



City of
Peterborough

TO: Members of the Planning Committee

FROM: Malcolm Hunt, Director of Planning and Development Services

MEETING DATE: March 30, 2009

SUBJECT: Report PLPD09-017
Zoning By-law Amendment Application Z0902
Janet Mortlock and Pat Quinlan
696 Whitaker Street

PURPOSE

A report to evaluate the planning merits of amending the Zoning By-Law as it relates to the property known as 696 Whitaker Street to permit the residential use of the property with up to four single unit dwellings.

RECOMMENDATIONS

That Council approve the recommendations outlined in Report PLPD09-017 dated March 30, 2009, of the Director of Planning and Development Services, as follows:

- a) That Zoning By-Law #1997-123 be amended by adding Special District SP.342 as Section 372 in accordance with Exhibit 'C' to Report PLPD09-017.
- b) That the zoning of the subject property, be amended from the OS.2 – Open Space District 2 to SP.342 – 'H' – Special District 342 in accordance with the draft amendment attached as Exhibit 'C' to Report PLPD09-017.
- c) That the 'H' Holding Symbol be removed once Site Plan Approval is granted for the subject property.

RATIONALE

Approval of this Zoning By-Law Amendment is based upon the following:

The subject property is designated 'Residential' on Schedule 'A' – Land Use of the City of Peterborough Official Plan and zoned 'OS.2' – Open Space District in the Comprehensive Zoning By-Law. The Official Plan policies related to the 'Residential' designation contemplate predominantly residential uses, and also encourage infill residential development and residential intensification through better use of existing resources, buildings and under-utilized sites in residential areas where the impacts of development on existing uses can be minimized.

Allowing permission to add three new single unit dwellings to the subject property is compatible with the residential character of the neighbourhood, will make better use of an under-utilized property and the infrastructure servicing that property, and will have a negligible impact on traffic patterns in the area once construction is complete and all dwellings are occupied.

The site can accommodate the 8 required parking spaces proposed in the by-law and the required improvements to the land for the private access and services. All comments raised by the Public and the Commenting Agencies have either been addressed or will be addressed through the pending site plan and plan of condominium approval.

BUDGET AND FINANCIAL IMPLICATIONS

There are no direct budget or financial implications arising from the approval of this application.

BACKGROUND

The subject application was originally received on December 17, 2008 and deemed to be complete as of January 16, 2009, and was processed in accordance with department procedures.

The subject property is located at the eastern terminus of Whitaker Street, just east of Armour Road. The land currently supports a two storey dwelling with a detached shed and a detached garage constructed in 1997. Its driveway accesses Whitaker Street at

the eastern limit of a turning circle that terminates the street. Existing uses adjacent to the property include one storey garden villa-style condominiums to the west and south and the Peterborough Golf and Country Club to the north and east.

Originally part of the Peterborough Golf and Country Club property, the existing dwelling was constructed in 1850 and pre-dates the existing OS.2 zoning. Because residential uses are not permitted in the OS.2 zone, the existing dwelling is considered legal non-conforming. The applicants have indicated they would like to keep this existing dwelling on the property and have it used for residential purposes as well as create the potential for additional residential development on the property thereby intensifying its use. To that end, they have requested that the zoning be amended to legalize the existing residential use of the property to permit the development of three additional dwellings (for a total of four dwellings) on the property.

ANALYSIS

a) Official Plan

The lands are currently designated “Residential” (low density) on Schedule ‘A’ of the City of Peterborough Official Plan. The adjacent condominium properties are designated “Residential” (Schedule ‘A’) and “Medium Density” (Schedule ‘E’) while the adjacent golf course property is designated “Major Open Space” on Schedule ‘A’ of the Official Plan.

The planned function of residentially-designated areas is to provide areas for housing and other land uses that are integral to, and supportive of a residential environment.

Residential uses in low-density residential areas shall primarily consist of single detached, semi-detached and duplex dwellings, developed at a density not exceeding 24 units per hectare. Notwithstanding this, where housing is developed on vacant land in an existing residential area which makes use of existing infrastructure and has a form and scale compatible with the surrounding area, such housing may be allowed up to a maximum scale permitted under the Medium Density Residential designation (up to 74 units per hectare) without amendment to the Official Plan.

For this application, the subject property is 0.68 hectares (1.68 acres) in size. Should three new single unit dwellings be added to the property as the applicants would like, the resulting density of development on the property would be 5.9 units per hectare; well below the average density of the adjacent condominium properties (19.7 units/ha) and most residential neighbourhoods in the city.

