



## Planning and Building Services

### TOWN OF NEWMARKET

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November 7, 2016

## **Development and Infrastructure Services Planning and Building Services - Planning Report 2016-29**

To: Committee of the Whole

Subject: Official Plan Amendment Application, File No. D9NP16 03  
Zoning By-law Amendment Application, File No. D14NP16 03  
LOTS 4 & 5, PL 65M2677  
1166 and 1186 Nicholson Road, Newmarket

Origin: Application submitted to the Planning Department

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### **Recommendations**

**THAT Development and Infrastructure Services/Planning and Building Services Report 2016-29 dated November 7, 2016 regarding Application for Official Plan Amendment and Zoning By-law Amendment be received and the following recommendation(s) be adopted:**

- 1. THAT Official Plan Amendment # 14 as contained in Attachment 1 be adopted by Council; and**
- 2. THAT Council amend Zoning By-law 2010-40 for the lands at 1166 and 1186 Nicholson Road substantially in accordance with the draft Zoning By-law Amendment attached as Attachment 2 to this report.**

### **Background**

#### **Location and surrounding land uses**

The proposed Official Plan Amendment submitted by Zelinka Priamo Ltd. on behalf of the owners, HOOPP Realty Inc., under Planning Files D9NP16 03, and D14NP16 03 concerns a 2.3 hectare property located on the south side of Nicholson Road, west of Harry Walker Parkway South (see Figure 1). The subject property does not contain any structures, and is legally described as being PL 65M-2677; S/T LT434248, LT543746, R451851, R451852 Newmarket. The subject property is designated 'Business Park – Mixed Employment' by the Town of Newmarket Official Plan and zoned General Employment 11 (EG-11) by Zoning By-law 2010-40, as amended.

The lands to the north and west are zoned EG – General Employment, and to the east EH – Heavy Employment. An OS – Open Space zone is located immediately to the south, in which is found Bogart Creek, with further EG – General Employment lots across the watercourse. The lands to the immediate east which are zoned EH – Heavy Employment are also owned by the applicant. The surrounding land uses are principally manufacturing and motor-vehicle-related uses and their associated offices.

### Proposal

The purpose of the Official Plan Amendment and Zoning By-law Amendment applications are to add site specific policies to allow for outdoor storage on the subject lands, not to exceed 30% of the lot area. The owner has expressed that there is no preliminary site concept plan at this time and that this proposal is to increase the marketability of the subject property.

