



Town of Newmarket

Agenda

Committee of Adjustment

Date: Wednesday, September 25, 2019
Time: 9:30 AM

Pages

1. Declarations of Pecuniary Interest

2. Items

- | | | |
|-----|---|----|
| 2.1 | Minor Variance Application - D13-A20-19
DUTCHER, Kevin & DUTCHER, Lynn
Lot 6, Plan M24
131 Stickwood Court | 1 |
| 2.2 | Minor Variance Application – D13-A19-19
THE DAVIS RESIDENCES INC.
Part Lot 4, 5 and 6, Plan 32
175 Deerfield Road | 5 |
| 2.3 | Consent Application – D10-B04-19
THE DAVIS RESIDENCES INC.
Part Lot 4, 5 and 6, Plan 32
175 Deerfield Road | 12 |
| 2.4 | Consent Application – D10-B05-19
FUSSANN INC.
Part Lot 35, Concession 3, Parts 1 & 2, Plan 65R-3249
1166 Davis Drive | 19 |

3. Approval of Minutes

Minutes of the regular Meeting of the Committee held on Wednesday,
August 21, 2019

4. Adjournment


PLANNING AND BUILDING SERVICES
Town of Newmarket

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Report

TO: Committee of Adjustment

FROM: Ted Horton
Planner

DATE: September 18, 2019

RE: Application for Minor Variance **D13-A20-2019**
131 Stickwood Court
Town of Newmarket
Made by: DUTCHER, Kevin & Lynn

1. Recommendations:

That Minor Variance Application D13-A20-2019 be approved, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application;
2. That the development be substantially in accordance with the information submitted with the application.

2. Application:

An application for a minor variance has been submitted by the above-noted owner to request relief from Zoning By-law Number 2010-40 as amended, to allow a reduced front yard setback for an addition to an existing single detached dwelling. The requested relief is below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40, as amended by 2013-30	Exception 119	The required front yard setback is within the range of the setback of the abutting buildings (being 8.28m and 8.74m)	A front yard setback of 6.86m

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, east of Prospect Street and north of Srigley Street. There is an existing single detached dwelling on the lot.

3. Planning considerations:

The applicant previously requested relief from the zoning by-law for this property through minor variance application D13-A13-2019, which sought permission for a front yard setback of 3.94m. Committee denied this application. The current application has been revised to spread the proposed addition across the front of the house instead of concentrating the massing on one side. Accordingly, the requested relief has been reduced.

The applicant is requesting relief from the By-law in order to permit a front yard setback that is closer than either of the abutting buildings. The Zoning By-law requires that the front wall of a dwelling in this area is no closer to the street than the closer of the two abutting buildings and no farther away than the farther of the two abutting buildings. In this case, staggered setbacks of the homes and the

angle of the lot line presents challenges to aligning an addition in the manner required by the by-law. The applicant is seeking permission for a front yard setback of 6.86m, being 1.42m closer than would otherwise be permitted.

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

3.1 Conformity with the general intent of the Official Plan

The subject lands are designated “Stable Residential” in the Town’s Official Plan. This designation permits a range of residential accommodation built form types. Regarding this designation, 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, among other uses, single detached dwellings of a range of sizes and built forms. The Official Plan encourages compatible design and the gradual change and improvement of homes. The application is found to conform to the Official Plan.

3.2 Conformity with the general intent of the Zoning By-law

The subject lands are zoned Residential Single Detached Dwelling 15 Metre Exception 119 Zone (R1-D-119) by By-law Number 2010-40, as amended by By-law Number 2013-30. Single detached dwellings are permitted in this zone.

Exception 119 is present across much of the older areas in Newmarket principally in Wards 2 and 5. In these areas the permitted maximum height and coverage of buildings is slightly reduced, and buildings are required to be setback within the range of the abutting buildings. The intent of this is to ensure compatibility of built form and control the pace and scale of change in neighbourhoods.

