

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 6
COMMITTEE DATE: November 20, 2012	
SUBJECT/REPORT NO: Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Greg Macdonald (905) 546-2424 Ext. 4283
SIGNATURE:	

RECOMMENDATION:

That approval be given to **Zoning Application ZAC-12-011, by 1826240 Ontario Inc. (Zahra Arabkraramy), Owner**, for a change in zoning to Hamilton Zoning By-law No. 6593 from the "C" (Urban Protected Residential, Etc.) District to the "H/S-1655" (Community Shopping and Commercial, Etc.) District, with a Special Exception, in order to permit a 3-storey, mixed-use building containing 8 dwelling units on the 2nd and 3rd floors and ground floor commercial uses, for the lands located at 788 Upper Ottawa Street (Hamilton), as shown on Appendix "A" to Report PED12207, on the following basis:

- (a) That the draft By-law, attached as Appendix "B" to Report PED12207, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the change in zoning conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

EXECUTIVE SUMMARY

The purpose of this application is to amend the Hamilton Zoning By-law in order to permit the development of the property at 788 Upper Ottawa Street (Hamilton) (see Appendix "A") for a 3-storey, mixed-use building, consisting of ground floor commercial uses and 8 dwelling units on the two upper floors (see Appendix "C" for a preliminary site plan of the proposed development).

The proposal has merit and can be supported as the application is consistent with the Provincial Policy Statement, and conforms to Places to Grow, the Hamilton-Wentworth Official Plan, the Hamilton Official Plan, and the Ministry-Approved Urban Hamilton Official Plan. The proposed development would allow for the appropriate redevelopment of a property currently containing a single detached dwelling, and contributes to the mix of residential and commercial land uses, both existing and proposed, around the intersection of Upper Ottawa Street and Mohawk Road East. The design of the development is also compatible with adjacent uses.

Alternatives for Consideration - See Page 17.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

Proposal

The applicant has applied to rezone the lands from the "C" (Urban Protected Residential, Etc.) District to the "H/S-1655" (Community Shopping and Commercial, Etc.) District, Modified, in order to permit a mixed-use building containing 8 dwelling units above ground floor commercial uses, as shown on the preliminary site plan (see Appendix "C").

The applicant has requested a number of modifications in order to implement the development proposal including:

SUBJECT: Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6) - Page 3 of 17

Modifications to be Less Restrictive:

- To allow the mixed-use building to be 3-storeys in height (2 upper floors of residential, with a maximum of 8 total dwelling units), whereas mixed-use buildings are permitted only 2-storeys in height, with a maximum 50% residential and commercial split of the floor area.
- No front yard setback would be provided, whereas 6.0m is required.
- An access driveway would be 1.5m from a residential district, instead of 3.0m.
- No loading space shall be provided, instead of one required loading space.
- Parking space dimensions of 2.6m x 5.5m, instead of 2.7m x 6.0m.

Modifications to be More Restrictive:

- Requirement that the proposed building be mixed-use with ground floor commercial and upper floor residential, whereas the “H” (Community Shopping and Commercial, Etc.) District permits a multi-storey, commercial only building.
- Minimum northerly side yard setback of 9.0m shall be provided and maintained, whereas no setback is normally required for a mixed-use building in an “H” District.
- Decrease in maximum height to 3-storeys (13.0m), whereas a maximum height ranging from 4 to 8-storeys is permitted had the building been designed to contain only commercial uses.

The proposed modifications are discussed in the Analysis/Rationale for Recommendation section of this Report.

Chronology:

July 13, 2011: Development Review Committee Meeting for Formal Consultation Application FC-11-057.

April 27, 2012: Zoning Application ZAC-12-011 is deemed complete.

May 4, 2012: Notice of Complete Application and Preliminary Circulation for Zoning Application ZAC-12-011 sent to all residents within 120m of the subject lands.

May 9, 2012: Public Notice sign erected on the subject lands.

SUBJECT: Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6) - Page 4 of 17

November 2, 2012: Circulation of Notice of Public Meeting to all residents within 120m of the subject lands.

Details of Submitted Applications:

Location: 788 Upper Ottawa Street (Hamilton)
Owner/Applicant: 1826240 Ontario Inc. (c/o Zahra Arabkraramy)
Agent: A.J. Clarke & Associates (c/o Stephen Fraser)

Property Description: Area: 0.1627 hectares
Frontage: 27.41m
Depth: 78.31m (north property line)
35.05m (south property line)

Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Single Detached Dwelling	"C" (Urban Protected Residential, Etc.) District
<u>Surrounding Lands:</u>		
North	Single Detached Dwelling	"C" (Urban Protected Residential, Etc.) District
South	Vacant Former Gas Station Property (approved for 3-storey, mixed-use building with ground floor commercial and 14 dwelling units)	"H-'H'/S-1579" (Community Shopping and Commercial, Etc. - Holding) District, Modified
East	Single Detached Dwellings, Gas Bar with Automotive Repair Garage	"C" (Urban Protected Residential, Etc.) District and "H/S-50" (Community Shopping and Commercial, Etc.) District, Modified
West	Single Detached Dwellings	"C" (Urban Protected Residential, Etc.) District

POLICY IMPLICATIONS

Provincial Policy Statement:

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with the policies that focus growth in Settlement Areas 1.1.3.1. It also implements Policies 1.1.3.2, 1.1.3.4, and 1.4.3 with respect to promotion of densities, which efficiently use land and resources, and appropriate intensification and redevelopment.

Policy 1.7.1(e) outlines that long-term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries, and aggregate activities) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise, and other contaminants, and minimize risk to public health and safety. The subject lands are intended to be developed for a mix of commercial and residential purposes, and are located adjacent to Upper Ottawa Street and near Mohawk Road East. The proximity of the proposed sensitive land use to road noise sources triggers the requirement for a noise study. A noise study has been submitted and approved, indicating that the proposed development is feasible from a noise perspective as long as provision for air conditioning, upgraded building components, and appropriate warning clauses are included. Implementation of the recommendations will be undertaken at the Site Plan Control stage of development.

Policy 2.6.2 has also been addressed. A Stage 1-2 Archaeological Report has been submitted to the City of Hamilton and Ministry of Tourism and Culture. The Report has been reviewed by the City of Hamilton and, while the Provincial interest has yet to be signed off by the Ministry, staff concurs with the recommendations made in the Report, and the archaeology condition for the subject application has been met. The lands are now considered free from further archaeological concern.

Based on the foregoing, the proposal is consistent with the Provincial Policy Statement.

Places to Grow: Growth Plan for the Greater Golden Horseshoe:

The subject lands are located within a built-up area, as defined by Places to Grow. Policy 2.2.3.1 states that by the year 2015, and for each year thereafter, a minimum of 40% of all residential development occurring annually within each upper- and single-tier municipality will be within the built-up area. The proposal also implements Policy 2.2.2.1 with respect to directing new growth to the built-up areas through intensification; by reducing dependence on the automobile through development of mixed-use, transit-supportive, pedestrian-friendly urban environments; and by contributing to complete communities with a diverse mix of land uses. Therefore, the proposal

SUBJECT: Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6) - Page 6 of 17

conforms to the policies contained in Places to Grow, in that the proposal provides for intensification and redevelopment within the built-up area, as defined by Places to Grow.

Hamilton-Wentworth Official Plan:

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. A compact urban form, including mixed-use areas, should also be promoted.

In addition, Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and re-development. An Archaeological Assessment has been approved, concluding that the subject lands should be considered free from further archaeological concern.

Therefore, based on the above, the proposal conforms with the Hamilton-Wentworth Official Plan.

