



## PLANNING AND BUILDING SERVICES

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### Planning Report

To: Committee of Adjustment

From: Ted Horton  
Planner

Date: April 12, 2019

Re: Applications for Minor Variance **D13-A23-18 & D13-A24-18**  
Application for Consent **D10-B04-18**  
Part Lot 3, Plan 113  
951 Srigley Street  
Made by: ESHOO, Givargis

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#### 1. Recommendations

##### **That Consent Application D10-B04-18 be granted, subject to the following conditions:**

- a. That the Owner obtain relief from the provisions of the zoning by-law for reduced frontage as set forth in Minor Variance Applications D13-A23-18 and D13-A24-18;
- b. That prior to the issuance of the Certificate of Official, that the owner be required to obtain a demolition permit and remove the existing structures on the lot;
- c. That prior to the issuance of any demolition permit or building permit compliance that the applicant provide to the Secretary-Treasurer confirmation from Planning Services that the provisions of the Town's Tree Preservation, Protection, Replacement and Enhancement Policy have been fulfilled including tree protection and securities;
- d. That the applicant be required to enter into a site plan agreement to:
  - i. maintain for a period of not less than five years the tree numbered 4 and hedgerows numbered 10+ and 11+ indicated on the submitted arborist report prepared by D.A. White Tree Care dated August 29, 2018 to the satisfaction of the Town;
  - ii. pay to the Town an amount of not less than 200% of the appraised value of the trees located on the municipally-owned boulevard to be removed as required by Public Tree Protection By-law 2017-59;
  - iii. address demolition, tree protection and compensation for the existing lot; and
  - iv. require an amending agreement for the development of the subject and remaining lands to address lot grading, storm drainage, municipal servicing, tree protection and compensation, built form compatibility including a brief on how the proposed design represents elements of the surrounding neighbourhood, easements, and other matters.
- e. That the Owner be required to provide to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment the following:

- i. proof of payment of all outstanding taxes and local improvement charges owing to date against the subject lands;
- ii. three white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted;
- iii. required transfers to effect the severance and conveyance applied for under Consent Application D10-B04-18, conveying the subject lands, and issuance by the Secretary-Treasurer of the certificate required under subsection 53(42) of the Planning Act; and.
- iv. submission of an appraisal report prepared by a member of the Appraisal Institute of Canada respecting the new lot and payment of cash-in-lieu of parkland as required by the Town's Parkland Dedication By-law.

**That Minor Variance Applications D13-A23-18 and D13-A24-18 be granted.**

## 2. Background

This report follows Planning Reports to the Committee of Adjustment on the same applications dated October 19, 2018 and December 6, 2018. At its meeting on October 24, 2018, Committee adopted the following motion:

THAT Consent Application D10-B04-18 and Minor Variance Applications D13-A23-18 and D13-A24-18 be deferred to the Committee of Adjustment hearing on December 12, 2018 to provide ample time for a heritage review.

Following this meeting the applicant engaged the services of Philip Goldsmith, Architect to undertake a heritage assessment. The Assessment of Mr. Goldsmith is that the property is not of heritage significance.

The Town's Senior Planner – Community Planning summarized the findings in a memo dated December 5, 2018. The Senior Planner – Community Planning notes that it is the opinion of the Chair of Heritage Newmarket that the dwelling does warrant designation under the *Heritage Act*. In this memo the Senior Planner – Community Planning notes that the decision of whether or not to designate a structure rests with the Council of the Town of Newmarket who has not had an opportunity to consider the matter.

Due to the 2018 municipal elections, Council was unable to consider the matter before December 12<sup>th</sup>. Consequently, at its meeting on October 12, 2018, Committee adopted the following motion:

That Consent Application D10-B04-18 and Minor Variance Applications D13-A23-18 & D13-A24-18 be deferred until Newmarket Council has determined whether or not to designate the existing structure under the *Ontario Heritage Act*.

At its meeting on March 4, 2019, Council adopted recommendations through Report 2019-21 resulting from the review of the Senior Planner – Community Planning regarding whether the property should be designated. These recommendations included the following:

That Council not proceed through a designation process under the *Ontario Heritage Act* for 951 Srigley Street.

The effect of this recommendation is to close the question of whether the property merits designation under the Ontario Heritage Act. As there is no right of appeal for a request to designate a property that is refused, there is no further recourse to impose a heritage designation under the *Ontario Heritage Act* or the *Planning Act*.

