SUBJECT: Application for a Change in Zoning for the Property Located at 865 Mohawk Road East (Hamilton) (PED07170) (Ward 6)

RECOMMENDATION:

That approval be given to Zoning Application ZAC-06-037, by 1620233 Ontario Inc., c/o Mr. Guido Papa, owner, for a change in zoning from the “C” (Urban Protected Residential, Etc.) District to the “H-'H'/S-1579” (Community Shopping and Commercial, Etc. – Holding) District, Modified, to permit a mixed use building consisting of ground floor commercial uses and 14 two-storey dwelling units on the second and third floors, for the property located at 865 Mohawk Road East (Hamilton), as shown on Appendix “A” to Report PED07170, on the following basis:

(a) That the subject lands be rezoned from the “C” (Urban Protected Residential, Etc.) District to the “H-'H'/S-1579“ (Community Shopping and Commercial, Etc. – Holding) District, Modified.

(b) That the ‘H’ Holding provision may be removed by a further amendment to this By-law, at such time as the owner submits a signed Record of Site Condition (RSC) to the satisfaction of the Director of Planning, including an acknowledgement of receipt of the RSC by the Ministry of the Environment. The owner must also submit an acoustical report, prepared by a qualified Professional Engineer, to the satisfaction of the Director of Planning that shall investigate the noise levels on the site and determine the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment’s recommended sound level limits.

(c) That the draft By-law, attached as Appendix “B” to Report PED07170, which has been prepared in a form satisfactory to the City Solicitor, be forwarded to City Council for enactment.
(d) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the Hamilton Official Plan.

Tim McCabe  
General Manager  
Planning and Economic Development Department  

**EXECUTIVE SUMMARY:**

The application is for a change in zoning to permit a 3-storey building consisting of ground floor commercial uses and 14 two-storey dwelling units on the second and third floors. The proposed change in zoning, including modifications in order to implement the proposed plan, as shown on Appendix “C”, can be supported as it is consistent with the Provincial Policy Statement, conforms with and implements the Hamilton-Wentworth and Hamilton Official Plans, and the proposal is compatible with adjacent uses. An ‘H’ Holding Provision has been added to the draft By-law requiring the owner to submit a signed Record of Site Condition and noise study prior to development of the lands.

**BACKGROUND:**

**Proposal**

The application is for a change in zoning from the “C” (Urban Protected Residential, Etc.) District to the “H-H’” (Community Shopping and Commercial, Etc. - Holding) District, Modified, in order to permit a 3-storey building consisting of commercial uses on the ground floor and a total of 14 two-storey dwelling units on the second and third floors (see Appendix “C”). Twenty-nine parking spaces would be provided for the development. The proposed zoning modifications will permit 14 two-storey dwelling units on the 2nd and 3rd floors, whereas 12 dwelling units are permitted only in a 2nd storey; permit the building to provide a 0.0m setback to Mohawk Road East; permit no loading spaces to be provided, whereas 2 are required; permit a driveway to be located 1.5m from a residential district, whereas 3.0m is required; permit a parking space size of 2.6m wide and 5.5m long, whereas 2.7m and 6.0m is required; and, permit no additional setback for parking located within 3.0m of a residential district.

**Location:** 865 Mohawk Road East (Hamilton)

**Owner/Applicant:** 1620233 Ontario Inc., c/o Mr. Guido Papa

**Property Description:**  
- Frontage: 34m (Mohawk Road East)  
- Depth: 60.87m  
- Lot Area: 2,198.5m²

**Servicing:** Full municipal services
EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>North</td>
<td>Single detached dwelling</td>
<td>“C” (Urban Protected Residential, Etc.) District</td>
</tr>
<tr>
<td>South</td>
<td>Commercial</td>
<td>“H” (Community Shopping and Commercial, Etc.) District</td>
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<tr>
<td>East</td>
<td>Gas Station</td>
<td>“H/S-50” (Community Shopping and Commercial, Etc.) District, Modified</td>
</tr>
<tr>
<td>West</td>
<td>Single detached dwelling</td>
<td>“C” (Urban Protected Residential, Etc.) District</td>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement and implements Policies 1.1.3.2, 1.1.3.3 and 1.4 with respect to providing a mix of land uses, and provides an opportunity for intensification.

   (ii) It conforms with and implements the “Urban Area” designation of the Hamilton-Wentworth Official Plan.

   (iii) It conforms with and implements the “Commercial” designation of the Hamilton Official Plan.

