

Memorandum to the City of Markham Committee of Adjustment

August 5, 2021

File: A/085/21
Address: 100 Gough Road, Markham
Applicant: BentallGreenOak c/o IBM Canada (Michael Kutlesa)
Agent: Malone Given Parsons Ltd (Lincoln Lo)
Hearing Date: Wednesday August 11, 2021

The following comments are provided on behalf of the Central Team:

The applicant is requesting relief from the following requirements of the “Select Industrial and Limited Commercial - M.C.(40%)” zone of By-law 108-81, as amended:

a) Section 4.8.2(d):

to permit Accessory Industrial Equipment to be located in a yard adjacent to a street (14th Avenue), whereas the By-Law only permits Accessory Industrial Equipment in yards not adjacent to a street except as provided in Section 4.8.2(e).

BACKGROUND

Property Description

The 3.7 ha (9.1 acres) subject property is located on the south-west corner of 14th Avenue and Gough Road, east of Warden Avenue (see Appendix “A” – Aerial Photo). The property is located within an established business park comprised of a mix of one and two-storey industrial and office buildings. Mature vegetation exists across the property.

There is an existing 34,028 m² (133,274 ft²) two-storey industrial office building on the property, which was constructed circa 1981. IBM Canada is currently the sole tenant of the office building.

Proposal

The applicant is proposing to remove five existing generators and install three new larger replacement generators to provide essential back-up power for their business. The proposal includes the removal of two existing generators with areas of 29.6 m² (318.7 ft²) and heights of 5.1m (16.7 ft) and, 3 generators located indoors within the annex building. The three new replacement back-up generators will be located in the exterior side yard adjacent to the south side of 14th Avenue (see Appendix “B” – Architectural Plans). The proposed generators will have areas of approximately 55.56 m² (598 ft²), heights of 6.44 m (21.125 ft.) and, will be screened by a proposed 2.44m (8 ft.) high fence and additional tree plantings (see Appendix “C” – Landscape Plan).

History

In 2008, the Committee of Adjustment approved a minor variance (A/23/08) to permit accessory industrial equipment to be located in the flankage yard, whereas the By-law requires accessory industrial equipment to be located in the rear yard. This relates to the current two generators located along Gough Road (at the east side of the building). The application was approved with the condition that appropriate screening measures along the streetline be provided, and that the exterior colour of the generators match the colour of the main building on site to maintain a consistent and visually attractive image of the property (see Appendix "D" – A/23/08 Resolution).

On July 21, 2021, Committee deferred the current application to allow Staff to work with the applicant to address Urban Design comments and to provide a rationale for the new generator location.

Applicant's Rationale

The applicant has provided the following reasons for relocating the generators:

- *"The new generators will be installed while the existing ones are kept in service so that backup capability of the facility is maintained during construction.*
- *To be clear, the existing 5 generators are not being relocated. They are being removed altogether from the east yard and being replaced by a new generator yard (containing 3 generators) at the north yard.*
- *The reasons why the new generator yard cannot be located where it exists today are as follows:*
 - *As noted, backup power must always be available for this facility.*
 - *The new generator yard includes larger generators and a load bank, which requires more space (both in equipment footprint and in required circulation/maintenance space). The location of the existing generators is inadequate for the proposed use.*
 - *The new generators require connection to a new switchgear. The switchgear must be in a vacant space on the lower level of the building and the only space currently available is an area adjacent to the proposed generator yard.*
 - *The east wall of the building has a continuous row of windows for office space. Placing 3 new, larger generators at the east side of the building would obstruct the view and natural light provided from these windows. Placing the generators further from the building would require the removal of more trees."*

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and further updated on April 9, 2018)

The 2014 Official Plan designates the subject property "Business Park Employment", which provides for a range of office and industrial uses in prestige, larger scale, industrial and office development in business park settings. It is the intent of the Plan that "Business Park Employment" lands provide prime business locations that help

attract new business and support the retention of existing businesses in Markham through high quality building and site design.

