CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Long Range Planning Division

Report to: Chairman and Members Planning & Economic Development Committee
Submitted by: Lee Ann Coveyduck General Manager
Date: April 29, 2005
Prepared by: Joanne Hickey-Evans X1282
File: PRK-SCH

SUBJECT: Provision of Schools to Keep Pace with New Developments (PD03136a) (City Wide)

RECOMMENDATION:

(a) That Reports PD03136a and PD03136 (attached as Appendix “A” to Report PD03136a) be received for information.

(b) That the item regarding “Provision of schools in new areas and long-term costs of development” be removed from the Outstanding Business List.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of this report is to update the Committee on the discussions between staff, Councillor McCarthy, the City of Mississauga and the two school Boards with respect to the construction of new schools in developing areas.

The City of Mississauga and the two School Boards introduced 2 innovative approaches which would assist in the orderly development of schools coincident with the growth of new residential units:

- They limited the number of residential building permits per year; and,
- In some areas, the developers dedicated the land to the school boards and delayed the re-payment of the land costs.
SUBJECT: Provision of Schools to Keep Pace with New Developments (PD03136a) (City Wide) - Page 2 of 4

At the time the program was developed, the municipality was experiencing very rapid residential growth and as a result, the School Boards were facing significant pupil deficits.

The approaches identified above were important in the Mississauga context however, Hamilton does not have large scale residential developments and the School Boards have either a minor or no pupil deficit. Therefore, these measures are not necessary in Hamilton.

BACKGROUND:

In June 2002, City Council requested staff to prepare a report on the provision of school sites in newly developing areas. Staff prepared a report (attached as Appendix “A” to Report PD03136a) on the matter. The following paragraph summarizes the primary points:

"... the municipality has limited powers and responsibilities in the development of new schools. The municipality's role is to ensure that school sites that are adequate in size and appropriate in location are accommodated in the newly developing areas of the City.

The lack of schools in newer subdivisions is a province wide condition. It will likely become less of a problem over the next decade in Hamilton, particularly for the HWDSB. The HWDSB is actively reducing its excess capacity in their schools, thereby making the HWDSB eligible to receive provincial funding for construction of new schools. In addition, the HWDSB will qualify for Educational Development Charges (EDC's). Since the Separate School Board does not have excess capacity, it is able to receive provincial funds as well as local education charges. With this money, they are able to build new schools (i.e. Secondary school in Ancaster)."

The recommendation in Report PD03136 (attached as Appendix “A” to report PD03136a) was to receive it as information. Committee of the Whole, at their meeting of June 22, 2003, tabled the matter and directed staff further meet with the City of Mississauga staff and the Peel School Boards to find out what their process was to ensure the construction of new schools in newly developing areas.

ANALYSIS OF ALTERNATIVES:

In February 2004, staff along with Councillor McCarthy attended the meeting with Mississauga and the Peel School Boards.

There were two processes the City and Boards undertook to deal with school construction and residential development.
Phasing Of Development
The City of Mississauga, along with both School Boards, introduced a phasing plan for development within new sub-divisions. It would allow the issuance of a maximum number of building permits per year which would allow the construction of new schools to catch up with new homes. This program was introduced in 1998 during a time of rapid growth, when the Catholic School Board faced a 27,000 pupil deficit.

The situation in Hamilton is significantly different:

- Residential developments are not as fast paced nor as large in scale as those occurring in Mississauga. Developers construct much smaller projects and have little or no opportunity to shift operations to other land in their inventory;

- At the present time, the Hamilton-Wentworth Catholic District School Board operates (Board-wide) at capacity in the elementary system and has a slight deficit in the secondary system. Over the past few years, the Hamilton Wentworth District School Board has been working to ensure they do not have a surplus capacity in their system.

- If any School Board has surplus capacity then they cannot collect EDC’s nor can they access provincial funding to build new schools.

