

**SUBJECT:** RECOMMENDATION REPORT  
Zoning Issues Analysis (Phase 1): New Comprehensive Zoning By-law Project, PR 13 128340

**PREPARED BY:** Anna Henriques, MCIP, RPP, Senior Planner – Zoning & Special Projects, ext. 7922

**REVIEWED BY:** Tom Villella, MCIP, RPP, Manager – Zoning & Special Projects, ext. 2758

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**RECOMMENDATION:**

- 1) THAT the report entitled, “RECOMMENDATION REPORT: Zoning Issues Analysis (Phase 1): New Comprehensive Zoning By-law Project” dated March 29, 2016, be received;
- 2) AND THAT the Zoning Issues Analysis document (attached as Appendix ‘A’) be endorsed in principle, to be used to assist with the development of a strategic direction (Phase 2) to guide the drafting of the new comprehensive zoning by-law;

**PURPOSE:**

The purpose of this report is to seek endorsement of the Zoning Issues Analysis document (ZIA) which officially marks the completion of Phase 1 and the commencement of Phase 2 (Strategic Direction). The ZIA will assist with the development of the Strategic Direction document (Phase 2) which will guide the drafting of the new comprehensive zoning by-law in Phase 3.

**BACKGROUND:****Markham’s New Comprehensive Zoning By-law Project**

The purpose of Markham’s New Comprehensive Zoning By-law Project is to review, consolidate and update, where appropriate, the City’s parent zoning by-laws into one (1) comprehensive zoning by-law that conforms with and implements the City’s New Official Plan. A key objective of the Project is to develop an innovative, web-based & user-friendly zoning by-law that responds to current and emerging sustainable planning and development trends, to guide future development in Markham. This is a phased, multi-year Project, as outlined below:

Phase 1: Zoning Issues Analysis

Phase 2: Strategic Direction

Phase 3: Drafting & Processing of New Comprehensive Zoning By-law

Phase 4: Potential OMB Appeals

In April 2014, Gladki Planning Associates (GPA) was retained by the City as the lead consultant, managing a team of sub-consultants, to complete the required work for Phase 1 (Zoning Issues Analysis) and Phase 2 (Strategic Direction).

**Work on Phase 1 complete**

The consulting team has completed work on Phase 1 which includes twenty (20) draft discussion papers that examine specific zoning issues and topics, including potential options for addressing identified issues in the new comprehensive zoning by-law. The draft discussion papers are outlined in Appendix A (attached) and are available on the

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Project webpage of the City's website, [www.markham.ca](http://www.markham.ca) (Click on "Learn About Major City Projects" and "New Zoning By-law Project").

The purpose of the ZIA (Appendix "A") is to summarize the twenty (20) draft discussion papers into one document, highlighting key aspects of each paper including key issues and potential options for addressing issues. In addition, the ZIA summarizes stakeholder input received during Phase 1 and it will support the development of an overall strategy to guide the drafting of a new comprehensive zoning by-law (Phase 2).

### **Phase 1 Open Houses**

Three (3) Open House meetings were held in November and December, 2015 (November 5, November 12 and December 8) to obtain stakeholder input on the draft discussion papers prepared for Phase 1. The Open Houses were organized to discuss each of draft discussion papers prepared, as outlined in Appendix "B" (attached).

Most of the feedback received during Phase 1 pertains to concerns associated with short term rental accommodations (Airbnbs), rooming houses and secondary suites and as a result, staff will be advancing work on developing new zoning and licensing regulations to address identified concerns (discussed further below).

Stakeholder input received during Phase 1 has been summarized in the ZIA (Appendix "A") and the attached presentation (Appendix "C") and will be considered, where appropriate, when developing the overall strategy (Phase 2) to guide the drafting of the new comprehensive zoning by-law.

## **DISCUSSION**

### **Next Steps**

The following are next steps for Markham's New Comprehensive Zoning by-law Project:

#### Initiation of Phase 2 (Strategic Direction)

Preliminary Phase 2 work has commenced on the development of a strategy to guide the overall drafting of the new comprehensive zoning by-law. A series of workshops have been scheduled with the consulting team and Staff to discuss and obtain input on key issues which will assist with the development of a draft strategy. Once a draft strategy has been developed, it will be presented to stakeholders for their input, likely sometime in the Spring, 2016. Staff are targeting DSC endorsement of the strategy in June, 2016. Following DSC endorsement of a strategy to guide the drafting of the new comprehensive zoning by-law, staff anticipate drafting of the new by-law (Phase 3) to commence sometime in the Fall, 2016.

#### Initiation of Phase 3a (Zoning and Licensing Regulations for short term rental accommodations (Airbnbs), rooming houses and secondary suites)

Consistent with the DSC resolution from March 1, 2016, Gladki Planning Associates have been awarded a contract to advance work on a portion of Phase 3, to develop new

zoning and licensing for short term rental accommodations, rooming houses and secondary suites (Phase 3a). Preliminary work has begun in this regard and once new draft zoning and licensing regulations have been developed they will be presented to stakeholders for input. Comments received from the public on these matters during Phase 1 will be incorporated into the development of zoning and licensing regulations, where appropriate.

Work on Phase 2 and Phase 3a of the Project will take place concurrently and Staff are targeting completion of Phase 3a (Council adoption of new zoning and licensing regulations) for the end of 2016. Work on the remainder of Phase 3 (drafting of new zoning regulations for new comprehensive zoning by-law) will commence as targeted in the Fall, 2016.

Staff note that there will be many opportunities for stakeholder input and participation throughout both Phase 3a and Phase 3 of the Project which both involve the drafting of new zoning regulations.

**FINANCIAL CONSIDERATIONS:**

N/A

**HUMAN RESOURCES CONSIDERATIONS:**

N/A

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

This Project will align with the City's strategic priority of Growth Management by implementing the New Official Plan and establishing a zoning framework to guide future development in the City. This Project also aligns with the City's strategic priorities relating to quality customer service by providing improved access to up-to-date zoning information.

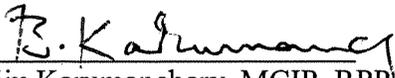
**BUSINESS UNITS CONSULTED AND AFFECTED:**

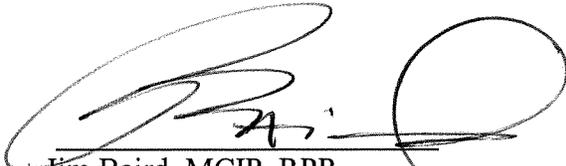
This City-wide Project affects many City Departments. All relevant City departments have and will continue to be consulted throughout each Phase of this Project, as appropriate.

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**RECOMMENDED**

**BY:**

  
Biju Karumanchery, MCIP, RPP  
Director, Planning & Urban Design

  
Jim Baird, MCIP, RPP  
Commissioner, Development Services

**ATTACHMENTS:**

Appendix "A" – Zoning Issues Analysis

Appendix "B" - Phase 1 (2015) Open Houses

Appendix "C" – Presentation (Summary of Phase 1 Feedback)

# Comprehensive Zoning By-law Project

## Zoning Issues Analysis Paper

City of Markham



February 26, 2016

### Markham Zoning By-law Consultant Team

Gladki Planning Associates, R. E. Millward and Associates, Woodfield Consulting,  
Clarion Associates and Anthony Usher Planning Consultant



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# 1 Introduction

Markham has initiated a process for updating and consolidating its many zoning bylaws into a new, integrated, consistent, and user-friendly comprehensive zoning by-law. As part of this process a total of 20 discussion papers have been prepared to explore best practices and options for addressing key issues and questions that will need to be resolved in order to move forward with the creation of a new zoning by-law. (See Appendix for full list of discussion papers.)

This report summarizes the issues explored in the 20 discussion papers. It also incorporates feedback on the discussion papers received at presentations to the Markham's Development Services Committee, stakeholder consultation and three public open houses held in the Fall of 2015.

Recently a number of municipalities in Ontario have passed new, updated zoning by-laws, many of which share similar trends and approaches but at times also rely on some unique approaches to address particular circumstances. These have been reviewed as part of the preparation of the discussion papers to assess their relevance for Markham's new comprehensive zoning by-law and will be summarized in this zoning issues analysis paper.

## 1.1 The Evolution of Zoning

The evolution of zoning across North America over the past 20 years has resulted in significant changes in how zoning is designed, implemented, and communicated. Understanding these changes could pay rich dividends in helping Markham's new bylaw become a model of clarity, efficiency, and plan implementation.

Zoning controls were initially based on the landmark U.S. Supreme Court case of *Euclid v. Ambler Realty*, and were informally titled "Euclidean" zoning. These controls were based on the assumption that most negative land use impacts occur when the wrong

uses are located next to one another, and that if those uses were separated the problem would be solved. Very little attention was given to the "form" of the buildings that were permitted, other than to set maximum heights and minimum setbacks from streets and surrounding properties. In the beginning there were only three zoning districts – residential, commercial and industrial. As city officials became aware of the complexities of cities however, those categories were divided into more and more districts, and the lists of permitted land uses in each were divided into narrower and narrower categories. The system became rigid.

Over the past almost 100 years, three different responses to the problems of rigidity in Euclidean zoning have emerged. First, starting in the 1950s, municipalities began to approve "negotiated zoning" which is the equivalent of site specific zoning by-laws. Negotiated zoning enabled property owners to negotiate with municipalities for the specific types of uses and buildings they wanted, and municipalities would approve the specific package of uses and conditions. Negotiated zoning (site specific zoning by-laws) have been very widely used over the years, but prove difficult to administer over time.

Second, "performance zoning" was introduced, based on measuring the impact of a proposed development on its neighbors, rather than permitting or not permitting it based on the name and type of use or type of building proposed. While still used in some industrial areas (where the name of the use is a very poor predictor of its impacts on neighbors), performance zoning never caught on as a general zoning approach for three reasons. It requires substantial effort, trained staff, and sometimes specialized equipment to predict the anticipated noise, traffic, odour, vibration, and lighting impacts of a proposed development. In addition, performance zoning is prospective – you must approve the development based on anticipated impacts, and if they turn out to be greater than you anticipated, the building is already built and occupied and it is difficult

to “unapprove” it. Finally, some neighborhoods, particularly residential areas, value the predictability of what will be built nearby more than “form-based zoning”, which imposes additional detailed controls on the form, shape, and features of the building in return for more flexibility in the uses that can occupy the building. Form-based zoning controls have become increasingly more prevalent as features of zoning by-laws in Ontario and elsewhere in recent years, particularly with the increased introduction of mixed-use zones.

Form-based zoning holds that the long term urban health of an area turns much more on ensuring that buildings “fit into” their surroundings (or into a preferred fabric when an area is in transition) and less on the uses occupying the building. The success of form-based zoning is evident in some older urban areas where many uses coexist and often change over time. For example, houses along busy streets may be converted into offices, and older warehouses may be converted into housing.

In theory, form-based zoning controls can or should address:

- Buildings shapes and forms;
- Location of parking and building locations on the lot (i.e. in front or set back);

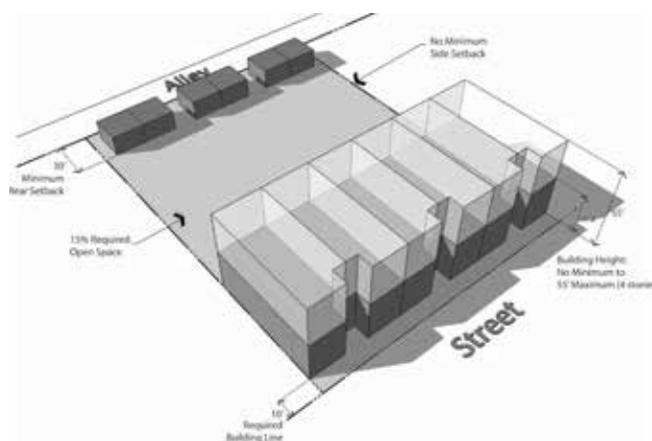


Fig. 1: Example of form-based zoning illustrating requirements for building line, open space percentage, setbacks, etc. (Source: <http://communityplans.files.wordpress.com>)

- Building frontages (how the building meets the street – e.g. a porch, stoop, or shopfront);
- Building entryway locations and ground floor windows; and
- Façade articulation or design to match or create a preferred character for the area.

Most current zoning bylaws combine some or all of the approaches described above into a Euclidean hybrid mix. Generally, there are many areas of more-or-less-pure Euclidean zoning, often residential areas, some industrial areas with more performance-oriented zoning and increasingly, some downtown or transit-oriented areas with form-based controls. In addition, there is also often a long list of negotiated site specific zoning by-laws approved in many cities.

## 1.2 Recent Trends in new Ontario Zoning By-laws

In Ontario, the use of hybrid approaches to zoning is reflected in the experiences of most municipalities that have recently updated or passed new zoning by-laws. This section of the paper will draw on case studies to highlight recent trends and common practices.

### 1. Simpler and More Understandable Zoning By-laws

Municipalities across the province have been working towards simplifying and making their zoning by-laws easier to understand. A key step in this direction has been improving the formatting of zoning by-laws and embedding features that improve user-friendliness, such as explanatory text in side bars and illustrations.

## **2. More Emphasis on Form Based Zoning**

Many zoning by-laws that are currently in effect in Ontario have evolved from their original versions, which normally date back over several decades. While the Euclidean approach remains at their foundation, most of these by-laws have been modified over time to incorporate form-based zoning in situations where a greater emphasis on built form is required, as opposed to an emphasis on uses. In Ontario (and elsewhere) the case of mixed use provisions is a primary example of this. To comply with the Provincial Policy Statement, Ontario municipalities have had to update their by-laws to include new land use designations and form based zoning controls that regulate mixed use development, particularly in intensification and growth areas.

## **3. Common Approach to the Organization of Zoning By-laws**

By-laws in Ontario tend to be organized according to a fairly traditional structure, with slight variations. In general, this consists of sections on “administration”, “definitions” and “general provisions applying to all zones”, at the beginning of the by-law. This is then usually followed by sections focusing on each main zone category and sections addressing unique conditions such as drive-through facilities, places of worship and automobile uses. Lastly, most by-laws conclude with appendices, schedules, maps and site specific by-laws.

## **4. Web Access**

The advantage of accessing complex zoning documents electronically has motivated most municipalities in Ontario to transition into a web-based system. All zoning by-laws that were reviewed as part of this project are accessible online and as printable PDF files. Yet, the extent to which technologies such as GIS have been adopted and the types of resources made available online differs considerably from one case to the other. In general, this transition is still a work in progress for most municipalities, given that the technology itself is still evolving. (This issue is explored in depth in the paper prepared as part of Task 6: Geographic Information Systems and Information Technology Strategies.)

## **5. Use of Illustrations**

A number of municipalities in Ontario have started to incorporate illustrations and photographs into their by-laws to assist users in understanding and interpreting the regulations. In all cases the images are considered to be strictly for explanatory purposes, which is made clear through notes such as “for illustration only”.

## **6. Sustainability Provisions**

One of the strongest trends in zoning bylaw reform is the desire to incorporate tools that promote “more sustainable” development. Under the Ontario planning context, by-laws have been particularly effective at addressing standards such as those relating to parking, green roofs, recycling facilities and providing opportunities for urban gardening.

# 2 Guiding Principles and Parameters

## 2.1 Introduction

The Guiding Principles and Parameters for the Markham Comprehensive Zoning By-law Project are intended to provide a high-level framework to guide future work on this assignment. The principles and parameters summarized below are derived from a review of a number of documents that have been approved by Markham Council. These documents include the Official Plan 2014, Building Markham's Future Together (the Corporate Strategic Directions Plan), Markham's Greenprint Sustainability Plan, the Integrated Leisure Master Plan, Markham 2020, Strategic Directions for our Economy and Markham's Diversity Action Plan.

The principal purpose of a zoning by-law is to regulate land use development and related standards, such as built form, parking, loading, setbacks, open space and amenities. The regulations need to be clear, consistent and legally defensible. In reviewing the documents cited above, the focus was to identify guidance for the development of a zoning by-law, without overreaching into other implementation areas.

## 2.2 Summary of Guiding Principles

### 1. Implement the Official Plan

Markham's new Official Plan was adopted by City Council in December 2013 and approved, in large part, by the Region of York in June 2014. The Official Plan provides guidance for future development and growth management in Markham as an urban, sustainable, diverse and socially responsible municipality. It contains policies on protecting the environment, promoting good urban design, supporting economic diversity, creating healthy communities, promoting transportation choices, protecting existing neighbourhoods and supporting intensification along designated corridors and centres. The Zoning By-law is intended to

support the implementation of the Official Plan and thus, must conform to the Official Plan and reflect the intent of the policies contained in the Plan. An overview of Official Plan policies, which have implications for the new zoning by-law, is provided as part of the discussion paper for Task 2, while policies relating to specific issues were reviewed under each relevant Task for this project.

### 2. Develop a single comprehensive zoning by-law for Markham

Markham currently has 46 active zoning by-laws covering all, or parts of, the City as well as about 3,000 site specific zoning by-laws that provide for development approvals on particular parcels of land. Part of the challenge of creating a new comprehensive zoning by-law will be to develop one common by-law that covers all of Markham, while at the same time reflecting and accommodating the diversity of land uses and built forms across the City. Having a single by-law will reduce complexity, duplication and provide a straightforward roadmap to guide future development approvals and improve efficiencies.

### 3. Recognize development and property rights as provided for in existing zoning by-laws

The new zoning by-law will need to incorporate the standards and permissions contained in existing zoning and site specific by-laws (where appropriate), as they affect property rights, while at the same time bringing them into conformity with the new Official Plan. In some instances, the provisions contained in existing by-laws may be out of date or superseded by events. Where this is the case, the provisions will be updated in the new by-law, but otherwise, a prevailing principle in drafting the new zoning by-law will be to recognize and incorporate existing development permissions, where appropriate.

**4. Consolidate, streamline and update the provisions and standards in the new zoning by-law**

The creation of a new zoning by-law provides a unique opportunity to consolidate and update standards and definitions contained in previous by-laws, eliminate repetitive provisions and formulate regulations that will stand the test of time. The intent will be to consolidate use categories, where appropriate, simplify and modernize provisions and requirements as much as possible and use illustrations to create a document that is easy to understand.

**5. Develop a zoning by-law that is web-based and easily accessible**

All users of the new zoning by-law, including staff, developers and the general public, should be able to access the information they need

quickly and in a way that is intuitive. Most users are likely to access the zoning by-law through the internet. Consequently, the by-law will need to be organized to provide user-friendly, web-based access with a direct link from maps to text, and from text to map, including information on site-specific provisions.

**6. Prepare a zoning by-law with an eye to ease of enforcement**

Some of the existing zoning by-laws in Markham are difficult to enforce because they are subject to a number conflicting interpretations. The creation of a new zoning by-law provides an opportunity to develop clear rules that are easier to administer, understand and interpret. This can lead to efficiencies such as a reduction in the cost of enforcement, and legal challenges.

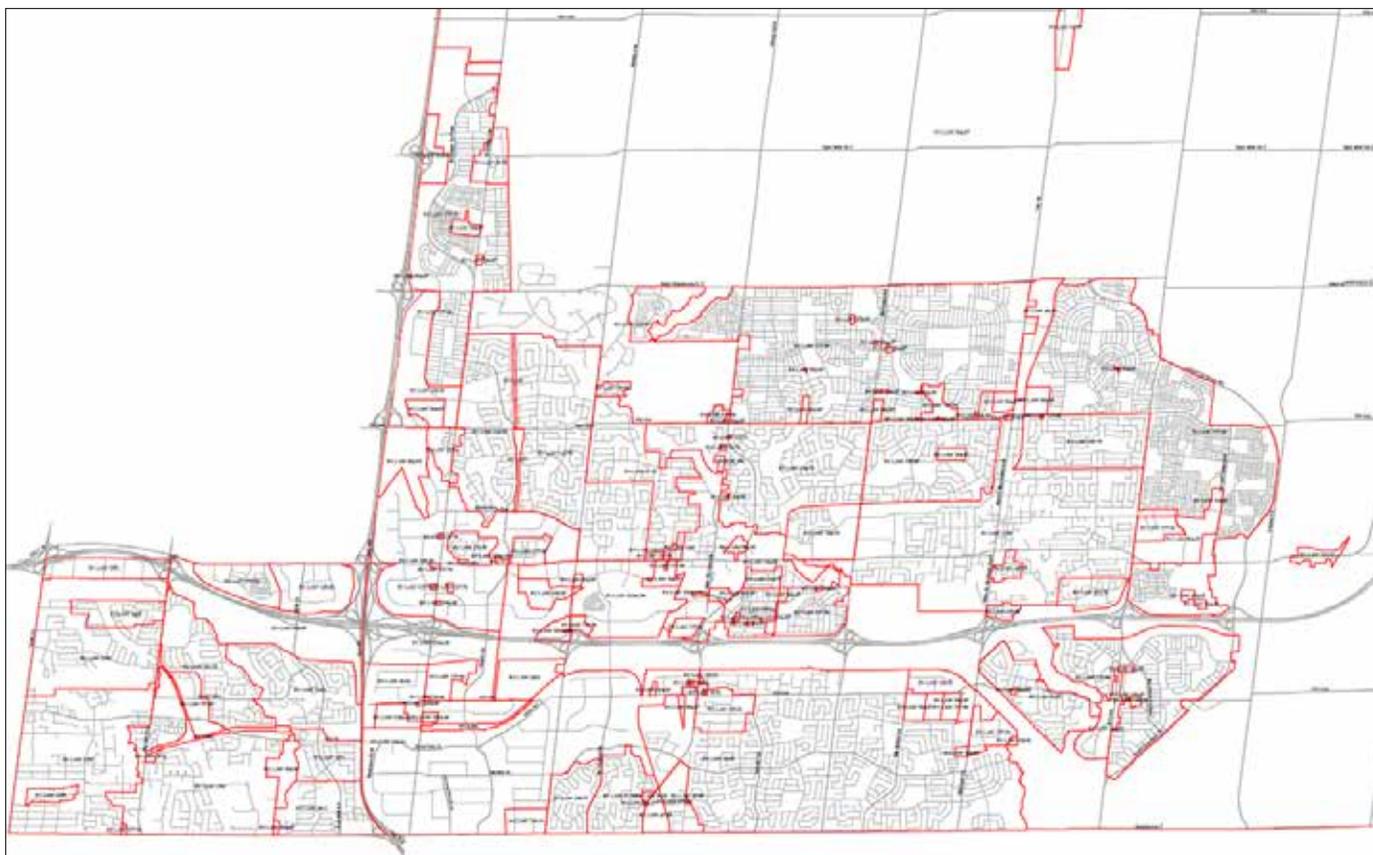


Fig 2: Map of Markham's 46 existing zoning parent by-law. (Source: City of Markham)

# 3 City Official Plan and City Guidelines, Policies and Plans

## 3.1 Introduction

This section summarizes the findings of the Task 2 discussion paper which examines the City's Official Plan and other pertinent plans and policies in order to identify matters that will require consideration or implementation in the new comprehensive zoning by-law. Each Chapter of the Official Plan is reviewed and an analysis of the topics covered in each Chapter, as approved by the Region in June 2014, is provided in the discussion paper. The implications on the zoning by-law of relevant policies in each Chapter of the Official Plan are summarized below. A detailed table of Official Plan policies that need to be addressed in the zoning by-law is provided as Appendix 1 to the Task 2 discussion paper.

## 3.2 Summary of Relevant Official Plan Policies

### Chapter 1 - Planning Markham's Future

The implications of this Chapter for the new zoning by-law are to reflect the intent behind the policy framework through the implementation of more detailed policies in the remaining Chapters of the Plan. The new zoning by-law will also need to apply appropriate underlying zoning categories to lands which are currently affected by Ministerial Zoning Orders, to address the eventuality of these orders being lifted.

### Chapter 2 - A Framework for Sustainable Growth

The implications for the new zoning by-law of this Chapter are the same as Chapter 1, to reflect the intent behind the policy framework through the implementation of more detailed policies in the remaining Chapters of the Plan.

### Chapter 3 - Environmental Systems

The following summarizes the implications of Chapter 3 Official Plan policies for the new zoning by-law:

- Address the most restrictive interpretation for permitted activities within the City's Greenway (further elaborated in Section 8.6 of the Official Plan).
- Address prohibited uses and policies for floodplains, hazard lands and Special Policy Areas (see Task 15 discussion paper).
- Determine how Vegetation Protection Zones and buffer zones adjacent to wetlands will be dealt with in the new zoning by-law (3.1.2.23).
- Restrict sensitive land uses such as day care centres and public schools so they are not near known sources of air emissions (3.4.2.4).

### Chapter 4 - Healthy Neighbourhoods and Communities

The following summarizes the implications of Chapter 4 Official Plan policies for the new zoning by-law:

- Develop provisions for shared housing and secondary suites (addressed more fully in Task 13a and 13b discussion papers).
- Develop appropriate zoning categories for parks and open spaces and identify them on zoning maps (4.3.2.2).
- Determine whether to zone the lands covered by the Rouge National Park as parkland or include with other Greenway area zoning categories.
- Create flexible zoning standards to allow community infrastructure to evolve (4.2.1.1 g).
- Expand range of community services that can be included as part of a school (4.2.3.1 and 4.2.3.3 b).
- Consider zoning significant archeological sites to prohibit or restrict development (4.6.2.3).

## Chapter 5 - A Strong and Diverse Economy

The implications of Chapter 5 Official Plan policies for the new zoning by-law are to reflect the intent behind the policy framework through the implementation of more detailed policies in Chapter 8 (Land Use) of the Plan and in particular:

- Provide for tourism attractions in Centres and Corridors (5.1.8.3).
- Determine if community gardens and urban agriculture should be permitted uses in zones where considered appropriate (5.2.2).
- Possibly provide for a variety of lot sizes for employment uses, as expanded on in Chapter 8 (5.1.3.2).

## Chapter 6 - Urban Design and Sustainable Development

The implications of Chapter 6 Official Plan policies for the new zoning by-law are summarized below:

- The zoning by-law may address the protection of view corridors (which still need to be identified—6.1.5.4), siting of buildings to define a street frontage (6.1.8.2 and further elaborated on in Chapter 8—Land Use), organization of density on a site (6.1.8.3 and 6.1.8.4 a--probably best achieved through site plan approval process), location of parking and site access (6.1.8.7 and further elaborated for various land use designations in Chapter 8 –Land Use).
- Include private outdoor amenity space requirements for residential occupants of development (6.1.6.6 c).
- Explore the use of height limits for buildings adjacent to parks and open spaces to enhance use as well as park user safety and comfort (6.1.6.5 b) and c).



Fountain Lane, Markham (Source: City of Markham)



Cornell, Markham (Source: City of Markham)

- Address requirements for green or light coloured roof and ground surfaces (6.2.3.1 c).
- Consider requirements for permeable surfaces on surface parking lots and driveways (6.2.3.1 c).
- Consider permission for urban food production (6.2.3.2 f).

## **Chapter 7 - Transportation, Services and Utilities**

The implications of Chapter 7 policies for the new zoning by-law are to:

- Provide bicycle parking standards (7.1.4.2 h)-- further addressed as part of Task 9 discussion paper.
- Prepare minimum parking standards that may vary by area; including a maximum standard in intensification areas, promote shared parking, provide for reduced parking in mixed use developments, limit commercial parking permissions and provide for accessible parking spaces (7.1.5.2)— further addressed in Task 9 discussion paper.
- Require new commercial developments to provide off street facilities for loading, delivery and courier service activities (7.1.6.5).
- Protect rail corridors from encroachment of incompatible uses (7.1.7.2).
- Address applicable Federal and Provincial Zoning Regulations re: Airports until airport operations cease (7.1.8.3).
- Identify and zone locations for recycling and solid waste transfer facilities (7.2.2.6).
- Determine whether appropriate and innovative solutions for waste management in multi-storey buildings should be addressed in the zoning by-law or through site plan approval as part of a green development standard (7.2.2.8).

## **Chapter 8 - Land Use**

### ***Section 8.1 General Land Use (applies to all land use designations)***

The implications of Section 8.1 policies for the new zoning by-law, which apply to all land use designations in Chapter 8, are as follows:

- Section 8.1.1 lists uses to be permitted in all zones (8.1.1).

### ***Section 8.2 Residential (applies to Residential land use designations)***

#### ***Section 8.2.1 General Policies***

The implications for the new zoning by-law in all Residential designations are as follows:

- Ensure that uses in all residential zones include a subset of uses identified in Sections 8.1.1 and 8.2.1.2.

#### ***Section 8.2.2 Residential Estate***

The following summarizes the implications for the new zoning by-law in areas designated Residential Estate:

- Ensure that uses in all Residential zones include a subset of uses identified in Sections 8.1.1 and 8.2.1.2, except for convenience retail and personal uses.
- Ensure that detached dwelling unit is the only building type permitted.
- Height limits cannot be more than 3 storeys on lots at least 0.4 hectares in size (8.2.2.3).
- The following development standards are included (8.2.2.4):
  - existing lot frontages, areas and depths are replicated; and
  - landscaped areas are protected.



Angus Lane, Markham (Source: City of Markham)



House on Main Street (Source: City of Markham).



Cornell Live/Work Units (Source: City of Markham)

### Section 8.2.3 Residential Low Rise

The implications for the new zoning by-law in areas designated Residential Low Rise are summarized as follows:

- Ensure that uses in all residential zones include a subset of uses identified in Sections 8.1.1 and 8.2.1.2.
- Address how small scale shared housing uses will be incorporated (8.2.3.2--further addressed in Task 13a discussion paper).
- Ensure permitted building types are a subset of:
  - detached dwelling;
  - semi-detached dwelling;
  - townhouse (but not back to back townhouse);
  - multiplex up to six units with direct frontage on a local street;
  - coach house above a garage or on a laneway; and
  - buildings associated with day care centres, places of worship and public schools (8.2.3.3).
- Heights cannot be more than three storeys (8.2.3.4).
- Infill criteria are included to ensure that new development is consistent with the character of established areas. Potential standards to consider include lot frontages and areas, heights, coverage, building depth, maximum garage and driveway widths, front and rear yard setbacks that are consistent with setbacks on the same side of the street, limits on the width of garages and driveways and angular planes for new development adjacent to low rise residential buildings—(8.2.3.5

and further addressed in Task 12 discussion paper).

- Include specific infill criteria relating to Heritage Corners Lane (OP Section 9.3.3), Markham Village Main Street (OP Section 9.13.2), the Markville District along Highway 7 (OP Section 9.14.2), Thornhill (OP Section 9.18.5) and lands in Unionville south of Highway 7 (OP Section 9.19.2).

### Section 8.2.4 Residential Mid Rise

The following is a summary of the implications for the new zoning by-law in areas designated Residential Mid Rise:

- Ensure that uses include a subset of uses in Sections 8.1.1 and 8.2.1.2.
- Address how shared housing will be incorporated—(8.2.4.2)--further addressed in Task 13a and 13b discussion papers.
- Ensure permitted building types are a subset of: all types of townhouses including stacked townhouses, multiplex buildings with up to six units, apartment buildings and buildings associated with day care centres, places of worship and public schools (8.2.4.3).
- Heights must be within 3 to 6 storeys and maximum overall densities must be 2 times floor space index (FSI) or less (8.2.4.4).
- The following development standards are included (8.2.4.5):
  - Consistent setbacks; and
  - Angular planes to ensure appropriate transition to buildings in adjacent low rise designations.

### Section 8.2.5 Residential High Rise

The following is a summary of the implications for the new zoning by-law in areas designated Residential High Rise:

- Ensure that uses include a subset of uses in Sections 8.1.1 and 8.2.1.2.
- Address how shared housing will be incorporated—(8.2.5.2 -further addressed in Task 13a and 13b discussion papers).
- Ensure permitted building types are a subset of: all types of townhouses including stacked townhouses, but not back to back townhouses, apartment buildings and buildings associated with day care centres, places of worship and public schools (8.2.5.3).
- Heights must be within 3 to 15 storeys and maximum overall densities must be 2.5 times FSI or less (8.2.5.4).
- The following development standards are included (8.2.5.5):
  - consistent setbacks along a public street;
  - provide for privacy for residential units at the street level by incorporating distancing provisions between development and street or neighbouring buildings;
  - angular planes to ensure appropriate transition to buildings in adjacent low rise designations;
  - tall buildings to have podiums (may be better as guidance for site plan approval);
  - small floor plates for tall building portions; and
  - distancing provisions between tall buildings.

