

Memorandum to the City of Markham Committee of Adjustment

April 29, 2021

File: A/034/21
Address: 9781 Markham Rd, Markham
Applicant: KLM Planning Partners Inc. (Marshall Smith)
Agent: KLM Planning Partners Inc. (Marshall Smith)
Hearing Date: Wednesday May 05, 2021

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

The applicant is requesting relief from the following requirements of By-law 177-96, MJC*425(H) & OS1*427 as amended:

To permit:

- a) **By-law 2011-173, Section 7.424.3(c):**
a maximum residential Floor Space Index (FSI) of 2.19, whereas the By-law permits a maximum residential FSI of 2.0;
- b) **By-law 2011-173, Section 7.425.3(e):**
a maximum building height of 71 metres for an apartment building, whereas the By-law permits a maximum height of 70 metres for an apartment building;
- c) **By-law 2011-173, Section 7.425.3(f):**
a maximum of 23 storeys for an apartment building, whereas the By-law permits a maximum of 20 storeys for an apartment building;
- d) **By-law 2011-173, Section 7.425.3(g):**
a maximum of 548 residential dwelling units, whereas the By-law permits a maximum of 500 dwelling units;
- e) **Section 3.136:**
any floor containing a rooftop mechanical penthouse and no living space shall not be deemed a 'storey';
- f) **By-law 177-96 section 3.55:**
a mechanical penthouse is permitted to project 6.0 metres above the highest point of the roof surface;
- g) **By-law 2011-173, Section 7.425.3(i):**
a minimum landscaped open space along Highway 48 of 3.0 metres, whereas the By-law requires a minimum landscaped open space of 4.5 metres;
- h) **By-law 2011-173, Section 7.425.3(k):**
a maximum front yard along Highway 48 of 21.5 metres, whereas the By-law permits a maximum front yard of 20 metres;
- i) **By-law 2011-173, Section 7.425.3(p):**
a minimum setback of 0 metres for any storey above the first storey of an apartment building, whereas the By-law requires the main wall of any storey above the first storey to be setback a minimum of 5 metres from the main wall of the first storey along Markham Road;

- j) **By-law 2011-173, Section 7.425.3(p):**
a minimum setback of 0 metres for any storey above the first storey of an apartment building, whereas the By-law requires the main wall of any storey above the first storey to be setback a minimum of 7 metres from the main wall of the first storey along Castlemore Avenue;
- k) **By-law 2011-173, Section 7.425.4(c):**
a maximum depth of parking area between the main building and Highway 48 of 12.5 metres, whereas the By-law permits a maximum depth of 12 metres;
- l) **By-law 2011-173, Section 7.425.4(b)(i):**
a minimum residential parking rate of 1.0 parking space per apartment dwelling unit, whereas the By-law requires a minimum of 1.1 parking spaces per apartment dwelling unit;
- m) **By-law 2011-173, Section 7.425.4(b)(iii):**
a minimum residential visitor parking rate of 0.15 visitor parking spaces per dwelling unit, whereas the By-law requires a minimum of 0.2 visitor parking spaces per dwelling unit;
- n) **Section 3.0 Table B, By-law 28-97:**
a parking rate for all non-residential uses except restaurant uses at a rate of 1 parking space per 30 square meters of Net Floor Area (NFA); whereas the By-law requires varied rates of parking for non-residential uses;
- o) **By-law 28-97:**
a reduction of up to 7 parking spaces from the combined required totals of visitor parking for residential and non-residential uses;
- p) **By-law 2011-173, Section 7.425.2:**
one (1) accessory dwelling unit within a townhouse dwelling, whereas an accessory dwelling unit is not a permitted use under the By-law;
- q) **By-law 28-97 Section 3. Table A:**
Zero (0) parking space for an accessory dwelling unit where the by-law requires 1 parking space for an accessory dwelling unit; and
- r) **By-law 2011-173, Section 7.427.1(a):**
townhouse dwellings in accordance with the standards of the MJC*425 zone, whereas the only permitted use is a public park.

BACKGROUND

Property Description

The subject property is located at the south-east corner of Markham Road and Castlemore Avenue, also with frontage on Anderson Avenue (Figure 1). The subject property is approximately 2.07 hectares (5.11 acres) with no significant vegetation. The subject property is surrounded by commercial and industrial development and two existing places of worship (Figure 3). The easterly portion of the subject land is located within a flood plain regulated by the Toronto and Region Conservation Authority (TRCA).

Proposal

The owner is proposing a two (2) phase development on the subject lands. This site plan application is for Phase 1 which will consist of two (2) - 22 storey mixed use buildings in an L-shaped configuration along Markham Road containing a total of 524 apartment units and 12 townhouses (Figure 4). There will be a 7 storey connection linking both buildings (Figures 5 &

6). The Phase 1 portion of land is approximately 1.38 hectares (3.4 acres). The future Phase 2 portion, which is approximately 0.67 hectares (1.66 acres) will have frontage on Castlemore Avenue and is awaiting the outcome of the Markham Road - Mount Joy Secondary Plan (the 'Secondary Plan'). Future development applications will be required to permit Phase 2 of the development. The requested minor variances are for Phase 1 only.

