



City of
Peterborough

TO: Members of the Planning Committee

FROM: Ken Hetherington, Manager, Planning Division

MEETING DATE: June 13, 2011

**SUBJECT: Report PLPD11-043
224 Hunter Street West**

PURPOSE

A report to evaluate the planning merits of amending the Zoning By-Law from C.4 – Commercial District to a modified C.6 Commercial District in accordance with the Commercial Core Area and the Jackson Creek Flood Plain (Downtown) Special Policy Area policies of the Official Plan.

RECOMMENDATIONS

That Council approve the recommendations outlined in Report PLPD11-043 dated June 13, 2011, of the Manager, Planning Division, as follows:

- a) That Section 3.9 of the Comprehensive Zoning By-Law be amended to add Exception 265 to include the following:
 - i) prohibit the use of the property for residential purposes, nursing homes, hospitals, homes for the aged, day nurseries, police station, jail or fire hall below the regulatory flood plain and in the case of residential use, where safe access and safe parking can not be achieved.
 - ii) reduce the minimum building setback from 6m to 4.8m from the street line at Aylmer Street.
- b) That the zoning of the subject property, be amended from the C.4 – Commercial District to the C.6 – 265 – ‘F’ - Commercial District in accordance with the draft amendment attached as Exhibit ‘C’ to Report PLPD11-043.

BUDGET AND FINANCIAL IMPLICATIONS

There are no direct budget or financial implications arising from the approval of these recommendations.

OTHER PERTINENT INFORMATION

The owner will be required to file a Record of Site Condition with the Ministry of Environment to ensure compliance with the Ministry of Environment Remediation Criteria for the subject lands, based on its former uses as a 'service station'. The City can rely on the Record of Site Condition, and will require that it be submitted prior to issuance of building permit, as 'applicable law' under the Ontario Building Code Act. The Record of Site Condition certifies that an assessment of a property has been done and the property conforms to an appropriate standard for the intended property use. The applicant is satisfied that all necessary environmental site assessment work has been completed on the subject lands and is prepared to submit a Record of Site Condition to the Ministry of Environment for review at time of the final purchase of the property, and prior to the redevelopment of the property.

BACKGROUND

The subject application was originally received on November 1, 2010 proposing an amendment to the zoning of the lands to permit the use of the property for uses consistent with the Commercial Core Area policies in the City's Official Plan. The applicant has the ability to appeal that application under the provisions of the Planning Act, by the applicant by March 1, 2011 for lack of decision. The original application proposed a three storey mixed use building with commercial uses on the ground floor and second storey, and up to three residential units above, together with associated parking. In response to concerns regarding the proposed residential use of the lands due to potential flooding, the application has been revised to the current proposal for a two storey commercial-only building, relocated to the southwest portion of the lands, together with associated parking and landscaping.

The applicant proposes to support clinic (dental clinic), office and/or retail use in a two storey building with a total floor area of approximately 480 m² (5167 sq. ft.) and related parking and landscaping. A café/patio use may also be contemplated to compliment the uses along Hunter Street West.

The property has been used to support an automotive service shop (Madill and Post) for over 60 years. The use has now ceased and the building is currently vacant. The property is located within the Commercial Core Area of the City's Central Area. The proposed redevelopment of the subject lands will have significant impact on the character of the Hunter Street West area. The Official Plan policies require that the location and design of the proposed building ensure continuity of facades and heights in the immediate vicinity. Planning Staff are working with the applicant from an urban design perspective, to ensure compatibility and reinforce the area's relationship to the street and to Jackson Creek.

The City of Peterborough has initiated a Municipal Class Environmental Assessment for the possible future construction of a Jackson Creek diversion channel to reduce flooding downstream. This could impact the flood levels of the subject lands in the future and facilitate a full range of uses for the lands. In the interim, however, the lands are subject to flooding and as such, flood proofing measures and restrictions related to residential land uses are required to ensure compliance with the City's Official Plan policies for the Jackson Creek floodplain and provincial requirements for development within the floodplain.

The applicant has provided a Flood Impact Study in support of the application for redevelopment, as prepared by DM Wills and Associates dated April, 2011. The study was prepared to determine the impact of the proposed redevelopment of the subject lands on the existing floodplain limits. The study concludes that the floodplain width has reduced; the relocation of the building further away from the creek has no negative impact on existing floodplain limits; and flood proofing measures will be required in accordance with the Special Policy Area provisions of the City of Peterborough Official Plan.

