

ISSUE DATE:

April 3, 2013



PL120906

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Dwight Slessor Holdings Limited and George St. Retirement Residence Partnership have 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 No. 2010-40 of the Town of Newmarket to rezone a 1.86 hectare (4.6 acres) parcel of land located on the east side of Yonge Street and approximately 244 metres (800 feet) north of Davis Drive, municipally known as 17645 Yonge Street, from "Provincial Urban Centre (UC-P)" to "Provincial Urban Centre – Exemption (UC-P-EX)" to recognize a Long Term Care Facility, Retirement Residence and Conference Centre as permitted uses in addition to those permitted as of right as well as to permit increased height, increased parking standards and increased height and density for the purpose of permitting the development of the subject lands consisting of a 7-storey retirement residence and banquet centre containing 190 suites, a 7-storey long-term care centre containing 178 units with a medical centre proposed for the ground floor, a 23-storey residential tower containing 155 units with commercial and retail uses proposed, and a 26-storey residential tower containing 152 hotel suites and 120 residential units with commercial and retail uses proposed

Town of Newmarket File No. D14-NP-11-15

O.M.B. File No. PL120906

Dwight Slessor Holdings Limited and George St. Retirement Residence Partnership have 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 a 1.86 hectare (4.6 acres) parcel of land located on the east side of Yonge Street and approximately 244 metres (800 feet) north of Davis Drive, municipally known as 17645 Yonge Street, for the purpose of permitting the development of the subject lands consisting of a 7-storey retirement residence and banquet centre containing 190 suites, a 7-storey long-term care centre containing 178 units with a medical centre proposed for the ground floor, a 23-storey residential tower containing 155 units with commercial and retail uses proposed, and a 26-storey residential tower containing 152 hotel suites and 120 residential units with commercial and retail uses proposed

Plan of Subdivision File No. 19TN-2012 001

Town of Newmarket File No. D12-NP-12-02

O.M.B. File No. PL120935

APPEARANCES:

<u>Parties</u>	<u>Counsel*/Agent</u>
Dwight Slessor Holdings Limited and George St. Retirement Residence Partnership	Ira Kagan*
Town of Newmarket	Esther Armchuk-Ball*
Shrink Slessor Square Residents Group	Bill Chadwick CEO
Region of York	Barbara Montgomery*

AMENDING DECISION BY R. ROSSI

[1] The Board’s Decision/Order issued on February 25, 2013 is hereby amended by replacing paragraph [1] with the following paragraph [1]:

[1] Dwight Slessor Holdings Limited and George St. Retirement Residence Partnership (“Applicants”) have applied to the Ontario Municipal Board (“Board”) for plan of subdivision and zoning by-law amendments to permit construction of four buildings on the property known as 17645 Yonge Street in the Town of Newmarket (“Town”). The two buildings with Yonge Street frontage will be permitted to a maximum height of 21 and 19 storeys respectively, and the other two buildings will be permitted to a maximum height of eight storeys. The building fronting on George Street steps down to four stories at George Street. Underground parking will be constructed below all buildings within the site. Prior to today’s hearing, counsels for the Applicants and the Town notified the Board that a settlement has been reached in this case.

[2] The Board’s Decision/Order is further amended:

- by replacing the word “pane” with “plane” in paragraph [5];

- by adding the following text to the last sentence of paragraph [8]...” and attached hereto as Attachment 1;
- by attaching to the Decision/Order as Attachment 1 the minutes of settlement (Appendix D) attached hereto.

[3] In all other respects, the Board’s Decision/Order remains the same.

“R. Rossi”

R. ROSSI
MEMBER

Attachment 1

Minutes of Settlement
Appendix D - Page 10 of 23

APPENDIX "D"
ZONING BY-LAW AMENDMENT

CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2013-XX

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;

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

THAT By-law Number 2010-40, be and the same is hereby further amended by:

1. Delete from Schedule "A", Map No.4, the UC-P Zone on Part of Lot 96, Concession 1, East of Yonge Street, Town of Newmarket and municipally addressed 17645 Yonge Street, and substituting therefore the:

Provincial Urban Centre (H)UC-P-119 Exception Zone

as shown more particularly on Schedule "X" attached hereto, and forming part of this By-law.

