



Town of Newmarket
395 Mulock Drive P.O. Box 328,
Newmarket, Ontario, L3Y 4X7

Email: info@newmarket.ca | Website: newmarket.ca | Phone: 905-895-5193

Recommendation Report – Official Plan & Rezoning at 201 Davis, by Mosaik Davis Inc. Staff Report to Council

Report Number: 2024-38

Department(s): Planning Services

Author(s): Meghan White, Senior Planner – Development

Meeting Date: June 17, 2024

Recommendations

1. That the report entitled Recommendation Report – Official Plan & Zoning By-law Amendments at 201 Davis, by Mosaik Davis Inc. dated June 17, 2024 be received; and,
2. That the application for an Official Plan Amendment be approved; and,
3. That the application for a Zoning By-law Amendment be approved; and,
4. That staff be directed to present the amending by-laws, including the necessary Holding provisions, to Council for approval; and,
3. That Rosemarie Humphries of Humphries representing Mosaik Davis Inc. be notified of this action; and,
4. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Executive Summary

An application was submitted to amend the Urban Centres Secondary Plan and Zoning By-law 2019-06 to permit the development of a 9-storey apartment building on Lots 253, 254, 255, 256, 257 & 258 on Registered Plan 492, known as 201 Davis Drive.

Staff have reviewed the proposal against the relevant Provincial, Regional and local policy documents and have concluded that the proposal is in conformity with the policy framework as it relates to providing residential dwellings, prioritizing intensification to make efficient use of land and infrastructure, supporting transit, supporting a range of

housing options, and creating complete communities. A statutory public meeting was held on May 6th, 2024 as required by the Planning Act.

This report provides the context of the site, the details of the proposal, a discussion of the relevant planning policies and how the application addresses them, an outline of feedback received, and next steps in the development approval process.

Should Committee adopt the recommendations of this report, the Official Plan and Zoning By-law Amendment by-laws will be brought to Council for approval at a subsequent Council meeting

Purpose

This report provides recommendations to Council on the applications for Official Plan and Zoning By-law Amendments for the subject lands.

The recommendations of the report, if adopted, would result in amendments to the Official Plan and Zoning By-law to permit the proposed development, and apply the necessary holding provisions.

Background

Subject Lands

The subject lands are located on the north side of Davis Drive, one property east of Longford Drive. The subject lands are known as 201 Davis Drive. Legally they are described as Lots 253, 254, 255, 256, 257 & 258 on Registered Plan 492. The lands are vacant. The site is approximately 4984m² (0.49 Ha) in area, with approximately 119 metres (390 ft) of frontage along Davis Drive and Penn Avenue respectively. There is a Viva Rapidway Station on Davis Drive almost directly in front of the subject lands at Davis Drive and Longford Drive.

The surrounding land uses include single and semi-detached dwellings to the north, commercial uses and several apartment buildings to the



south and west. To the east are semi-detached dwellings, also within the Secondary Plan area, fronting onto Penn Ave.

The subject lands are located in the Urban Centres Secondary Plan (UCSP) area, and designated as follows:

- Davis Drive Character Area (Schedule 2)
- Mixed-Use (Schedule 3)
- Low Density (Schedule 4)

Proposal

The applicant is proposing to amend the Secondary Plan and rezone the subject lands in order to permit the construction of a nine-storey mid-rise residential apartment building with condominium tenure. The development is comprised of:

- 216 apartment units: 61 one-bedroom units, 108 one-bedroom plus den units, 37 two-bedroom units, 3 two-bedroom plus den units, and 7 three-bedroom units.
- total proposed gross floor area of 15,964.8m²;
- a floor space index (FSI) of 3.20;
- a total of 251 parking spaces are proposed: 218 resident spaces will be provided in a two-storey underground structure; a total of 33 visitor parking spaces are provided, 17 of which are located at grade;
- the 9th floor is only indoor and outdoor amenity space and it's roof will be a green roof;
- access is proposed from a right-in access on Davis Drive and two full-movement accesses from Penn Avenue;
- pedestrian access will be formalized with a pedestrian mews on the east side of the property; and
- pedestrian entrances to the building are proposed from Davis Drive and Penn Avenue.

Figure 2 shows a 3D model of the proposed building from Davis Drive, looking north.

Figure 3 is the proposed site plan showing the entrances and exits to the site, pedestrian connections, surface parking and landscaped areas.



