



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 9, 2019
SUBJECT/REPORT NO:	Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13)
WARD AFFECTED:	Ward 13
PREPARED BY:	Ryan Ferrari (905) 546-2424 Ext. 5865
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Zoning By-law Amendment Application ZAR-19-013, by Sisters of St. Joseph, (Owner)**, to establish a Temporary Use By-law to permit a dormitory for 96 students with an additional 42 students subject to servicing upgrades for a total of 138 students as a temporary use within Building 'B', for a maximum period of three years, for the lands located at 574 Northcliffe Avenue, Dundas, as shown on Appendix "A" to Report PED19132, be **APPROVED** on the following basis:

- (i) That the draft Temporary Use By-law, attached as Appendix "B" to Report PED19132, be approved by City Council;
- (ii) That a Holding Symbol (H) pursuant to Section 36 of The Planning Act, R.S.O. 1990, c.P. 13 and Subsection 4.9 of By-Law No. 3581-86 is hereby applied to the PPS Zone category as it applies to 574 Northcliffe Avenue (Building 'B'). For such time as the Holding Symbol (H) applies to the subject lands, temporary dormitory shall be limited to a maximum capacity of 96 students. Council shall remove the Holding Symbol (H) by by-law amendment upon all of the following requirements having been addressed to its satisfaction:

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- (1) The applicant / proponent shall demonstrate and have attained all of the necessary approvals to provide adequate services to increase the capacity beyond 96 students to accommodate a dormitory having a maximum capacity of 138 occupants to the satisfaction of the Niagara Escarpment Commission, Director, Development Planning and Ministry of Environment, Conservation and Parks.
- (2) That upon such time as the Holding Symbol (H) is lifted, the temporary dormitory shall have a maximum occupancy of 138 persons.
- (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Niagara Escarpment Plan, Greenbelt Plan, and Parkway Belt West Plan and complies with the Region of Hamilton-Wentworth Official Plan and Town of Dundas Official Plan.

EXECUTIVE SUMMARY

The subject lands are situated in the former Town of Dundas, northwest of the interchange of Highway No. 6 and Highway No. 403. The subject lands are approximately 19.4 ha (47.93 ac) in size with two existing buildings on site. Building 'A' is known as 154 Northcliffe Avenue and Building 'B' is known as 574 Northcliffe Avenue, as shown on Appendix "A" to Report PED19132. Building 'A' is situated on the northern part of the property and houses a convent, the Sisters of the Precious Blood. No changes are proposed to this building. Building 'B' has been occupied since 1950 by the Sisters of St. Joseph, a separate convent. Building 'B' is subject to the proposed Temporary Use By-law. There are no proposed changes to the exterior of Building 'B' and only minor interior construction is required to the dorm rooms.

In December, 2018, the applicant, Columbia International College, applied for a Zoning By-law Amendment to establish a Temporary Use By-law to permit a student dormitory within Building 'B'. The effect of the Temporary Use By-law will be to permit a student dormitory having a maximum capacity of 96 students. The applicant also requested that the dormitory have a maximum capacity of 138 students subject to a Holding Provision on the subject lands. Currently, the existing septic system capacity can only accommodate 96 students. To remove the Holding Provision and increase the capacity to 138 students, the applicant must apply for and receive an Environmental Compliance Approval from the Ministry of Environment, Conservation and Parks and satisfy the City of Hamilton and Niagara Escarpment Commission to permit an increase in septic system capacity. As such, staff are supportive of the additional permission and it has been included in the amending By-law.

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Pursuant to Section 39 (1) of the *Planning Act*, a Council of a local municipality may pass a by-law to authorize the temporary use of land, buildings or structures for a period not exceeding three years. Further, any temporary use that is authorized does not become a legal non-conforming use after the By-law expires. The applicant is requesting that the Temporary Use By-law be in effect for a period of three years from the date of passing and regardless of whether the applicant removes the Holding Provision on the subject lands, the entirety of the By-law would expire three years after the date of passing. Alternatively, the applicant can apply for an extension to the Temporary Use By-law for a further time period.

The application has merit and can be supported as the proposal conforms to the Niagara Escarpment Plan, Greenbelt Plan and Parkway Belt West Plan and complies with the Hamilton-Wentworth Official Plan and Town of Dundas Official Plan. The proposal is compatible with the surrounding neighbourhood and does not impact the surrounding natural features. The proposal represents an adaptive reuse of an existing built heritage resource listed on the City's Register of Property of Cultural Heritage Value or Interest. There is adequate servicing to initially accommodate 96 students with a Holding Provision until the applicant expands their septic system to accommodate up to 138 students.

