



City of
Peterborough

TO: Members of the Planning Committee

FROM: Ken Hetherington, Manager, Planning Division

MEETING DATE: February 16, 2010

SUBJECT: Report PLPD10-010
264 Stewart Street

PURPOSE

A report to evaluate the planning merits of amending the Zoning By-Law for the property known as 264 Stewart Street to permit office, clinic and/or residential uses.

RECOMMENDATIONS

That Council approve the recommendations outlined in Report PLPD10-010 dated February 16, 2010, of the Manager, Planning Division, as follows:

- a) That the zoning of the subject property, be amended from the R.1, R.2, R.3 - Residential District to the SP.241,11h -'H' – Special District Commercial in accordance with the draft amendment attached as Exhibit 'C' to Report PLPD10-010.
- b) That the 'H' Holding Symbol be removed once the following has been addressed:
 - i) Site Plan Approval is granted for the subject property, including:
 - aa) an agreement with the City of Peterborough to provide cash-in-lieu of parking under Section 40 of the Planning Act, R.S.O., c.P.13 ; and
 - bb) provisions for the encroachment of the existing porch within the road allowance for Stewart Street.

- ii) That the applicant obtain verification from the Building Division, that the Change of Use of the building and any related construction undertaken, complies with the requirements of the Building Code Act, R.S.O. 1990 and the Ontario Building Code.

BUDGET AND FINANCIAL IMPLICATIONS

The City of Peterborough has the authority to exempt the owner from the parking requirements of the Zoning By-Law, by accepting cash-in-lieu of parking. The applicants have agreed to enter into such an agreement, and based on the use of the building on the subject property for office, it is anticipated that the cash-in-lieu value will approximate \$5,200.00. It is further required by the Planning Act, that this money be paid into a special account. The number of spaces required and the amount of money collected is based on the use of the property, subject to the provisions of the City's Zoning By-Law.

BACKGROUND

The subject application was received on October 16, 2009 proposing an amendment to the Zoning By-Law to permit the use of the property for office/clinic and/or residential use within the existing building, subject to payment of cash-in-lieu of parking.

The property has been owned and managed by Alternatives Community Program Services since 2008, and has been used for limited program use, associated with their main facility located at 267 Stewart Street, opposite the subject property. The agency is a local non-profit organization providing a range of educational and related programs and services to adults with learning limitations. An accessibility audit-review conducted in September, 2009 prompted the application to amend the zoning from the current R.1, R.2, R.3 – Residential District to the SP.241 – Special District to permit the ongoing office use of the building. The property had been used as a dwelling since its construction in approximately 1912 until the conversion to office space in 2008. The proposed amendment would provide opportunity for office, clinic and/or residential use.

The application requests consideration of the zoning amendment for alternate uses with provisions for cash-in-lieu of parking for one parking space, based on the proposed use for program services for adults with learning limitations. The proposed use of the building is not anticipated to generate a parking demand. The immediate neighbourhood is served by on-street parking along Stewart Street and metered angled parking along Bethune Street, north of King Street. It is anticipated, however, that the on-site parking will facilitate staff parking. Parking demand is unlikely, acknowledging that participants in the program are expected to be dropped off and picked up.

ANALYSIS

a) Official Plan

The lands are currently designated “Commercial” on Schedule ‘A’ of the City of Peterborough Official Plan. The lands are included in the Central Area on the Commercial Areas Schedule ‘I’ and identified as a ‘Transitional Uses Area’ on the Central Area Land Use Plan – Schedule ‘J’.

The planned function of the Central Area is to serve the City and surrounding region with business and professional offices in addition to retail, entertainment, culture and recreation facilities, tourism and hospitality, some service commercial uses and government, institutions, residential and community uses.

The Central Area is further subdivided into sub areas with varied ranges of residential densities and alternate uses with special policy approaches for each area. The property at 264 Stewart Street is subject to the Transitional Uses Policies included in Sub-Area 5 (Section 4.3.2.2.6) of the Official Plan. These lands are intended to provide a transition between the Commercial Core and Waterfront Area and the residential areas outside of the Central Area. The diversity of uses contemplated include special care homes, medium and high density residential uses, institutional uses, small scale office uses, convenience retail and service commercial uses. The proposed use of the property for business and professional office is the type of use contemplated under relaxed zoning regulations, compatible with low density residential uses.

