



City of  
**Peterborough**

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**To:** **Members of the General Committee**

**From:** **Cynthia Fletcher**  
**Commissioner of Infrastructure and Planning Services**

**Meeting Date:** **April 6, 2021**

**Subject:** **Report IPSPL21-017**  
**Zoning By-law Amendment for 697 The Kingsway**

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## **Purpose**

A report to evaluate the planning merits of amending the zoning of the property known as 697 The Kingsway from the existing M3.2 – Enhanced Service Industrial District to the M3.2-341 - “H” – Enhanced Service Industrial District with an Exception to include a municipally licensed ‘Body Rub Parlour’ as a permitted use, consistent with the Adult Entertainment policies of the City’s Official Plan.

## **Recommendations**

That Council approve the recommendations outlined in Report IPSPL21-017, dated April 6, 2021, of the Commissioner of Infrastructure and Planning Services, as follows:

- a) That Section 3.9 – Exceptions, be modified to add 3.9.341 to permit a municipally licensed ‘Body Rub Parlour’ as a permitted use; and to establish parking regulations for a Body Rub Parlour, in accordance with Exhibit ‘C’ attached to Report IPSPL21-017.
- b) That the zoning of the lands known as 697 The Kingsway be amended from M3.2 – Enhanced Service Industrial District to M3.2-341 H – Enhanced Service Industrial District, in accordance with Exhibit ‘C’ attached to Report IPSPL21-017;
- c) That the ‘H’ Holding Symbol be removed at such time as Site Plan Approval is granted in accordance with City requirements, to address changes to the parking, driveway area and landscape space.

## 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 at the southwest corner of The Kingsway and Crown Drive just east of The Parkway. The subject property has supported industrial uses since at least 1960 when the lands were annexed by the City. The applicant proposes to convert the use of a portion of the building from a trade shop (Praxair) to a Body Rub Parlour and retain the warehouse and storage function of the balance of the building.

Based on the City's records, the existing building was constructed in 1960 with an addition in 1969 and loading dock addition in 1987. The lands were zoned M1, M2 in the City's 1972 Zoning By-law and have been used for industrial purposes since. The current M3.2 – Enhanced Service Industrial Zoning District was applied to the property in 1996 as part of the City's Comprehensive Industrial Land Review.

The current owner purchased the property in May, 2020 and submitted an application to amend the zoning on October 29, 2020. The Kingsway is designated as a High Capacity Collector Road on Schedule 'B' – Roadway Network and the subject property is located within the area designated on Schedule 'K' – Areas Designated for Adult Entertainment Parlours.

Supplementary regulations for Body Rub Parlour (Section 6.30) were added to the City's Zoning By-law in 1985 (By-law 1985-140). The Zoning By-law defines "Body Rub Parlour" as follows:

"means any premises or part thereof where a body-rub parlour is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

For the purpose of defining body-rub parlour as prescribed above, the following definition is applicable:

- (a) "body-rub" includes the kneading, manipulating, rubbing, massaging, touching or stimulating, by any means, of a person's body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario."

The applicant describes the use as ‘touch and talk therapy’ whereby individual treatment rooms are provided.

The introduction of a Body Rub Parlour use since the passage of By-law 1985-140 on August 19, 1985 is subject to a Zoning Amendment as required in Section 6.30 of the Zoning By-law as follows:

“A body-rub parlour is prohibited as a permitted use or as an accessory use, unless the property or place is specifically zoned to permit its use as a body-rub parlour.”

Subsequent to the introduction of zoning regulations into the City’s Zoning By-law in 1985, specific policies related to the location of Adult Entertainment Parlours were also introduced to the City’s Official Plan by way of the approval of Official Plan Amendment #56 approved by Council on March 6, 1989 via By-law # 1989-73 and approved by the Ontario Municipal Board (OMB) on April 14, 1989.

