



Report to: Development Services Committee

Report Date: June 18, 2013

SUBJECT: RECOMMENDATION REPORT
Proposed General Housekeeping Zoning By-law
Amendments respecting Various Provisions in the City of
Markham Zoning By-laws File Numbers: ZA 12-107844 and
ZA 12-109460

PREPARED BY: Stephen Corr – Special Projects Team, ext 2624

REVIEWED BY: Tom Villella – Senior Projects Coordinator, ext 2758

RECOMMENDATION:

- 1) That the report dated June 18, 2013 entitled “RECOMMENDATION REPORT, Proposed General Housekeeping Zoning By-law Amendments respecting Various Provisions in the City of Markham Zoning By-laws, File Numbers: ZA 12-107844 and ZA 12-109460”, be received;
- 2) That the record of the Public Meeting held on May 21, 2013, regarding the proposed general Zoning By-law amendments, be received;
- 3) That the General Housekeeping Zoning By-law amendments, respecting various provisions in the City of Markham Zoning By-laws, be approved and the draft by-laws attached as Appendix ‘A’ be finalized and enacted without further notice;
- 4) And further that Staff be authorized and directed to do all things necessary to give effect to this resolution

PURPOSE:

The purpose of this report is to recommend approval of proposed general housekeeping amendments respecting various provisions to the City of Markham Zoning By-laws.

BACKGROUND:

Over the past year or so, a number of zoning issues have become apparent relating to both Parking Standards By-law 28-97 and to the City’s general zoning by-laws. Staff reported to Development Services Committee on three occasions, mainly:

- On February 21, 2012, on proposed zoning amendments to the parking regulations of By-law 28-97 (File ZA 12-107844)
- On June 12, 2012, on proposed zoning amendments to improve the City’s Zoning By-laws to ensure that they are consistently interpreted throughout the City,
- on April 23, 2013 on additional items to be considered as part of the proposed general housekeeping Zoning By-law amendment (File ZA 12-109460).

On all three occasions, Committee endorsed the recommendations of Staff to proceed with a Public Meeting respecting these proposed technical amendments. The Public Meeting regarding the proposed amendments took place on May 21, 2013, and referred this initiative back to Staff to provide a Recommendation Report and Draft Zoning By-law (Appendix A).

Meridian Planning Consultants Inc. has been retained as a consultant to assist as needed with this initiative, including preparation of recommendations which were available at the Public Meeting and detailed below in this report.

OPTIONS/DISCUSSION

The proposed general housekeeping amendments presented in the previous three preliminary reports are described in detail below, including staff's recommendation on each of the proposed Zoning By-law amendments:

Accessory Apartment Parking Requirements

Parking Standards By-law 28-97, as amended includes a provision that requires an 'Accessory Apartment' to provide a minimum of one parking space, which is in addition to the required parking for the principle residential use of a property. The term 'Accessory Apartment' is not defined in the Zoning By-law and it is therefore recommended the term be amended to 'Accessory Dwelling Unit', as Dwelling Unit is a defined term.

Medical Office Parking Requirements and Use Permissions

Parking Standards By-law 28-97, as amended requires a medical office to provide a minimum of 'one parking space per 30 square metres of net floor area'. Research conducted by Meridian Planning Consultants Inc. has shown that medical offices and clinics generate more parking demands than what is currently required under By-law 28-97, as amended. It was also determined that a number of adjacent municipalities have established parking requirements for medical offices and similar uses that are more stringent than the current City of Markham requirements. Through this review, it has been suggested that Markham increase parking requirements for medical offices to require one space per 20 square metres of net floor area. Staff are of the opinion that this proposed amendment is appropriate in recognizing that medical offices and clinics do generate a greater demand for parking.

Further, through the review of the medical office parking requirements, it was noted that a number of Commercial and Industrial Zone categories permit Business and Professional Offices as a use within the Zoning By-law, however do not specifically include Medical Offices as a permitted use in the same zone. As a result a number of minor variances have been granted through the Committee of Adjustment to permit medical offices or clinics in zones that permit business and professional offices only. It is staff's opinion that the intent of the Zoning By-law in permitting office uses is to permit any type of office, including those used for medical purposes. Therefore it is recommended that the Zoning By-laws be amended to include a provision that permits medical offices or clinics in any commercial or industrial zone that permits Business and Professional Offices.

