



CITY OF HAMILTON

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division**

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 7
COMMITTEE DATE: February 5, 2013	
SUBJECT/REPORT NO: Application for Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 489 Concession Street (Hamilton) (PED13021) (Ward 7)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Daniel Barnett (905) 546-2424 Ext. 4445
SIGNATURE:	

RECOMMENDATION

That approval be given to **Zoning Application ZAR-12-032, by 1825306 Ontario Limited, Owner**, for a change in zoning from the Community Shopping and Commercial “H/S-726” District, Modified, to the Community Shopping and Commercial “H/S-1663” District, Modified, to relocate a commercial unit from the northerly building, at the rear of the property, to the southerly building, at the front of the property; and to relocate 1 residential unit from the southerly building, at the front of the property, to the northerly building at the rear of the property, on lands located at 489 Concession Street (Hamilton), as shown on Appendix “A” to Report PED13021, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED13021, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the amending By-law be added to Section 19B of Zoning By-law No 6593 as “H/S-1663”.
- (c) That By-law 81-21 (Site-Specific Zoning “H/S-726”), be Repealed in its entirety.

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- (d) That the proposed change in zoning is consistent with the Provincial Policy Statement, conforms to the Places to Grow Plan, and is in conformity with the Hamilton-Wentworth Official Plan, the City of Hamilton Official Plan, and New Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

The purpose of this application is to further modify the existing site-specific zoning in order to allow for the re-location of a commercial unit from the rear, northerly building, to the front southerly building, and a corresponding re-location of a residential unit from the front, southerly building, to the rear, northerly building (see Appendix “C”).

The proposal has merit and can be supported, as it is consistent with the Provincial Policy Statement, conforms to the Places to Grow Plan, the Hamilton-Wentworth Official Plan, and the City of Hamilton Official Plan. The proposed re-zoning is considered to be compatible with existing development in the surrounding area.

The site-specific modifications are required in order to recognize the existing parking situation in terms of the number of spaces and manoeuvring space, to establish a parking space length consistent with the new City of Hamilton Zoning By-law 05-200, to recognize the existing setback deficiencies of the rear (northerly) building, to recognize the existing lot frontage deficiencies of the property, and to recognize that there are two principal buildings existing on the property.

Alternatives for Consideration - See Page 17.

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

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 (Chronology of events)

Rezoning Application ZA-80-78:

In 1980, an application to rezone the property at 489 Concession Street was submitted to the City of Hamilton to permit 3 dwelling units within the existing southerly building, and 1 dwelling unit and a commercial unit within the existing northerly building. On

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January 13, 1981, Council of the City of Hamilton passed By-law 81-21 to permit the proposal.

Minor Variance Application HM/A-12:155:

On June 11, 2012, the applicant submitted an application for minor variances in order to relocate the commercial unit from the rear, northerly building, to the front, southerly building; to relocate a residential unit from the front, southerly building, to the rear, northerly building; and to legalize existing deficiencies in the number of parking spaces and the manoeuvring space of the parking area. Staff comments with respect to the proposed variances were not in support, as it was the opinion of staff that the requested variances exceeded the scope of a minor variance and did not maintain the intent and purpose of the site-specific Zoning By-law (see Appendix "E"). The application was tabled at the Committee of Adjustment Meeting of July 12, 2012, in order to allow the applicant to undertake further discussions with staff. The application was brought back on July 26, 2012, and was Denied by the Committee of Adjustment. The position of the Committee of Adjustment was that the relief requested was not minor in nature, and that the development was more appropriately addressed through the re-zoning process (see Appendix "F").

Proposal:

The subject property is zoned "H/S-726" (Community Shopping and Commercial, etc.), District, Modified (see Appendix "D"), and the applicant is proposing to relocate the commercial unit to the front building with a corresponding re-location of a residential unit to the rear building. The total number of residential units will not change. The subject property has a lot frontage of 10.16m and lot area of 418.1 sq. m. The subject property has two buildings on-site; one located at the front of the property adjacent to Concession Street, which contains 3 dwelling units; and the other building, located at the rear of the property, contains 1 dwelling unit and 1 commercial unit (see Appendix "C").

In addition, as a result of the review of the application, additional variances have been identified to recognize the existing "as built" conditions:

- Recognize that 3 parking spaces exist on-site, whereas 4 are required;
- Increase in on-site manoeuvring space from 4.6m to 5.1m, whereas 6m is required;
- Establish a minimum parking space length of 5.5m, whereas 6m is required;
- Recognize that a minimum easterly side yard setback of 0m will be maintained, whereas 1.2m is required;

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- Recognize that a minimum westerly side yard setback of 0.4m will be maintained, whereas 1.2m is required;
- Recognize that a minimum rear yard setback of 0m will be maintained, whereas 7.5m is required;
- Recognize that a minimum lot width of 10.1m will be maintained, whereas 12m is required; and,
- Permit a second principal building, whereas a residential building is not permitted on a lot with any other building other than an accessory building.

Chronology:

- January 13, 1981: Zoning By-law No. 81-21 is passed.
- June 11, 2012: The applicant applied for a minor variance in order to relocate the commercial use from the north building to the south building, relocate a residential unit from the south building to the north building, and reduce the required parking and on-site manoeuvring space.
- July 26, 2012: The application was heard before the Committee of Adjustment and was Denied by the Committee on the basis that the proposal was more appropriately addressed through an application for rezoning.
- August 10, 2012: The applicant submitted an application for re-zoning in order to relocate the commercial use from the north building to the south building, a residential unit from the south building to the north building, and reduce the required parking and on-site manoeuvring space.
- September 7, 2012: The application for re-zoning was deemed to be complete.
- September 21, 2012: Notice of Complete Application was mailed to all residents within 120m of the subject property.
- September 28, 2012: The public notice sign was posted on the subject property.

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Details of Submitted Application

Location: 489 Concession Street (Hamilton)
Owner: 1825306 Ontario Limited
Applicant: Eric Canton, Virtual Creations Inc.

Property Description: Frontage: 10.16m
 Lot Depth: 41.15m
 Area: 418.1 sq. m.

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	A Mixed-Use Building at the Rear, and a 3 Unit Residential Building at the Front	Community Shopping and Commercial "H/S-726" District Modified
<u>Surrounding Lands:</u>		
North	Single Detached Residential Dwelling	Urban Protected Residential "C" District
South	Pharmacy	Community Shopping and Commercial "H/S-1554a" District
East	Mixed-Use Building	Community Shopping and Commercial "H" District
West	Mixed-Use Building	Community Shopping and Commercial "H" District

POLICY IMPLICATIONS

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).

"2.2.2 Managing Growth

1. Population and Employment growth will be accommodated by:

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- a) Directing a significant portion of new growth to the built-up areas of the community through intensification.
- d) Reduce dependence on the automobile through the development of mixed-use transit-supportive, pedestrian friendly urban environments.
- j) Directing major growth to Settlement Areas that offer municipal water and wastewater systems, and limiting growth in Settlement Areas that are serviced by other forms of water and wastewater services.”

As the proposal is to relocate the mixed-use building from the rear of the property to the front, the proposal will improve the transit-supportive, pedestrian friendly urban environment along Concession Street. Therefore, the proposal conforms to the policies of the Places to Grow Plan.

Provincial Policy Statement:

The application has been reviewed with respect to the Provincial Policy Statement (PPS) policies that contribute to the development of healthy, liveable, and safe communities, as contained in Section 1.1.1.