### **Section 8.3 Mixed Use (applies to Mixed Use designations)**

#### Section 8.3.1 General Policies

The following summarizes the implications for the new zoning by-law for all areas designated Mixed Use:

Determine to what extent the zoning by-law should address (8.3.1.4):

- consistent setbacks from the street line;
- height and density transition zones adjacent to low rise designations;
- angular planes to ensure appropriate transition to buildings in adjacent low rise designations;
- location of parking at the side or rear of buildings or below grade; and
- landscape buffers adjacent to residential zones

#### Section 8.3.2 Mixed Use Low Rise

The implications for the new zoning by-law in areas designated Mixed Use Low Rise are as follows:

- Ensure that uses include a subset of uses in Sections 8.1.1 and 8.3.1.2.
- Address how small scale shared housing will be incorporated (8.3.2.2--addressed further in Task 13a and 13b discussion papers).
- Ensure that permitted building types are a subset of multi-storey mixed-use buildings (8.3.2.3).
- Heights must be within 2 to 3 storeys (8.3.2.4).
- The following development standards are included (8.3.2.5):
  - floor areas of individual non-residential premises are limited to 500 square metres, unless the premises are on an

- arterial road where the limit is 1000 square metres;
- consistent setbacks are provided from the street line;
- angular planes are provided to ensure appropriate transition to buildings in adjacent low rise designations;
- parking is located at the side or rear of buildings or below grade; and
- landscape buffers are provided adjacent to residential zones.

### Section 8.3.3 Mixed Use Mid Rise

The following summarizes the implications for the new zoning by-law in areas designated Mixed Use Mid Rise:

- Ensure that uses include a subset of uses in Sections 8.1.1, 8.3.1.2 and 8.3.3.2.
- Address how shared housing will be incorporated (8.3.3.2--addressed in Task 13a and 13b discussion papers).



Mixed Use Mid Rise - The Esplanade, Toronto (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing)

- Ensure permitted building types are a subset of: apartment buildings, multi-storey non-residential or mixed-use buildings and all forms of townhouses (8.3.3.3).
- Heights must be within 3 to 8 storeys (except for service stations) and maximum overall densities no more than 2 times FSI (8.3.3.4).
- The following development standards are included (8.3.3.5):
  - gross floor areas of individual retail premises are limited to 6,000 square metres;
  - ground floor retail is included at transit stops or along new main streets;
  - consistent setbacks are provided from the street line;
  - angular planes are provided to ensure appropriate transition to buildings in adjacent low rise designations;
  - parking is located at the side or rear of buildings or below grade;
  - landscape buffers are provided adjacent to residential zones; and
  - street related podiums where appropriate (may be better guidance for site plan approval).

### Section 8.3.4 Mixed Use High Rise

The following summarizes the implications for the new zoning by-law in areas designated Mixed Use High Rise:

- Ensure that uses include a subset of uses Sections 8.1.1, 8.3.1.2, 8.3.3.2 and 8.3.4.2.
- Address how shared housing will be incorporated (8.3.4.2) - addressed in Task 13a and 13b discussion papers.
- Ensure permitted building types are a subset

of: apartment buildings, multi-storey non-residential or mixed use buildings and all forms of townhouses, except for back to back townhouses (8.3.4.3).

- Heights must be within 3 to 15 storeys (except for service stations) and maximum overall densities to be no more than 3 times FSI (8.3.4.4).
- The following development standards are included (8.3.4.5):
  - the ground floor areas of individual retail premises are limited to 6,000 square metres;
  - ground floor retail is located at transit stops or along new main streets;
  - consistent setbacks are provided from the street line;
  - provide for light, view and privacy for residential units by incorporating distancing provisions between facing walls with habitable rooms;
  - angular planes are provided to ensure appropriate transition to buildings in adjacent low rise designations;
  - small floor plates are provided for tall building portions above 8 storeys;
  - distancing provisions are provided between tall buildings;
  - parking is located at the side or rear of buildings, or below grade;
  - landscape buffers are provided adjacent to residential zones; and
  - street related podium buildings are provided where appropriate (may be better as guidance for site plan approval).

### Section 8.3.5 Mixed Use Office Priority

The implications for the new zoning by-law in areas designated Mixed Use Office Priority are as follows:

- Ensure that uses are comprised of a subset of uses in Sections 8.1.1, 8.3.1.2 and 8.3.5.2.
- Address how shared housing will be incorporated (8.3.5.2--addressed in Task 13a and 13b discussion papers).
- Ensure permitted building types are a subset of: apartment buildings, multi-storey non-residential or mixed-use buildings (8.3.5.3).
- Heights must be within 3 to 15 storeys and densities to be no more than 3 times FSI (8.3.5.4).
- The following development standards are included (8.3.5.5):
  - the gross floor area (GFA) devoted to residential or retail uses shall not exceed the GFA of office uses;
  - ground floor retail is located at transit stops or along new main streets;



Example of Mixed Use Office Priority in Washington, DC (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing)

- consistent setbacks are provided from the street line;
- provide for light, view and privacy for residential units by incorporating distancing provisions between facing walls with habitable rooms;
- angular planes are provided to ensure appropriate transition to buildings in adjacent low rise designations;
- small floor plates are provided for tall building portions above 8 storeys;
- distancing provisions are provided between tall buildings;
- parking is located at the side or rear of buildings, or below grade;
- landscape buffers are provided adjacent to residential zones; and
- street related podium buildings, where appropriate (may be better as guidance for site plan approval).

***Section 8.3.6 Mixed Use Health Care Campus***

In areas designated Mixed Use Health Care Campus the new zoning by-law will need to ensure that uses include a subset of uses in Sections 8.1.1, 8.3.1.2 and 8.3.6.1 b) and c) and as provided for in the Cornell Centre Secondary Plan.

***Section 8.3.7 Mixed Use Heritage Main Street***

The following summarizes the implications for the new zoning by-law in areas designated Mixed Use Heritage Main Street:

- Ensure that uses include a subset of uses in Sections 8.1.1, 8.3.1.2 and 8.3.7.2.
- Ensure permitted building types are a subset of: multi-storey commercial and/or office building, multi-storey building with dwelling units above the ground floor, multi-storey

residential buildings (8.3.7.3).

- Heights and densities to be consistent with Heritage Conservation District policies for each of the areas (see Chapter 9).
- The following development standards are included (8.3.7.5):
  - consistent setbacks are provided from the street line;
  - angular planes are provided to ensure appropriate transition to buildings in adjacent low rise designations;
  - distancing provisions are provided between tall buildings;
  - parking is located at the side or rear of buildings, or below grade;
  - landscape buffers are provided adjacent to residential zones; and
  - address detailed criteria contained in Heritage Conservation District Plans for each area.

***Section 8.4 Commercial***

The implications for the new zoning by-law in areas designated Commercial are as follows:

- Ensure that uses are comprised of a subset of uses in Sections 8.1.1 and 8.4.1.3.
- Ensure that uses identified in Section 8.4.1.5 are not included in the permitted uses list.
- Ensure permitted building types are a subset of single or multi-storey retail, industrial and office buildings (8.4.1.6).
- The following development standards are included (8.4.1.7):
  - provide consistent setbacks from the street line;
  - locate parking at the side or rear of

- buildings, or below grade;
- landscape buffers are provided adjacent to residential zones; and
- angular planes are provided to ensure appropriate transition to buildings in adjacent low rise designations.

***Section 8.5 Employment Lands (applies to Employment Lands designations)***

*Section 8.5.1 General Policies for Employment Lands*

The implications for the new zoning by-law in all areas designated Employment Lands are as follows:

- The following development standards are included (8.5.1.6):
  - provide for light, view and privacy for tower portions of buildings;
  - locate buildings close to the street edge;
  - provide angular planes to ensure appropriate transition to buildings in adjacent low rise designations;
  - locate parking at the side or rear of buildings or below grade; and
  - landscape buffers are provided adjacent to residential uses.

*Section 8.5.2 Business Park Employment*

The following summarizes the implications for the new zoning by-law in areas designated Business Park Employment:

- Ensure that uses include a subset of uses in Sections 8.1.1 and 8.5.2.2.
- Ensure that uses identified in Section 8.5.2.4 are not included in the permitted uses list.
- Ensure that only non-residential building types are permitted (8.5.2.5).

- The following development standards are included (8.5.2.6):
  - provide for light, view and privacy for tower portions of buildings;
  - locate buildings close to the street edge;
  - angular planes are provided to ensure appropriate transition to buildings in adjacent low rise designations;
  - parking is located at the side or rear of buildings, or below grade; and
  - landscape buffers are provided adjacent to residential uses.

*Section 8.5.3 Business Park Office Priority Employment*

The following summarizes the implications for the new zoning by-law in areas designated Business Park Office Priority Employment:

- Ensure that uses include a subset of uses in Sections 8.1.1 and 8.5.3.2.



Business Park offering cycling infrastructure, Montreal, PQ  
(Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing).

- Ensure that uses identified in Section 8.5.3.4 are not included in the permitted uses lists.
- Ensure permitted building types are a subset of multi-storey buildings with heights of three storeys or more (8.5.3.5).
- The following development standards are included (8.5.3.6):
  - provide for light, view and privacy for tower portions of buildings;
  - locate buildings close to the street edge;
  - angular planes are provided to ensure appropriate transition to buildings in adjacent low rise designations;
  - parking is located at the side or rear of buildings, or below grade; and
  - landscape buffers are provided adjacent to residential uses.
- parking is located at the side or rear of buildings, or below grade;
- landscape buffers are provided adjacent to residential uses; and
- outdoor storage facilities are screened and buffered.

Section 8.5.5 General Employment

The following summarizes the implications for the new zoning by-law in areas designated General Employment:

- Ensure that uses include a subset of uses in Sections 8.1.1 and 8.5.5.2.
- Ensure that uses identified in Section 8.5.5.4 are not included in the permitted uses lists.
- Ensure that permitted building types are a subset of single or multi-unit industrial and warehouse buildings (8.5.5.5).
- The following development standards are included (8.5.5.6):
  - buildings are located close to the street edge;
  - angular planes are provided to ensure appropriate transition to buildings in adjacent low rise designations;
  - parking is located at the side or rear of buildings, or below grade;
  - landscape buffers are provided adjacent to residential uses; and
  - outdoor storage facilities are screened and buffered from adjacent lands.

Section 8.5.4 Service Employment

The implications for the new zoning by-law in areas designated Service Employment are as follows:

- Ensure that uses include a subset of uses in Sections 8.1.1 and 8.5.4.2.
- Ensure that uses identified in Section 8.5.4.4 are not included in the permitted uses lists.
- Ensure permitted building types are a subset of single or multi-unit buildings (8.5.4.5).
- The following development standards are included (8.5.4.6):
  - provide for light, view and privacy for tower portions of buildings;
  - locate buildings close to the street edge;
  - angular planes are provided to ensure appropriate transition to buildings in adjacent low rise designations;

### **Section 8.6 Greenway**

The implications for the zoning by-law in areas designated Greenway are as follows (further addressed in Task 15 discussion paper):

- Create a single zone for all of the lands included in the Greenway, which restricts all as-of-right development and redevelopment. All future development and redevelopment would only be allowed through a rezoning subject to the relevant policies in the subsections included in 8.6 of the Plan.
- Alternatively, create a number of multiple zones which reflect the policies contained in Section 8.6 as follows:
  - Create a zone for the Natural Heritage Network lands which reflects the policy intent of prohibiting all development, redevelopment or site alteration as outlined in Sections 8.6.1.6 b) and c);
  - Create zones for the Oak Ridges Moraine Natural Linkage Area, Oak Ridges Moraine Countryside and Greenbelt Protected Countryside (not including the Natural Heritage Network areas) which would permit uses identified in sections 8.6.1.2 and 8.6.1.3 [and possibly include some of the criteria in section 8.6.1.8 d), e) and f) for the Greenbelt lands];
  - Create a zone for the remainder of the Greenway with the uses identified in Section 8.6.1.2 as a guide; and
  - Ensure that uses identified in Section 8.6.1.4 are not included in the permitted use list for zones in the Oak Ridges Moraine Conservation Plan Area and the Greenbelt Plan Area.
- Ensure permitted building types are a subset of detached dwelling or structure that existed prior to the approval of the Plan, agricultural

building or structure including accessory building, park and recreation related building (8.6.1.5).

### **Section 8.7 Hamlets**

The implications for the new zoning by-law in areas designated Hamlets are as follows:

- Determine whether to create two zones for areas designated Hamlet: one for Locust Hill and Cedar Grove and the other for Almira and Dickson Hill.
- Ensure that uses include a subset of uses in Sections 8.1.1, 8.2.1.2 and 8.7.1.3.
- Ensure permitted building types are a subset of house form building and buildings associated with day care centres, places of worship and public schools (8.7.1.4).



Rural Southwestern Ontario (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing)

### **Section 8.8 Countryside**

The implications for the new zoning by-law in areas designated Countryside are as follows:

- Ensure that uses include a subset of uses in Sections 8.1.1 and 8.8.1.2, including consideration of how to interpret “small scale”, compatible, non-agricultural and secondary agricultural uses.
- Ensure that the uses identified in Section 8.8.1.3 are not included in the permitted uses list.
- Ensure permitted building types are a subset of detached dwelling and building and structure normally accessory to an agricultural use (8.8.1.4).

### **Section 8.9 Private Open Space**

The implications for the new zoning by-law in areas designated Private Open Space are to create a zone for cemeteries which includes uses from section 8.1.1. and create a zone for private golf courses which includes uses from section 8.1.1.

### **Section 8.10 Transportation and Utilities**

The new zoning by-law needs to include a zone for transportation and utilities to provide for highways, railways, hydroelectric transmission, gas and oil pipelines, telephone and cable service providers and include uses from section 8.1.1.

### **Section 8.11 Parkway Belt West**

A zone will need to be created in the new zoning by-law for the Parkway Belt West lands which includes uses from section 8.1.1 and provides a base zoning underneath the Parkway Belt West zoning overlay, to guide future development in the event that the Parkway Belt West zoning is removed.

### **Section 8.12 Future Urban Area**

Following the completion of detailed Secondary Plans it will be necessary to determine which zones should apply in the Future Urban Area.

### **Section 8.13 Specific Use Provisions**

Over time, Markham has developed a unique approach to addressing particular conflicts and circumstances related to a number of specific uses. These include day care centres, convenience retail, drive-through facilities, funeral homes, motor vehicle service stations, outdoor display and storage, places of worship, secondary suites and shared housing. Policies regarding these particular uses are included in Section 8.13 of the Plan, and those that have implications for the zoning by-law are summarized below.

Day Care Centre uses must be located on an arterial or collector road or within an existing public school, place of worship or community centre. On-site parking, pick up and drop off facilities as well as, direct access between the day care centre building and an outdoor play area must be provided (Section 8.13.2.1).

Funeral Home uses must have frontage and direct access onto a major collector road or an intersection that provides direct access to an arterial or collector road (Section 8.13.4.1).

Section 8.13.6.1 requires that standards and restrictions be created on type, amount and location for Outdoor Display or Outdoor Storage, where permitted as an accessory use.

## **Chapter 9 - Area and Site Specific Policies**

This Chapter of the Plan outlines area and site specific policies that have status based on previous approvals. These have been reviewed in conjunction with the site specific zoning amendments assessed as part of Task 4 of this project (see section 6 of

this report for a summary). Chapter 9 also includes Secondary Plan policies for Buttonville, Markham Village, Thornhill and Unionville Heritage Centres. It will be necessary to carry forward the corresponding existing specific zoning for these areas until the new secondary plans and new updated zoning for these areas is completed.

### **Chapter 10 - Implementation**

The new zoning by-law will need to determine how to apply zoning categories and standards for the secondary plan areas identified in Appendix F of the Plan, for an interim period until the secondary plans are adopted, and the zoning by-law will need to follow the general policies outlined in Section 10.2.

### **Chapter 11 - Interpretation**

The zoning by-law will need to ensure that the definitions for uses in the Official Plan and zoning by-law are congruent (further addressed in Task 5 discussion paper—see section 7 of this report for a summary). In addition, the issue of how to deal with legal non-conforming uses will need to be resolved.

## **3.3 Summary of Feedback from Public Consultations**

There were a number of comments and questions regarding the relationship between the Official Plan and the zoning by-law raised at the November 5, 2015 public open house. These include:

- The new Markham Official Plan and the York Region Official Plan restrict development on Employment Lands, yet Markham is still facing applications for mixed use developments on these lands. How is this being dealt with? The response is that the Employment Lands designation can only be changed as part of a Municipal Comprehensive Review, which can only happen once every five years. The

current applications were filed in response to the passage of the new Official Plan and need to be addressed as part of the approval of the Official Plan, which constitutes a Municipal Comprehensive Review.

- A question was raised whether the public was involved in the approval process of the new Official Plan. The response was that the process included many opportunities for public input including approximately 160 public meetings on various issues.
- Increasing traffic is a problem. How was this addressed in the Official Plan? The response is that because road capacity is limited, the policies in the Plan promote mixed use communities, so that people can live and work in close proximity and reduce the need to commute, as well as emphasizing transit and alternatives to the car.
- Did the province direct Markham to increase its density? Yes, but not in existing, established residential areas.
- Do population projects for Markham come from the Province? Yes, the Province provides projections to the regions, which in turn allocate increased population and employment forecasts to municipalities. Municipalities are required to plan for the growth that is allocated to them.

# 4 Existing City Parent Zoning By-laws

## 4.1 Introduction

This task reviews and assesses the current 46 zoning by-laws in the City of Markham in terms of method, format, structure, layout, and mapping in order to identify issues and provide options for addressing these issues in the new comprehensive zoning by-law. The Task 5 report and the appendix on the Review and Assessment of Existing Parent Zoning By-laws outline a general and detailed review of each parent by-law in terms of background, format, structure, definitions, zones, standards, and amending by-laws.

The review examines some recent examples of best practices found in five other municipal zoning by-laws in Ontario and outlines the identified issues (both common and unique issues discovered in the parent by-laws) and together with the best practices review, provides a list of options for consideration for the new comprehensive zoning by-law and including some general conclusions.

The zoning by-laws that currently implement land use controls in the City of Markham have evolved over the past sixty years. The result has been the development of close to 50 area zoning by-laws in a geographical patchwork zoning system. Currently there are 46 “in effect” zoning by-laws in the City of Markham including major amendments, which cover the entire municipality. Some are set out around organized areas such as traditional villages and centres with mixed land uses, while others pertain to residential subdivisions or industrial areas. The boundaries of the original parent zoning by-laws vary over time in response to new developments and the establishment of newer zoning by-laws over time.

The existing zoning by-laws are numbered and sequenced based on different chronological numbering systems that have evolved over the last six decades. The zoning by-laws, like any other by-law passed by City Council, is a form of legislation. As such, there has been some consistency to the approach for formulating and organizing each of the

parent zoning by-laws. Most of the parent zoning by-laws in Markham follow a traditional “Euclidean” zoning approach, whereby land use zones are established by a map and a series of provisions relating to each zone setting out such matters as permitted uses and associated development standards. The parent by-laws have evolved over time, incorporating new definitions, regulations, and zones that were designed to address emerging issues that were occurring at the time of the by-law’s introduction, while at the same time still building on the previous by-laws in terms of methodology and structure. Some of the newer parent by-laws (177-96 & 2004-196) were different from the preceding parent by-laws in terms of organizing provisions under tables and charts and introduced a comprehensive inventory of new zones ranging from residential, retail, mixed use, employment, and open space/ greenways. By-law 177-96 was Markham’s first attempt at modernizing zoning in the municipality, and is the only parent zoning by-law that is updated electronically on a regular basis.

## 4.2 Format, Layout, Structure, and Mapping

Most of the parent zoning by-laws include a title page which appears to have been a recent addition to most of the by-laws. Some of the by-laws include a table of contents listing the various sections in the by-law and their respective page numbers. All of the by-laws appear to order the regulations under groups of titles and sub-titles, with a corresponding numbering system. All of the by-laws contain standard provisions set out in words under each of the sections. Most of the by-laws refer to each of its chapters as “Sections”. In many cases, there would be a list of the by-law amendments at the beginning of the document; however there was some inconsistency found in this format practice. Some by-laws involved inclusion of development standard charts to ease the

4.14 PROHIBITION OF COMMERCIAL MOTOR VEHICLES, MACHINERY OR EQUIPMENT.

ADDED BY:  
170-78

4.14.1 No person shall in any residential ZONE, use any LOT for the parking or storage of any COMMERCIAL MOTOR VEHICLE in excess of 10,000 pounds GROSS WEIGHT with the exception of the temporary parking of a delivery vehicle in the course of its normal delivery duty.

4.14.2 No person shall in any residential ZONE, use any LOT for the parking or storage, temporary or otherwise, of any COMMERCIAL MACHINERY or EQUIPMENT.

~~SINGLE FAMILY  
R3 AND R4  
PERMITTED USES~~ -5.1-

DELETED & SUBSTITUTED BY:  
264-76

5.1 No person shall hereafter change the use of any building, structure, or land, nor erect and use any building or structure, in any Single Family Residential zone (R3 or R4 zones) except for one or more of the following uses:

DELETED BY:  
238-86

- (a) offices of physicians, dentists or druggists practitioners in dwellings
- (b) single family detached dwellings

HOME OCCUPATION BYLAW  
53-94

ADDED BY:  
270-78

MULTIPLE  
FAMILY (RM1,  
AND RM3)  
PERMITTED USES 5.2

4.14 PROHIBITION OF COMMERCIAL MOTOR VEHICLES, MACHINERY OR EQUIPMENT

4.14.1 No person shall in any Residential Zone, use any lot for the parking or storage of any COMMERCIAL MOTOR VEHICLE in excess of 10,000 pounds GROSS WEIGHT with the exception of the temporary parking of a maintenance, service or delivery vehicle in the course of its normal maintenance, service or delivery duty.

4.14.2 No person shall in any Residential Zone, use any lot for the parking or storage, temporary or otherwise, of any COMMERCIAL MACHINERY or EQUIPMENT with the exception firstly, of any landscaping MACHINERY or EQUIPMENT, or any COMMERCIAL MACHINERY or EQUIPMENT which is parked or stored for the purpose of construction or excavation on the lot so long as the MACHINERY or EQUIPMENT is removed from the lot within 96 hours of completion of such construction or excavation, and so long as the MACHINERY or EQUIPMENT is not parked or stored on the lot for longer than 96 hours prior to commencement of said construction or excavation on the lot.

4.13.2 A sign not larger than (2) square feet indicating the office of a physician.

4.13.3 A non-neon sign or bulletin board not larger than twenty (20) square feet for a church or religious institution.

4.13.4 Any sign permitted under this clause shall be located on the same lot as the premises advertised or identified, and not more than one sign may be erected on any one lot for any one purpose permitted in this clause.

SECTION 5

USES PERMITTED IN RESIDENTIAL ZONES

No person shall hereafter change the use of any building, structure, or land, nor erect and use any building or structure, in any Single Family Residential (R3 or R4) Zone except for one or more of the following uses:

5.1.1 Churches, religious institutions and places of worship.

5.1.2 Offices of physicians in dwellings

5.1.3 Parks, playgrounds or other recreational areas under the control of a municipal or public authority.

5.1.4 Public schools or other public institutions, and

5.1.5 Single Family detached dwellings.

No person shall hereafter change the use of any building, structure or land, nor erect and use any building or structure in any Multiple Family Residential (RM1 or RM3) Zone, except for one or more of the following uses:

5.2.1 Uses permitted in Single Family Residential Zones subject to the requirements of Fourth Density Single Family (R4) Zones, except offices of physicians in dwellings.

5.2.2 The following buildings for multiple family dwellings namely:

- Apartments
- Maisonettes
- Multiple Attached Dwellings
- Licensed Day Care Centres- designed for the purpose

Fig 3. Example of How Parent Zoning By-law Has Been Amended, By-law 11-72, Page 12 (Source: City of Markham).

reader in understanding how standards varied across particular zones.

All the parent zoning by-laws are organized on typical 8 ½" x 11" paper size format. The parent zoning by-laws have numbered pages for their respective "original" by-law. Subsequent amendments over time have resulted in a series of "patchwork" provisions included within the original text by either handwritten notation or "pasting in" of excerpts of text from the amending by-law. Mapping is located at the end of the by-law and is usually referred to as "Schedule A".

The parent zoning by-laws have many elements in common in terms of how they are structured. Most of the by-laws have a "Titles and Area Restricted" section at the beginning, followed by a "Definitions" section, which lists terms that are specifically defined in that particular by-law. Following the definitions section there may be in some by-laws a section referred to as "Interpretation". This section is intended to outline how to read the by-law, the interpretation of the zone boundaries, the interpretation of the zone symbols and their application to the regulations, as well as stylistic use of wording throughout the by-law. Most by-laws include a section on the "Zones and Zoning Maps", which precedes or follows the section on interpretation. This section usually lists the "zone" and associated "symbol" for each of the zones established in the by-law. Based on the review of the 46 in effect parent zoning by-laws, there are approximately 124 different zones.

The first section that incorporates overall land use or development standards is usually found in the section called General Provisions. There is an inconsistency amongst the parent by-laws on how general provisions are organized and structured, based on the fact that some by-laws focus on certain sets of land uses, while others incorporate a range of land use categories. The next set of sections is usually based around the categories of zones or sections for each zone. There are also a few by-laws that incorporate

standards, such as setbacks, into chart formats and are referred to as Schedules.

After the zone regulations, there is usually a section on site and area specific regulations, commonly referred to as "Exceptions". These are usually individual paragraphs that set out unique sets of rules for particular lands for new developments which required a zoning amendment and which vary from their base regulations as determined from the zoning map. Finally, most of the parent zoning by-laws conclude with an Administration section.

Each of the by-laws involve mapping, including the Zoning Map which displays the various zones found within the parent zoning by-law area with zone symbols and zone boundaries. Other maps found in the by-laws are usually associated with the site specific by-laws and specify the location to where the site specific regulations apply.

## 4.3 Summary of Options

### Zoning Methodology

- Maintain a Euclidean-based zoning methodology that builds on the previous zoning system, but in a way that helps to simplify the system and address the matters that need to be addressed.
- Identify particular areas of the municipality, such as Markham Centre or employment areas under redevelopment pressure, to be considered for an alternative hybrid, form-based zoning methodology or development permit system, but only after the new zoning by-law has been implemented.
- Make sure that the new zoning by-law will demonstrate its connection to the old by-laws in important ways, while incorporating new, modern regulations that relate to the relevant and current policies of the Official Plan.

## Zoning By-law Format

- The new by-law should be able to be formatted for both print copy (i.e., in a pdf type format), as well as in an online format that allows the reader the ability to move from provision to provision, or section to section in an easy and logical manner.
- Establish a section numbering system that allows for amendments to be easily inputted into the new by-law, while at the same time establishing a system that avoids having to renumber existing regulations as new ones are made.
- The section numbering system should work both for printed and online versions of the by-law in terms of ease of search and logical location of regulations.
- Each page in the new by-law should have a date indicating when the page was last updated or amended.

## Zoning By-law Structure

The new by-law should include a section that is devoted to explaining how the by-law works, how it is organized, a listing of amendments and their status, and this should probably be located somewhere at the beginning of the document.

- The Markham zoning by-laws currently have approximately 124 different land use zones. The new by-law should aim to have fewer zones, possibly no more than 60 based on the review of best practices.
- In formulating the new zoning by-law, Markham will need to decide what should constitute a zone. Is it just the land use component, or should it include other variables (i.e., density, min lot area, min lot frontage, height, etc.) as part of the “zone

label” and as part of what determines the zone area on the map?

- Each group of similar zones (zone category) should probably constitute a section in the by-law, with regulations divided within the section between regulations that apply to all the zones in the category and the individual regulations applicable to a particular zone.
- Parking and loading regulations dealing with “rates” should be located in its own section, while location of parking and loading should be within the provisions associated with a particular zone.
- There should be consideration for a section on uses that have special regulations, regardless of zone regulations, in order to reduce the need to repeat the regulation every time in a zone that permits the use, such as drive-through facilities on motor vehicle service stations.

## Zoning By-law Mapping

- All of the zone maps in Markham’s 46 parent zoning by-laws need to be integrated into one zone map system that can be formatted and updated for both printed and online versions of the by-law.
- When developing the city-wide zoning map, there should be consistency with where the zone boundaries are located (i.e., along the centre line of roads), where two former zoning by-law areas abut.
- Consider which regulations within the zone (density, height) and beyond the zones districts, would be suited to a map format. One example of the latter which may best be handled with an overlay may be the location of lands within a certain distance of conservation authority regulations.

- If current zoning for a particular property or area is deemed to be inconsistent with the applicable Official Plan designation, there needs to be determination if a site or area specific exception has been included in the Official Plan for that particular property or area, or if the site needs to be rezoned to be in compliance with the Official Plan policies, or if it needs to be left out of the new zoning by-law.
- Recognize that while coloured mapping is helpful, it does raise concerns for use by those who maybe coloured blind or have printers that print with black ink only.
- Need to consider other accessibility issues, such as font size, audible version of the by-law and other requirements that may be necessary under the Accessibility for Ontarians with Disabilities Act.
- How to identify site specific zones by mapping is another important consideration.

## **4.4 Summary of Feedback from Public Consultations**

There were no comments regarding the City's existing parent by-laws (format, structure, layout, method & mapping) at the public consultations.

# 5 Site Specific Zoning Amendments

## 5.1 Introduction

This task reviews and assesses the complete inventory of zoning by-law amendments to Markham's current 46 zoning by-laws. The analysis is designed to identify the issues and types of by-law amendments that have occurred over time in an attempt to recognize any trends that may warrant consideration in developing a new comprehensive zoning by-law. The review assesses the amending by-laws in terms of the type and number of amending by-laws per parent by-law, the different ways that amending by-laws have been structured, and identification of trends and issues that were identified as part of the review.

A brief review of case studies was conducted of five other jurisdictions (Toronto, Ottawa, Mississauga, Oakville, and Hamilton) in terms of how they dealt with and recognized site specific and city-wide zoning by-law amendments in their new city-wide zoning by-laws. There are also considerations and conclusions as to how Markham's new city-wide zoning by-law can best recognize existing site specific zoning permissions, matters that may need to be not recognized moving forward, and the possible use of transition or grandfathering provisions in the new zoning by-law.

## 5.2 Types of Amending By-laws

Markham's 46 zoning by-laws have been and continue to be amended numerous times. These amendments can involve one or many issues across many zoning by-laws (referred to as omnibus by-laws), or a specific issue(s) in one particular zoning by-law (e.g., the infill area by-laws). In addition, many amending zoning by-laws often facilitate a particular development on an individual property or group of properties and are most commonly referred to as site specific zoning by-laws. The report reviews 2,798 zoning by-law amendments, of which 2,694 are

specific amendments that apply to only one parent zoning by-law. Of the 104 by-law amendments that apply to more than one parent by-law, 25 are associated with city-wide zoning issues, while the majority of the other by-laws deal with properties that are to be removed from one by-law area and placed in another zoning by-law area. A vast majority of the zoning by-law amendments are application driven, involving new developments on specific sites. Others include new zones and definitions that are either introduced to the parent zoning by-law or apply to a specific site only within the parent zoning by-law.

