



City of
Peterborough

To: Members of the Planning Committee

From: Ken Hetherington, Manager, Planning Division

Meeting Date: February 10, 2014

Subject: Report PLPD14-010
Temporary Use Zoning By-law Amendment Z1323
2064086 Ontario Limited (Mason Homes)
0 Chemong Road

Purpose

A report to evaluate the planning merits of an application for a Temporary Use Zoning By-law pursuant to Section 39 of the *Planning Act* to permit a portion of the subject lands to be developed with a new-home sales office building and up to seven (7) model homes without municipal services for a period of up to three (3) years.

Recommendation

That Council approve the recommendation outlined in Report PLPD14-010 dated February 10, 2014, of the Manager, Planning Division as follows:

That a Temporary Use Zoning By-law be approved pursuant to Section 39 of the *Planning Act* to permit a portion of the property municipally known as 0 Chemong Road to be developed with a new-home sales office and up to seven (7) model homes without municipal services for a period of up to three (3) years in accordance with Exhibit E of Report PLPD14-010.

Budget and Financial Implications

There are no direct budget or financial implications arising from the approval of this Temporary Use Zoning By-law amendment.

Background

Mason Homes Limited is currently developing a Draft Plan of Subdivision (File No.: 15T-10507) on both the subject lands and adjacent lands municipally known as 1224 and 1310 Chemong Road and 1345 Hilliard Street. The plan, which is being marketed under the name “Parklands,” was granted Draft Plan of Subdivision Approval by Council in 2011 (Report PLPD11-013) to provide for approximately 770 residential units of various types and densities along with commercial lands, parkland and open space. Presently, house construction is underway within the one phase of the subdivision that has been registered (Registered Plan 45M-238, 152 units) in the vicinity of Rowberry Boulevard, Grange Way, and the eastern portion of Broadway Boulevard.

Since 2007, Mason Homes has been marketing their new-home products from a temporary sales office building located near the southwest corner of the Draft Plan of Subdivision on a property known municipally as 1224 Chemong Road. In 2007, the Committee of Adjustment approved a minor variance (File No.: A40/07) to allow the temporary building to establish at that location, however in 2010 that permission lapsed. The current sales office is accessed exclusively from Chemong Road and is both visually and spatially isolated from the current phase of subdivision construction.

In light of the lapsing of approval for their current sales office and the office’s remote location relative to the rest of the subdivision site, Mason Homes has expressed a desire to remove their existing sales office structure, to legalize the sales office use for their lands, and to establish a new sales office in a more central location within the Draft Plan of Subdivision that maintains access and visibility from Chemong Road while also providing better visibility to the rest of the site. Furthermore, to help customers better visualize their new home options, Mason Homes would also like to construct up to seven (7) additional model homes in conjunction with the new sales office.

Exhibit D attached hereto illustrates the proposed location and conceptual layout of the new sales office and model homes. Within the Draft Plan of Subdivision, these structures would be located on parts of Blocks 3, 25 and 32 (see Exhibit C). Presently, these blocks are zoned for residential purposes; however, they are not serviced or located within a registered plan of subdivision. Consequently, these blocks are subject to a Holding Symbol provision in the Zoning By-law which prevents their use until the blocks are located within a registered plan of subdivision and the Holding Symbol is removed.

Typically, model homes and new-home sales offices built in accordance with approved residential zoning have been permitted within registered plans of subdivision subject to certain requirements secured in a subdivision agreement between the Developer and the City. In this particular case, because the proposed sales office and model homes location is not located within a registered plan of subdivision and is subject to a Holding Symbol provision, an alternative measure would be required to allow these uses to establish. In order to allow for the construction of a new sales office and an additional seven (7) model homes at the location described in Exhibit D without municipal services, Mason Homes has requested that Council pass a Temporary Use Zoning By-law pursuant to Section 39 of the *Planning Act*.

Section 39 of the *Planning Act* allows Council to pass a by-law to authorize the temporary use of land, buildings, or structures for any purpose set out in the by-law that is otherwise prohibited by the Zoning By-law. In accordance with the *Act*, such a by-law must define both the area to which it applies and the period of time that the authorization will be in effect. Authorizations granted by Temporary Use By-laws can not exceed three years in duration from the day that the by-law is passed and may be extended by Council by the passing of a by-law in increments of no more than three years. The *Planning Act* does not restrict the number of times that a Temporary Use By-law may be extended. Accordingly, should Council receive requests in the future to extend the proposed Temporary Use By-law, the merit of each request will need to be evaluated on a case by case basis.

A proposed Temporary Use By-law is attached hereto as Exhibit E. To facilitate the Applicant's request, the following temporary exceptions from the Zoning By-law would be required:

- Exception from the requirements of Section 6.4 of the Zoning By-law which requires the provision of municipal water and sewer services;
- Exception from the number of dwelling units per lot provisions of the underlying residential zoning (Sections 358, 359, 360, 361 and 378 of the Zoning By-law); and,
- Exception from the existing Holding Symbol provisions that apply to the lands.

New-home sales offices and model homes are typically permitted in new plans of subdivision provided the buildings are constructed in conformity with the underlying residential zoning. Mason Homes intends to ensure that the proposed sales office and model homes are constructed in conformity with the underlying zoning regulations and the ultimate lot fabric as anticipated by the Draft Approved Plan of Subdivision. By doing this, once the lands are serviced, located within a registered plan of subdivision, and the applicable Holding Symbol provisions are removed, the sales office and model home uses would be permitted to continue to function as such for the life of the development.