Zoning By-Law 108-81

The subject property is zoned “Select Industrial with Limited Commercial - M.C. (40%)” under By-law 108-81, as amended, which permits warehousing and manufacturing uses, data processing centres, research laboratories, printing establishments, other similar industrial uses, as well as limited commercial uses such as financial institutions, professional and business offices, commercial schools, hotels, and motels.

By-law 108-81, as amended, permits accessory industrial equipment to be located in the rear yard only, provided that the equipment is not located closer than 3 metres to any lot line, and except as provided in Section 4.8.2(e). Section 4.8.2(e) relates to accessory industrial equipment located in the rear yard of a corner lot and does not apply to the current proposal.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. However, the applicant has received comments from the building department through their permit review (21 116370 AL), to confirm the variances required for the proposed development.

COMMENTS

The *Planning Act* states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

Accessory industrial equipment in a yard adjacent to a street

The applicant is requesting relief to permit the generators to be located in a yard adjacent to a street (south side of 14th Avenue), whereas the By-law only permits accessory industrial equipment in yards not adjacent to a street.

The intent of the By-law is to ensure that accessory industrial equipment is not visible from the street due to the typically unattractive appearance of these types of structures and therefore, negative visual impacts they present within the public realm. Although the applicant is proposing to install a 2.44m (8 ft.) high fence around the proposed generators and to plant additional trees along the 14th Avenue frontage as screening measures, Staff note that portions of the proposed generators will be 6.44 m (21.125 ft.) high and will still be visible from 14th Avenue. Given the height and size of the proposed generators, Staff recommend that should the Committee approve the variance, the exterior colour of the generators and fencing details be provided for review and approval, to the satisfaction of Urban Design Staff.

Staff further note that the City's Operations Department have accepted the proposed landscape plan and have issued a Tree Removal Permit for the proposed tree removal and replanting. All tree replacements and/or tree replacement fees will be secured through the Tree Removal Permit.

Given that the proposed generators support the business uses provided for in the Official Plan and Zoning By-law, Staff have no objection to the requested variance subject to the conditions listed in Appendix "E" of this report.

PUBLIC INPUT SUMMARY

No written submissions were received as of August 5, 2021. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the Planning Act and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

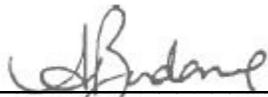
Please see Appendix "E" for conditions to be attached to any approval of this application.

PREPARED BY:



Melissa Leung, Planner, Central District

REVIEWED BY:



Sabrina Bordone, Senior Planner, Central District

APPENDICES

- Appendix "A" – Aerial Photo
- Appendix "B" – Architectural Plans
- Appendix "C" – Landscape Plan
- Appendix "D" – A/023/08 Resolution
- Appendix "E" – Conditions



Legend

- LANDMARKS_6000
- SLRN_6000
- PARKS_6000
- Building Footprints
- Ponds
- Creeks
- Rivers
- Parcel (MPAC)
- Park Facilities
- Parks
 - <all other values>
 - Under Development

Notes

114.7 0 57.33 114.7 Meters



CONSULTANT:



Suite 300 - 125 Commerce Valley Drive West
Markham, ON L3T 7W4
Tel: (416) 499-3110 Fax: (416) 499-9658



EOL GENERATOR AND SWGR REPLACEMENT
100 GOUGH ROAD,
MARKHAM, ONTARIO

REV	DESCRIPTION	DATE	BY
4	ISSUED - PERMIT COMMENTS	2021-06-04	RL
3	ISSUED FOR TENDER	2021-05-03	RL
2	ISSUED FOR PERMIT	2021-04-05	RL
1	60% DESIGN REVIEW	2020-11-02	RL

DO NOT SCALE DRAWINGS. CONTRACTOR MUST VERIFY ALL DIMENSIONS AND ADVISE CONSULTANTS OF ANY ERRORS OR OMISSIONS. NO VARIATIONS OR MODIFICATIONS TO WORK SHOWN SHALL BE IMPLEMENTED WITHOUT PRIOR WRITTEN APPROVAL. ALL PREVIOUS ISSUES OF THIS DRAWING ARE SUPERSEDED BY THE LATEST REVISION. ALL DRAWINGS AND SPECIFICATIONS REMAIN THE PROPERTY OF MORRISON HERSHFIELD LIMITED.

