

# Memorandum to the City of Markham Committee of Adjustment

March 16, 2022

**File:** A/004/20  
**Address:** 7750 McCowan Road, Markham  
**Applicant:** Suncor Energy Inc.  
**Agent:** Brutto Consulting  
**Hearing Date:** Wednesday March 23, 2022

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

The applicant is requesting relief from the following requirements of the “Special Commercial Five (SC5) Zone” in By-law 90-81, as amended, to permit:

**a) Section 4.7.2:**

a building to be constructed within 23.98 m of the centerline of 14th Avenue, whereas the By-law does not permit any building or structure to be constructed within 30.0 m of the centreline of any arterial road or Provincial Highway;

**b) Amending By-law 16-84, Section 1.5(c)(iii):**

a minimum side yard setback of 3.296 m, whereas the By-law requires a minimum setback of 6 m; and

**c) Amending By-law 16-84, Section 1.5(e)(ii):**

a minimum landscaped strip of 3.0 m immediately abutting 14<sup>th</sup> Avenue, whereas the By-law requires a width of not less than 9.0 m; as it relates to the reconstruction of the canopy and kiosk of an existing gas station.

## BACKGROUND

### Property Description

The approximately 5,896.31 m<sup>2</sup> (63,467.35 ft<sup>2</sup>) subject property is located on the southwest corner of 14<sup>th</sup> Avenue and McCowan Road (see Appendix “A” – Aerial Photo). The property is surrounded by established residential neighbourhoods, and is located along two regional arterial roads with access to both 14<sup>th</sup> Avenue and McCowan Road.

There is an existing gas station, 29.41 m<sup>2</sup> (316.57 ft<sup>2</sup>) kiosk, and 401.08 m<sup>2</sup> (4,317.19 ft<sup>2</sup>) car wash on the property, which according to building permit records was constructed in 1990.

### Proposal

The applicant is proposing to demolish the existing gas station and kiosk and construct a new gas station and a one-storey 190.83 m<sup>2</sup> (2,054.08 ft<sup>2</sup>) convenience store (see Appendix “B” – Site Plan). The existing car wash will remain, with minor upgrades to the building façade.

A Site Plan Control application (SPC 20 121202) is being reviewed concurrently by the City and delegated to Staff for approval.

### **Application History**

In accordance with Planning Staff's recommendation, this application was deferred sine die by the Committee of Adjustment ("the Committee") at the initial hearing on March 9, 2022 (see Appendix "C" – March 9, 2022 Draft Meeting Minutes). The deferral provided the applicant time to request additional variances identified during the review of the Site Plan Control application (and as identified in variances b) and c) listed above). The deferral also allowed for an updated notice of hearing to appropriately reflect these additional requests, in accordance with the *Planning Act* R.S.O. 1990, c. P.13, as amended. The initial variance requested is noted in the previous staff report (see Appendix "D" – Previous Staff Report).

### **Official Plan and Zoning**

Official Plan 2014 (partially approved on November 24, 2017, and updated on April 9, 2018)

The subject property is designated "Mixed Use Low Rise" in the 2014 Official Plan, which are lands that serve an important function for nearby residents by providing access to goods and services. This designation provides for a range of uses including recreation, commercial school day care centre, dwelling unit, financial institution, office, place of worship, restaurant, retail, and service uses. Automobile service stations are not permitted in the "Mixed Use Low Rise" designation.

Notwithstanding, Section 11.1.3 of the 2014 Official Plan recognizes that legally existing development and land uses shall be deemed to conform as they exist at the time the 2014 Official Plan was approved.

Zoning By-Law 90-81, Amending By-law 16-84, and Amending By-law 369-88

The subject property is zoned "Special Commercial Five (SC5) Zone" in By-law 90-81, as amended. The proposed gas station does not comply with the standards of the Zoning By-law with respect to the minimum setback from an arterial road.

Site-specific Zoning By-law Amendment 16-84 identifies development standards for the SC5 Zone and permits an automobile service station. The current proposal does not comply with the standards of the Amending By-law with respect to the minimum side yard setback and minimum landscaped buffer strip.

Staff also note that site-specific Zoning By-law Amendment 369-88 was also passed in 1988 to permit a gas bar and automobile washing establishment. The proposed uses comply with the By-law requirements.

