

Memorandum to the City of Markham Committee of Adjustment

January 10, 2022

File: A/127/21
Address: 9889 Markham Road, Unit 3 – Markham, ON
Applicant: 2827865 Ontario Inc.
Agent: AR Design Associates (Asha Shanker)
Hearing Date: January 19, 2022

The following comments are provided on behalf of the East District team. The applicant is requesting relief from the following “Major Commercial Exception *246 (MJC*246) Zone” requirement under By-law 177-96, as amended, as it relates to a proposed restaurant use. The variance requested is to permit:

a) By-law 177-96, Section 7.246.3(b):

restaurants to have a maximum floor area of 570.0 m² (6,135.43 ft²), whereas the by-law requires a maximum floor area of 475.0 m² (5,112.86 ft²) for all restaurants.

PROPERTY DESCRIPTION

The 1.17 Ha (2.90 Ac) subject property is located on the east side of Markham Road, north of Castlemore Avenue, west of the local transit rail corridor, and south of Major Mackenzie Drive East. The subject property contains a multi-unit shopping centre, occupied by three buildings, as follows and shown in Appendix “C”:

- a two-storey multi-unit building containing a mix of commercial uses situated at the south portion of the site, and municipally known as 9889 Markham Road (“the subject building”);
- a one-storey multi-unit building containing a mix of commercial uses situated at the northeast corner of the site, and municipally known as 9909 Markham Road; and,
- a one-storey commercial building identified as “The William Read House” designated under Part IV of the *Heritage Act, R.S.O. 1990, c. O.18, as amended*, situated at the northwest corner of the site, and municipally known as 9899 Markham Road.

A total of 30 units occupy the existing buildings, and 146 existing parking spaces are located on the site (see Appendix “B”). According to City mapping, the rear portion of the subject property is within the Toronto and Region Conservation Authority’s (TRCA) Regulated Area. Surrounding land uses within close proximity to the property include a mix of commercial, office, residential, institutional and employment uses. Public transit is also available in the area.

PROPOSAL

The applicant is requesting to increase the maximum total floor area for restaurants permitted on the subject property. The applicant is proposing to locate the restaurant use in Unit Three of the two-storey multi-unit building, as it is currently vacant. No changes to the exterior of the building are being proposed.

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

The 2014 Official Plan designates the subject property “Mixed Use Mid Rise”, which provides for a range of residential, institutional, and commercial uses, including restaurants that contribute to the creation of complete communities.

The subject property is located within the “Markham Road Corridor – Mount Joy” which requires a new Secondary Plan for the area. Until this new Secondary Plan is approved, the policies of the 1987 Official Plan remain applicable.

1987 Official Plan

The 1987 Official Plan designates the subject property “Commercial”, and “Major Commercial Area”. The planned function of a “Major Commercial Area” is to provide for a large-scale multi-use, multi-purpose area offering a diverse range of retail, service, community, institutional, and recreational uses servicing a major portion of the municipality and broader regional market. Specifically, Policy 3.4.6.1 c) i) states that lands designated “Major Commercial Area” may be zoned to permit restaurants.

Zoning By-Law 177-96, as amended

The subject property is split zoned “Open Space One (OS1) Zone” and “Major Commercial Exception *246 (MJC*246) Zone” under By-law 177-96, as amended (see Appendix “C”). The subject building is located entirely within the “Major Commercial Exception *246 (MJC*246) Zone”.

In accordance with Policy 3.4.6.1 c) i) of the City’s 1987 Official Plan, the “Major Commercial Exception *246 (MJC*246) Zone” permits a maximum floor area of up to 475.0 m² (5,112.86 ft²) for all restaurants. Exception *246 also requires a minimum of 146 shared parking spaces for the subject property having a net floor area of no more than 3,750.0 m² (40,364.66 ft²). The proposed development does not comply with the By-law requirements with respect to the maximum permitted floor area for restaurant uses.

ZONING PRELIMINARY REVIEW (ZPR) NOT UNDERTAKEN

The applicant has confirmed that a ZPR has not been conducted; however, the applicant received comments from building staff to confirm the variance required for the proposed development.

COMMENTS

The *Planning Act, R.S.O. 1990, c. P.13, as amended*, states that four tests must be met in order for a variance to be granted by the Committee of Adjustment (the “Committee”):

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, 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.

