

Memorandum to the City of Markham Committee of Adjustment

April 13, 2021

File: A/036/21
Address: 9350 Markham Road (Highway 48) – Markham, ON
Applicant: City of Markham
Agent: N/A
Hearing Date: April 21, 2021

The following comments are provided on behalf of the East Team.

The applicant is requesting relief from the following “Institutional (INST)” and “Rural Residential One (RR1)” zone requirements under By-law 304-87, as amended, to permit:

a) By-law 304-87, Section 9:

a theatre, including outdoor performances, whereas the By-law does not permit a theatre;

b) By-law 304-87, Section 9:

an art gallery, day camp, and commercial school, whereas the By-law does not permit these uses; and

c) By-law 28-97, Section 3, Table B:

150 parking spaces on site, whereas the By-law requires varied rates based on use.

These variances are requesting additional permitted uses on the City owned Markham Museum site; and to confirm that the existing amount of onsite parking available is sufficient for the museum and these additional uses.

BACKGROUND

Property Description

The subject property is the City owned Markham Museum site located at 9350 Highway 48. The site has an approximate area of 8.4 ha (20.8 ac) and is located on the west side of Highway 48, north of 16th Avenue. The property is developed with:

- the Main Collections building oriented along the Highway 48 frontage that includes event space, meeting rooms and classrooms;
- event space known as ‘Transportation Hall’ and ‘Back Stage’ for the *Markham Little Theatre*, both located on the north side of the property;
- and several re-located heritage buildings and structures throughout the property to showcase life in Markham in the late 1800s and early 1900s.

The Markham Museum operates as a gathering place where visitors can learn about the City’s early roots through its historical collections and buildings, as well as hosts several City run community events, performances, concerts, summer camps and other programming. The City also leases space at the Museum for

private events such as weddings, birthday's, cultural gatherings and meetings. An aerial photo of the site is shown in Figure 1.

Surrounding land uses include:

- A City owned storm water management pond (Monkman Pond) and parkette abut the site to the north;
- Commercial shopping centres and high rise residential condominium buildings further north, along Highway 48;
- A multi-unit commercial shopping centre to the east, across Highway 48;
- A multi-unit commercial shopping centre abuts the site to the south;
- Low rise residential development to the west and northwest, which includes 'Heritage Estates', a collection of re-located heritage homes.

Proposal

There is no proposed development specific to this variance application. The variance application requests permission for additional uses so that the City can expand onsite leasing opportunities for programming not specifically run by the City of Markham, by permitting theatrical performances, an art gallery, day camp and commercial school.

The request for the theatre is to permit *Markham Little Theatre* to continue to run live theatre performances in the 'Back Stage' building, as well as outdoor performance on the property. *Markham Little Theatre* has operated on the site since 2005 with rehearsal, storage and office space in accordance with an earlier variance approval (see zoning subsection below), and has hosted live theatrical performances on three occasions since 2017.

The parking variance is to confirm that the existing amount of onsite parking is sufficient for both the City run Markham Museum functions, shared with the proposed uses if leased out to third parties.

Official Plan and Zoning

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

The 2014 Official Plan designates the subject property 'Low Rise Residential' which provides for low rise housing, including single detached, semi-detached, townhouse and small multi-unit buildings containing three to six units.

Section 8.1.1. of the 2014 Official Plan also provides a number of public uses permitted within any land use designation which includes, but is not limited to, a 'publicly owned and operated community facility' and 'publicly owned parkland and recreation uses'. This permits the Markham Museum and its community functions to operate on the subject site.

Zoning By-Law 304-87, as amended

The majority of the subject property is zoned 'Institutional (INST)' under By-law 304-87, as amended which permits places of worship, schools, cemeteries and public parks. A small portion of the site on the Highway 48 frontage is zoned Rural Residential One (RR1), under By-law 304-87, as amended, which permits a single detached dwelling on that portion of the site. Figure 2 shows the existing zone boundaries on the subject lands.

Section 5.3.2 of By-law 304-87, as amended, permits public uses in any zone operated by a 'Public Authority' which includes the City of Markham. Consequently the Markham Museum and its community functions are permitted on the subject lands. On that note, if the City owned Markham Museum were to run the uses proposed through this variance application they would be permitted as of right. The variance however is requested so that the City can continue to lease space to *Markham Little Theatre* (and permit them to operate outdoor performances), as well as potentially lease out space to other third parties to operate an art gallery, commercial school or day camp on the subject lands.

