SUBJECT: Residential Care Facilities and Retirement Homes in the “B” (Suburban Agriculture and Residential etc.) Zoning Districts – Former City of Hamilton (PED06194) (Wards 1, 4-8)

RECOMMENDATION:

That approval be given to an amended City Initiative 99-A, to amend Zoning By-law No. 6593, as amended by By-law 01-143, to repeal and replace the residential care facilities and retirement homes, and associated performance standards, for lands located within the “B”, “B-1” and “B-2” (Suburban Agriculture and Residential etc.) Zoning Districts (former City of Hamilton), on the following basis:

(a) That By-law No. 01-143 be amended by deleting Subsections 4, 5, and 6 in their entirety.

(b) That Zoning By-law No. 6593 be amended in accordance with the attached draft Zoning By-law marked as Appendix A to Report PED06194, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(c) That the proposed changes to the Zoning By-law are in conformity with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

In 2001, the City initiated a Zoning By-law amendment to update the regulations respecting changes to performance standards, definitions and permitted uses for residential and short term care facilities, long term care facilities, emergency shelters, correctional facilities and hostels throughout the former City of Hamilton.

At the beginning of May, 2006, it was brought to the City’s attention that, in the Notice of the Passing of the Zoning by-law for By-law No. 01-143 (in 2001), the reference establishing residential care facilities and retirement homes in the “B” Districts was not included.

In order to address the possible perception that full public debate may not have occurred in 2001 on the issue of including these new uses in the “B” Districts, City Council on May 24, 2006 directed staff to proceed with a Planning Act process. The purpose of this process is to consider the planning merits of extending this permission for residential care facilities and associated performance standards to include the “B” districts.

BACKGROUND:

- Planning Directions
  In March 1999, the Planning Committee of the former City of Hamilton approved a Terms of Reference for the review of residential care facilities, short term care facilities, and detention centres. In addition, the Committee requested a Report be prepared comparing the planning policies and regulations for these facilities in each of the area municipalities (i.e. - Dundas, Flamborough etc.).

  In May 2000, the Hearings Sub Committee received the Discussion Paper titled “Residential Care Facilities, Long Term Care Facilities and Correctional Facilities – The Past, Present and Future Planning Policies” and directed staff to hold information meetings in the form of small focus groups with various service providers and neighbourhood associations. The purpose of the report was to evaluate the planning policies respecting care facilities and detention homes and provide options to deal with the various planning issues that arose.

  The information meetings were held over a period of months with specific stakeholders. The study was slightly expanded to include hostels; as a result, a second report was prepared (May 2001) entitled, “Residential Care Facilities, Long Term Care Facilities Correctional Facilities and Hostels – Response to Initial Recommendations on Planning Policies in the former City of Hamilton”. It proposed additional changes to the Zoning By-law.

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1 Reference to the “B” Districts includes all the “B” Zoning Districts – “B”, “B-1”, and “B-2”
Public Meetings and Notice of the Passing of the Zoning By-law Amendment

The June 26, 2001 Hearings Sub Committee Public Meeting (as required by the Planning Act) was advertised in the Hamilton Spectator on June 8, 2001.

The Committee heard a presentation from staff followed by public delegations. After debating the issue, the Committee approved the amendments to the Zoning By-law dealing with changes to performances standards, definitions and permitted uses for residential and short term care facilities, long term care facilities, emergency shelters, correctional facilities and hostels throughout the former City of Hamilton.

One of the specific changes made allowed for residential care facilities and retirement homes in the “B” Districts.

Recent Discovery of a Public Notice Irregularity

At the beginning of May, 2006, it was brought to the City’s attention that, in the Notice of the Passing of the Zoning By-law for By-law No. 01-143 (in 2001), the reference establishing residential care facilities and retirement homes in the “B” Districts was not included.

In order to address the possible perception that full public debate of including these new uses in the “B” Districts may not have occurred in 2001, on May 24, 2006, City Council directed staff to proceed with a Planning Act process. The purpose of this process is to consider the planning merits of extending this permission for residential care facilities and associated performance standards to include the “B” districts.

The required Planning Act notice for the June 20, 2006, Planning and Economic Development Committee meeting was published in the Hamilton Spectator on June 2, 2006.