2. Adding the following regulations relating to the UC-P Section 8.1.1 List of Exceptions:

Exception 119	Zoning (H)UC-P-119	Map 4	By-Law Reference 2013-XX	File Reference D14-NP-11-15
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- i) Location: 17645 Yonge Street - North of Davis Drive, East side of Yonge Street.
- ii) Legal Description: Part of Lot 96, Concession 1, East of Yonge Street, Town of Newmarket (PIN 03578-0121 (LT)).
- iii) Permitted Uses: A Long Term Care Facility, and *Retirement Residence*, shall also be permitted in Blocks A and D.
- iv) Restricted Uses:
 - a) Commercial/Retail uses shall be required for 100 % of the ground level along the Yonge Street frontage, except for Vestibules and Lobbies and the majority of the ground level interior courtyard of Blocks B and C. The interior courtyard is not considered to include ramps to underground parking structures, or loading areas.
 - b) Grade-related residential uses shall also be permitted in Block A.
- v) Prohibited Uses: waste disposal sites within the meaning of Part V of the Environmental Protection Act, large (more than 10,000 L) non-agricultural source material storage facilities, commercial fertilizer storage facilities, pesticide storage facilities, road salt storage facilities, snow storage facilities, fuel storage, DNAPLs storage (chemicals typically used by drycleaners), and organic solvent storage.

Development Standards:

	(H)UC-P-119
(a) Min. Yard Setbacks	
From Front Lot Line (Yonge Street):	0m from the required widening of Yonge Street to accommodate future underground hydro.
From Rear Lot Line (George Street):	Min. 4m
From Interior East Lot Line:	Min. 5m
From North Lot Line:	Min. 3m
From South Lot Line (Block C):	Min. 2m
From South Lot Line (Block D):	Min. 2m
(b) Max. Yard Setback	
From Front Lot Line (Yonge St.): From Rear Lot Line (George St.):	Max. 3m subject to (vii) Max. 5m subject to (vii)
(c) Max. Floor Space Index:	3.5 FSI based on the <i>net lot area</i> of the property that is the subject of the zoning amendment as described below in provision (viii).
(d) Min. Floor Space Index:	1.5 FSI based on <i>net land area</i> described below in provision (vii).
(e) Max. Height: Where height is in metres and storeys, the measurement in metres shall prevail.	Block A – 15 m <i>podium</i> (not to exceed 4 storeys) – George Street frontage. Block A – overall maximum of 30 m including <i>podium</i> (not to exceed 8 storeys) stepped back a minimum of 6 m or greater above the 15m podium and subject to shadow studies. Block A – Street D - Min. 3m step-back above the 7 th Floor <i>podium</i> . Block B – 22m <i>podium</i> (not to exceed 6 storeys) on Yonge Street and connecting podium between Blocks B and C. Block B – 58m including <i>podium</i> (not to exceed 19 storeys) – Yonge Street frontage. Block B – Yonge Street and North Lot Line <i>podium</i> step back Min. 3m and a Max. of 6m. Building linking Block B to A (Street D Link) – 8 Storeys. Block C – 64m including <i>podium</i> (not to exceed 21 storeys) – Yonge Street frontage. Building linking Blocks C to B (Yonge Street <i>podium</i> link) – 22m (not to exceed 6 storeys). Block C Yonge Street and Street B <i>podium</i> step back Min. 3m and a Max. of 6m. Building Linking Block C to D (Street B Link) – 20 m (not to exceed 5 Storeys).

	Block D – 30m (not to exceed 8 storeys). Block D – Street B- Min.1.5m step back above the <i>podium</i> .
(f) Minimum Building Floor Height Ground Floor Commercial/Retail:	5.5m per Storey (Yonge Street)
(g) Minimum Height:	Block A-3 Storeys (George Street)
(h) Maximum Gross Floor Plate for Towers (Block B and C):	820 m ² subject to the wider axis being oriented in an east west direction.
(i) Minimum distance between Towers:	30m
(j) Max. Lot Coverage calculated on the basis of the <i>Net Lot Area</i> as Established for FSI Calculation for the entire site:	60%
(k) Min. Parking Requirement:	a) 0.5 spaces/retirement residence suite, b) 1 space/27m ² Medical Use (Medical Clinic, Medical Office, medical and dental laboratories).

- vi) A greater setback from the lot lines shall be permitted where public and/or private/public space is provided for a park, public square or outdoor plaza.
 - vii) *Net lot area* shall be calculated based on the entire property at the time of application of the By-law amendment (September 2011), exclusive of the Regional road widening on Yonge Street and the Town road widening on George Street, but inclusive of all private internal Streets A and C, land included in easements, lands provided for underground Hydro utilization and lands provided for the purpose of Street B, including the day-light triangle (along the southerly boundary of the property).
 - viii) *Step backs* will be calculated from the building face of the *podium* and any subsequent floors above the *podium*, where additional step backs apply.
 - ix) *Retirement Residence* means a residential building containing suites, not dwelling units, providing residence, mostly to senior citizens, who do not generally require assistance with daily living, and which may provide ancillary health, personal service, and recreational services to serve the residents of the residence.
 - x) *Podium* means the lower storeys of a building that defines the street edge or public realm. The podium refers to the overall massing of this portion of the building, and can be considered as the base of a building.
 - xi) *Minimum Building Floor Height*: Minimum Building Floor Height of a storey shall be measured as the portion of the building situated between the top of any floor and the top of the floor next above.
 - xii) Section 5.5 vii shall not apply.
 - xiii) Special note (*3) of Section 6.4.1 shall not apply.
 - xiv) Sections 6.4.2 (notes *2-5) pertaining to terracing and setbacks shall not apply.
 - xv) No provision of this by-law shall be deemed to be contravened by reason of any land division or the conveyance of a parcel(s) upon which a building(s) is erected provided that all of the standards of this by-law are met for the lands as a whole.
3. AND THAT all other provisions of By-Law 2010-40, as amended, shall apply to the lands subject to this By-Law.
 4. Adding the following provisions to Section 8.2.1 List of Holding Provisions:

By-law No.	Property Description	Permitted Uses Until the Holding Provision Removed	Conditions for Removal of the "H"	Date Enacted
2013-XX	17645 Yonge Street Part of Lot 96, Concession 1, East of Yonge Street, Town of Newmarket	<p>No person within the lands zoned (H)UC-P-119 shall use, 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. Any grading, filling or works necessary to fulfill the requirements of site remediation in order to obtain approval for record of site condition and to provide approved servicing shall be permitted.</p> <p>Furthermore, no changes, 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 Town Council and the By-law comes into full force and effect.</p> <p>However, the Holding provision will not prevent the remediation as addressed above in accordance with the requirements of the Phase 2 Environmental Site Assessment and any testing required to address the potential impacts of development including the Risk Assessment related to Source Water Protection and/or in-ground and above ground services if deemed appropriate and desirable by the Town.</p>	<p>1. Servicing Allocation:</p> <p>a) That prior to lifting the "H" on each phase, servicing capacity shall be demonstrated to be available and has been allocated by the Town generally at the time of Site Plan application, subject to the footnote below²; and</p> <p>b) That York Region is satisfied and 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 (usually 6 to 36 months depending on the complexity of the site plan development); or,</p> <p>c) The Regional Commissioner of Environmental Services confirms servicing allocation for this development by a suitable alternative method and the Town allocates the capacity to this development;</p> <p>2. Sanitary Sewage Conveyance:</p> <p>That prior to lifting the "H" on each phase, it shall be demonstrated to the satisfaction of the Town that there is sufficient existing sanitary sewer conveyance capacity available, or through a detailed calculation demonstration that there is sufficient capacity conveyance and that there will be no downstream adverse impacts;</p> <p>3. Stormwater:</p> <p>That prior to lifting the "H" on each phase, a detailed storm water management plan shall be submitted to the satisfaction of</p>	

² Subject to the Regional Municipality of York's allocation practice with respect to retirement homes and similar uses.

By-law No.	Property Description	Permitted Uses Until the Holding Provision Removed	Conditions for Removal of the "H"	Date Enacted
			<p>the Town, the Region and Lake Simcoe Region Conservation Authority;</p> <p>4. Water Supply:</p> <p>That prior to lifting the "H" on each phase, a water supply analysis shall be submitted to the satisfaction of the Town;</p> <p>5. Servicing Conveyance:</p> <p>Prior to the lifting of the "H" on each phase, provision for municipal services and access shall be to the satisfaction of the Town and the necessary agreements executed with the Town;</p> <p>6. Detailed Risk Management Plan:</p> <p>That prior to lifting the "H" on the 1st phase a Detailed Risk Management Plan shall be required to have received approval from the Region of York demonstrating that any construction activities related to underground construction (underground parking), dewatering or groundwater depressurization will not interfere with quantity and quality of groundwater of the adjacent municipal well (Well 15);</p> <p>7. Record of Site Condition:</p> <p>That prior to lifting the "H" on each phase, a Record of Site Condition shall be filed in accordance with the Town's Official Plan;</p> <p>8. Conceptual Site Plan:</p> <p>That prior to lifting the "H" on the 1st Phase, a Conceptual Site Plan shall be submitted for the entire site, demonstrating to the</p>	

By-law No.	Property Description	Permitted Uses Until the Holding Provision Removed	Conditions for Removal of the "H"	Date Enacted
			<p>Town's satisfaction how the Development Standards of the Zoning Bylaw, urban design policies and principles are met and how development is proposed to proceed in a logical and orderly progression;</p> <p>9. Site Plan Agreement:</p> <p>That prior to lifting the "H" on each phase, a site plan for the applicable phase is required demonstrating to the Town's satisfaction how the density, Development Standards of the Zoning Bylaw, urban design policies and principles, including demonstration of how best practices in effect at that time, are met; and a Site Plan Agreement shall be entered into between the Owner of the lands and the Town, and the performance security contemplated therein posted;</p> <p>10. Subdivision Agreement:</p> <p>That prior to lifting the "H" on the 1st Phase and each subsequent phase, where applicable, a Subdivision agreement, and other necessary agreements as required shall be required to have been executed, between the Owner of the Land and the Town, and the performance securities required have been executed for the respective phases;</p> <p>11. Traffic Impact Study, Parking Analysis and Transportation Demand Management Measures:</p> <p>a) That prior to the lifting of the "H" for the 1st Phase, the Owner shall submit a preliminary phasing plan that identifies any internal transportation infrastructure required for the 1st Phase and</p>	

