

Memorandum to the City of Markham Committee of Adjustment

March 1, 2023

File: A/005/23
Address: 7750 McCowan Road, Markham
Applicant: Suncor Energy Products Inc.
Agent: Brutto Consulting
Hearing Date: Wednesday, March 8, 2023

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

The Applicant is requesting relief from the “Special Commercial Five (SC5)” zone requirements of By-law 90-81, as amended, as it relates to a proposed gas station redevelopment. The variance requested is to permit:

a) Amending By-law 369-88, Section 7.17(i):

a Take-Out Restaurant, whereas the By-law does not permit this use.

This application is related to a Site Plan Control Application (File Number: SPC 20 121202), which is currently under review.

BACKGROUND

Property Description

The 5,896.13 m² (63,465.42 ft²) Subject Lands are located on the southwest corner of 14th Avenue and McCowan Road (refer to Appendix “A” – Aerial Photo). The Subject Lands are surrounded by established residential neighbourhoods, and have direct driveway access to both 14th Avenue and McCowan Road.

There is an existing gas station, 29.41 m² (316.57 ft²) kiosk, and 401.08 m² (4,317.19 ft²) car wash on the Subject Lands which according to building permit records was constructed circa 1990.

Proposal

The Applicant is proposing to demolish the existing gas station and associated kiosk, and construct a new gas station and a one-storey 190.83 m² (2,054.08 ft²) building comprised of a convenience store and take-out restaurant (refer to Appendix “B” – Architectural Plans). The existing car wash will remain, with minor upgrades to the building façade.

Background Information

A Site Plan Control application (SPC 20 121202) for the proposed development has been submitted and is being reviewed concurrently.

On [March 23, 2022](#), the Committee of Adjustment (“COA”) approved a Minor Variance application (File Number: A/004/20) on the Subject Lands. The Minor Variance approval was to facilitate the development of the proposed gas station and convenience store

building. The approval included reduction of the setback to the centerline of 14th Avenue, reduction of the minimum side yard setback, and reduction of the minimum landscaped strip abutting 14th Avenue.

Since the March 23, 2022 COA approval, the Applicant has made a minor change to their proposal to include a take-out restaurant within the footprint of the convenience store building, thereby triggering the need for the additional variance outlined in this report.

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 Lands “Mixed Use Low Rise”, which are lands that serve the important function for nearby residents of providing access to goods and services. This designation permits a wide range of uses including recreation, commercial school, day care centre, dwelling unit, financial institution, office, place of worship, restaurant, retail, and service uses, however automobile service stations are not permitted in the “Mixed Use Low Rise” designation. Notwithstanding, [Section 11.1.3](#) of the 2014 Official Plan recognizes that legally existing development and land uses shall be deemed to conform as they exist at the time the 2014 Official Plan was approved.

Planning Staff have had regard for the requirements of the Official Plan in the preparation of the comments provided below.

Zoning By-Law 90-81, Amending By-law 16-84, and Amending By-law 369-88

The Subject Lands are zoned “Special Commercial Five (SC5) Zone” in By-law 90-81, as amended by By-law Amendment 16-84 which identifies development standards for the SC5 zone which permits an automobile service station. Site-specific Zoning By-law Amendment 369-88, which was passed in 1988, further amended By-law 90-81 and By-law 16-84 to also permit a gas bar and automobile washing establishment and to prohibit the repair and servicing of automobiles.

The proposed gas station does not comply with the standards of the Zoning By-law with respect to the proposed take-out restaurant use.

Zoning Preliminary Review (ZPR) Undertaken

The Owner has completed a Zoning Preliminary Review (File Number: ZPR 22 265632) on December 19, 2022 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:

- 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 Take-Out Restaurant

The Applicant is requesting relief to permit a Take-Out Restaurant, whereas the By-law does not permit this use.

Staff note that restaurant uses, which include take-out restaurants, are permitted on the Subject Lands by the Official Plan. Staff also note that the proposed take-out restaurant is a compatible use with the permitted gas station use. The site plan associated with the previously approved variance (A/004/20) remains unchanged, with the exception of the addition of the take-out restaurant. Further, there is no proposed drive-through facility or indoor restaurant seating area proposed for the take-out restaurant.

As such, Staff considers the proposed use to be appropriate for the Subject Lands and are of the opinion that the proposed use meets the general intent and purpose of the Zoning By-law and Official Plan.

