

Memorandum to the City of Markham Committee of Adjustment

May 31, 2024

File: A/030/24
Address: 120 South Town Centre Boulevard, Markham
Agent: Malone Given Parsons Ltd.
Hearing Date: Wednesday, June 5, 2024

The following comments are provided by Development Planning Staff:

The Applicant is requesting relief from the following requirements of the “Select Industrial with Limited Commercial – M.C.(60%)” Zone of By-law 165-80, as amended, as it relates to a proposed child care centre within an existing office building. The variances requested are to permit:

- a) **Section 6.4.1(b):**
a day care centre, whereas the By-law does not permit this use; and
- b) **Section 4.5.1(a)(ii):**
one (1) loading space on the subject lands, whereas the By-law requires two (2) loading spaces.

BACKGROUND

Property Description

The 7,233.54 m² (77,861.18 ft²) Subject Lands are located on the southwest corner of Clegg Road and South Town Centre Boulevard (refer to Appendix “A” – Aerial Photo). Surrounding land uses include mixed-use residential apartments to the north and east, and industrial commercial buildings to the south and west.

There is an existing 2,960.13 m² (31,862.57 ft²) office building on the property that was built circa 1997 and expanded in 2001. The existing office building is currently vacant, but was previously occupied by an insurance company.

Proposal

The Applicant proposes to convert the existing office building into a day care centre (the “Proposed Development”), which also includes three outdoor playground areas (refer to Appendix “B” – Architectural Plans).

Official Plan and Zoning

Official Plan 2014

The 2014 Official Plan designates the Subject Lands “Business Park Employment”; however, [Section 9.12.4](#) states that until an approval of an updated secondary plan for the Regional Centre-Markham Centre lands, the provisions of the 1987 Town of Markham Official Plan, as amended by the 1997 Markham Centre Secondary Plan (“OPA 21”), shall apply to the Subject Lands.

OPA 21

OPA 21, the operative policy document, designates the Subject Lands “Community Amenity Area – Major Urban Plan”, which permits a high concentration and intensity of residential, commercial, employment, and supporting uses. This designation intends to function as the primary mixed-use activity areas in Markham Centre. Development will incorporate mixed uses wherever possible. Retail and service commercial uses and community services are encouraged on the ground floor of multi-storey buildings along arterial, major collector (such as South Town Centre Boulevard and Clegg Road) and minor collector street frontages.

Markham Centre Secondary Plan Update

The City is currently undertaking an update to the Markham Centre Secondary Plan (“MCSP”), which is under review. The latest [Recommended Development Concept Report](#) contemplates a “Mixed Use High Rise” designation on the Subject Lands, which will permit a full mix of uses and range of building types.

Zoning By-Law 165-80

By-law 165-80, as amended, zones the Subject Lands “Select Industrial with Limited Commercial - M.C.(60%)”, which permits a range of industrial and commercial uses including, but not limited to, warehousing, manufacturing, repair and servicing, data processing centres, research laboratories, printing establishments, private clubs and health centres, banks, offices, commercial schools, hotels, and motels. The proposed day care centre is not a permitted use under the M.C.(60%) Zone.

The Proposed Development also does not comply with the Zoning By-law with respect to the number of required loading spaces provided. Additional detail is provided in the comment section below.

Zoning Preliminary Review (ZPR) Undertaken

The Applicant completed a Zoning Preliminary Review (ZPR) on January 30, 2024, to confirm the variances required for the Proposed Development.

COMMENTS

The *Planning Act* states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- 1) The variance must be minor in nature;
- 2) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- 3) The general intent and purpose of the Zoning By-law must be maintained;
- 4) The general intent and purpose of the Official Plan must be maintained.

Proposed Day Care Centre Use

The Applicant proposes to permit a day care centre, whereas the By-law does not explicitly permit this use. Staff highlight that Zoning By-law 165-80, as amended, was enacted in 1980 at which time the Subject Lands and area context were intended for employment uses.

However, in accordance with Section 4.3.2.3 b) of OPA 21 (approved in 1997), the development of lands designated “Community Amenity Area – Major Urban Place” shall be in accordance with the provisions of Section 3.4.6.2. of the Official Plan (Revised 1987). [Section 3.4.6.2 c\)](#) states that lands designated “COMMERCIAL – Community Amenity Area” may be zoned to permit daycare centres. Furthermore, the emerging MCSP Update designates the lands “Mixed Use High Rise”, which may also be zoned to permit daycare centres.

