

Corporation of the Town of Newmarket

By-law 2020-69

A By-law to amend By-law Number 2019-06 being a zoning by-law for the Urban Centres Secondary Plan area (693-713 Davis Dr and the southern 21m of 35 Patterson Street).

Whereas the Council of the Town of Newmarket has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas the Official Plan for the Town of Newmarket contains such 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 matter 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, a 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 permitted beyond that otherwise permitted on the aforesaid lands by By-law 2019-06 are to be permitted in return for the provision of the facilities, services and matters set out in this By-law which are 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 2019-06;

Therefore be it enacted by the Council of the Corporation of the Town of Newmarket as follows:

1. That the lands subject to this amendment are illustrated on Schedule 1 attached hereto.
2. And that By-law 2019-06 is hereby amended by:
 - a. Deleting from Schedule 'A' Map No. 12 the Mixed-Use 2 (MU-2) Zone on the subject lands and substituting therefore the Holding Mixed-Use 2 Site Specific Exception 1 ((H)MU-2(1)) Zone as shown on Schedule 1 of By-law 2020-69.

- b. Deleting the permitted height maximum on Map 12 and adding a new maximum permitted height of 15-47m (meaning 15 storeys and 47m) as shown on Schedule 2 of By-law 2020-69.
- c. Adding to Map 18 the subject lands with the label (H)MU-2(1) as shown on Schedule 1 of By-law 2020-69.
- d. Amending Section 6.2.5 to add MU-2(1) as a site specific exception as follows:
MU-2(1) – 693-713 Davis Dr & the southern 21m of 35 Patterson Street – Notwithstanding Section 6.2.4.3. Floor Space Index, the subject lands shall have a maximum permitted FSI of 3.0. The maximum permitted height shall be in accordance with the maximum shown on Map 12 (Height): 15-47m.
Section 37 Provisions – Pursuant to Section 37 of the *Planning Act*, and subject to compliance with By-laws 2019-06 & 2020-69, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Schedule 3 of By-law 2020-69, in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule 3 hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands to the satisfaction of the Municipal Solicitor. Where By-law 2020-69 requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same. The owner must not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this exception, unless the provisions of Schedule 3 of this By-law 2020-69 are satisfied.
- e. Adding Section 8.2.3 Requirement to Remove the (H) Holding Provision from 693 & 713 Davis Drive and the southern 21m of 35 Patterson Street (as shown on Schedule A Map 18).

No person within these lands 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 By-law 2020-69.

Furthermore, no changes, extension or enlargement of the uses which existed on the date of passing of By-law 2020-69 shall occur unless an amendment to this By-law or removal of the '(H)' prefix, as per the Conditions of Removal listed below, is approved by Town Council and the By-law comes into full force and effect.

However, the Holding provision will not prevent any remediation or testing, 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. 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.

Section 8.2.3.i Conditions for Removal of the Holding Provision

1. Confirmation is provided to the Town in the form of an acknowledgement from the Ministry of the Environment, Conservation, and Parks (MOECP) that a Record of Site Condition (RSC) has been filed for the site.

2. That a Section 37 Agreement be executed to the satisfaction of the Town to permit the discretionary maximum height of 15 storeys and discretionary maximum density of 3.0 FSI.
3. Confirmation has been provided by the Director of Engineering Services that it has been demonstrated that an adequately sized water service of sufficient capacity to service the proposed development is able to be constructed for the development
4. A Site Plan Agreement to permit the development as proposed has been entered into between the Town and the property owner and registered on title to the property.
5. A Development Charges Deferral Agreement has executed, if appropriate, to the satisfaction of the Town.
6. A Noise and Vibration Study has completed to the satisfaction of the Town.
7. That the Patterson Street road widening has been conveyed to the Town.
8. That the Traffic Management Plan has been completed to the satisfaction of the Town.

Schedule 3 – Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the Town at the owner's expense in return for the increase in height and density of the proposed development on the lands shown as (H)MU-2(1) on Schedule 3 of By-law 2020-69, and secured in an agreement or agreements registered on title to the property pursuant to Section 37(3) of the Planning Act, whereby the owner agrees as follows:

1. The owner is required to convey to the Town \$549,250 under Section 37 of the *Planning Act* for community benefits. These funds are to be in the form of cash and are to be allocated at the discretion of the Town toward the redevelopment of Hollingsworth Park, a park in close proximity to the subject lands; and
 2. The owner is required to construct an enhanced water feature at the corner of Davis Drive and Patterson Street in accordance with the approved Site Plan drawings; and
 3. The owner is required to construct a pedestrian walkway on the eastern portion of the property in accordance with the approved Site Plan drawings.
3. That Schedules 1, 2, & 3 attached hereto shall form part of By-law 2020-69.