Analysis

a) Provincial Policy

The *Provincial Policy Statement, 2005* (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS promotes efficient, cost effective development and land use patterns, protection of resources and public health and safety. As described in Report PLPD11-013, the subject development has been designed and granted approval in compliance with provincial policy. The proposed Temporary Use Zoning By-law does not compromise the overall development's compliance with provincial policy as described in Report PLPD11-013.

b) Official Plan

Section 7.4.1 of the Official Plan requires that the subdivision, development or redevelopment of land shall be provided with a municipal water supply, sanitary sewer and a storm water disposal system. Notwithstanding this, Section 7.4.2 of the Official Plan does provide some flexibility to consider the use of existing lots in areas lacking one or more municipal services provided the general intent and purpose of the Official Plan is maintained. Presently, it is proposed that the sales office and model home court will be developed without municipal water, wastewater and storm sewer services. The rationale for this request is that the structures, while being used for sales purposes, will not be residentially occupied. Consistent with their current sales office, a portable washroom trailer is proposed to serve the needs of Mason Homes' sales staff and patrons.

Mason Homes' Draft Plan of Subdivision is a large development that is being undertaken in phases. Ultimately, it is anticipated that the proposed sales office and model home court will be located on lots within a registered plan of subdivision. When that happens, the Applicant will be required to provide municipal roads along with municipal water, wastewater and storm sewer services to each lot thereby ensuring that each structure conforms with the servicing requirements of both the Official Plan and the underlying Zoning By-law. On this basis, staff are satisfied that the proposed Temporary Use By-law is consistent with the general intent and purpose of the Official Plan.

c) Zoning By-law

The location of the proposed sales office and model home court is currently zoned as follows:

Draft Plan Block #	Zoning	Residential Use	Minimum Lot Width
Blocks 25, 32	SP.348-“H”	Laneway based Singles, Semis, Townhomes	7.6m (singles) 5.7m/unit (semis/duplex) 4.5m/unit (townhomes)
Block 3	SP.328, 13a-‘H’ SP.329,11j,13k-‘H’ SP.330,11j,13k-‘H’ SP.331,3q,4g,10b,11j,16c-‘H’	Singles, Semis/Duplex, Townhomes	13.7m (SP.328 - singles) 9.1 m (SP.329 - singles) 7.3m/unit (SP.330 - semis/duplex) 4.5m/unit (SP.331 - townhomes)

In the process of constructing a new sales office and model homes, Mason Homes is intending to develop these uses in a manner that ensures their conformity with these underlying residential zoning districts. Doing this will ensure that these uses are permitted to continue once they are located within a registered plan of subdivision and the underlying zoning is in full effect without Holding provisions.

Staff do not have any objection to the proposed Temporary Use By-law and the temporary exceptions it grants from the Zoning By-law. Staff acknowledge that those issues prompting the need for a Temporary Use By-law, namely the existing Holding Symbol provisions on the lands, a lack of municipal services, and existing regulations restricting the number of dwelling units that can be developed on a single property will be addressed once the lands are in a registered plan of subdivision and a subdivision agreement has been executed between the Applicant and the City for that particular phase of development.

Responses to Notice

a) Agency Responses

As part of staff’s processing of the applications, and pursuant to the *Planning Act*, notice of the application was provided to, and comments sought from, the prescribed commenting agencies on December 17, 2013.

In response to the agency circulation, Utility Services provided comments related to the need for a fire suppression system and fire vehicle turn around facilities. Additionally, the Building Division has recommended that barrier free access be provided to the proposed sales office and model homes and the Otonabee Region Conservation Authority (ORCA) recommends the use of erosion and sediment controls prior to the commencement of construction.

Prior to filing the subject application, the Applicant consulted staff to determine the submission requirements. At that time, staff noted that the proposed sales office and model home court will initially be located outside of a registered plan of subdivision and therefore its development will not benefit from the coverage of a subdivision agreement. To ensure that issues related to (but not limited to) site access, parking, fire protection, lot grading, stormwater management and erosion control are adequately addressed for the proposed development, staff advised that Site Plan Approval will be required.

As part of a Site Plan Approval process, the above-noted comments from Utility Services, the Building Division and ORCA can be addressed. To ensure Site Plan Approval is granted before construction of the proposed uses can commence, the proposed By-law attached hereto as Exhibit E contains a provision requiring Site Plan Approval to be secured before any use can be established in accordance with the temporary permissions granted therein.

b) Public Responses

Notice of Complete Application was published in the Peterborough Examiner on December 20, 2013. Notice of Public Meeting was published in the Peterborough Examiner on January 13, 2014 and mailed to all persons that own property within 120 metres of the subject lands on January 10, 2014. No public inquiries or comments have been made in response to these notices.

Summary

Staff recommend that approval be granted to the application made by Mason Homes Limited for a By-law pursuant to Section 39 of the *Planning Act* to allow a new-home sales office building and up to seven (7) additional model homes without municipal services to be established for a period of up to three (3) years on a portion of the subject lands for the following reasons:

- i. The proposed uses will be located within an actively developing Draft Plan of Subdivision and are considered to be uses that are typically permitted within new subdivisions while they are under construction;

- ii. The proposed uses are consistent with the intent of the Official Plan and will conform to the Zoning By-law once a Subdivision Agreement has been executed for the lands and the lands are within a Registered Plan of Subdivision; and,
- iii. Any technical and design issues associated with the proposed uses will be secured through the Site Plan Approval process prior to construction.

