



Report to: Development Services Committee

Meeting Date: June 13, 2023

SUBJECT:	RECOMMENDATION REPORT 1377402 Ontario Inc., Application for Zoning By-law Amendment to permit Business Office, and Additional Residential Uses, 162 Main Street North, Markham Village (Ward 4)
PREPARED BY:	Peter Wokral, ext. 7955
REVIEWED BY:	Regan Hutcheson, ext. 2080

RECOMMENDATION:

- 1) That the report dated June 13, 2023 titled “RECOMMENDATION REPORT, 1377402 Ontario Inc., Application for Zoning By-law Amendment to permit Business Office, and Additional Residential Uses, 162 Main Street North, Markham Village (Ward 4), File No. ZA 15 147635, SC 15 147635”, be received;
- 2) That the record of the Public Meeting held on June 16, 2015, regarding the application submitted by 1377402 Ontario Inc. to amend Zoning By-law 1229, as amended, be received;
- 3) That the Zoning By-law Amendment application ZA 15 147635 submitted by 1377402 Ontario Inc. to amend Zoning By-law 1229, as amended, to permit business office uses, and additional residential uses at 162 Main Street North and to amend the development standards to permit the existing parking lot be approved, and the draft By-law attached as Appendix ‘B’ be finalized and enacted without further notice;
- 4) That the Site Plan application SC 15 147635 submitted by 1377402 Ontario Inc. to permit the existing parking lot at 162 Main Street North, be endorsed in principle, subject to the conditions attached as Appendix ‘A’;
- 5) That Site Plan application SC 15 147635 be delegated to the Director of Planning and Urban Design or designate, to be issued following execution of a Site Plan Agreement and Site Plan Approval is issued only when the Director, or designate, has signed the site plan;
- 6) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

In 2015, the owner of 162 Main Street North, 1377402 Ontario Inc. (the “Owner”) submitted Zoning By-law Amendment and Site Plan Control applications to permit residential, business office, retail, personal service shop, restaurant uses, and a new parking lot. A statutory Public Meeting was held to consider the applications on June 16, 2015. The Development Services Committee (the “DSC”) recommended that a Zoning By-law be enacted only permitting the proposed business office and residential uses, in conformance with the uses supported by the former Main Street Markham Area Secondary Plan (“OPA 108”), and medical offices, limited to one medical practitioner at

any given time, as recommended by staff. This recommended limitation was intended to prevent the property from being used as a Medical Clinic.

The Owner did not support Staff's draft Zoning By-law due to the recommended limitations on use and the number of medical practitioners because they did not reflect their desired development intentions to permit future additions to the existing heritage building. Consequently, the By-law was not forwarded to Council for approval, and the Owner proceeded to install a parking lot without obtaining any approvals from the City.

In 2017, and in an effort to find a mutually satisfactory resolution that would bring the property into compliance, Staff prepared a revised by-law amendment that no longer limited the number of medical practitioners permitted to practice in the building, but recommend that a Holding Provision be placed on any proposed zoning for Medical Clinic use. This would have also required the existing driveway to be widened to permit two-way traffic in order to prevent interruption to flow of traffic on Main Street North, should the property be converted to medical clinic.

The Staff recommendations and the draft zoning By-law amendment were still not supported by the Owner, and at their request, the report and draft By-law were never brought before Council. Despite not having obtained a zoning amendment to permit commercial uses, the property and building continued to be used as an insurance office.

Recently, the current Owner requested to reactivate the Zoning Amendment application in order to formally legalize the existing use, and indicated no objection to the draft Zoning By-law amendment recommended by Planning Staff in 2017. Staff recommend that the proposed Zoning Amendment be enacted and the Site Plan application for the parking lot be approved.

PURPOSE:

The purpose of this report is to recommend approval of the Zoning Amendment and Site Plan applications (the "Applications") submitted by the Owner to permit business office and additional residential uses, and a parking lot, at 162 Main Street North in Markham Village (the "Subject Lands").

BACKGROUND:

The Subject Lands are located on the west side of Main Street North in Markham Village

Located between Bullock Drive to the north, and Wilson St. to the south, the lot has an area of 1,906 m² (20,516 ft²) and is occupied by a 192.0 m² (2,062 ft²) two-storey, single-detached heritage dwelling constructed in 1885. The former dwelling is identified as a Class 'A' heritage property in the Markham Village Heritage Conservation District (See Figure 5). Figure 3 shows the surrounding land uses. These neighbouring businesses are conducted in former residences that have been converted into commercial or business office use.