Hamilton Official Plan:

The subject lands are designated “Residential” on Schedule “A” - General Land Use Plan in the Hamilton Official Plan. The following policies, among others, are applicable to the subject lands:

- “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 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 ha in area, excluding Automobile Service Centres, in accordance with the Commercial Policies, as set out in Sub-section A.2.2 of this Plan. (O.P.A. No.128)

SUBJECT: Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6) - Page 7 of 17

- A.2.1.5 Notwithstanding the above, a medical practitioner's office may be permitted without the necessity of an amendment to this Plan, subject to the satisfaction of Council that the proposed office:
- i) Is situated on a major road;
 - ii) Is appropriately located with respect to adjacent RESIDENTIAL USES;
 - iii) Will provide an acceptable amount of on-site parking; and,
 - iv) Will otherwise not detract from the character of the RESIDENTIAL area.
- A.2.1.6 Where compatible uses are permitted, to preserve the amenities of and support RESIDENTIAL USES in the area, new development will, subject to the Zoning Bylaw:
- i) Be required to be provided with adequate yards, off-street parking and loading, landscaping, screening, buffering, or other such measures as determined by Council; and,
 - ii) Not provide outside storage or engage in any use of land in a manner having a detrimental impact on the adjacent RESIDENTIAL USES.
- A.2.1.8 It is the intent of Council that a variety of housing styles, types, and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing, where practicable. In this regard, Council will be guided by the Housing Policies of Sub-section C.7 and the Neighbourhood Plan Policies of Sub-section D.2.
- A.2.1.13 Plans for redevelopment will, to the satisfaction of Council, ensure that the RESIDENTIAL character of the area will be maintained or enhanced, and that the redevelopment will not burden existing facilities and services.
- A.2.1.14 In evaluating the merits of any proposal for multiple-family RESIDENTIAL development, Council will be satisfied that the following considerations are met:
- i) The height, bulk, and arrangement of buildings and structures will achieve harmonious design and integrate with the surrounding areas; and,

- ii) Appropriate open space, including landscaping and buffering, will be provided to maximize the privacy of residents and minimize the impact on adjacent lower density uses.
- A.2.2.26 The maximum site areas of any LOCAL COMMERCIAL development will not exceed 0.4 ha in keeping with the intention that LOCAL COMMERCIAL facilities are to serve local Residential areas only with convenience goods and personal services.
- A.2.2.27 It is not the intent of Council that the LOCAL COMMERCIAL category be included within the Commercial classification indicated on Schedule "A" to this Plan. Rather, it is the intent of Council that LOCAL COMMERCIAL uses may be permitted within the Residential designation of land use indicated on Schedule "A", subject to a specific application for an appropriate amendment to the Zoning Bylaw, and without the necessity of amending this Plan. The location of LOCAL COMMERCIAL uses will be designated by Neighbourhood Plans.
- A.2.2.28 Notwithstanding the above provisions, when considering new development in this category, Council will give preference to the grouping of individual LOCAL COMMERCIAL uses in suitable locations to prevent the scattering of such establishments throughout Residential areas.
- A.2.2.34 COMMERCIAL establishments or centres that are proposed adjacent to existing COMMERCIAL USES will be encouraged to integrate the design and dimensions of structures, parking areas, and access points with those of the adjacent uses. (O.P.A. No. 46)
- C.7.1 In the development of new RESIDENTIAL areas and, as far as practicable, in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of RESIDENTIAL amenity:
- i) Provision and maintenance of adequate off-street parking;
- C.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity, and value.
- C.7.3 Council will encourage a RESIDENTIAL ENVIRONMENT of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:

SUBJECT: Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6) - Page 9 of 17

- v) Encourage new RESIDENTIAL development that provides a range of dwelling types at densities and scales that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy, and overview;
- vi) Support new RESIDENTIAL development that provides tenure options and a range of prices/rents for new dwellings that will be "affordable" to Hamilton residents;
- ix) Support the concept of a RESIDENTIAL community that provides a diversity of dwelling forms and housing options accessible to all Hamilton residents;
- xii) Encourage development at densities conducive to the efficient operation of Public Transit, and which utilizes designs or construction techniques that are energy efficient."

Based on the above, the proposed development would conform to the policies of the "Residential" designation, as both residential and local commercial uses are permitted. The subject lands are less than 0.4 ha in area, and the proposed commercial uses, consisting of a dental office (considered as a professional office) and a 2nd unit for general retail or other office uses, are permitted in the "Residential" designation.

The proposed development also meets the criteria for medical offices in the "Residential" designation, as the building would front onto a major road, has sufficient parking, and is appropriately located with respect to residential uses as it will be adjacent to another site approved for mixed commercial and residential uses. Through revisions in the proposal to reduce the number of dwelling units from 10 to 8, and eliminating the northerly portion of the building that would have been located immediately adjacent to a single detached dwelling, the proposal is appropriately arranged with respect to adjacent uses and has regard to lot frontages and areas, building height (to be limited to a maximum of 3-storeys), coverage, mass, setbacks, privacy, and overview. The proposal could also be integrated with the parking and driveways of the planned commercial development to the south (see Appendix "E"), as the rear parking aisles would align allowing for potential shared driveway and parking access should the two property owners agree.

Urban Hamilton Official Plan:

The proposal has been evaluated against the policies of the new Urban Hamilton Official Plan, which was adopted by Council on July 9, 2009. The Minister of Municipal Affairs and Housing issued its decision on March 10, 2011, but the decision has been appealed by a number of parties and, at this time, the new Urban Hamilton Official Plan is not in effect.

SUBJECT: Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6) - Page 10 of 17

The new Urban Hamilton Official Plan designates the subject lands as “Neighbourhoods” on both Schedule “E” - Urban Structure and Schedule “E-1” - Urban Land Use designations. The “Neighbourhoods” designation permits a range of residential uses that are compatible with the existing character of established neighbourhoods. Local commercial uses are also permitted, including medical, on the ground floor. The proposal implements the residential policies of the “Neighbourhoods” designation, in that it is appropriately located on an arterial road at the periphery of the neighbourhood, and with the design changes proposed to eliminate the northerly extension of the building, it ensures that the height, massing, and arrangement of the building is compatible with surrounding land uses. Therefore, the proposal would conform with the “Neighbourhoods” designation of the Urban Hamilton Official Plan.

Neighbourhood Plan:

The subject property is located within the Hampton Heights Neighbourhood. There is no Neighbourhood Plan for the Hampton Heights Neighbourhood.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Taxation Division, Corporate Services Department.
- Horizon Utilities.
- Bell Canada.

The following Departments and Agencies submitted the following comments:

Recreation Division (Public Works Department) has advised that there are 3 parks within 470m walking distance of the subject lands, and that cash-in-lieu of parkland will be payable at the Building Permit stage.

Forestry and Horticulture Section (Public Works Department) has advised that there is an existing Ash tree in poor condition in the road allowance that can be removed with no charge or permit. Additional private trees may be impacted, but there is no private Tree By-law to regulate their removal. Street tree plantings are encouraged.

Traffic Engineering Section (Public Works Department) has advised that the 6.0m wide driveway at the property line should be widened to at least 7.0m at the property line, and that the driveway cannot encroach beyond the north property line. Additional comments pertaining to the location of support pillars for the 2-storey portion of the building over the driveway no longer apply, as this portion of the building is no longer proposed. The revised concept plan in Appendix “C” has satisfactorily addressed these

comments, and a final review will be undertaken at the Site Plan Control stage of development.

Infrastructure and Source Water Planning Section (Public Works Department) has advised that Stormwater Management must be addressed at the construction phase of the project (through Site Plan Control).

Hamilton Municipal Parking System has advised that parking requirements should be met on-site as there is no opportunity for overflow parking in the area. In this regard, the proposal provides all Zoning By-law required parking on-site.