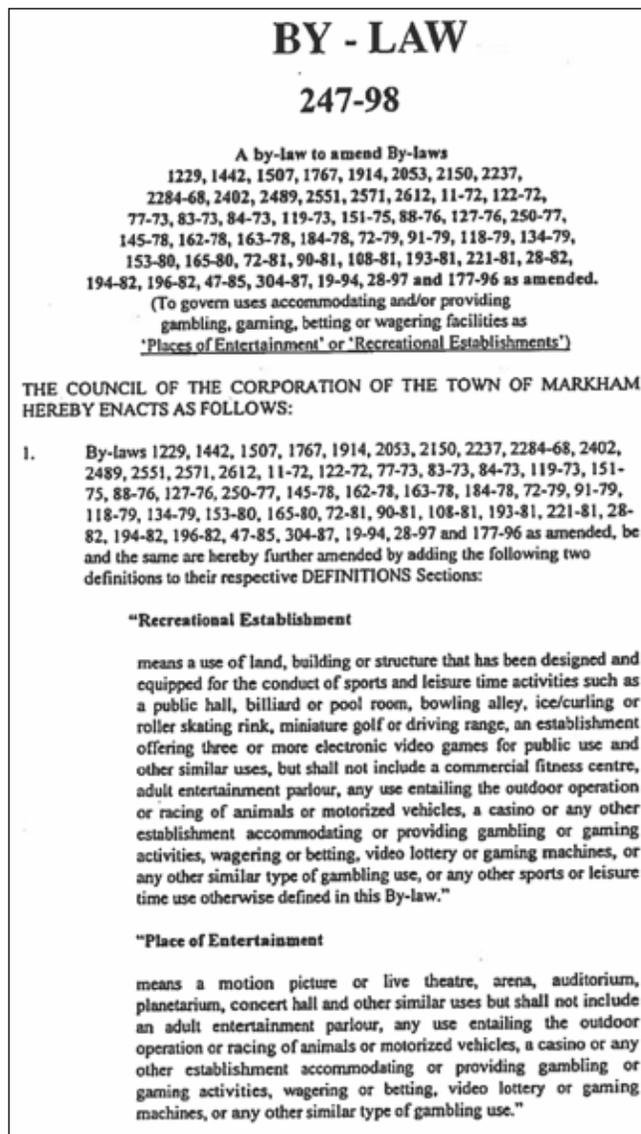
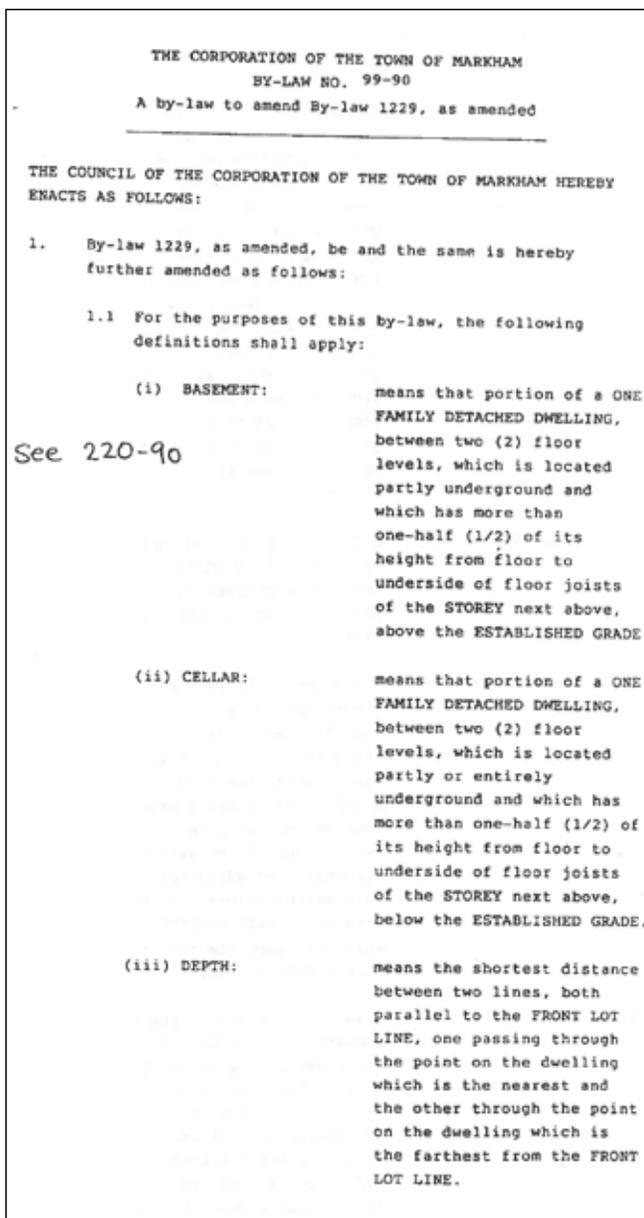


Fig. 4: Zoning By-law 247-88 prohibits casinos (Source: City of Markham).

The following represents a list of the types of amendments which were identified in the review of the amending by-laws, with a sample amending by-law number noted in brackets:

- Introducing new zones to a parent by-law or a site specific by-law (By-law 232-93).
- Introducing new definitions to a parent by-law or site specific by-law (By-law 165-93).



- Adding a zone category to a parent by-law (By-law 353-85).
- Adding Development Control Provisions to the parent by-law (By-law 6-75).
- Deleting lands from a by-law area (By-law 257-91).
- Removing a holding symbol from a described set of lands (By-law 30-90).
- Changing the zoning of a site from one zone to another (By-law 16-2000).
- Site specific development with specific zone regulations (By-law 2005-170).
- Permitting a combination of site specific uses in HC1 & RM3 zones (By-law 2535).
- Adding permitted uses to a zone or a particular site (By-law 1459).
- Adding to Section 8 of By-law 2150 a gross floor area restriction of 6000 sq.m. (By-law 119-94).
- Establishing new zone standards for a site or area (By-law 2005-376).
- An Interim Control By-law (By-law 2012-61).
- Listing prohibited uses on the site (By-law 2001-106 as it pertains to 7.140 of By-law 177-96).
- Adding a schedule to the parent by-law (By-law 164-90).
- Temporary use permissions (By-law 2003-312).
- Technical revisions (By-law 2014-64).
- Replacing the definition of Lot Coverage for many by-laws (By-law 2014-83).

When examining the trends in site specific amendments, it was noted that 580 amending zoning by-laws involved the issue of use; 471 amending zoning by-laws involved the issue of standards; 56

Fig. 5: Zoning By-law 99-90, infill by-law (Source: City of Markham).

amending zoning by-laws dealt with holding zone by-laws; and 49 amending zoning by-laws dealt with lands being removed from one zoning by-law and moved into another zoning by-law.

## 5.3 Case Studies

Site specific by-laws in five jurisdictions were reviewed in terms of how each municipality dealt with the site specific amendments when creating their new city-wide zoning by-law. The analysis focuses on how site specific zoning by-laws were captured and organized in their new respective by-laws.

### City of Toronto Zoning By-law 569-2013

- If a site specific by-law dealt with simple issues, such as list of permitted land uses, or clear development standards such as setbacks or height, then the by-law was rewritten in the context of the new zoning by-law, as long as it was clear that the intent of the original site specific by-law was maintained in the translation.
- If a site specific by-law dealt with matters that were redundant with the underlying base zoning that was proposed for the site under the new by-law, then the site specific by-law was removed and proposed to not be carried forward in the new by-law, as long as it was clear that the new by-law would allow what the site specific by-law would have permitted.
- If a site specific by-law dealt with complicated issues, such as a site specific development with a “shrink-wrapped” set of regulations, involving terms that may be unique to the development or involving unique means of measurement or unique terms, then the original site specific by-law wording was maintained within the context of the old zoning by-law, and the new by-law would simply make reference to the old site specific

by-law as a prevailing by-law over those regulations that applied under the new zoning by-law.

### City of Ottawa By-law 2008-250

There are approximately 800 rural exceptions and just under 2,200 urban exceptions which have been organized into a chart form that sets out for every exception:

- the exception number reference found from the map;
- the applicable zone which the exception applies to;
- list of additional land uses permitted (if any);
- list of land uses prohibited (if any); and
- list of provisions that differ from the base zone.

### City of Mississauga Zoning By-law 0225-2007

During the review of the new zoning by-law, many requests were received regarding exceptional regulations to particular properties. As a result new exception zones were created to each of the new zones established in the zoning by-law. An exception zone is a base zone that has been modified by adding or deleting one or more permitted uses and/or regulations. Further, exception zones may stipulate that some, none or all of the base zone permitted uses and/or regulations and/or general provisions and/or definitions apply to a subject property or that specific uses, regulations, provisions and/or definitions may apply. In an exception zone, all general provisions, definitions and specific uses and regulations in a base zone remain applicable unless otherwise stated.

The exception regulation itself is laid out in a chart format, with reference to area maps that the subject lands would be found on and reference to the by-law number that brought in the exception to the zoning

by-law. There would be a typical statement explaining which base regulations applied, followed by a list of the uses or standards that were the exception.

#### **Town of Oakville Zoning By-law 2014-014**

The new by-law establishes an array of zones and sets them out into different Parts of the by-law. All exceptions, regardless of base zone type, are located *in Part 15 – Special Provisions*. Where a zone symbol on the zone map is followed by a hyphen and superscript number, the symbol refers to a Special Provision that applies to the lands so zoned. As of the July 31, 2014 consolidated version of the by-law, there are 357 exceptions. They range from a single property to large development areas. The exceptions are organized in a chart format indicating the location, the parent zone that applies to the lands, the by-law amendment numbers that created the special provision, and a list of the specific regulations, provisions, standards, permitted uses, etc. associated with the exception.

#### **City of Hamilton Zoning By-law 05-200**

Currently there are 448 exceptions in Hamilton's new zoning by-law, which is simply listed in a random fashion, in a series of notwithstanding clauses or in addition to clauses detailing the specific regulations that are applicable to the lands that differ from the requirements of the base zone. Following the description is a reference to by-law number that brought in the exception and the date it was adopted by Council.

## **5.4 Summary of Options**

In developing an approach to dealing with site specific amendments, the following points are considerations to be addressed in creating the new city-wide zoning by-law:

- There are as many as 350 zoning by-law amendments that have been temporary by-laws, or repealed, replaced, deleted, or not approved by the Ontario Municipal Board. These by-law amendments do not need to be addressed in the development of the new zoning by-law.
- The existing site specific amendments need to be assessed to identify those amendments that need to be brought forward and those that should be deleted. Amendments that involve general or area regulations that may form part of the new by-law could be incorporated as part of the main by-law provisions, while regulations dealing with unique site specific regulations may need to be brought forward, but in the context of a new by-law.
- The existing site specific by-laws need to be checked against the applicable policies of Markham's new Official Plan, including its exception policies, to ensure any site specific exception, that is proposed to be brought forward, is not in conflict with the applicable Official Plan policies.
- Consider repealing site specific zoning by-laws that pertain to situations that are no longer applicable or deal with development proposals that have been subsequently replaced and built by other site specific zoning by-laws.
- Site Specific by-laws that are to be recognized in the new zoning by-law should be reworded in the language of the new by-law. In these instances care must take place to ensure that

the intent of the old by-law is maintained, where appropriate.

- The way the site specific by-law exceptions are structured or organized should be consistent with the structure and organization of the new by-law itself.
- If a site specific by-law exception has so many regulations, use permissions, and other provisions that differ from the base zoning, perhaps under these circumstances, a new zone may be established for the lands.
- All site specific by-law exceptions that involve the creation or introduction of definitions or “zones” to the old by-laws should be reviewed under the context of establishing a new set of definitions and zones for the city-wide by-law and that new definitions and zones in the future should not represent site specific by-laws, but rather amendments to the parent city-wide by-law.
- The Markham Official Plan recognizes temporary use by-laws that conform to the Official Plan; however, the reliance on temporary use by-laws in the new comprehensive zoning by-law is generally not recommended.
- There appears to be a general trend in the other municipal zoning by-laws reviewed that exceptions are grouped under their base zone.
- There has been a move in many of the other municipal zoning by-laws to designing exception regulations in a chart format, with notations as the by-law number origin, the date it was passed by Council, and what base zone it relates to.
- There will need to be consideration of developing a grandfathering provision or a series of grandfathering provisions in the new by-law. The intent of these provisions is to ensure that certain lots, buildings, structures,

etc. that legally existed on the date of the passing of the new by-law, which do not meet certain regulations or standards under the new by-law, are in fact recognized by the new by-law and make those situations legal and conforming to the new by-law.

## 5.5 Summary of Feedback from Public Consultations

There were no comments regarding site specific zoning amendments at the public consultations.

# 6 Minor Variances

## 6.1 Introduction

This section reviews and assesses minor variances in Markham based on the City of Markham's AMANDA database, which contains information on all minor variance applications filed with the City of Markham, since January 1, 1970 to the present. It explains how the minor variances are distributed; both by specific variance type and by grouped characteristics. It also looks at how the types of variances have changed over time, and where possible, provides an assessment of minor variances which are most frequent.

A preliminary review of information concludes that the database system contains insufficient information to complete a detailed and thorough analysis. Based on the available information, the most commonly sought minor variances were identified and an assessment was made of how the types of variances have changed over time.

## 6.2 Summary of Analysis

There were 5,774 applications analysed with a total of 9,367 individual variances (many applications were seeking more than one variance). The key observations from this analysis are:

- Two-thirds (63 percent) of all minor variance applications involve applications for a single variance.
- Side-yard setbacks are by far the most frequently applied for minor variance, followed by front yard setbacks, rear yard setbacks, lot frontage and lot coverage. Also significant are variances for parking space number and height/storeys.
- Setbacks from a lot line represent 41 percent of all variances sought. Variances related to the size and coverage of a lot represent 15 percent of the total; mass, volume and/

or height of a building are approximately 14 percent; and all other variances make up a total of 30 percent.

- The analysis found that 483 minor variance applications were filed during the 1970s, 1,120 in the 1980s, 1,613 in the 1990s, 1,774 in the 2000s and 784 so far this decade. The average number of variances increased from roughly 48 applications per year during the 1970s to 177 per year in the 2000s.
- Variances related to setbacks have been the dominant variance type sought since 1970 in Markham. Setback-related variances have ranged from a minimum of 40 percent of all variances to over 56 percent during the 1980s.
- By far the biggest trend identified is the increase in building-volume related variances. Variances related to yards, lot size, parking/loading, accessory structures, have remained largely constant as a percentage of all variances.



Example of varying setbacks, Markham. (Source: City of Markham)

Forty-five percent of all minor variance applications are attributable to parent by-laws 1229, 1767, 2237, and 122-72. These are amongst the oldest parent by-laws in Markham, and more importantly, each of these parent by-laws were subject to Markham's infill by-laws.

A sample of decisions by Markham's Committee of Adjustment was analyzed to determine the approval success rate of the typical minor variance application. In the total of 1,151 Committee of Adjustment decisions examined, 851 were approved, 261 were deferred, 33 were denied and 6 were withdrawn. The approval success rate for minor variance applications in the City of Markham is almost 97 percent. By contrast, staff recommended denial of 74 applications (6 percent) and deferral of 123 (11 percent).

Because of their potential impact on planning matters, two types of variance applications were examined in more depth: adding new uses and reducing the number of parking spaces.

The applications for additional uses which were approved as minor variances included uses described as: "to permit personal service shops", "requesting a variance to allow industrial purposes; whereas the By-law permits agricultural uses" and "to permit an indoor recreation facility for children ages 1-10 to host birthday parties; whereas, this use is not specifically permitted under the existing Industrial zoning designation." Other variances in the permitted use category were for accessory and ancillary uses, which were typically sought to enlarge an accessory use, or have an acceptable accessory use allowed on its own and not in association with another permitted use. From a land use planning perspective, allowing an additional permitted use, one completely unrelated and not similar or compatible to existing permitted uses, should ideally be achieved through the zoning by-law amendment process to fully assess impact and compatibility. In dealing with accessory and ancillary use variances, meanwhile, planners typically

need to carefully assess the scale of the change being sought.

In terms of variances to the number of parking spaces, there were 444 minor variance applications that deal with this type of variance. Of these, there are 174 applications which identify the specific use to which the parking is being varied. Commercial uses account for the majority of parking variances. Within the commercial use-type, restaurants make up almost 50 percent of all variances for parking. If restaurants were a use-type all on their own, they would make up 27 percent of all parking variances, much more than even residential uses. The use that sought the biggest deviation from the parking requirements set out in the by-law, was institutional and particularly places of worship. The average deviation from the by-law for institutional uses was approximately 90 parking spaces (a reduction of 33 percent). A separate sample was taken of the minor variance applications which made no mention of use. The average parking reduction in these cases was a reduction of 16 spaces.

## 6.3 Summary of Options

In transitioning to a new zoning by-law, the City of Markham will require a strategy for recognizing existing minor variance permissions and/or applications for minor variances made before the passing of the new by-law. In order to assess options, a review was conducted of the approaches taken from three other Ontario municipalities who have undergone a similar exercise in recent times (Ottawa, Mississauga and Toronto).

In general, as long as the variances were acted upon (i.e. constructed), they were considered legal non-conforming in the new by-law. Where a structure was demolished, all approved variances were then considered null and void. Where minor variances had been approved but not acted upon, landowners

were typically given a limited period of time (usually two to three years) to complete the development of the approved variance – sometimes referred to as a sunset clause.

If a minor variance application was made before the passing of the new by-law, but while it was being deliberated, staff strongly recommended that applicants defer their Committee of Adjustment hearing until after the passing of the new zoning by-law. In Toronto, applications made before the passing of the new by-law but decided after, if approved, were also subject to the “sunset clause”. In the case of Mississauga, new minor variance applications were required under the new zoning by-law if not completed by the date of its passing.

Other considerations for the drafting of the new zoning by-law, based on the review of minor variance applications and approvals in Markham, include the following:

#### **Standards Analysis**

Evaluate standards (i.e. setbacks, height, density, landscape requirements, parking, etc.) to determine if there is a need to adjust and harmonize these standards to better reflect how development is actually being implemented across the City. New standards could be derived from this analysis which may result in a lower number of minor variances being sought.

#### **Commercial Parking**

Since commercial parking accounts for almost 60 percent of all parking variances, a focus on how to reduce these variances would assist in lowering the number of minor variance applications. Suggestions for achieving this would be to establish blended parking rates for commercial uses.

#### **Permitted Use and Defined Terms**

Reducing the number of uses which are defined in the new zoning by-law and applying a broader approach

to land uses will result in less minor variance applications for permitted uses. An analysis of which uses could be combined in any particular zone will need to consider issues of compatibility.

## **6.4 Summary of Feedback from Public Consultations**

At the Public Open House of November 5, 2015, some members of the public felt that the minor variance issue needed to be addressed. In particular, it was felt that the City needed to define what a minor variance is. Secondly, it was felt that residents were always put in the position of having to defend the standards of the zoning by-law before the Committee of Adjustment, instead of the applicant having to explain why the standards cannot be met.

In response it was noted that the Committee of Adjustment is an independent body, and is not under control of City Council in its decision making. Its actions are governed by the *Planning Act*. It was also noted that recent amendments to the *Planning*



Underutilized commercial parking, Bolton, ON. (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing)

*Act* under Bill 73 (which received Royal Assent on December 3, 2015), include new legislation which permits the establishment of “prescribed criteria” and possibly “prescribed criteria by the local municipality” as part of the minor variance evaluation process in the future. These changes may provide the opportunity for Markham Council to define prescribed criteria that could be used in evaluating minor variances.

Another member of the public suggested that before any plans for a development are submitted to the Committee of Adjustment, the plans go first to the planning department for approval. They commented that they have witnessed minor variance creep and that, as a result, houses are being built closer and closer to the lot lines.

A third member of the public wondered if a builder wanted to build up to his lot line, how the Committee of Adjustment could be directed to stop this. It was noted, again, that the Committee of Adjustment is an independent body, but if the City does its job properly in developing a new zoning by-law, the future by-law should influence Committee of Adjustment decisions.

A fourth member of the public also raised the issue of “what is minor” and wondered if Markham Council could communicate to the Province that this is an important issue. They pointed out that the information from the presentation suggests that a growing number of applications are for larger homes, which in their opinion, was a problem. Again, reference was made to Bill 73 and the changes to dealing with minor variances in the future.

# 7 Zoning By-law Definitions

## 7.1 Introduction

This section summarizes the review and assessment of the definitions that are found in the City of Markham's zoning by-laws. The review examines every defined term in the parent zoning by-laws in terms of:

- indicating in which by-law(s) the term is defined;
- the definition that applies to a defined term in a given by-law;
- a grouping of similar defined terms found in the by-laws;
- an analysis of best practice in terms of five other municipal zoning by-laws;
- an analysis of the definition relative to defined terms in Markham's Official Plan; and
- a recommendation if the term should be defined in the new zoning by-law.

A review of each of the zoning by-law's defined terms and defined terms in the Official Plan was undertaken to determine which terms in the Official Plan need to be defined in the new comprehensive zoning by-law, and to explore the extent to which the terms and their respective definitions could be made consistent in both documents. A review was also carried out of defined terms found in five other municipal zoning by-laws that are not found in any of the Markham zoning by-laws that the City may want to consider as new defined terms in the new comprehensive zoning by-law.

The City of Markham has 46 parent zoning by-laws that regulate zoning across the municipality. Each of these by-laws have their own definitions section, ranging from 15 definitions to as many as 157 definitions, per parent by-law. The defined terms typically fall into four categories:

1. a land use term (e.g. *Medical Office*);
2. a planning measurement term (e.g. *Floor Space Index*);
3. a word that is defined for legal purposes mainly (e.g. *Existing*); and
4. a term or phrase that is defined instead of being a regulation (e.g. *Ultimate Front Lot Line*).

Across Markham, zoning by-laws definitions for particular terms are not always used in the same way. In some cases, there are different terms with similar or the same definitions, such as Church and Places of Worship. The organization of terms also vary depending on the by-law. This analysis groups similar terms and definitions together to assist in evaluating the appropriate term and definition that should be considered in the new zoning by-law. The analysis of existing definitions also indicates which terms should be considered to be defined in the new by-law and suggests how the definitions section in the new by-law can be better organized in a consistent and readable fashion. The analysis identifies many terms that can and should rely on a common dictionary meaning and need not be defined in the new zoning by-law. Those terms that may be considered to be defined in the new zoning by-law, include terms that:

- need to be interpreted in a specific way and not a general way;
- cannot be found in a common dictionary, but are used throughout the by-law; or
- may be unique to Markham's Official Plan or other legislation used by the City of Markham.

An important concept is that definitions in the new zoning by-law should be universal throughout the City of Markham, and no term should be defined differently across different properties in the municipality. In addition, defined terms found in relevant legislation, such as the *Planning Act* and

the *Ontario Building Code*, should be defined in a consistent manner in the new comprehensive zoning by-law.

As part of the best practices exercise, each of the definitions reviewed were compared to the zoning by-laws definitions sections in the City of Toronto Zoning By-law 569-2013, the City of Hamilton Zoning By-law 05-200, the Town of Oakville Zoning By-law 2014-014, the City of Ottawa Zoning By-law 2008-250, and the City of Mississauga Zoning By-law 0225-2007. Each of these zoning by-laws have been established as new comprehensive zoning by-laws within the past decade. From a City of Markham perspective they represent the best examples of zoning by-laws in terms of definitions because of municipal similarities and most recent thinking. The report also reviews some defined terms found in these five zoning by-laws, which current Markham zoning by-laws do not define, but which may be considered for the new by-law.



Stacked townhouses, Markham (Source: City of Markham)

## 7.2 Policy Context

Each of the defined terms in Markham's Official Plan is reviewed and terms which are defined in both the Official Plan and the current zoning by-laws are identified as well as terms which are defined in the Official Plan that should also be defined in the new zoning by-law. Please refer to section 3 of the discussion paper on Task 5 (Zoning Review and Assessment of Zoning By-law Definitions) for a full list.

The analysis of each of the defined terms found in the 46 parent zoning by-laws in Markham notes the by-law or amending by-law to which the defined term is related. If there are different definitions for the same term, each definition is shown in terms of its content, wording, and format differences. Each defined term concludes with an analysis, which compares the defined term with the other municipal zoning by-laws and makes a recommendation as to how the defined term should be used (or not) in the new zoning by-law for Markham. Please refer to the full Task 5 discussion paper for a detailed analysis.

Below is an excerpt of the Task 5 discussion paper, outlining the analysis undertaken for the terms Building, Townhouse and Townhouse:

### **Building, Townhouse** (see also Townhouse)

Found in By-law(s): 2004-196

(1) means a building that is vertically divided into a minimum of three dwelling units, each of which has an independent entrance at grade to the front and rear of the building, and each of which shares a common wall adjoining dwelling units above grade.

Found in By-law(s): 28-97 amends By-law(s): 1229, 1442, 1507, 1767, 1914, 2053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79,

91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94

(2) means a building that is vertically divided into a minimum of three dwelling units, each of which has an independent entrance at grade to the front and rear of the building.

Found in By-law(s): 1767 (2003-255)

(3) means a BUILDING that is vertically divided into a minimum of three and a maximum of eight DWELLING UNITS, each of which has independent entrances at grade to the front and rear of the BUILDING, and each of which shares a common wall adjoining DWELLING UNITS above GRADE.

**Townhouse** (see also *Building, Townhouse*)

Found in By-law(s): 1442 (113-74); 1767 (72-88)

(1) means a building containing a series of three or more attached dwellings under a common roof with each unit being separated from the other by continuous vertical party walls without openings from basement to roof, and each having two independent entrances from the outside of the building.

Analysis

This form of residential building is defined in all of the by-laws Toronto (Townhouse); Hamilton (Dwelling, Street Townhouse Dwelling); Oakville (Dwelling or Dwelling Unit, Townhouse, Back-to-Back Townhouse, Stacked Townhouse); Ottawa (Dwelling, Townhouse Dwelling, Stacked Dwelling); and Mississauga (Dwelling Unit, Street Townhouse Dwelling, Townhouse Dwelling on a CEC- Private Road). There should be a definition of this form of housing in the new by-law. There is a question if there need to be distinct definitions for townhouses on streets or in cluster blocks, since the Markham Official Plan does make a distinction.

## 7.3 Summary of Options

### The Order of Defined Terms

There is currently an inconsistency among Markham's zoning by-laws as to how the terms should be ordered. In some cases, the terms used in the by-law are listed in alphabetical order in the definitions section (e.g. Front Lot Line). Other definitions are sometimes grouped by a common term in alphabetic order (e.g. Lot Line, Front; Lot Line, Rear; and Lot Line, Side). There will need to be a review as to the appropriate protocol to order defined terms in the new zoning by-law. There are advantages and disadvantages to the different approaches.

### Keep the Definitions as Simple as Possible

As a principle, definitions should be as simple as possible, avoid defining something within a definition, and avoid including in the definition what it is not, unless it is absolutely necessary.

Terms that are defined differently based on ownership may not be necessary. For example, if a 'private art gallery' and a 'public art gallery' are permitted in the same zones and have the same parking standards, it may not be necessary to have two defined land use terms that only differ based on ownership. Another issue is defining certain land uses too much too finely. Retail stores are a good example.

### Defined Terms should not be de facto Regulations

There are examples where definitions are actually regulations. An example is the term *Maximum Floor Area* which is in fact a standard, not a definition. In this example *floor area* should be defined and in the zone regulations it should indicate what the maximum permitted *floor area* is. In other zones there may be a need to have a minimum *floor area* standard, but not a definition of *Minimum Floor Area* as well.

### Location of the Definitions Section in the New Zoning By-law

Since zoning by-laws are legislation, the definitions section is typically found in a section of the by-law that is near the front of the zoning by-law. This is true for all of Markham’s existing parent zoning by-laws, as well as four other municipal zoning by-laws reviewed in this report. The only zoning by-law that puts its definitions at the end of the main by-law text is the City of Toronto. This was done in an effort to make it consistent with other types of documents that are familiar to the general public, where definitions and other references are found at the back of documents. It should be noted that Markham’s Official Plan definitions are found near the back of that document. However, there do not appear to be any distinct advantages or disadvantages to either approach.

### Other Considerations

- Definitions in the new zoning by-law should be universal to the municipality and not to a given area or site;
- Terms that are intended and can be interpreted in a common dictionary should not be defined in the new zoning by-law;
- There should be an effort to establish a consistency between the defined terms and terminology established in Markham’s Official Plan and that in the new zoning by-law;
- In developing definitions, it is important to consider factoring in defined terms that exist in other relevant legislation that may be applicable, such as definitions in the *Planning Act*, *Municipal Act*, other provincial legislation, the Region of York Official Plan, and the *Ontario Building Code*;



Townhouses in Thornhill Village, Markham (Source: City of Markham)

- Terms that are unique to zoning (i.e., gross floor area), or unique to Markham, or have interpretations that differ from common dictionary definitions should be established and defined in the new zoning by-law;
- Defined terms in the new zoning by-law need to be recognized as defined terms, and should therefore be italicized, bolded or distinguished somehow from the rest of the text of the new zoning by-law.

## 7.4 Summary of Feedback from Public Consultations

At the Public Open House of November 12, 2015, a member of the public noted that if a definition is changed in the zoning by-law, it may affect existing uses that were defined and developed under the old by-law. The implications of changing definitions needs to be looked at in the context of what already exists and has been approved.

At the Public Open House of December 8, 2015, a member of the public raised concerns about rooming houses and how the zoning by-law could regulate them. One of the areas to address relating to this issue is how certain terms, such as secondary suite, rooming house, and dwelling unit are currently defined in zoning by-laws.

In a letter dated July 10, 2015 from the Canadian Fuels Association, the organization had the following comments regarding the Task 5 Report on the Review and Assessment of Zoning By-law Definitions:

“The Analysis within the Service Station definition [found on pages 15 and 16 of the report] indicates a need to decide on the terminology of either Automobile Service Station or Motor Vehicle Service Station. We recommend the use of the terminology Motor Vehicle Service Station as it includes a broader range of vehicles beyond only automobile, such

as motorcycles, pick-up trucks, small utility vans, ambulances, etc. The terminology Motor Vehicle Service Station is also consistent with the terminology already being used within the Markham Official Plan.

The actual definition of Motor Vehicle Service Station should be inclusive of uses which have become common with modern facilities such as retail and small take-out restaurant uses for the convenience of the travelling public, drive-through facilities, etc. A proper definition should be expanded from the current definition contained in the zoning by-law 177-96 and be consistent with section 8.13.5 of the Markham Official Plan which identifies it as: premises used for the sale of motor vehicle fuels and a range of described accessory uses.

Page 87, 88 (of the Task 5 discussion paper): There is probably no longer a need to also retain a separate definition for the term Gas Bar as such a use would be captured within the definition of Motor Vehicle Service Station.

Page 133 (of the Task 5 discussion paper): The definition of the word “Premises” should be broadened to include the words: ‘parts of lands, buildings or structures’.”

# 8 Parking and Loading Standards

## 8.1 Introduction

Recent parking studies in Vaughan and Richmond Hill, along with recently adopted comprehensive zoning by-laws in Oakville (2014) and Toronto (2013), point to new directions in the formulation of parking standards for municipalities in the Greater Toronto Area (GTA). Notably, parking standards are increasingly being viewed as an effective planning tool that can be used in support of broader policy objectives, particularly those of municipal Official Plans. Markham's new comprehensive zoning by-law project presents a major opportunity for the City to introduce a revised set of parking (for vehicles and bicycles) and loading standards that align with the land use and transportation planning policies of its new Official Plan and other city-building and environmental objectives. As noted in the text of the new Official Plan:

“The availability of parking, in terms of amount, price and location, can be a determining factor in choosing whether or not to travel by car. Parking also impacts built-form and business activity, influencing the way that Markham's commercial areas and residential neighbourhoods look, feel and function” (p. 7-14).

Markham's parking standards are found in By-law 28-97 (as amended), a city-wide by-law that establishes one set of standards for consistent application throughout the municipality. The later adoption of the Markham Centre By-law 2004-196 introduced a new, more consolidated set of parking standards for this major, designated Regional Centre. By-law 2004-196 incorporates much of the new thinking on how to develop parking standards to help achieve the successful implementation of planned, transit-oriented, mixed-use growth centres or districts. The IBI Group's “Draft Markham Parking Strategy” (December, 2009) provides a comparison of parking standards across selected Canadian municipalities

and suggests revisions to By-law 28-97 as an important component of a broader City parking strategy.

Currently, there are no zoning provisions for bicycle parking in Markham, although recent draft guidelines for introducing requirements for Transportation Demand Management (TDM) plans for residential/mixed use buildings and employment/office buildings include the provision of bicycle parking facilities in such plans. Policy 7.1.4.2(h) of the new Official Plan directs that the Zoning By-law be updated to include bicycle parking standards.

Loading space requirements are largely found in the New Urban Area (OPA 5 communities) By-law 177-96, although most parent by-laws in commercial and industrial areas include loading space requirements as well. Zoning by-law provisions for on-site loading facilities are generally less detailed than those related to vehicle parking requirements. This may be partly due to the fact that loading is an operational requirement and greater reliance can be placed upon developers to voluntarily provide sufficient loading facilities to make their buildings functional and marketable.

Overall, given the predominance of vehicular traffic, it is not surprising to find that zoning by-laws generally give the greatest attention to specifying detailed parking standards. Markham's By-law 28-97 specifies parking requirements for 8 types of residential uses and 46 types of non-residential uses which is similar to the level of detail in most zoning by-laws.

## 8.2 Policy Context

A major goal of the Official Plan is to accelerate Markham's transition from a primarily car-dependent community to one where walking, cycling, transit and carpooling are seen as increasingly viable and attractive alternatives. Future development growth is to be directed to higher density mixed use centres

and corridors that are designed to support good levels of transit service and to provide more attractive conditions for pedestrians and cyclists. This shift in policy direction requires that the future growth in the supply of off-street parking be balanced in a way that meets essential parking needs without leading to an abundance of free parking that would only serve to needlessly promote car use.

