Memorandum to the City of Markham Committee of Adjustment
January 25th, 2019

File:	**A/172/18**
Address:	**8570, 8600, 8610, 8630 Woodbine Avenue, Markham**
Applicant:	**Q-West Centre Inc.**
Agent:	**KLM Planning Partners Inc.**
Hearing Date:	**Wednesday February 6, 2019**

The following comments are provided on behalf of the West Team. The applicant is requesting relief from By-law 165-80 M.C. (40%), as amended, to permit the following:

a) **Amending By-law 2015-122, Section 7.115.3 m) 2) i):**
restaurants within shopping centres including associated food courts or eating areas to have a parking rate of 1 parking space per 25 square metres of leasable floor area for that portion which occupies 36 percent or less of the total leasable floor area of the shopping centre, whereas the By-law requires 1 parking space per 25 square metres of leasable floor area for that portion which occupies 20 percent or less of the total leasable floor area of the shopping centre;

b) **Amending By-law 2015-122, Section 7.115.3 m) 2) ii):**
restaurants within shopping centres including associated food courts or eating areas to have a parking rate of 1 parking space per 9 square metres of leasable floor area for that portion which occupies more than 36 percent of the total leasable floor area of the shopping centre, whereas the By-law requires 1 parking space per 9 square metres of leasable floor area for that portion which occupies more than 20 percent of the total leasable floor area of the shopping centre;

as they relate to a commercial development.

Background

Property Description

The 1.19 ha (2.94 ac) subject lands are located on the west side of Woodbine Avenue, north of Highway 7 and south of Centurian Drive (See Attachment 1). Surrounding uses include a gas station (Shell Canada) to the south, retail uses to the east across Woodbine Avenue, warehouse and office to the west and vacant lands to the north.

Site Plan Approval (SC 15 114185)

On January 16th, 2018, the City issued site plan approval (SC 15 114185) to permit the development of four commercial buildings with a combined gross floor area of 2,531.75 m^2 (27,251.53 ft^2) on the subject lands (See Attachment 2). The approved site plan includes 148 parking spaces at grade and two accesses from Woodbine. The construction for Building A, B and C are complete and some of the units are currently occupied. A building permit has not been issued for Building D due to the modifications noted in the section below.

Site Plan Amendment SC 18 177207 and Minor Variance A/73/18

On March 1st, 2018, a site plan amendment application (SC 18 177207) was submitted to allow the following modifications to the approved site plan (See Attachment 3):

- Elimination of the drive-thru component located on the west side of Building D

- Modification to the parking spaces around Building D. This results in an increase in the total number of parking on site from 148 to 155
- Increase in gross floor area of Building D from 436.79 m^2 (4,701.56 ft^2) to 511.38 m^2 (5,504.44 ft^2). Consequently, this increased the combined gross floor area of all buildings on site from 2,531.75 m^2 (27,251.53ft^2) to 2,606.34 m^2 (28,054.41 ft^2); whereas the by-law permits a maximum combined gross floor area of 2,560 m^2 (27,555.61 ft^2).

A minor variance application was submitted on May 29th, 2018 to reduce the maximum combined gross floor area requirement for the subject lands. The minor variance application also included a request to reduce the parking requirement for restaurant space on the subject lands. Both variances were approved by the Committee of Adjustment on July 17th, 2018, subject to the restaurant uses be limited to a maximum of 1,370 m^2 (14,746.56 ft^2) (See Attachment 4).

Following the minor variance approval, the site plan amendment (SC 18 177207) was endorsed by Staff on September 4th, 2018, subject to the execution of an amended site plan agreement, which is still being prepared by City Staff. A building permit for Building D will not be issued until the site plan amendment is approved.

Proposal
The applicant is proposing to further increase the total floor area of restaurant space on site by 303.66 m^2 (3,268.56 ft^2) from 1,365.89 m^2 (14,702.31 ft^2) to 1,669.55 m^2 (17,970.88 ft^2). The additional restaurant space will be located within Building D. This minor variance application is to reduce the parking requirements for restaurant space on the subject lands. No exterior changes are being proposed to the endorsed site plan.

