



**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> WARD 7
<b>COMMITTEE DATE:</b> June 7, 2011	
<b>SUBJECT/REPORT NO:</b> Application for Approval of an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 480 Stone Church Road East (Hamilton) (PED11088) (Ward 7)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Delia McPhail (905) 546-2424, Ext. 6663
<b>SIGNATURE:</b>	

**RECOMMENDATION:**

That approval be given to **Amended Zoning Application ZAC-11-010 by T. Valeri Construction Limited (Ted Valeri) Owner**, for a change in zoning from the “E-2/S-573” (Multiple Dwellings) District, Modified, to the “E-2/S-573a-‘H’” (Multiple Dwellings - Holding), Modified, with a Special Exception and Holding Provision, to permit additional commercial uses and to reduce the parking requirements, on lands located at 480 Stone Church Road East (Hamilton), as shown on Appendix “A” to Report PED11088, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED11088, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the proposal conforms to the Places to Grow Plan, and is consistent with the Provincial Policy Statement.
- (c) That the proposal conforms to the Hamilton-Wentworth Official Plan, and the Hamilton Official Plan.

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- (d) That upon final approval of the implementing By-law, the Butler Neighbourhood Plan be amended to change the designation of the subject lands from “Civic and Institutional” to “Medium Density Apartments”.

**EXECUTIVE SUMMARY**

The purpose of the application is to amend City of Hamilton Zoning By-law No. 6593 to permit additional local commercial uses and to reduce the required parking on lands municipally known as 480 Stone Church Road East (Hamilton) (see Appendix “A”). The recently erected 8-storey building on the subject lands has a total of 63 dwelling units, ground floor commercial space available, and a total of 74 parking spaces on a 4,325.5m<sup>2</sup> parcel of land (see Appendix “C”).

The required modification to accommodate the additional uses, as proposed, requires a reduction in the number of parking spaces provided and a restriction on the size of the residential and commercial uses to be provided on the ground floor. It is recommended that an ‘H’ Holding provision be added to the proposed site-specific zoning to ensure staff’s satisfaction of the parking arrangements provided on site and for a medical, business or professional office use.

The proposal has merit and can be supported since the application is consistent with the Provincial Policy Statement, and conforms to the Growth Plan, Hamilton-Wentworth Official Plan, and City of Hamilton Official Plan. The proposed development is considered to be compatible with, and complementary to, the existing and planned development in the neighbourhood, and represents an efficient use of land and services within the urban boundary.

*Alternatives for Consideration - See Page 14.*

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

**Financial:** N/A.

**Staffing:** N/A.

**Legal:** As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for approval of a change in Zoning.

## **HISTORICAL BACKGROUND**

The applicant has applied for an amendment to re-zone the lands located at 480 Stone Church Road East (Hamilton) (see Appendix "A"), from the "E-2/S-573" (Multiple Dwellings) District, Modified, to the "E-2/S-573a-'H'" (Multiple Dwellings - Holding) District, Modified, with a Special Exception and Holding Provision, in order to permit additional commercial uses, recognize one dwelling unit on the ground floor, and to reduce the existing site-specific parking requirement from 76 to 74 surface parking spaces.

In 2004, the Ontario Municipal Board (OMB) approved an application for Minor Variance (HM/A-03:77) to permit a reduction in the required number of parking spaces from 79 to 76; an increase in the maximum gross floor area (G.F.A.) to 6,947.59m<sup>2</sup>; to permit 2 accessory and incidental commercial uses having 99.0m<sup>2</sup> and 204.0m<sup>2</sup> GFA, respectively, in a multiple dwelling having fewer than 100 dwelling units; to permit access to said retail uses from the exterior of the building; to permit signage for the commercial uses; to permit a reduced side yard setback of 5.85m (north); and to permit a minimum loading space length of 12.0m (see Appendix "D").

A Site Plan Application (DA-06-063) was approved on January 10, 2007, which allowed for the development of the site to proceed accordingly. The existing building is being developed as affordable housing geared to seniors.

The subject application originally sought to expand the range of permitted commercial uses to include the following: financial establishment, health professional, medical office, pharmacy, office, personal services, restaurant, retail, studio and veterinarian's service. Upon further review and discussion with staff, the applicant amended the application to reduce the range of proposed commercial uses and to permit a single medical practitioner, as the other uses may attract customers from beyond the local neighbourhood and would, in turn, cause undesirable demands on the existing parking provided on site and undermine the intent of the zoning change. The owner also agreed to placing restrictions on the gross floor area of the proposed ground floor dwelling unit in order to maintain the general character of commercial uses on the ground floor in a mixed-use building.

In light of the minor variances approved by the OMB in 2004, and the current proposal, the following site-specific regulations are being sought to permit:

- Additional accessory and incidental commercial uses, including: a medical office (a single medical practitioner), a business or professional person's office, and a retail store;

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- The medical office being restricted to one medical practitioner and having a maximum gross floor area of 190m<sup>2</sup>;
- One dwelling unit, having a maximum gross floor area of 111m<sup>2</sup> located on the ground floor; and,
- A total of 74 parking spaces shall be provided at a ratio of 1 space per dwelling unit (64), with 10 parking spaces to be shared between visitor and commercial uses.

The reduction in parking is a result of the construction techniques used for the development of the existing building, which is catered to seniors.

**Chronology:**

- January 26, 2011: Zoning By-law Amendment Application received.
- February 23, 2011: Application deemed complete.
- March 3, 2011: Application circulated.
- March 17, 2011: Circulation of Notice of Complete Application ZAC-11-010 to all residents within 120 metres of subject lands.
- April 6, 2011: Sign Posted.
- May 20, 2011: Notice of Public Meeting circulated to residents within 120m of the subject lands.

