

Memorandum to the City of Markham Committee of Adjustment
June 12, 2019

File: A/47/19
Address: 3600 Steeles Ave E Markham
Applicant: IBM Canada Ltd.
Agent: Malone Given Parsons Ltd. (Lincoln Lo)
Hearing Date: Wednesday June 12, 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:

- a) **Section 7.1.1:** a private school to be used by a publicly funded university of up to 30,000 ft², whereas the By-law does not permit private schools or publicly funded post secondary schools; as it relates to a proposed university space in an existing office building.

Staff note that an addendum letter received on June 10, 2019 from the applicant (attached as Appendix E), requests that the variance for a private school be reduced to 2,787 m² (30,000 ft²) to better reflect York University's programming requirements, whereas the application form requests a maximum GFA of 3,716 m² (40,000 ft²).

BACKGROUND

Property Description

The subject property has an area of approximately 10 hectares and is municipally known as 3600 Steeles Avenue East. The subject site is located at the northeast corner of Steeles Avenue East and Esna Park Drive, east of Victoria Park Drive (see Appendix "B"). The property is occupied by an approximately 78,967 m² (849,993 ft²) commercial office building built in 1990, home to IBM Canada's headquarters and other tenants including Innovation York, and ventureLAB.

Proposal

The applicant is proposing interior renovations to the existing office building to facilitate the renovation of existing training space to be used exclusively by York University. The proposed retrofitted space is considered a 'private school' by definition under By-law 108-81, as discussed in the comments section of this report. The private school will be entirely contained within the existing office building and will have a maximum gross floor area (GFA) of approximately 2,787 m² (30,000 ft²).

There will be no exterior alterations to the office building as part of this application. Furthermore, there are no proposed changes to the existing parking spaces, site access, or landscaping on the property.

Official Plan and Zoning

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

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. The designation also provides for a community college or university, but prohibits private school uses. Development standards in this area are intended to support new major office development and higher order educational intuitions.

While a private school use is prohibited in the Business Park Office Priority designation of the 2014 Official Plan, the proposed use is intended to exclusively accommodate the programing needs of York University as envisioned by the Business Park Office Priority designation provisions as they pertain to a college or university.

Zoning By-Law 108-81

The subject property is zoned M.C. (80%) under By-law 108-81, as amended, which allows for banks and financial institutions, professional and business offices, and commercial schools. Publically funded post secondary institutions do not meet the definition of commercial schools in the By-law, and therefore the proposed classroom space for York University more closely resembles a private school which does not comply with the By-law.

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

According to the information provided by the applicant in their submitted planning rationale letter and subsequent letter (see Appendices "C" & "E"), "Within the defined terms of the bylaw, the proposed use most closely resembles that of a Private School (defined as a school other than a public or separate school). A Private School is not permitted in the M.C. 80% zoning and as such, a minor variance is required".

Zoning Preliminary Review (ZPR) 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, including variances related to the City's Parking By-law (By-law 28-97). 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.

A private school of up to 30,000 ft² for a publicly funded university

The applicant is requesting relief to the By-law to permit the operation of a private school for the exclusive use of York University, whereas the By-law does not allow for private school or university uses.

As noted in the proposal section of this report, the private school use relates to classrooms previously used by IBM for their training needs. Notwithstanding that the proposed use is to be used exclusively by a publicly funded university, the use is considered a private school by definition in By-law 108-81. As discussed in the Official Plan section above, colleges and universities are recognized uses in the 2014 Official Plan at this location.

The proposed private school use will be fully contained within the existing office building and no exterior changes are proposed (see Appendix "D"). Furthermore, the classrooms to be used are existing corporate training rooms on the first level of the building, adjacent to York University's Innovation Centre, minimizing any potential conflicts with the existing office uses in the building. Staff note that the location of the proposed use is situated close to existing transit, and will allow York University to further leverage its presence within Markham until a permanent York University Campus is established in Markham Centre.

PUBLIC INPUT SUMMARY

No written submissions were received as of Friday, June 11, 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 minor variance. 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 zoning by-law, and how they satisfy

the tests of the Planning Act required for the granting of minor variances. Please refer to Appendix "C" for the Applicant's planning rationale letter detailing further justification for the minor variance.

