

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: November 18, 2014

CASE NO(S): PL130413
PL100685

Marianneville Developments Limited has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's neglect to enact a proposed amendment to the Official Plan for the Town of Newmarket to redesignate the easterly 36.3 hectare (89.7 acres) portion of the former Glenway Country Club within the area located south of Davis Drive West, between Bathurst Street and Yonge Street, from "Parks and Open Space" to "Stable Residential", "Emerging Residential", "Urban Centre" and "Commercial", as well as to retain the existing "Parks and Open Space" designation for the proposed park site, to permit a residential infill development along with associated commercial and parkland uses

Town of Newmarket File No. D9NP1210

OMB Case No.: PL130413

OMB File No.: PL130413

Marianneville Developments Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's neglect to enact a proposed amendment to Zoning By-law 2010-40, as amended, of the Town of Newmarket to rezone the easterly 36.3 hectare (89.7 acres) portion of the former Glenway Country Club within the area located south of Davis Drive West, between Bathurst Street and Yonge Street, from "Open Space Two (OS-2-2, OS-2-32)" to "Residential One (R1-D)", "Residential One (R1-CP)", "Residential Four (R4-CP)", "Residential Five (R5-)" and "Retail Commercial 2 (CR-2-)" to permit a residential infill development along with associated commercial and parkland uses

Town of Newmarket File No. D14NP1210

OMB Case No.: PL130413

OMB File No.: PL130414

Marianneville Developments Limited has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from the failure of the Town of Newmarket to make a decision respecting a proposed plan of subdivision on the easterly 36.3 hectare (89.7 acres) portion of the former Glenway Country Club within the area located south of Davis Drive West, between Bathurst Street and Yonge Street, legally 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; Blocks 144, RP 65M-2261; Block 89, RP 65M-2263; and Block 73, RP 65M-2284 and the proposed plan of subdivision specifically consisting of a high-density residential block (Block 171) having an area of 2.34 hectares (5.78 acres) in the northeast corner of the subject lands to accommodate approximately 292 dwelling units, three Multi-Family Medium Density

Residential Blocks (Blocks 166, 167 and 168) to accommodate approximately 219 dwelling units, two blocks (Blocks 169 and 170) for Low-Density Residential dwellings to accommodate 54 one-storey bungalows in "vacant land" condominiums, a total of 165 lots for single-detached dwellings in four groupings, one block (Block 172) for commercial use, one block (Block 173) to be dedicated as parkland, and the creation of four new public roads

Town of Newmarket File No. D12NP1210

OMB Case No.: PL130413

OMB File No.: PL130415

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant:	Marianneville Developments Limited
Subject:	Comprehensive Zoning By-law No. 2010-40
Municipality:	Town of Newmarket
OMB Case No.:	PL100685
OMB File No.:	PL100685

Heard:	During March and April, 2014 in Newmarket, Ontario and with further written submissions in September, 2014.
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APPEARANCES:

Parties

Counsel*/Representative

Marianneville Developments Limited	I. Kagan* A. DeGasperis*
Town of Newmarket	M. Bull* J. Shapira* E. Armchuk*
Glenway Preservation Association	J. Feehely* D. Savron
Region of York	G. Szobel* B. Montgomery*
York Region District School Board	M. Flowers*

DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER AND ORDER OF THE BOARD

INTRODUCTION

[1] Marianneville Developments Limited (“Marianneville”) owns lands on the south side of Davis Drive and west of Yonge Street, in the Town of Newmarket (“Town”). The lands were developed by a previous owner as the Glenway Country Club and included a golf course and associated club house.

[2] The Glenway Country Club has since closed, the club house has been demolished and the golf course lands are now vacant.

[3] The Glenway residential community was built around the Glenway Country Club lands with the golf course meandering through the residential community. Although the Glenway Country Club lands formed an attractive and desirable neighbourhood feature, these lands were not tied to the residential development in a permanent legal manner. The Glenway Country Club lands remained in separate private ownership.

[4] The proposal before the Board is to redevelop the eastern half (“subject lands”) of the former Glenway Country Club lands.

[5] The portion proposed for development includes lands that are immediately adjacent to a major transit station bus terminal for GO transit and the Region of York (“Region”). This major transit station is located just east of the subject lands, approximately at the southwest intersection of Yonge Street and Davis Drive.

[6] Davis Drive is a busy east-west arterial. As Davis Drive extends to the west it is known as Highway 9. At the time of the hearing, Davis Drive was under construction east from Yonge Street to accommodate a major surface transit service.

[7] Opposite the subject lands, on the north side of Davis Drive, is a major shopping centre with large, sprawling surface parking lots.

[8] West of the subject lands and the shopping centre are existing, proposed and approved residential developments on both sides of Davis Drive.

[9] The Town of Newmarket Official Plan ("OP") designates the subject lands as parks and open space.

[10] On these lands, Marianneville has proposed development for residential uses with a variety of densities and housing types, development of a commercial block and a park.

[11] In support of this proposed development, Marianneville seeks a site-specific OP amendment ("OPA"), an associated zoning by-law amendment ("ZBLA") and approval of a draft plan of subdivision. Marianneville has appealed these planning instruments to this Board and has also appealed the Town's comprehensive zoning by-law to this Board.

PHASED HEARING

[12] These matters were the subject of prehearing appearances and associated preliminary motions. One of the results of those appearances was the decision to phase the hearing.

[13] Phase 1 would deal with whether there was any bar to considering the proposed development at this time as distinct from deferring consideration of the development proposal until after a Town-led, Town-wide study that reviewed the Town's intensification strategy was authorized by Council, initiated and completed.

[14] Neither the Region nor the York Region District School Board ("YRDSB") took part in Phase 1.

[15] If the answer at the close of Phase 1 is that there was no bar to considering the proposed development at this time, then the hearing would proceed to Phase 2.

[16] Phase 2 would consider the details of the proposed development and assess the appropriateness of the various elements in the proposed development, particularly in terms of compatibility with adjacent and nearby uses.

[17] At the close of Phase 1, the Board gave an oral decision with written reasons to follow, as set out below. The Board found that there was not only no bar to considering the proposed development at this time but there was, in fact, an implicit obligation to do so.

[18] The parties then asked the Board to stand down to accommodate discussions between the parties before commencing Phase 2 of the hearing.

[19] At the commencement of Phase 2, the Board was advised that a settlement had been reached between Marianneville, the Town, the Region and YRDSB.

[20] The Glenway Preservation Association ("GPA"), which had participated fully in Phase 1 of the hearing, opposed the settlement and continued to oppose the development although the GPA called no evidence in Phase 2.

[21] In Phase 2, the Board received the final versions of the planning instruments that reflected the settlement. These instruments were filed as Exhibit 21 in these proceedings.

[22] At the close of Phase 2, the Board delivered an oral decision with written reasons to follow, as set out below.

[23] Prior to the release of the written reasons, the Board was advised that there may be technical errors in the ZBLA, filed as Tab 2 of Exhibit 21 in these proceedings. The Board was requested to withhold its written reasons until the parties had an opportunity to determine if technical revisions were necessary. This then became what was effectively Phase 3 of these matters, conducted through written submissions.

[24] Marianneville and the Town confirmed to the Board that there were technical references in the ZBLA that required correction. The Board was advised by Counsel for the Town and for Marianneville that the ZBLA, as corrected, was circulated to all parties including the GPA and that no party disputed the technical corrections.

[25] The corrected ZBLA was filed with the Board.

[26] At the Board's direction, the corrected ZBLA was accompanied by sworn affidavits from two of the expert planning witnesses on whose evidence the Board relied in rendering its decisions in Phase 1 and Phase 2. Taken together these two affidavits did four things:

1. The affidavit of the planner called by Marianneville in Phase 1 and Phase 2 set out the corrections.
2. The planner called by Marianneville under summons in Phase 1 and called by the Town in Phase 2 reviewed the technical corrections.
3. Both affidavits confirmed to the Board that the corrections were technical in nature.

4. Both affidavits further confirmed to the Board that the corrections did not impact or change the independent expert professional opinion evidence each planner had given to the Board under oath in support of the ZBLA introduced in Phase 2 of the hearing.

[27] On this basis, the Board proceeded to finalize this decision and order.

ISSUES, ANALYSIS AND FINDINGS

Phase 1

[28] At the prehearing that decided that the hearing would be divided into phases, a revised issue list was set for the Phase 1 proceeding. That revised issue list is as follows:

1. In the instant case, does the Growth Plan prohibit new residential units on the lands that are the subject of these applications (the "Subject Lands")?

Is it appropriate to refuse the proposed development of the Subject lands (the "Proposed Development") if it is determined that the Proposed Development is not required to meet the population forecasts in the Growth Plan for the Greater Golden Horseshoe, 2006 (the "Growth Plan")?
2. Whether the Proposed Development conforms with the Growth Plan with respect to, amongst other things:
 - i. Managing growth;
 - ii. General intensification;
 - iii. Population forecasts; and
 - iv. Co-ordination of implementation of the Growth Plan
3. Whether appropriate regard has been had for matters of provincial interest, including the appropriate location of growth and development (*Planning Act*, s.2(p))?
4. Whether the Proposed Development conforms to the population and intensification policies in the:
 - i. York Region Official Plan; and
 - ii. Newmarket Official Plan

Are the population forecasts caps with respect to lands within the built boundary?

[29] The Board heard from a land economist, five land use planners and one lay witness, Christina Bisanz, who is a resident of the Glenway community.

[30] All five land use planners are full Members of the Canadian Institute of Planners and are Registered Professional Planners in Ontario. All executed the Board's Acknowledgement of Expert's Duty form and the Board qualified all five to provide the Board with independent expert opinion evidence in land use planning matters.

[31] Marianneville called Planner Paul Lowes and Planner Ruth Victor in Phase 1 only. Ms. Victor is the Town's planner who appeared under summons in Phase 1. Marianneville also called Planner Richard Zelinka in both Phase 1 and Phase 2.

[32] GPA called Planner Nick McDonald in Phase 1 only.

[33] The Town called Planner Eric Chandler in Phase 1 only and called Planner Victor in Phase 2.

[34] In opposition to the proposed development, the Board heard first from Ms. Bisanz then from Planner McDonald and finally from Planner Chandler.

[35] Ms. Bisanz spoke movingly about the use of the former Glenway Country Club lands as forming the heart of the Glenway community and even of the Town of Newmarket at large. She recounted the use of the club house as a social venue that acted as a community centre and the golf course lands being used in the off season for walking, skating, sledding and general recreation. In short, the lands came to be used much as a public park and public community centre would be used.

[36] Being used like a public park does not make these lands a public park.

[37] The OP designates these lands as parks and open space. When the OP was adopted in 2006, the lands were in active use as the Glenway Country Club.

[38] Ms. Bisanz acknowledged that the community and the local Councillor were aware that the Glenway Country Club seemed to be facing some challenges with golf memberships declining and public use of the course seeming unable to take up the financial slack.

[39] In early 2010, the Town initiated studies as part of Official Plan Amendment 10, its Urban Centres Secondary Plan. The evidence before the Board is that by the time these studies were initiated the Town was well aware that the subject lands were no longer in active use as a golf club and golf course and were available for development.

[40] There is no evidence before the Board that the Town took any steps to acquire these lands for public open space and public park purposes.

[41] Marianneville filed its applications for an OPA, a ZBLA and plan of subdivision in April, 2012. The OPA 10 process was still underway.

[42] The study area for OPA 10 did not extend west to include any part of the subject lands.

[43] The Marianneville lands are within a settlement area and there is no settlement area boundary expansion involved in these applications.

[44] There is no dispute that there is a major transit station just east of the subject lands. There is no dispute that some of the subject lands are within a 500 metre ("m")

radius of this major transit station. As such, there is no dispute that these lands form part of a major transit station area and meet the definition of major transit station area in the provincial Growth Plan for the Greater Golden Horseshoe (“GGH”):

Major Transit Station Area

The area including and around any existing or planned *higher order transit* station within a *settlement area*; or the area including and around a major bus depot in an urban core. Station areas generally are defined as the area within an approximate 500m radius of a transit station, representing about a 10-minute walk.

[45] Policy 2.2.5 of the GGH deals with major transit station areas:

2.2.5 Major Transit Station Areas and Intensification Corridors

1. *Major transit station areas and intensification corridors* will be designated in official plans and planned to achieve:

- a) increased residential and employment densities that support and ensure the viability of existing and planned transit service levels
- b) a mix of residential, office, institutional, and commercial development wherever appropriate...

[46] The evidence before the Board is that Marianneville asked repeatedly that its lands in the northeast corner, i.e., the part of the Marianneville lands that fall within the major transit station area, be considered as part of the OPA 10 analysis. The Town declined to do so and appeared to justify this refusal on the grounds that Marianneville had made separate applications for an OPA, a ZBLA and a plan of subdivision.

