

File: A007/20

Applicant: Agau Developments Limited

Address: 31 Disera Dr Bldg C, Units C2 & C5-C7,
Thornhill

Agent: Smart Centres REIT

Please note that comments received after the preparation of this Staff Report (up until 4:00 p.m. on the last business day prior to the day of the scheduled hearing date) will be provided as an addendum.

Commenting Department	<input checked="" type="checkbox"/> Positive Comment	Condition(s) <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/> Negative Comment	
Committee of Adjustment	<input checked="" type="checkbox"/>	
Building Standards	<input checked="" type="checkbox"/>	
Building Inspection	<input checked="" type="checkbox"/>	
Development Planning	<input checked="" type="checkbox"/>	
Cultural Heritage (Urban Design)	<input checked="" type="checkbox"/>	
Development Engineering	<input checked="" type="checkbox"/>	
Parks, Forestry and Horticulture Operations	<input checked="" type="checkbox"/>	
By-law & Compliance		
Financial Planning & Development	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Fire Department	<input checked="" type="checkbox"/>	
TRCA		
Ministry of Transportation		
Region of York	<input checked="" type="checkbox"/>	
Alectra (Formerly PowerStream)	<input checked="" type="checkbox"/>	
Public Correspondence (see Schedule B)	<input checked="" type="checkbox"/>	

Adjournment History: N/A

Background History: N/A

Staff Report Prepared By: Pravina Attwala
Hearing Date: Thursday, February 27, 2020



Minor Variance
Application

A007/20

Agenda Item: 23

Ward: 5

Staff Report Prepared By: Pravina Attwala, Assistant Secretary Treasurer

Date of Hearing:

Thursday, February 27, 2020

Applicant:

Agau Developments Limited

Agent:

Smart Centres REIT

Property:

31 Disera Dr Bldg C, Units C2 & C5-C7, Thornhill

Zoning:

The subject lands are zoned CMU1 9(1225) and subject to the provisions of Exception under By-law 1-88 as amended.

OP Designation:

Vaughan Official Plan 2010: Mid-Rise Mixed-Use

Related Files:

None

Purpose:

Relief from the by-law is being requested to permit a proposed health centre (fitness studio) in Unit C2 and a proposed technical school in Units C5 - C7 to be located on the ground floor of the existing building.

The following variances are being requested from By-Law 1-88, as amended, to accommodate the above proposal:

By-law Requirement	Proposal
1. In a CMU1 Zone, a Health Centre is not a permitted use on the ground floor.	1. To permit a Health Centre on the ground floor of Unit C2.
2. In a CMU1 Zone, a Technical School is not a permitted use on the ground floor.	2. To permit a Technical School on the ground floor in Units C5-C7.

Background (previous applications approved by the Committee on the subject land): N/A

For information on the previous approvals listed above please visit www.vaughan.ca. To search for a file number, enter it using quotes around it. For example, "A001/17".

To search property address, enter street number and street name using quotes. For example, "2141 Major Mackenzie". Do not include street type (i.e. drive).

Adjournment History: N/A

Staff & Agency Comments

Please note that staff/agency comments received after the preparation of this Report will be provided as an addendum item to the Committee. Addendum items will shall only be received by the Secretary Treasurer until **4:00 p.m.** on the last business day **prior** to the day of the scheduled Meeting.

Committee of Adjustment:

Public notice was mailed on February 12, 2020

Applicant confirmed posting of signage on February 13, 2020

Property Information	
Existing Structures	Year Constructed
Units	Purchased October 2006

Applicant has advised that they cannot comply with By-law for the following reason(s): Health Centre and Technical School are not permitted within the CMU1 zone at ground level. Application is technical in nature, to permit both uses in ground level units as they are permitted in non-ground floor units. Health Centre to locate in Unit C3, Technical School to locate in Units C5 – C7.

Adjournment Request: N/A

Building Standards (Zoning Review):

Stop Work Order(s) and Order(s) to Comply: There are no outstanding Orders on file.

