



Committee of Whole

Meeting Date: September 14, 2021
Submitted by: Durk Vanderwerff, Director of Planning
SUBJECT: NEWBURY OFFICIAL PLAN AMENDMENT NO. 13;
MCNAUGHTON DODGE CHRYSLER INC.; FILE NO. 39-NEW-
OPA13

BACKGROUND:

McNaughton Dodge Chrysler Inc. has applied to amend the Newbury Official Plan for a property located at 22881 Hagerty Road. Amendment No. 13 would re-designate the western 0.23-hectare portion of the property from a 'Commercial' designation to a 'Residential' designation to permit the development of two single detached dwellings.

The property is vacant and has been used for the parking of recreational vehicles, campers and vehicles associated with the McNaughton Dodge Chrysler dealership which is located to the south across the road. The property is surrounded by residential uses to the west, north and east. In addition to Amendment No. 13, locally the proposal has been subject to a consent application to create two building lots and a zoning by-law amendment to rezone the subject lands to the 'Residential First Density (R1)' zone.

County Council is the Provincially delegated Approval Authority for locally adopted official plan amendments. This report summarizes the planning policy context and provides a planning recommendation for Council from the perspective of the Approval Authority. More detailed local planning analysis, as provided to Newbury Council, is provided within the attached local planning report. In addition, a location map, and a copy of Amendment No. 13 are appended.

ANALYSIS:

The application was submitted to the Village in June 2021 and was subject to a public meeting on July 12, 2021. Amendment No. 13 was adopted by Newbury Council and submitted to the County as the Approval Authority. The submission was accepted as complete by the County and a further agency / ministry circulation was not undertaken given the location and the limited extent of the change. The County has not received comment from the public concerning Amendment No. 13.

The Provincial Policy Statement and County Official Plan provide direction on matters of Provincial and County interest and seek to encourage development in settlement areas on full municipal services. Settlement areas are intended to accommodate a variety of non-agricultural uses provided the development is compatible with surrounding areas and represents an efficient use of land and infrastructure. Residential intensification and redevelopment are supported by the planning policies.

The Newbury Official Plan does not provide direction regarding the conversion of commercial land to non-commercial uses. However, new residential development in the Village is encouraged to be limited in scale and primarily low-density dwellings. The proposed residential use is compatible with the surrounding area and can be supported on full municipal services.

I have reviewed Amendment No. 13 against the PPS, the County Official Plan, and the Newbury Official Plan. I am satisfied that Amendment No. 13 is consistent with the PPS, conforms to the intent and purpose of the County's Official Plan and the Newbury Official Plan, and represents sound land use planning. I am therefore recommending approval of Official Plan Amendment No. 13, as adopted.

FINANCIAL IMPLICATIONS:

The budget expense related to the Provincially delegated Approval Authority responsibility for local official plans is offset, to an extent, through the collection of application fees.

ALIGNMENT WITH STRATEGIC FOCUS:

This report aligns with the following Strategic Focus, Goals, or Objectives:

Strategic Focus	Goals	Objectives
Strengthening Our Economy	Encourage a diverse and robust economic base throughout the county	Support the development and prosperity of downtown core areas in Middlesex County

RECOMMENDATION:

That Amendment No. 13 to the Newbury Official Plan be approved and that staff be directed to circulate a Notice of Decision as required by the Planning Act, and that the Notice of Decision indicate that no written submissions were received concerning this application.

