SUBJECT: Application to Amend the Town of Ancaster Zoning By-law No. 87-57 for Property Located at 1194 Scenic Drive (Ancaster) (PED08267) (Ward 12)

RECOMMENDATION:

That Approval be given to Amended Zoning Application ZAR-08-001, by Kuldip Swan, Owner, for a change in zoning from the Agricultural “A” Zone to the Residential “R1-582” Modified Zone, to permit a day nursery for 38 children within an existing single detached dwelling at 1194 Scenic Drive, as shown on Appendix “A” to Report PED08267, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED08267, which has been prepared in a form satisfactory to the City Solicitor, not be forwarded to Council for enactment until the Owner makes satisfactory arrangements with the Hamilton Conservation Authority to resolve the existing eave encroachment on their lands, to the satisfaction of the Manager of Development Planning.

(b) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and Town of Ancaster Official Plan.

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The application is for a change in zoning to permit a day nursery for 68 children within the existing single detached dwelling, on lands located at 1194 Scenic Drive, Ancaster (see Appendix “A”), whereas staff is recommending approval of an amended application for a capacity of 38 children.

The amended application has merit and can be supported as the proposed change in zoning is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan and the Ancaster Official Plan, and is compatible with the surrounding area. The proposed development is subject to site plan control.

BACKGROUND:

Proposal

The applicant has applied to modify the zoning of the subject lands, known as 1194 Scenic Drive (see Appendices “C” and “D”), to permit a day nursery for 68 children within the existing single detached dwelling. A total of 21 on-site parking spaces are proposed for shared use between staff, parents and the residential use. Three of the parking spaces will be provided within the existing single detached dwelling, and the remaining 18 parking spaces would be accommodated within a surface parking lot (see Appendix “C”).

Based on a review of the application and the proposed conceptual site plan, the applicant has been advised that the proposed day nursery for 68 children cannot be supported in that the proposed 18 vehicle surface parking area would not be in keeping with the residential character of the area. Staff is recommending that the capacity of the day nursery be restricted to 38 children. The justification for this modification is discussed in the Analysis/Rational section of this Report. In addition, as a result of the review of the application, modifications to the By-law are required to recognize the setbacks and height of the existing dwelling.

Approval of the Zoning By-law Amendment application will result in the following modifications to the proposed Residential “R1-582” Zone.

- A Day Nursery with a Maximum of 38 children as a permitted use;
- Reduce the Minimum Rear Yard setback from 7.5 metres to 0.36 metres;
- To permit a part of the existing eaves to encroach to the lot line, whereas a maximum encroachment of 1.5 metres is permitted into the rear yard;
- Increase the Maximum building height from 10.5 metres to 10.7 metres;
- Reduce the Minimum Southerly Side Yard Setback from 2.5 metres to 1.5 metres;
• Reduce the Minimum Front Yard Setback from 7.5 metres to 5.6 metres;

• To permit 5 tandem parking spaces; and,

• To permit 6 parking spaces to be within the front yard.

**Details of Submitted Application:**

Owner: Kuldip Swan  
Applicant: George Zajac, IBI Group  
Location: 1194 Scenic Drive (see Appendix “A”).

**Description:**  
- Frontage: 46.3m  
- Depth: 47.2m (Irregular)  
- Area: 0.16ha

**EXISTING LAND USE AND ZONING:**

<table>
<thead>
<tr>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subject Lands:</strong></td>
<td>Residential</td>
</tr>
<tr>
<td><strong>Surrounding Lands:</strong></td>
<td></td>
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<tr>
<td>North</td>
<td>Natural Area and Park Land</td>
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<tr>
<td>South</td>
<td>Residential</td>
</tr>
<tr>
<td>East</td>
<td>Vacant Land</td>
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<tr>
<td>West</td>
<td>Natural Area and the Bruce Trail</td>
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</table>

**ANALYSIS/RATIONALE:**

1. The proposal, as amended by staff, has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement.

   (ii) It conforms to the Hamilton-Wentworth Official Plan and the Ancaster Official Plan.

