Agenda – Council – June 23, 2022

Report – Executive Policy Committee – June 15, 2022

Item No. 21 Text Amendment – Winnipeg Zoning By-law No. 200/2006 – Schedule D – PDO-1 Airport Vicinity DAZ 205/2022 [c/r SPA 2/2022]

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 15, 2022, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That first reading be given to By-law No. 48/2022 (the "By-law", a draft of which is attached as Schedule A to this Report), to amend Schedule D – the Airport Vicinity Protection Area Planned Development Overlay 1 of the Winnipeg Zoning By-law No. 200/2006.

2. That following first reading of the By-law and upon instruction from the Director of Planning, Property and Development, the By-law be returned directly to Council for second and third reading.

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

Report – Executive Policy Committee – June 15, 2022

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 15, 2022, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 6, 2022, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

PUBLIC HEARING SUMMARY

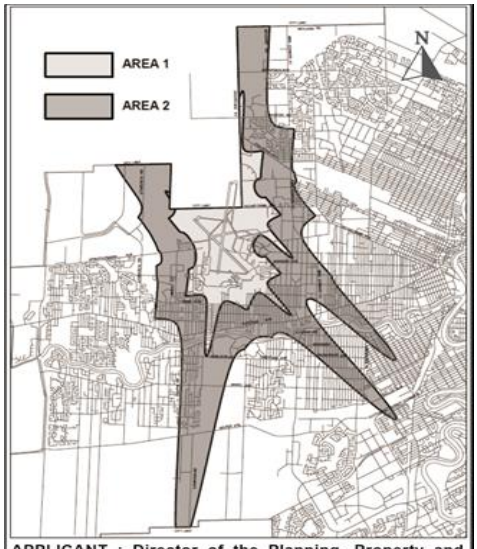
File: DAZ 205/2022

Before: Standing Policy Committee on Property and Development, Heritage and Downtown Development
Councillor Gilroy, Chairperson
Councillor Klein
Councillor Lukes
Councillor Santos

Public Hearing: June 6, 2022
Council Building, 510 Main Street

Applicant: Director of Planning, Property and Development

Subject:



APPLICANT : Director of the Planning, Property and Development Department
FILE : DAZ 205/2022
PROPOSAL : Amendment to remove the density requirements in section 4 of Schedule D – PDO-1 Airport Vicinity of the Winnipeg Zoning By-law No. 200/2006.

Section 4 of the PDO-1 Airport Vicinity limits the density of multi-family residential uses in Area 2 of the Airport Vicinity Protection Area. New multi-family uses in Area 2 cannot exceed 35 dwelling units/acre unless approved by a conditional use.

The proposed amendment does not specify a density limit in Area 2 of the Airport Vicinity Protection Area, which is consistent with the Provincial Airport Vicinity Protection Area Regulation.

For information, phone Mr. Robert Kostiuk, Senior Planner, at 204-986-7367.

Demandeur : Directeur du Service de l'urbanisme, des biens et de l'aménagement
Dossier : DAZ 205/2022
Projet : Modification visant à supprimer les exigences en matière de densité de l'article 4 de l'annexe D – DO-1 du quartier de l'aéroport du *Zoning By-law No. 200/2006* (règlement municipal sur le zonage) de Winnipeg.

L'article 4 du DO-1 du quartier de l'aéroport limite la densité des habitations multifamiliales dans le secteur 2 de la zone tampon de l'aéroport. Les nouvelles habitations multifamiliales du secteur 2 ne peuvent pas contenir plus de 35 logements par acre à moins d'avoir fait l'objet d'une approbation par l'entremise d'une utilisation conditionnelle.

La modification proposée ne précise aucune limite de densité pour le secteur 2 de la zone tampon de l'aéroport, conformément au *Règlement sur la zone tampon de l'aéroport* de la Province.

Pour plus de renseignements, veuillez communiquer avec M. Robert Kostiuk, urbaniste principal, au 204-986-7367.

RE: Text Amendment – Winnipeg Zoning By-law No. 200/2006 – Schedule D – PDO-1 Airport Vicinity
File DAZ 205/2022

For submission to: Executive Policy Committee

Prepared by: K. McMillan, Senior Committee Clerk

Report date: June 7, 2022

Standing Committee Recommendation:

On June 6, 2022, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and recommended to Council:

1. That first reading be given to By-law No. 48/2022 (the "By-law", a draft of which is attached as Schedule A to this Report), to amend Schedule D – the Airport Vicinity Protection Area Planned Development Overlay 1 of the Winnipeg Zoning By-law No. 200/2006.

