

October 30, 2013

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

Dear Members of the Committee of the Whole:

**Re: Planning Opinion on the Marianneville Development Applications
Town of Newmarket
File # 6081**

I am writing on behalf of the Glenway Preservation Association ('GPA') to provide my planning opinion on the Marianneville Developments Limited application ('Marianneville') and my comments on the report prepared by Ms. Ruth Victor on behalf of the Town dated October 15, 2013.

I. PLANNING OPINION ON THE APPLICATIONS

The following planning opinion focuses on the principle of development and whether the proposed redevelopment of the former golf course is consistent with the Provincial Policy Statement ('PPS'); conforms to the Provincial Growth Plan, the York Region Official Plan ('YROP') and the Town of Newmarket Official Plan ('Newmarket OP'); and is supportive of the Town's local framework for intensification. The opinion also takes into consideration the proposed population yield as a result of the proposed redevelopment, against the population allocation to the Town of Newmarket by the YROP.

Below are the three components of my opinion:

- I. The current and in effect Newmarket OP (April 24, 2008) established a clear and concise strategy and policy framework to accommodate intensification in accordance with the Growth Plan. The potential for 730 dwelling units on the Marianneville lands was not considered when the Newmarket OP was prepared. As a consequence, the Marianneville application is not consistent with and not in conformity with the Newmarket OP and the Town's intensification strategy.**

2. **There is no need to identify additional lands for intensification purposes in the Town since there is more than enough development potential within the Town’s ‘Urban Centres’ and other Emerging Residential Areas that are within the Built Boundary to accommodate the Town’s intensification target by 2031.**

3. **Notwithstanding all of the above, there is some merit in considering an alternative land use for the former Glenway Golf and Country Club. However the consideration of alternative land uses should occur in the context of an Official Plan Review that considers:**
 - **A comprehensive Vision for the subject lands (including both the easterly and westerly portions of the former golf course);**
 - **The implications of development on the Marianneville lands on the Town’s intensification strategy; and,**
 - **The implications of new growth in both the Urban Centres and potentially on the Marianneville lands on parks and open space needs, school needs and the transportation and transit infrastructure that exists or is planned.**

Below is a discussion of my understanding of the applications submitted by Marianneville, and the basis for the three parts of my planning opinion, as expressed above.

Details of the Application

The 2012 application submitted on behalf of Marianneville includes a proposed Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Subdivision with a total of 730 units located on 32 hectares of the easterly portion of the former Glenway Golf and Country Club. It is recognized that some of the details of the application have been changed by the applicant, however the scale of the proposed development is very similar, along with where development is proposed on the Marianneville lands.

The Marianneville lands are currently designated ‘Parks and Open Space’ in the Newmarket OP. The following is a summary of the proposed Draft Plan of Subdivision and proposed zoning and Official Plan amendments as they were originally proposed:

- A total of 165 lots are proposed for single-detached dwellings, as follows:
 - Lots 1-6, located west of the hydro corridor, would be rezoned from OS-2 to RI-D and re-designated ‘Stable Residential’; and,

- Lots 7-164, located in three groups east of the hydro corridor (amongst existing single-detached dwellings), would be rezoned from OS-2 to R1-D and re-designated 'Emerging Residential'.
- A total of 54 one-storey bungalows in condominium tenure are proposed in two low-density residential blocks (Blocks 169-170), which would be rezoned from OS-2 to R1-CP and re-designated 'Emerging Residential';
- A total of 219 units are proposed in three medium density residential blocks (Blocks 166-168), which would be rezoned from OS-2 to R4-CP and re-designated 'Emerging Residential';
- A total of 292 units are proposed in a high density residential block (Block 171), which would be rezoned from RS-232 to R5 and re-designated 'Urban Centre';
- A commercial block (Block 172) located at the northern entrance to the existing community (at Davis Drive and Crossland Gate), which would be rezoned from OS-2 to CR-2 (site specific) and re-designated 'Commercial'; and,
- A proposed park site (Block 173) located immediately west of the hydro corridor, which would retain the current 'Parks and Open Space' land use designation in the Newmarket OP.

