



CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2014-54

A BY-LAW TO AMEND BY-LAW 2010-40 BEING A ZONING BY-LAW.
(212 Davis Drive)

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, to pass this By-law; and

WHEREAS Council of the Town of Newmarket has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

WHEREAS the Official Plan for the Town of Newmarket contains provisions relating to the authorization of increases in height and density of development; and

WHEREAS pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

WHEREAS subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

WHEREAS the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

WHEREAS the increase in height and density beyond that otherwise permitted on the aforesaid lands by By-law No. 2010-40 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the Town of Newmarket; and

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

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

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

1. Pursuant to Section 37 of the *Planning Act*, the increased height and density permitted by this By-law on the said lot are permitted subject to the owner building a purpose-built rental apartment with a commitment that the building remain rental for a minimum of 20 years, and the provisions for which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements with the owner of the lot pursuant to Section 37 of the *Planning Act*, securing that the building will be a purpose-built rental apartment with a commitment that the building remain rental for a minimum of 20 years, the said lot is subject to the provisions of this By-law, and is subject to the said

agreement as a precondition to the issuance of a building permit. The *owner* may not erect or use such building until the *owner* has entered into such agreement.

3. Delete from Schedule “A”, Map No.10, the UC-R-51 Zone on Part of Lot 4, Registered Plan 32, Town of Newmarket and municipally addressed 212 Davis Drive, and substituting therefore the:

Regional Urban Centre (H)UC-R-124 Exception Zone

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

4. Adding the following regulations relating to the UC-R zone to Section 8.1.1 List of Exceptions:

Exception 124	Zoning (H)UC-R-124	Map 10	By-Law Reference 2014-54	File Reference D14-NP-14-04
<p>i) Location: 212 Davis Drive - South side of Davis Drive.</p> <p>ii) Legal Description: Lot 4, Registered Plan 32, Town of Newmarket (PIN 03602-0347(LT)).</p> <p>iii) 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, fuel storage, DNAPLs storage (chemicals typically used by drycleaners), and organic solvent storage.</p> <p>iv) Development Standards:</p>				
		(H)UC-R-124		
(a) Min. Yard Setbacks:				
<u>Apartment Building:</u>				
From Front Lot Line (Davis Drive)		Min. 3.0 m ¹		
From West Lot Line		Min. 4.5 m		
<u>Accessory Parking Structure:</u>				
From Rear Lot Line as measured from the northerly limit of the future Minor Collector ROW:		Min. 3 m from the future Minor Collector right of way. ²		
<u>Accessory Parking Structure: (*1)</u>				
From East Lot Line		Min. 3 m		
<u>Accessory Parking Structure: (*1)</u>				
From West Lot Line		Min. 6 m		

¹ The 3 m easement, in favour of the Town, is established for the future burying of the overhead hydro lines on Davis Drive and will provide the necessary above ground space for facilities including future cycling facility and wider sidewalks on Davis Drive.

² The future Minor Collector ROW is to be dedicated to the Town and will have a minimum width of 20 m.

<u>Accessory Parking Structure Ramp:</u>	
From the West Lot Line	Min. 2.9 m
(b) Max. Yard Setback:	
<u>Apartment Building:</u>	
From Front Lot Line (Davis Drive)	Max. 15 m
<u>Accessory Parking Structure: (*1)</u>	
From West Lot Line	Max. 9.6 m (excluding any ramps)
(c) Maximum Total Lot Coverage for all Accessory Structures:	30 %
(d) Max. Floor Space Index:	2.0 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 (v).
(e) Min. Floor Space Index:	1.5 FSI based on <i>net land area</i> described below in provision (v).
(f) Max. Height of Apartment Building:	
Where height is in metres and storeys, the measurement in metres shall prevail.	46 m (15 storeys)
(g) Podium Structure:	
Maximum Height of an enclosed or open <i>podium structure</i> located on Davis Drive frontage	Max. 10 m
Minimum Height of an enclosed or open <i>podium structure</i> located on Davis Drive frontage	Min. 4.2 m
Minimum step back	Min. 3.0 m
Minimum frontage	Min. two-thirds the width of the frontage of the apartment building facing Davis Drive.
(h) Apartment Building Ground Floor Height:	Min. 4.0 m Max. 4.5 m
(i) Parking Requirement for the Apartment Building:	Min. 0.86 per dwelling unit, plus 0.10 per dwelling unit for visitor parking. Max.1.0 per apartment unit plus 0.1 per apartment unit for visitor parking.
(j) Minimum width of entrance to future Minor Collector at the rear of 212 Davis Drive	6.7 m

