



Report to: Development Services Committee

Report Date: April 23, 2013

SUBJECT: PRELIMINARY REPORT
Update and Consolidation of Zoning By-law 177-96
PR 11 128536

PREPARED BY: Tom Villella – Senior Projects Coordinator, ext. 2758
REVIEWED BY: Biju Karumanchery – Senior Development Manager

RECOMMENDATION:

That the report dated April 23, 2013 entitled “PRELIMINARY REPORT – Update and Consolidation of By-law 177-96, PR 11 128536”, be received;

And that a Public Meeting be held to receive comments from the public, internal departments, external agencies, and other stakeholders with respect to proposed amendments to Zoning By-law 177-96;

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 provide preliminary information on a proposed City-initiated zoning by-law amendment, intended to improve and clarify a number of provisions of Zoning By-law 177-96 (“Urban Expansion Area Zoning By-law”) as well as to consolidate a number of site-specific amendments into the body of the zoning by-law. Staff is also seeking the Committee’s authorization to hold the statutory Public Meeting on the matter.

The Committee has previously been provided with information on this matter, through a presentation to DSC by Meridian Planning Consultants Inc. on June 12, 2012.

This report contains general information in regards to applicable OP or other policies as well as other issues and the report should not be taken as Staff’s opinion or recommendation on the proposal.

BACKGROUND:

In 1995, Markham adopted Official Plan Amendment #5, which brought large areas of rural land in the northern and eastern parts of the municipality into the Urban Area. Subsequently, Zoning By-law 177-96 (“The Urban Expansion Area By-law”) was adopted by Council on June 20, 1996, in order to implement the policies for growth and development espoused in Official Plan Amendment #5. Over the years, some additional lands in Markham, not located within the OPA #5 area, have also been zoned into By-law 177-96.

Zoning By-law 177-96 covers the majority of the “greenfield” development areas of the City. Prior to the more recent refocusing of development to growth centres and corridors for higher density development, the majority of all Markham development was located

within the OPA #5 area. As of 2013, almost all lands within the OPA #5 area have either been developed, or are fully pre-planned for development.

Site-Specific Amendments

Since 1996, over **490** site-specific amendments have been made to By-law 177-96 to accommodate specific development proposals or to implement Secondary Plan policies. In August 2006, a major review and update of the By-law was undertaken. This review resulted in over 300 amendments being incorporated into the By-law, providing Staff, Council and the public with an easy-to-read consolidation. This was the last attempt at a consolidation or review of the By-law until now.

Since 2006, nearly **200** additional amendments have been made to By-law 177-96 to further accommodate specific development proposals. In consideration of this, and with a view to making improvements to the Zoning By-law for clarity purposes, it is now considered appropriate for the City to undertake this further review of By-law 177-96. This exercise will not only assist with day-to-day use of the By-law, but is considered a necessary step toward initiation of the ***Markham Consolidated Zoning By-law Project*** (expected to commence mid-2013). It should also be noted that this is expected to be the final consolidation of By-law 177-96, in light of the upcoming major zoning consolidation project. Staff will be reporting to Committee further on that matter later in 2013.

Consultant Has Been Retained

Meridian Planning Consultants Inc. has been retained by the City to undertake the current Zoning By-law update and consolidation. The objectives of the project are two-fold:

Component 1 – Consolidation of By-law 177-96

- Ensure all amendments are properly included within the By-law
- Ensure the text of each amendment is appropriate and does what was intended when the by-law amendment was initially passed by Council (this contrasts with other Markham zoning by-laws, which do not get consolidated because of their age, structure or format)

Component 2 – Update of By-law 177-96

- A number of technical amendments to the By-law are proposed, intended to clarify the interpretation of certain zoning provisions without changing the effect of the provision
- Other changes are intended to provide some additional flexibility which will reduce the need for variances and zoning exceptions in the future
- These changes will also continue moving the City towards having consistent zoning provisions across all by-laws. Some of the changes will also necessitate changes to Parking Standards By-law 28-97
- Changes that are more policy-oriented are not being considered through this update, but will be left to the larger ***Markham Consolidated Zoning By-law Project***

Stakeholder Meetings Have Been Held

This project was initiated in January 2012, and since that time Staff and the consultant have met with various stakeholder groups to obtain comments and critique of By-law 177-96, and to receive suggestions for improvement. The following is a list of stakeholder meetings and presentations held to date:

February 6, 2012	Zoning Examiner Staff Meeting #1 Director of Building Standards and Manager of Plans Review
May 3, 2012	Planning and Urban Design Staff Geomatics Staff
June 12, 2012	Presentation to Development Services Committee
July 10, 2012	BILD Developer Representatives Update #1
October 17 & 23, 2012	Zoning Examiner Staff Meeting #2
October 31, 2012	Urban Design Staff
February 22, 2013	Zoning Examiner Staff Meeting #3
March 8, 2013	BILD Developer Representatives Update #2
April 23, 2013	Presentation to DSC and Preliminary Report

Additional meetings with Staff will continue in anticipation of a Public Meeting on this matter being held in late spring 2013. The comments received from stakeholders to date have informed the development of the Master List of Proposed Amendments, attached as **Appendix 1**.

Progress to Date

In February 2013, the consultant provided Staff with a Draft Update to Zoning By-law 177-96, incorporating proposed amendments to the body of the Zoning By-law intended to clarify and improve provisions (Sections 1-6 of By-law 177-96), as well as a consolidation of all site-specific amendments (Section 7 of By-law 177-96). An earlier April 2012 version was circulated to key internal stakeholders for comment, and further discussion resulted in the more recent draft document. Due to its considerable size, the draft version of amended Zoning By-law 177-96 is being provided to Committee electronically. It is also being made available to the public on the City website, and a hard copy will be available for perusal in the City Clerk's Department and at the Development Services front counter.