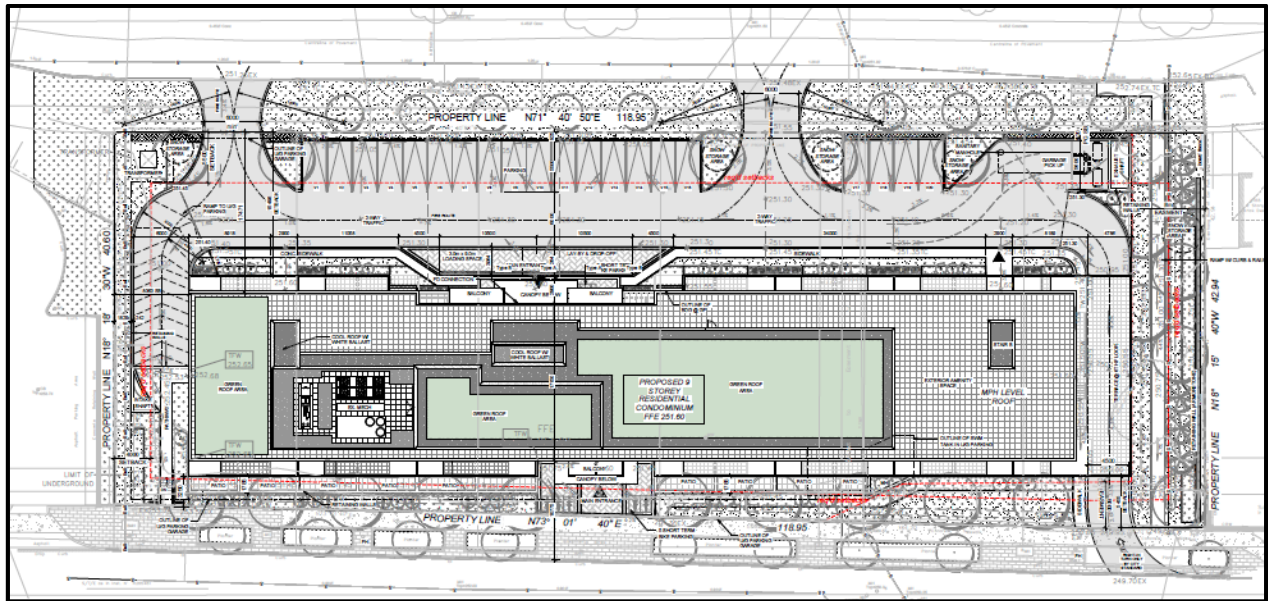


Figure 3: Proposed Site Plan

Previous Application

In 2021, Council approved Official Plan and Zoning By-law amendments for a 6-storey condominium building on the subject lands. The application at that time proposed an increase to the density permitted in the Urban Centres Secondary Plan (but not height) as well as a slight increase for the height in the Zoning By-law. Site specific standards were also created at that time. The new proposal maintains most of the site specific standards of the previous application but also includes amendments to the maximum permitted height and the angular plane requirements of the Secondary Plan.

The previously approved application had three vehicular accesses: one right-in/right-out on Davis and two full moves entrances on Penn Avenue. The current proposal still has three accesses: a right-in only from Davis Drive and two full movement entrances from Penn Avenue. The access on Davis Drive has been relocated further to the east because of the change of the location of the underground storm sewer. The previous application designed the building and site around the storm sewer running through the middle of the property and protected the Town's easement over it. The new application will see the relocation of the storm sewer to the east side of the property. This allows for better future access to the sewer as well as better designed site and building. This change also resulted in the Davis Drive vehicle entrance being relocated to the east end of the property. The relocation of the entrance puts it near a retaining wall along Davis Drive (see Figure 4 below). Therefore, the access can no longer be a right-in, right-out

as the sightline to the east for exiting traffic is limited by the retaining wall. In the previously approved site plan, the right-out movement could be accommodated because the mid-site driveway was far enough away from the retaining wall that drivers could see around it, but this is no longer the case in the entrance's new location. The Region has agreed with this conclusion.



Figure 4: Google Streetview image of the retaining wall east of the property.