Building Permit No. 10-007116 for Professional Services Unit - Interior Unit Alteration, Issue Date: Dec 07, 2010.

Building Permit No. 19-002074 for Professional Services Unit - Interior Unit Alteration, Issue Date: (Not Yet Issued).

The applicant shall be advised that additional variances may be required upon review of detailed drawing for building permit/site plan approval.

Building Inspections (Septic):

No comments or concerns

Development Planning:

Official Plan: Vaughan Official Plan 2010: Mid-Rise Mixed-Use

The Owner is requesting permission to permit a Health Centre and Technical School in a CMU1 Zone on the ground floor where the use is only permitted on the above-grade floors as noted in the above variances.

VOP 2010 and OPA 671 identifies Disera Drive as a "Main Street" to be developed as a pedestrian-friendly shopping precinct and focus for the surrounding development. Both the Health Centre and Technical School provide services to the Main Street and aspects of retail at-grade allowing for the activation and pedestrian shopping (Variance #1 and #2).

The Owner submitted a Planning Justification Brief prepared by MHBC Planning Urban Design and Landscape Architecture dated February 5, 2020. The brief identifies how the proposed uses pass the four tests of a Minor Variance as identified under Section 45 (1) of the *Planning Act, R.S.O 1990, C. P.13*. The Development Planning Department has reviewed the brief and is satisfied that the four tests have been met. The Development Planning Department is of the opinion that the proposal is minor in nature, maintains the general intent and purpose of the Official Plan and Zoning By-law, and is desirable for the appropriate development of the land.

The Development Planning Department recommends approval of the minor variance applications.

Development Engineering:

The Development Engineering (DE) Department does not object to variance application A007/20.

Parks, Forestry and Horticulture Operations:

Forestry has no comments or concerns.

By-Law and Compliance, Licensing and Permit Services:

No Response.

Financial Planning and Development Finance:

That the payment of the City Development Charge is payable to the City of Vaughan prior to issuance of a building permit in accordance with the Development Charges Act and City-wide Development Charge By-law in effect at time of payment.

That the payment of Region of York Development Charge is payable to the City of Vaughan prior to issuance of a building permit in accordance with the Development Charges Act and Regional Development Charges By-laws in effect at time of payment.

That the payment of Education Development Charge is payable to the City of Vaughan prior to issuance of a building permit in accordance with the Education Act and York Region District School Board and York Catholic District School Board Development Charges By-laws in effect at time of payment

That the payment of applicable Special Area Development Charges are payable to the City of Vaughan prior to issuance of a building permit in accordance with the Development Charges Act and Special Area Development Charge By-laws in effect at time of payment.

Recommended condition of approval:

The owner shall pay to the City applicable Development Charges in accordance with the Development Charges By-laws of the City of Vaughan, Region of York, York Region District School Board and York Catholic District School Board at the issuance of a building permit.

Fire Department:

Provisions for firefighter shall comply with OBC 3.2.5

Schedule A – Plans & Sketches

Schedule B – Public Correspondence
Application Cover Letter & Planning Justification Brief

Schedule C - Agency Comments
Alectra (Formerly PowerStream) – No concerns or objections
Region of York – No concerns or objections

Schedule D - Previous Approvals (Notice of Decision)
N/A

Staff Recommendations:
Staff and outside agencies (i.e. TRCA) act as advisory bodies to the Committee of Adjustment. Comments received are provided in the form of recommendations to assist the Committee.

The Planning Act sets the criteria for authorizing minor variances to the City of Vaughan’s Zoning By-law. Accordingly, review of the application considers the following:

- ✓ That the general intent and purpose of the by-law will be maintained.
- ✓ That the general intent and purpose of the official plan will be maintained.
- ✓ That the requested variance(s) is/are acceptable for the appropriate development of the subject lands.
- ✓ That the requested variance(s) is/are minor in nature.