Planning and Transportation Comments

The applicant is requesting to permit restaurants to have a maximum floor area of 570.0 m² (6,135.43 ft²), whereas the by-law requires a maximum floor area of 475.0 m² (5,112.86 ft²) for all restaurants. This is an increase of 95.0 m² (1,022.57 ft²).

Excluding Unit 3 where the restaurant use is proposed, the unit occupancy list notes that five other units are currently vacant on the subject property, which could become occupied

in the future. While a parking variance is not required, staff had requested that the applicant provide a parking study to demonstrate that the existing 146 parking spaces are sufficient to accommodate the proposed increase of restaurant GFA. Dated December 8, 2021, a parking study was conducted over the course of two Fridays and Saturdays from 11:00 AM to 9:00 PM. It was determined that the parking demand peaked at 63 parking spaces, with a surplus of 82 parking spaces on the subject property. The study also applies a rate of one parking space per 25.0 m² (269.10 ft²) of gross floor area for the vacant units.

Transportation staff have reviewed the parking study, and are satisfied that the existing parking supply would accommodate the increase in restaurant floor area, and future occupancy of the vacant units. Approval of the requested variance could also provide for improved tenant occupancy, and enhanced flexibility in services offered.

EXTERNAL AGENCIES

Toronto and Region Conservation Authority (TRCA) Comments

The TRCA has no objections to this application, as the proposed development is limited to internal renovations, and no exterior changes or site alteration is proposed.

Metrolinx Comments

Metrolinx provided comments on this application advising that the subject property is located within 300.0 m (984.25 ft) of the rail right-of-way. The applicant is advised that there may be future alterations to, or expansions of the rail facilities on such right-of-way, which includes the possibility that Metrolinx or any assigns or successors entering into an agreement with Metrolinx to use the right-of-way may expand their operations. Expansions may affect the environment of occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings.

PUBLIC INPUT SUMMARY

No written submissions were received as of January 10, 2022. Additional information may be received after the writing of this report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Staff have reviewed the application with respect to Section 45(1) of the *Planning Act*, and are of the opinion that the variance request meets the four tests. Staff recommend that the Committee consider the conditions of approval detailed in Appendix "A", and public input in reaching a decision. The onus is ultimately on the applicant to demonstrate how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

Appendix "C" – Municipal Addressing and Zoning for the Subject Property

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



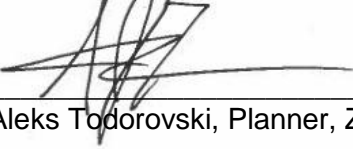
Stacia Muradali, Development Manager, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/127/21

1. The variance applies only to the proposed development as long as it remains.
2. That the variance applies only to the proposed development, in substantial conformity with the plans attached as Appendix "B" 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 their satisfaction.

CONDITIONS PREPARED BY:



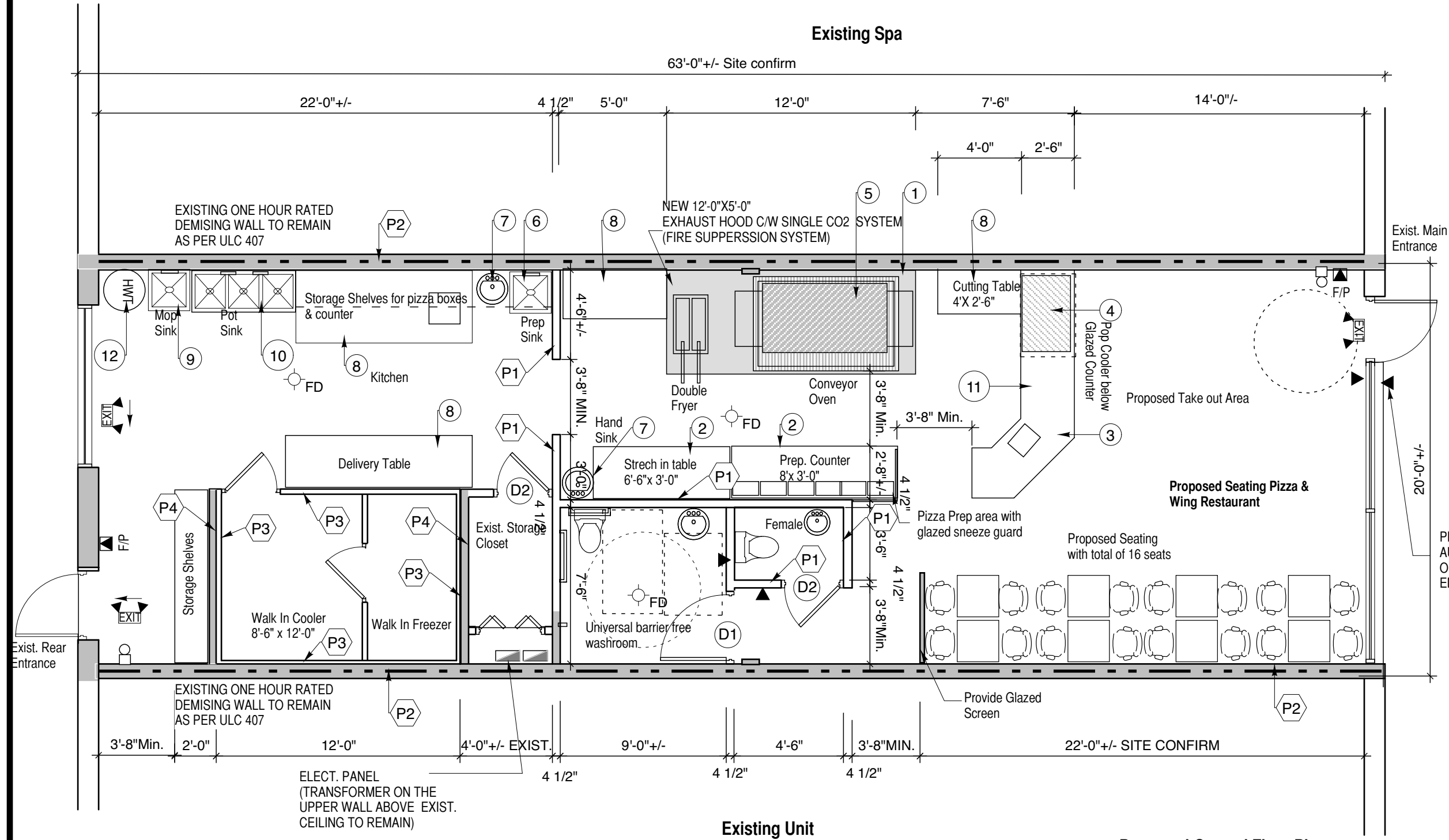
Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/127/21

Appendix B

File: 21.135511.000.00.MNV

Date: 01/13/22
MM/DD/YY



PROVIDE AUTOMATIC DOOR OPENER AT THE MAIN ENTRANCE AS PER CODE.

Existing Unit

Proposed Ground Floor Plan

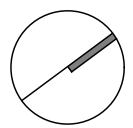
Project Coordinator:
A.R. Design Associates
 Architectural & Engineering Services
 01 Alfred Paterson Drive
 Markham, Ontario L6E 1K4
 Tel: (905) 201 0014
 Fax: (905) 201 0851
 Consultants:
Mechanical / Electrical Design
 Stavros Charitonos, P. Eng.



6		
5		
4		
3	Issued for Building Permit	Apr. 29, 2021
2	Issued for Client Review	Apr. 02, 2021
1	Issued for Client Review	March 25, 2021
Issue		

Owner
Proposed Pizza Take out & Seating Restaurant
 c/o Regino's Pizza
 9889 Markham Road, Unit # 3
 Markham, Ontario L6E 0B7
 Zoning Search # 21-103778

Drawing Title:
Proposed Interior Alteration for Pizza & Wing Restaurant
 Scale: 3/16" = 1'-0"
 Date: April 27' 2021
 Drawn By: CAD
ASK-02



APPENDIX "C"
MUNICIPAL ADDRESSING AND ZONING FOR THE SUBJECT PROPERTY



Legend

- Parent By-laws
- Zoning Designations
- LANDMARKS_6000
- SLRN_6000
- PARKS_6000
- Building Footprints
- Parcel (MPAC)

Notes

Subject Building - 9889 Markham Road

114.7 0 57.33 114.7 Meters

NAD_1983_UTM_Zone_17N
© City of Markham

DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email cgis@markham.ca and you will be directed to the appropriate department.

1: 2,257