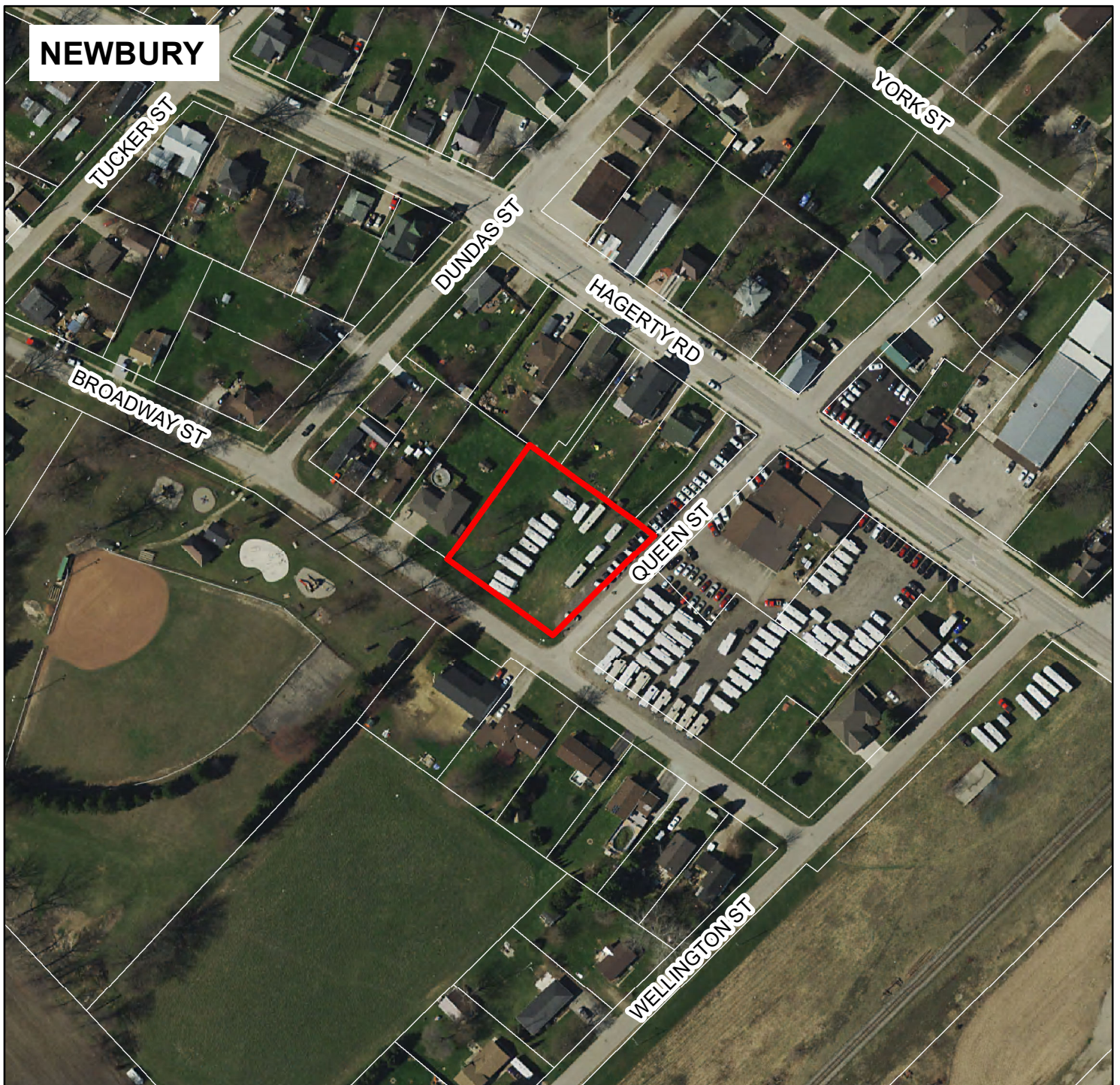
Attachments

Attachment 1 Location Map

Attachment 2 OPA39

Attachment 3 Planners Report

NEWBURY



LOCATION MAP

Description:
OFFICIAL PLAN AMENDMENT NO. 13
VILLAGE OF NEWBURY

File Number:
39-NEW-OPA13

Prepared by: Planning Department
The County of Middlesex, August 20, 2021.



LEGEND

 SUBJECT LANDS



1:2,000
0 50 100
Meters

AMENDMENT NO. 13

TO

THE OFFICIAL PLAN

OF THE

VILLAGE OF NEWBURY

Location: The subject property is located on the west side of Hagerty Road, north side of Queen Street and east side of Broadway Street. The property is municipally known as 22881 Hagerty Road and legally described as Lots 1 & 2, Plan 46 and Parts 1, 2, 3, 4, 6, & 7, Village of Newbury.