Synopsis of Proposed Amendments

This proposed update to By-law 177-96 includes 167 proposed amendments, as shown in Master List of Amendments attached as **Appendix 1**, and is the result of consultation with stakeholders and Staff, most notably Zoning Examination and Urban Design Staff. The draft document was provided to all Planning, Urban Design, Zoning and Geomatics staff for input prior to the 2012 and 2013 meetings held with them. Additional changes identified during the above-noted meetings were incorporated, where considered appropriate, into the February 2013 Draft By-law Update.

Concurrent Project – General Amendments to other Markham Zoning By-laws

Running concurrently with the Update to Zoning By-law 177-96 is a general “housekeeping” exercise related to the updating of other Markham Zoning By-laws, and those omnibus by-laws that cover the entire municipality (i.e. Parking Standards By-law). Committee has been kept apprised of this project through two previous reports (February 2012 and June 2012) and has previously authorized a public meeting on the matter. A further supplemental report is being provided to Committee respecting this project on April 23, 2013. The public meeting on the general housekeeping amendments is proposed to be held concurrently with the public meeting respecting the By-law 177-96 update.

OPTIONS/ DISCUSSION:

An extensive review of the proposed zoning amendments has been conducted over the last 16 months, and key staff involved in the use and interpretation of the zoning by-law have been consulted. The project is now at a stage where the final draft documents can be released to stakeholders and the public.

At this time, authorization to hold a statutory Public Meeting is being requested in order to solicit comments from the public and other stakeholders. It is anticipated that the Public Meeting will be held in late spring 2013. Once the public meeting is held, Staff will report back with a final recommendation report on the matter, and a draft By-law will be presented for Committee’s consideration.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

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. All work on this project is being handled by current Town Staff with the assistance of a planning consultant.

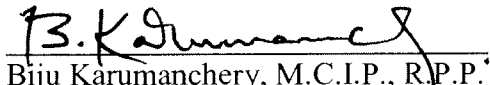
ALIGNMENT WITH STRATEGIC PRIORITIES:

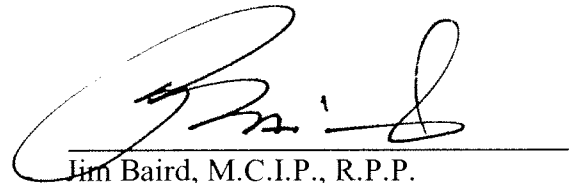
The zoning by-law refinements suggested for review will align with Council’s Growth Management strategic focus area.

BUSINESS UNITS CONSULTED AND AFFECTED:

The proposal will be circulated for review and comment. Comments received will be helpful in determining the final form of any zoning amendment proposed to improve upon By-law 177-96.

RECOMMENDED BY:


Biju Karumanchery, M.C.I.P., R.P.P.
Senior Development Manager


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

ATTACHMENTS:

Appendix 1 – Master List of Proposed Amendments to By-law 177-96

Appendix 2 – Copy of Presentation to DSC April 23, 2013

Note: Draft Version of Amended By-law 177-96 to be provided to Committee via e-mail, hard copy available in the Clerk's Department and at Development Services Front Counter.

File path: Amanda\File 11 129536\Documents\Preliminary Report

PROPOSED CHANGES TO BYLAW 177-96

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Below is a brief description of the changes proposed to By-law 177-96:

1. Section 1.2 has been amended to incorporate all of the schedules that are subject to zoning pursuant to By-law 177-96.
2. Section 1.9 has been amended by properly referring to By-law 28-97 (the Parking Standards by-law).
3. Section 2.1 has been amended, by deleting the words "single detached" before the description of the Residential R1 Zone. There is no need to specify in the zone name what the intended built form is.
4. The definition of assembly hall has been modified by deleting the word "premises" and replacing those words with "building or structure" to reflect the fact that not all assembly halls are a premises as defined by the by-law. The definition will also need to be changed in Bylaw 28-97.
5. The definition of banquet hall been modified by deleting the word "premises" and replacing those words with "building or structure" to reflect the fact that not all banquet halls are a premises as defined by the by-law. The definition will also need to be changed in Bylaw 28-97.
6. The definition of "building, apartment", along with the definitions for "building, multiple-unit" and "building, townhouse", have been deleted since these definitions are unnecessary. As a consequence of deleting these definitions, the dwelling unit definitions were modified accordingly. All of these definitions will need to be changed in By-law 28-97 as well.
7. The definition of "carport" has been deleted since it is not necessary.
8. The term "cemetery" has been added as a defined use in the by-law. It is noted that the use is not permitted in any zone, meaning that a re-zoning at a minimum would be required to establish a new cemetery.
9. The definition of "club, private" has been modified, by deleting the word "premises", and replacing it with a reference to a building or part of a building. The definition will also need to be changed in Bylaw 28-97.
10. The definition of "community centre" has been amended by deleting the word "premises" and by indicating that such a use is owned and/or operated by a public authority. The definition will also need to be changed in Bylaw 28-97.
11. The definition of "day nursery" has been modified, by deleting the word "premises" and replacing it with a reference to a building or part of a building. The definition will also need to be changed in Bylaw 28-97.
12. The definition of "deck" has been modified, by deleting the words "and shall not include a

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landing or a stair". This means that a deck will now include a landing or a stair associated with the deck, for the purposes of calculating setbacks. Both Sections 6.2.1 a) and b) currently indicate that the "stairs" used to access the deck are not subject to the setback requirements. As a consequence, Section 6.2.1 has been amended to include stairs only in the calculation of the setback from the interior and exterior side lot lines. This new provision, which is more restrictive, will not apply to lands that are already zoned.