   (iii) It is compatible with the existing and planned development in the immediate area.
2. The subject lands are designated as “Residential” in the Town of Ancaster Official Plan. The “Residential” policies of the Ancaster Official Plan permit day nurseries that are considered necessary to serve the needs of the area residents. Discussions with Community Services, Social Development and Early Childhood Services indicated that there is a need for Day Care spaces City Wide, and that one day care in the area is closing operations.

In addition, the transportation policies of the Town of Ancaster Official Plan promote the convenience and safety of users of the transportation system. A traffic study was submitted and reviewed by the Traffic Engineering and Operations Section who, upon review, indicated that the proposal will function without adverse impacts and that no road improvements are required.

3. The subject property was previously within the Development Control Area of the Niagara Escarpment Commission (NEC) until it was removed by the Minister of Natural Resources on July 19, 2007. In January 2007, the applicant applied to the NEC for a Development Permit to permit a day nursery for a maximum of 68 children. The NEC granted conditional approval of the Development Permit on April 19, 2007. The conditions of approval requested by the City required that the owner receive a building permit, receive site plan approval, get approval of a scoped EIS, and that the applicant confirm that there was adequate sanitary sewer capacity. Staff noted that at the site plan control stage the applicant would be required to provide a 3.0m wide planting strip along Scenic Drive. In addition, the requirement for a 3.048m wide road widening was also identified. It is also noted that Parking Services and the Traffic Division advised that there may be insufficient parking on site if the NEC issued a development permit to permit a day nursery for 68 children with 21 parking spaces utilized by both the residential and day nursery uses.

During the rezoning review process, Community Planning staff conducted a site visit of the site, and has determined that an EIS is not required.

The NEC’s decision was appealed by several neighbouring property owners. The hearing was conducted on July 11-12, 2007. The Hearing Officers reserved their decision. On July 19, 2007, the lands were removed from Development Control and the Town of Ancaster Zoning By-law No. 87-57 immediately came into force and effect. On October 11, 2007, the Hearing Officers dismissed the Development Permit application on the grounds that the NEC no longer had jurisdiction with which to legally consider the appeals, as a Development Permit could no longer be issued or its conditions enforced.

It is noted that because the subject lands were removed from NEC Development Control in July, 2007, and a day care is not permitted within the Agricultural “A” Zone in the Town of Ancaster Zoning By-law No. 87-57, the applicant could not apply for site plan approval to address the issues of landscaping and parking.
4. The subject lands are zoned Agricultural “A” in the Town of Ancaster Zoning By-law No. 87-57. A day nursery is not a permitted use in the Agricultural “A” Zone. As the subject lands are designated “Residential” in the Town of Ancaster Official Plan, it is appropriate to place the subject lands in a residential zone. The proposed site-specific Residential “R1-582” Zone would permit a day nursery for a maximum of 38 children to be used as an ancillary use to the principal single detached dwelling use.

In addition, modifications to the Residential “R1” Zone are required to recognize the existing front, side and rear yards.

An analysis of the modifications is provided below:

An Ancillary Day Nursery with a Maximum of 38 Children:

The intent and purpose of restricting the maximum number of children for the proposed day nursery is to limit the traffic and potential nuisance impacts of a day nursery on the surrounding area. The applicant is proposing 21 parking spaces: 2 for the existing residential use, 8 for staff parking, and 11 for parents to drop off and pick up their children. The City of Hamilton’s Parking and By-law Services Division has indicated that the average weekday peak period parking demand for day nurseries is 0.24 vehicles per child. With 11 parking spaces, this translates into 45 children. In order to provide 11 parking spaces, the applicant has requested a reduction in the street line setback, which staff does not support because it will not be compatible with the streetscape character. To provide the required 3 metre wide planting strip along Scenic Drive, 2 staff parking spaces and 2 spaces for parents to drop off and pick up their children would have to be removed. With 9 parking spaces for drop off and pick up, a maximum of 38 children can be permitted. Through the site plan process, the applicant will be required to provide plantings and other screening to minimize the visual impact of the proposed day nursery parking area.

