

# **Memorandum to the City of Markham Committee of Adjustment**

November 14, 2019

**File:** A/113/19  
**Address:** 4138 7 Hwy E Markham  
**Applicant:** Sunrise Acquisitions (Hwy 7) Inc.  
**Agent:** Pound & Stewart Associates Limited (Philip Stewart)  
**Hearing Date:** Wednesday, November 27, 2019

The Applicant requests relief from the following requirements of By-law 177-96, CA1\*531 – Community Amenity One Zone, and By-law 28-97 (2014-65), as amended:

**a) Section 7.531.4 Special Parking Provision and Section 6.1.2 Size of required Parking Spaces (2014-65):**

to permit a reduced required parking space size of 2.6 m by 4 m, whereas the By-law requires a minimum parking space provided in an enclosed or underground garage to have a width of not less than 2.6 m and a length of not less than 5.8 m; as it relates to a proposed access doorway, landing, and staircase in a garage.

## **BACKGROUND**

### **Property Description**

The 141.83 m<sup>2</sup> subject property, which is currently occupied by an existing 278 m<sup>2</sup> laneway townhouse unit, is located on the north side of Highway 7 East, west of Sciberras Road (see Appendix “B”) and is municipally known as 4138 Highway 7 East, Unit 44 (the “subject property”). The subject property is part of the “Unionvillas”, a recently built laneway-based condominium townhome development.

### **Proposal**

This Applicant seeks relief from By-laws 177-96 and 28-97, as amended, to reduce the required size of one of the two existing parking spaces within the double car garage for the subject property. The reduction in one of the parking spaces (the “proposal”) would facilitate the existing access doorway, landing, and staircase, thereby facilitating the interior access between the garage and the dwelling unit (see Appendix “C”). The Applicant is not proposing any exterior alterations as part of this application.

### **Official Plan and Zoning**

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

The subject property is designated “Residential Mid Rise” in the 2014 Official Plan. The designation provides for a diversity of housing mix and building types, including lane-based townhomes. Development standards in this designation are intended to encourage street related building designs while protecting the existing character of the adjacent and surrounding areas. The proposed access doorway,

existing landing, and existing staircase in the garage support the existing street-related townhouse unit, which conforms to the 2014 Official Plan.

#### Zoning By-Law 177-96

The subject property is zoned Community Amenity One Zone (CA1\*531) under By-law 177-96, as amended, by site-specific By-law 2015-126. The By-law permits 35 townhouses and permits a special parking rate of two parking spaces per dwelling unit. The existing access doorway, landing, and staircase within the garage would require the reduction of one parking space size for the subject property. This reduction would render the subject property non-compliant with the required minimum two parking spaces per dwelling unit under By-law 2015-126, or the size of the required parking space requirement under Parking By-law 28-97 (2014-65).

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

According to the information provided by the applicant on the application form, the reason for not complying with Zoning is stated below:

*"In order to complete Unit 44, an as built condition, it is necessary to provide an access doorway between the dwelling's living space and the enclosed double car garaged, which is attached. A grade differential requires a landing and staircase to be provided for safe access under the Ontario Building Code. The landing and staircase extends into the parking space, the subject of the request for minor variance."*

Additional rationale is provided by the Applicant in the attached Cover Letter (see Appendix "D").

#### **Zoning Preliminary Review (ZPR) Not Undertaken**

The Applicant confirmed that a Zoning Preliminary Review ("ZPR") has not been conducted. 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:

- 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.

### Reduced Parking Space Dimensions

The Applicant seeks to reduce the required dimensions of one of the existing parking spaces to a width of 2.6 m and a length of 4 m, whereas the applicable By-laws require that two parking spaces with a width of not less than 2.6 m and a length of not less than 5.8 m be provided for each townhouse unit. This represents a 1.8 m reduction from the required length of one of the required parking spaces.

The parking space length reduction would accommodate the existing access doorway, landing, and staircase within the garage, thereby providing an internal access between the garage and the dwelling unit. Currently, access to the subject property is limited to the main dwelling entrance along Highway 7 East. Staff are of the opinion that whenever possible, the required parking dimensions should accommodate varying vehicle types and sizes. Staff explored the possibility of rotating the staircase by 90 degrees in an effort to mitigate the requested length reduction. Discussions with the City's Building Department determined, however, that this configuration would not provide sufficient space for the required landing and stairs.

Notwithstanding the length reduction of one parking space, Staff recognize that the reduced parking space can accommodate a compact car, thereby meeting the intent of the By-law to accommodate two cars per townhouse unit. Further, Staff note that relief from the By-law would rectify the existing site condition resulting from a grading differential, while accommodating Ontario Building Code requirements for a landing and three-step staircase. Due to the unique grading condition for this unit, Staff maintain that this variance is the result of site-specific unique circumstances that should not be used as a precedent for supporting future applications that seek a reduction in parking space dimensions within a garage.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of November 20, 2019. 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 the requested variance. 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:



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Luis Juárez, Planner, Central District

REVIEWED BY:



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Stephen Lue, Development Manager, Central District

File Path: Amanda\File\ 19 137993 \Documents\District Team Comments Memo

**APPENDICES**

Appendix "A" – Conditions of Approval

Appendix "B" – Context and Zoning Map

Appendix "C" – Plans

Appendix "D" – Cover Letter



**APPENDIX “A”**


**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/113/19**

1. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as ‘Appendix C’ to this Staff Report and received by the City of Markham on October 18, 2019, 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:

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Luis Juarez, Planner, Central District