13. The definition of "drive through service facility" has been modified to correct the language at the end of the definition.
14. The definition of "driveway" has been modified to make it clear that a driveway only provides access to a parking area, parking lot, loading space, private garage, carport and parking garage. Not changing the driveway definition means that multiple interpretations of what a driveway are possible. By-law 28-97, as amended by By-law 2006-96 will also need to be amended.
15. The definition of "dwelling apartment" has been modified to incorporate the previous "apartment building" definition and to make it clear that any other type of dwelling in any other type of building is not an apartment dwelling. The intent of all of the revised dwelling unit definitions is to ensure that they are mutually exclusive. The reference to 'solarium' has also been deleted. The definition will also need to be changed in Bylaw 28-97.
16. The definition of "dwelling, duplex" has been modified to indicate that a duplex dwelling could be accessed by an independent entrance or through a common vestibule or a combination of both. The intent of this change is to broaden the definition of what a duplex is. The definition will also need to be changed in Bylaw 28-97.
17. The definition of "dwelling fourplex" has been modified in the same way as the definition of "dwelling, duplex". The definition will also need to be changed in Bylaw 28-97.
18. The definition of "dwelling, multiple" has been modified to simply indicate that a multiple is dwelling unit that is not defined otherwise by the by-law. The definition will also need to be changed in Bylaw 28-97.
19. The definition of "dwelling, semi-detached" has been modified to correct some grammar. The definition will also need to be changed in Bylaw 28-97.
20. The definition of "dwelling, single detached" has been modified to ensure the language used is consistent with the other dwelling unit definitions. The definition will also need to be changed in Bylaw 28-97.
21. The definition of "dwelling, townhouse" has been modified by incorporating the previous "townhouse building" definition. The definition will also need to be changed in Bylaw 28-97.
22. The definition of "dwelling, triplex" has been modified as per the definition of "dwelling, duplex". The definition will also need to be changed in Bylaw 28-97.

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23. The definition of “dwelling unit” has been modified by replacing the word “suite” with “residential use” to make sure the use is characterized as a residential use. The definition will also need to be changed in Bylaw 28-97.
24. A definition of “easement, public” has been added to the by-law. New provisions have also been added to the general provisions that prohibit buildings and structures on easements that are in favour of a public authority.
25. The definition of “erect” has been simplified to essentially reference the Town’s Building Permit by-law. The definition will also need to be changed in Bylaw 28-97.
26. The definition of “floor area” has been deleted since it is not used in the by-law.
27. The definition of “floor area, gross” has been modified to provide some direction on how gross floor area is to be measured in circumstances where there are common walls. The definition will also need to be changed in Bylaw 28-97.
28. The definition of “floor area, gross leasable”, has been modified by deleting the term “shopping centre” which was undefined in the by-law. Instead, gross leasable floor area is now intended to apply to the aggregate of the gross floor areas of a building containing a number of retail and similar uses. In addition, the definition was modified to exclude common areas that are not designed for nor leased for the exclusive use of a tenant. The definition will also need to be changed in Bylaw 28-97.
29. The definition of “floor area, net” has been modified by making specific reference to motor vehicle parking areas and by excluding other service and mechanical shafts in addition to elevator shafts from the net floor area calculation. The term “garbage” has also been replaced with the term “waste”. The definition will also need to be changed in Bylaw 28-97.
30. The definition of “funeral home” has been deleted and replaced with a new definition that is consistent with By-law 211-1999.
31. The definition of “gas bar” has been deleted and replaced with the definition from By-law 28-97.
32. The definition of “grade” has been deleted since it is redundant.
33. The definition of “heritage building” has been modified to focus simply on what a heritage building is and not where it is located.
34. The definition of “home occupation” has been modified by replacing the word “occupation” in the body of the definition with the word “business” to reflect the fact that it is indeed a business.
35. The definition “hospital, public” has been added to the by-law.
36. A new definition for “infrastructure” has been added to the by-law. This definition comes

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from the Provincial Policy Statement and the Growth Plan. The term infrastructure is then used in the public uses section in the general provisions.

37. The definition of “institutional building” has been renamed institutional use and any references to the amount of floor area such a use occupies to be considered an institutional use have been deleted. The definition will also need to be changed in Bylaw 28-97.
38. The definition of “kennel” has been modified and a “day-kennel” definition has been added.
39. The definition of “landscaping” has been deleted and replaced with a new definition that does not consider parking areas, driveways or ramps to be landscaping and which also indicates that landscaping areas shall not be used for the parking of motor vehicles. The definition will also need to be changed in Bylaw 28-97.
40. The definition of “lane” has been modified to indicate that it is a right of way owned by the Town that provides motor vehicle access to an abutting property. The definition will also need to be changed in Bylaw 28-97.
41. The definition of “library” has been modified to indicate that it is an institutional use. The definition will also need to be changed in Bylaw 28-97.
42. A new definition for “long term care facility” has been added to the by-law. Long-term care facilities have also been added as a permitted use in the R4 Zone. The use is also added as a permitted use in the NC2, NC3, CA1, CA2 and CA3 Zones.
43. Some minor grammatical changes were made to the definition of “lot frontage”. The definition will also need to be changed in Bylaw 28-97.
44. The definition of “lot line, front” has been modified in Sub-section (d) to be consistent with Bylaw 28-97.
45. The definition of “medical office” has been modified, by deleting any reference to an office located in a medical professional’s residence. The definition will also need to be changed in Bylaw 28-97.
46. The definition of “motor vehicle service station” has been modified to indicate that it may contain one or more accessory uses. Retail and personal service uses have also been deleted. The definition will also need to be changed in Bylaw 28-97.
47. The definition of “motor vehicle repair garage” has been deleted and replaced with a more expansive definition that provides more guidance on what this use is with “real life” examples. The definition will also need to be changed in Bylaw 28-97.
48. The definition of “nursing home” has been modified, by deleting any reference to “premises”, and replacing that reference with “building or part of a building”. The definition will also need to be changed in Bylaw 28-97.

