

File Nos. CI17-01-05956
CI17-01-05957
and CI17-01-05958

File No. CI17-01-05956

BETWEEN:

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

LADCO COMPANY LTD.

applicant,

- and -

THE CITY OF WINNIPEG,

respondent,

APPLICATION UNDER: *The City of Winnipeg Charter, S.M. 2002, c. 39; The Constitution Act 1867 and The Court of Queen's Bench Act S.M. 1988-89 c.4*

File No. CI17-01-05957

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE MATTER OF: The City of Winnipeg Charter Act, City of Winnipeg By-law 127/2016 and Section 92(2) of the Constitution Act 1867

BETWEEN:

**RIDGEWOOD WEST LAND CORP.,
and SAGE CREEK DEVELOPMENT CORPORATION**

applicants,

- and -

THE CITY OF WINNIPEG,

respondent.

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

**IN THE MATTER OF: City of Winnipeg By-law 127/2016, as amended
and passed on October 26, 2016, *The City of Winnipeg Charter S.M. 2002,*
c. 39 and subsections 92(2) and (9) of the *Constitution Act, 1867*
BETWEEN:**

**URBAN DEVELOPMENT INSTITUTE (MANITOBA DIVISION)
AND MANITOBA HOME BUILDERS' ASSOCIATION INC.,**
applicants,

- and -

THE CITY OF WINNIPEG,
respondent.

**AFFIDAVIT OF VALDENE LAWSON
SWORN THE 14TH DAY OF MARCH, 2019**

**KRISTA L. BORYSKAVICH
Director of Legal Services and City Solicitor
3rd Floor, 185 King Street
Winnipeg, Manitoba R3B 1J1**

**DEREK M. OLSON
Telephone: 986-2285
Facsimile: 947-9155**

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BETWEEN:

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IN THE MATTER OF: The City of Winnipeg Charter Act, City of Winnipeg By-law 127/2016 and Section 92(2) of the Constitution Act 1867

BETWEEN:

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**THE QUEEN'S BENCH
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IN THE MATTER OF: City of Winnipeg By-law 127/2016, as amended and passed on October 26, 2016, *The City of Winnipeg Charter S.M. 2002, c. 39 and subsections 92(2) and (9) of the Constitution Act, 1867*

BETWEEN:

**URBAN DEVELOPMENT INSTITUTE (MANITOBA DIVISION)
AND MANITOBA HOME BUILDERS' ASSOCIATION INC.,**
applicants,

- and -

THE CITY OF WINNIPEG,
respondent.

AFFIDAVIT OF VALDENE LAWSON

I, **Valdene Lawson**, of the City of Winnipeg, In the Province of Manitoba,

SWEAR THAT:

1. I am a Senior Planner in the Planning, Property and Development Department of The City of Winnipeg (**the "City"**) and as such I have personal knowledge of the facts herein deposed to by me, except when stated to be based on information and belief, and where so stated I verily believe them to

be true.

2. Prior to my current position with the City, I was the Manager of Regulatory Reform for six years and the Manager of Planning and Land Use for five years with the City. I have been a member of the Board of Directors for the Canadian Institute of Planners and was previously a President of the Manitoba Professional Planners Institute. In addition, I am a Registered Professional Planner with the Manitoba Professional Planners Institute, as well as a Full Member of the Canadian Institute of Planners.

3. I make this affidavit in response to the applications filed by the Applicant Ladco Company Limited ("**Ladco**"), the Applicant Ridgewood West Land Corp. ("**Ridgewood Corp.**"), the Applicant Sage Creek Development Corporation ("**Sage Creek Corp.**"), the Applicant Urban Development Institute (Manitoba Division) ("**UDI Manitoba**") and the Manitoba Home Builders' Association Inc. ("**MHBA**") (**hereinafter referred to collectively as the "Applicants"**) seeking a number of remedies which include but are not limited to seeking an order of certiorari to quash the Impact Fee By-Law No. 127/2016 (**the "Impact Fee By-Law"**).

4. In preparing this affidavit, I have reviewed the following:
- (a) the affidavit of Mike Moore, sworn November 28, 2017 **(the “Moore Affidavit”)**;
 - (b) the affidavit of Eric Vogan, affirmed November 29, 2017 **(the “First Vogan Affidavit”)**;
 - (c) the affidavit of Alan Borger, sworn February 27, 2018 **(the “Borger Affidavit”)**;
 - (d) the affidavit of Michael Carruthers, sworn April 11, 2018 **(the “Carruthers Affidavit”)**;
 - (e) the affidavit of Tony Balaz, affirmed April 12, 2018 **(the “Balaz Affidavit”)**;
 - (f) the affidavit of Ken Braun, affirmed April 12, 2018 **(the “Braun Affidavit”)**; and
 - (g) the affidavit of Eric Vogan, affirmed December 1, 2018 **(the “Second Vogan Affidavit”)**
- (collectively, the “Affidavits”).**

The Regulatory Scheme

5. In response to paragraph 12 of the Second Vogan Affidavit, The City of Winnipeg Charter, SM 2002, c. 39 (**the “Charter”**) was given Royal Assent on August 9, 2002 and came into force on January 1, 2003.

6. In response to paragraphs 14 to 42 of the First Vogan Affidavit, paragraphs 7 to 25 of the Borger Affidavit, and paragraphs 10 to 37 of the Second Vogan Affidavit, the City is governed by legislation and has many by-laws and policies in place to ensure not only that new development takes place in a way that is appropriate, but that buildings meet minimum standards of safety and quality, that infrastructure is planned and built thoughtfully, and that the City provides appropriate levels of civic services to accommodate new growth, including solid waste collection, libraries, recreation facilities, and transit, police and fire response services. This regulatory scheme (**the “Regulatory Scheme”**) includes but is not limited to the following:

- (a) the Charter;
- (b) the *Police Services Act*, S. M. 2009, c. 32;
- (c) the OurWinnipeg Plan By-Law No. 67/2010 (**“OurWinnipeg”**);

- (d) the Complete Communities Direction Strategy By-Law No. 68/2010 (**“Complete Communities”**);
- (e) the Sustainable Transportation Direction Strategy Council Policy (**“Sustainable Transportation”**);
- (f) the A Sustainable Water and Waste Direction Strategy Council Policy (**“Sustainable Water and Waste”**);
- (g) the Sustainable Winnipeg Direction Strategy Council Policy (**“Sustainable Winnipeg”**);
- (h) the Development Procedures By-law No. 32/2005;
- (i) the Downtown Winnipeg Zoning By-law No. 100/2004;
- (j) the Encroachment By-law No. 692/74;
- (k) the Fire Paramedic Service By-Law No. 6311/94;
- (l) the Fire Prevention By-law No. 35/2017;
- (m) the Heritage Conservation Districts By-law No. 87/2018;
- (n) the Historical Resources By-law No. 55/2014;
- (o) the Lot Grading By-law No. 7294/98;

- (p) the Private Access By-law No. 49/2008;
- (q) the Residential Buildings Fire Safety By-law No. 4304/86;
- (r) the Sewer By-law No. 106/2018;
- (s) the Solid Waste By-law No. 110/2012;
- (t) the Streets By-law No. 1481/77;
- (u) the Subdivision Standards By-law No. 7500/99;
- (v) the Vacant Buildings By-law No. 79/2010;
- (w) the Water By-law No. 107/2015;
- (x) the Winnipeg Building By-law No. 4555/87;
- (y) the Winnipeg Electrical By-law No. 86/2018;
- (z) Winnipeg Police Service Regulation By-Law No. 7610/2000;
- (aa) the Winnipeg Zoning By-law No. 200/2006;
- (bb) various secondary plan by-laws, including but not limited to
 - (i) the Airport Area West Secondary Plan By-law No. 8097/2002;

- (ii) the Airport Vicinity Protection Area Secondary Plan By-law No. 6378/94;
 - (iii) the Corydon-Osborne Area Plan By-law No. 99/2014;
 - (iv) the Henderson Highway Corridor Secondary Plan By-law No. 3215/82;
 - (v) the North St. Boniface Secondary Plan By-law No. 30/2017;
 - (vi) the Osborne Village Neighbourhood Secondary Plan By-law No. 220/2006;
 - (vii) the Precinct "E" Precinct Plan By-law No. 97/2014;
 - (viii) the Precinct "G" Secondary Plan By-law No. 5/2018;
 - (ix) the Precinct K Precinct Plan By-law No. 48/2014; and
 - (x) the Waverley West Area Structure Plan By-law No. 10/2006;
- (cc) various non-statutory local area plans adopted as Council Policies, including but not limited to
- (i) the Assiniboia Downs Local Area Plan;

- (ii) the Bishop Grandin Crossing Local Area Plan;
 - (iii) the Dawson Trail Local Area Plan;
 - (iv) the Railside at The Forks Local Area Plan; and
 - (v) the Taylor Redevelopment Local Area Plan; and
- (dd) various Council Policies, including but not limited to
- (i) the Active Transportation Policy;
 - (ii) the Development Agreement Parameters Policy **(the “DAPs”)**;
 - (iii) the Housing Policy;
 - (iv) the Recreation, Leisure and Library Facilities Policy;
 - (v) the Transit-Oriented Development Handbook Policy;
 - (vi) the Transportation Master Plan Policy; and
 - (vii) the Universal Design Policy.

7. In response to paragraphs 17 and 18 of the First Vogan Affidavit, in accordance with clause 2(a) of The Planning Act, CCSM c. P80, **(the “Planning Act”)**, the Planning Act does not apply to the City, with the exception of section 2 – Provincial Land Use Policies, section 10 – Regional Strategies and sections 12.9 and 12.11 – Inland Port Special Planning Authority.

8. In further response to paragraphs 17 and 18 of the First Vogan Affidavit, while the overall structure laid out in Part 6 of the Charter is generally similar to that laid out in the Planning Act, the Charter and the Planning Act are not identical. The City is regulated under and derives its authority from the Charter.

9. In response to paragraph 75 of the First Vogan Affidavit and paragraph 32 of the Second Vogan Affidavit, I am unaware of any reference within the Regulatory Scheme to “permit-ready” land.

10. In further response to paragraph 75 of the First Vogan Affidavit and paragraph 32 of the Second Vogan Affidavit, I note that subsection 210(1) of the Charter states:

210(1) The city may, if authorized by council, establish:

- (a) The method of calculating the prices, rates, fees, deposits or other charges, which may vary depending on the type of use or consumption, the quantity used or consumed, or the type of property in which use or consumption takes place; and*
- (b) Fees, and the method of calculating and the terms of payment of fees, for*
 - (i) Applications,*
 - (ii) Filing appeals under this Act or a by-law,*
 - (iii) Permits, licences, consents and approvals,*
 - (iv) Inspections,*
 - (v) Copies of by-laws and other city records including records of hearings, and*
 - (vi) Other matters in respect of the administration of this Act or the administration of the affairs of the city.*

11. In response to paragraph 73 of the Borger Affidavit, I note that clause 210(1)(b)(vi) specifically authorizes the City to establish fees, including the method of calculation and terms of payment of those fees, for matters in respect of the administration of the affairs of the City.

Development in Winnipeg

12. As pointed out in the First Vogan Affidavit and the Second Vogan Affidavit, development can be seen as layers of regulations and approvals, each with increasing specificity.

13. In response to paragraph 39 of the First Vogan Affidavit and paragraph 37 of the Second Vogan Affidavit, the procedures governing approval of development applications in Winnipeg are found in the Charter, the Procedure By-law No. 50/2007 and the Development Procedures By-law.

14. In response to paragraph 14 of the Second Vogan Affidavit, OurWinnipeg was enacted as the City's development plan as required by section 224 of the Charter. OurWinnipeg was given First Reading on June 23, 2010, Second Reading on July 21, 2010 and, following approval by the Minister, Third Reading on July 20, 2011. OurWinnipeg came into force on August 17, 2011 and is the City's foundational development plan for all of Winnipeg. Next to the Charter, OurWinnipeg can be seen as the broadest layer of regulation of development in Winnipeg as it sets out high-level policies that apply to all of Winnipeg.

15. In response to paragraph 13 of the Borger Affidavit, the Plan Winnipeg By-law No. 7630/2000 was enacted on December 12, 2001 pursuant to section 576 of The City of Winnipeg Act, SM 1989-90, c. 10. The City of Winnipeg Act was repealed and replaced by the Charter in 2002 and the Plan Winnipeg By-law was repealed and replaced by OurWinnipeg in 2011.

16. In response to paragraph 14 of the Borger Affidavit, one of the Key Directions for Providing Options to Accommodate Growth found in section 01-1b Key Directions For The Entire City at page 31 of OurWinnipeg is to “[e]nsure that a sufficient supply of developable land emerges at an appropriate pace and that the supply remains well distributed both in terms of geography and scale to ensure a competitive market”.

17. OurWinnipeg is supported by four direction strategies: Complete Communities, A Sustainable Winnipeg, Sustainable Water & Waste and Sustainable Transportation (**collectively, the “Direction Strategies”**).

18. In response to paragraph 24 of the First Vogan Affidavit and paragraph 17 of the Second Vogan Affidavit, Complete Communities is the only direction strategy that has been adopted by Council as a secondary plan by-law. However, the other three direction strategies – A Sustainable Winnipeg, Sustainable Transportation and Sustainable Water and Waste – were all

adopted as Council Policy on July 21, 2010.

19. As stated on page 11 of Council Minute No. 496 dated July 21, 2010, a copy of which is attached hereto as **Exhibit "A"**, OurWinnipeg is the City's "long range policy plan that will guide the physical, social, environmental, and economic development of our city".

20. As stated on page 12 of **Exhibit "A"**, the Direction Strategies "provide detailed policies, directions and strategies necessary for implementation" of OurWinnipeg.

21. OurWinnipeg and the Direction Strategies inform all policy decisions within the City in that all public works, undertakings and development within Winnipeg must be consistent with OurWinnipeg and any secondary plan pursuant to section 235 of the Charter.

22. In response to paragraph 25 of the First Vogan Affidavit and paragraph 16 of the Second Vogan Affidavit, pursuant to section 234 of the Charter, the City may, by by-law, adopt secondary plans "to provide such objectives and actions as council considers necessary or advisable to address, in a neighbourhood, district or area of the city, any matter within a sphere of authority of the city". Historically, the City has also adopted non-statutory

local area plans or precinct plans. These non-statutory plans are adopted as Council Policy and don't have the force or effect of by-laws.

23. In response to paragraph 26 of the First Vogan Affidavit and paragraph 35 of the Second Vogan Affidavit, statutory secondary plan by-laws, and non-statutory local area plans or precinct plans, can be seen as the next layer in the regulation of development in Winnipeg. They set out reasonably high-level planning policies that relate to a specific geographic area of Winnipeg and outline general land use, infrastructure and policy considerations but that rarely speak to specific infrastructure or servicing requirements.

24. Zoning by-laws form the next layer of regulation of development in Winnipeg. Zoning by-laws put the long-range policy plan of a municipality into effect by controlling the use of land within that municipality. Zoning by-laws break the land to which they apply into different zoning districts and attach rules to those zoning districts in respect of how the land in that zoning districts may be used, where building or other structures within that zoning districts may be located, the type size, design and use of buildings that are permitted within that zoning districts, the lot sizes, setbacks and dimensions that are permitted or required within that zoning districts, etc. The rules imposed by zoning by-laws are different for each zoning districts and

development and land uses must be in compliance with the relevant zoning by-law.

25. In response to paragraph 28 of the First Vogan Affidavit and paragraph 18 of the Second Vogan Affidavit, the City has enacted two zoning by-laws pursuant to section 236 of the Charter: the Downtown Winnipeg Zoning By-law No. 100/2004 in respect of the Downtown area and the Winnipeg Zoning By-law No. 200/2006 in respect of the rest of Winnipeg.

26. In response to paragraph 29 of the First Vogan Affidavit and paragraph 19 of the Second Vogan Affidavit, section 68 of The Planning Act, CCSM c. P80, requires that a municipality “adopt a zoning by-law that is generally consistent with the development plan by-law and any secondary plan by-law in effect in the municipality”. However, I am unaware of any requirement under the Charter that the City’s zoning by-laws be consistent with OurWinnipeg or any relevant secondary plan.

27. Within the Winnipeg Zoning By-law, the City has enacted various Planned Development Overlays (“PDO”s) in respect of various areas of Winnipeg. A PDO further narrows the rules imposed by the Winnipeg Zoning By-law in respect of the specific area of Winnipeg to which that PDO applies.

28. The City's zoning by-laws set out which land uses are permitted within each zoning district. In addition to permitted uses, the City's zoning by-laws also set out conditional land uses which require special approval, which typically involves a public hearing, in accordance with the Charter and the Development Procedures By-law.

29. Development of a specific piece of land will often involve subdivision of that land, rezoning of the land (i.e. a change in the zoning district in respect of that land), approval of a conditional use or approval of a variance, or any combination thereof.

30. In accordance with the Charter, the City must conduct a public hearing in respect of any application for subdivision that creates new public streets or any application for a change in zoning designation before the application is approved.

31. In response to paragraph 32 of the First Vogan Affidavit and paragraph 22 of the Second Vogan Affidavit, pursuant to the Development Procedures By-law, a public hearing is not required for a subdivision that will not create new public streets and will not require a change in zoning designation.

32. In response to paragraph 33 of the First Vogan Affidavit and paragraph 23 of the Second Vogan Affidavit, a proposed subdivision must not be approved unless it meets the criteria listed in subsection 257(1) of the Charter, namely that:

- (a) the land within the proposed subdivision is suitable for its intended purpose; and*
- (b) the proposed subdivision conforms with*
 - (i) OurWinnipeg;*
 - (ii) any applicable secondary plan;*
 - (iii) the applicable zoning by-law; and*
 - (iv) the Subdivision Standards By-law.*

33. Under the Charter, approval of a development application may be made subject to one or more conditions.

34. In response to paragraph 34 of the First Vogan Affidavit, paragraph 24 of the Second Vogan Affidavit and paragraph 25 of the Borger Affidavit, pursuant to subsection 259(1) of the Charter, the City may, as a condition of approval of a proposed subdivision, require a developer to dedicate streets within the subdivision and also convey to the City no less than 10% of the land for purposes of the City other than streets, without consideration or for

nominal consideration. The 10% dedication of land is typically used to provide park land and green space to benefit the proposed subdivision.

35. Pursuant to subsection 119(2) of The Real Property Act, CCSM c. R30 (**the “Real Property Act”**), title to all public streets within Winnipeg vests in Her Majesty the Queen in Right of the Province of Manitoba. Attached hereto as **Exhibit “B”** is the Status of Title for a portion of Leila Avenue and attached hereto as **Exhibit “C”** are the relevant provisions of The Real Property Act.

36. In further response to paragraph 25 of the Borger Affidavit, where no application has been received by the City for a proposed subdivision, the City cannot simply “take” land without compensation. It is my understanding that if the City required land for streets or for purposes of the City other than streets, and no development application had been received for a proposed subdivision, the City would be required to expropriate the required land in accordance with The Expropriation Act, CCSM c. E190.

37. In response to paragraph 37 of the First Vogan Affidavit and paragraph 25 of the Second Vogan Affidavit, subsection 240(1) authorizes the City to impose, as a condition of approval of a rezoning, a development agreement which provides for any of the following:

- (a) the use of the land and any existing or proposed building;*
- (b) the timing of construction of a proposed building;*
- (c) the siting and design of a proposed building, including the materials to be used for the exterior of the building;*
- (d) the provision of affordable housing, if the application is to permit a new residential development that is subject to a requirement under clause 236(2)(t.1) of the Charter;*
- (e) traffic control and parking facilities;*
- (f) landscaping, open space, and grading of land; and*
- (g) any condition described in subsection 259(1) of the Charter.*

38. Any development agreement imposed as a condition of approval of a rezoning is commonly referred to within the City and the development industry as a “Zoning Agreement”.

39. In further response to paragraph 37 of the First Vogan Affidavit and paragraph 25 of the Second Vogan Affidavit, subsection 259(1) of the Charter outlines the conditions that the City is authorized to impose as a condition of approval of a proposed subdivision, including the condition that the developer

enter into one or more agreements with the City. Any agreement entered into by a developer and the City pursuant to subsection 259(1) of the Charter is commonly referred to within the City and the development industry as a "Development Agreement" where one or more public streets are being created or as a "Servicing Agreement" where no public streets are being created. In this Affidavit, I will refer to any agreement imposed as a condition of approval of a plan of subdivision as a "Development Agreement" for ease of reference.

40. In response to paragraph 8 of the Borger Affidavit,

(a) subsection 259(1) of the Charter reads as follows:

Conditions for plans of subdivision

259(1) Council may, by by-law, provide that approval of proposed plans of subdivision be made subject to one or more of the following conditions:

- (a) that at least 10% of the land be conveyed to the city for purposes of the city other than streets, without consideration or for nominal consideration;*
- (b) that instead of setting the condition under clause (a), money be paid to the city for the purchase of land for purposes of the city other than streets;*
- (c) that all outstanding taxes, including local improvement taxes, be paid;*
- (d) that streets within the proposed subdivision be*

dedicated as council considers necessary;

(e) that where land in the proposed subdivision abuts on an existing street, land in the proposed subdivision, other than land occupied by an existing building, be conveyed for the purposes of making the street conform with any provision respecting streets of a by-law passed under section 255 (subdivision standards by-law);

(f) that the owner of land within a proposed subdivision enter into one or more agreements with the city respecting such matters as council considers advisable or necessary, which agreements may include, without limiting the generality of the foregoing, requirements that

(i) the owner pay to the city some or all of the cost of existing or future public works, including the cost of any related environmental, engineering or other studies or reports, which benefit or will benefit the proposed subdivision,

(ii) the owner construct or pay for all or part of the capacity of the public works in excess of the capacity required for the proposed subdivision, and

(iii) the city reimburse the owner for the cost, including interest at such rate as is agreed on, of the excess capacity referred to in subclause (ii) when money is recovered by the city from owners of other lands benefited by the excess capacity or at some earlier time.

(b) section 235 of the Charter provides that the passing of OurWinnipeg or a secondary plan by-law does not require that Council, any person, or any department or agency of the

government undertake a proposal contained in OurWinnipeg or a secondary plan by-law, but public works, undertakings and development in the Winnipeg must be consistent with OurWinnipeg and any applicable secondary plan by-law;

- (c) the Subdivision Standards By-law and the Development Agreement Parameters only apply where a Development Agreement has been imposed as a condition of approval of a proposed subdivision; and
- (d) the procedures for approval of development applications are governed by the Charter, the Procedure By-law and the Development Procedures By-law.

41. In response to paragraph 30 of the First Vogan Affidavit and paragraph 20 of the Second Vogan Affidavit, pursuant to sections 247 and 254 of the Charter, a variance or a conditional use must not be approved unless the conditional use in question meets the criteria listed in subsection 247(3) of the Charter, namely:

- (a) is consistent with OurWinnipeg and any applicable secondary plan;*
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area,*

including an area separated from the property by a street or waterway;

(c) is the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

(d) is compatible with the area in which the property to be affected is situated.

