

Corporation of the Town of Newmarket

By-law 2018-49

A By-law to Amend Zoning By-law 2010-40, with respect to the lands located at 175 Deerfield Road, Newmarket.

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 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 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 2010-40, as amended, 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;

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

Be it therefore enacted by the Municipal 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. THAT By-law 2010-40 as amended is hereby further amended by:
 - a. Deleting from Schedule 'A' Map No. 10 the Regional Urban Centre (UC-R) Zone on 175 Deerfield Road and substituting therefore the Regional Urban Centre Exception 144 ((H)UC-R-144) Zone
 - b. Adding the following Section 8.1.1. List of Exceptions:

Exception 144	Zoning (H)UC-R- 144	Map 10	By-Law Reference 2018-49	File Reference D14-NP17-20
i)	Location:	175 Deerfield Road and the Deerfield Road Right-of-Way		
ii)	Legal Description:	Pt Lt 5 PI 32 Whitchurch; Pt Lt 6 PI 32 Whitchurch As In A39024A, A21661A Except Pt 1, Exprop PI YR2224452; Together With An Easement Over Pt Lt 4, PI 32, Pts 3 & 4, 65R34936 As In YR2129520 Town Of Newmarket Pt Lt 6 PI 32 Whitchurch As In A21662A, Aka Deerfield Road ; Town Of Newmarket		
iii)	Notwithstanding Section 6.4.1, Live Work Unit and Stacked Townhouse shall be permitted.			
iv)	Notwithstanding the definition of “Lot” in Section 3, Parcel A and Parcel B as shown in Schedule 1, are deemed one lot, regardless of the number of buildings constructed thereon, the creation of separate units and/or lots by way of a plan of condominium, consent, conveyance of private or public roads, strata title arrangements, or other permissions, and any easements or registrations that are granted, shall be deemed to comply with the provisions of this By-law.			
v)	Development Standards:			
	(a) Established grades for each building identified on Schedule “2” to this By-law:	Building 1 – 256.07 metres above sea-level Building 2 – 258.71 metres above sea-level Building 3 – 254.92 metres above sea-level		
	Notwithstanding the definition of “Height” in Section 3, height shall mean the vertical distance measured between the average established grades as identified for each building and the top of the building exclusive of mechanical penthouse, parapets, green roofs, roof terraces, roof assemblies and stair pop-ups structures.			
	(b) Building Height (minimum):	4 storeys (14 m)– Parcel A 3 storeys (11 m) – Parcel B		
	(c) Building Height (maximum):	12 storeys (38 m)– Parcel A 15 storeys (47 m)– Parcel A subject to entering into an agreement pursuant to Section 37 of the <i>Planning Act</i> 8 storeys (26 m)– Parcel B		
		10 storeys (32 m)– Parcel B subject to entering into an agreement pursuant to Section 37 of the <i>Planning Act</i>		
	(d) Floor Space Index (minimum):	2.0 – Parcel A 1.5 – Parcel B		
	(e) Floor Space Index (maximum):	2.5 – Parcel A 2.0 – Parcel B		
	(f) Floor Space Index (discretionary maximum):	3.0 – Parcel A subject to the lifting of holding provision 2.5 – Parcel B		