Official Plan and Zoning
2014 Official Plan (as partially approved on Nov 24/17 and further updated on April 9/18)
The lands are designated 'Business Park Office Priority' and are subject to Site Specific Policy 9.20.7 which provides for financial institution, office, restaurant, retail and services. The proposed additional restaurant uses are provided for in the Official Plan.

Zoning By-Law
The subject lands are zoned M.C. (40%) under By-law 165-80, as amended. The subject lands are also subject to Amending By-law 2015-122 which was passed in June 2015 to permit restaurants, retail store and personal service shop. The subject site does not provide sufficient parking to accommodate the additional restaurant uses being proposed. Details of the non-compliance are provided in the comment section below.

Applicant's Stated Reason(s) for Not Complying with Zoning
According to the applicant, the demand for restaurant use continues to be higher than anticipated, which requires a variance to the amount of leasable floor area devoted to restaurant use to which the lower parking rate of 1 space per 25m^2 is applied, thereby reducing the total number of parking spaces required. A Parking Justification Study was prepared which indicates that the 155 parking spaces provided will be more than sufficient to accommodate the anticipated parking demand.

Zoning Preliminary Review Not Undertaken
The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been undertaken for the proposal. Consequently, 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 variances in the application contains errors, or if the need for additional variances are 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.

Parking Reduction for Restaurant Spaces

By-law 2015-122 requires restaurant space that occupies 20% or less of the total leasable floor area of the shopping centre to provide 1 parking space per 25 m^2 (269 ft^2); and any remaining portion of restaurant space to provide 1 space per 9 m^2 (96.87 ft^2). The Committee of Adjustment approved a minor variance (A/73/18) on June 27, 2018 to change the ratio from 20% to 27%.

Based on the new ratio approved by the Committee of Adjustment, the additional restaurant space being proposed would require a total of 171 parking spaces on the subject property; whereas 155 is provided in the endorsed site plan. This represents a deficiency of 16 spaces or approximately 9.4% less than the by-law requirements.

The applicant is requesting a variance to allow restaurant space that occupy up to 36% of the total leasable floor area of the building to provide 1 parking space per 25 m^2 (269 ft^2). This would reduce the total parking requirement to 155 spaces to reflect what is provided in the endorsed site plan.

According to the parking justification study submitted in support of the application, the subject property has sufficient capacity to accommodate the anticipated parking demands for the additional restaurant uses. Transportation Staff concurred with the conclusion of the study and have no objection to the proposed parking reduction.

PUBLIC INPUT SUMMARY

No written submissions were received as of January 25th, 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 to the approval of the application.

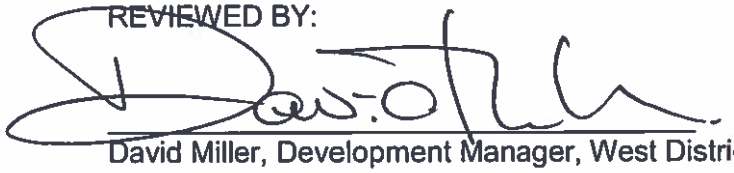
The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

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

PREPARED BY:

Carlson Tsang, Planner II, West District

REVIEWED BY:



David Miller, Development Manager, West District

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APPENDIX "B"
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/172/18