### 3. Application

The lands are located on the north side of Srigley Street, east of Carlson Drive. The consent, if granted, would result in the creation of one new lot. The purpose of the minor variance application is to seek relief from the zoning by-law to reduce the required lot frontages for each of the severed and retained lot. Each of the proposed lots would exceed the minimum lot area.

| #                                | By-law              | Section       | Requirement                   | Proposal   | Recommendation |
|----------------------------------|---------------------|---------------|-------------------------------|--|----------------|
| <b>Minor Variance D13-A23-17</b> |                     |               |                               |  |                |
| 1                                | 2010-40, as amended | Section 6.2.2 | Minimum lot frontage of 18.0m | Minimum lot frontage of 17.52m                               | Grant          |
| <b>Minor Variance D13-A24-17</b> |                     |               |                               |  |                |
| 1                                | 2010-40, as amended | Section 6.2.2 | Minimum lot frontage of 18.0m | Minimum lot frontage of 17.52m                               | Grant          |
| <b>Consent D10-B04-18</b>        |                     |               |                               |  |                |
| 1                                | N/A                 | N/A           | N/A                           | Conveyance of land for the creation of a new residential lot | Grant          |

The purpose of the consent application is to convey the subject land indicated as “A” (severed lands) on the submitted sketch for residential purposes and to retain the land marked “B” (retained lands) on the submitted sketch for residential purposes.

|                                      | Frontage | Depth   | Area                    |
|--------------------------------------|----------|---------|-------------------------|
| <b>Zoning Requirement (R1-C-119)</b> | 18.0 m   | N/A     | 743 m <sup>2</sup>      |
| <b>Lot A (To be severed)</b>         | 17.52 m  | 44.45 m | 1,013.88 m <sup>2</sup> |
| <b>Lot B (To be retained)</b>        | 17.529 m | 44.57 m | 1,148.47 m <sup>2</sup> |

The subject lands are currently occupied by a single detached dwelling. The proposed use on each of the proposed lots would be a single detached dwelling.

#### 3.1 Notice

Additional notice was provided to residents that this matter was returning to the Committee of Adjustment in the form of a non-statutory Notice of Deferred Applications that was mailed in a manner similar to a standard statutorily-required Notice of Application.

### 4. Planning considerations – Minor Variances

#### 4.1 Variances

The question of the application for consent and variance must be addressed in tandem. If Committee decides not to grant the consent, the applications for relief for reduced lot frontage and reduced lot area are unnecessary. If Committee decides to deny the relief for reduced lot frontage or the reduced lot area, the consent cannot be approved, as it is required for the proposed resulting lots to conform with the requirements of the zoning by-law.

The question of the minor variance applications must be addressed as a condition of the approval of the consent, else the proposed resulting lots will not conform with the minimum standards required by zoning and the application will thus be inconsistent with Section 16.1.5 of the Town's Official Plan, namely clause 2 (h), which requires that "the size and shape of the lot conforms with the requirements of the Zoning By-law, is appropriate to the use proposed and compatible with the adjacent lots".

In order to authorize a minor variance, Committee must be satisfied that the requested variances pass the four tests required by the *Planning Act*. In this regard, staff offer the following comments:

#### **4.2 Conformity with the general intent of the Official Plan**

The subject lands are within the Residential areas of the Town's Official Plan. Section 3.0 of the Official Plan discusses these areas and the intent to "ensure that new development is compatible with the existing character of the neighbourhood". The subject lands are specifically designated "Stable Residential" in the Official Plan. Regarding this designation, Section 3.2 of the Town's Official Plan states:

It is the objective of the Stable Residential Area policies to:

- a. sustain and enhance the character and identity of existing residential communities; and,
- b. encourage the preservation and maintenance of the Town's existing housing stock, supplemented by various forms of residential intensification such as infilling and the creation of accessory dwelling units.

This designation permits single detached dwellings, and supports efforts to invest in the existing housing stock. The proposed lots will result in an additional house through infill development. While the Official Plan speaks of preservation and maintenance, this is of the housing stock writ large and not of any one particular structure. The Town cannot prevent the demolition of a structure save through employing tools under the Ontario Heritage Act. Refusing a minor variance or application for consent cannot prevent the demolition of a structure. Rather, the Official Plan aims to ensure the maintenance of a high-quality stock of housing in residential communities, supplemented by orderly infill where appropriate.

The Official Plan in Section 3.9 regarding intensification states:

The forms of intensification permitted within Stable Residential Areas are accessory units and infill units through the creation of new lots consistent with the size and form of housing in the neighbourhood as a whole.

