Minute No. 601
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – October 16, 2020

Item No. 2 New Development Procedures By-law and changes to the Notification of Public Hearing Signage

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and adopted the following:

1. That a new Development Procedures By-law, a draft of which is attached as Appendix A to this report, be enacted.

2. That the proposed changes to the Notification of Public Hearing Signage in general conformance with Appendix B of this report be approved and the Winnipeg Public Service be directed to initiate said changes.

3. That, if Council concurs in Recommendation 1, the delegation of temporary authority to the Director of Planning, Property & Development to approve all 'C' conditional use and 'C' variance development applications until April 30, 2021, approved by Council under the Development Procedures By-law No. 160/2011, be continued under the new Development Procedures By-law.

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

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DECISION MAKING HISTORY:

Moved by Councillor Gilroy,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 20, 2020, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 16, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- Add the following new Recommendation 3, and renumber the remaining recommendation accordingly:

  "3. That, if Council concurs in Recommendation 1, the delegation of temporary authority to the Director of Planning, Property & Development to approve all 'C' conditional use and 'C' variance development applications until April 30, 2021, approved by Council under the Development Procedures By-law No. 160/2011, be continued under the new Development Procedures By-law."

and submitted the matter to the Executive Policy Committee and Council.

On July 13, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development granted a further extension of time of up to 60 days for the Winnipeg Public Service to report back on updates to the Development Procedures By-law No. 160/2011.

On May 21, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development granted a further extension of time to its July 13, 2020 meeting for the

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – October 16, 2020

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

Winnipeg Public Service to report back on updates to the Development Procedures By-law No. 160/2011.

On March 2, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development granted a further extension of time up to 60 days for the Winnipeg Public Service to report back on the matter.

On November 18, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development granted an extension of time of 90 days for the Winnipeg Public Service to report back on the matter.

COUNCIL DECISION:

On June 20, 2019, Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the recommendation of Standing Policy Committee on Property and Development, Heritage and Downtown Development, to implement a pilot project in the Charleswood-Tuxedo-Westwood Ward, Waverley West Ward, and Fort Rouge-East Fort Garry Ward, using the City of Edmonton standards for new development permit notice signs (attached as Appendix 'A'), and report back to the Standing Committee within 180 days, be referred to the Winnipeg Public Service for consideration when they report back with the updated Development Procedures By-law in the fall of 2019.

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

ADMINISTRATIVE REPORT

Title: New Development Procedures By-law and changes to the Notification of Public Hearing Signage

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

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Jopling	J. Kiernan	N/A	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

The Winnipeg Public Service has substantively rewritten the existing Development Procedures By-law No. 160/2011 (the "Old By-law"). The new Development Procedures By-law (the "New By-law") is the result of a review and editing process, which spanned multiple years, facilitated by a detailed cross jurisdictional analysis and direct input from multiple City departments. The Public Service has drafted the New By-law in a more standard legal by-law format which aligns better with the City of Winnipeg Charter, removes redundancies and adds clarity to development application definitions and processes.

Key elements in the New By-law include:

- enhanced authority to the designated employee to determine whether an application is considered to be complete or whether additional information is required, which will provide clarity with respect to development timelines;
- additional authority to the designated employee to refuse development applications in specific instances to avoid delay and wasted effort;
- the ability to consider development applications to be abandoned and the ability to cancel development applications in specific instances to ensure complete applications proceed in a timely manner;
- clarification of the pre-application process, with authority to the Director to determine when a pre-application is a necessity;
- clarification of the public hearing process and rules surrounding when members of the hearing body or the approving authority are entitled to receive or consider new information;
- clarification on when members of the hearing body and members of the approving authority are entitled to discuss a proposed development prior to the public hearing in respect of the proposed development;

- alignment with the City of Winnipeg Charter requirement that Secondary Plans be adopted by by-law;
- clarification of the variance/conditional use process;
- formalization of the rules pertaining to density variances;
- alignment of variance and conditional use appeals so that all such appeals go to the Appeal Committee;
- the closing of a loophole that allowed applicants to use removal permits to circumvent the requirement for a public hearing in certain instances;
- formalization of the plan approval process; and
- removal of the specific requirements for the appearance of public notices out of the Development Procedures By-law – these will now be approved administratively, which will allow the Department to be more responsive to concerns from citizens and industry and will allow for adjustments to the form of public notices in a timely manner.

A draft of the New By-law is attached as Appendix A to this report. Proposed changes to the form of the Notification of Public Hearing Signage are attached as Appendix B to this report.

RECOMMENDATIONS

1. That Council enact a new Development Procedures By-law, a draft of which is attached as Appendix A to this report.

2. That Council approve the proposed changes to the Notification of Public Hearing Signage in general conformance with Appendix B of this report and direct the Winnipeg Public Service to initiate said changes.

3. 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 June 20, 2019, Council directed the Public Service to implement a pilot project using the City of Edmonton standards for new development permit notice signs and report back within 180 days when reporting back with the updated Development Procedures By-law in the fall of 2019.

On September 4, 2018, the Standing Policy Committee on Property and Development, Heritage and Downtown Development received the *Public Engagement Regarding Land Development Applications* report as information and directed the Winnipeg Public Service to provide a status update in 180 days including any recommended changes to the Development Procedures By-law. Subsequent extensions to report back were approved.

IMPLICATIONS OF THE RECOMMENDATIONS

Should the recommendations of the Winnipeg Public Service be concurred in, the existing Development Procedures By-law No. 160/2011 will be replaced by the new Development Procedures By-law attached to this report as Appendix A.

Further, the City of Winnipeg public notification signage will be removed from the Development Procedures by-law allowing same to be approved administratively. Following Council approval of the proposed changes, the Winnipeg Public Service will initiate the process of changing the signage in accordance with Appendix B.

HISTORY/DISCUSSION

On September 4, 2018, the Standing Policy Committee on Property and Development, Heritage and Downtown Development received the *Public Engagement Regarding Land Development Applications* report as information and directed the Winnipeg Public Service to provide a status update in 180 days.

On June 20, 2019, Council directed the Public Service to implement a pilot project using the City of Edmonton standards for new development permit notice signs and report back within 180 days when reporting back with the updated Development Procedures By-law in the fall of 2019.

On November 18, 2019, March 2, 2020 and May 21, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development granted extensions of time of 90 days for the Winnipeg Public Service to report back on updates to the Development Procedures By-law No. 160/2011.

Key Edits to the Development Procedures By-law

The following list identifies key changes included in the new Development Procedures By-law (the "New By-law") with a brief description on how these items have been amended or added in relation to the existing Development Procedures By-law No. 160/2011 (the "Old By-law").

Enhanced authority will be granted to the designated employee to determine whether an application is considered to be complete or whether additional information is required.

Additional authority will be granted to the designated employee to refuse development applications in specific instances.

- To ensure a level playing field with all applications and applicants, the Public Service has spent the last several years developing detailed submission requirements posted online for all land development applications.
- The application submission requirements are aligned with the City's Development Plan, *OurWinnipeg and The Complete Communities Direction Strategy*, as well as best practices found in other major Canadian cities.
- The Old By-law does not have a section on what constitutes a "complete" development application and is not clear on the designated employee's ability to determine if an application was complete or not.
- Within the New By-law, Sections 3 through 6 outline specifically when an application is deemed to be complete and includes a requirement for written confirmation from the City to the applicant outlining that determination.

