



CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 7
COMMITTEE DATE: June 7, 2011	
SUBJECT/REPORT NO: Application for Approval of an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 800 Upper Wentworth Street and 362 Mohawk Road East (Hamilton) (PED10135(b)) (Ward 7)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Timothy Lee (905) 546-2424, Ext. 1249
SIGNATURE:	

RECOMMENDATION

That **Amended Zoning Application ZAR-08-039, Quang Do, Owner**, for a change in zoning from the “C” (Urban Protected Residential, etc.) District to the “C-‘H’/S-1643” (Urban Protected Residential, etc. - Holding) District, Modified, with a Holding Provision, for lands located at 800 Upper Wentworth Street (Hamilton) (Block 1) and 362 Mohawk Road East (Hamilton) (Block 2), to permit a personal service establishment limited to an aesthetician parlour, hairdressing establishment, and barber shop within the existing building located on Block 1, and to maintain the existing single-detached dwelling located on Block 2, as shown on Appendix “A” to Report PED10135(b), be approved on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED10135(b), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

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- (c) That upon finalization of the implementing By-law, the Bruleville Neighbourhood Plan be amended by changing the designation of 800 Upper Wentworth Street (Block 1) from “Single and Double Residential” to “Commercial/Residential Conversion”.

EXECUTIVE SUMMARY

The purpose of the application is to permit the conversion of the existing single-detached dwelling located at 800 Upper Wentworth Street to a personal service use limited to an aesthetician parlour, hairdressing establishment, and barber shop (Block 1), and to permit the existing single-detached dwelling located at 362 Mohawk Road East (Block 2) (see Appendix “A”). A Holding provision has been included that will be removed upon the owner submitting and receiving final approval of a Site Plan application.

The proposal can be supported as it is consistent with the Provincial Policy Statement, and conforms to the Places to Grow Growth Plan, the Hamilton-Wentworth Official Plan, and the City of Hamilton Official Plan.

Alternatives for Consideration - See Page 13.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

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. A requisite statutory Public Meeting was previously held on June 15, 2010. A second Public Meeting is required as new lands have been added to the subject property and the purpose of the application has been expanded.

HISTORICAL BACKGROUND

Proposal

The subject property consists of two parcels located at 800 Upper Wentworth Street (Block 1) and 362 Mohawk Road East (Block 2). Block 2 was consolidated and added to the subject property after it was purchased by the owner in mid-July, 2010. Block 1 is approximately 374 square metres in area, and Block 2 is approximately 595 square metres in area. The subject property is located on the southwest corner of Upper

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Wentworth Street and Mohawk Road East and, as such, has frontage onto both streets (see Appendix "A").

Due to the configuration of the merged lot, the lot line that fronts onto Mohawk Road East has been deemed to be the front lot line, and the lot line abutting Upper Wentworth Street as the exterior side lot line for purposes of By-law administration. The size of the existing single-detached dwelling that will be converted to the personal service establishment is approximately 124.4 square metres. Currently, the subject lands are zoned "C" (Urban Protected Residential, etc.) District, which permits a single-detached residential dwelling. The purpose of the Zoning By-law Amendment is to modify the zoning on the following basis:

- To expand the range of permitted uses to include a commercial personal service use, limited to an aesthetician parlour, hairdressing establishment, and barber shop (Block 1);
- To recognize the existing single-detached dwelling located at 362 Mohawk Road East (Block 2), whereas no building shall be permitted on a lot where any other building has already been converted or constructed on the date of the passing the By-law;
- To prohibit home occupations within the single-detached dwelling on Block 2;
- To modify the zoning to permit the parking lot for the proposed personal service establishment with reductions in buffers from a residential lot, modifications to reductions in rear yard setback; and,
- A Holding Provision has been placed on Blocks 1 and 2, and will be removed upon receiving final approval of a Site Plan application that will address parking and landscaping on the subject property.

The original application was submitted in mid-July 2008, to permit a personal service establishment on the first floor of the dwelling at 800 Upper Wentworth Street (Block 1). Traffic Engineering staff had concerns with the lack of parking and manoeuvring on the subject property and vehicles being required to back out onto Upper Wentworth Street, potentially resulting in pedestrian and vehicular traffic safety concerns. A staff report was brought forward to the Economic Development and Planning Committee on June 15, 2010, where staff recommended that the application be denied due to over-intensification and traffic functionality issues. The Committee deferred the application pending traffic and planning issues being addressed. The applicant subsequently purchased the adjacent property, municipally known as 362 Mohawk Road East (Block 2), to consolidate the two properties in order to provide additional parking for the proposed commercial use. The applicant intends to maintain the existing residential use on 362 Mohawk Road East.

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An Information Report was brought forward to the Economic Development and Planning Committee on October 5, 2010, to provide an update on the Zoning By-law Amendment application (see Appendix "D").

A final concept plan was submitted in February, 2011, and has been reviewed by staff (see Appendix "C"). The purpose of this staff Report is to recommend an approval of the amended Zoning application and associated Draft By-law based on the final concept plan.

Chronology

- August 7, 2008: Application ZAR-08-039 was deemed complete; Circulation of Notice of Complete Application to residents within 120 metres of subject lands.
- June 15, 2010: Staff report brought forward to the Economic Development and Planning Committee meeting. Applicant requests to defer the application until the owner purchases the adjacent property located at 362 Mohawk Road East.
- Mid-July, 2010: Owner purchases residential property located at 362 Mohawk Road East.
- Early-August, 2010: Applicant met with staff to propose a design option that combines 800 Upper Wentworth Street and 362 Mohawk Road East.
- August 5, 2010: Applicant amends Zoning Application.
- October 5, 2010: Information Report brought forward to the Economic Development and Planning Committee to provide an update on the application.
- February 2, 2011: Applicant submits final design concept to staff.
- May 20, 2011: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands.

Details of Submitted Application

- Location:** 800 Upper Wentworth and 362 Mohawk Road East (Hamilton)
- Owner:** Quang Do

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Applicant: Tim Doan

Property Description: Lot Area: 969 square metres
Lot Frontage: 14.1 metres (Mohawk Road East)
Lot Flankage: 45.7 metres (Upper Wentworth Street)

EXISTING LAND USES AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Single-Detached Dwellings	“C” (Urban Protected Residential, etc.) District
<u>Surrounding Lands:</u>		
West	Single-Detached Dwellings	“C” (Urban Protected Residential, etc.) District
North	Sackville Hill Memorial Park	Community Park “P2” Zone
East	Commercial Retail; Religious Institution/Low Rise Apartment	“H/S-840” (Community Shopping and Commercial - Modified) District; “E-2/S-789” (Multiple Residential Dwellings - Modified) District
South	Home Occupation and Single-Detached Residential	“AA” (Agricultural) District and “C” (Urban Protected Residential, etc.) District

POLICY IMPLICATIONS

Provincial Growth Plan for the Greater Golden Horseshoe

The amended application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). Staff notes that the subject property is within the Built-Up Area, as defined by Places to Grow. The amended application is consistent with the guiding principles of Policy 1.2.2) with respect to building compact, vibrant, and complete communities, and providing for different approaches to managing growth that recognizes the diversity of communities in the Greater Golden Horseshoe. In addition, Policy 2.2.2.1)h) encourages cities and towns to develop as complete communities with a diverse mix of land uses, and a range of housing types and easy access to local stores and services.

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As a result, the amended application conforms to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow).

Provincial Policy Statement (PPS)

The amended application has been reviewed with respect to the Provincial Policy Statement (PPS), and is consistent with the policies of the PPS respecting an appropriate range and mix of residential and employment uses (Policies 1.1.1.b and 1.3.1), and focuses growth in Settlement Areas (Policy 1.1.3.1). The proposed conversion of an existing residential use to a commercial use that caters to the local community will provide for employment for residents, and also provides personal service for residents within the community.

As the nature of the amended application is for a change in zoning to add additional permitted uses for the proposed aesthetician parlour, hairdressing establishment, and barber shop located at 800 Upper Wentworth Street, and to maintain the existing residential use located at 362 Mohawk Road East, the amended application is consistent with the Provincial Policy Statement.

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area - High Density Mixed-Use Corridor” in the Hamilton-Wentworth Official Plan. Policy C.3.1 outlines that a wide range of urban uses, as defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas.

Policy C.3.1.1 outlines the preference for mixed forms of development within the “Urban Area” including efficient use of existing service, effective community design to ensure people are close to shopping and their workplaces, and where growth can be accommodated by building on vacant or redeveloped land without taking up agricultural lands or natural areas.

