Agenda - Council - March 26, 2003

Report - Standing Policy Committee on Property and Development - March 4, 2003

Item No. 17 Proposed Amendment to the Development Procedures By-law for Conditional Uses
File EP-1 (Vol. 21)

STANDING COMMITTEE RECOMMENDATION:

On March 19, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, and submits the matter to Council:

1. That the Development Procedures By-law No. 5893/92 be amended, as outlined in Appendix 2, in order to authorize the Director of Planning, Property and Development or designate to:

   A. Make or reject conditional use orders for all home occupation applications under Zoning By-law No. 6400/94 and the Downtown Winnipeg Zoning By-law No. 4800/88; and

   B. Make or reject conditional use orders under the Downtown Winnipeg Zoning By-law No. 4800/88.

2. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement the foregoing, including preparation of the necessary amending by-law for submission to Council.

Agenda - Council - March 26, 2003

Report - Standing Policy Committee on Property and Development - March 4, 2003

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 19, 2003, 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 RCOMMENDATION:

On March 4, 2003, the Standing Policy Committee on Property and Development concurred in the administrative recommendation, and forwarded its recommendation to Executive Policy Committee and Council.

Re: Amendment to The Development Procedures By-law for Conditional Uses

For submission to: Standing Policy Committee on Property & Development

Original report signed by: Director of Planning, Property and Development

Report date: February 10, 2003

In camera item: No

Recommendation(s):

I. That the *City of Winnipeg Development Procedures By-law No. 5893/92* be amended, as per the attached by-law, in order to authorize the Director of Planning, Property and Development or designate to:

1) make or reject conditional use orders for all home occupation applications under *Zoning By-law No. 6400/94* and the *Downtown Winnipeg Zoning By-Law No. 4800/88*; and
2) make or reject conditional use orders under the *Downtown Winnipeg Zoning By-Law No. 4800/88.*

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

REPORT SUMMARY

KEY ISSUES:

- The proposed amendments will streamline and hasten the approval process for home occupations throughout the city, and for conditional use applications in the Downtown.

IMPLICATIONS

General implications

	None
X	For the organization overall and/or for other departments
X	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment:

- A more efficient process will be viewed as an improvement in service to applicants and the community, and will reduce staff time in the review of home occupation applications. The review of conditional uses in the Downtown will also be enhanced through these amendments.

Policy implications

X	No (*There are no policy implications if the report is asking for a one-time decision.)*
	Yes *(There are policy implications if the recommendation(s) is/are asking for a decision that will be used to guide decisions over time.)*

Comment:

-

Financial implications

	Within approved current and/or capital budget
	Current and/or capital budget adjustment required
X	No financial implications

Comment:

- While it is expected that there may be cost savings within the administration, the extent of these savings cannot be quantified at this time.

REPORT

RECOMMENDATIONS:

I. That the *City of Winnipeg Development Procedures By-law No. 5893/92* be amended, as per the attached by-law, in order to authorize the Director of Planning, Property and Development or designate to:

1) make or reject conditional use orders for all home occupation applications under *Zoning By-law No. 6400/94* and the *Downtown Winnipeg Zoning By-Law No. 4800/88*; and
2) make or reject conditional use orders under the *Downtown Winnipeg Zoning By-Law No. 4800/88.*

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

REASON FOR THE REPORT:

Section 253(2) of *The City of Winnipeg Charter* enables Council, by by-law, to "authorize a designated employee or a planning commission to consider, and make decisions in respect of,

applications for conditional uses of real property or specified types of conditional uses, and applications for conditional uses of real property may be referred to either the designated employee or a planning commission as determined in accordance with the by-law." *The Development Procedures By-law* sets out specific procedures for conditional use applications.

The Standing Policy Committee on Property & Development has the authority to make recommendations to amend *The Development Procedures By-law.*

HISTORY:

On July 5, 2001, the Standing Policy Committee on Property and Development (SPC) instructed the Planning, Property and Development Department to review the *Development Procedures By-law* in order to streamline approvals in Downtown Winnipeg.

On November 21, 2001, Council approved a recommendation by the SPC to authorize the Director of Planning, Property and Development or designate to make an order allowing or rejecting any variance application under the *Downtown Winnipeg Zoning By-law No. 4800/88*.

DISCUSSION:

Two amendments to the *Development Procedures By-law* are proposed:

1. For the Director of Planning, Property and Development, or designate, to make or reject conditional use orders for home occupations within the City of Winnipeg; and
2. For the Director, or designate to make or reject conditional use orders under the *Downtown Winnipeg Zoning By-law No. 4800/88*.

<u>Conditional Use Orders for Home Occupations throughout the City</u>

In 2001, there were 280 conditional use applications processed by the Planning and Land Use Division. Of these, almost half (44.6%) of the applications were for home occupation approvals, and 20% of these applications were re-approvals of a home occupation that had been previously approved. The number of home occupation conditional use applications for 2002 was similar: of 265 applications processed, 49.4% were for home occupations and 20.6% of these applications were for re-approvals of a home occupation previously approved (see Appendix 1).

Currently, if a home occupation is not specifically listed as a permitted or prohibited use in Part Three of *Zoning By-law No. 6400*, the applicant has to undergo the conditional use approval process in order to operate the home-based business. Many of these applications are for minor accessory uses of the home that can operate in the neighbourhood without notice or disruption. For many home occupations, the conditional use process is cumbersome and costly to the customer. It also involves a

public hearing at the Board of Adjustment, processing time by members of the Planning, Property and Development and City Clerk's Departments, as well as paid professional time by committee members, consultants and lawyers representing their clients, as necessary.

By giving the Director of Planning, Property and Development, or designate, the authority to make or reject the conditional use orders for home occupations, the process would be hastened and result in a more efficient outcome. The public will still be aware of the application, through the posting of the decision on the property for at least fourteen (14) days. This part of the conditional use procedure does not change. The difference is that the decision will be made by the designated staff member(s), and the application will not have to proceed to a public hearing unless the decision is appealed. The result will be cost savings to the City and the applicant. Having the ability to approve or reject home occupation applications administratively will speed up the approval process and enhance the outcome for both applicants and the City.

Conditional Use Orders in the Downtown

A stated objective of Council has been to streamline the development approval process in the Downtown. Council recently approved an amendment to *The Development Procedures By-Law* that allows the Director (or designate) to make or reject variance orders in the Downtown. This was the first step in streamlining the approval process.

The City of Winnipeg Charter now allows the Director (or designate) to make or reject conditional use orders. This amendment to *The Development Procedures By-Law* is the next step in streamlining the approval process in Downtown Winnipeg, and will allow the Director (or designate) to make or reject conditional use orders under the *Downtown Zoning By-law No. 4800/*88.

Conditional use applications in the Downtown area are not numerous. In the past two (2) years, less than five (5) per cent of the conditional use applications processed were located in the Downtown (i.e., 12 applications in 2001 and 8 applications in 2002). In each of the years examined, half (50%) of these applications dealt with parking issues that could be handled administratively, with some proper criteria/guidelines in place.

If this proposed amendment is approved, procedure dictates that a copy of the conditional use decision made by the designated employee would be posted on the property for at least fourteen (14) days. This public notice would also contain information on the procedure to appeal the decision. If there was an appeal, a public hearing would take place and the decision would be made by the Council-appointed Appeals Committee.

In the majority of cases, there would likely be no appeals of the conditional use order, and the application would be considered closed. Administrative approval would thus

reduce the number of stages an application has to go through, and reduce the processing time.

Conditional use applications outside of the Downtown area would still follow the current procedure, which includes a public hearing and decision by the Board of Adjustment.

A copy of the draft by-law to amend *The Development Procedures By-Law* is attached (Appendix 2).

(**Note**: The draft by-law consolidates appeal procedures for Director's variance and conditional use orders. No change is being made to current delegated authority to the Director on variance applications.)

Financial Impact Statement

Date: January 10, 2003

Project Name:

Amendment to the Development Procedures By-Law for Conditional Uses

First Year of Program 2003

	2003	2004	2005	2006	2007
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

The application of the proposed by-law, in addition to providing time and convenience advantages to customers, will result in time savings in Planning, Property and Development, City Clerks and the Board of Adjustment. While it is anticipated that there may be real cost savings - the extent of such savings is not determinable at this time.

Gord Courage, Manager
Support Services Division

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Development Management Branch

Downtown Improvement and Departmental Projects Manager

Legal Services Division

Zoning and Permits Branch

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Planning and Land Use
Prepared by: Chris Knoll
PPD File #:

Document name: O:\Reports Directive\Planning and Land Use\Urban Planning Reports\2003 Reports\Amendment-Conditional uses.doc

APPENDIX 1 - Numbers And Types of Conditional Use Applications for Home Occupations (DCU's) Processed in 2001 and 2002

Numbers	**2001**		**2002**	
	No.	**%**	**No.**	**%**
Total number of conditional use applications (DCU's) processed	280		265	
Number of DCU's for home occupation approval	125	44.6	131	49.4
Number of home occupation applications that were re-approvals	25	20.0	27	20.6
Number of DCU's processed under *Bylaw No. 4800/88* (Downtown)	12	4.3	8	3.0

TYPES OF HOME OCCUPATIONS PROCESSED – 2001 and 2002

Types of home occupation applications	**2001**		**2002**	
	No.	**%**	**No.**	**%**
Personal services (hairstylist, esthetician, manicurist)	34	27.2	45	34.4
Counselors, consultants, massage therapists	28	22.4	30	22.9
Vehicle repair, sales	17	13.6	14	10.7
Bed and breakfast operations	10	8.0	1	0.8
Crafters, including importing/delivery/sales	7	5.6	7	5.3
Metal products manufacture/repair	6	4.8	8	6.1
Pet grooming and supply	5	4.0	8	6.1
Wood product manufacture/repair	4	3.2	8	6.1
Contractor (snow removal, excavating, landscaping)	1	0.8	5	3.8
Others (including music teacher, instrument repair, entertainment-related, printer, writer, etc.)	13	10.4	5	3.8
TOTALS	**125**	**100.0**	**131**	**100.0**

APPENDIX 2
THE CITY OF WINNIPEG

BY-LAW NO. _____/2003

A By-law of the City of Winnipeg to amend By-law No. 5893/92, being the Development Procedures By-law.

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

1. Section 12 of By-law No. 5893/92 is repealed and the following substituted therefor:

"BOARD OF ADJUSTMENT ORDERS

12. Subject to section 6, conditional use applications and variance applications, other than those in respect of which the director makes an order pursuant to sections 14 and 15 shall be referred to the Board of Adjustment to be dealt with in accordance with this by-law and The Board of Adjustment By-law (No. 5894/92)."

2. By-law No. 5893/92 is amended by the addition of the following section:

"**CONDITIONAL USE ORDERS BY THE DIRECTOR**

15. The director may consider and make decisions, in accordance with The City of Winnipeg Charter, in respect of applications for conditional uses where the application:

(a) Is for a conditional use to allow a home occupation in any residential zoning district; or,

(b) Is for a conditional use of the applicable zoning rules in any zoning district contained within the Downtown Winnipeg Zoning By-law (No. 4800/88)."

3. Section 18 of By-law No. 5893/92 is repealed and the following substituted therefor:

"NOTICE OF DIRECTOR'S VARIANCE AND CONDITIONAL USE ORDERS AND RIGHT TO APPEAL

18. (1) When the director makes a decision on an application for a variance or conditional use, the director shall give notice of the decision in accordance with The City of Winnipeg Charter.

(2) Any decision of the director on an application for a variance or conditional use, may be appealed to the appeal committee, in accordance with The City of Winnipeg Charter.

(3) Where a decision of the director on an application for a variance or conditional use is appealed, the City shall give notice of the appeal hearing in accordance with section 9. The appeal committee shall conduct a hearing on the appeal and give its decision on the appeal, in accordance with The City of Winnipeg Charter."

DONE AND PASSED, in Council assembled, this day of , 2003.

_____
Mayor

_____
City Clerk

Certified as to form:

_____
for City Solicitor/Manager of
Legal Services

File No. P.3.10 WRS