

Memorandum to the City of Markham Committee of Adjustment

May 17, 2023

File: A/045/23
Address: 190 Bullock Drive (Unit #3), Markham
Applicant: QX4 Investments Ltd. - Consulting Services (Ben Quan)
Agent: QX4 Investments Ltd. - Consulting Services (Ben Quan)
Hearing Date: Wednesday, May 31, 2023

The following comments are provided on behalf of the East Team. The applicant is requesting relief from "Industrial (M)" Zone requirements of By-law 1229, as amended, as it relates to an existing multi-unit commercial/industrial building on the subject property. The variance requested is as follows:

a) By-law 1229, Section 8.1:

To permit a personal service shop (spa), whereas the By-law does not permit such use.

BACKGROUND

Property Description

The 13,442.82 m² (144,697.31 ft²) subject property is located on the north side of Bullock Drive, north of Highway 7 and east of McCowan Road. The surrounding uses include low-rise residential uses to the north, multi-unit industrial/commercial and retail/commercial buildings to the west, east, and south, as well Metrolinx's Stouffville GO rail corridor located to the north of the subject property.

The subject property currently contains a 4,873 m² (52,452.53 ft²) one-storey multi-unit commercial/industrial building.

Proposal

The applicant is proposing to add an additional use to permit a personal service shop (spa) within the subject building. No exterior changes are proposed to the subject building or site.

Official Plan and Zoning

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

The Official Plan designates the subject property "Service Employment", which provides for a range of employment uses including service uses, office, financial institution, manufacturing, processing, and warehousing use, motor vehicle body shop or repair facility, and retail uses, however "Personal Service Shop" is not a defined use in the "Service Employment" designation.

Planning Staff have had regard for the requirements of the Official Plan in the preparation of the comments provided below.

Zoning By-Law 1229

The subject property is zoned "Industrial (M)" Zone under By-law 1229, as amended, which permits service and industrial uses including but not limited to banks, business and

professional offices, automobile service stations, car washing establishments, health clubs, manufacturing or industrial and warehouse uses. The applicant has submitted a minor variance application to add an additional permitted use to allow a personal service shop (spa).

Site Specific Amending By-law 28-88

A site specific amendment for the subject lands was approved in 1988 to permit one (1) indoor golf driving range with parking provided at 1 space/30m².

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. It is the owner's responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

COMMENTS

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

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

The applicant is proposing that one personal service shop be permitted whereas this use is not permitted in the "Industrial (M)" Zone under By-law By-1229, as amended. The existing building is comprised of a mix of existing service and industrial uses. Staff consider the proposed personal service shop to be generally consistent with "service" use that will serve and support the general public. Staff are of the opinion that the proposed use will not adversely impact the existing uses on site and are compatible with the surrounding land uses.

As such, Staff consider the proposed use to be appropriate for the subject property and are of the opinion that the proposed use meets the general intent and purpose of the Zoning By-law and Official Plan.

Parking

It should be noted that any changes to the property will be required to provide parking in accordance with the City's Parking Standards By-law 28-97, as amended, which will be confirmed at the building permit stage. If there is insufficient parking to accommodate the proposed use, additional parking may be required to be provided elsewhere on the property, or the applicant would need to submit a variance application to consider any potential deficiency.

EXTERNAL AGENCIES

Metrolinx Requirements

The subject property is located adjacent to Metrolinx's Uxbridge Subdivision which carries Metrolinx's Stouffville GO Train service. Metrolinx provided comments on this application

on May 2, 2023 (Appendix "C"), requiring an environmental easement. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property

Staff recommend that the proposed development is subject to the associated condition of approval provided in Appendix "A".

PUBLIC INPUT SUMMARY

No written submissions were received as of May 17, 2023. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the Planning Act and have no objection. Staff recommend 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 "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Brashanthe Manoharan, Planner II, East District

REVIEWED BY:



Carlson Tsang, Senior Planner, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/045/23