**Details of Submitted Application**

**Owner/Applicant:** T. Valeri Construction Limited (Ted Valeri)

**Agent:** Architectural and Planning Initiatives (L. Saplys)

**Location:** 480 Stone Church Road East (Hamilton)

**Description:** Frontage: 110.1 metres

Depth: 43.6 metres

Lot Area: 4,330.3m<sup>2</sup>

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**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Mixed-Use Building	"E-2/S-573" (Multiple Dwellings) District, Modified
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Single-Detached Residential	"D/S-609" (Urban Protected Residential - 1 & 2 Family Dwellings, Etc.) District, Modified
<b>South</b>	Single-Detached Residential	"AA" (Agricultural) District, "D/S-573" (Urban Protected Residential - 1 & 2 Family Dwellings, Etc.) District, Modified, and "D/S-890" (Urban Protected Residential - 1 & 2 Family Dwellings, Etc.) District, Modified
<b>West</b>	Townhouse Residential	"E-2/S-620" (Multiple Dwellings) District, Modified
<b>East</b>	Single-Detached Residential	"C/S-573" (Urban Protected Residential, Etc.) District, Modified

**POLICY IMPLICATIONS**

**Provincial Policy Statement**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with Policy 1.1.3.1 of the PPS, which focuses growth in Settlement Areas, and Policy 1.1.3.3, which states that:

*"1.1.3.3 Planning authorities shall identify and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including Brownfield*

*sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.*

*Intensification and redevelopment shall be directed in accordance with the policies of Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.”*

One of the mandates included in Policy 1.4.3 requires planning authorities to provide an appropriate range of housing types and densities to meet current and future residents by:

“1.4.3.e) *establishing development standards for residential intensification, redevelopment, and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.”*

The application is also consistent with Policy 1.6.2, which promotes the optimal use of the existing infrastructure and public service facilities, which includes subsidized housing, before consideration be given to developing new infrastructure and public service facilities.

In addition, Policy 1.6.5.4, which seeks to provide a range of alternative and sustainable transportation options, and Policy 1.8.1, which promotes the use of public transit and alternative modes of transportation. Given the proximity of the proposal to the existing bus transit network, the proposal is considered consistent with this policy direction.

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

### **Provincial Growth Plan for the Greater Golden Horseshoe**

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). Staff considers the application to be consistent with the policies that manage growth and direct general residential intensification to the built-up areas, as per the Policies contained in Sections 2.2.2 and 2.2.3. Furthermore, the application provides a compatible mix of land uses to support vibrant neighbourhoods within the built boundary.

Accordingly, the proposal conforms to the Growth Plan.

### **Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area

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Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas.

Policy 3.1.1 states that a compact higher density urban form, with mixed-use development along corridors, best meets the environmental, social, and economic principles of sustainable development. Mixed forms of development within an Urban Area is preferable to widespread, low density residential development, and scattered rural development.

Accordingly, the proposal conforms to the Hamilton-Wentworth Official Plan.

**Hamilton Official Plan**

The subject property is designated “Residential” on Schedule “A” Land Use Plan in the former City of Hamilton Official Plan. The proposal seeks to expand the range of commercial uses currently permitted and, as such, the following policies of the Hamilton Official Plan, among others, are applicable to the subject lands:

- “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:*
- iii) *Individual retail or service stores in a multiple dwelling containing at least 100 dwelling units, expressly to serve the occupants therein.*
- A.2.1.6      *Where compatible uses are permitted, to preserve the amenities of and support RESIDENTIAL USES in the area, new development will, subject to the Zoning 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; and,*
- ii) *Not provide outside storage or engage in any use of land in a manner having a detrimental impact on the adjacent RESIDENTIAL USES.*
- A.2.1.13      *Plans for redevelopment will, to the satisfaction of Council, ensure that the RESIDENTIAL character of the area will be maintained or enhanced, and that the redevelopment will not burden existing facilities and services.”*

In addition to the above, Policies A.2.2.35 and 2.2.37 require commercial development to be designed in a manner that mitigates the effects on adjacent residential uses and ensures adequate parking on site. The approved site plan for the subject property

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provides appropriate screening, as well as access, and staff is satisfied that the proposed reduction of 2 parking spaces will continue to fulfil these policy requirements.

In addition, Policy C.7.3. (iv) encourages Council to promote a residential environment that supports the residential conversion of underutilized commercial space, which does not undermine the commercial use/function of the neighbourhood and is consistent with the needs of the community, as in the policies contained within Sub-section A.2.2 Commercial Uses.

The range of additional commercial uses and parking reduction will not create additional burden on the existing facilities. Based on the foregoing, the proposal contributes to a complete community and is in conformity with the Hamilton Official Plan.

### **New Urban Official Plan**

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009, and was approved with modifications by the Minister of Municipal Affairs and Housing on March 16, 2011, but is currently under appeal and is not yet in effect. The subject lands are designated “Neighbourhoods” on Schedule E-1 of the Urban Hamilton Official Plan and permits the existing use.

Section C.4.0 of the Plan considers an Integrated Transportation Network that recognizes the relationship between transportation and land use planning by promoting alternative modes of transportation other than the automobile. As the application is well serviced by the City’s transportation network (see Analysis/Rationale for Recommendation section), staff is of the opinion that the proposed uses support the local infrastructure of the neighbourhood.

Section E.2.6 contains policies with respect to the Neighbourhoods designation, identifying these areas as providing a range of residential, open spaces, commercial areas, and institutional uses. Section E.3.0 contains specific policies of how Neighbourhoods represent the concept of a complete community.

*“E.3.2.1 Areas designated Neighbourhoods shall function as complete communities, including the full range of residential dwelling types and densities, as well as supporting uses intended to serve the local residents.”*

Section E.3.8 further defines the function of Local Commercial uses to ensure that the daily and weekly needs of the residents within the surrounding community are met and that the scale and design are appropriate.

