

June 22, 2009

**Corporation of the Town of Markham
Clerk's Department
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3**

**Attention: Ms. Kimberley Kitteringham
Town Clerk**

**Re: Application Of Red Banner Developments Limited to Amend By-law No. 1229, As Amended,
Parts 1, 4, 5 and 8, Plan 65R-12779 and Part 1, Plan 65R-10123
Markham Heritage Centre, Part of Lot 16, Concession 7, Town of Markham
Our File: PN 5109**

Dear Ms. Kitteringham:

In accordance with the requirements of the Town of Markham, please find attached our formal request to appear as a deputation before the Mayor and Members of Council during the course of the regular meeting of Council scheduled for June 23, 2009. On behalf of our Client, Red Banner Developments Limited, we wish to speak to the matter of the application to amend By-law No. 1229, as filed on April 16, 2008, as it applies to the Markham Heritage Centre, municipal address of 5970 and 5990 Sixteenth Avenue.

A copy of the draft of the requested amendment to By-law No. 1229, as amended, is enclosed herewith. We will be requesting that Council adopt the requested amendment with a view to reconciling the zoning provisions applicable to the Markham Heritage Centre. It is understood that copies of the enclosed draft of the requested By-law amendment, together with a copy of this submission, will be provided to Council in advance of the meeting of June 23, 2009.

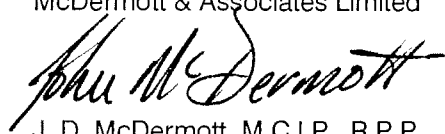
By way of background, the Statutory Public Meeting in relation to the requested by-law amendment was held on September 16, 2008, in accordance with the requirements of the Planning Act. To the best of our knowledge, no adverse comments have been received from either the agencies consulted by the Town of Markham, the general public or other stakeholders in the Community. Since that time, our Client has been requesting that the draft amendment be brought before Council for adoption.

The process followed has been of an iterative nature and has addressed a number of issues. As a result of the information recently provided to us during the course of a meeting with Staff of the Planning Department on June 9, 2009, and subsequent communications over the following two weeks, the draft of the requested amendment has been revised from our previous submissions to the Town of Markham. It is further noted that, in authorizing this submission, our Client has relied upon the representations made by the Town of Markham in relation to the interpretation of the provisions of By-law No. 1229, as amended. This is of considerable significance given the previous representations made to our Client and its tenants in relation to the range of uses permitted within the Markham Heritage Centre.

In closing, we respectfully submit that adoption of the requested By-law amendment will provide for a reasonable and appropriate measure of certainty in the interpretation and implementation of the zone provisions applicable to the lands in question. In addition, the proposed amendment respects the provisions of the site plan agreement entered into with the Town of Markham and which was registered against the title of the lands in question on August 15, 1989.

We appreciate the opportunity to appear before the Mayor and Members of Council and trust that the requested amendment to By-law No. 1229 will be adopted by Council. Should you have any questions in relation to this request or the attached draft of the proposed by-law amendment, please do not hesitate to contact the undersigned.

Sincerely yours,
McDermott & Associates Limited



J. D. McDermott, M.C.I.P., R.P.P.
Principal Planner
encl.(1)

copy to: Ms. Margaret Wouters
Manager, Development - East District
Town of Markham

Ms. Doris Cheng
Planner, East District
Town of Markham

Mr. Keith Lahey
Red Banner Developments Limited



2009-XXX

A By-law to amend By-law No. 1229, As Amended
By By-laws No. 343-87, No. 52-92, No. 122-87 and No. 28-97

To reconcile the permissions and development standards for the lands on the north-west corner of Markham Road and Sixteenth Avenue, described as Part One of Plan 65R-12779 (5970 Sixteenth Avenue) and Parts 4, 5 and 8 of Plan 65R-12779 and Part One of Plan 10123 (5990 Sixteenth Avenue)

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. That By-law No. 343-87 and By-law No. 52-92, being By-laws to amend By-law No. 1229 of the Corporation of the Town of Markham, are hereby repealed in their entirety.
2. That Schedule "A", the Zone Map attached to and forming part of By-law No. 1229, as amended, is hereby further amended by zoning those lands generally described as forming Parts 1, 4, 5 and 8 of Plan 65R- 12779 and Part One of Plan 65R-10123, located in part of Lot 16, Concession 7 of the Town of Markham, within the Central Commercial (C2) Zone all in accordance with Schedule "A", the Zone Map, attached hereto and forming part of this By-law.
3. That Section 12, entitled Exceptions To Standards And Permitted Uses, of By-law No.1229,as amended, is hereby further amended by adding thereto a new subsection which shall read as follows, namely:

12.24 5970 & 5990 Sixteenth Avenue

Notwithstanding any other provision of By-law No. 1229, as amended, to the contrary, the following provisions shall apply to regulate the use of those lands generally described as forming Parts 1, 4, 5 and 8 of Plan 65R-12779 and Part One of Plan 65R-10123, in part of Lot 16, Concession 7 of the Town of Markham, which lands are zoned within the Central Commercial (C2) as delineated on the Zone Map, attached hereto as Schedule "A" and forming part of this By-law, namely:

12.24.1 Definitions

For the purposes of this By-law, the Definitions given in this section shall govern, namely:

12.24.1.1 Printing and/or Photocopying Establishment

Shall mean a building or part of a building in which the business of producing documents or drawings, by mechanical means and other reproduction techniques such as photocopying, is carried on in return for compensation.

12.24.1.2 Veterinary Clinic

Shall mean a building or part of a building where a veterinarian treats animals and birds for the prevention, cure and alleviation of disease and injury and in conjunction with which there may be facilities provided for the sheltering of animals and birds during the treatment period, but does not include a kennel.

12.24.2 Interpretation

For the purposes of this By-law, words used in the present tense include the future, words in the singular number include the plural and words in the plural include the singular number. The word shall is mandatory, the word may is permissive, and, the words *used* or *occupied* shall include the words *arranged and designed to be occupied*.

12.24.3 Permitted Uses

No person shall, within the Central Commercial (C2) Zone as it applies to those lands generally described as forming Parts 1, 4, 5 and 8 of Plan 65R-12779 and Part One of Plan 65R-10123 in part of Lot 16, Concession 7 of the Town of Markham, use any land or erect, alter or use any building or structure except as specified herein, namely:

a. Residential Uses - prohibited

b. Non-Residential Uses

In addition to those non-residential uses permitted in accordance with Section 7.1(b)(i) of By-law No.1229, the following non-residential uses shall also be permitted, namely:

- i. an **art gallery**, public or private;
- ii. a **bake shop**;
- iii. a **business office**;
- iv. a **commercial fitness centre or health recreation facility**;
- v. a **commercial school** which, without limiting the generality of the foregoing, shall include a driving school;
- vi. a **convenience retail store**;
- vii. a courier service establishment inclusive of mail box facilities, photocopying and printing facilities and other related business services;
- viii. a **custom workshop**;
- ix. a **day nursery** subject to the provisions of Section 12.24.3(e) hereof;
- x. a **dry cleaning establishment**;
- xi. a **financial institution**;
- xii. a **home furnishings store**;
- xiii. a **library**;
- xiv. a **medical office**;
- xv. a **personal service shop**;
- xvi. a **place of amusement and/or entertainment**;
- xvii. a post office where such use is ancillary and incidental to a non-residential use otherwise permitted herein;
- xviii. a **printing and/or photocopy establishment**;

- xix. a **private club**;
 - xx. a **public use and/or utility**;
 - xxi. a **restaurant** inclusive of a **take-out restaurant** subject to the provisions of Section 12.24.3(f) hereof;
 - xxii. a **retail store** which, without limiting the generality of the definition thereof, shall include a confectionary store, an ice cream parlour, a delicatessen, a fish and/or meat market, a specialty food store, a wine or beer making establishment or other similar retail commercial establishments subject to the provisions of Section 12.24.3(g) hereof;
 - xxiii. a **service shop**; and,
 - xxiv. a **veterinary clinic**.
- c. Accessory Uses
- Uses and/or structures accessory to any of the foregoing non-residential uses permitted under subsection (b) hereof and in accordance with the provisions of By-law No. 1229, as amended.
- d. Specific Exclusions
- Notwithstanding any other provision of this By-law to the contrary, a retail establishment for the sale of automotive parts and accessories is specifically prohibited.
- e. Site Specific Limitations - Day Nursery
- Notwithstanding any other provision of this By-law to the contrary, a maximum of one day nursery shall be permitted in any one building within the Central Commercial (C2) Zone applicable to the lands affected by this By-law.
- f. Site Specific Limitations - Restaurants
- Notwithstanding any other provision of this By-law to the contrary, the following provisions shall apply to restaurants, inclusive of take-out restaurants, namely:
- i. the maximum gross floor area of all restaurants, inclusive of take-out restaurants, shall not exceed 15 percent of the total gross floor area of all buildings and/or structures on the lands affected by this By-law; and,
 - ii. a maximum of two restaurants, inclusive of take-out restaurants, shall be permitted on those lands referred to as Part 1 of Plan 65R-12279, municipal address of 5970 Sixteenth Avenue.
- g. Site Specific Provisions and Limitations - Retail Stores
- Notwithstanding any other provision of this By-law to the contrary, the following provisions shall apply to retail stores offering the sale of grocery or food type merchandise, inclusive of a bake shop, a confectionary store, a delicatessen, a fish and/or meat market, an ice cream parlour or a specialty food store, namely:
- i. the maximum gross floor area of any one retail commercial establishment in which grocery or specialty food type merchandise is offered or kept for sale shall not exceed 300 square metres;