PUBLIC INPUT SUMMARY

No written submissions were received as of March 1, 2023. 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.

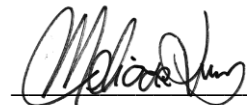
CONCLUSION

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:



Melissa Leung, MCIP RPP, Planner II, Central District

REVIEWED BY:



Deanna Schlosser, MCIP RPP, Senior Planner, Central District

APPENDICES

Appendix "A" – Aerial Photo

Appendix "B" – Site Plan

Appendix "C" – Conditions



1: 1,128





57.3 0 28.65 57.3 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.

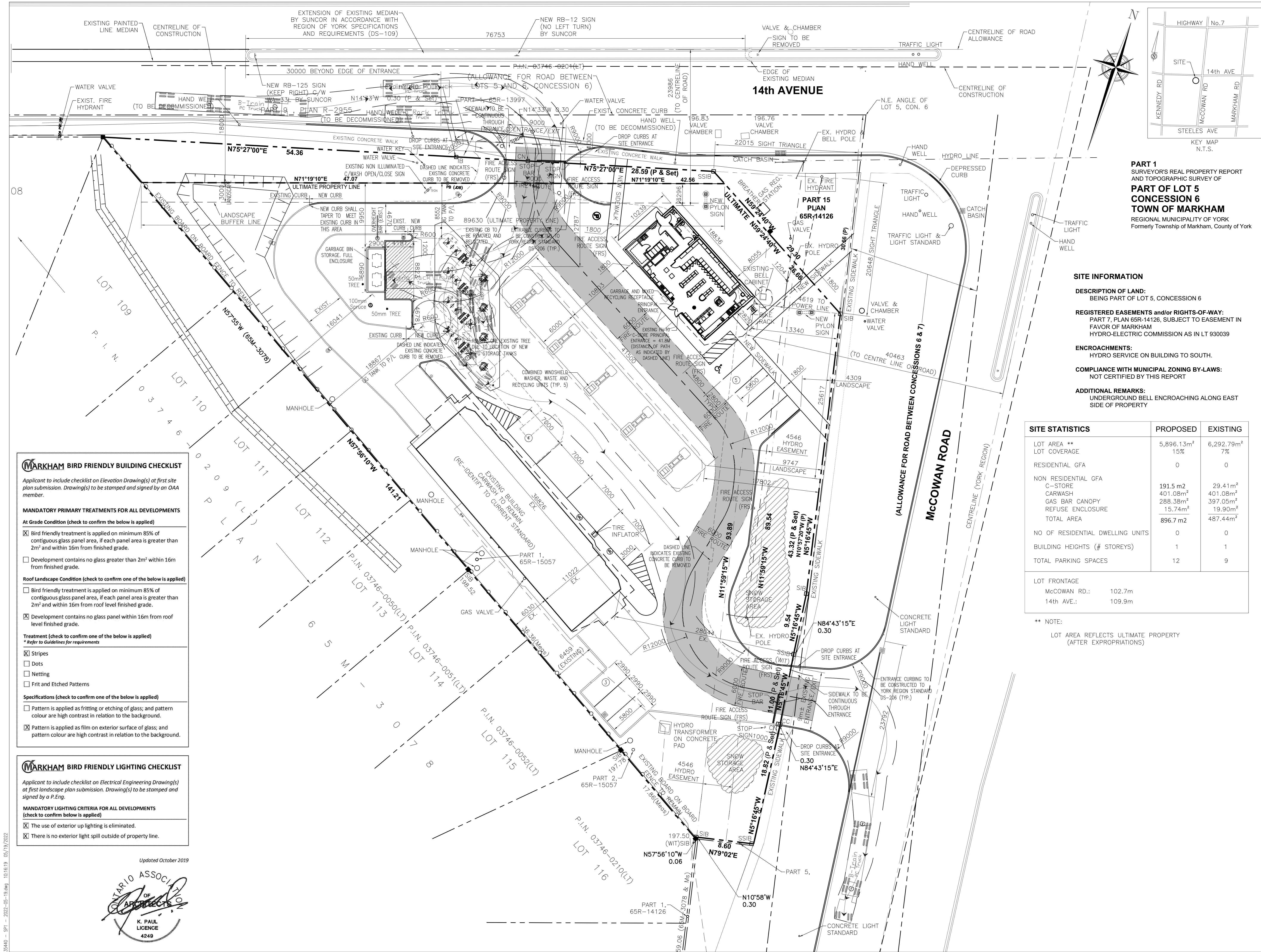


Legend

-  Parcel Overlay
-  Subject Lands

Notes

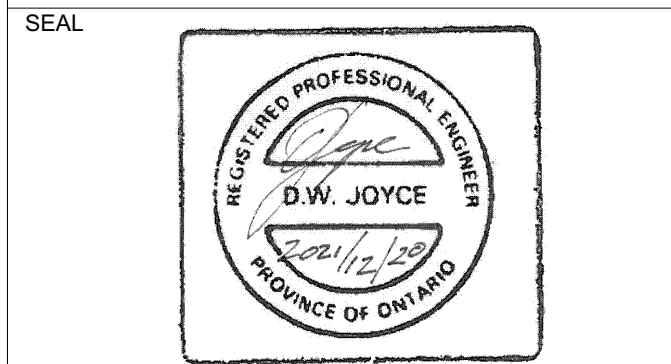
A/005/23 - 7750 McCowan Road



ISSUED		
NO.	DATE	DESCRIPTION
01	JULY 15 2020	SITE PLAN APPLICATION
02	DEC. 20, 2021	RE-ISSUED FOR SITE PLAN APPLICATION

REVISION		
1	DEC. 20, 2021	UPDATES PER CITY COMMENTS AND REVISED R-PLAN
2	MAR. 28, 2022	CHANGED GARAGE STORAGE STRUCTURE, ADDED FIRE ROUTE, MODIFIED ENTRANCE CURBS & OTHER MINOR CHANGES
3	MAY. 19, 2022	ADDED DIMENSION FROM FH TO ENTRANCE AS PER CITY COMMENTS

NOTES



The contractor will check and verify dimensions and report errors and omissions to the designer and the design professional whose seal is affixed to this drawing. Do not scale the drawings.

This drawing will not be used for construction purposes until issued for construction by the design professional whose seal is affixed to this drawing and whose signature is below.

ISSUED FOR CONSTRUCTION DATE

DIMENSIONS AND CONDITIONS TO BE VERIFIED ON THE PREMISES



2660 Sherwood Heights Dr. Suite 200, Oakville, Ontario, L6J 7Y8
www.kpaularchitect.com
(905)337-9800 fax (905)337-1986

CLIENT



DRAWING TITLE

SITE PLAN
