



## Regular Council Meeting

<b>To:</b>	Mayor and Council
<b>Date:</b>	December 6, 2021
<b>From:</b>	Christina Coulter, Planner and Karen Ellis, Director of Planning
<b>Report Number:</b>	Planning 2021-61
<b>Subject:</b>	918 Highway 7A (Duguay) Zoning By-law Amendment

### Recommendation:

That By-law 2021-71 be approved to amend By-law No. 2018-58, as amended, with regard to lands at 918 Highway 7A in part of Lot 12, Concession 9 of the Cavan Ward.

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### Overview:

On behalf of Patrick Devlin, Kevin Duguay of KMD Community Planning and Consulting Inc. applied to the Township of Cavan Monaghan for a zoning by-law amendment. The Application applies to lands known municipally as 918 Highway 7A in part of Lot 12, Concession 9 of the Cavan Ward. A key map showing the location of the subject property is provided as Attachment No. 1 to this Report. The site plan submitted with the Application is provided as Attachment No. 2.

A public meeting was held on March 15, 2021. Written and verbal public comments and concerns received prior to the public meeting were presented through Report Planning 2021-04 provided as Attachment No. 3.

At the public meeting, the Applicant spoke in support of the Amendment. Written comments from the owners of 912 Highway 7A identified concerns with the proposed Amendment including the projection of the existing building beyond the front lot line, the potential location of a child's bedroom in close proximity to a busy highway and the conversion to a residential property within the framework of the Township Official Plan.

Following the public meeting, public comments and concerns were assessed by Planning Staff. A recommendation report was presented to Council on June 21, 2021 (Report Planning 2021-30 provided as Attachment No. 4). After considering the Report at the June 21, 2021 meeting, Council passed the following motion:

"R/21/06/21/10

Moved by: Graham

Seconded by: Huntley

That Council defer Report - Planning 2021-30 918 Hwy 7A (Duguay) Zoning By-law Amendment and that staff seek a legal review; and  
That staff send a letter to the Ministry of the Environment and Peterborough Public Health.”

The motion passed.

As per the Council motion, Staff contacted Peterborough Public Health (PPH) and Ministry of Environment Conservation and Parks (MECP) Staff.

On September 22, 2021, Kathleen Shepherd of PPH confirmed via email that she has spoken to the property owner of 912 Highway 7A in the past and advised him to contact the MECP in the form of a written complaint. Ms. Shepherd also indicated that if the sewage system (at 912 Highway 7A) is located within 15 metres of the well (at 918 Highway 7A), there is a potential health hazard with the drinking water becoming contaminated.

On November 8, 2021, Township Staff attended the site with MECP Staff and observed the location and condition of the well located at 918 Highway 7A. MECP Staff also assessed 912 Highway 7A in terms of the possible location of the septic system. Although the homeowner was unavailable during the time of the site visit, a verbal discussion with Ms. Shepherd occurred and observations of the topography and measurements of the site were noted.

On November 15, 2021, the Township received a letter from MECP confirming that the private water well servicing the property at 918 Highway 7A does not meet current setback requirements stipulated in Ontario Regulation 903 from the subsurface sewage disposal system located on the adjacent property (912 Highway 7A). However, when the well was drilled in 1994, Ontario Regulation 903 did not contain any setback or location requirements. The configuration of the well (918 Highway 7A) and the adjacent septic system (912 Highway 7A) complied with the requirements at the time of installation. A complete copy of the letter is provided as Attachment No. 5.

On November 18, 2021, the Township received the requested legal opinion from Ed Veldboom of Russell, Christie. A complete copy of the letter is provided as Attachment No. 6. As per Mr. Veldboom’s letter, when considering the approval of a zoning by-law amendment, Council is obliged to determine if the amendment is consistent with Provincial Policy, if it conforms to applicable Official Plan policy, and if it represents good planning.

Mr. Veldboom indicated that a municipality is not subject to liability (even in negligence) when utilizing its “legislative authority” to enact by-laws (including the passage of zoning by-laws permitting specific uses or developments) provided that such enactment was or is not done in bad faith or for some improper purpose. There is no specific test to determine what might constitute bad faith or improper purposes; however, one significant

indicator of bad faith in the context of Planning Act decisions is the complete failure of Council to consider the statutory test for a rezoning.

In the case of 918 Highway 7A, as substantiated by the MECP letter, there is nothing inherently illegal about the current location of the private well or septic system. Furthermore, there is nothing precluding the use of either the existing well or septic system under the current zoning. Thus, provided that Council does not “completely fail” to apply the appropriate statutory test when considering the Zoning By-law Amendment, no liability would accrue to the Municipality because of Council’s decision to approve the rezoning.

As detailed in Reports Planning 2021-04 and 2021-30, the Application supports the policies of A Place to Grow, Growth Plan for the Greater Golden Horseshoe (2019 Growth Plan). MTO and PPH have confirmed that they have no objection to the zoning by-law amendment. MECP has confirmed that the configuration of the well and septic systems were compliant at the time of installation. The Township Solicitor has confirmed that liability will not accrue to the Township if Council determines that the amendment is consistent with Provincial Policy, conforms to applicable Official Plan policy, and represents good planning.

With the resolution of the servicing issue through the change of use permit, the Application will conform to and not conflict with the Township of Cavan Monaghan Official Plan, the Peterborough County Official Plan and the Provincial Policy Statement 2020 (PPS). The Application represents good planning. Township Staff recommend approval of By-law No. 2021-71. A complete copy of the By-law is provided as Attachment No. 7 to this Report.

**Financial Impact:**

None at this time.

**Attachments:**

- Attachment No. 1: Key Map
- Attachment No. 2: Application Site Plan
- Attachment No. 3: Report Planning 2021-04
- Attachment No. 4: Report Planning 2021-30
- Attachment No. 5: MECP Letter – November 15, 2021
- Attachment No. 6: Russell, Christie LLP Letter – November 18, 2021
- Attachment No. 7: By-law No. 2021-71

Respectfully Submitted by,

Christina Coulter, B.Sc. (Hons)  
Planning

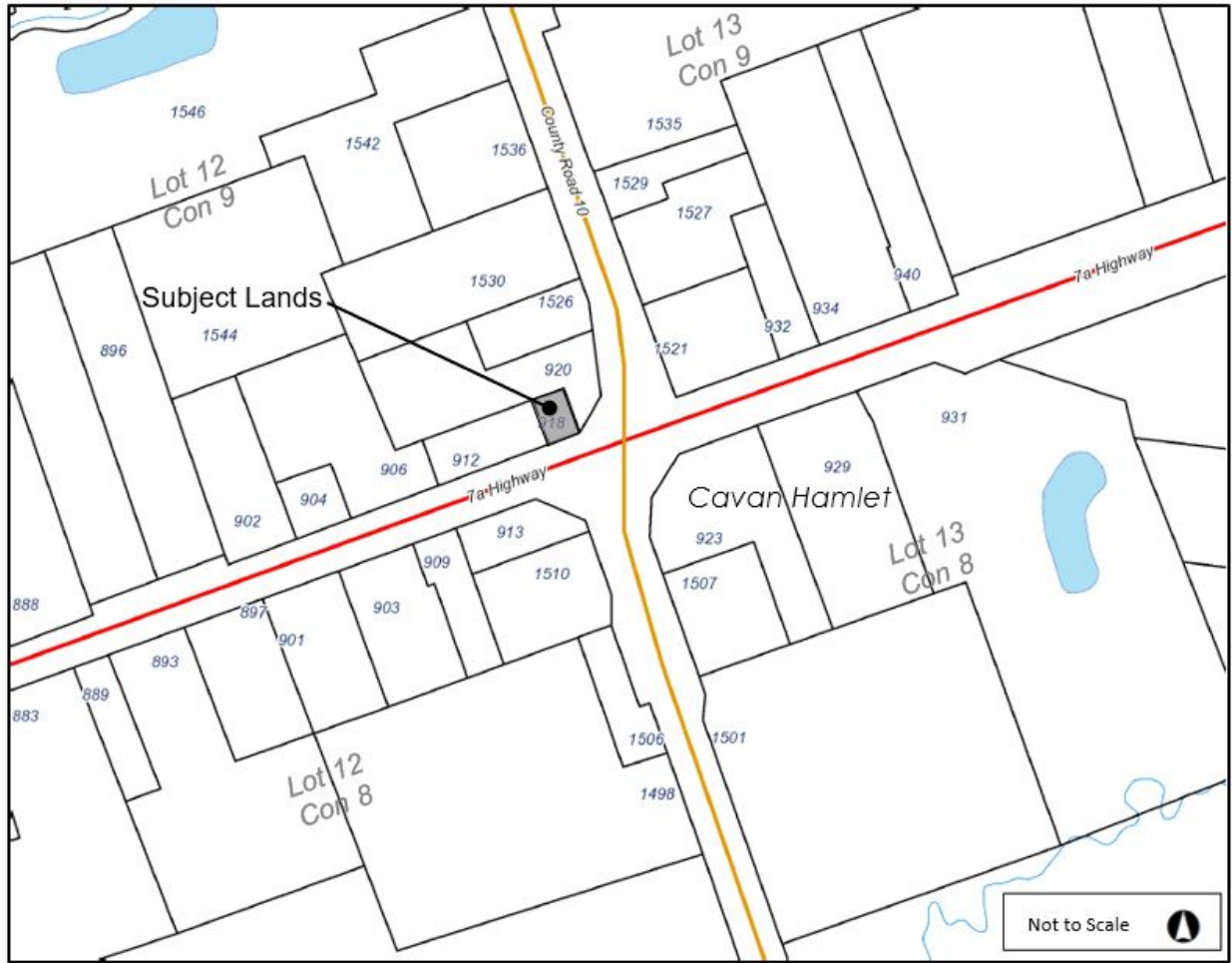
Karen Ellis, B.A.A.  
Director of Planning

Reviewed by,

Yvette Hurley  
Chief Administrative Officer

Attachment No.1: Key Map

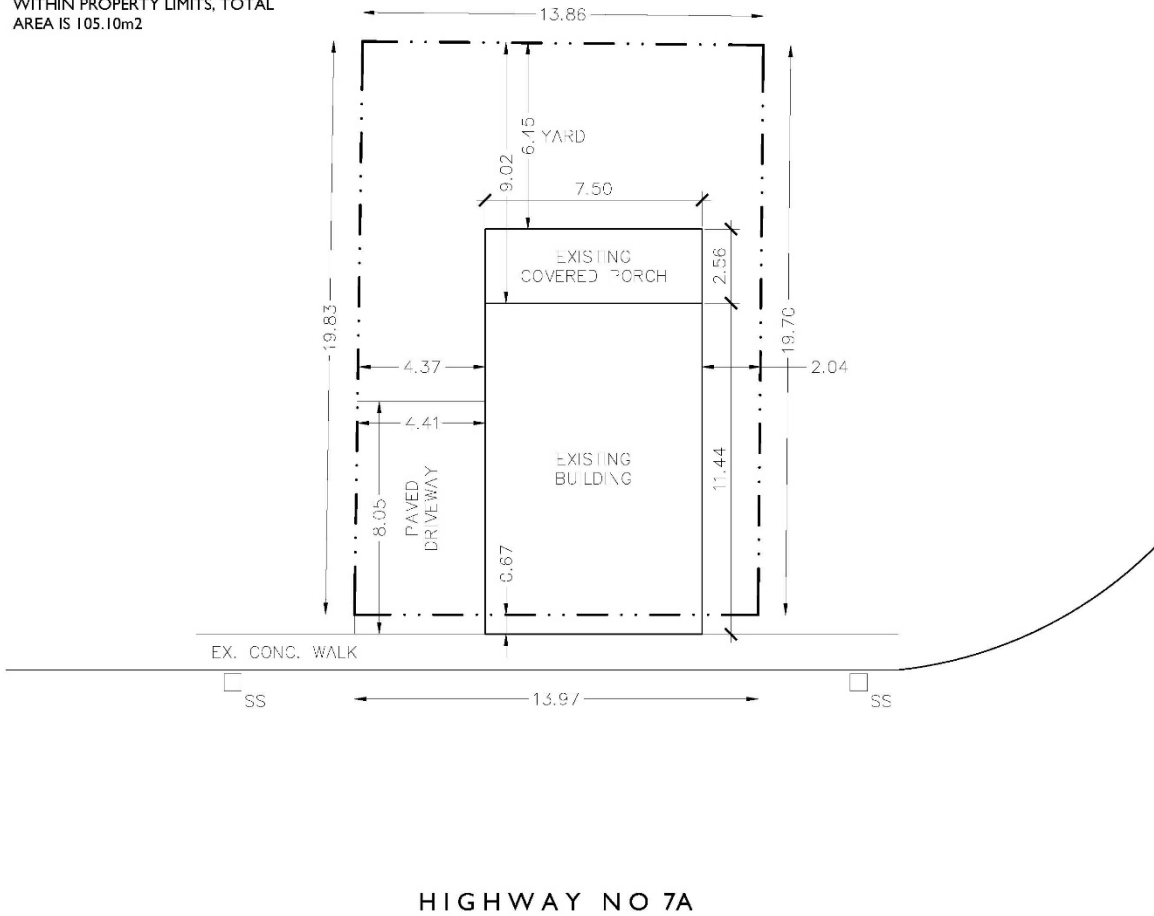
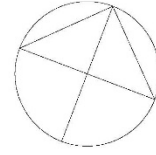
Key Map



# Attachment No. 2: Application Site Plan

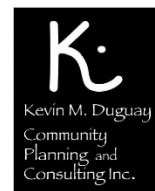
NAME	AREA m2
SITE	275.04
BUILDING	100.09
PAVEMENT	32.98
LANDSCAPE	141.16

NOTE: BUILDING AREA SHOWN IS WITHIN PROPERTY LIMITS, TOTAL AREA IS 105.10m2



SCALE 1:200  
ALL DIMENSIONS IN METRES

SITE PLAN  
**918 HIGHWAY NO 7A**  
CAVAN, ON  
R01 2021-01-18



## Attachment No. 3: Report Planning 2021-04



### Regular Council Meeting

<b>To:</b>	Mayor and Council
<b>Date:</b>	March 15, 2021
<b>From:</b>	Christina Coulter, Planner and Karen Ellis, Director of Planning
<b>Report Number:</b>	Planning 2021-04
<b>Subject:</b>	918 Highway 7A (Duguay) Zoning By-law Amendment

#### Recommendations:

1. That Council review and consider all verbal and written comments received at the public meeting; and
2. That a draft By-law be presented to Council at a future date for consideration.