As noted in the “Draft Markham Parking Strategy” (2009), current trends in parking management are moving away from a “more parking is better” approach to one that recognizes that too much parking is as harmful as too little. Increasingly, cities in North America are recognizing that parking requirements are a policy choice that lies at the intersection of land use and transportation planning and not simply a technical matter best addressed by traffic engineers. In Markham, the realization of these trends can be seen in the progressive parking policies and standards adopted for the development of Markham Centre as found in the provisions of By-law 2004-196.

Section 7.1.5 of the Official Plan addresses Vehicle Parking policies and speaks to the need to develop a City-wide parking strategy to be implemented through individual business plans of which revisions to the current Zoning By-law standards would be a part. Included among the proposed revisions are:

- varying minimum parking ratios by location;
- increased opportunities for shared parking in mixed use developments;
- introducing maximum parking ratios in areas well served by transit; and
- increasing parking ratios to provide for more accessible parking.

## 8.3 Summary of Options

### Parking Standards for Vehicles

Standards apply to both the parking ratios that specify the amount of parking each land use category is required to provide and also the design standards for these parking spaces. Design standards typically relate to issues such as size of a parking space, where on the lot the parking is to be provided and how it is accessed.

Parking Ratios - Markham’s current parking ratios are broadly similar, in style and substance, to those of other suburban municipalities that have not recently updated their zoning by-laws. The new comprehensive zoning by-law project presents a major opportunity to ensure that Markham’s on-site parking requirements for new developments will align with and support the City’s broader land use planning and transportation planning objectives.

There are a number of general issues related to how parking ratios are framed and applied that should be given consideration in developing the new comprehensive zoning by-law:

- *Varying Parking Ratios by Area* - following the recent examples of the Town of Oakville and the City of Toronto, it is suggested that parking ratios in Markham could, for the first time, be designed to vary across different parts of the City depending on levels of transit service and/or other-area-based planning objectives. One approach would be to relate parking requirements to the hierarchy of mixed-use growth centres and corridors designated in the Official Plan’s Urban Structure map. Consideration might also be given to phasing in changes to parking standards with the introduction of improved transit services.

- *Parking Ratios in Mixed-Use Settings* - consideration should be given to taking full advantage of the opportunities to share parking spaces in mixed-use buildings and districts by extending the application of time-of-day sharing formulae to all non-residential land uses and by developing “blended” or consolidated parking ratios for large multi-unit sites and mixed-use districts. Blended rates have the benefit of reducing the need to re-calculate the parking requirements whenever there is a change of use in a mixed-use building. Developing blended parking rates for whole districts is likely to require considerable resources for survey and analysis work, and would be a major departure from the way parking standards are currently formulated in most municipalities. Oakville’s new Zoning By-law (2014-14) provides a good example of this type of consolidation of non-residential parking ratios.
- *Applying Maximum Parking Ratios* - the imposition of parking maximums appears justifiable in terms of supporting the

intensification objectives of selected growth areas where the emphasis is on encouraging transit use and creating a higher quality public realm. In some cases consideration should be given to applying maximums only in the case of surface parking. Looking at municipalities in the GTA, the approach to parking maximums is varied. For example, Mississauga has no parking maximums whereas a recent study of parking standards in Vaughan recommends the adoption of parking maximums in three designated mixed use growth areas but, in the Local Centres, maximums should not apply to below grade parking. Currently, in Markham, parking maximums only apply in the Markham Centre area.

- *Exercising the Payment-in-lieu Option* - Markham’s By-law 28-97 (as amended) contains no provisions for the payment-in-lieu option but the Markham Centre By-law 2004-196 allows for payment-in-lieu applications as part of a parking management strategy for this area. Generally, there appear to be two contexts in which payment-in-lieu of providing required on-site parking appears appropriate. In the older retail-commercial areas (e.g. Markham Village), particularly the shopping streets, where lot sizes are typically small, payment-in-lieu offers an acceptable solution to avoiding unrealistic requirements for on-site parking. The other setting is newer, planned growth centres (e.g. Markham Centre) where the zoning standards are part of a larger parking management strategy with a long-term focus on providing off-street, centralized public parking garages.
- *Permitting Required Parking to be Off-site* - generally, cities are backing away from the option of allowing required parking spaces to be provided off-site because of the legal and administrative difficulties of securing and enforcing off-site parking agreements.



Off-street parking adjacent to a mixed use development, Mississauga, ON. (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing)

Experience suggests that off-site parking should not be an as-of-right provision in the zoning by-law, except when part of a district parking management strategy, as in the case of the Markham Centre. Otherwise, off-site should be considered on a site-specific basis. The new zoning by-law for the City of Toronto removes the provision for off-site parking.

- *Charging for Required Parking* - Markham's By-law 28-97 stipulates that required parking is to be provided free. Now may be the opportune time to repeal this prohibition and let the market determine the price of parking. Charging for parking in some areas would support the objectives of the new Official Plan and the City's sustainability goals.

In the course of reviewing Markham's parking standards, a few selected uses have been identified as requiring particular attention:

- *Apartment Dwellings* - By-law 28-97 specifies a uniform parking rate of 1.50 parking spaces per unit (1.25 occupant, plus 0.25 visitor). Many municipalities vary the parking rate for apartment buildings by unit size, usually measured in terms of the unit's number of bedrooms. Markham should consider moving away from the current uniform standard for all units.
- *Accessory Dwelling Unit* - this review supports the findings of Markham's Subcommittee on Second Suites as presented in the Markham staff report of February, 2008 which concluded that no additional parking space should be required for a secondary suite (or accessory dwelling unit as referred to in the zoning by-law).
- *Places of Worship* - there is a wide variation in the level of parking generated by this particular land use and it is suggested that Markham consider simplifying the complex

parking standard for Places of Worship found in By-law 28-97 and, perhaps, replacing it with a more straightforward requirement. An alternative approach for new, large Places of Worship might be to require an individual parking study to be undertaken to determine the appropriate parking standard.

- *Consolidation of Retail Parking Standards* - advantage should be taken of the opportunity to consider the consolidation of the parking standards for various types of retail uses and Shopping Centres. Such consolidation would maximize the benefits of shared parking and simplify the application and administration of the retail parking requirements.
- *Consolidation of Parking Standards for Places of Assembly* - as with retail uses, consolidation opportunities should be explored as part of the New Comprehensive Zoning By-law Project.
- *Other Considerations* - consideration should be given to assigning a single parking ratio to "Other" (undefined or unlisted) uses.

Parking Design Requirements - there are a number of zoning provisions regarding the design of parking spaces that should be considered in the new comprehensive zoning by-law review project. The Review presents the opportunity to develop parking design standards that more directly address broader urban design concerns, particularly with regard to surface parking. These design issues include consideration of adding, strengthening or qualifying the following provisions to the new comprehensive zoning by-law:

- *Aisle Widths* - minimum width requirements for aisles in structured parking facilities and the layout of parking spaces in relation to different aisle widths.
- *Parking Obstructions* - provisions that prohibit the obstruction of required parking spaces by

such features as walls, stairs, columns and pipes.

- *Parking Spaces in Rear Yards* - provisions to restrict parking in the rear yards of non-lane-based residential lots with flankage yards.
- *Lane Access* - requiring access to parking for ground-oriented residential dwellings to be from a lane where the property abuts a lane.
- *Private Garage Setbacks and Sizes* - consolidate and strengthen Markham's zoning provisions related to these features.
- *Circular Driveways* - clarification of clause 6.2.4.5 in By-law 28-97 regarding provisions for circular driveways on residential lots.
- *"Hammerheads"* - include standards for the provision of turnaround space or hammerheads on certain residential lots.
- *Parking of Commercial Vehicles on Residential Driveways* - lower the permitted weight limit for commercial vehicles parked on residential driveways to 3,000 kg (from

4,536 kg) and further consider replacing the weight restriction by other measures such as minimum lot areas, setbacks or enclosure in a building.

### Introducing Bicycle Parking Standards

Markham has long been a leader in promoting active transportation (bicycling and walking) and other Transportation Demand Management (TDM) initiatives. Policy 7.1.4.2(h) of Markham's new Official Plan calls for "updating the zoning by-law to include bicycle parking standards and requirements for shower and change facilities in major non-residential developments". Similar calls for changes to the zoning by-law were made in the earlier Markham Transportation Strategic Plan (2011) and the Markham Draft Parking Strategy (2009). Recently, the City's Engineering Department prepared "Draft City of Markham TDM Plan Requirements and Guidelines" (October, 2014) which include the provision of bicycle parking facilities in higher density residential, mixed-use and office/employment developments. The Draft Guidelines propose bicycle parking ratios of 0.25 spaces per unit for long-term tenant parking and



Dedicated cycling lanes, Montreal, PQ (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing).



Bicycle parking, Bussy-Saint-Georges, France (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing).

0.06 spaces per unit for short-term visitor parking in medium and high density residential developments.

The New Comprehensive Zoning By-law Project presents a timely opportunity to build on these policy directions and to advance the aims of the Draft TDM Plan Requirements and Guidelines by implementing zoning requirements for the provision of safe, secure and convenient bicycle parking facilities for a range of land uses. Based on a review of bicycle parking provisions in other municipal zoning by-laws and other related literature on this topic, the key issues to be assessed and considered for Markham's new zoning provisions for bicycle parking are:

- Should bicycle parking requirements apply to new developments on a city-wide basis or only for selected areas, such as the designated growth centres and corridors, where conditions are more conducive to cycling?
- Developing requirements for shower/change facilities for cyclists in non-residential developments.

- Distinguishing between the bicycle parking requirements of long-term and short-term parkers.
- Determining the number of non-residential land use classes to which distinct bicycle parking requirements should apply.
- Deciding the basis upon which to establish bicycle parking rates (e.g. by informed judgment; adapting rates from elsewhere, or policy-driven targets).
- Requiring bicycle parking spaces for both occupants and visitors to be conveniently located in relation to the building's pedestrian entrances.
- Specifying minimum dimensions for bicycle parking spaces.
- Including exemptions for small buildings or lots (and, possibly, specific land uses).
- Allowing the provision of bicycle parking spaces to partly off-set or lower the requirements for vehicle parking under certain specified conditions.



Bike parking, Toronto (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing).

### **Loading Standards**

Despite being characterized by their relative simplicity, there is a considerable variation in the rates at which loading spaces are required among different zoning by-laws. At one extreme, the former City of Scarborough had no loading requirements and Oakville's new zoning by-law only stipulates the size and location of loading spaces should a developer choose to provide them. At the other end of the spectrum, Toronto's loading requirements specify different sizes of loading spaces to be provided at varying rates across a number of residential and non-residential land use classes, including sharing formulae for mixed use buildings. The provenance of most loading standards is difficult to trace and many appear to rely primarily on informed judgement and practical experience.

Markham's requirements for loading spaces are found in By-law 177-96 and a number of the other parent by-laws. Generally, Markham's loading standards are similar to those of other comparable municipalities. A review of the loading standards in other by-laws suggests a number of features that could be considered for inclusion in Markham's new comprehensive zoning by-law:

- introducing a loading requirement for residential buildings with 30 or more dwelling units, including provisions for garbage collection trucks;
- specifying minimum driveway widths for trucks and maximum permitted slopes;
- applying loading requirements over a wider range of non-residential floor area sizes with more steps in the range;
- possibly creating a finer breakdown of non-residential uses among which separate loading standards would apply;
- specifying loading exemptions on the basis of small lot sizes as well as floor area; and
- consolidating loading standards into one consistent set of requirements that apply across the City.

## **8.4 Summary of Feedback from Public Consultations**

At the November 5, 2015 public open house, the issue was raised of how parking requirements would be determined in the new comprehensive zoning by-law. In response staff stated that there was a study under consideration which would review parking requirements for various uses City-wide. The results of the study would inform any proposed parking regulations that would form part of the new comprehensive zoning by-law.

# 9 Auto Related Uses

## 9.1 Introduction

The purpose of this section is to explore how to implement zoning regulations for automotive uses to support land use compatibility and other planning objectives by reviewing the direction provided by the Official Plan relating to automotive uses, provisions in Markham's existing parent zoning by-laws as well as best practices from other municipal zoning by-laws.

Four Ontario municipal zoning by-laws were reviewed as part of this analysis. Milton's new comprehensive zoning by-law for the Town's urban area, Oakville's recently passed comprehensive zoning by-law, Ottawa's zoning by-law that was initially passed in 2008 and Toronto's 2013 City-wide comprehensive zoning by-law.

Seven types of automotive uses are generally defined in zoning by-laws. However, the use of terms is not always consistent across municipalities, or between a municipality's official plan and its zoning by-law. For clarity, the following generic terms are used for the purposes of this analysis:

- Fuel Station means a gas/fuel station
- Body Shop means a place where work on the auto body, upholstery, etc., takes place.
- Repair Shop means a place where mechanical repairs occur.
- Washing Establishment means a car wash that may be automatic or self-serve.
- Dealership means a place where vehicles are sold.
- Rental Agency means a place where vehicles are rented.
- Storage Facility means a place where vehicles are stored.

With respect to Markham's parent zoning by-laws, existing Markham Zoning By-law 177-96 provides the most relevant set of regulations for automotive

uses, including two specific automotive commercial zones, AC1 and AC2. The AC1 zone allows for both "gas bars" and "motor vehicle service stations", whereas AC2 allows only gas bars. The definition for motor vehicle service station is broad incorporating car washes, repairs, sales of parts and accessories and the rental of vehicles as accessory uses. The definition is reproduced below;

*"Motor vehicle service station"* means a premises used for the sale of motor vehicle fuels and which may include one or more of the following accessory uses: the sale of motor vehicle parts and accessories, motor vehicle rental, the servicing and repairing of motor vehicles and car washes.

The two zones have similar regulations including:

- A minimum lot frontage of 30 metres;
- A maximum lot area of 0.8 hectares (which will need to be reconciled with new Official Plan maximum of 0.6 hectares);
- A minimum lot frontage of 10 metres and maximum of 13 metres;
- A minimum exterior side yard of 10 metres and a minimum interior side yard of 3 metres;
- A minimum rear yard setback of 12 metres; and
- A 3 metre landscape buffer for front and exterior side lot lines, and 6 metres buffer for interior and rear lot lines.

Although the terms "motor vehicle body shop", "motor vehicle repair garage" and "motor vehicle sales establishment" are defined in By-law 177-96, these uses are not permitted in any of the zoning categories, but are only allowed by way of site specific by-law amendments.

## 9.2 Policy Context

There is limited guidance for automotive uses in the Official Plan, apart from fuel stations in Section 8.13.5 Motor Vehicle Service Stations. In this section policies regarding locational setting, accessory uses and other regulations are laid out as follows:

- The site size shall not be more than 0.6 hectares.
- The principal use shall be to sell fuel.
- Accessory uses may include retail convenience, small-scale take-out restaurants, drive-through subject to applicable design guidelines for motor vehicle service stations, and the outdoor storage and display of associate retail sale items.
- Car washes and minor vehicle repair services are also permitted provided that they are wholly contained within a building.
- Prohibited uses include the sale and leasing of vehicles, major repairs, body shops, and the outdoor storage and repairs.
- Access should be provided from major and arterial roads, and provincial highways. Only limited access should be provided to minimize the impact on vehicular and pedestrian traffic.
- The number of fuel stations should be limited to two at road intersections. Preference given to locating stations diagonally opposite each other.
- Main building and gas bars shall be oriented towards the intersection with pump islands to the rear to support a pedestrian-oriented environment.
- Provide extensive landscaping.
- Fuel stations should be designed to mitigate against noxious impacts on surrounding area.

Section 8 of the new Official Plan provides guidance on designations where fuel stations are permitted: including Mid Rise and High Rise Mixed Use, Commercial and Service Employment (as discretionary uses) designations, provided they are aligned with the policies of 8.13.5. In summary:

- Motor vehicle service stations are permitted in Mid-Rise Mixed Use, High-Rise Mixed Use and Commercial designations subject to compliance with Section 8.13.5; and within Business Park Employment and Service Employment designations only as discretionary uses;
- Motor vehicle sales are permitted in Mid-Rise Mixed Use, High-Rise Mixed Use, and Mixed Use Office Priority designations provided they wholly contained within a building;
- Auto sales and rentals are also permitted in lands designated Commercial without the restriction of being in a wholly enclosed building; and
- The repair of vehicles (body or mechanical) is limited to Service Employment areas and, as



Service stations in foreground and background. Under the Official Plans policies, the placement is the not preferred because they are not diagonally opposite each other. (Source: <http://www.globalnews.ca>).

a discretionary use, in General Employment areas.

There are no defined terms in the Official Plan pertaining to automotive uses.

In a number of Ontario municipal zoning by-laws, as well as Markham By-law 177-96, automotive uses are generally grouped together by a common descriptive term, such as “motor vehicle” or “automobile”. Generally, there are six or seven defined automotive uses. The common defined terms apply to fuel stations, body shops, repair shops, washing establishments. There is variation on whether to lump together dealerships with rental agencies or to address storage of vehicles.

In general, fuel stations are either subject to their own zone as is the case of Oakville, Milton and Markham’s By-law 177-96, or permitted in commercial/mixed use zones subject to special regulations. Washing establishments and repair shops are sometimes considered accessory to fuel stations and are subject to size restrictions. Auto body shops are considered noxious and are generally only permitted in



Service station featuring extensive landscaping. (Source: <http://www.sla.on.ca/>)

employment/industrial zones. Dealerships are often kept to commercial and employment areas, whereas rental agencies are generally allowed in mixed use areas, but often subject to vehicle storage restrictions and confined indoors.

## 9.3 Summary of Options

### Defined Terms

- A common practice worth considering is to define all automotive uses with a similar descriptive term that distinguishes and groups all automotive uses together, such as “automobile” or “vehicle”. “Motor vehicle” is defined in the Highway Traffic Act and is also already used in Markham By-law 177-96 and therefore may be most appropriate.
- There is a need to determine what terms to include in the zoning by-law definitions. It may be possible to combine some, such as ‘dealership’ and ‘rental agency’ such as in Toronto’s case, but these will also need to address the issue of where and how to store vehicles.

### Permitted Zones

- Markham’s By-law 177-96, Oakville and Milton each have a specific zone for fuel stations and accessory uses. It may be appropriate to consider continuing to apply this approach when determining appropriate locations for fuel stations with washing establishments and repair shops (or some variation of this).
- It will be necessary to determine if fuel stations (and possible accessory washing establishments and repair shops) may be located as permitted uses in some mixed use and business service zones and if so, how these will relate to adjacent residential zones.

- Limit auto body shops to the Service Employment designation.
- Consider how to deal with vehicular storage and whether this should be restricted only to certain employment areas.
- Markham may want to determine how to address the sale of propane. Toronto limits propane tank size to 1,500 litres and fuel stations with more than 100 litres must be no closer than 7.5 m away from a residential zone. Oakville does not allow the sale of propane on a site abutting a residential zone.

### **Approach to Regulations**

Since the regulations that have been reviewed in this section are, for the most part, contained within the general provisions of the respective zoning by-laws, the summary of considerations that follows is grouped under the following headings: minimum lot frontage, minimum lot area, lot coverage, setbacks, landscaping, vehicle access and other regulations. It is assumed that height limits will generally apply over a larger area and not be specific to auto related uses. However, aside from dealerships, most auto related uses will be in one storey buildings and thus will not be able to meet minimum height requirements above one storey and will need to be exempted from higher minimum height provisions contained elsewhere in the by-law.

### **Minimum Lot Frontage**

For fuel stations it will be necessary to determine the minimum lot frontage to allow for vehicle access taking into account distance from an intersection. Thirty metres seems to be a common standard in zoning by-laws reviewed, including Markham's existing Zoning By-law 177-96.

### **Maximum Lot Area**

The Markham Official Plan generally restricts the maximum lot area for fuel stations to 0.6 hectares. Currently, by-law 177-96 allows up to 0.8 hectares. The regulations in the new comprehensive zoning by-law will need to reflect the Official Plan conditions. Existing service stations which do not meet these conditions, but were approved under the previous zoning regulations, will either become legal non-conforming uses or be deemed to conform to the zoning by-law, in accordance with the general approach to addressing legal non-conforming uses in the new zoning by-law as a whole.

### **Lot Coverage**

Should a standard lot coverage for fuel stations and other related uses be included in the new zoning by-law?. For example, Oakville has no maximum lot coverage requirement, Ottawa has no maximum in mixed use zones, whereas Milton's maximum lot coverage ranges from 20 to 30 percent. If a lot coverage standard is required, it will need to be determined what is included in the calculation of lot coverage (e.g. gas bar canopy).

### **Setbacks**

- Determine whether automotive uses should be subject to unique setbacks that are distinct from the general setback provisions within each zone within which they are located.
- Determine appropriate setbacks for automotive uses when located adjacent to residential zones. The range in other by-laws is between 7.5 and 15 metres.
- Determine whether a distinct, higher setback should be applied for auto body shops from residential zones.

## Landscaping

- For fuel stations determine whether a percent of the lot should be landscaped (Oakville requires 10 percent of landscaped area; in Zoning By-law 177-96 the minimum is 30 percent).
- Determine what a minimum landscape buffer zone should be. The range is between 1.5 metres and 4.5 metres abutting a street and 3 metres and 7.5 metres abutting residential zones. By-law 177-96 requires a 3 metre buffer for front and exterior side lot lines, and 6 metres for interior and rear lot lines.

## Vehicle Access

It will need to be determined if there is a need to include a regulation regarding the appropriate minimum distance for vehicle access from other vehicle access points. In Toronto access must be a minimum of 6 and a maximum of 11 metres measured from the abutting street and there must be at least a 7.5 metre separation distance between other vehicle access points.

### Other Regulations

- Determine whether washing establishments should be within wholly enclosed buildings.
- Determine the appropriate length of stacking lanes for car washing establishments (8 to 10 vehicles is the standard in the zoning by-laws reviewed).
- Determine whether to include a maximum gross floor area restriction for automobile repair shops. Additional performance standards may help to regulate this use, such as increased setbacks for garage bays facing sensitive land uses or providing screening and acoustic barriers.
- Although outside the scope of this project,

signage (particularly electronic and moving signs) will need to be considered further.

- Determine if there is a need to distinguish between auto dealerships with repair shops and those without.

## 9.4 Summary of Feedback from Public Consultations

The Canadian Fuels Association (CFA) represents most companies who own service stations in Markham. Their comments on the task 7 discussion paper on automotive uses are contained in a letter dated July 10, 2015 and are summarized below.

- The new zoning by-law should be flexible in addressing maximum site size and lot area. Specifically, the zoning by-law should reflect the 0.8 maximum site area referenced in parent Markham Zoning By-law 177-96. The concern is that a smaller size limit may have an adverse impact on service stations.
- The letter also points out that the summary of Section 8.13.5 a) of the Official Plan included in the discussion paper on automotive uses omits the word “generally” from the discussion. The Official Plan reads “A motor vehicle service station shall generally be located on a site of not more than 0.6 hectares.” The suggestion is that the new zoning by-law should reflect the same flexibility. Given this wording, carrying over the 0.8 ha limit from by-law 177-96 to the new zoning by-law would not conflict with the Official Plan. This comment also applies to the section on “lot area” in the discussion paper.
- Already approved and existing service stations should be deemed to conform to the new zoning by-law, and not be considered as legal non-conforming uses. This is to address

the need to upgrade service stations to meet evolving safety, environmental and customer demands. Therefore, the CFA suggests that redeveloped should mean “the renovation or reconstruction of existing buildings and structures, or construction of new buildings and structures for any of the uses permitted in the Official Plan”.

The CFA letter also comments on the option included in the discussion paper on Drive-Through Facilities regarding a 30 metre separation distance from residential uses for drive-through facilities, which it states is not based on any planning or scientific rationale. Further, the CFA in its letter takes issue with the option contained in the Drive-Through Facilities Discussion Paper that stacking lanes be prohibited in the front or side yards, since this would be impractical for service stations. Finally, the letter makes a number of suggestions regarding definitions of service station which are addressed in section 7.4 of this report.

# 10 Drive-Through Facilities

## 10.1 Introduction

The City of Markham and a number of municipalities in Ontario have recently updated their Official Plans to better reflect the goals of reducing automobile dependency and creating healthier, safer and more pedestrian-friendly urban environments. Along with these efforts, municipalities have begun to pay attention to the implications of drive-through facilities and to some of the challenges they pose in terms of supporting broader municipal planning objectives.

Drive-through facilities have the potential to cause adverse impacts on adjacent land uses. In comparison with other commercial uses, drive-through facilities tend to generate a higher level of outdoor activity and noise, especially when the facility operates 24 hours a day. One of the most common concerns related to drive-through facilities is the noise associated with speakers from order boxes, idling cars, and loud car stereos. Other concerns include light pollution due to on-site lighting and vehicle headlights, litter, and exhaust fumes from cars. Residential and institutional uses located near drive-through facilities are usually the most adversely affected.

The vehicular traffic associated with drive-through facilities requires careful consideration of how cars will access the site, maneuver within it, and park if necessary. Stacking or circulation lanes can generate safety issues by creating a barrier for pedestrians trying to access the site and having to cut across these lanes as well as cars spilling out onto the roadway. Appropriate site design approaches are required to ensure that a better balance is given to pedestrian movement over vehicular movement.

The City of Markham has played a significant role in establishing best practices for dealing with drive-through facilities in Ontario, as demonstrated through Markham's Design Guidelines for Drive-Through Facilities and related reports. These documents have served as a benchmark to inform other municipalities

in the development of their own design guidelines and zoning provisions.

Markham's existing zoning framework currently provides limited direction with respect to drive-through facilities. Consideration should be given in Markham's new comprehensive zoning by-law to establishing location criteria to determine where drive-through facilities should be prohibited and permitted; determining appropriate separation distances from sensitive uses; setting a minimum number of stacking spaces in accordance with various types of drive-through facilities; and implementing additional design controls such as noise attenuation measures, landscaping and other buffer and safety strategies. Additional requirements, to be considered as part of site plan review, include the requirement for a sound attenuation study for proposals that abut residential lots, raised walkways along buildings (preferably with a minimum width of 2 meters), and visible signage to guide vehicles and pedestrians.

## 10.2 Policy context

The need to respond to these issues and establish a framework for dealing with drive-through development applications in Markham was first recognized in a background report prepared for the City in 2009. The report informed the preparation of design guidelines, the Town of Markham's Drive-Through Facilities Design Guidelines, endorsed by Council in 2010. The guidelines were developed with the intent of mitigating adverse impacts associated with drive-through facilities, maintaining the intent of Markham's Official Plan, and informing the development of zoning provisions related to drive-through facilities. These zoning provisions have not yet been implemented.

### Official Plan Provisions

Chapter 8 of Markham's Official Plan establishes that drive-through service facilities, where accessory to a permitted use, are subject to specific use policies

within each of the land use designations. According to these policies, drive-through facilities (where permitted) should be designed to mitigate their potential impacts on adjacent uses and in accordance with the applicable design guidelines. Section 8.13.3 of the Official Plan outlines specific provisions regarding the dimensions of and access to drive-through facilities.

Other related policies that make reference to drive-through facilities include specific use policies that apply to Motor Vehicle Service Stations (Section 8.13.5 of the Official Plan), which establish that drive-through service facilities are permitted as an accessory use within the principal building or gas bar kiosk, subject to applicable design guidelines for motor vehicle service stations. In addition, a number of Area and Site Specific Policies, which are outlined in Chapter 9 of the Official Plan, prohibit drive-through service facilities in certain areas.

The City of Markham Official Plan's approach is similar to that of other municipalities that have recently passed new Official Plans, which in general direct drive-through facilities away from central areas, towards large format commercial zones and along arterial roads. Many municipal Official Plans in Ontario prohibit drive-through facilities in growth areas and mixed use zones, including downtown centres.

### 10.3 Summary of Options

New zoning provisions to regulate drive-through facilities in Markham should align with the Official Plan and respond to the Design Guidelines for Drive-Through Facilities. Options for achieving these objectives are outlined below.

#### **Incorporate location criteria provisions to restrict drive-through facilities in specific areas**

Most municipalities in Ontario regulate the proximity of drive-through facilities to residential and institutional uses. Many have also taken steps to regulate drive-through facilities in mixed-use and local commercial zones that are found within close proximity to residential areas, as well as in downtown commercial and business nodes.

Markham's Official Plan contains a number of Area and Site Specific Policies that prohibit drive-through facilities in specific mixed-use, commercial and employment areas. Markham's Design Guidelines for Drive-Through Facilities recommend discouraging drive-through facilities in Intensification Areas (i.e. Langstaff and Markham Centre), Heritage Conservation Areas and Hamlet Areas, and in new communities served by Neighbourhood Commercial and Community Amenity areas, as these are intended to serve adjacent residential or business uses through trips made by active travel modes or public transit. Markham's zoning provisions should align with and respond to the direction of the Official Plan and



Drive-through bank machine, Oakville, ON (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing).

the Design Guidelines by restricting drive-through facilities in these areas.

Set a minimum separation distance requirement from residential uses from all parts of a drive-through facility, including the stacking lane and order box; and require a landscape buffer along each yard where it abuts a residential use

Minimum setback and separation distance requirements need to be applied together with locational criteria to ensure that traffic associated with drive-through uses can be adequately accommodated. Most municipalities require a minimum separation between the stacking lane and residential (and sometimes institutional) uses. Although the requirements vary considerably, a good option is the approach adopted by the City of Toronto, which has been considered a benchmark. Toronto's Zoning By-law requires a 30 metre separation distance from all parts of the drive-through facility to the edge of the lot line of any residential use or zone where residential uses are permitted. This standard is consistent with Markham's Design Guidelines for Drive-Through Facilities, which also suggests a 6 metre wide landscape buffer along each yard adjacent to residential uses.

#### **Provide noise and visual attenuation along the drive-through property line**

Many municipalities in Ontario have included a requirement for noise and visual attenuation in their by-laws. These include noise walls in addition to, or instead of minimum separation distances. In some cases, a noise study for drive-through applications within a certain distance to residential zones is also required. Markham's Design Guidelines for Drive-through Facilities recommends a 1.8 metre high noise fence along the property line, where appropriate, as well as the requirement for a sound attenuation study outlining measures to minimize noise impacts, where adjacent uses are residential. This may be best achieved through the noise by-law and/or site plan control.

#### **Establish a minimum lot size requirement, especially for lots located near residential uses, in accordance with Official Plan policies**

Establishing a minimum size for sites containing a drive-through facility and setting provisions around adequate access points can assist with traffic flow and minimize internal movement conflicts. A minimum lot size of 0.3 hectares for sites containing a drive-through facility is required under Section 8.13.3.2 of Markham's Official Plan. Based on an analysis of lot coverage patterns across existing drive-through facilities in the City, Markham's Design Guidelines for Drive-Through Facilities also recommends against permitting drive-through restaurant facilities on sites with an area smaller than 0.3 hectares, when located adjacent to residential uses. Although most zoning by-laws in Ontario do not address minimum site size requirements, a number of municipalities have recommended that a minimum site size of 0.3 hectares be considered.

#### **Include a definition for and place restrictions on double drive-through facilities**

Most municipalities that have developed design guidelines for drive-through facilities, including Markham, recommend avoiding double drive-through facilities. According to Markham's Design Guidelines, side-by-side drive-through lanes serving a single brand may be acceptable subject to the evaluation of site-specific conditions. On large sites in excess of one hectare in size more than one drive-through may be considered to a maximum of three facilities (or two facilities, in the case of restaurants). Restrictions on double drive-through facilities are not currently addressed in most zoning by-laws but are often addressed in design guidelines.

#### **Address stacking lanes in the front or side yards**

Many municipal zoning by-laws in Ontario restrict stacking lanes from being located in front or side yards or between buildings and the public sidewalk. The City of Markham's Design Guidelines recommend

locating access points to the drive-through site away from street intersections, providing raised walkways for pedestrians on the side of buildings with a minimum width of 2 metres, and providing an escape lane where appropriate. Stacking lanes should be avoided in the front and exterior side yards, unless site conditions demand it, in which case appropriate landscaping and an architectural screen should be provided along the street.

### **Implement stacking lane provisions**

Markham's Design Guidelines for Drive-Through Facilities suggests a minimum distance of 2 to 3 car lengths between the entrance to the stacking lane and the access to the site from a street. For drive-through restaurants, a minimum of 10 stacking spaces with at least 7 of them available between the entrance to the lane and the order station is recommended. In the case of financial institutions and pharmacies, a minimum of 4 stacking spaces is recommended. These provisions are comparable to the provisions of a number of municipal zoning by-laws in Ontario.