Policy C.3.1.1.6 requires that each corridor identified in the Hamilton-Wentworth Official Plan have a range of residential, commercial, retail, and employment opportunities which is appropriate for its size and function; be relatively self-contained to reduce the need for commuting; and, provide for combinations of retail, residential, and commercial uses in individual buildings.

As the amended application is to add additional permitted uses for the proposed aesthetician parlour, hairdressing establishment, and barber shop located at 800 Upper Wentworth Street (Block 1), and to maintain the existing residential use in the existing single-detached dwelling located at 362 Mohawk Road East (Block 2), the amended application conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject property is designated “Residential” on Schedule “A”, Land Use Concept Plan, in the City of Hamilton Official Plan. The following policies would apply:

- “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 hectares in area, excluding Automobile Service Centres, in accordance with the Commercial Policies, as set out in Sub-section A.2.2 of this Plan.
- 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 By-law:
- 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.”

As Policy A.2.1.3 permits limited commercial uses within a Residential designation subject to Commercial use policies under Section A.2.2, the following Commercial policies apply:

- “2.2.26) The maximum site areas of LOCAL COMMERCIAL development will not exceed 0.4 hectares in keeping with the intention that LOCAL COMMERCIAL facilities are to serve local Residential areas only with convenience goods and personal services.
- 2.2.27) 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.
- 2.2.38) Where a proposal is made for a COMMERCIAL development in which proposed parking and/or loading space is less than generally required it must be demonstrated by the proponent, to the satisfaction of Council, that the proposal will not lead to nuisances through the parking or loading of vehicles on land or streets adjacent to the use.”

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As the subject property will involve the redevelopment of 800 Upper Wentworth Street to permit an aesthetician parlour and hairdressing establishment, and to maintain the existing single-detached dwelling located at 362 Mohawk Road West, the following Policies of the Hamilton Official Plan shall apply:

- “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; and,
 - ii) Improvement and maintenance of street landscaping.”

The owner purchased the property located at 362 Mohawk Road East (Block 2) in mid-July 2010, for a parking lot for the proposed commercial business operation located in Block 1, as shown in the Concept Plan (see Appendix “C”). As indicated in Report PED10135 that was presented to the Economic Development and Planning Committee on June 15, 2010, staff, in consultation with Traffic Engineering staff, indicated that the rezoning application to permit a personal service establishment could not be supported until the applicant demonstrates that staff/customer parking and manoeuvring can be provided on the site in accordance with City requirement (see Appendix “D” - Page 13).

Subsequently, the applicant met with staff to determine an appropriate configuration of the parking lot, which is further detailed in the final concept plan (see Appendix “C”). The proposed parking lot will have appropriate manoeuvring space to allow vehicles to safely exit the parking lot without backing out onto Upper Wentworth Street. Site Plan Control will be required to address matters such as drainage, stormwater management, landscaping, access, etc.

Based on the foregoing, the amended application to permit an aesthetician parlour, hairdressing establishment, and barber shop located at 800 Upper Wentworth Street with proposed parking for the proposed business operation, and to maintain the existing residential use located at 362 Mohawk Road East, conforms to the policies of the City of Hamilton Official Plan.

New Urban Hamilton Official Plan (Council Adopted)

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been approved by the Ministry of Municipal Affairs and Housing, but has been appealed and is not yet in effect. The subject lands are designated “Mixed-Use - Medium Density” on Schedule E-1, which permits commercial uses such as personal services. In addition, the range of commercial uses is intended to serve the surrounding

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community as well as day-to-day retail facilities and services to residents in the immediate area.

The following policies would apply:

- “B.3.3.2.3 Urban design should foster a sense of community pride and identity by:
- a) Respecting existing character, development patterns, built form, and landscape.
- B.3.3.10.4 Where surface parking is proposed, it should be located to the sides and rear of buildings to enable the development of a continuous street edge and the creation of quality urban spaces consistent with Section B.3.3.2 - General Policies and Principles.
- C.4.5.15 Parking and loading requirements regulated through the Zoning By-law or Site Plan Approval shall ensure adequate parking for the site, while avoiding excess parking supply that can discourage transit use and active transportation choices.
- C.4.5.18 The negative impacts of parking on urban environments and pedestrian activity shall be minimized through:
- a) placement of parking and loading areas at the rear of buildings, where feasible.
- F.1.2.7 Neighbourhood Plans are policies adopted by Council resolution and do not form part of the Official Plan. Any proposal for development or redevelopment must conform to the designations and policies in the Neighbourhood Plan.”

Additional parking will be provided within the newly acquired property located at 362 Mohawk Road East. This will allow for the safe manoeuvring of vehicles onto Upper Wentworth Street, and address vehicular and pedestrian safety (see Appendix “C”). The existing residential use at 362 Mohawk Road East (Block 2) will be maintained, and conforms to the approved Neighbourhood Plan.

Based on the foregoing, the amended application would conform to the policies of the New Urban Hamilton Official Plan.

Bruleville Neighbourhood Plan

The subject property is designated “Residential” under the approved Bruleville Neighbourhood Plan, and does not permit commercial uses at 800 Upper Wentworth Street, but permits the existing residential use at 362 Mohawk Road East. Properties further to the south on Upper Wentworth Street (for example, 832, 836, and 840) are designated “Commercial/Residential Conservation”. This designation permits up to 1,000 square feet of professional offices or commercial uses generating similar traffic volumes in existing residences and in-fill residences of similar character.

The applicant purchased the property at 362 Mohawk Road East and the intention is to maintain the existing single-detached dwelling on the subject property, therefore, maintaining the residential character of the community. In addition, the owner proposes to use the southern portion of 362 Mohawk Road East as part of the proposed parking area and driveway for the aesthetician parlour, hairdressing establishment, and barber shop located at 800 Upper Wentworth Street.

Approval of the application would require an amendment to the Bruleville Neighbourhood Plan to change the designation from “Single and Double Residential” to “Commercial/Residential Conversion” for 800 Upper Wentworth Street (Block 1). The existing “Single and Double Residential” designation will remain for 362 Mohawk Road (Block 2) East, as the existing residential use is maintained.

RELEVANT CONSULTATION

Traffic Engineering and Operations Section, Public Works Department, staff reviewed the concept plan that was submitted by the applicant in February, 2011 (see Appendix “C”). The final concept plan shows the two properties (800 Upper Wentworth Street and 362 Mohawk Road East) and the proposed parking lot consisting of the manoeuvring space and 6 parking spaces. Staff notes the fence that was once located next to the driveway on 800 Upper Wentworth was removed in late-2010. The removal of the fence provides greater visibility for drivers and pedestrians, and additional space to permit a proposed parking lot on the subject property. Future customers and staff can now safely enter and exit the parking lot with greater visibility of on-coming traffic and pedestrians on Upper Wentworth Street.

However, hatched lines should be painted in the area of the manoeuvring area and a “No Parking” sign should be erected to prevent vehicles from parking illegally in the manoeuvring area. The requirement of an Access Permit continues to apply to expand the existing access onto the subject property.

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Staff Report PED10135 (see Appendix “D”) indicated that the application not be approved until the applicant demonstrates that staff/customer parking and manoeuvring can be provided on the site in accordance with Traffic Engineering staff. Based on the amended concept plan, staff now has no objections to the amended application.

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 the Places to Grow Growth Plan;
 - (ii) It conforms to the Hamilton-Wentworth Official Plan, the City of Hamilton Official Plan, and the New Hamilton Urban Official Plan;
 - (iii) The amended concept plan demonstrates an appropriate form of development and maintains the residential use at 362 Mohawk Road East; and,
 - (iv) The proposal is compatible with the existing development and maintains the character of the surrounding area.

2. The original Zoning application was submitted to permit the partial conversion of the existing single-detached dwelling located at 800 Upper Wentworth Street (Block 1) to a commercial use for the purpose of a personal service establishment. The application was brought forward to the June 15, 2010, Economic Development and Planning Committee, and was deferred until on-site issues such as parking and over-intensification are addressed. The original application did not include customer/staff parking, resulting in functionality issues with respect to the lack of parking.

The applicant subsequently purchased the adjoining property in mid-2010 (Block 2), and concept plans were submitted to staff throughout late-2010 and early 2011. The final concept plan shows the two properties and the existing buildings and the proposed parking lot for the proposed aesthetician parlour, hairdressing establishment, and barber shop (see Appendix “C”).

The final concept plan was submitted in February, 2011, and has been reviewed by relevant staff. There are no further objections to the amended application as parking and traffic issues have now been addressed.

