

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 3
COMMITTEE DATE: August 13, 2013	
SUBJECT/REPORT NO: Application for an Amendment to City of Hamilton Zoning By-law No. 05-200 for Lands Located at 22 - 24 Emerald Street South (Hamilton) (PED13119) (Ward 3)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Danielle Stevens (905) 546-2424 Ext.1285
SIGNATURE:	

RECOMMENDATION

That approval be given to **Zoning By-law Amendment Application ZAR-12-056 by the Astra Society, Owner**, for a change in zoning from the “H” (Community Shopping and Commercial, etc.) District, in Zoning By-law No. 6593, to the Community Institutional (I2, 453) Zone, with a Special Exception, in Zoning By-law No. 05-200, to permit the expansion of the existing Corrections Residence and addition of a Social Services Establishment use, on lands identified at 22 - 24 Emerald Street South, as shown on Appendix “A” to Report PED13119, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED13119, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the proposed change in zoning conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

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EXECUTIVE SUMMARY

The purpose of the application is to recognize the existing 36 bed corrections residence, permit a building addition and facilitate renovations to the existing corrections residence building, and permit an associated Social Services Establishment for current and former residents on the subject lands at 22-24 Emerald Street South (see Appendix "A"). The application does not propose an increase in the residential capacity. The proposal has merit and can be supported, since the application is consistent with the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe, the Hamilton-Wentworth Official Plan, and City of Hamilton Official Plan. The proposed development will provide a better living facility for those who reside within the building, and provide services for residents residing in this facility and other Astra Society facilities to participate in programs promoting the well being of the residents, and facilitating a transitional and supportive living environment and network for the residents.

Alternatives for Consideration - See Page 23.

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

Financial: N/A.

Staffing: N/A.

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

HISTORICAL BACKGROUND (Chronology of events)

Proposal:

The applicant proposes to remove the subject lands from City of Hamilton Zoning By-law No. 6593 and zone them as Community Institutional (I2, 453) Zone, Modified, under Zoning By-law No. 05-200, to permit the combined use of a Social Services Establishment with the existing Corrections Residence, with interior and exterior renovations and a third storey addition, increasing the gross floor area by 227 sq. m. The existing Corrections Residence and proposed Social Services Establishment will be the only permitted uses. In order to implement the proposal, the following modifications to the Zone provisions are required:

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- To permit a Corrections Residence, with a maximum of 36 residents, whereas the Community Institutional “I2” Zone does not permit a Corrections Residence. However, a Corrections Residence is a permitted use in the current “H” (Community Shopping and Commercial, etc) District;
- To recognize the existing lot width for the building at the date of the passing of the By-law, the existing northerly side yard setback and southerly side yard setback shall be maintained;
- To permit a maximum height of 14.02m, whereas the By-law permits a maximum height of 10.5m;
- To recognize the existing minimum distance separation between a Corrections Residence and a Residential Care Facility of 137.0m, whereas the By-law requires a minimum distance separation of 300.0m; and,
- To require a minimum of 7 parking spaces, whereas the By-law requires a minimum 20.

The proposed modifications are discussed in the Analysis/Rationale for Recommendation section of this Report.

Background:

The subject lands are located within the City of Hamilton, south of King Street East, north of Main Street East, west of Tisdale Street South, and east of Victoria Avenue South, in the Landsdale Neighbourhood (see Appendix “A”). The property currently has a 3-storey building occupied by a corrections residence, and is municipally known as 22 - 24 Emerald Street South, with a total lot area of 965 sq. m. (see Appendix “C”).

The existing building(s) were built in the early 1900s, with one dwelling on 22 Emerald Street South and one dwelling on 24 Emerald Street South. Both buildings historically were operated as Lodging Houses, and eventually evolved into separate Residential Care Facilities as a result of changes to the Zoning By-law in 1981, which reclassified the use from a Lodging House to a Residential Care Facility. The two properties were merged in title in the 1970s, and the buildings were physically merged in the 1980s. At the time of the buildings being physically merged in the 1980s, the subject lands were used as a combined Residential Care Facility with a maximum capacity of 36 residents.

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In 2002, By-law No. 02-043 was passed, which defined Long Term Care Facilities, Residential Care Facilities, Short Term Care Facilities, Hostels, Emergency Shelters, Retirement Homes, Corrections Residence, and Correctional Facilities. In accordance with the provisions of By-law No. 02-043, the subject lands were redefined as a Corrections Residence. This By-law also created a Moratorium Area, in which specific provisions were established regarding the above uses. This By-law is further explained in the Analysis/Rationale for Recommendation section of this Report.

The existing Corrections Residence is a permitted use under the current “H” (Community Shopping and Commercial, etc) District zoning on the subject lands.

Chronology:

May 29, 1956: License issued for a Lodging Home at 22 Emerald Street South.

February 18, 1975: Record of License Inspection issued for a Lodging House at 22 Emerald Street South and a Record of License Inspection issued for a Lodging House at 24 Emerald Street South.

August 31, 1983: The buildings located on 22 and 24 Emerald Street South were noted to have merged and joined the buildings together, which created a combined total of 36 residents within the new building. The maximum permitted residents was 20. Therefore, a Minor Variance Application was required.

October 11, 1983: Committee of Adjustment approved Minor Variance Application (HM/A-83:145) to permit the expansion of the Residential Care Facility from 20 residents to 36 residents.

February 27, 2002: By-law No. 02-043 was passed, which defined Long Term Care Facilities, Residential Care Facilities, Short Term Care Facilities, Hostels, Emergency Shelters, Retirement Homes, Corrections Residence, and Correctional Facilities.

June 10, 2010: Site Plan Amendment Application (SPA-10-081) submitted and accepted by the City of Hamilton. The application proposed internal renovations and to construct a third storey addition, resulting in an increased gross floor area of 227 sq. m. to the existing building for additional living space for the residents. No additional occupancy was proposed or contemplated.

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- August 20, 2010: Conditional Approval of Site Plan Amendment Application (SPA-10-081). Through the review of the Site Plan application, variances were identified respecting the northerly side yard setback, parking requirements, and manoeuvring.
- December 2, 2010: Committee of Adjustment denied Minor Variance Application (HM/A-10:271) on the basis that the variances requested were not considered to be minor in nature.
- December 20, 2010: The applicant appealed the decision of Minor Variance Application (HM/A-10:271) to the Ontario Municipal Board.
- February 15, 2011: Report (PED11023) to Planning Committee regarding direction for staff respecting the OMB Hearing. Report received by Planning Committee. February 24, 2011, Council instructs City of Hamilton Legal staff to attend the Hearing and to retain outside Planning professionals.
- June 2, 2011: Notification received from City of Hamilton Legal staff that the OMB appeal for the lands at 22 - 24 Emerald Street South has been withdrawn.
- August 20, 2011: Site Plan Amendment Application (SPA-10-081) lapsed and file closed.
- December 21, 2011: Site Plan Amendment Application (SPA-11-170) submitted and accepted by the City of Hamilton. Application is a resubmission of the previous Site Plan Amendment Application (SPA-10-081).
- January 12, 2012: Site Plan Amendment Application (SPA-11-170) deemed complete. The application was circulated and comments were received. Through the review process, it was determined that the proposed expansion did not comply with the requirements of the Zoning By-law.
- September 13, 2012: Minor Variance Application (HM/A-12:206) was scheduled to be heard at Committee of Adjustment. However, the application was removed from the agenda based on conversation with staff and agent.