### **Consider all potential drive-through uses when formulating stacking lane provisions, including more intensive drive-through uses**

A crucial component of most zoning by-laws that address drive-through facilities is the set of provisions that establish stacking lane requirements. An increasing number of zoning by-laws in Ontario, as well as large city zoning ordinances in the U.S. address this issue with, for example, different (more strict) requirements for fast food establishments than for other retail (drugstore, bank) establishments. Different zoning standards are applied depending on the intensity of the use.

### **Designate drive-through facilities as an accessory use in the zoning by-law, in accordance with Official Plan policies**

Most municipalities in Ontario designate drive-through facilities as an accessory use, to be approved as part of the main use. A growing number of U.S. codes follow this approach, which also avoids the need to distinguish between primary uses with and without drive-through facilities (for example “restaurant without drive-through” and “restaurant with drive-through”). Given that Markham's New Official Plan designates drive-through facilities as accessory to a main use, it is recommended that new zoning provisions are consistent with this approach.

## **10.4 Summary of Feedback from Public Consultations**

In a letter dated July 10, 2015 the Canadian Fuels Association (CFA) addresses a number of issues with the analysis and options presented in the discussion paper on drive-through facilities. It points out that drive-through facilities are popular with a segment of



Drive-through entrance for coffee shop and florist, Burlington, ON (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing).

the population, primarily for reasons of convenience and safety for users. It also states that drive-through facilities can result in smaller buildings and surface parking lots for the uses to which they are attached, than would otherwise be the case.

In reviewing the 2004 Ontario Municipal Board (OMB) decision regarding a drive-through facility in the City of Toronto on St Clair Avenue West, the CFA letter states that the aspect of the decision relating to the minimum separation distance of 30 metres from residential uses should be interpreted as relevant for this specific context which cannot always be reproduced in other locations and has been varied since. It also quotes from the OMB decision to support this interpretation.

The CFA state in their letter that “proposing a 30 metre separation distance requirement from residential uses of at least 30 metres from all parts of the drive-through facility, including the stacking lane and the order box; or to require a minimum 6 metre wide landscape buffer along each yard where it abuts a residential use is too arbitrary and doesn’t recognize the unique aspect of each site”. It goes on to state that the 30 metre separation distance does not appear to be based on any scientific and/or planning basis. In their view, while it may be appropriate to include a minimum separation distance from the order box (which they state is the main potential source of conflict), the new zoning by-law should otherwise rely on the Town of Markham Drive-through Facility Design Guidelines as approved by council in June 2010.

Their final comment addresses the location of stacking lanes for motor vehicle service stations which is summarized in section 9.4 of this report.

# 11 Residential Accessory Buildings and Structures

## 11.1 Introduction

Residential accessory structures are generally permitted and located at the side or rear of detached and semi-detached dwellings and townhouses. They can include garden sheds, gazebos and pool enclosures, but in Markham's case, not swimming pools or detached garages which are regulated either by separate provisions in the parent zoning by-laws (see by-law 177-96), or a separate by-law.

Thirty three (33) of Markham's parent zoning by-laws contain zoning provisions falling into eight (8) sets of standards with varying levels of complexity. These were summarized in a June 2009 report to the Development Services Committee. That report recommended an amendment to zoning provisions for residential accessory buildings and structures in order to apply consistent standards across all residentially zoned properties in Markham. The recommended amendments to the zoning by-laws for accessory buildings or structures in the June 2009 report were never enacted. Council decided to put the matter off until further notice.

The fundamental issues at the time of the 2009 review revolved around the proliferation of "accessory buildings" and "outdoor rooms with accessory structures in rear yards" and their impact on property grading, potentially affecting stormwater runoff, loss of landscaped area (particularly soft landscaping), and concerns around the visual impact of accessory buildings and structures, particularly as they relate to overlook and loss of privacy for adjacent residents. It is important to note that a number of the concerns raised at the time, such as grading and noise, may be more appropriately addressed and managed through other municipal by-laws.

The standards for residential accessory buildings in Markham's existing zoning by-laws are grouped around the following topics:

- location of accessory buildings or structures on the lot (generally at the rear or the interior side yard);
- setbacks from lot lines (from 0.5 to 1.2 metres);
- minimum separation distance from the main building on the lot (most zoning by-laws do not require this, but some require a 1.8 metre separation);
- maximum lot coverage (between 5 and 10 percent);
- maximum floor area (from 10 square metres on small lots to 75 square metres on rural lots); and
- maximum height (ranging from 3.6 to 4.5 metres).

The report also reviews other Ontario municipal zoning by-law provisions regarding accessory buildings.

In reviewing the zoning provisions for accessory buildings an important consideration is that these standards will directly affect homeowners who should be able to understand the requirements without having to consult experts. An underlying objective with respect to formulating these recommendations therefore is to keep them clear and simple.

## 11.2 Policy Context

There are no policies regarding residential accessory buildings/structures in the new Official Plan. There are some general policies regarding compatibility of development with neighbouring buildings but no

specific provisions regarding accessory buildings or structures.

### 11.3 Summary of Options

Although there is a great deal of similarity in the types of regulations that Ontario municipalities have included in their zoning by-laws to control the location, size and use of accessory buildings or structures, however the actual metrics in the regulations vary depending on the history and characteristics of the municipality. In terms of complexity, municipalities like Toronto, Hamilton and Ottawa, which have had to consolidate a number of separate municipal laws have ended up with a fairly detailed and nuanced set of regulations. Other municipalities have been able to include much more straightforward provisions that are derived from history and best practices.

In regulating accessory buildings or structures the challenge is the same as for other aspects of the zoning by-law; to provide for a set of regulations that address the fundamental concerns in as simple and straightforward a manner as possible and avoid overlap and duplication of regulations through a “belt and suspenders” approach.

The review that was undertaken by staff in June 2009 contains a set of proposed regulations that seem to address Markham’s needs and are well aligned with the types of regulations that appear in other Ontario municipal zoning by-laws. These include:

- 1.2 metre minimum setbacks from rear and interior side lot lines;
- minimum setback from the exterior side lot line—no closer than the main building from the exterior side lot line;
- maximum floor area per accessory building or structure—10 square metres on lots with areas

less than 0.1 hectare; 20 square metres on lots with areas between 0.1 and 0.4 hectares; and 50 square metres on lots with areas greater than 0.4 hectares;

- maximum height—4.5 metres on lots with areas less than 0.4 hectares; and 5.5 metres on lots with areas greater than 0.4 hectares.
- maximum number of accessory buildings or structures per lot—2 on lots with areas less than 0.1 hectare; and 3 on lots with areas between 0.1 and 0.4 hectares; and
- minimum percentage of soft landscaping in rear yard—25 percent with rear yard areas less than 75 square metres; 40 percent with rear yard areas between 75 and 140 square metres; and 60 percent with rear yard areas greater than 75 square metres.

Other than perhaps the restriction on the number of accessory buildings per lot, which may be just as effectively controlled through a combination of the other regulations, these would seem to provide a good foundation to be incorporated into the new comprehensive zoning by-law.

There are some additional considerations which may be worth thinking about when preparing zoning provisions for accessory buildings or structures for the new comprehensive zoning by-law, including:

- Consider if home occupations should be permitted in accessory buildings. Permitting home occupations would be consistent with Markham’s Official Plan definition.
- Consider whether to exempt such structures as retaining walls, statues, light standards, air conditioning units, children’s play structures, solar panels etc. in the definition of accessory building/structure.
- Consider whether to include a separation distance from the main building for accessory

structures or introduce a separation distance from any other building on the lot. The range in other municipal zoning by-laws is between 1.2 and 2 metres.

- Consider whether it is necessary to address accessory structures located on top of a deck that is attached to a house, or if this issue would be best dealt with by relying on a separation distance requirement from the main building for accessory buildings/ structures as suggested above.
- Consider how to align the accessory building and structure requirements with requirements for detached garages and swimming pools in the swimming pool by-law.

## **11.4 Summary Feedback from Public Consultations**

There were no comments regarding zoning standards for accessory residential structures during public consultation.

# 12 Residential Amenity Space

## 12.1 Introduction

This section will examine potential ways to address amenity space in the new comprehensive zoning by-law for multi-unit residential buildings, including apartment buildings and residential units in mixed use buildings.

Amenity space for single and semi-detached residential buildings is generally not directly addressed in most zoning by-laws (although some Markham site specific by-laws do include requirements for outdoor amenity space for single detached dwellings), since other by-law provisions such as minimum lot sizes, setback requirements and restrictions on the placement of accessory buildings, in effect provide for private amenity space for these types of dwellings. Otherwise common amenity space requirements for low density residential areas are addressed through the provision of parks and other public spaces. Similarly townhouses are typically not subject to the amenity space provisions of zoning by-laws, since rear yard setbacks and requirements for a percentage of the lot to be landscaped, for the most part, address amenity space issues. There are some exceptions regarding communal amenity space requirements for cluster townhouses and/or stacked townhouses in some municipal zoning by-laws.

Only existing Markham Bylaw 177-96 includes a reference to outdoor amenity area which is defined as “an outdoor space, unobstructed by buildings or structures and which cannot be travelled upon by motor vehicles”. The provision of outdoor amenity area is required in a number of site specific by-laws but otherwise not in the general provisions section of by-law 177-96. Other existing Markham parent zoning by-laws do not contain amenity space requirements. With the increased emphasis for future development on intensification, multi-unit residential and mixed use buildings will become more prevalent. Thus it will be necessary to incorporate amenity space provisions into the new by-law to address the needs of future residents in these types of buildings.

## 12.2 Policy Context

There are a number of references in chapter 6 of the new Markham Official Plan for the provision of private amenity space. The most direct reference is in Section 6.1.6.6 c) which states that it is the policy of Council to ensure that development is designed to provide outdoor amenity spaces for the use of occupants of the development. Section 6.1.6.3 states that it is Council policy to encourage the provision of publicly accessible open spaces, which are different than amenity space for residents. Section 6.1.8.5 speaks to designing and placing buildings on a site to achieve adequate private open space and amenity areas as well as common landscaped amenity areas. This provision relates to the placement of buildings. Thus, the objective of achieving open space and amenity areas as referenced in this section would likely be best accomplished through the site plan approval process or other provisions of the zoning by-law related to the siting of buildings. However, by implication the policy also speaks to the importance of including amenity space provisions in the zoning by-law.



Shared outdoor playground for stacked townhouse units, Toronto (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing).

## 12.3 Summary of Options

Based on a review of provisions in other Ontario municipal zoning by-laws, there are three main issues that need to be addressed as part of the new comprehensive zoning by-law regarding residential amenity space in multi-unit developments:

- should the requirement distinguish between common and private amenity space?
- should the requirement distinguish between outdoor and indoor amenity space? and
- what is the appropriate amount of space to be provided and how should it be measured?

An underlying consideration for Markham is to determine how complex or simple to make these regulations. Some municipalities have detailed provisions that are varied by unit and development size. Others are quite straightforward.

The following summarizes residential amenity area provisions in multi-unit residential buildings that will need to be considered when drafting of the new comprehensive zoning by-law:

- Determine if amenity area is defined to include private balconies and patios, or if the requirement is to apply only to the provision of common space and if it does include private balconies and patios, whether there should be a minimum requirement for the common amenity area. Toronto and Mississauga define amenity space as shared or communal, whereas Ottawa and Hamilton include both personal and communal space. In the case of Ottawa at least 50 percent of the amenity space must be communal, but for certain types of buildings (small apartments, rooming houses) 100 percent of the space is to be communal.
- Determine if the requirement should distinguish between outdoor amenity space

and indoor amenity space and if so, how this would align with requirements which may exist for landscaped open space elsewhere in the by-law. For example, Toronto requires two square metres per unit of indoor common amenity space and at least 40 square metres per building of outdoor amenity space that is directly accessible from the indoor amenity space. Mississauga requires 40 percent of the lot area to be landscaped.

- Determine if there should be a minimum threshold number of units after which the regulations would apply. Toronto's requirements apply to developments with more than 20 units. Ottawa's requirements generally apply to developments with more than nine units.
- Determine the size requirement of amenity space per unit. Toronto requires 4 square metres of common amenity space per unit (2 of which must be indoor). Ottawa generally requires a total of 6 square metres of private and common amenity space. Mississauga requires 5.6 square metres per unit of common amenity space.
- Determine if the requirement should be the same for each unit regardless of size, or if the requirement should vary based on unit size, taking into consideration that a higher requirement for larger units may discourage the development of larger units in multi-unit buildings. Determine the amount of the requirement per unit.
- If the decision is to distinguish between indoor and outdoor amenity space, consider if there should be direct access from some of the indoor space to some of the outdoor space, as in the case of Toronto.
- Determine if there should be a private open space requirement for stacked and cluster townhouses. For example, Guelph requires

20 square metres of private amenity area for cluster and ground level townhouse and 10 square metres for stacked townhouses. Other municipalities are silent on this issue.

## 12.4 Summary Feedback from Public Consultations

There were no comments regarding zoning standards for residential amenity space during public consultation.



Publicly accessible outdoor space, Tosari-Tuin, Java Island, Amsterdam (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing).

# 13 Home Occupations

## 13.1 Introduction

This section provides a review of residential home occupations as part of Markham's comprehensive zoning by-law project. Home occupations are businesses generally operated by a primary resident of a dwelling unit. Businesses may include a professional office (accountant, lawyer, doctor), a service based business (hairdresser, dog grooming), an education service (music or dance instruction), artisanal space, or simply a home business office. The role of the zoning by-law is to ensure that the operations of such a business do not negatively impact the character of the dwelling or create any adverse impacts on neighbouring properties, while at the same time supporting the overall economic objectives of the City.

The new Official Plan recognizes the growing trend for people to work from home. This is also reflected in the last census; where slightly over 13 percent of Markham's workforce reported working from home. Ongoing improvements in technology continue to make working from home a more and more viable option.

Existing Markham zoning By-law 53-94 initially permitted a small list of home occupations with a large number of restrictions and a significant list of non-permitted uses. By-laws 177-96 and 2004-196 liberalized and updated the standards governing home occupation to accommodate the growing trend for more and more people to work from home.

A review from ten other municipal by-laws found that Markham's approach in existing parent Bylaws 177-96 and 2004-196 is generally consistent with how other Ontario municipalities are regulating home occupations. The conclusion of this paper is that By-laws 177-96 and 2004-196 represent a progressive and reasonable approach to regulating home occupations which furthers economic and other key objectives of the Official Plan. The provisions included in these by-laws provide a good basis for

moving forward in the new comprehensive zoning by-law.

## 13.2 Policy Context

Section 5.1.1 of the Official Plan, General Policies on Employment, recognizes that home-based businesses are important for Markham's continued economic growth. This policy is intended to support a diverse spectrum of jobs and help create communities where people can live, work and play. The Official Plan definition for home occupations is provided below. Section 8 addresses home occupations in reference to land use designations.

Home occupation means an occupation or profession conducted for gain in a residential dwelling unit or a detached accessory building where the business or profession is conducted wholly within the dwelling unit or detached accessory building in a manner that is accessory to the principal residential use in accordance with the criteria of this Plan.

The regulatory guidance provided by the definition is that the occupation must be conducted wholly within a residential dwelling, or accessory building and is accessory to the principal use.

There are two additional definitions in the Official Plan that are similar to home occupations: "home business" and "home industry". These are definitions used in provincial legislation for the Oak Ridges Moraine and the Greenbelt lands. In Markham they apply only to lands shown as "Oak Ridges Moraine Natural Linkage Area", Ridges Moraine Countryside" and "Greenbelt Protected Countryside" shown on Map 7 of the Official Plan.

Section 8 of the Official Plan deals with land use designations and identifies where home occupations

are allowed to operate. These include Residential, Mixed Use, Greenway and Countryside areas. In addition, home occupations are subject to the other policies outlined within the designation in which they are found.

Section 8.2.1.2 (iii) permits a dwelling unit including a home occupation in all 'Residential' designations.

Section 8.2.3, which deals with Residential Low Rise areas, states "In order to accommodate the trend for more and more people to work from home, home occupations may be included within residential buildings".

Section 8.3.1.2 (d) under Mixed Use areas allows for a dwelling unit including a home occupation.

Section 8.6.1.2 c) under the Greenway policies allows for a dwelling unit including home occupation,

although these are not allowed in the Natural Heritage Areas.

Section 8.6.1.3 includes home business and home industry uses in parts of the Oak Ridges Moraine and Greenbelt areas.

Section 8.8.1.2 (a) allows a dwelling unit including a home occupation on lands designated Countryside.

There is an area specific policy for Markham Village which allows for a resident medical practitioner to operate an office of up to 50 percent of the GFA of the dwelling unit.

### 13.3 Summary of Options

The following provisions are common to by-laws 177-96, 53-94 and 2004-196 and are common to other



The general intent of zoning regulations for home occupations is to ensure no adverse impact on neighbours. Cornell, Markham. (Source: City of Markham).

Ontario municipal zoning by-laws. It would therefore make sense to carry these forward to the new comprehensive by-law:

Where a home occupation is permitted, the home occupation:

- shall clearly be a secondary use of the lot;
- shall be conducted entirely within a dwelling unit and/or accessory building on the lot;
- shall be conducted by at least one of the residents of a dwelling unit located on the same lot;
- shall not occupy more than 25 percent of the gross floor area of the dwelling unit and any associated accessory buildings on the same lot;
- shall not create noise, vibration, fumes, odour, dust, glare or radiation which is evident outside the dwelling unit;
- shall not employ more than one employee, in addition to members of the household;
- shall not involve the outdoor storage, or outdoor display of materials or finished products;
- shall not consist of an occupation that involves the sale of a commodity not produced on the premises, except that telephone or mail order sales of goods is permitted;
- if involving instructional activity, shall not be occupied by more than four students at any one time for such an activity; and,
- shall not require receipt or delivery of merchandise, goods or equipment by other than a passenger motor vehicle or by parcel or letter carrier mail service using motor vehicles typically employed in residential deliveries.

Additional considerations that Markham may wish to address include:

- List not permitted uses such as manufacturing, animal grooming and care, food production, auto related uses, and perhaps medical offices in multi-unit buildings.
- Determine whether to include a private home day care as a home occupation or as a separate use.
- Restrictions/prohibitions on signs and advertising.
- Review provisions for parking, taking into consideration that parking spaces are not necessary to accommodate residents who work at home and may not be necessary for others since parking spaces can be shared with residents. The requirement for additional parking may also negatively impact the streetscape, undermine Markham's economic development objectives and run counter to Markham's policy of reducing car use.

### 13.4 Summary Feedback from Public Consultations

There was one comment made at the November 2, 2015 public open house stating that a welding business operated from a garage is disruptive and should not be considered a home occupation. There were also comments made by Councillors at the Development Services Committee presentation regarding the disruption to the neighbourhood caused by certain home occupations such as hair salons that rely on many customers coming and going. Another Councillor raised concerns that restricting outdoor storage for home occupations may inhibit certain types of appropriate activities such as floral arranging and storage.

# 14 Infill Housing

## 14.1 Introduction

Infill zoning standards were reviewed to provide guidance for the new comprehensive zoning by-law to regulate infill development in established neighbourhoods in order to ensure compatibility with the pattern of existing development. This builds on previous work completed by the City in 2010 and 2012, reviewing the implications of infill housing on a number of parent by-laws, as well as regarding specific neighbourhoods such as Sabiston/Oakcrest/Riverbend, Hughson Drive and Varley Village.

For the most part, the infill standards examined address the redevelopment of individual properties within established neighbourhoods. However, these standards would also apply to larger lots which could be subdivided and require a plan of subdivision for redevelopment to occur within established neighbourhoods.

The redevelopment of houses within established residential neighbourhoods, is a trend that the City of Markham has been increasingly experiencing for approximately the past two decades. Typically, older, established neighbourhoods are characterized by generous lot sizes with an original and predominant building form that is much more modest than today's low rise residential buildings. A number of houses in these established neighbourhoods have been demolished and rebuilt, or altered, and in many cases, have resulted in an increase in the total gross floor area. This has raised concerns with local resident with respect to the compatibility of these larger homes with existing neighbourhoods and the impact of these homes on the character of the area.

In addition, severances of larger lots in established neighbourhoods have also raised some concerns regarding the compatibility of the newly created smaller lots with the predominant pattern of existing larger lot sizes in the area. The redevelopment of established residential neighbourhoods, as described above, was largely made possible because the

zoning by-laws, enacted at the time that these earlier neighbourhoods were created, did not include a full range of regulations to control new development to adequately fit in with the then established pattern of development.

Markham Council responded in the early 1990's with a series of amending infill oby-laws for certain established neighbourhoods, identified based



Infill townhouses, Ottawa, ON (Source: Gladki Planning Associates).



Infill walk-up apartment, Oxford, UK (Source: Gladki Planning Associates).



Infill townhouse, Malmö, Sweden (Source: Gladki Planning Associates).

on public input and Council direction, to ensure compatibility of redevelopment and to help maintain the character of neighbourhoods experiencing development pressures. More recent by-laws for low rise residential areas developed after the 1990's, have incorporated regulations that fit these areas better, directly into the body of the zoning by-laws, and thus have generally not been subject to the same concerns regarding the compatibility of infill development.

It is clear that Markham's original neighbourhoods have evolved and undergone some change over the years. In some cases what was once an area of one storey homes has evolved to become a mix of one and two storey homes that coexist quite well together. In other areas some lots have been severed and built on to create a greater variety of lot sizes and building conditions. Markham's zoning and infill standards have also evolved to reflect these changes. These standards will need to be captured in the new comprehensive zoning by-law. Some of these changes are reflected in studies on lot severances and infill standards that have recently been completed.

A number of other municipalities in the Greater Toronto Area also passed similar by-laws during this time period to respond to the same trends. The types of controls that were introduced at the time affected the massing and height of buildings, setbacks from the street, placement of the building on the lot, location of driveways and garages.

For the purpose of Markham's new comprehensive zoning by-law project, the amending by-laws affecting residential neighbourhoods established before 1990, were reviewed and compared to similar by-laws passed around the same time in other Ontario municipalities to determine potential options to address concerns related to infill development. More recent Markham infill studies for Sabiston/Oakcrest/Riverbend, Hughson Drive and Varley Village were also reviewed to assess how standards have evolved to fit particular circumstances.

The regulations and standards for the new zoning by-law will need to incorporate the considerable work that has already been completed over the years on infill zoning in the various parts of Markham, updated to reflect current circumstances. In all instances, compatibility with the predominant character of development in the area will be the guiding principle. The issue will be to determine how many standards need to be applied in each area. For certain areas where Official Plan infill policies or Heritage Conservation Plans exist, such as Berczy Village/Wismer Commons/ Greensborough/Swan Lake, Markham Village, Markville, Thornhill and Old Unionville, the regulations in the new by-law will reflect the relevant standards already in place for these areas. In other areas standards may need to be updated to reflect the evolution of the area.

An important consideration in addressing infill standards for the new comprehensive by-law is that these regulations and standards need to be as simple as possible in order to make them easily understood by the residents of Markham's neighbourhoods, who will be most directly affected by them.

## 14.2 Policy Context

Section 8.2.3.5 of the new Official Plan contains policies relating to infill development that directly affect development approvals for redevelopment within established residential neighbourhoods. Although this section is directed at development approvals such as zoning by-law amendments, site plan approvals, plans of subdivision and severances, the policies can also assist in providing guidance when crafting regulations for the new zoning by-law. The following sub-sections of 8.2.3.5 provide such guidance and direction in the formulation of zoning standards for established residential zones:

- compatibility of lot frontages and lot areas with adjacent lots (minimum lot frontages and

lot areas);

- height, building mass and scale that is consistent with adjacent sites (maximum height limits, maximum lot coverage, possibly floor space limitations);
- consistent minimum front and rear yard setbacks, adapted to each neighbourhood;
- minimum interior side yard setbacks that increase as the size of the building increases; and
- limiting garage and driveway widths.

The other subsections in 8.2.3.5 address issues that can be best achieved through site plan approval, plan of subdivision or the application of other City by-laws such as the Tree By-law.

There are specific policies referred to in the introductory statement to Section 8.2.3.5 regarding infill zoning in Berczy Village/Wismer Commons/Greensborough/Swan Lake, Markham Village, Markville, Thornhill and Unionville. The specific requirements for these areas will need to be carried forward into the new zoning by-law.

There are also general policies in Section 6 of the Official Plan which speak to the placement of buildings and the relationship of buildings to their context which have some implication for infill housing. For example, Section 6.1.8.2 states that the policy of Council is “to design and place buildings on sites based on their relationship to their location and context, their character and use, and their ability to enhance existing site conditions and positively contribute to adjacent development and the public realm”. Section 6.1.8.4 states, in part, that buildings be designed and situated on a site to address continuity of building placement and minimize the appearance of garage entrances and provide screening of parking along public streets. These objectives can be addressed by applying a range of

appropriate standards as summarized below, adapted in each case to reflect local circumstances.

### 14.3 Summary of Options

Markham’s infill zoning by-laws include standards that reflect the characteristics of areas to which they apply. Some of these standards are similar for all low density residential areas; others vary from area to area or for different building and/or lot types. These variations should inform the standards that will apply in the residential zones that are created for these areas as part of the new comprehensive zoning by-law.

The following list summarizes infill zoning regulations that will need to be assessed as part of the new comprehensive zoning by-law to determine if and where they should be applied.

- The relevant requirements for infill zoning standards in Berczy Village/Wismer Commons/ Greensborough/Swan Lake, Markham Village, Markville, Thornhill and Unionville will need to be carried forward into the new zoning by-law, to comply with the policies of the new Official Plan.
- The conclusions of other approved infill by-laws as well as studies, some of which are specific to particular areas, should provide the basis for incorporating standards into the new by-law on an area by area basis.
- In preparing the new zoning by-law, a decision will need to be made on whether to continue to have infill by-law overlays as is currently done in a number of areas in Markham. This approach could make the zoning by-law somewhat cumbersome to navigate. Alternatively Markham can decide to simply incorporate the standards directly into the new comprehensive zoning by-law, adapted to fit each particular zone.

- Heights - Markham's current infill by-laws attach heights to the infill standards. Markham may decide to continue with this practice. However, if there are going to be height limits across all zones, (residential, mixed use, commercial and employment) Markham may decide to adopt the practice used in other municipalities and show maximum height limits on zoning maps covering the whole municipality. Heights should be measured in a consistent way for low density residential areas and should reflect the characteristics of the local area. Also a decision will need to be made whether to have separate height restrictions for flat roofs compared to peaked roofs or whether to measure height to the mid-point of a peaked roof as is done in a number of other municipalities.
- Number of storeys - Markham may wish to include the maximum number of storeys as part of its regulations (two and half or three storeys), if the outward appearance of storeys at the front of the buildings is considered an essential planning and design objective. However, this approach will need to be weighed against the possible confusion created by having two similar measures, height and storeys, which could at times result in conflicts. Another option would be to include only a limit on height, not on the number of storeys, but to adjust the height measure to simulate the desirable number of storeys in each zone.
- Setbacks and minimum lot frontages - Setback and lot frontage limits are included as controls for most zones in Markham's parent zoning by-laws and are critical elements in determining and controlling the pattern of lot configuration and the footprints of residential buildings to ensure compatibility with other lots and buildings. Lot frontage requirements, as well as front, rear, interior and exterior side yard setbacks, need to be included in the new zoning by-law for all low rise residential zones and adjusted to reflect existing local conditions.
- Depth of buildings - This is a useful control for limiting overlook and shadowing into adjacent back yards. Markham may wish to vary the building depth by zone to reflect differences across the City, where appropriate, as is done in other municipalities. To do this will require an area by area assessment. Markham's infill studies recommended a depth limit of 16.8 metres with the possibility of a narrow, one storey extension to 18.9 metres.
- Garage projections - Controls on garage projections may not be necessary if the main buildings are built to the limit of front yard setbacks and garages are subject to the same setbacks. In some cases, it may be appropriate to not permit any garage projections. Where controls on garage projections are appropriate because the main building is set back further than the front yard setback, the approved restrictions in the infill by-laws (maximum 2.1 metre garage projection) could provide guidance on this issue for the new comprehensive zoning by-law.
- Garage widths - The existing standards for garage widths in Markham's existing by-laws vary from zone to zone. The new by-law will likely need to take into account these differences to accommodate varying lot sizes, building types and frontages.
- Floor Area - Applying Markham's FAR standard in the existing parent zoning by-laws, which requires calculating net lot area, is very complicated and produces uneven results for determining permitted floor area. If the intent is to limit the amount of floor area and to relate it to the size of the lot, then a

better, similar but simpler, measure would be to apply a floor space index standard (FSI), which relates the ratio of gross floor area of a building to the size of the lot. This measure is used and defined in Markham's new Official Plan. On the other hand, Markham may decide that neither an FSI nor an FAR limit is necessary in established low rise residential neighbourhoods to control building bulk and footprint, since this can be more effectively achieved through a combination of controls on setbacks, heights, building frontages, building depths and lot coverage.

- Lot coverage - This type of regulation can be useful to provide certainty regarding the footprint of a building in a residential area. As with all of the other standards examined in this report, if restrictions on lot coverage are included as part of the New Comprehensive Zoning By-law, they will need to be calibrated to reflect local circumstances. Markham's current parent zoning by-laws have coverage limits of between 25 and 35 percent. In some other municipalities the limits are as high as 50 percent.

## 14.4 Summary Feedback from Public Consultations

There were a number of comments and questions raised at the public open houses regarding options for regulating infill housing in the new comprehensive zoning by-law. These include:

A question about how density would be calculated since the current method of calculating the floor area ratio is confusing. In response the consultant team stated that the preferred approach is to use the method adopted in the Official Plan, which relies on a definition of floor space index.

A question regarding whether the amount of required open space would be the same across the City. The response is that that open space requirements would be varied across the City to reflect the local context.

A concern that townhouse developments on private roadways are allowed to develop on 14 metre right of ways whereas public roads require a minimum of 19.5 metres. Standards for townhouses on private roadways will be investigated further, but not as part of the zoning by-law project.

A concern that infill developments, particularly additions or major alterations to individual houses, take a long time to complete causing extended periods of disruption for neighbours. The consultant team responded that this is not something that can be controlled through the zoning by-law.

# 15 Interface Between Residential and Non-Residential Uses

## 15.1 Introduction

There are a number of different ways of addressing the interface between residential and non-residential uses in zoning by-laws. In some cases interface issues are best addressed by restricting the types of non-residential uses that may locate adjacent to zones that permit residential dwellings to ensure compatibility, by either not allowing incompatible uses in the adjacent non-residential zones, or imposing setbacks on some uses (from both single use residential and mixed use zones).

Compatibility is also addressed by regulating built form through height limits, setbacks and angular plane restrictions. In addition, by-laws may include standards that require enclosed loading spaces and garbage storage areas and/or providing landscaped buffers. A combination of all of these approaches is usually employed to achieve compatibility. These approaches are examined in this section.

A number of Markham's existing parent zoning by-laws impose some constraints and conditions on non-residential uses located adjacent to residential zones. These regulations are distributed throughout the by-laws and not part of any one section that deals with compatibility issues.

A review of other recently prepared Ontario municipal zoning by-laws illustrates how various municipalities have incorporated provisions and regulations in their zoning by-laws to address the interface between non-residential and residential uses. Some of these provisions and regulations are found in the general provisions sections and others in sections dealing with specific zones. An assessment of how these may inform the Markham's new comprehensive zoning by-law are provided below, in the summary of options.

## 15.2 Policy Context

Planning matters in Ontario need to be consistent with the Provincial Policy Statement. The 2014 Provincial Policy Statement represents the most relevant planning policy framework to guide the drafting of the new zoning by-law.

Section 1.2.6.1 of the 2014 Provincial Policy Statement states that "major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long term viability of major facilities". "Major facilities", "sensitive land uses" and "adverse effects" are defined terms.

"Major facilities" that are relevant for Markham include such things as airports, transportation infrastructure, rail facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems." Sensitive land uses" include parts of the natural or built environment such as residences, day care centres and educational and health facilities. "Adverse effects" is defined in the same way as in the Environmental Protection Act and generally refers to impairment or harm to the natural or human environment.

The emphasis of this policy is to ensure the viability of major facilities and to address public health and safety, which has implications for separation distances between major facilities and sensitive land uses in the new comprehensive zoning by-law. These have been addressed in the new Official Plan. Options for incorporating appropriate standards into the new comprehensive zoning by-law to reflect this direction are summarized below.