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#### Overview:

On behalf of Patrick Devlin, Kevin Duguay of KMD Community Planning and Consulting Inc. applied to the Township of Cavan Monaghan for a zoning by-law amendment. The Application applies to lands known municipally as 918 Highway 7A in part of Lot 12, Concession 9 of the Cavan Ward. A key map showing the location of the subject property is provided as Attachment No. 1 to this Report.

Municipal Property Assessment Corporation information indicates that the existing building was built as a detached garage in 1949. However, the property code information describes the property as "vacant residential land not on water". There is no building permit information in the property file to determine if or when the detached garage may have been converted to a residence.

File information from July of 1993 confirmed that the property was zoned Residential (R) when the first Cavan Township Zoning By-law was approved in January of 1977. The documentation also indicates that the property was not used for residential purposes and has always supported a commercial use, namely a second hand store. In 1993, the commercial use was deemed by the Township to be legal non-conforming.

When the Township of Cavan-Millbrook-North Monaghan approved a new Zoning By-law in 2004, the property was zoned Highway Commercial (HC) to recognize the existing use. Since 2004, the commercial use of the property appeared to cease. Given ongoing issues with the size of the property and the inability to obtain a commercial entrance permit from the Ministry of Transportation (MTO), the subject lands were zoned Hamlet Residential

(HR) in Zoning By-law No. 2018-58. At the direction of Council, the zoning on the lot was subsequently changed from Hamlet Residential (HR) to Hamlet Commercial Exception Eleven (C2-11) in 2019.

A Zoning By-law Amendment is required to permit the property to be used for residential purposes and to recognize the existing building as a single detached dwelling. The Zoning By-law Amendment application was received by the Township on January 20, 2021 and deemed complete on February 11, 2021.

The subject property is an existing lot of record located close to the northwest corner of the intersection of Highway 7A and County Road 10 in Cavan Hamlet. The property is approximately 275 square metres (0.679 acres) in size with approximately 13.97 metres (45.83 feet) of frontage on Highway 7A and is currently developed with a one storey building approximately 85.8 square metres (923.57 square feet) in size. An attached covered porch adds approximately 19.2 square metres (206.67 square feet) to the area of the building. The property is currently serviced with a private well and a holding tank. Storm sewers are located in the Highway 7A road allowance.

The site plan submitted with the Application is provided as Attachment No. 2 to this Report.

### **Zoning By-law Amendment**

The property is currently zoned the Hamlet Commercial Exception Eleven (C2-11) Zone on Map C-2 of By-law No. 2018-58, as amended. A single detached residence is not a permitted use in the C2-11 Zone.

The purpose and effect of the Zoning By-law Amendment is to change the zoning of the subject lands from the Hamlet Commercial Exception Eleven (C2-11) Zone to the Hamlet Residential Exception Seventeen (HR-17) Zone to permit the existing building to be used as a single detached dwelling. The proposed Amendment will limit the permitted uses on the property to one (1) single detached dwelling.

The Amendment also proposes to recognize the deficient front yard setback including projection beyond the front lot line, the deficient side yard setbacks, the reduced parking space requirements, the increased lot coverage, the deficient lot area and the deficient lot frontage.

As drafted, the By-law will limit the permitted use of the property to a single detached dwelling only and will require a minimum lot area of 270 square metres, a minimum lot frontage of 13.97 metres, a minimum front yard of 0 metres, a minimum eastern interior side yard of 2.04 metres, a minimum western interior side yard of 4.37 metres, a maximum lot coverage of 55%. In addition, the By-law will recognize that the existing building projects beyond the existing front property line by 0.67 metres and only one (1) parking space will be required.

A complete copy of the draft Zoning By-law Amendment is provided as Attachment No. 3 to this Report.



## **Response to Notice**

Notice of the Zoning By-law Amendment application was circulated, by first class prepaid mail, to all assessed persons within 120 metres (400 feet) of the lands affected by the Zoning By-law Amendment application, to all required ministries and agencies and to all Township Department Directors. A sign was posted on the subject property. The Notice of Public Meeting was posted on the Township website. The notice complies with the requirements of the Planning Act.

To date, Township Staff have received two inquiries from potential purchasers of the property who are interested in a residential use. In addition, Staff received written comments and photographs from Howard and Rosalinde Douma of 912 Highway 7A. The Douma submission is included as Attachment No. 4 to this Report.

Peterborough Public Health (PPH) indicated that a certificate of approval was issued for 918 Highway 7A in July of 1993 to service a used furniture retail store. The daily design sanitary sewage flow was calculated to service a retail business having 1 kitchen sink, 1 wash basin, 1 toilet and 2 staff. A 9000 litre Holding Tank was installed and approved on December 1, 1993.

Since the installation of the holding tank on this property the Ontario Building Code was changed to regulate Sewage Systems in 1998. The requirement for Holding Tanks, Class 5 Sewage Systems, changed so that holding tanks are now sized and shall have a minimum 7 day holding capacity based on the total daily design sanitary sewage flow.

PPH's review of the current realtor listing for this property indicates that the building has been renovated into a 3 bedroom, 1 bath home. The Application Form indicates that the residential use has existed on the property for "2 plus years". The daily design sanitary sewage flow calculated for a 3 bedroom residence is 1600 l/day and the required holding tank size for that flow is 11,200 litres. The existing holding tank is not large enough to accommodate the total daily design sanitary sewage flows and needs to be upgraded. In addition, the Ontario Building Code now requires a 15 metre minimum horizontal clearance to a private well from a holding tank.

Peterborough Public Health has issues with the change of use for this premises and will require an application from the owner regarding the sewage system. If a new holding tank is proposed, all applicable law must be approved for that installation including the approval of the proposed zoning by-law amendment.

Enbridge Gas Inc. did not have any objections to the rezoning.

As of the writing of this report, Township Staff have not received any comments from the Ministry of Transportation (MTO) or the Otonabee Region Conservation Authority (ORCA). The property is located within the study area of the intersection improvements for Highway 7A and County Road 10. As such, comments from the MTO are expected.

Public Works Staff indicated concerns with the location of the building (too close to road and the sidewalk). They suggest that the building encroachment be legalized before a decision is made on the zoning by-law amendment. If an encroachment agreement cannot be implemented, they suggest that the building be moved. Public Works Staff also indicated a concern with noise and complaints about snow storage. They do not support the rezoning.

The Building Department will require a change of use permit. In addition, septic system information will be required at that time.

The Fire Department has no concerns at this time.

### **Township of Cavan Monaghan Official Plan**

The subject property is within the Cavan Settlement Area as illustrated on Schedule F - Map 5 to the Official Plan for the Township of Cavan Monaghan (Official Plan) and is designated Hamlet as shown on Schedule 'A' to the Official Plan. The subject property is also within Special Study Area No. 1 as shown on Schedule 'A' to the Official Plan.

Lands designated Hamlet represent small scale settlement areas that provide an important residential, commercial and social focus in the Rural area (S. 4.9). Key objectives of the Hamlet designation are to recognize the unique and historic nature of the smaller settlement areas in the Township, to maintain the character and amenities of the existing rural communities in the Township and to provide opportunities for small-scale commercial, industrial and tourism related uses that service the rural community and are compatible with the character and scale of the Hamlet (S. 4.9.1).

Permitted uses in the Hamlet designation include single detached or semi-detached dwellings, home based businesses, public institutional uses, small scale commercial and industrial uses serving the Hamlet, surround rural areas and supporting tourism in the area, and public parks (S. 4.9.2).

The Township has the goal to manage population growth in a sustainable manner. This goal is to be partially achieved by accommodating limited growth in the Hamlets through minor rounding out and infilling on private services that is sustainable and maintains the character of these small communities (S.2.2.2 d). A diverse housing stock in terms of type, tenure, density and affordability is required to meet the varied needs of residents and the community by encouraging intensification and infill development within the built-up area where adequate services such as water supply, sanitary sewerage, storm sewerage and drainage, schools and parkland are available and commercial and community facilities are available (S. 2.1.2).

Prior to development occurring or an amendment to the Zoning By-law, the Township must be satisfied that suitable arrangement has or can be made for water supply, sewage disposal, storm drainage and all other necessary public services (S. 3.1 b)).

If approved, the Application will permit a residential use on an existing lot of record. A residential use is permitted in the Hamlet designation; the character of Cavan Hamlet is

being maintained, and the home will be located in a community with commercial and recreational amenities. The Application satisfies the general policies of the Township Official Plan related to the Hamlet designation. However, based on comments from PPH, the issue of adequate servicing remains unanswered at this time. Until the Applicant provides confirmation from PPH that the property can safely accommodate a residential use with individual on-site water and sewage disposal services, the Application does not conform to the Township Official Plan.

The subject property is just inside the Special Study Area No. 1 (SSA-1), Section 2.6 of the Official Plan which states that “this area is...where future growth in the Township of Cavan Monaghan is anticipated to occur if and to the extent demonstrated by the municipal comprehensive review...” Section 2.6(e) permits small scale zoning by-law amendments within settlement areas in SSA-1 without the need for Secondary Plan(s) referred to in this Section of the Official Plan.

### **Peterborough County Official Plan**

The subject lands are described as Settlement Area in the County Official Plan. The County Official Plan encourages a range of land uses and facilities in settlement areas to promote linkages between the population and employment opportunities (S. 4.2.3).

The County Plan encourages a full range of living and employment opportunities by the creation of complete communities. The Plan also promotes the efficient utilization of existing services and facilities to reduce the need for new infrastructure development, where possible (S. 4.2.2).

The goal of the housing policies (S. 5.1.1) is to provide for a range of housing by type and density to respond to the varying needs of the permanent population based on demographics, income, market and special needs considerations. Another goal (S. 5.1.2) is to maximize the efficient use of land, buildings and services, consistent with good planning principles. The County encourages local municipalities to permit residential intensification developments where servicing, the physical potential of the building stock and the physical potential of the site are deemed appropriate and suitable for intensification. Residential intensification forms include conversion, infill, redevelopment, the creation of rooming, boarding and lodging houses, garden suites and the creation of accessory apartments (S. 5.1.3.2).

Section 4.7.2 of the Plan encourages the provision of adequate water, sewage and solid waste disposal facilities to achieve and facilitate orderly growth.

The subject lands are located within an established hamlet and designated as a Settlement Area in the Township Official Plan. The Application will permit the residential use of an existing lot of record and will provide a housing option for a part of the housing market. The Application satisfies the general policies of the County Official Plan. However, as indicated in the Township Official Plan discussion, until the servicing issue is resolved, Staff are of the opinion that the Application does not conform to the County Official Plan.

## **Provincial Policy Statement (2020)**

The Provincial Policy Statement (PPS) recognizes that rural areas are important to the economic success of the Province and our quality of life (S. 1.1.4). Rural areas are defined as a system of lands within municipalities that may include rural settlement areas, rural lands, prime agricultural areas, natural heritage features and areas and resource areas.

The subject property is within a rural settlement area in the Township.

Healthy, integrated and viable rural areas should be supported by building upon rural character and leveraging rural amenities and assets and accommodating an appropriate range and mix of housing in rural settlement areas (S. 1.1.4.1 (a) & (c)). In rural areas, rural settlement areas are the focus of growth and development and their vitality and regeneration shall be promoted (S. 1.1.4.2). When directing development in rural settlement areas, planning authorities shall give consideration to rural characteristics, the scale of development and the provision of appropriate service levels (S. 1.1.4.3).

The Application proposes to permit the residential use of an existing building on an existing lot of record in a rural settlement area. The character of the Cavan Hamlet is being maintained and the residential use will add inventory to the more affordable side of the housing market in the Township.

S. 1.6.6.4 indicates that individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In settlement areas, individual on-site sewage services and individual on-site water services may be used for infilling and minor rounding out of existing development. The private servicing issues related to the residential use of the property need to be resolved to establish conformity with the PPS.

## **A Place to Grow – Growth Plan for the Greater Golden Horseshoe (2019)**

A Place to Grow (Growth Plan) supports the achievement of complete communities that are designed to support healthy and active living. The majority of growth is to be directed to settlement areas. Complete communities can be achieved by providing a diverse range and mix of housing options to accommodate people at all stages of life and to accommodate the needs of all household sizes and incomes. (S.2.2). As indicated in previous sections of this Report, the subject lands are located within a rural settlement, the residential use is permitted in the settlement area and the new residential use provides a relatively home ownership opportunity.

The Application supports the policies of the Growth Plan.

### **Financial Impact:**

None at this time.