The question of what constitutes the neighbourhood as a whole will colour Committee's determination of whether the proposed lots are 'consistent' with the size and form of housing in the neighbourhood as a whole.

Lots along Srigley Street vary from the narrowest of 19.1m at each of 887 and 893 Srigley Street to the west, with the subject lands having the largest frontage (at 35 metres) in the immediate vicinity. Lots along other streets in the immediate vicinity are substantially narrower, with lots on Carlson Drive as narrow as 15.24 metres, and lots along Wildwood Drive and Lemar Road both generally at 15 to 16 metres in width. Whether along Srigley Street, or along the streets in the vicinity, it can be seen that

there is some degree of variation in lot frontages. A map of the existing lots is included as an attachment to this report.

The subject lands are 35.04 metres in frontage. The lot to the immediate west is 30.82m in width, 5 metres narrower than the subject land. The lots opposite are generally 24.38m in width, some 11m narrower than the subject land. The lots of 1005, 1011, and 1017 Srigley Street are 19.84, 23.10, and 21.33 metres in width, respectively.

The question of what constitutes the neighbourhood or what degree of variation may still be determined to be 'consistent' is a matter on which there is not a single clear answer. However, the proposed lots are each less than one half metre narrower than the zoning by-law permits, and are a width that is not out of keeping with other lots in the area and on nearby streets.

The Official Plan further states that residential areas have and will have a mix of housing forms (Section 3) and that the Town will designate residential land in a manner to provide a range of innovative and affordable housing types, zoning standards, and subdivision designs.

The Official Plan provides policies on a broad range of subjects. These policies may at times align to a single direction, or at others they may create friction with one another. Committee must consider the Official Plan as a whole, among the provincial policy framework, and determine how best to balance these policies and which outcome best suits the public interest.

For example, privileging policies related to the preservation of character may reduce land division, but may increase land value through reduced housing supply. This may reduce affordability and encourage the more intensive use of existing lots – that is to say, make more likely the demolition of homes and construction of larger homes. If one confines an understanding of a neighbourhood's character to the elements that make it similar, then the variety between homes is not valued.

The subject lands exist in a neighbourhood that has strong elements of similarity, while also having homes that are distinctly different from others – the principal structure on the subject lands is significantly different in appearance than the dominant built form on the street, a feature that one could consider as being 'out of character'. The adjacent structure at 151 Carlson Drive is of a much more modernist architectural style than others in the area, and 924 Srigley Street features a structure that is taller than many on the street. Distinctive and diverse architectural styles amid a range of lot sizes and building sizes can itself be an element of a neighbourhood's character, which can evolve in many small steps as homeowners change their tastes.

Conversely, privileging policies of intensification may cause overly rapid change in neighbourhoods that can dilute the elements of gradual change that can be part of a neighbourhood's charm and character. Some of these changes are highly visible and occasion public input such as an application for consent. Other changes are made by right and may be less publicly noticed such as the gradual change of neighbourhoods through the redevelopment of properties that conforms to the zoning by-law through demolition and new construction. These developments also change the character of a neighbourhood.

It is also worth considering the types of development that can proceed 'as of right' without the need for a public process. The existing lot of 951 Srigley Street is approximately 2158 square metres in area and features the low modern/Scandinavian design-inspired dwelling. The owner of the property could, by right, demolish the structure and build a two-storey, 10-metre tall dwelling with at least 11,000 square feet of gross floor area and no obligation to maintain a similar architectural ranch style to other homes on the street.

Committee must balance these different approaches and determine whether to grant the application based in part on whether the proposed development is compatible with the surrounding neighbourhood. A common approach to assessing compatibility is by way of unacceptable adverse effects. All development will have effects on a neighbourhood, and the test asks: are those effects adverse and unacceptable?

The proposed consent would create an additional residential lot whose size is narrower than many on the street but is close to the requirement of the zoning by-law. Given the analysis above, considering the development of the property that is possible by right, provided the recommended conditions are imposed, and on a balance of the policies of the Official Plan, in staff's opinion this test is met.

#### **4.3 Conformity with the general intent of the Zoning By-law**

The subject lands are zoned Residential Detached Dwelling Zone 18 Metre Exception 119 (R1-C-119) by By-law Number 2010-40, as amended by By-law 2013-30.

