

# CITY OF HAMILTON PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT Planning Division

TO:	Chair and Members		
	Planning Committee		
COMMITTEE DATE:	September 19, 2014		
SUBJECT/REPORT NO:	Proposed Zoning By-law Amendment Affecting Lands Located at 252 Governor's Road (PED14205) (Ward 13)		
WARD(S) AFFECTED:	Ward 13		
PREPARED BY:	Timothy Lee (905) 546-2424 Ext. 1249		
SUBMITTED BY:	Jason Thorne		
	General Manager		
	Planning and Economic Development Department		
SIGNATURE:			

## RECOMMENDATION

That **Zoning By-law Amendment Application ZAR-14-017, by Steve Dunham**, **Owner**, for a modification to the Single Detached Residential "R1" Zone, to the Holding - Single Detached Residential "R1/S-128" Zone, Modified, with a Special Exception, on lands located at 252 Governor's Road (Dundas), as shown on Appendix "A" to Report PED14205, be approved, on the following basis:

- (a) That the draft By-law, attached as Appendix "B" to Report PED14205, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
- (b) That the amending By-law be added to Schedule "A" of Zoning By-law No. 3581-86;
- (c) That the proposed change in Zoning is in conformity with the Urban Hamilton Official Plan (UHOP).

## EXECUTIVE SUMMARY

The purpose of this application is to modify the Dundas Zoning By-law for lands municipally known as 252 Governor's Road (Dundas), in order to permit a day nursery for up to 41 children within the residential building existing at the time of the passing of the implementing Zoning By-law. The final number of children within the day nursery will be in accordance with the <u>Day Nurseries Act</u>, but within the maximum permitted within the implementing Zoning By-law. Staff parking associated with the day nursery will be provided within the driveway and garage of the existing building. The existing residential use on the subject lands will cease. In addition, an offsite drop-off/pick-up location and additional staff parking for the day nursery will be provided on an abutting

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property to the south of the subject lands municipally known as 1-5 Lyndale Drive, secured through a private agreement between the landowners permitting such arrangement (see Appendix "D").

The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe, and the UHOP. Also, the proposal will allow for an efficient use of land and provide additional childcare services within the general area.

## Alternatives for Consideration – See Page 13

## FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None

Staffing: None

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

# HISTORICAL BACKGROUND

## Proposal:

The subject property, municipally known as 252 Governor's Road (Dundas), is located on the south side of Governor's Road and west of Lyndale Drive (see Appendix "A"). The property is rectangular in shape with a dimension of approximately 22.8 m in lot width and approximately 43.6 m in lot depth. The subject lands are surrounded by the St. Mark's United Church to the south, single detached dwellings to the east and west, and a block townhouse complex and the Georgian Retirement Home to the north.

The applicant is proposing to cease the exiting residential use on the subject lands and to facilitate the establishment of a day nursery with a maximum of 41 children, primarily providing care to infants (18 months and under) and toddlers (18 months to 30 months). Regulatory requirements under the <u>Day Nurseries Act</u> with respect to indoor and outdoor amenity space, and washroom and laundry facilities, will also be subject to Site Plan Control to ensure that amenity space is being provided, and that adequate pedestrian access is being proposed between the offsite drop-off/pick-up location and the subject lands.

Employee parking will be provided within the existing garage and existing driveway of the existing dwelling. Furthermore, an agreement between the owner of the subject lands and the St. Mark's United Church has been arranged to allow for the day nursery to locate the drop-off/pick-up and additional staff parking at the church property municipally known as 1-5 Lyndale Drive (see Appendix "D").

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The purpose of the application is to modify the Single Detached Residential "R1" Zone to add a day nursery as a permitted use within the building existing at the time of the passing of the implementing Zoning By-law. In addition, modifications to the minimum parking requirements for day nurseries are proposed. Staff are recommending a Holding Provision for the Owner enter into an agreement with the St. Mark's United Church to be registered on title in order to secure the drop-off/pick-up and additional staff parking location for the day nursery.

