

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. DS-2022-0092

**FOR THE CONSIDERATION OF
COMMITTEE OF ADJUSTMENT**

October 11, 2022

SUBJECT: MINOR VARIANCE APPLICATION A34-21

26OH37 HOLDINGS INC.

CON 4 PT LOT 21 RS65R5964 PART 1 RS65R22678 PART 2

1. RECOMMENDATION:

1. That the Committee of Adjustment receive Report No. DS-2022-0092 prepared by the Development Planning Division, Development Services Department, dated October 11, 2022, respecting Minor Variance Application A34-21, submitted by 26OH37 Holdings Inc. for the property municipally addressed as 26037 Woodbine Avenue, Keswick.
2. That in the event no public or Committee concerns are raised at the meeting warranting investigation and a further meeting, Staff recommend the following:
 - a. That the Committee of Adjustment deny Minor Variance Application A34-22 to permit relief from the following:
 - i. Section 15.4 (f): To permit a minimum lot line setback of 0.5 metres for a driveway (as shown on Attachment 5);
 - ii. Section 15.4 (h): To permit parking spaces 5, 6 and 7 (as shown on Attachment 5) to have a nil setback from the front lot line; whereas parking areas must be set back a minimum of 1.5 metres from any lot line;
 - iii. Section 5.28 (b): To reduce the minimum required parking space ratio for Building 3 (as shown on Attachment 5) to 3.2 parking spaces per 95 square metres of non-residential floor area; whereas a minimum ratio of 5.5 parking spaces per 95 square metres of non-residential floor area is required for multi-unit commercial centre buildings;
 - iv. Section 5.28 (b): To reduce the minimum required parking space ratio for Building 2a (as shown on Attachment 5) to 1.1 parking spaces per 95 square metres of non-residential floor area;

- v. **Section 15.4 (h):** To permit parking spaces 5, 6 and 7 (as shown on Attachment 5) to have a nil setback from the front lot line; whereas parking areas must be set back a minimum of 1.5 metres from any lot line;
 - vi. **Section 15.4 (f):** To permit a minimum lot line setback of 0.5 metres for a driveway (as shown on Attachment 5);
 - vii. **Section 5.25 (a):** To permit the provision of a minimum of one (1) loading space for the Ex. Garage and Buildings 2A, 3 and 4 (as shown on Attachment 5); whereas a minimum of three (3) loading space are required for these buildings;
 - viii. **Section 2.34:** To amend the definition of 'business or professional office' to permit innovation / incubation spaces up to a maximum of 139.5 square metres per unit with related storage; whereas the current definition of 'business or professional office' does not contemplate such uses.
 - ix. **Section 2.196:** To amend the definition of 'studio' to permit movie set staging and film / animation production; whereas the current definition of 'studio' does not contemplate such uses;
 - x. **Section 15.2:** To add 'light manufacturing including related storage' as a permitted non-residential use in the site-specific Highway Commercial (C2-12) zone;
 - xi. **Section 15.2:** To add 'light warehouse and/or wholesaling establishment including related storage' as a permitted non-residential use in the site-specific Highway Commercial (C2-12) zone;
- b. That the Committee of Adjustment approve Minor Variance Application A34-22 to permit relief from the following:
- i. **Section 15.4 (e):** To permit a minimum rear yard of 4.0 metres for Building 4 (as shown as Attachment 5); whereas a minimum rear yard of 8 metres is required;
 - ii. **Section 2.34:** To amend the definition of 'business or professional office' to the following in order to permit 'innovation / incubation space'; whereas the current definition of 'business or professional office' does not contemplate such uses.
 - a. 'A building in which one or more persons are employed in the management, direction or conducting of a business

or where professional qualified persons and their staff serve clients who seek advice or consultation. Each building containing a business or professional office use may include a clearly subordinate space (up to 10% of the floor area of the primary use) dedicated to the research, development and/or creation of products related to the primary business or professional office use as an 'innovation / incubation space'. The research, development and/or creation of products must not be noxious and must not result in noise, dust, vibration, or odour nuisances.'