[47] Planner McDonald, called by the GPA, provided the opinion that the Marianneville proposal should only be considered in the context of a Town-led, Town-wide study that identifies intensification areas. Planner McDonald supported this opinion by saying that that the Provincial Policy Statement (“PPS”) and the GGH required that the Town identify lands for intensification before intensification could occur.

[48] Planner Chandler, called by the Town, agreed generally with the opinion given by Planner McDonald.

[49] Planner Lowes and Planner Zelinka, called by Marianneville, and Planner Victor, under summons by Marianneville, disagreed firmly and clearly with the opinion of Planner McDonald and Planner Chandler.

[50] The Board finds that requiring a Town-led, Town-wide study that identifies lands for intensification before the Marianneville development proposal may be considered represents a misunderstanding of the PPS and the GGH.

[51] The Marianneville lands are within a settlement area and, further, within the built boundary of the Town of Newmarket.

[52] The 2005 PPS, the 2014 PPS and the GGH all refer to intensification using similar and occasionally identical language.

[53] Intensification is encouraged generally.

[54] Policy 2.2.6(b) of the GGH is clear that municipalities are to:

...encourage *intensification* generally throughout the *built-up area*...

[55] Then at Policy 2.2.6(f) municipalities are to:

...facilitate and promote intensification...

[56] Intensification is defined as:

The development of a property, site or area at a higher density than currently exists...

[57] These requirements are distinct from the GGH requirement that municipalities, at Policy 2.2.6(e):

...recognize urban growth centre, intensification corridors and major transit station areas as a key focus for development to accommodate intensification...

[58] Intensification areas include the areas listed in Policy 2.2.6(e) and also include:

...and other major opportunities that may include infill, redevelopment...

[59] While intensification areas are to be identified and recognized by municipalities, the GGH does not limit intensification to intensification areas.

[60] The 2005 PPS and the 2014 PPS both approach intensification in a similar way. Intensification is encouraged generally within settlement areas. Both iterations of the PPS distinguish intensification generally from designated growth areas. The designated growth areas of the two iterations of the PPS are approximately equivalent to the intensification areas of the GGH.

[61] For the two iterations of the PPS and for the GGH, designated growth areas or intensification areas are areas designated by the municipality. While these areas may be the focus for achieving intensification targets, they are not the only locations where intensification may occur.

[62] The Board attaches no weight to the suggestion that a Town-led, Town-wide study must precede consideration of the Marianneville development proposals.

[63] Planner McDonald also testified that there is no need for the development of the Marianneville lands and that sufficient development will occur elsewhere in the Town.

[64] For intensification within the built boundary of a settlement area, none of the 2005 PPS, the 2014 PPS or the GGH requires a test of need. Need is engaged in these three documents only in circumstances where a proposal is to expand the settlement area boundary.

[65] The Board attaches no weight to the evidence that the need for the proposed development is a required criterion.

[66] Finally, Planner McDonald cited the scale of the Marianneville proposal as justifying delay until after a future Town-led, Town-wide study.

[67] On this point, Planner Chandler, appearing for the Town, disagreed with Planner McDonald's view that scale is a criterion to defer consideration of a proposal.

[68] The Board finds that there is no criterion of scale in the 2005 PPS, the 2014 PPS or the GGH that requires deferral of consideration of a development proposal until a Town-led, Town-wide study is completed.

[69] Having listened carefully to the evidence of all five planners, the Board is persuaded that the evidence of Planner Zelinka, Planner Lowes and Planner Victor, separate and together, represent a more reasonable, balanced and appropriate assessment of the requirements of the various policy documents and the overall question of whether consideration of the Marianneville development proposal should proceed to Phase 2 of this hearing.

[70] In response to the specific issues set down for Phase 1 of the hearing, on the evidence of Planner Zelinka, Planner Lowes and Planner Victor, the Board finds as set out in the following paragraphs.

[71] Does the GGH prohibit new residential units on the Marianneville lands?

[72] The Board finds that the GGH does not prohibit new residential units on the subject lands.

[73] Is it appropriate to refuse the proposed development of the Marianneville lands if it is determined that the development is not required to meet the population forecasts in the GGH?

[74] The Board finds that there is no requirement for a finding of need in the GGH that is engaged by the Marianneville proposal.

[75] Does the Marianneville development proposal conform to the GGH particularly regarding growth management, general intensification, population forecasts and co-ordination of implementation?

[76] The Board finds that the proposed development conforms to the GGH, particularly with respect to these elements.

[77] Does the proposed development have appropriate regard for matters of provincial interest, including the appropriate location of growth and development as identified in s. 2(p) of the *Planning Act*, R.S.O. 1990 c. P.13 ("Act")?

[78] The Board finds that appropriate regard has been had for the appropriate location of growth and development.

[79] Does the proposed development conform to the population and intensification policies in the York Region OP and Newmarket OP? Are the population forecasts caps with respect to lands within the built boundary?

[80] All the planners agreed that the population forecasts are minimums and not caps. The Board agrees and so finds.

[81] When a proposed development might take growth above the forecasts, the planners disagreed on the question of whether a Town-led, Town-wide study was the only mechanism to determine how far above the forecasts growth should be permitted. The Board set out above the reasons that the Board attached no weight to the opinion that a Town-led, Town-wide study was a prerequisite to consideration on the Marianneville development proposal. In doing so, the Board analysed the two iterations of the PPS and the GGH. The Board now turns to consideration of whether there is something in the Act that suggests that only a municipality may determine if and by how much the forecasts for growth may be exceeded. The Board finds that there is no such limitation.

[82] The matters before the Board are specifically contemplated by the relevant appeal sections of the Act. The limitation to prevent certain appeals of private applications for official plan amendments relates to proposed amendments that would alter the boundary of a settlement area or create a new settlement area. Neither is the case for the OPA before the Board. Nothing in the Act suggests that the site-specific Marianneville applications cannot or should not be considered in their own right.

[83] The Board finds that the Marianneville proposal should proceed to Phase 2 of the hearing.

Phase 2

[84] With the principle of development established in Phase 1, Phase 2 would now turn to the question of whether the proposed development was appropriate in the specific local context. In this regard, the question became one of compatibility with adjacent and nearby uses.

[85] Assessing compatibility requires some examination of, and sensitivity to, adjacent uses. Where there appears to be conflict, mitigation measures may be appropriate. Mitigation to achieve compatibility may take several forms. Mitigation may engage elements such as the deployment of density, massing, setbacks, buffers, landscaping, screening, and the design and location of amenities in the new development to protect privacy, reduce overlook, and avoid the likelihood of intrusive noise from activities in the new development into the adjacent existing development.

[86] At the outset of Phase 2, the Board was advised that Marianneville, the Town, the Region and the YRDSB had reached a settlement. The GPA called no evidence in Phase 2 and advised the Board that it continued to oppose the proposed development.

[87] The Board heard from Planner Victor and Planner Zelinka in Phase 2.

[88] The Board was advised that the proposed development arising from the settlement was now slightly different from the proposal that had been before Council in November, 2013.

[89] The proposal before the Board now had no outstanding planning or technical issues regarding the proposed development.

[90] Higher density development on Davis Drive has been located toward the eastern side, recognizing the major transit station area.

[91] A landscape buffer of 30 m has been introduced as a setback between the high density development and the adjacent single family detached homes. In addition, the high density building will be terraced.

[92] There is no additional height for the medium density development and a 12 m buffer will be required between the medium density development and the nearby single family homes.

[93] Additional private amenity space has been added to the medium density and high density blocks to ensure appropriate outdoor recreational space is located on site for the medium and high density units.

[94] There are areas where the new low rise development is to be built on lands that are at a higher elevation than nearby existing development. Recognizing this, the revised proposal has increased rear yards, required fencing and placed restrictions on deck heights.

[95] Development on the old golf course lands means that new single family homes will have rear yards adjacent to the rear yards of the existing single family homes. While some specific conditions have been identified with appropriate adjustments made, there is also a general requirement for a compatibility plan that analyzes the rear yard interface for individual new homes and adjacent existing homes and identifies appropriate mitigation. Some of the elements of such mitigation might be vegetation, fencing or other possible elements that respond to the particular rear yard condition.

[96] All lots for single detached housing now meet the zoning requirements for lot area and frontage. In doing so, they meet the OP requirements for compatibility when new intensification development occurs adjacent to existing stable residential areas.

[97] Live-work units have been introduced to support neighbourhood commercial uses.

[98] The park area has been increased.

[99] One of the informal uses of the former golf club lands had been as a connecting open space and casual trail through the neighbourhood. The design of the park and open space areas has incorporated the concept of continuous open space and created the opportunity for a connecting trail system through the area.

[100] The OPA was filed as Tab 1 of Exhibit 21. The ZBLA was filed as Tab 2 of Exhibit 21. The draft plan of subdivision was filed as Tab 3 of Exhibit 21 and the conditions of draft plan approval were filed as Tab 4 of Exhibit 21. In addition, the Region required a pre-condition that specifies that the owner shall enter into an agreement that the owner will not sign any agreements of purchase and sale until certain conditions have been met. This pre-condition, known as a No Pre-Sale Agreement, was filed as Exhibit 22 in these proceedings.

[101] At the close of Phase 2, the Board issued an oral decision and order, with written reasons to follow, approving the OPA as filed in Exhibit 21 and amending By-law 2010-40 as set out in the ZBLA as filed in Exhibit 21. The Board issued an oral decision approving the draft plan of subdivision, as filed in Exhibit 21, subject to the conditions filed in Exhibit 21. At the request of the parties, the Board's order regarding the draft plan of subdivision was withheld pending the Board being advised that Marianneville had met the pre-condition required by the Region and filed as Exhibit 22.

[102] As a result of the Board's decision, Marianneville scoped its appeal of By-law 2010-40 to the Marianneville lands and otherwise withdrew its appeal of By-law 2010-40.

Phase 3

[103] Prior to the release of the Board's written reasons for Phases 1 and 2, the Board was advised that technical corrections may be required to the ZBLA. The Board was asked to withhold its written reasons until the Town and Marianneville could determine if technical corrections were needed and, if so, to file them with the Board.

[104] In the result, the Board was advised that technical corrections to the ZBLA were needed.

[105] On the affidavit evidence of Planner Victor and Planner Zelinka, the Board is satisfied that the changes to the ZBLA are technical in nature and do not contradict or conflict with the Board's findings regarding the planning justification that underpinned the Board's decision in Phase 2 regarding the ZBLA filed in Exhibit 21.

[106] Having regard to the powers of the Board as set out in s. 37 and s. 88 of the *Ontario Municipal Board Act*, R.S.O. 1990, c. O.28 ("OMBA"), the Board finds that the revised ZBLA, filed by the parties in Phase 3, is the appropriate instrument in this matter. The Board further finds that the substitution of the ZBLA filed in Exhibit 21 with this more current ZBLA filed in Phase 3 meets the requirements of s. 88 of the OMBA and appears to the Board to be both just and proper as fully in all respects as if this corrected ZBLA had been before the Board in Phase 2.

[107] The Board was also advised in this Phase 3 that Marianneville has now met the requirements of the Region's pre-condition as set out in Exhibit 22 and that the Board's order regarding the plan of subdivision could now issue.

ORDER

[108] The Board orders that:

- a. The appeals by Marianneville Developments Limited are allowed in part.
- b. The Town of Newmarket Official Plan is amended in accordance with Attachment 1.
- c. By-law 2010-40 is amended in accordance with Attachment 2.
- d. The draft plan of subdivision as found in Attachment 3 is approved, subject to the conditions set out in Attachment 4.

"Susan de Avellar Schiller"

SUSAN de AVELLAR SCHILLER
VICE CHAIR

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario

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ATTACHMENT '1'

**AMENDMENT NO. 12
TO THE
TOWN OF NEWMARKET
OFFICIAL PLAN**

AMENDMENT NUMBER 12

**TO THE
NEWMARKET
OFFICIAL PLAN**

CONTENTS

PART A: THE PREAMBLE

- | | | |
|----|--------------------------|--------|
| 1. | Purpose of the Amendment | Page 1 |
| 2. | Location | Page 1 |
| 3. | Basis | Page 1 |

PART B: THE AMENDMENT

- | | | |
|----|----------------|--------|
| 1. | Policies | Page 2 |
| 2. | Schedule | Page 2 |
| 3. | Implementation | Page 2 |
| 4. | Schedule 1 | Page 3 |

PART C: THE APPENDIX

- | | | |
|----|--------------|--------|
| 1. | Location Map | Page 4 |
|----|--------------|--------|

PART A: THE PREAMBLE:

1. PURPOSE OF THE AMENDMENT:

The purpose of Official Plan Amendment Number 12 is to change the Schedule A Land Use Designations as they relate to parts of the former Glenway Country Club lands, as shown on Schedule 1 attached hereto, and to add a special policy to Section 33 Emerging Residential Areas.

2. LOCATION:

The subject lands are located in the Glenway Community, generally south of Davis Drive, between Yonge Street and Bathurst Street. The lands have an area of 36.3 hectares, of which this Amendment changes the designation on approximately 27.9 hectares.