PUBLIC CONSULTATION

In accordance with the new provisions of the Planning Act and Council's Public Participation Policy, Notice of Complete Application and Preliminary Circulation were circulated to 136 property owners and tenants within 120m of the subject property on May 4, 2012, requesting public input on the application. A Public Notice sign was also posted on the property on May 9, 2012, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act. To date, 2 letters have been submitted. One letter writer had concerns with potential noise impacts from the parking area, and the other expressed concerns pertaining to the scale of the proposal, pedestrian safety, garbage, and property values. These concerns are addressed in the Analysis/Rationale for Recommendation section of this Report. The public comments are attached as Appendix "F".

ANALYSIS / RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement and conforms to Places to Grow (Growth Plan for the Greater Golden Horseshoe);
 - (ii) It conforms to the Hamilton-Wentworth Official Plan; the "Residential" designation in the Hamilton Official Plan; and the "Neighbourhoods" designation of the new Urban Hamilton Official Plan; and,
 - (iii) The proposed development is compatible with and complementary to existing development in the immediate area, and is an example of appropriate intensification at a compatible scale on the periphery of the neighbourhood.

2. The proposed development consists of a 3-storey building, the main floor containing 2 commercial units (1 for a dentist office and the other for an office for a non-medical related profession, retail store, or personal services establishment). A total of 8 apartment units would be contained between the 2nd and 3rd floors (4 on each floor). Parking is provided at the rear, along with a walkway extending from the rear, along the northerly side of the building, to the front of the building. Appendix "C" is the proposed site plan for the development. The design of the proposed development is such that should the property to the south ever be developed for its planned mixed-use building (see Appendix "E"), then the rear access driveway could be potentially linked with the planned driveway on the abutting property.

The proposed development varies slightly from the original proposal (see Appendix "D"), which was for the same 3-storey building with commercial ground floor and 8 upper floor apartments, except that the building was proposed with a northerly 2nd storey extension above the access driveway which contained an additional 2 dwelling units, for a total of 10 dwelling units proposed. However, this design would have created a streetscape inconsistent with the abutting property to the north containing a 1-storey, single detached dwelling, setback approximately 18m from the front lot line. As the proposed development provides no front yard, the 2nd storey extension would have jutted out considerably in front of the single detached dwelling, with minimal setbacks to the abutting property. By eliminating this extension, a minimum 9m northerly side yard setback can be achieved. This 9m setback would be the same as required for the commercial development to the south when that development was proposed adjacent to a lot with a single detached dwelling.

3. In order to implement the development, as proposed on the preliminary site plan (see Appendix "C"), and to implement zoning restrictions needed to ensure the proposed development is compatible with surrounding land uses, a number of zoning modifications are required. A review of the required modifications is as follows:

Modification to Commercial/Residential Split:

The "H" (Community Shopping and Commercial, Etc.) District permits commercial buildings up to 8-storeys in height. It also permits mixed commercial and residential buildings, with the intent of maintaining a commercial streetscape so long as the building is only 2-storeys in height, 50% of the floor area is commercial, and there is 180 sq. m of lot area per dwelling unit. Based on the size of the property, 9 dwelling units would be permitted, whereas 8 dwelling units are proposed. However, these units are proposed to be split between the 2nd and 3rd storeys. By restricting the mixed-use building to 2-storeys in height and requiring 50% of the gross floor area to be for commercial uses, the intent of

SUBJECT: Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6) - Page 13 of 17

the Zoning By-law is to ensure that in the “H” District, a commercial streetscape is maintained.

No ground floor residential is proposed and the number of residential units does not exceed the permitted number based on lot area. Had the proposed 8 units been provided entirely on a 2nd storey, a much larger ground floor area would have been needed, and insufficient room would be remaining to provide the required on-site parking. In addition, the proposed By-law would require the ground floor of the mixed-use building to be commercial. Therefore, the modification can be supported. However, in order to ensure that the development is compatible with surrounding land uses with respect to height, a zoning restriction is also included to only permit a maximum height of 3-storeys and 13.0m. This is the same zoning restriction on the property to the south. In addition, in order to implement the intent of the “Residential” Official Plan designation, and to ensure that the scale of the commercial development is that of a “Local Commercial” nature, a further restriction will require the building to be mixed-use, with residential dwelling units on the upper floors.

Setback Modifications:

The proposed building would have no front yard setback. Normally, mixed-use buildings in the “H” District have no requirement for a front yard setback; however, as the property to the north has residential zoning requiring a minimum 6.0m front yard, then this same setback would apply. Therefore, a modification to eliminate the front yard setback requirement is needed. This would allow the proposed development to have a consistent front yard setback with the proposed mixed-use building to the south. In addition, if the building had been located with a 6m front yard setback, it would have been located much closer to the rear yard of the abutting residential property on Mohawk Road East, creating an overview issue.

As the 2nd storey extension on the north side of the building has been eliminated, a 9m northerly side yard setback is now proposed. The implementing By-law will include a provision to mandate such a setback even though no side yard setbacks are required in the “H” District. This 9m northerly side yard setback is sufficient to provide an appropriate transition in front yards from the subject property to the dwelling on the lot to the north. It should be noted that the minimum required 4.5m rear yard setback has been provided.

Access Driveway Modifications/Landscape Strip:

A modification is required in order to permit the proposed access driveway on Upper Ottawa Street to be located 1.5m from the adjacent residential property, whereas 3.0m is required. This access driveway location is needed as only an access driveway along the northerly portion of the lot can access the narrower rear portion of the lot. If the driveway was moved to the south, it would significantly impact the ability to appropriately site the building. The width of the landscape strip varies from a minimum of 1.5m to 4.2m. The 1.5m is sufficient to provide a landscaped buffer, including the planting of coniferous shrubs, to block the view of the driveway and parking areas from the dwelling to the north. Fencing will also be provided on the mutual northerly property line.

Parking and Loading Space Modifications:

The proposed development is providing all required parking spaces (including residential visitor parking spaces) for both the proposed residential and commercial components of the development (18 total parking spaces are required, and the applicant is proposing 20 parking spaces). A modification is requested to the size of the parking spaces from 2.7m x 6.0m to 2.6m x 5.5m to bring the parking standard into line with the new Zoning By-law for the City of Hamilton (By-law No. 05-200). This modification can be supported, as it is the new standard for the entire city.

The applicant is proposing to eliminate the need for a loading space. The requirement for one 9m long loading space in Zoning By-law No. 6593 is for the residential component, not the commercial component. Insufficient commercial floor area is proposed to require commercial loading. A residential loading space is required for all multiple dwellings of 5 or more units. As 8 units are proposed, a loading space is required.

Based on the proposed location of the building, parking area, and driveway location, there are no suitable locations on the property for a loading space without substantially reducing the number of parking spaces and reducing the size of the building. In addition, loading activities for the residential uses would likely be undertaken using smaller cube vans or cargo vans, which have the ability to use parking spaces during non-business hours when ample parking is available for loading activities. With only 8 dwelling units, it is also unlikely that multiple units would be moving in or out or having deliveries of large appliances at exactly the same time. Therefore, as the need for a dedicated loading space is not demonstrated, and on-site options exist for loading, the elimination of the required loading space can be supported. This is also consistent with the permission granted in 2007 by the City of Hamilton to eliminate the need for loading spaces on the proposed mixed-use building on the property to the south.

4. The Public Consultation section of this Report noted that 2 letters were received from area residents. One letter writer had concerns with noise and privacy, and the other expressed concerns pertaining to the scale of the proposal, pedestrian safety, garbage impacts, and property values (see Appendix "F"). As noted in Section 2 of the Analysis/Rationale for Recommendation section of this Report, the applicant has made changes to the proposed development that does address some of the concerns. A review of the comments from the public is discussed below.