ANALYSIS/RATIONALE:

Discussion Paper (May 2000)

As noted above, in May 2000, the City produced a comprehensive analysis of the planning policies and regulations for, among other uses, residential care facilities. Throughout the report, a series of Options, complete with support and counter arguments, were developed. The purpose of these Options was to identify the range of Zoning By-law changes that were possible prior to identifying an appropriate course of action.

With respect to the residential care facilities in the “B” districts, the following paragraphs are excerpts from the Discussion Paper:

“Residential Care Facility Use Permitted in Residential Zoning Districts

Hamilton allows residential care facilities in almost every zone with the exception of some industrial and commercial zones, as well as the
residential “B” District. These uses are not allowed in the “B” zones as By-law No. 81-27 included residential care facilities only in zones that previously permitted lodging homes - lodging homes were not permitted in the “B” district.”

and,

“Option 2 –
Allow the use in the “B” Zoning Districts

The purpose of this option is to add a residential care facility for a maximum 6 persons as a permitted use in the “B”, “B-1” and “B-2” Districts.

Support:

1. It will allow more opportunity to establish a facility on the Hamilton Mountain, where the majority of “B” lands are located; and,
2. It is no less appropriate to allow the use in the “B” districts than other residential districts (“C”, “R-4” and “D”).

Counter-Arguments:

1. Some neighbourhoods that have not been candidates for the use in the past will have to accept a new role in serving the needs of their own residents.”

In addition, the Paper recommended the radial separation distance between all residential care facilities be increased from 180m to 300m.

• Discussion Paper (May 2001)
A follow-up Discussion Paper was released to include additional changes to the Zoning By-law concerning short term care facilities, retirement homes, emergency shelters and hostels.

An additional Zoning By-law change affecting the “B” Districts was identified. The purpose of the recommendations from the May 2000 Discussion Paper was to differentiate between retirement homes and residential care facilities because their function was different, and to establish 2 new institutional zones for the retirement home uses.

However, on further examination of the latter recommendation, it was decided that establishing 2 new institutional zones was a large undertaking and was more appropriately dealt with through a comprehensive Zoning By-law. As a result, the existing residential districts, including the “B” Districts, would include a retirement
home for a maximum of 6 residents including an addition of a 300m radial separation distance between facilities.

- **Reports to Hearings Sub Committee (May 2000 and June 2001)**
  Staff prepared 2 Reports to the Hearings Sub Committee. Both Reports (PDC00102 and PDC00102(a)) recommended that residential care facilities and subsequently retirement homes be included in the “B” districts along with a 300m radial separation distance.

- **June 2006 Public Meeting**
  In the interests of remedying any perception that this matter did not attract a full public debate in 2001, this Planning Act process has been initiated. The recommendation is to repeal the existing Sections of By-law No. 01-143 which permitted residential care facilities and retirement homes and the 300m radial separation distance in the “B” districts and pass another Zoning By-law amendment to reintroduce the facilities into the “B” Districts.

**ALTERNATIVES FOR CONSIDERATION:**

From a planning perspective, should Committee and Council not include the residential care facilities and retirement homes in the “B” districts (in the former City of Hamilton), the policy direction to allow such facilities “as of right” in all residential areas of the former City of Hamilton will not be achieved. The B districts would be exempt.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial - None.

Staffing - None

Legal - The recommended Zoning By-law amendment in no way affects the legal validity of the 2001 Residential Care Facility By-law or any building permits issued under that by-law. Procedural irregularities when passing a municipal by-law do not automatically invalidate the by-law. This repeal and replace By-law will take effect on the date of its passage by Council.

**POLICIES AFFECTING PROPOSAL:**

The proposal conforms to the Official Plan for the former Region of Hamilton-Wentworth. Specifically, Policy states:

B. 3.11 Require every Area Municipality to prepare a strategy for the development of housing opportunities suitable to a variety of needs. The strategy will include:
c) Zoning By-law standards to permit converted dwellings, group homes, and rooming and boarding homes as-of-right in designations permitting residential uses (as identified in the Area Municipal Official Plans).

The former City of Hamilton Official Plan states that:

C.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:

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;

The Amendment conform to the Official Plans.

**RELEVANT CONSULTATION:**

The Legal Services Division has been consulted.

