



City of
Peterborough

To: Members of the General Committee

From: Cynthia Fletcher
Commissioner of Infrastructure and Planning Services

Meeting Date: March 4, 2019

Subject: Report IPSPL19-007
Temporary Use Zoning By-law Amendment Z1807
2531430 Ontario Limited
Part of 2159 Old Norwood Road

Purpose

A report to evaluate the planning merits of an application for a Temporary Use Zoning By-law Amendment 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 without municipal services for a period of up to three (3) years.

Recommendation

That Council approve the recommendation outlined in Report IPSPL19-007 dated March 4, 2019, of the Commissioner of Infrastructure and Planning Services, as follows:

That a Temporary Use Zoning By-law Amendment be approved pursuant to Section 39 of the **Planning Act** to permit a portion of the property municipally known as 2159 Old Norwood Road to be developed with a new-home sales office without municipal services for a period of up to three (3) years in accordance with Exhibit A of Report IPSPL19-007.

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

On September 10, 2018, Council considered Report IPSPD18-023 and approved Official Plan Amendment (OPA) No. 178 (By-law 18-080) and Zoning By-law Amendment Z1704sb (by-law 18-081), and granted draft approval to Draft Plan of Subdivision 15T-17501 for the subject lands. The development, known as “Ashborough Village”, is draft approved for approximately 707 residential units of various types and densities along with commercial opportunity, parkland, walkways, open space and a stormwater management facility. Presently, draft plan of subdivision approval is in effect, however by-laws 18-080 and 18-081 have not come into effect because an appeal has been filed against OPA No. 178.

In anticipation of house construction on the site, the Applicant is seeking temporary permission to construct and operate a new home sales office at the southeast corner of the site. The sales office is proposed to be located on Block 55 in the draft plan of subdivision (see Exhibit B) which is ultimately planned for a mixed-use commercial/high density residential development. The block, which is currently zoned R1 (General Residential) in the former Otonabee Township By-law 12-79, will be zoned SP.365-326 in the City's Zoning By-law once by-law 18-081 comes into effect. The pending zoning permits a variety of residential and commercial uses, however it does not explicitly permit a new home sales office. Furthermore, once By-law 18-081 comes into effect, any development on Block 55 will require municipal water and wastewater services whereas the Applicant is proposing to construct and operate the sales office on private services until municipal services are available.

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 cannot exceed three years in duration from the day that the by-law is passed but 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.

Once the sales office is no longer required, the Applicant could either remove it from the site or use it as part of the planned commercial/residential development on the site.

Concurrent with the review of this application, the Applicant has requested Site Plan Approval for the proposed sales office (File No. SPC-962). A copy of the proposed site plan is attached as Exhibit C.

Analysis

Provincial Policy Statement, 2014

Any decision on the proposed development must be consistent with the Provincial Policy Statement, 2014 (PPS). The PPS provides general direction to municipalities with respect to a number of land use planning issues. As described in Report IPSPD18-023, the subject development has been designed and granted draft approval in consistency with the PPS. The proposed Temporary Use Zoning By-law does not compromise the overall development's consistency with the PPS.

Growth Plan for the Greater Golden Horseshoe, 2017

Any decision on the proposed Draft Plan must conform with the Growth Plan for the Greater Golden Horseshoe, 2017 (the Growth Plan). The Growth Plan builds upon the policy foundation of the PPS by providing land use planning policies to address specific issues in the Greater Golden Horseshoe (GGH). The subject lands are located within the Designated Greenfield Area as defined in the Growth Plan. Accordingly, the lands are subject to both general policies in the plan and to policies that are specific to the Designated Greenfield Area.

As described in Report IPSPD18-023, the subject development has been designed and granted draft approval in conformity with the Growth Plan. The proposed Temporary Use Zoning By-law does not compromise the overall development's conformity to the Growth Plan.

Official Plan

Presently, the subject lands are designated "Village" in the former Township of Otonabee-South Monaghan Official Plan however the City has adopted OPA No. 178 to redesignate the lands for Residential purposes on Schedule A – Land Use and more specifically High Density Residential on Schedule S – Lift Lock Secondary Plan. As noted, OPA No. 178 has been appealed to the Local Planning Appeal Tribunal (LPAT) and is therefore not in effect yet.