“1.1.3.1 Settlement Areas shall be the focus of growth, and their vitality and re-generation shall be promoted.

1.1.3.2 Land use patterns within Settlement Areas shall be based on:

- a. Densities and a mix of land uses which:
 - 1) Efficiently use land and resources;
 - 2) Are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion.
- b. A range of uses and opportunities for intensification and re-development in accordance with the criteria in Policy 1.1.3.3.

1.6.5.4 A land use pattern, density, and mix of uses should be promoted that minimize the length and number of vehicle trips, and support the development of viable choices and plans for public transit and other alternative transportation modes, including commuter rail and bus.”

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As the subject property is located within the Urban Area, and as the proposal is to relocate the mixed-uses currently within the building at the rear to the front of the property, the proposal will support public transit and alternative transportation modes, and will be consistent with the Provincial Policy Statement.

Hamilton-Wentworth Official Plan:

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan.

“C-3.1 A wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Area. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. Accordingly, the Plan establishes a land use strategy for the Urban Area that consists of:

- Compact urban form, including mixed-use areas;

C-3.1.1 A compact higher density urban form, with mixed-use development in identified regional and municipal centres and 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, because:

- Higher density development can reduce per capita servicing costs, and makes more efficient use of existing services;
- Efficient and affordable public transit systems can be established;
- A compact community makes walking and bicycling more viable options for movement.”

As the subject property is located within the Urban Area, and as the proposal is to relocate the mixed-use building from the rear to the front of the subject property, the proposal will improve the viability of the mixed-use building and, therefore, make more efficient use of the public transit system and improve walking and bicycling options. Consequently, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

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City of Hamilton Official Plan:

The subject property is designated “Commercial” in the City of Hamilton Official Plan.

“A.2.2.1 The primary uses permitted in the areas exceeding 0.4 hectares designated on Schedule “A” as “Commercial” will be for Commerce. In this regard, Commerce is defined as establishments involved in the buying and selling of goods and services; business offices, and hotels, convention and entertainment facilities. In addition to the primary permitted uses, the following may be permitted within “Commercial” areas, provided that they have been designated in the Neighbourhood Plan.

- i) Residential uses subject to the following provisions:
 - a) Access drive and parking will be screened and/or buffered such that noise, light, or undesirable visual impacts emanating from neighbouring Commercial Uses are mitigated.
 - b) Any impacts emanating from adjacent Commercial Uses, which will detract from the amenity of the Residential Use, will be minimized.”

The existing property contains both residential units and a commercial unit, and the proposal will maintain the mixed-use nature of the property. Furthermore, as the proposal is to relocate the commercial unit to the front southerly building and a residential unit to the rear northerly building, the viability of the commercial unit will be improved, and the residential unit will be better buffered from adjacent Commercial uses. Therefore, the proposal conforms to Policy A.2.2.1 of the City of Hamilton Official Plan.

“A.2.2.14 The extended “Commercial” category applies to existing stretches of individually managed Commercial establishments located along Arterial Roads, serving both pedestrian and automobile borne trade. It consists of:

- i) “Ribbon” Commercial uses on smaller lots serving predominately residents and pedestrians in the vicinity, with some specialized Commercial uses attracting automobile borne traffic from beyond the local area.

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A.2.2.15 Council recognizes Extended Commercial areas as viable forms of Commercial development that satisfy the needs of certain business for visibility and accessibility.”

As the proposal is to relocate the commercial business to the front of the property, the visibility and accessibility of the commercial use will be improved and, therefore, the proposal will conform to Policy A.2.2.15 of the City of Hamilton Official Plan.

“A.2.2.17 Residential uses may be permitted within Extended Commercial areas without an amendment to this Plan where they will not restrict or interfere with the function of the primary permitted uses, and subject to the provisions of Policy 2.2.1 i) and any other related policies, as set out in this Sub-section.

A.2.2.22 Council will endeavour to maintain or improve the visual amenity and general attractiveness of Extended Commercial Areas, and in so doing will:

- i) Encourage the restoration, rehabilitation, or repair of existing storefronts and facades to complement the scale, design, and character of other Commercial developments in the area;
- ii) Encourage the re-location of non-Commercial uses which interrupt the continuity of business frontage, and their replacement with permitted Commercial Uses to maximize the retain concentration;
- iii) Regulate building setbacks to develop and maintain continuity and harmony with adjacent Commercial Uses;
- iv) Consider the increase in building setbacks where substantial re-development is proposed, to permit wider sidewalks, appropriate landscaping, and street furniture to encourage pedestrian movement and improve the shopping environment.”

The proposal will improve the continuity of the business frontage which, at present, is interrupted by the stand-alone residential building located at the front of the property. Therefore, the proposal will conform to Policy A.2.2.22 of the City of Hamilton Official Plan.

“A.2.2.35 Where Commercial Uses are proposed to be developed adjacent to Residential land uses, Council will be satisfied that the following provisions are adequately met:

- i) Access drive, parking, and service areas will be screened and/or buffered such that noise, light, or undesirable visual impacts emanating from the Commercial Use are mitigated;
- ii) Light from standards or other external lighting fixtures, excluding those used for store and window display or wall illumination, will be directed away from adjacent Residential Uses; and,
- iii) Light standards will be of a height that is in scale with the facility, but will not be of a height sufficient to create a nuisance to adjacent land uses.

A.2.2.37 In addition to the provision of Sub-section B.3.3 of this Plan, adequate parking and loading space will be required in clearly defined areas for all development and re-development within the “Commercial” Designation, and will include adequate space for owners, employees, customers, and delivery vehicles. Council will require that, in all normal circumstances, a high standard of parking and loading facilities will be maintained in accordance with current practices.

A.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.”

The intensity of the use on the subject property is not being altered as a result of the proposed rezoning. Four residential units and 1 commercial unit presently exist on the subject property, and 4 residential units and 1 commercial unit will remain on the subject property, should the re-zoning be approved. The previous rezoning (By-law No. 81-21) did not amend the parking requirements, as the current parking standards, which were established by By-law No. 83-66, were not yet adopted. The subject property has a total of 3 on-site parking spaces, which will be maintained. There are existing transit routes in the area that provide alternative transportation options for staff and patrons. Finally, due to the small size of the commercial unit, approximately 114 sq. m., the proposed retail and general office uses do not require any on-site parking under the By-law requirements of the City of Hamilton Zoning By-law. Therefore, the proposal conforms to Policies A.2.2.37 and A.2.2.38 of the City of Hamilton Official Plan.

The proposal will improve the pedestrian friendly commercial character of the street and, as such, conforms to the policies of the City of Hamilton Official Plan.

Urban Hamilton Official Plan:

The subject property is designated as “Neighbourhoods” in the Urban Hamilton Official Plan; however, the Urban Hamilton Official Plan is under appeal, and is not in full force and effect.

