



CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

| | |
|---|--|
| TO: Chair and Members Planning Committee | WARD(S) AFFECTED: WARD 8 |
| COMMITTEE DATE: August 14, 2012 | |
| SUBJECT/REPORT NO: City Initiative to Authorize the Mayor and Clerk to Approve Official Plan Amendment OPA No. 165 for Lands Located at 844 Upper Wentworth Street (Hamilton) (PED12144) (Ward 8) | |
| SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department | PREPARED BY: Timothy Lee (905) 546-2424 Ext. 1249 |
| SIGNATURE: | |

RECOMMENDATION

That approval be given to **City Initiative CI-12-H** to authorize the Mayor and Clerk under the Planning Act as delegates to the former Region of Hamilton-Wentworth, to give approval to former City of Hamilton Official Plan Amendment OPA No. 165 to permit an aesthetic and beauty salon within an existing building, on lands located at 844 Upper Wentworth Street (Hamilton), as shown on Appendix "A" to Report PED12144.

EXECUTIVE SUMMARY

The previous owners of 844 Upper Wentworth Street submitted Zoning By-law Amendment and Official Plan Amendment applications, which were approved by Council of the former City of Hamilton in January 2000 (see Appendix "B") to permit an aesthetic and beauty salon within the existing building.

SUBJECT: City Initiative to Authorize the Mayor and Clerk to Approve Official Plan Amendment OPA No. 165 for Lands Located at 844 Upper Wentworth Street (Hamilton) (PED12144) (Ward 8) - Page 2 of 6

A Notice of Passing of the Official Plan and Zoning By-law Amendments was given by publishing notice in the Hamilton Spectator on April 20, 2000 (see Appendix "C"), and met all requirements of the Planning Act.

Prior to amalgamation of the former Region of Hamilton-Wentworth, local municipal Official Plan Amendments were adopted by the municipal Council and approved by Regional Council. After amalgamation, this process was delegated to the Commissioner of Planning of the City of Hamilton. However, approval of OPA No. 165 was held in abeyance until the owner submitted the requisite circulation fee to the former Region. The new owner has now paid the necessary processing fees in order to bring Official Plan Amendment No. 165 into force and effect.

Alternatives for Consideration - See Page 5.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: Under Sub-section 17(2) of the Planning Act, approval of the Local Municipal Official Plan Amendment was required by the local municipalities with the required circulation of the Notice of Passing of By-law to the general public. Approvals are then sought by the Regional Council to ensure conformity to the respective Regional Official Plan.

OPA No. 165 was adopted by the Council of the former City of Hamilton prior to amalgamation, and was submitted to the former Region of Hamilton-Wentworth for approval. Due to non-payment of the requisite fee by the previous owner, the approval was held in abeyance. The City Clerk and Council of the current City of Hamilton have delegated authority to represent the former Region of Hamilton-Wentworth and approve Official Plan Amendments based on the capacity of the former Regional Government.

Should Council approve OPA No. 165, a circulation of the Notice of Passing will be given in accordance with the requirements of the Planning Act.

HISTORICAL BACKGROUND

Proposal

Applications to amend the Hamilton Official Plan and Hamilton Zoning By-law No. 6593 were submitted by the previous owner in June 1999, to permit an aesthetic and beauty salon establishment in the existing building (see Appendix “B”). The applications were approved by the Council of the former City of Hamilton on January 25, 2000, as By-law 00-057, which adopted OPA 165 to change the designation from “Residential” to “Commercial” (see Appendix “D”), and By-law 00-058, which approved the Zoning By-law Amendment to change the zoning from the “A” (Agricultural) District to the “C - ‘H/S-1438” (Urban Protected Residential, etc. - Holding) District, Modified (see Appendix “E”). Subsequent circulation requirements were satisfied through the publishing of the notice passing of the Official Plan Amendment and the Zoning By-law Amendment in the Hamilton Spectator on April 20, 2000, by the former City of Hamilton (see Appendix “C”). No appeals were filed as a result of the circulation.

Subsequent to the adoption of the By-laws, Official Plan Amendment No. 165 was submitted to the former Region of Hamilton-Wentworth for final approval. However, the required Regional fees to review and approve the OPA were never submitted by the owner and, as a result, the Zoning By-law was never deemed to be final and binding. The current owner of the subject property purchased the property and commercial establishment in the early-2000’s, and submitted a Minor Site Plan to implement additional parking and landscaping. As a result of the review of the Minor Site Plan, the new owners were advised of the pending status of OPA No. 165 and By-law 00-057. The prescribed Regional fee was paid by the owners to complete the approval process for the Official Plan Amendment application. The property has been and continues to be used for an aesthetic salon.

Approvals are now being sought to allow the Mayor and Clerk to be authorized as delegates to the former Region of Hamilton-Wentworth, to give approval to the former City of Hamilton Official Plan Amendment No. 165. An additional Notice of Passing of OPA No. 165 will be given, as prescribed by the Planning Act.

POLICY IMPLICATIONS

City of Hamilton Official Plan

Section D.1.1.3 of the Hamilton Official Plan requires proposed amendments to the Official Plan, and any implementing By-laws, to be circulated to the Region of Hamilton-Wentworth for its consideration and for certification of compliance to the Regional Official Plan. Prior to the amalgamation of the former Region, this policy would have been implemented where the local Council-approved Official Plan

SUBJECT: City Initiative to Authorize the Mayor and Clerk to Approve Official Plan Amendment OPA No. 165 for Lands Located at 844 Upper Wentworth Street (Hamilton) (PED12144) (Ward 8) - Page 4 of 6

Amendment was submitted to the former Region, along with the necessary Regional fees, prior to the review and approval of the application.

The former owner of the property never paid the required circulation fees to the former Region and, as a result, Regional approval was never given, and the subsequent By-laws were never deemed final and binding.

New Urban Official Plan (Council-Adopted)

The Urban Hamilton Official Plan received Ministerial Approval from the Ministry of Municipal Affairs and Housing on March 16, 2011, and, therefore, can no longer be modified. The final decision on the Urban Hamilton Official Plan has been appealed.

The subject property is designated “Sub-Regional Service Node” and “Mixed-Use - Medium Density”, as identified in Schedule E - Urban Structure and Schedule E-1 - Urban Land Use Designations, respectively. Under this designation, the existing aesthetic beauty salon use is a permitted use. It has been proposed that the west side of Upper Wentworth Street will consist of a variety of uses such as a range of commercial use that serves the day-to-day needs of residents such as retail, personal service, multiple dwellings, and institutional uses.

The existing aesthetic beauty salon use, being considered a personal service use, would conform with the Urban Hamilton Official Plan.

RELEVANT CONSULTATION

Legal Services Section (City Manager Office)

Legal Services has advised that upon approval by Council, the Mayor and Clerk of the current City of Hamilton will have delegated authority to approve the necessary By-laws in order to deem the Official Plan Amendment final and binding.

A Notice of Passing of the Zoning By-law Amendment and the Official Plan Amendment was circulated in April 2000, by the former City of Hamilton, as required by the Planning Act, and notice of Council’s decision on OPA No. 165 will be given in accordance with the requirements of the Planning Act.

ANALYSIS / RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (i) The applications were approved by Council of the former City of Hamilton on the basis that the commercial use is feasible and consistent with the Council policy existing at the time;
 - (ii) Notice of Passing of the Zoning By-law Amendment and Official Plan Amendment by the former City of Hamilton was completed, as required under the Planning Act, where there was no opposition to the application and no appeals were filed; and,
 - (iii) The recommendation to authorize the Mayor and Clerk as delegated authority to the former Region of Hamilton-Wentworth in order to approve the Official Plan Amendment is considered a technical process that is required to be executed in order to approve OPA 165 and deem the application to be in force and effect.
2. Applications OPA No. 165 and ZAC-99-26, to implement the commercial development, were approved by Council of the former City of Hamilton on January 25, 2000, and By-laws 00-057 and 00-058 came into effect following the prescribed circulation requirements of the Planning Act, and circulation of notification of the approved application to the former Region of Hamilton-Wentworth. The recommendation to give delegated authority to the Mayor and Clerk to act on behalf of the former Region of Hamilton-Wentworth has been sought to give Regional approval of OPA 165 and to allow staff to circulate the Notice of Passing of the application, as required under the Planning Act.
3. An 'H' Holding Provision was included in By-law 00-058, and can be removed upon the owner applying for and receiving approval of a site plan application. The purpose of the site plan application is to address landscaping and parking within the subject property, and to ensure that the commercial use does not pose an impact on neighbouring properties, in particular, residential properties to the rear.

ALTERNATIVES FOR CONSIDERATION

Should the City Initiative not be approved, the Mayor and Clerk will not have delegated authority to act on behalf of the former Region of Hamilton-Wentworth and approve OPA 165. The Official Plan Amendment and Zoning By-law will not be deemed final and binding. The existing aesthetic beauty salon will not be a permitted use due to the

SUBJECT: City Initiative to Authorize the Mayor and Clerk to Approve Official Plan Amendment OPA No. 165 for Lands Located at 844 Upper Wentworth Street (Hamilton) (PED12144) (Ward 8) - Page 6 of 6

existing “AA” (Agricultural) District, which does not permit commercial service uses. However, a single detached dwelling is permitted. In order to retain the existing aesthetic beauty salon, the current owner would be required to reapply for Official Plan and Zoning Bylaw Amendments.