Consistent with the provisions of Section 6.30 of the City’s Comprehensive Zoning By-law, Planning Staff have relied upon the provisions of Section 3.9 of the Official Plan as being appropriate to identify criteria to be considered in a proposed zoning amendment related to a Body-Rub Parlour as well as an Adult Entertainment Parlour. The criteria include the requirement to ensure adequate parking; mitigation of impacts on adjacent uses through adequate setbacks and landscaping; consultation with the Police Department to ensure standards for policing; and location.

As part of the consideration of the adoption of the policies of Section 3.9 of the Official Plan, the City sought direction regarding appropriate locational criteria for the establishment of Adult Entertainment Parlours from Macaulay Shiomi Howson Ltd., Land Use Planning Services Firm. A letter from professional planner Elizabeth Howson, MCIP, dated December 6, 1988 was considered by Council and formed the basis for the policy provisions adopted by Council and approved by the OMB in 1989.

The proposed criteria and a draft schedule to depict appropriate locations for such uses was circulated for public comment as part of the Official Plan Amendment process in 1988 and 1989. It was identified that the least significant impacts of the Adult Entertainment Parlour use appeared to be in the industrial areas, and further mitigative measures were introduced via policy that limit the concentration of such uses, separate them from residential, park and recreational uses, require adequate parking, site plan control and sign control, and provide requirements for site design to permit easier policing.

Prior to purchasing the property, the applicant was advised of the requirement for a rezoning and was provided information related to the locational restrictions as identified by the Official Plan policies (Section 3.9). The applicant used the locational provisions to assist in finding a suitable location, consistent with the policy requirements.

The City's Business Licensing By-law #14-080 includes provisions for licensing of a Body Rub Parlour, subject to the locational criteria as set out in the City's Official Plan and permitted under the City's Comprehensive Zoning By-law.

An "Adult Entertainment Establishment" as currently defined in the City's Business Licensing By-law includes, as one distinct form of "Service":

"body-rubs, including the kneading, manipulation, rubbing, massaging, touching or stimulating by any means of a person's body, are performed, offered or solicited in the premises or part of the premises, excluding the premises or part of them where body-rubs performed, offered or solicited are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licenses or registered to do so under a statute of Ontario"

The City's Licensing By-law requires that a Body Rub Parlour operates in an area designated by the City's Official Plan and permitted under the City's comprehensive zoning by-law. It also includes restrictions to restrict a licensee to only permitting individuals that are age of majority to enter, remain or deliver services in the Body Rub Parlour.

As a result of the recent review of licensing requirements related to Body Rub Parlours of other municipalities, City Staff have created a working group to review the specific licensing provisions of the City of Peterborough and anticipate bringing a report and recommendations for changes to modernize the standards and fees in the near future. The working group includes representatives from Peterborough Police Service and Peterborough Public Health in addition to representation from the City's Legal Services, Planning, Building and Clerk's Divisions.

The applicant held a virtual open house on February 10, 2021. Ward Councillors, Planning Staff, Public Health Staff, Police Staff and media representatives attended. In addition, two other people were in attendance to understand the nature of the proposal and discuss the intention of the applicant regarding how the business is to function. The applicant provided an overview of the floor plan and layout anticipated for the use, together with a description of what could be expected regarding the process of a pre-arranged appointment and employment, inspection and license standards. The applicant published a notice of the Open House in the Peterborough Examiner and mailed notices to all owners of land within 120m of the subject property. In addition, the applicant created a publicly accessible website offering a copy of the presentation and details related to the proposed amendment.

## Analysis

### a) Provincial Policy Statement, 2020 (PPS)

Any decision on the proposed Zoning By-law Amendment must be consistent with the 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 1.1.1 of the PPS states that healthy, liveable and safe communities are sustained by, among others, accommodating an appropriate affordable and market-based range and mix of residential types, employment, institutional, recreation, park and open space, and other uses to meet long term needs.

Section 2.1 and 2.2 of the PPS provide policy direction regarding the wise use and management of resources to protect natural heritage features and water resources, respectively. Section 3.1 of the PPS provides policy direction on protecting public health and safety by directing development away from lands that are subject to natural hazards (flooding and erosion hazards, for example) and human-made hazards (e.g. former mineral aggregate operations).