Enacted this 14th day of December, 2020.

John Taylor, Mayor

Lisa Lyons, Town Clerk

Schedule 1

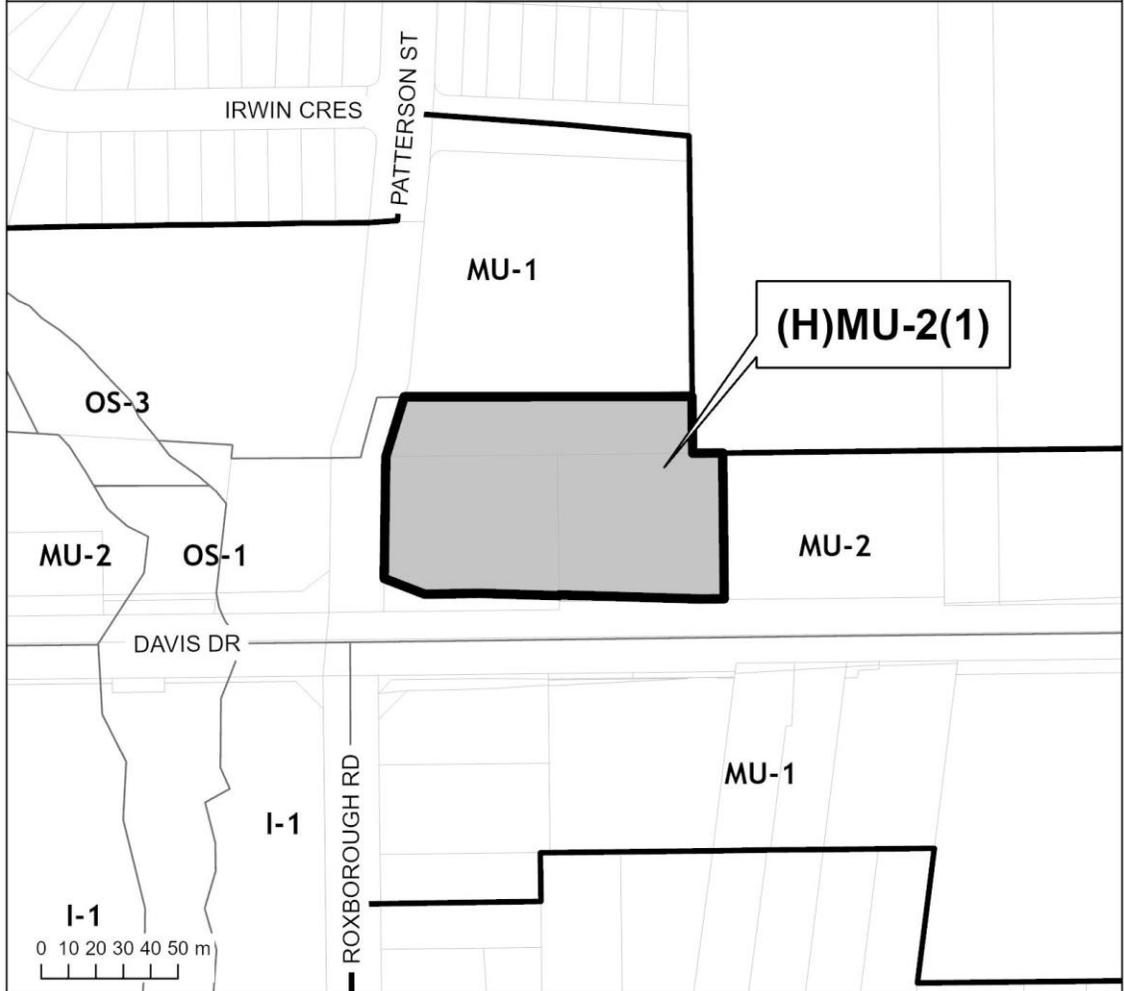
**TOWN OF NEWMARKET
REGIONAL MUNICIPALITY OF YORK
693-713 DAVIS DR AND
35 PATTERSON ST (SOUTHERN 21M)**

This is Schedule '1'
To Bylaw 2020-
Passed this _____ Day
of _____, 2020.

