

## Staff Report

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<b>Report To:</b>	Joint Committees	<b>Report Number:</b>	PSD-039-19
<b>Date of Meeting:</b>	September 9, 2019	<b>By-law Number:</b>	
<b>Submitted By:</b>	Faye Langmaid Acting Director of Planning Services	<b>Resolution #:</b>	JC-102-19, JC-103-19, PD-137-19 & PD-171-19
<b>Reviewed By:</b>	Andrew C. Allison, CAO		
<b>File Number:</b>	PLN 8.6.7		
<b>Cross Reference:</b>	ZBA2019-0014		
<b>Report Subject:</b>	<b>Exemption Request for 10 Victoria Street from Interim Control By-law</b>		

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### Recommendations:

1. That Report PSD-039-19 be received;
2. That the request for an exemption to Interim Control By-law 2018-083 for 10 Victoria Street be denied; and
3. That all interested parties listed in Report PSD-039-19 and any delegations be advised of Council's decision.

## Report Overview

Ken Hoy has requested an exemption to Interim Control By-law 2018-083. He proposes a semi-detached dwelling at 10 Victoria Street.

## 1. Introduction

- 1.1 Clarington Council approved Interim Control By-law 2018-083 on September 17, 2018 to restrict the use of land within the Residential Neighbourhood Character Study area, which includes in part the established areas of Elgin, Central and Memorial in Bowmanville (Figure 1). Staff Report PSD-038-19 seeks an extension of the Interim Control By-law for one-year, with the understanding the by-law would be repealed at such time new zone provisions were implemented as per the recommendations of the study.

