
From: Simone Fiore
Sent: June-10-14 2:47 PM
To: Moor, Linda
Subject: Deputation Request

Hi Linda,

I would like to formally register a deputation for the Committee of Whole Meeting on June 16, 2014 at 7 pm in regards to File No. NP-P-13-01 (OPA #10, the Newmarket Urban Centres Secondary Plan), Agenda #23. The speakers are Brent Clarkson and Ryan Moore from MHBC Planning. They will be speaking in regards to the impact of the Newmarket Urban Centres Secondary Plan on our clients' lands addressed as 17555 Yonge Street, 39 Davis Drive, and 22 George Street. Their contact information is as follows:

Brent Clarkson and Ryan Moore
MHBC Planning
7050 Weston Road, Suite 230
Woodbridge, ON
L4L 8G7
clarkson@mhbcplan.com 905-761-5588 x 212
rmoore@mhbcplan.com 905-761-5588 x 218

Should you require any additional information please let me know. If this information is acceptable, please reply with confirmation that the deputation has been registered.

Thank you.

SIMONE FIORE, BURPI | Planner

MHBC Planning, Urban Design & Landscape Architecture
7050 Weston Road, Suite 230 | Woodbridge | ON | L4L 8G7 | T 905 761 5588 x 233 | F 905 761 5589 |
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June 11, 2014

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

Dear Mr. Mayor and Members of Council:

**RE: FINAL DRAFT URBAN CENTRES SECONDARY PLAN, TOWN OF NEWMARKET
17555 YONGE STREET, 39 DAVIS DRIVE, AND 22 GEORGE STREET
OUR FILE Y334I**

We have reviewed the final draft of the Urban Centres Secondary Plan prepared by the Town, on behalf of our clients, 1858106 Ontario Inc., 1858107 Ontario Inc., and 1858108 Ontario Inc. These companies own lands municipally addressed as 17555 Yonge Street, 39 Davis Drive, and 22 George Street respectively, located within the Urban Centres Secondary Plan. These three properties are shown in **Figure 1**. Further to our letters to the Town dated February 18th, 2013, July 4th, 2013, October 25th, 2013 and April 28th, 2014, we are writing to advise you of our continued concerns with the final draft of the Secondary Plan relative to our clients' properties.

CONCERN WITH DRAFT SECONDARY PLAN AND REQUESTED AMENDMENT

The proposed Secondary Plan proposes a maximum density of 3.5 FSI or 4.0 FSI with bonusing on 39 Davis Drive, whereas the current zoning permissions for this property permit up to 10.25 FSI. This represents a down-zoning of the site and a retraction of development rights.

To rectify this issue, we request that Council amend the wording in Section 15.1 of the Secondary Plan as follows:

39 Davis Drive

Notwithstanding the density and height provisions of the Secondary Plan, the maximum site density and the maximum building height on lands municipally known in 2014 as 39 Davis Drive shall not exceed 10.25 FSI or 65 metres, respectively. Notwithstanding Policy 6.4.7.x, this density shall be calculated on a site-specific basis such that no density shall be transferred from or to 39 Davis Drive. All other applicable provisions of the Secondary Plan shall apply.

BACKGROUND

All three of the properties are proposed to be designated 'High Density' which allows for a maximum height of 17 storeys and 53 metres (**Figure 2**). The maximum permitted FSI would be 3.5 for each of the properties, with potential for 4.0 FSI with bonusing. In a new Section 15 of the Secondary Plan, 39 Davis Drive is permitted through a site specific policy to have a maximum height of 65 metres, notwithstanding the height provisions of the Plan.

In addition to the height and density provisions, our clients' properties are located at the intersection of two major street (Yonge Street and Davis Drive) and are located within the Provincial Urban Growth Centre as set out in the Growth Plan for the Greater Golden Horseshoe. Therefore these properties are well suited for the highest density in the Newmarket Urban Centres.

We appreciate that Town staff has proposed a site-specific provision to permit a maximum height of 65 metres on 39 Davis Drive. However, this provision does not address our primary concern with the Secondary Plan. The approved zoning for the site permits an FSI of 10.25. The Secondary Plan does not recognize the approved FSI set out in the Zoning By-law. The approved density should be treated the same as the approved height by recognition in a site specific policy in the proposed Secondary Plan

The Secondary Plan should not be more restrictive than the existing Zoning By-law, particularly relative to the area in the Town targeted for the highest density, and especially for sites which have undergone recent approval processes. What is proposed represents a substantial downzoning and significantly constrains the development potential of our clients' lands.