2005 Committee of Adjustment Approval – File A/88/05

On May 18, 2005, the Committee of Adjustment approved variance A/88/05 to permit '*Markham Little Theatre*' operations which include office use, storage and rehearsal space in an Institutional Zone, whereas the By-law does not specifically permit this use'. This current application has been submitted to ensure that live theatrical performances are also permitted.

Parking Standards By-law 28-97

City of Markham Parking Standards By-law 28-97 provides minimum amounts of required parking for non-residential uses in Table B of the By-law. These include the following requirements:

Land Use	Minimum Required Parking
<i>Museum</i>	1 space per 40 sq m of Net Floor Area (NFA)
<i>Theatre</i>	1 space per 6 seats in an auditorium or theatre
<i>Day Camps</i>	1 space per 25 sq m of NFA*
<i>Art Gallery</i>	1 space per 100 sq m of NFA
<i>Commercial School</i>	1 space per 20 sq m of NFA

* Parking rate for non specified uses.

According to a site plan approved the City's Planning and Urban Design Department on June 18, 2009, the 150 onsite parking spaces is sufficient to accommodate the Markham Museum in accordance with the Parking Standards By-law.

Approval of the variances to add the requested additional uses, including the continued use of the 'Backstage' building by *Markham Little Theatre*, would permit ancillary uses subordinate to the sites principle use as the City owned Markham

Museum. Approval of the parking variance is confirming that existing amount of parking is sufficient for the Markham and these ancillary uses.

Zoning Preliminary Review (ZPR) Not Undertaken

The applicant has confirmed that a ZPR has not been conducted. It is the applicant's responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required. If the variance request in this application contains errors, or if the need for additional variances is identified through any required Building Permit application reviews, further variance application(s) may be required to address the non-compliance. As noted there is no new development being proposed with respect to this variance application.

COMMENTS

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

- 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 2014 Official Plan and Zoning By-law 304-87, as amended, permit the Markham Museum and its related community functions to operate on the site as a public use. If the City and Museum were to operate the same uses requested through this variance application they would be permitted as of right.

The variances are required to permit third parties to lease space from the City and operate these uses. This includes continued use by the *Markham Little Theatre*, which has operated on the property since 2005. There are no specific proposals for non-public art galleries, day camps or commercial schools at this time. Approval of these uses would allow for the City to explore potential future leasing opportunities.

The parking variance is confirming the existing amount of parking is sufficient for the Markham Museum and any leased space to third parties for the proposed uses. The existing onsite parking is sufficient for the Museum, as required by the City's Parking Standards By-law 28-97, as amended.

Each of the proposed uses will be subordinate to the Markham Museum use, and the City/Museum is responsible for managing the amount of space being leased and any other operational matters. This includes operating times to avoid conflicts with other events, as well as demand for parking. Staff therefore have no concern

with the requested variances, subject to the condition that the additional uses be permitted only as ancillary uses to the City owned Markham Museum property.

Metrolinx Requirements

Metrolinx provided comments on this application in an email dated March 30, 2021, recommending:

1. The Owner shall grant Metrolinx an environmental easement for operational emissions, registered on title against the subject property in favour of Metrolinx.
2. It is recommended the applicant consider conducting a noise and vibration study to offer design recommendations and mitigation measures for the proposed development.

In a follow up email, dated March 31, 2021 Metrolinx advised that the above are advisory recommendations, and that the easement is something that Metrolinx recommends the City explore rather than be requirement and condition of approval. This is in recognition that this application has been filed by the City, as a public agency, and that no new development is being proposed through this application.

PUBLIC INPUT SUMMARY

No written submissions were received as of April 13, 2021. 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 requests meet the four tests of the *Planning Act* and recommend approval of the application. 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 By-law, and how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

Please see Appendix "A" for conditions to be attached to any approval of this application.

APPENDICES

Appendix "A" – Conditions of Approval
Figure 1 – Aerial Photo of Subject Land
Figure 2- Zoning Designations

PREPARED BY:



Stephen Corr, Senior Planner, East District

REVIEWED BY:



Rectangular Snip

Stacia Muradali, Development Manager, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/036/21

1. The variances apply only to the proposed development as long as it remains;
and
2. That the additional uses approved this variance are only permitted providing the subject lands are owned and operated by the City of Markham as the Markham Museum.

