Council Direction: At the Council Meeting on October 26, 2005, PED Report 05-022 was approved with the following direction to staff from the Committee:

“That the applications by G. Shuit for development of 114 Pleasant Avenue be referred back to staff, for consideration of the matters raised at the Public Meeting on October 24, 2005, including, but not limited to:

- density of the proposal and the surrounding area
- lot widths proposed on Turnbull
- drainage and sanitary sewers
- local greenspace including Sanctuary Park
- walkways

And that the staff report back to Committee members on November 15, 2005.

And that this time period will provide Committee members with the opportunity to visit or revisit the site.”

Information:

Discussions with Applicant:

In response to Council’s direction on October 26, 2005, staff requested the applicant to consider:

- Reducing the number of single detached dwelling lots proposed on Turnbull Road from 9 lots to 8 lots, in order to meet the minimum 15 metre lot frontage
requirement of the “R2” (Single Detached Residential) Zone, whereas a minimum 13 metres was recommended by staff in Report PED05144.

- Dedication of 5% of the net land area of the subject lands as parkland dedication rather than Cash-in-Lieu, as recommended by staff.

- Arrangements for the installation of a sidewalk on the west side of King’s Gate through a requirement for the developer to provide a letter of credit to be drawn upon, should the City determine that a sidewalk is necessary rather than relying on the City’s Infrastructure Extension Program for the installation of the sidewalk.

In response, the applicant has indicated that it cannot agree to these items.

Subsequent to the Public Meeting on October 24, 2005, the applicant’s planning consultant has advised that they intend to appeal the rezoning application to the Ontario Municipal Board, pursuant to Section 34(11) of the Planning Act, because Council did not make a decision within 120 days of the application being received, and to appeal the draft plan of subdivision application to the Board, pursuant to Section 51(34) of the Act, because a decision was not made by Council within 180 days of that application being received. The consultant indicates that there is no other alternative than for the applicant to appeal to the Board because a significant loss of units would result if parkland dedications were made, and due to the likelihood of a resident also appealing to the Board if a rezoning is approved.

Density & Lot Widths

As indicated above, the applicant opposes the parkland dedication and reduction in the number of lots on Turnbull Road, which would have the effect of reducing the density of the proposal by 3 to 5 units. Staff’s recommended density and lot widths are outlined in Report PED05144. Council has the ability to adopt changes to the proposed density and lot widths, if it so chooses.

Visitor Parking

Due to community concerns regarding the possibility of visitors of the proposed condominium development parking on adjacent public streets, staff recommended in Report PED05144 that off street parking be provided at a minimum of 4.0 parking spaces per dwelling unit, which may be arranged in tandem, and 2 spaces of which may be included in the garage. The applicant was agreeable to this since all these units are being proposed as double car garages with double driveways. This requirement is twice that currently required for the surrounding neighbourhood, being a minimum of 1 parking space per unit, plus an additional 6.0 metres of manoeuvrability space that can accommodate an additional vehicle.
Discussions with the Ward Councillor indicates a concern that the garages may be used for storage with only 2 parking spaces being made available on the driveways and that a separate visitor parking area should be required. In order to reflect this arrangement, Committee/Council would need to direct that the proposed By-law be amended to require minimum parking for each unit and for a visitor parking area. A requirement for a separate visitor parking area may further reduce the density of development.

Parkland

In Report PED05144, staff recommended that Cash-in-Lieu of 5% parkland dedication be imposed in accordance with the City’s Parkland Dedication By-law. This was supported by comments in response to the circulation of the applications from the Open Space Development and Park Planning Section, Public Works Department, and from the Culture & Recreation Section, Public Health & Community Services Department.

Staff has further investigated the parkland issue and notes:

- The City has no record of the original subdivider of this land dedicating parkland or paying Cash-in-Lieu of parkland in relation to this site. In this regard, the onus would be on the applicant to provide proof that the 5% parkland dedication was made. To date, no such documentation has been submitted. Therefore, the City is entitled, under Section 42 of the Planning Act, to require either 5% dedication of parkland or Cash-in-Lieu of dedication. Any parkland requested in excess of 5% would require the City to purchase the additional land through negotiations with the owner, likely at the rezoned value. Attached as Appendix “A” to this report, is a diagram showing the equivalent of 5% and 10% parkland superimposed over the applicant’s concept plan for the condominium block. Due to grading constraints at the east end of the condominium block, it may not be possible to redesign the proposed condominium layout to yield the current number of 21 units and provide 5% parkland as well.

- As part of Report PD03135(a), dated March 12, 2004, which is attached as Appendix “B”, the Planning and Development Department evaluated the need of purchasing the Pleasant Valley school site for park purposes after it and other school sites had been declared surplus by the Hamilton-Wentworth District School Board. The report notes that a large percentage of neighbourhoods in the City have current parkland deficiencies and that the City could not afford to purchase all the surplus school sites. The subject neighbourhood was found to have surplus parkland, taking into account Sanctuary Park as a neighbourhood park and 2 soccer fields used by the City. The site was, therefore, classified as medium priority for purchase. The report recommended that the Pleasant Valley school site not be purchased for parkland because it did not meet all of the priority criteria.
Drainage and Sanitary Sewers

The pleasant valley subdivision was built by Monarch Construction in the mid 1960’s.

The sewer design includes separate storm and sanitary sewers. The storm sewer system is a shallow sewer designed to pick up all above ground drainage via catch basins. The sanitary sewer system is a deep sewer system with private 6” diameter laterals, each lateral often serving two dwellings.

Typically, in areas with shallow storm sewer systems, all drainage from the houses is directed overland to the roads and catch basins. In this area, building drains were connected by gravity to the sanitary sewer lateral and, in some cases, rain water leaders were also connected. During periods of rainfall this must have resulted in sewer surcharge and backing up of the sanitary sewers. During the 80’s and early 90’s, the Town of Dundas and the Region of Hamilton-Wentworth implemented the following measures to alleviate flooding:

1. Rainwater leaders were disconnected and allowed to flow overland to the storm sewer.

2. A parallel 12” diameter sanitary sewer was installed along Pleasant Avenue from Edenbridge Court to King’s Gate.

3. A pumping station was constructed at Pleasant Avenue and Edenbridge Court.

4. An overflow sewer was constructed on Edenbridge Court.

During dry weather, sanitary sewers take all flows to the Dundas Sewage treatment plant. When the sanitary sewers are surcharged due to extreme wet weather flows, the overflow enters the pumping station at Edenbridge Court and is pumped into the storm sewer, which discharges at the end of Glen Court. Should the pump fail, overflows will discharge out the end of Edenbridge Court.

The proposed subdivision will be designed such that all storm drainage, including rain water leaders and building drains, will discharge into the storm sewer. That is, none of the storm component will enter the sanitary system.

Flows into the sanitary sewer are based on populations. The proposed development consists of 30 homes at an average population of 3.2 persons per home, which totals 96 persons, as compared to the school which held approximately 180 students.

Historical data from The Public Works Department of the City of Hamilton shows that in 2005 the pump at Edenbridge Court ran several times. The data does not differentiate between actual events and testing of the pumps. Public Works has identified a study in the 2006 work program to propose a solution or elimination of overflows into the creek.
In light of public input regarding flooding, flow monitors will be installed to compare theoretical flows to actual flows.

During the Planning and Development Committee meeting held in Dundas Town Hall on October 18, 2005, several homeowners reported flooding occurrences. Additional flooding occurrences were also reported to the Councillor’s office, subsequent to the meeting.

Staff has evaluated these flooding incidents in order to assess potential cause and resolution and recommends further investigation. In some cases, flooding occurred at the high end of the system which typically is not related to capacity of the main sewer; in other cases, flooding appears to be related to surface drainage.

Flooding was also reported in homes fronting a stretch of sewer where minor flow increases are being proposed. It would, therefore, be appropriate to add the following condition:

“That the owner agrees that the final plan of subdivision shall not be registered until an adequate sanitary sewer outlet has been provided. In addition, the owner shall be responsible for all costs of upgrading existing sewers to increase capacity required for servicing the proposed draft plan.”

Walkways

Staff does not support imposing a walkway through the site due to maintenance and liability issues, and safety issues due to the grades. The site was zoned for school use and was not originally planned as a pedestrian link between Pleasant Avenue and Turnbull Road, and no sidewalk was originally planned along King’s Gate between Pleasant Avenue and Turnbull Road. Should the community wish a sidewalk, they could petition for one on the west side of King’s Gate under the City’s Infrastructure Extension Program. Report TOE02005/FCS02026 outlines the program and is attached as Appendix “C”.