*“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.*”

Throughout Section E.3.8, policy direction outlines that local commercial uses shall be located on the ground floor and residential units above, are small in scale (i.e. limitations on the maximum gross floor area), and have access to arterial roads. However, under Section E.1.0 (f), one of the overall goals of the urban systems and land use designations of the Urban Official Plan includes the promotion and support of design that enhances and respects the character of the existing neighbourhoods. In addition, Section E.3.1.4 states the following goal:

*“E.3.1.4 Promote and support design which enhances and respects the character of existing neighbourhoods, while at the same time allowing their ongoing evolution.”*

Section E.3.2.4, concerning the scale and design of the Neighbourhoods designation, provides:

*“E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 - Residential Intensification and other applicable policies of this Plan.”*

While the application also seeks to permit a dwelling unit on the ground floor, staff is of the opinion that, given its location and size, it will not detract from the remaining commercial uses provided on the ground floor.

Based on the foregoing, the application would conform to the new Urban Official Plan.

## **RELEVANT CONSULTATION**

### **Agencies/Departments Having No Comments/Objections**

- Budgets, Taxation and Policy Services, Corporate Services Department.
- Forestry and Horticulture Section, Public Works Department.
- Growth Management Division, Planning and Economic Development Department.
- Traffic Engineering Section, Public Works Department.
- Bell Canada.
- Horizon Utilities.

**Environment and Sustainable Infrastructure Division, Public Works Department:**

Staff advises that the existing services provided along Upper Wentworth are adequate to support the proposal. As the proposal does not change the amount of permeable surfaces, staff has no concerns from a stormwater management perspective.

**Hamilton Municipal Parking System:**

Staff reviewed the Parking Assessment submitted in support of the application and recommend that the full complement of residential and commercial parking requirements be provided on site. As the location of the subject property is isolated from any alternate off-site parking within the neighbourhood, the site must be able to simultaneously handle the peak parking demands of both the residential and commercial components. Parking staff recognized that the proposed reduction in parking requirements is in keeping with the provisions contained in Section 18A (20) of the Zoning By-law, and have no further concerns.

**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 Plan, the Hamilton-Wentworth Official Plan, and Hamilton Official Plan;
  - ii) It is compatible with the type and form of development in the surrounding neighbourhood; and,
  - iii) It is an appropriate development that will contribute to the range of commercial options available to existing and future residents.
  
2. The subject lands are located at the southeast corner of the intersection of Upper Wentworth and Stone Church Road East, within the Butler Neighbourhood. The existing 8-storey building contains a total of 63 dwelling units, and has been developed as affordable senior's housing with approximately 390m<sup>2</sup> of existing commercial space on the ground floor. The lands have frontage on both arterial roads, although access is restricted to Stone Church Road East. Parking is provided on-site with a total of 74 spaces located primarily in the eastern portion of the site.

The area surrounding the subject property is predominantly residential, consisting of single-detached dwellings to the north, east, and south, and townhouse development to the west. The site is well serviced by an integrated transportation network of arterial roads, transit routes, and dedicated bike lanes.

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3. Staff has been advised that the owner of the subject lands has had difficulty leasing the commercial space within the existing building due, in part, to the limited range of commercial uses currently permitted by the current Zoning District, the uses of which were passed on July 25, 1950. Such commercial uses include a shoe shine parlour, a tobacconist and news dealer, a valet service, and an automatic vending machine, among others. In review of the application and further discussions with staff, the owner has agreed to amend the application to include only office and retail uses that would serve the existing apartment building and generate local trips, including pedestrian or bicycle modes of transportation. These uses could include a professional office, such as an accountant or financial planner, a medical office, and a pharmacy.

While the current zoning does not restrict the location of the residential units to be on a certain floor of the multiple dwelling, the OMB Decision restricts the total number of units within the building to 63. Staff has determined that it is prudent to restrict the size of the residential unit on the ground floor in light of the new Urban Official Plan policies that encourage commercial uses on the ground floor of multiple dwellings.

Staff considers that the amended application is acceptable, and is both compatible with the surrounding area and conforms to the Official Plan policies regarding residential developments.

4. The existing site-specific zoning for the subject lands requires 76 parking spaces. During the detailed architectural design for the building, the structural engineering plans were revised, resulting in a modification to the internal building support structure and the applicant's request to delete 2 parking spaces. As such, 74 parking spaces are proposed, which would be used by the residents, visitors, and/or customers for the commercial uses in the building. The parking space dimensions identified in the approved Site Plan (DA-06-063) are consistent with the provisions of Hamilton Zoning By-law 05-200 and, therefore, have been included in the proposed site-specific By-law requirements.

The provisions of Zoning By-law 6593 require 1.25 parking spaces per dwelling unit, of which the 0.25 spaces/unit are intended to be used for visitor parking. On this basis, 64 of the 74 parking spaces on the subject lands are required for the residents and the remaining 10 spaces are to be used for visitor parking. Retail uses less than 450m<sup>2</sup> in area are not required to provide on-site parking. Office uses require 1 space per 31.0m<sup>2</sup> of floor area and medical offices require parking to be provided at a rate of 1 space per 19.0m<sup>2</sup> of floor area. The proposed By-law provides a restriction of 190m<sup>2</sup> of gross floor area for medical office uses, in which case, 10 parking spaces are required.

Further, Section 18A of Hamilton Zoning By-law 6593 states the following:

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*“18 A (20) Where a building or structure is comprised of a joint residential use and a commercial use,*

- (a) the aggregate of the required residential and commercial parking spaces may be reduced by not more than 20% of either the required residential parking spaces or the required commercial parking spaces, whichever is the lesser only if,*
  - (i) the number of parking spaces equal to the amount of the reduction are accessible to both the residential and commercial uses at all times; and,*
  - (ii) not less than 80% of the parking spaces accessory to the residential uses are fully and completely separated from parking spaces accessory to the commercial uses; and,*
- (b) the number of the required loading spaces for the commercial uses may be reduced by 50% of the required number of loading spaces for the residential uses.”*

The required/provided parking requirement under the proposed arrangement is as follows:

<b><u>PROPOSED USE</u></b>	<b><u>REQUIRED PARKING</u></b>	
Residential Apartments	76	
Medical Office	10	(190m <sup>2</sup> /19m <sup>2</sup> )
<b>Subtotal</b>	<b>86</b>	
20% Reduction	2	
<b>TOTAL REQUIRED PARKING</b>	<b>84</b>	
<b>On Site Parking</b>	<b>74</b>	
<b>Deficiency</b>	<b>10</b>	

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The Parking Assessment - Final Report, provided by the owner in support of the proposal, considered the local area conditions, development concept, parking assessment, and provided conclusions, including measures to mitigate parking demands. In the Report's Conclusion section, additional parking management measures were recommended to mitigate on-site parking demands, including the provision of high turnover visitor parking, the assignment of parking stalls to individual apartment dwellers, provision of bike lockers and bike racks to support cycling, and the provision of public transit incentives for residents (i.e. subsidized monthly transit passes). Through the site plan process, the owner has agreed to implement high turnover visitor parking, the assignment of parking stalls, and the installation of bike racks on the subject property.

