SUBJECT: Outstanding Business Item K: Review of Timing of Decisions for Applications Considered at Public Meetings (PED08029) (City Wide)

RECOMMENDATION:

(a) That Council amend the Public Participation and Mediation in the Planning Approval Process (PED03105) by adding the following new policies:

(i) That a copy of all correspondence received in response to the preliminary circulation letter be forwarded to the Ward Councillor immediately upon receipt of such correspondence.

(ii) That a Public Information Meeting be held prior to the scheduling of the formal Public Meeting where, in the opinion of the City’s Manager of Development Planning, in consultation with the Ward Councillor, it is seen to be beneficial to address public issues raised in response to the preliminary circulation letter.

(b) That Item ‘K’ be removed from the list of Outstanding Business.

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

The purpose of this report is to provide Committee with a ‘Best Practices’ review on the timing of Public Meetings in relation to the decision-making process respecting development applications.

A comparative analysis of the City of Hamilton’s Development Application Review process with eleven (11) municipalities from across Southern Ontario was undertaken with the aim of identifying potential operational changes to further enhance public participation, communication and transparency and to improve decision-making by Committee/Council.

The Planning and Economic Development Department has included recommendations for operational changes by adding policies to Council’s 2003 Public Participation Process. We are also committed to moving forward with the implementation of digital submissions and web postings in order to improve accessibility to information on development applications to the public. The Department will also be bringing forward initiatives to implement new planning tools given to municipalities under Bill 51 in early 2008 respecting Official Plan policies for:

- ‘mandatory pre-consultation’ for Official Plan Amendment applications, Major Zoning By-law Amendment applications, and Plans of Subdivision; and,

- information requirements for ‘complete applications’,

These new process changes, in conjunction with the addition of new recommended policies to Council’s existing ‘Public Participation Policy’, will provide the opportunity for a more informed public decision-making process while meeting legislative requirements under the Planning Act.

With respect to Outstanding Business Item N (Public Meeting Respecting Obtaining Different Ways of Public Consultation), the Planning and Economic Development Department suggests that Committee proceeds with this item and uses this report as background information for public comments at such a meeting.

BACKGROUND:

Committee Direction

At its meeting of April 17, 2007, the Economic Development and Planning Committee directed staff to consult with other municipalities respecting their practice and consider best practices, and report back to Committee on potential alternative processes related to the timing of decisions.
Existing Public Participation Policy

In order to initiate improved communication and involvement by the public respecting the processing of Official Plan Amendments, Re-Zonings and new Plans of Subdivision, Council adopted a new ‘Public Participation Policy’ on May 29, 2003, as outlined in Recommendation (a) to Report PD03105, Public Participation and Mediation in the Planning Approval Process (attached as Appendix ‘A’).

The 2003 policy introduced major system changes to the planning approval process by providing more opportunity for enhanced public participation, and identification, collaboration and resolution of issues, or at least narrowing the issues, prior to the Department preparing its staff report for Committee and Council. Effectively, the process has become more ‘front-ended’ and provides Committee/Council with a potential for more community based decision-making, rather than decisions by the Ontario Municipal Board.

The key process change is that when Planning staff receives a complete application, a ‘preliminary circulation letter’ is mailed to all property owners within 120m of the subject property and to the respective Ward Councillor. In this regard, the ‘preliminary circulation letter’ is:

- To be written in “plain language” to enable the public to more easily understand the purpose and effect of the proposed development;

- To request the submission of comments to the Department advising of any concerns or support for the application(s) within twenty-one (21) days from the date of mailing; and,

- To advise respondents that they will be provided with a copy of the staff report within one (1) week of the Public Meeting. (Recommendations (a)(i), (ii) and (v) – Appendix ‘A’).

The policy also sets out circumstances where the City’s Manager of Development Planning may waive or exempt an application from having to undertake preliminary circulation (Recommendation (a)(iv) – Appendix ‘A’), and includes an alternative process where the proponent holds a ‘community information meeting’ prior to the submission of the application.

This new process has enabled Planning staff to identify and address public concerns in advance of the Public Meeting, and most importantly, in advance of preparing our staff report and recommendations to Committee regarding the application. A copy of all correspondence received in response to the preliminary circulation letter is attached to the staff report. All issues raised by the public, staff analysis of the issues, and identification of any outstanding issues are all addressed in the staff report so as to assist Committee in its consideration of the application.
Interestingly, recent changes to the Planning Act under Bill 51 now require notice of a complete application to be sent to the proponent and property owners within 120 metres of the subject property. This is consistent with the City’s existing process commenced in 2003.

**Bill 51**

On October 19, 2006, Bill 51 was given Royal Assent and amended the Planning Act. Significant changes were made to the Act including new provisions for Complete Applications, Appeal Rights, Increased Public Consultation, and Urban Design.

**Complete Application**

Upon receipt of an application for an official plan amendment, zoning by-law amendment or plan of subdivision the City must, within 30 days of the application fee being paid, advise the applicant if their application has been deemed complete. A complete application is defined as one that includes any information required to be submitted, as set out in the City’s Official Plan. If the absence of these Official Plan policies, complete submission requirements are minimal, typically a completed application form and application fee.

Within 15 days of deeming an application complete, the City must advise the public of the receipt of the complete application. This requirement is consistent with the City’s established Public Participation Policy respecting ‘preliminary circulation letters’.

**Public Open Houses**

In September 2006, Planning staff prepared a Report (PED06421) on the proposed reforms to the Planning Act and the Ontario Municipal Board under the Draft Bill 51. The report also provided comments on potential impacts to the City. At this time, the Draft Bill was proposing changes to the public consultation process by requiring Council to hold at least one ‘Open House’ in addition to, and prior to, the statutory Public Meeting.

These Open Houses were proposed to be held at least 7 days before the statutory Public Meeting. The purpose of these meetings was to give the public an opportunity to review information and ask questions early in the planning process. Staff’s comment on this draft legislation proposal was as follows:

“Additional costs for this process including notices, information, and staff overtime for attendance at night meetings will impact the Department’s and Clerk’s Operating Budgets, and will likely result in an increase in application fees.

In this regard, the City of Hamilton pre-circulates applications to the public in accordance with Council’s Public Participation Policy, which was adopted on May 29, 2003. To date, this policy has been very effective in engaging the public early on in the planning process. This has enabled staff to identify and address public concerns in the preparation of reports for the Public Meeting. In addition, it is common practice for the
respective Ward Councillor and/or applicant to hold a neighbourhood information meeting on contentious planning applications in advance of the Public Meeting. Clearly, this practice is consistent with the intent of the Province in proposing mandatory ‘Open Houses’. Accordingly, it is recommended that the proposed Regulation be amended to allow for equivalent alternate procedures.”

The Report was received for information by the Planning and Economic Development Committee, and forwarded to the Ministry of Municipal Affairs and Housing, the Minister of Municipal Affairs and Housing, all local Members of Provincial Parliament, and AMO, as the City’s formal response to Bill 51 and proposed Regulations.

In keeping with the City’s recommendation, the final version of Bill 51 was amended by deleting the proposed requirement for a mandatory second (Information) Public Meeting, and to only require Councils to hold at least one ‘Open House’, in addition to the legislated Public Meeting, only for the following: Official Plan 5 year review updates, Official Plan Amendments that implement a Development Permit System; Zoning By-law updates as a result of a 5 year review OP update; by-laws that implement a Development Permit System. As these are fairly complex planning studies, our current practice is to do this at a minimum in these cases.