- “3.1.1 Develop compact, mixed-use, transit-supportive, and active transportation friendly neighbourhoods.
- 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.
- 3.2.3 The following uses shall be permitted on lands designated “Neighbourhoods” on Schedule E-1 - Urban Land Use Designations:
- a) Residential dwellings, including second dwelling units and housing with supports;
 - b) Open space and parks;
 - c) Local community facilities/services; and,
 - d) Local commercial uses.
- 3.2.6 Supporting uses, such as local commercial, community facilities/services, and open space and parks, should be clustered to create a focal point for the neighbourhood and to facilitate access by all forms of transportation.
- 3.8.1 Local commercial uses that primarily cater to the weekly and daily needs of residents within the surrounding neighbourhood may be permitted within the “Neighbourhoods” designation.
- 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 [Mod 25];
 - b) Medical offices or clinic, provided it has direct access to an arterial road and is adjacent to other local commercial uses; and,

- c) Residential uses, in accordance with Policy E.3.8.9. E.3.8.10 [Mod 26]

3.8.4 Local commercial uses may be permitted in the following built forms: small single-use buildings, such as those occupied by a convenience store or a medical office;

- a) A plaza form at varying scales containing multiple commercial uses;
- b) A main street configuration with multiple commercial uses; or,
- c) Multiple storey buildings with the local commercial uses on the ground floor and residential units above.”

As the proposal is to relocate a commercial unit from the rear of the property to the front; and to relocate a residential unit from the front to the rear of the property, on a property located along a commercial street, the proposal would conform to the policies of the Urban Hamilton Official Plan.

RELEVANT CONSULTATION

Agencies/Departments Having No Comment or Objections

- Operations and Waste Management Division, Public Works Department.
- Traffic Engineering and Operations Section, Public Works Department.

Hamilton Municipal Parking System:

Initially required that the applicant submit a parking plan to scale, and identify the proposed type of commercial use for the property and the number of residential units. Parking staff comments also noted that the surrounding area has heavily restrictive parking regulations with minimal public parking and, as such, the applicant should ensure that all existing and future parking requirements are met on-site. During follow-up discussions with Parking staff, it was concluded that the need of a parking plan was no long required given that the proposal will not increase the parking demands for the property; however, concerns respecting limited on-site manoeuvring were expressed, and reducing the parking space length to 5.5m deep, in order to increase on-site manoeuvring from 4.66 to 5.16m, was favoured as a solution.

Taxation:

Comments from Taxation note that as of October 2012, a balance of \$1,956.05 in taxes was outstanding.

Public Consultation:

In accordance with Council's Public Participation Policy, this application was pre-circulated to 244 property owners within 120m of the subject lands. A Public Notice Sign was also posted on the subject lands at that time. At the time of preparation of this Report, staff had not received any correspondence from members of the public with respect to the proposed rezoning application. Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

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, Hamilton-Wentworth Official Plan, City of Hamilton Official Plan, and New Urban Hamilton Official Plan.
 - ii) It is compatible with the type and form of development in the surrounding neighbourhood.
2. The subject property is located on the north side of Concession Street, west of Upper Wentworth Street. There are 2 buildings on the subject property, a 3-unit residential building at the front of the property; and a commercial unit and 1 dwelling unit in the rear building (see Appendix "C").

The proposed rezoning to relocate a commercial unit from the rear, northerly building, to the front, southerly building, increases the visibility of the commercial unit, and thereby improves the viability of the commercial unit. The relocation of the commercial unit will also improve the streetscape character of the area by establishing continuity of street oriented commercial uses along the north side of Concession Street. The re-location of the commercial unit from the rear building improves the compatibility of the subject property with residential properties located behind the subject property. The relocation of a ground level, residential unit from the front, southerly building, to the rear, northerly building, reduces potential negative impacts such as street noise on the residential unit, and improves privacy for the unit and reduces negative impacts on abutting residential properties. The proposed re-location of the commercial unit to the front, southerly building, and the dwelling unit to the rear, northerly building, will require a number of site-specific modifications to recognize the existing "as built" conditions:

Site-specific Modifications:

New Modifications Required by the Applicant:

- Reduction in the required on-site parking from 4 spaces to 3 spaces.
- Reduction in the required on-site manoeuvring from 6m to 5.1m.
- Reduction in the easterly side yard setback requirement from 1.2m to 0m.
- Reduction in the westerly side yard setback requirement from 1.2m to 0.4m.

Modifications Proposed by City Staff:

- Reduction in the required parking space length from 6m to 5.5m.

Modifications Carried Over from By-law No. 81-21:

- Reduction in the rear yard setback requirement from 7.5m to 0m.
- Permit a second principal building, whereas a residential building is not permitted on a lot with any other building other than an accessory building.
- Reduction in the lot width from 12m to 10.1m.

Parking:

Section 18A(1)(a) of the City of Hamilton Zoning By-law No. 6593 states that for a two family dwelling, 1 space per dwelling unit is required. As the two buildings will both contain 2 dwelling units, they will both be classified as a two family dwelling and, therefore, a total of 4 on-site parking spaces are required. The intent and purpose of requiring 4 on-site parking spaces is to ensure that the parking needs of the property are met, and do not cause traffic conflicts. The proposed rezoning to relocate the commercial unit from the rear, to the front of the property, and to relocate 1 dwelling unit from the front, to the rear, does not increase the parking demands of the property and, in fact, reduces the required parking for the site from 5 to 4, as the southerly building will be converted from a three family dwelling to a two family dwelling. While the surrounding neighbourhood has restrictive on-street parking requirements, there are numerous bus routes running along Concession Street that provide alternative transportation options for the residents, patrons, and staff of the subject property.

As noted previously, the GFA of the Commercial unit will be approximately 114 sq. m. Accordingly, uses such as general office and retail would not require any parking, as determined by the standards set out in Section 18A of City of Hamilton Zoning By-law No. 6593, which exempts the first 450 sq. m. of Gross Floor Area.

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The proposed modification recognizes the existing site conditions with respect to the number of parking spaces.

Manoeuvring Space:

Section 18A(1)(f) of City of Hamilton Zoning By-law No. 6593 states that a perpendicular parking space must maintain a minimum 6m wide manoeuvring space. Staff is recommending that the parking space length be reduced from 6m to 5.5m, consistent with the requirements of By-law 05-200. With this reduction in the parking space length, the manoeuvring space will be proportionally increased from 4.66m to 5.16m. Staff has discussed this change with the applicant, and the applicant is supportive of the change. The parking area will maintain a 2.3m wide hammer-head that will provide additional manoeuvring space so that vehicles can exit the property in a forward manner. The 5.1m manoeuvring space will improve existing on-site manoeuvring.

Parking Space Length:

Section 18A(7) of City of Hamilton Zoning By-law No. 6593 requires a parking space to have a minimum length of 6m. Staff is recommending that the parking space be reduced from 6m to 5.5m, which is the new parking space standard adopted under the new City of Hamilton Zoning By-law No. 05-200. As a consequence, the on-site manoeuvring space for the 3 on-site parking spaces will be increased proportionally. Staff has discussed this change with the applicant, and the applicant is supportive of the change.

Side Yard Setback (Easterly and Westerly):

Section 14(3)(ii)(a) of City of Hamilton Zoning By-law No. 6593 states that a building used wholly or partly for human habitation requires a minimum side yard setback of 1.2m; however, when a dwelling unit occurs above a business use, no side yard setback is required. The intent and purpose of requiring a minimum side yard setback of 1.2m is to maintain the streetscape character of the area and to maintain adequate space for access, maintenance, and drainage. The By-law modifications for an easterly side yard of 0m and a westerly side yard of 0.4m are to recognize the existing “as built” conditions. As the northerly building was previously a mixed-use building with commercial on the ground floor, a 1.2m setback was not required. Furthermore the building is located at the rear of the property and, therefore, the By-law modifications will not alter the existing streetscape character of the area.

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Finally, the site-specific modifications that permit an easterly side yard setback of 0m and a westerly side yard setback of 0.4m will only apply to the building existing on the date of the passing of this By-law, and any future building will be required to comply with the minimum setback requirement of the By-law. As the southerly building will have commercial on the ground floor with dwelling unit(s) above, a 0m side yard is permitted.

