Town of Newmarket
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Zoning By-law Amendment Application – 665-695 Stonehaven Avenue
Staff Report to Council

Report Number: 2019-97

Department(s): Planning and Building Services

Author(s): Ted Horton, Planner

Meeting Date: October 15, 2019

Recommendations

1. That the report entitled Zoning By-law Amendment Application – 665-695 Stonehaven Avenue, dated October 15, 2019 be received;
2. That the application be referred to a public meeting;
3. That following the public meeting, issues identified in this report, together with comments from the public, Committee, and those received through the agency and departmental circulation of the application, be addressed by staff in a comprehensive report to the Committee of the Whole, if required;
4. That Lucila Sandoval of Groundswell Urban Planners, 95 Mural Street, Suite 402, Richmond Hill, L4B 3G2 be notified of this action;
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Executive Summary

The Town has received an application to amend Zoning By-law 2010-40 to add additional permitted uses for the lands known municipally as 665-695 Stonehaven Avenue (the “subject lands”). The application proposes to add day nurseries (daycares) and commercial schools as permitted uses, as they are currently prohibited on this property by the zoning by-law. This report summarizes initial feedback on the application and recommends that the application be referred to a public meeting as required under the Planning Act.

Purpose

This report provides an overview of the application for zoning by-law amendment for 665-695 Stonehaven Avenue to amend the existing zoning of Retail Commercial 2 Zone Excepton 108 (CR-2-108) to add day nurseries and commercial schools as permitted uses under the zoning by-law. The report recommends that the application be referred to a public meeting in accordance with the requirements of the *Planning Act*.

Background

History

The subject lands were considered under previous *Planning Act* applications. In 2009 the Town received zoning by-law amendment application NP-A-09-01, which sought approval for the development of a retirement community consisting of 152 units throughout one 5-storey building and 36 bungalow units. The application was deemed complete and circulated for public consultation. Through the process of consultation, concerns were raised regarding the compatibility of residential and institutional uses in close proximity to the existing industrial uses to the north. In particular, concerns were raised that these sensitive uses could be negatively impacted by noise and vibration from the industrial uses and that allowing these sensitive uses in proximity to the industrial plants would limit the ability of the industrial uses to continue, change, or expand their operations.

In 2011 the Town received Official Plan Amendment application D9-NP11-07 and Zoning By-law Amendment application D14-NP11-07, which sought to amend the Official Plan for the subject lands to a commercial designation and the zoning by-law to allow a retail commercial plaza. Through the process of consultation some residents from the surrounding areas raised concerns of noise and traffic, while others commented positively on the increased availability of retail options in walking distance of their homes. Similarly to the previous applications, representatives of the owners of the industrial properties to the north raised concerns of the potential that sensitive noise receptors such as daycares, schools, and hotels would be located on the site. These representatives raised similar concerns of compatibility of allowing sensitive land uses in proximity to existing industrial facilities. Council approved amending zoning by-law 2012-23, which applied a retail commercial zoning to the site but specifically prohibited commercial schools, day nurseries, hotels, institutional day cares, and places of worship.

In 2012 the Town received an application for site plan approval D11-NP12-03, which sought approval for the layout of the site in a manner that conformed to the zoning by-law. After a technical review, site plan approval was granted, and the property has now been built out with all approved buildings.

Location and surrounding uses

The proposed zoning by-law amendment submitted by Groundswell Urban Planners Inc. on behalf of the owner, Garden Commercial (Newmarket) Inc., concerns a 2.49 hectare property located on the northeast corner of Bayview Avenue and Stonehaven Avenue. The subject lands are irregularly-shaped, with a taper to the east as Stonehaven Avenue curves northward. The site has been developed as a retail commercial plaza with four buildings. The buildings are currently occupied by a Shoppers Drug Mart on the northwest corner, a Tim Horton's with a drive through on the south of the site, and the large building on the east of the site that is occupied by a grocery store. Figure one provides an aerial view of the site below, although the building at the southwest corner has now also been constructed.



Figure 1: Subject Lands

The subject lands are legally described as Part of Lot 28, Concession 2, Part of Parts 1 & 2, Plan 65R-15778. The subject property is designated 'Commercial' by the Town of Newmarket Official Plan and zoned Retail Commercial 2 Zone Exception 108 (CR-2-108) by Zoning By-law 2010-40, as amended by By-law 2012-23.

