

March 5, 2020

**By Courier**

Lisa Lyons, Deputy Town Clerk  
 Town of Newmarket  
 395 Mulock Drive  
 Newmarket, Ontario  
 L3Y 4X7

LEGISLATIVE SERVICES		
INCOMING MAIL	REFD TO	COPY TO
MAR 09 2020		

Dear Ms. Lyons:

**Re: Notice of Appeals to the Local Planning Appeal Tribunal  
 Official Plan Amendment and Zoning By-law Amendment Applications  
 File Nos. D9-NP-11-09 and D14-NP-11-09  
 55 Eagle Street, Newmarket  
 Applicant / Appellant: Millford Development Limited**

We are counsel to Millford Development Limited (“Millford”), the owner of lands located north of Eagle Street and east of Yonge Street in the Town of Newmarket, municipally known as 55 Eagle Street (the “Lands”).

In May 2008, Millford appealed the Town of Newmarket Official Plan to the Ontario Municipal Board (now the Local Planning Appeal Tribunal) in relation to the Lands. That appeal was assigned Case No. PL080723 and remains outstanding.

In April 2011, Millford submitted Official Plan Amendment and Zoning By-law Amendment applications (File Nos. D9-NP-11-09 and D14-NP-11-09) to the Town of Newmarket (the “Town”) to permit a residential development on the Lands (the “Applications”).

The Applications were the subject of a Town staff report dated November 21, 2011 and a public meeting hosted by the Town on February 27, 2012.

The Official Plan Amendment application proposed to amend the proposed designations in the Town’s Official Plan (subject to appeal) from “Parks and Open Space”, “Natural Heritage System”, “Emerging Residential” and “Stable Residential” to “Yonge Davis Provincial Urban Growth Centre”, “Emerging Residential” and “Parks and Open Space” designations.

The Zoning By-law Amendment application proposed to rezone the portion of the Lands above the top of bank from “Residential (R1-D)” and “Open Space Environmental Protection (OS-EP)” to “Urban Centre Provincial (UC-P)”, “Residential (R5-T)” and “Residential (R4-CP)” in the Town of Newmarket Zoning By-law Number 2010-40.

Despite the passage of several years since the Applications were submitted to the Town, Town Council has failed to make a decision on the Applications. Accordingly, pursuant to subsections 22(7) and 34(11) of the *Planning Act*, Millford hereby appeals the Applications to the Local Planning Appeal Tribunal (“LPAT”).

The reasons for these appeals include the following:

1. Town Council failed to make a decision regarding the Official Plan Amendment application within 120 days of the date upon which the application was received;
2. Town Council failed to make a decision regarding the Zoning By-law Amendment application within 120 days of the date upon which the application was received;
3. The Applications are consistent with the *Provincial Policy Statement*, conform to the *Growth Plan for the Greater Golden Horseshoe*, and conform to the relevant policies of the York Region Official Plan. Among other things, the proposed development would appropriately intensify the currently underutilized Lands in a manner that would implement provincial and regional planning policies, including those promoting residential intensification and a mix of housing types, the efficient use of land and infrastructure, and increased residential densities in proximity to transit corridors. The proposed development would also appropriately protect the natural heritage features on the Lands that are worthy of retention; and
4. The requested amendments would permit a proposed development of the Lands that is appropriate, in the public interest, and constitutes good planning.

Enclosed with this notice of the appeals is a completed LPAT Appellant Form (A1) for the two appeals, together with our firm cheque in the amount of \$600.00, payable to the Minister of Finance, representing the prescribed filing fee for these appeals.

Please note that we intend to request that these appeals be consolidated with Millford’s outstanding appeal of the Town’s Official Plan under LPAT Case No. PL080723.

We trust that this is satisfactory. However, please do not hesitate to contact us if you have any questions or if you require anything further.

