

Memorandum to the City of Markham Committee of Adjustment

February 5, 2025 (Revised February 14th, 2025)

File: A/003/25
Address: 3912 & 3928 Highway 7 East
Applicant: Malone Given Parsons Ltd. (Lincoln Lo)
Hearing Date: Wednesday, February 19, 2025

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

The Applicant is requesting relief from the “Community Amenity Three, Exception 558, Hold zone [CA3*558(H1)(H2)],” under By-law 177-96, as amended. The variance requested is to permit:

a) Section 7.558

an Apartment Dwelling use, whereas the by-law does not permit this use;

as it relates to a proposed seniors’ life lease residence.

BACKGROUND

Property Description

The 1.48 ha (3.7 ac) Subject Lands (the “Subject Lands”) are located on the north side of Highway 7, east of Warden Avenue and west of Village Parkway and are currently vacant (refer to Appendix “A” – Aerial Photo).

Proposal

The Owner is proposing to construct an independent living retirement home complex (Seniors’ life lease residence) containing 983 units which received Site Plan Endorsement in April, 2024 (refer to Appendix “B” – Site Plan).

Official Plan and Zoning

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

The Official Plan designates the subject property “Mixed Use Mid Rise”, which provides for a variety of uses and building types, including apartment dwellings. Official Plan Amendment 38, which was passed on April 22, 2022, permits a shared housing large scale facility to be located on the Subject Property with a maximum building height of 14 storeys and a maximum floor space index of 6.42.

Zoning By-Law 177-96, as amended

The Subject Lands are zoned Community Amenity Three *558 Hold [CA3*558 (H1)(H2)] under By-law 177-96, as amended by Site-Specific By-law 2022-30, which only permits a Retirement Home and Long-Term Care.

By-law 177-96 defines Retirement Home as a building or part of a building that is designed and used to provide accommodation primarily to retired persons or couples

where each private bedroom or living unit has a separate private bathroom and separate entrance from a common hall but where common facilities for the preparation and consumption of food are provided, and where common lounges, recreation rooms and medical care facilities may also be provided.

Site-Specific By-law 2022-30 permits that individual units in the Retirement Home may contain cooktops provided that there are common facilities for the preparation and consumption of food.

The proposed development complies with the zone, however for the purposes of being classified as a Residential development for Building Permit purposes, the By-law does not specifically permit Apartment Dwellings.

Applicant's Stated Reasons for Not Complying with Zoning

In August 2020, when the Applicant first submitted applications for Official Plan Amendment and Zoning By-law Amendment on behalf of the Owner to facilitate the development, City staff requested the removal of the Apartment Dwelling use as a permitted use, to ensure that the development would not be converted into a market condominium, but rather as an independent living retirement home complex as the Owner had always intended, with shared facilities.

The Zoning By-law does not include a definition for a Seniors Life Lease Residence and in working with City staff it was determined that Retirement Home and Long-Term Care were sufficient use permissions to facilitate the proposed development.

Building Services staff have identified that the proposed building, as defined by the Retirement Home use in By-law 2022-30, does not fit into a Retirement Home definition per the *Ontario Building Code*, as the building is not governed by the *Retirement Home Act*. It has been suggested by City staff that if an Apartment Dwelling use was added back to the list of permitted uses, with conditions, that the use would be able to be classified as a **Life Lease Residential Use** for the purposes of the Building Permit process.

To ensure that the previous concerns raised regarding the potential development of a market condominium, the Owner is proposing that the "Apartment Dwelling" use be subject to conditions that would clarify the intent of the use is for a senior's residence only.

Zoning Preliminary Review (ZPR) Not Undertaken

A Zoning Preliminary Review (ZPR) has not been conducted. However, the applicant has received comments from the building department through their Site Plan Application process (SPC 21 115121) to confirm any variances required for the proposed development. It is the Applicant'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;
- 4) The general intent and purpose of the Official Plan must be maintained.

Technical variance to add Apartment Dwelling as a permitted use

The Applicant has requested to add Apartment Dwelling as a permitted use to the list of uses provided by the site-specific By-law 2022-30, with the request that conditions be added to an approval to ensure that the type of housing intended by Council is maintained.

Should the Committee of Adjustment approve the variance, the proposed conditions of the Apartment Dwelling use are as follows:

- a) That the Apartment Dwelling is within a building or part of a building that is designed or used to provide accommodation primarily to retired persons or couples; and
- b) That the Apartment Dwelling comprises either or both,
 - i) Private rooms that each have at least one separate private bathroom, and
 - ii) Living units that each have cooking facilities and at least one separate private bathroom; and
- c) Where each private room or living unit, as the case may be, has a separate entrance from a common hall; and
- d) That it may contain common facilities for the preparation and consumption of food, common lounges and recreation rooms.