**New Evidence at Hearings**

Bill 51 introduced amendments to the Planning Act respecting the introduction of new information and material at an OMB Hearing. Effectively, the evidence must have been presented before a municipal Council at the time a Council decision was made. If it wasn’t, in addition to other options, the Board may remit the entire matter back to the municipal Council, with the new evidence, for report back to the Board. In the September 2006 Report (PED06421) on Bill 51, staff’s comments on this matter included the following:

“It is also anticipated that this restriction on evidence will impact the Public Meeting process by requiring more time for Planning and Economic Development Committee meetings. Clearly, proponents will want to ensure that all of their planning justification and supporting documentation/studies (e.g. Traffic Impact Studies, Market Studies, Environmental Studies, etc.) are entered into the record of the Public Meeting so that they can be introduced as evidence at an OMB hearing, should the matter be appealed to the Board.”

**‘Best Practices’ Review**

A ‘Best Practices’ review is a tool to assess whether or not existing practices can be improved upon in order to further enhance the decision-making process on development applications, while still meeting legislative requirements under the Planning Act and the expectations of the development industry and the public. It is an accepted method of ‘continuous improvement’ that is regularly used in the public sector.
Municipal Comparisons

Staff contacted the following 11 municipalities from across Southern Ontario to assess the timing of their Public Meetings in relation to Committee/Council decision-making processes:

City of Brampton  City of Kitchener  City of Ottawa
City of Brantford  City of London  City of Toronto
City of Burlington  City of Mississauga  City of Vaughan
City of Guelph  Town of Oakville

Of the 11 municipalities surveyed, 7 are considered comparable in terms of the current ‘decision-making process’ used in Hamilton. That being, they have 1 Public Meeting and generally make a decision at this meeting. These are Brantford, Brampton, Burlington, Guelph, Kitchener, London and Ottawa. Invariably, each municipality identified that a ‘public information meeting’ may be scheduled either by the Councillor or proponent on contentious proposals. The 4 other municipalities (Mississauga, Oakville, Toronto and Vaughan) essentially have a multiple (2) meeting process (i.e. Statutory Public Meeting to hear delegations followed by a separate Decision Making Meeting at a later date).

Additional information respecting time of meeting (morning, afternoon or evening), frequency of meetings, duration of meetings, volume of meetings, and average processing times per application was also collected from the surveyed municipalities and compared to Hamilton. All this information is set out in Appendix ‘B’.

Application Processing Times

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Average Processing Time (Months)</th>
<th>Number of Public Meetings per Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brampton</td>
<td>10</td>
<td>40</td>
</tr>
<tr>
<td>Brantford</td>
<td>3.5</td>
<td>26</td>
</tr>
<tr>
<td>Burlington</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Guelph</td>
<td>6</td>
<td>18</td>
</tr>
<tr>
<td>Kitchener</td>
<td>4-6</td>
<td>45</td>
</tr>
<tr>
<td>London</td>
<td>4</td>
<td>106</td>
</tr>
<tr>
<td>Mississauga</td>
<td>12-14</td>
<td>31</td>
</tr>
<tr>
<td>Oakville</td>
<td>6-10</td>
<td>28</td>
</tr>
<tr>
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<td>4.5</td>
<td>88</td>
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<tr>
<td>Toronto</td>
<td>12-18</td>
<td>96</td>
</tr>
<tr>
<td>Vaughan</td>
<td>10</td>
<td>100</td>
</tr>
</tbody>
</table>

| AVERAGE          | 7.25 – 8.5                       | 54                                 |
| HAMILTON         | 5                                | 91                                 |
Legislative Requirements – Decision Making

Municipal Councils are required, by the Planning Act, to make a decision on subdivision and official plan amendment applications within 180 days (6 months) after the receipt of a completed application. If no decision has been made within this time frame, the applicant may appeal to the Ontario Municipal Board (OMB).

With respect to an application for a Zoning By-law Amendment, Council is required to make a decision within 120 days (4 months) after receipt of the completed application. If no decision is made within the 120 days, the applicant may appeal to the OMB.

Legislative Requirements – Notice and Public Access

Due to recent amendments to the Planning Act under Bill 51, Council is now required to give notice of a ‘complete application’ within 30 days to the applicant, and to public bodies and all owners of land within 120m of the subject lands within 15 days of the date of notice to the applicant. Furthermore, Council is to make “the information and material” submitted in support of an application (e.g. Planning Justification Report, Traffic Study, Environmental Impact Study, Preliminary Servicing Report, etc.) available to the public. This applies to applications for Official Plan Amendments, Zoning By-law Amendments, and Plans of Subdivision.

Legislative Requirements – Information

The Planning Act requires that before passing an Official Plan Amendment, passing a Zoning By-law Amendment, and approving a Plan of Subdivision, that “sufficient information and material is made available to enable the public to understand generally the proposal”.

Legislative Requirements – Public Meeting

The Planning Act requires that “Council shall ensure that at least one Public Meeting is held for the purpose of giving the public an opportunity to make representations” in respect of a proposed Zoning By-law, proposed Official Plan Amendment, and Plan of Subdivision. Accordingly, it is important to emphasize that the Economic Development and Planning Committee’s ‘five (5) minute rule’ for delegations should not apply in order that this “opportunity” is properly provided. This potentially impacts the length of time meetings will last, especially on contentious items with multiple delegations.

ANALYSIS OF ALTERNATIVES:

1. Status Quo

This option maintains the City’s current practice of holding the statutory Public Meeting and generally making a decision at the same meeting. Comparatively, 7 of the 11 municipalities surveyed use a comparable decision-making process
(Brantford, Brampton, Burlington, Guelph, Kitchener, London and Ottawa). A summary of the steps in Hamilton’s current process is as follows:

- Pre-consultation Meeting
- Planning Application Submitted
- Notice of Complete Application sent to Applicant
- Notice of Complete Application and Pre-circulation letter sent to Property Owners within 12 metres of subject property
- Circulation of Application to City Departments and Outside Agencies
- Preparation of Staff Report
- Notice of Public Meeting
- Statutory Public Meeting held by the Economic Development and Planning Committee
- Council Meeting
- Notice of Council Decision and Appeal Period
- Ontario Municipal Board Hearing (if Council’s decision appealed)

Implementation of Council’s 2003 Public Participation Policy has made the decision-making process more ‘front-ended’ by enabling staff to identify and address public concerns in advance of the formal Public Meeting. A copy of all correspondence received in response to the Preliminary Circulation letter is attached to the staff report. All issues raised by the public, staff analysis of the issues, and identification of any outstanding issues are all comprehensively addressed in the staff report so as to assist Committee in its consideration of the application.

In many instances, the proponent will schedule a community information meeting early in the process prior to submission of the application in accordance with the alternate provisions under the Public Participation Policy. Also, the Ward Councillor has the option of scheduling a community information/ward meeting prior to the formal Public Meeting to obtain additional public input, provide clarification and answer questions about the proposal. Typically, these meetings are arranged by the Councillor with City staff and the applicant both attending.

One measure to evaluate effectiveness of our process, in our opinion, is the number of reports/recommendations which are tabled or deferred by Committee prior to making a final decision. In 2006, only 11 of the items considered at Public Meetings of the EDP Committee were tabled. Of these, 7 were eventually approved by Committee as per the staff recommendation and 4 were modified. Similarly, inclusive of the October 16th ED&P meeting, 8 items were tabled in 2007, of which only 1 recommendation was subsequently modified.