CITY AMANDA FILE
#20121202 SPC

PROJECT

7750 McCOWAN ROAD
@ 14th AVENUE
MARKHAM, ONT

DRAWN	CHECKED
J. NORTON	
SCALE	DATE
1:250	2021-12-20
PROJECT NO.	DRAWING NO.
35440	SP1

MARKHAM BIRD FRIENDLY BUILDING CHECKLIST

Applicant to include checklist on Elevation Drawing(s) at first site plan submission. Drawing(s) to be stamped and signed by an OAA member.

MANDATORY PRIMARY TREATMENTS FOR ALL DEVELOPMENTS

At Grade Condition (check to confirm the below is applied)

- ☒ Bird friendly treatment is applied on minimum 85% of contiguous glass panel area, if each panel area is greater than 2m² and within 16m from finished grade.
- ☐ Development contains no glass greater than 2m² within 16m from finished grade.

Roof Landscape Condition (check to confirm one of the below is applied)

- ☐ Bird friendly treatment is applied on minimum 85% of contiguous glass panel area, if each panel area is greater than 2m² and within 16m from roof level finished grade.
- ☒ Development contains no glass panel within 16m from roof level finished grade.

Treatment (check to confirm one of the below is applied)

* Refer to Guidelines for requirements

- ☒ Stripes
- ☐ Dots
- ☐ Netting
- ☐ Frit and Etched Patterns

Specifications (check to confirm one of the below is applied)

- ☐ Pattern is applied as fritting or etching of glass; and pattern colour are high contrast in relation to the background.
- ☒ Pattern is applied as film on exterior surface of glass; and pattern colour are high contrast in relation to the background.

MARKHAM BIRD FRIENDLY LIGHTING CHECKLIST

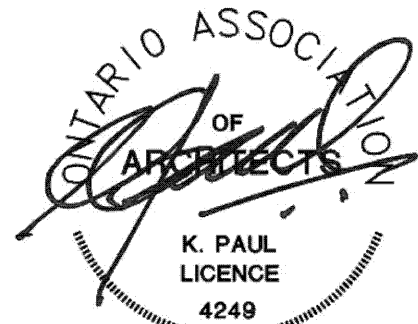
Applicant to include checklist on Electrical Engineering Drawing(s) at first landscape plan submission. Drawing(s) to be stamped and signed by a P.Eng.

