SUBJECT: Application to Amend Stoney Creek Zoning By-law No. 3692-92 for Lands Located at 28 Lochside Drive, Stoney Creek (PED08227) (Ward 11)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-08-043, by James Tarbutt, Owner, for changes in zoning from the Rural Residential Estate “RRE” Zone to the Single Residential “R1-18” Zone (Block “1”), and to the Rural Residential Estate “RRE-3” Zone (Block “2”) in order to permit the development of a single detached dwelling on the southerly portion of the subject lands (Block “1”), and to permit a reduction in the minimum required lot area and the minimum rear yard for the northerly portion of the subject lands (Block “2”), for the lands located at 28 Lochside Drive (Stoney Creek), as shown on Appendix “A” to Report PED08227, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED08227, 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 No. 4, of Zoning By-law No. 3692-92.

(c) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan.

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

The purpose of the application is for changes in zoning to permit the future development of a single detached dwelling on the southerly portion of the subject lands with frontage on McCollum Drive in accordance with conditionally approved Consent Application SC/B-08:63 (Block “1” - Appendix “A”), and to permit a reduction in the minimum lot area and rear yard for the northerly portion of the subject lands (Block “2” - Appendix “A”).

The application has merit and can be supported as it is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and City of Stoney Creek Official Plan. The application also establishes zoning consistent with adjacent properties on McCollum Drive, and fulfils a condition of the approval for Consent Application SC/B-08:63 (see Appendix “C” - Condition No. 2).

BACKGROUND:

Proposal

The applicant has applied for changes in zoning from the Rural Residential Estate “RRE” Zone to the Single Residential “R1-18” Zone (Block “1”), and to the Rural Residential Estate “RRE-3” Zone (Block “2”) for lands located at 28 Lochside Drive (see Appendix “A”). The effect of the application is to permit the future development of a single detached dwelling on a separate lot with frontage on McCollum Drive (Block “1”), and to permit a reduction in the minimum lot area from the required 4,000 square metres to 2,900 square metres and a 2m reduction in the rear yard on lands identified as Block “2”, which contains an existing single detached dwelling. The applicant has also proposed a minimum side yard of 1.85 metres in order to promote future development that is consistent with existing development along McCollum Drive.

Consent Application SC/B-08:63

Consent Application SC/B-08:63 was conditionally approved by the Committee of Adjustment on July 3, 2008. The purpose of the application was to sever the southerly portion of the subject property for the future development of a single detached dwelling with frontage on McCollum Drive, and to retain one lot with frontage on Lochside Drive containing an existing single detached dwelling. The application was approved subject to conditions, including approval of the subject rezoning application (see Appendix “C” - Condition No. 2).

A sketch of the proposal, attached as Appendix “D”, shows the severed and retained lots created through the approved Consent Application. The severed lot fronting on McCollum Drive will have a frontage of 29.3 metres and a lot area of 1,054.8 square metres. The retained lot on Lochside Drive will have a frontage of approximately 39.0 metres and a lot area of 2,948.9 square metres. The retained lot will remain as 28 Lochside Drive and the severed lot will be assigned the municipal address of 19 McCollum Drive.
Details of Submitted Application

Location: 28 Lochside Drive (see Appendix “A”)

Owner/Applicant: James M. Tarbutt

Property Description:

| Lot Frontage: | 29.3 metres along McCollum Drive
|              | ± 39.0 metres along Lochside Drive |
| Lot Depth:    | 150.0 metres                        |
| Lot Area:     | ± 4,000 square metres               |
| Servicing:    | Full Municipal Services             |

EXISTING LAND USE AND ZONING

<table>
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<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
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<td>Existing Single Detached Dwelling</td>
<td>Rural Residential Estate “RRE” Zone</td>
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<tr>
<td>Existing Single Detached Dwellings</td>
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<td>Storm Water Management Pond</td>
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<td>West</td>
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<td>Existing Single Detached Dwellings</td>
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ANALYSIS/RATIONALE:

1. The proposed zoning amendment has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement.
SUBJECT: Application to Amend Stoney Creek Zoning By-law No. 3692-92 for Lands Located at 28 Lochside Drive, Stoney Creek (PED08227) (Ward 11) - Page 4 of 8

(ii) It conforms to the “Urban Area” policies of the Hamilton-Wentworth Official Plan.

(iii) It conforms to the “Residential” designation of the Stoney Creek Official Plan.

(iv) It conforms to the “Low Density Residential” designation of the Urban Lake Shore Area Secondary Plan.

(v) The proposed changes in zoning satisfy a condition of approval for Consent Application SC/B-08:63, which was approved by the Committee of Adjustment on July 3, 2008 (see Appendix “C” - Condition No. 2).