Date: July 12, 2021

Approval Authority: County of Middlesex

AMENDMENT NO. 13

To the Official Plan of the Village of Newbury

The attached, constituting Amendment No. 13 to the Official Plan of Village of Newbury, as authorized by the provisions of Section 22 of the Planning Act, R.S.O. 1990, c.P.13, was adopted by Council of the Village of Newbury by By-law 112-21 on the 12th day of July, 2021, in accordance with the Planning Act, R.S.O. 1990, c.P.13.




Diane Brewer
Reeve



Cathy Case
Clerk

I, Cathy Case, Clerk-Treasurer of the Village of Newbury, do hereby certify this is a true copy of the original document which has not been altered in any way.



Cathy Case
Clerk-Treasurer
Village of Newbury

AMENDMENT NO. 13

To the Official Plan of the Village of Newbury

PART A - THE PREAMBLE - does not constitute part of this Amendment.

PART B - THE AMENDMENT - consisting of the text which constitutes Amendment No. 13

PART C - THE APPENDICES - do not constitute part of this Amendment.

AMENDMENT NO. 13

To the Official Plan of the Village of Newbury

PART A - THE PREAMBLE

1.0 PURPOSE AND EFFECT

The purpose and effect of the Official Plan Amendment application is to re-designate a portion the subject property from the Commercial designation to the Residential designation to permit residential uses. The Amendment would re-designate a 2,000.5 m² (21,533.5 ft²) portion of 22881 Hagerty Road, and the remnant lands would remain in the Commercial designation.

2.0 LOCATION

The subject property is located on the west side of Hagerty Road, north side of Queen Street and east side of Broadway Street. The property is municipally known as 22881 Hagerty Road and legally described as Lots 1 & 2, Plan 46 and Parts 1, 2, 3, 4, 6, & 7, Village of Newbury.

The surrounding land uses are predominately residential with some commercial uses along Hagerty Road.

3.0 BASIS OF THE AMENDMENT

The Planning Act requires all decisions made under the Act "be consistent with" the Provincial Policy Statement, 2020 (PPS) and in conformity with the applicable County of Middlesex and Village Newbury Official Plans.

The Provincial Policy Statement, 2020 (PPS), the County Official Plan, and the Newbury Official Plan all encourage development in settlement areas on full municipal services provided the development is compatible with the surrounding area and represents an orderly and efficient use of land and infrastructure.

The PPS states that planning authorities shall promote economic development and competitiveness by providing an appropriate mix and range of employment including commercial and industrial lands, and by facilitating the conditions for economic investment within the municipality. Planning Authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.

Urban Areas in the County shall demonstrate the potential to accommodate

future growth. Local municipalities shall develop Growth Management Strategies to rationalize the type, amount, location and timing of growth and development and to establish the basis for the provision of the services and the necessary infrastructure.

The subject proposal satisfies the PPS and County Official Plan as the lands are underutilized and vacant of commercial uses, and there appears to be sufficient land available for commercial uses in other areas of the Village of Newbury. Additionally, the subject lands abut residential uses and, as a result, are compatible with the proposed residential use. The proposed uses can be supported on full municipal services and have year round access to a public roadway.

The Newbury Official Plan provides a framework for proposed amendments thereto. The subject proposal complies with the policies of the Newbury Official Plan in that it is consistent with the PPS and in conformity with the County Official Plan. In addition, the subject proposal is justifiable in that the re-designation would facilitate infill development within a settlement area.

According to the Village of Newbury Zoning By-law, the lands at 22881 Hagerty Road Drive are zoned 'General Commercial (C1)'. The applicants have advised that the lands subject to the re-designation will be the subject of a rezoning application and are proposed to be re-zoned from 'General Commercial (C1)' to 'Residential First Density (R1)' in order to permit the residential uses.

PART B - THE AMENDMENT

4.0 DETAILS OF THE AMENDMENT

The document known as the Official Plan of the Village of Newbury is hereby amended:

- i. By amending Schedule "A", Future Land Use Plan, of the Official Plan of the Village of Newbury by changing the designation of part of 22881 Hagerty Road and legally described as Lots 1 & 2, Plan 46 and Parts 1, 2, 3, 4, 6, & 7, Village of Newbury from '**Commercial**' to '**Residential**' as shown on Schedule "A".