Where Council has adopted an amendment to the Official Plan, Section 24(2) of the **Planning Act** allows Council to pass a by-law that does not conform with the Official Plan but will conform with it once the amendment comes into effect. In this case the appeal to OPA No. 178 does not dispute the land uses proposed for the subject site. Accordingly, it is staff's opinion that once OPA No. 178 comes into effect, the proposed Temporary Use By-law will conform to the Official Plan.

Furthermore, Section 24 (2.1) of the **Planning Act** specifies that the by-law is of no force and effect if the amendment to the Official Plan does not come into effect. To clarify this for Council and the public, the proposed Temporary Use By-law in Exhibit A specifies that the by-law shall only come into effect once OPA No. 178 comes into effect insofar as it affects the subject site.

Responses to Notice

Summary of Agency Responses

As part of staff's processing of the application, and pursuant to the **Planning Act**, staff provided notice of the application to, and sought comments from, the prescribed commenting agencies on September 18, 2018 (by mail and email). Additionally, notice of the Public Meeting was provided to the prescribed agencies on February 5, 2019 by mail and email.

The Township of Otonabee-South Monaghan has advised that it would like to ensure that the entrance into the sales office is either aligned with Safe Harbour Way which is to be built east of Television Road or that the City takes Safe Harbour Way into account when approving the access to the sales centre. The location of the entrance will be addressed through the Site Plan approval process. Staff confirms that Site Plan Application SPC-962 has been circulated to the Township and that the Township has provided comments as part of that process.

No other comments were received from agencies.

Summary of Public Responses

In accordance with **Planning Act** requirements, notice of a complete application for the proposed plan of subdivision and Zoning By-law Amendment was published in the Peterborough Examiner on November 27, 2018 while Notice of Public Meeting was published on February 6, 2019 (Exhibit D).

No public comments have been received on the proposed Temporary Use By-law.

Summary

Staff recommend that approval be granted to the application made by 2531430 Ontario Limited for a By-law pursuant to Section 39 of the **Planning Act** to allow a new-home sales office 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 use will be located within an actively developing Draft Plan of Subdivision and is considered to be a use that is typically permitted within new subdivisions while they are under construction;
- ii. The proposed use is consistent with the intent of Official Plan Amendment No. 178; and,
- iii. Any technical and design issues associated with the proposed use will be secured through the Site Plan Approval process prior to construction.

Submitted by,

Cynthia Fletcher
Commissioner of Infrastructure and Planning Services

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Attachments:

- Exhibit A – Draft Temporary Use Zoning By-law
- Exhibit B – Draft Approved Plan of Subdivision 15T-17501
- Exhibit C – Proposed Sales Office Site Plan
- Exhibit D – Notice of Public Meeting
- Exhibit E – Land Use Map

Exhibit A, Page 1 of 3



The Corporation of the City of Peterborough

By-Law Number 19-

Being a By-law to Amend the Zoning By-law for a Portion of the Property at 2159 Old Norwood 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;

Now Therefore, the Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. Notwithstanding the provisions of Section 5 – General Residential (R1) Zone of By-law 12-79 of the former Township of Otonabee and, upon By-law 18-081 coming into effect, notwithstanding the provisions of Sections 6.4 (Water and Sewer Required) and 395 (Special District 365) of the City of Peterborough Zoning By-law, the land described as Block 55 on Draft Approved Plan of Subdivision 15T-17501 and identified in the sketch attached hereto as Schedule “A” may be used for the following purpose:
 - a) An office for the promotion and sale of new homes.
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 come into effect upon the granting of Site Plan Approval for the proposed building pursuant to Section 41 of the **Planning Act** and upon Official Plan Amendment No. 178 (By-law 18-080) coming into effect, insofar as it affects the land identified in the sketch attached hereto as Schedule “A”.

Exhibit A, Page 2 of 3

4. 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.

By-law read a first, second and third time this 25th day of March, 2019.