CORPORATE STRATEGIC PLAN

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Effective and sustainable Growth Management.

Growing Our Economy

- ◆ Competitive business environment.

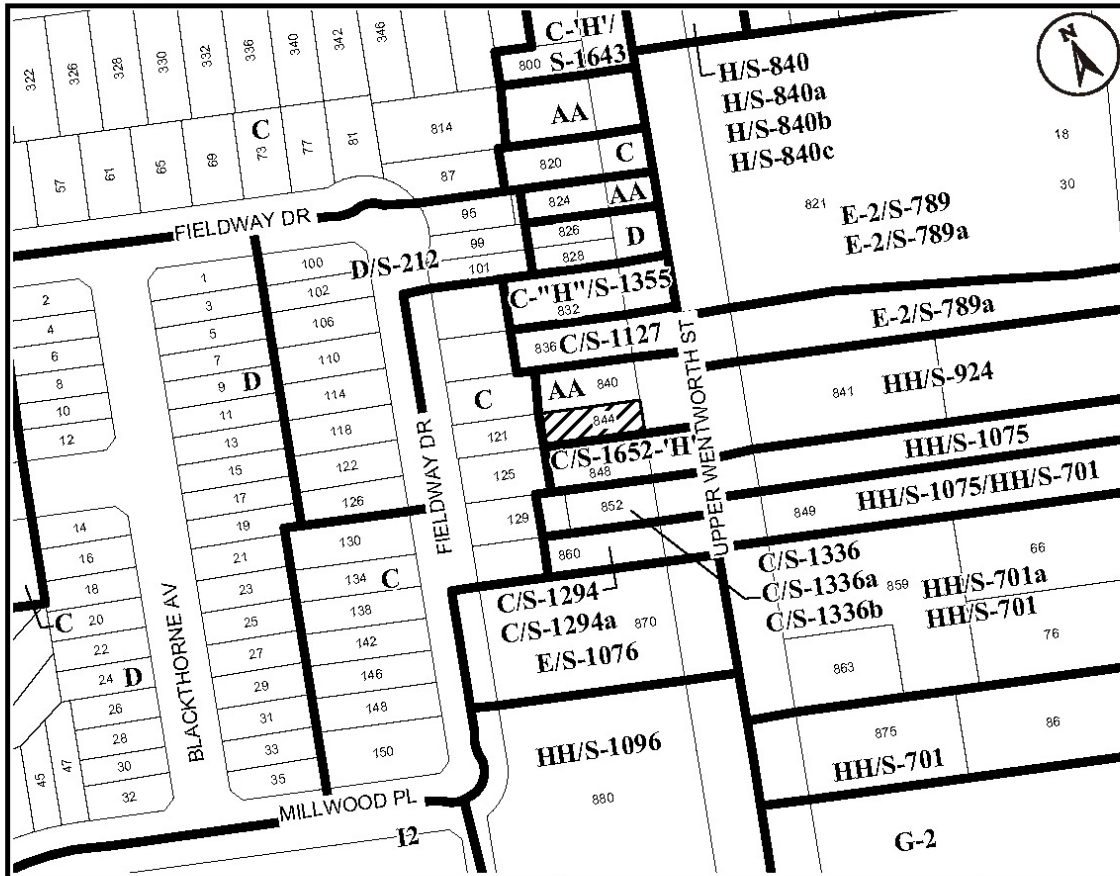
Social Development

- ◆ Hamilton residents are optimally employed earning a living wage.

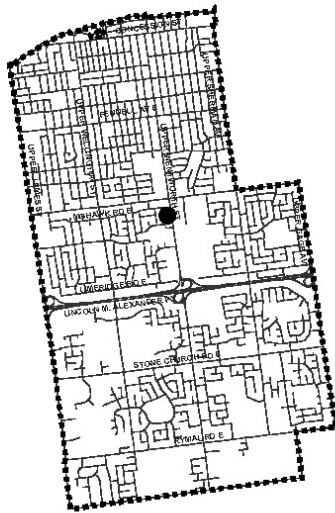
APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Recommendation Report for ZAC-99-26 and OPA-165 (PDC99068)
- Appendix “C”: Notice of Passing of ZAC-99-26 and Explanation of Purpose and Effect of OPA-165
- Appendix “D”: By-law 00-057 Approving OPA-165
- Appendix “E”: By-law 00-058 Approving Zoning By-law Amendment ZAC-99-26

:TL
Attachs. (5)



● Site of the Application



Ward 7 Key Map

N.T.S. 

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
844 Upper Wentworth St

Date:
May 29, 2012

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
TL/NB

Subject Property



844 Upper Wentworth Street, Hamilton

CITY OF HAMILTON
- RECOMMENDATION -

DATE: 1999 December 20
ZAC-99-26
Bruleville Neighbourhood

REPORT TO: Chairman and Members of the
Planning and Development Committee

FROM: Lee Ann Coveyduck
General Manager
Community Planning & Development Division

SUBJECT: Request for an Official Plan Amendment and change in zoning for
lands located at 844 Upper Wentworth Street (PDC99068)

RECOMMENDATION:

- (a) That approval be given to Official Plan Amendment No. to establish a new Special Policy Area to permit an aesthetics and beauty salon within the "Residential" designation, on lands known as 844 Upper Wentworth Street, as shown on the attached map marked as APPENDIX "A", and that the Corporate Counsel be directed to prepare a By-law of Adoption for submission to the Regional Municipality of Hamilton-Wentworth.
- (b) That approval be given to amended Zoning Application ZAC-99-26, Skinder Shelly Sohal, owner, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, modified, to permit an aesthetics and beauty salon within the existing single family dwelling, for property located at 844 Upper Wentworth Street, as shown on the attached map marked as APPENDIX "A" on the following basis:
- (i) That the amending By-law apply the holding provisions of Section 36(1) of the Planning Act, R.S.O. 1990, to the subject lands, by introducing the holding symbol 'H' as a suffix to the proposed Zoning District. The holding provision will prohibit the development of the subject lands until such time as a Site Plan Control Application has been submitted and approved.
- City Council may remove the 'H' symbol, and thereby give effect to the "C" District – Modified provisions as stipulated in this By-law by enactment of an amending By-law once the condition is fulfilled;
- (ii) That the subject lands be rezoned from "AA" (Agricultural) District to "C" – 'H' (Urban Protected Residential, etc. - Holding) District;

- (iii) That the "C" (Urban Protected Residential, etc.) District regulations as contained in Section 9 of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
- (1) That notwithstanding Section 9(1) of Zoning By-law No. 6593, the following uses will be permitted:
 - (a) An aesthetics and beauty salon only within the existing building;
 - (b) an unlighted name plate having an area of not more than 0.2 square metres attached to and, as nearly as practicable, flush with the wall of the dwelling;
 - (2) That a minimum 3.0 m wide landscape strip, and a visual barrier of not less than 1.2 m in height and not more than 2.0 m in height shall be provided and maintained along the westerly lot line;
 - (3) That a visual barrier of not less than 1.2 m in height and not more than 2.0 m in height shall be provided and maintained along the northerly and southerly lot lines;
 - (4) That a minimum 1.38 m wide landscape strip shall be provided and maintained along the easterly lot line except for any area used for vehicular access;
 - (5) That notwithstanding Section 18A(1) of Zoning By-law No. 6593, not less than four (4) parking spaces shall be provided and maintained on the subject lands;
 - (6) That notwithstanding Section 18A(7) of Zoning By-law No. 6593, a parking space length of not less than 5.8 m shall be provided and maintained;
 - (7) Section 18A(14) of Zoning By-law No. 6593 shall not apply; and
 - (8) Section 18A(26) of Zoning By-law No. 6593 shall not apply.
- (iv) That the amending by-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map E-18 be notated S- ;
- (v) That the Corporate Counsel be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-18 for presentation to City Council;

- (vi) That the proposed change and modification in zoning will be in conformity with the Official Plan for the Hamilton Planning Area upon approval of the proposed Official Plan Amendment No. by the Region of Hamilton-Wentworth; and,
- (vii) Upon approval of the Official Plan Amendment and implementing Zoning By-law, the Bruleville Neighbourhood Plan be amended by redesignating the subject lands from "Commercial/Residential Conversion" to "Commercial".



EXPLANATORY NOTE:

An Official Plan Amendment is required to establish a Special Policy Area to permit an aesthetics and beauty salon within the "Residential" designation, for lands located at 844 Upper Wentworth Street.

The purpose of the proposed by-law is to provide for a change in zoning from "AA" (Agricultural) District to "C" – 'H' (Urban Protected Residential, etc. - Holding) District for lands located at 844 Upper Wentworth Street, as shown on the attached map marked as APPENDIX "A".

The effect of the by-law is to permit an aesthetics and beauty salon only within the existing building.