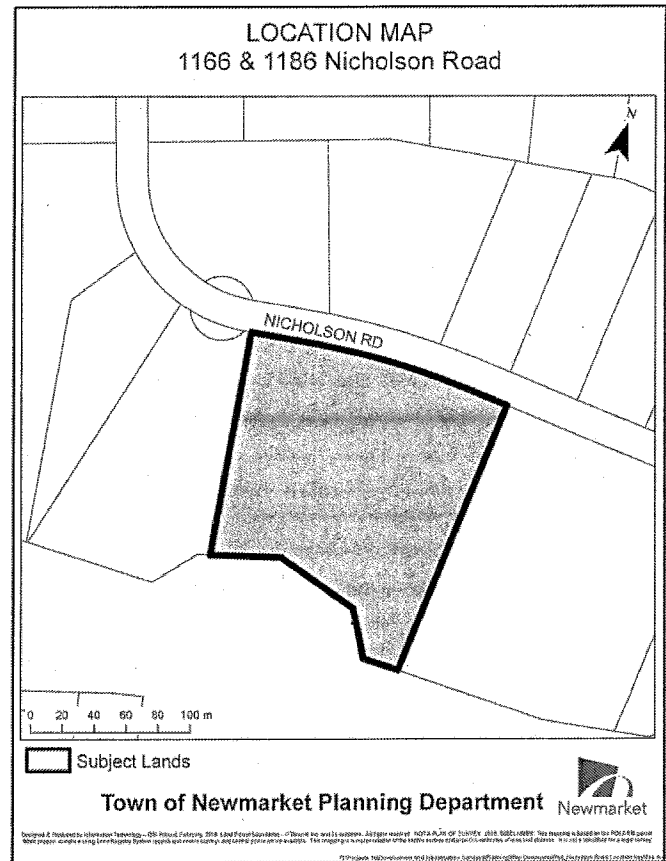


Figure 1: Location map of Subject Lands

### Planning review

#### Provincial Policy Statement (PPS) and Provincial Plans

The Provincial Policy Statement (PPS) 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include promoting economic development and competitiveness by providing opportunities for a diversified economic base, maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and taking into account the needs of existing and future businesses. Council's planning decisions are required by the Planning Act to be consistent with the PPS. This application supports and is consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. Council's planning decisions are required by the Planning Act to conform with the Growth Plan for the Greater Golden Horseshoe. Staff have reviewed the proposed development for consistency with the PPS and for conformity with the Growth Plan for the Greater Golden Horseshoe.

#### Regional Municipality of York Official Plan

The subject lands are designated Urban Area in the York Region Official Plan. The Regional Plan is intended to enhance the long term viability of all employment lands designated in local municipal official

plans for employment land uses, and aims to work with local municipalities to review and monitor opportunities for employment land intensification. This application supports and is consistent with these policies.

Planning Staff requested and obtained an exemption from the Regional Municipality of York for the need for Regional approval of this application. This request was made due to eligibility for exemption under criteria in Section 8.3.8 of the York Region Official Plan, recognizing the local rather than regional nature of the application. Exemption was granted by the Region, which leaves final approval of the application – notwithstanding appeal opportunities to the Ontario Municipal Board – to Council.

### **Official Plan Considerations**

The subject property is designated Business Park - Mixed Employment in the Town's Official Plan. Areas of Newmarket designated Business Park are intended to provide for the employment needs of the community. The Mixed Employment designation permits business and professional offices, research and development facilities along with manufacturing uses. Service Commercial, motor vehicle uses, commercial schools and accommodation facilities are also among the permitted uses in this designation. The Mixed Employment designation prohibits open storage of goods, materials and equipment. Notwithstanding this, the property to the east of the subject property that is owned by the applicant is zoned EH-11, and does permit outdoor storage by right under zoning despite the Official Plan designation of Mixed Employment.

The proposed change is, notwithstanding the deviation from the prohibition on outdoor storage, consistent with the policies of the Official Plan. The original intent of prohibiting outdoor storage in the Business Park – Mixed Employment area may have been to restrict accessory uses deemed unsightly from view from corridors such as Leslie Street and Highway 404, as the area where it is permitted is interior between these corridors. If properly screened and maintained, outdoor storage in other parts of the Business Park may be no more unsightly than a fence or building, and standards for how this is to be achieved are appropriately located in a zoning by-law and enacted through the Site Plan process.

### **Zoning Considerations**

Many areas in the area designated as the Business Park by the Official Plan have outdoor storage. These properties are not always congruent with the zones where the Official Plan states that outdoor storage should be permitted. For instance, the Heavy Employment (EH) zone immediately east of this site is part of the Business Park where outdoor storage is meant to be prohibited under the Official Plan. The zoning by-law amendment which proposes to enact this amendment requires appropriate visual screening of the outdoor storage, which can then be enacted through appropriate Site Plan review upon development of the property.

## **Consultation**

### **Community Consultation**

A statutory public meeting was held on Monday June 20<sup>th</sup> 2016 at 7:00 PM in accordance with the requirements of the *Planning Act*. In attendance were members of Committee of the Whole, Planning Staff, a representative of the applicant, and two members of the public. One member of the public expressed concern with the future visual appearance of outdoor storage.

**Agency Circulation**

The application was circulated to all appropriate agencies and Town Departments. These comments were considered by staff in the development of this report's recommendations.

**Comments****Outdoor storage and visual appearance**

Outdoor storage as an accessory use as proposed would be limited in nature. The outdoor storage of materials would be limited to those that are associated with the principal use on the site and not as a primary use. This means that outdoor storage as the main purpose of the site is not permitted, but rather the storage of goods that are used for the main use of the site – be it business and professional offices, research and development facilities, manufacturing uses, or other permitted uses.

In addition, the outdoor storage of materials would be limited to a maximum of 30% of the lot area and be required to be screened in such a way that it is not visible from a street. Given the presence of the open space area to the south, screening may be required not only on the north but also the southeast and southwest edges of the subject lands.