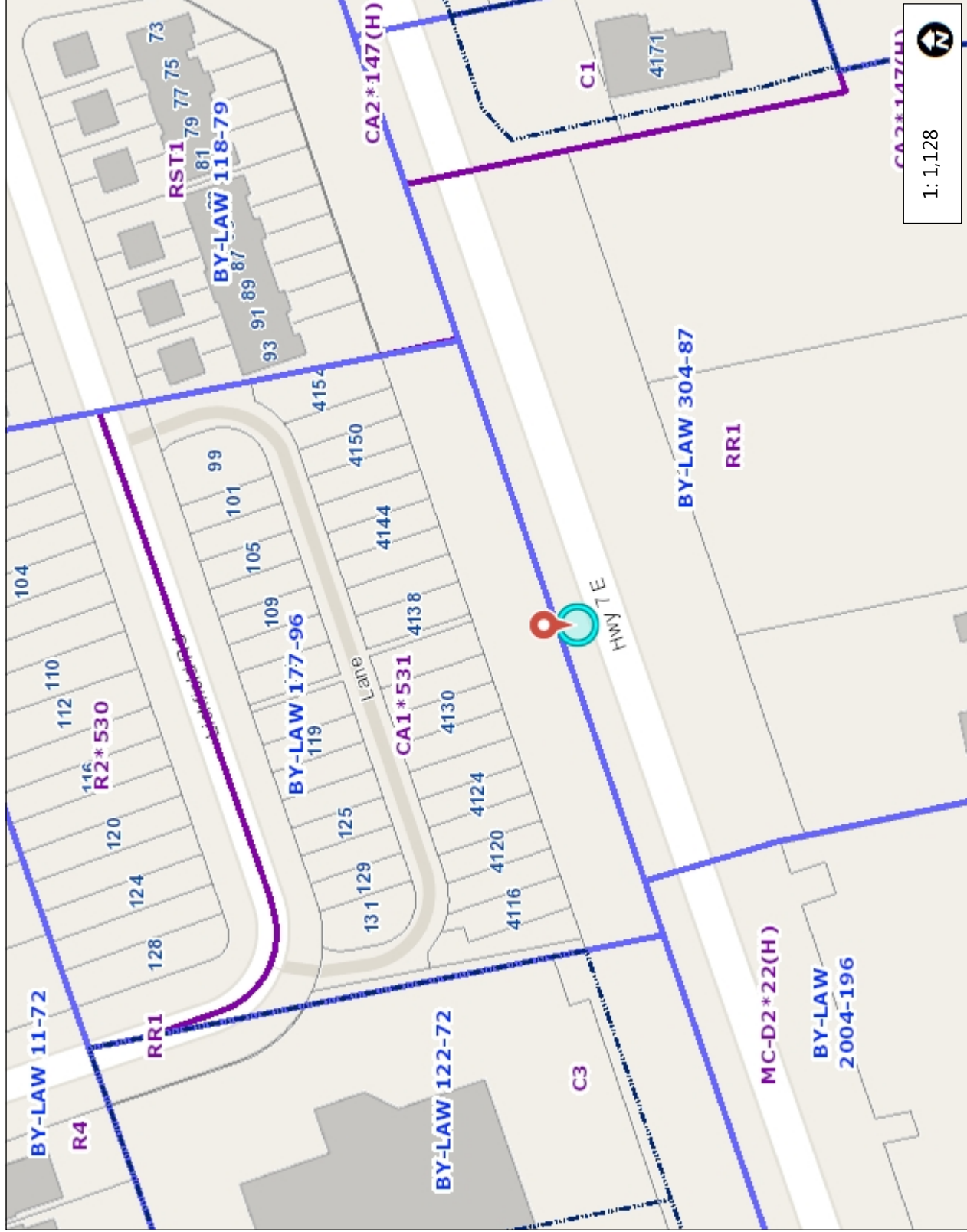
**APPENDIX “B”**

**ZONING & CONTEXT MAP TO BE ATTACHED TO ANY APPROVAL OF FILE  
A/113/19**



GEO-LOGIC 4

## Appendix A - Zoning & Context Map



1: 1,128



Notes

57.3 0 28.65 57.3 Meters

NAD\_1983\_UTM\_Zone\_17N  
© City of Markham

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

**APPENDIX “C”**

**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/113/19**

# FIGURE 1: LOCATION MAP AND CONCEPT SITE PLAN (LANDS SUBJECT OF MINOR VARIANCE - 4138 HIGHWAY 7 EAST, CITY OF MARKHAM)



## OFFICIAL PLAN MAP 3 - LAND USE

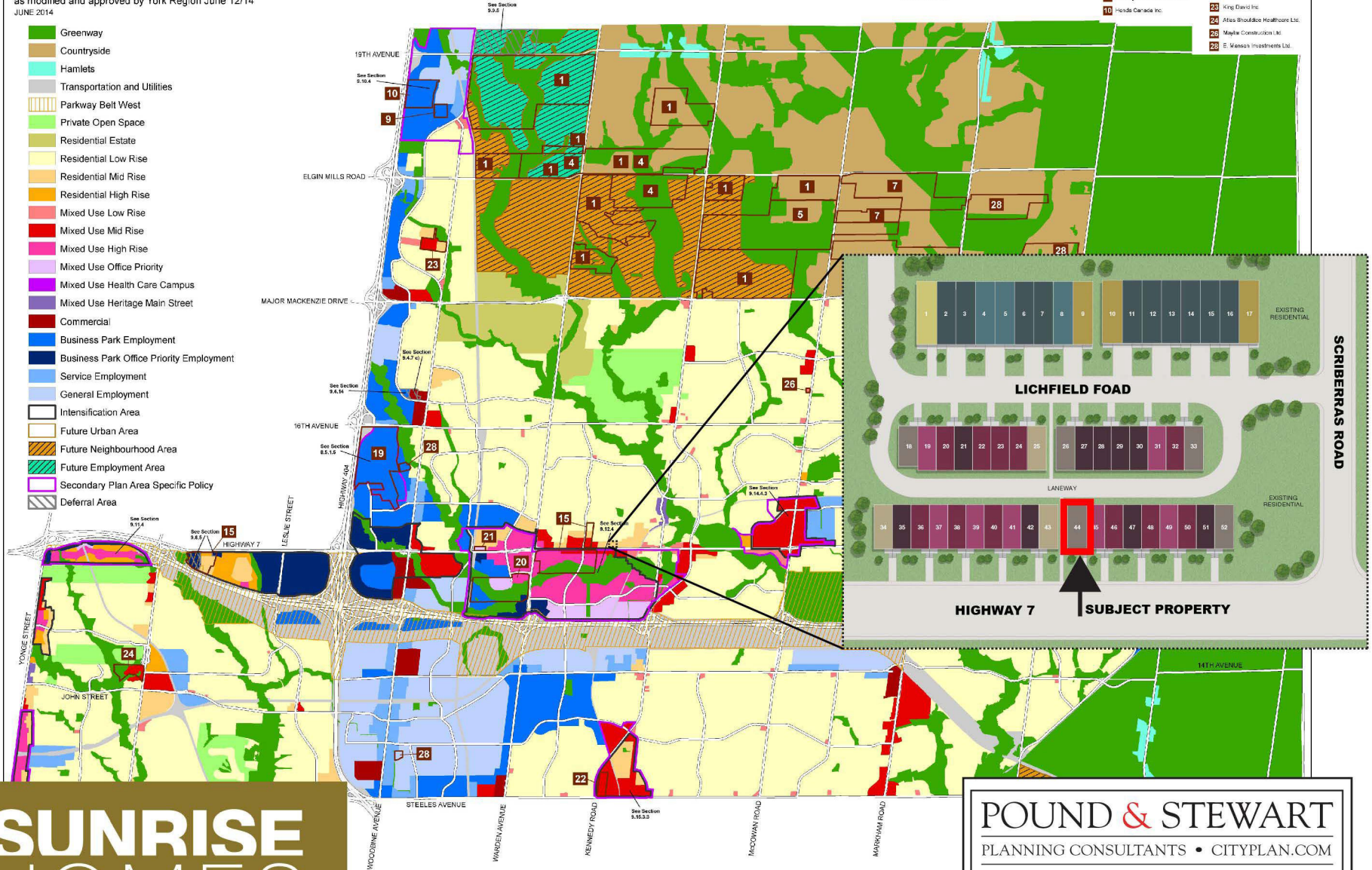
as modified and approved by York Region June 12/14  
JUNE 2014