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

File Path: Amanda\File\ 19 120923 \Documents\District Team Comments Memo


- Appendix A – Conditions of Approval
- Appendix B – Location and Zoning Map
- Appendix C – Planning Rationale Letter
- Appendix D – Plans
- Appendix E – Addendum Letter

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/47/19

1. That the variances apply only to the proposed development as long as it remains;
2. That the private school use have a maximum gross floor area (GFA) of 30,000 ft²; and,
3. That the private school be for exclusive use of York University and be fully enclosed within the existing building.

CONDITIONS PREPARED BY:

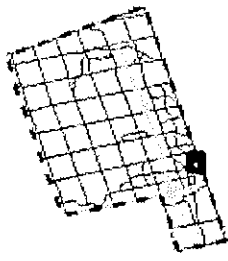


Luis Juarez, Planner, Central District

APPENDIX B

GEO-LOGIC 4

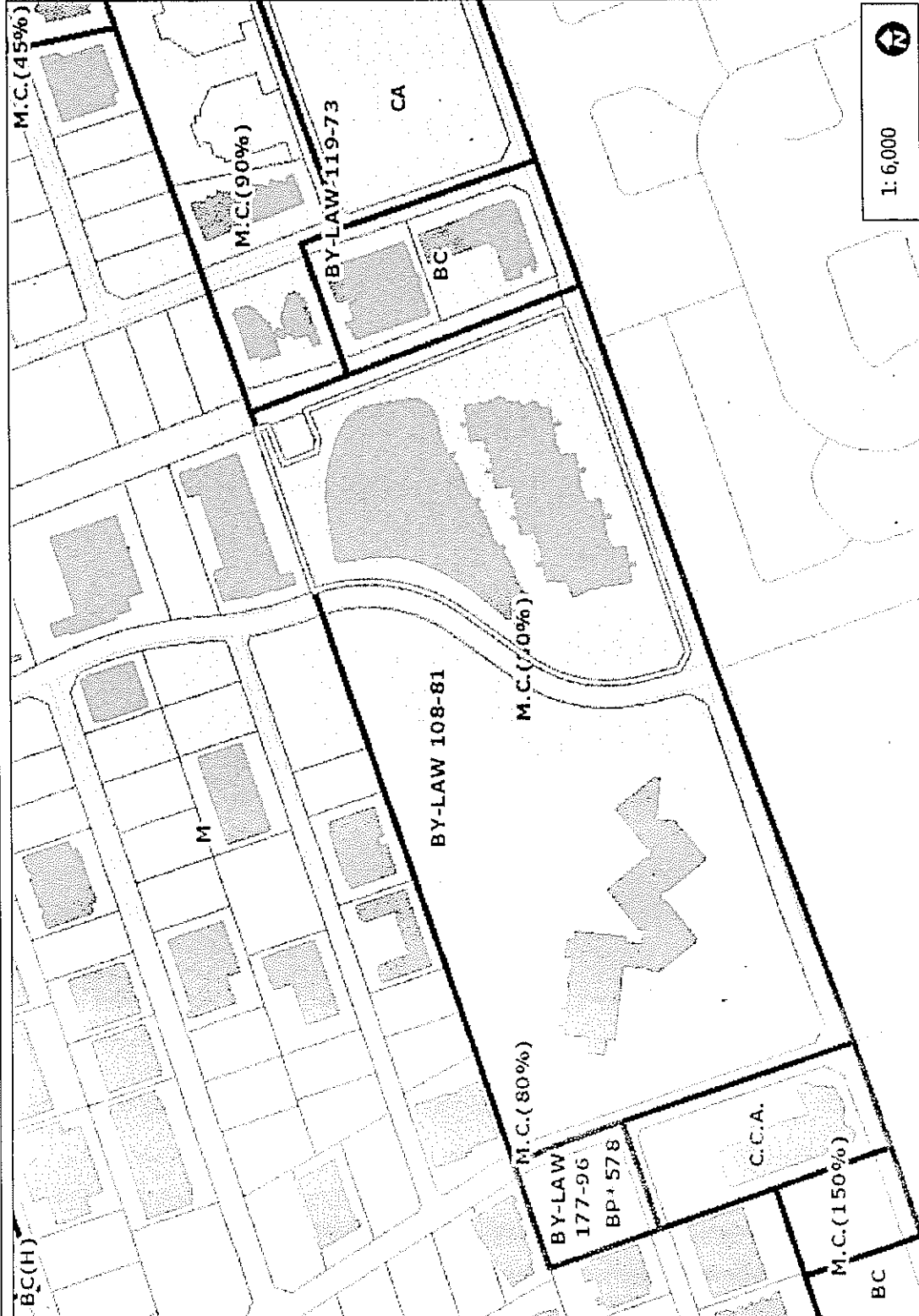
Appendix B - Location & Zoning Map



Legend

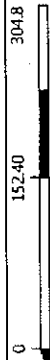
- Parent By-laws
- Zoning Designations
- LANDMARKS_6000
- SLRN_6000
- PARKS_6000
- Ponds
- Creeks
- Rivers
- Parcel (MPAC)
- Parks
- <all other values>
- Under Development

Notes



1: 6,000

304.8 152.40 304.8 Meters



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.

NAD 1983 UTM, Zone 17N
© City of Markham

THIS MAP IS NOT TO BE USED FOR NAVIGATION



Lincoln Lo
905 513 0170 x107
llo@mgp.ca

May 24, 2019

MGP File: 19-2798

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

Dear Mr. Leung