PART C - THE APPENDICE

**OFFICIAL PLAN AMENDMENT No. 13
SCHEDULE "A"**

Applicant: McNaughton Dodge Chrysler Inc. (Owner)
22881 Hagerty Rd
Lots 1 & 2, Plan 46 and Parts 1, 2, 3, 4, 6, & 7
Village of Newbury



Village of NEWBURY



Published by the County of Middlesex
Planning Department
399 Ridout Street N., London, ON
(519) 434-7327
June 2021



**LANDS SUBJECT OF AMENDMENT NO. 13
AND REDESIGNATED FROM 'COMMERCIAL'
TO 'RESIDENTIAL'**



1:1,000
0 10 20 30 Meters

Disclaimer: This map is for illustrative purposes only.
Do not rely on it as being a precise indicator of routes,
locations of features, nor as a guide to navigation.



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July 12, 2021

STAFF REPORT

TO: Members of Council, Members of Committee of Adjustment
Village of Newbury

FROM: Marion-Frances Cabral, Planner

SUBJECT: Consent Application B-03-2021, Zoning By-law Amendment ZBA 01-21,
and Official Plan Amendment OPA 01-21
22881 Hagerty Road, Newbury
McNaughton Dodge Chrysler Inc. (Agent: Terry McNaughton)

Recommendation:

THAT consent application B-03-2021, as amended, filed by Terry McNaughton on behalf of McNaughton Dodge Chrysler Inc., in order to sever one (1) lot with a frontage of approximately 20.11 m (66 ft) along Broadway Street and lot area of approximately 996.04 m² (10, 721.3 ft²) from an existing 2,266.76 m² (24, 399.2 ft²) parcel municipally described as 22881 Hagerty Road, Village of Newbury; be **GRANTED**.

FURTHER THAT Consent B-03-2021 be subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within one year of the date of the notice of the decision. The request for the Certificate of Consent shall be accompanied by a written submission that details how each of the conditions of severance has been fulfilled.
2. That any outstanding property taxes be paid in full.
3. That a draft reference plan be prepared by an Ontario Land Surveyor for the purposes of facilitating the transaction of Consent B-03-2021 and that this plan be approved by the Municipality prior to being deposited with the Land Registry Office
4. That the applicant submits an Acknowledgement and Direction duly signed by the applicant.
5. That a zoning by-law amendment that appropriately recognizes all zoning deficiencies and permitted uses on the severed and retained lots of Consent B-03-2021 be in full force and effect prior to consent being granted.

6. That the Owners' solicitor provide a Transfer in Preparation to the Municipality, together with a deposited reference plan and a Schedule describing the land to be transferred, for the purposes of the issuance of a Certificate of Consent.
7. That the Owner dedicate lands up to 13 m (42.7 ft) from the centerline of construction of County Road 1 (Hagerty Road) across the retained parcels to the County of Middlesex for the purposes of road widening if the right of way is not already to that width.
8. That the applicant submit an undertaking in a form satisfactory to the Secretary-Treasurer to register an electronic transfer of title consistent with the Acknowledgement and Direction and the decision of the Committee of Adjustment.
9. That one copy of the reference plan be submitted to the satisfaction of the municipality.
10. That the owner install separate water, storm, and sanitary service connections to the severed lot at the expense of the Owner prior to consent being granted to the satisfaction of the municipality.
11. That, if necessary, the fee for the Certificate of Consent be paid in accordance with the Village's Fees and Charges By-law.
12. That, if necessary, a revised assessment scheduled in accordance with the Drainage Act, as amended, be commissioned and paid for by the Owners.

