Agenda – Executive Policy Committee – May 16, 2023

REPORTS

Item No. 20 Development Agreement Parameters Review

COMMITEE RECOMMENDATION:

On May 9, 2023, the Ad Hoc Committee on Development Standards concurred in the recommendation of the Winnipeg Public Service, as amended, and recommended to the Executive Policy Committee:

1. That the “Proposed 2002 Development Agreements Parameters”, adopted by Council on July 17, 2002, be rescinded.

2. That the “Amendment to the Development Agreement Parameters Council Policy – Developer Reimbursement for Precinct Plan Preparation”, adopted by Council on May 29, 2013, be rescinded.

3. That subject to the approval of Recommendations 1 and 2, the “Development Agreement Parameters”, attached as Schedule A, be adopted, with the following amendments:

    A. In Section 4.4.D, delete "Section 2" and replace with "Section 3"

    B. In Section 8.2, delete " Section 2" and replace with " Section 3"

    C. In Section 8.5.B, delete "11.8" and replace with "11.7"

    D. In Section 10.11.B, delete "11.8" and replace with "11.7"

    E. In Section 12.1, add the words "When the services benefit any benefitting Third-Party Lands, the City shall repay the Developer in accordance with Section 3 – Developer Reimbursement." immediately after ", as necessary."

    F. In Section 12.2, add the words “When the services benefit any benefitting Third-Party Lands, the City shall repay the Developer in accordance with Section 3 – Developer Reimbursement." immediately after ", as necessary."

    G. In Section 12.5 delete the word "trunk"

    H. In Section 12.8, amend the heading to “City to reimburse developer for wastewater oversizing, water main and lateral land drainage sewer"

COMMITEE RECOMMENDATION (continued):

4. That, subject to the approval of Recommendation 3, Council enact a bylaw to amend the Voting Requirements By-law No. 63/2021 (draft amending by-law is attached as Schedule C to this report) to require support by 2/3 of the members of Council present to the repeal or amend a required (rather than permitted) condition outlined in the Development Agreement Parameters, or adopt a new required (rather than permitted) condition not contained within the Development Agreement Parameters.

5. That the Public Service be directed to report back annually to the Ad Hoc Committee on Development Standards with recommended changes (if any) to the "Development Agreement Parameters", in consultation with the Urban Development Institute of Manitoba.

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

DECISION MAKING HISTORY:

COMMITEE RECOMMENDATION:

On May 9, 2023, the Ad Hoc Committee on Development Standards concurred in the recommendation of the Winnipeg Public Service with the following amendments:

- In Recommendation 3, delete the period after “be adopted” and replace with the following:

  “, with the following amendments:

  A. In Section 4.4.D, delete "Section 2" and replace with "Section 3"

  B. In Section 8.2, delete " Section 2" and replace with " Section 3"

  C. In Section 8.5.B, delete "11.8" and replace with "11.7"

  D. In Section 10.11.B, delete "11.8" and replace with "11.7"

  E. In Section 12.1, add the words "When the services benefit any benefitting Third-Party Lands, the City shall repay the Developer in accordance with Section 3 – Developer Reimbursement." immediately after ", as necessary."

  F. In Section 12.2, add the words “When the services benefit any benefitting Third-Party Lands, the City shall repay the Developer in accordance with Section 3 – Developer Reimbursement." immediately after ", as necessary."

  G. In Section 12.5 delete the word "trunk"

  H. In Section 12.8, amend the heading to “City to reimburse developer for wastewater oversizing, water main and lateral land drainage sewer"

and forwarded the matter to the Executive Policy Committee.

ADMINISTRATIVE REPORT

Title: Development Agreement Parameters Review

Critical Path: Ad Hoc Committee on Development Standards – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
G. Chappell (Acting)	M. Pittet (Acting)	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

Since January 2022, the Public Service and Urban Development Institute ("UDI") have met to review the City of Winnipeg's (the "City's") existing guidelines for land development known as the Development Agreement Parameters. These guidelines outline developer or City responsibilities such as servicing obligations, land dedication requirements or developer reimbursements.

This review was facilitated by Landmark Planning & Design (the "Facilitator) and consisted of numerous meetings between the Public Service and UDI. The goal of the meetings was to modernize the 20-year-old guidelines and achieve consensus on the content.

