Minutes – Executive Policy Committee – April 20, 2011

Minute No. 250
Report – Standing Policy Committee on Property and Development – April 5, 2011

Item No. 2 **Secondary Plan Amendment – Part of Former Railway Line North of Kingsway, South of Academy Road (River Heights-Fort Garry Ward) File SPA 3/2010 [c/r DAZ 225/2010, DAZ 226/2010 and DAV 165924/2010D]**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the City Centre Community Committee and submits the following to Council:

1. That By-law No. 130/2010 to amend the Secondary Plan known as the Winnipeg Airport Vicinity Development Plan (By-law No. 6378/94) by moving the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane to the east of the old railway right-of-way as per the maps (Schedules A and B), be forwarded to Council for second and third readings.

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

Minutes – Executive Policy Committee – April 20, 2011

Report – Standing Policy Committee on Property and Development – April 5, 2011

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That the recommendations of the Standing Policy Committee on Property and Development and the City Centre Community Committee be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On April 5, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 7, 2011, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

RE: **Secondary Plan Amendment – part of former railway line north of Kingsway, south of Academy Road**
File SPA 3/2010

For submission to: **The Standing Policy Committee on Property and Development**

Prepared by: **Josie Marques, Senior Committee Clerk**
City Centre Community Committee

Report date: **March 8, 2011**

STANDING COMMITTEE RECOMMENDATION:

On March 7, 2011, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development:

1. That By-law No. 130/2010 to amend the Secondary Plan known as the Winnipeg Airport Vicinity Development Plan (By-law No. 6378/1994) by moving the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane to the east of the old railway right-of-way as per the attached maps (Schedules A and B), be forwarded to Council for second and third readings.

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

The City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. This phase of the development does not access onto Academy Road, the lane should only be used by the area residents, therefore limiting traffic issues

2. There is a huge demand for people wanting to live in the area.

3. The development is the best infill we can have.

PUBLIC HEARING SUMMARY

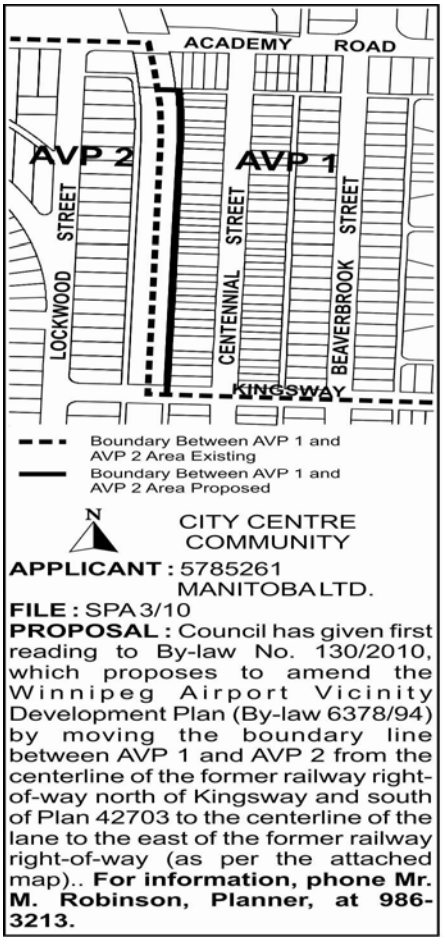
File: SPA 3/2010

Before: City Centre Community Committee
Councillor Gerbasi, Chairperson
Councillor Orlikow
Councillor Smith

Public Hearing: March 7, 2011
Council Chamber
Council Building, 510 Main Street

Applicant: 5785261 Manitoba Ltd. (Marc Kipnes)

Subject:



Premises Affected: part of former railway line north of Kingsway,
south of Academy Road

Exhibits Filed:

1. Application dated October 26, 2010
2. Notification of Public Hearing dated February 1, 2011
3. Council Decision of December 15, 2010; contains report from the Director of Planning, Property and Development dated November 17, 2010
4. First Reading of By-law No. 130/2010 by Council on December 15, 2010
5. Manitoba Status of Title 2343912
6. Plans (7 pages)
7. Report from the Planning and Land Use Division dated March 3, 2011
8. Inspection Report
9. Audio Recording of representations of public hearing held on March 7, 2011

REPRESENTATIONS:

In support:

Myles Kraut
Nicole Rexer
Ernie Walter
Yaron Walter

In Opposition:

Andrea Bacler
Kerry Pihulak
Juan Sumoza

For Information:

Kevin Howard

For the City:

Mr. K. Raban, Land Development Administrator, Planning, Property and Development Department
Mr. M. Robinson, Senior Planner, Planning, Property and Development Department

Exhibit "7" referred to in File SPA 3/2010

ADMINISTRATIVE REPORT

REVISED

Title: SPA 3/2010 – Part of Former Railway Line North of Kingsway Street and South of Academy Road

Issue: SPA 3/2010 - Secondary Plan Amendment to the Winnipeg *Airport Vicinity Development Plan* (By-law 6378/94) to move the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane to the east of the old railway right-of-way as per the attached map

Critical Path: City Centre Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	n/a	n/a	

RECOMMENDATIONS

That By-law No. 130/2010 to amend the Secondary Plan known as the *Winnipeg Airport Vicinity Development Plan* (By-law 6378/1994) by moving the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane to the east of the old railway right-of-way as per the attached maps (Schedules A & B), be forwarded to Council for second and third readings.

REASON FOR THE REPORT

This report is for consideration by City Centre Community Committee, Standing Policy Committee on Property and Development, Executive Policy Committee and, ultimately, Council to determine whether a By-law to amend the Winnipeg *Airport Vicinity Development Plan* (By-law 6378/1994), should be given second and third readings.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Winnipeg Public Service are concurred in, consideration can be given to the associated rezoning application, variance application and amendment to the map in the Airport Protection Area Planned Development Overlay PDO-1. (Files DAZ 226/10, DAV 10-165924/D, and DAZ 225/10, respectively). If these applications are all approved, development permits may be issued.

CONSULTATION

In preparing this report there was consultation with:
N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	Michael Robinson, AICP
Date:	March 3, 2011
File No.	SPA 3/10

List of Schedules and Attachments

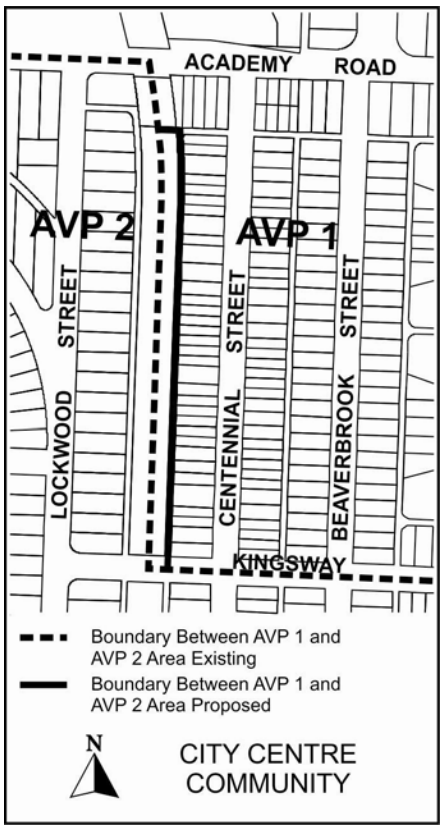
1. Appendix 'A' – Planning Discussion
2. Appendix 'B' – Aerial Photograph
3. Appendix 'C' – Letter from Winnipeg Airport Authority
4. Attachment 'A' – By-law No. 101/2010
5. Schedule 'A' – Amended Winnipeg Airport Vicinity Development Plan Map (Figure 1)
6. Schedule 'B' – Amended Winnipeg Airport Vicinity Development Plan Map (Figure 2)

APPENDIX 'A'

DATE: March 3, 2011
FILE: SPA 3/10
RELATED FILES: DAZ 225/2010, DAZ 226/2010, DAV 10-165924/D
COMMUNITY: City Centre

SUBJECT: To amend the Winnipeg *Airport Vicinity Development Plan* (By-law 6378/94) by moving the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane to the east of the old railway right-of-way.