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49. The definition of "office building" has been modified to include both business offices and medical offices. The definition will also need to be changed in Bylaw 28-97.
50. A definition of "park, private" has been modified, by indicating that a commercial fitness centre is not permitted in conjunction with a private park. The definition will also need to be changed in Bylaw 28-97.
51. The definition of "parking area" has been modified to indicate that it is an area of land not located within a public street and to indicate that any area where motor vehicles for sale, rent or repair are kept or stored. The definition will also need to be changed in Bylaw 28-97.
52. The definition of "parking lot, commercial" has been modified to indicate that it does not have to form the principle use of a lot. The definition will also need to be changed in Bylaw 28-97.
53. The definition of "parking pad" has been deleted and replaced with a new definition that is the same as in By-law 28-97, as amended by By-law 2006-196.
54. The definition of "place of worship" has been modified to delete the term "premises" and replace it with reference to a "building or part of a building". The definition will also need to be changed in Bylaw 28-97.
55. The definition of "porch" has been amended to indicate that a porch requires at least two unenclosed sides. Only one unenclosed side is required for a townhouse. This new provision, which is more restrictive, will not apply to lands that are already zoned.
56. The definition of "premises" has been modified to simply indicate that a premise is an individual business or enterprise. The definition will also need to be changed in Bylaw 28-97.
57. The definition of "public authority" has been modified to indicate that it is an authority or body controlled by the federal, provincial, regional and city governments. The definition will also need to be changed in Bylaw 28-97.
58. The definition of "public transit system" has been deleted from the by-law and deleted as a permitted use throughout. A public transit system would be considered "infrastructure" by the by-law.
59. A new definition for "public use" has been added to the by-law.
60. The definition of "queuing lane" has been deleted since the term is not used in the balance of the By-law.
61. The definition of "recreational trailer or vehicle" has been deleted since the General Provision dealing with this same item is also being deleted.

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62. The definition of “reserve” has been modified by specifically referencing the City or Region.
63. The definition of “residential use” has been deleted since it is not necessary.
64. The definition of “retirement home” has been modified by deleting any reference to “premises” and replacing it with reference to building or part of a building. The retirement home use has also been added as a permitted use wherever apartment dwellings and long term care facilities are permitted. The definition will also need to be changed in Bylaw 28-97.
65. A new definition for “school, portable” has been added since a new section in the general provisions is proposed for school portables. This new section indicates that school portables are considered to be main buildings by the by-law.
66. The definition of “school, private” has been modified to clearly indicate that these schools follow the Ministry’s curriculum, but are privately funded. The definition will also need to be changed in Bylaw 28-97.
67. The definition of “school, public” has been deleted and replaced with a simpler definition. The definition will also need to be changed in Bylaw 28-97.
68. The definition of “sidewalk” has been deleted and replaced with the definition used in By-law 28-97.
69. The definition of “structure” has been significantly expanded by adding new exceptions to the definition.
70. The definition of “suite” has been deleted since it is not necessary. The only place in the By-law where this term is used is the section dealing with temporary construction and sales uses and the term has also been deleted from this section. The definition will also need to be changed in Bylaw 28-97.
71. The definition of “supermarket” has been simplified to indicate that it is a premise that specializes in the sale of primarily food products. The definition will also need to be changed in Bylaw 28-97.
72. The definition of “trade and convention centre” has been modified to indicate that it is a use in a building or part of a building.
73. The definition of “transit station” has been deleted from the by-law and is no longer listed as a permitted use. Such a use would be considered infrastructure.
74. A new definition for “waste storage area” has been added to the by-law since new general provisions on waste storage are proposed.
75. Retirement homes and long term care facilities have been added as permitted uses in the R4 Zone (Table A1).

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76. "Public transit systems" and "transit stations" have been deleted as permitted uses on all zones in all permitted use tables.
77. Special Provision #1 on Table A1 has been modified to reflect the changes being made to the dwelling unit definitions.
78. Changes have been made on Table A1 and others to reflect the changes made to the dwelling unit definitions.
79. Special Provision #6 on Table A2 has been simplified by deleting unnecessary words.
80. Table A2 has been modified by, deleting the permission for day nurseries to be located in a building only containing a day nursery use (in the CA1 and CA2 Zones, Special Provision 1).
81. Non profit fitness centres and parking garages are now permitted to be in buildings containing only that use in the CA1 and CA2 Zones on Table A2 as per Special Provision 1.
82. Special Provision 8 has been added to the place of worship and day nursery permissions in the CA1, CA2, CA4 and MJC Zones, the effect of which is to permit places of worship and day nurseries in the same building.
83. "Motels" have been deleted as a permitted use in the MJC Zone on Table A2.
84. "Businesses" and "medical offices" are no longer on the same line as a line item on Table A4 and "Medical Offices" are now only permitted in the BP and BC Zones.
85. "Day Nurseries" have deleted as a permitted use in the BP and BC Zones on Table A4 because of land use compatibility concerns.
86. A reference was made to the 407 street line in addition to the Highway 404 street line in Special Provision 7 on Table A4.
87. The term "data processing and related facilities" has been deleted from Table A4 since it is undefined and could easily be considered a business office use.
88. The prohibition on 'outdoor storage' and 'outdoor display and sales' in the General Industrial Zone has been deleted (Special Provision 4 on Table A4). Special Provision 8 already permitted outdoor storage.
89. The term "single detached" has been deleted from the description of the R1 Zone in Section 5.1.
90. Maximum driveway width provisions have been deleted from all of the Standards Tables in Section 5 since this matter is now regulated by the front yard parking by-law.
91. A new minimum lot area standard has been added for the R1 Zone - which is the minimum required lot frontage denoted by the "F" on schedules multiplied by 30.

