

Memorandum to the City of Markham Committee of Adjustment
January 11, 2019

File: A/176/18
Address: 3265 7 Hwy E Markham
Applicant: First Markham Place Properties Inc. (Ornella Richichi)
Agent: Macaulay Shiomi Howson (Lorelei Jones)
Hearing Date: Wednesday, January 23, 2019

The following comments are provided on behalf of the Central Team. The applicant is requesting relief from the following requirements of By-law 165-80: RW, as amended, to permit:

- a) **Amending By-law 2016-147, Section 1.1 (a):** a total gross floor area of 4,860 square metres as it relates to a proposed Supermarket, whereas the By-law permits one 'Supermarket or Food Store' with a gross floor area of up to 2,550 square metres.

BACKGROUND

Property Description

The subject property is approximately 4 hectares of land municipally known as 3265 Highway 7 East. The site is located at the southeast corner of Highway 7 East and Fairburn Drive, west of Rodick Road. The property is occupied by a commercial development known as First Markham Place (see Appendix "B"). The 4,860 m² subject unit is vacant, and was previously occupied by a retail use known as Home Outfitters until Fall, 2018.

Proposal

The applicant is proposing to open a new grocery store within the existing 4,860 m², one storey unit. No exterior alterations are proposed to the building as part of the application.

Two coin operated shopping cart corrals are proposed against the north elevation wall on either side of the main entrance, and 6 bicycle parking spaces are being proposed on the west side of the building. The cart corrals and the bicycle parking will not remove existing parking stalls. Additionally, two employee carpool spaces are being provided in the parking lot located northeast of the unit (see Appendix "C"). These elements are consistent with discussions that were had with the Applicant at the time that the initial proposal to add a grocery store to this site was approved in 2016.

Official Plan and Zoning

Official Plan 2014 (partially approved on Nov 24/17, and further updated on April 09/18)

The subject property is designated "Mixed Use Midrise" in the 2014 City of Markham Official Plan. The designation provides for mid to large scale retail development providing goods and services, including grocery stores and specialty grocers, to address the needs of Markham residents.

The proposed larger format (4,860 m²) grocery store conforms with the Mixed Use Midrise criteria in the City of Markham's 2014 Official Plan.

Zoning By-law

The subject property is zoned "Retail Warehouse" (RW) within By-law 165-80, as amended by By-law 2016-147. Amending By-law 2016-147 was approved by Council in December, 2016 and introduced a "Supermarket or Food Store" as a permitted use, with a gross floor area of up to 2,550 m².

The proposed grocery store use conforms to the uses permitted under amending By-law 2016-147, however does not conform to the gross floor area (GFA) limit of 2,550 m² established in the amending By-law.

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

According to the information provided by the applicant on the application form, "A larger space has become available for lease within the plaza and the supermarket feels there is a market for more space".

Zoning Preliminary Review

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.

Increased Gross Floor Area Allowance for Grocery Store Use

The applicant is requesting that the permitted grocery store use be allowed to operate in an existing 4,860 m² unit, where as the By-law permits a supermarket or food store with a gross floor area of up to 2,550 m².

The grocery store use was initially proposed for the 2,550 m² unit previously occupied by the Golf Town retail store in the same commercial development. As such, when amending By-law 2016-147 was approved by Council to permit the grocery store use, a maximum GFA of 2,550 m² was established.

The parking requirements for a grocery store are the same as the requirements for the other retail uses within the property. Notwithstanding the proposed increased grocery store GFA, the unit will continue to comply with the shopping centre parking rate within the City's Parking By-law 28-97 as no additional GFA is being added to the commercial development.

Staff note that the 4,860 m² unit proposed for the grocery store has increased exposure relative to additional parking stalls located on the northeast side of the property, than the previously proposed 2,550 m² unit (see Appendix "C") does.

PUBLIC INPUT SUMMARY

A package containing 64 signed letters in opposition to the increased grocery store GFA, along with photos of the First Markham Place parking lot were received by the City on January 2, 2019. The template letters mention the proximity to existing grocery stores and the implications that the proposed GFA increase may have on traffic in the immediate area.

