



Report Committee of Adjustment

Filing Date: September 11, 2023

Hearing Date: October 3, 2023

File: A-2023-0282

**Owner/
Applicant:** **TEN LIGHTBEAM PROPERTY INC. C/O RAJKUMAR GANDHI
JND Design Studio (Chetan Dalal)**

Address: **16-10 Lightbeam Terrace**

Ward: 6

Contact: Megan Fernandes, Planning Technician

Recommendations:

That application A-2023-0282 be refused.

Background:

Existing Zoning:

The property is zoned 'Industrial M4 – Special Section 2349 (M4-2349)', according to By-law 270-2004, as amended.

Requested Variance:

The applicant is requesting the following variance:

1. To permit a retail area of 37.88 % of the total gross floor area of the associated use, whereas the bylaw permits a maximum retail area of 15% of the total gross floor area of the associated 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 'Prestige Industrial' in the Bram West Secondary Plan (Area 40d).

The 'Industrial' designation in the Official Plan provides for the development of industrial, manufacturing, distribution, mixed industrial/commercial, commercial self-storage warehouses, data processing and related uses and limited office uses, and may also permit limited service and retail uses, open space, public and institutional use as practical and appropriate subject to the appropriate sub-designations and policies in the relevant Secondary Plan (Section 4.4.2.1). Furthermore, section 4.4.2 states that the designation of non-industrial uses will be strictly controlled as they are intended to primarily provide a supporting role to the local employment base. It is recognized that employment areas accommodate a certain range of ancillary uses without negatively impacting the viability of employment lands or employment operations.

Section 3.5.18 of the Bram West Secondary Plan (Area 40 d) states that in addition, lands within the Prestige Industrial designation shall also permit office uses within which limited accessory retail and business support services may be permitted. Ancillary retail uses (up to 15% of the total gross floor area of an industrial building, and up to 20% of the total gross floor area of an office building) shall be permitted in association with the industrial uses of this designation. Section 3.5.19 provides that the development of lands within the Prestige Industrial designation be based on the following principles: Accessory retail and business support service uses shall be restricted to a maximum percentage of floor space within a building in accordance with the zoning requirements of the implementing zoning by-law.

The designations provide accessory retail uses with restrictions to the maximum percentage of floor space to preserve employment lands. In relation to the subject property, the unit is currently utilized for office and warehouse uses. The requested variance seeks to permit a retail area of 37.88% of the total gross floor area of the associated use whereas the by-law permits a maximum retail area of 15% of the total gross floor area of the associated use. According to the Official Plan schedule, the property is located within close proximity to a business corridor and is surrounded by industrial uses.

Given the location of this property, surrounding context, and the related Official Plan and Secondary Plan policies an increase of 22.88% of retail use contained within a single unit is not considered ancillary to the unit. It is staff's opinion that the increase in retail area for the unit generates cumulative impacts which are against the planned function of the unit. The requested variance is not considered to maintain the general intent and purpose of the Official Plan or policies listed in the Secondary Plan.

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

The property is zoned 'Industrial M4 – Special Section 2349 (M4-2349)', according to By-law 270-2004, as amended. Special Section 2349 provides for a variety of industrial and non-industrial uses for the property. Furthermore, the section states that only in conjunction with the uses permitted in Sections 2349.1(a) and 2349.1(b), a retail use shall be permitted provided that it does not exceed 15% of the total gross floor area of the associated use.

The variance is requested to permit a retail area of 37.88% of the total gross floor area of the associated use whereas the by-law permits a maximum retail area of 15% of the total gross floor area of the associated use. The intent of the by-law in limiting the percentage of permitted floor area for a particular use within an individual unit is to ensure complimentary uses to the area.

The subject lands are occupied by an industrial mall consisting of a number of uses including office uses, a dining room restaurant, a take-out restaurant, a convenience restaurant; warehouse, and food manufacturing uses among others. The applicant is requesting to permit a retail area of 37.88% of the total gross floor area of the associated use which represents a 60.40% increase from the permitted 15% of the total gross floor area of the associated use. Overall, the requested 37.88% of the total gross floor area of the associated use provides 62.12% of the total gross floor area of the unit to be utilized for the primary industrial use. Although the unit maintains the industrial nature and the retail use remains lesser than the primary use, staff note that the provided floor plan indicates the warehouse area as being “unfinished” and the office area is less than the proposed retail area. Furthermore, the applicant has not provided staff with an explanation of how the warehouse area will be utilised or confirmed that it will be used in conjunction with the retail component. Given the nature of the property and surrounding context, Staff are of the opinion that the proposed increase in retail area is anticipated to generate negative impacts to the operations and function of the site and surrounding uses. 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

Variance 1 is requested to permit a retail area of 37.88% of the total gross floor area of the associated use is anticipated to negatively impact the overall office/warehouse function of the unit. As the retail use is already permitted within the unit, the increase in retail area by 22.88% is a significant cumulative increase to the unit. In order to assess the proposed increase, staff require additional justification to determine if the increased area will remain accessory to the existing use and that the unit can maintain its planned function. Furthermore, the increase in retail area for the unit would consequently increase the parking requirement for the unit. However, there is currently a surplus of parking available on site and therefore an additional variance is not required at this time. Subject to the recommended conditions, the proposed variance is not desirable for the appropriate development of the land.

4. Minor in Nature

The proposed variance requests to use 37.88% of the warehouse/office building for an ancillary retail use. As outlined in the Official Plan and Secondary Plan, ancillary uses are limited to 15% of the total gross floor area of an industrial building. As previously stated, staff have not received sufficient information from the applicant to support the proposed request. Subject to the recommended conditions of approval, the variance is not minor in nature.

Respectfully Submitted,

Megan Fernandes

Megan Fernandes, Planning Technician