

Memorandum to the City of Markham Committee of Adjustment

June 10, 2020

File: A/160/19
Address: 9390 Woodbine Ave, Markham
Applicant: King Square Ltd. (Becky Liang)
Agent: KLM Planning Partners Inc. (Marshall Smith)
Hearing Date: Thursday June 25, 2020

The following comments are provided on behalf of the West Team. The applicant is requesting relief from the following requirements of By-law 165-90, M.C. (170%), as amended:

a) Section 7.111.3 g) Maximum Gross Floor Area (GFA) of a Recreational Establishment

to permit a maximum GFA of 2,128 m² for a Recreational Establishment, whereas the By-law permits Recreational Establishment uses to a maximum GFA of 450 m² as it relates to a proposed indoor playground operation.

This application is related to Zoning By-law 2019-35, which was approved by Council on March 19, 2019. The use was sought to facilitate an indoor playground operation whose space requirements have since changed.

BACKGROUND

Property Description

The approximately 2.09 ha (5.2 ac) subject property is located on the northwest corner of Woodbine Avenue and Markland Street, municipally known as 9390 Woodbine Avenue. The property is located within a neighbourhood comprised of a mix of low-rise residential, commercial and employment uses.

There is an existing three-storey, 31,899 m² (343,358 ft²) shopping centre (King Square Centre) with 1,373 parking spaces on the property. In September 2019, the Plan of Standard Condominium was registered, creating and delineating the common elements and transferable commercial units. Currently, occupancy of the commercial condominium units within the King Square Shopping Centre is ongoing.

In March 2019, site-specific Zoning By-law 2019-35 was approved by Council to introduce a variety of additional permitted uses, including a 'Recreational Establishment' use to a maximum GFA of 450 m² (4,844 ft²). At the time, the size of the 'Recreational Establishment' use was sought by the Owner to facilitate the operation of an indoor playground by a potential tenant.

As per section 45(1.3) of the Planning Act, an application for a variance from the provisions of a by-law is not permitted before the second anniversary of the day on which the by-law was amended, unless Council has declared by resolution that such an application is permitted. Since site specific Zoning By-law 2019-35 was approved in March 2019, authorization from Council was required. In February 2020, Council granted permission for the Owner to apply to the Committee of Adjustment for variances from the provisions of Zoning By-law 2019-35 before the second anniversary of the day on which the by-law was approved by Council.

Proposal

The applicant is seeking relief from the 450 m² (4,844 ft²) GFA limit for a 'Recreational Establishment' use on the subject property to allow for a GFA of up to 2,128 m² (22,906 ft²). A potential tenant of the King Square Shopping Centre wishes to accommodate an indoor playground facility and/or indoor badminton facility with a GFA of 2,128 m² (22,906 ft²). The proposed indoor playground facility and/or badminton facility would be located on the second floor of the Shopping Centre, in an area previously intended for a banquet hall use.

Official Plan and Zoning

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

The 2014 Official Plan designates the subject property 'Commercial'. Permitted uses within the 'Commercial' designation include, but are not limited to: retail, service and recreational uses. The existing shopping centre and recreational use are provided for within this designation.

The subject property is located within the Buttonville district, and is subject to site specific policy 9.4.7 of the 2014 Official Plan, which specifies height and density provisions for the lands located at 9390 Woodbine Avenue. As the Minor Variance application does not propose to alter the building height or density, site specific policy 9.4.7 is not applicable to this application.

Zoning By-Law 165-90

The subject property is zoned 'Select Industrial with Limited Commercial (M.C.) 170%' under Zoning By-law 165-80, amended by site-specific Zoning By-law 2019-35, which introduced a variety of additional permitted uses, including a 'Recreational Establishment' use with a maximum GFA of 450 m² (4,844 ft²).

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, *"the increased GFA for 'Recreational Establishment' is required to facilitate an indoor playground operation and/or badminton facility within the shopping centre"*.

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:

- 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 Gross Floor Area (GFA) for a Recreational Establishment

The Applicant requests relief to permit a 'Recreational Establishment' use with a maximum GFA of 2,128 m² (22,906 ft²), whereas the By-law permits a 'Recreational Establishment' use with a maximum GFA of 450 m² (4,844 ft²). This represents an increase of 1,678 m² (18,062 ft²). The maximum GFA included within site specific Zoning By-law 2019-35 was based on the then contemplated playground area shown on the plans reviewed by City Staff at that time. Staff are of the opinion that the proposed variance to increase the maximum permitted GFA for a 'Recreational Establishment' within the King Square Shopping Centre will not negatively impact any of the existing uses within the shopping centre or, in the immediate surrounding context. The total GFA of the development will not increase, as a result of this development.

Parking Surplus

The site currently provides a total of 1,373 parking spaces. As per City of Markham By-law 28-97, the parking rate for an indoor playground ("any use not specified above") is 1 parking space per 25 m² (269 ft²) net floor area. Based on this, the proposed 2,128 m² (22,906 ft²) indoor playground would require 85 parking spaces. Conversely, the parking rate for the current use, banquet hall, is 1 parking space per 9 m² (97 ft²) net floor area, resulting in a requirement for 236 parking spaces.

