is concerned about the precedent of having a commercial parking lot at the rear of a residential property. The example of the lengthy court case involving the removal of a rear parking lot installed without permission at 116 Main Street in the same area was noted. The following resolution was passed:

“That Heritage Markham supports By-law Enforcement’s efforts to return the rear parking lot of 107 Main Street to greenspace in residential use, as per the Zoning By-law requirements.”

Natural Heritage

Natural Heritage staff reviewed the Minor Variance applications and made a site visit noting that the parking lot at 107 Main Street is approximately 5m from the valley edge. The Official Plan requires vegetative protection zones to be established adjacent to natural heritage features. Staff observed that the portions of tree trunks and branches have been

dumped along the valley edge which prevents natural regeneration of plant. They recommend that this material be removed off-site and replaced with buffer planting to include native trees and shrubs.

EXTERNAL AGENCIES

Toronto and Region Conservation Authority

The subject property is located within Toronto Region and Conservation Authority (TRCA)'s Regulated Area. The site is bordered by a valley corridor associated with the Rouge River Watershed. TRCA provided comments on A/16/19 on February 27, 2019, and followed up with comments on the more recent Minor Variance application A/151/19 on January 24 (Appendix A and B), indicating that the parking lot is existing and there is no site alteration proposed. On that basis, TRCA had no objection to the approval of the application from a technical perspective subject to the applicant remitting the combined TRCA Planning Review Fees of \$2,200.

PUBLIC INPUT SUMMARY

No written submissions were received as of January 24, 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 is of the opinion that the parking lot in the rear of 107 Main Street sets an undesirable precedent for the long-term stability of the established, historic residential neighbourhood north of 105 Main Street (the transition building between Highway 7 to the south and the residential neighbourhood to the north). The variances would support an inappropriate use of the land, and would not maintain the general intent and purpose of the Zoning By-law and the Official Plan. Therefore the requested variance to permit it to remain does not meet the four tests of the Planning Act.

Planning Staff recommends that the variances be denied and that the parking lot at 105 Main Street be returned to its full 23 parking spaces by removal of the driveway to the parking lot at 107 Main Street, and that the parking lot at 107 Main Street be removed and returned to greenspace in association with the residential uses on the property.

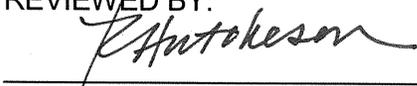
Should the Committee of Adjustment decide to approve the applications, staff recommend the conditions in Appendix "A" for conditions be attached to such approval.

PREPARED BY:



George Duncan, Senior Heritage Planner

REVIEWED BY:



Regan Hutcheson, Manager, Heritage Districts

APPENDIX "A"

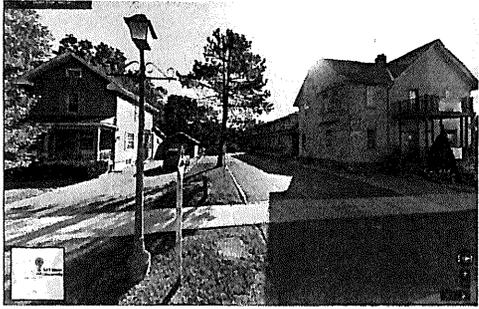
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/16/19

1. That the outstanding Toronto and Region Conservation Authority planning review fees relating to A/16/19 and A/151/19, for a combined total of \$2,200 be paid;
2. That a buffer planting plan be prepared and implemented, to the satisfaction of the Director of Planning and Urban Design, for the lands east of the parking lot at 107 Main Street. The planting plan is to include native trees and shrubs at a planting density of 3 metres on centre for trees and 1 metre on centre for shrubs;
3. That a plan for vegetative screening and wood privacy fencing be prepared and implemented, to the satisfaction of the Director of Planning and Urban Design, to screen the parking lot at 107 Main Street from the residential use at 107 Main Street and the residential use at 109 Main Street.