42. In response to paragraph 31 of the First Vogan Affidavit and paragraph 21 of the Second Vogan Affidavit, historically, variances have been used to accommodate minor adjustments of the relevant zoning by-law, but larger deviations from the rules set out in a zoning by-law would require either a change in the zoning designation of a particular property or a text amendment to the zoning by-law. Under subsection 247(3) of the Charter, a variance must not be approved unless it also meets the criteria reproduced in paragraph 41 herein.

43. In further response to paragraph 37 of the First Vogan Affidavit, pursuant to sections 248 and 254 of the Charter, approval of a variance or of a conditional use may be made subject to any condition that "will ensure that any development to be carried out under the variance [or conditional use] meets the criteria" listed in subsection 247(3) of the Charter and reproduced in paragraph 41 herein.

44. In further response to paragraph 37 of the First Vogan Affidavit, in accordance with the Development Procedures By-law, variances and conditional uses, unless they form part of a combined hearing, are approved in limited instances by the Director of the City's Planning Property and Development Department (**the "Director"**) and in all other instances by the Board of Adjustment (**the "BOA"**). I am unaware of any authority under the Charter given to either the Director or the BOA to impose as a condition of approval of a variance or a conditional use the requirement that the developer enter into a Development Agreement with the City. I am also unaware of any delegated authority from Council to the Director or the BOA to impose as a condition of approval of a variance or a conditional use the requirement that the developer enter into a Development Agreement with the City.

Development Agreements

45. In response to paragraphs 35 and 40 to 42 of the First Vogan Affidavit and paragraphs 26, 28 and 29 of the Second Vogan Affidavit, the Subdivision Standards By-law outlines the obligations that may or must be included in a Development Agreement. Clause 2(a) of the Subdivision Standards By-law states that a Development Agreement must require a developer to install required services and improvements as provided for in the DAPs, which

outlines the general obligations that may be contained in a Development Agreement.

46. In response to paragraph 18 of the Borger Affidavit, the Subdivision Standards By-law and the DAPs only apply where a Development Agreement has been imposed as a condition of approval of a proposed subdivision.

47. The DAPs were adopted as Council Policy on July 17, 2002. As stated in the Preface to the DAPs, “[e]ach development will be governed by its respective development agreement, not by these guidelines although experience indicates the Development Agreement Parameters will be followed with few exceptions”. Because the DAPs are policy and not a by-law, they provide guidelines which may be deviated from; however, in my experience, the DAPs are rarely deviated from and form the basis of the vast majority of Development Agreements.

48. In response to paragraphs 60 to 70 of the First Vogan Affidavit, paragraphs 102 to 104, 112 to 120, 126 and 127 of the Second Vogan Affidavit and paragraphs 11, 12 and 20 of the Borger Affidavit, typically the costs for which a developer is responsible under a Development Agreement are the costs of infrastructure within and in the vicinity of a particular development that are required to service and support that development. With few

exceptions, Development Agreements are specific to a particular development and do not recover the wider costs to the City as a whole that are associated with growth, as is pointed out in paragraph 62 of the First Vogan Affidavit.

49. In accordance with the DAPs and the Subdivision Standards By-law, a typical Development Agreement will require the developer to install, or contribute to the cost of, the infrastructure within or in the vicinity of the proposed development that is required to service or support that development, including:

- (a) wastewater sewers;
- (b) land drainage sewers;
- (c) land drainage facilities, including stormwater retention basins and waterways;
- (d) water service pipes;
- (e) street and sidewalk pavements;
- (f) traffic control devices and traffic signs;
- (g) boulevards;

- (h) street name signs and ornamental street lighting;
- (i) underground utility services, including electrical, telephone and cablevision; and
- (j) public park improvements.

50. In addition, in accordance with the DAPs and the Subdivision Standards By-law, a typical Development Agreement will require a developer to maintain insurance, provide the City with securities, pay all professional and administration fees and maintain certain improvements for a specified period of time. Where the proposed development directly benefits from services installed by others, a typical Development Agreement will also require a developer to pay their share of the costs of those services.

51. Both the Subdivision Standards By-law and the DAPs provide for developer reimbursement where the developer installs or pays for services that directly benefit a nearby development.

52. In response to paragraph 30 of the Second Vogan Affidavit, pursuant to subsection 268(1) of the Charter, the City may register Development Agreements or Servicing Agreements against title to the land affected by the Development Agreement or the Servicing Agreement by way of caveat. When

so registered, the Development Agreement or the Servicing Agreement runs with the land and binds the then owner of the land and any successors in title.

53. In response to paragraph 20 of the Borger Affidavit, a Development Agreement will typically provide for the infrastructure required within or in the vicinity to a proposed development in order to service and support that development. My understanding of the DAPs is that the costs contemplated therein relate to infrastructure within or in the vicinity of a proposed subdivision that is required to service or support that proposed subdivision.

The Impact Fee By-law

54. In response to paragraph 83 of the Borger Affidavit, paragraphs 5 and 8 of the Carruthers Affidavit and paragraphs 16 to 18, 21 and 22 of the Moore Affidavit, attached hereto as **Exhibit "D"** is a copy of a letter from the Province of Manitoba dated July 28, 2015 which indicates that the City has authority to recover development-related infrastructure costs by various methods, including under its general authority.

55. In further response to paragraph 83 of the Borger Affidavit, paragraphs 5 and 8 of the Carruthers Affidavit and paragraphs 16 to 18, 21 and 22 of the Moore Affidavit, I note that section 6 of the Charter reads as follows:

Broad authority

6(1) The powers given to council under this Act are stated in general terms

- (a) to give broad authority to council to govern the city in whatever way council considers appropriate within the jurisdiction given to it under this or any other Act; and*
- (b) to enhance the ability of council to respond to present and future issues in the city.*

56. The Impact Fee By-law No. 127/2016 (**the “By-law”**) was enacted by Council on October 26, 2016. A copy of the By-law is attached hereto as **Exhibit “E”**.

57. As outlined in the preamble, the purpose of the By-law is to impose fees to defray the costs to the City as a whole associated with accommodating and managing growth and development, ensuring that these costs are “more fully paid for by the individuals and businesses directly benefitting from growth and development” as opposed to taxpayers generally.

Phased-in Implementation

58. In response to paragraphs 98 to 120 of the Borger Affidavit, the Impact Fee By-law is being implemented in three phases in accordance with the decision of the City's municipal council ("**Council**"). A copy of Council Minute No. 604 dated October 26, 2016 (the "**Council Decision**") is attached hereto as **Exhibit "F"**.

59. In further response to paragraphs 98 to 120 of the Borger Affidavit, paragraph 5 of the Balaz Affidavit and paragraph 5 of the Braun Affidavit, in accordance with the Council Decision, in the first phase of implementation of the Impact Fee ("**Phase One**"), the Impact Fee will only apply to those areas of Winnipeg identified either as a "New Community" or as an "Emerging Community" as identified in OurWinnipeg and Complete Communities, and the amount of the Impact Fee is \$54.73 per m² for residential development and \$0.00 for each of the remaining 4 categories outlined in the Impact Fee By-law – office, commercial, industrial, and public and institutional.

60. In further response to paragraphs 98 to 120 of the Borger Affidavit, paragraph 5 of the Balaz Affidavit and paragraph 5 of the Braun Affidavit, in Phase One, in accordance with the Council Decision, the Impact Fee By-law only applies to any area of the City identified as a "New Community" or as an

“Emerging Community”, as identified in OurWinnipeg and Complete Communities.

61. In further response to paragraphs 98 to 120 of the Borger Affidavit, “New Communities” and “Emerging Communities” are existing policy areas under the City’s long-range planning policy documents, OurWinnipeg and Complete Communities. Areas identified as “New Communities” or “Emerging Communities” are areas of Winnipeg where significant development or growth is currently being undertaken or is anticipated to be undertaken in the near future.

62. In further response to paragraphs 98 to 120 of the Borger Affidavit, “New Communities” are the areas shown on the maps at page 29 of OurWinnipeg and page 73 of Complete Communities. OurWinnipeg and Complete Communities define “New Communities” as “large land areas identified for future urban development. These areas are not currently served by a full range of municipal services. Many of these lands were previously designated as Rural Policy Area in Plan Winnipeg 2020”.

63. In further response to paragraphs 98 to 120 of the Borger Affidavit, “Emerging Communities” are described at page 28 of OurWinnipeg and at page 88 of Complete Communities as “a subset of Recent Communities”.

“Recent Communities” are the areas shown on the maps at page 29 of OurWinnipeg and page 87 of Complete Communities. Complete Communities further describes “Emerging Communities” as having a typically curvilinear local road pattern with cul-de-sacs, as being recently planned but still under development, as containing primarily low density residential with some multi-family and retail, and as having an adopted local area plan in place. Attached as **Exhibit “G”** are pages 78 and 88 of Complete Communities.

64. In further response to paragraphs 98 to 120 of the Borger Affidavit, the Impact Fee By-law includes, as Schedule A to that By-law (**“Schedule A”**), a set of 11 maps which precisely define the geographic areas to which phase one of implementation of the Impact Fee By-law applies.

65. In further response to paragraphs 98 to 120 of the Borger Affidavit, it is my understanding that the areas included in Schedule A were not chosen arbitrarily or at random. It is my understanding that the areas included in Schedule A are those areas that are either considered to be a “New Community”, namely any area that is shown as a “New Community” on the maps identified in paragraph 42 herein, or considered to be an “Emerging Community”, namely any area that is shown as a “Recent Community” on the maps identified in paragraph 43 herein for which an adopted local area plan is

in place.

66. In further response to paragraphs 98 to 120 of the Borger Affidavit, maps 2, 3, 4, 5, 9 and 10 of Schedule A represent areas that are considered to be “New Communities”, while maps 6, 8 and 11 of Schedule A represent areas that are considered to be “Emerging Communities”. Map 7 of Schedule A includes areas that are considered to be “New Communities” as well as areas that are considered to be “Emerging Communities”.

67. In further response to paragraphs 98 to 120 of the Borger Affidavit, the “New Communities” included in Schedule A are as follows:

- (a) the Wilkes area, comprised of Precincts M, N, O, P and Q, shown on map 2 of Schedule A;
- (b) the Old Kildonan area, comprised of Precincts A, B, D, E, F, G, C and T, shown on map 3 of Schedule A;
- (c) the Kilcona Park area, comprised of Precinct H, shown on map 4 of Schedule A;
- (d) the Transcona North area, comprised of Precinct I, shown on map 5 of Schedule A;

- (e) the Dawson Trail area, comprised of Precinct J, shown on map 7 of Schedule A;
- (f) the South St. Boniface area, comprised of Precinct K, shown on map 7 of Schedule A;
- (g) the Trappistes area, comprised of Precinct L, shown on map 9 of Schedule A; and
- (h) the Red River Ex area, comprised of Precinct R, shown on map 10 of Schedule A.

68. In further response to paragraphs 98 to 120 of the Borger Affidavit, the “Emerging Communities” included in Schedule A are as follows:

- (a) the Transcona West area, shown on map 6 of Schedule A, to which the Transcona West Area Structure Plan By-law No. 215/2006 applies;
- (b) the South St. Boniface area, shown on map 7 of Schedule A, to which the South St. Boniface Area Structure Plan By-law No. 158/2005 applies;
- (c) the Waverley West area, shown on map 8 of Schedule A, to which

the Waverley West Area Structure Plan By-law No. 10/2006 applies; and

- (d) the North Henderson Highway area, shown on map 11 of Schedule A, to which the North Henderson Highway Secondary Plan By-law No. 1300/76 and the Henderson Highway Corridor Secondary Plan By-Law No. 3215/82 apply.

69. In further response to paragraphs 98 to 120 of the Borger Affidavit, it's important to note that the North Henderson Highway Secondary Plan By-law was enacted on January 19, 1977 but was nevertheless included in Schedule A as it fits the criteria used to determine the areas considered to be "Emerging Communities" - it is included as a "Recent Community" under OurWinnipeg and Complete Communities and it has a local area plan in place.

70. In further response to paragraphs 31, 35 and 98 to 120 of the Borger Affidavit, the Waverley West area, which includes both South Pointe and Prairie Pointe, fits the criteria used to determine the areas considered to be "Emerging Communities" - it is included as a "Recent Community" under OurWinnipeg and Complete Communities and it has a local area plan in place.


71. In further response to paragraphs 98 to 120 of the Borger Affidavit,

there are many areas within Winnipeg that are shown as “Recent Communities” on the maps listed in paragraph 43 herein that were not included in Schedule A because they had no local area plan in place.

72. In further response to paragraphs 98 to 120 of the Borger Affidavit, in accordance with the Council Decision, in the second phase of implementation (“Phase Two”), Council may consider implementing Impact Fee rates in respect of the remaining 4 categories in the areas to which the Impact Fee applies in Phase One no earlier than November 1, 2018, and in the third phase of implementation (“Phase Three”), Council may consider implementing the Impact Fee in all other areas of the City no earlier than November 1, 2019. As of the date of this affidavit, Phase Two and Phase Three have not been implemented.

73. I make this affidavit *bona fide*.

SWORN before me)
at the City of Winnipeg)
in the Province of Manitoba)
this 14th day of March, 2019.)


Vivian Li
A Barrister and Solicitor
in and for the Province of Manitoba


Valdene Lawson

Minute No. 496

Report - Executive Policy Committee - July 14, 2010

**Item No. 1 Plan Winnipeg Review - OurWinnipeg Plan By-law No. 67/2010
File PW 1/2010**

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

- I. That By-law No. 67/2010, the “OurWinnipeg Plan”, be amended to incorporate the following:
 - A. Errors and Omissions as outlined on Attachment “C” in the Public Service report dated June 28, 2010 (Exhibit 6) including the following:
 - i. On page 71 delete the image of the Telegraph Building and replace with an image of the Transcona Historical Museum
 - B. Errors and Omissions as outlined in the presentation from the Director of Planning, Property and Development and submitted at the public hearing on July 14, 2010 (Exhibit 7.D)
 - C. Amend all references to “Destination Winnipeg” to “Economic Development Winnipeg Inc.”
 - D. Further Errors and Omissions as outlined below:
 - i. Change Alternative Transportation definition where it appears in the OurWinnipeg glossary to: "Modes of transportation that are alternatives to travel by a single occupancy vehicle, including riding transit, walking, cycling, and carpooling." as used in Complete Communities.
 - ii. DENSITY/DENSIFICATION change definition where it appears in the OurWinnipeg glossary to: "In a planning context, density usually refers to the number of dwelling units, square metres of floor space, or people per acre or hectare of land." as used in Complete Communities.
 - iii. New Communities change definition where it appears in the OurWinnipeg glossary to: "New Communities are large land areas on the edge of the City identified for future urban development. These areas are not currently served by a full range of municipal services. Many of these lands were

Report - Executive Policy Committee - July 14, 2010

COUNCIL DECISION (continued):

previously designated as Rural Policy Area in Plan Winnipeg 2020." as used in Complete Communities.

- iv. RAPID TRANSIT change definition where it appears in the OurWinnipeg glossary to: "A form of urban public transportation with higher than normal capacity and higher than average speed, sometimes separated from other traffic in underground tunnels, above-ground bridges or separate rights-of-way. Rapid transit vehicles can include buses, light rail vehicles, and trains." as used in Complete Communities.
 - v. SpeakUpWinnipeg change definition where it appears in the OurWinnipeg glossary to: "The City of Winnipeg Charter requires the City, when reviewing its development plan (see Development Plan), to seek input from the public. SpeakUpWinnipeg refers to the public involvement process used for OurWinnipeg. The process encompassed varied possibilities for participation, from online discussions to focus groups and dialogue surrounding drafts and strategies." as used in Complete Communities.
 - vi. Delete references to Treaty Land Entitlement.
- E. Remove the words "While housing is not a primarily a municipal responsibility" from section 01-4 – Housing (pg. 54),
- and be forwarded to Council for second reading.
2. 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 - July 14, 2010

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted.

The motion for adoption of the item was put.

Councillor Swandel called for the yeas and nays, which were as follows:

Yea: His Worship Mayor Katz, Councillors Browaty, Fielding, Orlikow,
O'Shaughnessy, Pagtakhan, Steeves, Swandel, Wyatt and Nordman.

10

Nay: Councillors Gerbasi, Smith, Thomas and Vandal.

4

and the motion for adoption of the item was declared carried.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 14, 2010, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendments:

- Delete Recommendation 1 in its entirety and replace with the following:
 1. That By-law No. 67/2010, the “OurWinnipeg Plan”, be amended to incorporate the following:
 - A. Errors and Omissions as outlined on Attachment "C" in the Public Service report dated June 28, 2010 (Exhibit 6) including the following:
 - i. On page 71 delete the image of the Telegraph Building and replace with an image of the Transcona Historical Museum
 - B. Errors and Omissions as outlined in the presentation from the Director of Planning, Property and Development and submitted at the public hearing on July 14, 2010 (Exhibit 7.D)
 - C. Amend all references to “Destination Winnipeg” to “Economic Development Winnipeg Inc.”
 - D. Further Errors and Omissions as outlined below:

Report - Executive Policy Committee - July 14, 2010

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

- i. Change Alternative Transportation definition where it appears in the OurWinnipeg glossary to: "Modes of transportation that are alternatives to travel by a single occupancy vehicle, including riding transit, walking, cycling, and carpooling." as used in Complete Communities.
- ii. DENSITY/DENSIFICATION change definition where it appears in the OurWinnipeg glossary to: "In a planning context, density usually refers to the number of dwelling units, square metres of floor space, or people per acre or hectare of land." as used in Complete Communities.
- iii. New Communities change definition where it appears in the OurWinnipeg glossary to: "New Communities are large land areas on the edge of the City identified for future urban development. These areas are not currently served by a full range of municipal services. Many of these lands were previously designated as Rural Policy Area in Plan Winnipeg 2020." as used in Complete Communities
- iv. RAPID TRANSIT change definition where it appears in the OurWinnipeg glossary to: "A form of urban public transportation with higher than normal capacity and higher than average speed, sometimes separated from other traffic in underground tunnels, above-ground bridges or separate rights-of-way. Rapid transit vehicles can include buses, light rail vehicles, and trains." as used in Complete Communities
- v. SpeakUpWinnipeg change definition where it appears in the OurWinnipeg glossary to: "The City of Winnipeg Charter requires the City, when reviewing its development plan (see Development Plan), to seek input from the public. SpeakUpWinnipeg refers to the public involvement process used for OurWinnipeg. The process encompassed varied possibilities for participation, from online discussions to focus groups and dialogue surrounding drafts and strategies." as used in Complete Communities
- vi. Delete references to Treaty Land Entitlement,

Report - Executive Policy Committee - July 14, 2010

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

- E. Remove the words “While housing is not a primarily a municipal responsibility” from section 01-4 – Housing (pg. 54),

and be forwarded to Council for second reading.

Further on July 14, 2010, the Executive Policy Committee provided the following supporting reasons for the Plan Winnipeg Review – OurWinnipeg Plan By-law No. 67/2010, namely:

1. The Executive Policy Committee agreed with the administrative comments contained in the Report from the Winnipeg Public Service dated June 28, 2010.
2. The public consultation process undertaken by the Winnipeg Public Service during the preparation of the OurWinnipeg document reached out more so than ever before to people in the community.
3. OurWinnipeg is an over-reaching general document but yet gives people confidence as it contains enough specifics for a twenty-year long-term plan.
4. Amendments were made to address the concerns brought forward during public representation.
5. The OurWinnipeg Plan upholds the City’s responsibilities under The City of Winnipeg Charter Act.

PUBLIC HEARING SUMMARY

- File:** PW 1/2010
- Before:** Executive Policy Committee
His Worship Mayor Katz, Chairperson
Deputy Mayor Swandel
Councillor Fielding
Councillor O'Shaughnessy
Councillor Pagtakhan
Councillor Steeves
- Public Hearing:** July 14, 2010
Council Chamber
Council Building, 510 Main Street
- Applicant:** Director of Planning, Property and Development
- Subject:** A proposal to replace Plan Winnipeg Vision 2020 with OurWinnipeg Plan
- Exhibits/Submissions Filed:**
1. Application dated June 11, 2010
 2. Council Decision of June 23, 2010; contains report from the Director of Planning, Property and Development dated June 11, 2010
 3. First Reading of By-law No. 67/2010 by Council on June 23, 2010
 4. Notification of Public Hearing to:
 - A. Minister of Local Government dated June 23, 2010
 - B. Applicant (Director of Planning, Property and Development) dated June 23, 2010
 - C. Rural Municipalities within 1 km of the City of Winnipeg dated June 23, 2010
 - D. School Divisions in/surrounding the City of Winnipeg
 5. Notification of Public Hearing for newspaper advertisements received June 24, 2010
 6. Report from the Winnipeg Public Service dated June 28, 2010; includes Attachment B "OurWinnipeg Consultation Report" and Attachment C "Errors and Omissions - OurWinnipeg and Complete Communities"
 7. Presentation by the Applicant, Director of Planning, Property and Development, which includes:
 - A. PowerPoint Presentation
 - B. Call to Action for OurWinnipeg

-
- C. At-a-glances
 - D. Errors and Omissions dated July 12, 2010
 - E. Urban Structure Map
 - F. Employment Lands
 - G. Ecologically Significant Natural Lands Strategy and Policy
 - H. Downtown Employment Study
 - I. Climate Change Action Plan
 - J. Active Transportation Action Plan (2008)
 - K. Land Supply Data Table
 - L. CentrePlan
 - M. LiveSAFE – An Interconnected Crime Prevention Strategy
 - N. PlanWinnipeg 2020 Vision
 - O. Trends Report (December 2007)
 - P. Adjusted Population Projection (June 2009)
 - Q. Our Changing City PowerPoint (June 2010)
 - R. Inter-jurisdictional Comparison – OurWinnipeg Topic Areas
 - S. OurWinnipeg Provincial Policy Alignment
8. Communication dated July 9, 2010 from Jerry C. Klein, Vice-President, Winnipeg Region, Genstar Development Company, with respect to the application
 9. Communication from Mike Moore, President, Manitoba Homebuilders Association in support of the application
 10. Communication dated July 14, 2010 from Resource Conservation Manitoba with respect to the application submitted by Beth McKechnie
 11. Communication dated July 14, 2010 from Elizabeth Fleming in opposition to the application
 12. Communication undated from Paul Chorney, Winnipeg Food Policy Group, c/o Food Matters Manitoba, with respect to the application
 13. “Growing Food Security in Manitoba Communities” submitted by Paul Chorney, Winnipeg Food Policy Group, c/o Food Matters Manitoba
 14. “Child-And Youth-Friendly Land-Use and Transport Planning Guidelines for Manitoba” submitted by Peter Miller, Resource Conservation Manitoba
 15. Communication from Mayor Steve Strang, RM of St. Clements Manitoba Capital Region, in support of the application
 16. Communication dated July 14, 2010 from Michael Falk,