Stickwood Court features a range of forms of single detached dwellings – some have projecting garages or staggered rooflines, others have flat front walls. The proposed addition would have less of a setback than either of the abutting dwellings but does not appear to be out of place for the neighbourhood. In addition, the applicant has revised their plans following Committee’s previous decision on the application to better align with Committee’s application of the four tests under the *Planning Act*. The proposed plans have been amended following Committee’s previous decision on application D13-A13-2019, and now more closely follow the staggered setback pattern of the street. This test is met.

3.3 Desirable for the appropriate development of the land

It is generally desirable to allow a property owner to invest in their property and arrange it in a manner that suits their needs, subject to the limits of the zoning by-law and impacts on neighbouring properties. This deference is balanced against the desirability of development in the public interest when permission beyond that of the zoning by-law is sought by way of a minor variance.

As the requested relief 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. This test is met.

3.4 Minor nature of the variance

When considering if the variance is minor, it is not simply the numerical value; the Committee is requested to consider the impact of the variance. The impact of the proposed variance appears to be minimal as despite the reduced setback, the addition appears to fit within the overall diversity of dwelling types on the street. The proposed plans have been amended following Committee's previous decision on application D13-A13-2019, and now more closely follow the staggered setback pattern of the street. This test is met.

In consideration of the above, the proposed variance meets the four tests under the *Planning Act*.

4. Other comments:

4.1 Heritage

No structure on the lot is listed under the *Ontario Heritage Act*.

4.2 Commenting agencies and departments

The Chief Building Official has no objection this application.

Comments from Engineering Services were not available as of the date of this report.

The Regional Municipality of York has no comment on the application.

4.3 Effect of Public Input

No public input was received as of the date of writing this report.

4.4 Interim Control By-law

On January 21st, 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 this minor variance application. This property will not be permitted to increase its floor area or building height in a manner that contravenes the Interim Control By-law.

5. Conclusions:

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.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Ted Horton".

Ted Horton, Planner
MCIP, RPP



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Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
 Planner

DATE: September 18, 2019

RE: Application for Minor Variance **D13-A19-19**
 Applications for Consent **D10-B04-19**
 Part Lot 4, 5, and 6, Plan 32
 175 Deerfield Road
 Made by: THE DAVIS RESIDENCES INC.

1. Recommendations:

That Applications for Consent D10-B04-19, be granted, subject to the following conditions:

- a. 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. confirmation from the Municipal Solicitor that the Owner has received and accepted conveyance from the Town in an 'as is' condition of Parts 4, 5, 6, 7 and 27 as they appear on "Figure 1 – Proposed Severance Sketch" and merged these Parts into the subject lands to the satisfaction of the Municipal Solicitor;
 - iii. confirmation from the Municipal Solicitor that the Owner has transferred and provided easements in favor of the Town across Parts 6, 7, 9, 10, 11, and 25 as they appear on "Figure 1 – Proposed Severance Sketch" to the satisfaction of the Municipal Solicitor;
 - iv. three white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted; and
 - v. the required transfer to effect the severance and conveyance applied for under Consent Applications D10-B04-19, conveying the subject lands, and issuance by the Secretary-Treasurer of the certificate required under subsection 53(42) of the Planning Act.

That Application for Minor Variance D13-A19-19, be granted.

2. Background

This report follows an application for zoning by-law amendment to permit the multi-unit residential redevelopment of the property indicated above (the 'subject lands'), which is to be comprised of three buildings ranging between 12 and 15 storeys. This zoning by-law amendment was approved by Council under file D14-NP17-20. The development is currently proceeding through site plan approval

for the northern half of the property, which is comprised of two buildings, under file D11-NP18-17. This report presents both the application for minor variance and application for consent related to the same property, although it must be noted that these applications are not inherently tied together – that is to say, the approval of one is not a requirement for the other.