The Site-Specific By-law 2022-30, currently permits a Retirement Home provided that individual units within the retirement home may contain cooktops, so long as the retirement home contains common facilities for the preparation and consumption of food.

Staff have no objections to the approval of the technical amendment to permit an Apartment Dwelling, subject to the above conditions as listed in Appendix "C".

PUBLIC INPUT SUMMARY

No written submissions were received as of February 12, 2025. 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:



Elizabeth Martelluzzi, MCIP RPP
Senior Planner, Central District

REVIEWED BY:



Melissa Leung, MCIP RPP
Senior Planner, Central District

APPENDICES

Appendix "A" – Aerial Photo

Appendix "B" – Site Plan

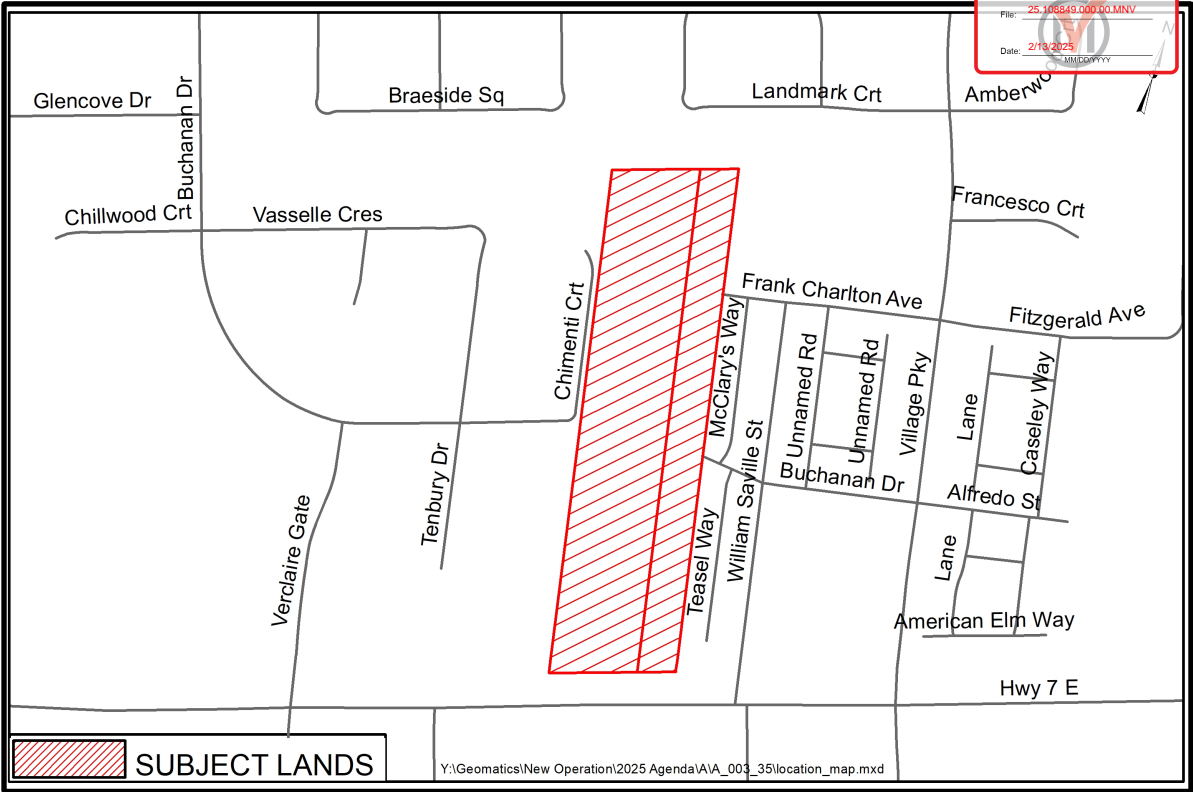
Appendix "C" – Conditions

Appendix A

File: 25_106849.000.D0.MNV

Date: 2/13/2025

AMDEGPTTY



SUBJECT LANDS

1. ZONING

Table with 2 columns: ZONING, BY-LAW 177/16 TO BE AMENDED

2. SITE AREA BLOCK 1 PLAN OF SUBDIVISION 1954-3004

Table with 4 columns: SQ. FEET (m²), ACRES (ha), HECTARES (ha)

4. UNIT MIX

Table showing unit mix for Tower A, Tower B, and Tower C across various floor levels.