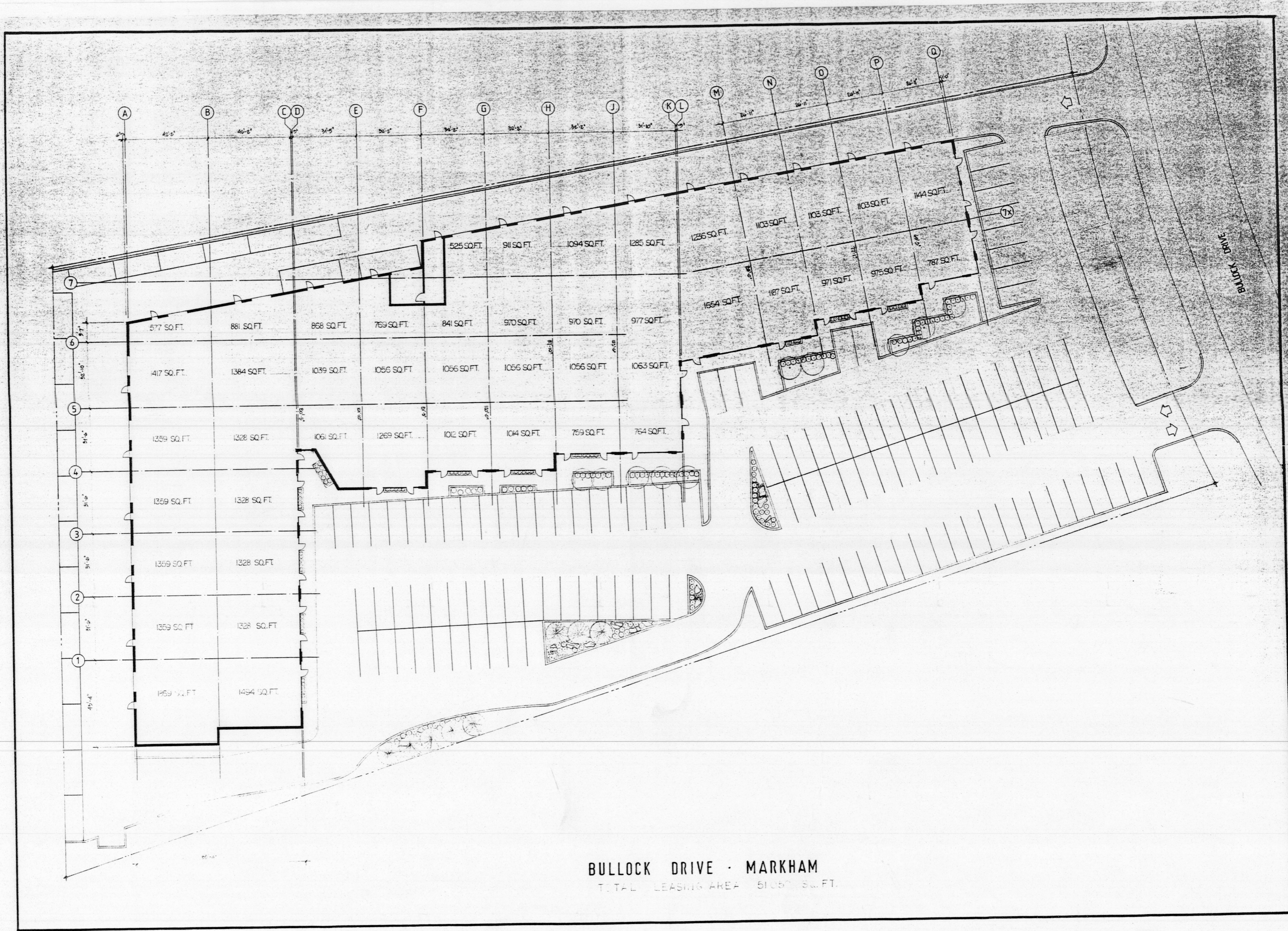
1. The variances apply only to the proposed development for as long as it remains.
2. That the Personal Service Shop (spa) only be permitted up to a maximum of 79.0m² (850 ft²).
3. That the Owner satisfies the requirements of Metrolinx, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix "C" to this Staff Report, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of Metrolinx.

CONDITIONS PREPARED BY:



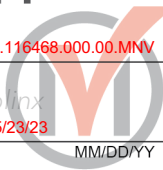
Brashanthe Manoharan, Planner II, East District

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To: Shawna Houser, Secretary-Treasurer, Committee of Adjustment
From: *Adjacent Developments GO Expansion - Third Party Projects Review - Metrolinx*
Date: May 2nd, 2023
Re: A/045/23 - 190 Bullock Drive, Markham

Appendix C



File: 23.116468.000.00.MNV

Date: 05/23/23
MM/DD/YY

Metrolinx is in receipt of the Minor Variance Application for 190 Bullock Dr. Metrolinx understands that the proposal is to permit a personal service shop (spa), as a proposed additional use within the existing building. Metrolinx's comments on the subject application are noted below:

- The subject property is located adjacent to Metrolinx's Uxbridge Subdivision which carries Metrolinx's Stouffville GO Train service.
- While not required, given the proximity of the whole subject site to the rail corridor, Metrolinx recommends the Proponent obtain a Noise and Vibration Technical Study, prepared by a qualified consultant, to determine whether noise and/or vibration mitigation is appropriate for the subject site. Should the applicant choose to pursue the Technical Study, they may obtain the most recent GO Transit rail data information by submitting a request to raildatarequests@metrolinx.com.
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause will be inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each unit within 300 metres of the Railway Corridor:
 - **Warning:** Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. There may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.
- The Owner shall grant Metrolinx an environmental easement for operational emissions, which is to be registered on title for all uses within 300 metres of the rail right-of-way. Included is a copy of the form of easement for the Proponent's information. The Proponent may contact Farah.Faroque@metrolinx.com or Ryan.Courville@metrolinx.com with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).

Should you have any questions or concerns, please do not hesitate to contact me.

Best regards,
Farah Faroque
Intern, Third Party Projects Review
Metrolinx
20 Bay Street Suite 600, Toronto



Form of Easement

WHEREAS the Transferor is the owner of those lands legally described in the Properties section of the Transfer Easement to which this Schedule is attached (the "**Easement Lands**");

IN CONSIDERATION OF the sum of TWO DOLLARS (\$2.00) and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Transferor, the Transferor transfers to the Transferee, and its successors and assigns, a permanent and perpetual non-exclusive easement or right and interest in the nature of a permanent and perpetual non-exclusive easement over, under, along and upon the whole of the Easement Lands and every part thereof for the purposes of discharging, emitting, releasing or venting thereon or otherwise affecting the Easement Lands at any time during the day or night with noise, vibration and other sounds and emissions of every nature and kind whatsoever, including fumes, odours, dust, smoke, gaseous and particulate matter, electromagnetic interference and stray current but excluding spills, arising from or out of, or in connection with, any and all present and future railway or other transit facilities and operations upon the lands of the Transferee and including, without limitation, all such facilities and operations presently existing and all future renovations, additions, expansions and other changes to such facilities and all future expansions, extensions, increases, enlargement and other changes to such operations (herein collectively called the "**Operational Emissions**").

THIS Easement and all rights and obligations arising from same shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective officers, directors, shareholders, agents, employees, servants, tenants, sub-tenants, customers, licensees and other operators, occupants and invitees and each of its or their respective heirs, executors, legal personal representatives, successors and assigns. The covenants and obligations of each party hereto, if more than one person, shall be joint and several.

Easement in gross.