The general intent of minimum lot frontages and lot area limits the number of lots on a street to ensure consistency and compatibility. In the case of the current application, the proposed variances to enable the consent would not deviate from the existing use of the land for the permitted use of a single detached dwelling. Rather, the variance would reduce the minimum required lot frontage for each resulting lot by 0.48m. Each resulting lot would comply in terms of the minimum lot area required. Any structure built on either lot would be required to comply with the built form requirements of the zoning by-law.

The requirement for an 18 metre minimum lot frontage was established for this street in 1983, when Council adopted a zoning by-law amendment for the subject lands and much of Srigley Street between Alexander Road and Leslie Street. The effect of this amendment was to change the minimum lot frontage and lot size from the R2 zone (15 metre frontage and 511 m<sup>2</sup> area) to the R2A zone (18 metre frontage and 743m<sup>2</sup> area). Council did not implement minimum frontage requirements that matched the existing lots (ranging between 24 and 35 metres), but rather at a lower standard of 18 metres.

A lot frontage of 17.52m maintains the general intent of the zoning by-law of ensuring compatibility between lots. Sufficient space for each dwelling is possible on each lot, ample rear amenity space remains available for each lot due to the deep lot configuration, and the existing side-yard setback requirements will maintain the required separation from adjacent properties. In staff's opinion, this test is met.

#### **4.4 Desirable development of the lot**

It is desirable to develop the lot or lots with single detached dwellings and to allow property owners to invest in, redevelop, and improve their properties in accordance with the Official Plan and the Zoning By-law. In cases of consents, it is desirable to allow property owners to arrange their properties and sever new lots in a manner that suits their needs subject to the need for orderly development and zoning conformity.

The proposed condition of this report related to site plan approval would provide Planning staff with the ability to review the proposed development on each of the resulting lots, if they are created, and ensure the built form complies with the zoning by-law and reflects architectural elements of the surrounding area.

Such a condition of requiring site plan approval allows the Town to impose additional design controls. While site plan approval cannot stymie an otherwise zoning-compliant development, it is a useful tool to influence architectural matters such as façade materials, roof pitch, building massing, and exterior design.

As the requested relief related to lot frontage would allow the property owner to arrange the property to suit their needs without significant impact to neighbours or the community, the variance is desirable for the appropriate development of the lot. In staff's opinion, this test is met.

#### **4.5 Minor nature of the variances**

The variances for lot frontage are minor in nature as they would allow the creation of lots that do not significantly vary from the required lot frontage for the subject lands.

While consent to sever a property may engender concern from surrounding residents, the request for permission should be considered in light of what use a property could be put to without any permission being required. As discussed above, the existing property owner could by right construct a dwelling on the lot that is two storeys in height, 1.8m from either of the abutting side properties, and that covers some 540m<sup>2</sup> (5,800 square feet), for a total floor area of greater than 1077m<sup>2</sup> (11,600 square feet).

The proposed lots would each be able to accommodate a more modest dwelling unit, and through required setbacks and lot coverage requirements, ones which may be closer in size to the existing homes in the area.

Other elements of the zoning by-law will continue to limit the size and location of buildings on the proposed lot, which may assist in ensuring similar or compatible buildings. For example, Zoning By-law 2010-40 as amended by By-law 2013-30 requires the front setback of structures to be in line with abutting structures, which maintains a consistent street line. Similarly, the by-laws limit lot coverage to 35% for a one-storey structure or 25% for a two-storey structure, which limits building size.

In staff's opinion, this test is met.

In consideration of the above, the proposed variances, subject to the recommended conditions, meet the four tests under the *Planning Act*.

## **5. Planning considerations – Consent**

### **5.1 Conformity with Provincial Policy and Regional Plans**

Provincial plans are to inform Committee's decision regarding consents. Relevant plans include the Places to Grow Act, the Growth Plan for the Greater Golden Horseshoe, and the Provincial Policy Statement 2014. These acts and plans speak to allowing infilling by consents where appropriate, to directing development to areas within urban boundaries, and to intensify existing built-up areas. However, these plans leave the direction of where this intensification should occur within built-up areas largely in the hands of municipalities.

The Provincial Policy Statement and provincial policy documents are to be read in their entirety and the relevant policies applied to each situation. In situations where more than one policy is relevant,

a decision maker such as the Committee of Adjustment should consider all of the relevant policies to understand how they work together. These documents are available online and through Planning Services and staff from Planning Services are available to assist members of Committee to access and consider them. Given the number and breadth of policy documents they will not all be discussed in this report, but relevant excerpts are provided and brief comments on their relevancy offered.