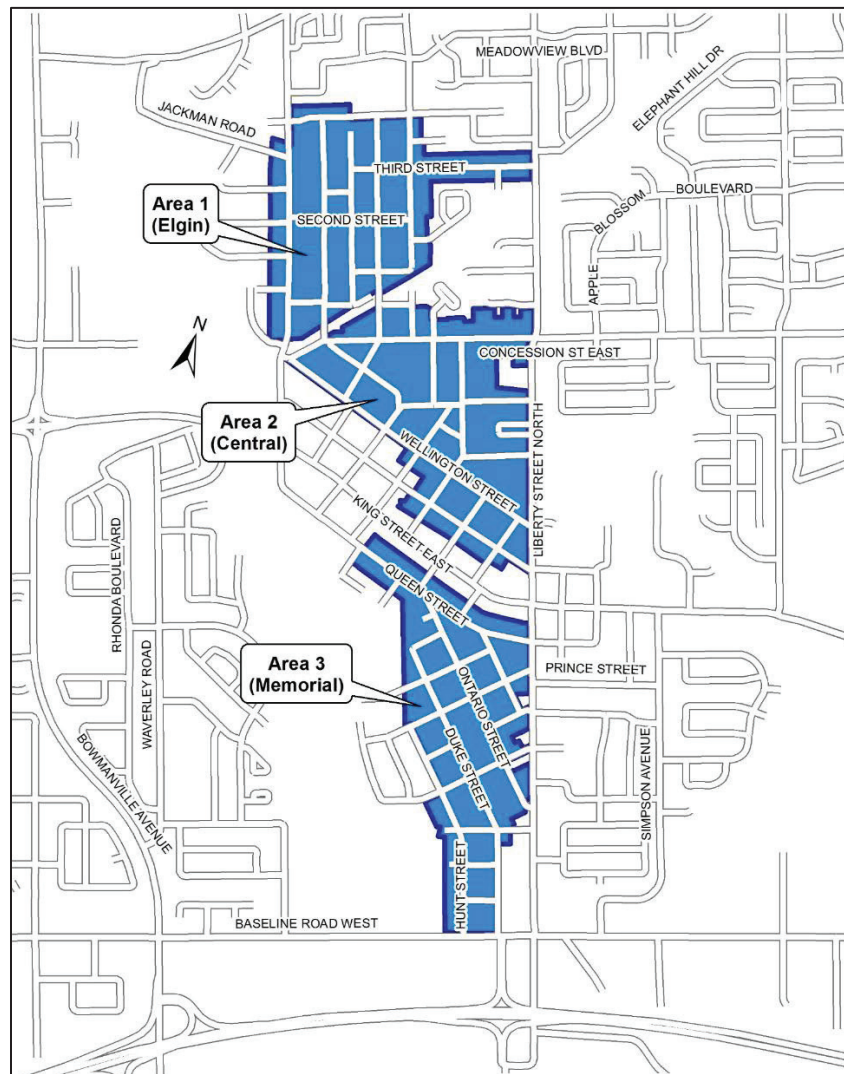


Figure 1: Residential Neighbourhood Character Study Area

- 1.2 On August 8, 2019 Ken Hoy contacted Staff to request an exemption to Interim Control By-law 2018-083 to construct a semi-detached dwelling at 10 Victoria Street.
- 1.3 In order to minimize potential appeals, Interim Control By-law 2018-083 included a number of exemptions for buildings and structures that would not likely contribute to the issues affecting neighbourhood character, and acknowledged development applications that were in process (Attachment 1). A Minor Variance application is required where the regulations in terms of setback, height, lot coverage, etc. cannot be met.
- 1.4 A request for exemption was previously received from Barry Bolahood in March 2019 for 10 Victoria Street. On April 29, 2019, Council received for information the request outlined in [PSD-023-019](#) regarding the Interim Control By-law exemption request (Resolution #C-168-19).

## 2. Exemption Request, 10 Victoria Street

- 2.1 On August 8, 2019 Ken Hoy verbally requested an exemption to Interim Control By-law 2018-083 for a property at 10 Victoria Street (see Figure 2). This followed his submission of a Building Permit for construction of a semi-detached dwelling which he was advised would be placed on hold due to the fact the property had not been exempted from Interim Control By-law 2018-083.

