Review of July 31 2018 City Administrative Report
Re: Parker Lands Major Redevelopment Site Secondary Plan (First Reading)

OVERVIEW

The Administrative Report that is now the subject of Council decision making is misleading to Council and the public, defamatory to the professional consulting team that created the Parker Lands Secondary Plan and is a continuation of the bad faith actions that the Parker landowners have been subjected to over the past 5 years.

The Report is an ill-considered criticism of the competence and conduct of the Developer and his professional consulting team. It shows bias, lacks objectivity and is found to be full of misrepresentations, inaccuracies and false statements.

The Administration's critique of the Applicant's plan and instruction that it must be amended to their liking and approval prior to a proper, open, transparent and balanced Public Hearing on the matter means that the authors of the report have essentially conducted their own Public Hearing without allowing for notice of their intention and not allowing for the Public or Developer and his team to speak in rebuttal or support of such critique. The Administration's tactic is unacceptable and contravenes natural justice, the City of Winnipeg Charter Section 275, previous Council decisions and the respective Professional Planners Association's Codes of Conduct.

The Administration's decision to author a report recommending actions for Council to take along with the unprecedented actions of two committees of Council to consider the matter while there is an open, transparent legal action in front of the Court of Queen's Bench is an affront to the parties and to the court.

The conduct of the Administration on this matter is egregious and is meant to demean all parties involved with the creation of the Secondary Plan. This is especially true given that the authors of the report and an Elected Official on the first Hearing Body (PPD) took to TV, radio and newspapers to willingly make light of this situation (i.e. joking that the plan was not ready for 'prime time', etc.).

The following analysis provides general concerns about the overall report, and specific concerns pertaining to Attachment C of the Administrative Report.

1. **Report Recommendations - Unjustified critique**. The Administrative Report contains several examples of unjustified statements that are designed to create a false narrative to mislead council and the public that the developer led Secondary Plan and accompanying planning process was uncharacteristic of such plans, out of the scope of normal plans and flawed to the extent that it could not advance to a Public Hearing and that the author's critique of the plan was sufficient to deny proper and due process to the Applicant.

2. **Purpose of the Report**. The purpose of the report was to dictate to the Developer and its' consulting team that the recommended approval parameters would be solely decided upon by the Administration and indicates that only in the event the Developer makes the arbitrary changes to the plan that it can move forward to be considered by a hearing body.

   While the City Administration positions this as an ongoing proactive and collaborative process with the property owners, it has taken nearly five years of comprehensive consultation, review and technical reports to get to a position whereby the Administration says it is now willing to arbitrarily tell the applicant to address issues they perceive to exist in the plan.

   This report is in fact an attempt by the Administration to arbitrarily take control of the planning process and move discussion from the public realm to be solely an Administration driven decision. This arbitrary control of the planning process extends to the DASZ application and the conduct of the Administration in processing that application.

3. **Implications of the Recommendations.** While the City is positioning this as an opportunity for further collaboration, the Report in fact is asking Council to give the Administration unilateral and absolute authority on planning, polices, guidelines and decision-making related to this individual Secondary Plan. The Authors of the report have taken away any opportunity to propose alterative visions, plan objectives or supporting data. They have taken away the opportunity for expert testimony on the Developer led plan. They have, in fact, indicated that they and they alone understand what is best practice for a Major Redevelopment Site and conditions of success for the site itself and the South West Rapid Transit Corridor (SWRTC) that runs through it.

   This removes public participation and debate from the process and contravenes Section 275 of the City Charter. This also departs from the previous Council decision on July 22, 2009 for the Developer to produce a Developer led Secondary Plan.

4. **Documented Chronology of Consultation.** The Administration report misleads Councilors and the Public as to the extent of public consultation by referencing only two public open houses. There was extensive and ongoing public and stakeholder consultation beyond the referenced public open houses from February and August 2016 (which together drew approx. 150 attendees) throughout the process and continuing to this day. This includes an online engagement process launched in early January 2018 that has resulted in over 2,500 views to the website currently, including 1,300 individual views on the Public Update page that transparently describes the revised green space plan, including the rationale for the changes. It must be noted that the Author of the Report had input into the discussion on the final engagement process and advised he was interested in it and looked forward to the results of the process.

5. **Misleading Context about the Application of the Parker Lands Secondary Plan**. While the Report states that GEM Equities submitted an application for the Secondary Plan to be adopted by Council, the City Planner responsible for the review never communicated to the Applicant that a Report was submitted to Council that recommended the plan be refused at First Reading. This action is at odds with an April 6 2018 email commitment from the City Planner that "we will be providing you with feedback in advance of us submitting a Report to Council." The Applicant only received notice of both the Report and recommendation through a media request on August 28th, just days before the Report was to be considered by Standing Policy Committee on September 4th, 2018.

6. **Consultation with Legal Services**. While the Administrative Report states that it was prepared in consultation with Legal Services (as to legal issues), it is noted that this report was submitted by July 31, 2018 yet at the judicial hearing in front of Justice Grammond on August 22, 2018 the City's lawyer was asked by the Judge what was holding up the processing of the development applications.

   The City did not make the Court aware of the comments of this Report and said the only item holding up the processing of the development applications was a lack of dimensioned roadway widths on the subdivision plan. As of August 22, 2018 the Court was only aware of the City's concern of a lack of dimensioned roadway widths on the plan rather than the City Administration's view that the development application should not be heard by City Council. This is a major point to leave out in the matter before Justice Grammond.