Diane Therrien, Mayor

John Kennedy, City Clerk

Exhibit A, Page 3 of 3

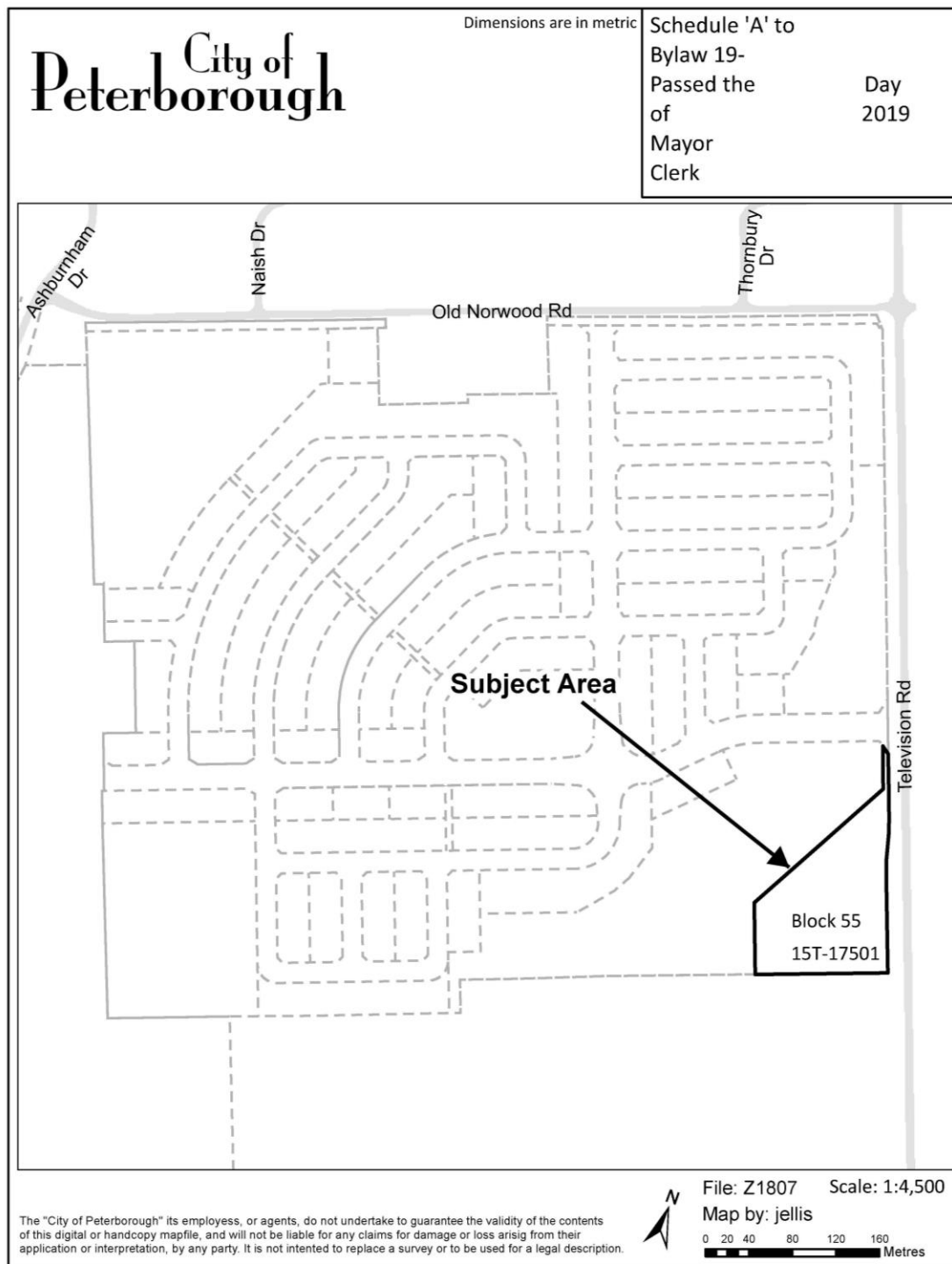


Exhibit B, Page 1 of 1

Draft Approved Plan of Subdivision 15T-17501

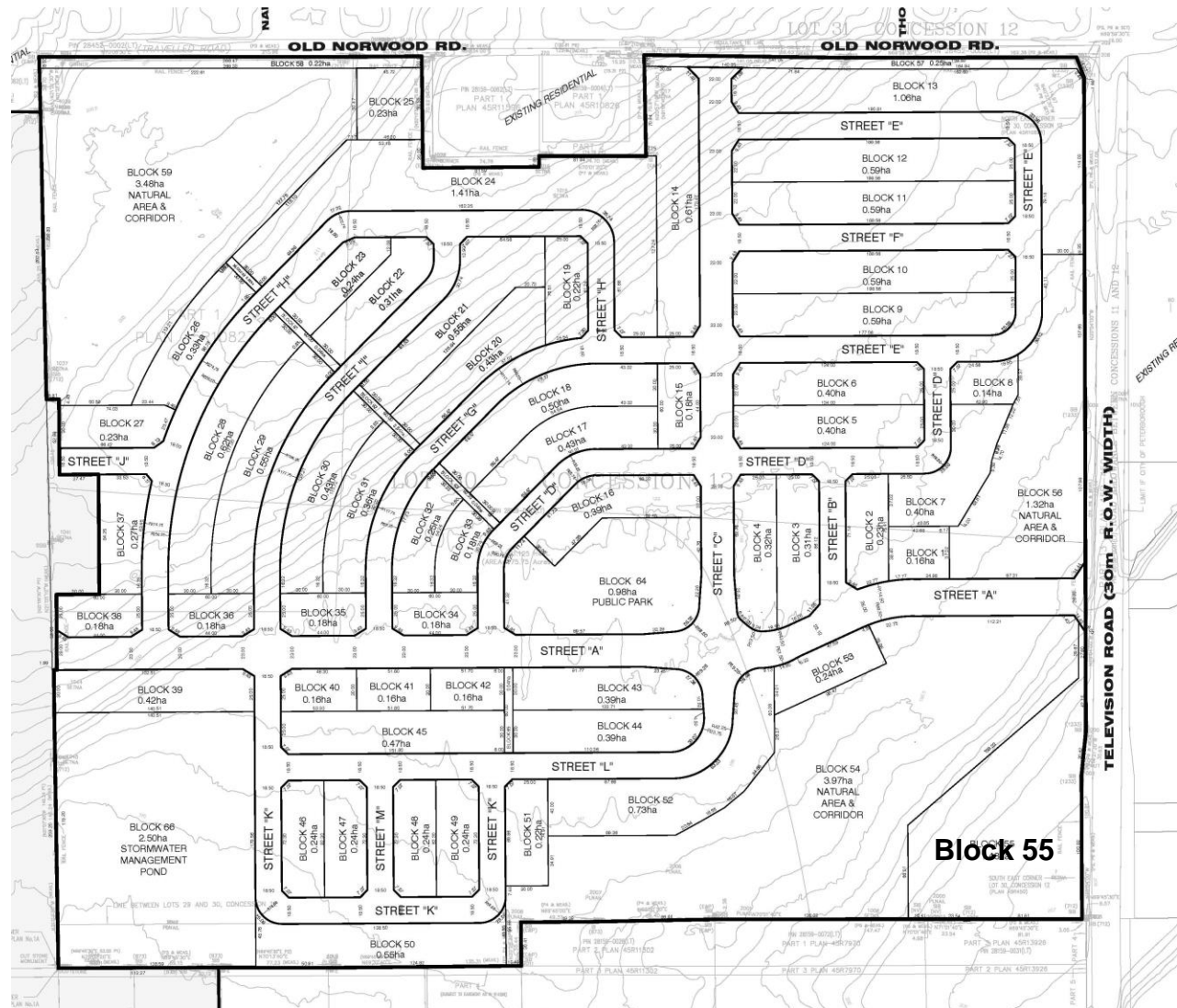


Exhibit C, Page 1 of 1

Proposed Sales Office Site Plan

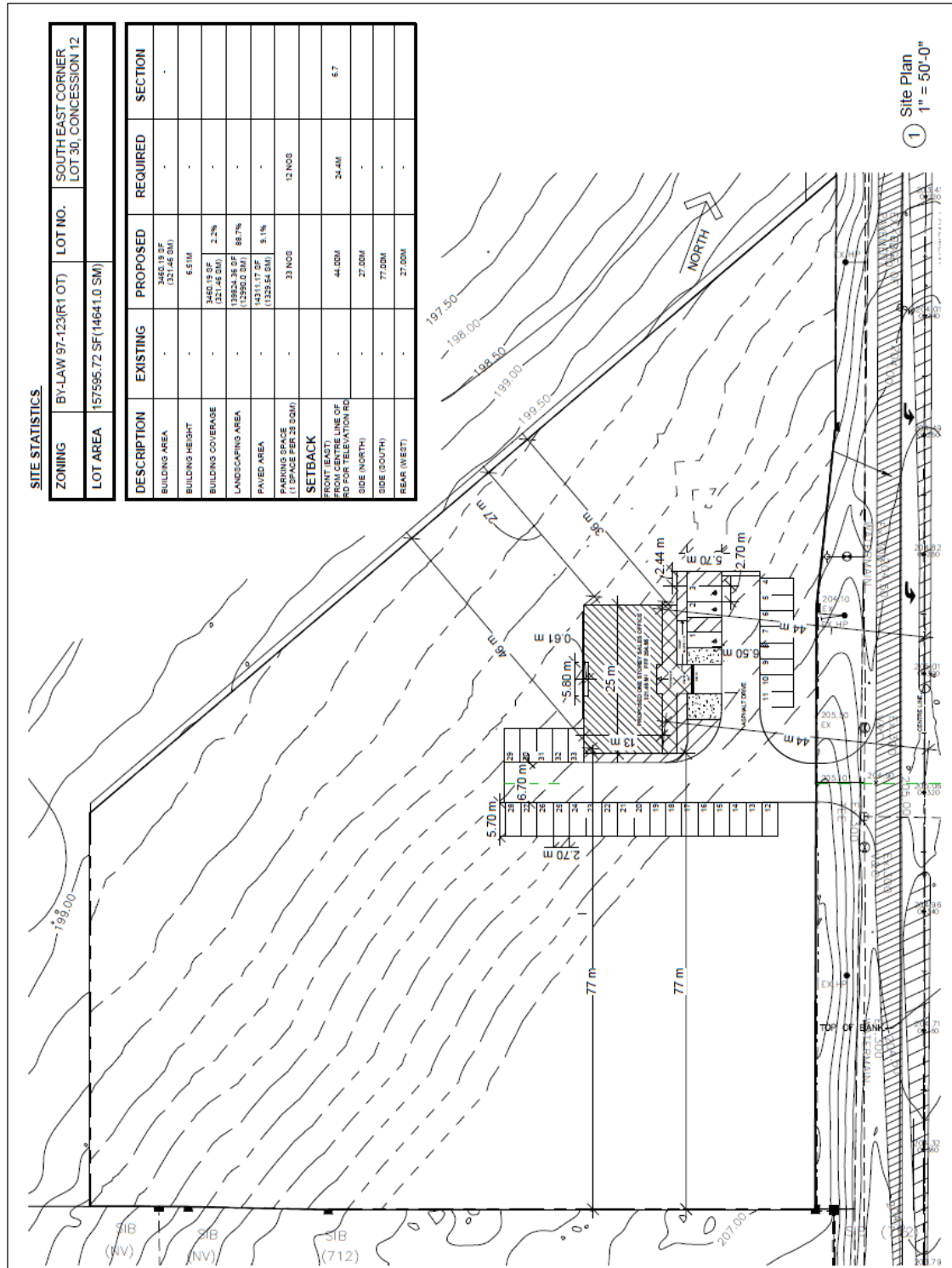


Exhibit D, Page 1 of 1

Notice of Public Meeting

Wednesday February 6, 2019, The Peterborough Examiner

Notice of Public Meeting

Take Notice that the City of Peterborough has received the following application and pursuant to Section 34 of the **Planning Act**, R.S.O., 1990, c.P.13: the General Committee will hold a public meeting in the Council Chambers, City Hall at **6:00 p.m. on Monday, March 4, 2019:**

1. **File:** Z1807
Affected Lands: 2159 Old Norwood Road
Applicant: 2531430 Ontario Ltd. (YiZheng Ltd.)
Agent: The Biglieri Group Limited, c/o Melinda Holland

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 with private water and wastewater services in conjunction with the applicant's current subdivision development on site for up to three (3) years.

Additional information and materials relating to the proposed Zoning By-law Amendment may be obtained from the Planning Division, City Hall, (8:30 a.m. to 4:30 p.m., Monday to Friday).

For more information about this matter, including information about preserving your appeal rights, contact the Planning Division at 705-742-7777 – Brad Appleby at ext. 1886 (email: bappleby@peterborough.ca).

A Staff report will be available by 12:00 p.m. on Thursday, the 28th day of February, 2019.

Dated at the City of Peterborough this 6th day of February, 2019.