CONDITIONS PREPARED BY:



George Duncan, Senior Heritage Planner



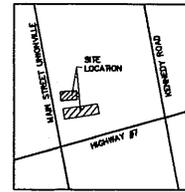
#107 & #105 ELEVATIONS



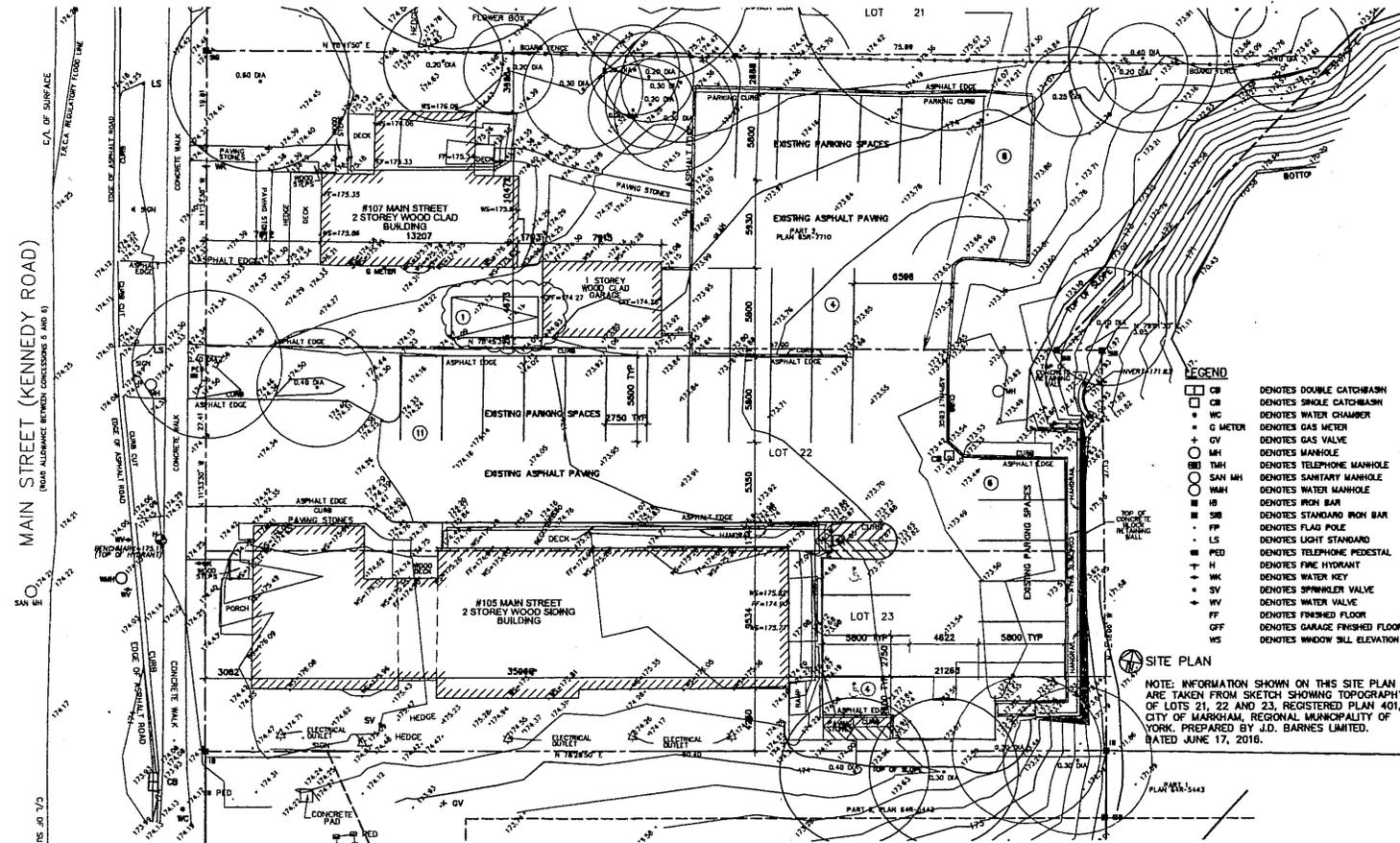
#105 ELEVATION



#105 & #107 SITE PLAN



LOCATION MAP NTS



105 & 107 MAIN STREET SITE STATISTICS:

	#105	#107	TOTAL
LOT AREA	1642.51 SM	1318.05 SM	2960.56 SM
LOT COVERAGE	347.74 SM	153.38 SM	501.12 SM (16.81%)
GROSS FLOOR AREA (GFA)			
EXISTING	(1043.22 SM)	291.15 SM	(1334.37 SM)
PARKING			
REQUIRED	29 SPACES	2 SPACES	31 SPACES
PROVIDED	21 SPACES	14 SPACES	35 SPACES