- iii. **Section 2.37:** To amend the definition of 'catering establishment' to the following to permit a craft brewery or distillery; whereas the current definition of 'catering establishment' does not contemplate such use;
 - a. "A small-scale establishment where food and non-alcoholic / alcoholic beverages are prepared for consumption off-site or for limited retail sale on-site. A catering establishment may include a craft brewery or distillery."
- iv. **Section 2.135:** To amend the definition of 'motor vehicle fuel bar' to the following to permit electric vehicle charging infrastructure; whereas the current definition of 'motor vehicle fuel bar' does not contemplate such uses;
 - a. "A building or structure together with one or more fuel pumps or charging stations, where gasoline, oils, other motor fuels and electricity are dispensed for sale and distribution directly into a motor vehicle and may include the sale of motor vehicle accessories but not include a mechanical garage or motor vehicle cleaning establishment. "
- c. That the approval of Minor Variance Application A34-22 be subject to the following term(s):
 - i. That future development on the subject property be in conformity with the relief recommended to be approved in Report DS-2022-0092, to the satisfaction of the Development Planning Division;
 - ii. That future development on the subject property be in general conformity with the provided site plan (as shown on Attachment

5 to Report DS-2022-0092), to the satisfaction of the Development Planning Division.

- iii. That the maximum total number of occupants within Building 2, as shown on Attachment 5 to Report DS-2022-0092, not exceed 5 persons.**
 - iv. That the maximum total number of occupants within Buildings 2A, 3 and 4, as shown on Attachment 5 to Report DS-2022-0092, not exceed 30 persons.**
 - v. That no fewer than 40 parking spaces be provided on the subject property.**
 - vi. That no more than 50 parking spaces be provided on the subject property.**
 - vii. That the total gross floor area dedicated to the amended 'catering establishment' use shall not exceed a cumulative 250 square metres on the subject property.**
 - viii. That the total gross floor area dedicated to the 'research, development and/or creation of products' (innovation / incubation space) as part of a 'business or professional office' use shall not exceed a cumulative 250 square metres on the subject property.**
- d. That the approval of Minor Variance Application A34-22 be subject to the following condition(s):**
- i. Submission to the Secretary-Treasurer of written confirmation from the Planning Policy Division that all matters identified in Attachment 8 to Report No. DS-2022-0092 have been addressed to the Division's satisfaction.**
 - ii. Submission to the Secretary-Treasurer of written confirmation from the Lake Simcoe Region Conservation Authority (LSRCA) that all matters identified in Attachment 8 to Report No. DS-2022-0092 have been addressed to the LSRCA's satisfaction.**
 - iii. Submission to the Secretary-Treasurer of written confirmation from the Development Planning Division that:**
 - a. Satisfactory progress has been made with Site Plan Application B.1.311.1;**
 - b. Consent Application B21-21 has been approved and has entered into force and effect;**

c. Consent Application B22-21 has been approved and has entered into force and effect;

iv. That the above noted condition(s) be fulfilled within two (2) years of the date of the Notice of Decision.

2. PURPOSE:

The purpose of this report is to provide a Staff analysis of Minor Variance A34-21, submitted by 26OH37 Holdings Inc, regarding a proposed multi-building commercial development.

Staff note that Development Planning Division Staff have indicated to the Applicant that the proposed modifications to Zoning By-law No. 500 would be most appropriately addressed through a Zoning By-law Amendment application.

The Applicant declined to pursue a Zoning By-law Amendment as recommended by Staff, the Applicant has instead opted to pursue a Minor Variance application.

3. BACKGROUND:

Owner(s): 26OH37 Holdings Inc.

Agent: MPlan Inc. (c/o Michael Manett)

Property Description: (refer to Attachments 1 to 4)
26037 Woodbine Avenue, Keswick
Part Lot 21, Concession 4 (NG)
Particularly described as Part 1 and Part 2 on Plan 65R-22678
Roll #: 19 70 000 109 548 00

3.1 PROPOSAL

The Owner is proposing a multiple building commercial development on the subject property.

Minor Variance (MV) application A34-21 requests the following relief.