Alternatives for Consideration – See Page 21

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one public meeting prior to considering an application to amend the Zoning By-law.

HISTORICAL BACKGROUND

The subject lands continue to be subject to the Hamilton-Wentworth Official Plan and Dundas Official Plan because at the time of preparation of the Rural Official Plan there were discussions about removing the Pleasantview area from the Parkway Belt West Plan and incorporating the Pleasantview Area into the Niagara Escarpment Plan. Staff have included a brief history of the Pleasantview area in Appendix “G” to Report PED19132.

In 2011, on behalf of the property owners, Columbia International College applied for a Minor Variance application (DN/A-11:08) to permit the establishment of a student

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dormitory and teaching facilities within Building 'B' in addition to the convent and accessory place of worship (refer to Appendix "A" to Report PED19132). The Committee of Adjustment approved the application, but it was appealed to the Ontario Municipal Board (now Local Planning Appeal Tribunal) by the City of Hamilton. The basis for the appeal was due to the uses being permitted in perpetuity within Building 'B'. The appeal was settled on the basis that the capacity of the student dormitory would not exceed 36 students and that the classroom facilities were to be utilized for a temporary period until December 31, 2011. The convent continued on the subject property while the dormitory and classroom facilities ceased.

In June, 2013, Columbia International College again leased space from the Sisters of St. Joseph, which required another Minor Variance application (DN/A-13:110). The 2013 Minor Variance application requested a student dormitory having a maximum capacity of 36 students as well as a group home having a capacity of 35 persons to be permitted within Building 'B'. These uses were in addition to the existing convent and accessory place of worship. The application was approved by the Committee of Adjustment.

In 2013, the Niagara Escarpment Commission undertook a Niagara Escarpment Plan Amendment which amended the boundaries of the Niagara Escarpment Plan to include the Pleasantview area (NEPA 179). Through that process, Building 'B' at 574 Northcliffe Avenue received a site specific permission within the NEP. The site specific permission recognized the following permitted uses:

- Convent;
- Place of Worship; and,
- Student dormitory having a maximum capacity of 36 students as well as a group home having a capacity of 35 persons in conjunction with the sisters of St. Joseph convent.

The existing uses inside Building 'B' at 574 Northcliffe Avenue are a convent and an accessory place of worship.

Description of the Subject Lands

The subject property is located in the former Town of Dundas, northwest of the interchange of Highway No. 6 and Highway No. 403. Generally, the subject property is bounded by environmental features to the south, east and west and to the north of the subject lands is a small neighbourhood consisting of approximately 30 single detached dwellings.

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The subject lands are zoned Public and Private Zone (PPS/S-56), Modified, Utility Zone (U/S-57), Modified and Open Space - Conservation Zone (OS) as shown on the Location Map attached as Appendix “A” to Report PED19132. Two buildings exist on the property:

- Building ‘A’ (514 Northcliffe Avenue) – Convent for Sisters of the Precious Blood and accessory place of worship; and,
- Building ‘B’ (574 Northcliffe Avenue) – Convent for Sisters of St. Joseph and accessory place of worship.

Proposal

The purpose of Zoning By-law Amendment application ZAR-19-013 is to establish a Temporary Use By-law for a student dormitory within the existing building (Building ‘B’) to initially accommodate 96 students for a temporary period of three years for the lands known as 574 Northcliffe Avenue. The proposed capacity of 96 students is due to the servicing capacity of the existing septic system.

In addition to the Temporary Use By-law, the applicant has applied to place a Holding Provision on the subject lands to allow for a maximum capacity of 138 students, subject to receiving MOECP approval for an increase in septic capacity. To remove the Holding Provision, the applicant must satisfy the City of Hamilton, Niagara Escarpment Commission and Ministry of Environment, Conservation and Parks that the private servicing is adequate to facilitate the increase in capacity.