Rear Yard Setback:

Section 14(3)(iii)(a) of City of Hamilton Zoning By-law No. 6593 states that a minimum 7.5m rear yard setback is required for a building used wholly for human habitation. The previous site-specific Zoning By-law 81-21 permitted a rear yard setback of 0m, and the proposal is to carry the existing provision forward to the new Site-Specific By-law. The existing building is located 0m from the rear lot line, and the proposed By-law modification is to recognize the existing “as built” situation.

The Site-Specific By-law modification that establishes a 0m rear yard setback will only apply to the building existing on the date of the passing of the By-law, and any future building will be required to conform to the minimum rear yard setback requirement of the By-law.

Second Principal Building:

Section 4(3)(a) of City of Hamilton Zoning By-law No. 6593 states that no residential building may be located on a lot on which other buildings other than an accessory building are already located. The previous Site-Specific Zoning By-law 81-21 permitted a second principal building on the property, and the proposal is to carry forward the existing Site-Specific By-law provision to the new Site-Specific By-law.

Lot Frontage:

Section 14(4) of the City of Hamilton Zoning By-law No. 6593 states that for one or two dwelling units in the same building as a commercial use, a lot width of 12m is required. The intent and purpose of requiring a minimum lot width of 12m is to maintain the streetscape character of the area, and to ensure that a suitable size dwelling unit, with adequate parking and amenity space, is provided. The existing property has a lot width of 10.1m, which will not be changed as a result of the proposed re-deployment for uses, and a total of 4 residential units will be maintained on the subject property. Therefore, the existing streetscape character will be maintained; and existing amenity space and parking will be maintained. It should be noted that the previous site-specific zoning has a

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By-law modification that permitted a lot width of 10.1m, and the proposal is to carry forward the By-law modification to the new site-specific zoning.

3. There is an existing municipal watermain and sanitary sewer within the Concession Street right-of-way that will provide adequate municipal services.
4. Staff notes that the subject property is adjacent to Concession Street, and within 37m of Upper Wentworth Street. The applicant should be advised that in any future site plan application, staff will require the below noted noise warning clause to be included in any future purchase or sale and/or lease/rental agreement. While a noise warning clause is not required as part of the proposed re-zoning application, the applicant should consider including the noise warning clause at this time.

“Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants, as the sound levels may exceed the Municipality’s and the Ministry of Environment noise criteria.”

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

If the proposed rezoning application is not approved, the applicant would be able to continue to use the property for 3 dwelling units in the front building, and 1 dwelling unit and 1 commercial unit within the rear building.

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

Financial Sustainability

- ◆ Effective and sustainable Growth Management.

Growing Our Economy

- ◆ Newly created or revitalized employment sites.

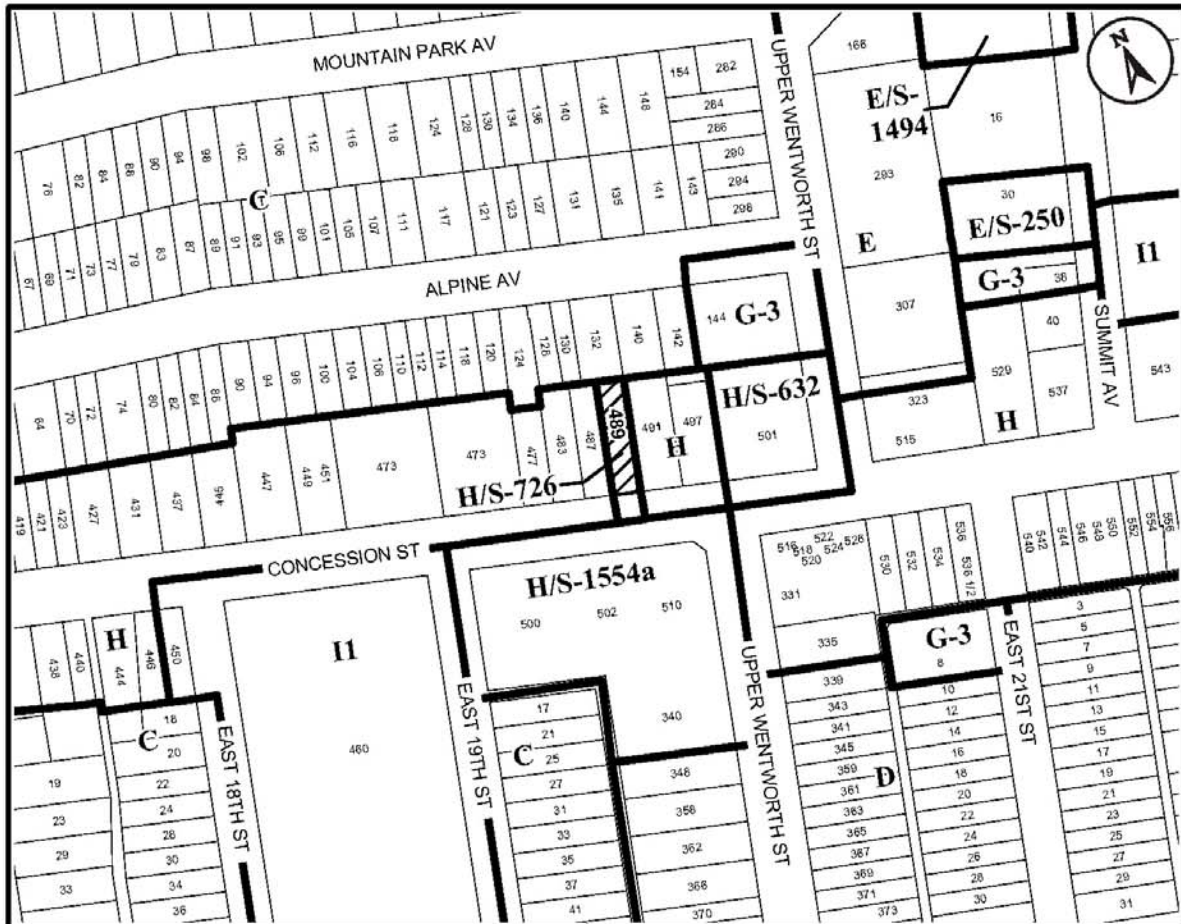
Social Development

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

APPENDICES / SCHEDULES

- Appendix "A": Location Map
- Appendix "B": Draft By-law and Schedule A Map
- Appendix "C": Concept Plan
- Appendix "D": Site-Specific Zoning By-law 81-21
- Appendix "E": Staff Comments for Minor Variance Application HM/A-12:155
- Appendix "F": Decision of the Committee of Adjustment for Minor Variance Application HM/A-12:155


:DB
Attachs. (6)



● Site of the Application



Ward 7 Key Map

N.T.S. 

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAR-12-032

Date:
Sept. 14, 2012

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
DB/AL

Subject Property

 489 Concession Street

Authority: Item [REDACTED]
Planning Committee
Report 13-[REDACTED] (PED13021)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

**To Amend Zoning By-law No. 6593 (Hamilton)
Respecting Lands located at 489 Concession Street 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 13-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED] 2013, 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-15 of the District maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), are amended:

by changing from the "H/S-726" (Community Shopping and Commercial, Etc.) District, Modified, to the "H/S-1663" (Community Shopping and Commercial, Etc.) District, Modified, the lands comprised of Block 1, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That the "H" (Community Shopping, and Commercial Etc.) District, regulations, as contained in Section 14 of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following Special Provisions:

- a) That notwithstanding Sub-section 1 of Section 14 of Zoning By-law No. 6593, two dwelling units shall be permitted within the northerly building, and two dwelling units and a commercial unit shall be permitted within the southerly building existing on the date of the passing of this By-law being the [REDACTED] day of [REDACTED], 2013.

