

HBR PLANNING CENTRE

CONSULTANTS IN URBAN PLANNING AND DEVELOPMENT

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Mayor and Members of Council

VIA EMAIL

c/o Lisa Lyons Municipal Clerk
Town of Newmarket
395 Mulock Drive
P.O. Box 328, Str. Main
Newmarket, Ontario
L3Y 4X7

October 20, 2021

**RE: PROPOSED DEVELOPMENT AT
201 DAVIS DRIVE
TOWN OF NEWMARKET**

Planning Staff Report # 2021-71 D14NP2014 (ZBA)

We are the planning consultants for 1344459 Ontario Limited, the owners of the lands identified as 191 Davis Drive.

We are in receipt of a Notice of Electronic Committee of the Whole Meeting to be held Monday October 25th, 2021. We have an interest in regard to item 6.3 the Planning Staff Report # 2021-71 on the above captioned lands.

On behalf of our client, we have reviewed the application and documents that have been submitted to the Town of Newmarket regarding the proposed development at 201 Davis Drive. We acknowledge the applicant's work to address several of our comments and the requirements of the Town. However, our client still has some concerns that will need to be addressed. These concerns along with solutions are outlined below. The solutions proposed are mainly through the addition of clauses relating to the removal of the H holding designation.

a) Noise Warning Clauses

Though the Town does look after this through the Site Plan Review process, it is recommended that a specific clause 8.2.3.i 4. be added to the zoning bylaw in this regard, to provide a level of comfort to my client.

b) Site de-watering impacts

I have seen mixed views on the need for this from the application material and comments made during review. This is an important matter not just for adjacent landowners, but for the Region's and Town's infrastructure, as well. It is recommended that an additional clause be placed in section 8.2.3.i 5.

c) Vibration Impact

We are satisfied that the Town has got this item under control through the site plan approval process, However, we have suggested an additional clause 8.2.3.i 6 in the proposed zoning bylaw. Our main concern is that the vibration study protocol be carried out in accordance with the Construction Vibration Issues Staff Report No. 2019-29 including the requirement of **pre-condition surveys**, effective **monitoring** and **data reporting, resident and owner notifications** and a process for **complaint handling**.

d) Construction Management Plan

The potential impact on our client's tenant during construction is a very important matter for our client. They are the property managers who will have to oversee impacts on customers trying to navigate the site during construction. We have two requests for consideration on this matter. Firstly, an additional clause is to be placed in bylaw is 8.2.3.i 7. Secondly, we would request that the Town provide our client with a copy of the draft Construction Management plan for input, if required. This would be followed by providing our client with the final CMP prior to the release of the Holding H category.

e) Community Consultation

Following Official Plan and Zoning enactment, statutory public involvement is typically not part of the subsequent Site Plan Approval Process. As a result, potentially impacted parties are not able to have meaningful input into the final but all-important design stage.

We would ask for Council's commitment to further engage the public during the site plan approval phase of this development. In this regard, we are also requesting a clause in the zoning bylaw as set out in section 8.2.3.i 8.

f) Parking

We acknowledge that the Town's zoning bylaw is complied with as part of the submission received. There remains a concern by my client that overflow visitor or tenant parking may contribute to illegal parking on my client's lands. While our client will

monitor this and take appropriate action as required, we would ask the Town to consider the use of Penn Avenue for on-street parking to accommodate the expected overflow of parking from this proposal.

Thank you very much for your consideration and look forward to your response.

Respectfully,



HBR PLANNING CENTRE

Howard Friedman, M.C.I.P., R.P.P.
Director of Planning

HF/SW:sw

cc. Jason Unger, Adrian Cammaert, Meghan White, and 1344459 Ontario Limited

Appendix # 1

Proposed Revisions to Zoning Bylaw 201 Davis Drive

Additions are highlighted in yellow taken from page 2 of draft bylaw

e. "...Furthermore, the Holding provision will not prevent any work associated with fulfillment of the conditions in Section 8.2.3.i below."

Section 8.2.3.i Conditions for Removal of the Holding Provision

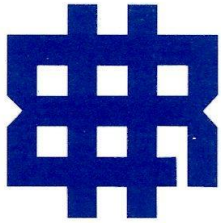
1. That Servicing Allocation has been granted in accordance with the Town's Servicing Allocation Policy.
2. That all downstream sanitary sewer improvements are completed and all other servicing matters have been addressed to the satisfaction of the Director of

Engineering.

3. A Site Plan Agreement to permit the development as proposed has been entered into between the Town and the property owner.
4. "The Site Plan Agreement shall contain provisions relating to the placing of warning clauses in all offers of purchase and sale and/or any lease agreements as per the recommended findings of the Town accepted Noise Study.
5. The Site Plan Agreement shall contain provisions relating to the carrying out of de-watering in accordance with Town and Region requirements.
6. That a Noise and Vibration Study and a Zone of Vibration Influence Report be completed to the satisfaction of the Town and shall be carried out in accordance with the approved Construction Vibration Issues Staff Report No. 2019-29 including the requirement of pre-condition surveys, effective monitoring and data reporting, resident and owner notifications and a process for complaint handling.
7. That a Construction Management Plan (CMP) has been completed to the satisfaction of the Town.
8. That the land owner carry out a community consultation program regarding the implementation of items 1-7, above to the satisfaction of the Town."

