

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: August 18, 2023

CASE NO(S): OLT-22-004090

PROCEEDING COMMENCED UNDER section 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended.

Applicant/Appellant: Markham Main Street RR Inc. c/o SmartCentres Inc
Subject: Request to amend the Official Plan – Failure to adopt the requested amendment
Description: to permit a six storey, 308 unit retirement residence
Reference Number: PLAN 20 136386
Property Address: 134, 136, 140, 144 and 152 Main Street Markham N and 12 Wilson Street
Municipality/UT: Markham/York
OLT Case No: OLT-22-004090
OLT Lead Case No: OLT-22-004090
OLT Case Name: Markham Main Street RR Inc. v. Markham (City.)

PROCEEDING COMMENCED UNDER section 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended.

Subject: Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description: to permit a six storey, 308 unit retirement residence
Reference Number: PLAN 20 136386
Property Address: 134, 136, 140, 144 and 152 Main Street Markham N and 12 Wilson Street
Municipality/UT: Markham/York
OLT Case No: OLT-22-004091
OLT Lead Case No: OLT-22-004090
OLT Case Name: Markham Main Street RR Inc. v. Markham (City.)

BEFORE:

K.R. ANDREWS) Wednesday, the 16th day of
)
) August, 2023

THIS MATTER having initially come for a settlement hearing before the Ontario Land Tribunal on March 14, 2023 (the “**Tribunal**”) and the Tribunal having issued its Memorandum of Oral Decision and Order on June 12, 2023, allowing, in part, the Appellant’s appeals of the request to amend the City of Markham Official Plan and the application to amend Zoning By-law No. 1229 but withholding the Final Order subject to the Tribunal receiving the OPA and Zoning By-law Amendment submitted in a final form, confirmed to be satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor;

AND THE TRIBUNAL having been advised by the Parties on July 27, 2023 that the above noted condition has been satisfied and the final form of the OPA and Zoning By-law Amendment being submitted to the Tribunal and that the City and the Appellant are thus jointly requesting that the Tribunal proceed to issue its Final Order;

AND THE TRIBUNAL having been satisfied that the prior condition to the Order previously imposed by the Tribunal, upon the consent of the parties, has been satisfied and that it is accordingly appropriate that the Tribunal issue its Final Order amending the City’s Official Plan and the identified Zoning By-law through the revised instruments now submitted for final approval upon the joint request of the City and the Appellant;

AND THE TRIBUNAL authorizes the municipal clerk to format, as may be necessary, and assign a number to these bylaws for record keeping purposes;

THE TRIBUNAL ORDERS in accordance with the Oral Decision and Order, that;

1. The City of Markham Official Plan is amended in accordance with the official plan amendment attached hereto as **Schedule “A”**; and
2. The City of Markham Zoning By-law No. 1229 is amended in accordance with the zoning by-law amendment attached hereto as **Schedule “B”**.

THE TRIBUNAL ORDERS that, pursuant to Rule 24.3 of the Tribunal’s Rules of Practice and Procedure, notwithstanding the eventual date of the formal issuance of this Order, it shall be, and was, effective as of **Thursday, July 27, 2023** which is the date

that the Tribunal received, considered and determined the request for the Final Order in this proceeding.

“Euken Lui”

EUKEN LUI
ACTING REGISTRAR

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

SCHEDULE “A”

CITY OF MARKHAM

OFFICIAL PLAN AMENDMENT NO. XXX

To amend the City of Markham Official Plan 2014, as amended.

[Markham Main Street RR Inc.]

134, 136, 140, 144 & 152 Main Street North and 12 Wilson Street

(_____ 2023)

CITY OF MARKHAM

OFFICIAL PLAN AMENDMENT NO. XXX

To amend the City of Markham Official Plan 2014, as amended.

This Official Plan Amendment was adopted by the Corporation of the City of Markham, By-law No. ----20xx-xx---- in accordance with the Planning Act, R.S.O., 1990 c.P.13, as amended, on the XX day of _____, 2023.

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor



By-law 2023-----

Being a by-law to adopt Amendment No. XXX
to the City of Markham Official Plan 2014, as amended

THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM, IN
ACCORDANCE WITH THE PROVISIONS OF THE PLANNING ACT, R.S.O., 1990
HEREBY ENACTS AS FOLLOWS:

1. THAT Amendment No. XXX to the City of Markham Official Plan 2014, as amended, attached hereto, is hereby adopted.
2. THAT this by-law shall come into force and take effect on the date of the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS **xx** DAY OF _____, 2023.

