Agenda - Council - February 18, 2009

Report - Standing Policy Committee on Property and Development - February 2, 2009

Item No. 1 Text Amendment - Winnipeg Zoning By-law No. 200/2006 - Subdivision without Abutting a Street
File DAZ 240/2008

STANDING COMMITTEE RECOMMENDATION:

On February 11, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That Winnipeg Zoning By-law No. 200/2006 be amended to permit, with a variance:

   A. subdivisions creating lots which do not abut a public street; and,
   B. development of lots which do not abut a public street,

   as outlined in Attachment "A" to the report of the Director of Planning, Property and Development dated January 15, 2009.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Agenda - Council - February 18, 2009

Report - Standing Policy Committee on Property and Development - February 2, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 11, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On February 2, 2009, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

RE: **Text Amendment - Winnipeg Zoning By-law No. 200/2006 - Subdivision without Abutting a Street**
File DAZ 240/2008

For submission to: **Executive Policy Committee**

Prepared by: **Carlos Gameiro, Senior Committee Clerk**
Standing Policy Committee on Property and Development

Report date: **February 2, 2009**

STANDING COMMITTEE RECOMMENDATION:

On February 2, 2009, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and recommends to the Executive Policy Committee:

1. That Winnipeg Zoning By-law No. 200/2006 be amended to permit, with a variance:

   A. subdivisions creating lots which do not abut a public street; and,
   B. development of lots which do not abut a public street,

   as outlined in Attachment "A" to the report of the Director of Planning, Property and Development dated January 15, 2009.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

The Standing Policy Committee on Property and Development provided the following supporting reason for its recommendation:

1. The Standing Policy Committee on Property and Development agreed with the administrative comments contained in the report of the Director of Planning, Property and Development dated January 15, 2009.

PUBLIC HEARING SUMMARY

File: DAZ 240/2008

Before: Standing Policy Committee on Property and Development
Councillor Fielding, Chairperson
Councillor Browaty
Councillor O'Shaughnessy
Councillor Wyatt

Public Hearing: February 2, 2009
West Committee Room
Council Building, 510 Main Street

Applicant: Director of Planning, Property and Development

Subject:

City of Winnipeg

NOTICE OF PUBLIC HEARING

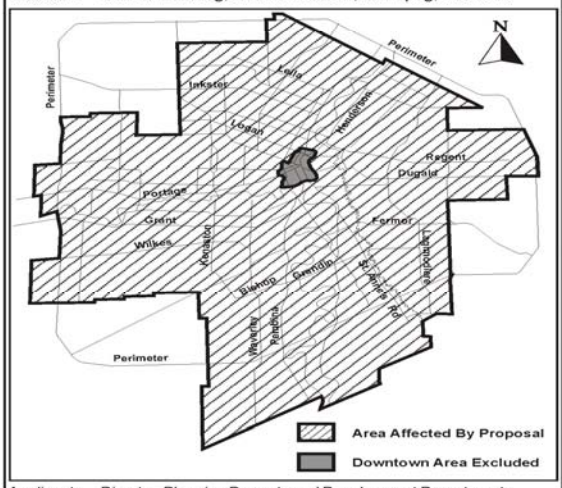
Winnipeg

Under the authority of The City of Winnipeg Charter the Standing Policy Committee on Property and Development, will conduct a PUBLIC HEARING, as indicated, to receive representations on the proposal listed hereunder. Information on the Proposal may be obtained Monday to Friday, between 8:30 am and 4:30 pm, excluding holidays, at 3rd floor, 65 Garry Street.

NOTICE OF STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT

PUBLIC HEARING

Date: Monday, February 2, 2009
Time: 1:00 PM
Location: Council Building, 510 Main Street, Winnipeg, Manitoba



Applicant: Director, Planning Property and Development Department
File: DAZ 240/2008
Proposal: Winnipeg Zoning By-law No. 200/2006 provides zoning regulations for all land in the City of Winnipeg not regulated by the Downtown Winnipeg Zoning By-law No. 100/2004. The Director of Planning, Property and Development proposes to amend the text of Part 2: Definitions and Part 5: Development and Design Standards of the Winnipeg Zoning By-law No. 200/2006 to permit, with a variance:
- subdivisions creating lots which do not abut a public street; and,
- development of lots which do not abut a public street.