Noise and Privacy:

Specific concerns were raised by the easterly property owner that backs onto the subject lands (off Mohawk Road East); that noise from the parking area would cause an impact on the use of their rear yard and that the 3-storey building would impact privacy. The owner also commented that a 7' tall wood fence should be erected abutting their property. With regard to the parking, a 1.5 - 1.9m landscaped strip will be provided between the properties to buffer the parking. In addition, a visual barrier (wooden board-on-board fence) between 1.2m and 2.0m is required. The applicant has reviewed the request for the 7' fence, and is amenable to providing it. This matter will be reviewed further and addressed at the Site Plan Control stage of development. Even though a 7' fence is taller than permitted by the Fence By-law, fences approved as part of a Site Plan Control application are exempt from the height limit. It should also be noted that the main outdoor amenity area (rear deck and pool) on the abutting property is located far to the south on the lot (approximately 30m from the north property line and 17m from the rear easterly property line).

With regard to overview, the proposed 3-storey building is setback a minimum of 14.5m from the westerly side lot line that abuts the residential property with concerns. This setback is in addition to the distance to the main outdoor amenity areas on the abutting property, as noted above. The maximum height of the development is proposed at 13m, which is less than the building setback. While balconies are proposed on the rear elevation, none are proposed on the southerly elevation. Only 4 of the 8 proposed units have a view to the rear. With the 14.5m setback, and greater distance to the pool area (estimated at 30m), privacy impacts from overview are not expected.

Building Scale/Size:

The concern raised is that the proposed 3-storey height is oversized for the size of the lot. The proposed building has only 300 sq. m of ground floor area on a 1,627 sq. m lot, which equals a lot coverage of only 18.6%. The building is also located immediately adjacent to Upper Ottawa Street, not near or overlooking existing residential homes on Winchester Boulevard at the rear. The 3-storey,

13m maximum height of the proposed building is also only marginally taller than the permitted 2-½ storey, 11m maximum height of the surrounding “C” District zoning. A sun/shadow study, submitted as part of the Urban Design Brief, also showed no impacts on surrounding properties from shading. The revised plan (see Appendix “C”), which eliminates the northerly building extension, also further reduces the massing, shading, and overview of the building.

Pedestrian Safety:

Concerns were raised that pedestrians could be in danger while walking south along Upper Ottawa Street to the bus stop at the corner of Upper Ottawa Street and Mohawk Road East. No safety concerns were raised by Hamilton Street Railway, Hamilton Municipal Parking System, or the Public Works Department (Traffic Engineering Section). With the removal of the 2nd storey extension on the north side of the building, an unimpeded view of the driveway will be had since fences must terminate 3m from the front lot line.

Waste Management:

Concerns were raised that the increased density on the property would result in debris in the air and odours. At the Site Plan Control stage of development, final approval of any garbage enclosures would occur, as well as a determination as to whether municipal collection could be undertaken curbside, particularly for the 2 commercial units. For small apartment buildings, such as this development, waste is typically stored internally until collection day.

Property Values:

A concern was raised that the proposal would impact property values of homes at the rear. Staff is not aware of any studies or empirical data that would support the concern about property devaluation. The proposal provides ample setbacks from the rear, and all required landscaping and fencing.

5. The proposed development is for a consistent land-use, building design, and parking design, as permitted on the lands immediately to the south at 865 Mohawk Road East, which was approved in 2007 through Zoning Application ZAC-06-037 (see Appendix “E” for the proposed site plan on 865 Mohawk Road East). Site-specific zone provisions recommended for approval in the current application are similar to those approved at 865 Mohawk Road East. It also may be possible, when the development at 865 Mohawk Road East is constructed, that the rear parking areas for both developments could be linked internally, which would improve traffic circulation.

SUBJECT: Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6) - Page 17 of 17

6. The “H” (Community Shopping and Commercial, Etc.) District is subject to Site Plan Control. Matters such as grading, drainage, servicing, landscaping, final parking configuration and access driveway layout, implementation of noise mitigation measures, fencing, and architectural design will be addressed through the Site Plan Control stage of development.

ALTERNATIVES FOR CONSIDERATION:

If the application is denied, the lands could be developed in accordance with the current “C” (Urban Protected Residential, Etc.) District provisions, which would permit a single detached dwelling.

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.
- ◆ Generate assessment growth/non-tax revenues.

Social Development

- ◆ Newly created or revitalized employment sites.

Social Development

- ◆ Everyone has a home they can afford that is well maintained and safe.

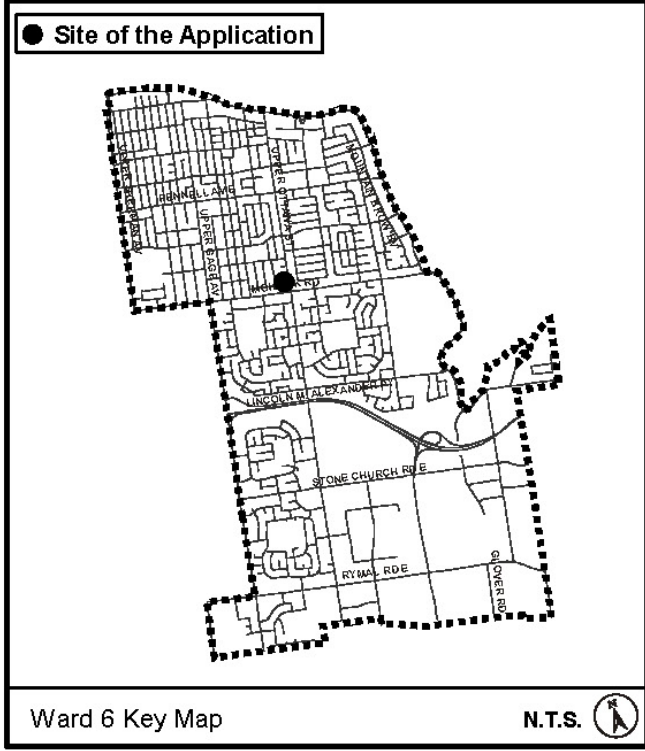
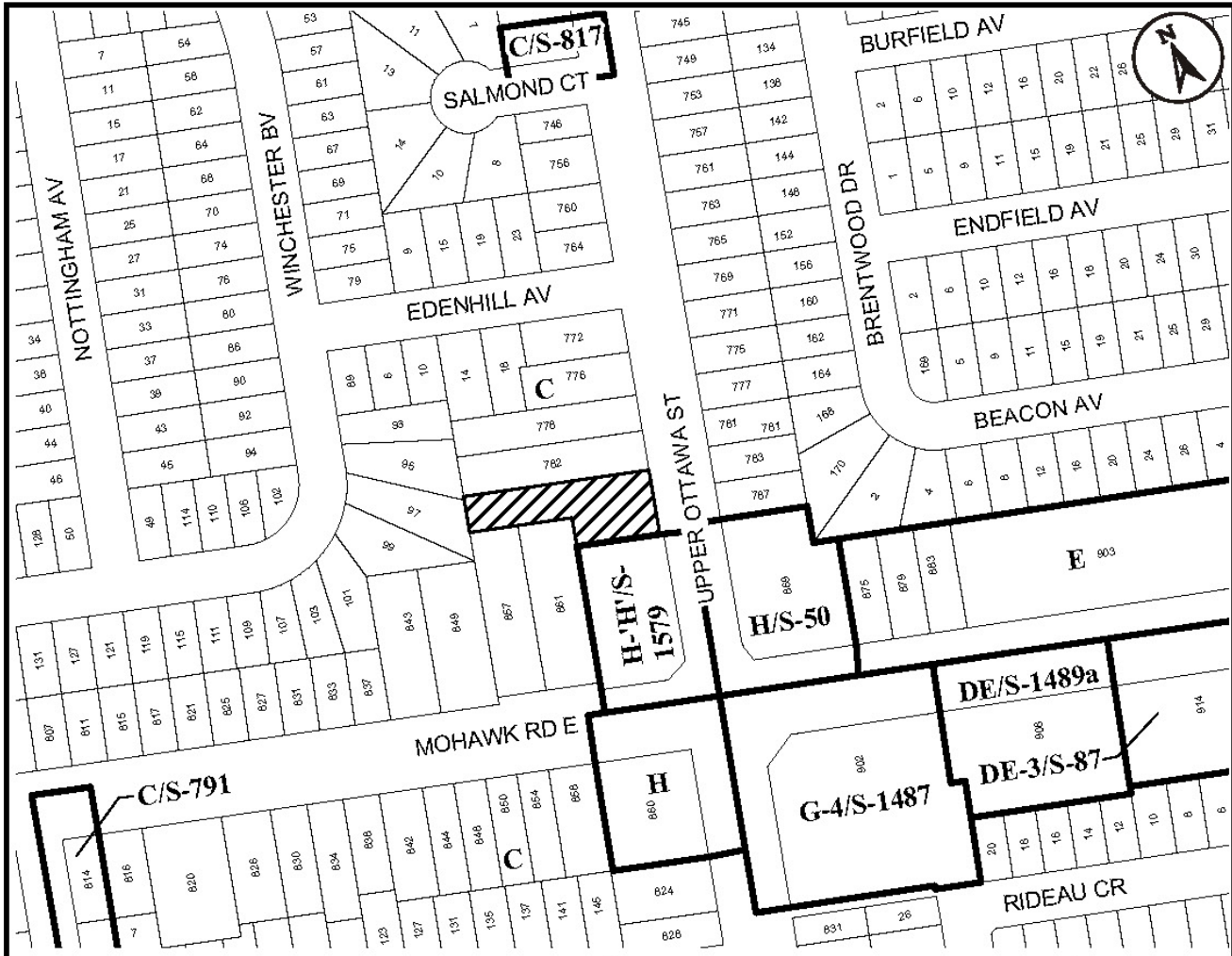
Healthy Community

