

# Memorandum to the City of Markham Committee of Adjustment

February 20, 2019

**File:** A/14/19  
**Address:** 7025 Markham Rd, Markham  
**Applicant:** SMNE Developments Limited Commercial Properties  
**Agent:** Zelinka Priamo Ltd. (Rob McFarlane)  
**Hearing Date:** Wednesday March 13, 2019

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

The applicant is requesting relief from the following requirements of By-law 90-81, CC, as amended:

a) **Amending By-law 107-1999, Section 6.10.1 (b)(iii):**

no more than 12 percent of the ground floor of any building or structure to be occupied by business and professional offices, whereas the By-law permits no more than 10 percent of the ground floor of any building or structure to be occupied by business and professional offices;

as it relates to a proposed dental office in an existing building.

## BACKGROUND

### Property Description

The 3.64 ha (8.99 ac.) subject property is located on the northeast corner of Markham Road and Steeles Avenue. A bank (CIBC) and a stand-alone multi-unit commercial building exist on the property. There are currently 5 units in this building including Sherwin Williams, Little Ceasars, The UPS Store, an Auto Parts store and a vacant unit. The applicant is proposing a Professional Office (Dental Office) in the existing vacant unit (Unit 2). Commercial developments exist to the south of the property across Steeles Avenue, in the City of Toronto. Townhouse dwellings are located east of the site and semi-detached dwellings are located north of the site. John Daniels Park is located to the west of the site, across Markham Road.

Minor variances were approved for the stand-alone multi-unit commercial building in 2012 (A/57/12) and 2014 (A/19/14) to permit three restaurants to be located a minimum of 25 metres from a residential zone, whereas the By-law requires that restaurants are not permitted within 60 metres of a residential zone. The 2012 minor variance proposed a total gross floor area of 325 m<sup>2</sup> (3500 ft<sup>2</sup>) whereas the 2014 minor variance proposed three restaurants with a total gross floor area of 383.8 m<sup>2</sup> (4,131 ft<sup>2</sup>).

### Proposal

The applicant is requesting relief from the By-law to establish a Professional Office (Dental Office) with a floor area of 93 m<sup>2</sup> (1,000 ft<sup>2</sup>) within the existing vacant unit (Unit #2). The applicant is not proposing any external changes to the building

### Official Plan and Zoning

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

The 2014 Official Plan designates the subject property Mixed Use Mid Rise. This designation permits a range of multi-use, multi-purpose areas that offer a diverse range of mid to large scale retail development and facilities such as offices, restaurants, entertainment and other uses. These

uses serve nearby residents and provide access to needed goods and services. In considering applications for development approval in the "Mixed Use Mid Rise" area which includes variances, development is required to meet the general intent of section 8.3.1.4 of the 2014 Official Plan with respect to setback, height, density, vehicular access and, loading and parking to ensure that the development has adequate transportation, water and wastewater services as well as community infrastructure.

#### Zoning By-Law 90-81

The subject property is zoned "Community Commercial (CC)" in By-law 90-81, as amended, which permits retail stores, business and professional offices, banks and financial institutions and personal services shops among other uses. This zone category limits the ground floor devoted to business and professional offices to a maximum of 10 percent of the ground floor of any building or structure. The proposal does not comply with the by-law with respect to this.

#### **Applicant's Stated Reason(s) for Not Complying with Zoning**

According to the information provided by the applicant, the reason for not complying with Zoning is, *"due to the existing size of the unit the prospective tenant is to occupy, the maximum GFA % for the proposed use is greater than permitted"*.

#### **Zoning Preliminary Review 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 a Professional Office (Dental Office) in Unit 2 of the existing multi-unit commercial building. The By-law permits no more than 10 percent of the ground floor of any building or structure to be occupied by business and professional offices. The proposed professional office would occupy the existing 93 m<sup>2</sup> (1,000 ft<sup>2</sup>) vacant unit which is approximately 11.54 percent of the existing approximately 805 m<sup>2</sup> (8,663 ft<sup>2</sup>) building. This represents a difference of approximately 12.5 m<sup>2</sup> (134.55 ft<sup>2</sup>). The applicant is applying for a variance in part due to the existing size of the vacant unit. The applicant is not proposing any external changes and, the proposed Professional Office is a permitted use. Parking exists on the subject property and the applicant has not applied for a variance to the parking requirements. While the proposed Professional Office exceeds the 10% requirement, Staff are of the opinion that the variance request is minor in nature.

The 2014 Official Plan designates the subject property as "Mixed Use Mid Rise". The "Mixed Use Mid Rise" designation envisions a mix of uses to serve nearby residents. The intent of this designation is to integrate residential development with mixed-use development thereby creating

neighbourhoods where people can shop, live and work within close proximity. Staff are of the opinion that the proposed Professional Office is consistent with the intent and policies of section 8.3.1.2 of the Official Plan and, therefore is an appropriate development.

