



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

Report Number: 2020-10

Department(s): Planning and Building Services

Author(s): Ted Horton, Senior Planner

Meeting Date: February 24, 2020

Recommendations

1. That the report entitled Zoning By-law Amendment Application – 665-695 Stonehaven Avenue, dated February 24, 2020 be received;
2. That the application for Zoning By-law amendment for lands municipally known as 665-695 Stonehaven Avenue be approved and staff be directed present a By-law to Council for approval generally in accordance with Attachment 1;
3. That Lucila Sandoval of Groundswell Urban Planners, 95 Mural Street, Suite 402, Richmond Hill, L4B 3G2 be notified of this action; and
4. 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 current prohibited by the zoning by-law. This report recommends that the application be approved and provides the amending zoning by-law to this effect.

Purpose

This recommends approval of the zoning by-law amendment for 665-695 Stonehaven Avenue to amend the existing zoning of Retail Commercial 2 Zone Exception 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 approved.

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 retail pharmacy 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.

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 (MOECP). 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.

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 the 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 & vibration, air quality, and environmental site assessments. These were provided to the appropriate Town staff and consulting professionals for peer review. The Town's consulting engineer peer reviewers concluded that the findings of the applicant are valid, and they concur with the findings of the applicant's consultants.

With the incorporation of mitigation measures such as ensuring the buildings have central heating and cooling and adequate architectural noise controls, the noise impacts will be below the thresholds provided by the MOECP, thereby addressing potential noise compatibility concerns. Through the site plan review process, staff will confirm these are implemented along with improvements to the exterior layout of the site.

York Region Official Plan

The subject lands is 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 none of the proscribed 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 including service commercial uses. The proposed use is conformity with those permitted by this designation. 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.

The applicant has submitted studies related to noise & vibration, air quality, and environmental site assessments, as are discussed above. The conclusions of these studies were peer reviewed and find that the land uses are compatible, and provide recommendations on mitigation measures to assist in limiting any adverse impacts.

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. The review of the applicant's materials has demonstrated that, with the incorporation of several noise mitigation measures, that the site is expected to be within acceptable noise compatibility limits and that no health impacts are anticipated from the adjacent employment uses.

- 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 are satisfied by the submitted studies that this compatibility can be achieved. The Environmental Protection Act requires that a Record of Site Condition be required to be filed with the Ministry of the Environment, Conservation, and Parks (MOECP) before a building permit can be issued for the daycare.

- 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 have been 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. Opportunity was provided for the owners of the employment lands to the north to indicate concerns with the establishment of a sensitive land use on this site and no such comments were provided.

d. adequate municipal services are available;

Servicing for the site has been reviewed as part of the original site plan approval application. Engineering Services has recommended that this be confirmed as part of the minor site plan amendment that is required, and the recommendations of this report would secure this obligation.

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 directly onto 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. A further study of daycare parking demand was undertaken at staff's request to confirm the anticipated parking demand for the daycare can be accommodated on the site, which has demonstrated to staff's satisfaction that this is the case.

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

Notice was provided in accordance with the *Planning Act* and a statutory public meeting was held on November 25, 2019.

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 was granted site plan approval in 2012. The initial approval contemplated a bank with a drive through for the corner building that is now 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. Through this process, staff will ensure that issues identified through the review of this application are addressed such as ensuring pedestrian safety and providing proper landscape buffering for daycare outdoor play areas.

Conclusion

The application acceptably meets the policies of the Official Plan, conforms to or does not conflict with the York Region Official Plan, Growth Plan for the Greater Golden Horseshoe, and Provincial Policy Statement.

Staff recommend the approval of the application, subject to the by-law attached as Attachment 1. Final detailed review of the outstanding matters can take place during the minor amendment to the site plan agreement in order to ensure that the Record of Site Condition is filed and the minor changes to the layout of the site are reviewed.

Business Plan and Strategic Plan Linkages

Economic Leadership and Job Creation

Supporting the evolving composition of Newmarket through careful consideration of planning applications helps to manage the changing patterns of development and density in a manner that maximizes economic opportunity and liveability

Consultation

Community Consultation

Notice was provided to surrounding property owners and signs placed on the property in accordance with the Planning Act. A statutory public meeting was held on November 25, 2019. No residents spoke to the application at the meeting.

A limited number of comments were received by staff in writing from residents related to the application. These were focused principally on ensuring the safe separation of the play area from traffic, and concerns that the traffic flow of the site be optimized for the new use. These comments were considered by staff and have influenced this recommended approval, the elements of the attached approval by-law, and the minor changes that will be required to the site, implemented through a subsequent minor amendment to the site plan.

Agency Circulation

Notice was provided to development review partners and public bodies per the Town's usual practice. These comments have been considered by Planning staff and form the basis of this recommended approval, the elements of the attached approval by-law, and the minor changes that will be required to the site, implemented through a subsequent minor amendment to the site plan.

Human Resource Considerations

Not applicable to this report.

Budget Impact

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

Attachments

Attachment 1: Amending Zoning By-law

Approval

Ted Horton, Senior Planner

Adrian Cammaert, Acting Manager, Planning Services

Jason Unger, Acting Director, Planning & Building Services

Peter Noehammer, Commissioner, Development & Infrastructure Services

Contact

Ted Horton

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Corporation of the Town of Newmarket

By-law 2020-XX

A By-law to Amend Zoning By-law 2010-40, with respect to the lands located at 665-695 Stonehaven Avenue, Newmarket.