Another effectiveness measure is compliance with the statutory time requirements under the Planning Act. With respect to statutory requirements for decision making, all of the municipalities surveyed with processes similar to Hamilton make a decision on an application, on average, within 4 to 5 months of the receipt of a complete application. This is generally within the time limits prescribed within the Planning Act.
Whereas, the 4 other surveyed municipalities, which have alternate processes, take from 6 months to 18 months to make a decision.

From a service perspective, to both the development community and the public, it is staff’s opinion that the current front-ended decision-making process has proven effective in terms of meeting Legislative timelines, the development community’s expectations and fostering good public participation, communication and issue identification and resolution consistent with the objectives of Bill 51.

Improvements to Process

Operational changes to the City’s current process to further enhance effective public consultation, communications, and transparency include:

- Forwarding a copy of all comments received from the public in response to the preliminary circulation letter to the Ward Councillor immediately following receipt of such comments; and,

- Holding a Public Information Meeting (PIM) prior to scheduling the formal Public Meeting where, in the opinion of the City’s Manager of Development Planning in consultation with the Ward Councillor, it is seen to be beneficial to address public issues raised in response to the preliminary circulation letter.

Implementation of these alternatives should provide the Ward Councillor with more time to assess community issues prior to the statutory Public Meeting.

2. Separation of Decision-Making Meeting from Public Meeting

The major difference between Hamilton’s current process to that of several other municipalities is the separation of the decision-making meeting from the statutory Public Meeting. The premise is that this will provide time for more meaningful consideration of public issues raised at the Public Meeting before a final decision is made on the application(s). This process would involve, at a minimum, 2 ED&P meetings (Statutory Public Meeting and Decision Making Meeting).

Comparatively, 4 of the 11 municipalities surveyed use this type of decision making process (i.e. Mississauga, Oakville, Toronto and Vaughan). Generally, the steps in this process can be summarized as follows:

- Pre-consultation Meeting.
- Planning Application Submitted.
- Notice of Complete Application sent to Applicant and Property Owners within 120 metres of subject property.
- Circulation of Application to City Departments and Outside Agencies.
- Notice of Statutory Public Meeting.
- Background/Information Report prepared by staff (No Recommendation).
Applicant presents proposal and answers questions from Public/Committee at Statutory Meeting.

Recommendation Report prepared by staff which:
- outlines issues raised by the Public and Committee;
- identifies how these issues have been addressed;
- provides Planning Analysis; and,
- makes a Recommendation on application.

Notice of meeting only given to persons and public bodies that made either a written or verbal submission at Statutory Meeting, or that made a written request for notice.

Decision Meeting (2\textsuperscript{nd} Committee meeting) scheduled. (Typically, no public delegations).

Committee Decision to:
- support staff recommendation; or,
- not support staff recommendation; or,
- amend staff recommendation; or,
- table application for further consideration.

Council Meeting.

Notice of Council Decision and Appeal Period.

Ontario Municipal Board Meeting (if Council decision appealed).

With respect to statutory requirements, this process is invariably longer than Hamilton’s, and using example timing from municipalities which use this process, takes from 6 to 18 months before a final decision is made (see Appendix “B”).

Concerns with this process include:

- Does not meet the Development Community’s expectation for a timely decision making process consistent with the time requirements of the Planning Act;

- Works against the Corporation’s and Department’s objectives to streamline our planning processes and improve our business environment;

- Depending on the time between the Statutory Meeting and the Decision-Making Meeting, revisions often made to the proposed development which will not be part of the formal public consultation/participation process at a Public Meeting;

- Depending on the time between the Statutory Meeting and the Decision-Making Meeting, new residents may have moved into the community who were not part of the public consultation process and may have new issues, which could further delay final decisions on applications, notwithstanding apparent resolution of the original issues;
- Depending on how contentious the application is, the proponent may more often choose to file a time limit appeal to the OMB which effectively removes the application from the community public decision making forum. A recent example of this is the appeal on the Community Beach Ponds applications;

- This process is contrary to Council’s opposition to the Draft Bill 51 proposal respecting a change to public consultation by requiring Council to hold at least one ‘Open House’ in addition to and prior to the Statutory Public Meeting (see BACKGROUND – Public Open Houses). The basis of Council’s opposition was potential cost implications, and that the City has an effective equivalent alternate procedure in place (Public Consultation Policy);

- Under the current decision making process, experience to date shows that in most cases Committee is able to make an informed decision at the Statutory Meeting. On those occasions where an item is tabled/deferred for further consideration, the original recommendation of staff is generally adopted. However, it is recognized that on occasion some applications may be tabled for further consideration, regardless of the decision-making process, due to the controversial nature and complexities of the issues (e.g. Community Beach Ponds);

- The current process provides an equivalent opportunity for public consultation, in that the public is engaged in the process early on either by the pre-circulation letter or by the proponent holding an information meeting prior to submitting the application, all in accordance with Council’s Public Consultation Process. In addition, the Ward Councillor has the option of scheduling a Public Information Meeting prior to the Statutory Meeting to obtain public input on an application. Alternatively, some Councillors have a Community Advisory Group which provides comments on development proposals prior to the Statutory Meeting;

- Typically Public Information Meetings are scheduled in the evenings, and as outlined in the Planning staff report on the proposed reforms to the Planning Act and the Ontario Municipal Board under the Draft Bill 51 (see BACKGROUND – Public Open Houses), the resulting additional costs including notices, information and staff overtime which will impact the Planning and Economic Development Department’s and Clerk’s Operating Budgets;

- Where an application is considered contentious by the Ward Councillor/Committee, they also have the option of scheduling a special Statutory Meeting in the local community (e.g. Community Beach Ponds, Dundas school site redevelopment).

A variation of this Model would be to maintain the City’s current process as outlined in Alternative 1 (Status Quo), but to hold the Decision-Making Meeting 2 weeks after the Public Meeting. The premise is that this will provide the Committee Members with additional time to consider the issues raised at the Public Meeting before making a decision.
With respect to statutory requirements, this additional step would lengthen the process by at least 2 weeks (4 weeks due to summer/winter schedules).

Concerns with this process include:

- Effectively it’s the same as just deferring/tabling the application which, as previously identified (see Paragraph 4 – Page 8), has only proven effective for a limited number of applications in the past;

- It would make all meetings longer, as decisions would have to be made on applications from previous meeting and Public Meetings would have to be held for new set of applications, all of which would be a duplication of process; and,

- Committee has that option without the need of changing the process to affect it for every application.

On the basis of this analysis, the Department of Planning and Economic Development does not support the option of moving to a Separate Decision-Making Meeting process.

3. Time of Meeting

Similar to Hamilton, 2 of the surveyed municipalities (Ottawa and Toronto) have their Statutory/Decision-Making Meetings scheduled in the morning. The other 9 municipalities (Brampton, Brantford, Burlington, Guelph, Kitchener, London, Mississauga, Oakville and Vaughan) have their meetings scheduled in the afternoon/evening (starting from 4:30p.m. to 7:30p.m.). The exception to this is Mississauga who schedule 2 meetings; one at 2:30p.m. for applications within industrial areas where there is minimal public interest, and the other at 7:30p.m. for all other applications. It is important to note that five of these municipalities have part-time Councillors so evening meetings are scheduled also so as not to interfere with their full time employment.

On average, 8 Public Meetings are scheduled for each ED&P Meeting, with the meeting lasting an average of 4.5 hours. Accordingly, if meetings were switched to evenings, the average meeting would finish at 11:30p.m. With an average 19 meetings per year, this would result in significant financial impacts on the Planning and Economic Development Department’s and Clerk’s Operating Budgets, as well as the budgets of other City Departments normally represented at the meetings (e.g. Public Works). At a minimum, it is estimated that this would represent 1 FTE equivalent in overtime costs.

