

May 2016

# Comprehensive Zoning By-law Project

## Phase 2: Strategic Directions Report



## City of Markham

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# 1 Introduction

Markham has initiated a process for updating and consolidating its many zoning by-laws into a new, integrated, consistent, and user-friendly comprehensive zoning by-law. The fundamental purpose of Markham's new comprehensive zoning by-law project is to review, consolidate and update the City's parent zoning by-laws into one comprehensive, standardized zoning by-law that applies to the entire City and implements the City's new Official Plan.

A key objective of the project is to develop an innovative, user-friendly and web-based zoning by-law that incorporates emerging sustainable planning and development trends, to efficiently and effectively guide land use and development in Markham and improve service delivery to City residents and the development industry. The project is divided into three phases: Phase 1—Issue Analysis; Phase 2—Strategic Directions; and Phase 3—Drafting of the New Comprehensive Zoning By-law.

As part of Phase 1 of this process a total of 20 discussion papers were prepared to explore best practices and options for addressing key issues and questions that will need to be resolved in order to move forward with the creation of a new zoning by-law. The issues explored in the 20 discussion papers and options for addressing the issues are summarized in the Zoning Issues Analysis Paper which was endorsed by the Development Services Committee on March 29, 2016. That report also incorporates feedback on the discussion papers received at previous meetings of the Development Services Committee, stakeholder consultations and three public open houses held in the Fall of 2015.

This report addresses strategic directions for the comprehensive zoning by-law project as part of Phase 2. It is intended that these strategic directions will provide guidance for Phase 3—the actual drafting of the new zoning by-law. The report incorporates feedback on the Phase 1 discussion papers, input from staff workshops with relevant departments on the phase 1 options as well as a number of suggestions made at the public open house held on May 2, 2016. A summary of the open house is attached as Appendix 2 to this report

This report reiterates the Guiding Principles for the project, which were identified in the early stages of Phase 1, as an overall framework for the strategy. It then follows a recommended structure for the new by-law with suggested directions under each heading, as appropriate. There is also a reference provided for each relevant section of the by-law to the discussion paper and the corresponding chapter in the Zoning Issues Analysis Paper. Not all recommended sections for the new by-law were addressed in the discussion papers, so references are only to those

sections for which an analysis was conducted in the discussion papers. This is followed by a section on Geographic Information Systems (GIS) and a final section containing recommendations with a rationale for each, organized according to the section in the recommended structure. The appendix organizes the recommendations by discussion paper.

## 2 Guiding Principles

The guiding principles summarized below are derived from a review of a number of documents that have been approved by Markham Council, including Markham's Official Plan and were presented to the Development Services Committee on March 3, 2015 and a public open house held on November 5, 2015.

### 1. Implement the Official Plan

Markham's new Official Plan was adopted by City Council in December 2013 and approved, in large part, by the Region of York in June 2014. It is partially in force pending the resolution of a number of appeals to the Ontario Municipal Board. The Official Plan provides guidance for future development and growth management in Markham as an urban, sustainable, diverse and socially responsible municipality. It contains policies on protecting the environment, promoting good urban design, supporting economic diversity, creating healthy communities, promoting transportation choices, protecting existing neighbourhoods and supporting intensification along designated corridors and centres. The zoning by-law is intended to support the implementation of the Official Plan and thus, must conform to the Official Plan and reflect the intent of the policies contained in the Plan. An overview of Official Plan policies, which have implications for the new zoning by-law, is provided as part of the discussion paper for Task 2, while policies relating to specific issues were reviewed under each relevant task for this project.

### 2. Develop a single comprehensive zoning by-law for Markham

Markham currently has 46 active parent zoning by-laws covering all, or parts of the City, as well as about 3,000 site specific zoning by-laws that provide for development approvals on particular parcels of land. Part of the challenge of creating a new comprehensive zoning by-law is to develop one common by-law that covers all of Markham, while at the same time reflecting and accommodating the diversity of land uses and built forms across the City. Having a single by-law will reduce complexity and duplication, improve efficiency and provide a straightforward roadmap to guide future development approvals.

### 3. Recognize development and property rights as provided for in existing zoning by-laws

The new zoning by-law will need to incorporate the standards and permissions contained in existing zoning and site specific by-laws (where appropriate), as they affect property rights, while at the same

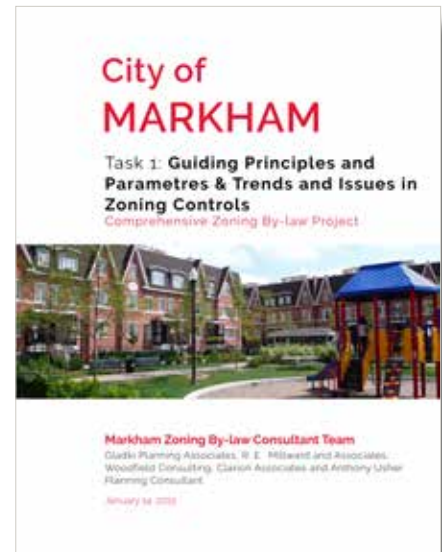


Figure 1. Cover of Task 1 Report

time bringing them into conformity with the new Official Plan. In some instances, the provisions contained in existing by-laws may be out of date or superseded by events. Where this is the case, the provisions will be updated in the new by-law, but otherwise, a prevailing principle in drafting the new zoning by-law will be to recognize and incorporate existing development permissions, where appropriate.

#### **4. Consolidate, streamline and update the provisions and standards in the new zoning by-law**

The creation of a new zoning by-law provides a unique opportunity to consolidate and update standards and definitions contained in previous by-laws, eliminate repetitive provisions and formulate regulations that will stand the test of time. The intent will be to consolidate use categories, where appropriate, simplify and modernize provisions, requirements and definitions as much as possible and use illustrations to create a document that is easy to understand.

#### **5. Develop a zoning by-law that is web-based and easily accessible**

All users of the new zoning by-law, including staff, developers and the general public, should be able to access the information they need quickly and in a way that is intuitive. Most users are likely to access the zoning by-law through the internet. Consequently, the by-law will need to be organized to provide user-friendly, web-based access with a direct link from maps to text, and from text to maps, including information on site-specific provisions.

#### **6. Prepare a zoning by-law with an eye to ease of enforcement**

Some of the existing zoning by-laws in Markham are difficult to enforce because they are open to conflicting interpretations. The creation of a new zoning by-law provides an opportunity to develop clear rules that are easier to administer, understand and interpret. This can lead to efficiencies such as a reduction in the cost of enforcement, and legal challenges.

A full discussion of the Guiding Principles is contained in the Task 1 Discussion Paper, Guiding Principles and Parameters and Trends and Issues in Zoning Controls, as well as in chapter 2 of the Zoning Issues Analysis Paper.



Another theme that was explored in Discussion Paper 1 was the evolution of zoning by-laws in North American cities, including Euclidean zoning (named after Euclid, Ohio where the zoning by-law was first approved by the US Supreme Court), performance based zoning and form based zoning. Euclidean zoning places emphasis on land use; performance based zoning emphasizes assessing development impact; and form based zoning emphasizes regulating built form.



**Figure 2. Early Example of Euclidean Zoning**

Map represents an example of single use zoning.

Source: Crystal Lake, IL

All recent Ontario zoning by-laws, including Markham's parent zoning by-laws are essentially based on a Euclidean model with more recent by-laws introducing some elements of form based zoning, where appropriate. The new comprehensive zoning by-law for Markham will follow the same model.

Discussion Paper 1 also briefly examines the development permit system which is authorized under section 70.2 of the Planning Act and is intended as an alternative to the zoning by-law providing greater flexibility for design standards and discretionary uses. It may be appropriate for Markham to explore this type of system for certain geographical areas, after the work on the new by-law is completed and enacted.

Discussion Paper 2: City Official Plan and City Guidelines and Plans assess in detail all of the relevant policies in the new Official Plan that need to be addressed in the new zoning by-law. The relevant sections of the Official Plan are referenced throughout this report to draw attention to the policies that need to be addressed.

# 3 Recommended Structure for the New Zoning By-law

The outline below is based on a suggested table of contents for the new comprehensive zoning by-law. Commentary and recommendations, which are related to the assessment contained in the Discussion Papers, are added at the end of this report to provide guidance for the drafting of various by-law sections, as appropriate.

## **Purpose of the Zoning By-law** (For information purposes—not an operative part of the By-law)

This section is included at the front of the by-law as an introduction, but is not an operative part of the by-law. It explains that the purpose of the by-law is to:

- Regulate land use and buildings; and
- Implement the Official Plan.

## **How to Use this By-law** (For Information purposes—not an operative part of the By-law)

This section walks the reader through the various steps involved in using the by-law to identify provisions and regulations related to a particular property as follows:

- Identify the property on the maps and note the zone for the property.
- Check the section of the By-law that relates to the relevant zone.
- Check if there are specific use provisions.
- Review general regulations.
- Review parking and loading requirements.
- Check italicized terms for definitions.



**Figure 3. Key Map Example**

Key maps are used to help find more detailed zoning maps.

Source: West Grey, ON

## Part 1. Administration

### 1.1 Application

This section states that the by-law applies to the City of Markham.

### 1.2 Repeal of Former By-laws

This section repeals Markham's 46 existing parent by-laws.

### 1.3 Compliance with this By-law

This section states that building occupancy and use must be in accordance with the by-law.

### 1.4 Compliance with Other Legislation

This section states that all persons shall comply with other City by-laws as well as all relevant federal and provincial legislation, including provincial zoning orders (Parkway Belt West).

### 1.5 Severability

This section states that all other sections of the by-law are valid even if a court rules that one provision or portion is invalid.

### 1.6 Transition Matters

This section addresses the transition from the old by-laws to the new by-law. The recommendations in Section 4 of this report addresses how the transition can be managed for building permit applications, planning approval applications and minor variance approvals.



**Figure 4. Existing Markham Zoning By-laws**

Map depicting some of Markham's existing 46 parent zoning by-laws that will be repealed under the new by-law.

## Part 2. Establishment of Zones

### 2.1 Establishment of Zones

This section contains a chart listing all of the zones with references to the relevant section of the by-law.

### 2.2 Location of Zones

This section refers the reader to zoning maps.

### 2.1 Determining Zone Boundaries

This section clarifies where the boundaries of each zone are located. In addition, this section clarifies that, where lot boundaries do not correspond to the centre line of a street, the boundaries are parallel

to the lot line. The section also clarifies rules regarding split zoning, which applies to a property that has more than one zone.

## **2.2 Special Zone Symbols**

This section explains how the area and site specific numerical references on zoning maps in the by-law relate to the site specific Part of the by-law (Part 16).

## **Part 3. Definitions**

The definitions part of the by-law contains definitions for all terms that appear in *italics* throughout the text of the by-law. A full examination of definitions, including an analysis of defined terms that should be included in the new by-law is provided in Discussion Paper 5, Zoning By-law Definitions, and chapter 7 of the Zoning issues Analysis Paper.

## **Part 4. General Provisions**

This part of the by-law contains provisions and regulations that apply to more than one zone.

### **4.1 Accessory Uses**

This section clarifies that uses accessory to a permitted use are located on the same lot.

### **4.2 Airport Operating Influence Zones**

This section makes reference to the zones covered by the federal government's Noise Exposure Forecast and the Noise Exposure Projection aircraft contours as well as Aircraft Zoning regulations pursuant to the Aeronautics Act. This area is also subject to the provincial government's Minister's Zoning Order. The extent of this area is shown on Map 7 of the Official Plan. The maps of this area will be reproduced in the appendices to the by-law which do not form an operative part of the By-law, although development applications in this area must conform to the Minister's Zoning Order.

### **4.3 Allowable Encroachments**

This section will set out, in table form, the dimensions of allowed projections and encroachments into a yard, such as roof overhangs, eaves and gutters, beyond the setback standards specified in the

sections relating to specific zones.

#### 4.4 Flood Plain Overlay

This section informs the reader that development on lots in the Special Policy Area, shown as an overlay map in the by-law, is subject to review by the Toronto and Region Conservation Authority to ensure that flood mitigation measures are addressed while development on flood hazard lands shown in the appendices will be subject to screening by the Toronto and Region Conservation Authority.

#### 4.5 Garbage Containers

This section contains regulations regarding the storage of garbage within enclosed areas for various categories of uses.

#### 4.6 Heights

This section clarifies:

- how height is measured;
- structures that are exempt from the height restriction (for example flagpoles, light standards, ornamental features, buildings containing garbage containers etc.); and
- the extent to which exceptions to height measurement will be allowed for items such as parapets, mechanical penthouses, skylights etc.

#### 4.7 Highway Corridor Setback

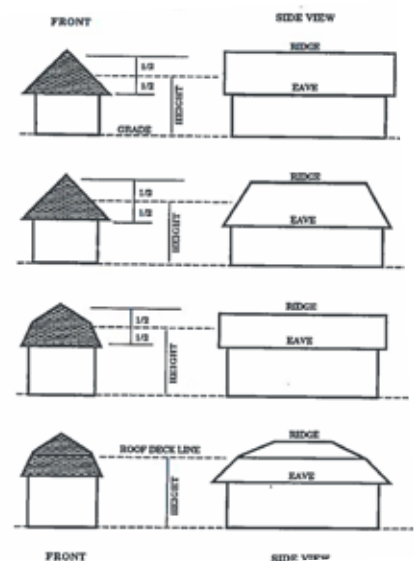
This section specifies the setback requirement for buildings and structures from provincial highways. For an analysis of this issue see Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses as well as chapter 15 of the Zoning Issues Analysis Paper.

#### 4.8 Infrastructure

This section clarifies that public infrastructure is permitted in all zones.

#### 4.9 Landscaping

This section outlines how landscaping is to be measured.



**Figure 5: Height Measurement,**

Illustrations from Zoning By-law 177-96 demonstrating how heights may be determined by the roof style.

Source: Markham

#### 4.10 Legal Non-Conformity

This section recognizes legal non-conforming uses and non-complying lots, buildings, and structures, including the extent to which additions and changes are allowed. Legal non-conforming uses are uses that were legally in existence prior to the approval of a new by-law, but may not meet the use provisions of the new by-law. Similarly, legal non-complying lots, buildings and structures were legally in existence prior to the approval of the new by-law, but may not comply with the relevant standards in the new by-law.

#### 4.11 Lot Frontage Requirements

This section specifies that a lot must have frontage on an existing or future public road, or in the case of a condominium, on a common element condominium frontage, or on a private road if the lot was in existence before the by-law was passed. In drafting this section, the requirements in By-law 177-96 regarding properties fronting on a public park adjacent to a public road should be reviewed.

#### 4.12 Minimum Distance Separation

This section addresses the Minimum Distance Separation II Formulae (Publication 707), issued by the

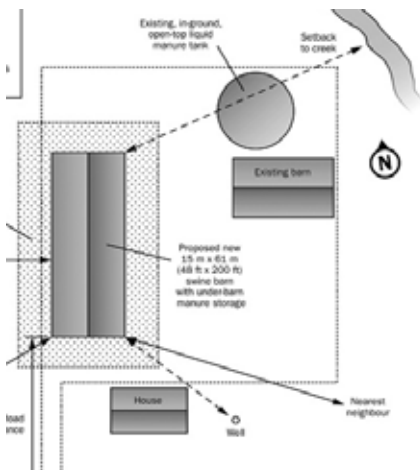
Ministry of Agriculture, Food and Rural Affairs in 2006 regarding livestock operations in agricultural areas, which will need to be applied where appropriate. For an analysis of this issue see Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses as well as chapter 15 of the Zoning Issues Analysis Paper.

#### 4.13 Municipal Services Required

This section states that all lots within the urban area are required to connect to municipal services, with the exception of those lots that were in existence and serviced with a septic system prior to the approval of the new by-law.