Should the Committee find it appropriate to approve this application in accordance with request and the sketch submitted with the application as required by Ontario Regulation 200/96, the following conditions have been recommended:

	Department/Agency	Condition
1	Development Finance Nelson Pereira 905-832-8585 x 8393 nelson.pereira@vaughan.ca	The owner shall pay to the City applicable Development Charges in accordance with the Development Charges By-laws of the City of Vaughan, Region of York, York Region District School Board and York Catholic District School Board at the issuance of a building permit.

Please Note:

Relief granted from the City’s Zoning By-law is determined to be the building envelope considered and approved by the Committee of Adjustment.

Development outside of the approved building envelope (subject to this application) must comply with the provisions of the City’s Zoning By-law or additional variances may be required.

Elevation drawings are provided to reflect the style of roof to which building height has been applied (i.e. flat, mansard, gable etc.) as per By-law 1-88 and the Committee of Adjustment approval. Please note, that architectural design features (i.e. window placement), that do not impact the style of roof approved by the Committee, are not regulated by this decision.

Conditions

It is the responsibility of the owner/applicant and/or authorized agent to obtain and provide a clearance letter from respective department and/or agency. This letter must be provided to the Secretary-Treasurer to be finalized. All conditions must be cleared prior to the issuance of a Building Permit.

Notice to the Applicant – Development Charges

That the payment of the Regional Development Charge, if required, is payable to the City of Vaughan before issuance of a building permit in accordance with the Development Charges Act and the Regional Development Charges By-law in effect at the time of payment.

That the payment of the City Development Charge, if required, is payable to the City of Vaughan before issuance of a building permit in accordance with the Development Charges Act and the City's Development Charges By-law in effect at the time of payment.

That the payment of the Education Development Charge if required, is payable to the City of Vaughan before issuance of a building permit in accordance with the Development Charges Act and the Boards of Education By-laws in effect at the time of payment

That the payment of Special Area Development charge, if required, is payable to the City of Vaughan before issuance of a building permit in accordance with the Development Charges Act and The City's Development Charge By-law in effect at the time of Building permit issuance to the satisfaction of the Reserves/Capital Department.

Notice to Public

WRITTEN SUBMISSIONS: Any person who supports or opposes this application, but is unable to attend the hearing, may make a written submission, together with reasons for support or opposition. Public written submissions on an Application shall only be received by the Secretary Treasurer until **4:00 p.m.** on the last business day **prior** to the day of the scheduled Meeting.

Written submissions can be mailed and/or emailed to:

City of Vaughan
Committee of Adjustment
2141 Major Mackenzie Drive, Vaughan, ON L6A 1T1
CofA@vaughan.ca

ORAL SUBMISSIONS: If you wish to attend the meeting you will be given an opportunity to make an oral submission. Presentations to the Committee are generally limited to 5 minutes in length. Please note that Committee of Adjustment meetings are audio recorded. Your name, address comments and any other personal information will form part of the public record pertaining to this application.

PUBLIC RECORD: Personal information is collected under the authority of the Municipal Act, the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), the Planning Act and all other relevant legislation, and will be used to assist in deciding on this matter. All personal information (as defined by MFIPPA), including (but not limited to) names, addresses, opinions and comments collected will become property of the City of Vaughan, will be made available for public disclosure (including being posted on the internet) and will be used to assist the Committee of Adjustment and staff to process this application.

NOTICE OF DECISION: If you wish to be notified of the decision in respect to this application or a related Local Planning Appeal Tribunal (LPAT) hearing you must complete a Request for Decision form and submit to the Secretary Treasurer (ask staff for details). In the absence of a written request to be notified of the Committee's decision you will **not** receive notice.