Mapping indicates that the subject property may be within the spill of the Byersville Creek. No habitable space or other physical changes are proposed to the building. Otonabee Region Conservation Authority (ORCA) has reviewed the proposed development and is of the opinion that the proposal will not exacerbate the existing floodplain or increase the risk for the subject property.

The property is not within 120 metres of any known natural heritage features of significance and ORCA is of the opinion that the proposal is consistent with the policies of PPS Sections 2.1 (related to Natural Heritage) and Section 2.2 (related to Water).

### b) A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan)

Any decision on the proposed Zoning By-law Amendment must conform with the policies of 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. The subject property is located within the City's Delineated Built Boundary as defined in the Growth Plan. Accordingly, the property is subject to the general policies in the plan.

A significant portion of future growth will be directed to areas within the Built Boundary of the City where infrastructure capacity exists and compatibly integrated with existing built form, land use patterns, natural heritage features and natural hazards.

It is the opinion of staff that the proposed amendment conforms with the policy direction of the Growth Plan.

**c) City of Peterborough Official Plan**

The subject property is designated 'Industrial' on Schedule 'A' – Land Use and 'Service Industrial' on Schedule 'O' – Industrial Land Use. The property is also located within the area identified on Schedule 'K' – Areas Designated for Adult Entertainment Parlours. The proposed Zoning Amendment for a Body Rub Parlour has been assessed by Staff, subject to conformity with the associated policies in the Official Plan.

Although the Official Plan does not speak directly to Body Rub Parlours, the City's corresponding Business License contemplates a Body Rub Parlour to be one distinct form of service offered under an Adult Entertainment Establishment and requires that a Body Rub Parlour operate in an area designated by the City's Official Plan.

Section 3.9 of the Official Plan is relied upon to likewise direct Body Rub Parlours to properties located on a collector or arterial road in an industrial area, generally located between Harper Rd/Rye St. Erskine Avenue and the old rail corridor south of Queensway Court and Cameron Place as illustrated on Schedule 'K' – Areas Designated for Adult Entertainment Parlours.

Planning Staff have relied on Schedule 'K' to identify the area where Body Rub Parlours should be directed. The policies do not permit such use as follows:

- on any property which fronts onto The Parkway, Lansdowne Street or Chemong Road;
- on any property within 305m of any other adult entertainment parlour;
- within 120m of lands zoned or designated for residential, school, park or recreational facility; and
- on any lands that abut directly on to Erskine Avenue.

The Zoning Amendment has been evaluated based on the criteria identified in Section 3.9.2 as follows:

- "a) establish standards to ensure that the site has adequate parking for the proposed use;
- b) ensure that impacts on adjacent uses are mitigated through the provision of adequate setbacks and landscaping;
- c) establish standards after consulting with the Police Department which will ensure that the site is easily policed"

Unlike an Adult Entertainment Parlour, Planning Staff is not concerned with a Body Rub Parlour being the sole occupation of a freestanding building. The proposed Zoning Amendment contemplates the addition of a Municipally Licensed Body Rub Parlour as a permitted use within the M3.2 – Enhanced Service Industrial Zoning District. The

subject lands support a large building. Only a portion of the building is intended to be used for a Body Rub Parlour and the balance of the building is to be used as a warehouse, considered to be compatible.

In addition to the above, the Official Plan prescribes that any property to be used for Adult Entertainment Parlour shall be subject to Site Plan Control. It is likewise seen as appropriate to utilize Site Plan Control for the proposed Body Rub Parlour to ensure that the impacts on neighbouring properties and uses are mitigated and easily policed. Sign control will also apply to the proposed use.

**d) City of Peterborough Zoning By-law**

The current M3.2 – Enhanced Service Industrial District limits the property to industrial and compatible commercial uses. A site-specific Zoning Amendment is required to add ‘A municipally licensed Body Rub Parlour’ as a permitted use.