Parking Requirements for Shooting Galleries and Ranges

Although there are no Shooting Galleries or Ranges within the City of Markham, such uses would be permitted in some commercial zones that permit recreational uses. Parking Standards By-law 28-97, as amended, includes parking requirements associated with this use, and requires a minimum amount of parking at 'one space per design

capacity'. This term has been determined to be unclear and ambiguous and it is therefore recommended that the parking requirements be revised to '1.5 spaces per firing point', which ensures there is sufficient parking for a fully occupied facility, as well as any additional patrons and employees of a facility.

Accessibility Parking Requirements

Parking Standards By-law 28-97, as amended, includes provisions regarding accessibility parking requirements, which are outlined in Section 5.0, entitled 'Parking for the Physically Disabled'. It is staff's opinion that this term is not appropriate and should be revised to 'Accessibility Parking Requirements'.

By-law 28-97 also includes provisions with respect to the minimum amount of accessible parking spaces required on site, as well as their associated stall size. In June 2011 Council adopted the City of Markham Accessibility Guidelines, which also includes provisions related to the number of accessible spaces required on a site, and includes criteria regarding accessible stall size and design standards. However the Accessibility Guidelines differ from the current accessible parking space By-law requirements and it is therefore recommended that Parking Standards By-law 28-97 be amended to ensure the accessibility parking standards reflect the City of Markham Accessibility Design Guidelines.

Residential Rear Yard Parking

A concern has been raised by Urban Design, that in a relatively few circumstances, property owners within the City have paved their entire rear yards for the purpose of providing additional surface parking. This has potential environmental impacts through increased surface runoff from the property. This could also present negative impacts on the enjoyment of an adjacent property owner's rear yard amenity space from both a visual and property standards perspective where vehicles may be stored within a rear yard. Staff have reviewed this issue and have concluded that Parking Standards By-law 28-97, as amended, includes provisions that regulates the maximum widths of driveways and parking pads, and therefore prohibits the paving of an entire rear yard for the purpose of parking. Parking Standards By-law 28-97, as amended does not have to be further amended regarding this matter.

Commercial Vehicle Parking in Residential Zones

Section 7.0 of Parking Standards By-law 28-97 includes a provision that prohibits the parking or storage of commercial and recreational vehicles with a gross weight of 4,536 kilograms (approximately 5 tonnes) on any lot used for residential purposes. Concerns have been identified that this provision is insufficient as there are a number of commercial vehicles parked or stored on residential properties below this weight classification that could have negative impacts on a surrounding residential area, such as visual impacts, noise complaints or concerns over property standards. Staff have identified that this matter is beyond the scope of the general housekeeping amendments being proposed through this project, and any future amendments regarding commercial vehicle parking in residential zones will require a substantial element of public consultation involving ratepayers associations and key stakeholders. Therefore it is

recommended that this matter be separated from the General Housekeeping Zoning By-law Amendment project for further review and subsequent reporting to Development Services Committee. This may also form part of the consolidated Zoning By-law project to be initiated later in 2013.

Hazard Lands being Excluded from Lot Coverage and Net Lot Area Calculations

A concern has been raised that some properties within the City are not zoned in a way that prohibits or limits the extent of a development that may negatively impact adjacent hazard lands, including environmentally sensitive lands or watercourses. For example, some properties adjacent to natural features are zoned entirely as residential, even though a significant portion of that property may be located within hazard lands which are intended to be protected. As a result, a residential development could encroach into the hazard land area where it is not zoned appropriately or could impact the hazard lands by being of a scale that impacts the entire lot area, rather than the actual developable portion of a lot.

It is recommended that the definition of Lot Coverage in all zoning by-laws and the definition of Net Lot Area in the City's four Infill Area By-laws be amended to include a provision where both Lot Coverage and Net Lot Area will be calculated for the portion of the lot zoned as residential only. This will have an immediate effect on residential properties that are currently zoned with both an Open Space Zone and Residential Zone, in which the scale and massing of a dwelling would be less impactful to the Hazard Lands on a subject property and to adjacent properties within the surrounding community. This will not have an effect on lands that are not zoned Open Space, even though portions of the property are within designated Hazard Lands. In these instances, portions of the property would be required to be rezoned to Open Space, however the individual rezoning of properties is beyond the scope of this General Housekeeping By-law Amendment project. The rezoning of properties to include Open Spaces zones, where applicable, will form part of the consolidated Zoning By-law project to be initiated later in 2013 to implement policies of the City's new Official Plan (currently under review), including proposed revisions to expand Hazard Lands (referred to as 'Greenway' in the draft Official Plan) throughout the City.