2. That following first reading of the By-law and upon instruction from the Director of Planning, Property and Development, the By-law be returned directly to Council for second and third reading.

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

The Standing Policy Committee on Property and Development, Heritage and Downtown Development provided the following supporting reasons for its recommendation:

1. As noted by the Public Service, this is a housekeeping item and will adhere to the legislation put in place in August, 2021.

Exhibits Filed:

1. Application dated April 19, 2022
2. Advertising Notice
3. Report from the Urban Planning Division dated May 5, 2022
4. Presentation in support of the application submitted by the Applicant at the public hearing
5. Recording of Representations

REPRESENTATIONS:

In Support:

Kate Moir

In Opposition:

Marg Shum

For Information:

Nil

For the City:

R. Kostiuk, Senior Planner, Planning, Property and Development Department

Exhibit "3" referred to in File DAZ 205/2022

ADMINISTRATIVE REPORT

Title: DAZ 205/2022 (By-law 48/2022) — Application to Remove 35 unit/acre Density Requirement from Area 2 of Schedule D – PDO-1 Airport Vicinity of the Winnipeg Zoning By-law No. 200/2006 (c/r SPA 2/2022)

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

AUTHORIZATION

Author	Department Head	CFO	CAO
J. Veitch	J. Kiernan	N/A	M. Jack

EXECUTIVE SUMMARY

On August 12, 2021, the Province of Manitoba adopted the Airport Vicinity Protection Area Regulation (the "Regulation") pursuant to section 269 of the City of Winnipeg Charter. Sections 3, 8, and 9 of this new Regulation required the City to amend its development plan (currently *OurWinnipeg* By-law No. 67/2010) and zoning by-laws to conform to the Regulation within six months of the Regulation coming into force and effect (e.g., by no later than February 12, 2022).

On January 27, 2022, both *OurWinnipeg* and the Winnipeg Zoning By-law 200/2006 were amended to comply with the Regulation via By-law No. 11/2022. The details of this By-law are discussed in the associated *"Amendments to City By-laws and Policies Resulting from the Airport Vicinity Protection Area Regulation"* report. However, a density requirement of 35 dwelling units/acre in Area 2 remains in Schedule D – Airport Vicinity Protection Area Planned Development Overlay (the "PDO-1 Airport Vicinity").

By-law No. 11/2022 was passed as a correction under section 276 of the *City of Winnipeg Charter* (the "*Charter*") because amendments to *OurWinnipeg* and the Winnipeg Zoning By-law were being imposed by the Province. Passing the by-law under section 276 allowed Council to bring these amendments into force and effect immediately without the need for a public hearing.

However, the density provision in Area 2 of PDO-1 Airport Vicinity was not amended by By-law No. 11/2022 because the Regulation does not impose any residential density requirement within Area 2. Since a density provision is not mandatory under the Regulation, the City has discretion on whether to retain or repeal these density restrictions. Accordingly, Council directed the Public Service to hold a public hearing on this matter.

The Provincial background studies that supported the creation of the Regulation did not recommend including a residential density provision in Area 2. Further, per the Provincial news release at the time the Regulation was first proposed, the by-laws and provisions – including the

35 unit/acre density requirement in Area 2 – in place prior to the adoption of the Regulation were described as “outdated” by the Province. It can therefore be assumed that the Province does not see such residential density requirements as a useful tool for protecting airport operations.

In the absence of a clear planning rationale for maintaining the 35 dwelling units/acre density requirement in Area 2 of the PDO-1 Airport Vicinity of the Winnipeg Zoning By-law, the Public Service recommends replacing all of section 4 of the PDO-1 Airport Vicinity, with what is set out in the Regulation for Area 2, which is: ‘‘*New or replacement single-family residential dwellings and multiple-family residential dwellings may be constructed in Area 2*.”

RECOMMENDATIONS

1. That first reading be given to By-law No. 48/2022 (the “By-law”, a draft of which is attached as Schedule A to this Report), to amend Schedule D – the Airport Vicinity Protection Area Planned Development Overlay 1 of the Winnipeg Zoning By-law No. 200/2006.