Kimberley Kitteringham
City Clerk
(Signed)

Frank Scarpitti
Mayor

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PART I - INTRODUCTION

(This is not an operative part of Official Plan Amendment No. XXX)

PART I – INTRODUCTION

1.0 GENERAL

- 1.1** PART I - INTRODUCTION, is included for information purposes and is not an operative part of this Official Plan Amendment.
- 1.2** PART II - THE OFFICIAL PLAN AMENDMENT constitutes Official Plan Amendment No. XXX to the City of Markham Official Plan 2014, as amended. Part II is an operative part of this Official Plan Amendment.

2.0 LOCATION

This Amendment applies to a 0.82 hectare (2.04 acre) parcel of land municipally known as 134, 136, 140, 144 & 152 Main Street North and 12 Wilson Street, located on the west side of Main Street North, north of Wilson Street and east of Water Street (the “Subject Site”).

3.0 PURPOSE

The purpose of this Official Plan Amendment is to amend Section 9.13 to add a new site specific policy to permit the development of a mixed use building with a maximum height of 21.5 metres and a maximum density of 3.01 FSI, not including areas for above or below grade parking or existing heritage buildings. The site specific policy will also exempt the development from providing at-grade retail and service uses on the Wilson Street and Water Street frontages.

4.0 BASIS OF THE OFFICIAL PLAN AMENDMENT

The Subject Site is designated 'Mixed Use Heritage Main Street' in the Markham Official Plan 2014 and is subject to Site Specific Policy 9.13.4.9, which permits a maximum building height of 3 storeys for the front portions of buildings fronting on Main Street North.

The Amendment was initiated by the Owner of the subject lands in order to facilitate a 6-storey (7-level) mixed-use residential building with a 1- to 3-storey building height along Main Street North.

The Provincial Policy Statement (PPS, 2020) and A Place to Grow: Growth plan for the Greater Golden Horseshoe (Growth Plan) direct municipalities to provide a full range of housing types and densities and to provide opportunities for redevelopment, intensification and revitalization in areas that have sufficient existing or planned infrastructure. In this regard, the subject site is located within a Mixed Use Neighbourhood Area within a Heritage Centre, is near the Markham GO Station (which meets the definition of a 'Higher Order Transit Station' as set out in the Growth Plan), and is near Bus Rapid Transit along Highway 7. The proposed development supports Provincial, Regional and Municipal planning policy by making efficient use of an underutilized parcel of land located in an area that the City of Markham and Province of Ontario have identified for intensification and redevelopment, while being massed and articulated in a manner that is compatible with established residential areas and maintains the heritage integrity of the interfacing segment of Main Street North. Introducing a residential

apartment building, in addition to the retention and restoration of 5 heritage buildings along Main Street North, will contribute to the revitalization of Markham Village (and more specifically 'Main Street Markham') by providing population support to area businesses.

PART II – THE OFFICIAL PLAN AMENDMENT

(This is an operative part of Official Plan Amendment No. XXX)

PART II – THE OFFICIAL PLAN AMENDMENT

1.0 THE OFFICIAL PLAN AMENDMENT

1.1 Section 9.13 of the Official Plan 2014, as amended, is hereby amended by:

- a) Amending Section 9.13.1 to add a reference to a new Section 9.13.4.14 in Figure 9.13.1 as follows:

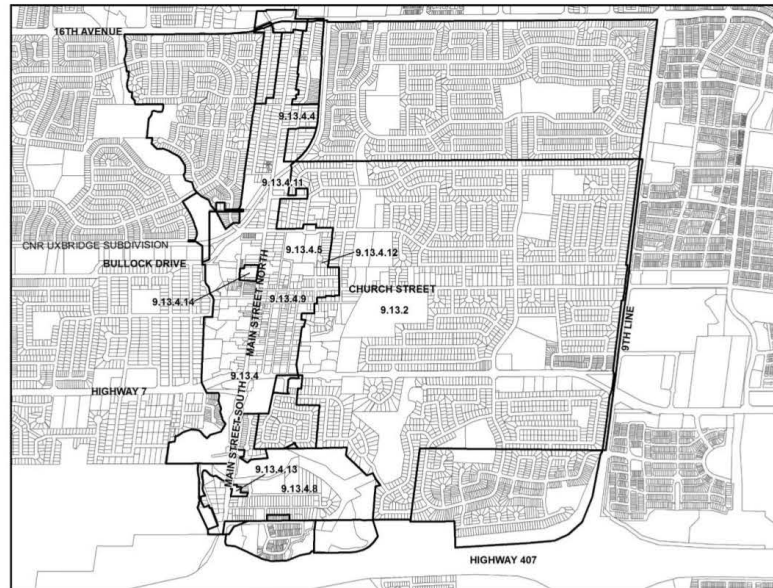


Figure 9.13.1

- b) Adding a new section 9.13.4.14 and Figure 9.13.4.14 as follows:

"9.13.4.14 134, 136, 140, 144 & 152 Main Street North and 12 Wilson Street

The 'Mixed Use Heritage Main Street' lands shown in Figure 9.13.4.14* shall:

- a) have a maximum building height as set out in Figure 9.13.4.14 and measured in accordance with the provisions of the implementing zoning bylaw and shown with approximate measurements in Figure 9.13.4.14;

- b) have a maximum density of 3.01 FSI, which shall not include gross floor area associated with above or below grade parking or existing heritage buildings; and
- c) not be subject to the provision of Section 9.13.4.9 a) on the frontages of Wilson Street and Water Street.

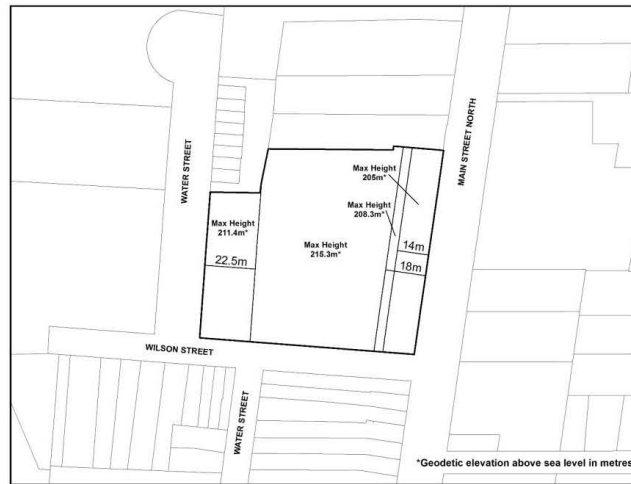


Figure 9.13.4.14"

2.0 IMPLEMENTATION AND INTERPRETATION

The provisions of the City of Markham Official Plan 2014, as amended, regarding the implementation and interpretation of the Plan, shall apply in regard to this Amendment, except as specifically provided for in this Amendment.

This Amendment shall be implemented by an amendment to the Zoning By-law and Site Plan approval and other Planning Act approvals, in conformity with the provisions of this Amendment.

SCHEDULE “B”



BY-LAW 2023-XX

A By-law to amend By-law 1229, as amended

The Council of The Corporation of the City of Markham hereby enacts as follows:

1. That By-law 1229, as amended, as it applies to the lands outlined on Schedule 'A' as follows:
2. By adding to Section 12 – EXCEPTIONS TO STANDARDS AND PERMITTED USES, the following new subsection