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3. Official Plan policies require that where compatible uses are permitted in a Residential designation, adequate yards, off-street parking and loading, landscaping, screening, buffering, and other measures would be required to be provided. Staff had concerns with the original concept plan as it did not provide adequate parking and manoeuvring on the subject property, and would compromise the safety of pedestrians walking along Upper Wentworth Street and create traffic conflicts along Upper Wentworth Street. The amended concept plan (see Appendix “C”) that was submitted as part of the application in February, 2011, addresses these issues, and staff has incorporated site-specific zoning provisions to permit the proposed parking lot and use. A Holding Provision has been placed on Blocks 1 and 2 to ensure that a Site Plan application be received and given final approval to address this issue.

Based on the foregoing, the proposed development, as amended, conforms to the City of Hamilton Official Plan and has addressed staff concerns with respect to parking, manoeuvring, visibility, and safety issues.

4. Approval of the application would necessitate the following modifications in zoning:

(a) Commercial Use as an Additional Permitted Use

The applicant proposes to convert the entire existing single-detached dwelling located at 800 Upper Wentworth Street (Block 1) to a commercial use for the purpose of an aesthetician parlour, hairdressing establishment, and barber shop. The current zoning is “C” (Urban Protected Residential, etc) District, which does not permit commercial uses. The draft By-law would allow for the aesthetician parlour, hairdressing establishment, and barber shop as an additional permitted use on Block 1 within the building existing on the day of the passing of the By-law (see Appendix “B”).

(b) Permit Multiple Buildings on One Lot

Section 4(3) of the Hamilton Zoning By-law prohibits buildings used for residential purposes to be erected or converted within a lot in which any other building has already been erected on the same lot. The Draft By-law will recognize the use of the two existing buildings on one lot.

(c) Rear Yard Setback

Due to the merger of the property, the lot is now a corner lot and the lot line fronting onto Mohawk Road East is deemed to be the front lot line, and the southerly lot line abutting 814 Upper Wentworth Street is considered the rear lot line, for purposes of By-law Administration.

Consequently, the southerly 1.3 metre side yard for Block 1 is now considered the rear lot line for the merged properties.

The proposed modification to the zoning provision can be supported as it is a technical variance due to the merging of 800 Upper Wentworth Street with 362 Mohawk Road East.

(d) Home Occupation Not Permitted

A restriction has been placed on Block 2 to prohibit a home occupation within the single-detached dwelling. The definition of home occupation permits a secondary or incidental use that is employed by members of the family residing in the dwelling unit as their principal place of residence. To prevent an over-intensification of development and prevent additional parking demands on the subject property, it is appropriate to exclude a home occupation as a permitted use from the subject lands.

(e) Surface Treatment of Proposed Parking Lot

Permeable pavers are proposed for the proposed parking lot located at 800 Upper Wentworth Street. Section 18A(30) of Hamilton Zoning By-law No. 6593 requires that a permanent, durable, and dustless surface that is drained and paved with concrete, asphalt, or other combinations be provided for the parking lot, including the manoeuvring space and parking spaces. The installation of permeable pavers will also provide for reduced runoff from the proposed parking lot.

5. A Holding Provision has been placed on the subject property, and will be removed upon receiving final approval of a Site Plan application, to the satisfaction of the Manager of Development Planning. The proposed development on the subject property will require Site Plan Control to address proposed planting strips, visual barriers, landscaping, and surface treatment of the proposed parking lot. In addition, the existing parking area and driveway located in Block 2 will be reduced in size to allow for a reduction in the amount of hard surface and an increase in the amount of landscaping in the front yard.

ALTERNATIVES FOR CONSIDERATION

Should the amended application be denied, the “C” (Urban Protected Residential) District will remain as the current zoning, and the current residential use would remain as a permitted use. A Consent application may be required (800 Upper Wentworth Street and 362 Mohawk Road East) to return the subject property back as two original lots.

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

Growing Our Economy

- ◆ Newly created or revitalized employment sites.
- ◆ Competitive business environment.

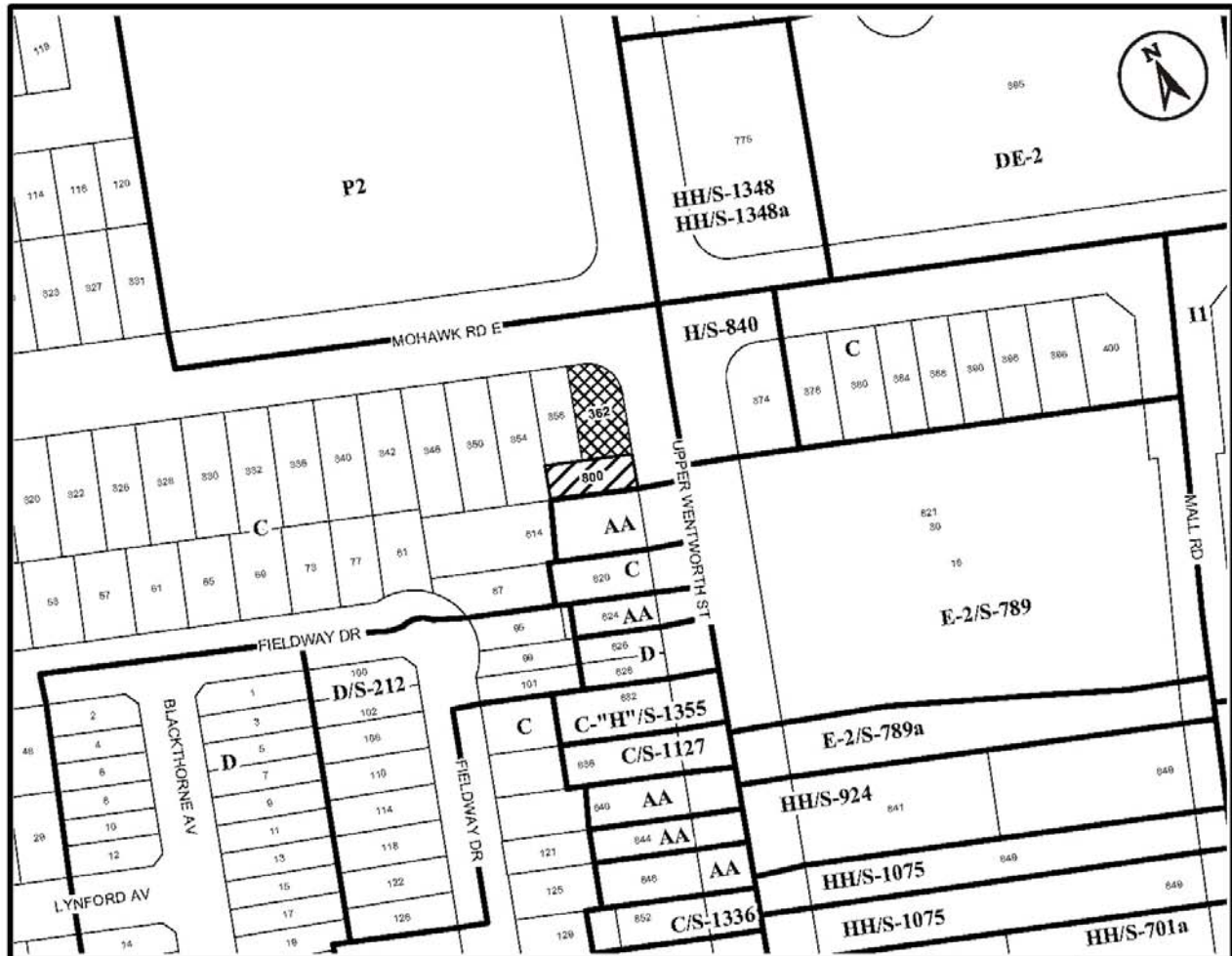
Social Development

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

APPENDICES / SCHEDULES

- Appendix "A": Location Map
- Appendix "B": Draft By-law
- Appendix "C": Final Concept Plan
- Appendix "D": PED10135(a) Information Report to the October 5, 2010 Economic Development and Planning Committee

:TL
Attachs. (4)



● Site of the Application



Ward 7 Key Map

N.T.S.

Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAR-08-039

Date:
April 29, 2011

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
TL/NB

Subject Property

800 Upper Wentworth Street and
362 Mohawk Road East



Block 1: Change in Zoning from the "C" (Urban Protected Residential, etc.) District, to the "C-'H'/S-1643" (Urban Protected Residential, etc. - Holding) District, Modified



Block 2: Change in Zoning from the "C" (Urban Protected Residential, etc.) District, to the "C-'H'/S-1643" (Urban Protected Residential, etc. - Holding) District, Modified

Authority: Item [REDACTED],
Planning Committee
Report: 11-[REDACTED] (PED10135(b))
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law 6593 (Hamilton), Respecting Lands Located at 800 Upper Wentworth Street/362 Mohawk Street East (Hamilton)

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

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Hamilton" and is the successor of 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 or the City of Hamilton;

AND WHEREAS Zoning By-law No. 6593 (Hamilton) was enacted on the 25th day of July 1950, which 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 11-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2011, 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 City of Hamilton (the Official Plan of the former City of Hamilton) in accordance with the provisions of the Planning Act.

