



Town of Newmarket  
395 Mulock Drive P.O. Box 328,  
Newmarket, Ontario, L3Y 4X7

Email: [info@newmarket.ca](mailto:info@newmarket.ca) | Website: [newmarket.ca](http://newmarket.ca) | Phone: 905-895-5193

## **Application for Zoning By-Law Amendment 247 and 251 Kathryn Crescent Staff Report to Council**

Report Number: 2019-105

Department(s): Planning Services

Author(s): Dave Ruggle

Meeting Date: November 4, 2019

### **Recommendations**

1. That the report entitled Application for Zoning By-Law Amendment 247 and 251 Kathryn Crescent dated May 21, 2019 be received; and,
2. That application for Zoning By-Law amendment, as submitted by Kariminejad Nobari, for lands on the north side of Kathryn Crescent, be denied; and,
3. That Reza Hayati, Sunrise Constrade Corp., 7368 Yonge Street, Unit 210, Thornhill, L4J 8H9 be notified of this action.

### **Executive Summary**

Staff have reviewed the development proposal for the subject lands against the relevant Provincial, Regional and local policy documents. As the application for Zoning Bylaw amendment to facilitate the two lots at 247 and 251 Kathryn Crescent to be divided, permitting the development of 3 two storey dwellings on 3 lots with 12.19 metres frontage, lot areas between 395 and 400 square metres and reduced side yard setbacks is, in the opinion of staff, not consistent with the intent of the compatibility policies of the Official Plan, staff recommends that Council deny this application for the reasons outlined in this report.

### **Purpose**

The purpose of this report is to provide Council with the details of the application, the comments received, the planning framework, and to make a final recommendation for Council's consideration.

## **Background**

An application for Zoning By-Law Amendment has been submitted by Siavash Kariminejad Nobari, Zahar Kariminejad Nobari and Faras Kariminejad Nobari (Kariminejad Nobari) to rezone the subject land from the Residential Detached Dwelling 15m (R1-D-119) zone to the Residential Detached Dwelling 12m (R1-E) zone to facilitate the division of these two lots into three separate building lots for single detached dwellings generally as shown on the attached conceptual development plan. If this rezoning application is approved, the applicant will be required to apply for consent to sever the property. A public meeting has taken place on August 26, 2019 where a number of residents provided comments on the proposal.

## **Discussion**

### **Site Description**

- The Subject lands currently contain two single storey, single detached dwellings, both with a ground floor area of approximately 120 metres.
- 247 Kathryn Crescent has a lot area of approximately 610m<sup>2</sup>  
251 Kathryn Crescent has a lot area of approximately 585m<sup>2</sup>
- There are 5 mature trees on the subject lands. One significant tree in the front yard is proposed to be removed (discussed further in this report)
- The surrounding land uses are:
  - North: Low density residential on Kathryn Crescent and Avenue Road
  - South: Low density residential on Kathryn Crescent, some commercial and service uses on Eagle Street
  - West/East: Existing low density residential

### **Policy Review**

#### **A Place to Grow (2019)**

A Place to Grow is the growth plan for the greater golden horseshoe designed to support economic prosperity, protect the environment and help communities achieve a high quality of life. In this Plan, growth is directed to settlement areas and focused in delineated built up and strategic growth areas. The Town of Newmarket Official Plan identifies growth areas and intensification targets for the Urban Centres and provides guidance and criteria for the type of intensification that will be seen in the stable and emerging residential areas. The implementation of A Place to Grow is through upper tier, single tier and local municipal Official Plans.

## **Provincial Policy Statement**

The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario's policy-led planning system, the Provincial Policy Statement sets the policy foundation for regulating the development and use of land. It also supports the provincial goal to enhance the quality of life for the citizens of Ontario.

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The Provincial Policy Statement supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

The Town of Newmarket is considered a "Settlement Area" for the purposes of the PPS and indicates that Settlement Areas shall be the focus of growth and development. The PPS indicates that planning authorities shall identify appropriate locations for intensification and redevelopment. Through the Official Plan the Town has identified intensification areas and identified the types of intensification that may occur in residential areas subject to compatibility criteria.

This proposal fails to fully satisfy the requirement of the PPS and A Place to Grow as the proposal does not conform to the Official Plan policies relating to compatibility.

## **Official Plan Considerations**

The Subject Property is designated Stable Residential on Schedule A - Land Use Plan to the Town's Official Plan. The main objectives of the Stable Residential designation are to sustain and enhance the character and identity of existing residential communities as well as encourage the preservation and maintenance of existing housing stock.

Section 3.9 of the Official Plan indicates that infill units through the creation of new lots consistent with the size and form of housing in the neighbourhood as a whole is a permitted form of intensification within the Stable Residential designation. The creation of new lots for the purpose of infilling shall be permitted subject to compatibility with the scale of the surrounding neighbourhood, the physical suitability of the site to accommodate the proposal, availability of hard services and road access requirements.