AND FURTHER THAT official plan amendment application OPA 01-21 (OPA 13), filed by Terry McNaughton on behalf of McNaughton Dodge Chrysler Inc., in order to re-designate a portion of the lands from 'Commercial' to 'Residential' be adopted and forwarded to the County of Middlesex for consideration and approval;

AND FURTHER THAT zoning by-law amendment application ZBA 01-21, filed by Terry McNaughton on behalf of McNaughton Dodge Chrysler Inc., in order to rezone a portion of the lands from 'General Commercial (C1)' to 'Residential First Density (R1)' be **APPROVED**.

Purpose:

The purpose of the consent application is to sever lands from 22881 Hagerty Road for the creation of two (2) new residential lots to erect a single detached dwelling on each parcel for a total of two (2) dwelling units. The severed lots will be approximately 996.04 m² (10, 721.3 ft²) and 1004.49 m² (10, 812.2 ft²) in size with a frontage of 20.11 m (66 ft) per lot on Broadway Street. The retained lands is a corner lot with an area of approximately 266.23 m² (2, 865.7 ft²) with 5.33 m (17.5 ft) of frontage on Hagerty Road and 49.95 m (163.9 ft) of frontage on Queen Street.

A location map and sketch of the proposal are attached to this staff report.

Background:

The subject property is a through and corner lot and is located on the west side of Hagerty Road (County Road 1), north side of Queen Street and east side of Broadway Street in Newbury. Residential lands are located immediately to the west and north, and commercial are located to the south and east.

The subject property currently comprises an area of 2, 266.76 m² (24, 399.2 ft²) and 5.33 m (17.5 ft) of frontage on Hagerty Road and 40.22 m (132 ft) of frontage on Broadway Street. The subject property is vacant of any buildings or structures, however, it is used for parking RVs, Campers and vehicles. The subject property has access to full municipal services.

The applicant is seeking to sever, rezone and redesignate two (2) lots from the western portion of the subject property that is vacant of any buildings or structures for the purposes of building to single-detached dwellings. The remnant parcel that has frontage on Hagerty Road would continue to be used for the parking of vehicles.

Policy and Regulation Background:

The Official Plan designates the subject lands within the “Commercial” designation, and is zoned “General Commercial (C1)” in the Zoning By-law.

Provincial Policy Statement, 2020

The Provincial Policy Statement, 2020 (PPS), the County Official Plan, and the Newbury Official Plan all encourage development in settlement areas on full municipal services provided the development is compatible with the surrounding area and represents an orderly and efficient use of land and infrastructure.

Section 1.3 (“Employment”) of the PPS states that planning authorities shall promote economic development and competitiveness by providing an appropriate mix and range of employment including commercial and industrial lands, and by facilitating the conditions for economic investment within the municipality. Additionally, planning authorities shall plan for, protect and preserve employment areas for current and future uses. Planning Authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion. Further planning authorities shall protect employment areas in proximity to major goods movement facilities and corridors for employment uses that require those locations.

Section 1.4 (“Housing”) states that planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents.

Middlesex County Official Plan

Economic development is an important function of the County’s Growth Management policy framework. Many long-term goals and objectives depend on economic activity and the opportunity for residents to live and work within the County.

Local municipalities, through their official plans, shall prepare detailed policies to guide redevelopment of areas in transition or land that is underutilized.

Urban Areas in the County shall demonstrate the potential to accommodate future growth. Local municipalities shall develop Growth Management Strategies to rationalize the type, amount, location and timing of growth and development and to establish the basis for the provision of the services and the necessary infrastructure.

The County Plan also identifies minimum road right-of-way widths throughout the County. Hagerty Road is classified as a Collector Road constructed to an urban standards within a settlement area. Hagerty Road is to have a minimum right-of-way width of 26 metres. Building setbacks are to be established within the local zoning by-law.

Village of Newbury Official Plan

Section 3.4 (“Commercial and Industrial”) of the Official Plan establishes policies related to Commercial and Industrial lands within the Village. The piecemeal creation of ribbon development of commercial, industrial and/or institutional uses along major roads shall be discouraged. Wherever possible, industrial, institutional and commercial uses should also be encouraged to locate in proximity to one another.