Amendments

The proposal requires two amendments:

1. An amendment to the Secondary Plan to allow for increased height (from 6 storeys to 9 storeys), increased density (from 2.0 to 3.20) and to amend the angular plane policies.
2. An amendment to the Urban Centres Zoning By-law to increase the maximum permitted height from to 28m, along with other site specific standards for parking lot setbacks, landscaped area and the angular plane.

Discussion

Planning Policy Context

The high-level policy documents which are applicable to this development review are:

- **The Provincial Policy Statement 2020 (PPS):** The proposed development is consistent with the PPS by providing a mix of housing types within an existing settlement area, along a transit corridor (in a protected MTSA), allowing for efficient use of existing infrastructure, and promoting supportive densities to facilitate a compact urban form.
- **The 2020 A Place to Grow: Growth Plan for the Greater Golden Horseshoe:** As the proposal provides for growth through intensification within the existing built-up area of Newmarket using infill and redevelopment, along a Priority Transit Corridor, the proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe.
- **The York Region Official Plan:** The proposed development supports and is consistent with the York Region Official Plan policies as the proposal is intensification and redevelopment on a Regional Corridor within a protected Major Transit Station Area (MTSA).

Town of Newmarket Official Plan / Urban Centres Secondary Plan

The subject lands are located in the Urban Centre Secondary Plan (UCSP) area.

Land Use

The subject land is designated “Mixed Use” on Schedule 3 of the Urban Centres Secondary Plan. Residential apartment buildings are permitted in the mixed-use designation.

Height and Density

The subject property is located within the Low Density designation. This designation allows building heights ranging from 2-6 storeys. The Low Density designation allows for floor space indexes (FSI) ranging from 1.5 to 2.0. The proposed building will be 9 storeys, the proposed FSI is 3.20, and therefore amendments are required.

The subject site is currently vacant and represents an opportunity for appropriate infill and intensification.

The increased height and density is appropriate for the following reasons:

- The subject lands are relatively small and narrow. It is not uncommon to exceed maximum FSIs on smaller sites;
- The proposal is in close proximity to a higher order transit station;
- The proposal provides a mid-rise form which is unique for the area and will provide for greater variety in the unit mix currently available in Newmarket;
- The proposal provides sufficient on-site indoor and outdoor amenity areas; and
- The FSI proposed is generally accommodated within the building envelope outlined by the Zoning By-law.

Angular Plane and Shadow Study

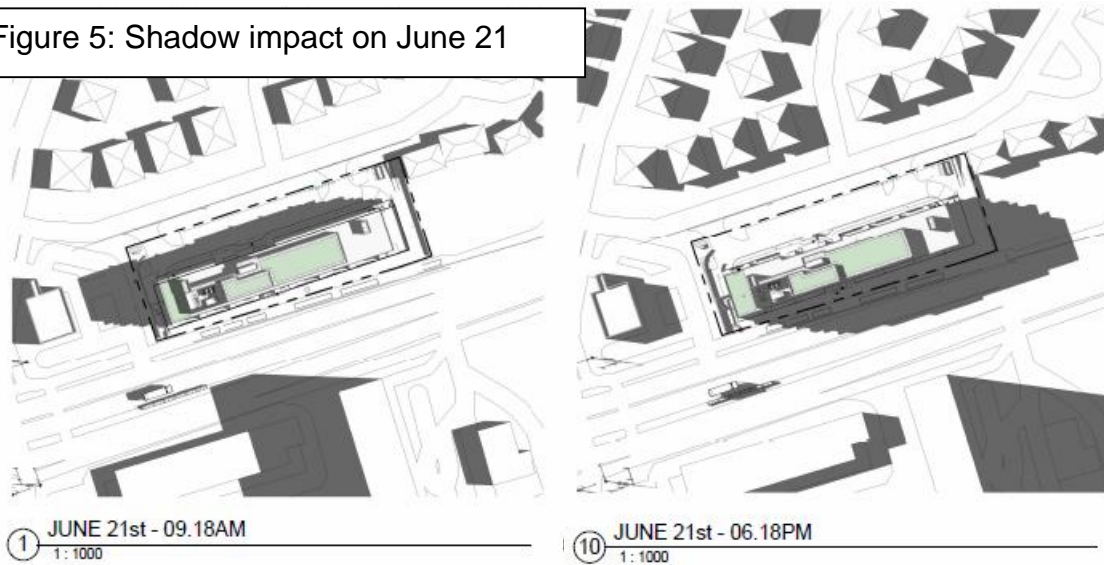
The Secondary Plan requires development proposals that are located across the street from low density residential areas and open space areas provide a 22-degree angular plane. The purpose of the angular plane is to achieve a height transition to adjacent uses and to minimize overlook and shadow impacts.