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- November 29, 2012: Meeting held with the property owner's agent and Legal Counsel with City of Hamilton staff. Through further review of the facility and services provided, it was determined that a Zoning By-law Amendment would better implement the proposed improvements.
- December 14, 2012: Zoning By-law Amendment Application (ZAR-12-056) submitted.
- January 14, 2013: Zoning By-law Amendment Application (ZAR-12-056) deemed complete and circulated to the relevant Departments and Agencies.
- January 14, 2013: Notice of Complete Application and Preliminary Circulation is mailed out to all residents within 120m of the subject lands.
- February 1, 2013: Public Notice Sign erected on the property.
- June 21, 2013: Notice of Public Meeting is mailed to all residents within 120m of the subject lands, and public notice sign updated accordingly.

Details of Submitted Applications:

Location: 22 - 24 Emerald Street South (Hamilton) (See Appendix "A")

Owner: The Astra Society

Agent: Fothergill Planning and Development Inc. (c/o Ed Fothergill)

Property Size: Area: 965 sq. m.

Frontage: 25.9m

Depth: 37.26m

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EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Corrections Residence	“H” (Community Shopping and Commercial) District
 <u>Surrounding Lands:</u>		
North	Vacant Building	“H/S-1529” (Community Shopping and Commercial) District, Modified
South	Multiple Dwelling Apartment Building	“H” (Community Shopping and Commercial) District
East	Place of Worship	“H” (Community Shopping and Commercial) District
West	Funeral Home	“H” (Community Shopping and Commercial) District
	and	and
	Apartment Building	“E/S-864” (Multiple Dwellings, Residential, Lodges, Clubs) District , Modified

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS
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Provincial Policy Statement:

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in Settlement Areas 1.1.3.1. In addition, the proposal is consistent with the principles of healthy, liveable, and safe communities that are sustained by improving accessibility for persons with disabilities and the elderly by removing and/or preventing land use barriers which restrict their full participation in society (Policy 1.1.1 f).

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Settlement Area policies of Sub-section 1.1.3 state:

“1.1.3.2 Land use patterns within Settlement areas shall be based on:

- a. Densities and a mix of land uses which:
 - 1. Efficiently use land and resources;
 - 2. Are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;
 - 3. Minimize negative impacts to air quality and climate change, and promote energy efficiency in accordance with Policy 1.8; and,
- b. A range of uses and opportunities for intensification and redevelopment in accordance with the criteria in Policy 1.1.3.3.”

Further, the Housing Policies in Sub-section 1.4 of the PPS states:

“1.4.3 Planning authorities shall provide for an appropriate range of housing types and densities to meet projected requirements of current and future residents of the regional market area by:

- c. Permitting and facilitating:
 - 1. All forms of housing required to meet the social, health, and well-being requirements of current and future residents, including special needs requirements; and,
 - 2. All forms of residential intensification and redevelopment in accordance with Policy 1.1.3.3;”

Further, *Special Needs* is defined as:

“Means any housing, including dedicated facilities, in whole or in part, that is used by people who have specific needs beyond economic needs, including but not limited to, needs such as mobility requirements or support functions required for daily living. Examples of special needs housing may include, but are not limited to, housing for persons with disabilities such as physical, sensory, or mental health disabilities, and housing for the elderly.”

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The proposed development conforms to the above policies since it is providing a public facility. The proposal is not expanding the number of residents, but rather the proposal is for an addition to provide further living space for the residents and programming space for the related facilities. In addition, the proposal provides a housing type that provides housing to meet current and future residents, including special needs, which provide services beyond economic needs. Based on the foregoing, the proposal is consistent with the Provincial Policy Statement.

Places to Grow:

The Places to Grow Plan is formally known as The Growth Plan for the Greater Golden Horseshoe, and it was prepared and approved under the Places to Grow Act, 2005, by the Province of Ontario. The Plan's main objective is to provide direction in developing communities with a better mix of housing, jobs, shops, and services in close proximity to each other. The Growth Plan also identifies policy on *Community Infrastructure*. The proposed lands would fall under this definition, as it refers “...to lands, buildings, and structures that support the quality of life for people and communities by providing public services for health, education, recreation, socio-cultural activities, security, and safety...”. Further, Policy 3.2.6 on *Community Infrastructure* identifies that it should be planned to meet the needs of a growing population to foster complete communities.

The proposed expansion will help meet the needs of the residents of the facility, as well as other related facilities in the surrounding area. Based on the foregoing, this development proposal conforms to Places to Grow.

Hamilton-Wentworth Official Plan:

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of uses, defined through Area Municipal Official Plans and based on full municipal services, will be permitted in the Urban Areas. Policy B-3 on *Shelter* identifies the desire to ensure the availability of a full range of adequate and affordable housing types. Further, Policy B-6.2 a) on *Social Well-Being* states “*Establish priorities, standards, and directions for the provision, delivery, and mentoring of personal and community social services,... a) programs that emphasize the re-education and re-training;.. d) actions to promote community based residential facilities for residents requiring assistance to establish, regain and/or maintain independent living; for rehabilitative purposes; and for continuing care..*”. Based on the foregoing, the proposal conforms with the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan:

The lands are designated “Commercial” on Schedule “A” - Lane Use Concept in the City of Hamilton Official Plan.

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Policy 2.2.1 states:

“.. In addition to the primary permitted uses, the following may be permitted within COMMERCIAL areas provided that they have been designated in the Neighbourhood Plan, where one exists: (O.P.A. 128)

- i) Residential uses subject to the following provisions:
 - a) Access drive and parking will be screened and/or buffered such that noise, light, or undesirable visual impacts emanating from neighbouring COMMERCIAL USES are mitigated; (O.P.A. No. 27)
 - b) Any impacts emanating from adjacent COMMERCIAL USES, which will detract from the amenity of the Residential Use, will be minimized; (O.P.A. No. 27)
 - c) In the case of a Residential use ancillary to a COMMERCIAL USE, sufficient amenity space will be provided exclusively for the Residential component, and be physically separated from the COMMERCIAL component and associated customer parking areas; and, (O.P.A. No. 27)
 - d) Satisfy the provisions of Sub-sections A.2.1 and C.7. (O.P.A. No. 27)
 - ii) Institutional Uses, regardless of site area, and in accordance with the provisions of Sub-section A.2.6 of this Plan. (O.P.A. No. 27)”

Based on the policies above, the existing Corrections Residence and proposed Social Services Establishment is a permitted use in the “Commercial” designation of the City of Hamilton Official Plan.

