



## Report Committee of Adjustment

**Filing Date:** April 18, 2024  
**Hearing Date:** December 10, 2024

**File:** A-2024-0120

**Owner/  
Applicant:** TRI-CAV Investments Ltd.  
Patrick Cheeseman

**Address:** 170 Bovaird Drive, Unit 8

**Ward:** 2

**Contact:** Megan Fernandes, Assistant Development Planner

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### Recommendations:

That application A-2024-0120 is supportable, subject to the following conditions being imposed:

1. That the extent of the variance be limited to that shown to that shown on the sketch attached to the Notice of Decision or as revised through the subsequent Site Plan Approval application;
2. That the applicant/owner obtain site plan approval to the satisfaction of the Director of Development Services within one hundred and twenty (120) days of the final date of the decision of the Committee or as extended at the discretion of the Director of Development Service. Site Plan Approval for the outdoor play area shall be required prior to occupancy of the unit for a day nursery. Any safety and/or noise mitigation measures (i.e. fencing) if required, are to be to the satisfaction of the Director of Development Services;
3. That the applicant provide a Record of Site Condition (RSC) and that it must be filed (the RSC property limits must match the limits of the proposed development) with the Ministry of the Environment, Conservation and Parks (MECP) and a copy be provided to the City. The RSC shall certify the subject site, as being suitable for the correct intended use (i.e Institutional Use);
4. That a Record of Site Condition (RSC) must be filled with the Ministry's Environmental Registry, prior to the issuance of Site Plan Approval and/or Building Permit at the discretion of the Director of Development Services;

5. That the applicant provides copies of the ESA reports supporting the RSC to the City's Environmental Compliance Engineering Staff;
  6. That the applicant obtain a Change of Use Permit for the day nursery use;
  7. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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### **Background:**

Unit 8 of the subject property is currently operating as an indoor playground, a permitted use under the Zoning By-law as a recreational facility. The applicant proposes to expand services by transitioning the use to a day nursery. The application was previously deferred at Committee at the May 21, 2024 and September 17, 2024 hearing as staff had significant concerns with the location of the outside play area previously proposed for this application and a parking reduction was also contemplated. The applicant's revised proposal has re-located the outside play area towards the parking area in front of the unit. Although approximately 5 parking spaces are eliminated with the proposed outdoor play area, the revised site plan depicts 201 parking spaces, and as such a parking variance is not required.

### **Existing Zoning:**

The property is zoned 'Service Commercial – Special Section 289 (SC-289) and Industrial One A – Special Section 161 (M1A – 161)', according to By-law 270-2004, as amended.

### **Requested Variance:**

The applicant is requesting the following variances:

1. To permit a day nursery use whereas the by law does not permit a day nursery use.

### **Current Situation:**

#### **1. Maintains the General Intent and Purpose of the Official Plan**

The subject property is designated as 'Industrial' in the Official Plan and 'Highway Commercial' and 'Special Policy Area 6' in the Snelgrove – Heart Lake Secondary Plan (Area 1).

The 'Industrial' designation provides for industrial related uses as well as limited service and retail uses, open space, public and institutional uses that may be permitted. The 'Highway Commercial' designation provides the following provisions "Lands designated Highway Commercial on Schedule 1 shall be used for those purposes that are primarily oriented to the traveling public and are limited to service stations, gas bars, motor vehicle washing establishments and related activities". The lands located within Special Site Area 6 will predominantly be used for commerce and designed to accommodate such uses as drive-in restaurants and other eating establishments, motels, hotels and similar uses, and will also include vehicle sales and service establishments such as service stations, gas bars and car washes. This designation will not prevent limited sales to the general public from certain industrial activities

where such sales would constitute an integral part of this operation, and provided that no constraint is imposed on highway commercial uses servicing the predominant use being industry.

While the requested variance to permit the day nursery use is not permitted with the current 'Industrial' designation, the proposed day nursery will provide service to the existing residential areas to the south and north of the property, as well as individuals working in the industries and commercial business.