For further information please contact the City of Vaughan, Committee of Adjustment

T 905 832 8585 Extension 8002
E CofA@vaughan.ca

Schedule A: Plans & Sketches

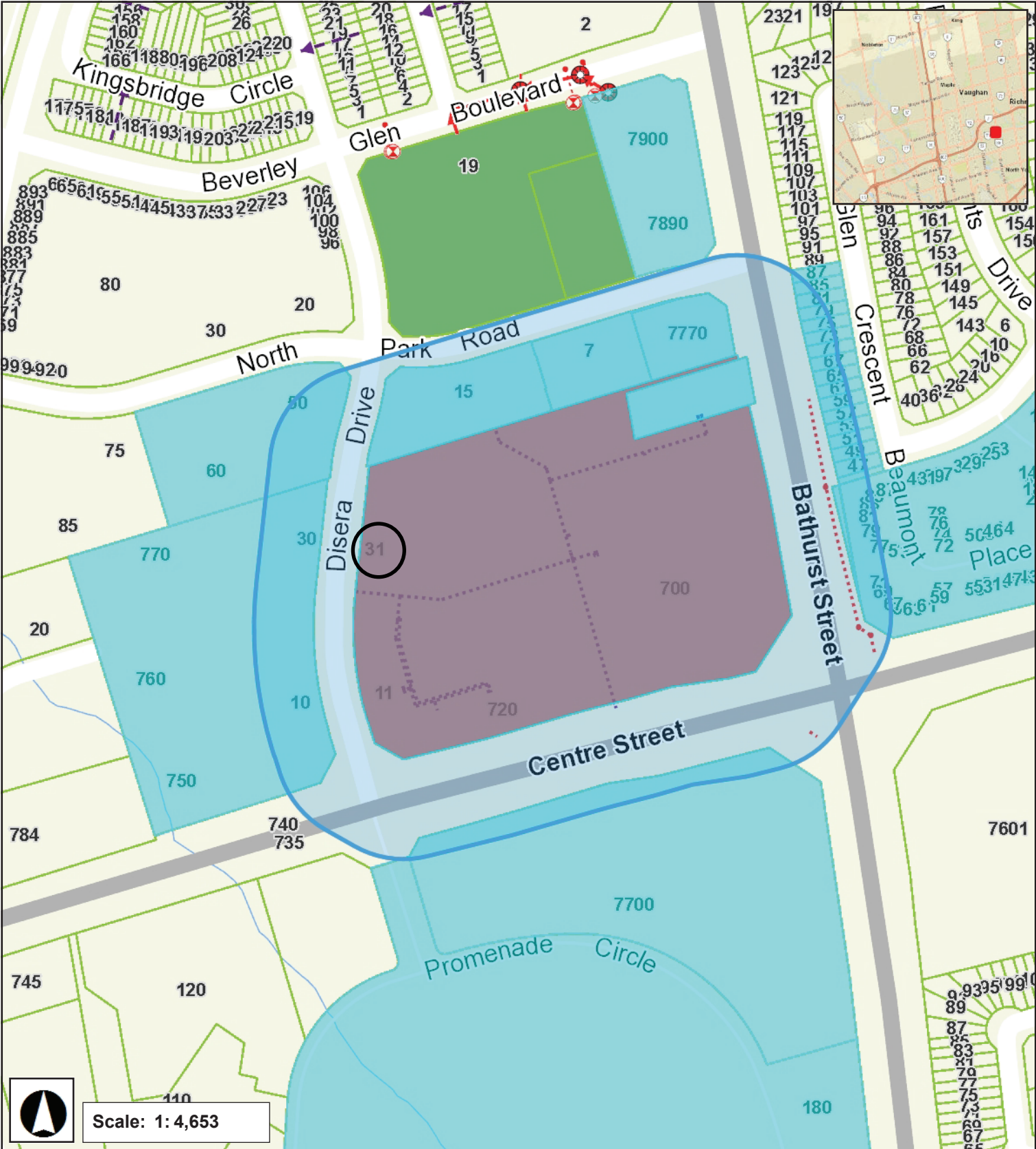
Please note that the correspondence listed in Schedule A is not comprehensive. Plans & sketches received after the preparation of this staff report will be provided as an addendum. Correspondence will only be accepted until 12:00 p.m. on the date of the scheduled hearing.

