

Staff Report

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Report To: Joint Committees

Date of Meeting: September 13, 2021

Report Number: PDS-043-21

Submitted By: Ryan Windle, Director of Planning and Development Services

Reviewed By: Andrew C. Allison, CAO

Resolution#:

File Number: ZBA 2021-0008

By-law Number:

Report Subject: An application by Darryl Kerswell to permit the establishment of commercial uses, including a general store and eating establishment on the property known at 4504 Highway 2, Newtonville.

Recommendations:

1. That Report PDS-043-21 and any related communication items, be received;
2. That the application to amend the Zoning By-law submitted by Darryl Kerswell be approved and the Zoning By-law in Attachment 1 to Report PDS-043-21 be passed;
3. That a By-law lifting the Holding (H) Symbol be forwarded to Council once Site Plan approval has been granted;
4. That the Durham Regional Planning and Economic Development Department and Municipal Property Assessment Corporation be forwarded a copy of Report PSD-043-21 and Council's decision; and
5. That all interested parties listed in Report PDS-043-21 and any delegations be advised of Council's decision.

Report Overview

This report recommends the approval of an application to amend the Zoning By-law to establish commercial uses including a general store and an eating establishment on the property located at 4504 Regional Highway 2 in Newtonville. This Zoning By-law amendment is subject to a Holding provision to meet the conditions of site plan details that will be addressed through the ongoing Site Plan application.

1. Purpose of the Report

- 1.1 The purpose of this Staff Report is to recommend to Council the adoption of Zoning By-law Amendment (ZBA2021-0008) to the Clarington Zoning By-law 84-63. The recommendation comes following a thorough public planning and consultation process.
- 1.2 This report includes a summary of the process and comments received since the Statutory Public Meeting held on June 7, 2021.

2. Application Details

- 2.1 Owner/applicant: Darryl Kerswell
- 2.2 Proposal: Zoning By-law 84-63 Amendment

To rezone the lands to permit commercial uses including a general store and an eating establishment, to a maximum of 60 square metres at the property located at 4504 Regional Highway 2 in Newtonville.

- 2.3 Area: 0.1 hectares (1000 square metres)
- 2.4 Location: 4504 Highway 2, Newtonville
- 2.5 Within Built Boundary: Yes



Figure 1: Site Location Map

3. Background

3.1 In March 2021, Darryl Kerswell began the initial conversations related to the proposal with Clarington Staff. Below is a sequence of events to date on the development applications related applications to permit commercial uses including a general store and an eating establishment within a proposed addition to an existing single detached dwelling.

- Pre-consultation application received: March 24, 2021
- Pre-consultation meeting held April 15, 2021
- Final pre-consultation minutes sent to applicant: April 28, 2021
- Rezoning and Site Plan applications received: May 5, 2021
- Rezoning Application deemed complete: May 17, 2021

- Statutory Public Meeting held on June 7, 2021
- Site Plan deemed Complete: June 21, 2021
- Applications circulated for comments: June 21, 2021
- Comments due from circulated agencies: July 9, 2021
- Status Letter sent to applicant: September 2021

3.2 The applicant has submitted a Planning Rationale Report in support of the applications which is reviewed in Section 9 of this report.

4. Land Characteristics and Surrounding Uses

4.1 The site is located on the north side of Regional Highway 2, just east of Newtonville Road. There is approximately 19.5 metres of frontage along Regional Highway 2 and the property is 0.1 hectares in size. The site currently has a single detached dwelling and a detached garage.

4.2 The surrounding uses are as follows:

North: Single detached residential dwellings

East: Single detached residential dwellings

South: Durham Regional Highway 2 and single detached residential dwellings

West: Existing commercial mixed-use property containing the Newtonville General Store and café.



Figure 2: Street View of the subject Property

- 4.3 A corresponding Site Plan Application has been deemed complete and was circulated with the Rezoning application. The Site Plan review process is ongoing and is assisting Staff to determine whether the site is appropriate for the proposed use. As seen in **Figure 3**, the applicant is proposing an addition to the south side of the existing dwelling to house a portion of the commercial establishment. To the east and west of the dwelling, the applicant is proposing the commercial parking. The applicant is proposing that the two mandatory residential parking spaces, as per the Zoning By-law 84-63 be situated to the rear of the dwelling, one outdoor and one within the existing detached garage. The applicant is also proposing a loading space to be located within the Regional Highway 2 boulevard, and not within the boundaries of the subject property.

