



Town of Newmarket
395 Mulock Drive P.O. Box 328,
Newmarket, Ontario, L3Y 4X7

Email: info@newmarket.ca | Website: newmarket.ca | Phone: 905-895-5193

Urban Centres Zoning By-law: Approval Staff Report

Report Number: 2018-63

Department(s): Planning and Building Services

Author(s): Adrian Cammaert

Meeting Date: September 17, 2018

Recommendations

1. That the report entitled Urban Centres Zoning By-law: Approval, dated September 17, 2018, be received;
2. That the Draft Urban Centres Zoning By-law, dated September 17, 2018, generally as attached to this Report, be approved;
3. That Council determine that based on the information in this report and in accordance with Section 34(17) of the Planning Act, adequate public notice has been provided;
4. That the required notice of passing be issued in accordance with the requirements of the Planning Act; and
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

This Report will provide an update to Council regarding the Urban Centres Zoning By-law in terms of the preparation process undertaken to date, its general layout and content, and provide justification for the by-law's approval.

Background

Staff Report 2018-36 (June 11, 2018) provided Council with the last update on the Urban Centres Zoning By-law Project, requested release of the draft by-law for public consultation over the summer months and committed to providing a comprehensive report following the consultation period and Open House and Public Meeting.

The public consultation period has now concluded, which included the Open House and Public Meeting. This Report includes a summary of the comments received during this period and how these comments impacted the proposed zoning by-law.

Discussion

Project Status Update

As shown below, this project is nearing completion. The project is currently in Task 36 of 37.

Phase 4 - By-law Refinement and Enactment
Task 28: Preparation of Draft Zoning By-law
Task 29: Town review/comment/revise Draft Zoning By-law
Task 30: Update Report and Committee of the Whole Authorizing Release of Draft ZBL
Task 31: Public Review Period
Task 32: Meet with stakeholders / refine standards & drawings
Task 33: Public Open House
Task 34: Statutory Public Meeting
Task 35: Finalize Zoning By-law
Task 36: Final Staff Report and Committee Approval
Task 37: Council Approval

Tasks 31 to 35 were completed during June, July and August, 2018. Following the release of the draft by-law, the 2 month (approximate) public review period occurred (Task 31). During this time, staff and the consulting team have allotted time to meet with key stakeholders (i.e. owners of significant land holdings and/or landowners contemplating future developments) to explore opportunities to refine the draft by-law to respond to comments (Task 32). Following these meetings, the draft by-law was presented to the public at the Open House and statutory Public Meeting on August 27 (Tasks 33 and 34). The draft by-law was then further revised as appropriate to respond to the feedback received at and following the statutory Public Meeting (Task 35). The draft Urban Centres Zoning By-law is now ready for presentation to Committee of the Whole (Task 36) and ultimate approval by Council (Task 37).

Draft Urban Centres Zoning By-law

Purpose

The purpose of the Urban Centres Zoning By-law is to directly implement the policies in the Urban Centres Secondary Plan (the “Secondary Plan”). The Secondary Plan contains land use provisions, building height, density and urban design direction at a policy level, and it is now this project’s goal to clearly implement these policies at the zoning level.

Layout

The by-law has been prepared with the objective to create a clearly understandable, easy to use document. To achieve this goal, the document relies on tables, illustrations and diagrams in addition to regular text. Tables are used where empirical data is provided (e.g. zone standards), and diagrams are used in the body of the document to help explain certain concepts including definitions. Although not technically part of the by-law, the Illustrations (as opposed to Diagrams) further assist the reader in interpreting the by-law provisions.

The Zoning, Height and Holding maps are each divided into sets of 6 maps, corresponding to the 6 Character Areas that are set out in the Secondary Plan. This allows the information on each map to be focused, legible and not overwhelming to the reader.

One unique aspect of the by-law is the use of overlay mapping. As noted above, four overlay zones are proposed: the Parking Reduction Area overlay, the Priority Commercial Areas overlay, Floodplain and Other Natural Hazards (FP-NH) zone overlay, and the Holding Zones overlay. Each of these is shown on a separate map. This was done to keep the zone maps as clear as possible and allows zone names to be as concise as possible and therefore highly understandable.