**Erosion hazards**

The response of the Lake Simcoe Region Conservation Authority to the provided geotechnical reports recommends implementing a 30 metre setback from the top of the bank at the south edge of the property that borders Bogart Creek. This will result in much of this setback from the top-of-bank being designated "Parks and Open Space" in the Official Plan and zoned Open Space (OS-1) Zone (see Appendix 1).

**Business plan and strategic plan linkages****Strategic Plan**

The redevelopment of this parcel of land has linkages to the Community Strategic Plan as follows:

Well equipped & managed: Ideal mix of residential, commercial, industrial, and institutional land use.

Well planned & connected: Strategic growth by way of a comprehensive Official Plan.

**Budget impact****Operating Budget**

The appropriate planning application fees have been received for Official Plan amendment and zoning bylaw amendment. The Town will receive revenue from the increased property taxes and from development charges when this property is developed.

**Capital Budget**

There is no direct capital budget impact as a result of this report.

## Contact

For more information on this report, contact: Ted Horton, Planner at 905-953-5321, Extension 2458 or via email at [thorton@newmarket.ca](mailto:thorton@newmarket.ca).



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Planner



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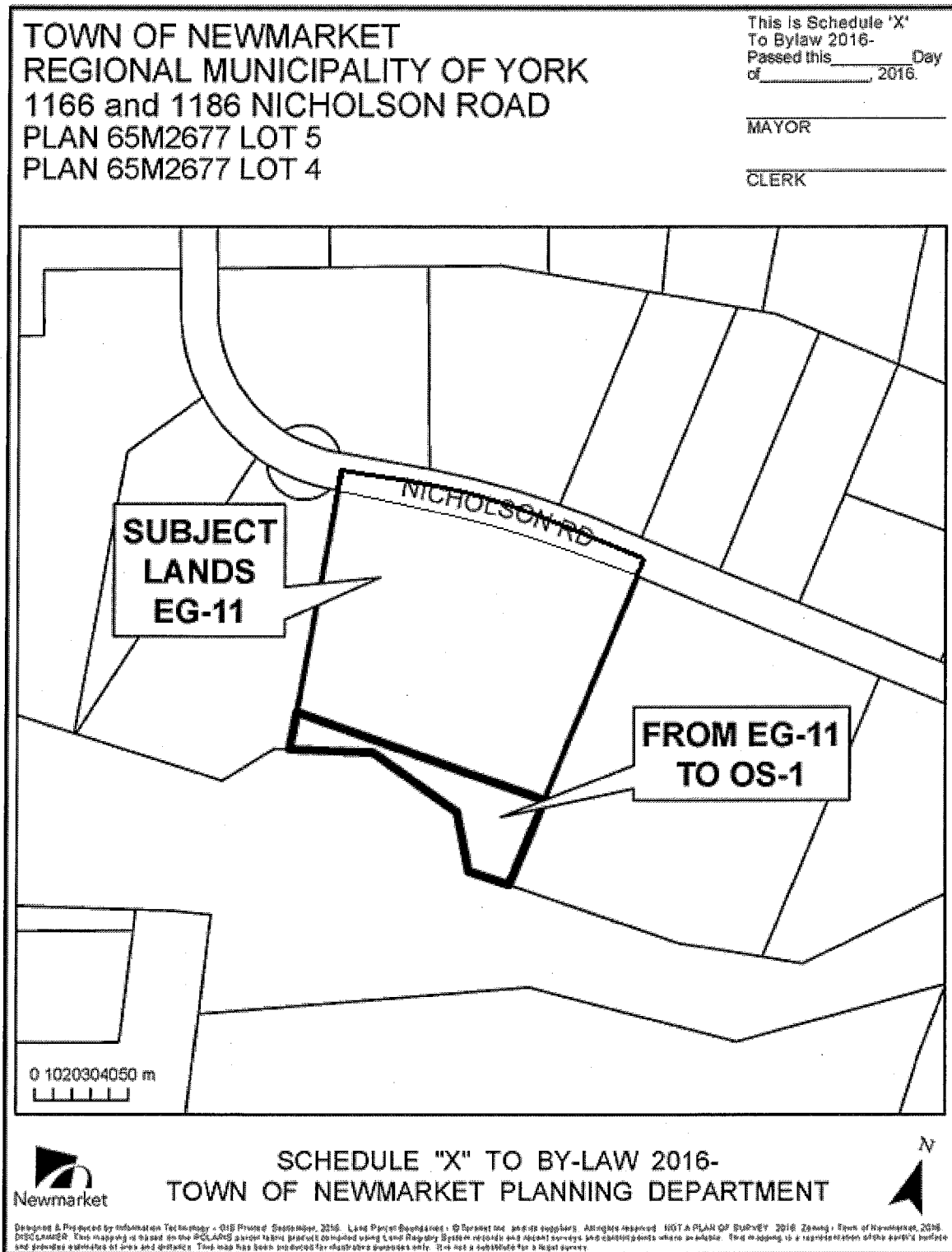
Director of Planning and Building Services