Staff is of the opinion that a shared parking scenario, in which residential visitor parking spaces could also be used to meet the commercial demand during regular business hours, is an acceptable mitigation technique in this situation. Such an arrangement would likely cater to specific commercial uses, such as an office or a medical practitioner.

With respect to the impact of parking, staff recognizes that both Upper Wentworth Street and Stone Church Road East are designated arterial roads, and that alternative on-street parking is not a viable option for residents or customers accessing the subject property. However, staff notes that the subject property is currently serviced by 2 Hamilton Street Railway (HSR) routes, having 6-day service provided on Stone Church Road East, and 7-day service on Upper Wentworth Street. Stone Church Road East is a designated bicycle route with dedicated on-street lanes in both directions.

As stated previously, the OMB issued a decision that a total of 76 parking spaces were sufficient for the subject building being comprised of 63 dwelling units with commercial uses on the ground floor. The subject application is proposing to add only 1 additional residential unit and expand the range of commercial uses currently permitted.

In order to ensure that parking is provided in an acceptable manner, an 'H' Holding provision has been applied on the lands to require the completion of a site plan amendment application should a medical, business, or professional office use be established within the building. Additional restrictions have been imposed on the medical office to limit the use to 1 health practitioner and to limit the size to a maximum gross floor area of 190m<sup>2</sup>.

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In light of the above, staff is of the opinion that suitable alternatives to personal vehicle use are available to mitigate on-site parking pressures, and the proposed commercial uses will serve the needs of the surrounding area and are not destination-oriented uses. Therefore, the proposed parking reduction may be supported.

5. The Butler Neighbourhood Plan, approved by Council in June, 1976, provides guidance for the future development of the subject lands and the surrounding lands within the former City of Hamilton. This particular Neighbourhood Plan includes a land use map and, in order to recognize the existing building, the Plan should be amended to designate the subject lands (see Appendix "A") from "Civic and Institutional" to "Medium Density Apartments".
6. In accordance with the new provisions of the Planning Act, and Council's Public Participation Policy, a Preliminary Circulation was sent to 322 property owners within 120 metres of the subject lands, and a Public Notice sign was placed on the property. In response to the preliminary notice of circulation, 2 letters were received from adjacent residents (see Appendix "E").

The letters raised concerns with regard to the definition of commercial uses sought through the subject application and the resulting impact on the enjoyment of their property. Since that time, the residents have met with the owner and Ward Councillor, and the owner agreed that some lending financial establishments would not be included in the list of permitted uses. As result, the definition of business office has been amended to exclude financial lending institutions.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the applicant has the option of using the property for the uses permitted in the "E-2/S-573a-'H'" (Multiple Dwellings - Holding), Modified, which provides for a range of residential and limited commercial uses.

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

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

**Social Development**

- ◆ Everyone has a home they can afford that is well maintained and safe.
- ◆ Residents in need have access to adequate support services.

**Environmental Stewardship**

- ◆ Reduced impact of City activities on the environment.

**Healthy Community**

- ◆ An engaged Citizenry.
- ◆ Plan and manage the built environment.
- ◆ Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services).

**APPENDICES**

- Appendix "A": Location Plan
- Appendix "B": Draft Zoning By-law Amendment (By-law 6593)
- Appendix "C": Concept Plan
- Appendix "D": Ontario Municipal Board Decision/Order 0307
- Appendix "E": Public Comments

:DM

Attachs. (5)



● Site of the Application



Ward 7 Key Map

N.T.S.



# Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC-11-010

Date:  
March 7, 2011

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
DM/MB

### Subject Property



480 Stone Church Road East



**Authority:** Item [REDACTED]  
Planning Committee  
Report 11-[REDACTED] (PED11088)  
CM: [REDACTED]

**Bill No.** [REDACTED]

## CITY OF HAMILTON

### BY-LAW NO. [REDACTED]

#### **To Amend Zoning By-law No. 6593 (Hamilton) Respecting Lands located at 480 Stone Church Road East, in the City of Hamilton**

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

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

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

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

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 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 Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982.

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

1. That Sheet No. E-27C of the District maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), is amended by changing the zoning from the "E-2/S-573" (Multiple Dwellings) District, Modified, to the "E-2/S-573a-'H'" (Multiple Dwellings - Holding) District, Modified, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".
2. That the "E-2" (Multiple Dwellings) District regulations, as contained in Section 11 B of Zoning By-law No. 6593, are modified to include the following special requirements:
  - (a) Notwithstanding Section 11 B (1) (ix) of Zoning By-law No. 6593, a Medical Office, Business Office, Professional Office, and Retail Use, except for a business that buys precious metals or sells or lends money, shall also be permitted in the building existing at the date of passage of this by-law, being the [REDACTED] day of [REDACTED], 2011.
  - (b) Notwithstanding Section 11 B (1) (ix) of Zoning By-law No. 6593, a Medical Office for an individual who practices any of the health disciplines regulated under a Provincial Act, such as, but not limited to, a physician, dentist, optometrist, physiotherapist, chiropractor, or psychologist, shall be restricted to 1 practitioner and a maximum gross floor area of 190.0 square metres.
  - (c) Notwithstanding Section 11 B (5) of Zoning By-law No. 6593, the commercial uses shall be restricted to the ground floor and comprise a maximum gross floor area of 280.0 square metres.
  - (d) Notwithstanding Section 11 B (5) of Zoning By-law No. 6593, a total of 64 residential units shall be permitted.
  - (e) Notwithstanding Section 11 B (5) of Zoning By-law No. 6593, a residential unit provided on the ground floor shall be restricted to a maximum gross floor area of 111.0 square metres.
  - (f) Notwithstanding Section 18 A (1) (c) of Zoning By-law No. 6593, a minimum of 74 parking spaces shall be provided and maintained, of which 64 parking spaces shall be exclusively used for the residential units, and shall be fully and completely separated from the remaining 10 parking spaces that may be used for visitor parking or the commercial uses permitted on the subject property.
  - (g) Notwithstanding Section 18 A (7) of Zoning By-law No. 6593, the minimum dimensions of a parking space, other than a parallel parking space, shall be 2.6 metres in width by 5.5 metres in length.