### Chronology:

<u>May 8, 2014</u> :	Application ZAC-13-018 is deemed complete.	
<u>May 20, 2014</u> :	Circulation of Notice of Complete Application and Preliminary Circulation of Application to all residents within 120 m of the subject lands.	
<u>June 9, 2014</u> :	Zoning By-law Amendment Sign Posted on the Subject Lands.	
<u>August 20, 2014</u> :	Zoning By-law Amendment Sign Updated on the Subject Lands with the date of the Public Meeting.	
<u>August 29, 2014</u> :	Circulation of Notice of Public Meeting to all residents within 120 m with the date of the subject lands.	
Details of Submitted Application:		

## **Details of Submitted Application:**

Location:	252 Governor's Ro	oad (Dundas)
Owner/Applicant:	Steve Dunham	
Property Description:	<u>Lot Frontage</u> : <u>Lot Depth</u> : <u>Total Lot Area</u> :	22.8.0 m 43.6 m 997.6 sq m

## EXISTING LAND USE AND ZONING:

	Existing Land Use	Existing Zoning
Subject Lands:	Single Detached Dwelling	Single Detached Residential "R1" Zone

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Surrounding Lands:		
North	Block Townhouse Dwellings	Low to Medium Density Multiple Dwelling Residential "RM1" Zone
	Retirement Home	Neighbourhood Institutional (I1) Zone
South	St. Mark's United Church	Neighbourhood Institutional (I1, 33) Zone
East	Single Detached Dwelling	Single Detached Residential "R1" Zone
West	Single Detached Dwelling	Single Detached Residential "R1" Zone

## POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

## Provincial Policy Statement (2014):

The application has been reviewed and is consistent with the PPS, which encourages healthy, liveable, and safe communities (Policy 1.1.1); and which focuses growth in Settlement Areas (Policy 1.1.3).

In addition, Policies 1.1.3.4 and 1.1.3.6 state that new development taking place in designated growth areas should occur adjacent to existing built-up areas, which should have a compact form with a mix of uses and densities. Appropriate development standards should be promoted with this type of redevelopment. Finally, Policy 1.3.1 promotes economic development and competitiveness by encouraging compact, mixed-use development that incorporates compatible employment uses to support liveable and resilient communities. The proposal is in keeping with the above policies with respect to promoting a day nursery use within an existing built-up area. The location of the drop-off/pick-up and additional staff parking at the existing parking lot of the St. Mark's United Church maximizes an underutilized portion of land during the church's off-peak time, promoting a form of parking management.

Based on the foregoing, the proposal to permit a day nursery is consistent with the PPS.

## Growth Plan for the Greater Golden Horseshoe (Places to Grow):

The application has been reviewed with respect to the Growth Plan for the Greater Golden Horseshoe. The subject property is located within the Built-Up Area, as defined in Places to Grow. The application conforms to Policy 1.2.2, where guiding principles of the Plan are to "build compact, vibrant, and complete communities", "plan and manage growth to support a strong and competitive economy", and to "optimize the use of existing and new infrastructure to support growth in a compact, efficient form."

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As the proposal is to facilitate the development of a day nursery, Policy 2.2.2.1(a), (b), (g), and (h) are met with respect to directing new growth within the Built-Up Areas through providing a balance between jobs and housing within the community. As the subject lands are located within the urban area, the proposal meets Policy 2.2.2.1(d), as the proposal is intended to reduce the dependency on the automobile through a variety of uses within an established neighbourhood, and encourage pedestrian activity.

Finally, Policy 2.2.3.6(b) promotes a diverse and compatible mix of land uses, including complementary and supportive commercial uses contributing to complete communities that will serve the needs of residents within walking distance. Based on the foregoing, the proposed development conforms to the policies of the Growth Plan.

## Urban Hamilton Official Plan (UHOP):

The subject lands are designated as "Neighbourhoods" on Schedule "E-1" – Land Use Designations, which permits residential uses. Furthermore, the proposed day nursery use is identified as a local commercial use, to which the following policies apply:

- "E.3.8.1 Local commercial uses that primarily cater to the weekly and daily needs of residents within the surrounding neighbourhood may be permitted within the Neighbourhoods designation; and,
- E.3.8.2 The following uses shall be permitted:
  - a) retail and service uses such as a craftsperson shop, day nursery, commercial school, financial establishment, medical office, business office, professional office, motor vehicle service station, personal service, place of worship, repair service, restaurant, studio, art gallery, tradesperson shop, and veterinary service."

