

## Report to Planning and Environment Committee

**To:** Chair and Members  
Planning & Environment Committee  
**From:** George Kotsifas P. Eng.,  
Managing Director, Development & Compliance Services and  
Chief Building Official  
**Subject:** Cedar Auto London Limited  
2170 Wharncliffe Road South  
**Public Participation Meeting on:** April 15, 2019

## Recommendation

That, on the recommendation of the Director, Development Services, with respect to the application of Cedar Auto London Limited relating to the property located at 2170 Wharncliffe Road South, the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on April 23, 2019 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, by extending the Temporary Use (T-72) Zone for a period not exceeding two (2) years;

**IT BEING NOTED** that the owner will use the two (2) year time period to plan for, receive the appropriate approvals, and construct a permanent building to replace the temporary trailer;

**IT BEING FURTHER NOTED** that during the two (2) year time period, City staff will monitor the property to ensure that all site operations are located on the portion of the property that is zoned Holding Arterial Commercial Special Provision/Temporary (h-17·h-142·AC2(11)/T-72) Zone and that there is only one trailer on the site, and that City staff will work with the property owner to establish an appropriate means of delineating the limits for automobile parking.

## Executive Summary

### Summary of Request

The applicant is requesting the extension of the Temporary Use (T-72) Zone for a period of two (2) years. The Temporary Use (T-72) Zone allows the use of a temporary trailer instead of a permanent building or structure, in association with the permitted automobile sales establishment.

### Purpose and the Effect of Recommended Action

The purpose and effect of the recommended action is to allow the business to continue to operate with the temporary trailer, while the required approvals from the City and the Upper Thames River Conservation Authority are sought for the construction of a permanent building or structure to replace the trailer, and the development of the site in accordance with an approved development agreement. Such matters as approval of a private septic system and on-site stormwater management, flood control, protection of the Thornicroft Drain, building location, massing and design, building-street interface, driveway and parking area delineation, landscaping and lighting will be addressed.

### Rationale of Recommended Action

1. The recommended extension of the temporary use of a trailer as a temporary sales office for a permitted automobile sales establishment, for a reduced two (2) year period is consistent with the *Provincial Policy Statement, 2014*.
2. The recommended extension for a period of two (2) years conforms to the general intent and purpose of The London Plan, in particular Paragraph 1672 –

Temporary Uses, by encouraging the removal of the temporary trailer and its replacement with a permanent structure in accordance with municipal development standards.

- 3. The recommended extension for a period of two (2) years conforms to the general intent and purpose of the 1989 Official Plan, in particular the permitted uses for the Auto-oriented Commercial Corridor, and Section 19.4.5 – Temporary Use By-laws, by allowing a permitted commercial use to continue while encouraging the removal of the temporary trailer and its replacement with a permanent structure in accordance with municipal development standards.
- 4. The recommended extension conforms to the general intent and purpose of the Southwest Area Secondary Plan, in particular the permitted uses for the Commercial lands in the Lambeth Residential Neighbourhood Area, which prevails over both the 1989 Official Plan and The London Plan where more detailed or alternative direction is provided in the Secondary Plan.

**Analysis**

**1.0 Site at a Glance**

**1.1 Property Description**

The subject site is a relatively flat parcel located on the south side of Wharncliffe Road South between Campbell Street North and Bostwick Road. The site is serviced with municipal water but is reliant on private on-site wastewater and stormwater management control. The site is bounded on the west side by the Thornicroft Drain, which is tributary to Dingman Creek. As such, the entire property is within the Dingman Creek Screening Area for which the flood limits are under review as part of the Dingman Creek Environmental Assessment. Pre-existing mapping for the site shows approximately half of the property as being within the UTRCA Regulated Area.

The property is currently the site of an automobile sales establishment. The existing temporary zone (T-72) permits the use of a trailer instead of a permanent structure to serve as the sales office. Two trailers are currently placed on the site, one within the Arterial Commercial (AC2(9)) Zone, and one just within the limits of the Environmental Review (ER)Zone.

Wharncliffe Road South is an Arterial Road accommodating 16,500 vehicles per day.



**1.2 Current Planning Information (see more detail in Appendix D)**

- 1989 Official Plan Designation – Auto Oriented Commercial Corridor and Environmental Review
- The London Plan Place Type – Neighbourhoods and Green Space
- Southwest Area Secondary Plan – Commercial and Open Space (prevails over 1989 Official Plan and The London Plan where more detailed or alternative direction is provided in the Secondary Plan)
- Existing Zoning – Holding Arterial Commercial Special Provision/Temporary (h-17·h-142·AC2(11)/T-72) Zone

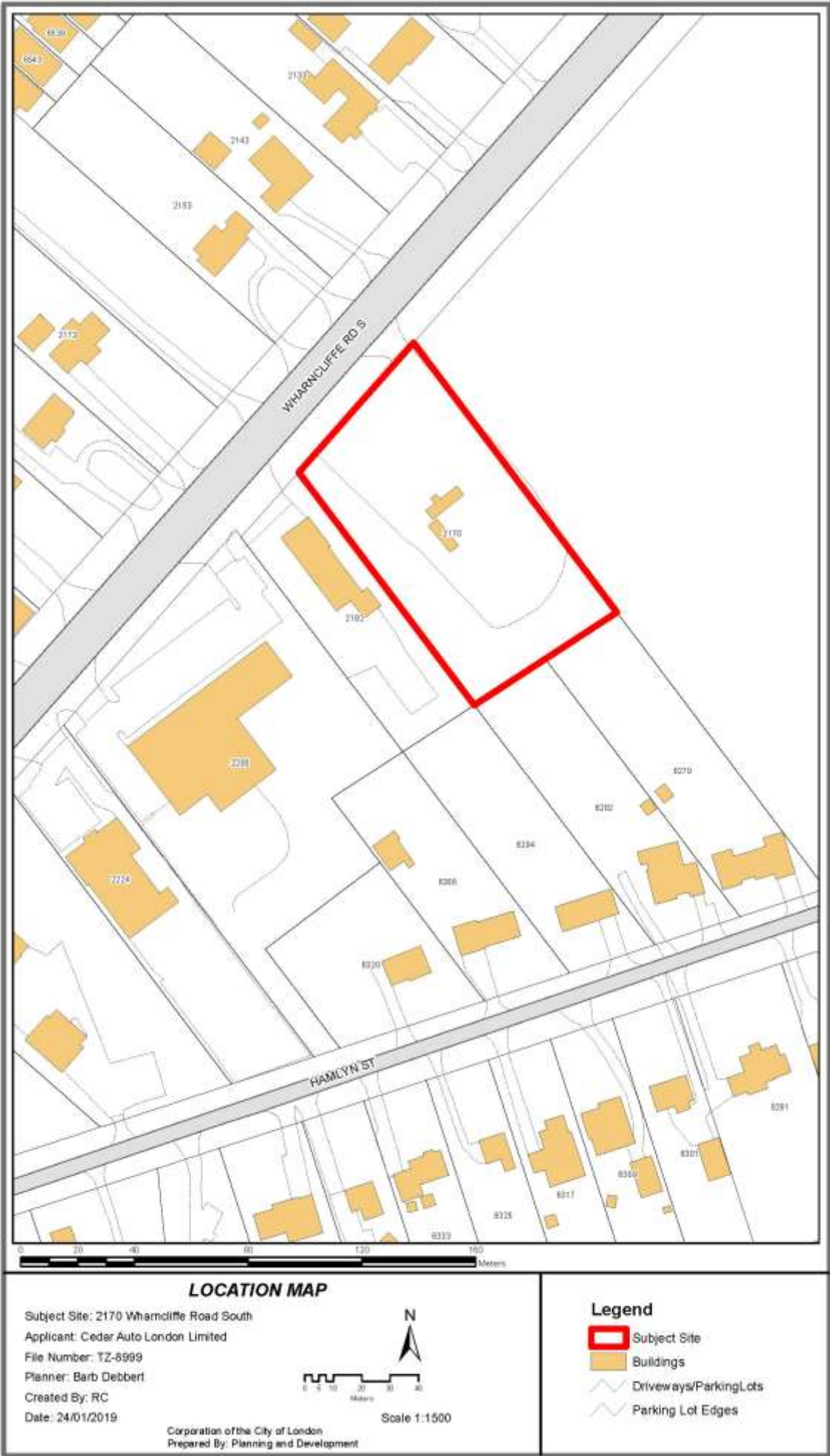
**1.3 Site Characteristics**

- Current Land Use – Automobile Sales Establishment (with a temporary trailer as the sales office)
- Frontage – 60.1 metres (197 feet)
- Depth – 110 metres (361 feet)
- Area – 0.6 ha (1.6 ac.)
- Shape – irregular rectangle