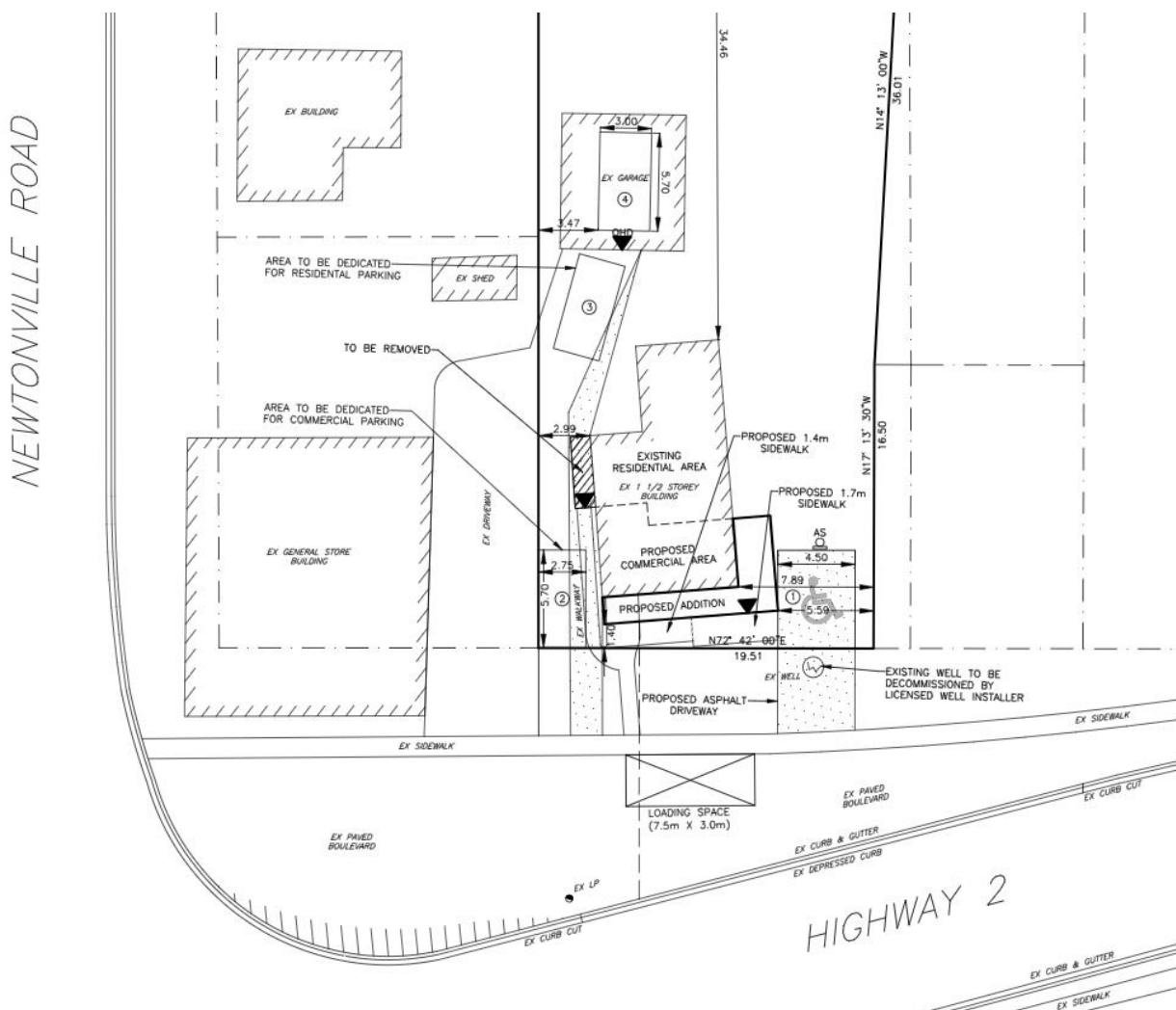


Figure 3: Proposed Site Plan

- 4.4 Staff have circulated the proposal to all agencies. Generally, the primary agencies concerns are related to the site plan approval process. There are no concerns related to whether the proposed land use is appropriate.

