

# Memorandum to the City of Markham Committee of Adjustment

December 7, 2022

**File:** A/209/22  
**Address:** 8365 Woodbine Avenue, Unit 1, Markham  
**Applicant:** 8365 Woodbine Inc.  
**Agent:** KLM Planning Partners Inc.  
**Hearing Date:** Wednesday, December 14, 2022

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

The Applicant is requesting relief from the following requirement of the “Retail Warehouse (RW)” zone under By-law 165-80, as amended, as it relates to a proposed change of use to permit a car brokerage in Unit 1 of an existing commercial building. The variance requested is to permit:

**a) Section 6.12.1:**

a Motor Vehicle Sales Establishment use, whereas the By-law does not permit a Motor Vehicle Sales Establishment use.

## **BACKGROUND**

### **Property Description**

The 0.63 ha (1.55 ac) Subject Lands are located on the east side of Woodbine Avenue, and is generally located north of Yorktech Drive (refer to Appendix “A” – Aerial Photo). The property is located within an established commercial neighbourhood comprised primarily of a mix of one and two-storey commercial buildings. Surrounding land uses include one-storey commercial buildings to the north and west, and a two-storey commercial office building to the south. To the east is Beaver Creek, which is regulated by the Toronto and Region Conservation Authority (TRCA).

There is an existing one-storey, four-unit commercial building on the property. Unit 1, subject to this application, is currently vacant. Units 2 to 4 are currently occupied by a kitchen appliance store, a real estate office, and an outdoor sporting goods retail store.

### **Proposal**

The Applicant is proposing a motor vehicle sales establishment use wholly within Unit 1 of the existing commercial building (refer to Appendix “B” – Architectural Plans). The proposed business will serve as a car brokerage office (Infocar Auto Group) with an indoor showroom displaying used-vehicles. The Applicant has indicated that the business is only intended for the “sales / leasing / rental of passenger vehicles, and does not include the sale of automotive parts, mechanical repairs, autobody repairs, or the outdoor display or storage of motor vehicles”.

Structural changes to the exterior of the existing building include a new garage door on the east side of the building to facilitate a showroom within the unit. No new development or outside storage is being proposed as part of this application.

## **History**

The Applicant initially submitted an application for a Zoning By-law Amendment in August 2022 to permit the proposed use (File: PLAN 22 243269). Upon further review of the initial application, Staff confirmed that the proposed use should proceed by way of a Minor Variance application. Staff's reasoning is provided in the comments section below.

## **Official Plan and Zoning**

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

The Subject Lands are designated "Commercial" in the City's 2014 Official Plan. This designation permits a range of commercial uses including, but not limited to, retail, service, and motor vehicle sales and motor vehicle rental with limited accessory outdoor storage or display of motor vehicles.

## Zoning By-Law 165-80

The Subject Lands are zoned "Retail Warehouse (RW)" under By-law 165-80, as amended, which permits a range of commercial uses including, but not limited to, banks and financial institutions, business and professional offices, personal service shops, restaurants, and retail stores.

The Proposed Development does not comply with the By-law requirement with respect to use.

## **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. 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:

- 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; and,
- 4) The general intent and purpose of the Official Plan must be maintained.

## **Proposed Motor Vehicles Sales Establishment Use**

The Applicant is requesting relief to permit a Motor Vehicle Sales Establishment, whereas the By-law does not permit a Motor Vehicle Sales Establishment.

Staff note that a Motor Vehicle Sales Establishment is generally defined as a “*Premises used for the sale or rental of motor vehicles.*” Staff further note that Motor Vehicles Sales Establishments are traditionally large standalone car dealership buildings with significant outdoor storage and outdoor display of vehicles, as well as accessory motor vehicles repair and servicing located onsite.

As previously noted, the Applicant is proposing a ‘car brokerage’ use that is located wholly within one unit (Unit 1) of an existing multi-tenanted building. The car brokerage use, which is akin to an urban-format dealership and does not require the same amount of floor space or outdoor storage and display typically associated with traditional car dealerships. Furthermore, the Applicant has confirmed that the car brokerage use will not include the sale of automotive parts, mechanical repairs, auto body repairs, motor vehicle maintenance, or fueling.