**1.4 Surrounding Land Uses**

- North – Residential
- East – Vacant land designated for future commercial and residential development
- South – Residential
- West – Commercial

1.5 LOCATION MAP



## 2.0 Description of Proposal

### 2.1 Development Proposal

No development is proposed as a result of this application. It is simply to allow for the extension of the Temporary Use (T-72) Zone.

## 3.0 Relevant Background

### 3.1 Planning History

In 2012, City Council passed a by-law changing the zoning of the east portion of the property from a Holding Arterial Commercial (h-17·AC2) Zone to a Holding Arterial Commercial Special Provision (h-17·h-142·AC2(9)) Zone.

The special provision zone added an automobile sales establishment as a permitted use and further allowed the automobile sales establishment to operate from a temporary sales trailer until December 5, 2015. The rationale was that the timing of the provision of future services for the construction of a permanent building for the long term development of the land was unknown. The intent was that after December 5, 2015, the permissions for the temporary trailer would expire and the construction of a permanent building would be required. At that time, the site plan approval process would be required, and elements related to site design, parking, access, lighting, etc. would be dealt with to address neighbourhood concerns about the aesthetics and impacts of the site.

The h-17 holding provision requires full municipal sanitary sewer and water services to ensure the adequate provision of municipal services. Permitted interim uses include dry uses on individual sanitary facilities permitted by the applied zone.

The h-142 holding provision requires urban design objectives to be met, and provision made for joint access with the property to the east of the subject site, prior to development.

A review of aerial photographs of the site indicate that the use, including the temporary trailer, was established in 2012. In 2014, an additional trailer was placed on the property behind the original trailer, and in 2015 the additional trailer was moved to its current location perpendicular to Wharncliffe Road South adjacent to the original trailer.

In November, 2015, City Council passed a by-law changing the zoning of the east portion of the property from the Holding Arterial Commercial Special Provision (h-17·h-142·AC2(9)) Zone to a Holding Arterial Commercial Special Provision/Temporary (h-17·h-142·AC2(11)/T-72) Zone. The effect of this amendment was to retain an automobile sales establishment as a permitted use, create a temporary use provision to allow the temporary sales trailer in association with that use, and to extend the period of time during which the temporary sales trailer is permitted, to November 10, 2018.

### 3.2 Requested Amendment

The applicant has requested the extension of the Temporary Use (T-72) Zone for an additional period of three (3) years. The most recent Temporary Use Zone allows a temporary sales trailer, in association with an automobile sales establishment. The applicant also requested that an additional trailer located on the site be recognized as a permitted business-related structure, and that the recently adopted trailer regulations of Section 4.4 of the Zoning By-law not apply to the existing trailers on the site.

Following discussions with Staff, the applicant changed the application to request a two (2) year extension and to withdraw the request to permit the second trailer and the request to exempt that trailer from the trailer regulations of Section 4.4.

### **3.3 Community Engagement (see more detail in Appendix B)**

One (1) member of the public replied to this application, objecting to the extension of the temporary by-law permitting the continued use of an automobile dealership. Reasons for the objection included:

- Not an appropriate location for the use;
- Aesthetics of the site;
- Negative impact of harmful chemicals leaching into the soil and into the Thornicroft Drain.

### **3.4 Policy Context (see more detail in Appendix C)**

#### ***Provincial Policy Statement, 2014***

The Provincial Policy Statement (PPS), 2014 provides policy direction on matters of provincial interest related to land use planning and development. The PPS encourages healthy, livable and safe communities which are sustained by:

- accommodating an appropriate range and mix of residential, employment and institutional uses to meet long-term needs (1.1.1 b);
- avoiding development and land use patterns which may cause environmental or public health and safety concerns (1.1.1 c);
- promoting cost-effective development patterns and standards to minimize land consumption and servicing costs (1.1.1 e).

In accordance with Section 3 of the Planning Act, all planning decisions “shall be consistent with” the PPS.

The two (2) year extension with the goal of the construction of a permanent building within that time will help to efficiently use the land in a manner that is privately serviced by the best available long-term servicing strategy for a dry use, in an area where municipal services are not planned. The intended removal of the second trailer from the Environmental Review (ER) Zone in the short term reduces the risk of environmental and safety concerns. Over the longer-term, the construction of a permanent building will require the approval of the UTRCA and the City, at which time a formal review of suitable floodproofing and stormwater management control measures will be conducted.

The recommended two (2) year extension for the temporary sales trailer is consistent with the Provincial Policy Statement.

#### ***The London Plan***

The London Plan is the new Official Plan for the City of London (Council adopted, approved by the Ministry with modifications, and the majority of which is in force and effect). The London Plan policies under appeal to the Local Planning Appeals Tribunal (Appeal PL170100) and not in force and effect are indicated with an asterix throughout this report. The London Plan policies under appeal are included in this report for informative purposes indicating the intent of City Council, but are not determinative for the purposes of this planning application.

The subject site is within the Neighbourhoods Place Type and the Green Space Place Type on \*Map 1 – Place Types in The London Plan.

#### ***1989 Official Plan***

The subject property is within the Auto-oriented Commercial Corridor and Environmental Review designations. The request for extension of the temporary use affects only those lands in the Auto-oriented Commercial Corridor.

Areas designated Auto-oriented Commercial Corridor are primarily intended for commercial uses that cater to the commercial needs of the traveling public. Types of service commercial uses that generate significant amounts of traffic and draw patrons from a wide area may also be located within these areas. These uses have limited



opportunity to locate within Commercial Nodes or Main Street Commercial Corridors by reason of their building form, site area, location, access or exposure requirements; or have associated nuisance impacts that lessen their suitability for a location near residential areas. (OP, 4.4.2)

The Auto-oriented Commercial Corridor designation permits a range of commercial uses, including automotive uses and services. (OP, 4.4.2.4).

### ***Southwest Area Secondary Plan (SWAP)***

The subject property is designated Commercial and Open Space within the Lambeth Residential Neighbourhood Area of the Southwest Area Secondary Plan. The Commercial policies provide for existing and future development of commercial uses on the south side of Wharncliffe Road South (SWAP, 20.5.7 i). Permitted uses include automotive uses and services, since the list of permitted uses refers back to the primary permitted uses of the Auto-oriented Commercial Corridor designation of the 1989 Official Plan (SWAP, 20.5.7.3). Where more detailed or alternative direction is provided in the SWAP, the SWAP policies prevail over those in the 1989 Official Plan and The London Plan (SWAP, 20.5.1.2). Notwithstanding the application of the Neighbourhoods Place Type in The London Plan, the automotive uses and services identified through SWAP have been and continue to be permitted from a policy perspective.