- Greenway
- Countryside
- Hamlets
- Transportation and Utilities
- Parkway Belt West
- Private Open Space
- Residential Estate
- Residential Low Rise
- Residential Mid Rise
- Residential High Rise
- Mixed Use Low Rise
- Mixed Use Mid Rise
- Mixed Use High Rise
- Mixed Use Office Priority
- Mixed Use Health Care Campus
- Mixed Use Heritage Main Street
- Commercial
- Business Park Employment
- Business Park Office Priority Employment
- Service Employment
- General Employment
- Intensification Area
- Future Urban Area
- Future Neighbourhood Area
- Future Employment Area
- Secondary Plan Area Specific Policy
- Deferral Area

LPAT File Number PL140743 - April 9, 2018 Office Consolidation  
This map is subject to appeals to the Local Planning Appeal Tribunal. The numbered boxes depict lands owned by appellants of this map. The scope of any issues raised in those appellants' appeals will be identified as part of Local Planning Appeal Tribunal Case No. PL140743.

Map 3 - Land Use is subject to Appeal Nos.  
1. (Issue 36, 224)  
4. (Issue 237, 228)  
5. (Issue 62, 224)  
7. (Issue 4, 5, 15)  
9. (Issue 13, 18)  
10. (Issue 13, 15, 20)  
15. (Issue 244)  
19. (Issue 246)  
18. (Issue 124, 125)  
19. (Issue 129, 236, 260)  
20. (Issue 257)  
21. (Issue 271, 273, 275, 278)  
22. (Issue 279, 280)  
23. (Issue 262)  
24. (Issue 289)  
25. (Issue 308, 309, 311, 312, 313)  
28. (Issue 224)

- 1. North Markham Landowners Group, Regis Oak Northwest Inc., and Regis Oak Holdings
- 2. Resonance Farms Ltd.
- 3. Minor Holdings Inc., Corliss Developments, Cheshire Holdings, Tatum S.S. Investments Ltd. and Reachgrove Estates Inc.
- 4. Century Investments Inc., Highgrove Investments Inc., Tinned Holdings Inc., Mike McCoun Developments Limited, Summerville Realty Corp. and Brookdale Estates Inc.
- 5. Enbridge Gas Distribution Inc.
- 6. Honda Canada Inc.
- 7. Times Group Corporation
- 8. Bas Grove Hill Developments Inc.
- 9. Uptown Properties (Cornell) Ltd.
- 10. C/O T. Sullivan Properties LP and Aronson Co. Ltd.
- 11. BM Canada Ltd.
- 12. Denay (Residential) Developments Inc.
- 13. Pacific Mail Development Ltd. and Van Region Condominium Corporation No. 580
- 14. King David Inc.
- 15. Atlas Shaddock Healthcare Ltd.
- 16. Mayhe Construction Ltd.
- 17. E. Vasech Investments Ltd.