- ◆ Plan and manage the built environment.


APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Draft Zoning By-law Amendment
- Appendix “C”: Proposed Site Plan
- Appendix “D”: Initial Proposed Site Plan
- Appendix “E”: Proposed Site Plan on Adjacent Southerly Property
- Appendix “F”: Public Comments

:GM - Attachs. (6)



Location Map




Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAC-12-011	Date: April 25, 2012
Appendix "A"	Scale: N.T.S.
Planner/Technician: GM/NB	

Subject Property
788 Upper Ottawa Street, Hamilton

 Change in Zoning from the "C" (Urban Protected Residential, Etc.) District to the "H/S-1655" (Community Shopping and Commercial, Etc.) District, Modified.

Authority: Item [REDACTED]
Planning Committee
Report 12 [REDACTED] (PED12207)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY- LAW NO. [REDACTED]

**To Amend Zoning By-law No. 6593
Respecting Lands Located at 788 Upper Ottawa Street (Hamilton)**

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the "The Corporation of the City of Hamilton" and is the successor to the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

AND WHEREAS the City of Hamilton Act, 1999 provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which By-law was approved by the Ontario Municipal Board by Order, dated the 7th day of December 1951, (File No. P.F.C. 3821);

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 12-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED] 2012, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

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.

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

1. That Sheet No. E-49 of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended as follows:
 - (a) By changing the zoning from the "C" (Urban Protected Residential, Etc.) District to the "H/S-1655" (Community Shopping and Commercial, Etc.) District, Modified,

on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule 'A'.
2. That the "H" (Community Shopping and Commercial, Etc.) District provisions, as contained in Section 14 of Zoning By-law No. 6593, be modified to include the following special requirements:
 - (a) That notwithstanding Sub-section 14.(1) of Zoning By-law No. 6593, commercial uses shall only be permitted on the ground floor of a mixed-use building. Residential units, to a minimum of 4 dwelling units and a maximum of 8 dwelling units, shall be required above any use permitted on the ground floor;
 - (b) That notwithstanding Sub-section 14.(2) of Zoning By-law No. 6593, no building or structure shall exceed 3-storeys or 13.0m in height;
 - (c) That notwithstanding Sub-section 14.(3)(i) of Zoning By-law No. 6593, no front yard is required;
 - (d) That notwithstanding Sub-section 14.(3)(ii) of Zoning By-law No. 6593, a minimum setback of 9.0m shall be required from a residential district;
 - (e) That notwithstanding Sub-section 18A.(7) of Zoning By-law No. 6593, every required parking space, other than a parallel parking space, shall have dimensions not less than 2.6m wide and 5.5m long;
 - (f) That notwithstanding Sub-section 18A.(1) of Zoning By-law No. 6593, no loading space shall be required; and,
 - (g) That notwithstanding Sub-section 18A.(26) of Zoning By-law No. 6593, an access driveway shall be located not less than 1.5m from the common boundary with a residential district.

3. That By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1655.
4. That Sheet No. E-49 of the District Maps is amended by marking the lands referred to in Section 1 of this By-law as S-1655.
5. That 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 "H" (Community Shopping and Commercial, Etc.) District provisions, subject to the special requirements referred to in Section 2 of this By-law.
6. That the 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 and ENACTED this [REDACTED] day of [REDACTED], 2012.