### **3.5 Additional Background**

The addition of the second trailer, and its move to land within the Environmental Review (ER) Zone on the west part of the site do not comply with the Zoning By-law with respect to the Arterial Commercial land use regulations, and the trailer regulations that were adopted by Council in 2017. As such, they could be subject to enforcement activity by the City. From time to time, cars are also parked within the (ER) Zone. In addition, aerial photography overlaid with property lines would suggest that the cars parked along the east property boundary may be located wholly or partially on the neighbouring property, which could become a civil matter and is also not compliant with the Zoning By-law.



Further to discussions with City staff, the owner has agreed to work with City staff to ensure that cars are appropriately located on the site and have removed the second trailer from the site in order to bring the site into by-law compliance. The owner has also

amended the application to withdraw the request to permit the second trailer and the request to exempt that trailer from the trailer regulations of Section 4.4.

In the interim period prior to replacement of the remaining single trailer with a permanent building as discussed elsewhere in this report, City staff will monitor the property to ensure that all site operations are located on the portion of the property that is zoned Holding Arterial Commercial Special Provision/Temporary (h-17·h-142·AC2(11)/T-72) Zone and that there is only one trailer on the site. City staff will also work with the property owner to establish an appropriate means of delineating the limits for automobile parking adjacent to the Environmental Review (ER) Zone.

## 4.0 Key Issues and Considerations

### 4.1 Zoning Status of the Existing Automobile Sales Establishment

One area resident objected to the automobile sales establishment on this property for reasons related to the location of the automobile dealership, aesthetics and potential harmful impacts on the Thornicroft Drain.

The eastern portion of the property has been zoned to permit the automobile sales establishment use on a permanent basis since 2011. This zoning was approved by City Council following a public planning process and thorough review of the Auto-oriented Commercial Corridor designation and other relevant policies of the Official Plan in force at that time.

The Auto-oriented Commercial Corridor designation provides locations for a broad range of commercial uses, that, for the most part, are not suited to locations within Commercial Nodes or Main Street Commercial Corridors because of their building form, site area, access or exposure requirements. (OP, 4.4.2). Permitted uses include automotive services and uses, (OP, 4.4.2.4), allowing for the consideration of an automobile sales establishment at this location.

Site design and aesthetics concerns were also raised as issues and considered as part of the 2011 planning review process. As a result, the h-103 holding provision was applied to the site to require that urban design be considered as part of the site plan review process, and that a development agreement be entered into to ensure the orderly development of the site. Site plan approval will be required for the construction of a permanent building on the site. The general urban design policies (OP, Chapter 11) and specific urban design objectives for commercial properties in the 1989 Official Plan (OP, 4.4.2.2 i), policies respecting the character and commercial built form and intensity for commercial uses in the Lambeth Residential Neighbourhood Area (SWAP, 20.5.7 ii) and 20.5.7.3 iii), and the in-force policies of the <sup>\*(partially in force and effect)</sup> City Design Chapter of The London Plan will be evaluated as part of the site plan review. These policies include such principles as supporting and complementing the character of the Lambeth Village Core and contributing to the gateway into the community, enhanced street edge landscaping, joint access, and building aesthetics. The SWAP policies and the existing zoning also limit the gross floor area of the use to 300 square metres. In more detail, site plan approval will address such matters as building location, massing and design, building-street interface, parking design and delineation, landscaping and lighting.

The health of the Thornicroft Drain was also raised as an issue during Council's 2011 deliberations on the proposed automobile sales establishment and the use of a trailer as a temporary sales office on the site. At that time, City staff reported that *"the applicant had submitted to the City assurances, through a stamped engineer's letter that quality and quantity of storm water will not have an adverse impact on the Thornicroft Drain or the watershed. This letter has been reviewed by and is to the satisfaction of Engineering staff"* and further that *"The UTRCA has been contacted and has no concerns with the solution proposed"*. The recommended two (2) year extension will not involve changes to the site that would change the assessment that was made at the time. At the site plan approval stage for a permanent building, the UTRCA will be consulted and involved in



the approval of permanent quality and quantity control stormwater management (SWM) measures that comply with the SWM criteria for the Thornicroft Drain and the Dingman Creek Subwatershed Study.

The use of an automobile sales establishment is not the subject of this application. It deals only with the appropriateness of allowing the use to be operated with a temporary trailer instead of a permanent building or structure. The merits of extending the permission for the temporary trailer are addressed in Section 4.2 of this report.

## **4.2 Servicing Limitations and Form of Development**

No municipal sanitary sewer or storm sewer services are available on Wharncliffe Road South to service this site. Furthermore, the City's Growth Management Implementation Strategy Update 2019 (GMIS), which identifies the planned municipal infrastructure construction dates for 5 year, 6 – 10 year, and 10+ projects, does not include the construction of these services within the specified time frames. Since the original intent of the temporary (T-72) Zone was that construction of a permanent building on the site would occur by 2015, City staff reviewed the appropriateness of continuing permissions for a temporary trailer on the site, and the potential for a permanent building as an alternative.

### ***The London Plan***

The London Plan provides Council the ability to pass by-laws to authorize the temporary use of land, buildings or structures for a purpose that is otherwise prohibited. Temporary uses may be established and renewed for periods not exceeding three (3) years. In enacting a Temporary Use By-law, council shall have regard for matters related to compatibility, temporary structures, services, transportation impacts, access, parking, the potential for long-term use of the subject lands, and the degree to which the temporary use may be frustrating the viability of the intended long-term use of the land. (TLP 1672\_). Furthermore, it is not intended that temporary uses will be permitted on a long-term basis.

Three of the evaluation criteria for Temporary Uses in The London Plan merit further consideration:

- Any requirement for temporary buildings or structure in association with the proposed use;
- The potential long-term use of the temporary use.
- The degree to which the temporary use may be frustrating the viability of the intended long-term use of the land.

The temporary use provision allows for one temporary trailer yet it seems the business model for the permitted automobile sales establishment requires more space, as evidenced by the addition of a second trailer on the site. It is expected that the construction of a larger, functional permanent building to replace the trailer on the site will address ongoing pressure for additional temporary office and storage space.

The extension of any municipal storm or sanitary sewers fronting the site is not imminent and will depend on future local improvement initiatives. The extension of sanitary sewers fronting the site is not currently included in any future projects identified within City's Growth Management Implementation Strategy (GMIS). If the status quo is maintained and Council continues to renew permission for the temporary trailer, it is likely that the situation will exist for a number of years. This development is not considered beneficial for the gateway to the Lambeth main street corridor.

The site is currently occupied by a use for which it is zoned, however, from a broader perspective, the planning goal is for the site to be developed in accordance with site plan and engineering approvals that are best achieved through the implementation of a registered development agreement. Allowing the continued use of a trailer for the sales office does not encourage the owner to pursue a permanent building. The construction of a permanent building will trigger the need for site plan approval.

In an effort to evaluate whether the construction of a permanent building might be feasible, some investigation of engineering and hazard constraints was conducted.

With respect to the expected viability of a proposal to develop a dry use on these lands, The London Plan considers planning and development proposals that will not have access to the necessary civic infrastructure within a three year period to be premature (TLP, \*460\_). For sanitary services, partial services are permitted only where they are necessary to address failed individual on-site sewage services in existing developments where no other alternatives exist and where site conditions are suitable for the long-term provision of these services (TLP, 471\_). This site is already serviced by a septic bed that may have outlived its usefulness and would benefit from a full technical review as part of the development approvals for the site. The property is already zoned and being used for the permitted use of an automobile establishment. The City will work with the applicant to ensure suitable on-site services are provided.