Further Sub-section C. 7.3 of the City of Hamilton Official Plan states:

“7.3 Council will encourage a RESIDENTIAL ENVIRONMENT of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:

- ix) Support the concept of a RESIDENTIAL community that provides a diversity of dwelling forms and housing options accessible to all Hamilton residents;
- x) Encourage the development of a range of RESIDENTIAL care and short-term care facilities in all areas of the City through appropriate recognition in the Zoning By-law;

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- xi) Encourage the rehabilitation and renovation of dwellings as an alternative to demolition in appropriate locations and circumstances, having regard to the preservation and maintenance of the amenity of the RESIDENTIAL area;"

The proposed expansion of the existing building, which facilitates interior upgrades and renovations for the existing Corrections Residence and proposed Social Services Establishment, conforms to the above noted policies, since it will be providing a non-profit housing for the purposes of rehabilitation into society.

Lastly, Sub-section A.2.6 states:

"2.6.1 The primary uses permitted in the areas exceeding 0.4 hectare in size, designated on Schedule "A" as MAJOR INSTITUTIONAL, will consist of cultural facilities, health, welfare, educational, religious, and governmental activities and accessory uses. However, such uses less than 0.4 hectare in site area will be permitted in areas designated "Residential", provided they satisfy the requirements of Policy A.2.1.3. Further, notwithstanding the above site area requirements, MAJOR INSTITUTIONAL uses will also be permitted in areas designated "Commercial", as set out in Policy A.2.2.1. (O.P.A. No. 27)

2.6.2 MAJOR INSTITUTIONAL USES may be located in Residential neighbourhoods, and will be encouraged to locate where they will function as a focus for the neighbourhood and on sites adjacent to other Institutional Uses, or a Neighbourhood Commercial use to permit the sharing of parking and other facilities, in accordance with the following provisions:

- i) Sufficient off-street parking and loading will be required, with particular consideration for their on-site location, and appropriate buffer and landscape treatment to effectively screen the development from surrounding uses;
- ii) The proposal is of a scale that will be compatible to, and integrate with, the character of established or approved development in the surrounding area;
- iii) Adequate provision has been made for access by the physically disabled and senior citizens; and,
- iv) The proposal satisfies the provisions of Sub-sections C.2 and C.9. (O.P.A 128)

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2.6.3 All MAJOR INSTITUTIONAL USES, except public and separate schools, will be permitted to locate in Commercial areas or may be permitted in an area where a proven need has been identified and where, to the satisfaction of Council, the location and integration of such a use with established or proposed development is acceptable.”

Based on the above, the existing Corrections Residence and proposed Social Services Establishment conform to the City of Hamilton Official Plan since it provides a service to the community. Lastly, the proposed renovations of the building will be providing better accessibility for the physically disabled. Based on the foregoing, the proposal meets the intent of the policies of the City of Hamilton Official Plan.

Landsdale Neighbourhood Plan:

The lands are identified as “Commercial and Apartments” in the Landsdale Neighbourhood Plan, adopted by Council on November 27, 1973. The proposed rezoning complies to the Neighbourhood Plan.

Urban Hamilton Official Plan:

The Urban Hamilton Official Plan received Ministerial Approval from the Ministry of Municipal Affairs and Housing on March 16, 2011, and, therefore, can no longer be modified. However, the final decision on the Urban Hamilton Official Plan has been appealed and, therefore, at the time of preparation of this Report, the Urban Hamilton Official Plan is not in effect.

The Urban Hamilton Official Plan designates the subject lands as “Neighbourhoods” on Schedule E - Urban Structure Plan, and Schedule E-1 - Urban Land Use Designations. The general policies of the “Neighbourhoods” designation, specifically Policy E-3.2, states:

- “3.2.1 Areas designated “Neighbourhoods” shall function as complete communities, including the full range of residential dwelling types and densities, as well as supporting uses intended to serve the local residents.
- 3.2.2 The “Neighbourhoods” designation applies to lands generally greater than 4 hectares in size designated “Neighbourhoods” on Schedule E-1 - Urban Land Use Designations.
- 3.2.3 The following uses shall be permitted on lands designated “Neighbourhoods” on Schedule E-1 - Urban Land Use Designations:

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- a) Residential dwellings, including second dwelling units and housing with supports;
- b) Open space and parks;
- c) Local community facilities/services; and,
- d) Local commercial uses.

3.2.6 Supporting uses such as local commercial, community facilities/services, and open space and parks, should be clustered to create a focal point for the neighbourhood and to facilitate access by all forms of transportation.

3.2.14 New housing with supports shall be permitted within the “Neighbourhoods” designation in accordance with the locational and design criteria of the residential category to which the density and built form best complies.

3.2.15 The City shall encourage the adaptive reuse of the existing building stock for appropriate land uses. Rezoning applications for new uses shall be evaluated to ensure compatibility with surrounding land uses.”

In addition, Chapter B speaks to Communities, specifically Policy B-3.2.4.2 and B-3.2.4.3 states:

“The development of housing with a full range of tenure, affordability, and support services shall be provided for and promoted throughout the City. Where there are documented unmet needs for housing tenure, affordability levels, or support services, priority shall be given to development applications that help meet those needs. Housing with a full range of tenure, affordability, and support services in a full range of built housing forms means both ownership and primary rental housing with a full range of affordability, social housing, rent-geared-to- income housing, lodging houses, shared and/or congregate-living housing arrangements, housing with supports, emergency and transitional housing, and housing that meets all needs.

Housing with supports, including Residential Care Facilities, shall be permitted in the Institutional, Neighbourhoods, Commercial, and Mixed-Use designations, as shown on Schedule E-1 - Urban Land Use Designations, and shall be subject to zoning regulations, where applicable.”

Furthermore, Policies in Sub-section B-3.5 speak to Community Facilities/Services Policies:

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“Community facilities/services are an integral part of the fabric of the City and fundamental cornerstones that make communities complete. They make neighbourhoods liveable, and support a high quality of life by providing space and amenities for a host of services, programs, and activities. Community facilities/services are lands, buildings, and structures that provide services for health, education, recreation, social or cultural activities, security, and safety. Community facilities/services may include community and recreation centres, arenas, parks, health care and social service facilities, day care centres, seniors’ centres, emergency medical services, fire services, police services, cultural facilities, Places of Worship, museums, schools, universities and colleges, and libraries. Community facilities/services may be publicly or privately owned or operated.