(k) Height of Accessory Parking Structure:	Max. 6.6 m above average finished grade
<p><i>(*1) Any below grade portions of the Accessory Parking Structure may encroach within 0.5 m of the east and west lot lines provided the surface area above the below grade parking structure remains useable for the designed purpose, e.g., landscaping, pedestrian access, private street, etc.</i></p> <p>v) Net lot area shall be calculated based on the entire property at the time of application of the By-law amendment (April 28, 2014), inclusive of the public Minor Collector across the rear of 212 Davis Drive and all private internal streets/lanes and the land included in the easements for underground hydro utilization across the frontage of Davis Drive.</p> <p>vi) Podium Structure means the lower part of the apartment building that is designed to break up the front façade and define the street edge. The podium refers to the overall structure that extends beyond the front wall of the tower portion of the building.</p> <p>vii) Special note (*3) of Section 6.4.1 shall not apply.</p> <p>viii) Special notes (*2-5) of Section 6.4.2 pertaining to terracing and setbacks shall not apply.</p> <p>ix) 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.</p>	

5. AND THAT all other provisions of By-Law 2010-40, as amended, shall apply to the lands subject to this By-law.

6. 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
2014-54	212 Davis Drive Part of Lot 4, Registered Plan 32, Town of Newmarket	<p>No person within the lands zoned (H)UC-R-124 shall erect, alter or use any land, 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 testing for and/or site remediation required to obtain approval for Record of Site Condition and/or 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 any remediation or testing as addressed above, or any testing related to related to Source Water Protection and/or in-ground and above ground services, if deemed appropriate and desirable by the Town.</p>	<p>1. Grading:</p> <p>That prior to lifting the “H” it shall be demonstrated to the satisfaction of the Town that the proposed grading and elevation of the proposed apartment building and accessory parking structure achieve appropriate vehicle and pedestrian connectivity to the future Minor Collector at the rear, and appropriately connect and transition to the surrounding properties, including Davis Drive.</p> <p>2. Conveyance of the Minor Collector and Hydro Easement along the frontage of Davis Drive:</p> <p>That prior to the lifting of the “H”, that the Owner shall enter into an agreement with the Town for the conveyance of the space required for the future Minor Collector across the rear of 212 Davis Drive and the 3 m easement and associated facilities at the Davis Drive frontage and the necessary agreements executed with the Town, and applicable agencies.</p> <p>3. Sanitary Sewage Conveyance:</p> <p>That prior to lifting the “H” it shall be demonstrated to the satisfaction of the Town that there is sufficient existing sanitary sewer conveyance capacity</p>	

By-law No.	Property Description	Permitted Uses Until the Holding Provision Removed	Conditions for Removal of the “H”	Date Enacted
			<p>available, or through a detailed calculation, demonstrate that water conservation measures will achieve the same end and that there will be no downstream adverse impacts.</p> <p>4. Record of Site Condition:</p> <p>That prior to lifting the “H” a Record of Site Condition shall be filed in accordance with the Town’s Official Plan. (Policy 10.4.7 a)</p> <p>5. Stormwater:</p> <p>That prior to lifting the “H” a detailed storm water management plan shall be submitted to the satisfaction of the Town, the Region and the Lake Simcoe Region Conservation Authority.</p> <p>6. Servicing Conveyance:</p> <p>That prior to the lifting of the “H” provision for municipal services and access shall be to the satisfaction of the Town and the necessary agreements executed with the Town.</p> <p>7. Source Water Impact and Assessment Mitigation Plan:</p> <p>That prior to lifting the “H” a Source Water Impact and Assessment Mitigation Plan shall be required to have received approval from the Region of York demonstrating that any construction activities, including any dewatering or</p>	

By-law No.	Property Description	Permitted Uses Until the Holding Provision Removed	Conditions for Removal of the “H”	Date Enacted
			<p>groundwater depressurization will not interfere with quantity and quality of groundwater of the municipal well(s).</p> <p>8. Parking Requirements: (Development Standard (iv) (i))</p> <p>That prior to the lifting of the “H” it shall be demonstrated to the satisfaction of the Town through a parking justification report that that any parking reduction from 1.1 parking spaces per dwelling unit can be justified, and that parking demand management options, including but not limited to, parking agreements and shared parking be to the satisfaction of the Town.</p> <p>9. Maximum Height of Accessory Parking Structure: (Development Standard iv)(k))</p> <p>That prior to the lifting of the “H and subject to the grading and elevation provisions addressed in Holding provision #1 Grading, that it be demonstrated to the satisfaction of the Town that the maximum height of the accessory parking structure as identified in Development Standard iv) (k) of the By-law, is justified.</p>	