**Attachments:**

Attachment No. 1: Key Map

Attachment No. 2: Application Site Plan

Attachment No. 3: Draft By-law No. 2021-xx

Attachment No. 4: Howard and Rosalinde Douma Submission

Respectfully Submitted by,

Karen Ellis, B.A.A.  
Director of Planning

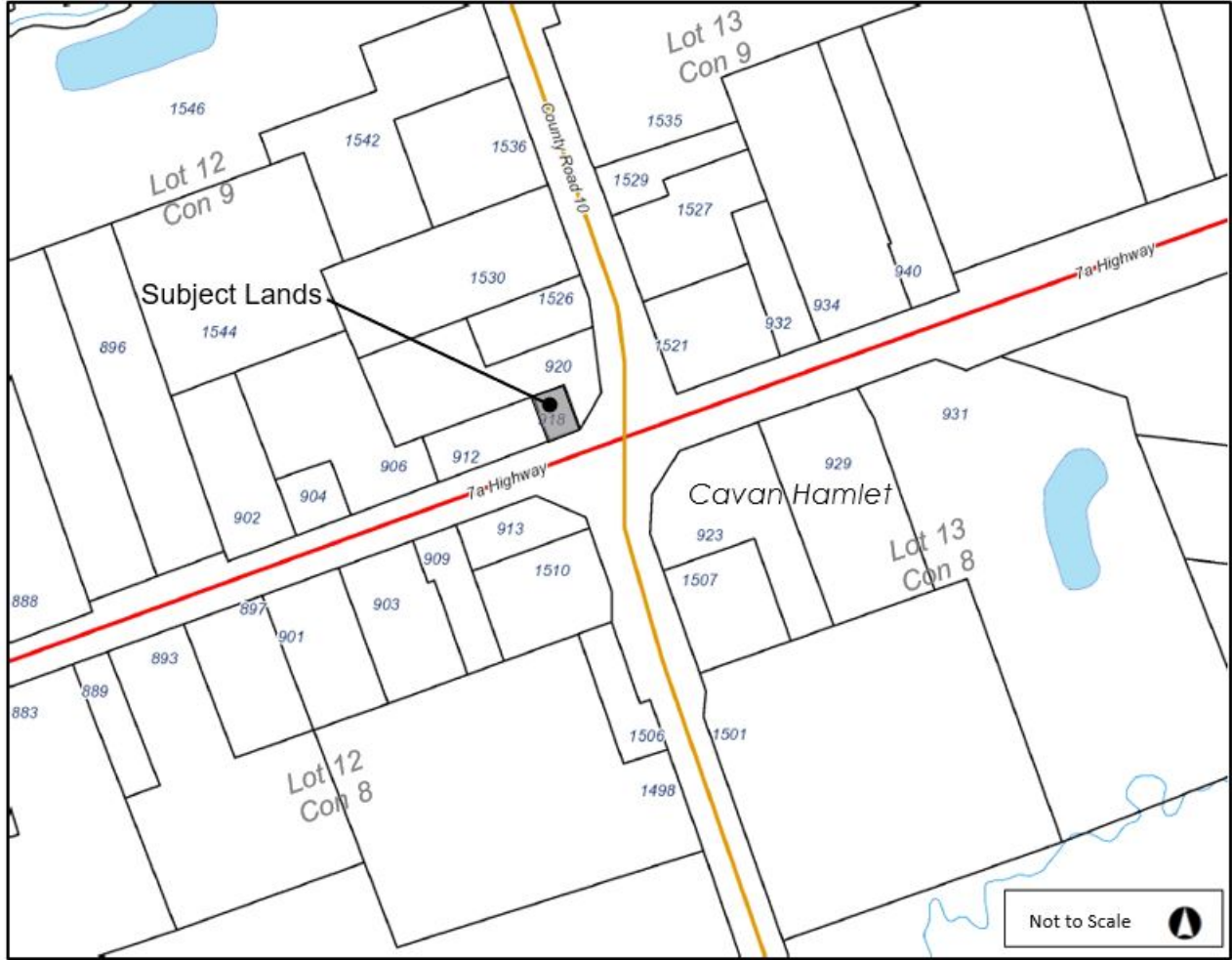
Christina Coulter, B.Sc. (Hons)  
Planner

Reviewed by,

Yvette Hurley  
Chief Administrative Officer

Attachment No.1: Key Map

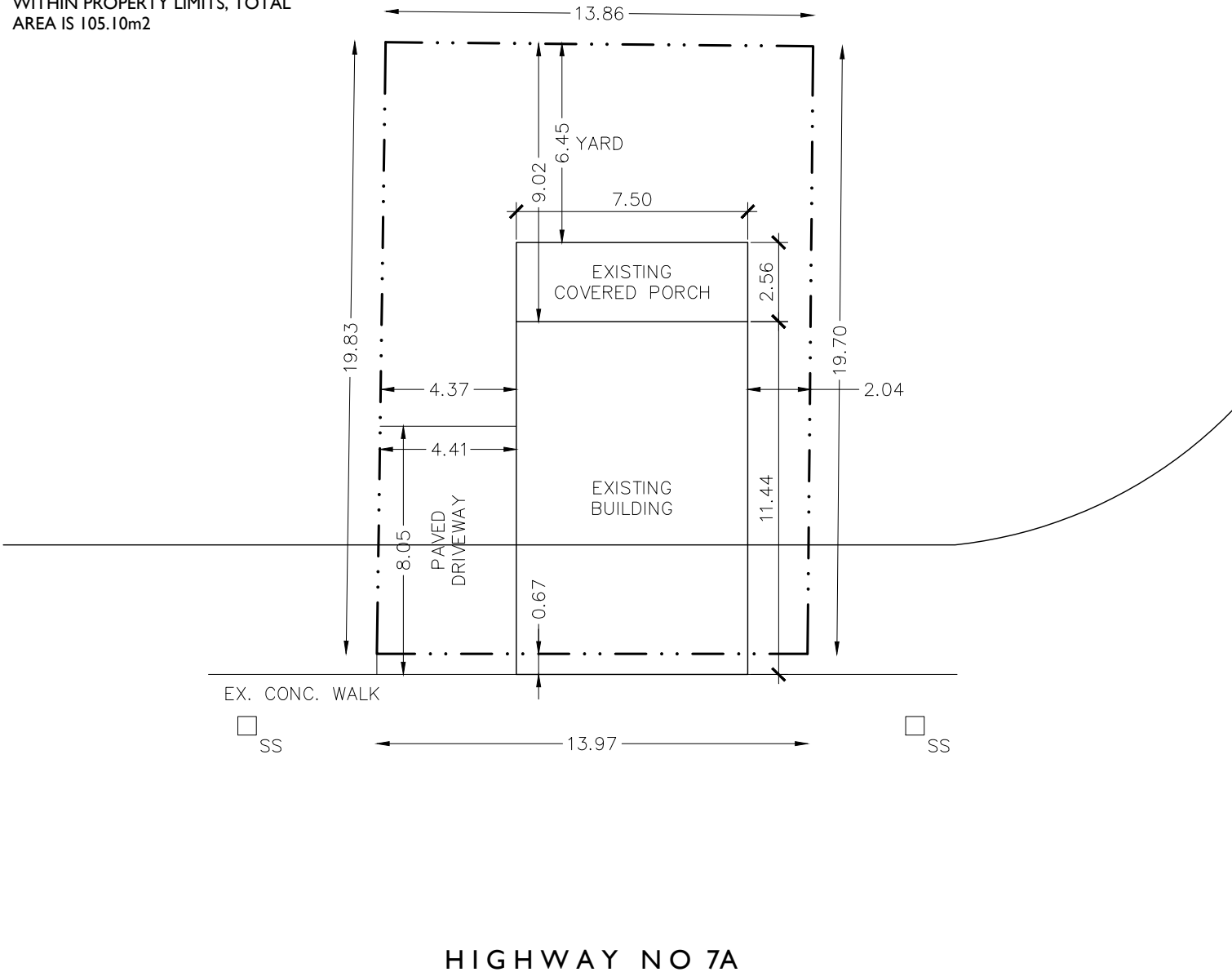
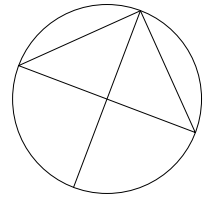
Key Map



# Attachment No. 2: Application Site Plan

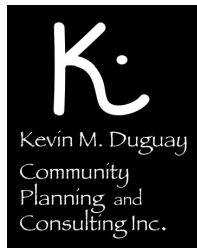
NAME	AREA m2
SITE	275.04
BUILDING	100.09
PAVEMENT	32.98
LANDSCAPE	141.16

NOTE: BUILDING AREA SHOWN IS WITHIN PROPERTY LIMITS, TOTAL AREA IS 105.10m2



SCALE 1:200  
ALL DIMENSIONS IN METRES

SITE PLAN  
**918 HIGHWAY NO 7A**  
CAVAN, ON  
R01 2021-01-18



**Attachment No. 3: Draft By-law No. 2021-xx**

**The Township of Cavan Monaghan**

**By-law No. 2021-XX**

**Being a by-law to amend By-law No. 2018-58, as amended, otherwise known as “The Township of Cavan Monaghan Zoning By-law”.**

**Whereas** the Township of Cavan Monaghan received an application to amend Zoning By-law No. 2018-58, as amended.

**And Whereas** the Council of the Township of Cavan Monaghan reviewed the proposed rezoning and now deems it advisable to further amend By-law No. 2018-58, as amended.

**Now Therefore** the Council of the Township of Cavan Monaghan hereby enacts as follows:

- 1. Map C-2 of Schedule “A” to By-law No. 2018-58, as amended, is hereby amended by changing the zone category on lands known municipally as 918 Highway 7A in Part of Lot 12, Concession 9 of the Cavan Ward from the Hamlet Commercial Exception Eleven (C2-11) Zone to the Hamlet Residential Exception Seventeen (HR-17) Zone as shown on Schedule “1” attached hereto and forming part of this By-law.
- 2. Section 3.4 of By-law No. 2018-58, as amended, is further amended by the addition of Section 3.4.65 that shall read as follows:

“3.4.65	<b>HR-17 Map C-2 on Schedule A</b>	<i>(2021-XX 918 Hwy 7A)</i>
	a) Permitted uses are limited to a single detached dwelling.	
	b) Minimum lot area	270 m <sup>2</sup>
	c) Minimum lot frontage	13.97 m
	d) Minimum front yard	0 m
	e) Minimum interior side yard (east)	2.04 m
	f) Minimum interior side yard (west)	4.37 m
	g) Maximum lot coverage	55%
	h) Minimum parking space requirement is 1 parking space measuring 2.5 metres by 6 metres.	



- i) Notwithstanding Section 11.41.2 of the By-law as it relates to projection beyond lot lines, it is recognized that the existing building projects beyond the front lot line by 0.67 metres.”

3. All other relevant provisions of By-law No. 2018-58, as amended, shall apply.

If no notice of objection is filed with the Deputy Clerk within the time provided, this By-law shall become effective on the date of passing.

If a notice of objection is filed with the Deputy Clerk, this By-law shall become effective on the date of passing hereof subject to the disposition of any appeals.

Read a first, second and third time and passed this ..... day of ....., 2021.

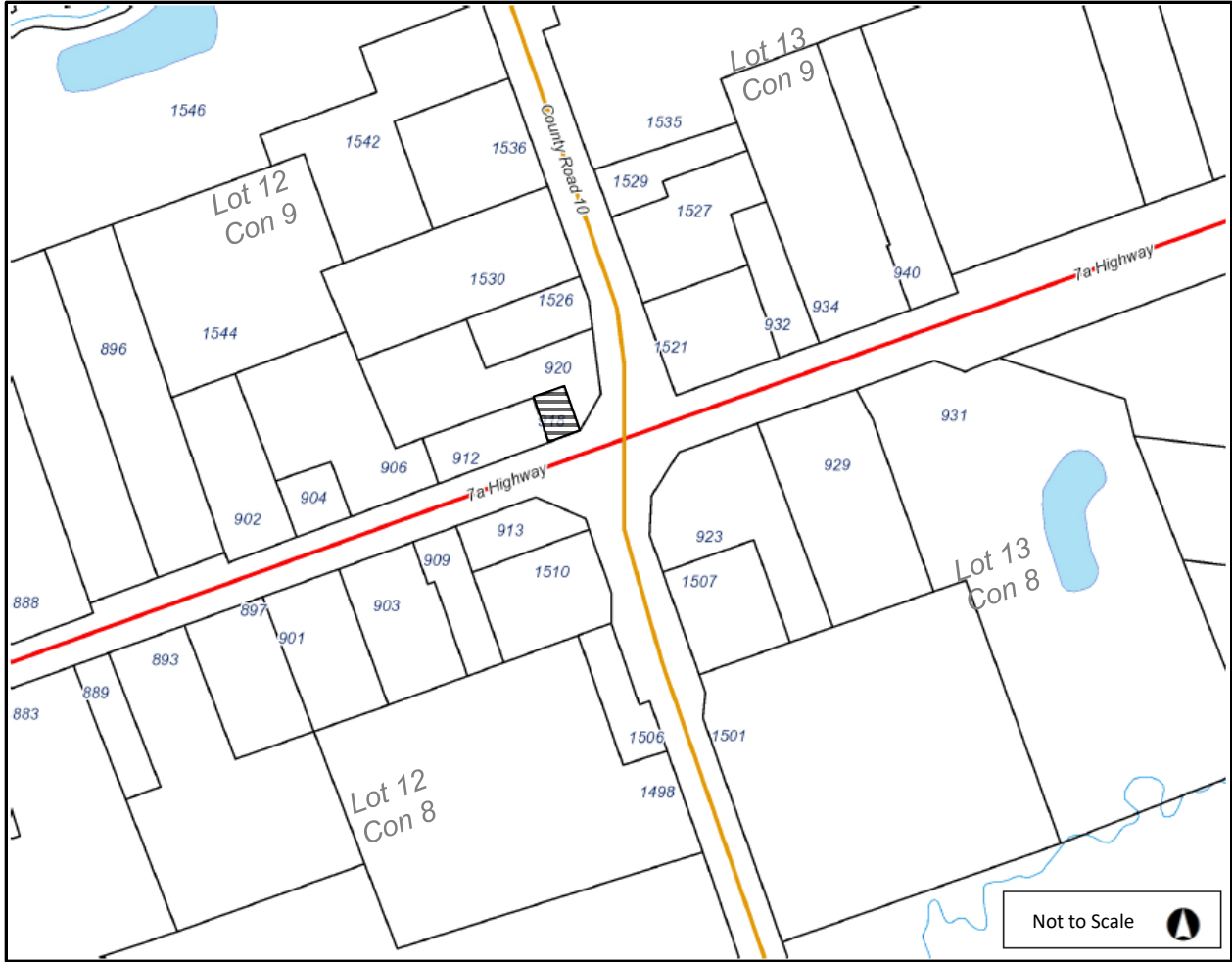
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Scott McFadden  
Mayor

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Cindy Page  
Deputy Clerk

**Schedule "1" to By-Law No. 2021-XX**



**Area Affected by this By-Law**  
 918 Highway 7A  
 Part Lot 12, Concession 9  
 Cavan Ward,  
 Township of Cavan Monaghan

**Certificate of Authentication**  
 This is Schedule "1" to By-Law  
 No. 2021-XX passed this .....,  
 day of ....., 2021.



Rezoned from the 'Hamlet Commercial Exception Eleven (C2-11) Zone' to the 'Hamlet Residential Exception Seventeen (HR-17) Zone'

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 Deputy Clerk

## Attachment No. 4: Howard and Rosalinde Douma Submission

March 7, 2021

Township of Cavan Monaghan  
988 County Road 10,  
Millbrook, Ontario  
L0A 1G0

Dear Council;

We are contacting you today regarding the Application as it applies to lands known to the municipality as 918 Highway 7a, in Part of Lot 12, Concession 9 of the Cavan Ward. The Zoning By-law Amendment is required to permit the current single detached dwelling use of the property. The purpose and effect of the Zoning By-law Amendment is to change the zoning of the subject lands from the "Hamlet Commercial Exception Eleven (C2-11) Zone" and permit the existing building to be used as a single detached dwelling.