#### 4.14 Outdoor Swimming Pools and Hot Tubs

This section refers the reader to regulations in the Markham by-law passed under the Municipal Act governing the location of outdoor swimming pools and hot tubs.



**Figure 6: Separation Distances**  
Illustration showing how separation distances are measured in agricultural settings.

Source: Ontario Ministry of Agriculture, Food and Rural Affairs

#### **4.15 Outdoor Display and Sales Areas**

This section includes regulations that apply to outdoor display and sales areas, where these are permitted on private property.

#### **4.16 Outside storage**

This section outlines the requirements regarding outside storage where this activity is permitted.

#### **4.17 Parkway Belt West**

This section of the by-law refers to the Parkway Belt West which is part of a development planning area established by the Province under the Parkway Belt and Development Act. The Parkway Belt West is shown on Map 7 of the Official Plan and is subject to the Minister's Zoning Order. The map showing the area covered by the Minister's zoning order will be included in the appendices to this by-law, which is not part of the new zoning by-law, although development applications in this area must conform to the Minister's Zoning Order.

#### **4.18 Part Lot Control**

This section states that a lot for which an application is made for approval under Section 50(7) of the Planning Act, R.S.O.1990, as amended (regarding subdivisions), is deemed to be a lot for the purposes of the issuance of a building permit for a detached dwelling, or a semi-detached dwelling. This means that each detached or semi-detached dwelling as shown in the plan of subdivision will have its own lot for the purposes of the zoning by-law.

#### **4.19 Patios**

This section outlines regulations and restrictions that apply to outdoor patios, where these are permitted.

#### **4.20 Pipeline Setback**

This section specifies required setbacks from The Trans Canada and Enbridge Gas pipelines. For an analysis of this issue see Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses as well as chapter 15 of the Zoning Issues Analysis Paper.

#### 4.21 Prohibited Uses

This section clarifies that all uses not listed as permitted in any zone are prohibited in that zone.

#### 4.22 Propane and Natural Gas Handling and Transfer

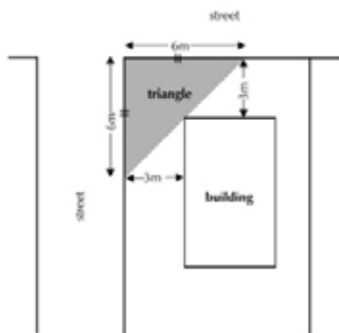
This section addresses setback requirements for propane storage and regulations regarding propane transfer. For an analysis of this issue see Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses as well as chapter 15 of the Zoning Issues Analysis Paper.

#### 4.23 Railway Setbacks for Sensitive Land Uses

This section specifies required setbacks from railway lines for sensitive uses. For an analysis of this issue see Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses and chapter 15 of the Zoning Issues Analysis Paper.

#### 4.24 Sight Triangles

A sight triangle is intended to provide increased visibility at intersections for the safety of pedestrians and motorists at corner lots and consists of an unobstructed triangular area where the front lot line and the exterior side lot line intersect. This section specifies the circumstances under which a sight triangle is required, such as where it has not already been incorporated into the right of way of a public road on a corner lot. It also includes the dimensions for a sight triangle where it is required.



**Figure 7: Site Triangle**

Illustration depicting how site triangles are measured

Source: City of Ottawa

#### 4.25 Surface Parking Area Setbacks

This section states that surface parking areas will be set back from sensitive uses.

#### 4.26 Temporary Uses

This section states that temporary uses for construction or special events, as well as other temporary activities for which Council has adopted a by-law or policy, will be permitted in all zones.



## Part 5. Specific Use Provisions

The Specific Use Provisions part of the by-law contains specific provisions and regulations that pertain to particular uses.

### 5.1 Adult Entertainment Establishment

This section specifies a required setback from a Residential zone or any zone where residential uses are permitted for an adult entertainment establishment, which will be a defined use, but only permitted through a rezoning. A full discussion of adult entertainment establishments is contained in Discussion Paper 17: Review and Assessment of Adult Entertainment and Sex Industry and Chapter 22 of the Zoning Issues Analysis Paper.

### 5.2 Bed and Breakfast Establishment

This section outlines the criteria for a bed and breakfast establishment, and may include such things as the building type (e.g. detached house), maximum number of lodgers, a restriction on the percentage of floor area and a requirement that the operator be the principal resident.

### 5.3 Day Care Centre

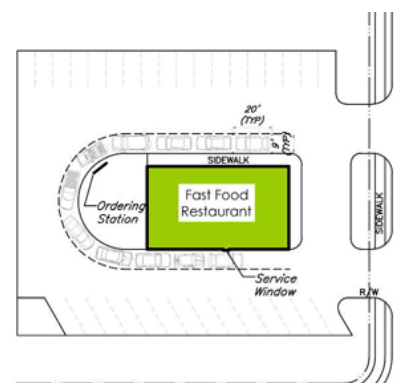
This section outlines the standards and requirements for a day care centre (not home day care), and may include such things as location on an arterial road, or a local road if located in a school, community centre or place of worship, size and location of outdoor play area and on-site drop-off area. This section will need be drafted to conform to section 8.13.2 of the Official Plan.

### 5.4 Drive Through Facility

This section outlines the standards and requirements for drive through facilities. A full discussion of drive through facilities is contained in Discussion Paper 8: Review and Assessment of Drive Through Facilities and Chapter 10 of the Zoning issues Analysis Paper. This section will need be drafted to conform to section 8.13.3 of the Official Plan.

### 5.5 Emergency Shelters

This section outlines the standards and requirements for an emergency shelter possibly including such matters as maximum number of occupants and location on arterial roads.



**Figure 8: Drive Through Stacking**  
Illustration showing stacking requirements for drive through facilities

Source: Greensboro, NC

## **5.6 Funeral Home**

This section summarizes requirements for a funeral home including that it be located on an arterial road or collector road. This section will need be drafted to conform to section 8.13.4 of the Official Plan.

## **5.7 Home Occupation**

This section outlines regulations regarding home occupations. A full discussion of home occupations is included in Discussion Paper 11: Home Occupations and Chapter 13 of the Zoning Issues Analysis Paper.

## **5.8 Medical Marihuana Production Facility**

This section specifies setback requirements from sensitive uses, Residential and Mixed Use zones for a medical marijuana production facility. A full discussion of medical marijuana production facilities is included in Discussion Paper 16A: Review and Assessment of Medical Marihuana Production Facilities and chapter 20 of the Zoning Issues Analysis Paper.

## **5.9 Motor Vehicle Dealership or Rental Office**

This section specifies that motor vehicle dealerships and rental facilities in mixed use zones should not provide outdoor storage of vehicles. A full discussion of this topic is contained in Discussion Paper 7: Review and Assessment of Automotive Related Uses and Chapter 9 of the Zoning Issues Analysis Paper.

## **5.10 Motor Vehicle Repair Facility**

This section includes regulations and provisions pertaining to a motor vehicle repair facility, which includes major and automotive body repairs, that is not a motor vehicle service station and is located in an Employment zone. A full discussion of this topic is contained in Discussion Paper 7: Review and Assessment of Automotive Related Uses and Chapter 9 of the Zoning Issues Analysis Paper.

## **5.11 Motor Vehicle Service Station**

This section includes regulations and provisions pertaining to a motor vehicle service station, which includes minor repairs and other accessory uses. A full discussion of this topic is contained in Discussion Paper 7: Review and Assessment of Automotive Related Uses and chapter 9 of the Zoning Issues Analysis Paper. The standards and regulations included in this section will also need to conform to the policies contained in section 8.13.5 of the Official Plan.

### 5.12 Motor Vehicle Washing Establishment

This section includes regulations and provisions pertaining to a motor vehicle washing establishment. A full discussion of this topic is contained in Discussion Paper 7: Review and Assessment of Automotive Related Uses and Chapter 9 of the Zoning Issues Analysis Paper.

### 5.13 Secondary Suites

This section includes regulations regarding secondary suites located in detached, semi-detached and townhouse dwellings. A full discussion of this topic is contained in Discussion Paper 13A; Review and Assessment of Affordable and Shared Housing and Secondary Suites and in Chapter 16 of the Zoning Issues Analysis Paper. Recommendations related to this topic will be reported on separately as part of Phase 3a of this project.

## Part 6. Parking and Loading

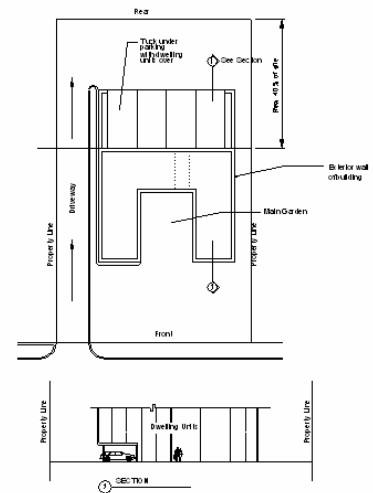
This part of the by-law contains required parking rates and regulations related to various uses, loading space requirements and bicycle parking requirements. A full discussion of this topic is contained in Discussion Paper 9: Review and Assessment of Parking and Loading Standards and Chapter 8 of the Zoning Issues Analysis Paper.

### 6.1 General Parking Provisions

This section includes a number of provisions that apply to all of the regulations contained in Part 6 of the by-law, including such matters as:

- the parking requirements that will apply to new development or changes to existing uses or buildings;
- required parking on a lot shall be exclusively used for parking;
- if there is more than one use on a lot, parking requirements shall apply to each use;
- parking spaces shall be provided on the same lot as the use(s);
- calculations regarding required parking spaces shall be rounded to nearest whole number; and
- provisions for adjacent lots to share driveways and access.

A complete analysis of parking rate requirements will be carried out



**Figure 9: Parking Standards**

Illustration of parking space requirements.

Source: Pasadena, CA

as part of a separate study for phase 3b of this project.

## 6.2 Motor Vehicle Parking Space Regulations

This section contains a chart with the number of parking spaces required for the uses identified in the by-law, including visitor parking space requirements for apartment buildings. The section also includes requirements for the dimensions of parking spaces, including parking spaces on parking lots and in private garages. These requirements will be based on the most up to date analysis of parking requirements carried out in through the phase 3b study.

## 6.3 Barrier-Free Parking Spaces

This section outlines requirements for providing barrier free parking spaces in non-residential and multi-unit residential buildings, including such matters as the percentage of such spaces required (of the total), dimensions and access paths.

## 6.4 Aisle Widths and Access Driveways

This section outlines requirements for aisle widths and access driveways to parking spaces in parking areas as well as requirements regarding driveways for entering and exiting vehicles in parking areas.

## 6.5 Driveways and Private Garages Associated with Residential Uses

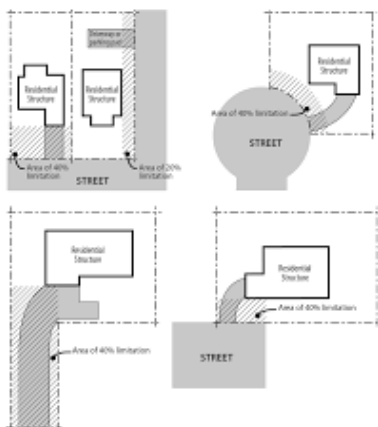
This section contains regulations for driveways and private garages, including detached garages, associated with detached dwellings, semi-detached dwellings and townhouse dwellings in Residential or Mixed Use zones, including such matters as the width of driveways, number of driveways, setbacks for driveways, setbacks and projections for private garages and maximum size of garages.

## 6.6 Vehicles Prohibited in Residential and Mixed Use Z ones

This section restricts the size of commercial and recreational vehicles on lots with detached dwellings, semi-detached dwellings and townhouse dwellings in Residential and Mixed Use zones.

## 6.7 Loading Spaces

This section includes requirements, including dimensions, for loading spaces associated with various non-residential and multi-unit residential buildings. Typically these standards address loading requirements for garbage trucks and moving vans in apartment



**Figure 10: Loading Standards**

Various loading requirements for different built form typologies.

Source: Portland, OR

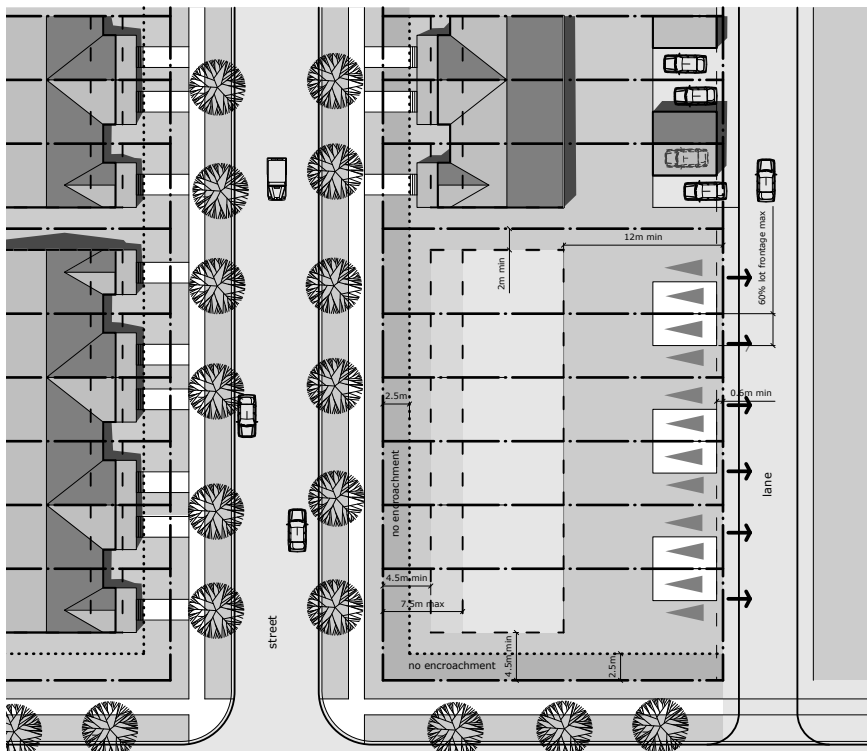
buildings and different-sized loading space requirements for different scales of non-residential buildings.

## 6.8 Bicycle Parking Spaces

This section includes requirements for the provision of bicycle parking spaces, including required numbers and dimensions. Markham has been successfully applying informal bicycle parking rate standards to developments over the past few years. These standards provide a good basis for establishing requirements in the new by-law.

## Part 7. Residential Zones

This part of the by-law contains regulations and standards for each Residential zone, based on the Official Plan designations for Residential Areas (section 8.2) and the policies outlined in Discussion Paper 2: City Official Plan and City Guidelines, Policies and Plans and Chapter 3 of the Zoning issues Analysis Paper. Typically each zone will include an outline of the types of buildings and uses permitted as well a chart outlining such matters as minimum lot area, minimum lot frontage, minimum front yard, minimum flankage yard, minimum interior side yard, minimum rear yard, maximum lot coverage, maximum building depth, maximum building



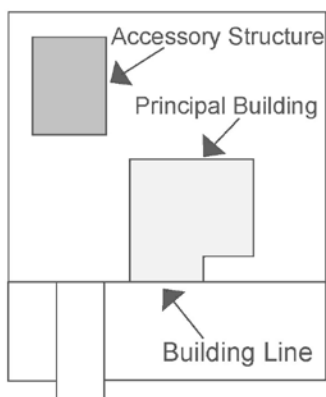
**Figure 11: Residential Zone**

Illustration demonstrating requirements for townhouse developments. The illustrations shows existing buildings and empty lots.

Source: LaSalle, ON

length and minimum landscaped open space for each building type. This part of the by-law also outlines any additional regulations that would apply to each zone. These standards are reviewed in Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses and chapter 14 of the Zoning Issues Analysis Paper.

