Minutes – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 16, 2020

REPORTS

Item No. 24 **Rezoning – Select Properties in an Area Bound by Portage Avenue, St. James Street, Sargent Avenue and Madison Street (St. James Ward) File DAZ 211/2019 [c/r SPA 2/2019]**

STANDING COMMITTEE RECOMMENDATION:

The Standing Policy Committee on Property and Development, Heritage and Downtown Development laid the matter over indefinitely.

DECISION MAKING HISTORY:

Moved by Councillor Rollins,

That the matter be laid over indefinitely.

Carried

COMMUNITY COMMITTEE RECOMMENDATION:

On June 3, 2020, the Assiniboia Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development that the application for subdivision and rezoning under File DAZ 211/2019 [c/r SPA 2/2019], be approved.

PUBLIC HEARING SUMMARY

File: DAZ 211/2019

Before: Assiniboia Community Committee
Councillor Klein, Chairperson
Councillor Gillingham
Councillor Lukes

Public Hearing: June 3, 2020
Council Building, 510 Main Street

Applicant: Kate Moir

Subject:



Premises Affected:	Select properties in an area bound by Portage Avenue, St. James Street, Sargent Avenue and Madison Street
For submission to:	The Standing Policy Committee on Property and Development, Heritage and Downtown Development / Executive Policy Committee
Prepared by:	Leah Cowan, Senior Committee Clerk Assiniboia Community Committee
Report date:	June 4, 2020

Community Committee Recommendation:

On June 3, 2020, the Assiniboia Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development:

1. That the amendment to the Airport Vicinity Protection Area Planned Development Overlay Map to rezone the subject land to Airport Vicinity Protection Area Planned Development Overlay 1 – Area 2, as shown on the map dated May 22, 2020 and attached as Schedule "A" to this report, be approved.

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

The Assiniboia Community Committee provided the following supporting reasons for its recommendation:

1. I have been consistent on record and remain consistent in believing that both the 24/7 operations of the airport can be maintained and there can be mixed use development including multi-family development within proximity to the airport.

2. I believe that the use of sound attenuating building materials and other noise mitigation measures can be taken to assist in addressing some of the potential concerns that have been raised.

3. I believe that the site in question is currently underutilized and underdeveloped against its potential and that the site is a prime candidate to be developed as a complete community with employment opportunities, shopping, good access to public transit, active transportation and major roadways.

4. I believe that the development of the site would result in significant economic development for the community.

5. I believe that there is a desire and a need for new multi-family housing in the community of St. James, a community that's had very little multi-family development over the last several years.

6. I strongly believe that there is opportunity and need to continue to work with all stakeholders including the Winnipeg Airport Authority, the Province of Manitoba, on addressing some of the needs and concerns that have been articulated through this process.

Exhibits Filed:

1. Application dated May 16, 2019
2. Notification of Public Hearing dated November 22, 2019
3. Manitoba Status of Titles 1345072/1, 1345074/1, 1345077/1, 1345078/1, 1345080/1, 1345081/1, 2783618/1, 2783619/1, 2783620/1, 2991714/1, 2991715/1, 2991713/1, 2991718/1, 2991719/1, 2783625/1, 2783626/1, 2783627/1, 2772182/1, 1707452/1, 2631060/1, 2747207/1 and 2265840/1
4. Letter of authorization dated March 27, 2019, from Lawrence Tapper (Ranch Asset Management Inc.) to Kate Moir with respect to 980 St. James Street
5. Letter of authorization dated March 27, 2019, from Matthew Narvey (Barcoga Holdings Ltd.) to Kate Moir with respect to 1440 and 1450 Ellice Avenue
6. Letter of authorization dated March 27, 2019, from Matthew Narvey (Marvin Investments) to Kate Moir with respect to 1016, 1030 and 1038 St. James Street
7. Letter of authorization dated March 27, 2019, from Lawrence Tapper (Oxbow Holdings Ltd.) to Kate Moir with respect to 900, 914 and 1000 St. James Street
8. Letter of authorization dated March 27, 2019, from Lawrence Tapper (Alloway Investments) to Kate Moir with respect to 690 St. James Street
9. Letter of authorization dated March 27, 2019, from Matthew Narvey (Towers Ltd.) to Kate Moir with respect to 1661 Portage Avenue
10. Letter of authorization dated March 27, 2019, from Lawrence Tapper (Alloway Investments) to Kate Moir with respect to 692 St. James Street
11. Letter of authorization dated March 27, 2019, from Lawrence Tapper (Alloway Investments and Oxbow Holdings Ltd.) to Kate Moir with respect to 710, 750, 752, 810, 830, 840, 850 and 860 St. James Street
12. Letter of authorization dated March 27, 2019, from Lawrence Tapper (Alloway Investments) to Kate Moir with respect to 694 St. James Street
13. Caveat 1065940
14. Caveat 2423390
15. Caveat 3916247
16. Caveat 3916248
17. Caveat 3916249
18. Caveat 5037512/1
19. Caveat 5037513/1
20. CF Polo Park AVPA Study (18 pages)

21. Submission by Towers Realty Group dated April 24, 2019 titled "Proposed Secondary Plan Amendment, Airport Vicinity Protection Area Secondary Plan – PDO 1"
22. Report from the Urban Planning Division dated May 22, 2020
23. Communication dated May 28, 2020, from Jason van Rooy, Director of Marketing and Customer Services, Towers Realty, in support of the application
24. Communication dated May 31, 2020, from Fred Morris, in support of the application
25. Communication dated May 29, 2020, from Elizabeth Fleming, in opposition to the application
26. Communication dated May 31, 2020, from Patricia Forsythe, in opposition to the application
27. Presentation dated June 3, 2020, in support of the application submitted by the Applicant
28. Submission by Joe Barnsley, titled Economic Impact of Aviation in Manitoba – Final Report, dated May 17, 2017, in opposition to the application
29. Communication dated June 2, 2020, from Bram Strain, Business Council of Manitoba, with respect to the application
30. Communication dated June 2, 2020, from Lawrence Tapper, in support of the application
31. Presentation dated June 3, 2020 and communication titled Aviation – Land Use In The Vicinity of Aerodromes, from Tyler MacAfee, Winnipeg Airports Authority

REPRESENTATIONS:

In Support:

Kate Moir
Fred Morris
Matthew Narvey
Lawrence Tapper
Jason van Rooy

In Opposition:

Joe Barnsley
Elizabeth Flemming
Patricia Forsythe
Tyler MacAfee

For Information:

Angela Emms
Bram Strain

For the City:

R. Galston, Urban Planner, Planning, Property and Development Department
R. Kostiuk, Planner, Planning, Property and Development Department

Exhibit "22" referred to in File DAZ 211/2019

ADMINISTRATIVE REPORT

Title: DAZ 211/2019 – Properties generally along the west side of St. James Street between Portage Avenue and Sargent Avenue

Issue: Proposed amendment to the Airport Vicinity Protection Area Planned Development Overlay Map to change the subject lands from "AVP1" to "AVP2"

Critical Path: Assiniboia Community Committee → Standing Policy Committee on Property and Development, Heritage and Downtown Development → Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Galston, MCP	n/a	n/a	

RECOMMENDATIONS

1. That, the application to amend the Airport Vicinity Protection Area Planned Development Overlay Map be rejected.
2. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

On November 21, 2019 Council gave first reading to Secondary Plan By-law No. 49/2019 and directed the Assiniboia Community Committee to conduct a public hearing and provide its recommendations to Council.

Only Council can enact a by-law. A public hearing with respect to the secondary plan by-law is required to be held between first and second reading.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendation of this report is concurred in, the proposed amendment to the Airport Vicinity Protection Area Planned Development Overlay Map will not proceed.