_______________________
Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

PM/RW/JM
Attachs. (3)
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – Phase 2 (PD03135(a))

RECOMMENDATION:

(a) That staff of the Planning and Development Department, Development and Real Estate Division be authorized and directed to commission:

(i) one Building Condition Assessment Study;
(ii) one Environmental Audit; and,
(iii) one appraisal to establish market value

for each property occupied by Fairfield Elementary School (Homeside Neighbourhood) and Tweedsmuir Elementary School (Lansale Neighbourhood), identified as priority acquisitions and shown on Appendix “A” to Report PD03135(a).

(b) That staff of the Planning and Development Department, Development and Real Estate Division be authorized and directed to initiate negotiations with the HWDSB for the acquisition of Tweedsmuir and Fairfield Elementary Schools to alleviate parkland shortages in these respective neighbourhoods.
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a)) (Wards 2, 3, 4 and 13) - Page 2 of 16

(c) In the event, the City is successful in acquiring the Tweedsmuir and Fairfield school sites that the Director of Fleet and Facilities, be directed and authorized to make the necessary application for demolition.

(d) That City staff be authorized to discuss with the School Board matters related to in the conditions of sale and redevelopment of the Stinson School site with the aim of preserving this facility, in light of the existence of the municipal heritage easement on the building.

(e) That City Council request the HWDSB to extend their ninety-day request for interest until July 2, 2004, to allow the City time to obtain appraisals and condition reports for the two school sites identified in sub-section (d) above.

(f) That City Council inform the HWDSB that the City is not interested in acquisition of the Queen Victoria, Dundas District, Pleasant Valley and Central Park School sites.

Lee Ann Coveyduck
General Manager
Planning and Development Department

EXECUTIVE SUMMARY:

The HWDSB has developed a revitalization program aimed at renewing and ultimately expanding its school infrastructure. The renewal includes closing thirty-nine (39) schools and building nine (9) new ones. In Phase 1, completed last year, the City reviewed seventeen (17) schools on the closure list to determine if the sites were needed for parks purposes. City Council agreed to the potential purchase of two (2) sites – Peace Memorial Elementary School (Ward 6) and Grange School (Ward 12).

The School Board is moving forward with Phase 2 of their revitalization strategy. This phase involves the closure of ten (10) schools and the disposal of potentially six (6). They include:

Ward 2
- Tweedsmuir
- Queen Victoria

Ward 4
- Fairfield

Ward 13
- Dundas District
- Pleasant valley
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a))
(Wards 2, 3, 4 and 13) - Page 3 of 16

Central Park

Appendices “A” and “B” details the planning information for the sites, as well as the parkland needs for the neighbourhood.

In December 2003, the Board circulated the list three (3) surplus school properties to the City of Hamilton. However, there are several more school sites that the Board has indicated it intends to be declared surplus within the next few years. Staff has reviewed all current and up-coming surplus school sites to determine the need for their acquisition for municipal parkland purposes.

Given the very limited resources within the City’s parkland fund, the municipality cannot purchase all the surplus school sites, even though deficiencies may exist. A series of criteria were established by staff to assess which of these schools should be considered of highest priority for purchase. This analysis concluded the City should purchase two (2) school sites for the following reasons:

- Tweedsmuir Elementary (50 Victoria Street N.) – the site is adjacent to J.C. Beemer Park and its purchase would not only address a neighbourhood deficiency, but also create more useable space within the existing park; and,

- Fairfield Elementary School (1501 Barton Street E.) – The neighbourhood has a significant parkland deficiency. Purchase of this site will improve the distribution of parkland within the neighbourhood.

In addition, staff assessed if any of the schools that are to be demolished have historic or architectural significance.

BACKGROUND:

1.0 Introduction

The purpose of this report is to respond to the second phase of the Hamilton-Wentworth District School Board’s (HWDSB) revitalization plan.

On a City-wide basis, the HWDSB now has considerably more student capacity than there is student enrolment. The excess capacity, and the student accommodation problems it generates is aggravated by the fact there are too many schools in the system. The Board is forced to bus students from new development areas to the nearest school, leading to potential overcrowding, while more distant schools remain underutilized. Some schools are severely under capacity (60%) while others are operating at levels well over capacity (120%).
This imbalance in school capacity restricts the HWDSB’s eligibility to pay for the construction all new schools. The HWDSB is not eligible to receive New Pupil Place Grants from the Ministry of Education nor collect education development charges until its surplus capacity is resolved.

2.0 HWDSB School Revitalization Strategy

The HWDSB approved a School Revitalization Strategy in December 2002. The strategy includes two (2) integrated components: school catchment area redefinition and pupil accommodation (school closures and new school development). The objective of the strategy is to rebuild and revitalize the educational infrastructure of the Hamilton-Wentworth public school system.

Closure of existing schools is a difficult and controversial process, but it will help eliminate excess capacity and allow the HWDSB to become eligible for New Pupil Place Grants from the Ministry of Education and collect education development charges that are essential to finance construction of new schools. Catchment area redefinition will, amongst other things, address demographic changes within neighbourhoods and maximize the use of schools across the entire system. Further, the Board is moving towards a new JK-8 school accommodation model for its new schools, which replaces the previous elementary (JK-5) and middle school (6-8) system. This strategy will be implemented over a several years.

Phase 1: In the first phase, the Board approved the closure of seventeen (17) schools and the construction new schools. In response, City Council, at its meeting of June 17, 2003, approved a recommendation to purchase Peace Memorial Elementary School (Ward 6), and Grange Elementary School (Ward 12) for park purposes. Grange School will not close until the new Kitty Murray Lane (Meadowlands) School is built in 2005.

Phase 2 deals with 3 geographic areas:

- City East (lower city – centre line of Sherman Avenue east to the Red Hill Creek)
- City West (lower city – centre line of Sherman Avenue west to former Dundas boundary)
- Dundas

The City East and West accommodation strategies were approved by the Board on September 23, 2003, and a modified Dundas Accommodation Strategy was approved on January 26, 2004.
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a)) (Wards 2, 3, 4 and 13) - Page 5 of 16

- City East¹:

<table>
<thead>
<tr>
<th>Neighbourhood</th>
<th>School Name</th>
<th>Address</th>
<th>Area (ha.)</th>
<th>Strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ward 3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stipely</td>
<td>Prince of Wales</td>
<td>40 Lottridge Street</td>
<td>1.16</td>
<td>Closure June 2006. New school to be built on Prince of Wales site to open September 2008.</td>
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<tr>
<td>Ward 4</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hillcrest (6-8)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Homeside</td>
<td>Fairfield</td>
<td>1501 Barton St. E.</td>
<td>0.87</td>
<td>Closure June 2004.</td>
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</tbody>
</table>

The Fairfield site is to be sold following closure.

¹ For the purposes of this report, the proposed school changes that have not been part of the previous Report PD03135 are reviewed. The closure of Lloyd George was dealt with in Report PD03135, approved by City Council on June 17, 2003.
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a)) (Wards 2, 3, 4 and 13) - Page 6 of 16

- City West:

<table>
<thead>
<tr>
<th>Neighbourhood</th>
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<th>Address</th>
<th>Area (ha.)</th>
<th>Strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ward 2</td>
<td>Beasley</td>
<td>Dr. Davey (JK-5)</td>
<td>0.76</td>
<td>Closure June 2004. New school to be built on Dr. Davey site to open September 2006.</td>
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<td></td>
<td>Queen Victoria</td>
<td>201 Walnut Street S.</td>
<td>0.7</td>
<td>Closure June 2006.</td>
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<tr>
<td></td>
<td>Stinson</td>
<td>Stinson Street</td>
<td>0.6</td>
<td>Closure June 2006. New school (JK-8) to be built on Stinson Street site To open 2008/2009.</td>
</tr>
<tr>
<td></td>
<td>Tweedsmuir</td>
<td>50 Victoria Street N.</td>
<td>0.37</td>
<td>Closure June 2008.</td>
</tr>
</tbody>
</table>

Following closure, the Queen Victoria and Tweedsmuir School sites are to be sold.

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2 For the purposes of this report, the proposed school changes that have not been part of the previous Report PD03135 are reviewed. The closure of Sanford, Gibson, and Robert land were dealt with in Report PD03135, approved by City Council on June 17, 2003.
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a)) (Wards 2, 3, 4 and 13) - Page 7 of 16

Dundas:

<table>
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<th>Neighbourhood</th>
<th>School Name</th>
<th>Address</th>
<th>Area (ha.)</th>
<th>Strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pleasant Valley West</td>
<td>Pleasant Valley</td>
<td>46 Turnbull</td>
<td>1.5</td>
<td>Closure June 2004.</td>
</tr>
<tr>
<td>Colborne</td>
<td>Dundas District</td>
<td>357 King Street W.</td>
<td>1.0</td>
<td>Closure June 2006.</td>
</tr>
</tbody>
</table>

3.0 Review of Parkland Deficiency

The City’s Planning and Development Department, Long Range Planning and Design Division, with the assistance of the Real Estate Section, Public Works Department, Open Space Development and Parks Maintenance Sections and Public Health and Community Services Department - Culture and Recreation Division reviewed the need for parkland in the neighbourhoods or communities serviced by these six (6) school sites, which are to be sold by the HWDSB.