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

1. That Sheet No. W-14 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), as amended, is further amended as follows:
 - (a) That Block 1 be re-zoned from the "C" (Urban Protected Residential, etc.) District to the "C - 'H' /S-1643" (Urban Protected Residential, etc. - Holding) District, Modified, with a Holding Provision; and,
 - (b) That Block 2 be re-zoned from the "C" (Urban Protected Residential, etc.) District to the "C - 'H' /S-1643" (Urban Protected Residential, etc. - Holding) District, Modified, with a Holding Provision.
2. That the "C" (Urban Protected Residential, etc.) District regulations, as contained in Section 9 of Zoning By-law No. 6593, be modified to include the following special requirements:

Blocks "1" and "2"

- (a) That notwithstanding Section 9(4)(iii) of Zoning By-law No. 6593, a rear yard depth of at least 1.3 metres shall be provided and maintained;
- (b) That notwithstanding Section 18A(30) of Zoning By-law No. 6593, a permanent durable and dustless surface that is graded, drained, and paved with concrete, asphalt, or permeable pavers, or a combination of concrete, asphalt, and permeable pavers, shall be provided and maintained for every parking area, maneuvering space, loading space, and access driveway; and,
- (c) That Section 4(3) of Zoning By-law No. 6593 shall not apply to the buildings existing on the date of the passing of this By-law, being the [REDACTED] day of [REDACTED], 2011.

Block "1"

- (a) That notwithstanding Section 9(1) of Zoning By-law No. 6593, an aesthetician parlour, hairdressing establishment, and barber shop shall also be permitted only within the building existing on the date of the passing of the By-law, being the [REDACTED] day of [REDACTED], 2011.

Block "2"

- (a) That notwithstanding Section 2(2)(iii) of Zoning By-law No. 6593, a home occupation shall not be permitted.
3. That the 'H' symbol applicable to lands referred to in Section 1 of this By-law shall be removed conditional upon receiving final approval of a Site Plan Control application, to the satisfaction of the Manager of Development Planning.
- The 'H' symbol shall be removed by amendment to this By-law and thereby give effect to the "C/S-1643" (Urban Protected Residential, etc.) District, Modified, once the above condition has been fulfilled.
4. That Zoning By-law No. 6593 is amended by adding this By-law to Section 19B as Schedule S-1643.
5. That Sheet W-14 of the District Maps is amended by marking the lands referred to in Section 1 of this By-law as S-1643.
6. That the Clerk is hereby authorized and directed to proceed with the giving of notice of passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this [REDACTED] day of [REDACTED], 2011.

R. Bratina
Mayor

Rose Caterini
Clerk

ZAR-08-039



This is Schedule "A" to By-Law No. 11 - Passed the day of, 2011	----- Clerk ----- Mayor
--	--------------------------------------

<h2 style="margin: 0;">Schedule "A"</h2> <p style="margin: 10px 0 0 0;">Map Forming Part of By-Law No. 11- _____ to Amend By-law No. 6593</p>		<p>Subject Property 800 Upper Wentworth Street 362 Mohawk Road East</p> <p> Block 1: Change in Zoning from the "C" (Urban Protected Residential, etc.) District, to the "C-'H'/S-1643" (Urban Protected Residential, etc. - Holding) District, Modified</p> <p> Block 2: Change in Zoning from the "C" (Urban Protected Residential, etc.) District, to the "C-'H'/S-1643" (Urban Protected Residential, etc. - Holding) District, Modified</p>
Scale: N.T.S.	File Name/Number: ZAR-08-039	
Date: April 29, 2011	Planner/Technician: TL/NB	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		Hamilton



INFORMATION REPORT

TO: Chair and Members Economic Development and Planning Committee	WARD AFFECTED: WARD 7
COMMITTEE DATE: October 5, 2010	
SUBJECT/REPORT NO: Application for Approval of an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 800 Upper Wentworth Street (Hamilton) (PED10135(a)) (Ward 7)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Timothy Lee (905) 546-2424, Ext. 1249
SIGNATURE:	

Committee Direction:

Following a Public Meeting held to discuss the merits of an application to permit the development of lands for a beauty salon within the existing single-detached dwelling at 800 Upper Wentworth Street (Hamilton) (ZAR-08-039), the Economic Development and Planning Committee, on June 15, 2010, deferred consideration of the Report pending the purchase of an adjacent property, municipally known as 362 Mohawk Road East, to facilitate consolidated development of the two properties by providing additional parking for the commercial use, while maintaining the existing residential use on 362 Mohawk Road East.

The original recommendation to Committee, contained within Report PED10135 (see Appendix "C"), recommended denial of the application as: the proposal did not conform to the City of Hamilton Official Plan and the approved Bruleville Neighbourhood Plan; the proposal represents an over-intensification of use, in that appropriate parking and manoeuvring for customers and employees cannot be provided on-site; the proposal represents "piece-meal" development and represents an encroachment of inappropriately designed commercial development into a stable residential area; and, approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Official Plan and the approved Browlands Neighbourhood Plan. At the Public Meeting, the Economic Development and Planning Committee heard from the applicant, who noted that the he opened the beauty salon in

SUBJECT: Application for Approval of an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 800 Upper Wentworth Street (Hamilton) (PED10135(a)) (Ward 7) - Page 2 of 3

advance of planning and building approvals in order to earn income for the family. The applicant also noted that he was in negotiations with respect to acquiring an adjacent property, municipally known as 362 Mohawk Road East, located at the southwest corner of Mohawk Road East and Upper Wentworth Street. The purpose of acquiring this property was to use the rear portion of the property for additional parking for the proposed commercial use at 800 Upper Wentworth Street. The Economic Development and Planning Committee consequently deferred decision on the application with direction to bring forward an Information Report to the October 5, 2010, Economic Development and Planning Committee. This decision was approved by Council on June 23, 2010.

Information:

The subject property located at 800 Upper Wentworth Street is comprised of approximately 374 square metres of land located on the southwest corner of Upper Wentworth Street and Mohawk Road West (see Appendix "A"). Uses surrounding the site include low density residential to the west, retail commercial uses to the east and south of the property, and Sackville Memorial Park to the north. The site is currently designated "Residential" in the Hamilton Official Plan and the Bruleville Neighbourhood Plan, and is zoned "C" (Urban Protected Residential - Single Family Dwelling) District in the Hamilton Zoning By-law No. 6593. The subject property was formally used as a single-detached dwelling until the beauty salon was opened in early 2010.

Since the submission of the Zoning Amendment Application in August 2008, staff has worked closely with the applicant in attempting to address issues, notably, the lack of parking on the subject lands and the lack of space on the subject lands for proper manoeuvring space. Several options were proposed by both the applicant and staff; however, none of the alternatives could address all of the traffic and design related issues. As a result, staff could not support the Zoning Amendment Application on the basis of a lack of appropriate space on the subject property for parking, manoeuvring, and landscaping.

Staff also had concerns that rezoning the subject property could represent "leap-frogging" of commercial development on the west side of Upper Wentworth Street and Mohawk Road East. Currently, the subject property is surrounded by residential uses, and rezoning the subject property would result in commercial activity within an existing residential neighbourhood.

