

MEMORANDUM

DATE: January 17, 2020
TO: Chairman and Members, Committee of Adjustment
FILE: A/147/19
ADDRESS: 9833 Markham Road – Markham, ON
HEARING DATE: January 22, 2020

The following comments are provided on behalf of the East Team. The Applicant is requesting relief from the “Select Industrial & Warehousing (M.I.) Zone” requirements of By-law 88-76, as amended, as they relate to an existing mixed-use commercial/industrial building on the subject property:

- a) **By-law 88-76, Section 6.1:**
To permit one personal service shop, whereas the by-law does not permit personal service shops; and
- b) **By-law 2005-277, Sections 1.1 & 1.2:**
To permit retail stores, whereas the by-law permits one retail store with a maximum gross floor area of 1,500 m².

The Applicant is requesting a variance to permit one personal service shop and retail stores in an existing building on the subject property at 9833 Markham Road. In addition to the proposed uses, staff note that an Entertainment use is shown in Unit “1” on the submitted Site Plan (attached as Appendix “B”), which is not permitted by the Zoning By-law.

The Applicant has not provided clarification on this use upon requests from staff. Additionally, By-law Licensing and Enforcement staff have inspected the site and commented on the application, and advises that there is an autobody shop on the property which is a use not permitted by the Zoning By-law and is prohibited in the ‘Major Commercial Area’ designation of the in-force 1987 Official Plan.

Given that the requested variances propose to expand permitted land uses, it would be appropriate for the applicant to address other non-complying land uses onsite. Staff recommend that the variance application be deferred sine die to have further discussions with the applicant on the proposed and existing land uses.

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Corr, Senior Planner, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/147/19

1. The variances apply only to the subject building which fronts onto Markham Road for as long as it remains.
2. That the applicant satisfies the requirements of the Toronto and Region Conservation Authority "TRCA", financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix "C" to this Staff Report, to the satisfaction of the TRCA, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of TRCA.

CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLAN TO BE ATTACHED TO ANY APPROVAL OF FILE A/147/19



Project No. 16023/05
Date: 2019-11-27

**9833 Markham Road, Markham, Ontario
Parking Calculations for Tenants**

Subject:

Existing Main Building 5,459 m²
Mezzanine - Long & McQuade 107 m²
Total Building Area 5,566 m²

Parking Calculations
Per Tenant Use - Tenant *Net Floor Area*
expressed as 95% of *Gross Floor Area*
for purpose of Parking By-Law - which
is based upon *Net Floor Area*

Tenant Area 'A' - GYMNASIUM - 572 m²
1 car per 30 m² *Net Floor Area*
572 x 95% = 543.40 m² 18 cars
Parking Required

Tenant Area 'B' - Long & McQuade - Retail - 1,418 m²
First Floor Area 1,311
Mezzanine 107
Total Floor Area 1,418 m²
1 car per 30 m² *Net Floor Area*
1,418 x 95% = 1,347.10 m² 45 cars
Parking Required



Tenant Areas 'C' - Retail - 334 m²
1 car per 30 m² *Net Floor Area*
334 x 95% = 317.30 m² 11 cars
Parking Required

Tenant Areas 'D & E' - Industrial Uses - 1,110 m²
1 car per 40 m² *Net Floor Area*
1,110 x 95% = 1,054.50 m² 26 cars
Parking Required

Tenant Areas 'F & G' - Vacant - 767 m²
0 car
767 x 95% = 728.65 m² 0 cars
Parking Required

Tenant Areas 'H' - Commercial School - 654 m²
1 car per 20 m² *Net Floor Area*
654 x 95% = 621.30 m² 31 cars
Parking Required

Tenant Areas 'I' - Entertainment Use - 662 m²
1 car per 20 m² *Net Floor Area*
662 x 95% = 628.90 m² 31 cars
Parking Required

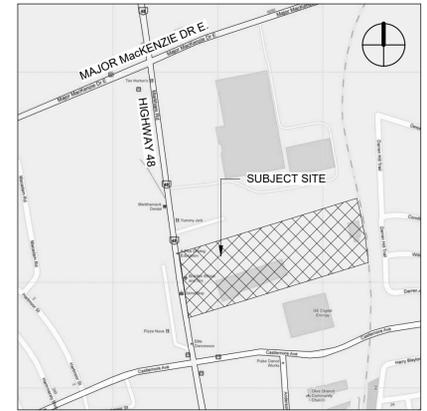
Building Area - Transformer Vault - 49 m²
First Floor Area 49
Parking Required 0 cars

Total Parking Requirement 162 cars
Parking Provided (Asphalt paving finished) 226 cars

Yours truly,
David Johnston B.Arch., MRAIC, O.A.A.