Submitted by,

Ken Hetherington,
Manager, Planning Division

Prepared by,

Concurred with,

Brad Appleby,
Planner, Subdivision Control
& Special Projects

Malcolm Hunt, Director,
Planning and Development Services

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Attachments:

Exhibit A – Notice of Public Meeting
Exhibit B – Land Use Map
Exhibit C – Portion of Draft Approved Plan of Subdivision 15T-10507
Exhibit D – Preliminary Site Plan Concept
Exhibit E – Draft Temporary Use By-law

NOTICE OF COMPLETE APPLICATION AND PUBLIC MEETING

Exhibit A Sheet 1 of 1

TAKE NOTICE that the City of Peterborough has received the following applications and pursuant to the *Planning Act*, R.S.O., 1990, c.P.13, the Planning Committee will hold a public meeting in the Council Chambers, City Hall at 6:30 p.m. on **Monday, February 10, 2014**, to consider the following applications under Section 34 of the Act:

- File:** Z1323, x-ref 15T-10507
Address: 0 Chemong Road
Owner/Applicant: 2064086 Ontario Limited (Mason Homes Limited)
Agent: Peter Lawless, LLF Lawyers LLP

The applicant is requesting the approval of a Temporary Use Zoning By-law to allow for the construction and operation of a new-home sales office together with seven unserviced model homes to be operated in conjunction with the applicant's current subdivision development on site for up to three (3) years or until the lands are serviced and the existing residential Zoning on the lands is in effect.

- File:** Z1324
Address: 933 Webber Avenue
Applicant: Stonebridge Enterprises Inc.
Agent: Ken Trevelyan, Trevelyan Architect Inc.

The applicant proposes to amend the SP.7 – Special Commercial District zoning of the lands to change the use of the property from a retail store for the sale of floor and wall coverings and associated small electrical appliances and household fixtures to permit a limited list of Service Commercial uses that are consistent with the Service Commercial policies of the Official Plan, including a clinic. The application further proposes to delete Schedule 'A' to Section 35 of the Zoning By-Law, being a Site Plan for the existing development on the property.

BE ADVISED that if a person or public body does not make oral submissions at a public meeting or make written submissions to the City of Peterborough before the proposed Zoning By-law Amendment(s) is/are passed, the person or public body is not entitled to appeal the decision of City of Peterborough Council to the Ontario Municipal Board.

If a person or public body does not make oral submissions at a public meeting or make written submissions to the City of Peterborough before the proposed Zoning By-law Amendment(s) is/are passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to add the person or public body as a party.

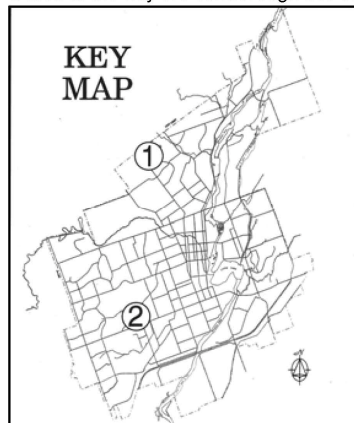
If you wish to be notified of the approval of the passing of the proposed Zoning By-law Amendment(s), you must make a written request to the City Clerk at the address below. (Please quote appropriate file number(s)).

ANY PERSON may attend the above Public Meeting and/or make written or verbal representation, either in support of or in opposition to the applications. (Please quote appropriate file number).

ADDITIONAL INFORMATION relating to these applications may be obtained from the Planning Division, City Hall, (8:30 a.m. to 4:30 p.m., Monday to Friday), or by contacting the Planning Division at 705-742-7777 - Caroline Kimble (File No. Z1324) at ext. 1735 (email ckimble@peterborough.ca) or Brad Appleby (File No. Z1323) at ext. 1886 (email bappleby@peterborough.ca).

A Staff report will be available by 12 Noon on Friday the 7th of February, 2014.

Dated at the City of Peterborough this **13th day of January, 2014**.



John Kennedy, City Clerk
City of Peterborough, City Hall
500 George Street North
Peterborough, Ontario
K9H 3R9
jkennedy@peterborough.ca

