

Memorandum to the City of Markham Committee of Adjustment

October 01, 2021

File: A/115/21
Address: Block 94, Plan 65M-4328, Vetmar Avenue
Applicant: Livante Holdings Inc.
Agent: Gatzios Planning (James Koutsovitis)
Hearing Date: October 6, 2021

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

The applicant is requesting relief from the following requirements of By-law 177-96, as amended:

- a) **Section 7.403.2 g) Maximum building height**
To permit a maximum building height of 29 m, whereas the By-law permits a maximum building height of 20 m.
- b) **Section 7.403.2 e) Minimum rear yard setback**
To permit a minimum rear yard setback (adjacent to Woodbine Avenue) of 2.0 m, whereas the By-law requires a minimum rear yard setback of 3.0 m.
- c) **Section 7.403.2 a) Minimum front yard setback**
To permit a minimum front yard setback (adjacent to Vetmar Avenue) of 1.0 m, whereas the By-law requires a minimum front yard setback of 1.8 m.

The applicant is also requesting relief from the following requirement of Parking Standards By-law 28-97, as amended:

- a) **Section 3, Table A & B Required parking spaces**
To permit a total of 360 required parking spaces, whereas the By-law requires a minimum of 411 parking spaces.

BACKGROUND

Property Description

The 0.81 ha (1.98 ac) subject property is located on the north side of Vetmar Avenue. The property is also bound by Victoria Square Boulevard to the east and Woodbine Avenue (By-pass) to the north. The property is located within a developing neighbourhood comprised of a mix of low and medium density residential, employment lands, and vacant lands designated for commercial/mixed use development. An existing gas station is located on the east side of Victoria Square Boulevard. The subject property is currently vacant. The vegetation on the property consists of grasses, reeds, and small trees.

Proposal

The applicant is proposing to construct a mixed-use residential and commercial development, including an 8-storey building (the "main building") and 32 three storey stacked townhouse dwellings. The main building would have 1,515 m² of commercial space along Victoria Square Boulevard and the townhouse block would include 165 m² of commercial space fronting onto Vetmar Avenue. The site plan was conditionally endorsed

by the Development Services Committee on July 8, 2021. The conditions included approval of minor variances by the Committee of Adjustment.

Official Plan and Zoning

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

The subject lands are designated “Mixed Use Low Rise” by the 2014 Official Plan. The Official Plan states that land use designations and policies in the 404 North Secondary Plan (OPA 149) shall be updated to generally conform to the Official Plan. Until an updated secondary plan is approved, the provisions of the 1987 Official Plan and OPA 149 shall apply to the subject lands.

404 North Secondary Plan (OPA 149)

The subject lands are designated “Community Amenity Area” under OPA 149. The “Community Amenity Area” designation is intended to provide for a multi-use centre offering a diverse range of retail, service, community, institutional, and recreational uses serving nearby residential and business areas and to function as a significant and identifiable focal point. Medium and high-density residential uses may also be permitted above ground related commercial uses, subject to rezoning.

Zoning By-Law 177-96

The subject lands are zoned “Community Amenity One *403 [CA1*403] Zone” by By-law 177-96, as amended by By-law 2009-207. The CA1*403 Zone permits a range of residential and commercial uses including apartment dwellings, townhouse dwellings, retail stores and restaurants in the first storey of a residential or office building, and business offices. Residential units are prohibited on the first storey of a building within 10 metres of Vetmar Avenue.

A Holding (H) symbol was lifted by Council on June 29, 2021.

Applicant’s Stated Reasons for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, *“The existing zone standards in the site-specific Zoning By-law 2009-207 do not permit the proposed development. The submitted cover letter, prepared by Gatzios Planning dated July 23, 2021 provides a summary and rationale of the proposed minor variances to permit the proposed development”*.

Zoning Preliminary Review (ZPR) Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR), issued on May 21, 2021, 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:

- 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.

Increase in Maximum Building Height

The applicant is requesting relief to permit a maximum building height of 29 m (95 ft), whereas the By-law permits a maximum building height of 20 m (66 ft). This represents an increase of 9 m (29 ft), which is a 45% increase in the height or an increase from 6 to 8 storeys.

The By-law calculates building height using the vertical distance from the established grade to the highest point of the roof surface or parapet, whichever is greater. The majority of the proposed main building is 26.16 m in height to the roof of the top floor, with an architectural feature at the northeast corner of the building (at the corner of Woodbine and Victoria Square) rising to 28.23 m. The vacant lands across Victoria Square Boulevard are also within the "Community Amenity Area" designation and would not be negatively impacted by the height increase. The height transition to the low rise area on Living Crescent is mediated by the placement of the 3 storey stacked townhouses along the western boundary of the site. The height of the building falls within the 45 degree angular plane measured from the west property line.