3. GROSS FLOOR AREA (GFA)

Table showing Gross Floor Area (GFA) for Buildings A, B, and C, including mechanical penthouse and total area.

5. PARKING

Table showing parking requirements and provided spaces for various vehicle types.

6. BICYCLE PARKING

Table showing bicycle parking requirements and provided spaces.

8. DENSITY

Table showing density metrics for the proposed development.

9. BUILDING HEIGHT

Table showing building heights for Buildings A, B, and C.

10. SETBACKS

Table showing setback requirements for Buildings A, B, and C.

11. GARBAGE/RECYCLING ROOM

Table showing garbage/recycling room requirements for Buildings A, B, and C.

12. LOADING AREA

Table showing loading area requirements for Buildings A, B, and C.

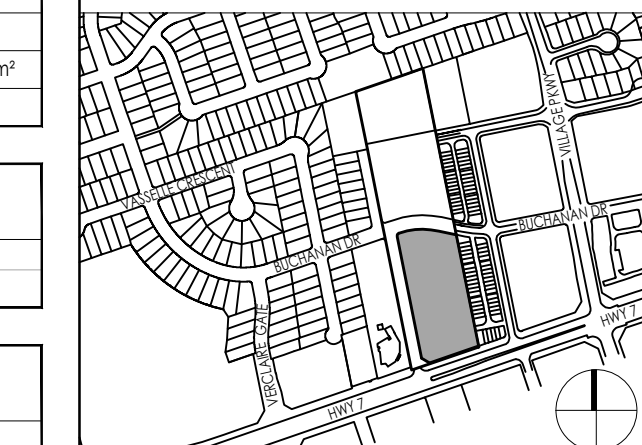
13. INDOOR AMENITY

Table showing indoor amenity requirements for Buildings A, B, and C.

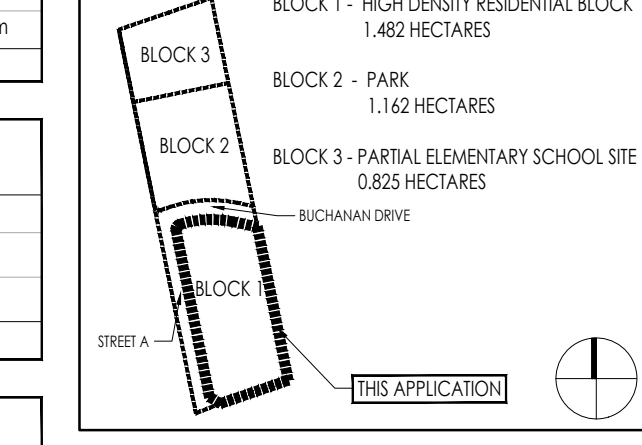
14. OUTDOOR AMENITY

Table showing outdoor amenity requirements for Buildings A, B, and C.

KEY PLAN



LAND PARCEL KEY PLAN



SURVEY INFORMATION

Survey information including plan of survey, notes, and contact details for FRTL-HUNT SURVEYORS.

GENERAL NOTES

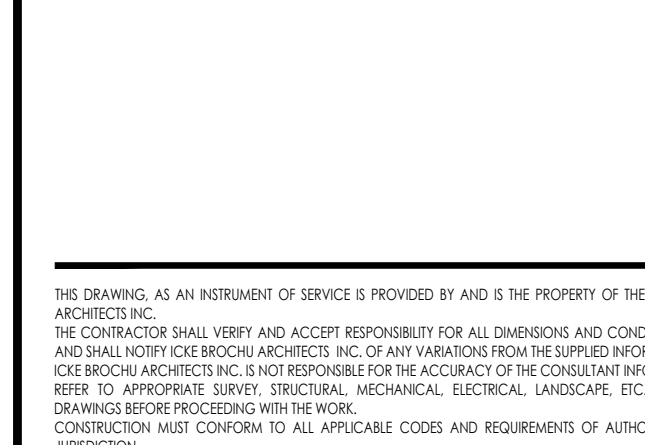
- General notes detailing project requirements, including zoning, density, and amenity specifications.

SITE PLAN LEGEND

- Site plan legend defining symbols for various features such as entrances, setbacks, and landscaping.

PARKING LEGEND

- Parking legend defining symbols for different types of parking spaces and loading areas.



DATE

Date and signature information for the site plan approval.