For information, contact Ms V. Buckley, Manager of Regulatory Reform at 986-5161.

The purpose of the hearing is to allow interested persons to make submissions, ask questions or register objections in respect of the Proposal. Persons wanting to make representation at the public hearing are requested to notify Mr. C. Gameiro, Clerk of the Standing Policy Committee on Property and Development, Council Building, 510 Main Street, Winnipeg, MB, R3B 1B9 at 986-6631.

Presentations may be made in both official languages. Simultaneous interpretive services are available if requested at least 48 hours prior to the meeting.

Exhibits Filed:

1. Standing Policy Committee on Property and Development Decision of January 16, 2009; contains report from the Director of Planning, Property and Development dated January 13, 2009
2. Statutory Public Notice (newspaper advertisements)
3. Notification of Public Hearing to adjacent Municipalities and Planning Districts
4. Report from the Director of Planning, Property and Development dated January 15, 2009
5. Audio recording of representations

REPRESENTATIONS:

In Support:

Mr. D. Joshi, Director, Planning, Property and Development Department
Ms. V. Buckley, Manager of Regulatory Reform, Planning, Property and Development Department
Mr. J. Wintrup, Senior Planner, Planning, Property and Development Department
Paul McNeil, MMM Group Ltd.

In Opposition

Nil

Exhibit "1" referred to in File EZ DAZ (DAZ 240/2008)

RE: DAZ 240/2008 - Text Amendment, Winnipeg Zoning By-law 200/2006, Subdivision without Abutting a Street

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Director, Planning Property and Development

REPORT DATE: January 13, 2009

RECOMMENDATION:

1. That the Standing Policy Committee on Property and Development schedule a public hearing to consider a text amendment to the Winnipeg Zoning By-law No. 200/2006 to permit subdivisions creating lots which do not abut a public street and development of lots which do not abut a public street.

Report Summary

Key Issues:

- On December 19, 2007 Council passed Winnipeg Zoning By-law No. 200/2006 which came into force on March 1, 2008.
- The By-law requires that a zoning lot abut a public street. This prevents the creation of 'landlocked' lots by subdivision and prohibits development on existing landlocked lots.
- Certain types of development proposals (for example, industrial parks, shopping centres, campus building groups, hospitals, multiple family developments) are sometimes designed in a way that includes or results in lots that do not abut (have direct frontage on) a street.
- There are instances where it may be acceptable to create or develop landlocked lots provided there is adequate review and public scrutiny of a proposal and some assurance of appropriate servicing and access arrangements.
- Flexibility in the City's development approval process can be achieved by amending the Winnipeg Zoning By-law so that no landlocked lots would be created or developed without a Variance Order and review at a Public Hearing.
- The Winnipeg Public Service recommends that the Standing Policy Committee on Property and Development schedule a public hearing to consider a text amendment to the Winnipeg Zoning By-law to permit subdivision of lots which do not abut a public street and development of lots which do not abut a public street.

Implications of the Recommendation(s):

General Implications
( ) None

( ) For the organization overall and/or for other departments

(X) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s): Currently, Winnipeg's regulatory regime prohibits the creation and development of lots that do not abut a public street. The proposed amendments to the Winnipeg Zoning By-law would create flexibility in the land development process while ensuring that there is proper due diligence and an opportunity for public input.

Policy Implications
(X) No

( ) Yes

Comment(s): The proposed by-law amendments do not require any changes in the City's land development policies.

Regulatory Implications
( ) None

( ) Eliminates or reduces regulatory impact

(X) Proposes regulatory impact

Comment(s): The proposed amendments will, on applicable applications for subdivision approval and/or a development permit, trigger variance applications. For development proposals needing both, subdivision and variance applications would be processed concurrently and considered at a combined public hearing. The variance decision would be subject to appeal. An appeal would add approximately 1 month to the development approval process.

Environmental Implications
(X) No

( ) Yes

Comment(s):

Human Resources Implications
(X) No

( ) Yes

Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s): There is no financial impact associated with the recommendation in this report which only requests that a public hearing be scheduled.

Report

REASON FOR THE REPORT:
Under the City Organization By-law No. 7100/97, the Standing Policy Committee on Property and Development is responsible for planning and land use matters in the city, outside the downtown, including the Winnipeg Zoning By-law No. 200/2006.

