

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

File: A/181/18
Address: 3500 Steeles Avenue E Markham
Applicant: Canderel (Neil Vorhrah)
Agent: Malone Givens Parsons (Lincoln Lo)
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 108-81: M.C. (80%), as amended, to permit:

- a) **By-law 108-81, Section 6.1 (f)**: a minimum gross floor area of 970 metres square, whereas the By-law requires a minimum gross floor area of 1,400 metres square.

BACKGROUND

Property Description

The subject property has an area of approximately 16.62 hectares and is municipally known as 3500 Steeles Avenue East. The subject site is located at the northwest corner of Steeles Avenue East and Esna Park Drive, east of Victoria Park Drive (see Appendix "B"). The property is occupied by a 14,745 m² commercial office building built in 1981, currently leased to TD Canada Trust among other tenants.

Proposal

The applicant is proposing to construct a 970 m² generator building on the northwest portion of the site (see Appendix "C"). Exterior alterations to the primary office building are not proposed and existing parking spaces will not be removed as part of this application. The generator building will act as an enclosure for a diesel generator that will provide tenants of the main office building with power in the event of a power failure.

The construction of the building will consist of insulated steel panels, steel mufflers, silencers, steel doors, steel frames, and will not contain windows to ensure that the accessory equipment building properly addresses safety, vibration, and acoustics. Additionally, the applicant has noted that the diesel generator contained within the building meets the Ministry of Environment's requirements for both emissions and noise.

Staff note that the proposed generator building involves the removal of 34 mature Austrian Pine trees on site. As a result, and as a condition of approval for this variance, compulsory tree planting is required in close vicinity to the location of the

removed trees. As outlined in Appendix "A", the submission of a planting plan satisfactory to Urban Design Staff is required.

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 "Business Park Office Priority Employment" in the 2014 City of Markham Official Plan. The designation provides for major office development in highly visible locations with access to Regional Rapid Transit Corridors and accessory and ancillary uses that directly support the primary uses of the designation.

The proposed ancillary generator building directly supports the primary office use on this site, and conforms to the Business Park Employment criteria in the City of Markham's 2014 Official Plan.

Zoning By-law

The subject property is zoned "Industrial Limited Commercial 80%" (M.C. 80%) within By-law 108-81. The designation allows for banks and financial institutions and professional and business offices. Additionally, the by-law permits accessory industrial equipment. The By-law indicates that each building erected on site must have a minimum gross ground floor area of 1,400 m².

The proposed ancillary generator building does not comply with the minimum gross ground floor area of 1,400 m² per building required under By-law 108-81.

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

According to the information provided by the applicant on the application form, "Canderel is unable to comply with the provisions of the by-law as the building does not need to be larger than planned; even with the included allowance for future expansion".

Zoning Preliminary Review Undertaken

The applicant has completed a Zoning Preliminary Review to confirm the variances required for the proposed development.

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.

Decreased Minimum Gross Floor Area Requirement for Generator Building

The applicant is requesting that the proposed ancillary generator building be permitted to be constructed with a ground floor area (GFA) of 970 m², whereas the By-law requires a minimum GFA of 1,400 m² for each building within a property.

As noted, the generator building is an ancillary building to support the operation of the primary 14,745 m² building. The proposed building is more than 50 metres from the Victoria Park Avenue street line with opportunities for screening.

Staff note that as per the City's Site Plan Control Exemption By-law, ancillary generator buildings are not required to obtain site plan control approval. As a result, the Owner is able to construct the ancillary generator building without the approval of a variance if the building constructed meets the 1,400 m² minimum GFA requirement outlined in By-law 108-81. Requiring the applicant to abide by the minimum GFA requirement may result in the removal of additional trees and greenspace and/or existing parking stalls. Additionally, the applicant has indicated that the proposed 970 m² ancillary generator building allows for future expansion if ever required.

As noted in the proposal section of this report, where trees are removed as part of the proposed works, Staff will require the Owner to provide tree replacements on-site, within the vicinity of the proposed works, to the extent feasible. A planting plan outlining the location of tree replacements must be submitted to the satisfaction of Urban Design Staff as a condition of this variance. Where the required tree replacement cannot be satisfied on-site, the remaining balance shall be paid as cash-in-lieu to the City.

PUBLIC INPUT SUMMARY

An adjacent tenant on Esna Park Drive provided comments to the City's Secretary Treasurer on January 10, 2019 citing safety and visibility concerns that may arise as a result of the proposed generator building.