The number of zones under each of the Official Plan categories will depend on a detailed analysis of existing development and zoning standards in each area, with the objective of capturing the diversity of unique characteristics, while at the same time reducing the number of zones by combining zones with similar standards and characteristics and simplifying standards where appropriate.



**Figure 12: Accessory Use**

Illustration demonstrating the location of an accessory building.

Source: Cape Girardeau, MO

### 7.1 Residential Accessory Buildings and Structures

This section outlines regulations and standards for residential accessory buildings. A full analysis of this topic is contained in Discussion Paper 10: Review and Assessment of Residential Accessory Buildings and Amenity Space and chapter 11 of the Zoning Issues Analysis Paper.

### 7.2 Common Amenity Area

This section contains requirements for common amenity space associated with block townhouses and apartment buildings. This issue is examined in Discussion Paper 10: Review and Assessment of Residential Accessory Structures and Amenity Space and chapter 12 of the Zoning Issues Analysis Paper.

### 7.3 Estate Residential Zones

This section outlines the policy objectives contained in section 8.2.2 of the Official Plan and include zones and standards for Estate Residential designated areas as appropriate.

### 7.4 Residential Low Rise Zones

This section outlines the policy objectives contained in section 8.2.3 of the Official Plan and includes zones and standards for areas designated Residential Low Rise, as appropriate. The infill zoning standards for these areas are reviewed in Discussion Paper 12 and should inform the preparation of standards to be included in each zone including the unique characteristics of residential heritage areas.

## 7.5 Residential Mid Rise Zones

This section outlines the policy objectives contained in section 8.2.4 of the Official Plan and includes zones and standards for areas designated as the Residential Mid Rise.

## 7.6 Residential High Rise Zones

This section outlines the policy objectives contained in section 8.2.5 of the Official Plan and includes zones and standards for Residential High Rise designated areas.

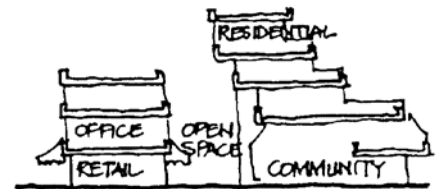
## Part 8. Mixed Use Zones

This part of the by-law contains regulations and standards for a number of Mixed Use zones, based on the Official Plan designations for Mixed Use Areas (section 8.3) and the policies outlined in Discussion Paper 2: City Official Plan and City Guidelines, Policies and Plans and Chapter 3 of the Zoning issues Analysis Paper. The number of zones under each designation will be determined following a detailed analysis of existing development and zoning standards in Markham's current zoning by-laws. Typically each zone will include an outline of the types of buildings and uses permitted, as well a chart outlining standards that apply to different building types, including such matters as maximum front yard, maximum flankage yard, minimum interior side yard and minimum rear yard. The sections will also include unique development criteria related to each of the identified zones.

Some of the mixed use zones will apply in areas which are now mostly occupied by low rise, single-storey retail uses and surface parking lots. The Official Plan envisages significant redevelopment in these areas to mixed use neighbourhoods. However the transition will take place over time and will need to be carefully managed to avoid conflicts with adjacent areas. For this reason, these areas will be zoned mixed use, to signal the intent of the Official Plan, but densities may be limited to accommodate existing development on the site, including opportunities for expansion, while the potential for transformation into a mixed use neighbourhood may need be addressed through an application for rezoning in accordance with Official Plan policies.

### 8.1 Mixed Use Low Rise Zones

This section outlines the policy objectives contained in section 8.3.2 of the Official Plan and includes zones and standards for Mixed Use Low Rise designated areas.



**Figure 13: Mixed Use**

Mixed use buildings illustrating how uses may be combined.

Source: Snohomish County, WA

## 8.2 Mixed Use Mid Rise Zones

This section outlines the policy objectives contained in section 8.3.3 of the Official Plan and includes zones and standards for Mixed Use Mid Rise designated areas.

## 8.3 Mixed Use High Rise Zones

This section outlines the policy objectives contained in section 8.3.4 of the Official Plan and includes zones and standards for Mixed Use High Rise designated areas.

## 8.4 Mixed Use Office Priority Zones

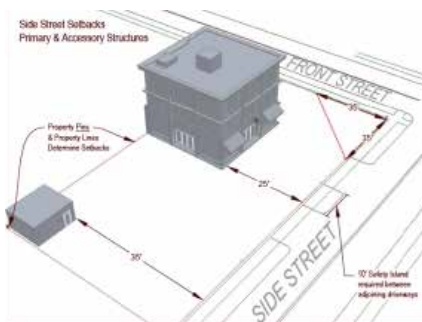
This section outlines the policy objectives contained in section 8.3.5 of the Official Plan and includes zones and standards for Mixed Use Office Priority designated areas.

## 8.5 Mixed Use Health Care Campus Zones

This section outlines the policy objectives contained in section 8.3.6 of the Official Plan and includes zones and standards for Mixed Use Health Care Campus designated areas.

## 8.6 Mixed Use Heritage Main Street Zones

This section outlines the policy objectives contained in section 8.3.7 of the Official Plan and includes zones and standards for Mixed Use Heritage Main Street designated areas. The zoning for these areas will reflect the appropriate standards from the relevant Heritage District Conservation Plans.



**Figure 14: Commercial Setback**

Illustration demonstrating side street setback requirements for Local Commercial.

Source: Aberdeen, SD

## Part 9. Commercial Zones

This part of the by-law contains zones and regulations for areas designated Commercial in the Official Plan. These areas recognize existing sites which have been approved for mostly large format commercial developments. In addition, this category includes zones that permit only motor vehicle service stations and accessory uses as described in Discussion Paper 7: Review and Assessment of Automotive Related Uses and chapter 9 of the Zoning Issues Analysis Paper. This zone will also take into account the existing motor vehicle service station (AC) zone in Markham By-law 177-96. The introduction to this zoning category will include a statement describing the policy objective for Commercial zones.



## 9.1 Commercial Zone

This section outlines the policy objectives contained in section 8.4.1 of the Official Plan and includes zones and standards for areas designated Commercial.

## 9.2 Motor Vehicle Service Station Zone (AC)

This section outlines the policy objectives contained in section 8.13.5 of the Official Plan and includes zones and standards for motor vehicle service stations. A full discussion of this topic is contained in Discussion Paper 9: Review and Assessment of Parking and Loading Standards and Chapter 8 of the Zoning Issues Analysis Paper.

## Part 10. Employment Zones

This part of the by-law contains regulations and standards for a number of employment zones, based on the Official Plan designations for Employment Lands (section 8.5). The number of zones under each designation will be determined following a detailed analysis of existing development and zoning standards in Markham's current zoning by-laws. Typically each zone will include an outline of the types of uses permitted as well a chart outlining standards respecting such matters as minimum lot area, minimum and maximum front yard, minimum lot frontage, minimum and maximum flankage yard, minimum interior side yard, minimum rear yard and landscaping requirements. A number of these standards were reviewed as part of Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses and should be referred to when preparing the standards.

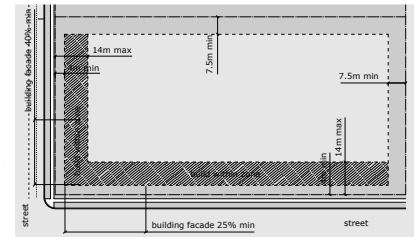
The section also includes unique development criteria related to each of the identified zones. In the introduction to each section in this part of the by-law there will be an explanation of the policy objectives for the corresponding zones as outlined in the Official Plan.

### 10.1 Business Park Employment Zones

This section outlines the policy objectives contained in section 8.5.2 of the Official Plan and includes zones and standards for Business Park Employment designated areas.

### 10.2 Business Park Office Priority Employment Zones

This section outlines the policy objective contained in section 8.5.3 of the Official Plan and includes zones and standards for Business Park Office Priority Employment designated areas.



**Figure 14: Employment Zoning**

Illustration demonstrating street-related employment requirements

Source: LaSalle, ON

### **10.3 Service Employment Zones**

This section outlines the policy objectives contained in section 8.5.4 of the Official Plan and includes zones and standards for Service Employment designated areas.

### **10.4 General Employment Zones**

This section outlines the policy objectives contained in section 8.5.5 of the Official Plan and includes zones and standards for General Employment designated areas.

## **Part 11. Greenway Zones**

This part of the by-law contains regulations and standards for the Greenway zone(s) based on the Official Plan designations for Greenway (section 8.6). The introduction to this section will include a description of the objectives for the Greenway as stated in the Official Plan. The issues relating to the Greenway are analyzed in Discussion Paper 15: Review and Assessment—The Greenway and Special Policy Areas and chapter 19 of the Zoning Issues Analysis Paper.

The Official Plan contains a complex set of policies for different parts of the Greenway including policies that reflect provincial plans for those portions of the Greenway that include the Oak Ridges Moraine and the Greenbelt, and unique policies for lands containing natural heritage and hydrologic features as well as adjacent vegetation protection zones. In order to avoid confusion with this complex set of Official Plan policies, the recommended approach for the new zoning by-law is to include all of the Greenway and the adjacent vegetation protection zones in one zone and to restrict all development within this zone, while recognizing all existing dwellings and structures on existing lots at the time of passage of the by-law. A map could be included in the appendix to the by-law showing lands subject to the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan.

## **Part 12. Open Space and Community Facility Zones**

This part of the by-law contains regulations and standards for the open space zones including community facilities such as parks, golf courses, cemeteries, community centres and places of worship. The map attached as Appendix C to the Official Plan shows the location of these types of community facilities. Relevant Official Plan policies are found in section

6.1.6 regarding parks and open spaces, 8.9 regarding private open space (cemeteries and golf courses) and 8.13.7 regarding places of worship. This part of the by-law includes an introduction which explains the objectives and purpose of the open space zones. The decisions regarding which zones and standards to include will be based to some extent on similar zones in Markham's existing zoning by-laws.

### **12.1 Parks Zone**

This section specifies uses that are permitted in parks including community uses, open space uses and small retail uses, if appropriate.

### **12.2 Private Open Space Zones**

This category may include two zones in accordance with the policies of section 8.9 of the Official Plan: one for private cemeteries; and one for private golf courses. For each zone, permitted uses would be specified as well as appropriate regulations and standards for buildings.

### **12.3 Community Facilities Zone**

This zone lists permitted community uses, including such things as community centres, libraries, arenas as well as appropriate building regulations.

### **12.4 Places of Worship Zone**

This section will permit existing places of worship at the time the by-law is passed. Options for addressing places of worship in the zoning bylaw are analysed in Discussion Paper 14: Review and Assessment of Places of Worship and chapter 18 of the Zoning Issues Analysis Paper.

## **Part 13. Countryside and Hamlets Zones**

This part of the by-law contains regulations and standards for the Countryside and Hamlet zones based on the Official Plan designations for Countryside (section 8.8) and Hamlets (section 8.7). The introduction to this part of the by-law will include a description of the objectives for the Countryside and Hamlets as stated in the Official Plan.

### **13.1 Countryside Zone**

This section lists permitted agricultural uses and building types, including agriculture related uses , compatible non-agricultural uses and related dwellings in accordance with section 8.8.1.2 of the Official Plan as well as standards and regulations pertaining to these uses.

### **13.2 Hamlet Zones**

This section contains permitted uses as well as standards and regulations pertaining to these uses for zones in areas designated Hamlets in the Official Plan in accordance with section 8.7.1.3. Due to the unique character of each Hamlet it may be appropriate to create more than one zone, in particular for Locust Hill and Cedar Grove.

### **13.3 Rural Residential/Highway Commercial Zones**

Existing Markham Zoning By-law 304-87 includes rural residential zones RRH, RR1, RR2 and RR4, which permit clusters of residential buildings and commercial zones that recognize existing commercial activities in the Countryside area not covered by the agricultural zone. These types of zones may be appropriate in the new zoning by-law as well.

## **Part 14. Transportation and Utilities Zones**

This part of the new zoning by-law addresses uses and standards for lands designated as Transportation and Utilities on Map 3 of the Official Plan. A large part of this area is included in the Parkway Belt West established by the Province under the Parkway Belt and Development Act and is subject to the Minister's Zoning Order for the Parkway Belt West. The map associated with the Minister's Zoning Order will be included in the appendices to the by-law.

## **Part 15. Maps**

The zoning by-law maps show zones and densities and maximum heights. Map overlays will also be provided to show lands included in the Special Policy Area. Both the maps and text will be available electronically and in paper format. The electronic version will include a hyper-link between the map and the text to allow the user to easily access the relevant zoning regulations by clicking on a site on the map. There will also be a link to area or site specific by-laws that apply to the site. Many of these issues are explored in Discussion Paper 6: Review

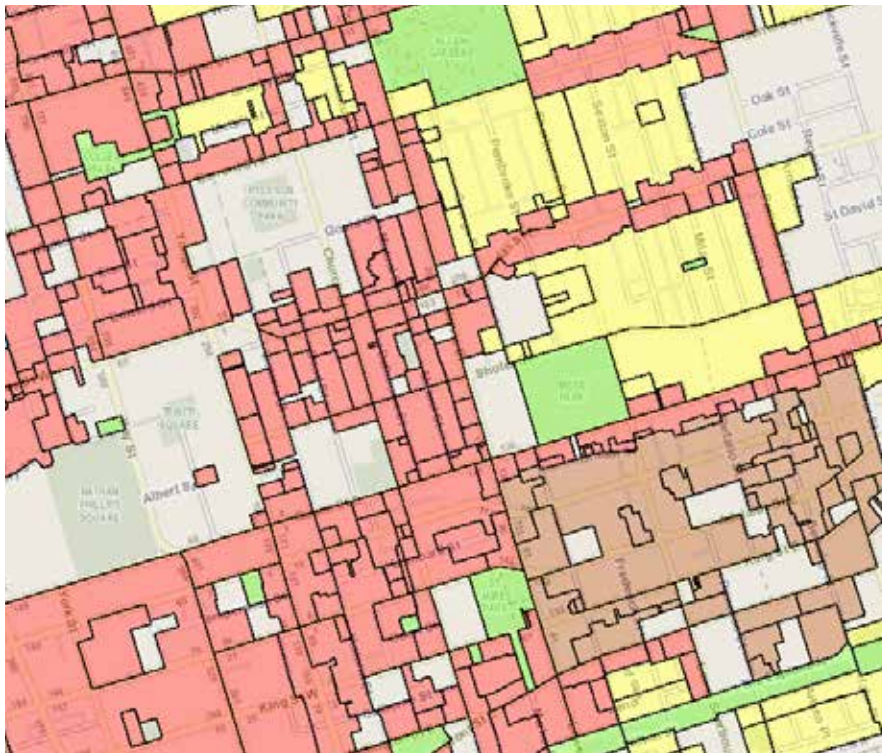
and Assessment of Geographic Information and Technology Strategy and in chapter 23 of the Zoning Issues Analysis Paper.

### **Part 16. Area and Site Specific By-laws**

This part of the by-law includes all relevant area and site specific by-laws that have been approved by Council. There are more than 2,562 amendments to the 46 existing parent Markham zoning by-laws, most of which are site specific amendments. These are reviewed and analyzed in Discussion Paper 4A; Review and Assessment-Site Specific Zoning Amendments and in chapter 5 of the Zoning Issues Analysis Paper.

### **Part 17. Appendices**

The appendices include maps such as Flood Hazard Lands subject to Toronto Region Conservation Authority review; the Minister’s Zoning Order regarding airport operations; and the Minister’s Zoning Order regarding the Parkway Belt West lands. The appendices do not constitute an operative part of the zoning by-law.



**Figure 15: Zoning Map**

Example of zoning by-law map.