HISTORY:
On December 19, 2007 Council passed Winnipeg Zoning By-law No. 200/2006, which came into force on March 1, 2008.

DISCUSSION:
Subdivision is the process of altering legal property boundaries and creating new parcels of land. A subdivision can occur when a single property is split into two or more parts, existing property boundaries are adjusted, or a lease, mortgage or other legal instrument is registered that has the effect of subdividing the lot. Each lot being created must comply with the dimensional standards in the City's zoning by-laws. These standards facilitate the orderly development of land and provision of infrastructure services.

One of the key criteria for subdividing land is access. The City's by-laws require that all lots must abut a public street to prevent the creation of 'landlocked' lots (i.e., parcel of land surrounded by land on all sides with no direct access to a street). It also ensures that each property can be adequately serviced by emergency vehicles and municipal infrastructure.

However, there are cases where the design of a multi-building development may include landlocked lots with access to an internal system of private roads which lead to a street. Alternatively, the owner of a landlocked lot may enter into a private cross-access easement agreement with a neighbouring landowner to facilitate access to a street.

Similarly, the City's by-laws require that all lots must have direct access to municipal services such as water, wastewater and land drainage. As above, the owner of a landlocked lot may need to enter into a private joint services agreement with a neighbouring landowner for joint use and maintenance of facilities providing these services.

The City is prepared to recognize these unique situations on a case-by-case basis and amend the zoning by-laws to relax the provisions for each lot to abut a street and municipal services. There are several ways to accommodate this intent in the zoning by-law. The Public Service recommends that the text of the Winnipeg Zoning By-law be amended to incorporate flexibility in the definition of a zoning lot and add the requirement of abutting a street to the general development standards for all lots. In

this way, the requirement remains in place and applies to all subdivision applications and development permits, but it would trigger a variance application for proposals which include landlocked lots. The same rule would apply to existing landlocked lots where development is contemplated.

The variance application process would allow for a more rigorous analysis and review of unusual cases. It would also enhance public input through a public hearing at the local Community Committee and provide the ability to place conditions on the subdivision and variance approvals. Typical conditions would include that each party who owns or is entitled to own a subdivided landlocked lot is required to, at his/her expense:

- enter into private cross-access easement agreement(s), in a form acceptable to the City, with owners of other lots;

- enter into private joint services agreement(s), in a form acceptable to the City, with owners of other lots;

- register caveats for such agreements against affected land titles and provide the City with evidence of registration.

The Winnipeg Public Service recommends that the Standing Policy Committee schedule a public hearing to consider a text amendment to the Winnipeg Zoning By-law to permit subdivision of lots which do not abut a public street and development of lots which do not abut a public street.

Financial Impact Statement Date: January 13, 2009

Project Name:

DAZ 240/2008 - Text Amendment, Winnipeg Zoning By-law 200/2006, Subdivision without Abutting a Street

COMMENTS:

The recommendation included in this report is that a public hearing be scheduled. There are no financial implications associated with this recommendation.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

- Legal Services Division
- Public Works Department
- Water and Waste Department

External Consultation With:

- None

THIS REPORT SUBMITTED BY:

Planning Property and Development Department
Office of the Director
Prepared by: Valdene Buckley, MCIP
PPD File No.

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Last Updated: January 13, 2009

Exhibit "2" referred to in File EZ DAZ (DAZ 240/2008)