- Where there is disagreement between the designated employee and the applicant in respect of whether the application is complete or not, the New By-law allows the applicant to appeal to the Executive Policy Committee.

Ability to consider development applications to be abandoned and ability to cancel development applications in specific instances

- Sections 7 and 8 of the New By-law outline the authority of the designated employee to deem an application to be abandoned if the applicant has not provided additional information requested in writing to complete the subject application. Further to this, new information in respect of, or amendments to, any application determined to be complete will not be accepted by the designated employee unless agreed to in writing by both the designated employee and the applicant.
- This process will provide clear certainty for applicants, the City and Decision Makers on the status of a particular application with a definite termination date and timeline.

Clarification of the pre-application process, with authority to the Director to determine when a pre-application is a necessity

- Section 9 of the New By-law now specifically identifies who can apply for a pre-application as well as gives the Director the authority to require a pre-application for a development proposal if deemed necessary due to the size or complexity of the development.

Clarification of the public hearing process and rules surrounding when members of the hearing body or the approving authority are entitled to receive or consider new information

- Part 3 of the New By-law adds additional clarity regarding the public hearing presentation process, including the circumstances under which new information can and cannot be considered by the approving authority,
- 14(1) Clearly stipulates in one place within the New By-law that once public representations in all the City's public hearing forums have been closed members of the hearing body and members of the approving authority must not receive or consider any new information unless and until the hearing body re-opens public representations in respect of the new information.
- The Old By-law contained 15 different references to 'New Information' under several different hearing body sections.

Clarification on when members of the hearing body and members of the approving authority are entitled to discuss a proposed development prior to the public hearing in respect of the proposed development;

- Part 3, 14(3) further clarifies a previously grey area that members of the hearing body and members of the approving authority are allowed to discuss a development application right up to the opening of the public hearing on that item.
- The Old By-law under Part 4, 1. A. ii stated '…*Contact with members of the public, including the applicant, discussing matters related to the application outside the public hearing is considered inappropriate in this quasi-judicial forum.'* This statement being both vague and inaccurate lead to a variety of interpretations and misconceptions for all involved in the public hearing process. The New By-law makes it clear that members of the hearing body and members of the approving authority are allowed to discuss a development application right up to the opening of the public hearing on that item, eliminating previous confusion on the subject.

Alignment with the City of Winnipeg Charter requirement that Secondary Plans be adopted by by-law

- Secondary plans and the secondary planning process historically have taken on many forms from Council adopted by-laws to endorsed policy documents, resulting in differing levels of enforceability within these various plans. The New By-law now specifically defines the term "Secondary Plan" to align with the City of Winnipeg Charter, Sections 54(1), 54(2) & 234(1), which, taken together, requires that all must be adopted as a by-law.

Clarification of the variance/conditional use process;

- Under Part 7 of the New By-law, the various types of variance and conditional use applications are clearly defined and their processing and approvals paths are clearly laid out.
- The Old By-law separated the various types of variances and conditional uses out by hearing body resulting in the repetition of the same process language in several disparate sections of the by-law and was thus typically unclear and redundant.

Formalize the rules surrounding density variances;

- The New By-law includes a standalone section under Part 7 that addresses the ability to apply for, and the parameters around, Residential Density Variances.

Align variance and conditional use appeals so that all such appeals go to the Appeal Committee;

- The New By-law makes it clear that all appeals under Part 7 of the New By-law are to be heard by the Appeal Committee.
- The Old By-law identified and organized the appeal process and appeal committee for variances and conditional uses by the various committee types which resulted in a series of references redundant throughout the by-law. The New By-law clearly stipulates under one clear statement; #36 under Part 7 Variances and Conditional Uses; *'A decision of the approving authority under the Part may be appealed to the appeal committee.*

Closure of a loophole, which allowed applicants for removal permits to circumvent the requirement for a public hearing in certain instances;

- The Old By-law required a public hearing where an applicant was seeking a demolition permit without a corresponding building permit, but did not impose this requirement in respect of a removal permit, whereby a building is not demolished but rather is moved from one property to another. The New By-law imposes the public hearing requirement in these instances on both demolition permits and removal permits.

Formalize the plan approval process;

- Part 10 of the New By-law outlines and codifies the process for securing plan approval, called "site plan approval" in the New By-law. The New By-law defines the site plan approval application type and details the site plan approval process, including what design elements the plans will typically contain, the approving authority, the conditions that can be imposed and the appeal process.
- The New By-law includes the ability to impose, as a condition of approval of site plans, the requirement that the applicant enter into an agreement with the City to ensure compliance with the approved site plans. These "site plan approval" agreements can

then be registered against title to the affected property, providing notice to future prospective purchasers of that property as well as greater enforceability for the City.

Remove the specific requirements for the form of public notices out of the New By-law

- The Public Service report "Public Engagement Regarding Land Development Applications" was submitted to the Standing Policy Committee on September 4, 2018 and was received as information. That report outlined the potential advertising toolkit and process improvements indicating that the Public Service would look to operationalize the proposed advertising toolkit in accordance with the planned timeline and in coordination with the Development Procedures By-law Review.
- Concept illustrations of the proposed graphic improvements to the City's onsite public notification signage for development applications were included within that report.
- Further clarified on the floor of Council June 20, 2019, a report back illustrating the new notification of public hearing signage was to be included in the report regarding the new development procedures by-law rather than implementing a signage pilot project on its own.
- Traditionally, the look and details of this signage was housed within the Development Procedures By-law.
- The New By-law does not reference onsite public notification signage thereby allowing administrative approval on the design and form in accordance with Charter requirements without requiring a formal by-law amendment process each time.
- This change will permit the Department to be more responsive to concerns from Council, citizens and industry and will allow for timely adjustment to those requirements.

FINANCIAL IMPACT

Financial Impact Statement Date: September 16, 2020

Project Name:

New Development Procedures By-law and changes to the Notification of Public Hearing Signage

COMMENTS:

There are no direct financial implications associated with the recommendations in this report.

Mike McGinn September 16, 2020

Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:
Legal Services (as to legal issues)
City Clerks
Land Development
Zoning and Permits

OURWINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Urban Planning & Design
Prepared by: James Veitch, Principal Planner
Sarah Rentz, Solicitor
Date: September 17, 2020

Attachments:
Appendix A - draft New Development Procedures By-law
Appendix B - Proposed New Notification of Public Hearing Signage

Appendix A draft New Development Procedures By-law

THE CITY OF WINNIPEG

BY-LAW NO. /2020

A By-law of THE CITY OF WINNIPEG to outline the procedures associated with the processing and approval of development applications.

