

MMM Group Limited  
100 Commerce Valley Drive West  
Thornhill, ON Canada L3T 0A1  
t: 905.882.1100 | f: 905.882.0055  
[www.mmm.ca](http://www.mmm.ca)

March 10, 2014

Town of Newmarket  
395 Mulock Drive  
P.O. Box 328  
Station Main  
Newmarket, ON L3Y 4X7

Attention: Ms. Marion Plaunt, Senior Planner

Dear Ms. Plaunt:

**Re: York Region Rapid Transit Corporation Comments on Official Plan Amendment  
#10 Draft Newmarket Urban Centres Secondary Plan**

Thank you for the opportunity to review and provide comments on the Town's Draft Official Plan Amendment (OPA #10 - Newmarket Urban Centres Secondary Plan) dated October 7, 2013 and the revised changes to the Secondary Plan presented to Council on February 10, 2014.

York Region Rapid Transit Corporation (YRRTC) has been involved as a key stakeholder in the Secondary Plan process since it began in 2010 and is the project office mandated on behalf of the Regional Municipality of York to implement and construct transit initiatives that are necessary to allow for required intensification throughout York Region.

The Bus Rapid Transit infrastructure that is planned and under construction along Yonge Street and Davis Drive was based on the intensification efforts and underlying city-building objectives outlined in the Secondary Plan.

YRRTC supports the high level objectives of the Secondary Plan which aim to create:

- an integrated mixed-use corridor;
- network of parks, trails and open space;
- compact and interesting built forms;
- walkable and pedestrian-friendly urban fabric;
- transportation options; and,
- a long term planning vision for the future of Newmarket

During the implementation of Bus Rapid Transit infrastructure along Davis Drive, YRRTC has acquired several land parcels in Newmarket west of Prospect Street extending to Barbara Road. As a major landholder along Davis Drive, the development policies proposed in the Newmarket Urban Centres Secondary Plan will impact future development on the lands we have acquired.

As mentioned, we have had an opportunity to review the most recent changes to the Secondary Plan text and accompanying schedules which were presented to Newmarket Council at a workshop dated February 10, 2014. The proposed policies in our opinion do not appear to align with the overall objectives outlined in the Secondary Plan. In stating this, the intensification for transit-oriented development that underlies the BRT project runs the risk of being compromised. Therefore, YRRTC cannot support the proposed policies of the Secondary Plan, specifically with regard to the following:

1. Height and Density
2. Angular Plane Policies
3. Davis Drive Widening and Burying of Utilities
4. Parks and Open Space
5. Street Network Schedules and Policies, and
6. Built Form

We have attached a preliminary set of comments as Appendix A to this letter. We are in the process of a property by property review of the proposed Secondary Plan policies and their impact on each YR owned property. This review can be made available in the upcoming weeks as a basis for future discussions with the Town.

We would like to thank the Town for the ongoing opportunity to participate and provide comments on the Secondary Plan process and we look forward to ongoing discussions in this regard.

Yours Truly,

**MMM GROUP LIMITED**



Chad B John-Baptise, MCIP, RPP  
Senior Project Manager & Associate

Enclosures:

Appendix A – Comments of Behalf of YRRTC – Town of Newmarket Urban Centres Secondary Plan Amendment (Revised Changes as of February 10, 2014)

cc: Mary-Francis Turner, York Region Rapid Transit Corporation  
David Clark, York Region Rapid Transit Corporation  
Carolyn Ryall, York Region Rapid Transit Corporation  
Rick Jones, MMM Group Limited

To: Carolyn Ryall Date: March 10, 2014  
From: Chad John-Baptiste & Greg Gilbert Job No.: 3213001-000.800  
Subject: Comments of Behalf of YRRTC – CC:  
Town of Newmarket Urban Centres  
Secondary Plan Amendment  
(Revised Changes as of February 10,  
2014)

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### **Background**

The York Region Official Plan has identified a portion of the Town of Newmarket's Davis Drive Corridor as one of four Regional Centres. Based on direction of the Provincial Growth Plan, this area has also been outlined as an area for future growth and urban intensification.