   (iv) The proposal allows for a mixed use building that is consistent with other uses at the intersection of Mohawk Road East and Upper Ottawa Street, and provides neighbourhood commercial uses to serve the Hampton Heights Neighbourhood.

   (v) The proposal is transit supportive and contributes to a healthy transit operation by accommodating a range of travel options and trip purposes.

2. The subject property is currently vacant, but the property was previously used as a gas station that has since been demolished. The gas station was legal non-conforming with respect to the existing “C” (Urban Protected Residential, Etc.) District zoning, but would have conformed to the “Commercial” designation of the Hamilton Official Plan. As the gas station has been demolished and the applicants are proposing a new mixed-use building, a change in zoning is
required in order to permit the use and implement the Official Plan, as the former legal non-conforming status has ceased.

3. The applicants had originally submitted a proposal to permit a mixed use building containing ground floor commercial (8 commercial units) with 16 residential units on the 2nd and 3rd storeys. Through the review of the Zoning Application and Preliminary Site Plan Review Application (PSR-06-079), concerns pertaining to the need for adequate landscaped strips, road widening dedications, and driveway locations were identified. In addition, 2 letters from the public expressed concerns with the density of the proposal. As a result of consultation with staff, the plan was revised to reduce the density, provide the required landscaped strips, and improve driveway design and location. The proposal is now for a 3-storey building with ground floor commercial uses divided into 7 units, and 14 two-storey dwelling units on the 2nd and 3rd floors.

4. Each of the proposed 14 two-storey dwelling units would be located partially on the 2nd storey, and partially on the 3rd storey. Access to the residential component would be from the rear of the building. The range in uses permitted under the proposed “H” District includes general retail uses and professional offices. While restaurants and medical offices are permitted within the “H” District, any proposal to establish these uses would require additional parking spaces and zoning modifications. The applicant has not requested any additional modifications in order to permit medical offices or restaurants.

5. The building would be situated to frame the corner of Mohawk Road East and Upper Ottawa Street. A location adjacent to the street, instead of setback at the rear of the property, is preferred for the following reasons:

- The building would provide a greater street presence, which is preferred for pedestrians and transit. Pedestrians accessing the building would not have to cross a parking lot to shop and would have easy access to transit.

- Parking would be located at the rear of the property, which would be screened from the street by the building and a landscape strip on Mohawk Road East.

- As the property abuts single detached dwellings to the north and west, the proposed building location maximizes the setback of the building from the adjacent properties. This will mitigate any potential impacts respecting overview and privacy.

A total of 29 parking spaces would be provided for the development. This conforms to the Zoning By-law requirement that 28 spaces be provided (18 for the dwelling units and 10 for the commercial uses). To buffer the proposed parking area from the adjacent residential properties, a minimum 1.5m landscaped strip and a visual barrier will be provided along the northerly and westerly lot lines.
6. In order to implement the proposed development, as shown on Appendix “C”, a number of zoning modifications are required. These modifications include:

**Modification to Permit 14 Dwelling Units**

The “H” District does permit a mixed commercial/residential building, but only two residential units in the same building as a commercial use, or one dwelling unit for each 180 square metres of lot area as long as the building is only 2-storeys in height and 50% of the gross floor area is commercial. Based on the existing lot area of 2,198.5 square metres, 12 units on the second storey of the building would be permitted. The applicants are proposing 14 two-storey units on the 2nd and 3rd storey. This modification can be supported as an increase from 12 units to 14 units is minor in nature; all required parking for the 14 two-storey units can be provided; and, the height of the proposed building is appropriate.

**Modification to Front Yard Setback**

The applicants are proposing to provide a 0.0m front yard setback from Mohawk Road East, whereas a setback of 6.0m is required. The “H” District does permit a 0.0m front yard setback but only where the property abuts other properties also zoned “H”. The intent of the By-law in requiring a 6.0m setback is to provide for consistent setbacks with adjacent residential properties. However, should the applicant provide a 6.0m setback from Mohawk Road East, the building would have to be relocated further to the rear of the property and closer to the adjacent residential property on Upper Ottawa Street. By enabling a 0.0m setback on Mohawk Road East, the building can be located as far as possible from both abutting residences, which reduces potential impacts of overview from the building on adjoining residential amenity areas, and reduces the visual impact of differing front yard setbacks between the subject property and adjacent residential properties. Providing a 0.0m setback also serves to frame the intersection, which provides for street presence of the building and is pedestrian friendly. Therefore, as the proposed built form is appropriate and would not impact adjacent properties, the modification is in keeping with the intent of the Zoning By-law and Official Plan and can be supported.

