TO: Chair and Members  
Economic Development and Planning Committee  

WARD(S) AFFECTED: WARD 13

COMMITTEE DATE: October 5, 2010

SUBJECT/REPORT NO:  
Application for Amendment to the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1 Lyndale Drive (Dundas) (PED10225) (Ward 13)

SUBMITTED BY:  
Tim McCabe  
General Manager  
Planning and Economic Development Department

PREPARED BY:  
Chris Bell  
(905) 546-2424, Ext. 1262

SIGNATURE:

RECOMMENDATION:

That approval be given to Zoning Application ZAR-10-023, by The Trustees of St. Mark’s United Church of Canada, Owner, for a change in zoning from the Neighbourhood Institutional (I1) Zone to the Neighbourhood Institutional (I1, 32, H41) Holding Zone, Modified, with a Special Exception, and the Neighbourhood Institutional (I1, 33) Zone, Modified, with a Special Exception, on lands located at 1 Lyndale Drive (Dundas), as shown on Appendix “A” to Report PED10225, on the following basis:

(a) That the draft By-law, attached as Appendix “C” to Report PED10225, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the amending By-law be added to Schedule “A”, Map Nos. 901 and 943 of Zoning By-law No. 05-200.

(c) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the Town of Dundas Official Plan.
EXECUTIVE SUMMARY

The subject lands are currently owned by The Trustees of St. Mark’s United Church of Canada. A portion of the lands subject to this application, located at the southwest corner of the intersection of Creighton Drive and Governor’s Road, are proposed to be rezoned to allow a 36 unit, residential care facility, operated by the Dundas Living Centre (see Block 1 on Schedule “A” of Appendix “C”). If approved, the facility will become the home where up to 36 young adults with physical and/or cognitive and functional adaptation challenges can live independently in a safe and supported environment. The remainder of the lands will continue to be used by St. Mark’s United Church, which fronts onto Lyndale Drive (see Block 2 on Schedule “A” of Appendix “C”).

The Zoning By-law Amendment includes a Holding (H41) symbol that has been affixed to the lands on which the proposed Dundas Living Centre is to be constructed. The purpose of this Holding symbol is to ensure that an Archaeological Assessment is completed prior to development occurring.

The proposal has merit and can be supported since the applications are consistent with the Provincial Policy Statement and conform with the Hamilton-Wentworth Official Plan and Town of Dundas Official Plan. The proposed development is considered to be compatible with and complementary to the existing and planned development in the immediate area.

Alternatives for Consideration - See Page 12.

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 applications for a Zoning By-law Amendment.

HISTORICAL BACKGROUND (Chronology of events)

Proposal

The applicant has applied for a amendment to rezone a portion of the lands from the Neighbourhood Institutional “I1“ Zone to the Neighbourhood Intuitionial “I1, 32“ Zone, Modified, in order to permit the subject lands to be used for a 36 unit, residential care facility. Additional site-specific regulations are being sought to permit:
• An unenclosed porch to encroach into the southerly yard; and,

• A parking lot for a minimum of 10 parking spaces to be located 2.0m from the Governors Road right-of-way.

A concept plan illustrating the location of the proposed building and parking lot for the proposed Dundas Living Centre is included as Appendix “B”.

The remainder of the lands will continue to be used by St. Mark’s Church as a place of worship. While nothing will change on these lands, a site-specific special provision will be applied to the church property by rezoning the lands to the Neighbourhood Institutional (I1, 33) Zone, Modified, in order to recognize that a minimum of 67 parking spaces will remain available for parking on the subject lands.

Chronology

February 4, 2010: Associated Severance Application DN/B-09:105 granted conditional approval by the Committee of Adjustment.

May 17, 2010: Submission of Application ZAR-10-023 by The Trustees of St. Mark’s United Church of Canada.

June 1, 2010: Application ZAR-10-023 is deemed complete.