The application seeks to broaden the permitted uses to add ‘A municipally licensed Body Rub Parlour’. The applicant describes the use as a personal service offering touch and talk therapy. The intention is to renovate a portion of the existing building to support up to 6 treatment rooms and a reception area.

The Zoning By-law currently includes minimum parking regulations for Adult Entertainment Parlours and prescribes a minimum of 1 parking space/staff plus 1 per 4m<sup>2</sup> of assembly area. Assembly area is defined in the Zoning By-law as “that portion of a building or lot capable of being used for the assembly of persons, including, dance floors, arena floors, grandstands, ballrooms, outdoor patios, and other such facilities.” Since the nature of the Body Rub Parlour is different from a facility that accommodates the assembly of multiple people for an event, the assembly area calculation is not appropriate in this instance and would not apply. As an alternative, Planning Staff is recommending the introduction of a modified parking requirement as follows in relation to a Body Rub Parlour:

“A minimum of 1 parking space/staff, plus 1 per 4m<sup>2</sup> of assembly area, plus 1 per treatment room for a Body Rub Parlour”.

A Body Rub Parlour is defined in the City’s Comprehensive Zoning By-law as follows:

“Body Rub Parlour means any premises or part thereof where a body-rub parlour is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

For the purpose of defining body-rub parlour as prescribed above, the following definition is applicable:

- (a) “body-rub” includes the kneading, manipulating, rubbing, massaging, touching or stimulating, by any means, of a persons body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.”

In order to ensure proper vehicular and pedestrian traffic flow on the subject lands, adequate lighting, appropriate signage, landscape and buffer treatment and stormwater management, Planning Staff are recommending the use of an “H” Holding Symbol to ensure that Site Plan Approval will apply and address the policies of the Official Plan with respect to mitigating impacts and ensuring safety standards.

It is recommended that the zoning of the lands be amended to permit a Municipally licensed Body Rub Parlour as a permitted use of the subject property, and to modify the minimum parking requirements to include provisions for a Body Rub Parlour.

A Business License will also be required to operate the Body Rub Parlour, in accordance with the Adult Entertainment Establishment licensing requirements of the City’s Business License By-law. In response to the subject application and questions and concerns identified by Councillors regarding regulations surrounding the operational restrictions, City staff are undertaking a review of the provisions and intend to update the requirements in accordance with more recent standards imposed and tested in other municipalities and with current health and safety standards.

#### **e) Site Development**

The applicant has submitted a Concept Site Plan and is aware of the proposed requirement for Site Plan Approval as contemplated by Official Plan policy. City Staff are working with the applicant to reconfigure the parking layout and reduce the number of driveway connections to ensure proper circulation on the site and facilitate sufficient parking to accommodate the proposed uses. The intent of the Site Plan Approval is to ensure that the traffic circulation, parking layout, pedestrian movement, landscaping and stormwater management will be appropriate to support the proposed use of the property in accordance with appropriate urban design principles.

## **Response to Notice**

#### **a) Significant Agency Responses**

Agency circulation was issued on December 4, 2020.

The Infrastructure Management Division has indicated that a City approved stormwater management report will be required as part of the future detailed Site Plan design for the site. The report will detail stormwater quantity and quality control, low impact



development features and sediment and erosion controls. Mitigative measures may be scoped and small localized low impact development measures may be applicable. A 5.0m by 8.0m daylighting triangle is required to be conveyed at the northeast corner of the site as part of the future Site Plan Approval process.

The City's Urban Design Planners have provided comments regarding the dimensions of parking and driveway aisles and the requirement to illustrate waste disposal and snow storage as well as a landscape plan as part of the future site plan approval application.

Peterborough Distribution Inc. has noted that it may be required to combine all services into one for the entire building to comply with Peterborough Distribution Inc. Conditions of Service.

Development Engineering Staff have indicated the requirement for a daylighting triangle, proper parking space and driveway aisle dimensions and the owner or applicant is responsible for reviewing the existing services to ensure adequate sizing for the proposed use.