The surrounding context is as follows, and is illustrated in Figure 1 as provided by the applicant:

- North: 200 Davis Drive, Two-storey commercial condominium including a range of retail and service uses on the ground floor with upper-floor offices
- East: 212 Davis Drive, fifteen-storey multi-unit residential rental building.
- South: Single detached residential dwellings fronting onto Queen Street
- South and west: Low-rise buildings including motor vehicle repair facilities, professional offices, and a day care
- West: Parkside Drive and the Newmarket Plaza commercial centre



Figure 1: Subject Lands Context

Through the review of the site plan approval application it was determined that the setbacks for the building from the amending zoning by-law were overly specific and did not allow for any refinement through detailed design. The proposed relief from the by-law maintains building size and location that is commensurate with what was approved by Council, but subsequently refined during site plan approval.

The development is comprised of buildings of both condominium and rental tenure. The proposed consent seeks to sever the property of the rental building so that it can be separately financed and owned.

The subject lands are located on Deerfield Road, with a small frontage on the south side of Parkside Drive. The lands are approximately 1.84 hectares in size, with approximately 63 metres of frontage onto Deerfield Road and 4 metres of frontage onto Parkside Drive.

3. Application

The lands are located at the eastern end of Deerfield Road, south of Davis Drive and east of Parkside Drive. The proposed consent would convey the lands indicated as “A” on the sketch attached to the application for the purposes of the proposed multi-unit rental residential building. The lands indicated as “B” on the sketch attached to the application would be retained for the purposes of the multi-unit condominium residential building. Severing the lands will not lead a physical change in the development, as this is managed through the site plan approval process. The consent will allow for different ownership, mortgaging, financing, and legal agreements on title to each property.

The purpose of the minor variance application is to refine and clarify the setbacks for the buildings to the property lines. During the zoning by-law amendment process, the applicant proposed and Council approved highly precise, exact required setbacks – whereas in most cases, the by-law establishes minimum or maximum requirements. During the site plan approval process as the detailed design progressed, it was determined that the exact setbacks of the by-law were overly onerous and did not allow for any refinement. The proposed relief from the by-law maintains building size and location that is commensurate with what was approved by Council, but subsequently refined during site plan approval.

The subject lands are currently occupied by a large industrial building for which a demolition permit has been issued.

4. Planning considerations – Minor Variances

4.1 Variances

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 located in the Urban Centres Secondary Plan (UCSP) area, and designated with a range of applicable policy categories of the UCSP. These include:

- Located in the Davis Drive Regional Corridor (Schedule 1)
- Located in the Davis Drive character area (Schedule 2)
- Designated as Mixed Use (Schedule 3)
- The north portion of the site is within the Medium-High Density area and the south portion of the site is within the Medium Density area (Schedule 4)
- The site is planned to host the extension of Calgain Road along the south edge of the subject lands, a future private road/lanes connecting the Calgain Road extension north to Davis Drive, and Deerfield Road becoming a private road/lane and being extended east (Schedule 5)

The proposed minor variance application will facilitate the development of the lands in accordance with the Urban Centres Secondary Plan for a high-density residential use. The requirements of the Secondary Plan related to use, built form, and other policies are met by the applicable zoning by-law and in-process

site plan approval application. The policies related to roads are further reinforced by the recommended conditions.

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

The subject lands are zoned Holding Regional Urban Centre Exception 144 ((H)UC-R-144) Zone by Zoning By-law 2010-40, as amended by by-law 2018-49.

The general intent of the amending zoning by-law insofar as it concerns setbacks is to ensure the built form of the structure provides sufficient space adjacent to the buildings for the features that were reviewed during the amendment process. For example, the setback for the southernmost building maintains the southerly 20 metres as lands that will be conveyed to the Town for the future extension of Calgain Road. Similarly, the setbacks between buildings maintains space for interior roads, pedestrian areas, and landscaping.

It should be noted that the proposed minimum setbacks and building envelopes do not represent the actual footprint of each building, as these are again further refined through the site plan approval application and each building is further set back through the use of patios, landscaped features, recessed entrances, and other structural and ornamental built form elements.