A large percentage of neighbourhoods in the City have current parkland deficiencies. Even though deficiencies may exist, the City cannot afford to purchase all the surplus school sites. Priorities for the purchase are based on the following considerations:

- The existence and distribution of parks within the neighbourhood.
- The location of the school site.
- The proximity of park sites in adjacent neighbourhoods.
- A current parkland deficit greater than one (1) hectare.

An evaluation of each of the six (6) school sites is contained in Appendices “B” and “C”, as attached to Report PD03135(a). The following have been identified as the highest priorities:
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a))
(Wards 2, 3, 4 and 13) - Page 8 of 16

As noted in Appendix ‘B’, the other four (4) school sites do not meet all of the criteria listed above and, as such, are not recommended for acquisition.

4.0 Review of Heritage Matters

Stinson School is designated under Part IV of Ontario Heritage Act (89-219). The majority of its interior and exterior elements are identified in reasons for the designation.

Stinson is subject to a Heritage Conservation Easement under the Ontario Heritage Act, Section 37. Heritage conservation easements are generally accepted as the most important preservation tool under the Ontario Heritage Act, as they specifically seek to prevent demolition. This easement was negotiated as a condition of a previous Ministry of Culture grant ($147,200) to Hamilton Board of Education. The easement is intended to protect investment of public funds in the renewal and preservation of the existing buildings heritage. It restricts building demolition and controls alterations to the façade. The grant funding received by the HWDSB stipulated the continued use of facilities until 2010. The City is the easement holder and serves as the primary custodian or steward for these significant attributes of the property.

Stinson School comprises two (2) substantial building masses. The front building was constructed 1894-5 with a rear addition built in 1915. It is considered a landmark because it occupies a full block. It is one of three remaining 19th century schools in the City, and the only one used fully for educational purposes.

Tweedsmuir, Hillcrest, Prince of Wales and Fairfield Schools are listed on the City of Hamilton’s Inventory of Buildings of Architectural and/or Historical Interest list. In staff’s opinion, they may be worthy of designation under the Ontario Heritage Act, but their demolition is not currently restricted. Should the buildings be demolished a full recording of the original building with measured drawings, photogrammetry is considered desirable.

The HWDSB requested that the City inform them if it is interested in purchasing any of these surplus properties. In order to determine the City’s interest in these properties, the Real Estate Section circulated the list to all City Departments and Councillors to comment on which properties were required to carry on the core business activities of the City.
ANALYSIS OF ALTERNATIVES:

If the recommended sites are not purchased by the City, and are redeveloped by private interests, the only parkland benefit to ameliorate existing deficits in these neighbourhoods would come from development approval requirements. These would be minimal. As per the City’s Parkland Dedication By-law No. 03-199, as a condition of development or redevelopment or the subdivision of land, the City could either require dedication of 5% of the lands or receive 5% cash in lieu of parkland dedication. Neither of these options would address the parkland shortages in these neighbourhoods. It should be noted the opportunity to purchase suitable property to significantly increase parkland in an established area of the City is extremely rare. In the past, when parkland is required in older sections of the city, the Real Estate Section has been directed to purchase a series of smaller single properties as they come onto the market. This process is long, costly and seldom results in the assembly of sufficient land for establishment of a park in the required time frame.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

The current balance, as of December 31, 2003, of the Parkland Acquisition Fund for Wards 1 to 8 (original City of Hamilton) is $2,353,929. The current market value of each of the two (2) school sites to be acquired will be determined by an appraisal. In the interim, their current value assessment is offered as rough estimates of value. The current value assessment of Fairfield (land and building) is $1,122,000, and Tweedsmuir Elementary School (land and building) is $757,000. Market value is expected to be significantly lower than the assessed values.

Once the City acquires these sites, they would have to be developed into parkland suitable for the residents and users of the area. Those funds would come from the Open Space Development budget, which is traditionally funded from the park land dedication accounts or the development charges reserves, if they apply.

The exact costs associated with the purchase of these sites will be known once the appraisals, condition assessment and environmental audits are complete. A report will be prepared for further consideration by City Council to address the issue of funding, prior to a final acquisition decision.

POLICIES AFFECTING PROPOSAL:

Both the Planning and Development, Long Range Planning and Design, and the Public Works Department, Operations and Maintenance Divisions reviewed the Summary of Parkland Deficiency, which concludes that the neighbourhoods around Tweedsmuir and Fairfield Schools are deficient in parkland.
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a)) (Wards 2, 3, 4 and 13) - Page 10 of 16

CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

The Real Estate Section circulated the HWDSB’s list of surplus schools to all City Departments and Councillors. In addition to the Long Range Planning and Design Division, the Public Health and Community Services Department and the Operations and Maintenance Division of the Public Works Department, indicated that two (2) sites should be pursued to correct certain parkland deficiencies within the City. The Corporate Services Department provided information on the current balance of the Parkland Acquisition Fund for Wards 1-8 (original City of Hamilton).

CITY STRATEGIC COMMITMENT:

Purchasing these sites will allow for the development of parkland in under serviced areas of the city. In supporting this direction, the City will be directly accomplishing a number of goals of Vision 2020. Specifically:

- to preserve our natural and historical heritage;
- to promote Hamilton’s environment as a desirable place to live and work; and,
- to develop our physical environments to enable the participation of all.

CONCLUSION:

Based on the foregoing, the following recommendations are:

(a) That staff of the Planning and Development Department, Development and Real Estate Division be authorized and directed to commission:

   (i) one Building Condition Assessment Study;
   (ii) one Environmental Audit; and,
   (iii) one appraisal to establish market value

   for each property occupied by Fairfield Elementary School (Homeside Neighbourhood) and Tweedsmuir Elementary School (Lansale Neighbourhood), identified as priority acquisitions and shown on Appendix "A" to Report PD03135(a).
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a))
(Wards 2, 3, 4 and 13) - Page 11 of 16

(b) That staff of the Planning and Development Department, Development and Real Estate Division be authorized and directed to initiate negotiations with the HWDSB for the acquisition of Tweedsmuir and Fairfield Elementary Schools to alleviate parkland shortages in these respective neighbourhoods.

(c) In the event, the City is successful in acquiring the Tweedsmuir and Fairfield school sites that the Director of Fleet and Facilities, be directed and authorized to make the necessary application for demolition.

(d) That City staff be authorized to discuss with the School Board matters related to in the conditions of sale and redevelopment of the Stinson School site with the aim of preserving this facility, in light of the existence of the municipal heritage easement on the building.

(e) That City Council request the HWDSB to extend their ninety-day request for interest until July 2, 2004, to allow the City time to obtain appraisals and condition reports for the two school sites identified in sub-section (d) above.

(f) That City Council inform the HWDSB that the City is not interested in acquisition of the Queen Victoria, Dundas District, Pleasant Valley and Central Park School sites.

bf/jhe
Attach.
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a))
(Wards 2, 3, 4 and 13) - Page 12 of 16

File Name/Number: 50 Victoria Avenue North
Date: February 19, 2004
Scale: N.T.S
Technician: C.L

Subject Property
50 Victoria Avenue North, Hamilton (Tweedsmuir School)
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a)) (Wards 2, 3, 4 and 13) - Page 13 of 16
SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a))
(Wards 2, 3, 4 and 13) - Page 14 of 16

SCHOOL CLOSURES – PROPERTY INFORMATION

Former City of Hamilton
All of the above noted school sites are designated Major Institutional in the Official Plan, which permits residential uses provided they are compatible with the surrounding area, and are in keeping with the Residential policies set out in Sub-sections A.2.1 and C.7 of the Official Plan. Potential for redevelopment for most of the sites is limited to residential and institutional uses. For single and two family residential developments, a Plan of Subdivision application would be required. Use of the building or site for anything other than residential or institutional would require an Official Plan Amendment and rezoning.

Fairfield School is located in the Homeside Neighbourhood. The property is zoned “C” (Urban Protected Residential) District. There is an open space component associated with this property along with a play structure. There is one park (1 ha), which is part of the hydro corridor in the southern part of the neighbourhood. According to the summary of park deficiencies in Hamilton, there is a deficiency of 5.35 ha. Based on the limited park areas within the neighbourhood, and this site is almost a hectare in size, this site is considered as a high priority for purchase.