- (h) Notwithstanding Section 18 A (8) of Zoning By-law No. 6593, the minimum dimensions of a parallel parking space shall be 2.4 metres in width and 6.7 metres in length.
- 3. That the amending Zoning By-law apply the Holding provisions of Section 36 (1) of the Planning Act, R.S.O., 1990 to the subject lands identified in Section 1 of this by-law by introducing the Holding symbol 'H' as a suffix to the proposed Site-Specific (Multiple Dwellings) District.

The Holding provision "E-2/S-573a-'H'" will prohibit the use of the subject lands for a medical office, business office, or professional office, until such time that the owner has applied for and received final approval for a Site Plan Amendment application, to the satisfaction of the Manager of Development Planning.

City Council may remove the 'H' symbol, and thereby give effect to the "E-2/S-573a" (Multiple Dwellings) District, by enactment of an amending By-law once the above condition has been fulfilled.

- 4. That no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "E-2" (Multiple Dwellings) District provisions, subject to the special requirements referred to in Section 2 of this by-law.
- 5. That By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19 B as Schedule S-573a.
- 6. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the Planning Act.

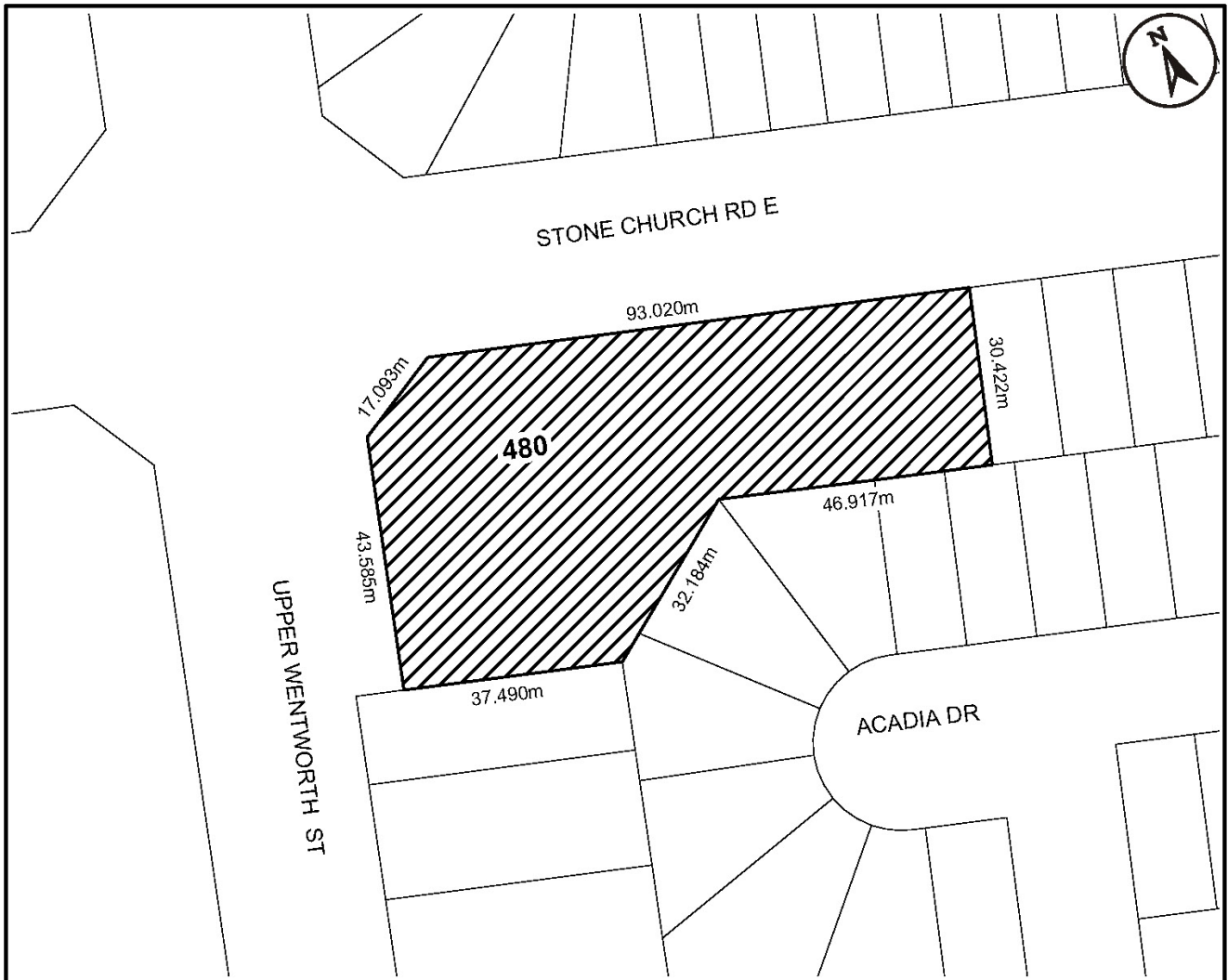
**PASSED and ENACTED** this [redacted] day of [redacted], 2011.

