



City of
Peterborough

To: **Members of the Planning Committee**

From: **Ken Hetherington, Manager, Planning Division**

Meeting Date: **October 26, 2015**

Subject: **Report PLPD15-055**
844 Rye Street (999 Lansdowne Street West)

Purpose

A report to evaluate the planning merits of amending the Zoning By-law for the property known as 844 Rye Street (999 Lansdowne Street West) from SP.268-151-157(F) to a modified SP.268–151(F) Commercial District to add ‘a specialty toy and book store’ with a maximum floor area of 438m² (4715 ft²) to the list of permitted uses and to delete ‘an establishment for office equipment and supplies sales, computer sales and janitorial supplies sales’.

Recommendations

That Council approve the recommendations outlined in Report PLPD15- 055 dated October 26, 2015, of the Manager, Planning Division, as follows:

- a) That Exception .151 of Section 3.9 Exceptions of the City’s Comprehensive Zoning By-law #97-123 be amended to add “a specialty toy and book store with a maximum floor area of 438m² (4715 ft²)” to the list of permitted uses, and to permit a minimum building setback of 23m from the centreline of Lansdowne Street West, in accordance with the draft amendment, attached as Exhibit ‘C’ to Report PLPD15-055.
- b) That Exception .157 of the City’s Comprehensive Zoning By-Law #97-123 which permits ‘an establishment for office equipment and supplies sales, computer sales and janitorial supplies sales’ be deleted.

- c) That the zoning of the subject property be amended from the SP.268-151-157(F) – Commercial District to SP.268–151(F) – Commercial District, in accordance with the draft amendment attached as Exhibit ‘C’ to Report PLPD15-055.

Budget and Financial Implications

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

Rationale

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

The subject property is designated ‘Commercial’ on Schedule ‘A’ – Land Use, and ‘Service Commercial’ on Schedule ‘I’ – Commercial Area. The City’s Commercial Structure is illustrated on Schedule ‘I’ – Commercial Area and provides for appropriate and orderly development of commercial land use. The proposed use contemplated by the subject zoning is limited in size and compatible with the ‘Service Commercial’ policies that apply to the lands.

New development is subject to Site Plan Approval, to ensure that the property complies with commercial standards with regard to parking, traffic circulation and landscape treatment.

Background

The subject application was originally received on August 5, 2015, revised on August 31, 2015 and deemed to be complete as of September 25, 2015. The application was processed in accordance with department procedures. The *Planning Act* allows applicants to appeal Zoning By-law Amendment Applications after the expiry of 120 days of the application being deemed complete. The applicant is in a position to file an appeal to the Ontario Municipal Board any time after January 25, 2016 if Council has not made a decision.

The subject property is approximately 0.9 ha (2.22 ac.) in size, located on the southwest corner of the intersection of Lansdowne Street West and The Parkway. The lands currently support a commercial building fronting onto Lansdowne Street West, with a remnant industrial building to the rear of the commercial building. The proposed redevelopment of the site includes the removal of the existing commercial building facing Lansdowne Street West and the central portion of the former industrial building, leaving a total of 1413 m² of floor area (remnant portion of the former industrial building) to be converted to commercial space. The applicant also proposes to introduce two new stand alone buildings and parking to the site to facilitate a proposed ‘specialty toy and book store’ (Mastermind Toys) within a new 438m² building and a restaurant within a new

417m² building. The effect of the redevelopment, therefore, is to reduce the total amount of floor area from 4376m² (47,104 ft²) to 2268m² (24,413 ft²) and to increase the total number of parking spaces from 103 to 129 spaces in addition to drive thru stacking lanes, loading facilities, curbing and aisles to effectively circulate traffic and parking for a commercial development.

A Zoning By-law Amendment was approved in 2012 to bring the zoning into conformity with the Service Commercial designation in the Official Plan, together with site specific regulations to reflect the existing development of the lands. An 'H' Holding Symbol was applied to the zoning to require Site Plan Approval for the conversion of the use from industrial to commercial. The 'H' Holding Symbol was subsequently removed in 2013 when a Site Plan was approved and lands conveyed to the City for widening of Lansdowne Street West.