City staff consulted the Upper Thames River Conservation Authority regarding the likelihood permits under Section 28 of the *Conservation Authorities Act* could be considered in view of the inclusion of this property in the Dingman Creek Screening Area. The UTRCA replied it *"would be willing to consider the construction of a permanent dry structure on these lands. With this being said, we would require further information in terms of flood depth, building location, building floodproofing and an appropriate parking area for the car lot associated with the structure."*

Based on the above, it is not appropriate to allow a temporary trailer on the site over the long-term. The owner will, however, need time to conduct more detailed investigation and apply for site plan approval and Section 28 permits, and to develop the site in accordance with those approvals. It is, therefore, recommended that the Temporary Use By-law be extended for a reduced period of two (2) years in order to encourage the owner to take action on these items.

In its site specific context, the recommended two (2) year extension is appropriate and conforms to The London Plan

### **1989 Official Plan**

The Official Plan provides Council the ability to pass by-laws to authorize the temporary use of land, buildings or structures for a purpose that is otherwise prohibited. Temporary uses may be established and renewed for periods not exceeding three (3) years. In enacting a Temporary Use By-law, council shall have regard for matters related to compatibility, temporary structures, services, transportation impacts, access, parking, and the potential for long-term use of the subject lands (OP, 19.4.5).

The temporary use provisions of The London Plan are in force and effect, and subsume and exceed the evaluation criteria under the 1989 Official Plan. Therefore the commentary in The London Plan with respect to the evaluation of Temporary Uses is sufficient and requires no further discussion.

As part of the evaluation of the potential for the construction of a permanent building on the site, the servicing policies of the 1989 Official Plan are relevant.

The Holding (h-17) zoning provision allows dry uses as a permitted interim use in the absence of full municipal services. The 1989 Official Plan establishes a sanitary servicing hierarchy, preferring the extension of servicing from one of the centralized municipal sewage treatment plants, but allowing other solutions including an individual on-site wastewater treatment system where the other solutions are not feasible. (OP, 17.2.2). A "dry use" must demonstrate compliance with the Ontario Building Code for the required water supply and sewage disposal requirements. Municipal water is available on Wharncliffe Road for this property. As part of a site plan application and application for building permit, the owner will be required to demonstrate that a septic system can be established to service an office building on the site.

In its site specific context, the recommended two (2) year extension is appropriate and conforms to the 1989 Official Plan.

More information and detail is available in Appendix B and C of this report.

5.0 Conclusion

The applicant has modified his application to request a two (2) year extension of the temporary trailer in association with the permitted automobile sales establishment. This modified request was a result of discussions between City staff and the owner regarding the merits of constructing of a permanent building as a dry use, to replace the trailer. The recommended two (2) year extension is intended to provide the owner time to obtain the necessary approvals and permits related to the long-term development of the site. Matters including approval of a private septic system and on-site stormwater management, flood control, protection of the Thornicroft Drain, building location, massing and design, building-street interface, driveway and parking area delineation, landscaping and lighting will be addressed. This strategy is consistent with the Provincial Policy Statement, conforms to The London Plan and the 1989 Official Plan, and represents good planning.

Prepared by:	<div>Barb Debbert, Senior Planner Development Services</div>
Recommended by:	<div>Paul Yeoman, RPP, PLE Director, Development Services</div>
Submitted by:	<div>George Kotsifas, P.ENG Managing Director, Development and Compliance Services and Chief Building Official</div>
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services	

cc: Michael Tomazincic, Manager, Current Planning

April 3, 2019  
MT/mt

## Appendix A

Bill No. (number to be inserted by Clerk's Office)  
2019

By-law No. Z.-1-19\_\_\_\_\_

A by-law to amend By-law No. Z.-1 to  
rezone an area of land located at 2170  
Wharncliffe Road South.

WHEREAS Cedar Auto London Limited has applied to rezone an area of  
land located at 2170 Wharncliffe Road South, as shown on the map attached to this by-  
law, as set out below;

AND WHEREAS this rezoning conforms to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of  
London enacts as follows:

- 1) Section Number 50.2(72) of the Temporary Use (T) Zone is amended by adding the  
following subsection to the existing text, for the property known municipally as 2170  
Wharncliffe Road South:

72) T-72

This Temporary Use is hereby extended for an additional two (2) years  
beginning April 23, 2019.

The inclusion in this By-law of imperial measure along with metric measure is for the  
purpose of convenience only and the metric measure governs in case of any discrepancy  
between the two measures.

This By-law shall come into force and be deemed to come into force in accordance with  
Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage  
of this by-law or as otherwise provided by the said section.

PASSED in Open Council on April 23, 2019.

Ed Holder  
Mayor

Catharine Saunders  
City Clerk

First Reading – April 23, 2019  
Second Reading – April 23, 2019  
Third Reading – April 23, 2019



## Appendix B – Public Engagement

### Community Engagement

**Public liaison:** On January 16, 2019, Notice of Application was sent to 25 property owners in the surrounding area. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on January 17, 2019. A “Planning Application” sign was also posted on the site.

1 reply was received

**Nature of Liaison:** Zoning amendment to allow continued use of property for a temporary sales trailer, in association with an automobile sales establishment for an additional three (3) years.

**Responses:** A summary of the various comments received include the following:

**Concern for:**

- Not an appropriate location for the use;
- Aesthetics of the site;
- Negative impact of harmful chemicals leaching into the soil and into the Thornicroft Drain.

### Responses to Public Liaison Letter and Publication in “The Londoner”

Telephone	Written
	Gary Carmichael Address withheld

**From:** Jason N  
**Sent:** Monday, January 28, 2019 12:05 PM  
**To:** Debbert, Barb <bdebbert@London.ca>  
**Subject:** Planning application for 2170 Wharncliffe Rd

I think it's in the best interest of the surrounding community and the environment that the temporary by law allowing for use of this site as an auto dealership not be renewed. The dealership is out of place, an eye sore and more importantly there is potential for harmful chemicals leaching into the soils on the site and ending up in the natural stream adjacent to the dealership, which will affect the ecology of the region.

Please consider rejecting this application, as it is not in the best interests of the community and the environment we so importantly need to protect. There is an abundance of sites further north on Wharncliffe Rd that are much better suited to this type of land use. The applicant / dealership should seek a lot there, next to all the other dealerships and not continue to disturb our environment, our stream and the community in Lambeth. I do not want to see any dead fish or an unnatural change in the ecology of the immediate area due to a misplaced auto dealership, especially when there are a plethora of other sites as options further to the north or even on other auto-oriented arteries in London, like Dundas St, Oxford St, etc.

Gary Carmichael  
Concerned resident of Lambeth

### Agency/Departmental Comments

#### Upper Thames River Conservation Authority (January 28, 2019)

The Upper Thames River Conservation Authority (UTRCA) has reviewed this application with regard for the policies in the *Environmental Planning Policy Manual for the Upper Thames River Conservation Authority (June 2006)*. These policies include

regulations made pursuant to Section 28 of the *Conservation Authorities Act*, and are consistent with the natural hazard and natural heritage policies contained in the *Provincial Policy Statement (2014)*. The *Upper Thames River Source Protection Area Assessment Report* has also been reviewed in order to confirm whether the subject lands are located in a vulnerable area. The Drinking Water Source Protection information is being disclosed to the Municipality to assist them in fulfilling their decision making responsibilities under the Planning Act.

### **Proposal**

The applicant is proposing to continue the existing use of the lands for temporary sales trailer, in association with an automobile sales establishment for an additional three (3) years.

### **Conservation Authorities Act**

As shown on the enclosed mapping, the subject lands **are** regulated by the UTRCA in accordance with Ontario Regulation 157/06 made pursuant to Section 28 of the *Conservation Authorities Act*. The Regulation Limit is comprised of a riverine flooding hazard. The UTRCA has jurisdiction over lands within the regulated area and requires that landowners obtain written approval from the Authority prior to undertaking any site alteration or development within this area including filling, grading, construction, alteration to a watercourse and/or interference with a wetland.