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R. Bratina  
Mayor

---


R. Caterini  
Clerk



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

-----  
 Clerk  
 -----  
 Mayor

**Schedule "A"**  
 Map Forming Part of  
 By-Law No. 11-\_\_\_\_\_  
 to Amend By-law No. 6593

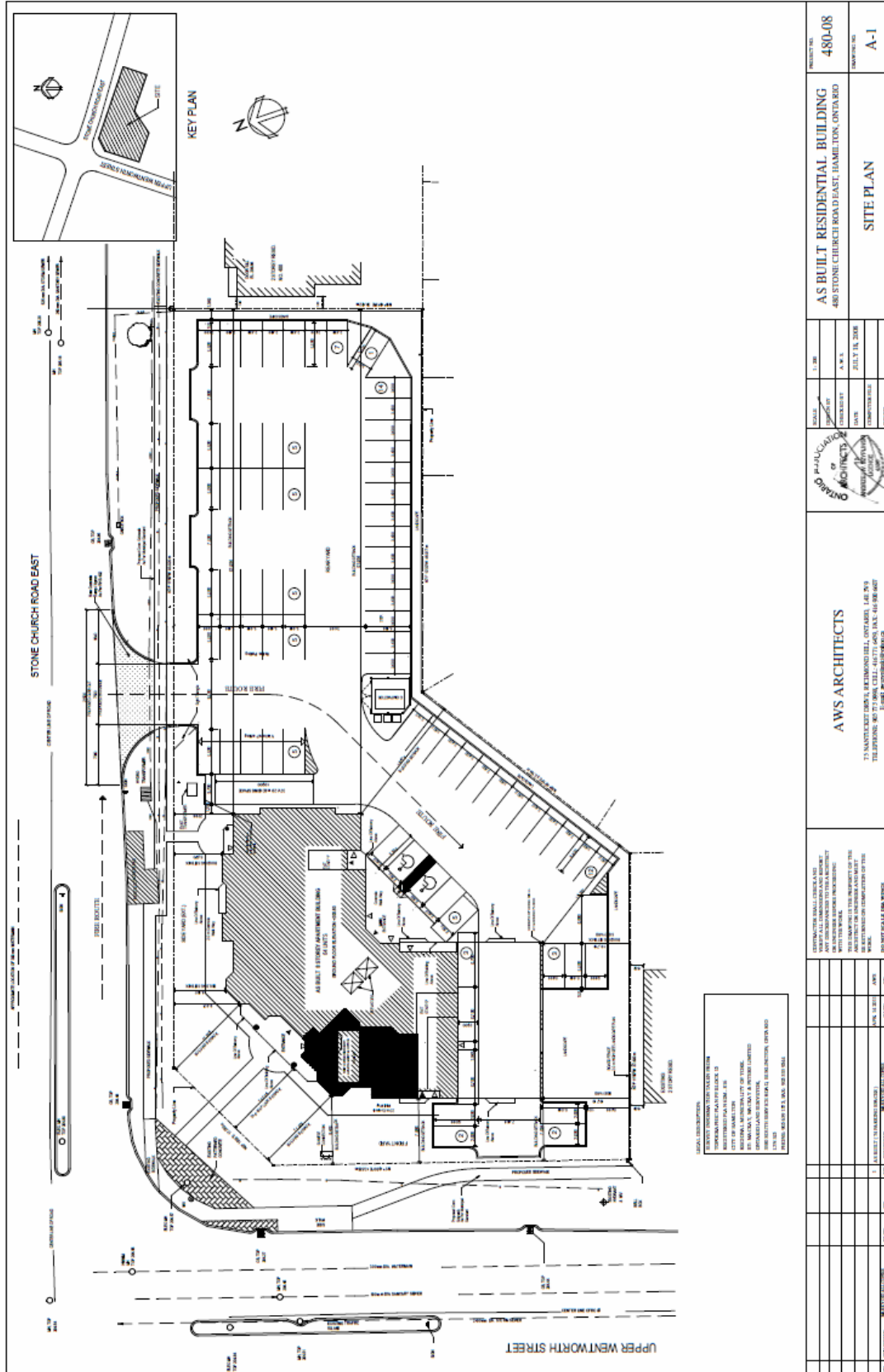
**Subject Property**  
 480 Stone Church Road East, Hamilton  
 Change in Zoning from the "E-2/S-573" (Multiple Dwellings) District, Modified to the "E-2/S-573a-'H'" (Multiple Dwellings-Holding) District, Modified

Scale:  
 N.T.S.  
 Date:  
 May 10, 2011

File Name/Number:  
 ZAC-11-010  
 Planner/Technician:  
 DM/AL



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT



THIS PLAN IS A PRELIMINARY DESIGN AND SHOULD NOT BE USED FOR CONSTRUCTION WITHOUT THE APPROVAL OF THE MUNICIPALITY. THE CLIENT ACCEPTS FULL RESPONSIBILITY FOR THE ACCURACY OF THIS PLAN AND THE INFORMATION PROVIDED HEREON. THE ARCHITECT ASSUMES NO LIABILITY FOR THE CONSTRUCTION OF THIS PLAN OR THE INFORMATION PROVIDED HEREON.