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Commissioner Development and Infrastructure Services

Appendix 1



## CORPORATION OF THE TOWN OF NEWMARKET

### BY-LAW NUMBER 2016-XX

#### **BEING A BYLAW TO ADOPT AMENDMENT NUMBER 14 TO THE TOWN OF NEWMARKET OFFICIAL PLAN**

The Council of the Corporation of the Town of Newmarket, in accordance with the provisions of Sections 17(22) and 21 of the Planning Act, RSO 1990, c.P. 13, hereby enacts as follows:

1. Amendment Number 14 to the Town of Newmarket Official Plan, consisting of the following explanatory text and attached schedule, is hereby adopted.
2. This By-law shall come into force and take effect on the day of the final passing thereof.

ENACTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

\_\_\_\_\_  
Tony Van Bynen, Mayor

\_\_\_\_\_  
Andrew Brouwer, Town Clerk

**AMENDMENT NO. 14**  
**TO THE**  
**TOWN OF NEWMARKET**  
**OFFICIAL PLAN**



**AMENDMENT NO. 14**

**TO THE**

**NEWMARKET**

**OFFICIAL PLAN**

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## **PART A – PREAMBLE**

### **1.0 PURPOSE OF THE AMENDMENT**

The purpose of this amendment is twofold. First, to amend the policies applying to certain lands identified on Map Number 1, in the Town of Newmarket, being within the *Business Park – Mixed Employment* designation to permit outdoor storage on the lands. Second, to amend the designation of certain lands identified on Map Number 1, in the Town of Newmarket, to change them from the *Business Park – Mixed Employment* designation to the Parks & Open Space designation.

### **2.0 LOCATION**

The lands subject to this amendment are located at 1166 and 1186 Nicholson Road and is legally described as being PL 65M-2677; S/T LT434248, LT543746, R451851, R451852 Newmarket.

The subject lands are located on the on the south side of Nicholson Road, west of Harry Walker Parkway South. The subject land is shown more particularly on Map Number 1, which is appended for information purposes only.

### **3.0 BASIS OF THE AMENDMENT**

Council has enacted this amendment in response to the following:

- 3.1 A request by the property owner for an official plan amendment and zoning by-law amendment to permit outdoor storage.
- 3.2 The Subject Lands are within the *Business Park – Mixed Employment* area on Schedule A, the Land Use Plan to the Newmarket Official Plan. The intent of this designation is to provide for the employment needs of the Newmarket community. The main permitted uses of the Mixed Employment designation include business and professional offices, manufacturing uses, and research and development facilities. The specific policies indicate that outdoor open storage of goods, materials, and equipment associated with any Mixed Employment use shall not be permitted.
- 3.2 The property to the east that is owned by the same owner is permitted outdoor storage by the Zoning By-law and the owner wishes to extend these permissions onto the subject lands. This may expand the marketability of the lands to encourage new development and the improvement of employment lands in the Town. Given appropriate screening and limits on the nature of outdoor storage to limit it to materials related to the principal use on the lot outdoor storage is compatible with the area, and is currently permitted for a range of lots in the area.