### **Dingman Creek Stormwater Servicing Class Environmental Assessment (EA)**

The subject lands are located within the Dingman Creek Subwatershed, forming part of the Dingman Creek EA. As shown on the attached Dingman Subwatershed Screening Area map, the subject lands are located within the Screening Area.

### **UTRCA Environmental Planning Policy Manual**

The UTRCA's Environmental Planning Policy Manual is available online at:

<http://thamesriver.on.ca/planning-permits-maps/utrca-environmental-policy-manual/>

The policy which is applicable to the subject lands includes:

#### **3.2.2 General Natural Hazard Policies**

These policies direct new development and site alteration away from hazard lands. No new hazards are to be created and existing hazards should not be aggravated. The Authority also does not support the fragmentation of hazard lands which is consistent with the Provincial Policy Statement (PPS) and is intended to limit the number of owners of hazardous land and thereby reduce the risk of unregulated development etc.

#### **3.2.3 Riverine Flooding Hazard Policies**

These policies address matters such as the provision of detailed floodplain mapping, floodplain planning approach, and uses that may be allowed in the floodplain subject to satisfying UTRCA permit requirements.

### **Drinking Water Source Protection, *Clean Water Act***

The *Clean Water Act* (CWA), 2006 is intended to protect existing and future sources of drinking water. The Act is part of the Ontario government's commitment to implement the recommendations of the Walkerton Inquiry as well as protecting and enhancing human health and the environment. The CWA sets out a framework for source protection planning on a watershed basis with Source Protection Areas established based on the watershed boundaries of Ontario's 36 Conservation Authorities. The Upper Thames River, Lower Thames Valley and St. Clair Region Conservation Authorities have entered into a partnership for The Thames-Sydenham Source Protection Region.

The Assessment Report for the Upper Thames watershed delineates three types of vulnerable areas: Wellhead Protection Areas, Highly Vulnerable Aquifers and Significant Groundwater Recharge Areas. Mapping which identifies these areas is available at:

[http://maps.thamesriver.on.ca/GVH\\_252/?viewer=tsrassessmentreport](http://maps.thamesriver.on.ca/GVH_252/?viewer=tsrassessmentreport)

Upon review of the current assessment report mapping, we wish to advise that the subject lands **are** identified as being within a vulnerable area.

Provincial Policy Statement (PPS, 2014)

**Section 2.2.1** requires that *“Planning authorities shall protect, improve or restore the quality and quantity of water by:*

*e) implementing necessary restrictions on development and site alteration to:*

- 1. protect all municipal drinking water supplies and designated vulnerable areas; and*
- 2. protect, improve or restore vulnerable surface and ground water features, and their hydrological functions.”*

**Section 2.2.2** requires that *“Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored.”*

Municipalities must be consistent with the Provincial Policy Statement when making decisions on land use planning and development.

Policies in the *Approved Source Protection Plan* may prohibit or restrict activities identified as posing a *significant threat* to drinking water. Municipalities may also have or be developing policies that apply to vulnerable areas when reviewing development applications. Proponents considering land use changes, site alteration or construction in these areas need to be aware of this possibility. The *Approved Source Protection Plan* is available at:

<http://www.sourcewaterprotection.on.ca/source-protection-plan/approved-source-protection-plan/>

### **Recommendation**

As indicated, the subject lands are regulated by the UTRCA and are located within the Dingman Subwatershed Screening Area. As this application is for the continuation of an existing use, the UTRCA has no objections to the application and Section 28 Permit will not be required.

### **Upper Thames River Conservation Authority (March 8, 2019)**

*Development Services Note: This reply was provided in response to the City Development Services proposal to pursue the construction of a permanent building on the site.*

Given the modeling of the Dingman Screening Area for this property and the generally flat landscape of the surrounding area, the UTRCA would be willing to consider the construction of a permanent dry structure on these lands. With this being said, we would require further information in terms of flood depth, building location, building floodproofing and an appropriate parking area for the car lot associated with the structure.

### **Heritage (February 18, 2019)**

Please be advised that there is archaeological potential identified at 2170 Wharncliffe Rd S and there is no indication in our records that this property has been cleared of its potential. However, no archaeological assessment is being required due to the scope of work for this application (at this time) being limited to the extension of temporary use zoning. Note that an archaeological assessment may be required in the future if work will likely result in any ground disturbance.

### **Engineering (March 11, 2019)**

The City of London's Environmental and Engineering Services Department offers the following comments with respect to the aforementioned pre-application:

**There are no concerns with proposed Zoning By-Law Amendment. However, it is to be noted that extension of any municipal storm or sanitary sewers fronting the**

site is not imminent and will depend on future local improvement initiatives. Extension of sanitary sewers fronting the site is not currently included in any future projects identified within City's Growth Management Implementation Strategy (GMIS).

The following items are to be considered during any future site plan application approval stage to establish a permanent structure on site.

#### **Sanitary**

- There is no municipal sanitary sewer on Wharncliffe Road South for the subject lands.
- Existing trailer and/or any future permanent structures must be serviced utilizing a private on-site sanitary sewage disposal system.

#### **Transportation**

- Detailed comments regarding access design and location will be provided through the site plan.

#### **Water**

- As set-out in Section 17.7.2(i) of the City of London Official Plan and Policy 474\_4 of The London Plan, all development within the Urban Growth Area shall be serviced by the City of London water supply system. As such a new water service connection will be required to be installed to provide water servicing to the subject lands.
- All existing wells within the subject lands shall be abandoned and decommissioned in accordance with the applicable legislation and regulations.

#### **Stormwater**

- There is no municipal storm sewer on Wharncliffe Road South to service the subject land. Subject to UTRCA and City approval, the site will outlet directly to the Thornicroft Drain adjacent to the property.
- A hydraulic analysis will be required to establish the high water level associated with the 250 year storm for Thornicroft Drain adjacent to the property.
- Permanent quantity and quality control measures will be required for the site to comply with SWM criteria for Thornicroft Drain and Dingman Creek Subwatershed Study.
- For the proposed parking spaces, the owner shall be required to have a consulting Professional Engineer confirming how the water quality will be addressed to the standards of the Ministry of the Environment, Conservation and Parks (MECP) and to the satisfaction of the City Engineer. Applicable options could include, but not be limited to the use of oil/grit separators, catchbasin hoods, bioswales, Low Impact Development (LID) solutions, etc.
- Any proposed LID solution should be supported by a Geotechnical Report and/or hydrogeological investigations prepared with focus on the type of soil, its infiltration rate, hydraulic conductivity (under field saturated conditions), and seasonal high ground water elevation. The report(s) should include geotechnical and hydrogeological recommendations of any preferred/suitable LID solution and rationale about the following points:
  - Description of relevant site features, including topography and surface water drainage, regional overburden geology, regional hydrogeology, and proximity to nearby natural heritage features (e.g., stream, ponds, wetlands, woodlots, etc.).
  - Advancement of boreholes at the site, including the installation of a minimum of one monitoring well.
  - Infiltration measurements from areas within the Site using standards infiltration/percolation testing methods (e.g., Guelph Permeameter Test, Double-ring infiltrometer test, etc.).
  - Description of the measured relevant site hydrogeological information, including aquifer properties (e.g., hydraulic conductivity) and static groundwater levels.

- Establishing seasonal fluctuations in water levels, including capturing a representative seasonal high elevation. Note that the use of borehole and/or test pit observations to establish both static water levels and potential seasonal fluctuations is not standard practice.
- Additional SWM related comments may be required and provided upon future review of this site.

**Environmental and Parks Planning (February 14, 2019)**

Required setback to the stream channel will be required to be delineated with some feature to ensure no encroachment.

**Sun-Canadian Pipe Line (January 16, 2019)**

Sun-Canadian has no facilities in this area and we have no objection to the proposed by-law amendment.