As identified under Policy E.3.8.2, a day nursery is considered as a local commercial use. The proposed day nursery is distinguished as a local commercial use, as opposed to an institutional use, is that the use will be catering to the weekly and daily needs of residents, as the subject lands is surrounded by residential uses, and therefore meets Policy E.3.8.2(a). This is contrary to identifying the day nursery as an institutional use, as it would cater to the needs of a more regional population.

Residents utilizing the day nursery will be able to drop off or pick up their children on their way to their destination. based on the size and location within the community. Based on the foregoing, proposed day nursery use is permitted under the designation.

## Local Commercial Use:

As the day nursery is considered as a local commercial use under Policy E.3.8.1 and E.3.8.2, the following local commercial policy goals within the UHOP are also reviewed:

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

This is to ensure that the local commercial use is compatible with the surrounding residential uses with respect to massing, scale, built form, and landscaping, and to prevent a concentration of local commercial uses such as within a strip retail commercial plaza. Also, locating the drop-off/pick-up and staff parking location at the St. Mark's United Church, will allow the subject lands to maintain the scale, landscaping, and built form with the surrounding residential uses.

Furthermore, the proposed development meets the following policy where the subject lands have access to Governor's Road, which is a major arterial road under Schedule "C" – Functional Road Classification of the Urban Hamilton Official Plan.

- "E.3.8.9 Development and redevelopment of local commercial uses shall:
  - a) front and have access to a major arterial, minor arterial, or collector road."

Also, the following policies are met in that the development is compatible with the surrounding residential neighbourhood with respect to design, massing, height, setback, and landscaping, as the proposal would be restricted to the existing single detached dwelling. Furthermore, the intersection of Governor's Road and Creighton Road includes other non-residential uses such as the St. Mark's United Church and a mixed-use commercial/residential use on the southeast corner of the intersection, providing for local needs required by local residents.

- "E.3.8.9 Development and redevelopment of local commercial uses shall:
  - c) be compatible with the surrounding area in terms of design, massing, height, setbacks, on-site parking, noise impact, landscaping, and lighting; and,
- E.3.8.11 New local commercial uses shall be planned and designed to be integrated with and easily accessible from the surrounding neighbourhood."

In addition, the proposed drop-off/pick-up is provided offsite to the rear of the subject lands at the St. Mark's United Church, which provides for a safer environment to dropoff children, and reduces potential noise impacts from vehicles. Providing an offsite location of the drop-off/pick-up location for parents reduces potential vehicular conflicts along Governor's Road with pedestrians and cyclists.

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## Scale and Design:

With respect to the scale and design of the proposal, the existing residential use will cease on the subject lands, and the proposed day nursery will operate within the existing building, and the amenity space for the day nursery will be provided in the rear yard. The subject lands are characterized as heavily landscaped with several mature trees in the yards, and a setback that is consistent with abutting residential buildings. Access to the nursery will be from the front, as the existing principal entrance will remain, and from the rear, as the drop-off/pick-up will be provided offsite.

The urban design principles of the proposed development are evaluated under Policy B.3.3 of the UHOP, where under Policy B.3.3.2.6, the following principles include:

- "B.3.3.2.6a) Complementing and animating existing surroundings through building design and placement as well as through placement of pedestrian amenities; and,
- B.3.3.2.6d) Complementing the existing massing patterns, rhythm, character, colour, and surrounding context."

As the existing single detached dwelling will be maintained and converted into the proposed use, the above policies are met with respect to complementing the surrounding residential neighbourhood. No additions or exterior changes to the existing building is proposed, which will maintain the existing massing and character of the surrounding residential lots. In addition, the drop-off/pick-up location will be provided offsite at the St. Mark's United Church, which will prevent potential vehicular conflicts with pedestrians and other vehicles along Governor's Road. Staff parking will be provided within the existing driveway, where enhanced landscaping and a "hammerhead" to allow for the forward movement of vehicles will be reviewed and implemented at the Site Plan Control stage.