Land Dedication
Further, the developers in Mississauga are primarily very large firms with extensive land holdings and construction performance, greater that is the norm in Hamilton. These large firms have the ability or flexibility to dedicate the future school lands to the Boards who would pay the land owner back over a period of a few years. This process requires that the School Boards have the money to pay for the site and provincial funding commitment(s) to construct the new school.

As noted in the previous report, (attached as Appendix “A” to Report PD03136a), the City provides for school sites through Official Plan and Secondary Plans. Plans of subdivision implement the Secondary Plan. Once the Plan of Subdivision is registered then the developer/land owner deals directly with the respective School Boards to determine timing of the purchase.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial – none

Staffing – none

Legal – none

**POLICIES AFFECTING PROPOSAL:**

None.
CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

The Development Division was circulated a copy of this Report.

CITY STRATEGIC COMMITMENT:

This Report implements Vision 2020 by “ensuring public activities and decisions at all levels of government are coordinated, efficient, and effective...”.
In addition, the principles of sustainability are built into the planning process currently in place.

CONCLUSION:

Based on the above, it is recommended that:

a) Report PD03136 (attached as Appendix “A” to Report PD03136a) and Report PD03136a be received for information.

b) The item regarding “Provision of schools in new areas and long-term costs of development” be removed from the Outstanding Business List.

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c.c. Councillor McCarthy
Ward 14
CITY OF HAMILTON

PLANNING AND DEVELOPMENT DEPARTMENT
Long Range Planning and Design Division

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

Date: May 30, 2003
File: PRK-SCH
Prepared by: Joanne Hickey-Evans
(905) 643-1262 Ext. 282

SUBJECT: Provision of Schools to Keep Pace with New Developments
Referred from Hearings Sub-Committee on June 19, 2002 (PD03136)
(City Wide)

RECOMMENDATION:

(a) That Report PD03136 respecting Provision of Schools to Keep Pace with New Developments be received for information.

(b) That the Status of Council Resolution Regarding the Provision of Schools to Keep Pace with New Developments item, initiated through the Hearings Sub-Committee on June 19, 2002, be identified as completed and removed from the Outstanding Business List.

Lee Ann Coveyduck
General Manager
Planning and Development Department

EXECUTIVE SUMMARY:

Consideration of Report at Committee of the Whole

This matter originated at the Hearings Sub-Committee (HSC) and staff was requested to prepare a report outlining how other municipalities dealt with the provision of schools in newly developing areas.
SUBJECT: Provision of Schools to Keep Pace with New Developments
   Referred from Hearings Sub-Committee, June 19, 2002
   (PD03136)

Simultaneously, the Hamilton-Wentworth District School Board (HWDSB) has
requested the City’s disposition on surplus school sites. A separate report has been
prepared on this issue (PD03135).

The Provision of School Sites

Municipal Councils and Boards of Education have distinct roles in the provision of
education services. In general, the municipality, through the planning process,
identifies potential sites for schools. The Boards of Education, through the Education
Quality Improvement Act, purchases the site, builds and maintains the school.

City staff contacted a number of different municipalities. Barrie, Brampton, Guelph,
London, Ottawa, Vaughan, Waterloo and Markham follow the same procedures as
Hamilton. The City identifies school sites (as part of the planning process) and the
Boards of Education pursue the purchase and redevelopment of the sites in
accordance with their needs. In 1998, the City of Mississauga and the Peel Boards of
Education developed a set of criteria and phasing of development for new residential
development (see Appendix A to Report PD03136). The system is fairly complicated.

It is difficult to compare Mississauga with Hamilton because there are different base
circumstances. The Peel District School Board is not faced with excess student
capacity in their system, whereas the HWDSB is. The HWDSB cannot access Pupil
Placement Grants or Education Development Charges (EDCs), which are essential for
the Peel/Mississauga system to operate. The HWDSB has prepared and implemented
a School Revitalization Strategy, which will assist them in accessing additional funds for
the refurbishment and renovation of existing schools as well as the construction of new
ones.