The Secondary Plan policies requiring the angular plane are proposed to be amended, by replacing the 22-degree angular plane with a 45-degree angular plane. The 45-degree angular plane is also an accepted plane for minimizing impacts on adjacent properties and is used in other contexts in the Secondary Plan. In this instance staff are of the opinion that replacing the 22-degree angular plane with the 45-degree is appropriate as the shadow study demonstrates the impacts are minimal (discussed below) and it allows for the construction of a mid-rise apartment building, a housing form not prevalent in Newmarket. In addition, the applicant has provided a jurisdiction scan which demonstrates that 45-degrees is the typical angular plane in York Region. It is attached as Appendix 3.

Staff have assessed the submitted Shadow Study to understand the extent of the shadow impacts on the surrounding lands under a 45-degree angular plane scenario. The Shadow Study notes that the shadows from the proposed development pose

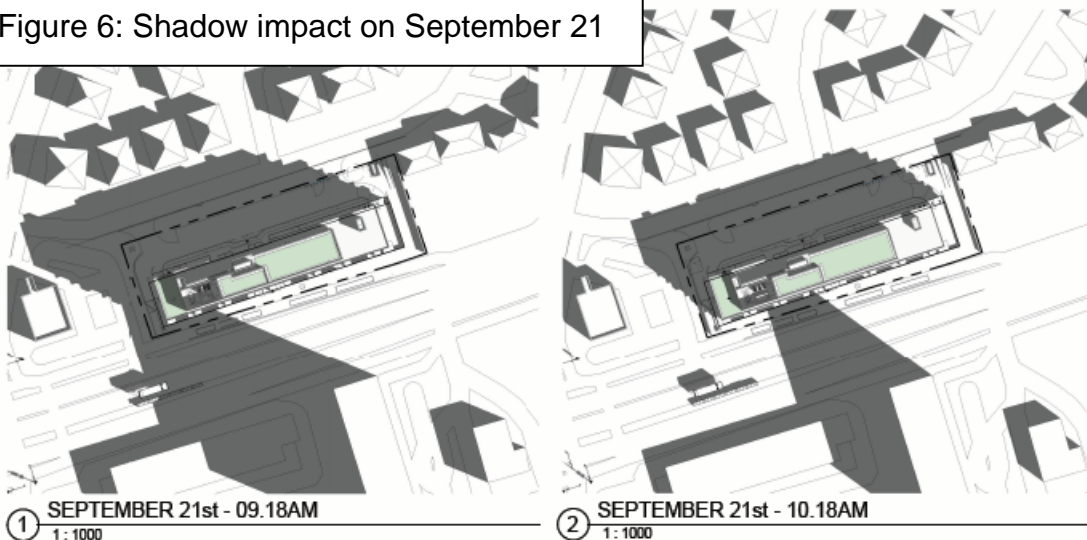
minimal impacts on neighbouring streets, parks, and other shadow sensitive properties such as open spaces or natural areas. Specifically, the Secondary Plan requires that 50% of daily sunlight is available on public spaces on June 21. The submitted Shadow Study shows that the shadow impacts of the 9-storey building on June 21 fall largely to the east (morning) and west (evening) of the building (see Figure 5 below).

Figure 5: Shadow impact on June 21



In the fall, the largest shadow impact last for an hour in the morning (9am to 10am). Figure 6 below shows the shadow impact on the front yards of the four dwellings directly across Penn Avenue on September 21.

Figure 6: Shadow impact on September 21



It is staff's opinion that amending the angular plane requirement from 22 to 45-degrees is acceptable due to the narrow width of the subject lands, the common acceptance/use of 45-degrees, and the findings of the shadow study.

Affordable Housing

Section 6.4.3 of the Secondary Plan requires a minimum of 25% of new housing units in the UCSP area outside of the Provincial Urban Growth Centre to be affordable to low- and moderate-income households. This minimum is comprehensive of all development applications within the UCSP area and may not necessarily be achieved by each individual application.