To facilitate construction of the Davis Drive and Yonge Street VIVAnext BRT facilities, YRRTC has purchased approximately 19 properties along Davis Drive. As a significant landholder along the Corridor, YRRTC now has a keen interest in proposed development policies, including the Town of Newmarket Urban Centres Secondary Plan. As the Owner's Engineer (OE), MMM Group has had an opportunity to review the Draft Urban Centres Secondary Plan and the Active Transportation Network Amendment and provide comment on the impact of the draft policies of this plan.

### **Comments on the proposed Town of Newmarket Urban Centres Secondary Plan policies are provided below:**

#### **Schedule 2: Character Areas**

- The eastern delineation of the Yonge and Davis Character Area at Parkside Drive should align with the Parkside Drive realignment.

#### **Schedule 3: Land Use**

- The hatching to designate Priority Commercial Areas and Regional Shopping Centre Study Area are similar, we suggest different hatching be used.

#### **Schedule 4: Height and Density**

- 166 Davis Drive and the lands currently occupied by Parkside Drive but slated for closure to permit a more streamlined road network do not appear to have an assigned density on the schedule. Schedule 4 should be revised to assign density to these lands in accordance with abutting lands to the east and west.
- There is no density assigned to the lands at 309 Davis Drive which appears as an extension of Hillsvie Drive. (See separate comment regarding Hillsvie Drive extension)
- Lands located on the northwest corner of Davis Drive and Parkside Drive are adjacent to a proposed Viva Rapidway Station. These lands are allocated the lowest heights in the corridor and inconsistent with the spirit of Transit-Oriented Development along Regional Corridors as

outlined by the Region's Official Plan and Transit Oriented Development Guidelines (2006). Heights should be 3 to 10 stories at the intersection.

- As discussed further, the minimum 1.5 FSI density should be revised.

### **Various Schedules Transit Stations**

There is a lack of consistency among Regional and Municipal Plans in clarifying the hierarchy of Transit Stations (major and minor), Mobility Hubs, GO Transit Stations, and Viva Rapidway Stations.

Section 5.4.31 of the Region's Official Plan reads:

*That the most intensive and widest range of uses within the Regional Corridors be directed to specific intensification areas, identified by local municipalities as key development areas. These areas shall include the following segments of the Regional Corridor:*

- a) lands within a reasonable and direct walking distance from all planned subway stations, and select rapid transit stations as identified by local municipalities;*
- b) major transit station areas immediately adjacent to transit stations and terminals, including GO Transit;*

- The proposed Secondary Plan has not formally identified a hierarchy for major and other transit station areas as discussed above. The Mobility Hub at the Newmarket GO Station is clearly defined with an intent for more detailed planning. However, the Secondary Plan also identifies Viva Rapidway stations with no direct policy reference to "Viva Rapidway Stations." Therefore it is not clear if these stations are also major transit station areas or transit stops of lesser importance.
- The Secondary Plan does make reference to transit stations. It is not a defined term whereas Major Transit Station Areas is a defined term. In lieu the Secondary Plan defines "Gateway Hubs" and "Anchor Hubs" but these are not terms utilized in the plan itself.
- We recommend that the plan be revised to clarify the intent of the different "transit station" type references.

### **Schedule 5: Street Network**

- There is a proposed Local Road (Hillview Drive Extension) which traverses 309 Davis Drive and 315 Davis Drive.
- It is not clear if there's a transportation related need for this road extension. The extension would create a new traffic entrance into the community. If the local road connection has not been identified as a need separate from an urban design objective, we note that such an objective could be satisfied without the need for a through vehicular connection. This is particularly the case as the lands at 299 – 319 Davis Drive have limited full move access to Davis Drive save for the intersection with Lorne Avenue. This could be an access for all those properties combined allowing them to develop without creating more through traffic for the neighbourhood to the north.

The realignment of Parkside Drive will require an amendment to Schedule C of the Town of Newmarket Official Plan – Transportation Plan, and supporting schedules which display Minor Collector Roads.