- b) That notwithstanding Sub-section 1(a) of Section 18A of Zoning By-law No. 6593, not less than 3 on-site parking spaces shall be provided and maintained for 2 duplex buildings (4 Dwelling Units total).

- c) That notwithstanding Sub-section 1(f) of Section 18A of Zoning By-law No. 6593, a minimum 5.1m manoeuvring space shall be provided and maintained for a 90 degree parking space.

- d) That notwithstanding Sub-section 7 of Section 18A of Zoning By-law No. 6593, a parking space shall have dimensions not less than 2.7m wide and 5.5m long.

- e) That notwithstanding Sub-section 3(ii)(a) of Section 14 of Zoning By-law No. 6593, a minimum easterly side yard setback of 0m and a minimum westerly side yard setback of 0.4m shall be permitted for the building existing on the date of the passing of this By-law being the [REDACTED] day of [REDACTED], 2013.

- f) That notwithstanding Sub-section 3(iii)(a) of Section 14 of Zoning By-law No. 6593, a minimum rear yard setback of 0m shall be permitted for the building existing on the date of the passing of this By-law being the [REDACTED] day of [REDACTED], 2013.

- g) That notwithstanding Sub-section 4 of Section 14 of Zoning By-law No. 6593, a minimum lot width of 10.1m shall be provided and maintained.

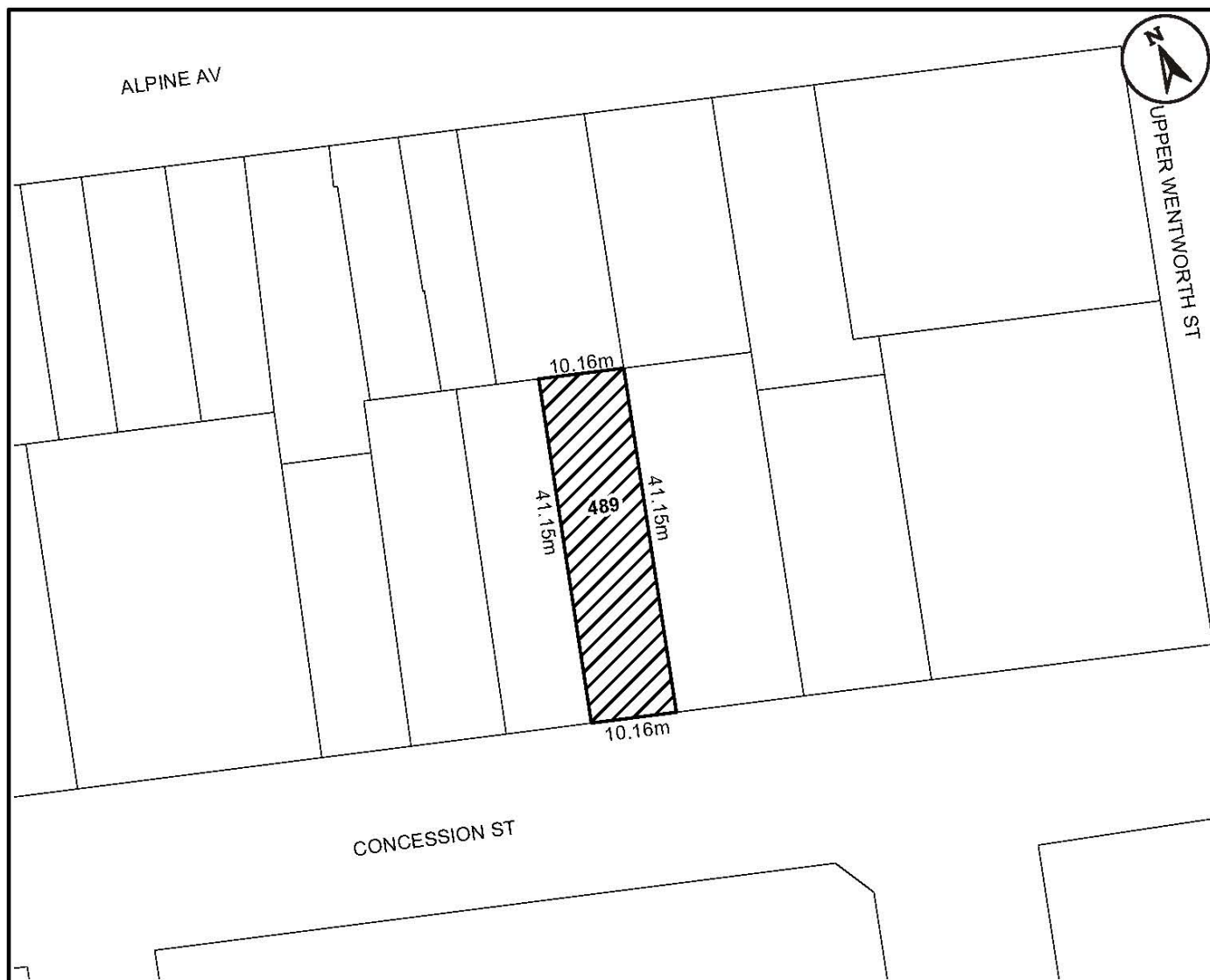
- h) That notwithstanding Sub-section 3(a) of Section 4 of Zoning By-law No. 6593, a second principal building existing on the date of the passing of this By-law being the [REDACTED] day of [REDACTED], 2013, shall be permitted.
3. That By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19 B as Schedule S-1663.
 4. That Sheet No. E-15 of the District Maps is amended by marking the lands referred to in Section 1 of this By-law as S-1665.
 5. That no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "H" District provisions, subject to the special requirements referred to in Section 2.
 6. That Zoning By-law No. 81-21 be deleted in its entirety.
 7. 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], 2013.

R. Bratina
Mayor

R. Caterini
Clerk

ZAR-12-032



This is Schedule "A" to By-Law No. 13-

Passed the day of, 2013

Mayor

Clerk

Schedule "A"

Map Forming Part of
By-Law No. 13-_____

to Amend By-law No. 6593

Subject Property

489 Concession Street



Change in Zoning from the Community Shopping and Commercial, Etc. "H/S-726" District Modified to the Community Shopping and Commercial, Etc. "H/S-1663" District Modified

Scale:
N.T.S.