Surrounding land uses include:

- North: Large industrial buildings on Newpark Boulevard
- East: The German Canadian Housing of Newmarket Inc. residential development
- South: York Region Police Association open space and recreational lands
- West: Single detached residential neighbourhood

Proposal

The applicant is proposing to amend the zoning by-law for the subject lands to add day nursery (daycare) and commercial school as permitted uses on the subject lands to reverse the prohibition on them that was imposed by the 2012 zoning by-law amendment. The property has previously received site plan approval for the development of the lands, and has been built out with all buildings as approved.

The applicant is proposing certain restrictions on where these uses can be located on the lands in order to comply with the land use compatibility guidelines from the Ministry of the Environment, Conservation, and Parks (MECP). Based on this guidance, the findings of the supporting studies suggest that the day nursery use be limited to the currently-vacant building on the southwest corner of the subject lands.

The applicant has also undertaken a parking justification study that proposes site-specific parking rates for the day nursery and commercial school uses. The proposed parking requirements are presented below.

	By-law 2010-40 standard requirement	**Existing requirement for subject lands**	**Proposed minimum requirement**
Day Nursery	2 spaces per classroom plus 1 space for every 4 licensed capacity	4.25 spaces per $90m^2$ of gross floor area	3.4 spaces per $100m^2$ of gross floor area
Commercial School	1 space per 20m2 of gross floor area		1 space per $20m^2$ of gross floor area

Discussion

Decisions on planning matters are required to conform to or be consistent with the policies of superior planning instruments. In the case of an application for a zoning by-law amendment such as this, the decision is required to conform to or be consistent with the Provincial Policy Statement (2014), provincial plans including the Growth Plan for the Greater Golden Horseshoe 2019 (the “Growth Plan”), the York Region Official Plan (YROP), and the Town of Newmarket Official Plan.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Decisions affecting planning matters “shall be consistent” with the PPS.

> Policy 1.1.1 (b) requires that an appropriate range and mix of residential, employment (including industrial, commercial and institutional uses), recreation, park and open space uses be accommodated to meet long-term needs.

The proposed application would allow for a daycare, which is a high-demand use that serves the surrounding residential neighbourhoods, to be located in close proximity to these homes.

> Policy 1.1.1 (c) seeks to avoid development and land use patterns which may cause environmental or public health and safety concerns.
>
> Policy 1.2.6.1 states that *Major facilities* and *sensitive land uses* should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of *major facilities*.

Major facilities are defined to include industries. Sensitive land uses are defined to include day care centres. The PPS clearly indicates a need to ensure that the potential effects of industrial uses on day cares are addressed through buffering and separation, and that care be taken in permitting day cares that they not limit the long-term viability of industrial uses through their presence.

The Growth Plan for the Greater Golden Horseshoe 2019 provides a framework for managing growth in the Greater Golden Horseshoe including: direction on how and where to grow, the provision of infrastructure to support growth, ensuring an appropriate mix of land uses, and protecting valuable heritage systems. All decisions in respect of a planning matter must conform to this plan. The Growth Plan includes policies that are relevant to this application, including several that are cited below.

Policy 2.2.1.4 of the Growth Plan regarding where and how to grow states that the policies of the Plan will achieve complete communities that:

a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;(…)
e) provide for a more *compact built form* and a vibrant *public realm*, including public open spaces.

Policy 2.2.5 states that municipalities will plan for all employment areas within settlement areas by:

> a) prohibiting residential uses and prohibiting or limiting other *sensitive land uses* that are not ancillary to the primary employment use; (…)
> c) providing an appropriate interface between *employment areas* and adjacent non-employment areas to maintain land use compatibility.

The same policy goes on to state that:

> The development of *sensitive land uses*, *major retail* uses or *major office* uses will, in accordance with provincial guidelines, avoid, or where avoidance is not possible, minimize and mitigate adverse impacts on industrial, manufacturing or other uses that are particularly vulnerable to encroachment.

The applicant has submitted studies related to noise and vibration, air quality, and environmental site assessments. These have been provided to the appropriate Town staff and consulting professionals for peer review. The conclusions of these studies and reviews will inform staff's recommendation as to whether the proposed zoning by-law amendment should be approved and whether the above-noted policies are fulfilled.

York Region Official Plan

The subject lands are designated as "Urban Area" as shown on Map 1 of the York Region Official Plan (YROP), which permits a broad range of residential, institutional, commercial, and industrial uses. The YROP provides objectives to develop commercial sites in a compact form that is pedestrian-oriented and transit-supportive. The YROP supports a mix of uses that allows residents to meet their daily needs in close proximity to their homes.