The Provincial Policy Statement directs that municipalities manage and direct land use to achieve efficient land use patterns. This aim and the creation of healthy, liveable, and safe communities is supported by:

- Promoting efficient development and land use patterns which sustain the financial well-being of the province and municipalities over the long term;
- Promoting cost-effective development patterns and standards to minimize land consumption and servicing costs;

Infill development, appropriately designed, offers an efficient use of land which is beneficial to the financial well-being of the municipality compared to other forms of development. Lots created through infill development do not require the creation of new streets or servicing infrastructure, which means the municipality does not bear the long-term additional capital costs of repairing and replacing infrastructure. Infill development also supports the financial wellbeing of the municipality, as the appropriate division of land and construction of infill houses increases property tax revenue without commensurately increasing municipal service costs. In short, orderly infill development provides a more efficient use of land than the development of greenfield lands. This is not to say that all infill proposals should be approved – as discussed above, numerous other considerations apply to each application – but all other matters being equal, infill development provides a more efficient form of development than outward growth.

Section 2 of the Planning Act sets out Matters of Provincial Interest that are to be considered by the Committee as part of applications for consent. In particular, Committee may consider several of the matters of interest such as:

- the protection of ecological systems, including natural areas, features and functions;
- the orderly development of safe and healthy communities;
- the adequate provision of a full range of housing including affordable housing; and
- the appropriate location of growth and development.

The orderly planning and management of infill development and creation of new lots through consent that are compatible with their neighbourhood supports these areas of provincial interest. In addition, criteria under Section 51 (24) of the Planning Act must also be considered. Many of these criteria are addressed by staff and agency comments, but these clauses should be considered in their entirety by Committee.

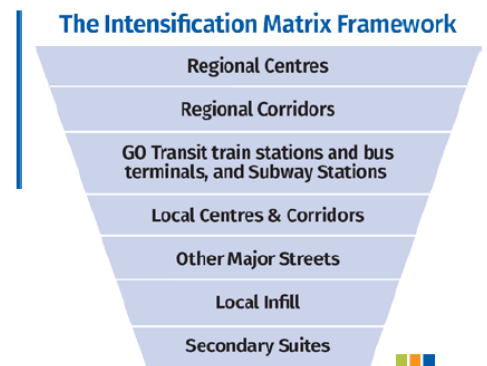
The Growth Plan for the Greater Golden Horseshoe (the 'Growth Plan') provides more specific policy direction which is largely carried forward in the York Region Official Plan, Town of Newmarket Official Plan, and applicable zoning by-laws. However, every planning decision is required to conform with or not conflict with this Plan. The Growth Plan directs the vast majority of growth to occur within certain defined settlement areas and particularly within them to strategic growth areas such as those served by higher-order transit. The Plan provides a vision for a compact built form that makes effective use of investments in infrastructure and achieves the intensification and density targets of the Plan.



Newmarket has provided for intensification areas principally to be located on the Yonge Street and Davis Drive corridors in order to conform to this Plan and achieve the compact, efficient built form that will also support a more sustainable transportation system. However, this does not preclude growth and change outside of these areas. Orderly infill development allows a municipality to continue to provide a range of housing options; where consent is granted in appropriate circumstances in low-density residential areas such as this, it can contribute to the supply of single detached homes when the principal growth in housing options is in higher-density formats such as townhouses and apartments.

Other changes are also necessary to build the complete communities that the Growth Plan seeks to achieve such as ensuring a mix of unit sizes in multi-unit residential buildings to accommodate a diverse range of households and permitting a diverse range of types of housing to meet the needs of future residents in all neighbourhoods. In short, in order to build the communities sought by the Growth Plan municipalities will have to not only encourage high-density growth near higher-order transit, but also appropriately manage other changes such as the severance of lots and the orderly change of established neighbourhoods.

The York Regional Official Plan (the 'YROP') also generally states that intensification and infill in urban areas by consent is appropriate. As discussed in the Growth Plan section above, the YROP focuses growth into strategic growth areas such as the Regional Centres and Corridors (e.g. the Yonge Street and Davis Drive corridors) and into areas surrounding major transit facilities. However, the Plan also provides that local infill is one of the forms of intensification that will assist the YROP to achieve its goals. The YROP also requires local municipalities to enact "zoning by-laws that permit a mix and range of housing types, lot sizes, unit sizes, functions, tenures and levels of affordability within each community".



Staff from York Region have reviewed the application and have expressed no concern from the perspective of conformity with the YROP. Their comments are provided in the Other Comments section below.