17. Terracon Development Ltd., in support of the application
Communication dated July 14, 2010 from Harry Wolbert in
opposition to the application
18. Communication dated July 14, 2010 from Michael
Carruthers, President of the Urban Development Institute
(UDI), with respect to the application
19. Audio Recording of representations

REPRESENTATIONS:**In Support:**

Mr. D. Joshi, Director of Planning, Property and Development
Ms M. Richard, Long Range Planning Coordinator, Planning, Property
and Development Department
Claude Davis
Diane Dawiskiba
Michael Falk, Terracon Development Ltd.
Reeve Don Farfar, RM of St. Andrews, Manitoba Capital Region
Beth McKechnie, Resource Conservation Manitoba
Peter Miller, Resource Conservation Manitoba
Mike Moore
Joseph Pollock
Garth Rogerson, Red River Exhibition Association
Mayor Steve Strang, RM of St. Clements, Manitoba Capital Region

In Opposition:

Elizabeth Fleming
Harry Wolbert

For Information:

Michael Carruthers, President of the Urban Development Institute (UDI)
Paul Chorney, Winnipeg Foot Policy Group, c/o Food Matters Manitoba
Art DeFehr
Councillor Gerbasi, Fort Rouge – East Fort Garry Ward
Jerry Klein, Vice-President, Winnipeg Region, Genstar Development Company
Otto Kirchner
Councillor Orlikow, River Heights – Fort Garry Ward
Guy Prefontaine
Scott Stephanson
Steve Walker

For the City:

Mr. B. MacBride, Director of Water and Waste
Mr. B. Sacher, Director of Public Works
Mr. D. Wardrop, Director of Transit
Mr. C. Wightman, Director of Community Services
Mr. J. Carter, Solicitor, Legal Services Division, Corporate Support Services Department
Ms D. Beaton, Park Strategic Planner, Planning, Property and Development Department
Ms K. Beck, City Wide Initiatives, Community Services Department
Ms V. Buckley, Senior Planner, Planning, Property and Development Department
Mr. D. Clark, Plan Winnipeg Initiative, Planning, Property and Development Department
Mr. G. Doney, Senior Planner, Planning, Property and Development Department
Mr. S. Dueck, Acting Manager, Housing Development, Planning, Property
and Development Department
Mr. A. Golebioski, Staff Sergeant, Organization Development and Support Division No. 32,
Winnipeg Police Service
Mr. I. Hall, Environmental Coordinator, Planning, Property and Development Department
Mr. G. Holmes, Manager of Strategic Support Services, Planning, Property
and Development Department
Mr. J. Kiernan, Coordinator Parks, Riverbanks and Community Initiatives, Planning, Property
and Development Department
Mr. R. Kostiuk, Planner, Planning, Property and Development Department
Mr. K. Kowalke, Planner, Planning, Property and Development Department
Mr. J. Lee, Technical Assistant, Planning, Property and Development Department
Mr. D. Marsh, Planner, Planning, Property and Development Department
Mr. F. Mazur, Senior Development Engineer, Water and Waste Department
Mr. P. Pasieczka, Neighbourhood Economic Development Officer, Planning, Property and
Development Department
Mr. M. Pyl, Planner, Planning, Property and Development Department
Ms B. Raddatz, Technical Assistant, Planning, Property and Development Department
Mr. A. Ross, Technical Assistant, Planning, Property and Development Department
Mr. M. Sane, Planner, Planning, Property and Development Department

Mr. B. Shenback, OurWinnipeg Team Member, Planner, Planning, Property and Development Department

Ms P. Sveinson, Manager of Special Projects, Planning, Property and Development Department

Ms R. VanBeveren, Plan Winnipeg Initiative, Planning, Property and Development Department

Mr. J. Veitch, Senior Planner (Plan Winnipeg), Planning, Property and Development Department

Mr. B. Ward, Planner, Planning, Property and Development Department

Mr. S. West, Manager of Corporate Communications, Corporate Support Services

Mr. J. Wintrup, Acting Manager of Planning and Land Use, Planning, Property and Development Department

Mr. N. Yauk, Planner, Planning, Property and Development Department

ADMINISTRATIVE REPORT

Title: PW 1/ 2010 (By-law 67/2010) *OurWinnipeg Plan* – Public Hearing

ISSUE: For consideration at the public hearing of the *OurWinnipeg Plan* to replace *Plan Winnipeg Vision 2020* as the city's 25-year blueprint that will guide the physical, social, environmental, and economic development of Winnipeg.

Critical Path: Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	D. Joshi	N/A	Glen Laubenstein, CAO

RECOMMENDATIONS

1. That By-law No. 67/2010, the "*OurWinnipeg Plan*", as amended in accordance with Attachment "C", be forwarded to Council for second reading.
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

The City of Winnipeg Charter requires that *Plan Winnipeg* be reviewed and re-adopted/replaced every five years. *Plan Winnipeg 2020 Vision* is the City's current long-range policy plan having been adopted as By-law 7630/2000 of the City of Winnipeg on December 12, 2001. *OurWinnipeg* will replace *Plan Winnipeg 2020 Vision* as the City's new long range policy plan that will guide the physical, social, environmental, and economic development of our city.

Giving second reading to the *OurWinnipeg Plan By-law* will allow it to be forwarded to the Minister of Local Government for consideration prior to third reading and final approval by Council.

OurWinnipeg meets the City of Winnipeg's requirement under Section 224 of the City of Winnipeg Charter to adopt a development plan by By-law which must set out:

- (a) the city's long-term plans and policies respecting

- (i) its purposes,
 - (ii) its physical, social, environmental and economic objectives, and
 - (iii) sustainable land uses and development;
- (b) measures for implementing the plan; and
- (c) such other matters as the Minister or Council considers necessary or advisable.

IMPLICATIONS OF THE RECOMMENDATIONS

OurWinnipeg is Winnipeg's 25-year blueprint that will guide the physical, social, environmental, and economic development of our city as per the City of Winnipeg Charter.

The *OurWinnipeg* Plan is the product of input from more than 42,000 Winnipeggers and the largest public engagement exercise in the city's history. A consultation report summarizing this exercise is attached (Attachment "B"). Public engagement took place in three phases, with phases one and two resulting in the Call to Action for *OurWinnipeg* and the draft *OurWinnipeg* package. Phase three was an opportunity to introduce the draft plan to the public in advance of the public hearing process. A list of errors and omissions was gathered during phase three, and is appended (Attachment "C"). Drawing on these contributions from thousands of participants, the vision statement for creating the kind of city Winnipeggers want in 25 years is:

OurWinnipeg: living and caring because we plan on staying.

OurWinnipeg positions Winnipeg to accommodate significant growth in a coordinated and sustainable way, which is a key to our future competitiveness. It sets a vision for the next 25 years and provides direction in three areas of focus – each essential to Winnipeg's future:

- A City that Works
- A Sustainable City
- Quality of Life

OurWinnipeg Plan integrates four Direction Strategies that provide detailed policies, directions, and strategies necessary for implementation. The four direction strategies are *Complete Communities*, *Sustainable Transportation*, *Sustainable Water and Waste Infrastructure*, and *A Sustainable Winnipeg*.

The *Complete Communities Direction Strategy* is an innovative, practical "playbook" that guides land use and development for Winnipeg. Its primary focus is to describe Winnipeg's physical characteristics and lay out a framework for the city's future physical growth and development. This Direction Strategy has been submitted, as a By-law for a Secondary Plan covering Winnipeg, to Council for its consideration.

The *Sustainable Water & Waste Direction Strategy* promotes actions required to protect public health and safety, ensure the purity and reliability of our water supply and maintain or enhance the quality of

our built and natural environments. This Strategy has been submitted to Council for its endorsement as policy.

The *Sustainable Transportation Direction Strategy* provides a vision for transportation in Winnipeg for the next 25 years. Its emphasis is on moving people, goods and services in a way that is sustainable. This Strategy has been submitted to Council for its endorsement as policy.

A *Sustainable Winnipeg* is an integrated community sustainability strategy that outlines a plan of action, proposes a system of sustainability indicators and measures. This Strategy has been submitted to Council for its endorsement as policy.

Implementation

The City will implement *OurWinnipeg* through the *OurWinnipeg Action Plan*. The Action Plan will be created in an integrated way, involving departments, partners and the community as appropriate. More than a simple “to-do” list, the Action Plan will include communications and outreach, which is critical to fostering strong collaborative working relationships, and will draw from measurement and continuous improvement loops, which is critical to effective decision making and action.

The Action Plan will include three core functions:

1. Relationship Building, Outreach and Marketing
2. Implementation Plans
3. Monitoring, Measuring and Continual Improvement

Striving for sustainable innovation and benchmarking against best practices are integral parts of measurement and continual improvement. This work, including the research, development and testing of new tools and approaches, will be an integral part of the Action Plan and the implementation of *OurWinnipeg*.

The Action Plan will build on the action-oriented model used for the *Call to Action* for Winnipeg (January 2010).

HISTORY

- *Plan Winnipeg 2020 Vision* is the City's current long-range policy plan having been adopted as By-law 7630/2000 of the City of Winnipeg on December 12, 2001 to replace *Plan Winnipeg...toward 2010*.
- On March 21, 2007, Executive Policy Committee recommended to Council that the Province of Manitoba be advised that The City of Winnipeg has commenced the review of *Plan Winnipeg 2020 Vision* as required by the City of Winnipeg Charter.
- On April 25, 2009 the Sustainability Symposium marked the beginning of the City's comprehensive process to create a new Municipal Development Plan – the *OurWinnipeg Initiative* – that will be based on principles of sustainability.

- Between April 25th 2009 and May, 2010 more than 42,000 Winnipeggers provided input into the *OurWinnipeg Initiative* through *SpeakUpWinnipeg.com*, round tables, open houses, major face to face events, and through community outreach.
- On June 23, 2010 City Council granted first reading to By-law 67/2010 (*OurWinnipeg Plan*) and 68/2010 (*Complete Communities Direction Strategy*).
- Publication of the ad in the Winnipeg Free Press and Winnipeg Sun will be two weeks in advance of the public hearing.

FINANCIAL IMPACT

Financial Impact Statement Date: June 22, 2010

Project Name:

PW 1/ 2010 (By-law 67/2010) OurWinnipeg Plan – Public Hearing

COMMENTS:

The recommendations of this report are:

1. That By-law No. 67/2010, the "OurWinnipeg Plan", as amended in accordance with Attachment "C", be forwarded to Council for second reading.
2. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

There are no financial implications associated with these recommendations.

Karen Ayotte
Acting Manager of Finance & Administration

CONSULTATION

In preparing this Report there was consultation with:
(See attached consultation report – Attachment "B")

Internal Consultation: Public Works; Transit; Water and Waste; Community Services; Winnipeg Police Service; Winnipeg Parking Authority; Office of Sustainability; Legal Services, Winnipeg Fire Paramedic Services.

External Consultation: Extensive public engagement and stakeholder dialogue was conducted as part of this project.

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	Brett Shenback, OurWinnipeg Team Member – Planner
Date	June 28, 2010
File	PW 1/2010 (By-law 67/2010)

Attachment "B": – Consultation Report

Attachment B:
Consultation Report

Attachment "C" – Errors and Omissions Report

Attachment C: Errors
and Omissions Report

APPENDIX 1: Discussion

Report Summary

- *OurWinnipeg* integrates four Direction Strategies that provide detailed policies, directions, and strategies necessary for implementation. The four direction strategies are: *Complete Communities* (submitted for adoption as By-law), *Sustainable Transportation*, *Sustainable Water and Waste Infrastructure*, and *A Sustainable Winnipeg* (submitted for endorsement as Council policies).
- Each of the five (5) documents are being advanced under separate reports, which will describe the merits, content, and overview of each of the planning documents:
 - *OurWinnipeg* Plan will be adopted as a Plan Winnipeg By-law.
 - *Complete Communities Direction Strategy* will be adopted as a Secondary Plan By-law.
 - The remaining three Direction Strategies – *Sustainable Transportation*, *Sustainable Water and Waste Infrastructure* and *Sustainable Winnipeg* – will be endorsed as Council Policy.
- The adoption of this Plan has received first reading at Council.

Plan Intent

The *OurWinnipeg Plan* recognizes that cities are now competing, on a global scale, for economic development. The City of Winnipeg will continue to offer the sustainability advantages and the quality of life that current citizens expect and prospective citizens will value. The City of Winnipeg is early in a cycle of strong growth, the pace of which we haven't seen for decades. The city is welcoming new citizens and businesses, and embracing sustainability opportunities. Today, as a city, we face a number of questions that were central in the drafting of the *OurWinnipeg Plan*, such as:

- How are we going to accommodate growth and change?
- How do we capitalize on growth while making sure our city stays livable, affordable and desirable?
- How do we make sure that all Winnipeggers benefit from this growth?
- How do we maintain and enrich what we value while finding room for a growing population?

Plan Content

The *OurWinnipeg Plan* sets a vision for the next 25 years and provides direction in three areas of focus – each essential to Winnipeg's future:

A City that Works

Citizens choose cities where they can prosper and where they can enjoy a high quality of life. A well-run city is an important starting point. The "basics" matter: public safety, water quality, wastewater infrastructure, and public amenities and facilities are the essentials to keeping people healthy. But quality of life goes beyond the basics. Our communities need to support various lifestyles, providing a range of options for living, working and playing. A variety of housing styles for residents to choose from are required, as are transportation choices for residents and businesses alike. The whole system has to work together efficiently and sustainably.

The directions identified within this section are focused within the following key categories:

- City Building
- Safety and Security

- Prosperity
- Housing
- Recreation
- Libraries

A Sustainable City

Sustainability is part of how the City does business, reflected in policies and programs that respect and value the natural and built environments – protecting our city's natural areas and heritage resources. We act as a corporate role model for social, environmental and economic sustainability, and measure and report progress in key corporate and community sustainability areas.

The directions identified within this section are focused within the following key categories:

- Sustainability
- Environment
- Heritage

Quality of Life

Beyond providing a "City that Works" and planning for sustainability, our city needs to offer a high quality of life in order to be competitive. Three important aspects of quality of life are access to opportunity, the maintenance of vital healthy neighbourhoods, and being a creative city with vibrant arts and culture. All of these areas include social aspects that are critical to the overall well-being of our city. The City is committed to collaborating within its mandate with other governments and service providers in these areas. In some cases, further intergovernmental discussion or strategic planning is required to move forward on the directions included in the plan.

The directions identified within this section are focused within the following key categories:

- Opportunity
- Vitality
- Creativity

Implementation

The City will implement *OurWinnipeg* through the *OurWinnipeg Action Plan*. An Action Plan will be created in an integrated way, involving departments, partners and the community as appropriate. More than a simple "to-do" list, an Action Plan will include communications and outreach, which is critical to fostering strong collaborative working relationships, and will draw from measurement and continuous improvement loops, which is critical to effective decision making and action.

The Action Plan includes three core functions:

1. Relationship Building, Outreach and Marketing
2. Implementation Plans
3. Monitoring, Measuring and Continual Improvement

Striving for sustainable innovation and benchmarking against best practices are integral parts of measurement and continual improvement. This work, including the research, development and testing of new tools and approaches, will be an integral part of the Action Plan and the implementation of *OurWinnipeg*.

Public Engagement

- *OurWinnipeg* is based on the voices of Winnipeggers, commencing with the visions shared by participants at the Mayor's Symposium on Sustainability, held April 25, 2009, and augmented by the input received through the comprehensive speakupwinnipeg citizen involvement process. Over the course of approximately one year, more than 42,000 Winnipeggers provided input into the planning process through speakupwinnipeg.com, roundtables, open houses, major face to face events, and through community outreach.
- Public Involvement on *Our Winnipeg* and the companion documents was undertaken in three phases(See attached consultation report – Attachment "B"):
 - SpeakUpWinnipeg #1 (April 2009 – September 2009): Provided an opportunity for high-level / blue sky discussion regarding the future of our city. A wide range of online (blog, video, polls), social media tools, public events, roundtable meetings and a street team were used to engage more than 30,000 Winnipeggers.
 - SpeakUpWinnipeg #2 (October 2009 – January 2010): Provided an opportunity to check-in with key stakeholders and the general public. Website engagement was again used, along with open houses.
 - SpeakUpWinnipeg #3 (February – June 2010): Provided an introduction to the draft *OurWinnipeg Plan* and accompanying Direction Strategies. This phase provided an opportunity to check back with key stakeholders and to share information with the general public in advance of the formal review/approval process. Website engagement, roundtables and public information sessions were used. Through the course of SpeakUpWinnipeg 2 and 3 more than 12,000 additional people were engaged.

Attachment "B": – Consultation Report

OurWinnipeg Consultation Report

As part of the OurWinnipeg initiative, a public engagement program was created called SpeakUpWinnipeg. It was designed to maximize several tools to encourage all Winnipeggers to participate through three phases:

- **SpeakUpWinnipeg #1 (April-September, 2009)**
 - An open-ended, 'blue-sky' period of discussions on a wide-range of topics
 - Process of creating the vision for OurWinnipeg
- **SpeakUpWinnipeg #2 (October 2009 – January, 2010)**
 - A 'check back' with Winnipeggers on the process and direction of the OurWinnipeg initiative i.e. "did we hear you right?"
- **SpeakUpWinnipeg #3 (February – June, 2010)**
 - An introduction to the draft OurWinnipeg Plan and four Direction Strategies (Complete Communities, A Sustainable Winnipeg, Sustainable Transportation, Sustainable Water & Waste)
 - Introduction to the formal public hearing process

SpeakUpWinnipeg

The result of SpeakUpWinnipeg was a conversation with more than 42,000 Winnipeggers. SpeakUpWinnipeg combined online resources and discussion, face-to-face meetings, real-time updates, large 'imagine if' events and extensive background research. The website, SpeakUpWinnipeg.com, was a major hub for the process and featured:

- Blogs
- Videos
- Resources
- A calendar of events
- User submissions
- Question of the Days
- Coordinated activity on Facebook and Twitter

Face-to-face involvement took place through:

- Roundtables
- Focused neighbourhood conversations
- Stakeholder workshops
- Invitations to speak to groups or at events
- The SpeakUp Squad
- Major public events

Attachment "B": – Consultation Report

SpeakUpWinnipeg.com

Using a website as a major consultation tool was a new approach for the City of Winnipeg. The website, and resultant web presence, proved to be successful for providing opportunities for engagement.

From April 25th, 2009 to June 20th, 2010, SpeakUpWinnipeg.com had:

- 8,796,255 hits¹
- 162,909 page views
- 49,814 visits
- 30,590 visitors
- 737 registered users
- 1,479 total comments received through the blog and e-mail
- 649 Facebook fans
- 242 followers on Twitter

Of the registered users, 624 (85%) provided postal codes that were within the city of Winnipeg². These postal codes indicated that users of the website were from across all areas of Winnipeg (Appendix A).

¹ April 25, 2009 - May 31, 2010

² Also includes areas belonging to the Canada Post Urban Forward Sortation Area for Winnipeg

Attachment "B": – Consultation Report

SpeakUpWinnipeg #1: April – October 2009**PURPOSE**

This was the largest consultation component of SpeakUpWinnipeg. It served to promote the new plan and the SpeakUpWinnipeg process, to create a vision for the plan, and to support open conversations on a wide-range of topics.

APPROACH

The overall approach of SpeakUpWinnipeg #1 was to be flexible and receptive to input. It was a 'blue-sky city-wide conversation.' SpeakUpWinnipeg took several major forms during the first phase:

- Major Public Events
- Mayor's Symposium on Sustainability
- Imagine Your City: City Building Charrette
- Online at SpeakUpWinnipeg.com
- Roundtables, stakeholder meetings, and focused neighbourhood discussions
- SpeakUpSquad
- Polling

This conversation focused on six areas: Sustainability, Complete Communities, Safety and Security, City Competitiveness, City of the Arts and City Building. Using the framework of sustainability, the basic questions used were "Where are we now? Where do we want to go? and How are we going to get there?"

Major Public Events

The Mayor's Symposium on Sustainability on April 25th, 2009 was the launch for SpeakUpWinnipeg. It had 267 participants and featured forums, roundtable discussions, and a panel discussion.

The City Building Charrette took place June 23rd – June 26th, 2009 and had approximately 500 participants. The event featured topic-centered workshops, an urban design bus tour, and asset mapping exercises.

SpeakUpWinnipeg.com

The site featured blogs, videos and question of the day which were used to support a wide range of perspectives from community members, local celebrities, and City staff. Over 1,200 responses were received as public comments or e-mails through the site during SpeakUpWinnipeg #1.

The site had 15,251 unique visitors and served 98,857 pageviews during SpeakUpWinnipeg #1. Additional online social media activities such as Facebook and Twitter generated 622 fans and followers. Face-to-face round tables and community consultations were supported through an online calendar on the site.

Roundtables, stakeholder meetings, focused neighbourhood discussions, events and speaking engagements.

A partnership approach was used for conducting roundtables. Community organizations acted as delivery partners in the design, planning, and communication of roundtables

Attachment "B": – Consultation Report

and meetings involving 538 participants. (Appendix B). SpeakUpWinnipeg information was shared through organization newsletters, email lists, and networks. Stakeholder meetings were held in cooperation with various groups and associations involving 179 participants (Appendix C). Focused neighbourhood discussions were held in October and November of 2009, involving 370 people over 10 sessions (Appendix D)

There were also a number of events and speaking engagements that took place during SpeakUpWinnipeg #1 with a combined audience of 280 people. (Appendix E)

Outreach

The SpeakUpSquad promoted SpeakUpWinnipeg and actively engaged Winnipeggers throughout the city at public events. The Squad attended 48 events from June – September 2009 (Appendix F) and had contact with approximately 13,500 people. The Squad encouraged participation on SpeakUpWinnipeg.com, asked Winnipeggers to 'speak up' on videos for the site and recorded ideas and feedback.

The inputs from all components of SpeakUpWinnipeg #1 were tabulated and tracked into a searchable database where they were indexed according to key themes. This allowed for analysis of feedback for incorporation into the OurWinnipeg process and documents.

Polling

Between April 17th and 20th, 2009, Angus Reid Strategies contacted 602 people for a telephone poll.

KEY MESSAGES – What we heard

Through SpeakUpWinnipeg #1 several consistent themes were identified. The open-ended visioning approach led themes to be expressed as "desires" for:

- A pragmatic official plan
- Options for housing and lifestyle
- A better understanding of where growth is anticipated and when it will occur
- Support for Downtown
- A connected sustainable transportation network including efficient roadways and options for active transportation, rapid transit and enhanced conventional transit
- Well-maintained infrastructure
- Safety
- Growing economic activity
- Continued emphasis on recreation
- Leadership on sustainability
- Supporting and leveraging Winnipeg's arts sector
- Equitable opportunity
- Choices for all ages
- More integrated approaches and using partnerships to tackle issues such as poverty
- Follow through on plans
- Accessibility

Attachment "B": – Consultation Report

SpeakUpWinnipeg #2 – November 2009 – January 2010**PURPOSE**

SpeakUpWinnipeg #2 was a 'check back' with Winnipeggers asking "did we hear you right?" The draft Call to Action for OurWinnipeg was released on November 12, 2009 and public input on the draft was requested to December 7th, 2009. The draft contained the vision for OurWinnipeg, 15 directions to guide the plan and 76 short to mid-term actions based on community priorities heard through SpeakUpWinnipeg #1.