**RE: Application for Minor Variance
IBM Canada Limited
3600 Steeles Avenue East**

Malone Given Parsons Ltd. is the planning consultant for IBM Canada Ltd ("client"), owners of the above-noted property. On behalf of our client, we are pleased to submit the enclosed materials in support of a minor variance application to permit an additional use for a private school up to a maximum of 40,000ft². The school will be exclusively used by York University.

Further to reviewing the City of Markham Minor Variance Application Form and speaking with planning staff, please find enclosed with this letter the following, which comprises a complete application:

- A cheque in the amount of \$14,232.35 made payable to the City of Markham representing the fee for a minor variance with respect to a use;
- One (1) copy of the completed application form;
- One (1) copy of the Proof of Ownership;
- One (1) copy of the Survey Plan;
- Two (2) copies of a Site Plan Sketch; and,
- USB of all supporting documents.

The remainder of this letter provides the background and planning opinion for the Minor Variance Application.

In summary, the minor variance application seeks to:

Include "Private School" as a permitted use with the following conditions:

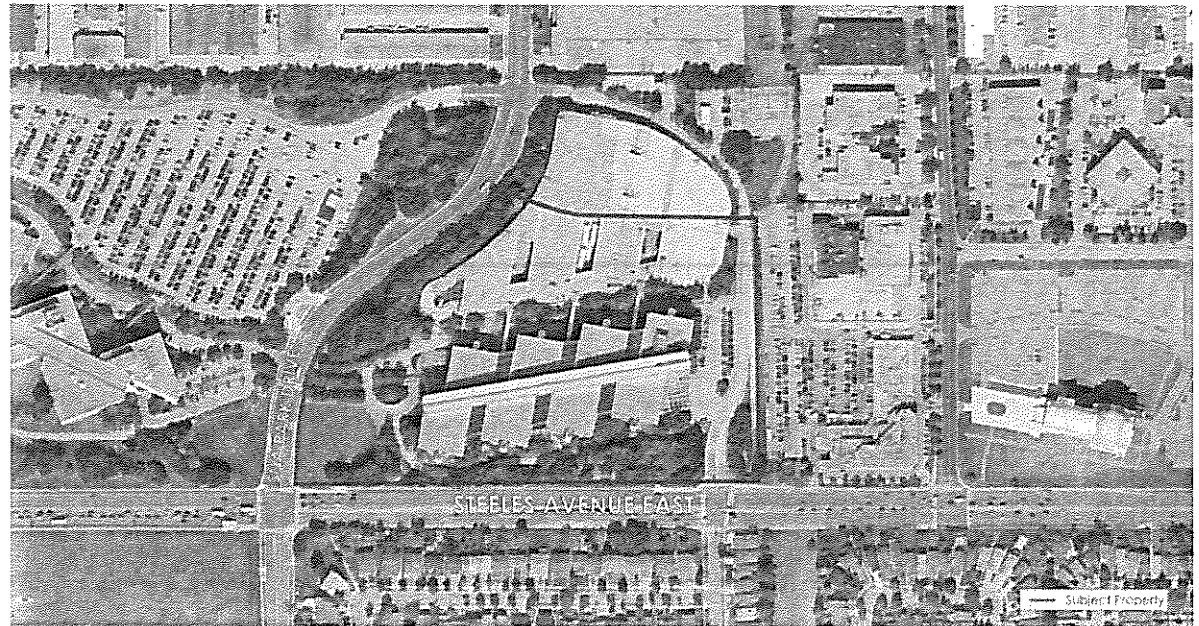
- **The "Private School" will have a maximum gross floor area (GFA) of 40,000 ft²; and**
- **Exclusive use of the "Private School" will be to York University.**

The subject property is located at the northeast corner of Steeles Avenue East and Esna Park Drive in the City of Markham. The lands are legally described in Table 1 and a context map of the property and surrounding area is shown in Figure 1.

Table 1 – Subject Lands

#	Legal Description	Municipal Address
1	PCL E-1, SEC M1785; BLK E, PL M1785; EXCEPT PTS 1, 2, 3 & 8, 65R13014 AND EXCEPT PT 5, 65R13175; S/T LT1101293; S/T EASE IN FAVOUR OF THE REGIONAL MUNICIPALITY OF YORK, OVER PTS 1 & 2, PL 65R27916 AS IN YR627334 TOGETHER WITH AN EASEMENT OVER PT BLK C PL M1785 BEING PART 4 ON 65R36168 & PART ESNA PARK DRIVE, PL M1785 BEING PART 5 ON 65R36168 AS IN YR2576299 TOGETHER WITH AN EASEMENT OVER PART BLOCK C PLAN M1785, PART 1 65R35932 AS IN YR2647203 CITY OF MARKHAM	3600 Steeles Avenue East

Figure 1 – Context Map



Proposed Development and Requested Minor Variance

The subject property contains IBM Canada’s headquarters, which was completed in 1990. The existing seven storey office building contains approximately 850,000ft² of office space and contains other smaller tenants including Innovation York (which leads the research and innovation goals of York University) and ventureLAB.

York University intends to expand and leverage their presence at this location and is planning to enter into a lease with IBM to utilize existing classroom space within the office building in order to start offering classes for the Fall 2019 term.

In order to provide York University with enough space to be flexible in their class offerings while also ensuring that there is a good balance between educational and employment uses within the IBM building, the variance is requesting to cap the GFA of the school space to 40,000ft².

This amount of space would represent just under 5% of the GFA in the existing building. It is our opinion that the proposed university space would not conflict with the existing office space in the building and would provide potential synergies with existing tenants and may attract other incubator type tenants in the building and surrounding area.

It is our understanding from discussions with York University that there is no plan (unintentional or otherwise) to replace the vision the City has with York University for a larger complex within Markham Centre. The original vision for the York University Markham Centre campus was for a Phase 1 development of ~400,000ft² that would accommodate 4,000 students. At full build - out, the campus was to accommodate 10,000 students.

The proposed university space within the IBM headquarters would only represent ~10% of the Phase 1 vision and is not intended to undermine the City's and York University's long-term objective to locate a satellite campus within Markham Centre. It should also be noted that no overnight accommodation is proposed as part of this proposal.

The site is zoned *Select Industrial and Limited Commercial (M.C. 80%)* under By-law 108-81. Within the defined terms of the bylaw, the proposed use most closely resembles that of a *Private School* (defined as a school other than a public or separate school). A *Private School* is not permitted in the M.C 80% zoning and as such, a minor variance is required.

Table 2 identifies the existing zoning provisions applicable and the relief required to By-law 108-81 to permit the concept as proposed.