MANDATORY LIGHTING CRITERIA FOR ALL DEVELOPMENTS

(check to confirm below is applied)

- ☒ The use of exterior up lighting is eliminated.
- ☒ There is no exterior light spill outside of property line.

Updated October 2019



Appendix B

File: 23.111316.000.00.MNV

Date: 02/28/23
MM/DD/YY

STORE BUILDING

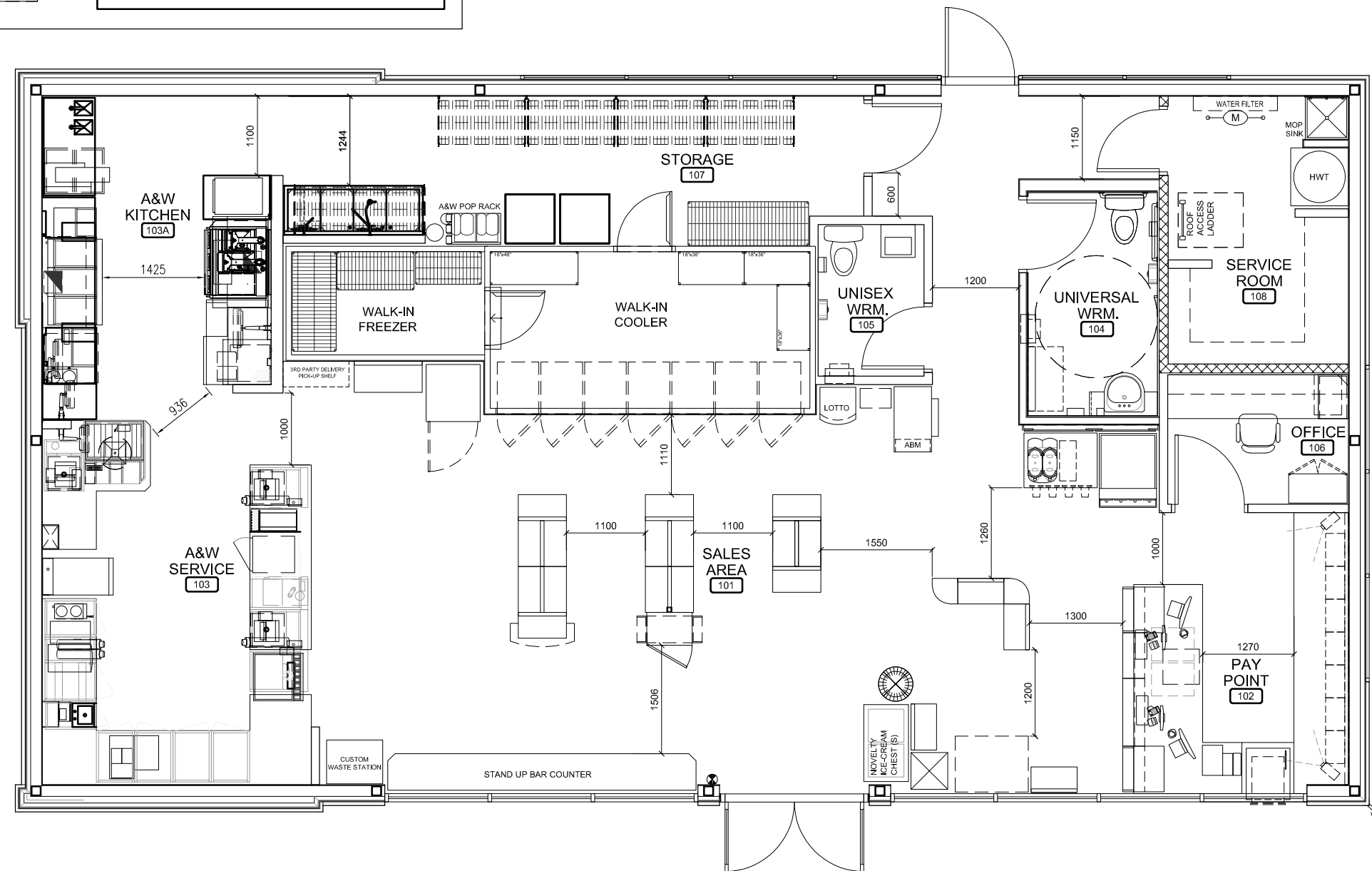
BUILDING GROSS FLOOR AREA = 191.5 sq.m.