APPROACH

To get the word out, print and online advertisements were used in addition to targeted e-mail invitations to previous SpeakUpWinnipeg participants. The consultation for the Call to Action draft was conducted through three main avenues:

- Open houses
- SpeakUpWinnipeg.com
- Written submissions

The open houses were held at eight locations across the city (Appendix G), from 5-8 p.m. (with one starting at 3 p.m.)³. All facilities were fully accessible and located along major routes with transit service and ample parking. Surveys and feedback forms were used to collect input. There were a total of 302 participants.

The text of the Call to Action was posted as a series of blogs on SpeakUpWinnipeg.com. In addition, the Call to Action was made available for download in both official languages. Winnipeggers posted comments to the website or emailed responses through speakupwinnipeg.com. The website had 6,324 unique visitors and served 21,171 pages during this time.

Written submissions were received from a number of organizations (Appendix H). Several stakeholder sessions were also held (Appendix I).

KEY MESSAGES

The "check back" focus of SpeakUpWinnipeg #2 enabled the themes from phase one to be tested and refined, with early action steps proposed. In addition to confirming these themes, several new messages were heard during SpeakUpWinnipeg #2:

- Winnipeggers want to see detailed policy to support each theme area
- Connecting policy to action is critical

³ These Open Houses were jointly hosted with the Water & Waste Department who were simultaneously conducting public consultation on solid waste recycling.

Attachment "B": – Consultation Report

SpeakUpWinnipeg #3: February – June 2010

PURPOSE

SpeakUpWinnipeg #3 introduced the draft OurWinnipeg plan and the four supporting Direction Strategies:

- Complete Communities
- A Sustainable Winnipeg
- Sustainable Transportation
- Sustainable Water & Waste

This phase provided opportunities to explore the plan and discuss with City staff. This phase also provided an outline of the next steps for OurWinnipeg, including the Public Hearing process.

APPROACH

Introducing the plan took place through public information sessions, roundtables, stakeholder sessions, and SpeakUpWinnipeg.com. The public information sessions and roundtables were attended by approximately 300 people.

Public Information Sessions

Public Information Sessions were held at six different venues throughout the city (Appendix J). The purpose was to share the draft documents with the public and provide an introduction to the information contained within the drafts. One of the sessions was offered in both official languages.

There were also two additional open houses held for the Heritage Conservation Management Plan and Draft Transit Oriented Development Handbook attended by a total of 78 people (Appendix K).

Roundtables, Stakeholder Meetings, Events & Speaking Engagements

Seven roundtables were held, providing the setting for in depth discussion pertaining to specific topic issues. Draft documents were on hand for people to follow as presentations were made with discussions throughout. In addition, nine stakeholder meetings took place between March and June (Appendix L).

Web

The documents were provided online in searchable HTML and PDF formats. They were available as whole documents or individual chapters. Additionally, 2 to 4 page summaries of the documents were provided in both official languages. Printed copies of the documents were made available through the Winnipeg Public Library, the Institute of Urban Studies Library and the Alice Chambers Memorial Library.

Attachment "B": – Consultation Report

During SpeakUpWinnipeg #3 there were 42,881 page views, and 10, 205 visitors. The draft OurWinnipeg and direction strategies were viewed 11,075 times and all of the documents and supporting files were downloaded 3,466 times (Appendix M).

Polling

Between March 8th and 26th, 2010, Probe Research conducted a telephone poll with 603 people.

WHAT WE HEARD

During the process of introducing the draft OurWinnipeg package to the public, there was continued affirmation of the core ideas and most of the specific directions identified in the draft. Several new messages were heard in the early responses to the package:

MESSAGE	RESPONSE
Growth forecasts are difficult to build a plan from because of the number of variables involved in constructing them.	Forecasts were one of many inputs. Forecasts were provided by subject experts (Conference Board of Canada) with due consideration for external factors. The plan can adjust to growth that under or over-performs forecasts.
The Plan provides for the basis of inter-municipal planning.	
Interest in how the plan will be implemented – timing and cost.	OurWinnipeg Section 04 discusses implementation. An OurWinnipeg Action Plan will be brought forward for Council's concurrence.
"Creativity" is an ambiguous title for the section of the Plan dealing with the arts.	Consideration should be given to amending the title to "City of the Arts", as used in the Call to Action for OurWinnipeg.
More ambitious targets for community-wide greenhouse gas (GHG) reductions are needed for Winnipeg to be leader.	Proposed targets were selected based on being achievable but challenging. Based on a recent review of municipal targets shared by the Federation of Canadian Municipalities, Winnipeg's target is not out of line with other jurisdictions, though it is not the most aggressive. As detailed community-wide GHG reduction planning begins (summer 2010), the consideration of more aggressive targets is not precluded and could form part of the process.
A clearer, stronger policy about limiting the negative impacts of non-essential pesticides is needed.	The most effective tool for addressing the impacts of pesticides in Canada has been provincial regulation of the sale of cosmetic pesticides. Working with the Province of Manitoba on such a regulation is enabled by the proposed policy.
More definitive land use guidance is required with respect to the Airport Area lands.	Complete Communities is flexible and can be amended to align with changes in the marketplace. To that point, the urban structure map within "Complete Communities" can be amended by Council at some point in the future, as the plans for CentrePort change and evolve.

Attachment "B": – Consultation Report

Appendix A: Canada Post Urban Forward Sortation Areas in Winnipeg represented by registered users on SpeakUpWinnipeg.com

R2C	R2E	R2G	R2H	R2J	R2K	R2L	R2M
R2N	R2P	R2R	R2V	R2W	R2X	R2Y	R3A
R3B	R3C	R3E	R3G	R3J	R3K	R3L	R3M
R3N	R3P	R3R	R3T	R3V	R3W	R3X	R3Y
R4A							

Appendix B: SpeakUpWinnipeg #1 – Roundtables, stakeholder meetings

Roundtables & Stakeholder Events		Dates	Location(s)
Group	Delivery Partner		
Older Winnipeggers	University of Manitoba Centre on Aging	June 4, 2009	Crossways in Common
Urban Aboriginal People - CLOUT	Thunderbird House	June 9, 2009	Thunderbird House
Aboriginal Council of Winnipeg	Thunderbird House	June 10, 2009	Thunderbird House
Caregivers	Continuity Care	June 11, 2009	River Access East
Caregivers		June 11, 2009	Millennium Library
Urban Aboriginal People	Mamawi	June 13, 2009	Thunderbird House
People with disabilities	Cerebral Palsy Association of Manitoba	June 16, 2009	Millennium Library
Community economic development	CCED-NET	June 17, 2009	West End Cultural Centre
Development Community		June 17, 2009	Convention Centre
Elders Council	Thunderbird House	June 17, 2009	Thunderbird House
People with disabilities		June 24, 2009	Millennium Library
Older Winnipeggers	University of Manitoba Centre on Aging	June 24, 2009	Wellington Retirement Residence
Older Winnipeggers	University of Manitoba Centre on Aging	June 25, 2009	St. James Assinboia
University Students	Federation of Students – Manitoba Chapter	August 13, 2009	Sorrentos Restaurant
Poverty Groups	Winnipeg Poverty Reduction Council, Make Poverty History Manitoba	September 3, 2009	Red River College
Food Security	Food Matters Manitoba	September 21, 2009	St. Matthews Church
Government/	Institute of Urban	September 30, 2009	Planning, Property &

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Roundtables & Stakeholder Events		Dates	Location(s)
Group	Delivery Partner		
Research Sectors/Housing	Studies		Development Offices
Non-Profit Housing Providers	Institute of Urban Studies	October 5, 2009	Viscount Gort Hotel
Aboriginal Communities	Institute of Urban Studies	October 6, 2009	Indian and Métis Friendship Centre
For-Profit Housing Providers	Institute of Urban Studies	October 6, 2009	Viscount Gort Hotel
Assembly of Manitoba Chiefs	Assembly of Manitoba Chiefs	October 15, 2009	Assembly of Manitoba Chiefs
Aboriginals/Housing	Institute of Urban Studies	October 15, 2009	St. Regis Hotel
Newcomers/Housing	Institute of Urban Studies	October 19, 2009	St. Regis Hotel
GLBTT ⁴ Communities	Rainbow Resource Centre	October 21, 2009	Rainbow Resource Centre
General Public/Housing	Institute of Urban Studies	October 22, 2009	Masonic Temple
Older Winnipeggers/Housing	Institute of Urban Studies	October 26, 2009	St. Regis Hotel
Neighbourhood Development Corps/Housing	Institute of Urban Studies	October 28, 2009	St. Regis Hotel
Disability Communities/Housing	Institute of Urban Studies	October 29, 2009	St. Regis Hotel
Newcomer Communities	Mount Carmel Clinic	October 31, 2009	Millennium Library

⁴ *Gay, Lesbian, Bisexual, Transgendered, Two-Spirited

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Appendix C: Stakeholder Sessions

Stakeholder Session	Dates	Location(s)
Winnipeg Chamber of Commerce	June 2, 2009	Chamber Offices
Downtown Stakeholders	June 19, 2009	Forks Dance Studio
Destination Winnipeg	September 18, 2009	Planning, Property & Development Offices
Our Winnipeg Parks Plan Stakeholder Consultation	September 25, 2009	Millennium Library
Industry Exchange Developers	October 7, 2009	Millennium Library
Planners, downtown stakeholders, transportation stakeholders	October 9, 2009	Millennium Library
Winnipeg Real Estate Board Trade Show	October 14, 2009	Convention Centre
Sustainable Transportation	March 11 -12, 2010	Millennium Library
The following stakeholder events held after October, 2009 also informed OurWinnipeg:		
Assinboine Park Enterprises	November 30, 2009	Assinboine Park Pavilion
Sports Associations	December 3, 2009	Sport Manitoba
Trails /Stewardship/Resident Association Groups	January 14, 2010	Millennium Library
General Council of Winnipeg Community Centres	November 2, 2009	GCWCC Meeting Room
Biz Associations	December 14, 2009	Planning, Property & Development Offices

Appendix D: Focused Neighbourhood Discussions

Neighbourhood Discussions	Dates	Location(s)
Point Douglas Community Forum	October 7th 2009	Ukrainian Labour Temple, 591 Pritchard
Fort Rouge/River Heights Neighbourhood Resource Network	October 8th 2009	Fort Rouge Leisure Centre, 625 Osborne St
Assinboine South	November 27, 2009	Breezy Bend Country Club, 7620 Roblin Blvd
Downtown/West End Central Network	October 15 2010	West End Cultural Centre, 583 Ellice Ave
Seven Oaks Neighbourhood Resource Network	October 19, 2010	Kildonan United Church, 187 Kilbride
Transcona Neighbourhood Resource Network	October 20, 2010	ACCESS Transcona, 845 Regent
St. James Neighbourhood Resource Network	October 21, 2010	Military Family Resource Centre, 102 Comet Rd
River East Neighbourhood Resource Network	October 21, 2010	ACCESS River East, 975 Henderson Hwy
Healthy St. Boniface Network / Réseau Saint-Boniface en santé	October 28, 2010	Bilingual Service Centre, 614 rue DesMeurons
St. Vital Community Action Network	October 30 2010	Centre 24/7, 533 St. Anne's Rd

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Appendix E: SpeakUpWinnipeg #1 - Major Public Events & Speaking Engagements

Major Public Events & Speaking Engagements	Dates	Location(s)
Mayor's Symposium on Sustainability	April 25th, 2009	Winnipeg Art Gallery
City Building Charrette	June 23 - 26, 2009	Winnipeg Art Gallery
St. Vital Rotary Speaking Engagement	May 12, 2009	Nakwa Golf Club
City Leadership Breakfast Speaking Engagement	May 22, 2009	City Hall
Mayor's Senior Advisory Committee Speaking Engagement	May 25, 2009	City Hall
Partnership of the Capital Region Speaking Engagement	June 3, 2009	Partnership Offices
Winnipeg Access Advisory Committee Speaking Engagement	June 15, 2009	City Hall
Partnership of the Capital Region Speaking Engagement	September 14, 2009	Partnership Offices
Partnership of the Capital Region Speaking Engagement	September 17, 2009	Partnership Offices
Canadian Association on Gerontology Conference	October 22 - 24, 2009	Fairmont, Winnipeg, Manitoba
Manitoba Planning Conference	October 28 - 30, 2009	Brandon, MB
Association of Rural Municipalities Speaking Engagement	November 5, 2009	Lorette, MB
Southwood Golf Course Speaking Engagement	December 5, 2009	University of Manitoba

Attachment "B": – Consultation Report

Appendix F: SpeakUp Squad Events Attended

Speak Up Squad - Event	Dates	Times attended
Kidsfest	June 4, 2009	1
Bike to Work Day	June 19, 2009	1
Aboriginal Day	June 20, 2009	1
St. Charles/ St. James BBQ	June 25, 2009	1
Polo Park	June 25-26, 2009	1
Art City Parade	June 27, 2009	1
Free Jazz at Lunch	June 29 - July 2, 2009	2
Fringe Festival	July 18 - 24, 2009	7
Canada Day	July 1, 2009	1
Out to Lunch Concert Series	June 24 - September 2, 2009	9
Dancing Under the Canopy	July 16 - August 13, 2009	4
Corydon Concert	July 3, 2009	1
Assiniboine Park Zoo	July 5, 2009	1
Village Market	August 13 -27, 2009	3
Portage Place	July 2, 2009	1
St. Vital Mall	July 15-16, 2009	1
Millennium Library	August 18 -25, 2009	2
Bikefest	July 19, 2009	1
Folklorama Kickoff	August 1, 2009	1
Picnic in the Park	August 22, 2009	1
St Norbert Market	September 2, 2009	1
Ciclovía	September 13, 2009	1
Park(ing) Day	September 18, 2009	1
WHLI Forum	September 18, 2009	1

Appendix G: Call to Action Open House Locations

Location	Date
Red River College	Tuesday, November 17, 2009
Sturgeon Creek CC	Wednesday, November 18, 2009
Windsor CC	Thursday, November 19, 2009
Access Transcona	Friday, November 20, 2009
Thunderbird House	Monday, November 23, 2009
Canad Inns Fort Garry	Tuesday, November 24, 2009
Bronx Park CC	Wednesday, November 25, 2009
Canad Inns Garden City	Thursday, November 26, 2009

Attachment "B": – Consultation Report

Appendix H – Groups who submitted written comments for the Draft Call to Action for Our Winnipeg

- West Broadway Development Corporation
- Right to Housing Coalition
- Canadian Community Economic Development Network (CCodNet) Manitoba,
- Winnipeg Food Policy Working Group and
- Bike to the Future.

Appendix I – SpeakUpWinnipeg #2 Stakeholder Sessions

Stakeholder Sessions	Dates	Location(s)
Folklorama Organizers	December 10, 2009	Folklorama offices
Province of Manitoba	December 12, 2009	Provincial Office
Downtown Council	January 19, 2010	CentreVenture Boardroom
Destination Winnipeg	January 20, 2010	Planning, Property & Development Offices
Chamber of Commerce	January 22, 2010	Chamber Offices

Appendix J – SpeakUpWinnipeg #3 Public Information Sessions

Date	Location
Thursday, May 27 th , 2010	Red River College Princess Street Campus
Saturday, May 29 th , 2010	Win Gardiner Place
Monday, May 31 st , 2010	Canad Inns Fort Garry
Tuesday, June 1 st , 2010	River East Collegiate
Wednesday, June 2 nd , 2010	Sturgeon Creek CC
Thursday, June 3 rd , 2010	Franco Manitoban Cultural Centre

Appendix K – Additional Open Houses

Event	Date	Location
Heritage Conservation Management Plan Open House	May 29, 2010	Sport Manitoba
Transit-Oriented Development Open House	June 17, 2010	Millennium Library

Attachment "B": – Consultation Report

Appendix L: SpeakUpWinnipeg #3 - Roundtables, Stakeholder Meetings, Events & Speaking Engagements

Roundtables, Stakeholder Events	dates	location(s)
Opportunity & Vitality Stakeholders	June 1, 2010	Millennium Library
Sustainability, Environment, Heritage, City Building Stakeholders	June 2, 2010	Millennium Library
Housing, Recreation Library Stakeholders	June 2, 2010	Millennium Library
Creativity Stakeholders	June 3, 2010	Millennium Library
City Building Stakeholders	June 3, 2010	Millennium Library
Opportunity & Vitality Stakeholders	June 4, 2010	Millennium Library
Safety/Security, Prosperity Stakeholders	June 4, 2010	Millennium Library
Transportation Stakeholders	March 12, 2010	Millennium Library
Province of Manitoba	April 8, 2010	Provincial Office
Urban Development Institute	April 15, 2010	CAO Boardroom
Industry Exchange Developers	May 31, 2010	Convention Centre
Chamber of Commerce	June 3, 2010	CAO boardroom
Downtown Council	June 3, 2010	CentreVenture Boardroom
Winnipeg Realtors	June 4, 2010	Winnipeg Realtors Offices
Transit-Oriented Development Stakeholder Consultation	June 18, 2010	Millennium Library
Transit-Oriented Development Developer Consultation	June 18, 2010	Millennium Library
Speaking Engagements	dates	location(s)
Canadian Sustainability Indicators Network	March 2 -3, 2010	Toronto, ON
Leadership for Environment and Development	May 20, 2010	Winnipeg, MB
Canada Green Building Conference	June 9, 2010	Vancouver, BC

Attachment "B": – Consultation Report

Appendix M: Document Downloads and Views. April 25, 2009 – June 20, 2010

Document	Downloads			Document Views
	Full Document	Individual Sections, Combined Total	At-A-Glance	
OurWinnipeg	378	797	168	2329
Complete Communities	184	368	89	1557
Sustainable Transportation	179	340	89	1109
Sustainable Water & Waste	89	96	19	475
A Sustainable Winnipeg	90	92	44	536
Call to Action	444			

Attachment "C" – Errors and Omissions Report

Errors and Omissions – OurWinnipeg and Complete Communities

During phase 3 of SpeakUpWinnipeg a number of errors and omissions in OurWinnipeg and Complete Communities were noted.

The following list of amendments is recommended:

OurWinnipeg

1. That By-law No. 67/2010, OurWinnipeg be forwarded to Council for Second Reading with the following amendments:
 - A. On page 3: the words "City of Winnipeg Charter" in sidebar text should be in bold type
 - B. On page 4: the words "City of Winnipeg Charter" in image caption should be in bold type
 - C. On page 8: delete the words "Rest of Winnipeg" in graph label and replace with "City of Winnipeg"
 - D. On page 8: delete data point label on graph "849,00" and replace with "849,000"
 - E. On page 13: add the words "The number of Aboriginal people in Winnipeg is growing at a faster rate than that of the non-Aboriginal population. Source: Statistics Canada, 2006 Census, Aboriginal persons based on identity." to the end of the first paragraph
 - F. On page 28: add the words "(comma) updating the structure through local planning processes as described in **Complete Communities** or through **OurWinnipeg** amendments, as required." after the phrase "Monitor and maintain an up-to-date understanding of Winnipeg's land supply and evolving urban structure"
 - G. On page 29: delete the word "PROPOSED" from title of figure 01a
 - H. On page 29: delete the words "This is a draft version of the Urban Structure Map. It will be finalized upon approval of OurWinnipeg and its Direction Strategies. Source: Complete Communities" and replace with "Winnipeg's urban structure."
 - I. On page 58: insert "Opportunities to volunteer with community-based recreation programs offer valuable and meaningful experiences, and the volunteer contribution is essential to their success." to the end of the second paragraph.
 - J. On page 68: delete "KEY DIRECTIONS:" and replace with "DIRECTIONS:"
 - K. On page 71: delete image and replace with an image of a non-downtown building.
 - L. On page 79: insert "Vital neighbourhoods include greenspace, with opportunities to relax, reflect and connect with nature." after the third sentence in the second paragraph

Attachment "C" – Errors and Omissions Report

- M. On page 81: insert "especially in social gathering places" under DIRECTION 6, ENABLING STRATEGIES, third bullet, after the words "...grasses in public spaces"
- N. On page 82: delete "The" under DIRECTION 7, ENABLING STRATEGIES, second bullet, and replace with "the"
- O. On page 83: insert "The Winnipeg Arts Council (WAC) is a not-for-profit, arm's length corporation established by the City of Winnipeg. Its mission is to develop the arts on behalf of the people of Winnipeg. WAC's mandate includes the management of the City's arts and cultural funding programs, managing and administering the City's Public Art Policy and Program, advising the City on cultural policy and presenting cultural plans from City Council's approval. As an arm's-length organization committed to artistic excellence and diversity, WAC has an integral role in advancing Winnipeg's international reputation as a City of the Arts. WAC will also be the lead partner in the development of a long-range strategic cultural plan for the city. For more information on WAC visit <http://www.winnipegarts.ca>" as sidebar text
- P. On page 83: insert "(see Complete Communities)" after the last bullet point under ENABLING STRATEGIES
- Q. On page 85: delete "Destination Winnipeg" under DIRECTION 6, ENABLING STRATEGIES, first bullet, and replace with "Economic Development Winnipeg"
- R. On page 87: insert "Source: Winnipeg Arts Council" at the end of the image caption
- S. On page 94: insert alphabetical glossary entry "AFFORDABLE HOUSING Affordable housing Affordable housing costs less than 30 per cent of before-tax household income. For renters, shelter costs include rent and any payments for electricity, fuel, water and other municipal services. For owners, shelter costs include mortgage payments (principal and interest), property taxes, and any condominium fees along with payments for electricity, fuel, water and other municipal services. It includes housing provided by the private, public and not-for-profit sectors as well as all forms of housing tenure." (Source: CMHC Housing Observer 2009, pp 15, 81)
- T. On page 97: delete alphabetical glossary entry heading "DESTINATION WINNIPEG" and replace with "Economic Development Winnipeg"
- U. On page 98: delete "Farmland and open areas where there has been no prior residential, industrial or commercial activity. As opposed to a brownfield – the threat of contamination is much lower." under the alphabetical glossary heading GREENFIELD/GREENFIELD DEVELOPMENT, and replace with "Used in construction and development to reference land that has never been used (e.g. green or new), where there is no need to demolish or rebuild any existing structures."
- V. On page 99: delete "In contrast to greenfield development (see Greenfield), it is the development of vacant parcels of land in otherwise built-up areas." under alphabetical glossary entry INFILL/INFILL DEVELOPMENT, and replace with "A type of development occurring in established areas of the city. Infill can occur on long-time vacant lots, or on pieces of land with existing buildings, or can involve changing the land use of a property from one type of land use to another."

