



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 17, 2017
SUBJECT/REPORT NO:	Application for Zoning By-law Amendment for Lands Located at 775-779 Upper Wentworth Street, Hamilton (PED17007) (Ward 7)
WARD(S) AFFECTED:	Ward 7
PREPARED BY:	Melanie Schneider (905) 546-2424 Ext. 1224 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That approval be given to **Amended Zoning Application ZAR-16-052, by 1169990 Ontario Inc. Owner**, for a further modification to the “HH/S-1348” & “HH/S-1348a” (Restricted Community Shopping and Commercial) District, Modified to permit additional uses within the existing commercial plaza on lands located at 775-779 Upper Wentworth Street (Hamilton), as shown on Appendix “A” to Report PED17007, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED17007, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
- (b) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow), and complies with the Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

The proposed Zoning By-law Amendment is for a further modification to the “HH/S-1348” & “HH/S-1348a” (Restricted Community Shopping and Commercial) District, Modified, to permit additional commercial uses within the existing commercial building.

The application has merit and can be supported because it is consistent with the Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow), and complies with the Urban Hamilton Official Plan (UHOP). The proposal is considered to be compatible with existing development in the area and provides for additional uses using existing infrastructure.

Alternatives for Consideration – See Page 15

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

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

HISTORICAL BACKGROUND

Chronology:

<u>July 29, 2016:</u>	Application ZAR-16-052 received.
<u>August 9, 2016:</u>	Application ZAR-16-052 deemed complete.
<u>August 22, 2016:</u>	Notice of Complete Application and Pre-Circulation was mailed to 384 property owners within 120 m of the subject property.
<u>September 16, 2016:</u>	A Public Notice sign was established on the property.
<u>December 7, 2016:</u>	Public Notice sign updated to reflect the date of Public Meeting.
<u>December 16, 2016:</u>	Circulation of Notice of Public Meeting to 384 property owners within 120 m of the subject property.

Background:

The subject property is located at the northeast corner of the intersection of Upper Wentworth Street and Mohawk Road East and is municipally known as 775-779 Upper Wentworth Street. The subject lands are 0.37 ha in size and contain an existing commercial plaza with 27 parking spaces, as approved through Site Plan Application DA-95-33. Previous Zoning By-law Amendment applications (ZAR-98-41 and ZAC-95-18) restricted the commercial uses to a bank or financial institution, day nursery, business or professional office (excluding all medical uses except for a laser eye clinic or dental office), photographer's or artist studio, and an art gallery. The previous amendments also revised yard requirements, regulated the size of professional and business offices, and permitted signs within the front yard.

A complaint was submitted to Municipal Law Enforcement staff on February 19, 2016, identifying that a yoga studio, including chiropractic services, reiki treatment, acupuncture, massage therapy and holistic treatment uses, was operating on the subject lands despite the use was not permitted through previous approvals. A violation was issued on February 23, 2016 by Municipal Law Enforcement regarding the use. This Zoning By-law Amendment application is intended to ensure the uses identified above are permitted on the lands.

Zoning By-law Amendment (ZAR-16-052)

The purpose of the application is for a further modification to the "HH/S-1348" & "HH/S-1348a" (Restricted Community Shopping and Commercial) District, Modified, to permit additional uses within the existing commercial plaza (see Appendix "C" to Report PED17007). The applicant has requested modifications to the "HH" District in order to permit the following additional uses on site:

- Commercial School;
- Medical offices, not restricted to only a laser eye clinic or dental office;
- Personal Service Establishment; and,
- Office of consultative uses or personal clinical services by a 'charitable organization'.

No external changes to the site are proposed. Staff have also amended the application to include a maximum gross floor area (GFA) of 500 sq m for offices, and to provide bicycle parking facilities, which both reflect applicable policies in the UHOP.

DETAILS OF SUBMITTED APPLICATION:

Owner: 1169990 Ontario Inc.