(vi) It is considered to be compatible with the existing development in the immediate area.

2. The Urban Lake Shore Area Secondary Plan designates the subject property as “Low Density Residential”. Policy 1.2.12(a) permits a Net Residential Density of 1 to 29 units per hectare. The proposal will create a Net Residential Density of 9.47 units per hectare and is, therefore, consistent with the “Low Density Residential” designation.

3. In order to implement the approved severance application, the applicant has proposed a number of modifications to be incorporated into the amending Zoning By-law. These modifications include increasing the minimum side yard for Block “1”, and reducing the minimum lot area and rear yard setback for Block “2”.

The applicant is proposing to increase the minimum side yard for the severed lot (Block “1”) from the minimum required 1.25 metres to 1.85 metres. Staff supports the proposed increase in the side yard setback since it will provide for a form of development that is compatible with the scale and character of the existing neighbourhood. In addition to the proposed increase in the side yard setback, staff recommend that an attached garage or attached carport may be erected a distance of not less than 1.25 metre from the side lot line, and where there is no attached garage or attached carport, a minimum 3.0 metre side yard setback shall be provided. These further modifications to the side yard setback are to ensure the proposed zoning is in keeping with the existing zoning regulations in the immediate area.

The applicant is proposing to reduce the lot area of the retained lot (Block “2”) from the minimum required 4,000 square metres to 2,940 square metres. Staff supports the proposed reduction since the minimum 4,000 square metre lot area for the Rural Residential Estate “RRE” Zone was intended for lots that were on private sanitary services. Municipal sanitary sewers have been installed and the existing single detached dwelling has been connected. As a result, the minimum 4,000 square metre lot area is no longer required, and the proposed reduction can be supported.
The applicant is also proposing to reduce the minimum rear yard setback by 2.0m for the lands identified as Block “2” to permit the existing dwelling to be located 57 metres from the front lot line, whereas the By-law states that no dwelling or part thereof shall be located further from the front lot line than 55 metres. The applicant has indicated that the existing garage addition was constructed a number of years ago and is located approximately 57 metres from the front property line. As a result, staff supports the proposed modification as it recognizes an existing situation and is considered minor.

4. The proposed development is not located within Special Policy Area “E” in the Fifty Point Neighbourhood; however, it is located on the north side of McCollum Drive, immediately adjacent to the special policy area. Special Policy Area “E” is an area intended for residential development that features a range of housing types and incorporates historical resources within the overall design of the neighbourhood. To keep zoning consistent along McCollum Drive and to encourage compatible development, staff recommends a number of modifications to the proposed Single Residential “R1” Zoning which include: a minimum lot frontage of 23.0 metres instead of the required 18 metres; a minimum lot area of 780.0 square metres instead of the required 600 square metres; and a minimum front yard of 6.0 metres and maximum front yard of 7.5 metres, with increased setback to an attached garage or attached carport, instead of the required 6 metres. The applicant is agreeable to staff’s recommendation, and these additional modifications will provide for a compatible lot frontage, lot area, and setbacks to those existing in the existing surrounding neighbourhood.

5. The existing right-of-way width of both McCollum Road and Lochside Drive are 20.11 metres, as identified in the Stoney Creek Official Plan, therefore, no additional road widenings are required. There are existing public water mains and sanitary and storm sewers on McCollum Road to service the subject lands. However, these lands do not presently have direct access to McCollum Road as there is an existing 0.3 metre reserve along the north side of McCollum Road which was dedicated to the former City of Stoney Creek. As a condition of approval of Consent Application SC/B-08:63, a portion of this reserve will have to be lifted and transferred to the applicant, by deed, and merged on title in order to allow access to the proposed new lot (see Appendix “C” - Condition No. 4). There are no cost recoveries associated with the lifting of the reserve across these lands.

**ALTERNATIVES FOR CONSIDERATION:**

If Council does not support the proposed changes in zoning, the conditions of Consent Application SC/B-08:63 will not be satisfied and the Committee of Adjustment Approval will lapse. The lands would then be subject to the regulations of the Rural Residential Estate “RRE” 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 an amendment to the Zoning By-law.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The Planning Act requires that, in exercising any authority that affects planning matters, planning authorities shall be consistent with policy statements issued under the Act. The application is consistent with policy 1.1.3.1 which focuses growth in settlement areas since the nature of the application is to implement Consent Application SC/B-08:63, to create a new residential building lot.

Hamilton-Wentworth Official Plan

The subject lands are designated “Urban Area” in the Hamilton-Wentworth Official Plan. 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. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. As the nature of the application is to implement Consent Application SC/B-08:63, to create a residential building lot where full municipal services are available, the proposal is consistent with the Hamilton-Wentworth Official Plan.