Markham's new Official Plan represents a departure from the previous Official Plan by introducing extensive areas and policies for mixed

use development. This provides for the mixing of residential and non-residential uses (such as retail and office), which can coexist within the same designation and, by extension, the same zone. The residential and non-residential uses included in these designations, and the future zones in these areas, are considered to be compatible with each other. Some of the policies for these mixed use designations address the interface between residential and non-residential uses. For example, Section 8.3.1.4 h), which identifies development criteria within these designations, states that “loading and parking spaces shall be screened from public view and buffered so as to reduce impacts on lands designated Residential” and Section 8.3.1.4 i) states that “landscaped buffers shall be provided adjacent to residential uses”.

Other development criteria for lands designated mixed use emphasize compatibility of built form which, while not directly addressing the interface

between residential and non-residential uses, has implications for the massing of buildings and height transitions between lands designated mixed use and adjacent residential low rise areas. Section 8.3.1.4 d) directs height and density in mixed use areas away from low rise designations. Section 8.3.1.4 e) states that development in mixed use areas needs to respect angular planes from areas designated for low rise development. Section 8.3.5.1 has a similar policy regarding the transition in height and massing between Mixed Use Office Priority areas and adjacent Residential Low Rise and Residential Mid Rise areas.

There are also policies that speak directly to the interface between residential and non-residential uses in sections of the Official Plan dealing with Commercial designations and Employment Lands. Policy 8.4.1.7 l), which establishes development criteria on Commercially designated lands, states that “landscaped buffers will be provided adjacent to



Aerial image demonstrating land use separations, GTA. (Source: Gladki Planning Associates).

residential uses”. Other policies in this section speak to built form compatibility, similar to the policies for mixed use designations described above.

Policy 8.5.1.2 speaks to criteria that must be met before considering a site specific zoning by-law amendment for locating a “sensitive land use”, such as a residence, day care facility or place of worship, within an area designated as Employment Lands. Policy 8.5.1.6 k) states that “loading and parking facilities shall be buffered so as to reduce the impacts on lands adjacent to residential uses”. Policy 8.5.1.6 m) states that “landscaped buffers shall be provided adjacent to residential uses”. There are also policies regarding the compatibility of built form in these areas and adjacent areas, similar to policies for mixed use designated lands.

Section 3.4.2.4 states that sensitive land uses such as day care centres and public schools should not be located near significant known air emission sources including the provincial 400 series highways.

Policy 7.1.7.2 states that it is Council policy “to protect rail corridors from the encroachment of incompatible land uses that are sensitive to the noise, vibration and possible safety hazards associated with rail operations by imposing separation distances and/or forms of screening or buffering”. There are also statements in Section 7.2.3.7 requiring buildings or structures adjacent to the Trans Canada Pipeline or a natural gas compressor station to locate a minimum setback from the pipeline right of way, as determined by Trans Canada Pipelines and the National Energy Board, and to consult with Trans Canada Pipelines if the development is planned within 200 metres of the pipeline right-of-way or natural gas compressor station.

Section 8.1.6 requires all uses on lands adjacent to the Greenway, Hamlets and Countryside to comply with provincial minimum distance separation formulae which are developed by the Province to separate uses

so as to reduce incompatibility concerns regarding odours from livestock facilities.

In summary, the main zoning by-law implications in the new Official Plan regarding the interface between residential and non-residential uses are:

- to provide a setback from rail corridors and the Trans Canada Pipeline;
- to separate sensitive land uses from known air emission sources such as the 400 series of highways;
- In mixed use designations to provide landscaped buffers and screen parking and loading areas from residential uses and zones, as appropriate;
- to provide a landscaped buffer and to screen and buffer parking and loading areas for development in areas designated Commercial and Employment Lands that are adjacent to residential areas or uses; and
- to apply provincial minimum distance separation formulae regarding livestock facilities.

## 15.3 Summary of Options

The Ontario municipal zoning by-laws that have been reviewed include a number of common measures to address the interface between non-residential and residential uses. The differences are mainly in how they are incorporated into the by-law (i.e. which section) and differences in the actual numerical standards. An assessment of the implications for Markham’s new comprehensive zoning by-law is provided under the headings below.

### **Setbacks from Highways, Rail Corridors and Pipelines**

All of the municipal zoning by-laws as well as Markham By-law 177-96 and other Markham zoning

by-laws include setback requirements from provincial highways, railway corridors and pipelines in the general provisions section of their by-laws. The 14 metre setback from provincial highways, that is included in municipal zoning by-laws and is currently in effect in a number of Markham zoning by-laws, is based in provincial standards, and does not represent applicable law. It is therefore not required that this setback provision be included in Markham's zoning by-law. However, incorporating this setback in the new comprehensive zoning by-law would represent a continuation of current practice in Markham and implement Official Plan policy 3.4.2.4 which states that sensitive land uses such as day care centres and public schools should not be located near significant known air emission sources including the provincial 400 series highways.

The 30 metre setback for development from rail corridors has been accepted as general practice by municipalities in their zoning by-laws, including Markham, for a number of years. Railway operators have insisted that by-laws incorporate this restriction. In addition to continuing current practice in Markham, such a requirement in the zoning by-law would also implement policy 7.1.7.2, of the Official Plan which is to protect rail corridors from the encroachment of incompatible land uses by imposing separation distances.

Oakville requires buildings to be set back 7 metres from the Trans Canada pipeline. In Hamilton the setback is 10 metres. Section 7.2.3.7 of Markham's Official Plan states that buildings or structures adjacent to the Trans Canada Pipeline or a natural gas compressor station be located a minimum setback from the pipeline right of way, as determined by Trans Canada Pipelines and the National Energy Board. Based on current practise in other municipalities, a setback of between 7 and 10 metres would appear appropriate in the new comprehensive zoning by-law.

### **Prohibited Uses Next to Residential Zones**

The preferred approach for prohibiting specific uses in areas or zones is to include a general provision in the zoning by-law which states that all uses not listed as permitted in any zone shall be prohibited in that zone. However, it may still be appropriate to include a prohibition for some specific uses (which are otherwise permitted in a particular zone), next to residential zones in the new comprehensive zoning by-law. For example, Oakville prohibits a retail propane transfer facility, a drive-through facility, a motor vehicle body shop, dealership or washing facility, outside processing, outside storage and heavy vehicle parking next to a residential zone. These restrictions are located in the sections of the by-law dealing with provisions for the particular zones which allow these uses and may abut residential zones.

One option for Markham is to follow Oakville's example on this issue and restrict certain specific uses adjacent to residential zones. Another option is to only impose appropriate setback requirements on certain uses from residential zones. A third option is to have some combination of the two. Any one of these options can achieve a similar result, although prohibiting the uses adjacent to residential zones eliminates the need to calculate the appropriate setback for these uses from a residential zone, so this may have some advantages.

### **Setbacks for Non-Residential Uses from Residential Zones**

All municipal zoning by-laws include setback requirements from residential zones for a waste processing station of between 300 metres (Hamilton in its general business park zone provisions) or 800 metres (Oakville and Mississauga in the general provisions section of the by-law). Mississauga includes a table with setbacks from residential zones for a variety of non-residential uses in its general provisions section of its by-law. Oakville also includes requirements for setbacks from residential zones for

adult entertainment establishments (800 metres) in its employment zones section, drive-throughs (15 metres) and surface parking facilities (7.5 metres) in its parking and loading section. Hamilton, in a number of its non-residential zone sections, requires buildings or structures used for manufacturing to be set back 20 metres from residential zones and that outdoor storage be set back 20 metres from residential zones.

Markham will need to decide what kinds of setbacks from residential zones are appropriate for particular uses. Waste management facilities and waste transfer stations seem to be likely candidates for setback requirements with a minimum range of between 300 to 800 metres, based on the practices of other municipalities. Other sets of uses that may be considered for setbacks from residential zones include animal boarding establishments, restaurants, adult entertainment uses, composting facilities, propane storage, automobile related uses, outdoor loading, outdoor storage, outdoor garbage disposal, drive-through facilities and manufacturing.

Mississauga's approach of placing the setback requirements for various uses in the general provisions section of its by-law seems to have merit, but this approach also requires that there be a cross reference to other sections of the by-law where these uses are mentioned, to ensure a comprehensive understanding of the requirements. Another approach would be to only include these setback requirements within the zones that these uses are permitted. If a use is permitted in more than one zone there will be some repetition.

The inclusion of setback requirements from residential zones for particular uses will need to be coordinated with the prohibition of certain uses adjacent to residential zones (if this approach is adopted), to ensure that there is no duplication or overlap.

### **Setbacks from Interior Side and Rear Lot Lines**

All municipal zoning by-laws have setback requirements in non-residential zones from residential

zones for interior side and rear lot lines. Markham's By-law 177-96 requires a three metre setback for the interior side yard in NC zones abutting a residential zone. Other Markham By-laws require interior side yard and rear yard setbacks of between three and six metres for a number of non-residential zones where they abut residential zones. Other municipalities include similar provisions in the sections of their by-laws dealing with requirements for particular non-residential zones ranging from three to 15 metres depending on the zone. Markham will need to determine the appropriate interior side and rear lot setbacks from residential zones for its non-residential zones based on contextual characteristics and compatibility of uses.

### **Landscaped Buffers (widths, strips)**

The width of required landscaped buffers in industrial zones adjacent to residential zones varies by municipality and zone from between three to 7.5 metres. Markham's By-law 177-96 requires three metres of landscaping in a number of industrial zones that are adjacent to residential zones. Other Markham existing by-laws require between three to six metres of landscaping in industrial and commercial zones adjacent to residential zones.

Mississauga does not include a distinct landscape requirement for non-residential zones adjacent to residential zones that is different from the general landscape width required in each zone. Oakville includes its landscape width requirements in the general provisions section of its by-law while Hamilton includes these provisions in the sections dealing with each specific zone. All approaches have merit. The actual landscaping width that is appropriate in the various non-residential zones in Markham will need to be determined based on local circumstances, but taking account of Markham's past practice and a review of other municipal by-laws, three metres appears to be the norm.

### **Provincial Minimum Distance Separation Formula**

To comply with section 8.1.6 of its Official Plan Markham will need to include a provision in its new comprehensive zoning by-law to reflect the provincial minimum distance separation formulae for agricultural uses regarding odour and livestock facilities in zones where agricultural uses are permitted. Oakville has included this requirement in its environmental zones.

### **Visual Barriers**

Hamilton includes a requirement that there be visual barriers provided in a number of its non-residential zones for properties adjacent to residential zones. No other municipality includes such a requirement in its by-laws. Markham may wish to rely on requirements for landscaping and setbacks in its zoning by-law to address separation, while leaving details regarding such matters as visual barriers to site plan review. This would avoid having to define “visual barrier” in the zoning by-law and specifying heights, materials etc. all of which may need to be adapted differently to address local circumstances.

### **Limit on Floor Areas of Certain Non-Residential Facilities Next to Residential Zones**

Oakville limits the floor areas of sports facilities within 100 metres of a residential zone and Mississauga limits non-residential floor areas to 2,000, 12,000 or 300 square metres for properties in certain non-residential zones located next to residential zones. These limits seem to respond to particular circumstances, but there may also be instances in Markham where this type of restriction makes sense. Whether this is the case and where it may make sense will need to be assessed based on geography and local circumstances.

## **15.4 Summary Feedback from Public Consultations**

There were suggestions made at the December 8, 2015 public open house that there should be minimum separation distances between medical marihuana facilities, located in employment or industrial zones, and residential areas.

# 16 Affordable Housing, Shared Housing and Secondary Suites

## 16.1 Introduction

The City of Markham is committed to promoting affordable and shared housing opportunities and providing an appropriate and adequate range of housing choices, with a diversity of housing types, tenure and affordability levels to accommodate the needs of all residents and workers. The City has made considerable progress towards this goal over the past decade by identifying its housing needs, reviewing current policies and practices, consulting with stakeholders, and establishing priority actions to increase housing choices.

Municipalities in Ontario have the ability to promote affordable and shared housing primarily through the development of official plan policies, as well as zoning by-laws to help implement these policies. From a zoning perspective, among the range of regulatory tools available for municipalities to direct development and promote the availability of affordable and shared housing, the most useful relate to permitting secondary suites, and establishing standards for shared housing.

In June 2014, York Region approved Markham's new Official Plan policies which support affordable and shared housing<sup>1</sup>. The New Comprehensive Zoning By-law Project provides an opportunity to evaluate the existing zoning framework and assess zoning approaches that will enable the City to move forward to achieve the 2014 Official Plan's affordable and shared housing goals.

### What is Affordable Housing?

In Markham's Official Plan affordable housing is aimed at households in the lowest 60 percent of the income distribution in Markham who are likely experiencing affordability challenges because they have to spend more than 30 percent of their income on ownership or rental housing. In particular, households in the lowest 30 percent of the income

distribution in Markham, whose needs are not being met by the private market, require publicly financed social or assisted housing.

### What is Shared Housing?

The Official Plan identifies shared housing as a form of housing where individuals share accommodation either for economic, support, long term care, security or lifestyle reasons. In some cases, shared housing has no support services attached such as students, seniors or other unrelated individuals choosing to live together to share the cost and/or maintenance of housing. In other cases, shared housing may have various levels of support and services for persons with special needs which may include assistance with daily living, housekeeping, counselling, medication, etc.

### What is a Secondary Suite?

A secondary suite is a common name for an accessory apartment or another form of a secondary residential unit which is located in a detached house, semi-detached house or rowhouse (townhouse).

## 16.2 Policy Context

Municipalities in Ontario must respond to a number of provincial and municipal regulations when making planning decisions around affordable and shared housing. Key regulations include:

### *Planning Act, 1990*

The *Planning Act* sets out the ground rules for land use planning and development in Ontario and provides a range of land use planning tools that municipalities can use to promote housing choices, such as the authority to pass zoning by-laws. *Bill 140: the Strong Communities through Affordable Housing Act* recognized affordable housing as a matter of provincial interest and amended various sections of the *Planning Act* to promote affordable housing opportunities. Among other provisions, the

<sup>1</sup> Certain policies of the Plan remain under appeal at the Ontario Municipal Board (as of September 2015).

*Planning Act* requires municipalities to establish policies allowing secondary suites in detached, semi-detached and townhouses, or as accessory units in new and existing developments to further expand affordable housing options.

The *Planning Act* also prohibits zoning by-laws to distinguish between persons who are related and persons who are unrelated in respect of occupancy or use of buildings. In other words, municipalities cannot in any way restrict a group of unrelated persons from occupying a dwelling as a single housekeeping unit.

#### *Provincial Policy Statement, 2014*

Under the *Planning Act*, the Minister of Municipal Affairs and Housing may issue provincial statements on matters related to land use planning that are of provincial interest. The Provincial Policy Statement (PPS) contains overall policy directions on matters of provincial interest related to land use planning and development. Among other things, the PPS directs planning authorities to provide an appropriate range and mix of housing types, permit and facilitate all forms of residential intensification including secondary suites, and promote densities for new housing in mixed use communities that are located close to transit and other support services. The PPS also instructs municipalities to remove land use planning barriers to housing for groups such as disabled persons and seniors.

#### *York Region Official Plan, 2010*

The Regional Official Plan, approved by the Regional Municipality of York in 2010, outlines a number of key policies related to the provision of affordable housing, including secondary suites.

#### *Markham Official Plan*

Markham's Official Plan (OP) provides guidance for future development and growth management in Markham as an urban, sustainable, diverse and socially responsible municipality. Chapter 4 of the Official Plan outlines housing objectives to

increase the diversity of housing type and tenure, and affordable housing options to contribute to the liveability of neighbourhoods and the quality of residents and ensure a stable workforce. Chapter 8 outlines a range of residential and mixed use land use designations which provide for shared housing small scale, shared housing large scale, shared housing long term care and shared housing supervised and secondary suites as well as specific use policies applying to these forms of affordable and shared housing.

#### Other Plans, Policies and Regulations

Among other regulations that provide direction on the implementation of municipal housing policies and initiatives is the Ontario *Human Rights Code* (the Code), which takes precedence over all other legislation<sup>2</sup> and aims to protect and promote human rights and ensure that every individual has the right to equal treatment, including equal opportunity to access housing and the benefits associated with it, without discrimination.

Other non-zoning specific legislation that must be considered by municipalities in developing housing policies, including policies for secondary suites are:

- the *Municipal Act* (2001);
- the *Residential Tenancies Act* (2006);
- the *Local Health System Integration Act* (2006);
- the Provincial Long-Term Affordable Housing Strategy;
- regional plans and guidelines such as:
  - York Region's 2014 Housing Plan (Housing Solutions: A Place for Everyone); and
  - the Regional Affordable Housing Measuring and Monitoring Guidelines (2015);

<sup>2</sup> Unless the legislation specifically states differently.

- the *Building Code Act* (1992);
- the *Residents' Rights Act* (1994);
- Ontario Regulation 384/94;
- the *Land Use Planning and Protection Act* (1996); and
- the *Fire Protection and Prevention Act* (1997).

### City of Markham Policy Initiatives

The City of Markham has made extensive efforts towards developing a policy framework to promote affordable and shared housing options for its residents and workers. Beginning in June 1999, Council launched a series of initiatives that included establishing a Task Force on Affordable Housing, holding public forums to obtain input from residents, directing staff to prepare a strategy for secondary suites and retaining consultants to provide additional recommendations on affordable and shared housing issues. Some of the key initiatives that were undertaken subsequently include the Affordable and Rental Housing Strategy (2003); the Housing Stock



The *Planning Act* requires municipalities to establish policies allowing secondary suites in detached, semi-detached and townhouse units. Port Credit, Mississauga (Source: Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing).

Analysis (2005); the Intensification Strategy (2007); the Affordable and Special Needs Housing Strategy Study (2010); and the Shared and Supportive Housing Policy Review (2011). In April, 2011, Council released a Draft Affordable and Special Needs Housing Strategy for public review and comment.

### Current Zoning By-law Regulations

Although the key forms of shared housing can be found in different zoning by-laws across the City, currently Markham does not have a consistent approach to zoning permission for most shared housing forms including long-term care homes or residential care facilities, private retirement residences, rooming houses or boarding houses, lodging houses, and group homes. Secondary suites are generally not permitted in Markham under existing zoning by-laws, except in specific areas where the zoning permits them (Markham Centre), or where a secondary suite existed on November 16, 1995 and is recognized (grandfathered) as a permitted use under provincial legislation. Markham currently requires that houses containing a permitted secondary suite be registered with the City and comply with building and fire safety codes and property standards.

Zoning By-law 177-96 (the New Urban Area By-law for OPA 5 communities) covers the majority of greenfield development areas of Markham. It contains two definitions that relate to long term care homes or residential care facilities and private retirement homes. By-law 177-96 also contains provisions for accessory dwelling units in Cornell, Cathedral Town and the West Cathedral Community, and provisions for accessory dwelling units as an additional permitted use associated with detached private garages.

Zoning By-law 2004-196 (Markham Centre) contains zoning provisions that aim to facilitate intensification in the downtown core of Markham. This approach is in line with that of other municipalities in Ontario that are working to promote increased housing opportunities and the provision of a range of housing

options to benefit diverse populations. By-law 2004-196 does not make any specific references to shared housing forms, and does not explicitly provide for boarding houses, rooming houses, or dormitories, although these terms are included in the by-law's definition of "suite". The by-law permits secondary suites (referred to as accessory dwelling units) in certain zones in Markham Centre.

In 2008 the City worked on developing a draft Secondary Suites Zoning By-law. The draft by-law was an outcome of the work conducted by City staff from 2003 to 2009 as part of Markham's Strategy for Secondary Suites. The proposed Secondary Suites Zoning By-law was not adopted by Council, however, it reflected a thorough consideration of key issues associated with secondary suites in Markham.

## 16.3 Summary of Options

### Shared Housing

#### *Definitions*

Different forms of shared housing may require regulations that address specific elements inherent to that particular housing form. This requires distinguishing between different uses in the zoning by-law. Developing appropriate definitions can be challenging, however, particularly in terms of achieving consistency in the definition of the various terms amongst the Official Plan, zoning by-laws, licencing by-laws, as well as other relevant regulations such as the *Building Code* and the *Fire Code*. Municipalities have had to respond to changing contexts, such as changes in definitions adopted by provincial acts and policies, including changes aimed to ensure that no groups are discriminated against through the zoning process.

The City of Markham has dealt effectively with some of these challenges in the Official Plan by adopting broad definitions that group shared housing forms, with different categories based on scale and need

for supervision and care. Options for Markham to consider in its comprehensive zoning by-law include:

- Breaking down the Official Plan definitions of shared housing into further sub-categories in the zoning by-law to include group homes, rooming houses or boarding houses, lodging houses, long-term care homes or residential care facilities, and private retirement homes;
- Distinguishing between the definition of group homes and crisis care/residential care facilities/emergency and transitional housing; and
- Distinguishing between small and large rooming houses.

### Location Criteria

Given that some forms of shared housing such as rooming and boarding houses are associated with a higher level of intensity of use, municipalities have adopted specific approaches to regulate where they are permitted. It is important to note that according to Section 35(2) of the *Planning Act*, the application of specific zoning regulations for rooming and boarding houses is justifiable only as long as zoning is concerned with intensity of use, and not with the relationship between building occupants (i.e. whether they are related or unrelated), or whether occupants are the building owner or not.

The zoning by-law must implement the policies contained in the Official Plan. Accordingly, the zoning by-law should provide for:

- *Shared housing small scale* in Residential Low Rise, Residential Mid Rise, Residential High Rise, Mixed Use Low Rise, Mixed Use Mid Rise, Mixed Use High Rise, and Mixed Use Heritage Main Street land use designations;
- *Shared housing large scale* in Residential Mid Rise, Residential High Rise, Mixed Use Mid Rise, Mixed Use High Rise, and Mixed Use Office Priority land use designations; and

- *Shared housing long-term care and shared housing supervised* in Residential Mid Rise, Residential High Rise, Mixed Use Mid Rise, Mixed Use High Rise, Mixed Use Office Priority, Mixed Use Heritage Main Street land use designations.

In addition:

- *Shared housing small scale* shall be accommodated within a permitted building type in accordance with all applicable codes, by-laws and regulations; and
- *Shared housing large scale, shared housing long term care and shared housing supervised* shall be permitted only on arterial or collector roads and built in accordance with all applicable codes, by-laws and regulations.

#### *No Separation Distances*

Municipal by-laws that prescribe minimum distance requirements between group homes or rooming houses have faced challenges before the Ontario Municipal Board and the Ontario Human Rights commission, given that this zoning approach is deemed discriminatory and may violate the *Human Rights Code*. As a result, separation distances should not be required for group homes or rooming houses. Separation distance requirements may be considered for crisis care facilities.

#### *Parking Requirements*

Markham will need to make a decision on whether to adjust parking requirements for shared housing units. Evidence shows that parking requirements can increase the cost of development and negatively impact housing affordability. Onerous parking requirements are therefore considered unfair, given their disproportionate burden on lower-income households. Parking requirements should not be used as a way to control the development of affordable and shared housing in certain areas.

#### *Non-Zoning Initiatives-Licensing*

Licensing is normally enforced through a licensing by-law and is used to help ensure that landlords and building owners maintain the property in accordance with minimum standards, including required safety standards. York Region currently licenses lodging houses and operators are required to have a licence from the Ministry of Health and Long-Term Care. If a licensing program is implemented for group homes, boarding or rooming houses, Markham may want to avoid prescribing gross floor area requirements, bedroom caps and minimum separation distances given that such provisions may violate the *Human Rights Code*. Licensing is seen as reasonable when it contains provisions related to fire, garbage and snow removal, maintenance, health and safety standards and parking.

#### **Secondary Suites**

##### *Location Criteria*

The *Planning Act* requires municipalities to identify appropriate areas for secondary suites within both existing and new development areas. Markham's Official Plan establishes that, at a minimum, all areas in the City designated as Residential, Mixed Use and Countryside should provide for secondary suites.<sup>3</sup> At a minimum, the zoning by-law should respond to provincial policy and address the key provisions outlined in Markham's New Official Plan, which include addressing the following:

- the building type in which the secondary suite is contained;
- the percentage of the floor area of the building type devoted to the secondary suite;
- the number of dwelling units permitted on the same lot;

<sup>3</sup> It also establishes that on lands designated hamlets an accessory dwelling be provided for in association with a principal dwelling provided that adequate parking is provided and it is serviced by an individual on-site wastewater system and private well.

- the size of the secondary suite;
- the applicable parking standards;
- the external appearance of the main dwelling.

Markham's 2008 Draft Secondary Suites Zoning By-law contains provisions that are in line with other zoning by-laws that have been recently adopted/proposed by other municipalities in Ontario. It seems appropriate to re-consider the adoption of the Draft Secondary Suites Zoning By-law. The City should also consider whether there are potential constraints on secondary suites in special policy areas within the floodplain or areas with inadequate servicing when developing or reviewing policies for secondary suites.

#### *Building or Dwelling Type*

The *Planning Act* requires municipalities to authorize secondary suites in single, semi-detached and row houses/townhouses, and in buildings ancillary to single, semi-detached and rowhouses/townhouses. At a minimum, Markham must provide for secondary suites in these types of dwellings. If reconsidering the 2008 Draft Secondary Suites Zoning By-law, the Draft should be reviewed and amended to comply with provincial legislation and include a permission for secondary suites in row houses/townhouses.

#### *Number and Dimension of Units*

Most municipalities set restrictions on the number of secondary suites allowed on the same lot and on the dimensions of secondary suites to limit overdevelopment and ensure that the main residential unit continues to be the principal use on the lot. The provisions contained in Markham's 2008 Draft Secondary Suites Zoning By-law are in line with most recently proposed/adopted zoning by-laws. In developing the comprehensive zoning by-law, Markham may consider maintaining these provisions, which establish a maximum of 2 dwelling units on the same lot, a minimum GFA of 35m<sup>2</sup> and a floor area not greater than 45% of the main dwelling's floor area

for the secondary suite.

#### *Parking*

The impact of secondary suites on the availability of on-street parking is a common concern to residents. This issue has been widely investigated and evidence exists demonstrating that secondary suites generally do not generate increased demand for on-street parking. Although some municipalities have introduced parking standards which require accommodation of parking on site, in other cases no parking is required in association with a secondary suite.

The review of parking requirements prepared as part of Markham's new comprehensive zoning by-law project analyses parking provisions in detail and suggests that no additional parking be required for secondary suites in the new zoning by-law. Rather than imposing a blanket provision of one additional parking space for each secondary suite, the new comprehensive zoning by-law may seek to develop conditions or performance measures that would help ensure that satisfactory parking arrangements are in place, and should adopt the example of By-law 2004-196 (Markham Centre), which does not require or permit additional parking spaces for secondary suites.

#### *External Appearance of the Main Dwelling*

Residents are often concerned about exterior alterations to dwellings associated with secondary suites, as these alterations could impact the neighbourhood character. Secondary suites are more likely to be accepted when they are "invisible" and do not impact the main dwelling's external appearance.

The zoning by-law can include regulations to restrict changes to dwelling facades when establishing new units. Markham may choose to maintain the provisions outlined in the 2008 Draft Secondary Suites Zoning By-law, which states that no more than one dwelling unit may be contained within any

main wall facing a streetline, and the entrance to the secondary suite may not be within the garage door.

#### *Non-Zoning Initiatives--Property Standards and Licensing*

A common concern associated with secondary suites is poor property maintenance as a result of situations where the owner does not reside on the property. Markham has considered the implementation of an Internal Property Standards By-law to address property standards in the past. Other approaches that the City may consider is applying licensing requirements only to cases where the owner does not live in the premises, in order to create an incentive for the owner to occupy one of the units in the house, or conduct regular inspections of the property. Health and safety standards can be enforced through the issuance of a building permit that requires compliance with the *Fire Code*, the *Building Code* and other by-laws.



A common concern for residents is that integrity of the main dwelling remain unaltered. Markham (Source: City of Markham).

There is no evidence of any associated negative impacts on municipal services and infrastructure due to the addition of secondary suites to existing neighbourhoods, and therefore this should not be a concern in promoting the establishment of secondary suites.

## **16.4 Summary Feedback from Public Consultations**

There were a number of comments and questions raised at the public open houses regarding affordable housing, shared housing and secondary suites. At the November 5 and December 8, 2015 public open houses one resident had concerns with a residential dwelling near his house which had been converted into a large number of smaller living spaces, but which seemed to still meet by-law regulations regarding dwelling houses. There were no locks on the doors of the smaller living spaces, or these are removed before by-law officers arrive to inspect the building, and for this reason the building is able to meet the description of a residential dwelling and is not regarded as a rooming house. The resident requested that this loophole be closed in the new comprehensive zoning by-law.

These comments generated a fair amount of discussion regarding rooming houses, secondary suites and single housekeeping units. There were some concerns raised regarding affordability of housing in Markham, including the capacity of people to meet very high mortgage payments, but there was no consensus on how to address this challenge. Some participants at the December 8 open house felt that the challenge of housing affordability should not be addressed through changes in the existing stock of single and semi-detached dwellings. There was concern that adding to the population in the existing housing stock, which could happen if secondary suites were permitted, would strain the capacity of the City to provide municipal services.

At the December 8, 2015 public open house, one resident was concerned that a residential dwelling near her house, which was advertised on AirBnB, was being used on weekends as a venue for parties. In her opinion this does not constitute a residential use and should be addressed in the new zoning by-law.

Also, given the concerns raised, certain members of Council requested that staff consider moving forward immediately to address the issues raised regarding short term rental accommodations (e.g., AirBnB's), rooming houses and secondary suites, rather than waiting for the completion of the work on the new comprehensive zoning bylaw.

# 17 Student Housing

## 17.1 Introduction

Markham is currently home to one post-secondary institution, Seneca College and the Province of Ontario has recently approved a proposal that will bring a new satellite York University campus to Markham Centre. The new campus is expected to accommodate 4,000 students in the initial phase, with the potential for additional students over time. Markham's comprehensive zoning by-law review process provides an opportunity for assessing options to address the current and future accommodation needs of students in the City.

Under provincial legislation, zoning by-laws can only regulate housing from a land use perspective. Zoning by-laws cannot distinguish between individuals who may choose to live in certain forms of housing, whether they are students or non-students. Therefore, from a zoning perspective, the only instance in which zoning by-law regulations specific to student housing may be required is in order to regulate purpose-built student accommodation, such as on- or off-campus residences, which may have certain characteristics that distinguish their built form from other buildings. Students may choose to live in other types of housing which are available to anyone including detached, semi-detached, townhouse or other dwelling units as a group of unrelated individuals organized as a single housekeeping unit. There is no possible way of regulating this type of activity specific to students.

Students attending post-secondary institutions often require affordable housing options, preferably in close proximity to campus or in accessible locations (such as along transit routes). Planning for the provision of housing for students, therefore, is largely about responding to these needs through the provision of a range of housing options to meet the demands of a diverse population.

## 17.2 Policy Context

**Zoning by-laws in Ontario cannot distinguish between students, non-students or any individuals or groups of related or unrelated individuals sharing a single household.**

The *Planning Act*<sup>4</sup> sets out the ground rules for land use planning and development in Ontario and provides a range of land use planning tools that municipalities can use to promote housing choices, such as the authority to pass zoning by-laws. In 1994 the *Planning Act* was amended to prohibit municipalities from distinguishing land uses based on the relationship between building occupants, rendering the definition of *family* and any development standard that referred to this definition as unenforceable. As a result, municipalities cannot use zoning as a tool to regulate individuals or groups occupying a dwelling or renting accommodation in a community or neighbourhood.

**Under the *Planning Act*, all municipal decisions affecting land use planning matters shall be consistent with the Provincial Policy Statement, which directs municipalities to provide an appropriate mix of residential secondary units and affordable housing opportunities to meet the projected requirements of current and future residents**

The Provincial Policy Statement<sup>5</sup> (PPS) contains overall policy directions on matters of provincial interest related to land use planning and development. In addition to policies intended to promote a range of housing choices to meet projected requirements of current and future residents in the Region, Section 4.6 states that the Provincial Policy Statement shall be implemented in a manner that is consistent with the Ontario *Human*

4 Government of Ontario. (1990). *Planning Act*. R.S.O. 1990, c.P.13.

5 Ministry of Municipal Affairs and Housing. *Provincial Policy Statement*. Issued under section 3 of the *Planning Act*. April 30, 2014.

*Rights Code* (the Code) and the Canadian Charter of Rights and Freedoms.

**Municipalities in Ontario must ensure that their by-laws, processes and decisions do not target or disproportionately affect groups protected by the Ontario Human Rights Code**

The Ontario *Human Rights Code*<sup>6</sup> aims to protect and promote human rights and ensure that every individual receives equal treatment, including equal opportunity to access housing and the benefits associated with it, without discrimination. The Code takes precedence over all other legislation unless the legislation specifically states differently.