City of Winnipeg

NOTICE OF PUBLIC HEARING

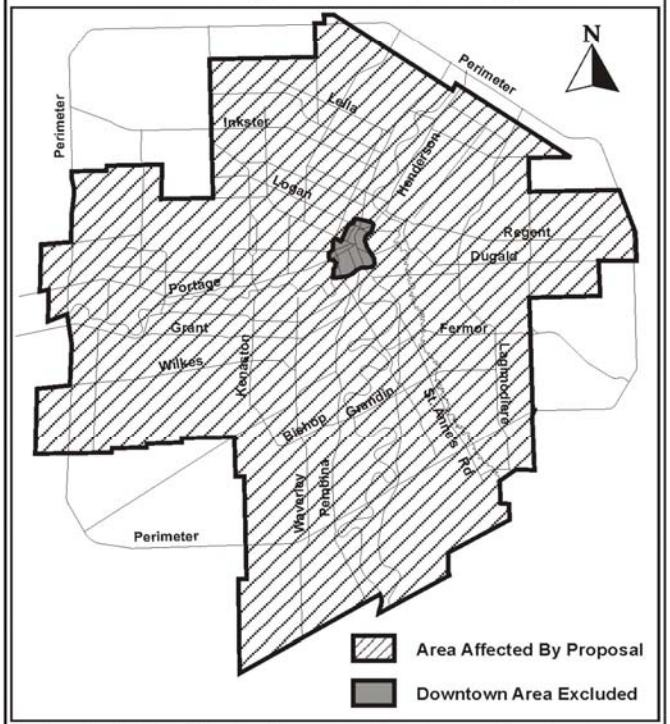
Winnipeg

Under the authority of The City of Winnipeg Charter the Standing Policy Committee on Property and Development, will conduct a PUBLIC HEARING, as indicated, to receive representations on the proposal listed hereunder. Information on the Proposal may be obtained Monday to Friday, between 8:30 am and 4:30 pm, excluding holidays, at 3rd floor, 65 Garry Street.

NOTICE OF STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT

PUBLIC HEARING

Date: Monday, February 2, 2009
Time: 1:00 PM
Location: Council Building, 510 Main Street, Winnipeg, Manitoba



Applicant: Director, Planning Property and Development Department
File: DAZ 240/2008
Proposal: Winnipeg Zoning By-law No. 200/2006 provides zoning regulations for all land in the City of Winnipeg not regulated by the Downtown Winnipeg Zoning By-law No. 100/2004. The Director of Planning, Property and Development proposes to amend the text of Part 2: Definitions and Part 5: Development and Design Standards of the Winnipeg Zoning By-law No. 200/2006 to permit, with a variance:
- subdivisions creating lots which do not abut a public street; and,
- development of lots which do not abut a public street.

For information, contact Ms V. Buckley, Manager of Regulatory Reform at 986-5161.

The purpose of the hearing is to allow interested persons to make submissions, ask questions or register objections in respect of the Proposal. Persons wanting to make representation at the public hearing are requested to notify Mr. C. Gameiro, Clerk of the Standing Policy Committee on Property and Development, Council Building, 510 Main Street, Winnipeg, MB, R3B 1B9 at 986-6631.

Presentations may be made in both official languages. Simultaneous interpretive services are available if requested at least 48 hours prior to the meeting.

Exhibit “3” referred to in File EZ DAZ (DAZ 240/2008)

MANITOBA MUNICIPALITIES

✓	EAST ST. PAUL, R.M. 3021 Bird's Hill Road East St. Paul, MB R2E 1A7	RT 886 757 953 CA
✓	WEST ST. PAUL, R.M. 3550 Main Street West St. Paul, MB R4A 5A3	RT 886 757 967 CA
✓	ROSSER, R.M. PR #221, Box 131 Rosser, MB R0H 1E0	RT 886 757 975 CA
✓	HEADINGLEY, R.M. 1 – 126 Bridge Road Headingley, MB R4H 1G9	RT 886 757 984 CA
✓	MACDONALD, R.M. 161 Mandan Drive, Box 100 Sanford, MB R0G 2J0	RT 886 757 879 CA
✓	RITCHOT, R.M. 352 Main Street St. Adolphe, MB R5A 1B9	RT 886 757 882 CA
✓	TACHÉ, R.M. 1294 Dawson Road, Box 100 Lorette, MB R0A 0Y0	RT 886 757 896 CA
✓	SPRINGFIELD, R.M. 628 Main Street, Box 219 Oakbank, MB R0E 1J0	RT 886 757 905 CA

PLANNING DISTRICTS

✓	SOUTH INTERLAKE Box 1219 Stonewall, MB R0C 2Z0	RT 886 757 919 CA
✓	SELKIRK & DISTRICT 200 Eaton Avenue Selkirk, MB R1A 0W6	RT 886 757 922 CA
✓	MACDONALD-RITCHOT Box 100 Sanford, MB R0G 2J0	RT 886 757 936 CA

Exhibit "4" referred to in File EZ DAZ (DAZ 240/2008)

RE: DAZ 240/2008 – Supplementary Report, Text Amendment, Winnipeg Zoning By-law 200/2006, Subdivision without Abutting a Street

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Director, Planning Property and Development

REPORT DATE: January 15, 2009

RECOMMENDATION:

1. That Winnipeg Zoning By-law No. 200/2006 be amended to permit, with a variance:
   - subdivisions creating lots which do not abut a public street; and,
   - development of lots which do not abut a public street,

   as outlined in Attachment "A".

2. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report Summary

Key Issues:

- On December 19, 2007 Council passed Winnipeg Zoning By-law No. 200/2006 which came into force on March 1, 2008.
- The By-law requires that a zoning lot abut a public street. This prevents the creation of 'landlocked' lots by subdivision and prohibits development on existing landlocked lots.
- Certain types of development proposals (for example, industrial parks, shopping centres, campus building groups, hospitals, multiple family developments) are sometimes designed in a way that includes or results in lots that do not abut (have direct frontage on) a street.
- There are instances where it may be acceptable to create or develop landlocked lots provided there is adequate review and public scrutiny of a proposal and some assurance of appropriate servicing and access arrangements.
- Flexibility in the City's development approval process can be achieved by amending the Winnipeg Zoning By-law so that no landlocked lots would be created or developed without a Variance Order and review at a Public Hearing.
- The Winnipeg Public Service also notes that the addressing and posting of signage to identify landlocked lots, particularly on multiple building sites, could be improved. The Public Service will investigate possible changes to the related property addressing guidelines and signage by-laws.

Implications of the Recommendation(s):

General Implications

( ) None

(X) For the organization overall and/or for other departments

(X) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s): Currently, Winnipeg's regulatory regime prohibits the creation and development of lots that do not abut a public street. The proposed amendments to the Winnipeg Zoning By-law would create flexibility in the land development process while ensuring that there is proper due diligence and an opportunity for public input. However, it is also the City's responsibility to ensure that all zoning lots can be directly serviced with municipal infrastructure, and that properties are readily identifiable and reasonably accessible for emergency services.

Policy Implications

(X) No

( ) Yes

Comment(s): The proposed by-law amendments do not require any changes in the City's land development policies.

Regulatory Implications

( ) None

( ) Eliminates or reduces regulatory impact

(X) Proposes regulatory impact

Comment(s): The proposed amendments will, on applicable applications for subdivision approval and/or a development permit, trigger variance applications. For development proposals needing both, subdivision and variance applications would be processed concurrently and considered at a combined public hearing. Existing landlocked lots requiring a variance only would be routed through the Board of Adjustment for a public hearing. The variance decision would be subject to appeal. An appeal would add approximately 1 month to the development approval process.

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s): There is no financial impact associated with the changes. The proposed amendments only recommend changes to the text of a by-law.

Report

REASON FOR THE REPORT:
Under the City Organization By-law No. 7100/97, the Standing Policy Committee on Property and Development is responsible for planning and land use matters in the city, outside the downtown, including the Winnipeg Zoning By-law No. 200/2006.

HISTORY:
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DISCUSSION:
Subdivision is the process of altering legal property boundaries and creating new parcels of land. A subdivision can occur when a single property is split into two or more parts, existing property boundaries are adjusted, or a lease, mortgage or other legal instrument is registered that has the effect of subdividing the lot. Each lot being created must comply with the dimensional standards in the City's zoning by-laws. These standards facilitate the orderly development of land and provision of infrastructure services.

One of the key criteria for subdividing land is access. The City's by-laws require that all lots must abut a public street to prevent the creation of 'landlocked' lots (i.e., parcel of land surrounded by land on all sides with no direct access to a street). It also ensures that each property can be adequately serviced by emergency vehicles and municipal infrastructure.

However, there are cases where the design of a multi-building development may include landlocked lots with access to an internal system of private roads which lead to a public street. Alternatively, the owner of a landlocked lot may enter into a private cross-access easement agreement with a neighbouring landowner to facilitate access to a street.

Similarly, the City's by-laws require that all lots must have direct access to municipal services such as water, wastewater and land drainage. As above, the owner of a landlocked lot may need to enter into a private joint services agreement with a neighbouring landowner for joint use and maintenance of facilities providing these services.