The school is listed on the City of Hamilton Inventory of Buildings of Architectural and/or Historical Interest. In staff’s opinion, it may be worthy of designation under the Ontario Heritage Act. Should the building be demolished, a full recording of the original building with measured drawings and photogrammetry, prior to demolition is desirable.

Tweedsmuir School is located in the Lansdale neighbourhood. The lands are zoned “DE-3” (Multiple dwellings, etc.) District. The school site is adjacent to J.C. Beemer Park. The Lansdale neighbourhood has a deficit of 6.71 ha in size. There is park in the northern part of the neighbourhood. This land is considered as a high priority purchase because it is adjacent to an existing park and the additional school board land would create a park 1 ha in size, which is a standard size for a neighbourhood park. Furthermore, it would reduce the deficiency in this area.

The School is listed on the City of Hamilton Inventory of Buildings of Architectural and/or Historical Interest. In staff’s opinion, it may be worthy of designation under Ontario Heritage Act. Should the building be demolished a full recording of the original building with measured drawings, photogrammetry prior to demolition is desirable.

Queen Victoria School is located in the Corktown neighbourhood. The lands are zoned “D” (Urban Protected residential – One and Two Family dwellings District). There is a
parkland deficiency in this area of 1.76 ha. Notwithstanding the deficit, there are sufficient park sites within the Corktown neighbourhood as well as park in the Stinson neighbourhood. In addition, significant investment has been made in parkland in this area within the last 10 years. This land is considered as a low priority for purchase.

**Former Town of Dundas**

All of the above noted school sites are designated Major Institutional in the Official Plan. In addition to institutional uses, this designation permits residential uses provided they are compatible with the surrounding area. However, the lands are zoned Public and Private Service Zone (PPS), which restricts the lands for institutional purposes. Any other use would require a rezoning and possible Official Plan Amendment.

**Pleasant Valley School** is in the Pleasant Valley West neighbourhood. According to the Parkland deficiency this neighbourhood has surplus parkland. However, there is no neighbourhood park in the immediate area. Notwithstanding the deficiency, this park would be considered as a medium priority for acquisition because it provides for a better distribution of park in the neighbourhood.

**Central park school** is in the Creighton East neighbourhood. There is a deficiency of 0.74 ha in this neighbourhood and there are no parks in the neighbourhood. Notwithstanding the above, this site is not appropriate for purchase because it is located behind several homes, creating limited access and safety concerns. This site is considered as a low priority.

**Dundas District High school** is located in the Colborne neighbourhood. Similar to the Central park site, this neighbourhood has a deficit of 0.66 ha and no parks within the neighbourhood. Notwithstanding the above, this school site would be considered as a medium priority for neighbourhood park purchase because it is located on the periphery of the neighbourhood and along a busy arterial road.
### SUBJECT: Hamilton-Wentworth District School Board School Closures – Surplus Sites to be Considered for Acquisition – (PD03135(a)) (Wards 2, 3, 4 and 13) - Page 16 of 16

<table>
<thead>
<tr>
<th>Ward</th>
<th>Site Name</th>
<th>Planning Unit</th>
<th>Address</th>
<th>Site Area (ha)</th>
<th>Play Structures</th>
<th>Other Facilities Park Deficiencies by Neighborhood</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Pleasant Valley (2220)</td>
<td>1, 2, 3, 4</td>
<td>14 Kemp Dr.</td>
<td>0.80</td>
<td>No existing parks but access and visibility is limited creating safety concerns.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Dundas District</td>
<td>2217</td>
<td>Central Park</td>
<td>2.10</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Fairfield</td>
<td>6209</td>
<td>1001 Barrie St.</td>
<td>0.97</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Lambsdale (8206)</td>
<td>2303</td>
<td>50 Victoria Ave. N.</td>
<td>0.37</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Queen Victoria</td>
<td>201 Water St.</td>
<td>0.70</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SUBJECT: Funding Methodology for Municipal Infrastructure Extensions - TOE02005/FCS02026 (City Wide)

RECOMMENDATION:

a) That the City of Hamilton adopt the procedures and policies outlined in Report TOE02005/FCS02026 associated with the funding mechanism for the construction of new water, sanitary sewer, storm sewer and curb and sidewalk municipal infrastructure for existing residences and businesses, namely that:

(i) Section 221 of the Municipal Act be utilized as a full cost recovery vehicle for the capital costs of extension projects including water main, sanitary sewers (excluding private drains), water services or storm sewers, or any combination thereof, that are not funded by land owners through the development process in accordance with policies as shown in Appendix "A".

(ii) Section 210(85) of the Municipal Act be utilized as a full cost recovery vehicle for the capital costs of private drains that are not funded by land owners through the development process; and

(iii) That an annual allocation be incorporated into the Capital Budget to fully fund the capitals costs of the construction of municipal curbs and sidewalks that are not funded by land owners through the development process.

(b) That staff be directed to develop an information package explaining the policy and procedures associated with public and municipally initiated infrastructure
SUBJECT: Funding Methodology for Municipal Infrastructure Extensions - (TOE02005/FCS02026) - (City Wide) - Page 2 of 22

projects that can be forwarded to any property owner that may be involved in a request for the extension of Municipal services.

c) That the current procedures of requiring abutting landowners’ to pay for project costs only as they connect to the system be grandfathered for the following Municipal Infrastructure Extension projects:

(i) Seabreeze - Glover to McNeilly and McNeilly - Seabreeze to South Service: Sanitary $804,000
(ii) Lochside - MacCollum to end: Sanitary $187,300
(iii) Stone Church - West 5th to U James: Sanitary $125,600 and Storm $244,000
(iv) Miles Road - 265m S. of Rymal to 314m south: Sanitary $35,000 and Storm $64,000
(v) West 5th - 40m north of Rymal to 130m S of Stone Church: Sanitary $1,157,000
(vi) Glancaster Road - Sanitary $700,000
(vii) Nebo Road - Sanitary $400,000

d) That the City of Hamilton adopt the priority rating system contained in report TOE02005/FCS02026 for the recommendation of sidewalk projects based on safety, needs and coordination with other infrastructure replacement/installation.

EXECUTIVE SUMMARY:

Section 221 of the Municipal Act, incorporating the principles of full cost recovery, in addition to grand-fathered Local Improvement Act works, has been employed for water and sanitary and storm sewer extension works since 1998 on a case by case basis.

In response to the fiscal limitations constraining the New City of Hamilton and public demands for increased fiscal accountability at all levels of government, the purpose of this report is to propose recommendations intended to implement a consistent and fair funding approach across the amalgamated City for water and sanitary and storm sewer extension works.

Under the Local Improvement Act (Table 2), the former Region of Hamilton-Wentworth recovered approximately 50.8% of total costs from abutting landowners. Abutting landowners were required to pay their assessed costs unless they were exempt as per the legislation.

Those water and sanitary and storm sewer extension projects which the former Region constructed under Section 221 of the Municipal Act (Table 3) have only recovered 38% (to date) of total project costs since abutting landowners are required to pay only upon connection to the system.
SUBJECT: Funding Methodology for Municipal Infrastructure Extensions -  
(TOE02005/FCS02026) - (City Wide) - Page 3 of 22

The Local Improvement Act will no longer be available as a funding mechanism with the passing of the new Municipal Act and therefore the recommendations contained in this report have been made in order to minimize the City’s financial exposure.

In order to limit the City’s financial exposure with regards to water and sanitary and storm sewer extension projects, staff are recommending (Appendix A):

i) For Owner initiated water and sanitary and storm sewer extension projects, abutting landowners will be required to pay their assessed amount at project.

ii) That for City initiated water and sanitary and storm sewer extension projects initiated for health, environmental and road right of way (ROW) construction purposes, abutting landowners must pay their assessed cost at project completion.

iii) That for City initiated water and sanitary and storm sewer extension projects required for critical watermain looping or projects which ensure security of supply, abutting landowners pay only as they connect to the service or system.

Implementation of the polices as outlined in this report will move the City of Hamilton towards greater cost recovery for storm sewer, sanitary sewer and water main projects. Savings cannot be accurately estimated due to the annual variances in the request process. Information for the years 1995 – 1997 where the Local Improvement Act was utilized exclusively; however, indicates that the municipal expenditures amounted to approximately $7.5 million or $2.5 million annually. The proposed policies would dramatically reduce this value by limiting the number of projects where abutting landowners are not required to pay unless they connect. The aforementioned recommendations are intended to implement a consistent and fair funding approach across the amalgamated City based on the principle of ‘user pay’. The City would treat all property owners, who benefit from new water and sewer infrastructure, in the same manner regardless of whether the servicing is constructed as part of a greenfield development or a service extension within existing neighbourhoods. The City’s liabilities would be limited to costs associated with City property and costs related to unconnected abutting landowners where future development is anticipated.