- 4.5 Staff have reviewed the rezoning proposal in detail and are of the opinion that the proposed use meets the legislative framework for Hamlets and the proposed use is appropriate. Where there are still concerns, Staff will continue to work with the applicant through the Site Plan Approval process to rectify. Until such time Staff are satisfied with the proposal, the ('H') Holding Symbol will remain on the property, to ensure no adverse impacts on the neighbouring community.

5. Provincial Policy

Provincial Policy Statement

- 5.1 The Provincial Policy Statement (PPS) policies direct growth to settlement areas and promote compact development forms. Planning authorities are to facilitate development of a variety of housing forms and promote residential intensification to achieve efficient development patterns. The definition of 'intensification' includes the development of underutilized lots within previously developed areas and infill development among other uses.
- 5.2 The site is located within the Settlement Area of Newtonville. The new development uses existing infrastructure and public services appropriately, having regard for the site's surroundings. The proposed development promotes compact development forms.
- 5.3 The proposed development conforms with the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe (Growth Plan)

- 5.4 The Growth Plan is a long-term planning framework that manages growth, mainly within the urban areas of the Greater Golden Horseshoe. It provides policies to encourage complete communities, which includes a diverse mix of land uses, a mix of employment and housing types, high quality public open spaces, and convenient access to local stores and services.
- 5.5 The subject proposal promotes complete communities by diversifying the mix of land uses and employment while providing convenient access for residents to a local store.
- 5.6 The objective of the Growth Plan is to protect the natural environment and near-urban agricultural lands by making efficient use of existing public infrastructure and encouraging compact development within the already built-up areas of the Municipality.
- 5.7 The Growth Plan recognizes the subject lands as "rural settlement".
- 5.8 Policy 2.2.9 states that municipalities are encouraged to plan for a variety of cultural and economic opportunities within rural settlements to serve the needs of rural residents and area businesses.

- 5.9 The site is located within the rural settlement of Newtonville. The added commercial use to the existing residential property makes efficient use of existing public infrastructure and encourages compact development within the already built-up area. The subject proposal also provides a cultural and economic opportunity to serve the needs of rural residents.
- 5.10 The proposed development conforms with the Growth Plan.

The Greenbelt Plan

- 5.11 The Greenbelt Plan identifies where urbanization should and should not occur in order to provide permanent protection to the agricultural land base and the ecological and hydrological features, areas and functions occurring on this landscape.
- 5.12 The Greenbelt Plan recognizes the subject lands as “Hamlet”. Settlement Areas, identified as Towns/Villages and Hamlets, are areas identified for development.
- 5.13 The Greenbelt Plan policies support a strong rural economy by allowing for commercial uses needed by the current and future population within the Settlement Areas of the Greenbelt. The proposed development should contribute to the rural economy as it is adding a commercial use within a settlement area.
- 5.14 Policy 3.4.1.1 states that limited growth is permitted through infill and intensification of hamlets subject to appropriate water and sewage services. The subject proposal is for infill development and must conform to water and sewage services as determined by the Municipality.
- 5.15 The proposed development conforms with the Greenbelt Plan.

6. Official Plans

Durham Region Official Plan

- 6.1 The Durham Region Official Plan designates the subject lands as “Hamlet”.
- 6.2 Policy 9B.1.3 states hamlets shall be the predominant location for residential and social, commercial and employment development serving the needs of the surrounding rural area. Policies 9B.2.3 b and c state that hamlets shall be developed in harmony with surrounding uses and may include employment uses and commercial uses that meet the needs of the residents of the hamlet and surrounding rural area. The proposed commercial use of the subject lands and its location on Highway 2 should contribute to the social, commercial, and employment development of the Newtonville hamlet, serving the needs of the residents of the hamlet and the surrounding rural area.

- 6.3 Policy 9B.2.4 b) states that the predominance of residential uses shall serve to guide the preservation, cultural attributes, and historical heritage of the community. The proposed development will continue to operate as a residence as its primary use with an added commercial use.
- 6.4 Policy 9B.2.6 states that development within hamlets shall be individually serviced with private sewage disposal systems. The subject proposal is serviced by a private sewage disposal system and will be expanded as determined necessary.
- 6.5 The proposed development conforms with the Durham Region Official Plan.