Section 3.3 (“Residential”) of the Village of Newbury Official Plan states that “new residential development shall normally take place on lots of a registered plan of subdivision or on lots created by consent of the authority having jurisdiction. Consents shall only be granted when a registered plan of subdivision is not necessary to ensure the effective implementation of the policies of this Plan.” Further, “where residential areas are designated, development shall be restricted to residential and institutional uses. New residential development in the Village shall be limited in scale and restricted to low density, single family and two family dwellings.”

Section 5.5 (“Consents”) of the Village of Newbury Official Plan states that “a consent shall only be granted if the purposes for which the lands which are subject of the consent to be used is in conformity with this Plan and the provisions of the affected zoning by-law, and when it is clear that a plan of subdivision is not considered necessary to ensure the effective implementation of the policies of this Plan. Where a consent application contravenes this Plan of the zoning by-law, no consent shall be granted unless this Plan and/or the zoning by-law is duly amended and approved by the authority having jurisdiction of the appropriate condition regarding the zoning change is included in the decision of the authority granting the consent.”

With respect to the Zoning By-law, the ‘General Commercial (C1)’ zone permits only a variety of commercial uses such as office, library, retail store, parking lot, residential units that are accessory to the primary commercial use, and existing single-family detached dwellings. Further, the zoning requires a minimum lot frontage of 15 m (49.2 ft) and lot area of 500 m² (5, 381.96 ft²).

The ‘Residential First Density (R1)’ zone permits a single-family detached dwelling on one lot, home occupation and private garage. Additionally, the zoning requires a minimum lot frontage of 15 m (49.2 ft) and lot area of 500 m² (5, 381.96 ft²).

Consultation:

Notice of the application and public meeting was circulated to agencies, as well as property owners in accordance to the requirements of the *Planning Act*.

Public Comments:

At the time the subject report was completed, no comments had been received.

Agency Comments:

The County of Middlesex Engineer reviewed the subject application and requests that the owner will be required to dedicate lands up to 13 m from the centreline of construction of County Road 1 (Hagerty Road) across the severed and retained parcels to the County of Middlesex for the purposes of road widening if the right-of-way is not already 26 metres.

Analysis:

Consent

The Provincial Policy Statement, County Official Plan and the Village's Official Plan generally permit lot creation within Settlement Areas, subject to servicing and compatibility.

The Planning Policies have a servicing hierarchy in which the preferred option for new development within settlement areas is full municipal servicing. The proposed lots to be severed and the lot to be retained will have access to municipal water and sanitary services. During preconsultation staff noted that municipal service connections would need to be provided for the severed lots as a condition of consent. The connections would be at the expense of the Owner. The subject property abuts a Municipal road, and therefore no road extension is required.

The proposed severance is generally supported by the policies of the Provincial Policy Statement, the County of Middlesex Official Plan, and the Village of Newbury Official Plan. This type of development is the preferred form, because it promotes more efficient use of land and infrastructure and reduces the need for expansion of settlement area boundaries. The subject property is in an appropriate location for intensification as it would promote a more compact form and more appropriate development standards for residential lots in the existing neighbourhood.

It is the opinion of staff that the proposed two (2) lots can be supported on the subject lands and meet the standards for lots zoned 'Residential First Density (R1)' or 'General Commercial (C1)'. However, planning staff recommend the creation of one (1) lot, proposed Lot 1, due to size and functionality of the remnant land. Lot 1 would be an interior lot and have frontage on Broadway Street only. Additionally, as a result of the severance the County Engineer has requested a condition of consent to dedicate lands to the County of Middlesex that could further reduce the remnant parcel's size. The applicant proposes to retain the undersized commercial lot for the parking of vehicles related to the car dealership on the south side of Queen Street. While this may be a continuation of an existing use, there are limited options

for the future use of the retained parcel. Planning staff would support the application to sever two (2) lots if the remnant parcel could be merged with an abutting parcel to the north to make it functional. If it is not possible to consolidate the remnant parcel, it is recommended that it remains with the parcel of land, proposed Lot 2, that fronts Queen Street and Broadway Street.