Attachment "C" – Errors and Omissions Report

- W.** On page 102: insert alphabetical glossary entry "RECREATION Recreation is all those things that a person or group chooses to do in order to make their leisure time more interesting, more enjoyable and more personally satisfying"

Attachment "C" – Errors and Omissions Report

Complete Communities

1. That By-law No. 68/2010, Complete Communities be forwarded to Council for Second Reading with the following amendments:
 - A. on the inside cover: insert ", Kathy Knudsen" at the end of the text under the heading COMMUNITY SERVICES DEPARTMENT
 - B. on the unnumbered facing pages under the heading HOW TO USE THIS DOCUMENT: realign arrows in graphics to visually correspond to referenced text
 - C. On page 11: delete "This is a draft version of the Urban Structure Map. It will be finalized upon approval of OurWinnipeg and its Direction Strategies." Under map image and replace with "Winnipeg's urban structure."
 - D. On page 11: delete fill colour from map areas outlined in red and identified in the map legend as Major Redevelopment Sites and replace with map areas outlined in red
 - E. On page 11: delete existing fill colour used for Red and Assiniboine Rivers in map image and replace with a contrasting fill colour for Red and Assiniboine Rivers to differentiate from areas identified in the map legend as New Communities
 - F. On page 26: delete "significant city-wide" under DIRECTION 3, first paragraph, second line, and replace with "major"
 - G. On page 28: delete "identiy" under DIRECTION 1, third paragraph, and replace with "identify"
 - H. On page 28: delete "simplified" under DIRECTION 1, fourth paragraph, and replace with "streamlined"
 - I. On pages 42 through 51: delete "Reginal" from vertical text on edge of pages and replace with "Regional"
 - J. On page 43: Under Characteristics of Regional Mixed Use Centres add "Large site area typically (±) 100 acres or more."
 - K. On Page 66: Under Characteristics of Major Redevelopment Sites add "Site area typically (±) 15 acres or more."
 - L. On page 75: The lands north of Leila Avenue, West of the Hydro corridor, east of Pipeline, and south of the Chief Peguis Trail should be identified as "New Communities" in Our Winnipeg and Complete Communities, and depicted as a separate Precinct on the map
 - M. On page 84: insert "OurWinnipeg directions in the areas of 01-4 Housing, 01-5 Recreation, 01-6 Libraries, 03-1 Opportunity and 03-2 Vitality will support and focus the kind and level of development that occurs in Reinvestment Areas." at the end of the last paragraph
 - N. On page 95: show the area known as the City of Winnipeg North End Water Pollution Control Centre on the map in grey
 - O. On page 138: insert "AND ENHANCE PLANNING EFFORTS TOWARD THE IMPLEMENTATION OF" under DIRECTION 3, after the word "COMPLEMENT"
 - P. On page 147: delete "Large, underdeveloped tracts of land that are not currently serviced by a full range of municipal services." under alphabetical glossary heading GREENFIELD / GREENFIELD DEVELOPMENT, and

Attachment "C" – Errors and Omissions Report

replace with "Used in construction and development to reference land that has never been used (e.g. green or new), where there is no need to demolish or rebuild any existing structures."

- Q. On page 147: delete "In contrast to greenfield development (see Greenfield), it is the development of land in otherwise built-up areas." under the heading INFILL/INFILL DEVELOPMENT, and replace with "A type of development occurring in established areas of the city. Infill can occur on long-time vacant lots, or on pieces of land with existing buildings, or can involve changing the land use of a property from one type of land use to another."
- R. On page 154: delete "Zoning classifies of" under alphabetical glossary heading ZONING, and replace with "Zoning classifies"

Exhibit “7.D” referred to in File PW 1/2010 - OurWinnipeg Plan

OurWinnipeg – Errors and Omissions (July 12, 2010)

Recommendation:

1. That By-law No. 67/2010, **OurWinnipeg** be forwarded to Council for Second Reading with the following amendments:
 - A. On page 33: replace the word “areas” with the word “area’s” in the third paragraph of the sidebar. Replace the word “form” with the word “from” and the word “explorin” with the word “exploring” in the final paragraph of the sidebar.

Complete Communities – Errors and Omissions (July 12, 2010)

Recommendation:

1. That By-law No. 68/2010, Complete Communities be forwarded to Council for Second Reading with the following amendments:
 - A. On the inside cover: insert "Diane Banash" in text under the heading PUBLIC WORKS DEPARTMENT and remove the name "Diane Banash" under the heading COMMUNITY SERVICES DEPARTMENT
 - B. On page 68: Replace the word "emplyoment" with the word "employment" in Direction 1, Strategy 2.
 - C. On page 108: Move the yellow line that appears under the subtitle "Supporting Direction and Enabling Strategies" down to match other pages.

This is **Exhibit "B"** referred to in the
Affidavit of Valdene Lawson sworn
before me this 14th day of March, 2019.

 Vivian Li

A Barrister and Solicitor in and for the Province of
Manitoba.

STATUS OF TITLE

Title Number **2886344/1**
Title Status **Accepted**
Client File **R.6/2016(12)**

The Property Registry

A Service Provider for the Province of Manitoba



1. REGISTERED OWNERS, TENANCY AND LAND DESCRIPTION

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES RECORDED HEREON
IN THE FOLLOWING DESCRIBED LAND:

LEILA AVENUE PLAN 60600 WLTO
IN OTM LOT 15 PARISH OF KILDONAN

The land in this title is, unless the contrary is expressly declared, deemed to be subject to the reservations and restrictions set out in section 58 of *The Real Property Act*.

2. ACTIVE INSTRUMENTS

No active instruments

3. ADDRESSES FOR SERVICE

DEPT. OF JUSTICE (WINNIPEG MB)
6TH FLOOR 405 BROADWAY
WINNIPEG MB
R3C 3L6

CITY OF WPG LEGAL SERVICES
510 MAIN STREET
WINNIPEG MB
R3B 1B9

4. TITLE NOTES

No title notes

5. LAND TITLES DISTRICT

Winnipeg

6. DUPLICATE TITLE INFORMATION

Duplicate not produced

7. FROM TITLE NUMBERS

529583/1 Partial

8. REAL PROPERTY APPLICATION / CROWN GRANT NUMBERS

No real property application or grant information

9. ORIGINATING INSTRUMENTS

Instrument Type: Request To Issue Title

Registration Number: 4814968/1

Registration Date: 2017-02-16

From/By: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MB

To:

Amount:

10. LAND INDEX

OT 15 KI
LEILA AVENUE PLAN 60600

Plan 60600
LEILA AVENUE

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE
SYSTEM OF TITLE NUMBER 2886344/1

This is **Exhibit "C"** referred to in the
Affidavit of Valdene Lawson sworn
before me this 14th day of March, 2019.

 Vivian Li


A Barrister and Solicitor in and for the Province of
Manitoba.

Title to streets

119(2) Upon the registration or filing of a plan,

- (a) the title to any portion of the land covered by the plan indicated on the plan as a street, lane, avenue, footpath, walkway, road, highway, public square or other means of communication, is vested in the Crown free from all encumbrances other than a pipeline easement, subject however to the right of the municipality to the possession thereof;
- (b) the title to any portion of the land covered by the plan indicated on the plan as Crown reserve is vested in the Crown free from all encumbrances other than a pipeline easement; and
- (c) the title to any portion of the land covered by the plan indicated on the plan as public reserve is vested free from all encumbrances other than a pipeline easement
 - (i) where the land is situated in a municipality, in that municipality, and
 - (ii) where the land is not situated in a municipality, in the Crown.

This is **Exhibit "D"** referred to in the
Affidavit of Valdene Lawson sworn
before me this 14th day of March, 2019.


Vivian Li

A Barrister and Solicitor in and for the Province of
Manitoba.

Manitoba



Deputy Minister of Municipal Government
Legislative Building, Winnipeg, Manitoba, Canada R3C 0V8
T 204-945-3787 F 204-945-5255
www.manitoba.ca



JUL 28 2015

Mr. Doug McNeil
Chief Administrative Officer
City of Winnipeg
510 Main Street
Winnipeg MB R2B 1B9

Dear Mr. McNeil:

I am writing in response to an inquiry earlier this year from Ms. Krista Boryskavich of the City of Winnipeg's Legal Department with Ms. Lavonne Ross of Manitoba's Legal Services Branch regarding the City's legislated authority to recoup development-related infrastructure costs.

Under *The City of Winnipeg Charter*, the City has authority to pursue a number of methods of securing development related contributions to on-site and off-site infrastructure costs including the use of its general authority (including Sections 209(1) and 209(2)) and development agreements (Sections 240 and 259).

The City may also use tools such as local improvement by-laws (Division 5, including Sections 406 to 431) to support the provision of infrastructure in areas where no development proposal has been received.

I trust this provides the information requested regarding City of Winnipeg infrastructure charge ability.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Meier".

Fred Meier
Deputy Minister

c: Krista Boryskavich
Lavonne Ross

This document is an office consolidation of by-law amendments which has been prepared for the convenience of the user. The City of Winnipeg expressly disclaims any responsibility for errors or omissions.

CONSOLIDATION UPDATE: MAY 24, 2018

THE CITY OF WINNIPEG

BY-LAW No. 127/2016, as amended

A By-law of The City of Winnipeg to impose fees on new development to assist with the costs associated with accommodating and managing growth and development.

WHEREAS subsection 5(1) of *The City of Winnipeg Charter* defines the purposes of The City of Winnipeg as follows:

- (a) To provide good government for the city;
- (b) To provide services, facilities or other things that council considers to be necessary or desirable for all or part of the city;
- (c) To develop and maintain safe, orderly, viable and sustainable communities; and
- (d) To promote and maintain the health, safety and welfare of the inhabitants;

AND WHEREAS accommodating and managing growth and development so that it is safe, orderly, viable and sustainable and so that it promotes and maintains the health, safety and welfare of the inhabitants requires urban planning, zoning and land use restrictions, enforcement of building codes and the creation of a variety of infrastructure and services, including (but not restricted to) transportation, sewer, water, land drainage, recreation and police, fire, paramedic and emergency services;

AND WHEREAS to date, the costs to The City of Winnipeg of accommodating and managing growth and development have been only partially paid through development agreements, zoning agreements and fees for the permits and approvals required to develop and construct buildings;

AND WHEREAS the Council of The City of Winnipeg has determined that the costs of accommodating and managing growth should be more fully paid for by the individuals and businesses directly benefitting from growth and development;

AND WHEREAS clause 210(1)(b) of *The City of Winnipeg Charter* provides as follows:

210(1) *The city may, if authorized by council, establish*

- ...
- (b) *fees, and the method of calculating and the terms of payment of fees, for*
 - (i) *applications,*
 - (ii) *filing appeals under this Act or a by-law,*

By-law No. 127/2016, as amended

- (iii) *permits, licences, consents and approvals,*
- (iv) *inspections,*
- (v) *copies of by-laws and other city records including records of hearings, and*
- (vi) *other matters in respect of the administration of this Act or the administration of the affairs of the city.*

AND WHEREAS subsection 6(1) of *The City of Winnipeg Charter* provides as follows:

- 6(1) *The powers given to council under this Act are stated in general terms*
 - (a) *to give broad authority to council to govern the city in whatever way council considers appropriate within the jurisdiction given to it under this or any other Act; and*
 - (b) *to enhance the ability of council to respond to present and future issues in the city.*

AND WHEREAS the imposition of fees under subsection 210(1) of *The City of Winnipeg Charter* promotes the purposes of the City of Winnipeg and enhances the ability of Council to respond to present and future issues in the City, as set out in subsection 5(1) and clause 6(1)(b) of the *The City of Winnipeg Charter*.

NOW THEREFORE the City of Winnipeg, in Council assembled, enacts as follows:

Short title

1 This By-law may be cited as the Impact Fee By-law.

Definitions and interpretation

2(1) In this By-law

Accessory structure means a building or structure that is located on the same zoning lot as, and is subordinate or incidental to, a principal building, and includes an outbuilding, garage, gazebo, utility building, play structure, sign and structures supporting a sign, garbage enclosure, awning, fence, racking, storage unit or container, deck, antenna, canopy, marquee, satellite dish, mechanical penthouse, hot tub, fountain, water barrel, pond and swimming pool, but does not include an attached secondary suite or a detached secondary suite;

Affordable housing means any dwelling unit provided for persons of low or moderate income where the total shelter cost of the dwelling unit represents 30% or less of the median household total income for private households, as defined by Statistics Canada for the City of Winnipeg;

Attached secondary suite has the same meaning as "secondary suite, attached" in the Winnipeg Zoning By-law;

Basement has the same meaning as in the Neighbourhood Liveability By-law;

Building means any building used or intended to be used to support or shelter any use or occupancy;

Building permit means a permit issued pursuant to the Winnipeg Buildings By-law;

City means The City of Winnipeg continued under the Charter;

Change in use means a change of the use of a particular zoning lot under either the Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law;

Charter means the "*The City of Winnipeg Charter*";

Commercial and Retail Uses means a development that falls within the following use categories, depending on the applicable zoning by-law:

- (a) under the Winnipeg Zoning By-law:
 - (i) Recreation and Entertainment, Indoor;
 - (ii) Recreation and Entertainment, Outdoor;
 - (iii) Accommodation;
 - (iv) Animal Sales and Service;
 - (v) Food and Beverage Service;
 - (vi) Personal Services;
 - (vii) Retail;
 - (viii) Restricted; and
 - (ix) Private Motor Vehicle Related, and
- (b) under the Downtown Winnipeg Zoning By-law:
 - (i) Commercial Sales & Service;
 - (ii) Private Motor Vehicle-Related;
 - (iii) Cultural and Entertainment, except Cultural centre, Gallery, and Museum; and
 - (iv) Restricted;

Common area, with respect to a mixed use development, means the portion of the total floor area which

- (a) connects; or

By-law No. 127/2016, as amended

(b) is used by

two or more areas within the development that fall into different fee categories;

Construction means the erection, placement, alteration, renovation, extension, or relocation of any building or part of a building for which a building permit is required;

Conversion, with respect to a building, means a change in use of all or part of the building under either the Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law with the result that all or part of the building falls under a different fee category after the change in use;

Designated employee means the Director and any employee of the City to whom the Director has delegated a duty or authority under this By-law;

Detached secondary suite has the same meaning as "secondary suite, detached" in the Winnipeg Zoning By-law;

Development means construction, conversion, or both construction and conversion;

Development permit means a permit authorizing a development issued under either the Downtown Winnipeg Zoning By-law or the Winnipeg Zoning By-law;

Director means the Director of Planning, Property and Development for the City of Winnipeg;

Dwelling has the same meaning as in the Neighbourhood Liveability By-law;

Dwelling unit has the same meaning as in the Neighbourhood Liveability By-law;

Expansion means, with respect to a building, an increase in floor area of the building;

Fee category means one of the five fee categories set out in subsection 4(2);

Floor area means the sum of the gross horizontal areas of the several floors of all buildings on a zoning lot, measured from the exterior faces of exterior walls, or from the centre line of partitions, except:

(a) with respect to residential development:

(i) any accessory structure;

(ii) any basement, and

(iii) any part of the dwelling unit that is not habitable throughout the year, including porches and sun rooms;

(b) with respect to non-residential development:

(i) any space within the building used as a parking area or a loading area;

By-law No. 127/2016, as amended

Impact fee means a fee applicable to a development which is imposed pursuant to clause 3(1)(b);

Industrial Uses means a development that falls within the following use categories, depending on the applicable zoning by-law:

- (a) under the Winnipeg Zoning By-law:
 - (i) Industrial Service;
 - (ii) Manufacturing and Production;
 - (iii) Warehouse and Freight Movement; and
 - (iv) Waste and Salvage, and
- (b) under the Downtown Winnipeg Zoning By-law:
 - (i) Light Industrial;

Mixed use development means a development which contains more than one fee category;

Office Uses means a development that falls within the following use categories, depending on the applicable zoning by-law:

- (a) under the Winnipeg Zoning By-law:
 - (i) Office, and
- (b) under the Downtown Winnipeg Zoning By-law:
 - (i) Office;

Principal building has the same meaning as in the Neighbourhood Liveability By-law;

Public and Institutional Uses means a development that falls within the following use categories, depending on the applicable zoning by-law:

- (a) under the Winnipeg Zoning By-law:
 - (i) Community Facilities;
 - (ii) Education;
 - (iii) Park and Park-Related;
 - (iv) Other Public and Institutional;
 - (v) Cultural Facilities;

By-law No. 127/2016, as amended

- (vi) Transit and Transportation; and
- (vii) Utility, and
- (b) under the Downtown Winnipeg Zoning By-law:
 - (i) Public and Institutional;
 - (ii) Cultural and Entertainment – Cultural Centre, Gallery, and Museum only;
 - (iii) Park and Park-related; and
 - (iv) Transportation, Utility, & Communications;

Renovation, with respect to residential development, has the same meaning as in the Winnipeg Building By-law;

Replacement, with respect to a building, means the demolition or removal of a building and the construction of another building on the same zoning lot within 5 years following the demolition or removal;

Residential development means the development of dwelling units;

Zoning lot has the same meaning as "lot, zoning" in the Winnipeg Zoning By-law;

Fee imposed

3(1) Every person who is issued a building permit or a development permit must pay to the City

- (a) the applicable fee or fees set out in the Planning, Development and Building Fees By-law; and
- (b) an Impact Fee in accordance with this By-law.

3(2) The Impact Fee must be paid prior to the issuance of any building permit or development permit for the development in respect of which the Impact Fee applies.

3(3) For greater certainty, where both a building permit and a development permit are issued in respect of a development, only one Impact Fee is payable under clause 3(1)(b).

3(4) Where the Impact Fee in respect of a development:

- (a) has been paid;
- (b) has not been refunded by the City; and
- (c) the development authorized by the building permit or development permit applicable to that development has not been completed,

the Impact Fee paid shall be credited towards any subsequent Impact Fee payable under this By-law in respect of a building permit or development permit issued for the land on which the original development was located within 5 years of the date the initial Impact Fee was paid.

Impact Fee calculation

4(1) Subject to subsection (3), the Impact Fee payable in respect of a development is the product of the total floor area that is being constructed or converted multiplied by the fee per square metre established by Council for the fee category applicable to the development.

4(2) For the purposes of subsection (1), the following fee categories are hereby established:

- (a) Residential Uses;
- (b) Office Uses;
- (c) Commercial and Retail Uses;
- (d) Public and Institutional Uses; and
- (e) Industrial Uses.

4(3) Subject to subsection 6(1), where all or part of an existing building is being converted, expanded or replaced, the amount of the Impact Fee payable is the difference between the amount of the Impact Fee applicable to the converted, expanded or replacement building less the amount of the Impact Fee that would have been payable for the existing building prior to its conversion, expansion or replacement if the Impact Fee determined in accordance with current rates were applicable to it. Where the difference is \$0.00 or less, no Impact Fee is payable and no refund shall be issued.

Mixed use development

5(1) The Impact Fee payable in respect of mixed use development shall be calculated separately for the floor area of the development that falls within each fee category in accordance with subsection 4(1).

5(2) For the purposes of subsection (1), common areas within mixed use development shall be attributed proportionately to each fee category based on the proportion of the floor area of the entire development that falls within each fee category.

Exemptions

6(1) Notwithstanding subsection 4(1), no Impact Fee is payable in respect of residential development on land where

- (a) one or more existing dwelling units are being renovated, expanded or, replaced; and
- (b) there is no increase in the total number of dwelling units on that land.

By-law No. 127/2016, as amended

6(2) Notwithstanding subsection 4(1), no Impact Fee is payable in respect of dwelling units which the following organizations have entered into a written agreement with the City, under such terms and conditions deemed necessary by the Director of Legal Services and City Solicitor to protect the interests of the City, to provide as affordable housing for a period of no less than 10 years:

- (a) Winnipeg Housing Rehabilitation Corporation;
- (b) The Manitoba Housing and Renewal Corporation;
- (c) The Government of Canada or the Province of Manitoba; or
- (d) any organization that has been approved to receive funding from the Government of Canada or the Province of Manitoba under an affordable housing program, as determined by that government.

Withdrawals of and changes to permits

7(1) Where an Impact Fee has been paid and the building permit or development permit to which the Impact Fee is applicable is voluntarily withdrawn prior to its expiration pursuant to the Winnipeg Building By-law, the person who paid the Impact Fee is entitled to a refund of the entire Impact Fee paid, less an administration fee established by Council.

7(2) Where, after being issued, a building permit or development permit is amended in a way that results in an increase in floor area or a change in the fee category applicable to all or part of the development, the person to whom the building permit or development permit has been issued must pay an additional Impact Fee which reflects the increase of floor area or change in fee category, as the case may be. The additional Impact Fee is the difference between the Impact Fee payable in respect of the development authorized by the amended permit less the Impact Fee that either was paid or would have been payable in respect of the development authorized by the original permit. Where the difference is \$0.00 or less, no Impact Fee is payable and no refund shall be issued. The additional Impact Fee, if any, must be paid prior to the issuance of the amended building permit or development permit.

Powers of designated employees

8 Designated employees have authority to conduct inspections and take steps to administer and enforce this By-law or remedy a contravention of this By-law in accordance with the Charter and, for those purposes, have the powers of a designated employee under the Charter.

Director review

9(1) Upon payment of a refundable application fee established by Council, a person may apply to the Director for a review of the application or interpretation of this By-law by a designated employee.

9(2) An application under subsection (1) must be submitted within 14 days following the date the Impact Fee in respect of a development is paid.

By-law No. 127/2016, as amended

9(3) The requirement in subsection 3(1) to pay the Impact Fee as determined by a designated employee prior to a building permit or development permit being issued is not suspended because an application for a review has been made.

9(4) In conducting a review, the Director must give the applicant an opportunity to explain the basis for his or her conclusion that this By-law was misapplied or misinterpreted. This may be done in person, by telephone, in writing or by any other media determined by the Director to be appropriate.

amended 39/2018

9(5) Where an application is made under subsection (1), the Director must make a decision with respect to the application within 90 days following the date the application is received and must notify the applicant of his or her decision in accordance with the Charter.

9(6) Where, after conducting his or her review, the Director determines that the designated employee erred in the application or interpretation of this By-law, resulting in an incorrect Impact Fee being paid or applied, the Director may refund all or part of the application fee and may also refund the Impact Fee paid in respect of a development in order to correct the error.

Appeals

10(1) An appeal

- (a) from a decision of the Director in respect of issuing, granting, suspending or cancelling, or refusing to issue or grant, a licence, permit, approval or consent under this By-law; or
- (b) any other matter for which an appeal is authorized by *The City of Winnipeg Charter*

may be made to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

amended 112/2017

10(2) An appeal must not be accepted until an appeal fee in an amount established by Council is paid. The appeal fee may be refunded by the Standing Policy Committee on Property and Development, Heritage and Downtown Development if the committee considers that the appeal has been made in good faith and has merit.

amended 112/2017

10(3) The requirement in subsection 3(1) to pay the Impact Fee as determined by a designated employee prior to a building permit or development permit being issued is not suspended because an appeal has been made.

Development without paying fee an offence

11 The owner of land must not permit development in respect of which an Impact Fee is payable to occur on the land prior to the Impact Fee being paid.