**PUBLIC INPUT SUMMARY**

No written submissions were received as of February 19, 2019. 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 have no objection. Staff recommend that the Committee consider public input in reaching a decision.

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

PREPARED BY:



\_\_\_\_\_  
Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:



\_\_\_\_\_  
Stacia Muradali, Senior Planner, East District

File Path: Amanda\File\ 19 112065 \Documents\District Team Comments Memo

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/14/19**

1. The variances apply only to the proposed development as long as it remains;
2. That no more than 11.54 percent 93 m<sup>2</sup> (1,000 ft<sup>2</sup>) of the ground floor of any building or structure to be occupied by business and professional offices

CONDITIONS PREPARED BY:



\_\_\_\_\_  
Aqsa Malik, Planner, Zoning and Special Projects



**STAIRS**

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	STAIR CASE	1	EA	1000.00	1000.00
2	STAIR CASE	1	EA	1000.00	1000.00
3	STAIR CASE	1	EA	1000.00	1000.00
4	STAIR CASE	1	EA	1000.00	1000.00
5	STAIR CASE	1	EA	1000.00	1000.00
6	STAIR CASE	1	EA	1000.00	1000.00
7	STAIR CASE	1	EA	1000.00	1000.00
8	STAIR CASE	1	EA	1000.00	1000.00
9	STAIR CASE	1	EA	1000.00	1000.00
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49	STAIR CASE	1	EA	1000.00	1000.00
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**LOADING REQUIREMENT**

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
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SYMBOL LEGEND



fieldgate

FIELDGATE

DATE: 11/11/86

A1-86

MARKHAM ROAD

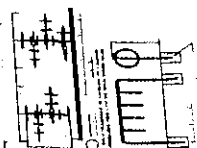
NOT PART OF DEVELOPMENT

EXISTING  
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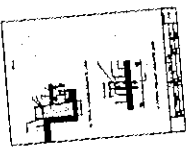
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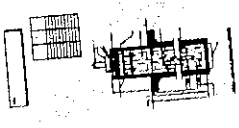
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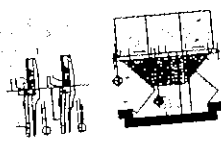
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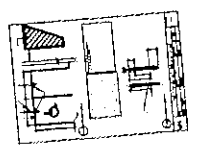
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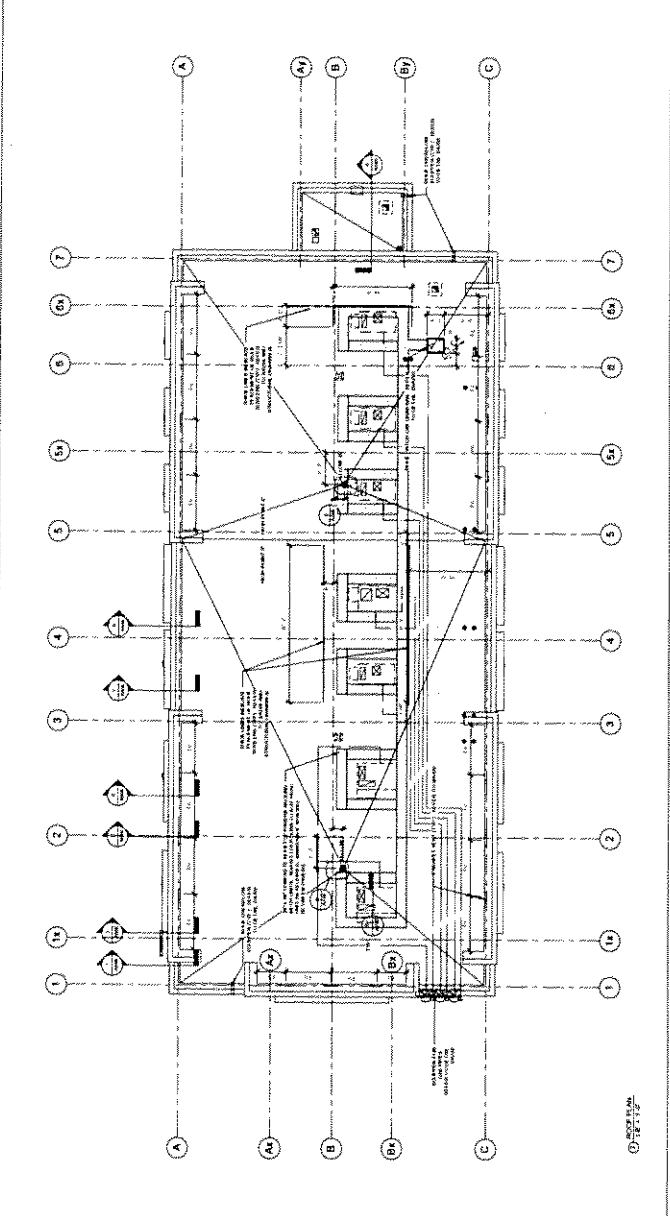