**CITY STRATEGIC COMMITMENT:**

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

Community Well-Being is enhanced. ☑ Yes ☐ No
This Amendment will provide the opportunity for additional areas within the former City of Hamilton to accommodate special needs housing.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
No environmental issues will result from this general text amendment.

Economic Well-Being is enhanced. ☑ Yes ☐ No
It affords service providers with additional areas in which they can locate their facilities.

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

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

:JHE
Attach. (1)
CITY OF HAMILTON

BY-LAW NO. __________

To Amend:
Zoning By-law No. 6593 (Hamilton);

Respecting:

RESIDENTIAL CARE FACILITIES AND RETIREMENT HOMES IN THE “B” ZONING DISTRICTS

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to the former area municipality known as the “The Corporation of the City of Hamilton”,

AND WHEREAS the City of Hamilton Act, 1999, provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former Regional Municipality of Hamilton-Wentworth continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

AND WHEREAS the Council of the City of Hamilton passed Zoning By-law Amendment 01-143 on 26th day of June, 2001 which by-law was approved by the Ontario Municipal Board by Order dated the;

AND WHEREAS the Council of the City of Hamilton passed Zoning By-law Amendment 02-248 on the 11th day of September 2002 which came into effect on the same date;
AND WHEREAS this By-law is in conformity with the Official Plans of the former Region of Hamilton-Wentworth and the City of Hamilton;

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report 06- of the Planning and Economic Development Committee at its meeting held on the day of , 2006, Zoning By-law No. 6593 (Hamilton) be amended as hereinafter provided.

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

1. That Sections 4, 5, and 6 of By-law No. 01-143 be deleted in their entirety;
2. That Section 8 of Zoning By-law No. 6593 (Hamilton) is hereby amended by:

   (a) adding the following new uses to Subsection 8.(1):

      (iib) residential care facility for the accommodation of not more than six residents.

      (iic) retirement home for the accommodation of not more than six residents.

   (b) adding the following two new subsections as follows:

      **DISTANCE REQUIREMENTS**

      8.(5) Except as provided in Subsection 6, every residential care facility and retirement home shall be situated on a lot having a minimum radial separation distance of 300.0 metres from the lot line to the lot line of any other lot occupied or as may be occupied by a residential care facility, retirement home, emergency shelter, corrections residence or correctional facility.

      8.(6) Where the radial separation distance from the lot line of an existing residential care facility or an existing retirement home is less than 300.0 metres to the lot line of any other lot occupied by a residential care facility, retirement home, emergency shelter, corrections residence or correctional facility, the existing residential care facility or existing retirement home may be expanded or redeveloped to
accommodate not more than the permitted number of residents.

3. Section 8A of Zoning By-law No. 6593 (Hamilton) is hereby amended by adding the following two new subsections as follows:

**DISTANCE REQUIREMENTS**

**8A.(5)** Except as provided in Subsection 6, every residential care facility and retirement home shall be situated on a lot having a minimum radial separation distance of 300.0 metres from the lot line to the lot line of any other lot occupied or as may be occupied by a residential care facility, retirement home, emergency shelter, corrections residence or correctional facility.

**8A.(6)** Where the radial separation distance from the lot line of an existing residential care facility or an existing retirement home is less than 300.0 metres to the lot line of any other lot occupied by a residential care facility, retirement home, emergency shelter, corrections residence or correctional facility, the existing residential care facility or existing retirement home may be expanded or redeveloped to accommodate not more than the permitted number of residents.

4. Section 8B of Zoning By-law No. 6593 (Hamilton) is hereby amended by adding the following two new subsections as follows:

**DISTANCE REQUIREMENTS**

**8B.(5)** Except as provided in Subsection 6, every residential care facility and retirement home shall be situated on a lot having a minimum radial separation distance of 300.0 metres from the lot line to the lot line of any other lot occupied or as may be occupied by a residential care facility, retirement home, emergency shelter, corrections residence or correctional facility.

**8B.(6)** Where the radial separation distance from the lot line of an existing residential care facility or an existing retirement home is less than 300.0 metres to the lot line of any other lot occupied by a residential care facility, retirement home, emergency shelter, corrections residence or correctional facility, the existing residential care facility or existing retirement home may be expanded or redeveloped to
accommodate not more than the permitted number of residents.

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

PASSED and ENACTED this day of , 2006.

________________________________________  __________________________________________
MAYOR                                    CLERK

CI-99-A