This test is met.

4.4 Desirable development of the lot

It is desirable to facilitate the redevelopment of this lot in a manner that achieves the aims of the Town's Official Plan and long-term growth objectives. The proposed variance continues the intent of Council in approving this development, and is a reasonable and not unsurprising requirement as the development is refined from its initial concept toward final approval.

This test is met.

4.5 Minor nature of the variances

The variances are minor in nature as they continue the built form approved by Council, maintain sufficient separation distances, and achieve a development that meets Town requirements. This test is met.

In consideration of the above, the proposed variance meets 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 consents where appropriate, to directing development to areas within urban boundaries, and to intensify existing built-up areas.

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; and
- Promoting cost-effective development patterns and standards to minimize land consumption and servicing costs, among other efforts.

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 addition, criteria under Section 51 (24) of the Planning Act must also be considered when the considering the creation of new lots through consent. 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 2019 (the 'Growth Plan') provides more specific policy direction. Every planning decision is required to conform with or not conflict with this Plan. The Growth Plan supports the intensification of development along rapid transit corridors such as this project along the Davis Drive VIVA rapiday.

The York Regional Official Plan (the 'YROP') also supports the intensification of development along the regional Davis Drive corridor.

5.2 Conformity with the Official Plan

As discussed above, the subject lands are within the Urban Centres Secondary Plan (UCSP) area, and designated with a range of applicable policy categories of the UCSP. This development conforms with the policies of the Secondary Plan, as has been achieved through amending zoning by-law 2018-49, and will be secured through the appropriate site plan agreements.

Section 14.2.4 of the Urban Centres Secondary Plan sets conditions to be employed related to the conveyance of lands for public purposes. The section reads that where lands are to be conveyed for public purposes that this should be achieved through conditions of the applicable development applications including an application for consent. In the case of these lands, there are a number of relevant land conveyances and easement obligations to be secured, which are laid out in the policies and schedules of the Urban Centres Secondary Plan. The numbers referenced below refer to the Parts on Figure 1 of the Proposed Severance Sketch included with the application materials.

- Part 12 – To be conveyed to the Town for a future extension of Calgain Road
- Parts 6, 7, 9, 10, 11, and 25 – To be subject to an easement in favor of the Town for a publicly-accessible, privately-owned road
- Parts 5, 6, and 7 – To be conveyed to the applicant from the Town for inclusion as a publicly-accessible, privately-owned road

The proposed conditions of the consent will secure these obligations and fulfill the requirements of the Urban Centres Secondary Plan insofar as they relate to this consent application.

The proposed application is consistent with the purpose and intent of the Urban Centres Secondary Plan.

5.3 Conformity with the Zoning By-law

The subject lands are zoned Holding Regional Urban Centre Exception 144 ((H)UC-R-144) Zone by Zoning By-law 2010-40, as amended by by-law 2018-49.

The amending zoning by-law provides that “No provision of this by-law shall be deemed to be contravened by reason of any land division or the conveyance of a parcel(s) upon which a building(s) is erected provided that all of the standards of this by-law are met for the lands as a whole.” The proposed consent has been contemplated since the initial application, and is in keeping with the requirements of the zoning by-law.

6. Other comments

6.1 Tree protection

The subject lands are subject to an site plan approval, and are part of an ongoing application.

6.2 Heritage

No structure on the lot is listed under the *Ontario Heritage Act*.

6.3 Effect of public input

Planning Services received no submissions from the public related to this application.

6.4 Commenting agencies and departments

Comments from the Regional Municipality of York were not available as of the date of this report.

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

Comments from Engineering Services were not available as of the date of this report.

6.5 Interim Control By-law

On January 21st, 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. The subject lands are not subject to the interim control by-law.

7. Conclusions

Minor Variance Applications D13-A19-19:

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-B04-19

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,

A handwritten signature in blue ink, appearing to read "Ted Horton".

