



City of
Peterborough

To: Members of the General Committee

From: Cynthia Fletcher
Commissioner of Infrastructure and Planning Services

Meeting Date: November 9, 2020

Subject: Report IPSPL20-027
Zoning By-law Amendment No. Z2009 – 793 Crawford Drive

Purpose

A report to evaluate the planning merits of a Zoning By-law Amendment for the property at 793 Crawford Drive to recognize the use of the existing building as a triplex.

Recommendation

That Council approve the recommendation outlined in Report IPSPL20-027 dated November 9, 2020, of the Commissioner of Infrastructure and Planning Services, as follows:

That Zoning By-law Application Z2009 be denied.

Budget and Financial Implications

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

Background

The subject property is located on the south side of Crawford Drive, at the intersection of Erskine Avenue. The property is designated Residential on Schedule A of the Official Plan and is zoned R.1,4h,R.2,4h which would allow the property to be developed with either a single unit dwelling or a two-unit dwelling (e.g. duplex). The property is located wholly within the flood plain of Byersville Creek and the Otonabee River, and the westerly 6.096 metres of the property are subject to an easement in favour of the City to maintain a trunk storm sewer.

The property currently supports an elevated 2 storey dwelling. The dwelling was originally constructed as a duplex in 1974 and was converted into a triplex by adding a dwelling unit to the basement without a building permit some time since. In June 2014, the City received a complaint regarding the property's use as a triplex, contrary to the zoning. The property was purchased by the current owner in June 2018 with the Zoning By-law complaint still outstanding. Since that time, the current owner has received building permits to install fire sprinklers and water metres at the property, and to replace a basement window and the main floor and second floor balconies.

To address the outstanding zoning complaint and allow the triplex to continue as a permitted use, the applicant is proposing to re-zone the property from R.1,4h,R.2,4h to SP.295 – Residential District with a "F" symbol to acknowledge the property's location in flood plain. Additionally, the applicant is seeking By-law exceptions to:

- Reduce the required minimum building setback from the east side lot line from 1.2 metres to 1 metre to reflect the existing condition; and
- Increase the maximum lot coverage by open parking areas, driveways and vehicle movement areas from 30% to 50% to recognize the existing condition.

Analysis

Provincial Policy Statement, 2020

Any decision on the proposed Zoning By-law amendment must be consistent with the Provincial Policy Statement, 2020 (PPS) which came into effect on May 1, 2020. The PPS provides general direction to municipalities with respect to addressing matters of provincial interest in land use planning.

Section 3.1.2 of the PPS prohibits development and site alternation in, among other areas,

- “...c) areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard; and
- d) a floodway regardless of whether the area of inundation contains high points of land not subject to flooding.”

According to the PPS, development includes a change in land use requiring approval under the Planning Act, such as a Zoning By-law amendment, while a floodway, in Peterborough, is the entire contiguous flood plain.

Otonabee Region Conservation Authority (ORCA) has advised that based on the Lower Byersville Creek Floodplain Mapping (ORCA, September 12, 2014), the regulatory flood elevation at this property is 190.70 metres above sea level (masl). Furthermore, ORCA advised that the depth of flooding under a regulatory storm event on this portion of Crawford Drive ranges from 0.39 metres to 0.83 metres. At these depths, the property is deemed inaccessible for vehicle and pedestrian movement during a flood event. Furthermore, ORCA advised that the elevation of the property frontage appears to be 190.06 masl which would result in approximately 0.30 metres of flood water impacting the property and the basement dwelling unit.

Based on this information, ORCA has advised that the proposed Zoning By-law amendment is inconsistent with Section 3.1 of the PPS. Staff agrees with ORCA's position.