- i. Section 5.28 (b): To reduce the minimum required parking space ratio for Building 3 (as shown on Attachment 6) to 3.2 parking spaces per 95 square metres of non-residential floor area; whereas a minimum ratio of 5.5 parking spaces per 95 square metres of non-residential floor area is required for multi-unit commercial centre buildings;

- ii. Section 5.28 (b): To reduce the minimum required parking space ratio for Building 2a (as shown on Attachment 6) to 1.1 parking spaces per 95 square metres of non-residential floor area;
- iii. Section 15.4 (e): To permit a minimum rear yard of 4.0 metres for Building 4 (as shown as Attachment 6); whereas a minimum rear yard of 8 metres is required;
- iv. Section 15.4 (f): To permit a minimum lot line setback of 0.5 metres for a driveway (as shown on Attachment 6);
- v. Section 2.34: To amend the definition of 'business or professional office' to permit innovation / incubation spaces up to a maximum of 139.5 square metres per unit with related storage; whereas the current definition of 'business or professional office' does not contemplate such uses.
- vi. Section 2.37: To amend the definition of 'catering establishment' to permit a craft brewery or distillery; whereas the current definition of 'catering establishment' does not contemplate such uses;
- vii. Section 2.135: To amend the definition of 'motor vehicle fuel bar' to permit electric vehicle charging infrastructure; whereas the current definition of 'motor vehicle fuel bar' does not contemplate such uses;
- viii. Section 2.196: To amend the definition of 'studio' to permit movie set staging and film / animation production; whereas the current definition of 'studio' does not contemplate such uses;
- ix. Section 15.2: To add 'light manufacturing including related storage' as a permitted non-residential use in the site-specific Highway Commercial (C2-12) zone;
- x. Section 15.2: To add 'light warehouse and/or wholesaling establishment including related storage' as a permitted non-residential use in the site-specific Highway Commercial (C2-12) zone;

The conceptual development plan and renderings are included as Attachments 5 and 7, respectively. Refer to Attachment 6 for the conceptual development plan with annotations defining the requested relief from Zoning By-law 500.

3.2 SUBJECT PROPERTY AND THE SURROUNDING AREA

The subject property is located on the east side of Woodbine Avenue, north-east of the Woodbine Avenue and Boyers Road intersection. Refer to Table 1 below for a summary of relevant property information.

Table 1. General Property Information		
Municipal Address	26037 Woodbine Avenue	
Zoning	Rural (RU) and Site-specific Highway Commercial (C2-12)	
Frontage	51.50 Metres	
Area	11,005 Square Metres	
Official Plan / Secondary Plan Land Use Designation	Rural Commercial Area	
Regional Official Plan Land Use Designation	Protected Countryside / Agricultural Area	
Related Applications	B21-21, B22-21 (Consents) B.1.311.1 (Site Plan Application)	
Land Use and Environmental Considerations		
Existing Structures	Single family dwelling, commercial building	
Proposed Structures	Three (3) new commercial buildings	
Heritage Status	Neither listed nor designated	
Regulated by LSRCA	Yes	
Natural Hazards	None	
Servicing		
	Existing	Proposed
Water	Private	Private
Sanitary	Private	Private
Access	Two (2) entrances to Woodbine Avenue	Two (2) entrances to Woodbine Avenue

3.3 RELATED APPLICATIONS

The subject property is subject to a number of related applications. These applications are as follows:

Site Plan Application

The subject property is currently subject to Site Plan Application (SPA) B.1.311.1.

Staff have indicated to the Applicant that the SPA should be near completion prior to the proposed MV being progressed to the Committee of Adjustment. The Applicant has indicated that they wish to proceed with the MV application at this time.

To preserve the integrity of Minor Variance approvals, Staff often recommend that the approval be tied to a development concept through the terms of the MV. This ensures that the context in which an approval was given is preserved at the time of SPA or building permit applications approved.

Staff recommend that, should the SPA be approved, that the site plan be in conformity with the relief recommended by Staff and be in general conformity with the provided MV site plan.

Consent Application for Lot Addition

The Applicant has applied for a Consent for lot addition.

The subject property was previously subject to a Consent application to merge Part 1 and Part 2 on Plan 65R-22678. Due to an administrative error, the two (2) parts did not merge, despite it being approved.

Both Part 1 and Part 2 are currently separately conveyable under the Planning Act. The Applicant has submitted Consent application B21-21 to ensure that both Parts merge.

