



City of
Peterborough

To: Members of the Planning Committee

From: Jeffrey Humble, Director, Planning and Development Services
Chad Brown, Deputy Fire Chief, Peterborough Fire Services

Meeting Date: November 20, 2017

Subject: Report PLPD17-040A
Zoning By-law Amendment – 880 Parkhill Road West

Purpose

A report to update City Council with clarification of the existing and proposed use related to the Zoning By-Law Amendment Application for the property known as 880 Parkhill Road West.

Recommendations

That Council approve the recommendations outlined in Report PLPD17-040A dated November 20, 2017, of the Director, Planning and Development Services Department, as follows:

- a) That Report PLPD17-040A be received for information;
- b) That Section 3.9 – Exceptions, be amended to add Exception .314 in accordance with Exhibit 'A' attached to Report PLPD17-040A; and
- c) That the subject property be rezoned from R.1, 1e, 2j, 4d – Residential District to R.2-314 – Residential District in accordance with Exhibit 'A' attached Report PLPD17-040A.

Budget and Financial Implications

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

Background

The Planning Committee of the City of Peterborough held a Public Meeting related to an application to amend the Zoning By-Law for the property known as 880 Parkhill Road West on August 28, 2017. The application proposes to recognize the existing duplex, consisting of two 6 bedroom units, in accordance with site specific regulations to address the existing development of the property.

The Committee heard from several area residents, in addition to the applicant and staff regarding the proposal. Consideration of the application has been deferred until such time as further clarification is provided on whether 880 Parkhill Road West is an R.1 or R.2 use.

By-Law Interpretation

The function of the house has been carefully scrutinized by the City's Legal Department and Fire Services as a result of Fire Safety Commission ("FSC") proceedings. A provision within the **Fire Code** permits the City's Chief Building Official to issue a permit to address life-safety issues even if the property's use does not comply with the property's zoning. In short, the Peterborough Fire Service ("PFS") wanted the owner to implement certain life-safety measures that required a building permit. During the proceedings before the FSC, the FSC indicated that it thought the property functioned more like a duplex of two 6-bedroom dwellings. The owner had been adamant that 880 Parkhill Road West was a 12-bedroom dwelling that complied with its R.1 zoning. Nevertheless, the owner was prepared to undertake the work which would create a duplex in accordance with the FSC's direction. Accordingly, to get the life-safety issues addressed, the CBO issued a permit to permit the owner to undertake the required work. As a result of this work being completed; staff is now satisfied that 880 Parkhill Road West functions as two 6-bedroom dwellings.

Recently, Council adopted amendments to the Zoning By-law and to the Business Licensing By-law to address Lodging Houses and Rental Dwelling Units. The Zoning By-law and the Business Licensing By-law were harmonized with the requirements of the Ontario Building Code and Ontario Fire Code and both of the Zoning By-law and the Business Licensing By-law must be considered in order to determine the classification and therefore, the requisite licensing requirements.

The definition of Lodging House differs slightly in the Zoning By-law and the Business Licensing By-law because Zoning cannot be used to regulate the people who use a property and how they live. The Business Licensing By-law, however, can regulate the use of land based on the relationship of the occupants with each other, thereby dictating the function of the space.

In the case of the Zoning By-law, a Lodging House is defined as:

“a type of Dwelling Unit containing five or more Bedrooms offered for rent. A Lodging House shall be the sole use of a building. None of a Multi-Suite Residence, nursing home, Hospice, Hotel, hostel, Group Home, Bed and Breakfast Establishment nor an Emergency Shelter shall be considered a Lodging House.”

The Business Licensing By-law defines both a Large Lodging House and a Small Lodging House as follows:

“Large Lodging House – means a type of Dwelling Unit containing between 11 and 30 Bedrooms which does not function as a single housekeeping unit.

Small Lodging House – means a type of Dwelling Unit containing 5 but not more than 10 Bedrooms which does not function as a single housekeeping unit.”

The critical difference between a Lodging House and a single housekeeping unit is based in court decisions and whereby it satisfies enough of the criteria set out in **Neighbourhoods of Windfields Limited Partnership v. Death**, 2008 CanLII 424228 (ONSC) & **Good v. Waterloo City** (2003), 67 OR 89 and **Good v. Waterloo (City)**, (2004), 72 OR (3d) 719 (C.A.), **2161907 Ontario Inc. v. St Catharines (City)** 2010 ONSC 4548, **Ottawa (City) v. Bentolila** 2006 ONCJ 542, [Bentolila] and **Balmoral Developments Hilda Inc. v. Corporation of the City of Orillia**, 2012 ONSC 6040, that a reasonable person would conclude that the dwelling unit is not a Lodging House because the occupants live together for a common purpose which is broader than the purpose of sharing short-term accommodation for economic reasons.