Peterborough Fire expressed an interest in keeping an entrance on Crown Drive open for fire access.

Peterborough Police Service have no opposition to the zoning amendment, however, note that a number of these types of establishments are difficult with regard to proving and enforcing offenses. Police Services staff are agreeable to participate further as representatives with regard to an applicable licensing By-law.

Peterborough Public Health has no objections to the rezoning of this property and provided comments on the City's current Business Licensing provisions. Recommendations related to changes to the Business Licensing provisions have been forwarded to the City to ensure health and safety provisions for this type of establishment to ensure the protection of the staff as well as the patrons. A list of additional provisions are recommended for consideration through the City's licensing process.

Otonabee Conservation note that the property may be within the spill of Byersville Creek. It is the opinion that although adding a permitted use is considered development, the proposal will not exacerbate the existing floodplain or increase the risk for the subject property. The property is not within 120 metres of any known natural heritage features of significance and is consistent with PPS Section 2.1 and 2.2. Permits from ORCA are required prior to any site alteration or construction due to the location within the regulated area.

There are no significant concerns or comments from other agencies or departments.

b) **Summary of Public Responses**

No written comments have been received as of March 10, 2021.

Submitted by,

Cynthia Fletcher  
Commissioner of Infrastructure and Planning Services

**Contact Names:**

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Land Use Planner  
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**Attachments:**

Exhibit A – Land Use Map  
Exhibit B – Concept Site Plan and Elevations  
Exhibit C – Draft Zoning By-law Amendment