NO. DATE

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NO. DATE

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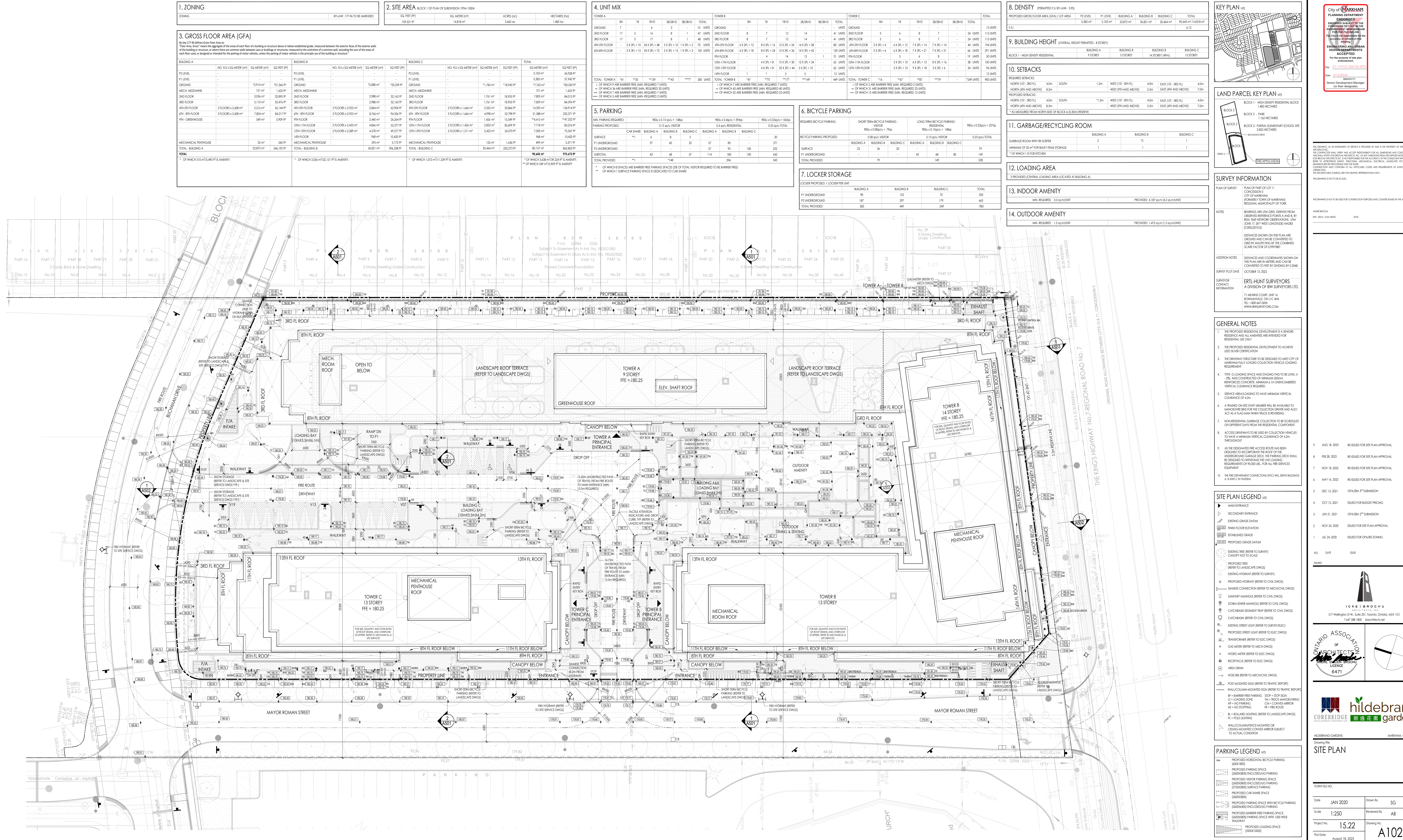
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APPENDIX "C"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF A/003/25

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 and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;
3. That the Apartment Dwelling Use is permitted on the Subject Lands on the basis that the development:
 - a) Is within a building or part of a building that is designed or used to provide accommodation primarily to retired persons or couples;
 - b) Comprises either or both,
 - i) Private rooms that each have at least one separate private bathroom, and
 - ii) Living units that each have cooking facilities and at least one separate private bathroom;
 - c) Where each private room or living unit, as the case may be, has a separate entrance from a common hall; and
 - d) May have common facilities for the preparation and consumption of food, common lounges and recreation rooms.

CONDITIONS PREPARED BY:



Elizabeth Martelluzzi, MCIP RPP
Senior Planner, Central District