The April 2012 Planning Justification Report submitted as part of the application provides the following statements in support of the proposal:

- a) *"The new residential infill community that is proposed for the subject lands will support and help achieve the desired urban structure for Newmarket";*
- b) *"The new residential infill community on the subject lands represents an important opportunity for intensification in the Town of Newmarket. It will assist both the Region and Town in achieving intensification targets that have been established";*
- c) *"Various Provincial, Regional and local criteria/requirements for intensification and redevelopment are met by the new residential infill community and demonstrate that the subject lands can appropriately accommodate intensification";*
- d) *"The subject lands do not form part of the Town's public parks and open space system and were not planned to fulfill such a function";* and
- e) *"The proposed infill redevelopment will contribute to ensuring efficient, cost effective development by making more efficient use of existing infrastructure and public service facilities prior to developing new works/facilities in the Town's Greenfield areas".*

In developing my planning opinion, each of the above statements was considered.

Basis for my Planning Opinion

The first component of my planning opinion is below:

- I. The current and in effect Newmarket OP (April 24, 2008) established a clear and concise strategy and policy framework to accommodate intensification in accordance with the Growth Plan. The potential for 730 dwelling units on the Marianneville lands was not considered when the Newmarket OP was prepared. As a consequence, the Marianneville application is not consistent with and not in conformity with the Newmarket OP and the Town’s intensification strategy.**

The policies of the Newmarket OP provide the basis for the Town to grow from a 2006 population of 77,000 to a target population of 98,000 persons by 2026 (Section 2.1). Section 3.0 (‘Residential Areas’ policies) and Section 4.0 (‘Urban Centres’ policies) of the Newmarket OP then set out the Town’s local framework for accommodating forecasted population growth. As part of the framework, there are three land use designations where intensification is directed:

‘Urban Centres’, which are areas that have an existing concentration of retail and service commercial uses, government, medical and health facilities, and social services, that have been identified by the Province and/or Town. The following is a brief summary of the Town’s four ‘Urban Centres’ as described in Section 4.0 of the Newmarket OP:

- a. The ‘Yonge-Davis Provincial Urban Growth Centre’, is one of twenty-five ‘Urban Growth Centres’ designated in Places to Grow (the 2006 Provincial Growth Plan), located generally along Yonge Street from the intersection of Yonge Street and Davis Drive (to the north) and the intersection of Yonge Street and Eagle Street (to the south). This ‘Urban Centre’ is intended to be a hub within York Region and beyond for commercial, recreational, cultural, and entertainment activity, and is intended to provide for a significant share of population and employment growth in Newmarket.
- b. The ‘Yonge Street Regional Centre’, is located immediately north and immediately south of the ‘Yonge-Davis Provincial Urban Growth Centre’. The northern portion of the ‘Yonge Street Regional Centre’ is a major strategic gateway into the Town and includes the Upper Canada Mall (a “Regional commercial anchor”). The southern portion of the ‘Yonge Street Regional Centre’ extends south from the intersection of Yonge Street and Eagle Street and is intended to become a high-intensity, compact, mixed-use area.

- c. The 'Regional Healthcare Centre' is located at (and extends east and west from) the intersection of Prospect Street and Davis Drive. It includes the Southlake Regional Health Centre and other medical facilities located on surrounding lands, which collectively represent the highest concentration of employment in Newmarket. It is intended to be a major employment area and will support intensification related growth in health care.
- d. The 'Historic Downtown Centre' is located at the intersection of Davis Drive and Main Street, and extends south along Main Street to Water Street. This area represents 'historic' Newmarket and is considered to be the cultural and community focus of the Town. It is intended that this area will be revitalized through redevelopment, conversions, and various types of improvements.

In terms of the type of development that will occur within the Urban Centres, as well as permitted uses, the following is a summary of the Town's existing policies:

- a. Section 3.0 states that the focus of future intensification is directed primarily to the 'Urban Centres';
- b. Section 4.0 generally identifies a broad range of commercial, office, institutional, and open space uses as permitted uses in the 'Urban Centres'; and
- c. Table I indicates that ranges of residential densities are permitted.