Agent: Urban Solutions Planning and Land Development Consultants

Location: 775-779 Upper Wentworth Street (Hamilton) (see Appendix “A” to Report PED17007)

Property Size:

Frontage	80.9 m
Area	0.3672 ha
Depth	45.4 m

Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Commercial Plaza containing a financial institution and an illegal non-conforming yoga studio	“HH/S-1348” and “HH/S-1348a” (Restricted Community and Commercial Shopping Centre) District, Modified
<u>Surrounding Lands:</u>		
North	Single Detached Dwellings	“C” (Urban Protected Residential, etc.) District
East	Hamilton City Housing, Apartment Building	“DE-2” (Multiple Dwellings) District
South	Restaurant – Fast Food & Single Detached Dwellings	“H/S-840”, “H/S-840a”, “H/S-840b” & “H/S-840c” (Community and Commercial Shopping, Etc.) District, Modified and “C” (Urban Protected Residential, etc.) District

West

Sackville Hill Memorial Park Community Park (P2) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3), the Provincial Policy Statement (PPS 2014), the Growth Plan for the Greater Golden Horseshoe (the Growth Plan) and the Greenbelt Plan. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The *Places to Grow Act* and the *Greenbelt Act* require that all municipal land use decisions made under the *Planning Act* conform to the Growth Plan and the Greenbelt Plan.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

As the application for a change in zoning complies with the Official Plan and the relevant policies pertaining to Cultural Heritage in the PPS, 2014, it is staff's opinion that the application is:

- Consistent with Section 3 of the *Planning Act*;
- Consistent with the Provincial Policy Statement; and,
- Conforms to the Growth Plan for the Greater Golden Horseshoe.

Urban Hamilton Official Plan

The subject lands are identified as "Sub-Regional Service Node" on Schedule "E" – Urban Structure, designated "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP), and identified within the Built Boundary of the UHOP Appendix "G" – Boundary Map. The following policies, amongst others, apply:

Nodes

- “E.2.3.2.2 Sub-Regional Service Nodes shall provide a range of uses that allow for access to housing, jobs, services, and recreation in close proximity to each other and may be accessible by higher order transit.
- E.2.3.2.3 Sub-Regional Service Nodes shall provide a regional retail function by providing retail stores and services to serve the needs of residents across the City and surrounding area as well as serving the weekly and daily shopping needs of residents within the Node and in surrounding neighbourhoods.
- E.2.3.2.4 Sub-Regional Service Nodes shall function as employment centres providing a range of employment largely in population serving offices, retail, personal services, and local institutions.”

The proposal includes adding additional uses to the existing commercial site. The subject lands are serviced by HSR bus routes #25 and #41 to ensure the site is serviced by higher order transit. The lands are also located along the T Line which is intended for redevelopment in the next 25 years. The proposed uses, including the yoga studio and health and wellness centre, are intended to serve the weekly and daily needs of the surrounding neighbourhood. The proposed uses also include a range of offices and personal services which function as an employment centre for the area.

Neighbourhoods

The following policies regarding the proposed local commercial uses within the Neighbourhoods designation, amongst others, apply:

- “E.3.8.1 Local commercial uses that primarily cater to the weekly and daily needs of residents within the surrounding neighbourhood may be permitted within the Neighbourhoods designation.
- E.3.8.2 The following uses shall be permitted:
- a) retail and service uses such as a craftsperson shop, day nursery, commercial school, financial establishment, medical office, business office, professional office, motor vehicle service station, personal service, place of worship, repair service, restaurant, studio, art gallery, tradesperson shop, and veterinary service; and,
 - b) medical offices or clinic, provided it has direct access to an arterial road and is adjacent to other local commercial uses.

E.3.8.4 Local commercial uses may be permitted in the following built forms:

- c) a main street configuration with multiple commercial uses.

E.3.8.8 Local commercial uses shall comply with the following provisions:

- a) The gross floor area for any individual office shall not exceed 500 square metres.”

The applicant proposes to add a range of local commercial uses that intend to serve the daily and weekly needs of the surrounding neighbourhood, such as office uses, medical office, commercial school, offices for charitable organizations, and personal service establishments. All uses proposed by the applicant are identified under Policy E.3.8.2 as permitted uses within the Neighbourhoods designation. The proposed uses provide services to the immediate neighbourhood that can function at small scales without detracting from the main residential character of the Neighbourhoods Designation.

The existing multiple unit commercial building will be maintained to provide an appropriate built form. Staff note the gross floor area (GFA) of each unit ranges from 190 sq m to 375 sq m, ensuring any individual office does not exceed 500 sq m. Further restriction of GFA has been identified in the Draft Zoning By-law to ensure Policy E.3.8.8a) is met (see Appendix “B” to Report PED17007).

“E.3.8.9 Development and redevelopment of local commercial uses shall:

- a) front and have access to a major arterial, minor arterial, or collector road;
- b) provide safe and convenient access for pedestrians and cyclists; and,
- c) be compatible with the surrounding area in terms of design, massing, height, setbacks, on-site parking, noise impact, landscaping, and lighting.