HISTORY OF ZONING PERMISSIONS FOR 39 DAVIS DRIVE

In 2009, Town Council approved a Zoning By-law Amendment for 39 Davis Drive which today allows a maximum density of 10.25 FSI on the site. The by-law was approved to allow a 20 storey residential tower with 280 dwelling units. At that time, the staff report that preceded the approval stated that "this application is consistent with and supportive of the urban centre policies of the Official Plan, particularly the Yonge Davis Provincial Urban Centre Policies" (pg 3). The staff report offered the following conclusion:

The application for Zoning By-Law Amendment to permit a 20 storey residential tower with 280 dwelling units on the subject lands implements the 2006 Official Plan and is consistent with the Provincial Policy Statement. As such the application and the recommendations contained in this report are appropriate and represent good planning. (pg 4)

On June 15th, 2009, Council moved to approve the application and directed staff to prepare the necessary Zoning By-law Amendment, now known as By-law 2009-63 (attached).

1858107 Ontario Inc. purchased 39 Davis Drive with the knowledge that the Town had recently approved a high-density development on the site as it was appropriate and desirable for the Town (as provided for in By-law 2009-63). The proposed Secondary Plan would reverse Council's 2009 decision with the 'High Density' designation as proposed in the Secondary Plan.

Staff and Council considered 10.25 FSI on 39 Davis Drive as appropriate in 2009, in conjunction with other development standards imposed in the Zoning. The Provincial, Regional and Town policy framework has not significantly shifted since the approval of By-law 2009-63, except for the OMB

approval of the Region of York Official Plan - 2010. The Region of York Official Plan identifies Regional Centres – of which the Newmarket Urban Centre is one – to provide the greatest intensity of development in the Region. These centres are areas intended for intensification in accordance with Provincial policy. This Regional directive supports density on the site. Therefore the appropriateness of the FSI set out in By-law 2009-63 is no less than it was in 2009. In the 2014 policy framework, it is our professional opinion that 10.25 FSI on 39 Davis Drive still represents good planning.

REGION OF YORK COMMENTS ON SECONDARY PLAN

The Region of York's comments on the Secondary Plan encourage the Town to permit increased density. Specifically, the Region noted that "we recognize that this Revised Plan (Schedule 4) has reduced heights and densities since the last circulation of the Draft Secondary Plan (September 27, 2013), which effects all designations across the study area. This is a concern, particularly along Davis Drive as the Regional Corridor may not achieve the planned function as an 'urban mainstreet' and 'intensification area' served by rapid transit."

In response to this comment, the Town has adjusted some of the density designation boundaries and the maximum permitted height of the Low Density designation. However, a logical way to address the Region's comment would be to recognize existing density already approved by Town Council through the Zoning By-law. 39 Davis Drive has permission for 10.25 FSI in the current Zoning By-law. The property is within the Davis Drive Regional Corridor and represents a great opportunity to fulfill the planned function of this corridor. Therefore to ensure sufficient density to satisfy the Region, the existing permitted density at 39 Davis Drive should be retained.

We note that the full height of 65 metres set out in the new Section 15 is unlikely to be achieved without the corresponding density permission of 10.25 FSI. Therefore the height permission alone on 39 Davis Drive does not assist the Town in satisfying the Region's concerns in this regard.

SITE SPECIFIC DENSITY IS NOT CONTRARY TO THE INTENT OF THE SECONDARY PLAN

Staff's justification for providing an exception for height but not density is that density is intended to be calculated on the basis of the 'designation block.' In this case, the designation block includes all of our clients' properties as well as several properties further north up to and beyond the Slessor site. We note that the final version of the draft Secondary Plan specifically states in Policy 6.4.7.x. that:

The intent of the Permitted Minimum and Maximum FSIs on Schedule 4 is to appropriately distribute densities. The FSI shall generally be calculated on a site specific basis, such that each development application achieves an FSI of not less than the Permitted Minimum FSI and not more than the Permitted Maximum FSI for the applicable density designations identified on Schedule 4. (emphasis added).

