



## PLANNING AND BUILDING SERVICES

Town of Newmarket

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### Planning Report

To: Committee of Adjustment

From: Ted Horton  
Senior Planner

Date: December 5, 2019

Re: Application for Consent **D10-B06-19**  
Block 89, Plan 65M-2263  
Made by: MARIANNEVILLE DEVELOPMENTS LIMITED

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#### 1. Recommendations:

That Consent Application D10-B06-18 be granted subject to the following conditions:

- a. That the application be subject to Section 50(5) of the *Planning Act* RSO 1990, c.P.13, which shall apply to any subsequent transaction or conveyance involving the parcels of land that are the subject of this consent;
- b. 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, recipient, and retained parcels
  - 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, conveying the subject lands, and issuance by the Secretary-Treasurer of the certificate required under subsection 53(42) of the *Planning Act*.

#### 2. Application:

An application for Consent has been submitted by the owner of the above noted lands. The application proposes to convey a vacant triangular-shaped area of land of 252 square metres (the 'subject lands') that is part of the remaining westerly lands of the former Glenway golf course. The application proposes to convey and merge the 252 m<sup>2</sup> subject lands to Block 120 of Registered Plan 65M-4587.

The lands from which the subject lands are proposed to be severed are subject to Planning Act applications for which Council has not yet rendered a decision:

- D9NP1902 (Official Plan Amendment)
- D14NP1902 (Zoning By-law Amendment)
- D12NP1902 (Draft Plan of Subdivision)

These applications propose to amend the Zoning By-law and Official Plan to allow for the development of the westerly lands of the former golf course into a residential subdivision akin to the

developments approved by the Ontario Municipal Board for the easterly former golf course lands. These applications are not required for the Committee of Adjustment to render a decision on the current application, nor does a decision by this Committee prejudge the decision of Council.

Block 120, the lands to which it is proposed that the subject lands will be merged, were part of the easterly lands development that was approved by the Ontario Municipal Board. Block 120 is subject to Site Plan Approval application D11-NP18-21 for approval of a development of single detached residential Parcels of Tied Land (POTLs) fronting onto a common-element condominium road. The subject lands, if conveyed, would then form part of this development and form part of the backyards of these single detached POTLs. Attachment 1 shows an excerpt of the site plan for Block 120 with the lands proposed to be conveyed and merged with Block 120 indicated with a red outline.

### **3. Planning considerations:**

#### **Conformity with Provincial Policy**

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. Matters of Provincial Interest, as set out in Section 2 of the Planning Act, are to be regarded by the Committee when considering an application for consent.

The question of the conformity with provincial policy for the lands subject to the application for development of the easterly former golf course lands was explored in detail in the decision of the Ontario Municipal Board following Council's refusal of the proposed amendments (PL130413 and PL100685, dated November 18, 2014). As this application for consent is a minor lot adjustment that continues the Board-approved development, there is little benefit in exploring the same issues.

#### **Conformity with the Official Plan**

The subject lands are designated "Parks and Open Space" in the Town's Official Plan. This designation permits open, recreational, and conservation uses. No development of the lands is proposed by this application, as applications for consent do not amend land use rights.

Section 16.1.5 of the Official Plan sets out the circumstances in which an application for consent will be granted. The section is written largely to address applications for consent among existing residential lots, and provides limited guidance for circumstances such as this. Section 16.1.5 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.

In considering the consent application, regard has been given to the consent policies of Section 16.1.5 of the Official Plan. The proposed application would not conflict with the purpose and intent of the Official Plan.

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

The subject lands are zoned Private Open Space Zone Exception 32 (OS-2-32) by By-law Number 2010-40, as amended, as is much of the remaining westerly portions of the former Glenway golf course. This zone permits conservation uses, golf courses, and accessory buildings. No residential use of the subject lands (the triangular lands proposed to be conveyed) is permitted. Zoning By-law 2010-40 also states in Section 2.4 that:

[W]here a *lot* is divided into two or more *zones* the *zone* boundary dividing the *lot* shall be deemed to be a *lot line* for purposes of calculating required setbacks and coverage, and each portion of the *lot* is required to satisfy the provisions of this By-Law for the applicable *zone*.

The effect of this is that if the subject lands are conveyed and merged with Block 120 that the OS-2-32 zone will remain in effect over the subject lands, while the lands of Block 120 to which they would be conveyed are zoned Holding Provision 15 Metre Single Detached Residential Zone Exception 122 ((H) R1-D-122), where the residential development is permitted. Setbacks for buildings will continue to be measured from the zone boundary and not from the conveyed lot lines, and permitted coverage for the overall POTL will be measured only from the ((H) R1-D-122) lands.

No development of the OS-2-32 lands that does not comply with the Private Open Space Zone will be permitted. If Council deems to approve the above-listed applications for Official Plan Amendment and Zoning By-law amendment for the subject lands and the easterly former golf course lands, the by-law may eventually include that the subject lands have the same designation and zoning as the lands to which the subject lands are proposed to be conveyed.

The proposed conveyance complies with the zoning by-law.

#### **4. Other comments:**

##### **Tree protection**

The Town's Tree Preservation, Protection, Replacement and Enhancement Policy applies to the subject lands and compliance will be required through the other applicable *Planning Act* applications.

##### **Heritage**

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

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

Planning Services received no input from the public as of the date of writing this report.

##### **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. The Interim Control By-law does not apply to the subject or recipient lands.

**Commenting agencies and departments**

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

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

Engineering Services has reviewed the application and does not have any objections to the proposed consent provided any required easements are conveyed.

**5. Conclusions:**

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 horizontal line.

Ted Horton  
Senior Planner

Attachment 1: Site Plan