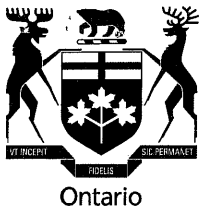
Yours truly,  
**DAVIES HOWE LLP**



Mark R. Flowers  
Professional Corporation

Encls.

copy: Paul Voorn, Town of Newmarket  
Bola Ogunmefun, Region of York  
Client



Environment and Land Tribunals Ontario  
**Local Planning Appeal Tribunal**

655 Bay Street, Suite 1500  
 Toronto ON M5G 1E5

Telephone: 416-212-6349  
 Toll Free: 1-866-448-2248  
 Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

**Appellant Form (A1)**

Receipt Number (LPAT Office Use Only)

Date Stamp Appeal Received by Municipality/Approval Authority

**To file an appeal, select one or more below**

- Appeal of *Planning Act* matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances, proceed to Section 1A
- Second appeal of a *Planning Act* matter for Official Plans and amendments, Zoning By-Laws and amendments, proceed to Section 1B. NOTE: Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, allows appeals to the Tribunal of some *Planning Act* matters previously determined by LPAT.
- Appeals of other matters, including Development Charges, *Education Act*, *Aggregate Resources Act*, *Municipal Act* and Ontario Heritage, proceed to Section 1C

**1 A. Appeal Type (Please check all applicable boxes)**

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 120 days	17(40)
	<input checked="" type="checkbox"/> Council failed to adopt the requested amendment within 120 days	22(7)
	<input type="checkbox"/> Council refuses to adopt the requested amendment	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 90 days	34(11)
	<input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision within 120 days where the application is associated with an Official Plan Amendment	
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law within 60 days (Minister only)	38(4)
	<input type="checkbox"/> Appeal the passing of an extension of an Interim Control By-law within 60 days	38(4.1)
<b>Site Plan</b>	<input type="checkbox"/> Application for a site plan – council failed to make a decision within 30 days	41(12)

Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal requirements imposed by the municipality or upper tier municipality	41(12.01)
<b>Minor Variance</b>	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
<b>Consent/Severance</b>	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
<b>Plan of Subdivision</b>	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 120 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	51(39)
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

**1 B. Appeal Type (Please check all applicable boxes) Only for appeal(s) of a new decision or non-decision by municipality or Approval Authority following a previous LPAT Decision (i.e., second appeal).**

**For matters subject to Bill 139 and the associated transition regulation (the second appeal).**

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal of a <b>decision</b> by Approval Authority on an OP or OPA (exempt from approval by Minister or Approval Authority) following a LPAT decision	17(24) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council or Approval Authority on an OP or OPA following a LPAT decision	17(36) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	22(7) and 22(11.0.12)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	34(11) and 34(26.5)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council following a LPAT decision	34(19) and 34(26.5)

**† C. Other Appeal Types (Please check all applicable boxes)**

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Development Charges Act Matters</b>		
<b>Development Charge By-law</b>	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
<b>Development Charge Complaint</b>	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
<b>Front-ending Agreement</b>	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b>Education Act Matters</b>		
<b>Education Development Charge By-law</b>	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
<b>Education Development Charge Complaint</b>	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b>Aggregate Resources Act Matters</b>		
<b>Aggregate Removal Licence</b>	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
<input type="checkbox"/> Revocation of licence	20(4)	
<b>Municipal Act Matters</b>		
<b>Ward Boundary By-law</b>	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	

Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	

**Ontario Heritage Act Matters**

<b>Designation of Property</b>	<input type="checkbox"/> Appeal a Notice of intention to designate property	29(11)
	<input type="checkbox"/> Appeal of an amendment to a by-law designating property	30.1(10)
	<input type="checkbox"/> Appeal a Notice of Intention to repeal a designating by-law or part of a designating by-law	31(9)
	<input type="checkbox"/> Appeal a council's decision to approve or refuse the repealing of a designating by-law or part of a designating by-law	32(7)/32(8)
	<input type="checkbox"/> Appeal council's decision to alter a heritage designated property	33(9)
<b>Heritage Conservation District</b>	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)

**Other Act Matters**

Subject of Appeal	Act/Legislation Name	Section Number

**2. Location Information**

Address and/or Legal Description of property subject to the appeal  
55 Eagle Street

Municipality  
Town of Newmarket

Upper Tier (Example: county, district, region)  
Region of York

**3. Appellant/Objector Information**

**Note:** You must notify the LPAT of any change of address or telephone number in writing. Please quote your LPAT Case/File Number(s) after they have been assigned.