The City is prepared to recognize these unique situations on a case-by-case basis and amend the zoning by-laws to relax the provisions for each lot to abut a street and municipal services. There are several ways to accommodate this intent in the zoning by-law. The Public Service recommends that the text of the Winnipeg Zoning By-law be amended to incorporate flexibility in the definition of a zoning lot and add the requirement of abutting a street to the general development standards for all lots. In

this way, the requirement remains in place and applies to all subdivision applications and development permits, but it would trigger a variance application for proposals which include landlocked lots. The same rules would apply to existing landlocked lots where development is contemplated.

The proposed text amendments to the Zoning By-law are outlined in the draft by-law in Attachment "A". The variance application process would allow for a more rigorous analysis and review of unusual cases. It would also enhance public input through a public hearing at the Board of Adjustment or local Community Committee and provide the ability to place conditions on the subdivision and variance approvals. Typical conditions would include that each party who owns, or is entitled to own, a subdivided landlocked lot is required to, at his/her expense:

- enter into private cross-access easement agreement(s), in a form acceptable to the City, with owners of other lots;

- enter into private joint services agreement(s), in a form acceptable to the City, with owners of other lots;

- register caveats for such agreements against affected land titles and provide the City with evidence of registration.

While it is legally possible to adjust by-laws to enable the creation and development of landlocked lots, one of the more practical issues is finding and identifying buildings located on those lots, for example, for emergency services, deliveries and customer service. These lots would be configured such that they do not have frontage on a public street. In multiple building developments such as condominium developments, townhouses, or commercial "pad" sites at regional shopping centres, it is sometimes hard to identify the location of the building(s) from the nearest public street and how to get to it.

According to the City's guidelines, addresses are assigned by frontage feet (a new number every 25 feet, where it can be accommodated). When applying the addressing rules, for example, to Kenaston Common, individual commercial buildings would be addressed variously with Kenaston or McGillivray addresses depending on what street they are closest to, not necessarily the way the front door faces or where they are visible from the street. This makes it difficult for emergency vehicles to find an address or a building. The Winnipeg Public Service will explore possible changes to the City's property addressing guidelines and signage by-laws to see if changes can be brought forward to improve building identification and comprehensive signage plans for developments that include landlocked lots.

Financial Impact Statement Date: January 15, 2009

Project Name:

DAZ 240/2008 - Text Amendment, Winnipeg Zoning By-law 200/2006, Subdivision without Abutting a Street

COMMENTS:

The recommendation included in this report is that the text of the Winnipeg Zoning By-law No. 200/2006 be amended as outlined in Attachment "A". There are no financial implications associated with this recommendation.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:
Internal Consultation With and Concurrence By:

- Legal Services Division
- Public Works Department
- Water and Waste Department

External Consultation With:

- None

THIS REPORT SUBMITTED BY:
Planning Property and Development Department
Office of the Director
Prepared by: Valdene Buckley, MCIP
PPD File No.

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Last Updated: January 15, 2009

ATTACHMENT "A"

THE CITY OF WINNIPEG

BY-LAW NO. /2008

A By-law of THE CITY OF WINNIPEG to amend Winnipeg Zoning By-law No. 200/2006 for a text amendment to permit subdivisions of land creating lots which do not abut a street.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Winnipeg Zoning By-law amended

1 *This by-law amends the Winnipeg Zoning By-law No. 200/2006.*

Part 2: Definitions amended

2 *Part 2: Definitions is amended*

(1) *in section 48, in the definition* "lot, zoning", *by adding* "has vehicular access to or" *after* "land that".

Part 5: Development and Design Standards amended

3 *Part 5: Development and Design Standards is amended*

(1) in section 132, by adding the following after subsection (5):

(6) No use permitted under this By-law shall be established, erected, or constructed unless the parcel of land on which it is located, in addition to complying with all other requirements of this By-law:

(a) abuts a public street; or

(b) abuts an unimproved street which, under an Agreement with the City, is to be improved to serve that lot; or

(c) is deemed to abut a public street pursuant to the non-conformity provisions of this By-law.

DONE AND PASSED this day of , 2009.

_____
Mayor

_____
City Clerk

Approved as to planning details:

_____
for Director of Planning, Property and Development

Approved as to form:

_____
for A/City Solicitor/Manager of Legal Services