Staff of the Planning and Development Department presented the findings of this report
to Hamilton's Joint School/Board Relations Committee. The Committee members
agreed:

- the current planning process for the provision of school sites was sufficient; and,
- it is important that the City and the School Boards maintain an open dialogue in
  on-going school matters, including planning related issues.

BACKGROUND:

In June 2002, City Council requested staff to prepare a report on the provision of
schools sites in newly developing areas.
SUBJECT: Provision of Schools to Keep Pace with New Developments
Referred from Hearings Sub-Committee, June 19, 2002
(PD03136)

In recent years, two key issues have arisen concerning the provision of schools for Hamilton residents; particularly in the HWDSB:

- The closure of schools in older parts of the City and small rural communities due to low enrolments; and,

- the lack of schools to accommodate the growing population in the newer suburban areas.

The issue of school closures is dealt with through a separate report (PD03135).

On a HWDSB wide basis, there is considerably more student capacity within existing school buildings than there is student enrolment. The excess capacity has been created by changing demographics: many schools are located in areas where there are fewer children than school space. This excess capacity affects the HWDSB’s eligibility to receive New Pupil Placement Grants from the Ministry of Education or collect EDC’s for the construction of new schools where there is a growing population of children. As a result, school boards are required to bus students from new development areas to the nearest school, thus leading to the potential for overcrowding.

This report looks at alternatives used in other municipalities when considering residential development applications and the provision of educational facilities.

1.0 Existing Legislation and Policies Provision of Schools in Newly Developing Areas

Municipal Councils and Boards of Education have distinct roles in the provision of Education services. In general, the municipality, through the planning process identifies potential sites for schools. The Boards of Education, through the Education Quality Improvement Act, purchases the sites, and builds and maintains the schools.

Boards of Education, particularly the HWDSB, have faced considerable difficulties in supplying adequate educational facilities to accommodate Hamilton’s growing residential community. This section provides information on how both provincial and municipal planning policies/regulations influence the provision of school sites and the input of school boards on residential development applications.

1.1 Provincial Legislation and Planning Policy

1.1.1 The Education Quality Improvement Act, 1997

In December 1997, the Education Quality Improvement Act came into effect. This Act allowed school boards to impose EDCs that cover land purchase and predevelopment costs for additional schools that may be needed due to
SUBJECT: Provision of Schools to Keep Pace with New Developments
Referred from Hearings Sub-Committee, June 19, 2002
(PD03136)

development. Costs funded by the EDC's only include the acquisition, servicing and preparation of school sites. The Province, as part of Pupil Accommodation Grants, provides separate funding for school construction.

Presently, only the Hamilton-Wentworth Catholic District School Board collects EDC's. The HWDSB is not eligible to collect the EDC's because of excess pupil spaces.

1.1.2. Planning Act

The Planning Act sets out the municipal responsibility for the provision of school sites, not schools themselves. Section 2(i) requires the municipality to have regard to, among other matters, matters of provincial interest such as "the adequate provision and distribution of educational... facilities".

Further, "in consideration of a draft plan of subdivision, regard shall be had, among other matters, to the health, convenience and welfare of the present and future inhabitants of the of the municipality" and to a number of matters including "the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2" (subsection 51(24)(a)) and "the adequacy of school sites" under subsection 51(24)(j) of the Act.

Prior to Bills 163 and 20, the Ontario Municipal Board (OMB) ruled that the adequacy of school accommodation and facilities could not be imposed as a condition of approval of a Plan of Subdivision, by either the Minister of Municipal Affairs and Housing or the OMB. Put another way: subdivision approval authorities could not deny or withhold subdivisions approval on the basis of school accommodation conditions, only the adequacy land for future school sites

However, the amended Act is capable of a broader interpretation of the predecessor provision. To-date, the limitations on a broader interpretation are not clearly defined by the OMB or the courts and may be subject to challenge. It is open to each municipality to establish an appropriate policy framework for interpretation of subsection 2(i) of the Planning Act may be implemented when evaluating residential development applications.