As the proposed rezoning is intended to facilitate consent applications to create a total of 3 building lots, compliance with Section 16.1.5 Consents is required. This section indicates that applications for 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.**

Section 16.1.1 of the Official Plan discusses the items that need to be considered by Council when considering an amendment to the zoning bylaw:

- a. the proposed change is in conformity with this Plan;**
- b. the proposed uses are compatible with adjacent uses, and where necessary, buffering is provided to ensure visual separation and compatibility between uses;**
- c. potential nuisance effects upon adjacent uses are mitigated;
- d. adequate municipal services are available;
- e. the size of the lot is appropriate for the proposed uses;**
- f. the site has adequate road access and the boundary roads can accommodate the traffic generated;
- g. the on-site parking, loading and circulation facilities are adequate; and,
- h. public notice has been given in accordance with the Planning Act.

In reviewing the above considerations, it is apparent that this proposal is primarily an exercise in compatibility as there are no servicing issues, onsite parking can be accommodated and the legislative process has been adhered to. Staff have identified policies of the Official Plan above to which the proposed amendment does not appear to conform – namely, that the proposed development is not compatible with the adjacent uses and that the size of the lot is not appropriate for the proposed uses.

The question of compatibility is one that requires consideration of the surrounding context of land use and built form. Different land uses can exist in proximity and be compatible, whether the use is defined by difference of activities or of built form. When new development is proposed to create land uses that differ in type and built form, the Town's Official Plan directs that they be designed in context with the existing built environment; new development should take into consideration the size, scale, and orientation of buildings in relation to surrounding conditions. The proposed development, while still comprised of single detached structures on individual lots, does not represent an appropriate consideration of the existing built form based on the proposed size of the structures and lots, and thus is not compatible.

Based on the available information, it does not appear that the proposed development meets the requirements of the policies identified above in bold.

## **Established Neighbourhoods Compatibility Study and Interim Control By-Law**

As noted above, section 3.9 of the Official Plan indicates that infill units through the creation of new lots consistent with the size and form of housing in the neighbourhood as a whole is a permitted form of intensification within the Stable Residential designation. This is to ensure that the creation of new lots is compatible with the scale of the surrounding neighbourhood. This is further discussed under “Compatibility” below.

The Town’s Official Plan is, in part, a response to the Provincial Growth Plan and as such has identified areas for intensification, being the Provincial Urban Centre, the Regional Urban Centre and the Historic Downtown Centre. The majority of the existing residential areas in Newmarket are designated Stable Residential, which, according to the Plan, will see limited intensification.

As residential trends in Newmarket are shifting from suburban growth to urban intensification and redevelopment, concerns have been raised regarding the compatibility of new homes or additions to existing homes that comply with the current zoning by-law regulations, but are considered to be out of character with the built form of the established neighbourhoods in which they are located.

One of the fundamental objectives of planning and zoning is to ensure compatibility between properties and land uses. Compatibility is achieved in part by regulating land use and built form.

Council directed staff to initiate a study of existing established neighbourhoods to examine the regulatory framework of the Town's Zoning By-law and Official Plan and propose recommendations for amendments that will assist in maintaining the existing character of the neighbourhoods. This study is anticipated to be complete in the first quarter of 2020 with new policies related to character compatibility being recommended for Council approval.

Interim Control By-law (ICB) 2019-04, which regulates new residential buildings and additions, was passed by Town Council on January 21, 2019 and is a temporary by-law put in place while Council studies the issues of compatibility in established neighbourhoods. Council directed staff to bring forward the by-law to prevent significant new residential dwellings and additions until such time as they implement new policies to address the issue. The intent is that the neighbourhoods will be defined and studied to determine the important aspects and characteristics of the neighbourhoods, and to draft policies and standards for new buildings and additions in an attempt to ensure compatibility with the existing homes.

As this application for Zoning By-Law Amendment was submitted and declared complete prior to the enactment of the Interim Control By-law, it is not subject to the ICB polices.

### Compatibility and Zone Standards

The existing neighbourhood is predominantly low density residential with a majority of single detached dwellings. There are various small scale commercial establishments along Eagle Street as well as some institutional uses including the pioneer cemetery to the south. A new townhouse development is currently under construction on Eagle Street to the south of this proposal.

To assist in the review of this proposal, a neighbourhood analysis has been completed looking at lot dimensions, frontage and coverage, along with heights, setbacks and prominent features. The area of this neighbourhood analysis is shown below, and consists of approximately 110 properties.



The central issue of this application is whether the creation of three lots and the development of a detached dwelling on each, will be consistent with the established character, lot pattern and prevailing built form of the neighbourhood.

Lot Sizes – maintaining consistent lot sizes in a neighbourhood contributes to its character. Within the study area, the lot areas range from 417.77sq.m. to 3355.39sq.m. When removing the one lot at 208 Avenue Road as a significant outlier, the average lot

size is 647.5sq.m. The application proposes 3 lots with areas of approximately 400 square metres each.

Lot frontages – There is a considerable range of lot frontages in the study area with the smallest lot frontage being 14.87m. There are 6 dwellings with a frontage of approximately 15m, there are 39 lots with a frontage between 15m and 17m, there are 26 lots with a frontage between 17m and 19m and there are 42 lots with a frontage greater than 19m. The average lot frontage in the study area is 18.5m. The application is proposed a lot frontage of 12.19m per lot. Lot frontages contribute to the character of the neighbourhood by ensuring a consistent spacing and rhythm of the streetscape.

Lot coverage – Lot coverage relates to how much of the lot is being taken up by a structure. Within the study area, there are 77 lots with an existing coverage 25% or less, 32 lots with a coverage between 26 and 33% and 4 lots with a coverage between 33 and 38%. The applicant is proposing coverage between 33 to 34.6% for the three lots.

Building Heights – Within the neighbourhood study area, the majority of dwellings are 1 storey or 1.5 storeys (back or side split or living space in the roofline) with only 8 dwellings being two storeys in height. The applicant is proposing the three dwellings be 2 storeys (9.4m) in height.

Building Setbacks – This section of Kathryn Crescent generally has a front yard building setback of approximately 8 metres. The proposed front yard setback for the three dwellings is proposed between 6.3 and 7.1m. The existing rear yard setbacks for the lots that are in close proximity to the subject lands (11 surrounding lots) is approximately 15m. The applicant is requesting rear yard setbacks of 9.37 to 10.16m. Side yard setbacks vary throughout the study area ranging from 1.2m to over 5m in some cases. In most cases, there is a building separation between 3m and 7m. The applicant is proposing side yard setbacks of 1.2 on one side and 0.65m-1.11m on the other.

Prominent Features/Streetscape – The single storey nature of the dwellings along with building setbacks gives this street a very open and airy feel. Typically, garages are single car and attached to the dwelling however variation exist throughout the study area with two car garages and detached garages in the rear yard. The study area has a significant amount of mature landscaping in both the front and rear yards of lots.

The lot fabric and physical character of the neighbourhood is one of consistently larger lots with dwellings built well below the existing maximum lot standards. It is predominantly a neighbourhood of 1 and 1.5 storey dwellings with generous setbacks. It is the opinion of staff that the proposal to divide two lots into three lots of reduced frontages, increased lot coverage, and reduced setbacks is not harmonious with the streetscape and predominant built form character of the neighbourhood. The proposal, as applied for, would result in mass and height that is out of keeping with the surrounding neighbourhood and does not maintain the general intent and purpose of the Official Plan.

## **Public Meeting**

The statutory public meeting for this application was held on Monday August 26, 2019 where a number of residents spoke to and provided written comments on the proposed rezoning application.

A petition against this proposal with approximately 190 signatures was also provided to Council at this meeting with signatures from residents near and further abroad from the lands under application.

The comments heard at the public meeting were largely regarding the compatibility of the proposal with the immediate and surrounding community.

Residents indicated that the proposal is not fitting for the neighbourhood aesthetics noting an issue with height, shadow impacts, parking and neighbourhood character. A loss of privacy was also cited along with a perception that if approved, this proposal would lower home value in the neighbourhood. Finally, stormwater management and grading impacts were of concern.

The compatibility issues noted have been discussed above in this report under “Compatibility and Zone Standards”.

## **Departmental and Agency Comments**

The Town has received comments from utilities issuing no objections.

Engineering Services have provided comments on the application that relate to stormwater management, grading and drainage. While additional review is required if this application is approved, Engineering Services are satisfied that that a Holding Provision under the Planning Act can be implemented in the amending zoning bylaw to ensure these issues are addressed prior to the construction of any dwelling.

## **Conclusion**

As the application for Zoning Bylaw amendment to facilitate the division of two lots at 247 and 251 Kathryn Crescent into three lots occupied by two storey dwellings with 12.19 metres frontage, lot areas between 395 and 400 square metres and reduced side yard setbacks is, in the opinion of staff, not consistent with the intent of the compatibility policies of the Official Plan. Staff recommend Council deny this application for the reasons outlined in this report.

## **Business Plan and Strategic Plan Linkages**

This report has linkages to the broader Official Plan policies relating to building a strong community by implementing growth management to create a clear vision for existing residential neighbourhoods.

## **Consultation**

A statutory public meeting as required under the Planning Act was held on August 26, 2019. Further details on this meeting are provided above.

## **Human Resource Considerations**

None.

## **Budget Impact**

### **Operating Budget (Current and Future)**

The appropriate planning application fees have been received for Zoning By-law amendment. The Town would also receive revenue from development charges as required by the Town's development charges by-law, and increased property tax assessment revenue would be collected from the development of these lands in the event the applications are approved.

### **Capital Budget**

There are no direct capital budget impacts as a result of this report.

## **Attachments**

1. Location Map
2. Proposed Site Plan
3. Proposed streetscape elevation (3D view)

## **Approval**

Dave Ruggle  
Senior Planner, Community Planning

Adrian Cammaert  
Acting Manager, Planning Services

Jason Unger  
Acting Director, Planning and Building Services

Peter Noehammer  
Commissioner, Development and Infrastructure Services

## **Contact**

For more information on this report, please contact: Adrian Cammaert, Acting Manager, Planning, at 905-953-5321; [acammaert@newmarket.ca](mailto:acammaert@newmarket.ca)