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92. Special Provision 2 applying to the R1 Zone, which indicated that no less than 25% of the wall of the first storey shall be located any further than 4.5 metres from the front lot line has been deleted since it is no longer necessary.
93. Special Provision 3 applying to the R1 Zone has been simplified by deleting unnecessary wording.
94. The maximum garage width provision for conventional lots in the R2 Zone been re-worded. Special Provision 7 dealing with the same issue and which applies to semi-detached and townhouse dwellings has been deleted with the word of the Special Provision included on the table instead. This means that the entirety of Row C is being replaced on the Table.
95. Special Provision 9 has been deleted since the By-law no longer regulates driveway widths.
96. Special Provision 11 has been deleted and the wording has been moved to Special Provision 8 as it applies to conventional lots in the R2 Zone.
97. Special Provision 3 applying to the R2 Zone has been simplified by deleting unnecessary wording.
98. Special Provision 5 applying to the R2 Zone has been clarified to indicate that no part of the first floor of an attached private garage shall be considered in determining the location of the main wall for the purposes of the Special Provision. This means that there is no maximum setback for an attached private garage. The maximum setback for the remainder of the dwelling has also been increased from 6.0 metres to 6.5 metres.
99. The terminology used to describe the dwellings on each of the Standards Tables has been modified to reflect the changes made to the definitions.
100. Both Special Provisions 1 and 6, which required that no less than 25% of the wall of the first storey be a certain distance from the front lot line have been deleted from Table B2 dealing with the R2 Zone.
101. Special Provision 5 applying to the R2-S Zone has been clarified to indicate that no part of the first floor of an attached private garage shall be considered in determining the location of the main wall for the purposes of the Special Provision. This means that there is no maximum setback for an attached private garage. The maximum setback for the remainder of the dwelling has also been increased from 6.0 metres to 6.5 metres.
102. Special Provision 9 has been deleted and the wording has been moved to Special Provision 7 as it applies to conventional lots in the R2-S Zone.
103. The maximum garage width provision for conventional lots in the R2-S Zone been re-worded. This means that the entirety of Row C is being replaced on the Table.
104. The two Special Provisions that required no less than 25% of the wall of the first storey to

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be set back a certain distance have been deleted from Table B3 dealing with the R2-S Zone (SP1 and SP6).

- 105. Special Provision 6 has been deleted and the wording has been moved to Special Provision 4 as it applies to lots in the R2-LA Zone.
- 106. The two Special Provisions that required no less than 25% of the wall of the first storey to be set back a certain distance have been deleted from Table B4 dealing with the R2-LA Zone (SP2 and SP3).
- 107. As per the changes made to the R2 and R2-S Zones, the Special Provisions in the R3 Zone on Table B5 dealing with the 25% requirement have also been deleted on Table B5 (SP1, 8, 9 and 10).
- 108. Special Provisions 2 and 4 have been combined since they apply in same places in the R3 Zone.
- 109. Special Provision 11 has been deleted and the wording has been moved to Special Provision 7 as it applies to lots in the R3 Zone.
- 110. The maximum garage width provision for conventional lots in the R3 Zone been re-worded. This means that the entirety of Row C is being replaced on the Table.
- 111. Special Provision 1 has been deleted from the R4 Zone.
- 112. The Special Provision on Table B6 that requires at least 75% of the wall to be located within 6 metres of the front lot line has been deleted. Given that each of these projects are site specific, there is no need to contain a standard that would be modified on a case-by-case basis in any event.
- 113. The minimum lot frontage in the MJC Zone has been reduced from 150 metres to 85 metres. This change is being made because a number of requests have been made to reduce the minimum lot frontage. The minimum lot area has also been reduced from 5.0 hectares to 0.38 hectares.
- 114. The minimum building height requirement in the MJC zone has been modified such that it only applies to lands within 12 metres of the front and exterior side lot lines.
- 115. The only change made to Table B8 dealing with employment zones is in the title of the Special Provisions section.
- 116. A new section (Section 6.1.2) has been added to the General Provisions that prohibit the establishment of an accessory building on an easement that is in favour of a public authority. While this is typically common practice, it is not explicitly stated within By-law 177-96.
- 117. A new section entitled "Barrier Free Access" has been added to the General Provisions. This section will replace Section 6.24, which was entitled "Wheelchair Ramps". This change

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is being made to update the language and to ensure that barrier free access conforms to the requirements of Section 3.8 of the Ontario Building Code.

- 118. The words “ground floor” have been replaced with “first storey” in Section 6.2, which deals with decks and porches. This change is being made to reflect the proper usage of words as defined in the by-law.
- 119. Section 6.3.1.2 is to be deleted from the by-law. This section provides maximum setbacks from the rear lot line for detached private garages. By-law 2005-05 added this section to the by-law. The concern at that time was that garages would be offset from the rear lot line in a manner that would provide for the parking of motor vehicles between the garage and the lane. However, a number of exceptions have been granted from this standard and a number of minor variances have been issued as well. It is my opinion that the other setbacks in the by-law (most notably the rear yard setbacks for main buildings and the 6 metre setback between the garage and the rear wall of a dwelling), will combine to ensure that the garage is located as close to the rear lot line as possible in most cases. However, there may be circumstances where this is not the case and this will occur if this section is deleted from the by-law. Given the deletion of this section, all remaining sub-sections have been renumbered accordingly.
- 120. Section 6.3.1.5 which deals with encroachment of eaves, roof overhangs and gutters in the setback areas associated with detached private garages has been deleted and replaced with a new section that essentially adds chimney breasts to the list of permitted encroachments.
- 121. Section 6.3.1.7 which deals with the maximum height of detached private garages has been modified to ensure that there is a distinction between that have a frontage of 9.75 metres or greater and lots that have a frontage of less than 9.75 metres.
- 122. Section 6.3.1.8 has been slightly modified by including the words “the first storey of” in Sub-section (c).
- 123. A new Section 6.1.3.11 has been added, the effect of which is to prohibit detached private garages on an easement.
- 124. The word “detached” has been added in Section 6.3.2.1 (e) to ensure that the section can be appropriately interpreted. A new Sub-section (g) has also been added to prohibit detached private garages on lots not accessed by lanes on an easement.
- 125. A new Section 6.3.2.2 has been added to permit chimneybreasts to also encroach within any setback area associated with a detached private garage on a lot not accessed by a lane.
- 126. Section 6.3.2.3 has been clarified to indicate that lot coverage for an accessory building is measured at the first storey level.
- 127. Section 6.4 (b) has been modified to ensure that the correct terminology is used to describe an interior side lot line. This section is also being modified to indicate that the 10 square