**London Hydro (January 23, 2019)**

London Hydro has no objection to this proposal or possible official plan and/or zoning amendment. Any new or relocation of the existing service will be at the expense of the owner.



## Appendix C – Policy Context

The following policy and regulatory documents were considered in their entirety as part of the evaluation of this requested land use change. The most relevant policies, by-laws, and legislation are identified as follows:

### **Provincial Policy Statement, 2014**

#### Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

1.1.1 b)

1.1.1 c)

1.1.1 e)

1.1.3.2

1.1.3.7 b)

#### Section 1.6 Infrastructure and Public Service Facilities

1.6.6.2

#### 1.7 Long Term Economic Prosperity

1.7.1 a)

1.7.1 d)

#### Section 2.1 Natural Heritage

2.1.1

#### Section 3.1 Natural Hazards

3.1.1

### **1989 Official Plan**

#### Auto-oriented Commercial Corridor Designation

4.4.2

4.4.2.4 – Permitted Use

4.4.2.2 i) – Urban Design Objectives

#### Urban Design Principles

11.1 – Urban Design Principles

#### Sanitary Sewerage

17.2.2 – Servicing Hierarchy

#### Zoning

19.4.5 – Temporary Use

### **The London Plan**

#### Neighbourhoods

\*OUR VISION FOR THE NEIGHBOURHOODS PLACE TYPE – 916\_

PERMITTED USES – \*921\_

FORM - \*936\_

\*Table 10 – Range of Permitted Uses in Neighbourhoods Place Type

#### Our Tools

TEMPORARY USE PROVISIONS – 1671\_, 1672\_, 1673\_

#### Civic Infrastructure

POLICIES FOR ALL INFRASTRUCTURE - \*460\_, 471\_

SANITARY SEWER INFRASTRUCTURE – 473\_

STORM DRAINAGE AND STORMWATER MANAGEMENT – 475\_

### **Southwest Area Secondary Plan**

#### 20.5.7 – Lambeth Neighbourhood

20.5.7 i) – Function and Purpose

20.5.7 ii) - Character

20.5.7.3 – Commercial

20.5.7.3 i) – Intent

20.5.7.3 ii) – Permitted Uses

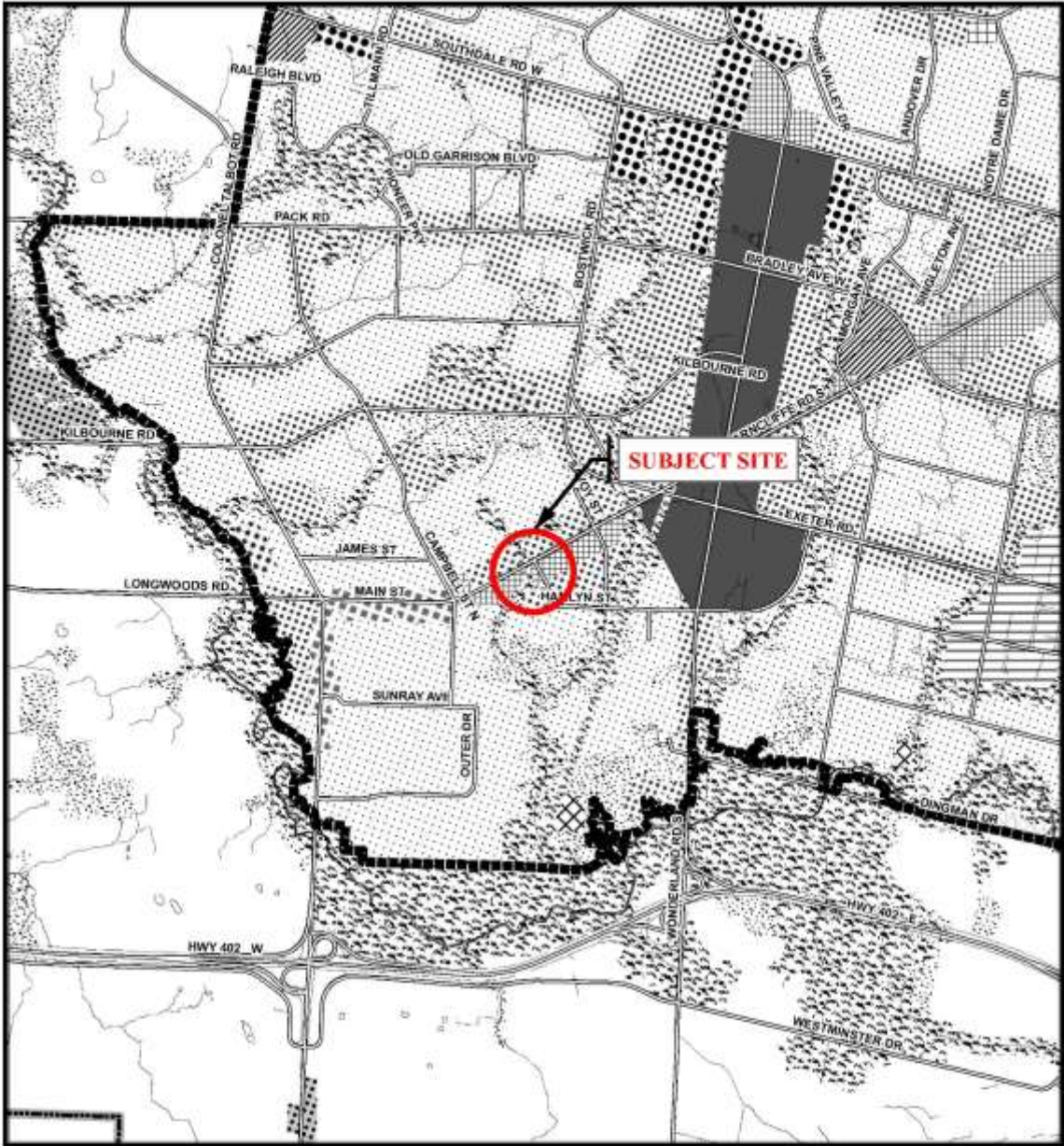
20.5.7.3 iii) – Built Form and Intensity

### **Zoning By-law Z.-1**

Appendix D – Relevant Background

Additional Maps

1989 Official Plan Schedule A – Land Use



**Legend**

Downtown	Multi-Family, Medium Density Residential	Office Business Park
Wonderland Road Community Enterprise Corridor	Low Density Residential	General Industrial
Enclosed Regional Commercial Node	Office Area	Light Industrial
New Format Regional Commercial Node	Office/Residential	Commercial Industrial
Community Commercial Node	Regional Facility	Transitional Industrial
Neighbourhood Commercial Node	Community Facility	Rural Settlement
Main Street Commercial Corridor	Open Space	Environmental Review
Auto-Oriented Commercial Corridor	Urban Reserve - Community Growth	Agriculture
Multi-Family, High Density Residential	Urban Reserve - Industrial Growth	Urban Growth Boundary

**CITY OF LONDON**  
Planning Services / Development Services  
OFFICIAL PLAN SCHEDULE A  
- LAND USE -  
PREPARED BY: Graphics and Information Services