It is our interpretation that a site-specific FSI is not contrary to this policy. We believe the policy is set up this way to allow transfers of density between properties. A site-specific provision could tie a higher density to 39 Davis Drive exclusively, and still be consistent with Policy 6.4.7.x.

CONCLUSIONS

We support the designation of 17555 Yonge Street and 22 George Street as 'High Density' in the Urban Centres Secondary Plan, as well as the High Density designation and site-specific provision on 39 Davis

Drive. However, we respectfully request that the Town acknowledge and recognize the existing height and density permission for 39 Davis Drive, as set out in Zoning By-law 2009-63, in the Newmarket Urban Centres Secondary Plan. Therefore we request that Council modify the site-specific provision for 39 Davis Drive to include a maximum density of 10.25 FSI. We suggest the following wording in Section 15.1 of the Secondary Plan:

39 Davis Drive

Notwithstanding the density and height provisions of the Secondary Plan, the maximum site density and the maximum building height on lands municipally known in 2014 as 39 Davis Drive shall not exceed 10.25 FSI or 65 metres, respectively. Notwithstanding Policy 6.4.7.x, this density shall be calculated on a site-specific basis such that no density shall be transferred from or to 39 Davis Drive. All other applicable provisions of the Secondary Plan shall apply.

We would be pleased to discuss this request with you in further detail.

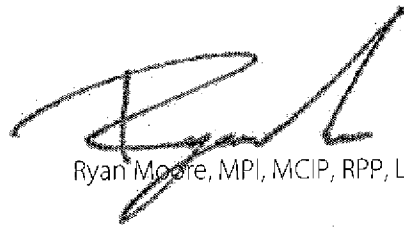
Thank you.