In regards to the installation of curbs and sidewalks, for a variety of reasons as presented below, it is recommended that the past practice related to the installation of sidewalks and curbs under the Local Improvement Act be abandoned and that these costs be allocated to the annual capital budget program. For the 2002 Capital budget, the proposed new sidewalk costs total $250,000, and for replacement of existing deteriorated sidewalks, the proposed submitted budget amount totals $250,000.

BACKGROUND:

The information/recommendations contained within this report have City wide implications and relate to programming throughout the municipality.

At the current time, as a result of the amalgamation, a variety of policies and practices exist regarding the funding of capital costs for the construction of certain municipal infrastructures, which are not funded through the development process, that are for the
benefit of existing development in specific areas. In particular, inequities exist in regards to the funding process related to the installation of sidewalks and curbs across the former Municipalities. Further, changes in the Municipal Act eliminate the Local Improvement Act as a funding mechanism for these and other types of municipal projects. This report is intended to present to Council a synopsis of current policies and make a comprehensive recommendation as to the new policy that can be implemented City-wide related to the funding of new, non-development related municipal services.

CURRENT POLICIES

A) Funding Mechanisms

A.1 Local Improvement Act

The above legislation has been used in the past to recover a portion of the costs associated with the installation of sanitary sewers, storm sewers and water mains across the former Region. Sidewalks, curbs, alleys and land drainage related works in the former City of Hamilton were also constructed under this legislation. Projects would be initiated by a variety of means, which included public petitions for the works and municipally initiated projects to address safety and/or health concerns. For projects initiated under the Local Improvement Act, while the costs eligible to be recovered averaged approximately 50 percent, abutting landowners were required to pay for their assessed costs. Therefore, the cost recovery rate was approximately 50 percent.

A.2 Municipal Act Section 221

The former Region utilized section 221 on a project by project basis, for several sanitary sewer, storm sewer and water main projects since 1998. In addition, the former Cities of Stoney Creek and Hamilton undertook several land drainage projects utilizing this legislation for cost recovery purposes.

Table 3 shows that to date, the recovery rate for Municipal Act projects carried out by the former Region has averaged approximately 38 percent, as abutting landowners were required to pay only as they connect to the services.

A.3 Capital Budget

In the vast majority of cases for municipalities outside the former City of Hamilton, the installation of storm sewers, sidewalks and curbs were funded through the Capital Budget process.

The funding mechanisms information has been summarized below:

**TABLE 1 – FUNDING MECHANISM – EXISTING DEVELOPMENT**

<table>
<thead>
<tr>
<th>Type of Project</th>
<th>FORMER MUNICIPALITY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Region</td>
</tr>
<tr>
<td>Sanitary Sewer</td>
<td>LIA &amp; 221</td>
</tr>
</tbody>
</table>
SUBJECT: Funding Methodology for Municipal Infrastructure Extensions - (TOE02005/FCS02026) - (City Wide) - Page 5 of 22

B) Official Plan Policies

Currently Regional Official Plan Policy 4.2.1 identifies where the installation of sanitary and storm sewers and water mains is permitted. In general terms, the only allowable location is within the urban boundary with the following exemptions:

1) If a health hazard exists that cannot be rectified by other means or,
2) Under Section 4.2.1.2, where the lands in question front onto the Urban/Rural boundary road, subject to other conditions as stated in the Official Plan.

The Official Plan attempts to minimize development pressures on the rural lands by restricting urban services to the urban areas, or the lands immediately adjacent to the Urban boundary, provided that servicing is available and that the servicing will not be used as justification for urban expansion.

In regards to pedestrian traffic, the Official Plan (4.3.4) clearly supports the construction of sidewalks and pedestrian links to encourage and promote walking in a safe and pedestrian friendly environment. This could be interpreted, as ensuring that a continuous network is available for residents recognizing that sidewalks serve all members of a neighbourhood and not just the abutting property owners.

C) Project Initiation

Under the current policies, projects can be initiated or requested by several methods.

- **Local Improvement Act-Resident Petition** - Petitions requesting and agreeing to pay for works that are signed by and therefore represent two-thirds (2/3) of the registered property owners and further represent at least fifty percent (50%) of the assessed land value are presented to Council for consideration.

- **Local Improvement Act-Municipal Initiatives** – Projects identified as being necessary by the Municipality can go forward and have costs recovered through the Local Improvement Act, if a majority of the affected property owners, representing at least 50% of the assessed value, do not petition against the project.

- **Capital Budget** – Municipal infrastructure installation subject to environmental and Council approvals and availability of sufficient municipal funds.
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- **Development Driven** – In many instances Capital projects, or the oversizing of infrastructure, are required in conjunction with development initiatives and as such are funded through the development charges or by the development community.

- **Municipal Act** - Projects that are identified by the municipality or requested by the property owners can be initiated by the municipality similar to the **Local Improvement Act** above, but without the formal objection process before the Court of Revision.

D) Problems with Existing Process

D.1 Cost Recovery

The **Local Improvement Act** has a number of administrative limitations that result in a large percentage of the actual cost not being recovered by the municipality. The chart below provides the historic record of former Regional projects identifying total project cost along with a breakdown of exemptions granted and the net recoverable cost. As can be seen for the year 1995 through 1997 only 50.8% of costs were recoverable.

**TABLE 2 - Local Improvement Ratings ($000’s)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Gross Cost</th>
<th>Non-Rateable</th>
<th>Exemptions</th>
<th>Reductions for Max. By-law Rate</th>
<th>Net Recoverable Cost</th>
<th>Percentage Recovery</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>4,087</td>
<td>(311)</td>
<td>(685)</td>
<td>(1,478)</td>
<td>1,613</td>
<td>39.5%</td>
</tr>
<tr>
<td>1996</td>
<td>7,647</td>
<td>(202)</td>
<td>(1,400)</td>
<td>(1,472)</td>
<td>4,573</td>
<td>59.8%</td>
</tr>
<tr>
<td>1997</td>
<td>3,475</td>
<td>(289)</td>
<td>(847)</td>
<td>(794)</td>
<td>1,545</td>
<td>44.5%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>15,209</td>
<td>(802)</td>
<td>(2,932)</td>
<td>(3,744)</td>
<td>7,731</td>
<td>50.8%</td>
</tr>
</tbody>
</table>

Non-Rateable – costs not assessable per the **Local Improvement Act**
Exemptions - per Regional Policies and the **Local Improvement Act**
Max. By-law Rate – maximum rate chargeable per Regional Council

The non-rateable items referred to as ineligible costs, identified under the **Local Improvement Act**, include hydrants, culverts, catch basins and work incurred at street intersections. The exemptions include mandated items under the **Local Improvement Act** along with former Regional policy exemptions such as corner and irregularly shaped lots and deferrals for churches and farmland. The final element of non-recoverable items, relates to the cost incurred above the maximum limit for local improvement rates as set annually by the former Regional Council.
The diagram illustrates the factors which prevent full cost recovery under the Local Improvement Act as they relate to Regional projects undertaken between 1995 - 1997. The costs not recovered from abutting property owners were absorbed by the former Region of Hamilton-Wentworth and funded primarily through water and sewer rates. A similar breakdown would be expected for sidewalk installation, where approximately 30% of the costs were not recoverable.

D.2 Changes to the Municipal Act

On December 12th, 2001, Bill 111 received Royal Assent creating a new Municipal Act that has been under discussion for many years. The new Act will retain the municipality’s ability to recover costs for sanitary and storm sewer and water main projects in a similar fashion as the old Act. There are no provisions for recovery of costs in association with sidewalk projects. In addition, as part of the passing of Bill 111, the Local Improvement Act will be repealed, eliminating it as a financial option for the City. It should be noted that references to the Municipal Act contained in this report refer to the current legislation, unless otherwise indicated. Once the new Act comes into effect, all references to individual sections of the current Act, would apply to the appropriate section of the new Municipal Act.

D.3 Connection Rates

As a result of the Councillor workshop that was convened on October 31st, 2001, regarding this report, additional information has been gathered related to the actual connection rates for various projects. These numbers indicate how many property owners have connected to a system
SUBJECT: Funding Methodology for Municipal Infrastructure Extensions - (TOE02005/FCS02026) - (City Wide) - Page 8 of 22

once it has been established. Given the current practice of not requiring property owners to pay until they connect to the system, this also gives an indication of the financial exposure the municipality has experienced through the carrying of the construction cost.