A Place to Grow, Office Consolidation 2020

Similar to the PPS, any decision on the proposed Zoning By-law amendment must conform with the policies of A Place to Grow: Growth Plan for the Greater Golden Horseshoe (the Growth Plan). The Growth Plan builds upon the policy foundation of the PPS by providing land use planning policies to address specific issues in the Greater Golden Horseshoe (GGH). The subject property is located within the Delineated Built-up Area as defined in the Growth Plan. Accordingly, the property is subject to both general policies in the plan and to policies that are specific to the Delineated Built-up Area.

Generally, the Growth Plan requires municipalities to focus growth within Delineated Built-up Areas and to support the achievement of communities that:

- feature a diverse mix of land uses and convenient access to local stores, services, transportation options and public service facilities;
- improve social equity and quality of life; and

- provides a diverse range and mix of housing options to accommodate people at all stages of life.

Specifically, Section 2c) of the Growth Plan requires the City to focus growth in:

- i. delineated built-up areas;
- ii. strategic growth areas;
- iii. locations with existing or planned transit, with a priority on higher order transit where it exists or is planned; and
- iv. areas with existing or planned public service facilities”.

The subject property is located within the delineated built-up area as defined by the Growth Plan, is directly served by transit (Route No. 8 – Monaghan), and is close employment, shopping and elementary school opportunities. Triplexes are common in the area and provide an important source of rental accommodation.

Notwithstanding that the property location and dwelling type meets many objectives of the Growth Plan, Section 2.2.1.2. e) of the Growth Plan requires that development be generally directed away from hazardous lands such as flooding risks. On this basis, it is staff’s opinion that the proposed Zoning By-law amendment does not conform to the policies of the Growth Plan.

Official Plan

The subject property is designated Residential on Schedule A – Land Use of the Official Plan.

Section 3.4.3 of the Official Plan notes that Flood plains are regarded as hazardous lands and that development and site alteration may only be permitted where it is demonstrated that development can be carried out to the satisfaction of ORCA and that development would not include schools, essential emergency services or uses that would involve storage or handling of hazardous substances. Furthermore, Section 3.4.4 prohibits development and site alteration within a floodway except within the Jackson Creek Flood Plain (Downtown) Special Policy Area.

The subject property is not located within Jackson Creek Flood Plain (Downtown) Special Policy Area. Based on the advice received from ORCA, it is staff’s opinion that development can not be carried out on this property to ORCA’s satisfaction and therefore the proposed Zoning By-law amendment does not conform to the Official Plan.

Zoning By-law

The applicant has requested that the subject property be re-zoned from R.1,4h, R.2,4h to SP.295 – Residential District with a “F” symbol to acknowledge the property’s location in flood plain. Additionally, the applicant is seeking By-law exceptions to reduce the required minimum building setback from the east side lot line to reflect the existing condition and to increase the maximum lot coverage by open parking areas, driveways and vehicle movement areas to recognize the existing condition.

Based on a review of the PPS, Growth Plan and Official Plan, staff does not support the proposed Zoning By-law amendment. In particular, the granting of a Zoning By-law amendment to legalize a third unit in the existing dwelling constitutes development as defined by the PPS and is contrary to the policies of the PPS, Growth Plan and Official Plan.

In some previous instances, the City has supported re-zoning properties affected by flood plain subject to the inclusion of a F symbol attached to the zoning district. As described in Section 3.2.1 of the Zoning By-law, the F symbol indicates that the property is subject to flooding, either in whole or in part and that no development may take place unless it is consistent with the Flood Plain policies of Section 3.4 of the Official Plan. As already noted, based on the advice received from ORCA, it is staff’s opinion that the subject property can not be developed in a way that maintains consistency with Section 3.4 of the Official Plan.

Between 2003 and 2013, Council approved the re-zoning of six nearby properties along Stocker Road that sought to either legalize duplexes that had been converted to triplexes or to permit the construction of a new triplex. Based on the flood plain mapping in effect at the time, those properties were either partially affected by flood plain or located near flood plain but could still be developed in accordance with ORCA standards and PPS policy. ORCA’s update of the Lower Byersville Creek Floodplain Mapping in 2014, indicates the extent of the flood plain has changed in this area (see Exhibit C) and, in particular, more detailed flood depth information is now available. Based on this newer information, it is now understood that the subject property cannot be provided with safe access during a regulatory flood event due to anticipated flood depths and therefore can not be developed in a manner that satisfies ORCA standards or PPS policy.

