



City of
Peterborough

TO: Members of the Planning Committee

FROM: Ken Hetherington, Manager, Planning Division

MEETING DATE: February 11, 2013

**SUBJECT: Report PLPD13-012
248 Hunter Street West (1-3 Fleming Place)**

PURPOSE

A report to evaluate the planning merits of amending the Zoning By-Law for the property known as 248 Hunter Street West (also known as 1-3 Fleming Place) from the R.5 – Residential District to the SP.244 – ‘F’ - Special Commercial District with an exception to permit small scale retail establishments of up to 250m² (2691 ft.²) of building floor area per commercial use and to eliminate a cap on the total amount of commercial floor space.

RECOMMENDATIONS

That Council approve the recommendations outlined in Report PLPD13-012 dated February 11, 2013, of the Manager, Planning Division, as follows:

- a) That Section 3.9 of the Comprehensive Zoning By-Law be amended to add Exception 276 to include the following:
 - i) prohibit the use of the property for day nursery and school.;
 - ii) increase the maximum size of a commercial use to 250m²; and
 - iii) eliminate the cap on total building floor area for commercial uses.

- b) That the zoning of the subject property, be amended from the R.5 – Residential District to the SP.244 - 276 – ‘F’ - Special Commercial District in accordance with the draft amendment attached as Exhibit ‘C’ to Report PLPD13-012.

BUDGET AND FINANCIAL IMPLICATIONS

There is no direct budget or financial implications arising from the approval of this application. The City is able to collect any applicable development charges for new development.

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 'Central Area: Transitional Uses Area' on Schedule J – Central Area Land Use. The Central Area Transitional Use policies of the Official Plan contemplate the majority of the uses to include medium and high density residential with a mix of small scale office and clinic uses. Lands situated at the edge of the commercial core such as the subject lands, are also anticipated some flexibility to support small scale specialty retail and hospitality uses. The impacts of the introduction of small scale retail, personal service, clinic and office uses can be addressed via an easement over adjacent lands to provide off street parking within the campus of properties between Aylmer Street and Bethune Street, north of Hunter Street West.

The proposed limitation on the zoning to exclude day nursery and school from the list of permitted uses, together with the inclusion of the 'F' suffix to indicate that the subject property contains floodplain, ensures consistency with the Official Plan policies for the Jackson Creek Special Policy Area.

The application proposes to retain the existing building and repurpose the existing building. The existing building has been long established within the block, and respects the scale and physical characteristics of existing development in the surrounding neighbourhood.

BACKGROUND

The subject application was originally received on September 18, 2012, modified on November 14, 2012, deemed to be complete as of November 19, 2012 and 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 March 19, 2013 if Council has not made a decision.

The subject property is approximately 0.06 ha. (.014 ac.) in size, located on the north east corner of Bethune Street and Hunter Street West. The land is part of a larger campus of land subject to a Site Plan Approval process currently underway with the City of Peterborough and subject to approvals for cross easements to accommodate parking and driveway areas for vehicular and pedestrian connections with adjacent lands. A common parking area is provided to the north of the subject lands and formalized through recent Committee of Adjustment approvals for easements as well as Site Plan Approval for the lands. The site plan treats the lands as a single parcel with regard to stormwater management, traffic circulation and landscaping. The existing site plan process can address any requirements for barrier free access resulting from the proposed land use change.

The lands are located within the Jackson Creek Special Policy Area, identified in the City's Official Plan. New residential development within this area is required to provide safe access and egress due to its potential for flooding from Jackson Creek.

ANALYSIS

a) Official Plan

The lands are currently designated "Commercial" on Schedule 'A' – Land Use, and subject to the 'Transitional Uses Area' policies of the Central Area in the City of Peterborough Official Plan. The proposed uses contemplated by the application are in keeping with the intended uses of the designation.

In addition, the lands are also situated within the floodplain of Jackson Creek and the Jackson Creek Special Policy Area. The policies allow flexibility to permit some uses within the Central Area, subject to certain provisions being met, however, require that sensitive land uses for which flooding could pose a significant danger to the inhabitants should not be permitted below the Regulatory Flood level. As such, ORCA has recommended that day nurseries and schools be excluded from the list of permitted uses proposed for the lands to ensure consistency with the policies.