The revised Development Agreement Parameters (the "New Parameters") in Schedule A reflect the successful achievement of the shared goals of the working group and represent new guidelines endorsed by the Public Service and UDI. A detailed analysis of the review is included within Schedule B and was authored by the Facilitator.

To ensure the New Parameters are kept current, the Public Service will report back annually to the Ad Hoc Committee on Development Standards. The report will include updates regarding consultations with the development industry and recommendations to modify the parameters (if required).

The New Parameters are not intended to be a 20-year static document and it is anticipated that through further engagement, additional amendments will be proposed in the future.

The New Parameters affect all development within the City which requires a development agreement - greenfield development or infill development. The applicability of the New Parameters is dependent upon the development conditions required.

RECOMMENDATIONS

1. That the “Proposed 2002 Development Agreements Parameters”, adopted by Council on July 17, 2002, be rescinded.

2. That the “Amendment to the Development Agreement Parameters Council Policy – Developer Reimbursement for Precinct Plan Preparation”, adopted by Council on May 29, 2013, be rescinded.

3. That subject to the approval of Recommendations 1 and 2, the “Development Agreement Parameters”, attached as Schedule A, be adopted.

4. That, subject to the approval of Recommendation 3, Council enact a bylaw to amend the Voting Requirements By-law No. 63/2021 (draft amending by-law is attached as Schedule C to this report) to require support by 2/3 of the members of Council present to the repeal or amend a required (rather than permitted) condition outlined in the Development Agreement Parameters, or adopt a new required (rather than permitted) condition not contained within the Development Agreement Parameters.

5. That the Public Service be directed to report back annually to the Ad Hoc Committee on Development Standards with recommended changes (if any) to the “Development Agreement Parameters”, in consultation with the Urban Development Institute of Manitoba.

6. 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

Council approval is required to adopt or amend Council policies and to enact bylaws.

On December 3, 2015, the Ad Hoc Committee on Development Standards provided the following direction to the Public Service:

> *That the Winnipeg Public Service be directed to undertake a comprehensive review of the Development Agreement Parameters in collaboration with representatives from the Urban Development Institute.*

On October 16, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development directed the Public Service to:

> *Consult with the Winnipeg Food Council and report back within 90 days with the required changes to any policies and by-laws which need to be amended to mandate the requirement of community garden space in all new developments.*

On April 19, 2021, the Standing Policy Committee on Property and Development, Heritage and Downtown Development referred the recommendation of the Assiniboia Community Committee to the Winnipeg Public Service to consider as part of the Development Agreement Parameters review, namely:

1 Amendments to the Subdivision Standards By-law No. 7500/99 and Development Agreement Parameters to provide specific regulations for net area of public park space per development.

On December 7, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development adopted the following recommendations included in the report titled 'Financing of Secondary Plans through the Capital Budget':

1. *That the Winnipeg Public Service investigate the following financing options, determine how these options may be integrated into the budget process, and report back to the Standing Policy Committee on Property and Development, Heritage and Downtown Development within 180 days:*

   A. *Opportunities where financing secondary plans through the capital budget may be appropriate, when associated with major capital improvements;*

   B. *Opportunities for financing plans with development fees and charges through the operating budget, including an amendment to the Development Agreement Parameters Council Policy, which would allow the City to collect back on planning costs within the planning area;*

   C. *A surcharge on development application fees to be directed to secondary plans through the operating budget, similar to those in By-Law 32/2005, which allowed the City to raise a predetermined sum to pay for the Zoning By-Law Review.*

On November 29, 2022, the Standing Policy Committee on Public Works directed the Public Service to:

Report back on an update of the Transportation Standards Manual and design of streets, and the inclusion of new design standards and construction specifications in the next updated Development Agreement Parameters review.

IMPLICATIONS OF THE RECOMMENDATIONS

While there will be financial implications associated with the recommendations contained in this report, those implications are not reasonably determinable at this time as they will be dependent on the specifics of future development agreements.

The Public Service is supportive of Council adopting the revised Development Agreement Parameters (the "New Parameters") but several guidelines (example below) will require further discussion moving forward. In an effort to ensure the development guidelines are always current, the Public Service will report back annually to the Ad Hoc Committee on Development Standards.