The following factors, among others, have been identified as having a negative impact on the effectiveness of considering night meetings as an enhancement opportunity for public participation:
- Regardless of the scheduled meeting time, there will always be a portion of the public who will be precluded from attending meetings (e.g. shift workers);

- Staff experience with both daytime and night-time meetings is that regardless of the time, residents who have an interest in an application will either attend the meeting as a delegation or make a written submission so that their views are known;

- Based on experience and discussions with staff in other municipalities who have night-time meetings, it is not uncommon, especially with large agendas and where there are contentious items, that many meetings were required to be adjourned before the agenda is finished due to lateness;

- The recent amendments to the Planning Act under Bill 51 respecting New Evidence at Hearings (see BACKGROUND), will impact the Public Meeting process by requiring more time for ED&P meetings. It is anticipated that proponents will want to ensure that all of their planning justification and supporting documentation/studies are entered into the record of the Public Meeting so that they can be introduced as evidence at any OMB hearing, if the matter is appealed to the Board;

- The Planning Act requires that “Council shall ensure that at least one Public Meeting is held for the purpose of giving the public an opportunity to make representations” in respect of various planning applications. This effectively negates the ED&P Committee’s 5 minute rule on delegations, and will potentially impact the length of time meetings will last, particularly for contentious items.

Based on the foregoing, staff does not support moving to night-time meetings.

One area of concern frequently raised by the public/applicants/agents is how long they have to wait before the Public Meeting portion of the agenda is considered. An alternative option for streamlining the meeting process would be to schedule a separate meeting (i.e. once a month) to consider non-Public Meeting and discussion items (e.g. Consent Items, Presentations, Delegations, Information Reports).

4. Other Initiatives

Due to recent amendments to the Planning Act under Bill 51, Council may require applicants to “provide any other information or material that the Council considers it may need” (e.g. Servicing Report, Environmental Impact Assessment, Traffic Study, etc.) before processing an application, provided the Official Plan contains provisions relating to the requirements. In this regard, Planning staff will be bringing an initiative forward in early 2008 respecting an Official Plan Amendment to prescribe the requirements for a Complete Application.
Other amendments to the Act respecting Public Access and Information require Council to “make the information and material” submitted in support of an application (e.g. Servicing Report, Environmental Impact Assessment, Traffic Study, etc.) available to the public, and to ensure that “sufficient information and material is made available to enable the public to understand generally” the proposal.

In order to improve the accessibility of information on development applications to the public, staff intends to develop and implement a system to facilitate digital submissions and web postings. This will enable the public to view the Complete Application with associated studies/reports online, thereby enhancing the public consultation process.

Planning staff will also be bringing forward another initiative in 2008 respecting Mandatory Pre-consultation for Official Plan Amendments, Major Rezoning Applications, and Plans of Subdivision as a compendium amendment to the Complete Application.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial – Any changes to the current Decision-making Process to a Separate Decision-making Meeting and/or Night-time Meetings will negatively impact the Planning and Economic Development Department’s and Clerk’s Operating Budgets due to additional costs for notices, overtime and administration.

Staffing – Impacts depending on what alternative process chosen.

Legal – The Planning Act requires that “Council shall ensure that at least one Public Meeting is held for the purpose of giving the public an opportunity to make representations”.

**POLICIES AFFECTING PROPOSAL:**

Change to Council’s Public Participation Policies recommended.

**RELEVANT CONSULTATION:**

Corporate Services (City Clerks).

**CONCLUSION:**

Overall, it is the Department of Planning and Economic Development’s opinion that the current Decision-making Process, including Council’s Public Participation Policy, has proven effective and do not support going to an alternative model for separating Public Meetings from the decision-making meeting.
The following operational changes to further enhance the process are recommended:

1. That a copy of all comments received from the public in response to the preliminary circulation letter be forwarded to the Ward Councillor immediately upon receipt of such correspondence; and,

2. That a Public Information Meeting (PIM) be held prior to scheduling the formal Public Meeting where, in the opinion of the City’s Manager of Development Planning in consultation with the Ward Councillor, it is seen to be beneficial to address public issues raised in response to the preliminary circulation letter.

CITY STRATEGIC COMMITMENT:

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

Community Well-Being is enhanced. ☑ Yes ☐ No
The current Decision-making Process and Council’s Public Consultation Process provide the opportunity for community based decision-making.

Environmental Well-Being is enhanced. ☐ Yes ☑ No
There are no environmental impacts resulting.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Maintaining the City’s current practice of holding the Statutory Public Meeting, and generally making a decision at the same meeting, results in the timely processing of applications consistent with the requirements of the Planning Act.

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
They provide the opportunity to enhance public participation, communication and transparency in the planning process, and enables staff to collaborate with the public on issues identification and resolution.

:PM/RC
Attachs. (2)
CITY OF HAMILTON

PLANNING AND DEVELOPMENT DEPARTMENT
Development Division

Report to: Mayor and Members Committee of the Whole
Submitted by: Lee Ann Coveyduck General Manager

Date: May 2, 2003
Prepared by: Tim McCabe
(905) 546-4258

SUBJECT: Public Participation and Mediation in the Planning Approval Process (PD03105) (City Wide)

RECOMMENDATION:

(a) That Council adopt the following new policy with respect to procedures for improved communication and involvement by the public relative to applications for Official Plan Amendments, Re-zonings and new Plans of Subdivision:

(i) That immediately following receipt of a complete application, notice of the application be mailed to all property owners within one hundred and twenty (120) metres of the subject property, other departments/agencies, as well as the Ward Councillor and “Neighbourhood Associations” or Business Improvement Area Associations representing the area or immediately adjacent areas.

(ii) That “Neighbourhood Associations” referenced in this policy be only those Associations recognized by Council in a list to be prepared by the Department of Planning and Development, including relevant criteria, with the list developed in consultation with each of the Ward Councillors.

(iii) That the notice be in the form of a preliminary circulation letter, explaining generally the nature and effect of the application and the proposed development, with a request to advise the Department of Planning and Development of any concerns or support for the application within twenty-one (21) days from the date of mailing. Every effort shall be used to use “plain language” in the drafting of the letter to enable the public to more easily understand the proposal.
(iv) That the preliminary circulation generally shall not be required in the following circumstances unless the City's Manager of Development Planning determines that it may be appropriate:

(1) If the purpose of the application is to recognize an existing situation, which has not been subject to a complaint/by-law enforcement action.

(2) If the application is part of the implementation of a Planning Study or other application, such as a consent application, which has been approved within one (1) year of other public involvement and participation opportunities.

(3) If the application is to add a minor use as a special provision to an existing non-residential zoning category.

(4) Where a community information meeting has been initiated and held by the proponent prior to the submission of the application and where:

   (aa) the City's Manager of Development Planning, the Ward Councillor and all owners within one hundred and twenty (120) metres of the subject property have been provided individual invitations to attend the meeting.

   (bb) where minutes of the meeting have been taken with the recorded views of named residents referenced.

   (cc) where comment cards for those in attendance have been made available to complete at the meeting and/or mailed to the Manager of Development Planning, subsequent to the meeting.

   (dd) where the list of those invited, meeting minutes and completed comment cards have been provided to the Department of Planning and Development as part of the application submission.

   (ee) where the development proposal presented at the information meeting is consistent/similar to the
development/land use proposal included in the submitted application.