Should the Zoning By-law Amendment be approved, the applicant has advised that the remaining Sisters that live at the convent will be relocating to other facilities and the Sisters of St. Joseph will retain a small number of administrative staff on-site. The breakdown of the occupancy of Building ‘B’ is proposed to be as follows:

Occupant Type	Number of Occupants
Student Residents	96 (138 after Holding Provision is lifted)
House Parents (Scheduled in morning and night shifts)	5
Security (Scheduled in morning and night shifts)	2
Kitchen Staff (Part time staff for evenings and weekends)	6

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Sisters of St. Joseph administrative staff	6
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Only the students will reside on a permanent basis. The on-site staff are scheduled in shifts either in the morning or evenings, depending on the needs of the dormitory. To facilitate the proposal, some minor interior construction is required to configure the dorm rooms. The construction will take place inside the building and no changes are required to the outside of the building.

Chronology

<u>January 31, 2019:</u>	Submission of Zoning By-law Amendment application ZAC-19-013.
<u>February 21, 2019:</u>	Zoning By-law Amendment application ZAC-19-013 deemed complete.
<u>February 28, 2019:</u>	Notice of Complete Application and Preliminary Circulation was circulated to 29 property owners within 120 m of the subject lands.
<u>March 7, 2019:</u>	Public Notice sign installed on the subject lands.
<u>April 30, 2019:</u>	Public Open House hosted by the applicant at 574 Northcliffe Avenue with 24 attendees.
<u>June 12, 2019:</u>	Public Notice Sign updated to reflect date of Public Meeting.
<u>June 21, 2019:</u>	Circulation of Notice of Public Meeting to 29 property owners within 120 m of the subject lands.
<u>June 24, 2019:</u>	Second Public Open House hosted by the applicant at 574 Northcliffe Avenue.

Details of Submitted Application

Applicant / Owner: Sisters of St. Joseph

Location: 574 Northcliffe Avenue (see Appendix “A” to Report PED19132)

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Servicing: Municipal Water
Private Septic (ECA Approval from MOECP)

Property Description: Total Lot Area: 19.71 ha (48.70 ac)
Total Lot Frontage: ± 176 m
Lot Depth: ± 615 m (Irregular)

Existing Land Use and Zoning

Subject Lands:

Existing Land Use

Existing Zoning

Convent and Accessory
Place of Worship
(Sisters of
the Precious Blood)

Public and Private Service Zone
(PPS/S-56), Modified

Public Utilities Zone (U/S-57),
Modified

Convent and Accessory
Place of Worship (Sisters of
St. Joseph)

Open Space - Conservation Zone
(OS)

Hydro One Utility Corridor

Surrounding Lands:

North	Single detached dwellings and Open Space	Rural Zone (RU/S-58), Modified, and Open Space – Conservation Zone (OS)
South	Highway No. 403 and Open Space	Special Policy Area 2 – Parkway Belt West Plan Zone (SP2), and Open Space – Conservation Zone (OS)
East	Highway No. 6 and Open Space	Public Utilities Zone (U/S-57), Modified, and Open Space – Conservation Zone (OS)
West	Open Space and Hydro One Utility Corridor	Open Space – Conservation Zone (OS), and Public Utilities Zone (U/S-57), Modified

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy,
safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service,
Engaged Empowered Employees.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (PPS)

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2014 PPS). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The following policies, amongst others, are applicable:

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”

574 Northcliffe Avenue is a non-designated property, that is included on the City’s Register of Property of Cultural Heritage Value or Interest. The proposal is consistent with these policies since the proposal is for an adaptive reuse of the existing convent. No changes are proposed to the exterior of the building and therefore its heritage attributes will be conserved.

Based on the foregoing, the subject proposal is consistent with the PPS.

Greenbelt Plan

The subject lands are within the “Protected Countryside” of the Greenbelt Plan. As the Parkway Belt West Plan and Greenbelt Plan overlap, the following policies of the Greenbelt Plan are applicable:

- “2.3 The requirements of the Parkway Belt West Plan, deemed to be a development plan under the *Ontario Planning and Development Act, 1994*, continue to apply to lands within the Parkway Belt West Plan Area and the Protected Countryside policies do not apply, with the exception of sections 3.2 and 3.3.
- 3.2.2.3 New development or site alteration in the Natural Heritage System (as permitted by the policies of this Plan) shall demonstrate that:

- a) There will be no negative impacts on key natural heritage features or key hydrologic features or their functions;
- b) Connectivity along the system and between key natural heritage features and key hydrologic features located within 240 metres of each other will be maintained or, where possible, enhanced for the movement of native plants and animals across the landscape;
- c) The removal of other natural features not identified as key natural heritage features and key hydrologic features should be avoided. Such features should be incorporated into the planning and design of the proposed use wherever possible.”