Consolidating Height Definitions

The City of Markham's Zoning By-laws regulate maximum height requirements for buildings and structures, which include specific exemptions for mechanical equipment, ornamental features and architectural features. Review of the various height definitions has revealed an inconsistency in the application of these height definitions, including exemptions to the height requirements for specific features. Therefore it is recommended that the Height definitions in the City's Zoning By-laws be amended so that they are consistently defined and applied throughout the City. It is recommended that the definition of Height, however, not be amended in the City's four Infill Area Zoning By-laws, as these by-laws contain specific requirements deemed appropriate for the redevelopment of properties within established communities in designated Infill Areas.

Exterior Door Side Yard Setback Requirements

The Ontario Building Code regulates limiting distance requirements, which requires a specified distance from openings such as an exterior door to an adjacent lot line. The Building Department interprets the Building Code and to avoid trespass issues between residential dwellings is in the practice of not issuing a building permit for any exterior door accessing a side yard, where the side yard setback is less than a standard door width of 0.81 metres (32 inches). For the same reason, Urban Expansion Zoning By-law 177-96, as amended requires that any door accessing a side yard on a residential dwelling have a minimum side yard setback of 1.20 metres, which allows for sufficient room to open a standard door within the side yard, as well as additional space to maneuver around an open door and not trespass onto an adjacent property.

Many of Markham's Zoning By-laws permit a dwelling to have a side yard setback of less than 1.2 metres, and there are several examples within the City where doors have been added to existing dwellings which have a setback of less than 1.2 metres, resulting in spacing and trespass issues between residential dwellings. It is therefore recommended that all the Zoning By-laws be amended to include a minimum setback requirement of 1.2 metre for any door accessing an interior or side yard

Visitor Parking Requirements on Private Streets

Parking Standards By-law 28-97, as amended, establishes parking requirements for residential properties, including visitor parking requirements that are currently required for apartment dwellings or retirement homes only. Currently there are no visitor parking requirements for low-density forms of residential dwellings such as single detached dwellings, semi-detached dwellings and townhouse units. The absence of visitor parking requirements associated with these forms of residential units is not a problem in circumstances where a dwelling can provide additional parking on a widened driveway, in a multi-vehicle garage, or on a public street, which tends to be wide enough to support temporary on-street parking. However, more compact forms of residential developments (typically condominiums) are becoming more prevalent, where the units are of a scale that can only accommodate the minimum amount of required parking spaces, and such developments are accessed by narrower private streets or laneways that do not have room to accommodate additional parking for visitors. Therefore, it is recommended that Parking Standards By-law 28-97 be amended to require visitors parking for residential properties where single-detached, semi-detached and townhouse dwelling units are accessed through a private street or laneway.

Revisions to Parking By-law 28-97 Definitions

A concurrent project is underway to review, update and consolidate Urban Expansion By-law 177-96, as amended. As part of this project, several revisions to the By-law's definitions are being proposed to ensure they are interpreted and applied appropriately, in regards to the By-law's intent. It is recommended that the definitions in Parking Standards By-law 28-97, as amended also be revised to ensure these two By-laws have consistent definitions.

Technical Revisions

It is recommended that a provision be included into all the Zoning By-laws to allow for technical revisions to be made to the By-law without requiring the need for a formal zoning amendment. Such technical revisions would be limited to numbering; cross-referencing; formatting of text, charts, tables, schedules and maps; alterations to punctuation; and corrections to grammatical, dimensional, boundary, mathematical or typographic errors. The intent of this amendment is to allow for minor technical revisions only, and not to change the purpose, effect, intent, meaning and substance of the Zoning By-laws.

Public Meeting – May 21, 2013

In addition to the proposed Zoning By-law amendments identified in the three previous reports regarding this General Zoning By-law Housekeeping project, and discussed above, the following zoning matters were identified at the Public Meeting of May 21, 2013 to be potentially considered as part of this study.