It is Staff’s opinion that the proposed car brokerage business is similar to the office and retail uses permitted under the Zoning By-law and that the proposed use appropriately contributes to the planned function of the retail warehouse area. Given that the proposed use differs from a traditional Motor Vehicles Sales Use, Staff are of the opinion that the proposed use will not adversely impact the existing or permitted commercial uses on the Subject Lands, and are compatible with uses on adjacent properties within the vicinity.

Staff are of the opinion that the proposed use maintains the general intent and purpose of the Official Plan and Zoning By-law, and considers the proposed use to be appropriate for the Subject Lands, subject to the conditions outlined in Appendix “C”.

Staff recommend that should the Committee approve the variance, that the size of the use be limited, and that features typically associated to a traditional car dealership (such as outdoor storage, outdoor display of vehicles, and accessory motor vehicle repairs and servicing) not be permitted as a condition of approval.

## **EXTERNAL AGENCIES**

### **TRCA Comments**

The Subject Lands are located within TRCA’s Regulated Area. The eastern portion of the site is adjacent to a Regional Storm flood plain hazard. TRCA provided comments on November 15, 2022 and November 18, 2022 indicating that they have no concerns and that their conditions have been satisfied.

## **PUBLIC INPUT SUMMARY**

No written submissions were received as of December 7, 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 refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



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Melissa Leung, MCIP RPP, Planner II, Central District

REVIEWED BY:



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Deanna Schlosser, MCIP RPP, Senior Planner, Central District