Appendix # 2 - Starting on Next Page

HBR Planning Public Meeting Comments of October 29, 2020



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October 29, 2020

Jason Unger, MCIP, RPP
Director of Planning & Building Services
Town of Newmarket
395 Mulock Drive
P. O. Box 328, Stn. Main
Newmarket, Ontario
L3Y 4X7

VIA EMAIL

Dear Mr. Unger:

**RE: PROPOSED DEVELOPMENT AT
201 DAVIS DRIVE
TOWN OF NEWMARKET
(FILE NOS. D09NP2014 (OPA),
D14NP2014 (ZBA) AND D11NP2014 (SPA))**

We are the planning consultants for 1344459 Ontario Limited, the owners of the lands identified as 191 Davis Drive. We are in receipt of a Notice of Electronic Public Meeting to be held Monday November 23, 2020 in regards to the above captioned lands.

Our client's lands are currently occupied by a Tim Horton's restaurant, and are located immediately to the west of, and directly abut the subject lands. It is our understanding that the subject lands, being 201 Davis Drive, is currently proposed to be developed for a six storey residential apartment building, consisting of 147 apartment units.

On behalf of our client, we have reviewed the application and documents that have been submitted to the Town of Newmarket in support of the proposed development at 201 Davis Drive, and our client has some concerns that will need to be addressed with the proposed development. These concerns are outlined below.

1. ACCESS

The apartment development proposes three (3) access points for their site, being a right turn in, right turn out from Davis Drive, and two full movement accesses from Penn Ave. Any traffic from the development that wants to go east on Davis Drive would have to use the intersection at Longford and Davis Drive, due to the Centre median related to the VIVA bus lanes. In addition, if the Region does not support the intended access to Davis Drive, then all of the traffic from the proposed development will filter out of the site using the Penn Ave accesses, and will likely proceed to the intersection at Longford and Davis Drive.

According to traffic report submitted in support of the proposed development, the intersection of Longford/Davis/Parkside operates at a level C, although some functions of the intersection such as **southbound left turns** and through-traffic are rated as D and E. The applicant's traffic report indicates that the development will generate an additional 53 auto trips in the morning and 65 trips in the afternoon/evening peak periods. This will be in addition to the 177 cars already going south on Longford. Our client is concerned that all of this traffic will back up at the traffic light at Longford and Davis Drive, and therefore impede egress from his lands at 191 Davis Drive. While our client's lands have a right turn in access into the site from Davis Drive, there is only one exit from the site which is located in the vicinity of the southbound left turn lane on Longford. In addition, any back up at the traffic light at Davis Drive will also impede access into his lands from the north. With the additional growth, over time, the intersection delay is expected to increase 5 to 6 seconds per vehicle according to the Traffic report. Our client's concern is that his tenant's customers who exit 191 Davis Drive (particularly those using the drive-thru) will not continue to enjoy the current level of service, as cars will back up on Longford to make a left turn on to Davis Drive, at the traffic lights.

We would request that the Town conduct a peer review of the submitted traffic report, and that the applicant's consultant be requested to provide us with a response to the matters raised above, and indicate how these concerns can be resolved.

2. PARKING

Parking for the proposed apartment building is provided at 1 space/dwelling unit with only 30 visitor spaces provided for the 147 residential units contemplated (0.2 spaces/unit). Our client is concerned that the 30 visitor parking spaces proposed may not be sufficient to service the 147 units, particularly at peak times, i.e., weekends and holidays etc. and that the overflow of visitor parking could end up spilling over onto the 191 Davis lands, i.e., Tim Horton's customer parking lot. We would request that the Town and the applicant examine this issue more carefully and work with our client and their tenant to ensure that this adverse impact will not occur, through the implementation of the appropriate measures.

3. **IMPACT ON EXISTING BUILDING**

The Geo-technical report that was prepared for the subject lands recommends the monitoring of vertical and lateral movement of the shoring wall to ensure excavation does not adversely affect the structural stability of the adjacent buildings. They also recommend that a pre-construction survey of the condition of the adjacent properties be undertaken.

We agree with this recommendation, and would request that the Town ensure that this pre-construction survey be undertaken, and include our client's lands. However, the requirement should be expanded to include a post-construction report. Having this base-line pre-construction data, will allow for a determination that if any damage is done to our client's property or building, the prior condition would be well documented. We would request that the Town ensure that our client be provided with proof of this undertaking, and also be given the opportunity to review both the before and after results, of the pre-construction and post-construction survey.