E.3.8.13 New local commercial buildings or uses which could result in strip commercial development shall not be permitted, but new local commercial buildings or uses may be permitted within or as an expansion of an existing main street area provided such buildings or uses:

- a) are located up to the street or in line with other buildings along the main street;

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- b) strengthen the pedestrian focus of the main street and assist in creating a vibrant and active street; and,
- d) do not exacerbate an oversupply of retail space in the neighbourhood or along the main street.

E.3.8.17 No parking, drive-throughs, or stacking lanes should be permitted between buildings and the public sidewalk.”

The subject lands have frontage along a minor arterial and major arterial roads, being Upper Wentworth Street and Mohawk Road East, respectively. The existing massing of the building is in line and consistent with the surrounding built form in terms of setbacks and height. All parking is provided at the rear of the property, to further minimize impact on adjacent lands with no drive-through facilities existing or proposed. Landscaping has been provided to be consistent with the lands to the east and north. Street furniture and pedestrian access are existing on site to strengthen the pedestrian focus and create a vibrant, active street. No retail uses are proposed, which ensures the supply of retail space is not exacerbated.

Transportation

The subject property is classified on Schedule “C” Functional Road Classification Plan as having frontage on a “Major Arterial Road”, being Mohawk Road East, and a “Minor Arterial Road”, being Upper Wentworth Street.

Policy C.4.5.2 identifies the following provisions for the design of Major and Minor Arterial Roads:

“C.4.5.2 The road network shall be planned and implemented according to the following functional classifications and right-of-way widths:

- c) Major arterial roads, subject to the following policies:
 - ii) Although land accesses are permitted, they shall generally be controlled / restricted.
 - iii) The primary function of a major arterial road shall be to carry relatively high volumes of intra-municipal and inter-regional traffic through the City in association with other types of roads.
 - iii) The basic maximum right-of-way widths for major arterial roads shall be 45.720 metres unless otherwise specifically described in Schedule C-2 – Future Road Widenings.

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d) Minor arterial roads, subject to the following policies:

- i) The primary function of a minor arterial road shall be to carry moderate volumes of intra-municipal and inter-regional traffic through the City in association with other types of roads.
- ii) Land accesses shall be permitted with some controls.
- iii) The basic maximum right-of-way widths for minor arterial roads shall be 36.576 metres unless otherwise specifically described in Schedule C-2 – Future Road Widenings.”

According to Schedule “C-2” – Future Road Widenings, Mohawk Road East has an ultimate width of 30.48 m and no future road widenings are anticipated. It should also be noted that the existing driveway access to the site is located from Mohawk Road East. Since there are no physical changes proposed, staff are satisfied that the existing access can be maintained.

Upper Wentworth Street currently has an approximate width of 33.5 m. Should the site be redeveloped in the future, a road widening will be required to provide an ultimate width of 36.576 m at the Site Plan stage.

Staff also note the following policy regarding daylight triangles:

“C.4.5.7 The City shall require the conveyance of property for appropriate daylighting triangles and corner rounding on existing roads at such times as the property is to be developed or redeveloped, as a condition of site plan approval, consent, or plan of subdivision approval, in accordance with City standards based on the intersecting roadways of the functional road classification detailed in Section C.4.5.2. Daylighting triangles at intersections shall generally be as follows:

- c) Arterial to collector or arterial (Urban): 12.19 m x 12.19 m triangle.”

Should the site be redeveloped in the future, the daylight triangle shall be dedicated to the City as part of any required road widenings at the Site Plan stage.

Further, staff note the following policy regarding parking and loading:

“C.4.5.16 Parking options and related incentives for transit and active transportation use shall be improved through:

- b) adoption of Zoning regulations to require secure bike parking in new commercial, institutional, and multiple dwelling developments where appropriate.”

In order to implement Policy C.4.5.16b), staff have recommended the requirement of a minimum five (5), short term bicycle parking spaces to be provided on site (see Appendix “B” to Report PED17007). This requirement will come into effect should additional commercial gross floor area be proposed on site. This is consistent with the Transit Oriented Corridor (TOC) Zones, adopted by City Council on October 12, 2016 which requires similar parking provisions to be provided.

Based on the foregoing, the proposal complies with the policies of the UHOP.

Burkholme Neighbourhood Plan

The subject lands are designated “Commercial” in the Burkholme Neighbourhood Plan and the proposed additional commercial uses conform to this designation.