**Modification to Parking Space Size**

The applicants are proposing to provide a minimum parking space length of 5.5m metres, whereas 6.0m is required under By-law No. 6593. This is consistent with City of Hamilton Zoning By-law No. 05-200, which permits a minimum parking space length of 5.5m. This By-law is in place for the Downtown, and for the new Institutional and Open Space and Park Zones, but not yet for residential or commercial properties. As the parking space size is consistent with By-law No. 05-200, the modification can be supported. The applicants have not requested a modification to parking space width (minimum 2.7m), but in order to be consistent with By-law No. 05-200 and to provide greater flexibility, the zoning should also be modified to permit a minimum parking space width of 2.6m.
Modification to Eliminate Requirement for Loading Spaces

Based on the proposed floor area of commercial uses and number of dwelling units, 2 loading spaces would be required for the proposed use, one for the commercial use and one for the residential use. The applicants have not proposed to provide any loading spaces and a modification in zoning is required in order to eliminate the requirement for loading spaces. Based on the proposed location of the building, parking area, and driveway location, there are no suitable locations on the property for a loading space without substantially reducing the number of parking spaces and reducing the size of the building.

A loading space for a commercial use is only required when the commercial area is greater than 450 square metres. The applicants are proposing a total of 734 square metres of commercial use divided into 7 units, each approximately 100 square metres in floor area. No one commercial unit would require a loading space. As the proposed building would contain multiple smaller commercial units, the need for a dedicated commercial loading area is reduced. In addition, loading activities for the commercial and residential uses would likely be undertaken using smaller cube vans or cargo vans which have the ability to use parking spaces during non-business hours when ample parking is available for loading activities. Finally, the Public Works Department (Traffic Engineering and Operations Section) has no concerns with the proposal. Therefore, as the need for dedicated loading spaces is not demonstrated and on-site options exist for loading, the elimination of the required loading spaces can be supported.

Modification to Access Driveway and Parking Location

A modification is required in order to permit the proposed access driveway on Upper Ottawa Street to be located 1.5m from the adjacent residential property, whereas 3.0m is required. To address these impacts, the applicants are providing the required 1.5m planting strip and a visual barrier along the rear lot line between the property and the adjacent dwelling, and no parking spaces are proposed within 7.5m of the residential property. In addition, the Public Works Department (Traffic Engineering and Operations Section) has advised that the driveway must be located as far north as possible to avoid conflicts at the intersection of Upper Ottawa Street and Mohawk Road East. Therefore, as the required planting strip and visual barrier have been provided and the driveway location proposed is preferred by the Public Works Department (Traffic Engineering and Operations Section), its location can be supported.

A modification is also required to exempt the development from the requirement that any parking area not be located closer to a street line than the minimum depth of the front yard required to be provided in the adjoining residential district for that portion of the parking within 3.0m of a residential district. The proposed parking is located 1.5m from a residential district, which is permitted under the Zoning By-law. However, the parking area must be setback a minimum of 6.0m from Mohawk Road East, whereas the applicants are providing a reduced setback of 2.0m. As a 2.0m landscape strip is already required adjacent to
Mohawk Road East and a visual barrier is to be provided along the westerly property line which will screen the parking area from the adjacent property, the modification can be supported.

7. The “H” (Community Shopping and Commercial, Etc.) District is subject to site plan control and a site plan must be approved prior to any development of the property. Matters such as landscaping, fencing, architectural design, sidewalks, waste management, site lighting, access and parking layout, grading, stormwater management, servicing and road widening dedications will be addressed through site plan control. In addition, the subject lands are being placed into an ‘H’ Holding provision. The ‘H’ Holding provision can only be removed by By-law at such time that the owner submits a signed Record of Site Condition (RSC), to the satisfaction of the Director of Planning, including an acknowledgement of receipt of the RSC by the Ministry of the Environment. The owner must also submit an acoustical report, prepared by a qualified Professional Engineer, to the satisfaction of the Director of Planning that shall investigate the noise levels on the site and determine the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment’s recommended sound level limits. Any recommendations of the noise study would be implemented through site plan control.