### 6.3.2 Future Growth

Table 1: Growth and Development Targets by Character Area

- The minimum FSI of 1.5 does not relate to the minimum proposed height of 2 storeys. A development product with a minimum 1.5 FSI will typically be taller than 2 storeys. In addition, such a product will require an underground garage. This means that one of the proposed uses in the Davis Drive Corridor, specifically street or condominium townhouses, would not be feasible from a policy perspective when it could, and should be an appropriate use for several of the infill parcels. Therefore, we recommend a lower FSI which will better reflect the requirements of a townhouse product design while meeting the development objectives of the Secondary Plan.

### Places of Entertainment Definitions and Separation Distances

Places of Entertainment – Places offering leisure activities offered for gain or profit including cinemas, adult entertainment and night clubs, arcades and indoor games.

- Place of Entertainment is broadly defined in the Secondary Plan. It appears that the intention is to limit commercial uses that have a significant noise factor. The definition in the Secondary Plan could be misconstrued to include commercial uses that are generally considered appropriate within a mixed use area, such as restaurants.
- Policies 6.3.5.vii and 6.3.8.iv in the Secondary Plan note that separation distances may be introduced in the zoning by-law for these types of uses. Separation distances need to be based on factual information related to the impact of the use. In lieu of providing a separation distance in the by-law we recommend that uses that have noise concerns be placed in a holding provision pending the completion of a noise study. Otherwise, the use in question should not be listed as a permitted use and then be subject to a site specific zoning application as a permitted commercial use in the Secondary Plan. The Secondary Plan can then include policies regarding what must be completed when a noise generating land use is proposed near a residential land use.

### 6.4.1 Priority Commercial Areas

*ii) Within Priority Commercial Areas, street-related commercial uses, including retail stores, restaurants, personal and business services, professional offices or public institutional uses shall be required on the ground floor levels of all buildings fronting on the public streets. Where residential uses are proposed above the ground floor level, formal entrances, including concierge and lobbies for the residential uses will also be permitted on ground floors.*

- The ground floor level of multi-level buildings also fulfill loading and other service related requirements (i.e. garbage rooms, parking access) at grade. The proposed policy needs to be clarified to include ancillary service related uses as permitted uses at ground level.

### 7.3.3 Transitional and Angular Plane Policies

*i) Development immediately adjacent to an existing low-rise residential area or planned low-rise residential area shall generally not exceed the height of the adjacent buildings within the low-rise residential area.*

- Existing residential uses north of Davis Drive, with adjacent rear yards to properties fronting along Davis Drive are generally low rise 2 storey dwellings. By adhering to the policies of 7.3.3.i, new development will be unable to fulfill the secondary plan development objectives of a height of between 2 and 6 storeys and a minimum FSI of 1.5. This policy contravenes the development objectives of the Secondary Plan and York Region Official Plan. In lieu, the policy should be revised to discuss the need to transition building height and building form to abutting properties. For example, a tower podium can act as an appropriate transition to low rise development as part of a taller building.

*ii) To ensure new development is compatible with the existing or planned context and provides an appropriate transition in scale to lower scale adjacent buildings or Parks and Open Spaces, the maximum height of any building, including mechanical units, should fall below an angular plane of 45 degrees measured from the neighbouring property line, applied to the front of the site and the rear of the site and, where the side of the site is along a public road, to the side of the site. The angular plane will generally not be applied across Yonge Street or Davis Drive. Balconies, railings, overhang and other projections should be contained within the angular plane.*

- Angular planes are often used as a tool to implement the transition from lower density uses to higher density uses. The implementation of angular plane policies needs to consider the context of the area and the development objectives. The proposed angular plane policies will limit the ability of smaller sites to meet the minimum height and density objectives of the Secondary Plan. We have the following specific comments with respect to the proposed angular plane policies:
  - Angular planes should not apply to the Davis Drive frontage. Angular planes are intended to transition from areas of lower density to those of higher density. Both sides of Davis Drive are intended for higher density development therefore, the same type of transition is not required. The reference to “generally not be applied” to Davis Drive is not clear as it implies there are instances where it would apply and those instances should be specifically outlined.
  - The policy as currently proposed appears to apply the angular plane from the front lot line of a site when not located on Davis Drive or Yonge Street as it is not clear what would be considered the “neighbouring property line.” As a result, developments on properties fronting on other streets are unnecessarily restricted by the proposed policy. We recommend that the angular plane policy as currently proposed be removed.
  - The angular plane on the side of a site where it abuts a public road should also be removed or revised to reflect a more urban context consistent with the development objectives of the Secondary Plan. The policy as currently worded would limit the ability for corner sites to develop at the densities and heights proposed as buildings would be stepped back right from the property line.