TABLE 3 - REGION OF HAMILTON-WENTWORTH MUNICIPAL ACT PROJECT CONNECTION RATES

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>CONSTRUCTION DATE</th>
<th>TOTAL COST TO BE RECOVERED ($)</th>
<th>TOTAL NUMBER OF PROPERTIES ELIGIBLE TO CONNECT</th>
<th>TOTAL NUMBER OF CONNECTIONS TO DATE</th>
<th>% OF CONNECTIONS TO DATE</th>
<th>APPROX. VALUE OF WORKS BEING RECOVERED BY MUNICIPALITY</th>
<th>% OF TOTAL RECOVERABLE COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Freelton I</td>
<td>1997</td>
<td>138,855</td>
<td>85</td>
<td>18</td>
<td>21</td>
<td>101,000</td>
<td>73</td>
</tr>
<tr>
<td>Freelton II</td>
<td>1997</td>
<td>75,811</td>
<td>28</td>
<td>9</td>
<td>32</td>
<td>43,000</td>
<td>57</td>
</tr>
<tr>
<td>Allison Survey</td>
<td>1997</td>
<td>1,799,770</td>
<td>127</td>
<td>77</td>
<td>60</td>
<td>427,000</td>
<td>24</td>
</tr>
<tr>
<td>Glover/Seabreeze</td>
<td>2001</td>
<td>295,437</td>
<td>21</td>
<td>4</td>
<td>20</td>
<td>256,000</td>
<td>86</td>
</tr>
<tr>
<td>Trillium</td>
<td>2001</td>
<td>182,963</td>
<td>19</td>
<td>7</td>
<td>37</td>
<td>112,000</td>
<td>61</td>
</tr>
<tr>
<td>2nd Road West</td>
<td>2001</td>
<td>78,188</td>
<td>12</td>
<td>4</td>
<td>33</td>
<td>50,000</td>
<td>64</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>2,571,024</td>
<td>292</td>
<td>119</td>
<td>41</td>
<td>988,000</td>
<td>38</td>
</tr>
</tbody>
</table>

These numbers indicate that the municipality has spent almost $2.6 million to service 292 properties, and that to date, we only have agreement from 41% of the owners to repay the costs which amounts to just less than $1.0 million, or 38% of the expenditure.

In order to minimize the financial burden to the City of Hamilton, the objective is to limit the number of Municipal Act projects which do not force reimbursement from all abutting landowners. The City cannot afford to carry significant amounts of unfunded infrastructure projects which had occurred under both the previous Local Improvement Act and Municipal Act projects whereby residents were assessed recoverable costs only as they connected to the infrastructure.

ANALYSIS OF ALTERNATIVES:

Given the pending repeal of the Local Improvement Act, along with the existing financial shortfalls associated with its use, and the municipality’s move towards full cost recovery for water and sewer services, other alternative processes were examined. Under current provincial legislation, limited numbers of choices are available including Section 221 of the Municipal Act and, Capital Budget allocations (rate or levy based).

Municipal Act (Section 221)

Under this legislation, a great deal of flexibility is available to the Municipality for the cost recovery of “Local Improvement” type projects. The Municipality can impose a cost recovery system that is fair and is not tied to arbitrary physical property dimensions. In addition the Municipality may implement a system that recovers costs associated with all of the elements of the construction works as opposed to only selected items as per the Local Improvement Act. The Municipality may also use its discretion, in establishing the desired proportion of the costs to be recovered. A survey of municipalities has
indicated that the Municipal Act Section 221 is quickly becoming the method of choice for these types of projects.

Capital Budget

Another funding mechanism available to Municipalities is the Capital Budget program. This would spread costs associated with the infrastructure installation across all ratepayers or taxpayers as applicable. Utilizing this method would lead to an increase in taxes or rates, in direct proportion to the size of the program each year. We would suggest this method be reserved for items that benefit the ratepayers in general, rather than measures that are enjoyed by individual and select property owners.

To modify and increase water and/or sewer rates to include installation of new services would require a significant change in rate structure philosophy and could be considered unfair to those existing ratepayers that have previously paid for the infrastructure component either through Local Improvement charges or as part of real estate costs in new developments.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

After reviewing current practices throughout the existing City and the approaches that have been undertaken by the former Municipalities, it is being recommended that:

1) Given the localized benefits, and the need for full cost recovery for the installation of local sanitary sewers, storm sewers and water mains and all related works, that the Municipal Act Section 221 be utilized as the cost recovery mechanism for same. The only exception would be for the construction of private drains associated with sanitary and storm sewer projects, whereby the authority for recovering the capital costs for such private drains is found in subsection 210(85) of the Municipal Act. This distinction is important as Section 221 of the Municipal Act deals with public sewage works, whereas private drains, as the name suggests and in accordance with Council policy, are the responsibility of property owners.

2) Given that the benefits extend beyond the limits of the abutting property owners and that in keeping with the Official Plan Policies for development of a safe and continuous pedestrian friendly environment, it is recommended that sidewalk installations be funded through the capital budget.

**DETAILS OF NEW RECOMMENDED PROCESS – Sanitary & Storm Sewer and Water Main Projects**

A) Process Under the Municipal Act

Section 221 of the Municipal Act provides the legislative authority for the recovery of costs related to the construction of water works and sanitary and storm sewage works. The method by which projects are initiated is not mandated, but rather left to the discretion of municipalities. Recognizing that both the City and property owners will want to communicate their desire for project initiation, and in an effort to foster customer service through public input,
the following process is recommended. It is also proposed that the same process be followed for the initiation of the construction of private drains associated with such sewer projects.

A.1 Owner Petition: It is recommended that property owners be given the opportunity to request the extension of City waterworks and sewage works by way of petition. The threshold established under the Local Improvement Act is set at a minimum of two thirds of affected property owners, representing at least 50% of the total assessment. This ‘sufficiency test’ has worked well in the past and it is recommended that it be adopted as the threshold for future projects constructed under the Municipal Act. The petition is accompanied by an estimated cost prepared by City staff.

A petition that meets the sufficiency test does not by itself guarantee that a project will be completed. The project is subject to Council, Cost Recovery By-law and all other necessary approvals.

A.2 City Initiatives: City initiated water and sanitary and storm sewer extension projects would split into 2 categories:

A.2.1 City-initiated projects whereby abutting landowners would be required to pay only as they connect. Due to the financial constraints on the City and the relatively low connection rates of Municipal Act projects to date, staff recommend that these City initiated projects, be limited only to critical water main looping projects or projects which insure security of supply, to be approved by Council.

A.2.2 City-initiated projects whereby all abutting landowners would have to pay their assessed costs upon completion of construction. This would include all projects not required in A.2.1 above such as storm sewers to mitigate flooding, sanitary sewers to mitigate health concerns and works solely coordinated with road resurfacing. These water and sanitary and storm sewer capital projects initiated by the City for health, environmental and asset management reasons would be undertaken under Section 221 of the Municipal Act with impacted area ratepayers subject to special assessment charges. Abutting landowners wishing to contest such an initiative, would have to submit a petition signed by a minimum of 50% of the impacted ratepayers representing at least 50% of the assessment in order to have the project halted. This is similar to a provision contained in the Local Improvement Act.

A.3 Detailed Design: Once the sufficiency test is met for an owner petition, City staff will undertake detailed design and estimation of related costs. It is recommended that if the costs are lower or higher than 20% of the original estimate, owners be notified of the revised costs. Significantly
higher costs may change the opinion of those wishing to proceed with a project.

With respect to a City initiative, notification of changes to the estimated cost serves as useful information to owners in their determination of whether they wish to connect to the service (A.2.1), or object to the installation (A.2.2).

A.4 Public Consultation: In the case of a project initiated by owner petition or City initiated (A.2.2), where owners are assessed the cost of the project upon its completion, it is recommended that an Information Meeting be held to discuss the financial and technical implications of the project. Such meetings are not normally held under the Local Improvement Program, but they provide an efficient forum in which to communicate with owners and ensure that consistent information is relayed. It is anticipated that a few hours spent at the public meetings would substantially reduce the time spent by staff answering the same questions, posed by various owners and give the property owners a greater understanding of the project and the process.

Following public consultation, it is recommended that a 30-day period be invoked during which time, affected property owners can withdraw their petition. In the case of a City initiative (A.2.2), abutting landowners wishing to contest such an initiative, would have to submit a petition signed by a minimum of 50% of the impacted ratepayers representing at least 50% of the assessment in order to have the extension project halted. At the end of this period, the project will progress to the next stage, if the original sufficiency test is not met.

A.5 Authorization to Proceed: Upon completion of the detailed design, notice to owners and the 30 day review period (if necessary), staff will prepare a report to Council requesting authorization and approval of the project and the draft by-law. The by-law sets out the methodology for assessing charges for a specific project.

A.6 Assessment of Costs: For owner-initiated projects and City initiated projects under (A.2.2), it is recommended that cost recovery be initiated immediately following the construction of the service, in accordance with the by-law. Other options do exist for the timing for the start of the cost recovery process (see following). It is further recommended that the cost recovery of projects constructed under a City initiatives outlined in (A.2.1) commence as owners connect to the service, as per the existing procedures.