R. Bratina
Mayor

Rose Caterini
Clerk

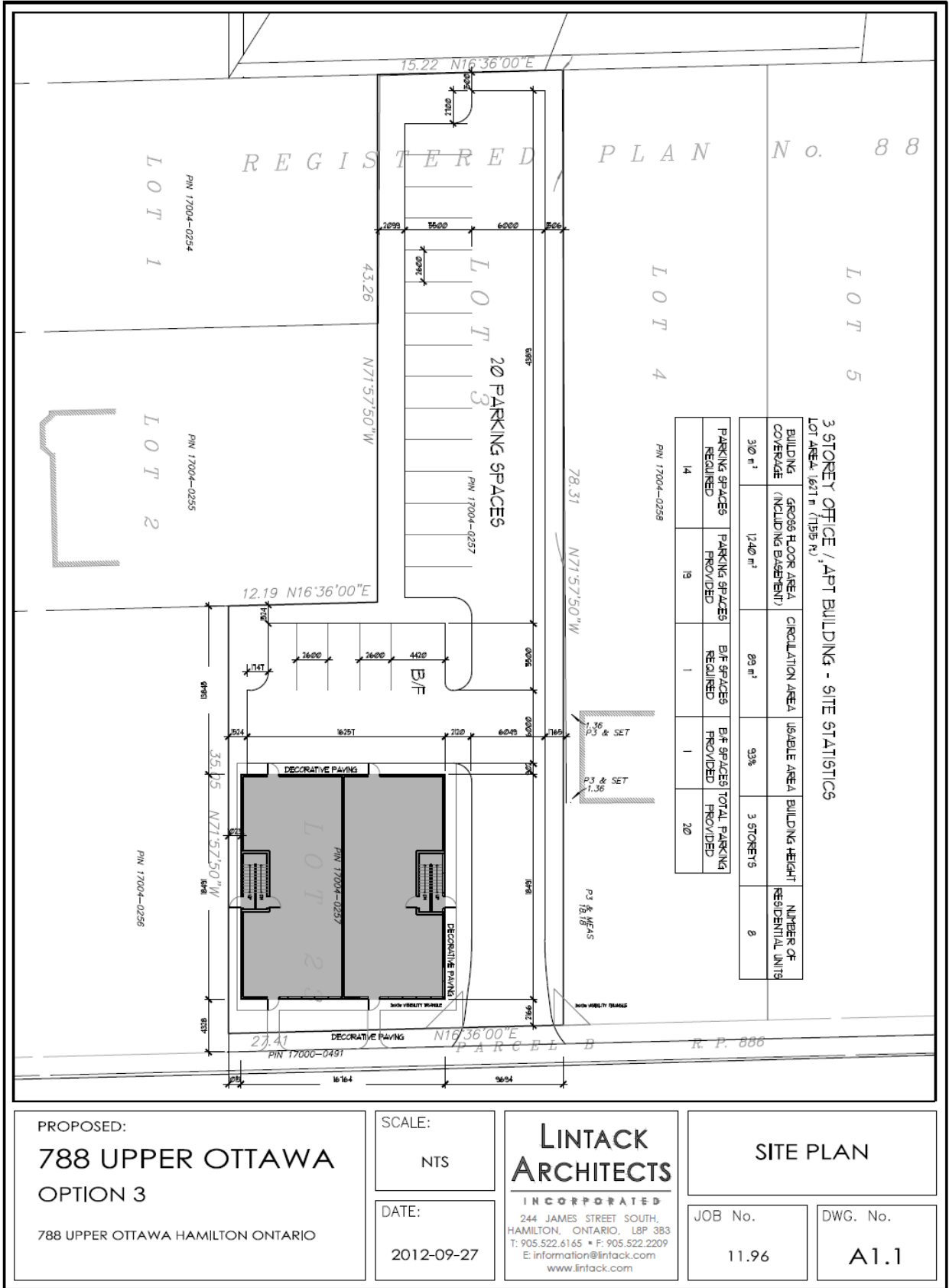
ZAC-12-011



This is Schedule "A" to By-Law No. 12- Passed the day of, 2012	----- Mayor ----- Clerk
---	--------------------------------------

<h2>Schedule "A"</h2> <h3>Map Forming Part of By-Law No. 12-_____</h3> <h3>to Amend By-law No. 6593</h3>	Subject Property 788 Upper Ottawa Street, Hamilton Change in Zoning from the "C" (Urban Protected Residential, Etc.) District to the "H/S-1655" (Community Shopping and Commercial, Etc.) District, Modified.
--	--

Scale: N.T.S.	File Name/Number: ZAC-12-011	
Date: Sept. 11, 2012	Planner/Technician: GM/KA	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		



PROPOSED:
**788 UPPER OTTAWA
OPTION 3**

788 UPPER OTTAWA HAMILTON ONTARIO

SCALE:
NTS

DATE:
2012-09-27

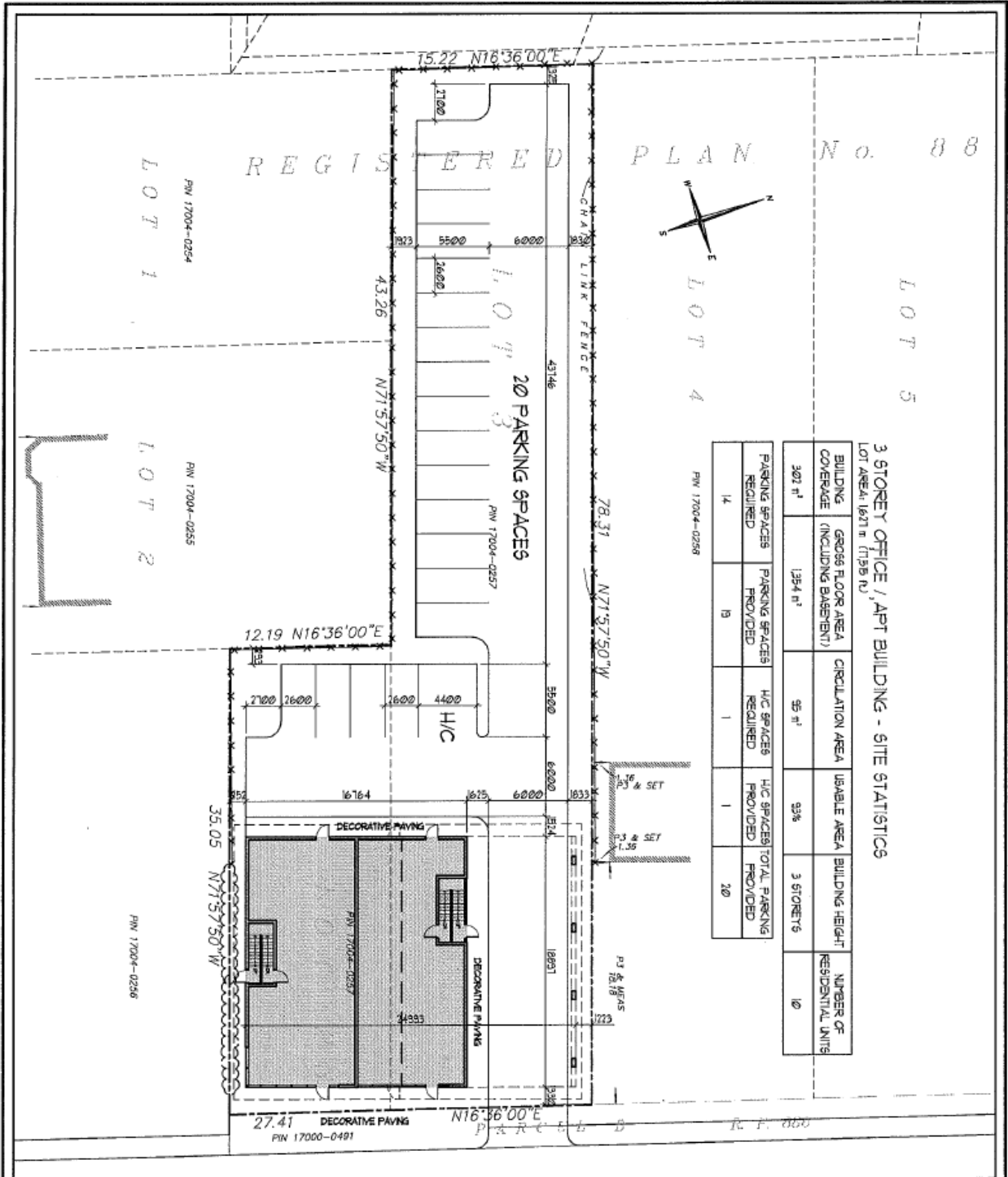
**LINTACK
ARCHITECTS**

INCORPORATED
244 JAMES STREET SOUTH,
HAMILTON, ONTARIO, L8P 3B3
T: 905.522.6145 • F: 905.522.2209
E: information@lntack.com
www.lntack.com

