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Town of Aurora  
Planning and Development  
Services

## COMMITTEE OF ADJUSTMENT MEMORANDUM

**DATE:** December 10, 2020

**FROM:** Matthew Peverini, Planner, Planning and Development Services

**RE:** Minor Variance Application Update  
Hollidge Properties Inc.  
108-170 Hollidge Boulevard  
Plan 246, Part Lot 37  
File: MV-2020-10

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The purpose of this Memorandum is to provide an update to the Staff Report dated June 15, 2020 (attached as Appendix 'A') for the above noted application, which was considered at the June 18, 2020 Committee of Adjustment meeting. At this meeting, Committee passed a motion to defer the subject application to a future meeting date to facilitate further discussion with area residents and Town Staff.

Since the June 15, 2020 meeting, the applicant has advised staff that they worked with the Baywell Community Ratepayers Association to address comments made at the meeting. Staff understand that the property owner and the Baywell Community Ratepayers Association entered into a Memorandum of Understanding ("MOU") which addresses ratepayer concerns and outlines agreed upon restaurant uses and associated terms within the commercial plaza.

It is Staff's opinion that the MOU is a private matter between the property owner and the Ratepayers Association, and as such, Staff will not be recommending that adherence to the MOU be added as a Condition of Approval for the subject minor variance application.

To conclude, Staff maintain support for the subject application as outlined in the original Staff Report (Appendix 'A'), subject to the recommended conditions of approval.

### Attachments

Appendix 'A' – MV-2020-10 Staff Report (June 15, 2020)

## **Appendix 'A'**

### **MV-2020-10 Staff Report (June 15, 2020)**

# COMMITTEE OF ADJUSTMENT STAFF REPORT

**DATE:** June 15, 2020

**FROM:** Matthew Peverini, Planner, Planning and Development Services

**RE:** Minor Variance Application  
Hollidge Properties Inc.  
108-170 Hollidge Boulevard  
Plan 246, Part Lot 37  
File: MV-2020-10

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## 1. APPLICATION

The owner is requesting relief from the requirements of the Town of Aurora Comprehensive Zoning By-law 6000-17, as amended, to permit a “Restaurant” use on the subject lands.

- a) Section 24.187.1 permits a “Maximum of one restaurant, drive-thru special”. The applicant is proposing a “Restaurant” as a permitted use.

## 2. BACKGROUND

### Subject Property and Area Context

The subject lands are municipally known as 108-170 Hollidge Boulevard, and are located west of Bayview Avenue, on the north side of Hollidge Boulevard. The subject lands are approximately 1.36 hectares (3.36 acres) in area, with a lot frontage of approximately 231 metres (757.9 feet).

The subject lands operate as a local shopping centre (The Bayview Centre), with four buildings currently situated on the property. The westerly building is occupied by a daycare facility; the easterly building is occupied by a Tim Horton’s restaurant and associated drive-thru facility; and the central two buildings are multi-tenant buildings, occupied by commercial and retail uses.

Surrounding land uses include: residential, open space, and institutional to the north; McMaster Avenue, hydro corridor, and residential to the west; commercial to the south; and, Bayview Avenue, vacant institutional lands, commercial, and residential to the east.

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## Proposal

The applicant is requesting to add “Restaurant” as a permitted use on the subject lands. The proposed use will be located wholly within an existing building on the property. Through additional correspondence with the applicant, they have advised that the restaurant will have a maximum gross floor area (GFA) of 136 m<sup>2</sup> (1,463.9 ft<sup>2</sup>)

## Official Plan

The Town's Official Plan designates the subject lands as “Existing Commercial” on Schedule ‘A’ Structure Plan and “Community Commercial Centre” on Schedule ‘C’ Commercial Centres. The intent of the Community Commercial Centre designation is to provide for a full range of retail and service commercial uses to serve the wider residential community. Per Section 10.12.3 (a), the policies of the Community Commercial Centre designation should be read in accordance with the general policies for all commercial areas.

## Zoning

The subject lands are zoned “Community Commercial C4(187) Exception Zone” by the Town of Aurora Zoning By-law 6000-17, as amended. The following uses are permitted:

- Clinics;
- Convenience retail Stores
- Dry cleaner’s distribution depot;
- Financial institutions (no drive-thru);
- Offices;
- Places of entertainment;
- Retail stores;
- Service shops, personal; and,
- Maximum of one restaurant, drive-thru special.

For context, a “Restaurant, Drive-Thru Special” use is defined as: “a premises, with or without seating, used for the preparation and serving of food and beverages to the public, which may be consumed on or off the premises and which includes order or window service to the public while in motor vehicles which motor vehicles approach in designated lanes, located and shown in hatching on Section 24.187.7, forming part of this Exception Zone”. Additionally, the combined floor area of all clinics and the restaurant, drive-thru special shall not exceed 20% of the commercial floor area permitted.

## Preliminary Zoning Review

A Preliminary Zoning Review was completed by the Building Division on December 11, 2019. The minor variance required has been confirmed based on the review.

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### **3. REVIEW & COMMENTS**

The minor variance application was circulated to Town divisions and applicable external agencies for review and comment. Planning Division, and other Department/Agency comments are provided below.

#### **Planning Division**

##### **a) The proposed variance meets the general intent of the Official Plan**

The intent of the Community Commercial designation is to provide for a full range of retail and service commercial uses to serve the wider residential community. Planning Staff are of the opinion that a “Restaurant” use is a service-based use that could be included in this full range of retail and service commercial uses.