1. The variances apply only to the proposed development as long as it remains;

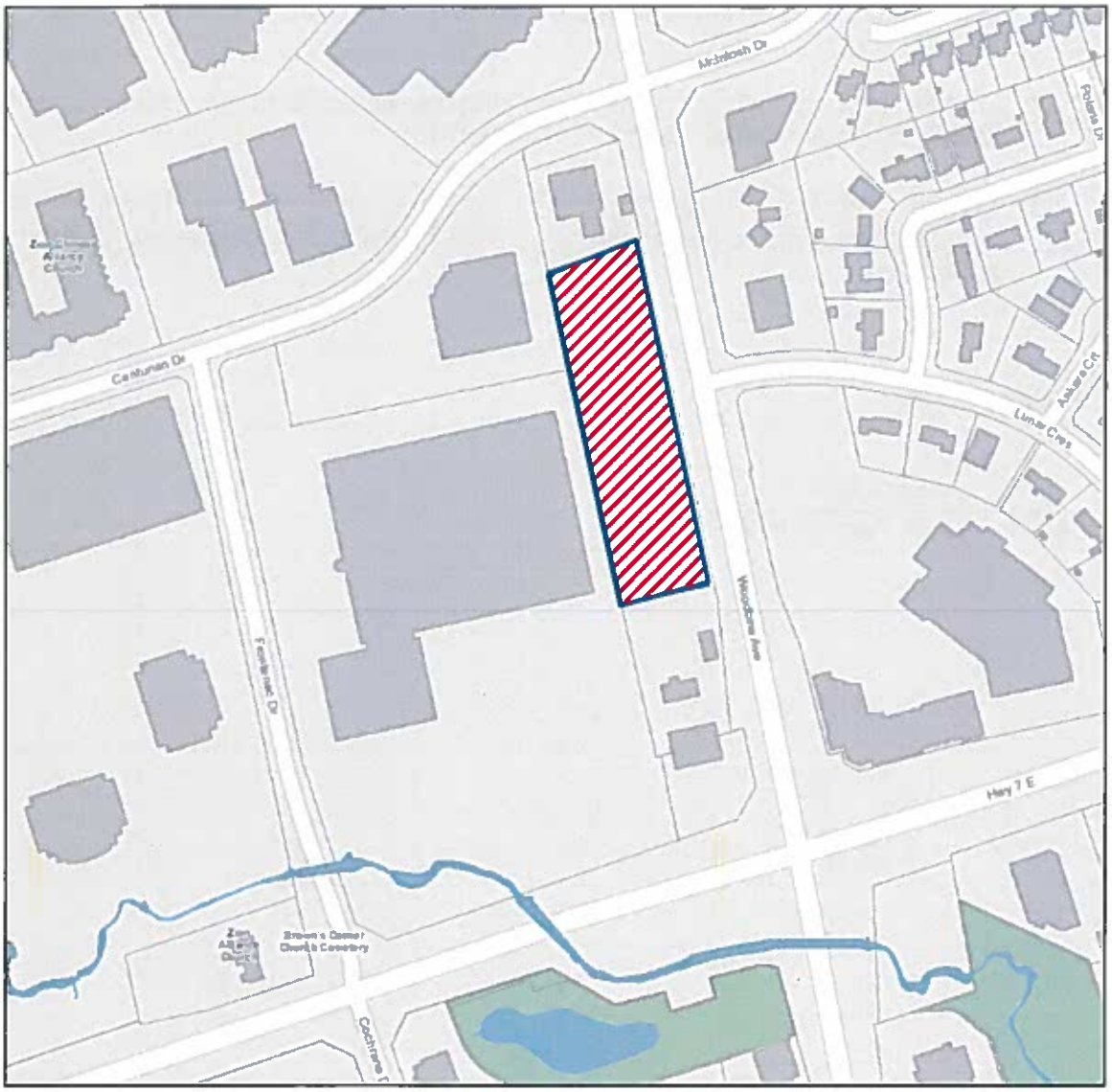
2. That the total gross floor area devoted to restaurant uses on the subject lands be limited to a maximum of 1,680 m^2 (18,083.37 ft^2);

3. That the Secretary Treasurer receives written confirmation from TRCA that the applicant has remitted the outstanding TRCA Planning Services review fee for this application.