City of Stoney Creek Official Plan

The subject property is designated “Residential” on Schedule ‘A’ - General Land Use Plan, and “Low Density Residential” on Schedule “A4” - Urban Lakeshore Area Secondary Plan, in the City of Stoney Creek Official Plan. The proposal conforms to the “Residential” and “Low Density Residential” designations, in that single detached dwellings are permitted within these designations.

Neighbourhood Plan

The subject lands are designated “Low Density Residential” in the approved Fifty Point Neighbourhood Plan. The proposal conforms to this designation.
RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Traffic Engineering and Operations Section, Public Works Department
- Open Space Development and Park Planning Section, Public Works Department
- Environmental Planning Section, Public Works Department
- Transit Division, Public Works Department
- Health Protection Division, Public Health Services
- Horizon Utilities
- Union Gas
- Bell Canada
- Hamilton-Wentworth District School Board
- Hamilton-Wentworth Separate School Board
- French Public School Board
- French Catholic School Board

The Forestry and Horticulture Section, Public Works Department, identified that there are municipal forestry conflicts since there are four recently planted trees located on the road allowance of McCollum Drive. The Municipal Urban Forestry conflicts will be resolved by way of a condition of severance (see Appendix “C” - Condition #5).

The Budgets and Finance Division, Corporate Services Department, advised that the owner be aware of the Local Improvement/Municipal Act sanitary sewer and connection annual amount of $1,565.70, expiring December 31, 2019, for the property at 28 Lochside Drive. This is a condition of severance approval (see Appendix “C” - Condition 6).

The Water and Wastewater Division, Public Works Department, identified that the City of Hamilton in conjunction with the local Conservation Authorities and adjacent municipalities are undertaking an exercise to identify protection zones for municipal drinking water intakes along the shores of Lake Ontario. The subject property currently resides in the preliminary intake protection zone, but the area is yet to be finalized. As such, there are no conditions at this time, however, the owner should be advised that conditions may be required for future development proposals should the subject lands reside within the finalized intake protection zone.

Public Consultation

In accordance with the new provisions of the Planning Act, Notice of Complete Application was circulated to 65 property owners within 120 metres of the subject property on August 22, 2008. To date, no formal responses have been received. In accordance with the Public Participation Policy that was approved by Council, preliminary circulation of the application was not required since the property was also subject of a Consent Application in July 2008, which is a public process. No letters
were received in response to the circulation of the severance application, and no members of the public attended the Committee of Adjustment hearing.

Further, a Public Notice sign was posted on the property on August 29, 2008, and Notice of the Public Meeting was given 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 proposal provides for consistent development along McCollum Drive.

- **Environmental Well-Being is enhanced.** ☑ Yes ☐ No
  The proposal makes appropriate use of an underutilized parcel of land.

- **Economic Well-Being is enhanced.** ☑ Yes ☐ No
  The proposal provides new housing stock and investment in the City of Hamilton.

**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

:JD

Attaches: (4)
Appendix “A” to Report PED08227

Location Map
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-08-043
Date: Sept. 4, 2008

Appendix “A” 

Scale: N.T.S.

Planner/Technician: JD / MC

Subject Property

Block 1 - Change in Zoning from the Rural Residential Estate “RRE” Zone to the Single Residential “R1-18” Zone, Modified.

Block 2 - Change in Zoning from the Rural Residential Estate “RRE” Zone to the Rural Residential Estate Zone “RRE-3” Zone, Modified.

Ward 11 Key Map
N.T.S.
CITY OF HAMILTON

BY-LAW NO.  

To Amend Zoning By-law No. 3692-92 (Stoney Creek)
Respecting the Lands Located at 28 Lochside Drive, Stoney Creek

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 City of Stoney Creek" 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 of the former area municipalities 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. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report 08- of the Economic Development and Planning Committee at its meeting held on the day of , 2008, recommended that Zoning By-law No. 3692-92 (Stoney Creek), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), approved by the Minister under the Planning Act on May 12, 1986;

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

1. That Map No. 4 of Schedule “A”, appended to and forming part of By-law No. 3692-92 (Stoney Creek) is amended as follows:

   (a) by changing the zoning from the Rural Residential Estate “RRE” Zone to the Single Residential “R1-18” Zone, the land comprised in Block “1”; and,
(b) by changing the zoning from the Rural Residential Estate “RRE” Zone to the Rural Residential Estate “RRE-3” Zone, the land comprised in Block “2”, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Subsection 6.2.7, “Special Exemptions”, of Section 6.2 Single Residential “R1” Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new special exemption, “R1-18”, as follows:

“R1-18” – 28 Lochside Drive, Schedule “A”, Map No. 4

Notwithstanding the provisions of Paragraphs (a), (b), (c), and (d) of Section 6.2.3 of the Single Residential “R1” Zone, on those lands zoned “R1-18” by this By-law, the following shall apply:

(a) Minimum Lot Area - 780 square metres

(b) Minimum Lot Frontage - 23 metres

(c) Minimum Front Yard - 6 metres, except 7.5 metres to an attached garage or attached carport

Maximum Front Yard - 7.5 metres, except 8 metres to an attached garage or attached carport

(d) Minimum Side Yard - No part of any dwelling shall be located closer than 1.85 metres to a side lot line, except as provided in Clauses (i) and (ii) below:

   (i) An attached garage or an attached carport may be erected at a distance of not less than 1.25 metres from a side lot line; and,

   (ii) Where no attached garage or attached carport is provided, the minimum side yard on one side shall be 3 metres.

3. That Subsection 5.5.6, “Special Exemptions”, of Section 5.5 Rural Residential Estate “RRE” Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new special exemption, “RRE-3”, as follows

“RRE-3” - 28 Lochside Drive, Schedule “A”, Map No. 4

Notwithstanding the provisions Paragraphs (a), and (f) of Section 5.5.3 of the Rural Residential Estate “RRE” Zone, on those lands zoned “RRE-3” by this by-law, the following shall apply:
Appendix “B” to Report PED08227

(Page 3 of 4)

| Minimum Lot Area | - | 2,940 square metres |
| Minimum Rear Yard | - | No dwelling or part thereof shall be located further from the front lot line than 57 metres |

4. No building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the Single Residential “R1” Zone provisions, subject to the special requirements referred to in Section 2, and the Rural Residential Estate “RRE” Zone provisions, subject to the special requirements referred to in Section 3.

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 [ ], 2008.

__________________________________________________________________________
FRED EISENBERGER
MAYOR

__________________________________________________________________________
KEVIN C. CHRISTENSON
CLERK

ZAR-08-043
Appendix "B" to Report PED08227
(Page 4 of 4)

This is Schedule "A" to By-Law No. 08-

Passed the .......... day of .................., 2008

Schedule "A"

Map Forming Part of By-Law No. 08-_____

to Amend By-law No.3692-92

Subject Property

- Block 1 - Change in Zoning from the Rural Residential Estate "RRE" Zone to the Single Residential "R1-18" Zone, Modified.

- Block 2 - Change in Zoning from the Rural Residential Estate "RRE" Zone to the Rural Residential Estate Zone "RRE-3" Zone, Modified.
APPENDIX "C" TO REPORT PED08227
(PAGE 1 OF 2)

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. SC/B-08:63
SUBMISSION NO. B-63/08

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 28 Lochside Drive, formerly in the City of Stoney Creek, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owner James M. Tarbutt, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of rear land having a frontage (on McCollum Road) of 29.3m (96') and a depth of 36.0m (118') for single family residential purposes, and to retain a parcel of land having a frontage (on Lochside Drive) of 29.3m (96') and an area of 3,105.6m² (33,431.64sq.ft.) containing an existing single family dwelling for residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reason:

1. The Committee is of the opinion that a plan of subdivision of the lands is not necessary, in this case, for the proper and orderly development of the municipality.

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/applicant shall apply for and receive final approval of any necessary variances to the zoning by-law or a zoning by-law amendment to rezone the lands to an appropriate urban residential category, to the satisfaction of the Planning and Economic Development Department, Development Planning (East) Division.

3. The owner shall enter into and register a Consent Agreement with the City of Hamilton to the satisfaction of the Manager of Development Engineering for the purpose of, but not limited to lot grading for the new lot to be created.

4. That a portion of the 0.3m reserve (Block 14, 62M-444), by part on a reference plan of survey, be lifted and transferred from the City to the applicant, by deed, and merged on title in order to allow access to the proposed new lot prior to the construction of any new dwellings on the subject lands, to the satisfaction of the Planning & Economic Development Department, Development Engineering (East) Division.

5. The owner/applicant shall satisfy the requirements of the Public Works Department, Operations and Maintenance Division, Forestry & Horticulture Section.

6. The owner shall pay the required commutation amount of Local Improvement/Municipal Act Charges to Budgets & Finance, City of Hamilton, City Centre.

7. That the owner 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 3rd day of July, 2008, by

M. Dudtc, Chairman
D. Smith
THE DATE OF GIVING OF THIS NOTICE OF DECISION IS July 10th, 2008.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (July 10th, 2009) 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 BOARD MAY BE FILED IS July 30th, 2008.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTE:

1. Based on the approval of this application and that all conditions are met, the owner/applicant should be made aware that the Lands to be Conveyed will be assigned the municipal address of 19 McCallum Road, and the lands to be Retained will remain as 28 Lochside Drive.