Prior to the submission of the Zoning By-law Amendment to establish a Temporary Use By-law, an Environmental Impact Statement (EIS) was requested to be submitted to the City. Both Conservation Halton and Natural Heritage staff have reviewed the submitted EIS and have no concerns. Construction is only proposed to occur within the existing Building ‘B’ as shown on Appendix “A” to Report PED19132 and there are no negative impacts on the surrounding natural features. Therefore, the proposal conforms to the Greenbelt Plan.

Parkway Belt West Plan (PWBP)

The subject lands are designated “Special Complimentary Use Area” in the PWBP. The following policies, amongst others, are applicable:

“5.5 Complementary Use Area

The Complementary Use Area comprises areas that will be predominantly used for private uses that are compatible with and assist in the attainment of the provisions of the Plan. The Complementary Use Area consists of the General Complementary Use Area and the Special Complementary Use area. The provisions of Section 5.5 apply to all links.”

The PWBP was implemented by the Province to act as an urban separator, to protect hydro corridors and to link natural features. Today, the goals of the plan have largely been met. However, various areas under private ownership exist that are within the PWBP corridor. The existing convent was constructed prior to the enactment of the

PWBP, and it is considered an existing use and is compatible with the existing environment.

“5.5.2 Uses in Special Complementary Use Area

Subject to 5.5.3, uses permitted in the Special Complementary Use Area are:

1. Existing Uses

All legally existing uses of land, buildings, and structures, subject to the provisions of the Planning Act, R.S.O. 1970, c. 349 respecting legal non-conforming uses.

d) Change of Uses

Change of uses of land, buildings, and structures, subject to the following conditions:

- i) New uses are as compatible with the provisions of the Plan as existing uses, or more compatible.
- ii) All natural features are preserved to the maximum possible degree.
- iii) Any other conditions required to secure the provisions of this Plan are satisfied.”

Staff evaluated the application in the context of the PWBP. The proposed temporary student dormitory is not substantially different from the historical use of the subject lands as an institutional use providing on-site accommodation relating to the primary use.

No changes to the exterior of the existing building are proposed and as such, it conforms to the provisions of the PWBP that refer to preserving the natural environment. Since no exterior construction is required to facilitate the temporary use, staff do not anticipate impacts to the natural features surrounding the subject property. Moreover, an EIS was submitted in support of the application confirming no negative impact on the surrounding natural features.

Based on the above, staff are of the opinion that the proposal conforms to the PWBP.

Niagara Escarpment Plan (NEP)

The subject lands are designated “Escarpment Rural Area” and “Escarpment Natural Area” in the NEP. Additionally, the lands are designated “Special Policy Area – Pleasant View.” The property is not subject to Niagara Escarpment Development Control.

The following policies, amongst others, are applicable:

“2.2.21. The Pleasant View Survey Lands consisting of Part of Lots 23, 24, 25, 26, 27 and 28, Concession 1 and Part of Lots 22, 23, 24, 25, 26, 27, 28 and 29, Concession 2, City of Hamilton (former Town of Dundas), as identified on Schedule A of Amendment 179 to this Plan, are subject to the following additional special provisions:

- f) the existing institutional building on lands located at No. 574 Northcliffe Avenue (Sisters of St. Joseph) may be used for the following institutionally related uses provided the uses are contained within the existing building only:
 - i. a Place of Worship;
 - ii. a Convent;
 - iii. a residential care facility for a maximum of 35 residents; and
 - iv. a dormitory with a maximum of 36 students and accessory uses for an educational establishment provided it is located in conjunction with the convent of the Sisters of St. Joseph.

1.5.1 Escarpment Rural Area Objectives

- 1. To maintain the scenic resources of lands in the vicinity of the Escarpment and the open landscape character of the Escarpment.
- 2. To conserve cultural heritage resources, including features of interest to First Nation and Métis communities.
- 3. To encourage forest management and recreation.
- 4. To provide for compatible rural land uses.

6. To provide a buffer for ecologically sensitive areas of the Escarpment.

2.3 Existing Uses

1. An existing use may change to a similar or a more compatible use only if it can be sufficiently demonstrated that the objectives of the applicable designation of the Plan are met.