Staff are of the opinion that the proposed day care use meets the intent of the Official Plan given that both OPA 21 and the emerging MCSP Update provides for a mix and range of uses on the Subject Lands.

Upon Council’s adoption of the emerging MCSP Update, the City will also enact a companion Zoning By-law for lands within the secondary plan boundary to ensure that the zoning permissions are consistent with the approved MCSP Update. Staff are satisfied that the proposed use would meet the intent of the emerging companion Zoning By-law.

Staff note that the Proposed Development is exempt from Site Plan Control Approval. As such, Staff recommend that should the Committee approve the variance, the Applicant must provide detailed plans of the proposed outdoor play areas associated with the day care centre use for review, to the satisfaction of Urban Design Staff.

Loading Space

The Applicant proposes to permit one loading space, whereas the By-law requires two loading spaces. Section 4.5.1(a)(ii) of By-law 165-80, as amended, requires that commercial and other uses with a gross floor area of greater than 1,860 m² (20,020.87 ft²) per building is required to have two loading spaces per building. Commercial and other uses with a gross floor area less than 1,860 m² per building is permitted to have one loading space per building.

Transportation Engineering have reviewed the proposed variance and have no comments or concerns with the requested reduction in loading space.

PUBLIC INPUT SUMMARY

No written submissions were received as of May 31, 2024. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Staff have reviewed the application with respect to Section 45(1) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variances requested meetings the four tests of the *Planning Act* and have no objection. Staff recommends that the Committee consider public input in reaching a decision.

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

Please refer to Appendix "C" for conditions to be attached to any approval of this application.

RECOMMENDED BY:

A handwritten signature in black ink, appearing to read "Stephen Lue", with a horizontal line extending to the right from the end of the signature.

Stephen Lue, RPP, MCIP, Senior Development Manager

File Path: Amanda\File\ 24 166841 \Documents\District Team Comments Memo

APPENDICES

Appendix "A" – Aerial Photo

Appendix "B" – Architectural Plans

Appendix "C" – Conditions

Appendix B

File: 24.166841.000.00.MNV

Date: 5/30/2024
MM/DD/YY

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No.	Issues	Date	By
1	Pre Consultant Meeting	2023-12-21	TM
2	Variance Application	2024-04-01	TM

**PART OF LOT 2 & 4, PLAN 65R-18508
CITY OF MARKHAM**

SITE STATISTICS

ZONING: M.C. (60%) (SELECT INDUSTRIAL AND LIMITED COMMERCIAL)
BY-LAW 165-80 as amended

LOT FRONTAGE:
CLEGG ROAD: 58.03 M (190'-4 1/2")
SOUTH TOWN CENTRE BLVD: 86.35 M (283'-3 1/2")

LOT AREA: 7,233.54 SM (77,861.18 SF)

BUILDING AREA: 1,493.64 SM (16,077.41 SF)

LOT COVERAGE: 20.65%

GFA: 2,960.13 SM (31,862.58 SF)

GROUND FLOOR: 1,474.92 SM (15,875.95 SF)
SECOND FLOOR: 1,485.21 SM (15,986.63 SF)

FSI: 0.41

MAX BUILDING HEIGHT: EXISTING
2 STOREYS

SETBACK:
FRONT SETBACK (NORTH): 8.54 M
REAR SETBACK (SOUTH): 25.96 M
SIDE SETBACK (EAST): 3.00 M
SIDE SETBACK (WEST): 38.13 M

DRIVEWAY / PARKING: 3,3261.63 SM

LANDSCAPE AREA: 2,389.24 SM
LANDSCAPE PERCENTAGE: 33.03%

SOFT LANDSCAPE AREA: 2,128.92 SM
HARD LANDSCAPE AREA: 260.32 SM

PARKING: EXISTING

PARKING SPACE REQUIRED: 93
BARRIER-FREE PARKING: 05

TOTAL (RESIDENT & VISITOR; INC. BF): 98

LOADING PARKING SPACE: 01

OUTDOOR PLAY SPACE:

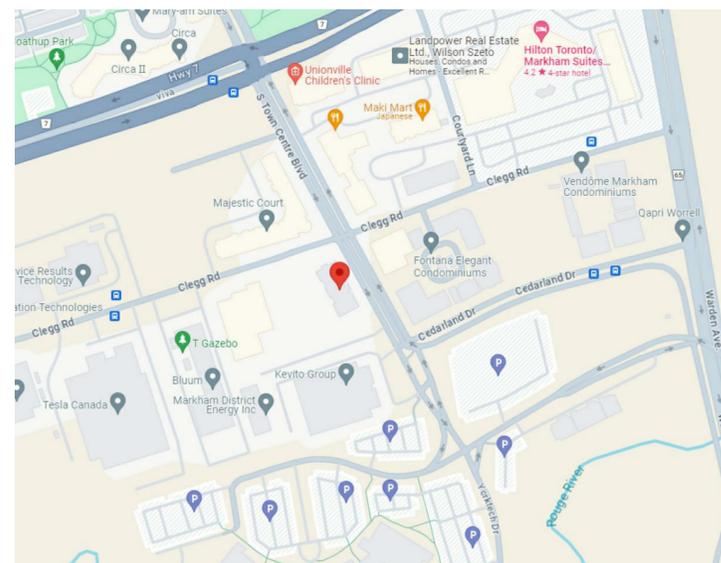
PLAYGROUND AREA 01: 267.44 SM
PLAYGROUND AREA 02: 325.68 SM
PLAYGROUND AREA 03: 600.26 SM

TOTAL: 1193.38 SM

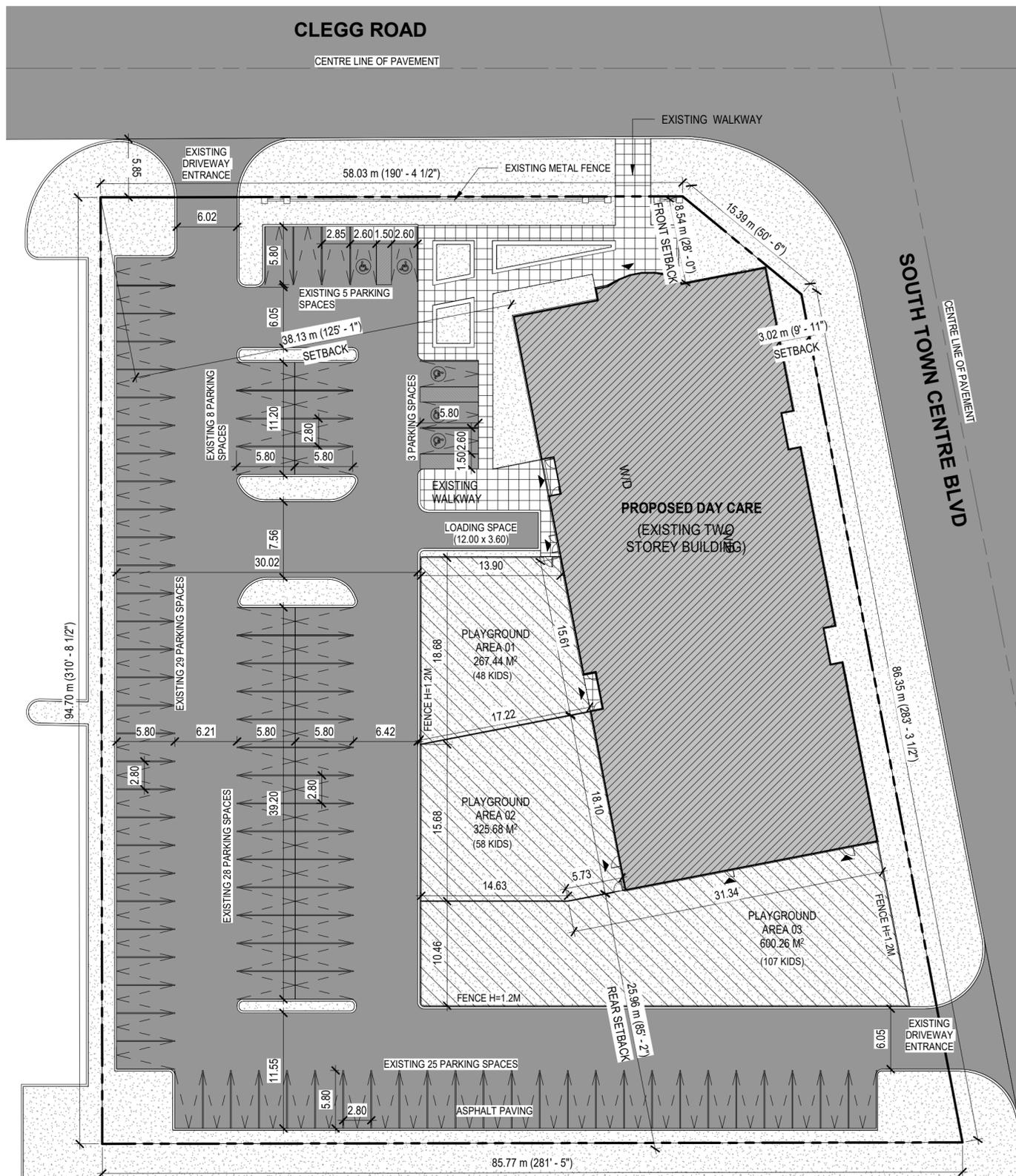
NUMBER OF CHILDREN:

INFANT: 30
TODDLER: 90
KINDERGARDEN: 52
PRESCHOOL: 168
TOTAL: 340

NUMBER OF DAY CARE ROOMS: 18



KEY MAP



1 Site Plan
A001 SCALE: 1 : 350



TAES Architects Inc.
98 SCARSDALE ROAD,
TORONTO, ONTARIO, M3B 2R7
T: 416 800 3284
F: 416 800 3485

Day Care

120 South Town Centre Blvd
Markham, ON

Project No.	T2023059
Drawn	Scale As indicated
Checked	Date 2023-11-28

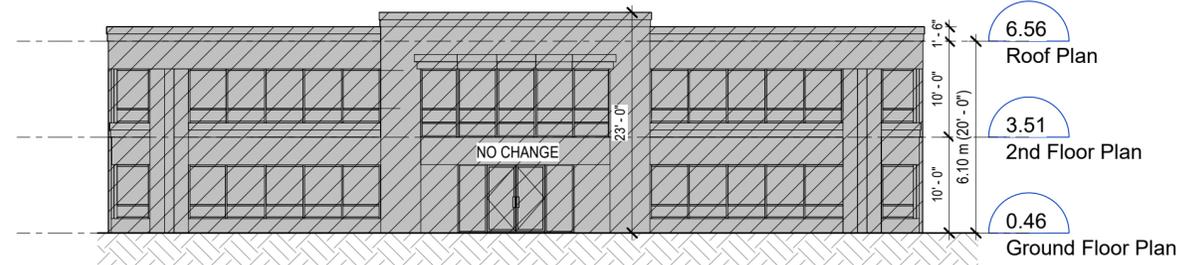
Site Plan & Statistics

Drawing No. A001

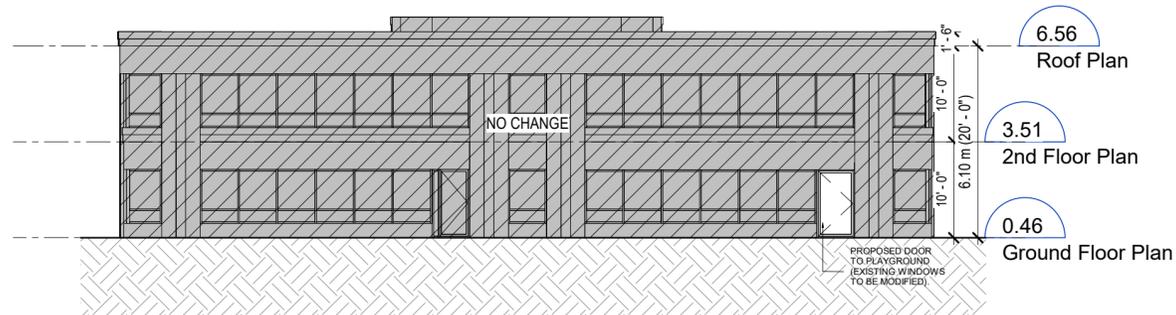
Appendix B

File: 24.166841.000.00.MNV

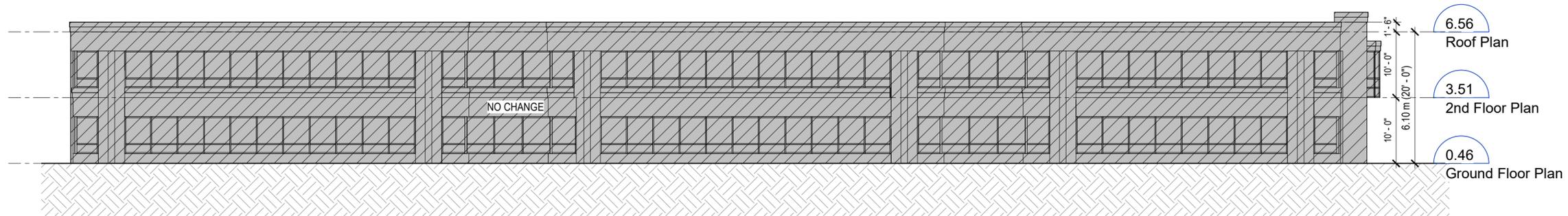
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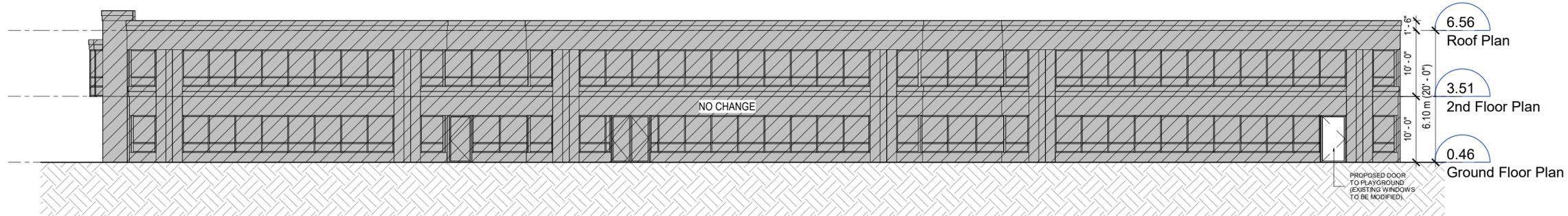
1 North Elevation (Front)
A201 SCALE: 1 : 150



2 South Elevation (Rear)
A201 SCALE: 1 : 150



3 East Elevation
A201 SCALE: 1 : 150



4 West Elevation
A201 SCALE: 1 : 150

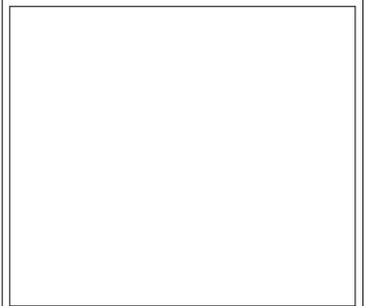
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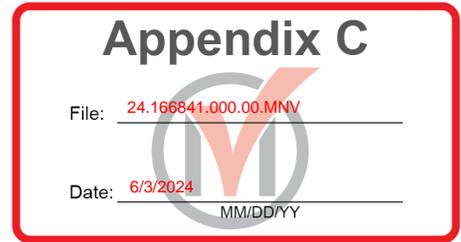
Day Care

120 South Town Centre Blvd
Markham, ON

Project No.	T2023059
Drawn	Scale 1 : 150
Checked	Date 2023-11-28

Elevations

Drawing No. A201



**APPENDIX "C"
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/030/24**

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;
3. Submission of a site plan and landscape plans indicating details including, but not limited to, treatment of outdoor play area, fencing, areas for drop-off and pick-up, crosswalks, bicycle racks and landscaping to the satisfaction of the Director of Planning and Urban Design or their designate; and,
4. Bollards, if any, to be placed around the proposed playgrounds with work to be done as approved by the Director of Planning & Urban Design or their designate.

CONDITIONS RECOMMENDED BY:

A handwritten signature in black ink, appearing to read "Stephen Lue".

Stephen Lue, RPP, MCIP, Senior Development Manager