CURB DEPRESSION

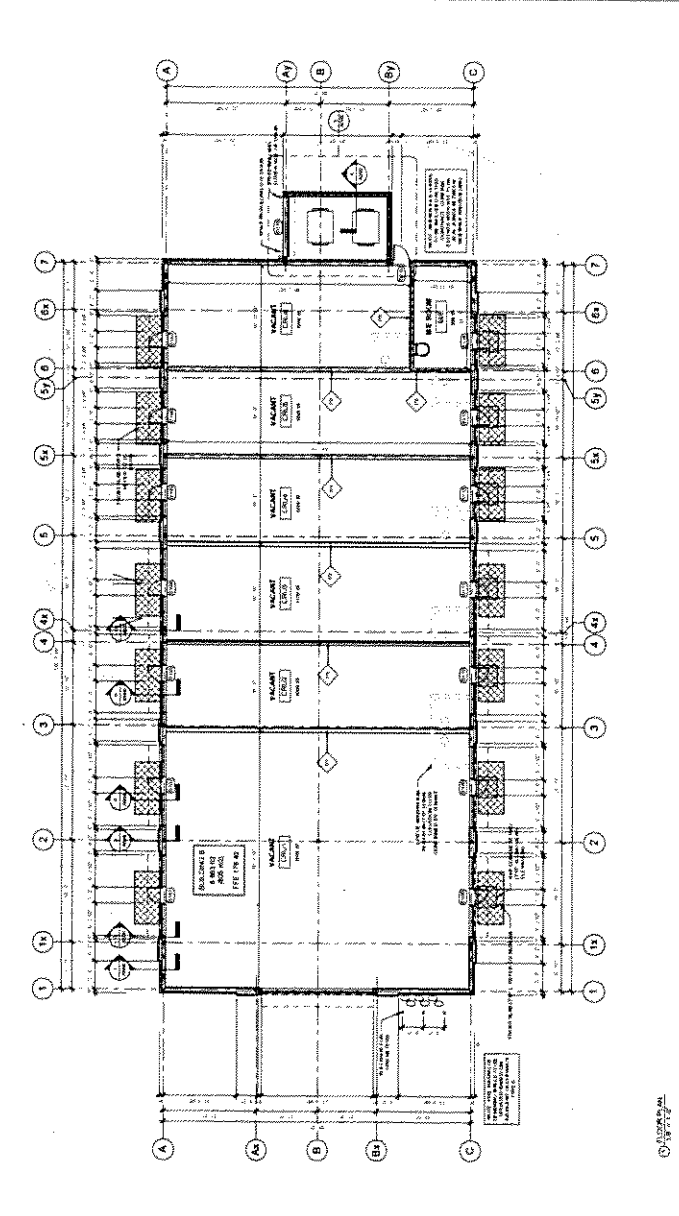


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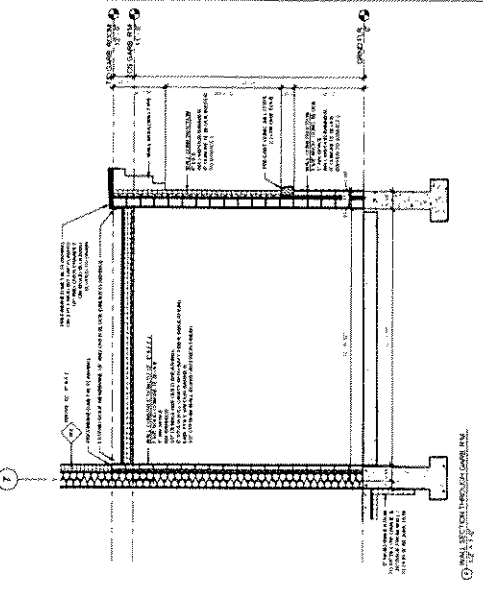
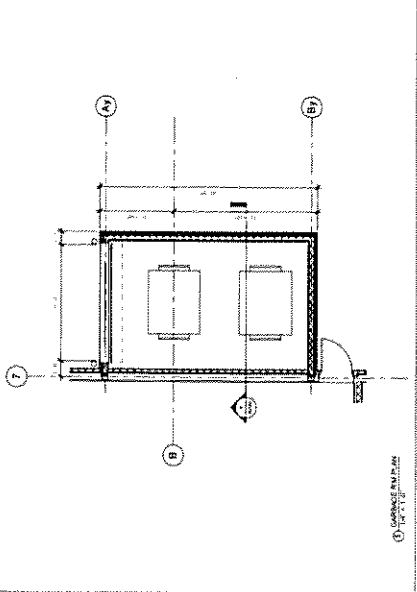
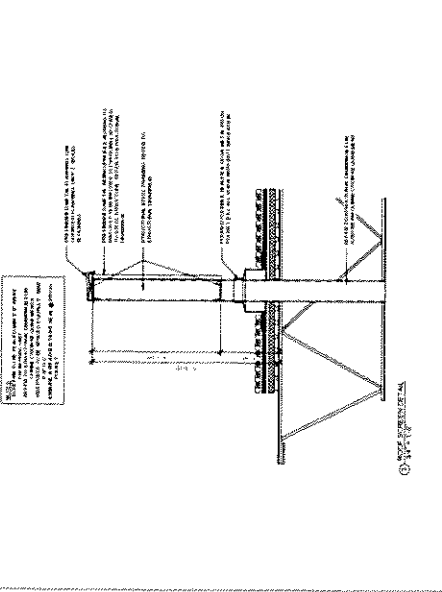
SITE PLAN



① FLOOR PLAN



② FLOOR PLAN



⑤ SECTION C-C



February 11, 2019

CFN: 60812.06

**BY E-MAIL ONLY**

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

Dear Mr. Leung:

**Re: Minor Variance Application – A/14/19**  
**7025 Markham Road, Markham, ON**  
**Owner: SMNE Developments Ltd.**  
**(Fieldgate Commercial Properties – Attn: Stephanie Volpentesta)**  
**Agent: Zelinka Priamo Ltd. (Attn: Rob McFarlane)**

This letter will acknowledge receipt of the above noted application. Toronto and Region Conservation Authority (TRCA) staff have reviewed this application and provide the following comments.

**PURPOSE OF THE APPLICATION**

**A/14/19**

It is our understanding that the applicant is requesting relief from the requirements of By-law 90-81, as amended, as it relates to a proposed dental office in an existing building.

**Requested Variance(s) to the Zoning By-law:**

**a) Amending By-law 107-1999, Section 6.10.1 (b)(iii):**

No more than 12 percent of the ground floor of any building or structure to be occupied by business and professional offices, whereas the By-law permits no more than 10 percent of the ground floor of any building or structure to be occupied by business and professional offices.

**APPLICABLE TRCA REGULATIONS AND POLICIES**

**Ontario Regulation 166/06 (as amended):**

A portion of the subject property is located within TRCA's Regulated Area, as the site is partially within the Estimated Floodplain associated with the Morningside Tributary. 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;
- 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 (LCP)**

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 a 10 metre buffer from all other wetlands and any contiguous natural features or areas.