The neighbourhood is characterized by a combination of commercial, public service uses and residential dwellings. The location of the property within proximity to the core, provides an opportunity to integrate alternate uses through zoning amendment.

b) Zoning By-law

The subject property is currently zoned R.1, R.2, R.3 – Residential District, permitting residential dwelling units. The use of the property as an office and/or clinic is not permitted under the existing zoning of the site.

The applicant has requested a zoning by-law amendment to rezone the property to the SP.241 zone, to permit office, clinic and/or residential use of the property. The applicant proposes to retain the existing parking space on the driveway along the southerly property line and proposes to make alterations to the front porch and entrance to accommodate barrier-free access. The existing porch encroaches into the Stewart Street road allowance. Planning Staff recommend that this encroachment be recognized formally through the Site Plan Approval process, as a condition of the removal of the proposed ‘H’ Holding Symbol.

The SP.241 Commercial District was developed specifically for the Transitional Uses Areas of the Central Area, to permit office and clinic uses within existing residential

buildings. The SP.241 zoning has been assigned to several properties within the planning area, designated as Transitional Uses Area on the Central Area Land Use Plan (Schedule J of the Official Plan). An excerpt from the Comprehensive Zoning By-Law, as it relates to the proposed SP.241 – Commercial District is attached as Exhibit 'D' to this Report.

It is appropriate to assign the SP.241 Special District Commercial to the subject property. The proposed SP.241 Commercial District would permit the office use and clinic and/or dwelling unit(s), in accordance with the regulations as included in Exhibit 'C' to this report. In addition, Staff recommend the inclusion of an alternative regulation (11h), imposing a cap on the height of the building to a maximum of two storeys, to ensure compatibility with the surrounding neighbourhood. Staff further recommend that an 'H' Holding Symbol be affixed to the zoning and the removal of the 'H' Holding Symbol be conditional upon Site Plan Approval being granted for the subject property, to ensure appropriate landscaping and buffering; to recognize the encroachment of the porch into the right of way; and to include a provision for cash-in-lieu of parking, based on the use of the property, in accordance with zoning.

The use of the property, as proposed by the applicant, requires a total of 2 parking spaces, based on the net floor area provided. The site currently supports a driveway along the southerly property line, sufficient to park two cars in tandem. The Zoning By-Law recognizes one parking space in the driveway. As such, cash-in-lieu is recommended for the second space. The applicant has expressed support for a disabled parking space in front of the property on the east side of Stewart Street. The Utility Services Department has indicated concern with the introduction of a designated parking space along Stewart Street, due primarily to the fact that parking is currently prohibited on the east side of Stewart Street in this location. .

The Council for Persons with Disabilities has requested the siting of one accessible space in the rear yard with access to a barrier-free entrance. Access to the rear yard is not possible from Stewart Street, due to the location of the existing concrete sidewalk and deck at the rear of the building. A former Right-of-Way adjacent to the rear property line has effectively been removed through transfer of lands to abutting landowners. As such, there is no feasible access to the rear yard. In addition, the applicant intends to utilize the rear yard as amenity space. The existing building is too close to the southerly lot line to facilitate a disabled parking space with a pedestrian aisle adjacent to comply with the minimum standards of the Zoning By-Law on site. The applicant owns the property at 267 Stewart Street, opposite the subject lands. An accessible space is available at that location, which could be utilized to support both properties. The applicant proposes to provide a barrier-free entrance to the front of the building on the subject lands at 264 Stewart Street.

The proposed zoning amendment contemplates an agreement for the provision of public parking off-site. Subject to the provisions of Section 40 of the Planning Act, R.S.O. 1990, c.P.13, the City of Peterborough has the authority to exempt the owner from the parking requirements of the Zoning By-Law, by accepting cash-in-lieu of parking. The agreement will be registered on title and require the owner to pay in accordance with any future changes in the use of the property. Based on an office use

of the property, a payment in lieu of 1 parking space will be required. Should the property be used for either a clinic or residential dwelling unit(s), additional parking spaces will be required in accordance with the provisions of the Zoning By-Law.

c) Site Development

The applicant has provided a Site Plan for the property, illustrating the existing building, existing driveway; verandah; board fence and amenity space.

Site Plan Approval will be required to formalize the parking space and pedestrian walkways; landscape and buffering, as well as formalize the existing encroachment into the right of way.