The applicants have expressed a desire to restrict any new dwellings on the property to a size and character that respects both the existing dwelling and the property's relationship with surrounding uses. Consequently, through the zoning amendment, the applicants are seeking permission for single unit dwellings only. As proposed, duplexes, semi-detached dwellings and accessory apartments would not be permitted. Additionally, the applicants have proposed to require a minimum separation of 3 metres (9.84 feet) between any dwellings on-site; a distance that is similar to recent new residential development in many areas of the city.

With respect to its surroundings, the proposed zoning provides a rear yard setback of 18 metres (59 feet) from the southern property line, far exceeding the typical rear yard setback for new development. Also, it maintains the front yard setback of the existing dwelling from the northern property line by proposing a minimum 9 metre (29.5 feet) building setback from that property line. At its westerly property line, the zoning proposes a minimum building setback of 3 metres (9.84 feet). At this location, the adjacent condominium property is developed with a grassy strip along the mutual property line and a driveway to access internal parking on-site. Therefore, should a new dwelling be constructed 3 metres from the westerly property line, it will not be located next to any existing dwellings on the adjacent property. Finally, at the site's easterly property line, adjacent to the golf course, a 6 metre (19.7 feet) setback is proposed. With these proposed zoning setbacks, staff is satisfied that ample space will remain on the property for landscaping and that impacts of any new development on the character of the area will be minimal.

b) Zoning By-law

The subject property is currently zoned OS.2 – Open Space District. The use of the property for residential purposes is not permitted under the existing zoning of the site. As noted previously, however, the existing residential use of the property pre-dates the current zoning and is therefore considered legal non-conforming.

The subject property has been zoned for Open Space purposes since 1972 when the City's previous Zoning By-law, 1972-137, rezoned the property from "Douro General" to OS.1. In 2000, as part of a city-wide Zoning By-law to implement new Open Space policies in the Official Plan, the subject property was rezoned from OS.1 to OS.2. Although the property has historically and continuously been used for residential purposes and it does not contain any features of natural heritage significance or connections to the City's major open space network, it was believed at the time that the property may one day be used as part of the adjacent golf course. Accordingly, the zoning was maintained for Open Space purposes. At this time staff does not have any reason to believe that this property is required for golf course purposes and does not see any reason why the property needs to remain zoned for open space purposes.

The applicant has requested that the property be re-zoned to a new Special Residential District – Special District No. 342 (SP.342) that will permit up to 4 (four) single unit dwellings on the property.

In order for the proposed additional residential development to proceed on this property, a unique Special District zone is required. Typically, only one single unit dwelling is permitted on any property. However, because of the size of the subject parcel, it is not possible to extend Whitaker Street easterly into the subject property to create road frontage on which new home lots could be severed. Therefore, any additional development on this property must proceed as a Plan of Condominium that would provide private driveway access to all dwellings on the property as well as private water distribution, wastewater collection, and stormwater collection on the property. Under the Zoning By-law, condominiums are treated as a single property. Accordingly, the proposed SP.342 zone would allow up to 4 (four) single dwelling units on the property.

Should Council approve the requested amendment, the applicant intends to file an application for Site Plan Approval and Condominium Approval. In order to ensure that no new development occurs on the property the site plan and condominium details for the property have been established, Planning staff recommend that the proposed zoning be subject to a Holding Symbol – “H” that shall only be removed once the applicant has entered into a Site Plan Agreement with the City and has received Plan of Condominium approval from the City. Additionally, in order to ensure that any new dwelling constructed on the property is of a similar scale to the existing dwelling, staff recommends that the zoning regulations include a maximum building height of 2 (two) storeys. Overall, staff recommends that the zoning for the property be amended from OS.2 to SP.342 – ‘H’ as shown in draft in Exhibit ‘C’.

c) Site Development

The applicant has provided conceptual site plan (see Exhibit B) illustrating the proposed driveway and parking areas, the proposed building setbacks and possible building footprints for any new dwellings constructed on-site. The applicant will be required to enter into a Site Plan Agreement with the City and to receive Plan of Condominium approval from the City to ensure the maintenance of the private driveway, parking, and servicing on-site as well as the buffering/landscape facilities on-site.

RESPONSE TO NOTICE

a) Agency Responses:

Agency circulation was issued on January 16, 2009.

The City's Utility Services Department requested that the City require cash-in-lieu of parkland, where applicable, and that a location be designated on the Whitaker Street turning circle for the collection of garbage and recycling from this site. These requests will be addressed as part of the Site Plan and Plan of Condominium approval processes.

Peterborough Utilities Services Inc. (PUSI) advised that the applicants are required to make an application for electrical service to PUSI that contains an electrical servicing scheme prepared by a qualified electrical consultant and showing any easements that may be required to service the property and that all costs associated with servicing the property will be the responsibility of the applicants.