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

PART 1
INTRODUCTORY PROVISIONS

Short title

1 This By-law may be cited as the "Development Procedures By-law".

Definitions

2(1) In this By-law

"Appeal Committee" means the committee with responsibility for hearing and deciding appeals under this By-law as set out the City Organization By-law No. 7100/97;

"applicant" means the person who submits a development application under this By-law;

"**approving authority**", subject to section 48, means the person or committee to whom authority has been delegated to consider and make decisions in respect of a particular type of development application, as more particularly set out in this By-law;

"Board of Adjustment" means the board established under the Board of Adjustment By-law No. 5894/92;

"CA" means a development application for the City's consent to a conveyance;

"Charter" means *The City of Winnipeg Charter*, SM 2002, c. 39;

"city" means the geographical area within the jurisdictional boundaries of the City;

"City" means the municipal corporation of The City of Winnipeg continued under section 8 of the Charter;

"combined hearing" means a single public hearing in respect of two or more development applications held in accordance with the Charter;

"Community Committee" means the committee in respect of a particular community within the city comprised of the Ward Councillors for that community as set out in the City Organization By-law No. 7100/97;

"Complete Communities" means the Complete Communities Direction Strategy By-law No. 68/2010;

"conditional use" means any use of land or building listed as a conditional use under a zoning by-law;

"Condo" means a development application for the City's approval of a condominium plan of survey;

"Council" means the municipal council of the City;

"DAASP" means the City's approval of an air space plan;

"DAC" means a development application for the legal closing of a street;

"DAO" means a development application for the legal opening of a street;

"DAOC" means a development application for the legal closing of a street and the legal opening of a street;

"DAPS" means a development application for the City's approval of a plan of survey;

"DAS" means a development application for subdivision alone where new streets are being created;

"DASSF" means a development application for subdivision alone where no new streets are being created;

"DASZ" means a development application for subdivision and rezoning;

"DAV" means a development application for a variance;

"DAZ" means a development application for

(a) a change in the zoning designation of a particular parcel of land; or

(b) a text amendment to the relevant zoning by-law;

"DCU" means a development application for a conditional use;

"designated employee" means the Director and any employee to whom the Director has given responsibility or authority for enforcing or administering all or part of this By-law;

"development application" means an application submitted to a designated employee for approval of a proposed development;

"development" has the same meaning as in the Charter;

"Development Plan" means the development plan of the City adopted by by-law in accordance with the Charter which, as at the date of enactment of this By-law, is the OurWinnipeg Plan By-law No. 67/2010;

"Director" means the director, or acting or interim director, of the City department responsible for planning and land use, which, on the date this By-law is enacted, is the Director of the City's Planning, Property and Development Department;

"EPC" means the City's Executive Policy Committee established pursuant to the Charter;

"fee" means a fee or charge established by Council or pursuant to authority delegated by Council;

"hearing body" means the committee to whom this By-law has delegated the authority and responsibility to conduct a public hearing and make recommendations to the approving authority in respect of a development application in accordance with the Charter;

"owner", in respect of real property, means the person who is the registered owner of that property;

"pre-application" means a draft form of a development application;

"Public Service" means, collectively, the employees of the City;

"rezoning" means a change in the zoning designation of a particular parcel or area of land;

"secondary plan" means a secondary plan by-law enacted in accordance with the Charter;

"site" means an area of land that is the subject of a particular development application;

"site plan approval" means the process set out in Part 10 of this By-law by which an applicant obtains approval of their plan for a site where the approving authority has approved the underlying development application;

"SPC" means the Standing Policy Committee with responsibility for providing policy advice to Council in respect of planning and land use which, on the date this By-law is enacted, is the Standing Policy Committee of Property and Development, Heritage and Downtown Development;

"street" has the same meaning as in the Charter;

"subdivision" has the same meaning as in the Charter, and includes the consolidation of multiple contiguous parcels of land;

"variance" means a context-specific modification of a zoning by-law that applies in respect of a particular development proposal but that does not apply to development generally and does not amend the text of the zoning by-law;

"Ward Councillor" means the municipal councillor for the City who is elected to represent the ward within the boundaries of which a particular development is located;

"ZAA" means a development application for an amendment to an existing agreement imposed as a condition of approval of rezoning; and

"zoning by-law" means either the Downtown Winnipeg Zoning By-law No. 100/2004 or the Winnipeg Zoning By-law No. 200/2006, as the context requires.

PART 2
DEVELOPMENT APPLICATIONS

Development applications

3(1) The Director is authorized to determine the form in which a development application must be submitted.

3(2) In addition to any requirement determined by the Director pursuant to subsection (1), a development application must include

(a) payment of the applicable fee; and

(b) all information that the designated employee determines is reasonably required for the approving authority to assess and make a decision in respect of the development application.

3(3) For greater certainty, a development application is deemed to be incomplete unless it meets

(a) any requirement of the designated employee under subsection (1); or

(b) any of the requirements under subsection (2).

3(4) A development application may be submitted by

(a) the owner or owners of the site; or

(b) any person on behalf of the owner or owners of the site with each owner's permission.

Refused development applications

4(1) In addition to the instances in which the designated employee is required to refuse a development application without a public hearing pursuant to subsection 275(2) of the Charter, the designated employee is authorized to refuse a development application without a public hearing where

(a) the development application fails to meet the requirements under clause 3(2); or

(b) a designated employee determines that the proposed development cannot be approved by the approving authority.

4(2) Subject to subsection (3), a decision of a designated employee to refuse a development application without a public hearing may be appealed to SPC in accordance with the Charter.

4(3) A decision of a designated employee to refuse an application without a public hearing on the basis that it does not conform either with the Development Plan or with Complete Communities may be appealed to EPC in accordance with the Charter.

Further information

5(1) Where a designated employee determines that additional information is required to properly assess a submitted development application, the designated employee is authorized to require that the applicant provide the additional information before the development application can be forwarded to the approving authority for consideration.

5(2) Where the designated employee determines that additional information is required under subsection (1), the designated employee must give notice in writing to the applicant.

5(3) Where the designated employee has given notice in accordance with subsection (2), the development application is deemed to be incomplete and must not be processed or forwarded to the approving authority until it is determined to be complete by a designated employee in accordance with section 6.

Complete development applications

6(1) A designated employee is authorized to determine the date on which a development application is complete.

6(2) Once the designated employee has determined that a development application is complete in accordance with subsection (1), he or she must provide notice in writing to the applicant.

6(3) A development application must not be processed by a designated employee or forwarded for consideration by the approving authority unless and until it is determined by a designated employee to be complete in accordance with this section.

Abandoned development applications

7(1) Where the designated employee provides notice to the applicant under subsection 5(2), the applicant must provide the additional information within 6 months following the date on which the applicant receives or is deemed to have received the notice.

7(2) Where the applicant fails to provide the additional information as required by subsection (1), the development application is deemed to be abandoned and the applicant must submit a new development application in respect of the proposed development.

7(3) Despite subsection (2), the Director is authorized to approve in writing, prior to the expiration of the timeframe set out in subsection (1), an extension of that deadline where he or she determines that the deadline is unreasonable in the circumstances.

Amended or cancelled development applications

8(1) Once a development application has been determined by a designated employee to be complete in accordance with section 6, the applicant must not make any amendments to the development application or submit any additional information unless the amendment or the additional information has been

(a) requested by the designated employee; or

(b) approved in writing by the designated employee.

8(2) Where the designated employee requests or approves amendments to a development application under subsection (1), the designated employee is authorized to

(a) provide a deadline by which the applicant must submit those amendments; and

(b) extend the deadline in writing.

8(3) A designated employee is authorized to cancel a development application and require that the applicant submit a new development application in respect of the proposed development if the applicant fails to meet any deadline or extended deadline provided by the designated employee under subsection (2).

Pre-application

9(1) A pre-application may be submitted by

(a) the owner or owners of the site; or

(b) any person on behalf of the owner or owners of the site with each owner's permission.

9(2) A pre-application may only be submitted in respect of a proposed development application for

(a) a rezoning;

(b) a subdivision;

(c) a variance;

(d) a conditional use;

(e) a secondary plan;

(f) an amendment to an existing agreement imposed as a condition of approval of a previous development application;

(g) an amendment to the Development Plan or Complete Communities; or

(h) any combination of the above.