LOCATION: Part of Former Oak Point Subdivision Railway Line North of Kingsway Street and South of Academy Road



APPLICANT: 5785261 Manitoba Ltd. (Marc Kipnes)
200-60 Shore Drive
Winnipeg, MB R3T 2C8

OWNER: Same as above

RECOMMENDATION: Approval

REPORT SUMMARY:

- The proposed amendment is to move the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane to the east of the old railway right-of-way as per the attached map.
- Moving the boundary is required prior to rezoning the subject lands for multiple-family residential development.
- The proposed development, which will be considered in the associated rezoning and variance applications, is the final phase of the Centennial Park development, which includes a total of 92 bungalow condominium units between Corydon Avenue and Academy Road on the former Oak Point Subdivision Railway land.
- The line dividing AVP 1 and AVP2 was drawn at a time (1994) when the subject property was a ROW for the railroad
- The Winnipeg Public Service recommends that the amendment be approved

SITE DESCRIPTION:

The subject property, which is zoned "R1-L" Single-Family Residential District, "R1-M" Single-Family Residential District, "R2" Residential Two-Family Residential District, and "C1" Commercial District is located north of Kingsway Avenue and south of Academy Road, between Centennial and Lockwood Streets in the River Heights neighbourhood of the River Heights-Fort Garry ward.

North: Undeveloped land zoned "C1" Commercial District
South: Undeveloped land which was rezoned "RMF-S" Multiple-Family District and approved for bungalow condominiums in 2009
East: Residences zoned "R1-M" Single-Family Residential District
West: Residences zoned "R1-L" Single-Family Residential District

BACKGROUND:

Annotated Chronology of the Oak Point Subdivision Railway land

- The CN Oak Point branch line connected the CN mainline with the St. James industrial area. The line has been abandoned and portions of the right-of-way north of the Assiniboine River have been redeveloped for commercial uses, including the new Future Shop and Canadian Tire stores on the west side of St. James street.

- The City had been negotiating with CN to acquire the right-of-way: possible uses included a linear park/bike path and/or a transit corridor. The transit corridor was not a popular proposal with adjacent residents. CN decided to sell their lands on the open market.

September, 2002

- DASZ 7/2002 ((c/r DCU 155/2002D,DAV 574/2002D, DAV 575/2002D, DAV 576/2002D, DAV 577/2002D))
- Public hearing at City Centre Community Committee for the establishment of single-family dwellings along that portion of the former railway line from Academy Road to Taylor Avenue, with some commercial development at intersecting regional streets.

- From Academy to Kingsway: the developer proposed to develop a 12,000+ square foot “C1” commercial site on the south side of Academy with 16 single-family lots generally ranging between 4,370 square feet to 4,965 square feet in area, compared to the by-law requirement of 4,000
- square feet.
- From Kingsway to Corydon: the developer proposed to establish 35 single-family lots between Kingsway and Corydon ranging between 4,450 square feet and 5140 square feet, creating 17 lots between Kingsway and Grosvenor, and 18 lots between Grosvenor and Corydon
- On September 10, 2002, the City Centre Community Committee did not concur in the administrative recommendation, and recommended that the plan of subdivision and zoning change proposed under File DASZ 7/2002 not be proceeded with.
- On December 11, 2002, Council concurred in the recommendation of the Standing Policy Committee on Property and Development that the plan of subdivision and zoning change proposed under File DASZ 7/2002 not be proceeded with.

December 11, 2002
- City Council voted to refer a motion to Standing Policy Committee on Property and Development to pursue acquisition of the Oak Point Subdivision lands between Academy Road and Taylor Avenue.

February 6, 2003
- City Council voted to file the above motion without further action.

Post 2003
- Most of the CNR Oak Point Subdivision railway south of the Assiniboine River has been developed or has been approved for commercial and multiple family developments including:
    - DASZ 23/2003 at 550 Kenaston Boulevard (former CN rail right-of-way south of Grant Avenue and north of Mather Avenue) that has been sold to Loblaw Properties Inc.
    - DAZ 235/2004 at 1535 Wellington Crescent (former CN rail right-of-way including the bridge over Assiniboine River between Wolseley Avenue and Academy Road) that has been sold to Stechesen Katz Architects ;
    - DASZ 15/2004 (former CN rail right-of-way vacant land located north of Taylor Avenue, south of Mathers Avenue and Boulton Bay
    - DASZ 23/2006 at 1800 / 1810 Corydon Avenue (former CN rail right-of-way south of Corydon Avenue and north of John Brebeuf Place) that has been sold to 2862647 Manitoba Ltd.
    - DASZ 14/09 (former CN rail right-of-way north of Corydon Avenue and south of Kingsway Avenue) that was sold to 5785261 Manitoba Ltd.)

Winnipeg Airport Vicinity Development Plan
Under new sections (576 (3) and 589 (2.1) of the City of Winnipeg Act, which were added in the early 1990’s, the City was required to amend Plan Winnipeg to include an Airport Vicinity Protection Area and enact zoning amendments to ensure land use “compatibility” with airport operations. In addition, the City was required to create a Secondary Plan, in collaboration with interested stakeholders, including the Winnipeg Airport Authority, Transport Canada, the Province of Manitoba, and the RM of Rosser.

The Secondary Plan was produced and adopted by City Council on May 25, 1994 as By-law 6378/94.

An important feature of the Plan is an overlay map, called AVDP boundaries, which limits development in certain parts of the City in proximity to the Airport and/or are over major flight paths. The AVDP boundaries are related directly to Noise Exposure Forecast contours.

The AVDP boundaries include two areas, referred to as Area 1 and Area 2. Area 1, which is deemed to be more impacted by airport operations, is more restrictive than Area 2. The zoning policies are as follows:

1) Within Area I, no new residential development shall be permitted (subject to statutory non-conforming rights and any related variance); but, existing dwellings may be replaced if destroyed or demolished, subject to any required rezoning or other change in land use controls. Exceptions for minor residential infilling in existing and established residential areas, may be approved;

2) Within Area 2, new single-family dwellings may be approved and new multiple residential dwellings
may be approved up to 85 units per hectare (35 units per acre) and approved above that density by conditional use, subject to any required zoning or other change in land use controls,

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed amendment is to move the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane to the east of the old railway right-of-way as per the map on the first page of Appendix 'A'.

Currently, the subject property is divided equally between Area 1 and Area 2 of the Winnipeg Airport Vicinity Development Plan, the history of which is discussed in the Background section. Consequently, existing policies restrict development on this land to 1-2 single-family homes (by conditional use).

Moving the boundary is required prior to rezoning the subject lands for multiple-family residential development. The proposed development, which will be considered in the associated rezoning and variance applications (DAZ 225/2010, DAZ 226/2010, DAV 10-165924/D), is the final phase of the Centennial Park development, which includes a total of 92 bungalow condominium units between Corydon Avenue and Academy Road on the former Oak Point Subdivision Railway land. The first two phases have already been approved and preliminary site work has commenced.

ANALYSIS AND ISSUES

At the time the Plan was produced, when the lines were drawn between policy areas, efforts were made to use property lines and existing right-of-ways, to avoid placing a line down the middle of a property. In that way, the line at this location was drawn down the middle of the Oak

Point Subdivision Railway lands, which at that time was still owned by CN and designated as a ROW.

Subsequently, as detailed in the above chronology, the land was sold off to private interests, for the purpose of land development.

It should be noted that the Winnipeg Airport Authority has submitted correspondence (Appendix C) indicating that they do not object to the proposed amendment and associated rezonings provided that the structures include acoustical treatment and that purchasers are made aware, through purchase agreements and Condo declarations and By-laws, of airport vicinity noise.

RECOMMENDATIONS

As it stands, given that the land has been vacant for some time and is in private ownership, residential development, in the eyes of the Winnipeg Public Service, is the best and most sustainable use of the land.

Furthermore, since the land is no longer used as a right-of-way, the basis for drawing the line down the middle of the property has changed.

Given these circumstances, it is now appropriate to move the line, per the proposed amendment, so that the property can be developed.

For these reasons, the Winnipeg Public Service ***recommends that By-law No. 130/2010 to amend the Secondary Plan known as the Winnipeg Airport Vicinity Development Plan (By-law 6378/1994), be forwarded to Council for second and third readings.***

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: Michael Robinson, AICP
PPD File # SPA 3/10

APPENDIX 'B'



Figure 1: Aerial Photo (Flown in 2009)

APPENDIX 'C'

WINNIPEG
AIRPORTS AUTHORITY

February 8, 2011

Mr. Michael Robinson, Senior Planner
City of Winnipeg
City Centre Community
Unit 15 – 30 Fort Street,
Winnipeg, MB, R3C 4X5

Re: Proposed Secondary Plan Amendment: Airport Vicinity Protection Area Secondary Plan (By-Law 6378/94) Part of Former Railway Line North of Kingsway South of Academy Road; City File Reference: SPA 3/10

Dear Mr. Robinson:

We respond to the application received from 5785261 Manitoba Ltd. for an amendment to the map in the Airport Vicinity Protection Area affecting the above-referenced land.

The Winnipeg Airports Authority Inc. will not object to the rezoning of this specific area as Area II (not restricted from development but requiring acoustical treatment) provided appropriate notation is incorporated on the Condo delegation to the signed owner; bylaws and subsequent purchase agreements acknowledge the airport vicinity noise as a precondition.

Please note that our determination to not object is based on these understandings reached between the developer and the City. Said determination is unique to this particular application for amendment and that the Winnipeg Airports Authority Inc. reserves the right to consider and determine the position respecting any future development. With specific exclusions, all residential development within the identified Noise Protection bylaws is prohibited.

Thank you for contacting us regarding this matter.

Sincerely,

Catherine J. Kloepfer, CGA, FCA
Senior Vice-President Corporate Services
and Chief Financial Officer

Winnipeg Airports Authority Inc.
249 - 2000 Wellington Avenue
Winnipeg, Manitoba R3H 1C2

Tel: 204.987.9400
Fax: 204.987.9401
Web: www.waa.ca

CITY OF WINNIPEG
RECEIVED
FEB 10 2011
PLANNING AND
LAND USE DIVISION

ATTACHMENT 'A'

THE CITY OF WINNIPEG

BY-LAW NO. 130/2010

A By-law of THE CITY OF WINNIPEG to amend the Airport Vicinity Protection Area Secondary Plan By-law.

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

1 *The Airport Vicinity Protection Area Secondary Plan By-law No. 6378/94 is amended by repealing Figure 1 and Figure 2 and substituting the attached.*

RECEIVED FIRST READING on this day of , 2010.

RECEIVED SECOND READING on this day of , 201 .

RECEIVED THIRD READING on this day of , 201 .

DONE AND PASSED this day of . 201 .