File Path: Amanda\File\ 22 262269 \Documents\District Team Comments Memo

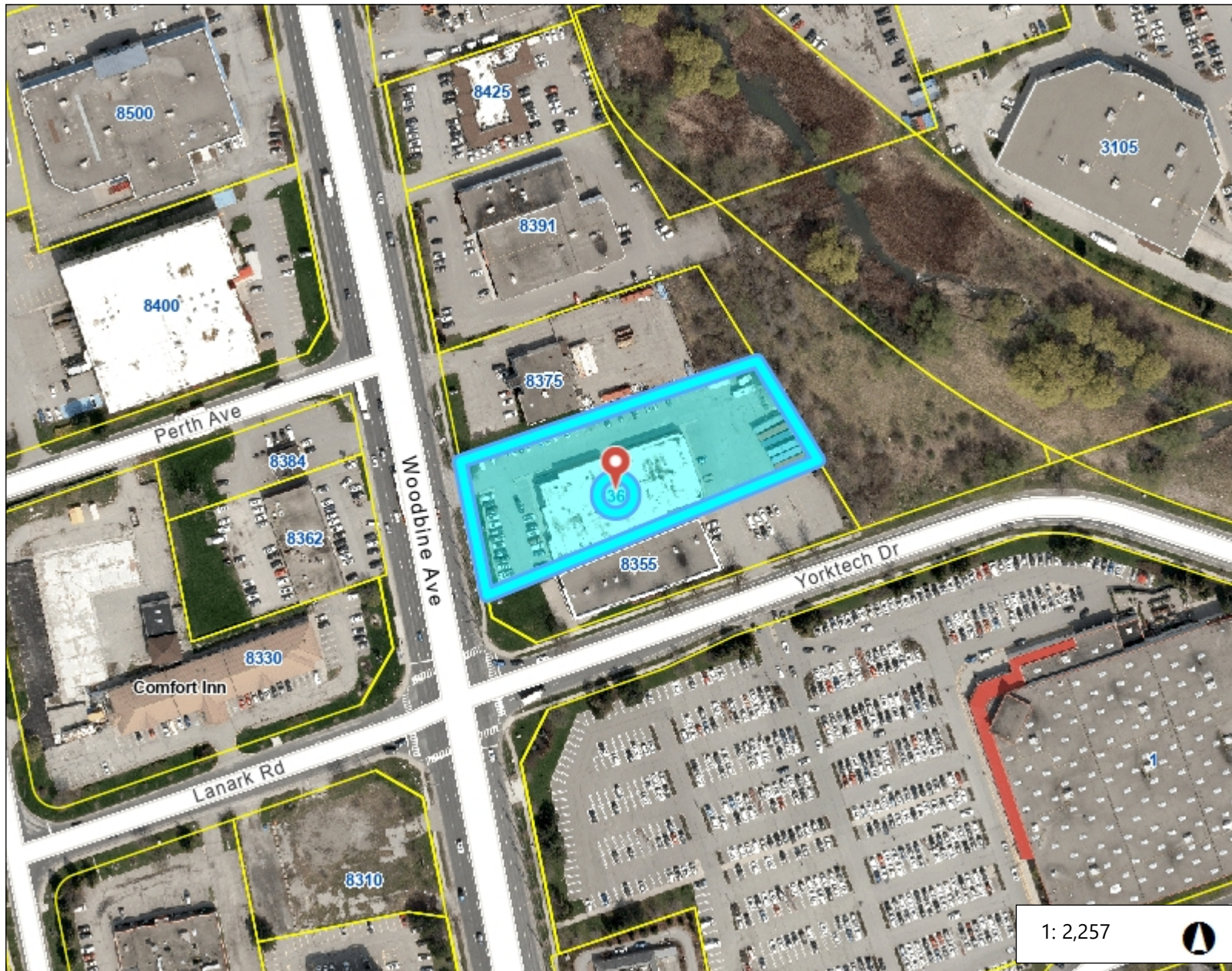
## **APPENDICES**

Appendix "A" – Aerial Photo

Appendix "B" – Architectural Plans

Appendix "C" – Conditions of Approval





Legend

Parcel Overlay

1: 2,257