8. Through the pre-circulation of the application to all property owners within 120m of the subject lands, 3 letters of opposition were received (see Appendix “D”). The concerns raised by the residents include:

Building Height/Privacy

Comments were received that the proposed 3-storey height is out of character with the area and would have an unsightly overview on the adjacent residential properties resulting in a loss of privacy in amenity areas. The proposed building would be 3-storeys and approximately 13m in height. The “H” District permits a maximum height of 4-storeys and 17m in height, except if side yards greater than 3.0m are provided then a maximum height of 8-storeys or 26m is permitted. The applicants are not proposing to maximize the height permitted in the proposed “H” District. The adjacent residential properties are zoned “C” District, which permits a maximum height of 2-½ storeys and 11m. The proposed height is only slightly taller than that permitted in the adjacent zoning. The building will also be setback a minimum of 14.5m from the adjacent property on Mohawk Road East (19.4m setback for the majority of the building) and setback a minimum of 9m from the adjacent property on Upper Ottawa Street. The building is situated on the property to maximize these setbacks, which would reduce the impact of the height of the building.

The proposed height of the building is also consistent with other development existing on Mohawk Road East that is also adjacent to single detached dwellings with “C” District zoning. The new multiple dwelling at 908 Mohawk Road East (located immediately east of the new drug store at the Southeast corner of Mohawk Road East and Upper Ottawa Street) is approved with a maximum 4-
storey and 14m height. An existing 7-storey multiple dwelling is located at 903 Mohawk Road East. Both of these multiple dwellings immediately abut single detached dwellings to the rear. Therefore, the proposed form of development is in keeping with the character of the area and the location of the building is such that any impacts from height are minimized. However, to provide assurance to the neighbouring property owners, the By-law should be modified to limit the height of the building to 3-storeys and 13m in height, and to provide for a minimum setback from a residential district of 9.0m. This would ensure that the applicants cannot revise the proposal to either situate the building closer to the residential properties or build higher than currently proposed.

Traffic and Density

Comments were received that the proposal would increase traffic due to the density of the project, and that conflicts at the intersection and with transit stops could occur. It should be noted that the applicants have revised the proposal to reduce the number of proposed dwelling units from 16 to 14, partially in order to address neighbourhood concerns. The Public Works Department (Traffic Engineering and Operations Section) has no concerns with the proposal with respect to any increase in traffic but did provide comments on the proposal pertaining to driveway design. The plan attached as Appendix “C” implements these comments pertaining to the location of the Upper Ottawa Street driveway being located as far north as possible. Hamilton Street Railway (HSR) supports the application and has no concerns with the location of the driveways with respect to the existing bus stop/shelter on Upper Ottawa Street adjacent to the development.

Property Values

The owner of the adjacent residential property to the west expressed concern about property devaluation. Staff is not aware of any studies or empirical data that would support the concern about property devaluation. It should be noted that the subject lands were previously utilized as a gas station and the proposed mixed commercial/residential is an improved use that would also result in assurance that the property has been suitably remediated with respect to any potential contamination. The proposal would improve the streetscape and provide landscaping and fencing.

ALTERNATIVES FOR CONSIDERATION:

Should the application be denied, the lands can only be utilized for a single detached dwelling or other uses permitted within the “C” (Urban Protected Residential, Etc.) District. This alternative would not implement the existing “Commercial” designation in the Hamilton Official Plan.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial - N/A.

Staffing - N/A.

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

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. Policy 1.1.3.2 provides that land use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources. Policy 1.1.3.3 provides that planning authorities shall identify and promote opportunities for intensification and redevelopment. In addition, the housing policies of Section 1.4 also promote the provision of a range of housing types and densities through residential intensification and redevelopment. In this regard, the proposal is consistent with the principles and policies of the Provincial Policy Statement.

However, Policy 3.2.2 states that contaminated sites shall be remediated, as necessary, prior to any activity of the site associated with the proposed use such that there will be no adverse effects. As the former use of the site was a gas station and the proposed use contains residential, Ontario Regulation 153/04 requires a mandatory filing of a Record of Site condition (RSC). The applicant must, therefore, submit a signed RSC to the City of Hamilton including an acknowledgement of receipt of the RSC by the Ministry of the Environment.

In addition, Policy 1.7.1(e) outlines that sensitive land uses must be appropriately designed, buffered and separated from each other to prevent adverse effects from odour, noise and other contaminants. Due to the proximity of the property to two arterial roads, an acoustical report must be submitted to determine noise control measures to meet Ministry of Environment recommended sound level limits.

To address the above noted requirements for a RSC and acoustical report submission, the subject lands are being placed into an ‘H’ Holding provision. The ‘H’ Holding provision can only be removed by By-law at such time that the owner submits a signed Record of Site Condition (RSC) and an acoustical report. Any recommendations of the noise study would be implemented through site plan control.