Detailed Review of Attachment C: Planning Discussion

Issue 1: *The Plan Area does not meet the criteria for 'Urban Neighbourhood' TOD Type (as described in the Winnipeg TOD Handbook) because of the lack of connectivity to amenities north of the railway line and the adjacent neighbourhood development south of the Hydro and SWBRT corridors.*		
	City Alleges:	**Gem's Response:**
P. 4	"The Plan applies an incorrect TOD Type to the Neighbourhood Policy Area."	This is a misleading statement. Determining the appropriate TOD Type for this site is an important element to consider as approximately $500 million in rapid transit investment has been committed and one of the outcomes of this public transit investment was the anticipated residential development that would occur which supports the viability of the transit corridor. The applicants planning consultants did the prudent and responsible action and sought peer review on their work from a leading North American consultant with extensive municipal planning expertise. The planning consultants also engaged with a nationally known urban economist and environmental consultants who have similar experience in this area to inform their planning work. Peer review outcomes and economic and environmental studies were completed and forwarded to the City Planners to provide a comprehensive overview of factors to determine appropriate TOD Types and density classifications for the site. The City Planning group instructed the Applicant to stop producing these reports which is now consistent with the Administration's goal of being the sole authority on determining the policies, guidelines and planning principles allowed on this individual site. The Developer's Planning consultants relied on City policy which states in Section 03-3 of *Complete Communities – Key Directions,* that Major Redevelopment Sites "will provide for complete communities with significant levels of mixed use, **high density development** with strong urban design and attractive parks, places and open spaces" for direction.
P. 8	"Complete Communities identifies the Parker Lands as a Major Redevelopment Site, and not a 'Regional Mixed Use Centre' or 'Regional Mixed Use Corridor'. Therefore the appropriateness of allowing community scale commercial uses at this location is questionable."	This is a False statement. "Regional Mixed Use Centre" or "Regional Mixed Use Corridors" are not being proposed for the Parker Lands. Big box commercial has never been proposed for this site. It is outrageous to suggest the independent experts were recommending commercial uses that fit within the definition of "Regional Mixed Use Centre" or "Regional Mixed Use Corridor" which would be shopping malls or

		big box retail or commercial. Community scale commercial uses are being promoted as an important aspect to creating a complete community. Through peer review it was suggested this was a key concept in the design of the site. Community scale commercial uses were described to the planners as small coffee shops, convenience stores, markets and other amenities that would service the residential population within the site. The proposed greenspace area is designed to accommodate meeting areas, plazas and connects to the commercial spine which creates an enhanced public realm and sense of place. The suggestion that out of scale regional commercial uses were being proposed suggests a competency issue with the Applicant's planning team. This allegation was clearly included to falsely lead the reader of the report to a conclusion that the Secondary Plan missed the mark in terms of planning for an appropriate scale of mixed use.
P. 9	"It should be noted that the inaccuracies found in section 1.2.5 of the Plan are immaterial to this discussion (i.e. The Wal-Mart is located in 'Taylor Festival' and Sobey's is located in the 'Grant Park Pavilions')."	This is a False statement. The Master Plan information as presented is correct. Wal-Mart **is** within the Grant Park Pavilions; Sobey's **is** within the Grant Park (previously Taylor) Festival. An example f*rom the Grant Park Pavilions website*: *"Anchored by Wal-Mart Supercentre and Scotiabank, this transit-oriented development provides a variety of options to live, shop and work all in close proximity."* The City Planner's inclusion of this statement is meant to lead the reader of the report to question other aspects as the plan as the authors of the plan can't even get simple facts correct. It is misleading and is a subtle attempt to discredit the authors of the developer led Secondary Plan.
P. 9	"These amenities may be in proximity to the subject land; however, they are not accessible from the Parker Lands."	This statement is misleading. It purposely overlooks the most critical factor influencing the accessibility of the site being the Southwest Rapid Transit Corridor (SWRTC) and adjacent roadway improvements. This statement refutes the value of transit and the $500M spent to improve access for residents of this neighborhood to access services throughout the city. Public transit and active transportation infrastructure are meant to support the transportation

		choices of residents within Parker Lands and the surrounding communities. The Applicant's planning consultants worked from planning principles that the site must be designed to make rapid transit and active transportation accessible and be the preferred choice over the car. In contrast, the City Planner's statement is "auto centric" and suggests that roadway connections are the most important consideration. The Developer and planning consultants deserve an opportunity to speak to these types of statements in a Public Hearing. The City Planner's statement is a very unfortunate perspective that the Parker Lands will be predominately the domain of cars. The City Planner's position on accessibility is in direct contrast to Council's goal of improving access for all residents and specifically residents along the Southwest Rapid Transit Corridor. Most concerning is the purposeful decision by the Report's author to identify the one amenity (a grocery store) that is the farthest option for Parker Lands residents. This illustrates the unfair and bias treatment towards the Developer and his consulting team. It should be noted that there are other grocery stores in closer proximity: Piazza di Nardi is about 1.1 km away from the low density area and 1.4 km from the high density area while Safeway is 1.8 km away from the densest part of the site. Grant Park Pavilion's website touts that it is "surrounded by new residential developments. Adjacent to Grant Park Pavilions is Fulton Grove, a new multi-family residential development."
P. 10	"Without good access to other regional and sub-regional centres, it would be inappropriate to designate the TOD portion of the Plan for development consistent with the 'Urban Neighbourhood TOD Type', which is characterized as having the same land uses as the Urban Centre TOD Type with good access to other regional and sub-regional centres."	This is a False statement. The TOD Handbook in section 4.F. Typologies under 'Regional Connectivity' lists the Urban Centre to be 'High' with regards to connectivity while Urban Neighbourhood is to have 'Medium' access to sub-regional hubs (see 'TOD Zones' chart). The City has spent $650 M to provide improved access to the site: • approx. $ 150 M to construct the Waverley underpass which improves connectivity from the neighborhood to Grant Avenue, Taylor Avenue and Pembina Highway businesses, amenities and services; • approx. $ 500 M to complete Phase 2 of the Southwest Rapid Transit Corridor (including active transportation – walking paths and bike lanes) to allow residents access to areas along the corridor stretching from downtown to the University of Manitoba and all points in between.