## 5.2 Conformity with the Official Plan

As discussed above, the subject lands are designated "Stable Residential" in the Town's Official Plan. The Official Plan contains a number of policies that are relevant to this application. This designation permits single detached dwellings and semi-detached dwellings.

Section 16.1.5 of the Official Plan sets out the circumstances in which an application for consent will be granted. The section reads that consents shall only be granted where:

- a. the severance is for the purpose of infilling within existing development;
- b. a plan of subdivision is not necessary;
- c. the number of lots created is three or less;
- d. the lot can be adequately serviced by sanitary sewage disposal, water supply, and storm drainage facilities;
- e. no extension, improvement or assumption of municipal services is required;
- f. the lot will have frontage on an improved public road, and access will not result in traffic hazards;

- g. the lot will not restrict the ultimate development of adjacent lands;
- h. the size and shape of the lot conforms with the requirements of the Zoning By-law, is appropriate to the use proposed and compatible with adjacent lots; and,
- i. the consent complies with all relevant provisions of this Plan.

The proposed consent clearly meets clauses (a) to (g). Clauses (h) and (i) require Committee to determine that they have been fulfilled. Clause (h) relies on whether the proposed consent will create a lot that is compatible with adjacent lots. Compatibility in the context of land use planning often cites the language of Ontario Municipal Board Member Chapman in the hearing of *Motisi v. Bernardi [1987 CarswellOnt 3719 (OMB)]*, in which he stated:

Being compatible with is not the same thing as being the same as. Being compatible with is not even the same thing as being similar to. Being similar to implies having a resemblance to another thing: they are like one another, but not completely identical.

Being compatible with implies nothing more than being capable of existing together in harmony.

The Stable Residential Area policies of Section 3.2 provide the objectives of the area, stating that:

It is the objective of the Stable Residential Area policies to:

- a. sustain and enhance the character and identity of existing residential communities; and,
- b. encourage the preservation and maintenance of the Town's existing housing stock, supplemented by various forms of residential intensification such as infilling and the creation of accessory dwelling units.

The Intensification policies of Section 3.9 are also applicable, although they are discussed in the Conformity with the general intent of the Official Plan section earlier in this report.

The Official Plan also includes policies in Section 12 that support the use of zoning by-laws and site plan approval to ensure a high quality of urban design. This includes that new development respond appropriately to the existing character of the area, consider the nature of fenestration and sun reflection impacts, mitigate shadow impacts, and consider elements such as height, massing, setbacks, materials and finishes that are incorporated into surrounding buildings. Site plan approval does not entitle a municipality to reduce height or density, but rather to control exterior design to enhance compatibility among other matters. The recommended condition of requiring site plan approval of each lot will enable staff to review the proposed development on each of the resulting lots, if they are created, and ensure the built form complies with the zoning by-law and reflects architectural elements of the surrounding area.

The proposed application would not conflict with the purpose and intent of the Official Plan.

### **5.3 Conformity with the Zoning By-law**

The subject lands are zoned Residential Detached Dwelling 18.0m Zone Exception 119 (R1-C-119) by By-law Number 2010-40, as amended by By-law 2013-30. This zone permits single detached dwellings and sets requirements for minimum lot areas and frontages. Both the severed parcel and the retained parcel as proposed meet with the minimum lot area requirements for the R1-C-119 Zone. If Committee grants the requested relief from the zoning by-law, as is discussed in the sections related to the minor variance applications earlier in this report, each of the lots will comply with the requirements for minimum lot frontage.

No plans have been provided for the future construction of dwellings on these lots, although if Committee grants these applications such plans will be required before agreements are executed that will allow for the development of each lot. Any development will be required to comply with the requirements of the zoning by-law or to seek relief from the by-law through appropriate planning tools.

## **6. Other comments**

### **6.1 Tree protection**

The Town's Tree Preservation, Protection, Replacement and Enhancement Policy requires properties that are subject to a development application to submit an arborist report, protect trees during construction, and compensate for any removed trees by replanting or paying an amount to the Town commensurate with the removed trees.

The conditions of this application, if granted and required by Committee, will require the applicant to enter into a leading site plan agreement prior to demolition. This agreement would require the applicant to provide additional arborist report(s) before any development of the resulting lots, including tree protection and compensation as required by the Tree Preservation, Protection, Replacement and Enhancement Policy.