In addition, the By-law provides for the following variances as special requirements:

- Permits an unlighted name plate having an area of not more than 0.2 square metres attached to and, as nearly as practicable, flush with the wall of the dwelling;
- Requires a minimum 3.0 m wide landscape strip, and a visual barrier of not less than 1.2 m in height and not more than 2.0 m in height to be provided and maintained along the westerly lot line;
- Requires a visual barrier of not less than 1.2 m in height and not more than 2.0 m in height to be provided and maintained along the northerly and southerly lot lines;
- Requires a minimum 1.38 m wide landscape strip to be provided and maintained along the easterly lot line except for any area used for vehicular access;
- Permits the minimum length of a parking space to be 5.8 m, whereas a minimum length of 6.0 m is required;
- Requires a minimum of four (4) parking spaces to be provided and maintained on the subject lands;
- Permits parking in the required front yard; and,

- Exempts the requirement that an access drive be located a minimum of 3.0 m from a residential district.

In addition, the amending by-law establishes the holding provisions of Section 36(1) of the Planning Act, R.S.O. 1990, on the subject lands, by introducing the holding symbol 'H' as a suffix to the proposed Zoning District. The holding provision will prohibit development of the subject lands until such time as a Site Plan Control Application has been submitted and approved.

City Council may remove the 'H' symbol, and thereby give effect to the "C" District – Modified provisions as stipulated in the amending by-law once the condition is fulfilled.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

As required by the Planning Act, Council shall hold at least one public meeting to consider an application for an Official Plan Amendment and Zoning By-law Amendment.

BACKGROUND:

- Proposal

The applicant had originally proposed using the existing building for a real estate office for 4 to 5 employees. The application was scheduled for the September 22, 1999 Planning and Development Committee meeting. Prior to the application being circulated, the applicant advised that he did not want to proceed with the application at that time. Subsequently, the applicant advised he would like to proceed on the basis of converting the existing dwelling for an aesthetics and beauty salon with up to five (5) employees. Four (4) parking spaces are proposed in the front yard and one (1) space in the southerly side yard (see APPENDIX "B" attached).

- Land Severance Application B-98:60 and Committee of Adjustment Application A-98:241 – 844 Upper Wentworth

On September 2, 1998, the Committee of Adjustment approved an application (B-98-60) to sever the subject lands zoned "AA" (Agricultural) District from the lands to the west zoned "C" (Urban Protected Residential, etc.) District on the condition that applicant receive final approval of any required variances. Subsequently, the Committee of Adjustment, on November 11, 1998, approved application A-98-241 to permit the existing dwelling on the subject lands with a rear yard depth of 7.7 m instead of the required 10.5 m.

- Official Plan Amendment No. 150 and By-law No. 98-261 – 852 Upper Wentworth Street

Hamilton-Wentworth Region, on December 3, 1998 approved Official Plan Amendment No. 150 which amended Special Policy Area 68 to permit limited commercial uses within the existing building for 852 Upper Wentworth Street. City Council, on May 26, 1998, passed By-law No. 98-251, which amended By-law Nos. 95-111 and 97-153, to permit general offices and a kitchen cabinet showroom on the first and second floor with a maximum gross floor area of 288 m².

- Official Plan Amendment No. 129, By-laws No. 95-111 and 97-153 and DA-95-24 – 852 Upper Wentworth Street

Hamilton-Wentworth Region, on December 5, 1995, approved Official Plan Amendment (OPA) No. 129, which established Special Policy Area 68 to permit, in addition to residential uses, general offices and home improvement uses with the intent of a mixed residential/commercial property.

City Council, on May 9, 1995, passed By-law No. 95-111 which rezoned the subject lands from "C" (Urban Protected Residential, etc.) District and "AA" (Agricultural) District to "C"- 'H' (Urban Protected Residential, etc. – Holding) District, modified to permit general offices and a kitchen cabinet showroom on the first and second floor with a maximum total gross floor area of 95 m² (1022.6 square feet), and permit one dwelling unit on the second floor.

The 'H' Holding provision was imposed subject to the applicant applying for and receiving approval for a Site Plan Control Application. On July 26, 1996 site Plan Control Application DA-95-24 was approved. Subsequently, By-law No. 97-153 was by passed by City Council to remove the 'H' Holding provision.

- By-law No. 96-068 – 832 Upper Wentworth Street

By-law No. 96-068, passed by Council on April 30, 1996, rezoned the subject lands from the "AA" (Agricultural) District to the "C" – 'H' (Urban Protected Residential, etc. – Holding) District, modified.

The effect of the By-law is to permit the use of the subject lands for a hearing aid dispensing office only on the ground floor of the existing building, and one residential unit having a maximum gross floor area of 95m² (1,000 sq. ft.) in the basement.

The 'H' Holding provision was applied to prohibit development until such time as a Site Plan Control Application has been approved.

- By-law No. 92-305 – 860 Upper Wentworth Street

City Council on December 8, 1992, passed By-law No. 92-305 which rezoned the lands from "AA" (Agricultural) District and "C" (Urban Protected Residential, etc.) District to "C" – 'H' (Urban Protected residential, etc. – Holding) District.

The effect of the By-law is to permit a dental office only on the first floor of the existing building with a maximum gross floor area of not more than 95m², and one dwelling unit on the second floor.

The 'H' holding provision, which was subsequently removed by By-law No. 93-088, required that the applicant/owner apply for and receive approval of a Site Plan Control application.

Committee of Adjustment, on December 15, 1993, denied an application (A-93-233) for a minor variance on these lands to permit the expansion of the dental office from 95m² to 116m². A subsequent application to the Committee of Adjustment (A-95-237) to increase the gross floor area of the dentist office to 116.12m² was also denied.

• By-law No. 89-274 – 836 Upper Wentworth Street

By-law No. 89-274 was passed by City Council on September 26, 1989, and rezoned the lands from the "AA" (Agricultural) District to the "C" (Urban Protected Residential, etc.) District, modified.

The effect of the By-law is to permit a medical office within the existing building.

APPLICANT:

Skinder Shelly Sohal, owner.

LOT SIZE AND AREA:

The subject lands have:

- a frontage of 11.89 m on Upper Wentworth Street;
- a depth of 36.96 m; and,
- an area of 439.45 m².

LAND USE AND ZONING:

| | <u>Existing Land Use</u> | <u>Existing Zoning</u> |
|---------------------|--------------------------|------------------------------|
| <u>Subject Land</u> | Single family dwelling | "AA" (Agricultural) District |

Surrounding Lands

| | | |
|--------------|--------------------------------|---|
| To the north | Vacant, single family dwelling | "AA" (Agricultural) District, and "C" Urban Protected Residential, etc.) District, modified |
| To the east | Commercial | "HH" (Restricted, Community Shopping and Commercial, etc.) District |
| To the south | Single family dwelling | "AA" (Agricultural) District |
| To the west | Single family dwellings | "C" (Urban Protected Residential, etc.) District |

OFFICIAL PLAN:

The subject lands are designated "Residential" on Schedule 'A' – Land Use Concept of the Official Plan. The following policies, amongst others apply:

- "A.2.1.1 The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
- A.2.1.3 Within areas designated for RESIDENTIAL, land uses compatible to dwellings and serving the needs of local residents will be permitted, including, but not limited to:
 - iv) Limited individual or groups of commercial uses on sites not exceeding 0.4 hectare in area, excluding Automobile Service Stations, in accordance with the Commercial policies as set out in Subsection A.2.2 of this Plan.
- A.2.2.25 The LOCAL COMMERCIAL category applies to groups of, or individual commercial establishments and local business and professional offices serving the daily retail needs of surrounding residents, and primarily dependent upon pedestrian access."

Based on the foregoing, the proposal conflicts with the intent of the Official Plan. Approval of the application would require an amendment to establish a Special Policy Area to permit the proposed aesthetics and beauty salon in a "Residential" designation.

NEIGHBOURHOOD PLAN:

The subject lands are designated "Commercial/Residential Conversion" in the approved Bruleville Neighbourhood Plan. The intent of this designation is to permit up to 1,000 square feet of professional offices or commercial uses within the existing building. A proposal of more than 1,000 square feet will require an amendment to the approved Neighbourhood Plan to redesignate the lands to "Commercial". The Neighbourhood Plan also requires a minimum 3.0 m planting strip along the westerly lot line.

COMMENTS RECEIVED:

- The Hamilton Region Conservation Authority advises they have no objection.
- The Public Works and Traffic Department advises:

"We have no objection to the proposed change in zoning to permit the proposed real estate office. With reference to the preliminary plan, we provide the following comments.

The submitted plan shows four parking spaces to be located in the front yard. The provision of the additional landscape areas required by the Zoning By-law will reduce the number of parking spaces and generate a need for additional variances to the Zoning by-law related to parking space size and/or the size of manoeuvring space. Further comments will be provided upon receipt of the subsequent Site Plan Application."

In response to the amended application:

"We have no objection to the proposed modification in zoning and Official Plan Amendment to permit the proposed beauty salon. Our comments of 1999 July 5 regarding the preliminary site plan still apply."