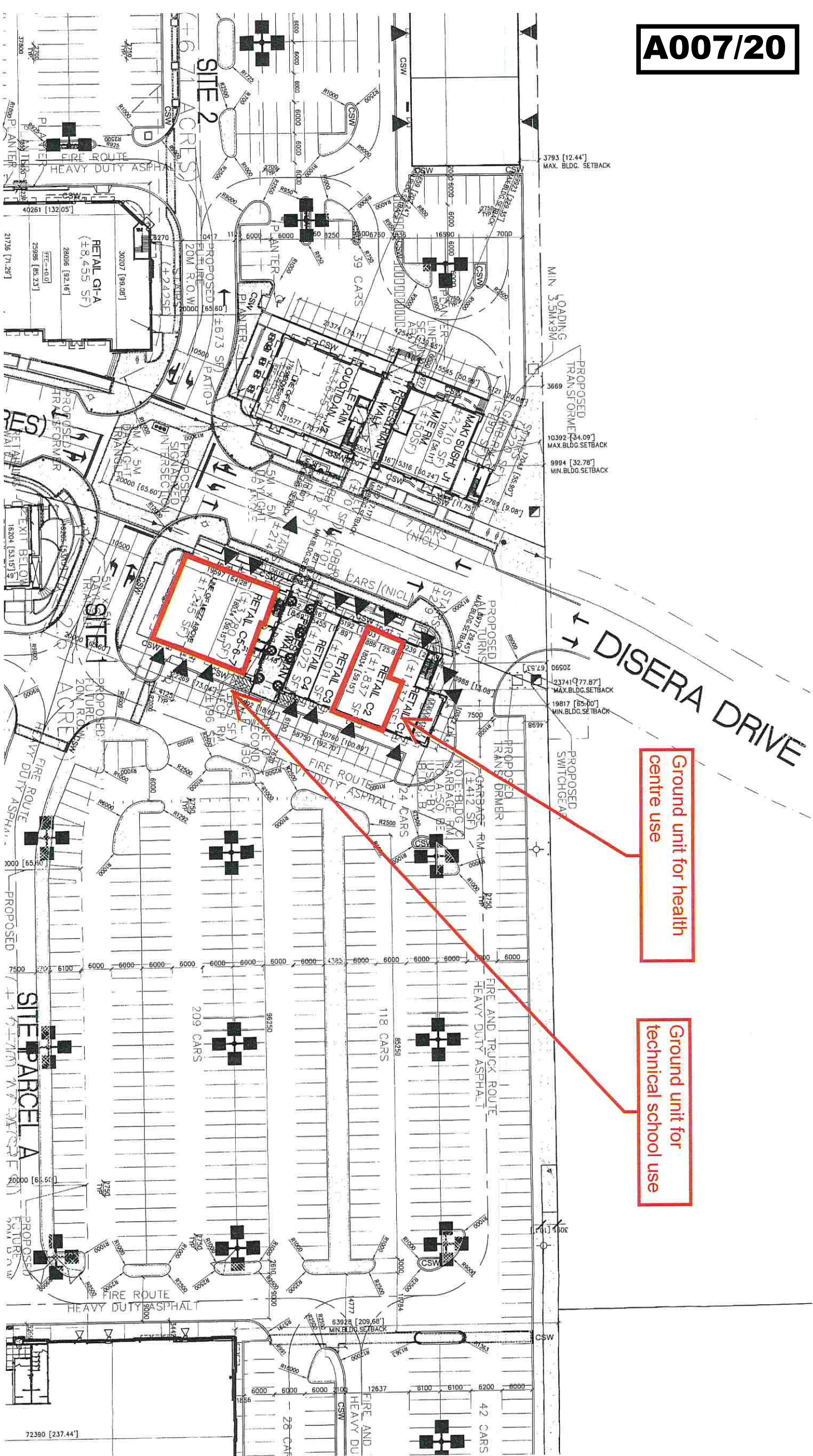
Location Map
Sketches



LOCATION MAP - A007/20

31 DISERA DRIVE, UNITS C2 & C5-C7, THORNHILL





Ground unit for health
centre use

Ground unit for
technical school use

Schedule B: Public Correspondence Received

Please note that the correspondence listed in Schedule B is not comprehensive. Written submissions received after the preparation of this staff report will be provided as an addendum. Written submissions from the public will only be accepted / processed until 12:00 p.m. on the date of the scheduled hearing.

