

Corporation of the Town of Newmarket

By-law 2021-64

A By-law to amend By-law Number 2019-06 being a zoning by-law for the Urban Centres Secondary Plan area (201 Davis Drive – Mosiak Davis Inc.).

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 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 lands subject to this amendment are illustrated on Schedules 1, 2 & 3 attached hereto
2. And that By-law 2019-06 is hereby amended by:
 - a. Deleting from Schedule A Map No. 5 the Mixed-Use 1 (MU-1) Zone on the subject lands and substituting therefore the Mixed-Use 1 Site Specific Exception 7 (MU-1(7)) Zone as shown on Schedule 1.
 - b. Deleting from Schedule B Map 11 the maximum permitted height and replacing it with 20.6m as shown on Schedule 2.
 - c. Adding to Schedule C Map 17 the subject lands with the label (H) as shown on Schedule 3 of By-law.
 - d. Amending Section 6.2.5 to add MU-1(7) as a site specific exception as follows:

MU-1(7) – 201 Davis Dr

Notwithstanding Sections 4.10.1 and 4.10.2, the minimum width of the landscape buffer between the parking lot and the lot line abutting Penn Ave is 1.1m. The minimum width of the landscape buffer between the parking lot and the east property line (abutting 188 Penn Ave) is 1.5m.

Notwithstanding Section 5.4.1, the minimum setback from the parking lot to the lot line abutting Penn Ave shall be 1.1m and the minimum setback from the parking lot to the east property line shall be 1.5m.

Section 5.2.2.1 relating to Obstructions to parking spaces shall not apply.

Notwithstanding Section 5.5 the minimum driveway entrance is 6m and three entrances are permitted.

Notwithstanding Section 5.6.1 only one loading space is required. Section 5.6.2 does not apply.

Notwithstanding Section 6.2.2.3, commercial, residential or institutional uses are not required along the Above Grade Parking Garage that faces Davis Drive.

Notwithstanding Section 6.2.4.2.i) the maximum permitted building height is 20.6m.

Section 6.2.4.2 (ii) (c) relating to podium heights adjacent to existing residential development does not apply.

Section 6.2.4.2 (iii) (c) relating to mechanical penthouses setbacks does not apply.

Notwithstanding Section 6.2.4.3. Floor Space Index, the subject lands shall have a maximum permitted FSI of 2.42.

Notwithstanding Section 6.2.4.5 iii) the minimum setback for a wall with windows is 4m to a lot line that is not adjacent to a public street.

Notwithstanding Section 6.2.4.6 the angular plane calculation shall not apply to the side yard of 188 Penn Ave and roof top mechanical can extend 4.5m into the angular plane measured from the Penn Avenue property line.

Notwithstanding Section 6.2.4.9, the subject lands may have one access to Davis Drive and two accesses onto Penn Avenue.

Notwithstanding Section 6.2.4.10, the single loading space may be located outside the building.

A 2.4m high opaque and/or board fence shall be provided on the east property line, adjacent to 188 Penn Ave.

Notwithstanding Section 45 (1.3) of the Planning Act, the Owner does not require a resolution from Council, as per Section 45 (1.4), to apply for a minor variance before the second anniversary of the day on which this by-law is passed.

All other aspects of the Zoning By-law remain applicable.

- e. Adding Section 8.2.4 Requirement to Remove the (H) Holding Provision from 201 Davis Drive (as shown on Schedule C Map 17).

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 2021-64.

Furthermore, no changes, extension or enlargement of the uses which existed on the date of passing of By-law 2021-64 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. Furthermore the Holding provision will not prevent any work associated with fulfillment of the conditions in Section 8.2.4.i below.