ANALYSIS

a) Official Plan

The property is designated 'Commercial' and located within the Commercial Core Area, forming part of the City's Central Area. The Commercial Core Area is intended to be the focus for the major concentration of retail, office, entertainment and service commercial uses along major streets in the area. The subject property is located at the westerly limit of the Commercial Core Area along the north side of Hunter Street West. The policies direct new development and redevelopment to reinforce the character of the Commercial Core for a pedestrian shopping area in a 'main street' setting.

The Official Plan promotes the continuous shopping function on the first storey by encouraging those uses that generate pedestrian activity (particularly retail commercial) to locate at grade level. Office and residential uses are directed by the policy to locate in upper storeys.

Although the applicant supports the idea of residential uses in the upper storeys, the ability to provide safe access in a flood event is currently not possible due to the flood plain levels of Jackson Creek, abutting the property. The City's Official Plan also contains provisions related to development within the Jackson Creek Floodplain. By way of a Special Policy Area, the Official Plan has designated lands within the floodplain of Jackson Creek on Schedule 'C(b)' – Jackson Creek Flood Plain (Downtown) Special Policy Area. The purpose of the Special Policy Area is to facilitate some development and site alteration within the floodway of Jackson Creek in a controlled manner and for specific purposes. Jackson Creek runs through the City's core downtown area and there are lands along the creek that area susceptible to flooding under a Regulatory Flood. These lands area part of the historic centre of the city and the special policies are intended to promote the continued economic and social viability of the area. The subject lands are located within the floodplain area on Schedule C(b).

Section 3.4.5.3.5 of the City's Official Plan prohibits specific uses from locating within the floodplain as follows:

“Nursing homes, hospitals, homes for the aged, senior citizen apartments, group homes for the physically or mentally challenged, day care centres, or other similar uses for which flooding could pose a significant danger to the inhabitants shall not be permitted below the Regulatory Flood level.”

In addition, Section 3.4.5.3.6 identifies the following uses:

“Land uses associated with services such as those provided by fire, police and ambulance stations and electrical substations which would be impaired during a flood emergency as a result of flooding, or failure of flood proofing measures, shall not be permitted below the Regulatory Flood level.”

Section 3.4.5.6 permits residential development and redevelopment provided that structures are flood proofed and:

a) the habitable floor space elevation of any residential dwelling unit is located above the Regulatory Flood level;

b) safe access and safe parking can be achieved;

- c) mechanical, electrical, heating and air conditioning equipment are located above the Regulatory Flood level.”

The implementation of the above policies can be achieved through both zoning and site plan approval. The proposed modified C.6 – Commercial District includes a wide range of commercial uses and prohibits the residential and public service uses noted within the Special Policy Area. The proposed modified C.6 – Commercial District applies to a significant portion of the Commercial Core and along major commercial arteries, including Hunter Street West. It is appropriate to apply the same zoning, including necessary modifications, to the subject lands to further the intent of the Official Plan.

b) Zoning By-law

The subject property is currently zoned C.4 – Commercial District, limiting the permitted uses to service commercial type uses, including a public garage, reflecting the former use of the property for a radiator and air conditioning service shop for motor vehicles (Madill and Post).

The application proposes to rezone the property to implement the Commercial Core Area policies of the Official Plan. The proposed modified C.6 – Commercial District would permit a wide range of commercial uses for the property, including the following:

- (a) a retail establishment including a department store, convenience retail store, drug store or bakeshop but not including a purpose set forth in Section 16.1 (a) and 16.1 (l)
- (b) a rental establishment
- (c) a repair shop but not including a purpose set forth in Section 16.1 (n) and 16.1 (o)
- (d) a bank, financial institution or loan company
- (e) an office excluding a veterinary office
- (f) a clinic
- (g) a barber shop or beauty shop
- (h) a dry cleaning establishment - Class 2
- (i) a studio or craft workshop
- (j) a trade school
- (k) an art school, music school, dance school or fine arts school
- (l) a school
- (m) a library, museum or art gallery
- (n) a restaurant
- (o) a place of entertainment
- (p) a place of assembly
- (q) a gymnasium or health club
- (r) a club house or lodge hall
- (s) a church
- (t) a hotel