Source: Toronto

# 4 Geographic Information System

## Guiding Principles

The following guiding principles for the City of Markham can facilitate delivery of web based mapping and by-law text presentation that meets the City's obligations for the Zoning By-law as it develops and when it is approved.

GIS and text data driven sites based on address and zone should:

- Enable broad access to core zoning by-law information at the parcel level;
- Enable a large percentage of current letter, fax, email, phone and in-person counter enquiries to be answered through self-help web pages:
  - Textually through access to printable official copies of bylaw documents;
  - Visually through printable maps, drawings of appropriate zones and exception flags;
- Contribute to consistency by utilising the site as the primary source for zoning information, both for internal and external customers;
- Increase the effectiveness of City staff by enabling remote access to the entire zoning by-law (textual & visual); and
- Align to City initiatives for efficiency, paperless, self-serve, transparency and compliance.

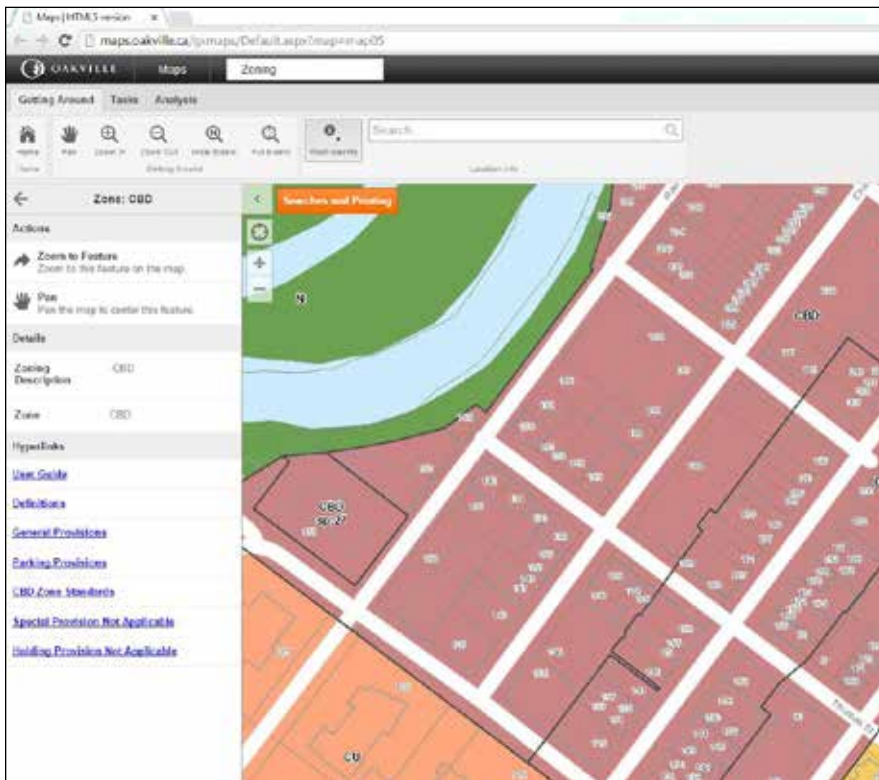
While there is no single standard or common maturity level for useful and usable presentation of zoning by-law information, a clear trend is to map based, address driven, zone oriented text linked sites. These can be viewed from web sites of municipalities to which Markham can be compared in terms of size, demographics, urban complex alignment and technological expectation.

Quality information and accurate timely data is the foundation for supporting the business requirements for Development Services at the City of Markham. The City is already engaged in many activities that support the current infrastructure and information environments (zoning data creation and maintenance, zone mapping, linkage to other enterprise systems, data query/search capability, mobile application deployment) and is well placed to extend those activities as development services data sets (including a new consolidated zoning by-law) mature.

## Towards interactive web-based zoning by-laws

A peer-review examination of the 'state-of-the-art' in Zoning By-Law geographic information and technology reveals three key findings:

1. The interactive text portion of the ZBL project continuum can be served by professional level HTML files. Use of an internal document management system will yield superior results for stakeholders.
2. Both the Map Series (screen and paper) and Interactive Map (web GIS) products can be pursued for a modest cost, will benefit current and future stakeholders, and may lead to “geographic multipliers” around new uses of geography in municipal operations.
3. The desire for a more fulsome business solution was a common theme noted in consultation with City staff. However, a ‘full’ solution is outside the scope of simply getting the zoning by-law up and viewable. Nevertheless, the various incarnations of the interactive map can feed existing and/or new business solutions as they go through their own refresh lifecycles.



**Figure 16: Online Zoning By-law**

Example of online interactive zoning by-law

Source: Oakville, ON

## Technology for zoning

Items to be Considered	Critical Success Factors	
<b>Legal Document Handling</b>	<p style="text-align: center;"><b>Printed Environment</b></p> <ul style="list-style-type: none"> <li>• A printed document will be the on-going correct and legal document.</li> <li>• City Clerk has a key role in storage and handling of text document.</li> </ul>	<p style="text-align: center;"><b>Online Environment</b></p> <ul style="list-style-type: none"> <li>• Provides optimal most effective most convenient format for presenting Zoning By-Law information in a cost effective manner, but at this point a printed version is also required for legal compliance</li> </ul>
<b>Need for Simplicity in User Interface for Zoning By-Law Information</b>	<p style="text-align: center;"><b>Intuitive Interface</b></p> <ul style="list-style-type: none"> <li>• The objective is to provide purpose-built applications with a clean interface that guide users through a series of simple steps to access information.</li> </ul>	<p style="text-align: center;"><b>Complex Interface</b></p> <ul style="list-style-type: none"> <li>• Previous paradigm of Graphical User Interface design had a multitude of tabs, pick-lists, and buttons to provide full functional access to data and mapping elements. Only savvy professionals would benefit from content, it inhibits use by untrained staff</li> </ul>
<b>Information to be made available to all users of Zoning By-Law</b>	<p style="text-align: center;"><b>Zoning Designations</b></p> <ul style="list-style-type: none"> <li>• Address based pop-ups to identify zone and basic descriptions need to be searchable on map or through text query.</li> </ul>	<p style="text-align: center;"><b>Line Mapping</b></p> <ul style="list-style-type: none"> <li>• Maps of subject properties that show the public where related property lines, roads, paths and municipal or zone boundaries exist are desirable.</li> </ul>
<b>Meeting the diversity of business need for access to Zoning By-Law</b>	<p style="text-align: center;"><b>Public and Industry Access</b></p> <ul style="list-style-type: none"> <li>• Any member of the public should have equal access at anytime from anywhere to the full external functionality and information in the Markham application whether their purpose be personal or commercial.</li> </ul>	<p style="text-align: center;"><b>Staff Access</b></p> <ul style="list-style-type: none"> <li>• An internal ‘staff only’ version may have additional functions and linkages to other City applications.</li> <li>• The intent should be to maximize the utility and cost effectiveness of the Zoning web applications by maximizing its content breadth and depth to the staff whose permitted access is appropriate.</li> </ul>



Items to be Considered	Critical Success Factors	
<b>Equality between field and office access to Zoning data is an objective</b>	<p style="text-align: center;"><b>Field Access</b></p> <ul style="list-style-type: none"> <li>• Access described for Public and Industry should be available via web based resources for anyone who requires the information. This includes City Staff in the course of their daily activities, wherever and whenever needed, in or out of office.</li> </ul>	<p style="text-align: center;"><b>Office Access</b></p> <ul style="list-style-type: none"> <li>• Increased functionality for print and storage of data may be applied to desktop or portable devices in the office environment.</li> <li>• Application may be useful to professionals, counter staff who don't currently have means to handle simple or general zoning calls.</li> </ul>

The zoning by-law text should be presented and updated online, as a set of fully indexed and searchable files. Stakeholders require the ability to copy and/or download parts of, or entire documents. The complexity of the content requires that advanced help functionality such as pop-up hyperlinks to key definitions and illustrations are accessible to the user.

Portable, digital map series can be a valuable adjunct to interactive text and mapping. These printable map sheets can also be offered as a complete set in a map book application and/or hard copy printed format as a schedule to the consolidated zoning by-law.

Communication through visualization is an important consideration for making zoning information available and understandable to stakeholders. The map provides a visual tool to access information required. An increasing majority of potential stakeholders prefer access via an interactive mapping environment.

Zoning can/should be the gateway dataset to a solution where questions can be answered with simple, reusable computer functions deployed as business-specific applications to automate repetitive tasks. Creating, integrating and extending products and processes derived from the consolidated zoning by-law data should be thought of as the long term objective for the City's use of zoning and property-related information.

## **Summary of Key Delivery Requirements**

The technical and business considerations identified over the course of consultation for this project have been discussed with City staff.

The zoning by-law consolidation project is setting the stage for up-to-date, interactive access to zoning information via the City's web portal and geographic information repository. The web based GIS driven hosting of all relevant information (text, drawings and geography) creates a significant service policy opportunity for the City. The suggested policy is to provide extensive and timely zoning information (data) for the public on an ongoing and accessible basis. The intent is to enhance public understanding of the by-law and thereby improve enforcement, while minimizing staff expense in dealing with casual and straightforward inquiries, if and when such information is easily available by computer or other web access devices. Members of the public, staff and industry will be looking for the City to deliver in all these areas to service a particular future requirement.

# 5 Recommendations

The recommendations below are based on the analysis contained in the Phase 1 Discussion Papers. The discussion papers presented options largely based on best practices from elsewhere and past experience with Markham’s existing parent zoning by-laws, which were then reviewed by the public through a series of open houses and through internal evaluation by Markham staff. The recommendations put forward in this report are a result of this review process as well as input from an open house held to discuss draft recommendations on May 2, 2016 and combine to establish the Strategic Direction for Phase 2 of the Comprehensive New Zoning By-law Project. They are organized according to the relevant sections of the recommended structure for the by-law reflected in section 3 of this report. Not all sections have recommendations since the discussion papers do not address all matters that would be included in the new by-law. For each recommendation there is a reference back to the relevant discussion paper. The appendix to this report organizes the same set of recommendations according to the relevant discussion paper.

The first six recommendations are general in nature and do not refer to any specific section of the by-law. These deal with guiding principles, which are discussed in section 2 of this report, development permit system by-laws, also discussed in section 2, the recommended structure of the by-law as outlined in section 3 of this report, conformity with the policies of the Official Plan discussed in section 2 and use of illustrations and explanatory text, discussed in section 3.

- ✓ It is recommended that the drafting of the new comprehensive zoning by-law be based on the following guiding principles:
  - Implement the Official Plan;
  - Develop a single comprehensive zoning by-law;
  - Recognize the development and property rights provided for in existing site specific by-laws, where appropriate;
  - Consolidate and update standards, as appropriate;
  - Provide for ease of enforcement; and
  - Develop a web-based and easily accessible zoning by-law.
- ✓ It is recommended that Markham consider preparing development permit system by-laws for particular parts of the City, where intensification is to be encouraged or a special neighbourhood character is to be preserved, after the new by-law has been completed and enacted.



**Figure 17: Markham Official Plan**

The new zoning by-law will implement the Official Plan.

The Guiding Principles are discussed in Discussion Paper 1: Guiding Principles and Parameters and Trends and Issues in Zoning Controls and are summarized in section 2 of this report. The development permit system (DPS) is also discussed in Discussion Paper 1 and in section 2 of this report. DPS by-laws are provided for in section 70.2 of the Planning Act. The intent is to provide for discretionary uses and greater flexibility in applying regulations and to collapse the approval process for minor variances, zoning amendments and site plan control. The recommendation is to delay consideration of these types of by-laws until after the new zoning by-law is completed.

- ✓ It is recommended that the format for the new by-law be based on the “recommended structure for the new zoning by-law” as outlined in Section 3 of this report.

The structure and format of a number of Ontario municipal zoning by-laws is assessed in Discussion Paper 3, Review and Assessment of Existing City Parent By-laws. The recommended structure described in section 3 of this report is based on a combination of best elements from these by-laws.

- ✓ It is recommended that the relevant policies contained in the Official Plan, as identified in Discussion Paper 2: City Official Plan and City Guidelines, Policies and Plans and summarized in chapter 3 of the Zoning Issues Analysis Paper, be incorporated into the new comprehensive zoning by-law.

The zoning by-law is intended to implement the Official Plan. Markham’s new Official Plan contains a number of policies that are relevant for the new zoning by-law and the new zoning by-law must comply with these. These are particularly relevant for the land use designations contained in Chapter 8 of the Official Plan. References to the particular relevant policy sections are made throughout “Recommended Structure of the New Zoning By-law” section of this report.

- ✓ It is recommended that the new by-law include an explanatory section that describes how to use the by-law, but is not an operative part of the by-law.

This recommendation is based on the assessment of other recent Ontario municipal zoning by-laws contained in Discussion Paper 3: Existing City Parent By-laws. Most such recent by-laws include an introductory guide for the user that describes how to navigate the by-law step by step.

- ✓ It is recommended that the new zoning by-law include drawings and illustration for information purposes to assist users to understand standards and regulations. The drawings and illustrations will not be considered an operative part of the by-law.

This recommendation is based on the assessment of other recent Ontario municipal zoning by-laws contained in Discussion Paper 3: Existing City Parent By-laws. Most such recent by-laws include drawings and illustrations to help users understand the standards and regulations described in words.

## **Part 1. Administration**

### **1.2 Repeal of Existing Markham Parent By-laws**

- ✓ It is recommended that Markham's existing 46 parent zoning by-laws be repealed once the new comprehensive by-law is approved.

The rationale for this recommendation is contained in Discussion Paper 3: Review and Assessment of existing City Parent Zoning By-laws, based on an assessment the approaches in other municipalities which have recently approved new zoning by-laws.

### **1.6 Transition Matters**

#### Building permits

- ✓ It is recommended that, in principle, all complete building permit applications under the Building Code Act, as determined by the Chief Building Code Official, filed under the old by-laws prior to the date of approval of the new by-law, be processed in accordance with the old by-laws.

#### Planning applications

- ✓ It is recommended that, in principle, all complete planning applications, as provided for in section 10.6.2 of the Official Plan, filed under the old by-laws can be assessed for building permits under the old by-laws, within 2 years of the approval of the new by-law.

## Minor variances & Consents

- ✓ It is recommended that all minor variances built prior to the approval of the by-law be deemed to conform with the by-law. It is further recommended that all minor variances and provisional consents approved over a three year period before the new by-law comes into effect do not have to comply with the provisions of the new zoning by-law provided:
  - i. A building permit for the approved minor variance has been applied for within three years of the approval of the by-law
  - ii. A certificate of severance issued within three years of the approval of the by-law

If the requirements of this transition clause are not met then approval of the minor variance and provisional consent shall lapse and a new application is required under the new by-law

The rationale for these recommendations is based on an assessment of the approaches and experiences in other municipalities which have recently approved new zoning by-laws as well as input from Markham staff.



**Figure 18: Single Detached House**

The new zoning by-law will consider the character of existing built-up areas.

Source: Markham

## Part 3. Establishment of Zones

### 2.1 Determining Zone Boundaries

- ✓ It is recommended that, in the case of lots fronting on public roads, the centre line of the street be considered the boundary line between zones.

The rationale for this recommendation is based on an assessment of how other municipalities that have dealt with the issue of where to draw the boundary along public streets between zoning districts. This issue is analysed in Discussion Paper 3: Review and Assessment of Existing City Parent Zoning By-laws, and summarized in chapter 4 of the Zoning Issues Analysis paper.

- ✓ It is recommended that, on lots which have split zoning, uses and standards only be applied to the zone that relates to each portion of the lot. Split zone properties will satisfy all setback requirements relating to the property measured from the lot line.