According to the Ministry of Children and Youth Services, every child must have a minimum of 2 hours of outdoor activity every day, and that each child requires a minimum of 5.6 sq.m. of outdoor area. The applicant has proposed a 176 square metre outdoor area, which would permit a maximum of 31 children to utilize the outdoor area at any given time. With 68 children, this would require a minimum of 3 cycles or 6 hours in which the outdoor play area would be in use, while 38 children would require only 2 cycles or 4 hours in which the outdoor play area is in use. Having fewer children outside, and a reduced number of hours in which the outdoor play area is in use, would reduce the potential impact of the day nursery on the surrounding area. Furthermore it should be noted that the only abutting residential property is to the south. As such, the existing dwelling will buffer the abutting residential property and, therefore, minimize the noise and privacy impacts of the outdoor play area on the abutting residential property.
The Town of Ancaster Zoning By-law permits, as-of-right, a private home day care, with a maximum of 5 children; otherwise day care facilities are only permitted in commercial zones. Comparatively, the City of Hamilton Zoning By-law #6593 permits a day nursery, with a maximum of 25 children in single detached residential zones, (e.g. “C” District), subject to performance criteria (e.g. minimum parking requirements, minimum radial separation distance). The subject property is on a large residential lot with few neighbouring residential properties. The larger lot size will allow the applicant to provide the necessary outdoor play area, and the area for other outdoor activities, without having those activities encroach onto neighbouring properties and the public realm. The small number of abutting residential properties, and the orientation of the day nursery away from those abutting residential properties, will ensure that the day nursery will not have a negative impact on the abutting properties. As such, the recommended 38 children day nursery would be compatible to the surrounding area, and can be supported by staff.

Rear Yard:

The Residential “R1” zone requires a minimum 7.5 metre rear yard setback in order to provide adequate buffering from abutting properties and to maintain adequate amenity area. The 0.36 metre rear yard setback is an existing situation and is a result of the triangular shape of the property. The proposed modification is to legalize what is existing and, as such, there will be no further encroachments into the rear yard. Based on the minimum lot width of 24 metres and minimum rear yard setback of 7.5 metres, the Residential “R1” zone provides for a rear yard amenity area of at least 180 square metres. The proposed Residential amenity area for the site is approximately 90 square metres, while the rear yard amenity area for the proposed day nursery is approximately 176 square metres. In addition, the subject property backs onto the Bruce Trail. As such, a reduction in the rear yard for the existing dwelling can be supported as there is adequate on-site rear yard amenity area, the reduction in the required rear yard will recognize an existing situation, and the reduction will not have any adverse affect on the abutting properties.

Eaves Projections:

The General Provisions section of the Ancaster Zoning By-law permits eaves and/or gutters to encroach a maximum 1.5 metre eaves projection into any required yard in order to permit the installation of eaves. The north-west corner of the existing detached dwelling is setback 0.06m from the lot line, and the eaves encroach 0.37m into the abutting lands owned by the Hamilton Conservation Authority. As long as the flow of water from the eaves is not directed towards the abutting property, staff can support an eaves projection up to the property line.
It should be noted that the owner will have to resolve this matter with the HCA. Accordingly, staff recommends that the draft By-law be held in abeyance until such time as the owner makes satisfactory arrangements with the HCA to resolve the existing encroachment.

**Height**

The "R1" zone permits a maximum building height of 10.5 metres, whereas the existing building has a height of 10.7 metres. The 0.2 metres increase in height will not bring the building out of conformity with the surrounding neighbourhood, and is considered minor.

**Southerly Side Yard:**

The intent and purpose of requiring a minimum side yard setback of 2.5 metres is to provide adequate space for access, maintenance, drainage, and to provide an appropriate buffer from neighbouring properties. The existing building is currently located 1.5 metres from the southerly side lot line. As the proposed modification is to recognize the existing setback, the reduction can be supported.

**Front Yard:**

The Residential “R1” zone requires that a minimum front yard of 7.5m be provided and maintained. As a condition of site plan approval, the applicant will be required to dedicate a 3.048m wide road widening to the City of Hamilton. This will result in a reduction in the front yard setback of the existing dwelling from approximately 8.6m to approximately 5.5 metres. There will be no physical changes that will bring the existing building closer to the street. As such, the proposed 5.5 metre front yard setback meets the intent and purpose of the By-law and can be supported by staff.

**Tandem Parking:**

The Zoning By-law does not permit tandem parking, as it generates parking conflicts and can leave spaces under-utilized by drivers not wanting to get blocked. One of the proposed tandem parking spaces is to be used by the residential unit and, as such, the potential for parking conflicts for this parking space will be minimal.