C.STORE GROSS FLOOR AREA

(A)	PUBLIC AREA	= 65.1 sq.m.
(B)	WASHROOMS	= 10.5 sq.m.
(C)	STAFF / BACKROOM AREA	= 30.6 sq.m.
(D)	SERVICE ROOM	= 17.8 sq.m.
		124.0 sq.m.

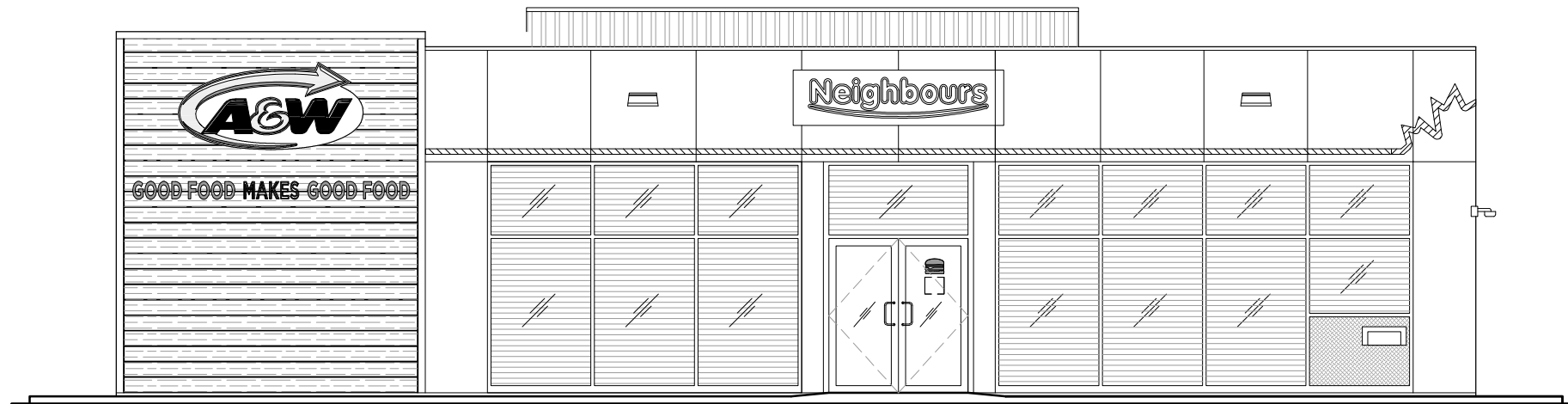
A&W GROSS FLOOR AREA

(E)	SERVICE / KITCHEN AREA	= 39.8 sq.m.
(F)	SEATING AREA	= 15.8 sq.m.
(H)	PUBLIC AREA	= 11.9 sq.m.
		67.5 sq.m.