		The former Chief City Planner of Toronto, in her peer review of the plan, was concerned that the suggested densities by City Planners would be too low to support public transit infrastructure. The City Planners would not engage in a discussion about minimum densities, rather their goal was to reduce maximum densities. The City Planner's viewpoint is in direct contradiction to OurWinnipeg/Complete Communities that instruct Major Redevelopment Sites (MRS) to be planned with minimum densities rather than rather maximum densities. The City Planners have been fixed on transportation choices that are "auto centric" within the Parker Lands which ignores the $500M in taxpayer funds to enhance public transit. The Developer and its' consulting team have been thwarted in bringing these important considerations to a Public Hearing for proper discussion involving independent experts and the public.
P. 11	"Neighbourhood development south of the proposed 'Urban Neighbourhood Policy Area' is limited by a significant hydro-electric corridor. In addition, the alignment of Hurst Way and the SWBRT just north of the 'Urban Neighbourhood Policy Area' act as barriers to direct pedestrian access to the Beaumont Neighbourhood."	This concern as expressed by the City Planner was never discussed with the Applicant's planning consultants at any point in the 5 years of discussion with the city. The OurWinnipeg designation process and the planning for the SWRT corridor were purposeful and mindful of the hydro corridor and in fact, formed part of the reason to designate the Parker Lands as an MRS and route SWRTC through the area. The SWRTC runs through the Hydro Corridor. The MRS and SWRTC address and relieve barriers as described by the City Planner. This assertion ignores that if cars can travel through the hydro-electric corridor and the SWBRT, then people can cross as well. If that were not the case, no one from the Beaumont neighbourhood would be able to access the new BRT Station - which is located on the opposite side of the above mentioned so-called 'barriers'. This assertion also is not consistent with the City's decision to locate the Parker Rapid Transit Station in an area that is accessible to surrounding communities. The design of the new Rapid Transit Corridor provides for new Active Transportation paths (walking paths and bike lanes) east of the Kiss-and-Ride connecting the Beaumont community to the Transit Station and from the future station plaza northwards, to the Urban Neighbourhood Policy Area. It should be noted that the distance shown on Figure 7 – Distance to Beaumont Neighbourhood from the Planning Report (between the south end of the Neighbourhood Policy Area and the north end of Beaumont), is shown as 280m which translates to approximately a 3-minute walk. To access the nearest school, community centre, etc. is a few minutes away which is not an unreasonable assumption to make.

		The distance from the Parker Rapid Transit Station to the potential highest density area of the Urban Neighbourhood Policy Area is less than 180m away, or about a 2-minute walk.
P. 12	"Development of the Parker Lands is more consistent with the 'Neighbourhood – Medium Density' TOD as characterized in the TOD Handbook."	This statement is a misrepresentation. This City statement is in direct contravention of and a misrepresentation of City planning guidelines and planning principles. Section 03-3 of Complete Communities – Key Directions, Major Redevelopment Sites "will provide for complete communities with significant levels of mixed use, **high density development** with strong urban design and attractive parks, places and open spaces. The Independent consultants' reports all confirmed that as density levels increase on the site, the economic and environmental return on transit infrastructure increases (Altus – An Economic Benefits Analysis; Ortech – GHG Reductions of High-Density Residential Developments report). The Winnipeg Residential Land and Infill Strategy (2009) suggested that the Parker Lands site would be most efficiently developed to a mid/high net density scenario to justify infrastructure and transportation interventions (p. 100). The vociferous criticism in the Administrative Report of the suggestion for additional density by the Applicant's Consulting team deserves proper consideration, including the opportunity for expert testimony at a Public Hearing. The Administration does not want this expert testimony to occur at a Public Hearing.
P. 12	A reference to the TOD Handbook regarding the 'Urban Neighbourhood' TOD Type has an incorrect reference (section 4.E).	This is a typo. 4.E. is a section describing 'Partnerships.' It should have referred to 4.F. Typologies.

Issue 2: *The Plan does not provide sufficient detail to properly evaluate development proposals within the Plan Area.*		
	City Alleges:	**Gem's Response:**
P. 14	"Policy 3.5.2.2 permits all residential building types to be established anywhere within the 'Urban Neighbourhood Policy Area.' This policy does not provide sufficient clarity that would prohibit single family dwellings from being considered in the first 180 metres of the Rapid Transit Station or high rise multi-family apartments being considered 800 metres from the Rapid Transit Station."	This is a misleading statement. The City Planner does not provide appropriate information nor does he provide adequate review of facts as set out in emails as to the merit of this statement. If he did, he would provide emails that speak to significant discussion between the city and the consulting team on this matter. Proper planning analysis would also reveal that the City Planner is mixing up the assignment of density with a built form. A single family dwelling is a building form and does not reflect density. Actual land use and type of dwelling unit is considered and approved through a DASZ process. The Secondary Plan appropriately guides the reader to an understanding of density, which then informs the type of uses. The location of density forms extensive policy in the plan. The plan protects what the City Planner suggests in his statement from happening in 3.3.2.6 where it says "Residential densities **SHALL** radiate out from the Rapid Transit Station with 'density' being in an inverse relationship to 'distance'; as the distance from the Rapid Transit Station increases, the density **SHALL** decrease." Therefore, this would not allow for highest densities on the west and lowest densities on the east. It should be noted that a previous Density Map with radiating/'heat blurred' boundaries was sent to the City Planner (in the Mar. 23, 2017 draft version of the plan) only to have it rejected as 'too difficult' to interpret, though the proponent felt that it allowed for more flexibility of building-to-building densities. As a result, the current Density Map (shown in Figure 8 of Planning Discussion) along with an updated accompanying policy was submitted to simplify and avoid any confusion.
P. 15	"enforcing this policy would require evaluating the density of an individual development proposal against the density of development which has yet to be proposed and does not exist."	This statement is false, deliberate and illustrative of the targeted actions of the Administration to thwart the efforts of the Developer and the team of independent consultants. It suggests that the Developer and the team have not considered the planning for the Secondary Plan and DASZ together. This is a **false statement** as a DASZ application for redevelopment of the site had been submitted to the City in March 2017 for a review (as a pre-application) and officially submitted in early February

		2018 (City rejected the application) and then again in May 2018. **The Planners were well aware of the existence of this Plan for years** and the proposed densities. Proper planning for development sites (Secondary Plans and DASZ applications) should always be reviewed in conjunction with each other to address exactly what the author of the Administration report is misstating. The subjective opinion of the author should in no way impact the Secondary Plan Applicant's ability to put forward the Secondary Plan and DASZ application concurrently.