Hamilton Zoning By-law No. 6593

A further modification to the “HH/S-1348” and “HH/S-1348a” (Restricted Commercial and Community Shopping) District, Modified is required to expand permitted uses including legalizing the existing yoga studio on site. The “HH/S-1348” and “HH/S-1348a” Districts permit limited commercial uses such as a bank or financial institution, day nursery, business or professional office excluding all medical uses except for a laser eye clinic or dental office, photographer’s or artist studio, and an art gallery. The current proposal is to add all medical uses, personal service establishments, a commercial school, and offices used by a charitable organization. To further ensure permitted uses are in keeping with the UHOP and the Neighbourhoods Designation, a size restriction for office uses has been included in the Draft Zoning By-law. Staff have also included the requirement for bicycle parking to ensure the proposal is consistent with Parking and Loading policies of the UHOP (see Appendix “B” to Report PED17007).

The site is considered a shopping centre for the purposes of parking requirements and therefore requires a minimum 15 parking spaces are required to be provided. Since the intent of the site is to provide multiple commercial uses and not be dominated by one use, the interpretation of a Shopping Centre will continue to apply. Should the applicant wish to use the site for the sole purpose of a medical office, then the more restrictive parking requirements would apply. No modifications to parking requirements are proposed and the 27 existing parking spaces on site were evaluated through Site Plan Application DA-95-33 to ensure there are no concerns regarding manoeuvrability and access on site.

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An evaluation of the proposed modifications is included in the Analysis and Rationale for Recommendation section of Report PED17007.

RELEVANT CONSULTATION

The following internal Departments and external Agencies had no concerns or objections with respect to the proposed applications:

- Forestry and Horticulture, Public Works Department;
- Recreation, Community and Emergency Services Department;
- Operation Support, Public Works Department;
- Landscape Architectural Services, Public Works Department; and,
- Corridor Management, Public Works Department.

Hamilton Street Rail staff have provided the following information:

- HSR currently operates the Routes #25 Upper Wentworth and #41 Mohawk buses past this site with no planned changes in service;
- street orientation and pedestrian entrances are important. Direct, short walking distances between buildings and transit service are preferable;
- HSR is in favour of high quality amenities at this site such as walkways, lighting etc.;
- reuse and intensification of sites immediately adjacent to transit routes is encouraging;
- construction of higher densities helps transit to reduce net operating costs;
- For transit to succeed in its role, it is essential that redevelopments along transit corridors incorporate mixed uses and higher densities and are built in a manner that puts people first; and,
- HSR Planning recently received City Council approval of a 10 year (2015 – 2024) Local Transit Strategy. In 2015 and 2016 system deficiencies will be addressed. Beyond 2016, actions and resources will be directed to align service with updated Service Standards; secondly, accommodating on-going growth; and finally, promoting ridership (modal split) through the introduction of additional express bus service on the BLAST corridors, in order to establish the beginnings of a rapid transit system.

Transportation Management, Public Works Department staff have identified that bike lanes are required along Upper Wentworth Street, 1.5m wide sidewalks must be provided along the public right of way and within the site, and that the site shall meet AODA standards. Based on the Transportation Demand Management Report submitted with the application, staff recommend that bike racks be installed on site. Staff have included a provision in the draft By-law to provide a minimum five bicycle parking spaces with any additional commercial gross floor area beyond what is existing to date

(see Appendix “B” to Report PED17007). Staff also note that no physical changes to the site are proposed and a Site Plan Application will not be required. Should the site be physically altered in the future, the requirements for sufficient sidewalks and bike lanes shall apply.

Public Consultation

In accordance with Council’s Public Participation Policy, the Zoning By-law Amendment Application was circulated as part of the Notice of Complete Application to 384 property owners within 120 m of the subject lands on August 22, 2016. To date, no public comments have been received. A Notice of Public Meeting was mailed to 384 property owners on December 16, 2016.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow), which encourages the development of compact communities within built-up areas;
 - (ii) It complies with the Local Commercial policies of the Urban Hamilton Official Plan; and,
 - (iii) The proposal represents good planning by providing a compatible development that is in keeping with existing and planned development in the surrounding area on existing services.
2. The proposed development is located on lands which are identified “Sub Regional Service Node” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” of the UHOP, and is consistent with the planned intent of the surrounding area, consisting of low density residential development and commercial uses intended to support the daily and weekly needs of the neighbourhood. The “Sub Regional Service Node” also serves as a source of employment for the city and surrounding neighbourhood, ensuring the neighbourhood has a range of supports, located on a major and minor arterial road. The proposed uses, including a commercial school, personal service establishment, medical office, and office or consultative uses or personal clinical services by a ‘charitable organization’, are intended to recognize the existing illegally established yoga studio and to provide flexibility to the site for long term use as a commercial property. However, the limited floor area will ensure commercial uses continue to operate at a local scale, namely, offices shall be