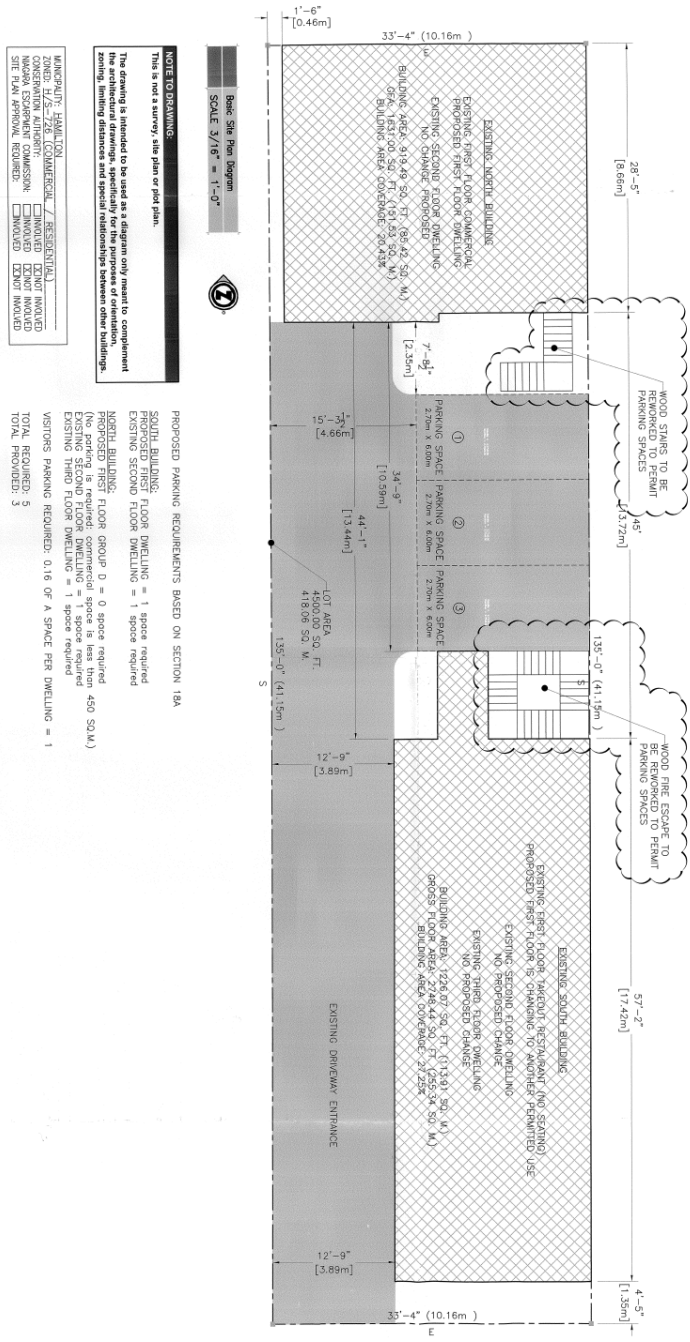
File Name/Number:
ZAR-12-032

Date:
Dec. 14, 2012

Planner/Technician:
DB/AL



Hamilton



V02 / 11.

AT VIRTUAL CREATIONS INC. THE BEST EFFORT HAS BEEN MADE TO RECORD EXISTING BUILDING STRUCTURES AND PROPOSED A COMPREHENSIVE SET OF CONSTRUCTION DRAWINGS. HOWEVER, THERE ARE AREAS AT THE TIME OF DESIGNING THAT ARE UNAVAILABLE OR INACCESSIBLE WITH PROPER CO-ORDINATION WITH A BUILDER/ CONTRACTOR THESE ISSUES CAN BE EASILY RESOLVED. IT IS THE CONTRACTOR'S RESPONSIBILITY TO USE REASONABLE DILIGENCE AND PREFERENCE TO SCALING, VERIFY AND CHECK ALL DIMENSIONS PRIOR TO AND DURING CONSTRUCTION. SUBMIT SHOP DRAWINGS OF ALL PREFABRICATED STRUCTURAL ELEMENTS SUCH AS ROOF TRUSSES AND ENGINEERED FLOOR JOIST TO VIRTUAL CREATIONS INC. TO REVIEW PRIOR TO FABRICATION, DETERMINE LOCATIONS OF EXISTING SERVICES, INFORM VIRTUAL CREATIONS INC OF ANY CHANGES, DISCREPANCIES OR SUBSTITUTIONS FOR REVIEW BEFORE COMMENCING CONSTRUCTION. ALL DESIGNS AND DRAWINGS ARE THE SOLE PROPERTY AND COPYRIGHT OF VIRTUAL CREATIONS INC. ANY REPRODUCTIONS MUST BE AUTHORIZED BY VIRTUAL CREATIONS INC OR PURCHASED THROUGH VIRTUAL CREATIONS INC DIRECTLY.

S-726

Bill No. D8

41-

1.13.81

The Corporation of the City of Hamilton

BY-LAW NO. 81- 21

To Amend:

Zoning By-law No. 6593

Respecting:

LAND LOCATED AT MUNICIPAL NO. 489 CONCESSION STREET

*211 B
approved
11/21/81
18,*

WHEREAS it is intended to establish special requirements under section 19B of By-law No. 6593, passed on the 25th day of July, 1950;

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.

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

1. The "H" (Community Shopping and Commercial, etc.) district provisions applicable to the land, the extent and boundaries of which are shown on a plan hereto annexed as schedule "A", are amended to the extent only of the following variances as special requirements:

1. Notwithstanding section 14(1) of By-law No. 6593,
 - (a) three dwelling units located in the south building, and
 - (b) one dwelling unit and a commercial use located in the north building,
 existing on the date of the passing of this by-law, shall be permitted.
2. Notwithstanding section 4(3) of the said by-law, a second principal building existing on the date of the passing of this by-law, shall be permitted.
3. Sections 14(3)(iii) and 14(4) of the said by-law shall not apply.
4. Section 18(3)(iv) of the said by-law shall not apply.

1,13.81

-42-

2. 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 "R" District provisions, subject to the special requirements referred to in section 1.

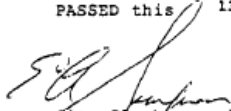
3. By-law No. 6593 is amended by adding this by-law to section 19B as "S-726".

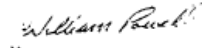
4. Sheet No. E-15 of the District Maps is amended by marking the land referred to in section 1 of this by-law, "S-726".

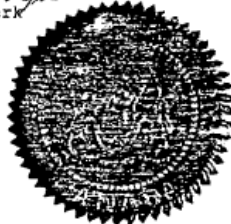
5. The City Clerk is hereby authorized and directed to proceed as soon as possible with the giving of notice of the passing of this by-law, including a brief explanation of its purpose, and with the carrying out of all other directions of the Ontario Municipal Board relating to the giving of such notice.

6. The City Solicitor is hereby authorized and directed to make application to the Ontario Municipal Board for the necessary approval of this by-law.

PASSED this 13th day of January A.D. 1981.