Zone Categories

The draft Urban Centres Zoning By-law proposes four main zone categories: Mixed Use (MU), Institutional (I), Open Space (OS), and Site Specific (SS).

In order to implement the Mixed Use designation of the Secondary Plan, the most prevalent zone is the Mixed Use (MU) zone. This zone permits a range of uses and is subdivided into 3 sub-zones, MU-1 to MU-3. The distinction between these 3 sub-zones is density, with higher permitted densities permitted in the higher end of this range:

- MU-1: 1.5-2.0
- MU-2: 2.0-2.5
- MU-3: 2.5-3.5

These density ranges directly correspond with the ranges set out in the Secondary Plan (not including the discretionary maximums) and correspond with the Secondary Plan’s

four height/density designation areas. There are no land use differences among the three Mixed Use sub-zones.

The Institutional (I) zone applies to much of the Southlake Regional Healthcare Centre lands. This zone permits a range of institutional, office and retail/service uses. This zone is subdivided into 2 sub-zones, I-1 and I-2. Similar to the Mixed Use sub-zones, the distinction between I-1 and I-2 is density, with higher permitted densities permitted in I-2:

- I-1: 1.5-2.0
- I-2: 2.0-2.5

Similar to the Mixed Use sub-zones, these density ranges directly correspond with the ranges set out in the Secondary Plan (not including the discretionary maximums) and correspond with the Secondary Plan's four height/density designation areas. There are no land use differences between the two Institutional sub-zones.

The Open Space (OS) zone permits a range of parks, recreation and community uses. This zone is subdivided into 3 sub-zones (OS-1, OS-2 and OS-3) based on separate land uses, as well as lot frontage and lot coverage standards. The Open Space sub-zones have been applied to some, but not all, lands that are designated Parks and Open Space in the Secondary Plan. In some instances, the location of future parks as identified in the Secondary Plan are contingent on the location of the future public street network (i.e. in the Secondary Plan a future park is shown abutting a future public street). Without knowing the exact location of the future public streets, the exact location of these future parks is unknown and therefore they could not be 'zoned in'. This issue is addressed through the use of holding provisions, as discussed under the "Holding Provision" section of this report.

The Site Specific (SS) zone accommodates existing low density residential blocks located within the Secondary Plan area that are under common ownership, such as ground-oriented condominiums. These areas are designated Mixed Use in the Secondary Plan, however they host low density residential uses that are not expected to redevelop in the near future.

In addition to the above noted 4 main zones, the draft Zoning By-law includes four overlay zones: the Parking Reduction Area overlay, the Priority Commercial Areas overlay, Floodplain and Other Natural Hazards (FP-NH) zone overlay, and the Holding Zones overlay. Each of these overlays contain individual regulations that are to be applied in conjunction with main zoning on a site. Where a property has a Floodplain and Other Natural (FP-NH) zone overlay, the provisions of the (FP-NH) zone take precedence where they are more restrictive.

Building Heights

Permitted minimum and maximum building heights are expressed through ranges on a series of height maps. There are 4 height range categories:

- 8m-20m
- 11m–26m
- 14m-38m
- 20-53m

These height ranges directly correspond with the ranges included in the Secondary Plan, and have been placed over geographic areas that correspond to the four height/density designations of the Secondary Plan. All building heights are expressed in metres rather than number of storeys in order to avoid confusion.

Exceptions

One of the goals of the Urban Centres Zoning By-law project was to create a flexible zoning regime that accommodates a range of uses and built forms. This goal has been achieved, and as a result, many of the site-specific exceptions that existed in Zoning By-law 2010-40 have been absorbed into the new zoning standards. Notwithstanding this, some exceptions are still required in order to accommodate the Secondary Plan's Site Specific Exceptions. The locations of the properties applicable to these exceptions are all located in the Mixed Use zone, and therefore they are referred to as the Site Specific Exceptions to the Mixed Use Zone Regulations (Section 6.2.5). These exceptions are for:

1. 39 Davis Drive (property northwest corner of Davis Drive and George Street), to implement Section 15.1 of the Secondary Plan.
2. Part Lot 91, Concession 1, being Part of Part 2, Plan 65R-25710, (triangular-shaped property just north of the Mulock Estate), to implement Section 15.3 of the Secondary Plan.
3. 17725 Yonge Street (plaza at the southeast corner of Yonge Street and Kingston Road), to implement Section 15.4 of the Secondary Plan.
4. Plan 65M3648 BLK 133 (property on the southwest corner of Yonge Street and Mulock Drive), to implement Section 15.5 of the Secondary Plan.