Table 2 – Requested Variances to Markham Zoning Bylaw 108-81

Zoning Section	Zoning Provision	Requested Variance
<p>7.4.1</p>	<p>a) All of the uses permitted in Section 7.1.1 – (M Zone)</p> <p>b) Commercial – banks and financial institutions chartered under the laws of Canada, professional and business offices, COMMERCIAL SCHOOLS, HOTELS and MOTELS</p> <p>c) Notwithstanding the provisions of Sections 4.3.5 and 4.3.8 of this by-law, ACCESSORY USES shall be permitted in business and professional office BUILDINGS, HOTELS and MOTELS as follows:</p> <ul style="list-style-type: none"> i. RESTAURANTS and lounges in HOTELS and MOTELS. ii. RETAIL STORES and PERSONAL SERVICE SHOPS to serve the occupants of an office BUILDING or BUILDINGS or the patrons of a HOTEL or MOTEL and, notwithstanding the generality of the foregoing, RETAIL STORES shall only include convenience goods such as newspapers, magazines, tobacco products and candy. <p>d) The ACCESSORY USES permitted in Section 7.4.1(c)(ii) above shall be subject to the following provisions:</p> <ul style="list-style-type: none"> i. No access shall be permitted except from the interior lobby of a BUILDING. ii. Outdoor exterior signs advertising the ACCESSORY USES shall not be permitted. iii. The FLOOR AREA devoted to these uses per BUILDING shall not exceed five percent (5%) of the GROSS FLOOR AREA or 100 square metres whichever is the lesser. 	<p>In addition to the permitted uses, a <i>Private School</i> is permitted subject to the following conditions:</p> <p>The <i>Private School</i> will have a maximum gross floor area (GFA) of 40,000 ft²</p> <p>Exclusive use of the <i>Private School</i> will be to York University</p>

Planning Rationale

Under Section 45(1) of the *Planning Act*, a minor variance must satisfy four tests to be deemed appropriate. As such, the four tests and planning rationale for this application is provided as follows:

1) Does the application conform to the general intent of the Official Plan?

In the 2014 Markham Official Plan (Map 3), the entire subject property is designated *Business Park Employment*. The intent of this designation is to ensure these areas are planned and developed for prestige industrial and office development to provide prime business locations that help attract new business and support the retention of existing businesses in Markham.

In reviewing the permitted uses, the *Business Park Employment* designation does not permit a *private school*, however it does permit a community college or university; and permits a trade school or commercial school wholly located within a building.

As discussed, the proposal is to allow York University to operate classroom space wholly located within the IBM building and it is our opinion that its functionality is most comparable to the listed permitted uses (community college, university, trade/commercial school). As a public university, York obtains their funding from a combination of tuition fees and government funding. This is a large difference to *private schools* where they gather the majority of funding from student/private endowments.

It is anticipated that with only 5% of the total space occupied for the proposed school use, any traffic/parking impacts over and above what the existing office space demands would be negligible. The inclusion of the school space also has the opportunity to provide synergies with the existing offices already located within the building and to attract new businesses.

For the reasons noted, the proposed use conforms to the general intent of the Official Plan.

2) Does the application conform to the general intent of the Zoning By-law?

The Markham Zoning By-law 108-81 zones the subject property Select Industrial and Limited Commercial (M.C. 80%). Uses permitted include commercial uses (banks, professional and business offices, commercial schools, hotels and motels) and industrial uses (warehouse, manufacturing, goods repair and service, data processing centres including education/administration centres, research laboratories, printing establishments).

The minor variance is requesting a *Private School* of up to 40,000 ft² to be used exclusively by York University be permitted. This use would function in a similar manner to a commercial school, which is a permitted use in the Zoning By-law. The requested variance would also bring the By-law into conformity with the City's Official Plan which permits universities, trade schools and commercial schools on the subject site, which as discussed, is most comparable to the use being proposed.

As such, the proposed use conforms to the general intent of the Zoning By-law.

3) Is the application Minor?

The variance is minor in nature as the additional permitted use will not result in any structural changes or additions to the built form. The proposed *private school* use does not conflict with the other uses (existing or permitted) in the building. Rather, it is anticipated that the proposed use would bring in university related working groups (research and admin staff, instructors/professors) and a variety of post-secondary students that are analogous to an average office worker. The additional university space would also allow York University to leverage their already existing presence within the building.

It is not anticipated that the daily activities that currently exist will be negatively impacted by the additional users brought by the proposed school use over and above that of a typical business office tenant.

It is our opinion that this proposal is minor and will not cause any negative impacts.

4) Is the application desirable for the appropriate development of the lands in question?