2.10 Cultural Heritage

1. Development shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources are conserved.”

Staff circulated the Zoning By-law Amendment application to the Niagara Escarpment Commission to review the application in the context of the Niagara Escarpment Plan. The Commission is responsible for developing, interpreting and applying the policies of the Niagara Escarpment Plan to ensure that the objectives of the Niagara Escarpment Plan are met. NEC staff reviewed the proposal for conformity with the Niagara Escarpment Plan and compiled a report that was presented to the Niagara Escarpment Commission. The report has been included as Appendix “F” to Report PED19132.

NEC Staff identified the subject property as “Escarpment Natural Area” and “Escarpment Rural Area”. 574 Northcliffe Avenue (Building ‘B’) is subject to the proposed Temporary Use By-law and is located entirely within the “Escarpment Rural Area”. NEC staff identified that the use of the property for a dormitory for students meets the definition of an Existing Use in the Niagara Escarpment Plan. NEC staff noted in their report that the temporary use of 574 Northcliffe Avenue (Building ‘B’) for a dormitory is consistent with the existing use of the property and is limited by the capacity of the existing services.

The NEC adopted the staff recommendation to support the proposal as the proposal does not conflict with the Niagara Escarpment Plan. Based on the foregoing, the proposal does not conflict with the NEP.

Region of Hamilton-Wentworth Official Plan (HWOP)

The subject lands are designated “Parkway Belt West” in the HWOP. The HWOP continues to apply as the lands have not been brought forward into the Rural Hamilton

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Official Plan (refer to Appendix “G” to Report PED19132). The following policy is applicable:

- “1.6 The Parkway Belt West Plan provides a system of linked natural areas and protected utility corridors which originates in Dundas and runs through the Regions of Halton, Peel and York. To protect the lands in Hamilton-Wentworth which form part of this system, the Region will:
 - 1.6.1 Apply the provisions of the Parkway Belt West Plan to development of lands that are identified on Map No. 2. In the case of discrepancy between the Parkway Belt West Plan and this Plan, the Parkway Belt West Plan, as may be amended from time to time, will prevail.”

The HWOP refers the subject lands to the Parkway Belt West Plan. Conformity with the Parkway Belt West Plan has been evaluated in the context of the proposal. As the proposal conforms to the PWBP, staff are of the opinion that the Zoning By-law Amendment complies with the HWOP.

Dundas Official Plan (DOP)

The subject lands are designated “Rural Area” on Schedule – A in the Town of Dundas Official Plan. The DOP continues to apply as the lands have not been brought forward into the Rural Hamilton Official Plan (refer to Appendix “G” to Report PED19132). The following policies are applicable:

- “2.4 Historical and Architectural Resources
 - 2.4.2.1 To promote the preservation, restoration or appropriate re-use of historic and architecturally significant landmarks, buildings, and districts throughout the Town.
 - 2.4.3.4 Where a structure is on the heritage inventory and is located within a development proposal, Council shall ensure that the structure is protected and incorporated into the overall development to every extent possible.”

As previously discussed, 574 Northcliffe Avenue is listed as a non-designated property, that is included on the City’s Register of Property of Cultural Heritage Value or Interest. Staff are of the opinion that the proposal represents an appropriate adaptive reuse of the convent. There are no exterior alterations proposed to the structure to facilities the

change in use. The application complies with the Dundas Official Plan with the policies that speak to preserving existing built heritage resources.

“3.11.5 Rural Area

The lands shown on Schedule “A” as RURAL AREA are currently part of the Parkway Belt West Plan, and all new land uses within this area must conform to the policies and provisions of that Plan and the Ontario Land Use Regulation 484/73 and 486/73, as applicable.

5.4.1 Conformity with the Niagara Escarpment Plan

It is the objective of this Plan, and subsequent amendments and by-laws, will conform with the Niagara Escarpment Plan where it applies. In the case of discrepancy between the Niagara Escarpment Plan and this Plan, the provisions of the Niagara Escarpment Plan shall prevail unless the Official Plan requirements are more stringent.

5.4.2 Council will not approve amendments to this Plan or Zoning By-law which do not confirm to the Niagara Escarpment Plan.

5.11.1 Temporary Use By-laws

In accordance with the Planning Act, Temporary Use By-laws may be used to permit the use of land, building or structures for any purpose set out, provided the proposed temporary use is consistent with the following:

- 5.11.1.1 The use is clearly transitory and the proposed development or redevelopment must only contain buildings or structures that can easily be removed after the expiry date of the temporary use by-law;
- 5.11.1.4 Alterations to the terrain shall be limited so that it is possible and viable to revert back to the previous use and/or uses for which the property is zoned or designated;
- 5.11.1.5 The proposed temporary use shall not impact the compatibility of uses and nearby properties;
- 5.11.1.6 The proposed temporary use does not constitute a danger to surrounding uses and persons by virtue of their hazardous nature; and,

- 5.11.1.7 Services such as roads, stormwater drainage, water supply and sanitary sewers shall be sufficient to accommodate the proposed temporary use.”