Ted Horton, MCIP, RPP
Planner



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 Made by: THE DAVIS RESIDENCES INC.

1. Recommendations:

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 - i. proof of payment of all outstanding taxes and local improvement charges owing to date against the subject lands;
 - ii. confirmation from the Municipal Solicitor that the Owner has received and accepted conveyance from the Town in an 'as is' condition of Parts 4, 5, 6, 7 and 27 as they appear on "Figure 1 – Proposed Severance Sketch" and merged these Parts into the subject lands to the satisfaction of the Municipal Solicitor;
 - iii. confirmation from the Municipal Solicitor that the Owner has transferred and provided easements in favor of the Town across Parts 6, 7, 9, 10, 11, and 25 as they appear on "Figure 1 – Proposed Severance Sketch" to the satisfaction of the Municipal Solicitor;
 - iv. three white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted; and
 - v. the required transfer to effect the severance and conveyance applied for under Consent Applications D10-B04-19, conveying the subject lands, and issuance by the Secretary-Treasurer of the certificate required under subsection 53(42) of the Planning Act.

That Application for Minor Variance D13-A19-19, be granted.

2. Background

This report follows an application for zoning by-law amendment to permit the multi-unit residential redevelopment of the property indicated above (the 'subject lands'), which is to be comprised of three buildings ranging between 12 and 15 storeys. This zoning by-law amendment was approved by Council under file D14-NP17-20. The development is currently proceeding through site plan approval

for the northern half of the property, which is comprised of two buildings, under file D11-NP18-17. This report presents both the application for minor variance and application for consent related to the same property, although it must be noted that these applications are not inherently tied together – that is to say, the approval of one is not a requirement for the other.

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Through the review of the site plan approval application it was determined that the setbacks for the building from the amending zoning by-law were overly specific and did not allow for any refinement through detailed design. The proposed relief from the by-law maintains building size and location that is commensurate with what was approved by Council, but subsequently refined during site plan approval.

The development is comprised of buildings of both condominium and rental tenure. The proposed consent seeks to sever the property of the rental building so that it can be separately financed and owned.

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3. Application

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The purpose of the minor variance application is to refine and clarify the setbacks for the buildings to the property lines. During the zoning by-law amendment process, the applicant proposed and Council approved highly precise, exact required setbacks – whereas in most cases, the by-law establishes minimum or maximum requirements. During the site plan approval process as the detailed design progressed, it was determined that the exact setbacks of the by-law were overly onerous and did not allow for any refinement. The proposed relief from the by-law maintains building size and location that is commensurate with what was approved by Council, but subsequently refined during site plan approval.

The subject lands are currently occupied by a large industrial building for which a demolition permit has been issued.

4. Planning considerations – Minor Variances

4.1 Variances

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 located in the Urban Centres Secondary Plan (UCSP) area, and designated with a range of applicable policy categories of the UCSP. These include:

- Located in the Davis Drive Regional Corridor (Schedule 1)
- Located in the Davis Drive character area (Schedule 2)
- Designated as Mixed Use (Schedule 3)
- The north portion of the site is within the Medium-High Density area and the south portion of the site is within the Medium Density area (Schedule 4)
- The site is planned to host the extension of Calgain Road along the south edge of the subject lands, a future private road/lanes connecting the Calgain Road extension north to Davis Drive, and Deerfield Road becoming a private road/lane and being extended east (Schedule 5)

The proposed minor variance application will facilitate the development of the lands in accordance with the Urban Centres Secondary Plan for a high-density residential use. The requirements of the Secondary Plan related to use, built form, and other policies are met by the applicable zoning by-law and in-process

site plan approval application. The policies related to roads are further reinforced by the recommended conditions.

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

The subject lands are zoned Holding Regional Urban Centre Exception 144 ((H)UC-R-144) Zone by Zoning By-law 2010-40, as amended by by-law 2018-49.