Furthermore, as the proposed day nursery use will be located within the existing building, the proposal meets the following policies:

- "B.3.3.3.2 New development shall be designed to minimize impact on neighbouring buildings and public spaces by:
  - a) creating transitions in scale to neighbouring buildings;
  - b) ensuring adequate privacy and sunlight to neighbouring properties; and,
- B.3.3.3.3 New development shall be massed to respect existing and planned street proportions."

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The residential use within the existing building will cease in order to add the proposed day nursery use, and the building footprint will be maintained, and no additions are proposed. The use will maintain the appropriate transitions in scale to neighbouring buildings, will maintain minimal shadowing impacts, and will be appropriately massed to respect existing street proportions. In addition, the rear yard amenity space for the day nursery will be appropriately buffered and screened through additional landscaping and fencing as required under the <u>Day Nurseries Act</u>, and will be reviewed at the Site Plan Control stage.

Additional policies exist with respect to creating a positive pedestrian experience:

- "B.3.3.3.5 Built form shall create comfortable pedestrian environments by:
  - a) locating principal façades and primary building entrances parallel to and as close to the street as possible;
  - b) including ample glazing on ground floors to create visibility to and from the public sidewalk;
  - c) including a quality landscape edge along frontages where buildings are set back from the street; and,
  - d) locating surface parking to the sides or rear of sites or buildings, where appropriate."

The proposed drop-off location for the day nursery will be located offsite on an abutting property to the rear of the subject lands, and staff parking will be provided within the existing garage and driveway. Also, additional landscaping will be required to provide for buffering between the existing driveway and abutting residential dwellings, and will be reviewed at the Site Plan Control stage. The offsite drop-off will be accessible through the rear yard and into the existing building. The location of the offsite drop-off will ensure that vehicles can safely park on a short term basis without disrupting traffic along Governor's Road (see Appendix "D"). Furthermore, the existing fenestration throughout the front façade, and the primary building entrance facing Governor's Road are being maintained, and conforms to the above policies.

Based on the foregoing, the proposal conforms to the urban design and commercial policies of the Urban Hamilton Official Plan.

## **RELEVANT CONSULTATION**

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

• Hamilton Conservation Authority.

- Canada Post.
- Bell Canada.
- Horizon Utilities.
- Taxation, Corporate Services Department.
- Urban Forestry, Public Works Department.

**Corridor Management, Public Works Department:** Governor's Road is identified as a Major Arterial road under the Urban Hamilton Official Plan, where the road is currently at capacity, and does not support the application based on the proposed day care use and based on the anticipated traffic that would be generated from the day care use. However, in order to provide for potential mitigation, the proposed drop-off/pick-up location would be provided off-site and will be accessible from Creighton Drive, which currently has a signalized intersection at Governor's Road. Furthermore, the proposed day nursery is anticipated to cater to the local population, which would not result in additional traffic from outside of the immediate residential neighbourhood. However, Corridor Management staff continue to have concerns with respect to the offsite drop-off/pick-up location.

## Public Consultation:

In accordance with Council's Public Participation Policy, the application was circulated as part of the Notice of Complete Application and Pre-circulation to 74 residents within 120 m of the subject lands on May 10, 2014, where three letters have been received expressing concerns with the application with respect to traffic concerns and overall number of children occupying the day nursery (see Appendix "C"). These letters have been addressed in the Analysis/Rationale for Recommendation Section of this Report.