A duplex containing 6 bedrooms in each unit and utilized by the occupants as two single housekeeping units, is treated under the Business Licensing By-law as two Large Rental Dwelling Units.

At the meeting on August 28, 2017, there was also discussion about whether the current use of the lands at 880 Parkhill Road West should properly be considered to be a ‘lodging house’ rather than a ‘duplex’. The FSC also considered the use of the lands during its proceeding and concluded that it does not function as a Lodging House as described in the **Fire Code**. The recently City-approved license requirements for a Lodging House tie together the land use controls with the **Fire Code** and **Building Code**. The landlord advertising individual rooms is not the sole determinant on how the residence functions or how a dwelling is treated under the Lodging House and Rental Dwelling By-law.

880 Parkhill Road West is utilized as two single housekeeping units wherein the tenants within each housekeeping unit share kitchen and bathroom space and eat together, etc. These relationships between the tenants are hallmarks of a single housekeeping unit. Based on the assessment of the FSC and the information provided, staff is of the opinion that this property contains two Large Rental Dwelling Units under the City's Business Licensing By-law and that its zoning should reflect this function.

Summary

Rights have been extended to the applicant via approvals outside of the Zoning By-law with regard to the disposition of the use. The amendment proposes to recognize the existing use as a duplex and is supported by Planning Staff, based on good planning merits, as discussed in Report PLPD17-040. If the amendment is not approved, the use would remain as a single residential unit that would require a single licence under the Business Licensing By-law. The rezoning would recognize and legalize the two units in the Zoning By-law rather than a non-conforming residential property.

The owner intends to maintain the duplex as two single housekeeping units with six bedrooms in each. Under the recently approved Business Licensing provisions for Rental Dwelling Units, the City will require the owner to obtain two Business Licenses, one for each Large Rental Dwelling should approval for a duplex be granted.

Submitted by,

Jeffrey Humble, MCIP, RPP
Director, Planning and Development Services

Submitted by,

Chad Brown, Deputy Fire Chief
Peterborough Fire Services

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Attachment:

Exhibit A – Draft Zoning Amendment
Exhibit B – Report PLPD17-040

Exhibit A – Draft Zoning By-law – Page 1 of 2



The Corporation of the City of Peterborough

By-Law Number 17-

Being a By-law to amend the Zoning By-law for the property known as 880 Parkhill Road West

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

1. That Section 3.9 – Exceptions, be amended to add the following:

“**.311** Notwithstanding the provisions of this By-law to the contrary, the following shall apply:

| Regulation | Requirement |
|-------------------------------------|-------------------------------|
| Minimum Lot Area per Unit | 205 m ² |
| Minimum Lot Width per Unit | 4 m |
| Maximum Parking Lot Coverage | 33% of Lot Area |
| Minimum Landscaped Open Space Strip | 0.6 m along one side lot line |
| Minimum Parking | 1.6 spaces/unit |

2. That Map 10 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 the R.1, 1e, 2j, 4d – Residential District to the R.2-314 – Residential District.