- ii. a seating area for up to twelve persons shall be permitted in association with such uses as a bake shop, a confectionery, a delicatessen and an ice cream parlour ;
- iii. where a seating area is provided in association with such uses, the seating area shall not be included in the calculation of the maximum gross floor area of all restaurants as referred to paragraph (f) of this subsection.

12.24.4 Zone Standards

12.24.4.1 5970 Sixteenth Avenue - Part One of Plan 65R-12779

- a. Minimum Lot Area 3800 square metres
- b. Minimum Lot Frontage - adjacent Sixteenth Avenue 70 metres
- c. Minimum Yard Requirements
 - i. Front Yard - adjacent Sixteenth Avenue 9 metres
 - ii. Side Yard - adjacent easterly property line 3 metres
 - iii. Side Yard - adjacent westerly property line 3 metres
 - iv. Rear Yard - opposite Sixteenth Avenue 3 metres
- d. Maximum Building Height 12 metres
- e. Minimum Landscaped Open Space Requirement - a strip having a minimum width of 6 metres shall be provided adjacent Sixteenth Avenue.

12.24.4.2 5990 Sixteenth Avenue

Parts 4, 5 and 8 of Plan 65R-12779 and Part 1 of Plan 65R- 10123

- a. Minimum Lot Area 7000 square metres
- b. Minimum Lot Frontage - adjacent Markham Road 50 metres
- c. Minimum Yard Requirements
 - i. Front Yard - adjacent Markham Road 27 metres
 - ii. Side Yard - adjacent Sixteenth Avenue 12 metres
 - iii. Side Yard
 - the minimum side yard requirement adjacent the northerly property line shall be 1.5 metres except for the more easterly 51.8 metres where the minimum side yard requirement shall be 18 metres.
 - iv. Rear Yard - adjacent the westerly property line 6 metres
- d. Maximum Building Height 12 metres
- e. Minimum Landscaped Open Space Requirement - a strip having a minimum width of 6 metres shall be provided adjacent Sixteenth Avenue and Markham Road.

12.24.5 Off-Street Parking Area Regulations

12.24.5.1 Parking Space Requirements

- a. 5970 Sixteenth Avenue
43 parking spaces inclusive of one parking space for the physically disabled as existing on the date of passing of this By-law.
- b. 5990 Sixteenth Avenue
94 parking spaces inclusive of three parking spaces for the physically disabled as existing on the date of passing of this By-law.

12.24.5.2 Parking Area Design Requirements

Notwithstanding any other provision of this By-law to the contrary, where a parking space existed on the date of passing of this By-law, the minimum width of a parking space shall be 2.75 metres and the minimum length shall be 5.3 metres.

12.24.6 Loading Space Regulations

12.24.6.1 Minimum Loading Space Requirements

- a. 5970 Sixteenth Avenue - one space
- b. 5990 Sixteenth Avenue - one space

12.24.6.2 Location of Loading Spaces

No loading and/or unloading space shall be located in any required yard adjacent Markham Road or Sixteenth Avenue.

12.24.7 Other Zone Provisions

In all other respects, the provisions of By-law No. 1229, as amended, shall apply and be complied with. Matters not specifically dealt with in this By-law shall be governed by the relevant provisions of By-law No. 1229, as amended.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS 23RD DAY OF JUNE, 2009.

KIMBERLY KITTERINGHAM, TOWN CLERK

FRANK SCARPITTI, MAYOR