1.1.3 Provincial Policy Statement

Section 1.1.3 (a) of the Provincial Policy Statements states that a municipality in considering development proposals shall have regard to supporting long-term economic prosperity by "making provisions for infrastructure and public service facilities that will be accommodate the projected growth".
SUBJECT: Provision of Schools to Keep Pace with New Developments
Referred from Hearings Sub-Committee, June 19, 2002
(PD03136)

According to this Policy Statement, public service facilities "means land, buildings and structures for the provision of public services, but does not include infrastructure". Public services "means programs and services provided or subsidized by a government or other public body. Examples include social assistance, recreation, police and fire protection, health, educational and cultural services".

1.2 Municipal Planning Process

Municipal planning policy provides further direction for the provision of school sites.

1.2.1 Regional Official Plan

The City of Hamilton's Regional Official Plan refers to the spatial aspects of school site location Section 7.3, Education Goals of the Regional Official Plan states, amongst other things, that the Region will:

"Request comments prior to the approval of Regional/Municipal Official Plan Amendments and/or plans of subdivision regarding residential development from the School Boards, with respect to the adequacy of existing schools (emphasis added) to accommodate anticipated growth in enrolment; the possibility of alternatives to the construction of new schools (emphasis added); requirements for new school sites."

Where educational facilities are to be harmonized with population growth, the Regional Official Plan contains no policies to require phased residential development.

1.2.2 City Official Plans

Similar to the Regional Official Plan, the Official Plans for the six (6) former area municipalities also refer to the spatial aspects of school site location, but do not address the actual provision of facilities. These Official Plans all include general policies to ensure that adequate community services are provided to accommodate existing and future growth. They further state that institutional uses shall be developed in a co-ordinated and comprehensive manner in keeping with the character of the neighbourhood. Land Use Schedules typically identify school sites as "Institutional Uses".

1.2.3 Secondary Plans and Neighbourhood Plans

Arguably, Secondary Planning is the most critical stage in the planning process for the identification of school sites. School boards, as part of the City's
SUBJECT: Provision of Schools to Keep Pace with New Developments
Referred from Hearings Sub-Committee, June 19, 2002
(PD03136)

Secondary planning process, provide historic and future student enrolment
information during the development of these plans to help determine how many
new schools are needed, site size and the preferred location of the sites.

1.2.4 Zoning

In some of the former area municipalities, appropriate zoning is required to allow
a school. In others, elementary schools are allowed “as-of-right”.

1.2.5 Subdivision Applications

The City of Hamilton circulates subdivision applications to the School Boards.
The Separate School Board generally does not require conditions. However,
the HWDSB has requested the following conditions be incorporated into the
draft plan of subdivision:

1. That the owners, at their expense, place adequate signage on site, based
on Hamilton-Wentworth District School Board specifications advising that
students from this development are likely to be redirected to schools
outside of the area with available capacity, and that students may be
transported as governed by the HWDSB’s Transportation Policy.

2. That the Subdivision/Condominium Agreement includes a Notice to
Purchasers advising that students are likely to be redirected to schools
outside of the area with available capacity as governed by the HWDSB’s
Transportation Policy.

3. That any rental or lease agreement required for occupancy include in all
agreements to renters or leasers, a clause advising that students from this
development are likely to be redirected to schools outside of the area with
available capacity.

