



PLANNING AND BUILDING SERVICES

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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