The 4 remaining tandem parking spaces are to be used by the staff of the Day Nursery. As these staff would arrive before parents drop off their children and leave after the children have been picked up, Traffic Engineering and Operations Section staff does not feel that the 4 tandem parking spaces will create parking conflicts or be under-utilized. However, Traffic Engineering and Operations Section staff requires that parking spaces for day nursery staff be labelled/signed accordingly. This issue would be addressed during the Site Plan control process. As such, the 5 proposed tandem parking spaces can be supported by staff.
Street Line Setback from Parking Area:

The Zoning By-law requires a minimum 3 metre street line setback in order to maintain streetscape character, and provide buffering between the street and the parking area. The proposed 1 metre street line setback will result in the majority of the front yard being utilized for parking and will, therefore, be out of character with the surrounding area. In addition, Zoning Regulation 7.14 a) xvi) states that when a parking area which is required to provide for more than 4 parking spaces abuts a street, a permanently maintained planting strip with a minimum width of 3 metres shall be provided along the street line. It is the opinion of staff that the proposed 1 metre street line setback will not provide adequate space for plantings and buffering from the street. Therefore, staff does not support the proposed modification to reduce the street line setback from 3 metres to 1 metre.

Parking in the Front Yard:

The Zoning By-law prohibits parking spaces within the front yard in order to maintain streetscape character. The preliminary site plan that the applicant has submitted (Appendix “C”) shows 21 parking spaces. Of the 21 proposed parking spaces, 10 are within the front yard. The 10 proposed parking spaces within the front yard will result in the majority of the front yard being utilized for parking and will, therefore, be out of character with the surrounding area. Furthermore, as previously noted, the proposed 1 metre street line setback is required in order to accommodate 4 of the proposed 10 parking spaces that are to be located within in the front yard. Since staff does not support the proposed modification to reduce the minimum street line setback, staff does not support the proposed 10 parking spaces in the front yard. As a result, staff recommends that the 10 proposed parking spaces be modified to permit a maximum of 6 parking spaces within the front yard. This will allow for the provision of adequate buffering with plantings and other screenings, and will maintain a more residential streetscape character.

5. The applicant will be required to submit a Site Plan Application for the proposed development prior to receiving a Building Permit. Matters such as parking layout, grading, access, plantings and landscaping, fencing, among other issues, will be further reviewed at the Site Plan stage. Furthermore, a sediment and erosion control fence, as well as a road widening of 3.048 metres, will be required as conditions of Site Plan Approval.

6. Staff received one letter of objection in response to a pre-circulation of the proposed rezoning (see Appendix “E”). The concerns of the respondent were in respect to privacy, safety and liability, and traffic. The parent drop off area and outdoor play are located on the north side of the property. Therefore, the existing building will screen these uses and, preserve the privacy for the abutting property to the south. In respect to the issue of liability and safety, the Ministry of Children and Youth Services has advised that the outdoor play area will have to be fenced off, and children utilizing the play area will have to be adequately supervised.
Finally, in respect to traffic, the applicant submitted a traffic study, which has been reviewed by the Traffic Engineering and Operations Section, who are satisfied that the proposal will function and that no road improvements are required. Therefore, in respect to the issues put forth in the letter of objection, staff is of the opinion that a 38 children day nursery will not negatively impact the privacy of the abutting property, the safety or liability of the abutting neighbouring property, and will not cause traffic conflicts in the area.

7. The subject property is serviced through municipal water and sanitary sewer systems, and there is adequate capacity to service the proposed use.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the applicant will be able to use the property for a single detached dwelling or any other use permitted under the Agricultural “A” zone.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial - N/A.

Staffing - N/A.

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

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

The proposal falls within the parameters and is consistent with the Provincial Policy Statement (PPS).

Section 2.0 of the PPS identifies the importance of protecting archaeological resources and specially states that:

“2.6.2 Development and site alteration may be permitted on lands containing archaeological resources or areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation or preservation on site.”