1.4 Role of the School Boards

The HWDSB and the Hamilton-Wentworth Catholic District School Board (HWCDSB)
provide comments to the City on secondary plans and development applications. This
review focuses on the current schools and future school sites directly affected by the
proposed development. The existing and projected enrolments for the schools are
analyzed in relation to the existing student capacity, the number of portables and the
transportation of students out of their communities to determine accommodation
requirements. To-date, it has been shown that Hamilton’s growth districts are beyond
enrolment capacity for school accommodation. As new, approved residential
development applications are built this shortfall worsens.
SUBJECT: Provision of Schools to Keep Pace with New Developments
Referred from Hearings Sub-Committee, June 19, 2002
(PD03136)

On March 25, 1998, the Ministry of Education and Training announced the details of a new school funding model. The Pupil Accommodation Grant, which forms part of this new funding formula, ensures fair funding for school operation, maintenance, and construction – based on the real needs of students. The need for new pupil accommodation will be recognized, based on the number of new pupil places required by the entire Board and not in terms of individual schools. Only Boards whose elementary or secondary school enrolment exceeds the operational capacity of their full inventory of schools will be eligible to receive grants for new pupil places.

2.0 REVIEW OF OTHER MUNICIPALITIES PLANNING POLICIES FOR SCHOOL SITES

The following municipalities were interviewed about their policies relating to school accommodation: the Cities of Barrie, Brampton, Guelph, London, Mississauga, Ottawa, Vaughan, Waterloo and the Town of Markham.

2.1 Barrie, Brampton, Guelph, London, Ottawa, Vaughan, Waterloo and Markham

These municipalities reported having no other means by which they address difficulties in the provision of adequate educational facilities to accommodate growing residential development. It is standard in all the municipalities interviewed, the process for reviewing residential development applications follows a similar process followed by the City of Hamilton. Typically, school sites are reserved through a secondary planning process and the approval of draft Plans of Subdivisions. School boards provide comments based on the need for a school in a particular area through forecasts of projected enrolment. Applications are evaluated to determine whether school accommodation problems exist in the area in which new development is proposed.

If school accommodation problems exist, the school board requests, as a condition of approval, that the developer place signage on the site, as well as in all Agreements of Purchase and Sale, advising that students from the development are likely to be redirected to schools outside of the area. Some school boards also require that the subdivider agrees to inform all purchasers of residential lots that there are no plans for the construction of an educational facility by the School Board to serve the area in the foreseeable future and educational facilities in the immediate vicinity are presently at capacity. The City of London has a further requirement by adding that it's Board has designated an area as "a holding zone" for educational purposes and students will be assigned the Board's designated "holding" schools. This "holding zone" is unrelated to "holding zones" under the Planning Act, Section 36.
SUBJECT: Provision of Schools to Keep Pace with New Developments
Referred from Hearings Sub-Committee, June 19, 2002
(PD03136)

2.2 Mississauga

In response to the difficulties faced by the Peel Boards of Education in supplying adequate educational facilities to accommodate Mississauga’s rapidly growing population, the City looked at various options for considering residential development applications in light of the powers afforded to the City, through the Planning Act.

2.2.1 School Accommodation Criteria

In 1998, after deliberations between the development industry, residents and the Peel school boards, City Council passed a resolution that residential development be phased to allow the school boards to keep up with the pace of new residential subdivisions. The City implemented the school accommodation condition and corresponding phasing of development in 1998. The Boards provide a set of criteria (see Appendix “A” to Report PD03136), which are used to evaluate development applications to determine whether school accommodation problems existed in the area in which the new development was being proposed.

To-date, municipal staff has included the School Accommodation Condition for all residential subdivision applications. In instances where there are concerns with the ability of the School Board to accommodate students, Board staff will request that the following School Accommodation Condition be imposed:

"Prior to final approval, the City of Mississauga shall be advised by the School Boards that satisfactory arrangements regarding the adequate provision and distribution of educational facilities have been made between the developer/applicant and the School Boards for this plan."

In instances where adequate facilities currently exist, or where the applications yield less than 12 students, in accordance with the “School Accommodation Criteria”, Board staff will not request that the School Accommodation Condition be imposed.