Penalties for non-compliance

12(1) Any person who contravenes any section of this By-law is guilty of an offence and liable upon conviction to a fine in the amount of:

- (a) not less than double the amount of the applicable Impact Fee for a contravention of subsection 3(1) or section 11; and
- (b) not less than \$5,000.00 for any other contravention.

12(2) Where development in respect of which an Impact Fee is payable occurs prior to the Impact Fee being paid, the owner of the land on which development has taken place must pay to the City:

- (a) the Impact Fee; and
- (b) a monetary penalty, that is in addition to a fine under subsection (1), for the contravention of this by-law in an amount equal to the Impact Fee.

By-law No. 127/2016, as amended

Address for service

12.1(1) Where a notice, order or other document is required to be given to, sent to or served on a person under this By-law, the notice, order or other document may be sent to that person:

added 39/2018

- (a) by way of registered mail:
 - (i) where the person is an applicant, at the address provided by the person to the designated employee in the person's application for a development permit or a building permit;
 - (ii) where the person is the owner of real property, at the address maintained by the tax collector for the purposes of issuing the tax notice for that property; or
 - (iii) in all other situations, the last known address for the person; or
- (b) where the person has provided the designated employee with an email address, by way of electronic mail, subject to subsection (2).

12.1(2) Where a notice, order or other document is sent to a person under clause (b), the person shall be deemed to have received the notice, order or other document on the date on which a delivery receipt for the electronic mail has been received by the designated employee.

added 39/2018

Transition

13(1) The Impact Fee applies only to those areas identified on Map 1, and further depicted in detail on Maps 2 to 11, inclusive, all attached as Schedule "A".

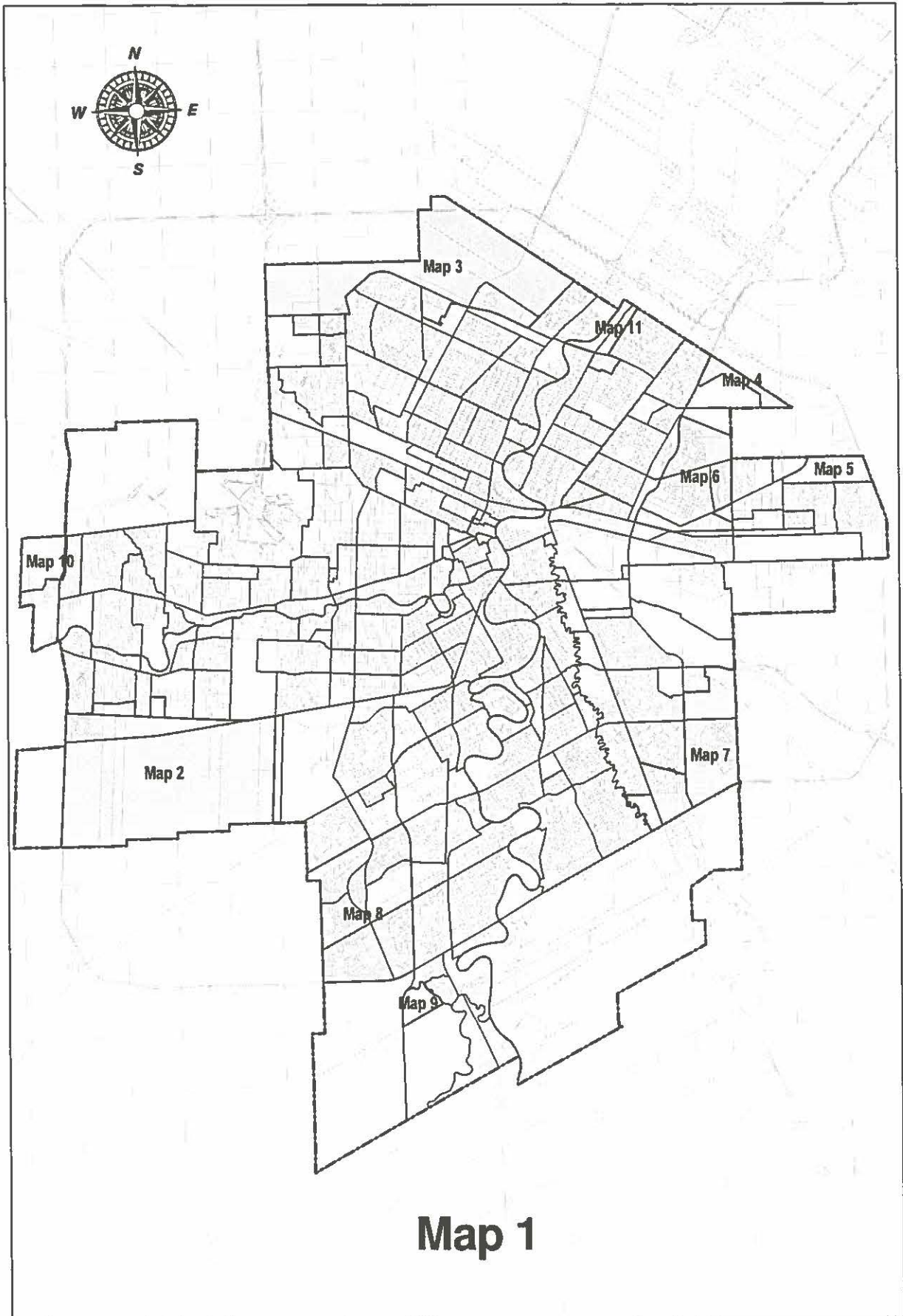
13(2) Notwithstanding subsection 3(1), no Impact Fee is payable at the time a building permit or development permit is issued if

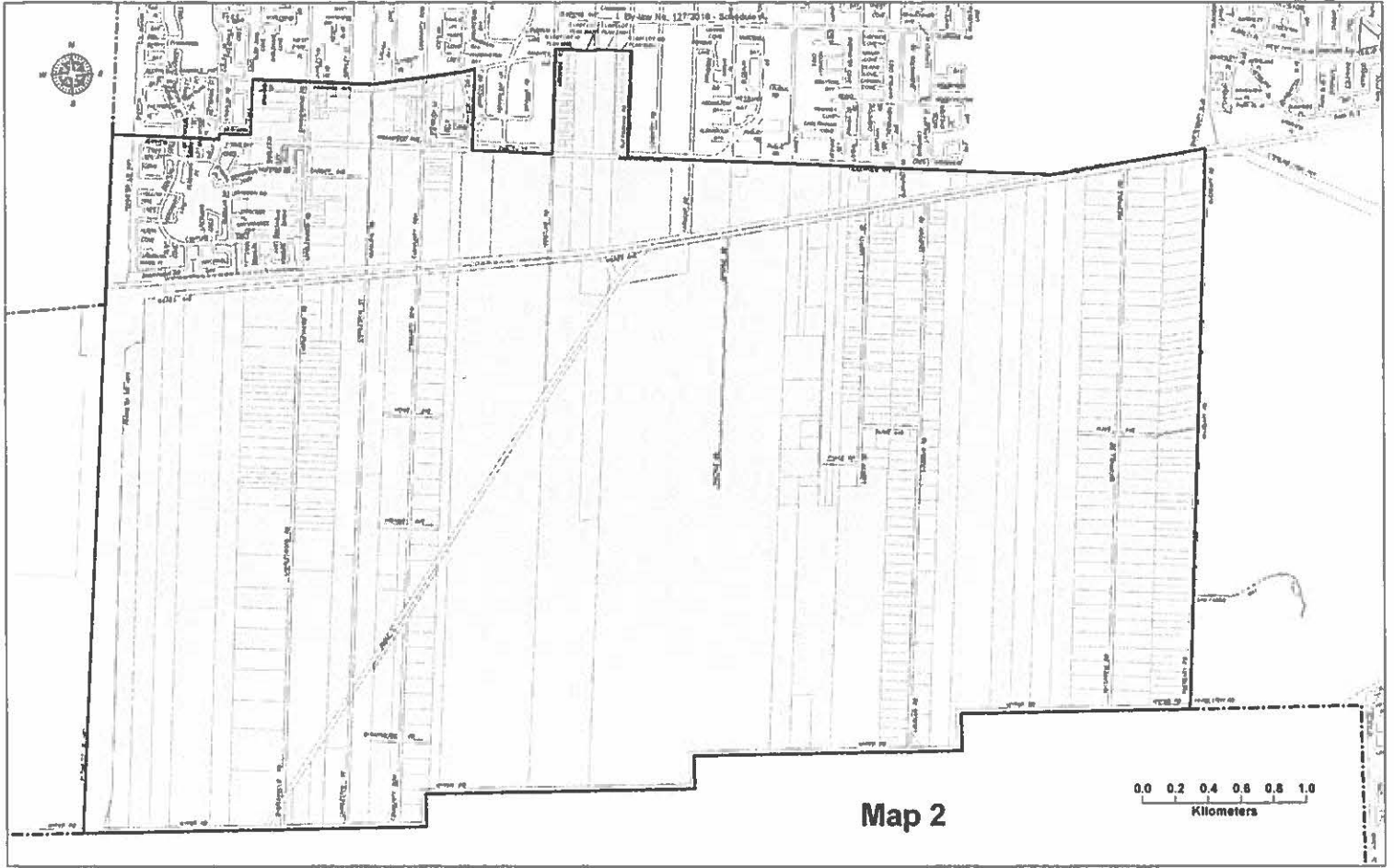
- (a) an application for the building permit or development permit is made prior to May 1, 2017;
- (b) the building permit or development permit is issued within 6 months following the date of the application, or such later date as determined by the Director to be reasonable in the circumstances; and
- (c) the construction of the development begins, or the conversion of the development takes place, prior to January 1, 2018.

amended 112/2017

13(3) Notwithstanding that a development meets the criteria set out in clauses (2)(a) and (b), a building permit or development permit that has been issued in respect of the development expires when a designated employee determines and provides notice to the permit holder that the development does not meet the requirement set out in clause (2)(c). A new permit in respect of that development is required and is subject to payment of the Impact Fee.

DONE AND PASSED, this 26TH day of October, 2016.





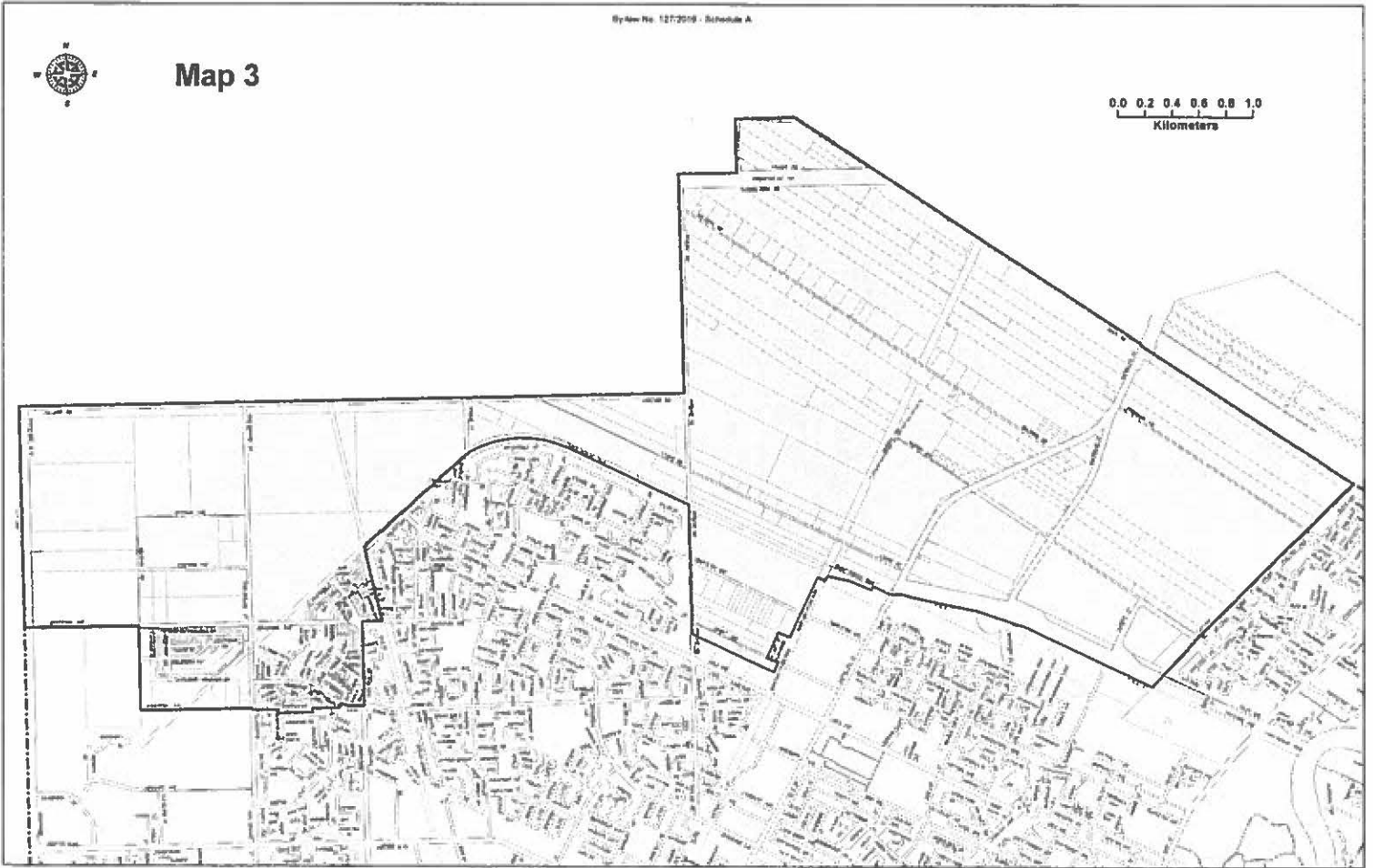
Map 2

0.0 0.2 0.4 0.6 0.8 1.0
Kilometers



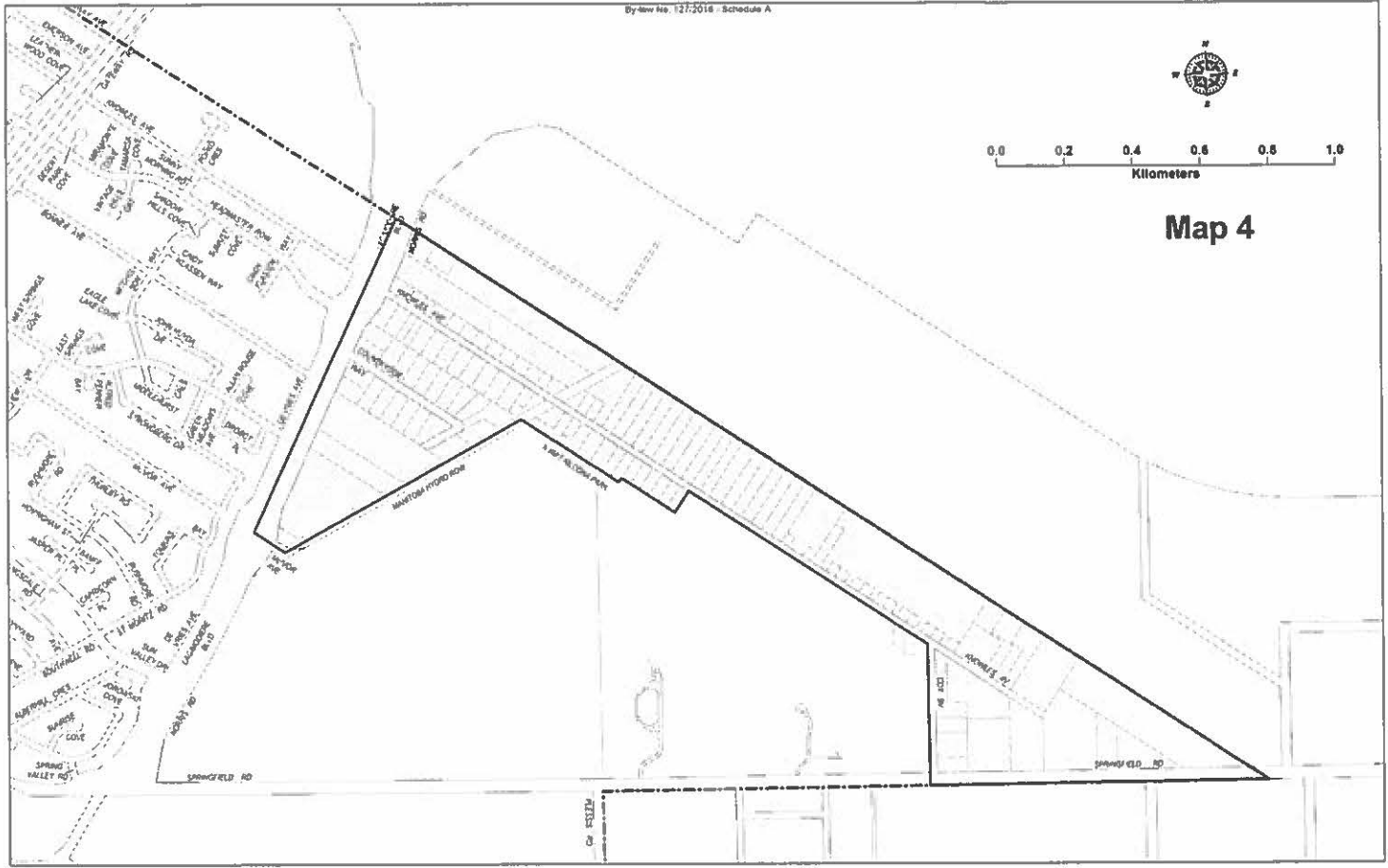
Map 3

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Kilometers





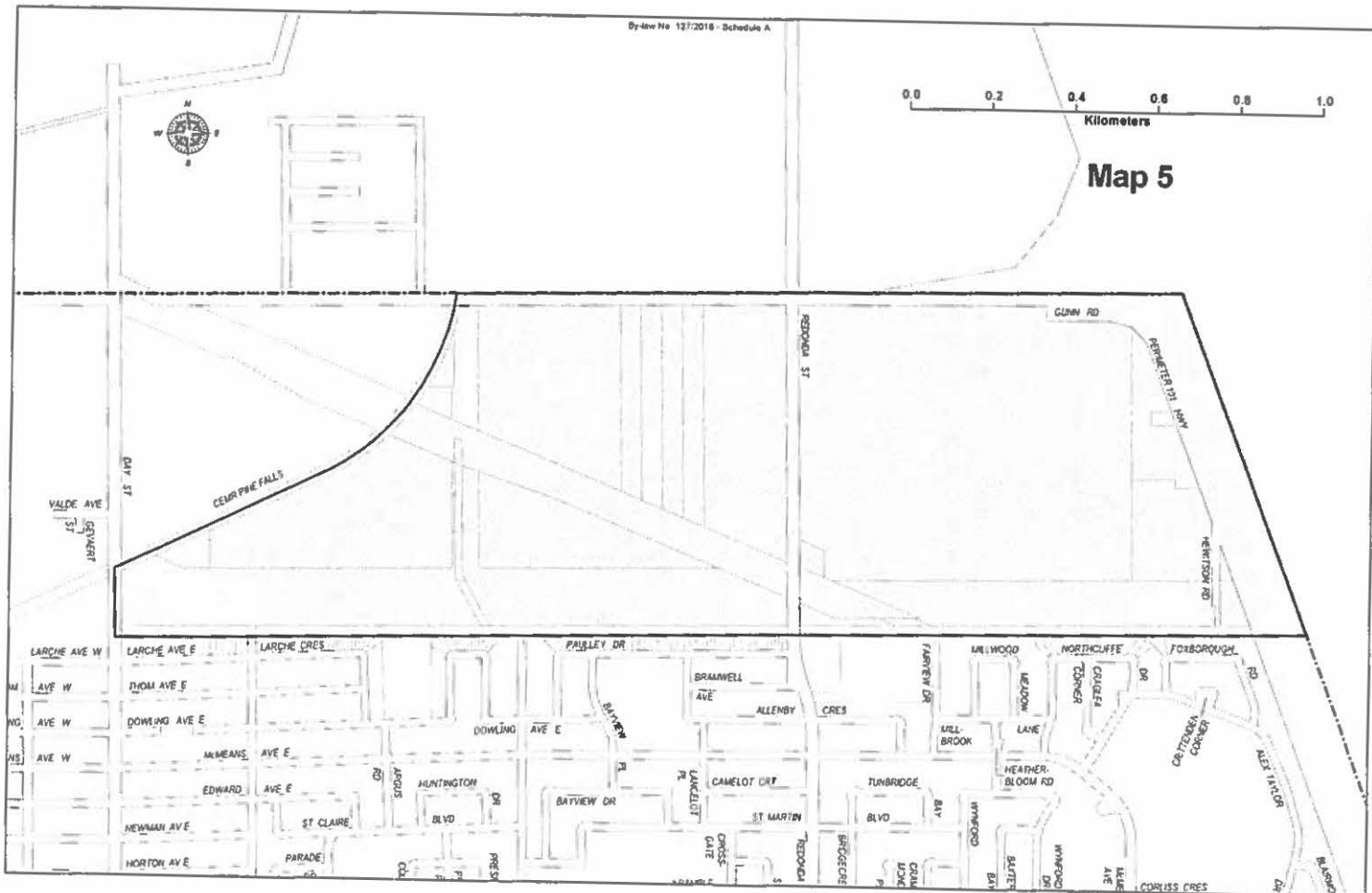
Map 4



By-law No. 127/2018 - Schedule A



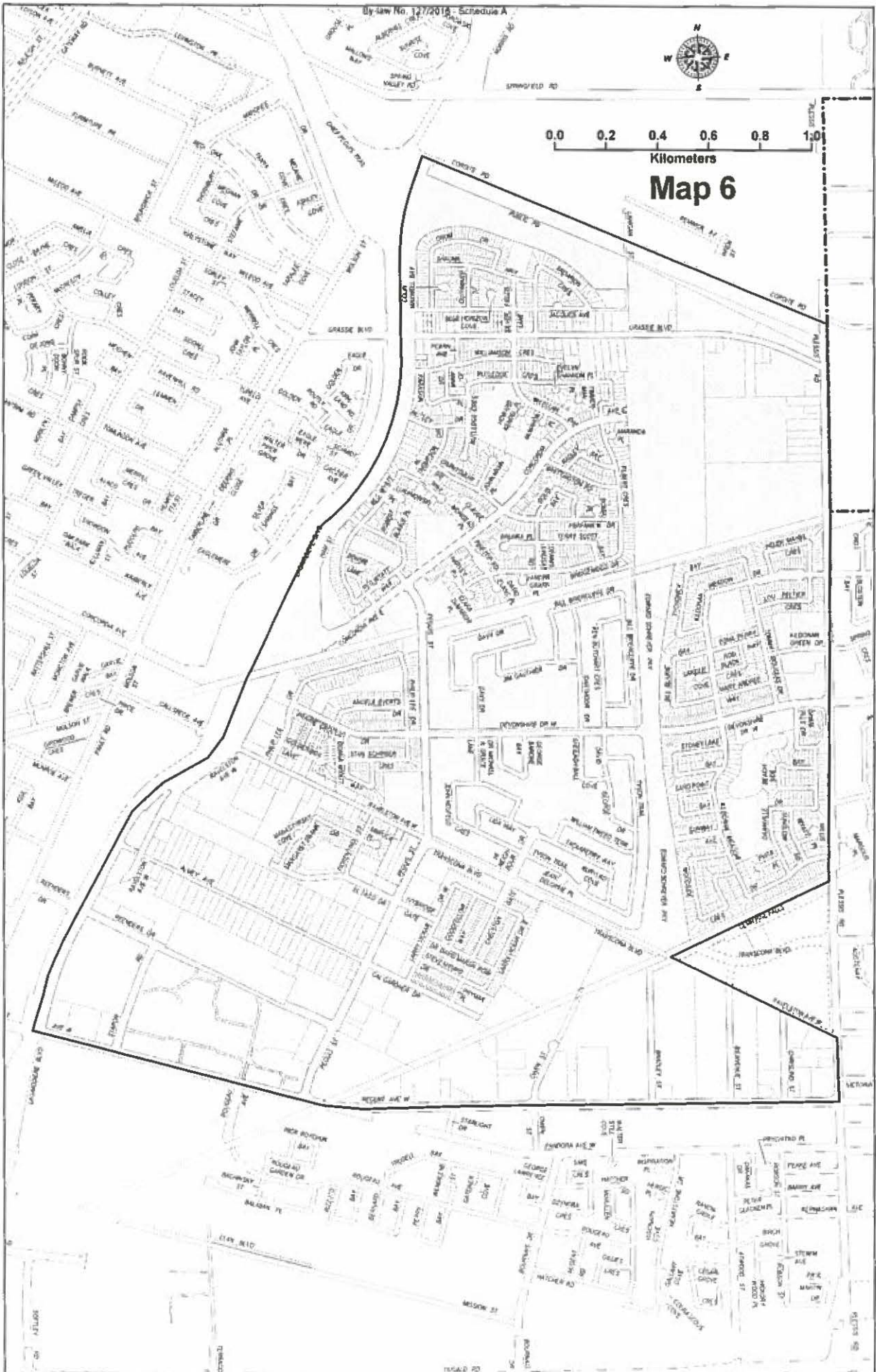
Map 5





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Kilometers

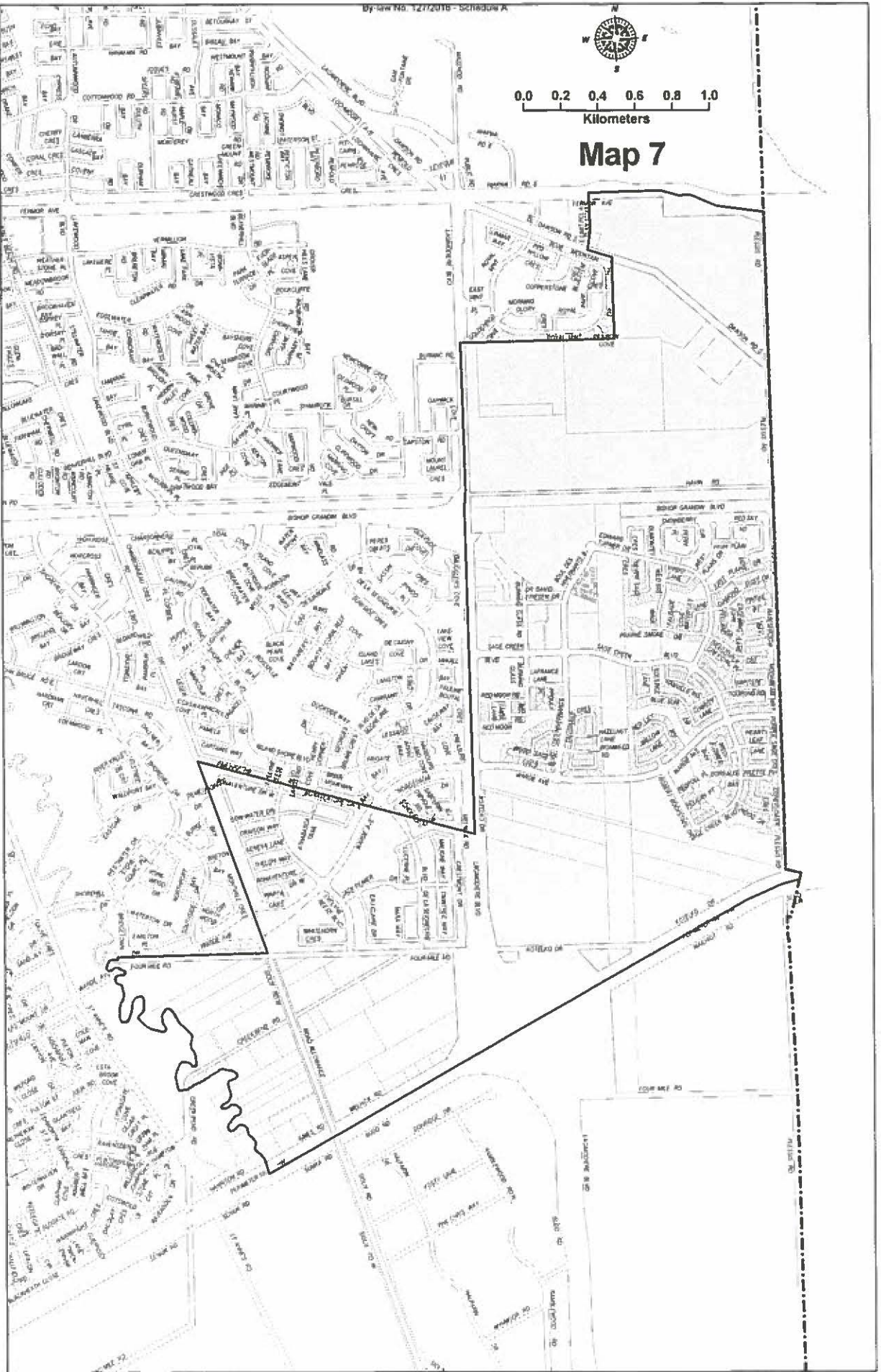
Map 6

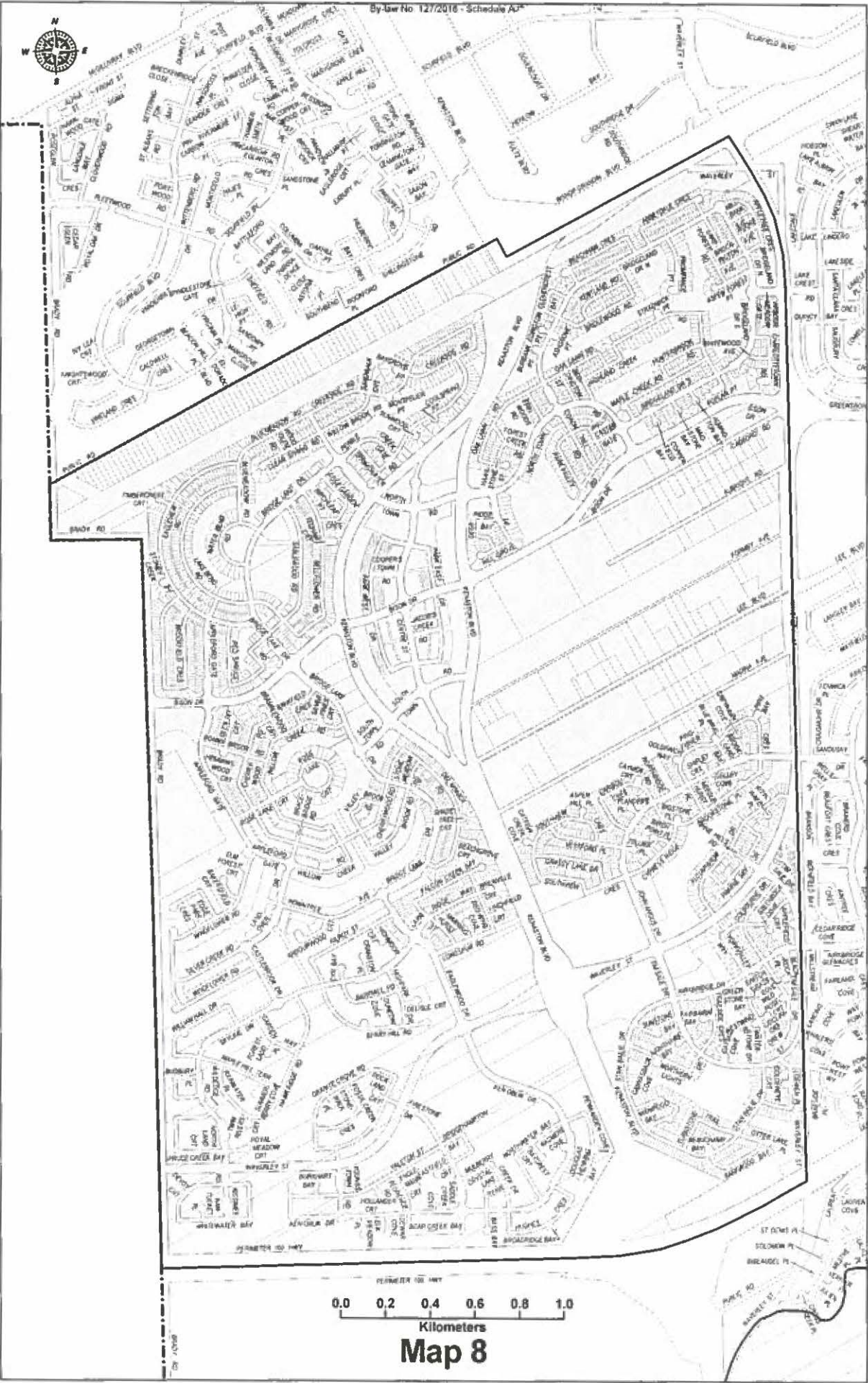




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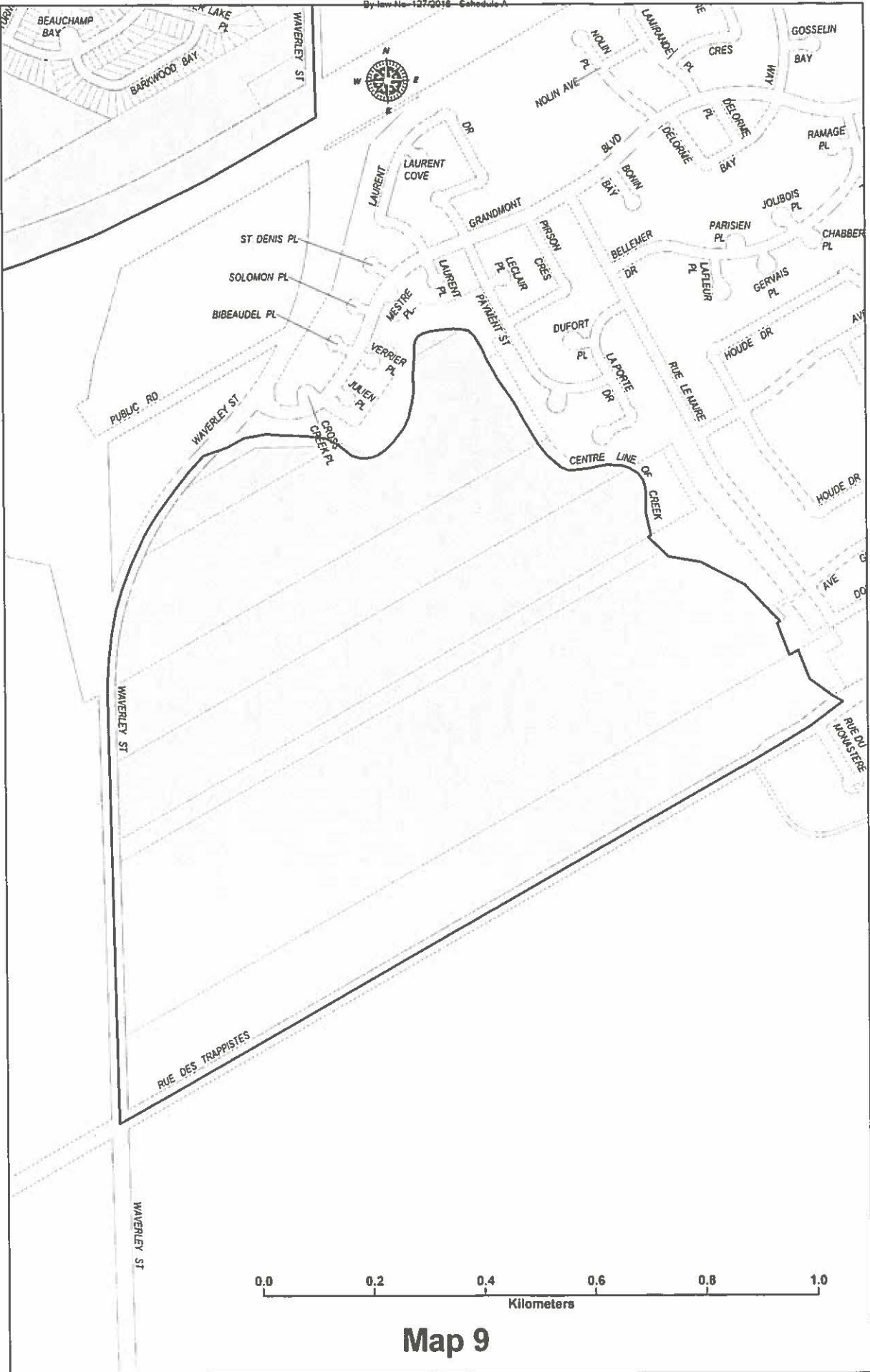
Map 7





PERIMETER 00 100
0.0 0.2 0.4 0.6 0.8 1.0
Kilometers

Map 8



Map 9



Map 10





Map 11



This is **Exhibit "F"** referred to in the
Affidavit of Valdene Lawson sworn
before me this 14th day of March, 2019.


Vivian Li

A Barrister and Solicitor in and for the Province of
Manitoba.

Minute No. 604

Report – Executive Policy Committee – October 19, 2016

Item No. 5 Implementation of an Impact Fee

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee, as amended, and adopted the following:

1. That an Impact Fee Working Group be established as per the “Impact Fee Working Group Terms of Reference” to ensure long-term, ongoing collaboration and consultation with industry and community stakeholders which will review market trends, exemption options and provide recommendations to the Ad Hoc Committee on Development Standards and the “Impact Fee Working Group Terms of Reference” (draft attached) be included in the report and attached as Appendix E.
2. That the “Phase One: Impact Fee Implementation Plan” (attached) be attached to the report as Appendix D.
3. That the recommendations set out in the Report be replaced with the following:
 - “1. That the reports prepared by Hemson Consulting Ltd., Review Of Municipal Growth Financing Mechanisms and Determination Of Regulatory Fees To Finance Growth: Technical Report, dated August 31, 2016 (attached as Appendices A and B) be received as information.
 2. That the Impact Fee By-law (draft attached as Appendix C) which will apply an impact fee effective May 1, 2017, for residential development in New Communities and Emerging Communities as set forth in Our Winnipeg and Complete Communities, outlined in bold in Appendix D be enacted, and that for the purposes of the Impact Fee By-law, the following be established:
 - A. that the fee amounts increase on January 1 of each year by the rate of construction inflation for the previous year as determined by the Chief Financial Officer, and that the annual increase be capped at 5% per year;
 - B. an administration fee for refunds in the amount of \$100.00;
 - C. an application fee for Director review in the amount of \$100.00; and
 - D. an appeal fee in the amount of \$250.00.

Report – Executive Policy Committee – October 19, 2016**COUNCIL DECISION (continued):**

3. That the following be established as Phase One of the Impact Fee Implementation Plan: effective May 1, 2017 as fee amounts per square meter of gross floor space in the following five categories for residential development in New and Emerging Communities, as identified in OurWinnipeg and outlined in bold in Appendix D:
 - A. Residential: \$54.73 per m²
 - B. Office: \$0.00 per m² -
 - C. Commercial: \$0.00 per m²
 - D. Industrial: \$0.00 per m²
 - E. Public and Institutional: \$0.00 per m²

4. That Council, with recommendations from the Working Group, may consider rates for implementation for the following:
 - A. non-residential uses in New and Emerging Communities as identified in OurWinnipeg and outlined in bold in Appendix D no earlier than November 1, 2018 – Phase 2
 - B. All uses in all other areas of the City no earlier than November 1, 2019-Phase 3

5. That the Impact Fee Reserve Fund be established as follows:
 - A. All funds generated by the impact fee are to be deposited into the Fund, and that the fees collected by each area as outlined on the map in Appendix D be recorded and that Councillors be allowed access to the area information on an ongoing basis with accumulative totals;
 - B. The purposes of the Fund are:
 - i. to fund capital projects approved by Council recommended by the Chief Financial Officer with consideration given to the input provided by the Working Group;
 - ii. to pay the costs of administering the Impact Fee By-law and Reserve Fund.

6. That the Winnipeg Public Service report to Council every 24 months with the results of a review of the impact fee, which must include consideration of recommendations provided by the Working Group and alignment of the impact fee with OurWinnipeg.”

Report – Executive Policy Committee – October 19, 2016

COUNCIL DECISION (continued):

4. That the draft Impact Fee By-law (Appendix C to the Report) be changed:
 - A. To reflect the content of the altered Report recommendations set out above
 - B. To exempt from application of the fee building or development permits issued within 6 months of receipt of application made prior to May 1, 2017, at the discretion of the Director of Property and Development, where construction begins or conversion takes place by November 1, 2018.
5.
 - A. That the Map in Appendix D of Item No. 5 of the Report of the Executive Policy Committee dated October 19, 2016 be replaced with Map 1 attached to the adopted motion proposed by Councillors Orlikow and Morantz.
 - B. That Map 1 and Map 6 of Schedule “A” to By-law No. 127/2016 be replaced with the maps attached to the adopted motion and identified as Map 1 and Map 6, respectively, and the map attached to this motion and identified as Map 11 be added as Map 11 to Schedule “A” to By-law No. 127/2016 to
 - exclude the 1500 Plessis Road Major Redevelopment Site; and
 - show the area within The North Henderson Highway District Plan as approved in By-law No. 1300/76 and the portion of the area within the Henderson Highway Corridor Secondary Plan as approved in Bylaw No. 3215/82 that falls within the Recent Communities policy plate.
 - C. That Subsection 13(1) of By-law No. 127/2016 be amended by replacing “Maps 2 to 10” with “Maps 2 to 11” to reflect the addition of Map 11 to Schedule “A”.
6. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – October 19, 2016**DECISION MAKING HISTORY:**

Moved by His Worship Mayor Bowman,

That the recommendation of the Executive Policy Committee be adopted.

In amendment,

Moved by Councillor Orlikow,

Seconded by Councillor Morantz,

WHEREAS the Winnipeg Public Service prepared an Administrative Report entitled “Implementation of an Impact Fee” (the Report), which was presented to and considered by the Executive Policy Committee on September 21, 2016;

AND WHEREAS, at its meeting of September 21, 2016, the Executive Policy Committee laid the matter over “to allow Councillor Orlikow to proceed with further discussions with stakeholders, including Members of Council, industry, and the Winnipeg Public Service”;

AND WHEREAS, at its meeting of October 19, 2016, the Executive Policy Committee passed a motion (the “Motion”) that included a recommendation to Council which contemplated restricting the application of the Impact Fee for Phase One: Impact Fee Implementation Plan to “New Communities and Emerging Communities as set forth in Our Winnipeg and Complete Communities”;

AND WHEREAS Emerging Communities are a subset of the Recent Communities policy plate set out in the Complete Communities Direction Strategy;

AND WHEREAS Major Redevelopment Sites are not identified as being included in the Recent Communities policy plate set out in the Complete Communities Direction Strategy;

AND WHEREAS Maps 1 and 6 of Schedule “A” to By-law No. 127/2016, which appears on the Agenda for enactment at Council’s meeting of October 26, 2016, include the 1500 Plessis Road Major Redevelopment Site;

AND WHEREAS none of the maps forming Schedule “A” to By-law No. 127/2016 include the area within The North Henderson Highway District Plan as approved in By-law No. 1300/76, nor the portion of the area within the Henderson Highway Corridor Secondary Plan as approved in Bylaw No. 3215/82 that falls within the Recent Communities policy plate;

Report – Executive Policy Committee – October 19, 2016

DECISION MAKING HISTORY (continued):

AND WHEREAS, based on the stated intention of the Motion to apply to New Communities and Emerging Communities, the 1500 Plessis Road Major Redevelopment Site should not have been included in Maps 1 and 6 of Schedule “A” to By-law No. 127/2016, and the area within The North Henderson Highway District Plan and the portion of the area within the Henderson Highway Corridor Secondary Plan that falls with the Recent Communities Policy Plate should have been included;

NOW THEREFORE BE IT RESOLVED that

1. That the Map in Appendix D of Item No. 5 of the Report of the Executive Policy Committee dated October 19, 2016 be replaced with Map 1 attached to this motion.
2. That Map 1 and Map 6 of Schedule “A” to By-law No. 127/2016 be replaced with the maps attached to this motion and identified as Map 1 and Map 6, respectively, and the map attached to this motion and identified as Map 11 be added as Map 11 to Schedule “A” to By-law No. 127/2016 to
 - exclude the 1500 Plessis Road Major Redevelopment Site; and
 - show the area within The North Henderson Highway District Plan as approved in By-law No. 1300/76 and the portion of the area within the Henderson Highway Corridor Secondary Plan as approved in Bylaw No. 3215/82 that falls within the Recent Communities policy plate.
3. Subsection 13(1) of By-law No. 127/2016 be amended by replacing “Maps 2 to 10” with “Maps 2 to 11” to reflect the addition of Map 11 to Schedule “A”.

In amendment,

Moved by Councillor Orlikow,
Seconded by Councillor Wyatt,

WHEREAS the City of Winnipeg wishes to provide certainty;

AND WHEREAS the City of Winnipeg encourages accountability;

AND WHEREAS THE City of Winnipeg has developed the Impact Fee for consistency throughout Winnipeg;

THEREFORE BE IT RESOLVED that the annual fee increase by construction inflation be capped at 5% per year.

Report – Executive Policy Committee – October 19, 2016

DECISION MAKING HISTORY (continued):

AND BE IT FURTHER RESOLVED that the City of Winnipeg record the fees collected by each area as outlined on the map in Appendix D, and allow Councillors access to the area information on an ongoing basis with accumulative totals.

The amendment moved by Councillor Orlikow and Seconded by Councillor Wyatt was put.

Councillor Gillingham called for the yeas and nays, on the amendment moved by Councillor Orlikow and Seconded by Councillor Wyatt, which were as follows:-

Yea: His Worship Mayor Bowman, Councillors Allard, Browaty, Dobson, Eadie, Gerbasi, Gilroy, Mayes, Morantz, Orlikow, Pagtakhan, Schreyer and Wyatt. 13

Nay: Councillors Gillingham, Lukes and Sharma. 3

and the amendment Moved by Councillor Orlikow and Seconded by Councillor Wyatt was declared carried.