The proposal will add one-, two-, and three-bedroom apartments to the mix of available housing forms in Newmarket which will increase the available unit mix, providing more housing options to current and future residents.

Staff continues to review the affordable housing requirements with the applicant and recommends that a holding provision be applied to the zoning by-law until such time as staff is satisfied that the affordable housing policies are achieved.

Sustainability

Section 7.3.7 of the Secondary Plan encourages development to mitigate the urban heat island effect, increase the energy efficiency of buildings, and reduce stormwater run-off by implementing sustainable design measures. This section of the Plan has not been requested to be amended; therefore, the applicant will be required to demonstrate conformity with these policies at the Site Plan stage.

Town of Newmarket Zoning By-law 2019-06

The property is zoned Mixed Use (MU-1(7)) by Zoning By-law 2019-06. The proposed residential uses are permitted in the Mixed Use zone.

The applicant has submitted a Zoning By-law Amendment application to amend the site-specific zone to permit the proposed increase to the permitted FSI and building height and some site-specific zone standards. The maximum height permitted by the By-law is 20 metres and the maximum floor space index (FSI) is 2.0. The applicant is proposing a maximum building height of 28 metres and FSI of 3.20.

Section 16.1.1, Policy 3 of the Town's Official Plan sets out the criteria for considering Zoning By-law Amendments. It is the opinion of staff that the proposed development meets the criteria for considering a zoning by-law amendment and the proposed site-specific provisions are appropriate for the proposed development on the subject land.

Servicing Allocation

The previous development application was granted allocation in 2021 for 147 units (287 persons). The new application would require servicing allocation for 69 additional units (135 persons). Should the new application be approved, the additional required allocation could be considered as part of the 2025 annual allocation report. A Holding provision in the By-law is proposed, to ensure servicing is in place prior to the development proceeding.

Holding Provision

In accordance with Section 36 of the Planning Act, Council may impose Holding provisions ('H') on a Zoning By-law Amendment to limit the use of land until the conditions to remove the holding provisions have been met. In this application, the proposed Zoning By-law Amendment will include Holding provisions for:

- Execution of a Site Plan Agreement;
- Servicing Allocation;
- Compensation for tree removal, if any;
- Clean Record of Site Condition to be acknowledged by the Ministry, if required;
- Completion of a Noise and Vibration Study and a Zone of Vibration Influence Report; and
- Addressing the affordable housing policy to the satisfaction of Town staff.

Future Applications

The applicant will be required to enter into a Site Plan Agreement (SPA) for the redevelopment of this site, as required through a holding provision (as per the above section). Further refinement of the proposal may take place through detailed design as part of the Site Plan Application, within the parameters of the proposed zoning. An application to remove the Holding Provision would be required in the future. Finally, a Draft Plan of Condominium or Condominium Exemption application will also be required.

Development Considerations

During the review and processing of this application, the following items have been highlighted and considered. How they have been incorporated or mitigated, as appropriate, is discussed below.

Pedestrian Connection

On the east side of the subject lands an 8m easement is required for over the relocated storm sewer. This area will also serve as a pedestrian connection, allowing residents living north of the subject lands with greenspace and a connection to Davis Drive.

Parking

The Zoning By-law requires a total of 216 parking spaces, including 33 for visitor and 184 for the residents. The development provides 251 parking spaces, including 33 visitor spaces. The majority of parking spaces are proposed to be within two levels of underground parking, with some visitor and delivery spaces at grade.

The parking for this development meets the Zoning By-law requirements and no amendments to the parking requirements are being sought.

Parkland Dedication

The applicant is proposing to meet this requirement primarily through the cash-in-lieu provisions in accordance with the Parkland Dedication By-law. For properties over 1,000 sq.m within the Urban Centres, such as this site, the By-law requires that some land be dedicated to the Town for park purposes, in addition to any cash-in-lieu contribution. The By-law allows for this land contribution to be a pedestrian connection/strata park space. The proposed pedestrian connection/strata park space on the east side of the property satisfies the requirement for land dedication. The remaining amount of cash-in-lieu is calculated at the Building Permit stage.

Conclusion

The proposed Official Plan and Zoning By-law Amendments have been circulated to the Town's internal departments and external agencies and they have provided comments indicating that there are no concerns with the approval of the applications.

The applications support the goals of the Official Plan, conform to or do not conflict with the Provincial Policy Statement, Growth Plan for the Greater Golden Horseshoe, York Region Official Plan, and the Town's Official Plan.