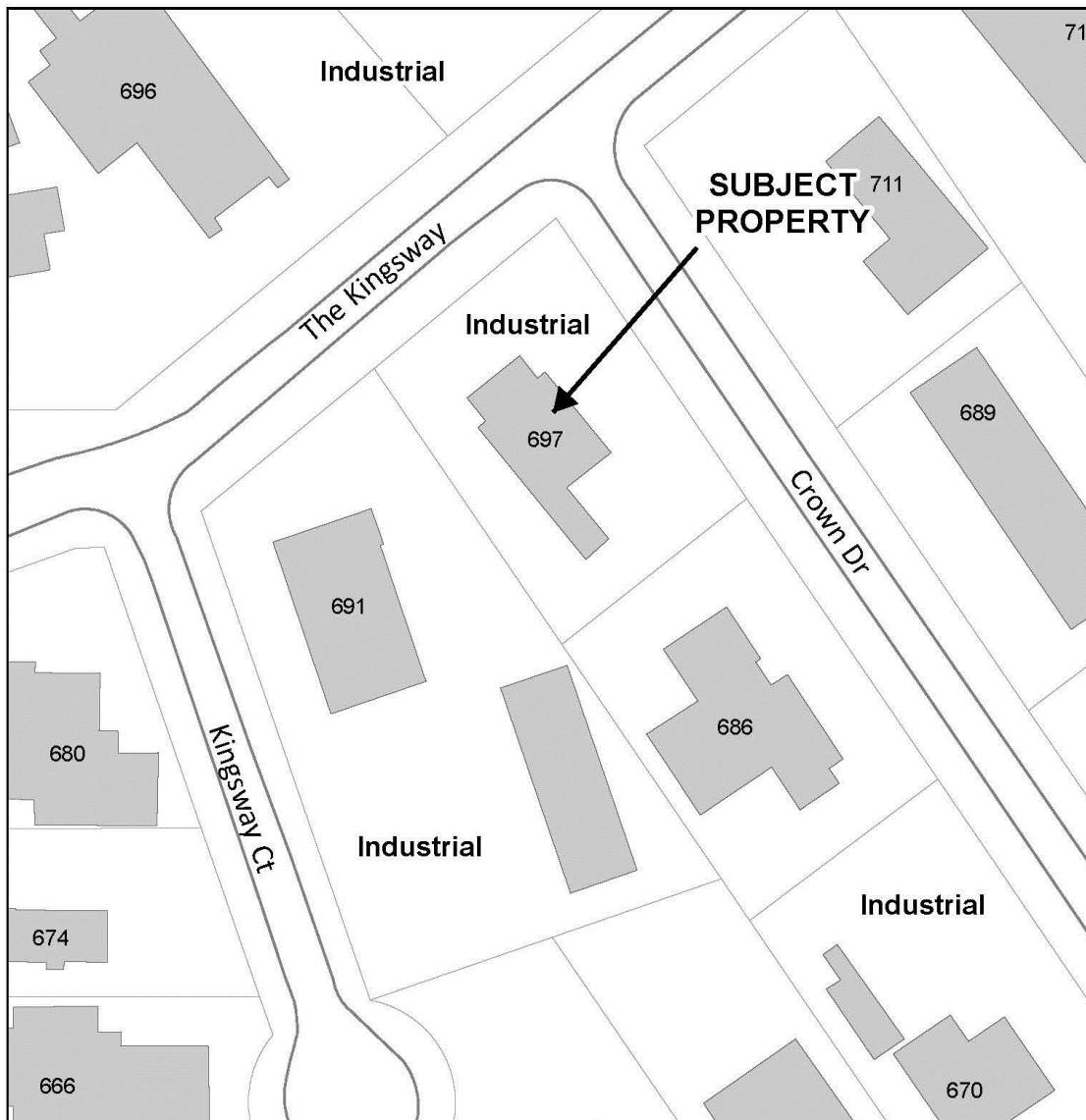
**Exhibit A – Land Use Map**

# Land Use Map

File: Z2015

Property Location: 697 The Kingsway

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 handcopy 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: November 30, 2020