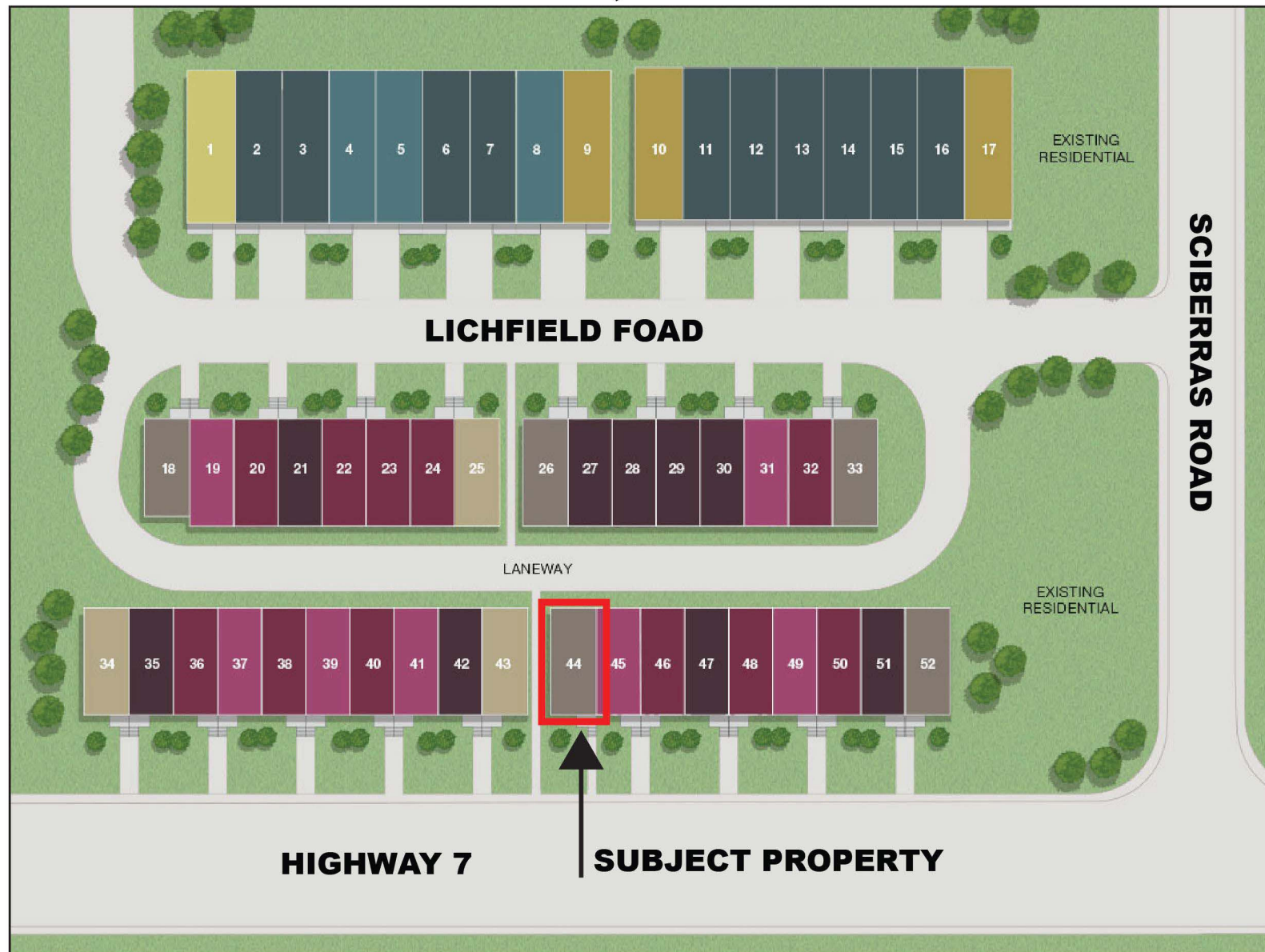


# SUNRISE HOMES

**POUND & STEWART**  
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Helping People Shape Living, Working & Public Spaces®



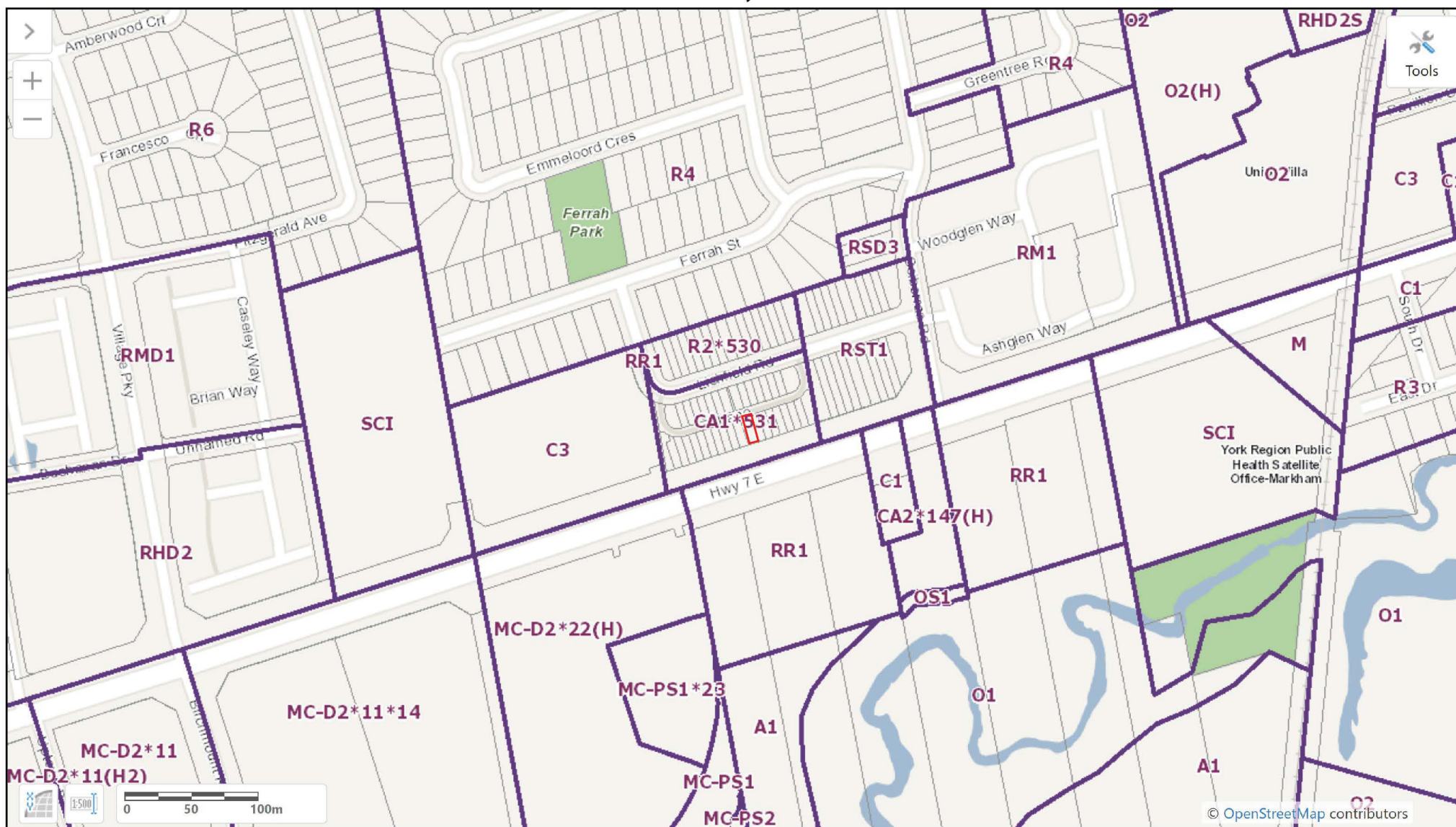
**FIGURE 2: “UNIONVILLAS” CONCEPT SITE PLAN  
4138 HIGHWAY 7 EAST, CITY OF MARKHAM**



**SUNRISE  
HOMES**

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**FIGURE 3: ZONING PER BY-LAW 177-96, AS AMENDED  
4138 HIGHWAY 7 EAST, CITY OF MARKHAM**