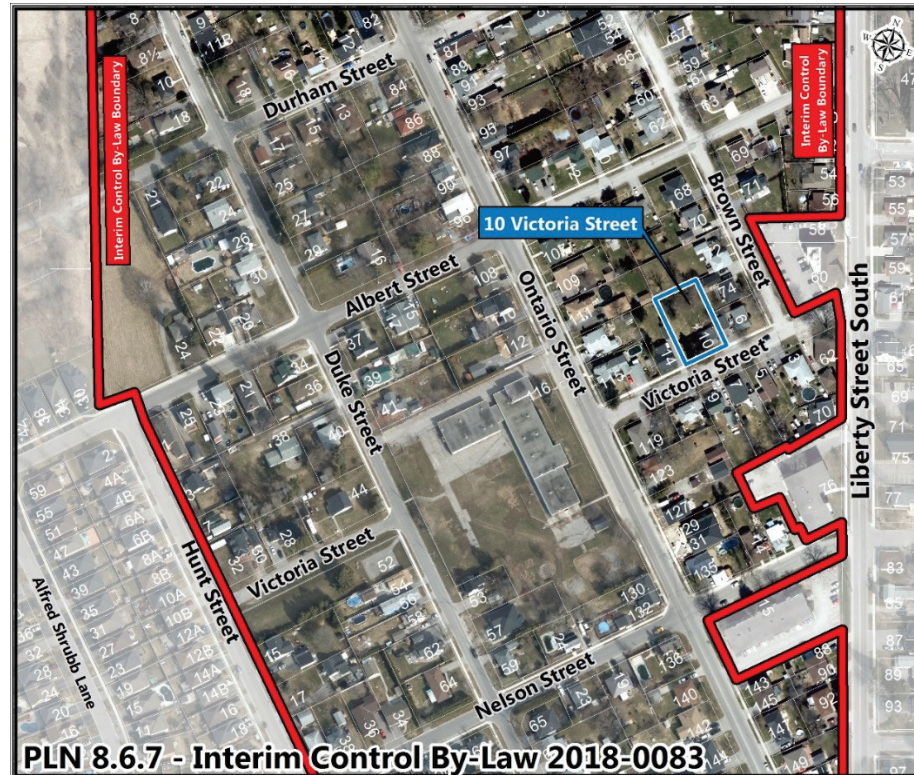


Figure 2: Immediate area of the Interim Control By-law surrounding 10 Victoria

- 2.2 Mr. Hoy was under the impression that the exemption request submitted previously for the property by Barry Bolahood had been granted. Mr. Hoy had previously been made aware that 10 Victoria Street was not exempt from Interim Control By-law at a meeting with Staff on May 16, 2019.
- 2.3 In May, staff requested that Mr. Hoy conduct a character analysis of the area to help inform the design of his proposed dwelling and that he make an effort to comply with the regulations contained in section 2. f. of Interim Control By-law 2018-083 as contained in Attachment 1. The character analysis request was made in order for staff to determine if the proposal would meet with policies regarding character in the Official Plan, which requires development and redevelopment in existing neighbourhoods to:
- a) Respect and reinforce the physical character of the established neighbourhood having regard to the pattern of *lots*, streets and block, the size and configuration of *lots*, building types of nearby properties, the height and scale of building and the setback of building from the street, rear and side yards;
  - b) In neighbourhoods of historical character, be consistent with the built form pattern of the area;
  - c) Adhere to all relevant Urban Design Guidelines and expectation for high-quality architectural design and *sustainable* building materials; and
  - d) Maximize opportunities to improve accessibility and pedestrian and cycling systems, enhance neighbourhood and transit connections, and reduce energy, water and resource use.
- 2.4 Mr. Hoy advised he was not interested in conducting a character analysis or modifying his design to comply with the regulations contained in section 2.f of Interim Control By-law 2018-083. To date, a character analysis has not been provided.
- 2.5 Figures 3 and 4 depict the proposed one storey semi-detached dwelling. The design is proposed to include a two car garage for each unit. The garages will be flush with the porches and are paired which will make them a prominent feature in an area where attached garages are uncommon. Where garages exist they are typically detached which affords for larger side yard setbacks than the 1.2 m proposed. The proposed lot coverages are 41.9% and 42.1% respectively which exceeds the 35% maximum lot coverage in section 2. f. of Interim Control By-law 2018-083.
- 2.6 There were a number of mature trees on the property, some of which have been removed. If an exemption is considered a Land Division application would be required to create 2 separate lots. Through that process staff would make recommendations for compensation of trees that would have to be removed.