2. That following first reading of the By-law and upon instruction from the Director of Planning, Property and Development, the By-law be returned directly to Council for second and third reading.

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

REASON FOR THE REPORT

The subject application is being brought forward for Council’s consideration per Council’s January 27, 2022 recommendation in association with the “*Amendments to City By-laws and Policies resulting from the Airport Vicinity Protection Area Regulation*” report (“the Report”):

2. That the Public Service be directed to schedule a public hearing before the Standing Policy Committee on Property and Development, Heritage and Downtown Development within 180 days to consider the following:

A. Amending Schedule D of the Winnipeg Zoning By-law to remove any unit density requirements currently imposed on the Airport Vicinity Protection Area*; and*

B. Repealing the Airport Vicinity Protection Area Secondary Plan By-law.

Zoning by-laws, including amendments, require a public hearing prior to first reading in accordance with The City of Winnipeg Charter and The Development Procedures By-law No. 160/2011.

Council approval is required to enact the proposed by-law.

IMPLICATIONS OF THE RECOMMENDATIONS

If Council concurs with the recommendation of the Public Service, section 4 of Schedule D - PDO-1 Airport Vicinity of the Winnipeg Zoning By-law No. 200/2006 will be replaced with what is set out in the Regulation for Area 2, which is: "*New or replacement single-family residential dwellings and multiple-family residential dwellings may be constructed in Area 2*."

HISTORY/DISCUSSION

- On August 12, 2021, the Province of Manitoba adopted the Airport Vicinity Protection Area Regulation (the "Regulation") pursuant to section 269 of the City of Winnipeg Charter.

- Sections 3, 8, and 9 of the new Regulation required the City to amend its development plan (currently *OurWinnipeg* By-law No. 67/2010) and zoning by-laws to conform to the Regulation within six months of the Regulation coming into force and effect (e.g. by no later than February 12, 2022).

- On January 27, 2022, both *OurWinnipeg* and the Winnipeg Zoning By-law were amended to comply with the Regulation via By-law 11/2022. The details of this By-law are discussed in the associated "*Amendments to City By-laws and Policies Resulting from the Airport Vicinity Protection Area Regulation*" report.

- With regard to the Zoning By-law, section 9 of the Regulation requires the City to enact a zoning by-law that includes an Airport Vicinity Protection Area that aligns with the schedule to the Regulation and complies with sections 5-7, which are as follows:

  Policies in Area 1

  5(1) *Subject to subsections (2) and (3), no new single-family or multiple-family residential dwellings may be constructed in Area 1.*

  5(2) *Replacement of existing single-family residential dwellings and multiple-family residential dwellings is permitted in Area 1. In the case of the replacement of a multiple-family residential dwelling, the number of dwelling units in the replacement dwelling must not exceed the number of dwelling units in the dwelling being replaced.*

  5(3) *New infill single-family residential dwellings may be constructed in Area 1 if (a) the dwelling is located on a lot that was created as the result of the subdivision of an existing residential lot into no more than two lots; and (b) the newly created lot is located on a street where a full range of municipal services are already provided.*

  Policies in Area 2

  6 *New or replacement single-family residential dwellings and multiple-family residential dwellings may be constructed in Area 2.*

  Noise mitigation standards

  7 *All new single-family or multiple-family residential dwellings in the AVPA must be designed and constructed with components to achieve the following indoor sound level mitigation levels with windows and doors closed:*

Area of dwelling	*Noise levels (decibels)*
Bedrooms	*35 dB*
Living room, dining room and recreation rooms	*40 dB*
Kitchen, bathroom, hallways and utility rooms	*45 dB*

- Mapping and alignment with sections 5-7 of the Regulation were addressed in Schedule D – Airport Vicinity Protection Area Planned Development Overlay (the "PDO-1 Airport Vicinity") of the Winnipeg Zoning By-law through By-law No. 11/2022 (a copy of the map is provided in Figure 1 below).