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

Providing a variance for the minimum required GFA will result in a reduced impact on existing greenspace and parking than if the Owner were to build the ancillary generator building to the minimum GFA requirement established in By-law 108-81. Furthermore, given that the proposed ancillary generator building supports the office uses provided for in the Official Plan, Planning staff have no objections to the variance related to the minimum GFA as it relates to the ancillary generator building.

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.

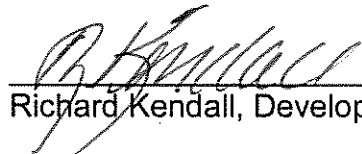
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Luis Juarez, Planner, Central District

REVIEWED BY:



Richard Kendall, Development Manager, Central District

Appendix A – Conditions of Approval
Appendix B – Location and Zoning Map
Appendix C – Plans

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

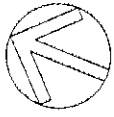
1. That the variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) dated September 20, 2018 (site plan), and September 24, 2018 (elevations), attached as 'Appendix C' to this Staff 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 Owner submits a Planting Plan prepared by a qualified Landscape Architect in accordance with the City's Streetscape Manual (2009), as amended from time to time and inspected to the satisfaction of the Director of Planning and Urban Design, or their designate;
4. That the Owner submits a Tree Assessment and Preservation Plan prepared by a qualified Arborist in accordance with the City's Streetscape Manual (2009), as amended from time to time and inspected to the satisfaction of the Director of Planning and Urban Design, or their designate;
5. That subject to the review and approval of a Tree Assessment and Preservation Plan, tree replacements are provided and/or tree replacement fees are paid to the City, if required by the Director of Planning and Urban Design, or their designate;
6. That subject to the review and approval of a Tree Assessment and Preservation Plan, tree protection fencing is erected in accordance with the City's Streetscape Manual (2009), as amended from time to time and inspected to the satisfaction of the Director of Planning and Urban Design, or their designate;
7. That the foregoing conditions related to tree replacements and/or tree replacement fees are to be secured through a separate development agreement or a site plan agreement associated with other proposed works on site.

CONDITIONS PREPARED BY:

Juarez
Luis Juarez, Planner, Central District

APPENDIX C

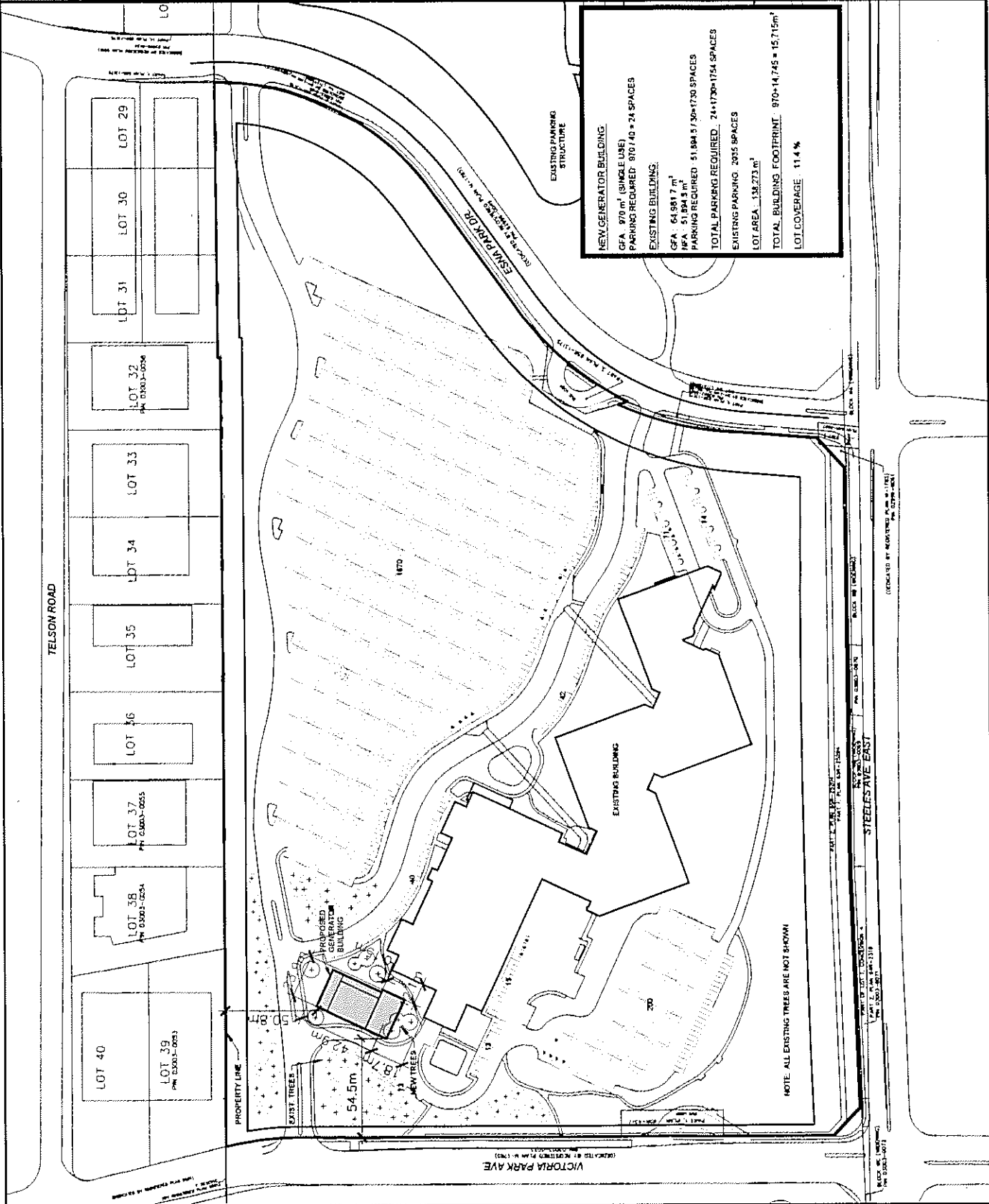
NO.	DATE	REVISION
1	10/10/2018	PRELIMINARY REVIEW
2	10/10/2018	ISSUES/REVISIONS



WZMH ARCHITECTS
 1001 15th Ave W
 Coquitlam, BC V3K 1Y9
 Tel: 604.671.1111
 Fax: 604.671.1111

**3500 STEELES AVE. EAST
 DATA CENTRE
 PARKING**

Scale: 1:1000
 Project No: 07344-000
 Drawing No: A0.1



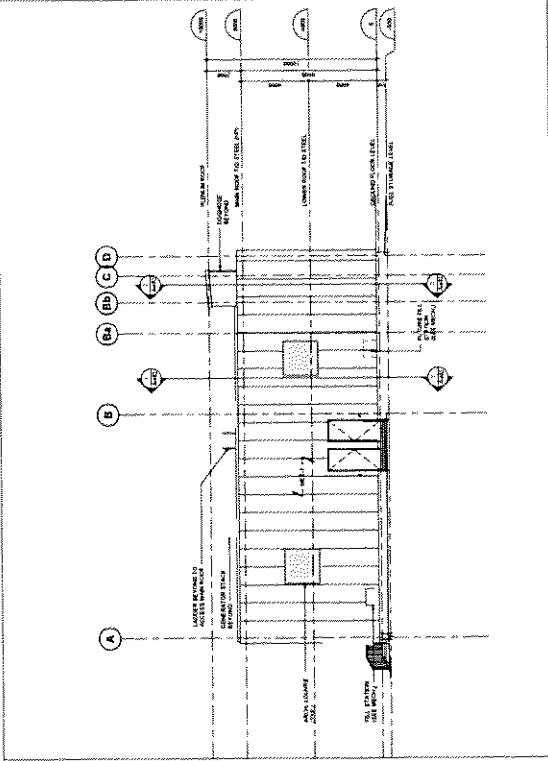
REVISIONS	
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WZMH
 43 CANDEREL
 3500 STEELERS PLACE
 BUILDING ELEVATIONS

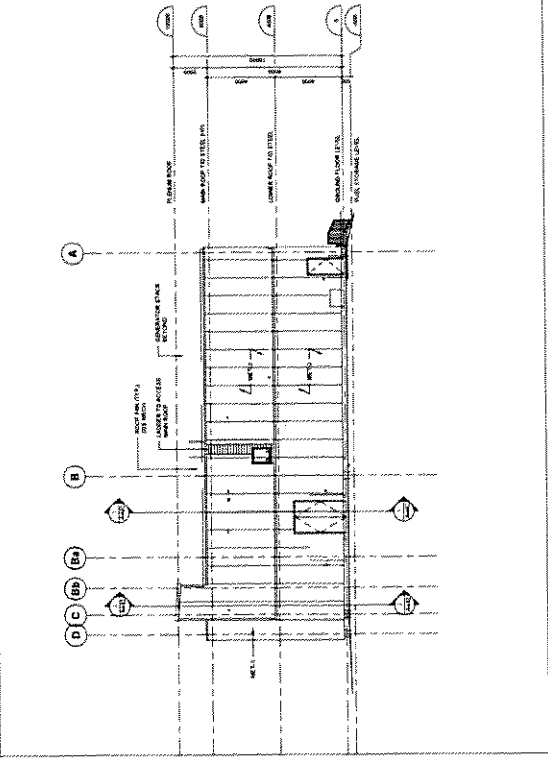
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DATE: 08/20/14
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 CHECKED BY: [Name]
 PROJECT NO: 14-00000000