In addition, the Hydro-geologic report states that there is groundwater seepage on the development lands, and de-watering of the site will be required for the underground parking structure they are proposing. We would recommend that the Town provide confirmation, that proper precautions will be put in place to ensure and guarantee that the de-watering process will be done in a manner that will not adversely impact our client's lands or building, both during the construction process and in the future, with respect to the soil stability of the existing structures and parking area.

Having regard for the above, we would request that the recommendations of the Town's **Construction Vibration Issues Staff Report No. 2019-29**, dated March 18, 2019, be applied to the subject lands. This is particularly with respect to requiring vibration monitoring to be undertaken during excavation and construction. This will ensure it is within the limits established by the Town, as well as containing any other measures the Town deems necessary to ensure there are no adverse impacts on adjacent properties due to construction activities on the subject lands. This should be incorporated into any Official Plan policy amendment and to the conditions of approval relating to the site plan, if the subject development is to be approved.

4. **NOISE STUDY**

The Noise Study submitted in support of the proposed development recommends that warning clauses be placed in offers of purchase and sale advising of noise from adjacent commercial buildings i.e., mechanical equipment, drive thru speaker etc.. Our client would like the Town to provide assurance that this will be carried out, as part of the plan of a condominium process and/or site plan approval process, in order to protect our client's lands and his long established tenant from potential noise complaints from future residents of the apartment building.

5. **PHASE ONE ESA**

The Phase One ESA report that was undertaken for the proposed development identified some possible contaminants on the subject lands and recommended that a Phase Two ESA study be undertaken. This Phase Two study was not included in the package of documents that was posted on the Town's Website. We would request that the Town follow-up on the status of this report, and that it be made available for public review when available.

6. **3:1 SLOPE.**

There is a 3:1 slope currently proposed on site, adjacent to the mutual property line with our client's lands. While it appears to slope away from our client's lands, our client is concerned that such a steep slope so close to the property line could adversely impact the existing opaque fence that currently exists along the mutual property line. We would request that the Town's engineers review this matter prior to Site Plan Approval, to ensure that there will be no adverse impact.

7. **CONSTRUCTION MANAGEMENT PLAN**

We would request that the Town allow our client and/or their consultants to review the construction management plan (CMP) for the proposed development in order to ensure that there will be no disturbance to the 191 Davis lands or the Tim Horton's business during the construction period.

8. **CONCLUSION**

- a) We respectfully request that the Town, prior to any recommendation on the applications as part of the application review process, undertake peer reviews of the various reports submitted, in support of the proposed apartment building development, including the Traffic Report, Geotechnical, Hydrogeologic, Phase One ESA, and Phase Two ESA (when submitted). Further. We would ask that these Peer reviews of the reports be made available to our client and/or their consultants.
- b) In addition, as part of the Traffic study review, the Town should require that the applicant's Traffic consultant provide a response to our client's concerns related to both increased traffic on Longford Avenue, and the impact it will have on the ability to egress from 191 Davis Drive, and also ingress our client's lands from the north. In addition, we would request that they respond to the concern of potential visitors to the site using our client's lands for overflow parking.

- c) We would also request that the Town ensure vibration monitoring is undertaken during construction, and that the level of vibration is within the Town's established limits and guidelines.
- d) We would also request that the Town ensure that our client is provided with satisfactory evidence that the Pre-Construction Survey and Post-Construction report discussed above is carried out and includes our client's lands. As well, we would ask that our client and/or his consultants also be given the opportunity to review both the before and after results, of the Pre-Construction, Post-Construction Survey.
- e) We would also request that the Town provide confirmation, that proper precautions will be put in place to ensure and guarantee that the de-watering process to be undertaken by the applicant will be done in a manner that will not adversely impact our client's lands or existing building.
- f) We would request that the Town allow our client to review the construction management plan (CMP) in order to review the protective measures to be put in place during the construction period, and thereby ensure that there will be no disturbance to his lands or his tenant's business during the construction period.
- g) Our client would like the Town to provide assurance that the implementation of the suggested warning clauses will be carried out, as part of the plan of a condominium process and/or site plan approval process, in order to protect our client's lands and his tenant from potential noise complaints from the future residents of the apartment building.
- h) Finally, we would ask that any measures or recommendations resulting from carrying out the items listed above, be incorporated into the policies of the OPA and provisions of the Site Plan Agreement.

Please take this letter as our client's formal notice of interest in the three applications relating to this matter, and request to be kept informed of any future proceedings pertaining to the applications.

We thank you for you're the opportunity of providing comments on this matter and look forward to your anticipated cooperation and resolution of our client's concerns in this regard, prior to adoption and or approval of the Official Plan Amendment, Zoning Bylaw Amendment, and Site Plan.

Yours very truly,
HBR PLANNING CENTRE



Howard Friedman, M.C.I.P., R.P.P.
Director of Planning

HF/SW:sw

cc: Clerk's Office
cc: Adrian Cammaert
cc: Alannah Slattery
cc: 1344459 Ontario Limited