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. The proposal conforms to the Plan and implements the Policies of Section 3.1.1 which promote a compact, higher density urban form with mixed use development.
Hamilton Official Plan

The subject property is designated “Commercial” in the Hamilton Official Plan. A mixed commercial and residential building conforms with and implements this designation. The application also implements the policies of Subsection C.7.3 pertaining to supporting infilling and redevelopment.

Neighbourhood Plan

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

**RELEVANT CONSULTATION:**

The following Departments and Agencies had no comments or objections:

- Corporate Services Department (Budgets Section).
- Public Works Department (Forestry and Horticulture Section).
- Hamilton-Wentworth District School Board.

Hamilton Street Railway has advised that route #22 and route #41 operate adjacent to the property with no plans to change service; that street orientation and pedestrian entrances are important and that short walking distances between uses and transit service are preferable; that mixed land uses contribute to a healthy transit operation; and, that the proposed development improves the land use mix along the transit line, which is transit supportive.

Public Works Department (Waste Management) has advised that the property is eligible for municipal collection of garbage, organics, recyclable material and leaf and yard waste and has provided details of bin collection specification. Implementation of these requirements will be undertaken through review of the required site plan.

Public Works Department (Traffic Engineering and Operations Section) has advised that the driveway on Upper Ottawa Street should be located at the north limits of the property and that any existing driveways not required must be removed and boulevards reinstated.

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, the application was pre-circulated to 196 property owners within 120 metres of the subject property in May 2006. In addition, a Public Notice sign was erected on the property in April, 2007. As a result of the pre-circulation, 3 letters from neighbouring land owners were received (see Appendix “D”). A summary of the concerns and responses is provided in the Analysis/Rationale Section of this report. Finally, notice of the Public Meeting has been given in accordance with the requirements of the Planning Act.
CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
Shelter, care and satisfying employment are accessible to all Hamiltonians.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Infrastructure and compact, mixed use development minimize land consumption and servicing costs.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:GM
Attachs. (4)
Subject Property
865 Mohawk Road East (Hamilton)
Change in Zoning from the "C" (Urban Protected Residential, Etc.) District to the "H-H/S-1579" (Community Shopping and Commercial, Etc. - Holding) District, Modified.
CITY OF HAMILTON

BY-LAW NO.  

To Amend Zoning By-law No. 6593 (Hamilton), Respecting 865 Mohawk Road East

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 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 Section  of Report 07- of the Economic Development and Planning Committee at its meeting held on the day of , 2007, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982.

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

1. That Sheet No. E-49 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended,
(a) by changing the zoning from the “C” (Urban Protected Residential, Etc.) District to the “H-'H'/S-1579” (Community Shopping and Commercial, Etc. - 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 “H” (Community Shopping and Commercial, Etc.) District provisions, as contained in Section 14 of Zoning By-law No. 6593, be modified to include the following special requirements:

   (a) That notwithstanding Subsection 14(1) of Zoning By-law No. 6593, a maximum of 14 dwelling units in the same building with commercial uses located on the ground floor shall be permitted.

   (b) That notwithstanding Subsection 14(2), of Zoning By-law No. 6593, no building or structure shall exceed three storeys or 13.0 metres in height.

   (c) That notwithstanding Subsection 14(3)(i) of Zoning By-law No. 6593, no front yard is required.

   (d) That notwithstanding Subsection 14(3)(ii) of Zoning By-law No. 6593, a minimum setback of 9.0m shall be required from a residential district.

   (e) That notwithstanding Subsection 18A(7) of Zoning By-law No. 6593, every required parking space, other than a parallel parking space, shall have dimensions not less than 2.6 metres wide and 5.5 metres long.

   (f) That notwithstanding Subsection 18A(1) of Zoning By-law No. 6593, no loading space shall be required for a use permitted under Subsection 2(a) of this By-law.

   (g) That Subsection 18A(11)(b) of Zoning By-law No. 6593 shall not apply.

   (h) That notwithstanding Subsection 18A(26) of Zoning By-law No. 6593, an access driveway shall be located not less than 1.5 metres from the common boundary with a residential district.

3. That the 'H' symbol, may be removed by a further amendment to this By-law, at such time as the owner submits a signed Record of Site Condition (RSC) to the satisfaction of the Director of Planning, including an acknowledgement of receipt of the RSC by the Ministry of the Environment. The owner must also submit an acoustical report prepared by a qualified Professional Engineer to the satisfaction of the Director of Planning that shall investigate the noise levels on the site and determine the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment’s recommended sound level limits.
4. Zoning By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1579.