Analysis

a) Official Plan

The lands are currently designated "Commercial" on Schedule 'A' – Land Use and "Service Commercial" on Schedule 'I' – Commercial Areas of the City of Peterborough Official Plan.

Section 4.3.6.3 of the Official Plan states that the predominant use of land within the 'Service Commercial' designation shall include automotive-oriented commercial uses and uses that cater to the travelling public including hotels, motels, eating establishments, commercial recreation and assembly uses, and also includes small scale office and clinic uses adjacent to Shopping Nodes, Neighbourhood Centres and as a transitional use adjacent to residential areas. Personal and financial services are also contemplated in the Service Commercial designation. Retail commercial uses are limited to those that require large sites to accommodate extensive open or enclosed display or storage areas.

The list of permitted uses in the Official Plan is not intended to be exhaustive but rather representative. This principle is evident with the use of the word 'predominant'. The list of permitted uses provides examples of uses which typically cater to the travelling public, but the intention of the policy is not to completely prohibit other commercial uses. An Official Plan is not to be interpreted with the same precision as a Zoning By-law. There is to be some latitude in interpreting the language of an Official Plan, provided the intent of the policy direction is maintained.

The introduction of commercial uses, including those listed in the SP.268 Zoning District and the site specific exceptions approved via previous amendments, allow for a range of commercial uses, compatible with the 'Service Commercial' designation and controlled in size by site specific regulation. These regulations ensure a balance in favour of more traditional highway commercial types of uses, while considering the transition from the

Shopping Centre uses at the northeast corner of the intersection of Lansdowne Street West and The Parkway.

The property at 844 Rye Street is currently a 'hybrid' Service Commercial site, permitting traditional service commercial uses, as well as a retail establishment for the sale of office equipment and supplies, computer and janitorial supplies. This use was permitted without any cap on the maximum allowable floor space, by the Ontario Municipal Board in February, 2000.

The Board Order reinforces the principle that there is some flexibility in interpreting the language of an Official Plan.

The introduction of a specialty toy and book store with a floor area of 438m² (4715 ft²) is complementary to the uses otherwise contemplated within the 'Service Commercial' designation. The new retail use will represent approximately 20% of the developed floor space and therefore, the predominant use of the site will remain for uses that have traditionally been considered as 'Service Commercial' uses.

The former building at 844 Rye Street was approximately 4376m² (47,104 ft²) in area. Once redeveloped, the total floor area of all of the buildings will be 2268m² (24,413ft²) resulting in a net reduction of 2108m² (22,691ft²).

In addition to the reduction in total floor area, it is being recommended that with the approval of the 'specialty toy and book store' use, with a cap of 438m² (4,715 ft²), the retail establishment for the sale of office equipment and supplies, computer and janitorial supplies, with no cap on floor area, be removed. Therefore, there is a net reduction in the amount of retail floor space, limiting the amount of retail space, and reinforcing the position that there is no impact on the intent of the Official Plan, and the Service Commercial policies.

b) Zoning By-law

The subject properties are currently zoned SP.268-151-157 (F) – Commercial District permitting a range of commercial uses. The proposed amendment to the existing zoning will have the effect of adding 'a specialty toy and book store' to the list of permitted uses, with a maximum floor area of 438m² (4715 ft²) and revising the supplementary regulations to permit a reduced setback of 23m from the centreline of the road allowance for Lansdowne Street West.

It is the intention of this amendment to limit the size of the proposed specialty toy and book store use to ensure that it is limited in scale.

In addition to the uses permitted in SP.268 – Special Commercial District, Exceptions 151 and 157 also permit:

- i) an office or clinic up to 300m²;
- ii) office equipment and supplies sales, computer sales and janitorial supplies sales.

- iii) A library, museum or art gallery are not permitted on the subject lands.

The (F) suffix attached to the zoning indicates that a portion of the property is subject to flooding and within the existing floodplain for Byersville Creek. The applicant has confirmed that all proposed buildings will be situated outside of the floodplain.

