



City of
Peterborough

To: **Members of the Planning Committee**

From: **Ken Hetherington, Manager, Planning Division**

Meeting Date: **September 15, 2014**

Subject: **Report PLPD14-047**
565 Stewart Street

Purpose

A report to evaluate the planning merits of amending the Zoning By-law for the property known as 565 Stewart Street to permit the property to be used for three dwelling units with site specific regulations.

Recommendations

That Council approve the recommendations outlined in Report PLPD14-047 dated September 15, 2014, of the Manager, Planning Division, as follows:

- a) That Section 3.9 – Exceptions, of the Comprehensive Zoning By-law #1997-123 be amended to add Exception 293 to prohibit the use of the property for a Boarding House; to reduce the minimum lot area per dwelling unit to 170 square metres; reduce the minimum setback from the intersection of two side lot lines to 4m; permitting up to 2 x 2 tandem parking spaces within 0m from the westerly lot line, in accordance with the draft amendment attached as Exhibit 'C' to Report PLPD14-047.
- b) That the zoning of the subject property be amended from the R.1 - Residential District to the R.3-293 - 'H' – Residential District, in accordance with the draft amendment attached as Exhibit 'C' to Report PLPD14-047.

- c) That the 'H' Holding Symbol be removed subject to the following:
- i) Conveyance of land for a daylighting triangle at the northwest corner of the intersection of Stewart Street and London Street;
 - ii) Encroachment Agreement with the City for the use and maintenance of the retaining wall within the Right of Way for Stewart Street and removal of the same at such time as the City requires the land;
 - iii) Survey to confirm location of retaining wall and parking encroachment; and
 - iv) Confirmation of adequate site servicing for the third unit.
 - v) Confirmation from Fire Services and from the Building Division of the City of Peterborough, that the units comply with the requirements of the Ontario Building Code and the Ontario Fire Code;
 - vi) Payment of cash-in-lieu of parkland for the third unit; and
 - vii) Payment of all applicable development charges for the third unit.

Budget and Financial Implications

There are no direct budget or financial implications arising from the approval of this application. The City will receive any applicable development charges and/or parks levy for an additional unit at the building permit stage.

Background

The subject application was received on April 16, 2014, deemed to be complete as of April 25, 2014 and was processed in accordance with department procedures. The applicant requested that consideration of the application be postponed to September 15, 2014 to allow time to revise the concept site plan to address comments received as a result of circulation of the application to agencies and departments.

The subject property is approximately 528 m² (5683 ft.²) in size, located on the northwest corner of the intersection of Stewart Street and London Street, north of McDonnell Street. The property supports a 1 ½ storey stone dwelling with a two storey garage and a breezeway connecting the dwelling to the garage. Parking is currently provided by way of two asphalt driveways accessed by Stewart Street and a third asphalt driveway accessed from London Street. The asphalt driveway in front of the garage supports parking spaces that encroach into the City's road allowance for Stewart Street. The existing stone retaining wall and steps located in front of the property is also situated within the Stewart Street road allowance and partially within the London Street road allowance. The applicants intend to remove the existing most northerly driveway along the northerly lot line and propose to utilize the existing garage at the Stewart Street frontage for one of the

required 5 parking spaces and the existing asphalt drive from London Street to provide an additional 4 parking spaces (2 x 2 in tandem).

The second unit on the property was registered with the City as an Accessory Apartment in 2008. The subject application proposes to allow the owner to create a third dwelling unit above the existing garage on the north end of the property.

The existing steps and retaining wall are in poor structural condition and lack a guard rail at the top of the walls. The City has expressed concerns in relation to safety and the ability to plan or install new infrastructure within the road allowances. The City has requested the applicants enter into an encroachment agreement with the City whereby the owners will undertake to reconstruct the walls and provide adequate planting and/or guard rail at the top, at the owner's expense.

Analysis

a) Official Plan

The lands are currently designated "Residential" on Schedule 'A' – Land Use of the City of Peterborough Official Plan. The density of the residential use for three units is within the range of a medium density residential development. The application is assessed with the intensification and infill housing evaluation criteria of Section 4.2.5.7 of the City of Peterborough Official Plan.

The proposal to permit the subject property to support up to a maximum of three dwelling units at 565 Stewart Street respects the objectives of the infill and intensification policies, as described by the City's Official Plan.

Based on the size of the subject property, the density of the triplex is approximately 56 units per hectare (23 units per acre). The Official Plan policies support infill housing, up to a maximum of 75 units per hectare (27 units per acre) through an amendment to the Zoning By-law, provided the development respects the scale and physical characteristics of existing development in the surrounding neighbourhood. The amendment proposes to reuse part of the existing building to add a third dwelling unit and the applicant proposes to provide a ratio of 1.66 parking spaces per unit.

The property is located on the periphery of the Central Area, one block north of the Transitional Uses Area as identified on Schedule 'J' – Central Area of the Official Plan. The property is situated in an area that is well connected to parks via the Rotary Trail and Trans Canada Trail. The parking areas have been established on the property for many years and are expected to function satisfactorily. The size and character of the existing dwelling is well established in the neighbourhood and is consistent with other dwellings on the street.

b) **Zoning By-law**

The subject property is currently zoned R.1 – Residential District, and the use of the lands as a two unit dwelling is permitted via the Accessory Apartment registration in 2008. The use of the property for three units, however, is not permitted under the existing zoning of the site and requires an amendment to the Zoning By-law.