Official Plan Amendment

It is the opinion of staff that the lands can be supported for conversion from “Commercial” to “Residential”. The applicant did not undertake a comprehensive review to support the application, however, the lands are underutilized and there appears to be sufficient land available for commercial uses in other areas of the Village. Additionally, the subject lands abut lands that were previously redesignated to permit residential uses and, as a result, are compatible with the proposed residential use on the subject land. The proposed uses can be supported on full municipal services and have year round access to a public roadway. As such, planning staff support the provision of new residential uses to meet the needs of current and future residents.

To reflect planning staff’s recommendation to support the creation of proposed Lot 1 only, staff do not have concerns with the redesignation of proposed Lot 1 and partial redesignation of the remnant lot for residential uses. When considering the future use of the remnant parcel, planning staff recommend that the portion of the lands that abut Hagerty Road maintain a commercial designation to permit commercial uses should the lands be merged in the future with an abutting commercial lot and due to proximity to the Village centre and adjacent commercial uses. As such, the remnant lot would have a split designation of ‘Residential’ and ‘Commercial’.

In compliance with provincial Environmental Protection Act and its regulations, the conversion of lands from an employment use (e.g. industrial, commercial) to a more sensitive use such as residential requires the completion of a Record of Site Condition. A Record of Site Condition can be completed prior to new development as a requirement through the Ontario Building Code. Since the Village’s Official Plan and Zoning By-law does not contemplate the use of Holding zones, staff recommend that the following new section be included in the Official Plan that is applicable to the subject lands:

“3.3.5 For the lands subject to OPA 13, where new residential, institutional or parkland uses are proposed on the subject lands, the proponent shall complete a Record of Site Condition in accordance with Ontario Regulation 153/04 prior to the issuance of a building permit.”

Section 3.5 of the Official Plan has policies pertaining to 5 percent land dedication or cash in lieu for the purposes of creating a new park when approving new residential development. The policy enables the Village to impose this policy if it sees fit for the application. Village staff advised that the 5 percent land dedication or cash in lieu for a new park is not necessary for this scale of development.

Zoning By-law Amendment

It is the opinion of staff that the requested rezoning can be supported on the subject lands. As described above, the permitted uses in the requested 'Residential First Density (R1)' zone are compatible with the surrounding area and appropriate for the lands. The proposed lots meet the minimum required lot frontage and lot area for lots that are serviced by municipal water and sewage systems.

However, planning staff recommend the approval of severing of one (1) lot from the subject lands to prevent the creation of an undersized commercial parcel that has limited uses. As such, planning staff recommends: 1) the rezoning of proposed severed lot (Lot 1) to 'Residential First Density (R1)', and 2) partial rezoning of the remnant lands to 'Residential First Density (R1)' and 'General Commercial (C1)' to recognize the proposed residential uses for a majority of the land yet allow current and future commercial uses on the land abutting Hagerty Road.