171 Main Street Markham North

The Owner of 171 Main Street Markham North, Ms. Tanya Holme made a deputation requesting greater flexibility in the use permissions within the Main Street Markham Area, particularly to allow professional offices in areas that permit residential uses only. Staff were requested by Development Services Committee to consult with Ms. Holme's to determine if there were any accommodations that could be made with regards to her concerns through this General Zoning By-law Housekeeping Amendment project. After discussing the matter with Ms. Holme in greater detail, staff have determined that her position is that properties along Main Street North that are currently zoned residential should be rezoned to allow for additional commercial uses, including offices.

171 Main Street North is zoned Residential (R3) under By-law 1229, as amended, and is designated Urban Residential in the City of Markham Official Plan. The property is also located within the Markham Village Heritage Conservation District and is a designated Heritage Site. In order to establish commercial uses on this property, a Zoning By-law and Official Plan amendment would be required, which is normally submitted by the owner of a subject property on a site specific basis. The intent of the General Housekeeping Zoning By-law Amendment project is to update the City's zoning By-laws, as it relates to minor interpretive and technical matters only. Proposals to rezone particular properties and expand uses on a site specific basis are beyond the scope of this Zoning By-law Amendment project and it is therefore not recommended that 171 Main Street be rezoned through this project. However, the concerns identified by Ms. Holme have been forwarded to Policy Planning staff to examine whether it is appropriate to revise the Draft Official Plan (currently under review) within this particular area of Main Street Markham North.

Accessibility Parking Signage

Staff were requested by Development Services Committee to review regulations relating to any requirements to post signage in front of parking spaces designated as accessibility parking. The By-laws and Licensing Department, has advised that signage to designate

an accessible parking space is required under *Highway Traffic Act, R.R.O 1990, Regulation 581*. Additionally, City of Markham's Parking Control By-law 2005-188 requires all parking spaces to meet the requirements of the Highway Traffic Act and therefore requires the posting of signage to designate an accessible parking space.

Shopping Centre Parking Requirements

Development Services Committee requested staff review shopping centre parking requirements, particularly in relation to increased parking demands generated by restaurants within a shopping centre.

The review of required shopping centre parking was not contemplated as part of the General Housekeeping Zoning By-law project, however, staff note Parking Standards By-law 28-97, as amended, does include shopping centre parking requirements which allows a maximum of 20% of the total leasable area of the shopping centre to be allocated to restaurant uses without any special parking requirements. In situations where the leasable space of restaurants increases above 20% of the total leasable floor area, the parking requirement for any additional restaurant uses increases significantly. Therefore, shopping centres that have surplus parking are able to accommodate additional restaurant uses, whereas those with a limited amount of parking would require approval of either a minor variance or Zoning By-law Amendment prior to restaurant uses being expanded on the site.

CONCLUSION

The zoning matters discussed above, were all considered as part of this General Housekeeping Zoning By-law amendment project, and Staff propose technical revisions, where appropriate, to improve clarity of the City's Zoning By-laws and ensure they are interpreted and applied correctly. It is staff's opinion that the recommendations made throughout this report would support this objective and recommend the amendments described above be endorsed.

FINANCIAL CONSIDERATIONS AND TEMPLATE:

There are no financial matters to be considered in this report.

HUMAN RESOURCES CONSIDERATIONS

There are no Human Resources matters to be considered in this report.

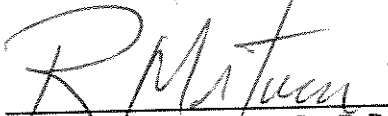
ALIGNMENT WITH STRATEGIC PRIORITIES:

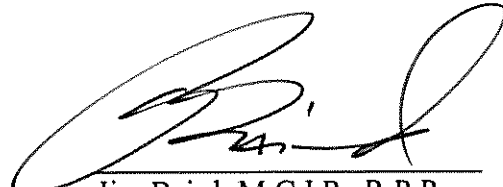
The proposed zoning by-law refinements will align with Council's Growth Management strategic focus area.

BUSINESS UNITS CONSULTED AND AFFECTED:

The proposal was circulated for review and comment to the Zoning and By-laws and Licensing Departments. Comments received have assisted in the preparation of the proposed Zoning By-law amendment to improve the existing zoning by-laws.

RECOMMENDED BY:


Rino Mostacci, M.C.I.P., R.P.P.
Senior Development Manager


Jim Baird, M.C.I.P., R.P.P.
Commissioner, Development
Services

ATTACHMENTS:

Appendix A – Draft Zoning By-law

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