		subject to the lifting of holding provision
	(g) Building setbacks shall be as shown on Schedule “2” to this By-law.	
	(i) Notwithstanding required setbacks and permitted encroachments, structures below established grades may encroach into required yards	
	(h) Minimum loading	One (1) loading space shall be provided for each building regardless of Gross Floor Areas.
	(i) Bicycle parking	Minimum 0.33 spaces per dwelling unit within a building and Minimum 0.1 spaces per dwelling unit outside of a building
	<p>(j) Notwithstanding Section 5, no additional parking shall be required for units on the first floor that include live-work units or commercial uses</p> <p>(k) Notwithstanding Section 4, the following may also be permitted to encroach into required yards:</p> <p style="padding-left: 40px;">Bollards, cornices, lighting fixtures, awnings, canopies, architectural features, ornamental structures, parapets, trellises, terraces, columns, guardrails, balustrades, railings, stairs, stair landings, retaining walls, monitor wells, driveways, private roads, covered or uncovered bicycle parking areas, walkways, patios, fences and safety railings, accessibility ramps, safety or wind protection features, landscape features, and other ornamental or accessory structures.</p>	
vi)	<p>Conveyance</p> <p>i) 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>	
vii)	<p>Section 37 Provisions</p> <p>(i) Pursuant to Section 37 of the <i>Planning Act</i>, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown as (H)UC-R-144 on Schedule 1 of this By-law, 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 <i>Planning Act</i> that are in a form and registered on title to the lands to the satisfaction of the Municipal Solicitor.</p> <p>(ii) Where Schedule 1 of this By-law 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.</p> <p>(iii) 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 such By-law are satisfied.</p>	

1. List of Holding Provisions

The following holding provisions apply to the properties specified:

By-law No.	Property Description	Permitted Uses Until Holding Provision is Removed	Conditions for Removal
2018-49	175 Deerfield Road Parcel A as identified by Schedule "1" to this By-law	<p>No person within the lands zoned (H)UC-R-144 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.</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. 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>Notwithstanding the above, grading, excavation, shoring, construction of below grade structures and installation of below grade infrastructure may occur prior to the lifting of the holding symbol and</p>	<p>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.</p> <p>The property owner has been transferred ownership of the lands occupied by Deerfield Road.</p> <p>That sufficient servicing capacity has been allocated by the Town.</p> <p>Easements in favor of the Town have been registered on title to the Deerfield Road lands to ensure uninterrupted public access over the private roads.</p> <p>Agreements have been executed to ensure the property owner accepts responsibility for all costs associated with the closure of the public road, transfer of ownership, creation of easements, and reconstruction of the road.</p> <p>Access for abutting property owners has been ensured through the appropriate easement and agreement documents to the satisfaction of the Town.</p> <p>An agreement to provide an easement in favor of the Town has been secured over 212 Davis Drive and 230 Davis Drive to secure vehicular and pedestrian connections between the subject lands and Davis Drive to the satisfaction of the Town.</p> <p>That a Section 37 Agreement be executed for Parcel A to the satisfaction of the Town</p>

		<p>registration of the Record(s) of Site Condition. Prior to these activities taking place the applicant must enter into a leading site plan agreement for the lands to address tree removals and protection, insurance, and accepting liability for undertaking works in advance of final site plan approval.</p>	<p>to permit the discretionary maximum height of 15 storeys and discretionary maximum density of 3.0 FSI. Confirmation has been provided by the Director of Engineering Services that it has been demonstrated that an adequately sized sanitary sewer of sufficient depth to service all phases of the proposed development is able to be constructed for the development. The sewer shall outlet to the existing sanitary sewer on Parkside Drive unless it is demonstrated during the detailed design stage that this option is not feasible. A Site Plan Agreement to permit the residential development as proposed on Parcel A has been entered into between the Town and the property owner and registered on title to the property. That the Owner has entered into an agreement with the Town for the conveyance of the space required for the future Minor Collector across the southern edge of 175 Deerfield Road.</p>
1. 2018-49	175 Deerfield Road Parcel B as identified by Schedule "1" to this By-law	<p>No person within the lands zoned (H)UC-R-144 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.</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</p>	<p>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. That sufficient servicing capacity has been allocated by the Town. Confirmation has been provided by the Director of Engineering Services that it has been demonstrated that an adequately sized</p>