By-law No.	Property Description	Permitted Uses Until the Holding Provision Removed	Conditions for Removal of the “H”	Date Enacted
			<p>10. Bonusing</p> <p>That prior to lifting the “H” an Agreement pursuant to Section 37 of the <i>Planning Act</i> has been entered into between the Town and the Owner of the lands.</p> <p>11. Site Plan Agreement:</p> <p>That prior to lifting the “H” a Site Plan Agreement has been entered into between the Town and the Owner of the lands and the performance security contemplated therein posted.</p> <p>12. Official Plan:</p> <p>That prior to lifting the “H”, all relevant provisions of the Official Plan have been complied with.</p>	

ENACTED THIS 29TH DAY OF SEPTEMBER, 2014

 Tony Van Bynen, Mayor

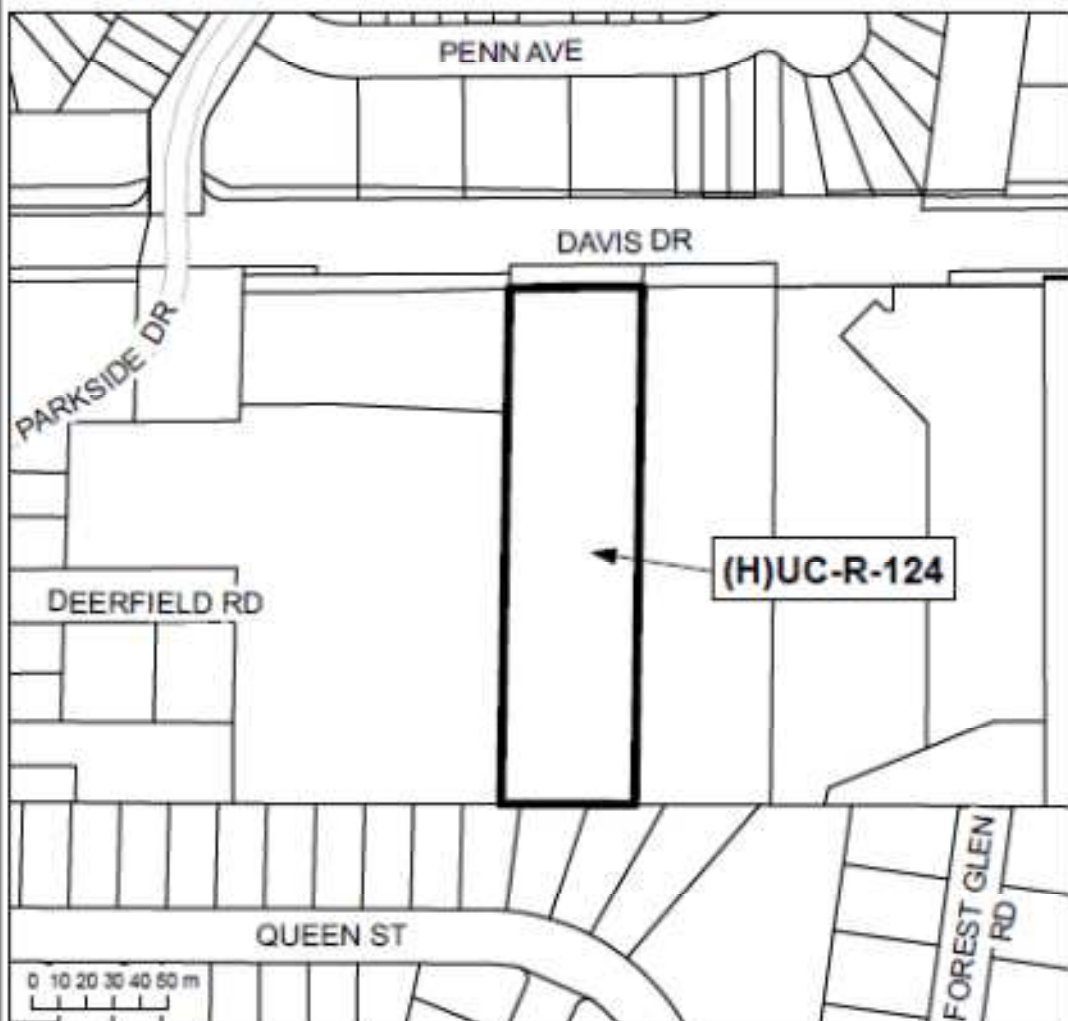
 Andrew Brouwer, Town Clerk

TOWN OF NEWMARKET
REGIONAL MUNICIPALITY OF YORK
212 DAVIS DRIVE
PLAN 32 PT LOT 4 RP 65R21851
PT PART 1 AND EXP PLAN
YR1370040 PART 2

This is Schedule 'X'
To Bylaw 2014-
Passed this _____ Day
of _____, 2014.

MAYOR _____

CLERK _____



SCHEDULE "X" TO BY-LAW 2014-
TOWN OF NEWMARKET PLANNING DEPARTMENT



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