Planning Staff have circulated the application to the Regional Municipality of York. Comments from the Region are generally as follows:

- The Region has no comments on the application.
- The subject lands are within a Wellhead Protection Area and as such are subject to the applicable policies of the YROP. The Region will require a Source Water Protection Impact and Assessment Mitigation Plan or a letter by a qualified professional attesting that no prescribed high-risk activities will be occurring on the site.

Town of Newmarket Official Plan

The subject lands are designated 'Commercial' on Schedule A – Land Use in the Town of Newmarket Official Plan. The goals and strategic directions of the Official Plan include supporting employment and economic well-being by achieving opportunities for employment growth.

The Commercial designation of the Official Plan provides for a range of retail and service commercial uses. The Official Plan directs the comprehensive development of lands including internal circulation systems, coordinated access points, and compatible urban design features.

Within the policies of the Official Plan related to employment land uses, the Official Plan indicates that the Town will implement controls such as buffering and separation distances for sensitive land uses to ensure that conflicts between uses are minimized with the priority being given to office and industrial uses.

Town of Newmarket Zoning By-law 2010-40

The subject lands are currently zoned Retail Commercial 2 Zone Exception 108 (CR-2-108) and the applicant has proposed to amend the by-law to remove the site-specific prohibition on day nurseries and commercial schools.

The Official Plan requires that in considering an amendment to the Zoning By-Law, Council shall be satisfied that:

a. the proposed change is in conformity with this Plan;

The inclusion of day nursery and commercial school uses is common within commercially-designated areas. These uses were prohibited on this site due to concerns of compatibility, as is discussed above. Pending the review of the submitted studies, staff may conclude that the proposed change conforms to the Plan or not and provide a recommendation to Council accordingly.

b. the proposed use is compatible with adjacent uses, and where necessary, buffering is provided to ensure visual separation and compatibility between uses;

As discussed above, the compatibility of the uses is dependent in part on the submitted studies related to noise, vibration, and air quality. Staff continue to review the submitted material and will provide a recommendation to Council following the completion of this review and the required public consultation.

c. potential nuisance effects upon adjacent uses are mitigated;

As discussed above, the compatibility of the uses is dependent in part on the submitted studies related to noise, vibration, and air quality. The potential nuisance effects of noise, vibration, and air quality on the daycare are being reviewed. Similarly, staff are conscious of the importance of not limiting the viability of the industrial uses through the introduction of nearby sensitive land uses. Staff continue to review these reports and will provide a recommendation to Council following the completion of this review and the required public consultation.

d. adequate municipal services are available;

Servicing for the site has been reviewed as part of the site plan approval application and is not considered a concern.

e. the size of the lot is appropriate for the proposed use;

The size of the lot is adequate for the proposed uses.

f. the site has adequate road access and the boundary roads can accommodate the traffic generated;

The site has driveway access onto Stonehaven Avenue and Bayview Avenue, which is under the jurisdiction of the Regional Municipality of York. The Region has expressed no concern with the traffic that may be generated by this site. The existing commercial site permits a range of uses by right that can be expected to generate similar amounts of traffic.

g. the on-site parking, loading and circulation facilities are adequate;

The applicant has provided reports and studies in support of this application including a site plan, concept landscape plan, arborist report, and initial reports on servicing, grading, and stormwater management. Some changes are proposed to the layout of the property to accommodate the required outdoor play areas and traffic circulation. These matters have been reviewed by staff and staff are generally satisfied that these can be appropriately addressed through the site plan approval process.

	By-law 2010-40 standard requirement	**Existing requirement for subject lands**	**Proposed minimum requirement**
Day Nursery	2 spaces per classroom plus 1 space for every 4 licensed capacity	4.25 spaces per 90m^2 of gross floor area	3.4 spaces per 100m^2 of gross floor area
Commercial School	1 space per 20m2 of gross floor area		1 space per 20m^2 of gross floor area

Council previously approved a zoning by-law amendment in 2012 for the site that established a parking requirement based on overall gross floor area that did not distinguish based on use. This rate was set at 4.25 spaces per 90m^2 of gross floor area.

There is no change proposed for the parking that would be required by a commercial school.

