



Planning and Building Services

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October 15, 2013

**DEVELOPMENT AND INFRASTRUCTURE SERVICES/PLANNING & BUILDING SERVICES
REPORT 2013-47**

TO: Committee of the Whole

SUBJECT: Application for Official Plan Amendment, Zoning By-law Amendment,
and Draft Plan of Subdivision Approval
Part of: Lots 60, 61, 64, 65, 66, 67 Block 92, RP 65M-2212
and all of Block 91, RP 65M-22-12; Block 155, RP 65M-2205; Blocks
144, RP 65M-2261; Block 89, RP 65M-2263; and Block 73, RP 65M-
2284

Planning Files: Official Plan Amendment – D9NP1210; Zoning By-Law
Amendment – D14NP1210; and Draft Plan of Subdivision – D12NP1210
Marianneville Developments Limited (Glenway)

ORIGIN: Appeal to the Ontario Municipal Board of Application Submitted to the
Town of Newmarket Planning and Building Services

RECOMMENDATIONS

THAT Development and Infrastructure Services/Planning and Building Services Report 2013- 47 dated October 15, 2013 regarding application for Official Plan Amendment – D9NP1210; Zoning By-Law Amendment – D14NP1210; and Draft Plan of Subdivision – D12NP1210 be received and the following recommendations be adopted:

1. That the applications for Official Plan Amendment – D9NP1210, Zoning By-law Amendment-D14NP1210 and Draft Plan of Subdivision – D12NP1210 submitted on April 20, 2012 be denied due to substantial unresolved technical issues regarding the proposed form of development as set out within this report.
2. That the Without Prejudice Offer in the form as submitted on August 23, 2013 not be accepted.
3. And That Council direct staff and legal counsel to continue to work with the proponent, commenting agencies and the residents toward the resolution of issues in advance of the Ontario Municipal Board hearing scheduled for December 10, 2013 and an eight week Hearing commencing March 3, 2014 with a view of resolving such issues. Any changes to the issues will be reported to Council, parties and participants.

BACKGROUND

Location

The subject lands are located in the area south of Davis Drive West, generally between Yonge Street to the east and Bathurst Street to the west. The bulk of development is proposed on those lands, east of the Hydro One corridor, which bisect the grounds of the former Glenway Country Club. Legally, the subject lands are described as Part of Lots 60, 61, 64, 65, 66, 67, Block 92, RP 65M-2212 and all of Block 91, RP 65M-22-12; Block 155, RP 65M-2205; Block 144, RP 65M-2261; Block 89, RP 65M-2263; and Block 73, RP 65M-2284.

Summary

This application proposes the development of a new community on lands that are part of the former Glenway Country Club. The Town of Newmarket received a Planning Application form signed and dated April 20, 2012 for an Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision to permit infill residential and commercial development.

The application proposes amending the existing land use designation in the Town of Newmarket Official Plan as 'Parks and Open Space' to the following land use designations:

- Stable Residential
- Emerging Residential
- Urban Centre, and
- Commercial

The application proposes amending the existing zone designations in the Town of Newmarket Zoning By-law 2010-40 as follows:

- From 'OS-2' (Open Space Two) to R1-D (Residential One)
- From 'OS-2' (Open Space Two) to R1-CP (Residential One)
- From 'OS-2' (Open Space Two) to R4-CP (Residential Four)
- From 'OS-2-32' (Open Space Two – Exception 32) to R5-___ (Residential Five & Site Specific Exception to permit a high density residential block)
- From 'OS-2' (Open Space Two) to CR2-___ (Retail Commercial & Site Specific Exception to permit a motor vehicle service station)

The structure of this report first address the application as originally submitted on April 20, 2012. This section of the report provides details of the appealed applications, a review of applicable policy and a summary of the technical reports, issues, public comments received as background information for the statutory public meeting and a recommendation regarding those applications.

The next section of the report addresses the Without Prejudice Offer received August 23, 2013. A copy of this offer is attached as Appendix 1. This Offer was submitted after the last prehearing in an attempt to resolve the concerns raised by the Town in the review of the applications. This offer was provided on the basis that it could be circulated to agencies, can be circulated to all parties including the Residents Association, and can be dealt within a public session of Town Council. If this Offer does not result in a

settlement, the appellants have noted that they will seek Ontario Municipal Board approval of the applications as filed and appealed.

For this reason, this report must address and provide recommendations for both the appealed application and the Without Prejudice Offer.

Appeal of Applications to the Ontario Municipal Board

On April 15, 2013 an appeal of the Official Plan Amendment, Zoning By-law Amendment and the Draft Plan of Subdivision to the Ontario Municipal Board was received. The basis of the appeal, as set out in the submission, is the failure of the Town of Newmarket to make a decision on the applications in accordance with Sections 22(7), 34(11) and 51(34) of the *Planning Act*.

At the Ontario Municipal Board Prehearing Conference held August 7, 2013 the Board scheduled a second Prehearing for December 10, 2013 and an eight-week Hearing commencing March 3, 2014.

APPEALED APPLICATION (April 20, 2012)

Proposal

The original application proposals called for the redevelopment of the eastern (9 holes) portion of the former Glenway Country Club, the portion of which is generally located east of the Hydro One corridor. The proposed development consists of residential infill, ranging in density from single detached dwellings to apartment buildings. A commercial component is proposed, fronting Davis Drive, as well as a park block located internal to the overall community.

Approximately 33 hectares of land is part of the draft plan of subdivision proposing 730 dwelling units. Below, the proposal is described by building type and block.

Single Detached Dwellings:

A total of 165 single-detached dwellings are proposed to be located on 15.5 hectares. 62 dwellings are to be located east of the Hydro One corridor and west of the existing single detached dwellings and apartment dwellings on Crossland Gate; 56 single-detached dwellings between Fairway Garden and Bowser Crescent; and 40 single-detached dwellings east of Eagle Street West, adjacent to existing single detached dwellings on Brammar Street.

Single Detached Condominiums:

A total of 54 single detached condominium units are proposed on approximately 7.9 hectares located west of Eagle Street West, adjacent to existing single detached dwellings on Bowser Crescent and Crossland Gate.

Condominium Townhomes:

A total of 219 condominium townhouse units are proposed on approximately 7.6 hectares fronting Davis Drive West at the Crossland Gate entrance.

Apartment Building:

Two 15-storey apartment buildings with 292 units are proposed on approximately 2.33 hectares adjacent to the existing GO Transit Bus Terminal on Davis Drive West.

Approximately 0.65 hectares fronting Davis Drive West, east of the existing Crossland Gate entrance is proposed for commercial purposes.

Parkland is proposed between the Hydro One corridor and Kirby Crescent adjacent to the multi-purpose trail system corridor linking the community to the north as well as future trails identified in the Town's Conceptual Trail System. Linkages to the south and to the Ray Twinney Recreational Complex will be maintained and enhanced.