As long standing residents of this area as well as a direct neighbour to the property in question, we would like to address significant concerns with this proposed change. We will address these concerns in a detailed manner and in chronological order. These concerns entail the following:

- 1) No one has ever lived in this dwelling. Over the years it has been changed from it's original usage of a carriage repair place, to an antique shop and now to a building that has never supported a living environment. The building is dangerously close to the highway and someone could get hit coming out of the front door. If a family lived there, a child could casually exit the door and be standing on the street in literally seconds.
- 2) Speaking of how close it is to the actual highway, let's address snow removal. Over the years, the front windows of the building have been broken due to plows clearing snow off of the road. The front door has been pushed in and damaged and has been left open.
- 3) In addressing the snow removal, where is anyone to put the snow that builds up in front of the building? It can't go back on the road and it can't be pushed anywhere into the already small "driveway" and as we are next door, it cannot be pushed onto our space as well. This creates a significant concern.
- 4) As previously mentioned, the building literally sits right on the sidewalk which is next to the road. There is no parking in front of the building which leaves any visitors to the property no place to park. We do not wish them to park in front of our property either.
- 5) As well, in addressing how close the building is to existing road and crossroads, the issue of sight lines must be addressed when coming in and leaving the property's very small driveway. It has at most the ability to park a very small vehicle and there is a building on one side and a fence on the other. How is anyone going to be able to see to exit the driveway? Safety is a significant concern.
- 6) We would like to address their existing well. It was drilled in 1994 and drilled 10 Feet from our weeping bed while the holding tank (human waste) is within 50 feet of the existing well.
- 7) The holding tank itself, is small and would have to be emptied every week at approximately \$200/empty and this is necessary cost if someone were to live there in a permanent capacity. Where would the sewage truck park when emptying the tank? Not

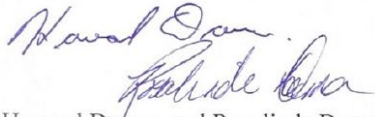
only in the summer but winters specifically as the "parking space" is very small. In fact, it is too small for a huge truck. Finally, the constant smell that is involved with emptying the tank would be overwhelming and a significant hardship for the neighbourhood.

These are the most prominent concerns that we feel need to be addressed by this proposal. As a long standing member of the community, we have observed the concerns and wish for everyone in our community to live both safely and healthily. This property would not support a safe environment as a single detached residential property. It would not support safe water, sewage, sight lines or frontage safety and this is a huge concern for everyone in our community.

Please see the attached pictures for your review and reference.

Thank you for your consideration in this matter and we trust that you will make the right decision and keep our community and environment healthy and safe.

Respectfully submitted by

The image shows two handwritten signatures in blue ink. The first signature is "Howard Douma" and the second is "Rosalinde Douma".

Howard Douma and Rosalinde Douma  
912 Highway 7a  
Cavan, Ontario  
L0A 1C0  
(705)944-5909  
Email: [tx3douma@yahoo.ca](mailto:tx3douma@yahoo.ca)







## Attachment No. 4: Report Planning 2021-30



### Regular Council Meeting

<b>To:</b>	Mayor and Council
<b>Date:</b>	June 21, 2021
<b>From:</b>	Christina Coulter, Planner and Karen Ellis, Director of Planning
<b>Report Number:</b>	Planning 2021-30
<b>Subject:</b>	918 Highway 7A (Duguay) Zoning By-law Amendment

#### Recommendation:

That By-law 2021-38 be approved to amend By-law No. 2018-58, as amended, with regard to lands at 918 Highway 7A in part of Lot 12, Concession 9 of the Cavan Ward.

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#### Overview:

On behalf of Patrick Devlin, Kevin Duguay of KMD Community Planning and Consulting Inc. applied to the Township of Cavan Monaghan for a zoning by-law amendment. The Application applies to lands known municipally as 918 Highway 7A in part of Lot 12, Concession 9 of the Cavan Ward. A key map showing the location of the subject property is provided as Attachment No. 1 to this Report. The site plan submitted with the Application is provided as Attachment No. 2 to this Report.

A public meeting was held on March 15, 2021. At the meeting, the Applicant spoke in support of the Amendment. One member of the public identified concerns with the proposed Amendment including the projection of the existing building beyond the front lot line, the potential location of a child's bedroom in close proximity to a busy highway and the conversion to a residential property within the framework of the Township Official Plan. Written and verbal public comments and concerns received prior to the public meeting were presented through Report Planning 2021-04 which is provided as Attachment No. 3 to this Report.

Report Planning 2021-04 identified that Peterborough Public Health (PPH) had reviewed the realtor listing for this property which indicated that the building has been renovated into a 3 bedroom, 1 bath home. PPH reported that the existing Class 5 holding tank is not large enough to accommodate the total daily design sanitary sewage flows for a three-bedroom home and the system would require upgrading. In addition, PPH noted that the Ontario Building Code requires a 15 metre minimum horizontal clearance to a private well from a holding tank.



Finally, PPH identified concerns with the change of use for this premises and will require an application from the owner regarding the sewage system.

In response to the concerns raised at the public meeting and those of PPH, the Applicant provided a report dated April 30, 2021 from Brad Clark, Septicology. The Septicology Report concluded that the installed Class 5 holding tank would be sufficient to support a two-bedroom dwelling provided it had fewer than 20 fixture units and does not exceed 200 square metres of floor area. The sketch also included in the Septicology report identifies a dug well on adjacent lands being located 18 metres away from the holding tank on the subject property. The Report is provided as Attachment No. 4 to this Report.

In support of verifying the capacity of the existing Class 5 holding tank, the Applicant provided an e-mail on May 31, 2021 indicating that the current real estate listing of the subject property has been cancelled pending a decision on this Application. Once the property is re-listed for sale, it will be listed as a two-bedroom dwelling. The e-mail is provided as Attachment No. 5 to this Report.

Both the Septicology Report and the Applicant's May 31 e-mail were provided to PPH and in correspondence dated June 8, 2021, PPH indicated they have no objection to the application to re-zone the subject property to a residential use but will require an application to use the existing sewage system for approval to change the use.

As noted at the public meeting, the Township Building Department has no objections to the Application, however, they will require a change of use permit to ensure no major changes have been made. Further septic system information from PPH will be required at that time.

At the time of writing of Report Planning 2021-04, Township Staff had not received any comments from the Ministry of Transportation (MTO). Through e-mail correspondence dated March 18, 2021, MTO Staff indicated they have no comments regarding the proposed rezoning of the subject property from commercial to residential. While the property is located within the study area of the intersection improvements for Highway 7A and County Road 10, MTO indicated that this project is not as far along as was anticipated and alternatives are still being evaluated.

Public Works Staff indicated concerns with the location of the building (too close to road and the sidewalk). They suggest that the building encroachment be legalized before a decision is made on the zoning by-law amendment. If an encroachment agreement cannot be implemented, they suggest that the building be moved. Public Works Staff also indicated a concern with noise and complaints about snow storage. They do not support the rezoning.

At the public meeting, the Applicant acknowledged there may be a need for an encroachment agreement with MTO, however, as noted above, MTO has not requested an agreement. The Applicant also spoke to the issue of snow storage and identified that the property is able to accommodate snow storage in the rear yard. With respect to the suggestion to move the existing building, the Applicant indicated this was not economically feasible for his client.

In addition, the Applicant indicated that the property does not function as a commercial property given its small size and that the market has identified a demand for this property as a small, two-bedroom residential dwelling in a designated Hamlet area. Planning Staff confirm that we have received four inquiries regarding this Application from individuals interested in purchasing the property for residential purposes, three of whom have requested to be notified of the decision of Council.

Township Staff had not received any comments from the Otonabee Region Conservation Authority (ORCA) at the time of writing of Report Planning 2021-04. However, in correspondence dated March 15, 2021, ORCA did not identify any concerns with the Application, indicating they are of the opinion that the zoning changes are consistent with Sections 2.1, 2.2 and 3.1 of the Provincial Policy Statement (PPS) as it relates to key hydrologic, key natural heritage features and flood and erosion hazards.

The property is not subject to ORCA's 'Development, Interference with Wetlands and Alterations to Shorelines and Watercourses' regulation, Ontario Regulation 167/06 and not located within an area that is subject to the policies contained in the Source Protection Plan.

By-law No. 2021-38 will limit the permitted use of the property to a single detached dwelling only and will require a minimum lot area of 270 square metres, a minimum lot frontage of 13.97 metres, a minimum front yard of 0 metres, a minimum eastern interior side yard of 2.04 metres, a minimum western interior side yard of 4.37 metres, a maximum lot coverage of 55%. In addition, the By-law will recognize that the existing building projects beyond the existing front property line by 0.67 metres and only one (1) parking space will be required.

A complete copy of By-law No. 2021-38 is provided as Attachment No. 5 to this Report.

As detailed in Report Planning 2021-04, the Application supports the policies of A Place to Grow, Growth Plan for the Greater Golden Horseshoe (2019 Growth Plan).

Given that MTO and PPH have indicated that they have no objection to re-zone the subject property to a residential use and with the resolution of the servicing issue through the change of use permit, the Application will conform to and not conflict with the Township of Cavan Monaghan Official Plan, the Peterborough County Official Plan and the Provincial Policy Statement 2020 (PPS).

**Financial Impact:**

None at this time.

**Attachments:**

- Attachment No. 1: Key Map
- Attachment No. 2: Application Site Plan
- Attachment No. 3: Report Planning 2021-04

Attachment No. 4: Brad Clark, Septicology April 30/2021 Report  
Attachment No. 5: Kevin M. Duguay May 31, 2021 E-mail  
Attachment No. 6: By-law No. 2021-38

Respectfully Submitted by,

Christina Coulter, B.Sc. (Hons)  
Planning

Karen Ellis, B.A.A.  
Director of Planning

Reviewed by,

Yvette Hurley  
Chief Administrative Officer

Attachment No.1: Key Map

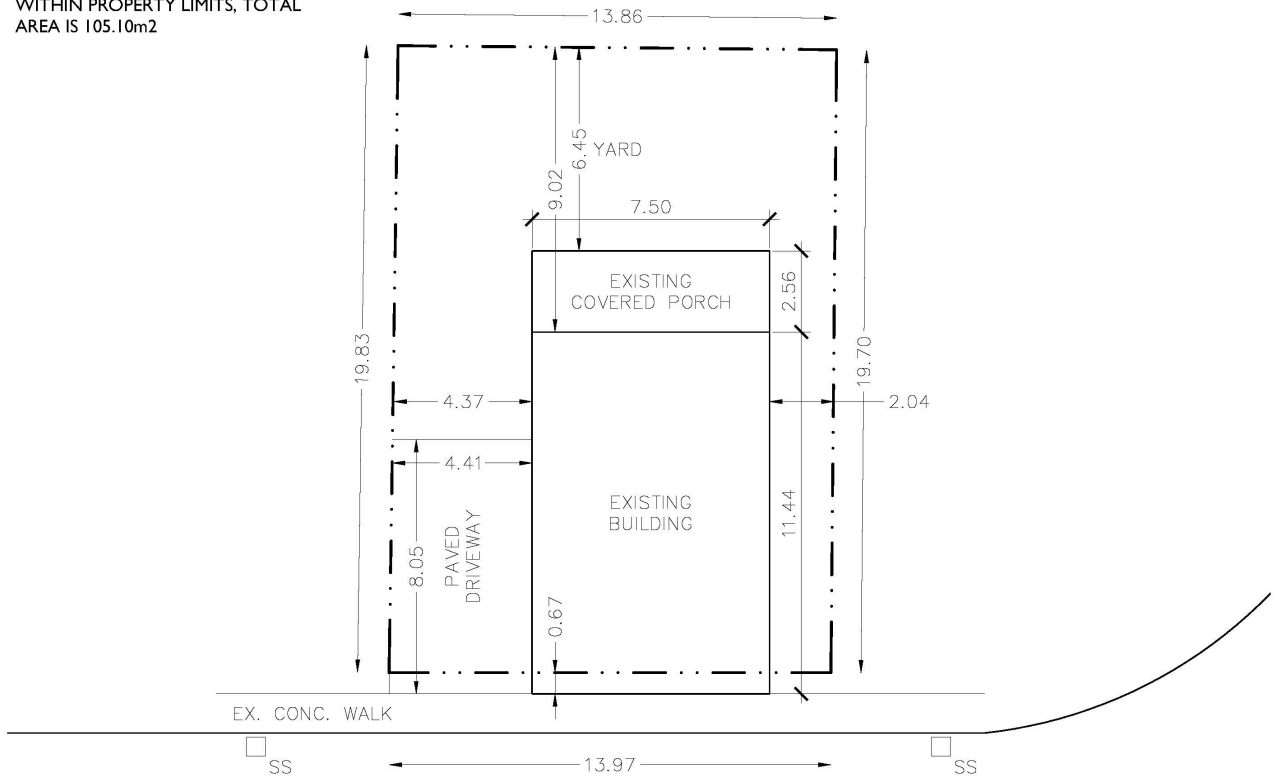
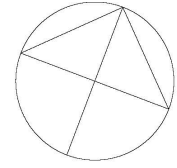
Key Map



# Attachment No. 2: Application Site Plan

NAME	AREA m2
SITE	275.04
BUILDING	100.09
PAVEMENT	32.98
LANDSCAPE	141.16

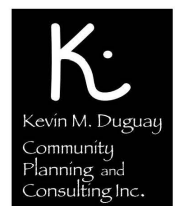
NOTE: BUILDING AREA SHOWN IS WITHIN PROPERTY LIMITS, TOTAL AREA IS 105.10m2



HIGHWAY NO 7A

SCALE 1:200  
ALL DIMENSIONS IN METRES

SITE PLAN  
**918 HIGHWAY NO 7A**  
CAVAN, ON  
R01 2021-01-18



## Attachment No. 3: Report Planning 2021-04



### Regular Council Meeting

<b>To:</b>	Mayor and Council
<b>Date:</b>	March 15, 2021
<b>From:</b>	Christina Coulter, Planner and Karen Ellis, Director of Planning
<b>Report Number:</b>	Planning 2021-04
<b>Subject:</b>	918 Highway 7A (Duguay) Zoning By-law Amendment

#### Recommendations:

1. That Council review and consider all verbal and written comments received at the public meeting; and
2. That a draft By-law be presented to Council at a future date for consideration.