- The Community Planning and Development Division (Building) advises:
 1. The proposed use of a real estate office is not permitted.
 2. The southerly side yard is reduced in width by columns projecting into the yard, therefore it has an insufficient width for parking.
 3. The concrete porch extends the full width of the existing dwelling and projects into the front yard, therefore the remaining front yard depth may not be sufficient to provide four (4) parking spaces having 2.7m in width. Furthermore, the width of the lot is insufficient to provide parking spaces having a length of 6.0m and a manoeuvring space of 6.0m.
 4. The total floor area of the building has not been provided to determine if the use requires a minimum number of parking or loading spaces."

The Building Department had no further comments on the amended application.

- The Community Planning and Development Division (Development Engineering) advises:

"There are public watermains and separate storm and sanitary sewers available to service the subject lands.

The designated road allowance width of Upper Wentworth Street is 36.58m. The Region previously acquired the required road allowance widenings adjacent to the subject lands. Therefore we do not anticipate any further road allowance widenings at this time.

The subject lands are approximately 11.89 metres in width and it appears that there will be landscape strips on the sides of the lot and landscape strips required along the Upper Wentworth Street road allowance limits, as widened. It would appear from our review of the preliminary site plan that the number of parking spaces and maneuvering for the spaces will be reduced.

It is our opinion that the approval of commercial/office space development adjacent to major arterial roadways, such as Upper Wentworth Street, which may require vehicles to either back into or out of the property, is undesirable.

Any fences, objects or mature vegetation (excluding existing trees) on private property and within 3m for the Upper Wentworth Street road allowance limits, as widened, should be no higher than 0.60m above the corresponding perpendicular centreline elevation of Upper Wentworth Street.

Any other works within the Upper Wentworth Street road allowance, as widened, must conform to the Region of Hamilton-Wentworth Roads Use By-law."

The Development Engineering Section advised that there previous comments apply to the amended application.

COMMENTS:

1. The proposal conflicts with the intent of the Official Plan which designates the subject lands "Residential". Approval of the application would require an amendment to establish a "Special Policy Area" to permit and aesthetics and beauty salon in a "Residential" designation.
2. The proposal conflicts with the intent of the Approved Bruleville Neighbourhood Plan which designates the subject lands "Commercial/Residential Conversion". The intent of this designation is to permit up to 1,000 square feet of professional offices or commercial uses within the existing building, whereas the proposal is to use the entire building (1,567 sq. ft.) for an aesthetics and beauty salon. Approval of the application would require a Neighbourhood Plan amendment to redesignate the lands "Commercial".
3. Since 1992, the Planning and Development Committee and City Council have approved four (4) applications for "Commercial/Residential Conversion" along this portion of Upper Wentworth Street (see BACKGROUND). Generally, staff

supported the applications where the "Commercial" use did not exceed 1,000 square feet as per the intent of the approved Bruleville Neighbourhood Plan. The most recent application (ZAC-97-33) was to permit conversion of the entire building (288m² or 3,100 sq. ft.) for general offices and a kitchen cabinet showroom. Committee approved the application on the basis the proposed uses were consistent with established commercial development along Upper Wentworth Street.

In this regard, the proposed aesthetics and beauty salon (1,567 sq. ft.) is no less feasible and is consistent with current Council policy.

4. Based on a preliminary concept plan, approval of the application would require the following variances:

Parking

The applicant submitted a preliminary concept plan (see APPENDIX "B" attached) which showed a total of five (5) parking spaces (four in the front yard and one in the southerly side yard). Based on the Building Department's comments, there is insufficient width to accommodate a parking space in the side yard. Further, the subject lands are not wide enough to accommodate the required minimum 6.0 m manoeuvring space and the minimum 6.0 m length of a parking space.

An alternate concept plan was developed (see APPENDIX "C" attached) which deleted the parking space in the southerly side yard thereby reducing the number of parking spaces to four (4). However, based on the gross floor area of the proposed beauty salon only one (1) parking space is required. On this basis, a variance is required to reduce the minimum length of the parking spaces from 6.0 m to 5.8 m.

Buffering and Screening

In keeping with the design requirements of the approved Bruleville Neighbourhood Plan, a minimum 3.0 m landscape planting strip and a visual barrier of not less than 1.2 m and not more than 2.0 m in height should be provided and maintained along the westerly lot line adjacent to the future low density residential development.

In keeping with the "Landscape Requirements for Commercial Uses", visual barriers of not less than 1.2 m and not more than 2.0 m in height should be provided and maintained along the northerly and southerly lot lines. In addition, a minimum 1.38 m landscape planting strip should be provided and maintained along the easterly lot line except for any area used for vehicular access.

Others

Section 18A(14) permits parking in the front yard for single family dwellings erected prior to December, 1971, under specific regulations. These regulations were designed for residential uses, however the proposed uses are for an

aesthetics and beauty salon, with no residential uses. In addition, there is insufficient room in the rear yard to accommodate any parking. On this basis, this variance can be supported.

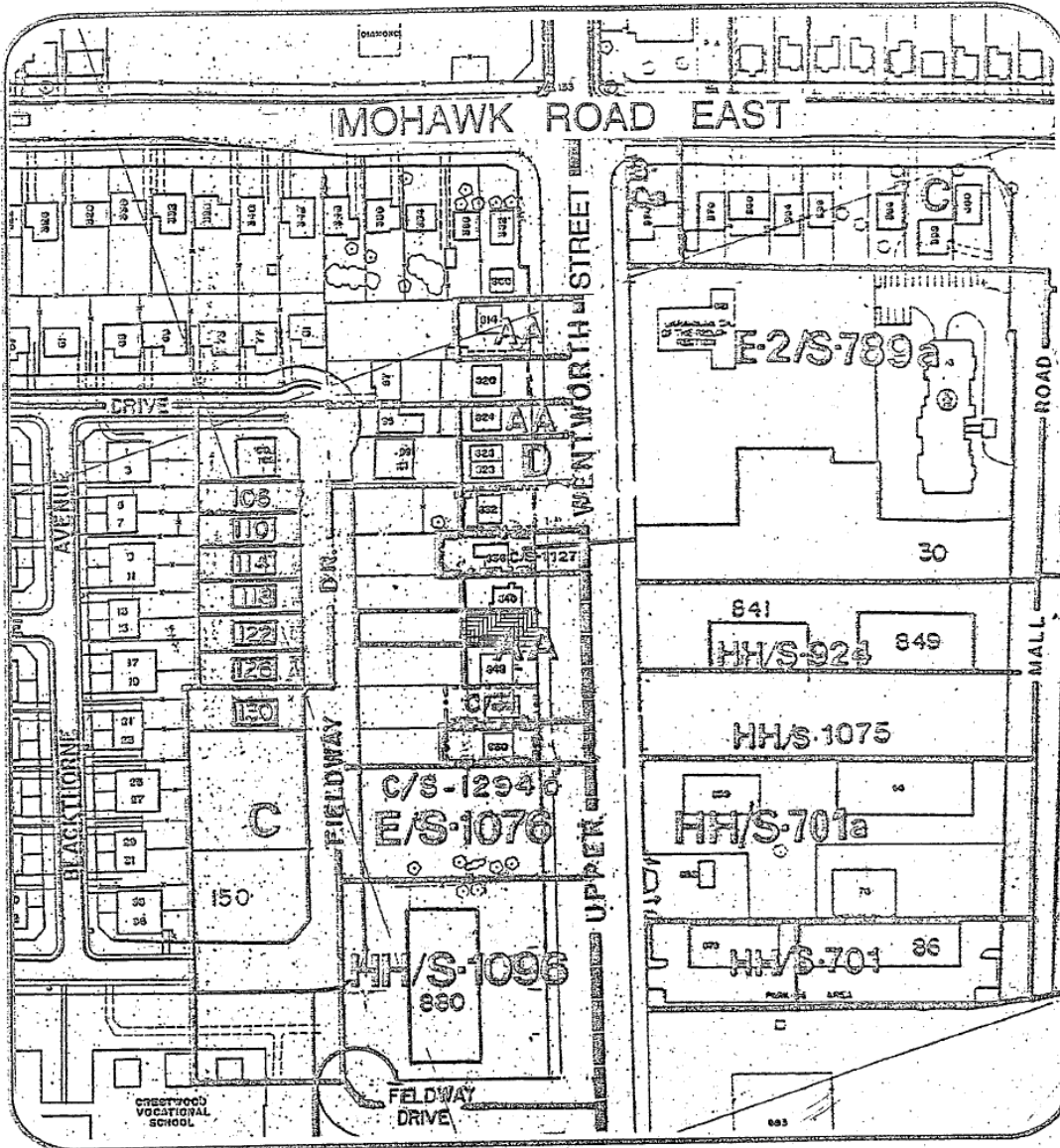
Section 18A(26) of the By-law requires that an access driveway to a non-residential use be located not less than 3.0 m from the common boundary with the residential district. The existing driveway is located adjacent to the residential district to the south which is currently developed with a single family dwelling. On this basis, it is appropriate to delete this requirement from the proposal.

5. The subject lands are not subject to Site Plan Control By-law No. 79-275, as amended by By-law No. 87-233. Based on comments from the Traffic Division and the Development Engineering Section, it is appropriate to place the subject lands under site Plan controls so that matters relating to parking layout, grading, landscaping, etc. can be reviewed.
6. The subject lands should be placed in a holding zone, by introducing the holding symbol 'H' suffix to the proposed Zoning District. The holding provision would prohibit the development of the subject lands until such time as Site Plan Control Application has been submitted and approved. City Council may remove the 'H' symbol, and thereby give effect to the "C" District – Modified provisions as stipulated in the by-law by enactment of an amending By-law once the condition is fulfilled.