Yours truly,

MHBC



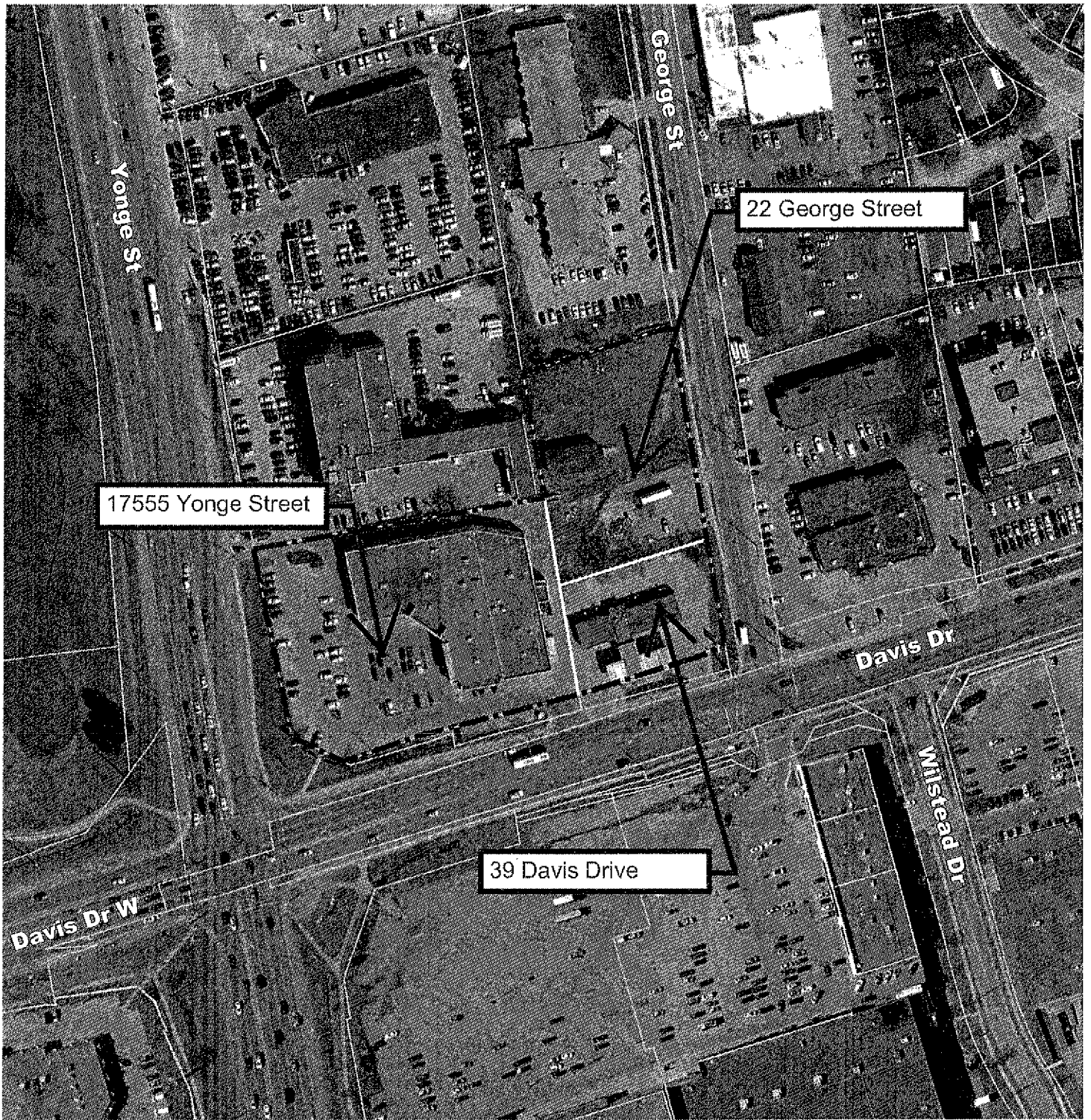
W. Brent Clarkson, MA, MCIP, RPP



Ryan Moore, MPI, MCIP, RPP, LEED® AP

cc,

David Woods
Town Clerk
Richard Nethery
Marion Plouffe



Date Source: First Base Solutions - 2011 Air Photo

FIGURE 1 CONTEXT PLAN

LEGEND



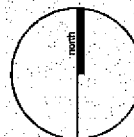
Subject Lands

17555 Yonge St,
39 Davis Dr &
22 George St,
Newmarket, ON

DATE: April 10, 2014

SCALE 1 : 2,000

N:\Y334\2012\December\Location Map\Y334I - Location Map.dwg

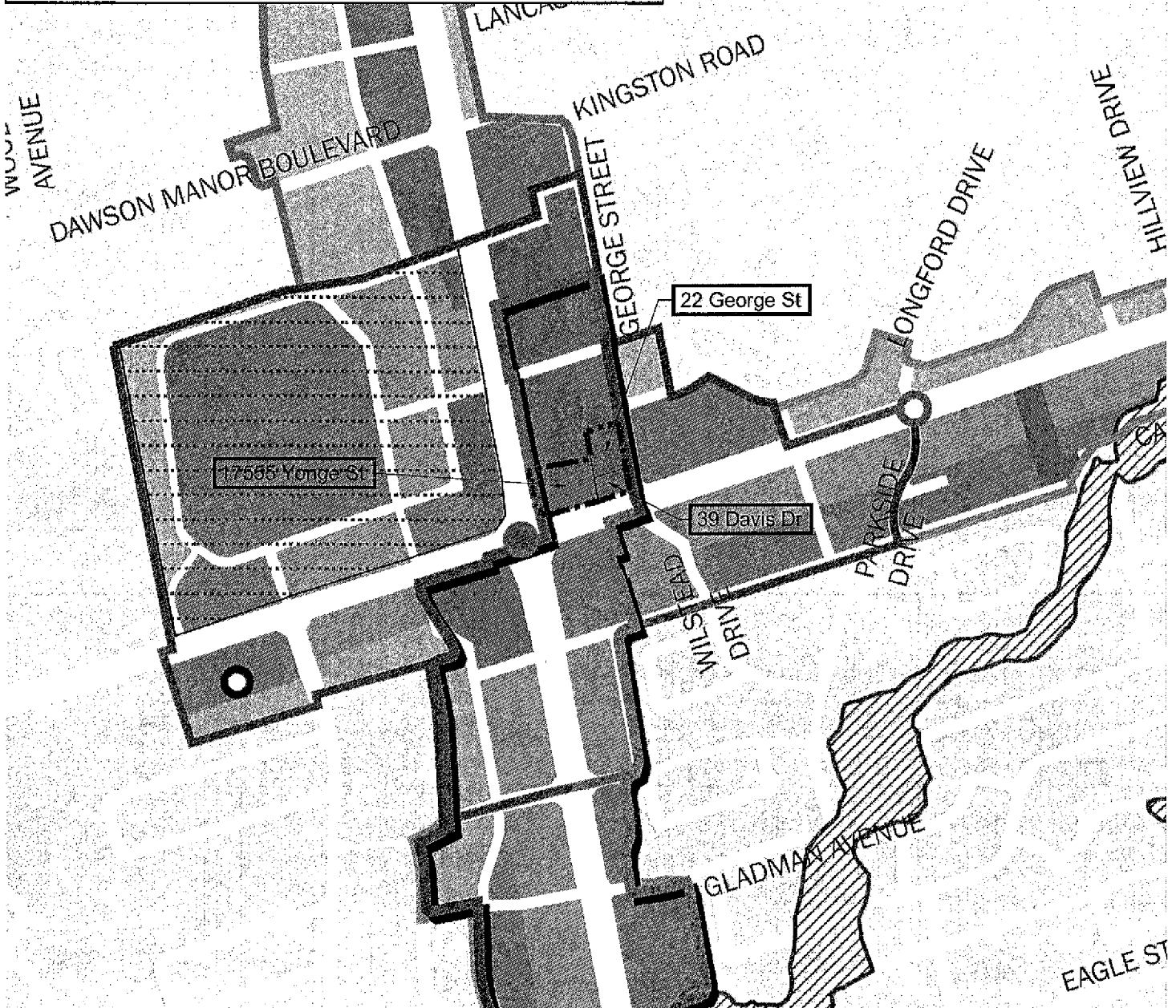


PLANNING
URBAN DESIGN
& LANDSCAPE
ARCHITECTURE

230-7050 WESTON ROAD, WOODBRIDGE, ON, L4L 8G7
P: 905 761 5588 F: 905 761 5389 | WWW.MHBCPLAN.COM

	permitted min. height	permitted max. height	permitted min. FSI	permitted max. FSI	discretionary max. height with bonusing	discretionary max. FSI with bonusing
high density	6 storeys (20m)	17 storeys (53m)	2.5	3.5	20 storeys (62m)	4.0
medium-high density	4 storeys (14m)	12 storeys (38m)	2.0	2.5	15 storeys (47m)	3.0
medium density	3 storeys (11m)	8 storeys (26m)	1.5	2.0	10 storeys (32m)	2.5
low density	2 storeys (8m)	6 storeys (14m)	1.5	2.0	7 storeys (23m)	2.0

Note: Bonusing is subject to Policy 6.4.7 iv.