The general intent of the amending zoning by-law insofar as it concerns setbacks is to ensure the built form of the structure provides sufficient space adjacent to the buildings for the features that were reviewed during the amendment process. For example, the setback for the southernmost building maintains the southerly 20 metres as lands that will be conveyed to the Town for the future extension of Calgain Road. Similarly, the setbacks between buildings maintains space for interior roads, pedestrian areas, and landscaping.

It should be noted that the proposed minimum setbacks and building envelopes do not represent the actual footprint of each building, as these are again further refined through the site plan approval application and each building is further set back through the use of patios, landscaped features, recessed entrances, and other structural and ornamental built form elements.

This test is met.

4.4 Desirable development of the lot

It is desirable to facilitate the redevelopment of this lot in a manner that achieves the aims of the Town's Official Plan and long-term growth objectives. The proposed variance continues the intent of Council in approving this development, and is a reasonable and not unsurprising requirement as the development is refined from its initial concept toward final approval.

This test is met.

4.5 Minor nature of the variances

The variances are minor in nature as they continue the built form approved by Council, maintain sufficient separation distances, and achieve a development that meets Town requirements. This test is met.

In consideration of the above, the proposed variance meets 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 consents where appropriate, to directing development to areas within urban boundaries, and to intensify existing built-up areas.

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- Promoting cost-effective development patterns and standards to minimize land consumption and servicing costs, among other efforts.

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 addition, criteria under Section 51 (24) of the Planning Act must also be considered when the considering the creation of new lots through consent. Many of these criteria are addressed by staff and agency comments, but these clauses should be considered in their entirety by Committee.

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The York Regional Official Plan (the 'YROP') also supports the intensification of development along the regional Davis Drive corridor.

5.2 Conformity with the Official Plan

As discussed above, the subject lands are within the Urban Centres Secondary Plan (UCSP) area, and designated with a range of applicable policy categories of the UCSP. This development conforms with the policies of the Secondary Plan, as has been achieved through amending zoning by-law 2018-49, and will be secured through the appropriate site plan agreements.

Section 14.2.4 of the Urban Centres Secondary Plan sets conditions to be employed related to the conveyance of lands for public purposes. The section reads that where lands are to be conveyed for public purposes that this should be achieved through conditions of the applicable development applications including an application for consent. In the case of these lands, there are a number of relevant land conveyances and easement obligations to be secured, which are laid out in the policies and schedules of the Urban Centres Secondary Plan. The numbers referenced below refer to the Parts on Figure 1 of the Proposed Severance Sketch included with the application materials.

- Part 12 – To be conveyed to the Town for a future extension of Calgain Road
- Parts 6, 7, 9, 10, 11, and 25 – To be subject to an easement in favor of the Town for a publicly-accessible, privately-owned road
- Parts 5, 6, and 7 – To be conveyed to the applicant from the Town for inclusion as a publicly-accessible, privately-owned road

The proposed conditions of the consent will secure these obligations and fulfill the requirements of the Urban Centres Secondary Plan insofar as they relate to this consent application.

The proposed application is consistent with the purpose and intent of the Urban Centres Secondary Plan.

5.3 Conformity with the Zoning By-law

The subject lands are zoned Holding Regional Urban Centre Exception 144 ((H)UC-R-144) Zone by Zoning By-law 2010-40, as amended by by-law 2018-49.

The amending zoning by-law provides that “No provision of this by-law shall be deemed to be contravened by reason of any land division or the conveyance of a parcel(s) upon which a building(s) is erected provided that all of the standards of this by-law are met for the lands as a whole.” The proposed consent has been contemplated since the initial application, and is in keeping with the requirements of the zoning by-law.

6. Other comments

6.1 Tree protection

The subject lands are subject to an site plan approval, and are part of an ongoing application.

6.2 Heritage

No structure on the lot is listed under the *Ontario Heritage Act*.

6.3 Effect of public input

Planning Services received no submissions from the public related to this application.

6.4 Commenting agencies and departments

Comments from the Regional Municipality of York were not available as of the date of this report.

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

Comments from Engineering Services were not available as of the date of this report.

6.5 Interim Control By-law

On January 21st, 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. The subject lands are not subject to the interim control by-law.

7. Conclusions

Minor Variance Applications D13-A19-19:

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-B04-19

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,

A handwritten signature in blue ink, appearing to read "Ted Horton", is written over a faint, illegible printed name.

Ted Horton, MCIP, RPP
Planner



PLANNING AND BUILDING SERVICES

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 Newmarket, ON L3Y 4X7

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Planning Report

To: Committee of Adjustment

From: Ted Horton
 Planner

Date: September 18, 2019

Re: Application for Consent **D10-B05-19**
 Part Lot 34, Concession 3
 Made by: FUSSANN INC.

1. Recommendations

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

- a. 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. a copy of the fully executed lease regarding the subject lands; and
 - iii. three white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted.

2. Subject Lands

This application pertains to the property described by the legal description below:

PT LOT 35, CON 3 PTS 1 & 2, 65R3249 EXCEPT PTS 1 TO 9, 65R26917;
 WHITCHURCH, NEWMARKET; S/T EASEMENTS OVER PT 2, 65R3249, AS IN
 R168637E, R174974 AND R174975, T/W EASE OVER PT LOT 35 CON 3 PTS
 4,5 & 6, 65R26917 AS IN YR467243; T/W EASE OVER PT LOT 35 CON 3 PTS
 2 & 7, 65R26917 AS IN YR467243;; TOWN OF NEWMARKET

3. Application

The lands are located on the south side of Davis Drive, east of Forhan Avenue. The proposed consent does not seek to sever lands. Rather, the proposed consent seeks the approval of Committee of a lease with a period of 21 years or greater, as the Planning Act requires a consent for the creation of any interest in land with a period of 21 years or greater. If granted, the proposed consent would allow the extension of the existing lease for a period of 21 years or greater.

The land to be leased are known as 1166 Davis Drive (indicated as "A" on the sketch attached to the application) and is approximately 150 m² in size. These lands are occupied by the building at the northeast corner of the lot currently occupied by a Tim Hortons restaurant. The lands to be retained (indicated as "B" on the sketch attached to the application) are known as 1144 and 1152

Davis Drive, upon which are two free-standing buildings (Esso Gas Station and Wendy's Restaurant). The retained lands are approximately 8,849m² in size.

4. Planning considerations – Consent

4.2 Conformity with the Official Plan

The subject lands are designated "Commercial" in the Town's Official Plan. This designation permits a range of retail and service commercial uses, including restaurants. No division of land or physical change to the site is proposed through this application. The proposed application for consent would not conflict with the purpose and intent of the Official Plan.

4.3 Conformity with the Zoning By-law

The subject lands are zoned Automotive Commercial by By-law Number 2010-40, as amended by By-law 2013-30. This zone permits drive through facilities such as the one located on the proposed lands to be leased. The lands to be retained include a motor vehicle service station (Esso) and a combined restaurant and drive through facility.

5. Other comments

5.1 Tree protection

The subject lands are subject to an existing site plan agreement. No physical changes are proposed for the subject lands.

5.2 Heritage

No structure on the lot is listed under the *Ontario Heritage Act*.

5.3 Effect of public input

Planning Services received no submissions from the public related to this application.

5.4 Commenting agencies and departments

The Chief Building Official has no objection this application.

Comments from Engineering Services were not available as of the date of this report.

The Regional Municipality of York has no comment on the application.

5.5 Interim Control By-law

On January 21st, 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. The subject lands are not subject to the interim control by-law.

6. Conclusions

The consent meets the relevant requirements of the Zoning By-law, Official Plan, and matters of Provincial interest, and should be granted.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Ted Horton". The signature is stylized and cursive.

Ted Horton
Planner