June 1, 2010: Circulation of Notice of Complete Application and Preliminary Circulation for Application ZAR-10-023 to all residents within 120 metres of the subject lands.

September 17, 2010: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands.

Details of Submitted Application

Location: 1 Lyndale Drive (see Appendix “A”)

Owner: The Trustees of St. Mark’s United Church of Canada

Applicant: Dundas Living Centre

Agent: A.J. Clarke and Associates Ltd.

Property Description: Total Lot Frontage: 43.9 metres (Creighton Drive)  
Lot Depth: 69.1 metres  
Total Lot Area: 2,413 square metres
EXISTING LAND USE AND ZONING

<table>
<thead>
<tr>
<th></th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subject Lands:</strong></td>
<td>Existing St. Mark’s United Church and Vacant</td>
<td>Neighbourhood Institutional (I1) Zone</td>
</tr>
<tr>
<td><strong>Surrounding Lands:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North</td>
<td>Multiple Residential and Nursing Home</td>
<td>Multiple Residential (RM1) Zone and Major Institutional (I3) Zone</td>
</tr>
<tr>
<td>South</td>
<td>Single-Detached Dwelling Lots</td>
<td>Single-Detached Residential (R1) Zone</td>
</tr>
<tr>
<td>East</td>
<td>Commercial and Single-Detached Dwelling Lots</td>
<td>Neighbourhood Commercial (C.N./S-52) Zone, Modified, and Single-Detached Residential (R1) Zone</td>
</tr>
<tr>
<td>West</td>
<td>Single-Detached Dwelling Lots</td>
<td>Single-Detached Residential (R1) Zone</td>
</tr>
</tbody>
</table>

POLICY IMPLICATIONS

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, Policy 1.1.3.1.

However, Policy 1.1.1 (c) outlines that healthy, liveable, and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns. Policy 3.2.2 states that contaminated sites shall be remediated, as necessary, prior to any activity of the site with the proposed use such that there will be no adverse effects. Staff notes that the subject application entails a change in land use from **Community** (church) to **Residential**, which triggers a mandatory filing of a Record of Site Condition (RSC) under Ontario Regulation 153/04. Staff advises that a Phase I Environmental Site Assessment, titled “Phase I Environmental Site Assessment Proposed Dundas Living Centre Governor’s Road and Creighton Drive Hamilton [Dundas], Ontario”, dated January 8, 2010, and prepared by Soil-Mat Engineers & Consultants Ltd., was submitted with the subject application. The Record of Site Condition completed for the subject lands recognizes the future Residential use of the subject lands, and an
acknowledgment of filing of the RSC to the Ministry of the Environment (MOE) has been submitted. The RSC was filed with the MOE on May 10, 2010, and RSC #71915 was assigned. As such, staff has no further concerns in this regard.

Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries, and aggregate activities) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety. Staff notes that the subject lands are intended to be developed for residential purposes and are located adjacent to Governor’s Road. The proximity of the proposed sensitive land use to a road noise source triggers the requirement for a noise study. Staff will, therefore, require that a noise study be submitted with the future Site Plan Control application for the proposed development.

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

Section 1.2.2 of the Growth Plan for the Greater Golden Horseshoe 2006 indicates that some of the guiding principles of the Plan are to “build compact, vibrant, and complete communities”, and to “optimize the use of existing and new infrastructure to support growth in a compact, efficient form”. The application is consistent with these principles, as it proposes to build a more compact community by allowing a development which will maximize the development potential of the site.

**Hamilton-Wentworth Official Plan:**

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Regional Official Plan (HWROP). Policy C-3.1 outlines that 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. The proposed use complies with the “Urban Area” Hamilton-Wentworth Regional Official Plan.

Policy B-2.3 of the HWROP states that the identification of contaminated sites is essential. Re-development must not occur until it has been demonstrated that a proposal will not put people in significant risk. The subject application entails a change in land use from Community (church) to Residential, which triggers a mandatory filing of a Record of Site Condition (RSC) under Ontario Regulation 153/04. As noted above, an RSC has been filed. Therefore, staff has no further concerns in this regard.