A resident raised concerns about the ability of parks in the surrounding area to accommodate the additional density that the variance for building height would enable (see Public Input Summary section). William Cantley Park is located approximately 500 m from the subject lands. Additionally, a new park is planned to open at 10977 Victoria Square Boulevard in 2023. Victoria Square Boulevard is also planned to be rebuilt, including sidewalks, bike paths, and signalization of multiple intersections.

Staff have no concerns with the proposed building height.

Reduction in Front and Rear Yard Setback

The applicant is requesting relief to permit a minimum front yard setback (adjacent to Vetmar Avenue) of 1.0 m (3.3 ft), whereas the By-law requires a minimum front yard setback of 1.8 m (5.9 ft). This represents a reduction of approximately 0.8 m (2.6 ft) which is a 44% decrease to the required front yard. The proposed buildings comply with the minimum 1.8 m setback except the southwest corner of the townhouse block.

The applicant is requesting relief to permit a minimum rear yard setback (adjacent to Woodbine Avenue) of 2.0 m (6.6 ft), whereas the By-law requires a minimum front yard setback of 3.0 m (9.8 ft). This represents a reduction of approximately 1.0 m (3.3 ft) which is a 33% decrease to the required front yard. The variance is required because the north end of the townhouse block is proposed to have a setback of 2.3 to 2.5 m from Woodbine Avenue.

The main building complies with all minimum setbacks. The proposed townhouses also comply with the interior side yard setback adjacent to the dwellings on Living Crescent. This area is intended to develop as a pedestrian friendly neighbourhood, including ground floor retail accessible from the street. Buildings placed close to the street reinforce the pedestrian friendly character of the neighbourhood and improve the interaction of commercial units with the sidewalk. The proposed setbacks on Vetmar Avenue and Woodbine Avenue are generally consistent with the established setbacks to the west and south.

Staff have no concerns with the proposed front and rear yard setbacks.

Parking Reduction

The applicant proposes a total of 360 parking spaces, whereas the Parking Standards By-law requires a minimum of 411 parking spaces. This will result in a deficiency of 51 parking spaces, which is a reduction of approximately 12 percent.

The proposed parking rate is 1.18 spaces per residential unit plus 0.25 visitor spaces per unit. The residential visitor parking is proposed to be shared with the customer and employee parking for the commercial space, which takes advantage of different times of peak parking demand for these uses. 20% of the commercial gross floor area (GFA) is proposed to permit restaurant space. Transportation Engineering staff support this approach provided that the floor area for restaurants is limited to a maximum of 20% of the commercial GFA. Transportation staff have no objections to the proposed variance for parking subject to the conditions in Appendix "A".

Staff have no objections to the approval of the proposed parking reduction.

EXTERNAL AGENCIES

TRCA Comments

The subject property is located outside the Toronto Region and Conservation Authority (TRCA)'s Regulated Area. TRCA provided comments on September 10, 2021 indicating that they have no concerns.

Alectra Utilities

Alectra Utilities provided comments on September 1, 2021 indicating that they have no concerns.

PUBLIC INPUT SUMMARY

Two written submissions have been received objecting to the applications, citing concerns about adequacy of parks in the area, building height, building proximity to the dwellings on Living Crescent, sunlight, and privacy. 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.

Staff note that the owner has not applied for a minor variance for the yard abutting the dwellings on Living Crescent.

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 objections. 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:



Marty Rokos, Senior Planner, Planning and Urban Design

REVIEWED BY:



Mary Caputo, Development Manager, West District

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

APPENDIX “A”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE (A/115/21):

1. That the variances apply only to the subject development, in substantial conformity with the plans that are to be revised, submitted, and approved by the Director of Planning and Urban Design or designate;
2. That the owner submit to the Secretary-Treasurer a copy of the Site Plan Endorsement memo for the proposed development;
3. That the restaurant use be limited to occupy no more than 20% of the total GFA of the commercial use, as per the 20% restaurant limitation outlined under City of Markham Parking By-law 28-97 for “Shopping Centre” uses; and
4. That with respect to the parking spaces for residential visitor and commercial uses, these spaces must be available for all non-residential uses on site.

CONDITIONS PREPARED BY:

Marty Rokos, Senior Planner, Planning and Urban Design