Section 8.2.4.i Conditions for Removal of the Holding Provision

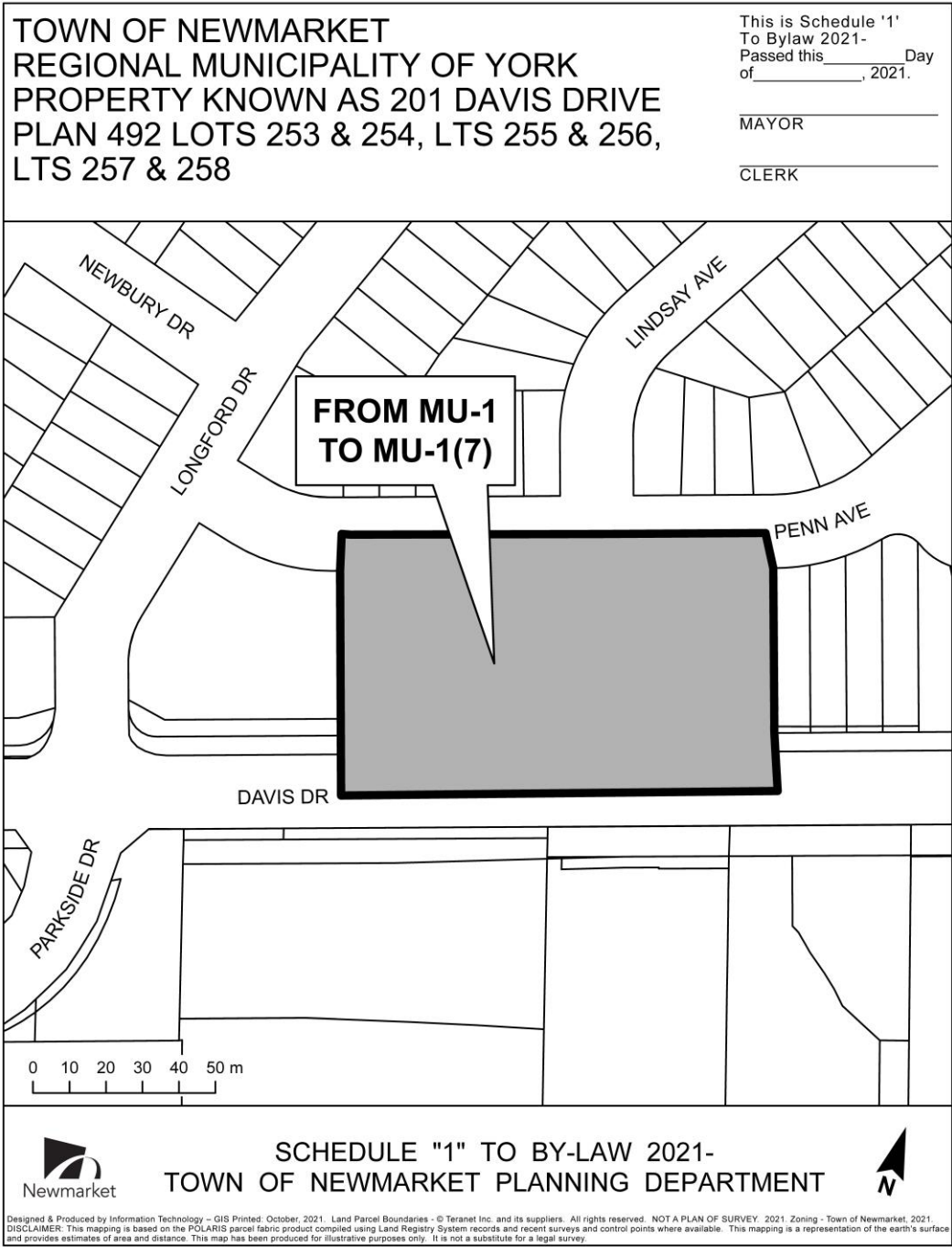
1. That Servicing Allocation has been granted in accordance with the Town's Servicing Allocation Policy.
 2. That all downstream sanitary sewer improvements are completed and all other servicing matters have been addressed to the satisfaction of the Director of Engineering.
 3. A Site Plan Agreement to permit the development as proposed has been entered into between the Town and the property owner.
 4. The Site Plan Agreement contains provisions relating to the placing of warning clauses in all offers of purchase and sale and/or any lease agreements as per the recommended findings of the Town accepted Noise Study, to the satisfaction of the Town.
 5. The Site Plan Agreement contains provisions relating to the carrying out of de-watering in accordance with Town and Region requirements, to the satisfaction of the Town.
 6. A Noise and Vibration Study and a Zone of Vibration Influence Report be completed to the satisfaction of the Town and shall be carried out including the requirement of pre-condition surveys, effective monitoring and data reporting, resident and owner notifications and a process for complaint handling, to the satisfaction of the Town.
 7. That a Construction Management Plan (CMP) has been completed, to the satisfaction of the Town.
3. That Schedules 1, 2 & 3 attached hereto shall form part of By-law 2021-64

Enacted this 13th day of December, 2021.