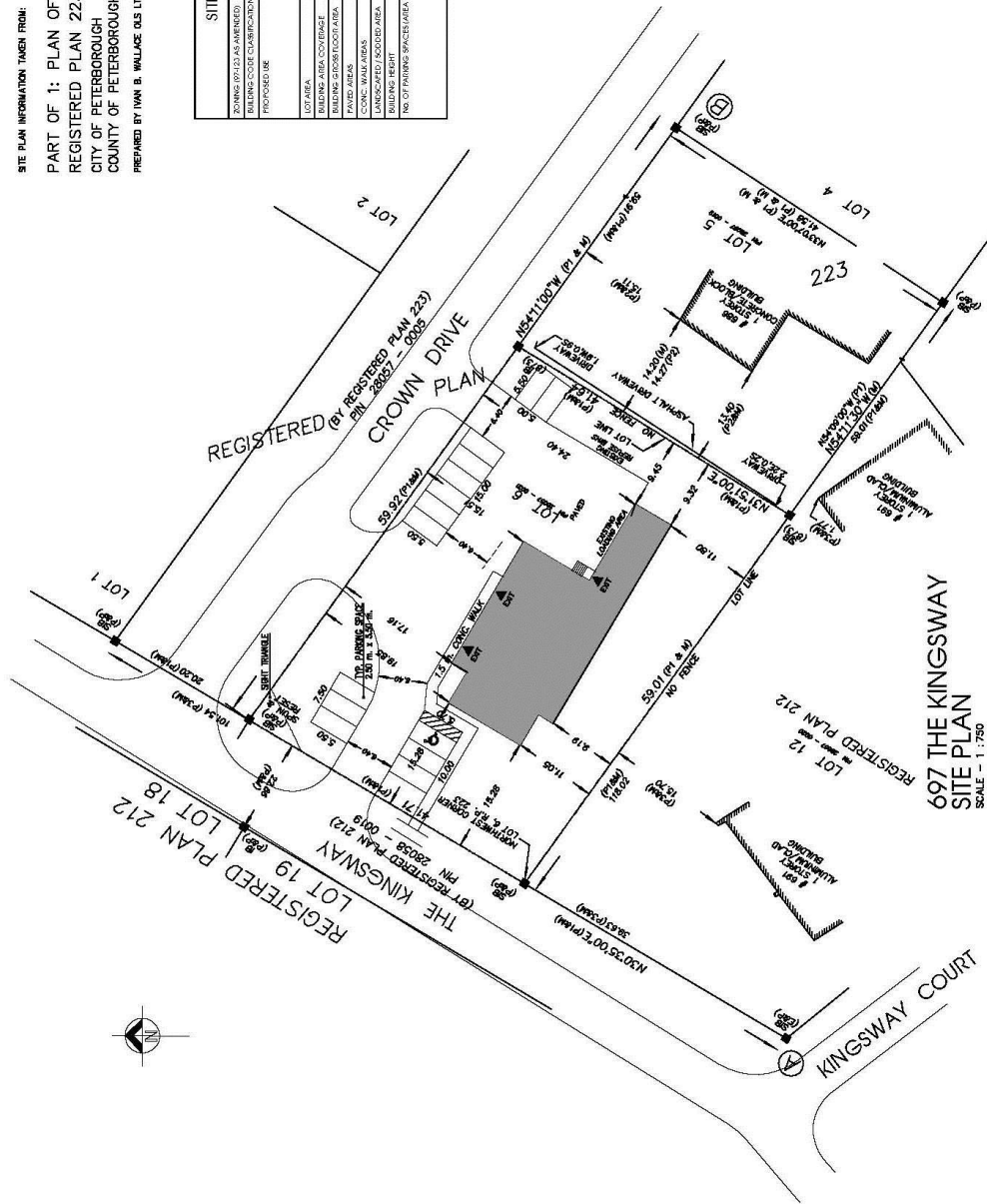
Map by: ANichols

0 4 8 16 24 32 40 Metres

## Exhibit B – Concept Site Plan

SITE PLAN INFORMATION TAKEN FROM:  
PART OF 1: PLAN OF SURVEY OF LOT 6  
REGISTERED PLAN 223  
CITY OF PETERBOROUGH  
COUNTY OF PETERBOROUGH  
PREPARED BY IVAN B. WILLIAMS OLS LTD. 2020

SITE DATA	
ZONING (9113 AS AMENDED)	M3-2
BUILDING CODE CLASSIFICATION	C-100/12
PROPOSED USE	THERAPEUTIC BODY WORK AND MASSAGE INDEPENDENTLY OWNED AND OPERATED
LOT AREA	2,401.9 m <sup>2</sup>
BUILDING AREA COVERAGE	300.2 m <sup>2</sup> 1.25%
BUILDING GROSS FLOOR AREA	300.2 m <sup>2</sup>
PAVED AREA	584.2 m <sup>2</sup> 2.4%
LANDSCAPED / OPENED AREA	1,817.7 m <sup>2</sup> 75.6%
BUILDING HEIGHT	11.357 m 37'-10"
MAXIMUM GROUND COVERING PER LOTTING SPACES (AREA 3)	14 REQUIRED 14 PROVIDED



**Exhibit C – Draft Zoning By-law Amendment- Page 1 of 2**



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**The Corporation of the City of Peterborough**

**By-Law Number 21-**

Being a By-law to amend the Zoning By-law for the lands known as 679 The Kingsway

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The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. That Section 3.9 – Exceptions be amended to add .341 as follows:
  - “a. Notwithstanding the permitted uses, a “municipally licensed Body Rub Parlour” shall be a permitted use; and
  - b. Notwithstanding the provisions of Section 4, the following minimum parking provisions will apply for a Body Rub Parlour: A minimum of 1 parking space/staff, plus 1 per 4m<sup>2</sup> of assembly area, plus 1 per treatment room for a Body Rub Parlour
2. That Map 21 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 ‘M3.2’ to ‘M3.2-341 H’
3. That the ‘H’ Holding Symbol be removed at such time as Site Plan Approval is granted for the redevelopment of the property.

By-law passed this                      day of March, 2021.

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Diane Therrien, Mayor

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John Kennedy, City Clerk

**Exhibit C – Draft Zoning Amendment - Page 2 of 2**