**New Urban Official Plan:**

The site is located within the Neighbourhoods designation of the Council-adopted Urban Official Plan, which is currently awaiting Ministerial approval. The Neighbourhoods designation permits, among other things, housing with supports including residential
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

care facilities. Staff is of the opinion that the proposal would comply with the policies of the Plan.

Town of Dundas Official Plan:

As the proposed amendment is to provide residential living opportunities for those with special needs, the following Housing policies apply:

2.3 HOUSING

2.3.1 Goal

It is the general intent of this Plan to:

- Provide opportunities to develop a broad range of housing types, sizes, prices, and tenures in order to provide residential accommodation for households of diverse socio-economic characteristics; and,

- Make more efficient use of Dundas' existing housing stock and land supply in meeting housing demands.

2.3.2 Objectives

2.3.2.1 To maintain an adequate supply of land for housing purposes.

2.3.2.2 To provide a range of housing types, tenures, and prices throughout the Town to meet the housing requirements of a changing population.

2.3.2.3 To promote the maintenance and improvement of the existing housing stock.

2.3.3 Policies

2.3.3.1 A local housing environment that is responsive to the changing needs of area residents is crucial in maintaining a successful and healthy community. Accordingly, the Town will (among other things):

   e) Support the development of a wide range of housing alternatives to accommodate special needs groups including, but not limited to, low income households, senior citizens, families and individuals in crisis requiring emergency housing, and the developmentally disabled. The forms of housing which would be supported include, but are not limited to, rooming, boarding and lodging houses,
retirement homes and other forms of residential and short-term care facilities.

The subject lands are designated “Residential Neighbourhoods” in the Town of Dundas Official Plan. Therefore, the following policies are to be considered:

3.1.2 Objectives

3.1.2.1 To create an urban environment that provides for safe, functional, and attractive residential neighbourhoods.

3.1.2.2 To ensure that new residential development is compatible with the scale and character of existing residential development, and to the natural and scenic features surrounding the urban area;

3.1.2.3 To optimize opportunities to provide new housing through residential infill and intensification, in existing neighbourhoods;

3.1.3 Policies

3.1.3.1 RESIDENTIAL NEIGHBOURHOODS, as shown on Schedule "A", shall consist of single-detached, semi-detached, duplex, townhouse dwellings units, and legal residential uses. In Residential Intensification Areas, triplexes, quatroplexes, stacked townhouses, and apartments shall be permitted in addition to the uses permitted in Residential Neighbourhoods.

3.1.3.2 The following uses are also permitted in RESIDENTIAL NEIGHBOURHOODS:

   c) Rooming, boarding and lodging houses, retirement, and residential care facilities are permitted by amendment to the Zoning By-law, according to the following criteria:

      (i) Proposed locations have convenient access to community services, facilities, and districts;

      (ii) Sufficient lot area to accommodate parking on site.

      (iii) The proposal will have only minimal impact on the neighbourhood;

      (iv) The proposal conforms to the infill and intensification policies of this section; and,
(v) Rooming, boarding, and lodging houses will be subject to the Town’s Lodging House By-law and licensing requirements, and retirement homes will be subject to the Town’s Retirement Home By-law standards.

The proposed use and development details comply with the policies to be considered when entertaining new residential care facilities in the Residential Neighbourhoods Designation.

### RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Forestry and Horticulture Section, Public Works Department.
- Traffic Planning Section, Public Works Department.
- Environment and Sustainable Infrastructure Division, Public Works Department.
- Budgets, Taxation, and Policy Section, Corporate Services Department.
- Culture and Recreation Division, Community Services Department.
- Hamilton Municipal Parking System.
- Emergency Services.
- Union Gas.
- Bell Canada.
- Horizon Utilities Corporation.
- Cogeco Cable Canada Inc.

