SUBJECT: Committee of Adjustment (Urban) Severance Application SC/B-06:20, for property known as 221 King Street East, Stoney Creek - Supported by the Planning and Economic Development Department (PED06203) (Ward 10)

RECOMMENDATION:

That Report PED06203 respecting Committee of Adjustment (Urban) Severance Application SC/B-06:20, 221 King Street East, Stoney Creek, as shown on Appendix ‘A’ to Report PED06203, denied by the Committee but supported by the Planning and Economic Development Department, be received for information.

A severance application to permit the conveyance of a vacant parcel of land measuring 13.5 metres x 28.5 metres for single detached residential purposes, and to retain two vacant parcels of land; one being irregular in shape and measuring 13.0 metres x 28.5 metres, and the other measuring 15.2 metres x 28.5 metres, both for single detached residential purposes was considered before the Committee of Adjustment (Urban) on March 15, 2006 (Appendix ‘B’ to Report PED06203). Comments to the Committee of Adjustment from staff supported the requested severance on the basis of appropriate intensification and consistency with the intent of the Official Plan.
The Committee's decision to deny the application (Appendix 'C' to Report PED06203) was appealed to the Ontario Municipal Board by the applicant. To date, an Ontario Municipal Board Hearing has not been scheduled.

**BACKGROUND:**

**Roles and Responsibilities of the Committee of Adjustment (PD02116(a))**

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.”

**Proposal**

Severance application SC/B-06:20 was submitted to permit the conveyance of a vacant parcel of land measuring 13.5 metres x 28.5 metres for single detached residential purposes, and to retain two vacant parcels of land; one being irregular in shape and measuring 13.0 metres x 28.5 metres, and the other measuring 15.2 metres x 28.5 metres, both for single detached residential purposes. The proposed lots are shown on Appendix ‘A’ and Appendix ‘B’.

**ANALYSIS/RATIONALE:**

The proposed lots will be located on the northwest corner of King Street East and Corman Avenue. Corman Avenue is characterized by larger lot frontages, while smaller lot frontages can be found along King Street East.

The predominant zoning along Corman Avenue is Single Residential “R2” which requires a minimum lot frontage of 15.0 metres for interior lots and 16.5 metres for corner lots. Along King Street East the zoning includes Single Residential “R2”, Neighbourhood Development “ND”, Small Scale Institutional “IS”, and Single Residential “R3” which permits a minimum lot frontage of 12.0 metres for interior lots and 13.5 metres for corner lots.

In staff’s opinion, the proposal represents an appropriate residential infill for the area. The 15.24 metre wide interior lot is consistent with the larger lots to the north. The 13.5 metre and 13.0 metre wide lots provide a gradation of lot frontages from the interior neighbourhood where larger frontages are provided to King Street East where smaller
frontages are provided. The proposed lots will still allow for adequate size dwellings while maintaining the required setbacks.

**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 applicant’s 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 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 denial, 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. Legal and planning staff costs are covered by the respective Departmental Work Programs/Budgets.

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

**Legal:** N/A

**POLICIES AFFECTING PROPOSAL:**

**Hamilton-Wentworth Official Plan**

The subject property is designated “Urban Area” and the proposal complies with the Hamilton-Wentworth Official Plan.
Stoney Creek Official Plan

The property is designated “Residential” on Schedule ‘A’ – General Land Use Plan and “Low Density Residential” on Schedule ‘A1’ – Western Development Area Secondary Plan in the Stoney Creek Official Plan.

The proposal conforms with the Official Plan as it provides for appropriate residential intensification in accordance with Policy A.1.2.9 which states:

“Council shall encourage the provision of a full range of housing types and prices throughout the municipality and where appropriate residential intensification will be encouraged.”

The proposal also conforms with section C.2.1 Land Division Policies of the Official Plan which states:

“In addition to the foregoing general provision, consent for severance within the City’s Urban Policy Area as identified on Schedule “A” shall:

a) be discouraged for any land which does not have full municipal services.
b) not expand the Urban Policy Area beyond that which is designated in this Plan, and the Regional Official Plan.
c) be discouraged where such severance would interfere with land assembly for the purpose of planned development.
d) be discouraged when it does not comply with the staging policies of Subsection F.2 of this Plan.
e) be in accordance with the Niagara Escarpment Plan and Subsection B.7.2.5 of this Plan. No new lots shall be created which include lands designated Escarpment Natural Area, as shown on Schedules “A” and “B” of this Plan.”

The proposal conforms with the Official Plan.

Neighbourhood Plan

The lands are identified as “Low Density Residential” on the Corman Neighbourhood Plan which was approved by Council on May 26, 1981, and last amended on December 27, 1989.

The proposal conforms to the approved Neighbourhood Plan.

Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned Single Residential “R2” Zone in Stoney Creek Zoning By-law No. 3692-92. This zone requires a minimum lot frontage of 15.0 metres and
minimum lot area of 460 square metres for interior lots, and a minimum lot frontage of 16.5 metres and a minimum lot area of 505 square metres for corner lots.

The lands to be retained (Lot 3 on Appendix ‘B’) will have a minimum lot frontage of 15.24 metres whereas 15.0 metres is required, and a minimum lot area of 434.25 square metres whereas 460 square metres is required. As a result, the applicant will need to seek the approval of a minor variance for the deficient lot area.

The lands to be conveyed (Lot 2 on Appendix ‘B’) will have a minimum lot frontage of 13.5 metres whereas 15.0 metres is required, and a minimum lot area of 385 square metres whereas 460 square metres is required. The applicant will need to seek the approval of a minor variance in order to recognize the deficient lot frontage and lot area.

The lands to be retained (Lot 1 on Appendix ‘B’) will have a minimum lot frontage of 13.0 metres whereas 16.5 metres is required, and a minimum lot area of 400 square metres whereas 505 square metres is required. As a result, the applicant will need to seek the approval of a minor variance for the deficient lot frontage and lot area.

**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
- **Human health and safety are protected.**
- **Environmental Well-Being is enhanced.** ☑ Yes ☐ No
- **Grading and drainage will be addressed through a Consent Agreement.**
- **Economic Well-Being is enhanced.** ☑ Yes ☐ No
- **Intensification minimizes land consumption and makes more efficient use of municipal services.**

**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

/df

Attachs. (3)
COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. SC/B-06:20
SUBMISSION NO. B-20/06

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 221 King Street East, formerly in the City of Stoney Creek, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owners Mario and Diane DiPietro and Frank Costentini, 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 measuring 13.5m x 28.494m for single family residential purposes, and to retain two vacant parcels of land; one being irregular in shape and measuring 13m x 28.494m, and the other measuring 15.24m x 28.494m, both for single family residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS DENIED for the following reasons:

1. The Committee, after viewing the property, is of the opinion that if three homes are constructed on the proposed lots, the character of the existing neighbourhood would not be maintained.

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

3. The proposal does not comply with the requirements of the Zoning By-law.

DATED AT HAMILTON this 12th day of April, 2006.

M. Dudzic, Chairman

C. Lewis

D. Serwatuk

D. DeLullo

D. Drury

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS April 19th, 2006.

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS May 9th, 2006.

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

CERTIFIED AS TRUE COPY

SECRETARY-TREASURER