The applicant proposed to purchase the adjacent property located at 362 Mohawk Road East, where the required parking area could be expanded to the rear yard of the property, thus providing additional parking spaces for employees and customers, and further manoeuvring space for proper vehicular access to and from Upper Wentworth Street. Staff and the Ward Councillor consulted with the applicant in early June 2010, and advised that staff is amendable to the proposal if provided that the two properties are merged in title, that the applicant consults with staff in addressing parking and

**SUBJECT: Application for Approval of an Amendment to Hamilton Zoning By-law
No. 6593 for Lands Known as 800 Upper Wentworth Street (Hamilton)
(PED10135(a)) (Ward 7) - Page 3 of 3**

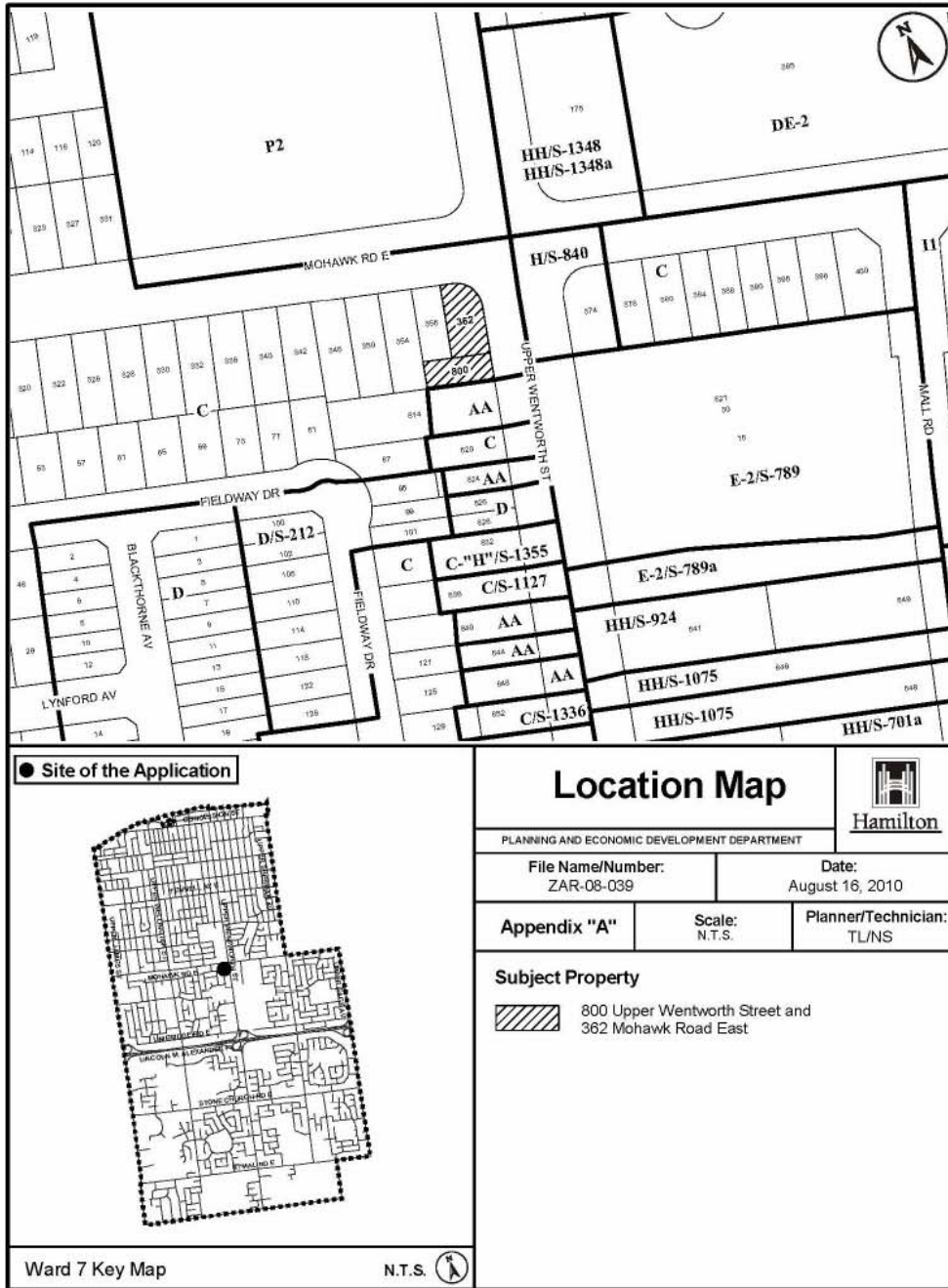
manoeuvring issues, and that the existing residential use in the single-detached dwelling remains. The applicant purchased the residential property located at 362 Mohawk Road East in mid-July 2010. The applicant met with staff in late July 2010, and presented parking lot design options. Staff reviewed the options and proposed an alternative to the design options (see Appendix "B"). The applicant subsequently agreed to staff's alternative design option, and submitted a Zoning Amendment fee and a re-circulation fee in early August, 2010. A Zoning Amendment fee and re-circulation fee is required to include 362 Mohawk Road East as part of the current application for 800 Upper Wentworth Street.

Conclusion

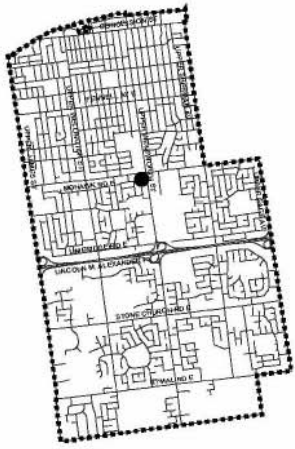
As the applicant submitted a Zoning By-law Amendment application and preliminary site plan in early-August 2010, staff will be preparing a staff report and related zoning schedule to be brought forward to the Economic Development and Planning Committee in early 2011.

- Appendix "A": Location Map
- Appendix "B": Preliminary Site Plan Showing Alternative Design Option
- Appendix "C": Staff Report PED10135

:TL
Attachs. (3)



● Site of the Application



Ward 7 Key Map

N.T.S. 

Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAR-08-039


Date:
August 16, 2010

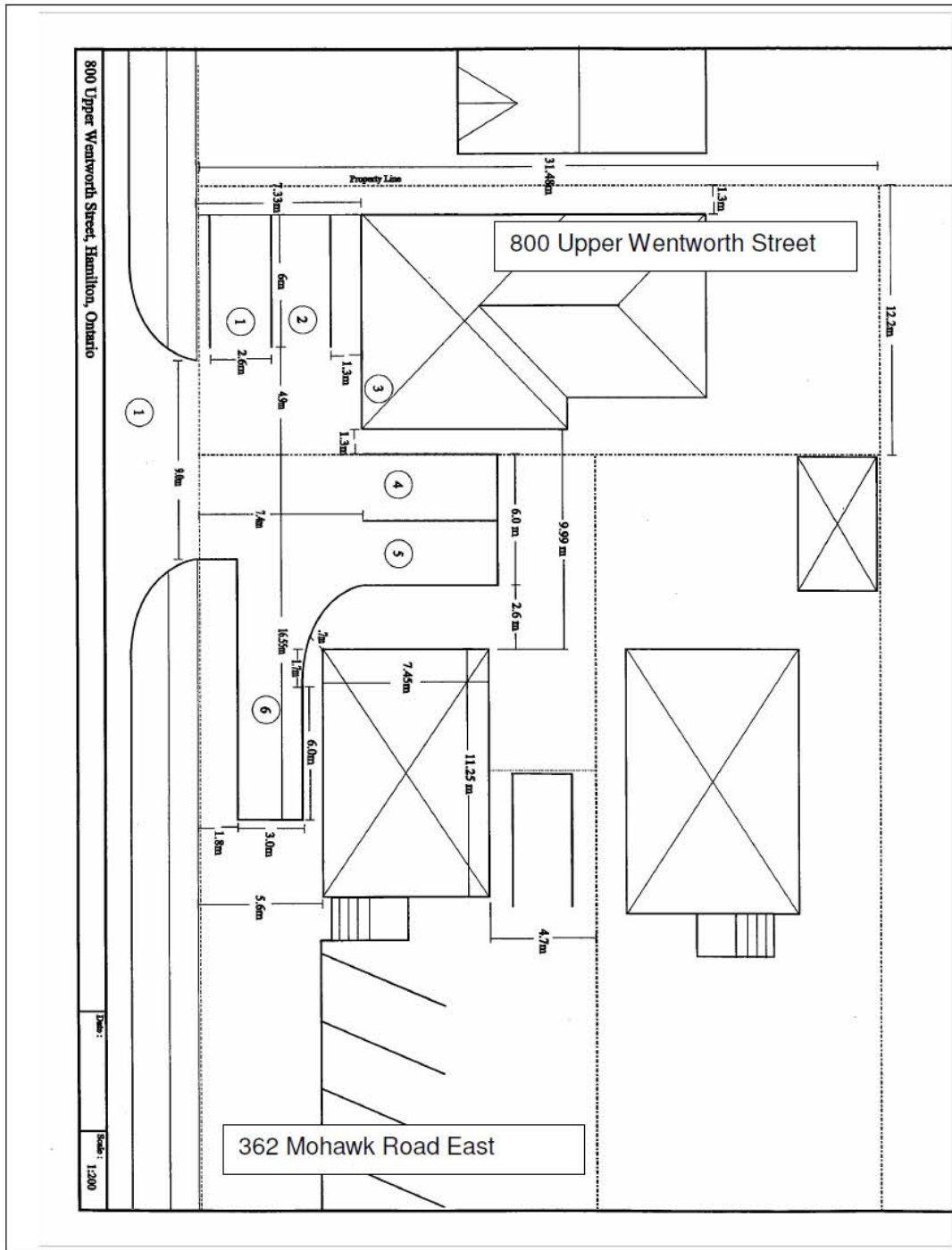
Appendix "A"

Scale:
N.T.S.

