Minutes – Executive Policy Committee – July 11, 2018

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 25, 2018

Item No. 10 Sign Approval Process

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee recommended to Council:

1. That the Winnipeg Public Service be directed to report back to the Standing Policy Committee on Property and Development, Heritage and Downtown Development within 180 days with an itemized lists of the specific sections of the Winnipeg Zoning By-Law No. 200/2006 where the Board of Adjustment have ruled against the recommendations of the Winnipeg Public Service for the last two years, including but not limited to decisions regarding the size and placement of signs, as well as identifying the key specifics in which way the Board of Adjustment decisions have contravened in the Winnipeg Zoning By-Law No. 200/2006.

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 – July 11, 2018

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 25, 2018

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the Executive Policy Committee recommend to Council:

1. That the Winnipeg Public Service be directed to report back to the Standing Policy Committee on Property and Development, Heritage and Downtown Development within 180 days with an itemized lists of the specific sections of the Winnipeg Zoning By-Law No. 200/2006 where the Board of Adjustment have ruled against the recommendations of the Winnipeg Public Service for the last two years, including but not limited to decisions regarding the size and placement of signs, as well as identifying the key specifics in which way the Board of Adjustment decisions have contravened in the Winnipeg Zoning By-Law No. 200/2006.

Carried

Charles L. Chappell, Jeff Pinchin and Eric Senuik submitted a communication dated July 9, 2018, in opposition to the recommendation of the Winnipeg Public Service.

STANDING COMMITTEE RECOMMENDATION:

On June 25, 2018, due to a tie vote, the Standing Policy Committee on Property and Development, Heritage and Downtown Development submitted the matter to the Executive Policy Committee and Council without recommendation.

Charles Chappell, MLT Aikins LLP, submitted a communication dated June 21, 2018, in opposition to the matter.

Ken Devine, President, Electra Sign Ltd., submitted a communication dated June 25, 2018, in opposition to the matter.

ADMINISTRATIVE REPORT

Title: Sign Approval Process

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development - Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Smith	J. Kiernan	N/A	D. McNeil

EXECUTIVE SUMMARY

Currently, decisions regarding the approval of digital signs are made by the Board of Adjustment ("the Board"). This report recommends that decisions regarding conditional uses and variances for signs and billboards, in the area covered by the Winnipeg Zoning By-Law No. 200/2006, be delegated to the Director, decisions which may be appealed in accordance with The City of Winnipeg Charter.

As part of this recommendation, the Public Service engaged with the sign industry ("industry") to elicit feedback (detailed in Appendix A). Generally, feedback from industry was not supportive of changes to the approval process. A majority of industry members consulted wished to continue to see applications proceed to Board hearings as they have previously.

Although feedback from industry was not favourable, the Public Service recommends that the process be proceeded with as directed by the Standing Policy Committee on Property and Development, Heritage and Downtown Development ("the Committee"). The Public Service maintains that this process is the best way to improve adherence to Council's adopted zoning regulations regarding signs.

Further detail on the Public Service Recommendation including background, anticipated new sign approval timelines, and consultation is provided in Appendix B – Planning Discussion.

RECOMMENDATIONS

1. That Council enact a by-law to amend the Development Procedures By-Law No. 160/2011 to give authority to the Director of Planning, Property and Development to approve applications for variances and conditional uses that relate to signs (draft amending by-law is attached as Appendix C).

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

REASON FOR THE REPORT

On February 7, 2017, the Committee considered a report from the Winnipeg Public Service regarding its 3 Year Review and Recommendations on Digital Signs and Billboards.

One of the directives by the Committee was for the Winnipeg Public Service to report back within 180 days with recommendations to increase adherence to accessory sign and billboard regulations, to improve the enforcement of non-compliant digital accessory signs and billboard signs and to enhance Board of Adjustment learning opportunities. The Committee directed that the report include:

a. amendments to the Development Procedures By-Law No.160/2011 to provide that signs and billboards in the area regulated by Winnipeg Zoning By-Law No. 200/2006 may be approved by the Director of Planning, Property and Development, subject to appeal;

b. suggested by-law amendments and operational requirements necessary to license digital accessory signs; and

c. recommendations for Board of Adjustment information sessions focused on pertinent land use policy and zoning regulations.

At its September 19, 2017 meeting, the Committee granted an extension of 180 days for the Winnipeg Public Service to report back on the above items.

This report addresses item “a”. Item “b” was addressed through a separate report that was considered by the Committee on March 2, 2018; and item “c” is addressed through a separate report to be considered by the Committee.

Only Council can enact by-law amendments.

IMPLICATIONS OF THE RECOMMENDATIONS

Adoption of the recommendations of this report will have the following implications:

Process

- Decisions regarding conditional uses and variances for signs and billboards, in the area covered by the Winnipeg Zoning By-Law No. 200/2006, will be made by the Director. Currently, such decisions are made by the Board. Decisions of the Director in respect of applications for conditional uses and variances may be appealed in accordance with The City of Winnipeg Charter.

- This is the same process that is used for sign approvals in the area covered by the Downtown Winnipeg Zoning By-law No. 100/2004.

Administrative

- The new process will reduce City resources associated with public hearings. It will bring the number of hearings for each sign approval down from the current 1-2 (Board hearing and possible Appeal hearing) to 0-1 (possible Appeal hearing).

- Removing signs from the slate of items considered by the Board will reduce the total number of items heard by the Board by ~ 15-20 per year.

Zoning

- The new process is expected to generally increase the amount of congruence between approval decisions and the City's existing zoning regulations governing sign locations, sizes, heights, and operating standards.

HISTORY/ DISCUSSION

On December 12, 2012, as part of the adoption of the Digital Sign and Billboard Regulations and Fees report pertaining to Winnipeg Zoning By-Law No. 200/2006, Council directed that the Winnipeg Public Service undertake a review of this process and report back to Committee in three (3) years.

This matter pertains to the area regulated by the Winnipeg Zoning By-Law, shown in grey on Figure 1.

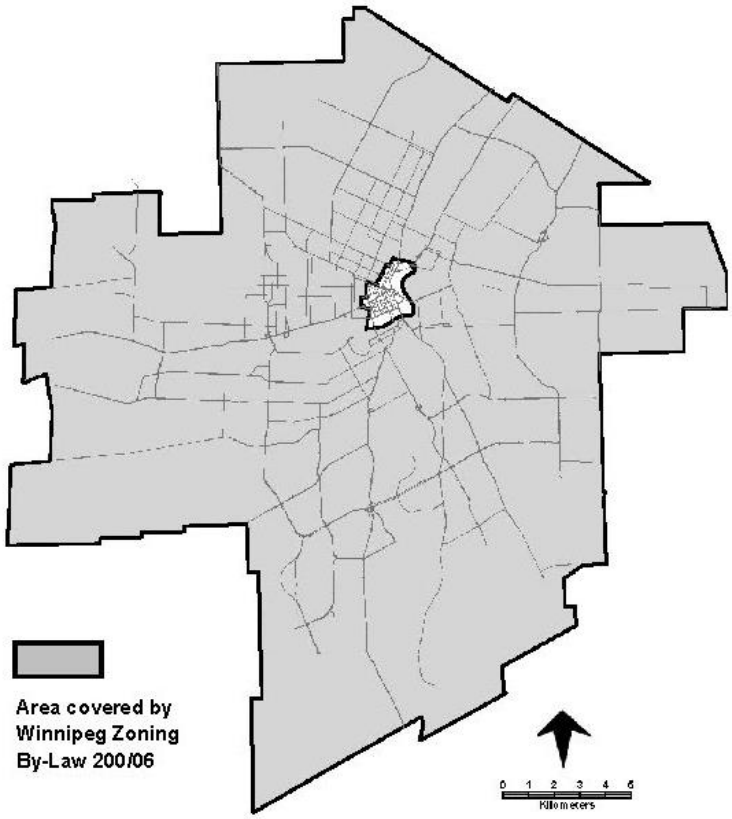


Figure 1: Area covered by Winnipeg Zoning By-Law 200/06

On January 12, 2016, the Winnipeg Public Service was granted an extension of time to report back on the review.

On June 7, 2016, the Committee considered the report from the Winnipeg Public Service regarding its Digital Signs and Billboards – 3-year review, and was directed to report back in 60 days on the following:

1. Alternative approval options, other than the Board of Adjustment, for digital sign and billboard applications,

2. Ways to improve the enforcement of non-compliant digital signs and billboards; and

3. A review of all decisions, not limited to digital signs and billboards, made by the Board of Adjustment.

On September 20, 2016, and January 17, 2017, the Winnipeg Public Service was granted an extension of time to report back on the June 7, 2016 items.

On February 7, 2017, the Committee considered the report from the Winnipeg Public service regarding its 3-Year Review and Recommendations on Digital Signs and Billboards.

The Committee directed the Winnipeg Public Service to report back within 180 days with recommendations to increase adherence to accessory sign and billboard regulations, to improve the enforcement of non-compliant digital accessory signs and billboard signs and to enhance Board of Adjustment learning opportunities. The Committee directed that the report include:

a. amendments to the Development Procedures By-Law No.160/2011 to provide that signs and billboards in the area regulated by Winnipeg Zoning By-Law No. 200/2006 may be approved by the Director of Planning, Property and Development, subject to appeal;

b. suggested by-law amendments and operational requirements necessary to license digital accessory signs; and

c. recommendations for Board of Adjustment information sessions focused on pertinent land use policy and zoning regulations.

At its September 19, 2017 meeting, the Committee granted an extension of 180 days for the Winnipeg Public Service to report back on the above items.

Item “a” is the subject of this report. In alignment with direction from Committee, the Winnipeg Public Service recommends that decisions regarding conditional uses and variances for signs and billboards, in the area covered by the Winnipeg Zoning By-Law No. 200/2006, be made by the Director. Currently, such decisions are made by the Board. Decisions of the Director in respect of applications for conditional uses and variances may be appealed in accordance with The City of Winnipeg Charter.

Although the Director will be making approval decisions, no additional workload for the Winnipeg Public Service will be created, because the Public Service already writes Administrative Reports for each of these applications. The difference is that reports for these applications will represent a decision rather than a recommendation.

In addition, as part of this recommendation, the Winnipeg Public Service engaged with industry to elicit feedback (detailed in Appendix A). Generally, feedback from industry was not supportive of changes to the approval process. A majority of industry members consulted wished to

continue to see applications proceed to Board hearings as they have for the last number of years.

Although feedback from industry was not favourable, the Winnipeg Public Service recommends that the process be proceeded with as directed by the Committee, for the following reasons:

1. The Public Service maintains that this process is the best way to improve adherence to Council's adopted zoning regulations regarding signs.

2. The Public Service believes that the zoning regulations regarding signs are important to uphold as much as possible, because:

    - The current Zoning By-Law sign regulations were arrived at through in-depth consultation between the Planning, Property and Development Department, the Department of Public Works, and industry.

    - Many of the regulations are already more permissive than in other Canadian cities.

    - Applicants can already receive 5% tolerances to the regulations in terms of size, height, and location without a variance or conditional use.

    - The regulations form an essential part of advancing Council's vision for our city as articulated in *Complete Communities* while at the same time meeting standards for traffic safety.

In addition, where applications meet zoning regulations and/or where applicants and the Winnipeg Public Service agree on proposed conditional uses and/or variances, applicants will be met with a streamlined approval process with no public hearing unless there is an appeal. The proposed new process will be approximately 4-5 weeks rather than the current process of approximately 8-9 weeks.

Further detail on the Winnipeg Public Service Recommendation including background, anticipated new sign approval timelines and consultation is provided in Appendix B – Planning Discussion.

The Winnipeg Public Service recommends that the new process be approved and the Amending By-Law attached as Appendix C be adopted.

FINANCIAL IMPACT

Financial Impact Statement Date: May 9, 2018

Project Name:

Sign Approval Process

COMMENTS:

There are no direct financial implications associated with this report.

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

CONSULTATION

This Report has been prepared in consultation with:

City Clerks
Legal Services (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

Adoption of the attached amendments is expected to improve the amount of alignment between sign approval decisions and *Complete Communities Direction Strategy.* The Key Direction for Centres and Corridors is as follows:

> Focus a significant share of growth to Centres and Corridors in a manner that:
>
> - provides compact, mixed-use, high-quality urban development,
> - concentrates urban development in a built form that helps to optimize existing investment, municipal infrastructure, and facilities; and
> - encourages a built form that supports a pedestrian-friendly environment while incorporating climate-sensitive site and building design.

SUBMITTED BY

Department: Planning, Property and Development
Division: Urban Planning
Prepared by: Andrew Ross, RPP, MCIP
Date: May 11, 2018

Attachments:

Appendix A: Stakeholder Consultation
Appendix B: Planning Discussion
Appendix C: Amending By-Law

Appendix A: Stakeholder Consultation

Sign Industry Meeting
March 15, 2018

The following industry representatives were invited:

- Manitoba Sign Association (MANSA)
- Pattison Outdoor
- Zero Din Marketing
- Electra Sign
- OutFront Media
- Astral Media
- Bell Media

The following industry representative attended:

- Manitoba Sign Association (MANSA)
- Pattison Outdoor (also sent a letter in opposition to the new proposed process)
- Zero Din Marketing
- Electra Sign
- OutFront Media

Comments / questions in meeting raised by participants	**Public Service assessment/ response**
Does the By-law changing the Development Procedures By-Law have to go to Council for approval?	Yes, Council needs to adopt the proposed by-law changes.
Concern about not being able to make representation at the Board of Adjustment.	Working together with Public Service could result in agreement on variances or conditional prior to a public hearing. If not, there is opportunity for appeal or to make representation at an appeal hearing.
Do not feel that the process will be transparent any longer.	This process is the same that has been used in the downtown for many years. There is opportunity for a hearing at Appeals if applicants do not agree with the decision of the Director.
Feel that our rights are being taken away.	This process is the same that has been used in the downtown for many years. There is opportunity for a hearing at Appeals if applicants do not agree with the decision of the Director.
The Board of Adjustment is an independently appointed group. It is important to have an independently appointed group as part of the decision making process. The Administration and Appeals Committee are both part of the City.	Feedback received.
The Board of Adjustment has no allegiance to anyone. They are more representative of the applicant and the sentiment of the business	Feedback received.

community.	
In 2013, when the Zoning By-law was changed and new regulations were added, was told by the City that we still had the right to apply for a variance. Concern that this is being taken away.	The new proposed process does not change the ability to apply for variances.
Do not see the variance process as broken, so why change it.	The current variance process has been resulting in sign decisions that approximately 75% of the time, are not aligning with Public Service recommendations and/or zoning regulations.
Concern that this is a knee jerk reaction by the City.	The new proposed process addresses a long-standing issue, not a recent issue.
With the Board of Adjustment, there are 3-4 people making a decision. Instead, it will be 1 city staff person making the decision.	The Public Service will be weighing variances and conditional use decisions based on the merits of the request in light of statutory approval criteria and City policies. It will be discussing requests with applicants where possible, and for more complex cases will consult with other members of the Public Service before making a decision.
Concern about how the change will affect the decisions that are made.	The Public Service will be weighing variances and conditional use decisions based on the merits of the request in light of statutory approval criteria and City policies. It will be discussing requests with applicants where possible, and for more complex cases will consult with other members of the Public Service before making a decision.
Concern that this will slow things down.	Our analysis is that on average, the new proposed process will result in a quicker ~4-5 week approval rather than the current ~8-9 week approval.
The Ward Councillor is more aware of the process if it goes to the Board of Adjustment. They can appear if they like.	The Ward Councillor may appear in delegation at the appeal hearing.
(One participant): Billboard variances are always rejected by the Administration. Prior to 2013, the Administration would support variances on a case by case basis. Concern that this is no longer happening.	The City will look into this.
(One participant): The sign industry has compiled data on variance applications and has found that the total number of variance applications has gone down over the last few years.	The Public Service can review this if data provided.

Comments / questions in meeting raised by Public Service	Industry response
Unlike other types of development applications where applicants engage early with planners, most signage applications seem to be submitted directly to Zoning & Permits with no opportunity for Urban Planning to review. It can be helpful to engage with Urban Planning early on to discuss options. Doing so may at times lead to agreement on supportable variances and conditional uses that in turn may receive approval.	Some participants responded that they would be interested in doing this up-front engagement on their applications.

Appendix B: Planning Discussion

1. Background

On December 12, 2012, Council directed the Winnipeg Public Service to undertake a review of the sign and billboard zoning regulations and to report back to Committee in three (3) years. The regulations were newly adopted and followed a wholesale review and consultation with industry.

The report-back, which was considered by Committee on June 7, 2016, included data on approvals. The data highlighted a disparity that often exists between Winnipeg Public Service recommendations regarding digital sign and billboard applications, and decisions that are subsequently rendered by the Board.

Specifically, the report found that since the new regulations were adopted:

For digital accessory signs:

- 100% of those recommended for **approval** by the Public Service were concurrently **approved** by the Board; and
- 85% of those recommended for **rejection** or **approval in part** by the Public Service were subsequently **approved** by the Board.

For billboards:

- 100% of those recommended for **approval** by the Public Service were concurrently **approved** by the Board; and
- 64% of those recommended for **rejection** by the Public Service were subsequently **approved** by the Board.

The report highlighted a concern regarding the number of recommendations being disregarded by the Board.

The reasons for the concern are that Council's sign and billboard regulations:

- are in some cases already more permissive than other cities studied;
- were arrived at through in-depth consultation between the Planning, Property and Development Department, the Department of Public Works, and the sign industry; and
- were created to align with the intent of Council's *Complete Communities Direction Strategy*.

The Winnipeg Public Service's position, as stated in that report and which still applies at the time of this report, is that adherence to the Council-adopted sign regulations is an essential part of advancing Council's vision for our city as articulated in *Complete Communities* while at the same time meeting standards for traffic safety.

Table 1 presents an abridged summary of specific issues that were identified in that report. More information on these issues can be found in the June 7, 2016 report entitled “Digital Signs and Billboards – 3-year review”.

Table 1: Sign approval issues identified by the Public Service

Issue	Sign type	Findings
Separation distances/ quantity of signs	Billboards	Billboards have a required minimum separation distance of 500 feet, which among Canadian cities is relatively permissive. The City of Winnipeg has received applications for billboards with separation distances less than this, and nearly all have been approved.
	Accessory signs	Regulations allow for one (1) digital accessory sign per lot. This is more permissive than most Canadian cities studied; most of which require minimum separation distances between them. The Public Service however does not recommend any change to this regulation at this time as issues with it have not arisen.
Effects on residential	Billboards	Regulations prohibit digital billboards from being visible from residential. When variances are approved allowing digital billboards to be visible from residential, this can negatively impact residents and future residential development.
	Accessory signs	There is currently no restriction on digital accessory signs being visible from residential uses. This may be an issue for larger signs, however the Public Service is not proposing a change to this at this time.
Effects on Mixed Use Corridors	Billboards	Approved variances are leading to billboards being erected at sizes up to 600+ sq. ft., at heights of more than 30 feet (higher than a 3-storey building), and less than 500 feet from one another on the same street. This is a concern as it can have a negative impact on the City’s ability to attract mixed use and residential development to corridors, which is a major goal of the *Complete Communities Direction Strategy.*
	Accessory signs	Variances are frequently being approved leading to accessory signs at heights and sizes the Public Service does not find justified by locational factors. Often, signs are being re-established at heights of 40+ feet that were approved decades ago, in spite of the impacts on contemporary land uses; and in spite of the fact that continuation of zoning non-conformities are not permitted under the Zoning By-Law.
Operation of public streets	General	Many digital accessory signs violate the minimum 6-second ad hold time and maximum 0.25-second ad transition time, including many that show full motion video. Similar violations exist with respect to automatic dimming features. This is addressed in a separate report, “Licensing of Digital Signs”.
Public issues	General	Sign brightness been raised as an issue by the public regarding digital signs and billboards, based on formal complaints and opposition at public hearings. This is addressed in a separate report, “Licensing of Digital Signs”.
Effect on public space	General	Impacts on the public have been evidenced through attendance at public hearings for billboards. As one example, a 2015 digital billboard proposed for Portage Avenue in the Wolseley area brought twenty-four (24) opposed residents to the Appeal hearing for a billboard approved at the Board.

The report included findings of a focus group with Departmental staff who served as Winnipeg Public Service representatives at Board hearings since 2011.

Based on that research, the report recommended that an alternative approval mechanism be implemented for **all** signs, and that it not be limited to digital accessory signs and billboards. The reasons for this are:

- The decision-making issues identified apply to both digital and non-digital signs and billboards (all signs).

- Procedurally, it is most logical to route all sign applications through the same approval process, rather than diverting different signs to different approval processes.

2. Proposal – new sign approval process

Upon review of the February 7, 2017 report, the Committee directed the Winnipeg Public Service to report back with amendments to implement a change to the approval process for signs.

Specifically, the Committee directed that the report shall include:

Amendments to the Development Procedures By-Law No.160/2011 to provide that signs and billboards in the area regulated by Winnipeg Zoning By-Law No. 200/2006 may be approved by the Director of Planning, Property and Development, subject to appeal.

The current report proposes the amendment directed as above.

The new proposed process includes adjustments to the Development Procedures By-Law, to list variances and conditional uses for all signs and billboards in the area regulated by the Winnipeg Zoning By-Law as “B” variances and “B” conditional uses.

“B” variances and “B” conditional uses are reviewed by the Director and are either approved or rejected. The decision of the Director is posted on the property, and the decision may be appealed to Appeals Committee.

The following provides a summary of the proposed new process:

Table 2: Summary of new proposed sign approval process

Accessory signs and Billboards **not** needing a variance or conditional use	
Current Process	**New proposed process**
Permit is approved administratively. If tolerance is required (up to 5%), tolerance may be granted administratively.	No change

Accessory signs and Billboards requiring a variance or conditional use	
Current Process	**New proposed process**
Processed as a "C" variance or conditional use	Processed as a "B" variance or conditional use
Application receives a recommendation from the Public Service and proceeds to a public hearing	Application receives a decision from the Public Service, decision is posted onsite for 14 days, no hearing unless appealed
Decision can be appealed	Decision can be appealed

3. Timelines – new proposed sign approval process

Below is a summary of the anticipated approval timelines for the new proposed process, for signs and billboards requiring a variance and/or conditional use.

Table 3: Approximate timelines for new proposed sign approval process

Current process	**New proposed process**
Application received by Zoning ~1 week	Application received by Zoning ~1 week
Application sent to Planner – review and schedule for public hearing ~1 week depending on hearing schedule	Application sent to Planner – review and render decision ~1 week
File sent to Zoning to prepare posters for public hearing ~1-2 weeks	File sent to Zoning to prepare onsite posters ~1-2 days
Posting period – 2 weeks	Posting period – 2 weeks
Public hearing	
Appeal waiting period 17 days	
TOTAL ~8-9 weeks (if appealed, add ~4 wks)	**TOTAL ~4-5 weeks** (if appealed, add ~4 wks)

4. Consultation

In preparing this report, consultation was held with sign industry stakeholders ("industry") including the Manitoba Sign Association.

Generally, feedback from industry was not supportive of changes to the approval process for signs. A majority of industry members consulted wished to continue to see applications proceed to Board hearings as they have for the last number of years.

Feedback is further detailed in Appendix A: Stakeholder Consultation.

5. Recommendation

Although feedback from the sign industry regarding the new proposed approval process was not favourable, the Winnipeg Public Service recommends that the process be proceeded with.

The Winnipeg Public Service maintains that the new proposed approval process is the best way to improve adherence to Council's adopted zoning regulations regarding signage. The Public Service believes that these regulations are important to uphold as much as possible, for the following reasons:

1. The current Zoning By-Law sign regulations were arrived at through in-depth consultation between the Planning, Property and Development Department, the Department of Public Works, and industry.

2. Many of the regulations are already more permissive than in other Canadian cities.

3. Applicants can already receive 5% tolerances to the regulations in terms of size, height, and location without a variance or conditional use.

4. The regulations form an essential part of advancing Council's vision for our city as articulated in *Complete Communities* while at the same time meeting standards for traffic safety.

For the above reasons, the Winnipeg Public Service recommends that the new proposed approval process be approved and the Amending By-Law attached as Appendix C be adopted.

Appendix C: Draft Amending By-Law

THE CITY OF WINNIPEG

BY-LAW NO. /2018

A By-law of THE CITY OF WINNIPEG to amend the Development Procedures By-law in respect of the approval of billboard sign variances and conditional uses.

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

Part 3, subsection 5B, of the Development Procedures By-law No. 160/2011 is amended:

(a) in the DIRECTOR VARIANCES (DAV 'A' and 'B') section, by adding the following after subclause (ii)(g):

h. ***signs***

1. Any variance of the applicable zoning rules for signs, including billboard signs, in any zoning district under the Winnipeg Zoning By-law.

and

(b) in the DIRECTOR CONDITIONAL USES (DCU 'B') section, by adding the following after subclause (i)(c):

d. ***billboard signs***

i. a conditional use to allow a billboard sign under the Winnipeg Zoning By-law.

DONE AND PASSED this day of , 2018.

Mayor

City Clerk

Approved as to content:

Director of Planning, Property and Development

Legally reviewed and certified as to form:

for Director of Legal Services and City Solicitor