CONCLUSION:

Based on the foregoing, the amended application can be supported.

CLF/
ZAC-99-26



PLANNING AND DEVELOPMENT DEPARTMENT

Location Map

Zoning Zoning
City of Hamilton

Legend

Change in zoning from:

"AA" (AGRICULTURAL) TO
"C" (URBAN PROTECTED RESIDENTIAL
ETC.) DISTRICT, MODIFIED.

Reference file:
ZAC-69-23

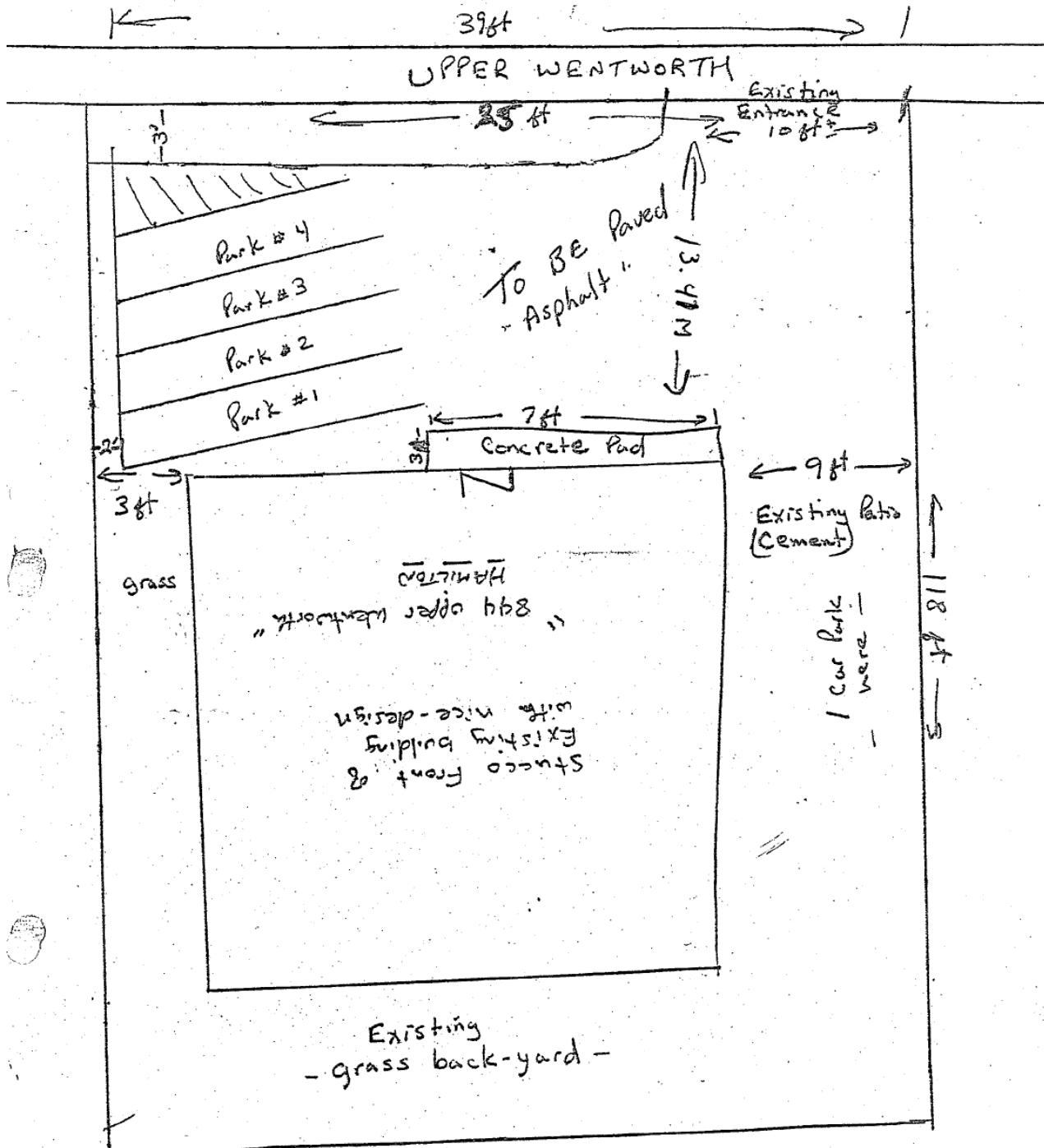
Scale
Not to Scale

Date
JUNE, 1999

Technician:
FAB

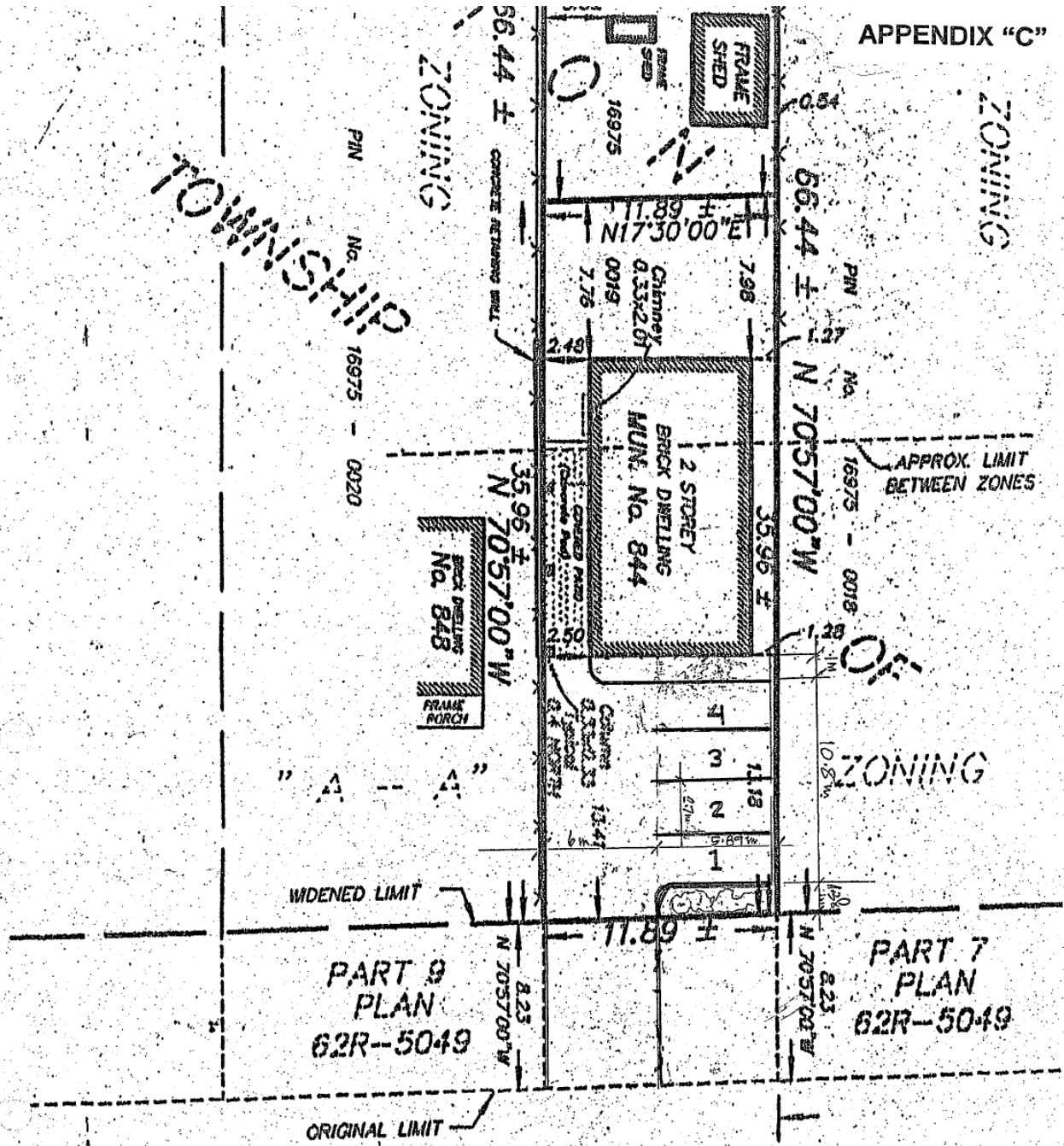
APPENDIX A

APPENDIX "B"



All measurement are approximate.

APPENDIX "C"



UPPER WENTWORTH STREET (REG)
 (ORIGINAL ROAD ALLOWANCE BETWEEN TOWNSHIP LOTS 10 AND 11) (BY BY-L)

**CITY OF HAMILTON
OF HAMILTON-WENTWORTH**

**Form 1A
Planning Act, 1990
NOTICE OF THE PASSING OF A ZONING
BY-LAW BY THE CORPORATION OF THE CITY OF HAMILTON**

TAKE NOTICE that the Council of the Corporation of the City of Hamilton has adopted Official Plan No. 165 and passed Zoning By-law No. 00-058 on the 11th day of April, 2000 under Section 54 of the Planning Act, R.S.O. 1990, c.R.13.