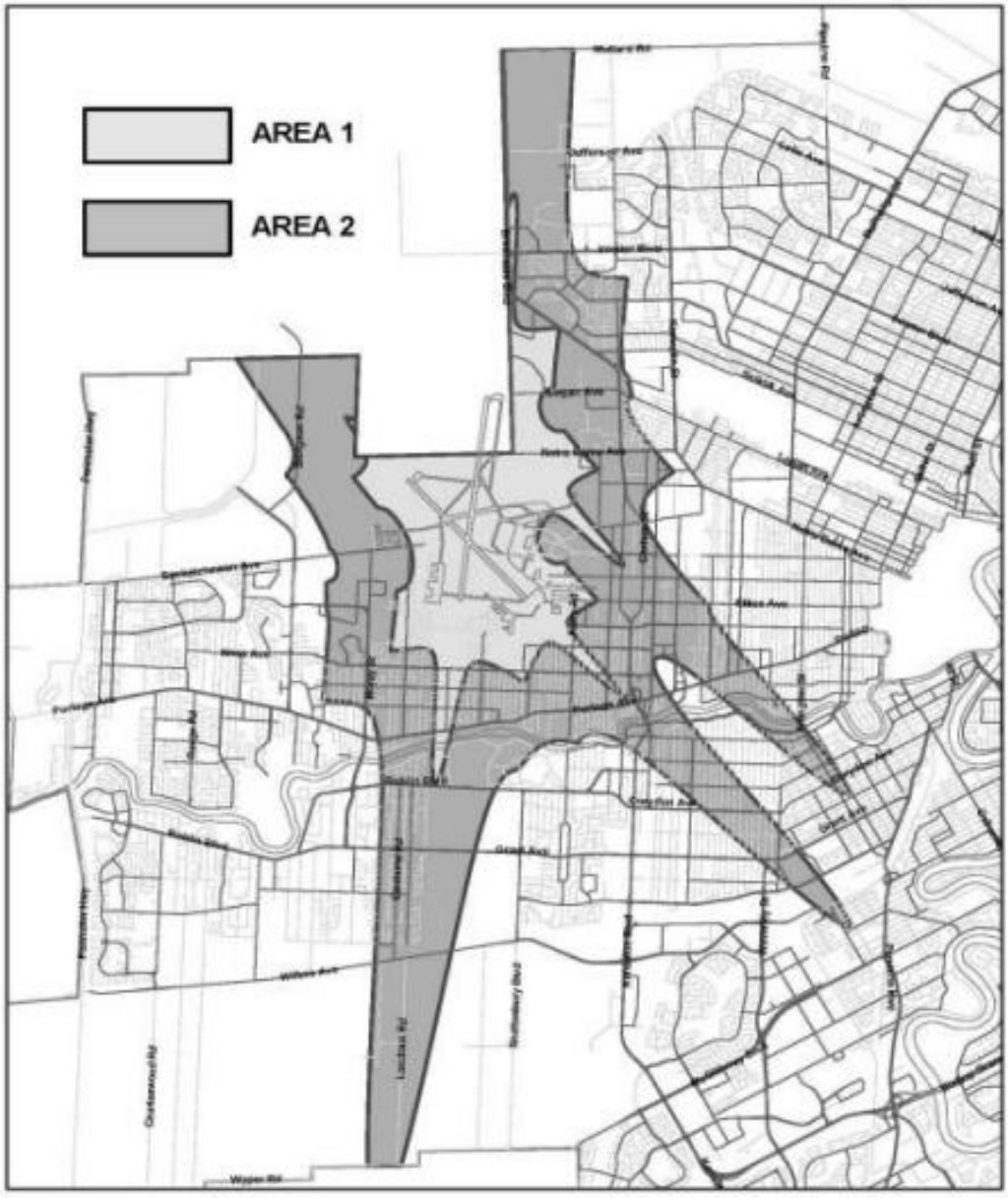


Figure 1: Airport Vicinity Protection Area Planned Development Overlay Map

- However, a density requirement of 35 dwelling units/acre in Area 2 remains in the PDO-1 Airport Vicinity:

    4. b. New multiple-family dwellings may be constructed to a density limit not exceeding 85 units per hectare (35 units per acre), excluding any part of that area designated Floodway, and new multiple-family dwellings in excess of that density may be approved as conditional uses under The City of Winnipeg Charter.

- This residential density requirement for Area 2 was established through the planning process to develop the Airport Vicinity Protection Area Secondary Plan By-Law No. 6378/94 (the "AVPA Secondary Plan"), which was adopted by Council in 1994. The AVPA Secondary Plan provides regulations to incorporate into the Winnipeg Zoning By-law, including the density requirement in Area 2.

- It should be noted that the Public Service is also recommending that the AVPA Secondary Plan be repealed under the associated file SPA 2/2022 as this Secondary Plan no longer serves its purpose as intended with the adoption of the Regulation.

- As explained in the "*Amendments to City By-laws and Policies Resulting from the Airport Vicinity Protection Area Regulation*" report, By-law No. 11/2022 was passed as a correction under section 276 of the *Charter* because amendments to *OurWinnipeg* and the Winnipeg Zoning By-law were being imposed by the Province. Passing the by-law under section 276 allowed Council to bring these amendments into force and effect immediately without the need for a public hearing.

- However, the residential density provision in Area 2 of PDO-1 Airport Vicinity was not amended by By-law No. 11/2022 because the Regulation does not impose any density requirement within Area 2. Since a density provision is not mandatory under the Regulation, the City has discretion on whether to retain or repeal these density restrictions.

- Accordingly, the direction provided and adopted by Council was to hold a public hearing on this matter.

- In the Public Service's view, there is limited planning rationale to retain the 35 dwelling units/acre maximum as this maximum was established through the planning process for the AVPA Secondary Plan and PDO-1 Airport Vicinity decades ago. This is reinforced in the Provincial news release at the time the Regulation was first proposed:

    "Current land-use policies have not been updated in a quarter of a century and are based on outdated forecasts of aircraft noise."

    "The proposed regulation is based on up-to-date scientific data on noise in the vicinity of the airport, which is crucial to help guide decisions on the type and scale of development that can occur safely, while fostering the airport's continued growth and ensuring the city develops in an orderly fashion."

- Per the Provincial news release, the by-laws and provisions – including the 35 dwelling units/acre density requirement in Area 2 – in place prior to the adoption of the Regulation were described as “outdated” by the Province.
- The Provincial background studies that supported the creation of the Regulation did not recommend including a residential density provision in Area 2.

- In addition, Transport Canada’s *TP1247E – Land Use in the Vicinity of Aerodromes*, which is intended to provide provincial and municipal authorities guidance on planning in the vicinity of aerodromes, does not include residential density maximums; it only recommends that certain uses be permitted or prohibited within specific Noise Exposure Forecast (NEF) contours.

- In the absence of a clear planning rationale for maintaining the 35 dwelling units/acre density requirement in Area 2 of the PDO-1 Airport Vicinity of the Winnipeg Zoning By-law, the Public Service recommends replacing all of section 4 of the PDO-1 Airport Vicinity, with what is set out in the Regulation for Area 2, which is: *“New or replacement single-family residential dwellings and multiple-family residential dwellings may be constructed in Area 2*.”

- Accordingly, if Council concurs with the recommendations of the Public Service, section 4 of the PDO-1 Airport Vicinity will be amended from the following:

    Density Limits for Area 2 Lots Not Fronting on Portage Avenue

    4. Where the majority or entirety of a parcel of land is located within Area 2, and that parcel does not front on Portage Avenue:

        a. Existing multiple family dwellings may, if destroyed or demolished, be replaced provided that the number of dwelling units in each replacement dwelling does not exceed the number of dwelling units in the dwelling being replaced.

        b. New multiple-family dwellings may be constructed to a density limit not exceeding 85 units per hectare (35 units per acre), excluding any part of that area designated Floodway, and new multiple-family dwellings in excess of that density may be approved as conditional uses under The City of Winnipeg Charter.

    to:

    Development Standards within Area 2

    4. New or replacement single-family residential dwellings and multiple-family residential dwellings may be constructed in Area 2.

FINANCIAL IMPACT

Financial Impact Statement

Date: May 5, 2022

Project Name:

DAZ 205/2022 (By-law 48/2022) — Application to Remove 35 unit/acre Density Requirement from Area 2 of Schedule D – PDO-1 Airport Vicinity of the Winnipeg Zoning By-law No. 200/2006 (c/r SPA 2/2022)

COMMENTS:

There are no direct financial implications associated with this report.

Mike McGinn May 5, 2022

Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

Legal Services (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

Direction 01-1b

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 in conformity with the Airport Vicinity Protection Area Regulation, M.R. 66/2021 and any successor to that regulation.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

n/a

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

n/a

SUBMITTED BY

Department: Planning, Property and Development
Division: Urban Planning and Design
Prepared by: Robert Kostiuk, RPP, MCIP
Date: May 5, 2022
File No: DAZ 205/2022

Attachments:

Schedule A - Draft Amending By-law No. 48/2022