		<p>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. 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>Notwithstanding the above, grading, excavation, shoring, construction of below grade structures and installation of below grade infrastructure may occur prior to the lifting of the holding symbol and registration of the Record(s) of Site Condition. Prior to these activities taking place the applicant must enter into a leading site plan agreement for the lands to address tree removals and protection, insurance, and accepting liability for undertaking works in advance of final site plan approval.</p>	<p>sanitary sewer of sufficient depth to service all phases of the proposed development is able to be constructed for the development. The sewer shall outlet to the existing sanitary sewer on Parkside Drive unless it is demonstrated during the detailed design stage that this option is not feasible.</p> <p>The property owner has been transferred ownership of the lands occupied by Deerfield Road.</p> <p>Easements in favor of the Town have been registered on title to the Deerfield Road lands to ensure uninterrupted public access over the private roads.</p> <p>Agreements have been executed to ensure the property owner accepts responsibility for all costs associated with the closure of the public road, transfer of ownership, creation of easements, and reconstruction of the road. Access for abutting property owners has been ensured through the appropriate easement and agreement documents to the satisfaction of the Town.</p> <p>An agreement to provide an easement in favor of the Town has been secured over 212 Davis Drive and 230 Davis Drive to secure vehicular and pedestrian connections between the subject lands and Davis Drive to the satisfaction of the Town.</p> <p>That a Section 37 Agreement be executed for Parcel B to the satisfaction of the Town to permit the discretionary maximum height of 10 storeys and</p>
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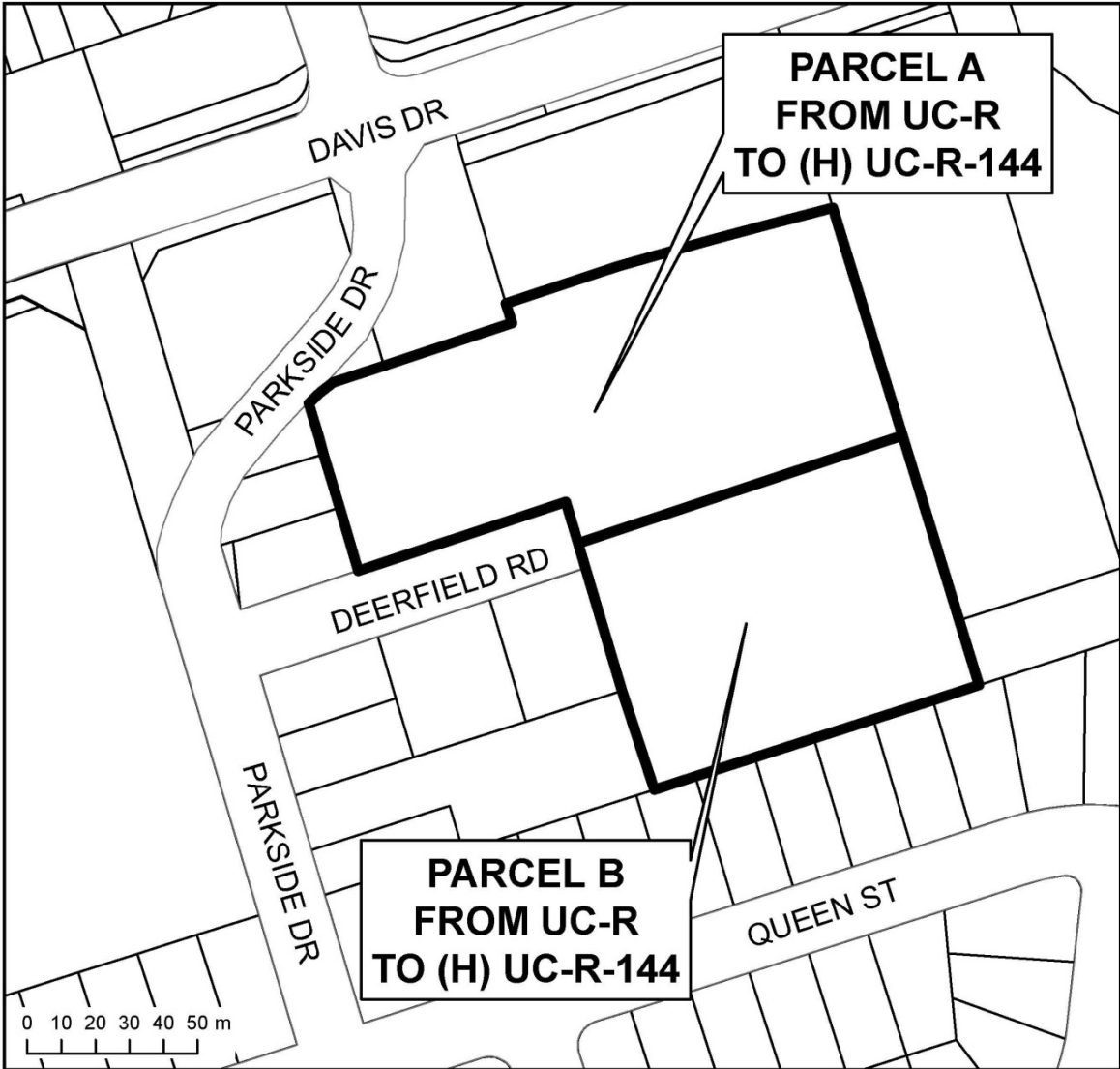
			<p>discretionary maximum density of 2.5 FSI.</p> <p>A Site Plan Agreement to permit the residential development as proposed on Parcel B has been entered into between the Town and the property owner and registered on title to the property.</p> <p>That the Owner has entered into an agreement with the Town for the conveyance of the space required for the future Minor Collector across the southern edge of 175 Deerfield Road.</p>
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TOWN OF NEWMARKET
REGIONAL MUNICIPALITY OF YORK
175 DEERFIELD RD
PLAN 32 PT LOTS 5 6
RP 65R21851 PT PART 2