### Public Consultation

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, a Notice of Complete Application and Preliminary Circulation of the application was circulated to 104 residents within 120 metres of the subject property on June 1, 2010. A Public Notice Sign was also posted on the subject lands at that time. At the time of preparation of this Report, staff had not received any correspondence from neighbouring residents as a result of this notice.

Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

### ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1. The proposal has merit and can be supported for the following reasons:
(i) The proposed changes in zoning are consistent with the Provincial Policy Statement and Places to Grow legislation.


(iii) The proposal will provide for the efficient use of land and existing services.

(iv) The proposed land uses will allow for a compatible form of development.

2. Through both the “Housing” and “Residential” policies of the Town of Dundas Official Plan, the intent is to provide a full range of residential living opportunities for a diverse population, including those with special needs. Further, while Subsection 3.1.3.2 c) clearly provides policy to allow residential care facilities within the Residential designation, it provides the following policies that are to be assessed when considering the appropriate location and development parameters for such a facility:

(i) Proposed locations have convenient access to community services, facilities, and districts;

(ii) Sufficient lot area to accommodate parking on site;

(iii) The proposal will have only minimal impact on the neighbourhood;

(iv) The proposal conforms to the infill and intensification policies of this section; and,

(v) Rooming, boarding, and lodging houses will be subject to the Town’s Lodging House By-law and licensing requirements, and retirement homes will be subject to the Town’s Retirement Home By-law standards.

Staff is of the opinion that the proposal is in compliance with these policies.

3. Staff notes that the subject lands are located in close proximity to community services, facilities, and districts. Of particular importance to the proposed residents of the facility is the close proximity of the site to the Dundas Learning Centre, a community based program for dependant adults providing resources that include academics, recreation, crafts, and office work, which is located at 15 Baldwin Street in Dundas. In addition, the site is located in close proximity to downtown Dundas, which provides a variety of community, shopping, and personal service opportunities, as well as to transit links to other resources, including the McMaster Hospital.
4. Planning staff is satisfied that a proposed institutional use of this scale can be accommodated on the subject lands without having a negative impact on the surrounding neighbourhood. Through the accompanying concept plan, the proponents have demonstrated that the proposed Dundas Living Centre is to be serviced by a parking lot for 10 vehicles. Both City Traffic and Parking staff have concurred that there is adequate parking on-site for the proposed use. Further, the proposed use is located at the periphery of a residential neighbourhood, at the intersection of Osler Drive and Governors Road. As such, it is not expected that the change in use will result in negative traffic impacts to the internal neighbourhood as the traffic generated by the proposal will not infiltrate the local roads.

5. As the proposed use is to provide residential living opportunities, staff is satisfied that the nature of the use will be compatible with the surrounding residential community. In terms of built form, the visual presence of the building and parking lot will not be predominant from the neighbourhood to the south, as it will be separated from the interior neighbourhood by the intervening church and at a lower elevation at the bottom of the slope adjacent to Governors Road.

6. The concept plan submitted with this zoning application (see Appendix “B”) indicates that the westerly portion of the property that is adjacent to existing residential uses will be used for a 10-stall parking lot and entrance, and a 3.0 metre wide landscaped strip. As is the case with all development of this nature, the lands will be subject to Site Plan Control. Part of the review of the site plan application will include ensuring that adequate buffering and screening is installed, and that site lighting is at a level that will not be obtrusive to abutting residents to the west.

7. Through the draft Zoning By-law Amendment, attached as Appendix “C”, the proponent is seeking provisions to allow the proposed Dundas Living Centre to operate as a 36 unit residential care facility located 55 metres from the existing residential care facility currently operating at 255 Governors Road, whereas the existing regulations that apply to the property permit only up to 15 residents, not located closer than 300 metres from the nearest operating residential care facility. The intent of the provisions in the Zoning By-law are to place a regulatory standard to implement Official Plan policies dealing with compatibility between residential care facilities and receiving neighbourhoods by ensuring that residential care facilities are not overly concentrated in certain neighbourhoods.