9(3) A potential applicant is entitled to submit to the designated employee a pre-application in respect of a proposed development for the purposes of

(a) obtaining comments from the Public Service in respect of the proposed development; and

(b) identifying any potential issues or concerns with the proposed development.

9(4) The designated employee is authorized to require that a potential applicant submit a pre-application in respect of a proposed development where he or she determines that the proposed development is particularly large or complex.

9(5) Where a pre-application is authorized or required in respect of a proposed development, the pre-application must be submitted before a development application is submitted in respect of that proposed development.

9(6) For greater certainty, a pre-application is not a development application.

9(7) A designated employee must apply any fee paid by a potential applicant in respect of a pre-application towards the fee for a development application in respect of the proposed development.

General authority
10 Despite anything else in this By-law, and in addition to any other authority granted under this By-law, the Director is the approving authority in respect of the following

(a) CA;

(b) CONDO;

(c) DAPS; and

(d) DAAPS.

PART 3
PUBLIC HEARING PROCESS

Precedence
11 Where anything in this Part conflicts with section 51(10) of the Procedure By-law No. 50/2007, then this Part shall prevail.

Combined hearings

12(1) Except where otherwise provided in this By-law, the hearing body for a combined hearing is

(a) EPC where the combined hearing involves an application for an amendment to the Development Plan or to Complete Communities;

(b) the relevant Community Committee where

(i) the site is located entirely within the geographical boundaries of one community; and

(ii) no part of the site is within the area to which the Downtown Winnipeg Zoning By-law applies; or

(c) in all other instances, SPC.

12(2) In addition to any instance set out in section 278 of the Charter in which a combined hearing may be held, a designated employee is authorized to determine that a public hearing in respect of a development application be combined with one or more of the following:

(a) a DAC or DAOC;

(b) a public hearing in respect of an application for a demolition permit or a removal permit required under Part 9.

12(3) In addition to any instance set out in section 278 of the Charter or in subsection 12(2) in which a combined hearing may be held, a public hearing in respect of a development application to amend Complete Communities may be combined with a public hearing in respect of an application for a non-conforming private access under the Private Access By-law No. 49/2008.

Public representations

13(1) The hearing body for a public hearing in respect of a development application, or for a combined hearing, shall hear representations at the public hearing sequentially as follows:

(a) prior to any other representations, a designated employee shall be entitled to introduce the development application to the hearing body by providing a brief summary and the Director’s position on the development application, including without limitation any issues or concerns identified by the Public Service;

(b) the hearing body shall then hear, in order:

(i) the applicant;

(ii) anyone registered to speak in support of the development application;

(iii) anyone registered to speak in opposition to the development application; and

(iv) anyone registered for information on the development application;

(c) following the conclusion of representations made under clause (b), the applicant shall be entitled to speak in rebuttal only to address matters raised during those representations; and

(d) following the applicant's opportunity to speak in rebuttal, the hearing body shall close public representations.

13(2) Despite subsection (1), the hearing body is authorized to

(a) modify the order in which public representations are heard; and

(b) ask questions of the Public Service at any point during the public hearing.

13(3) Subsections (1) and (2), with the necessary changes having been made, applies in respect of an appeal from an order or a decision under this By-law.

New information

14(1) Once public representations have been closed under clause 13(1)(d), members of the hearing body and members of the approving authority must not receive or consider any new information unless and until the hearing body re-opens public representations in respect of the new information.

14(2) For greater certainty, members of the hearing body and members of the approving authority are entitled to discuss a proposed development prior to the public hearing in respect of the proposed development.

14(3) A hearing body must not re-open public representations unless the matter has been referred back to the hearing body for the purpose of re-opening public representations by SPC, EPC or Council.

14(4) Subsection 13(1), with the necessary changes having been made, applies in respect of re-opened public representations.

14(5) Despite anything else in this section, a member of any committee which considers a proposed development is authorized to ask questions of the Public Service for the purposes of obtaining clarification of

(a) a matter raised in the public hearing,

(b) procedural matters;

(c) technical information; or

(d) any other matter determined to be necessary by the committee.

Decision-making time limits

15(1) Where a Community Committee is the hearing body in respect of a public hearing to which this By-law applies, the Community Committee is authorized to adjourn the public hearing twice, but must make a decision or recommendations, as the case may be, in respect of the subject development application by no later than the Community Committee's third regularly scheduled meeting where the subject development application appears on the agenda.

15(2) The restrictions set out in subsection (1) do not apply in respect of a public hearing that is adjourned

(a) due to lack of quorum;

(b) at the request of the applicant; or

(c) because notice of the public hearing must be re-posted and re-advertised for any reason.

15(3) Where a Community Committee fails to make a decision or provide recommendations as required by subsection (1), the City Clerk must refer the matter to SPC.

Hearing body recommendations

16 Following the close of public representations, the hearing body must

(a) provide its recommendations to the approving authority for consideration; or

(b) where the hearing body is the approving authority, make a decision in respect of the development application.

PART 4
DEVELOPMENT PLAN

Application

17 This Part applies in respect of a development application to amend

(a) the Development Plan; or

(b) Complete Communities.

Hearing body

18 EPC is the hearing body for

(a) a public hearing in respect of a development application to which this Part applies; and

(b) a combined hearing involving a development application to amend

(i) the Development Plan; or

(ii) Complete Communities.

Approving authority
19 Council is the approving authority in respect of a development application to which this Part applies.

Appeal
20 Council's decision in respect of a development application to which this Part applies is not appealable.

PART 5
SECONDARY PLANS

Hearing body
21 The hearing body for a public hearing in respect of an application to adopt or amend a secondary plan is

(a) the relevant Community Committee where

(i) the site is located entirely within the geographical boundaries of one community; and

(ii) no part of the site is within the area to which the Downtown Winnipeg Zoning By-law applies; and

(b) SPC in all other instances.

Approving authority
22 Council is the approving authority in respect of a development application to adopt or amend a secondary plan.

Appeal
23 Council's decision in respect of a development application to adopt or amend a secondary plan is not appealable.

PART 6
SUBDIVISION, REZONING AND ZONING BY-LAW TEXT AMENDMENTS

Hearing body
24 The hearing body for a public hearing in respect of a DAS, DASZ, DAZ or ZAA is

(a) the relevant Community Committee where

(i) the site is located entirely within the geographical boundaries of one community; and

(ii) no part of the site is within the area to which the Downtown Winnipeg Zoning By-law applies; and

(b) SPC in all other instances.

Priority rezoning
25 Where a Community Committee conducts a public hearing under this section, the Community Committee is authorized to provide their recommendations in respect of the subject development application directly to EPC where

(a) the Community Committee concurs in the recommendations of the Public Service;

(b) the Community Committee makes no amendments to the recommendations of the Public Service; and

(c) no person makes representations or registers in opposition to the subject development application.

Approving authority
26(1) Council is the approving authority in respect of

(a) a DAS, DASZ, DAZ or ZAA; and

(b) a DASSF where the Public Service recommends that an agreement be required as a condition of approval.

26(2) The Director is the approving authority in respect of a DASSF where he or she determines that an agreement is not required as a condition of approval.

Appeal
27 A decision of Council pursuant to subsection 26(1) is not appealable.

PART 7
VARIANCES AND CONDITIONAL USES

Types of variances
28(1) There are hereby established 4 categories of variance:

(a) DAV-A;

(b) DAV-B;

(c) DAV-C; and

(d) DAV-D.