As the proposed use is to be contained within the existing building, an archaeological note will be included as part of the undertaking at the Site Plan stage. Accordingly, the proposal conforms to the Provincial Policy Statement.
Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan. The following policies of the Hamilton-Wentworth Official Plan, among others, are applicable to the subject lands:

“C-3.1  A wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas.

C.1.5.3 Require that Area Municipalities minimize the impact, and further encroachments on the Escarpment environment in the Urban Areas located within the Niagara Escarpment Plan Area by:

a) requiring development design which is compatible with the visual and natural environment.

b) providing setbacks and screening adequate to minimize the visual impact of development on Escarpment landscape.

B-9.2 Consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection.”

Through the Site Plan control process, the applicant will be required to provide plantings and screening in order to minimize the visual impact of development on the Escarpment landscape. Furthermore, as part of the Site Plan control process an archaeological note will be required in the form of a signed undertaking, through which the applicant acknowledges their awareness of the archaeological potential of the site and what the applicant is required to do should they find any archaeological resources.

Based on the foregoing, the proposal conforms to the Hamilton Wentworth Official Plan.

The Town of Ancaster Official Plan

The subject lands are designated “Residential” in the Town of Ancaster Official Plan. The following policies of the Town of Ancaster Official Plan, among others, are applicable to the subject lands:

“4.4.1  The predominant use of lands designated Residential on Schedule B shall be for dwellings in areas which will be supplied with urban services. Other uses which are considered necessary to serve the needs of the residents may be permitted such as schools, parks, community centres, churches, day nurseries, and public utilities."
In residential areas, great care shall be taken to preserve mature vegetation growth. Existing trees will be preserved wherever possible, and the planting of trees in new subdivisions shall be a requirement in any Subdivision Agreement. The preservation of vegetation and natural drainage patterns shall be an essential consideration in design and layout of the road system in all development proposals. The preservation of trees along streets and roads will be encouraged, except where removal is necessary because of disease or obstruction of viewing angles, in which case such removal shall be undertaken subsequent to the approval of Council.

It shall be the social and community goal of this plan to: provide adequate community services to meet the needs of the existing and future residents of the Town.

Off-street parking facilities shall be required in all new commercial and industrial development. Such facilities shall be sufficient to ensure that adequate parking is provided on site without necessitating the use of adjacent public road allowances for parking which may be detrimental to the free-flow of traffic on such road allowances. Specific regulations for parking facilities shall be incorporated into the implementing Zoning By-law."

As previously mentioned in the Analysis/Rational section of the report, the Community Services, Social Development and Early Childhood Services Department has indicated that there is a need for day care spaces City Wide, and that one day care in the area is closing down. The recommended 38 child day nursery as an ancillary use to a residential dwelling is permitted in the residential designation as it will serve the needs of the area residents and the community. The proposed parking area will ensure that parking occurs on site, as opposed to on the street.

**RELEVANT CONSULTATION:**

The following Departments and Agencies had no comments or objections:

- Forestry and Horticulture Section, Public Works Department
- Watershed Management, Strategic and Environmental Planning Section
- Environmental Planning Section, Strategic Planning Section, Capital Planning and Implementation Division
- Water and Wastewater Division, Infrastructure and Source Water Protection Section

**Hamilton Conservation Authority**

The Hamilton Conservation Authority has noted that the subject property is located in close proximity to the Iroquoia Heights Conservation Area Environmentally Significant Area (ESA). They have also noted that the proposed parking area appears to extend to within 13 metres of the ESA boundary. The Hamilton Conservation Authority has
indicated that as the extent of development will be limited to the proposed parking area, an EIS is not required. The Conservation Authority, however, is requesting that as a condition of Site Plan approval that sediment and erosion control fencing be installed between the limit of grading associated with the parking lot construction and the property line or crest of slope. With respect to the existing eave encroachment, HCA staff agrees with holding the draft By-law in abeyance pending a satisfactory arrangement to resolve the matter.

Traffic Engineering and Operations Section, Public Works Department

Traffic staff requested the applicant submit a preliminary Site Plan. The applicant submitted a preliminary Site Plan, as well as a traffic study, and a justification report. Traffic Engineering staff reviewed the development concept plan and traffic study provided by the applicant, and has advised that a day nursery can be supported and no road improvements are required.