General policies for Commercial Areas (Section 10.10.1) encourage intensification and revitalization of existing commercial areas in appropriate locations. Planning Staff are of the opinion that a “Restaurant” use will contribute to the ongoing vitality of this commercial centre. Additionally, the general policies encourage commercial centres to be located at strategic intersections appropriate to the function of the centre and where there is adequate transportation infrastructure to support the centre. The subject lands are located on a Major Collector Road (Hollidge Boulevard) and abut a Minor Collector Road (McMaster Avenue) to the west, and an Arterial Road (Bayview Avenue) to the east.

The purpose of the Town’s Zoning By-law is to implement the vision and intent of the Official Plan. The Zoning By-law (as discussed in more detail in the following section) contemplates a restaurant use on the lands, by way of the permission for “maximum of one restaurant, drive-thru special” use.

As such, Staff are of the opinion that the proposed variance maintains the general intent of the Official Plan.

##### **b) The proposed variances meet the general intent of the Zoning By-law**

The subject lands are zoned C4(187), with a wide range of commercial and retail uses currently permitted on the subject lands. Per the site-specific zoning exception, a restaurant with a drive-thru facility is a permitted use as of right; and a Tim Horton’s restaurant currently occupies the most easterly building on the subject lands.

The site-specific zone provides that a combined floor area of all “Clinics” and the “Restaurant, drive-thru special” uses shall not exceed 20% of the commercial floor area permitted. The

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purpose of the caps on restaurants and clinics are to control for parking and traffic and potential impacts on the community. A preliminary zoning review has identified that the addition of a “Restaurant” use will not result in a parking shortfall on the subject lands. Further, the applicant has advised that the restaurant will likely be take-out in nature, which typically generates less vehicular traffic than a sit-down restaurant.

As the proposed “Restaurant” use does not fall under the “Maximum of one restaurant, drive-thru special” definition, it will be considered separate from the 20% maximum outlined above. To reinforce the intent of the 20% cap, subject to approval of this application, Staff recommend a condition that a maximum of one (1) “Restaurant” be permitted on the subject lands, with a maximum Commercial Floor Area of 136 m<sup>2</sup>. This area will represent a total of approximately 4% of the total Commercial Floor Area.

While not specifically listed as a permitted use, a “Restaurant” is considered to fall within the broader range of permitted commercial uses within a local shopping centre without impact to the existing permitted uses of the C4(187) Zone. It is noted that “Restaurants” are currently permitted in other Community Commercial C4 Zones within the Town.

As such, Staff are of the opinion that the proposed variance maintains the general intent of the Zoning By-law.

**c) The variances are considered desirable for the appropriate development of the lot**

The subject property is located in the “Community Commercial Centre” designation which includes a mixture of uses along Bayview Avenue and Hollidge Boulevard. Building types include automobile oriented commercial retail plazas, supermarkets, and offices. The proposed “Restaurant” use is compatible with the surrounding land uses. “Restaurants” are permitted in similarly zoned plazas and are considered a compatible and appropriate use. Additionally, a restaurant with a drive-thru facility currently exists on the subject lands, and the addition of a “Restaurant” use would complement both existing uses on property, and the host community.

The applicant has provided through additional correspondence that the proposed “Restaurant” use will have a maximum GFA of 136 m<sup>2</sup>, to ensure that parking requirements of the Town's Zoning By-law are met. It has been confirmed that this GFA will not require a parking variance

As such, the proposed variance is considered to be desirable for the appropriate use of the subject lands.

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**d) The variances are considered minor in nature**

A restaurant-based use is currently contemplated (and exists) on the subject lands by way of the “maximum of one restaurant, drive-thru special” use permission. No changes to the building footprint are proposed, no adverse effects on adjacent uses are foreseen, and the use complements the host community. Subject to approval, staff recommend that no seating area devoted for the consumption of food by the public shall be provided except in the restaurant, to further protect against potential for adverse impact.

As such, the proposed variance is considered to be minor in nature.

**Other Departments**

<b>Department / Commenting Agency</b>	<b>Comments Provided</b>
Building Division	A Preliminary Zoning Review was completed.
Engineering Division	No concerns with the proposed application.
Operational Services Division	No concerns with the proposed application.
Accessibility Advisory	No concerns with the proposed application.
Central York Fire Services	No comments received at the time of writing this report.
Legal Services	No concerns with the proposed application.
Regional Municipality of York	No concerns with the proposed application.
Alectra Utilities	No objection to the approval of the application.

**Public Correspondence**

Written submissions were not received at the time of writing of this report. Should additional written submissions be received after the writing of this report, the Secretary Treasurer will provide the submission(s) to Committee members at the meeting.

**4. CONCLUSION**

Planning staff have reviewed minor variance application MV-2020-10 with respect to Section 45(1) of the Planning Act, and are of the opinion that the requested variance meets the four (4) tests of the Planning Act. Please refer to Appendix ‘A’ for recommended conditions of approval for the requested variances.

**5. ATTACHMENTS**

Appendix ‘A’ – Recommended Conditions of Approval

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## **Appendix 'A' – Recommended Condition of Approval**

The following conditions are required to be satisfied should application MV-2020-10 be approved by the Committee of Adjustment:

1. That a maximum of one (1) "Restaurant" shall be permitted on the subject lands;
2. That a "Restaurant" use shall have a maximum Commercial Floor Area of 136 m<sup>2</sup>; and,
3. No seating area devoted for the consumption of food by the public shall be provided except within the "Restaurant".