The proposed amendment contemplates a mix of uses in the building including residential and small scale commercial uses in keeping with the Transitional Uses Area policies of the Central Area. The amount of floor space dedicated to commercial uses will be limited to the amount of parking available off-street. The recent Committee of Adjustment approval of long term easements over the adjacent lands provides parking on the adjacent land for the use of the tenants of the subject property. These provisions satisfy the Official Plan objective to ensure adequate parking and buffering are provided to minimize the impact on the surrounding area.

b) Zoning By-law

The subject property is currently zoned R.5 – Residential District, permitting up to a maximum of four dwelling units. The property has 29.87m (98 ft.) of frontage on Hunter Street West and is 22.44m (74 ft.) deep. The SP.244 Zoning District has been applied to other properties within the Transitional Uses Area to facilitate the reuse or redevelopment of lands adjacent to the Core Commercial or Waterfront Commercial areas, providing for a mix of residential and small scale commercial uses including specialty retail, office, clinic, and hospitality uses.

The SP.244 Zoning District is proposed to be modified to permit small scale commercial uses up to 250m² and to eliminate the cap of the total amount of commercial space, otherwise regulated by parking on site. In addition, the recommendation includes a limitation on the uses to prevent the use of the lands for a day nursery or school, in keeping with the direction of the Jackson Creek Special Policy Area of the Official Plan.

Planning Staff recommend the use of the 'F' Suffix on the zoning of the property to indicate that the lands contain floodplain. The following uses are proposed to be permitted by the modified SP.244 Zoning District:

- a) Dwelling unit
- b) An office, excluding a veterinary office
- c) A clinic
- d) A studio or craft workshop
- e) A trade or vocational school
- f) An art school, music school, dance school or fine arts school
- g) A library, museum or art gallery
- h) A gymnasium or health club
- i) A post office or sub-post office
- j) A dressmaker or tailor shop
- k) A beauty salon or barber shop
- l) A retail establishment for the sale, rental or repair of:
 - a. Antiques
 - b. Jewellery
 - c. Photographic studio
 - d. Handicrafts
 - e. Books, magazines and stationery
 - f. Art supplies
 - g. Flowers
 - h. Musical instruments
 - i. Bake goods

A Site Plan Agreement currently in process will ensure long term maintenance of the property, registered on title, and binding for future owners.

RESPONSE TO NOTICE

a) Significant Agency Responses:

Agency circulation was issued on November 30 ,2012.

The City's Utility Services Department provided comment regarding the rezoning application, requesting the use of a Holding Symbol (H) to address any changes to the site plan as a result of the change in landuse. Further to this comment, staff have agreed that as an alternative to the introduction of a Holding Symbol (H), the City's current site plan process will address barrier free access requirements for a potential land use change on the subject property.

Otonabee Conservation notes that the property is located within the flood plain of Jackson Creek, and situated within the Jackson Creek Special Policy Area. Subject to the provisions of the City's Official Plan, flexibility to permit uses within the floodplain supports the rezoning, subject to the exclusion of a day nursery and a school from the list of permitted uses. In addition, ORCA recommends the use of the 'F' suffix on the zoning to identify the property as containing floodplain.

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 on December 1, 2012 and Notice of Public Meeting was issued by direct mail and by newspaper advertisement (Peterborough Examiner) on January 14, 2013. The notice complies with the requirements of the Planning Act.

No written comments have been received as of January 18, 2013.

Submitted by,

Ken Hetherington,
Manager, Planning Division

Prepared by,

Concurred with,

Caroline Kimble,
Land Use Planner

Malcolm Hunt, Director
Planning and Development Services

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Attachments:

Exhibit A - Land Use Map

Exhibit B – Site Plan

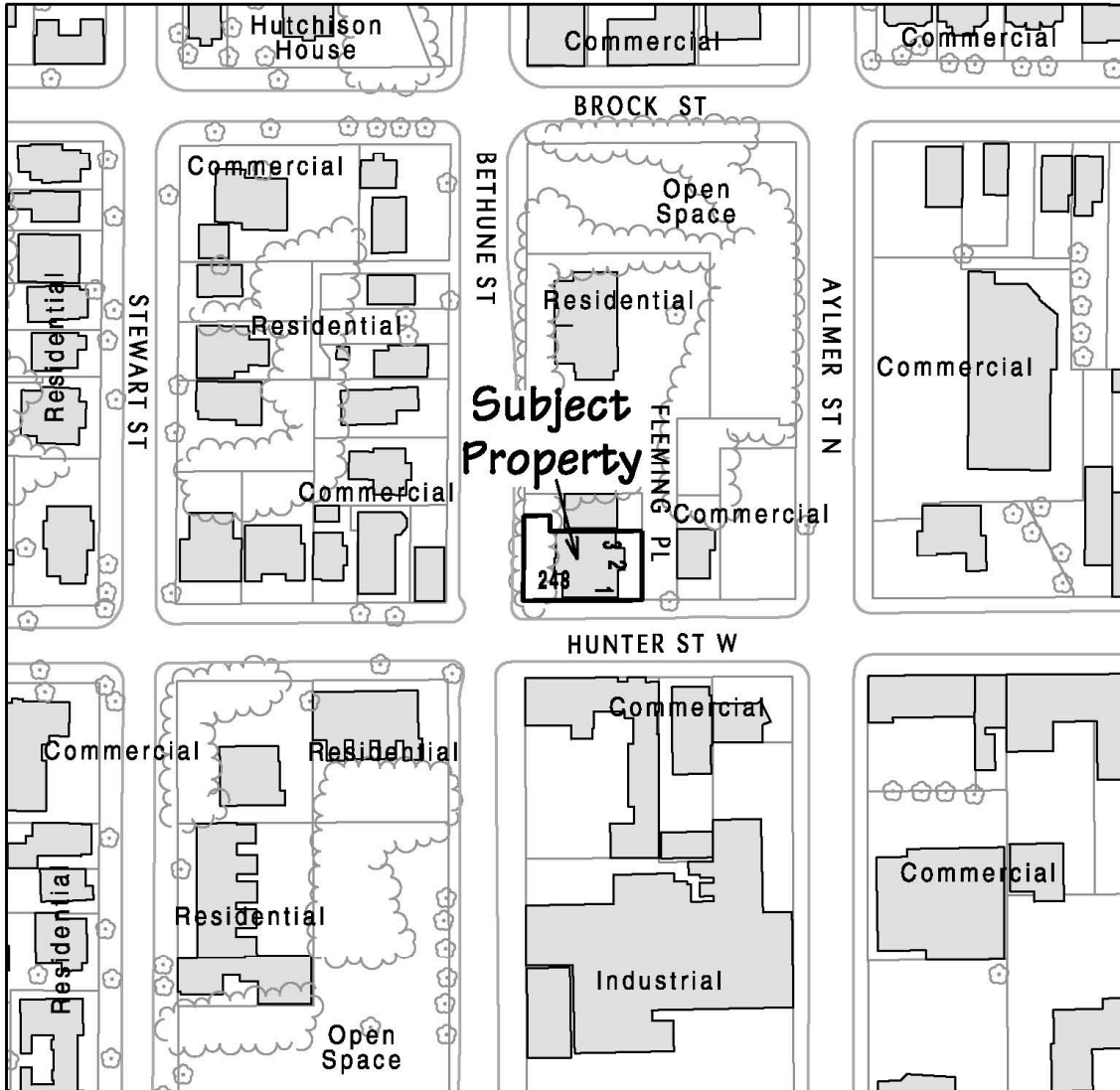
Exhibit C –Draft Zoning By-law

Exhibit 'A'
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Land Use Map

File # z1223

Property Location: 248 Hunter St W & 1- 3 Fleming Pl



The City of Peterborough Planning Division

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Date - November 2012

Dwg. by - CBerry

METRES

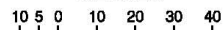
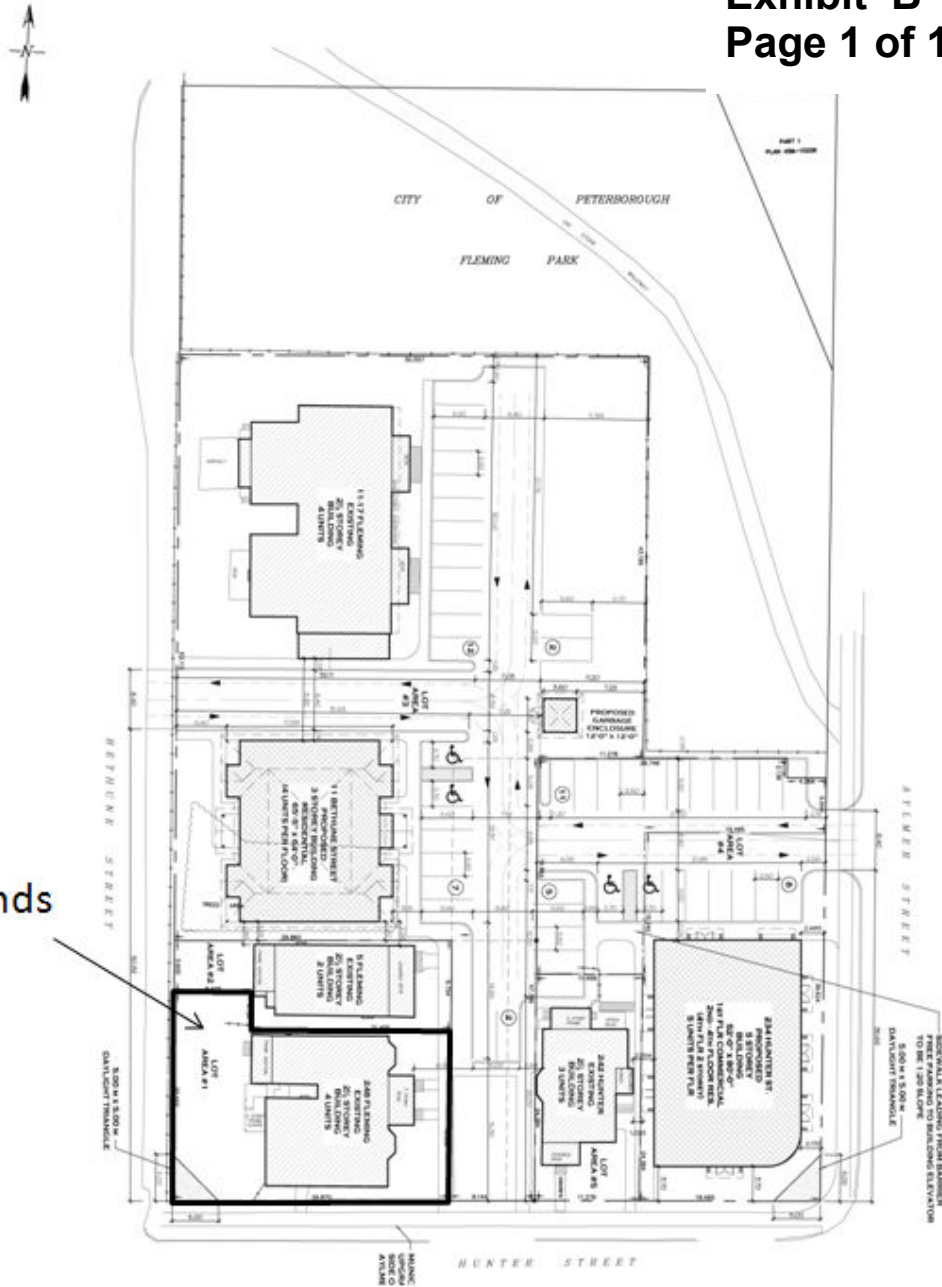


Exhibit 'B'
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Subject Lands



THE CORPORATION OF THE CITY OF PETERBOROUGH **Exhibit 'C'**
Page 1 of 2
BY-LAW NUMBER 13- _____

**BEING A BY-LAW TO AMEND THE ZONING FOR 248 HUNTER STREET
WEST and 1-3 FLEMING PLACE.**

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:

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

- a) a day nursery
- b) a school

Notwithstanding the provisions of Section 274.3 g), the maximum building floor area for each use listed in 274.2 (o) is 250m².

Section 274.3 h) does not apply.”

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 R.5 to SP.244 – 276 -'F'**.

By-law read a first, second and third time this _____ day of _____, 2013.

Daryl Bennett, Mayor

John Kennedy, City Clerk

Exhibit 'C'
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