Exception 12.82	134, 136, 140, 144 & 152 Main Street North and 12 Wilson Street	Parent Zone C2
File PLAN 20 136386		Amending By-law 2023-XX
Notwithstanding any other provisions of this By-law, the following provisions shall apply to the land shown on Schedule "A" to this By-law. All other provisions, unless specifically modified/amended by this section, continue to apply to the lands subject to this section.		
12.82.1 Special Zone Standards		
The following special zone standards shall apply:		
a)	Notwithstanding any further division of partition of the lands subject to this section, all lands zoned C2 as shown on Schedule 'A' shall be deemed one LOT for the purposes of this By-law.	
b)	For the purposes of this By-law, the LOT LINE abutting Main Street North shall be deemed to be the FRONT LOT LINE.	
c)	For the purposes of this By-law, average grade shall be 193.8 metres Canadian Geodetic Datum (CGD).	
d)	Maximum GROSS FLOOR AREA – 24,100 square metres.	
e)	Maximum GROSS FLOOR AREA for non-residential uses – 890 square metres.	
f)	Notwithstanding the provisions of d) and e) above, heritage buildings existing on the date of passing of this by-law, shall not be included in the calculation of GROSS FLOOR AREA.	
g)	Minimum required YARDS FRONT YARD – 4.0 metres REAR YARD – 2.5 metres SIDE YARD – 4.4 metres SIDE YARD abutting a STREET – 3.0 metres	
h)	Notwithstanding the provisions of g) above, heritage buildings existing on the date of passing of this by-law, shall not subject to minimum YARDS.	
i)	Maximum LOT COVERAGE – 77%	
j)	Maximum BUILDING HEIGHT – 21.5 metres	
k)	Notwithstanding j) above, the following additional BUILDING HEIGHT provisions apply: <ol style="list-style-type: none"> i. within 14 metres of the FRONT LOT LINE – 11.2 metres ii. between 14 metres and 18 metres of the FRONT LOT LINE – 14.5 metres iii. within 22.5 metres of the REAR LOT LINE – 17.6 metres iv. Parapets, awnings, fences, guard rails, railings and dividers, eaves, screens, stairs, roof drainage, windowsills, vents, light fixtures, architectural features, and mechanical equipment, which may project above the maximum BUILDING HEIGHT. 	
l)	Notwithstanding g) above, cornices, light fixtures, ornamental elements, parapets, art and landscape features, pillars, balconies, terraces, patios, eaves, windowsills, planters, ventilation shafts, guardrails, balustrades, railings, stairs, doors, fences, screens, site servicing features, awnings and canopies, and underground garage ramps and associated structures may extend 1.5 metres into the minimum YARDS.	

m)	<p>Minimum required parking:</p> <ul style="list-style-type: none"> i. 0.9 PARKING SPACES per DWELLING UNIT ii. Required PARKING SPACES for Visitors and Non-Residential uses are permitted to be shared. iii. PARKING SPACES for visitor and non-residential uses shall be the greater of: <ul style="list-style-type: none"> 1. 0.18 PARKING SPACES per DWELLING UNIT for visitors. 2. 1 PARKING SPACE per 26 square metres of GROSS FLOOR AREA for all permitted non-residential uses. iv. A minimum of one (1) parking space shall be designated as a car share space.
n)	<p>Bicycle parking shall be provided in accordance with the following:</p> <ul style="list-style-type: none"> i. Indoor bicycle parking – minimum of 0.8 spaces per DWELLING UNIT. ii. Outdoor bicycle parking – minimum of 0.2 spaces per DWELLING UNIT. iii. A bicycle parking space shall be a minimum of 1.8 metres, by 0.6 metres, by 1.2 metres. iv. A minimum of one bike repair station is required, which may include an area for bicycle repairs and maintenance which may include work space, a repair stand, an air pump for inflating bicycle tires, and a set of repair tools

Read and first, second and third time and passed on _____, 2023.

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor

Amanda File No. PLAN



EXPLANATORY NOTE

BY-LAW 2023-XX

A By-law to amend By-law 1229, as amended

**Markham Main Street RR Inc. c/o SmartCentres Inc.
134, 136, 140, 144 & 152 Main Street North and 12 Wilson Street
West Side of Main Street North, Markham
PLAN 20 136386**

Lands Affected

This proposed By-law amendment applies to a 0.82 hectare (2.05 acre) parcel of land located on the west side of Main Street, north of Wilson Street, municipally known as 134, 136, 140, 144 & 152 Main Street North and 12 Wilson Street, within Markham Village (the "subject site").