Applicant Cover Letter & Planning Justification Brief



January 21, 2020

A007/20

City of Vaughan Committee of Adjustment
Office of the City Clerk
Vaughan City Hall, Level 100
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

Dear City of Vaughan Committee of Adjustment,

**RE: MINOR VARIANCE APPLICATION – HEALTH CENTRE & TECHNICAL SCHOOL
31 DISERA DRIVE BUILDING C-130 UNIT C2 & UNITS C5-C7**

Agau Developments Ltd. is the owner of the subject site located at 31 Disera Drive (the subject site). The site currently functions as a retail shopping centre, consisting of six buildings, with Disera Drive, a municipal right-of-way, running through the middle of the site from north to south. The four buildings that front onto Disera Drive are two storeys tall, and the other two buildings are one storey tall. The subject proposal involves Unit C2 and Units C5-C7 of building C, which is the northeastern-most building fronting on Disera Drive.

We have a tenant interested in occupying unit C2 in the ground level of Building C. The tenant intends to operate a small fitness studio that provides scheduled fitness classes with stationary bikes. According to the City of Vaughan Building Standards Department, this use is considered a "Health Centre" as defined by Zoning By-law 1-88, and is permitted on the subject site on any floor other than the ground level. This proposal is technical in nature, as it seeks to permit a Health Centre on the ground floor of the building in Unit C2, whereas Health Centres are permitted on any level except the ground floor.

We have a second tenant interested in occupying Unit C5-C7 in the ground level of Building C. The tenant intends to operate a service to teach math skills to students. This use is considered a "Technical School" as defined by Zoning By-law 1-88, and is permitted on the subject site on any floor other than the ground level. This proposal is also technical in nature, as it seeks to permit a Technical School on the ground floor of the building in Units C5-C7, whereas Technical Schools are permitted on any level except the ground floor.

We are therefore requesting minor variances from the Committee of Adjustment to permit the Health Centre in unit C2 and the Technical School in Units C5-C7 of Building C.

In support of the application please find enclosed:

- A completed application form;
- A site plan of the entire retail centre, as given site plan approval by the City of Vaughan;
- An excerpt of the above site plan, showing the location of the subject units; and
- An application fee cheque of \$3,460.00.

I trust the foregoing and attached plans provide you with enough information for your review, but please do not hesitate to contact me if you have any questions.

Best regards,



Andrew McLeod, BURPI, MEL
Development Associate

CC: Paula Bustard, Wendy Martin-Vickerman, Adriana Fritsch - SmartCentres

Planning Justification Brief

Good afternoon Michael and Margaret,

We have asked MHBC Planning to respond to your email below. The following response includes rationale to address how the general intent and purpose of VOP 12.11 and OPA 671 is being maintained through this application. We have focused primarily on VOP 21.11 as the vision of OPA 671 is largely carried forward into VOP 12.11. Both policies intend to maintain a commercial atmosphere and create a built form that is actively occupied by smaller uses than large box-box retail, which we conclude is still being maintained. Therefore, we believe this application:

1. Maintains the general intent and purpose of the official plan;
2. Maintains the general intent and purpose of the zoning by-law;
3. Is desirable for the appropriate development or use of the land, building or structure; and
4. Is minor in nature.

Please accept this email as our formal response:

You have requested a further review and analysis of the proposed variances in relation to policies contained in Section 12.11 of the VOP. The variances would allow for a health centre and a technical school to be located at grade, rather than in the second floor. The uses are permitted in both the Official Plan and Zoning By-law, but the location is restricted to the second floor.