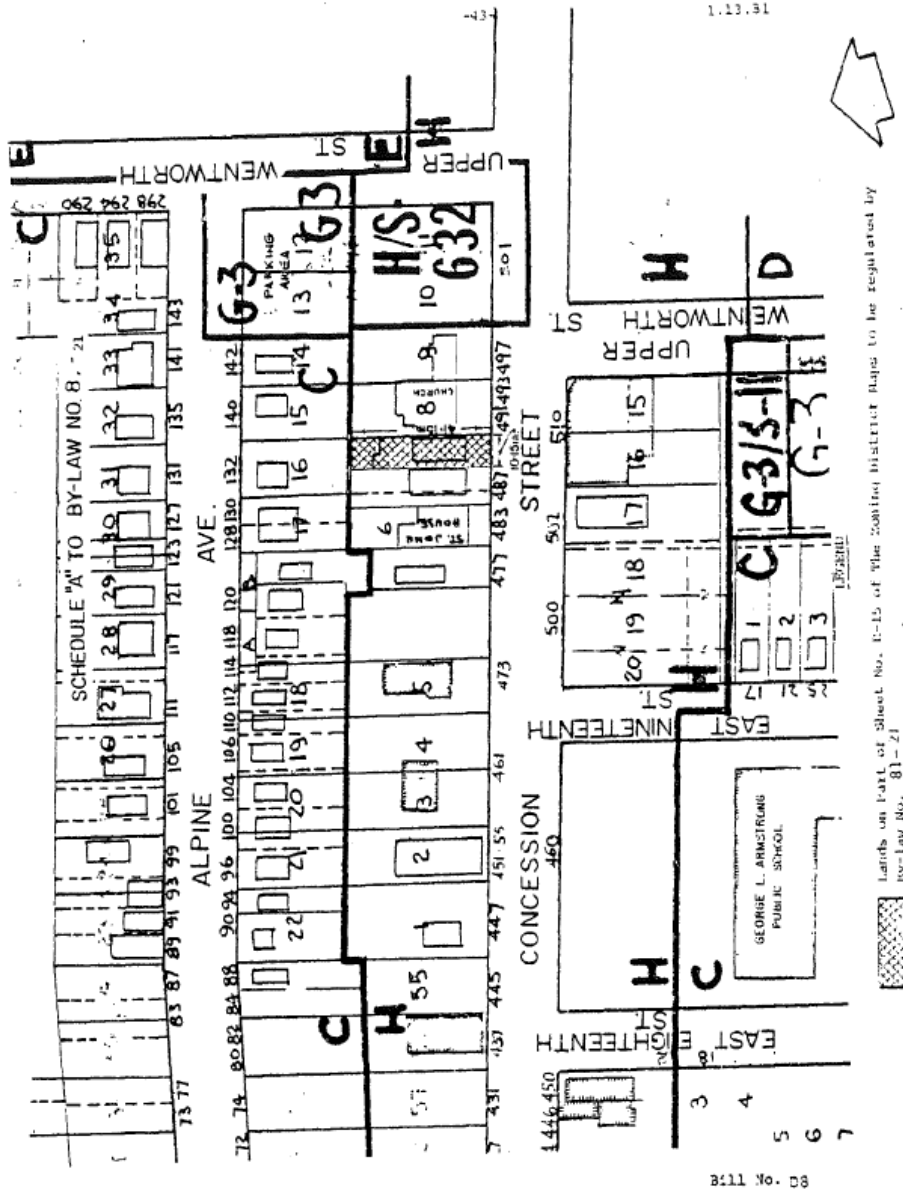

City Clerk


Mayor



(1980-1981) 1 R.P.D.C. 2, December 9
R. Chesal, Owner
E.A. 80-78

S-726



This is Schedule "A" to By-law No. 81-21 passed the 13th day of January

THE CORPORATION OF THE CITY OF HAMILTON

[Signature]
 City Clerk

Mayor

Bill No. 88

July 12th, 2012

**CONSOLIDATION REPORT
VARIANCES**

The attached comments have been reviewed with regard to Committee of Adjustment Variance Application HM/A-12:155 (489 Concession Street, Hamilton) and the following comments are submitted:

NOTE (TO BE INCLUDED IN DECISION IF APPROVED):

1. Staff advise that the following noise warning clause should be included in any future purchase and sale and/or lease/rental agreements for the subject lands:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality's and the Ministry of the Environment's noise criteria."

July 12th, 2012

HM/A-12:155 (489 Concession Street, Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – West:

The applicant requires minor variance approval in order to permit the conversion of the 1st floor of the existing north building from commercial to residential and to provide a commercial/residential mixed use building in the existing south building.

Niagara Escarpment Plan

The subject lands are located within the Niagara Escarpment Plan Area and are designated as "**Urban Area**". Staff note that the lands are located outside of the Niagara Escarpment Commission's Development Control Area.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas 1.1.3.1.

However, Policy 1.7.1 (e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, **noise** and other contaminants, and minimize risk to public health and safety. Staff note that the subject lands are to contain an additional dwelling unit and are located adjacent to **Concession Street** and are within approximately 37 metres from **Upper Wentworth Street**. As such, should the Committee approve the subject application, Staff require the inclusion of note # 1 stated below.

Hamilton-Wentworth Regional Official Plan

The subject property is designated "**Urban Area**" within the Hamilton-Wentworth Regional Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

City of Hamilton Official Plan

The subject property is designated "Commercial" in the City of Hamilton Official Plan. Policy A.2.2.1 states "The primary uses permitted in areas exceeding 0.4 hectare designated on schedule "A" as Commercial will be for Commerce. In this regard Commerce is defined as establishments involved in the buying and selling of goods and services; business offices; and hotels, convention and entertainment facilities."

HM/A-12:155

Page 2

In addition to the primary permitted uses, the following may be permitted within Commercial areas provided that they have been designated in the Neighbourhood Plan, where one exists:

- i) Residential uses subject to the following provisions:
 - a) access drive and parking will be screened and/or buffered such that noise light, or undesirable visual impacts emanating from neighbouring Commercial uses are mitigated;
 - b) any impacts emanating from adjacent Commercial uses which will detract from the amenity of the Residential use will be minimized;
 - d) satisfy the provisions of Subsection A.2.1 and C.7."

Policy 2.2.29 states "Major structures containing both residences and commercial uses, including primarily intended to offer goods and services to persons other than the residential occupants thereof, will be deemed to be mixed Commercial/Residential. Such uses may be permitted in areas designated Commercial provided that they have been identified in the Neighbourhood Plan and satisfy the following provisions:

- i) Amenity spaces will be provided exclusively for the Residential component and will be functionally separated from public areas associated with the Commercial component;
- ii) Prior to any approval for proposed Commercial/Residential development, Council will be satisfied that any impacts emanating from the commercial component which will detract from the amenity of the associated Residential Uses will be minimized;
- iii) Customer parking areas associated with the Commercial component will preferably be physically separated from such areas provided for the Residential Uses and, in any instance, their use will not interfere with the safe and efficient use of the Residential Parking areas; and,
- iv) Council will be satisfied that existing engineering services, school facilities, parks and similar community facilities are, or may feasibly be made to be, adequate to serve the residents of proposed Commercial/Residential development prior to any approval being given."

Policy A.2.2.37 states "In addition to the provision of Subsection B.3.3 of this Plan, adequate parking and loading space will be required in clearly defined areas for all development and redevelopment within the Commercial designation and will include adequate space for owners, employees, customers, and delivery vehicles. Council will require that, in all normal circumstance, a high standard of parking and loading facilities will be maintained in accordance with current practices."

Policy A.2.2.38 states "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."

As the proposal is for a commercial-residential mixed use development, staff consider the

HM/A-12:155

Page 3

proposal to satisfy the general intent of the Official Plan. However, in the absence of additional justification, staff maintain concerns with the application based on the fact no amenity space is provided for the residential units, and further, that an insufficient amount of parking has been proposed, which is potentially inconsistent with the more prescriptive Official Plan policies detailed above.

City of Hamilton Zoning By-law

The subject property is zoned Community Shopping and Commercial "H/S-726" District in the City of Hamilton Zoning By-law, to which permits both commercial and residential uses, but not in the configuration proposed.

Variance 1:

Variance 1 is a variance to change the use of the north building from a mixed use building to a stand alone residential building with two residential units. A variance to change the use of the building is not minor in nature, and does not maintain the general intent and purpose of the site specific Zoning By-law. Rezoning approval would be a more appropriate application process to change the use of the property, however staff remain concerned in respect to the lack of amenity space and the deficiency of on-site parking. Therefore staff cannot support variance 1.