## ANALYSIS AND RATIONALE FOR RECOMMENDATION

- 1. The proposal can be supported for the following reasons:
  - (i) It is consistent with the PPS, which supports economic growth and provides for employment opportunities;
  - (ii) It conforms with the Growth Plan for the Greater Golden Horseshoe, which encourages employment opportunities within a built-up area; and,
  - (iii) It conforms to the UHOP with respect to permitting the proposed day nursery within an existing building in a predominantly residential neighbourhood.
- 2. Zoning By-law Amendment (ZAR-14-017):

The subject lands are currently zoned Single Detached Residential "R1" Zone, which permits single detached dwellings. To facilitate the proposed day nursery use, a modification to the existing zoning is being sought. The implementing

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Zoning By-law (Appendix "B") will permit the proposed day nursery within the building existing at the date of the passing of By-law, to permit a reduction in parking requirements, and to place a Holding Provision on the property to ensure that the Owner and the St. Mark's United Church enters into an agreement to be registered on title securing the drop-off/pick-up and additional staff parking location for the day nursery. The modifications are as follows:

#### Permitted Day Nursery Use:

An amendment to the Dundas Zoning By-law has been sought to permit a day nursery in order to facilitate the proposed development. The day nursery will provide care primarily to infants (18 months and under) and toddlers (18 months to 30 months). Requirements with respect to indoor and outdoor amenity space, and washroom and laundry facilities, are regulated under the <u>Day Nurseries Act</u>.

Under Section 8.1 – Permitted Uses of the Dundas Zoning By-law, the Single-Detached Residential "R1" Zone permits limited uses such as a single-detached dwelling, retirement home, a bed and breakfast establishment, and one accessory apartment within a single-detached dwelling.

Under the implementing Zoning By-law (see Appendix "B"), a site-specific provision will permit a day nursery within the building existing at the time of the passing of the implementing By-law. This will ensure that the proposed use will be restricted to the existing building only, and the use will not be permitted within any addition to the existing building, or a replacement of the existing building. Any future expansions to the existing building, or increasing the overall capacity of the day nursery, will require an amendment to the Zoning By-law.

Furthermore, the site-specific provision restricts the day nursery use to a maximum of 41 children, to ensure that sufficient care is provided for infants and toddlers in accordance with the regulations of the <u>Day Nurseries Act</u>. This restriction prevents the day nursery from being expanded to accept additional children. Based on the foregoing, staff are in support of the proposal to add day nursery use.

## Parking Requirements Provided Off-Site:

Under Section 7.12.2 - Parking Requirements of the Dundas Zoning By-law, one parking space is required to be provided per six children who may be lawfully accommodated. Based on proposed day nursery of up to 41 children, seven parking spaces will be required. This is to ensure that all parking will be provided for employees and parents to drop-off or pick-up children to and from the day nursery.

The applicant has requested that the parking requirement be reduced to one space per 125 sq m of Gross Floor Area, which would have been identical to the

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parking space requirements found in the Hamilton Zoning By-law 05-200 parking requirements for day nurseries. As the existing building is less than 125 sq m in size, one parking space would be required. However, as the day nursery will have up to 10 staff members, staff have revised the requested modification to require seven parking spaces as required under the existing Dundas Zoning By-law provisions, but to further modify the zone provisions to permit a portion of the required parking to be provided offsite. This modification will be similar to a provision in the Hamilton Zoning By-law 05-200, where required parking can be provided offsite, and that the owners of both lots enter into an agreement with the City to be registered against the title of both the lot upon which parking is to be provided and the lot containing the parking. This can be supported as the off-site drop-off/pick-up location and offsite staff parking will contribute to the reduced parking demands from the day nursery that can be accommodated at the St. Mark's United Church, and to use an underutilized portion of land during the church's off-peak time.

At the Site Plan Control stage, the parking spaces will be required to be shown on the driveway of the subject lands, plus a "hammerhead" which will allow for the forward movement of vehicles as they exit the subject lands. Furthermore, a sign indicating staff parking will also be required at Site Plan Control stage to direct passenger drop-off/pick-up to the rear of the subject lands.

Based on the foregoing, the modifications to the parking requirements can be supported by staff, and meets the general intent of the zone provision.

3. Governor's Road is designated as a major arterial road under Schedule "C" – Functional Road Classification of the UHOP, where under Policy C.4.5.2c)i) the primary function of such road shall be to carry relatively high volumes of intramunicipal and inter-regional traffic through the city. Comments from Corridor Management indicate that the traffic capacity has been reached on Governor's Road due to the limited capacity of the two-lane arterial road.