HISTORY/DISCUSSION

- The Winnipeg Airport Vicinity Development Plan No. 6378/94 was adopted by Council on May 25, 1994.
- In December, 2002, the name of the Winnipeg Airport Vicinity Development Plan was changed to the Airport Vicinity Protection Area Secondary Plan By-law (the AVPA) by Charter Implementation By-law No. 8162/2002.
- On May 22nd, 2019, the Urban Planning and Design Division received applications to amend the Airport Vicinity Protection Area Secondary Plan – By-law (SPA 2/2019) and the Airport Vicinity Protection Area Planned Development Overlay 1 within the Zoning By-law (DAZ 211/2019).
- The proposal is to re-designate 18 properties, generally along the west side of St. James Street between Portage Avenue and Sargent Avenue, from AVPA policy 'Area I' to 'Area II'. The subject properties are not adjacent to land designated as policy Area II in the AVPA and for this reason the proposal can be characterized as a 'spot amendment'.
- Amendments to the AVPA are administered through the secondary plan by-law amendment process as provided in the Charter.
- On November 21, 2019, Council gave first reading to By-law No. 49/2019. First reading was given after two, 30-day layovers were provided by the Executive Policy Committee. The layovers were granted to allow for further consultation between the applicant and stakeholders. Meetings were held between the applicant and WAA with City staff in attendance. However, these meetings ultimately did not result in any resolution between the applicant and stakeholder.
- In early-December, 2019, the applicant requested that the subject applications not proceed to the January 7, 2020 Assiniboia Community Committee Public Meeting, which could have been accommodated by the Public Service. The applicant later confirmed that she would like to go to the April 7, 2020, Assiniboia Community Committee Public Meeting, which was cancelled because of COVID-19.
- A detailed summary of the application and relevant by-laws and policies is provided in Appendix 'A' – Planning Discussion.

CONSULTATION

This Report has been prepared in consultation with:

Internal

- Legal Services (as to legal issues)
- Planning, Property and Development
- Office of Sustainability

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg & the Complete Communities Direction Strategy

- The subject properties are located within a Regional Mixed Use Centre (Regional Mixed Use Centre F – Polo Park), but are also subject to OurWinnipeg and Complete Communities policies that pertain to development in the AVPA.

- Some components of the proposal are consistent with several Key Directions and Enabling Strategies of OurWinnipeg/Complete Communities, in that the proposal has the potential to accommodate the following in a Regional Mixed Use Centre:
    - compact, mixed-use, high-quality urban development
    - a concentration of people and jobs in areas well-served by the primary transit service, located close to transit stops
    - a concentration of urban development in a built form that helps optimize existing investment, municipal infrastructure, and facilities.
- However, the proposed development may threaten the 24-hour air operations and planned expansion of the Winnipeg Airport.
- Protecting and supporting air operations at the Winnipeg Airport are key policies of OurWinnipeg and Complete Communities:
    - Support the role of the James Armstrong Richardson International Airport as a major transportation hub for passengers and cargo.
    - Adhere to the Airport Vicinity Development Plan (AVDP) and periodically review the plan in cooperation with relevant stakeholders.
    - In order to maintain compatible land use relationships, regulate land use and building regulations for all those neighbourhoods or portions thereof significantly affected by airport related noise through:
        - The Airport Vicinity Development Plan by-law 6378/94 (ie. the Airport Vicinity Protection Area Secondary Plan).[1]
        - Airport Vicinity Protection Area Planned Development Overlay
- Furthermore, with respect to development in Regional Mixed Use Centres, Complete Communities Direction Strategy states the following:
    - Promote development within the Polo Park Regional Centre consistent with the Airport Vicinity Protection Area Planned Development Overlay.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

4.1 Increase Strategic Infill Development That Provides Access to and Capitalizes on Existing and Planned Corridors With Frequent Transit Service.

- While components of the application align with the above Winnipeg Climate Action Plan policy (potential infill development along a frequent transit corridor), the proposal may not be considered strategic in that it may threaten the 24-hour operations of the Winnipeg Airport.

[1] The name of the Winnipeg Airport Vicinity Development Plan was changed to the Airport Vicinity Protection Area Secondary Plan By-law by Charter Implementation By-law No. 8162/2002.

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Robert Galston, MCP
Date:	May 22, 2020
File No.	DAZ 211/2019

Attachments

- Appendix “A,” Planning Discussion
- Schedule “A,” of File DAZ 211/2019, Assiniboia Community Committee, dated May 22, 2020

Appendix "A," Planning Discussion

DATE: May 22, 2020

FILE: **DAZ 211/2019**
RELATED FILE: SPA 2/2019 (By-law 49/2019)

COMMUNITY: Assiniboia Community
NEIGHBOURHOOD #: 2.125 Polo Park; 2.201 Kensington; 2.221 St. James Industrial

SUBJECT: Proposed amendment to the Airport Vicinity Protection Area Planned Development Overlay Map to change the subject lands from "AVP1" to "AVP2"for properties generally along the west side of St. James Street between Portage Avenue and Sargent Avenue.

LOCATION: See map below



APPLICANT: Moir Informed Decisions
Box 28, CRP 26 RR1
East Selkirk, MB R0E 0M0

OWNERS: Towers Ltd., Alloway Investments Ltd., Oxbow Holdings Inc., Barcoga Holdings Inc., Marvin Investments Ltd., Ranch Asset Management Inc.

RECOMMENDATION: Rejection

PURPOSE OF THE PROPOSED AMENDMENT

- The purpose of the proposal is to allow for new residential uses, specifically multi-family residential uses, to be considered on the subject properties in the future. Consideration for new multi-family residential uses first requires re-designating the subject properties from policy Area I to Area II in the Airport Vicinity Protection Area Secondary Plan (AVPA).

SUBJECT PROPERTIES

- The proposed amendment applies to 18 properties (totaling ~34 acres) generally located along the west side of St. James Street between Portage Avenue and Sargent Avenue as indicated in Figure 1: Subject Properties.

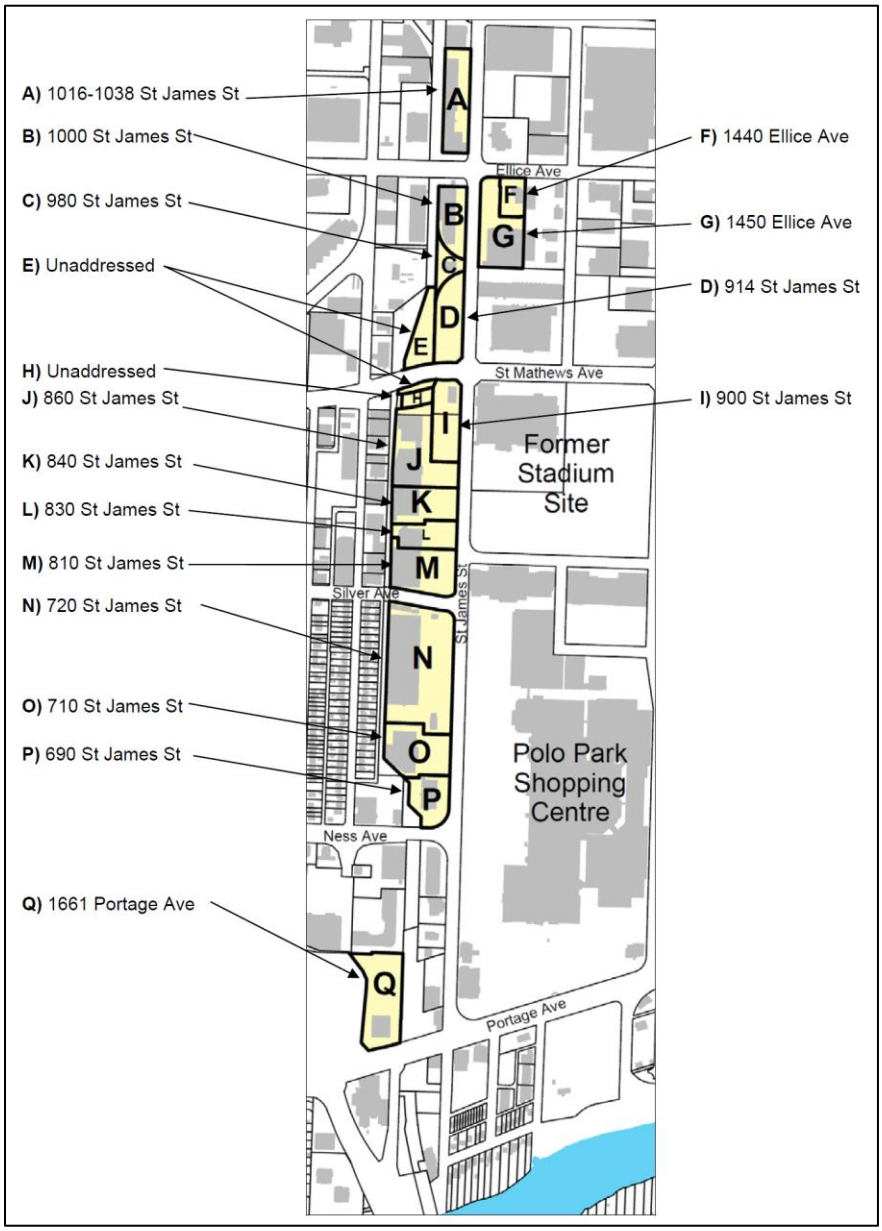


Figure 1 – Subject Properties

- The subject properties contain ‘big box’ retail, strip mall, and stand-alone restaurant development. The property on Portage Avenue contains a ten storey office building.
- Polo Park Shopping Centre and the former Winnipeg Stadium site are located on the opposite side of St. James Street to the east of many of the subject properties.

PROPOSED AMENDMENT

- The proponent is applying for a zoning by-law amendment to amend the PDO-1 Airport Vicinity area applied to the subject properties, from Area I to Area II. The PDO Overlay District is further discussed in the *Airport Vicinity Protection Area Planned Development Overlay 1 (PDO-1 Airport Vicinity)* section of this report.
- The applicant has submitted a related secondary plan amendment (SPA 2/2019) to re-designate the subject properties from Area I to Area II of the AVPA.
- The subject properties are currently not adjacent to land designated as policy Area II in the AVPA. Re-designation of the subject properties as proposed would result in relatively small separated portions of land designated AVPA Area II surrounded by land designated AVPA Area I. For this reason the proposal can be characterized as ‘spot amendments’.
- Multi-family residential development is currently not permitted within Area I of the AVPA or Area I of the PDO-1 Airport Vicinity Overlay District. Therefore, amendments are required to both the AVPA and PDO-1 Airport Vicinity Overlay District (of the Zoning By-law) to allow for multi-family residential development to be considered on the subject properties.

LEGISLATION AND REGULATIONS
The City of Winnipeg Charter Act (*‘the Charter’*)

Regulations re: protection of airport vicinity

269(1) The Lieutenant Governor in Council may make regulations

(a) requiring the establishment by council in Plan Winnipeg of an area of the city adjacent to Winnipeg International Airport as an airport vicinity protection area;

(b) establishing policies for use of real property, and for development, in the airport vicinity protection area to ensure that the use of real property and development in the area are compatible with the operation of Winnipeg International Airport, and requiring any Plan Winnipeg by-law to be consistent with those policies

(c) requiring a zoning by-law to be passed by council to control or prohibit any use of real property or development in the airport vicinity protection area, or in a part of it, to ensure that the use of real property and development are compatible with the policies established under clause (b).

Compliance with regulations under subsection (1)

269(3) Every Plan Winnipeg by-law must, in conformity with regulations, if any, made under subsection (1),

(a) establish an area in the city adjacent to Winnipeg International Airport as an airport vicinity protection area; and

(b) contain plans and policies for the use of real property and for development in the airport vicinity protection area to ensure that the use of real property and development in the area are compatible with the operations of the airport.

Referral to Municipal Board

270(1) Where

(a) a proposed secondary plan by-law deals with the airport vicinity protection area; and

(b) a municipality, or the board of a planning district established under The Planning Act, that is adjacent to the area, or the Government of Canada or the Government of Manitoba objects to the proposed by-law by filing a notice of objection with the city clerk before the day of the meeting at which council is to consider the report of a committee of council or planning commission respecting the proposed by-law;

the city must, before council gives second reading to the proposed by-law, refer the proposed by-law to The Municipal Board.

Restriction on adoption of by-law

270(3) Council must not pass a proposed secondary plan by-law that has been referred to The Municipal Board unless the proposed by-law conforms to the recommendations that the board has made in its report to council in respect of the by-law.

Zoning by-laws in airport vicinity protection area

271 The city must ensure that all zoning by-laws that apply to real property in the airport vicinity protection area conform with regulations, if any, made under subsection 269(1).

Airport Vicinity Protection Area Secondary Plan **(AVPA)**

- The Charter requires that the City “establish policies for use of real property, and for development, in the airport vicinity protection area to ensure that the use of real property and development in the area are compatible with the operation of Winnipeg International Airport” (Section 269). The AVPA fulfills this requirement.
- The Winnipeg Airport Vicinity Development Plan By-law No. 6378/94 was adopted by Council on May 25, 1994.
- In December, 2002, the name of the Winnipeg Airport Vicinity Development Plan was changed to the Airport Vicinity Protection Area Secondary Plan By-law by Charter Implementation By-law No. 8162/2002.
- The purpose of the AVPA is to protect the 24-hour air operations of the airport by limiting residential noise complaints, which are understood to be a limiting factor at some major Airports which are currently forced to operate under regulatory curfews (page 17). Such curfews can potentially eliminate night time operations and reduce total economic benefits by capping opportunities (page 17).

- According to the AVPA, the principal concern for residents living in proximity to the Airport is the noise generated by the arrival and departure of aircraft. Tolerance for aircraft noise is measured using the Noise Exposure Forecast (NEF) which is an internationally-accepted method adopted by Transport Canada in 1987.
- NEF contour maps are made available to local governments for use in conjunction with Transport Canada's recommended land uses as presented in Figure 2: Community Response Prediction to NEF Levels.

Community Response Prediction to Noise Exposure Forecast (NEF Levels)

RESPONSE AREA		RESPONSE PREDICTION*
1.	(over 40 NEF)	Repeated and vigorous individual complaints are likely. Concerted group and legal action might be expected.
2.	(35-40 NEF)	Individual complaints may be vigorous. Possible group action and appeals to authorities.
3.	(30-35 NEF)	Sporadic to repeated individual complaints. Group action is possible.
4.	(below 30 NEF)	Sporadic complaints my occur. Noise may interfere occasionally with certain activities of the resident.

* These community response predictions are generalizations based upon experience resulting from various noise exposure units used by other countries. For specific locations, the response may vary somewhat in accordance with existing ambient or background noise levels and prevailing social, economic and political conditions.

Source: Transport Canada Aviation Group, June 1989.

Figure 2 – Community Response Prediction to NEF Levels

- The AVPA facilitates the adoption of NEF contours into a functional map with defined restrictions that can be easily administered by the City, utilized by developers and understood by residents.
- The boundaries of policy Areas I and II provided in the AVPA are directly related to the NEF contours. The 25 NEF contour approximates the outer limit of the AVPA plan area (see Figure 3: AVPA NEF Contours and Policy Areas).

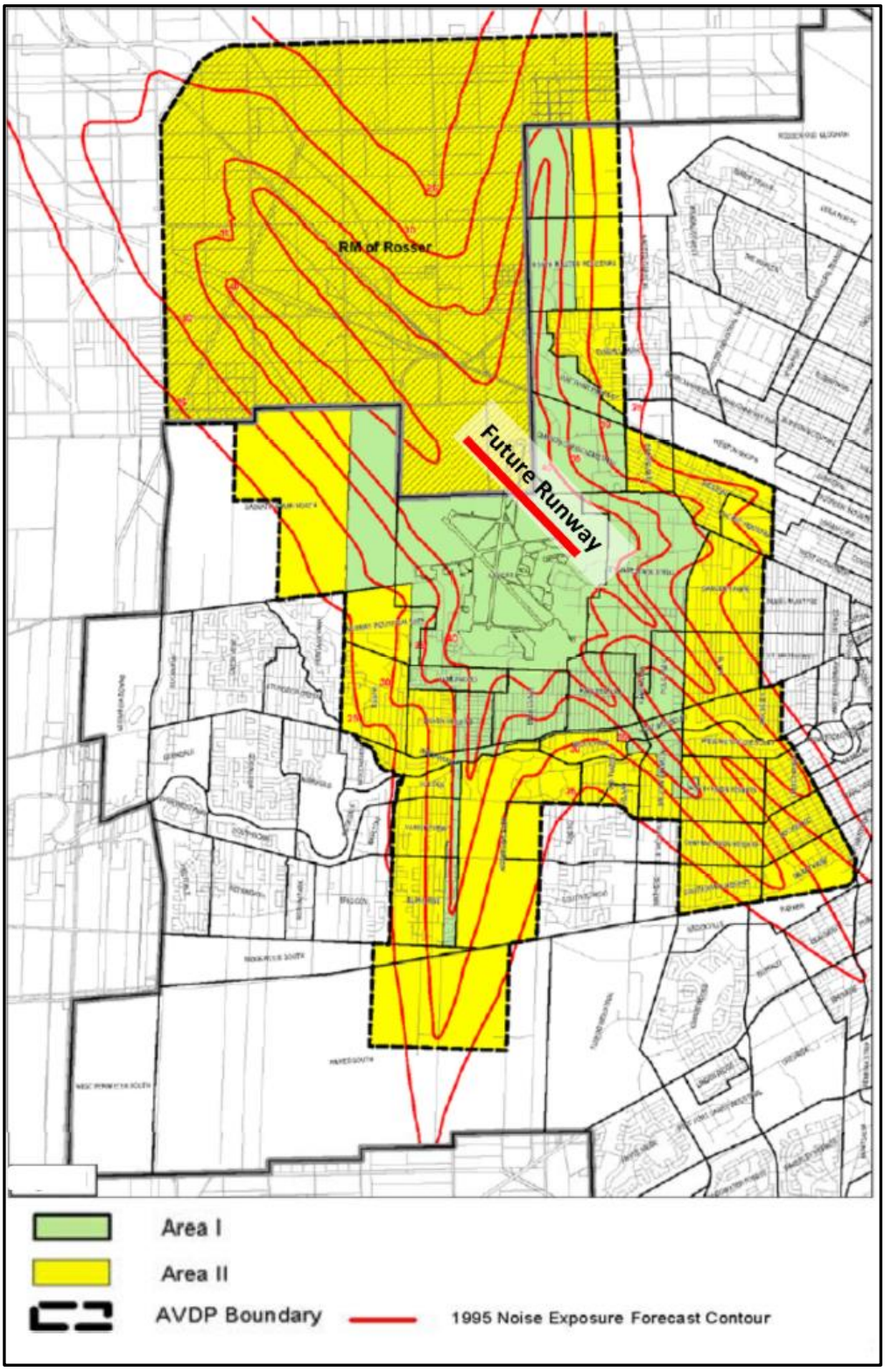


Figure 3: AVPA NEF Contours and Policy Areas
(*approximate location of *future runway* added)

- The AVPA indicates that the NEF contours reflect the ultimate traffic volume at Winnipeg International Airport, and includes the potential for an additional runway to the northeast of the existing runway. The general alignment of the future runway has been added to Figure 3.
- The AVPA also provides that the Airport vicinity boundary will be reviewed and revised as necessary to reflect changes to the NEF contours. Re-calculation of the NEF contours would result in consideration for altering the policy Area I and Area II boundaries.
- The AVPA states that the City shall regulate the use of land and buildings within the AVPA as follows:
  i. within Area I no new residential development shall be permitted (subject to statutory nonconforming rights and any related variance); but, existing dwellings may be replaced if destroyed or demolished. Subject to any required rezoning or other change in land use controls. Exceptions for minor residential infilling in existing and established residential areas may be approved;
  ii. subject to any required zoning or other change in land use controls, within Area II new single family dwellings may be approved and new multiple residential dwellings may be approved up to 85 units per hectare (35 units per acre) and approved above that density by conditional use approval.
- The subject properties are located in policy Area I of the AVPA (See Figure 4: Subject Properties and NEFs).

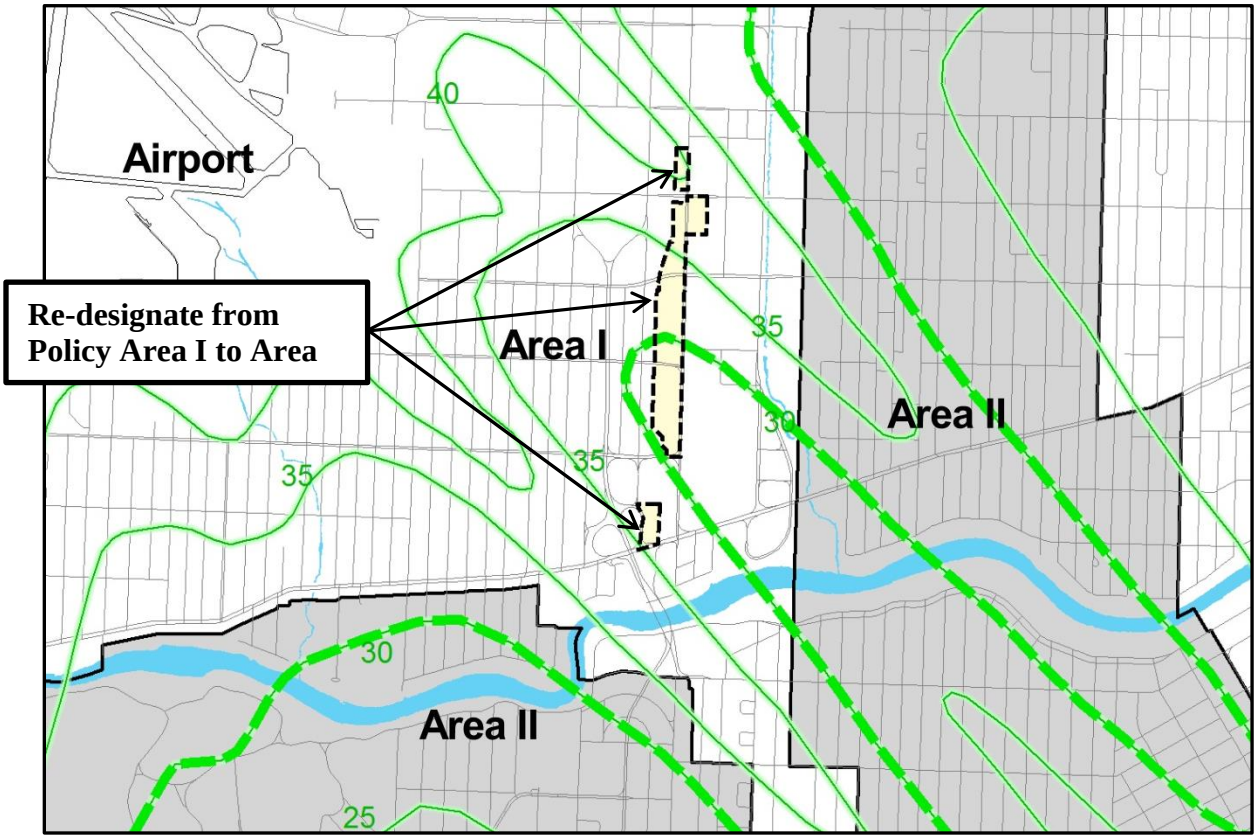


Figure 4 – Subject Land and NEFs

- Multi-family residential or mixed-use development, as characterized in the proponent's Letter of Intent, is currently not permitted in policy Area I of the AVPA. Re-designating the subject site

properties from AVPA policy Area I to Area II would allow for such development to be considered in future development applications.

- Re-designation of the subject properties to AVPA policy Area II does not represent an approval for residential development on the subject properties. However, discussions related to the residential development of the subject properties cannot occur unless the subject properties are first re-designated to policy Area II.

OurWinnipeg & the Complete Communities Direction Strategy

Airport Vicinity Policies

- The Minister of Local Government required the following during the OurWinnipeg adoption process in 2011:

  1. That OurWinnipeg be altered to incorporate policy and mapping to identify the Airport Vicinity Protection Area. Although the Complete Communities document makes reference to adhering to Winnipeg's existing Airport Vicinity Protection Area, language to this effect is needed in OurWinnipeg itself as Section 269(3) of the Charter requires that this information be included in Plan Winnipeg (i.e. OurWinnipeg)."

- Airport Vicinity Protection Areas I and II are presented on the Urban Structure Map (figure 01a) of OurWinnipeg (presented as 'Area 1' and 'Area 2').
- Policies in OurWinnipeg regarding development in the Airport Vicinity Protection Area defer to the AVPA and related PDO:
  - Support the role of the James Armstrong Richardson International Airport as a major transportation hub for passengers and cargo.
  - Adhere to the Airport Vicinity Development Plan (AVDP) and periodically review the plan in cooperation with relevant stakeholders.
  - In order to maintain compatible land use relationships, regulate land use and building regulations for all those neighbourhoods or portions thereof significantly affected by airport related noise through:
    - The Airport Vicinity Development Plan By-law 6378/94 (ie. the Airport Vicinity Protection Area Secondary Plan).[2]
    - Airport Vicinity Protection Area Planned Development Overlay
- The Complete Communities Direction Strategy does not map the Airport Vicinity Protection Areas I or II. However, policies for the Airport Area designation also defer to the Airport Vicinity Development Plan By-law 6378/94 (ie. the AVPA) and PDO using most of the same wording as found (and noted above) in OurWinnipeg.
- The Complete Communities Direction Strategy also adds the following direction:

  Direction 1
  - Support the 24-hour status of airport operations and airport related activities by working with the Winnipeg Airports Authority and all stakeholders.

[2] The name of the *Winnipeg Airport Vicinity Development Plan* was changed to the *Airport Vicinity Protection Area Secondary Plan* By-law by Charter Implementation By-law No. 8162/2002.

Regional Mixed Use Centre Policies

- Under OurWinnipeg and the Complete Communities Direction Strategy, the subject properties are considered part of a Regional Mixed Use Centre (See Figure 5: OurWinnipeg Area Structure Map).

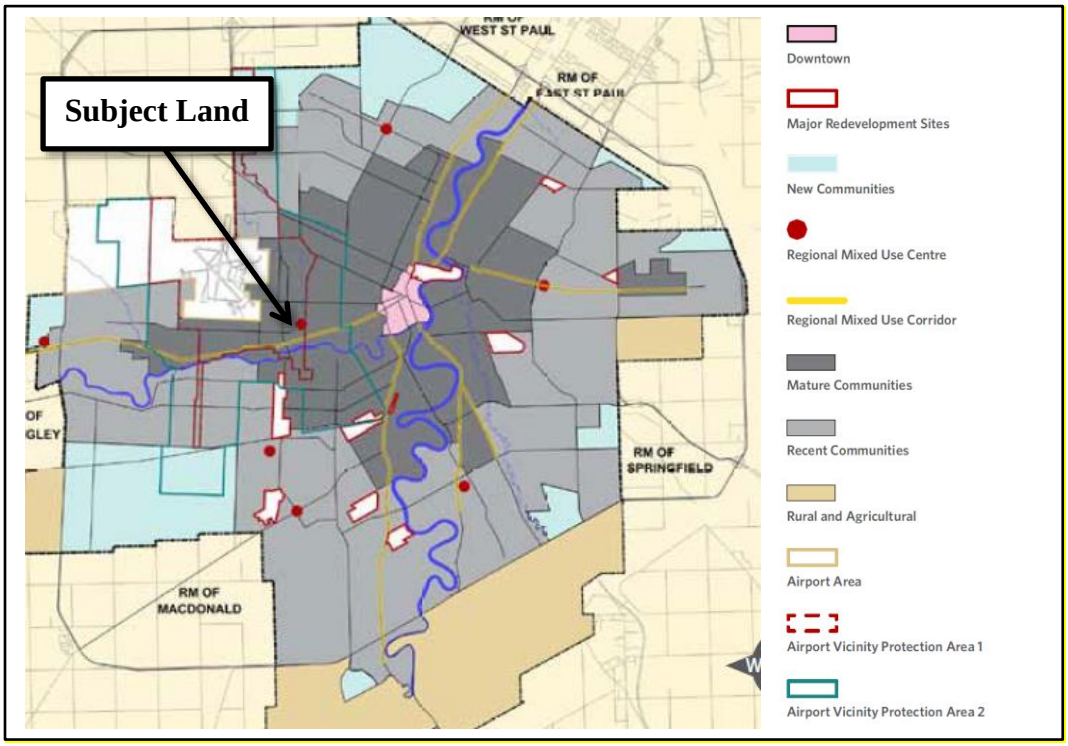


Figure 5 – *OurWinnipeg* Area Structure Map

- As described in the Complete Communities Direction Strategy, characteristics of Regional Mixed Use Centres include:
  - Capable of major transformative change
  - Located strategically throughout the city to balance employment and population density
  - Able to efficiently support rapid transit and high-frequency transit service through a mix of high density development (residential, commercial and office)
  - Well connected by Regional or Community Corridors and located at major intersections
  - Have adequate land-base and infrastructure to support expansion, a mix of uses, and change through collaboratively planned intensification
  - City-wide or regional destinations
  - Large site areas typically 100 acres or more.
- Under OurWinnipeg and the Complete Communities Direction Strategy, the key direction guiding development in Regional Mixed Use Centres is:

  KEY DIRECTION

  Focus a significant share of growth to Centres and Corridors in a manner that:
  - provides compact, mixed-use, high-quality urban development.
  - concentrates people and jobs in areas well-served by the primary transit service, located close to transit stops.

- concentrates urban development in a built form that helps to optimize existing investment, municipal infrastructure, and facilities.
- encourages a built form that supports a pedestrian-friendly environment while incorporating climate-sensitive site and building design.

- Supporting policies of the key direction for Regional Mixed Use Centres are:
  - Promote and guide the transformation of existing Regional Mixed Use Centres through a proactive and collaborative process.
  - Support high-frequency transit service by encouraging higher density residential and higher intensity commercial and mixed uses within the centre of the development. These will be focused on major transit stops.
  - Create strong, multi-modal and transportation linkages from each Regional Mixed Use Centre to Downtown, other Centres, Corridors, Parks and major attractions.
  - Promote development within the Polo Park Regional Centre consistent with the Airport Vicinity Protection Area Planned Development Overlay.
  - Establish local goals and objectives for each Regional Mixed Use Centre while taking into account its relationship to: OurWinnipeg, Sustainable Transportation Direction Strategy, Downtown, Redevelopment Areas, Corridors and other Centres. This could include minimum and maximum density and employment targets.

- The multi-family residential, or mixed-use style of development described in the proposal (Appendix 'C') is consistent with the policies of OurWinnipeg and Complete Communities.

- OurWinnipeg and Complete Communities policies guiding development of Regional Mixed Use Centres promote intensification with a mix of uses and higher density residential development.

- It should be noted that a key direction of Complete Communities is to promote development at the Polo Park Regional Centre consistent with the Airport Vicinity Protection Area Planned Development Overlay (as provided in the Zoning By-law). The Airport Vicinity Protection Area Planned Development Overlay is not to be confused with the AVPA, which is the secondary plan by-law providing land use policy direction for the airport area. The Airport Vicinity Protection Area Planned Development Overlay creates a zoning district overlay in the Zoning By-law, referred to as "PDO-1 Airport Vicinity", which reflects and implements the policies of the AVPA.

- In this way, the OurWinnipeg and Complete Communities policies defer to the AVPA and related PDO to provide details on the type and intensity of development appropriate within the AVPA area, which includes the subject land.

ZONING

- The subject properties are currently zoned "C2" Commercial Community and "C3" Commercial Corridor (see Figure 6: Zoning). Multi-family residential uses are permitted in the C2 zoning district. With the exception of 'Assisted Living Facilities', residential uses are not permitted in the C3 zoning district.

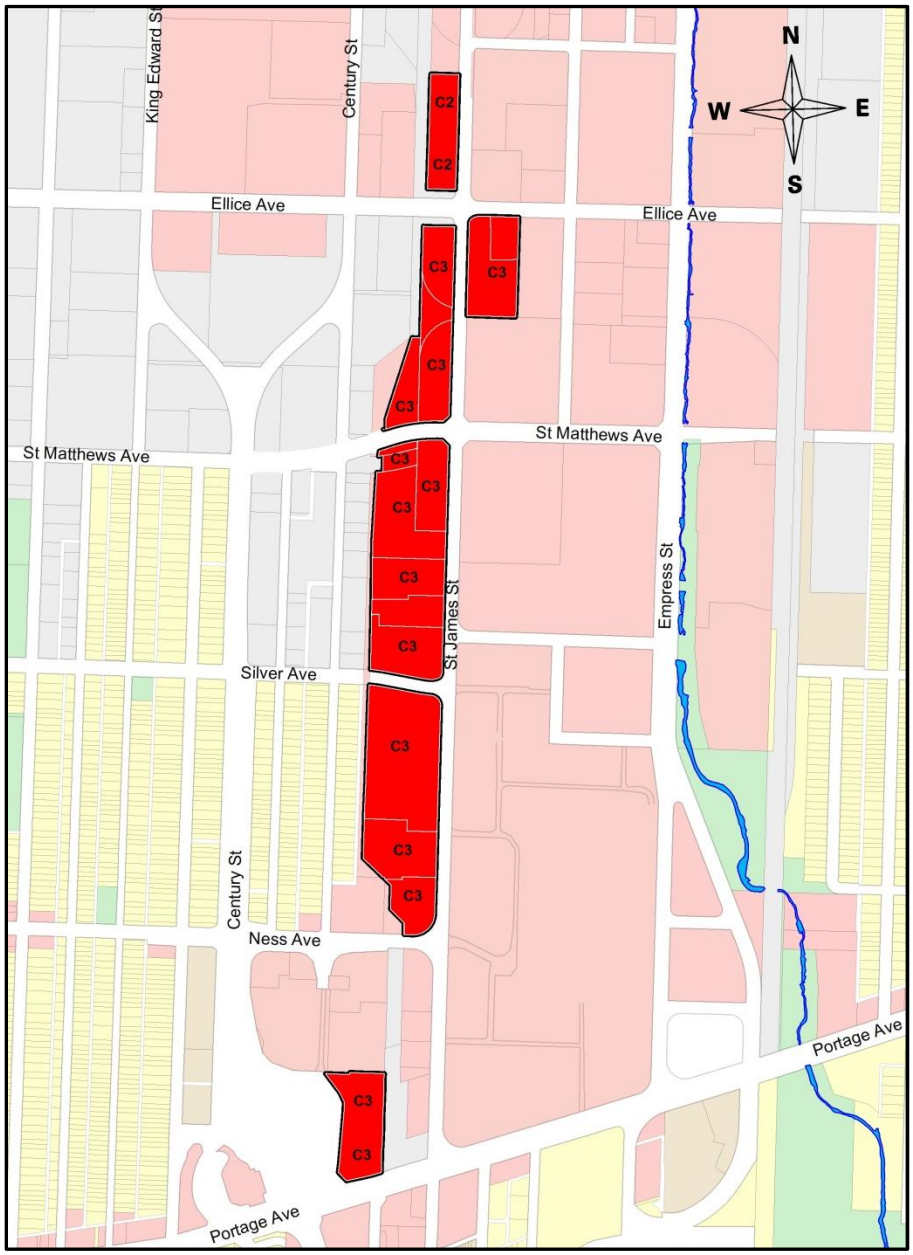


Figure 6: Zoning

- An amendment to the zoning by-law would be required before residential development could be considered on subject properties zoned C3.
- Currently, any development applications to rezone the subject properties to allow for residential uses would have to be refused (section 275(2) of the Charter) because such a proposal would not conform to the policies of the AVPA, the secondary plan by-law for the area.

- Future development applications to rezone the subject properties to allow for residential uses may require the completion of engineering studies and could be subject to development or servicing agreements.
- Development of the subject properties are further regulated in the Zoning By-law by a Planned Development Overlay district, referred to as “PDO-1 Airport Vicinity”.

Airport Vicinity Protection Area Planned Development Overlay 1 (PDO-1 Airport Vicinity)

- A Planned Development Overlay (or “PDO”), identifies an area of land to which special rules or development standards are to be applied to the underlying zoning district(s). PDOs are commonly used in the City of Winnipeg Zoning By-law to achieve local planning objectives in specially designated areas, such as the Airport Vicinity Protection Area.
- The PDO-1 Airport Vicinity of the Zoning By-law establishes two areas, ‘Area I’ and ‘Area II’, which align spatially with the respective policy areas of the AVPA. Policies of the AVPA are reflected in the PDO-1 Airport Vicinity by applying the following additional requirements to the underlying zoning districts (which in this case are C2 and C3 as shown in Figure 6):

  Area I

  - New residential development is not permitted; however replacement of existing residential dwellings, or minor infill of one additional residential lot in the R1 (single-family) zone may be considered as a conditional use. Multi-family development is not permitted, except that existing multi-family dwellings may be replaced if demolished or destroyed.

  Area II

  - Restricts new multi-family dwellings to a maximum density of 35 units/acre. Densities beyond 35 units/acre may be approved on lots that front onto Portage Avenue, or if not fronting onto Portage Avenue, through a conditional use application.
- The subject properties are within Area I of the PDO-1 Airport Vicinity.
- The applicant has submitted a zoning by-law amendment proposal, which is the subject of this report, which seeks to change the PDO-1 Airport Vicinity area applied to the subject properties from Area I to Area II.
- As previously mentioned, future residential development of the C3-zoned sites will require rezoning these sites to a zoning district that allows for residential uses. However, any such applications cannot be accepted until the PDO-I Airport Vicinity overlay district and AVPA designation of the subject sites have been amended accordingly.

ANALYSIS

Relevance of NEF Contours

- NEF contours are the result of a complex set of calculations which consider a number of variables including runway geometry, flight paths, aircraft fleet mix, airplane engine type and time of day. The process by which the NEF contours of the AVPA were made included a technical review by Transport Canada to validate that the inputs and software were used appropriately.

- The WAA has indicated that the NEF contours provided in the AVPA represent a forecast of noise exposure 20 years into the future. Calculation of the NEF contours included consideration of a future runway, which has yet to be established.
- Discussion with WAA suggest that the NEF contours provided in the AVPA still appear to accurately model existing and future noise resulting from aircraft associated with the Winnipeg Airport.
- The WAA also suggested that while airplane technology has improved over the past 20 years, new airplanes which incorporate such technology do not fly predominantly out of Winnipeg.

Winnipeg Airports Authority (WAA)

- In 1997, control of the Winnipeg Airport was transferred from the federal government to the WAA.
- The WAA is a community-based, non-share capital corporation that operates, manages, maintains and invests in the Winnipeg Airport. The WAA Board includes Directors nominated by the City of Winnipeg, Province of Manitoba, and the Government of Canada.
- Revenue generated by the Winnipeg Airport is re-invested into the airport.
- The WAA estimates that the Winnipeg Airport generates 17,000 jobs and has a local economic impact of $3.4 billion.
- A majority of the growth opportunity for the Winnipeg Airport is related to cargo. According to the WAA, the Winnipeg Airport is the number 1 dedicated freighter airport in Canada by number of flights and received Canada's third-highest daily air cargo tonnage. Part of the reason for this success is that Winnipeg Airport does not have the same restrictions placed upon it as other airports.
- A significant amount of cargo arrivals to and cargo departures from Winnipeg Airport occur between 11:00 pm and 7:00 am and are over 45,000kg.
- Being free of such restrictions, and being able to accommodate large cargo flights throughout the night, has allowed the Winnipeg Airport to operate as an air cargo hub. Building on this success, the WAA has plans to invest into a new multi-tenant air cargo logistics facility.
- With respect to passenger service, Winnipeg Airport provides early morning flights (5:00 am) to hub airports, such as Toronto.
- The Winnipeg Airport's ability to generate economic benefits to the community at large depends on its ability to remain competitive with other airports and operate as 24-hours.

Letter of Intent

- The proponent's Letter of Intent suggests an intention to establish multi-family residential or mixed-use development on the subject properties located along St. James Street in the Polo Park area.
- The Letter of Intent provides some economic arguments for the proposed amendments, such as: the growing demand for multi-family housing in the area; the general trend for shopping malls or "big box" stores to integrate mixed-use or multi-family residential on sites; the impacts of retail growth/trends in Winnipeg and online retail growth.

- Statements about creating a “complete community” that is well-connected by transit and the transportation network are also provided. This component of the proposal is consistent with some Key Directions and Enabling Strategies of OurWinnipeg/Complete Communities.
- The following map, taken from the proponent’s Letter of Intent (page 8 of 17), is intended to capture amenities within walking distance of the subject properties.

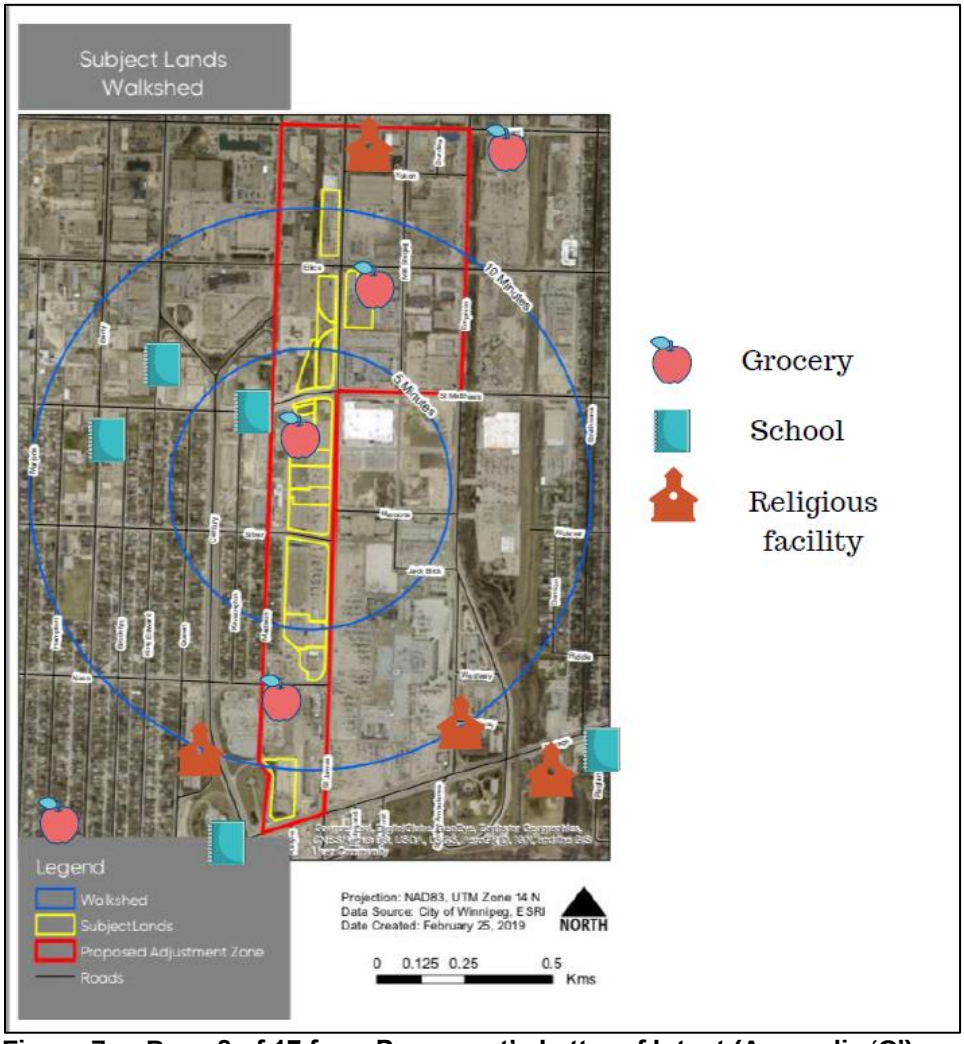


Figure 7: Page 8 of 17 from Proponent’s Letter of Intent (Appendix ‘C’) Subject Lands Walkshed

- There is virtually no supporting rationale or analysis in the Letter of Intent that demonstrates how the proposed amendment will not impact air operations at the Winnipeg Airport.
- As previously mentioned, the purpose of the AVPA is to protect the 24-hour air operations of the airport. Key to achieving this is “limiting residential noise complaints, which are understood to be a limiting factor at some major Airports which are currently forced to operate under regulatory curfews” (page 17 of the AVPA).
- In the Letter of Intent, the proponent only states that they are “confident they can address any concerns from the Airport Operations while achieving a livable, sustainable complete community by re-designating the subject lands to Area-2 in the PDO. This includes construction materials and real estate disclosure” (page 16 of 17).

- The primary issue with real estate disclosure as a tool to help address noise complaints, or appropriate cautionary language in the registration of land titles for new residential units is that notification caveats such as these, cannot be registered in Manitoba.
- As shown in Figure 4 above, the majority of the subject properties are located either in immediate proximity to, or above the 30 NEF contour of the AVPA.
- The community response prediction to NEF levels of 30 and above can be significant and can cause group action to occur (refer to Figure 2).
- Additionally, the subject application includes sites that are under the flight path where the future runway is planned. Most of these sites are at, or above the 35 NEF, including one site that is within the 40 NEF contour.
- The site that is currently best connected by Transit – site "Q" 1661 Portage Ave (refer to Figure 1) – is immediately adjacent to a 35 NEF contour, which projects from one of the key operational runways (runway 13/3).
- The community response prediction to NEF levels of 35 or greater is anticipated to be vigorous with possible concerted, group action that may lead to legal action (refer to Figure 2 above).
- The WAA has expressed concerns with the proposed amendment. However, the WAA has indicated that they would support a review of the AVPA.
- A comprehensive review of the AVPA generally aligns with the January 17, 2017 recommendations of the Standing Policy Committee on Property and Development, Heritage and Downtown Development, where a review of the AVPA was requested as part of the OurWinnipeg process.
- The future viability of the Winnipeg Airport is of Provincial importance. Accordingly, the creation of the AVPA involved multiple interested stakeholders that included the WAA, Transport Canada, the Province of Manitoba, and the RM of Rosser. Today, the same stakeholders should be considered in a review of the AVPA as well as CentrePort Canada Inc., which relies on the continued 24-hour unrestricted air operations at Winnipeg Airport.

Alignment with OurWinnipeg and Complete Communities Policies

- The subject properties are located within a Regional Mixed Use Centre (Regional Mixed Use Centre F – Polo Park), but are also subject to OurWinnipeg and Complete Communities policies that pertain to development in the AVPA.
- Some components of the proposal are consistent with several Key Directions and Enabling Strategies of OurWinnipeg/Complete Communities, in that the proposal has the potential to accommodate the following in a Regional Mixed Use Centre:
    - compact, mixed-use, high-quality urban development
    - a concentration of people and jobs in areas well-served by the primary transit service, located close to transit stops
    - a concentration of urban development in a built form that helps optimize existing investment, municipal infrastructure, and facilities.
- However, the proposed development may threaten the 24-hour air operations and planned expansion of the Winnipeg Airport.

- Protecting and supporting air operations at the Winnipeg Airport are key policies of OurWinnipeg and Complete Communities:
    - Support the role of the James Armstrong Richardson International Airport as a major transportation hub for passengers and cargo.
    - Adhere to the Airport Vicinity Development Plan (AVDP) and periodically review the plan in cooperation with relevant stakeholders.
    - In order to maintain compatible land use relationships, regulate land use and building regulations for all those neighbourhoods or portions thereof significantly affected by airport related noise through:
        - The Airport Vicinity Development Plan by-law 6378/94 (ie. the Airport Vicinity Protection Area Secondary Plan).[3]
        - Airport Vicinity Protection Area Planned Development Overlay
- Furthermore, with respect to development in Regional Mixed Use Centres, Complete Communities Direction Strategy states the following:
    - Promote development within the Polo Park Regional Centre consistent with the Airport Vicinity Protection Area Planned Development Overlay.

RECOMMENDATION

It is recommended that the proposed amendment not be supported for the following reasons:

- The majority of the subject properties are located either in immediate proximity to, or above the 30 NEF contour of the AVPA. The community response prediction to NEF levels of 30 and above can be significant and can cause group action, including legal action, to occur.
- The requested change in designation from Area I to Area II of the AVPA for the collective parcels potentially poses a threat to the 24-hour operations of the Winnipeg Airport.
- Protecting and supporting air operations at the Winnipeg Airport are key policies of OurWinnipeg and Complete Communities:
    - Support the role of the James Armstrong Richardson International Airport as a major transportation hub for passengers and cargo.
    - Adhere to the Airport Vicinity Development Plan (AVDP) and periodically review the plan in cooperation with relevant stakeholders.
    - In order to maintain compatible land use relationships, regulate land use and building regulations for all those neighbourhoods or portions thereof significantly affected by airport related noise through:
        - The Airport Vicinity Development Plan by-law 6378/94 (ie. the Airport Vicinity Protection Area Secondary Plan).
        - Airport Vicinity Protection Area Planned Development Overlay

[3] The name of the *Winnipeg Airport Vicinity Development Plan* was changed to the *Airport Vicinity Protection Area Secondary Plan* By-law by Charter Implementation By-law No. 8162/2002.

- Promote development within the Polo Park Regional Centre consistent with the Airport Vicinity Protection Area Planned Development Overlay.

- The future viability of the Winnipeg Airport is of Provincial importance. As discussed through the application process, many view the AVPA as dated and in need of a review. Through such a review, changes to the AVPA may be considered with relevant stakeholders. This approach is consistent with OurWinnipeg and Complete Communities:
    - Adhere to the Airport Vicinity Development Plan (AVDP) and periodically review the plan in cooperation with relevant stakeholders.

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

PPD File #: DAZ 211/2019

Schedule "A" of File DAZ 211/2019, Assiniboia Community Committee, May 22, 2020

By-Law No. _____

File No. **DAZ 211/2019**

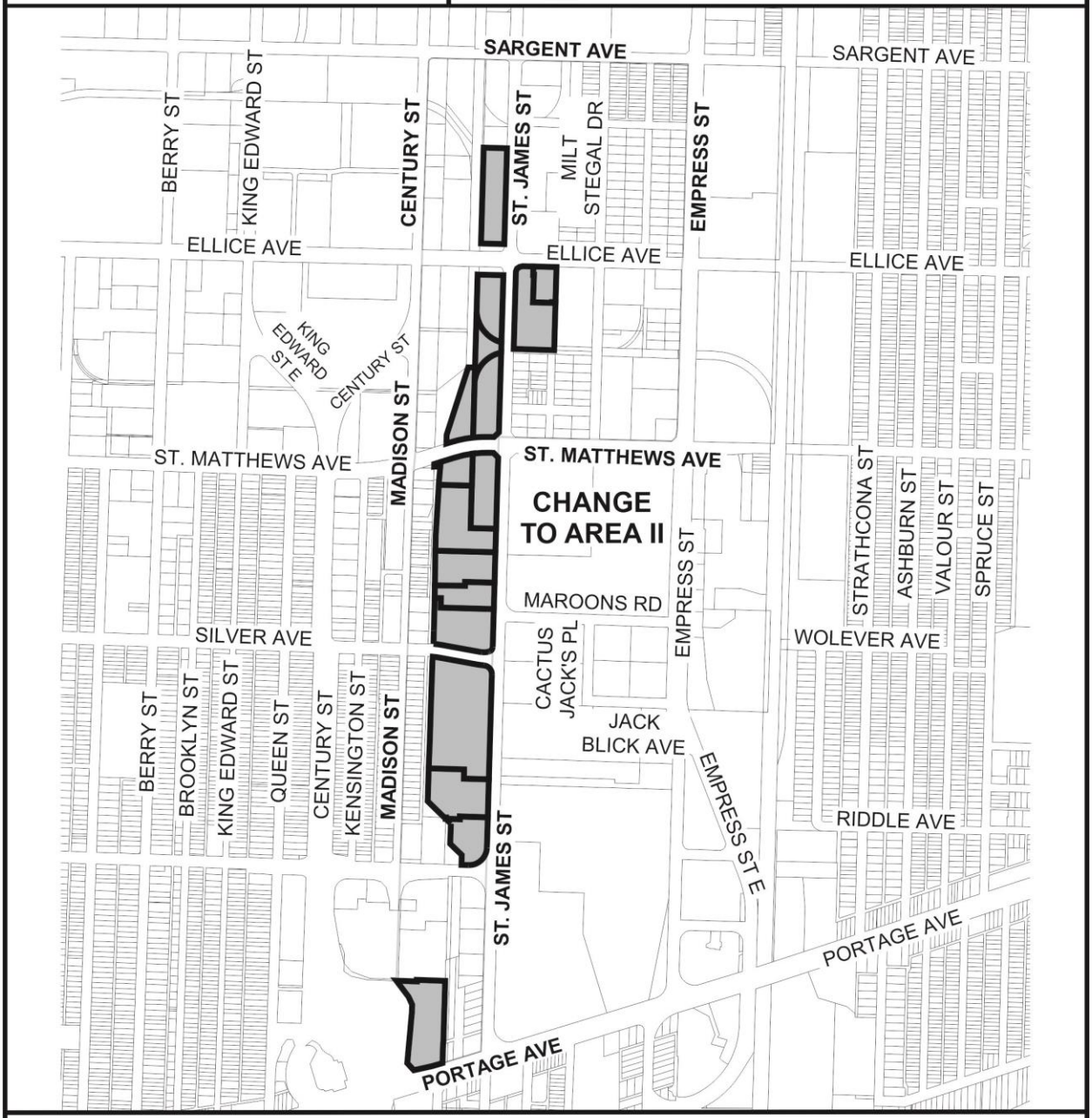
Atlas Sheet No. **Z20, AA20**

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ASSINIBOIA COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land identified generally along the west side of St. James Street between Portage Avenue and Sargent Avenue to amend the Airport Vicinity Protection Area Planned Development Overlay 1 (PDO-1 Airport Vicinity) map, Schedule D to the Winnipeg Zoning By-law 200/2006, to change the subject lands from Area I of the overlay district to Area II.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____