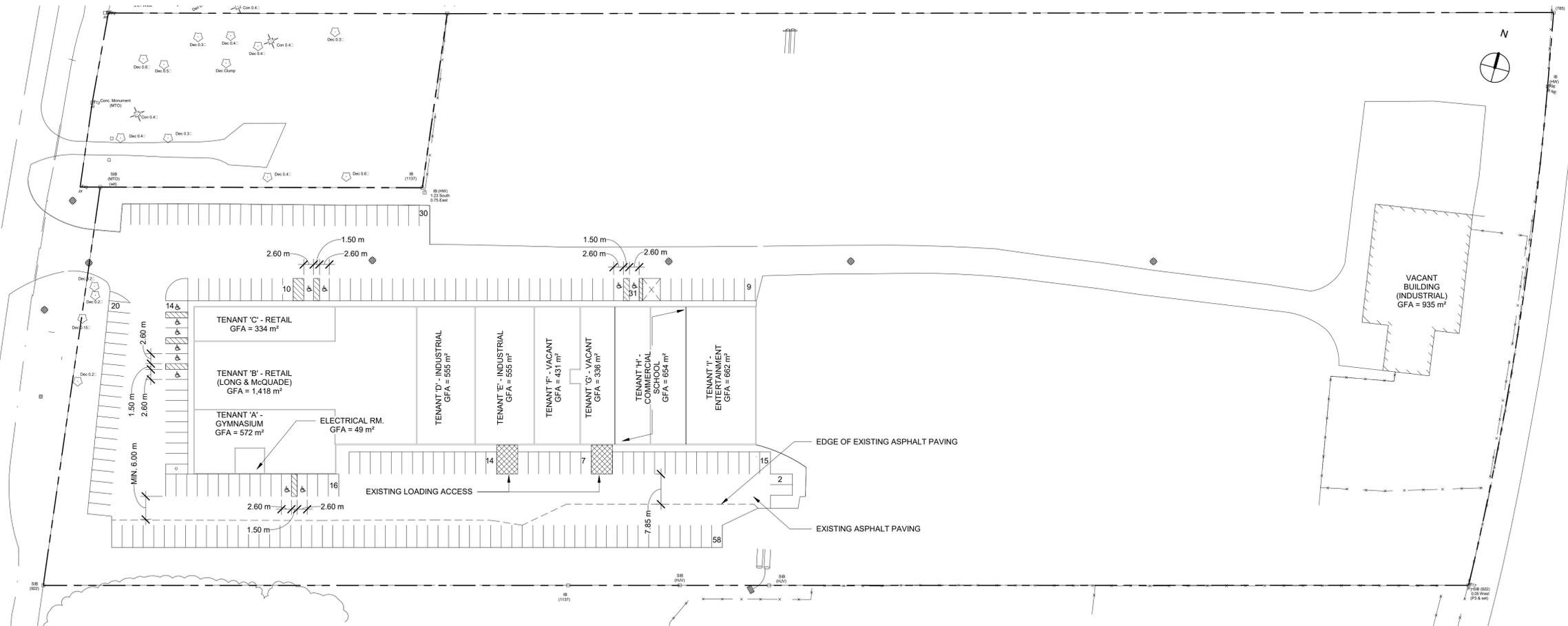
No. 8 Maple Lane
Unionville, Ontario L3R 1R2
Phone: 905 479-9992
Fax: 905 479-9985
E mail: dja@rogers.com

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4 KEY PLAN
N.T.S.

3 PARKING CALCULATION
N.T.S.

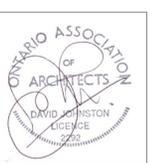


1 SITE PLAN
1:600

No.	Description	Date	By

ADD THE USE OF COMMERCIAL SCHOOL:
9833 MARKHAM RD
9833 MARKHAM ROAD, MARKHAM, ON.

KRASHNIK INVESTMENTS LTD.
26 KING'S CROSS AVE.
RICHMOND HILL, ON.
L4B 2T1
(905) 477-4000



DAVID JOHNSTON ARCHITECT
No. 8 Maple Lane
Unionville, Ontario L3R 1R2
Phone: (905) 479-9992
Fax: (905) 479-9985

MINOR VARIANCE

CONTRACTOR SHALL CHECK DIMENSIONS
Drawn by DC.SC
Date: 2019-11-27
Scale: As indicated
Project Number 19014
DRAWING NAME

SITE PLAN
SHEET NUMBER
SD1

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11/27/2019 3:36:06 PM

APPENDIX "C"
COMMENTS TO BE ATTACHED TO ANY APPROVAL OF FILE A/147/19

January 10, 2020

CFN 60812.17

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

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

Dear Mr. Leung:

Re: A/147/19 (Minor Variance Application)
9833 Markham Road, City of Markham
Owner: Krashnik Investments Ltd. (Mrs. Doris Rosenberg)
Agent: David Johnston Architect Ltd. (David Johnston)

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

Purpose of the Applications

The applicant is requesting relief from the requirements of City of Markham By-law 88-76, as amended, as it relates to uses in units within an existing industrial complex.