Although no change is required to the zoning by-law's parking requirement to allow a day nursery for the site, the applicant has proposed a rate for the proposed day nursery. For a day nursery on the site, the proposed alternative parking requirement is similar to the amount of parking commonly required by other nearby municipalities, with several examples provided below:

- Aurora – 2.5 spaces per 100m2 of gross floor area
- Mississauga – 2.5 spaces per 100m2 of gross floor area
- Markham – 1.5 spaces per classroom plus 1 space for every 5 licensed capacity
- Barrie – 1 space per classroom and 1 space per office
- Vaughan – 1.5 parking spaces per employee

The proposed day nursery parking rate can be accommodated on the site. The proposed day nursery parking rate varies from the typical Newmarket zoning requirement in how it is calculated by being based on gross floor area rather than the number of classrooms and licensed capacity. However, the proposed requirement may be easier to administer by using gross floor area as a metric instead of capacity. Any change to the gross floor area requires the approval of the Town through a building permit issued under the Ontario Building Code. Linking parking requirements to elements of the use that are largely beyond the municipality's ability to monitor (e.g licensed capacity, number of employees, number of children attending) renders the parking requirements less likely to be enforced. As an example, it is possible to change the licensed capacity of a day nursery without the Town's approval, as the licensed capacity is determined by the Ministry of Education under the Child Care and Early Years Act.

h. public notice has been given in accordance with the Planning Act.

Notice has been provided in accordance with the *Planning Act* that a complete application was received. Should the matter be referred to a public meeting, further notice will be provided as required by the *Act*.

Mulock GO Station Area Secondary Plan

Following the June 2017 announcement by the Provincial government of the planned Mulock GO Station, the Town began a secondary plan process for the surrounding area. The subject lands are not within the proposed Secondary Plan area (see image below with the subject lands outlined in red). The subject lands are to the southeast of the planned station, at the limit of an 800m radius from the planned station site.



Adjacent uses

As is discussed above, the subject lands have residential uses to the west and east, open space to the south, and industrial lands to the north. These industrial uses are continuing, lawful uses that comply with the Town's zoning by-law and Official Plan.

The Regional Municipality of York is currently undergoing a Municipal Comprehensive Review (MCR). This review includes the consideration of requests for the conversion of employment lands to other purposes. Through item 5.9 of the June 17th, 2019 Committee of the Whole, Council adopted staff recommendations to support a request from the agent of the owners of 520, 521, 550, and 630 Newpark Boulevard that their lands be permitted to be converted from employment lands to a mix of residential, office, retail, and open space uses. The recommendation was made, in part, based on a recognition that the surrounding lands are becoming more residential in nature. The Region has not concluded its MCR or rendered a final decision on the employment conversion request.

Site Plan Application

The site has been granted site plan approval. The initial approval contemplated a bank with a drive through for the corner building proposed for the day care.

If Council grants the proposed zoning by-law amendment, the applicant will be required to undertake a minor amendment to the site plan in order that any changes required to the site can be reviewed and approved. For example, the outdoor play area required by the Child Care and Early Years Act will require modifications to the existing site layout to be accommodated. Staff will review the revised plans to ensure a high quality design of the play area, appropriate separation from traffic, and best practices in design of child care play areas.

More, this presents an opportunity to ensure the site is functioning well with the new uses. Engineering Services has advised that they have received concerns from residents with respect to traffic sightlines at this property due to the presence of brick pillars adjacent to driveway exits. Accordingly, if Council approves this application and the minor amendment to the site plan agreement takes place, the Town will request that modifications to the entrance areas be undertaken to remove the pillars and re-align fencing to improve sightlines. The removal of these pillars will aid with visibility for traffic exiting the development and provide a more clear view of oncoming pedestrians and traffic along the public right-of-way.

Conclusion

It is recommended that Council refer the proposed Zoning By-law Amendment application to a public meeting, as required by the *Planning Act*.

Business Plan and Strategic Plan Linkages

Economic Leadership and Job Creation

Consultation

Community Consultation

Notice was provided to surrounding property owners and signs placed on the property in accordance with the Planning Act. This report recommends that this application be referred to a public meeting.

Agency Circulation

Notice was provided to development review partners and public bodies per the Town's usual practice. These comments will be considered and integrated into the final recommendation to Council.

Human Resource Considerations

Not applicable to this report.

Budget Impact

Required application fees were received with the submission of this application.

Attachments

None.

Approval

Ted Horton, Planner

Adrian Cammaert, Acting Manager, Planning Services

Jason Unger, Acting Director, Planning & Building Services

Peter Noehammer, Commissioner, Development & Infrastructure Services

Contact

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