Key Map



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

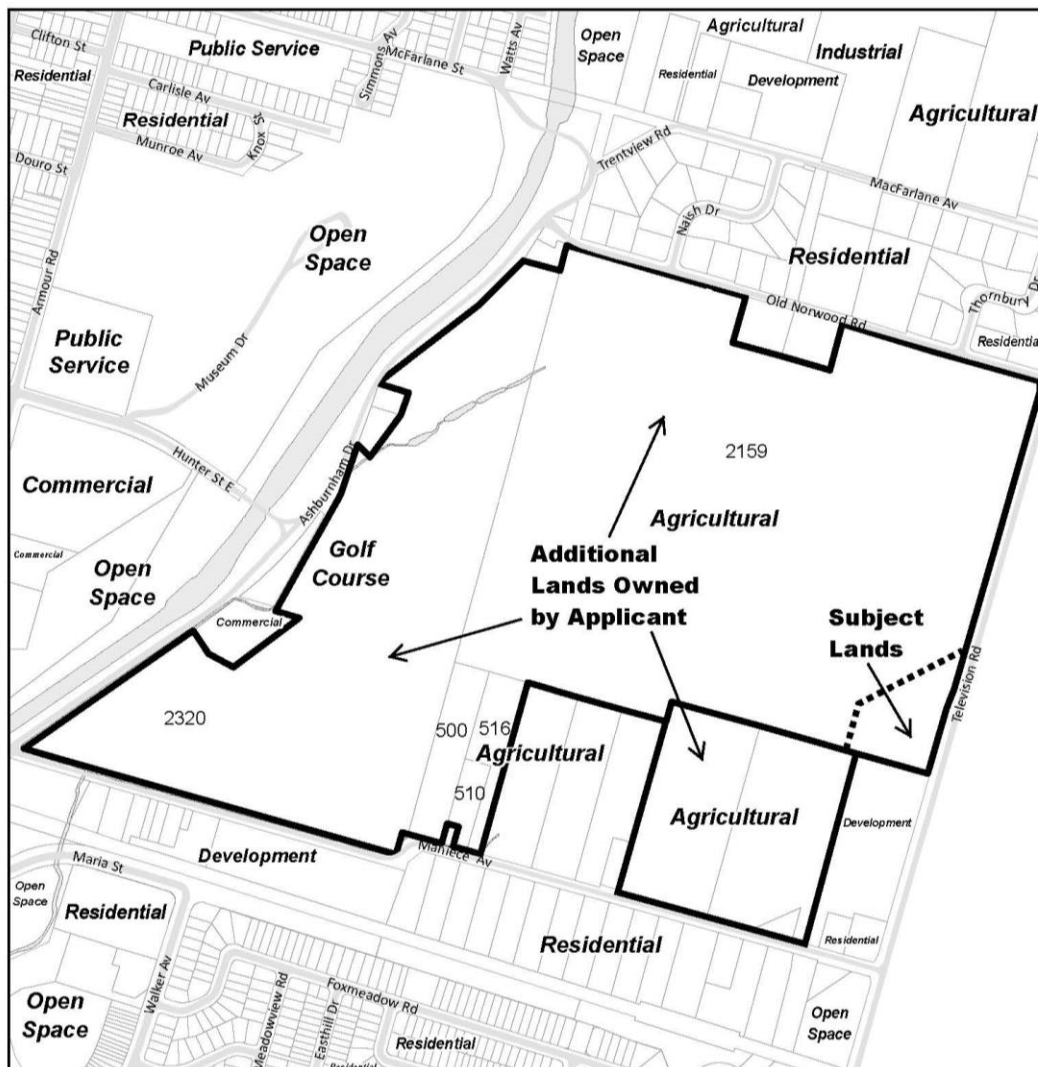
Exhibit E, Page 1 of 1

Land Use Map

File: Z1807

Property Location: Part of 2159 Old Norwood Road

EXHIBIT
SHEET OF



The City of Peterborough Planning Division

The "City of Peterborough" its employees, or agents, do not undertake to guarantee the validity of the contents of this digital or handcopy mapfile, and will not be liable for any claims for damage or loss arising from their application or interpretation, by any party. It is not intended to replace a survey or to be used for a legal description.

Date: April 18, 2017

Map by: Jellis

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Metres