Therefore, we recommend that angular plane policies not be applied to the exterior side yard of sites with frontage along Davis Drive and a public road..

### **7.3.4 Low Rise Residential Buildings**

- i) The primary entrance of low rise residential buildings should be located on the public street. Entrances should be well defined and clearly visible from the street and distinguished by their architectural design.*
- ii) Entrances to all low rise residential units should open directly to the street with the main entrance and living level generally located not more than 1.5 metres above adjacent grade.*
  - These policies should be revised to allow entrances to both public streets, private streets and pedestrian mews' with priority given to the public street.

### **7.3.5.2 Towers**

- ii) The maximum gross floor area of the floor plate of the tower portion of a tall building proposed for residential purposes shall generally not exceed 750 square metres, excluding balconies. Larger floor plates may only be permitted where the urban design and other policies of this Plan can be met to the Town's satisfaction.*
  - We note that some developers now prefer an 850 square metre floor plate, therefore recognizing the need for variation in the tower floor plate is appropriate.
- iii) If a development includes more than one tall building, the tower portion of the tall buildings shall have a minimum separation distance of 30 metres, measured from the exterior wall or exterior edge of balconies, whichever is greater. This same separation distance standard shall apply to towers on adjacent properties.*
  - Similar to the tower floor plate policy above allowing for some variation, we note that some municipalities accept a separation distance of 20-25 metres. We request that the policy be revised to allow for a reduction in the tower spacing depending upon site characteristics and tower placement.

### **Davis Drive Widening Policies**

There are several applicable policies including those outlined below that relate to the widening of Davis Drive for long term urban design and utility burial requirements. Specifically the policies noted below and all the policies of Section 13.3.4, of which some are noted below.

## **2.4 York Region Official Plan**

*(final paragraph)*

*In accordance with the above provisions of the ROP (policy 5.4.14; 7.5.5 and 7.5.6), the Town is identifying a further increase to the boulevard rights-of-way on both sides of planned ROW's of both Yonge Street and Davis Drive to accommodate the undergrounding of hydro and associated utilities as addressed through the Town's Feasibility Study-Undergrounding Overhead Wires (Lehman and Associates, DPM Energy and George Todd - January 2013).*

### 7.3.6 Streetscapes and Boulevards

*iv) An approximate 10 metre boulevard will be maintained along both sides of Yonge Street and Davis Drive. This boulevard will accommodate a pedestrian path, cycling facilities and landscaping as well as the planned undergrounding of the hydro lines, as conceptually illustrated in Appendix A.*

### 13.3.4 Energy and Underground Utilities

- iv) In order to accommodate the future undergrounding of the overhead hydro lines and associated utilities on both sides of Yonge Street and Davis Drive, the Town will require up to an additional five metres of boulevard width as a parallel right of way adjacent to the Regional right-of-way. Such lands will be dedicated to the Town at the time of development or redevelopment, in accordance with Policy 14.2.4. Where development is phased, the dedication shall occur at the first phase of development.*
- v) The final determination of the width of the dedication will be subject to a detailed analysis conducted by the proponent, in consultation with the Town, Newmarket Tay Hydro Distribution Ltd. and York Region. The dedication may be less than five metres if the detailed analysis demonstrates that less dedication is sufficient to accommodate the future undergrounding of hydro and associated utilities across the frontage of the property.*
- vi) Where land is dedicated to the Town for the future undergrounding of hydro, above and below ground development may be subject to zero setback, subject to meeting applicable setbacks standards required by the applicable utilities, the Town or the Region, such as required setbacks from gas allowances for shoring structures.*
- YRRTC has ongoing experience in the construction of Davis Drive. The physical difficulties of burying the hydro lines are not well accommodated by the recently constructed retaining walls, sloping topography, and existing setbacks of a number of sites including the Union Hotel and Southlake Hospital. Therefore, YRRTC is strongly opposed to any additional taking beyond the requirements of York Region's Official Plan.
  - The width of the Davis Drive right-of-way has been fixed by the BRT requirements. The Town of Newmarket Official Plan needs to be consistent with the York Region Official Plan and York Region's requirements. No further widening is being contemplated for Regional purposes.
  - Appendix A as currently illustrated, does not illustrate what the proposed policies are describing for Davis Drive. Appendix A shows a conceptual cross-section for Davis Drive of between 46 and 50 metres. This includes the York Region Official Plan r.o.w requirements of up to 40 or 43 metres. However, the proposed policies require an additional town dedication of 5.0 metres on either side of Davis Drive. This would create a cross section of between 50 and 53 metres. The additional 5.0 metres on either side of Davis Drive are not illustrated.
  - Appendix A illustrates a 3.0 metre setback on one side of Davis Drive and a zero setback on the other. Furthermore, the policy above suggests that a zero setback can only occur where the proposed hydro taking occurs. However, the policies state that the hydro taking will occur along all of Davis Drive. It should be the policy of the Secondary