Municipal zoning by-laws, policies, and practices may unintentionally create barriers and discrimination against student housing, perpetuating a position of relative disadvantage for students. Examples include a municipality's actions that directly or indirectly restrict or reduce the availability of low-cost market rental and other affordable housing, which could have an adverse impact on students, and potentially contravene the Code.

*York Region Official Plan*

The Regional Official Plan (ROP), approved the Regional Municipality of York in 2010, outlines a number of key policies related to the provision of housing;

*Markham Official Plan*

Markham's Official Plan (OP) provides guidance for future development and growth management in the City of Markham as an urban, sustainable, diverse and socially responsible municipality. The OP outlines housing policy objectives in Chapter 4 -

Healthy Neighbourhoods and Communities<sup>7</sup>. These policies promote the diversification of the housing stock including secondary suites, a mix of unit sizes, the equitable distribution of affordable and shared housing across Markham's neighbourhoods within permitted building forms, among other goals.

*Markham Zoning By-law 2004-196 as Amended by 2014-138*

The Markham Centre Zoning By-law (2004-196) contains zoning provisions that aim to facilitate intensification in the downtown core of Markham. Its approach is in line with that of other municipalities in Ontario that are working to promote increased housing opportunities and the provision of a range of housing options to benefit diverse populations, including students.

The City of Markham introduced definitions and zoning permissions for a university and college through the enactment of Zoning By-law 2014-138, following the submission of York University's proposal for a new campus in Markham. The By-law permits a college or university to be located within an area identified as Schedule A. It also states that: "Residential uses associated with a college or university are permitted only in a zone where residential uses are permitted as a primary use. The terms "college" and "university" are defined as being publicly funded or publicly assisted.

*Municipal Act*

The *Municipal Act* (2001), which gives municipalities the specific authority to license, regulate and govern businesses operating within the municipality, including those related to rental housing.

6 Government of Ontario. (1990). *Human Rights Code*, R.S.O. 1990, c. H.19. There are a total of 17 Code-protected grounds, among which are age, ancestry, colour, race, citizenship, ethnic and place of origin, creed, disability, family status, marital status, gender identity and expression, receipt of public assistance, sex and sexual orientation.

7 Task 13: Review & Assessment of Affordable Housing provides a full outline of these policies.

## 17.3 Summary of Options

Many municipalities have a long history of efforts to deal with student accommodation, which have generally focused on addressing conflicts resulting from residential intensification within neighbourhoods adjacent to post-secondary institutions. Recently, municipalities have recognized the importance of adopting comprehensive measures that focus on the use of multiple regulatory tools interchangeably, as well as establishing partnerships with post-secondary institutions and the private sector and fostering collaboration with students and other stakeholders.

This approach recognizes that there are limitations in terms of what zoning can do to address the housing needs and challenges of students. The primary zoning measure adopted by municipalities in Ontario is the use of zoning by-laws to regulate rooming and lodging houses. Other examples of zoning measures include establishing specific zones for uses related to post-secondary institutions, directing intensification to specific areas, establishing lower parking requirements for certain uses. Some

municipalities also require licensing for lodging houses and/or rental housing. Other restrictions, such as limiting the maximum number of bedrooms in specific neighbourhoods and establishing minimum separation distance requirements have also been adopted in some cases, although these measures are discouraged since they may contravene the Ontario *Human Rights Code*.

A summary of options for the City of Markham to consider in the development of the new comprehensive zoning by-law is provided below, drawing on six case studies of Ontario municipalities that have addressed student housing issues in their zoning by-laws: Guelph, Waterloo, Kingston, Peterborough, Oshawa and London.

### Appropriate Intensification

The key issue with accommodating students from post secondary institutions is housing pressure on neighbourhoods adjacent to post-secondary campuses associated with an overall lack of adequate housing availability to meet student housing demand. To address this, many municipalities encourage



Student housing in Oshawa developed at the intersection of arterial roads. (Source: <https://www.americancampus.com>)

residential intensification in specific locations, such as arterial corridors, mixed-use areas and Central Business Districts, through zoning by-laws that direct intensification to these areas. The Markham Centre Zoning By-law already provides a solid zoning framework to promote residential intensification in specific areas in Markham.

Other options related to intensification include:

- Implement zoning provisions to provide for development associated with the university on university campuses and some adjacent lands.
- Implement zoning provisions to regulate the development of purpose-built student accommodation such as student residences.

### **Rooming and Lodging Houses**

In municipalities with university and college campuses, rooming and lodging houses have provided one form of off-campus accommodation for students. Rooming and lodging houses are associated with a higher level of intensity of use than other uses in typical low rise residential neighbourhoods. In order to promote compliance with minimum health and safety requirements, most municipalities establish specific zoning by-law regulations for rooming and lodging houses and enforce other regulations such as the property standards and noise by-laws, and the *Building Code* and *Fire Code*. Options for Markham include:

- Define rooming and lodging houses.
- Establish lodging house categories, by number of lodging rooms.
- Determine in which zones the different categories of rooming and lodging houses should be permitted and/or designate a special zone for rooming and lodging houses or restrict rooming and lodging houses in certain locations.

- Enhance enforcement of by-laws such as property standards, noise control, parking, etc.

### **Parking**

Irregular parking issues arise when dwellings do not have sufficient parking area to accommodate incoming residents, particularly in low-rise residential areas undergoing intensification. On the other hand, student demand for parking is often lower than the average demand in mid and high-rise buildings. The Markham Centre Zoning By-law already incorporates much of the new thinking on how to develop parking standards to help achieve the successful implementation of planned, transit-oriented, mixed-use areas. Other considerations for the new comprehensive zoning by-law include:

- Implement lower parking requirements for purpose-built student accommodation (student residences).
- Review parking, driveway and open space standards in low-rise residential neighbourhoods adjacent to post-secondary institutions to identify and address potential conflicts.

### **Student Housing Strategy**

An increase in the demand for student housing often affects different areas in the City differently and encompasses distinct neighbourhoods. It is important to consider these areas comprehensively rather than adopting an incremental approach. Although not a zoning by-law initiative, a Student Housing Strategy could be developed by Markham to assess projected demand and available housing options and establish student housing objectives for areas near universities. A student housing strategy would enable the City to adopt a strategic approach to dealing with accommodation for students in Markham, taking into account a broader range of planning considerations, in addition to zoning.

An additional initiative would be to cultivate a collaborative relationship on student issues among post-secondary institutions, the City, the police, students and residents of nearby neighbourhoods. This can be done by establishing an Advisory/Town and Gown Committee with membership from all of these groups as was successfully done by other municipalities.

## 17.4 Summary Feedback from Public Consultations

At the December 8, 2015 open house a representative of York University stated that the City will gain approximately 4,000 students who will contribute to the vitality of Markham Centre and that York University is pursuing a model relying on adjacent owners to provide housing opportunities for students. (York University does not have plans to build any residences on its campus site in Markham.) To best address the range of housing choices that will be sought in Markham Centre the representative advised the following:

- Land use and zoning must permit purpose-built, well-designed, professionally managed student housing. This is a trend in North America – to turn to the private sector to build purpose-built accommodation near or within the campus. Since York University is not going to be building accommodation on its site, the University is looking for partnerships with adjacent landowners to build purpose built housing (e.g. rental for students only, dorm style with amenities).
- Rooming houses are a legitimate form of housing that is regulated and controlled. It is important, but it can bring challenges to the City over time, particularly when enrollment increases, and the popularity of rooming houses increases. The City has to

be prepared to enforce zoning by-laws and the *Building Code, Fire Code*, etc. in order for rooming houses to be successful.

- The timing of this zoning review is opportune with regards to student housing issue. Markham is in a position to prepare itself and react appropriately to an existing situation. At York University's Keele campus there are many issues to be dealt with retroactively, which is much more challenging.

A number of participants at the open house stated that they felt York University should take responsibility for providing student housing. In response to questions from Councillors regarding why the University was not planning to build student housing on its site, the representative from York University stated that the site is too small to accommodate student housing and that their decision to locate in Markham Centre is based on the mixed use character of the area and the potential availability of housing in the area for students who would need accommodation. His estimates are that the campus is likely to be mostly a commuter campus, but that about 500 beds may still be needed for students in the area. The University has made a decision to focus on academic facilities, not housing, at its Markham Centre campus.

In response to another question from a Councillor who asked what the implications would be if Markham did not allow rooming houses in its new zones, the York University representative stated that he did not think this would impact the University in any major way and that they would be able to work around this constraint.

# 18 Places of Worship

## 18.1 Introduction

A review was undertaken to identify issues associated with *places of worship* that need to be addressed prior to drafting a new comprehensive zoning by-law and provide options for addressing these issues. A detailed review of the relevant Markham Official Plan policies pertaining to places of worship was completed, as well as a review of how Markham's various existing zoning by-laws deal with regulations associated with the use. Past and recent studies on places of worship in Markham were also reviewed, and case studies from five other municipalities (Toronto, Ottawa, Hamilton, Mississauga, and Oakville) were examined to assess how their respective zoning by-laws control issues associated with places of worship. Finally, potential options are provided for dealing with place of worship related issues in the new zoning by-law.

The land use term Place of Worship is the most common term used in Ontario zoning by-laws to describe a use, building, or structure used by a recognized religious organization for religious worship, services, ceremonies or rites. It typically refers to churches, synagogues, mosques, temples, or other forms of buildings that are dedicated to a particular religious organization or group. Markham's Official Plan defines *Place of Worship* as:

“a premise used by a charitable religious group(s) for the practice of religious rites and may include **accessory uses** that are subordinate and incidental to the practice of religious rites. Examples of **accessory uses** include, but shall not be limited to, classrooms, assembly areas with a potential occupancy less than the **place of worship** area, a kitchen, a residence for the faith group leader, and offices subordinate and incidental to the principal place of worship. A place of worship does not include a cemetery, **day care centre**, or private school.”

## 18.2 Policy Context

Markham's new Official Plan recognizes places of worship as an important land use that contributes to the municipality's healthy neighbourhoods and communities. The Plan is very clear in how this land use should contribute to the overall fabric of the City and how it should be regulated in different land use areas. Further, the Official Plan identifies specific policies for new places of worship that will directly guide how zoning for such uses in the future should be considered.

Chapter 4 of the Official Plan (Healthy Neighbourhoods and Communities) outlines policies dealing with housing, community services, arts and culture, heritage, which the Plan describes as the “DNA of everyday life in Markham”. Included in these policies are the important roles and context of places of worship in the community. Reference is made to Council's “site reservation policy”, which was established in 1997 and updated in 2003 to identify areas in secondary plans to reserve sites for future places of worship in areas developed through subdivision, site plan or other agreements.



Places of worship are a traditional visual focal point. Markham (Source: City of Markham).

Chapter 8 of the Official Plan sets out the land use policies associated with each of the land use designations, as well as specific use policies. Under policy 8.1.3 g), it is noted that place of worship is identified as a use with specific use policies, subject to policy 8.13.7 of the Official Plan. Policy 8.13.7 of the Official Plan sets out specific policies for new places of worship. In considering an application for a plan of subdivision or an amendment to the zoning by-law to permit a new place of worship or an addition to an existing place of worship where it is provided for under Section 4.2.4 of the Official Plan, the property being considered for such a development must meet the size and location criteria for each land use designation identified in the chart associated with policy 8.13.7.1. Moving forward, applications for zoning by-law amendments or plans of subdivision involving places of worship must conform to these criteria. The criteria could also provide guidance for the drafting of regulations in the new comprehensive zoning by-law.

The area and site specific policies in Chapter 9 of the Markham Official Plan include interim policy provisions for the secondary plan areas identified in Appendix F – Secondary Plan Areas “where the provisions of the Official Plan (Revised 1987) and relevant secondary plans shall continue to apply until an update of the existing secondary plan or a new secondary plan is completed and approved to conform with the provisions of this Plan. Once completed these secondary plans will form Part II of this Official Plan.” There are twenty “districts” identified in Chapter 9 that relate to Secondary Plan areas that have been approved, Secondary Plan areas that have been identified but awaiting approval, as well as other areas and specific sites. There are 21 area and site specific policies pertaining to nine districts which deal with places of worship.

## 18.3 Summary of Options

The review and assessment of Places of Worship is based on the City of Markham’s Official Plan, the existing 46 parent zoning by-laws, studies undertaken over the past thirteen years by Markham and case studies in other Ontario municipalities. A number of matters have been identified for consideration regarding Places of Worship and potential options for addressing issues have been suggested.

### Definition

- The existing 46 parent zoning by-laws in Markham and parking by-law 28-97 define the land use terms “church” and “place of worship” in ten different ways. The new zoning by-law should establish the universally recognized term “place of worship” and provide one definition for this land use, consistent with the definition established in Markham’s Official Plan. This definition should be applied to both land use and parking regulations.

### Locational Criteria

- If a place of worship is to be considered a permitted use in any of the zones in the new zoning by-law, it may be worth considering whether to establish maximum site areas, maximum premise sizes, and location regulations for new places of worship that may locate on lands designated in the Official Plan as Residential, Mixed Use, Heritage Conservation District, Commercial, Service Employment, and Hamlet, using the criteria in section 8.13.7 1 of the Official Plan as a guideline.
- The City of Markham Official Plan restricts places of worship from locating in the rural area and employment areas. The new zoning by-law must establish zones in the rural and employment designations of the Official Plan

that would not allow places of worship as a permitted use.

### **Site Requirements**

- Existing places of worship that exist in local neighbourhoods, usually in smaller scale and size, play an important role in the community and should be protected to continue to exist in these areas. The new zoning by-law should identify zones where places of worship are permitted, based on their scale and size, and develop standards and provisions that help support them to continue to exist where they are deemed appropriate.
- The new zoning by-law should establish site requirements for places of worship dealing with such matters as height, setbacks, density and landscaping, if the new zoning by-law establishes zones where places of worship are permitted.
- Architectural elements associated with places of worship, such as spires, should be addressed in the new zoning by-law. One approach could be to allow such features to go beyond the permitted height limit by a certain amount. Another approach could be to exempt them from height in certain zones where height is not a planning concern. A third approach could be to treat these features like any other building element within a given height limit.

### **Site Specific Permissions**

- The new zoning by-law needs to recognize the existing site specific zoning by-laws that legally permit places of worship, especially those that are noted in the Official Plan under Chapter 9. Places of worship that no longer exist, or do not legally exist on certain sites that involve site specific by-laws may be candidate site by-laws to NOT

be carried forward into the new zoning by-law. Further, there may be instances that certain places of worship be considered legal non-conforming under the new zoning by-law.

### **Place of Worship Zone**

- The new zoning by-law may identify which zones a place of worship is permitted and establish conditions or criteria for a place of worship to be permitted in that given zone. In addition, or alternatively, the new zoning by-law could also establish a 'place of worship zone' for those sites that have been identified for being appropriate for only that use.

### **Parking and Accessory Uses**

- The new zoning by-law needs to consider how parking rates can be applied to places of worship that factor worship and non-worship areas, the scale and type of other uses or accessory uses that locate on the site, and establish regulations that can be more easily applied than some of the existing standards. Places of worship that are in combination with other uses need to examine the appropriateness (or not) of shared parking for the combined uses at appropriate locations. This issue is further addressed in section 8 of this report, where it is suggested that parking rate for places of worship be made simpler.

## 18.4 Summary of Feedback from Public Consultations

At the Open House of November 12, 2015 a member of the public asked what is prohibited or permitted in employment lands, and in particular, if community centres and places of worship are prohibited and if this can be reviewed. In response it was explained that the Official Plan designates certain areas as Employment Lands and is very specific about what can and cannot be built there. The zoning by-law cannot deviate from what is outlined in the Official Plan. Places of worship, for example, are prohibited in these areas. There was a process behind the development of the Official Plan, which was already completed and approved by City Council, and therefore it cannot be changed.

# 19 Greenway and Special Policy Areas

## 19.1 Introduction

The Province and all Ontario municipalities have long-established policies to direct development away from protected natural areas. Also, most municipalities have well-developed policies to protect countryside open space systems. In Markham, the “Greenway”, as identified in the Official Plan, consists of natural heritage areas as well as flood plains and erosion-prone lands located along the City’s watercourses, valleylands and other natural features. Markham’s Official Plan protects one-third of the City’s area, within its Greenway designation.

Markham’s current planning framework uses the term “hazardous lands” as a description of valleylands to be protected. The term “hazardous lands” also has a specific meaning in the Provincial Policy Statement. According to the *Planning Act* municipal planning decisions must be consistent with the Provincial Policy Statement. The policy provisions regarding hazardous lands contained in the Provincial Policy Statement have been incorporated into the new Official Plan. The terminology previously used in Markham regarding hazardous lands and the Provincial Policy Statement, will be updated in the new comprehensive zoning by-law to reflect the City’s new Official Plan.

## 19.2 Policy Context

The Official Plan’s policies regarding the Greenway were largely developed through a study of natural heritage systems and include all the requirements of the Region and the Province.

The Official Plan policies limit development within all of the lands located in the Greenway and prohibit all development within most of the areas of the Greenway that contain “key natural heritage and hydrologic features”

“Special policy areas” are provincially recognized built-up areas with longstanding community development located in a flood plain. In these areas, development is permitted to continue within strict limits. The only special policy areas in Markham are along portions of the Rouge River in Unionville. All special policy area regulations must be approved by the Province.

Some parts of the Greenway lie within the “regulated area” of the Toronto and Region Conservation Authority. TRCA approves all construction of buildings and other structures, and site alteration, within the regulated area. If municipal planning approval is also required, normally that happens first.

The City’s Greenway system comprises provincially protected features and locally protected features. Markham has some discretion when it comes to implementing the Greenway policies in its new comprehensive zoning bylaw except where elements of Greenway policies are provincially dictated. The City is required to adhere to the policies of the Oak Ridges Moraine Conservation Plan and Greenbelt Plan (the “provincial plans”) where their planning areas extend into the City. The provincial plan areas are included within the Greenway designation, as are “vegetation protection zones”, and areas with potential to enhance the Greenway in future. As well, the Greenway includes Markham’s share of the Rouge National Urban Park.

Because the Greenway includes a mixture of overlapping natural and hydrologic features and provincial plan areas, there is a complex pattern of development permissions included within the Greenway Official Plan designation. However, the Official Plan identifies a Natural Heritage Network area within which development is generally not permitted. Some compatible development may be permitted in the Greenbelt and Oak Ridges Moraine Conservation Plan areas

The City may have little option but to reduce the scope of, or eliminate, existing zoning permissions on the Greenway lands. Not all of these lands are currently zoned to ensure natural features are protected from development, and where they are, the current regulations are often not specific enough to conform with Official Plan policies.

The Official Plan requires that key natural heritage and hydrologic features should be subject to special zoning provisions to prohibit all development, except in the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan Areas. Vegetation protection zones also need to be zoned once these have been identified near natural heritage and hydrologic features as part of the development process.

## 19.3 Summary of Options

### Zoning the Greenway

Greenway lands require a zoning approach that conforms to the Official Plan, is simple and straightforward, and minimizes requirements for future zoning bylaw amendments. This must be balanced with the need to implement in the new bylaw the different policies to control development permissions that the Official Plan contemplates for the separate components of the Greenway.

Therefore, one option for the new comprehensive zoning by-law is to include the entire Greenway within a single zoning category for the purpose of protecting the Greenway from development and redevelopment. Under this option almost all development would be strictly restricted and instances where new development is proposed would proceed by way of a rezoning in accordance with the policies of the Official Plan.



Rouge River, Markham

Another set of options could include a number of separate zoning categories to reflect the various categories of development restrictions included in the Official Plan for different parts of the Greenway. There are several options for identifying individual zones within the Greenway category under this option:

- Several different zones, each of which would have different permissions, plus an overlay zone consisting of key natural heritage and hydrologic features if these cannot be accommodated within the underlying base zones.
- Same as above, except the overlay zone would be confined to provincial plan areas.
- A single zone with minimal permissions, plus the overlay zone.
- Some combination of the above.

In addition, all identified vegetation protection zones should be assigned to a separate zone.

### **Split Zoning**

Greenway features are identified in the Official Plan based on resource considerations, not lot lines. As a result, scaling from Official Plan maps to the lot fabric is likely to lead in some cases to split zoning of lots.

Options for dealing with this include:

- Where part of a lot would be included in the Greenway zone, include the entire lot. However, owners with a case for development on the “outside” part of their lots would then have to apply for a rezoning or minor variance to permit the desired use.
- Stick with the boundary as scaled from the Official Plan. City staff have observed that it is difficult to keep owners of already developed residential properties in particular, from doing on one part of their property what they are allowed to do on the other part.

This is a broader issue for the new zoning bylaw that is not restricted to the Greenway. The same considerations can arise in other types of split zoning situations, for example, lots that are part residential and part commercial.

### **Other Mapping Considerations**

Online mapping will be part of the new zoning bylaw. This improvement will provide an excellent opportunity to inform Greenway property owners if they are in TRCA’s regulated area and that, as a result, they may need development permission from the Conservation Authority.

An always-current overlay showing the TRCA regulated area could be shown in the bylaw mapping as information only, not as a legal part of the bylaw.

### **Use Permissions**

To remain consistent with the Official Plan, the list of permitted uses will need to be severely restricted in the Greenway.

Outside the provincial plan areas, the only uses that should be permitted in the Natural Heritage Network identified in the Official Plan are flood and erosion control, conservation and resource management, trails and nature-based public recreation, and infrastructure.

If the City decides to have a single underlying Greenway zone, then the permitted uses should be the same as those described above. If the City prefers multiple zones, then permissions for each zone will need to reflect the list of permitted uses for the corresponding areas identified in the Official Plan.

In the key natural heritage and hydrologic feature overlay zone outside the provincial plan area, no development of any kind should be permitted. In the overlay zone within the provincial plan areas, only the uses identified in the provincial plans for these areas should be permitted.

As mentioned above, TRCA must approve all construction of buildings and structures and site alteration in its regulated area. Options for how the

new zoning bylaw should deal with those situations where both City planning and TRCA approval are required, include:

- Prescribe permitted types of structures and site alteration. This would subject much activity to regulation and approval by both the City and TRCA.
- Prohibit all structures and site alteration, except for those few specifically permitted by the Official Plan, and those that are already approved by TRCA and are accessory to the permitted uses. This would leave detailed regulation to TRCA.

### **Other Regulatory Considerations**

As mentioned above, some existing zoning permissions in the Greenway may have to be restricted or eliminated. This will result in a number of existing uses and structures becoming legal non-conforming or legal non-complying. The Official Plan suggests that the scope granted for extension and enlargement of such uses should reflect the policies that apply to the area. Therefore, it may be necessary to consider whether the extension and enlargement provisions for existing development in the new zoning bylaw should be narrower in scope in the most restrictive portions of the Greenway, than elsewhere in the City.

### **Special Policy Areas**

The Unionville special policy area should be shown on zoning maps as an overlay zone over base zones that show existing or intended uses. Appropriate supplemental regulations for this overlay zone should be included in the zoning bylaw text.

Other Special Policy Area considerations will need to await further discussion with the Province.

## **19.4 Summary of Feedback from Public Consultations**

There was one question raised at the public open house on November 12, 2015 about whether on private golf courses are restricted in the Greenway. The response was that the Greenway designation does not include a private golf course as a permitted use. If there are any private golf courses that are currently located in the Greenway, their activities would be restricted in accordance with Official Plan policies. There was also a question at the presentation to the Development Services Committee about how sites would be treated with split zones, part of which are designated Greenway. The response was that the preferred option was to apportion development rights only to the part of the site that is not designated Greenway.

# 20 Medical Marihuana Production Facilities

## 20.1 Introduction

This section summarizes issues associated with medical marihuana production facilities that need to be addressed prior to drafting a new comprehensive zoning by-law and to provide options for addressing these issues. The summary includes a review of current federal and provincial legislation pertaining to medical marihuana facilities and research which was undertaken to better understand how medical marihuana facilities are used and operate. As part of the research, Markham Official Plan policies and zoning by-law provisions dealing with this use were assessed, as well as a recent Markham and Region of York issues relating to medical marihuana production. In addition, The Marihuana for Medical Purposes Regulations Guidance Document and other studies and reports relating to zoning for medical marihuana in different Ontario municipalities were examined. Lastly, case studies were conducted of three Ontario municipalities which permit medical marihuana production facilities in their zoning by-laws (Toronto, Ottawa, and Chatham-Kent). These case studies outline potential options for Markham to consider for dealing with medical marihuana production facilities (MMPF) in the new comprehensive zoning by-law.

The land uses that have been identified for this review pertain to medical marihuana production facilities and personal home medical marihuana grow-operations. Neither of these land uses are specifically defined in any of the City of Markham's current zoning by-laws. Medical marihuana production can have odour or security issues, which in some cases may need to be regulated under zoning. Federal legislation over the past decade has changed the status of the use of marihuana for medical purposes to be recognized as a legal activity. As such, there should be consideration for regulating this land use in the new zoning by-law.

## Federal Legislation

Approximately 15 years ago, federal legislation recognized medical marihuana for medical purposes as a legal use under the Controlled Drugs and Substances Act. Under this Act, the Marihuana Medical Access Regulations (MMAR) permitted individuals to apply for medical marihuana production licenses but did not indicate any reference to local legislation regarding land use or registration by the municipality. In other words, licenses were issued regardless of what land use permissions (zoning) existed on the properties.

In June of 2013, the Federal Government introduced the new Marihuana for Medical Purposes Regulations (MMPR), which created conditions for a new, commercial industry responsible for the production and distribution of medical marihuana. The MMPR came into effect on April 1, 2014. These new rules allow for the licensing of medical marihuana production facilities by the federal government. In order to be licensed, commercial producers must adhere to local regulations, including zoning unlike the old MMAR regulations. Under the MMPR regulations, applicants for a commercial production license are required to notify municipalities of their intention to open medical marihuana production facilities within their local jurisdiction. The federal regulations, as administered by Health Canada, state that although municipalities are not involved in the licensing issuing process, they may enforce local development standards for the location of these facilities, including compliance with local zoning by-laws.

To date, the commercial production, processing and distribution of controlled drugs, including medical marihuana, has been determined to be an industrial use under Markham's current zoning by-laws. Existing operations that are based on the licenses under the old federal legislation (MMAR) are effectively exempt from any zoning regulations, including use.

## 20.2 Policy Context

The Markham Official Plan does not have any specific policy directed at medical marihuana production facilities. The Official Plan does define agricultural uses. Since medical marihuana production facilities involve the growing of crops as well as the manufacturing of a product, there has been debate in other municipalities as to whether or not the use should be considered an agricultural use or an industrial use. There are obvious elements of both, since growing of the substance must take place on the premises as per federal legislation. Tobacco, on the other hand, would be grown in agricultural areas and then transported to factories for the manufacturing of cigarettes. Tobacco factories are distinctively industrial uses and found in industrial areas. Medical marihuana production facilities involve the growing, harvesting, and manufacturing of a product all at the same location.

None of the City of Markham's 46 current zoning by-laws define or recognize medical marihuana production facilities as a specific use. There are five definitions for agricultural use found in eleven of Markham's zoning by-laws. The terms industrial purposes and industrial us' are also defined terms found in three of Markham's zoning by-laws.



Medical marihuana facility (Source: <http://windsorstar.com>)

## 20.3 Summary of Options

Based on the review and assessment of federal legislation regarding medical marihuana, Markham's Official Plan policies and existing zoning by-law regulations, recent City of Markham and Region of York issues, planning reports and studies on the topics, and case studies from other municipal zoning by-laws dealing with the matters, a number of issues and options surrounding medical marihuana production facilities have been identified.

### Planning Considerations

- Medical marihuana production facilities (MMPFs) have external effects such as odour, safety, and distribution that should be regulated by land use planning regulations.
- New Federal legislation recognizes that municipalities may control the location of MMPFs;
- Based on case studies reviewed, MMPFs may be considered a form of industrial use, agricultural use, or both.
- Licenses issued under the previous MMAR have no requirements regarding municipal regulations, and there is nothing that zoning regulations can do to control where these existing activities can take place.
- Licenses issued under the new MMPR make compliance with local regulations regarding location mandatory, therefore these uses may be addressed by zoning by-law regulations.
- MMPFs have been defined and regulated under zoning by-laws in other Ontario municipalities.
- Municipalities must ensure that any zoning by-law regulations involving MMPFs are based on sound land use planning principles.
- It is appropriate to address zoning legislation in the new zoning by-law on MMPFs.

## Potential Options

- Consider Identifying and defining “medical marihuana production facility” as a distinct land use.
- Given the various activities associated with MMPFs, examine and consider whether or not the use should be limited to certain industrial areas in the city, or if there should be any consideration for allowing it in agricultural areas.
- Consider identifying zone(s) where MMPFs would be permitted.
- Consider zoning regulations that require MMPFs to be the sole-tenant use in a building given the external effects (i.e., odour) and security measures surrounding the use.
- Consider zoning regulations that restrict open storage associated with the use, primarily due to security related matters.
- Consider zoning regulations to mitigate odour-related matters, including appropriate separation distances from certain zones and sensitive uses which can be drawn from the Provincial D-6 Guidelines for separation distance involving a use that may be similar to a Class II industrial use.
- Consider establishing Official Plan policies for MMPFs to clarify Council’s policies on this use which would be implemented through new zoning by-law regulations.

## 20.4 Summary of Feedback from Public Consultations

At the Open House of December 8, 2015, a member of the public asked if there was a going to be a restriction on medical marihuana production facilities near sensitive or conflicting uses, for example, near schools. He stated that the impact of a medical marihuana production facility cannot be compared with other uses. He and a group of residents suggested that the City should seek consent from area residents prior to permitting a MMPF in a location close to residential areas. The consulting team responded that restricting medical marihuana to industrial zones and perhaps agricultural zones is one way to control production as well as distancing these uses from other sensitive uses. For example, the City of Toronto put in a specific distance from sensitive uses in their by-law. The production of medical marihuana is controlled by federal legislation. Security and odour issues are unique to this use and the appropriate sensitivity regulations regarding medical marihuana facilities need to be explored with City staff during the crafting of the new comprehensive zoning by-law.

Another member of the public noted that if marihuana is going to be grown in factories, there may need to be some further public meetings and conversations to analyse the situation.

# 21 Addiction/Recovery Centres

## 21.1 Introduction

The section identifies and reviews issues associated with recovery centres, addiction centres, and other similar clinics (“Addiction/Recovery Centres”) that need to be addressed prior to drafting a new comprehensive zoning by-law and to provide options for addressing these issues. In preparing this review, various types of addiction/recovery centres were analysed, appropriate federal and provincial legislation involving issues associated with these types of land uses were examined, as well as Ontario Human Rights Commission issues related to addiction clinics and municipal zoning. Markham Official Plan policies and zoning by-law provisions dealing with these uses, as well as research and studies on the various issues found in Markham were also reviewed. Finally an assessment was conducted of how other municipalities have been dealing with such uses as well as potential options for the new zoning by-law.

There are several types of addiction/recovery centres in Canada. These centres employ/use many different approaches to address drug-related issues including therapy and counseling, as well as pharmacotherapy treatments, such as methadone treatments. Harm reduction programs accept some level of drug use in society as inevitable and seek to reduce immediate harms. Specifically, two types of harm reduction programs exist in Ontario, which can be controversial within municipalities as they either administer drugs or provide equipment for safe injection (needle exchange programs and methadone maintenance treatment).

The federal government has specific jurisdiction to regulate drugs and substance use. Currently, Bill C-2 Respect for Communities Act, which was introduced in June 2013, is under review to amend the Controlled Drugs and Substances Act. In Canada, provincial governments have jurisdiction over healthcare, which includes harm reduction services. Often, public health objectives for people living with addictions

include the right to equitable access to healthcare, such as addiction and rehabilitation services. The location of addiction/recovery centres are largely influenced and governed by municipal zoning bylaws, as legislated by the province through Section 34(1) of the Ontario *Planning Act*. The location of clinics can be controversial as residents’ visions of their neighbourhoods/city may exclude such centres. Under the Ontario *Planning Act*, zoning by-laws must regulate for land use and not people to avoid discriminatory zoning.

## 21.2 Policy Context

The Official Plan does include ‘clinics’ and ‘medical clinics’ in the array of uses to be found in certain commercial areas. To date, addiction/recovery centres fall into this general land use type under Markham’s Official Plan. There is currently no policy that distinguishes addiction/recovery centres from other forms of clinics or medical clinics, or hospitals.