To create a high quality of life, and to be adaptable to meet changing community needs, community facilities/services must be flexible. Flexibility is particularly important in newly built or renovated facilities, which must meet the needs of our changing population.

Preserving and improving access to community facilities/services in established neighbourhoods, meeting changing needs, and providing for a full range of community facilities/services in areas experiencing growth is a responsibility shared by the City, senior levels of government, public agencies, the private non-profit service delivery and voluntary sector, community groups, and citizens. Making the best use of what we have, promoting shared facilities and shared responsibility, and integrating planning of community facilities/services with planning for growth and change are necessary for Hamilton to attain and maintain a high quality of life.

The City recognizes that the planning and provision of community facilities/services requires partnership, consultation, coordination, and cooperation among all levels of government, public agencies, the non-profit service delivery and voluntary sector, and citizens. It is the role of the City to facilitate and support a process of integrated planning and cooperation.”

Specifically Policy B-3.5.1 states the Policy Goals for Community Facilities/Services Policies:

- “3.5.1.1 Create a vibrant, active, and supportive City by providing community facilities/services that support a high quality of life for all residents.
- 3.5.1.2 Achieve equitable and efficient access, distribution, and integration of community facilities/services which meet the needs of people of all ages, backgrounds, and capabilities throughout all stages of their lives and across the City.”

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Respecting the policies above, the proposed Corrections Residence and Social Services Establishment provides a service required in the community and aids in the reintegration of people back into society.

Lastly, Policy 3.10 states the Function for Community Facilities/Services:

- “3.10.1 Community facilities/services uses include public and private uses serving the cultural, religious, health, welfare, and educational needs of a neighbourhood. Community facilities/services may include community and recreation centres, arenas, parks, healthcare and social service facilities, day care centres, seniors’ centres, emergency medical services, fire services, police services, cultural facilities, Places of Worship, museums, schools, universities and colleges, and libraries.
- 3.10.2 The City shall encourage a diverse range of community facility/service uses and promote the sharing of facilities and resources as capacities permit.
- 3.10.4 The City shall collaborate with other community facilities/services organizations to facilitate the provision of a wide range of services in close proximity to residents.”

The existing Corrections Residence and proposed Social Services Establishment provide a community facility and service that share facilities and resources amongst other Astra Society locations.

Based on the foregoing, the application would conform to the Plan.

RELEVANT CONSULTATION

Forestry and Horticulture Section, Maintenance and Operations Division (Public Works Department) advises that there are no City trees at risk within the rear Public alley, but there is 1 Municipal Tree Asset located on the road allowance of Emerald Street, fronting this site. The municipal tree asset is a 72cm d.b.h Silver Maple {Asset 147208} and was found to be in good condition and at risk due to the movement of heavy equipment and overall construction. This tree is unique, in that the roots at the base of the tree have over grown the Municipal Sidewalk. A wood retaining wall fronts the City sidewalk and Private walkway.

As the subject lands are currently subject to Site Plan Amendment Application (SPA-11-170), all forestry concerns will be addressed and rectified through the development approval process. In summary, the concern regarding the Municipal Tree Asset will be addressed.

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Traffic Engineering and Operations Section, Operations and Maintenance Division (Public Works Department) advises that the alleyway to the rear of the subject lands is unassumed, and the City of Hamilton cannot guarantee access to/from the alley and the municipal roadway system. Further, they suggested that the rear parking spaces be shifted northerly by approximately 1.0m. There will be no negative impact to the number of spaces; however, by shifting them, there will be a bit of additional clearance between the handicap parking space and the adjacent property line and board fence. Therefore, the sightlines for drivers reversing out of that space will be better if the vehicle is not directly adjacent to the fence.

As the subject lands are currently subject to Site Plan Amendment Application (SPA-11-170), all traffic concerns will be addressed and rectified through the development approval process. In summary, the concern regarding the parking layout will be addressed.

The following Departments and Agencies had no comments or objections:

- Hamilton Municipal Parking Section, Parking and By-law Services Division (Planning and Economic Development Department).
- Strategic Planning Section, Corporate Assets and Strategic Planning Division (Public Works Department).
- Environment and Sustainable Infrastructure Division (Public Works Department).
- Recreation (Community Services Department).
- Access and Equity (City Manager's Office).
- Hamilton Police Services.
- Emergency Services.
- Union Gas.
- Horizon Utilities.
- Canada Post.
- Bell Canada.

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 595 property owners within 120.0m of the subject lands on January 14, 2013, and a Public Notice sign was posted on the property on February 1, 2013. One letter of concern was received (see Appendix “D”), and one email was received (see Appendix “E”), which are discussed in the Analysis/Rationale for Recommendation section of this Report. The Notice of Public Meeting was also circulated in accordance with the provisions of the Planning Act.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1. The application has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement, and conforms with Places to Grow.
 - (ii) It conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.
 - (iii) It conforms to the Urban Hamilton Official Plan.
 - (iv) The proposed rezoning will facilitate Site Plan Amendment Application (SPA-11-170), which proposes an addition on the third storey of the existing building.
 - (v) It recognizes the existing Corrections Residence use, which has been operating since 1983, and allows for the expansion of an accessory Social Services Establishment to support the residents of the Corrections Residence.
2. The subject lands have been used for a group living arrangement since 1956 with the establishment of a Lodging House. Prior to 1981, the City of Hamilton Zoning By-law did not distinguish between Lodging House and Residential Care Facility. In 1981, the City of Hamilton adopted By-law No. 81-27, which established the definition of “Residential Care Facility” and established Zoning Regulations for said facilities (i.e. capacity, radial separation requirements). As a result, although operating characteristics of the use did not change, the effect of By-law No. 81-27 was to redefine the use of the subject lands from a “Lodging House” to a “Residential Care Facility”.

SUBJECT: Application for an Amendment to City of Hamilton Zoning By-law No. 05-200 for Lands Located at 22 - 24 Emerald Street South (Hamilton) (PED13119) (Ward 3) - Page 18 of 24

The use of the subject lands as a Residential Care Facility continued until 2002. In 2002, By-law No. 02-043 was passed, which further redefined the use of the subject lands from a “Residential Care Facility” to a “Corrections Residence”. As such, although the technical use of the property has changed as a result of changes to the City of Hamilton Zoning By-law, the use of the subject lands, as a supportive housing environment, has not changed.