Data Source: Draft Newmarket Urban Centres Secondary Plan Schedule 4, Height and Density - June 10, 2014

FIGURE 2
DRAFT NEWMARKET
URBAN CENTRES
SECONDARY PLAN -
SCHEDULE 4
HEIGHT & DENSITY

LEGEND



Subject Lands



Floodplain and Hazard Lands



Parks and Open Space



Regional Shopping
Centre Study Area



Provincial Urban Growth Centre



Yonge North Character Area



Yonge & Davis Character Area



Yonge Civic Character Area



Davis Drive Character Area



Planned VIVA
Rapidway Station



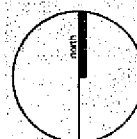
Mobility Hub



Go Transit Station

DATE: June 10 2014

SCALE 1 : 10,000



N:\Y334V\2013\October\Report Figures\Y334I - Report Figures.dwg



**PLANNING
URBAN DESIGN
& LANDSCAPE
ARCHITECTURE**

230-7050 WESTON ROAD WOODBRIDGE, ON, L4L 8G7
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CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2009-63

A BY-LAW TO AMEND BY-LAW NUMBER 1979-50, AS AMENDED, BEING A RESTRICTED AREA (ZONING) BY-LAW.
(39 Davis Drive)

WHEREAS it is deemed advisable to further amend By-law number 1979-50, as amended;

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket as follows;

THAT By-law Number 1979-50, as amended, be and the same is hereby further amended by:

1. Deleting from Schedule "A", Map No. 4, the Service Commercial First (C8) on Part 1 of Lot 96, Concession 1 E.Y.S., known municipally as 39 Davis Drive and substituting therefore the Multiple Family Residential Fourth Density Holding Zone ((H)RM4), as shown on Schedule "X" attached hereto.
2. Providing that notwithstanding any other provision of the by-law to the contrary, for the purposes of this by-law Floor Space Index shall mean the gross floor area of all buildings on a lot divided by the lot area.
3. Providing that notwithstanding Section 6.24(3) Parking Area Approaches, Driveways, Entrances and Exits, an entrance and exit ramp may be permitted to have a minimum width at the street of 7.0 metres for the lands zoned (H)RM4 as shown on Schedule "X" attached hereto.
4. Providing that notwithstanding any other provision of the by-law to the contrary, Section 6.24 (4) Buffer Area, shall not apply for the lands zoned (H)RM4 as shown on Schedule "X" attached hereto.
5. Providing that notwithstanding Section 6.25 Parking Space Requirements, a minimum of one space per dwelling unit and a minimum of 0.25 spaces per dwelling unit for visitor parking shall apply for the lands zoned (H)RM4 as shown on Schedule "X" attached hereto.
6. Providing that notwithstanding any other section of the by-law to the contrary, Section 6.31 Setback Requirements, shall not apply for the lands zoned (H)RM4 as shown on Schedule "X" attached hereto.
7. Providing that notwithstanding Section 18.1 Permitted Uses, a maximum of 280 Maisonettes or apartments dwelling units shall be permitted on the lands zoned (H)RM4 as shown on Schedule "X" attached hereto.
8. Providing that notwithstanding Section 18.2 Zone Requirements the following specifications shall apply for the lands zoned (H)RM4 as shown on Schedule "X" attached hereto:

(2) Apartments -

a. Lot Specifications

Lot Area (Minimum)
Per dwelling unit

N/A

Lot Frontage (Minimum)
Per building

42.6 metres

b. Siting Specifications

Front Yard (Minimum)	5.0 metres
Rear Yard (Minimum)	0.0 metres
Interior Side Yard (Minimum)	0.0 metres
Exterior Side Yard (Minimum)	5.0 metres

c. Building Specifications

Floor Area (Minimum) Per dwelling unit	42.0 square metres
Floor Space Index (Maximum)	10.25
Building Height (Maximum)	65 metres
Lot Coverage (Maximum)	50.0 %

9. Providing that notwithstanding any other provision to By-law 1979-50, as amended, to the contrary, for the lands zoned (H)RM4, on a corner of a lot where a daylighting triangle or rounding has occurred, the exterior side lot line and either the rear lot line and front lot line shall be deemed to be continued projections of the respective lot lines to a point of intersection, for the purposes of calculating the required minimum front yard, minimum rear yard, minimum exterior side yard, and/or minimum lot depth requirements.
10. Notwithstanding the provisions set out above, while the '(H)' Holding prefix is in place, no person shall within the lands zoned (H)RM4 on Schedule 'X' attached hereto, use any lot or erect, alter or use any buildings or structures for any purpose except those uses which existed on the date of passing of this By-law. Furthermore, no extension or enlargement of the uses which existed on the date of passing of this By-law shall occur unless an amendment to this By-law or removal of the '(H)' prefix, in accordance with Section 11 herein, is approved by the Council of the Corporation of the Town of Newmarket and comes into full force and effect.
11. Prior to the passing of a By-law to remove the '(H)' Holding prefix from the lands zoned (H)RM4, or any part thereof, the Town of Newmarket shall be satisfied that:
- i all relevant provisions of the Official Plan have been complied with;
 - ii that sufficient servicing capacity has been allocated to the subject lands by the Town of Newmarket;
 - iii that a subdivision and/or site plan agreement has been entered into between the Owner and the Town and the performance security contemplated therein has been posted;
 - iv all necessary requirements of the Town have been satisfied;
 - v all necessary approvals have been received by other commenting agencies and authorities.

ENACTED THIS 22ND DAY OF JUNE, 2009.