Additionally, PUSI advised that the applicants will be required to provide a private water main and services within the common area of the proposed site plan as well as a meter and metering chamber at the property line adjoining the Whitaker Street road allowance. The applicants will be responsible for decommissioning and removing the existing $\frac{3}{4}$ inch diameter service to the property and for PUSI development charges for the new service.

All PUSI requirements will be addressed as part of the Site Plan and Plan of Condominium approval processes.

Kawartha Pine Ridge School Board has no objections to the proposed amendment and advised that any elementary pupils generated from this site would attend Armour Heights Public School and any secondary pupils generated from this site would attend Thomas A. Stewart Secondary School.

Otonabee Region Conservation Authority requested that on-site stormwater management be addressed prior to the approval of any new development. City staff will ensure that stormwater management is addressed as part of the Site Plan Approval process.

The local Community Accessibility Advisory Committee has reviewed the proposed amendment and has recommended that the applicants consider designing any new dwellings to be constructed as barrier free in accordance with the Ontario Building Code, the City of Peterborough Access Guidelines, and the Ontarians with Disabilities Act. These comments have been provided to the applicants' agent for consideration during the preparation of a site plan for the proposed development.

No further agency has expressed any concerns or requests with respect to the proposed rezoning of the subject property.

b) Summary of Public Responses:

Notice of Complete Application was issued on January 16, 2009 and Notice of Public Meeting was issued on February 27, 2009 by direct mail and by newspaper advertisement (Peterborough Examiner) on February 28, 2009. The notice complies with the requirements of the Planning Act.

Written comments have been received from a number of residents in the adjacent condominium developments. Generally, the comments raised concerns with the impacts that new development will have on the character of the area and quality of life in the area, fears that this application will create traffic problems on Whitaker Street and at the intersection of Whitaker Street and Armour Road, and fears that a precedent will be set for further residential development on adjoining open space areas (i.e. the golf course). Additionally, concerns were raised about the effect that development will have on the existing landscaping of the subject property.

Given the generous building setbacks provided in the zoning, the fact that the development is only proposing single unit dwellings limited to two storeys in height, and the requirement for any development to be subject to Site Plan Approval where issues of buffering and landscaping can be addressed in detail, staff do not believe that developing the site in conformity with the proposed Zoning By-law will have a lasting negative impact on the character of the area and the quality of life in the area. The Utilities Services Department has advised that the proposed development will not affect traffic flow on Whitaker Street nor at the intersection of Whitaker Street and Armour Road. Some existing vegetation on the property will need to be removed to accommodate the proposed development, however, the City will address any such removal and re-planting/landscaping through Site Plan Approval.

Some residents in the area questioned whether this development will set a precedent for residential development on other lands zoned for open space purposes in the area, namely the golf course. Approval of this application does not grant any permission for development on adjoining lands. Should neighbouring property owners wish to develop their properties for residential purposes, they would need to seek the necessary planning approvals from the City which could include an Official Plan Amendment, a Zoning By-law Amendment, Site Plan Approval, and Plan of Subdivision or Condominium Approval. Every planning application is evaluated on its own merits in light of City and Provincial policies/regulations and therefore the approval of a planning application on one property does not set a precedent for development on any other property.

SUMMARY

Planning Staff recommended that the subject property be re-zoned from OS.2 to SP.342-'H' and that the Holding Symbol only be removed once the owners have entered into a Site Plan Control Agreement with the City. This measure will ensure the access, parking, servicing, and landscaping of the proposed development is designed, implemented and maintained to the City's satisfaction.

Submitted by,

Malcolm Hunt, Director,
Planning and Development Services

Prepared by,

Concurred with,

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Attachments:

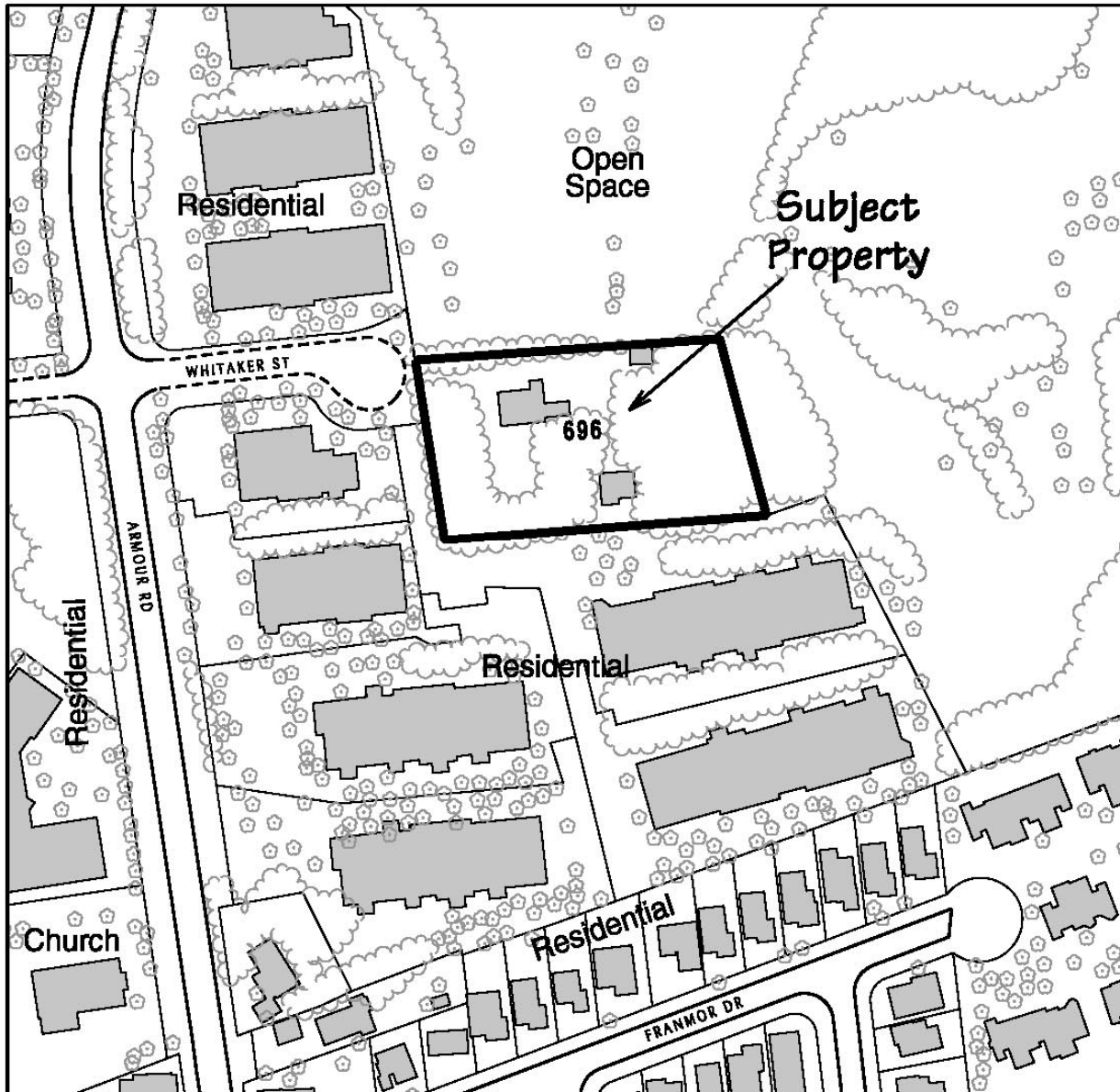
Exhibit A - Land Use Map
Exhibit B - Concept Site Plan
Exhibit C - Draft Zoning By-law