3. The subject lands are currently being used as a 36 resident Corrections Residence, providing accommodations and living space. In addition, programs are provided for current and former residents to assist in their rehabilitation and reintegration into society. The proposed development is to rezone the property to permit a Corrections Residence and Social Services Establishment for the purposes of providing programming and rehabilitation to the other affiliated Astra Society locations. A third storey addition is proposed for additional living space, as well as some required renovations to the building to make the building accessible for persons with disabilities, and provides a total increase of gross floor area of 227 sq. m. No increase in resident occupancy is requested or proposed.
4. The policies noted above review the proposal in comparison to residential and institutional uses through the Provincial Policy Statement, Places to Grow, Hamilton-Wentworth Official Plan, Hamilton Official Plan, Landsdale Neighbourhood Plan, and Urban Hamilton Official Plan. Since the Corrections Residence use relates specifically to the residential requirements and the Social Services Establishment relates specifically to the institutional requirements, the rezoning was weighed against both requirements to ensure a compatible development and harmonious transition.
5. The applicant is proposing to amend Hamilton Zoning By-law No. 05-200 to include a Corrections Residence in the Community Institutional (I2) Zone on a site-specific basis. Modifications to the lot width, side yard setbacks, height, parking, manoeuvring and distance separation between a Corrections Residence and a Residential Care Facility are also required.

In order to implement the proposed development, a Site Plan Amendment Application (SPA-13-170) was submitted (see Appendix “C”) and, as previously identified, a number of zoning modifications are required. A review of the required modifications is as follows:

Addition of the Corrections Residence Use:

The Community Institutional (I2) Zone does not permit a Corrections Residence. A Corrections Residence is defined as *“a group living arrangement in a secure facility, for people who have been placed on probation, who have been released on parole, or who are admitted to the facility for correctional or rehabilitation purposes, and live together with the requirements of its residents and accepted standards for secure detention. A corrections residence is licensed, funded, approved, or has a contract or agreement with the Province of Ontario or Federal Government, but shall not include a correctional facility, emergency shelter, or a residential care facility.”*

However, a Social Services Establishment is a permitted use in the Community Institutional (I2) Zone, and is defined as *“a building in which non-profit services intended to promote and improve the independence, economic self-sufficiency, social and health development of citizens are provided, and shall include, but not be limited to clerical, administrative, consulting, counselling, office and recreational functions for a non-profit agency, but shall not include facilities in which overnight accommodation is provided.”*

The existing facility is currently a Corrections Residence that provides overnight accommodations, but has proposed to provide services, as defined above, to current and former residents. The integration of the Corrections Residence and Social Services Establishment on the subject lands will benefit the residents of the facility and rehabilitation into society. The Social Services Establishment will be limited to 391 sq. m., and be required to be operated in conjunction with, and accessory to, a Corrections Residence, to provide a continuum of support. In addition, the Corrections Residence and Social Services Establishment uses will be the only permitted uses in the Special Exception, and the Corrections Residence will be restricted to its current capacity of 36 residents.

Modifications to Recognize the Existing Yard Setbacks and Lot Width:

The existing lot has a frontage of 25.9m, a northerly side yard setback of 0.29m, and a southerly side yard setback of 3.18m, whereas the Community Institutional (I2) Zone requires a minimum lot frontage of 30.0m and a side yard setback of 6.0m. Site Plan Amendment Application (SPA-12-170) shows the existing lot width and side yard setbacks (see Appendix “C”). These modifications represent an existing situation and can be supported. Comparatively, the current “H” District zoning requires a frontage of 12.0m, and side yard setback of 2.7m.

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Maximum Permitted Height:

The applicant is proposing a maximum height of 14.02m, whereas the By-law permits a maximum 10.5m. The current height of the existing building is approximately 12.0m, which does not meet the maximum permitted height of the Community Institutional (I2) Zone. This height increase is to facilitate the third storey addition, which will provide additional living space. The proposed addition will not be creating space for additional residents, but providing a common area. The addition is located to the rear of the building, and not visible from the street, therefore, the addition will not negatively impact the adjacent properties. The modification can be supported, since the addition will not be seen from the street, therefore, maintaining the streetscape character and, since the building is currently 3-storeys, the height increase will not negatively impact the adjacent properties. Comparatively the current "H" District zoning permits a maximum height of 4-storeys, or 17.0m.

Minimum Distance Separation:

The applicant is proposing to recognize the existing minimum separation distance between a Corrections Residence and a Residential Care Facility of 137m, whereas the By-law requires a minimum distance separation of 300.0m. (The Residential Care Facility is located at 18 Victoria Avenue North, Hamilton). The current Corrections Residence, and prior uses of the Residential Care Facility and Lodging House, represents an existing situation, and the modification can be supported.

Furthermore, Council passed By-law No. 01-143, which prohibited the establishment of additional Corrections Residences or expansion of existing Corrections Residences, as identified on Schedule "O" of Zoning By-law No. 6593 - Moratorium Areas for Residential Care Facilities, Retirement Homes, Emergency Shelters. The intent of the By-law was to de-concentrate, in hopes of eventually phasing out, the above facilities to provide equitable distribution of facilities throughout the City of Hamilton. As stated above, the proposed addition to the existing building is not expanding the number of residents, but providing additional living space for the residents and facilities programming and interior renovations to the building. The proposed modification is technical in nature, as both uses are existing and would be recognizing the existing situation.

However, once the subject lands are rezoned into Hamilton Zoning By-law No. 05-200, the Moratorium By-law would no longer apply.

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Number of Parking Spaces:

	Use of Land	Parking Rate in By-law No. 05-200	Parking Calculation	Notes
Scenario #1:	Corrections Residence	1 space for 3 persons accommodated	36 persons / 3 = 12 parking spaces required	Based on maximum number of persons permitted.
Scenario #2:	Combined Corrections Residence and Social Services Establishment	1 space for 3 persons accommodated 1 space for each 50 sq. m. of Gross Floor Area	36 persons / 3 = 12 parking spaces required 391 sq. m. of floor area / 50 sq. m. = 7.82 Therefore = 8 parking spaces required Total parking spaces required = 20	Based on the first floor being used as the Social Services Establishment and the second and third floors being used as the Corrections Residence.

The applicant is proposing 7 parking spaces, whereas the By-law requires a minimum 20 parking spaces, based on the above combined Corrections Residence and Social Services Establishment calculations. The applicant also has an agreement with the property across the street to permit staff parking in the Place of Worship parking lot. As the residents of the Corrections Residence or attendees to the Social Services Establishment generally do not have vehicles, the parking provided would facilitate staff and visitors. Additional parking cannot be provided on-site, based on the size and location of the

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existing building. Lastly, a municipal parking lot is located in close proximity to the south. This modification essentially represents an existing situation and can be supported.