The Dundas Official Plan sets out provisions for evaluating the desirability of a Temporary Use By-law. Staff note that the use is clearly transitory in nature as the existing Building ‘B’ is already configured for dormitory style living and the use can revert back to a convent upon expiry of the By-law without any demolition. Site alteration is not required to implement the use.

The proposed dormitory does not impact the surrounding properties as the existing Building ‘B’ is situated away from Northcliffe Avenue in a campus like setting. The dormitory is compatible with the neighbourhood as it is similar to the historical use of the convent which has existed since 1950. The use is not hazardous in nature and does not constitute a danger to surrounding uses. MOECP staff have evaluated the proposal and have indicated that the existing septic system can accommodate 96 students and Public Works staff have identified that the existing municipal water service can accommodate the proposed temporary use.

“5.7 Holding Symbol

- 5.7.3 A Holding Symbol may be applied on the basis of the following considerations:

- 5.7.3.1 where development is contingent upon other related matters occurring first, such as (but not limited to) complete of required site studies, consolidation of land ownership to ensure orderly development and phase of development and to secure funding agreements on necessary infrastructure or services.”

The existing septic system must be upgraded to accommodate 138 students. As such, it is appropriate to apply the Holding Provision over the subject property to require the applicant to demonstrate adequacy of services to the satisfaction of the City of Hamilton, Niagara Escarpment Commission and the Ministry of Environment Conservation and Parks. This can be achieved by the applicant obtaining a revised Environmental Compliance Approval for an expanded septic system.

Further, the Dundas Official Plan notes that By-laws that are passed must be in conformity with the Niagara Escarpment Plan and that the Niagara Escarpment Plan prevails should there be a discrepancy between the Dundas Official Plan and Niagara Escarpment Plan unless the Official Plan requirements are more stringent. The NEC has indicated their support for the Zoning By-law Amendment application (refer to

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Appendix “F” to Report 19132) for a temporary dormitory initially accommodating 96 students and future expansion to 138 students, subject to the removal of a Holding Provision.

The Dundas Official Plan also refers the subject lands to the PBWP. Conformity with the PBWP has been evaluated in the context of the proposal. As the proposal conforms to the PWBWP, staff are of the opinion that the Temporary Use By-law complies with the Dundas Official Plan.

Town of Dundas Zoning By-law 3581-86

Currently, the subject lands are zoned Public and Private Service Zone (PPS/S-56), Modified, Public Utilities Zone (U/S-57), Modified and Open Space - Conservation Zone (OS). The proposal only affects the land zoned Public and Private Service Zone (PPS/S-56) (refer to Appendix “A” to Report PED19132). The Permitted Uses are as follows:

“Public and Private Service “PPS/S-56” Zone

Notwithstanding Clause 27.1 - PERMITTED USES, only those uses existing at the date of the passing of the by-law and those determined by the Committee of Adjustment to be similar to the purpose for which the land, building or structure was used on the day the by-law was passed, shall be permitted.”

The proposal is to establish a temporary use to permit a dormitory having an initial capacity of 96 students with the option to expand the capacity to 138 students upon removal of the Holding Provision for a maximum of three years. The proposed modifications to the Zoning By-law will add an additional use to permit the dormitory use for three years and only within Building ‘B’ (574 Northcliffe Avenue). Another modification has been included to limit the capacity to 96 students until the Holding Provision is removed, whereby the capacity may be increase to 138 students. An additional modification is required to permit the dormitory use to be accessed using the existing driveway through the Utility (U-S/57) Zone, Modified. A detailed list of the proposed zoning modifications are included in Appendix “C” to Report PED19132.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections to the application:

- Landscape Architectural Services, Public Works;
- Forestry and Horticulture, Public Works Department;

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- Transportation Planning, Planning and Economic Development Department; and,
- Conservation Halton.

The following Departments and Agencies have provided comments on the applications:

Niagara Escarpment Commission (NEC) were circulated the Zoning By-law Amendment application. NEC staff submitted a recommendation report to the Commission that was heard on March 21, 2019. As previously discussed, the NEC advised that the Commission accepted the staff recommendation to not object to the proposed Zoning By-law Amendment. A copy of the NEC Staff report is provided as Appendix "F" to Report PED19132.