Since the proposed Minor Variance and SPA B.1.311.1 are predicated on both Part 1 and Part 2 being merged on title, Staff are of the opinion that it is both appropriate and necessary to require that both parts are merged on title.

Given the above, Staff recommend that the approval Consent B21-21 be made a condition of Provisional MV approval.

Consent Application for Easement

The Applicant has applied for a Consent to create an easement.

The proposed development requires an emergency overland flow route from the proposed stormwater management pond to an approved outlet. This overland flow route would require an easement over the property to the east of the subject property. An approved Consent is required to create this easement. The Applicant has submitted Consent application (B22-21) to propose this easement.

If Consent B22-21 is not approved, the proposed stormwater management pond will need to be oversized. This will modify the development concept and potentially modify the required MV relief.

Staff recommend that the approval of Consent application B22-21 be made a condition of Provisional Minor Variance approval.

4. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

4.1 PUBLIC CIRCULATION

In accordance with the provisions of the *Planning Act*, the Notice of Hearing for the subject application was sent by mail on September 21, 2022 to all landowners within

60.0 metres of the subject property. A Notice of Hearing was sent by email to statutory agencies and parties on September 9, 2022.

As of the date of writing this report, Town Staff have not received any submissions from the general public.

4.2 EXTERNAL AGENCY AND TOWN DEPARTMENT COMMENTS

All received internal department and external agency comments have been consolidated into a chart (Attachment 8).

Planning Policy Division

The Planning Policy Division has no objection to the proposed Minor Variance, subject to the following condition.

- Provide an Arborist Report and Tree Compensation Plan in accordance with the Town Preservation and Compensation Policy.

Lake Simcoe Region Conservation Authority (LSRCA)

The LSRCA has no objection to the proposed Minor Variance, subject to the following conditions.

- That the Applicant/Owner apply for, and successfully obtain, an LSRCA Permit for the proposed works; and
- That the Applicant/Owner provide the required fee payment for Consent/Minor Variances (Minor – Planner Review Only) of \$525.00, as per the LSRCA's Board approved Fees Schedule.

The LSRCA has also acknowledged that there is a concurrent Site Plan Application (SPA file No. B.1.311.1) ongoing on the subject property. The LSRCA also noted that the payment of phosphorus offsetting funds will be required through the SPA process and not as a condition of Provisional Minor Variance approval.

The following Town departments / divisions and external agencies have indicated no objections to the Minor Variance.

- York Region
- Development Engineering Division
- Municipal Law Enforcement Division
- Septic Inspector
- Economic Development Division
- Ministry of Transportation
- Tax and Revenue Division

- York Catholic District School Board
- Operations and Infrastructure Department
- Fire Department

5. **ANALYSIS:**

The following evaluation of Minor Variance (MV) application A34-21 is based on the four (4) prescribed tests as set out in Section 45(1) of the *Planning Act*:

i. Is the general intent and purpose of the Official Plan maintained? – Yes & No

The subject property is designated Rural Commercial Area. Development in the designation shall be privately serviced, not require large amounts of water for their operation, shall not contain uses or produce effluents that are noxious and shall be a low fire risk.

Staff note that the proposed development would be on private water and septic services.

An analysis of each proposed use modification and addition relative to water use, effluent and fire risk policies will be provided for each individual request.

Section 6.4.1 of the Official Plan specifies that permitted uses in the designation include:

- a. Commercial uses that service the rural/agricultural/recreational communities or provide services to the travelling public; and
- b. Commercial uses which comply with or are similar to those permitted by the zoning for the site existing at the date of the adoption of the Official Plan.

The subject property is split-zoned as site-specific Highway Commercial (C2-12) and Rural (RU). Both of these zones pre-exist November 23, 2016, being the date the Official Plan entered into force and effect.

Refer to Section 15.5.12 / 15.2 and Section 28 of the Zoning By-law for permitted uses within the C2-12 and RU zones, respectively.

The MV proposes various pieces of relief, included modifications to permitted uses in the C2-12 zone. No modifications to permitted uses in the RU zone are proposed.

The below is an analysis of the six (6) proposed use modifications in the C2-12 zone. Relief requests that do not relate to permitted uses are evaluated in further Sections of this Report.