114.7 0 57.33 114.7 Meters

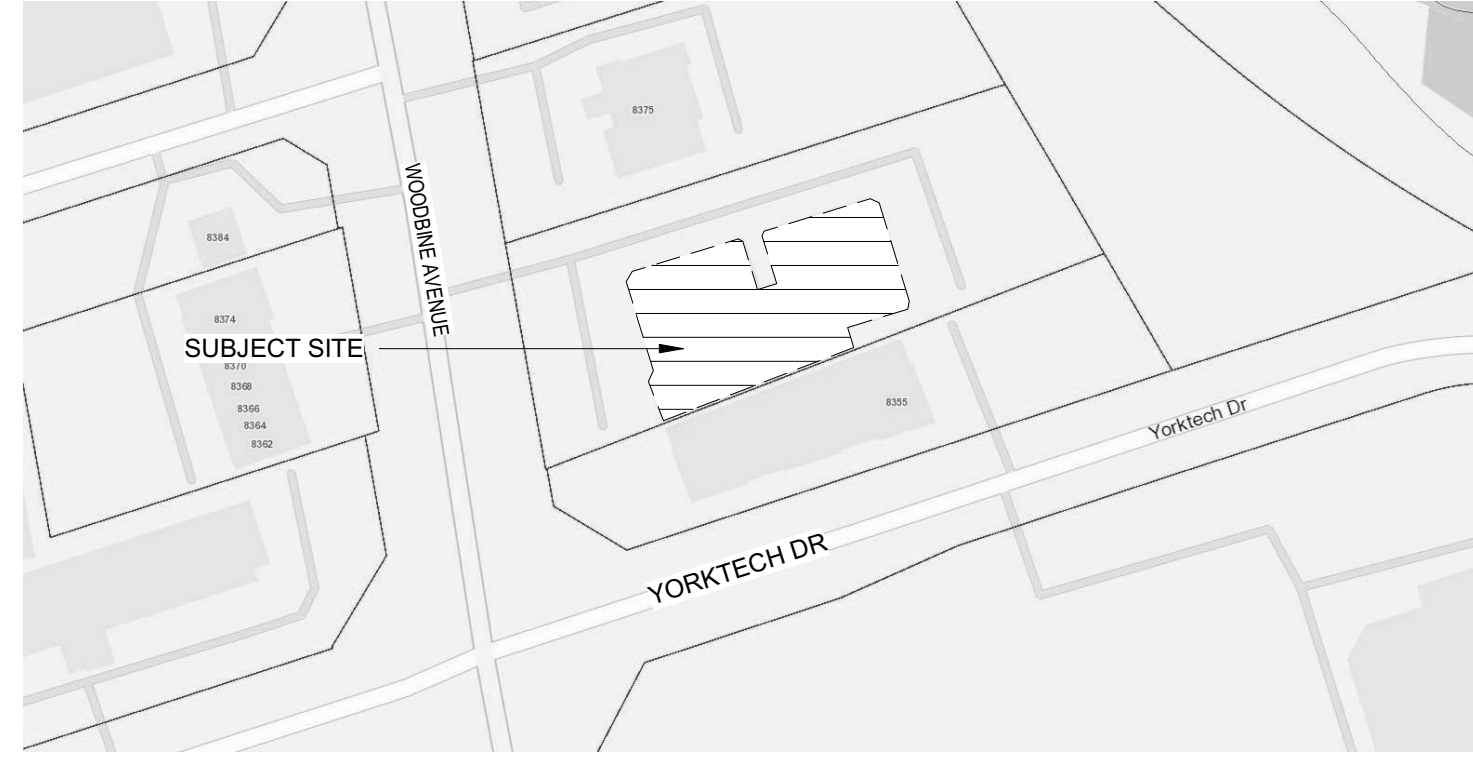
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DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email [cgis@markham.ca](mailto:cgis@markham.ca)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