In regards to Brampton Plan 2023, the subject site is designated as 'Employment Areas' on Schedule 1A – City Structure and 'Mixed Use Employment' and 'Employment' on Schedule 2 – Designations. On May 16th, 2024, the Region of Peel formally issued a notice of approval with modifications for the City of Brampton's new Official Plan, known as the 'Brampton Plan.' The Plan was scheduled to take effect on June 6th, 2024, except for any sections that may be subject to appeal. Schedules 1A and 2 have been appealed on a city-wide basis and therefore the 2006 Official Plan designations are in effect until the appeal is resolved.

In accordance with Brampton Plan policies (3.4.2.14) relating to sensitive land uses located in employment areas, the applicant shall ensure compliance with environmental approvals, regulations and guidelines of the Day Nurseries Act. Furthermore, site plan control shall be utilized to evaluate the proposed outdoor operations to minimize potential adverse impacts.

Subject to the recommended conditions of approval, the requested variance has no impact within the context of the policies of the Official Plan and Secondary Plan and maintains the general intent and purpose of the Official Plan.

## 2. Maintains the General Intent and Purpose of the Zoning By-law

The property is zoned 'Service Commercial – Special Section 289 (SC-289) and Industrial One A – Special Section 161 (M1A – 161)', according to By-law 270-2004, as amended.

The variance is requested to permit a day nursery whereas the by-law does not permit the use. The intent of the by-law in regulating the permitted uses within a certain zone is to ensure that those uses can function effectively together.

Unit 8 on the subject property is primarily located within the lands zoned Industrial One A – Special Section 161 (M1A – 161). The Special Section provides that the lands designated M1A – Section 161 retailing and indoor and outdoor storage of nursery stock and garden equipment and supplies. The parent M1A zone permit non-industrial uses including but not limited to a recreation facility or structure, a community and accessory uses such as an associated educational use. The proposed Day Nursery use is not dissimilar to the other permitted uses that have been included to support the employment area and the surrounding residential area as envisaged by the Secondary Plan. Subject to the recommend conditions of approval, the variance maintains the general intent and purpose of the Zoning By-law.

## 3. Desirable for the Appropriate Development of the Land

The variance is requested to permit a day nursery to operate in an industrial plaza. Through the circulation of this application, the applicant was advised that the proposed use of a day nursery is considered a change to a more sensitive land use and that a Record of Site Condition (RSC) is mandated by the Environmental Protection Act. In order to file an RSC, and Environmental Site Assessment (ESA) is required. Furthermore, the applicant is to be made aware that the RSC must be filed (the RSC property limits must match the limits of the proposed development) with the MECP and a copy be provided to the City. The RSC shall certify that the subject site, as being suitable for the correct intended use (i.e Institutional use). The following conditions of approval are provided: That the applicant provide copies of the ESA reports supporting the RSC to the City; and that a Record of Site Condition (RSC) must be filled with the Ministry's Environmental Registry, prior to the issuance of a Building Permit.

A day nursery is a complementary use within the employment area, as it serves the needs of workers, employers, and nearby residents by providing accessible childcare. This aligns with the intent of the parent M1A zone to support non-industrial uses that benefit the broader community. The use is not anticipated to create any adverse impacts with regard to the other permitted uses on the property. Due to the proposal to create an outdoor play area (including the conversion of parking spaces), a condition requiring site plan approval is recommended. Through the Site Plan review, further technical review will be conducted with regards to the appropriateness of the outdoor play area. The requested variance is not anticipated to create an adverse impact on the function and appropriate design of the site. The proposed Day Nursery use can be suitably accommodated on the property. The variance is considered to be desirable for the appropriate development of the land.

#### 4. Minor in Nature

Unit 8 of the subject property is currently operating as an indoor playground, a permitted use under the Zoning By-law as a recreational facility. The applicant proposes to expand services by transitioning the use to a day nursery. Subject to the recommended conditions of approval, the Variance to permit a Day Nursery use is not anticipated to create any negative impact on the use of either the subject property or the surrounding properties. The variance is deemed minor in nature.

Respectfully Submitted,

*Megan Fernandes*

Megan Fernandes, Assistant Development Planner