A.7 Appeal Process: There is no appeal process contained in the current Section 221 of the Municipal Act.

B) Status of Existing Municipal Infrastructure Extension Projects
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- Seabreeze - Glover to McNeilly and McNeilly - Seabreeze to South Service: Sanitary $804,000
- Lochside - MacCollum to end: Sanitary $187,300
- Stone Church - West 5th to U James: Sanitary $125,600 and Storm $244,000
- Miles Road - 265m S. of Rymal to 314m south: Sanitary $35,000 and Storm $64,000
- West 5th - 40m north of Rymal to 130m S of Stone Church: Sanitary $1,157,000
- Glancaster Road - Sanitary $700,000
- Nebo Road - Sanitary $400,000

Staff are recommending that the abutting landowner payment methodology for projects identified above be subject to the former Regional procedures for similar projects. That is, that the abutting landowners pay for their assessed project costs as they connect to the service/system. This is advisable as many of the abutting landowners have been informed of their respective projects and that payment will not be required until connection occurs.

C) Recoverable Costs

The primary reason for staff's review of the current "local improvement" process in Hamilton, concerns the issue of project and system infrastructure costs and their eligibility for recovery from benefiting properties. As already noted, the Local Improvement Act specifically delineates project cost, which can be recovered from properties abutting/benefiting from infrastructure service extensions. These limitations are in turn extended by Hamilton's current Local Improvement By-law, which further limits the project recovery opportunities.

Under Section 221 of the Municipal Act however, Council is empowered to recover from all benefiting properties, virtually all direct and indirect capital costs related to non-development related construction of water and sanitary and storm sewer infrastructure. This provision not only addresses important fiscal concerns as already identified, but in addition, improves the fairness through a user pay concept that is already in place for new development joining the water and/or sanitary and storm sewer system(s). A "capped" lineal project charge would no longer be applicable, as a charge rate would be developed on a comprehensive project-specific cost basis.

Staff are recommending that in accordance with Section 221 of the Municipal Act, Hamilton recover the following capital costs from properties abutting or benefiting from a water and/or sanitary and storm sewer servicing project; including but not limited to:

- All costs related to the design and construction of the local mains;
- Laterals from the local mains to the property line (except that in the case of private drains, the capital costs will be recovered pursuant to Subsection 210(85) of the Municipal Act);
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- Costs associated with fire hydrants and the increased sizing of water mains to conform with municipal fire flow requirement;
- Costs for all intersection work incurred in the course of constructing the extended water and wastewater services; and
- Property acquisition costs.

- A future provision for plant infrastructure (including reservoirs and outstations) based on the water and sewage capacity component of Hamilton’s Development Charge as updated from time-to-time. The justification for this charge stems from the fact that every time an additional unit connects to the water/sewage system, future capacity for that service is diminished by that unit. This cost component is not determinable at this time but will be added to future projects (excluding the grandfathered projects listed in recommendation (c)) once the City Development charges By-law has been formulated. Council will be updated once this cost component has been determined.

It should be noted that in the past, certain circumstances have arisen whereby a project may have had extraordinary costs associated with it (i.e. local topography, extensive rights of way, health concerns). When these situations occurred, the City absorbed all or most of these special costs. Under the revised policies staff are continuing to recommend that these special circumstances be reviewed and assessed on project-specific basis. In response to these circumstances, the City may opt to incur some or all of the extraordinary costs thereby of providing relief to the impacted ratepayers.

Another example of where the City would become involved in financing these types of projects relates to oversizing to accommodate the future development. It is recommended that the existing practice of paying for oversizing of “Local” projects to accommodate future growth from development charges remain intact. In this way local ratepayers are not charged for infrastructure sizing that is beyond that needed to service their local area.

An attempt has been made under this new policy to increase the level of cost recovery for connecting existing premises to the City water and sanitary and storm sewer systems. This will put the connection of new premises (i.e. new growth) and existing premises on a more comparable basis since both represent a net new impact to Hamilton’s rate supported utility system.

D) Method of Recovery

D.1 Cost Apportionment Recommendations

Unlike the Local Improvement Act, subsection 221 (9) of the Municipal Act is very permissive with respect to the apportionment of project costs to abutting/benefiting properties.

Under the apportionment policies contained in Hamilton’s Local Improvement Policy, recoverable project costs have been apportioned on
the basis of assessable frontage. In a conventional survey setting (i.e. a series of regular shaped/configured lots), the application of the apportionment formulas works out satisfactorily with most properties assigned costs on an assessed frontage that is equated to their actual frontage.

In recent years, staff have identified an increasing number of lots characterized by an irregular configuration, as more and more of the areas being serviced as local improvement projects are taking on an increasingly rural character. As a consequence, a disproportionate number of premises are being identified and treated as exceptions to the more straightforward assessable frontage criteria. Despite some very involved and elaborate calculations, the public do not believe that the outcome is always fair and equitable. The calculations may be arithmetically correct but the essence of some of these adjustments and approximations are not always perceived as fair.

To address this problem, it is being recommended that apportionment of project costs be significantly simplified on the basis of overall benefit resulting from water and/or sanitary and storm sewer service availability. The following apportionment methodology is being recommended:

D.1.1 That for projects benefiting both residential and non-residential premises, total assessable costs be first apportioned between these two groups on a basis equal to the percentage split of the total actual frontage of the impacted assessable properties;

D.1.2 That project costs assessable to residential premises be apportioned on a per lot basis, with residential lots having multiple services assigned additional costs related to the lateral charge for each additional service connection;

D.1.3 For owner petition projects, all abutting properties are subject to the special assessment of charges whether or not they elect to connect to City water and/or wastewater services;

D.1.4 The costs associated with the Private Drains for each project shall be identified separately for each property in accordance with Subsection 210 (85) of the Municipal Act;

D.1.5 That project costs attributable to non-residential premises benefiting from the project will have costs apportioned between them on a basis of lot-specific area. This alternate apportionment formula for non-residential premises and lands will take into account the potentially more significant water demands that larger properties may ultimately place on the water and/or sanitary and storm sewer systems;

D.1.6 For the purposes of this policy, non-residential properties would include churches, nursing homes, schools, parks and businesses. Farms would be considered residential;
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D.1.7 Parks are assessable and chargeable, but acreage-based apportionment charges would be determined using the actual frontage and a depth measurement capped at a maximum of 30 metres;

D.1.8 In the case of exceptional circumstance, where lot configurations vary widely, the City reserves the right to alter the allocation of costs against a particular property in the interests of equity and fairness to the other benefiting properties (e.g. a lot that is clearly significantly larger than others or that is far removed from a grouping of other properties); and

D.1.9 Properties that cannot take advantage of the municipal service (re: utility lands or lands that are undevelopable for reasons such as being designated hazard lands) would be exempt from charges.

D.1.10 New lots that are created through the severance process after the cost recovery bylaw has been passed, would not be required to participate in the project recovery process. However, due to the fact that cost recovery is based on a per lot basis, in the issue of fairness, newly created lots would be subject to the total Development Charge in effect at the time of building permit application.

D.2 Cost Apportionment Options

In addition to the above noted, other options are available and are listed below for Council’s information, as per the request that was received at the Council Workshop, October 31st, 2001.

D.2.1 For residential properties, costs could be distributed based on lot area or frontage, resulting in a greater percentage of costs being apportioned against larger properties. This philosophy would assist in assigning cost to properties that have the potential for future severances.

D.2.2 In regards to apportioning costs for future residential development blocks, three options exist.

D.2.2.1 Treat the property as a single residential lot, thereby limiting the expense for a property owner that may or may not be interested in developing their lands.

D.2.2.2 Identify the potential for development based on existing planning documentation (i.e. Secondary Plans) and charge the owner based on the potential for future development as if the development existed.
D.2.2.3 Identify the potential for development based on existing planning documentation as per option D.2.2.2, but delay the cost recovery until such time as the property owner enters into a development agreement. At such time, the cost recovery shall be a condition of development. It should be noted that this process does expose the City to a certain degree of risk. If the identified lands never develop, the municipality would be responsible for the unrecoverable portion of the project costs (recommended).

D.3 Relief for Hardship Cases:
Certain households may experience undue hardship under the proposed level of recoveries. In recognition of legitimate hardship cases, staff recommend that the City defer all or part of the Section 221 Municipal Act charges until such time as the property is either sold or a change in ownership by other means occurs. The charges, if deferred, would be registered on title and would become a lien against the property. It would be incumbent upon individual homeowners to demonstrate to Council's satisfaction, the basis of their request (i.e. financial need).