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#### Overview:

On behalf of Patrick Devlin, Kevin Duguay of KMD Community Planning and Consulting Inc. applied to the Township of Cavan Monaghan for a zoning by-law amendment. The Application applies to lands known municipally as 918 Highway 7A in part of Lot 12, Concession 9 of the Cavan Ward. A key map showing the location of the subject property is provided as Attachment No. 1 to this Report.

Municipal Property Assessment Corporation information indicates that the existing building was built as a detached garage in 1949. However, the property code information describes the property as "vacant residential land not on water". There is no building permit information in the property file to determine if or when the detached garage may have been converted to a residence.

File information from July of 1993 confirmed that the property was zoned Residential (R) when the first Cavan Township Zoning By-law was approved in January of 1977. The documentation also indicates that the property was not used for residential purposes and has always supported a commercial use, namely a second hand store. In 1993, the commercial use was deemed by the Township to be legal non-conforming.

When the Township of Cavan-Millbrook-North Monaghan approved a new Zoning By-law in 2004, the property was zoned Highway Commercial (HC) to recognize the existing use. Since 2004, the commercial use of the property appeared to cease. Given ongoing issues with the size of the property and the inability to obtain a commercial entrance permit from the Ministry of Transportation (MTO), the subject lands were zoned Hamlet Residential

(HR) in Zoning By-law No. 2018-58. At the direction of Council, the zoning on the lot was subsequently changed from Hamlet Residential (HR) to Hamlet Commercial Exception Eleven (C2-11) in 2019.

A Zoning By-law Amendment is required to permit the property to be used for residential purposes and to recognize the existing building as a single detached dwelling. The Zoning By-law Amendment application was received by the Township on January 20, 2021 and deemed complete on February 11, 2021.

The subject property is an existing lot of record located close to the northwest corner of the intersection of Highway 7A and County Road 10 in Cavan Hamlet. The property is approximately 275 square metres (0.679 acres) in size with approximately 13.97 metres (45.83 feet) of frontage on Highway 7A and is currently developed with a one storey building approximately 85.8 square metres (923.57 square feet) in size. An attached covered porch adds approximately 19.2 square metres (206.67 square feet) to the area of the building. The property is currently serviced with a private well and a holding tank. Storm sewers are located in the Highway 7A road allowance.

The site plan submitted with the Application is provided as Attachment No. 2 to this Report.

### **Zoning By-law Amendment**

The property is currently zoned the Hamlet Commercial Exception Eleven (C2-11) Zone on Map C-2 of By-law No. 2018-58, as amended. A single detached residence is not a permitted use in the C2-11 Zone.

The purpose and effect of the Zoning By-law Amendment is to change the zoning of the subject lands from the Hamlet Commercial Exception Eleven (C2-11) Zone to the Hamlet Residential Exception Seventeen (HR-17) Zone to permit the existing building to be used as a single detached dwelling. The proposed Amendment will limit the permitted uses on the property to one (1) single detached dwelling.

The Amendment also proposes to recognize the deficient front yard setback including projection beyond the front lot line, the deficient side yard setbacks, the reduced parking space requirements, the increased lot coverage, the deficient lot area and the deficient lot frontage.

As drafted, the By-law will limit the permitted use of the property to a single detached dwelling only and will require a minimum lot area of 270 square metres, a minimum lot frontage of 13.97 metres, a minimum front yard of 0 metres, a minimum eastern interior side yard of 2.04 metres, a minimum western interior side yard of 4.37 metres, a maximum lot coverage of 55%. In addition, the By-law will recognize that the existing building projects beyond the existing front property line by 0.67 metres and only one (1) parking space will be required.

A complete copy of the draft Zoning By-law Amendment is provided as Attachment No. 3 to this Report.

## **Response to Notice**

Notice of the Zoning By-law Amendment application was circulated, by first class prepaid mail, to all assessed persons within 120 metres (400 feet) of the lands affected by the Zoning By-law Amendment application, to all required ministries and agencies and to all Township Department Directors. A sign was posted on the subject property. The Notice of Public Meeting was posted on the Township website. The notice complies with the requirements of the Planning Act.

To date, Township Staff have received two inquiries from potential purchasers of the property who are interested in a residential use. In addition, Staff received written comments and photographs from Howard and Rosalinde Douma of 912 Highway 7A. The Douma submission is included as Attachment No. 4 to this Report.

Peterborough Public Health (PPH) indicated that a certificate of approval was issued for 918 Highway 7A in July of 1993 to service a used furniture retail store. The daily design sanitary sewage flow was calculated to service a retail business having 1 kitchen sink, 1 wash basin, 1 toilet and 2 staff. A 9000 litre Holding Tank was installed and approved on December 1, 1993.

Since the installation of the holding tank on this property the Ontario Building Code was changed to regulate Sewage Systems in 1998. The requirement for Holding Tanks, Class 5 Sewage Systems, changed so that holding tanks are now sized and shall have a minimum 7 day holding capacity based on the total daily design sanitary sewage flow.

PPH's review of the current realtor listing for this property indicates that the building has been renovated into a 3 bedroom, 1 bath home. The Application Form indicates that the residential use has existed on the property for "2 plus years". The daily design sanitary sewage flow calculated for a 3 bedroom residence is 1600 l/day and the required holding tank size for that flow is 11,200 litres. The existing holding tank is not large enough to accommodate the total daily design sanitary sewage flows and needs to be upgraded. In addition, the Ontario Building Code now requires a 15 metre minimum horizontal clearance to a private well from a holding tank.

Peterborough Public Health has issues with the change of use for this premises and will require an application from the owner regarding the sewage system. If a new holding tank is proposed, all applicable law must be approved for that installation including the approval of the proposed zoning by-law amendment.

Enbridge Gas Inc. did not have any objections to the rezoning.

As of the writing of this report, Township Staff have not received any comments from the Ministry of Transportation (MTO) or the Otonabee Region Conservation Authority (ORCA). The property is located within the study area of the intersection improvements for Highway 7A and County Road 10. As such, comments from the MTO are expected.



Public Works Staff indicated concerns with the location of the building (too close to road and the sidewalk). They suggest that the building encroachment be legalized before a decision is made on the zoning by-law amendment. If an encroachment agreement cannot be implemented, they suggest that the building be moved. Public Works Staff also indicated a concern with noise and complaints about snow storage. They do not support the rezoning.

The Building Department will require a change of use permit. In addition, septic system information will be required at that time.

The Fire Department has no concerns at this time.

### **Township of Cavan Monaghan Official Plan**

The subject property is within the Cavan Settlement Area as illustrated on Schedule F - Map 5 to the Official Plan for the Township of Cavan Monaghan (Official Plan) and is designated Hamlet as shown on Schedule 'A' to the Official Plan. The subject property is also within Special Study Area No. 1 as shown on Schedule 'A' to the Official Plan.

Lands designated Hamlet represent small scale settlement areas that provide an important residential, commercial and social focus in the Rural area (S. 4.9). Key objectives of the Hamlet designation are to recognize the unique and historic nature of the smaller settlement areas in the Township, to maintain the character and amenities of the existing rural communities in the Township and to provide opportunities for small-scale commercial, industrial and tourism related uses that service the rural community and are compatible with the character and scale of the Hamlet (S. 4.9.1).

Permitted uses in the Hamlet designation include single detached or semi-detached dwellings, home based businesses, public institutional uses, small scale commercial and industrial uses serving the Hamlet, surround rural areas and supporting tourism in the area, and public parks (S. 4.9.2).

The Township has the goal to manage population growth in a sustainable manner. This goal is to be partially achieved by accommodating limited growth in the Hamlets through minor rounding out and infilling on private services that is sustainable and maintains the character of these small communities (S.2.2.2 d). A diverse housing stock in terms of type, tenure, density and affordability is required to meet the varied needs of residents and the community by encouraging intensification and infill development within the built-up area where adequate services such as water supply, sanitary sewerage, storm sewerage and drainage, schools and parkland are available and commercial and community facilities are available (S. 2.1.2).

Prior to development occurring or an amendment to the Zoning By-law, the Township must be satisfied that suitable arrangement has or can be made for water supply, sewage disposal, storm drainage and all other necessary public services (S. 3.1 b)).

If approved, the Application will permit a residential use on an existing lot of record. A residential use is permitted in the Hamlet designation; the character of Cavan Hamlet is

being maintained, and the home will be located in a community with commercial and recreational amenities. The Application satisfies the general policies of the Township Official Plan related to the Hamlet designation. However, based on comments from PPH, the issue of adequate servicing remains unanswered at this time. Until the Applicant provides confirmation from PPH that the property can safely accommodate a residential use with individual on-site water and sewage disposal services, the Application does not conform to the Township Official Plan.

The subject property is just inside the Special Study Area No. 1 (SSA-1), Section 2.6 of the Official Plan which states that “this area is...where future growth in the Township of Cavan Monaghan is anticipated to occur if and to the extent demonstrated by the municipal comprehensive review...” Section 2.6(e) permits small scale zoning by-law amendments within settlement areas in SSA-1 without the need for Secondary Plan(s) referred to in this Section of the Official Plan.

### **Peterborough County Official Plan**

The subject lands are described as Settlement Area in the County Official Plan. The County Official Plan encourages a range of land uses and facilities in settlement areas to promote linkages between the population and employment opportunities (S. 4.2.3).

The County Plan encourages a full range of living and employment opportunities by the creation of complete communities. The Plan also promotes the efficient utilization of existing services and facilities to reduce the need for new infrastructure development, where possible (S. 4.2.2).

The goal of the housing policies (S. 5.1.1) is to provide for a range of housing by type and density to respond to the varying needs of the permanent population based on demographics, income, market and special needs considerations. Another goal (S. 5.1.2) is to maximize the efficient use of land, buildings and services, consistent with good planning principles. The County encourages local municipalities to permit residential intensification developments where servicing, the physical potential of the building stock and the physical potential of the site are deemed appropriate and suitable for intensification. Residential intensification forms include conversion, infill, redevelopment, the creation of rooming, boarding and lodging houses, garden suites and the creation of accessory apartments (S. 5.1.3.2).

Section 4.7.2 of the Plan encourages the provision of adequate water, sewage and solid waste disposal facilities to achieve and facilitate orderly growth.

The subject lands are located within an established hamlet and designated as a Settlement Area in the Township Official Plan. The Application will permit the residential use of an existing lot of record and will provide a housing option for a part of the housing market. The Application satisfies the general policies of the County Official Plan. However, as indicated in the Township Official Plan discussion, until the servicing issue is resolved, Staff are of the opinion that the Application does not conform to the County Official Plan.

## **Provincial Policy Statement (2020)**

The Provincial Policy Statement (PPS) recognizes that rural areas are important to the economic success of the Province and our quality of life (S. 1.1.4). Rural areas are defined as a system of lands within municipalities that may include rural settlement areas, rural lands, prime agricultural areas, natural heritage features and areas and resource areas.

The subject property is within a rural settlement area in the Township.

Healthy, integrated and viable rural areas should be supported by building upon rural character and leveraging rural amenities and assets and accommodating an appropriate range and mix of housing in rural settlement areas (S. 1.1.4.1 (a) & (c)). In rural areas, rural settlement areas are the focus of growth and development and their vitality and regeneration shall be promoted (S. 1.1.4.2). When directing development in rural settlement areas, planning authorities shall give consideration to rural characteristics, the scale of development and the provision of appropriate service levels (S. 1.1.4.3).

The Application proposes to permit the residential use of an existing building on an existing lot of record in a rural settlement area. The character of the Cavan Hamlet is being maintained and the residential use will add inventory to the more affordable side of the housing market in the Township.

S. 1.6.6.4 indicates that individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In settlement areas, individual on-site sewage services and individual on-site water services may be used for infilling and minor rounding out of existing development. The private servicing issues related to the residential use of the property need to be resolved to establish conformity with the PPS.

## **A Place to Grow – Growth Plan for the Greater Golden Horseshoe (2019)**

A Place to Grow (Growth Plan) supports the achievement of complete communities that are designed to support healthy and active living. The majority of growth is to be directed to settlement areas. Complete communities can be achieved by providing a diverse range and mix of housing options to accommodate people at all stages of life and to accommodate the needs of all household sizes and incomes. (S.2.2). As indicated in previous sections of this Report, the subject lands are located within a rural settlement, the residential use is permitted in the settlement area and the new residential use provides a relatively home ownership opportunity.

The Application supports the policies of the Growth Plan.

### **Financial Impact:**

None at this time.