While the Town may permit the removal of privately-owned trees as part of development applications, subject to providing compensation, Committee does retain the authority under Section 51(25) of the Planning Act to impose such conditions as the Committee deems are reasonable, and may consider requiring the preservation of trees in order to mitigate concerns of impact and change, if the application is approved.

To that end, and to reduce the impact of change and development on adjacent properties and the streetscape, the conditions of this report recommend that the owner be required to maintain several significant trees on the site. These include the very large Manitoba Maple on the front lawn that reinforces common pattern of mature trees on the street, and much of the property-edge hedgerows that are a long-established feature for the property and the abutting neighbours.

### **6.2 Heritage**

No structure on the lot is listed under the *Ontario Heritage Act*. As is discussed in the Background section above, Council has considered this structure for designation under the *Ontario Heritage Act* and determined not to do so.

### **6.3 Effect of public input**

Planning Services received a number of submissions from residents related to this application.

Some residents expressed concern that the division of the property into smaller lots would change the character of the neighbourhood and reduce access to green space. Concerns were expressed that the development may cause the loss of trees, and negatively impact animal life.

The overall amount of building that can be constructed on the subject lands is not substantively changed by severing the lot. The zoning by-law allows a one-storey structure to cover 35% of the land, or a two-storey structure to cover 25%. Whether a property owner builds a two-storey structure that is 25% of the area of the existing lot, or there are two homes that are 25% of the area of each resulting lot, the amount of permitted building remains virtually the same. What's more, the removal of privately-owned trees is not prohibited in Newmarket save in the case of properties that

are subject to development applications. If the existing property is maintained without being divided there is no requirement for the existing trees to remain.

Some residents expressed concern that if the application were approved that it would set a precedent for other lots on the street and lead to the street becoming akin to more recent and densely-built subdivision developments in other areas.

Staff understand the basis for the concern expressed by the participants. Stable neighbourhoods still evolve over time. While Committee must deal with each matter in its own right, there is no question that each application that results in some change to a neighbourhood contributes to the context against which future applications may be tested. However, the subject lands are the widest lot in the immediate vicinity and the severance of the land into two lots nearly complies with the zoning by-law. The vast majority of other lots on Srigley are close to 30 metres in width or below which if divided in two would not comply with the zoning by-law and would rather be lots of different classification (being R1-D-119 lots with 15 metre frontages rather than R1-C-119 lots with 18 metre frontages). Residents concerned of a rapid pace of applications for consent on the street may take some solace that this lot differs from others on the street in this important respect.

Other residents expressed concern that buildings built on resulting lots would be two storeys in height and thus infringe on the privacy of abutting lots.

All of the properties on Srigley Street in this area have the right to be developed as a two-storey structure and this has been the case since 1979. That few lots have changed in this way indicates the gradual evolution of stable residential areas, although some change can be seen as in the cases cited of 151 Carlson Drive and 924 Srigley Street which both have two-storey structures. In short, the question of the impact of a two-storey home is not one that is at question in this application.

#### **6.4 Commenting agencies and departments**

The Regional Municipality of York has reviewed the application and has expressed the need for the Town to ensure proper servicing plans and servicing allocation for the home.

Building Services has reviewed the application and noted that they have no objection to the application.

Engineering Services has reviewed the application and does not have any objections to the proposed consent provided the recommended conditions are imposed.

#### **6.5 Interim Control By-law**

On January 21<sup>st</sup>, 2019 Council adopted an Interim Control By-law under Section 38 of the *Planning Act*. The Interim Control By-law limits the ability to increase the floor area or height of residential dwellings throughout its study area, which includes the lands subject to these applications. More, the interim control by-law prohibits the construction on lots that are newly created through applications for consent. The by-law is in place for a period of one year and expires in January 2020, although Council has the ability to extend the by-law for a maximum of one additional year.

However, the Interim Control By-law exempts properties that were subject to a complete *Planning Act* application, which includes applications for minor variance and consent such as this. As such, the existing property is exempt from the Interim Control By-law and it has no force or effect on this application. The result of this is that if Committee approves these applications the applicant will be

able to build a zoning-compliant building on the remaining lands, while the severed lands will be prohibited from development until the interim control by-law expires.