Split zoning has come up as an issue that has created confusion in the past in Markham, particularly with respect to lots which are partially zoned as natural area. This recommendation clarifies that in the new by-law, development rights will only relate to the zone that each portion of the lot is located in and cannot be transferred to the other zone on the lot. This issue is analysed in Discussion Paper 3: Review and Assessment of Existing City Parent Zoning By-laws, and summarized in chapter 4 of the Zoning Issues Analysis paper as well as in Discussion Paper 15: Review and Assessment—The Greenway and Special Policy Areas.

#### **Part 4. Definitions**

- ✓ It is recommended that the definitions in the new by-law should be clear, concise and avoid conflicting interpretations and be easily understood. In developing a definitions section for the new by-law, the following key principles should be kept in mind:

##### **Consistency**

Zoning by-law definitions should match those in the Official Plan to avoid confusion. Likewise, attention should be paid to how terms are defined in other relevant legislation (Planning Act, Municipal Act, Ontario Building Code, Region of York Official Plan) if such terms are to be used in the by-law.

##### **Simplicity**

Definitions should be as simple as possible. Avoid definitions within definitions or defining something by what it is not (if possible).

##### **Universality**

Definitions should apply across the municipality and not to a given site. No site-specific by-law should contain its own definitions.

##### **Avoid definitions that are de facto regulations**

Terms in existing Markham zoning by-laws like “Maximum Floor Area” are actually standards. Define “Floor Area” and leave the rule (maximum) to the zone regulations.

##### **Only define what is necessary**

Terms found in common dictionaries need not be defined in the zoning by-law. Terms defined differently from common understandings should be defined. Readers should be

referred to a particular dictionary such as the Canadian Oxford Dictionary for reference.

### Referencing

Terms should be listed alphabetically as they appear in the by-law (e.g. “Front Lot Line” instead of “Lot Line, Front”). Cross referencing could be considered.

### Text

Provide additional space where two or more defined terms are together. Provide a hyperlink between italicized terms and the definition in the electronic version.

- ✓ It is recommended that, in addition to the definitions analysed and suggested in Discussion Paper 5, the following uses, which are specifically addressed and analysed in Discussion Papers 7, 13A, 13B, 16A and 17 be defined in the new by-law:



**Figure 19: Motor Vehicle Dealership**

An example of a use that is to be defined under the new comprehensive zoning by-law.

Source: Audi Uptown

- Motor Vehicle Dealership, Motor Vehicle Repair Facility (which includes major repairs and auto body shops), Motor Vehicle Service Station, Motor Vehicle Washing Establishment. These uses are examined fully in Discussion Paper 7: Review and Assessment of Automotive related uses and chapter 9 of the Zoning Issues Analysis Paper.
- Residential Care Home (with 3 to 10 residents--see City of Toronto Group Home definition on page 21 of Discussion Paper 13a), Residential Care Facility (short term transitional accommodation for more than 10 persons), Long Term Care Facility (see definition in By-law 177-96), Retirement Home (see definition in By-law 177-96) and Rooming House (see definition in the Ontario Building Code reproduced on page 23 of Discussion Paper 13a). These issues are examined fully in Discussion Papers 13A: Review and Assessment of Affordable and Shared Housing and Secondary Suites and 13B: Review and Assessment of Student Housing, as well as chapters 16 and 17 of the Zoning Issues Analysis Paper.
- Student Residence on university owned lands or privately owned lands provided it is operated on behalf of the university. This issue is discussed in Discussion Paper 13B: Review and Assessment of Student Housing, as well as chapter 17 of the Zoning Issues Analysis Paper and was discussed at the open house on May 2, 2016.
- Adult Entertainment Establishment (which will not be



permitted in any zone), Body Rub Establishment (which will not be permitted in any zone), Massage Therapy Centre (which will not include a Body Rub Establishment), Wellness Centre. These uses are examined fully in Discussion Paper 17: Review and Assessment of Adult Entertainment and Sex Industry and chapter 22 of the Zoning Issues Analysis Paper.

- Medical Marihuana Production Facility is examined in Discussion Paper 16A: Review and Assessment of Medical Marihuana production Facilities and chapter 20 of the Zoning Issues Analysis Paper.
- Addiction Recovery Centre is examined in Discussion Paper 16B: Review and Assessment of Addiction/Recovery Centres and Chapter 21 of the Zoning Issues Analysis Paper.

In addition to the analysis and suggestions contained in Discussion Paper 5, a number of groupings of specific defined uses for the new by-law have been suggested in some of the other discussion papers prepared as part of Phase 1 of the project. The recommendations above identify the specific uses that have been examined in the Phase 1 discussion papers, and refer to the discussion paper for suggestions on how to define these uses. Secondary suites and rooming houses will be addressed in a separate report as part of phase 3a of this project.

## **Part 5. General Provisions**

### **4.7 Highway Corridor Setback**

- ✓ It is recommended that a setback of 14 metres from provincial highways be required for all buildings and structures.

The recommendation is based on the analysis of this issue contained in Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses as well as chapter 15 of the Zoning Issues Analysis Paper. It is a standard provision contained in other Ontario municipal zoning by-laws and is included in existing Markham By-law 177-96.

### **4.10 Legal Non-Conformity**

- ✓ It is recommended that the new zoning by-law recognize existing legally conforming uses and legally complying lots, buildings and structures resulting from the creation of new

zones and/or standards at the time the new by-law is passed.

This recommendation comes from Discussion Paper 4A: Review and Assessment-Site Specific Zoning Amendments. The rationale is to provide a grandfathering provision so that uses, lots, buildings and structures which are in existence prior to the approval of the new by-law, but do not meet the standards and regulations in the new by-law, continue to enjoy legal status. The approach chosen is based on the most straightforward approach from amongst the other Ontario municipal zoning by-laws which were reviewed.



**Figure 20: Land Use Separation**

Aerial image demonstrating existing land use pattern.

Source: Gladki Planning Associates

#### **4.12 Minimum Distance Separation**

- ✓ It is recommended that the new comprehensive zoning by-law include the Minimum Distance Separation II Formulae (Publication 707), issued by the Ministry of Agriculture, Food and Rural Affairs in 2006 regarding livestock operations in agricultural areas, to be applied where appropriate.

The recommendation is addressed in Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses as well as chapter 15 of the Zoning Issues Analysis Paper. It is included in other Ontario municipal zoning by-laws which have agricultural areas.

#### **4.20 Pipeline Setback**

- ✓ It is recommended that a setback be applied from the Trans Canada Pipeline and the Enbridge Gas pipeline.

The recommendation is addressed in Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses as well as chapter 15 of the Zoning Issues Analysis Paper. It reflects other typical setbacks from gas pipelines in Ontario municipal zoning by-laws.

#### **4.21 Prohibited Uses**

- ✓ It is recommended that it be clearly stated that all uses that are not listed as permitted in any particular zone are prohibited in that zone.

This recommendation is discussed in Discussion Paper 2: City Official Plan and City Guidelines, Policies and Plans. It is also an approach that appears in other Ontario municipal zoning by-laws.

#### **4.22 Propane and Natural Gas Handling and Transfer**

- ✓ It is recommended that setback requirements for propane

storage are governed by the relevant provincial legislation.

The recommendation is addressed in Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses as well as chapter 15 of the Zoning Issues Analysis Paper and in Discussion Paper 7: Review and Assessment of Automotive Related Uses.

#### **4.23 Railway Setbacks for Sensitive Land Uses**

- ✓ It is recommended that a 30 metres setback from a railway line be applied for residential uses, schools and day care centres.

The recommendation is addressed in Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses as well as chapter 15 of the Zoning Issues Analysis Paper. It is a standard provision in most Ontario zoning by-laws and is included in existing Markham By-law 177-96.

## **Part 6. Specific Use Provisions**

### **5.1 Adult Entertainment Establishment**

- ✓ It is recommended that if an adult entertainment facility is permitted in Markham it be required to be located no closer than 1000 metres from any Residential or Mixed Use zone, in accordance with section 8.5.4.3 (s) of the Official Plan.

This recommendation is addressed in Discussion Paper 17: Review and Assessment of Adult Entertainment and Sex Industry and Chapter 22 of the Zoning Issues Analysis Paper. It also reflects policy 8.5.4.3 (s) of the Markham Official Plan.

### **5.4 Drive Through Facility**

- ✓ It is recommended that the following standards apply to drive through facilities, which are to be considered accessory to other uses:
  - a 30 metre separation distance be required between the lot line of a drive through facility and a residential use or any zone where residential uses are permitted;
  - a minimum lot size of 0.3 hectares;
  - a prohibition on double drive through facilities;
  - the entrance to the stacking lane to be located a minimum

distance of 2 car lengths from the access to the site; and

- a minimum of at least 10 stacking spaces be provided for drive through restaurants and a minimum of 4 staking spaces be provided for financial institutions and pharmacies.

A full discussion of drive through facilities is contained in Discussion Paper 8: Review and Assessment of Drive-Through Facilities and Chapter 10 of the Zoning issues Analysis Paper and reflects relevant provisions from section 8.13.3 of the Official Plan. The basis of the recommendation is the report on Markham Design Guidelines for Drive Through Facilities which were approved by Markham Council in 2010 and represent best practice, based on an analysis of other Ontario municipal zoning by-laws.



**Figure 20: Home Occupations**

The restrictions around Home Occupations are designed to ensure that they are unobtrusive.

Source: Markham

### **5.7 Home Occupation**

- ✓ It is recommended that where a home occupation is permitted, the home occupation shall:
  - clearly be a secondary use of the lot;
  - be conducted entirely within a dwelling unit or a detached garage;
  - be conducted by at least one of the residents of a dwelling unit;
  - not occupy more than 25 percent of the gross floor area of the dwelling unit;
  - not create noise, vibration, fumes, odour, dust, glare or radiation which is evident outside the dwelling unit;
  - not employ more than one employee, in addition to members of the household;
  - not involve the outdoor storage, or outdoor display of materials or finished products;
  - not consist of an occupation that involves the sale of a commodity not produced on the premises, except that telephone , mail order or internet sales of goods is permitted;
  - if involving instructional activity, not be occupied by more than four students at any one time for such an activity;
  - not require receipt or delivery of merchandise, goods or equipment by other than a passenger motor vehicle or by

parcel or letter carrier mail service using motor vehicles typically employed in residential deliveries;

- not include manufacturing, animal grooming and care, auto related uses, offices of medical practitioners in multi-unit buildings; and
- any activity that requires a permit from another level of government is required to obtain a permit or approval prior to commencing the operation.

A full discussion of home occupations is included in Discussion Paper 11: Review and Assessment of Home Occupations and Chapter 13 of the Zoning Issues Analysis Paper. The recommendation is based to a large extent on provisions in Markham's existing parent zoning by-laws which compare well with provisions in other Ontario municipal zoning by-laws.

### **5.8 Medical Marihuana Production Facility**

- ✓ It is recommended that a medical marihuana production facility can only be located in a General Employment Zone and required to be no closer than 800 metres from a sensitive use, or any Residential or Mixed Use zone and that the operation is located in a single tenant building.

A full discussion of medical marijuana production facilities is included in Discussion Paper 16A: Review and Assessment of Medical Marihuana Production Facilities and chapter 20 of the Zoning Issues Analysis Paper. The recommendation is based on an assessment of the conditions that are required to ensure that this type of facility can operate safely and in a secure environment and does not impact nearby sensitive uses. Since medical marihuana production is a relatively new activity, the assessment in Discussion paper 16A draws on limited emerging practice elsewhere.

### **5.9 Motor Vehicle Dealership or Rental Office**

- ✓ It is recommended that a motor vehicle dealership or rental facility located in a Mixed-Use zone not include the outdoor storage of vehicles "as of right".

This recommendation is based on the analysis contained in Discussion Paper 7: Review and Assessment of Automotive Related Uses and Chapter 9 of the Zoning Issues Analysis Paper. The intent is to separate the sales or rental facility from the storage of vehicles which can have a negative impact on streetscape and pedestrian activity, and can be accommodated with less impact elsewhere, including nearby Employment zones.



**Figure 21: Medical Marihuana**

The regulations for medical marihuana production facilities are designed to promote safe and secure operations without impacting residents.

Source: <http://windsorstar.com>

### 5.10 Motor Vehicle Repair Facility

- ✓ It is recommended that a motor vehicle repair facility, which includes major and auto body repairs be located only in a General Employment zone and separated a minimum of 20 metres from an adjacent Residential or Mixed Use zone.

This recommendation is based on the analysis contained in Discussion Paper 7: Review and Assessment of Automotive Related Uses and Chapter 9 of the Zoning Issues Analysis Paper and in Discussion Paper 12: Infill Zoning Standards and Interface Between Residential and Non-Residential Uses. It summarizes the practice in other municipal by-laws.



**Figure 22: Motor Vehicle Service Station**

Motor Vehicle Service Station with canopy.

Source: <http://www.globalnews.ca>

### 5.11 Motor Vehicle Service Station

- ✓ It is recommended that the following regulations be applied to a motor vehicle service station, where permitted:
  - the minimum lot frontage is 30 metres;
  - the maximum lot area is 0.6 hectares;
  - a minimum setback of 20 metres from the lot line is provided to a residential zone;
  - 10 percent of the lot is landscaped;
  - a 3 metre landscaped buffer is provided along front and exterior side lot lines and a 6 metre landscaped buffer is provided for interior and rear lot lines; and
  - all parts of a structure including a building or a canopy is set back 10 metres from the front lot line and the exterior lot line.

This recommendation is based on the analysis contained in Discussion Paper 7: Review and Assessment of Automotive Related Uses and chapter 9 of the Zoning Issues Analysis Paper and the relevant policies contained in section 8.13.5 of the Official Plan. It reflects a combination of provisions from other Ontario municipal zoning by-laws. This issue was also discussed at the open house on May 2, 2016.

### 5.12 Motor Vehicle Washing Establishment

- ✓ It is recommended that the following regulations be applied to a motor vehicle washing establishment, where permitted:
  - mechanical washing or drying operations take place wholly within a building; and

- minimum required stacking lanes are provided with 10 vehicles at the entrance and 2 vehicles at the exit.

The recommendation is based on an assessment of other Ontario municipal zoning by-laws. A full discussion of this topic is contained in Discussion Paper 7: Review and Assessment of Automotive Related Uses and Chapter 9 of the Zoning Issues Analysis Paper. This issue was also discussed at the open house on May 2, 2016.

## Part 7. Parking and Loading

### 6.2 Motor Vehicle Parking Space Regulations

- ✓ It is recommended that the following principles be applied for regulating parking spaces in the new by-law:
  - provide for varying requirements for certain areas such as Markham Centre, Langstaff Gateway, Key Development Areas and Regional Corridors based on level, frequency and availability of transit service or projected improvements to transit service;
  - provide for shared parking for uses in mixed use buildings;
  - include maximum parking ratios for areas such as Markham Centre, Langstaff Gateway, Key Development Areas and Regional Corridors;
  - apply a uniform rate for dwelling units in apartment buildings;
  - consolidate requirements for retail parking into fewer categories such as retail, restaurants, shopping centre small, shopping centre large;
  - evaluate the application of blended parking ratios for non-residential uses in the City’s Key Development Areas (KDA’s) and selected Local Centres;
  - simplify the parking requirements for a place of worship to include one rate based on the floor area of the place of worship and one rate for the floor area of all accessory uses associated with the place of worship;
  - include a rate for “other” uses; and
  - allow charges for parking spaces, particularly for non-residential uses and visitor parking spaces associated with multi-unit residential buildings; and



**Figure 23: Parking**

On street parking.

Source: <http://www.surrey.ca>

- minimum size for parking spaces based on the standards in existing Markham by-law 28-97 (2.6 m by 5.8m) including provisions to mitigate the impacts of obstructions such as walls, stairs, columns, bollards, fences or posts, in which case the minimum width should, in general, be increased by 0.3 metres.