The Public Service has proposed to UDI that road and sidewalk warranty periods be extended from one year to two years. Discussion on the warranty period has been held in abeyance until the Pavement Acceptance Manual has been finalized. The Public Service has agreed to maintain the one-year warranty period in the New Parameters with an intention to review the warranty length after the Pavement Acceptance Manual is finalized.

If the recommendations of this report are approved, reports from the Administrative Coordinating Group will be prepared in accordance with the New Parameters outlined in this report. The final terms of each individual Development Agreement will be negotiated in accordance with the intent of the New Parameters.

The proposed amendment to the Voting Requirements By-law 63/2021 intends to secure support of at least 2/3rds of Council to repeal or amend a required condition outlined in the New Parameters, or the adoption of a new required condition not contained within the New Parameters.

HISTORY/DISCUSSION

Following the Unicity amalgamation, the City adopted a set of development agreement parameters in 1973 (the "Existing Parameters"). The Existing Parameters were subsequently amended in 1976,1989, 2002 and most recently in 2013.

The Existing Parameters are a tool to help achieve the City's land use and development vision as described in OurWinnipeg 2045, and supporting plans and strategies, such as the Complete Communities Direction Strategy 2.0. The Existing Parameters also ensure that development occurs in accordance with current City of Winnipeg construction standards and specifications. In simple terms, the existing Parameters address matters such as: developer reimbursement; servicing cost recoveries; securities; warranties; land dedication and construction obligations.

The Public Service initiated a review of the Existing Parameters with UDI in 2015 in accordance with direction from the Ad Hoc Committee on Development Standards but, for a variety of reasons, negotiations did not begin in earnest until January2022. Both parties agreed to equally fund a facilitator in order to have an impartial guide that would assist in advancing discussions and clarifying positions. Donovan Toews of Landmark Planning & Design was hired and facilitated frequent meetings with both a Core Working Group as well as numerous break-out groups struck to discuss specific issues/clauses. The New Parameters attached as Schedule A to this report represent a refinement of the guidelines in the Existing Parameters, modernizing a roughly 20-year-old policy.

Public Service and UDI consensus was achieved for the New Parameters, representing a significant achievement.

The New Parameters include numerous revisions, additions and deletions, some of which are minor and others more significant. The Landmark Planning & Design "DAPs Review 2023" report, attached as Schedule B to this report, outlines the differences between the Existing Parameters and the New Parameters.

Significant additions or amendments to the Existing Parameters are summarized below (the reader is encouraged to review Schedule A for full detail and context):

New Sections

Definitions
Provides clarity on substantial performance, interceptor sewers, and planned areas to name a few.

Section 3.2
The City may recover costs from third-party developers which benefit from a secondary or precinct plan prepared by another developer; the recovered costs will be reimbursed to the developer.

Section 7.6
Included a new section for catch-all maintenance and warranty periods not covered in other sections of the Parameters.

Section 8.6
The developer may be responsible to dedicate land for primary dyke or flood protection works.

Section 8.7
The developer may be responsible to dedicate land for other purposes, to a maximum of one acre; if the dedicated land is not used for its purpose, the land reverts back to the developer.

Section 10.2
The developer may be responsible to construct bus stop platforms, as defined in the *Accessibility Design Standards.*

Significant Changes to Existing Guidelines

Section 3.4
The concept of a reasonable time frame was included for developer reimbursements paid by the City that arise from a third-party payment.

Section 4.3
The scenarios in which the City recovers costs for the developer has been expanded to include additional benefitting parties.

Section 7.2
Maintenance and warranty periods for Water and Waste infrastructure have been better defined, with increased periods for stormwater management facilities.

Section 8.1
The type of roadwork and facilities required within the dedicated right-of-way was expanded to now include active transportation, transit services and sound attenuation.

Section 8.5
Greater clarity is provided on land dedication requirements of the developer and also, what constitutes non-eligible land dedication.

Section 10.11
The scope of park landscaping and improvements has been expanded to include core amenities, pathways and tree plantings. Cost sharing may occur where core amenities benefit adjacent areas.

Section 11.6

If a cash-in-lieu payment was previously provided on an underlying subdivision, another cash-in-lieu payment is not required for an additional 30 years (extended by an additional 10 years if the same developer continues to own the land).