Issue 3: *The Plan permits both industrial and high density residential uses to be established in the Neighbourhood Policy Area.*		
	City Alleges:	**Gem's Response:**
P. 18	"it would be inappropriate to allow for new industrial uses to be established in the Urban Neighbourhood Policy Area of the Plan, regardless of the existing zoning."	This is misleading statement. Only existing land uses (M2 Manufacturing) would continue to exist if no rezoning were to occur (and therefore no Urban Neighbourhood Policy Area of the Plan) – as per Section 1.3.3 which states to "recognize and maintain the existing use of land or buildings as they are currently zoned and developed in accordance with the Zoning Bylaw prior to the adoption of this Plan." The intent of the policy is that existing land use rights remain until an application to change the zoning (a DAZ or a DASZ) on the site occurs. Once the new zoning is approved, then the existing land use rights are extinguished and the new zoning is the applicable by-law for the site. Existing land use on the Parker Lands is Industrial and was confirmed by the Court of Queen's Bench in 2017.
P. 18	"Wording to this effect can be found in section 1.1.2 of the Plan"	1.1.2 does not exist and therefore is an incorrect reference. The inclusion of this type of statement in the author's report can only be attributed to an attempt to create a narrative that the plan is 'full of errors' and not ready for 'prime time.'
P. 18	"Proposed policy 5.5.2.4 contradicts the policy wording of section 1.1.2"	1.1.2 does not exist and therefore is an incorrect reference. The inclusion of this type of statement in the author's report can only be attributed to an attempt to create a narrative that the plan is 'full of errors' and not ready for 'prime time.'

Issue 4: *Unlike versions of the Plan previously presented to the public at Open House events, the Plan does not effectively protect a clearly defined portion of the remaining forest area.*		
	City Alleges:	**Gem's Response:**
P. 20	"The applicant's preference was to preserve forest within 400m of the proposed Transit Station – an area that would best be used to accommodate housing as described in the TOD Handbook. The City preferred to preserve an area of forest farther to the west."	This is a False statement. The applicant's preference was not to preserve forest within 400m of the proposed Transit Station. It has always been their preference to have some active play spaces to accommodate the needs of future families in the area. In addition, parks and public open spaces can exist within TOD areas. From the TOD Handbook, Section 4.B. Station Area Plans, one of the check boxes indicates to have 'Urban Parks and Open Spaces.' Also from the TOD Handbook, section 4.F. Typologies Urban Neighbourhood, point #6 states "Urban parks and open space; landscaped areas offer visual relief in higher density neighbourhoods." It is encouraged to have park space within the higher density zones (within 400m of a station).
P. 20	"The applicant ensured that the forest areas preferred separately by the Public Service and by the applicant were not removed and that no part of these forested areas would be removed until after the Plan had been adopted."	This is a False statement. The June 2017 email to the local area Councilor, which contained the 'Tree Protection Options' plan, stated that "since the future park location has yet to be finalized, it is important to note that trees located in the aqua, purple and red outlined areas will be left untouched, until that decision is made between our parties."
P. 27	"The Public Service has always maintained that the preserved forest should not be within the 400 metres radius of the Transit Station. The Public Service remains interested in preserving forest which includes clusters of older established oak trees. Such areas do not fall within 400m of the Transit Station."	This is a False statement. The 'best' part of the forest that the City has identified (indicated in their grading system as a '10') is completely inside the 400m radius distance from the Transit Station. This is coincidently immediately adjacent to the previously proposed forest by the Developer, which the City chose to grade a '1' even though it had an almost identical characteristic makeup to the adjacent '10' forest. The Developer and its' environmental biologist consultants walked through the various parts of the forest with City representatives to show how inconsistent/inaccurate the City's grading system is.
		The Developer and its consultants presented various park options and compromises to the City Naturalist and Parks Planner from 2014 to 2017. The City was unwilling to look at park space in terms of what would be best for the entire new neighbourhood and its future inhabitants.

		In late 2017, a peer review from an outside Urban Planning expert stated that "imposing a woodlot in the centre of the redevelopment site runs counter" to the objectives of Complete Communities and the idea of a landscaped linear park was introduced to act as a connector from the new community to commercial spaces and transit station. Other Reasons for this solution: • The City's Public Works department stated they would not allow a lift station to be used for the sewers, resulting in a great amount of fill to be required on site, raising the elevations substantially. This would put the existing forest about 8 to 10 feet below the newly established grade making access to the park more difficult and potentially compromising drainage; • The City's location for the "best forest" changed each time a new proposed site plan was presented; • A wood lot as the only place for children to play and people to walk represents a safety concern as per Crime Prevention through Environmental Design (CPTED) guidelines; • Reports by environmental biologists showed an encroachment of many invasive species as well as large amounts of garbage on site, illustrating that this was not a 'pristine forest'; There were no requirements from Manitoba Conservation as to vegetation or wildlife that were important to preserve.
		A further engagement process was conducted by the Applicant in 2018 to present updated information on the site as well as the revised linear park proposal. The City Planner was notified by the Applicant of an ongoing online engagement process where the public was made aware of the updated information on the website via: • Mail-outs distributed by Canada Post to over 1100 homes in the Beaumont Area; • Multiple ads placed in the Winnipeg Free Press over the months of January and February in 2018; and • Ads placed in three community newspapers (the Lance, the Sou'Wester and the Metro). At first, the City Planner expressed interest in the online public engagement idea as it represented a new way of providing public engagement and he was curious how it would perform. At a later date, however, the City Planner did say that regardless of the engagement process, and even if there was no opposition to the new proposed site plan, he had to support the City Naturalist's position of keeping a specific part of the forest – regardless of the outcome of the public

		engagement (which shows bias as the City Administration had already predetermined their position regardless of information presented). The results thus far, as of early September 2018, of the online public engagement process are 2,534 visits to the website with 1,302 individuals going through the update information that 'pops' up as soon as one visits the website. Only two persons made comments regarding the preserved forest. Most others were asking about parking, information on purchasing a unit, or questions about the dog park. All questions and comments were responded to individually in a timely manner.
		The Applicant submitted a consultant's report on Earthworks Management Strategy to the City Planner on November 14, 2017 to take to his meeting with the Technical Advisory Committee (TAC) group scheduled for November 17, 2017. The report, with accompanying drawing sections, illustrated the potential issues and challenges presented once the required amount of fill would be placed around the existing preserved park area. Raised elevations would be more than +8'-0" feet next to the existing trees, causing difficulties for drainage, access to the proposed park site, and visibility. The City Planner was to present this information to the various departments and come back with comments on the new information.