Approximately 1.76 km of new public roads and 2.71 km of new private roads are proposed. The new public roads connect with arterial roads where possible and provide new internal road networks.

The five existing ponds on the subject lands are proposed to be used for stormwater management facilities.

A location map and the proposed Draft Plan of Subdivision are attached to this report as Appendix 2 and Appendix 3 respectively.

Application Submissions

The following documents have been submitted in support of the application:

- Planning Application Form
- Surveys & Plan of Subdivision
- Planning Justification Report
- Soil Investigation
- Noise Feasibility Study
- Tree Inventory Report
- Archeological Assessment Stage 1
- Shadow Impacts Report
- Parks & Recreation Assessment
- Lighting Impact Study
- Functional Servicing Report
- Traffic Impact Report
- Environmental Site Assessment Phase 1
- Environmental Site Assessment Phase 2

Discussion: Policy Framework

Provincial Policy Statement

The Provincial Policy Statement 2005 ("PPS") provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the

development and use of land. The overarching goal of the PPS is to enhance the quality of life for the citizens of Ontario. The key objectives of the PPS include building strong communities, wise use and management of resources, and protecting public health and safety. Regional and municipal plans are required to be consistent with the PPS.

A number of PPS provisions must be considered for these applications including: Section 1.1 Managing and Directing Land Use to Achieve Efficient Development and Land Use Patterns; Section 1.4 Housing; Section 1.6 Infrastructure and Public Service Facilities; Section 1.8 Energy and Air Quality.

The proposed development is the intensification of existing private open space for residential and commercial purposes. The PPS, Sections 1.1.2, 1.1.3.3 state that sufficient lands shall be made available through intensification and redevelopment and if necessary designated growth areas to accommodate an appropriate range and mix of land uses to meet projected needs to a horizon of up to 20 years.

Section 1.1.3.3 states, "Planning authorities shall identify and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs."

The supporting documents regarding existing and planned infrastructure and public service facilities are not adequate or appropriate. As set out later in this report, there are significant outstanding concerns regarding the availability of suitable existing or planned infrastructure and public service facilities to accommodate projected needs. The Town has provided to the appellant a detailed list of the outstanding issues. A copy is attached as Appendix 4. Meetings have been held with the appellant and their consultants to discuss resolution of the concerns. The response from the appellant has consistently been that they will consider only a limited range of options that do not impact the lotting. No resolution has been achieved at this time regarding these outstanding concerns. Until these matters are resolved, the applications for Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision are not consistent with the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe

The Growth Plan for the Greater Golden Horseshoe 2006 ("Growth Plan") provides a framework for implementing the Government of Ontario's vision for building stronger, prosperous communities by better managing growth in the region. It demonstrates the ways in which our cities, suburbs, towns and villages will grow over the long term. The Growth Plan guides decisions on a wide range of issues, including transportation, infrastructure planning, land-use planning, urban form, housing, natural heritage and resource protection.

Directions for where and how to grow, the provision of infrastructure to support growth and protect natural systems as well as cultivate a culture of conservation are matters of provincial importance and are identified in this plan. Regional and municipal plans are required to conform with the Growth Plan.

A number of Growth Plan provisions must be considered, including Section 2.2.2 Managing Growth; Section 2.2.3 General Intensification; Section 2.2.4 Urban Growth Centres; 2.2.5 Major Transit Station Areas and Intensification Corridors. The Growth Plan stipulates that a minimum of 40% of all residential development must be within the built up area and municipalities must recognize Urban Growth Centers as areas of focused intensification.

The Growth Plan conceptually locates an Urban Growth Centre in Newmarket Centre, the boundaries of which are delineated in the local Official Plan. The Growth Plan sets a target of 200 residents and jobs per hectare for the Newmarket Urban Growth Centre.

Intensification areas, such as urban growth centres, intensification corridors and major transit station areas will become the focus of cumulative growth for both population and employment. The Town of Newmarket is preparing a secondary plan for the Urban Centre, as discussed later in this report, and will be implemented into the local Official Plan, by way of an amendment, once finalized.

The 2006 Newmarket Official Plan (approved in 2008) incorporated many of the Growth Plan policies.

The Town of Newmarket 2006 Official Plan Conformity exercise occurred at a time when a number of new Provincial Policy initiatives were being introduced. With each new legislative change, staff was required to review and evaluate the changes to ensure that the draft Official Plan continued to be consistent with the new planning directions. Town of Newmarket Planning Report 2006-46 outlines major themes that required adjustments based on these initiatives. Two of these major themes are discussed below.

1) Emerging Residential Areas

The definition of permitted uses for the emerging residential designation was one of the key changes from the 1996 Official Plan. It introduced a change away from low, medium and high density residential designations to a Plan that distinguishes between established, or stable residential areas and vacant or emerging residential areas.

The following extract from Planning Report 2006-46 sets out the principles for emerging residential areas.

“The Plan provides that the Emerging Residential areas may develop at low densities similar to the majority of the Stable Residential areas while also allowing for a range of innovative and affordable housing types, zoning standards and subdivision designs, where appropriate and supportable through an acceptable planning justification report. While the focus of future intensification is directed by this Plan primarily to the three contiguous urban centres (Yonge Street Regional Centre, Healthcare Regional Centre, and Historic Downtown Centre), limited intensification is permitted in both the Stable and Emerging Residential areas in a form and location that will maintain the residential character and amenities.

To foster an appropriate transition between a Stable Residential area and an Emerging Residential area that may include alternative built forms, a new policy has been added to the Emerging Residential policies of the Official Plan (Section 3.3.2) as follows:

“In order to ensure compatibility with the existing housing stock, new housing directly abutting existing homes in Stable Residential Areas should generally have a physical character similar to the existing neighbourhood in terms of density, lot sizes, maximum building heights, and minimum setbacks.”

This policy will still allow Emerging Residential areas to develop with a range of innovative and affordable housing types, zoning standards and subdivision designs where appropriate, while ensuring that those houses to be constructed immediately adjacent to the existing houses will be of the same form and similar density.

It is essential that the Emerging Residential policies allow for alternative housing forms and densities in order to be consistent with the Provincial Policy Statement (PPS). The relevant sections of the PPS as they relate to Newmarket are found in the "Building Strong Communities" policies which direct municipalities to promote efficient development and land use patterns, to accommodate an appropriate range and mix of residential, employment, recreational and open space uses to meet long-term needs, and to promote cost-effective development standards to minimize land consumption and servicing costs. The "Settlement Areas" and "Housing" policies of the PPS further direct municipalities to establish land use patterns based on densities and a mix of land uses which efficiently use land and resources, and which are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available. Land use patterns within settlement areas are to be based on a range of uses and opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate the projected needs. Finally, planning authorities are directed to provide for an appropriate range of housing types and densities required to meet projected requirements of current and future residents of the regional market area.