The recommendations are based on the detailed assessment carried out in Discussion Paper 9: Review and Assessment of Parking and Loading Standards and Chapter 8 of the Zoning Issues Analysis Paper. Parking ratios will be analysed as part of a separate study for the zoning by-law to be carried out as part of phase 3b of this project.

### **6.3 Barrier Free Access**

- ✓ It is recommended that parking standards in the new by-law include requirements for access to barrier free parking spaces.

The recommendations are based on the assessment carried out in Discussion Paper 9: Review and Assessment of Parking and Loading Standards and Chapter 8 of the Zoning Issues Analysis Paper.

### **6.4 Aisle Widths and Access Driveways**

- ✓ It is recommended that parking standards require that aisle widths be at least 6 metres to be adjusted for angled parking.

The recommendation is based on the assessment carried out in Discussion Paper 9: Review and Assessment of Parking and Loading Standards and Chapter 8 of the Zoning Issues Analysis Paper.

### **6.5 Driveways and Private Garages Associated with Residential Uses**

- ✓ It is recommended that the new by-law :
  - restrict the number of vehicles that could be parked in the rear yards of ground related residential dwellings in Low Rise Residential zones to two;
  - require lane access on corner lots in Low Rise Residential zones;
  - permit shared driveways across two lots;
  - require setback provisions be for private garages from rear lanes; and
  - place limits on the size of private garages in Low Rise



Residential zones.

The recommendation is based on the assessment carried out in Discussion Paper 9: Review and Assessment of Parking and Loading Standards and Chapter 8 of the Zoning Issues Analysis Paper.

### 6.6 Vehicles Prohibited in Residential and Mixed Use Zones

- ✓ It is recommended that the size of commercial and recreational vehicles on lots with detached dwellings, semi-detached dwellings and townhouse dwellings in residential, and mixed use zones be restricted to a maximum of 2.3 metres high and 6 metres in length.

The recommendation is based on the analysis contained in Paper 9: Review and Assessment of Parking and Loading Standards and Chapter 8 of the Zoning Issues Analysis Paper. The Paper states that the typical restriction is 2.3 metres high and between 6 and 7 metres in length and that a restriction on vehicle size is preferable to vehicle weight, since it is easier to enforce.

### 6.7 Loading Spaces

- ✓ It is recommended that the new comprehensive zoning by-law include loading provisions based on existing Markham by-law 177-96, updated to include:
  - a loading requirement for residential buildings with more than 30 units;
  - minimum driveway widths for trucks and permitted slopes;
  - loading requirements over a wide range of non-residential floor area sizes with more steps in the range; and
  - loading exemptions for small lots and buildings.

The recommendations are based on the assessment carried out in Discussion Paper 9: Review and Assessment of Parking and Loading Standards and Chapter 8 of the Zoning Issues Analysis Paper.

### 6.9 Bicycle Parking Spaces

- ✓ It is recommended that requirements for the provision of bicycle parking spaces including numbers and dimensions be incorporated into the new by-law and these standards be based on the informal bicycle parking rates currently being applied to new developments in Markham.



**Figure 24: Bicycle Parking**

Source: Ontario Growth Secretariat,  
Ministry of Municipal Affairs and Housing

Markham has been successfully applying informal bicycle parking rate standards to developments over the past few years. These standards provide a good basis for establishing requirements in the new by-law. A full analysis of bicycle parking is contained in Paper 9: Review and Assessment of Parking and Loading Standards and Chapter 8 of the Zoning Issues Analysis Paper.



**Figure 25: Residential Zones**

Each residential zone will recognize the existing built form and use characteristics.

Source: Markham

## **Part 8. Residential Zones**

- ✓ It is recommended that, as an introduction to each section in the Residential Part of the by-law, there be an explanation of the policy objectives for the corresponding zones as outlined in the Official Plan. This introduction will constitute an explanatory note and not form an operative part of the by-law.

This recommendation draws from the practice in a number of other municipal zoning by-laws and is discussed in Discussion Paper 3: Review and Assessment of Existing City Parent Zoning By-laws.

### **7.1 Residential Accessory Buildings and Structures**

- ✓ It is recommended that the standards for residential accessory structures in the new by-law be based on the following:
  - 1.2 metre minimum setbacks from rear and interior side lot lines for larger lots and 0.6 metres for smaller lots;
  - minimum setback from the exterior side lot line—no closer than the main building from the exterior side lot line;
  - maximum floor area per accessory building or structure—15 square metres on lots with areas less than 0.1 hectare; 20 square metres on lots with areas between 0.1 and 0.4 hectares; and 50 square metres on lots with areas greater than 0.4 hectares;
  - maximum height—3 metres on lots with areas less than 0.4 hectares; and 4.5 metres on lots with areas greater than 0.4 hectares.
  - maximum number of accessory buildings or structures per lot—2 on lots with areas less than 0.1 hectare; and 3 on lots with areas between 0.1 and 0.4 hectares;
  - include a separation distance of 1.2 metres from the main building for accessory structures; and
  - exempt such structures as retaining walls, statues, light

standards, air conditioning units, children’s play structures and solar panels from requirements for residential accessory buildings and structures.

A full analysis of this topic is contained in Discussion Paper 10: Review and Assessment of Residential Accessory Buildings and Amenity Space and chapter 11 of the Zoning Issues Analysis Paper. The recommendations are based to a large extent on previous work completed in Markham in 2009 as compared to practices in other Ontario municipal zoning by-laws.

### 7.2 Common Amenity Area

- ✓ It is recommended that “amenity space” be defined as common space and that there should be a requirement of 4 square metres per unit of amenity space, of which 2 square metres must be common outdoor amenity space and this requirement should be applied to block townhouses and apartment buildings with more than 20 units.

This issue is examined in Discussion Paper 10: Review and Assessment of Residential Accessory Structures and Amenity Space and chapter 12 of the Zoning Issues Analysis Paper. The recommendation is based on this analysis, which examines best practices in other municipalities.

### 7.3 Residential Low Rise Zones

- ✓ It is recommended that the relevant infill standards for Markham Village Oakcrest/Sabiston and Thornhill and the unique characteristics of the residential heritage area in Unionville be reflected in the new by-law.
- ✓ It is recommended that the creation of zones in the Residential Low Rise designation reflect existing conditions and zoning standards, including the infill zoning standards approved by Council in the 1990s, as appropriate. Low Density Residential zoning standards should be based on an appropriate combination of maximum height limits expressed in metres and shown on the height map, minimum setbacks, minimum lot frontages, maximum depth of buildings, maximum lot coverage controls on garage projections and maximum garage widths, but not include Floor Area Ratio or Floor Space Index.

The recommendations are derived from the review contained in Discussion Paper 12: Infill zoning Standards and Interface between Residential and Non-Residential uses as well as the policy objectives



**Figure 26: Low Rise Zones**

Several unique historical areas exist in Markham that will need to be addressed in the new zoning by-law.

Source: Markham

contained in section 8.2.3 of the Official Plan. The Discussion Paper examines Markham’s infill zoning by-law amendments dating back to the 1990’s. In the course of conducting this review there was also concern raised with the difficulty of calculating Floor Area Ratio and using this as a basis for regulating the size of low rise residential buildings. It was felt that the combination of standards listed in the recommendation would better achieve the objective of controlling the size of residential buildings and be easier to enforce. The importance of reflecting the unique characteristics of the Unionville residential heritage area in the new zoning by-law was also raised as part of the discussion of draft recommendations for Phase 2.

- ✓ It is recommended that previous minor variance approvals by the Committee of Adjustment be considered when preparing standards for particular zones in the new comprehensive zoning by-law.

This recommendation comes from the analysis that was conducted in Discussion Paper 4B: Review and Assessment of Minor Variances. It shows that there are a lot of variances associated with residential setbacks and related to residential building volume. It would seem prudent to review these trends when drafting the new by-law to determine if, in particular zones, it may be possible to adjust the standards.



**Figure 27: Mixed Use Zones**

This example of mixed use office allows for retail and service on the ground floors with offices above.

Source: Ontario Ministry of Municipal Affairs and Housing

## Part 9. Mixed Use Zones

- ✓ It is recommended that, as an introduction to each section in the Mixed Use Zones Part of the by-law, there be an explanation of the policy objectives for the corresponding zones as outlined in the Official Plan. This introduction will constitute an explanatory note and not form an operative part of the by-law.

This recommendation draws from the practice in a number of other municipal zoning by-laws and is discussed in Discussion Paper 3: Review and Assessment of Existing City Parent Zoning By-laws.

- ✓ It is recommended that a student residence be defined and permitted only on university owned lands.

This recommendation is analysed in Discussion Paper 13:B Review and Assessment of Student Housing and is based on a thorough analysis of approaches to zoning student residences in Ontario municipalities with post-secondary institutions and reflects comments made at the open house held to discuss this issue.

## Part 10. Employment Zones

- ✓ It is recommended that, as an introduction to each section in the Employment Zones Part of the by-law, there be an explanation of the policy objectives for the corresponding zones as outlined in the Official Plan. This introduction will constitute an explanatory note and not form an operative part of the by-law.

This recommendation draws from the practice in a number of other municipal zoning by-laws and is discussed in Discussion Paper 3: Review and Assessment of Existing City Parent Zoning By-laws.

### 10.4 General Employment Zones

- ✓ It is recommended that there be minimum setback requirements from Residential and Mixed Use zones for animal boarding establishments, composting facilities, propane storage, outdoor loading, outdoor storage, outdoor garbage disposal and manufacturing uses located in General Employment zones.
- ✓ It is recommended that 3 metre interior side yard and rear yard setback be required for all buildings and structures in the General Employment zone from an abutting Residential or Mixed Use zone and that a 3 metre wide landscaped buffer be provided where a General Employment Zone is adjacent to a Residential or Mixed Use zone.

These recommendations are based on the analysis contained in Discussion Paper 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses, which examines current provisions in existing Markham zoning By-laws and compares these to other Ontario municipal zoning by-laws. The recommendation reflects best practices.

## Part 11. Greenway Zones

- ✓ It is recommended that, as an introduction to each section in the Greenway Zones Part of the by-law, there be an explanation of the policy objectives for the corresponding zone(s) as outlined in the Official Plan. This introduction will constitute an explanatory note and not form an operative part of the by-law.
- ✓ It is recommended that all Greenway and Vegetation Protection Zones be included in one zone category that restricts development to: conservation, resource management, nature-based recreational infrastructure and public infrastructure and



**Figure 28: Employment Zones**

An example of an employment area that promotes walkability and cycling.

Source: Ontario Ministry of Municipal Affairs and Housing

that all legally existing dwellings and structures on existing lots in this zone at the time of passage of the by-law be recognized as conforming to the by-law and that lands subject to the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan Area be shown in the appendix to the by-law which will does not constitute an operative part of the by-law .

- ✓ It is recommended that a map of the Special Policy Area be shown as an overlay to the zoning maps, which will form an operative part of the by-law, with development on lots in this area subject to review by the Toronto and Region Conservation Authority to ensure that flood mitigation measures are addressed while development on flood hazard lands shown in the appendices will be subject to screening by the Toronto and Region Conservation Authority. The appendices will not constitute an operative part of the By-law.

The issues relating to the Greenway and the Special Policy Area are analyzed in Discussion Paper 15: Review and Assessment—The Greenway and Special Policy Areas and chapter 19 of the Zoning Issues Analysis Paper. The recommendations are based on the analysis contained in this Discussion Paper as well as the policies contained in section 8.6 of the Official Plan.

## Part 12. Open Space and Community Facility Zones

### 12.4 Places of Worship Zone

- ✓ It is recommended that the places of worship zone apply to places of worship as they exist at the time of the passage of the new zoning by-law, including existing spires that may extend beyond the height limit, and that a day care centre be included as a permitted use in these zones.

The recommendation is based on the analysis included in Discussion Paper 14: Review and Analysis of Places of Worship, which assesses Markham's past experience with Places of Worship, as well as Section 8.13.7 of the Official Plan.

## Part 13. Maps

- ✓ It is recommended that zoning maps be prepared show zones relating to permitted uses, densities and heights, as well as overlays showing particular areas, such as lands located in Special Policy Areas, and that these maps be prepared to provide an electronic hyper-link to the relevant text and to area



**Figure 29: Place of Worship**

It is recommended that a places of worship zone be created.

Source: Markham



and site specific by-laws using the most up to date and tested technology and software.

These recommendations are based on the analysis contained in Discussion Paper 6: Review and Assessment of Geographic Information and Technology Strategy and in chapter 23 of the Zoning Issues Analysis Paper and in Discussion Paper 3: Review and Assessment of Existing City Parent Zoning By-laws.

#### **Part 14. Part 16 – Area and Site Specific By-laws**

- ✓ It is recommended that all existing site specific by-laws be reviewed to assess their continuing relevance and that the remaining relevant by-laws be re-written to fit into the context of the new by-law. It is further recommended that the site specific bylaws be organized according to the zones as they appear in the new by-law.
- ✓ It is recommended that existing site specific by-laws be reviewed to assess their conformity with the applicable policies of the Official Plan to avoid conflicts. In the event of a conflict a decision will need to be made to either not carry forward the site specific by-law or amend the Official Plan on a site specific basis.
- ✓ It is recommended that the two existing site specific by-laws relating to adult entertainment facilities be repealed.

This recommendation is based on the analysis that was undertaken in Discussion Paper 4A; Review and Assessment-Site Specific Zoning Amendments and in chapter 5 of the Zoning Issues Analysis Papers as well as an assessment of practices that have worked best in other Ontario municipal zoning by-laws and in discussions with Markham staff. In Discussion Paper 17: Assessment and Review of Adult Entertainment and Sex Industry it is recommended that the two existing site specific by-laws relating to adult entertainment facilities be repealed. The term adult entertainment facility will be defined in the new zoning by-law, but would only be permitted through a rezoning and subject to distancing provisions in the by-law.

#### **Geographic Information Systems**

The recommendations listed below are based on the analysis contained in Discussion Paper 6: Review and Assessment of Geographic Information and Technology Strategy and in chapter 23 of the Zoning Issues Analysis Paper.



**Figure 30: Mapping**

Interactive mapping with hyperlinks to text is a useful way to make zoning by-laws more user friendly.

Source: Los Angeles, CA

- ✓ It is recommended that the zoning by-law related GIS and text data be accessible via the web to achieve the following:
  - Enable broad based access to core zoning by-law information at the parcel level in a simple, intuitive manner;
  - Enable a large percentage of current letter, fax, email, phone and in-person counter enquiries to be answered through self-help web pages:
  - Contribute to consistency by utilising the site as the primary source for zoning information, both for internal and external customers;
  - Increase the effectiveness of City staff by enabling remote access to the entire zoning by-law (textual & visual); and
  - Align to City initiatives for efficiency, paperless, self-serve, transparency & compliance.
- ✓ It is recommended that Map Series (screen and paper) and Interactive Maps (web GIS) be created in tandem with the design and drafting of the new comprehensive zoning by-law to establish the links between maps and text early-on.
- ✓ It is recommended that the interactive text portion of the ZBL project be served by professional level HTML files with advanced functionality such as pop-up hyperlinks to key definitions and illustrations easily accessible to the user.
- ✓ It is recommended that document management protocols be established to ensure timely updates to both the text and the interactive maps to capture approval of amendments.
- ✓ It is recommended that a paper based version of the by-law be maintained in the Clerk's office and that both the on-line and paper version be updated simultaneously.



# 5 Conclusions

The zoning by-law structure outlined in this report is intended to provide guidance for the drafting the new zoning by-law as part of phase 3 of the Markham comprehensive zoning by-law project. The recommendations that are included in this report are based on the analysis contained in the Discussion Papers and open houses prepared for Phase 1 of the project. Other suggestions for how to organize the by-law are based on a review of existing parent Markham zoning by-laws, a review of recently prepared Ontario municipal zoning by-laws, workshops with staff and input from other stakeholders including an open house on draft recommendation held on May 2, 2016 and summarized in Appendix 2. The rationale is provided in section 5 of this report. The intent is to prepare the groundwork for the completion of the project in Phase 3 and to create a modern, up-to-date, easy to understand and easy to navigate zoning by-law for Markham.