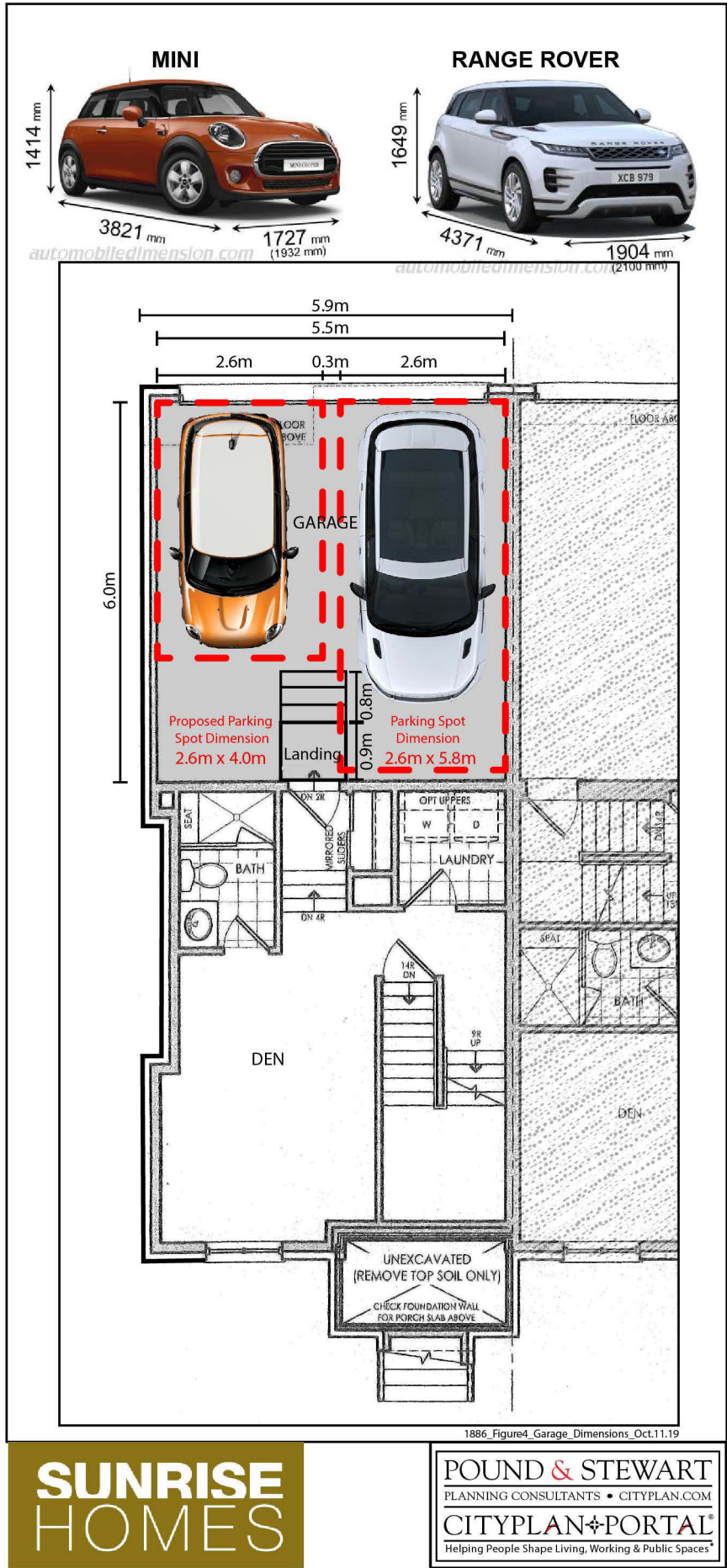
**SUBJECT PROPERTY**  
**ZONED COMMUNITY AMENITY 1 - CA1\*531**

**SUNRISE  
HOMES**

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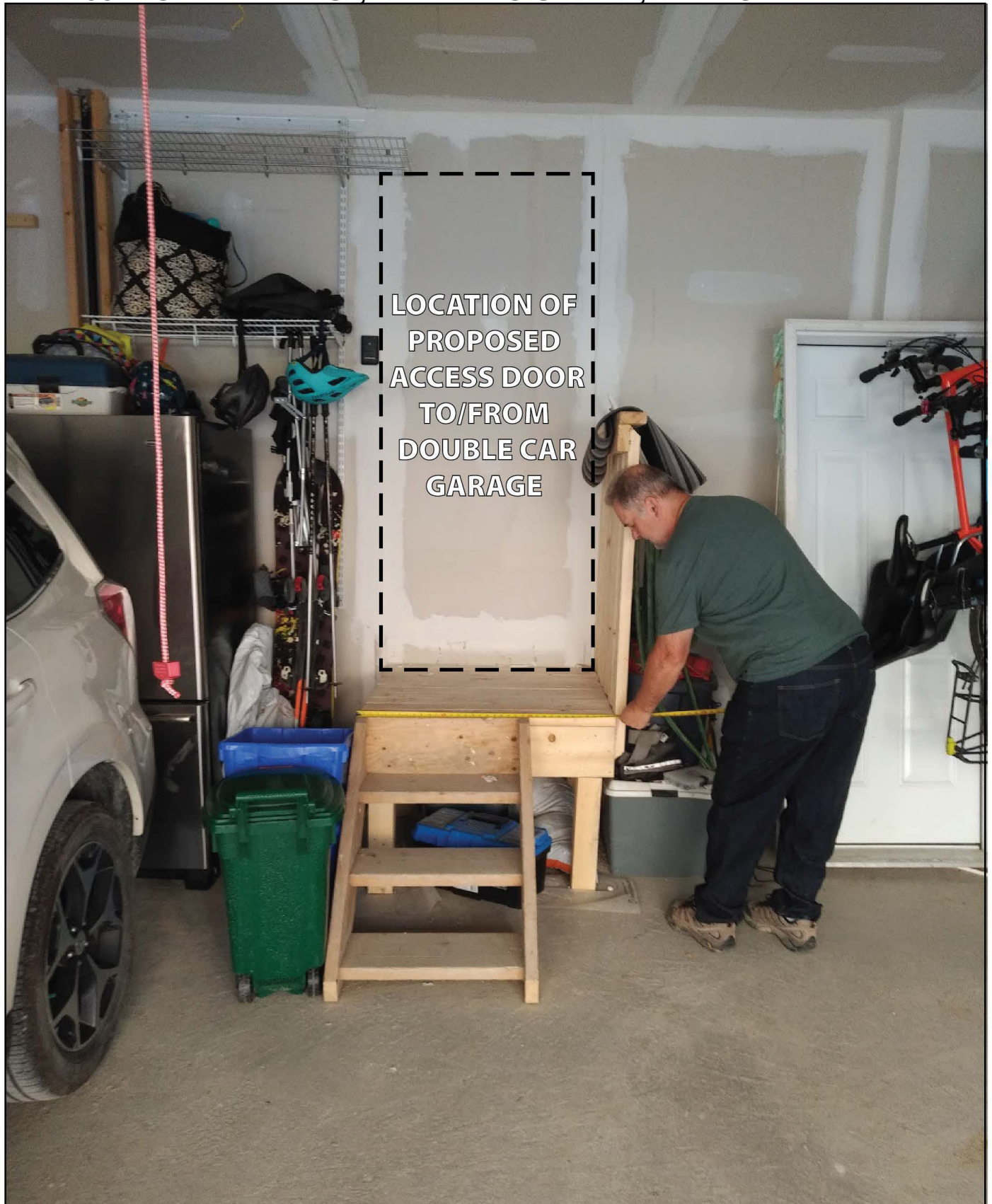


Figure 4: 4138 Highway 7 East, Markham (Unit 44)  
Minor Variance Application  
(To reduce one minimum parking space size  
in an enclosed double car garage)





**FIGURE 5: LOCATION OF PROPOSED ACCESS DOOR, STAIRCASE & LANDING  
4138 HIGHWAY 7 EAST, DWELLING UNIT 44, CITY OF MARKHAM**

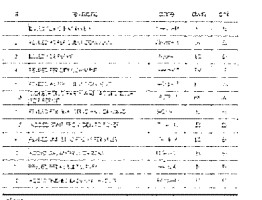
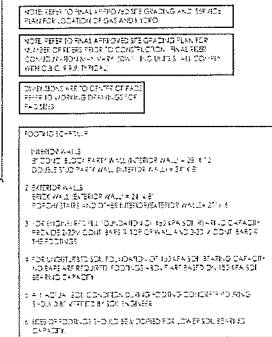


1886\_Figure5\_ProposedAccess\_Oct.10.19

**SUNRISE  
HOMES**

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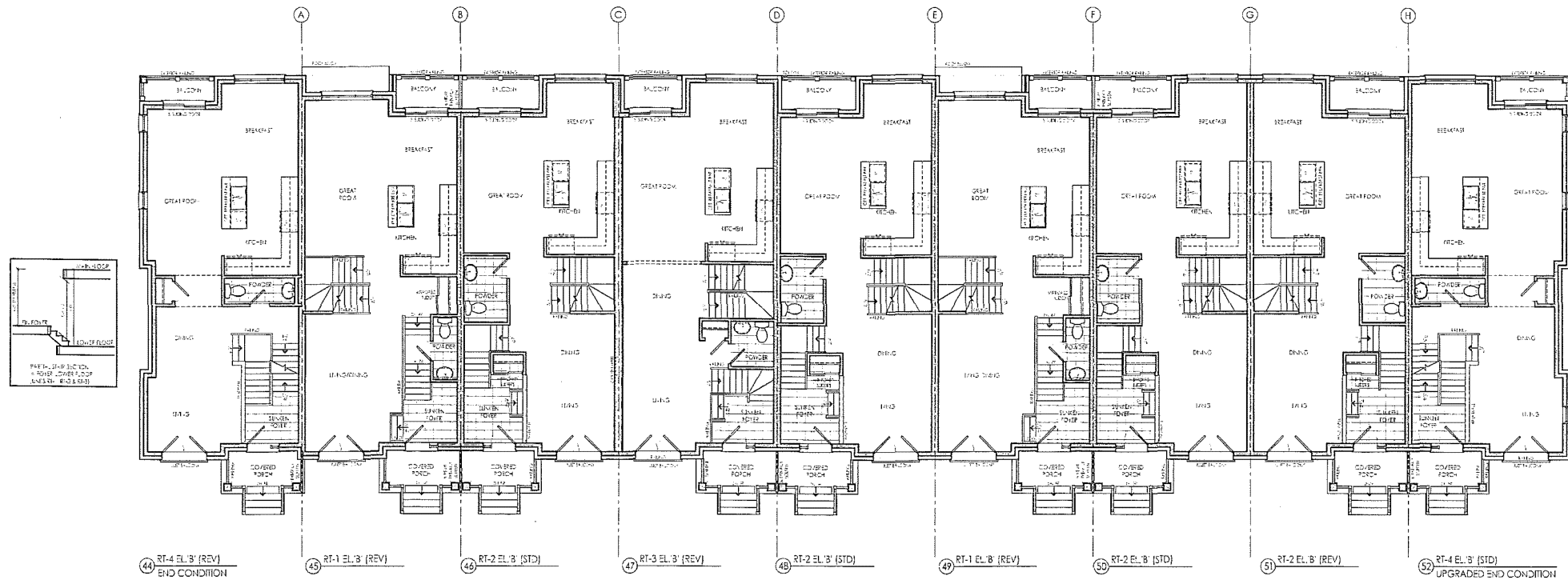
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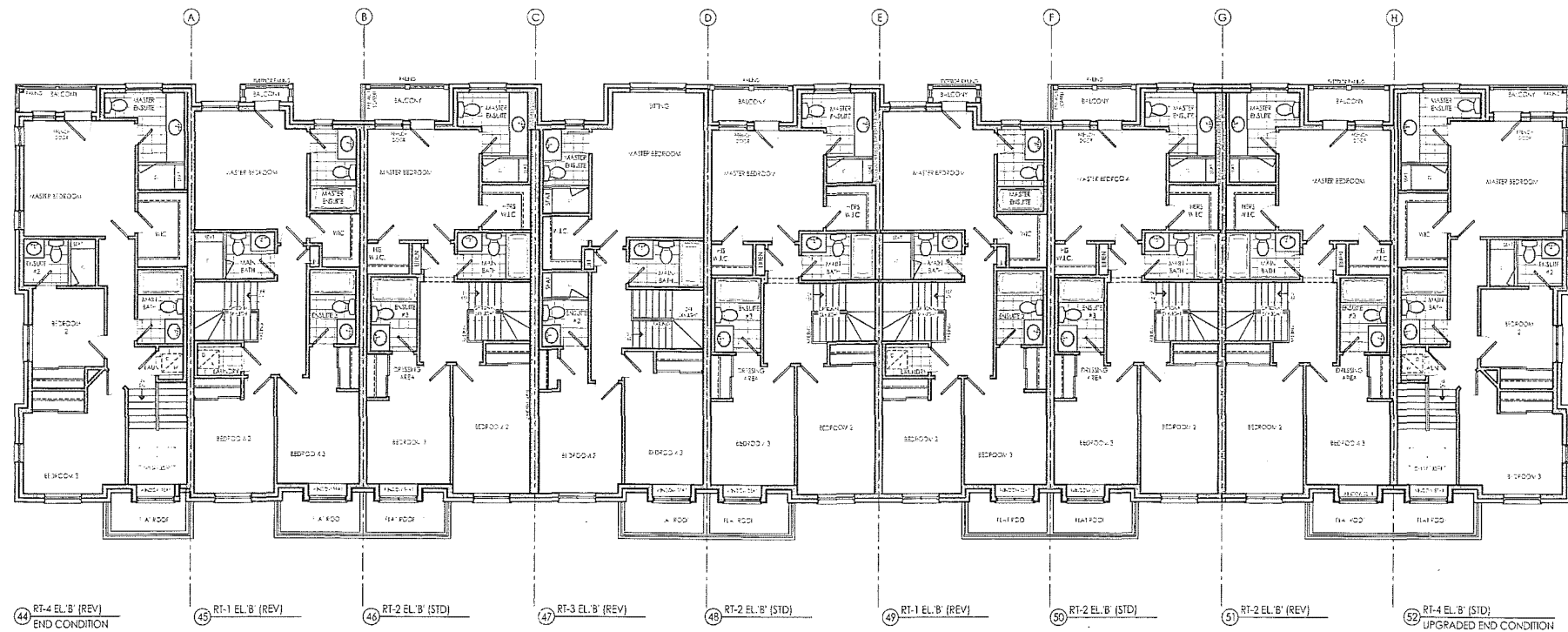
**P. 100**



1. END USER REVIEWED AND  
APPROVED FOR THE DESIGN AND  
CONSTRUCTION OF THE BUILDING  
AND THE BUILDING'S ACCESSORY  
BUILDINGS.  
DATE: 14/10/2019  
BY: [Signature]  
15/10/2019



MAIN FLOOR - BLOCK 6



UPPER FLOOR PLAN - BLOCK 6

NO.	REVISION	DATE	BY
1	ISSUED FOR CONSTRUCTION	14/10/2019	RN
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Sunrise Homes Ltd
Lichfield Road
Market
BLOCK 6
15050
A2

**APPENDIX “D”**

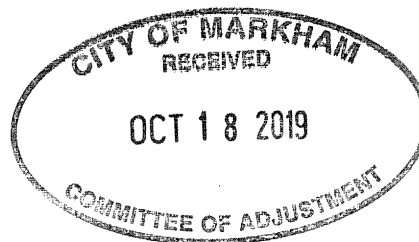
**COVER LETTER TO BE ATTACHED TO ANY APPROVAL OF FILE A/113/19**



October 18, 2019

**DELIVERED**

Mr. J. Leung, Secretary - Treasurer  
Committee of Adjustment  
City of Markham Municipal Offices  
Markham, Ontario  
L4B 1M5



**Re: Minor Variance Application**  
**Sunrise Acquisitions (Hwy 7) Inc.**  
**4138 Highway 7 East (Dwelling Unit 44) - 'Unionvillas'**  
**Part of Block 3, Plan 65M-4539, City of Markham**  
**Part 27, Plan 65R-37967**  
**Regional Municipality of York**  
**Our File No. 1886**

We are registered professional planning consultants retained by Sunrise Acquisitions (Hwy 7) Inc. Please accept our client's minor variance application regarding 4138 Highway 7 East (Dwelling Unit 44) to rectify an existing site condition. Dwelling Unit 44 comprises part of the Unionvilla's laneway townhouse project located south of Lichfield Road, north of Highway 7 and west of Sciberras Road. Additional townhouse development is located to the immediate east. Please refer to the attached Figure 1, Location Map and Figure 2 'Unionvillas' Concept Site Plan.

## **1.0 THE 'UNIONVILLAS' LANEWAY TOWN HOUSE PROJECT**

'Unionvillas' is described as a common element Condominium Corporation (YR CECC #1420) comprised of 35 dwelling units and common areas which was constructed in 2018-2019. Please refer to the attached Concept Site Plan. 'Unionvillas' is substantially complete, and the requested minor variance will facilitate the completion of 4138 Highway 7 East (Dwelling Unit 44), to rectify an existing site condition.

A formal Zoning Search Inquiry was obtained from the City regarding this project to assist in the preparation of this Minor Variance application. The Zoning Search is attached as Appendix 1, along with the Application for Housing Permit and the Building Permit. Figure 3, Zoning Map is also attached per Zoning By-law 177-96, as amended.



## **2.0 THE NEED OF A MINOR VARIANCE TO RECTIFY AN EXISTING SITE CONDITION**

Unit 44, subject of this minor variance application, obtains vehicular access from a laneway at the rear of the unit, comprising an enclosed double-car garage.

The applicable Zoning By-law Nos. 177-96 / 28-97, as amended, and Parent Zone – Community Amenity One - 'CA1\*531', Amending By-law No. 2015-126, per Exception 7.531 which includes:

### *Section 7.531.4 Special Parking Provision*

*a) Parking shall be provided at a rate of 2 parking spaces per dwelling unit.*

When this dwelling unit was constructed, maintaining the functionality of the interior living space resulted in the a slightly higher finished floor elevation offset to the enclosed double car garage. Therefore, in order for a safe interior access door to be permitted, between the living space and the enclosed double car garage, as per the building plans, it is necessary to provide a landing and stair case per the Ontario Building Code. The landing and staircase require floor space within the enclosed double car garage and, as a result, it is not possible to fully comply with the minimum size of one of the required vehicular parking spaces which includes:

### *Section 6.1.2 (b) Size of required Parking Spaces (2014-65)*

*(b) Where parking spaces are provided in an enclosed or underground garage, such parking spaces shall have a width of not less than 2.6 metres and a length not less than 5.8 metres.*

## **3.0 DESCRIPTION OF THE PARKING SPACE SIZE RELIEF SOUGHT PER THE ZONING BY-LAW**

We are seeking approval from the City of Markham Committee of Adjustment, under the *Planning Act* and the City's Amending Zoning By-law No. 2015-126, per parent Zoning By-law 177-96 / 28-97, as amended.

The requested minor variance to the zoning by-law proposes to reduce the required size of one of the parking spaces in the as built Unit 44 enclosed double car garage from 2.6 m by 5.8 m to 2.6 m by 4.0 m, to provide a parking space for a compact car, thereby maintaining the original purpose of the enclosed double car garage, while facilitating the required landing and staircase, permitting an access door between the living area and the enclosed garage.



Please refer to Figure 4 which illustrates the relationship and scale of the enclosed double car garage with hypothetical vehicles with one reduced parking stall size shown.

The second parking space remains 2.6 m by 5.8 m per the Zoning By-law. *Section 7.531.4 Special Parking Provisions a) Parking shall be provided at a rate of 2 parking spaces per dwelling unit is maintained.*

In summary, achieving zoning relief in the minimum parking space size, rectifies and existing site condition as it maintains a landing, with a three-step staircase, providing for a direct and internal doorway access between the living portion of the dwelling and the enclosed double car garage, per the Ontario Building Code. Please refer to Figure 5, an on-site photograph identifying the existing condition with the landing and staircase location relative to where the proposed access doorway is proposed to be installed for Dwelling Unit 44.

#### **4.0 SATISFYING THE FOUR (4) MINOR VARIANCE TESTS UNDER THE *PLANNING ACT***

In order to satisfy the requirements of the *Planning Act* as it relates to the minor variance sought, it is necessary to consider and provide an opinion regarding the following four tests.

***One: The general intent and purpose of the Official Plan is maintained;***

***Two: The general intent and purpose of the Zoning By-law is maintained;***

***Three: The variance is minor;***

***Four: The variance is desirable for the appropriate development or use of the property.***

To support the Committee's approval of the minor variance sought, please consider:

##### ***Test One: The general intent and purpose of the Official Plan is maintained***

The purpose of City's Amending Zoning By-law No. 2015-126, per parent Zoning By-law 177-96 / 28-97, as amended, is to implement and satisfy the policies of the City's Official Plan, which is consistent with the Provincial Policy Statement, 2014 and in conformity with the Growth Plan for the Greater Golden Horseshoe, 2019, as amended.

The minor variance sought will rectify an as-built condition for Dwelling Unit 44, where the existing residential land use and exterior design are in conformity with the City of Markham's Official Plan.



The minor variance sought facilitates an internal doorway access within Dwelling Unit 44 dwelling to its enclosed double car garage. This laneway townhouse project requires dwelling units to be able to facilitate two cars within the enclosed garage. The variance sought continues to permit this planned function, however one of the parking spaces will be reduced in size which will facilitate a compact car, which is in itself, is more energy efficient and sustainable.

***Test Two: The general intent and purpose of the Zoning By-law is maintained***

The minor variance sought rectifies an as-built condition by maintaining the general intent and purpose of the City's Zoning By-law. The requested minor variance to the Zoning By-law proposes to reduce the required size of one of the parking spaces in the Dwelling Unit 44 enclosed double car garage from 2.6 m by 5.8 m to 2.6 m by 4.0 m, to provide a parking space for a compact car, thereby

maintaining the original purpose of the double car garage, while facilitating the landing and staircase, and the access door between the living area and the garage.

The minor variance sought facilitates internal doorway access within the dwelling unit to the double car garage. As this project includes laneway townhouses dwelling units are required to be able to facilitate two cars with the garage. The variance sought continues to permit this planned function.

***Test Three: The variance is minor***

The minor variance sought rectifies an as-built condition, while maintaining the planned function of the enclosed double car garage to satisfy the intent of the Zoning By-law. Compact cars are substantially shorter and slightly narrower than standard car sizes. There is no change to the width of the parking space in the garage, however the length is shortened from 5.8m to 4.0 m, which represents about a 30% reduction in the required minimum parking space size length. This is in keeping with a typical compact car length.

***Test Four: The variance is desirable for the appropriate development or use of the property***

The minor variance sought is internal to Dwelling Unit 44 and facilitates an as-built condition. Given the finished grade differential it is necessary to construct a landing, with a three-step staircase, providing for safe access under the Ontario Building Code. As a result, the landing and stair case partially extends into one of the vehicular parking spaces located within the double car garage.





The minor variance sought for Dwelling Unit 44 facilitates internal doorway access within the dwelling unit to the dwelling's enclosed double car garage. As 'Unionvillas' includes laneway townhouses dwelling units it is required that the dwellings facilitate two cars with their enclosed garages. The variance sought continues to permit this planned function and there is no external change to the development and its community and the general intent of the City's Official Plan and Zoning By-law are maintained.

## 5.0 MINOR VARIANCE APPLICATION REQUIREMENTS

- One duly completed Minor Variance Application Form;
- A cheque in the amount of \$2,150.39, payable to the City of Markham, comprised of \$1,903.00, the Committee of Adjustment's Minor Variance Application Fee, plus HST at \$247.39 to rectify an existing site condition;
- Authorization Form appointing Pound & Stewart Associates Limited as Agent for the purpose of this Minor Variance application;
- Two copies Proof of Ownership, City of Markham 2019 Final Tax Bill;
- Two copies of the Concept Site Plan of the 'Unionvillas' Laneway Town house project;
- Two copies of the Plan of Survey by KRCMAR Surveyors Limited, dated November 7, 2018;
- Two copies of the Plan of Condominium by KRCMAR Surveyors Limited, registered September 17, 2019 pe the Land Registry Office;
- Two copies of the Building Elevations and Floor Plans layout;
- Two copies of the Landscape Drawings layout;
- Two copies of the Dwelling Unit 44 double car garage layout with one reduced parking stall size shown;
- A USB containing electronic copies of the application form, proof of ownership, Survey Plan, etc. and all drawings as submitted as noted above.

## 6.0 CONCLUSION & RECOMMENDATION

In summary, as a Registered Professional Planner, and for the reasons outlined above I am of the opinion that our client's proposed minor variance to the minimum parking space size, within an enclosed double car garage, is desirable for the appropriate development or use of the property. It is recommended that the minor variance sought for the subject property (Dwelling Unit 44) be approved with any appropriate conditions applied by the Committee of Adjustment.



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# POUND & STEWART

PLANNING CONSULTANTS • CITYPLAN.COM

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Thank you for your consideration of this application and should any additional information be required please do not hesitate to ask.

Yours truly,

Pound & Stewart Associates Limited



Philip Stewart MCIP, RPP

/la 1886ltr.M.V. Applic.Oct.17.2019

Attachments: As noted herein

cc. Ms. Cristin Miller, Supervisor of Zoning, Building Standards Dept., City of Markham  
(C of A - Application cover letter only)

cc. Client

POUND & STEWART ASSOCIATES LIMITED

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305 RENFREW DRIVE, SUITE 101, MARKHAM, ONTARIO, CANADA L3R 9S7 • 905 305 9797  
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