With the inclusion of the new policy identified above, staff is satisfied that in concert with the Urban Centres, the PPS requirement to provide for an appropriate range of housing type, density, and affordability can be achieved, while at the same time maintaining the character of adjacent neighbourhoods.

2) Intensification

The Official Plan policies direct intensification throughout the settlement area, subject to these requirements. Virtually all of Newmarket can be considered a settlement area. The Official Plan also provides that various forms of housing are permitted and contains specific policies regarding the interface of new development and existing development that "specifically like lots being adjacent to like lots". The question of compatibility at the lot line between the new and existing development is the primary consideration under this policy context.

The Plan envisions that the Town's urban structure will transition from predominately greenfield development to a community that will soon be built-out to its boundaries. This necessitated policies that provided a direction for the way the municipality will intensify and accommodate projected growth. The Plan established three continuous Urban Centres, which are intended to accommodate the majority of the future intensification requirements.

The Official Plan seeks a density target of 2.5 FSI or greater in defined nodes in the Yonge Street Regional Centre. Those nodes are to be further defined through a Secondary Plan process as set out below.

A specific number or percentage for intensification within the Urban Growth Centres is not set out in the Official Plan or the draft Secondary Plan. Other than some of the lands identified as Emerging Residential on Schedule A of the Newmarket Official Plan, all development in Newmarket can be considered intensification, provided that it maintains the residential character and amenities. Limited intensification is permitted within the remainder of the residential areas within the Plan. At that time, it was envisioned that with the redevelopment of the lands within the Urban Growth Centre and the remaining lands for greenfield development, that sufficient lands were available to meet the growth target identified by the Region.

The proposed application is located in part of the 'built up area' and therefore identified as an area for general intensification.

The purpose of the Town of Newmarket Urban Centres Directions Report is to present a roadmap for the development of the Newmarket Urban Centres Secondary Plan. The report outlines guiding principles for future development in the Urban Centres that will form the basis of the Secondary Plan. The Report illustrates recommended development concepts and sets out the key policy directions for the Urban Centres.

While the subject lands are not located within the Secondary Plan Study Area, the applicant has made a request to the Town of Newmarket that lands abutting the GO Bus Terminal be considered for inclusion in the Secondary Plan Area and be designated as Urban Centres in order to facilitate higher density development as part of this application. This request was considered by the Town of Newmarket and a letter was provided on July 15, 2012 advising that "since your application is progressing through a site specific plan amendment process in advance of the Draft Secondary Plan, it is inappropriate to include the lands within the Secondary Plan Area as requested." At this time, this portion of the site will not be included within the work on the Secondary plan and will not be included within the Urban Centre study process.

The Recommended Development Concept within the Urban Centres Report identifies a framework for future growth and development and provides for the interconnections between the existing neighbourhoods and the new Urban Centres' neighbourhood. The creation of a fine grid of streets and block network will further articulate the urban environment to create transportation movement patterns and develop the urban fabric.

The location of the GO Bus Terminal at the north eastern end of the subject lands needs to be considered in the context of the review of the development applications especially regarding the transit policies within the Newmarket Directions Report. The Growth Plan recognizes Major Transit Station Areas as areas that will be planned to achieve increased residential and employment densities that support and ensure the viability of existing and planned transit service levels. Major Transit Station Areas are defined in the Growth Plan as "the area including and around any existing or planned higher order transit station ... or the area including and around a major bus depot in an urban core." The inclusion of the GO Bus Terminal in the Urban Centres Designation will consequently have implications for the surrounding area and the scale of development surrounding the station. The Draft Report does not address issues of transition from higher order transit stations to adjacent residential neighbourhoods other than to provide direction regarding the provision of pedestrian linkages. Section 6.3.4 outlines transit policies within the Urban Centres study area, and GO Transit Stations are highlighted as being significant mobility hubs.

The Urban Centre currently has no existing or planned school sites. Several recreational facilities are also located in the vicinity of the Urban Centre, most notable and relevant to this application is the Ray Twinney Recreational Complex. A number of new community facilities including schools will be required within the Urban Centre. Additional studies including a recreation master plan will be undertaken as part of future studies of this area.

The directions report for the Urban Centres Secondary Plan indicates that the long-term vision for the Newmarket Urban Centres is to accommodate 21,000 residents and 20,000 jobs by 2031. The pace of development within the Urban Centre will be coordinated with the provision of infrastructure including such matters as transit, roads, servicing, and community facilities.

York Region Official Plan 2010

The York Regional Official Plan ("YROP") guides economic, environmental and community building decisions to manage growth. The policies in the YROP help to co-ordinate and set the stage for more

detailed planning by local municipalities. The plan is built on the pillars of creating a sustainable region, through a strong natural environment, economic vitality, healthy complete communities, attention to agriculture and rural areas, and servicing the population.

The York Region Official Plan was approved by the Ministry of Municipal Affairs and Housing on September 7, 2010 and subsequently appealed to the Ontario Municipal Board ("OMB"). Since that time, the York Region Official Plan 2010 has been partially approved by the OMB and those corresponding sections have been repealed in the York Region Official Plan 1994 through OMB Orders. Although the entire Plan is not yet in full force and effect, the Regional Structure Plan (Map 1) is approved and reflects the earlier 1994 Plan, designating the subject lands "Urban Area". The YROP requires that the population and employment forecasts in Table 1 be used as a basis for planning of new development. As part of consideration of this application, determination should be made as to how the subject proposal aligns with the Town's forecasts and planning to the year 2031 considering matters such as growth within centres and corridors, infill and intensification, provision of water and wastewater services, complete communities and phasing and sequencing of growth within the Town. The minimum intensification target for Newmarket between 2006 and 2031 is 5,260 units. These lands are within the built boundary and the policies of Section 5.3 of YROP apply to this application. These issues are addressed in a number of sections in this report.

A 'Regional Centre' is identified east of the subject lands, surrounding the intersection of Davis Drive and Yonge Street. Yonge Street is identified as a 'Regional Corridor' the entire length of its passage through the Town of Newmarket. The YROP guides intensification to the Regional Centres followed by the Regional Corridors, and locally identified strategic locations. Regional Centres are generally identified in the YROP and are conceptually located on mapping.

The subject lands are not within the Yonge-Davis Regional Centre (which is delineated at the local level in the Newmarket Official Plan). The stretch of Davis Drive abutting the subject lands is not identified as a Regional Corridor according to Map 1 of the YROP.

The Town of Newmarket has through the 2006 Official Plan addressed the accommodation of intensification to meet population and employment projections. The planned development within the Urban Growth Centre, as well as other development areas would address these requirements for Newmarket. As set out within Section 14.2.1, when the Town is fully built out, the population is planned to be 98,000 people. Of the 13,000 additional population, approximately 8,000 are planned to be accommodated through intensification in the Urban Growth Centres. As the Glenway lands were not considered as available for development at that time, they were not considered by the Town in establishing these targets.

Although the subject lands are not needed to satisfy planned intensification targets, the Urban Growth Centres still require additional planning and a number of criteria prior to proceeding to development. The actual achievement of the growth projections for the Urban Growth Centres will depend as well on the timing of development and market demand within that area for higher density units. The development of the Glenway lands will assist in supporting the Town in meeting these growth objectives in the interim.

Allocation of water and wastewater servicing to the Glenway lands, if approved for development, would be in accordance with current town policy and practices.

Town of Newmarket Official Plan

The Official Plan contains goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic and natural environment of the municipality. The

Official Plan sets the basis for land use in Newmarket for the 20-year period post 2006. The Official Plan establishes the criteria for evaluating proposals for change and growth based on a "policy-led" approach that focuses on long-term objectives rather than short-term impacts.

The subject lands are designated as 'Parks & Open Space' and are adjacent to a 'Stable Residential' designation according to Schedule A of the Newmarket Official Plan. As noted in Section 1.3.3., " In a sustainable community, a stable neighborhood is not necessarily a static neighborhood but is one where existing lifestyles can be maintained while sustaining the opportunities for new housing and employment" "Growth should occur in a way that not only increases the quality of life for existing residents but also provides a functional environment for the future by protecting and enhancing natural features and systems, minimizing waste and pollution and increasing efficiency and equality".

The Official Plan contains a number of policies that need to be considered in the evaluation of these applications.

Proposed Land Use Designations

The lands are currently designated as Parks and Open Space. The objective of the Parks and Open Space System designation is to encourage a network of parks, recreational facilities and open spaces that provide a wide range of recreational and leisure opportunities to meet the needs of existing and future residents. Where the Parks and Open Space designation is applied to privately owned lands, it shall not imply that the lands are free and open to the general public.

The applications have requested a re-designation of these lands to the following:

The application is proposing to change a small portion of the lands to this designation. The existing residential area is designated as Stable Residential Area. The objective of the Stable Residential Areas designation is to sustain and enhance the character and identity of existing residential communities. This designation also encourages the preservation of existing housing stock, supplemented by various forms of residential intensification such as infilling. Permitted uses are to reflect those built forms that are existing in the community, primarily single-detached and semi-detached dwellings. The terms infill and intensification are not defined in the official plan. The plan states that in the absence of a definition, the definition found within the PPS shall apply.

The Official Plan reinforces the commitment to protect and strengthen existing neighbourhoods. It establishes that any development in Stable Residential Areas must respect the existing character of the area. The Official Plan provides a framework for the Town to grow, directing the majority of growth to the Urban Centres. Limited intensification is permitted in Stable Residential Areas in form and location that will maintain residential character and amenities. Limited convenience commercial and institutional uses that are compatible with residential neighbourhood are permitted in residential areas.

The forms of intensification permitted within Stable Residential Areas are accessory units and infill units through the creation of new lots consistent with the size and form of housing in the neighbourhood as a whole. Standards for infill lots are established in the Zoning By-law. The creation of new lots for the purposes of infill shall be permitted subject to compatibility with the scale of the surrounding neighbourhood, the physical suitability of the site to accommodate the proposed infill housing, availability of hard services and road access requirements.

The majority of the lands are proposed to be designated as Emerging Residential Area. The objective of the Emerging Residential Areas designation is to provide for a range of residential accommodation by

housing type, tenure, size, location and price ranges to help satisfy the Town's housing needs. It also encourages a range of innovative and affordable housing types, zone standards and subdivision designs.

The Official Plan in Section 12.4 sets out the policies to assess compatibility. This section states: Development will be compatible with the existing built form by relating to and enhancing the area's existing physical character, qualities and scale. When reviewing development proposals, Council will consider the appropriateness of the development for the area based on how buildings respond to: the existing character of the area; the nature of fenestration and sun reflection impacts; the nature of shadow impacts; the existing and emerging built-form elements such as height, massing, setbacks, materials and finishes that are incorporated into surrounding buildings.

Building heights immediately adjacent to a Stable Residential Area should provide an appropriate transition and achieve suitable visual angular planes. Where a greater building height is proposed, setbacks may be required in order to achieve appropriate height, massing and architectural quality for the location.

Section 12.5 sets out that buffering will be required to achieve compatibility where development is adjacent to a Stable or Emerging Residential Area. Urban Centre use, Commercial use, stormwater management facilities, and areas of heavy pedestrian or vehicular traffic are land use areas that will require buffering to mitigate adverse or conflicting elements. Buffering is implemented through provisions in the Zoning By-law. No specific provisions have been proposed in this application to address the requirements in the Official Plan regarding buffering.

A 0.65 hectare block along Davis Drive is proposed for commercial uses. The objective of the Commercial designation is to provide locations for commercial uses that do not usually locate within Urban Centres and offer a broad range of commercial opportunities for residents. Permitted uses are land extensive retail and service commercial uses, including retail warehouses, vehicle sales and service centres, business and professional offices and places of worship. A commercial block in this location is appropriate however the specific details of the development of these lands need to be addressed through the zoning provisions to ensure that the site can function properly

The plan of subdivision proposes the majority of single detached lots on new public roads. These lots are proposed to be similar lot areas and frontages to the existing residential lots. These lots respect the existing character of the area and are consistent with the neighbourhood.

Within blocks 169 and 170, single detached residences are proposed on a private condominium road. Although details of the development of these blocks are not provided on the plan of subdivision, information as to the potential development of these blocks is provided within the supporting reports for the applications. The size and nature of these lots as well as the development pattern are significantly different from the lot area and frontage of the existing lots and they introduce a development pattern that is quite different than the existing character of the area. The use of private roads to link public roads raises a number of concerns regarding the functioning of these roads especially the introduction of additional through traffic onto these private roads. Overall, the development pattern set forward for these blocks, especially in the context of their location immediately adjacent to and surrounded by lands designated as Stable Residential Areas is not supported by the Official Plan policies.

A portion of land is proposed to be designated as Urban Centre. The objective of the Urban Centres designation is to promote and maintain the Town as a major government, administrative, health, commercial and regional service centre. The Yonge-Davis Urban Growth Centre is envisioned as a meeting place, location for cultural facilities, public institutions, major services, and transit hubs. The

boundaries of the Urban Centre are defined within the Official Plan. These lands are not included within the study area nor have Town staff supported including these lands within the study at this time.

The proposed development on Block 171 with a high density residential building of 15 storeys does not meet the requirements for compatibility as set out in Section 12.4 of the Plan. The transition of height from 2 storeys within the Stable Residential Area to 15 storeys is not appropriate. Although there may be a justification for a higher density residential use due to the proximity to the GO station, the proposed height and potential massing of this building does not respond appropriately to the existing character of the area. In addition, no details regarding the proposed building have been provided to identify whether there is an impact regarding visual angular plans or the need for zoning by-law provisions requiring stepbacks within the building design as set out within this section the Official Plan.

The proposed medium density uses within Block 166 and 167 would provide an appropriate transition to the Stable Residential Area and represent a type of built form that would assist in providing a range of housing types within the community. Additional information has been requested regarding potential zoning provisions to regulate the layout of the townhouse blocks to ensure that the development provides an appropriate streetscape along Davis Drive. This information is still outstanding.

Parkland Dedication Requirements

Section 8.2.2 sets out the parkland dedication requirements within the Official Plan. This section states: Open Space lands may be provided by the conveyance in accordance with the provisions of the Planning Act and through other actions by public authorities. All lands conveyed as part of parkland dedication must be suitable for public recreation uses and acceptable to the Town in accordance with the Planning Act.

The appealed submission proposes one new park facility located to the west of the hydro corridor. Town staff advised that the proposed park is not acceptable to the Town and recommended that two small private park facilities be developed as a component of Blocks 166 and 167. Parks and green spaces should be connected to new and existing housing through a series of sidewalks and trails. Recreation and Culture Departments have advised that they prefer that large segments of parkland to be dedicated to the municipality be located in close proximity to existing stormwater management ponds (Blocks 169 and 170) and that a minimum of 5% of the land for parks purposes be provided in accordance with the *Planning Act*. Any proposed parkland should consider the new Parks Policy Manual.

Monteith Brown Planning Consultants at the request of the Town provided an evaluation of the proposed parkland dedication. With respect to the park's location adjacent to the hydro corridor, it was felt that the configuration and the narrow width proposed hindered its ability to accommodate features normally associated with neighbourhood parks. These types of parkland uses are outlined in the Town's Park Development Manual. It was noted that there are currently no parks located to the east of the Hydro Corridor in this area and that the proposal does not adequately address the needs of existing and future residents to the east of this corridor in this part of Town. The distance of the proposed park from the higher density development, apartment buildings is too far considering that those inhabitants are typically the highest users of the parkland system. A more central location for the park in the vicinity of 'Street B' and or 'Street C' as identified in the draft plan of subdivision would achieve a better spatial relationship to the existing parks and is more responsive to the location of the majority of the population. .

Tree Preservation

Section 9.2.7 requires that in new subdivisions, in accordance with the Town's Tree Preservation, Protection, Replacement and Enhancement Policy, there is to be no net loss of trees through the

preservation of existing trees and the planting of replacement trees. A Tree Preservation, Protection and Replacement Plan is required for Official Plan and Zoning By-law Amendments as well as for Draft Plan of Subdivision. These Plans must be derived/guided from/by the policies outlined in the Tree Preservation, Protection, Replacement and Enhancement Policy (2005). The final reports are still outstanding for this proposal and this policy requirement has not been satisfied.

Servicing

As set out within Section 14.0, the network of infrastructure serving the Town of Newmarket must be able to meet current demands and be planned in conjunction with the anticipated scale and rate of growth. Municipal sewer and water services are the required form of servicing for all new development. The Region of York and Town of Newmarket share responsibility for sewer and water services. A number of issues have been identified regarding servicing that remain outstanding at this time.

Storm Water Management

The Official Plan in Section 14.4 sets out a number of criteria for how new development should address stormwater management concerns. As set out in subsection 1): New development will provide appropriate stormwater management facilities as approved by Council and, where necessary, the Lake Simcoe Region Conservation Authority. Subsection 8 states: "All stormwater management facilities shall be designed to the satisfaction of the Town and those other authorities with jurisdiction. As set out within January 2009 *Storm Drainage & Stormwater Management - Town of Newmarket Engineering Design Standards and Criteria Section C*. As noted in Section C1.01: "Water quality and quantity control in new development areas are to be provided in Town-owned municipal blocks." The applications propose the stormwater management facilities to be located on private lands owned by the condominium corporations. This raises serious concerns regarding the potential lack ability of these corporations to be able to maintain and absorb the costs of any significant works on these facilities in the future. The approach proposed by the applicant is contrary to the Official Plan, contrary to the engineering standards of the Town and raises a number of implementation concerns as to the workability of this concept.

In summary, the application for an Official Plan amendment to change the designations permitted on these lands do not conform to a wide range of Official Plan policies, are not appropriate, do not represent good planning and are not supported. There have been a number of meetings with the applicants to identify and address the issues with this application. These matters remain outstanding at this time.

Newmarket Zoning By-law 2010-40

The subject lands are currently zoned OS-2 'Private Open Space'

The proposed zoning by-law amendment residential zones are, R1, R4 and R5. These zone categories permit a range of housing such as; detached dwellings in the R1; quadraplex, maisonette, townhouse or stacked townhouses in the R4; and apartment building in the R5.

The proposed commercial zone CR2 will permit an art gallery, commercial athletic centre, commercial school, convenience store, day nursery, domestic animal care facility, drive-thru facility, dry cleaning establishment, financial institution, garden centre, institutional day centre, Laundromat, medical clinic, medical and dental laboratories, medical office, office, personal service shop, place of entertainment, restaurant, retail store, service or repair shop, studio, veterinary clinic.

The zone standards for the single detached dwelling units on the public road are in keeping with the surrounding community and reflect similar built form. Regulatory Set D requires a minimum 15 metre frontage, minimum 7.5 meter front yard setback, maximum 35% lot coverage and maximum 10.7 metre (2 storey) height in the residential zones.

On June 17, 2013 the Town of Newmarket enacted amending By-law 2013-30, which addresses residential infill development in established neighbourhoods. Staff conducted research and public consultation in advance of a Planning Department report dated April 18, 2013. The By-law amendment affects two separate areas east of Yonge Street, east of the subject lands. The resulting By-law amendment suggests that the two residential areas identified, are those neighbourhoods that require specific intensification guidelines beyond that suggested in other legislation. The subject lands do not have specific infill intensification provisions within the Zoning By-law.

As noted previously, there are a number of Official Plan policies that have not been addressed within the proposed zoning by-law. The proposed zoning by-law amendment is not in conformity with the official plan and is not supported.

Public Comments

A Statutory Public Meeting was held on January 7, 2013 at the Newmarket Theatre. The written comments as well as submissions made at the Public Meeting have been consolidated and provided to the applicant for consideration and response. A response from the application to the public comments received is contained within the Community Comments Matrix attached as Appendix 5. The comments are summarized by theme under the various headings below.

Growth

The development of Glenway is not required to meet the growth targets prescribed by the Province and the Region. Furthermore, it is identified that the Urban Centres are those land where growth and intensification should be targeted. The scale of development proposed is not in keeping with the community; i.e. dense townhome development and condominium buildings.

Green Space and Tree Preservation

The development removes green space from the community that is not sufficiently replaced by the proposed parkland dedication. The destruction or preservation of woodlots and mature trees has not been detailed in the plans provided and therefore concern surrounds their fate.

Community Character

The plan for new subdivisions will negatively impact the community's existing and stable character with the introduction of higher density and additional traffic. The proposed plans will negatively impact the existing residents' quality of life. A concern has been raised regarding property values.

Service and Infrastructure

The new development will create strain on all local facilities, existing services and infrastructure and does not provide new benefits to the community through added servicing provisions. The current community was not planned with the proposed additional dwelling units and therefore it is ill equipped to handle the influx of new residents and the implications the new homes will have on infrastructure. There is widespread concern

surrounding the sufficiency of schools. The number of new residents will overwhelm the existing schools and not enough consideration has been made for the allocation of new school sites.

Traffic

There is concern regarding congestion due to increased vehicular activity throughout the community's road network. Residents point out a number of locations where congestion may be exacerbated by the increase in traffic.

Stormwater Management

Improperly planned stormwater management may cause flooding to property. Current stormwater ponds are already insufficient in the community and increased development and runoff will aggravate the problem further.

Agency Comments Received and Remaining Issues

As part of the complete planning applications, a number of technical reports were submitted and reviewed by internal departments, agencies, as well as other consulting technical experts on behalf of the Town of Newmarket. These comments are summarized below and are set out in further detail in Appendix 4.

Green Space and Tree Preservation

Tree Inventory and Preservation Report

A Tree Inventory Report was provided and a peer review completed by Arbourvalley. Additional information has been provided by the applicant. At this time, the Tree Inventory Report is appropriate for the majority of the lands; however, outstanding information on significant trees on neighbouring properties (within 4.5 m of the property line) as well as a tree preservation and replacement plan is still required.

Parks and Recreation

The appealed submission proposes one new park facility located to the west of the hydro corridor. Based on the review of the submission, it is recommended that two small private park facilities be developed as a component of Blocks 166 and 167. Parks and green spaces should be connected to new and existing housing through a series of sidewalks and trails. Recreation and Culture Departments prefer that large segments of parkland to be dedicated to the municipality be located in close proximity to existing stormwater management ponds (Blocks 169 and 170) and that a minimum of 5% of the land for parks purposes be provided in accordance with the *Planning Act*. Any proposed parkland should consider the new Parks Policy Manual.

Service and Infrastructure

Functional Servicing Report – Water Supply & Distribution System

The following are issues with the Servicing Report - Water Supply & Distribution System.

The report must address how connections will be routed through the proposed development to avoid conflicts. The Town does not permit private watermains to loop into municipal watermains and issues regarding municipal or private watermains under municipal or private roads must be addressed. The

consultant should complete water distribution modeling of the proposed distribution to confirm the pressures.

Based on discussions with the appellant, these issues are resolvable. The appellant will need to update the reports and plans to reflect these changes to watermain configurations prior to consideration of any approvals for these lands.

Water Resources (York Region)

The Region of York advises that all development on the subject property should adhere to the Wellhead Protection Policies outlined in Section 7.3.39 and 7.3.45 of the York Region Official Plan to ensure protection from contamination and incompatible land uses. The Water Resources Branch has no significant concerns with respect to the impact of the development on the quality of groundwater supplied to municipal wells in the area. The commercial land proposal of a gas station, although outside the wellhead protection zone, incites concern and puts forth policies related to the preparation of a risk management plan for land storing petroleum-based fuels and or solvents.

Section 2.3 of the York Region Official Plan sets out the objectives for the careful management of stormwater. While the subject lands are located in the jurisdiction of the Lake Simcoe regional Conservation Authority, the foremost used reference guide is the Low Impact Development Storm Water Management Guide. York Region recommends consulting this guide as well as the Lake Simcoe Region Conservation Authority Technical Guide for Stormwater Management Submission. The applicant will also need to have regard for the forthcoming South Georgian Bay Lake Simcoe Source Protection Region policies contained in the SGBLS Source Protection Plan.

Functional Servicing Report – Grading

The following major issue has been identified with the Servicing Report – Grading.

The retaining walls proposed in the stormwater management ponds are unacceptable and should be redesigned to allow the side slopes to conform to Town Standards. Retaining walls proposed in some rear yards should be reviewed and minimized at the detailed design stage.

Functional Servicing Report – Sanitary Sewage

The following issues have been identified with the Servicing Report – Sanitary Sewage.

The use of MH 110A as the critical hydraulic constraint is questionable. Confirmation that adequate capacity exists in the downstream sewers, including the pumping station operated by the Region of York is required.

The appellant is responsible to pay for their share of any improvements required to the downstream infrastructure to accommodate sewage from the applicant's proposal. The relevant information from the IBI analysis of the downstream sewers has been provided to the appellant. The applicant still needs to address issues raised in the IBI comment letter and determine what improvements are needed to the downstream infrastructure and enter into an agreement for those improvements to be made.

A number of technical issues have been identified in the Sanitary Sub-Trunk System Hydraulic report that are outstanding. There is a need to undertake an up-to-date analysis of the sewer system to determine

surcharging levels and any needed remedial works to accommodate development. Analysis of the West sub-trunk should take into account all proposed and possible future development within this sewershed.

Water and Wastewater Servicing (York Region)

The proposed water system design by Cole Engineering based on servicing from Newmarket West pressure district is not acceptable for the Region. Prior to approval, the local area municipality must grant servicing capacity allocation to the development, within the Region's capacity assignment and associated triggers. Prior to complete servicing allocation being available, staff are requesting that all residential lands be subject to various restrictions (i.e. Holding 'H' Zone) to ensure that the water and wastewater servicing are available prior to occupancy.

Stormwater Management

Functional Servicing Report

The following issues have been identified with the Servicing Report – Storm Drainage and Stormwater Management. In addition to a number of technical comments, the following issues have been identified.

Existing private ponds should be conveyed to the Town and designed to meet Town standards. This is a requirement of the Town's engineering standards. There is concern regarding the water levels proposed in the ponds and the impact the hydraulic grade line would have on foundation drains for the homes. All homes should be protected from flooding for major storm events. Confirmation is needed that the existing storm infrastructure is able to accept drainage throughout the site. Proposed lots east of Ponds 8 and 9 conflict with existing storm sewers to the extent they are likely not developable.

There have been ongoing discussions with the appellants regarding resolution of these concerns and responses to requested additional technical materials. However the primary issue that the existing private ponds should be conveyed to the Town and designed to meet Town standards has not been addressed in this submission.

Additional comments were provided by the Lake Simcoe Region Conservation Authority addressing issues related to quality control volumes including existing upstream drainage. The LSRCA commented on a wide range of technical issues and the need for more detailed information. These comments related to flow targets, capacity for outlets, assessment of existing conditions, conveyance capacity, pond overflow details, calculation of storage capacity for ponds, the need for maintenance access for ponds and detailed elevations for the ponds. The appellant has been requested to submit a water balance.

All of the above issues are outstanding and yet to be resolved.

Traffic

Traffic Impact Study

The review of the Traffic Impact Study identified a number of concerns with the proposal. The report should be revised to address Town road standard requirements, balancing of traffic counts, 10-year horizon and revised trip generation rates, the most recent plans and development proposals within the area, the need for traffic calming, any impacts that the proposed development may have on existing and proposed access points and be consistent with traffic forecasts for other developments in the area.

There is also the need to co-ordinate the location of Street B with the future collector road to the north.

Ongoing dialogue has occurred between the Town's traffic consultant and the appellant's traffic consultant. A number of these issues require input from the Region as Davis Drive is a regional road. An update to the study is required.

Central York Fire Services

Central York Fire Services has advised that Street B is a long dead end street A secondary emergency egress from Street B. Perhaps through Block 169 or 170 is required. A truck turning template on drawing for an Aerial Fire vehicle is required to show maneuvering from Street B both southbound and northbound onto Street C and along Street A both southbound and northbound at 90 degree turns at Lots 34 and 51. Additional comments will be provided once more details are known regarding the siting of structures and access roads for the development proposed on the blocks on the plan.

Transportation (York Region)

The Transportation Planning Branch of York Region requires clarification to justify trip rates and why the rates applied are appropriate for the area. The modal split is not clear in how it is applied to the seniors living, office commercial, and retail commercial uses as these are not defined land uses in the guide. The assumptions must be clarified. Consideration should be taken to assess a long term study horizon year given the resulted trip generation estimates. Trip distribution percentages shall be specific to each type of land use. A summary of the queuing analysis under the total future traffic conditions shall be included to assess whether queue lengths for critical movements can be accommodated. Transit Demand Management initiatives should be enhanced.

Environmental Site Assessment

Overall, there are limited concerns with this Phase 1 report. The applicant needs to update Section 3.3.8 in the final report to address the nature of the watercourse flowing through the site. The applicant should include new cross sections for groundwater flow direction in Phase 1 Conceptual Site Model. A final report will be prepared in accordance with the new regulations as amended.

Regarding the Environmental Site Assessment – Phase 2 report, there were a number of technical revisions required and the report needs to be updated in accordance with the applicable O.Reg. It was noted that the reports need to be suitable to support a Record of Site Condition for each parcel being developed and that the Town should be included as party that is able to rely on the Phase 1 and 2 reports. A revised report is required.

Hydrology

Additional information is required. The diagrams provided in support of the application do not sufficiently demonstrate the future conditions and how future grading or drainage catchment may be affected. Proposed development infrastructure needs to be identified in particular when they are below the water table. The location of the main aquifer unit in Section 2.5 is inconsistent with the observations based on data presented in the borehole records and cross-sections. The supporting documents are lacking in that they do not discuss the affect of vertical hydraulic gradients. The groundwater samples do not illustrate whether there may be other potential contaminants in the groundwater flow system. Generally there appears to be some inconsistency in the data used and tables presented. Further refinement, analysis and justification of data and the research approach used are needed.

School Boards Comments

Circulation to the York District School Boards has resulted in the following comments.

York Region District School Board

The York Region District School Board identifies the need for an elementary school site to accommodate new development in the northwest quadrant of Newmarket. A site has been identified along Davis Drive with interior access off of Street B. Due to the land configuration, the site identified is not ideal and the Board will continue to pursue other sites that better meet their needs. Should a better site be secured, the School Board will withdraw its Glenway site request. The proposed location is within Blocks 171, 172 and lots 123, 124 and 125. The School Board has indicated support for dual zoning for these lands to allow the reuse of the site without a further planning approval if the site is not acquired for a school.

York Catholic District School Board

The York Catholic District School Board reviewed the without prejudice offer and states that they have no comment or objection to the proposed development.

WITHOUT PREJUDICE SETTLEMENT OFFER

The Without Prejudice Settlement Offer was submitted on August 23, 2013. Within that offer, the proposal was for a revised Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision containing 184 single detached dwellings, 219 townhouse units of which 205 are residential and 14 are live-work units, 297 apartment units and 30 detached common element condominium bungalows. The total number of units proposed is 730.

The terms of the Without Prejudice Settlement Offer are set out in detail in Appendix 1. The offer terms are that the settlement would be presented to Council by November 2013. The following are the substantive revisions to the application:

- the high density block has been reduced in height from 15 to 6 storeys and a maximum of 297 units;
- stormwater management ponds have, for the most part, been designed to meet town standards and all meet MOE standards. The ponds will be dedicated to the municipality;
- Introduction of live/work units as a component of the medium density block; and,
- a combined stormwater management pond and open space block has been proposed for the centre of the neighbourhood.

The appellant has indicated in the settlement offer that existing perimeter trees will be preserved adjacent to existing dwellings and fencing will be replaced or repaired. A contribution of \$250,000 is proposed to assist with the improvements to the park facility.

This settlement offer was circulated by the Town of Newmarket to commenting agencies and internal town departments with a request for comments by September 19th. A number of agencies have provided comments but all comments have not been received by the date for finalization of the report. Additional comments received will be provided to Council under separate cover if received prior to the meeting.

Comments Received On the Without Prejudice Offer Include:

The settlement offer contained a number of conditions for settlement beyond the proposed revisions to the planning applications.

One of these conditions was a request for servicing allocation at this time. Planning and Building Services in a June 10, 2013 report, advised that Newmarket's unassigned servicing capacity was 1461 persons which the Town has been holding in strategic reserve for projects in the urban centre. Of the potential allocation of 1461 persons, Planning and Building Services have recommended servicing for 578 people in support of the Mosaik draft plan of subdivision, leaving a capacity for 883 persons. In June of this year the Region unofficially granted an additional 2561 persons of additional capacity for general distribution, and an additional 1000 persons directed towards the urban centres making a total capacity available to service units for 3444 persons. The Region will be providing further allocations by June 2014. This interim allocation is to assist growth within Newmarket until the Upper York Sewage Solution (UYSS) is in place, currently scheduled for 2018.

As of January 15, 2012 the Town had received development applications requiring capacity for 12,363 persons including this proposal and Mosaik. At that time the Town had not committed allocation to 7819. Given the proposed allocation to Mosaik the number would be reduced to 7241. The Town projects that the Glenway application would be able to house a population of 1942.

The Servicing Allocation Policy for Newmarket prioritizes servicing allocation based upon the area to be developed - the Urban Centre being the top priority, then areas within Emerging Residential areas and then Stable Residential areas. The Glenway application is proposing development within a Stable Residential area. Based on these criteria, Glenway would be considered a lesser priority for servicing allocation.

It is the Town's practice that all planning approvals are to be in place prior to consideration of a servicing allocation request. The allocation request is dealt in a separate process and a separate report to Council.

Based upon the Town's current availability of servicing for allocation, current development applications requiring servicing, and the priority status of the location of the development based on the Town's criteria, and the current practice regarding allocation, there is insufficient justification to grant an allocation to these lands at this time.

The second set of conditions for settlement is related to the remaining golf course lands. These include a proposed commitment by Marianneville to build a 9 hole golf course and to operate the golf course for 15 years with the option that, at the end of this period, the Town would be provided the option to purchase the golf course. In exchange, the Town would commit to permitting a clubhouse to be constructed and process any required applications and that the club house would be permitted to be severed and retained by Marianneville if the Town purchased the lands in the future.

No site plan application for the 9-hole facility or the clubhouse has been received by the Town of Newmarket. A pre-consultation meeting was held on January 30, 2013. A complete application would require the submission of a number of studies and drawings, including a planning justification report addressing, among other matters, conformity of the proposal with the Oak Ridges Moraine Conservation Plan and the Lake Simcoe Protection Plan. There has been no submission of this application and, more specifically, the planning justification report or any further discussion with Town staff regarding this proposal since that time. It is premature for the Town of Newmarket to provide any commitment regarding the development of these lands until an application is received and reviewed.

Stormwater Management

In a letter dated September 18, 2013 Lake Simcoe Region Conservation Authority provides additional comments and reiterates previous comments based on the alternative development scenario. The Authority informs that added information and modeling is required to demonstrate that the proposed stormwater management facility will not exceed pre development peak flow. Additionally, information is required to demonstrate that there is available downstream conveyance capacity for proposed development storm drainage. The original storage-discharge rating curve for each pond, needs to be verified by a current survey. The emergency overflows will need to convey the higher of either the 100 year uncontrolled basis or the Town's criteria. The permanent pool storage volume needs to be based on the total tributary area according to MOE guidelines. An evaluation of the water balance is to be completed. Previous comments from June 14, 2013, May 2, 2013 and June 17, 2012 have not yet been addressed. Response to these items should be summarized in a cover letter presented with the next submission. Additional information is required to demonstrate that there is available downstream conveyance capacity

In a letter dated September 27, 2013 Burnside and Associates Limited provided comments on the Without Prejudice Offer. The submission proposes ponds 6,8 and 9 are proposed to be in public ownership but pond 4 is proposed on private lands. All ponds are to be located on lands to be conveyed to the municipality. The Functional Servicing Report in Section 7.6.1 identified physical features that are noted to be retained by town staff. This direction was not provided by Town staff. This constraint, if removed, allows for additional flexibility in the pond designs. All ponds must be to Town standards. Based on the review, it appears that the ponds can be revised to conform to Town standards with minimal impact on the overall footprint. Suggested revisions to the pond design have been provided to the appellant by Burnside to assist the resolution of this matter. Further revisions to the ponds may be required to address the Lake Simcoe Region Conservation Authority comments. Access roads to the ponds still need to be confirmed. The areas to be considered part of the storm water management ponds versus parks has been identified by Burnside and this information has been provided to the appellants.

An emergency access road is required for Street B to either Eagle Street or Crossland Gate.

It is noted that revised reports and further analysis is still outstanding regarding earlier comments from Burnside. No additional submissions have been received regarding those matters at this time.

Proposed Parkland Dedication

As noted previously in the report, Section 8.2.2 sets out the parkland dedication requirements within the Official Plan. Specifically, the policy states: "All lands conveyed as part of parkland dedication must be suitable for public recreation uses and acceptable to the Town in accordance with the Planning Act". The proposed settlement includes a number of small fragmented pieces of greenspace located around the pond features and has identified these lands as proposed parkland. These fragments do not satisfy the policy requirement that they be suitable for public recreation uses. Historically, these fragments are considered part of the pond block and would not be accepted as parkland dedication. There is no basis within the Official Plan to accept these fragments as parkland as proposed in this settlement offer.

The Town supports the concept of locating new parkland adjacent to the stormwater management ponds to provide a central area of greenspace for the community. The location and area requirements for parkland could be met by a revision to the design of Street B and the reclassification of a limited number of lots to parkland.

Tree Preservation

Section 9.2.7 requires that in new subdivisions, in accordance with the Town's Tree Preservation, Protection, Replacement and Enhancement Policy, there is to be no net loss of trees through the preservation of existing trees and the planting of replacement trees. Additional information is outstanding to demonstrate how this policy has been satisfied.

Proposed Official Plan Amendment and Zoning By-law Amendment

The Without Prejudice offer proposes a reduction of the high rise apartment building to 6 storeys. This revision to the plan assists in addressing a number of the issues regarding compatibility identified in the comments on the original application. In addition, the offer introduces a mixed-use 4 storey development at the southeast corner of Street B and Davis Drive, which is an interesting new element that may assist in the creation of a more complete community. There are a number of other outstanding issues regarding Official Plan conformity and details required for the zoning by-law that are not addressed in this offer.

Remaining Issues

The supporting information accompanying the without prejudice offer did not address the remaining issues set out within Appendix 4. All of these issues will need to be addressed prior to any consideration of approval of development by the Town on these lands.

In summary, the Without Prejudice Settlement Offer does contain a number of positive revisions to the applications and the efforts of the appellant to address the concerns of the municipality and commenting agencies are appreciated. There remain a significant number of unresolved concerns. The settlement as presented cannot be accepted.

BUDGET IMPACT

Operating Budget (Current and Future)

The appropriate planning application fees have been received for draft plan of subdivision. The upcoming Ontario Municipal Board will be a cost to the Town of Newmarket.

Capital Budget

There is no direct capital budget impact as a result of this report.

CONCLUSION

Based on the above analysis, it is recommended that applications for Official Plan Amendment – D9NP1210, Zoning By-law Amendment-D14NP1210 and Draft Plan of Subdivision – D12NP1210 submitted on April 20, 2012 be denied due to substantial unresolved technical issues regarding the proposed form of development as set out within this report.

The Without Prejudice Offer in the form as submitted on August 23, 2013 was not complete, as it did not address many of the outstanding concerns with the applications. In addition, the offer contained terms not acceptable to the Town. It is recommended that the Without Prejudice Offer not be accepted as presented.

It is acknowledged that efforts into addressing specific concerns such as stormwater management have occurred and that there is value in further discussions with the appellants to scope and potentially resolve

issues prior to the Ontario Municipal Board Hearing. For this reason, Council is requested to direct staff and legal counsel to continue to work with the proponent, commenting agencies and the residents toward the resolution of issues in advance of the Ontario Municipal Board hearing scheduled for December 10, 2013 and an eight week Hearing commencing March 3, 2014 with a view of resolving such issues. Any changes to the issues will be reported to Council, parties and participants.

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Appendix 1

Without Prejudice Offer

Appendix 2

Location Map

Appendix 3

Draft Plan of Subdivision

Appendix 4

Summary of Outstanding Issues and Comments

Appendix 5

Community Comments Matrix