Further refinement may take place through detailed design as part of the Site Plan Application, within the parameters of the proposed site-specific zoning.

Staff recommend approval of the applications, subject to a Holding provision.

Business Plan and Strategic Plan Linkages

- Community and economic vibrancy
- Extraordinary places and spaces

Consultation

Agency and Department Comments

The application and associated technical reports were circulated to all internal departments and external review agencies. Comments received indicate there is no objection to the proposed Official Plan Amendment and Zoning By-law Amendment, with the inclusion of a Holding provision.

York Region

York Region has advised there is no objection to the Official Plan and the Zoning By-law Amendments subject to servicing allocation being granted. With respect to the revised entrance on Davis Drive, they concurred that the sightlines do not allow for a right-out access on due to the retaining wall. In accordance with YROP Policy 8.3.8 the proposed amendment does not adversely affect Regional planning policies or interests; therefore,

the Region considers it an amendment of local importance and has exempted the OPA from Regional approval. There are site plan level comments that the applicant and the Region will continue to discuss through the detail design stage.

Effect of Public Input

A Statutory Public Meeting was held on May 6th 2024. This meeting provided the public and interested persons an opportunity to comment on the application.

Notice of the Statutory Public Meeting was provided to persons and public bodies in accordance with the *Planning Act*.

Concerns raised by the public prior to and during the public meeting are described below. These are concerns that we regularly hear in applications such as this, where there is a significant amount of change proposed in a concentrated area. We've been working closely with our review partners throughout this application process on such matters and have been able to address them as follows:

Traffic impacts: the Traffic Impact Assessment has been reviewed by Town staff and the Region. It concludes that the road network can accommodate the increased traffic. The Town's Traffic Peer Review consultant noted that the Traffic Impact Assessment was properly conducted. The Region also reviewed the document and did not raise any concerns.

Shadow impacts: concerns were raised that a building of this height would have negative impacts through shadows. As discussed above the shadow study demonstrated minimal shadow impacts on adjacent properties.

Affordability: questions were raised about the affordability of this development. There are 7 out of 216 units (14%) which are three bedrooms – an apartment style for families that is not common in Newmarket. This development will also provide 61 new one-bedroom units which can be an entry-level unit. Finally, the holding provision will ensure that the affordable housing policies of the Town and Region are met prior to the development proceeding.

Sustainability: questions were raised about any 'green initiatives' for this building. No amendments to Section 7 of the UCSP have been requested, therefore these policies will have to be complied with through the Site Plan stage.

Pedestrian connection: concerns were raised about the informal pedestrian access that has been established through this private property over the years. The connection will be maintained, formalised, and enhanced through the walkway on the east side of the property.

The commercial property owner directly to the west has expressed concerns with construction impacts, traffic, and parking. As mentioned, the submitted studies have been reviewed to the satisfaction of the Region's and the Town's Engineering Department through the Town's Consultant Engineer. It has been determined that the

road system can accept the increased traffic flows but that the timing of the lights at Davis Drive and Longford Drive may require adjustments. The applicant can meet the parking standards of the By-law, so it is not anticipated that the Tim Horton's parking lot will experience any overflow parking from the development. The landowner has been advised that the appropriate construction management as well as noise and vibration studies will be required prior to the holding provision being lifted, this addresses their construction impact concerns.

The concerns expressed and questions raised prior to and during the Public Meeting have been adequately addressed through the technical studies submitted.

Human Resource Considerations

None.

Budget Impact

The appropriate planning application fees have been received for the Official Plan and Zoning By-law Amendments applications. The Town will also receive revenue from development charges and assessment revenue with the development of this proposal in the event the applications are approved.

Attachments

Appendix 1 – Draft Official Plan Amendment

Appendix 2 – Draft Zoning By-law Amendment

Appendix 3 – Jurisdiction Scan regarding use of 45-degree angular plane

Submitted by

Meghan White, MCIP, RPP, Senior Planner, Development, Planning & Building Services

Approved for Submission

Adrian Cammaert, MCIP RPP, Manager, Planning Services

Jason Unger, MCIP RPP, Director, Planning & Building Services

Peter Noehammer, P. Eng, Commissioner, Development & Infrastructure Services

Contact

Meghan White mwhite@newmarket.ca