Plan to strive for a zero setback or reduce setbacks along the entire length of Davis Drive and not only where the hydro taking occurs.

- The policies as proposed note that further study is required to determine if the 5.0 metres is required. This suggests a disproportionate requirement that impacts owners differently across Davis Drive. Such a policy will discourage development as current and future property owners will not have the assurance of the amount of developable area for a subject property. In addition, any additional right-of-way takings need to be based on equal right-of-way requirements on either side of the centreline which may not be the case on a site by site basis. We request that the proposed policy be removed.
- Any additional land takings from Davis Drive in excess of the Region's BRT infrastructure needs will have a detrimental impact on the building envelopes for proposed development. The proposed angular plane policies will further impact the development feasibility of already shallow lots along Davis Drive. Therefore, we recommend removing all policies regarding the undergrounding of utilities and additional right-of-way corridor takings along Davis Drive.

### **7.3.9 Shadow and Sky Views**

*iii) Applications for development in the Urban Centres will require a shadow impact study in accordance with Official Plan Policy 4.4.3 that demonstrates that the proposed development allows for a minimum of 50% of daily sunlight (measured from 1.5 hours after sunrise and 1.5 hours before sunset) onto public spaces identified above, including public sidewalks, during the summer solstice (June 21).*

- The detailed requirements of a shadow impact study are not clearly stated in either the Secondary Plan or the Town of Newmarket Official Plan. Policies should be updated to clarify shadow impacts for sites adjacent to both a public space or square and a sidewalk, including sites on corner lots. Policy needs to state whether each specific component (i.e. sidewalk, public space) needs to allow 50% daily sunlight for the same period.

### **7.3.10 Landmarks and Public Views**

*i) The Town will identify significant views and landmark buildings, including views to heritage buildings that will be considered in the review of any development proposal, to ensure that the view corridors leading to them remain legible.*

- The policy as currently proposed leaves the determination of a significant view and landmark buildings to a subsequent determination. These views and landmark buildings need to be identified in advance. If they limit the ability for a development site to meet the objectives of the Secondary Plan for development, then this should be addressed in the Secondary Plan. Furthermore, there is no definition as to what is a significant view or landmark building.

### **8.3.2 Street Network**

*iv) New public streets identified on Schedule 5 shall generally be conveyed to the Town by way of plan of subdivision in accordance with Policy 14.2.4, or in some cases may be acquired by the*

*Town, and the cost of acquisition recovered through cost sharing agreements with benefitting landowners.*

- Where public streets are not dedicated during an application process, the Town can acquire them through negotiation or expropriation. However, the policy does not define the benefitting landowner, which could be an abutting owner or another landowner not directly related to the street acquisition. If the acquisition is growth-related, the acquisition should be included in the Town's Development Charge By-law. This would spread the cost to all benefitting owners through the formal Development Charge process.

#### **8.3.4 Private Roads/Lands**

*iii) Private roads/lanes will be designed with minimum mid-block rights-of-way of approximately 16 metres.*

- 16 metres is excessive for a private street width and is close to the width of a public street. A typical width for a two-way private street or lane is 6 – 8 metres depending on the inclusion of a sidewalk.