SITE PLAN

JOB No.
11.96

DWG. No.
A1.1



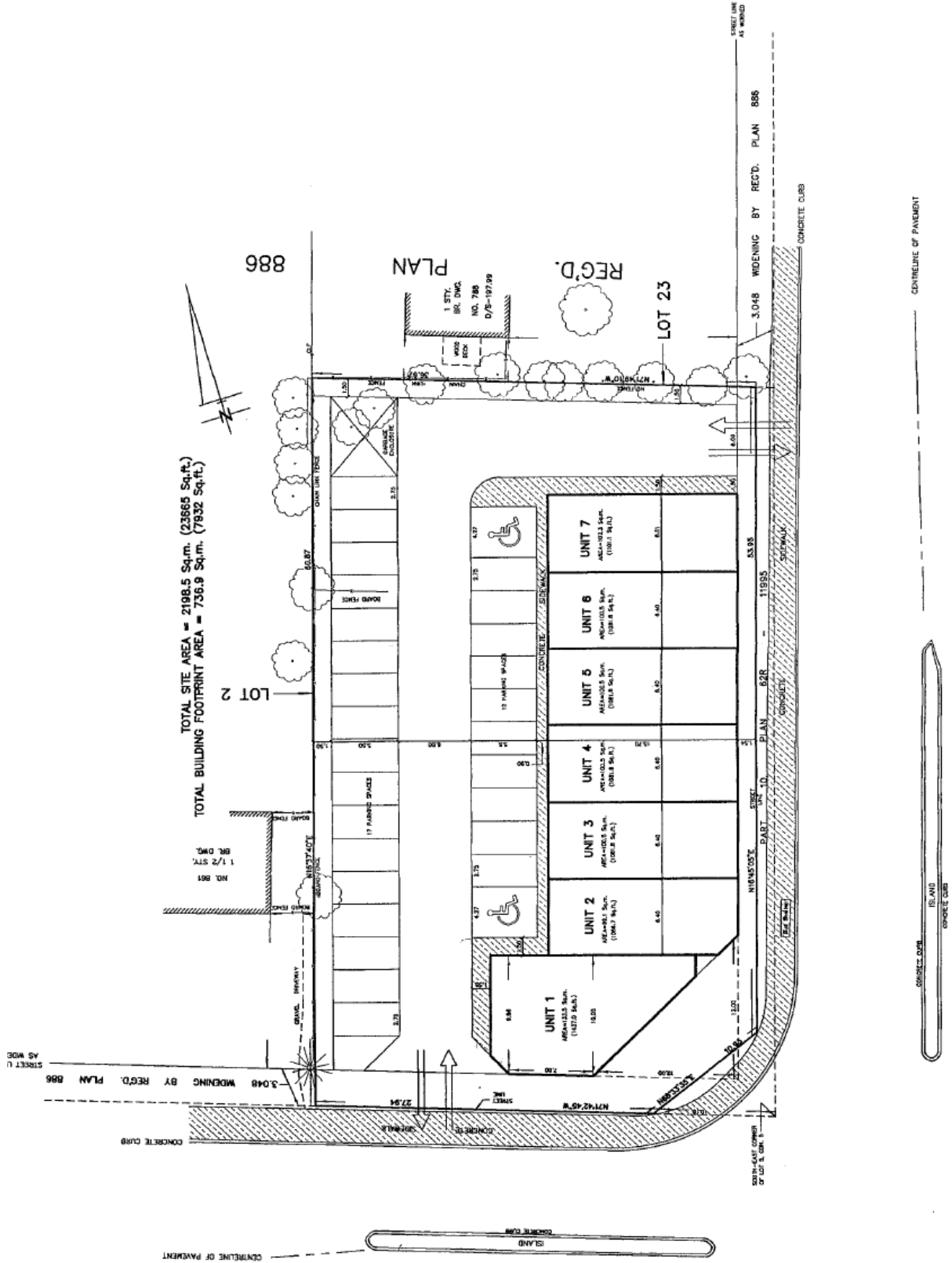
PROPOSED:
788 UPPER OTTAWA
OPTION 3
 788 UPPER OTTAWA HAMILTON ONTARIO

SCALE:
 1:400
 DATE:
 2011-12-23

LINTACK ARCHITECTS
 INCORPORATED
 244 JAMES STREET SOUTH,
 HAMILTON, ONTARIO, L8P 3B3
 T: 905.522.6165 • F: 905.522.2209
 E: information@lntack.com
 www.lntack.com

SITE PLAN

JOB No. 11.96
 DWG. No. A1.1



UPPER OTTAWA STREET ORIGINAL ROAD ALLOWANCE BETWEEN TOWNSHIP LOTS 4 AND 5

GENEAL BEAR No. 120

RECEIVED

MAY 25 2012

95 Winchester Boulevard
Hamilton, Ontario L8T 2M9
24 May 2012

Mr. Greg Macdonald
City of Hamilton
Planning and Economic Development Department
Planning Division - Development Planning - East Section
71 Main Street West, 5th Floor
Hamilton, Ontario L8P 4Y5

Dear Mr. Macdonald:

Re: Notice of Complete Application and Preliminary Circulation for a Zoning By-law Amendment by 1826271 Ontario Inc. (Zahra Arabkaramy) for lands located at 788 Upper Ottawa St., Hamilton

We, the undersigned, are OPPOSED to the change in zoning from "C" (Urban Protected Residential, etc.) District to the "E" (Multiple Dwellings, Lodges, Clubs, etc.) District modified for the above address and its proposed development.

We have lived at our present address for 32½ years. The back yard of the existing property at 788 Upper Ottawa abuts onto our back yard for almost 5 feet.

The intended development is oversized for the size of the lot. We have enclosed 3 photo prints of the site which will support our assertion. It is not at all compatible with the other single family dwellings and neighbourhood properties on Upper Ottawa Street.

We understand that the provincial government has a policy of intensification, and that the City of

(continued)

-2-

Hamilton advocates this. This is upsetting, to say the least.

You will also notice from the photos that the property in its present state has an abundance of green space. To cut down the large tree in the back yard to accommodate parking for 20 cars and to destroy the grass on the property indicates no value of green space. This is not forward thinking.

There certainly would be lack of privacy, noise and pollution issues. He absolutely would not relish strangers from a 3-storey building watching down on us as we move about our back yard. Upper Ottawa Street has become very heavy with traffic as a result of the development south of McKawk Road in recent years. Cars entering the back of the proposed development in order to park would only intensify the noise level. All the additional noise generated would render our back yard useless for rest and relaxation. The car emissions and the dust resulting from the construction phase would impact negatively on the quality of air and the vegetables and fruits in our garden, which is situated just beyond the bordering fence. A high barrier between the back yard of the Ottawa Street property and ours would need to be installed by the developer. Perhaps the other adjoining property owners would welcome this also around their yards.

Water run-off and drainage would be problematic especially if the existing lot were to be raised. The back yards in our neighbourhood retain a lot of water in the spring as it is.

Safety of pedestrians and motorists due to traffic intensification is a big issue. He travel a

(continued)

-3-


lot by bus, and we walk from our home to and from two bus stops, one of which is located south of 788 Upper Ottawa and north of Mohawk Road. It would be dangerous crossing the driveway into the proposed development with constant traffic entering and exiting a busy commercial/residential site. It is also very dangerous for a pedestrian crossing Upper Ottawa at Mohawk in order to get the bus at the other stop on the southeast corner of Upper Ottawa Street. One of us has almost been hit twice by cars at that corner in broad daylight. In fact, again, this month both of us were crossing Upper Ottawa Street at Mohawk with the walk light when a City of Hamilton garbage truck kept encroaching into our path. My yelling seemed to alert the driver! We have heard several car crashes from our back yard through the years at this very busy street corner.

A development as large as the proposed would generate much more garbage than a single family home and, if not controlled well, would result in debris flying around and possibly animals rooting through the odorous garbage.

Above all, we are incensed that our property would be devalued by the proposed development.

We, therefore, vehemently OPPOSE the application for a zoning by-law amendment by 1826240 Ontario Inc (Babra Crabbaramy) for lands located at 788 Upper Ottawa St, Hamilton.

