SUBJECT: Application for a Change in Zoning for Lands Located at 61-65 King Street West (Stoney Creek) (PED08107) (Ward 9)

RECOMMENDATION:

That approval be given to Zoning By-law Amendment Application ZAC-07-108, by Anne Patricia Kay, owner, for a change in zoning from the Central Area Commercial “CA1-1” Zone (Block “1”) and the Community Park (P2) Zone (Block “2”) to the Single Residential “R2-59” Zone to permit the future development of two single detached dwellings on separate lots on the rear portion of the subject lands; and for a change in zoning from the Central Area Commercial “CA1-1” Zone (Block “3”) to the Central Area Commercial “CA1-9” Zone to recognize the two existing dwellings fronting onto King Street West, for lands known as 61-65 King Street West, as shown on Appendix “A” to Report PED08107, on the following basis:

(i) That the draft By-law, attached as Appendix “B” to Report PED08107, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(ii) That the draft By-law, attached as Appendix “C” to Report PED08107, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(iii) That the amending By-law (Appendix “C”) be added to Schedule “A”, Map No. 5, of Zoning By-law No. 3692-92.
(iv) That the proposed changes in zoning are consistent with the Provincial Policy Statement, and conform to the Hamilton-Wentworth Official Plan and 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 development of two single detached dwellings on separate lots on the rear portion of the subject lands (Appendix “A” - Blocks “1” and “2”). In addition, the application proposes to recognize the two existing single detached dwellings fronting onto King Street West.

The proposal has merit and can be supported since it is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan and Stoney Creek Official Plan, and is compatible with the existing development in the immediate area. In addition, approval of the application fulfils a condition of approval for Consent Applications SC/B-06:156 and SC/B-06:157 (Appendices “D” and “E” - Condition 5).

BACKGROUND:

Proposal

The subject lands are currently dual zoned, and the applicant has applied for changes in zoning from the Central Area Commercial “CA1-1” Zone (Block “1”) and the Community Park (P2) Zone (Block “2”) to the site-specific Single Residential “R2-59” Zone for lands located at the rear of 61-65 King Street West (see Appendix “A”). The purpose of this application is to permit the development of two single detached dwellings on separate lots on the rear portion of the subject lands. To ensure the proposed residential development is in keeping with the character of the existing neighbourhood, staff has included the following modifications to the Single Residential “R2” Zone provisions:

- To restrict the front face of the garage from projecting beyond the front face of the main building.
- To permit a maximum garage door coverage of 40% for the entire front façade of the dwelling.
Approval of the proposal will fulfill conditions of approval for Consent Applications SC/B-06:156 and SC/B-06:157 (see Appendices “D” and “E” - Condition #5), which creates two lots having frontage onto Battlefield Drive. A survey of the proposal, attached as Appendix "F", shows the two new lots (Parts 2 and 5, and Parts 3 and 4 on Reference Plan 62R-17976) created through the conditionally approved Consent Applications. The two newly created lots fronting onto Battlefield Drive meet the minimum lot frontage and minimum lot area requirements of the Single Residential “R2” Zone. The retained lot on King Street West (Parts 1 and 6 on Reference Plan 62R-17976), will have a frontage of approximately 42.46 metres and a lot area of approximately 1,425 square metres.

In order to facilitate the proposed severances, the owner was required to purchase the property known as 65 King Street West from the City of Hamilton. The property known as 65 King Street West was not part of the road allowance, as the owner had originally thought. This strip of land along Battlefield Drive was required so the two proposed lots would have frontage on a municipal road. This Transfer/Deed of Land was registered in favour of the owner, Anne Patricia Kay, on October 30, 2007, as No. WE507770.

In addition, the applicant is proposing a change in zoning from the Central Area Commercial “CA1-1” Zone to the Central Area Commercial “CA1-9” Zone (Appendix “A” - Block “3”) to recognize the two existing single detached dwellings which are located on one lot. A sketch of the proposal, attached as Appendix “G”, shows the location of the two existing dwellings on the retained lot. The applicant has confirmed that the two dwellings have existed on one lot since approximately 1972, when the two lots merged on title.