# Appendix 1: Recommendations Organized by Discussion Paper

## Task 1: Guiding Principles and Parameters & Trends and Issues in Zoning Controls

1. It is recommended that the drafting of the new comprehensive zoning by-law be based on the following guiding principles:
  - Implement the Official Plan;
  - Develop a single comprehensive zoning by-law;
  - Recognize the development and property rights provided for in existing site specific by-laws, where appropriate;
  - Consolidate and update standards, as appropriate;
  - Provide for ease of enforcement; and
  - Develop a web-based and easily accessible zoning by-law.
2. It is recommended that Markham consider preparing development permit system by-laws for particular parts of the City, where intensification is to be encouraged or a special neighbourhood character is to be preserved, after the new by-law has been completed and enacted.

## Task 2: City Official Plan and City Guidelines, Policies & Plans

3. It is recommended that the relevant policies contained in the Official Plan as identified in Discussion Paper 2: City Official Plan and City Guidelines, Policies and Plans and summarized in chapter 3 of the Zoning Issues Analysis Paper be addressed in the new comprehensive zoning by-law.
4. It is recommended that, as an introduction to each section of the by-law relating to Residential, Mixed Use, Commercial, Employment Lands, Greenway and Countryside zoning categories, there be an explanation of the policy objectives for the corresponding zones as outlined in the Official Plan. This introduction will constitute an explanatory note and not be an operative part of the by-law.

### **Task 3: Review & Assessment of Existing City Parent Zoning By-laws**

5. It is recommended that the format for the new by-law be based on the “recommended structure for the new zoning by-law” as outlined in Section 3 of the Phase 2 Strategic Directions Report.
6. It is recommended that the new by-law include an explanatory section that is not an operative part of the by-law that describes how to use the by-law.
7. It is recommended that the new zoning by-law include drawings and illustrations for information purposes to assist users to understand standards and regulations. The drawings and illustrations will not be considered an operative part of the by-law.
8. It is recommended that Markham’s existing 46 parent zoning by-laws be repealed once the new comprehensive by-law is approved.
9. It is recommended that, in the case of lots fronting on public roads, the centre line of the street be considered the boundary line between zones.
10. It is recommended that, on lots which have split zoning, uses and standards only be applied to the zone that relates to each portion of the lot. Split zone properties will satisfy all setback requirements relating to the property measured from the lot line. (see also Discussion Paper 15: review and Assessment –The Greenway and Special Policy Areas.)
11. It is recommended that it be clearly stated that all uses that are not listed as permitted in any particular zone are prohibited in that zone.

### **Task 4A: Review & Assessment -Site Specific Zoning Amendments**

12. It is recommended that all existing site specific by-laws be reviewed to assess their continuing relevance and that the remaining relevant by-laws be re-written to fit into the context of the new by-law. It is further recommended that the site specific bylaws be organized according to the zones as they appear in the new by-law.

13. It is recommended that existing site specific by-laws be reviewed to assess their conformity with the applicable policies of the Official Plan to avoid conflicts. In the event of a conflict a decision will need to be made to either not carry forward the site specific by-law or amend the Official Plan on a site specific basis.
14. It is recommended that the new zoning by-law recognize existing legally conforming uses and legally complying lots, buildings and structures resulting from the creation of new zones and/or standards at the time the new by-law is passed.

#### **Task 4B: Review & Assessment of Minor Variances**

15. It is recommended that previous minor variance approvals by the Committee of Adjustment be considered when preparing standards for particular zones in the new comprehensive zoning by-law.

#### **Building permits**

16. It is recommended that in principle, all complete building permit applications under the Building Code Act, as determined by the Chief Building Code Official, filed under the old by-laws prior to the date of approval of the new by-law, be processed in accordance with the old by-laws.

#### **Planning applications**

17. It is recommended that in principle, all complete planning applications as provided for in section 10.6.2 of the Official Plan, filed under the old by-laws can be assessed for building permits under the old by-laws, within 2 years of the approval of the new by-law.

#### **Minor variances & Consents**

18. It is recommended that all minor variances built prior to the approval of the by-law be deemed to conform with the by-law. It is further recommended that all minor variances and provisional consents approved over a three year period before the new by-law comes into effect do not have to comply with the provisions of the new zoning by-law provided:
  - i. A building permit for the approved minor variance has been applied for within three years of the approval of the by-law

- ii. A certificate of severance issued within three years of the approval of the by-law

If the requirements of this transition clause are not met then approval of the minor variance and provisional consent shall lapse and a new application is required under the new by-law

## **Task 5: Review and Assessment of Zoning By-law Definitions**

19. It is recommended that the definitions in the new by-law should be clear, concise and avoid conflicting interpretations. In developing a definitions section for the new by-law, the following key principles should be kept in mind:

### **Consistency**

Zoning by-law definitions should match those in the Official Plan to avoid confusion. Likewise, attention should be paid to how terms are defined in other relevant legislation (Planning Act, Municipal Act, Ontario Building Code, Region of York Official Plan) if such terms are to be used in the by-law.

### **Simplicity**

Definitions should be as simple as possible. Avoid definitions within definitions or defining something by what it is not (if possible).

### **Universality**

Definitions should apply across the municipality and not to a given site. No site-specific by-law should contain its own definitions.

### **Avoid definitions that are de facto regulations**

Terms in existing Markham zoning by-laws like “Maximum Floor Area” are actually standards. Define “Floor Area” and leave the rule (maximum) to the zone regulations.

### **Only define what is necessary**

Terms found in common dictionaries need not be defined in the zoning by-law. Terms defined differently from common understandings should be defined. Readers should be referred to a particular dictionary such as the Canadian Oxford Dictionary for reference.

### **Referencing**

Terms should be listed alphabetically as they appear in the by-law (e.g. “Front Lot Line” instead of “Lot Line, Front”). Cross referencing could be considered.

### **Text**

Provide additional space where two or more defined terms are together. Provide a hyperlink between italicized terms and the definition in the electronic version.

20. It is recommended that the definitions analysed and suggested in Discussion Paper 5 form the basis for the definitions section in the new by-law.

## **Task 6: Review & Assessment of Geographic Information & Technology Strategy**

21. It is recommended that maps be prepared to show zones, densities and heights as well as overlays applying to areas such as lands included in Special Policy Area, and that maps be prepared to provide an electronic hyper-link to the relevant text and to area and site specific by-laws using the most up to date and tested technology and software.
22. It is recommended that the zoning by-law related GIS and text data be accessible via the web to achieve the following:
  - Enable broad based access to core zoning by-law information at the parcel level in a simple, intuitive manner;
  - Enable a large percentage of current letter, fax, email, phone and in-person counter enquiries to be answered through self-help web pages;
  - Contribute to consistency by utilising the site as the primary source for zoning information, both for internal and external customers;
  - Increase the effectiveness of City staff by enabling remote access to the entire zoning by-law (textual & visual); and
  - Align to City initiatives for efficiency, paperless, self-serve, transparency & compliance.
23. It is recommended that Map Series (screen and paper) and Interactive Maps (web GIS) be created in tandem with the

design and drafting of the new comprehensive zoning by-law to establish the links between maps and text early-on.

24. It is recommended that the interactive text portion of the zoning by-law be served by professional level HTML files with advanced functionality such as pop-up hyperlinks to key definitions and illustrations easily accessible to the user.
25. It is recommended that document management protocols be established to ensure timely updates to both the text and the interactive maps to capture approval of amendments.
26. It is recommended that a paper based version of the by-law be maintained in the Clerk's office and that both the on-line and paper version be updated simultaneously.

### **Task 7: Review & Assessment of Automotive Related Uses**

27. It is recommended that, in addition to the definitions analysed and suggested in Discussion Paper 5, the following uses, which are specifically addressed and analysed in Discussion Paper7, be defined in the new by-law:
  - Motor Vehicle Dealership;
  - Motor Vehicle Repair Facility, which includes major repairs and auto body shops;
  - Motor Vehicle Service Station; and
  - Motor Vehicle Washing Establishment.
28. It is recommended that a motor vehicle dealership or rental facility located in any Mixed Use zone not include the outdoor storage of vehicles "as of right".
29. It is recommended that a motor vehicle repair facility be located only in a General Employment zone and separated a minimum of 20 metres from an adjacent Residential or Mixed Use zone.
30. It is recommended that the following regulations be applied to a motor vehicle service station, where permitted:
  - the minimum lot frontage is 30 metres;
  - the maximum lot area is 0.6 hectares;
  - a minimum setback of 20 metres from the lot line is provided to any Residential zone;



- 10 percent of the lot is landscaped;
  - a 3 metre landscaped buffer is provided along front and exterior side lot lines and a 6 metre landscaped buffer is provided for interior and rear lot lines; and
  - all parts of a structure including a building or canopy is set back 10 metres from the front lot line and the exterior lot line.
31. It is recommended that the following regulations be applied to a motor vehicle washing establishment, where permitted:
- Mechanical washing or drying operations take place wholly within a building; and
  - minimum required stacking lanes are provided with 10 vehicles at the entrance and 2 vehicles at the exit.
32. It is recommended that setback requirements for propane storage be governed by the relevant provincial legislation.

## **Task 8: Review and Assessment of Drive-Through Facilities**

33. It is recommended that drive through facilities be considered as accessory to other uses and that the following standards apply:
- a 30 metre separation distance be required between the lot line of a drive through facility and a residential use or any zone where residential uses are permitted;
  - a minimum lot size of 0.3 hectares;
  - a prohibition on double drive through facilities;
  - the entrance to the stacking lane to be located a minimum distance of 2 car lengths from the access to the site; and
  - a minimum of at least 10 stacking spaces be provided for drive through restaurants and a minimum of 4 staking spaces be provided for financial institutions and pharmacies.

## **Task 9: Review & Assessment of Parking and Loading Standards**

34. It is recommended that the following principles be applied for regulating parking spaces in the new by-law:
- provide for varying requirements for certain areas such as Markham Centre, Langstaff Gateway, Key Development Areas and Regional Corridors based on level, frequency and availability of transit service or projected improvements to transit service;
  - provide for shared parking for uses in mixed use buildings;
  - include maximum parking ratios for areas such as Markham Centre, Langstaff Gateway, Key Development Areas and Regional Corridors;
  - include requirements for barrier free parking spaces;
  - apply a uniform rate for dwelling units in apartment buildings;
  - consolidate requirements for retail parking into fewer categories such as retail, restaurants, shopping centre small, shopping centre large;
  - evaluate the application of blended parking ratios for non-residential uses in the City's Key Development Areas (KDA's) and selected Local Centres;
  - simplify the parking requirements for a place of worship to include one rate based on the floor area of the place of worship and one rate for the floor area of all accessory uses associated with the place of worship;
  - include a rate for "other" uses; and
  - allow charges for parking spaces, particularly for non-residential uses and visitor parking spaces associated with multi-unit residential buildings.
35. It is recommended that the following issues be addressed in the design of parking spaces:
- aisle widths of at least 6 metres, to be adjusted for angled parking;
  - minimum size for parking spaces based on the standards in existing Markham by-law 28-97 (2.6 m by 5.8m) including provisions to mitigate the impacts of obstructions such as

walls, stairs, columns, bollards, fences or posts, in which case the minimum width should, in general, be increased by 0.3 metres;

- restricting the number of vehicles that could be parked in the rear yards of ground related residential dwellings in Low Rise Residential zones to 2;
- requiring lane access on corner lots in Low Rise Residential zones;
- permitting shared driveways across two lots;
- setback provisions for private garages from rear lanes; and
- limits on the size of private garages in Low Rise Residential zones.

36. It is recommended that the size of commercial and recreational vehicles on lots with detached dwellings, semi-detached dwellings and townhouse dwellings in Residential, and Mixed Use zones be restricted to a maximum of 2.3 metres high and 6 metres in length.

37. It is recommended that requirements for the provision of bicycle parking spaces including numbers and dimensions be incorporated into the new by-law and these standards be based on the informal bicycle parking rates currently being applied to new developments in Markham.

38. It is recommended that the new comprehensive zoning by-law include loading provisions based on existing Markham By-law 177-96, updated to include:

- a loading requirement for residential buildings with more than 30 units;
- minimum driveway widths for trucks and permitted slopes;
- loading requirements over a wide range of non-residential floor area sizes with more steps in the range; and
- loading exemptions for small lots and buildings.

## **Task 10: Review & Assessment of Residential Accessory Structures and Amenity Space**

39. It is recommended that the standards for residential accessory structures in the new by-law be based on the following:

- 1.2 metre minimum setbacks from rear and interior side lot lines for larger lots and 0.6 metres for smaller lots;
  - minimum setback from the exterior side lot line—no closer than the main building from the exterior side lot line;
  - maximum floor area per accessory building or structure—15 square metres on lots with areas less than 0.1 hectare; 20 square metres on lots with areas between 0.1 and 0.4 hectares; and 50 square metres on lots with areas greater than 0.4 hectares;
  - maximum height—3 metres on lots with areas less than 0.4 hectares; and 4.5 metres on lots with areas greater than 0.4 hectares.
  - maximum number of accessory buildings or structures per lot—2 on lots with areas less than 0.1 hectare; and 3 on lots with areas between 0.1 and 0.4 hectares;
  - include a separation distance of 1.2 metres for accessory structures from the main building; and
  - exempt such structures as retaining walls, statues, light standards, air conditioning units, children’s play structures and solar panels from requirements for residential accessory buildings and structures.
40. It is recommended that “amenity space” be defined as common space and that amenity space be required for block townhouses and apartment buildings with more than 20 units at a rate of 4 square metres per unit of, of which 2 square metres must be common outdoor amenity space.

### **Task 11: Review & Assessment of Home Occupations**

41. It is recommended that where a home occupation is permitted, the home occupation shall:
- clearly be a secondary use of the lot;
  - be conducted entirely within a dwelling unit or a detached garage;
  - be conducted by at least one of the residents of a dwelling unit;
  - not occupy more than 25 percent of the gross floor area of the dwelling unit;

- not create noise, vibration, fumes, odour, dust, glare or radiation which is evident outside the dwelling unit;
- not employ more than one employee, in addition to members of the household;
- not involve the outdoor storage, or outdoor display of materials or finished products;
- not consist of an occupation that involves the sale of a commodity not produced on the premises, except that telephone , mail order or internet sales of goods is permitted;
- if involving instructional activity, not be occupied by more than four students at any one time for such an activity;
- not require receipt or delivery of merchandise, goods or equipment by other than a passenger motor vehicle or by parcel or letter carrier mail service using motor vehicles typically employed in residential deliveries;
- not include manufacturing, animal grooming and care, auto related uses, offices of medical practitioners in multi-unit buildings; and
- any activity that requires a permit from another level of government is required to obtain a permit or approval prior to commencing the operation.

## **Task 12: Infill Zoning Standards and Interface between Residential and Non-Residential Uses**

42. It is recommended that the relevant infill standards for Markham Village Oakcrest/Sabiston and Thornhill and the unique characteristics of the residential heritage area in Unionville be reflected in the new by-law.
43. It is recommended that the creation of zones in the Residential Low Rise designation reflect existing conditions and zoning standards, including the infill zoning standards approved by Council in the 1990s, as appropriate. Low density residential zoning standards should be based on an appropriate combination of maximum height limits expressed in metres and shown on the height map, minimum setbacks, minimum lot frontages, maximum depth of buildings, maximum lot coverage controls on garage projections and maximum garage widths, but

not include Floor Area Ratio or Floor Space Index.

