



City of
Peterborough

To: **Members of the Planning Committee**

From: **Jeffrey Humble, Director, Planning and Development Services**

Meeting Date: **April 10, 2017**

Subject: **Report PLPD17-019
Application for Zoning By-law Amendment Z1701
2064086 Ontario Limited and Mason Homes Limited
80 Marsh Avenue and Part of 1300 Chemong Road**

Purpose

A report supporting the planning merit of an application for a Zoning By-law Amendment that pertains to the property at 80 Marsh Avenue and part of the property at 1300 Chemong Road.

Recommendations

That Council approve the recommendations outlined in Report PLPD17-019 dated April 10, 2017, of the Director, Planning and Development Services, as follows:

- a) That Section 3.9 Exceptions of Zoning By-law 1997-123 be amended by adding Exception 312 in accordance with Exhibit D of Report PLPD17-019.
- b) That the subject properties be rezoned from SP.349, 11j, 13k-'H' to SP.349, 11j, 13k-312-'H'; from OS.1 to SP.328, 13a-"H", SP.329, 11j, 13k-'H'; and from OS.1 to SP.328, 13a-'H', SP.329, 11j, 13k-'H', SP.330, 11j, 13k-'H', SP.331, 3q, 11j, 13k, 16c-'H' in accordance with Exhibit D of Report PLPD17-019.

Budget and Financial Implications

There are no direct budget or financial implications arising from the approval of this Zoning By-law amendment.

Background

Mason Homes Limited is currently developing a Draft Plan of Subdivision (File No.: 15T-10507) on the subject lands (see Exhibit B). The plan, which is being marketed under the name “Parklands,” was granted Draft Plan of Subdivision Approval by Council in 2011 (Report PLPD11-013) to provide for approximately 770 residential units of various types and densities along with commercial lands, parkland and open space. Presently, house construction is underway within the two phases of the development that have been registered as Plans 45M-238 and 45M-247 in the vicinity of Rowberry Boulevard, Grange Way, and Broadway Boulevard.

a) 80 Marsh Avenue

The property municipally known as 80 Marsh Avenue was created through the registration of Plan 45M-247 in 2016. The parcel is currently zoned to permit a medium density, multi-unit residential development. The current zoning of the property is SP.349, 11j, 13k, contemplates the site being developed either as a standard plan of condominium or as a block of land under one ownership with an internal network of private roadways. Currently, the City is processing an application for site plan approval (File No. SPC. 893) for this property that proposes 87 townhome units. Approval of the site plan, which is described in Report PLPD17-018 dated April 10, 2017, is to be considered by Council concurrent with the subject application.

Through the process of working with the City on the site plan application, Mason Homes expressed an interest in developing the site as a Common Elements Condominium rather than as a Standard Condominium. Standard Condominiums and Common Elements Condominiums are two of four different types of freehold condominiums that can be created under the **Ontario Condominium Act**. In a Standard Condominium, homeowners can purchase and own “units” while all other areas that are intended to be for shared use of the residents are described as “common elements”.

In a Common Elements Condominium, there are no units available for purchase. Instead, only the areas intended for shared use, such as a roadway, are established as a Condominium Corporation. When a residential development is established as a Common Elements Condominium, typically the roads are created as a condominium and individual freehold building lots are created along that private road. The freehold lots are not

considered part of the condominium but are legally “tied” to the Condominium Corporation to ensure lot owners share responsibility for maintaining the condominium features.

For this particular site, Mason Homes would like to have the flexibility to establish the private roadways that are planned within the site as a Common Elements Condominium and to establish the future residential dwellings on individual freehold lots. The benefit to developing the site as a Common Elements Condominium is that it provides Mason Homes greater flexibility to construct housing throughout the site as market demand dictates rather than having to confine house construction to particular phases within the site as a Standard Condominium would typically require.

The current SP.349, 11j, 13k zoning applying to this block as a whole does not allow the creation of freehold lots. In particular, the creation of freehold lots within the block violates Section 6.5 of the Zoning By-law which requires lots to abut a public street. The creation of freehold lots within this block would allow these zoning regulations to apply to each lot individually which is not intended.

To address these issues and provide flexibility to develop the block with a Common Elements Condominium, Mason Homes has requested that a new exception, being Exception No.312, be added to the existing zoning that:

- i) Excludes the property from Section 6.5 of the Zoning By-law to permit lots that abut a private street; and
- ii) Clarifies that all of the lands within the property are to be deemed as one lot for all purposes of the zoning by-law despite any future subdivision.