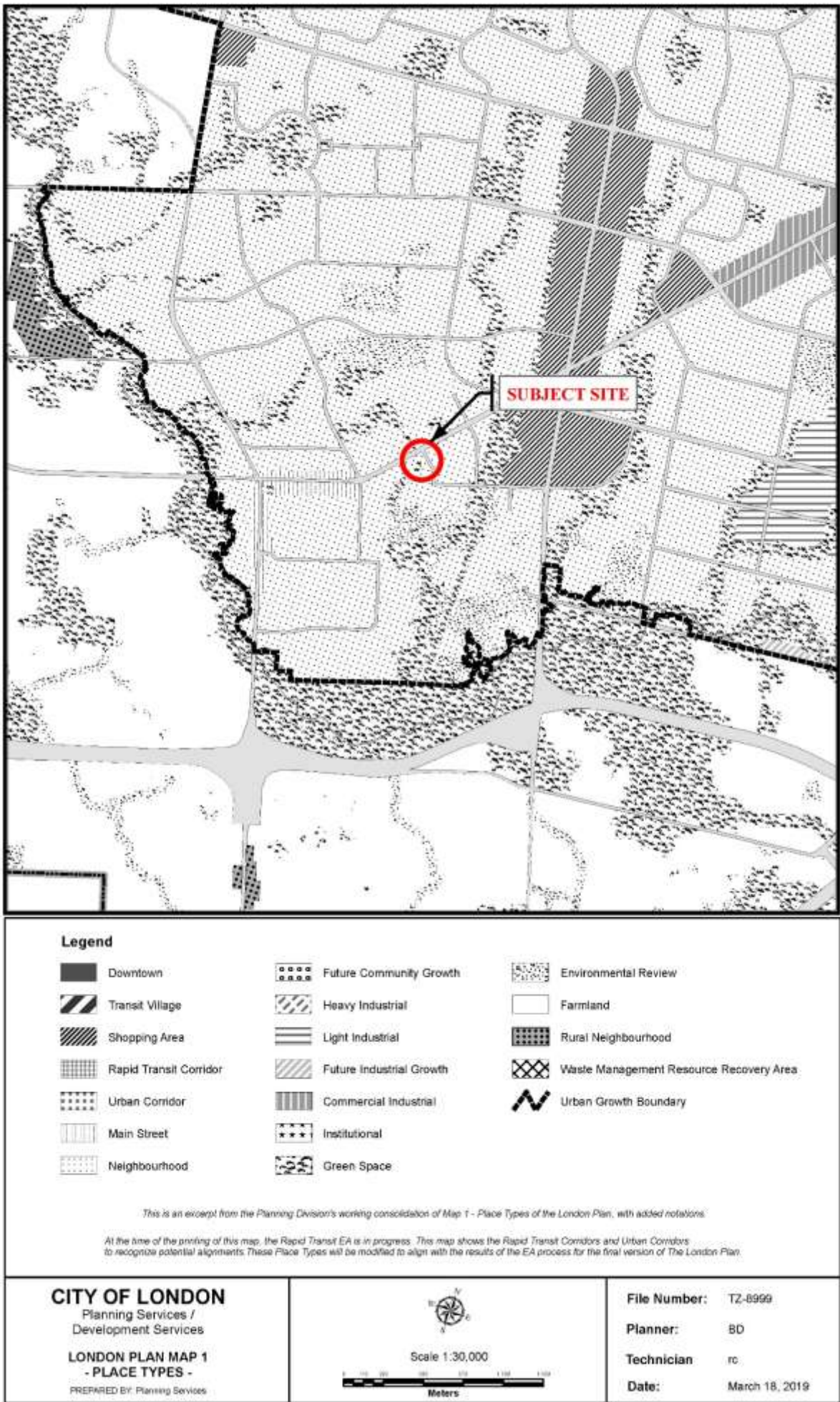
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PLANNER: BD  
TECHNICIAN: rc  
DATE: 2019/03/18

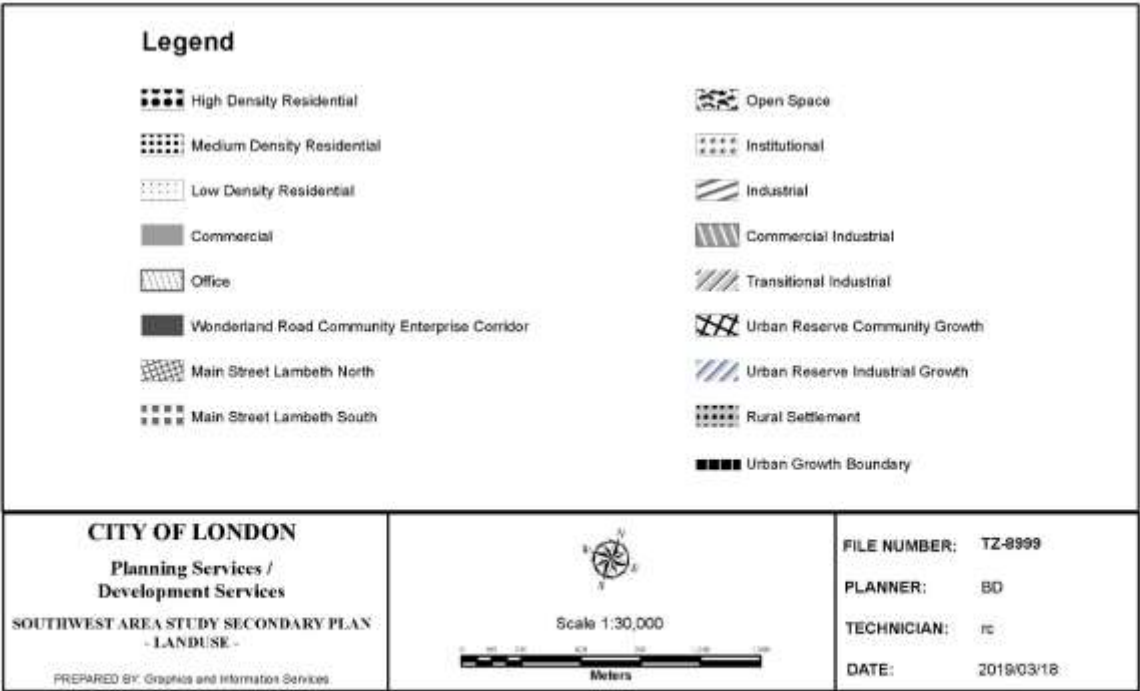
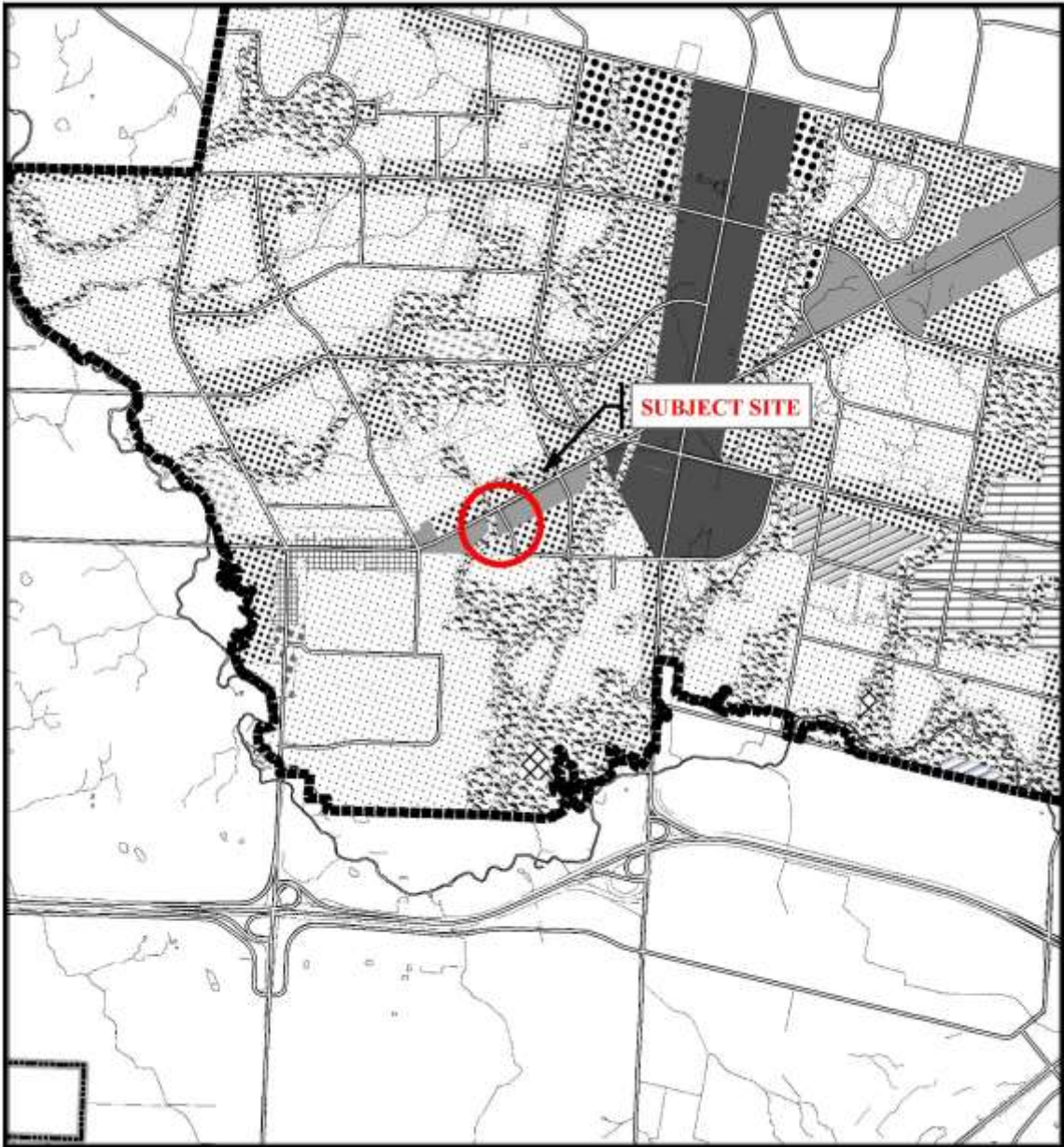


