

# City of Mississauga Department Comments

Date Finalized: 2021-09-08	File(s): A371.21 Ward 5
To: Committee of Adjustment	
From: Committee of Adjustment Coordinator	Meeting date:2021-09-16 1:00:00 PM

## Consolidated Recommendation

The City has no objections to variance number 2, however recommends that variance number 1 be refused.

## Application Details

The applicant requests the Committee to approve a minor variance to allow a new restaurant proposing:

1. A new restaurant use whereas By-law 0225-2007, as amended, does not permit a new restaurant use in this instance; and
2. 64 parking spaces whereas By-law 0225-2007, as amended, requires a minimum of 118 parking spaces.

## Amendments

"[Enter amendments to variances]"

## Recommended Conditions and Terms

"[Enter terms and conditions here]"

## Background

**Property Address:** 30 World Drive

### Mississauga Official Plan

Character Area: Office

Designation: Gateway Corporate Centre

### Zoning By-law 0225-2007

**Zoning:** O3-1 - Office

**Other Applications:** None

### Site and Area Context

The subject property is located on the south-east corner of Hurontario Street and World Drive. The site has a lot area of +/- 6 261m<sup>2</sup> (67,395 sq.ft.) and contains two single storey commercial buildings with the associated parking lot. The surrounding area consists predominantly of industrial and office buildings of various heights. There is limited vegetation on the site, mostly along the Hurontario Street frontage.

The applicant is proposing a new restaurant in one of the units on the property requiring variances for the use and parking.



## Comments

### Planning

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to grant relief from the requirements of a municipal zoning by-law. Approval of applications must meet the requirements set out under 45(1) and/or 45(2) (a) or (b) in the *Planning Act*.

Staff comments concerning the application of the four tests to this minor variance request are as follows:

**Does the proposal maintain the general intent and purpose of the Official Plan?**

The subject property is located in the Gateway Corporate Centre Character Area and is designated Office in Schedule 10 of the Mississauga Official Plan (MOP). This designation permits offices and accessory uses. Policy 11.2.7.2 dictates that accessory uses will generally be limited to 20% of the total Gross Floor Area, and Policy 11.2.7.3 goes on to state that accessory uses should be clearly subordinate to the functioning of the permitted use. While a restaurant use could be considered accessory to an office use, staff note that the proposed restaurant would be the primary use of the unit and would represent significantly more than 20% of the Gross Floor Area of the structure as it exists today. Staff are of the opinion that the introduction of an additional restaurant use on the property would be contradictory to the Official Plan.

**Does the proposal maintain the general intent and purpose of the Zoning By-law?**

The subject property was recently rezoned from E1-1 to O3-1 by By-law 0121-2020. Staff note that the rezoning is currently under appeal. While the provisions of the E1-1 zone permitted restaurants as a primary use the O3-1 zoning only permits restaurants as an accessory use to a permitted office use, and can only account for a maximum of 20% of the Gross Floor Area. The proposed restaurant would not be accessory to a permitted use and would push the total restaurant Gross Floor Area on the site even further above the permitted 20%. The By-law does include a provision legalizing all uses legally existing on site on the date of the passing of the By-law, which the applicant has interpreted in their cover letter to suggest that restaurants would be permitted in any unit on the site as they are an existing use. Staff disagree with this interpretation and note that the unit proposed to be occupied by this application has remained vacant since the building was constructed. Staff are of the opinion that the City has undertaken a policy change that explicitly removes restaurants as a permitted use from the site, and therefore the introduction of an additional restaurant use does not maintain the general intent and purpose of the Zoning By-law.

Regarding variance 2 Staff note that the same variance was approved under file A266/18 and staff continue to have no objection to the parking rate on the property. Additionally CPS staff note as follows:

With respect to Committee of Adjustment application 'A' 371/21, 30 and 70 World Drive, the applicant is requesting to allow a restaurant proposing a total of 64 parking spaces whereas By-law 0225-2007, as amended, requires a minimum of 118 parking spaces in this instance. This is a parking deficiency of 54 spaces or 46%.

The applicant submitted a Cover Letter, prepared by Glen Schnarr & Associates Inc., dated July 16, 2021, in support of the submitted application. The Cover Letter, dated July 16, 2021, explains that the existing parking onsite is adequate to accommodate the parking demand with the proposed use and relies on the current and previous zoning to suggest that it is reasonable to support restaurant uses onsite. The Cover Letter explains the applicant's interpretation of the planning policies under MOPA 25 and the in-effect O3-1 zoning permissions.

The Cover Letter references previous minor variance applications 'A' 266/18 and 'A' 412/20 for the subject property. Under 'A' 266/18, the applicant submitted a Parking Utilization Study and

based on the results, staff supported the application. Committee of Adjustment approved the application subject to the following conditions:

- (1) Retail store shall be limited to the sales of nutritional supplements
- (2) The combined GFA of all restaurant uses (takeout, convenience and restaurant) shall be capped to 56% of the total combined GFA for both buildings

The applicant acknowledges that the proposed restaurant use through 'A' 371/21 exceeds the 56% cap (equates to approximately 581 m<sup>2</sup>) on restaurant GFA and is arguing that the application be considered from a technical perspective to allow the increased restaurant GFA to include this vacant unit.

Under 'A' 412/20, the applicant was seeking permission to allow a personal service establishment use however, the application was refused as the proposed land use did not align with the new MOPA 25 policies and site specific permissions.

Staff reviewed the current and previous minor variance applications and have concerns with the growing GFA of restaurant uses onsite. Staff deem it appropriate to maintain the previously approved condition to cap restaurant (takeout, convenience and restaurant) GFA to 56% to manage the parking demand onsite. Staff do not agree with the provided rationale that the application is a technicality to "expand the existing restaurant uses".

The application does not comply with the maximum allowable restaurant GFA onsite therefore; staff cannot support the requested parking variance.

**Is the proposal desirable for the appropriate development of the subject lands and minor in nature?**

Staff are of the opinion that variance 1 does not represent appropriate development of the subject lands. It is not minor in nature and is attempting to re-introduce a use that has been specifically removed from the By-law for the property. Staff note that variance 2 does not create the same concerns.

Comments Prepared by: Alexander Davies, Committee of Adjustment Planner

## Appendices

### Appendix 1 – Transportation and Works Comments

This Department has no objections, comments or requirements with respect to C.A. 'A' 371/21.

Comments Prepared by: Tony Iacobucci, Development Engineering Technologist

### Appendix 2 – Zoning Comments

The Building Department is not in receipt of any permit applications at this time and the applicant is advised that a zoning review has not been completed. We are unable to confirm the accuracy of the requested variance(s) or determine whether additional variance(s) may be required.

The applicant is advised that a completed zoning review may identify additional instances of zoning non-compliance. The applicant may consider applying for a preliminary zoning review application and submit working drawings for a detailed zoning review to be completed. A minimum of 6-8 weeks will be required to process a preliminary zoning review application depending on the complexity of the proposal and the detail of the information submitted.

Comments Prepared by: Brandon Eidner, Zoning Examiner