The proposed university will not adversely affect the current land use of the property and is in fact complementary to the current office use. The school space will attract young and talented students and professionals by providing a space to learn and teach. The proximity to the IBM, Innovation York, and ventureLAB may also provide potential future opportunities for young professionals to secure employment in the City of Markham and attract other incubator type tenants in the building and surrounding area. Attracting and developing this type of talent would be beneficial for the City.

The location of the site is in a prime area for access for workers and students and provides ample parking and transit connections. The 2014 Markham Official Plan (Map 2) identifies Steeles Avenue as a Regional Rapid Transit Corridor and connects the site with express and local bus connections to the GO Train and YRT/TTC transit networks.

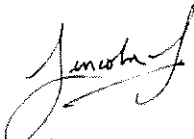
York University is an established academic institution with ties to the GTA and its residents for over 50 years. Providing school space for a small satellite campus would provide a desirable higher-order academic institution in Markham while a solution for a larger campus in Markham Centre is worked on. As such, the development is desirable and is an appropriate development for the subject property.

Summary

It is our opinion that this application represents good planning, is minor in nature and meets the requirements of the *Planning Act* for a minor variance. We request to be put on the next available Committee of Adjustment hearing date. If you require any additional information, or wish to discuss the application, please do not hesitate to contact me at anytime.

Yours very truly,

Malone Given Parsons Ltd.