### **Zoning Preliminary Review (ZPR) Undertaken**

The applicant completed a ZPR (ZPR 19 136889) on December 9, 2019 to confirm the initial variances required for the proposed development. The applicant subsequently submitted revised plans during the Site Plan Control application process to include the revised property boundaries resulting from the land conveyance for the road widening along 14<sup>th</sup> Avenue. Comments were received from the building department on February 28, 2022 through the review of their Site Plan Control application process 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:

- 1) The variance must be minor in nature;
- 2) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- 3) The general intent and purpose of the Zoning By-law must be maintained;
- 4) The general intent and purpose of the Official Plan must be maintained.

### **Reduced Centerline Setback from an Arterial Road**

The applicant is requesting a minimum setback of 23.98 m (78.67 ft.) from the centerline of 14<sup>th</sup> Avenue, whereas the By-law requires that no part of any building or structure shall be constructed within 30.0 m (98.43 ft.) of 14<sup>th</sup> Avenue.

As previously noted, 14<sup>th</sup> Avenue is a regional arterial road that is owned and operated by York Region. York Region has reviewed the application and has confirmed that they have no comments on the variance application. Given the comments received, Staff have no objections to the requested variance.

### **Reduced Side Yard Setback and Landscaped Strip**

The applicant is requesting a minimum side yard setback of 3.296 m (10.814 ft.), whereas the By-law requires a minimum setback of 6.0 m (19.69 ft.).

The applicant is also requesting a minimum landscaped strip of 3.0 m (9.84 ft.) immediately abutting 14<sup>th</sup> Avenue, whereas the By-law requires a width of not less than 9.0 m (29.53 ft.).

The proposed reduced side yard setback and landscaped strip will facilitate the conveyance of land to accommodate a road widening along 14<sup>th</sup> Avenue. Staff do not anticipate any adverse impacts as a result of the proposed variance requests.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of March 16, 2022. 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 are of the opinion that the variance request meets the four tests of the *Planning Act* and have no objection. 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 see Appendix “E” for conditions to be attached to any approval of this application.

PREPARED BY:



\_\_\_\_\_  
Melissa Leung, Planner, Central District

REVIEWED BY:



\_\_\_\_\_  
Dimitri Pagratis, Senior Planner, Central District

**APPENDICES**

- Appendix “A” – Aerial Photo
- Appendix “B” – Site Plan
- Appendix “C” – March 9, 2022 Draft Meeting Minutes
- Appendix “D” – Previous Staff Report
- Appendix “E” – Conditions



Legend

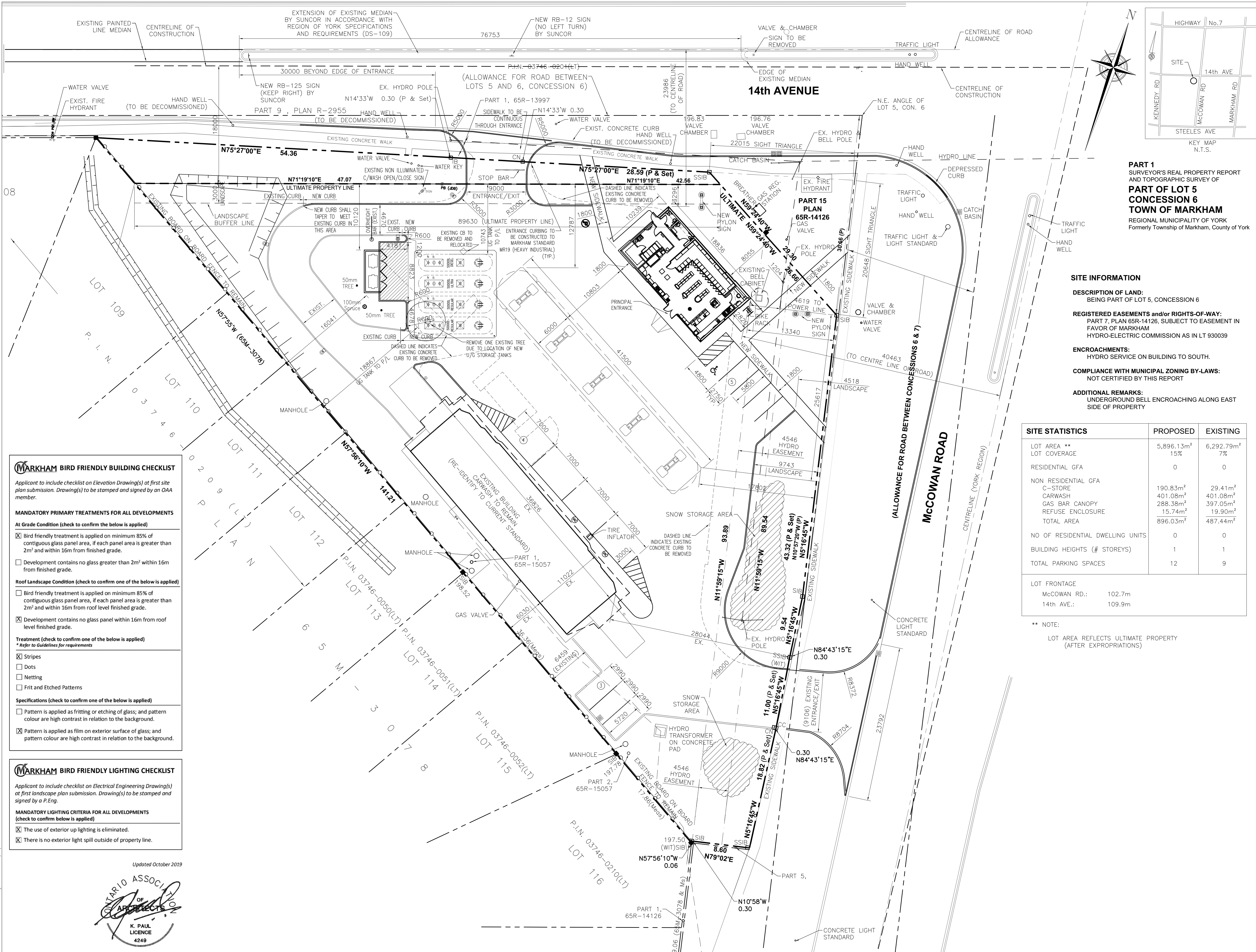
- Parcel
- Park Facility
- Parks
  - Under Development
  - <all other values>