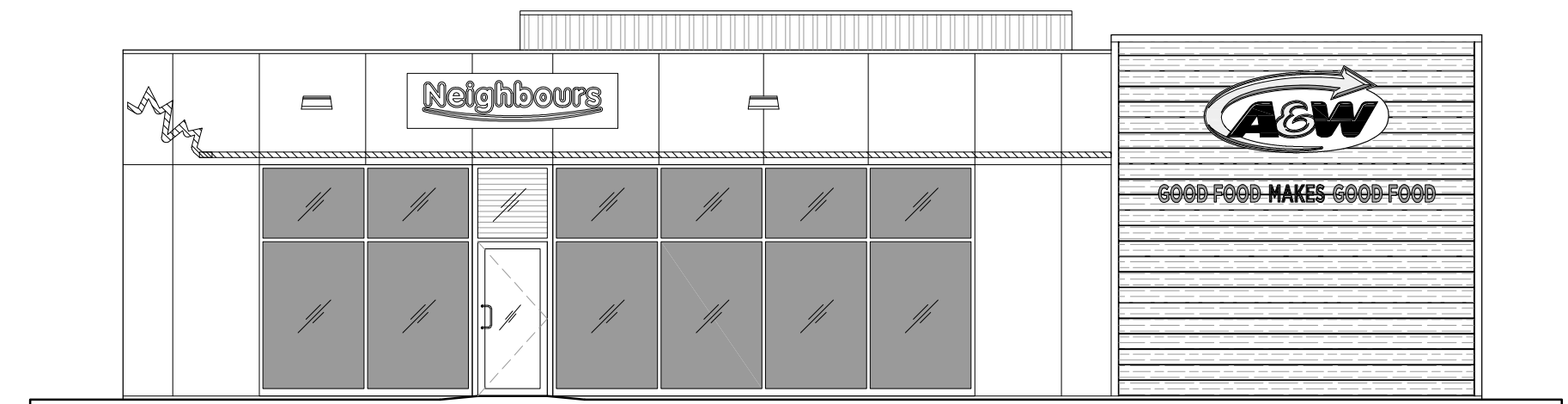


Appendix B

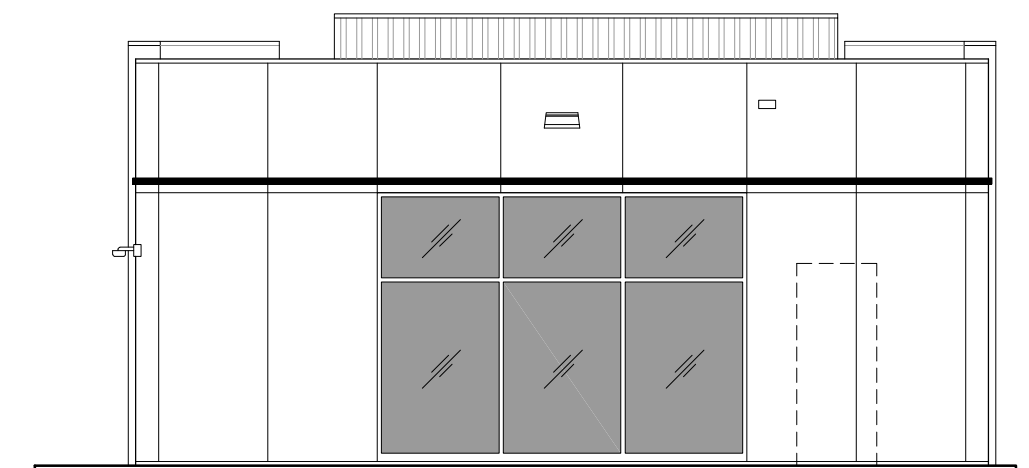
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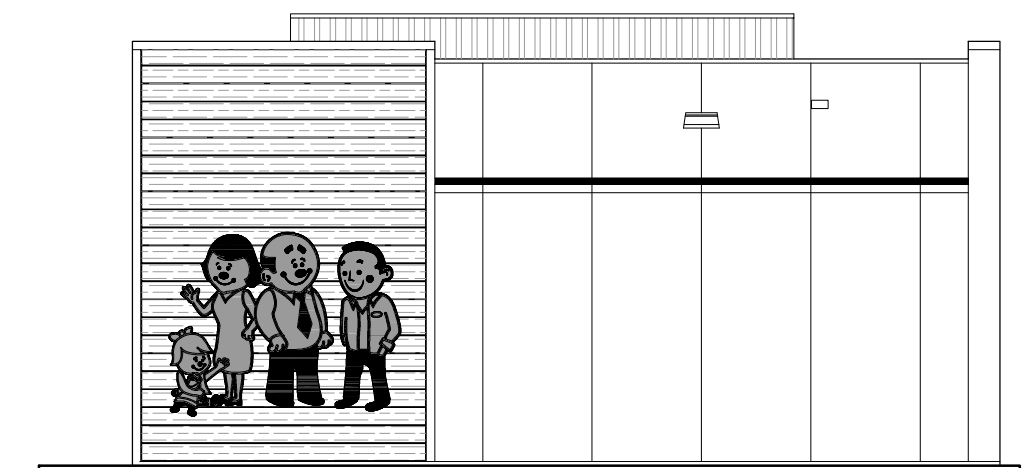
SOUTH ELEVATION



NORTH ELEVATION (FACING McCOWAN ROAD)



EAST ELEVATION



WEST ELEVATION

Appendix C

File: 23.111316.000.00.MNV

Date: 02/28/23
MM/DD/YY

APPENDIX "C"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/005/23

1. The variances apply only to the proposed development as long as it remains; and,
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, or further revised by any site plan 'endorsed' or 'approved' drawings, 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.

CONDITIONS PREPARED BY:



Melissa Leung, MCIP RPP, Planner II, Central District