<p><b>AWA ARCHITECTS</b>                  15 HANCOCK STREET, BRIMLEYVILLE, ONTARIO, L4R 9J9                  TEL: (905) 881-1111 FAX: (905) 881-1112                  E: info@awarchitects.com</p>		<p>DATE: JULY 14, 2008                  SCALE: 1/8" = 1'-0"</p>	<p>PROJECT NO: 480-08                  SHEET NO: A-1</p>
<p><b>AS BUILT RESIDENTIAL BUILDING</b>                  488 STONE CHURCH ROAD EAST, HAMILTON, ONTARIO</p>		<p><b>SITE PLAN</b></p>	

ISSUE DATE:  
**Feb. 23, 2004**  
DECISION/ORDER NO:  
**0370**



PL030614

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

Valery Construction Limited has appealed to the Ontario Municipal Board under section 45(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from a decision of the Committee of Adjustment of the City of Hamilton which dismissed an application numbered A77-03 for variance from the provisions of By-law 6593, as amended, respecting 480 Stone Church Road East  
O.M.B. File No. V030306

Valery Construction Limited has appealed to the Ontario Municipal Board under section 41(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, for the determination and settlement of details of a site plan for lands composed of 480 Stone Church Road, in the City of Hamilton  
O.M.B. File No. M030093

**APPEARANCES:**

**Parties**

Valery Construction Limited

**Counsel**

M. Rudolph

**MEMORANDUM OF ORAL DECISION DELIVERED BY N. M. KATARY ON  
FEBRUARY 11, 2004 AND ORDER OF THE BOARD**

At the commencement of the hearing, two residents of the relevant neighbourhood stated that they wanted to express their concerns and sought participant status. They were granted participant status.

There are two matters before the Board, namely, an application for seven (7) variances and a Site Plan.

The proposal is to construct an eight (8) storey, sixty-three (63) dwelling unit apartment building at the southeast corner of Stone Church Road and Upper Wentworth Street in an area municipally known as Hamilton Mountain Area. In order to do so seven variances and a Site Plan approval are required.

The property is zoned "E-2" (Multiple Dwellings) District that permits eight storey high apartment buildings.

The applicant stated that the following are the variances being requested:

1. To provide 76 parking spaces instead of the required 79 spaces;
2. To provide a gross floor area of 6,947.59 sq. m. instead of the maximum permitted 5,147.35 sq. m.;
3. To permit accessory and incidental retail uses within a multiple dwelling notwithstanding that the proposed multiple dwelling has 100 or fewer dwelling units;
4. To permit access to the accessory and incidental retail uses from the exterior of the building notwithstanding that access must be from the interior of the building;
5. To permit the indication of the existence or availability of such uses by way of signage, display or visibility notwithstanding that this is not permitted;
6. To provide a side yard set back of 10.65 m. (south) and 5.85 m. (north) whereby the minimum required has been assessed to be 10.65 m. (both north and south); and
7. To provide a 12.0 m. loading space instead of 18.0 m.

In the light of the provision of two (2) more parking spaces than the original application contemplated thereby requiring less of a variance on this matter, the Board finds that there is no need for a new notice on this matter.

The two participants gave evidence in opposition to the two applications for variances and the Site Plan.

Mr. John S. Ariens, a land use planner, and Mr. Linas B. Saplys, an architect, gave evidence in support of the two applications.

Using a set of photographs (Exhibits 5 A through E), Mr. Harris, who lives in a property that abuts the subject parcel to the south, stated that given the small size of the parcel the proposed multiple dwelling building would stand out like a sore thumb. He was forthright in stating, "My main concern is that I do not want to live next to an apartment building." He was also concerned about the potential of headlights shining

into the windows in his house because of the location of the proposed parking lot next to his rear yard. Mr. Harris expressed the view that property values in the neighbourhood would go down if the multiple dwelling was erected but provided no empirical evidence to demonstrate his view.

During cross-examination, Mr. Harris stated, "A board on board fence would be acceptable to prevent any impact by headlights. I prefer larger sized rental apartment units and I understand that you could reduce the gross floor area and keep the number of units [at 63]. The people in our neighbourhood were under the impression that only single family homes would go on the site because we all were told so by our [respective] real estate agents."

Ms Stula who lives in a property that abuts the subject site to the south, stated that proposed parking would be inadequate in light of the elementary and high schools nearby and because of the proposed retail uses on the first floor of the proposed multiple dwelling. She was also concerned about headlights penetrating the windows in her house and wondered about the potential damage to her swimming pool if there was any blasting done on site.

Using a set of documents including a site plan (Exhibits 1 and 3), the land use planner explained in detail the nature of the variances, why they are required, and the potential adverse impacts. He explained that the Zoning By-law does not require parking spaces for the proposed retail uses. He stated that the potential of overflow parking from the site spilling over to the neighbourhood to the south was unlikely because anyone parking in the neighbourhood would have to walk around the proposed fence to reach the uses in the building. He concluded his evidence by stating that the proposed Site Plan was appropriate for the site and that the variances requested met the tests set out in the *Planning Act*.

Using a set of drawings and elevations (Exhibit 1, Tab 3), the architect detailed elements of the built form including the views from different angles. He explained that the building had no basement but was a slab on grade construction and therefore no blasting would occur and that the contractor was required to do a pre-construction and post-construction survey of adjacent buildings to determine if the construction did any



damage to adjacent buildings. The architect was of the view that the proposed design was appropriate for the site.

The planner and the architect were cross-examined by the two participants. Their opinions were not shaken. Also, their opinions were not contradicted by any other duly qualified and experienced professional witnesses.

The Board is persuaded by the opinions of the planner and the architect because they are rooted in experience.

Based upon an analysis of all of the evidence, the Board that the variances requested meet the four tests set out in Section 45(1) of the *Planning Act*.

Accordingly, the Board allows the appeal and authorizes the variances requested.

On the matter of the Site Plan the Board adjourns the hearing until the applicant advises the Board on how the details have been resolved with the City. The Applicant is to advise the Board on or before 6 months from the date of issue of this decision.

The Board so Orders.

N. M. KATARY  
MEMBER

F. G. FARRELL  
MEMBER

March 29, 2011

RECEIVED MAR 29 2011

Hamilton City Hall  
71 Main Street West  
Hamilton, ON L8P 4Y5

Attn: City Clerk, Planning Committee (1stFlr)  
Attn: Jason Thompson, Sr. Project Mgr., Development Planning, West Section (5thFlr)  
Attn: Delia McPhail, Planning & Economic Development  
Attn: Adam Millington, Property Co-Ordinator, Real Estate Section

Re: File No. ZAC-11-010

Re: Notice of Complete Application & Preliminary Circulation for Zoning By-law Amendment by T.Valeri  
Construction – 480 Stone Church Rd E

Re: Proposed sidewalk connection

In response to your March 17<sup>th</sup> Notice, as voters, property owners and residents of 1361 Upper Wentworth Street (150ft along south side of 480 Stone Church Rd E) we are obviously very concerned. We had hoped that City Hall would act on the best interest of all parties but that has not been the case. As a matter of fact our rights to enjoyment of property over the past two years have been seriously violated. We are not taking these violations lightly.