Variance 2:

Variance 2 is a variance to change the use of the south building from a three unit dwelling to a mixed use commercial/residential building. A variance to change the use of the building is not minor in nature, and does not maintain the general intent and purpose of the site specific Zoning By-law. Rezoning approval would be a more appropriate application process for changing the use of the property, however, staff remain concerned in respect to the lack of amenity space and the deficiency of on-site parking. Therefore staff cannot support variance 2.

Variance 3:

The intent and purpose of requiring a minimum of 10 on-site parking spaces is to ensure that the parking needs of the property are met and do not cause traffic conflicts.

The proposed variance does not meet the intent and purpose of the Zoning By-law. The subject property has less than 1/3 of the required on-site parking, and there are existing parking limitations along Concession Street. Consequently, opportunities to provide alternative parking such as on-street parking are not available. Furthermore, only 1 of the 3 on-site parking spaces has sufficient manoeuvring space to meet the Zoning By-law, and one of the spaces has only 3.1m of manoeuvring space.

The reduced manoeuvring space for one parking space makes the parking space difficult to access and reduces the usability of said space, and in some instances, may prohibit its usability all together. Therefore, from a usability stand point, the subject property has less than 3 spaces. The limitation on alternative parking options, in addition to the reduced number and usability of on-site parking, consequently indicates that the parking needs of the property will not be met and will cause traffic conflicts.

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Page 4

It is understood that the requested variance was based on the maximum number of spaces required under the most intensive use permitted within the existing zoning category, as such, should the use be specified, and a reduced number of spaces be required, this variance, and those variances triggered as a result of inadequate manoeuvring space, may be reduced and be considered more in line with the intent of the By-law.

Variance 4:

The intent and purpose of requiring a minimum 6m of on-site manoeuvring space for a parking space is to ensure that there is adequate space for the safe and efficient ingress and egress of the parking space.

The proposed variance does not meet the intent and purpose of the Zoning By-law. The proposed 3.3m manoeuvring space for parking space 3 is not sufficient to allow for safe and efficient ingress and egress of the parking space. The parking space would for all intents and purposes, be blocked should a large vehicle be parked in parking space 2, and thus, vehicles would be unable to enter the parking space or leave the parking space.

Given the above, and the proposal in general, staff recommend the application be tabled in order to review in greater detail, the site functionality and proposed split in landuse of the site. Should the applicant not agree to the tabling, staff make the following recommendation.

Recommendation:

It is the opinion of staff that the proposed variances are not minor in nature, are not desirable and appropriate for the use of the lands, and do not meet the intent and purpose of the Official Plan and Zoning By-law. Therefore, staff recommends that the proposed variances be **Denied**.

NOTE (TO BE INCLUDED IN DECISION IF APPROVED):

1. Staff advise that the following noise warning clause should be included in any future purchase and sale and/or lease/rental agreements for the subject lands:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality's and the Ministry of the Environment's noise criteria."

Building Services Division:

Subject to the issuance of a building permit in the normal manner for tenant improvements, change of use, renovations, alterations, additions or new buildings.

Property Standards shown as Schedule "A" and dated April 16, 2003, is still outstanding.

Development Engineering – West:

No Comment

HM/A-12:155
Page 5

Hamilton Municipal Parking System (Parking Services):

For the information of the Committee, the applicant is requesting a variance to provide 3 of the 10 required parking spaces. On-street parking is not available in this section of Concession Street but a Municipal Carpark is located in close proximity that may accommodate the additional short-term parking demands.

PUBLIC WORKS DEPARTMENT

Traffic, Engineering and Operations Division:

We advise that 3.3m is considered too narrow for manoeuvring and it will be difficult for drivers parked in parking spaces #2 and #3 to turn around and exit in a forward manner to Concession St.

See attached for additional comments.

Baldry, Scott

From: Kilian, Martin (MNR) [martin.kilian@ontario.ca]
Sent: Monday, July 09, 2012 2:46 PM
To: Baldry, Scott
Subject: Minor Variance Application HM/A-12:155 (489 Concession St., Hamilton)
Scott:

The proposed variances do not conflict with the relevant "Urban Area" designation policies of the Niagara Escarpment Plan.

We, therefore, have no objection.

Martin Kilian, Planner
Niagara Escarpment Commission
232 Guelph St.
Georgetown Tel. 905-877-7524
St. Catharines Tel. 905-704-3917
www.escarpment.org
Follow the NEC on Twitter



Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
DECISION OF THE COMMITTEE

APPLICATION NO. HM/A-12:155
SUBMISSION NO. A-155/12

IN THE MATTER OF The Planning Act, R.S.O., 1990, c.P. 13 as amended and of the Zoning By-Law No. 6593, of the City of Hamilton, Sections 14, 18A and 19B.

AND IN THE MATTER OF the Premises known as Municipal number 489 Concession St., in the City of Hamilton and in an "**H/S-726**" (**Community Shopping and Commercial**) (**Amending By-law 81-21**) district;

AND IN THE MATTER OF AN APPLICATION by the agent Eric Canton on behalf of the owner 1825306 Ont. Ltd., for relief from the provisions of the Zoning By-Law No. 6593, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit a dwelling unit on the first floor of the existing north building, a commercial use on the first floor of the existing south building and provide a total of three parking spaces notwithstanding that:

1. Two dwelling units shall be permitted within the existing north building instead of one dwelling unit and a commercial use as stated in By – Law 81 - 21;
2. Two dwelling units shall be permitted along with a commercial use on the first floor of the existing south building instead of the three dwelling units as stated in By-Law 81 – 21;
3. A total of three (3) parking spaces shall be provided for the entire site instead of the minimum required of ten (10) parking spaces; and
4. A minimum of 3.3 m manoeuvring space shall be provided for parking spaces numbered 2 & 3 instead of the minimum required of 6.0 m

Note: A total of ten (10) parking spaces are required for the entire site of which four (4) parking spaces are required for the two dwelling units located within the existing north building and two units within existing south building; Be advised that the proposed commercial use located in the south building has not been indicated; therefore, the applicant has requested the worse case scenario for parking for the proposed commercial use which would be at a rate of 1 per 19 m², based on the proposed floor area for the first floor commercial unit a total of six (6) parking spaces are required to be provided for the commercial use. If a restaurant with seating is proposed then the requirements of Section 18A. will have to be complied with and further variance may be required.

Be advised that By-Law 81-21 states that one dwelling unit and a commercial use shall be permitted for the existing building on the north and three dwelling units for the existing building on the south.

Subject to the issuance of a building permit in the normal manner for tenant improvements, change of use, renovations, alterations, additions or new buildings.

THE DECISION OF THE COMMITTEE IS:

That the variances, as set out in paragraph three above, are **DENIED** for the following reason:

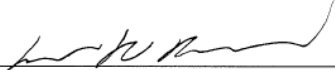
1. The Committee having regard to the evidence is of the opinion that the relief requested is beyond that of a minor nature and would be more appropriately addressed thru the rezoning process.

HM/A-12:155
Decision
Page 2

DATED AT HAMILTON this 26th day of July, 2012




I. Dunlop (Acting Chairman)



W. Pearce



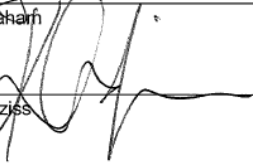
D. Drury



V. Abraham



L. Gaddy



K. Audziss

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS **August 15th, 2012**.

This decision is not final and binding unless otherwise noted.