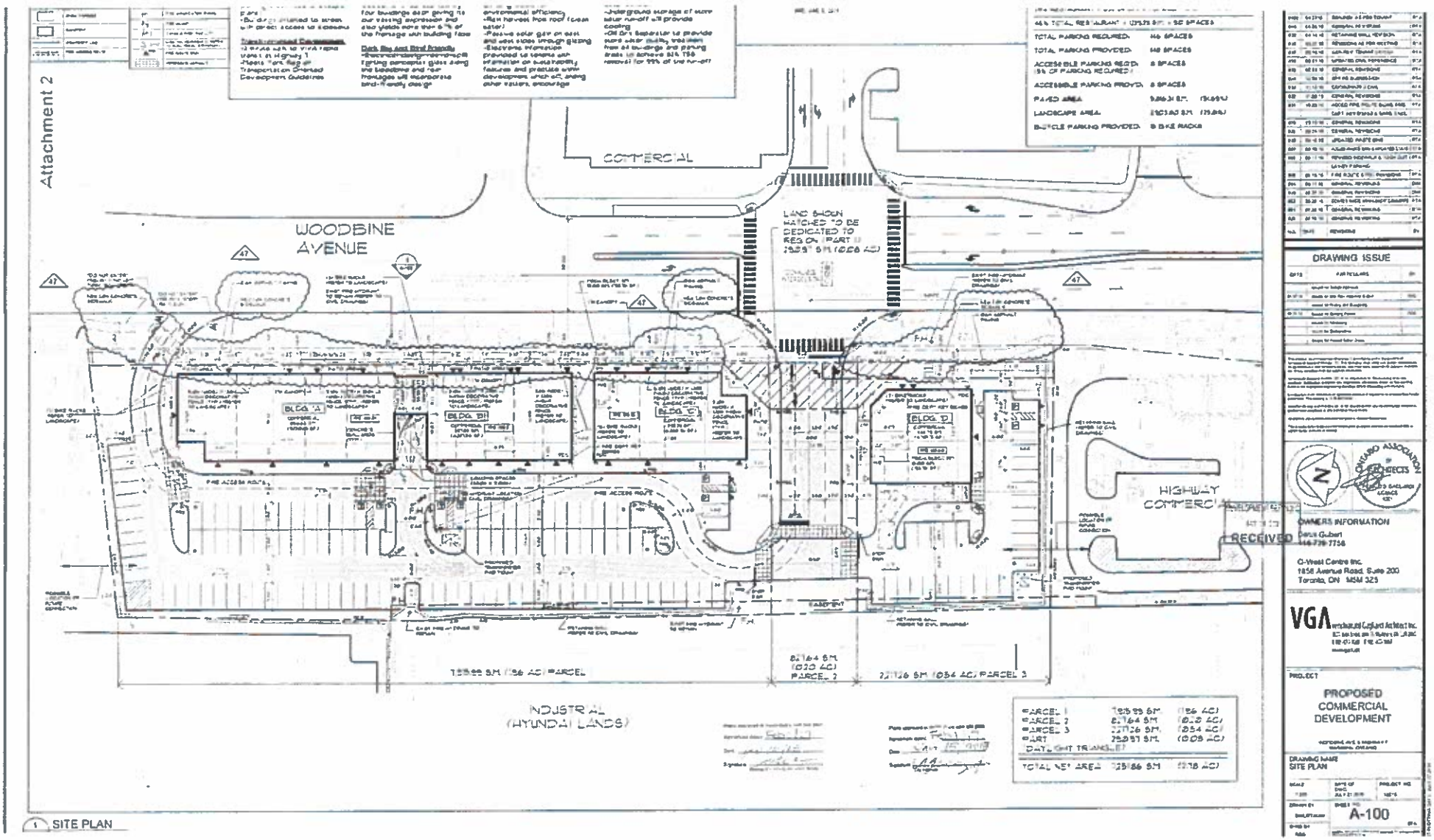
PREPARED BY:

Carlson Tsang, Planner II, West District

Attachment 1- Location Map



Attachment 2



TOTAL PARKING REQUIRED	146 SPACES
TOTAL PARKING PROVIDED	148 SPACES
ACCESSIBLE PARKING REQ'D (3% OF PARKING REQUIRED)	5 SPACES
ACCESSIBLE PARKING PROVD.	5 SPACES
PAVED AREA	9,840.34 SM. (0.984 HA)
LANDSCAPE AREA	2,923.83 SM. (0.292 HA)
BICYCLE PARKING PROVIDED	8 BIKE RACKS

PARCEL 1	19,599 SM	(1.96 AC)
PARCEL 2	8,164 SM	(0.82 AC)
PARCEL 3	22,136 SM	(2.54 AC)
PART	2,923.83 SM.	(0.292 AC)
DAYLIGHT TRIANGLE		
TOTAL NET AREA	52,823.83 SM	(5.28 AC)

DRAWING ISSUE

OWNERS INFORMATION
Denis Gubert
416-779-7756
C-West Centre Inc.
1858 Avenue Road, Suite 200
Toronto, ON M5M 3Z5

VGA Architects (Ontario) Architect Inc.