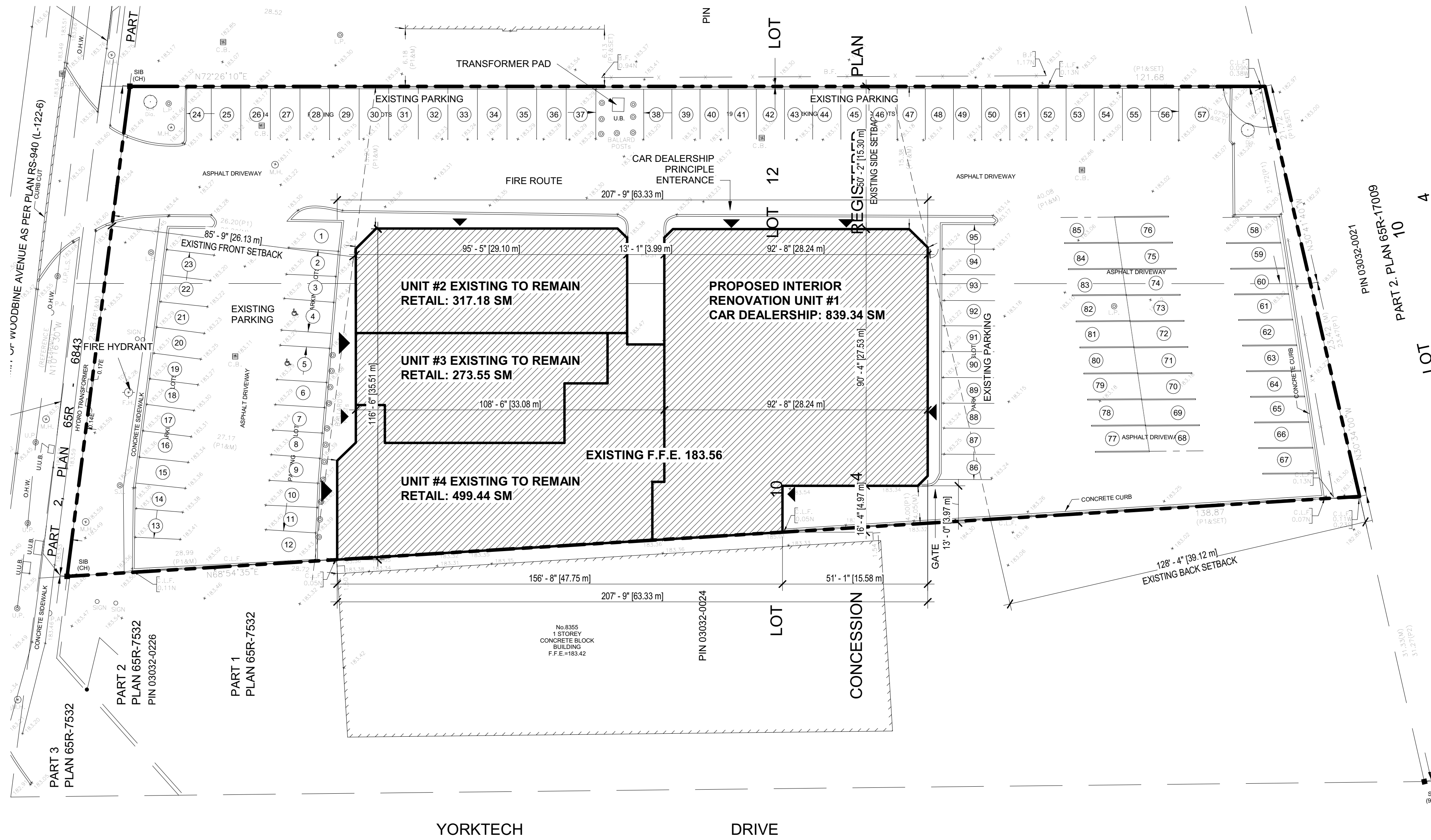
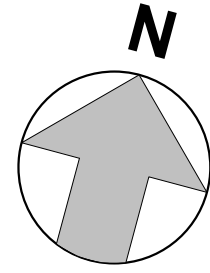
Notes