**b) Part of 1300 Chemong Road
(Part of Block 7 on Draft Plan of Subdivision 15T-10507)**

Block 7 in Draft Plan of Subdivision 15T-10507 (see Exhibit B) is currently zoned OS.1 – Open Space – and is intended to be conveyed to the City for open space purposes. The Block has frontage along future Cullen Trail and is located adjacent to an open space buffer area that was established, and conveyed to the City, to separate the subdivision development from an adjacent wetland area. In accordance with the planning approvals that have been granted for Draft Plan of Subdivision 15T-10507, Block 7 is not required to form part of the buffer from the adjacent wetland area nor does it form part of Mason Homes’ parkland dedication obligation for the subdivision.

Mason Homes is currently working with the City to finalize the detailed design of this portion of the plan of subdivision. As part of that process, Mason Homes is proposing to slightly shift Cullen Trail east which would have the effect of creating some additional lot depth within Block 7(see Exhibit C). As a consequence of this potential shift, some additional land at the edge of Block 7, adjacent to Blocks 6 and 8, would have sufficient

depth to accommodate building lots if those lots were developed in conjunction with Blocks 6 and 8.

Recognizing that Block 7 is not intended for environmental protection purposes or parkland purposes, Mason Homes has requested that part of Block 7 be re-zoned for residential purposes. In particular, Mason Homes would like to zone enough of Block 7 to create one building lot adjacent to Block 6 and one building lot adjacent to Block 8. The portions of Block 7 to be re-zoned would be zoned to match the existing zoning in Blocks 6 and 8. Minor adjustments to a Draft Plan of Subdivision may be authorized by the Director of Planning and Development Services in accordance authority delegated by Council however adjustments to the Zoning By-law must be approved by Council.

Analysis

a) Official Plan

The lands are currently designated “Residential” on Schedule ‘A’ – Land Use in the City of Peterborough Official Plan. The property at 80 Marsh Avenue is also designated as Medium Density Residential on Schedule ‘E’ –Residential Density and Schedule ‘Q’ – Chemong Secondary Land Use Plan.

The portion Block 7 on Draft Plan of Subdivision 15T-10507 that is subject to the proposed Zoning By-law Amendment is designated as Low Density Residential on Schedule ‘Q’ – Chemong Secondary Land Use Plan

The existing Official Plan designations contemplate the residential development being proposed for the lands.

b) Zoning By-law

80 Marsh Avenue is zoned SP.349, 11j, 13k, which permits the site to be developed with a medium density residential development containing a minimum of 83 units and a maximum of 167 units. As described in Report PLPD17-018, the site plan proposed for this property includes the development of 87 townhome dwellings together with a network of private streets and laneways. The SP.349 district applies building setbacks from the perimeter of the site and intends to allow matters such as setbacks between buildings within the site to be addressed through site plan approval.

If the site is to be developed as a Common Elements Condominium, Mason Homes will further subdivide the parcel once house construction begins to create freehold lots for each townhouse unit. These freehold lots are typically created after house construction begins and the lots can be surveyed based on the poured foundations of the homes.

To allow flexibility for the site to be developed as a Common Elements Condominium and to establish freehold lots within the site, it is recommended that Exception .312 be added to the Zoning By-law to permit the creation of lots within the site that abut a private street and to clarify that all lands within the property are to be deemed as one lot despite any future land division for all purposes of the zoning by-law.

Block 7 on Draft Plan of Subdivision 15T-10507 is currently zoned OS.1 – Open Space. The block essentially represents excess lands within the draft plan of subdivision that were not required for environmental protection purposes or parkland purposes. However, because the configuration of the Draft Plan precluded their use for residential purposes, the lands were zoned open space.

The lands located adjacent to the south limit of Block 7 are currently zoned SP.328, 13a-'H', SP.329,11j, 13k-'H', SP.330,11j, 13k-'H' and SP.331,3q, 11j, 13k, 16c-'H', which permit single detached dwellings, semi-detached/duplex dwellings, and rowhouse dwellings. The lands located adjacent to the northeast limit of Block 7 are currently zoned SP.328, 13a-'H' and SP.329,11j, 13k-'H' which permit single detached dwellings.

To recognize the development potential of an additional residential lot at both the south and northeast limits of Block 7 that can be created by shifting Cullen Trail slightly to the east, it is recommended that the south limit and the northeast limit of Block 7 be rezoned from OS.1 to match the zoning on the adjacent lands as illustrated in Exhibit D.

The proposed Zoning Amendment complies with the intent and purpose of the Residential policies of the Official Plan and with the Chemong Secondary Land Use Plan.

Response to Notice

a) Significant Agency Responses:

Agency circulation was issued on March 2, 2017.