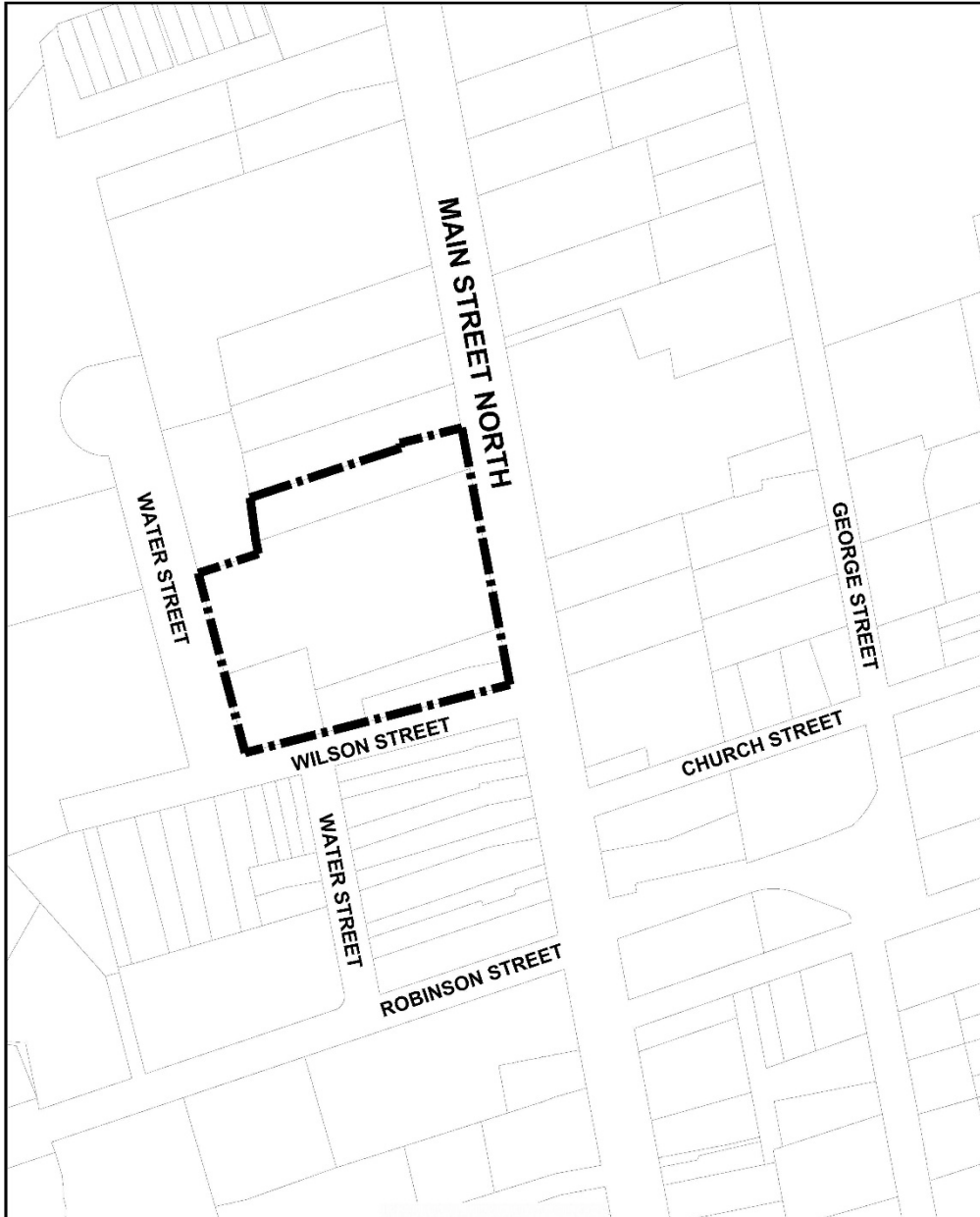
Existing Zoning

The subject site is zoned C2 Commercial pursuant to Markham Zoning By-law No. 1229. The By-law permits commercial uses such as retail stores, service shops, personal service shops, banks, professional offices, restaurants, theatres, bakeries, custom workshops, hotels, medical clinics, newspaper offices, private clubs, studios taverns, undertaking establishments and associated accessory uses. Apartment house dwellings are also a permitted residential building type within the C2 Zone.

Purpose and Effect

The purpose of this By-law amendment is to amend the development standards contained in the By-law to establish a set of site-specific permissions to increase the permitted height and density, as well as to revise other development regulations as necessary to accommodate the proposal.

The effect of this By-law amendment is to permit the development on the subject site with a 6-storey (7-level) mixed-use residential building, with a total of 127 square metres of at-grade retail, along the Main Street North frontage. A total of 235 residential apartment units are provided in a range of unit suite sizes, including 9 integrated 'townhouse-style' units on Wilson Street. Indoor and outdoor amenity is provided throughout the proposed building.



DEVELOPMENT SERVICES COMMISSION

A BY-LAW TO AMEND BY-LAW 1229



BOUNDARY OF AREA COVERED BY THIS BY-LAW

THIS IS SCHEDULE 'A' TO BY-LAW _____
PASSED ON THIS _____ DAY _____, 2023.

NOTE: 1) DIMENSIONS ARE IN METRES
2) REFERENCE SHOULD BE MADE TO
THE ORIGINAL BY-LAW LODGED IN
THE OFFICE OF THE CLERK