The subject lands which are affected by this Amendment are shown more particularly on the Location Map, which is appended for information purposes only.

3. BASIS:

The lands affected by this Amendment are presently designated *Parks & Open Space* in recognition of their former golf course use. This Amendment facilitates intensification and reuse of the lands for a range of residential, mixed-use, commercial, institutional, parks and open space.

The Amendment facilitates more intensive residential development in the vicinity of Davis Drive and particularly within walking distance of a major transit station, the Newmarket GO Bus Terminal.

It also provides for compatible housing forms adjacent to existing stable residential areas and a new public parks and open space system to serve new, existing and future residents of the area.

The full basis for this Amendment has been set out in the Planning Justification Report and related supplementary reports submitted in support of this Amendment and the related Draft Plan of Subdivision.

PART B: THE AMENDMENT

All of this part of the document entitled "PART B: THE AMENDMENT" consisting of the following text and the attached map designated as Schedule 1, constitutes Amendment Number 12 of the Newmarket Official Plan.

1. POLICIES

- a) Schedule A, Land Use Plan, to the Town of Newmarket Official Plan is hereby amended by re-designating from the *Parks & Open Space* designation to the *Stable Residential*, *Emerging Residential* and *Commercial* designations the lands shown on "Schedule 1" to this Amendment.
- b) Section 3.3.2 Emerging Residential Areas Permitted Uses is amended by adding a new subsection to read as follows:
 - "3.3.2.4 Within the Emerging Residential Area located on Davis Drive, immediately west of the GO Bus Terminal, permitted uses shall also include 4 to 6 storey apartment buildings and mixed use "live-work" units."

2. SCHEDULE

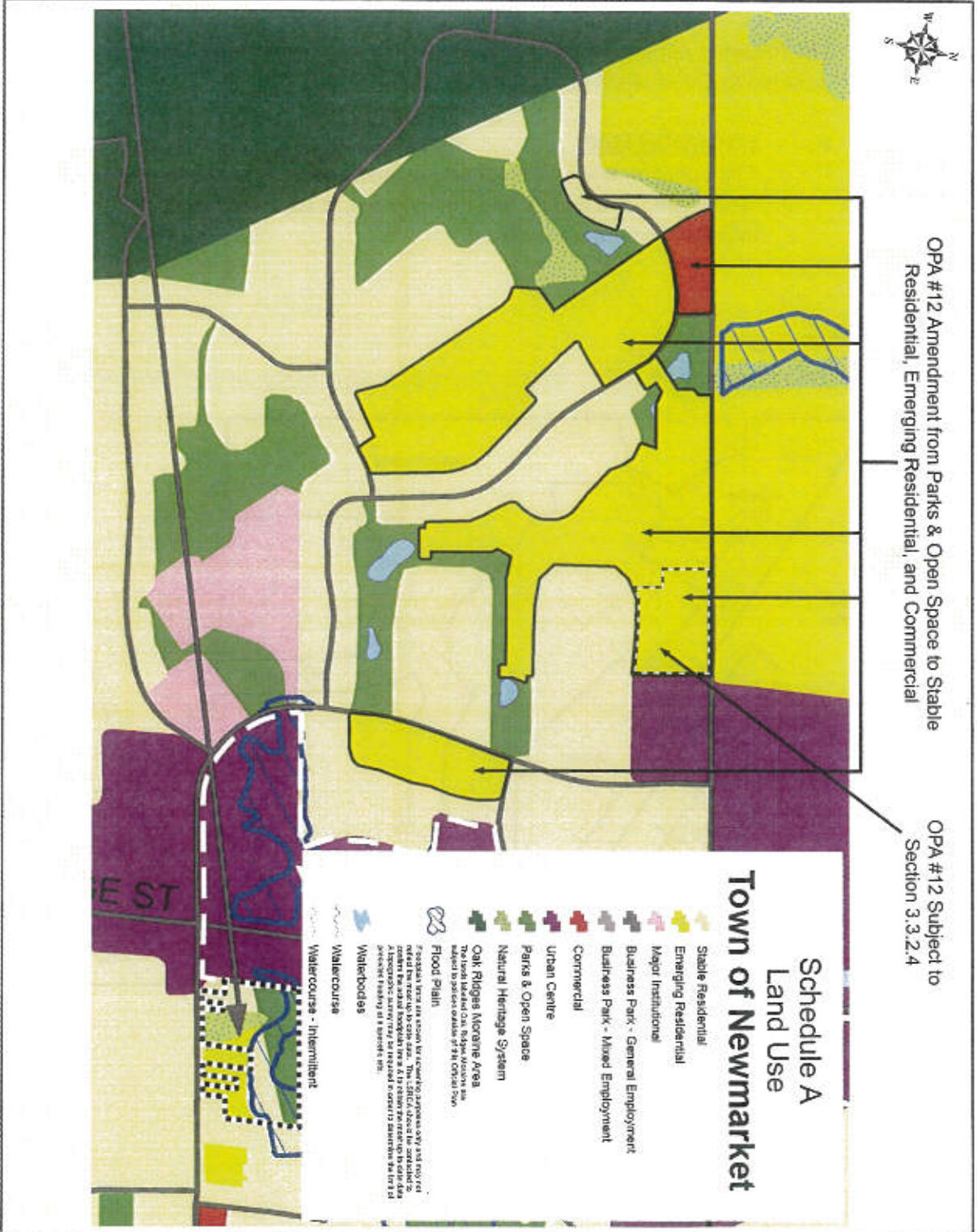
Schedule 1, showing the lands amended by this Amendment is attached hereto.

3. IMPLEMENTATION

This Amendment to the Official Plan will be implemented as follows:

- a) Zoning Bylaw
It is Council's intent to implement this Amendment in part by enacting an appropriate restricted area zoning by-law pursuant to the provisions of the *Planning Act*, on the Lands affected by this Amendment.
- b) Site Plan Control
It is Council's intent to implement this Amendment, the land use designations and policies of this Plan, and a high standard of site layout and design by requiring site plan approval on residential, commercial and institutional blocks within the lands affected by this Amendment pursuant to the provisions of the *Planning Act* and the Town's Site Plan Control Bylaw.

4. SCHEDULE 1



OPA #12 Amendment from Parks & Open Space to Stable Residential, Emerging Residential, and Commercial

OPA #12 Subject to Section 3.3.2.4

**Schedule A
Land Use
Town of Newmarket**

- Stable Residential
- Emerging Residential
- Major Institutions
- Business Park - General Employment
- Business Park - Mixed Employment
- Commercial
- Urban Centre
- Parks & Open Space
- Natural Heritage System
- Oak Ridges Moraine Area
The land labeled Oak Ridges Moraine Area is subject to special overlays of the Official Plan.
- Flood Plain
- Watercourses - Intermittent
- Watercourses
- Waterbodies

Provision for an action by a developer, municipality and/or other interested parties to the area. The Official Plan should be consulted to determine the actual height, area and other restrictions. The actual height, area and other restrictions are subject to the provisions of the Official Plan.

PART C: THE APPENDIX

The following appendix does not constitute part of this Amendment and is included for information purposes only.

1. **LOCATION MAP**

The Location Map, which shows the location of those parts of the subject lands being affected by this Amendment, is attached hereto for information purposes only.

LOCATION MAP



ATTACHMENT '2'

CORPORATION OF THE TOWN OF NEWMARKET BY-LAW NUMBER 2014-25

A BY-LAW TO AMEND BY-LAW NUMBER 2010-40 BEING A ZONING BY-LAW.

WHEREAS it is deemed advisable to amend By-law Number 2010-40 as amended;

BE IT THEREFORE ENACTED THAT By-law Number 2010-40, as amended, is hereby further amended by:

1. Delete from 2010-40 Schedule 'A', Map No. 8, the Open Space (OS-2-2, OS-2-32) Zone and substituting therefore on Schedule 'A', Map No. 8 the
Residential (R1-D) Zone;
Residential (R1-D -122) Zone;
Residential (R1-D-123) Zone;
Residential (R4-N-124) Zone;
Residential (R5-T-125) Zone;
Retail Commercial 2 (CR-2-126) Zone;
Retail Commercial 2 (CR-2-127) Zone;
Open Space (OS-1) Zone
as shown more particularly on Schedule "X" attached hereto.

2. Adding the following regulations relating to the R1-D-122 Zone to Section 8.1.1 List of Exceptions:

Exception 122	Zoning R1-D-122	Map 8	By-Law Reference 2014-25	File Reference D9NP1210 and 19TN 2012-001
i) Location: South of Davis Drive, Crossland Gate and Millard Avenue West				
ii) Legal Description: Lots to 7 to 69, Lots 71 to 158, Block 161				
iii) Notwithstanding any other provision of the by-law to the contrary, the following provisions shall apply to the lands zoned R1-D-122 shown on Schedule 'X' attached hereto				
Development Standards:				
(a) Minimum Yard Setback from Front Lot Line				7.0m
(b) Lots 7- 36, Lot 52, Lots 56-69, Lots 71-158, Block 161 Minimum Yard Setback from Rear Lot Line				8.0m
(c) Lots 37 - 51, 53-55 Minimum Yard Setback from Rear Lot Line				15.5m
(d) Lots 48 to 56 - Decks				
1) Maximum height				2.0 m
2) Maximum permitted encroachment into rear yard				3.6m

(e) Lots 116-118 -Uses	May also be used for an elementary school in accordance with the I-B zone regulations
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3. Adding the following regulations relating to the R1-D-123 Zone to Section 8.1.1 List of Exceptions:

Exception 123	Zoning R1-D-123	Map 8	By-Law Reference 2014-25	File Reference D9NP1210 and 19TN 2012-001										
<p>i) Location: South of Davis Drive, Crossland Gate and Millard Avenue West</p> <p>ii) Legal Description: Blocks 162 and 163</p> <p>iii) Notwithstanding any other provision of the by-law to the contrary, the following provisions shall apply to the lands zoned R1-D-123 shown on Schedule 'X' attached hereto</p> <p>Development Standards:</p> <table border="1"> <tr> <td>(a) Minimum Yard Setback from Front Lot Line</td> <td>4.5 m to dwelling 6.0m to garage</td> </tr> <tr> <td>(b) Minimum Yard Setback from Rear Lot Line</td> <td>8.5m</td> </tr> <tr> <td>(c) Maximum Lot Coverage</td> <td>37%</td> </tr> <tr> <td>(d) Maximum Height</td> <td>9.0m (1.5 storey)</td> </tr> <tr> <td>(e) Minimum Driveway Width</td> <td>6m</td> </tr> </table>					(a) Minimum Yard Setback from Front Lot Line	4.5 m to dwelling 6.0m to garage	(b) Minimum Yard Setback from Rear Lot Line	8.5m	(c) Maximum Lot Coverage	37%	(d) Maximum Height	9.0m (1.5 storey)	(e) Minimum Driveway Width	6m
(a) Minimum Yard Setback from Front Lot Line	4.5 m to dwelling 6.0m to garage													
(b) Minimum Yard Setback from Rear Lot Line	8.5m													
(c) Maximum Lot Coverage	37%													
(d) Maximum Height	9.0m (1.5 storey)													
(e) Minimum Driveway Width	6m													