Section 12.11 of the VOP

The overall intent of Section 12.11 was to establish Thornhill Town Centre as an urban town centre with a strong focus on pedestrian movements along a main street (a component of which is Disera Drive). In the preamble this is specifically described as "...the First Phase of Development will take the form of a shopping centre with surface parking and pedestrian oriented uses along "Main Street", flanked by high density residential development to the west." This is enunciated further:

1. *"High quality development" is to occur by "Encouraging a range and mix of residential and employment generating land uses;" (Policy 12.11.2.1.a)vi) B)).*
2. *The urban form is "To promote and encourage pedestrian activity throughout the Thornhill Town Centre and to other parts of the Thornhill Town Centre, by ensuring that development is safe, attractive, conveniently accessible, and human in scale;" (Policy 12.11.2.1.b)iv)).*
3. *The built form and public realm is "To ensure that the retail commercial development on "Main Street" is planned and developed in a manner which is supportive of a street-related, pedestrian-friendly environment;" (Policy 12.11.2.1.c)vi)).*

Complimenting the pedestrian focused policies are the commercial policies which state (Policy 12.11.2.1.f)):

“Development of a broad range of retail and office commercial uses will be encouraged within the Thornhill Town Centre. This commercial development will provide increased opportunities for business competition, and a wide variety of commercial goods and services at competitive costs and prices to meet the needs of Thornhill residents.

- i. *To promote the development of a vibrant commercial shopping district focused on the “Main Street” identified on Map 12.11.B. It is required that development abutting “Main Street” will be street-related and pedestrian-friendly, in order to create an attractive shopping precinct at a human scale;*
- ii. *To establish the commercial shopping district as an integral component of a pedestrian-friendly urban environment which is conveniently accessible by public transit, bicycle, and on foot from the surrounding community;*
- iii. *To direct auto-oriented retail uses, such as service stations and drive-through businesses to locations outside the Thornhill Town Centre;*
- iv. *To discourage large format, single storey retail uses from locating within the Thornhill Town Centre (except for the First Phase of Development within the lands designated High Rise Mixed-Use) and to redirect these forms of retail development elsewhere within the City of Vaughan; and,*
- v. *To ensure that the Thornhill Town Centre develops in a manner consistent with the vision for the Thornhill Town Centre and the phases of development contemplated by this Secondary Plan.”*

Further Policy 12.11.3.3 states:

“Within the Thornhill Town Centre north of Centre Street, a significant retail shopping component is expected to be established on the site, with “Main Street” being developed as a pedestrian-friendly shopping precinct and focus for the surrounding development. Retail development will primarily be established at grade, but on “Main Street”, second floor retail uses will also be permitted. The first phase of such development will be in the form of a shopping centre, with surface parking, to the east and west of the “Main Street” shopping precinct.”

Lastly, Policy 12.11.4.6 states:

“That offices (with the exception of doctor and dental offices and veterinary clinics), residential, community and institutional uses are not permitted in stand-alone, single use buildings and are permitted only if located above grade in a mixed-use building, with the exception of places of worship.”

It is clear that the intent and purpose of Section 12.11 policies is to establish an urban town centre with a pedestrian focused main street. The proposed health centre and technical school are in keeping with the general intent and purpose of the policies for the following reasons:

1. While the “primary” focus of the main street was for retail uses, service uses were not prohibited. Over the last decade since the original policies of OPA 671 were approved and VOP 2010 policies were adopted, commercial trends have changed over time with more emphasis on service uses and lifestyle commercial uses, including health centres and private schools / tutoring facilities. This is evident throughout commercial plazas and main street locations throughout Canada, including Vaughan. The proposed uses are in keeping with this trend. The intent and purpose of the policies of Section 12.11 to create a vibrant, safe, pedestrian focused main street which contains a broad range and mix of commercial uses is being maintained.
2. The units are small scale in nature with active building facades (the units have existing clear glazing and entrances onto the main street). Access to the units will be from the main street, requiring customers of these establishments to walk along the main street, thus implementing the intent of the policies.
3. As noted above the policies do not prohibit the proposed uses from locating along the main street. They are not offices, community or institutional uses which are prohibited by Policy 12.11.4.6. These uses are commercial in nature being found in many commercial plazas and main streets.
4. The uses compliment the other retail and service commercial uses located along the main street and enhance the attractiveness of the shopping precinct by adding to the mix and range of uses in the town centre.
5. Given the size of the units within the existing built form, they are neither large format nor single storey in nature. The clear intent of the policy was to require along the main street smaller, urban built form to be built (which has occurred). The policy is not offended by allowing these smaller scale, commercial uses to locate on the main street. Therefore the variance implements the intent and purpose to create an urban, main street urban and built form.
6. By allowing the uses to locate on the main street, the success of the main street will be increased by activating vacant space which would otherwise detract from the main street vision established by the policies.