No significant objections were been received as of March 28, 2017.

b) Summary of Public Responses:

Notice of Complete Application and Public Meeting was issued on March 9, 2017 by direct mail and was published in the Peterborough Examiner on March 13, 2017. The notice complies with the requirements of the **Planning Act**.

No further written comments have been received as of March 28, 2017.

Submitted by,

Jeffrey Humble
Director, Planning and Development Services

Contact Names:

Ken Hetherington
Manager, Planning Division
Phone: 705-742-7777, Ext. 1781
Toll Free: 1-855-738-3755
Fax: 705-742-5218
E-mail: khetherington@peterborough.ca

Brad Appleby
Planner, Subdivision Control and Special Projects
Phone: 705-742-7777, Extension 1886
Toll Free: 1-855-738-3755
Fax: 705-742-5218
E-mail: bappleby@peterborough.ca

Attachments:

Exhibit A – Notice of Public Meeting
Exhibit B – Land Use Map with Draft Plan of Subdivision 15T-10507
Exhibit C – Proposed Shift of Cullen Drive and Affected Blocks Illustrated on top of Draft
Approved Plan of Subdivision 15T-10507
Exhibit D – Draft Zoning By-law Amendment

Exhibit A – Notice of Public Meeting – Page 1 of 1

Notice of Complete Application and Public Meeting

Take Notice that the City of Peterborough has received the following application and pursuant to the *Planning Act*, R.S.O., 1990, c.P.13, the Planning Committee will hold a public meeting in the Council Chambers, City Hall at 6:30 p.m. on **Monday, April 10, 2017**, to consider the application under Section 34 of the *Act*:

- File:** Z1701
Affected Lands: 80 Marsh Avenue and Part of 1300 Chemong Road
Owner/Applicant: 2064086 Ontario Ltd. and Mason Homes Ltd.
Agent: Peter Lawless, LLF Lawyers LLP

The applicant is requesting to add a Zoning By-law exception to the existing zoning at 80 Marsh Avenue to facilitate the development of a Common Elements Condominium. Additionally, the applicant is requesting that certain lands within the property at 1300 Chemong Road be re-zoned from Open Space to Residential to facilitate the creation of two residential lots. Both properties are being developed as part of an ongoing plan of subdivision.

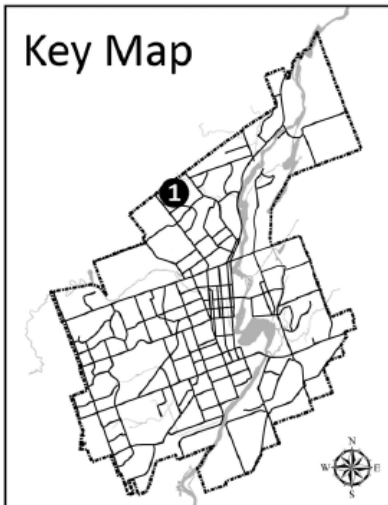
Additional information and materials relating to this application, including a copy of the proposed Zoning By-law Amendment, may be obtained from the Planning Division, City Hall, (8:30 a.m. to 4:30 p.m., Monday to Friday).

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

A Staff report will be available by 12:00 p.m. on Friday the 7th day of April, 2017.

Dated at the City of Peterborough this 13th day of March, 2017.