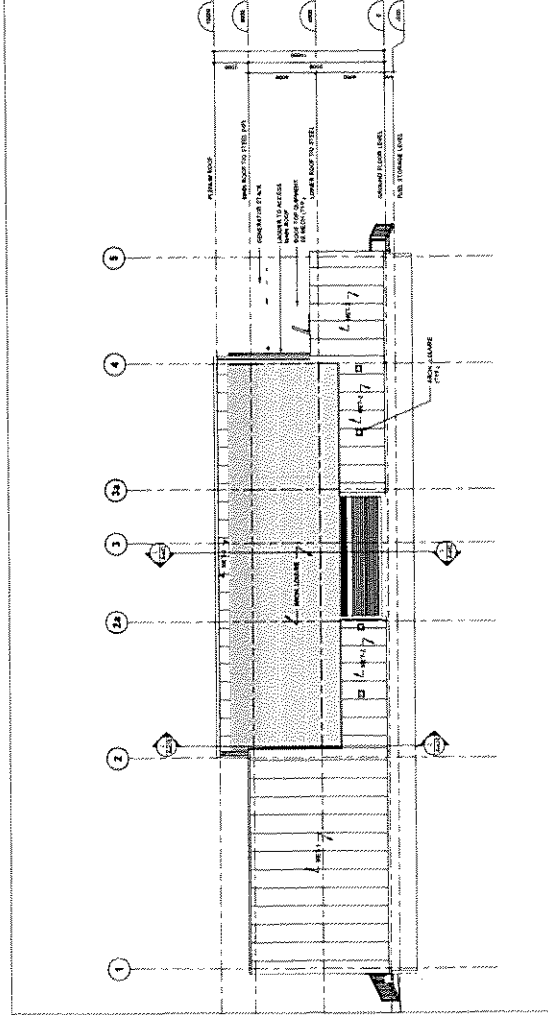
A-401



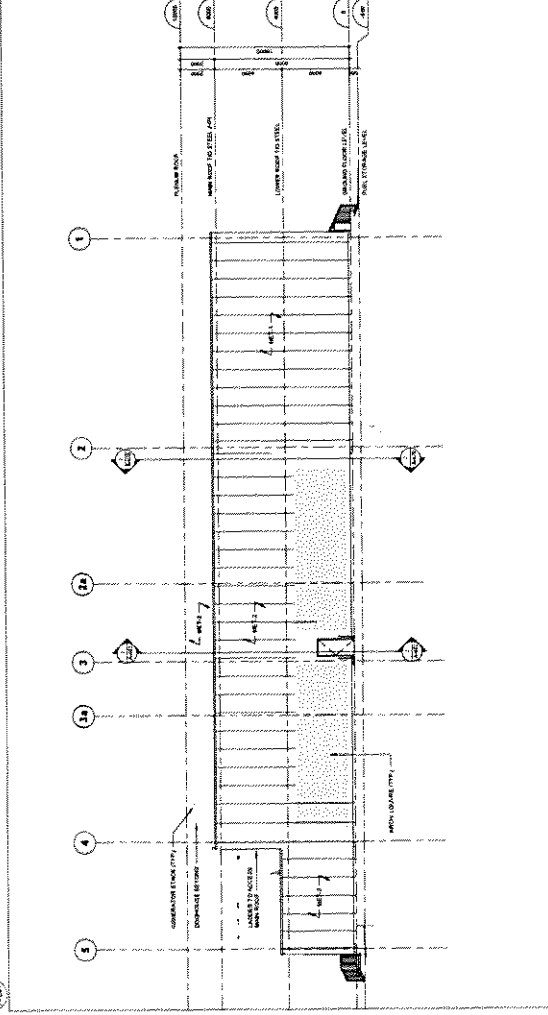
2 SOUTH ELEVATION
 1/8" = 1'-0"



1 NORTH ELEVATION
 1/8" = 1'-0"



4 EAST ELEVATION
 1/8" = 1'-0"



3 WEST ELEVATION
 1/8" = 1'-0"