- (u) a taxi stand
- (v) a post office or sub-post office
- (w) a dressmaker or tailor shop
- (x) a parking lot or parking garage
- (y) a funeral parlour
- (z) a printing shop or publishing house
- (af) a transportation terminal
- (ag) a communication terminal
- (ai) a place of amusement

The proposed modified C.6 zoning district furthers the commercial policies of the Commercial Core Area of the Official Plan. The regulations associated with the C.6 – Commercial District permit multi storey buildings. Due to the importance of urban design in furthering the policies of the Official Plan for this area, Planning Staff recommend inclusion of a *minimum* height of 2 storeys for any new building on the site, and relaxation of the setback from Aylmer Street to permit the building to situate closer to the street line for both Aylmer Street and Hunter Street. The site also has potential to include a restaurant/café use given the character developed along Hunter Street West as a café district within the downtown.

The City's Comprehensive Zoning By-Law recognizes the unique needs of the City's downtown core area with regard to parking and provides specific requirements in the form of relaxed standards for the number of parking spaces required to be provided on site and the dimensions of the individual spaces and width of aisles between parking stalls. The City's Comprehensive Zoning By-Law provides for a reduction of the minimum parking stall dimensions from 2.7m by 5.7m to 2.5m by 5.5m, together with a reduction in the minimum aisle width from 6.4m to 6.0m for properties where less than 20 parking spaces are being provided. In the case of the subject property, based on the 'floor area' calculations, it is expected that 15 parking spaces will be required to comply with the minimum parking standards for office/retail use within Area 1 as required by the City's Zoning By-Law as illustrated on the proposed site plan.

c) Site Development

The development of the property should be in keeping with a Main Street streetscape profile. Ideally, this section of Hunter Street in the downtown core should have buildings constructed up to the street line, at least three storeys in height with minimal (if any) gaps between them. The applicant will be required to submit a site plan approval application and enter into a Site Plan Agreement with the City.

The impact of the proposed development will be positive, especially if, through the site plan process, staff are able to work with the applicant to ensure proper landscaping treatment and support the proposed relationship of the building to the Hunter Street frontage.

RESPONSE TO NOTICE

a) Significant Agency Responses:

Agency circulation was originally issued on January 4, 2011 and recirculated with revised site plan and floodline impact study on April 19, 2011.

The City's Utility Services Department has requested a road widening in the form of a 7.62m daylighting radius at the southwest corner of the site (at Aylmer Street and Hunter Street) at the time of Site Plan approval. Initial comments regarding the location of the lands within the floodplain for Jackson Creek have been supplemented with comments regarding the Floodline Impact Brief prepared by DM Wills on behalf of the applicant. A re-assessment of off-site impacts on the floodplain hydraulics will be required for any filling of the site. Staff further note that the evaluation of Environmental Assessments for the possible future construction of a Jackson Creek diversion channel to reduce flooding downstream is underway, however, any works will not be in place in the immediate future.

Otonabee Conservation (ORCA) has reviewed the Flood Impact Study in support of the proposed rezoning and are in general agreement with the findings of the study. ORCA requests that the zoning of the property include the (F) suffix to indicate that the property is within the flood plain of Jackson Creek. ORCA further requests that residential use be prohibited since the flood depths exceed the permitted levels for residential development. In addition, the property owner must be aware that the development of the site will require a permit from ORCA, once the zoning amendment has been approved. Since the development requires fill placement in the flood plain, ORCA staff can not issue a permit and therefore requires approval by the ORCA executive.

Peterborough Utilities Services Inc. has noted that a backflow preventer and meter will be required for water service. Development Charges for water will apply and it is requested that the applicant contact PUSI to discuss future servicing requirements for water and electrical services.

The Council for Persons with Disabilities has recommended a barrier free path of travel from the accessible parking spaces to the main entrance and automatic power doors at the proposed main entrance to the building.