In this case, planning staff is of the opinion that the proposed revisions will maintain the “compatibility” test in the Official Plan. While licensed as a residential care facility, the facility at 255 Governors Road is operated as the Georgian Retirement Home, and is not intended to provide residential care options in the same manner as the Dundas Living Centre or other residential care facilities. In
addition, given its location on Governors Road (rather than an interior local road), staff is of the opinion that amending the By-law to permit 36 residents rather than 15 residents will not result in an over concentration of residential care facilities within the neighbourhood or over-burden neighbourhood services.

8. The other regulations of the By-law proposed to be amended include a number of standards that have been included to address the location of the proposed building and the fact that the Dundas Living Centre will be oriented in a manner that will allow shared access with the adjacent St. Mark’s United Church property. These additional revisions will include regulations allowing:

- A maximum building height of 11.5 metres;

- A minimum front yard (adjacent to Creighton Drive) of 3.0 metres;

- A minimum yard of 0.6 metres for an unenclosed porch proposed to be located adjacent to the southerly property line abutting the St. Mark’s Church property; and,

- A parking lot located 2.0 metres from Governors Road and associated landscaping area.

Staff is satisfied that these special modifications will provide regulations that will assist in creating a desirable street oriented built form that will be compatible with surrounding land uses. Further, it will be possible, through Site Plan Control, to ensure that there is adequate distance separation from abutting residential uses to adequately mitigate noise, light, and visual impacts. The Site Plan Control process can also be used to address other issues such as building elevations, access, landscaping, grading, and stormwater management.

9. Through a separate application considered by the Committee of Adjustment at its meeting of February 4, 2010, St. Mark’s United Church received conditional approval for a severance application. One of the conditions of the severance was to rezone the lands appropriately (see Appendix “D” - Condition 2). This rezoning application will fulfil that requirement. Additionally, this rezoning application is also being used to recognize the size and capacity of the current parking lot for the St. Mark’s Church by including a site-specific Special Provision 33 to the Neighbourhood Institutional “I1” zoning that applies to the property. As the parking lot located adjacent to the Lyndale Drive frontage has historically provided adequate parking for the church use, planning staff is satisfied that the zoning regulation requiring a minimum of 67 parking spaces for the church is appropriate.
10. As a result of the review of this development proposal, it has become evident that the lands on which the proposed Dundas Living Centre is proposed to be built has archaeological potential as it is located within 300 metres of a primary watercourses, 200 metres from a secondary watercourse or 300 metres from a prehistoric watercourse of permanent body of water, and along a historic transportation route. Therefore, it will be necessary for the proponent to complete an Archaeological Assessment prior to the development of the property.

Staff has been in discussions with the proponent with respect to the most appropriate timing for the preparation of the Archaeological Assessment in light of their fund-raising objectives and the Planning Act related tools available to the City to ensure that archaeological clearance is received. As a result of this discussion, it has been determined that it would be appropriate to affix a Holding (H) provision on the zoning that applies to the property. With the Holding (H) provision, the City can be satisfied that no development will take place until the Archaeological Assessment has been completed, and the owners can have assurance with respect to certainty of the land use and undertake the assessment at a time when adequate funds have been raised.

**ALTERNATIVES FOR CONSIDERATION:**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

This rezoning is required not only to permit the proposed Dundas Living Centre facility, but also as a condition of severance for file DN/B-09:105 (see Appendix “D” - Condition 2). Should this rezoning not be approved, the associated severance could not be finalized. However, the lands are currently zoned Neighbourhood Institutional “I1”, which would allow the lands to alternatively be used for a variety of institutional uses based on current zoning regulations.

**CORPORATE STRATEGIC PLAN** (Linkage to Desired End Results)


**Financial Sustainability**

- Effective and sustainable Growth Management.
Social Development

• Everyone has a home they can afford that is well maintained and safe.
• Residents in need have access to adequate support services.
• People participate in all aspects of community life without barriers or stigma.