Last Name

First Name

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)  
Millford Development Limited

Email Address

Daytime Telephone Number

ext.

Alternate Telephone Number

**Mailing Address**

Unit Number

Street Number

Street Name

PO Box  
215

City/Town  
Newmarket

Province  
Ontario

Country  
Canada

Postal Code  
L3Y 4X1

#### 4. Representative Information

I hereby authorize the named company and/or individual(s) to represent me

Last Name  
Flowers

First Name  
Mark

Company Name  
Davies Howe LLP

Professional Title  
Lawyer

Email Address  
markf@davieshowe.com

Daytime Telephone Number  
416-263-4513

ext.

Alternate Telephone Number  
416-843-4884

#### Mailing Address

Unit Number  
10th Fl.

Street Number  
425

Street Name  
Adelaide Street West

PO Box

City/Town  
Toronto

Province  
Ontario

Country  
Canada

Postal Code  
M5V 3C1

**Note:** If you are representing the appellant and are not licensed under the *Law Society Act*, please confirm that you have written authorization, as required by the LPAT's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

#### 5. Appeal Reasons

Municipal Reference Number(s)  
D9-NP-11-09 and D14-NP-11-09

For all appeal types, please outline the nature of the appeal and the reasons for your appeal.

Please see the attached covering letter.

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you intend on arguing one or more of the following:

A: A decision of a Council or Approval Authority is:

- Inconsistent with the Provincial Policy Statement, issued under subsection 3(1) of the *Planning Act*
- Fails to conform with or conflicts with a provincial plan
- Fails to conform with an applicable Official Plan

**And**

B: For a non-decision or decision to refuse by council:

- Consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- Conformity with a provincial plan
- Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

If you intend on arguing on one or more of the above throughout a proceeding, please explain:  
Please see the attached covering letter.



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### Oral/written submissions to council

If applicable, did you make your opinions regarding this matter known to council?

- Oral submissions at a public meeting of council  
 Written submissions to council

### 6. Related Matters

Are there other appeals not yet filed with the Municipality?

- Yes  No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

- Yes  No ▼

If yes, please provide LPAT Case Number(s) and/or Municipal File Number(s)

LPAT Case No. PL080723 - site-specific appeal of Town of Newmarket Official Plan

### 7. Mediation

Mediation is a confidential process in which the parties to an appeal talk about their differences and, with the facilitative assistance of an impartial individual, a mediator, negotiate a consensual resolution of the appeal. Unless the Tribunal determines that there is a good reason for not addressing the appeal with mediation, all parties shall presume that their differences will first be addressed through a mediation directed by the Tribunal. As such, parties shall act and prepare accordingly, meaning good faith negotiation and collaboration are a priority and are expected by the Tribunal.

- I have read and understand the above statement.

### 8. Witness Information

Detail the nature and/or expertise of witnesses you will have available.

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### For all other appeal types :

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.).

Land use planning, urban design, natural heritage, transportation - other, if required

### 9. Required Fee

Total Fee Submitted \$ 600

Payment Method ►  Certified cheque  Money Order  Lawyer's general or trust account cheque

## 10 Declaration

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Mark R. Flowers, Davies Howe LLP		2020/03/05

Personal information or documentation requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the *Local Planning Appeal Tribunal Act*. After an appeal is filed, all information relating to this appeal may become available to the public.