PARKING CALCULATION:

#105:
 SPA, OFFICE & DENTAL OFFICE:
 NET FLOOR AREA:
 SPA: 274.97 SM
 DENTAL OFFICE: 108.79 SM
 OFFICE: 441.30 SM
 TOTAL: 825.06 SM

PARKING REQUIRED:
 SPA: 274.97 SM / 30 SM = 9.17 CARS
 OFFICE: 441.30 SM / 30 SM = 14.71 CARS
 DENTAL OFFICE: 108.79 SM / 20 SM = 5.44 CARS
 TOTAL: 29 CARS

#107
 SINGLE FAMILY DWELLING
 PARKING REQUIRED: 2 CARS

TOTAL PARKING REQUIRED:
 #105 + #107 = 29 + 2 = 31 CARS
 ACCESSIBLE PARKING REQUIRED:
 31 CARS X 5% = 2 CARS

PARKING PROVIDED:
 EXISTING #105: 21 CARS
 EXISTING #107: 14 CARS
 TOTAL: 35 CARS

EXISTING STANDARD PARKING: 33 CARS
ACCESSIBLE PARKING: 2 CARS
TOTAL: 35 CARS

02 (S)SKD FOR ZONING REVIEW OCT 30, 19 11 AM
 01 (S)SKD FOR TREE DESTRUCTION PERMIT MAY 28, 18 11 AM
 NO REVISION DATE BY

ONTARIO ASSOCIATION OF ARCHITECTS INC.

HENRY W CHIU ARCHITECT

2347 KENNEDY ROAD
 SUITE 507, SCARBOROUGH
 ONTARIO M1T 3T8
 TEL: 416-298-6368

PROJECT TITLE:
 PROPOSED RENOVATION/ADDITION
 105 & 107 MAIN STREET
 MARKHAM, ONTARIO

RECEIVED

TITLE: SITE PLAN
 SCALE: 1:300
 DATE: APR 2019
 PROJ. NO.: 19-139668-000-00-ZPR

FIGURE 1



APPENDIX A

Toronto and Region
Conservation
Authority

February 27, 2019

CFN: 60777.02

BY E-MAIL ONLY

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

Dear Mr. Leung:

Re: ~~Consent Application B/03/19~~ ← application withdrawn
Minor Variance Application – A/16/19
107 Main Street Unionville, Markham, ON
Owner: Fire-Works Property Group Inc. (Yan Liu)
Agent: Aird & Berlis LLP (Leo Longo)

This letter will acknowledge receipt of the above noted application. Toronto and Region Conservation Authority (TRCA) staff have reviewed this application and provide the following comments.

PURPOSE OF THE APPLICATION

~~Consent Application B/03/19:~~

~~The applicant is requesting provisional consent to:~~ withdrawn

- ~~a) Establish an easement over the rear paved parking of the subject property for the benefit of 105 Main Street.~~

Minor Variance Application A/16/19:

The applicant is requesting relief from the requirements of By-law 122-72, as amended, as it relates to a proposed paved parking area located at the rear of 107 Main Street, which serves the patrons of the offices and services located at 105 Main Street.

- a) Amending By-law 238-86, Section 23(b):**
To permit a paved parking area in an R3 zoned property.

APPLICABLE TRCA REGULATIONS AND POLICIES**Ontario Regulation 166/06 (as amended):**

The subject property is located within a TRCA Regulated Area of the Rouge River Watershed. In accordance with Ontario Regulation 166/06, as amended, (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit is 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;
- 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 (LCP)

The Living City Policies for Planning and Development in the Watersheds of the Toronto and Region Conservation Authority (LCP) describes a "Natural System" made up of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. The LCP recommends that development, infrastructure and site alteration not be permitted within the Natural System and that it be conveyed into public ownership for its long term protection and enhancement.

APPLICATION SPECIFIC COMMENTS

The subject property is located within TRCA's Regulated Area, as it is entirely within the Regional Storm Floodplain associated with the Rouge River. Staff recognize that there are no new lots, development or site alteration associated with this application to establish an easement over the rear paved parking area of the subject property for the benefit of 105 Main Street. On this basis, TRCA has no issues with the proposed consent and minor variance application. Furthermore, a permit pursuant to Ontario Regulation 166/06, as amended, is not required for this application.