5. 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/S-1579" (Community Shopping and Commercial, Etc.) District, provisions, subject to the special requirements referred to in Sections 2 and 3.

6. 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 [___] day of [___], 2007.

__________________________________________  _______________________________________
Fred Eisenberger                          Kevin Christenson
MAYOR                                   CLERK

ZAC-06-37
Appendix "B" to Report PED07170 (Page 4 of 4)

This is Schedule "A" to By-Law No. 07-

Passed the .......... day of ......................, 2007

Clerk

Mayor

Schedule "A"

Map Forming Part of
By-Law No. 07-_____

to Amend By-law No. 6593

Subject Property
865 Mohawk Road East (Hamilton)
Change in Zoning from the "C" (Urban Protected
Residential, Etc.) District to the "H-H/S-1579"
(Community Shopping and Commercial, Etc. - Holding)
District, Modified.

Scale: N.T.S.          File Name/Number:  
ZAC-06-37

Date: May 17, 2007   Planner/Technician:  
GMMB

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
June 12, 2006

Real and Louise Lessard
861 Mohawk Road E.
Hamilton, ON L8T 2R4

Dear Greg Macdonald:

Re: Preliminary Circulation, Application for Approval of Zoning Application
ZAC-06-37, 865 Mohawk Road East, Hamilton, Ward 6

I am writing you this letter, with many concerns, about the above mentioned property. My concerns are as follows:

1) Privacy is the first concern I have. I live right beside the said property. The building that you are or may approve for the said property will allow many people to look out into my back yard. My family and I spend a lot of time in the back yard and we don't need other people looking in on us.

2) Traffic is my second concern. The corner of Mohawk Road East and Upper Ottawa Street is a very busy corner as it is, to add the said building will only add to this busy area, it will not help it.

3) Vandalism is my third concern. This could be a potential problem. Adding 16 new residential living areas, especially because they will be able to see into my living space, could be harmful.

4) Depreciation is my forth complaint. The value of my home could drop dramatically.

As you can see Mr. Macdonald, My husband and I have many legitimate complaints and would like to address them in more detail at the public meeting before a decision is made on the said property. I would like to make my complaints clear, I am in disagreement with the 16 residential living areas, I would have no problem if it was just a small shopping plaza.

Thank-you for your time, I look forward to discussing the matter at hand in further detail at the public meeting.

Sincerely:

Louise Lessard
RECEIVED JUN - 7 2006

MRS. L A THOMPSON
854 Mohawk East
HAMILTON ON
L8L 2R5

Dear [Name],

Re: Zoning Application
Z AE-06-37
865 Mohawk East (Ward 6)
HAMILTON

This is to advise you of my opposition to the proposed changes to zoning of the above property. They are from Industrial to Commercial.

In my opinion the amendments requested will cause severe congestion on the property. The whole profile is far too long for its size.

The amendments to decrease the size of the parking spaces and decks (front & back of the building) & the height to 3 stories are unacceptable. The residential character requested will be far in excess of the commercial one whereas this is not allowable under current by-law & also unacceptable.

The Mohawk & Upper Ottawa corner is already considered dangerous in the city. It has tremendous traffic (East v West) as well as North v South & even though there are TRAFFIC LIGHTS

[Signature]
2.

Accidents happen all the time.
With the additional traffic which will be caused by the essential links & commercial activities right at this corner will add to the present danger.

There are already 3 places at this corner — one might conclude this makes it make me wonder how traffic will safely get in & out of the property especially when space is minimal.

Please keep my letter as proof of my opposition on this matter in order to take my opinion at any future meeting to settle the application.

Yours sincerely,
(Handwritten)

P.S. In addition, I would like to say that our by-laws have sometimes well thought the years & amend them is a serious matter, as it can open the door to requests from future applicants to build down our By-lawn Protection Aligments.
----- Original Message -----  
From: Bates, Nancy  
Sent: Monday, June 19, 2006 3:27 PM  
To: Moore, Paul A  
Subject: ZAC 06 37 859 Mohawk Road East  

Mr. Paul Ensslen  
103 Winchester Blvd

wants to submit his objection to the rezoning of the above property

reasons:
devaluing of their property
lack of privacy - size of building in relation to current homes - will be towering over them
area has always been residential - they don't want to have a change to commercial as they
feel there will be a cumulative effect once you open the door to commercial
serious concerns over parking, increased traffic to the area, garbage and with that rodents

Nancy Bates  
Administrative Assistant to  
Councillor Tom Jackson, Ward 6