44. It is recommended that a setback of 14 metres from provincial highways be required for all buildings and structures.
45. It is recommended that the new comprehensive zoning by-law include the Minimum Distance Separation II Formulae (Publication 707), issued by the Ministry of Agriculture, Food and Rural Affairs in 2006 regarding livestock operations in agricultural areas, to be applied where appropriate.
46. It is recommended that a setback be applied from the Trans Canada Pipeline and from the Enbridge Gas pipeline.
47. It is recommended that a 30 metres setback from a railway line be applied for residential uses, schools and day care centres.
48. It is recommended that there be minimum setback requirements from any Residential and Mixed Use zones for animal boarding establishments, composting facilities, propane storage, outdoor loading, outdoor storage, outdoor garbage disposal and manufacturing uses located in General Employment zones.
49. It is recommended that 3 metre interior side yard and rear yard setback be required for all buildings and structures in the General Employment zone from an abutting Residential or Mixed Use zone and that a 3 metre wide landscaped buffer be provided where a General Employment Zone is adjacent to a Residential or Mixed Use zone.

### **Task 13A: Review & Assessment of Affordable and Shared Housing, and Secondary Suites**

50. It is recommended that, in addition to the definitions analysed and suggested in Discussion Paper 5, the following uses, which are specifically addressed and analysed in Discussion Paper 13A be defined in the new by-law:
  - Residential Care Home (with 3 to 10 residents--see City of Toronto Group Home definition on page 21 of Discussion Paper 13A);
  - Residential Care Facility (short term transitional accommodation for more than 10 persons);
  - Long Term Care Facility (see definition in By-law 177-96);

- Retirement Home (see definition in By-law 177-96); and
- Rooming House (see definition in the Ontario Building Code reproduced on page 23 of Discussion Paper 13A).

(Note—secondary suites, rooming houses and short term accommodation will be addressed in a separate report as part of Phase 3a of the New Comprehensive Zoning By-law Project.)

### **Task 13B: Review & Assessment of Student Housing**

51. It is recommended that a student residence be defined and permitted on university owned lands or privately owned lands provided that the residence is operated on behalf of the university.

(Note—secondary suites and rooming houses will be addressed in a separate report as part of Phase 3a of the New Comprehensive Zoning By-law Project.)

### **Task 14: Review & Assessment of Places of Worship**

52. It is recommended that the places of worship zone apply to places of worship as they exist at the time of the passage of the new zoning by-law, including existing spires that may extend beyond the height limit, and that a day care centre be included as a permitted use in these zones.

### **Task 15: Review and Assessment-The Greenway and Special Policy Areas**

53. It is recommended that all Greenway and Vegetation Protection Zones be included in one zone category that restricts development to: conservation, resource management, nature-based recreational infrastructure and public infrastructure and that all legally existing dwellings and structures on existing lots in this zone at the time of passage of the by-law be recognized as conforming to the by-law and that lands subject to the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan Area be shown in the appendix to the by-law that does not constitute an operative part of the by-law .

54. It is recommended that a map of the Special Policy Area be shown as an overlay to the zoning maps, which will form an operative part of the by-law, with development on lots in this area subject to review by the Toronto and Region Conservation Authority to ensure that flood mitigation measures are addressed while development on flood hazard lands shown in the appendices will be subject to screening by the Toronto and Region Conservation Authority. The appendices will not constitute an operative part of the By-law.

### **Task 16A: Review & Assessment of Medical Marihuana Production Facilities**

55. It is recommended that, in addition to the definitions analysed and suggested in Discussion Paper 5, the term “medical marihuana production facility”, which is specifically addressed and analysed in Discussion Paper 16A be defined in the new by-law.
56. It is recommended that a medical marihuana production facility can only be located in a General Employment Zone and required to be no closer than 800 metres from a sensitive use, or any Residential or Mixed Use zone and that the operation is located in a single tenant building.

### **Task 16B: Review & Assessment of Addiction/Recovery Centres**

57. It is recommended that an addiction recovery centre be defined and permitted on hospital lands.

### **Task 17: Review & Assessment of Adult Entertainment & Sex Industry**

58. It is recommended that, in addition to the definitions analysed and suggested in Discussion Paper 5, the following uses, which are specifically addressed and analysed in Discussion Paper 17 be defined in the new by-law:
  - Adult Entertainment Establishment (which will not be permitted in any zone);



- Body Rub Establishment (which will not be permitted in any zone);
- Massage Therapy Centre (which will be distinguished from a body rub establishment); and
- Wellness Centre.

59. It is recommended that if an adult entertainment facility is permitted in Markham it be required to be located no closer than 1000 metres from any Residential or Mixed Use zone, in accordance with section 8.5.4.3.(s) of the Official Plan.

60. It is recommended that the two site specific by-laws that currently permit adult entertainment facilities be repealed.



# Appendix 2: Open House Summary on the Phase 2 Draft Recommendations

## Markham Civic Centre, May 2, 2016

- Open House 6:00 – 7:00 PM
- Presentation 7:00 – 8:00 PM
- Questions, Comments 7:45 – 10:10 PM

Opening remarks delivered by Anna Henriques, Senior Planner for Zoning and Special Projects, City of Markham. She noted that additional information and opportunities for feedback are available at <http://www.markham.ca>

Presentation by John Gladki, Project Leader, Gladki Planning Associates,

### Question and Answer Session

Questions are generally not attributed. Responses are in italics. References to recommendation numbers are the same as in Appendix 1.

Re: Home Occupations. Would the regulations allow for a hair salon with one chair; if so, why not a dog grooming business?

*Yes, they would allow for a hairdresser. The issue of animal grooming will be considered. The general concern is that a number of animals together generate noise and odour.*

-----

What about the issue of adult entertainment establishments? The City received legal advice to say that we couldn't ban them. Are they not currently permitted in two zones? What is the legal opinion?

*Two site-specific by-laws allow for these establishments. The consultant team's recommendation is to remove these and only allow this use through a rezoning application but we should perhaps seek further legal advice on that issue.*

-----

Canadian Fuels Associate Representative.

Acknowledges and congratulates team on background work completed to date; would like a further consultation with staff and consultant team.

Re: Rec 14. Does this recommendation mean that the new by-law will recognize all legally conforming or legally non-conforming uses? This is

relevant to service stations because they have a limited lifespan.

Re: Rec 30. What about the the 0.6 ha restriction for service stations? The Official Plan says that sites shall generally be 0.6. The 0.6 ha restriction would make some sites non-conforming in the new by-law.

*The intent of Rec 14 is that everything that is legally conforming at the time the by-law approved will continue to be legal. This should address the issue of the 0.6 ha limitation for existing sites.*

There is a 20 m setback from any residential zone? Where is the setback from, i.e., property line, canopy? This would be better dealt with a site-plan control.

*The issue of the setback for the canopies may be better dealt with under site plan control, and this will be considered.*

Rec. 30. Feels that the separation distance of 30 m from a drive-through facility is excessive, particularly compared to the 14 m from provincial highways.

*It's felt that the 30 m setback from residential areas in Markham, and in other municipalities (some do not allow drive-through facilities next to residential areas) is appropriate as they are acknowledged to be disruptive because of late night hours, additional noise, etc. The 14 m setback from provincial highways relates to all buildings and structures, not zones.*

-----  
Rec 2. What is the purpose of the development Permit System (DPS)? What is the difference between the DPS and the existing system?

*The DPS is an option that may be appropriate to consider in the future, not now. It may be worthwhile in some area , such as intensification areas or heritage areas. It requires a lot of further discussion before it can be implemented. The recommendation is to leave consideration of the DPS until after the zoning by-law is completed.*

-----  
Rec 12. All existing site-specific by-laws are reviewed. This seems like an enormous task?

*It will need to be done at some point. If you leave them in place, then you must also leave the 46 existing by-laws in place and this would become a bit of a quagmire to deal with under the new zoning by-law. With a*

*dedicated team, the consolidation could be accomplished and it may be possible to eliminate a significant number of existing by-laws.*

---

Rec 17/18. The implication is the applications if not acted upon in the interim period will lapse.

*Yes, the implication is that they will lapse. It could be made more specific, but it's generally understood that this is what is intended by the recommendation.*

---

Rec 19. Comment: It is appreciated that only the words that should be defined are included in the definitions, and common words should be referred to Canadian Oxford Dictionary. This is a good idea.

---

Rec 26. Should we not be moving away from the concept that the paper version of the zoning by-law is considered the legal version? Should the word legal be removed?

*Both editions will be the same. It was a legal opinion that we need a paper copy.*

---

Rec 34. This recommendation allows for varying parking standards based on transit availability. What is the difference between rapid and bus service? This deserves some further thought.

*The issue relates to the amount of transit service that is available for people. It may not be considered "rapid," but it may provide the service required in terms of frequency and availability. This is guidance we're providing to the consultant who will be looking at parking standards in more depth.*

---

Rec 41. Is the attached garage part of the dwelling unit? *Yes, the garage is included the dwelling unit.*

What about an out building on a very large lot? *An out building is not part of the dwelling unit.*

---

Rec 41. What about instructional activity as a home occupation turning into a place of worship?

*It's our recommendation that place of worship be permitted in a particular zone. Under this approach a place of worship could not be considered a home occupation.*

---

Rec 42. Re Infill zoning standards: agrees with the recommendation. How do you determine what the infill standard will be moving forward?

*Our conclusion is that the zones that are created as part of the by-law will very likely be determined by the characteristics of neighbourhoods in different parts of the city. The types of standards will likely be the same, but the actual regulations will vary.*

What about introducing a range in standards?

*The flexibility for standards works in a development permit by-law, but not in a zoning by-law. You have to be specific in a zoning by-law.*

---

Rec 44-47. Are there any retrofit aspects we need to think about with regards to setbacks?

*This would apply to new development.*

---

Rec 53. What happens if the structures or uses are not currently permitted.

*The word legally could be added to clarify the intent.*

---

Rec 54. How do changes to the mapping of the special policy area in future affect the by-law?

*If the map of the special policy area were changed, an amendment would be required. The TRCA establishes the special policy area.*

---

Rec 56. Where are we at with medical marihuana production facilities now? Can we not locate these uses far away from houses?

*The city is responsible for policing facilities in industrial areas. There is currently a freeze on new licenses previously issued by the Federal Government for houses.*

Why do I get complaints about residential areas?

*In the past the federal government issued licenses permitting these facilities and the municipality has no control over these. This situation no longer applies, but the existing permissions are grandfathered. No more licenses are being issued for residential dwellings. This has now been changed to licenses in industrial areas. The old approvals are being addressed in the courts.*

-----

Rec 57. How many medical clinics currently exist? Not sure that Addiction/Recovery Centres should be open to all medical centres. The hospital is not an issue. Elsewhere these centres should be reviewed on a site by site basis.

*The preference seems to be that they should be defined separately and subject to regulations.*

-----

Rec 58. The municipality already has by-laws regarding adult entertainment uses. What about the licensing system currently in place

*The current licensing system will still apply. The intent of the recommendation is to separate non sexual types of massage and therapy from those activities that are of a sexual nature.*

-----

Comment: Medical marihuana production facilities should be required to be operated properly with appropriate controls on growing operations.

-----

Rec 30. Regarding motor vehicle service stations: how deep is the lot on 0.6 ha lot with 30 lot frontage? 200m

Where is the setback measured from: structure or lot line?

*From the lot line.*

-----

Rec 31. What does washing/drying in a car washing establishment mean regarding the reference to taking place in wholly inside a building?

*The intent is that mechanical equipment and operations be wholly contained in a building.*

---

Rec 51. Where does off campus housing fit into the issue of student housing?

There's a concern regarding short-term housing.

*Student housing and students residences are not one and the same. The understanding is that the York University student population requiring housing will be small. There are other opportunities for students to live in Markham Centre (e.g apartments, condominiums).*

*Issues of boarding homes, Air Bnb, etc. are being dealt with separately.*

Rec 51. Are we thinking of student housing as student residences? York University has stated that they have no intention to develop housing for students.

*We are making the distinction between student housing and student residences. This provides the university with the option to purchase land in the future for the purposes of a student residence.*

---

Rec 41. Does home occupation include Air BnB?

*No, the issue of Air BnB is a separate issue. (part of Phase 3A)*

---

Rec 16. The word "complete" application is a problem. This could cause some problems with larger projects.

*The transitioning is an important issue for by-laws. We have some files that have been applied for many years ago. A sunset clause would help to prevent a rush of permit applications. Rec 17 provides two years to act on an application.*

---

Rec 40. Request that staff prepare definitions for outdoor and indoor amenity space.



*Amenity space in this instance refers to common areas.*

---

Rec 47. Recommend not implementing the 30 m setback from railway line. Metrolinx has provided relief on some projects, and this creates the need for an additional approval that may not be necessary.

---

Rec 41. Is there an expansion of permitted uses under home occupations?

*No, this was not the intent, but this may be refined further during Phase 3?*

---

Rec 55. Can we address the issue of medical marihuana being grown in basements?

*The Federal licensing supersedes the municipalities zoning by-law controls. The legislation that permitted licenses in residential areas is no longer in place. It is difficult to know how many approvals there are in residential areas in Markham. Under the new law, there is municipal control on where these facilities can and cannot be permitted. The police have been addressing the issue. It is a legal challenge. As it is, the licenses provided by Health Canada prevent the municipality from stopping already approved operations.*

---

Rec 51. Other options should be explored with regards to student housing, such as purpose built rental housing for students. There is an emerging market in providing student housing on university lands and private lands. These are sometimes affiliated with the university and sometimes not. There is an example being developed on York University's main campus. The zoning by-law policy for Markham Centre should contemplate these options. The university and its development partner are willing to consult further on this issue.

*The concern is that we don't know that all those units would be used for the purpose of student housing. This may create some issues i.e. how to distinguish between apartment buildings? What are the characteristics that make student residences different? Most municipalities define student residences to be on university owned lands.*

Should this policy be expanded to include college and high schools?  
Perhaps 'university' should be removed?

*This is outside of the scope of the project. With regards to Seneca College, it may not be in an area where you want residential uses since this is located on Employment Lands.*

---

Will parking requirements be part of zoning by-laws?

*Yes, parking rates are part of the zoning by-law. There is a separate study being initiated that will look at those rates. Our recommendation is that rates be reviewed and simplified. The specific ratios will be determined through that study.*

---

Is the building permit part of the zoning by-law? What kind of time limit is included with the building permit? The concern is the long time it takes to rebuild housing in existing residential areas.

*Not part of the zoning by-law.*

---

Rec 10. Can you provide an example of split zoning?

*A shopping plaza with multiple uses: towers on the front and commercial plaza at the rear. The permissions at the front corner would not apply to the rest of the lot.*

---

A lot of residents are concerned about the tasks in Phase 3A. It is hoped that a separate meeting on this task. Residents do not want 'grow-ops', Air BnBs, rooming houses, etc.

*Not all the concerns can be legislated. For example, there's no limit to how many people can share a house. This process will identify priorities.*

---

Task 5. Strongly recommend that the definition section not be 'skipped out on'. This creates a lot of problems at litigation.

*The definitions are important. Our study looked at all the definitions in the existing by-laws. On the other hand, you don't need to define terms such as "person". If it is important to the by-law, then a definition should be included.*

---

When will the discussion on Air BnB occur?

*Targeting a staff report in the Fall with the public meeting to follow.*

---

Rec 41. The current standard is 25% of the GFA for home occupations, but the recommendation is 40%. Does this relate to the floor that the occupation is on or the entire unit?

*The GFA is the whole building, including the garage.*

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Why the increase to 40%? It seems that almost 50% is a little high?

*The recommendation to increase to 40% will be assessed by staff, but has yet to be determined. A different standard may be needed to account for live/work units.*