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 January 6, 2011. Notice of Public Meeting was issued on May 16, 2011 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

Malcolm Hunt, Director
Planning and Development Services

Contact Name:

Caroline Kimble
Planner, Land Use
Planning & Development Services
Phone: 705-742-7777 Ext. 1735
Fax: 705-742-5218
E-Mail: ckimble@peterborough.ca

Attachments:

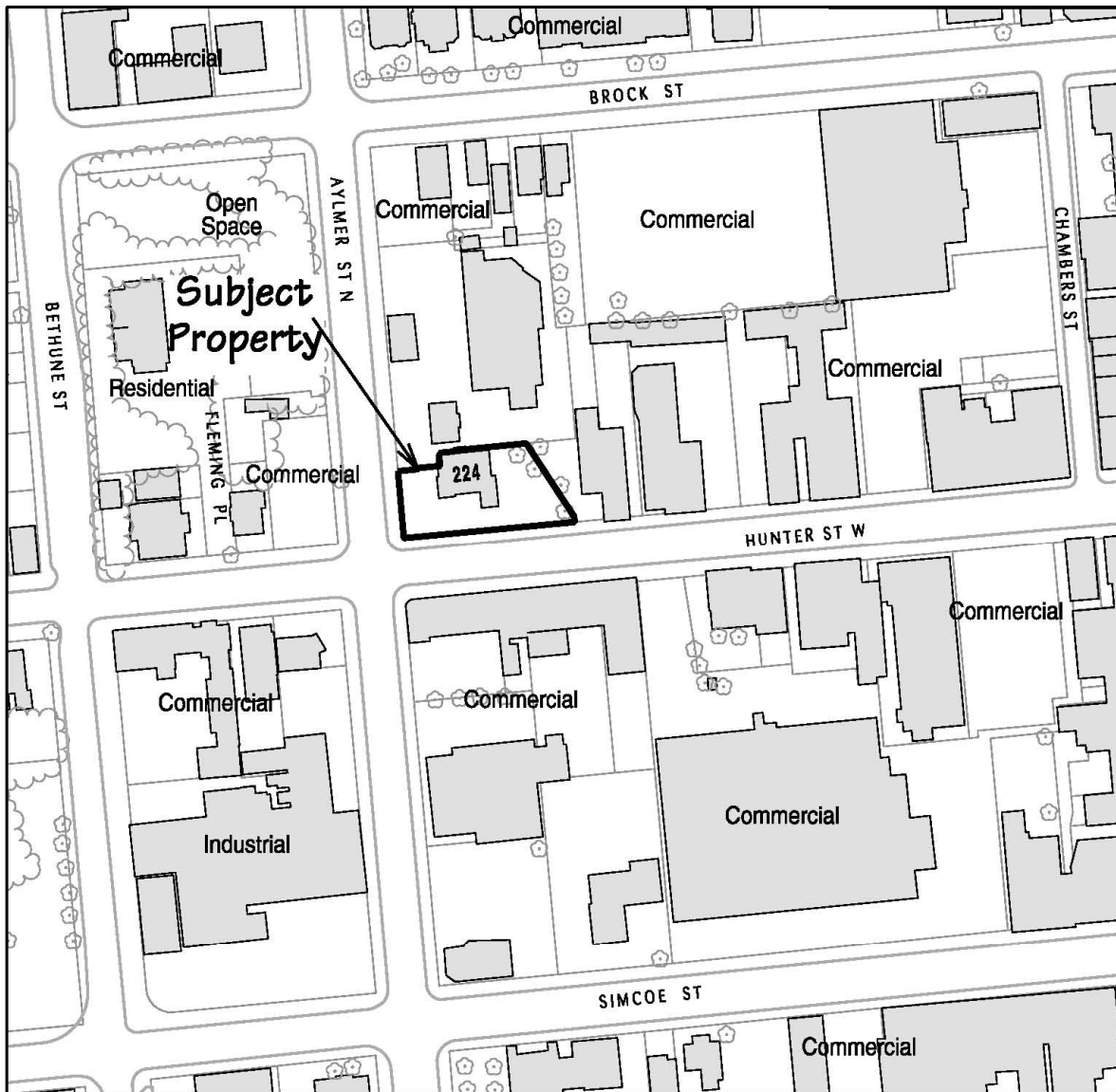
Exhibit A - Land Use Map
Exhibit B - Concept Plan
Exhibit C –Draft Zoning By-law

Land Use Map

Exhibit A
Page 1 of 1

File # z1102

Property Location: 224 Hunter St W



The City of Peterborough Planning Division

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Date - November 2010
Dwg. by - CBerry
Scale - 1:1750