In addition, a letter written on behalf of WinCo Food Mart Fuyao Supermarket, located in the neighbouring plaza, was submitted to the City on December 13, 2018 in anticipation of the application. The letter opposes the proposed increase to the grocery store GFA citing negative economic impacts on neighbouring businesses, parking, and traffic as issues.

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

Given that a grocery store in this location is a permitted use within the City's Official Plan and the amending Zoning By-law, and that the larger, 4,860 m² unit complies with the City's parking By-law standards, Planning staff have no objections to the variance related to the maximum GFA as it relates to a food store.

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

PREPARED BY:



Luis Juarez, Planner, Central District

REVIEWED BY:



Richard Kendall, Development Manager, Central District

Appendix A – Conditions of Approval

Appendix B – Location Map

Appendix C – Plans

Appendix D – Zoning By-law Amendment 2016-147

File Path: Amanda\File\ 18 258915 \Documents\District Team Comments Memo

APPENDIX "A"

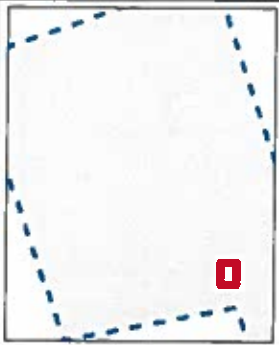
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/176/18

1. That the variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) dated December 10, 2018, attached as 'Appendix C' to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.
3. That the 4,860 m² gross floor area allowance as it relates to a supermarket only apply to the one proposed grocery store within the commercial development.

CONDITIONS PREPARED BY:



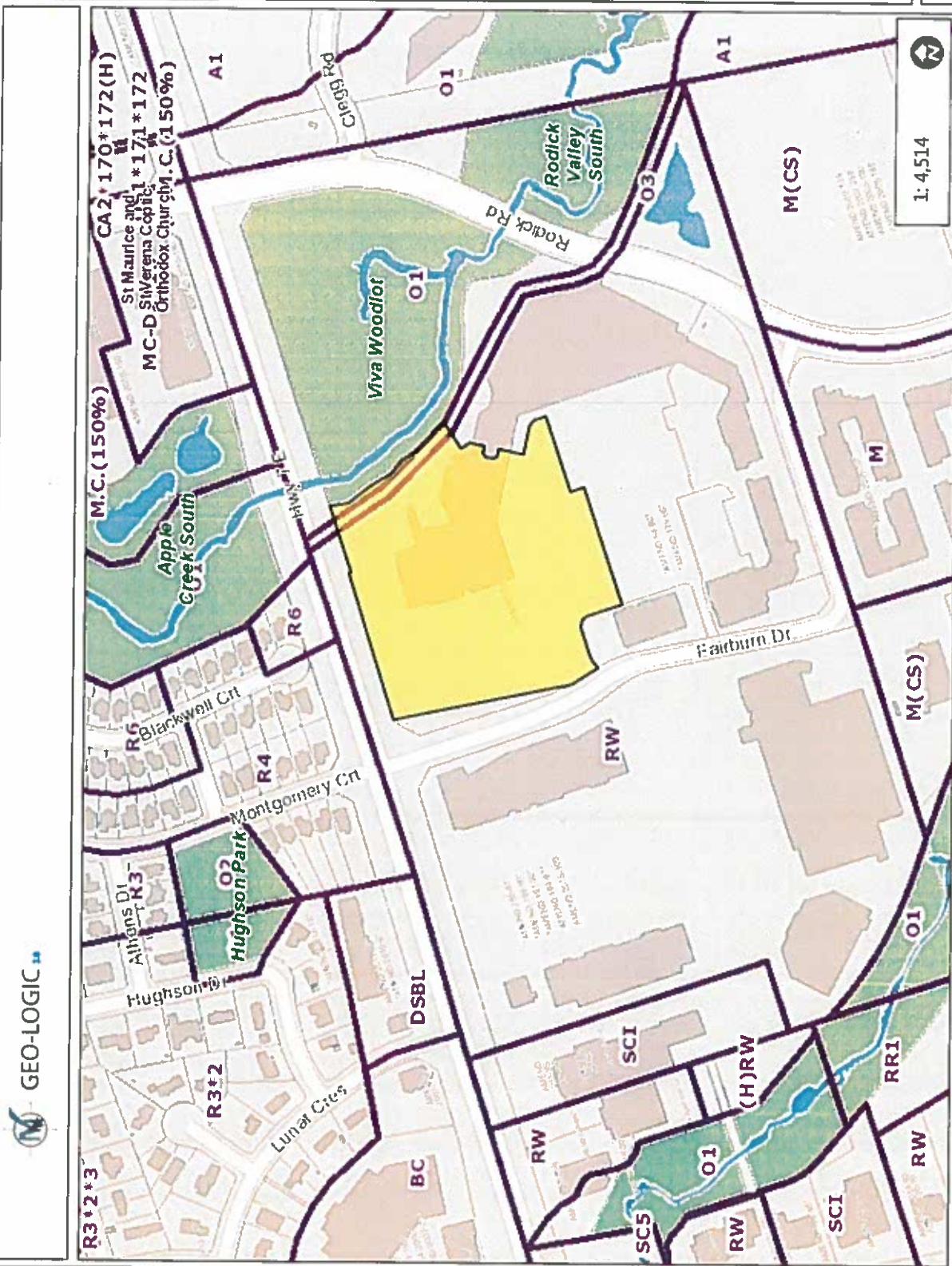
Luis Juarez, Planner, Central District



Legend

- Road Attributes
- Zoning Designations
- Building Footprints
- Ponds
- Creeks
- Rivers
- Parcel (MPAC)

Notes



1: 4,514

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

2293 0 114.66 229.3 Meters

NAD_1983 UTM_Zone_17N
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EXPLANATORY NOTE

BY-LAW 2016-147

A By-law to amend By-law 165-80, as amended

First Markham Place Properties Inc.

3265 and 3275 Highway 7 East

**CON 4 PT LOT 10 65R20150 PTS 8, 9 65R19636 PT 11, 12, 13, 14, 16 AND PT
PT 10**

ZA 16 170952

Lands Affected

This By-law applies to approximately 10 acres of land municipally known as 3265 and 3275 Highway 7 East. The land is located at the southeast corner of Highway 7 East and Fairburn Drive, west of Rodick Road. The property is occupied by commercial development known as First Markham Place.

Existing Zoning

The property is zoned "Retail Warehouse, Open Space and Open Space-Environmental Buffer" (RW, O1 & O3) by By-law 165-80, as amended. The majority of the subject property is zoned "Retail Warehouse" (RW) which permits a variety of commercial, industrial, retail, and restaurant uses.

Purpose and Effect

The purpose and effect of this by-law is to add a supermarket or food store to the list of uses permitted in the "Retail Warehouse" (RW) zone and to place a Hold Provision (H) on the lands, not to be lifted until the execution of a site plan agreement between the Owner and the City of Markham.



By-law 2016-147

A By-law to amend By-law 165-80, as amended

The Council of The Corporation of the City of Markham hereby enacts as follows:

1. That By-law 165-80, as amended, is hereby further amended as it applies to the lands outlined on Schedule 'A' as follows:
 - 1.1 Special Use Provisions


The following additional use is permitted:

 - a) One "Supermarket or Food Store" with a GROSS FLOOR AREA of up to 2,550 m².
2. Hold Provision
 - 2.1 For the purposes of this By-law, a Hold (H) zone is hereby established and is identified on Schedule 'A' attached hereto by adding the letter (H) in parenthesis following the zoning symbol.
 - 2.2 No person shall hereafter use, erect or alter any building or structure for the purposes permitted under this by-law, until an amendment to this by-law to remove the Hold (H) has come into effect pursuant to the provisions of Section 36 of the Planning Act.
 - 2.3 A Zoning By-law Amendment to remove the Hold (H) symbol from the lands shown on Schedule "A" shall not be passed until the following condition has been met:
 - a) Execution of a Site Plan Agreement between the Owner and the City of Markham.