28(2) A person must submit a DAV-A development application where the person is seeking approval of a variance to vary a dimensional standard contained in the Winnipeg Zoning By-law

(a) in respect of any yard requirement or spatial separation requirement, by no more than 5% or 0.3 metres (1 foot), whichever is the greater; or

(b) in respect of any other dimensional standard, by no more than 5%.

28(3) A person must submit a DAV-B development application where the person is seeking approval of a variance in respect of any of the following:

(a) any variance in respect of any lot to which the Downtown Zoning By-law applies; and

(b) for any lot to which the Winnipeg Zoning By-law applies

(i) the modification of any yard requirement or dimensional standard where the lot has an agricultural zoning designation;

(ii) the modification of any yard requirement, density regulation or dimensional standard by no more than 25% where the lot has a parks and recreation zoning designation;

(iii) the variance of any lot area requirement for a single-family detached dwelling or a two-family detached dwelling by no more than 10% or any variance of any other zoning rule, requirement or regulation where the lot has a “RR5”, “RR2”, “R1”, “R2”, “RMU” or “RMH” zoning designation;

(iv) the variance of any of the following, where the lot has an “RMF”, commercial, institutional or manufacturing zoning designation:

A. any yard requirement or dimensional standard by no more than 25%;

B. any parking or loading requirement by no more than 25%;

C. any sign regulation by no more than 25%; or

D. the temporary establishment of a surface parking use or a loading area use for no longer than 1 year; and

(v) any variance of any rule or regulation in respect of an accessory structure.

28(4) Subject to subsection (5) and section 29, a person must submit a DAV-C development application where the person is seeking approval of a variance in respect of any zoning rule, requirement or regulation not listed in subsection (2) or (3), including a variance in respect of any density rule, requirement or regulation.

28(5) A person must submit DAV-D development application where the person is seeking approval of a variance in respect of any zoning rule, requirement or regulation not listed in subsection (2) or (3), including a variance in respect of any density rule, requirement or regulation, where the person is also submitting an accompanying development application for subdivision or rezoning.

DAV-C restriction

29 Where Council has enacted a by-law in respect of a subdivision or rezoning of a particular site, any DAV submitted in respect of that site within 2 years following the date of enactment of the by-law must be submitted as a DAV-D.

Density variances

30 Despite anything else in this By-law, a density regulation or rule in a zoning by-law must not be modified by way of variance except

(a) in respect of an existing legally-established multi-family dwelling by no more than 10% of the density rule or regulation where the designated employee determines that significant changes to the existing building height or footprint will not be required; or

(b) in respect of any site with any of the following zoning designations:

(i) Residential Multi-Family (Large);

(ii) Transit Oriented Development;

(iii) Residential Mixed Use; or

(iv) Commercial Mixed Use.

Types of conditional use

31(1) There are hereby established 3 categories of conditional use:

(a) DCU-B;

(b) DCU-C; and

(c) DCU-D.

31(2) A person must submit DCU-B development application where the person is seeking approval of either of the following:

(a) for any lot to which the Downtown Winnipeg Zoning By-law applies, any conditional use listed in that by-law; or

(b) for any lot to which the Winnipeg Zoning By-law applies, a conditional use to allow a home-based business;

31(3) Subject to subsection (4) and section 32, a person must submit a DCU-C development application where the person is seeking approval of any conditional use not listed in subsection (2).

31(4) A person must submit a DCU-D development application where the person is seeking approval of any conditional use not listed in subsection (2) if the person is also submitting an accompanying development application for subdivision or rezoning.

DCU-C restriction

32 Where Council has enacted a by-law in respect of a subdivision or rezoning of a site, any DCU submitted in respect of that site within 2 years following the date of enactment of the by-law must be submitted as a DCU-D.

Hearing body

33(1) The hearing body for a public hearing in respect of a DAV or a DCU is

(a) the Board of Adjustment in respect of a DAV-C or a DCU-C;

(b) the relevant Community Committee in respect of a DAV-D or a DCU-D where

(i) the site is located entirely within the geographical boundaries of one community; and

(ii) no part of the site is within the area to which the Downtown Winnipeg Zoning By-law applies; and

(c) SPC or EPC, as the case may be, in respect of a DAV-C or a DCU-C where there's a combined hearing.

33(2) A public hearing is not required in respect of

(a) a DAV-A;

(b) a DAV-B; or

(c) a DCU-B.

Approving authority

34(1) The approving authority in respect of a DAV or a DCU is

(a) the Director in respect of

(i) a DAV-A or a DAV-B; or

(ii) a DCU-B;

(b) the relevant Community Committee in respect of a DAV-D or a DCU-D where

(i) the applicant has also submitted an accompanying development application for subdivision or rezoning; and

(ii) the site is located entirely within the geographical boundaries of one community;

(c) SPC in respect of a DAV-D or a DCU-D where

(i) the applicant has also submitted an accompanying development application for subdivision or rezoning; and

(ii) the site is located within two or more communities; or

(d) the Board of Adjustment in respect of all other variances or conditional uses.

34(2) Despite subsection (1), the Director is authorized to decline to make a decision in respect of a DAV-A, DAV-B or DCU-B and instead refer the relevant development application to

(a) the relevant Community Committee where the site is located entirely within the geographical boundaries of one community; or

(b) SPC in all other instances.

Temporary delegations of authority

35(1) Despite anything else in this By-law but subject to this section, Council may, by resolution, approve a temporary delegation of authority to the Director in respect of a DAV-C or DCU-C.

35(2) In order for a temporary delegation of authority approved under subsection (1) to be valid, the resolution approving the temporary delegation of authority must identify the time period during which the temporary delegation of authority shall be in effect.

35(3) Despite subsection (2), at any point following the date on which a temporary delegation of authority is approved under subsection (1) and before the date on which the temporary delegation of authority expires, Council may approve an extension of the temporary delegation of authority, which extension must not be longer than one year.

35(4) For greater certainty, while a temporary delegation of authority approved under subsection (1) is in effect, the temporary delegation of authority supersedes any delegation of authority contained in this By-law.

Appeal
36 A decision of the approving authority under this Part may be appealed to the Appeal Committee in accordance with the Charter.

Termination of variances
37 The Director is authorized to terminate an approval of a variance in accordance with the Charter.

PART 8
STREET CLOSINGS

Hearing body
38 The hearing body for a public hearing in respect of a DAC or a DAOC is

(a) the relevant Community Committee where

(i) the site is located entirely within the geographical boundaries of one community; and

(ii) no part of the site is within the area to which the Downtown Winnipeg Zoning By-law applies; and

(b) in all other instances, SPC.

Approving authority
39 Council is the approving authority in respect of a DAC or a DAOC.

Appeal
40 A decision of Council pursuant to section 39 is not appealable.

PART 9
DEMOLITION PERMITS

Exemption
41 This Part does not apply in respect of an application for a demolition permit or a removal permit submitted

(a) by or on behalf of the City; or

(b) pursuant to an Order issued by or on behalf of the City.

Application
42 This Part applies to an application for a demolition permit or for a removal permit where

(a) the site is located within an area to which the Winnipeg Zoning By-law applies;

(b) the demolition permit or the removal permit is being sought in respect of a building that contains one or more dwelling units; and

(c) the applicant for the demolition permit or the removal permit has not obtained a building permit, valid for no fewer than 120 days from the proposed date of issuance of the demolition permit, for

(i) the construction of a new building on the site;

(ii) the renovation of the building in respect of which the demolition permit or the removal permit is being sought; or

(iii) the establishment of a new permitted use on the site.