CONDITIONS PREPARED BY:



Stephen Corr, Senior Planner, East District

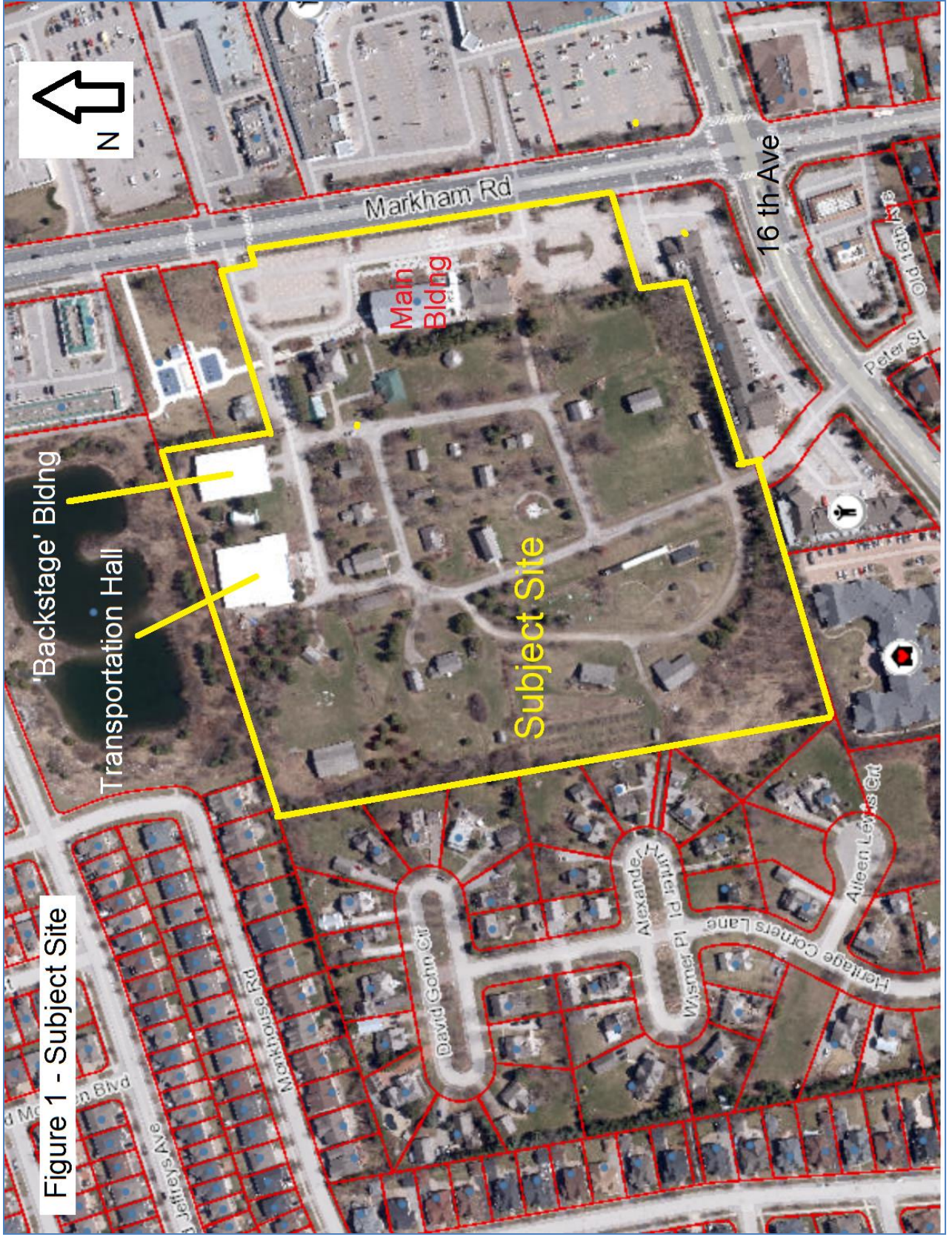


Figure 1 - Subject Site

Figure 2 - Zonig Map