1. *Business or Professional Office - Yes*

The MV proposes to amend the definition of 'business or professional office' to permit 'innovation/incubation space up to a maximum of 139.5 m² per unit with related storage'. A proposed definition has not been provided.

Based on verbal conversations with the Applicant, Staff understand the request in the context of a 'business or professional office' use to mean the following:

"A building in which one or more persons are employed in the management, direction or conducting of a business or where professional qualified persons and their staff serve clients who seek advice or consultation. Each building containing a business or professional office use may include a clearly subordinate space (up to 10% of the floor area of the primary use) dedicated to the research, development and/or creation of products related to the primary business or professional office use as an 'innovation / incubation space'. The research, development and/or creation of products must not be noxious and must not result in noise, dust, vibration, or odour nuisances."

Staff note that modern offices often involve scoped research, development and material manipulation activities, as enabled by emerging small-scale material technologies.

Staff are of the opinion that the proposed definition modification will not result in the permission of a use that involves high water use, produces noxious emissions or that is a fire risk.

Staff are also of the opinion that, while the proposed modification to the definition is appropriate, that same is only the case when the amount of floor area dedicated to the 'innovation / incubation space' is clearly subordinate and accessory to the primary 'business or professional office use'. Staff recommend that a maximum of 10% of any 'business or professional office' use be used for 'innovation / incubation space', calculated on an individual unit basis.

Staff also recommend that no more than 250 square metres of 'innovation / incubation space' be permitted on the subject property.

Staff are of the opinion that, given the context and normal practices associated with modern business or professional offices, that the modification of the 'business or professional use' definition to enable the limited research, development and/or creation of products in a non-noxious manner associated with a business or professional office use is appropriate. Staff are further of the opinion that the proposed modification of the 'business or professional office' use is similar enough to presently-permitted uses in the C2-12 zone to be permissible under Section 6.4.1 (b) of the Official Plan.

Staff recommend that the definition of the 'business or professional office' use in the C2-12 zone be modified as described above.

2. Catering Establishment - Yes

The MV proposes to amend definition of 'catering establishment' to permit a 'craft brewery or distillery'. A proposed definition has not been provided. Staff understand the request in the context of a 'catering establishment' use to mean the following:

"A small-scale establishment where food and non-alcoholic / alcoholic beverages are prepared for consumption off-site or for limited retail sale on-site. A catering establishment may include a craft brewery or distillery."

To preclude a 'catering establishment' use from evolving into an 'industrial use' and considering that the production of bulk alcoholic beverages uses high volumes of water, produces odour emissions, and has the potential for elevated fire risk, Staff are of the opinion that it is appropriate to limit the maximum floor area that may be used for a 'catering establishment' use. Staff recommend that a term be implemented that limits the maximum floor areas that may be used for a 'catering establishment', on a total property basis, to a maximum of 250 square metres.

Staff are of the opinion that the proposed modification of the 'catering establishment' use is similar enough to presently-permitted uses in the C2-12 zone to be permissible under Section 6.4.1 (b) of the Official Plan.

Staff recommend that the definition of 'catering establishment' in the C2-12 zone be amended as described above. Staff also recommend that a term be implemented to limit the total permissible floor area on the subject property that may be a 'catering establishment' to 250 square metres.

3. Motor Vehicle Fuel Bar - Yes

The MV proposes to amend the definition of 'motor vehicle fuel bar' to permit 'electric vehicle charging stations'. A proposed definition has not been provided. Staff understand the request in the context of a 'motor vehicle fuel bar' use to mean the following:

"A building or structure together with one or more fuel pumps or charging stations, where gasoline, oils, other motor fuels and/or electricity are dispensed for sale and distribution directly into a motor vehicle and may include the sale of motor vehicle accessories but not include a mechanical garage or motor vehicle cleaning establishment."

Staff have historically considered free charging stations to be accessory structures and / or uses. Where a charging station charges a fee, whether for non-profit or

profit purposes, the charging station becomes classified as a 'motor vehicle fuel bar'.

Staff are of the opinion that the proposed definition modification will not result in the permission of a use that involves high water use, produces noxious emissions or that is a fire risk.