Land Use Map

File # z0920

Property Location: 696 Whitaker St

EXHIBIT A
Sheet 1 of 1



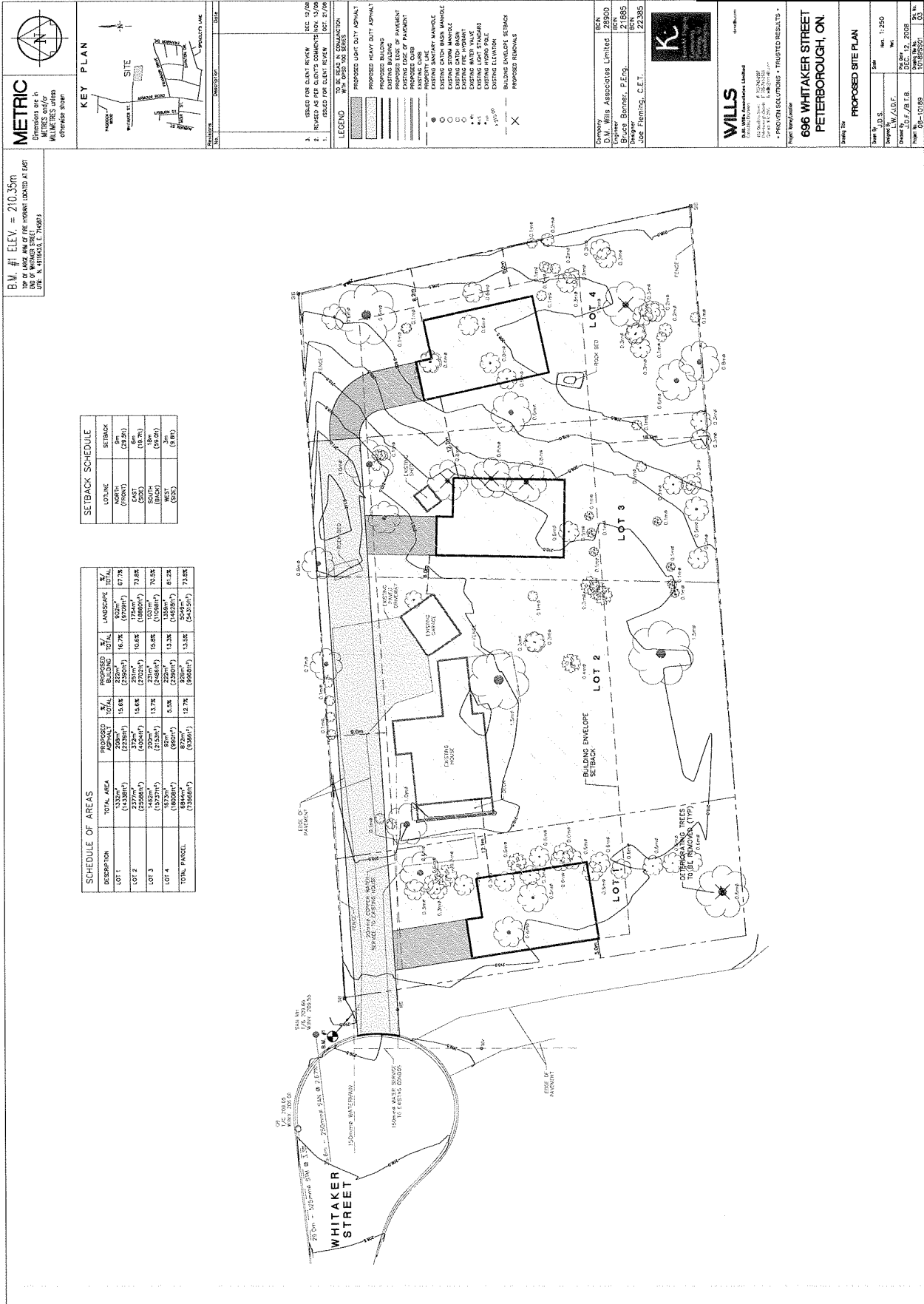
The City of Peterborough Planning Division

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Date - January 2009
Dwg. by - CBerry
Scale - 1:2000

EXHIBIT B
Sheet 1 of 1



THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 09-_____

**BEING A BY-LAW TO AMEND THE ZONING BY-LAW FOR
696 WHITAKER STREET**

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

1. By-Law 1997-123 is amended by adding Section 372 as follows:

**“SECTION 372
SPECIAL DISTRICT 342 (SP.342)**

372.1 For the purpose of this by-law, land use district “Special District 342” is hereby established and may be referred to by the symbol “SP.342”.

PERMITTED USES:

372.2 No person shall within an SP.342 District use any land or erect, alter or use any building or part thereof for any reason other than:

- a) a single unit dwelling

REGULATIONS:

372.3 No person shall within an SP.342 District use any land or erect, alter or use any building or part thereof except in accordance with the following regulations:

a) Maximum number of dwelling units	4
b) Minimum lot area per dwelling unit	1,300 square metres
b) Minimum lot width	20 metres
c) Minimum building setbacks:	
i) northerly lot line	9m
ii) southerly lot line	18m
iii) easterly lot line	6m
iv) westerly lot line	3m

d) Minimum separation between buildings	3m
e) Minimum number of parking spaces per dwelling unit	2
f) Maximum building height	2 storeys
g) Maximum building coverage	40%
h) The land within this zoning district shall be deemed to be one lot for all purposes of the Zoning By-law, regardless of ownership.	

372.4 SP.342 District is hereby designated as a residential district.”

2. **Map 8b** forming part of Schedule ‘A’ to By-law 97-123 is amended by changing the area shown on the sketch attached hereto as Schedule ‘A’ **from OS.2 to SP.342 - ‘H’.**
3. The ‘H’ – Holding Symbol will be removed from the Zoning By-law upon the completion of the following:
 - i. Site Plan Approval being granted for the subject property pursuant to Section 41 of the Planning Act.

By-law read a first, second and third time this day of _____, 2009.

D. Paul Ayotte, Mayor

Nancy Wright-Laking, City Clerk