Hearing required
43 A public hearing is required prior to the issuance of any demolition permit or removal permit to which this Part applies.

Hearing body
44 The hearing body for a public hearing required under this Part is

(a) the relevant Community Committee where the site is located entirely within the geographical boundaries of one community; and

(b) SPC in all other instances.

Approving authority
45(1) The approving authority in respect of an application for a demolition permit or a removal permit under this Part is the hearing body for that application

45(2) Following the close of representations at a public hearing in respect of an application for a demolition permit or a removal permit under this Part, the approving authority must do one of the following:

(a) approve the issuance of the demolition permit or the removal permit without conditions;

(b) approve the issuance of the demolition permit or the removal permit with conditions; or

(c) deny the issuance of the demolition permit or the removal permit.

45(3) The approving authority must not approve the issuance of a demolition permit or a removal permit without conditions, unless the approving authority determines that the demolition or the removal in respect of which the demolition permit or the removal permit, as the case may be, is being sought

(a) would not have an undue detrimental impact on the maintenance and use of adjacent properties; and

(b) would not create a visual detriment to adjoining properties.

Notice

46(1) The Director must give notice of a hearing required by this Part in accordance with the Charter.

46(2) The City Clerk must give notice of a decision made under this Part by ordinary mail to

(a) the applicant; and

(b) each person who made representations at the public hearing in respect of the application for the demolition permit or the removal permit.

Appeal

47 A decision made under this Part may be appealed in accordance with the Charter to

(a) SPC where the approving authority is a Community Committee; and

(b) EPC where SPC is the approving authority.

PART 10
SITE PLAN APPROVAL

Application

48 This Part does not apply in respect of an application for urban design review required by the Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law.

Definitions

49 In this part, the following words and phrases have the following meanings:

"approving authority" means the person or committee to whom authority has been delegated to consider and make decisions in respect of an application for plan approval;

"original approving authority" means the person or committee who approved a development application pursuant to authority delegated under this By-law;

"parent development application" means the development application in respect of which an application for site plan approval has been submitted; and

"site plan" means a drawing of the proposed development which shows the site features that are determined to be required by the original approving authority.

Site plan approval required

50(1) In addition to the conditions authorized under the Charter, the original approving authority is authorized to impose as a condition of approval of a development application

the requirement that the applicant obtain site plan approval prior to the issuance of any building permits in respect of the site.

50(2) Where site plan approval is required pursuant to subsection (1), the applicant must submit site plans which show the location and design of those site features determined to be required by the original approving authority, which may include one or more of the following:

(a) buildings or structures;

(b) accessory parking areas;

(c) driveways and private accesses;

(d) walkways and pathways;

(e) garbage enclosures;

(f) fencing and landscaping;

(g) exterior lighting;

(h) free-standing signs; and

(i) any other site feature as required by the original approving authority.

Site plan approval application

51(1) An applicant must submit an application for site plan approval to the designated employee.

51(2) The Director is authorized to determine the form in which an application for site plan approval must be submitted.

51(3) The designated employee must not accept an application for site plan approval unless

(a) the parent development application has been approved by the relevant approving authority;

(b) it is in the form determined by the Director under subsection (2); and

(c) the applicable fee has been paid.

Approving authority

52(1) Unless otherwise provided for in the approval of the parent development application, the approving authority in respect of an application for site plan approval is the Director.

52(2) After considering an application for site plan approval, the approving authority must do one of the following:

(a) approve the site plan;

(b) approve the site plan with conditions;

(c) refer the site plan back to the applicant to amend the site plan; or

(d) reject the site plan.

52(3) Without limiting the general authority of the approving authority to impose conditions under clause (2)(b), the approving authority is authorized to require as a condition of approval of a site plan that the owner of the site enter into an agreement with the City to ensure that the site is developed in accordance with the approved site plans.

Amendments

53(1) Despite clause 52(2)(b), the approving authority must not make any amendments to the site plan as submitted by the applicant.

53(2) Where the approving authority determines that amendments to the site plan are required, the approving authority must refer it back to the applicant to amend the site plan.

53(3) Where the approving authority refers a site plan back to the applicant under subsection (2), the applicant in respect of the application for site plan approval is entitled to resubmit the amended site plan directly to a designated employee without submitting a new application or paying additional fees.

53(4) Despite anything else in this section, a site plan does not need to be referred back where WPS, CC and applicant agree about a proposed amendment.

Appeal

54(1) A decision by the approving authority in respect of an application for site plan approval may be appealed to SPC in accordance with the Charter.

54(2) A decision by the approving authority in respect of an application for site plan approval may only be appealed by the applicant or the owner of the site.

54(3) Where the City Clerk receives notice of an appeal of a decision made under this Part, the City Clerk shall give notice of the appeal to the approving authority.

Decision-making time limits

55 Section 15, with the necessary changes having been made, applies in respect of this Part.

PART 11
MISCELLANEOUS

Notice

56 Except where otherwise provided in this By-law, any notice required to be sent or given under this By-law must be sent or given by the City Clerk.

Enhanced notice

57(1) Where the Charter requires that a person post notice of a development application, the designated employee is authorized to require that the person post an enhanced notice where the designated employee determines that the enhanced notice is necessary or desirable, taking into account

(a) the size and complexity of the development proposed by the development application; and

(b) the physical characteristics of the site.

57(2) Where the designated employee determines that a person is required to post an enhanced notice under subsection (1), the person must post the enhanced notice in the form determined by the Director pursuant to section 58.

Form of Notice

58 The Director is authorized to determine the form of

(a) a notice in respect of a development application required to be posted pursuant to the Charter; or

(b) an enhanced notice required to be posted pursuant to subsection 57(1).

Address for service

59(1) Unless otherwise provided in this By-law, any notice, order, decision or other document required to be given or sent to a person in respect of a matter dealt with under this By-law may be sent by registered mail to an address determined in accordance with one of the following

(a) where the person is the owner of real property, the address maintained by the tax collector for the purpose of issuing the tax notice for that property;

(b) where the person is an applicant, the address provided to the designated employee by the applicant; or

(c) in all other instances, the last known address for the person.

59(2) Despite subsection (1), where a person to whom a notice, order, decision or other document is required to be given or sent under this By-law has provided his or her email address to the designated employee, the notice, order, decision or other document required to be given or sent under this By-law may be sent to that person at the email address so provided.

59(3) Where a notice, order, decision or other document is sent by way of email under subsection (2), the designated employee must obtain and retain a copy of a delivery receipt in respect of the email.

59(4) Where a delivery receipt is not obtained under subsection (3), the notice, order, decision or other document must be sent in accordance with subsection (1).

Appeals

60(1) Except where otherwise provided in this By-law, any appeal authorized by the Charter from orders or decisions under this By-law may be made to SPC in accordance with the Charter.

60(2) A member of the hearing body in respect of a development application must not in any way participate in any appeal in respect of that development application.

PART 12
CONSEQUENTIAL AMENDMENTS

Development Procedures By-law repealed

61 The Development Procedures By-law No. 160/2011 is hereby repealed.

Zoning Agreement Tolerance Amendment By-law repealed

62 The Zoning Agreement Tolerance Amendment By-law No. 7489/99 is hereby repealed.

Development Fees Surcharge By-law repealed

63 The Development Fees Surcharge By-law No. 32/2005 is hereby repealed.

DONE AND PASSED this day of , 2020.

Mayor

City Clerk

Approved as to content:

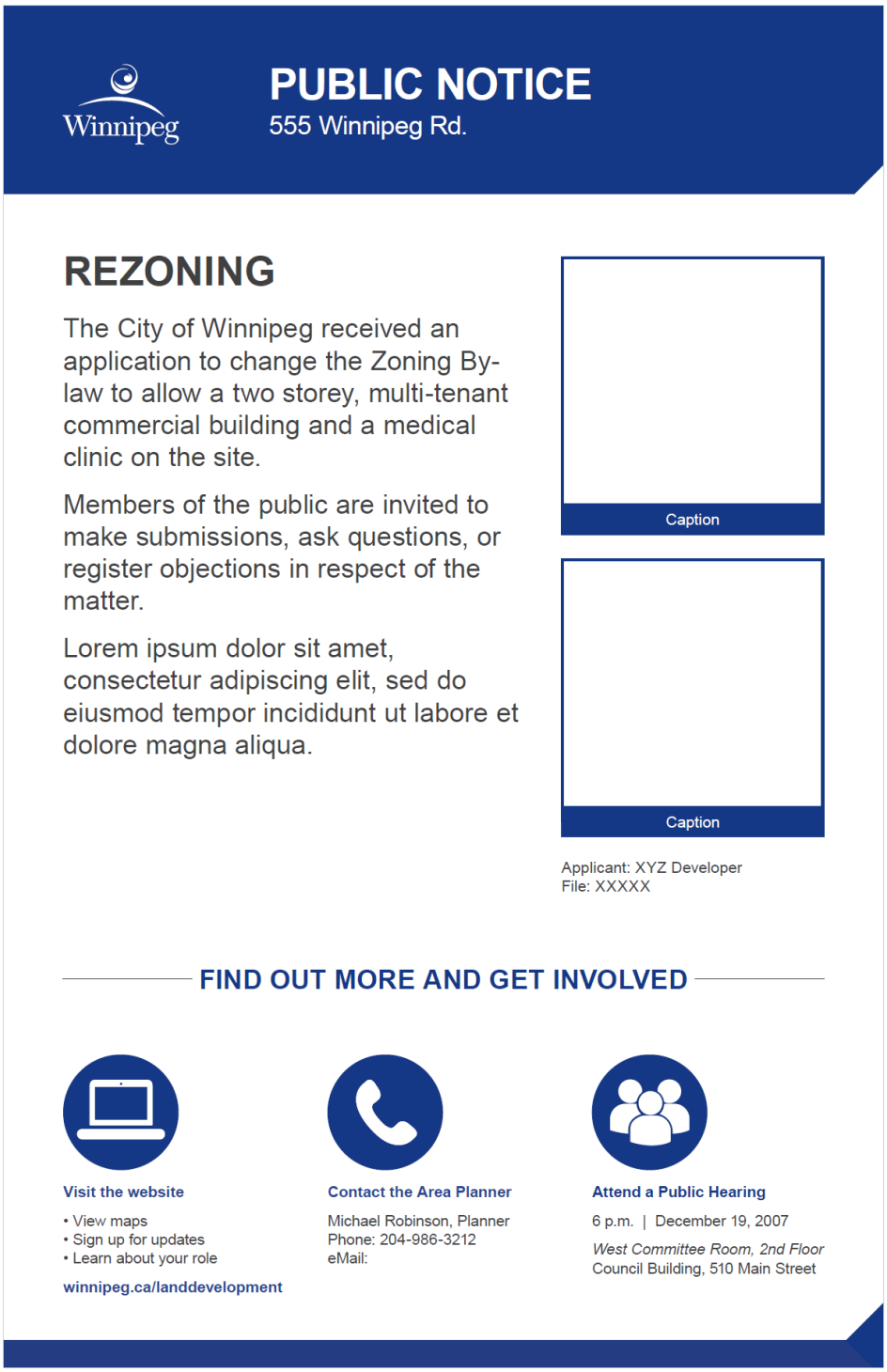
Director of Planning, Property
and Development

Legally reviewed and certified as to form:

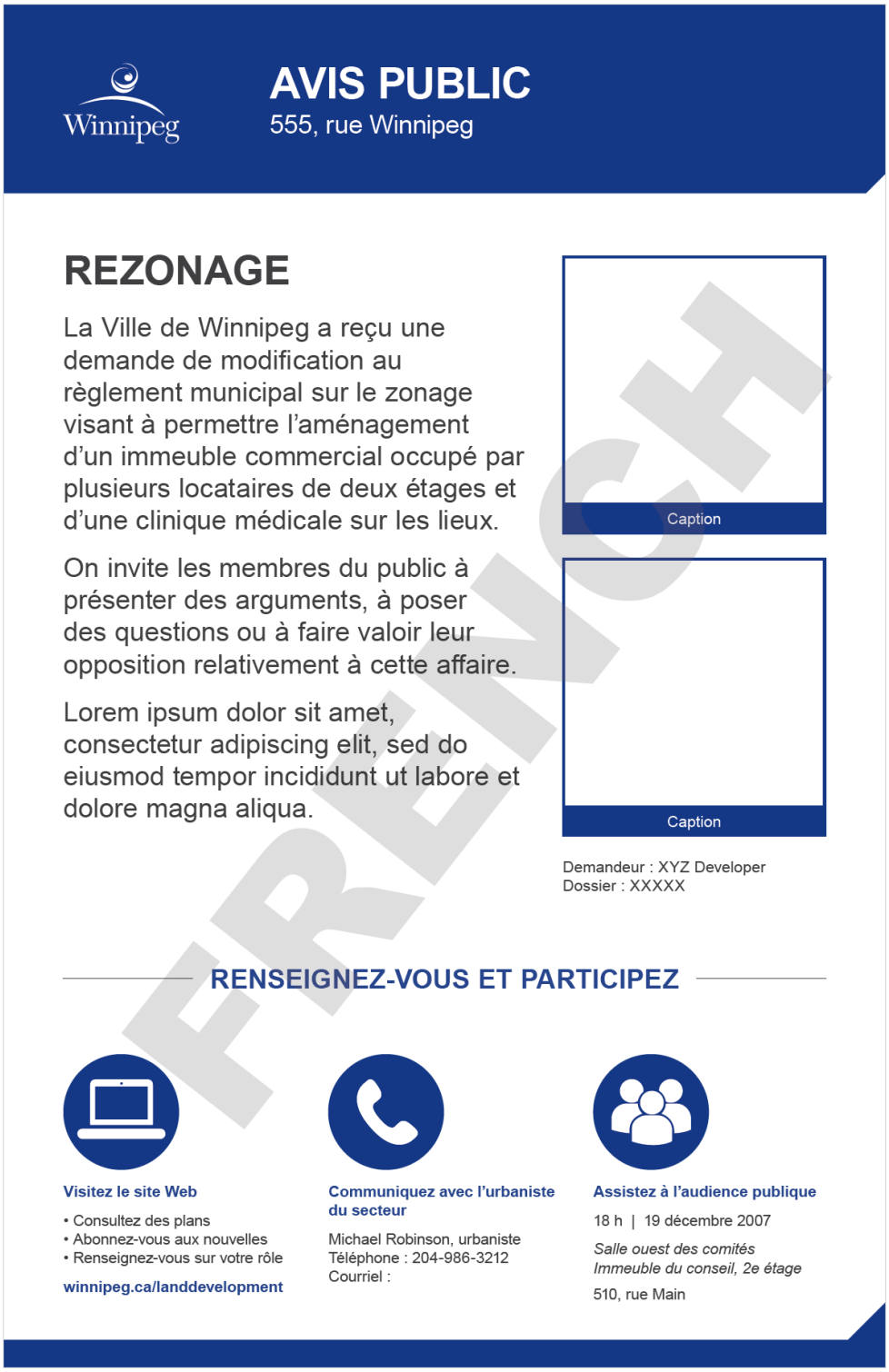
for Director of Legal Services
and City Solicitor

Appendix B Proposed New Notification of Public Hearing Signage

Proposed Standard Poster (11x17) All English



Proposed Standard Poster (11x17) All French



Proposed Enhanced Sign (96x48) All English

PUBLIC NOTICE

555 Winnipeg Rd.

REZONING

The City of Winnipeg received an application to change the Zoning By-law to allow a two storey, multi-tenant commercial building and a medical clinic on the site.

Members of the public are invited to make submissions, ask questions, or register objections in respect of the matter.

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Caption



Caption

Applicant: XYZ Developer
File: XXXXX

FIND OUT MORE AND GET INVOLVED

Visit the website

- View maps
- Sign up for updates
- Learn about your role

winnipeg.ca/landdevelopment

Contact the Area Planner

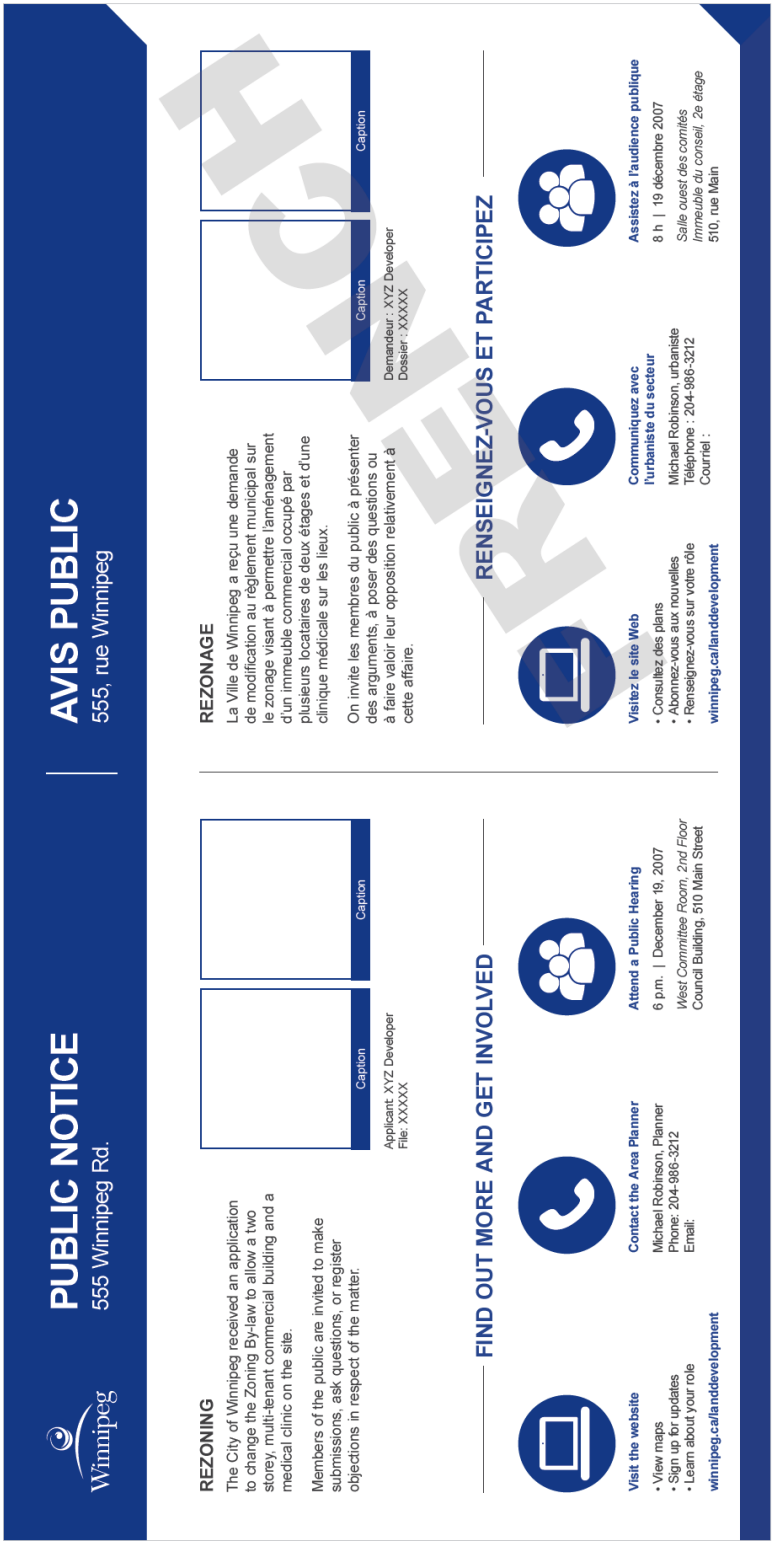
Michael Robinson, Planner
Phone: 204-986-3212
Email:

Attend a Public Hearing

6 p.m. | December 19, 2007

West Committee Room, 2nd Floor
Council Building, 510 Main Street

Proposed Enhanced Sign (96x48) Bilingual



Proposed Postcard (7x5) Bilingual

Winnipeg

PUBLIC NOTICE

555 Winnipeg Rd.

REZONING

The City of Winnipeg received an application to change the Zoning By-law to allow a two storey, multi-tenant commercial building and a medical clinic on the site.

Members of the public are invited to make submissions, ask questions, or register objections in respect of the matter.

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Caption


Caption

Applicant: XYZ Developer
File: XXXXX

FIND OUT MORE AND GET INVOLVED

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- Sign up for updates
- Learn about your role

winnipeg.ca/landdevelopment

Contact the Area Planner

Michael Robinson, Planner
Phone: 204-986-3212
Email:

Attend a Public Hearing

6 p.m. | December 19, 2007

West Committee Room, 2nd Floor
Council Building, 510 Main Street

Winnipeg

AVIS PUBLIC

555, rue Winnipeg

REZONAGE

La Ville de Winnipeg a reçu une demande de modification au règlement municipal sur le zonage visant à permettre l'aménagement d'un immeuble commercial occupé par plusieurs locataires de deux étages et d'une clinique médicale sur les lieux.

On invite les membres du public à présenter des arguments, à poser des questions ou à faire valoir leur opposition relativement à cette affaire.

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Caption


Caption

Demandeur : XYZ Developer
Dossier : XXXXX

RENSEIGNEZ-VOUS ET PARTICIPEZ

Visitez le site Web

- Consultez des plans
- Abonnez-vous aux nouvelles
- Renseignez-vous sur votre rôle

winnipeg.ca/landdevelopment

Communiquez avec l'urbaniste du secteur

Michael Robinson,
urbaniste
Téléphone : 204-986-3212
Courriel :

Assistez à l'audience publique

18 h | 19 décembre 2007

Salle ouest des comités
Immeuble du conseil, 2e étage

510, rue Main

FRENCH