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limited to 500 sq m each. The lands are located along a major and minor arterial road with adequate parking at the rear and several HSR bus routes servicing the site ensure a range of access to the lands to ensure the scale of the uses are not over and above what the property can feasibly support. The lands are also directly adjacent to lands designated “Mixed Use – High Density” which allows for an appropriate transition from local commercial uses to higher forms of commercial uses and higher density forms of residential uses within the “Sub-Regional Service Node”. Therefore, the proposal complies with the UHOP.

3. Staff are recommending the proposed mixed-use development be placed in a site specific “HH/S-1348b” (Restricted Commercial and Community Shopping) District, Modified. The proposed zone change would maintain the overall intent of the Local Commercial policies of the Neighbourhoods Designation in the UHOP.

Permitted Uses

In addition to the uses permitted within the HH/S-1348” and “HH/S-1348a” Districts, Modified, the implementing Zoning By-law Amendment will also permit the following:

- Business and professional offices, including all forms of medical office;
- commercial schools;
- personal service establishments; and,
- office or consultative uses or personal clinical services by a ‘charitable organization’.

The uses identified here are permitted within the parent “HH” District and allow flexibility for future needs. The yoga studio includes several other services such as chiropractor, reiki treatment, reflexology, holistic nutrition services and massage therapy. The personal service establishment, commercial school and business and professional offices are defined terms in Zoning By-law No. 6593 which would recognize the business as a whole. The office uses or personal clinical services by a ‘charitable organization’ is intended to accommodate potential tenants that may wish to operate on this site. These uses are also permitted within the Neighbourhoods Designation since they are intended to serve the daily and weekly needs of the surrounding neighbourhood. Further, the uses satisfy the Local Commercial policies of the UHOP by providing sources of employment for the community. Accordingly, staff support the proposed modification.

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Maximum Gross Floor Area for Offices

The implementing Zoning By-law includes a maximum GFA of 500 sq m for each of the office uses on site. This provision has been carried forward from the UHOP to ensure office spaces, such as professional and business offices, offices for charitable organizations, and medical offices, are limited in scale to reflect the Neighbourhoods Designation and the local commercial policies. All units on site are under 500 sq m, with no physical changes proposed. Staff are satisfied that the modification is reasonable and is supported by staff.

Bicycle Parking

The implementing Zoning By-law includes a provision for a minimum five bicycle parking spaces to be provided on site. This provision implements the UHOP, in particular, the Parking and Loading Policies of Chapter C, to provide additional options for the local neighbourhood and employees to travel to and from the subject lands. The provision also supports the future bike lane to be provided along Upper Wentworth Street, which has not been scheduled for installation to date. The provision for bicycle parking shall only be required for any additional commercial gross floor area proposed beyond what is existing. Staff are satisfied that the modification is reasonable and is supported by staff.

4. Parking

The site currently contains 27 parking spaces, which were approved through Site Plan Application DA-95-33. Staff note that the site is considered a “Shopping Centre” under the Hamilton Zoning By-law No. 6593 for parking calculation purposes and therefore, requires a minimum of 15 parking spaces to be provided. Staff also note that the site is well serviced by several HSR routes, including routes #41 and #25. Should the subject lands be dominated by one commercial use, different parking requirements may apply and additional parking may be required. Staff are satisfied that parking can be accommodated on site for the proposed uses, as limited by parking provisions in the applicable Zoning By-law. Accordingly, staff have no further concerns in this regard.

5. Servicing

There are existing services available to the property and no concerns have been identified by Development Engineering staff regarding the proposed uses.

ALTERNATIVES FOR CONSIDERATION

Should the proposed Zoning By-law Amendment Application be denied, the property would remain under the “HH/S-1348” and “HH/S-1348a” (Restricted Community Shopping & Commercial) District, Modified, which permits only a small range of commercial uses and reflects the existing site conditions. However, the existing yoga studio would not be permitted.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Proposed Amending By-law to Hamilton Zoning By-law
- Appendix “C”: Concept Plan

:MS/yr