Whereas the Council of the Town of Newmarket has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas the Council of the Town of Newmarket has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

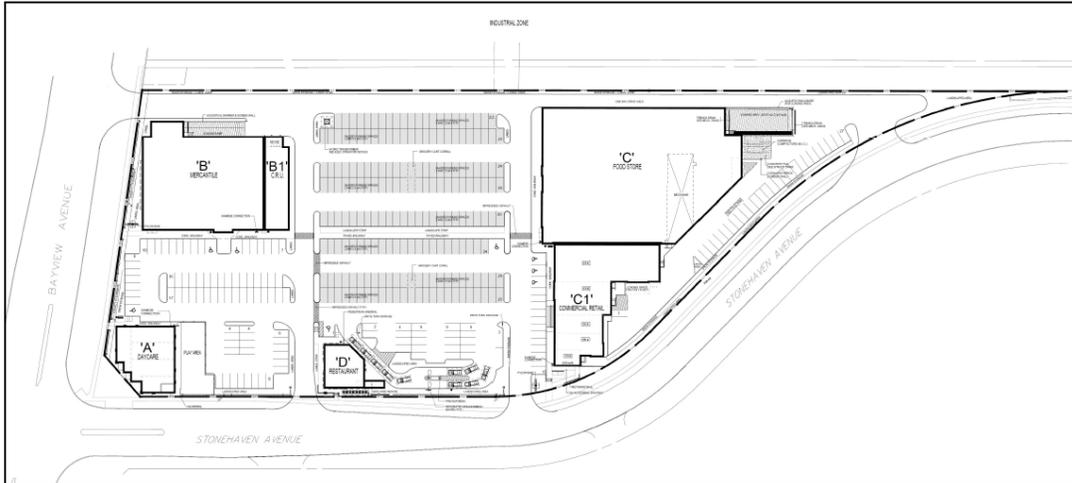
Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas it is deemed advisable to amend By-law Number 2010-40;

Be it therefore enacted by the Municipal Council of the Corporation of the Town of Newmarket as follows:

1. That the lands subject to this amendment are illustrated on Schedule 1 attached hereto.
2. THAT By-law 2010-40 as amended is hereby further amended by:
 - a. Exception 108 be amended as follows:

Exception	Zoning	Map	By-Law Reference	File Reference
108	CR-2-108	19	2012-23 2020-XX	D14-NP-11-07 D14-NP-19-12
i)	Location:	northeast corner of Bayview Avenue and Stonehaven Avenue		
ii)	Legal Description:	Pt Lot 28, Concession 2, Pt of Pts 1 & 2, Plan 65R15778, Town of Newmarket		
iii)	Uses:	<p>Notwithstanding the permitted <i>uses</i> for the CR-2-108 Zone, the following <i>uses</i> shall not be permitted: <i>hotel; institutional day centre; motor vehicle service or motor vehicle repair shop; place of worship.</i></p> <p><i>A dry cleaning depot and dry cleaning establishment</i> may be permitted subject to the completion of a Risk Assessment and Risk Management Plan in accordance with the <i>Ontario Clean Water Act, 2006</i> as amended from time to time.</p> <p><i>A day nursery</i> shall only be permitted within the structure indicated as 'A' on the plan below.</p> <p><i>A commercial school</i> shall only be permitted within the portion of the structure indicated as 'C1' on the plan below.</p>		



iv) Development standards

- a) *Front yard building setback* (Stonehaven Avenue) 0.23m minimum
- b) *Exterior side yard building setback* (Bayview Avenue) 2.28m minimum
- c) *Rear yard building setback* (north lot line) 6.00m minimum
- d) A *landscape buffer* having a minimum width of 2.28 metres shall be provided along Bayview Avenue and a *landscape buffer* having a minimum width of 1.50 metres shall be provided along the northerly property line.
- e) Required parking shall be calculated at the rate of 4.25 spaces per 90m² of *gross floor area*.
- f) A *parking lot* shall be located a distance of 2.28m from Bayview Avenue.
- g) A total of 4 entrance and exit ramps shall be permitted.
- h) The most easterly entrance/exit ramp along Stonehaven Avenue shall have a maximum width of 13.01m.
- i) The access to *loading spaces* along the northerly property boundary shall have a minimum width of 4.5m.

1. List of Holding Provisions

The following holding provisions apply to the properties specified:

By-law No.	Property Description	Permitted Uses Until Holding Provision is Removed	Conditions for Removal
2020-XX	665-695 Stonehaven Avenue	No person within the lands zoned (H)UC-R-144 shall use any land, buildings or structures for a day nursery unless an amendment to this By-law or removal of the '(H)' prefix, as identified in the next column, is approved by Town Council and the By-law comes into full force and effect.	That a Record of Site Condition (RSC) has been filed for the site. That the Director of Engineering Services has confirmed that the servicing design

			<p>is sufficient for the proposed use.</p> <p>That the owner has entered into an amending site plan agreement with the Town for the required changes to the site.</p>
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