1: 1,128



57.3 0 28.65 57.3 Meters

Notes



**PART 1**  
 SURVEYOR'S REAL PROPERTY REPORT  
 AND TOPOGRAPHIC SURVEY OF  
**PART OF LOT 5**  
**CONCESSION 6**  
**TOWN OF MARKHAM**  
 REGIONAL MUNICIPALITY OF YORK  
 Formerly Township of Markham, County of York

**SITE INFORMATION**

**DESCRIPTION OF LAND:**  
 BEING PART OF LOT 5, CONCESSION 6

**REGISTERED EASEMENTS and/or RIGHTS-OF-WAY:**  
 PART 7, PLAN 65R-14126, SUBJECT TO EASEMENT IN FAVOR OF MARKHAM HYDRO-ELECTRIC COMMISSION AS IN LT 930039

**ENCROACHMENTS:**  
 HYDRO SERVICE ON BUILDING TO SOUTH.

**COMPLIANCE WITH MUNICIPAL ZONING BY-LAWS:**  
 NOT CERTIFIED BY THIS REPORT

**ADDITIONAL REMARKS:**  
 UNDERGROUND BELL ENCROACHING ALONG EAST SIDE OF PROPERTY

SITE STATISTICS	PROPOSED	EXISTING
LOT AREA **	5,896.13m <sup>2</sup>	6,292.79m <sup>2</sup>
LOT COVERAGE	15%	7%
RESIDENTIAL GFA	0	0
NON RESIDENTIAL GFA		
C-STORE	190.83m <sup>2</sup>	29.41m <sup>2</sup>
CARWASH	401.08m <sup>2</sup>	401.08m <sup>2</sup>
GAS BAR CANOPY	288.38m <sup>2</sup>	397.05m <sup>2</sup>
REFUSE ENCLOSURE	15.74m <sup>2</sup>	19.90m <sup>2</sup>
TOTAL AREA	896.03m <sup>2</sup>	487.44m <sup>2</sup>
NO OF RESIDENTIAL DWELLING UNITS	0	0
BUILDING HEIGHTS (# STOREYS)	1	1
TOTAL PARKING SPACES	12	9
LOT FRONTAGE		
McCOWAN RD.:	102.7m	
14th AVE.:	109.9m	

\*\* NOTE:  
 LOT AREA REFLECTS ULTIMATE PROPERTY (AFTER EXPROPRIATIONS)