SHEET TITLE:

**100 GOUGH RD.
PART BUILDING
ELEVATIONS**

DRAWN BY: DATE:

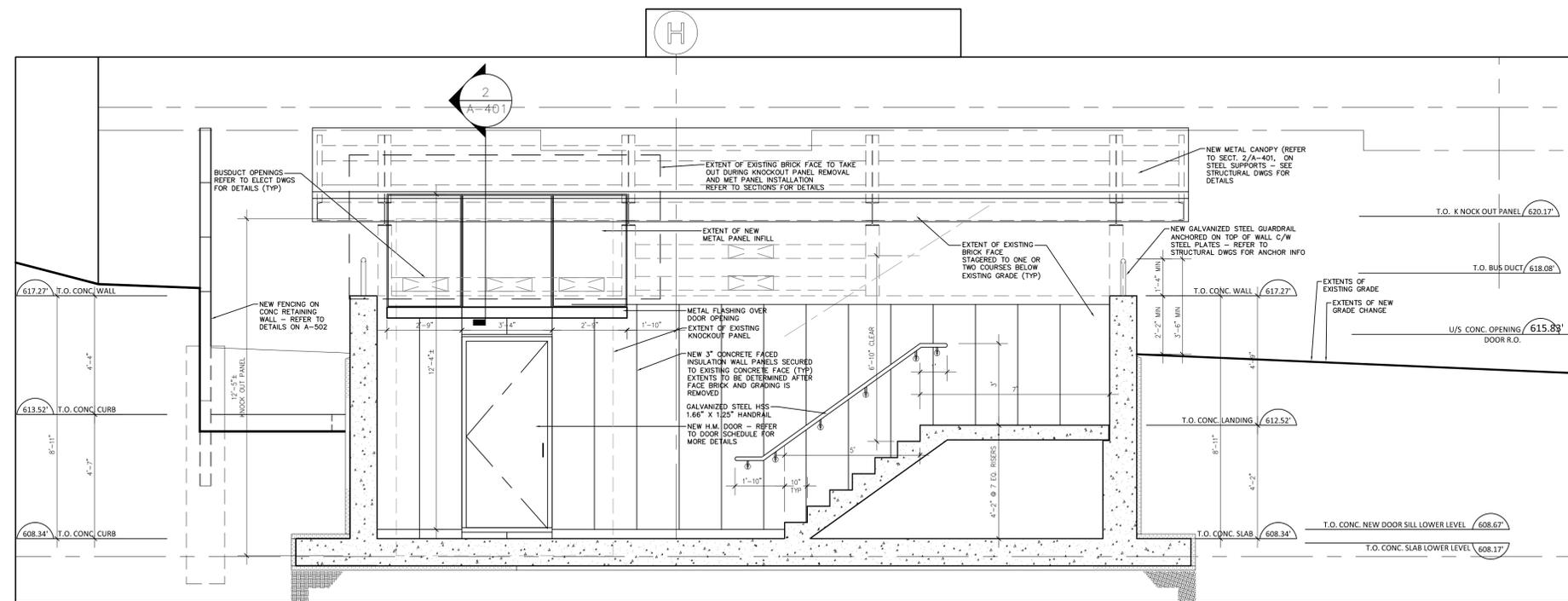
DESIGNED BY: CHECKED BY:

SCALE: 3/32" = 1'-0" DWG FILE: A-105_ELEVATIONS

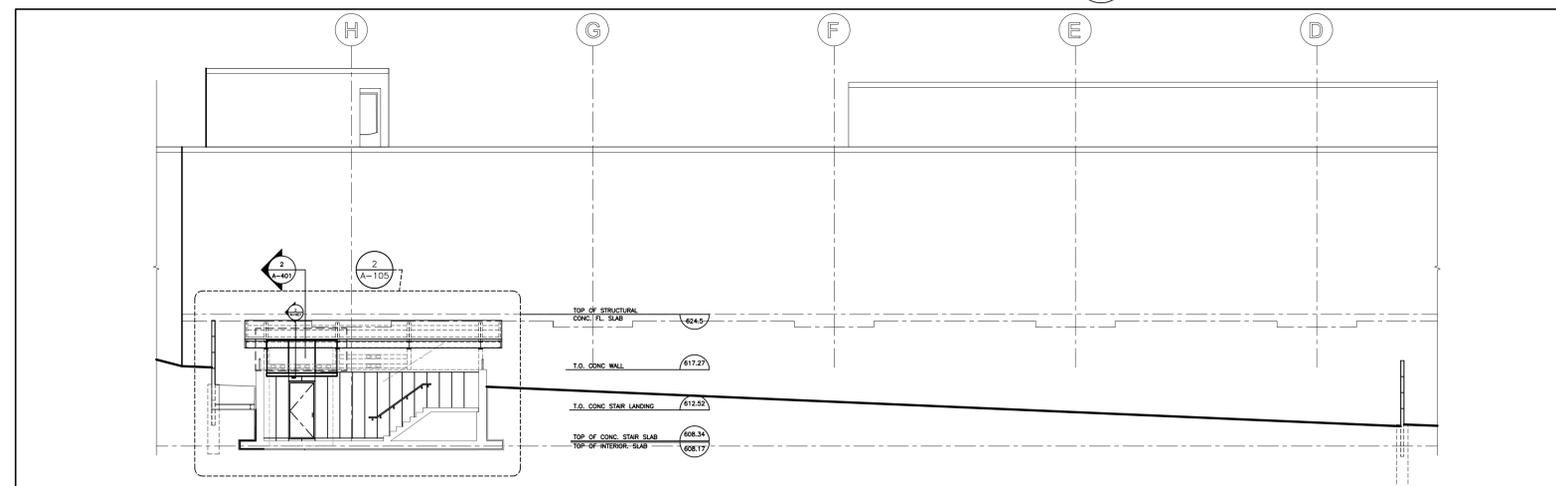
Project No: Drawing No:

1160630

A-105

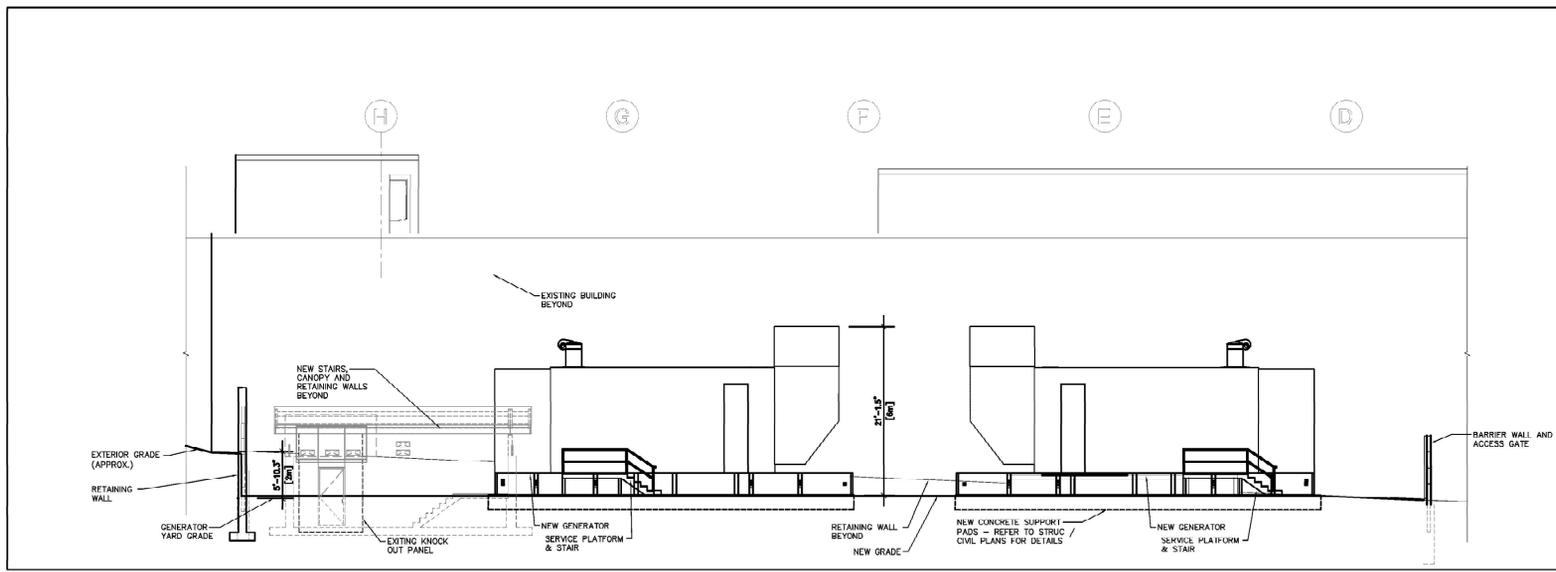


2 SECTION - @ EXTERIOR BASEMENT STAIRS
A-105 SCALE: 3/8" = 1'-0"

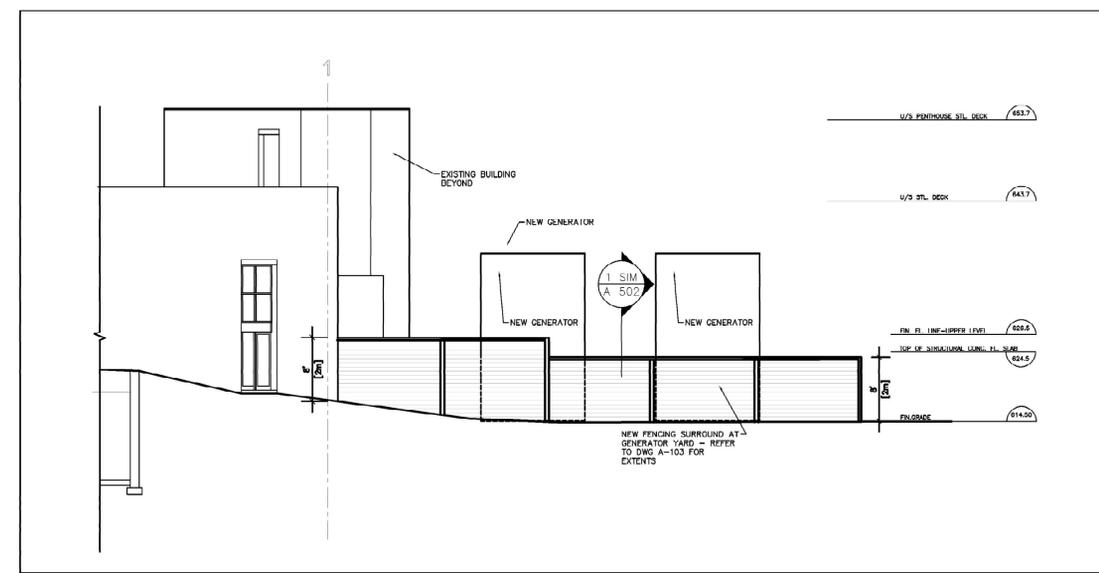


1 BUILDING ELEVATION
A-105 SCALE: 3/32" = 1'

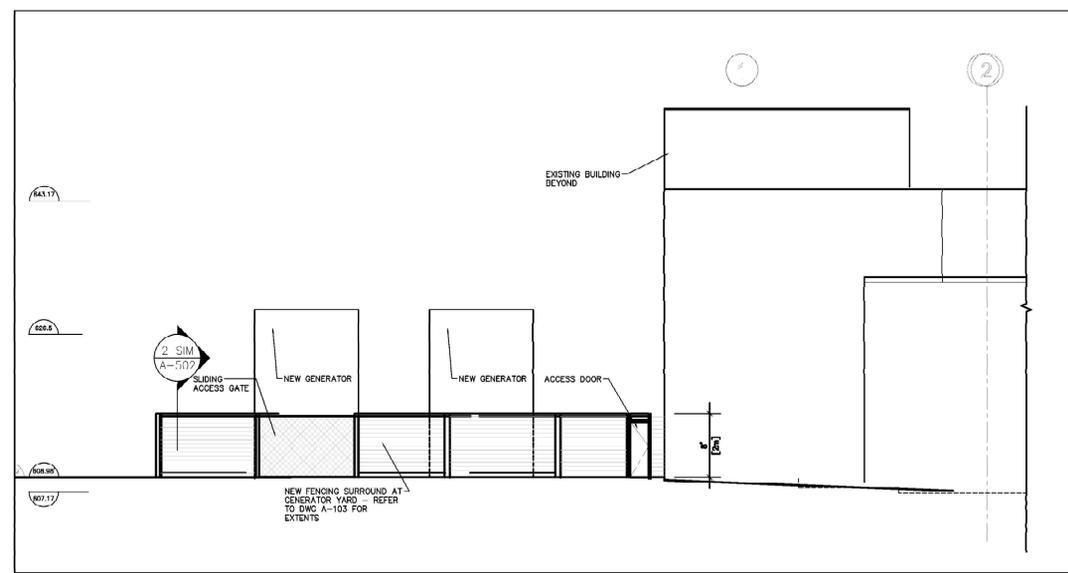