_____
Mayor

_____
City Clerk

Approved as to planning details:

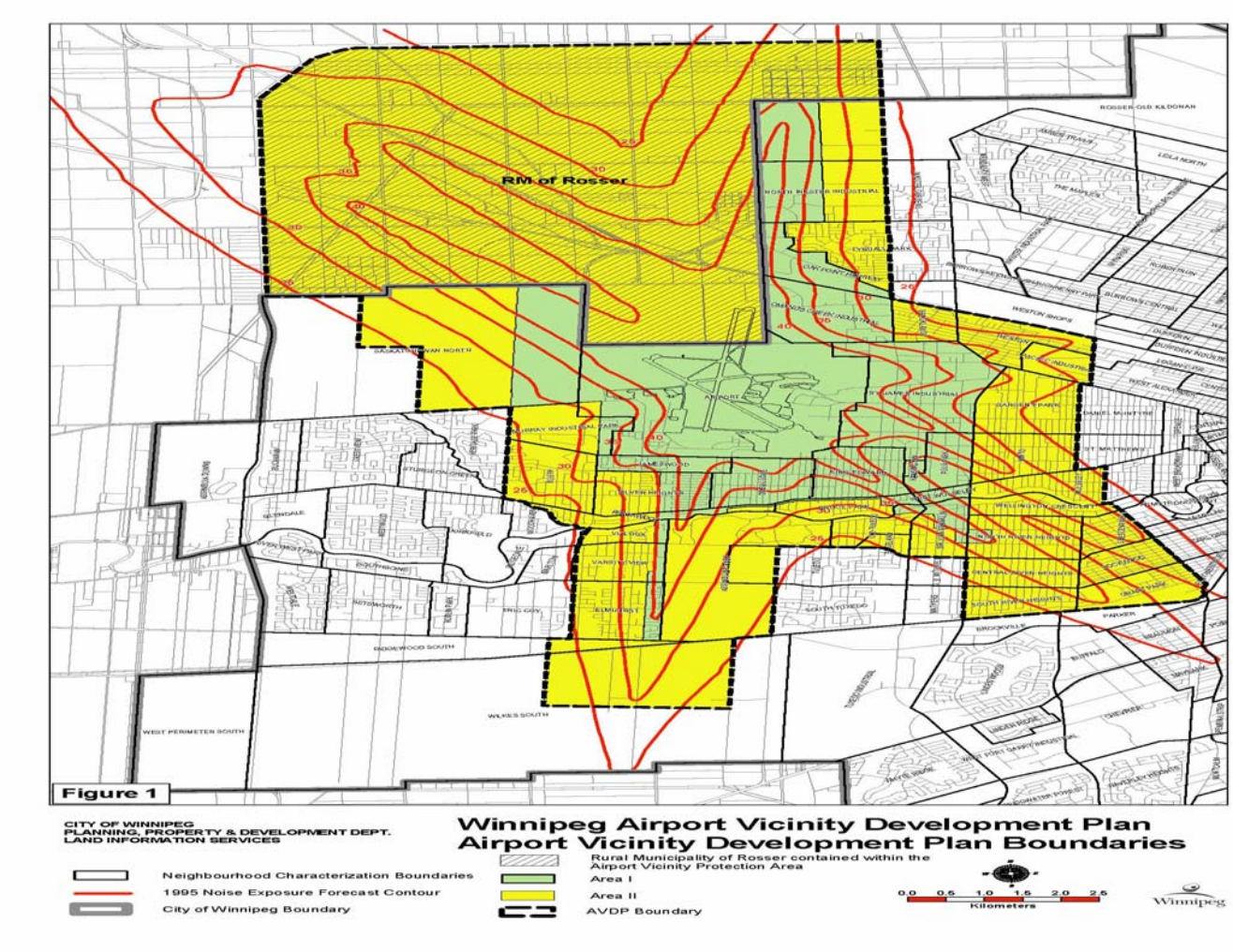
_____
for Director of Planning, Property and Development

Approved as to form:

_____
James Carter
for Director of Legal Services and City Solicitor

SCHEDULE 'A'

p7594.1 Figure 1-Winnipeg Airport Vi



SCHEDULE 'B'

p7594.1 Figure 2-
Winnipeg Airport Vicir