Hamilton Water, Public Works did not have any comments with relation to grading, servicing or storm water management. Hamilton Water's Sourcewater Protection Group indicated that the existing septic system is under the jurisdiction of the MOECP because the daily flow is greater than 10,000 L/day.

Ministry of Environment, Conservation and Parks (MOECP) reviewed the materials submitted with the application and note that there is an existing Environmental Compliance Approval (ECA 2829-5M9F4V) for the existing septic system on the subject lands having a maximum capacity of 30,000 L/day. The MOECP agrees with the submitted wastewater brief as the capacity of the existing septic system can accommodate for a maximum of 96 students and associated staff on the subject property.

Environmental Services Division, Public Works Department have indicated that the subject lands are not eligible for municipal garbage collection and therefore the owner will have to contract garbage collection through a private waste hauler.

Ministry of Transportation Ontario (MTO) have advised the applicant that an MTO land use permit is required to facilitate the development. Further, the applicant provided a Traffic Impact Brief to the Ministry who have reviewed and indicated that the brief is satisfactory. MTO have no objections to the application as submitted. The applicant will be required to apply for and obtain the required land use permit prior to submitting for a building permit for the change in use and undertaking construction as the MTO Permit is applicable law under the Ontario Building Code.

PUBLIC CONSULTATION

In accordance with the provisions of the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 29 property owners within 120 m of the subject property on February 28, 2019. A

Public Notice sign was posted on the property on March 7, 2019 and updated on June 12, 2019 with the Public Meeting date. Finally, Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act* on June 21, 2019. The applicant has scheduled an additional open house for June 24, 2019. To date, staff has received three letters of correspondence from the public, including a letter containing 14 signatures expressing concerns with the application (refer to Appendix “D” of Report PED19132). These concerns are summarized in the Analysis and Rationale for Recommendation section of this report.

Public Consultation Strategy

The Applicant submitted a Public Consultation Strategy which outlined that an Open House at the Sisters of St. Joseph Convent would be conducted prior to the application being considered by Planning Committee. The Public Consultation Strategy proposed to notify the neighbours within 120m of the subject lands of the date and time of the Open House.

The applicant hosted the Open House event at the Sisters of St. Joseph convent on April 30, 2019. Approximately 20 residents attended as well as the Ward Councillor. A presentation was made to the residents and the appropriate staff from Columbia International College and IBI Group were available to answer questions regarding the proposal.

A second Open House has been scheduled for June 24, 2019 for the purposes of following up with resident concerns. A traffic study as well as a litter management plan is the focus for the June 24, 2019 Open House in response to concerns raised by residents.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The Temporary Use By-law has merit and can be supported for the following reasons:
 - (i) The application is consistent with the PPS and conforms to the Greenbelt Plan, Parkway Belt West Plan and Niagara Escarpment Plan;
 - (ii) The proposal complies with the Region of Hamilton-Wentworth Official Plan and Dundas Official Plan;
 - (iii) The By-law is temporary and will expire three years after the date of passing;

- (iv) It is compatible with the neighbourhood, transitory in nature and does not constitute a danger to surrounding uses; and,
 - (v) The existing septic system can accommodate for 96 students and a Holding Provision has been placed on the property to limit the capacity while the applicant pursues the approvals necessary to increase the septic capacity for 138 students.
2. A change in zoning from the Public and Private Service Zone (PPS/S-56), Modified to the Public and Private Service Zone (PPS/S-56a), Modified in the Town of Dundas Zoning By-law No. 3581-86 is required to permit a dormitory on the subject property for 96 students for a temporary period of three years and to permit an existing driveway to be utilized as access to the dormitory.

Staff support the establishment of the temporary use as the dormitory conforms to the NEP and PWBP and complies with the Hamilton-Wentworth Regional Official Plan and Dundas Official Plan. It is compatible with the neighbourhood and will be contained with the existing building with no site alterations required. The existing services are sufficient to support 96 students.

Staff also support the placement of a Holding Provision over the subject lands until the applicant obtains a revised ECA from the MOECP to increase the septic capacity so that the site can accommodate for 138 students.

The existing driveway is not being altered, however, as the driveway transverses the Utility (U-S/57) Zone, Modified, it is recognized in the By-law as being able to access the dormitory, therefore staff support the establishment of the temporary use.