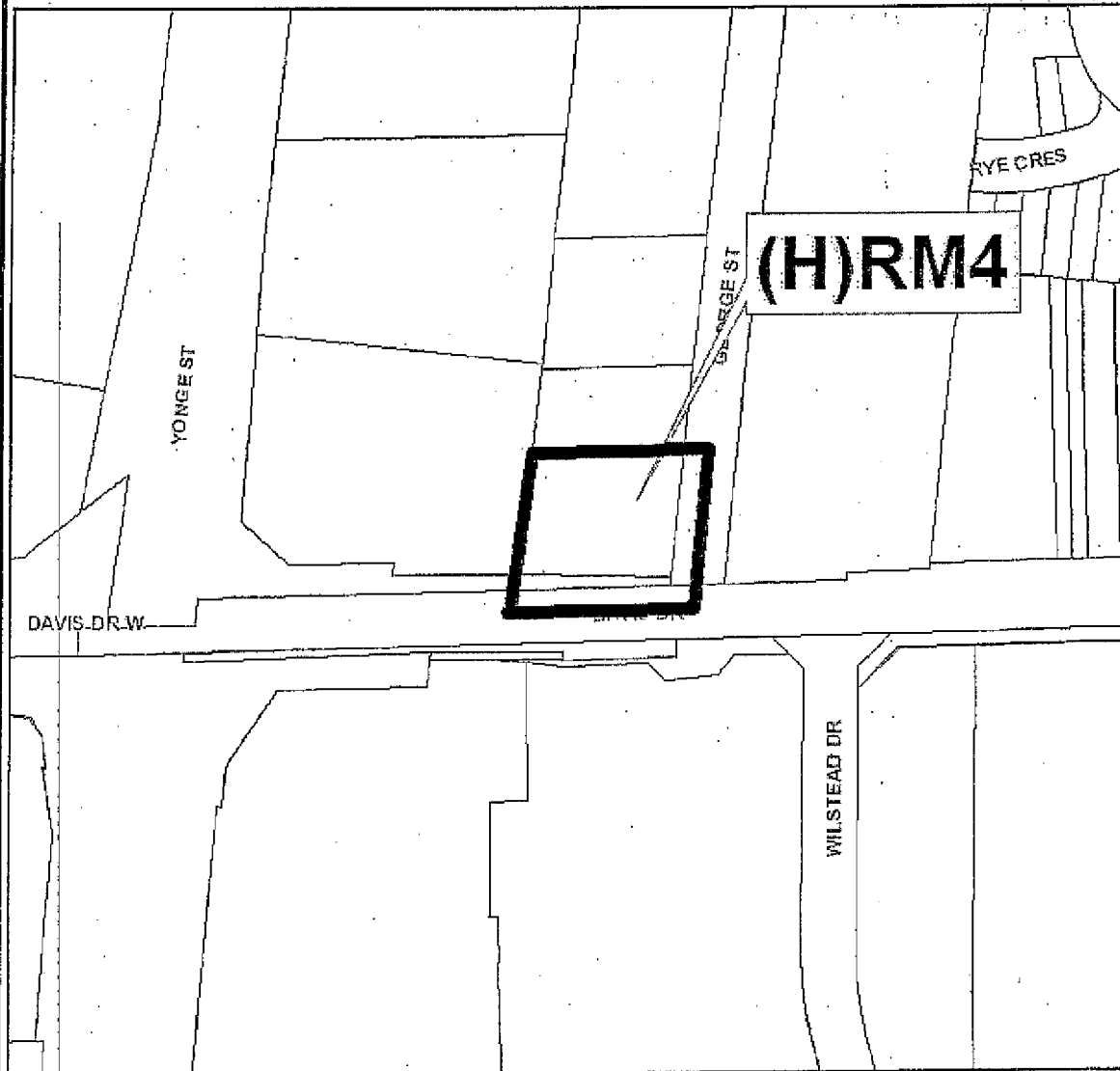

Tony Van Bynen, Mayor


Anita Moore, Town Clerk

39 Davis Drive
 Northwest Corner of Davis Drive & George Street
 Town of Newmarket
 Regional Municipality of York

This is Schedule 'X'
 To Bylaw 2009-63
 Passed this 22nd
 Day of June 2009

Long John
 MAYOR
Compton
 CLERK



Schedule 'X' to bylaw 2009-63
 Town of Newmarket Planning Department

Designed & Produced by: Information Technology - GIS Sources: 2007 Google Earth Imagery - © J.N. Barnes Limited, 2007 Orthophotography; Land Parcel Boundaries - © The Geo Information Corporation, 2007. All rights reserved. NOT A PLAN OF SURVEY, 2009; Municipal Bylaw - Geomatics Division, Planning and Development Services Department of The Regional Municipality of York, 2009.
 DISCLAIMER: This mapping is based on the POLARIS parcel file produced by the Land Registry of York records and recent survey and control points where available. This mapping is a representation of the earth's surface and provides a reference of area and distance. It is not a substitute for a legal survey.

N