Staff are of the opinion that an 'electric vehicle charging station' use is a natural and reasonable extension to the currently-permitted 'motor vehicle fuel bar' use. Evolving vehicle propulsion technologies have resulted in a pronounced need for charging facilities. Staff are further of the opinion that the proposed modification of the 'motor vehicle fuel bar' use is similar enough to presently-permitted uses in the C2-12 zone to be permissible under Section 6.4.1 (b) of the Official Plan.

Staff recommend that the definition of 'motor vehicle fuel bar' use in the C2-12 zone be modified as described above.

4. Studio - No

The MV proposes to amend definition of 'studio' to permit 'movie set staging and film / animation production'. A proposed definition has not been provided.

Staff are of the opinion that 'movie set staging' is more similar to an industrial use than a 'studio' use, primarily due to the activity involving substantial construction aspects. While Staff recognize that 'movie set staging' involves degrees of artistic ability, the individuals who are implementing the use are more specialized in the fields of construction and manufacturing. Staff further note that the construction of sets and props often involves the substantial manipulation of materials, specifically in a manner that is loud, and that generates particulate emissions / vibrations. Staff are of the opinion that 'movie set staging' is more akin to an industrial use and is therefore insufficiently similar to the existing 'studio' use.

Staff are of the opinion that the permission of 'movie set staging' is not similar to the permitted uses within the C2-12 zone to be permissible under Section 6.4.1 (b) of the Official Plan.

Staff are further of the opinion that 'movie set staging' is not classifiable as a use that services rural/agricultural/recreational communities or provide services to the travelling public and is therefore not permissible under Section 6.4.1 (a) of the Official Plan.

Staff are of the opinion that the permission of 'movie set staging' as an extension of the 'studio' use definition is not appropriate. Staff recommend that the request to permit 'movie set staging' as an extension of the 'studio' use be denied.

Staff are of the opinion that 'film / animation production' falls within the existing definition of 'studio'. No modification or clarification is required to enable 'film / animation production' as part of a 'studio' use.

Staff recommend that the 'studio' use be maintained as-is and note that 'film / animation production' is already permitted by the existing definition.

5. Light Manufacturing and Related Storage - No

The MV proposes to add 'light manufacturing including related storage' as a permitted use in the C2-12 zone. A proposed definition has not been provided.

Light manufacturing and related storage (warehousing) is considered to be an industrial use.

Industrial uses are not similar to any permitted uses in the C2-12 zone and are not permissible under Section 6.4.1 (b) of the Official Plan.

Industrial uses are not commercial uses and are not permissible under Section 6.4.1 (a) of the Official Plan.

Staff are of the opinion that the request is not appropriate. Staff recommend that the request to add light manufacturing and related storage as a permitted use in the C2-12 zone be denied.

6. Light Warehouse and/or Wholesaling Establishment - No

The MV proposes to add 'light warehouse and/or wholesaling establishment including related storage' as a permitted use in the C2-12 zone. A proposed definition has not been provided.

Warehousing is considered to be an industrial use. Industrial uses are not similar to any permitted uses in the C2-12 zone and are not permissible under Section 6.4.1 (b) of the Official Plan. Industrial uses are not commercial uses are not permissible under Section 6.4.1 (a) of the Official Plan.

Staff note that a wholesaling establishment use is already permitted in the C2-12 zone. The definition is below:

“ means a building used for the purpose of selling goods, wares or merchandise to retailers or other business users, including other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or businesses, but excluding the provision of these services on a retail basis.”

Staff are of the opinion that the existing 'wholesaling establishment' use in the C2-12 zone encompasses the requested 'Wholesaling Establishment' aspect of the proposed use modification request.

Staff recommend that no use be added to permit a 'Light Warehouse and/or Wholesaling Establishment' due to the 'wholesaling establishment' use already being permitted in the C2-12 zone. Staff also recommend that the request to add 'warehousing' as a permitted use in the C2-12 zone be denied.

In summary, Staff recommend that certain aspects of the requested relief with regard to the permitted uses be approved while others be denied as noted above. Staff are of the opinion that, provided the recommendations of Staff are implemented, that the proposed Minor Variance meets the purpose and intent of the Official Plan.

ii. Is the general intent and purpose of the Zoning By-law maintained? – Yes & No

The subject property is zoned site-specific Highway Commercial (C2-12) and Rural (RU) in Zoning By-law No. 500.