(5) Where the proposal results in a community wide change to the Official Plan or Zoning By-law and is not property specific.

(6) Where the application is required to implement a mediated settlement reached by all parties to the original proposal and dispute and which settlement will not have an unanticipated or additional adverse impact on adjacent properties or the immediate neighbourhood.

(7) In any other circumstance where, in the opinion of the City’s Manager of Development Planning, in consultation with the Ward Councillor, preliminary circulation of the application is seen to have minimal purpose or benefit.

(v) That a copy of the staff report be made available to all respondents to the circulation of the Department’s preliminary circulation letter within one week of the public meeting date, immediately following the Ward Councillor having received the report. The staff report shall identify public issues raised, staff comments related to the issues and identification of issues outstanding.

(vi) That the preliminary circulation letter formally advise the public of the Public Meeting date, to be arranged, in most cases, within 120 days from receipt of a complete application. Additional required notice shall be provided in the case where the public meeting date is changed from that referenced in the preliminary circulation letter.

(vii) With respect to major subdivision applications, the Public Meeting date shall not be confirmed until the draft staff report and recommended conditions have been reviewed with the proponent and the final report has been signed by the General Manager of the Planning and Development Department.

(viii) That notice of the application continue to be displayed on a sign to be erected on the property immediately prior to the circulation of the notice letter to the neighbourhood. The date of the Public Meeting, once confirmed to the proponent by the Department of Planning and Development, shall also be displayed on the sign. The applicant shall
continue to maintain the sign on the property and shall remove the sign from the property within one week of final decision of the application.

(b) That Council support the introduction of a formal mediation program towards resolving disputes in the planning process, to be administered by the Department of Planning and Development, generally as follows:

(i) That the use of mediation be considered for all applications, which have been appealed to the Ontario Municipal Board (OMB) after a decision by Council or the Committee of Adjustment; or for applications referred to the Department by Council, a Committee of Council, or the Committee of Adjustment.

(ii) That in cases where Planning staff’s position is in conflict with Council’s or the Committee of Adjustment’s position, mediation not be initiated by the Department of Planning and Development.

(iii) That the mediation program use both City staff and/or external mediators, as appropriate.

(iv) That unresolved issues related to Official Plan amendments, Re-zonings, plans of subdivision, minor variances or consents be considered for referral to external mediation services where, in the opinion of the City’s Director of Development:

(1) formal efforts by staff to reach agreement have been unsuccessful and it is felt that efforts for future dispute resolution would likely be effective; or,

(2) particularly difficult disputes with entrenched parties with high levels of emotion potentially exist; or,

(3) the City is the proponent of an action and the City is considered a direct party to any ensuing decision; or,

(4) City staff is perceived to be part of the conflict by the proponent, objector or both and/or where City staff need to be able to actively represent its professional opinion and the City’s interest in a dispute between the objector and proponent; and,
(5) that, in all cases involving mediation, the Ward Councillor shall be consulted throughout the dispute resolution process and informed prior to the decision of the General Manager to refer the case to external mediation services.

(v) That external mediation services shall be funded, in the interim, from the Department of Planning and Development’s existing approved budget from monies budgeted for Consulting Services, with any over-run to be paid from the Development Division’s Stabilization Reserve Account, to a maximum of $10,000.

(vi) That, in order to sustain mediation as a long-term initiative, the establishment of a reserve fund for financing external mediation services be referred to the 2004 budget deliberations. Consideration shall be given to this reserve being financed through the contribution of a small surcharge to fees collected for Official Plan Amendments, Re-zonings, plans of Subdivision, Minor Variances and Consents with the contribution of matching funds, on an annual basis, from Council as part of each following year's budget.

(vii) That the Department of Planning and Development work with the business and legal community to develop a preliminary roster of mediators and volunteers, as well as related procedures and pricing. Discussions shall also be held with the Society for Conflict Resolution in Ontario (SCRO).

(viii) That the Department of Planning and Development undertake a training needs analysis and initiate focused training in dispute resolution/mediation for key staff identified. Any additional training monies required to successfully implement this program will be identified and considered as part of the 2004 budget deliberations.

____________________________________________________
Lee Ann Coveyduck
General Manager
Planning and Development Department
SUBJECT: Public Participation and Mediation in the Planning Approval Process (PD03105) (City Wide) - Page 6 of 16

EXECUTIVE SUMMARY:

This report sets out a new policy for enhanced public participation opportunities and a recommended local mediation program for the City relative to planning applications requiring Council or Committee of Adjustment approval.

The use of a preliminary circulation letter to neighbouring property owners, Business Improvement Areas (BIAs) and recognized Neighbourhood Associations; improved notice for the public meeting; staff reports that recognize and address neighbour/community group issues; the report being available to persons and groups further in advance of the public meeting; are all seen as key ingredients to creating an improved process, improved community development and maximizing the potential for community-based (Council) decision-making and thereby minimizing involvement by the Ontario Municipal Board.

Also working towards our goal of more effective community-based decision making is the introduction of a local mediation program for dispute resolution throughout various stages of the planning approval process.

The Department of Planning and Development has included recommendations in this report to establish the program, setting out the types of applications deemed appropriate for mediation, when it is appropriate to have staff or external mediators involved, and financing and training aspects related to the program.

BACKGROUND:

The City’s current practice of involving the public in development applications requiring public meetings and Council approval is considered minimal and can also be characterized as too late in the process to be effective.

The present process can be generally described as follows:

- proponent initiates and holds informal, neighbourhood information meeting (optional)
- Planning and Development staff may or may not be in attendance at information meeting
- application received
- summary of application and request for comments sent to other Departments and relevant agencies
Planning and Development staff prepare report and recommendation on the application, and schedule public meeting of HSC, generally within 90 days of receipt of complete application.

- staff report prepared with minimal discussion or identification of neighbourhood issues included for most applications.
- within 14 days of the public meeting, notice to property owners within 120 metres of the site is given, attaching ‘comment cards’ and providing the date/time of the public meeting.
- Department requests neighbouring property owners to complete and return “comment cards” to the Department advising of support or opposition to the application.
- date of public meeting displayed on Notice of Public Meeting sign erected on the property.
- public meeting held; staff or Council typically have no pre-determined ‘prediction’ on the number, if any, constituents that will be in attendance or requests to be a delegation to speak on the application.
- Planning and Development staff advise HSC of how many comment cards were returned noting opposition or support.
- HSC deals with delegations and revises staff’s recommendations; votes in support or against recommendation or tables/defers report for further discussion with Ward Councillor and neighbours, developer and/or staff.

From our experience with the existing process, it is apparent that both staff’s recommendations and Council’s decision-making needs improvement relative to having a better understanding of issues in advance of the preparation of the staff report, the public meeting and Council’s decision. The public involved with planning applications before Council frequently complain that they:

- have had no previous knowledge of the application until notice is sent by the Planning and Development Department 14 days before the public meeting;
- have insufficient time and opportunity to organize and deal with any concerns they may have;
- have little to no opportunity to have staff deal with neighbourhood issues prior to the report and staff recommendation being prepared; and,
- receive a copy of report, if receive at all, only 1 to 4 days before the HSC public meeting.

Concern also has been expressed by Neighbourhood Associations that want to be recognized as community groups who have an interest in reviewing and commenting on planning applications earlier in the process.
SUBJECT: Public Participation and Mediation in the Planning Approval Process (PD03105) (City Wide) - Page 8 of 16

For example, on November 19, 2003 correspondence to senior management and Councillor Caplan was sent from Liz Millar, President of Ainslie Wood/Westdale Community Association of Resident Homeowners Inc.