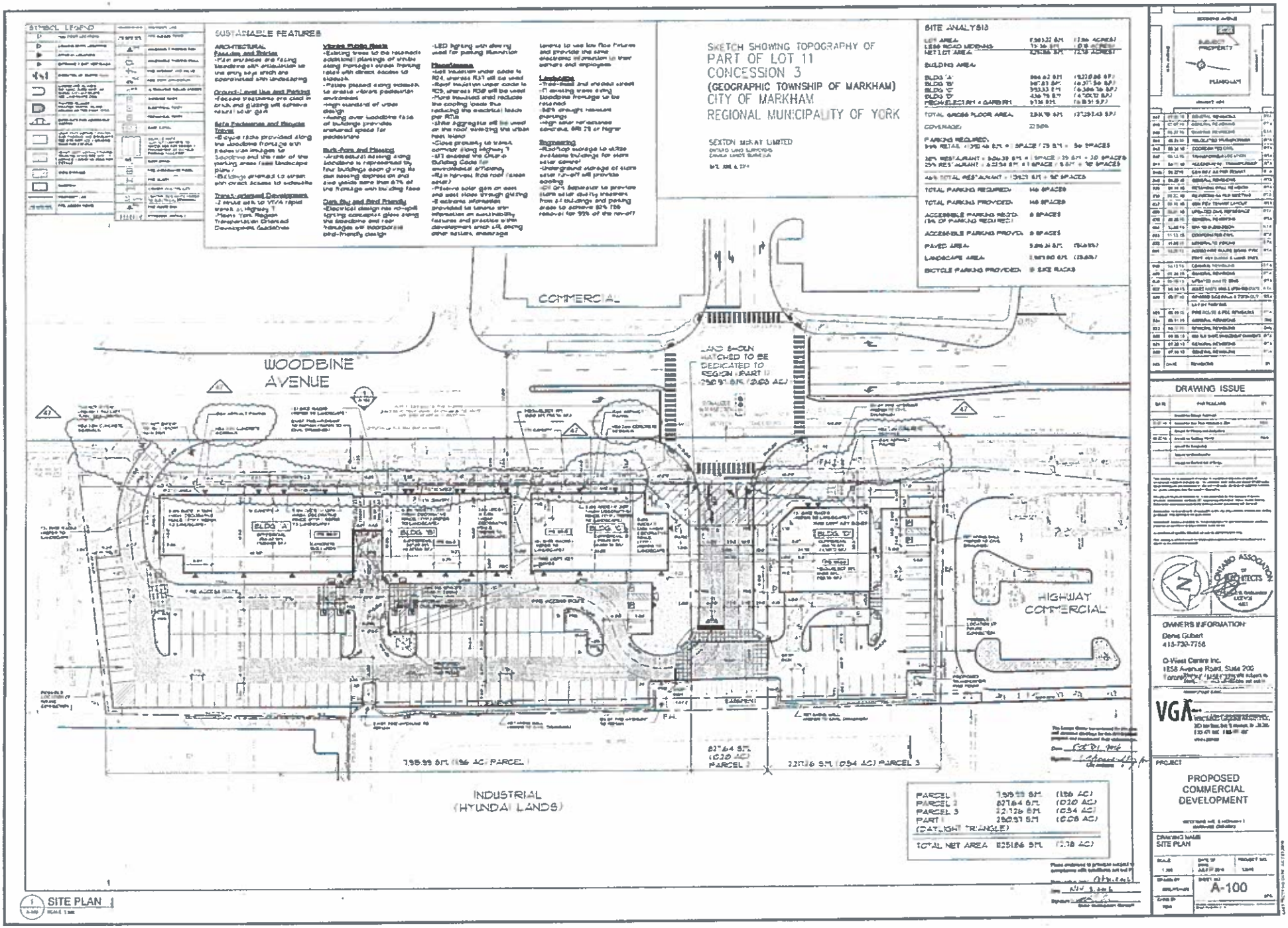
PROJECT
PROPOSED COMMERCIAL DEVELOPMENT

DRAWING NAME
SITE PLAN

A-100

1 SITE PLAN

Attachment 3



MARKHAM

Committee of Adjustment Resolution

File Number:	A/73/18
Hearing Date:	Wednesday, June 27, 2018
Owner(s):	Q-West Centre Inc. (Luisa Di Iulio)
Agent:	KLM Planning Partners Inc. (Alistair Shields)
Property Address:	8570 Woodbine Avenue Markham
Legal Description:	CON 3 PT LT 11 65R35635 PTS 1, 2, 3
Zoning:	By-law 165-80, as amended, M.C. (40%)
Official Plan:	Industrial
Ward:	2

Last Date of Appeal: Tuesday, July 17, 2018

Moved by Arun Prasad

Seconded by Tom Gutfreund

- ☒ Arun Prasad
- ☐ [redacted]
- ☒ Gary Muller
- ☒ Jeamie Reingold
- ☒ Tom Gutfreund
- ☒ Gregory Knight

THAT Application No. A/73/18, submitted by Q-West Centre Inc. (Luisa Di Iulio) owner(s) of 8570 Woodbine Avenue Markham , CON 3 PT LT 11 65R35635 PTS 1, 2, 3, requesting relief from the requirements of By-law No. 165-80, as amended, to permit the following:

a) Amending By-law 2015-122, Section 7.115.3 m) 2) i): restaurants within shopping centres including associated food courts or eating areas to have a parking rate of 1 parking space per 25 square metres of leasable floor area for that portion which occupies 27 percent or less of the total leasable floor area of the shopping centre, whereas the By-law requires 1 parking space per 25 square metres of leasable floor area for that portion which occupies 20 percent or less of the total leasable floor area of the shopping centre; b)Amending By-law 2015-122, Section 7.115.3 m) 2) ii): restaurants within shopping centres including associated food courts or eating areas to have a parking rate of 1 parking space per 9 metres of leasable floor area for that portion which occupies more than 27 percent of the total leasable floor area of the shopping centre, whereas the By-law requires 1 parking space per 9 metres of leasable floor area for that portion which