Clarington Official Plan

- 6.6 The Clarington Official Plan designates the subject lands as “Hamlet”.
- 6.7 Policy 12.4.1 permits, in addition to residential uses, other uses such as general stores provided the use is compatible with the current surrounding uses and does not detract from the character of the hamlet. The proposed development does not detract from the character of the hamlet and is a compatible use with the surrounding areas.
- 6.8 Policy 12.4.2 a) states that development within a hamlet shall complement and enhance the historic character of the hamlet. The proposed development should enhance the historic character of the hamlet by adding to the liveliness of the streetscape.
- 6.9 Policy 12.4. 2 d) states that development within a hamlet shall consider opportunities and innovations to provide a more compact settlement form. The proposal is an infill development as it is within a developed area in Newtonville and will be adding a new use to an existing property.
- 6.10 Policy 12.4.5 a) states that all development shall be serviced by municipal water supply. The proposed development will be serviced by municipal water.
- 6.11 The proposed development conforms with the Clarington Official Plan.

7. Zoning By-law

- 7.1 The site is zoned “Residential Hamlet (RH)” which does not permit the proposed use of a commercial establishment. The Zoning By-law amendment application is seeking to permit all the permitted uses within the Hamlet Commercial (C3) Zoning, with site specific regulations to ensure the site is suitable for the proposed uses.
- 7.2 The proposed Zoning By-law Amendment (**Attachment 1**) will allow the applicant to establish the commercial uses to a maximum of 60 square metres of floor area while also maintaining the residential uses. The proposed zoning will mirror the “C3” use permissions of a general store, similar to the zoning on the neighbouring property to the west.

- 7.3 A site-specific “Holding - Hamlet Commercial Exception ((H) C3-10) Zone” is recommended for the proposal.

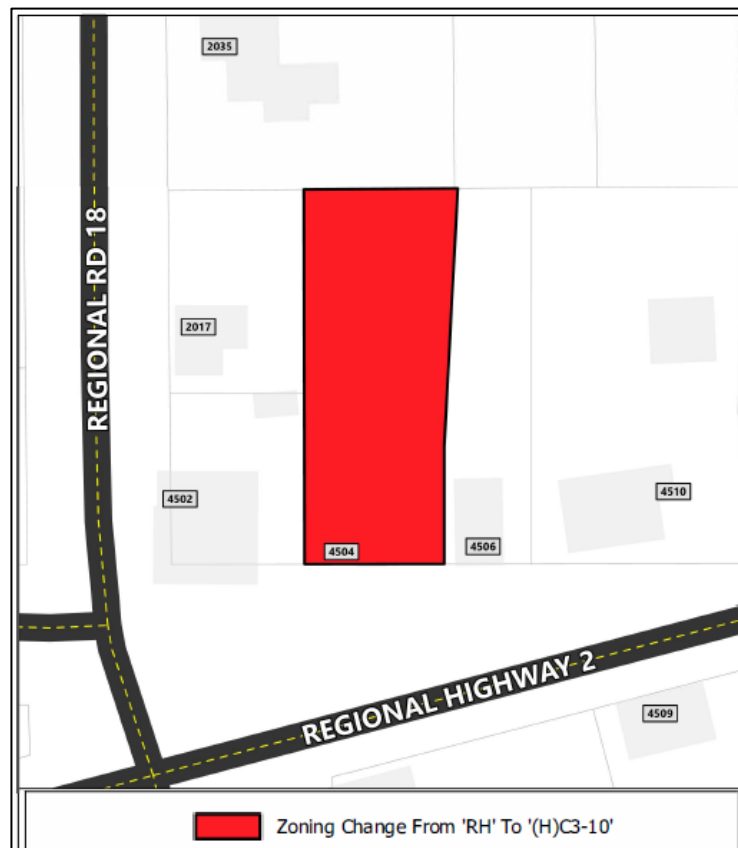


Figure 4: Proposed Zoning Schedule

8. Public Participation and Submissions

- 8.1 The preparation of this Zoning By-law amendment has been supported through a public engagement process. All landowners in the area received notice of the statutory public meeting. Also, the landowners have been informed that this recommendation report is being presented to Council.
- 8.2 All public notices, communications and review periods have been designed to ensure conformity with the requirements of the *Planning Act*.
- 8.3 As detailed below, at the time of writing this report, staff had received 131 submissions regarding this proposal. The comments detailed in **Attachment 2**.