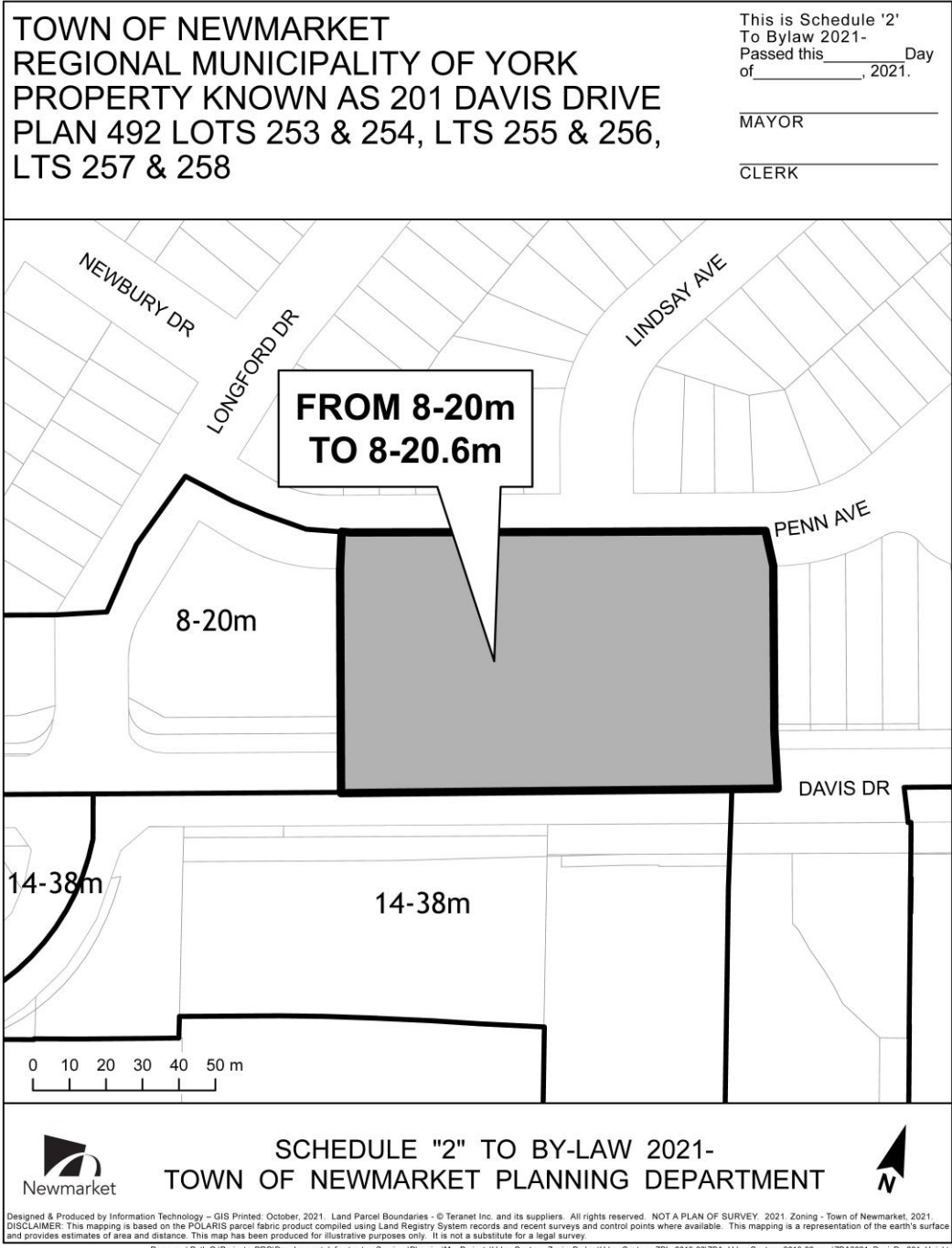
John Taylor, Mayor

Lisa Lyons, Town Clerk

Schedule 1



Schedule 2



Schedule 3