A/209/22 - 8365 Woodbine Avenue





○ Key Map  
 N.T.S.



**STATISTICS**

BY-LAW NO. 165-80  
 ZONING: RW

**SITE AREA**  
 6288.5 m<sup>2</sup> / 0.63 ha

**GROSS FLOOR AREA**  
 1932 m<sup>2</sup>

**BUILDING COVERAGE**  
 1932 m<sup>2</sup>

**PARKING**

REQUIRED:  
 UNIT#1 NOT SPECIFIED USE 839.34 sm/25 = 33.574  
 UNIT#2 RETAIL USE: 317.18 sm/30= 10.573  
 UNIT#3 RETAIL USE: 273.55 sm/30= 9.118  
 UNIT#4 RETAIL USE: 499.44 sm/30= 16.648  
 TOTAL REQUIRED: 69.913

TOTAL PARKING SPACE PROVIDED: 95

No	Revision	Date	By
1	Rezoning	2022-04-29	SW

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**TAES Architects Inc.**

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8365 Woodbine Avenue,  
 Markham, ON  
 Car Dealership

Project number T2017009B

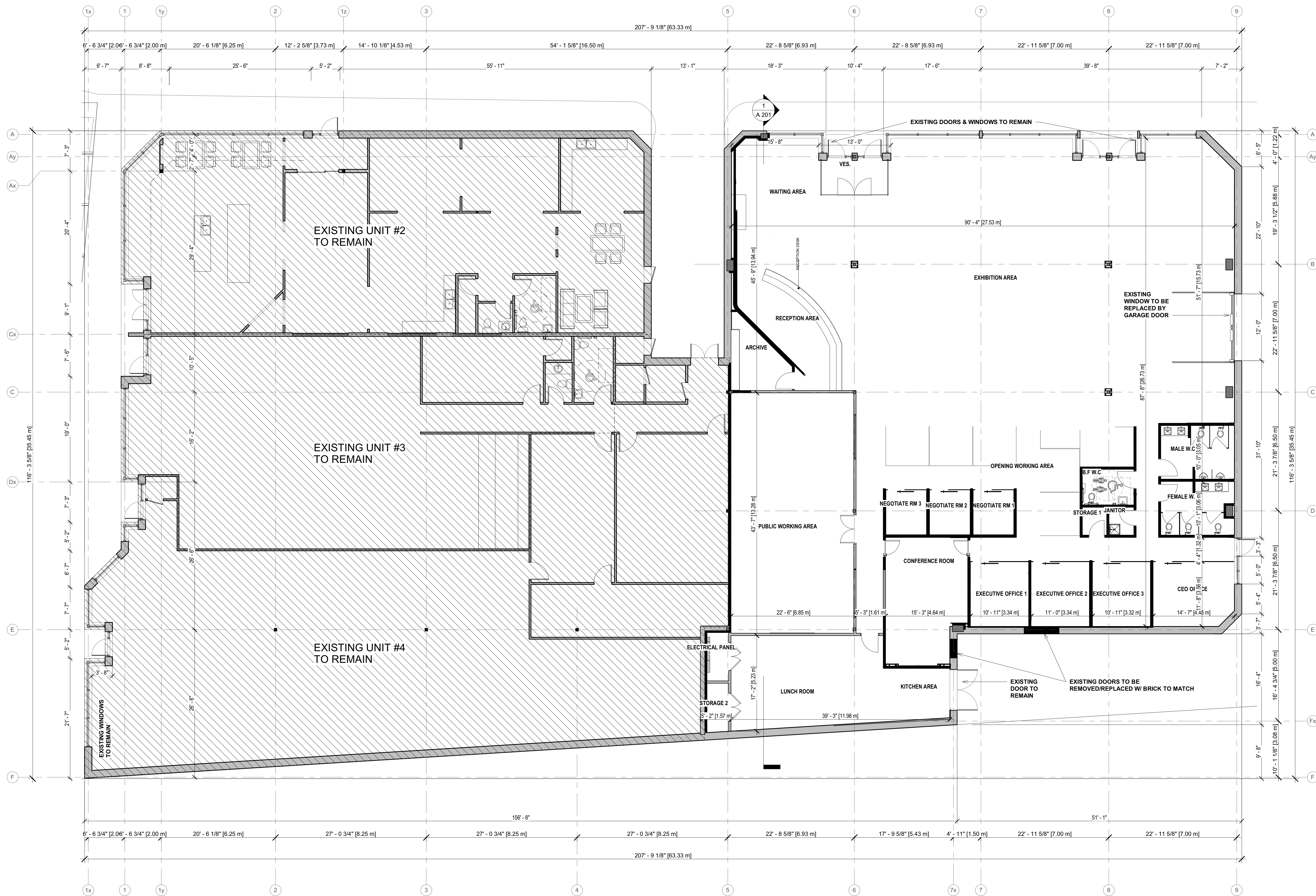
Drawn Scale As indicated

Checked Date 2017-04-21

**Site Plan**

Drawing No.  
**A 001**





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1	Rezoning	2022-04-29	SW

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Project number	T2017009B
Drawn	Scale 1/8" = 1'-0"
Checked	Date 2017-04-21

**Ground Floor Proposed**  
 Drawing No. **A 102**





**MARKHAM BIRD FRIENDLY SPECIFICATION CHECKLIST FOR APPLICANT**

The City of Markham Council approved the Bird Friendly Ordinance on February 15, 2022. The Ordinance requires that all new buildings and existing buildings with a height of 10m or more must be bird friendly. The Ordinance defines a bird friendly building as a building that meets the following criteria:

**MARKHAM BIRD FRIENDLY SPECIFICATION CHECKLIST**

1. The building must be designed to minimize bird collisions. This includes the use of bird safe glass, such as fritted glass, patterned glass, or glass with a UV reflective coating. The building must also be designed to minimize bird collisions with other building elements, such as awnings, balconies, and signs.

2. The building must be designed to provide a safe habitat for birds. This includes the use of bird friendly materials, such as brick, stone, or concrete. The building must also be designed to provide a safe habitat for birds by avoiding the use of materials that are toxic to birds, such as lead paint and asbestos.

3. The building must be designed to provide a safe habitat for birds by avoiding the use of materials that are toxic to birds, such as lead paint and asbestos.