Planning and Development Committee Public Meeting – June 7, 2021

- 8.4 On June 7, 2021, a Public Meeting was held to obtain public comments on the rezoning application.

- 8.5 All landowners within 120 metres of the subject lands were invited to the Public Meeting before Council on June 7, 2021. The Public Meeting and associated Staff Report (PDS-033-21) outlined the proposed planning process, application details, and provided an opportunity to hear all comments from the public related to the proposed development.
- 8.6 In total, there were 12 delegations heard at the Public Meeting, 10 in opposition and 2 in support.

Public Submissions in Support

8.7 Generally, the support from the public is relating the following:

- The need for an accessible commercial space within the Hamlet of Newtonville;
- The need for a General Store in Newtonville; and
- The need to support local businesses.

Public Submissions in Objection

8.8 Generally, the concerns from the public are as follows:

- Traffic Concerns;
- Pedestrian Safety Concerns;
- Parking Concerns;
- Reduced Landscaping;
- Accessibility Concerns;
- Adversely Impacting the Historic Façade of the existing dwelling; and
- An excess amount of commercial space in the same vicinity.

8.9 The concerns listed above are generally related to the site plan approval process. Staff are working with the applicant directly through the ongoing site plan approval process to ensure the above-mentioned concerns are satisfied prior to receiving final approval.

9. Studies

The following was submitted in support of the application:

Planning Justification Report, D.G. Biddle and Associates.

- 9.1 This report provides the planning context of the subject lands and surrounding neighbourhood. The report identifies that the proposal meets the requirements of the *Planning Act*, Provincial Policy Statement, the Greenbelt Plan, conforms to the Growth Plan for the Greater Golden Horseshoe, the Durham Regional Official Plan and the Clarington Official Plan.
- 9.2 The report concludes that, in this location, the proposed scale and intensity of the development are in conformity with the applicable planning documents and represents good land use planning.

10. Agency Comments

Durham Region

- 10.1 The Region has no concerns with the proposed rezoning of the subject site, provided that the applicant submits a parking analysis report to the Region's satisfaction. The above requirement must be satisfied prior to the passing of the zoning by-law, or alternatively, be subject to an ('H') Holding Provision. The Holding Provision can be lifted once the applicant provides satisfactory evidence which addresses the above noted parking analysis pertaining to the subject site.

Other Agencies

- 10.2 Enbridge, Bell Canada, Canada Post and Hydro One indicated they had no objections to the proposed applications.

11. Departmental Comments

- 11.1 The applications were circulated to internal departments for review and comments. Comments were received from Public Works Department, Building Division, Fire and Emergency Services Department and the Accessibility Committee.

Public Works Department

- 11.2 The Clarington Public Works Department has no objections to the proposed rezoning application.

Building Division

- 11.3 The Clarington Building Division has no objection to the proposed rezoning application.

Fire and Emergency Services

- 11.4 The Clarington Emergency and Fire Services Department have no objections to the proposed rezoning application.

Accessibility Committee

- 11.5 The Clarington Accessibility Committee has no objection to the proposed rezoning application.

Heritage Committee

- 11.6 Staff are awaiting formal comments from the Clarington Heritage Committee. However, the Municipalities Heritage Planner has been working directly with the Clarington Heritage Committee to ensure the proposal meets the policies in relation to heritage. Throughout the site plan approval process the applicant will be required to provide elevation drawings and information regarding proposed building materials in support of the subject application to ensure the proposed addition is sympathetic to the heritage characteristics of the building, and in conformity with Section 8 policies of the Clarington Official Plan