Based on this, the proposal will reduce the parking requirement to 1,222 parking spaces. This will result in a surplus of 151 parking spaces, which will be allocated to future phases of the King Square development.

PUBLIC INPUT SUMMARY

No written submissions were received as of June 10, 2020. 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.

Application Processing

This application was initially scheduled to be heard on April 1, 2020; however, this hearing date was scheduled prior to the Province of Ontario's decision to suspend *Planning Act* timelines for the consideration of a consent and minor variance application, as well as any appeal of an application to the Local Planning Appeal Tribunal.

On June 12, 2020, the Province announced that the emergency regulations relating to *Planning Act* applications will end on June 22, 2020. After June 22, 2020, the procedural requirements (e.g. sending of notices, hearing of applications, eligibility for appeals to LPAT, etc.) of *Planning Act* applications shall proceed as they did prior to the declaration of the emergency. Revisions to the initial memorandum include an update on matters relating to application processing.

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.

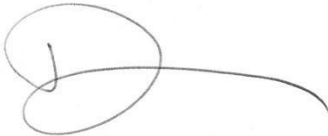
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Amanda Crompton, Planner

REVIEWED BY:



Dave Miller, Development Manager, West District

File Path: Amanda\File\ 19 142671 \Documents\District Team Comments Memo

APPENDIX "A"

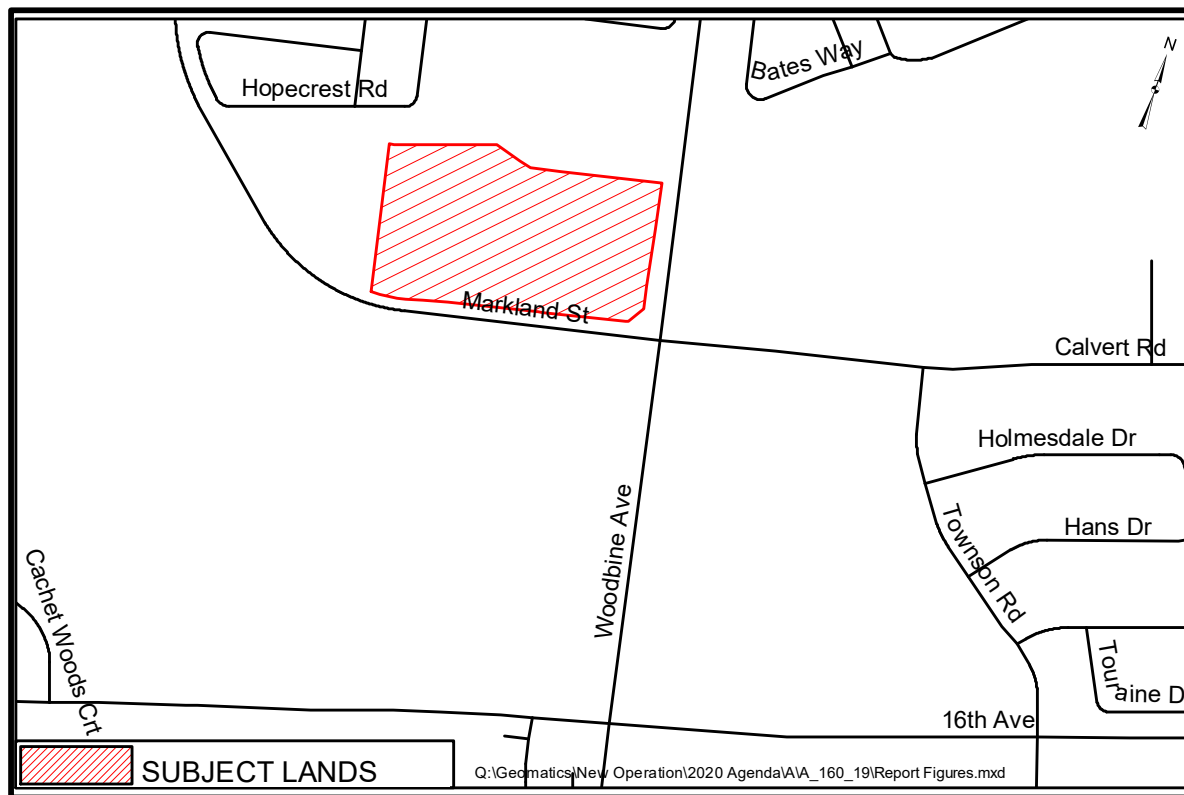
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/160/19

1. The variances apply only to the proposed development as long as it remains.

CONDITIONS PREPARED BY:



Amanda Crompton, Planner, Development Planning





Aerial Photo 2019

APPLICANT: King Square Ltd. (Becky Liang)
9390 Woodbine Avenue

FILE No. A/160/19

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MARKHAM DEVELOPMENT SERVICES COMMISSION

Drawn By: RT

Checked By: AC

 SUBJECT LANDS

DATE: 16/06/2020

FIGURE No. 1



Appendix 'B'

Minor Variance Sketch - Proposed Recreational Use