AND TAKE NOTICE that By-law 00-057 implementing Official Plan Amendment No. 165 has been submitted to the Regional Municipality of Hamilton-Wentworth for approval. Any person or agency who objects to the amendment may contact the Land Development Department, Community Planning and Development Division to discuss such objections and, if these objections remain unresolved, any person or agency may request referral of this amendment to the Ontario Municipal Board for a hearing. This request must be made in writing to the Director, Land Development Department, Community Planning and Development Division, Municipality of Hamilton-Wentworth, 71 Main Street West, 7th Floor, City Hall, Hamilton, Ontario L8P 4Y5 and must set out the reasons for such a request.

AND TAKE NOTICE that any person or agency who objects to this By-law may appeal to the Ontario Municipal Board in respect of the zoning by-law by filing with the Clerk of the Corporation of the City of Hamilton, not later than the 10th day of May, 2000 a cheque or money order in the amount of \$125.00 payable to the Minister of Finance, Province of Ontario, a notice of appeal setting out the objection to the by-law, and the reasons in support of the objection.

Only individuals, corporations and Public Bodies may Appeal a Zoning By-Law to the Ontario Municipal Board. A Notice of Appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

Any person or public body will be entitled to receive notice of the proposed decision of the approval authority if a written request is made to the Director, Land Development Department, Community Planning and Development Division, Municipality of Hamilton-Wentworth.

An explanation of the purpose and effect of the Official Plan Amendment and zoning by-law, describing the lands to which the Official Plan Amendment and the zoning by-law apply, and a key map showing the location of the lands to which the Official Plan Amendment and zoning by-law apply are available for inspection in my office during regular office hours.

DATED at the City of Hamilton
this 20th day of April, 2000

K.C. Christenson, Acting Municipal Clerk
City Hall, Hamilton, Ontario

7AP-04-74

NOTE: All dimensions are in metres.

| City of Hamilton | | Legend | |
|---|-------------|--|--|
| Key Map to By-Law No. 00-058 Community Planning and Development Division | | Change in zoning from: | |
| | | "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, modified | |
| North | Scale | Reference File No. | |
| NOT TO SCALE | 1:1000 | ENC-058-00 | |
| Date | March, 2000 | Drawn By | |
| | | S.S. | |

**EXPLANATION OF PURPOSE AND EFFECT OF
OFFICIAL PLAN AMENDMENT NO. 165 AND BY-LAW NO. 00-058**

- The purpose of Official Plan Amendment No. 165 is to establish a Special Policy Area to permit an aesthetics and beauty salon within the "Residential" designation, for lands located at 844 Upper Wentworth Street.
- The purpose of By-law No. 00-058 is to provide for a change of zoning from "AA" (Agricultural) District to "C" - "R" (Urban Protected Residential, etc. - Housing) District for lands located at 844 Upper Wentworth Street, as shown on the attached Key Map.
The effect of the by-law is to permit an aesthetics and beauty salon only within the existing building.
In addition, the By-law provides for the following variances as special requirements:
 - Permits an unlighted name plate having an area of not more than 0.2 square metres attached to and, as nearly as practicable, flush with the wall of the dwelling;
 - Requires a minimum 2.0 m wide landscape strip, and a visual barrier of not less than 1.2 m in height and not more than 2.0 m in height to be provided and maintained along the westerly lot line;
 - Requires a visual barrier of not less than 1.2 m in height and not more than 2.0 m in height to be provided and maintained along the northerly and southerly lot lines;
 - Requires a minimum 1.38 m wide landscape strip to be provided and maintained along the easterly lot line except for any area used for vehicular access;
 - Permits the minimum length of a parking space to be 5.0 m, whereas a minimum length of 6.0 m is required;
 - Requires a minimum of four (4) parking spaces to be provided and maintained on the subject lands;
 - Permits parking in the required front yard; and,
 - Exempts the requirement that an access drive be located a minimum of 3.0 m from a residential district.
 In addition, the amending by-law establishes the holding provisions of Section 26(1) of the Planning Act, R.S.O. 1990, on the subject lands, by introducing the holding symbol "H" as a suffix to the proposed Zoning District. The holding provision will prohibit development of the subject lands until such time as a Site Plan Control Application has been submitted and approved. City Council may remove the "H" symbol, and thereby give effect to the "C" District - Modified provisions as stipulated in the amending by-law once the condition is fulfilled.
- Only the property referred to above and shown on the attached map is affected by the By-law. However, all owners of property within 120 metres (400 feet) of the property affected by the By-law are required to be notified.

K.C. Christenson, Acting Municipal Clerk
City Hall, Hamilton, Ontario
7AP-00-08

**10 MODI
NOGSI**

Dian

89

Fore
City
730 U

**DO
OC
OR FR
RESER**

1.5 To
2 Ton
2.5 To
3 Ton
Free for
12 Year

241

**GAS
\$16
LIFETIME
WARRANT**

**4500 W
RE**

**CALL
970**

Bill No. C-013

The Corporation of the City of Hamilton

BY-LAW NO. 00-057

To Adopt:

Official Plan Amendment No. 165

Respecting:

**LANDS LOCATED AT 844 UPPER WENTWORTH STREET IN THE
BRULEVILLE NEIGHBOURHOOD**

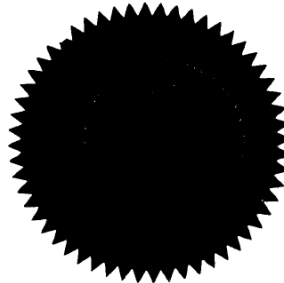
The Council of The Corporation of the City of Hamilton enacts as follows:

1. Amendment No. 165 to the Official Plan of the Hamilton Planning Area consisting of Schedule 1, hereto annexed and forming part of this by-law, is hereby adopted.
2. It is hereby authorized and directed that such approval of the Official Plan Amendment referred to in section 1 above, as may be requisite, be obtained and for the doing of all things for the purpose thereof.

PASSED this 11th day of April A.D. 2000



ACTING MUNICIPAL CLERK



MAYOR

(2000) 02-00 R.P.D.C. 1, January 25
Skinder Shelly Sohal, Owner
OPA-165

Amendment No. 165
to the
City of Hamilton Official Plan

The following text together with Schedule "B" – Special Policy Areas, attached hereto, constitutes Official Plan Amendment No. 165.

Purpose:

The purpose of this Amendment is to establish "Special Policy Area 84" for 844 Upper Wentworth Street, to permit an aesthetics and beauty salon in a residential designation.

Location:

The lands affected by this Amendment are known municipally as 844 Upper Wentworth Street, within the Bruleville Neighbourhood.

Basis:

The basis for permitting the proposed aesthetics and beauty salon, only within the existing building, is that the proposed uses are consistent with the established commercial development along Upper Wentworth Street in this vicinity.

Actual Changes:

- 1) Schedule "B" – Special Policy Areas – be revised by adding the subject lands as Special Policy Area 84, as shown on the attached Schedule "B" of this Amendment; and,
- 2) The following new policy be added to Subsection A.2.9.3 – Other Policy Areas as Policy A.2.9.3.79:


"In addition to the permitted uses set out in Subsection A.2.1 – Residential Uses, for those lands shown on Schedule "B" as SPECIAL POLICY AREA 84, and located at 844 Upper Wentworth Street, an aesthetics and beauty salon will be permitted, only within the existing building."

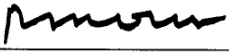
Implementation:

A Zoning By-law amendment will give effect to the intended use on the subject lands.

This is Schedule "1" to By-law No. 00-057 , passed on the 11th day of April, 2000.