**Attachments:**

Attachment No. 1: Key Map

Attachment No. 2: Application Site Plan

Attachment No. 3: Draft By-law No. 2021-xx

Attachment No. 4: Howard and Rosalinde Douma Submission

Respectfully Submitted by,

Karen Ellis, B.A.A.  
Director of Planning

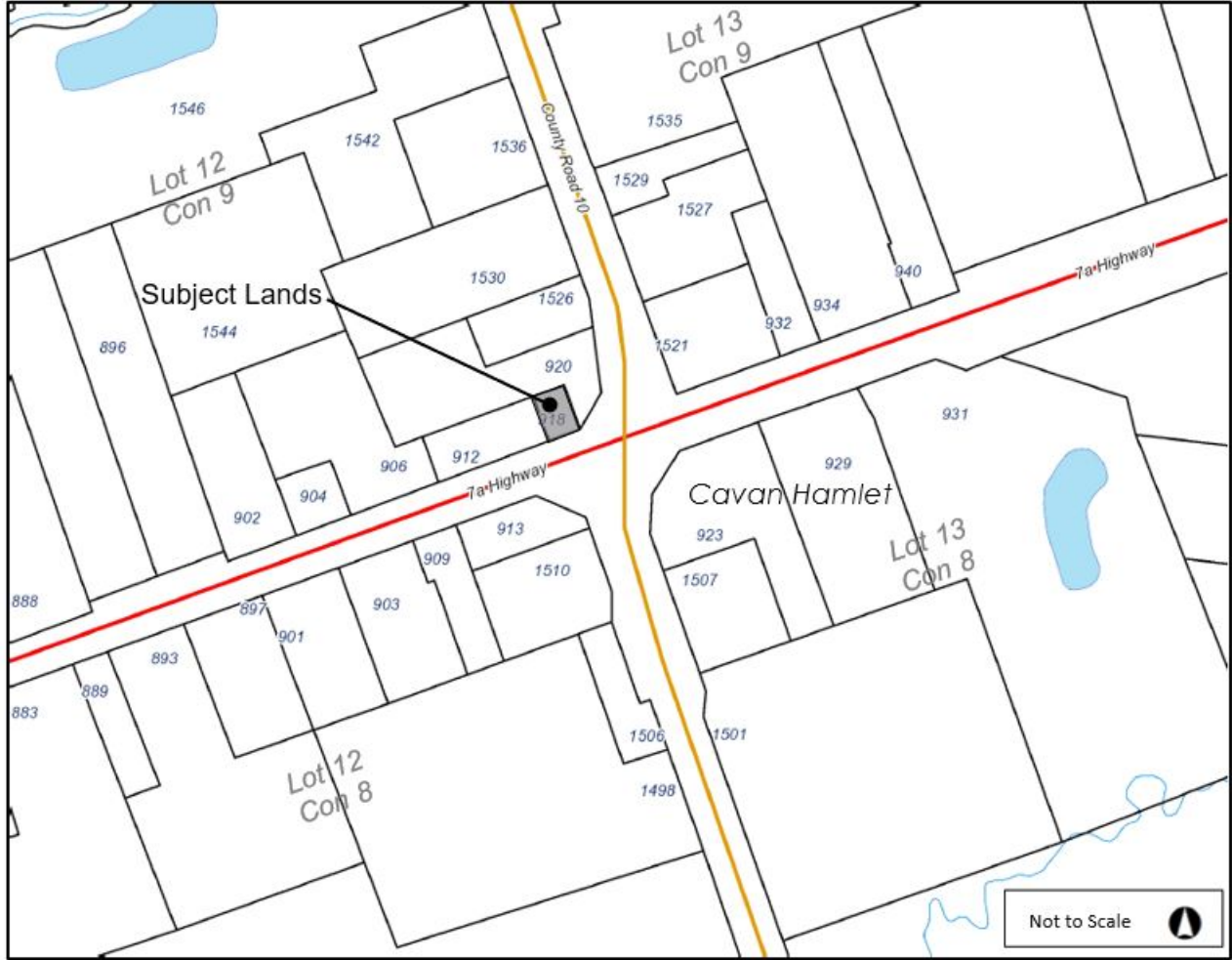
Christina Coulter, B.Sc. (Hons)  
Planner

Reviewed by,

Yvette Hurley  
Chief Administrative Officer

Attachment No.1: Key Map

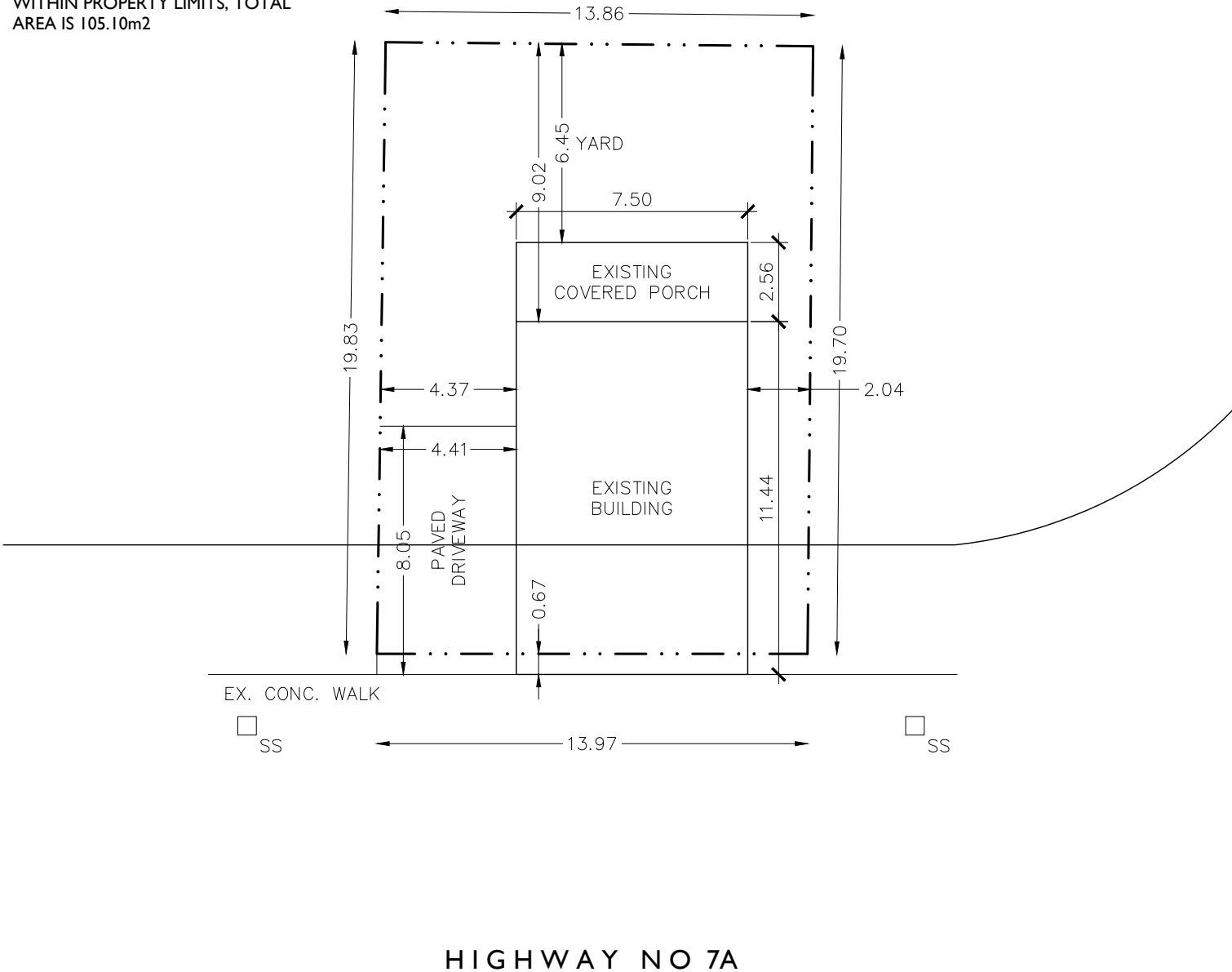
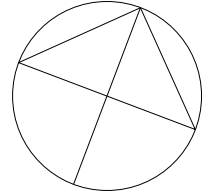
Key Map



# Attachment No. 2: Application Site Plan

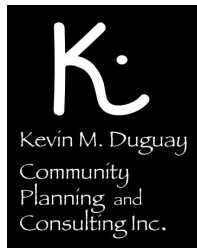
NAME	AREA m2
SITE	275.04
BUILDING	100.09
PAVEMENT	32.98
LANDSCAPE	141.16

NOTE: BUILDING AREA SHOWN IS WITHIN PROPERTY LIMITS, TOTAL AREA IS 105.10m2



SCALE 1:200  
ALL DIMENSIONS IN METRES

SITE PLAN  
**918 HIGHWAY NO 7A**  
CAVAN, ON  
R01 2021-01-18





- i) Notwithstanding Section 11.41.2 of the By-law as it relates to projection beyond lot lines, it is recognized that the existing building projects beyond the front lot line by 0.67 metres.”

3. All other relevant provisions of By-law No. 2018-58, as amended, shall apply.

If no notice of objection is filed with the Deputy Clerk within the time provided, this By-law shall become effective on the date of passing.

If a notice of objection is filed with the Deputy Clerk, this By-law shall become effective on the date of passing hereof subject to the disposition of any appeals.

Read a first, second and third time and passed this ..... day of ....., 2021.

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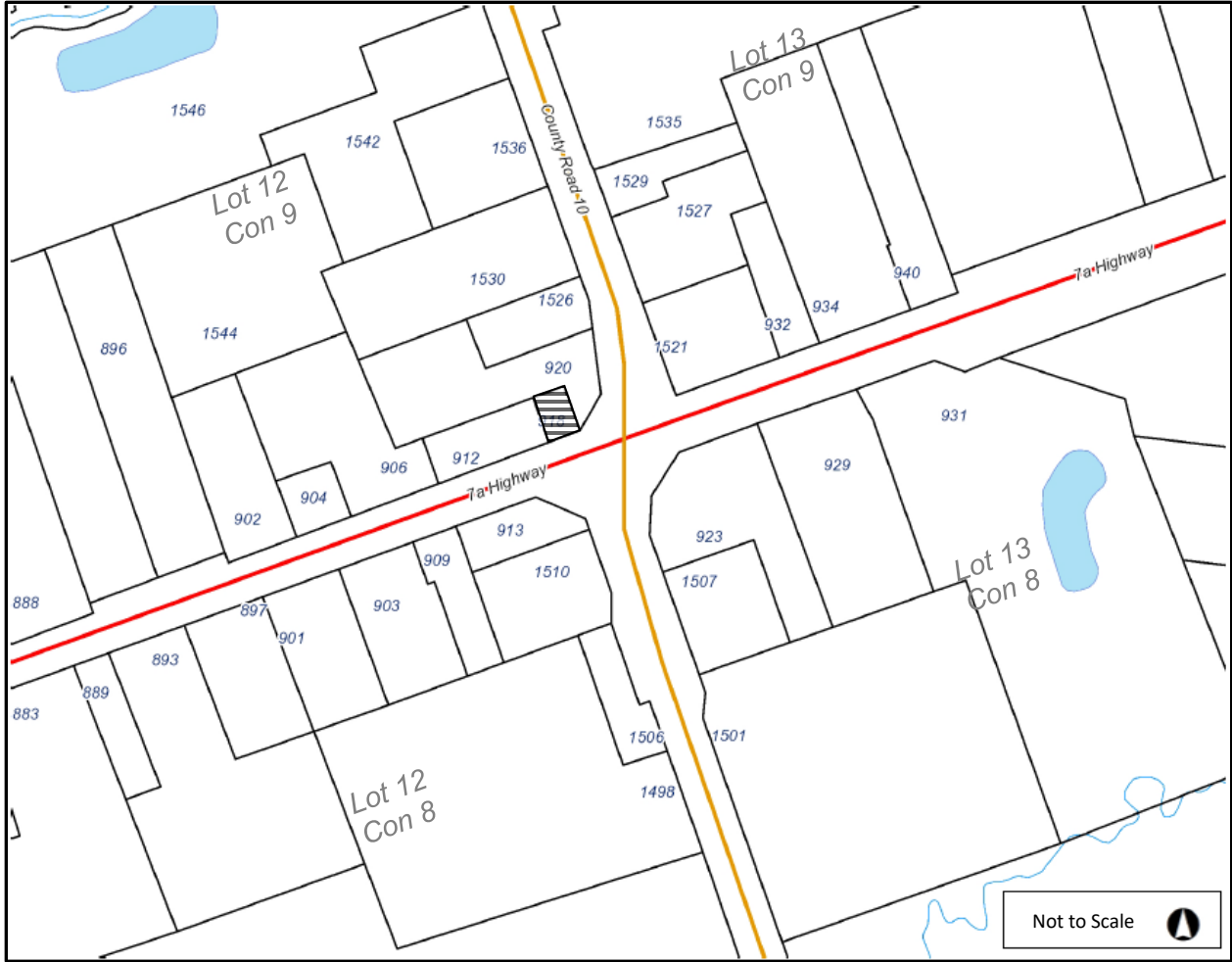
Scott McFadden  
Mayor

---

Cindy Page  
Deputy Clerk



**Schedule "1" to By-Law No. 2021-XX**



**Area Affected by this By-Law**  
918 Highway 7A  
Part Lot 12, Concession 9  
Cavan Ward,  
Township of Cavan Monaghan

**Certificate of Authentication**  
This is Schedule "1" to By-Law  
No. 2021-XX passed this .....,  
day of ....., 2021.



Rezone from the 'Hamlet Commercial Exception Eleven (C2-11) Zone' to the 'Hamlet Residential Exception Seventeen (HR-17) Zone'

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Deputy Clerk

## Attachment No. 4: Howard and Rosalinde Douma Submission

March 7, 2021

Township of Cavan Monaghan  
988 County Road 10,  
Millbrook, Ontario  
L0A 1G0

Dear Council;

We are contacting you today regarding the Application as it applies to lands known to the municipality as 918 Highway 7a, in Part of Lot 12, Concession 9 of the Cavan Ward. The Zoning By-law Amendment is required to permit the current single detached dwelling use of the property. The purpose and effect of the Zoning By-law Amendment is to change the zoning of the subject lands from the "Hamlet Commercial Exception Eleven (C2-11) Zone" and permit the existing building to be used as a single detached dwelling.

As long standing residents of this area as well as a direct neighbour to the property in question, we would like to address significant concerns with this proposed change. We will address these concerns in a detailed manner and in chronological order. These concerns entail the following:

- 1) No one has ever lived in this dwelling. Over the years it has been changed from it's original usage of a carriage repair place, to an antique shop and now to a building that has never supported a living environment. The building is dangerously close to the highway and someone could get hit coming out of the front door. If a family lived there, a child could casually exit the door and be standing on the street in literally seconds.
- 2) Speaking of how close it is to the actual highway, let's address snow removal. Over the years, the front windows of the building have been broken due to plows clearing snow off of the road. The front door has been pushed in and damaged and has been left open.
- 3) In addressing the snow removal, where is anyone to put the snow that builds up in front of the building? It can't go back on the road and it can't be pushed anywhere into the already small "driveway" and as we are next door, it cannot be pushed onto our space as well. This creates a significant concern.
- 4) As previously mentioned, the building literally sits right on the sidewalk which is next to the road. There is no parking in front of the building which leaves any visitors to the property no place to park. We do not wish them to park in front of our property either.
- 5) As well, in addressing how close the building is to existing road and crossroads, the issue of sight lines must be addressed when coming in and leaving the property's very small driveway. It has at most the ability to park a very small vehicle and there is a building on one side and a fence on the other. How is anyone going to be able to see to exit the driveway? Safety is a significant concern.
- 6) We would like to address their existing well. It was drilled in 1994 and drilled 10 Feet from our weeping bed while the holding tank (human waste) is within 50 feet of the existing well.
- 7) The holding tank itself, is small and would have to be emptied every week at approximately \$200/empty and this is necessary cost if someone were to live there in a permanent capacity. Where would the sewage truck park when emptying the tank? Not

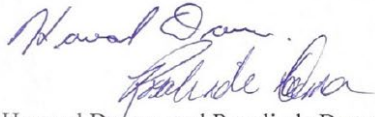
only in the summer but winters specifically as the "parking space" is very small. In fact, it is too small for a huge truck. Finally, the constant smell that is involved with emptying the tank would be overwhelming and a significant hardship for the neighbourhood.