The MV proposes various pieces of relief from Zoning By-law regulations for both the C2-12 and RU zones. This Section provides an analysis of each request under separate headings.

For additional context, Staff note that Building Division Staff have indicated that the proposed septic system is only large enough to accommodate the following maximum occupancies in the following buildings.

- Building 1 – No maximum occupancy
- Building 2 – Maximum of 5 occupants
- Building 2A, 3 and 4 – Maximum of 30 occupants

Staff are of the opinion that a conservative estimate for the maximum occupancy for all existing and proposed buildings in the proposed development is 50 persons.

1. Reduction in Minimum Parking Space Ratio for Building 2A - No

The MV proposes to reduce the minimum required parking space ratio for Building 2A (as shown on Attachment 6) to 1.1 parking spaces per 95 m² of non-residential floor area.

Building 2A is located within the RU zone.

The Applicant has indicated that all uses within Building 2A would be uses that are currently permitted in the RU zone.

Staff note that development in the RU zone cannot be classified as a multi-unit commercial centre; therefore, it is necessary to know which specific uses are proposed in the building in order to determine minimum parking requirements.

Since Building 2A cannot be a multi-unit commercial centre and since Staff do not have defined proposed uses, it is not possible to determine minimum parking requirements. As such, Staff cannot evaluate the requested reduction versus a current minimum parking requirement.

Despite the above and given the occupancy limitations arising from the capacity of the proposed private septic system, Staff are of the opinion that it is appropriate to implement a parking *maximum* to functionally limit the number of persons who may attend the site to preserve the integrity of the proposed septic system. Staff recommend that a *maximum* of fifty (50) parking spaces be provided on the subject property.

Considering that development in both the RU zone and C2-12 may involve parking intensive uses, Staff also recommend that a *minimum* of forty (40) parking spaces be provided on the subject property.

Staff recommend that the requested reduction in minimum parking requirements for Building 2A be denied in favour of a term that implements parking maximums and minimums.

2. Reduction in Minimum Parking Space Ratio for Building 3 – No

The MV proposes to reduce the minimum required parking space ratio for Building 3 (as shown on Attachment 6) to 3.2 parking spaces per 95 m² of non-residential floor area; whereas a minimum ratio of 5.5 parking spaces is required for multi-unit commercial centre (MUC) buildings.

Building 3 is located within the C2-12 zone. All existing C2-12 zone permitted uses, including the modifications recommended by Staff, if implemented within Building 3, would maintain said building's classification as a MUC.

Staff note that Section 5.28 of the Zoning By-law specifies regulations for the maximum permissible percentage of a MUC that may be used for traditionally parking-intensive uses. The MUC definition permits parking flexibility where multiple commercial units are contained within a single development. MUC minimum parking requirements are calculated on a development-wide basis, instead of on a per-unit basis.

Staff also note that there are OBC-mandated occupancy maximums for all existing and proposed commercial buildings. These limits are defined below:

- Building 1 – No maximum occupancy

- Building 2 – Maximum of 5 occupants
- Building 2A, 3 and 4 – Maximum of 30 occupants

Staff also note that, as per Building Division comments, there is a functional maximum in the total number of occupants that can be accommodated within the existing and proposed buildings. As noted above, Staff have conservatively-estimated that a maximum of 50 occupants can reasonably be expected in all existing and proposed buildings.

Staff recommend that the requested reduction in minimum parking requirements for Building 3 be denied in favour of a term that implements parking maximums and minimums in order to ensure that total occupancy loads do not exceed the capacity of the proposed private septic system.

Staff recommend that a maximum of fifty (50) parking spaces be provided on the subject property. Staff also recommend that a minimum of forty (40) parking spaces be provided on the subject property.

3. Reduction in Minimum Rear Yard for Building 4 - Yes

The MV proposes to reduce the minimum rear yard for Building 4 to 4 metres, whereas a minimum rear yard of 8 metres is required.

The intent of minimum rear yard regulations in the C2-12 zone is to ensure adequate spatial separation between commercial building and other uses.