This is Schedule 'X'
To Bylaw 2018-
Passed this _____ Day
of _____, 2018.

MAYOR

CLERK

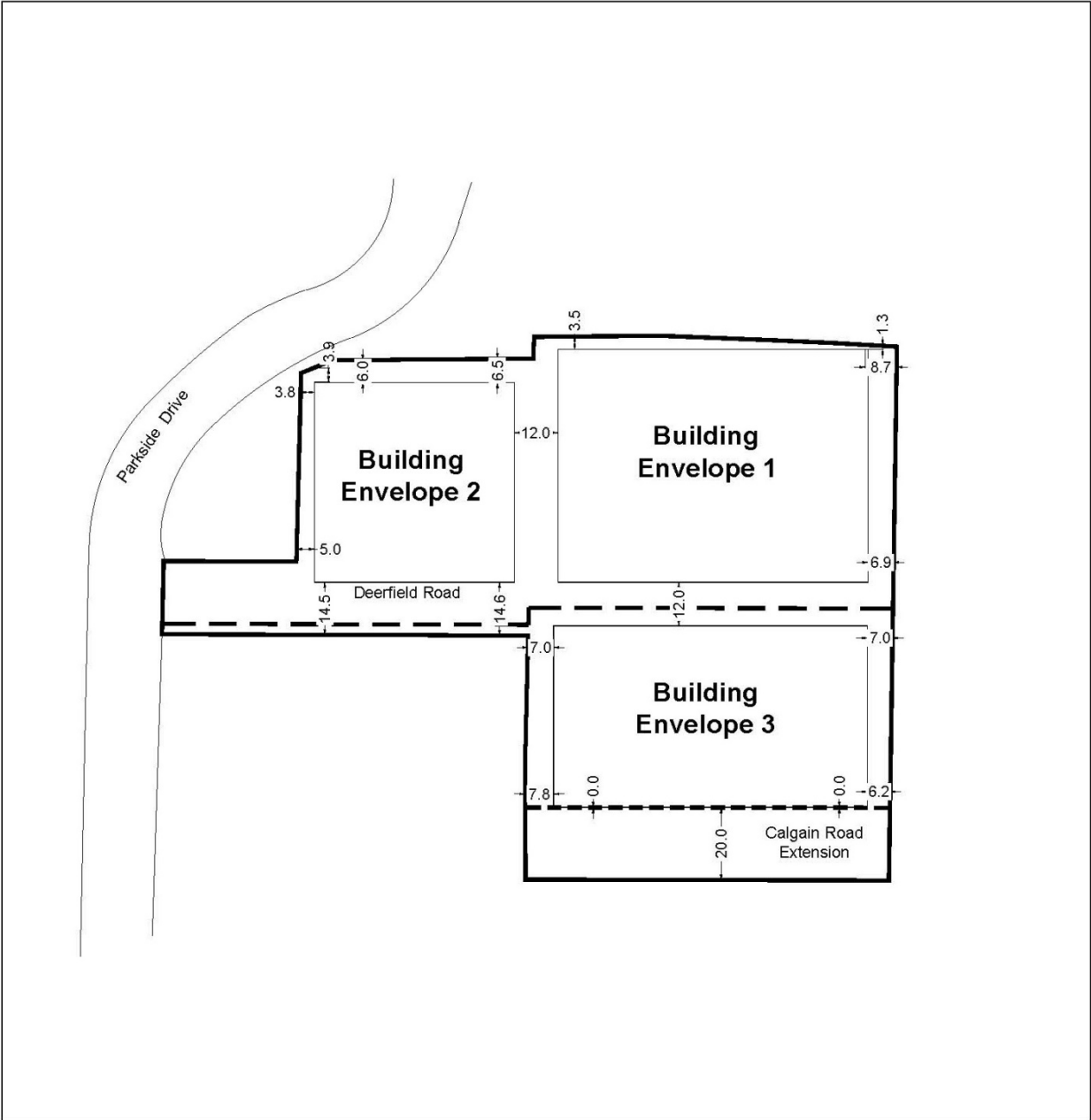


SCHEDULE "1" TO BY-LAW 2018-
TOWN OF NEWMARKET PLANNING DEPARTMENT



Designed & Produced by Information Technology – GIS Printed: August, 2018. Land Parcel Boundaries – © Teranet Inc. and its suppliers. All rights reserved. NOT A PLAN OF SURVEY. 2018. Zoning – Town of Newmarket, 2018.
DISCLAIMER: This mapping is based on the POLARIS parcel fabric product compiled using Land Registry System records and recent surveys and control points where available. This mapping is a representation of the earth's surface and provides estimates of area and distance. This map has been produced for illustrative purposes only. It is not a substitute for a legal survey.

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Schedule 2

175 Deerfield Road,
Newmarket, Ontario

LEGEND

 Property Line

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)UC-R-144 on Schedule 1 of this By-law, 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. One building of not fewer than 180 dwelling units and one of not fewer than 120 dwelling units, is to be guaranteed of rental tenure for a period of not less than 20 years.
2. One building of not fewer than 170 dwelling units is to be guaranteed as a condominium.
3. The owner is required to convey to the Town \$339,000 under Section 37 of the Planning Act for community benefits. These funds are to be in the form of cash or capital facilities and are to be allocated at the discretion of the Town toward park lands, public art, and park infrastructure in close proximity to the subject lands. Payment is to be made in 3 amounts of \$113,000, one payment or conveyance of capital made within 60 days of occupancy of each of the buildings.
4. To provide easements in favor of the Town to be registered on title to the Deerfield Road lands to ensure public access over the private roads.
5. To execute agreements to ensure the owner accepts responsibility for all costs associated with the closure of the public road, transfer of ownership, creation of easements, and reconstruction of the road. To execute agreements to ensure access for abutting property owners over the roads during and after construction.
6. To provide easements in favor of the Town or executed agreements to provide the same over 212 Davis Drive and 230 Davis Drive to secure vehicular and pedestrian connections between the subject lands and Davis Drive to the satisfaction of the Town.

Enacted this 24th day of September, 2018.

Tony Van Bynen, Mayor

Lisa Lyons, Town Clerk