

**Report to Committee of the Whole  
November 10, 2014**



**Waterloo Region  
District School Board**

*Inspired Learners – Tomorrow’s Leaders*

**SUBJECT:** Update on Chicopee Hills Public School Site Zone Change

**ORIGINATOR:** This report was prepared by Marilyn Allen, Executive Superintendent of Business and Financial Services and Treasurer, Ian Gaudet, Controller of Facility Services and Dennis Cuomo, Manager of Planning in consultation with Executive Committee.

**PURPOSE/STRATEGIC PLAN:**

To update and inform the Board on the progress of the Zone Change application with the City of Kitchener, the purpose of which is to allow for the construction of the new Chicopee Hills Public School. This report relates to the Strategic Directions of the Board by promoting forward thinking and championing quality public education.

**BACKGROUND:**

On June 14, 2010, having previously directed staff to undertake a Pupil Accommodation Review in the Grand River South area, the Board authorized staff to negotiate the purchase of lands at the corner of Fairway Road and Lackner Boulevard in Kitchener. On January 11, 2011, the Board approved the recommendations of the Grand River South Accommodation Review Committee (the ARC) which included the plan to construct a new elementary school on the Fairway/Lackner lands.

The City of Kitchener was represented on the ARC by a staff member from the City Planning Department. Prior to the decision by the Board, the City provided a letter to the ARC expressing concerns about the proposed location of the new school. City staff pointed out that the City’s Official Plan “... discourages elementary schools from being located along Arterial Roads (both Fairway and Lackner are designated as major arterial roads) to help minimize potential conflicts between children walking to and from school and high levels of vehicular traffic on arterial roads”. They expressed concerns with including “... low rise uses (including elementary schools)” in designated intensification areas such as Mixed Use Nodes – the property owned by the Board is designated as a Mixed Use Node.

Having expressed these concerns City Staff went on to say that “...staff are willing to give consideration to a zone change and site plan for a school, on the subject lands, if it can be demonstrated that an elementary school can be incorporated into a high density mixed use site, without compromising the functionality, or future density of the Mixed Use Node.”

Board staff gave serious consideration to the comments provided by the City. In evaluating the proposed location at the corner of Fairway and Lackner, Queensmount Public School, King Edward Public School, Sandhills Public School and Moffat Creek Public School locations were examined as examples of schools which front on major arterial roads. It was determined that a majority of Board schools are located such that some of their students must cross arterial roads to access their school. As well, Board staff considered the proposed location of the school, not directly on the corner, but with its main frontage internal to the development, with flankage on Lackner Boulevard. Board staff also considered the location of the school in the mixed use node to be an enhancement to the mix of uses, and an opportunity to provide a more complete community at the node.

On that basis and the preference resulting from the extensive work of the ARC, Board staff finalized the purchase of the Fairway/Lackner site. This followed Ministry funding approval on July 7, 2011 to construct the new Chicopee Hills Public School. The original planned opening date, based on Ministry funding approval was September 2014. The process of obtaining the necessary zone change approval and working through the complicated partnership arrangements has resulted in delays in the school opening date. The current planned opening date, approved by the Board, is September 2016. This date is currently in jeopardy as a result of further delays related to planning approvals.

**STATUS:**

The 18 acre parcel purchased by the Board was encumbered by an agreement between the vendor and a third party. In order to secure the site, the Board was required to enter into a similar agreement with the third party for their future acquisition of a portion of the lands. That agreement committed the two parties to jointly apply for development permissions to rezone the lands to allow a school, residential and commercial uses. The agreement assumed a change in zoning could be achieved to create a school site block on the northerly portion of the site with frontage on both Lackner Blvd and an internal street to be developed as part of the plan, separating the school from the other uses. With this agreement the Board inherited the third party's consulting team with the third party taking the lead role in the development application for the entire parcel, fronting the costs and billing the Board for our share, and the Board pursuing the site plan approval for the school.

The process to develop the lands and design a school began in 2012 with the hiring of an architect to design the school. A pre-submission meeting regarding the school site plan was held with the City in June of 2012. At that time City staff provided a basic list of requirements to achieve site plan approval for the school – zone change application for the entire property, including the residential and commercial portions to be sold to the third party, an urban design charette to be led by the City to scope out a concept plan and urban form for the entire property, environmental reports, standard engineering, hydrological and transportation studies.

The property is adjacent to a provincially significant wetland and has a substantial stand of trees which impact the potential area that can be developed. While the Board worked with our architectural consultants on preliminary designs for the school, the third party was hesitant to proceed with the planning and engineering for the remainder of the site, pending the determination of the limits of development. Part of the delay in determining those limits involved the tree stand and the concerns of the Region's Ecological and Environmental Advisory Committee (EEAC) which reviewed the Environmental Impact Study prepared for the development, in the Fall of 2012. Subsequently, on January 21, 2013 the Board approved the first delay in the opening of the school to September 2015 to accommodate the required planning approvals.