Healthy Community

• Plan and manage the built environment.
• Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services).

APPENDICES / SCHEDULES

• Appendix “A”: Location Map.
• Appendix “B”: Concept Plan of Proposed Dundas Living Centre.
• Appendix “C”: Draft Zoning By-law Amendment.
• Appendix “D”: Severance Approval

:CB
Attachs. (4)
CITY OF HAMILTON

BY-LAW NO. _______

To Amend Zoning By-law No. 05-200 Respecting Lands Located at

1 Lyndale Drive, Dundas

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, Statutes of Ontario, 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 it is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS the first stage of the Zoning By-law, being By-law No. 05-200, came into force on May 25, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item ______ of Report 10-____ of the Economic Development and Planning Committee, at its meeting held on the ____ day of ____, 2010, 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 Town of Dundas, in accordance with the provisions of the Planning Act.

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

1. That Map Nos. 901 and 943 of Schedule “A” to Zoning By-law No. 05-200, are amended by:
(a) Rezoning from the Neighbourhood Institutional (I1) Zone to the Neighbourhood Institutional (I1, 32, H41) Holding Zone, Modified, on the lands comprised of Block 1, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”; and,

(b) Rezoning from the Neighbourhood Institutional (I1) Zone to the Neighbourhood Institutional (I1, 33) Zone, Modified, on the lands comprised of Block 2, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Schedule “C”: Special Exemptions of Zoning By-law No. 05-200, as amended, is hereby further amended by adding the following Subsections:

32. Notwithstanding Sections 4.6 d), 5.1 a) i) to v), 5.6 c) i), and 8.1.3.1 d), h), i), j) of this By-law, within the lands zoned Neighbourhood Institutional (I1, 32) Zone, Modified, identified on Maps 901 and 943, the following special provisions shall only apply to a residential care facility:

   a. Subsection 8.1.3.1 j) i) shall not apply to a residential care facility on the lands subject to this special provision.
   
   b. Maximum number of residents in a residential care facility: 36 residents
   
   c. Maximum building height: 11.5 metres
   
   d. Minimum front yard setback: 3.0 metres
   
   e. Minimum yard for a porch or deck adjacent to southerly lot line: 0.6 metres
   
   f. Minimum Number of Parking Spaces: 10 spaces
   
   g. Parking spaces and aisles, giving direct access to abutting parking spaces, excluding driveways extending directly from the street shall not be located within 2.0 metres from a street line, and subject to a 2.0 metre wide planting strip being provided and permanently maintained between the streetline and the said parking spaces or aisle.

33. Notwithstanding Section 5.6 c) ii) of this By-law, within the lands zoned Neighbourhood Institutional (I1, 33) Zone, Modified, identified on Maps 901 and 943, the minimum required parking spaces for the existing place of worship shall be 67. Where an addition, alteration, or expansion of an existing building is proposed, the additional parking requirements of Subsection 5.6 c) shall only apply to the increased gross floor area of the building.
3. That Schedule "D" of By-law 05-200 is amended by adding an additional Holding Provision as follows:

41. That notwithstanding Section 8.1 of this By-law, on those lands zoned Neighbourhood Institutional (I1, 32, H41) Zone, on Maps 901 and 943 of Schedule "A, no development shall be permitted until such time as:

(i) an Archaeological Assessment has been completed, to the satisfaction of the Director of Planning and the Ministry of Culture.

4. 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.

PASSED and ENACTED this day of , 2010.