The London Plan – Map 1 – Land Use

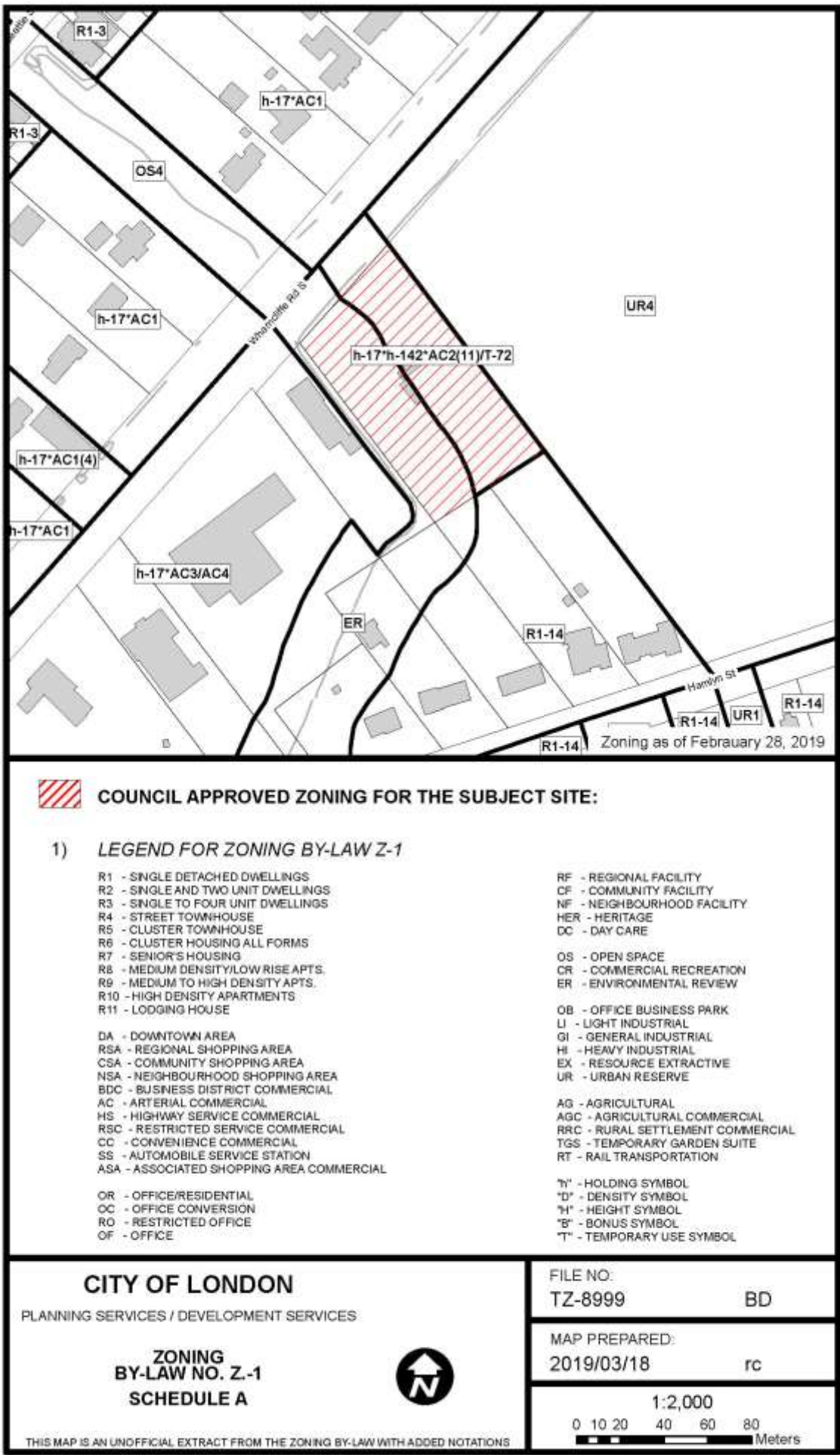




Southwest Area Secondary Plan – Land Use



Zoning By-law Z.-1 Map





## Additional Reports

**Z-7944** – 2170 Wharnccliffe Road South – Built and Natural Environment Committee  
October 17, 2011

Staff Recommendation – Change zoning from a Holding Arterial Commercial (h-17·AC2) Zone to a Holding Arterial Commercial Special Provision (h-80·h-103·AC2( )) Zone to permit the additional use of automobile sales and service establishment, with holding provisions to require full municipal services, and to require that urban design be considered during the site plan review process and a development agreement be entered into prior to development on the site.

**Z-7944** – 2170 Wharnccliffe Road South – Built and Natural Environment Committee  
November 28, 2011

Staff Recommendation as result of referral back – Change zoning from a Holding Arterial Commercial (h-17·AC2) Zone to a Holding Arterial Commercial (h-17·h-\*·AC2( )) Zone to permit the additional use of automobile sales and service establishment, associated with a permanent structure or building, and an automobile sales and service establishment associated with a temporary sales trailer prior to December 5, 2015. Holding provisions to require water and sanitary services prior to development with the exception of dry uses on approved private sanitary services, and to require that urban design and joint access with the property to the east be addressed during the site plan review process and a development agreement be entered into prior to development on the site.

**TZ-8520** – 2170 Wharnccliffe Road South – Planning & Environment Committee  
November 2, 2015

Staff Recommendation – Change the zoning from a Holding Arterial Commercial Special Provision (h-17·h-142·AC2(9)) Zone to a Holding Arterial Commercial Special Provision/Temporary(h-17·h-142·AC2( ))·T-\_) Zone to continue to permit an Automobile Sales Establishment and add a Temporary Use Zone to permit a temporary sales trailer, in association with an automobile sales establishment, for a period not exceeding three years beginning November 10, 2015.