RESPONSE TO NOTICE

a) Significant Agency Responses:

Agency circulation was issued on December 8, 2009.

The City's Utility Services Department has no objection to the proposed amendment, however, requests that the required parking be provided on-site or by way of cash-in-lieu of parking as per the Official Plan provision for this area. Utility Services Department requests cash-in-lieu of parkland where applicable. The reuse of the existing building in this instance, does not entitle the City to collect cash-in-lieu of parkland, under the provisions of the Planning Act, R.S.O. 1990, c.P.13.

The City's Building Division notes that the conversion to an office in 2008 was not subject of a building permit. Staff recommend that the applicant obtain verification from the Building Division, that the Change of Use of the building and any related construction undertaken, complies with the requirements of the Building Code Act, R.S.O. 1990 and the Ontario Building Code. It is further recommended that this be included as a condition of the removal of the 'H' Holding Symbol.

Otonabee Conservation (ORCA) has indicated that it has no objection to the application relevant to their mandate.

The Public School Board (KPRDSB) has indicated that they have no objection to the proposed amendment.

The Site Plan Review Committee of the Council for Persons with Disabilities recommend one accessible parking space be located at the rear of the building, with an accessible, barrier-free entrance. Proper signage installed at the front to indicate the location of the accessible parking is also recommended. Access to the rear yard of the subject property is challenging due to the location of existing structures on site. The rear yard laneway is not accessible from a public street and the majority of the former laneway has been transferred to adjacent landowners. The applicants propose to make

necessary changes to ensure barrier free access to the front of the building. Any exterior provision will be addressed at the Site Plan Approval stage.

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 was issued by newspaper advertisement (Peterborough Examiner) on December 8, 2009 and by direct mail on December 10, 2009. Notice of Public Meeting was issued on January 19, 2010 by direct mail and by newspaper advertisement (Peterborough Examiner). The notice complies with the requirements of the Planning Act.

No public written responses were received as a result of the circulation.

Submitted by,

Ken Hetherington,
Manager, Planning Division

Prepared by,

Concurred with,

Caroline Kimble,
Land Use Planner

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Attachments:

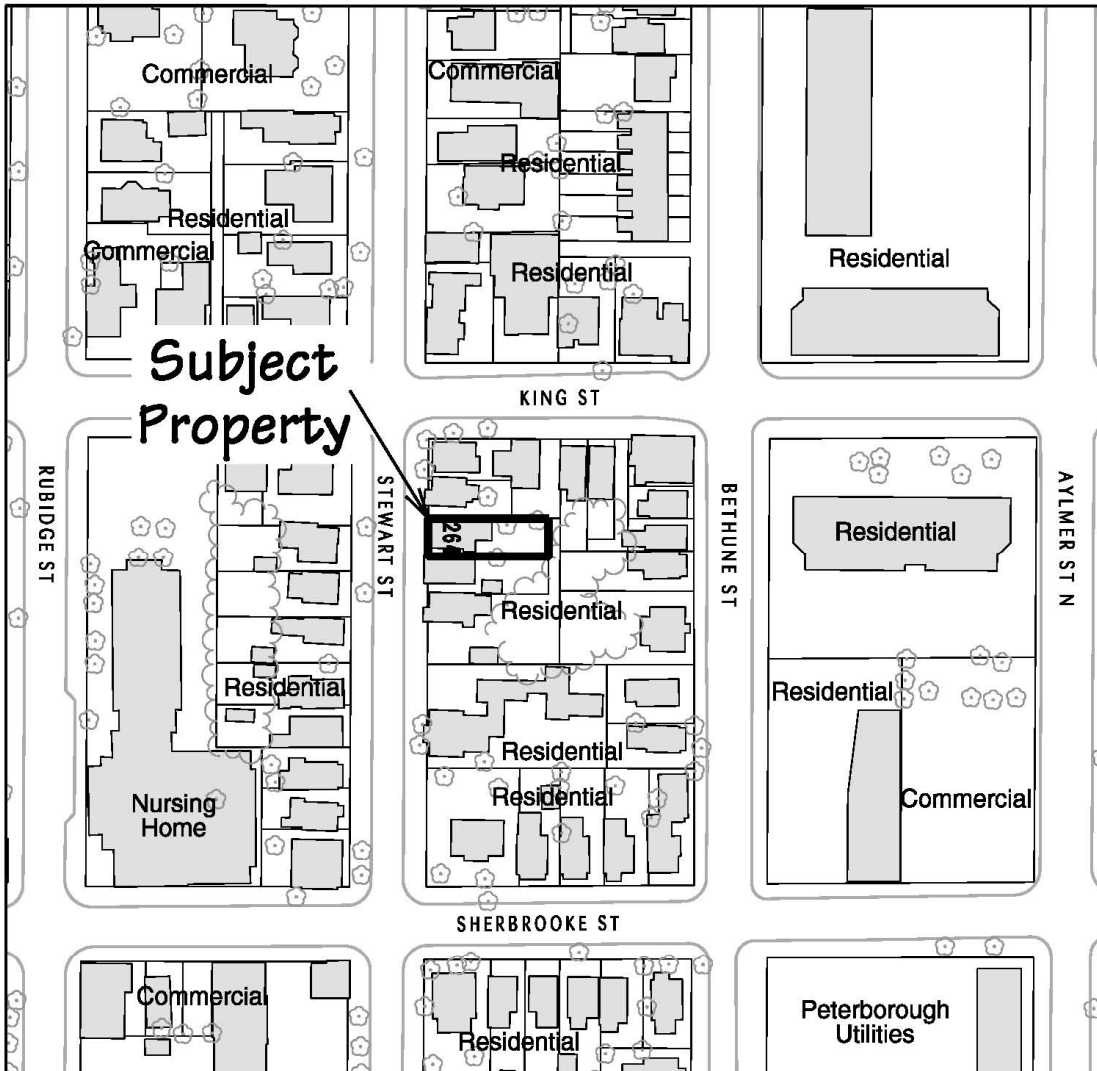
Exhibit A - Land Use Map
Exhibit B - Concept Plan
Exhibit C - Draft Zoning By-law
Exhibit D – SP.241 Zoning District - Excerpt from City of Peterborough Zoning By-Law