6. In the letter received from a member of the public, dated January 18, 2013, and received by fax on January 24, 2013 (see Appendix "D"), concerns were raised with respect to: the length of time provided for the public to comment on the application; additional notices to be sent to the broader community; posting a sign on the property and advertising the application in the newspaper; armed men bringing criminals into the neighbourhood; the type of clientele using the facility; security and cameras on the facility; safety of the neighbourhood; and, requested that the location of the facility be relocated.

Staff notes that, as required with a Zoning By-law Amendment Application, a sign was posted on the property on February 1, 2013, which was after the letter was received. Therefore, a public notice has been posted in accordance with Planning Act requirements. Furthermore, the Notice of Complete Application and Preliminary Circulation was sent out on January 14, 2013, providing a commenting period ending on February 8, 2013.

A Corrections Residence has operated on the subject lands since 1983, and the application is not requesting to expand the number of residents who will reside there, but to provide the current residents with additional living space and programming for the other Astra Society related locations.

7. In the email received from a member of the public, dated May 31, 2013, (see Appendix "E"), questions were raised with respect to: the property being used as a residential care facility and drug treatment centre when it is zoned as residential and not institutional; can the renovations not be done without changing the zoning; what is the relevance of the 300m radial separation rule regarding specific addresses; and the sign posted on the property has a hearing date set as "TBD" - when and will the date be set and how will the public be informed.

Staff responded that the property has been used as a residential care facility prior to 1981 when the City first established zoning regulations for residential care facilities in the City of Hamilton Zoning By-law. The applicant has made the application because they are proposing interior renovations and an addition onto the existing building and provide social services to current and former residents. The number of residents will remain at 36.

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In addition, the property is in the moratorium area that does not permit the expansion of residential care facilities. The owners are proposing to make improvements to the building including interior and exterior renovations. Because the size of the building is being enlarged, they have applied for a rezoning. Further, the 300m radial separation refers to residential care facilities and retirement homes, which are specifically referred to in the member of the public's email, and are not included in the separation regulation.

Lastly, the owner will be required to update the sign once the public meeting date is confirmed. All property owners within 120m will also receive a Public Meeting Notice in the mail. Staff also informed the member of the public that if they wished to be notified, a formal written request, including their full mailing address, should be made to the City Clerk and the Clerk will add them to the mailing list.

ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the Social Services Establishment could not be established and the existing Corrections Residence could continue to exist, as is, with no expansion. Alternatively, the lands could be redeveloped in accordance with the current "H" (Community Shopping and Commercial) District, which permits a wide range of commercial, residential, and institutional uses.

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

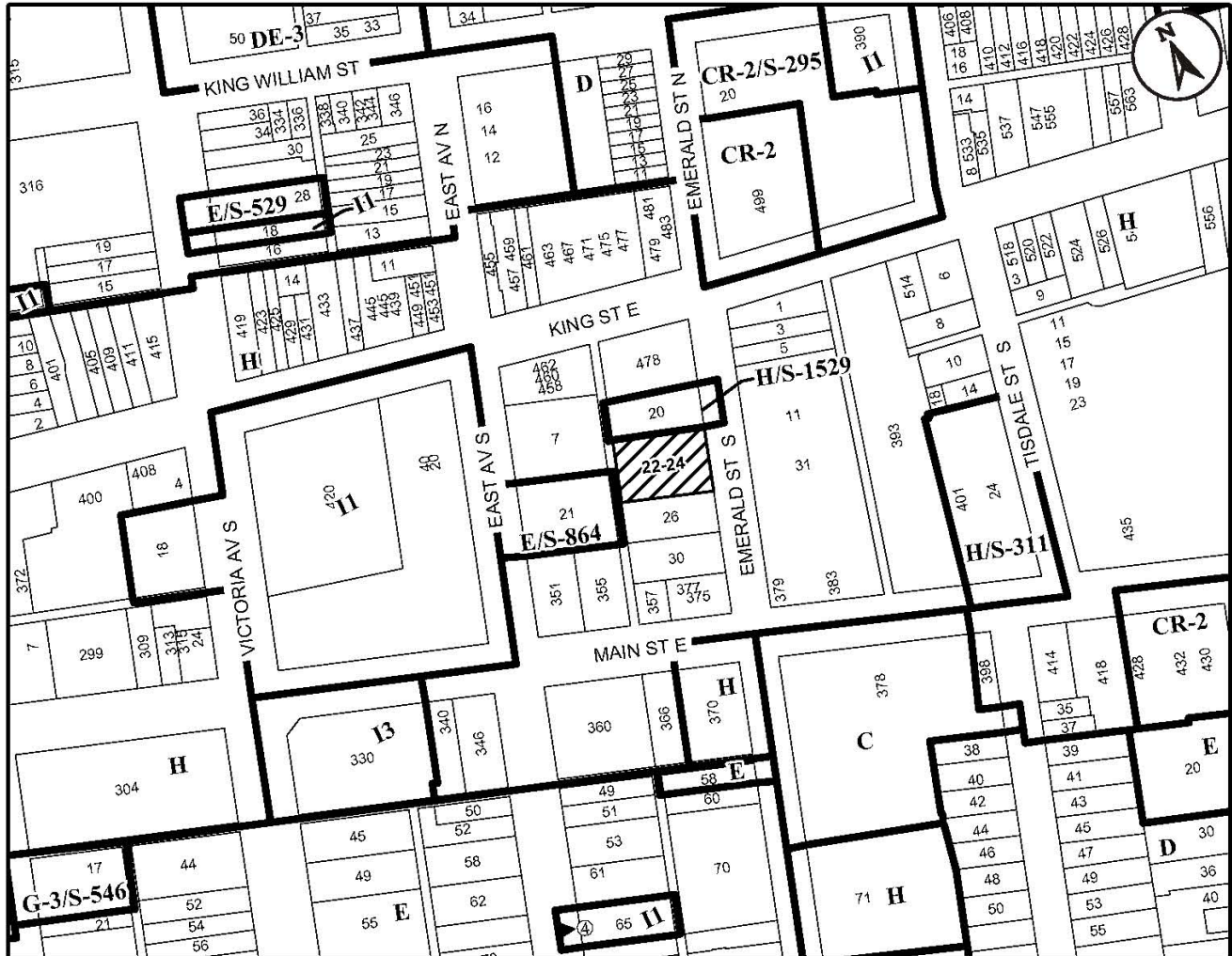
- 1.5 Support the development and implementation of neighbourhood and City-Wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES / SCHEDULES

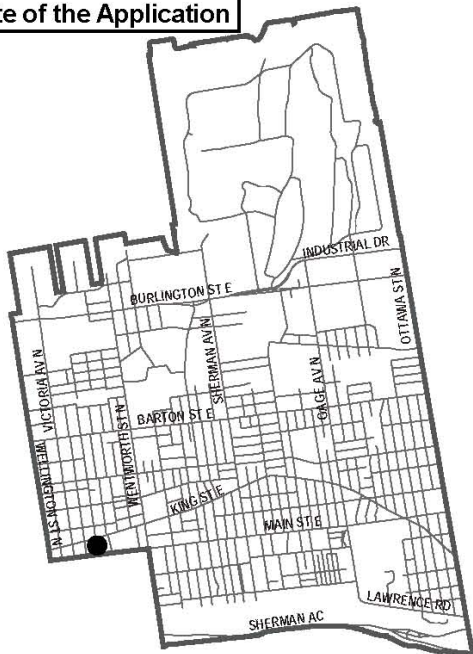
- Appendix "A": Location Map
- Appendix "B": Draft Zoning By-law Amendment
- Appendix "C": Site Plan
- Appendix "D": Letter from Public Circulation
- Appendix "E": Email from Public

:DMS

Attachs. (5)



● Site of the Application



Ward 3 Key Map

N.T.S.



Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAR-12-056

Date:
Jan. 3, 2013

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
DS/DB

Subject Property



22-24 Emerald Street South

Authority: Item [REDACTED]
Planning Committee
Report 13-[REDACTED] (PED13119)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

By-law No. [REDACTED]

**To Amend Zoning By-law No. 05-200
Respecting Lands Located at 22 - 24 Emerald Street South, Hamilton**

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

AND WHEREAS Zoning By-law No. 05-200 was enacted on the 25th day of May, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 13-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2013, recommended that Zoning By-law No. 05-200 be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton, 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 Map No. 996 of Schedule "A" to Zoning By-law No. 05-200, is amended by incorporating the Community Institutional (I2) Zone, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That Schedule "C": Special Exceptions, of By-law No. 05-200, is hereby amended by adding the following Sub-section:

"453 Notwithstanding Section 8.2.1 of this By-law, within the lands zoned Community Institutional (I2) Zone, identified on Map No. 996 of Schedule "A", and known as 22 - 24 Emerald Street South, Hamilton, a Corrections Residence, having a maximum capacity of 36 residents, shall be permitted in conjunction with a Social Services Establishment, subject to the following special provisions:

- (a) That the Social Services Establishment shall have a maximum floor area of 391 sq. m.;
- (b) That notwithstanding Section 8.2.3.1 (a) of this By-law, the minimum lot width shall be 25.9m;
- (c) That notwithstanding Section 8.2.3.1 (c) of this By-law, the minimum northerly side yard shall be 0.29m;
- (d) That notwithstanding Section 8.2.3.1 (c) of this By-law, the minimum southerly side yard shall be 3.18m;
- (e) That notwithstanding Section 8.2.3.1 (e) of this By-law, the maximum building height shall be 14.02m;
- (f) That notwithstanding Section 8.2.3.1 (h) of this By-law, a minimum radial separation distance between a Corrections Residence and a Residential Care Facility of 137m shall be permitted; and,
- (g) That notwithstanding Section 5.6 (c) (i) and (ii) of this By-law, the minimum required number of parking spaces shall be seven (7)."

3. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

4. That this By-law No. [REDACTED] shall come into force and be deemed to come into force in accordance with Sub-section 34(21) of the Planning Act, either upon the date of passage of this By-law or as otherwise provided by the said Sub-section.

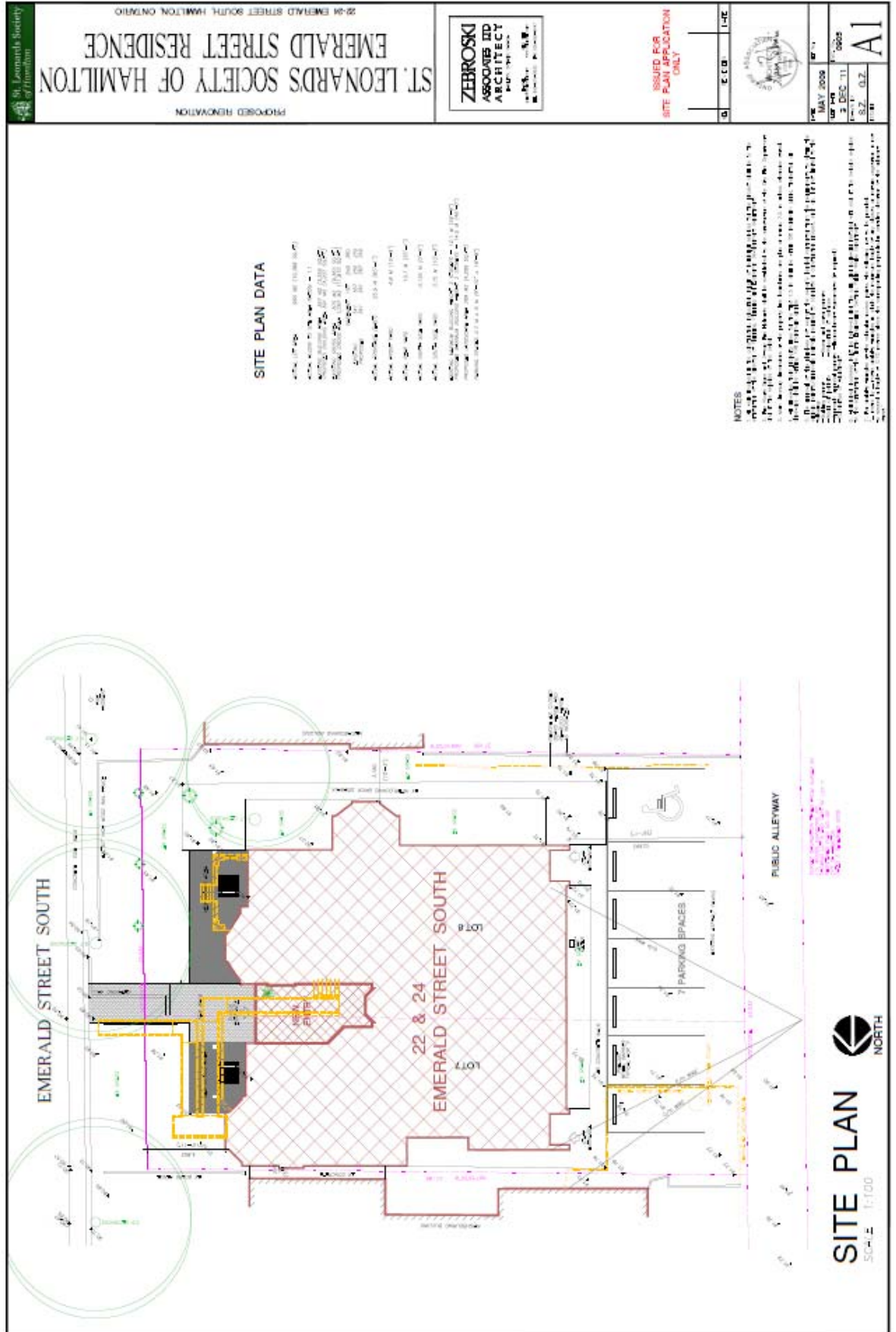
PASSED and ENACTED this [REDACTED] day of [REDACTED], 2013.