"I am writing on behalf of the AWWCA to request you forward any major approval applications received by the Planning Department to the Ainslie Wood and Westdale Neighbourhoods for review and comment.

We would also like to officially request that the Planning Department recommends to any developer that pre-consultation with the AWWCA take place prior to submission of formal approval applications....".

Mediation and other forms of dispute resolution (i.e. negotiation, facilitation) have been part of the City of Hamilton’s processes for several years, but only on an informal basis. It remains unclear when, in the planning process, staff should become involved or not be involved in settling disputes and objections and for what types of various planning applications.

The Province of Ontario continues to undergo a period of planning reform. The Province now focuses its interest in planning policy; articulating this interest through a series of guidelines, policy statements and practices. The administrative review of applications related to Provincial Policy has now been delegated to regional municipalities and single tier municipalities, such as the City of Hamilton. Municipalities have become more concerned with exercising local autonomy in the context of provincial policy. Neighbourhoods and other interest groups will continue to increase their participation in local planning issues. This increased complexity of policies and interests has meant increased potential for dispute and legitimate conflict has become more apparent. Caseloads at the Ontario Municipal Board have increased dramatically in volume which result in costly delays in processing and create a move away from local, community based decision-making. Projects which could result in important economic benefits to the community are often caught in lengthy and adversarial approval processes.

As a result of these factors, there is a strong desire and need to incorporate system changes to improve quality and efficiency in the planning approval process. The City of Hamilton should be promoting a shift in emphasis away from an adversarial review and approvals culture towards a more collaborative approach which recognizes the interests of all parties and seeks, where possible, to reconcile conflicts. Such a shift can result in a qualitative transformation of the planning system in which resources should eventually be focused on the ‘front-end’ of the decision-making process, where opportunities to resolve disputes more easily exist and provide Council with a forum for more community-
based decisions, more ‘win-win’ situations and less Ontario Municipal Board referrals often having unpredictable decisions.

The current situation in Hamilton has the Department of Planning and Development completing its report and publicizing its ‘professional opinion’ on the application often in advance of understanding and dealing with neighbourhood/interest group issues. In many instances, staff cannot be an effective facilitator/mediator. Staff is not comfortable in determining what types of application to become involved with, particularly variances and consents submitted to the Committee of Adjustment. As well, we have no process and minimal experience in retaining and working with outside mediation services to assist the City in resolving disputes between parties. Appeals of Council’s decisions to the Ontario Municipal Board often results in no further communication between staff and the appellants or staff and the applicant and we simply wait for direction of the OMB at the pre-hearing conference, then provide professional evidence at the formal hearing of the Board.

The OMB Hearing is a hearing ‘de nova’ meaning that previous decisions of Council or the Committee of Adjustment, and the reasons/justification for these decisions, are not relevant to the Board, as the OMB Hearing starts over from ‘square one’. Evidence presented at the Hearing is the only determinant in typical Board decisions.

Undoubtedly, there is a need for a formal local mediation program in the City of Hamilton. Direction to staff of when to get involved, with what types of applications, and when to use external mediators and how to finance additional resources needed should all be part of our program. Recommendations in this report provide for a program that deals with these matters. The recommended local mediation program combined with the policies for improved public participation are integrally linked. Our planning process must make provision for public input early on in the review process in order that issues and concerns can be identified and dealt with. It also means that our planners and others involved in a project must recognize and be willing to deal with these issues. The most obvious, positive outcome of ‘up front’ mediation is that rather than resolving appeals, these can be avoided altogether.

Between 1992 and 1995, several municipalities participated with the Office of the Provincial Facilitator in a program that integrated mediation and other forms of dispute resolution in the planning process. The participating municipalities were Kitchener, Nepean and Toronto and all appeals to the OMB were considered for mediation.

Hamilton’s current Director of Development, Tim McCabe, was directly involved with the pilot project and subsequent formulation of a local mediation program for the City of Kitchener, in his previous employment as Kitchener’s General Manager of Business and
Planning Services. In 1992, Kitchener was invited to participate in developing the Municipal Mediation Pilot Project to mediate appeals to the Ontario Municipal Board. The pilot project began in June 1993 and continued through to March of 1995. During this period, some appeals were referred to an independent mediator, while others were dealt with by planning staff. The following summarizes the disposition of appeals to the OMB in Kitchener during that period:

**APPEALS DURING PILOT PERIOD**

<table>
<thead>
<tr>
<th>Type of Appeal</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Official Plan Amendments</td>
<td>3</td>
</tr>
<tr>
<td>Zone Changes</td>
<td>9</td>
</tr>
<tr>
<td>Minor Variances</td>
<td>5</td>
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</table>

**CASES IN PILOT PROJECT WITH EXTERNAL MEDIATOR**

<table>
<thead>
<tr>
<th>Type of Disposition</th>
<th>Count</th>
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</thead>
<tbody>
<tr>
<td>Resolved/Withdrawn</td>
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</tbody>
</table>

**CASES HANDLED BY STAFF (INTERNAL MEDIATOR)**

<table>
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<tr>
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<th>Count</th>
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</tr>
<tr>
<td>Ongoing</td>
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</tr>
</tbody>
</table>

**CASES PROCEEDED TO OMB**

<table>
<thead>
<tr>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
</tr>
</tbody>
</table>

Since completion of the pilot program, Kitchener has continued successfully in mediating land use planning disputes through properly trained planning staff. A Council approved mediation program policy is in place, as well as a Mediation Reserve Fund, equally funded annually by the City and development proponents.

In May 1999, the McMaster University Neighbourhoods Task Force recommended that the City of Hamilton implement a pre-consultation, non-mandatory mediation process such as the Toronto Mediation Pilot Project for applications to the Committee of Adjustment. The rationale was that within the Westdale and Ainslie Woods neighbourhoods, applicants and neighbours often disagreed about the effects of proposed changes and whether or not certain variance applications were ‘minor’. The following is an excerpt from their submission made to Council:

“At the present time, the only mechanism to deal with a decision of the Committee of Adjustment is to appeal the decision to the Ontario Municipal Board. For the residents of the Westdale and Ainslie Woods Neighbourhoods, this results in a confrontational situation that is often viewed as a “lose-win” forum. As an alternative, a mediation process could be developed based on the current pilot project in the City of Toronto.
SUBJECT: Public Participation and Mediation in the Planning Approval Process (PD03105) (City Wide) - Page 11 of 16

The City of Toronto has developed a voluntary mediation project. The mediation process does not limit any parties rights from appealing to the Ontario Municipal Board if the issues in dispute cannot be resolved. Mediation is available at three stages. The stages are:

- before the application is dealt with by the Committee of Adjustment;
- when the Committee of Adjustment has tabled the application to allow for mediation to occur; and,
- after a formal appeal of the Committee’s decision has been filed.

The purpose of the mediation process is to bring all of the interested parties together and attempt to develop a “win-win” solution for all of the parties. A win-win solution could be:

- the application is withdrawn, with revised plans (which comply with the Zoning By-law) being submitted for a Building Permit; or
- the application proceeds to a Committee of Adjustment hearing with the applicant requesting approval based on the conditions agreed to during the mediation; or
- a new application is submitted based on revised plans with a new notice circulated and a new meeting held.

Mediation would allow for all parties to reach a mutually agreeable compromise and avoid the current system, which is perceived as being confrontational and forces the residents and community into a reactive mode in response to a notice received in the mail.”

This 1999 submission from the Neighbourhoods Task Force was received by Council with no formal action taken with the request to initiate a City mediation process.