**ISSUED**

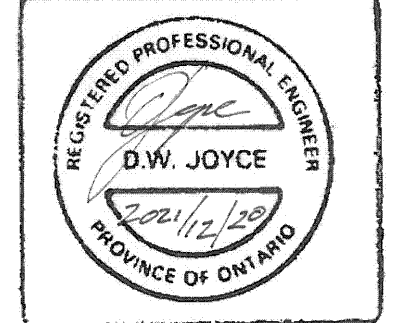
NO.	DATE	DESCRIPTION
01	JULY 15 2020	SITE PLAN APPLICATION
02	DEC. 20, 2021	RE-ISSUED FOR SITE PLAN APPLICATION

**REVISION**

NO.	DATE	DESCRIPTION
1	DEC. 20, 2021	UPDATES PER CITY COMMENTS AND REVISED R-PLAN

**NOTES**

SEAL



The contractor will check and verify dimensions and report errors and omissions to the designer and the design professional whose seal is affixed to this drawing. Do not scale the drawings.

This drawing will not be used for construction purposes until issued for construction by the design professional whose seal is affixed to this drawing and whose signature is below.

ISSUED FOR CONSTRUCTION DATE

**DIMENSIONS AND CONDITIONS TO BE VERIFIED ON THE PREMISES**

**K PAUL ARCHITECT INC.**  
 TORONTO • VANCOUVER • DELANEO  
 2660 Sherwood Heights Dr. Suite 200, Oakville, Ontario, L6J 7Y8  
 www.kpaularchitect.com  
 (905)337-9800 fax (905)337-1986



**DRAWING TITLE**  
 SITE PLAN  
 CITY AMANDA FILE  
 #20121202 SPC

**PROJECT**  
 7750 McCOWAN ROAD  
 @ 14th AVENUE  
 MARKHAM, ONT

DRAWN	CHECKED
J. NORTON	
SCALE	DATE
1:250	2021-12-20
PROJECT NO.	DRAWING NO.
35440	SP1

**MARKHAM BIRD FRIENDLY BUILDING CHECKLIST**  
 Applicant to include checklist on Elevation Drawing(s) at first site plan submission. Drawing(s) to be stamped and signed by an OAA member.

**MANDATORY PRIMARY TREATMENTS FOR ALL DEVELOPMENTS**  
 At Grade Condition (check to confirm the below is applied)

- Bird friendly treatment is applied on minimum 85% of contiguous glass panel area, if each panel area is greater than 2m<sup>2</sup> and within 16m from finished grade.
- Development contains no glass greater than 2m<sup>2</sup> within 16m from finished grade.

**Roof Landscape Condition (check to confirm one of the below is applied)**

- Bird friendly treatment is applied on minimum 85% of contiguous glass panel area, if each panel area is greater than 2m<sup>2</sup> and within 16m from roof level finished grade.
- Development contains no glass panel within 16m from roof level finished grade.

**Treatment (check to confirm one of the below is applied)**  
 \* Refer to Guidelines for requirements

- Stripes
- Dots
- Netting
- Frit and Etched Patterns

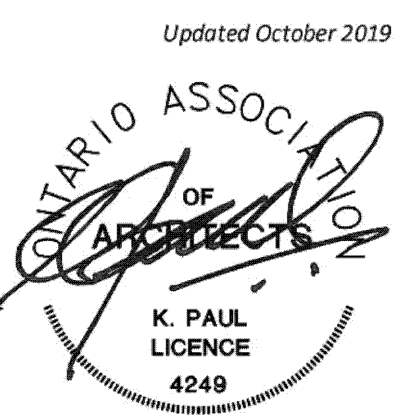
**Specifications (check to confirm one of the below is applied)**

- Pattern is applied as fritting or etching of glass; and pattern colour are high contrast in relation to the background.
- Pattern is applied as film on exterior surface of glass; and pattern colour are high contrast in relation to the background.

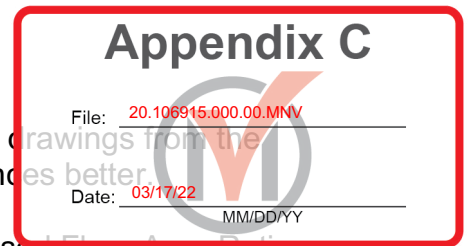
**MARKHAM BIRD FRIENDLY LIGHTING CHECKLIST**  
 Applicant to include checklist on Electrical Engineering Drawing(s) at first landscape plan submission. Drawing(s) to be stamped and signed by a P.Eng.