4. Adding the following regulations relating to the R4-N-124 Zone to Section 8.1.1 List of Exceptions:

Exception 124	Zoning R4-N-124	Map 8	By-Law Reference 2014-25	File Reference D9NP1210 and 19TN 2012-001																				
<p>i) Location: South of Davis Drive, Crossland Gate and Alex Doner Drive</p> <p>ii) Legal Description: Blocks 159 and 160</p> <p>iii) Notwithstanding any other provision of the by-law to the contrary, the following provisions shall apply to the lands zoned R4-N-124 shown on Schedule 'X' attached hereto</p> <p>Development Standards:</p> <table border="1"> <tbody> <tr> <td>(a) Minimum Lot Area Per Dwelling Unit</td> <td>240m²</td> </tr> <tr> <td>(b) Front Lot Line of Block 160</td> <td>Street "B"</td> </tr> <tr> <td>(c) Minimum Lot Frontage</td> <td>3.0m per total parcel, with a minimum frontage on a common driveway of 5.5m per dwelling unit</td> </tr> <tr> <td>(d) Minimum Yard Setback from a Public Road</td> <td>4.0m</td> </tr> <tr> <td>(e) Minimum Yard Setback from Any Other Lot Line</td> <td>3.0m</td> </tr> <tr> <td>(f) Minimum Width of Landscaped Open Space Abutting an Existing Single-Detached Dwelling</td> <td>12.0m</td> </tr> <tr> <td>(g) Minimum Building Separation</td> <td>3.0m</td> </tr> <tr> <td>(h) Maximum Lot Coverage of Block</td> <td>35%</td> </tr> <tr> <td>(i) Maximum Height</td> <td>11.0m (3 storeys)</td> </tr> <tr> <td>(j) Minimum Private Amenity Space</td> <td>Block 159 3300m² Block 160 900m²</td> </tr> </tbody> </table>					(a) Minimum Lot Area Per Dwelling Unit	240m ²	(b) Front Lot Line of Block 160	Street "B"	(c) Minimum Lot Frontage	3.0m per total parcel, with a minimum frontage on a common driveway of 5.5m per dwelling unit	(d) Minimum Yard Setback from a Public Road	4.0m	(e) Minimum Yard Setback from Any Other Lot Line	3.0m	(f) Minimum Width of Landscaped Open Space Abutting an Existing Single-Detached Dwelling	12.0m	(g) Minimum Building Separation	3.0m	(h) Maximum Lot Coverage of Block	35%	(i) Maximum Height	11.0m (3 storeys)	(j) Minimum Private Amenity Space	Block 159 3300m ² Block 160 900m ²
(a) Minimum Lot Area Per Dwelling Unit	240m ²																							
(b) Front Lot Line of Block 160	Street "B"																							
(c) Minimum Lot Frontage	3.0m per total parcel, with a minimum frontage on a common driveway of 5.5m per dwelling unit																							
(d) Minimum Yard Setback from a Public Road	4.0m																							
(e) Minimum Yard Setback from Any Other Lot Line	3.0m																							
(f) Minimum Width of Landscaped Open Space Abutting an Existing Single-Detached Dwelling	12.0m																							
(g) Minimum Building Separation	3.0m																							
(h) Maximum Lot Coverage of Block	35%																							
(i) Maximum Height	11.0m (3 storeys)																							
(j) Minimum Private Amenity Space	Block 159 3300m ² Block 160 900m ²																							
<p>iv) All units within 12m of Davis Drive, Street 'B', Alex Doner Drive or Crossland Gate shall have a front entry door, but no garage, facing the public road and a second entry with garage facing an interior private road.</p>																								

5. Adding the following regulations relating to the R5-T-125 Zone to Section 8.1.1 List of Exceptions:

Exception 125	Zoning R5-T-125	Map 8	By-Law Reference 2014-25	File Reference D9NP1210 and 19TN 2012-001
<p>i) Location: South of Davis Drive, West of Eagle Street</p> <p>ii) Legal Description: Blocks 164</p> <p>iii) Notwithstanding any other provision of the by-law to the contrary, the following provisions shall apply to the lands zoned R5-T-125 shown on Schedule 'X' attached hereto</p>				
Development Standards:				
(a) Minimum Lot Frontage			14.0m	
(b) Maximum Number of Dwelling Units			298	
(c) Maximum Height			6 storeys (25.5m), except that no part of any building shall exceed the height of 4 storeys (18.8m) within a distance of 60.0m from the rear lot line of an existing single detached dwelling	
(d) Minimum Yard Setback from Rear Lot Line			30.0m	
(e) Minimum Width of Landscape Buffer Abutting the Rear Lot Line			30.0m	
(f) Minimum Private Amenity Space			1400m ²	
(g) The north lot line shall be deemed the front lot line			-	
(f) Uses			May also be used for an elementary school in accordance with the I-B zone regulations	

6. Adding the following regulations relating to the CR-2-126 Zone to Section 8.1.1 List of Exceptions:

Exception 126	Zoning CR-2-126	Map 8	By-Law Reference 2014-25	File Reference D9NP1210 and 19TN 2012-001
<p>i) Location: South of Davis Drive, West of Eagle Street</p> <p>ii) Legal Description: Block 165</p> <p>iii) Notwithstanding any other provision of the by-law to the contrary, the following provisions shall apply to the lands zoned CR-2-126 shown on Schedule 'X' attached hereto</p> <p>Uses: Residential Use - Live Work Unit</p> <p>Uses: Commercial - Art Gallery, Studio, Personal Service Shop, Retail Store, Office</p> <p>Uses: Elementary School in accordance with the I-B zone regulations</p> <p>Development Standards:</p>				
(a) Minimum Lot Area		0.35ha		
(b) Minimum Lot Frontage		60m on Street "B"		
(c) Front Lot Line		Street "B"		
(d) Minimum Yard Setback from a Public Road		4.0m		
(e) Maximum Lot Coverage		35%		
(f) Maximum gross floor area per Commercial Unit		60.0m ²		
(g) Location of Commercial Unit		Ground floor only		
(h) Parking for Residential Use		2 spaces per unit		
(i) Parking for Commercial Uses		1 space per unit for the first 40m ² gross floor area Gross floor area in excess of 40m ² shall provide parking in accordance with Section 5.3.2 of the By-law		
(j) Garage Location		Not permitted on the side of the building facing the street		
(k) Maximum Height		11.6m (3 storeys)		

7. Adding the following regulations relating to the CR-2-127 Zone to Section 8.1.1 List of Exceptions:

Exception 127	Zoning CR-2-127	Map 8	By-Law Reference 2014-25	File Reference D9NP1210 and 19TN 2012-001		
<p>i) Location: South of Davis Drive, West of Crossland Gate</p> <p>ii) Legal Description: Block 166</p> <p>iii) Uses: In addition to uses permitted in the CR-2 zone, a motor vehicle service station is permitted</p> <p>iv) Notwithstanding any other provision of the by-law to the contrary, the following provisions shall apply to the lands zoned CR-2-127 shown on Schedule 'X' attached hereto</p> <p>Development Standards:</p> <table border="1" data-bbox="185 730 1414 909"> <tr> <td data-bbox="185 730 1414 779">(a) Regulations relating to the motor vehicle service station shall be as set out in the CA Zone</td> </tr> <tr> <td data-bbox="185 779 1414 909">(b) Alex Doner Drive shall be deemed the front lot line</td> </tr> </table>					(a) Regulations relating to the motor vehicle service station shall be as set out in the CA Zone	(b) Alex Doner Drive shall be deemed the front lot line
(a) Regulations relating to the motor vehicle service station shall be as set out in the CA Zone						
(b) Alex Doner Drive shall be deemed the front lot line						

8. Adding the following to Section 8.2.1 List of Holding Provisions:

By-Law No.	Property Description	Permitted Uses Until Holding Provision Removed	Conditions for Removal	Date Enacted
2014-25	Lots 1-158, Blocks 159, 160, 161, 162, 163, 164 and 165 as set out on 19TN 2012-001	<p>No person within the lands zoned (H) R1-D (H)R1-D-122, (H)R1-D-123, (H)R4-N-124, (H)R5-T-125, (H)CR-2-126 Zone shall use any lot or erect, alter or use any buildings or structures for any purpose except for those uses which existed on the date of passing of this By-Law.</p> <p>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, as identified in the next column, is approved by the Council of the Corporation of the Town of Newmarket and comes into full force and effect.</p> <p>However, the Holding provision will not prevent the construction of model homes, a sales office and/or in-ground and above ground services if deemed appropriate and desirable by the Town.</p>	<ul style="list-style-type: none"> • That sufficient servicing capacity is available, and has been allocated by the Town; • That the Owner has signed the Town's subdivision agreement and has posted all performance security contemplated therein; • For Blocks 159, 160, 161, 162, 163, 164, 165 and 166, that the Owner has signed a Town site plan agreement and has posted all performance security contemplated therein. 	April 2014

2014-25	Block 166 as set out on 19TN 2012-001	<p>No person within the lands zoned (H) CR-2-127 Zone shall use any lot or erect, alter or use any buildings or structures for a new land use that involves the storage of petroleum based fuels and solvents, unless an amendment to this By-Law or removal of the '(H)' prefix, as identified in the next column, is approved by the Council of the Corporation of the Town of Newmarket and comes into full force and effect.</p>	<p>That a Source Water Impact Assessment and Mitigation Plan is submitted and approved by the Region of York.</p>	
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9. AND THAT all other provisions of By-Law 2010-40, as amended, shall apply to the lands subject to this By-Law.



KEY PLAN



DRAFT PLAN OF SUBDIVISION

LOCALITY: ...
 BLOCK: ...
 SECTION: ...
 TOWN: ...
 COUNTY: ...

PROPOSED 480 UNITS AND 400 ACRES
 ...
 ...

OWNER'S CERTIFICATE
 ...
 ...

Lot No.	Area (Acres)	Area (Sq. Ft.)
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 A TRISTAR COMPANY
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ATTACHMENT '4'

Conditions of Draft Approval
Plan of Subdivision 19TN 2012-001
Marianneville Developments Limited
Page 1

THE CONDITIONS OF THE COUNCIL OF THE TOWN OF NEWMARKET TO BE SATISFIED PRIOR TO RELEASE FOR REGISTRATION OF PLAN OF SUBDIVISION 19TN 2012-001 ARE AS FOLLOWS:

General

- (1) That draft approval shall relate to the draft plan of subdivision prepared by Zelinka Priamo Ltd., dated March 2014 (revised April 3, 2014) showing Lots 1 through 115 inclusive, Lots 119 through 158 inclusive for single detached units, Blocks 161 through 163 for residential condominium blocks for single detached units, Lots 116-118 inclusive for single detached units or a future institutional use, Block 159 and 160 for medium density residential units, Block 164 for high density residential units or a future institutional use, Block 165 for mixed use units or a future institutional use, Block 166 for a commercial use, Block 167 for park purposes, Blocks 168 to 171 inclusive for storm water management and draining purposes, and Streets "A", "B", "C" and "D". **(Planning & Building Services)**
- (2) The road allowances included within this draft plan of subdivision shall be dedicated as public highways without monetary consideration and free of all encumbrances. **(Legal Services)**
- (3) The road allowances included within this draft plan of subdivision shall be named to the satisfaction of the Town of Newmarket and the Regional Municipality of York. **(Planning & Building Services)**
- (4) Any dead ends or open sides of road allowances created by this draft plan of subdivision shall be terminated in 0.3 metre reserves, to be conveyed to the Town of Newmarket, without monetary consideration and free of all encumbrances, to be held by the Town of Newmarket until required for future road allowances or the development of adjacent lands. **(Legal Services, Planning & Building Services and Engineering Services)**
- (5) The Owner shall enter into a Subdivision Agreement with the Town of Newmarket, which will include agreeing to satisfy all draft plan conditions, financial and otherwise, prior to final approval. The subdivision agreement will be registered by the Town of Newmarket against the lands to which it applies as provided for in the Planning Act. **(Legal Services)**

- (6) The Owner shall agree in the Subdivision Agreement that lot geometry and street alignments and the total number of lots may have to be varied or adjusted to accommodate the Subdivision design, to the satisfaction of the Town and all other authorities having jurisdiction in the matter. The Owner shall further agree that as a result of revisions to the Plan of Subdivision it may be necessary to amend or revise the other conditions of draft approval accordingly. **(Planning & Building Services)**
- (7) The Owner shall agree in the Subdivision Agreement to convey to the Town, without monetary consideration and free of all encumbrances, Block 166 for Parks purposes; Further, the Owner shall include a clause in all offers of purchase and sale and within the subdivision agreement, in wording acceptable to the Town, for all lots or blocks abutting said Blocks, advising of its function. **(Planning & Building Services and Legal Services)**
- (8) Prior to final approval the Owner shall demonstrate that arrangements for the provision of external roads and municipal services have been made to the satisfaction of the Director of Engineering Services and all other authorities having jurisdiction. **(Engineering Services)**
- (9) The Owner shall agree in the Subdivision Agreement to make payment to the Town for all applicable Development Charges, in accordance with the Town's Development Charges By-law which is in effect at the time. **(Finance Department and Legal Services)**
- (10) Prior to final approval, arrangements shall be made to secure permanent access to a public highway to this draft plan of subdivision by way of a dedicated, constructed and paved public roadway, to the satisfaction of the Director of Engineering Services, the Municipal Solicitor and, if applicable, the Regional Municipality of York. **(Engineering Services)**
- (11) The lands within this draft plan of subdivision shall be appropriately zoned by a Zoning By-law which has come into effect in accordance with the provisions of the Planning Act. The Holding provisions of Section 36 of the Planning Act shall be used in conjunction with any zone categories to be applied to the subject lands in order to ensure that development does not occur until such time as the Holding "H" symbol is removed in accordance with the provisions of the Planning Act. The Zoning Bylaw Amendment shall specify the terms under which Council may consider the removal of the Holding "H" symbol, in accordance with Official Plan policy; said terms may include:

- (i) That sufficient servicing capacity is available, and has been allocated by the Town;
 - (ii) That the Owner has signed the Town's subdivision agreement and posted all performance security contemplated therein; and
 - (iii) For Blocks 159, 160, 161, 162, 163, 164, 165 and 166, that the Owner has signed a Town site plan agreement and has posted all performance security contemplated therein. **(Planning & Building Services)**

- (12) Such easements as may be required for public utility, servicing or drainage purposes shall be granted to the appropriate authority, without monetary consideration and free of all encumbrances. **(Engineering Services and Legal Services)**