A Traffic Impact Study was initially not requested by Corridor Management during the Formal Consultation stage, and therefore such study was not conducted for the purpose of a complete application. However, upon review of the current application, a Traffic Impact Study was subsequently required to address the potential impact of the day nursery to the existing traffic conditions along Governor's Road. However, it was determined that the day nursery is a commercial use that typically attracts parents from within the residential neighbourhood, rather than attracting parents from a regional scale. Furthermore, as the drop-off\pick-up of the nursery is proposed to be located at the St. Mark's United Church lands, located immediately abutting the subject lands, vehicles can utilize the signalized intersection of Governor's Road and Creighton Drive, where there will be minimal traffic impacts on Governor's Road. Also, staff parking will be

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provided in the existing single-car garage and the driveway. Based on the foregoing discussion, a Traffic Impact Study was therefore not required.

Notwithstanding the above rationale, Corridor Management maintain their concern with the application and state they do not support the proposed application, however, Planning staff are satisfied that the traffic impacts have been adequately addressed.

- 4. A private agreement is being sought between the applicant and the St. Mark's United Church in order to permit the portion of the church parking lot to be utilized for the drop-off/pick-up. A provision in the implementing Zoning By-law has been added permitting a portion of staff parking to be provided offsite at the St. Mark's United Church lands. The proposal will be subject to Site Plan Control to ensure that the drop-off/pick-up location and additional staff parking has been secured.
- 5. As the existing single detached dwelling will be converted to permit a day nursery within the existing building, the proposal will be subject to Site Plan Control. This is to ensure that landscaping, parking, built form, and amenity space as required under the <u>Day Nurseries Act</u>, can be reviewed by staff and ensure that the use conforms to the requirements of the Dundas Zoning By-law.
- 6. A total of three letters of opposition were submitted as part of the Notice of Complete Application. The issues included the following:

## Day Nursery Size:

One resident is concerned with respect to the potential number of children that would be cared for within the day nursery. The operation of day nurseries, including the maximum number of children permitted in the day nursery based on age group, are licensed and regulated under the <u>Day Nurseries Act</u>, where the applicant will be required to adhere to the requirements found in the Act. The implementing draft By-law is proposed to restrict the number of children in the day nursery to 41 children. Future modifications would be required if additional capacity are requested.

## Traffic on Governor's Road:

Concerns have been raised with respect to the existing traffic condition on Governor's Road, and the impact the proposed development will have on traffic. The applicant proposes to locate the drop-off/pick-up location at the parking lot of the St. Mark's United Church lands. Cars would be required to access the parking lot from Governor's Road through a signalized intersection at Creighton Drive. This will provide a safer location to drop-off and pick-up children. This will ensure that cars that are dropping off or picking up children will be utilizing the parking lot of the church at a period of time where the parking lot is underutilized, and it would

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allow for parents to drop-off children in a safe environment away from passing vehicles. Details of the drop-off/pick-up location and the pedestrian connection to the subject lands will be addressed at Site Plan Control stage. In addition, a Holding Provision is required ensuring that the Owner enters into an agreement with the St. Mark's United Church to be registered on title for the access and location of the drop-off/pick-up location.

Based on the foregoing, staff are of the opinion that the issue has been addressed with respect to impacts of the proposed development on traffic.

## ALTERNATIVES FOR CONSIDERATION

Should the proposed Zoning By-law Amendment be denied, the property located at 252 Governor's Road will remain a residential use, where the Single Detached Residential "R1" Zone permits single-detached dwellings, a retirement home, and a bed and breakfast establishment in conjunction with a principle dwelling.

## ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

## Strategic Priority #1

A Prosperous & Healthy Community WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

## Strategic Objective

- 1.1 Continue to grow the non-residential tax base.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

## APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Draft Zoning By-law
- Appendix "C": Resident Letters from May 20, 2014, Notice of Complete Application
- Appendix "D": Concept Plan

TL:tp

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