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

Daryl Bennett, Mayor

John Kennedy, City Clerk

Exhibit A – Draft Zoning By-law – Page 2 of 2

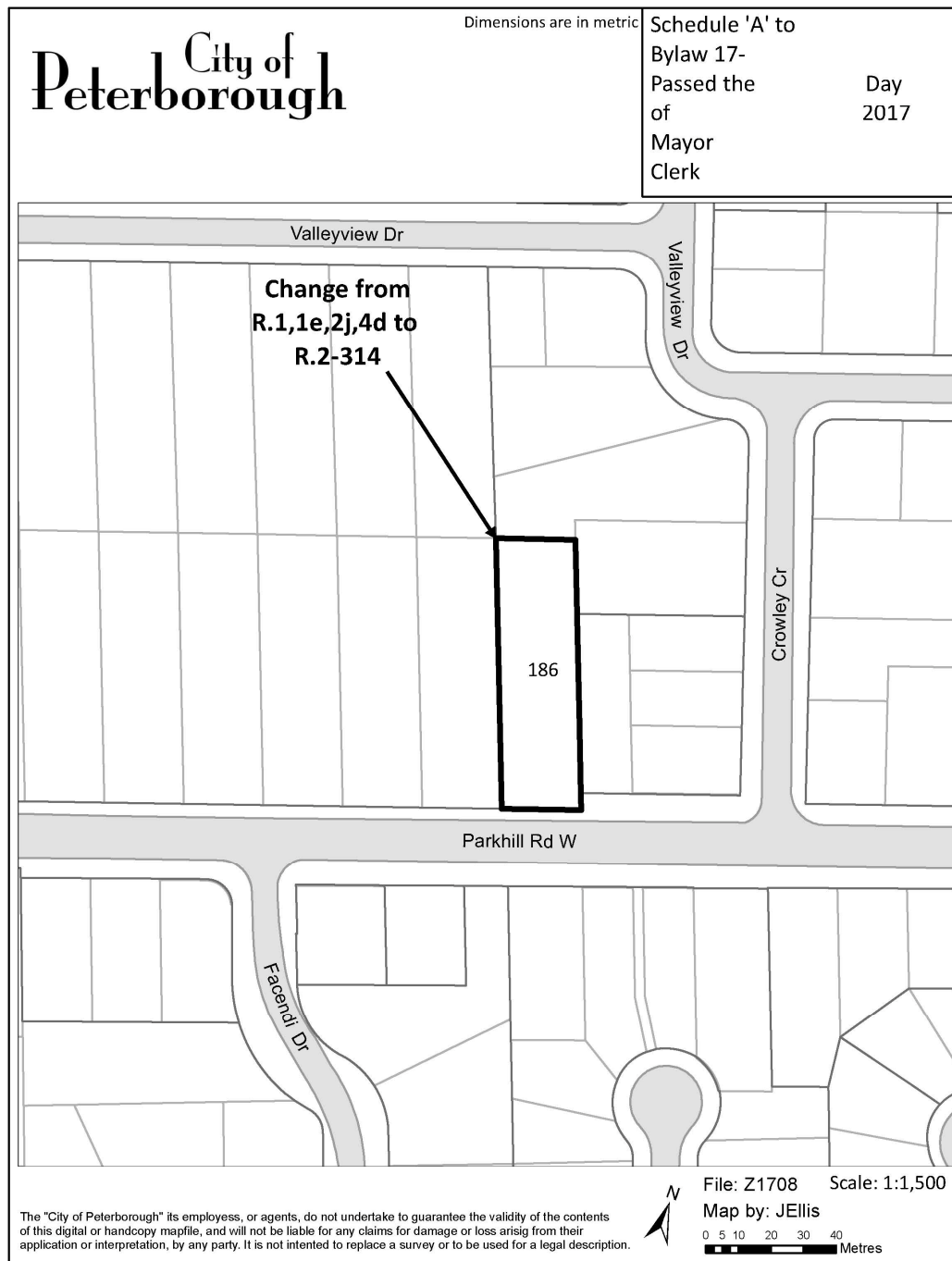


EXHIBIT B to Report PLPD017-040A – Report PLPD17-040 – Page 1 of 10



City of
Peterborough

To: **Members of the Planning Committee**

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

Meeting Date: **August 28, 2017**

Subject: **Report PLPD17-040**
Zoning By-law Amendment – 880 Parkhill Road West

Purpose

A report to evaluate the planning merits of amending the zoning of the property known as 880 Parkhill Road West from R.1, 1e, 2j, 4d – Residential District to R.2-314 'H' – Residential District to permit the conversion of the existing 12 bedroom residential dwelling into a duplex with two units, each with 6 bedrooms, in accordance with site specific regulations to address the existing development of the property.

Recommendations

That Council approve the recommendations outlined in Report PLPD17-040 dated August 28, 2017, of the Director, Planning and Development Services Department, as follows:

- d) That Section 3.9 – Exceptions, be amended to add Exception .314 in accordance with Exhibit 'C' attached to Report PLPD17-040; and
- e) That the subject property be rezoned from R.1, 1e, 2j, 4d – Residential District to R.2-314 'H' – Residential District in accordance with Exhibit 'C' attached to Report PLPD17-040.

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Budget and Financial Implications

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

Background

The property known as 880 Parkhill Road West supports a large rental dwelling unit with 12 bedrooms and subsequent to a case before the Ontario Fire Marshall, the owner has initiated an amendment to facilitate the conversion of the 12 bedroom unit into a duplex, having 6 bedrooms in each.

An inspection by Peterborough Fire Services (PFS) in 2016 resulted in items that required attention by the current owner. In 2017, the Ontario Fire Marshall rescinded all but one of the required items contained in the inspection order. In its January 2017 decision, the Fire Marshall found that “the building bears a strong resemblance to a two dwelling unit and not a single dwelling unit”. In April, 2017, a case conference before the Fire Safety Commission was held between the owner and Peterborough Fire Services. As a result of conversations held between January and April, 2017, the City and the owner agreed that the appropriate resolution to the question of “what type of dwelling unit this is” would be to undertake a rezoning and permit the conversion of the existing 12 bedroom residential dwelling into a duplex with six bedrooms in each. Converting or establishing a duplex will address the life safety issues interests of the PFS.

The owner intends to maintain the duplex as two single housekeeping units with six bedrooms in each. Under the recently approved Business Licensing provisions for Rental Dwelling Units, the City will require the owner to obtain a Business License for each Large Rental Dwelling.

The subject application was received on May 29, 2017, deemed to be complete on June 9, 2017, and was processed in accordance with department procedures. The **Planning Act** permits 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 October 10, 2017 if Council has not made a decision.

The subject lands support an existing single unit dwelling and detached garage and associated parking and landscaping. The lands consist of a 2020 m² (21743 ft²) rectangular shaped property with driveway access to Parkhill Road West and parking

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facilities on the northerly portion of the lot, accessed by a driveway along the easterly property line.

A Site Plan showing the existing buildings, parking and driveway areas has been submitted in support of the application. The Concept Site Plan illustrates a 19.6m setback for the existing dwelling from the street line along Parkhill Road West.

The lands are serviced with full municipal services and no changes are proposed to the existing buildings or driveway/parking areas.

Analysis

a) Official Plan

The lands are currently designated “Residential” on Schedule ‘A’ – Land Use in the City of Peterborough Official Plan. The Residential designation contemplates the existing low density residential use of the property and provides for infill and intensification. The proposed use of the property for a duplex is in keeping with the low density residential policies.

The proposed amendment contemplates the conversion of the existing dwelling to divide the existing unit into two dwelling units (upper and lower), retaining the current number of bedrooms, resulting in a density of approximately 10 units per hectare.

The neighbourhood is characterized by low and medium density residential dwellings and the subject lands front onto Parkhill Road West, identified as a High Capacity Arterial Road on Schedule B – Roadway Network, of the Official Plan. The land is included in the Built Boundary as illustrated on Schedule A-1, City Structure.

b) Zoning By-law

The subject property is currently zoned R.1, 1e, 2j, 4d – Residential District, permitting a maximum of one dwelling unit on the property. The redevelopment of the land for a duplex requires an amendment to the zoning. The proposed R2 Zoning District permits up to 2 dwelling units and includes regulations associated with a duplex. The Zoning Amendment must be consistent with the policies of the Official Plan.

The applicant proposes to amend the zoning of the lands from R.1 – Residential District to R.2-314 – Residential District to permit the conversion of the existing building to a duplex with associated parking and landscaped areas with site specific regulations as follows:

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| REGULATION | Zoning Provision | Proposed |
|---|---------------------------------|--|
| Maximum Lot Coverage by open parking areas, driveways and vehicle movement areas | 20% | 35% |
| Minimum Distance from lot line for Residential Driveway and Parking Area for 5 or more vehicles | 1.5m from side or rear lot line | 0.0m from easterly side lot line for existing driveway |
| Minimum height of ceiling of basement unit to average grade | 1.0m | 0.8m for existing condition |

It is recommended that Exception .314 be added to the Zoning By-law to address the site specific regulations noted above. The proposed regulations are intended to reflect the existing standards of development of the site. There are no changes proposed to increase any existing deficiency with respect to these regulations.

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

Response to Notice

a) Significant Agency Responses:

Agency circulation was issued on July 6, 2017.

No agency has expressed any significant concerns 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 July 31, 2017 by newspaper advertisement (Peterborough Examiner) and by direct mail. The notice complies with the requirements of the **Planning Act**.

No further written comments have been received as of August 3, 2017.

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Submitted by,

Jeffrey Humble, MCIP, RPP
Director, Planning and Development Services

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Attachments:

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

0 5 10 20 30 Metres

Exhibit B – Site Plan – Page 1 of 1

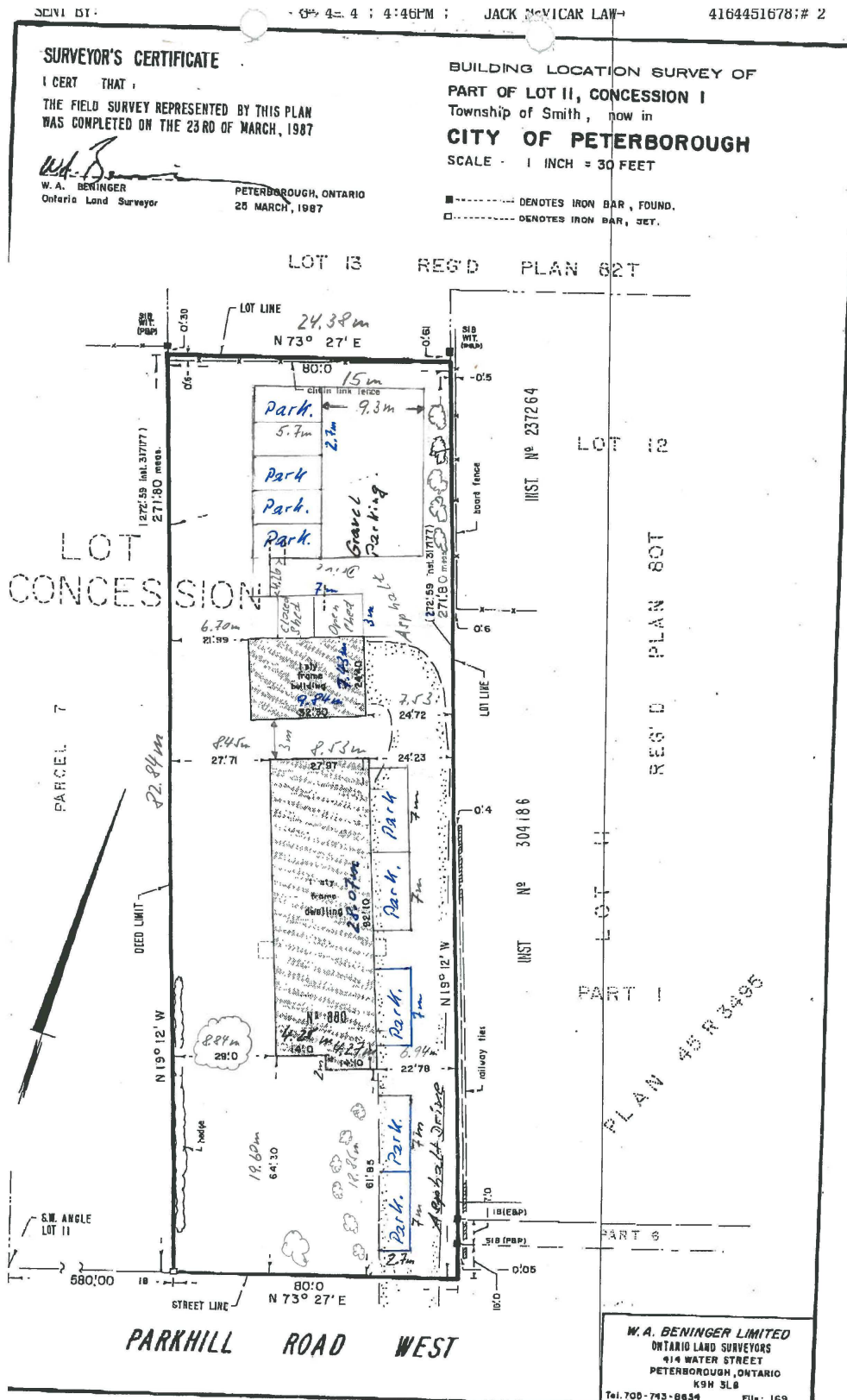


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Exhibit C – Draft Zoning By-law – Page 1 of 2



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The Corporation of the City of Peterborough

By-Law Number 17-

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3. That Section 3.9 – Exceptions, be amended to add the following:

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| Minimum Landscaped Open Space Strip | 0.6 m along one side lot line |
| Minimum Parking | 1.6 spaces/unit |

”

4. That Map 10 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 the R.1, 1e, 2j, 4d – Residential District to the R.2-314 ‘H’ – Residential District.
5. That the ‘H’ Holding Symbol be removed at such time as the owner conveys a 5.18m road widening along the entire Parkhill Road West frontage of the property and payment of cash in lieu of parkland is received for the creation of a new dwelling unit.

**EXHIBIT B to Report PLPD017-040A – Report PLPD17-040 –
Page 9 of 10**

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

Daryl Bennett, Mayor

John Kennedy, City Clerk

EXHIBIT B to Report PLPD017-040A – Report PLPD17-040 – Page 10 of 10

Exhibit C – Draft Zoning By-law – Page 2 of 2