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metre floor space cap does not apply to any floor above the first storey above the attached private garage. Lastly, this section has been modified to indicate that there is no restriction on the number of accessory buildings on a lot, provided they are less than 10m².

128. Section 6.6.1 (a) has been modified by not including window bays in this section, since they are dealt with in Section 6.6.1 c). Section 6.6.1 (c) has been modified to clarify by how much window bays are permitted to encroach into a required yard. In addition, the reference to the encroachment of window bays in the front and exterior side yards in Section 6.6.1 (d) has been replaced with a reference to a main wall containing windows.
129. Section 6.6.2.1, which deals with the encroachment of porches, has been modified to require porches to extend 1.5 metres from the main wall to the streetline if they are proposed to encroach. This change would be consistent with Section 6.6.2 (a).
130. Section 6.6.2.1 (a) (ii) has been modified to permit porches to extend into the setback area required by Section 6.3.1.3 by no more than 1.5 metres. This change is being made in response to the numerous requests that have been made to allow for porches in the rear yard setback area, most if not all of which have been granted.
131. Section 6.6.2.1 is also being amended, by deleting the maximum height permission for porches (3.0 metres). This section has been amended numerous times to provide for a higher height.
132. Section 6.6.3 has also been modified to permit stairs and landings to encroach into the setback required by Section 6.3.1.2. Section 6.6.3 is also being simplified to indicate that stairs and landings may encroach into the required front and exterior side yards provided that no part of the stairs or landing are located closer than 0.6 metres from the front and exterior side lot lines. Currently the by-law permits stairs and landings to encroach a distance of no more than 50% of the required exterior side yard and a distance of no more than 3 metres into the front yard, in which case the stairs or landings are required to be located no closer than 1.5 metres to the front lot line. These changes are also being made as a consequence of the number of exceptions granted to this provision. Section 6.6.3 is also being modified to indicate that stairs and landings are not permitted to encroach into the required interior side yard. With this change, the provisions regarding decks, stairs and landings are all consistent with each other. This latter provision, which is more restrictive, will not apply to lands that are already zoned.
133. Section 6.8.1 (e) has been modified to indicate that if a home occupation is carried out in an accessory building, the building has to comply with the accessory building setbacks set out in the by-law. Currently the provision indicates that the provisions of the by-law as they apply to main buildings would need to apply in this case.
134. Kennels and day kennels are added as prohibited uses in Section 6.8.2.
135. Section 6.9.1 has been modified to indicate that day nurseries, places of worship and public and private schools are not required to provide loading spaces. The length of a required

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loading space has been reduced from 12 metres to 10 metres in Section 6.9.2.

- 136. Section 6.17 which deals with parking pads has been modified by adding in a new restriction which indicates that a parking pad is not permitted to encroach into the setback area required by Section 6.3.1.2 of the by-law. This makes it very clear that a parking pad cannot be located within the setback area.
- 137. Section 6.19, which deals with public uses has been modified by the incorporation of the words “for a public use” and by referencing the term “infrastructure” instead of “storm water management facilities, flood or erosion works”.
- 138. A new section has also been added indicating that school portables are considered to be main buildings by this by-law.
- 139. The section dealing with recreational trailers and boats is to be deleted - By-law 28-97 should apply instead.
- 140. Section 6.23 which deals with the storage of garbage has been deleted and replaced with a new section (Section 6.2.4) which contains new provisions dealing with waste storage areas.
- 141. Section 6.2.3 dealing with temporary construction and sales uses has been amended by referencing dwelling units and industrial or commercial units instead of 'suites'.
- 142. Former Section 5.9 of By-law 177-96 dealing with group homes and the related definitions, which were not carried forward in the 2005 consolidation, has been deleted in order to be consistent with Council direction respecting other zoning by-laws in City of Markham.
- 143. A new section 7.5.1 has been added, the effect of which is to permit accessory dwelling units. Bylaw 2005-5 inadvertently deleted this section.
- 144. A new section 7.5.3, which contains special site provisions, has also been added. By-law 2005-5 inadvertently deleted this section.
- 145. Section 7.138.3 has been modified to ensure that the wording is consistent with the intent of the original amending bylaw (By-law 100-2000).
- 146. Section 7.206.2 has also been modified by replacing “attached private garages” with “detached private garages” to ensure that the section is as per Bylaw 2003-326.
- 147. Section 7.229.1 has been modified by adding supermarkets as a permitted use and by adding a number of special site provisions applying to supermarkets in Section 7.229.2 as per Bylaw 2004-146. This change is required since Bylaw 2005-05 added supermarket as a defined use and because Bylaw 2005-05 deleted all of Section 7 and replaced it with a new Section 7.
- 148. Subsection 7.246.1 of By-law 2005-18 duplicates a number of zoning standards which already exist in Table B7 for the MJC zone in by-law 177-96: *Minimum required front yard* and *minimum required interior side yard* - as a result, the duplicated provisions will be deleted.