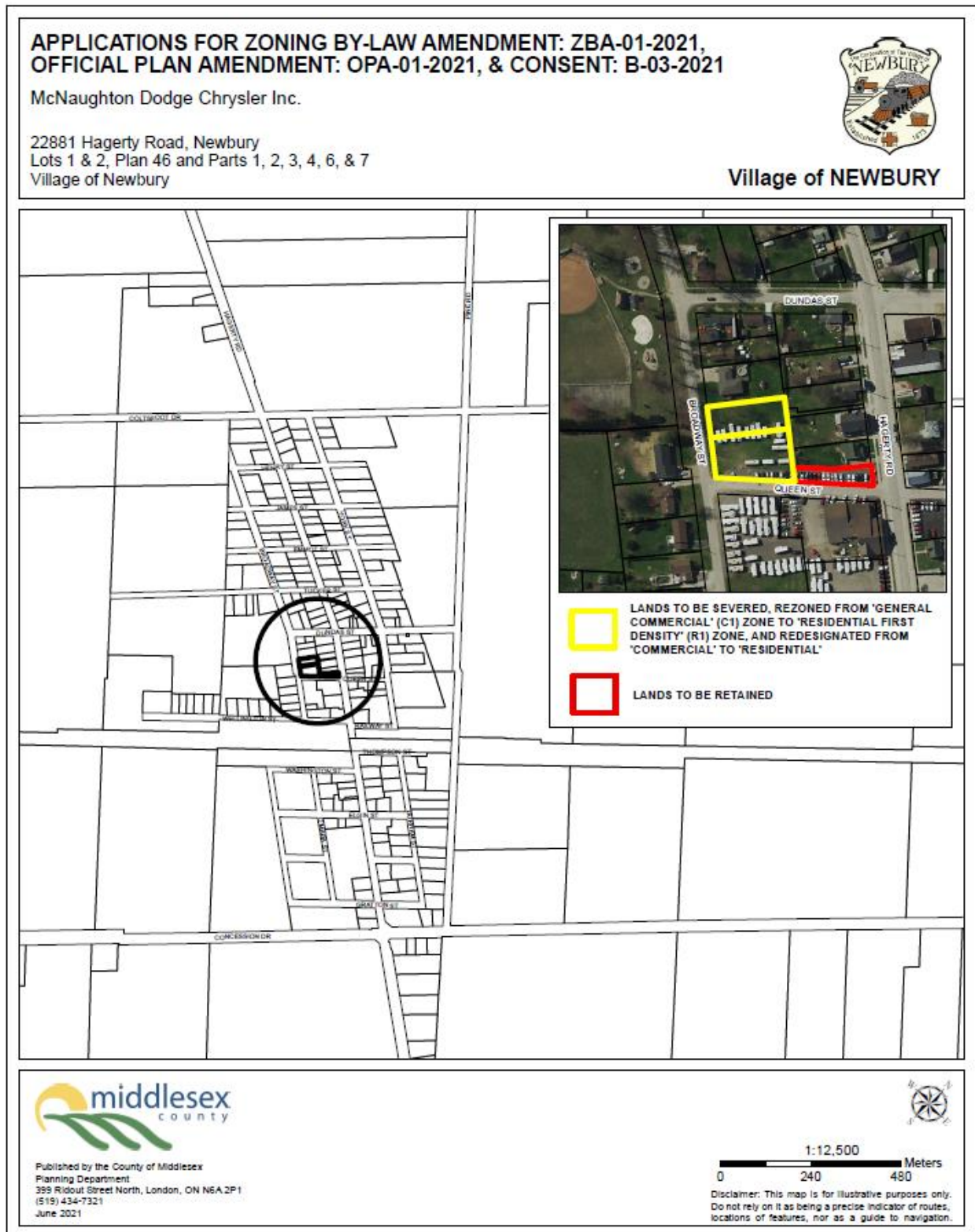
Should Council wish to approve the severance of two (2) lots as requested by the applicant, it is recommended that a site-specific "General Commercial (C1-x)" zone be applied to the remnant parcel to recognize the undersized lot frontage and lot area.

It is the opinion of staff that the proposal represents desirable intensification by creating residential lots for residential uses within the settlement area where full municipal services are located. As noted above, the surrounding land uses are predominately residential along Broadway Street and residential and commercial along Hagerty Road. However, planning staff cannot support the creation of an undersized remnant parcel that cannot be used by a variety of commercial uses.

Based on the above analysis, it is recommended that one (1) interior lot with an approximate frontage of 20.11 m (66 ft) along Broadway Street be created subject to conditions; a portion of the subject land be designated to 'Residential', and a portion of the subject land be rezoned to 'Residential First Density (R1)', as it satisfies the requirements of the *Planning Act*; is consistent with the Provincial Policy Statement, 2020; conforms to the Official Plans of the Village of Newbury and the County of Middlesex; and, represents sound land use planning.

This opinion is provided prior to the public meeting and without the benefit of potentially receiving all comments from agencies or members of the public. Should new information arise regarding this proposal prior to or at the public meeting, Council is advised to take such information into account when considering the application.

Location Map:



Sketch of Staff Recommendation:

Lot 1 – severed, rezoned to 'Residential First Density (R1)' and designated 'Residential'

Remnant Land – partially zoned 'Residential First Density (R1)' and 'General Commercial (C1)', partially designated 'Residential' and 'Commercial'