Holding Provision

As noted, the by-law uses a Holding Zones overlay, which applies to lands within the Urban Centres where future public streets and/or parks are identified by the Secondary Plan. Within these areas, no development (other than interim development which is addressed elsewhere in the by-law) may occur. The main purpose of these holding provisions is to prevent large-scale development from occurring which would preclude the build-out of the future public street network and parks as per the Secondary Plan. To lift this holding provision, an applicant must prepare a plan that is acceptable to the Town, identifying the location of these future streets and parks. In areas where no future public streets or parks are identified, no holding provision has been applied.

Low Density Residential Clusters Excluded from the UC ZBL

Through the development of the by-law, it was noted that the Secondary Plan area contains clusters of existing low density development, largely in the form of single

detached dwellings. It was initially thought that the by-law would create a low density residential zone (e.g. an “R1” zone) for these areas, however the Secondary Plan does not contain any low density residential policies that would allow such a zone to be created. It is also recognized that these areas are stable and do not face the same redevelopment likelihood as other areas within the Secondary Plan. Further, these areas would also not fall within the Site Specific (SS) zone due to their separate ownerships. Therefore, these areas have been excluded from the by-law and are shown in grey hatching in the zoning schedules, with a notation indicating these areas remain subject to Zoning By-law 2010-40.

Other Sites Excluded from the UC ZBL

Through the development of the by-law, it became evident that certain properties should not be included in the Urban Centres Zoning By-law. These are properties that have a policy basis for them to be excluded (e.g. the Upper Canada Mall), are subject to a current planning application (e.g. 17365 / 17395 Yonge St, 17645 Yonge St), are subject to a deferred Secondary Plan designation (e.g. 230 Davis Drive) or have been specifically requested for omission by the landowners for other reasons (432 and 438-442 Davis Drive). These sites have been excluded from the by-law and are shown in grey hatching in the by-law’s zoning schedules, with a notation indicating these areas remain subject to Zoning By-law 2010-40.

Mulock Estate

The draft by-law proposes to zone the property Open Space 1 (OS-1). This zoning permits a range of conservation, park and recreation uses. It should be noted that the Parks and Open Space designation that was intended for this property in the Secondary Plan is not yet in force and effect (it was deferred then appealed). However, Section 24(2) of the Planning Act allows the property to be zoned in accordance with the intended designation because this zoning will be in conformity with the Secondary Plan once the Parks and Open Space designation comes into full force and effect. Specific wording explaining this permission, provided by Legal Services, has been included in Section 1 of the by-law.

Public Consultation

Following Council authorization on June 11, 2018, a draft version of the by-law was posted online. Notice of the draft’s availability was provided in accordance with the requirements of the Planning Act, and additional notice was provided via email to key stakeholders and the development industry. In total, 16 written submissions were received during this consultation period:

1. York Region.
2. Bousfields Inc. on behalf on Criterion Development Corporation.
3. Groundswell Urban Planners Inc. on behalf of Redwood Properties.
4. Kerbel Group Inc. regarding 17365 and 17395 Yonge Street.
5. MHBC on behalf of 175 Deerfield Inc.

6. MHBC on behalf on Home Depot of Canada Inc.
7. MHBC on behalf of Yonge-Kingston Centre Inc.
8. MHBC on 17555 Yonge Street, 39 Davis Drive and 22 George Street.
9. MSH on behalf of the Southlake Regional Healthcare Centre.
10. MSH on behalf of Crosslands Church.
11. Scott Shields Architects Inc. on behalf of Yongemill Group Inc., owners of 17310 Yonge Street.
12. Stephen Upton on behalf of Newmarket Plaza.
13. Weston Consulting on behalf of 17565 Yonge Street.
14. Weston Consulting on behalf of 16655 Yonge Street.
15. Zelinka Priamo Ltd. on behalf of Loblaw Properties.
16. Zelinka Priamo Ltd. on behalf of Canadian Tire Real Estate Limited.