Morrison Hershfield Ltd. 100 Commerce Valley Drive West, Suite 300, Markham, Ontario L3T 7W4
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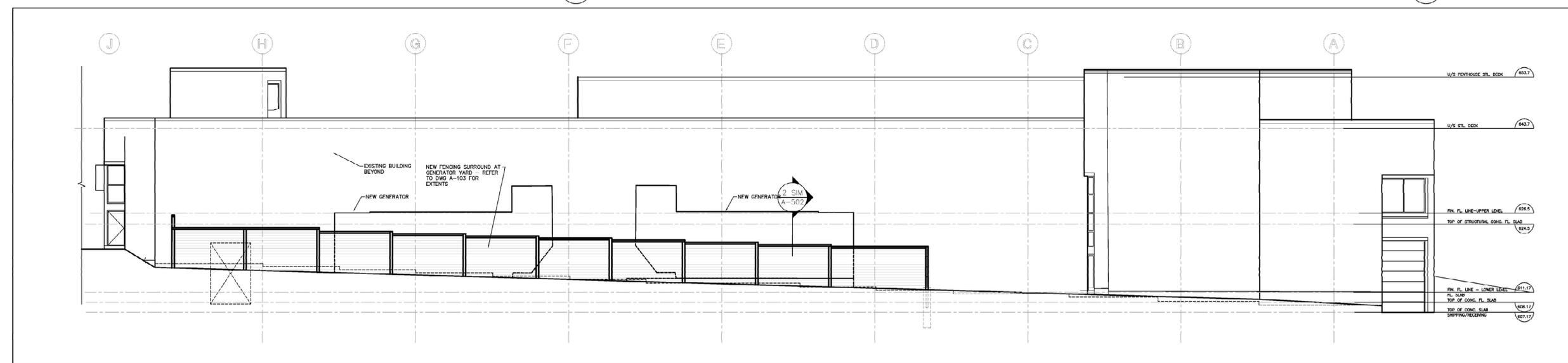
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 A-105 SCALE: 3/32"=1'