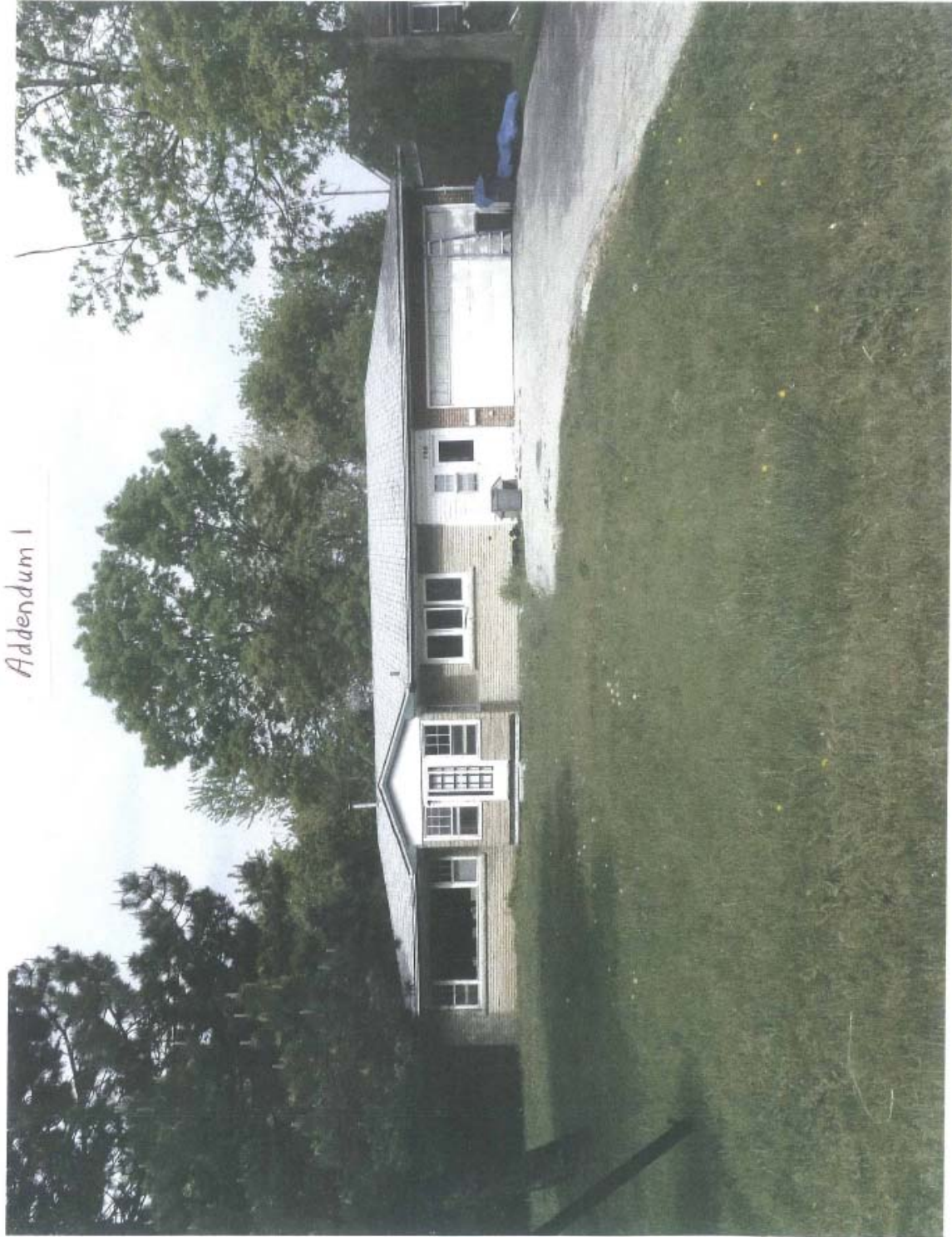
Yours Truly,

Martene Vorkapic & 

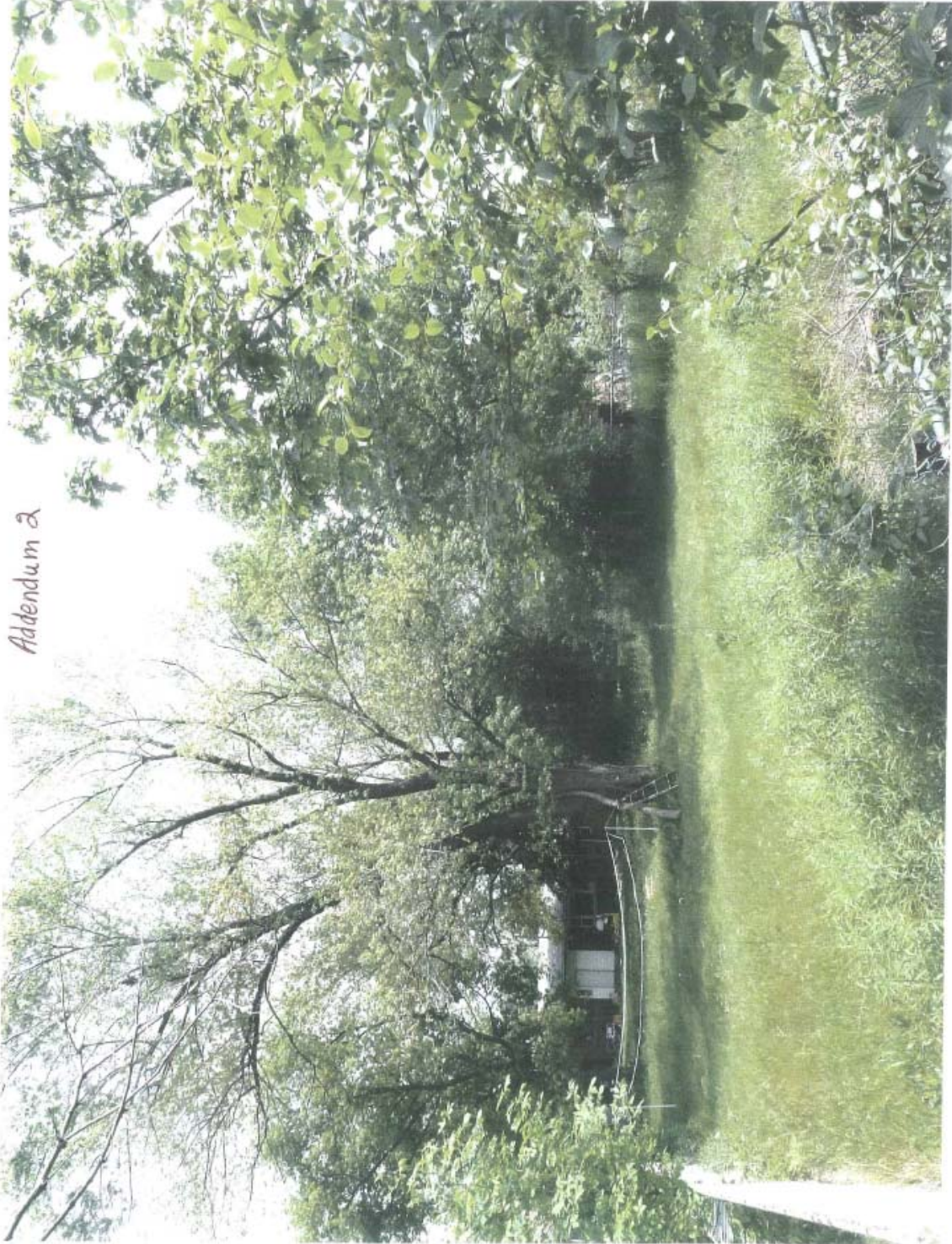
Martene Vorkapic

Nikola Vorkapic

(cont'd)



Addendum I



Addendum 2

Addendum 3



arrow indicates full
 front width of
 property back
 yard is narrower,
 half as wide,
 starting at 861
 Mehawk Rd. property)

Sent: Thursday, May 24, 2012 9:50 AM

To: Macdonald, Greg

Subject: File No. ZAC-12-011

Mr. Greg Macdonald, City of Hamilton

Planning and Economic Development Department

Planning Division - Development Planning - East Section

71 Main Street West, 5th Floor, Hamilton, ON, L8P 4Y5

Fax: 905-546-4202 - E-Mail: greg.macdonald@hamilton.ca

File No. ZAC-12-011

We are the property owners at 861 Mohawk Road East, Hamilton, ON L8T 2R4. We are a residential home and the proposed parking lot is completely against our back fence. The three story structure is partially along our side fence.

Our only concern is the noise and lack of privacy this is going to create for our family.

As a result, we are requesting **prior** to the zoning by-law amendment being approved an adequate sound barrier to be installed. Preferably a 7' wood fence.

Sincerely,

Bill & Julie Seraphin
861 Mohawk Rd. E.,
Hamilton, On L8T 2R4