The applicant has requested a zoning by-law amendment to rezone the property to permit the use of the property for three dwelling units.

The introduction of relaxed zoning regulations would facilitate the third unit and limit the use of the property to a maximum of 3 dwelling units. A new exception proposed for the Zoning By-law will provide alternative regulations to address the location of the existing building in relation to the property lines and facilitate a reduced lot area per dwelling unit requirement. These exceptions are included in the attached draft Zoning By-law Amendment.

The proposed amendment permits the use of the building for up to 3 dwelling units, subject to the following provisions:

Provision	R3 Regulation	Proposed
minimum lot area per dwelling unit	230m ²	170m ²
minimum setback from the intersection of two side lot lines	4.5m (Section 6.29)	4m
distance between the parking and driveway areas and the westerly lot line	1.5m	0m
Permitted uses	Dwelling unit; Boarding house	Dwelling Unit

Recognition of the third dwelling unit is supportable, based on the relevant policies of the City's Official Plan.

Planning Staff recommend the use of an 'H' Holding Symbol on the zoning of the property to ensure the following:

1. Conveyance of land for a daylighting triangle (5.0m by 5.0m) at the northwest corner of the intersection of Stewart Street and London Street;
2. Encroachment Agreement with the City for the use and maintenance of the retaining wall within the Right of Way for Stewart Street and removal of the same at such time as the City requires the land;
3. Survey to confirm location of retaining wall encroachment;
4. Confirmation of adequate site servicing for the third unit;

5. Confirmation from Fire Services and from the Building Division of the City of Peterborough, that the units comply with the requirements of the Ontario Building Code and the Ontario Fire Code;
6. Payment of cash-in-lieu of parkland for the third unit; and
7. Payment of all applicable development charges for the third unit.

c) Site Development

The applicant has provided a Concept Site Plan illustrating the parking and driveway areas to accommodate the proposed expanded parking in the side yard. The applicant will be required to enter into an agreement with the City of Peterborough to ensure the repair and maintenance of the existing retaining wall and steps encroaching into the road allowance for both London Street and Stewart Street.

The owner/applicant has requested a provision to permit four parking spaces on the double wide driveway (2 x 2 in tandem) connecting the subject lands to London Street and one parking space within the garage. The tandem parking serves the two units in the main building. Each Tandem parking arrangement is controlled by the tenant in each unit and functions no different than a single width driveway on a typical residential lot. The existing parking within the driveways at the Stewart Street frontage are deficient in depth to meet the minimum parking stall size required and collectively, exceed the maximum driveway width along a street line. As such, the owner cannot use these spaces to comply with the minimum on site parking requirements. The owner furthermore proposes to eliminate the most northerly driveway and agrees to eliminate the parking on the second driveway should the City require the use of the road allowance in the future.

Response to Notice

a) Significant Agency Responses:

Agency circulation was issued originally on May 9, 2014 and recirculated on May 14, 2014.

Peterborough Utilities Services Inc. has indicated that the owner is required to arrange for a water meter on the property and that the service size be reviewed to ensure adequacy. In addition, electric service connection will only be supplied once to the property and any electric heat for the new unit will have to be metered separately.

The City's Utility Services Department has requested an Encroachment Agreement to recognize the existing retaining walls and stairs within the City's right of ways, requiring that the owner be responsible for maintenance of the structures in perpetuity. The applicant is also required to confirm adequate site servicing into the lot from the street(s) for the proposed additional unit. Utility Services Staff indicate that due to the age of the servicing in the area, it may not be suitable for the proposed third unit.

Legal Services of the City has provided comment with regard to the proposed application and request the use of an 'H' Holding Symbol to require the applicant/owner to enter into an agreement with the City whereby the existing retaining walls within the Rights of Way for London and Stewart Streets are reconstructed and maintained at the expense of the applicant/owner of 565 Stewart Street.

Building Division Staff have identified to the applicant, matters that will be required to be addressed regarding the construction and Ontario Building Code requirements related to spatial separation requirements for the proposed third unit.

Staff of Utility Services, Building Division, Legal Services and Planning Division met with the agent on behalf of the applicant to discuss the above noted comments. As a result of these discussions, the applicant revised the proposed concept site plan to provide the minimum required parking while eliminating the parking encroachment on the Stewart Street Right of Way. One parking space will be provided within the existing garage and 4 tandem spaces at the west side of the property off of London Street, thereby meeting the minimum required parking ratio of 1.5 spaces per unit. The applicant further agreed to the required repair and maintenance of the retaining walls by way of an agreement between the owners and the City, to be registered on title. Furthermore, revised floor plans and building drawings have been provided by the applicant to illustrate potential for compliance with the Ontario Building Code and Fire Code with regard to spatial separation.

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 mail on May 9, 2014 and May 14, 2014 and by newspaper advertisement (Peterborough Examiner) on May 5, 2014. Notice of Public Meeting was issued by direct mail and by newspaper advertisement (Peterborough Examiner) on August 18, 2014. The notice complies with the requirements of the Planning Act.

No written comments have been received as of September 2, 2014.

Submitted by,

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Concurred with,

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Attachments:

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