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149. Section 7.248 has been modified by, adding supermarkets as a permitted use and by modifying Section 7.248.3 to ensure that supermarkets are also subject to the special site provision as per By-law 2004-281. This change is required since Bylaw 2005-05 added supermarket as a defined use and because Bylaw 2005-05 deleted all of Section 7 and replaced it with a new Section 7.
150. Section 7.249 has been modified by, adding supermarkets as a permitted use and by modifying Section 7.249.3 to ensure that supermarkets are also subject to the special site provision as per By-law 2004-281. This change is required since Bylaw 2005-05 added supermarket as a defined use and because Bylaw 2005-05 deleted all of Section 7 and replaced it with a new Section 7.
151. Section 7.250.1 has also been modified by, adding supermarkets as a permitted use and by modifying Section 7.250.3 to ensure that supermarkets are also subject to the special site provision as per By-law 2004-281. This change is required since Bylaw 2005-05 added supermarket as a defined use and because Bylaw 2005-05 deleted all of Section 7 and replaced it with a new Section 7.
152. Section 7.252.1 has also been modified by, adding supermarkets as a permitted use and by modifying Section 7.252.3 to ensure that supermarkets are also subject to the special site provision as per By-law 2004-281. This change is required since Bylaw 2005-05 added supermarket as a defined use and because Bylaw 2005-05 deleted all of Section 7 and replaced it with a new Section 7.
153. Subsection 7.262.2 b) duplicates zone standard which already exists in 177-96 Table B7, provision D, standards for ACI zones: Minimum required front yard - 10 metres.
154. Section 7.413 has been moved to Section 7.267 since 413 was already taken (Bylaw 2010-165) - means that a schedule change also needed.
155. Section 7.267 has also been amended by changing the reference to 'property line' in Section 7.267.6 to 'lot line' (2010-165).
156. Section 7.388 has been moved to Section 7.287 since 388 was already taken (Bylaw 2010-106) - means that a schedule change also needed.
157. Section 7.389 has been moved to Section 7.288 since 389 was already taken (Bylaw 2010-106) - means that a schedule change also needed.
158. Section 7.302.1 has been slightly modified to accurately reflect the use of the term "schools, private" (By-law 2006-46).
159. Subsection 7.325.1 a) has been amended by including the word "yard" after "minimum required exterior side".
160. The numbering in Section 7.335 has been corrected.

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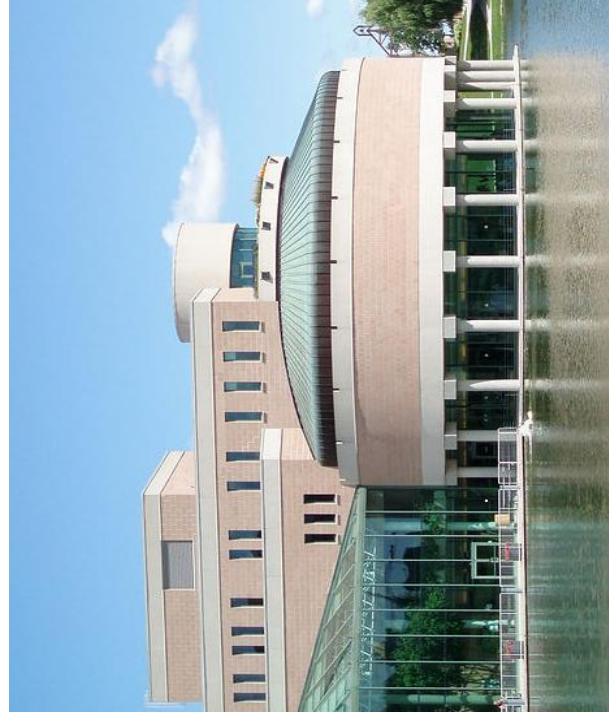
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- 161. Section 7.346.1 has been modified by deleting “private and commercial schools” as a permitted use, and replacing that use with “schools, private” and “schools, commercial”.
- 162. Inconsistent language is used for permitted uses in subsection 7.357.1. *Business Offices* and *Medical Offices* are now separated into 2 different uses, listed as one use in 177-96 Table A4 to reflect Bylaw 2008-30.
- 163. Section 7.369.1 is modified by deleting “and professional” from Item d) so that the permitted use is “business offices”.
- 164. Section 7.371.1 is being deleted since the definition of public hospital is now to be located within Section 3 of the bylaw.
- 165. By deleting 7.395.1 as per 2010-170, the remaining subsections are out of order and have been corrected.
- 166. Titles were added to subsections: 7.260, 7.264, 7.265, 7.292, 7.296, 7.297, 7.337, 7.367, 7.369, 7.418, 7.428 and 7.439.
- 167. By-law 74-2000 added a place of worship use permission - however, the exception number used is 113. This number was already assigned. As a result, this exception has been moved to section 7.342. This means that a map change is required.

Update and Consolidation Project

Zoning By-law 177-96

April 23, 2013



History of By-law 177-96



Context

- Zoning By-law 177-96 was adopted in June 1996.
- Intent initially was to provide for development of Cornell.
- Further intent was to apply one by-law to all future development and break with past practice.
- By-law covers the majority of the “Greenfield” development in Markham.
- The majority of new development in the Town has been the subject of Zoning By-law 177-96.

Markham Concession Index Map



Zoning By-law 177-96 April 23, 2013



Amendments to 177-96

Context

- Over 450 exceptions have been added to By-law 177-96 to accommodate individual developments since 1996.
- By-law was consolidated in 2001 and 2005 - updates and improvement were made each time
- Over 190 amendments were passed by Council since 2005.