Consent Applications SC/B-06:156 and SC/B-06:157

Consent Applications SC/B-06:156 and SC/B-06:157 were approved by the Committee of Adjustment on June 20, 2007. The purpose of the severance applications is to create two lots for single detached dwellings with frontage on Battlefield Drive, and to retain one lot containing two existing single detached dwellings fronting onto King Street West. The applications were approved, subject to conditions, including the approval of the subject rezoning application (see Appendices “D” and “E” – Condition #5).

Condition 5 (see Appendices “D” and “E”) for Consent Applications SC/B-06:156 and SC/B-06:157 also required the owner/applicant to obtain final approval of an Official Plan Amendment. Upon further review of Stoney Creek Official Plan policies, it was determined that residential uses are permitted within the “Downtown” and “Downtown Commercial” designations, and as a result, an Official Plan Amendment is not required.

Details of Submitted Application

Location: 61-65 King Street West

Owner: Anne Patricia Kay
Dan Kay (Applicant on behalf of owner)
Agent: Anthony Wellenreiter
Wellenreiter & Wellenreiter

Property Description:
- Frontage: 42.46 metres (King Street West)
- Area: Approximately 2,370 square metres

Servicing: Full municipal servicing

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<td>Commercial – Hair Salon, Medical Office, Retail</td>
<td>Central Area Commercial “CA1-1” Zone</td>
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<tr>
<td>South</td>
<td>Residential – Single Detached Dwellings</td>
<td>Single Residential “R2” Zone</td>
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<td>East</td>
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<tr>
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<td>Residential – Single Detached Dwellings</td>
<td>Single Residential “R2” Zone</td>
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ANALYSIS/RATIONALE:

1. The proposal 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.

   (iii) It conforms to the “Downtown” and “Downtown Commercial” designations of the Stoney Creek Official Plan.

   (iv) The proposed changes in zoning satisfy conditions of approval for Consent Applications SC/B-06:156 and SC/B-06:157, which were approved by the Committee of Adjustment on June 20, 2007 (see Appendices “D” and “E” - Condition 5).
(v) The proposed development is compatible with the existing development in the neighbourhood.

2. The applicant has proposed to change the zoning on Block “1” from the Central Area Commercial “CA1-1” Zone to the Single Residential “R2-59” Zone in order to permit the development of two single detached dwellings on separate lots. This change in zoning is viewed as a logical extension of the residential development along Battlefield Drive, and is compatible with the current zoning in the neighbourhood. Permitting the development of two single detached dwellings on separate lots will not jeopardize the future development of the remaining lands (Block “3”) for commercial purposes, as the retained parcel has sufficient lot frontage and lot area to accommodate a commercial development.

As discovered through the review of the application, the southeast corner of Part 3 on the Deposited Reference Plan 62R-17976 (see Appendix “F”), is currently zoned Community Park (P2) Zone. As a result, the proposed change in zoning on Block “2” is necessary for the minor adjustment of the zoning boundary, and ultimately to permit the development of a single detached dwelling on the newly created lots.

The applicant has also proposed to change the zoning on Block “3” from the Central Area Commercial “CA1-1” Zone to the Central Area Commercial “CA1-9” Zone (see Appendix “A”). The change in zoning will maintain the existing provisions of the Central Area Commercial “CA1-1” Zone, and will add another site-specific provision to recognize the two existing dwellings, which are located on one lot. Staff is of the opinion that it is appropriate to recognize the existing situation, as opposed to requiring the owner to demolish one of the dwellings or sever the property to correct this By-law contravention. Demolishing one of the dwellings would not be in keeping with the intent of the policies of the “Olde Town” Secondary Plan as the retention and conversion of existing dwellings is encouraged to maintain the prevailing ‘house-form’ character of the streetscape. Severing the property would fragment a parcel of land that is ultimately intended for commercial purposes, and again, would not be in keeping with the intent of the policies of the “Downtown” designation. The redevelopment and adaptive use of existing buildings is encouraged, along with proposals that incorporate shared facilities such as parking and access. The current Central Area Commercial “CA1-1” zoning on the subject lands, and the proposed “CA1-9” Zone, permits uses to be established only within existing buildings. Therefore, maintaining the two existing dwellings on one lot provides a future opportunity for the existing dwellings to be converted to commercial uses with shared parking and access facilities, and promotes development that maintains the intent of the Zoning By-law and Official Plan.
3. The existing built form along Battlefield Drive generally consists of 1 to 1½ storey single detached dwellings on lots of 17.8 metres to 30 metres in width. Garages are generally located to the side of the house flush with, or setback from the front façade of the building. In order to ensure the proposed residential development will be in keeping with the character of the existing neighbourhood, staff has included a number of modifications to the Single Residential “R2” Zone that relate to garage projection and garage door coverage. These modifications are discussed below:

Garage Projection and Coverage

Staff is proposing to restrict the front face of the garage from projecting beyond the front face of the main building. Also, staff is proposing to limit the coverage of the garage to a maximum of 40% of the front façade of the dwelling. These modifications aim to promote new residential development that is in keeping with the character of the existing streetscape. The applicant submitted a sketch showing the design of one of the proposed single detached dwellings, and the design will conform to the proposed modifications (see Appendix “H”). Staff also notes that the applicant was informed of the proposed modifications and their intent, and is in agreement with them.

4. Staff received one written response (see Appendix “I”) as a result of the circulation of the application. The response expressed concerns relating to altering the character of the established neighbourhood and the future commercial development along King Street West. These concerns are addressed as follows:

Altering the Character of the Established Neighbourhood

The major concern is that the new dwellings may not be in keeping with the established neighbourhood as the existing dwellings on Battlefield Drive are bungalows. The neighbour is concerned that a “monster home” or a two storey dwelling would be a drastic contrast to the rest of the neighbourhood and feels that a single storey or back-split design will blend better with the Olde Town area.

In response to this concern, the lands are being rezoned to the Single Residential “R2” Zone, which is consistent with the existing zoning along Battlefield Drive. The proposed modifications to the Single Residential “R2” Zone aim to promote future residential development that is compatible with the existing residential character of the neighbourhood by including special provisions pertaining to garage projections and garage door coverage. In regards to the height requirement, the Single Residential “R2” Zone permits a maximum building height of 11 metres, and since the existing dwellings in the neighbourhood are also zoned Single Residential “R2” Zone, it would not be appropriate to place a restriction on the proposed lots since there are no height restrictions through the rest of the neighbourhood.
Commercial Development along King Street West

Another concern raised in the objection letter is that all the land (both retained and severed parcels) should be rezoned to "Residential" so that it is in keeping with the residential component that has always been present on the corner. If the land is to remain commercial, it was suggested that limits on the type and size of the buildings are included so that it is in keeping with the neighbourhood and historic Smith’s Knoll across the street.

In response to this comment, the owner did not request for the retained lands fronting onto King Street West to be rezoned, and as a result, they will remain zoned Central Area Commercial Zone, with a modification to permit the two existing dwellings to remain on one lot. The requirements of the proposed Central Area Commercial “CA1-9” Zone will regulate the details of the future commercial development on the property. The Olde Town Secondary Plan also encourages the retention and conversion of existing dwellings, and the infilling along King Street in a manner that maintains the prevailing ‘house-form' character of the streetscape. Staff also notes that a change in use from residential to commercial is subject to Site Plan Control, at which time the details of development will be reviewed.

**ALTERNATIVES FOR CONSIDERATION:**

In the event Council does not support the proposed changes in zoning, the conditions of Consent Applications SC/B-06:156 and SC/B-06:157 will not be satisfied and the Committee of Adjustment Approval will lapse. The lands would then be subject to the existing regulations in the Central Area Commercial “CA1-1” 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 of the Provincial Policy Statement, which focuses growth in settlement areas.

Policy 2.6.2 outlines that 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. Where significant archaeological resources must be preserved on site, development and site alteration which maintains the heritage integrity of the site may be permitted. Consent Applications SC/B-06:156 and SC/B-06:157 contain a condition of approval (see Appendices “D” and “E” - Condition 3) requiring an Archaeological Assessment to be conducted prior to the final approval of the severances. The archaeological assessment was cleared by the Ministry of Culture on March 25, 2008, and by the City of Hamilton on April 10, 2008.

**Hamilton Wentworth Official Plan**

The subject property is designed “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 change the existing zoning to facilitate approved Consent Applications (SC/B-06:156 and SC/B-06:157) to allow for residential development of the property, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

Policy B-9.2 states that the City shall 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. As outlined earlier, Consent Applications SC/B-06:156 and SC/B-06:157 contain a condition of approval (see Appendices “D” and “E” - Condition 3) requiring an Archaeological Assessment to be conducted prior to the final approval of the severances. The archaeological assessment was cleared by the Ministry of Culture on March 25, 2008, and by the City of Hamilton on April 10, 2008.

**Stoney Creek Official Plan**

The subject property is designated “Downtown” on Schedule “A” – General Land Use Plan, and “Downtown Commercial” on Schedule “A5” – Olde Town Secondary Plan, in the City of Stoney Creek Official Plan. The following policies of the City of Stoney Creek Official Plan, among others, are applicable to the proposed development:

“A.2.2.1 The DOWNTOWN as identified on Schedules “A” and “A5” will function as a primary focus for local community activity. In this regard, a wide range
of land uses are permitted by this designation provided that compatibility and harmony among land uses can be achieved.

A.2.2.5 Within the Downtown, there is a wide range of residential densities. Council shall continue to encourage a wide range of housing forms and housing for special purposes and, therefore, future residential development in the Downtown shall not be bound by the density restrictions of this Plan, but rather by urban design considerations such as mass, height, character and land use compatibility.

A.2.2.7 Council shall encourage redevelopment, infilling, the adaptive use of existing buildings, rehabilitation and property maintenance projects in accordance with the relevant provisions of Section “E” of this Plan. In the case of redevelopment, preference shall be given to proposals which incorporate shared facilities such as parking, access and open space.

A.13.5 OLDE TOWN – SECONDARY PLAN

A.13.5.5 Council shall encourage the retention and conversion of existing dwellings and the infilling along King Street in a manner that maintains the prevailing ‘house-form’ character of the streetscape.

A.13.5.7 Lands designated Commercial on Schedule “A5” shall include a broad range of commercial uses. Further, complimentary non-commercial uses such as institutional, community services and residential uses may be permitted within the designation.”

Staff is of the opinion that the rezoning of the rear land will not jeopardize the future development of the remaining lands for commercial purposes. In addition, the development of single detached dwellings is permitted within the designation. Therefore, the proposal for single detached residential development conforms to the “Downtown” and “Downtown Commercial” designations of the Plan.

Neighbourhood Plan

The subject lands are designated “Downtown Commercial” in the approved Olde Town Neighbourhood Plan. The proposal conforms to this designation.

RELEVANT CONSULTATION:

The following Departments/Agencies had no comments or objections:

- Capital Planning and Implementation Division (Public Works Department)
- Water and Wastewater Division (Public Works Department)
- Taxation Division (Corporate Services Department)
- Traffic Engineering and Operations Section (Public Works Department)
The Forestry and Horticulture Section (Public Works Department) has identified that there are Municipal Forestry concerns, and that there are thirteen Municipal Tree Assets located on the Road Allowances of King Street and Battlefield Drive. These comments were also submitted as part of the circulation of the severance applications, and as a result, the requirement of a Tree Management Plan was included in the list of conditions of approval for Consent Applications SC/B-06:156 and SC/B-06:157 (see Appendices “D” and “E” - Condition 7).

Public Consultation

In accordance with the Public Participation Policy that was approved by Council, preliminary circulation of the application shall not be required if the application is part of the implementation of a planning study or other application, such as a consent, which has been approved within one year of other public involvement and participation opportunities. Since the properties were also subject to two Consent Applications in June 2007, which was a public process, preliminary circulation was not required.

The consent applications to sever the subject lands to facilitate the development of two single detached dwellings on separate lots were conditionally approved by the Committee of Adjustment on June 20, 2007. Two letters were received in response to the circulation of the severance applications, and no residents were in attendance at the Committee of Adjustment hearing. However, in accordance with the new provisions of the Planning Act, 179 notices of complete application were mailed to all property owners within 120 metres of the subject property. To date, one formal response has been received (Appendix “I”), which is discussed in the Analysis/Rationale Section of the report (Comment 4).

Further, a Public Notice sign was posted on the property on February 10, 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 public is involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☑ Yes  ☐ No
The proposal applies principles of intensification and best use of available land.

Economic Well-Being is enhanced. ☑ Yes  ☐ No
Investment in Hamilton is enhanced and supported.

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
 Attachs. (9)
Appendix “A” to Report PED08107

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAC-07-108
Date: January 29, 2008

Appendix “A”  Scale: N.T.S.  Planner/Technician: Jo AVLMB

Subject Property
61 to 65 King Street West, Stoney Creek

Block 1: Change in Zoning from the Central Area Commercial “CA1-1” Zone to the Single Residential “R2-59” Zone.

Block 2: Change in Zoning from the Community Park (P2) Zone (By-law No. 05-200) to the Single Residential “R2-59” Zone.

Block 3: Change in Zoning from the Central Area Commercial “CA1-1” Zone to the Central Area Commercial “CA1-9” Zone.

Ward 9 Key Map  N.T.S.
CITY OF HAMILTON

BY-LAW No. [number]

To Amend Zoning By-law No. 05-200,
Respecting Lands Located at 61-65 King Street West (Stoney Creek)

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

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

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

AND WHEREAS the Council of the City of Hamilton, in adopting Item [number] of Report [number] of the Economic Development and Planning Committee at its meeting held on the [date] day of [month], 2008, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (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. 1248 of Schedule “A” to Zoning By-law No. 05-200, be amended by removing the land from By-law 05-200, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”;

2. 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   , 2008.

FRED EISENBERGER
MAYOR

KEVIN C. CHRISTENSON
CITY CLERK

ZAC-07-108
Schedule "A"

Map Forming Part of By-Law No. 08-______ to Amend By-law No. 05-200 (Map 1248)

Subject Property
61 to 65 King Street West, Stoney Creek

Lands to be Removed from By-law No. 05-200
CITY OF HAMILTON

BY-LAW NO.  

To Amend Zoning By-law No. 3692-92 (Stoney Creek)
Respecting the Lands Located at 61-65 King Street West, 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  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. 5 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 Central Area Commercial “CA1-1” Zone to the Single Residential “R2-59” Zone, the land comprised in Block “1”;

   (b) by incorporating lands into By-law No. 3692-92 and zoning the lands Single Residential “R2-59” Zone, the land comprised in Block “2”; and,
(c) by changing the zoning from the Central Area Commercial “CA1-1” Zone to the Central Area Commercial “CA1-9” Zone, the land comprised in Block “3”,

the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Subsection 6.3.7, “Special Exemptions”, of Section 6.3 Single Residential “R2” Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new special exemption, “R2-59”, as follows

“R2-59” - 61 – 65 King Street West, Schedule “A”, Map No. 5

In addition to the provisions of Section 6.3.3 of the Single Residential “R2” Zone, on those lands zoned “R2-59” by this by-law, the following shall apply:

(h) Garage Projections and Coverage

1. The front face of a garage may not project beyond the front face of the main building. For the purpose of this exemption, “front face of the main building” means the wall of the dwelling nearest to the front lot line.

2. The garage shall not exceed a maximum coverage of 40% of the front façade of the dwelling.

3. That Subsection 8.5.5, “Special Exemptions”, of Section 8.5 Central Area Commercial “CA1” Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new special exemption, “CA1-9”, as follows:

“CA1-9” - 61 – 65 King Street West, Schedule “A”, Map No. 5

In addition to the provisions of Subsection 8.5.5 of the Central Area Commercial CA1-1” Zone, on those lands zoned “CA1-9” of this by-law, the two single-detached dwellings existing on the date of the passing of this by-law, being the day of , 2008, shall be permitted to remain on one lot.

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 “R2” Zone provisions, subject to the special requirements referred to in Section 2, and the Central Area Commercial “CA1” 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-07-108
Appendix “C” to Report PED08107
(Page 4 of 4)

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

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

Clerk

Mayor

Schedule "A"

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

to Amend By-law No.3692-92

Subject Property
61 to 65 King Street West, Stoney Creek

Block 1: Change in Zoning from the Central Area Commercial "CA1-1" Zone to the Single Residential "R2-59" Zone.

Block 2: Incorporate Lands into By-law No. 3692-92, and Zone Lands Single Residential "R2-59" Zone.

Block 3: Change in Zoning from the Central Area Commercial "CA1-1" Zone to the Central Area Commercial "CA1-9" Zone.
Appendix “D” to Report PED08107
(Page 1 of 2)

Committee of Adjustment
City Hall
7th floor, 71 Main Street West
Hamilton, ON L8P 4V5
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4202

Hamilton

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. SC/B-06:156
SUBMISSION NO. B-156/06

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 61-63 King Street West, formerly in the City of Stoney Creek, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Anthony Wellenreiter on behalf of the owner Anne Patricia Kay, 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 land (Part 3 on sketch) measuring 15.20m± (49.86±) x 25.33m± (83.10±) for single family residential purposes, and to retain a parcel of land (Parts 1, 2 & 8 on sketch) having a frontage of 49.36m± (161.9±) and a lot area of 1,649.8m²± (17,758.8ft²±) containing two existing dwellings and metal sheds 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. That the owner/applicant submit a Deposited Ontario Land Surveyor’s Reference Plan to the Development Planning East Team.

3. That the owner/applicant shall conduct an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading or soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and conservation requirements.

4. That the owner/applicant shall purchase the lands known municipally as 65 King Street West and merge Parts 3 and 4 in the same name and title to facilitate the proposed severance.

5. That the owner/applicant receive final approval of an Official Plan and Zoning By-law Amendment for the proposed residential lots fronting on Battlefield Drive.

6. The owner shall enter into a Consent Agreement with the City of Hamilton for grading purposes for the creation of these lots.

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

8. 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.
Appendix “D” to Report PED08107
(Page 2 of 2)

DATED AT HAMILTON this 20th day of June, 2007.

Mr. Dudzic, Chairman

C. Lewis

V. Abraham

D. Serwatuk

D. Drury

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS June 27th, 2007. HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (June 27th, 2008) 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 17th, 2007.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTE:

Based on this application being approved by the Committee of Adjustment, and all conditions being completed, the applicant will be required to obtain a municipal number for the newly adjusted lot. Please contact Paul Toffoletti 905-546-2424 Ext. 4348 Development and Real Estate Dept., Legislative Approvals.

Staff note that the applicant will be required to pay cash-in-lieu of parkland dedication at the time of a Building Permit application for the newly created lot(s), based on the value of the lands as of the day before Building Permit issuance.
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 61-63 King Street West, formerly in the City of Stoney Creek, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Anthony Wellenreiter on behalf of the owner Anne Patricia Kay, 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 land (Part 2 on sketch) measuring 15.20m± (49.86'±) x 25.33m± (83.10'±) for single family residential purposes, and to retain a parcel of land (Parts 1 & 8 on sketch) measuring 34.16m± (112'±) x 37.89m± (124.3'±) containing two existing dwellings and metal sheds 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. That the owner/applicant submit a Deposited Ontario Land Surveyor’s Reference Plan to the Development Planning East Team.

3. That the owner/applicant shall conduct an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading or soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and conservation requirements.

4. That the owner/applicant shall purchase the lands known municipally as 65 King Street West and merge Parts 2 and 5 in the same name and title to facilitate the proposed severance.

5. That the owner/applicant receive final approval of an Official Plan and Zoning By-law Amendment for the proposed residential lots fronting on Battlefield Drive.

6. The owner shall enter into a Consent Agreement with the City of Hamilton for grading purposes for the creation of these lots.

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

8. 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 20th day of June, 2007.

M. Dudzic, Chairman

C. Lewis

V. Abraham

D. Drury

D. Serwaiek

HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS
NOTICE OF DECISION (June 27th, 2008) 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.

NOTE:

Based on this application being approved by the Committee of Adjustment, and all conditions
being completed, the applicant will be required to obtain a municipal number for the newly
adjusted lot. Please contact Paul Toffoletti 905-546-2424 Ext. 4348 Development and Real
Estate Dept., Legislative Approvals.

Staff note that the applicant will be required to pay cash-in-lieu of parkland dedication at the
time of a Building Permit application for the newly created lot(s), based on the value of the
lands as of the day before Building Permit issuance.
GROUND FLOOR PLAN

1534 S.F.

WOOD LINTEL SCHEDULE

<table>
<thead>
<tr>
<th>Lintel Size</th>
<th>First Floor Max. Span</th>
<th>Second Floor Max. Span</th>
</tr>
</thead>
<tbody>
<tr>
<td>2-3/8 x 4&quot;</td>
<td>1'-0&quot;</td>
<td>2'-0&quot;</td>
</tr>
<tr>
<td>2-3/8 x 4&quot;</td>
<td>2'-0&quot;</td>
<td>3'-0&quot;</td>
</tr>
<tr>
<td>2-3/8 x 4&quot;</td>
<td>3'-0&quot;</td>
<td>4'-0&quot;</td>
</tr>
<tr>
<td>2-3/8 x 6&quot;</td>
<td>4'-0&quot;</td>
<td>6'-0&quot;</td>
</tr>
<tr>
<td>2-3/8 x 6&quot;</td>
<td>6'-0&quot;</td>
<td>10'-0&quot;</td>
</tr>
</tbody>
</table>

STEEL LINTEL SCHEDULE

<table>
<thead>
<tr>
<th>Maximum Span</th>
<th>Lintel Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>4'-0&quot;</td>
<td>3 1/2 x 3'</td>
</tr>
<tr>
<td>5'-0&quot;</td>
<td>3 1/2 x 3'</td>
</tr>
<tr>
<td>7'-0&quot;</td>
<td>4 x 3'</td>
</tr>
<tr>
<td>8'-0&quot;</td>
<td>5 x 3'</td>
</tr>
<tr>
<td>10'-0&quot;</td>
<td>6 x 3'</td>
</tr>
</tbody>
</table>

3 BEDROOM BUNGALOW
DANNY KAY

Drawn by:

Let Coverage: sq. ft.

Scale: 3/4" = 1'-0"

5th Floor Area: sq. ft.

Sheet: NOV/2007

3rd Floor Area: sq. ft.

Project No.

Total Area: 1534 sq. ft.

I review and take responsibility for the design work on behalf of a firm registered under subsection 5.1.4 of the building code.

I am qualified, and the firm is registered in the appropriate class/ category.

Individual B.C.I.: 045700 Firm B.C.I.: 2810900

1. The information contained in this schedule is true to the best of my knowledge.
2. I have authority to bind the corporation.

Date: [Signature of Designer]
February 15, 2008

To Whom It May Concern,

I am writing this letter regarding the application to transfer the lands on King Street at the corner of Battlefield Drive from commercial lands to 2 residential lots facing Battlefield Drive. I have two concerns about this change in land title.

The first concern I have is that the new houses may not be in keeping with the established neighborhood. All the houses on Battlefield Drive are bungalows and while I would be more than happy to have detached houses rather than businesses I would like to see some limits placed on the size and design of these houses. A “monster home” or a built up 2 storey house would be a drastic contrast to the rest of the neighborhood. Especially considering the historic nature of Smith’s Knoll and Battlefield House nearby, and the planned streetscape improvements for King Street in time for the bicentennial in 2013, I would like the city to stipulate that the plan for the houses be either single story or a back-split design so it blends better with the Olde Town area.

The second concern I have with the transfer is that all the land is not being transferred to residential. I would hate to see a strip-type business pop up at the end of our street where previously there has only been housing (despite the commercial zoning). I would like to see all this land transferred to residential zoning so that it is in keeping with the housing that has always been present on the corner. I would hate to see the current owner move into new houses on the (now) severed residential land located on Battlefield Drive and then sell off the commercial land that fronts King Street so a strip complex can be built. If the land is not all being transferred to residential zoning then I would like the see the City place limits on the type and size of building(s) that may be built there so it’s in keeping with the neighborhood and historic Smith’s Knoll across the street.

I would like to attend the meeting concerning this land severance and transfer and have noted that the large sign on the property only has 9:30am posted with no date. I would like to be contacted with information regarding the date and location of the meeting with reasonable notice. I would also like my letter entered into the information collected regarding this action.

Sincerely,

Julie Volcansek
9 Battlefield Drive
Stoney Creek, ON
L8G 1T8