D.4 Method of Collecting Charges
Under the provisions of Section 221 (25) of the Municipal Act, a number of alternative methods for the collection of the assessed charges are available. Staff are recommending that Hamilton retain its current collection method; that being the addition of special assessment charges to the municipal tax rolls. Charges would be spread over a fifteen year period with interest calculated based on Hamilton’s cost of borrowing capital at the time of the addition of these charges to the tax rolls. Outstanding balances could be paid off at any time without penalty.
To-date, this arrangement, which has been employed in accordance with the provisions of the Local Improvement Act, has worked most satisfactorily. Once again this approach will prevent undue collection complications and duplication of mailing lists and collection efforts. Further, there is less likelihood of these charges ever being overlooked in the case of a sale of a specially assessed property as they are an integral component of the tax bill.

DETAILS OF NEW RECOMMENDED PROCESS - SIDEWALK PROJECTS
A list of potential sidewalk projects has been compiled from a variety of sources, including old requests that were received through the Local Improvement Act process and from recent requests received from the public. Each of these projects has its own merits and in order to established a capital program, a set of guidelines has been developed in order to prioritize or rank the projects.
The key elements in establishing a prioritization system are safety and economics. Each project would be scored in accordance with the factors through a variety of weighed criteria as listed below:

Roadway Classification

Roadways ranked higher in the hierarchy (i.e. arterial and collectors) should be given priority over local roads given the higher traffic speeds and greater potential for injury.

Traffic Volumes – Both Pedestrian and Vehicular

Roadways with higher pedestrian and vehicular volumes must be given a higher priority due to the greater potential for incidence.

Continuity

Missing links in sidewalks should be completed in order to establish a continuous network and to give pedestrians a consistent level of safety.

Proximity to Public Facilities

Public facilities that naturally attract pedestrian activity, particularly children, should be given a higher rating.

Transit Routes

In order to encourage transit usage, priorities should be given to those sidewalk projects, which improve access to transit operations.

In addition to the above, the economics and feasibility of a project must be considered when developing the annual capital program. Sufficient funds must be in place to complete the projects and it must be physically feasible to complete the works (i.e. sufficient property must be available within the public right-of-way). In order that the policy addresses local issues and be sensitive to the requirements of the local communities, it is proposed that the capital budget be separated into two portions, the first representing 60% of the total budget, be utilized for projects on arterial and collectors and the balance of the budget (40%) being assigned to fund sidewalks on local roadways, addressing local issues and concerns.

The following scoring systems has been developed for the purpose of ranking sidewalk projects in order that they can be prioritized and presented in the annual Capital Budget.

For the proposed 2002 Transportation, Operations and Environment Capital Roads Budget, the submitted new sidewalk projects total $250,000, and for replacement, the submitted budget amount totals $250,000.

### Prioritization System for Sidewalk Installation

<table>
<thead>
<tr>
<th>CRITERIA</th>
<th>CLASSIFICATION</th>
<th>SCORE</th>
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<tbody>
<tr>
<td>Roadway Classification</td>
<td>i) Arterial</td>
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<table>
<thead>
<tr>
<th>Traffic Volumes (AADT*)</th>
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<tr>
<td>i) &gt;10,000</td>
<td>5</td>
<td></td>
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<tr>
<td>ii) 5,000 -10,000</td>
<td>4</td>
<td></td>
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<tr>
<td>iii) 2,000 -5,000</td>
<td>3</td>
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<td>iv) 1,000 – 2,000</td>
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<td>v) &lt; 1,000</td>
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<tr>
<th>Pedestrian Activity</th>
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<tr>
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<tr>
<td>Medium</td>
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<tr>
<td>Low</td>
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| Connectivity           | Closes Connection in System | 3 |

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<thead>
<tr>
<th>Proximity to Public Facilities (Parks, Schools, etc.)</th>
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<tbody>
<tr>
<td>i) &lt; 500 m</td>
<td>5</td>
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<tr>
<td>ii) 500m – 1,000m</td>
<td>3</td>
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<td>iii) &gt; 1,000m</td>
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<tr>
<th>Transit Routes Proximity/Connection</th>
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<tr>
<td>i) &lt; 500m</td>
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<tr>
<td>ii) 500m – 1,000m</td>
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<tr>
<td>iii) &gt; 1,000m</td>
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*AADT – Average Annual Daily Traffic

All potential sidewalk projects are to be screened based on the projected capital program to ensure that no conflicts exist with future works and to allow for the coordination of sidewalk installation with other capital works. Then utilizing the scoring system above and the 60/40 split of the capital funds, a list of projects shall be compiled for inclusion in the annual Capital Budget.

**POLICIES AFFECTING PROPOSAL:**

As noted above.
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CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

This report was jointly prepared by the Transportation, Operations & Environment Department and Finance and Corporate Services with input from Legal Services and the Planning and Development Department

CITY STRATEGIC COMMITMENT:

Provisions within this report are in keeping with Council's Draft Strategic Plan and in particular the following items:

3.d.i A sustainable water/sewer system
2.f.i Vision 2020, a sustainable City
5.b.iv Financial Sustainability for programs, services and projects
APPENDIX "A"

Policies For Cost Recovery Of Municipal Infrastructure Extensions Under Section 221 Of The Municipal Act

<table>
<thead>
<tr>
<th>Report Reference</th>
<th>Details of Recommended Process</th>
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(1) The sufficiency threshold shall be two thirds of affected property owners, representing at least fifty percent of the total assessed land value for Owner Petition projects; and

(2) There are 2 types of City Initiated projects regarding abutting landowner cost recovery methods:

   (a) For projects required for critical water main looping or projects which insure security of supply, abutting landowners pay only as they connect to the service or system.

   (b) For all other City Initiated projects, benefiting owners shall be required to commence the repayment process once the construction has been completed; and

(3) For Owner initiated projects, benefiting owners shall be required to commence the repayment process once the construction has been completed;

   (a) That for City initiated water and sanitary and storm sewer extension projects initiated for health, environmental and road right-of-way (ROW) construction, abutting landowners must pay their assessed cost at project completion.

   (b) That for City initiated water and sanitary and storm sewer extension projects required for critical watermain looping or projects which ensure security of supply, abutting landowners pay only as they connect to the service or system; and

(4) Oversizing of Municipal services to accommodate future development be funded through Development Charges; and

(5) The following cost apportionment methodology be employed in the cost recovery mechanism; and

   • That for projects benefiting both residential and non-residential premises, total assessable costs be first apportioned between these two groups on a
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basis equal to the percentage split of the total actual frontage of the impacted assessable properties;

Report Reference

- That project costs assessable to residential premises be apportioned on a per lot basis, with residential lots having multiple services assigned additional costs related to the lateral charge for each additional service connection;
- That project costs attributable to non-residential premises benefiting from the project will have costs apportioned between them on a basis of lot-specific area. This alternate apportionment formula for non-residential premises and lands will take into account the potentially more significant water demands that larger properties may ultimately place on the water and/or wastewater systems;
- The costs associated with the Private Drains for each project shall be identified separately for each property in accordance with Subsection 210(85) of the Municipal Act;
- For the purposes of this policy, non-residential properties would include churches, nursing homes, schools, parks and businesses. Farms would be considered residential;
- Parks are assessable and chargeable, but acreage-based apportionment charges would be determined using the actual frontage and a depth measurement capped at a maximum of 30 metres;
- In the case of exceptional circumstance, where lot configurations vary widely, the City reserves the right to alter the allocation of costs against a particular property in the interests of equity and fairness to the other benefiting properties (e.g. a lot that is clearly significantly larger than others or that is far removed from a grouping of their properties); and
- Properties that cannot take advantage of the municipal service (re: utility lands or lands that are undevelopable for reasons such as being...
designated hazard lands) would be exempt from process and charges.

- New lots that are created through the severance process after the cost recovery bylaw has been passed, would not be required to participate in the project recovery process and therefore would be exempt from this process and charges.

**Report Reference**

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<th>Details of Recommended Process</th>
<th>(D.2.2.3)</th>
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<td>(D.3)</td>
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<tr>
<td>Details of New Recommended Process</td>
<td>(sidewalk projects)</td>
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(6) For projects that include blocks of land that have development potential, that the cost apportionment proceed as if the development is in place, (based on existing planning documentation) however that the cost recovery for said block be initiated only as a condition of development or subdivision agreement; and

(7) For hardship cases the cost recovery charges be held in abeyance until such time as the property is sold or changes ownership.

(8) For capital sidewalk construction projects, the available capital funds be divided 60% and 40% for projects on arterial/collector and local roads respectively.

(9) That the City of Hamilton adopt the priority rating system contained in report TOE02005/FCS02026 for the recommendation of sidewalk projects based on safety, needs and coordination with other infrastructure replacement/installation.