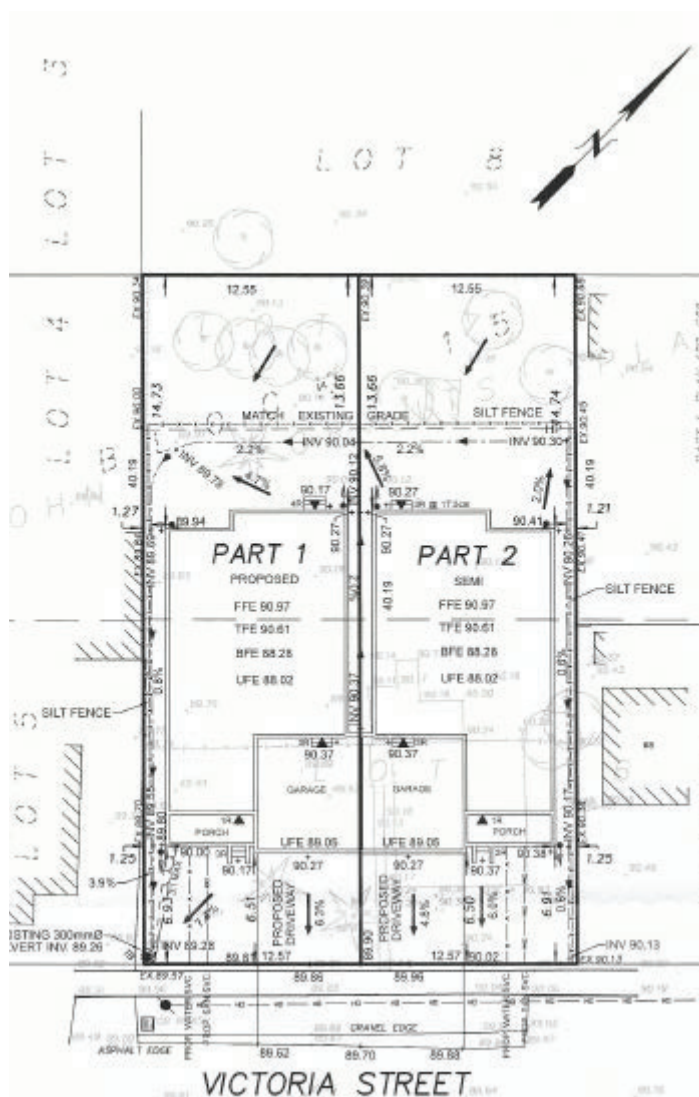


Figure 3: Proposed Site Plan for 10 Victoria Street

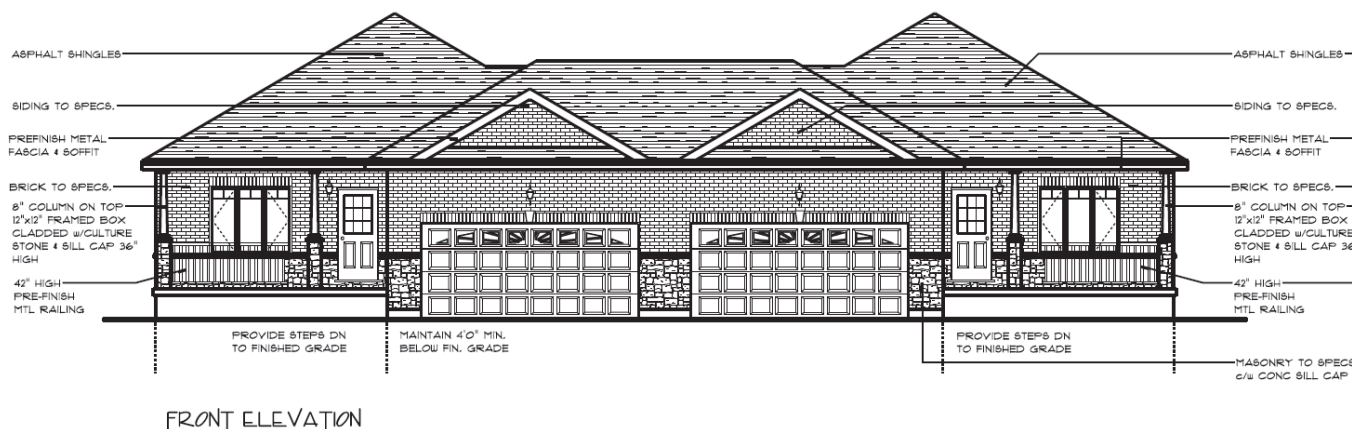


Figure 4: Proposed Front Elevation for 10 Victoria Street

### **3. Application for Exemption to Part Lot Control**

- 3.1 On Friday August 23, 2019 Mr. Hoy submitted an application for Exemption from the Part Lot Control provisions of the Planning Act. Part Lot Control Exemption is a method of subdividing land that is an alternative to the severance process. Staff do not support a part lot control exemption for this property.
- 3.2 A property is only eligible for Part Lot Control Exemption if the land is within a registered plan of subdivision. This requirement does not appear to be met In the case of 10 Victoria Street. Although the lands do appear on a historical plan dated June 30, 1869, the former Town of Bowmanville enacted a by-law in 1956 to deem this plan not to be a registered plan of subdivision in accordance with the Planning Act.
- 3.3 Staff do not support the application for Exemption to Part Lot Control for the following additional reasons:
- i. The property was already previously subdivided;
  - ii. Clarington typically reserves Part Lot Control Exemptions for lots that are part of a larger development application, and other conditions of development have been satisfied; and
  - iii. No notice has been given to the public regarding the proposed subdivision of the property.
- 3.4 For these reasons, staff recommended to Mr. Hoy that he should apply to the Region of Durham for severance of his land, as that is the appropriate process in his circumstances.
- 3.5 Staff offered to refund the Part Lot Control Exemption application fee to Mr. Hoy if he withdrew his application, however Mr. Hoy has insisted that the matter be brought to Council for a decision.

### **4. Conclusion**

- 4.1 In consideration of the comments contained within the report, it is recommended that the requested exemption to Interim Control By-law 2018-083 for 10 Victoria Street be denied.

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Staff Contact: Tracey Webster, Planner, 905-623-3379 ext. 2415, [twebster@clarington.net](mailto:twebster@clarington.net)

Attachments:

Attachment 1 - Interim Control By-law 2018-083

List of interested parties to be notified of Council's decision is on file in the Planning Services Department.