'Emerging Residential Areas', which are described in Section 3.0 of the Newmarket OP as Greenfield lands generally outside the urban area that are planned for housing. Section 3.0 further indicates that these lands are in the process of being developed or are anticipated to be developed and will eventually become 'Stable Residential Areas' (described below).

Based on our review of Schedule A (Land Use Plan) of the Newmarket OP, it would appear that 'Emerging Residential Areas' are generally located outside of the Growth Plan Built Boundary and would be considered Greenfield lands. Examples include the lands on the east side of Bathurst Street between Highway 9 and Green Lane, and lands on the north side of St. John's Sideroad east of Leslie Street.

It would also appear that a few infill sites and development/redevelopment sites areas have also been designated 'Emerging Residential Areas' because of their location, the nature of the existing lands uses, and/or the configuration of the lands. Examples include two sites on the north side of Eagle Street to the east of Yonge Street (one site appears to be vacant and the other is the site of two homes on large lots). A site on Gorham Road that is now the site of a senior's residence, as well as certain lands around the Magna Centre on

Mullock Drive, are also designated 'Emerging Residential Area'.

In terms of the type of development that will occur within the Emerging Residential Area, as well as permitted uses, the following is a summary of the Town's existing policies:

- a. Section 3.0 states that limited intensification is permitted in 'Emerging Residential Areas';
- b. Section 3.3.2 identifies the following permitted uses:
 - i. The predominant use of land shall be residential in the form of single-detached and semi-detached dwellings; and
 - ii. Rowhouses and townhouses are also permitted, provided that a review and analysis of such densities be undertaken as part of an application process.

'Stable Residential Areas', which include all residential neighbourhoods that are within the Town's Built Boundary but outside of the Town's 'Urban Centres', and that existed at the time of preparing the Town's 2006 Official Plan. According to Section 3.0, 'Stable Residential Areas' include a mix of housing forms including rowhouses, townhouses, duplexes, fourplexes, apartments, and other multi-unit buildings.

In terms of the type of development that will occur within the Stable Residential Area, as well as permitted uses, the following is a summary of the Town's existing policies:

- a. Section 3.0 states that limited intensification is permitted in 'Stable Residential Areas';
- b. Section 3.0 also states "*Should opportunities for intensification occur in the Stable Residential Areas, the policies of this plan will ensure that the character of these neighbourhoods is preserved*";
- c. Section 3.2.2 identifies the following permitted uses:
 - i. The predominant use of land shall generally reflect the residential built forms that are existing as of the adoption of this Plan by Council;
 - ii. Single-detached and semi-detached dwellings are the permitted residential built forms.
- d. Section 3.9.1 states that "*The forms of intensification permitted within Stable Residential Areas are accessory units and infill units through the creation of new lots consistent with the size and form of housing in the neighbourhood as a whole*".

On the basis of the above, most of the anticipated intensification in the Town is expected to occur in the 'Urban Centres'. Some limited intensification is expected within those

‘Emerging Residential Areas’ that are within the Built Boundary. However, the only forms of intensification contemplated within ‘Stable Residential Areas’ is in the form of accessory apartments and the dividing of existing lots into smaller lots.

Given that the Marianneville lands were designated ‘Parks and Open Space’ when the Newmarket OP was prepared, no consideration was given to their development and no consideration was given to how the lands would fit within the Town’s intensification strategy.