R. Bratina
Mayor

R. Caterini
Clerk



<p>This is Schedule "A" to By-law No. 13-</p> <p>Passed the day of, 2013</p>	<p>-----</p> <p style="text-align: center;">Mayor</p> <p>-----</p> <p style="text-align: center;">Clerk</p>		
<p>Schedule "A"</p> <p>Map Forming Part of By-law No. 13-_____</p> <p>to Amend By-law No. 05-200 Map 996</p>	<p>Subject Property 22-24 Emerald Street South</p> <p> Lands to be zoned Community Institutional (I2, 453) Zone, Modified</p>		
<p>Scale: N.T.S.</p>	<p>File Name/Number: ZAR-12-056</p>		
<p>Date: May 28, 2013</p>	<p>Planner/Technician: DS/DB</p>		
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>			



To the attention of Danielle Stevens, City of Hamilton
Planning and Economic Development Department
Development planning, Heritage and Design East Section
71 Main Street West, 5th Floor, Hamilton, ON, L8P4Y5

Also
Peter J. De Iulio, BES, MCIP, RPP
Senior Project Manager
(Same Dept. as above)

RECEIVED
JAN 24 2013

RECEIVED
JAN 24 2013

Re: Notice of Complete Application and Preliminary Circulation to Amend the Zoning By-law at 22-24 Emerald Street South.

Date of letter, on the 18th day of January, 2013, Received by mail on the 22nd day of January, 2013. Action to be taken prior to the 8th day of February 2013, so simply not enough time to give the people that live in that area to be able to act on that matter, as the time is very limited, so the first thing that should be done is extend the time till the end of February, 2013. This way you will give all parties the chance to participate.

Hello, My name is Aysar Hamzeh, and I live at 26 Emerald Street South, in the greater city of Hamilton, I have been living in that area for almost one year and am not only refusing to amend the zoning By-Law of the requested property, but I will ask that this place be relocated in a different area, as the Emerald Street South area is a public area, where schools, senior buildings, churches, etc, so that area is a very live area, and are we doing the right job by bringing high profile criminals to that neighbourhood, Absolutely not.

From what I have witnessed in the past year, in few incidents 2-4, a crowd of gunned men, were in my area to take prisoners out, those kind of actions fear the area, and also does not make it safe for us to live there, as those incidents, and also the cameras that surround those existing facilities, monitors the whole area, where I feel it's against my rights, that people could spy in what I do, or what moves I make.

And also note that I spoke to few of those residents at that facility and they are proud about what they have done, few of them say they used weapons to hurt others, others smuggled a huge amount of drugs to the point that some of them slept with young teens, and how are we helping the community if we bring them to the peaceful area at Emerald South.

Also note, that this area is not only for the people that reside there, it's an area for young children to attend their schools, young teens to continue their high school credits, new comers to learn English, seniors to be able to live in a close by atmosphere, people to worship God in Churches, shopping centres to accommodate the needs of the residents and also a place for low income to be able to afford, so by mailing those letters to the residents of the area, you are not targeting 10 percent of the people that access that area, so from there a big sign should be posted in that property to notify the people that access that area, also an Ad on the Newspaper to notify parents, workers and others who send their loved ones, in what the City of Hamilton is asking for.

So as a conclusion, lots of clues in your request, where you are indicating that this action is needed, so they can do some kind of renovations and there will be no extra beds needed, so if that's the case, then you do not need to change the zoning of that area permanent, so you just need an exception till the renovation is done, but in my view that is not the case, the case is that sooner or later, more beds will be added, and more high profile criminals will be in our area.

Take Further notice, that I am a witness to 2 residents at those places, that still deal with drugs, and from the tone of attitude they advertise crime, as I was told by one person that he got caught of



100,000 + of drugs and he get a 2 year sentence ,and he said that only for the time I get busted ,so how many times he get through ,Only God names .

The safety of the residents of the above area ,concern young children ,young men ,old seniors and businesses ,that get accessed from all ages .so I do not ask only to deny the request of expansion ,I also ask the City of Hamilton to move that facility from that area .and I suggest ,that this facility be moved to Payfront area ,also the Casino .Emerald is considered an Energetic area ,once we get through the financial crisis that the whole world is facing today .so look at Hamilton Downtown from Sanford ,up to Dundurn ,and the city should plan the expand to Bayfront area ,I think that will be a perfect fit ,not only for a new Casino ,but to Tourist area from clubs ,to bars etc .Most of those residents are housing in that area ,so the city can plan to relocate them and then once you get that piece of land empty then you can build what you wish ,by doing that you will save money on Fireworks on both occasions as you will be close to the water and it will become part of the casino ,also it will give Hamilton a new view ,so now you can see Hamilon downtown as a big city in a small village .

Thank you
From : Aysar Hamzeh



Dated and signed in the 23rd day of January 2013 ,at the Greater City Of Hamilton

cc. Hamilton legal Cline ,City Hall <Hamilton spectator

Stevens, Danielle

From: Stevens, Danielle
Sent: June 5, 2013 8:10 AM
To: Stevens, Danielle
Subject: FW: 24 Emerald St South - rezoning application

-----Original Message-----

From: Fivel Flavour [REDACTED]
Sent: Friday, May 31, 2013 3:52 PM
To: Robichaud, Steve
Subject: 24 Emerald St South - rezoning application

Mr. Robichaud,

I am resident who lives near the half-way house and drug treatment facility at 24 Emerald St South. There is a large sign in front that says they are applying to have their property rezoned from residential to institutional. I have a few questions about that application and was provided your contact information. Essentially, I don't understand how zoning works in Hamilton and hope you can shed some light on it for me.

1. How can the property be used as a residential care facility and drug treatment centre if it is only zoned as residential? Shouldn't it be institutional already?
2. Can they complete some of their proposed building improvements without a zoning change? That, is what is about their plan, exactly, that needs the zoning to change before they can move forward?
3. What is the relevance of the 300-metre radial separation rule? There are surely other institutionally zoned areas within 300 metres. For example, Martha's House is at 20 Emerald St. South, Jerelday Lodge at 418 Main St E, the Emerald Street Lodge at 84 Emerald St South, the Barrett Centre, also on Emerald Street south, etc.
4. The date on the sign for the hearing is "TBD". When will the date be set and how will I know when that has happened?

Thanks,
Five Flavour