Land Use Map

File # z0914

Property Location: 264 Stewart St

Exhibit A
Page 1 of 1



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 hardcopy mapfile, and will not be liable for any claims for damages or loss arising from their application or interpretation, by any party. It is not intended to replace a survey or to be used for legal description.



Date - December 2009
Dwg. by - CBerry
Scale - 1:1500

Exhibit B
Page 1 of 1

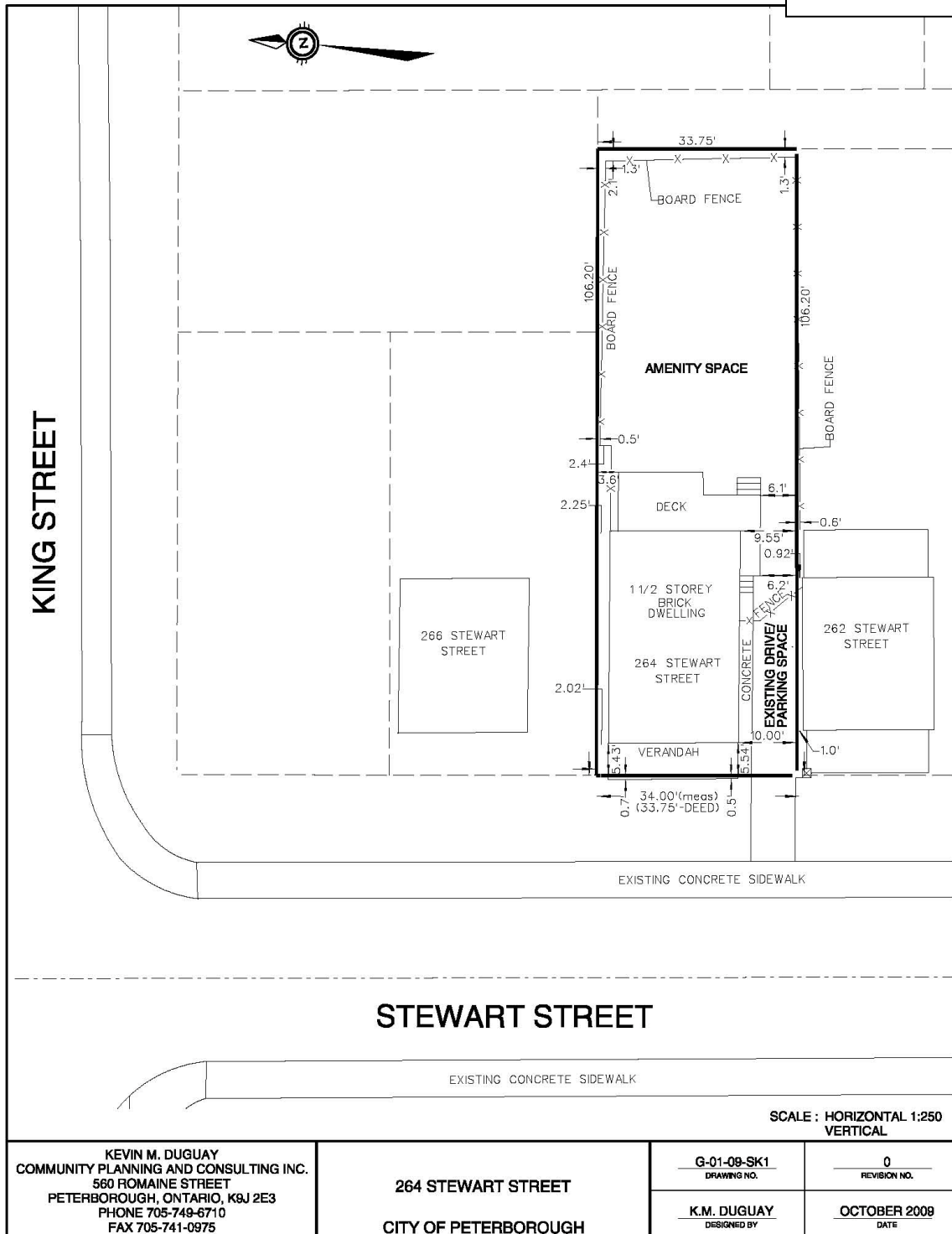


Exhibit C
Page 1 of 2

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 10-_____

BEING A BY-LAW TO AMEND THE ZONING BY-LAW FOR
264 STEWART STREET

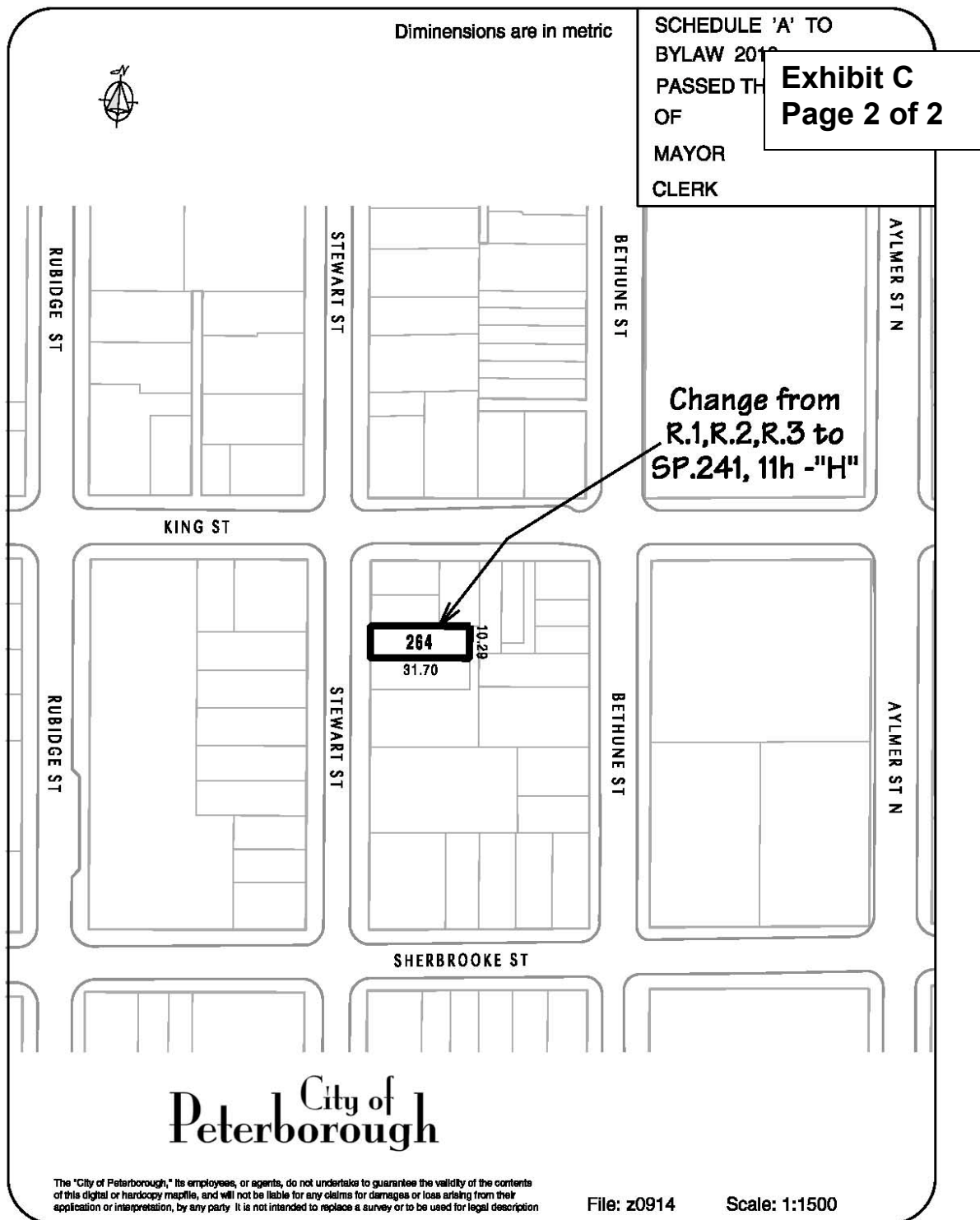
THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL
THEREOF HEREBY ENACTS AS FOLLOWS:

1. **Map 12c** 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 R.1, R.2, R.3 to SP.241, 11h - 'H'**.
2. The 'H' – Holding Symbol will be removed from the Zoning By-law upon the completion of the following:
 - i) Site Plan Approval is granted for the subject property, including:
 - aa) an agreement with the City of Peterborough to provide cash-in-lieu of parking under Section 40 of the Planning Act, R.S.O., c.P.13 ; and
 - bb) provisions for the encroachment of the existing porch within the road allowance for Stewart Street.
 - ii) That the applicant obtain verification from the Building Division, that the Change of Use of the building and any related construction undertaken, complies with the requirements of the Building Code Act, R.S.O. 1990 and the Ontario Building Code.

By-law read a first, second and third time this _____ day of _____, 2010.

D. Paul Ayotte, Mayor

Nancy Wright-Laking, City Clerk



SECTION 271**Exhibit D
Page 1 of 1****SPECIAL DISTRICT 241 (SP.241)**

271.1 For the purpose of this by-law, land use district "Special District 241" is hereby established and may be referred to as the symbol "SP.241".

PERMITTED USES

271.2 No person shall within an SP.241 district use any land or erect, alter or use any building or part thereof for any purpose other than:

- (a) an office in existing buildings, excluding a veterinary office
- (b) a clinic in existing buildings
- (c) a dwelling unit in existing buildings

REGULATIONS

271.3 No person shall within an SP.241 district use any land or erect, alter or use any building or part thereof except in accordance with the following regulations:

| Type | Requirement |
|--|---|
| a) notwithstanding the provisions of Section 4, for purposes of this district, no additional motor vehicle parking shall be permitted between the building face and the front lot line | |
| b) notwithstanding the provisions of Section 4.3, for purposes of this district, a motor vehicle parking space shall be at least 2.5 metres by 5.5 metres and shall be accessed by a driveway with an aisle width not less than 5.5 metres | |
| c) for purposes of this district, a minimum of 15% of the total lot area shall be comprised of landscaped open space area | |
| d) notwithstanding the provisions of Section 271.2, additions may be permitted to existing buildings provided that: <ul style="list-style-type: none"> i) total building coverage including expansions does not exceed 35% of the total lot area ii) the minimum building setback - side lot line iii) the minimum building setback - rear lot line | <p>shall be the lesser of the existing setback or 1.5 metres</p> <p>shall be the lesser of the existing setback or 9 metres</p> |
| 271.4 | SP.241 District is hereby designated as a commercial district |