**APPLICATION SPECIFIC COMMENTS**

**Ontario Regulation 166/06, as amended:**

The subject property is partially located within TRCA's Regulated Area, as the Estimated Floodplain of the Morningside Tributary traverses the subject lands. TRCA's Water Resource Engineering staff have reviewed the flood modelling for the surrounding area and has confirmed that the regional water surface elevation is approximately 175 metres above sea level (masl). Based on our internal Lidar topographic mapping, the existing building located on the southwestern portion of the subject lands appears to be appropriately setback from the Estimated Floodplain. As such, TRCA staff have no concerns with the proposed variance application.

Please note, the TRCA has an interest in any future works on the subject property as it may be subject to a TRCA permit.

**APPLICATION FEE**

Please be advised, in addition to TRCA's Regulating responsibilities, TRCA has a role as a commenting agency for *Planning Act* applications circulated by member municipalities to assess whether a proposed development may be impacted by the TRCA. By copy of this letter, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services.

This application is subject to a review fee of \$1,100.00 (2018 TRCA Planning Fees Schedule – Variance – Commercial/Industrial/Subdivision/Institutional – Minor). The applicant is responsible for fee payment and should forward the fee to this office within 60 days of the issuance of this letter.

**RECOMMENDATION**

In light of the comments above, TRCA staff have **no objections** to the approval of the above noted application subject to the following conditions:

1. The applicant remits the outstanding TRCA Planning Services review fee of \$1,100.00 within 60 days of the issuance of this letter.

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

Sincerely,



Aidan Pereira  
Planner I, Planning & Development  
[apereira@trca.on.ca](mailto:apereira@trca.on.ca)  
(416) 661-6600 Ext. 5723

AP/as