The statutory Public Meeting was held on August 27, 2018. At this meeting, only one comment was provided by a member of the public. This comment was procedural, requesting confirmation on the anticipated approval timelines.

Analysis of Public Submissions

The submissions generally provided numerous suggestions that have been used to refine the document.

Comments received relate to **mapping adjustments** to ensure that the proposed zone limits, height and density areas and ranges accurately align with those in the Secondary Plan. These comments were implemented.

In addition, comments were received regarding the implementation of some of the **Site Specific Exceptions** for specific properties that were created through the preparation of the Secondary Plan. These comments were implemented.

York Region provided comments to ensure conformity with the Regional Official Plan and Source Water Protection requirements and conformity with the applicable Source Protection Plan. In addition, York Region provided many comments regarding Health Protection. While some of these comments were implemented, the more substantive comments regarding source water protection are planned to be addressed through a future comprehensive amendment as part of the “Phase 2” work being completed as part of the amendment to Zoning By-law 2010-40. This will ensure both by-laws contain the same regulations regarding this matter, resulting in greater consistency between the documents.

Comments were received requesting additional **permitted uses** as listed in the Secondary Plan and other parts of the by-law. These additional permitted uses include Parking Lots, Places of Worship, Commercial Schools, Retirement Residences, Museums, and Townhouse dwellings, among others. These were added as permitted uses and additional analysis was undertaken to ensure all permitted uses cited in other areas of the by-law, as well as the Secondary Plan, were captured in Table 6.2.2.1.

Many comments were received regarding the refinement of the draft by-law's **urban design regulations**, including those regarding setback distances, podium heights, angular planes, tower/midrise separation distances, priority commercial area frontages, mechanical penthouse permissions, communications technology and green roofs. These comments ranged from changing the proposed development regulations to correcting the illustrations to ensure consistency with the text. Where warranted and in compliance with the Secondary Plan, these comments were implemented.

Regarding **surface parking lots**, comments were received requesting that these be permitted within front yards along Davis Drive and Yonge Street. It was determined that this permission would be inconsistent with the Secondary Plan's policies that require surface parking lots to be located within side and rear yards only on properties along Yonge St and Davis Dr. However, the by-law was revised to include more explicit language permitting them as a conditional permitted use in the Mixed Use zones, subject to not being located fronting along Yonge Street or Davis Drive.

Multiple comments were received regarding the **underground parking** facility requirements. It was suggested that additional provisions be created to allow underground parking facilities under parks, private streets and public streets. In order to encourage the construction of these facilities, it was agreed that additional provisions would be beneficial, however allowing them under public streets was not deemed appropriate due to the area needed for servicing infrastructure under streets. Therefore, the changes made include permitting underground parking facilities under parks and private streets, but not under public streets (although a 0m setback was introduced between these facilities and public streets).

One area of the draft by-law that received numerous comments is its table setting out the **minimum and maximum permitted densities**. The draft by-law previously included maximum non-residential and maximum residential FSI requirements, effectively requiring the inclusion of non-residential elements in every development, even those not located in Priority Commercial Areas. Comments received provided that these requirements were overly burdensome given the future of retail in general, and the current market demand for office uses. In addition, it was provided that these requirements represented an unnecessarily high degree of development oversight on a lot-by-lot basis. After much consideration, it was determined that the priority commercial area provisions in the ZBL, combined with the secondary plan's policy requirements on mixed use are adequate to govern the level of non-residential development, and having these rows would result in a high number of amendments being requested thereby getting away from the goal of allowing flexibility to facilitate development. Therefore, these two requirements were removed from the by-law, leaving only the minimum and maximum density ranges per each Mixed Use sub-zone.