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## The Corporation of the Municipality of Clarington

### By-law 2018-083

being an Interim Control By-law passed pursuant to section 38 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

WHEREAS staff prepared Report PSD-078-18 identifying the need to undertake a review or study of the land use planning regulations respecting the area shown as "Area Subject To Interim Control By-Law" on the map contained in Schedule "A" hereto, and recommending that the review or study of land use planning policies be undertaken;

WHEREAS at its meeting on September 17, 2018, Council directed staff to undertake the review or study of land use planning policies for the area shown as "Area Subject To Interim Control By-Law" shown on the map contained in Schedule "A" hereto;

WHEREAS Council deems it expedient to pass an Interim Control By-law under Section 38 of the Planning Act, R.S.O. 1990, c.P.13, as amended applicable to the are shown as the "Area Subject To Interim Control By-Law" shown on the map contained in Schedule "A" hereto;

NOW THEREFORE, the Council of The Corporation of the Municipality of Clarington hereby enacts as follows:

1. The use of land, buildings or structures located within the area shown as "Lands To Which This By-law Applies" on the map contained in Schedule "A" attached to and forming part of this By-law, is prohibited, except a use for one or more of the following purposes:
  - a. An existing legally established use permitted by By-law No. 84-63, as amended, on the day immediately prior to the date of passing of this By-law;
  - b. An addition to an existing dwelling that does not alter street façade and does not exceed:
    - i) 25% or more of the total floor area of the dwelling that existed on the same lot on the date of passage of this by-law;
    - ii) A height of 8 metres;
    - iii) A roof pitch minimum of 4/12 and a maximum of 7/12.
    - iv) A lot coverage of 35%
  - c. Accessory buildings and structures provided they comply with the provisions of Section 3 of Zoning By-law 84-63;
  - d. An apartment-in-house provided:



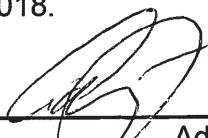
- i) Access is provided through a shared common entrance with the principal dwelling use, or through an entrance within the interior side yard or rear yard; and
    - ii) Provided that it complies with the parking requirements of Section 3 of the By-law and that the total driveway on the lot is less than 50% of the lot width.
  - e. A home occupation in accordance with the provisions of Section 3.11 of Zoning By-law 34-63 , save and except the retail sale of antiques, arts, crafts or hobby items.
- 2. The following provides a list of exceptions to the provisions of Section 1 of this by-law:
  - a. An Apartment-in-house in accordance with Section 3.2 of Zoning By-law 84-63, where access is provided through a separate front entrance from the principal dwelling use located at each of 129 and 131 Ontario Street;
  - b. A new single detached dwelling at 129 Elgin Street in accordance with the "Urban Residential Exception (R2-83)" zone.
  - c. Two new single detached dwellings located at 26 Concession Street West, in accordance with the regulations contained in the conditions of approval for LD 2018/003 & LD 2018/004.
  - d. New single detached dwellings subject to the regulations contained in Section 2 f. of this By-law and located at:
    - i) 47 Second Street, Bowmanville
    - ii) 73 Lambs Lane
    - iii) A total of 3 single detached dwellings 60 & 66 Lambs Lane in accordance with LD2017/143-146
    - iv) 115 Duke Street
    - v) 112 Duke Street in accordance with LD2017/187 & 188
    - vi) 75 Duke Street
  - e. New semi-detached dwellings subject to the regulations contained in Section 2 f. of this By-law and located at:
    - i) 69 Lambs Lane
    - ii) 132A Elgin Street
    - iii) 112 Duke Street in accordance with LD2017/187 & 188
  - f. Regulations for new dwellings listed under subsections e. and f:
    - i) Maximum lot coverage 35%
    - ii) Maximum height 8 metres
    - iii) Minimum interior side yard setback with an attached garage 1.2 metres
    - iv) Minimum interior side yard setback without an attached garage 1.2 metres on one side, 4.5 metres on the other

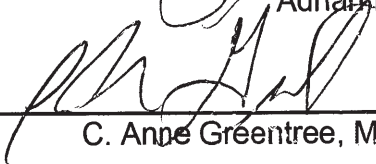


- v) Minimum roof pitch 4/12
- vi) Maximum roof pitch 7/12

- g. An addition to a single detached dwelling located at 79 Division Street with a maximum lot coverage of 43% in accordance with approved Minor Variance Application A2016-0032.
2. This By-law is not applicable to applications for building permits submitted prior to the effective date of this By-law. Schedule 'A' attached hereto shall form part of this By-law.
  3. This By-law shall be in effect for a period of 1 year from the date of its passage.