In 2015, the original application proposed a by-law amendment seeking uses that were not supported by Staff

In an effort to make the Subject Lands marketable, the previous Owner proposed a by-law amendment to permit service shops, personal service shops, retail and restaurant uses, and townhouses that were not supported by the policies of OPA 108, which was in effect at the time. The intent of these policies were to preserve the residential character of properties to the north of the historic commercial core and south of Bullock Drive, by only permitting low intensity professional office and residential uses that typically have minimal negative impacts to the appearance and character of former historic residences.

Although OPA 108 is no longer in effect, the policies limiting the use of the former residential properties, north of the commercial core, and south of Bullock Drive, to professional office and residential uses were carried forward in the site specific policies for Markham Village in Section 9.13.4.4 of the City's 2014 Official Plan. Staff did not support the requested service shop, retail, restaurant, and townhouse uses, and revised development standards such as reduced setbacks, as requested by the Owner, because no conceptual site plan accompanied the application with which to assess the potential impacts of development.

A Statutory Public Meeting was held on June 15, 2015

At the Statutory Public Meeting, the DSC recommended support for a by-law amendment only permitting the business office and residential uses permitted by OPA 108 and limited the use of a medical clinic to only one medical practitioner at any given time, as recommended by Staff.

The Owner did not support the draft by-law recommended by Staff and the DSC

The Owner opposed to the limitation on uses, and requested that the draft by-law not be brought forward for Council consideration in the autumn of 2015.

The Owner installed the existing parking lot and commenced operation of a business office without the City's approval

In October 2015, the Owner installed a paved parking lot, ground signage, and began using the building as an insurance broker's office despite not having the required zoning and City approval. The City's By-law Enforcement Staff issued an "Order to Comply" directing the Owner to obtain the necessary City approvals for the parking lot, and office use on the Subject Lands.

Discussions continued between the City and the Owner but an amendment satisfactory to both parties was not achieved

The Owner requested that the City reconsider the provisions of the draft by-law limiting the number of medical practitioners to one at any given time. After some consideration and in an effort to bring the property into compliance, Staff were satisfied that the parking rates required for medical clinics contained in the City's Parking By-law, coupled with the limited ability of the Subject Lands to provide on-site parking, would effectively limit the size of any future medical clinic.

On the recommendation of the City's Transportation Engineering Department, a Holding Provision was recommended requiring the Owner to widen the existing driveway to 6 m to permit two-way traffic, should the use on the Subject Lands be converted to a medical clinic. The intent of this recommendation avoids traffic flow interruption on Main Street North due to vehicle queuing from existing single lane driveway, which was based on the typical high traffic volumes generated by medical clinics and the chronic traffic congestion of Main Street in Markham Village.

A staff report and draft by-law amendment were prepared for the October 16, 2016, DSC meeting, but the Owner did not support the recommended Holding Provision, and again requested that the by-law amendment not be brought to Council for consideration. Since that time, the business office use has continued on the Subject Lands without any issues, despite not having the necessary zoning or use permissions from the City.

The current Owner now seeks to proceed with the by-law amendment supported by Staff in 2017 to legalize the existing business office use

The draft by-law amendment recommends the expansion of permitted uses to those supported by the site-specific policies for this area of Markham Village contained in the City's 2014 Official Plan (the "OP"), including business offices, dwelling units located over business premises, a detached dwelling, a semi-detached dwelling, a duplex dwelling, triplex, and fourplex dwellings.

The draft by-law amendment would also permit the existing site conditions, including the existing asphalt parking lot, but continues to recommend a Holding Provision related to the introduction of a medical clinic. As noted earlier, the removal of the Holding Provision would require the widening of the existing driveway to 6 m to permit two-way traffic. The current Owner indicated no plans to further alter the existing building or property and only requests to legalize the existing use of a business office.