An exhaustive inventory and DNA testing of every tree in the subject stand were undertaken to confirm the presence of regionally significant Eastern Cottonwoods and to determine how many of these trees needed to be preserved. During the Spring and early Summer of 2013 the consultants completed the other field studies required for the EIS and in August 2013 EEAC provided their final comments. The consultants were then able to determine the buffers and limits to development so concept plans for the entire property could be finalized. In the meantime, the City held the required urban design charrette (June 2013) and it was revealed that the City would not consider locating the school with any frontage on Lackner Blvd. This required a major change to the development concept assumed by the Board and the third party in the 2011 agreement. The City direction to relocate the school with frontage only on the internal street would require a redesign of the residential and commercial uses on the site. The City also provided details regarding the significant density requirements they wished to achieve on the lands for the Mixed Use Node designation. Both of these specifications created significant issues for the creation of a reasonable sized school site, in an internal location, while achieving a high density of residential units and commercial uses. The intent is that this provides jobs.

The third party agreed to work with the Board to modify the plan for the entire parcel on the basis that they could achieve their objectives for residential and commercial development. The limitations of the environmental constraints and the density targets of the City significantly increased the complexity of the development and made it extremely difficult to achieve a location and size for the school site that would be acceptable for Board use. In the Fall of the 2013, Board staff, including the Director and Executive Superintendent, met with the Chief Administrative Officer and Director of Planning for the City to discuss the urgency and importance of the school project for the Board and received assurances for the full cooperation of the City in moving the project forward.

A total of six master plan concepts were developed in consultation with the third party and the City of Kitchener in the Fall of 2013. During the negotiation of each of these concepts it became clear that there were significant conflicting interests between the Board and the third party with respect to the proposed development and that the assumptions that were the basis of the original agreement could not be achieved.

The agreement with the third party and the resulting development partnership played a major role in delays up to December 2013. While Board staff was pressing hard with the school design and master plan for the school site, the third party was holding back the engineering work on the full site pending finalization of the limits of development. Our respective time schedules were different and the Board's need for a functional school site, of appropriate size and configuration, conflicted with the third party's desire for residential density and traditional commercial development. In December 2013 the third party agreed to hand over control of the consultants to the Board, in order to meet the timelines necessary to achieve City zone change approval and a construction

schedule to open the school in September 2016. On January 20, 2014, the Board approved a second delay in the school opening to 2016.

In evaluating the master plan concepts Board staff and our consultants struggled with the City and its density targets, to achieve an acceptable school site size and configuration. At the same time, comments from the third party to create mixed use blocks often conflicted with the Board's needs. It became clear that the development that would meet the City's Mixed Use Node requirements would be very different from the agreement that the third party and the Board had signed in 2011.

On March 27, 2014 the Board hosted a public meeting at Lackner Woods Public School to update the community on the new school and the process that remained before construction could take place. City staff and our consultants also attended to provide necessary information and to answer questions. On April 4, 2014 our consultants submitted our Zone Change Application to the City. Since that time, the application has circulated to City departments and prescribed agencies including Grand River Conservation Authority (GRCA) and Ministry of Natural Resources (MNR). As comments have been received from the City and the agencies our consultants have provided additional information and responded to questions. As we proceeded into September of 2014 the City was aiming to take their staff report on this application to a November meeting of Council. This meeting which is prescribed under the Planning Act is a key date for public input, comments and questions. It was assumed that a decision, if not made that night, would be made by Council before the end of the year and the potential remained to meet the September 2016 opening date for the school.

On September 23, 2014 the City held a Neighbourhood Information Meeting which is part of their zone change approval process. Again, residents were updated on the scope of the application (more than just a school site plan approval), the City's Mixed Use Node requirements and some of their remaining concerns. At that meeting City staff announced that their report would not be going to Council until the "new year". They also indicated that additional information was required from the Board to support the application.

Board staff and our consultants followed up quickly to determine what additional information was required and to understand the delay in the report to Council. A meeting on October 9, 2014 with City staff to discuss next steps revealed that the City was awaiting final approval from GRCA – something neither they nor the Board can control. They also indicated that the Region and City Transportation departments continue to disagree on pedestrian safety measures required on Lackner Boulevard. Board staff and our consultants have requested that City and Regional transportation staff meet to resolve their differences as soon as possible. On October 20, 2014, Board staff and consultants met with City staff to review revised master plan concepts based on feedback from the September Public Meeting. At that meeting City staff advised that they intend to present a report to Council in December. However, the report proposed will not include any recommendation by City staff for Council to either approve or reject the application. This will require Council to meet again, in the new year, to make a final decision on a staff recommendation.

Given that a decision by Council to either approve or refuse the zone change to allow the school will not occur until January or February of 2015, it makes it increasingly unlikely that the remaining approvals and site preparation can be achieved in time to start construction and open the school in September 2016.

In the case of this school, construction does not start with a fully serviced site. Following zoning, and subsequent site plan and site preparation permits, the Board as developer has to construct the school site, internal roads and services, before a building permit can be issued. The site preparation and servicing schedule will have to work around environmental mitigation measures such as bird nesting periods in the Spring, extending that work potentially into July or August. Given the potential for twelve or fewer months for school construction, Board staff and consultants cannot guarantee an opening in September 2016.

**COMMUNICATIONS:**

School communities in the Grand River South area will be directly notified of the timing of the proposed report to City Council in December to ensure their engagement in the City process. Notices will be delivered to schools and updates for parents and the community will be provided on the Board website.

**FINANCIAL IMPLICATIONS:**

The full costs of the zone change and development application process are fully eligible for payment from Education Development Charges.

**RECOMMENDATION:**

No recommendation. For information only.

 **Director of Education**