Amendments to 177-96 cont'd

Analysis revealed the following types of amendments:

1. Amendments that create new exception subsections (88);
2. Amendments that rezone lands to remove holding (H) provisions (66);
3. Amendments that change zoning from one zone to another without exceptions (40);
4. Amendments that amend the Parent by-law (15); and,
5. Amendments that add additional subsections to existing exceptions (12).



There are two components to the By-law 177-96 Process:

Component 1 - Consolidate Zoning By-law 177-96 to:

- Ensure all amendments are properly included within the by-law; and,
- Ensure the text of each amendment is appropriate and does what was intended when the by-law amendment was initially passed by Council.

This task has now been completed

- This means that there will be an updated bylaw with all amendments incorporated for public use.
- This contrasts with other Markham bylaws – which do not get consolidated because of their age, structure and format.



Component 2 - Update of Zoning By-law 177-96:

- The intent of the process is to make a number of technical changes to By-law 177-96.
- These technical changes are intended to improve the effectiveness of the by-law.
- These changes will also continue moving the City forward to having consistent zoning provisions across all by-laws. Some of the changes will also necessitate changes to By-law 28-97.
- Changes that are more policy-oriented are not being made through this update.



Component 2 - Update of Zoning By-law 177-96:

- Policy changes will be considered in the future when a comprehensive multi by-law update process is initiated.
- Many of the the technical changes are intended to clarify the interpretation of a zoning provision, without changing the effect of the provision.
- Other changes are intended to provide some additional flexibility which will reduce the need for variances and zoning exceptions in the future.

Overview of Proposed Changes to By-law

ZONING BY-LAW 177-96

1. The term “premises” is to be deleted from a number of definitions, in recognition that some the uses are not commercial or for profit establishments.
2. All of the dwelling unit definitions have been updated and clarified, primarily to provide for one “*catch-all*” definition for dwelling units that do not fit any other category (multiple dwelling units).
3. The stairs accessing a deck in the rear yard will now be required to be set back in accordance with the deck provisions in the by-law. This means that the stairs accessing a deck will no longer be permitted to encroach into the required interior side yard.
4. A definition for “*public easement*” has been added and provisions have been included which prohibit buildings and structures on public easements.
5. A number of definitions are being modified or deleted to ensure that they are consistent with other City-wide by-laws, most notably By-law 28-97.

Overview of Proposed Changes to By-law (cont'd)

ZONING BY-LAW 177-96

6. A new definition for “*day-kennel*” has been added and it has been identified as a prohibited home occupation.
7. The definition of “*medical office*” has been modified to ensure it does not conflict with the home occupation definition.
8. The definition of “*structure*” has been significantly expanded, by adding new exceptions to the definition.
9. A new definition for “*waste storage area*” has been added along with new general provisions that control where waste storage areas can be located.
10. The permitted locations for day nurseries, non-profit fitness centres and places of worship in the CA1 and CA2 Zones have been expanded.
11. Medical offices have been deleted as a permitted use in the General Industrial Zone.

Overview of Proposed Changes to By-law (cont'd)



12. Day nurseries have been deleted as permitted uses in the BP and BC Zones.
13. All maximum driveway width provision in the by-law have been deleted.
14. New minimum lot area standards have been added for single-detached dwellings in the R1 Zone.
15. The special provisions requiring that no less than 25% of the wall of the first storey be located a certain distance from the front lot line have been deleted in all residential zones.
16. The maximum setback from the front lot line in the R2 and R2-2 Zone has been increased to 6.5 metres from 6 metres.
17. The minimum lot frontage in the MJC Zone has been reduced from 150 metres to 85 metres.

Overview of Proposed Changes to By-law (cont'd)

ZONING BY-LAW 177-96

18. A new section entitled “*barrier-free access*” has been added to the general provisions to ensure that the by-law conforms to the requirements of Section 3.8 of the Ontario Building Code.
19. Section 6.3.1.2, which establishes maximum setbacks from the rear lot line for detached garages has been deleted.
20. It is proposed to permit the encroachment of main walls with windows into the required front and exterior side yards subject to restrictions.
21. Porches are proposed to be permitted to extend into the setback area between the garage and main building by no more than 1.5 metres in Section 6.6.2. Stairs and landings would also be permitted as well in accordance with Section 6.6.3.
22. The maximum height of a porch (3.0 metres) in Section 6.6.2 is proposed to be deleted.

Overview of Proposed Changes to By-law (cont'd)

ZONING BY-LAW 177-96

23. The porch definition would also be changed to require a porch to have a minimum of two open sides instead of one
24. Stairs and landings are proposed to be permitted to encroach to no closer than 0.6 metres from the front and exterior side lot lines in Section 6.6.3.
25. Stairs and landings are proposed to no longer be permitted to encroach into the required interior side yard in Section 6.6.3.
26. Loading spaces are proposed to be no longer required for day nurseries, places of worship and public and private schools in Section 6.9.1.
27. A new section is being added indicating that school portables are considered to be main buildings.
28. It is proposed to clearly indicate that there is no restriction on the number of accessory buildings permitted on a lot, provided they are no larger than 10 sq. m. in size (this was always the intent of the Bylaw).



Summary

- The intent of the process is to make a number of technical changes to By-law 177-96.
- These technical changes are intended to improve the effectiveness of the by-law.
- Many of the technical changes are intended to clarify the interpretation of a zoning provision, without changing the effect of the provision.
- Other changes are intended to provide some additional flexibility which will reduce the need for variances and zoning exceptions.
- All of the changes are considered to be improvements and enhancements to the current by-law.
- It is recommended that a formal public meeting on these changes be held.