Planner/Technician:
TL/NS

Subject Property

 800 Upper Wentworth Street and
362 Mohawk Road East





Hamilton

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Economic Development and Planning Committee	WARD(S) AFFECTED: Ward 7
COMMITTEE DATE: June 15, 2010	
SUBJECT/REPORT NO: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Timothy Lee (905) 546-2424, Ext.1249
SIGNATURE:	

RECOMMENDATION:

- (a) That **Zoning By-law Amendment Application ZAR-08-039, by Quang Do, Owner**, for a modification to the "C" (Urban Protected Residential - etc.) District, to permit a personal service establishment within the existing building located at 800 Upper Wentworth Street (Hamilton), as shown on Appendix "A" to Report PED10135, **be denied** for the following reasons:
- (i) That the proposal does not conform to the City of Hamilton Official Plan and the approved Bruleville Neighbourhood Plan;
 - (ii) That the proposal represents an over-intensification of use, in that appropriate parking and manoeuvring for customers and employees cannot be provided on-site;
 - (iii) That the proposal is 'piece-meal' development and represents encroachment of inappropriately designed commercial development into a stable residential area; and,

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 2 of 12

- (iv) That approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Official Plan and the approved Bruleville Neighbourhood Plan.

EXECUTIVE SUMMARY

The purpose of the proposed Zoning By-law Amendment, is to permit the conversion of the existing single detached dwelling to a commercial use for the purpose of a beauty salon (see Appendix "A"). The original Zoning By-law Amendment proposed to convert a portion of the existing single detached dwelling to a commercial use for a beauty salon, and to maintain the remaining portion of the building as a residential use.

The proposal cannot be supported as: it does not conform to the City of Hamilton Official Plan and the approved Bruleville Neighbourhood Plan; the proposal represents an over-intensification of use, in that appropriate on-site parking and manoeuvring cannot be provided; it is 'piece-meal' development and represents encroachment of inappropriately designed commercial development into a stable residential area; and approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Official Plan and approved Bruleville Neighbourhood Plan.

Alternatives for Consideration - See Page 11.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

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

The subject lands are approximately 374.8 square metres in area, with frontage on Upper Wentworth Street (see Appendix "A"). The size of the existing single detached dwelling is approximately 124.4 square metres. Currently, the subject lands are zoned "C" (Urban Protected Residential, etc.) District, which permits a single detached residential dwelling. The Zoning By-law Amendment would modify the current zoning to permit the conversion of the existing single detached dwelling to a commercial use for the purpose of a beauty salon.

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 3 of 12

The application was submitted in mid-July, 2008. Traffic Engineering staff had concerns with the lack of parking and manoeuvring on the subject lands, and that the only available parking was in the single car garage. In addition, vehicles entering the subject property would have to back out onto Upper Wentworth Street, causing potential conflicts with pedestrian and vehicular traffic. The applicant initially proposed to pave the entire front yard to allow for a passenger drop-off, but this was not supported due to minimal landscaping in the front yard (see Appendix "C"). The applicant later proposed a temporary hammerhead in the front yard to address the concerns of staff so that vehicles dropping off customers would be able to exit the driveway without backing onto Upper Wentworth Street (see Appendix "B"). This scenario eliminates the availability of parking on-site and, as a result, did not address the potential parking conflicts for future customers and employees. In addition, the proposed temporary hammerhead would also result in minimal landscaped area being provided on site as the majority of the front yard would be paved.

Staff has advised the applicant that he could operate the business as a 'home occupation', subject to the provisions found in Section 2(2)(iii) of the Hamilton Zoning By-law. Should the beauty salon be permitted as a 'home occupation', the business would be limited to one hairdresser, one comb-out centre, and one hair styling sink.

Details of Submitted Application

Location: 800 Upper Wentworth Street

Owner: Quang Do

Applicant: Tim Doan

Property Description:

Frontage: 12.1m (approximately)

Lot Depth: 30.7m

Area: 0.037 ha.

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

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 4 of 12

Surrounding Lands:

West	Single Detached Dwellings	“C” (Urban Protected Residential, etc.) District
North	Single Detached Dwellings	“C” (Urban Protected Residential, etc.) District
East	Commercial Retail; Religious Institution/Low Rise Apartment	“H/S-840 ” (Community Shopping and Commercial - Modified) District; “E-2/S-789” (Multiple Residential Dwellings - Modified) District
South	Home Occupation and Single Detached Residential	“AA” (Agricultural) District and “C” (Urban Protected Residential, etc.) District

POLICY IMPLICATIONS

Places to Grow

The application has been reviewed with respect to the Places to Grow Plan. The application is consistent with the guiding principles of Policy 1.2.2) with respect to building compact, vibrant, and complete communities, and providing for different approaches to managing growth that recognizes the diversity of communities in the Greater Golden Horseshoe. In addition, Policy 2.2.2.1)h) encourages cities and towns to develop as complete communities with a diverse mix of land uses, and a range of housing types and easy access to local stores and services. As a result, the proposal conforms to the Places to Grow Plan.

Provincial Policy Statement (PPS)

The application is consistent with the policies of the PPS that accommodates an appropriate range and mix of residential and employment uses (Policies 1.1.1.b and 1.3.1), and focuses growth in Settlement Areas (Policy 1.1.3.1). As the nature of the application is for a change in zoning to permit the conversion of the existing single detached dwelling to a commercial use for the purposes of a beauty salon, the application is consistent with the Provincial Policy Statement.

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 5 of 12

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, as defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. As the application is to permit the conversion of the entire existing single detached dwelling to a commercial use, where full municipal services are available, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject property is designated "Residential" on Schedule "A", Land Use Concept Plan, in the City of Hamilton Official Plan. The following policies would apply:

- "A2.1.3) 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 hectares in area, excluding Automobile Service Centres, in accordance with the Commercial Policies, as set out in Subsection A.2.2 of this Plan.
- 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 By-law:
- 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.
- 2.2.26) The maximum site areas of LOCAL COMMERCIAL development will not exceed 0.4 hectares in keeping with the intention that LOCAL COMMERCIAL facilities are to serve local Residential areas only with convenience goods and personal services.
- 2.2.27) 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.
- 2.2.38) Where a proposal is made for a COMMERCIAL development in which proposed parking and/or loading space is less than generally required, it must be demonstrated by the proponent, to the satisfaction of Council,

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 6 of 12

that the proposal will not lead to nuisances through the parking or loading of vehicles on land or streets adjacent to the use.

- D.2.2) The detailed planning for the distribution and location of various land uses in each PLANNING UNIT will be determined or reviewed through the preparation of NEIGHBOURHOOD PLANS. In this regard, Council will ensure that all new development and/or redevelopment complies with the provisions of this Plan and the NEIGHBOURHOOD PLAN ..."

The applicant has not demonstrated that there are adequate yards to provide for off-street parking, manoeuvring, landscaping, and buffering. Furthermore, the proposal does not conform with the approved Bruleville Neighbourhood Plan.

Based on the foregoing, the application does not conform to the policies of the City of Hamilton Official Plan.

New Urban Hamilton Official Plan (Council Adopted)

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province for approval, but is not yet in effect. The subject lands are designated "Mixed-Use - Medium Density" on Schedule E-1, which permits commercial uses such as personal services. In addition, the range of commercial uses is intended to serve the surrounding community as well as day-to-day retail facilities and services to residents in the immediate area.

The following policies would apply:

- "B.3.3.2.3 Urban design should foster a sense of community pride and identity by:
- a) Respecting existing character, development patterns, built form, and landscape.
- B.3.3.10.4 Where surface parking is proposed, it should be located to the sides and rear of buildings to enable the development of a continuous street edge and the creation of quality urban spaces consistent with Section B.3.3.2 - General Policies and Principles.
- C.4.5.15 Parking and loading requirements regulated through the Zoning By-law or site plan approval shall ensure adequate parking for the site, while avoiding excess parking supply that can discourage transit use and active transportation choices.
- C.4.5.18 The negative impacts of parking on urban environments and pedestrian activity shall be minimized through:

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 7 of 12

- a) placement of parking and loading areas at the rear of buildings, where feasible.
- E.4.6.23 In the absence of a secondary plan, each applicant for new development shall submit a concept plan for the property that addresses how:
- c) ii) the siting and orientation of buildings which do not preclude future intensification;
- F.1.2.7 Neighbourhood Plans are policies adopted by Council resolution and do not form part of the Official Plan. Any proposal for development or redevelopment must conform to the designations and policies in the Neighbourhood Plan."