Issue 5: *The Plan requires significant "clean up" and re-organization before it can be considered for adoption as a Council Bylaw.*		
	City Alleges:	**Gem's Response:**
P. 29	"it would be unreasonable for the Public Service to recommend that Council consider a motion listing the large number of alterations required to clean up and/or re-organize the proposed secondary plan."	What is "unreasonable" is for the Administration to even make this statement. The Parker Area Master Plan should have a chance to be presented in front of City Centre Community Committee and the public at a Public Hearing for a complete explanation of concepts and ideas that consider the applicant's plan, the public's input and the Administration's comment on the developer led Secondary Plan. This is not a matter of 'clean up and/or re-organize' for the proposed Secondary Plan. The plan was created by a team of highly qualified, accredited professionals and represents their vision of what Winnipeg Transit-Oriented Development should look like to best meet the needs and demands of a growing city. These professionals are now being denied the opportunity to present their vision of the Secondary Plan.

Issue 6: *Plan is missing important content and policies.*		
	City Alleges:	**Gem's Response:**
P. 25	"However the Plan does not include a 'Railway Corridor Policy Area' section with related policies."	This is a False statement. The Parker Lands Master Plan **does** include a Policy Area section in 3.10 Railway Corridor Policies which includes full objectives and policy descriptions (page 42 of the Parker Lands Master Plan).
P. 30	"The Constraints section does not mention any of the obvious constraints to development within the Plan Area. These include: Potential for contaminated sites (As suggested in section 1.2.8)"	This is a False statement. Section 1.2.8 of the Master Plan indicates that the Environmental consultant, Pinchin Engineering, "noted that based on review of documentation in the Manitoba Archives and previous environmental reports nothing was identified that is likely to give rise to potential subsurface impacts in connection with the site." It was only the north east portion of the site (now City-owned as expropriated for the Retention Pond) that they noted "could give rise to potential subsurface impacts in connection with the site."
P. 30	"Potential geotechnical consideration, such as water table impact on underground parking."	This is not a constraint as it is a consideration all over Winnipeg prior to any construction. This is a development consideration rather than a planning item that would be investigated by professional engineering consultants to provide an appropriate solution, if necessary.

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   This removes public participation and debate from the process and contravenes Section 275 of the City Charter. This also departs from the previous Council decision on July 22, 2009 for the Developer to produce a Developer led Secondary Plan.

4. **Documented Chronology of Consultation.** The Administration report misleads Councilors and the Public as to the extent of public consultation by referencing only two public open houses. There was extensive and ongoing public and stakeholder consultation beyond the referenced public open houses from February and August 2016 (which together drew approx. 150 attendees) throughout the process and continuing to this day. This includes an online engagement process launched in early January 2018 that has resulted in over 2,500 views to the website currently, including 1,300 individual views on the Public Update page that transparently describes the revised green space plan, including the rationale for the changes. It must be noted that the Author of the Report had input into the discussion on the final engagement process and advised he was interested in it and looked forward to the results of the process.

5. **Misleading Context about the Application of the Parker Lands Secondary Plan**. While the Report states that GEM Equities submitted an application for the Secondary Plan to be adopted by Council, the City Planner responsible for the review never communicated to the Applicant that a Report was submitted to Council that recommended the plan be refused at First Reading. This action is at odds with an April 6 2018 email commitment from the City Planner that "we will be providing you with feedback in advance of us submitting a Report to Council." The Applicant only received notice of both the Report and recommendation through a media request on August 28th, just days before the Report was to be considered by Standing Policy Committee on September 4th, 2018.

6. **Consultation with Legal Services**. While the Administrative Report states that it was prepared in consultation with Legal Services (as to legal issues), it is noted that this report was submitted by July 31, 2018 yet at the judicial hearing in front of Justice Grammond on August 22, 2018 the City's lawyer was asked by the Judge what was holding up the processing of the development applications.

   The City did not make the Court aware of the comments of this Report and said the only item holding up the processing of the development applications was a lack of dimensioned roadway widths on the subdivision plan. As of August 22, 2018 the Court was only aware of the City's concern of a lack of dimensioned roadway widths on the plan rather than the City Administration's view that the development application should not be heard by City Council. This is a major point to leave out in the matter before Justice Grammond.

Detailed Review of Attachment C: Planning Discussion

Issue 1: *The Plan Area does not meet the criteria for 'Urban Neighbourhood' TOD Type (as described in the Winnipeg TOD Handbook) because of the lack of connectivity to amenities north of the railway line and the adjacent neighbourhood development south of the Hydro and SWBRT corridors.*		
	City Alleges:	**Gem's Response:**
P. 4	"The Plan applies an incorrect TOD Type to the Neighbourhood Policy Area."	This is a misleading statement. Determining the appropriate TOD Type for this site is an important element to consider as approximately $500 million in rapid transit investment has been committed and one of the outcomes of this public transit investment was the anticipated residential development that would occur which supports the viability of the transit corridor. The applicants planning consultants did the prudent and responsible action and sought peer review on their work from a leading North American consultant with extensive municipal planning expertise. The planning consultants also engaged with a nationally known urban economist and environmental consultants who have similar experience in this area to inform their planning work. Peer review outcomes and economic and environmental studies were completed and forwarded to the City Planners to provide a comprehensive overview of factors to determine appropriate TOD Types and density classifications for the site. The City Planning group instructed the Applicant to stop producing these reports which is now consistent with the Administration's goal of being the sole authority on determining the policies, guidelines and planning principles allowed on this individual site. The Developer's Planning consultants relied on City policy which states in Section 03-3 of *Complete Communities – Key Directions,* that Major Redevelopment Sites "will provide for complete communities with significant levels of mixed use, **high density development** with strong urban design and attractive parks, places and open spaces" for direction.
P. 8	"Complete Communities identifies the Parker Lands as a Major Redevelopment Site, and not a 'Regional Mixed Use Centre' or 'Regional Mixed Use Corridor'. Therefore the appropriateness of allowing community scale commercial uses at this location is questionable."	This is a False statement. "Regional Mixed Use Centre" or "Regional Mixed Use Corridors" are not being proposed for the Parker Lands. Big box commercial has never been proposed for this site. It is outrageous to suggest the independent experts were recommending commercial uses that fit within the definition of "Regional Mixed Use Centre" or "Regional Mixed Use Corridor" which would be shopping malls or

		big box retail or commercial. Community scale commercial uses are being promoted as an important aspect to creating a complete community. Through peer review it was suggested this was a key concept in the design of the site. Community scale commercial uses were described to the planners as small coffee shops, convenience stores, markets and other amenities that would service the residential population within the site. The proposed greenspace area is designed to accommodate meeting areas, plazas and connects to the commercial spine which creates an enhanced public realm and sense of place. The suggestion that out of scale regional commercial uses were being proposed suggests a competency issue with the Applicant's planning team. This allegation was clearly included to falsely lead the reader of the report to a conclusion that the Secondary Plan missed the mark in terms of planning for an appropriate scale of mixed use.
P. 9	"It should be noted that the inaccuracies found in section 1.2.5 of the Plan are immaterial to this discussion (i.e. The Wal-Mart is located in 'Taylor Festival' and Sobey's is located in the 'Grant Park Pavilions')."	This is a False statement. The Master Plan information as presented is correct. Wal-Mart **is** within the Grant Park Pavilions; Sobey's **is** within the Grant Park (previously Taylor) Festival. An example f*rom the Grant Park Pavilions website*: *"Anchored by Wal-Mart Supercentre and Scotiabank, this transit-oriented development provides a variety of options to live, shop and work all in close proximity."* The City Planner's inclusion of this statement is meant to lead the reader of the report to question other aspects as the plan as the authors of the plan can't even get simple facts correct. It is misleading and is a subtle attempt to discredit the authors of the developer led Secondary Plan.
P. 9	"These amenities may be in proximity to the subject land; however, they are not accessible from the Parker Lands."	This statement is misleading. It purposely overlooks the most critical factor influencing the accessibility of the site being the Southwest Rapid Transit Corridor (SWRTC) and adjacent roadway improvements. This statement refutes the value of transit and the $500M spent to improve access for residents of this neighborhood to access services throughout the city. Public transit and active transportation infrastructure are meant to support the transportation

		choices of residents within Parker Lands and the surrounding communities. The Applicant's planning consultants worked from planning principles that the site must be designed to make rapid transit and active transportation accessible and be the preferred choice over the car. In contrast, the City Planner's statement is "auto centric" and suggests that roadway connections are the most important consideration. The Developer and planning consultants deserve an opportunity to speak to these types of statements in a Public Hearing. The City Planner's statement is a very unfortunate perspective that the Parker Lands will be predominately the domain of cars. The City Planner's position on accessibility is in direct contrast to Council's goal of improving access for all residents and specifically residents along the Southwest Rapid Transit Corridor. Most concerning is the purposeful decision by the Report's author to identify the one amenity (a grocery store) that is the farthest option for Parker Lands residents. This illustrates the unfair and bias treatment towards the Developer and his consulting team. It should be noted that there are other grocery stores in closer proximity: Piazza di Nardi is about 1.1 km away from the low density area and 1.4 km from the high density area while Safeway is 1.8 km away from the densest part of the site. Grant Park Pavilion's website touts that it is "surrounded by new residential developments. Adjacent to Grant Park Pavilions is Fulton Grove, a new multi-family residential development."
P. 10	"Without good access to other regional and sub-regional centres, it would be inappropriate to designate the TOD portion of the Plan for development consistent with the 'Urban Neighbourhood TOD Type', which is characterized as having the same land uses as the Urban Centre TOD Type with good access to other regional and sub-regional centres."	This is a False statement. The TOD Handbook in section 4.F. Typologies under 'Regional Connectivity' lists the Urban Centre to be 'High' with regards to connectivity while Urban Neighbourhood is to have 'Medium' access to sub-regional hubs (see 'TOD Zones' chart). The City has spent $650 M to provide improved access to the site: • approx. $ 150 M to construct the Waverley underpass which improves connectivity from the neighborhood to Grant Avenue, Taylor Avenue and Pembina Highway businesses, amenities and services; • approx. $ 500 M to complete Phase 2 of the Southwest Rapid Transit Corridor (including active transportation – walking paths and bike lanes) to allow residents access to areas along the corridor stretching from downtown to the University of Manitoba and all points in between.

		The former Chief City Planner of Toronto, in her peer review of the plan, was concerned that the suggested densities by City Planners would be too low to support public transit infrastructure. The City Planners would not engage in a discussion about minimum densities, rather their goal was to reduce maximum densities. The City Planner's viewpoint is in direct contradiction to OurWinnipeg/Complete Communities that instruct Major Redevelopment Sites (MRS) to be planned with minimum densities rather than rather maximum densities. The City Planners have been fixed on transportation choices that are "auto centric" within the Parker Lands which ignores the $500M in taxpayer funds to enhance public transit. The Developer and its' consulting team have been thwarted in bringing these important considerations to a Public Hearing for proper discussion involving independent experts and the public.
P. 11	"Neighbourhood development south of the proposed 'Urban Neighbourhood Policy Area' is limited by a significant hydro-electric corridor. In addition, the alignment of Hurst Way and the SWBRT just north of the 'Urban Neighbourhood Policy Area' act as barriers to direct pedestrian access to the Beaumont Neighbourhood."	This concern as expressed by the City Planner was never discussed with the Applicant's planning consultants at any point in the 5 years of discussion with the city. The OurWinnipeg designation process and the planning for the SWRT corridor were purposeful and mindful of the hydro corridor and in fact, formed part of the reason to designate the Parker Lands as an MRS and route SWRTC through the area. The SWRTC runs through the Hydro Corridor. The MRS and SWRTC address and relieve barriers as described by the City Planner. This assertion ignores that if cars can travel through the hydro-electric corridor and the SWBRT, then people can cross as well. If that were not the case, no one from the Beaumont neighbourhood would be able to access the new BRT Station - which is located on the opposite side of the above mentioned so-called 'barriers'. This assertion also is not consistent with the City's decision to locate the Parker Rapid Transit Station in an area that is accessible to surrounding communities. The design of the new Rapid Transit Corridor provides for new Active Transportation paths (walking paths and bike lanes) east of the Kiss-and-Ride connecting the Beaumont community to the Transit Station and from the future station plaza northwards, to the Urban Neighbourhood Policy Area. It should be noted that the distance shown on Figure 7 – Distance to Beaumont Neighbourhood from the Planning Report (between the south end of the Neighbourhood Policy Area and the north end of Beaumont), is shown as 280m which translates to approximately a 3-minute walk. To access the nearest school, community centre, etc. is a few minutes away which is not an unreasonable assumption to make.

		The distance from the Parker Rapid Transit Station to the potential highest density area of the Urban Neighbourhood Policy Area is less than 180m away, or about a 2-minute walk.
P. 12	"Development of the Parker Lands is more consistent with the 'Neighbourhood – Medium Density' TOD as characterized in the TOD Handbook."	This statement is a misrepresentation. This City statement is in direct contravention of and a misrepresentation of City planning guidelines and planning principles. Section 03-3 of Complete Communities – Key Directions, Major Redevelopment Sites "will provide for complete communities with significant levels of mixed use, **high density development** with strong urban design and attractive parks, places and open spaces. The Independent consultants' reports all confirmed that as density levels increase on the site, the economic and environmental return on transit infrastructure increases (Altus – An Economic Benefits Analysis; Ortech – GHG Reductions of High-Density Residential Developments report). The Winnipeg Residential Land and Infill Strategy (2009) suggested that the Parker Lands site would be most efficiently developed to a mid/high net density scenario to justify infrastructure and transportation interventions (p. 100). The vociferous criticism in the Administrative Report of the suggestion for additional density by the Applicant's Consulting team deserves proper consideration, including the opportunity for expert testimony at a Public Hearing. The Administration does not want this expert testimony to occur at a Public Hearing.
P. 12	A reference to the TOD Handbook regarding the 'Urban Neighbourhood' TOD Type has an incorrect reference (section 4.E).	This is a typo. 4.E. is a section describing 'Partnerships.' It should have referred to 4.F. Typologies.

Issue 2: *The Plan does not provide sufficient detail to properly evaluate development proposals within the Plan Area.*		
	City Alleges:	**Gem's Response:**
P. 14	"Policy 3.5.2.2 permits all residential building types to be established anywhere within the 'Urban Neighbourhood Policy Area.' This policy does not provide sufficient clarity that would prohibit single family dwellings from being considered in the first 180 metres of the Rapid Transit Station or high rise multi-family apartments being considered 800 metres from the Rapid Transit Station."	This is a misleading statement. The City Planner does not provide appropriate information nor does he provide adequate review of facts as set out in emails as to the merit of this statement. If he did, he would provide emails that speak to significant discussion between the city and the consulting team on this matter. Proper planning analysis would also reveal that the City Planner is mixing up the assignment of density with a built form. A single family dwelling is a building form and does not reflect density. Actual land use and type of dwelling unit is considered and approved through a DASZ process. The Secondary Plan appropriately guides the reader to an understanding of density, which then informs the type of uses. The location of density forms extensive policy in the plan. The plan protects what the City Planner suggests in his statement from happening in 3.3.2.6 where it says "Residential densities **SHALL** radiate out from the Rapid Transit Station with 'density' being in an inverse relationship to 'distance'; as the distance from the Rapid Transit Station increases, the density **SHALL** decrease." Therefore, this would not allow for highest densities on the west and lowest densities on the east. It should be noted that a previous Density Map with radiating/'heat blurred' boundaries was sent to the City Planner (in the Mar. 23, 2017 draft version of the plan) only to have it rejected as 'too difficult' to interpret, though the proponent felt that it allowed for more flexibility of building-to-building densities. As a result, the current Density Map (shown in Figure 8 of Planning Discussion) along with an updated accompanying policy was submitted to simplify and avoid any confusion.
P. 15	"enforcing this policy would require evaluating the density of an individual development proposal against the density of development which has yet to be proposed and does not exist."	This statement is false, deliberate and illustrative of the targeted actions of the Administration to thwart the efforts of the Developer and the team of independent consultants. It suggests that the Developer and the team have not considered the planning for the Secondary Plan and DASZ together. This is a **false statement** as a DASZ application for redevelopment of the site had been submitted to the City in March 2017 for a review (as a pre-application) and officially submitted in early February

		2018 (City rejected the application) and then again in May 2018. **The Planners were well aware of the existence of this Plan for years** and the proposed densities. Proper planning for development sites (Secondary Plans and DASZ applications) should always be reviewed in conjunction with each other to address exactly what the author of the Administration report is misstating. The subjective opinion of the author should in no way impact the Secondary Plan Applicant's ability to put forward the Secondary Plan and DASZ application concurrently.

Issue 3: *The Plan permits both industrial and high density residential uses to be established in the Neighbourhood Policy Area.*		
	City Alleges:	**Gem's Response:**
P. 18	"it would be inappropriate to allow for new industrial uses to be established in the Urban Neighbourhood Policy Area of the Plan, regardless of the existing zoning."	This is misleading statement. Only existing land uses (M2 Manufacturing) would continue to exist if no rezoning were to occur (and therefore no Urban Neighbourhood Policy Area of the Plan) – as per Section 1.3.3 which states to "recognize and maintain the existing use of land or buildings as they are currently zoned and developed in accordance with the Zoning Bylaw prior to the adoption of this Plan." The intent of the policy is that existing land use rights remain until an application to change the zoning (a DAZ or a DASZ) on the site occurs. Once the new zoning is approved, then the existing land use rights are extinguished and the new zoning is the applicable by-law for the site. Existing land use on the Parker Lands is Industrial and was confirmed by the Court of Queen's Bench in 2017.
P. 18	"Wording to this effect can be found in section 1.1.2 of the Plan"	1.1.2 does not exist and therefore is an incorrect reference. The inclusion of this type of statement in the author's report can only be attributed to an attempt to create a narrative that the plan is 'full of errors' and not ready for 'prime time.'
P. 18	"Proposed policy 5.5.2.4 contradicts the policy wording of section 1.1.2"	1.1.2 does not exist and therefore is an incorrect reference. The inclusion of this type of statement in the author's report can only be attributed to an attempt to create a narrative that the plan is 'full of errors' and not ready for 'prime time.'