Requested permission:

- a) Amending Zoning By-law 88-76, Section 6.1(d):
to allow retail store as a use, whereas the by-law permits one retail store with max gross floor area of 1500 m²;
- b) Amending Zoning By-law 88-76, Section 6.1(d):
to permit personal service shop (health space) as permitted use, whereas the by-law does not permit personal service shops; and,
- c) To increase leasable floor space by adding mezzanines.

Applicable TRCA Regulations and Policies

The TRCA provides our technical review comments through a number of roles. This includes TRCA's commenting role under the *Planning Act*; the Conservation Authority's delegated responsibility of representing the provincial interest of natural hazards encompassed by Section 3.1 of the Provincial Policy Statement (2014); TRCA's Regulatory Authority under Ontario Regulation 166/06, as amended (Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses); and our Memorandum of Understanding with the Region of York where we advise our municipal partners on matters related to Provincial Policies relevant to TRCA's jurisdiction.

Provincial Policy Statement (2014):

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

TRCA's delegated role under the Planning Act to represent the provincial interest in natural hazards. As outlined in the Conservation Ontario / Ministry of Natural Resources and Forestry / Ministry of Municipal Affairs and Housing Memorandum of Understanding (MOU) on Conservation Authorities Delegated Responsibilities, Conservation Authorities have been delegated the responsibility of representing the provincial interest on natural hazards encompassed by Section 3.1 of the PPS 2014.

Ontario Regulation 166/06, as amended:

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

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

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

Development is defined as:

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

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

The Living City Policies for Planning and Development in the Watersheds of the TRCA (LCP) is a TRCA policy document that guides the implementation of TRCA's legislated and delegated roles and responsibilities in the planning and development approvals process. The LCP describes a "Natural System" of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. TRCA policies generally require that natural features within the "Natural System" be protected from development, site alteration and infrastructure. Notwithstanding

additional setbacks prescribed by federal, provincial or municipal requirements, TRCA defines the limit of the “Natural System” as the greater of, but not limited to the following:

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

Application Specific Comments

As noted above, the subject property is within TRCA’s Regulated Area of the Rouge River Watershed. It is our understanding that no additional units are being proposed and that there will not be increased density of uses on the site. The requested allowances to increase leasable floor space and to permit specified land uses (retail store and personal service shop) within an existing building will not require a permit from the TRCA under Ontario Regulation 166/06.

Based on our technical review, the subject property is within a Regulatory floodplain, and a flood spill feature was identified at the north of the property. Typically, TRCA would require the applicant to conduct a flood study to determine the extent of the spill. However, as the hydraulic information at this location is outdated and there is currently an Environmental Assessment process for the City of Markham to update the floodplain information in this area, TRCA will not require a flood study to be conducted for the requested allowances at this time. However, given the above information, future proposed development may be subject to a flood study and TRCA permit review. Given that the extent of the flood spill is undetermined, please also ensure that temporary storage of interior construction materials is limited to the front of the property along Markham Road and interior construction access occur at the Markham Road driveway entrance.

Please also note that the PPS and TRCA’s policies do not permit sensitive land uses within the Regulatory Floodplain. These uses include institutional uses (e.g., day cares, school nurseries, schools, long-term care homes), essential emergency services (e.g. fire, police, ambulance stations, and electrical substations), and uses associated with the disposal, manufacture, treatment or storage of hazardous substances. As the extent of the Regulatory floodplain is unknown at this time, TRCA discourages future leasable spaces to permit sensitive land uses.

Accordingly, TRCA staff have no objections to the subject application at this time.

Application Review Fee

As per TRCA’s role as a commenting agency for Planning Act applications circulated by member municipalities to assess whether a proposed development may be impacted by TRCA, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services.

This application is subject to a \$1,100 review fee (2018 TRCA Planning Fees Schedule – Variance – Commercial/Industrial – Minor). The applicant is responsible for fee payment and should forward the fee to our head office within 60 days of the issuance of this letter.

Recommendation

Based on the information submitted to date, we have no fundamental objections to the minor variance application of A/147/19 to allow the specified land uses and increased leasable floor space within the existing building. As a condition of approval, the applicant is required to provide the above-noted outstanding fee payment to the Conservation Authority.

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

Sincerely,



Andrea Lam
Planner I
Development Planning and Permits
Extension 5306

AL/lb