Kindly advise if the above information provides all required clarification and justification, as needed. We hope this application will avoid an adjournment.

Schedule C: Agency Comments

Please note that the correspondence listed in Schedule C is not comprehensive. Comments received after the preparation of this staff report will be provided as an addendum. Correspondence will only be accepted until 12:00 p.m. on the date of the scheduled hearing.

Alectra (Formerly PowerStream) – No concerns or objections
Region of York – No concerns or objections

COMMENTS:

- ☐ We have reviewed the proposed Variance Application and have no comments or objections to its approval.
- ☒ We have reviewed the proposed Variance Application and have no objections to its approval, subject to the following comments (attached below).
- ☐ We have reviewed the proposed Variance Application and have the following concerns (attached below).

Alectra Utilities (formerly PowerStream) has received and reviewed the proposed Variance Application. This review, however, does not imply any approval of the project or plan.

All proposed billboards, signs, and other structures associated with the project or plan must maintain minimum clearances to the existing overhead or underground electrical distribution system as specified by the applicable standards, codes and acts referenced.

In the event that construction commences, and the clearance between any component of the work/structure and the adjacent existing overhead and underground electrical distribution system violates the Occupational Health and Safety Act, the customer will be responsible for 100% of the costs associated with Alectra making the work area safe. All construction work will be required to stop until the safe limits of approach can be established.

In the event construction is completed, and the clearance between the constructed structure and the adjacent existing overhead and underground electrical distribution system violates the any of applicable standards, acts or codes referenced, the customer will be responsible for 100% of Alectra's cost for any relocation work.

References:

- Ontario Electrical Safety Code, latest edition (Clearance of Conductors from Buildings)
- Ontario Health and Safety Act, latest edition (Construction Protection)
- Ontario Building Code, latest edition (Clearance to Buildings)
- PowerStream (Construction Standard 03-1, 03-4), attached
- Canadian Standards Association, latest edition (Basic Clearances)

If more information is required, please contact either of the following:

Mr. Stephen Cranley, C.E.T
Supervisor, Distribution Design, ICI
Phone: 1-877-963-6900 ext. 31297
Fax: 905-532-4401
E-mail: stephen.cranley@alectrautilities.com

Mr. Tony D'Onofrio
Supervisor, Subdivisions & New Services
Phone: 1-877-963-6900 ext. 24419
Fax: 905-532-4401
Email: tony.donofrio@alectrautilities.com

Attwala, Pravina

Subject: FW: A007/20 - REQUEST FOR COMMENTS

From: Hurst, Gabrielle <Gabrielle.Hurst@york.ca>
Sent: January-28-20 12:47 PM
To: Attwala, Pravina <Pravina.Attwala@vaughan.ca>; Providence, Lenore <Lenore.Providence@vaughan.ca>; MacPherson, Adriana <Adriana.MacPherson@vaughan.ca>
Subject: RE: A007/20 - REQUEST FOR COMMENTS

Good afternoon Adriana,
The Regional Municipality of York has completed its review for the above minor variance and has no comment.
Regards,

Gabrielle

Gabrielle Hurst | MCIP, RPP, Planning and Economic Development, Corporate Services

1-877-464-9675 ext. 71538

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