3. In response to the circulation of the application, correspondence has been received from three members of the public as well as a letter containing 14 signatures expressing concerns. A summary of the concerns expressed are provided below:

Traffic

Due to the increase in capacity in Building “B”, concerns have been expressed regarding increased traffic in the neighbourhood. Staff note that the applicant submitted a Traffic Impact Brief that was reviewed by both the MTO and Transportation Planning staff. Both MTO and staff were satisfied that the existing road conditions could accommodate for anticipated traffic generated from the site.

The Traffic Impact Brief further identifies that the transportation needs for up to 138 students is accommodated by a total of three school buses. Though traffic is increasing, it is not substantially different from the general day to day traffic that the neighbourhood experiences. In addition to the school buses, the applicant has advised that a total of 19 staff are required to facilitate the daily operational needs of the dormitory. The staff members are scheduled in shifts and arrive at various points either during the day or evening. Staff do not anticipate that this will cause a significant impact to traffic in the neighbourhood as the current operation of the convent sees a similar number of vehicles and the replacement of these vehicles associated with the change in use represents a like for like replacement in traffic numbers.

Staff have been advised the buses will be taking the shortest route to Columbia International College located in Hamilton which is Highway No. 6 to Highway No. 403 to the Longwood Road exit. The applicant has advised that due to flexible class times, the buses are intended to travel to and from the site during off peak periods.

Lack of Amenities, Public Transit

One letter submitted had concerns with the lack of public transit as well as amenities. Regarding outdoor amenity, the property contains approximately 7 ha. (17.6 ac) of existing manicured area. The applicant also intends to place a basketball net within one of the parking areas and install goal posts for an informal soccer field within the manicured area.

Regarding indoor amenity, the existing building was constructed for dormitory style living and will have communal washrooms, a snack bar, shared kitchen and lounges which will satisfy the daily needs of the students. In addition, the students will be bused daily to and from the site to the main Columbia International College campus and the students will primarily use the dormitory on the evenings and weekends for boarding purposes.

There is no public transit available to serve the site. Columbia International College is marketed as a "Total Care" institution. As part of this, the school regularly organizes evening shuttle bus excursions for students.

Servicing

Concerns have been raised regarding water service capacity as well as the impact on drainage to the surrounding neighbourhood. Engineering Approvals reviewed the application and as there are only internal renovations proposed for

Building “B” there would be no impact on the surrounding area with regards to drainage. Further, the site has access to municipal water and Hamilton Water has determined that there is sufficient water capacity to accommodate a dormitory having a maximum capacity of 138 students.

Litter

A resident expressed concerns that the proposal would increase the amount of litter in the neighbourhood. The applicant submitted an EIS which recommended various mitigation measures. A stewardship brochure will be given to residents to discourage dumping garbage onto the Escarpment slope. Further, the existing private garbage pickup will remain status quo for the property and be picked up by a private waste hauler. As previously noted, the applicant produced a litter management plan.

4. The proposed student dormitory is temporary and further review and approvals would be required should the applicant wish to extend the use beyond the current term of three years. The *Planning Act* permits the establishment of a temporary use for a maximum period of three years. Should the applicant wish to extend this period, another Zoning By-law Amendment application will be required to extend the temporary use. Council may only grant extensions to a temporary use for a period not exceeding three years.
5. Should the applicant wish to increase the dormitory capacity from 96 to 138 students, staff would require confirmation that the applicant received a revised ECA from the MOECP to increase onsite septic capacity. In addition, the Holding Provision must be removed before the capacity can be increased. This will be conditional upon the applicant demonstrating to the satisfaction of the City of Hamilton, Ministry of Environment, Conservation and Parks and Niagara Escarpment Commission that the services are adequate to support a dormitory with a capacity of 138 students.

ALTERNATIVES FOR CONSIDERATION

Should the Zoning By-law Amendment application ZAR-19-013 be refused, the subject lands would continue to be utilized for the Public and Private Service Zone (PPS/S-56), Modified, which permits existing uses. The applicant would not be able to establish a temporary dormitory on the subject property.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A” – Location Map
- Appendix “B” – Zoning By-law Amendment
- Appendix “C” – Zoning Modification Table
- Appendix “D” – Existing Conditions
- Appendix “E” – Public Comments
- Appendix “F” – NEC Staff Report
- Appendix “G” – Background History of Pleasantview