Moving Forward

As noted, there is an outstanding Zoning By-law compliance complaint against the property from June 2014. Should Council deny the Applicant’s Zoning By-law amendment request, the dwelling will need to be returned to its legally intended use as a duplex. This could occur by combining the dwelling unit in the basement with the unit on the main floor which may require a building permit. Additionally, follow-up inspections

would be required by By-law Enforcement staff to ensure the outstanding complaint has been satisfactorily addressed.

Responses to Notice

Summary of Agency Responses

Agency circulation was issued on April 29, 2020.

ORCA has advised that due to regulatory flood plain conditions, the proposed Zoning By-law amendment is not consistent with Section 3.1 of the PPS.

Summary of Public Responses

In accordance with Planning Act requirements, a Notice of Complete Application and Public Meeting for the proposed Zoning By-law Amendment was published in the Peterborough Examiner on October 13, 2020 and was mailed to property owners within 120m of the site on October 13, 2020.

As of the writing of this report, no written public comments have been received.

Summary

Staff recommend that the requested Zoning By-Law amendment be denied. Based on regulatory flood plain conditions, the proposed amendment is not consistent with Section 3.1 of the PPS, does not conform with Section 2.2.1.2. e) of the Growth Plan for the Greater Golden Horseshoe and does not conform with Section 3.4 of the Official Plan.

Submitted by,

Cynthia Fletcher
Commissioner of Infrastructure and Planning Services

Contact Names:

Ken Hetherington

Chief Planner

Phone: 705-742-7777, Ext. 1781

Toll Free: 1-855-738-3755

Fax: 705-742-5218

E-mail: khetherington@peterborough.ca

Brad Appleby

Supervisor, Development Planning

Phone: 705-742-7777, Extension 1886

Toll Free: 1-855-738-3755

Fax: 705-742-5218

E-mail: bappleby@peterborough.ca

Attachments:

Exhibit A – Land Use Map

Exhibit B – Property Site Plan

Exhibit C – Flood Plain Map

Exhibit D – Notice of Application and Public Meeting

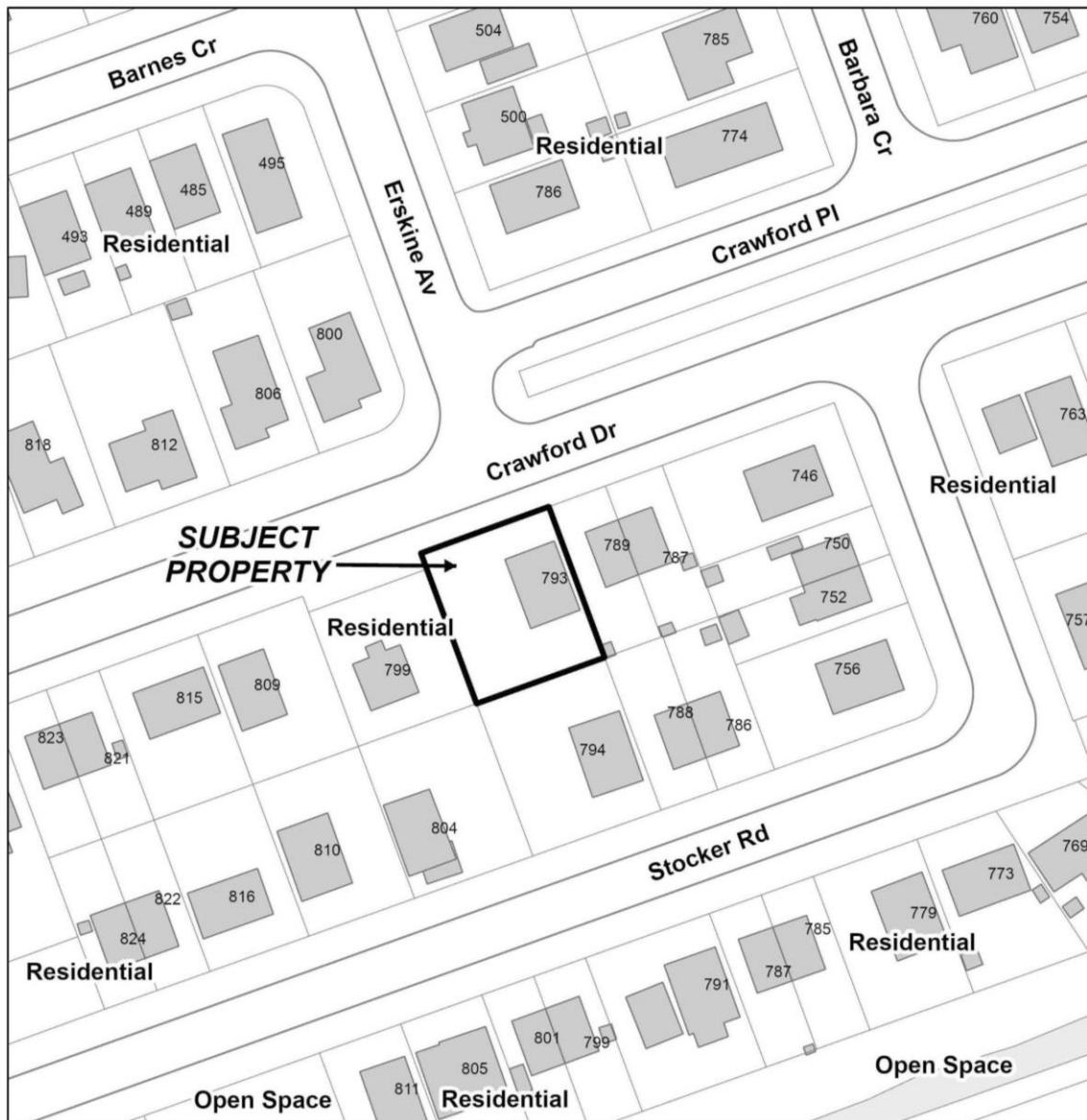
Exhibit A, Page 1 of 1

Land Use Map

File: Z2009

Property Location: 793 Crawford Dr

EXHIBIT	
SHEET	OF



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 damage or loss arising from their application or interpretation, by any party. It is not intended to replace a survey or to be used for a legal description.

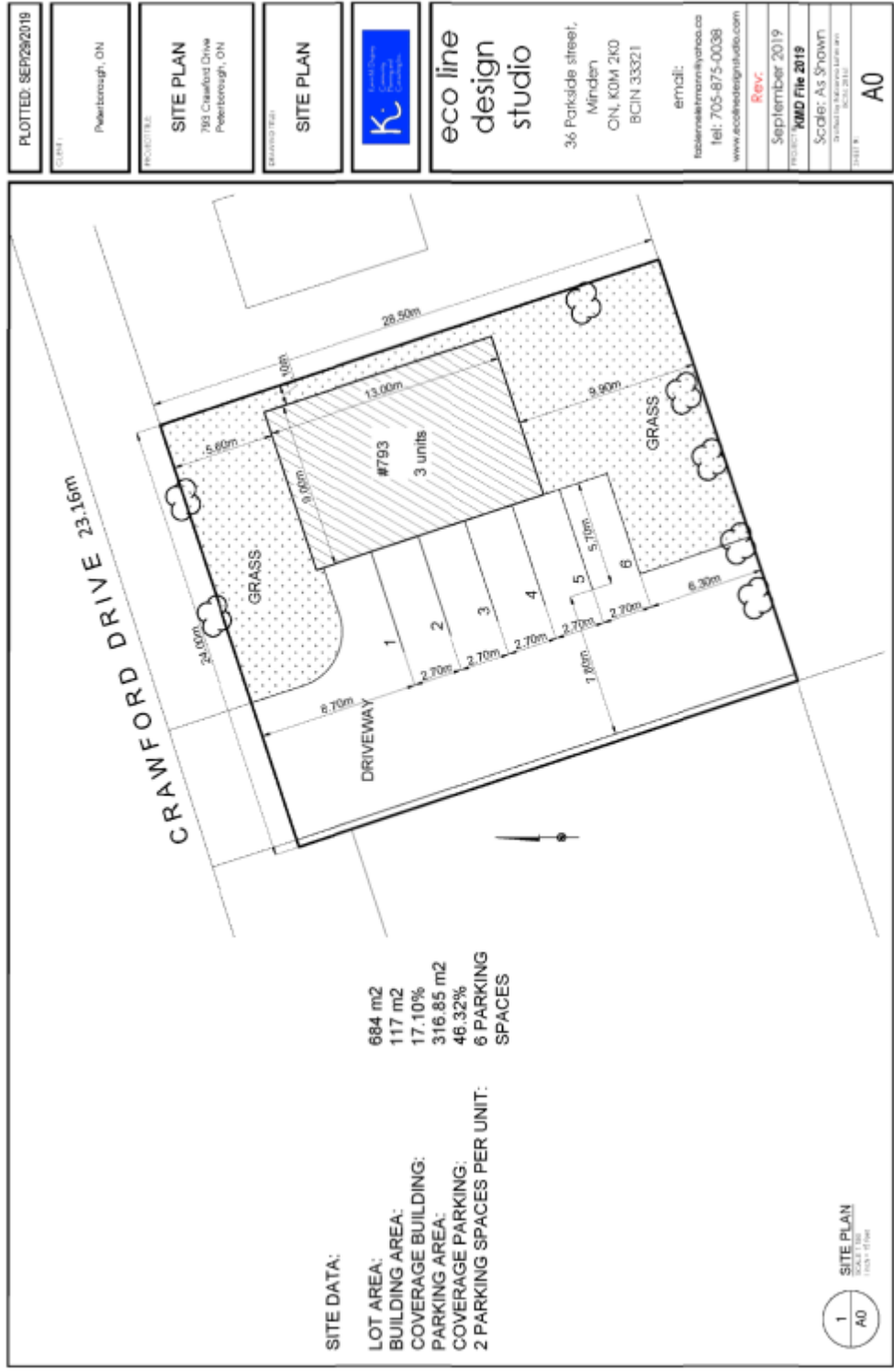


Date: April 24, 2020

Map by: PZhao

0 3.75 7.5 15 22.5 30 37.5
Metres

Exhibit B, Page 1 of 1
 Property Site Plan



PLOTTED: SEP202019 CLIENT: Peterborough, ON	PROJECT FILE: 793 Crawford Drive Peterborough, ON	SITE PLAN		eco line design studio 36 Parkside street, Minden ON, K0M 2K0 BCIN 33321 email: info@ecolinedesignstudio.com website: www.ecolinedesignstudio.com	PROJECT: September 2019 DRAWN: KMD File 2019 SCALE: As Shown DATE: 2019-09-20	SHEET: A0
--	---	-----------	--	---	--	-----------

Exhibit C, Page 1 of 1
 Lower Byersville Creek Flood Plain Map, 2014

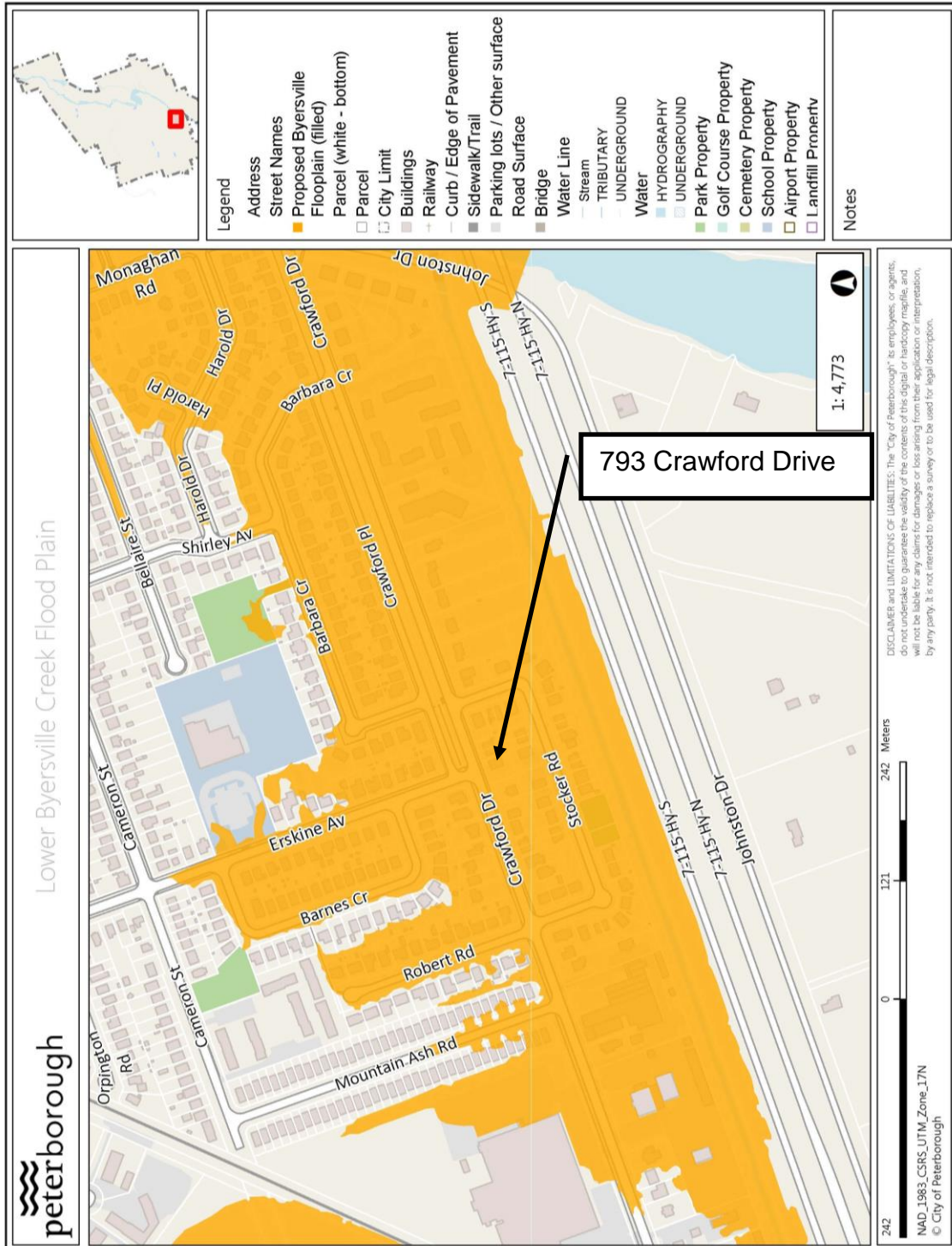


Exhibit D, Page 1 of 1 – Notice of Application and Public Meeting

**Notice of Complete Application
And Public Meeting**

Take Notice that the City of Peterborough has received the following applications, and pursuant to Sections 17 and 34 of the **Planning Act**, R.S.O., 1990, c.P.13, the General Committee will hold a public meeting in the Council Chambers, City Hall at **6:00 p.m.** on **Monday, November 9, 2020**.

1. **File:** Z2005
Affected Lands: 520-540 Brealey Drive
Applicants: Life at the Brealey Inc. (Nirvana Homes)
Christian Victory Church
Agent: Kevin Duguay, KMD Community Planning and Consulting Inc.

The applicants are proposing to develop a portion of the church property at 520 Brealey Drive with a two-storey, 18-unit apartment dwelling that will be built in conjunction with an ongoing residential development at 540 Brealey Drive. To facilitate this, the applicants have requested that a portion of the site be zoned SP.317 to match the current residential development, that the residential zoning include zoning by-law exceptions to incorporate previous minor variances granted for the site, and that an exception be applied to the balance of the church property to reduce the amount of required landscaped open space along its property line.

2. **File:** Z2009
Affected Lands: 793 Crawford Drive
Applicant: 1918318 Ontario Inc.
Agent: Kevin Duguay, KMD Community Planning and Consulting Inc.

The applicant is seeking to have an existing triplex recognized as a permitted use by re-zoning the property from R.1,4h,R.2,4h – Residential Districts – to SP.295 – Residential District with a “F” – flood suffix and with zoning by-law exceptions related to building setbacks and parking coverage.

3. **Files:** O2001, Z2006
Affected Lands: 385 George Street North
Applicant: Richard Summers C/O TT8 INC
Agent: Joel Gerber

The applicant proposes to amend the Official Plan and Zoning of the subject lands to permit the redevelopment of the property for a five-storey, mixed use development. The ground floor area is to be used for commercial retail with floors two through five proposed to support up to 56 residential units. The applicant proposes to introduce site specific provisions into the Official Plan including a proposed increase in density. The applicant proposes to modify the C.6 – Commercial Zoning District with site-specific regulations relating to building coverage and building floor area ratio.

4. **File:** Z1916
Affected Lands: 109-127 Hunter Street East, 367 Rogers Street & Part of 124 Robinson Street
Applicant: 1297135 Ontario Limited
Agent: Kevin Duguay, KMD Community Planning and Consulting Inc.

The applicant proposes to amend the Zoning of the subject lands to permit the redevelopment and use of the property for a mix of commercial and residential units fronting onto Hunter Street East and two, three-storey, multi-unit residential buildings on the lands along the east side of the Rotary Trail and south of Hunter Street East. The redevelopment proposes a total of up to 97 residential units, together with approximately 1213 square metres (13,057 square feet) of commercial uses. The applicant proposes to modify the existing C.6 – Commercial Zoning District and SP.187- Special Commercial Zoning District with site-specific regulations relating to setbacks, landscape strips, building coverage, building floor area ratio and building height.

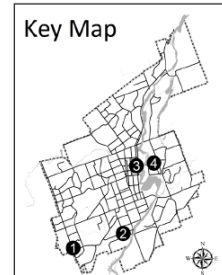
Additional information and materials relating to the proposed Zoning By-law and Official Plan Amendments may be obtained from the Planning Division, City Hall, (8:30 a.m. to 4:30 p.m., Monday to Friday).

For more information about these matters, including information about preserving your appeal rights, contact the Planning Division at 705-742-7777 – Brad Appleby at ext. 1886 (email: bappleby@peterborough.ca) (Files Z2005, Z2009), Nicole Huculiak at ext. 1654 (email: nhuculiak@peterborough.ca) (File O2001, Z2006), or Caroline Kimble at ext. 1735 (email: ckimble@peterborough.ca) (File Z1916).

For more information about how to watch or participate in the public meeting, please contact the City Clerk's Department at 705-742-7777 ext. 1820 or register on the City website by 11:00 a.m. the day of the meeting. Delegations must register due to limited seating availability in the Council Chambers.

A staff report will be available by 12:00 p.m. on Thursday, the 5th day of November, 2020.

Dated at the City of Peterborough this 13th day of October, 2020.



John Kennedy, City Clerk
City of Peterborough, City Hall
500 George Street North
Peterborough, Ontario
K9H 3R9
jkennedy@peterborough.ca