## 7. Conclusions

### Minor Variance Applications D13-A23-18 and D13-A24-18

It is the Committee's opinion that the relief as requested:

- (1) is minor in nature;
- (2) conforms to the general intent and purpose of the Official Plan and Zoning By-law; and
- (3) is considered desirable for the appropriate development of the lot

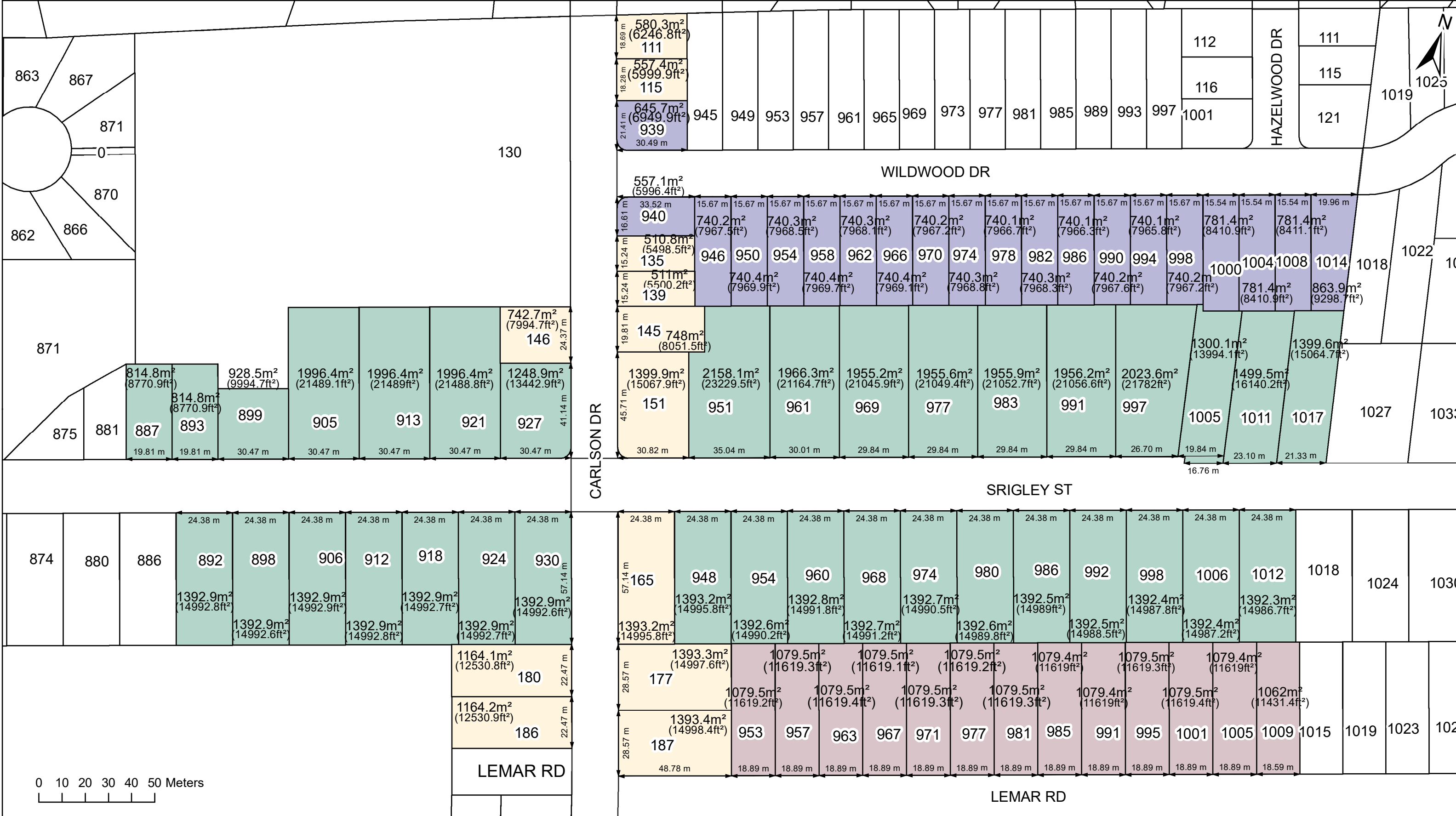
### Consent Application D10-B04-18

The consent is an appropriate division of land that meets the relevant requirements of the Zoning By-law, Official Plan, and matters of Provincial interest, and should be granted.

Respectfully submitted,



Ted Horton  
Planner



Street on to which Property Fronts

- Carlson Dr
- Wildwood Dr
- Srigley St
- Lemar Rd

Subject Lands  
 Property Line

## Srigley Street and Carlson Drive Approximate Lot Frontage (m) and Lot Area (m<sup>2</sup>)

  
Newmarket

Designed & Produced by  
Information Technology – GIS  
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