Please be advised, TRCA has an interest in all future development (i.e. Site alteration, resurfacing etc.) on the above mentioned properties. All future applications must be circulated to TRCA for review and comment. Details with respect to TRCA's permit submission requirements are available at our website (<https://trca.ca/planning-permits/apply-for-a-permit/>).

APPLICATION FEE

Please be advised, in addition to TRCA's Regulating responsibilities, TRCA has a role as a commenting agency for *Planning Act* applications circulated by member municipalities to assess whether a proposed development may be impacted by the TRCA. By copy of this letter, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services.

This application is subject to a \$1,400.00 review fee (2018 TRCA Planning Fees Schedule – Consent/Severance/Land Division – Minor). The applicant is responsible for fee payment and should forward the fee to this office within 60 days of the issuance of this letter.

RECOMMENDATION

Based on the above, TRCA staff have **no objections** to the approval of the above noted application subject to the following condition:

1. The applicant remits the outstanding TRCA Planning Services review fee of \$1,400.00 within 60 days of the issuance of this letter.

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

Sincerely,



Aidan Pereira
Planner I, Planning & Development
apereira@trca.on.ca
(416) 661 – 6600 ext. 5723

AP/as

January 24, 2020

CFN 62567.03
X Ref: 60777.02**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/151/19 (Minor Variance Application)
107 Main Street and 105 Main Street, City of Markham
Owner: Fire-Works Property Group Inc (Yan Liu)
Agent: Henry Chiu

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 28-97 and By-law 404-85, as amended, as it relates to an existing paved parking area located at the rear of 107 Main Street and 105 Main Street.

Requested permission:

- a) Amending Zoning By-law 28-97, Section 6.2.4.4 (107 Main Street):
to permit rear driveway, parking pad and parking area located at 0.61 m from the adjoining lot line; 2.68 m from the north lot line and +/- 5.5 m from the rear lot line;
- b) Amending Zoning By-law 404-85, Schedule A (105 Main Street):
to permit 21 parking spaces, whereas the by-law requires 23 parking spaces on-site as it relates to a total net floor area of 826 m² for the permitted uses.

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 (2014); 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 (2014):

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 2014.

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 entirely within the Regional Storm Floodplain associated with the Rouge River. It is our understanding that no lot creation nor development, including site grading and alteration is being proposed as part of this minor variance application. Therefore, a permit pursuant to Ontario Regulation 166/06, as amended, is not required at this time. Please note that as the property is entirely within TRCA's Regulated Area, future proposed development would be subject to a TRCA Permit.

A permit is 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), top of slope (TOS), 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.

Application Specific Comments

1. TRCA staff has no objections to the subject application to allow the specified parking area at the rear of 107 Main Street as well as a reduced parking capacity at rear of 105 Main Street. As no new development is proposed at this time, a TRCA permit pursuant to Ontario Regulation 166/06 is not required at this time. However, as the property is entirely within TRCA's Regulated Area, future proposed development would be subject to a TRCA permit.

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.

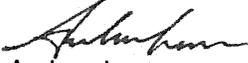
This application is subject to a \$1,100 review fee (2018 TRCA Planning Fees Schedule – Variance – Commercial/Industrial – Minor). TRCA noted that the applicant has not remitted the outstanding planning review fee of \$1400 (Consent – Commercial/Industrial – Minor) quoted in our comment letter dated February 27, 2019 for a related file (CFN 60777.02). As two Minor Variance applications were submitted at different dates and the applicant has since withdrawn their Consent application, the outstanding combined fees of \$2500 (\$1100 + \$1400) will be reduced to \$2200 (for the two separate Minor Variance Applications, \$1100 + \$1100). The applicant is responsible for fee payment and should forward the fee to our head office within 60 days of the issuance of this letter.

Recommendation

Based on the information submitted to date, we have no fundamental objections to the Minor Variance application of A/151/19 to allow the specified rear parking area and reduced parking capacity for 107 and 105 Main Street, respectively. As a condition of approval, the applicant is required to provide the above-noted outstanding fee payment to the Conservation Authority.

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