Comments were also received requesting that the **discretionary heights and densities** be built into the zoning by-law, in order to allow these higher ranges by right. These additional heights and densities are set out in the Secondary Plan, and policies exist

regarding accessing them through the rezoning process as well as a Section 37 Agreement that addresses community benefits. Therefore, this comment was not implemented.

One landowner provided comments requesting **inclusion of their landholdings** within the by-law. These landholdings are currently being used for low density residential purposes and were therefore excluded from the by-law, however a preference was expressed by the landowner to include these landholdings in the by-law as they are within the Urban Centres, under single ownership and a consistent zoning would better facilitate their comprehensive redevelopment. These comments were implemented.

As noted above, various landowners requested **exclusion of their landholdings** from the by-law. These comments were implemented and rationale for these exclusions is provided under the “Other Sites Excluded from the UC ZBL” section of this Report.

Multiple comments were submitted regarding **editorial revisions**, including those regarding consistent terminology, typos, section numbers and the addition/refinement of the by-law’s diagrams and illustrations. These comments were implemented.

In addition, a small number of submissions were **procedural in nature**, preserving appeal rights and requesting inclusion/exclusion of property(ies) from the by-law. These comments were implemented.

All of the written comments were considered by staff and as noted, the majority resulted in revisions to the by-law. The result of this consultation is a more refined document that better achieves the goal of clearly implementing the Secondary Plan’s policies at the zoning level.

UC ZBL’s Alignment with Zoning By-law 2010-40

In parallel to this project, work has been undertaken on the Town’s main zoning by-law (2010-40) to identify a series of amendments. Over 60 amendments have been identified, primarily to align it with the new Urban Centres Zoning By-law but also to address technical errors, improve clarity and enforceability, respond to changing legislative and judicial decisions, address new circumstances and consolidate existing by-laws (see Staff Report 2018-54 dated September 17, 2018).

Because the amendments to by-law 2010-40 were largely completed to ensure compatibility between it and the new Urban Centres Zoning By-law, both the items were presented to the public at a single information session on August 27, consisting of an Open House and Public Meetings.

Conclusion

The draft Urban Centres Zoning By-law was prepared over the last 28 months and is now being proposed for approval. This by-law fulfils its goal of providing a document

that clearly implements the policies of the Urban Centres Secondary Plan at the zoning level.

Over the course of the project, a significant amount of public consultation has occurred, over and above the Planning Act requirements. This consultation has provided a significant amount of feedback that has largely been integrated in the document. This feedback has resulted in a more refined document that is highly useable by both the development industry and members of the public.

Business Plan and Strategic Plan Linkages

Well-Equipped & Managed:

- Balancing an ideal mix of residential, commercial, industrial and institutional land uses.
- Ensuring an appropriate mix of jobs to population and people to industry.
- Providing varied housing types, affordability and densities.

Well-Planned & Connected:

- Planning and managing growth through long-term plans and strategies, supported by short-term action plans.

Consultation

To date, public consultation has taken the form of:

- Individual Meetings with Key landowners (March 2, 2017)
- Stakeholder Engagement Session (April 4, 2017)
- Public Charrette (March 1, 2018)
- Public consultation period (June, July and August, 2018)
- Open House (August 27, 2018)
- Statutory Public Meeting (August 27, 2018)

Staff also maintain a project website which provides project information, draft documentation and details on public input opportunities: <https://bit.ly/2kNQ5QX>

Human Resource Considerations

There are no human resource considerations associated with this report.

Budget Impact

There are no budget impacts directly associated with this report. This project has already been budgeted for and is tracking to be completed within budget.

Attachments

Draft Urban Centres Zoning By-law, dated September 17, 2018.

Approval

Adrian Cammaert, MCIP, RPP, CNU-A
Senior Planner, Policy

Jason Unger, MCIP, RPP
Assistant Director of Planning

Rick Nethery, MCIP, RPP
Director of Planning & Building Services

Peter Noehammer, P. Eng.
Commissioner of Development & Infrastructure Services

Contact

For more information on this report, contact: Adrian Cammaert, Senior Planner, Policy,
at 905-953-5321, ext. 2459; acammaert@newmarket.ca