We wish to be notified of ALL activities, proposals, amendments, and approvals, as well as appeals etc. related to 480 Stone Church Rd E. We reserve the right as taxpaying citizens of Hamilton, to voice our opinion and have our concerns addressed and taken seriously. Please note that we are not well versed in the political jargon of City Hall and therefore ask that any omissions by us related to 480 Stone Church Rd E not be taken as meeting our approval.

John Chioini, Rose Chioini, Gabriel Chioini, Crystal Chioini, Daniel Chioini, Mike McGimpsey  
1361 Upper Wentworth St., Hamilton, ON L9B 1P2

Contact person: Rose Chioini

Cc: Mayor Bob Bratina, Councillor Scott Duvall

APR 6 - 2011

April 6, 2011

Hamilton City Hall  
71 Main Street West  
Hamilton, ON L8P 4Y5

Attn: City Clerk, Planning Committee (1stFlr)  
Attn: Jason Thompson, Sr. Project Mgr., Development Planning, West Section (5thFlr)  
Attn: Delia McPhail, Planning & Economic Development  
Attn: Adam Millington, Property Co-Ordinator, Real Estate Section

Re: File No. ZAC-11-010

Re: Notice of Complete Application & Preliminary Circulation for Zoning By-law Amendment by T.Valeri  
Construction – 480 Stone Church Rd E

Re: Proposed sidewalk connection

Further to our letter of March 29<sup>th</sup> regarding our concern with proposed zoning changes to 480 Stone  
Church Rd E. and sidewalk connection

We cannot understand how the City Hall expects ordinary citizens to agree to proposed zoning changes based on a letter simply listing commercial uses. We have no idea what City Hall definition of these uses are. How are we to know what impact these businesses will have on our immediate and/or future physical, mental, or financial health, or whether our property value will decrease now or in future.

We are not engineers nor environmental or health specialists, nor do we have a lawyer in the family as yet. There are no details given, and no definition of what these commercial uses are in particular, nor the size, hours of operation, etc. Are these uses going to attract vandals? Do they encourage loitering and tagging? What about increased pedestrian and vehicular traffic? What about delivery trucks? What about noise, odours, and fumes from equipment, commercial exhaust fans, etc.? What about carcinogens? Will City Hall guarantee we will not be adversely affected by any of these establishments? For all we know someone in City Hall may revisit the idea of cleaning up the downtown core by moving strip clubs, bawdy houses, halfway houses, and addiction clinics on the central mountain. What guarantee do we have that years from now a City Hall staff member doesn't interpret your so-called "Personal Services" as including a bawdy house, if it isn't already.

Financial Establishment... a Bank or Credit Union or a Money Mart/Cash Store type or maybe you mean a pawn shop or a gaming house. Given Hamilton's reputation of bank robberies (some armed), are we actually safe? What kind of people will this business attract? Will we be hearing alarms day and night, or cars driving thru plate glass windows hauling out safes? Will there be 24hr traffic coming and going and lights on all night?

## Appendix "E" to Report PED11088 (Page 3 of 3)

Health Professionals, Medical Offices, Pharmacies - translation: drugs drugs and more drugs, narcotics, chemicals, traffic, traffic, and more traffic, germs, germs, and more germs... you can get sick just being in the doctors waiting room why would anyone want to live next door to any place that's in the business of drawing in the sick. No way we want anything with X-Rays or radiation going on next door to us, and there are at least a dozen pharmacies within walking distance already... we do not want nor need more. Addicts have robbed, injured, and even killed to get drugs alcohol or even a few dollars to buy them. We don't want them any where near us, thank you very much.

Studio - Studio? What's a studio? Music studio? Art Studio? Photo Studio? Studio apartment?

Veterinarian – Seriously?! We have more than enough dogs barking out of control in this neighbourhood and excrement everywhere. Drugs, chemicals, fleas, and heaven forbid, euthanasia and/or cremation of loving pets, going on right next door... no thank you.

As mentioned in our letter of March 29<sup>th</sup>, we feel City Hall has not acted in the best interest of Hamilton citizens in the past and they certainly have lost our confidence. We believe City Hall should be held accountable for its actions and that they not only should but that they have an obligation to ensure that our rights are not being violated and that taxpayer dollars are not being wasted by mistakes, oversights, omissions, inflated egos, or incompetence. Case in point 480 StoneChurchRdE's sidewalk to nowhere, confirming that no one really knows what the heck they are doing in City Hall and that they simply don't care. The sidewalk situation could have totally been prevented but now we have to pick up the pieces and fix the situation caused by City again.

We should not have to even be going through the stress and anxiety of having to ask these questions of City Hall. If City Hall isn't aware themselves that these commercial zoning changes will impact us then how can they expect us to know? Every member of City Hall involved should put themselves in our place. It's just common sense that we would not want these increases in commercial use next to us no more than they would next to their current residence.

As you can see, we are very concerned. We don't even know what questions we should be asking and by not asking questions then are we simply left to face the consequences when things affect us. Isn't anyone at City Hall accountable to us as taxpaying property owners and voters? We do know this though... we have rights, and we will no longer silently stand by and allow those rights to be violated or ignored. We always thought City Hall was there for the people not against the people.

John Chioini, Rose Chioini, Gabriel Chioini, Crystal Chioini, Daniel Chioini, Mike McGimpsey

1361 Upper Wentworth St., Hamilton, ON L9B 1P2

Contact person: Rose Chioini -

Cc: Mayor Bob Bratina, Councillor Scott Duvall