Report of the Standing Policy Committee on Property and Development dated January 28, 2002

Proposed Text Amendment – Downtown Winnipeg Zoning By-law No. 4800/88
File DAZ 225/2001

1. The Standing Policy Committee on Property and Development, at its meeting on December 11, 2001, instructed the Director of Planning, Property, and Development to initiate an application to consider an amendment to the text of the Downtown Winnipeg Zoning By-law No. 4800/88. Specifically, the text amendment would add the use "Sports, Entertainment, Cultural Facility" as a permitted principal use in Non-Residential Use Group C ("NRc") and Non-Residential Use Group D ("NRd"). The proposed text amendment is being initiated to provide greater clarity to the interpretation of the "NRc" and "NRd" Use Groups. The proposed amendment is consistent with policy encouraging the location of major arts, cultural, and entertainment amenities in the Downtown.

Earlier this year, True North Entertainment Centre Inc. submitted a proposal to the Planning, Property and Development Department to establish a "Multi-Use Entertainment Complex" on the site currently occupied by the former Eaton's department store (southwest corner of Portage Avenue and Donald Street). This site is located within the "NRd" Use Group of the Downtown Winnipeg Zoning By-law. Based on materials submitted by the applicant, the proposed development was deemed to comply with all zoning regulations - with the exception of requiring conditional use approval for the "Amusement Enterprise, licensed as a Sports Facility" use. The remainder (in fact, the majority) of the proposed operations were interpreted as being within the "Personal Service" and "Retail Business" uses listed in the "NRd" regulations (section 323).

The Save the Eaton's Building Coalition filed a Notice of Application in the Court of Queen's Bench on November 14, 2001, requesting an order interpreting the provisions of the Downtown Winnipeg Zoning By-law No. 4800/88. In particular, the Coalition is requesting an order determining whether an arena or a facility primarily for the staging of spectator entertainment events is a permitted principal use of the land in question. The effect of this application is to challenge the Administration's interpretation of the Downtown Winnipeg Zoning By-law.

Public hearing for the "Amusement Enterprise, licensed as a Sports Facility" conditional use application was held before the Board of Adjustment on November 15, 2001 (under File DCU 191/2001C). A Conditional Use Order was granted for this use, subject to the use being established within two years of the order being issued. The Order was appealed, and the appeal hearing was scheduled for December 6, 2001, which hearing was subsequently adjourned to January 17, 2002, and again to January 31, 2002.

On November 15, 2001, legal counsel for True North Entertainment Centre Inc. (Charles L. Chappell, Aikins MacAulay Thorvaldson) submitted correspondence to the Standing Policy Committee on Property and Development requesting the City of Winnipeg initiate a text amendment to the Downtown Winnipeg Zoning By-law designating "Multi-Use Entertainment Complex" as a permitted use under the "NRd" Use Group - or other such classification deemed appropriate. The letter states the motivation for this request is "in order to avoid continuing litigation and to address the uncertainty and ambiguity raised by" persons objecting to the proposed "Multi-Use Entertainment Complex". Representatives of True North Entertainment Centre Inc. appeared in delegation at the November 22, 2001 meeting of Standing Policy Committee.

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On December 11, 2001, Standing Policy Committee on Property and Development instructed the Director of Planning, Property, and Development to initiate an application to consider an amendment to the text of the Downtown Winnipeg Zoning By-law No. 4800/88 to list "sports, entertainment, cultural facility" as a permitted principal use in the Non-Residential Use Group D "NRd" and Non-Residential Use Group C "NRc". The Standing Policy Committee also established January 8, 2002 as the date for the public hearing.

The proposed text amendment would apply to lands within Downtown Winnipeg, as illustrated on Attachment 1. Plan Winnipeg: 2020 Vision, CentrePlan: Vision and Strategies, and CentrePlan: Development Framework, all encourage the location of major arts, cultural, and entertainment amenities in the Downtown. The proposed text amendment is consistent with this policy direction. The Planning, Property, and Development Department considers the Downtown to be an appropriate location for such facilities and that the proposed text amendment to the Downtown Winnipeg Zoning By-law can be supported from this perspective.

The Planning, Property and Development Department outlined in a Financial Impact Statement, dated December 21, 2001, that there are no known financial impacts associated with the by-law text amendment being recommended.

A Public Hearing for the proposed text amendment was held by the Standing Policy Committee on Property and Development on January 8, 2002. Four persons registered in support of the proposed text amendment, 78 registered in opposition thereto, and 5 persons registered for information thereon.

On January 8, 2002, the Standing Policy Committee heard and concluded receipt of public representations. Committee adjourned the public hearing to January 28, 2002, and requested the Director of Planning, Property and Development, in consultation with the Legal Services Division, to submit a supplementary report outlining a definition of the proposed permitted use "sports, entertainment, cultural facility", including therein commentary on any possible adverse affects on areas where this type of zoning use would not be appropriate. The supplementary report was also to include, but not be limited to, commentary to clarify the language utilized for the proposed text amendment, incorporating the proposed text amendment into the proposed review of the Downtown Winnipeg Zoning By-law, and possibly speeding up the process for the proposed review.

On January 28, 2002, the Standing Policy Committee reconvened the public hearing, and considered the following information contained in the supplementary report dated January 21, 2002, from the Director of Planning, Property and Development.

<u>Definition</u>
If the application under File DAZ 225/01 is approved, Planning, Property, and Development Department recommends "Sports, Entertainment, Cultural Facility" be added to the Definitions portion (section 210) of the Downtown Winnipeg Zoning By-law.

"Sports, entertainment, cultural facility" means a use of land, building, or structure including an arena or other similar improvement for spectator events, including but not limited to: cultural, entertainment, and/or sporting events, but excluding uses in the zoning designation listed as Conditional or Secondary.

Possible Adverse Affects

Plan Winnipeg: 2020 Vision, CentrePlan: Vision and Strategies, and CentrePlan: Development Framework, all encourage establishment of major arts, entertainment, sports, and cultural uses in Downtown Winnipeg. These policy documents also encourage high quality urban design, a variety of commercial experiences, concentration of office uses, and enhanced residential neighbourhoods in the downtown. The introduction of "sports, entertainment, cultural facility" uses can encourage investment, bring people downtown, generate spin-off benefits for downtown businesses, and extend activity beyond office hours.

Such "sports, entertainment, cultural facilities" will have a number of effects on their immediate location, on the local area, and on the downtown in general - both for the current downtown context and for its future. These effects depend on the size and scale of the facility, the nature of its operations (hours of business, number of events annually, multiple users), the design of the facility (relationship to the public realm, connections to adjacent uses, fit with local area), traffic generation (pedestrians, automobiles, transit), and so on. On balance, "sports, entertainment, cultural facility" uses should be located, designed, and operated in such a way that positive effects predominate - with negative effects minimized or mitigated. It should be noted that the proposed text amendment does not alter or eliminate other applicable Downtown Winnipeg Zoning By-law regulations: Residential Use, Bulk, Parking and Loading, Signage, and Urban Design. These regulations, along with Non-Residential Use regulations, are intended to ensure that developments make a positive contribution to Downtown Winnipeg.

It should also be noted that "sports, entertainment, cultural facility" uses are not permitted within the "NRa" (Central Park and South Broadway), "NRb" (Broadway and Legislature), and "NRf" (riverbank) Use Group areas.

Downtown Winnipeg Zoning By-law Review

On July 5, 2001, Standing Policy Committee on Property and Development made the following motion:

> Whereas Council, through policies established in Plan Winnipeg, has emphasized the importance of Downtown Winnipeg to the ongoing health and vitality of the City of Winnipeg;
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> And Whereas Council has endorsed CentrePlan Vision and Strategies, CentrePlan Action Plans, and CentrePlan Downtown Development Framework to provide direction and a clear planning framework for downtown;
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> And Whereas Council has established the CentreVenture Development Corporation to provide leadership in implementation actions;
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> And Whereas each of these Council endorsed policies and initiatives have indicated the importance of providing simple and clear development standards, and appropriate and timely approval processes for Downtown Winnipeg;
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> And Whereas there has been no comprehensive review of the Downtown Winnipeg Zoning By-law No. 4800/88 since its adoption in 1988;
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> Therefore Be It Resolved that the Planning, Property, and Development Department be instructed to review the Downtown Winnipeg Zoning By-law and the Development Procedures By-law, so as to streamline development regulations and approval processes in the Downtown,

and submit a report outlining recommended improvements to the Standing Policy Committee on Property and Development within 120 days.

The Planning, Property, and Development Department submitted a report for Standing Policy Committee consideration at their December 11, 2001 meeting, outlining a concept for a new Downtown Winnipeg Zoning By-law - rather than revisions to the existing zoning by-law. Its substance was also presented at a Council Seminar on January 21, 2002. Due consideration will be provided to "sports, entertainment, cultural facility" uses in any proposed new zoning regulations for Downtown Winnipeg.

The current Downtown Winnipeg Zoning By-law consists of six overlapping layers, each providing regulations for specific aspects of development, such as: residential use, non-residential use, bulk, parking/loading, signage, and urban design. The proposed new zoning by-law is organized on the basis of areas of interest; that is, zoning districts with regulations specific to their geographic area, reflecting primary function or built environment - with direction from Plan Winnipeg: 2020 Vision, CentrePlan: Development Framework, and CentrePlan: Vision and Strategies. "Sports, entertainment, cultural facilities" will likely - pending consultation with Council, downtown interests, and staff - be considered permitted in the proposed "Central Business District", which includes the area bounded approximately by Ellice Avenue; Memorial Boulevard; Broadway; Main Street - and in portions of the proposed "Character Districts" (Exchange District, Chinatown, The Forks) and "Office/Cultural Districts" (Legislature, Broadway, Civic Centre). Facilities of this nature will likely be considered not permitted in the proposed "Downtown Living Districts" (South Broadway, Central Park).

A draft of the new zoning by-law is anticipated to be available for Council consideration in Spring 2002. Work is progressing to meet the projected timeline.

The Standing Policy Committee on Property and Development recommends:

I. That the Downtown Winnipeg Zoning By-law No. 4800/88 be amended as follows:

A. Section 322(1) of Part III, Non-Residential Use Group C be amended by adding the use "Sports, Entertainment, Cultural Facility" to the permitted principal use list.

B. Section 323(1) of Part III, Non-Residential Use Group D be amended by adding the use "Sports, Entertainment, Cultural Facility" to the permitted principal use list.

C. Section 210 of Part II, Definitions be amended by adding "Sports, Entertainment, Cultural Facility" means a use of land, building, or structure including an arena or other similar improvement for spectator events, including but not limited to: cultural, entertainment, and/or sporting events, but excluding uses in the zoning designation listed as Conditional or Secondary to the list of definitions.

II. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary zoning text amending by-law for the above approved text amendments and forward same to Council for all three readings.

III. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Act.

IV. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing, including the execution of any documents related thereto.

Copies of the documents referred to in the above clause are on file in the office of the City Clerk.

Attachment I referred to in Clause 1 of the Report of the Standing Policy Committee on Property and Development dated January 28, 2002