3 EAST ELEVATION
 A-106 SCALE: 3/32"=1'



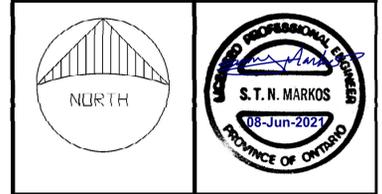
2 WEST ELEVATION
 A-106 SCALE: 3/32"=1'



1 NORTH ELEVATION
 A-106 SCALE: 3/32"=1'

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EOL GENERATOR AND SWGR REPLACEMENT
 100 GOUGH ROAD,
 MARKHAM, ONTARIO

REV	DESCRIPTION	DATE	BY
4	ISSUED - PERMIT COMMENTS	2021-06-04	RL
3	ISSUED FOR TENDER	2021-05-03	RL
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SHEET TITLE:
**100 GOUGH RD.
 GENERATOR YARD
 FENCING ELEVATIONS**

DRAWN BY:	DATE:
DESIGNED BY:	CHECKED BY:
SCALE: 3/32" = 1'-0"	DWG FILE: A-105_ELEVATIONS
Project No: 1160630	Drawing No: A-106

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Appendix D

File: 21.125918.000.00.MNV

Date: 08/05/21
MM/DD/YY

COMMITTEE OF ADJUSTMENT RESOLUTION

Application: A/23/08
Hearing Date: March 19, 2008
Name: Talisker (100 Gough) LP
Location: 100 Gough Road, Markham
PLAN M1915 PT BLK 17 RP 65R24929 PART 1

Last Date of Appeal: April 8, 2008

Moved by

Antal Delonicki

Seconded by

[Signature]

THAT Application No. A/23/08, submitted by Talisker (100 Gough) LP, owner of 100 Gough Road, Markham, PLAN M1915 PT BLK 17 RP 65R24929 PART 1, requesting relief from the requirements of By-law No. 108-81, as amended, to permit accessory industrial equipment to be located in the flankage yard; whereas the By-law requires it to be located in the rear yard, be **approved** for the following reasons:

- (a) in the opinion of the Committee, the general intent and purpose of the by-law will be maintained;
- (b) in the opinion of the Committee, the general intent and purpose of the Official Plan will be maintained;
- (c) in the opinion of the Committee, the granting of the variance is desirable for the appropriate development of the lot;
- (d) in the opinion of the Committee, the requested variance is minor in nature.

Appendix D

File: 21.125918.000.00.MNV

Date: 08/05/21
MM/DD/YY

Application: A/23/08
Page 2.

SUBJECT to the following conditions:

- (1) That the variances apply only to the subject development as long as it remains,
- (2) That a detailed landscape plan (and letter of credit to secure work) addressing screening measures, both on and off site, be provided for review and approval by staff, to the satisfaction of the Director of Planning and Urban Design,
- (3) That the Owner agree to colour match the exterior of the generators with the colour of the existing main building and accessory building on site,
- (4) That the Owner remove the existing temporary generator on site,
- (5) That this variance only permit a maximum of two (2) diesel generators, approximately 32.5 square metres (350 square feet) each, to be located in the east side yard.

Resolution carried.

SPECIAL NOTE TO OWNERS AND AGENTS: It is the responsibility of the owner and/or agent to ensure that all conditions of approval are met through the respective departments noted therein. Failure to do so may result in additional approvals being required.

APPENDIX "E"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/085/21

1. The variance applies only to the proposed development as long as it remains;
2. That the variance applies only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report and stamped by the City of Markham on August 5, 2021, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction;
3. That the colour of the generators, and fencing location, design and materials, be provided for review and approval to the satisfaction of the Director of Planning and Urban Design, or their designate;
4. That the Owner implements the conditions required through the Tree Removal Permit (File No. 21 129542 TREE) for the site, including tree protection fencing, tree replacement, and/or replanting requirements.

CONDITIONS PREPARED BY:



Melissa Leung, Planner, Central District