The applicant has not demonstrated that the development respects the development patterns and landscaping of the neighbourhood. This portion of the neighbourhood is primarily residential, and the proposed use would break the existing residential development pattern by introducing a commercial use resulting in 'leap-frog' development.

Policies in the Urban Hamilton Official Plan encourage parking to be located to the side or rear yard of the subject property. In addition, adequate parking should be provided on site. Due to site constraints, parking cannot be located in the side or rear yards, and there is insufficient space in the front yard to accommodate adequate parking spaces and manoeuvring.

Finally, the application must conform to the Neighbourhood Plan and its policies. As the designation of the subject property is "Residential" within the Bruleville Neighbourhood Plan, the proposed use is not permitted.

Based on the foregoing, the application would not conform to policies of the Council adopted New Urban Hamilton Official Plan.

Bruleville Neighbourhood Plan

The subject property is designated "Residential" under the approved Bruleville Neighbourhood Plan, and does not permit commercial uses. Properties further to the south on Upper Wentworth Street (for example, 832, 836, and 840 Upper Wentworth Street) are designated "Commercial/Residential Conservation". This designation permits up to 1,000 square feet of professional offices or commercial uses generating similar traffic volumes in existing residences and in-fill residences of similar character. However, the subject property is six lots to the north of the designated area.

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 8 of 12

Based on the foregoing, the application does not conform to the Council-adopted Bruleville Neighbourhood Plan.

RELEVANT CONSULTATION

Agencies/Departments Having no Comment or Objections

- Strategic Planning Section, Public Works Department.
- Taxation Division, Corporate Services Department.

Traffic Engineering and Operations Section, Public Works Department

It is a standard condition for developing properties that all vehicles must be able to enter the property from the municipal roadway in a forward manner, turn around on site, and re-enter the municipal roadway in a forward manner. This property, with the existing front yard parking spaces, does not provide any manoeuvring, and will require drivers to reverse onto Upper Wentworth Street, which is a safety hazard to pedestrians, cyclists, and vehicle occupants. The applicant has indicated that alternate parking arrangements can be arranged with the adjacent property (to the south?). As the existing front yard parking is not appropriate for a commercial use, we recommend that rezoning to permit the commercial use beauty salon not be approved until the applicant demonstrates, to the satisfaction of the Manager of Traffic Engineering and Operations, that staff/customer parking and manoeuvring can be provided on the site in accordance with our requirements.

Comments on the submitted sketch:

The sketch provided includes dimensions from the front of the building to the back of the municipal sidewalk. We advise that all front yard dimensions must be measured to the Upper Wentworth Street road allowance limit rather than the sidewalk.

5.0m x 5.0m vision triangles (minimum 3.0m x 3.0m) are required adjacent to the access and the Upper Wentworth Street road allowance limit in which there should be no sight line obstruction (fence, vegetation, vehicles) higher than 0.7m. We note that at the north side of the property there is a fence and shed which obstructs the vision for outbound drivers. Although these objects are on the adjacent property, they severely restrict sightlines for a proposed commercial use and, therefore, the location of the access at the north lot line, and design, do not provide the required sightlines.

Any new or change in use of an access to Upper Wentworth Street requires the applicant/owner to apply for and receive an Access Permit from the Public Works Department. Prior to commencing any work within the road allowance, we recommend that the applicant/owner contact all the respective Utilities. Additional information

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 9 of 12

regarding the Permit can be obtained from Leanne Ryan at 905-546-2424, Extension 5925. The Permit fee is \$65.37 and prior to commencing any works a Site Plan, approved by the City, must be submitted by the applicant. All work within the Upper Wentworth Street road allowance must be completed by a contractor bonded with the City.

ANALYSIS / RATIONALE FOR RECOMMENDATION

- 1 The proposal cannot be supported for the following reasons:
 - (i) It does not conform to the City of Hamilton Official Plan and the approved Bruleville Neighbourhood Plan;
 - (ii) It represents an over-intensification of use, in that on-site parking and manoeuvring for customers and employees cannot be provided;
 - (iii) It is 'piece-meal' development and represents encroachment of inappropriately designed commercial development into a stable residential area; and,
 - (iv) Approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Official Plan and approved Neighbourhood Plan.
2. The Zoning By-law Amendment application was originally submitted to permit the partial conversion of the existing single detached dwelling to a commercial use for the purpose of a beauty salon, and to maintain a portion of the existing dwelling for a residential use. However, the application has since been amended to permit a beauty salon within the entire existing building.
3. Staff has advised the applicant that they could operate the proposed beauty salon business as a 'home occupation', subject to the special provisions found in Section 2(2)(iii) of the Hamilton Zoning By-law. Should the beauty salon be established as a 'home occupation', the business would be limited to one hairdresser, one comb-out centre, and one hair styling sink, provided it does not take up more than 15% of the habitable floor area of the dwelling unit.
4. The proposed development does not conform to policies of the City of Hamilton Official Plan due to the overall functionality of the site. Policy 2.1.6 of the Official Plan requires that commercial development located within adjacent residential uses require adequate yards, off-street parking, landscaping, screening, buffering, or other such measures, as determined by Council. In addition, Policy 2.2.38 requires that when a proposal is made for a commercial development where the proposed parking is less than required, it must be demonstrated that

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 10 of 12

the proposal will not lead to nuisances through the parking of vehicles on land or streets adjacent to the use.

Parking for the proposed commercial use is not a requirement as the existing building is approximately 124.4 square metres, which is below the minimum 450 square metres where parking is required. However, the business will generate demands in parking for employees and customers, and staff is of the opinion that parking should be provided based on the nature of the business. The applicant initially had discussions with several landowners within walking distance of the subject property in 2008; however, the applicant was unable to secure off-site parking through private agreements with adjacent landowners.

Discussions were held between the applicant and staff to address the issue of parking and manoeuvring throughout 2009, however, staff could not support the application as the overall functioning of the subject property could not be adequately addressed (see Appendices "B" and "C"). Due to the size of the subject property, parking cannot be located in the rear yard as the side yard is insufficient to allow for an appropriate two-way driveway. The front yard has approximately 12 metres of frontage and 6 metres of depth, and has sufficient space for only one drop-off space. The existing single car garage contains one parking space. The lack of appropriate parking could potentially result in parking nuisances whereby customers and employees park in other locations, such as nearby Sackville Hill Memorial Park or other commercial retail stores located around the intersection of Mohawk Road and Upper Wentworth Street.

There is an existing single car driveway that provides manoeuvring for the parking space in the single car garage, in which this arrangement is appropriate for residential uses. However, due to the anticipated traffic demands by the proposed use, vehicles would have to back out onto Upper Wentworth Street, creating a potentially dangerous situation for pedestrians, on-coming vehicles on Upper Wentworth, and drivers who exit the subject property in a reverse manner onto Upper Wentworth.

Due to functionality issues of the proposed use on the subject property, it does not conform to the policies of the Hamilton Official Plan. Staff does not support the application as it would pose vehicular and pedestrian hazards along Upper Wentworth Street, and is an over-intensification of use.

5. The Council adopted Urban Hamilton Official Plan has designated lands along Upper Wentworth Street, between Mohawk Road West and the Lincoln Alexander Parkway, as "Mixed-Use - Medium Density", which permits a full range of retail and service commercial uses, including personal service retail uses.

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 11 of 12

Policies in the Urban Official Plan require that the application respect the development patterns within the neighbourhood. The proposed use will be situated within an established residential area, breaking the existing residential development pattern by introducing a commercial use within the neighbourhood resulting in 'leap-frog' commercial development. Staff is of the opinion that this should be avoided to prevent scattered, 'piece-meal' commercial development within a stable residential area.

6. The subject property is designated "Residential" in the approved Bruleville Neighbourhood Plan. Properties further south along Upper Wentworth Street (832 - 860) are designated "Commercial/Residential Conservation", which permits commercial and residential uses. The purpose of this designation is to allow for up to 1,000 square feet of professional offices or commercial uses generating similar traffic volumes in existing residences, thereby maintaining the residential character along this portion of Upper Wentworth Street.

The subject property is six lots to the north of this area. Any consideration of expanding the "Commercial/Residential Conservation" boundary should be subject to a review to identify opportunities/constraints rather than on a 'piece-meal' basis.

As a result, the proposed beauty salon does not conform to Section D, Policy 2.2, of the Hamilton Official Plan with respect to the requirement that new development or redevelopment must comply with the provisions of the Official Plan and the Neighbourhood Plan.