The Niagara Escarpment Commission

The Niagara Escarpment Commission (NEC) previously processed a Development Permit Application for the proposed development until Development Control was removed from the subject lands. The Niagara Escarpment Commission has no objection, in principle, to the proposed change in zoning.

Hamilton Municipal Parking System:

The Hamilton Parking Authority has noted in their comments dated October 7, 2008, that the average peak period parking demand for a day nursery is 0.24 vehicles per student.

Ministry of Children and Youth Services

Staff consulted with the Ministry of Children and Youth Services in respect to Ministry requirements for day nurseries and in respect to the need of day care spaces. From this consultation, the Ministry informed staff that a child must have a minimum of 2 hours of outdoor activity every day, and a minimum of 5.6 square metres of outdoor play area per child. Based on the concept plan provided by the applicant, a maximum of 31 children could be accommodated in the proposed 176 square metre outdoor play area at any given time.

Community Services, Social Development and Early Childhood Services

Community Services has advised that there is a need for day care spaces City Wide, and that one day care facility at the north-east corner of Mohawk Road West and Juanita Drive, is closing down.
Public Consultation:

In accordance with Council’s Public Participation Policy, this application was pre-circulated to forty-two property owners within 120 metres of the subject lands. To date, staff has received one letter of objection to the proposed rezoning. The letter raised concerns about: the loss of privacy; issues of safety and liability; and increased traffic volumes. These issues are addressed in the Analysis/Rational section of the report. In addition, a Public Notice sign was posted on the property on March 23, 2008.

Notice of the Public Meeting for this rezoning application will be circulated to property owners within 120 metres of the subject lands, and through a sign posted on the property, in accordance with the requirements of the Planning Act.

CITY STRATEGIC COMMITMENT:

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

Community Well-Being is enhanced. ☑ Yes ☐ No
The public are involved in the definition and development of local solutions, as the applicant is proposing to provide day care space that will serve the local community and the City as a whole.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected, as the proposed development is within the Urban Area and the Hamilton Conservation Authority have advised that the proposal will not have any adverse effect on the Environmentally Significant Area.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported, as the tax assessment of the property will increase and the proposed day care will provide employment and will provide child care to working families.

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

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

:DB
Attachments. (5)
Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-08-001
Date: October 20, 2008

Appendix “A”

Planner/Technician: DB/NH

Subject Property
1194 Scenic Drive, Ancaster

Change in Zoning from the Agricultural "A" Zone to the Residential "R1-552" Modified Zone

Ward 12 Key Map

N.T.S.
CITY OF HAMILTON

BY-LAW NO. 

To Amend Zoning By-law No. 87-57 (Ancaster), as amended, respecting lands located at 1194 Scenic Drive, (Ancaster)

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

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as “The Corporation of the Town of Ancaster” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

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

AND WHEREAS Zoning By-law No. 87-57 (Ancaster) was enacted on the 22nd day of June 1987, and approved by the Ontario Municipal Board on the 23rd day of January, 1989;

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report of the Economic Development and Planning Committee at its meeting held on the day of , 2008, recommended that Zoning By-law No. 87-57 (Ancaster), be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (former town of Ancaster) in accordance with the provisions of the Planning Act;

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

1. That Schedule “B” of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by changing from the Agricultural “A” Zone to the
By-law Respecting 1194 Scenic Drive, Ancaster

Residential “R1-582” Zone, the extent and boundaries of which lands are shown on a plan hereto annexed as Schedule “A”.

2. That Section 34 - Exceptions of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by adding the following subsection:

“R1-582” That notwithstanding the provisions of Paragraphs 11.1.1 and 11.1.2, of Subsection 11.1 “Residential R1 Zone” of Section 11: Residential “R1”, “R2” and “R3” Zones, and the provisions of Paragraph 7.12 b) of Subsection 7.12 Yard Encroachments, and 7.14 a), iv), vii) and xvi) of Subsection 7.14 Parking and Loading of Section 7: General Provisions, are hereby modified to include the following special provisions for the property at 1194 Scenic Drive:

a) A Day Nursery for 38 children or less within the detached dwelling legally existing on the date of the passing of this By-law, being the [____] day of [____], 2008 is permitted.

b) Front Yard Setback (minimum): 5.5 metres.