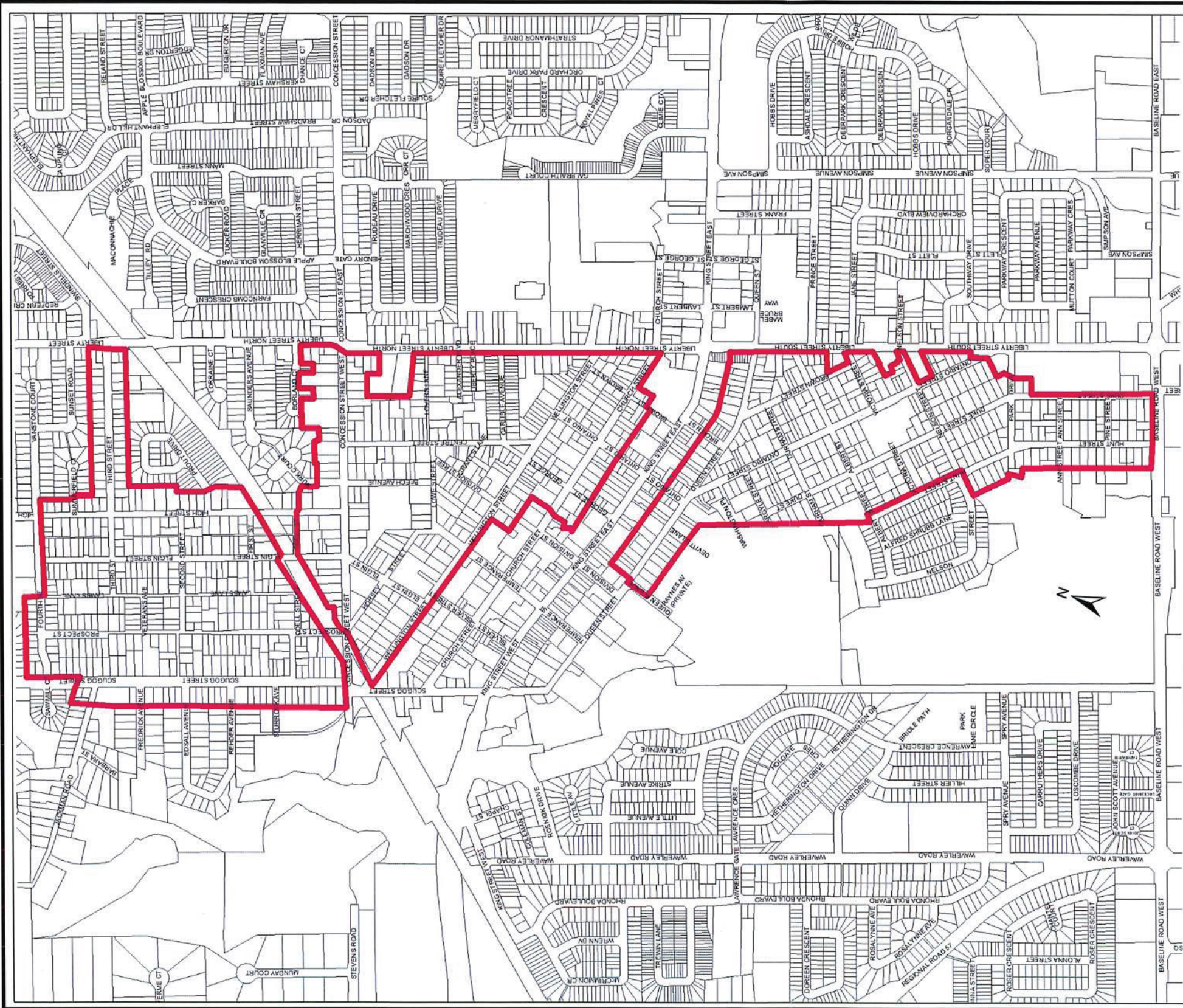
Passed in Open Council this 17<sup>th</sup> day of September, 2018.

  
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Adrian Foster, Mayor

  
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C. Anne Greentree, Municipal Clerk



This is Schedule "A" to By-law 2018- 083 , passed this 17th day of September , 2018 A.D.



 Area Subject To Interim Control By-law



Adrian Foster, Mayor

Bowmanville • PLN 8.6.1 • Schedule 3



C. Anne Greentree, Municipal Clerk