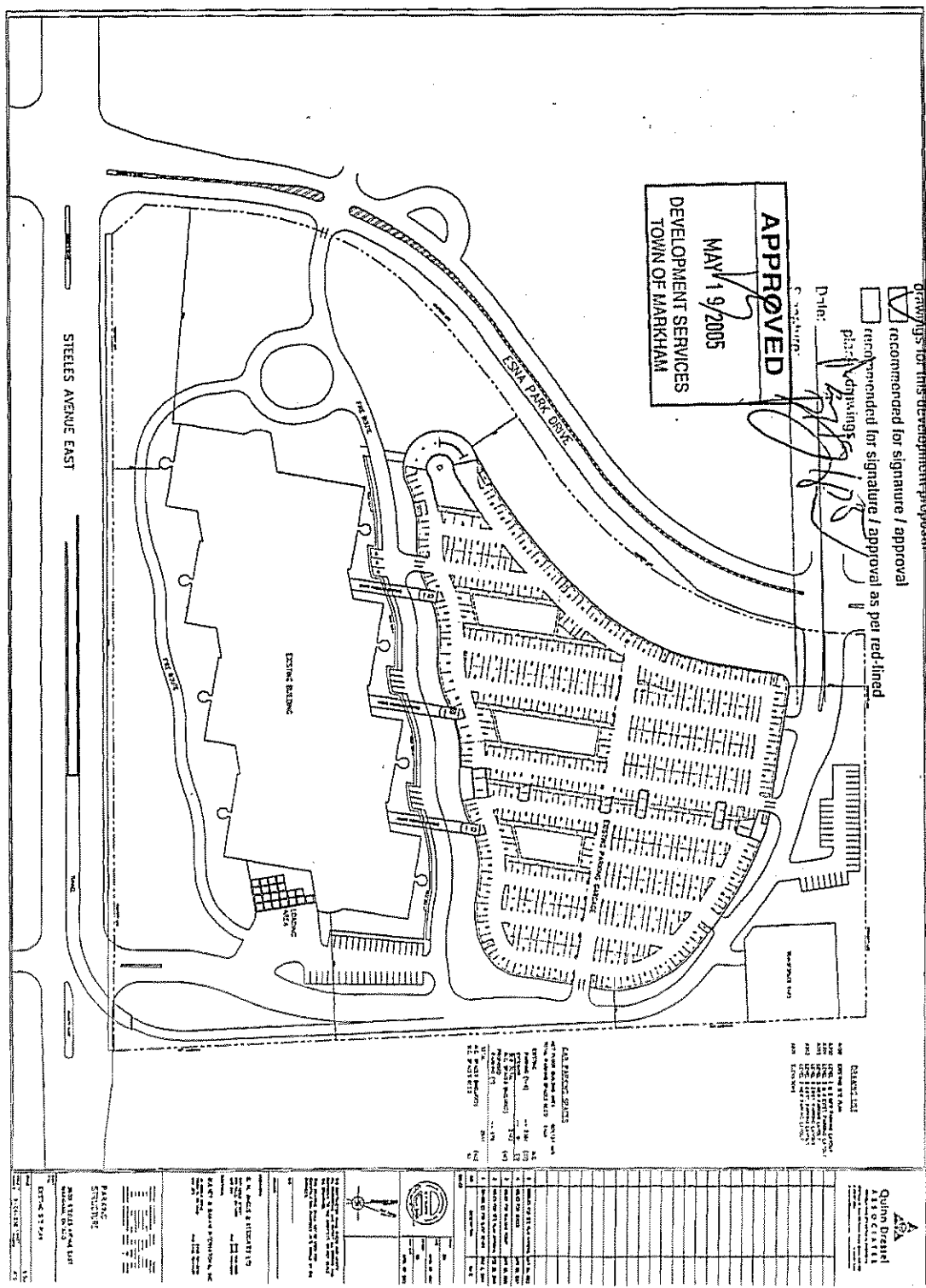


Lincoln Lo, MCIP, RPP

APPENDIX D

THIS IS DRAWING No. A100
 REFERRED TO IN SECTION 3.1(b)
 OF AN AGREEMENT BETWEEN THE TOWN
 OF MARKHAM AND IBM Canada Ltd.
 DATED Approved May 19, 2005

The original may be viewed at the Town office.



APPROVED
 MAY 19/2005
 DEVELOPMENT SERVICES
 TOWN OF MARKHAM

The Design Group has reviewed the site plan and elevation drawings for this development proposal
 recommended for signature / approval
 recommended for signature / approval as per red-lined plan / drawings
 Date: _____
 Signature: _____

The Design Group has reviewed the site plan and elevation drawings for this development proposal

EXISTING BUILDING
 EXISTING DRIVEWAY
 EXISTING DRIVE
 EXISTING SIDEWALK
 EXISTING CURB
 EXISTING LANDSCAPE
 EXISTING UTILITIES
 EXISTING FENCE
 EXISTING WALL

DATE REVISIONS
 NO. DATE DESCRIPTION
 1 05/19/05 INITIAL DESIGN
 2 05/19/05 REVISED PER TOWN COMMENTS

NO.	DATE	DESCRIPTION
1	05/19/05	INITIAL DESIGN
2	05/19/05	REVISED PER TOWN COMMENTS

Title: **PARKING STRUCTURE**
 Project: **IBM CANADA LTD.**
 Location: **MARKHAM, ONTARIO**
 Drawing No.: **A100**
 Scale: **AS SHOWN**
 Author: **QUINN DESIGN ASSOCIATES**
 Date: **MAY 19, 2005**

Juarez, Luis

From: Lincoln Lo <LLo@mgp.ca>
Sent: Friday, June 7, 2019 1:55 PM
To: Kendall, Richard
Cc: Leung, Justin; Juarez, Luis; Leung, Melissa; Rohan Sovig
Subject: A/47/19 - 3600 Steeles Ave E Revision

Hi Richard,

As discussed, on behalf of IBM – I would like to revise the variance application to reduce the cap to **30,000sf.** for the proposed private school (university) use (i.e. York U).

It is my understanding from discussions with IBM and York U that 30,000sf. will provide them with the flexibility to establish both the confirmed early phases of the project, which includes course offerings in their professional studies programs for upper-year undergraduates and for graduate students, but also provides them with the opportunity for expansion in these areas based on the success of this initiative.

This is a unique pilot program for the university and IBM, so the extent of the potential uptake is still to be determined, but by all accounts, the partnership is anticipated to evolve and grow. It is also my understanding that it remains York U's priority to proceed with their Markham campus and they see this project with IBM as complementary, particularly in strengthening their presence and engagement in the City Markham in the interim and as part of their overall presence in Markham.

If you require a formal letter detailing the cap reduction, please let me know. Thank you again for all your assistance.

Thanks,

Lincoln Lo, MCIP, RPP, PLE
Principal



140 Renfrew Drive, Suite 201, Markham, ON, L3R 6B3 Canada www.mgp.ca
T: 1.905.513.0170 x107 M: 1.416.543.9427

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