The second component of my planning opinion is below:

- 2. There is no need to identify additional lands for intensification purposes in the Town since there is more than enough development potential within the Town’s ‘Urban Centres’ and other Emerging Residential areas that are within the Built Boundary to accommodate the Town’s intensification target by 2031.**

The new 2010 Modified Regional Official Plan (2013 Office Consolidation) sets out population forecasts and intensification targets for the Town of Newmarket to 2031. While it is our understanding that these estimates are not currently in-effect (due to the status of the Regional Official Plan and on-going appeals to the Ontario Municipal Board), the following is a summary of the Regional population forecasts and intensification targets for Newmarket:

- Section 5.1 of the Regional Official Plan identifies the following population forecasts:
 - A total population of 77,600 in 2006;
 - A total population of 94,500 for 2026; and
 - A total population of 97,100 for 2031.
- Policy 5.3.1 sets out an intensification target of 40% by the year 2015 and for each year thereafter;
- Policy 5.3.3 further specifies that the intensification target for the Town of Newmarket shall be 5,250 units by 2031; and
- Policy 5.6.1.3 states that new community areas (or Greenfield areas) will be designed to meet or exceed a minimum density of 20 residential units per hectare and a minimum density of 70 residents and jobs per hectare in the developable area (i.e., all lands available for development, excluding environmental features, key natural heritage and hydrologic features, major infrastructure rights of way, and existing uses).

At the time of the adoption of the Newmarket OP by Council, York Region had not yet prepared these population forecasts and intensification targets for the Town of

Newmarket. However, the policies in Section 2.1 of the Newmarket OP generally support the local implementation of the Growth Plan's 40% intensification target. It is also noted that the Town's population target as articulated in Section 2.1 will have to be amended to reflect the population target in the YROP, which is 97,100 (and less than the 98,000 figure for 2026 in the Newmarket OP).

While the Newmarket OP has not been updated to incorporate the required 2031 target population or to identify an actual intensification target, the Town is currently developing a 'Newmarket Urban Centres Secondary Plan', which will serve as a framework for future growth and development in the Town's primary intensification areas (i.e., the Urban Centres). Town staff has advised that the intent is to identify the Town's actual intensification target for Newmarket in the Urban Centres Secondary Plan. The Study Area for the 'Newmarket Urban Centres Secondary Plan' includes all of the Urban Centres identified and described in the Town of Newmarket Official Plan, with the exception of the 'Historic Downtown Centre'.

An 'Urban Centres Directions Report' was prepared in May 2013 as part of the Secondary Plan process, which presents a Recommended Development Concept for the Study Area and recommended policy directions for key planning themes, including land use, density, and built form. According to the Directions Report, and based on the Recommended Development Concept, the following are estimated population yields for the Study Area, which includes three of the Town's four Urban Centres:

- A total population of 1,700 in 2006;
- A total population of 21,000 by 2031; and
- A total population of 32,000 by build-out (2051).

The 'Proposed Policy Directions' presented in Section 3.3 of the Directions Report states that the 'Urban Centres' will be planned to accommodate these population projections.

It would appear based on the projections recently presented in the Town's 'Urban Centres Directions Report' that there is more than enough development potential within the Town's 'Urban Centres' to accommodate all of York Region's intensification target of 5,250 dwelling units in Newmarket by 2031. In addition, the potential also exists for other lands already designated 'Emerging Residential Area' to be developed for intensification purposes as well. As a consequence, it is my opinion that there is no need to establish a new location for intensification in the Town through the approval of development on the Marianneville lands. In addition, providing additional opportunities for intensification on the Marianneville lands may actually have a negative impact on the ability of the Town to plan for and accommodate intensification within the 'Urban Centres'.

The third component of my planning opinion is below:

3. Notwithstanding all of the above, there is some merit in considering an alternative land use for the former Glenway Golf and Country Club. However the consideration of alternative land uses should occur in the context of an Official Plan Review that considers:

- **A comprehensive Vision for the subject lands (including both the easterly and westerly portions of the former golf course);**
- **The implications of development on the Marianneville lands on the Town’s intensification strategy; and,**
- **The implications of new growth in both the Urban Centres and potentially on the Marianneville lands on parks and open space needs, school needs and the transportation and transit infrastructure that exists or is planned.**

Notwithstanding my opinion that the proposed development on the Marianneville lands does not fit into the Town’s intensification strategy and is not needed to support the intensification target, there is some merit in considering an alternative land use for the former Glenway Golf and County Club. My opinion in this regard is in response to Section 5.4 of the 2012 Planning Justification Report, which argues that:

- a) *“The original planned function of the subject lands as a golf course has long been lost”;*
and
- b) *“The subject lands do not form part of the Town’s public parks and open space system, and were not planned to fulfill such a function”.*

Part b) of this argument is in accordance with Section 8.2.4 of the Newmarket OP, which states that *“Where the Parks and Open Space designation is applied to privately owned lands, it shall not imply that the lands are free and open to the general public”* and *“There shall be no obligation for the Town, or any other public agency to purchase the lands”.*

It is also important to note that since the time of adoption of the Newmarket OP, the status and planned function of the Glenway Golf and Country Club has changed. At the time of undertaking its Official Plan Review and developing the local intensification strategy that is in place today, the Town had not contemplated an alternative land use for the subject lands, and specifically had not contemplated the potential for residential development at any scale on the subject lands.

As a consequence of the above, it is my opinion that it would be premature to consider a development of this scale on the Marianneville lands in the absence of:

- a) A further review of the Official Plan by the Town of Newmarket;
- b) The development of comprehensive Vision for an alternative land use on the former golf course *in its entirety* (including both the easterly and westerly portions of the subject lands) by the Town;
- c) A review of the implications of development on the Marianneville lands on the overall intensification strategy;
- d) A review of the implications of development on the Marianneville lands on the ability for the amount of development planned in the Urban Centres by 2031 to be achieved; and,
- e) A review of the combined impacts of development in the Urban Centres and on the Marianneville lands on the parks and open space system, the provision of schools and on the road and transit networks.

2. REVIEW OF OCTOBER 15, 2013 STAFF REPORT

Since my initial planning opinion was developed, Ms. Ruth Victor prepared a staff report dated October 15, 2013 for the Town on the application. I was also present on October 15, 2013 when the report was presented to the Committee of the Whole.

It is my opinion that the review of every application has two components. The first component deals with matters of principle and reviews the application against Provincial policy and the vision expressed in local planning documents. The second component involves a more technical review of the application and its merits and/or shortcomings.

In my opinion, the author of the October 15, 2013 report did not carry out a review of the overall implications of this significant proposal on the Town's Growth Management Strategy as articulated within the Newmarket OP. It is noted however that the author made the following statements on the issue of the principle of development on Page 9 of 28 in the report:

“The Town of Newmarket has through the 2006 Official Plan addressed the accommodation of intensification to meet population and employment projections. The planned development within the Urban Growth Centre, as well as other development areas would address these requirements for Newmarket. As set out within Section 14.2.1, when the Town is fully built-out, the population is planned to be 98,000 people. Of which the 13,000 additional population approximately 8,000 are

planned to be accommodated through intensification in the Urban Growth Centres. As the Glenway lands were not considered as available for development at that time, they were not considered by the Town in establishing these targets."

The author then follows up the above statements with the following:

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

It is noted that the author of the October 15, 2013 report agrees with my opinion that the proposed development is not needed to satisfy planned intensification targets. However, the author then indicates that the very basis for the intensification strategy in the Town's Official Plan should be modified in response to an application that has been appealed to the Ontario Municipal Board.

It would appear based on the above that the author does not believe that the Town is able to accommodate development within the Urban Centres as is currently planned. This opinion is contrary to the policy framework that is proposed to be established for the Urban Centres Secondary Plan (OPA 10 dated October 7, 2013).

The key thing in my opinion to consider in moving forward is that the Growth Plan requires that municipalities plan for additional intensification in locations that are the most appropriate. The Town of Newmarket has already made this determination in its Official Plan and has selected an appropriate location for this growth that can accommodate expected growth and more. The Town of Newmarket has also initiated a comprehensive planning process to implement this direction in the form of Official Plan Amendment 10. The opinions put forward in the report dated October 15, 2013 are not consistent with the direction proposed to be taken by the Town in a parallel process.