Issue 4: *Unlike versions of the Plan previously presented to the public at Open House events, the Plan does not effectively protect a clearly defined portion of the remaining forest area.*		
	City Alleges:	**Gem's Response:**
P. 20	"The applicant's preference was to preserve forest within 400m of the proposed Transit Station – an area that would best be used to accommodate housing as described in the TOD Handbook. The City preferred to preserve an area of forest farther to the west."	This is a False statement. The applicant's preference was not to preserve forest within 400m of the proposed Transit Station. It has always been their preference to have some active play spaces to accommodate the needs of future families in the area. In addition, parks and public open spaces can exist within TOD areas. From the TOD Handbook, Section 4.B. Station Area Plans, one of the check boxes indicates to have 'Urban Parks and Open Spaces.' Also from the TOD Handbook, section 4.F. Typologies Urban Neighbourhood, point #6 states "Urban parks and open space; landscaped areas offer visual relief in higher density neighbourhoods." It is encouraged to have park space within the higher density zones (within 400m of a station).
P. 20	"The applicant ensured that the forest areas preferred separately by the Public Service and by the applicant were not removed and that no part of these forested areas would be removed until after the Plan had been adopted."	This is a False statement. The June 2017 email to the local area Councilor, which contained the 'Tree Protection Options' plan, stated that "since the future park location has yet to be finalized, it is important to note that trees located in the aqua, purple and red outlined areas will be left untouched, until that decision is made between our parties."
P. 27	"The Public Service has always maintained that the preserved forest should not be within the 400 metres radius of the Transit Station. The Public Service remains interested in preserving forest which includes clusters of older established oak trees. Such areas do not fall within 400m of the Transit Station."	This is a False statement. The 'best' part of the forest that the City has identified (indicated in their grading system as a '10') is completely inside the 400m radius distance from the Transit Station. This is coincidently immediately adjacent to the previously proposed forest by the Developer, which the City chose to grade a '1' even though it had an almost identical characteristic makeup to the adjacent '10' forest. The Developer and its' environmental biologist consultants walked through the various parts of the forest with City representatives to show how inconsistent/inaccurate the City's grading system is.
		The Developer and its consultants presented various park options and compromises to the City Naturalist and Parks Planner from 2014 to 2017. The City was unwilling to look at park space in terms of what would be best for the entire new neighbourhood and its future inhabitants.

		In late 2017, a peer review from an outside Urban Planning expert stated that "imposing a woodlot in the centre of the redevelopment site runs counter" to the objectives of Complete Communities and the idea of a landscaped linear park was introduced to act as a connector from the new community to commercial spaces and transit station. Other Reasons for this solution: • The City's Public Works department stated they would not allow a lift station to be used for the sewers, resulting in a great amount of fill to be required on site, raising the elevations substantially. This would put the existing forest about 8 to 10 feet below the newly established grade making access to the park more difficult and potentially compromising drainage; • The City's location for the "best forest" changed each time a new proposed site plan was presented; • A wood lot as the only place for children to play and people to walk represents a safety concern as per Crime Prevention through Environmental Design (CPTED) guidelines; • Reports by environmental biologists showed an encroachment of many invasive species as well as large amounts of garbage on site, illustrating that this was not a 'pristine forest'; There were no requirements from Manitoba Conservation as to vegetation or wildlife that were important to preserve.
		A further engagement process was conducted by the Applicant in 2018 to present updated information on the site as well as the revised linear park proposal. The City Planner was notified by the Applicant of an ongoing online engagement process where the public was made aware of the updated information on the website via: • Mail-outs distributed by Canada Post to over 1100 homes in the Beaumont Area; • Multiple ads placed in the Winnipeg Free Press over the months of January and February in 2018; and • Ads placed in three community newspapers (the Lance, the Sou'Wester and the Metro). At first, the City Planner expressed interest in the online public engagement idea as it represented a new way of providing public engagement and he was curious how it would perform. At a later date, however, the City Planner did say that regardless of the engagement process, and even if there was no opposition to the new proposed site plan, he had to support the City Naturalist's position of keeping a specific part of the forest – regardless of the outcome of the public

		engagement (which shows bias as the City Administration had already predetermined their position regardless of information presented). The results thus far, as of early September 2018, of the online public engagement process are 2,534 visits to the website with 1,302 individuals going through the update information that 'pops' up as soon as one visits the website. Only two persons made comments regarding the preserved forest. Most others were asking about parking, information on purchasing a unit, or questions about the dog park. All questions and comments were responded to individually in a timely manner.
		The Applicant submitted a consultant's report on Earthworks Management Strategy to the City Planner on November 14, 2017 to take to his meeting with the Technical Advisory Committee (TAC) group scheduled for November 17, 2017. The report, with accompanying drawing sections, illustrated the potential issues and challenges presented once the required amount of fill would be placed around the existing preserved park area. Raised elevations would be more than +8'-0" feet next to the existing trees, causing difficulties for drainage, access to the proposed park site, and visibility. The City Planner was to present this information to the various departments and come back with comments on the new information.

Issue 5: *The Plan requires significant "clean up" and re-organization before it can be considered for adoption as a Council Bylaw.*		
	City Alleges:	**Gem's Response:**
P. 29	"it would be unreasonable for the Public Service to recommend that Council consider a motion listing the large number of alterations required to clean up and/or re-organize the proposed secondary plan."	What is "unreasonable" is for the Administration to even make this statement. The Parker Area Master Plan should have a chance to be presented in front of City Centre Community Committee and the public at a Public Hearing for a complete explanation of concepts and ideas that consider the applicant's plan, the public's input and the Administration's comment on the developer led Secondary Plan. This is not a matter of 'clean up and/or re-organize' for the proposed Secondary Plan. The plan was created by a team of highly qualified, accredited professionals and represents their vision of what Winnipeg Transit-Oriented Development should look like to best meet the needs and demands of a growing city. These professionals are now being denied the opportunity to present their vision of the Secondary Plan.

Issue 6: *Plan is missing important content and policies.*		
	City Alleges:	**Gem's Response:**
P. 25	"However the Plan does not include a 'Railway Corridor Policy Area' section with related policies."	This is a False statement. The Parker Lands Master Plan **does** include a Policy Area section in 3.10 Railway Corridor Policies which includes full objectives and policy descriptions (page 42 of the Parker Lands Master Plan).
P. 30	"The Constraints section does not mention any of the obvious constraints to development within the Plan Area. These include: Potential for contaminated sites (As suggested in section 1.2.8)"	This is a False statement. Section 1.2.8 of the Master Plan indicates that the Environmental consultant, Pinchin Engineering, "noted that based on review of documentation in the Manitoba Archives and previous environmental reports nothing was identified that is likely to give rise to potential subsurface impacts in connection with the site." It was only the north east portion of the site (now City-owned as expropriated for the Retention Pond) that they noted "could give rise to potential subsurface impacts in connection with the site."
P. 30	"Potential geotechnical consideration, such as water table impact on underground parking."	This is not a constraint as it is a consideration all over Winnipeg prior to any construction. This is a development consideration rather than a planning item that would be investigated by professional engineering consultants to provide an appropriate solution, if necessary.