The amendment proposes to amend Exception 151 to add 'a specialty toy and book store with a maximum floor area of 438m² (4715 ft²) to be permitted on the subject lands; notwithstanding Section 6.7, to permit a building setback of 23m from the centreline of Lansdowne Street West; and delete Exception 157 which permits office equipment and supplies sales, computer sales and janitorial supplies sales.

c) Site Development

The applicant proposes to redevelop the property to provide a more contemporary style commercial plaza with stand alone buildings and parking, consistent with more recent trends for commercial uses. In order to achieve this, a portion of the former industrial building has been demolished and it is intended that the existing commercial space facing Lansdowne Street West and Rye Street also be demolished with commercial tenants moving to the remnant building at the south end of the property in the building illustrated as 'Commercial 1' on the Concept Site Plan. Two new stand alone commercial buildings are proposed to be introduced to the site to support a restaurant and a 'specialty toy and book store'.

The redevelopment of the site will effectively reduce the total amount of floor area from 4376m² (47104 ft²) to 2268m² (24,413ft²) and increase the total number of parking spaces from 103 to 129 spaces in addition to drive thru stacking lanes, loading facilities, curbing and aisles to effectively circulate traffic and parking for a commercial development.

Access to the site is proposed to be provided via a driveway connection along Lansdowne Street West and at Rye Street. This will be reviewed and determined as part of the Site Plan Approval which will be required for the redevelopment of the site.

Proposed building #3 as illustrated on the Concept Site Plan is proposed to be situated a distance of 23.7m from the centreline of Lansdowne Street West right of way. This is considered to be a minor reduction from the required 24.4m and is necessary to accommodate the required parking along the south side of the building.

Response to Notice

a) Significant Agency Responses:

Agency circulation was issued on September 3, 2015.

The City's Utility Services Department provided comment regarding the rezoning application, indicating no objection to the proposed rezoning and indicated that servicing,

grading and stormwater management will be reviewed during the current Site Plan Approval process and payment of cash in lieu of parkland where required.

The Fire Department has indicated that a fire route must be preserved throughout the site. Details are to be addressed at the Site Plan Approval stage.

Otonabee Conservation has indicated no objection to the proposed amendment, however, advises that the property is subject to flooding and all proposed structures are to be located outside of the floodplain. In addition, the lands are subject to ORCA's regulation of development, interference with wetlands and alterations to shorelines and watercourses and Ontario Regulation 167/06, requiring a permit from ORCA prior to any fill placement, grade alterations or construction activities taking place in the regulated area.

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

b) Summary of Public Responses:

Notice of Complete Application and Public Meeting was issued on October 5, 2015 by newspaper advertisement (Peterborough Examiner) and by direct mail. The notice complies with the requirements of the *Planning Act*.

No written comments have been received as of October 16, 2015.

Submitted by,

Ken Hetherington
Manager, Planning Division

Prepared by,

Caroline Kimble,
Land Use Planner

Concurred with,

Malcolm Hunt, Director
Planning and Development Services

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Attachments:

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

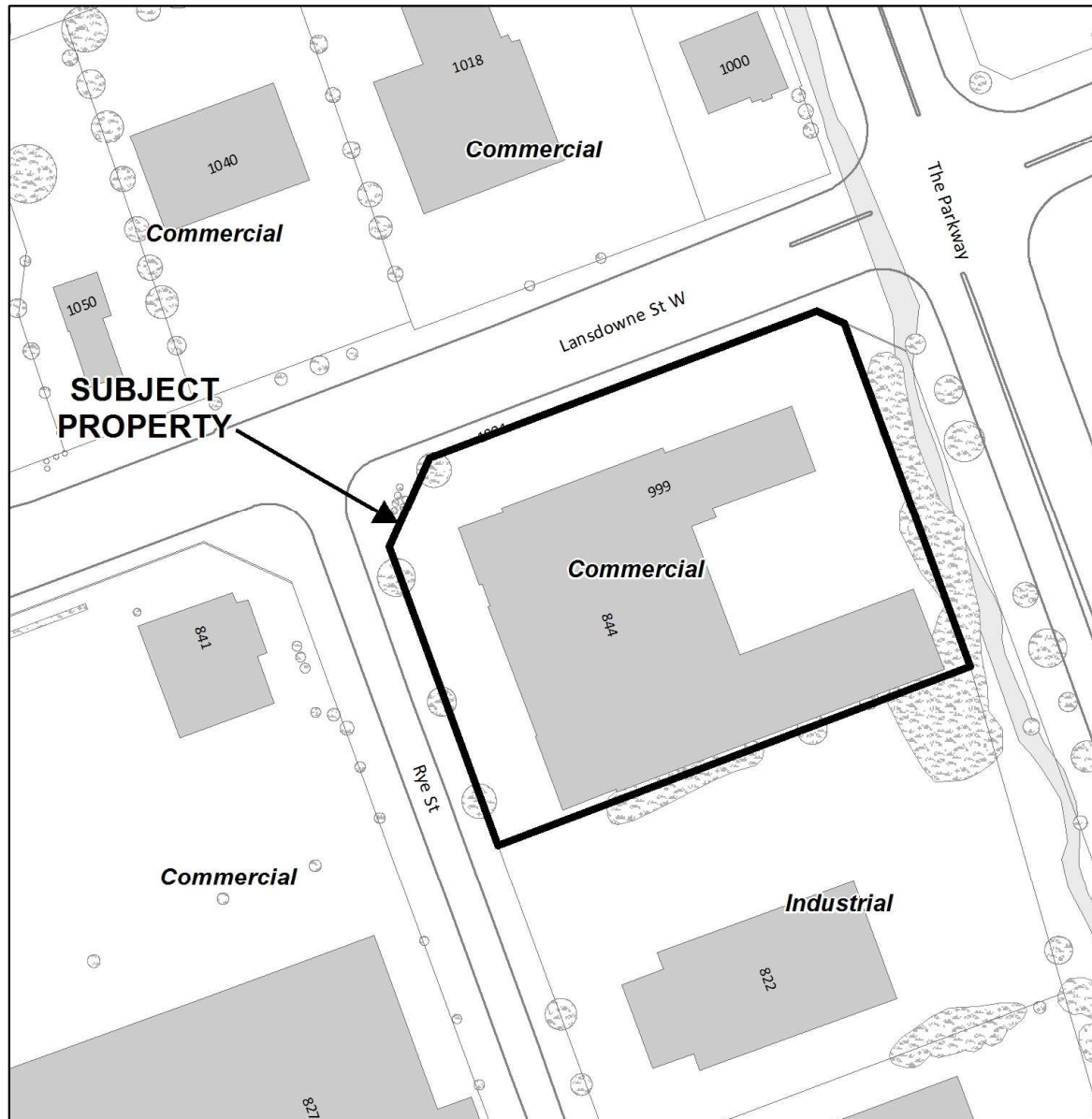
Exhibit A, Page 1 of 1

Land Use Map

File: Z1512

Property Location: 844 Rye St

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: September 2, 2015

Map by: JEllis

0 5 10 20 30 40 50
Metres

Exhibit B, Page 1 of 1

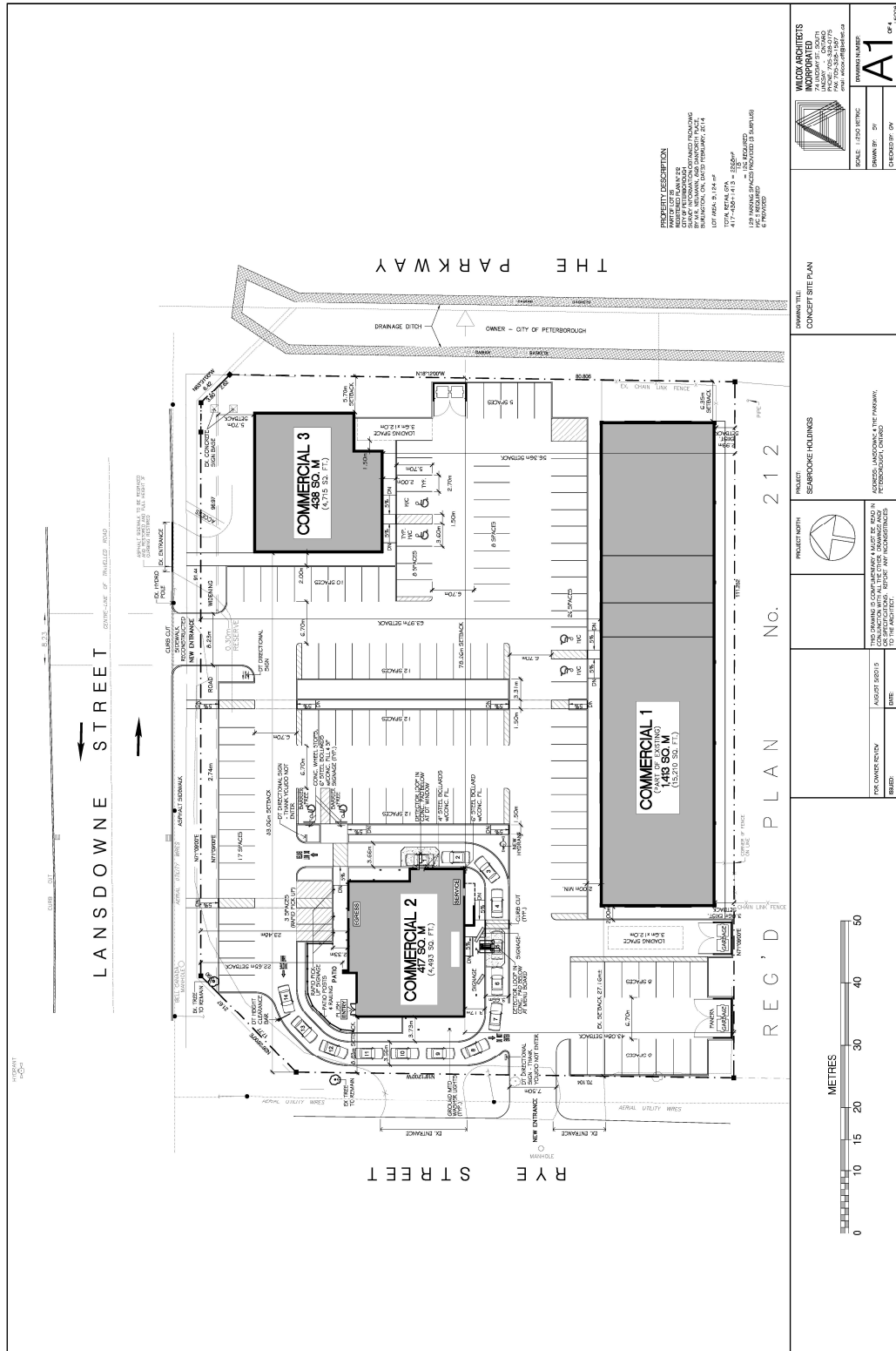


Exhibit C, Page 1 of 2



The Corporation of the City of Peterborough

By-Law Number 15-

Being a By-law to amend the Zoning By-law for the property known as 844 Rye Street

The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. Map 21 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 SP.268-151-157(F) to SP.268–151(F).**
2. Exception 151 of Section 3.9 – Exceptions of By-law 97-123, is amended by adding the following:
 - “e) A specialty toy and book store with a maximum floor area of 438m² shall be permitted.”
 - f) Notwithstanding the provisions of Section 6.7 Building Setback – Arterial Streets, no building or part thereof shall be erected, altered or used within 23 metres of the centre line of Lansdowne Street West.”
3. Exception 157 of Section 3.9 – Exceptions of By-law 97-123, is hereby deleted.

By-law read a first, second and third time this day , 2015.

Daryl Bennett, Mayor

John Kennedy, City Clerk

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