#### **Schedule 6: Parks, Open Space & Natural Heritage**

There are several policies related to the proposed future parks in the area and the relationship to permitted uses. Furthermore, YRRTC has concerns regarding the proposed park at 432 Davis Drive and on lands east of 330-336 Davis Drive for the reasons outlined below, as they relate to these lands specifically and areas identified for parks in general.

#### **6.3.8 Character Area - Davis Drive (Huron Way)**

*vi) Development between Niagara Street easterly to the easterly end of the Keith Bridge will respect the heritage character of this area as the gateway to the historic downtown. Specifically, development at the southeast and southwest corners of Davis Drive and Main Street will recognize this location as the gateway to the historic downtown, including massing, height and design that appropriately transitions to the planned built form and design for Main Street.*

- Per the policy above, the proposed park at 432 Davis Drive, located at the southeast corner of Main Street and Davis Drive directly conflicts with the policy requesting massing and height that transition to the planned built form along Main Street. It is not clear as to which Secondary Plan policy should take precedence. It is our view that development should take priority at this intersection per the policy above and that the park be relocated.
- Section 8.1.d of the Town of Newmarket Official Plan states the objective of the Parks and Open Space Policies to:

*Provide connectivity between both passive and active recreational areas or other natural features, where possible;*

- This site is isolated (disconnected) from other proposed public spaces, particularly when at the northwest corner of Main Street and Davis Drive the park could be connected to the floodplain system and Natural Heritage System as outlined in The Town of Newmarket Official Plan Schedule B – Natural Heritage System.

### 10.3.1.1 Parkland Acquisition

- i) *The Town intends to bring the neighbourhood parks and open space system identified in Schedule 6 into the public parks and open space system during the planning horizon of this Plan. In the interim, legally existing uses on these lands are recognized and may continue.*
- Schedule 6 and other schedules in the Official Plan designate a public park on the individual properties. Per the above policy, that means these lands are designated for parks or existing uses only. However, 10.3.1.iv notes that the size and location of parks are conceptual and may be modified without amendment to the Secondary Plan. However, should a park move, it is not clear what the underlying designation or FSI would be for the park locations as currently illustrated. We recommend that the parks designation should be an overlay and that the other schedules in the plan be modified to reflect the underlying designation should a park be relocated.

### 10.3.1.1.vi Parkland Dedication

- iii) *In addition to parkland dedication in accordance with Town's Parkland Dedication By-law, the Town may implement a number of other conveyance strategies in order to meet or exceed the parkland target in Policy 10.3.1(ii) including, but not limited to:*
- a) *land exchanges;*
  - b) *securement of first right of refusal on strategic properties;*
  - c) *purchase or lease of land;*
  - d) *reuse of municipal land or surplus land of public agencies; and*
  - e) *land donations.*
- We recommend rewording Policy d) above as follows: "surplus land of public agencies acquired by the Town for parkland purposes".
- vii) *Lands within the Floodplain and Hazard Lands, lands identified as natural heritage, and lands utilized for stormwater management facilities (above- or below-ground) will not be accepted as part of parkland dedication or counted towards the achievement of the parkland targets in Policy 10.3.1(ii).*
- We note that Table 3 of the Secondary Plan includes some floodplain lands in the parklands calculation. Furthermore, we note that Schedule 6 identifies parkland within the floodplain area. Therefore, the policy above requires clarification as to how these lands are considered in relation to this policy.

### 14.2.4 Conveyance of Lands

- ii) *To secure the related public infrastructure improvements and community facilities required, all new development in the Urban Centres that requires the conveyance of land for public purposes such as: streets, boulevards, parks, boulevard space for the future undergrounding of hydro, pedestrian mews and/or other public facilities, as part of its initial development applications process, generally shall proceed by way of a plan of subdivision...*

The majority of development in the Urban Centres will proceed not by way of subdivision, but by way of Site Plan Control given that these are smaller infill sites. The proposed policy should be revised to reflect the fact that plans of subdivision will generally only be used on larger parcels.