**The Corporation of the
City of Hamilton**

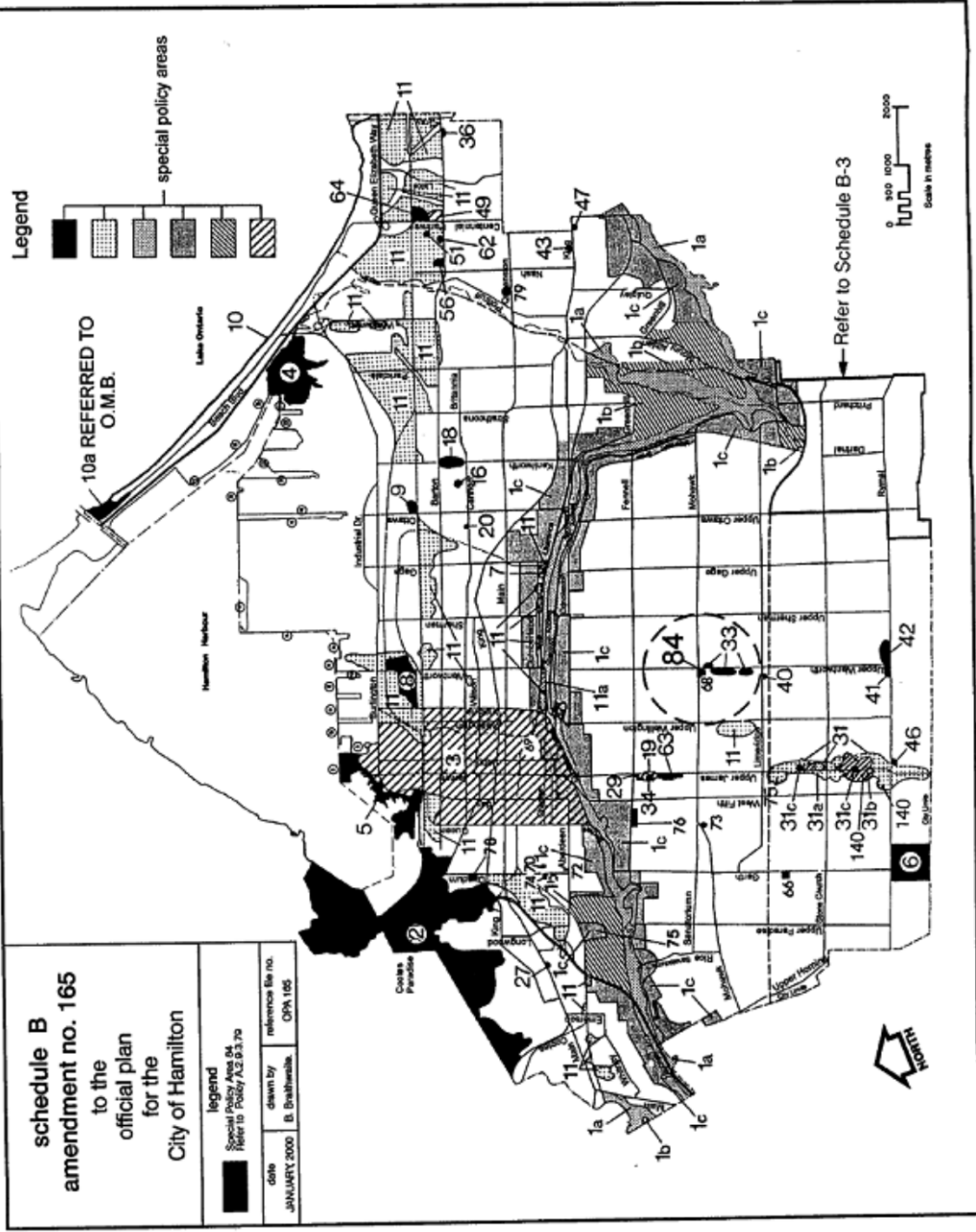

ACTING Municipal Clerk


Mayor

| AREA | REFER TO POLICY | AREA | REFER TO POLICY |
|------|-----------------|------|-----------------|
| 180 | A23327 | 62 | A23327 |
| 181 | A23328 | 63 | A23328 |
| 182 | A23329 | 64 | A23329 |
| 1 | A23330 | 65 | A23330 |
| 2 | A23331 | 66 | A23331 |
| 3 | A23332 | 67 | A23332 |
| 4 | A23333 | 68 | A23333 |
| 5 | A23334 | 69 | A23334 |
| 6 | A23335 | 70 | A23335 |
| 7 | A23336 | 71 | A23336 |
| 8 | A23337 | 72 | A23337 |
| 9 | A23338 | 73 | A23338 |
| 10 | A23339 | 74 | A23339 |
| 11 | A23340 | 75 | A23340 |
| 11M | A23341 | 76 | A23341 |
| 12 | A23342 | 77 | A23342 |
| 13 | A23343 | 78 | A23343 |
| 14 | A23344 | 79 | A23344 |
| 15 | A23345 | 80 | A23345 |
| 16 | A23346 | 81 | A23346 |
| 17 | A23347 | 82 | A23347 |
| 18 | A23348 | 83 | A23348 |
| 19 | A23349 | 84 | A23349 |
| 20 | A23350 | 85 | A23350 |
| 21 | A23351 | 86 | A23351 |
| 22 | A23352 | 87 | A23352 |
| 23 | A23353 | 88 | A23353 |
| 24 | A23354 | 89 | A23354 |
| 25 | A23355 | 90 | A23355 |
| 26 | A23356 | 91 | A23356 |
| 27 | A23357 | 92 | A23357 |
| 28 | A23358 | 93 | A23358 |
| 29 | A23359 | 94 | A23359 |
| 30 | A23360 | 95 | A23360 |
| 31 | A23361 | 96 | A23361 |
| 31M | A23362 | 97 | A23362 |
| 32 | A23363 | 98 | A23363 |
| 33 | A23364 | 99 | A23364 |
| 34 | A23365 | 100 | A23365 |
| 35 | A23366 | | |
| 36 | A23367 | | |
| 37 | A23368 | | |
| 38 | A23369 | | |
| 39 | A23370 | | |
| 40 | A23371 | | |
| 41 | A23372 | | |
| 42 | A23373 | | |
| 43 | A23374 | | |
| 44 | A23375 | | |
| 45 | A23376 | | |
| 46 | A23377 | | |
| 47 | A23378 | | |
| 48 | A23379 | | |
| 49 | A23380 | | |
| 50 | A23381 | | |
| 51 | A23382 | | |
| 52 | A23383 | | |
| 53 | A23384 | | |
| 54 | A23385 | | |
| 55 | A23386 | | |
| 56 | A23387 | | |
| 57 | A23388 | | |
| 58 | A23389 | | |
| 59 | A23390 | | |
| 60 | A23391 | | |
| 61 | A23392 | | |
| 62 | A23393 | | |
| 63 | A23394 | | |
| 64 | A23395 | | |
| 65 | A23396 | | |
| 66 | A23397 | | |
| 67 | A23398 | | |
| 68 | A23399 | | |
| 69 | A23400 | | |
| 70 | A23401 | | |
| 71 | A23402 | | |
| 72 | A23403 | | |
| 73 | A23404 | | |
| 74 | A23405 | | |
| 75 | A23406 | | |
| 76 | A23407 | | |
| 77 | A23408 | | |
| 78 | A23409 | | |
| 79 | A23410 | | |
| 80 | A23411 | | |
| 81 | A23412 | | |
| 82 | A23413 | | |
| 83 | A23414 | | |
| 84 | A23415 | | |
| 85 | A23416 | | |
| 86 | A23417 | | |
| 87 | A23418 | | |
| 88 | A23419 | | |
| 89 | A23420 | | |
| 90 | A23421 | | |
| 91 | A23422 | | |
| 92 | A23423 | | |
| 93 | A23424 | | |
| 94 | A23425 | | |
| 95 | A23426 | | |
| 96 | A23427 | | |
| 97 | A23428 | | |
| 98 | A23429 | | |
| 99 | A23430 | | |
| 100 | A23431 | | |

For other Special Policy Areas numbers, refer to Schedules: B-1, B-2, and B-3.

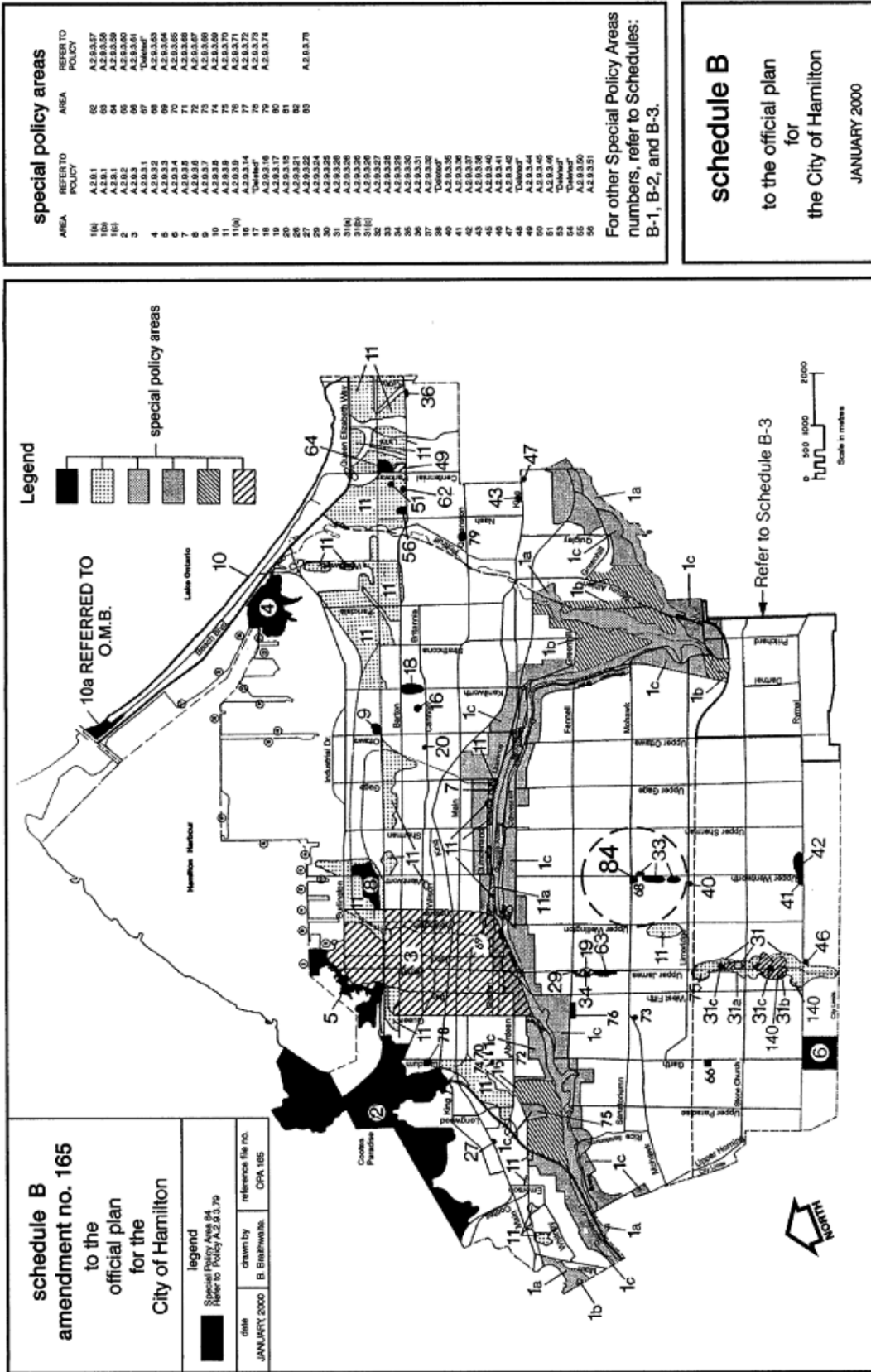
schedule B
to the official plan
for
the City of Hamilton
JANUARY 2000