On the basis of the above, it is my opinion that providing for additional development of this scale on the Marianneville lands and in an area that has not been identified for intensification could potentially have an impact on the ability of the Town to encourage development within the Urban Centres. Quite simply, the population expectation for Newmarket is relatively fixed and if that population can be accommodated easily outside of the Urban Centres, then the ability of the Urban Centres to accommodate that population

growth is potentially affected.

When I was at the Committee meeting on October 15, 2013, I was asked whether there was a precedent for the kind of decision that Council was trying to make with respect to the application. I indicated that no application and no context is ever the same.

However, there have been a number of decisions at the Ontario Municipal Board (OMB) involving the testing of an application against the overall vision articulated by an Official Plan. The first is a case involving a proposal to establish a high-density development in Mississauga in an area that was not identified by the City of Mississauga as being appropriate for the form of intensification proposed (the Mississauga decision is attached).

The OMB ruled in that particular case that *“the application runs counter to the existing approved City’s efforts to achieve its intensification objectives...”* (page 6). In my opinion, there are a number of parallels between the Mississauga case and the Marianneville application because as in Mississauga, the Newmarket OP and its intensification and growth management strategies do not anticipate nor consider the potential for development on the Marianneville lands.

The second case involves an application to develop an estate residential subdivision in a rural Township (Oro-Medonte). While the context is very different than the context in Newmarket, the issue was whether the proposal was supported by the Township's Growth Management Strategy and overall vision (decision also attached). In this regard, the OMB indicated the following on page 30:

“The Board while it has wide powers to amend or modify Municipal Official Plans should use this authority with circumspection and should not interfere in this fundamental municipal planning and decision-making process unless it is clear:

- a) That the Municipality has made fundamental errors in its assessment of its need for development lands and its ability through its land use designations and growth and development strategies to achieve its projected growth, or*
- b) That the decisions with respect to its growth and settlement strategies are at odds with the directions of the Provincial Policy Statement, or*
- c) That there has been a breach of the prescribed planning process afforded individuals as a matter of right.”*

The implication of the above is that it should not be during the review of an application that the Municipality's overall vision is changed.

The third decision involves an application to expand the urban area of the Municipality of Port Hope in the County of Northumberland (decision also attached). Again, the context is different, but in this case, the application was tested against the Municipality's own Growth Management Strategy which set out where development should occur and the types of housing forms that were desirable in the Municipality. In this case, the applicant was proposing to develop predominately single detached dwellings on new urban land and if permitted, would change the direction the Municipality was taking in its Official Plan. In this case the OMB indicated the following on Page 19:

[76] The Board recognizes that the development of the long-term planning vision and growth management strategy is undoubtedly the most significant planning exercise ever undertaken by the County and its lower tier municipalities. In this case, the process was made more onerous by the anomalous situation whereby the County is not the approval authority for any Planning Act matter. There is only one other region within the Greater Golden Horseshoe Growth Plan area where this same scenario exists (Dufferin County).

[77] In the present case, given the history and the background, the Board is not convinced that intervention in the municipal growth strategy is either warranted or justified.

It should be noted that this particular case has been sent to Divisional Court for review. In summary, it is my opinion that the consideration of the application is premature to consider a development of this scale on the Marianneville lands in the absence of:

- a) A further review of the Official Plan by the Town of Newmarket;
- b) The development of comprehensive Vision for an alternative land use on the former golf course ***in its entirety*** (including both the easterly and westerly portions of the subject lands) by the Town;
- c) A review of the implications of development on the Marianneville lands on the overall intensification strategy;
- d) A review of the implications of development on the Marianneville lands by 2031 on the ability for the amount of development planned in the Urban Centres to be achieved; and,
- e) A review of the combined impacts of development in the Urban Centres and on the Marianneville lands on the parks and open space system, the provision of schools and on the road and transit networks.

In my opinion, it is not appropriate or desirable, to make a decision on an application of this scale in the absence of carrying out the above.

Yours truly,

MERIDIAN PLANNING CONSULTANTS



Nick McDonald, RPP
Principal

Encls.

c.c Glenway Preservation Association