MAYOR _____

CLERK _____

**CON 2 PT LOT 1 AND EXP PLAN YR1378496
PARTS 5 TO 7, AND EXP PLAN YR1378245
PARTS 2 4 AND 5; PART PLAN M1495 BLK A**



**SCHEDULE "1" TO BY-LAW 2020-
TOWN OF NEWMARKET PLANNING DEPARTMENT**



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Schedule 2

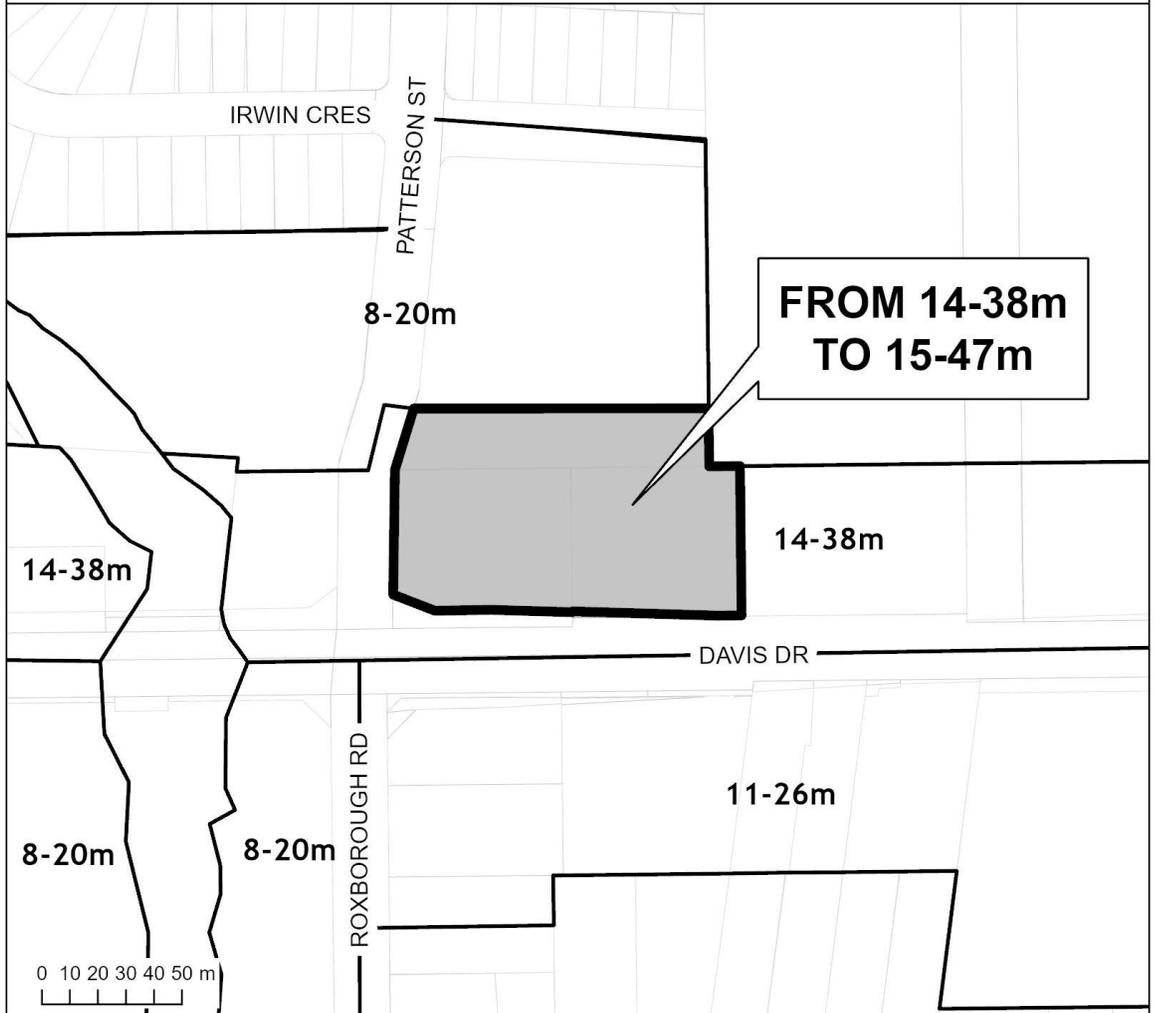
**TOWN OF NEWMARKET
 REGIONAL MUNICIPALITY OF YORK
 693-713 DAVIS DR AND
 35 PATTERSON ST (SOUTHERN 21M)**

This is Schedule '2'
 To Bylaw 2020-
 Passed this _____ Day
 of _____, 2020.

MAYOR _____

CLERK _____

**CON 2 PT LOT 1 AND EXP PLAN YR1378496
 PARTS 5 TO 7, AND EXP PLAN YR1378245
 PARTS 2 4 AND 5; PART PLAN M1495 BLK A**



**SCHEDULE "2" TO BY-LAW 2020-
 TOWN OF NEWMARKET PLANNING DEPARTMENT**



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