**MANDATORY LIGHTING CRITERIA FOR ALL DEVELOPMENTS**  
 (check to confirm below is applied)

- The use of exterior up lighting is eliminated.
- There is no exterior light spill outside of property line.



Committee of Adjustment Minutes  
Wednesday, March 9, 2022



Manager of Zoning & Special Projects Brad Roberts provided drawings from the building permit so that committee could understand the variance better.

Committee member Tom Gutfreund inquired about the increased Floor Area Ratio.

Committee Chair Greg Knight explained that they squared off the second floor.

The agent, Orest Stoyanovskyy, stated that he would provide street views and improved renderings for the committee.

**Moved By: Tom Gutfreund**  
**Seconded By: Arun Prasad**

THAT Application No A/190/21 be deferred sine die.

Resolution Carried

**NEW BUSINESS:**

1. **A/004/20**

**Owner Name: Suncor Energy Products Partnership**  
**Agent Name: Brutto Consulting (Francesco Fiorani)**  
**7750 McCowan Road, Markham**  
**CON 6 PT LT 5 65R14272 PT 1 65R14126 PTS 6 & 7**

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

- a) **Section 4.7.2:**  
a building to be constructed within 23.98 m of the centerline of 14th Avenue, whereas the By-law does not permit any building or structure to be constructed within 30.0 m of the centreline of any arterial road or Provincial Highway;

as it relates to the reconstruction of the canopy and kiosk of an existing gas station. **(Central District, Ward 8)**

**Moved By: Tom Gutfreund**  
**Seconded By: Arun Prasad**

THAT Application No A/004/20 be deferred sine die.

Resolution Carried

## Appendix D

File: 20.106915.000.00.MNV

Date: 03/17/22  
MM/DD/YY

### Memorandum to the City of Markham Committee of Adjustment March 02, 2022

**File:** A/004/20  
**Address:** 7750 McCowan Road, Markham  
**Applicant:** Suncor Energy Inc.  
**Agent:** Brutto Consulting  
**Hearing Date:** Wednesday March 09, 2022

The following comments are provided on behalf of the Central Team.

The applicant is requesting relief from the following requirements of the “Special Commercial Five (SC5) Zone” in By-law 90-81, as amended, to permit:

**a) Section 4.7.2:**

a building to be constructed within 23.98 m of the centerline of 14th Avenue, whereas the By-law does not permit any building or structure to be constructed within 30.0 m of the centreline of any arterial road or Provincial Highway; as it relates to the reconstruction of the canopy and kiosk of an existing gas station.

This application is related to Site Plan Control application (SPC 20 121202) for the proposed canopy and kiosk, which is being reviewed concurrently by the City and delegated to Staff for approval.

### COMMENTS

The requested variances are associated with the Zoning comments received from the first submission of the Site Plan Control application. Through a detailed review of the revised second submission, Zoning staff have identified additional non-compliance with the By-law as it relates to minimum setback and landscape requirements.

Staff received formal confirmation of the applicant’s request to defer this application on March 1, 2022. Accordingly, Staff recommend that the Committee of Adjustment defer the subject application sine die to allow the notice of hearing to capture any additional variances in accordance with the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

PREPARED BY:

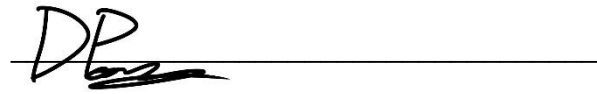


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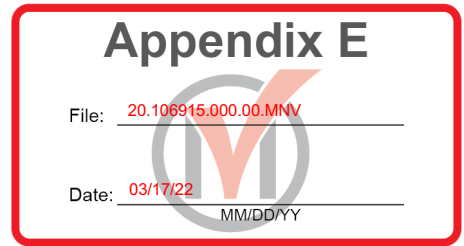
Melissa Leung, Planner, Central District



REVIEWED BY:

A handwritten signature consisting of the letters 'DP' in a cursive style, positioned above a solid horizontal line.

Dimitri Pagratis, Senior Planner, Central District



**APPENDIX “E”  
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/004/20**

- 1) 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) attached as ‘Appendix B’ to this Staff Report, or further revised by any site plan ‘endorsed’ or ‘approved’ drawings, 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;

CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to read "Melissa Leung".

\_\_\_\_\_  
Melissa Leung, Planner, Central District