This report provides for alternatives to the current public participation system including the creation of a local mediation program.

ANALYSIS OF ALTERNATIVES:

Recommendation (a) provides the details of a new policy and process to enhance the opportunities and effectiveness of public participation in the City’s planning approval process. The recommendations deal with only those planning applications requiring a public meeting under the Planning Act and Council approval.
SUBJECT: Public Participation and Mediation in the Planning Approval Process (PD03105) (City Wide) - Page 12 of 16

The primary component of the new process is the mailing of a ‘preliminary circulation letter’ to all property owners within 120 metres (400 feet) of the subject property, as well as to recognized Neighbourhood Associations and Business Improvement Area Associations representing the area or immediately adjacent areas. A list of recognized Neighbourhood Associations will be prepared by the Department of Planning and Development, in consultation with all Ward Councillors and be submitted to Council for approval.

The preliminary circulation letter will:

- be mailed immediately following receipt of a completed application,
- be written in “plain language” to enable the public to more easily understand the proposal,
- advise property owners and Associations of the date of the public meeting of Council’s Hearings Sub-Committee to consider the application,
- request written comments be returned to the Department advising of concerns or support for the application,
- advise respondents that they will be provided with a copy of the staff report prior to HSC Public Meeting.

Examples of preliminary circulation letters for a rezoning and a plan of subdivision are included in Appendix “A”.

Recommendation (a)(iv) sets out circumstances where the City’s Manager of Development Planning may ‘waive’ or exempt an application from having to undertake preliminary neighbourhood circulation. Legislative notice requirements for the public meeting date will be satisfied by referencing the public meeting date in the preliminary circulation letter, as well as a notice sign erected on the property. Current practice of mailing ‘comment cards’ and notice of the public meeting 14 days prior to the meeting will no longer be required except in the case where the public meeting date has been changed from that referenced in the preliminary circulation letter.

One of the important benefits of the new process is that it will provide the City’s professional planning staff with a thorough identification and understanding of public issues, before the preparation of staff’s report and recommendation and before the public meeting. This will place additional responsibility on staff to deal with the public issues in the report and work towards resolving as many issues as possible, and as appropriate. If planning staff are not able to resolve all issues, it is certainly hoped that the issues can be narrowed to assist Council in its deliberations.
The 21 day public circulation response time together with additional time to deal with any issues received is expected to delay the public meeting date by approximately 30 days compared to current practice.

The Department will commit to a target of scheduling a public meeting within 120 days from the receipt of a complete application. With respect to major subdivision applications, an additional 30 days may be required to provide sufficient opportunity for review by the proponent of what is often detailed, complex draft plan approval conditions as well as time to prepare any revisions to the report prior to signing by the General Manager. Much too often, Committee and Council is presented with lengthy addendums with revised recommendations related to subdivision applications and implementing zoning. The Department has a genuine need for additional time to prepare proper and comprehensive reports on subdivision applications.

The additional delay of scheduling the public meeting date may result in more applicants appealing the application to the OMB on the basis that Council has not made a decision within 90 days of receipt of an application, as set out in the Planning Act. However, planning staff believe that the new policy and process will result in many less applications being tabled or deferred by Committee or Council, as a result of public concerns requiring further discussions before a decision can be properly made. The Department is of the opinion that, overall, the new system will produce faster and more comprehensive decisions by Council with less appeals to the Ontario Municipal Board.

A draft of the new policy was reviewed at The Hamilton-Halton Homebuilders’ Liaison Committee. The Homebuilders are generally supportive of both the public participation and mediation initiatives, however, have requested the Department recognize the importance to the industry of setting a public meeting date early in the process and ‘sticking’ to that date wherever possible.

Recommendation (b) requests Council support for the introduction of a formal mediation program towards resolving disputes in the planning process. The use of mediation in the context of the program recommended applies to planning applications requiring a public meeting and approval by Council or applications submitted to the Committee of Adjustment.

Mediation and other forms of dispute resolution are to be carried out by both staff and external mediators, depending on the circumstances. There are certain situations, as referenced in the policy, that it would not be appropriate for staff to be involved as the initiator of mediation. One example of this is where Planning staff's position is in conflict with Council’s or the Committee of Adjustment’s and the decision has been appealed to
the OMB. Recommendation (b) (iv) sets out four types of circumstances where referral to external mediation services would be appropriate.

Mediation in the planning process has typically been used primarily in situations where a formal appeal to a Council or Committee of Adjustment decision has been filed. At this point, it means that mediation only begins when ‘the damage may already have been done’. At this stage, you are dealing with a clear conflict situation in which parties may be experiencing frustration with mindsets solidly entrenched. Mediation then becomes a case of being a corrective tool rather than a preventive one. Formal dispute resolution techniques can still be effective at this stage but inserting mediation ‘up front’ in the process can have much greater success. This then means our planning process must make provision for public input early on in the review in order that issues and concerns may be identified and dealt with before Council’s consideration. In both cases, mediation is seen as an effective tool in attempting to resolve issues and disputes and it is recommended the City push forward in promoting a program that will lead to a better informed public and more opportunities for community-based decisions.

There are several options for paying for the costs of external mediation. It can be funded by the general City levy, by a surcharge on planning applications or the costs can be paid by one or more of the parties in dispute. The Department believes that there may be a concern of objectivity related to who is paying. While there may be support from the private sector (developer) to fund mediation as a less expensive way to resolve issues other than a costly OMB Hearing, there may be a perception problem that the “independent” mediator who is funded by the developer may be partial to the developer’s interests.

Shared funding by all parties is recommended as the optimum solution. This funding should be equally contributed between ‘the public’ from the City’s general levy and from the private sector as a surcharge to all applications. A small surcharge of $15 for each Committee of Adjustment application and $30 for rezonings and subdivisions may generate upwards of $10,000 per year. With a matching contribution from the City, the annual fund would then be $20,000. Based on an average cost of $100 per hour for external mediation services and an average of 10 hours for each mediation case, a budget of $20,000 would allow for approximately 200 ‘mediated hours’ or 20 cases to take place.

Recommendation (b)(v) and (vi) deal with the financing proposal for the use of external mediation services, both in the interim and as part of the 2004 budget process. Additional staff training in dispute resolution will be required and will also be addressed as part of the 2004 budget.
SUBJECT: Public Participation and Mediation in the Planning Approval Process (PD03105) (City Wide) - Page 15 of 16

The Department believes all of these new initiatives recommended in this report implement many of the principles set out in the Mayor's Open for Opportunities Task Force Report. By providing opportunities for more open communication with both the public and industry; a focused directive for up-front, issue identification; dispute resolution throughout the planning process; having procedures in place for reviewing draft reports with proponents and providing reports to all interested parties more in advance of meeting dates; all work towards improving the approval and decision-making process and building better relationships with all of the City’s stakeholders.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Additional monies for retaining external mediation services and undertaking focused staff training would be required with the implementation of this policy. This is discussed in more detail in the previous section of this report. With the preliminary circulation letter and copies of reports being made available to all public respondents, this will add some additional office expenses related to postage and paper. We may, however, save the costs involved with the notice currently mailed out in the existing process, 14 days prior to the public meeting.

With a successful mediation program, there would be less staff costs and time savings as there would be less OMB Hearings, as well as less deferrals of reports and preparation of various addendum reports/revised recommendations.

Legislative requirements for providing appropriate notice of the public meeting will be adhered to. Planning staff would also be in close consultation with the City’s Legal staff when involved with mediation of a formal appeal to the Ontario Municipal Board.