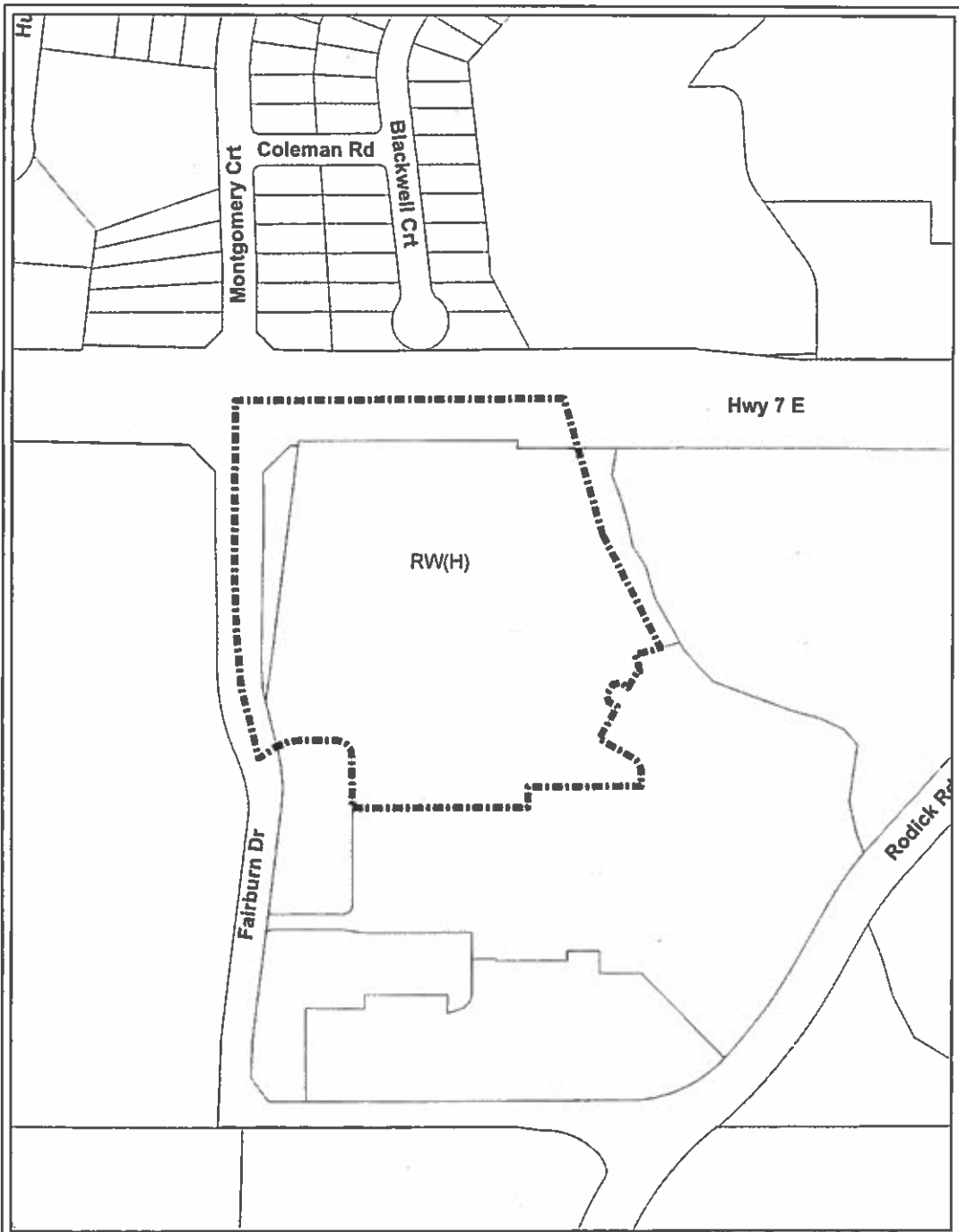
Read a first, second, and third time and passed on December 13, 2016.



Kimberley Kitteringham
City Clerk




Frank Scarpitti
Mayor



SCHEDULE " A " TO BY-LAW 2016-147
 AMENDING BY-LAWS DATED December 13, 2016



-  BOUNDARY OF AREA COVERED BY THIS SCHEDULE
-  HOLDING PROVISION
-  RETAIL WAREHOUSE ZONE

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NOTE: This Schedule should be read in conjunction with the signed original By-Law filed with the City of Markham Clerk's Office