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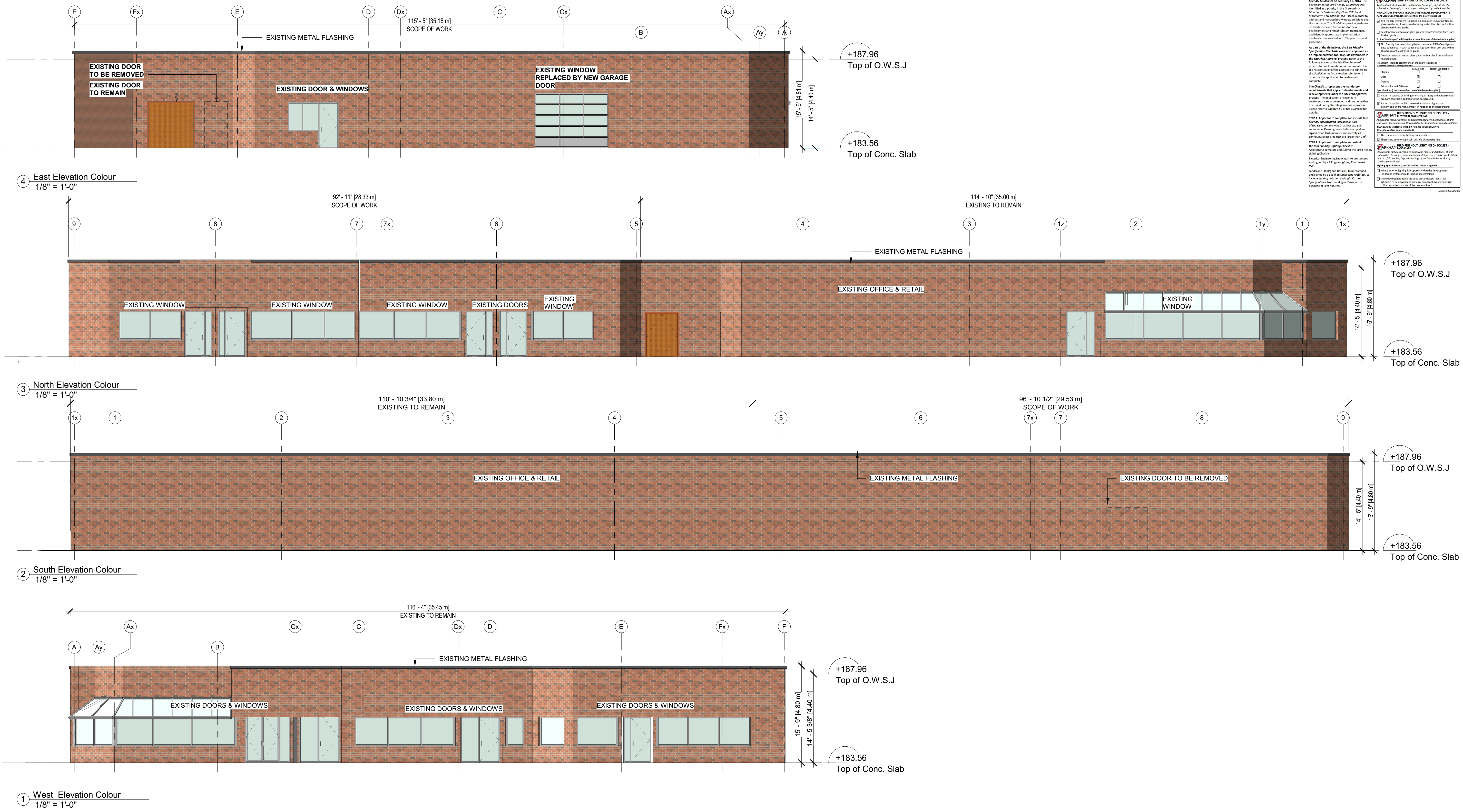
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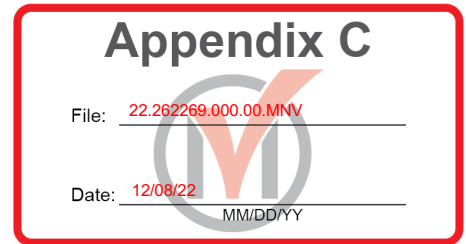
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Project number	T2017009B
Drawn	Scale 1/8" = 1'-0"
Checked	Date 2017-04-21

**Elevations (colour)**  
 Drawing No. A 202





**APPENDIX “C”**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/209/22**

1. That the variance apply only to the proposed development, within the existing building, as long as it remains;
2. That the variance applies only to the subject development, in substantial conformity with the plan(s) attached 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 maximum gross floor area devoted to the Motor Vehicle Sales Establishment not exceed 839.34 m<sup>2</sup> (9,034.58 ft<sup>2</sup>) within the existing building; and,
4. That the following uses are prohibited in the Subject Lands: outdoor storage, outdoor display of vehicles, motor vehicle repair, servicing, and body shop.

CONDITIONS PREPARED BY:

Melissa Leung, MCIP RPP, Planner II, Central District