POLICIES AFFECTING PROPOSAL:

Public participation in the decision making process is a vital component in the consideration of planning approvals. This underlying principle is clearly entrenched in all six (6) Area Municipal Plans as well as the Regional Official Plan. Within each Official Plan, local Council’s have established clear policies setting out procedures for notifying, informing and obtaining citizen input to ensure that decisions are made in a manner conducive to responsible government.

More specifically, the Dundas Official Plan, Policy 5.18.1, recognizes the importance and role of citizen participation in shaping the ultimate decisions made by Council. It states “….public input should start early in the process and that the participation process should be based on consensus and mediation..."
CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

Corporate Services, Finance and Legal staff were consulted regarding the recommendations contained in this report and no issues or concerns have been raised.

CITY STRATEGIC COMMITMENT:

Several of the City’s values and strategic goals are directly related to this report and the new policy and process recommended.

These include:

“A City Where People Come First”: to harness the energy of the citizens of the new City of Hamilton and to fulfil our obligation to be open and accessible, Council commits to communicate clearly and effectively with the public…"

and

“New Opportunities for Public Input and Volunteerism”: Council will pursue new and innovative opportunities to enable more people to share their views and contributions to the City, Council and its services”.

CONCLUSION:

This report recommends a new policy directive towards achieving earlier and more effective public participation in the planning approval process. Together with the introduction of a formal mediation program to assist in resolving disputes on planning matters, it is expected that the City will have more community-based decisions to the benefit of business, the development industry and our residents. Council’s support is requested.

TM
Attach. (1)
May 2, 2003

FILE: ZAC-XX-XX

Dear Sir/Madam:

Re: Preliminary Circulation and Notice of Public Meeting
Rezoning Application ZAC-XX-XX, McCabe Construction Limited
144 Stone Road, City of Hamilton, Ward 0

This is to advise that Hamilton’s Department of Planning and Development has received an application to change the zoning of 144 Stone Road to permit a 6-storey apartment building having 48 units and 72 parking spaces.

The current zoning of the property is Agriculture (A) under By-law No. 1958-28. The proposed zoning is Multiple Residential Four (RM-4) Zone.

Before we prepare a staff report for Council consideration, we are extending an opportunity to you to make comments. Any written comments received by the Department prior to May 23 will be considered in the preparation of our staff report. Those persons responding to the Department will be provided a copy of the staff report prior to the public meeting to be held by the Hearings Sub-Committee of City Council. The public meeting date is scheduled for September 2, 2003 at 9:30 a.m. in the Council Chambers, 2nd Floor, City Hall, 71 Main Street West, Hamilton.

Should you have any questions, please contact Peter Planner at 905-546-4258.

Yours truly,

Peter Planner, MCIP, RPP
Senior Planner, Central Section
Development Planning
City of Hamilton
May 2, 2003

Dear Sir/Madam:

Re: Preliminary Circulation of Proposed Plan of Subdivision and Notice of Public Meeting
Application 25T-2003-XX, McCabe Construction Limited
12 Hillcrest Road, City of Hamilton, Ward 0

This is to advise that Hamilton’s Department of Planning and Development has received an application for approval of a plan of subdivision on 12 Hillcrest Road to create 120 lots for single detached housing, 4 blocks for townhouses, a neighbourhood park and an elementary school site.

The current zoning of the property is Agriculture (A) under By-law No.1979-2. The proposed zoning is Residential One (R-1) for the single detached lots, Multiple Residential (RM-2) for the townhouse blocks, Neighbourhood Park (P-1) for the park and Neighbourhood Institutional (I-1) for the school site. The maps attached show the location of the property and the proposed subdivision concept.

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Senior Planner, Central Section
Development Planning
City of Hamilton
<table>
<thead>
<tr>
<th>Municipality</th>
<th>Meeting Frequency</th>
<th>Process Duration</th>
<th>Decision Making Meeting</th>
<th># of Public Meetings for 2007</th>
<th>Start Time of Meeting</th>
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<td>1 Combined Stat. Public Meeting and Decision-Making Meeting</td>
<td>40</td>
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<td>2.5 Hours</td>
</tr>
<tr>
<td>Brantford</td>
<td>Once a month</td>
<td>3.5 Months</td>
<td>1 Combined Stat. Public Meeting and Decision-Making Meeting</td>
<td>26</td>
<td>5:00 PM</td>
<td>3 Hours</td>
</tr>
<tr>
<td>Burlington</td>
<td>Once a month</td>
<td>8 Months</td>
<td>1 Combined Stat. Public Meeting and Decision-Making Meeting</td>
<td>16</td>
<td>7:00 PM</td>
<td>4 Hours</td>
</tr>
<tr>
<td>Guelph</td>
<td>Twice a Month</td>
<td>6 Months</td>
<td>1 Combined Stat. Public Meeting and Decision-Making Meeting</td>
<td>18</td>
<td>9:30 AM</td>
<td>2 Hours</td>
</tr>
<tr>
<td>Kitchener</td>
<td>Once a month</td>
<td>4-6 Months</td>
<td>1 Combined Stat. Public Meeting and Decision-Making Meeting</td>
<td>45</td>
<td>6:30 PM</td>
<td>2 Hours</td>
</tr>
<tr>
<td>London</td>
<td>Twice a Month</td>
<td>4 Months</td>
<td>1 Combined Stat. Public Meeting and Decision-Making Meeting</td>
<td>106</td>
<td>4:30 PM</td>
<td>5 Hours</td>
</tr>
<tr>
<td>Mississauga</td>
<td>Every second Monday</td>
<td>12 - 14 Months</td>
<td>2 Meeting Process: a separate public meeting is held from the Decision-Making Meeting</td>
<td>31</td>
<td>1:30 PM and 7:00 PM</td>
<td>2 - 4 Hours</td>
</tr>
<tr>
<td>Oakville</td>
<td>Twice a Month</td>
<td>6 - 10 Months</td>
<td>2 Meeting Process: a separate public meeting is held from the Decision-Making Meeting</td>
<td>28</td>
<td>7:30 PM</td>
<td>3 Hours</td>
</tr>
<tr>
<td>Ottawa</td>
<td>Twice a Month</td>
<td>4.5 Months</td>
<td>1 Combined Stat. Public Meeting and Decision-Making Meeting</td>
<td>88</td>
<td>9:30 AM</td>
<td>3.5 Hours</td>
</tr>
<tr>
<td>Toronto</td>
<td>Once a month</td>
<td>12 - 18 months</td>
<td>2 Meeting Process: a separate public meeting is held from the Decision-Making Meeting</td>
<td>96</td>
<td>9:30 AM</td>
<td>10-12 Hours</td>
</tr>
<tr>
<td>Vaughan</td>
<td>Twice a Month</td>
<td>10 Months</td>
<td>2 Meeting Process: a separate public meeting is held from the Decision-Making Meeting</td>
<td>100</td>
<td>7:00 PM</td>
<td>3 - 4 Hours</td>
</tr>
<tr>
<td><strong>AVERAGE</strong></td>
<td>N/A</td>
<td>7.25 - 8.5 Months</td>
<td>N/A</td>
<td>54</td>
<td>N/A</td>
<td>3.3 - 4 Hours</td>
</tr>
<tr>
<td>Hamilton</td>
<td>Twice a Month</td>
<td>5 Months</td>
<td>1 Combined Stat. Public Meeting and Decision Making Meeting</td>
<td>91</td>
<td>9:30 AM</td>
<td>4.5 Hours</td>
</tr>
</tbody>
</table>