c) Southerly Side Yard Setback (minimum):

d) Rear Yard Setback (minimum): 7.5 metres, except for 0.06 metres for the detached dwelling existing on the date of the passing of the By-law, being the [____] day of [____], 2008.

e) Height (maximum): 10.7 metres.

f) Eaves projection into minimum rear yard (maximum): 1.5 metres, except for the detached dwelling existing on the date of the passing of the By-law, being the [____] day of [____], 2008, the eaves may project...
By-law Respecting 1194 Scenic Drive, Ancaster

into the minimum rear yard a distance of not more than 0.06 metres.

g) In addition to the requirements of Subsection f), an eave may encroach onto the abutting lot where a maintenance easement is entered into between the owner of the abutting lands and properly registered on title of the abutting lands.

h) Tandem Parking Spaces (maximum): 5 spaces, 1 of which shall be for the residential use.

i) Parking Spaces in the Front Yard (maximum): 6 spaces.

j) All other uses in Section 11.1.1 shall be permitted.

k) All other provisions of Section 11.1.2 Regulations, Section 7.12 Yard Encroachments, and Section 7.14 Parking and Loading, shall continue to apply.

3. 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 [redacted] day of [redacted], 2008.

________________________________________  ____________________________________________
Fred Eisenberger  Kevin Christensen
Mayor  Clerk

ZAR-08-001
Appendix “B” to Report PED08267 (Page 4 of 4)

By-law Respecting 1194 Scenic Drive, Ancaster

This is Schedule "A" to By-Law No. 08-
Passed the ........... day of ...................., 2008

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Clerk

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Mayor

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Schedule "A"

Map Forming Part of By-Law No. 08-____
to Amend By-law No. 87-57

Subject Property
1194 Scenic Drive, Ancaster
Change in Zoning from the Agricultural "A" Zone to the Residential "R1-502" Modified Zone

Scale: N.T.S.
File Name/Number: ZAR-08-001
Date: October 20, 2008
Planner/Technician: DB/OG

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
April 8, 2008

Public Input Re: File No ZAR-08-001

Dear Mr. Earnett:

We are writing in response to a letter received in early March 2008 informing us of the proposed amendment to the Zoning By-law for lands at 1194 Scenic Drive in Ancaster Ontario. As indicated in the letter, we are taking this opportunity to provide our comments regarding the proposed amendment.

We believe the proposed Zoning By-Law Amendment to permit a day nursery at 1194 Scenic Drive would have numerous negative consequences for not only our own residence but for the community in general. Therefore we are opposed to any such amendments.

The following outlines some of our concerns:

**Negative Impact to our personal residence:**

- Our home is located directly adjacent to 1194 Scenic Dr. As the only residence located directly adjacent to the proposed day care, it is clear we will be the most adversely affected by the proposed change. Our concerns include:

  1. **Loss of privacy**
     The proposed daycare would dramatically alter the quiet neighbourhood and diminish our privacy because of the large volume of people that would be utilizing the facility.

  2. **Safety and Liability**
     a. Because we would be directly adjacent to a large daycare facility, we are concerned that we would be liable in the event that a child inadvertently wanders onto our property.

     b. We are also concerned for the safety of our own 3 small children. The increased traffic would increase the number of cars that would enter our driveway (where our children often play) to turn-around, park temporarily etc.

**Negative Impact to the General Area**

1. **Increased volume of traffic**
   a. The proposed daycare would significantly increase the volume of traffic and create a number of safety issues. Because of the Bruce Trail, this area already has a large of volume of traffic in addition to normal commuter traffic. In addition, the high speed of traffic and the tight corner near 1194 Scenic Drive are not compatible with the volume and type of traffic...
(Frequent left and right hand turns into the parking lot) that would result from the daycare.

b. The increased traffic would create safety issues for the numerous pedestrians and cyclists that frequent the area and for the wildlife in the region.

2. Change in the character of the neighbourhood and the region
We believe that a commercial venue would negatively alter the residential character of the neighbourhood and may have an environmental impact on an area that is enjoyed by many people throughout the Hamilton area.

Thank you for your consideration

Sincerely,

Joseph and Sina Macri
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Ancaster, Ontario
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