Exhibit B
Page 1 of 1

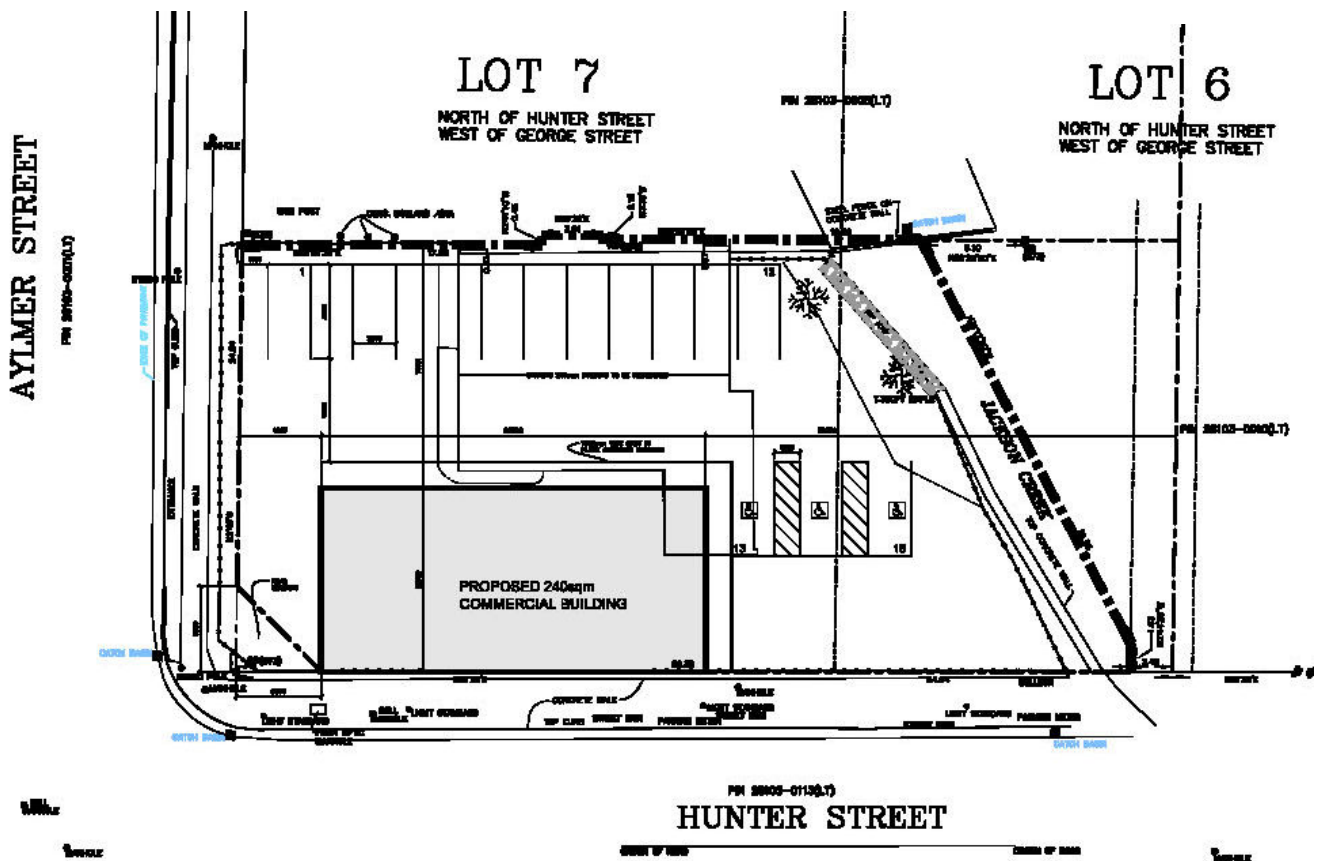


Exhibit C
Page 1 of 2

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 11- _____

**BEING A BY-LAW TO AMEND THE ZONING FOR
224 HUNTER STREET WEST**

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

1. Section 3.9 Exceptions of By-law 97-123 is hereby amended by adding the following:

“.265 Notwithstanding the permitted uses listed in Section 18.1, the following uses shall not be permitted:

- a) a nursing home
- b) a day nursery
- c) a boarding house
- d) a dwelling unit
- e) a home for the aged
- f) a police station, jail or fire hall

Notwithstanding the provisions of Section 6.8, no building or part thereof shall be erected, altered or used within the 14.8m of the centre line of Aylmer Street.

2. Map 12d 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 C.4 to C.6-265-'F'**.

By-law read a first, second and third time this _____ day of _____, 2011.

Daryl Bennett, Mayor

Nancy Wright-Laking, City Clerk