12. Discussion

- 12.1 As detailed in Sections 5 and 6 of this report, the subject proposal conforms with all applicable Provincial and Regional Policy. The PPS, Growth Plan, Greenbelt Plan, Durham Regional Official Plan and the Clarington Official Plan all include policies that direct growth to settlement areas and allow commercial uses needed by the current and future population within the Settlement Areas. The subject application is for a general store and eating establishment to be located within a proposed addition to the existing single detached dwelling. While the relocation of this establishment from its previous location at the north-east corner of Newtonville Road and Regional Highway 2, to the property directly east has caused some concerns from residents, policy does not limit commercial activity based on potential competition of neighbouring establishments.
- 12.2 **Figure 3** illustrates the site plan concept for the commercial developments. While the subject proposal is consistent with Provincial, Regional and Local policy framework, the concerns that remain are related to the appropriateness of the site to effectively and safely incorporate the proposed use. The review of the site's appropriateness is being conducted through the site plan application process.
- 12.3 The applicant has been notified of comments from agencies and departments that will need be addressed as part of the site plan process. Staff continue to work with the applicant through the site plan review process to address detailed urban design and sustainable design, final site and building design, and landscaping.

Zoning Change

- 12.4 The proposed zoning by-law would place the subject lands in a site-specific Hamlet Commercial (C3) Zone. The zoning change will allow for the establishment of commercial uses, including a retail store, an eating establishment within a maximum of 60 square metres of the building.
- 12.5 There are several changes to the typical standards being proposed as a part of this amendment. These changes are considered minor in nature and reflective of the limited size and reflect the constraints typical for those of a hamlet within the Municipality. The "C3-10" zone proposes the following:

Table 1: Proposed “C3-10” Regulations

	“C3” Zone	“C3-10” Zone
Front Yard Setback	3 metres	1.4 metres
Front Yard Setback for Accessibility Ramp	0.6 metres	0 metres
Interior Side Yard Setback	3 metres	2.9 metres
Drive Aisle	4.5 metres	2.9 metres
Loading Space	1	0
Maximum Commercial Floor Area	N/A	60 square metres

- 12.6 The C3-10 zone proposes a reduced front yard setback to 1.4 metres and a reduced interior side yard setback to 2.9 metres, in keeping with many commercial sites throughout the Municipality, including the neighbouring property to the west. Further, in anticipation of the inclusion of an accessibility ramp to the front of the addition, Staff are amenable to a proposed 0 metre setback requirement for all accessibility ramps to provide sufficient space for the owner to construct the appropriate accessibility requirements, as per the Ontario Building Code.
- 12.7 Further the proposed “C3-10” zone would provide a reduced drive aisle requirement to 2.9 metres, to permit the residents to access the residential parking proposed to the rear of the existing building. Staff feel the reduced drive aisle width is appropriate for residential purposes given the standard parking space width in the Zoning By-law is 2.75 metres and the proposed aisle would exceed 2.75 metres in width.
- 12.8 As described in **Table 1**, the typical Zoning By-law provisions require one loading space for the proposed commercial uses. Given the size and nature of the operation, Staff have no objection to exempting the applicant from this requirement. Strict timelines for deliveries will be incorporated into the Site Plan Agreement, through the site plan process.

- 12.9 Finally, the proposed “C3-10” zone would limit the amount of commercial floor space in an attempt to reduce any parking concerns as a result of the property having limited space. By imposing a 60 square metre limitation to the proposed commercial uses, the site would only require two dedicated parking spaces, as shown on the site plan in **Figure 3**.
- 12.10 Staff are of the opinion that it is appropriate to proceed with recommending approval of the rezoning application, subject to a (‘H’) Holding Provision, as the proposed commercial use is consistent with and conforms to provincial and local policy. In Staff’s opinion, the proposed site-specific zone standards are appropriate and represent minor reductions from current zoning standards and therefore would result in minimal impact on neighbouring properties. However, it should be noted that the proposed Holding Provision would only be lifted once the Applicant provides satisfactory evidence which addresses all concerns listed in this report, including Sections 8.10 and 10.1, as well as enters into the appropriate development agreement with the Municipality of Clarington to address the final technical details related to the proposal.

13. Concurrence

Not Applicable.

14. Conclusion

In consideration of all agency, staff and public comments, it is respectfully recommended that the application to amend Zoning By-law 84-63 to permit the commercial uses be approved.

It is respectfully recommended that in consideration of all agency, staff and resident comments that the application for Zoning By-law amendments to permit the establishment of a general store and eating establishment be approved as contained in **Attachment 1** of this report.

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Attachments:

Attachment 1 – Zoning By-law Amendment

Attachment 2 – Public Comments Summary Table

Interested Parties:

List of Interested Parties available from Department.