- 3.3 During the review of the geotechnical work associated with this application, it was determined that a setback from the top of the bank at the south of the property bordering Bogart Creek was necessary, requiring appropriate changes to the Zoning By-law and Official Plan.
- 3.4 As such the proposed development conforms to the intent, goals and strategic directions of the Official Plan. The addition of permission of outdoor storage use to the subject lands in the *Business Park – Mixed Employment* area is appropriate.

## **PART B – THE AMENDMENT**

All of this part of the document entitled “Part B – The Amendment”, consisting of the following text constitutes Amendment No. 14 to the Newmarket Official Plan.

### **1.0 POLICIES**

The Newmarket Official Plan is hereby amended as follows:

Section 6.3.2.3 of the Town of Newmarket Official Plan is hereby amended by adding to the existing *Business Park – Mixed Employment* policies:

- a) Notwithstanding Section 6.3.2.3, outdoor storage is a permitted accessory use in the area designated 1166 and 1186 Nicholson Road further described as PL 65M-2677; S/T LT434248, LT543746, R451851, R451852 Newmarket.

### **2.0 SCHEDULE**

Schedule A – Land Use Plan is amended to designate all lands in a 30 metre strip north of the top of the bank of the subject lands, with the exception of an area at the southwest of the property that lies between the stable top of the bank and the 30 metre erosional setback, to Parks & Open Space.

### **3.0 IMPLEMENTATION AND INTERPRETATION**

This Amendment to the Official Plan will be implemented as follows:

#### **a) Zoning By-law**

It is Council's intent to implement the Amendment, in part, by enacting an appropriate zoning by-law pursuant to the provisions of the Planning Act, R.S.O. 1990, C.P. 13, on the lands affected by this Amendment.

#### **b) Site Plan Approval**

It is Council's intent to implement this Amendment, the land use designations and policies of this Plan, and a high standard of site layout and design by requiring site



plan approval pursuant to the provisions of the Planning Act, on the Lands affected by this Amendment.

**PART C: THE APPENDIX:**

The following appendix does not constitute part of this Amendment and is included for information purposes only.

1. MAP 1

Map 1, which shows the location of the subject land on an excerpt from the Town's Official Plan is for information purposes only.





### CORPORATION OF THE TOWN OF NEWMARKET

#### BY-LAW NUMBER 2016-XX

A BY-LAW TO AMEND BY-LAW NUMBER 2010-40, AS AMENDED, BEING A ZONING BY-LAW (1166 and 1186 Nicholson Road)

WHEREAS it is deemed advisable to amend By-Law Number 2010-40 as amended;

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket as follows:

THAT By-law Number 2010-40 be is hereby further amended by:

1. Deleting from Schedule "A", the General Employment Exception 11 (EG-11) Zone on 1166 and 1186 Nicholson Road on all lands within 30 metres from the stable top-of-bank of the subject lands in the area under the jurisdiction of the Lake Simcoe Region Conservation Authority and substituting therefore Open Space Zone (OS-1) as shown more particularly on Schedule "A" attached hereto, and forming part of this By-law.
2. Adding the following regulations relating to the Mixed Employment Exception 11 (EG-11) Zone on 1166 and 1186 Nicholson Road to Section 8.1.1 List of Exceptions:

Exception 11	Zoning EG-11	Map 15	By-Law Reference 2016-XX	File Reference D14-NP-16-03
<p>i) Location: 1166 and 1186 Nicholson Road</p> <p>ii) Development standards:</p> <p>a. Setback – A minimum 12.0 m rear yard shall be required, except that no buildings shall be located closer to or nearer than 30 m from the top of bank of Bogart Creek or such lesser setback as approved by the Lake Simcoe Region Conservation Authority.</p> <p>b. Southwest corner – For greater certainty, only a paved parking surface is permitted in the area zoned EG-11 on these lands that lie within the 30m erosional setback. No structures or additional net loading (surcharge) is permitted.</p> <p>iii) Permitted uses:</p> <p>a. <i>Accessory Outdoor storage</i> shall also be permitted. Outdoor storage shall not exceed 30% of the <i>lot area</i> and shall not be visible from a street.</p>				

ENACTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2016.

\_\_\_\_\_  
Tony Van Bynen, Mayor

\_\_\_\_\_  
Andrew Brouwer, Town Clerk

Schedule "A"