Key Map



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

Exhibit B – Land Use Map with Draft Plan of Subdivision 15T-10507 – Page 1 of 1

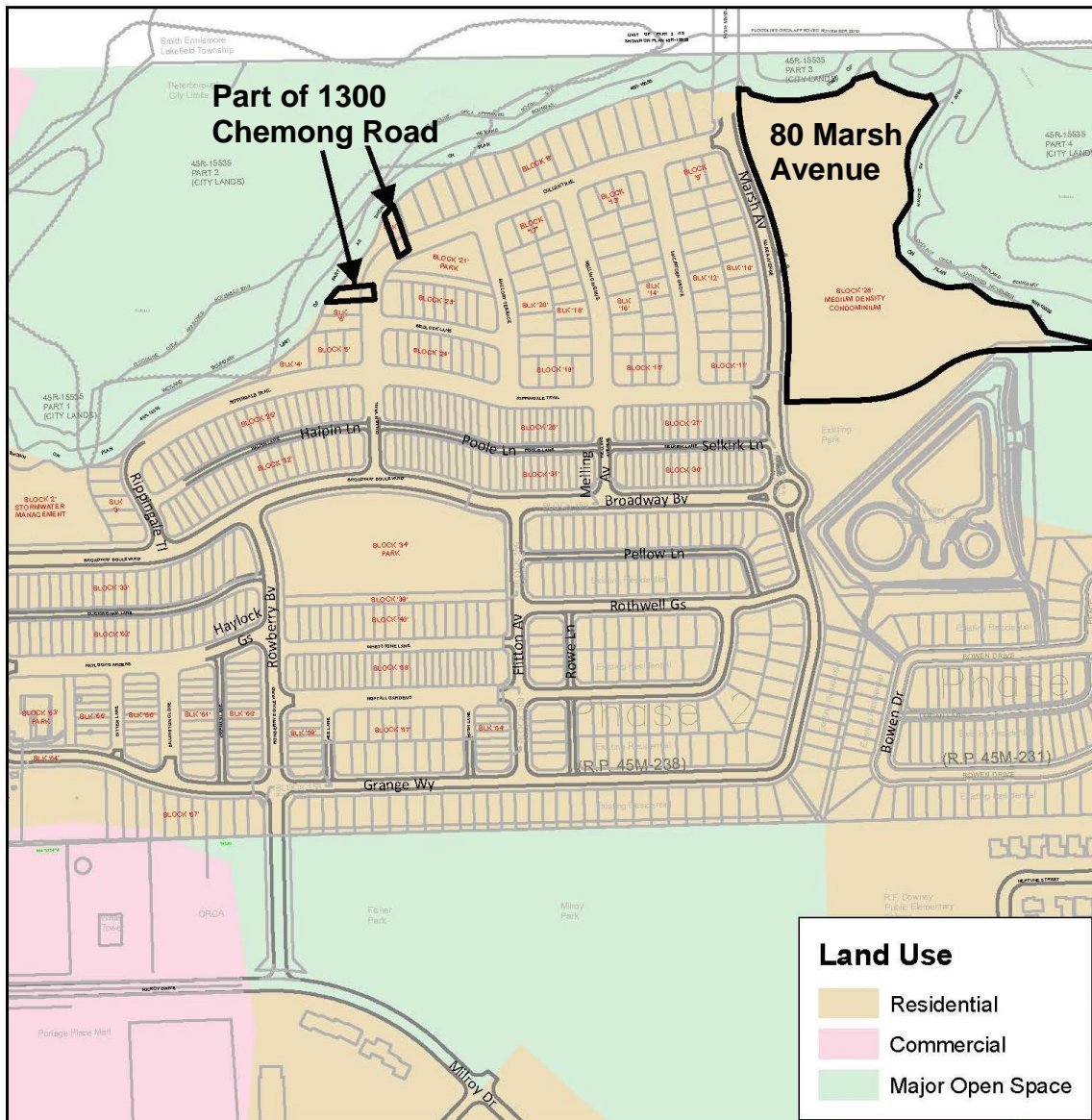
Land Use Map

File: Z1701

Property Location: 80 Marsh Avenue and part of 1300 Chemong Road

EXHIBIT

SHEET OF



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Exhibit D – Draft Zoning By-law Amendment – Page 1 of 3



The Corporation of the City of Peterborough

By-Law Number 17-

Being a By-law to Amend the Zoning By-law for the Property at 80 Marsh Avenue and Part of the Property at 1300 Chemong Road

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

1. Section 3.9 Exceptions of By-law 1997-123 is hereby amended by adding the following:

“.312 Section 6.5 shall not apply where a building or part thereof is to be erected, altered or used on any part of the land that abuts a private street.

The area zoned SP.349,11j,13k shall continue to be treated as one lot for the purposes of zoning regulations despite any future land division.”
2. Map 3 forming part of Schedule 'A' to By-law 1997-123 is amended by changing the areas shown on the sketch attached hereto as Schedule 'A' from SP.349,11j,13k-'H' to SP.349,11j,13k-312-'H'; from OS.1 to SP.328,13a-"H", SP.329,11j,13k-'H'; and from OS.1 to SP.328,13a-'H', SP.329,11j,13k-'H', SP.330,11j,13k-'H', SP.331,3q,11j,13k,16c-'H'.
3. The 'H' – Holding Symbol will be removed from:
 - a) Areas to be developed in accordance with Districts SP.328, SP.329, SP.330 and SP.331 illustrated on the sketch attached hereto as Schedule 'A' upon registration of the Plan of Subdivision in the Land Registry Office; and

Exhibit D – Draft Zoning By-law Amendment – Page 2 of 3

- b) Areas to be developed in accordance with the SP.349 District as illustrated on the sketch attached hereto as Schedule 'A' upon Site Plan Approval being granted for the respective parcel.

By-law read a first, second and third time this 24th day of April, 2017.

Daryl Bennett, Mayor

John Kennedy, City Clerk

Exhibit D – Draft Zoning By-law Amendment – Page 3 of 3