- (13) Prior to Final Approval the Owner shall agree to prepare a Tree Preservation, Protection, Replacement and Enhancement Plan to the satisfaction and acceptance by the Town of Newmarket. The Owner shall further agree prior to Final Approval not to remove any trees without the written approval of the Director of Planning and Building Services of the Town of Newmarket, as directed by Council, and carry out or cause to be carried out the recommendations made in the said accepted Plan. In the event that a tree identified as "preserved" on the Plan is destroyed or irreparably damaged, as determined by the Town of Newmarket, as a result of construction, tree planting and/or other associated works, the Owner shall agree in the subdivision agreement to replace such a tree with one of suitable species, health and size to the satisfaction of the Town of Newmarket. **(Planning & Building Services)**

- (14) The Owner shall agree in the Subdivision Agreement that all lots or blocks to be left vacant for longer than a specified length of time, and all portions of public highways which are not paved, together with all drainage swales, shall be graded, seeded and/or sodded, and maintained to the satisfaction of the Director of Engineering Services. The Owner shall further agree in the Subdivision Agreement that the balance of lands subject to later phases of development shall be maintained in accordance with the Property Standards Policies and By-laws of the Town, and that such measures such as signage and/or fencing may be required to ensure no unauthorized dumping, filling or access in relation to the lands occurs. **(Engineering Services)**

- (15) Prior to final approval the Owner shall provide, to the satisfaction of the Town of Newmarket, comprehensive Urban Design/Architectural Design Guidelines dealing with such matters as street furniture, streetscape, boulevard planting, pedestrian linkages, bicycle paths, entrance features and architectural compatibility within the development and with adjacent development. **(Planning & Building Services)**

- (16) The Owner shall agree in the Subdivision Agreement to establish an urban design/architectural review and implementation protocol to be carried out during the construction of the plan to the satisfaction of the Town of Newmarket. **(Planning & Building Services)**

- (17) Prior to the registration of this Draft Plan of Subdivision or any phase thereof, the Owner shall have a Professional Consulting Engineer submit to the Town of Newmarket for review and acceptance a report or reports describing the manner in which stormwater will be conveyed from the site, including overland flow routes, storm drainage outlets and any other stormwater management techniques that may be required in accordance with the Provincial "Stormwater Quality Best Management Practices", the "Stormwater Management Practices Planning and Design Manual" and as outlined in the reports submitted in support of the draft plan application. The report shall address both water quantity and quality, particularly the impact of the proposed stormwater management techniques on the water quality of receiving waters as it relates to fish and fish habitat. In addition, the report or reports shall detail the means whereby erosion and siltation and their effect will be minimized on the lands within this draft plan of subdivision both during and after the construction period. Further, the Owner shall agree in the subdivision agreement to carry out or cause to be carried out, the recommendations and measures of the said report(s), as accepted by the Town, and to maintain all stormwater management and erosion and sedimentation control structures operating and in good repair, during the construction period, in a manner satisfactory to the Town of Newmarket. **(Planning and Building / Engineering Services)**

- (18) The Owner shall agree in the subdivision agreement to include a clause on all offers of purchase and sale in wording acceptable to the Town of Newmarket for any lots or blocks abutting the stormwater management facilities, the prime purpose of which is water quality and quantity control, advising of the function of the area and that the area will be left in its natural state to contribute to that function. **(Engineering Services)**

- (19) Prior to the registration of this draft plan of subdivision or any phase thereof, the Owner shall have a Professional Consulting Engineer submit to the Town of Newmarket for review and acceptance an Engineering Report or Reports, identifying the specific means by which water distribution, sanitary drainage, including storm water management and overland flow routes, grading, roads and sidewalks will be provided, including the identification of any blocks and/or easements that will be required for municipal servicing and/or storm drainage. A water distribution analysis shall be included to confirm that flows and pressures in accordance with Town of Newmarket Standards will be attained for all lots and blocks in this plan of subdivision. The report shall also analyse water quality and make recommendations regarding watermain sizing and looping required to ensure that potable water is available at all times once the watermain is commissioned in this subdivision. Further, the Owner shall agree in the subdivision agreement to be responsible, financially and otherwise, for the implementation of all recommendations set out in the said reports, as accepted, including any lot redesign that may be necessary, to the satisfaction of the Town of Newmarket and all other authorities having jurisdiction. **(Engineering Services)**
- (20) Prior to final approval, the Owner shall have a Professional Consulting Traffic Engineer prepare, to the satisfaction of the Town of Newmarket and the Regional Municipality of York, a Traffic Impact Study and Traffic Functional Design Report. The reports shall address the internal and external traffic implications of this development, including but not limited to the functional classification and design of roadways proposed within this draft plan of subdivision and confirmation that the proposed road configuration can safely provide for vehicular, transit and pedestrian traffic. The reports shall identify any external road improvements required for this subdivision, make recommendations for sidewalk locations, on-street parking locations and prohibitions, and provide an analysis of sight distances and stopping distances. In addition the reports shall address all outstanding comments provided by the Town's Consulting Engineer as part of the Draft Plan review process. Further, the Owner shall agree in the subdivision agreement to carry out or cause to be carried out the recommendations and measures of the said Traffic Reports as accepted by the Town of Newmarket. **(Engineering Services)**
- (21) The Owner shall agree in the Subdivision Agreement to have a qualified consultant prepare, to the satisfaction of the Town of Newmarket, a Noise Impact and Attenuation Study. Further, the Owner shall agree in the Subdivision Agreement that any noise attenuation measures including warning clauses and any noise control features, including landscaping, berming and/or screening for aesthetic purposes, which are recommended by the said

approved study and as accepted by the Town, shall be implemented at the Owner's expense. **(Planning & Building Services)**

- (22) Prior to commencement of the construction including grading or pre-servicing of this plan or any portion thereof, the Owner shall submit to the Town of Newmarket a report from a Qualified Person (QP) as defined by the Ministry of the Environment, stating that to the best of the QP's knowledge all lands within the Plan of Subdivision, including all lands and easements to be conveyed to the Town and/or other public authority, and any lands to be used for development purposes or retained in private ownership, are free of any Hazardous Substance, as defined by the Town. A Phase 1 Environmental Site Assessment (ESA) specifically addressed to the Town, together with any subsequent Assessments as are required may be considered acceptable. The aforementioned Phase 1 ESA and related work shall be completed as per O. Reg. 153/04 as amended or a successor thereto. The Environmental Certification shall be accepted by the Town, and any other authority having jurisdiction in the matter, prior to the commencement of any development or construction on the lands, including any grading, pre-servicing, and/or model homes. **(Engineering Services)**
- (23) In the event that the Phase 1 ESA identifies the potential for any Hazardous Substance on, near or adjacent to the Plan, prior to Final Approval a Phase 2 Environmental Site Assessment, and/or a complete, full depth, "pristine state" clean-up of the site, including the preparation of and carrying out of a remediation/restoration plan for the Property or any affected lands nearby, and/or any other measures as deemed appropriate, shall be done to the satisfaction of the Town and any other governmental body having jurisdiction. Where a Phase 2 Environmental Site Assessment is required, it shall be done to CSA Standard CAN/CSA-Z769-00 under O.Reg. 153/04, or a successor thereto. The Owner shall agree in the Subdivision Agreement to implement such measures and/or any site clean-up and any related studies, reports and remediation plans and other requirements in accordance with all applicable Environmental Law, and at the Owner's sole expense. **(Engineering Services)**
- (24) The Owner shall agree in the Subdivision Agreement that where a Phase 1 ESA has been undertaken within the Plan, that did not identify any potential for any Hazardous Substance but where subsequent investigations identify Hazardous Substances on the lands within the Plan, a Phase 2 Environmental Site Assessment, and/or a complete, full depth, "pristine state" clean-up of the site, including the preparation of and carrying out of a remediation/restoration plan for the Property shall be carried out at the sole expense of the Owner, and to the satisfaction of the Town prior to any

transfer of the lands and/or construction or development. **(Engineering Services)**

- (25) The Owner shall agree in the Subdivision Agreement that all Environmental studies, reports, assessments and certifications shall be subject to Peer review by the Town, at the Owner's expense. **(Engineering Services)**
- (26) The Owner shall agree in the Subdivision Agreement that in the event that a Hazardous Substance has been determined to exist on, or adjacent to, any portion of the Property intended to be conveyed to the Town, the Town, without relieving the Owner of the requirement to complete the transfer, may in its sole discretion instruct the Owner to do, one or more of the following:
- I. defer the transfer of some, or all, of the Property until such time as the clean-up requirements or other measures described herein have been completed to the Town's satisfaction;
 - II. provide a cash payment or other additional securities to guarantee the clean-up of the Property;
 - III. issue a stop work order on all construction and development related to a portion of, or the entire Plan of Subdivision;
 - IV. undertake a Risk Assessment and/or provide a Record of Site Condition, in accordance with Ontario Regulation 153/04 under the Environmental Protection Act or a successor thereto;
 - V. defer registration of a portion of, or the entire Plan of Subdivision; and
 - VI. amend the Draft Conditions of Approval for the Plan of Subdivision to deal with any unforeseen environmental issues,

Further, the Owner shall agree in the Subdivision Agreement to carry out or cause to be carried out any of the foregoing, as may be directed by the Town. The Owner further agrees to cooperate with the Town in regards to their implementation. **(Engineering Services and Legal Services)**

- (27) Prior to any site grading and prior to final approval, a Study shall be prepared by a Qualified Person (QP) as defined by the Ministry of the Environment, that identifies and documents all sites and buildings of historical and/or archeological significance, and specifies preservation strategies for such sites

and buildings within the Plan. This Study shall be prepared to the satisfaction of the Director of Planning and Building Services, in consultation with the Ministry of Tourism, Culture and Sport. Where suitable, such sites and/or buildings shall be incorporated into the development in a manner appropriate to their historical and/or archeological significance. The Owner shall agree in the Subdivision Agreement to carry out or cause to be carried out the recommendations and measures contained within the said Study, as accepted by the Town. **(Planning & Building Services/Chief Building Official)**

- (28) The Owner shall agree in the subdivision agreement that the location and design of the construction access for the subdivision work shall be provided only as approved by the Town of Newmarket and, if applicable, the Regional Municipality of York. **(Engineering Services)**
- (29) Such lands as may be required for temporary road construction, permanent walkways and utility corridors and storm drainage shall be conveyed to the Town of Newmarket without monetary consideration and free of all encumbrances. **(Engineering Services and Legal Services)**
- (30) Prior to final approval and the commencement of construction, the Owner shall agree to provide to the Director of Engineering Services, for its review and acceptance, engineering drawings, and to construct to the satisfaction of the Director Engineering Services, planned road works, watermain, sanitary and storm sewers, and stormwater management works, including approved connections to existing systems, both within and external to this draft plan of subdivision. In addition, the engineering drawings shall include site grading, construction access location(s), mud mat design, utility location plans and landscape plans. The designs contained within said engineering drawings shall be consistent with all Town accepted reports, studies, plans and recommendations, as contemplated in the other draft conditions contained herein. Such engineering designs shall also identify any lands external to this plan which are required to be conveyed or dedicated as easements to the Town of Newmarket either of a permanent or temporary nature. Further, the Owner shall agree in the Subdivision Agreement to be responsible, financially or otherwise, for the construction of the above noted works. The said Subdivision Agreement shall also establish a mechanism, to the satisfaction of the Director of Engineering Services and the Municipal Solicitor, for any conveyances or dedications. Further, where any engineering infrastructure is required in environmental and/or open space areas, the Owner's consultant shall submit for the review and approval of the Town of Newmarket or any affected regulatory agency, alternative proposals which identify and evaluate the advantages and disadvantages of each alternative. Mitigation methods

shall be considered and proposed which reduces impacts of the proposed works. The Owner shall agree in the Subdivision Agreement to carry out or cause to be carried out the Town accepted recommended proposal. **(Engineering Services)**

- (31) The Owner shall agree in the Subdivision Agreement that roads, services, and other works installed by the Owner shall be in accordance with the standards and specifications of the Town of Newmarket, and shall include watermains, sanitary sewage works, storm sewage works, adequate pavement width for roadways, curbs, gutters, street lighting, regulatory signs, street signs, transit facilities, community mail boxes, intersection design including daylighting or sight triangles and 0.3 metre reserves, temporary turning circles, and any other services or facilities as required. **(Engineering Services)**
- (32) The Owner shall provide a report to the satisfaction of the Director of Engineering Services and the Chief Building Official that confirms how adequate road access, sanitary sewers, storm drainage facilities and in particular, water supply and storage have been provided for to support the issuance of building permits and ultimately occupancy permits. Further, the Owner shall agree in the Subdivision Agreement that no building permits will be applied for, or issued, until the Director of Engineering Services and the Chief Building Official is satisfied that such services are available to service the proposed development, have been allocated by the Town, and such as has been confirmed by any other agency having jurisdiction. **(Engineering Services/Chief Building Official/Planning & Building Services)**
- (33) The Owner shall agree in the Subdivision Agreement to grant access, on reasonable terms and conditions, to any telecommunications service provider indicating an interest to locate within a municipal right-of-way. **(Legal Services)**
- (34) Prior to final approval, any telecommunications service provider intending to locate within a municipal right-of-way shall enter into a Municipal Access Agreement with the Town of Newmarket to satisfy all conditions, financial and otherwise, or shall have made arrangements satisfactory to the Town of Newmarket for the execution of a Municipal Access Agreement. **(Legal Services)**
- (35) The Owner shall agree in the subdivision agreement to make available to all perspective purchasers of residential units within the subdivision, and to display in a prominent location within the sales office, the following:

- (a) the latest version of the approved draft plan;
 - (b) the proposed location of any and all sidewalks, street furniture, community mail boxes, parks (including all recreational facilities to be provided), schools, open space areas, environmental protection areas, stormwater management facilities, landscaping, entranceway features, special features such as tiered retaining walls or similar structures, special lot grading, noise attenuation measures (both internal and external to the dwelling unit), erosion control facilities, buffer areas, watercourses, accurate representations of proposed and existing surrounding land uses within 150 metres of the boundaries of the draft plan, and any proposed warning clauses or restrictive covenants to be registered on title;
 - (c) a copy of the approved zoning by-law for the lands, together with the subdivision agreement (when approved by the Town of Newmarket); and
 - (d) any other requirements as may be set out in the Subdivision Agreement.
- (36) Further, the Owner shall agree to keep all of the above material up-to-date, and reflect the most current approvals, and/or submissions regarding the plan, and/or engineering design drawings. Prior to final approval, the owner shall provide a copy of all sales material and promotional literature currently used at the sales office, along with a letter from the Owner/Developer confirming that the sales and promotional literature complies with all Agency and Departmental approvals obtained to date to the Director of Planning and Building Services. **(Planning & Building Services)**
- (37) The Owner acknowledges in the Subdivision Agreement that the Town of Newmarket has a servicing allocation policy as approved by the Town and as amended from time to time, and that the policy applies to this development. **(Planning & Building Services)**
- (38) The Owner shall agree in the Subdivision Agreement to include a clause in all offers of purchase and sale, in wording acceptable to the Town of Newmarket, for all lots or blocks within the plan of subdivision, advising of nearby active farm operations and the potential for impacts associated with such operations. **(Legal Services)**

- (39) Prior to final approval, the York Region District School Board shall have confirmed to the Town of Newmarket that pupil places exist within the Town of Newmarket for all pupils emanating from the subdivision. **(Planning & Building Services)**
- (40) The Owner shall agree in the Subdivision Agreement to prepare, to the satisfaction of the Town, a Homeowner's Manual which shall be distributed to all purchasers which outlines:
- a) the Town's waste diversion and recycling programs and proper usage of the bins;
 - b) the environmental sensitivity of the open space areas and trail systems and provides educational material regarding disturbances from residential development and the role that individual homeowners can have such as yard waste composting, reduced fertilizer and pesticide use, natural area re-vegetation, impacts of noise and lighting, domestic pet impacts and controls, invasive plant spreading and discharge of swimming pool water. **(Planning & Building Services and Engineering Services)**
- (41) The Owner shall agree in the Subdivision Agreement to pay the Town the cost for the recycling containers (three recycling containers, one Blue box, one Green Bin and one Kitchen collector) required for the Plan of Subdivision and provide said containers to each purchaser at the time of occupancy. **(Engineering Services)**
- (42) Where required by the Town, the Owner shall agree in the Subdivision Agreement, where applicable, to cause warning clauses, in wording satisfactory to the Town, to be included in all offers of purchase and sale, and to be registered on title, for all lots or blocks within the Plan of Subdivision affected by the following matters:
- (a) Mail from a community mailbox;
 - (b) Street trees;
 - (c) Traffic calming measures;
 - (d) Lots fronting on a collector road;
 - (e) Transit routes;
 - (f) Temporary cul-de-sacs and turning circles;
 - (g) Proximity to active farms and agricultural uses;
 - (h) Stormwater management facilities;

- (i) Subdivision design features and landscaping features and/or special features;
- (j) Noise;
- (k) Illumination of athletic fields;
- (l) Lands abutting a trail system;
- (m) Open Space Lands to remain in their natural state;
- (n) Extended footings and engineered fill;
- (o) Lot grading and preservation of existing vegetation;
- (p) Basement walk-outs and access to rear yard;
- (q) Rear lot catch basins;
- (r) Private gates to open space areas and stormwater management ponds; and
- (s) Carbon monoxide detectors.

(Planning & Building Services/Legal Services)

- (43) The Owner shall agree in the Subdivision Agreement to provide to all potential purchasers and future landowners, appropriate notice, warnings, and/or restrictions, in wording acceptable to the Town, where the Plan, or implementing design thereof, requires the construction or installation of any subdivision or landscape design features, special features and/or special landscape features, such as retaining walls, tiered retaining walls or similar structures, entrance features, special fencing, other special features or devices, special lot grading, excessive lot grading or the construction of other landforms. The manner of such notice, warnings, and/or restrictions, as determined by the Town, shall be set out in the Subdivision Agreement, and shall fully disclose the details of the said Features for all affected and/or abutting lots or blocks. The Owner shall agree in the Subdivision Agreement to guarantee the perpetual maintenance of the said Features, where required by the Town, with respect to the cost of maintenance and periodic renewal/replacement of such Features, and to provide for or maintain such Special Features in perpetuity. The Owner shall further agree in the Subdivision Agreement to provide easements in favour of the Town, for the purposes of maintenance, where required. **(Legal Services)**
- (44) Prior to final approval, the owner shall agree to provide a Compatibility Interface Plan where this draft Plan of Subdivision abuts existing residential development to the satisfaction of the Town. The Compatibility Interface Plan may include but not be limited to fencing, retaining walls, landscaping, and grading, in the context of building setbacks and height, in an effort to ensure compatibility of this draft Plan of Subdivision with the established adjacent residential uses. For lots 25 to 56 inclusive, a 2 meter high wood privacy

fencing along the rear of the lots shall be included within the Compatibility Interface Plan.

- (45) The Architectural Control Guidelines required by Condition 15 and 16 shall identify controls for the rear of the proposed homes which abut existing residential development with enhanced controls required for all walk out type homes. **(Planning & Building Services/Engineering Services)**
- (46) Prior to the registration of this draft plan of subdivision or any phase thereof, the Owner shall have a Professional Consulting Engineer submit to the Town of Newmarket for review and acceptance a report or reports describing the manner in which emergency overflow will be conveyed from Stormwater Management Pond 9 (as referenced in Cole Engineering's Functional Servicing Report dated November 2013) located on Block 168. The report shall specifically confirm that an emergency pond overflow sized in accordance with Town Standards will be provided which protects properties impacted by this development from flooding as a result of works associated with this development. Should it be determined that any external downstream improvements are required to provide the emergency overflow, the cost for the design and construction of any such improvements will be the sole responsibility of the developer. **(Engineering Services)**
- (47) The Owner shall agree in the subdivision agreement to provide an easement to the Town of Newmarket across Block 162 for the purposes of accessing and maintaining a storm sewer to the satisfaction of the Town's Director of Engineering Services and the Municipal Solicitor. The purpose of the storm sewer is to convey storm drainage from Street B to the stormwater management pond located on Block 168. **(Engineering Services)**
- (48) Prior to the registration of this draft plan of subdivision or any phase thereof, the Owner shall have a Professional Consulting Engineer design a storm sewer system to collect drainage from the existing subdrain system located in the rear yards of the existing properties on Fairway Gardens which will be impacted by this development. The system shall be designed to the satisfaction of the Town's Director of Engineering Services. Further, the Owner shall agree in the Subdivision Agreement to be responsible, financially or otherwise, for the construction of the above noted works. The Owner shall agree in the Subdivision Agreement to convey an easement or easements to the Town of Newmarket for the purposes of accessing and maintaining the storm sewer system sewer to the satisfaction of the Town's Director of Engineering Services and the Municipal Solicitor. **(Engineering Services)**

- (49) The Owner shall agree to have a Professional Consulting Engineer submit an updated Functional Servicing Report to the satisfaction of the Director of Engineering Services which addresses all outstanding comments provided by the Town's Consulting Engineers as part of the draft plan review process. The report shall be submitted and deemed acceptable to the Director of Engineering Services in advance of the Owner making a first detailed engineering design submission to the Town. **(Engineering Services)**
- (50) Prior to registration of any phase of the plan, the Owner shall complete an analysis of the existing sanitary sewer system to determine if adequate capacity exists in the system to accommodate sanitary flows from this development. The analysis shall determine the existing flows in the system and flows expected to be generated by this development. If it is determined that improvements are required to the existing sanitary sewage system to accommodate flows from this development, the developer will be solely responsible for the cost to implement the improvements. The analysis and any improvements deemed necessary to the sanitary system shall be carried out to the satisfaction of the Town's Director of Engineering Services. The physical construction of all improvements (or financial contribution towards future improvements by the Town) deemed necessary shall be completed prior to registration of the first phase of this development or as recommended by the study. **(Engineering Services)**
- (51) The Owner shall agree that Block 161 will be developed as a private condominium. The Owner further agrees that all slopes, retaining walls, grading and tree protection zones located in the rear yards of the lots proposed on Block 161 which are not considered part of the useable rear yard amenity area will be included as common elements for the condominium corporation created through the development of Block 161. **(Engineering Services)**
- (52) Prior to registration of any plan including lots 25 to 33 on Street A, the Owner shall have a Professional Consulting Engineer submit to the Director of Engineering Services and Director of Planning, detailed engineering plans for the retaining walls being proposed at the rear of these lots. The design shall provide a finish on the exposed wall face which provides an aesthetically pleasing appearance. A wood privacy fence 2.0 metres in height shall be constructed at the rear of the lots concurrent with the retaining wall. **(Engineering Services)**
- (53) The Owner shall agree in any Subdivision Agreement which includes any of the commercial, medium density or institutional/high density blocks (Blocks 159, 160, 164, 165 and 166 as shown on the Draft Plan) that additional traffic studies may be required by the Town at the Site Plan Approval stage. **(Engineering Services)**

- (54) The Owner shall agree in the Subdivision Agreement to design and construct, to the satisfaction of the Director of Engineering Services, an emergency access road linking Street B to either Crossland Gate or Eagle Street concurrent with the design and construction of Street B. This shall include the conveyance of any easements to the Town of Newmarket as required to the satisfaction of the Town's Director of Engineering Services and the Municipal Solicitor. **(Engineering Services)**

- (55) Prior to commencement of construction including grading or pre-servicing of this plan or any portion thereof, or registration of any phase of the plan, the Owner shall provide an acknowledgement from the MOE that a Record of Site Condition (RSC) has been filed for the property or must provide a letter from the MOE stating that a RSC is not required for the proposed change in land use of the property. **(Engineering Services)**

- (56) That the owner agrees to include wording in the Offers of Purchase and Sale and to register a notice on title for lots 25 to 33, 85 to 89, 91 to 101, 105, 106 and Block 162 advising that due to the presence of easements or retaining walls on the lots/blocks it may not be possible to construct swimming pools within the rear yards. **(Engineering Services)**

Regional Municipality of York Conditions

- (57) Prior to final approval York Region shall confirm that adequate water supply and sewage servicing capacity are available and have been allocated by the Town of Newmarket for the development proposed within this draft plan of subdivision or any phase thereof. Registration of the plan of subdivision may occur in phases based on the availability of water supply and sewage servicing allocation.

- (58) The road allowances included within this draft plan of subdivision shall be named to the satisfaction of the Town of Newmarket and the Regional Transportation and Community Planning Department.

- (59) The Owner shall agree in the Subdivision Agreement that the Owner shall save harmless the Town of Newmarket and York Region from any claim or action as a result of water or sanitary sewer service not being available when anticipated.

- (60) The Functional Servicing Report (FSR) prepared by Cole Engineering (March 2012) shall be revised to the satisfaction of York Region.

- (61) For all lands, the Holding (H) provisions of Section 36 of the Ontario Planning Act shall be used in conjunction with all residential zone categories in order to ensure that final plan approval and development of these lands does not occur until such time as the Holding (H) symbol is removed in accordance with the provisions of the Ontario Planning Act. The Zoning Bylaw shall specify the terms under which Council may consider the removal of the Holding (H) symbol. Said terms shall include a minimum of the following:
- a) the Town of Newmarket approves a transfer of servicing allocation to this development that is not dependent upon the completion of infrastructure; or,
 - b) York Region has advised in writing that the required infrastructure to support the capacity assignment associated with this development will be completed within a time period acceptable to the Region to permit the plan registration; or,
 - c) the Regional Commissioner of Environmental Services confirms servicing allocation for this development by a suitable alternative method and the Town of Newmarket allocates the capacity to this development.
- (62) The Owner shall agree in the Subdivision Agreement that any direct connection to a York Region water or wastewater system requires Regional approval prior to construction. Engineering drawings showing details of the connection shall be submitted for approval.
- (63) The Owner shall agree in the Subdivision Agreement to update the Traffic Impact Study (TIS), dated March 2012 and prepared by Cole Engineering, to the satisfaction of the Transportation Planning Branch of the York Region Transportation and Community Planning Department.
- (64) The Owner shall agree in the Subdivision Agreement to implement a comprehensive Transportation Demand Management (TDM) program in support of the proposed development and to address the capacity constraints in this study area to the satisfaction of York Region and the Town of Newmarket. The TDM program must identify TDM measures, associated costs, as well as implementation and monitoring. York Region and the Town of Newmarket will not assume any financial responsibility for implementing the provision of the TDM Program.

- (65) Prior to final approval, the Owner shall have prepared, by a qualified professional transportation consultant, a functional transportation report/plan outlining the required Regional road improvements for this subdivision. The report/plan, submitted to the Transportation and Community Planning Department for review and approval, shall explain all transportation issues and shall recommend mitigative measures for these issues.
- (66) Prior to final approval, the Owner shall agree in the Subdivision Agreement to implement the recommendations of the functional transportation report/plan as approved by the Transportation and Community Planning Department.
- (67) Prior to final approval, the Owner shall submit detailed engineering drawings, to the Transportation and Community Planning Department for review and approval, that incorporate the recommendations of the functional transportation report/plan as approved by the Transportation and Community Planning Department. Additionally, the engineering drawings shall include the subdivision storm drainage system, erosion and siltation control plans, site grading and servicing, plan and profile drawings for the proposed intersections, construction access and mud mat design, utility and underground servicing location plans, pavement markings, electrical drawings for intersection signalization and illumination design, traffic control/construction staging plans and landscape plans.
- (68) Prior to final approval, the Owner shall provide drawings for the proposed servicing of the site to be reviewed by the Engineering Department of the area municipality. Three (3) sets of engineering drawings (stamped and signed by a professional engineer), and MOE forms together with any supporting information, shall be submitted to the Transportation and Community Planning Department, Attention: Mrs. Eva Pulnicki, P.Eng.
- (69) Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Transportation and Community Planning Department, that all existing driveway(s) along the Regional road frontage of this subdivision will be removed as part of the subdivision work, at no cost to York Region.
- (70) Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Transportation Services Department that elevations along the Davis Drive streetline shall be 0.1 metre above the centreline elevations of the York Region roadway, unless otherwise specified by the Transportation and Community Planning Department.

- (71) Prior to final approval, the Owner shall submit drawings depicting the following to the satisfaction of York Region staff:
- a) All existing woody vegetation within the York Region road right of way,
 - b) Tree protection measures to be implemented on and off the York Region road right of way to protect right of way vegetation to be preserved,
 - c) Any woody vegetation within the York Region road right of way that is proposed to be removed or relocated. However, it is to be noted that tree removal within York Region road right's of way shall be avoided to the extent possible/practical. Financial or other compensation may be sought based on the value of trees proposed for removal.
 - d) A planting plan for all new and relocated vegetation to be planted within the York Region road right of way, based on the following general guideline:

Tree planting shall be undertaken in accordance with York Region standards as articulated in the Streetscaping Policy and using species from the York Region Street Tree Planting List. These documents may be obtained from the Forestry Section. If any landscaping or features other than tree planting (e.g. flower beds, shrubs) are proposed and included in the Subdivision Agreement, they will require the approval of the Town and be supported by a Maintenance Agreement between the Town and the Region for Town maintenance of these features; any such Maintenance Agreement should indicate that where the area municipality does not maintain the feature to York Region's satisfaction, the area municipality will be responsible for the cost of maintenance or removal undertaken by the Region.

- (72) Prior to final approval, the Owner shall engage the services of a consultant to prepare and submit for review and approval, a noise study to the satisfaction of the Transportation Services Department recommending noise attenuation features.
- (73) The Owner shall agree in the Subdivision Agreement, in wording satisfactory to the Transportation and Community Planning Department to implement the noise attenuation features as recommended by the noise study and to the satisfaction of the Transportation and Community Planning Department.
- (74) The Owner shall agree in the subdivision agreement, in wording satisfactory to the Transportation and Community Planning Department, that where berm,

noise wall, window and/or oversized forced air mechanical systems are required, these features shall be certified by a professional engineer to have been installed as specified by the approved Noise Study and in conformance with the Ministry of Environment guidelines and the York Region Noise Policy.

- (75) The following warning clause shall be included in a registered portion of the Subdivision Agreement with respect to the lots or blocks affected:

"Purchasers are advised that despite the inclusion of noise attenuation features within the development area and within the individual building units, noise levels will continue to increase, occasionally interfering with some activities of the building's occupants".

- (76) Where noise attenuation features will abut a York Region right-of-way, the Owner shall agree in the subdivision agreement, in wording satisfactory to York Region's Transportation and Community Planning Department, as follows:

- a) that no part of any noise attenuation feature shall be constructed on or within the York Region right-of-way;
- b) that noise fences adjacent to York Region roads shall be constructed on the private side of the 0.3 metre reserve and may be a maximum 2.5 metres in height, subject to the area municipality's concurrence;
- c) that maintenance of the noise barriers and fences bordering on York Region right-of-ways shall not be the responsibility of York Region; and
- d) that any landscaping provided on York Region right-of-way by the Owner or the area municipality for aesthetic purposes must be approved by the Transportation Services Department and shall be maintained by the area municipality with the exception of the usual grass maintenance.

- (77) Prior to final approval, the Owner shall agree that the following lands will be conveyed to York Region for public highway purposes, free of all costs and encumbrances, to the satisfaction of York Region Solicitor:

- a) 15.0 metre by 15.0 metre daylight triangle at the southwest and southeast corners of Davis Drive and Street 'B'.

- (78) Prior to final approval, the Owner shall agree that the following lands will be conveyed to York Region, free of all costs and encumbrances, to the satisfaction of York Region Solicitor:

- a) a 0.3 metre reserve where it abuts the daylight triangles in the southwest and southeast corners of Davis Drive and Street 'B'.
- (79) Prior to final approval, the Owner shall agree to prepare and submit to the Transportation and Community Planning Department for review and approval, a draft reference plan detailing the existing 0.3 metre reserve adjacent to the throat and daylight triangles at Davis Drive and Street 'B' that is required to be lifted to provide legal access to Street 'B'.
- (80) Prior to final approval, in order to determine the property dedications (if any) required to achieve the ultimate right of way width of Davis Drive abutting the subject site, the applicant shall submit a recent plan of survey for the property that illustrates the existing centre line of construction of Davis Drive.
- (81) Prior to final approval, the Owner shall provide a solicitor's Certificate of Title in a form satisfactory to York Region Solicitor, at no cost to York Region with respect to the conveyance of the above noted lands to York Region.
- (82) Prior to final approval, York Region requires the Owner to submit to it, in accordance with the requirements of the Environmental Protection Act and O. Reg. 153/04 Records of Site Condition Part XV.1 of the Act (as amended), a Phase I environmental site assessment prepared and signed by a qualified professional, of the Owner's lands and more specifically of the lands to be conveyed to York Region (the "Assessment"). Based on the findings and results of the Assessment, York Region may require further study, investigation, assessment and delineation to determine whether any remedial or other action is required. The Assessment and any subsequent environmental reports or other documentation prepared in respect of the environmental condition of the lands to be conveyed must be addressed to York Region, contain wording to the effect that York Region shall be entitled to rely on such reports or documentation in their entirety, and such reports or documentation shall be satisfactory to York Region.
- (83) Prior to final approval, the Owner shall certify, in wording satisfactory to the Transportation and Community Planning Department, that no contaminant, pollutant, waste of any nature, hazardous substance, toxic substance, dangerous good, or other substance or material defined or regulated under applicable environmental laws is present at, on, in or under all lands to be conveyed to York Region (including soils, substrata, surface water and groundwater, as applicable): (i) at a level or concentration that exceeds the Environmental Protection Act O. Reg. 153/04 full depth generic site condition standards

applicable to the intended use that such lands will be put by York Region at the time of conveyance or any other remediation standards published or administered by governmental authorities applicable to the intended land use; and (ii) in such a manner, condition or emanating from such lands in such a way, that would result in liability under applicable environmental laws. The Assessment, any subsequent environmental reports or other documentation and the Owner's certification shall be done at no cost to York Region.

- (84) The Owner shall agree in the Subdivision Agreement, in wording satisfactory to the Transportation and Community Planning Department, to be responsible to decommission any existing wells on the owner's lands in accordance with all applicable provincial legislation and guidelines and to the satisfaction of the area municipality.
- (85) The Owner shall agree, prior to the development approval of Blocks 156, 160, 161, 162 and 166 that access to Blocks 156, 160, 161, 162 and 166 shall be via the internal subdivision road network. Direct access shall not be permitted to Davis Drive.
- (86) The Owner shall agree in the Subdivision Agreement that access to Block 162 and Block 166 shall not be permitted on Crossland Gate within 60.0 metres of the widened limit of Davis Drive.
- (87) Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Transportation and Community Planning Department that Street 'B' shall be designed to intersect Davis Drive at a right angle.
- (88) Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Transportation and Community Planning Department, that the throat width of Street 'B' shall be designed to accommodate one 5.0 metre inbound lane and two 3.5 metre outbound lanes for a distance of 60.0 metres from the widened limit of Davis Drive; no intersection or residential access shall be permitted on Street 'B' within 60.0 metres of the widened limit of Davis Drive.
- (89) Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Transportation and Community Planning Department, that the right-of-way width of Street 'B' shall meet the requirements of the Town of Newmarket, including the pavement width of Street 'B' referred to in Condition 88.
- (90) Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Transportation and Community Planning Department, that all local underground

services will be installed within the area of the development lands and not within York Region's road allowance. If a buffer or easement is needed to accommodate the local services adjacent to York Region's Right of Way, then the Owner shall provide a satisfactory buffer or easement to the area municipality, at no cost to the Region.

- (91) The Owner shall agree in the Subdivision Agreement, in wording satisfactory to the Transportation and Community Planning Department that the Owner will be responsible for determining the location of all utility plants within York Region right-of-way and for the cost of relocating, replacing, repairing and restoring any appurtenances damaged during construction of the proposed site works. The Owner must review, or ensure that any consultants retained by the Owner, review, at an early stage, the applicable authority's minimum vertical clearances for aerial cable systems and their minimum spacing and cover requirements. The Owner shall be entirely responsible for making any adjustments or relocations, if necessary, prior to the commencement of any construction.
- (92) The Owner shall agree in the Subdivision Agreement, in wording satisfactory to the Water Resources Branch, that prior to any excavation on the lands, the Owner shall conduct a subsurface investigation to identify any need for dewatering and/or groundwater depressurization, and where applicable, submit a conceptual dewatering plan prepared by a qualified professional to the Water Resources Branch for review, followed by a final dewatering plan for approval by the Water Resources Branch prior to final approval of the subdivision.
- (93) The Owner shall enter into an agreement with York Region, agreeing to satisfy all conditions, financial and otherwise, of the Regional Corporation; Regional Development Charges are payable prior to final approval in accordance with By-law DC-0007-2007-040, as amended by By-law # 2010-49.

Lake Simcoe Region Conservation Authority

- (94) That Prior to final Plan approval, the following shall be prepared to the satisfaction of the LSRCA and Town:
- a) a detailed stormwater management report
 - b) a detailed erosion and sediment control plan
 - c) a detailed grading and drainage plan
 - d) a detailed phosphorus and water balance plan, fulfilling Designated Policy 4.8 of the Lake Simcoe Protection Plan

- (95) That prior to final approval, the following matters will be included and addressed to the satisfaction of the LSRCA and Town as part of the detailed Stormwater Management Report:
- a) the original stage-storage-discharge rating curve (taken from the 1983 Lathen Group Inc. Stormwater Management Study) for the remaining existing upstream Ponds 1 and 2 be verified by current site survey.
 - b) the emergency overflow weir for the stormwater management (SWM) facilities be designed to convey the uncontrolled 1:100 year peak flow. If this criterion cannot be achieved; an analysis is to be completed to determine the extent of 1L100 year flooding associated with the blockage of each pond storm sewer outlet. The associated 1:00 year flooding is to be delineated on the detailed grading plans for subdivision.
 - c) That based on the November 2013 response letter and Functional Servicing Repot provided by Cole Engineering (November 2012), the proposed SWM facilities will provide enhanced level quality control, and adequate permanent pool volumes will be provided to accommodate the total drainage area to each facility.
- (96) That the Owner shall agree in the Subdivision Agreement to carry out or cause to be carried out the recommendations and requirements contained within the plans, reports, and studies as approved by the LSRCA.
- (97) That the Owner shall agree in the Subdivision Agreement to retain a qualified professional to certify in writing that the works were constructed in accordance with the plans, reports, and studies as approved by the LSRCA
- (98) That prior to any site alteration or grading, proper erosion and sediment control measure must be in place in accordance with the approved Grading and Drainage Plan, and Erosion and Sediment Control Plan.
- (99) That the Owner shall agree agree in the Subdivision Agreement to maintain all existing vegetation up until a maximum of 30 days prior to any grading or construction on-site in accordance with 4.20b-DP of the Lake Simcoe Protection Plan.
- (100) That any easements required for stormwater management purposes shall be granted to the Town of Newmarket.