Section 11.7
Where insufficient land dedication is provided, the amended section outlines cash payments for cash-in-lieu dedication, servicing, and landscaping and improvements.

Numerous sections within the existing Parameters were deleted, but in almost every case, the deleted section was consolidated within another section of the Parameters.

Related Committee Motions Related to the Development Agreement Parameters

On December 7, 2020, Standing Policy Committee on Property and Development, Heritage and Downtown Development directed the Public Service to investigate options to finance secondary plans. One of the options included financing secondary plans through development charges, with reimbursement to the City outlined in the Development Agreement Parameters. The New Parameters include a cost recovery provision for secondary plans but the Public Service's view is that the question of financing is out of scope.

On April 19, 2021, the Standing Policy Committee on Property and Development, Heritage and Downtown Development directed the Public Service to amend the Subdivision Standards By-law No. 7500/99 to provide specific land dedication requirements. It is the Public Service's view that the Subdivision Standards By-law is intended to provide general requirements of the development process, rather than identifying specific obligations – as such obligations are detailed in the Administrative Coordinating Group report in respect of each specific proposed development which is approved by Council and incorporated into the eventual Development Agreement. In keeping with the spirit of the Bylaw, no changes are recommended by the Public Service. However, the Public Service does intend to review density-based dedication through its on-going review of the Parameters. Due to the volume of review required to amend the New Parameters, the Public Service recommends that density-based dedication not be discussed/incorporated at this time.

On October 16, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development directed the Public Service to investigate the requirement that all new developments include community gardens. The Public Service is of the view that community gardens should not be a prescribed amenity in every new development, as they require community support and consultation. Community gardens may be added to new developments on a case-by-case basis.

On November 29, 2022, the Standing Policy Committee on Public Works granted the Public Service a 270-day extension to report back on the inclusion of new design standards and construction specifications within the Existing Parameters review. The Public Service acknowledges there is still much work to be done to update and refresh the City's design standards and construction specifications. This documentation will need to be reviewed by stakeholders, both internal and external, with a goal of reaching consensus between the Public Service and UDI for these standards. The Public Service intends to continue working on this documentation throughout 2023, with the goal being that the refreshed documentation can be incorporated as a reference document in the 2023/2024 New Parameters review.

Next Steps

The Public Service and UDI will continue discussions regarding pavement maintenance and warranty in 2023/2024.

Dedication for public park purposes based on density will be further investigated by the Public Service in 2023/2024.

FINANCIAL IMPACT

Financial Impact Statement Date: March 31, 2023

Project Name:

Development Agreement Parameters Review

COMMENTS:

While there will be financial implications associated with the recommendations contained in this report, those implications are not reasonably determinable at this time as they will be dependent on the specifics of future development agreements and, as such, will be the subject of future reports to Council or committees thereof, as applicable.

Mike McGinn Mar. 31, 2023
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

Legal Services

OURWINNIPEG POLICY ALIGNMENT

Within Complete Communities 2.0:

VISION
The City will integrate land use and infrastructure planning with capital budgeting to achieve long term financial sustainability.

Goal 3
3.0 Ensure growth is fiscally sustainable.

Development Agreement Parameters
3.2 Establish guidelines in the form of Development Agreement Parameters to outline the fair and equitable sharing of costs for servicing, subdivision, and development of land.
3.2.1 Address infrastructure and servicing elements that fall outside the limits of a proposed subdivision or development proposal that are triggered by the proposed development.
3.2.2 Outline the conditions to be included in development agreements.
3.2.3 (A) Update and amend the Development Agreement Parameters in collaboration with the development industry stakeholders.
3.2.4 Base updates to the Development Agreement Parameters on the principles identified in Goal 1.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Strategic Opportunity #4
Facilitate Compact, Complete Development and Increase Density
4.2 Ensure New Areas of Growth are Designed According to the Principles of Complete Communities

Strategic Opportunity
#7 Community Climate Resiliency
7.3 Preserve and Manage Parks and Natural Areas to Support Climate Change Mitigation

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

The New Parameters do not have a direct impact or alignment on the City's Poverty Reduction Strategy.

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Gord Chappell, Manager of Real Estate and Land Development
Date: April 2, 2023
File No: TBD

Attachments:

Schedule A

Schedule B

Schedule C – Draft Amending By-law