These are the most prominent concerns that we feel need to be addressed by this proposal. As a long standing member of the community, we have observed the concerns and wish for everyone in our community to live both safely and healthily. This property would not support a safe environment as a single detached residential property. It would not support safe water, sewage, sight lines or frontage safety and this is a huge concern for everyone in our community.

Please see the attached pictures for your review and reference.

Thank you for your consideration in this matter and we trust that you will make the right decision and keep our community and environment healthy and safe.

Respectfully submitted by

Handwritten signatures of Howard Douma and Rosalinde Douma in blue ink.

Howard Douma and Rosalinde Douma  
912 Highway 7a  
Cavan, Ontario  
L0A 1C0  
(705)944-5909  
Email: [tx3douma@yahoo.ca](mailto:tx3douma@yahoo.ca)







## Attachment No. 4: Brad Clark, Septicology April 30/2021 Report

April 30/2021

To whom it may concern,

I have been asked to comment on the property at serviced by a Class 5 holding tank.

Attached are the Peterborough Public Health documents showing the approved installation of a 9,000 L holding tank in 1993.

There is no description of the use of the structure associated with the holding tank, however a tank of this size is capable of supporting a daily sewage flow of up to 1285 Liters per day under the current Building Code Act and regulations under said Code.

At the time of the installation the Code of the day would allow for any daily sewage flow with a 9,000 L holding tank.

Ontario Building Code states that a 2- bedroom dwelling, fewer than 20 fixture units and less than 200 square meters of finished floor area equates to 1100 L/day.

Therefor the installed Class 5 holding tank would be sufficient to support a two-bedroom dwelling provided it had fewer than 20 fixture units and did not exceed 200 square meters of floor area using the current statute.

Brad Clark

Septicology

BCIN 11061 and 111287

FINAL

PETERBOROUGH COUNTY -CITY HEALTH UNIT  
APPLICATION FORM AND CERTIFICATE OF APPROVAL FOR SEWAGE SYSTEM  
Fee Receipt #: 51061 Application #: CVN-93-15

Date Received: 07/16/93

OWNER  
Last Name: STRONG Initial: R Address: R.R.#1  
City/Town: CAVAN, ON Postal Code: L0A-1C0  
Home Telephone: (705)944-5645 Office Telephone: ( ) -

AGENT  
Last Name: SAME Initial: Address:  
City/Town: Postal Code:  
Home Telephone: ( ) - Office Telephone: ( ) -

DESCRIPTION OF PROPERTY  
County/District: PETERBOROUGH Munic/Twp: CAVAN  
Address: CAVAN P.O. Plan: UTM Ref:  
Lot: 12 Concession: 9 Sublot: Lot Area m(sq):

INSTALLER  
Installer's Name:

Propose to a class 5 sewage system.

INSTALLATION INFORMATION  
No. of Bedrooms or Motel Units: Est. Number of People Served:  
Number of Flush Toilets: Number of Urinals:  
Number of Washbasins: Whirlpools: Showers & Tubs:  
Number of Dishwashers: Laundry Units:  
Number of Kitchen Sinks: Number of Garburators:

WATER SUPPLY  
Water Supply?: NO Well Type: Drilled & Cased DEPTH m.well: water:

INSPECTION DATA  
Inspection Date: 07/20/93 Time => Severance App'n #: n/a  
Inspector: K. SHEPHERD Weather:  
Type of Tank: HOLDING Working Capacity of Tank (Litres): 9000

Bed System Type: Length of Distribution Pipe Req'd (M): 0

FILTER BED

	Rock & GWT	DEPTH	Soil Type
Contact Area: 0 sq. metres	HWT 5 FT.	-- 0 --	0 - 5.5 FT
Filter Bed Area: 0 sq. metres		-- 0.25 -	SAND
		-- 0.50 -	GRAVEL
		-- 0.75 -	
		-- 1.00 -	
PERMEABILITY RATE		-- 1.25 -	
of Existing Soil...: 10 min/cm		-- 1.50 -	
on Basis of Fill...: 0 min/cm			

CONDITIONS FOR APPROVAL AND REASONS OR REASONS WHERE PROPOSAL NOT ACCEPTABLE:

Application Approved and this Certificate of Approval under Section 77 of the Environmental Protection Act is hereby issued for the proposal outlined above and its attachments provided that the sewage system shall be completed and a Use Permit issued within 12 months of the issue hereof or such extended period as the Director on Application allows.  
DO NOT OPERATE THE SYSTEM UNTIL A USE PERMIT IS ISSUED

INSPECTED AND RECOMMENDED BY: ISSUED: DATE  
K. SHEPHERD T. CATHCART 07/20/93  
mm/dd/yy  
DIRECTOR



PETERBOROUGH COUNTY -CITY HEALTH UNIT  
SEWAGE SYSTEM INSPECTION REPORT AND USE PERMIT

Installed by: OWNER

C of A Application Date: 07/16/93

ACTION:

Construct/Install/Alter/Enlarge/Extend/:

Tank: HOLDING

Work authorized by certificate of approval has been satisfactorily completed and includes:

----- SEPTIC TANK/HOLDING TANK -----

Capacity of Septic/Holding Tank (L): 9000

Prefab or On Site: PREFAB

----- DISTRIBUTION PIPE -----

Distribution Pipe Type: PVC

Length of Distribution Pipe (m): 0

Number of Runs: 0 Length of Runs (m):

Gravity/Siphon/Pump Feed: GRAVITY

----- BED -----

Absorption/Filter  
Bed System:

Filter Bed Area m(sq): 0

No. of Beds: 0

Contact Area m(sq): 0

----- THE FOLLOWING WORK REMAINS TO BE COMPLETED: -----

Backfill system and sod or seed: <X> Stabilize all sloped surfaces: < >

Finish grading to shed runoff and divert water around leaching bed: < >

OTHER:

----- USE PERMIT -----

Under section 78 of the Environmental Protection Act, 1990 and regulations and subject to the limitations thereof, a permit is hereby issued to:

R STRONG

for the use and operation of the Class 5 Sewage System Installed/Altered under Certificate of Approval# CVN-93-15 such system being located on

Lot 12 Conc 9 Plan Sub. lot

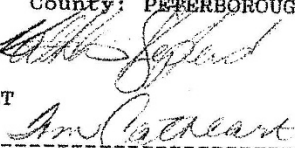
Township/Municipality: CAVAN County: PETERBOROUGH

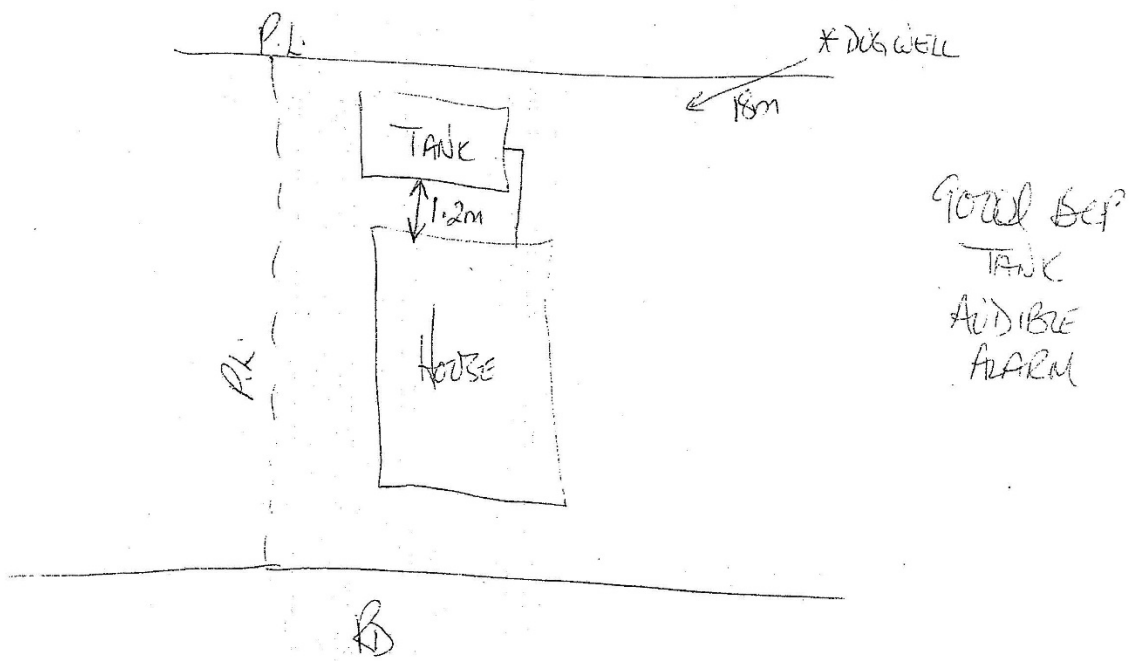
Inspected and Recommended by: K. SHEPHERD

DATE: 12/01/93  
mm/dd/yy

Issuing Director:

T. CATHCART





GOOD SEP  
TANK  
AUDIBLE  
ALARM

Patrick Devlin hereby authorize Brad Clark of Septicology Inc. to act on my behalf  
for the purpose of designing and/or making application for a sewage system on my property at  
918 Hwy 7A, CAVAN, ONT.

I understand that the design is intended to meet or exceed the Ontario Building Code and its Regulations  
based on the information provided by me as to the number of bedrooms, plumbing fixtures and square  
meters of finished living space in the dwelling or any other uses as defined by the Ontario Building Code.

I also understand and agree that Septicology Inc. or Brad Clark make no claims or warranty as to the  
performance or longevity of the sewage disposal system.

Pat Devlin

Signature

April 15/21

Date

## Attachment No. 5: Kevin M. Duguay May 31, 2021 E-mail

**Karen Ellis**

---

**From:** Kevin M. Duguay <kevin@kmdplanning.com>  
**Sent:** Monday, May 31, 2021 9:43 PM  
**To:** Karen Ellis  
**Cc:** Patrick Devlin  
**Subject:** Fw: Listing 918 Hwy 7A, Cavan

Karen

FYI

The property will be listed as a 2 bedroom dwelling use, in keeping with the holding tank capacity, currently in place, serving the property/dwelling

Kevin M. Duguay, MCIP, RPP  
Kevin M. Duguay Community Planning and Consulting Inc.  
560 Romaine Street, Peterborough, K9J 2E3  
kevin@kmdplanning.com  
www.kmdplanning.com  
Office 705-749-6710  
Cell 705-931-0975

Past President, Rotary Club of Peterborough  
Project Leader, Rotary Local Lager  
Member, 100 Men Club of Peterborough  
Member, CIP National Student Trust Committee  
Member , CESO

**From:** Patrick Devlin  
**Sent:** Monday, May 31, 2021 7:06 PM  
**To:** Kevin M. Duguay  
**Subject:** Listing 918 Hwy 7A, Cavan

This email is to verify that I have cancelled the current listing of 918 Hwy 7A until the outcome of the application re change zoning to residential.

When I re-list this property for sale I will be listing it as a "2bdm" dwelling.

Thank you,  
Patrick Devlin, owner.



- i) Notwithstanding Section 11.41.2 of the By-law as it relates to projection beyond lot lines, it is recognized that the existing building projects beyond the front lot line by 0.67 metres.”

3. All other relevant provisions of By-law No. 2018-58, as amended, shall apply.

If no notice of objection is filed with the Clerk within the time provided, this By-law shall become effective on the date of passing.

If a notice of objection is filed with the Clerk, this By-law shall become effective on the date of passing hereof subject to the disposition of any appeals.

Read a first, second and third time and passed this 21<sup>st</sup> day of June, 2021.

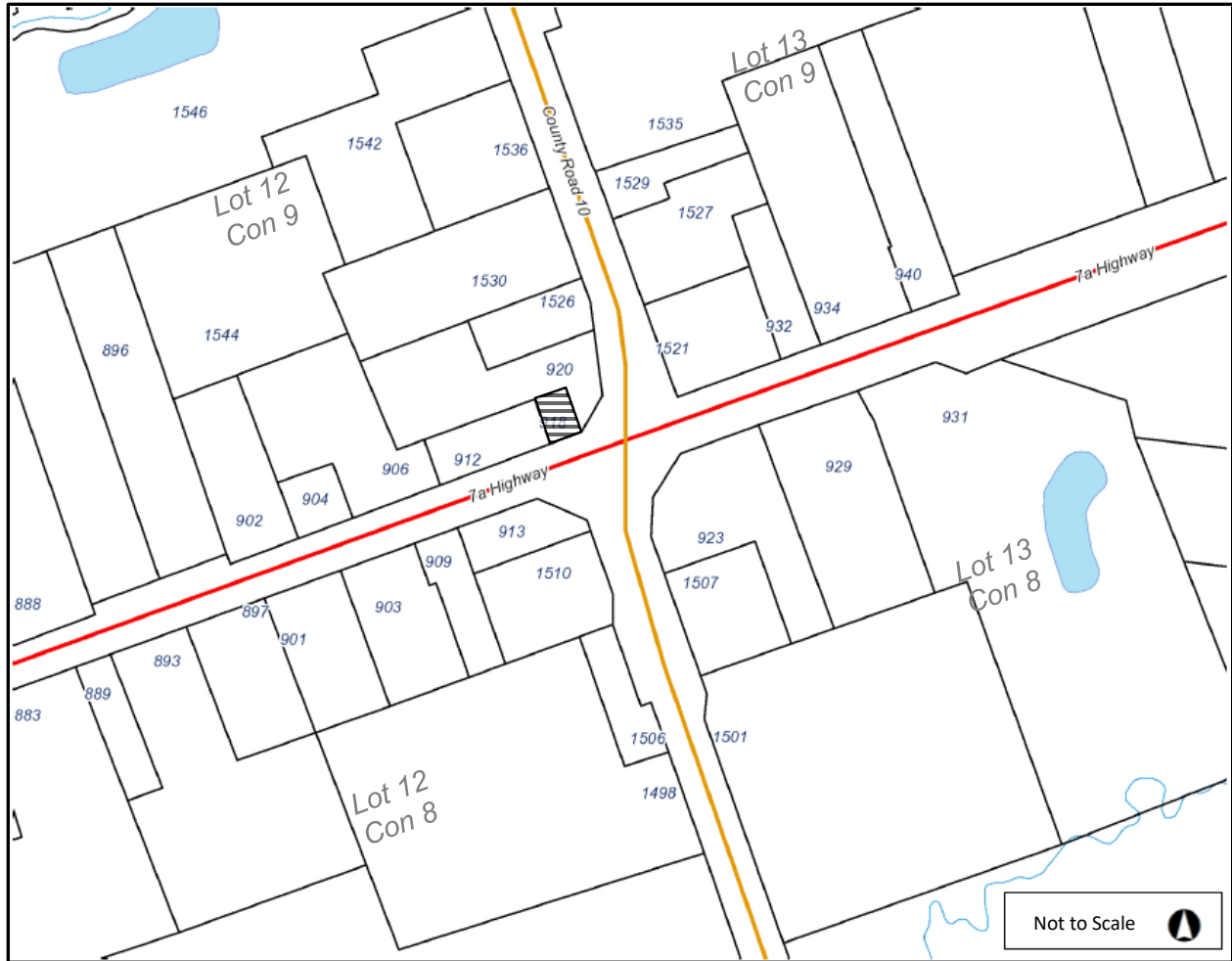
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Scott McFadden  
Mayor

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Cindy Page  
Clerk

# Schedule "1" to By-Law No. 2021-38



**Area Affected by this By-Law**  
918 Highway 7A  
Part Lot 12, Concession 9  
Cavan Ward,  
Township of Cavan Monaghan

**Certificate of Authentication**  
This is Schedule "1" to By-Law  
No. 2021-38 passed this 21<sup>st</sup>,  
day of June, 2021.