- (101) That prior to final plan approval, the Owner shall pay all development fees to the LSRCA in accordance with the approved fees policy, under the Conservation Authorities Act.

York Region District School Board

- (102) That prior to final approval, the Owner shall have made an agreement, satisfactory to the York Region District School Board for the transfer of a public elementary school site. The public elementary school site, Blocks 164 and 165 and Lots 116, 117 and 118, shall contain not less than 2.4 hectares (6.0 acres).
- (103) That the Owner shall agree in the Subdivision Agreement in wording satisfactory to the York Region District School Board:
- I. to grade Blocks 164 and 165 and Lots 116, 117 and 118 and in doing so compact, fill with clean material, replace any topsoil disturbed in the grading process and at the same time sod/seed the same lands to specifications determined by the Board;
 - II. to remove any buildings on Blocks 164 and 165 and Lots 116, 117 and 118;
 - III. to remove trees, as required to accommodate school layout;
 - IV. to provide a letter of credit pertaining to stockpiling and removal of topsoil, by taking the volume of topsoil to be stored upon the school site and multiplying such volume by 200% of the current market prices for waste material disposal, as set forth in the latest version of Hanscomb's Yardsticks for Costing, Cost Data for the Canadian Construction Industry, to the satisfaction of the York Region District School Board;
 - V. to remove stockpiled topsoil within 30 days of written notice by the Board and in doing so compact, fill with clean material, replace any topsoil disturbed in the grading process and at the same time sod/seed the same lands to specifications determined by the Board;
 - VI. to construct a galvanized chain link fence, Type II 1 ½" mesh, 1.8 m high along all boundaries of the school blocks, including road frontage(s) at the discretion of the Board;
 - VII. to construct the fences prior to the issuance of building permits for Phase 1 of the subdivision;

- VIII. to erect and maintain a sign on the public school site at such time as the relevant access roads are constructed, indicating that the date has not been set for the construction of the school;
 - IX. to provide a geotechnical investigation and Phase 1 and Phase 2 environmental site assessment conducted by a qualified engineer. For an elementary school site a minimum of eight boreholes shall be required and for a secondary school site a minimum of sixteen boreholes shall be required;
 - X. to provide the foregoing at no cost to the Board;
 - XI. to assume any upstream and downstream charges for hydro, natural gas, sanitary and storm drainage, and water supply.
- (104) That the Owner shall submit to the York Region District School Board, at no cost to the Board, a letter from a qualified consultant concerning:
- I. the suitability of Blocks 164 and 165 and Lots 116, 117 and 118 for school construction purposes, relating to soil bearing factors, surface drainage, topography and environmental contaminants; and
 - II. the availability of natural gas, electrical, water, storm sewer and sanitary sewer services.
- (105) That the Owner shall agree in the Subdivision Agreement, in wording acceptable to the York Region District School Board that the services referred to in Condition 104 ii) shall be installed to the mid-point of the frontage of the elementary school site and positioned as designated by the Board, at no cost to the Board.
- (106) That prior to final approval, the Owner shall submit to the School Board an initial set of engineering plans for review and approval, and subsequently, a copy of the final engineering plans as approved by the Town of Newmarket which indicate the storm drainage system, utilities, and the overall grading plans for the complete subdivision area.
- (107) That prior to final approval, the local hydro authority shall have confirmed in writing to the Board that adequate electrical capacity will be supplied to the school site frontage by the developer at no cost to the Board.

- (108) That prior to final approval, the local hydro authority shall have confirmed in writing to the Board that they are satisfied that payment for any upstream and downstream charges will be made by the original developer.
- (109) That the Subdivision Agreement include warning clauses advising the Town, property owners and purchasers of lots within the draft plan that unless the provincial funding model provides sufficient funds to construct new schools, there can be no assurance as to the timing of new school construction nor a guarantee that public school accommodation will be provided within the subject plan notwithstanding the designation of the school site.

Hydro One Networks Inc.

- (110) Prior to final approval that the owner submit 3 copies of the lot grading and drainage plan, showing existing and final grades, to HONI for review and approval. Drainage must be controlled and directed away from OILC/HONI transmission corridor.
- (111) That the Owner shall agree to install temporary fencing along the edge of the transmission corridor prior to the start of construction at the developer's expense.
- (112) That the Owner shall agree to install permanent 1.5 metre fencing along the mutual property line after construction is completed at the developer's expense.
- (113) The Owner shall agree not to use the ORC/HONI transmission corridor without express written permission of Hydro One Networks Inc. on behalf of OILC. During construction there will be no storage of materials or mounding of earth, snow or other debris on the transmission corridor. The proponent will be responsible for restoration of any damage to the transmission corridor or HONI facilities thereon resulting from construction of the subdivision.
- (114) That the Owner shall obtain permission from OILC under separate agreements for the two proposed road crossings. Proposals for any secondary land use including road crossings on the transmission corridor are processed through the Provincial Secondary Land Use Program (PSLUP). HONI, as OILC's Service Provider, will review detailed engineering plans for such proposals separately, in order to obtain final approval.

That the Owner shall agree to make arrangements satisfactory to OILC/HONI and the Town of Newmarket for the dedication and transfer of the proposed road allowance directly to the Town of Newmarket.

That access to, and road construction on the OILC/HONI facilities that are necessary to accommodate this subdivision will be borne by the developer.

- (115) That the cost of any relocation or revision to HONI facilities that are necessary to accommodate this subdivision will be borne by the developer.

(116)

- a) The Owner shall agree that every agreement of purchase and sale of any unit or proposed unit in the Plan of Subdivision contains the following notice/warning provisions: "Each unit purchaser and/or lessee specifically acknowledges and agrees that the Plan of Subdivision is being undertaken and completed in accordance with any requirements that may be imposed from time to time by any Governmental Authorities, and that the proximity of this Plan of Subdivision to facilities, installations and/or equipment owned and/or operated by HONI may result in noise, vibration, electro-magnetic interference and stray current transmissions (hereinafter collectively referred to as the "Interferences") to this Development, and despite the inclusion of control features within this Development, Interferences from the aforementioned sources may, occasionally interfere with some activities of the occupants in this Development."

- b) That the agreement of purchase and sale specify that "each unit purchaser and/or lessee agree to indemnify and save HONI and harmless, from and against all claims, losses, judgments or actions arising or resulting from any and all of the Interferences. In addition, it is expressly acknowledged and agreed that HONI does not, and will not accept any responsibility or liability for any of the Interferences in respect of this Plan of Subdivision and/or its occupants. Furthermore, there may be alterations and/or expansions by HONI to its facilities and/or transformer station which may temporarily affect the living environment of the residents notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the Development. HONI will not be responsible for any complaints or claims or any kind howsoever arising from use, expansion and/or alterations of such facilities and/or operations on, over or under in transformer station. Furthermore, each unit purchaser and/or lessee acknowledges and agrees that an electro-magnetic, stray current and noise-warning/vibration clause similar to the foregoing shall be inserted into any succeeding or subsequent sales agreement, lease or sublease and Site Plan Agreement and that this requirement shall be binding not only on the Purchaser hereunder but also upon the Purchaser's respective heirs, estate trustees, successors and permitted assigns, and shall not cease or terminate on the closing of this purchase and sale transaction with the Vendor/Declarant."

- (117) The Owner shall agree in the Subdivision Agreement to make such arrangements as are satisfactory to Newmarket Hydro for the provision of hydro-electric servicing, both overhead and underground and to convey such lands and/or easements as may be required, at no cost and free from encumbrances.

Bell

- (118) The Owner agrees to provide one or more conduit or conduits of sufficient size from each unit to the room(s) in which the telecommunication facilities are situated and one or more conduits from the room(s) in which the telecommunications facilities are located to the street line.

Canada Post

- (119) The Owner shall agree in the Subdivision Agreement to consult with Canada Post Corporation to determine suitable locations for the placement of Community Mailboxes and to indicate these locations on appropriate servicing plans.
- (120) The Owner shall agree in the Subdivision Agreement to include in all offers of purchase and sale a statement advising prospective purchasers that mail delivery will be from a designated Community Mailbox and to include the exact locations (list of lot numbers) of each of these Community Mailbox locations.
- (121) The Owner shall agree in the Subdivision Agreement to provide the following for each Community Mailbox site and to include these requirements on appropriate servicing plans:
- (a) an appropriately sized sidewalk section (concrete pad), as per Canada Post specifications to place the Community Mailbox;
 - (b) any required walkway across the boulevard, as per Town of Newmarket standards; and
 - (c) any required curb depressions for wheelchair access.
- (122) The Owner agrees in the Subdivision Agreement to determine and provide a suitable temporary Community Mailbox location(s) to be "fit up" prior to first occupancy, which may be utilized by Canada Post until the criteria identified in

Condition 121 is completed at the permanent Community Mailbox site location(s).

Other

- (123) Final approval for registration may be issued in phases provided that:
- a) phasing is proposed in an orderly progression; and
 - b) all agencies agree to registration by phases and provide clearances as required in Conditions 1 to 122 inclusive, for each phase proposed for registration by the Owner. The required clearances may relate to lands not located within the phase sought to be registered.
- (124) The Town of Newmarket shall advise that Conditions 1 to 57 inclusive have been satisfied.
- (125) The Region of York shall advise that Conditions 58 to 93 inclusive have been satisfied.
- (126) The Lake Simcoe Region Conservation Authority shall advise that Conditions 94 to 101 inclusive have been satisfied.
- (127) The York Region District School Board shall advise that Conditions 102 to 109 inclusive have been met to its satisfaction. The clearance letter shall include a brief statement detailing how each condition has been satisfied or carried out.
- (128) Newmarket Hydro shall advise that Condition 117 has been satisfied.
- (129) Bell shall advise that Condition 118 has been satisfied.
- (130) Canada Post shall advise that Conditions 119 to 122 inclusive have been satisfied.

NOTE: WHERE FINAL APPROVAL FOR REGISTRATION HAS NOT BEEN GIVEN WITHIN THREE YEARS AFTER THE DATE UPON WHICH APPROVAL TO THE PROPOSED PLAN OF SUBDIVISION WAS GIVEN, THE TOWN OF NEWMARKET MAY, AT ITS DISCRETION, AND PURSUANT TO THE PLANNING ACT, R.S.O. 1990, WITHDRAW ITS APPROVAL TO THIS PROPOSED PLAN OF SUBDIVISION, UNLESS APPROVAL HAS BEEN SOONER WITHDRAWN, BUT THE TOWN OF NEWMARKET MAY FROM TIME TO TIME EXTEND THE DURATION OF THE APPROVAL.

THE LAKE SIMCOE REGIONAL CONSERVATION AUTHORITY WILL REQUIRE A COPY OF THE EXECUTED SUBDIVISION AGREEMENT; COPY OF THE DRAFT M-PLAN; A LETTER FROM THE DEVELOPER'S PLANNING CONSULTANT DETAILING HOW EACH LAKE SIMCOE CONSERVATION AUTHORITY CONDITION OF DRAFT PLAN APPROVAL HAS BEEN FULFILLED PRIOR TO ISSUANCE OF A CLEARANCE LETTER.

THE TRANSMISSION LINES ABUTTING THIS SUBDIVISION OPERATE AT 500,000, 230,000 OR 115,000 VOLTS. SECTION 188 – PROXIMITY – OF THE REGULATIONS FOR CONSTRUCTION PROJECTS IN THE OCCUPATIONAL HEALTH AND SAFETY ACT, REQUIRE THAT NO OBJECTION BE BROUGHT CLOSER THAN 6 METRES (20 FEET) TO AN ENERGIZED 500 KV CONDUCTOR. THE DISTANCE FOR 230 KV CONDUCTORS IS 4.5 METRES (15 FEET), AND THE 115 KV CONDUCTORS IT IS 3 METRES (10 FEET). IT IS THE PROPONENT'S RESPONSIBILITY TO BE AWARE, AND TO MAKE ALL PERSONNEL ON SITE AWARE, THAT ALL EQUIPMENT AND PERSONNEL MUST COME NO CLOSER THAN THE DISTANCE SPECIFIED IN THE ACT. THEY SHOULD ALSO BE AWARE THAT THE CONDUCTORS CAN RAISE AND LOWER WITHOUT WARNING, DEPENDING ON THE ELECTRICAL DEMAND PLACES ON THE LINE.