____________________________________  _________________________________
Fred Eisenberger                          Rose Caterini
Mayor                                    Clerk

ZAR-10-023
This is Schedule "A" to By-Law No. 10-
Passed the ............ day of ......................, 2010

Schedule "A"
Map Forming Part of By-Law No. 10-____
to Amend By-law No. 3581-86

Subject Property
1 Lyndale Drive (Dundas)

- Block 1 - Land to be rezoned from Neighbourhood Institutional (I1) Zone to Neighbourhood Institutional-Holding (I1,32,H41) Holding Zone, Modified

- Block 2 - Lands to be rezoned from Neighbourhood Institutional (I1) Zone to Neighbourhood Institutional (I1, 33) Zone, Modified.
APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. DN/B-09:105
SUBMISSION NO. B-105/09

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 1 Lyndale Drive, formerly in the Town of Dundas, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the A. J. Clarke and Associates Ltd. (Stephen Fraser) on behalf of the owner The Trustees of St. Mark’s United Church of Canada, Dundas (c/o John Vince), for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of an irregular-shaped vacant parcel of land having a frontage on Crichton Drive of 43.9m (144’), and an area of 2,413.3m² (0.6 acres) for institutional purposes (Residential Care Facility containing 36 single occupancy units), and to retain an irregular-shaped parcel of land having a frontage on Crichton Drive of 32m (104’), and an area of 4,770.5m² (1.18 acres) containing an existing church (St. Mark’s Church) for institutional purposes.

Also, to establish reciprocal easements/rights-of-way over the conveyed and retained lands (as shown on the attached sketch) for the benefit of access and parking with St. Mark’s Church.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, IS APPROVED for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and Town of Dundas Official Plans.

2. The Committee considers the proposal to be in keeping with development in the area.

3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

1. The owner shall submit a deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.

2. The owner shall receive rezoning approval to the satisfaction of the Manager of Development Planning.

3. The owner shall dedicate a 4.5m x 4.5m daylight triangle to the City from the retained parcel at the intersection of Lyndale and Crichton, to the satisfaction of the Planning and Economic Development Department, Development Engineering (West) Division.

4. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

5. The owner shall submit to the Committee of Adjustment Office an administration fee of $15.00, payable to the City of Hamilton, to cover the cost of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 4th day of February, 2010.

[Signature]
SECRETARY-TREASURER
Appendix “D” to Report PED10225 (Page 2 of 4)

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS February 11th, 2010.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS
NOTICE OF DECISION (February 11th, 2011) OR THE APPLICATION SHALL BE DEEMED TO
BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTES:

1) The owner/applicant is advised that the following condition will need to be satisfied prior
to obtaining approval of a Zoning By-law Amendment for the conveyed lands:

"That the owner/applicant submits a signed Record of Site Condition (RSC) to the City
of Hamilton and the Ministry of the Environment (MOE). This RSC must be to the
satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC
by the MOE, and submission of the City of Hamilton’s current RSC administration fee."

2) The owner/applicant is advised that the following condition will need to be satisfied at
the Site Plan Control stage for the conveyed lands of the proposed development:

"That the owner/applicant shall investigate the noise levels on the site and determine
and implement the noise control measures that are satisfactory to the City of Hamilton in
meeting the Ministry of the Environments recommended sound level limits. An
acoustical report prepared by a qualified Professional Engineer containing the
recommended control measures shall be submitted to the satisfaction of the City of
Hamilton, Director of Planning. Should a peer review of the acoustical report be
warranted, all associated costs shall be borne by the owner/applicant and shall be
submitted to the satisfaction of the City of Hamilton, Director of Planning."

3) Notwithstanding current surface conditions, the property has been determined to be an
area of archaeological potential. Although an archaeological assessment is not required
by the City of Hamilton, the proponent is cautioned that during development activities,
should deeply buried archaeological materials be found on the property the Ontario
Ministry of Culture (MCL) should be notified immediately (416.314.7143). In the event
that human remains are encountered during construction, the proponent should
immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries
Regulation Unit of the Ministry of Small Business and Consumer Services
(416.326.6392).

4) Based on the attached plans, and on this application being approved and all conditions
being met, the owner / applicant should be made aware that the lands to be conveyed
will be assigned the municipal address of 3 Creighton Drive, and that the lands to be
retained will remain as 1 Lyndale Drive.