occupies more than 20 percent of the total leasable floor area of the shopping centre; c)Amending By-law 2015-122, Section 7.115.3 k): a maximum combined gross floor area of 2,620 sq. m for all buildings on a lot, whereas the By-law permits a maximum combined gross floor area of 2,560 sq. m for all buildings on a lot; as they relate to a commercial development.These variance requests be **approved** for the following reasons:

(a) In the opinion of the Committee, the general intent and purpose of the By-law will be maintained;

(b) In the opinion of the Committee, the general intent and purpose of the Official Plan will be maintained;

(c) In the opinion of the Committee, the granting of the variance is desirable for the appropriate development of the lot;

(d) In the opinion of the Committee, the requested variance is minor in nature.

Subject to the following conditions:

1. The variances apply only to the proposed development as long as it remains;
2. That the variance to permit a maximum combined gross floor area of 2,620 m^2 (28,201.45 ft^2) on the subject lands does not come into effect until Site Plan Application File: SC 18 177207 is endorsed to satisfaction of Director of Planning and Urban Design and that drive-thru component be elimnated.
3. That the total gross floor area devoted to restaurant uses on subject lands be limited to maximum of 1,370 m^2 (14,746.56 ft^2)

Any and all written submissions relating to this Application that were made to the Committee of Adjustment before its Decision, and any and all oral submissions related to this Application that were made at a public meeting, held under the Planning Act, have been taken into consideration by the Committee of Adjustment in its Decision on this matter.

Resolution Carried

SPECIAL NOTE TO OWNERS AND AGENTS: **It is the responsibility of the owner and/or agent to ensure that all conditions of approval are met through the respective departments noted therein. Failure to do so may result in additional approvals being required.**