ALTERNATIVES FOR CONSIDERATION:

If the application is denied, the use will remain as residential, and a 'home occupation' business would be permitted, subject to all zoning regulations with respect to home occupations.

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

Skilled, Innovative & Respectful Organization

- ♦ Opportunity for employee input in management decision making.
- ♦ Council and SMT are recognized for their leadership and integrity.

SUBJECT: Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7) - Page 12 of 12

Financial Sustainability

- ♦ Effective and sustainable Growth Management.
- ♦ Generate assessment growth/non-tax revenues.

Healthy Community

- ♦ Plan and manage the built environment.

APPENDICES / SCHEDULES

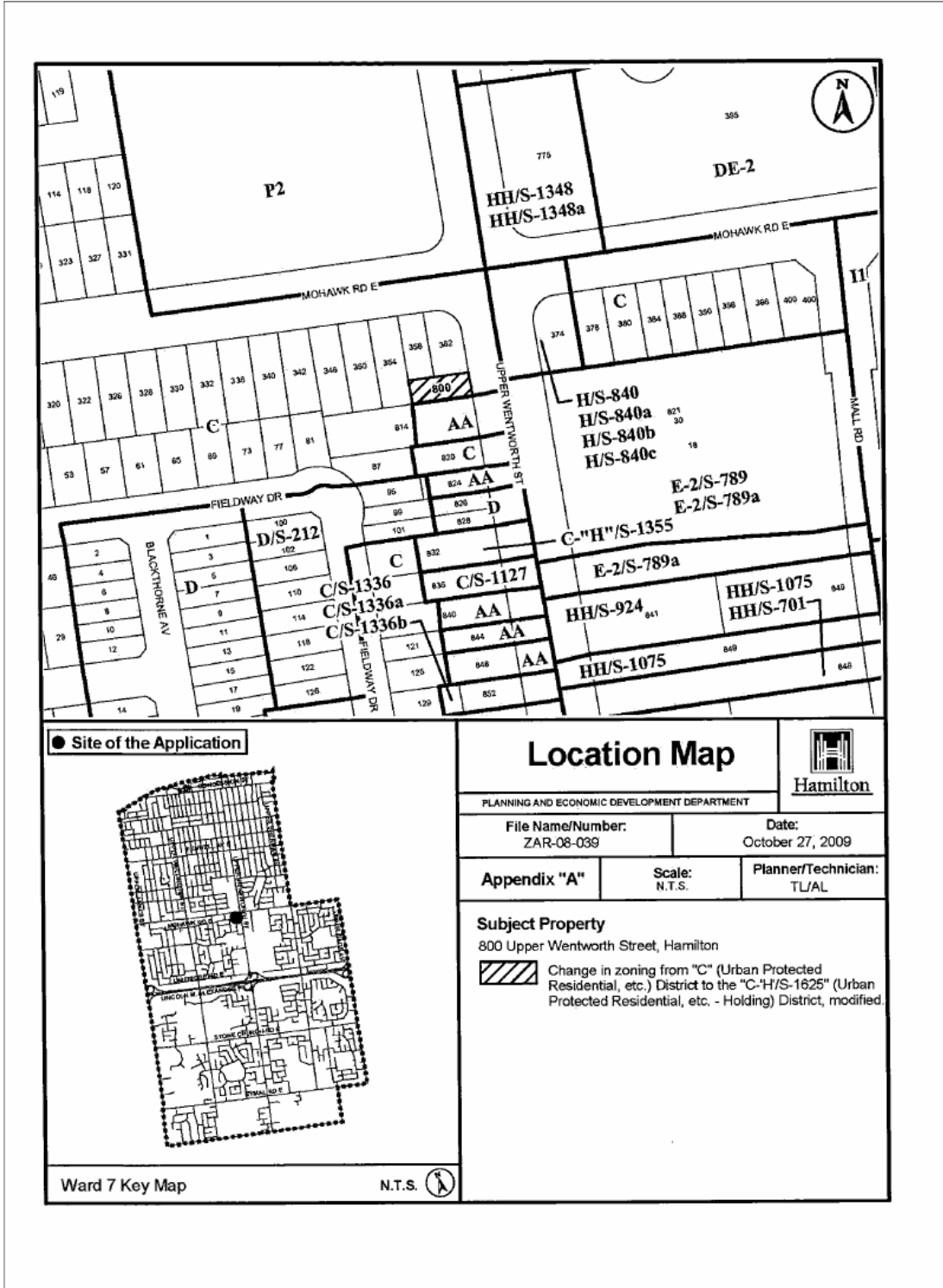
Appendix "A": Location Map

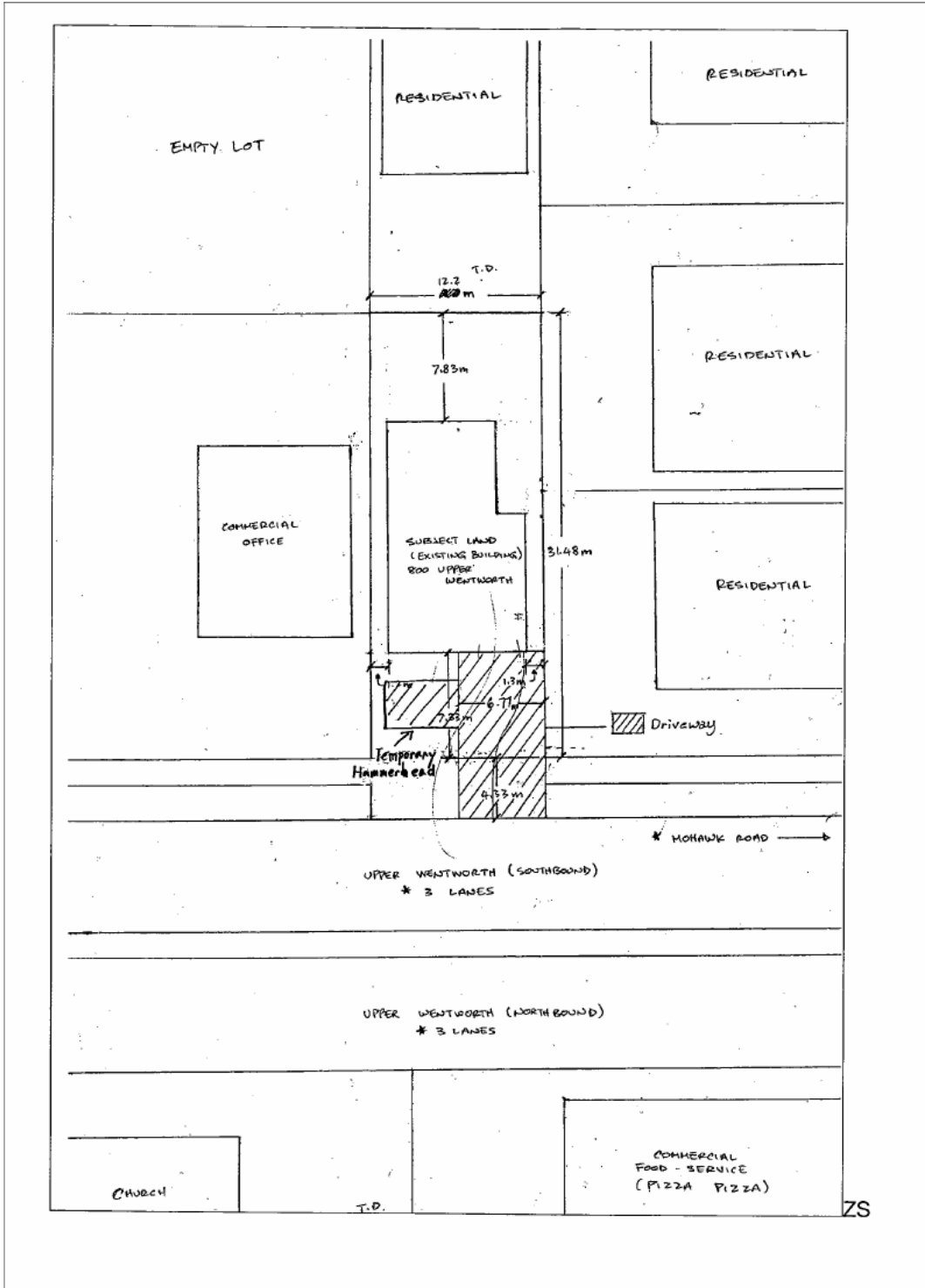
Appendix "B": Concept Plan Showing Temporary Hammerhead

Appendix "C": Initial Option Showing Passenger Drop-Off

:TL

Attachs. (3)





ZS