Staff note that the property that abuts the rear lot line of the subject property is currently used for agricultural purposes. This property is also zoned General Industrial (M2) in the Zoning By-law. Staff note that, while re-development of this property for industrial purposes is possible in the indeterminate future, that standard Zoning By-law regulations in the M2 zone would mitigate any potential concerns regarding the spatial separation of Building 4 to future development.

Staff are of the opinion that the requested reduction in minimum rear yard for Building 4 to 4 metres is appropriate. Staff recommend that the request be approved.

4. Reduction in Minimum Lot Line Setback for Driveways - No

The MV proposes to reduce the minimum lot line setback for driveways from 1.5 metres to 0.5 metres.

Staff note that the minimum 1.5 metre lot line setback only applies to parking areas. The portions of the subject property that contain driveways with setbacks that are less than 1.5 metres are not classified as parking areas.

Staff are of the opinion that it is not appropriate to recommend the approval of relief that is not necessary. Staff recommend that the requested relief be denied.

5. Reduction in Minimum Lot Line Setback for Parking Spaces

The MV proposes to reduce the minimum lot line setback for parking spaces (parking areas) from 1.5 metres to nil.

Staff note that parking spaces 1, 5, 6 and 7 appear to have a nil setback to the front lot line.

Staff are of the opinion that it is inappropriate to permit development with nil setbacks given the potential for unauthorized encroachments within the York Region right-of-way.

Staff recommend that the requested relief be denied.

6. Reduction in the Minimum Number of Loading Spaces - No

The MV proposes to reduce the minimum number of required loading spaces for all existing and proposed commercial buildings one (1) where, based on the total proposed non-residential floor area, a total of three (3) loading spaces are required.

Staff note that all the permitted and proposed uses within both the C2-12 and RU zones are expected to require loading facilities.

The Applicant has indicated that loading spaces may be provided in the proposed buildings, but has not provided details regarding same.

The proposed development concept plan shows two (2) loading spaces. One loading space is labelled as being 'temporary' and is located within a fire route. The second loading space is proposed to be adjacent to the proposed stormwater management pond. In addition, the renderings suggest loading doors on Buildings 2A, 3, and 4 which would place any associated loading areas within a fire route, these locations are not appropriate and must be addressed through the site plan control process.

In light of the above, Staff are of the opinion that it is inappropriate to permit the requested reduction in the minimum number of required loading spaces.

In summary, Staff recommend that certain aspects of the requested relief be approved and other aspects denied as described above.

Staff are of the opinion that, provided the recommendations of Staff are implemented, that the proposed Minor Variance meets the purpose and intent of the Zoning By-law.

iii) Is the Minor Variance desirable for the appropriate development of the property or use of land, building or structure? – Yes

As noted in this Report, Staff have analyzed each piece of requested relief and have provided a recommendation on the appropriateness of same relative to the intent of the Official Plan and Zoning By-law.

Staff are of the opinion that, provided that the recommendations of Staff are implemented, that the proposed Minor Variance is desirable for the appropriate development of the property.

iv) Is the relief sought minor in nature? – Yes

In considering whether the relief sought is minor, Staff note that this test is not simply a question of numerical value. The principal consideration is that of potential impact the variance may have, and whether that impact is minor or acceptable. In light of the above evaluation of the application, Staff are of the opinion that the proposed Minor Variance, as recommended by Staff, is minor in nature.

6. CONCLUSION:

Subject to the recommendations of Staff in Section 1 of this Report, Staff are of the opinion that Minor Variance Application A34-21 as recommended by Staff and as it pertains to the proposed commercial development, meets the four (4) prescribed tests as set out in Section 45(1) of the Planning Act, R.S.O. 1990 and represents good planning.

APPROVALS:

Prepared by:

Connor McBride, MCIP, RPP
Senior Development Planner

Approved By:

Janet Porter, MCIP, RPP
Manager of Development Planning

Attachments:

Attachment 1 – Context Map

Attachment 2 – Key Map

Attachment 3 – Aerial Map

Attachment 4 – Site Photos

Attachment 5 – Concept Development Plan

Attachment 6 – Annotated Concept Development Plan

Attachment 7 - Renderings

Attachment 8 – Consolidated Comments