All forms of addiction/recovery centres fall under the definitions found in the current zoning by-laws for clinics, medical clinics and, where larger in scale, hospitals. The by-laws currently do not address or distinguish these clinics by type, medicine involved, or type of patients that they are intending to serve. Clinics are typically permitted in most commercially zoned areas within Markham’s current zoning by-laws.

## 21.3 Summary of Options

Based on the review and assessment of both federal and provincial legislation regarding addiction/recovery centres, Markham’s Official Plan policies and existing zoning by-law regulations, recent City of Markham and Region of York issues, planning reports and studies on the topics and a case study from the City of London zoning by-law dealing with the methadone

clinics, a number of issues and options regarding zoning for addiction/recovery centres have been identified.

### Planning Considerations

- There are land use planning issues associated with recovery and addiction clinics/ centres that have been identified and regulated by zoning by-laws in other Ontario municipalities, in particular, with the use of methadone.
- Any zoning by-law regulations involving addiction/recovery centres must be based on sound land use planning principles and not based on ‘people planning’.
- There are no known issues in Markham, based on the research undertaken for this review, with respect to land use planning for addiction/recovery centres.
- There are cases in other municipalities where the zoning by-law includes regulations for addiction/recovery centres, such as methadone clinics, particularly when establishing separation distance standards from certain sensitive land uses.

### Potential Options

- Based on examples found in other Ontario municipalities, it is possible to identify or define certain types of addiction/recovery centres, such as methadone clinics, if there are sound land use planning issues that distinguish this use from other forms of clinics or hospitals.
- Any planning criteria established under the new zoning by-law for addiction/recovery centres as a specific land use must not be based on people planning.
- The City may wish to consider establishing Official Plan policies for addiction/recovery centres to clarify Council’s policies on these matters *if* this use is to be distinguished from

other forms of medical clinics or hospitals in the new city wide zoning by-law.

## 21.4 Summary of Feedback from Public Consultations

At the Open House of December 8, 2015, a member of the public asked if people who are undergoing treatment in addiction centres are allowed to walk around outside of the centres. They asked if addiction centres are even needed in Markham and if such uses would attract addicts. The consulting team replied that they do not have the expertise to suggest whether there is a need and what the facilities do. Their responsibility is to consider how to address the need should it exist or arise. The consultants are exploring options for addressing addiction recovery centres as a separate use or as a service provided in a medical clinic. In some municipalities an addiction recovery centre is considered a medical facility, but in some other cases (such as the City of London, Ontario), methadone clinics have been identified and defined as distinct land uses, permitted in particular zones.

One City Councillor at the meeting noted that in Newmarket there was a methadone clinic next to a daycare, which he felt was inappropriate. In his opinion the use should be connected to a hospital instead.

# 22 Adult Entertainment and the Sex Industry

## 22.1 Introduction

The section identifies and reviews issues associated with *adult entertainment and sex industry uses* that need to be addressed prior to drafting a new comprehensive zoning by-law and provides options for addressing these issues. A review of relevant Markham Official Plan policies and zoning by-law regulations that deal with these uses was conducted as part of this review. Relevant sections of Markham's Stationary Business Licensing By-law that deal with adult entertainment parlour services and body rub owners, operators and attendants were also reviewed. Some examples of research and studies on the topic were examined, as well as case studies of five other municipalities (Toronto, Ottawa, Hamilton, Mississauga, and Oakville).

There are generally five types of land uses and activities that have been identified to date that deal with adult entertainment and sex industry uses: 1) Adult entertainment establishments or parlours; 2) Body rub establishments or parlours; 3) Adult goods and/or adult video outlets; 4) Brothels, bawdy-house, or 'swingers' clubs; and 5) Apartment-based brothels which take place in hotels and apartment buildings.

Adult entertainment parlours (strip clubs and strip bars) have been around for many decades and have been recognized as land uses that are legal to operate under the laws of Ontario and Canada. Municipalities have used both business licensing by-laws and zoning by-laws to control the number and location of such uses within a municipality. As a legal use, zoning by-laws cannot 'prohibit' the use everywhere in the municipality.

Body rub establishments, as defined in Markham's Licensing By-law, include massage services provided by persons other than recognized medical or health professionals for services such as reiki energy therapy, hypnosis, reflexology, life coaching, "TAP" therapy, or acupuncture. Other types of body rub

establishments, which relate more to the sex industry, involve massage services by persons other than recognized medical or health professionals that are for the purposes of appealing to erotic or sexual appetites or inclinations. These are not addressed in Markham's Licensing By-law.

Another type of sex industry which is not mentioned in municipal regulations in Ontario is the brothel or common bawdy house. This use has been considered illegal under the laws of Canada until recent challenges and subsequent decisions by the Supreme Court of Canada. Another form of such use are 'swingers clubs', which are organized in slightly different ways than brothels, but are in many ways a similar land use. In anticipation of changes to prostitution laws in this country, municipalities may need to consider, at some point in the future, how common bawdy houses and swingers clubs (if considered legal under the law of Canada) should be regulated by zoning by-laws. Brothel (or common bawdy house) is currently not used nor defined in zoning by-laws found in Ontario.

## 22.2 Policy Context

The Markham Official Plan Part I does not have any specific policy directed at adult entertainment parlours or any other sex industry land uses. However, in Chapter 8, Land Use, there are three specific policies identifying "adult entertainment" in a list of uses that are explicitly not permitted. Also in Chapter 8, under policy 8.5.4.3 s), adult entertainment is considered a discretionary use on lands designated 'Service Employment', which may only be permitted only by way of a rezoning, provided it is not located within 1,000 metres of lands within a 'Residential' or 'Mixed Use' designation. Further, consideration of permitting an adult entertainment use in these circumstances must also be in accordance with policies 8.5.1.2 and 8.5.1.3 of the Official Plan, which

pertain to sensitive land uses and discretionary land uses, when evaluating site specific development applications in areas designated Employment Lands.

Each of Markham's 46 parent zoning by-laws include the definition of adult entertainment parlour and five parent zoning by-laws also include definitions for adult goods and adult video outlet. There are a number of site specific amendments which either amend one of the definitions relating to these uses, or establish permissions or restrictions on such uses. There are no references in any of the 46 parent zoning by-laws to "body rub parlours" or "brothels". Aside from definitions, there are not many zoning provisions dealing with adult entertainment parlours or other uses associated with the sex industry in the existing 46 parent zoning by-laws.

In 1986, amending By-law 73-86 had the key effect of defining adult entertainment parlours, as well as establishing it as a prohibited use in the 44 parent zoning by-laws that existed at the time. Between 1986 and 2014 there have been a number of area wide zoning by-law amendments to the parent zoning by-laws dealing with adult entertainment parlours, adult goods, and adult video outlet dealing with issues around definitions, areas where certain uses are permitted or prohibited in the parent by-law area.

By-law 2012-158 is a by-law to provide for the licensing and regulation of stationary businesses throughout the City of Markham, under Section 151 of the *Municipal Act*, 2001 S.O. 2001, c.25. This is a consolidated licensing by-law which replaced, in part, By-law 2002-287 (A By-law to License and Regulate Adult Entertainment Parlours within the Town of Markham) and By-law 2002-286 (A By-law to License and Regulate Adult Entertainment Parlours for the Provision of Goods in the Town of Markham), which have both been repealed. The by-law currently recognizes and regulates 24 different businesses, which include two that are related to adult entertainment parlours and other non sex industry-related body rub parlours : 1) Adult Entertainment

Parlours (Services); 2) Adult Entertainment Parlours (Goods); and 3) Body Rub Parlours. It is noted in By-law 2012-158 that "no license shall be issued contrary to the provisions of any City Zoning By-law."

While there appears to be a consistency between the zoning by-law definition and the business licensing by-law definition of adult entertainment parlours, the business licensing by-law differs in that it defines and distinguishes between those involving "services" and "goods". The zoning by-law, by comparison, defines adult entertainment parlour as those activities associated with the "services" only, and sets out different definitions such as adult goods and adult video outlet to control those associated with the "goods" aspects. A big difference between the zoning by-law definitions and the business licensing by-law definitions is the terms "body rub" and "body rub parlours", which are only defined for non-erotic or sexual activity in the business licensing by-law. There needs to be a consistent approach to defining these terms in both the business licensing by-law and the new city wide zoning by-law.

## 22.3 Summary of Options

Based on the review and assessment federal and provincial legislation, Markham's Official Plan policies, the current 46 parent zoning by-laws and site specific by-laws relating to the subject, Markham's Stationary Business Licensing By-law 2012-158, history of adult entertainment and sex industry-related uses in Markham, planning reports and studies on the topic, and case studies from other municipal zoning by-laws dealing with the matter, a number of issues and options regarding adult entertainment and sex industry-related uses are identified below.

### Identify and define land uses

The Markham Official Plan has identified specific land use designations where 'adult entertainment' is provided for as a discretionary use, but does

not define 'adult entertainment'. The term 'adult entertainment parlour' has been used in the Markham zoning by-laws and the Markham licensing by-law to apply to many different things and uses. The zoning by-laws have no policy or regulations specifically for 'body rub parlours', whereas the licensing by-law defines and has separate regulations that are different from 'adult entertainment parlours'. Body rub parlours are defined in the licensing by-law as premises where no erotic or sexual activity takes place.

It will be important to identify and define the different land uses that are both associated with the sex industry and those not associated with the sex industry, but have been confused between the zoning by-laws and the licensing by-law.

The new zoning by-law should consider distinguishing amongst adult entertainment (either parlour or establishment), body rub (either parlour or establishment involving activities that appeal to erotic or sexual appetites), massage therapy (or similar term for persons licensed as a medical or health professional under provincial legislation), and wellness centre (or similar term for persons providing services for therapeutic and wellness purposes that are not licensed as a medical or health professional under provincial legislation and which are not to appeal to erotic or sexual appetites). Markham's licensing

by-law should also be made consistent with the land use definitions in the new zoning by-law. Those land uses involving activities that appeal to erotic or sexual appetites (adult entertainment and body rub), but which are not considered activities associated with prostitution, would be identified and regulated in the new zoning by-law as well as have other regulations governed under a revised municipal licensing by-law. The massage therapy and wellness centre land uses could be regulated under the zoning by-law only which would not require any licensing provisions under the municipal licensing by-law.

### **Repeal Existing Adult Entertainment Establishment Permissions**

There are two locations for adult entertainment parlours recognized in the existing zoning by-laws and the licensing by-law which no longer exist. One of the sites was redeveloped 11 years ago as a place of worship with associated school and day care permissions as additional permitted uses. There is no evidence that the by-laws which permitted adult entertainment parlour on the same site were ever repealed, and that the site specific by-law made no mention of the 'other uses' allowed on the site. It may be appropriate to consider that the site specific by-laws permitting adult entertainment parlours not be carried forward in the development of the new City-wide zoning by-law.

As a general observation, the traditional adult entertainment parlour is a dying use that may no longer exist in the near future with the changing social attitudes and economics for these activities.

### **Establish City-wide regulations**

The new zoning by-law should set out criteria (zones, distance separations, etc.) for future adult entertainment parlours in the event of a rezoning application for this type of use.



Massage parlour (Source: <http://www.newzealand.net.ru> - Alexander Todorenko)

When drafting the new zoning by-law, the City may want to consider including a body rub establishment land use (with definition) that deals with massage establishments intended to appeal to erotic or sexual appetites, but which does not involve activities that could be considered “sexual services” under the laws of Canada. The municipal licensing by-law could also be amended to reflect licenses for these uses. Distance separation and location regulations could also be established in the new zoning by-law while the licensing by-law could focus on regulations such as required signage, age of operators, activities that are not permitted, etc.

The new zoning by-law could also recognize and permit massage therapy and “wellness-related” land uses in appropriate zones that differ from body rub establishments. Given the non-sexual relationship of these latter two uses there would be no need to have any licensing requirements, other than to ensure that municipal licensing officers could check on these establishments to ensure that they are what they say they are.

#### **Recent changes to Federal Legislation on Prostitution**

Federal legislation has changed regarding the legality of prostitution in Canada. However, the current legislation has resulted in a mixed opinion as to whether or not prostitution is legal in Canada since the emphasis has been changed to those seeking sexual services as being illegal, from those who sell sexual services which are now deemed legal under the latest legislation. This result does not assist municipalities in Canada from determining whether they should (or should not) recognize brothels as a legal land use that should be recognized and regulated under local zoning legislation.

There are no current zoning regulations found in any municipality in Canada for brothels and common bawdy houses. Given the recent changes to the Criminal Code as it relates to prostitution in Canada it is not appropriate to address the issue under the new zoning by-law.

## **22.4 Summary of Feedback from Public Consultations**

At the Open House of December 8, 2015, a member of the public representing “The Rights of Markham Residents”, a group of approximately 80 residents, raised concerns about revamping the zoning by-law, particularly with regards to the body rub parlour and the sex industry. The federal law now states that one can sell sexual services, but one cannot buy. The residents group believes the City has an obligation to regulate the selling of the sex trade, by for example, stating that it could not be permitted two to three kilometres distance from an elementary or secondary school.

In response, the consulting team noted that bawdy houses are illegal in Markham. If they exist, they are illegal and are subject to prosecution. If one tries to regulate this type of activity through the zoning by-law, it can create confusion. The consulting team is suggesting that the buying of sexual services not be addressed in the zoning by-law, because this is not a zoning issue, but a criminal code issue.

A City Councillor commented that the City of Markham has established a good framework for controlling the sex industry.

# 23 Geographic Information and Technology

## 23.1 Introduction

This section outlines strategic considerations, options and associated requirements for the implementation of an innovative and interactive web-based comprehensive zoning by-law in the City of Markham. It provides a review of the City's existing Geographic Information System (GIS) and Information Technology Services (ITS) framework, resources and capabilities and an assessment of best practices examples of innovative and interactive web-based zoning by-laws within the Greater Toronto Area, Ontario and North America. It also identifies potential challenges associated with the implementation of an innovative and interactive GIS driven web-based zoning by-law body of knowledge.

Comments gathered through a series of meetings with City staff who participate in the creation, maintenance, and use of zoning data, policies and regulations are incorporated. Current practices were discussed along with future requirements for the zoning business process. The presentation of zoning by-law data in other similar jurisdictions was also investigated to assess how other municipal governments are making zoning information easily understandable and accessible.

## 23.2 Guiding Principles

The following guiding principles were developed for the City to consider moving forward to ensure that the web-based mapping delivery of the new comprehensive zoning bylaw can be executed with service goals in mind. GIS data driven sites based on address, parcel, roll and zone should:

- enable broad access to core zoning by-law information at address level;
- enable a large percentage of current letter, fax, email, phone and in-person counter

enquiries to be answered through self-help web pages:

- textually through access to printable official copies of Bylaw documents; and
- visually through printable maps, outlining zones and exception flags;
- contribute to consistency by utilizing the site as the primary source for zoning information, both for internal and external customers;
- increase the effectiveness of City staff by enabling field access to the entire zoning by-law (textual & visual); and
- align with City initiatives for efficiency, paperless, self-serve, transparency and compliance.

## 23.3 Markham Geographic Information and Technology Capabilities

The creation and maintenance of a zoning by-law is a mandated function of municipal government, however, there are no specific legislative or regulatory requirements dictating how the information should be shared. Most jurisdictions provide zoning by-law access through hard copies at customer service counters, posted online documents, map series sheets, via interactive GIS and in business applications. There is no single standard or common maturity level among the jurisdictions surveyed. The clear trend however is toward easy access at any time via web-based mapping services.

Quality information and accurate timely data is the foundation for supporting the business requirements for Development Services at the City of Markham. The City is already engaged in many activities that support the current infrastructure and information environments (zoning data creation and maintenance,

zone mapping, linkage to other enterprise systems, data query/search capability, mobile application deployment) and is well placed to extend those activities as development services datasets (including a new consolidated zoning by-law) mature.

Consultation with GIS staff in the Information Technology Services and the Geomatics group in Development Services (Planning Department) indicates that the City is in an excellent position to move forward with the consolidated zoning by-law project in both the information and technology spheres. Both the GIS/ITS and the Planning/Geomatics teams consistently portray their geospatial processes to be co-operative for the development and maintenance of the required

data and technologies. This is and will remain a required foundation to any successful application of geographic zoning information delivery to all stakeholders.

### 23.4 Innovative and Interactive Web-Based Zoning By-laws

A peer-review examination of the state-of-the-art in the Zoning By-Law geographic information and technology space reveals three key findings:

- The interactive text portion of the ZBL project continuum can be served by professional level PDF files. Use of an internal or external

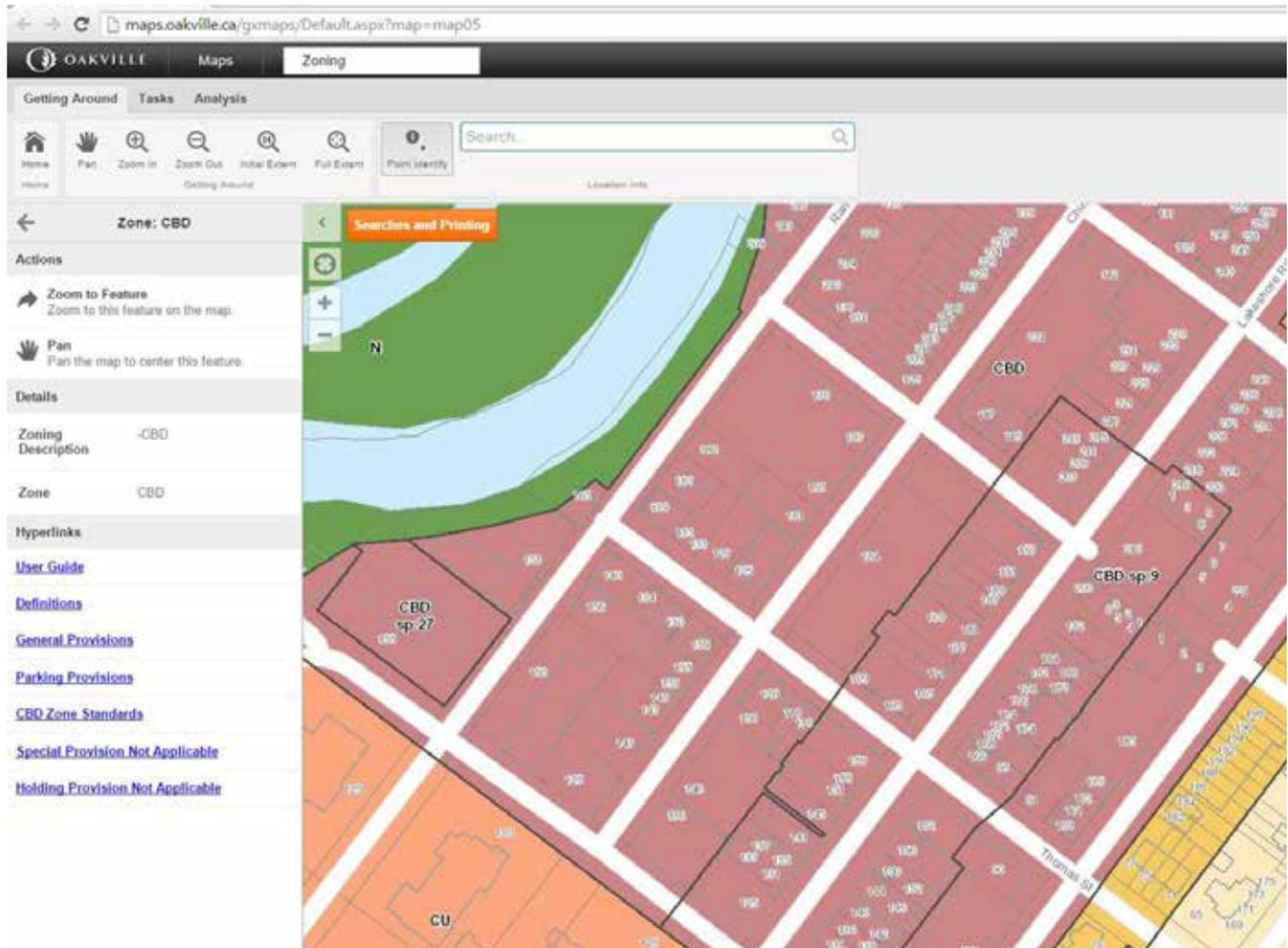


Fig. 6. Screen capture of Town of Oakville online zoning map (Source: <http://www.oakville.ca>)

document management system might introduce risk and additional costs, but may yield superior results for stakeholders.

- Both the Map Series (screen and paper) and Interactive Map (web GIS) products can be pursued for a modest cost, will benefit current and future stakeholders, and may lead to “geographic multipliers” around new uses of geography in municipal operations.
- The desire for a more fulsome business solution was a common theme noted in consultation with City staff. However, a full solution is outside the scope of simply getting the zoning by-law up and viewable. Nevertheless, the various incarnations of the Interactive Map can feed existing and/or new business solutions as they go through their own refresh lifecycles.

## 23.5 Technology for Zoning

**Legal Zoning By-Law Document:** The zoning by-law text should be presented and updated online, as a set of fully indexed and searchable files. Stakeholders require the ability to copy and/or download parts of, or entire documents. The complexity of the content requires that advanced help functionality such as pop-up hyperlinks to key definitions and illustrations are accessible to the stakeholder.

**Zoning By-Law Map Series:** Portable, digital map series can be a valuable adjunct to interactive text and mapping environments. These printable map sheets can also be offered as a complete set in a Map Book application and/or hard copy printed format as a schedule to the consolidated Zoning by-law. A declining minority of potential stakeholders prefer access via paper map.

### **Zoning By-Law Interactive Geographic**

**Information Systems (GIS):** Providing opportunities for visualization of information is an important consideration for making zoning information available and understandable to stakeholders. The map provides a visual tool to access information required. An increasing majority of potential stakeholders prefer access via an interactive mapping environment.

### **Zoning By-Law Business Solutions Applications:**

Zoning can/should be the gateway dataset to a solution where questions can be answered with simple, reusable computer functions deployed as business-specific applications to automate repetitive tasks. Creating, integrating and extending products and processes derived from the consolidated zoning by-law data should be thought of as the long term objective for the City’s use of zoning and property-related information.

## 23.6 Summary of Options

The technical and business considerations identified over the course of consultation with City staff are summarized in the table below.

Items Under Consideration	Options discussed with City Staff	
<b>Legal Document Handling</b>	<p style="text-align: center;">Printed Environment</p> <ul style="list-style-type: none"> <li>The printed document will always be useful and will represent the correct and legal document.</li> <li>Decision to be made about whether Clerk has a role in storage and handling of text document.</li> </ul>	<p style="text-align: center;">Online Environment</p> <ul style="list-style-type: none"> <li>Provides a convenient format for using the text document to the greatest benefit (search, mark-up, etc.).</li> <li>Not interpreted as the legal version of the zoning by-law.</li> </ul>
<b>Access and Understanding of Zoning By-Law Information</b>	<p style="text-align: center;">Text Document</p> <ul style="list-style-type: none"> <li>Any text document suffers from the sheer size and complexity of the structure and content of such a large information source.</li> </ul>	<p style="text-align: center;">Map Visualization</p> <ul style="list-style-type: none"> <li>Most stakeholders will relate well to the map as the repository of zoning information. It is an extension of increased use of location-based services on personal smart devices.</li> </ul>
<b>Need for Simplicity in User Interface for Zoning By-Law Information</b>	<p style="text-align: center;">Intuitive Interface</p> <ul style="list-style-type: none"> <li>Lighter, more purpose-built applications with a cleaner interface that guides stakeholders through a series of simple steps to provide input for correct processing and resolution.</li> </ul>	<p style="text-align: center;">Complex Interface</p> <ul style="list-style-type: none"> <li>Previous paradigm of Graphical User Interface design had a multitude of tabs, pick-lists, and buttons to provide full functional access to data and mapping elements.</li> <li>Only savvy professionals would benefit from content, it inhibits use by untrained staff.</li> </ul>
<b>Information to be made available to users of Zoning By-Law</b>	<p style="text-align: center;">Zoning Designations</p> <ul style="list-style-type: none"> <li>The top-level “parent” designations, which provide a thumbnail view of zoning across the jurisdiction.</li> <li>Most stakeholders would appreciate the parent designation on a map, with explanation in the text document.</li> </ul>	<p style="text-align: center;">Building Standards</p> <ul style="list-style-type: none"> <li>Public confuse zoning designations with building standards.</li> <li>Stakeholders described usefulness of showing a map of subject property to the public to ensure they are aware of property lines, ravine boundary, etc.</li> </ul>
<b>Diversity of business need for access to Zoning By-Law</b>	<p style="text-align: center;">Public and Industry Access</p> <ul style="list-style-type: none"> <li>Consensus that these stakeholders can live with less functionality and information in their application, but need enough to make a new tool useful.</li> </ul>	<p style="text-align: center;">Staff Access</p> <ul style="list-style-type: none"> <li>Staff asking for as much as the information and technology tools can give them, especially when it comes to productivity boosters like saved queries and text/map mark-up.</li> </ul>

Items Under Consideration	Options discussed with City Staff	
<b>Balance between website design for field and office access to Zoning data</b>	<p style="text-align: center;">Field Access</p> <ul style="list-style-type: none"> <li>• Access described for Public and Industry should be available via networked resources for anyone who requires the information.</li> <li>• Includes City Staff in the course of their daily activities, wherever and whenever needed.</li> </ul>	<p style="text-align: center;">Office Access</p> <ul style="list-style-type: none"> <li>• More options for desktop and other devices in the office environment.</li> <li>• Application may be useful for professionals, counter staff, call centre staff who don't have means to currently field simple calls.</li> </ul>
<b>Information and Technology tools enabling City business</b>	<p style="text-align: center;">Volume of Requests</p> <ul style="list-style-type: none"> <li>• Increasing volumes of work require a change to the zoning by-law information, technology and process.</li> <li>• Online environment may be able to provide metrics on use of zoning information inside and outside the organization.</li> </ul>	<p style="text-align: center;">Source of Requests</p> <ul style="list-style-type: none"> <li>• Online solution will meet needs of stakeholders who do not currently have good access to the information.</li> <li>• Expect requests to be sourced from areas of the organization that would like to have access, but currently do not.</li> </ul>
<b>The varied nature of information requests, and how they can be addressed</b>	<p style="text-align: center;">Low Impact Business Requests</p> <ul style="list-style-type: none"> <li>• Simple and/or nuisance requests can be handled in a more expeditious manner by staff trained to use information and technology tools.</li> </ul>	<p style="text-align: center;">High Impact Business Requests</p> <ul style="list-style-type: none"> <li>• Requests with high impact, and high visibility will continue to be dealt with by senior development services staff, who will also benefit from a streamlined information access process.</li> </ul>

The Zoning By-law Consolidation project is setting the stage for up-to-date, interactive access to zoning information via the City's web portal and geographic information repository. The web-based GIS driven hosting of all relevant information (text, drawings and geography) creates a significant service policy opportunity for the City. Simply stated, the suggested policy is to provide extensive and timely zoning information (data) for the public on an ongoing and accessible basis. The intent is to enhance public understanding of the by-law and improve enforcement, while minimizing staff expense in dealing with casual and straightforward inquiries, if and when such information is easily available by computer or other web access devices.

The implementation of an interactive web-based zoning by-law can significantly improve service delivery and the efficiency and effectiveness of City operations. Whereas the City will need to modify some existing business processes to establish and maintain the zoning by-law website and relevant source data, the website will also inform the awareness and enforcement of the by-law and its processes. This is a critical information loop between data creators and data consumers, both contributing to the overall health and currency of the data and the usefulness of the information in the City's business process for zoning and its by-law management.

In order for the City of Markham to be an innovative leader among its peers in the Greater Toronto Area, Ontario, Canada and abroad, it needs to play a role in each of the technology spaces (document, mapping, applications) described above. It will not be enough to master one, while ignoring the others. The City is well-positioned and will be expected to deliver in all of these areas to service future requirements by assigning the appropriate technology, expertise and staff.

## 23.7 Summary of Feedback from Public Consultations

At the November 5, 2015 public open house a concern was raised about the ability of residents to understand the zoning by-law, since it is such a complicated document. In response, the consultant team pointed out that web-based access to the zoning by-law would allow residents to easily search for, and find, all of the zoning regulations pertaining to a particular property.

Another participant urged staff to test the access to the geographic information system from off-site locations, since there may be differences in how the system works if accessed from within City Hall as compared to outside City Hall.

# 24 Conclusion

The fundamental purpose of Markham's new comprehensive zoning by-law project is to review, consolidate and update the City's parent zoning by-laws into one comprehensive, standardized zoning by-law that applies to the entire City and implements the City's new Official Plan.

A key objective of the project is to develop an innovative, user-friendly and web-based zoning by-law that incorporates emerging sustainable planning and development trends, to efficiently and effectively guide land use and development in Markham and improve service delivery to City residents and the development industry. The project is divided into three phases: Phase 1—Issue analysis; Phase 2—Strategic directions; and Phase 3—Drafting of the New Comprehensive Zoning By-law.

This Issues report summarizes the options and considerations contained in the discussion papers prepared as part of Phase 1, including comments received as part of the public consultation process. The purpose and objective of this phase of the project is to review and analyze relevant information relating to Markham's planning and zoning framework (new Official Plan, zoning by-laws, historical municipal zoning information etc.) in order to identify issues that need to be addressed as part of the formulation of a new comprehensive zoning by-law for the City. The discussion papers prepared as part of this process review potential options for addressing issues, including a review of innovative approaches and best practices from other municipalities.

The intent is to use the analysis of zoning issues which are summarized in this report, including the comments made as part of the public consultations, to inform the preparation of the Strategic Directions report which will form Phase 2 of the project. The Strategic Directions report will identify the preferred options for addressing each of the issues assessed in Phase 1, as well as propose an overall strategy for moving forward with the preparation of a new comprehensive zoning by-law.

Phase 2 of the project is intended to commence immediately upon completion of Phase 1. As with the Phase 1 process, Phase 2 will include opportunities for public input and the findings will be presented to Markham's Development Services Committee. The drafting of the New Comprehensive Zoning By-law (Phase 3) will be based on the strategy that is adopted following the completion of Phase 2 and is intended to be initiated immediately after the completion of Phase 2.

There will continue to be opportunities for public input into the process as it unfolds in all subsequent phases.



# Appendix 1 List of Discussion Papers

**Task 1:** Guiding Principles and Parameters & Trends and Issues in Zoning Controls

**Task 2:** City Official Plan and City Guidelines, Policies & Plans

**Task 3:** Review & Assessment of Existing City Parent Zoning By-laws

**Task 4A:** Review & Assessment -Site Specific Zoning Amendments

**Task 4B:** Review & Assessment of Minor Variances

**Task 5:** Review and Assessment of Zoning By-law Definitions

**Task 6:** Review & Assessment of Geographic Information & Technology Strategy

**Task 7:** Review & Assessment of Automotive Related Uses

**Task 8:** Review and Assessment of Drive-Through Facilities

**Task 9:** Review & Assessment of Parking and Loading Standards

**Task 10:** Review & Assessment of Residential Accessory Structures and Amenity Space

**Task 11:** Review & Assessment of Home Occupations

**Task 12:** Infill Zoning Standards and Interface between Residential and Non-Residential Uses

**Task 13A:** Review & Assessment of Affordable and Shared Housing, and Secondary Suites

**Task 13B:** Review & Assessment of Student Housing

**Task 14:** Review & Assessment of Places of Worship

**Task 15:** Review and Assessment-The Greenway and Special Policy Areas

**Task 16A:** Review & Assessment of Medical Marihuana Production Facilities

**Task 16B:** Review & Assessment of Addiction/ Recovery Centres

**Task 17:** Review & Assessment of Adult Entertainment & Sex Industry

**PHASE 1 (2015) OPEN HOUSES**

**Thursday, November 5**

- Guiding Principles
- Official Plan Conformity
- Existing Zoning By-laws
- Site Specific Amendments
- Minor Variances
- Zoning By-law Definitions
- Geographic Information Systems

**Thursday, November 12**

- Infill Housing
- Interface Issues Between Residential and Non-Residential Uses
- Residential Accessory Structures & Amenity Space
- Home Occupations
- Greenway System // "O& Special Policy Areas
- Parking Standards
- Places of Worship
- Geographic Information Systems

**Tuesday, December 8**

- Automotive Uses
- Drive Through Facilities
- Affordable & Shared Housing
- Student Housing
- Adult Entertainment & Sex Industry Uses
- Medical Marihuana Manufacturing Facilities
- Addiction & Recovery Facilities
- Geographic Information Systems