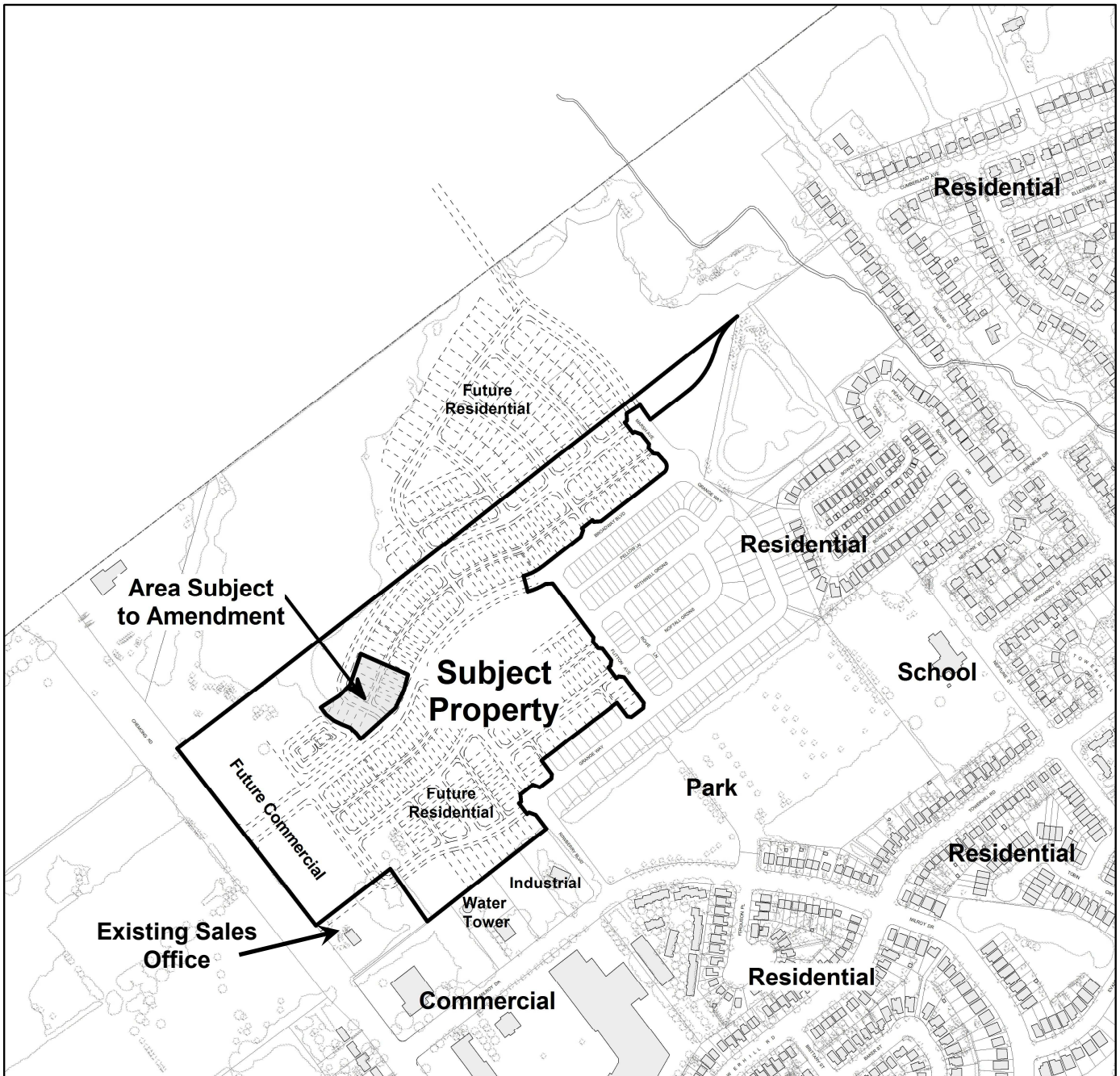
Land Use Map

File # Z1323

EXHIBIT **B**

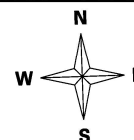
SHEET **1** OF **1**

Property Location: 0 Chemong Rd (more particularly described as blocks 3, 25 and 32 of Draft Approved Plan of subdivision 15T-10507)