By-law No.	Property Description	Permitted Uses Until the Holding Provision Removed	Conditions for Removal of the "H"	Date Enacted
			<p>all subsequent phases, as well as the recommended timing of any external road and network improvements required in support of the implementation of each phase, including the co-ordination required for each phase with external transportation works, to the satisfaction of the Town and the Region;</p> <p>b) That prior to the lifting of the "H" for each phase, an updated Traffic Impact Study and Parking Analysis, including Transportation Demand Management measures shall be submitted outlining which, if any, transportation improvements and/or modifications to density, (addressed through the Site Plan process), are required to permit that phase to proceed and to ensure parking is acceptable and that TDM measures shall be implemented all to the satisfaction of the Town and Region;</p> <p>c) That prior to the lifting of the "H" on the 1st Phase and subsequent phases thereafter, an agreement shall be entered into between the Owner and the Town stipulating that Street A will be constructed and maintained as part of the 1st Phase to the satisfaction of the Town, as a temporary street between Yonge Street and George Street; it will remain as a temporary street throughout the subsequent phases with the exception of the periods that it is required to be temporarily closed for construction, and that upon completion of the development of the subject</p>	

By-law No.	Property Description	Permitted Uses Until the Holding Provision Removed	Conditions for Removal of the "H"	Date Enacted
			<p>property, Street A will be constructed and maintained as a private street to the satisfaction of the Town, in consultation with the Region;</p> <p>d) That prior to the lifting of the "H" on Block C, the Owner shall enter into an agreement with the Town regarding the detailed design, construction timing and maintenance of the Owner's portion of Street B (as an interim right in right out street) and the southerly portion of Street C;</p> <p>e) That prior to the lifting of the "H" on Block B, Streets B and C referred to above, shall be constructed and the necessary conveyances and agreements executed to the satisfaction of the Town and the Region;</p> <p>f) That prior to the lifting of the "H" on Block B, intersection improvements at George Street and Davis Drive shall be implemented unless demonstrated, to the satisfaction of the Town and the Region, through an Updated Traffic Impact Study that the improvements are required sooner or later than this phase, and the necessary agreements executed with the Town and the Region;</p> <p>g) That prior to the lifting of the "H" on Block A, Street C shall be constructed and extended to the northerly boundary of the subject property to facilitate a connection to Street D, to the satisfaction of the Town;</p> <p>h) No amendment to this By-law is required should it be determined, to the satisfaction of the Town Council and/or</p>	

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By-law No.	Property Description	Permitted Uses Until the Holding Provision Removed	Conditions for Removal of the "H"	Date Enacted
			<p>Region, as the case may be, that the timing of any of the transportation improvements or their linkage to certain Blocks of the development should be revised, provided such changes are supported by the appropriate studies also prepared to the satisfaction of the Town, and where applicable the Region.</p> <p>12. Official Plan:</p> <p>That prior to lifting the "H" on each phase, all relevant provisions of the Official Plan have been complied with.</p>	

ENACTED THIS DAY OF , 2013.

Tony Van Bynen, Mayor

Andrew Brouwer, Town Clerk

**TOWN OF NEWMARKET
REGIONAL MUNICIPALITY OF YORK
17645 YONGE STREET
PART OF LOT 96, CONCESSION 1,
EAST OF YONGE STREET**

This is Schedule 'X'
To Bylaw 2013-
Passed this _____ Day
of _____, 2013.

MAYOR _____
CLERK _____

**SCHEDULE "X" TO BY-LAW 2013-
TOWN OF NEWMARKET PLANNING DEPARTMENT**

Designed & Produced by: Information Technology - GIS Section; Layer: Parcel Boundaries - DT parcel no. and its suburbs. All rights reserved. NOT A PLAN OF SURVEY 2012. DISCLAIMER: This mapping is based on the POLARIS parcel data product compiled using Land Registry System records and recent surveys and control points where available. This mapping is a representation of the earth's surface and provides estimates of area and distance. It is not a substitute for a legal survey.

This is Schedule XX
To By-Law 2013-
Passed this ____ Day
of _____ 2013.

Schedule XX
Public and Private Streets

Mayor

Clerk