schedule B
amendment no. 165
to the
official plan
for the
City of Hamilton

legend
Special Policy Area 04
Refer to Policy A.2.3.3.7a

date: JANUARY 2000
drawn by: B. Brathwaite
reference file no.: CPA 165



Bill No. C-014

The Corporation of the City of Hamilton

BY-LAW NO. 00-058

To Amend:

Zoning By-law No. 6593

Respecting:

LANDS LOCATED AT MUNICIPAL NO. 844 UPPER WENTWORTH STREET

WHEREAS it is intended to change the zoning of the lands hereinafter referred to and to establish special requirements under section 19B of By-law No. 6593 passed on the 25th day of July 1950 and approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

AND WHEREAS this by-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982, as amended by Official Plan Amendment No. 165, proposed by the Council of The Corporation of the City of Hamilton but not yet approved by The Regional Municipality of Hamilton-Wentworth in accordance with the provisions of the Planning Act.

NOW THEREFORE the Council of The Corporation of the City of Hamilton enacts as follows:

1. Sheet No. E-18 of the District Maps, appended to and forming part of By-law No. 6593, is amended,

- (a) by changing from "AA" (Agricultural) District to "C" – 'H' (Urban Protected Residential, etc. – Holding) District,

the land, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. (a) The 'H' symbol applicable to the lands referred to in section 1 shall be removed conditional upon the applicant/owner applying for and receiving approval of a Site Plan Control Application from the City of Hamilton.

(b) The 'H' symbol shall be removed by amendment to this by-law and the development of the lands referred to in section 1 may at such time proceed in accordance with the "C" District provisions.

3. The "C" (Urban Protected Residential, etc.) District provisions, as contained in Section 9 of Zoning By-law No. 6593, applicable to the lands referred to in section 1 are amended to the extent only of the special requirements that,

- (a) notwithstanding Section 9.(1) of Zoning By-law No. 6593, the following uses shall be permitted:
 - (i) an aesthetics and beauty salon only within the existing building;
 - (ii) an unlighted name plate having an area of not more than 0.2 square metres attached to and, as nearly as practicable, flush with the wall of the dwelling; and,
- (b) a minimum 3.0 metre wide landscape strip, and a visual barrier of not less than 1.2 metres in height and not more than 2.0 metres in height shall be provided and maintained along the westerly lot line; and,

Appendix "E" to Report PED12144 (Page 2 of 3)

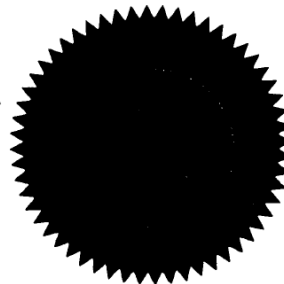
By-law Respecting 844 Upper Wentworth Street
2

- (c) a visual barrier of not less than 1.2 metres in height and not more than 2.0 metres in height shall be provided and maintained along the northerly and southerly lot lines; and,
 - (d) a minimum 1.38 metres wide landscape strip shall be provided and maintained along the easterly lot line except for any area used for vehicular access; and,
 - (e) notwithstanding Section 18A.(1) of Zoning By-law No. 6593, not less than four (4) parking spaces shall be provided and maintained on the subject lands; and,
 - (f) notwithstanding Section 18A.(7) of Zoning By-law No. 6593, a parking space length of not less than 5.8 metres shall be provided and maintained; and,
 - (g) Section 18A.(14) of Zoning By-law No. 6593 shall not apply; and,
 - (h) Section 18A.(26) of Zoning By-law No. 6593 shall not apply.
4. No building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "C" District provisions, subject to the special requirements referred to in section 3.
5. By-law No. 6593 is amended by adding this by-law to section 19B as Schedule S-1438.
6. Sheet No. E-18 of the District Maps is amended by marking the lands referred to in section 1 of this by-law, S-1438.
7. The Municipal Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the Planning Act.

PASSED this 11th day of April A.D. 2000

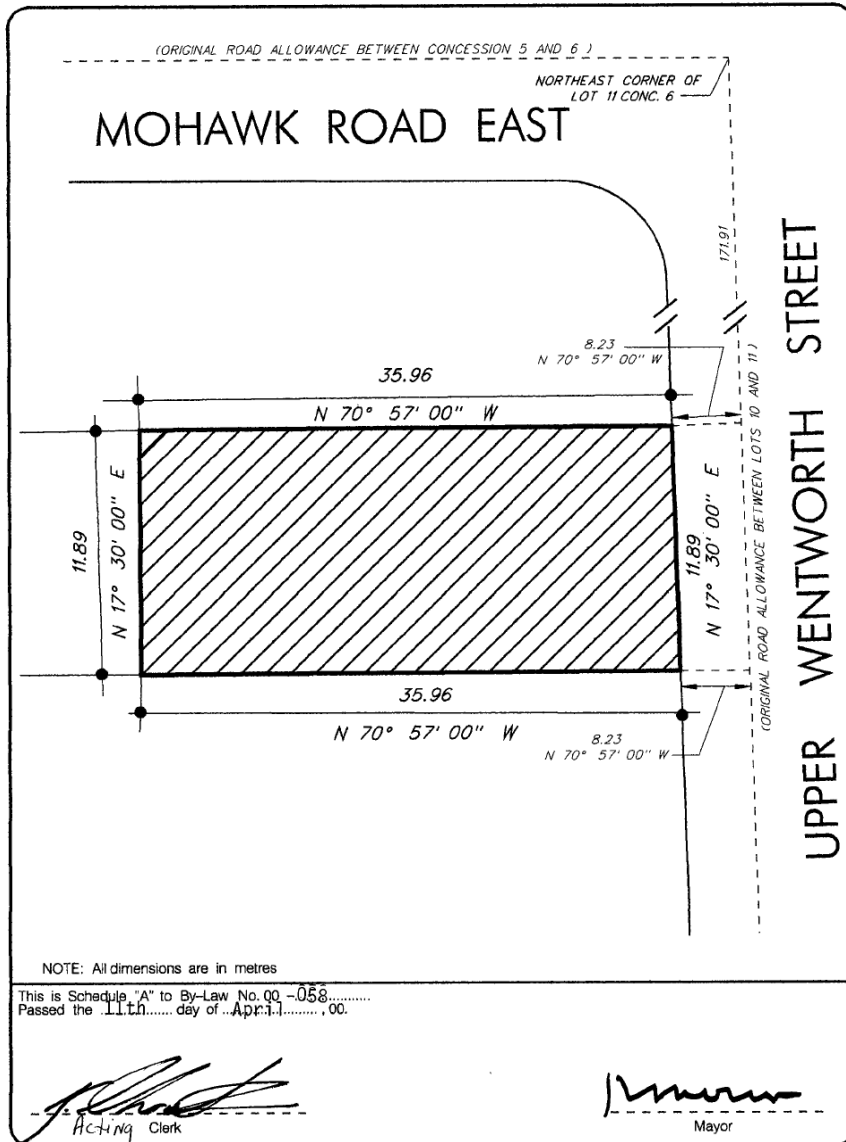


ACTING MUNICIPAL CLERK



MAYOR

(2000) 02-00 R.P.D.C. 1, January 25
Skinder Shelly Sohol, Owner
Amended ZAC-99-26



City of Hamilton


Schedule "A"


Map Forming Part of
By-Law No. 00-058
to Amend By-Law No. 6593

Community Planning and Development Division

Legend

Change in zoning from:

 "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, modified

| | | |
|---|---------------------|--------------------|
| North | Scale | Reference File No. |
|  | NOT TO SCALE | ZAC-99-26 |
| | Date | Drawn By |
| | March, 2000 | B. B. |