The OP designates the Subject Lands "Residential Low Rise" and the existing Zoning By-law permits a variety of residential uses

The OP includes "Area and Site Specific Policies" that permits the following (Section 9.13.4.4):

- Offices not exceeding 45 percent of the total gross floor area
- The provision of at least one dwelling unit where an office use is proposed within an existing residential building, with the exception of a building, which by virtue of its size or configuration is not suitable for mixed use, where Council may permit one use only provided it is within the existing building
- Townhouses are permitted through a Zoning By-law amendment subject to the following:
 - the protection of any existing heritage buildings onsite
 - restricted vehicular access points to public streets
 - adequate off-street parking
 - the number of linked townhouse units not exceeding 8, except where permitted by Council in consideration of special or significant design features

Figure 2 identifies that the Subject Lands are currently zoned “One-Family Residential” (R3) and permits the following residential uses:

- Detached, Semi-detached, Duplex, Triplex, and Fourplex dwellings

The statutory Public Meeting was held on June 16, 2015

An oral submission was received from a local resident suggesting that the Applications be reviewed by the Markham Main Street Committee. The resident also raised site-specific and area parking and access issues. Staff opine that the proposed office use in the existing building would not have any significant impacts from a parking perspective, but acknowledge that the existing one-way residential driveway would be problematic from a traffic and vehicular access perspective should the building be used as a medical clinic without widening the existing driveway to permit two-way traffic.

OPTIONS/ DISCUSSION:

Business office and residential uses are supported

It is proposed that the property zoning be changed from R3 under By-law 1229, as amended to Holding Office/Residential [(H)C4] Zone, with site-specific development standards related to the existing driveway, heritage building, and parking spaces. Staff support business office use and residential uses, including single detached, semi-detached, duplex, triplex, fourplex, and apartments. The proposed uses at this location are compatible with surrounding uses and will not adversely affect the historic character of the village. The Subject Lands have the capacity for additional uses, associated parking, and can be adequately serviced. Appendix ‘B’ includes the draft by-law amendment.

Staff no longer recommend the limitation on medical office use

Originally, when OPA 108 was approved for Markham Village, medical office uses were not envisioned for this portion of Main Street. However, in 2014, Council passed By-law 2014-62 to ensure that all zoning by-laws in the City contain the same definition for ‘Medical Office’ and indicated that wherever a ‘Business and Professional Office’ is a permitted use, a ‘Medical Office’ is also permitted. This by-law also deleted the term ‘business and professional office’ in all existing City by-laws and replaced it with the term ‘Business Office’ with an amended definition to include ‘Medical Office’. The definition of a ‘Medical Office’ in the amending by-law was also revised to indicate that this type of premises includes “clinics operated by a number and/or variety of medical professionals, but does not include a public or private hospital”. Therefore, throughout the City, where business offices are permitted, medical offices and clinics are also permitted, subject to the availability of on-site parking.

The Owner currently plans to continue to use the Subject Lands for business office, but would like the zoning to also permit residential uses. The Zoning By-law requires one parking space per 30 m² of net floor area for business office use. Even if both floors of the existing building were to be used as office space, the Zoning By-law would only require the five parking spaces indicated on the accompanying site plan drawing (See Figure 4). However, if in the future there was a proposal to convert the entire existing building to a medical office, the Zoning By-law would require one parking space per 20 m² of net floor area, which would require eight on-site parking spaces. A ‘Change of

Use' permit application and site plan approval to expand the existing parking area would be required by the City's Building Department before converting the building to a medical office use. The required parking spaces for the medical use would be identified during site plan review and would need to be provided through an amendment to the Site Plan Agreement.

The Owner requested that the limitation on medical office uses to one office used by a single practitioner at any one time, as recommended at the statutory Public Meeting be reconsidered.

Based on the above policy, and the existing size of the Subject Lands, which would appear to allow for future parking expansion, the limitation on medical office use is no longer recommended by Staff.

Specific development standards have been included in the Draft By-law Amendment

The draft by-law amendment addresses existing site conditions including the following:

- minimum lot frontage: 18.3 m
- minimum lot area: 2,067 m²
- minimum front yard setback: 7.2 m
- minimum north side yard setback: 0 m
- minimum required driveway width (for two-way access to a parking area): 2.9m
- permit access ramps, driveways, and parking areas to be constructed without being defined by a curb, rolled asphalt, or a fence

The draft by-law amendment also reflects the development standards of the parent zoning by-law where they do not conflict with the existing site conditions. If further minor modifications to the site plan are required in the future that do not comply with the C4 development standards, a variance application to the Committee of Adjustment would be required.

The redevelopment of the Subject Lands is supportable

Although not located in the rear yard, the parking lot, as constructed, generally complies with the criteria for new development outlined in the OP (Section 9.13.4.4). The heritage building is preserved and remains the prominent feature of the Subject Lands. The development reflects the area's residential character in terms of appearance and size. The Subject Lands also have the capacity to introduce parking facilities for office development in conjunction with the preservation of significant trees, appropriate landscape, and screening from adjacent residential areas.

A number of design-related issues were raised with respect to the Application as initially submitted and through modifications to the site plan submission and the recommended draft zoning by-law, these issues have been addressed

a) On Site Parking:

Zoning staff confirmed that the number and location of parking spaces shown on the submitted plans are satisfactory for the proposed business office use. If additional spaces are required in the future, the Subject Lands have the capacity to accommodate additional parking spaces

b) Screening of Parking Area:

Staff recommend the screening of the new parking spaces with medium height shrubs.

c) Relocation of Historic Garden Trellis (the “Trellis”):

Heritage Markham recommended that the side yard Trellis be moved to screen the proposed parking lot. The Owner did not want to move this structure indicating that it will look out of place in the front yard and was too fragile to be moved. Staff are satisfied that the parking lot can be screened by plantings alone, without relocating this structure.

d) Driveway Access:

Engineering Staff do not require the existing 2.9 m driveway to be widened to accommodate two-way traffic while the existing building is used for residential and /or business / insurance office use. Permitting the existing driveway width allow for the preservation of a maple tree on the Subject Lands. However, should the Subject Lands be permitted for conversion to a medical office use, the Owner would be required to submit a site plan application to widen the driveway to permit two-way traffic and plant replacement trees. Widening of the driveway to permit two-way traffic would also require modification of the bump-out installed in front of the Subject Lands as part of the improvements to Main Street North. Although a ten-year moratorium is in place for alterations to these improvements, the Director of Engineering may permit minor modifications to features in the right-of-way, such as the configuration of bump-outs.

e) Grading and Servicing:

Engineering Staff require a certificate from the Owner’s engineer confirming that the recently installed parking lot conforms with the City’s standards for storm water management and site grading and good engineering practice.

CONCLUSION

Staff support the draft zoning by-law amendment to add offices and a variety of residential uses. The Owner’s request to permit medical offices without limiting them to one medical practitioner at any one given time is supportable, as the scale can be limited by the City’s Parking By-law based on the number of available on-site parking spaces. However, Staff recommend that a Holding Provision be placed on medical office uses, which can only be removed by widening the existing driveway to permit two-way traffic. This feature of the draft zoning by-law is intended to help prevent further traffic congestion on Main Street North that would result from the Subject Lands being used in a more intensive manner. Staff recommend approval of the draft zoning by-law amendment (Appendix ‘B’) and that the site plan be endorsed, in principle, subject to the conditions (Appendix ‘A’).

FINANCIAL CONSIDERATIONS:

Not applicable

HUMAN RESOURCES CONSIDERATIONS:

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

The proposed development aligns with the City's strategic priorities for responsible growth management.

BUSINESS UNITS CONSULTED AND AFFECTED:

The Applications were circulated to various City departments and external agencies, as well as the Heritage Markham Committee, and their requirements have been incorporated, where appropriate, into this report.

RECOMMENDED BY:

Giulio Cescato, MCIP, RPP
Director of Planning and Urban Design

Arvin Prasad, MCIP, RPP
Commissioner of Development Services

ATTACHMENTS:

Figure 1: Location Map
Figure 2: Area Context/Zoning
Figure 3: Aerial Photo
Figure 4: Proposed Site Plan
Figure 5: Photograph of the Existing Heritage Dwelling
Appendix 'A': Site Plan Conditions
Appendix 'B': Draft Zoning By-law Amendment

APPLICANT: Frank Stigter

Figure 1- Location Map

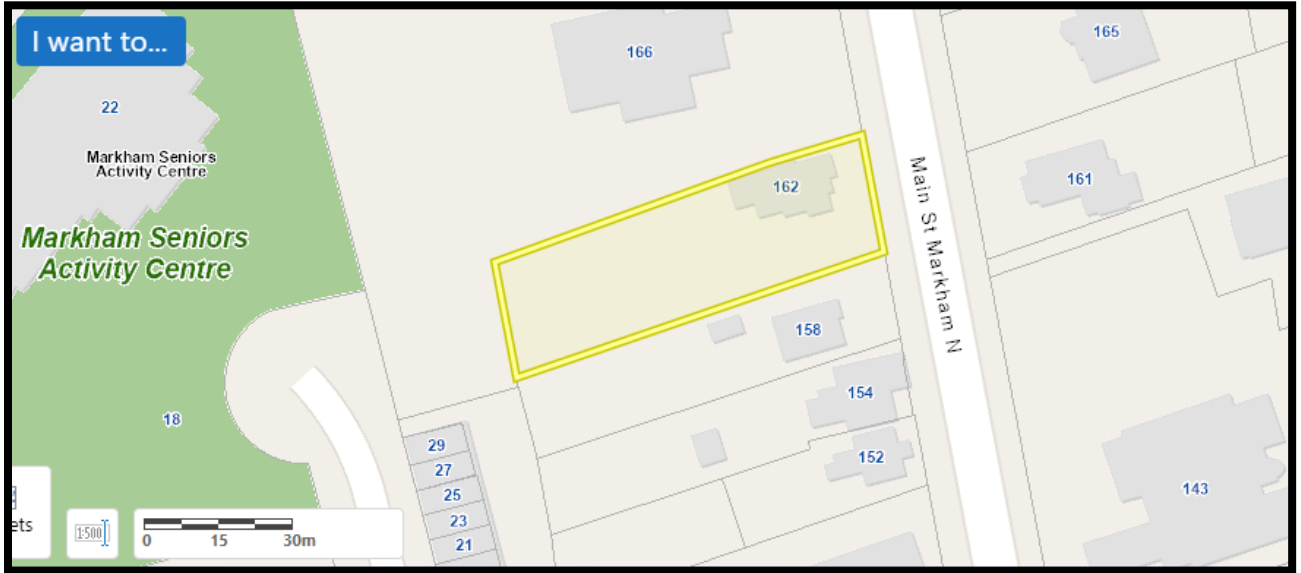


Figure 2- Area Context/Zoning

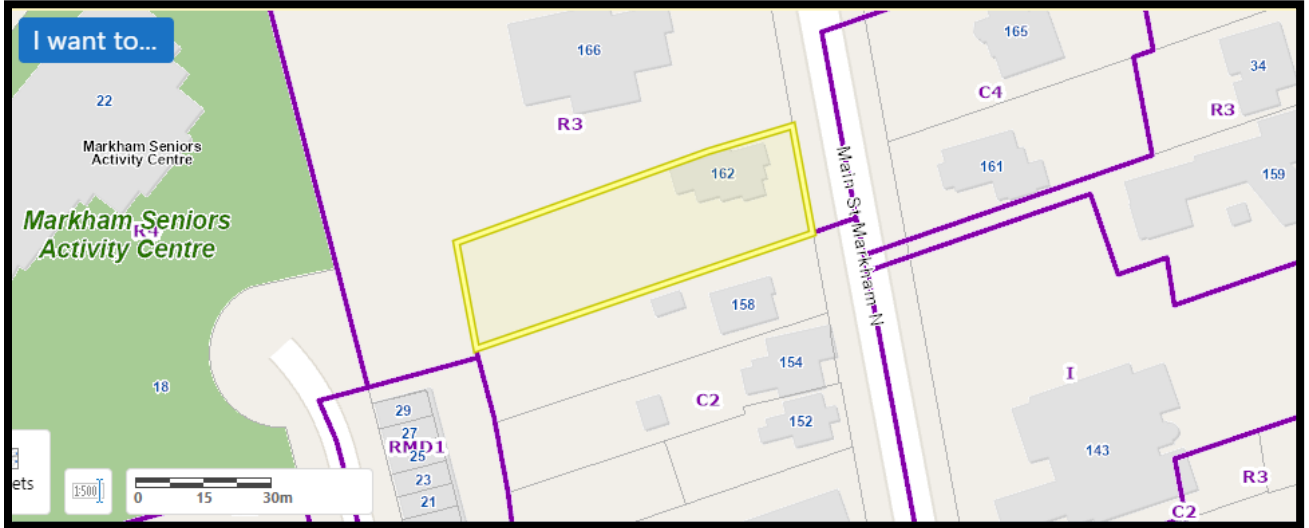


Figure 3- Aerial Photo



Figure 4- Proposed Site Plan

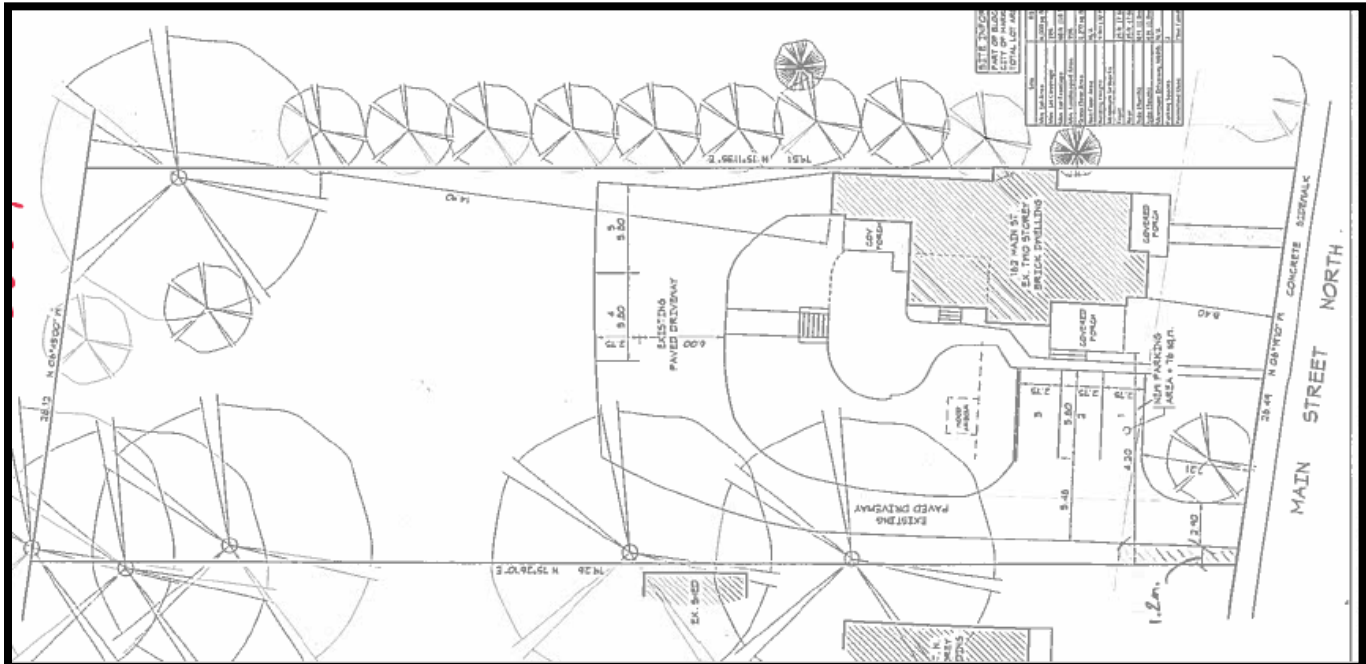


Figure 5- Photograph of the Existing House



APPENDIX 'A'
SITE PLAN CONDITIONS
1377402 ONTARIO INC.
162 MAIN STREET NORTH, MARKHAM

1. That the Owner shall enter into a Site Plan Agreement with the City, containing all standards and special provisions and requirements of the City and other external agencies including, but not limited to, the following:
 - a) Provision for the payment by the Owner of all applicable fees, recoveries, and development charges.
 - b) Provision for the payment by the Owner of any other identified financial obligation including a letter of credit to ensure construction as per approved plans.
2. Prior to the execution of a Site Plan Agreement, the Owner shall:
 - a) Submit a final site plan, and additional details including but not limited to information on paving materials and other design details required by Heritage Section Staff, to the satisfaction of the Director of Planning and Urban Design or designate.
 - b) Submit a certificate from a qualified engineer stating that the recently constructed parking lot complies with the City of Markham's standards for Stormwater Management and site grading and good engineering practice.
 - c) Submit, and revise as necessary, landscape plans and a tree inventory and preservation plan along with any other studies and reports which are required to comply with the requirements of the City and external agencies, to the satisfaction of the Director of Planning and Urban Design or designate.

That the Site Plan Approval shall lapse after a period of three (3) years commencing June 13, 2026, in the event that the Owner does not enter into a Site Plan Agreement with the City during that period.

**APPENDIX ‘B’
DRAFT ZONING BY-LAW AMENDMENT**



BY-LAW 2023-_____

**A By-law to amend By-law 1229, as amended
and to amend By-law 28-97, as amended**

The Council of the Corporation of the City of Markham hereby enacts as follows:

1. By-law 1229, as amended, is hereby further amended as follows:
 - 1.1 By rezoning the lands outlined on Schedule ‘A’ attached hereto from One Family Residential (R3) to Holding Office/Residential [(H)C4] Zone.
 - 1.2 By adding the following subsection to Section 12 – EXCEPTIONS:

“12.38 162 Main Street Markham North

Notwithstanding any other provisions of By-law 1229, as amended and By-law 28-97, as amended, the provisions in this Section shall apply to those lands subject to By-law 2016-_____ as shown on Schedule ‘A’ attached thereto. All other provisions of By-law 1229, as amended, and By-law 28-97, as amended, unless specifically modified or amended by this Section, continue to apply to the lands subject to this Section.

12.38.1 Only Permitted Uses

The following uses are the only uses permitted:

- a) BUSINESS OFFICE;
- b) DWELLING UNITS OVER BUSINESS PREMISES;
- c) DETACHED DWELLING;
- d) SEMI-DETACHED DWELLING;
- e) DUPLEX DWELLING;
- f) TRIPLEX DWELLING; and
- g) FOURPLEX DWELLING.

12.38.2 Specific Zone Standards

The following specific zone standards apply:

- a) Minimum LOT FRONTAGE – 18.3 metres;
- b) Minimum LOT AREA – 2,067 square metres;
- c) Minimum FRONT YARD setback – 7.2 metres;
- d) Minimum North SIDE YARD setback for the existing heritage dwelling – 0 metres;
- e) Minimum required width for a *driveway* providing two-way access to a *parking area* – 2.9 metres; and
- f) *Access ramps, driveways, and parking areas* are not required to be defined by a curb, rolled asphalt, or a fence; and

2. Holding Provision

For the purposes of this By-law, a Holding (H) Provision is hereby established and is identified on Schedule ‘A’ attached hereto by the letter (H) in parenthesis preceding the zoning symbol.

No person shall hereafter erect or alter any building or structure on lands subject to the Holding (H) provision for the purpose of a *medical office* as defined in By-law 1229, as amended, until amendment(s) to this By-law to remove the letter (H) have come into effect pursuant to the provisions of Section 36 of the *Planning Act*.

Prior to removing the Holding (H) Provision the following condition must be met to the satisfaction of the City of Markham:

- 1. The *driveway* providing two-way access to a *parking area* has been widened to 6.0 m, in accordance with approval of an amendment to the existing site plan, in accordance with Section 41 of the *Planning Act*, as amended.

Read a first, second and third time and passed on _____, 2023.

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor



Explanatory Note

By-law 2023-____

A By-law to amend By-law 1229, as amended, and By-law 28-97, as amended

1377402 Ontario Ltd.

162 Main Street Markham North

Lands Affected

The proposed by-law amendment applies to a 1,906 m² parcel of land located on the west side of Main Street Markham North, between Bullock Street to the north, and Wilson Street to the south.

Existing Zoning

The subject property is currently zoned One Family Residential (R3) by By-law 1229, as amended.

Purpose and Effect

The purpose and effect of the proposed By-law amendment is to rezone the lands to Office Residential (C4) and to recognize existing site conditions of the building and lot, in order to permit the existing heritage dwelling to be used for business office uses, as well as a range of residential uses.

The Holding Provision is intended to ensure that the existing driveway be widened to permit two-way traffic in the event that the property is converted to a Medical Clinic.