Rezone from the 'Hamlet Commercial Exception Eleven (C2-11) Zone' to the 'Hamlet Residential Exception Seventeen (HR-17) Zone'

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

**Attachment No. 5: MECP Letter – November 15, 2021**

**Ministry of the  
Environment,  
Conservation and Parks**

Eastern Region  
Peterborough District Office  
300 Water Street  
2<sup>nd</sup> Floor, South Tower  
Peterborough ON K9J 3C7  
Phone: 705.755.4300  
or 800.558.0595

**Ministère de l'Environnement,  
de la Protection de la nature  
et des Parcs**

Région de l'Est  
Bureau du district de Peterborough  
300, rue Water  
2<sup>e</sup> étage, Tour Sud  
Peterborough (Ontario) K9J 3C7  
Tél: 705 755-4300  
ou 800 558-0595



Ms. Karen Ellis  
Director of Planning  
Township of Cavan Monaghan  
988 County Road 10  
Millbrook, ON  
L0A 1G0

Dear Ms. Ellis

**RE: 918 Highway 7A, Cavan Monaghan Township**

This letter will follow-up the e-mail correspondence from Peterborough Public Health (dated September 22, 2021) and our subsequent field meeting at 918 Highway 7A, Township of Cavan Monaghan on November 8, 2021. I thank you for your time during our site meeting as well as your office's assistance in gathering historical file information related to this matter.

Staff from this office have reviewed the available file information for this property in conjunction with observations made during the November 8, 2021 field visit. Based upon available information, it appears that the private water well serving the property at 918 Highway 7A does not meet current setback requirements stipulated in Ontario Regulation 903 from the subsurface sewage disposal system located on the adjacent property (west).

However, according to the well record, the well at 918 Highway 7A was drilled in 1994 and Ontario Regulation 903 at that time did not contain any setback or location requirements. With that said, it appears that this configuration of the well (918 Highway 7A) and the septic from the adjacent property in question (912 Highway 7A) were in compliance with the requirements at the time of installation. The well location requirements in the current version of Ontario Regulation 903 only apply to "new" wells.

Please let me know if you have any questions, comments or concerns related to the above. Thank you for your patience in awaiting a response from this office.

*H. Williams*

**H. Williams  
Water Inspector**

Ministry of the Environment, Conservation and Parks  
Drinking Water and Environmental Compliance  
Division Peterborough District Office  
300 Water Street  
Robinson PL, 2<sup>nd</sup> Floor, South Tower  
K9J 3C7



C: Ms. Kathleen Shepherd, BAA, CPHI(C), Public Health Inspector, Environmental Health,  
Peterborough Public Health  
Mr. Gary Muloin, Provincial Officer, MECP Peterborough District

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# Russell, Christie, LLP

Barristers & Solicitors

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W.D. (Rusty) Russell, Q.C., (1925-2019)  
Douglas S. Christie, B.A., LL.B.  
William S. Koughan, LL.B.  
Edward B. Veldboom, MSc. Pl. LL.B.

Michael F. Sirdevan, B.A. (Hons), LL.B.  
Jennifer E. Biggar, B.A., (Hons), J.D.  
Tugba Karademir, OLY, B.A. (Hons), J.D.

Please respond to:  
Edward B. Veldboom, Ext. 237  
Email: [eveldboom@russellchristie.com](mailto:eveldboom@russellchristie.com)

November 18, 2021

Karen Ellis, Director of Planning & Development  
The Corporation of the Township of Cavan Monaghan  
988 County Road 10  
Millbrook, ON L0A 1G0  
via email to: [kellis@cavanmonaghan.net](mailto:kellis@cavanmonaghan.net)

Dear Ms. Ellis

Re: 918 Highway 7A Re-zoning – Municipal Liability

Further to your email of November 16<sup>th</sup>, 2021 we write to provide our opinion concerning the above noted matter.

As we understand Council has enquired as to the Municipality's potential liability should it approve a re-zoning of the above captioned property. In that regard, Council's specific concern is the existence and proximity of a private well serving the property that is the subject matter of the re-zoning to a subsurface sanitary sewage (septic) system on an adjacent property.

The Ministry of the Environment, Conservation and Parks (MECP) has provided a letter (undated, authored by H. Williams, Water Inspector) which confirms that the well, drilled in 1994, was constructed in compliance with Ontario Regulation 903 (Water Wells regulation) as it existed at the time. That version of the regulation prescribed no minimum setbacks from septic systems. The letter further confirms that the current setback requirements in Regulation 903 only apply to new wells.

As you are well aware, when considering whether to pass a zoning by-law amendment Council is obliged to determine whether the amendment is consistent with Provincial Policy, whether it conforms with applicable Official Plans and whether it represents good planning. There is also a statutory right appeal that could be exercised by persons in support of or in opposition to the adoption such an amendment.

### **Potential Liability**

Since a 1971 Supreme Court of Canada Decision (*Welbridge Holdings Ltd. v. Greater Winnipeg*) that case is clear in that a municipality is not subject to liability (even in negligence) when utilizing its “legislative authority” to enact by-laws (including the passage of zoning by-laws permitting specific uses or developments) provided that such enactment was or is not done in bad faith or for some improper purpose.

There is no specific test to determine what might constitute bad faith or improper purposes; however, one significant indicator of bad faith in the context of Planning Act decisions would be the complete failure of Council to consider the statutory test for a rezoning.

In this case, as substantiated by the MECP letter, there is nothing inherently illegal about the current location of the private well or septic system. Furthermore, there is nothing precluding the use of either the existing well or septic system under the current zoning. Thus, provided that Council does not “completely fail” to apply the appropriate statutory test when considering the Zoning By-law Amendment, no liability would accrue to the Municipality as a result of Council’s decision to approve the rezoning.

We trust our comments are of assistance. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,



Edward B. Veldboom  
(electronically signed)

**Attachment No. 7: By-law No. 2021-71**

**The Township of Cavan Monaghan**

**By-law No. 2021-71**

**Being a by-law to amend By-law No. 2018-58, as amended, otherwise known as “The Township of Cavan Monaghan Zoning By-law”.**

**Whereas** the Township of Cavan Monaghan received an application to amend Zoning By-law No. 2018-58, as amended.

**And Whereas** the Council of the Township of Cavan Monaghan reviewed the proposed rezoning and now deems it advisable to further amend By-law No. 2018-58, as amended.

**Now Therefore** the Council of the Township of Cavan Monaghan hereby enacts as follows:

1. Map C-2 of Schedule “A” to By-law No. 2018-58, as amended, is hereby amended by changing the zone category on lands known municipally as 918 Highway 7A in Part of Lot 12, Concession 9 of the Cavan Ward from the Hamlet Commercial Exception Eleven (C2-11) Zone to the Hamlet Residential Exception Seventeen (HR-17) Zone as shown on Schedule "1" attached hereto and forming part of this By-law.

2. Section 3.4 of By-law No. 2018-58, as amended, is further amended by the addition of Section 3.4.65 that shall read as follows:

<b>“3.4.65</b>	<b>HR-17</b>	<b>Map C-2 on Schedule A</b>	<i>(2021-71 918 Hwy 7A)</i>
	a)	Permitted uses are limited to a single detached dwelling.	
	b)	Minimum lot area	270 m <sup>2</sup>
	c)	Minimum lot frontage	13.97 m
	d)	Minimum front yard	0 m
	e)	Minimum interior side yard (east)	2.04 m
	f)	Minimum interior side yard (west)	4.37 m
	g)	Maximum lot coverage	55%
	h)	Minimum parking space requirement is 1 parking space measuring 2.5 metres by 6 metres.	

- i) Notwithstanding Section 11.41.2 of the By-law as it relates to projection beyond lot lines, it is recognized that the existing building projects beyond the front lot line by 0.67 metres.”

3. All other relevant provisions of By-law No. 2018-58, as amended, shall apply.

If no notice of objection is filed with the Clerk within the time provided, this By-law shall become effective on the date of passing.

If a notice of objection is filed with the Clerk, this By-law shall become effective on the date of passing hereof subject to the disposition of any appeals.

Read a first, second and third time and passed this 6th day of December 2021.

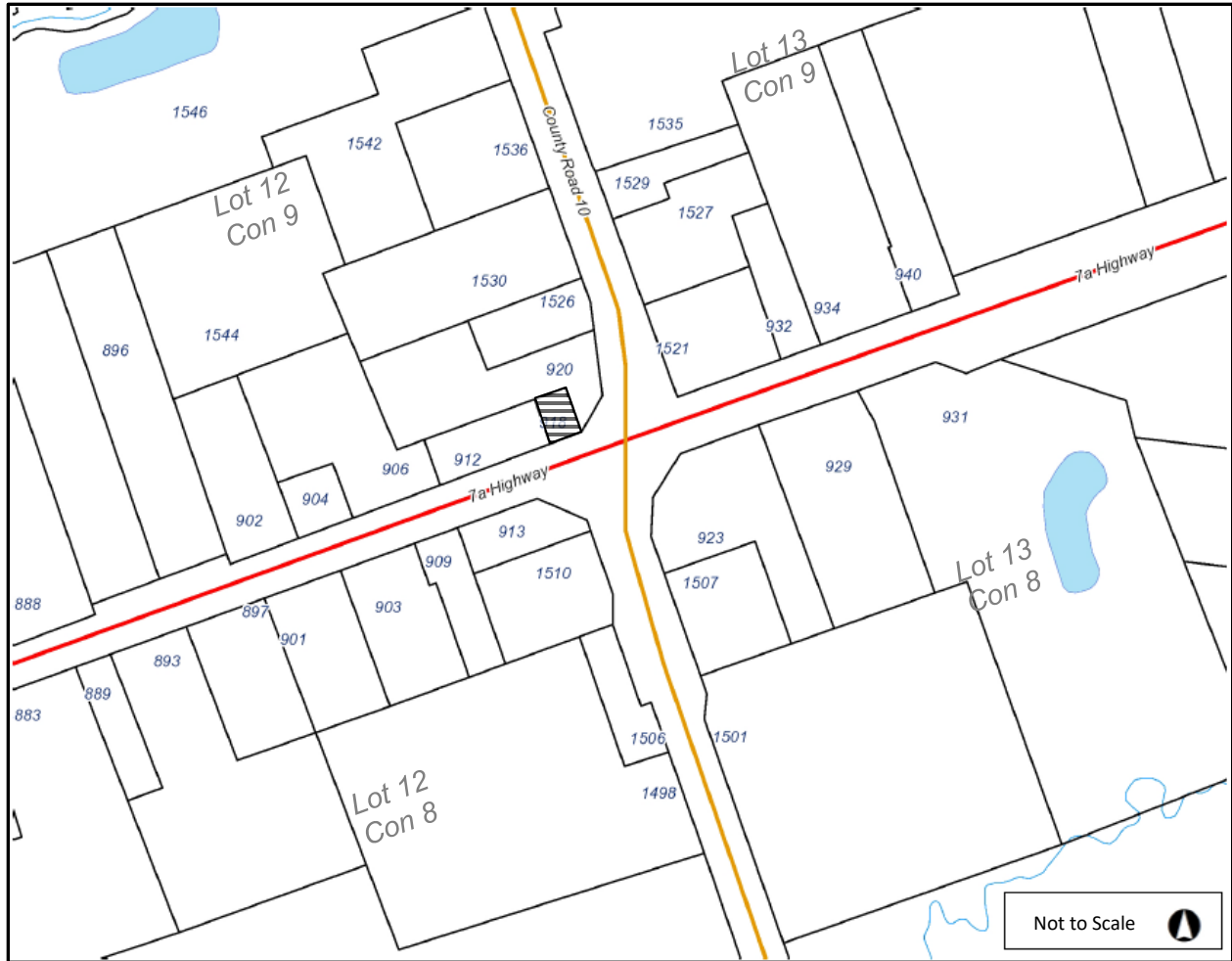
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Scott McFadden  
Mayor

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Cindy Page  
Clerk

# Schedule "1" to By-Law No. 2021-71



**Area Affected by this By-Law**  
918 Highway 7A  
Part Lot 12, Concession 9  
Cavan Ward,  
Township of Cavan Monaghan

**Certificate of Authentication**  
This is Schedule "1" to By-Law  
No. 2021-71 passed this 6th,  
Day of December 2021.



Rezone from the 'Hamlet Commercial Exception Eleven (C2-11) Zone' to the 'Hamlet Residential Exception Seventeen (HR-17) Zone'

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk