SUBJECT: Committee of Adjustment Severance Application HM/B-07:131 for the Property Known as 41 Inglewood Drive, Hamilton – Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED08063) (Ward 2)

RECOMMENDATION:

That Report PED08063, respecting Committee of Adjustment Severance Application HM/B-07:131 for the property known as 41 Inglewood Drive, as shown on Appendix “A” to Report PED08063, supported by the Planning and Economic Development Department, but denied by the Committee of Adjustment, be received for information.

EXECUTIVE SUMMARY:

The applicant proposed, through severance application HM/B-07:131, to divide the property at 41 Inglewood Drive into two single detached dwelling lots (see Appendix “C”). The application was for the creation of two irregular shaped lots with the lands to be severed (Part 1) being a new single detached residential building lot with a lot frontage of 14.63 metres and a lot area of 805.3 square metres, and the lands to be retained (Part 2) having an existing single detached residential building with a lot frontage of 28.25 metres and a lot area of 3,935 square metres.

The severance was considered before the Committee of Adjustment on November 29, 2007. Comments to the Committee of Adjustment from staff supported the proposed severance as it was consistent with the Provincial Policy Statement, conformed to the City of Hamilton Official Plan and conformed to the City of Hamilton Zoning By-law.
The Committee of Adjustment denied the application for the reasons provided in Appendix “B”. The decision has been appealed to the Ontario Municipal Board (OMB) by the applicant. To date, an Ontario Municipal Board hearing has not been scheduled.

BACKGROUND:

In December 2002, City Council endorsed a staff report related to the roles and responsibilities of the Committee of Adjustment. The recommendations included the following:

“That the Planning and Development Department be authorized and directed to prepare an Information Report to the Committee of the Whole whenever an appeal is made to the Ontario Municipal Board of a decision made by the Committee of Adjustment to deny an application(s) that was supported by staff. In response to such a report, Council may determine its position on the Committee of Adjustment decision and may instruct Legal Services to attend the Ontario Municipal Board Hearing, in support of the Committee’s decision, and to retain outside professional(s) accordingly."

ANALYSIS/RATIONALE:

The subject lands are zoned “C” (Urban Protected Residential, etc.) District, in the City of Hamilton Zoning By-law (see Appendix “A”). The lands to the north, east and west of the subject property are also zoned “C” District, and the lands to the south are zoned “A” (Conservation, Open Space, Park and Recreation) District.

The applicant is proposing to create one new residential building lot by severing the subject property (see Appendix “C”). The “C” (Urban Protected Residential, etc.) District requires a lot to have a minimum lot frontage of 12 metres and a minimum lot area of 360 square metres. The proposed lands to be severed would have a minimum lot frontage of 14.6 metres and a minimum lot area of 805.3 square metres; while the lands to be retained would have a minimum lot frontage of 28.25 metres and a minimum lot area of 3,935 square metres. As such, both the lands to be severed and the lands to be retained would meet the minimum lot area and frontage requirements set out in the By-law.

With respect to application HM/B-07:131, staff noted that the requested severance conforms to the relevant Official Plan Policies, and conforms to the criteria set out in Section 51.17 of the Planning Act. Therefore, staff recommended that the application be approved.

ALTERNATIVES FOR CONSIDERATION:

Option 1

Council may instruct Legal Services to attend the Ontario Municipal Board Hearing, in support of the Committee of Adjustment decision, and to retain outside professional(s).
Option 2

Council may decide to support the appeal against the Committee of Adjustment’s decision to deny, and direct Legal Services to attend the Ontario Municipal Board Hearing in support of the appeal to the application and to use City Planning staff as its professional witness.

Option 3

Council may decide to not send Legal Services to the Ontario Municipal Board, either in support of the Committee’s decision or against the decision.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: Planning and Economic Development Department staff supported the subject application. However, if Council wishes to support the Committee of Adjustment’s decision to deny the application, the City must retain an outside planning consultant who can professionally support the denial. If retained, the cost of hiring the planner for the hearing is estimated at $2,500 to $5,000. In addition, one lawyer from Legal Services would be required for preparation and attendance at the hearing. These costs are covered by the respective Departmental Work Program/Budget. Therefore, no additional funds would be required.

Staffing: One representative from Legal Services would be required for preparation and attendance at the Ontario Municipal Board Hearing. One member of planning staff would attend as an expert witness at the hearing should Council support Option 2 above.

Legal: No legal implications are expected.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement (PPS)

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).

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. The Hamilton-Wentworth Official Plan, under 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 application conforms to the Hamilton-Wentworth Official Plan.

**City of Hamilton Official Plan**

The subject property is designated as “Residential” in the City of Hamilton Official Plan which permits, among other uses, single detached residential dwellings. The application conforms to the City of Hamilton Official Plan.

**City of Hamilton Zoning By-Law No. 6593**

The subject property is zoned “C” (Urban Protected Residential, etc.) District, under the City of Hamilton Zoning By-law, which permits single detached dwelling units. The proposed severance meets the minimum lot frontage and area requirements set out in the By-law.

**RELEVANT CONSULTATION:**

- Legal Services Division.

**CITY STRATEGIC COMMITMENT:**

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

- **Community Well-Being is enhanced.** ☑ Yes ☐ No
  The public are involved in the definition and development of local solutions.

- **Environmental Well-Being is enhanced.** ☑ Yes ☐ No
  Human health and safety are protected.

- **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

:DB
Attachs. (3)
Appendix “B” to Report PED08063 (Page 1 of 1)

Committee of Adjustment
Hamilton City Centre
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COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION
APPLICATION FOR CONSENT LAND SEVERANCE
APPLICATION NO. HM/B-07:131
SUBMISSION NO. B-131/07

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 41 Inglewood Drive, in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Fothersgill Planning and Development Inc. (Ed Fothersgill) on behalf of the owner Antonio Gumiero, 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 parcel of land having a frontage of 14.63m (48'±) (9.0m offset to front), a depth of 42.67m (140'±), and a lot area of 805.3m² (0.19 acres) containing an existing garage for single family residential purposes, and to retain an irregular-shaped parcel of land having a frontage of 20.25m (66'±), and a lot area of 3935m² (0.97 acres) containing an existing single family dwelling for residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS DENIED for the following reasons:

1. The Committee, having regard to the evidence, is of the opinion that the creation of this lot is not in the interest of proper planning and development for the area, and in particular is not in keeping with the existing character of this historic neighbourhood and streetscape.

2. The proposal may not comply with the requirements of the Zoning By-law.

3. The proposal does not comply with Section 51(24) of The Planning Act.

DATED AT HAMILTON this 29th day of November, 2007.

M. Dudzić, Chair

C. Lewis

L. Tew

D. Smith

D. Drury

M. Switzer

V. Arakham

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS December 26th, 2007.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.