The City of Peterborough Planning Division

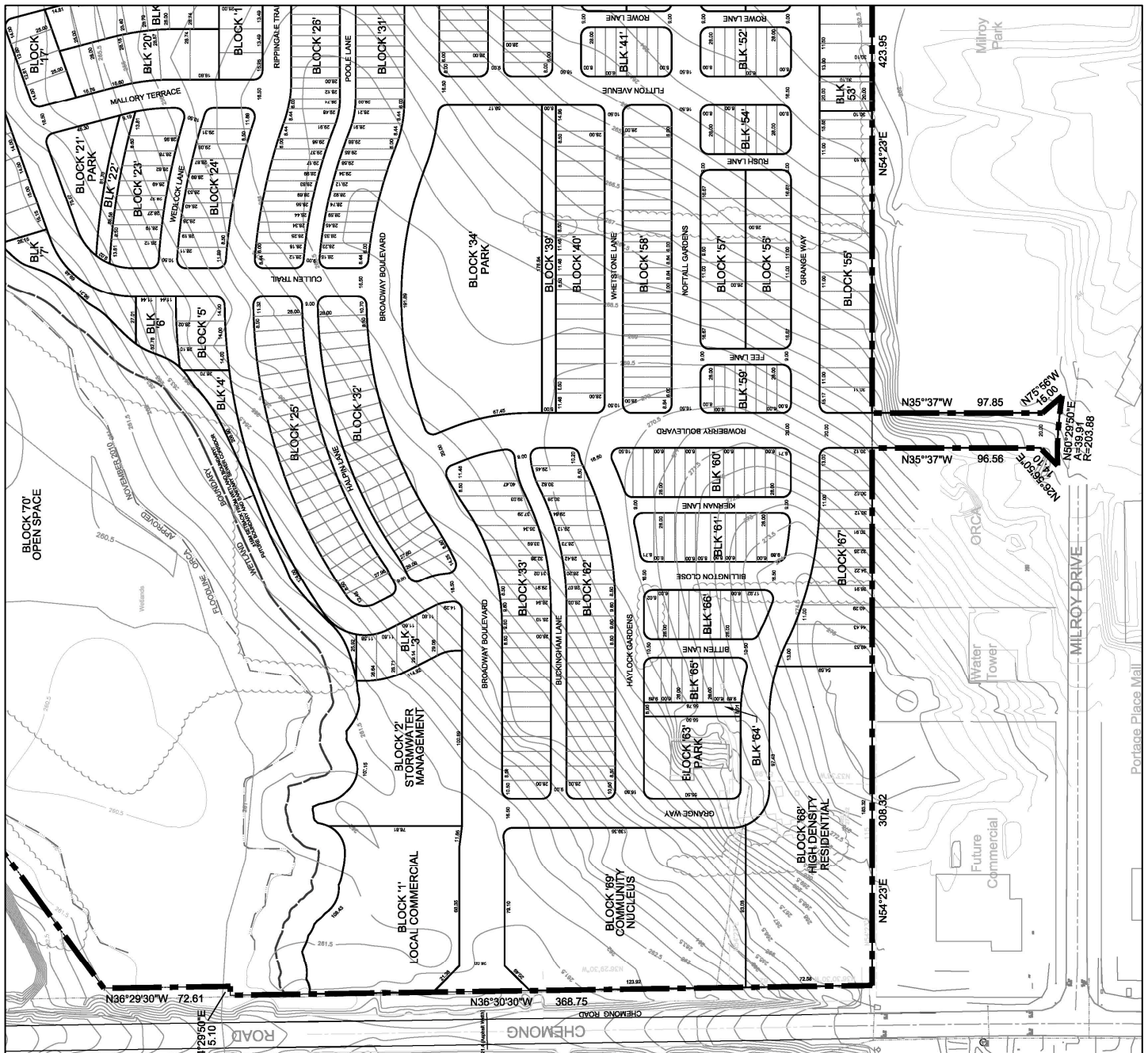
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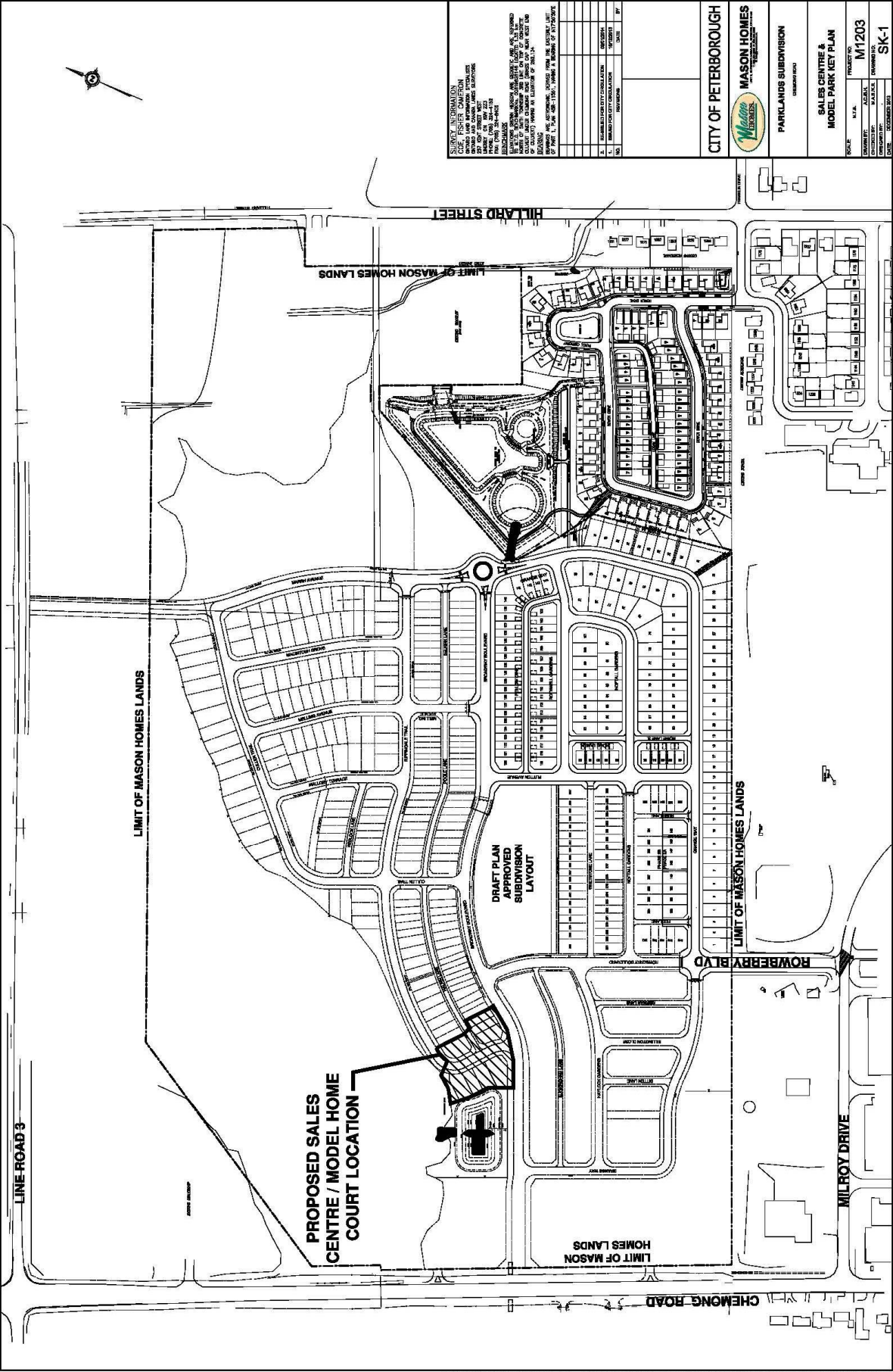
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Preliminary Site Plan Concept



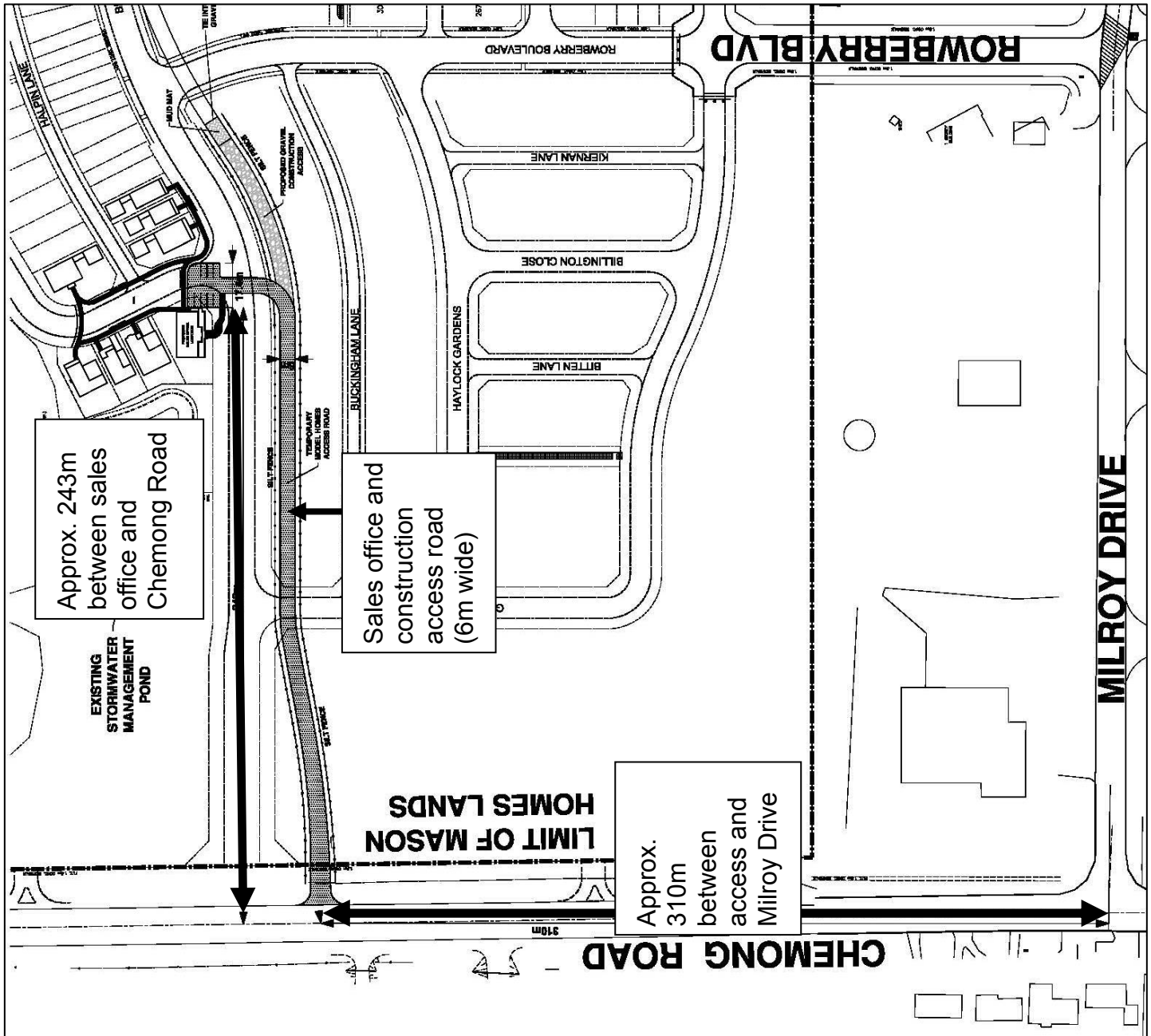
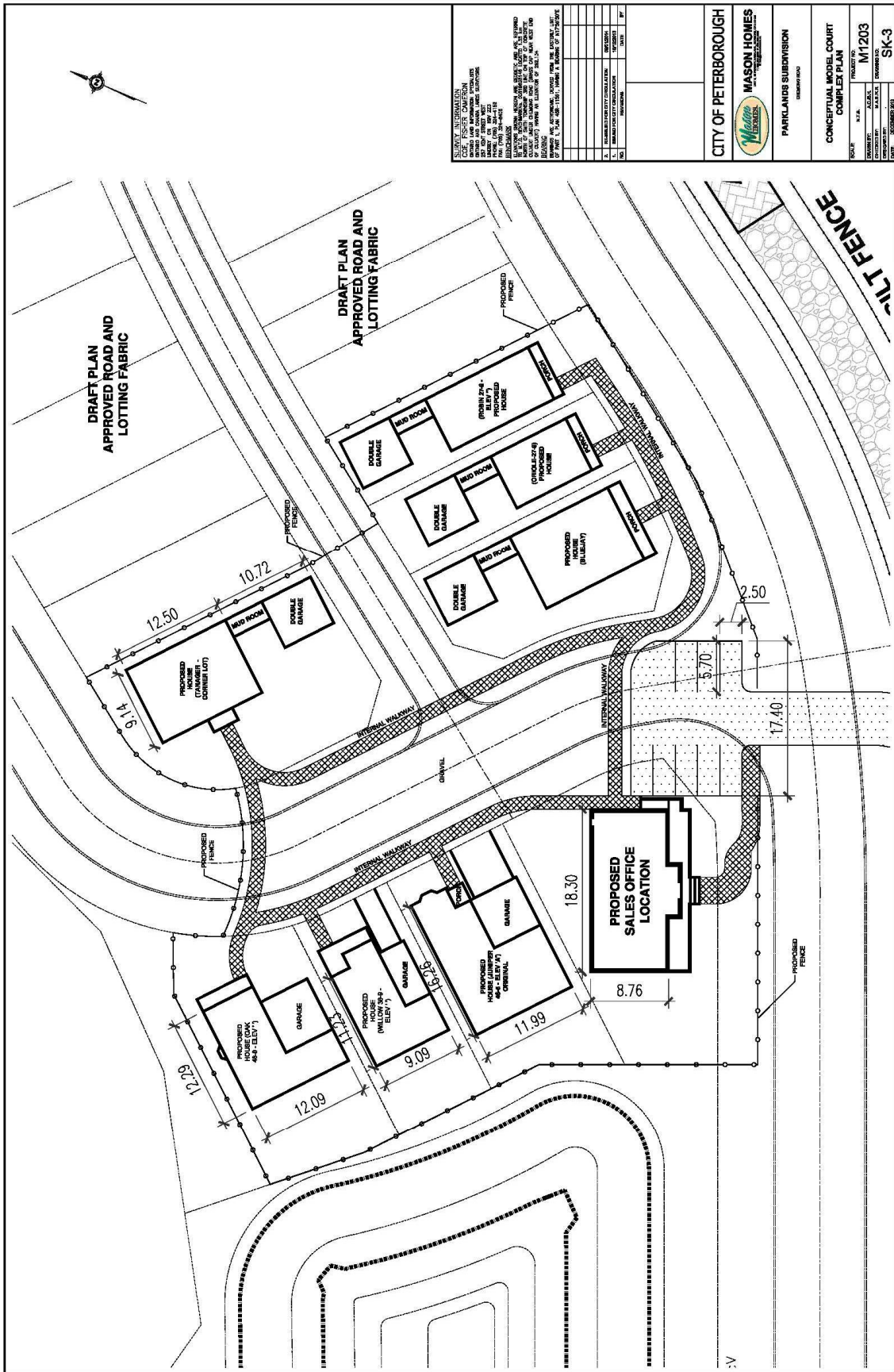
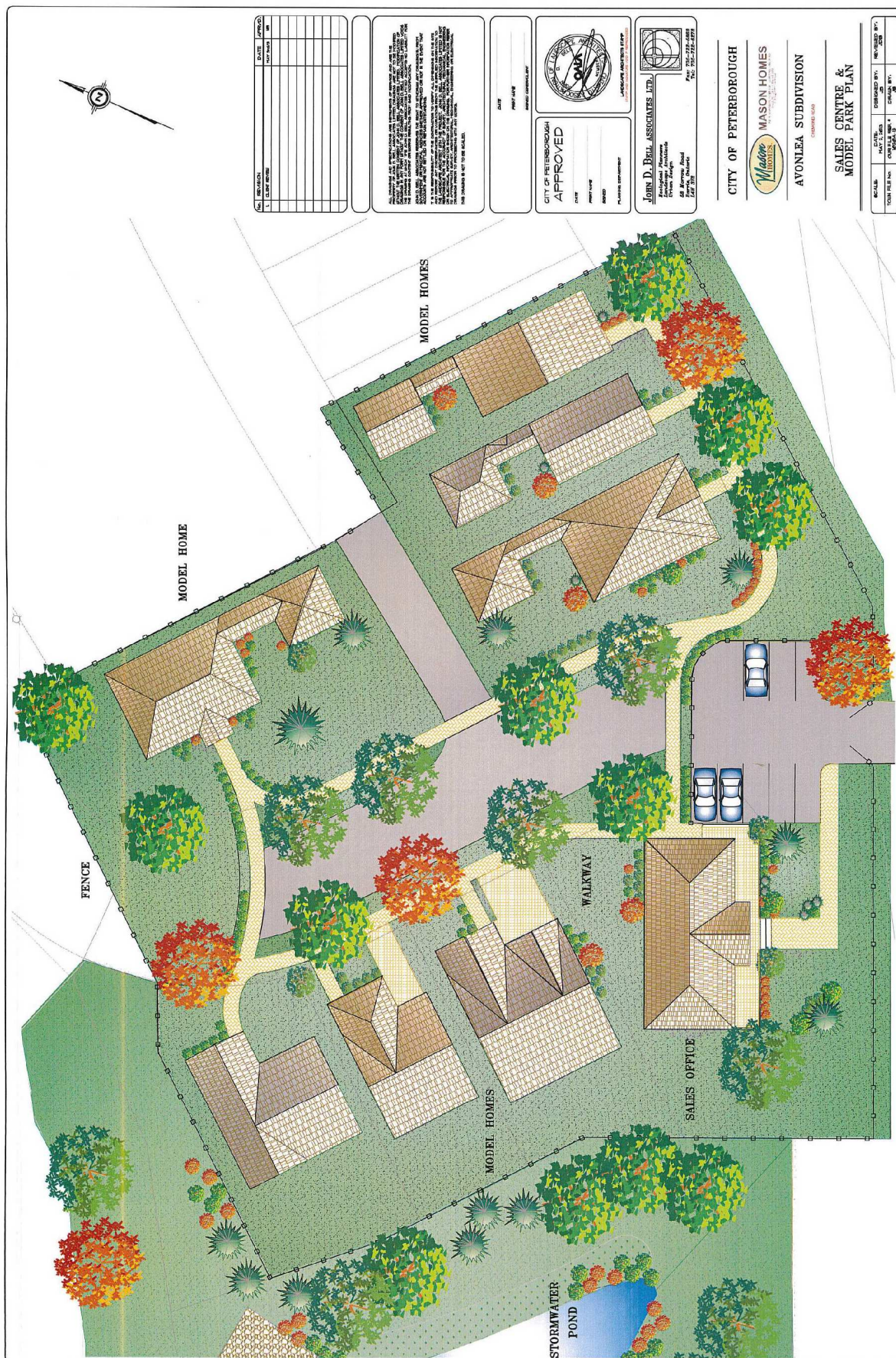


Exhibit D
Sheet 3 of 4





THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 14-_____

**BEING A BY-LAW TO AMEND THE ZONING BY-LAW FOR A PORTION OF
THE PROPERTY AT 0 CHEMONG ROAD**

WHEREAS PURSUANT TO SECTION 39 OF THE PLANNING ACT R.S.O. 1990, c. P13, AS AMENDED, THE COUNCIL OF A LOCAL MUNICIPALITY MAY AUTHORIZE THE TEMPORARY USE OF LAND, BUILDINGS OR STRUCTURES FOR A PURPOSE OTHERWISE PROHIBITED BY THE ZONING BY-LAW.

THEREFORE THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

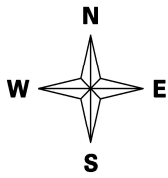
1. Notwithstanding the provisions of Sections 6.4 (Water and Sewer Required), 358 (Special District 328), 359 (Special District 329), 360 (Special District 330), 361 (Special District 331) and 378 (Special District 348) of By-law 1997-123, Section 9 of By-law 11-046, and Section 4 of By-law 13-136, the land described as Blocks 3, 25 and 32 on Draft Approved Plan of Subdivision 15T-10507 and identified in the sketch attached hereto as Schedule "A" may be used for the following purposes:
 - i) An office for the promotion and sale of new homes located within Draft Approved Plan of Subdivision 15T-10507 or any portion thereof registered in accordance with the Land Title Act; and,
 - ii) Up to seven (7) dwelling units to be used for model home purposes only.
2. No building, either temporary or permanent, shall be erected on the land identified in the sketch attached hereto as Schedule "A" unless Site Plan Approval has been granted for the building pursuant to Section 41 of the Planning Act.
3. The permission granted by this By-law shall remain in effect for a period of three years from the date of passage of the By-law or until the Holding symbol provisions of By-laws 11-046 and 13-136 have been lifted from the land identified in the sketch attached hereto as Schedule "A", whichever occurs first.

Exhibit E
Sheet 2 of 3

By-law read a first, second and third time this day of _____, 2014.

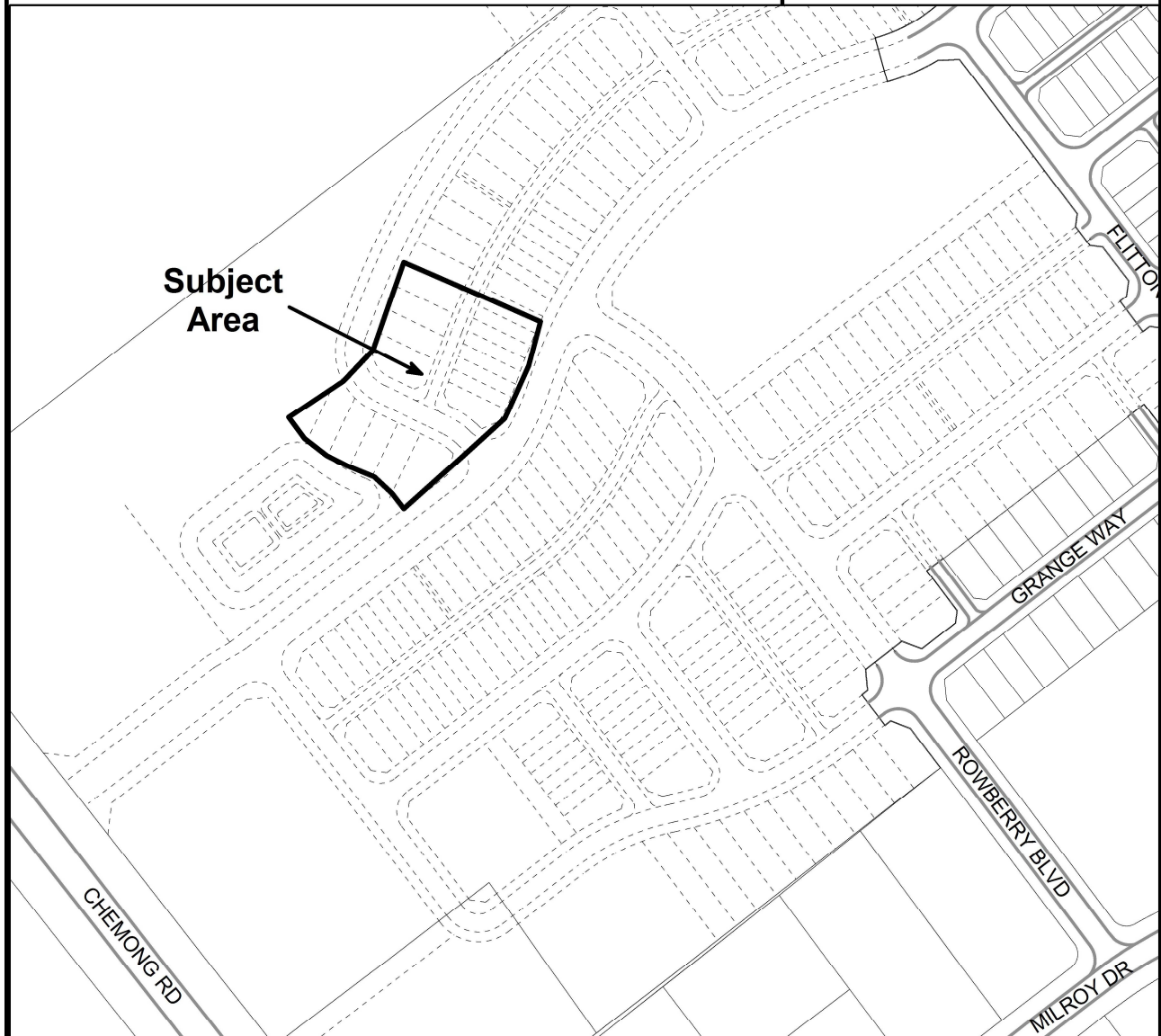
Daryl Bennett, Mayor

John Kennedy, City Clerk

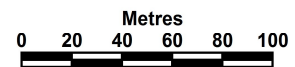


Dimensions are in metric

SCHEDULE 'A' TO
BYLAW 2014-
PASSED THE DAY
OF 2014
MAYOR
CLERK



City of
Peterborough



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File: z1323