The total Gross Floor Area (GFA) of the two (2) mixed-use buildings is approximately 42,057m² (452,689ft²) including two (2) levels of underground parking. Approximately 76 % of the apartment units (400 units) will be 1-bedroom, some with dens. Another 23% (118 units) will consist of 2-bedroom units, some with dens. The remaining 6 units will include 3 and 4-bedroom units. Approximately 630m² (6780ft²) of commercial floor space will be provided. The proposed Floor Space Index (FSI) of the proposed development is approximately 2.19 for the entire subject lands.

There will be a centrally located private open space area for the proposed development. This private open space area will be approximately 0.27 hectares (0.67 acres). In addition to this centrally located private open space area, approximately 3,178m² (34,211ft²) of both outdoor and indoor amenity space will be provided on the roof of the podium between the two (2) mixed use buildings and on the ground floor of the proposed buildings.

A right-in/right-out access will be provided on Markham Road as well as a full movement access on Anderson Avenue. There will be one (1) row of parking along the Phase 1 Markham Road frontage to serve the proposed commercial uses and a pedestrian walkway along the southerly property line.

The proposed 12 townhouses will be three (3) storeys in height and will be located along the Anderson Avenue frontage. The proposed townhouse unit widths are approximately 4.8 metres (15.7 feet). Visitor parking will be provided adjacent to the centrally located private open space area, along the Markham Road frontage and below grade to serve the proposed apartment buildings, townhouses and non-residential uses.

Official Plan and Zoning

The subject land is located within the Markham Road-Mount Joy Corridor Secondary Plan (the 'Secondary Plan') area. The Secondary Plan is currently underway and an update was provided to Development Services Committee on December 15, 2020, and most recently on April 21, 2021.

Until such time as the Markham Road-Mount Joy Corridor Secondary Plan is adopted, the "Major Commercial Area" policies from the City's Official Plan (Revised 1987), (the "1987 Official Plan") as amended, continues to apply. This designation contemplates medium and high density development, as well as a range of retail, service, community, recreational and other uses. The proposed development conforms to the 1987 Official Plan.

The subject property is zoned "Major Commercial *425 (Hold) [MJC*425(H)]" and "Open Space One *427 (OS1*427)" in Zoning By-law 177-96, as amended, which permits 20 storey buildings with a total of 500 apartment units and other site-specific development standards. The "Open Space Zone" is located at the south-east corner of the site (Figure 2) for a previously anticipated publicly accessible open space area as part of the Cedardale proposal which is no longer required. The conditions of the removal of the Holding (H) provision include execution of a site plan agreement and a Section 37 agreement.

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.

The Secondary Plan study for the area to which the subject property is located, is currently underway. This area is being comprehensively analyzed for opportunities for redevelopment and intensification, where appropriate, as well as any community services which will be needed to support these opportunities.

The proposed development (Phase 1) has been allowed to move forward in advance of the Secondary Plan as there is already site-specific zoning from 2011 which permits high density development. However, as the site-specific zoning was implemented for a different development proposal in 2011 and, by a previous landowner, minor variances have been identified through the current site plan application review process for the proposed development.

Staff are of the opinion that the proposed variances are appropriate as they have been carefully reviewed in detail through the site plan application review process. The proposed development provides for a mix and density of land uses generally contemplated for the subject property (Phase 1).

The Development Services Committee (DSC) endorsed the site plan application for the proposed development on January 25, 2021. The site plan application recommendation report which was considered by the DSC included a section on the need for the proposed variances to permit the proposed development. The DSC and staff, support intensification of the subject property given its proximity to the Mount Joy GO Station and therefore, the variances to increase the height and density of the proposed development are appropriate.

The previously proposed public park from 2011 is no longer envisioned for the subject site as other locations have been identified through the Secondary Plan study. Therefore, staff support townhouses within the area previously zoned as "Open Space One (OS1)". The applicant has worked closely with Transportation staff to determine an appropriate parking rate for the proposed development which is reflected in the requested parking variances. Staff support all of the requested variances to allow the proposed development which is appropriate, desirable and in keeping with current and emerging vision for the Markham Road-Mount Joy Corridor area.

PUBLIC INPUT SUMMARY

No written submissions were received as of April 29, 2021. 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.

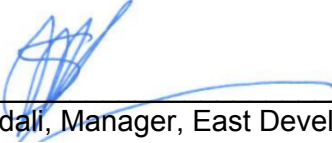
CONCLUSION

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 to approval of the minor variance application subject to the conditions in Appendix 'A'. 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 "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Stacia Muradali, Manager, East Development District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/034/21

1. The variances apply only to the proposed development as long as it remains; and,
2. That site plan approval is issued by the City for the proposed development and that the variances apply only to the proposed development and is in substantial conformity with the approved plans for SC 20 110692.

CONDITIONS PREPARED BY:



Stacia Muradali, Manager, East Development District