2.2.2 Implementation of Phasing

A number of developers approached the Peel School Boards to discuss the possible phasing of development and the consequent clearance of the School Accommodation Condition. In February 2000, the Peel School Boards approved a set of guidelines for phasing of residential development (as shown on Appendix A to Report PD03136). Based on the guidelines, staff discusses with
SUBJECT: Provision of Schools to Keep Pace with New Developments
Referred from Hearings Sub-Committee, June 19, 2002
(PD03136)

the applicant the possible phasing of development to mitigate the impact of the
proposed development on school facilities. Subject to a phasing program being
agreed to by the developer and the School Board municipal staff will include a
clause in the Development and/or Financial Agreement, which outlines to the
Building Department in which years building permits can be issued for specific
lots. Once this has been completed, School Board staff advise that the School
Accommodation Condition on the subdivision plan has been satisfied.

The Peel School Boards have made extensive and long standing use of
educational development charges. The Boards have a shortage of school
accommodation for their existing enrolment over their entire jurisdiction, which
qualifies them to receive regular funding to build new school facilities from the
Province of Ontario, pursuant to the Education Quality Improvement Act. The
School Accommodation Condition is feasible to apply to plans of subdivision in
Mississauga because there is a regular and predictable program for the
construction of new schools in new suburban areas. This is a unique condition
that does not apply in the City of Hamilton. In the City of Hamilton use of the
School Accommodation Condition would effectively prohibit construction within
future residential plans of subdivision for an undefined future period until the
HWDSB qualifies for funding under the Education Quality Improvement Act.

3.0 Hamilton’s Joint School/Board Relations Committee

In 2002, the City and the two School Boards formed a joint Committee to
discuss issues of mutual interest. Planning related matters have been
discussed on several occasions. At its meeting of May, 12, 2003, staff of the
Long Range Planning and Design Division presented the findings contained in
this report (PD03136). After discussion, the Committee concluded that:

- the current planning process for the provision of school sites was sufficient; and,

- it was important the City and the School Boards maintain an open dialogue in
  on-going school matters, including planning related issues.

4.0 Summary

As noted above, the municipality has limited powers and responsibilities in the
development of new schools. The municipality’s role is to ensure that school
sites that are adequate in size and appropriate in location are accommodated in
the newly developing areas of the City.

The lack of schools in newer subdivisions is a province wide condition. It will
likely become less of a problem over the next decade in Hamilton, particularly
for the HWDSB. The HWDSB is actively reducing its excess capacity in their
SUBJECT:  Provision of Schools to Keep Pace with New Developments
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schools, thereby making the HWDSB eligible to receive provincial funding for
construction of new schools. In addition, the HWDSB will qualify for EDC’s.
Since the Separate School Board does not have excess capacity, it is able to
receive provincial funds as well as local education charges. With this money,
they are able to build new schools (i.e. Secondary school in Ancaster).

ANALYSIS OF ALTERNATIVES:

Not applicable.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

There are no staffing, financial or legal implications.

POLICIES AFFECTING PROPOSAL:

The planning process, through the provision of the Planning Act, govern how the
provision of school sites are identified.

CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

A presentation to the Joint City School Board Relations Committee on the contents of
this report was conducted on May 12, 2003.

No other City Departments were required to be consulted.

CITY STRATEGIC COMMITMENT:

This report implements Vision 2020 by “ensuring public activities and decisions at all
levels of government are coordinated, efficient, and effective…”.

In addition, the principles of sustainability are built into the planning process currently in
place.

CONCLUSION:

Therefore, given the limited powers of the municipality and the increase in the number
of schools being built over the next several years, additional planning policies are not
required at this time.

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Attach. (1)
Councillor McCarthy asked a number of questions regarding design of parking, the traffic issues with regard to the access on Dundas Street, and the availability of school accommodation in the area. She requested that staff contact the City of Mississauga to gain information on how the development industry there is involved in the provision of new schools.

Planning and Economic Development Committee AMENDED REPORT 04-012 June 22, 2004

Committee then directed staff to report back on school accommodation in new areas and the long-term costs of development.

CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Long Range Planning Division

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<th>Report to:</th>
<th>Chairman and Members Planning &amp; Economic Development Committee</th>
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</thead>
<tbody>
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