The amendment moved by Councillor Orlikow and Seconded by Councillor Morantz was put.

Councillor Gillingham called for the yeas and nays, on the amendment moved by Councillor Orlikow and Seconded by Councillor Morantz, which were as follows:

Yea: His Worship Mayor Bowman, Councillors Allard, Eadie, Gerbasi, Gilroy, Mayes, Morantz, Orlikow, Pagtakhan, and Wyatt. 10

Nay: Councillors Browaty, Dobson, Gillingham, Lukes, Schreyer, and Sharma. 6

and the amendment moved by Councillor Orlikow and Seconded by Councillor Morantz was declared carried.

The motion for the adoption of the item, as amended, was put.

Councillor Gillingham called for the yeas and nays, which were as follows:

Yea: His Worship Mayor Bowman, Councillors Allard, Eadie, Gerbasi, Gilroy, Mayes, Morantz, Orlikow, Pagtakhan, and Wyatt. 10

Nay: Councillors Browaty, Dobson, Gillingham, Lukes, Schreyer, and Sharma. 6

Report – Executive Policy Committee – October 19, 2016

DECISION MAKING HISTORY (continued):

and the motion for the adoption of the item, as amended, was declared carried.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 19, 2016, the Executive Policy Committee passed the following resolution:

WHEREAS for more than a decade the City of Winnipeg has reviewed, analyzed, consulted and discussed options to create and implement ways to pay for increasing demands due to growth, without placing complete reliance for funding solely on property tax revenues;

AND WHEREAS during the planning of the 2016 Budget, the City contemplated growth-related fees and through discussion with Winnipeg's local development and homebuilder industry, a one-year delay was determined to be required to study the relationship between growth-related costs in Winnipeg and funds were allocated in the 2016 Budget to conduct this study externally;

AND WHEREAS the results of the study conducted and completed by Hemson Consulting Inc, published September 1, 2016, concluded that growth in Winnipeg is not funding its fair share of growth related costs;

AND WHEREAS the Winnipeg Public Service presented its report Implementation of an Impact Fee to Executive Policy Committee September 21, 2016, at which time the Executive Policy Committee laid the matter over for additional consultation with Council and industry stakeholders to be led by the Chair of Property and Development, Heritage and Downtown Development, Councillor Orlikow;

AND WHEREAS meetings with more than 40 stakeholders have been held by the Chair of Property, Development, Heritage and Downtown Development over the past weeks;

AND WHEREAS through consultation and collaboration with industry and Council members, no fees will be applied to building permits for 6 months, a phased-in approach of reduced rates, based on categories, along with developing a process to build-in ongoing, meaningful consultation with industry stakeholders has been determined;

Report – Executive Policy Committee – October 19, 2016

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

THEREFORE BE IT RESOLVED that the Executive Policy Committee recommend that Council concur with the Implementation of an Impact Fee report (the “Report”), as considered by Executive Policy Committee on September 21, 2016, subject to the following amendments and Recommendations:

1. That an Impact Fee Working Group be established as per the “Impact Fee Working Group Terms of Reference” to ensure long-term, ongoing collaboration and consultation with industry and community stakeholders which will review market trends, exemption options and provide recommendations to the Ad Hoc Committee on Development Standards and the “Impact Fee Working Group Terms of Reference” (draft attached) be included in the report and attached as Appendix E.
2. That the “Phase One: Impact Fee Implementation Plan” (attached) be attached to the report as Appendix D.
3. Replacing the recommendations set out in the Report with the following:
 - “1. That Council receive the reports prepared by Hemson Consulting Ltd., Review Of Municipal Growth Financing Mechanisms and Determination Of Regulatory Fees To Finance Growth: Technical Report, dated August 31, 2016 (attached as Appendices A and B) as information.
 2. That the Impact Fee By-law (draft attached as Appendix C) which will apply an impact fee effective May 1, 2017, for residential development in New Communities and Emerging Communities as set forth in Our Winnipeg and Complete Communities, outlined in bold in Appendix D be enacted, and that for the purposes of the Impact Fee By-law, the following be established:
 - A. that the fee amounts increase on January 1 of each year by the rate of construction inflation for the previous year as determined by the Chief Financial Officer;
 - B. an administration fee for refunds in the amount of \$100.00;
 - C. an application fee for Director review in the amount of \$100.00; and
 - D. an appeal fee in the amount of \$250.00.

Report – Executive Policy Committee – October 19, 2016

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

3. That Council establish the following as Phase One of the Impact Fee Implementation Plan: effective May1, 2017 as fee amounts per square meter of gross floor space in the following five categories for residential development in New and Emerging Communities as identified in OurWinnipeg and outlined in bold in Appendix D:
 - A. Residential: \$54.73 per m2
 - B. Office: \$0.00 per m2 -
 - C. Commercial: \$0.00 per m2
 - D. Industrial: \$0.00 per m2
 - E. Public and Institutional: \$0.00 per m2

4. That Council, with recommendations from the Working Group, may consider rates for implementation for the following:
 - A. non-residential uses in New and Emerging Communities as identified in OurWinnipeg and outlined in bold in Appendix D no earlier than November 1, 2018 – Phase 2
 - B. All uses in all other areas of the City no earlier than November 1, 2019-Phase 3

5. That Council establish the Impact Fee Reserve Fund as follows:
 - A. All funds generated by the impact fee are to be deposited into the Fund;
 - B. The purposes of the Fund are:
 - i. to fund capital projects approved by Council recommended by the Chief Financial Officer with consideration given to the input provided by the Working Group;
 - ii. to pay the costs of administering the Impact Fee By-law and Reserve Fund.

Report – Executive Policy Committee – October 19, 2016

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

6. That the Winnipeg Public Service report to Council every 24 months with the results of a review of the impact fee, which must include consideration of recommendations provided by the Working Group and alignment of the impact fee with OurWinnipeg.”
4. Changing the draft Impact Fee By-law (Appendix C to the Report):
 - A. To reflect the content of the altered Report recommendations set out above
 - B. To exempt from application of the fee building or development permits issued within 6 months of receipt of application made prior to May 1, 2017, at the discretion of the Director of Property and Development, where construction begins or conversion takes place by November 1, 2018.
5. That the proper officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

and submitted the matter to Council.

Further on October 19, 2016, the Executive Policy Committee received from Justin Swandel, Terracon Development Limited, a PowerPoint Presentation titled “Questions All Councillors Should Be Able to Answer”, in opposition to the matter.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2016, the Executive Policy Committee laid over the matter to allow Councillor Orlikow to proceed with further discussions with stakeholders, including Members of Council, industry, and the Winnipeg Public Service.

Further on September 21, 2016, the Executive Policy Committee received submissions with respect to the matter from the following:

- Tom Thiessen, Executive Director, BOMA Manitoba, submitted a communication dated September 20, 2016

Report – Executive Policy Committee – October 19, 2016

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

- Tim Comack, Ventura Land Company Inc., Ventura Developments Inc., submitted a value listing of 369 Stradbroke, and a copy of a communication dated September 13, 2016 from Tacium Vincent & Associates in relation to the proposed fee
- Justin Swandel, submitted Taxed Supported Summaries of the 2008 – 2016 Adopted Operating Budgets, a comparison of Annual Capital Spending across Eight Canadian Municipalities, a page of the Capital Project Summary of the 2014 Adopted Capital Budget, and a copy of City of Toronto's 2014 – 2023 Capital Budget and Plan.

ADMINISTRATIVE REPORT

Title: Implementation of an impact fee

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
Georges Chartier	Mike Ruta	Mike Ruta	Doug McNeil

RECOMMENDATIONS

- 1) That Council receive the reports prepared by Hemson Consulting Ltd., Review Of Municipal Growth Financing Mechanisms and Determination Of Regulatory Fees To Finance Growth: Technical Report, dated August 31, 2016 (attached as Appendices A and B) as information.
- 2) That Council enact the Impact Fee By-law (draft attached as Appendix C), which will impose an impact fee and will take effect on January 1, 2017.
- 3) That, for the purposes of the Impact Fee By-law, Council establish the following :
 - a) fee amounts per square meter of gross floor space for the following five fee categories:

	Non-Residential Uses				Residential Uses
	Office	Commercial and Retail	Public and Institutional	Industrial	
Fee Amount (per m ²)	\$226.51	\$152.91	\$94.08	\$61.16	\$109.45

and that the fee amounts increase on January 1 of each year by the rate of construction inflation for the previous year as determined by the Chief Financial Officer;

- b) an administration fee for refunds in the amount of \$100.00;
- c) an application fee for Director review in the amount of \$100.00; and

- d) an appeal fee in the amount of \$250.00.
- 4) That Council establish the impact fee Reserve Fund, as follows:
- a) All funds generated by the impact fee are to be deposited into the Fund;
 - b) The purposes of the Fund are:
 - i) to fund capital projects to the extent that they are determined by the Chief Financial Officer to be growth-related; and
 - ii) to pay the costs of administering the impact fee By-law and Reserve Fund;
 - c) The Chief Financial Officer is the manager of the Fund; and
 - d) The purpose of the fund may only be changed by a 2/3 majority vote of Council.
- 5) That the Winnipeg Public Service report to Council within 24 months of implementation to provide an update on the impact of the impact fee which will include a review evaluating the alignment of the impact fee to the *OurWinnipeg* policy.
- 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

The City of Winnipeg's 2016 Budget authorized an expenditure of \$250,000 to "study and review smart growth funding options, including a regulatory growth fee." Following a request for proposals process, Hemson Consulting Ltd. (Hemson) was awarded a contract to conduct the growth study for the City. Hemson prepared two reports entitled Review Of Municipal Growth Financing Mechanisms and Determination Of Regulatory Fees To Finance Growth: Technical Report (Hemson's Reports), copies of which are attached as Appendices A and B, respectively, for Council's information.

Based on the analysis provided by Hemson's Reports, a by-law creating a new financial mechanism to fund growth is being proposed (draft attached as Appendix C), which requires enactment by Council before it can be implemented. In addition, a new reserve fund is being proposed, which only Council can approve.

EXECUTIVE SUMMARY

Over the last decade, the City of Winnipeg (Winnipeg) has experienced significant growth in population, which in turn has resulted in new housing, businesses, jobs and a vibrant community with many opportunities. In the next decade, Winnipeg is expected to continue experiencing robust growth, which will require significant investment in community services, transit, transportation, police and protection services, water and waste, and other areas.

The City of Winnipeg Charter identifies the purposes of the City of Winnipeg as including the development and maintenance of safe, orderly, viable and sustainable communities, and the promotion and maintenance of the health, safety, and welfare of the inhabitants. *OurWinnipeg* establishes a vision for Winnipeg that promotes a socially, economically and environmentally sustainable city that offers a high quality of life that current citizens expect and that prospective citizens will value. The proposed impact fee will help position Winnipeg to achieve this vision and ensure that future growth and change is supported by adequate investment in the required infrastructure. Some key findings from Hemson's Reports include:

- In Winnipeg "Growth does not pay for growth";
- Winnipeg is one of the few cities in Canada that has not implemented an infrastructure-related growth charge of some nature;
- New development could be assessed the fee at the time a building permit is issued; and
- There are examples of municipalities who have implemented exemptions or discounts in some form.

Unlike most major Canadian cities, the City of Winnipeg (the City) does not currently impose any fee designed to recover the costs of infrastructure external to new development from developers, builders or property owners who are engaged in development. The City's legislative authority to impose fees under Part 6 of *The City of Winnipeg Charter* (the Charter) differs from that of most other major Canadian cities and other Manitoba municipalities who have been given specific legislative authority in their planning legislation to impose development cost charges or "DCCs".

However, under the *Charter*, the City has broad authority to impose fees for a variety of purposes, including applications, permits, licenses, consents, approvals, and other matters in respect of the administration of the Charter and the affairs of the City. Furthermore, the *Charter* states that the powers of the City are stated in general terms to give broad authority to Council to govern the city in whatever way Council considers appropriate within the jurisdiction given to it under the Charter or other legislation, and to enhance the ability of Council to respond to present and future issues in the city.

The Winnipeg Public Service has concluded that these and other empowering provisions in the *Charter* grant Council the authority it requires to enact the Impact Fee By-law (the By-law) proposed in this Report, a draft of which is attached to this report as Appendix C. The goal of the impact fee (the Fee) which would be imposed by the By-law is to assist the City in paying for the costs associated with managing and accommodating growth in Winnipeg thereby reducing the need for these costs to be paid for by taxpayers.

In this regard, the City has prepared the By-law which includes the following:

- Fee collected at the time a building or development permit is issued;
- Fee calculated per square metre on all residential and non-residential new construction. The fee amount will vary based on the following 5 categories:
 - (i) Residential: \$109.45
 - (ii) Office: \$226.51

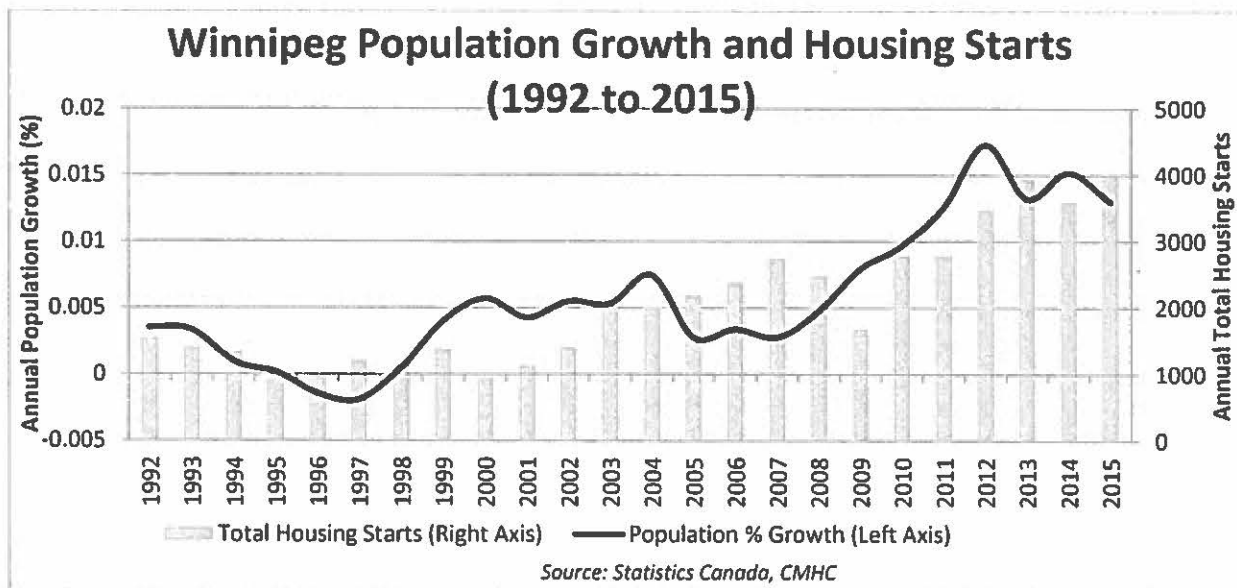
- (iii) Commercial/Retail: \$152.91
- (iv) Industrial: \$61.16
- (v) Institutional: \$94.08;
- Exemptions relating to affordable housing and home renovations;
- Hearing body for appeals; and
- In force and effect January 1, 2017.

To provide some context in respect of the above, the residential square metre fee amount proposed above calculated for an 1,800 square foot home (167 square metres) (representing the average new build dwelling size) would result in an impact fee of \$18,303.

The impact fee revenue collected will be deposited into the impact fee Reserve Fund and used to fund capital projects to the extent to which the Chief Financial Officer (CFO) has determined that they are related to growth. A 2/3 majority vote of Council would be required to change the purpose of the Reserve Fund.

IMPLICATIONS OF THE RECOMMENDATIONS

Since 2005, the population of the City of Winnipeg has grown by more than 70,000 people, which has translated into more than 30,000 new housing starts. According to the Conference Board of Canada, this strong growth is anticipated to continue over the next several decades, with the City's population anticipated to increase from 718,000 in 2015 to 923,000 in 2040. Growth provides many benefits to our community but also has a significant impact on the City's operating and capital costs and revenues.



If the recommendations of this report are concurred in, the Public Service will operationalize the impact fee program. This program will better position City Council to invest in services and infrastructure to accommodate growth and change. More specifically, a number of benefits include:

- Fairness and Equity – the burden of paying general infrastructure shifts from the general public to those who require, benefit from and use the infrastructure.
- City Building – the impact fee program is rooted in the City's existing policy framework, including *OurWinnipeg* – our city's long-range development plan – and will support the efficient allocation of scarce resources and encourage infrastructure investment consistent with the City's goals and objectives for community building and sustainability.
- Sustainability – the impact fee program builds on the concept of the 3 pillars of sustainability (social, economic and environment) and the belief that current generations should capitalize on existing and future assets without placing a burden on, or impacting future generations, or the environment.
- Diversification – the impact fee program provides for a more diversified stream of revenues for the City and reduces the reliance on property taxes. Reliable alternative funding sources promote fiscal stability and the orderly provision of infrastructure.

HISTORY/DISCUSSION

Background

Winnipeg has gone through a period of growth that has impacted the City's operating and capital costs and revenues. Annual population growth rates in Winnipeg have increased from an average of approximately 0.5 per cent between 2002 and 2005 to approximately 1.5 per cent between 2012 and 2015. Population growth is expected to remain relatively strong over the coming decades, with Winnipeg's population anticipated to increase from 718,400 in 2015 to 922,600 in 2040.

Recent population growth is also reflected in housing development, with annual growth rates reaching nearly 3 per cent in recent years. In 2015, there was a total of 291,900 households in Winnipeg. This number is expected to grow to 391,900 by 2040.

This growth requires significant capital and operating investment. The City's planning policy framework recognizes the need to plan for this growth while supporting sustainability and economic growth. Currently, the majority of city-wide capital costs are funded through property taxes. Further, the City has frequently frozen or reduced property tax rates since the late 1990s, resulting in tax rates that are significantly lower than comparable Canadian municipalities.

As a result of limited revenues and competing capital funding priorities, the City is experiencing a deterioration of existing infrastructure and a growing city-wide infrastructure deficit. The infrastructure deficit is expected to reach a total of \$7.4 billion by 2018, including \$3.6 billion in development-related infrastructure deficit. The majority of the development-related deficit relates to transportation infrastructure.

As illustrated, growth is placing pressure on public infrastructure and services and on City Council to invest in additional capacity to accommodate growth. With relatively strong

population growth and development expected to continue well into the future, funding new infrastructure for expanded City services will continue to be a challenge.

Studying Growth

For more than a decade, the Public Service has studied innovative financial mechanisms to support growth management, without raising property taxes. In 2005, the City completed the Financing Infrastructure Related to Land Development study and in 2013 the City conducted a study on Growth Development Charges.

On May 27, 2016 Hemson was awarded a contract to conduct a growth study for the City. The general scope of the work undertaken by Hemson includes the following:

- Determination of growth-related costs and revenues:
 - Define best practice methodology to assess growth-related City of Winnipeg costs and revenues;
 - Compare past growth-related cost and revenue reviews conducted on the City of Winnipeg against best practice methodology; and
 - Following best practice methodology, carry out a new analysis to determine City of Winnipeg growth-related costs (operating and capital expenditure; current and expected) and growth-related revenues.

- Determination of a growth financing implementation framework:
 - Define best practice by researching growth finance models used in other Canadian or international cities;
 - Apply those best practices to the City of Winnipeg and prepare recommendations for the implementation of a model for financing growth including rules and procedures for administration.

Hemson conducted industry consultations as part of its process on July 19, 2016 and August 18, 2016.

Hemson's Reports

The chart above illustrates actual population growth which has a direct correlation to new construction. Winnipeg has experienced continued population growth which results in increased demand for new construction and increases pressure for new and improved infrastructure. Other jurisdictions across Canada have found that the introduction of legislative charges has not impacted growth.

Currently the City depends on property taxes and fees to pay for infrastructure improvements. However, property taxes and fees have not kept pace with demand for services as noted above in reference to the significant infrastructure deficit that Winnipeg faces.

Hemson prepared two reports which are attached in Appendices A and B. A summary of the contents of Hemson's Reports follows:

- (i) Use of funds
 - Reserve funds or accounts should be established for each service adopted under a regulatory fee by-law.
 - It is recommended that Council adopt the development-related capital forecast included in this study, subject to annual review through the City's normal capital budget process. Projects may be removed, added or substituted as long as they are development-related.
- (ii) Timing of payment
 - It is proposed that the regulatory fee be collected at building permit issuance or development permit issuance. These are common collection points in other municipalities.
- (iii) Indexing of fees
 - It is recommended that the City establish a by-law policy for the indexing of fees once they are established.
 - Indexing is commonly done annually (and in some cases semi-annually) in other communities using construction cost indices.
- (iv) Updating of by-law
 - It is recommended that Council update the by-law as needed for changes relating to the application of charges, definitions, exemptions and discounts.
 - The regulatory fees may be commonly updated at three to five year intervals or when there are significant changes to the capital plan or development forecast.
- (v) Public Communication
 - It is recommended that City advertise the adoption of the regulatory fee by-law including the applicable fees.
 - The regulatory fees and rules should be included within a pamphlet that can be posted on the City's website and made available at Planning, Property and Development offices.
- (vi) Discounts and exemptions
 - This section includes examples of exemptions and discounts that Council may wish to consider. Exemptions and discounts result in revenue losses that are typically recovered through tax or utility rates. It is expected that

- the City may refine its discount and exemption policy over time following the initial adoption of a regulatory fee.
- The most common land-use exemptions used across Canada are for government buildings. This may include
 - Federal, provincial and municipal buildings, including agencies, boards and commissions;
 - Public schools; or
 - Exemptions for universities and colleges
 - Other land-use exemptions or discounts that could be considered are:
 - for non-profit organizations. This may include land uses such as places of worship and affordable housing.
 - economic development incentives. Some municipalities reduce fees within a defined area to encourage investment. Typically, this may include the downtown area of a community where growth has been slow to occur.
 - some municipalities also choose to reduce charges for industrial development, the rationale being that it is more of a “footloose” sector than residential, office and retail uses, making it thereby more sensitive to fees and charges.
- (vii) Phase-ins
- The phase-in of regulatory fees is commonly advocated by the building industry when significant increases in charges are proposed.
 - As with other discounts, phase-ins result in revenue losses that have to be made up through other revenue sources.

In consideration of the above observations the Public Service is recommending the following:

The Impact Fee By-law

1. Legal Authority

For Winnipeg, the function of managing and accommodating growth and development is fundamental. Section 5 of the Charter specifies that the purposes of the City include developing and maintaining safe, orderly, viable and sustainable communities, and promoting and maintaining the health, safety, and welfare of the inhabitants. The function of managing and accommodating growth and development is integral to fulfilling these purposes.

In order to ensure that new development takes place in a way that is orderly, viable and sustainable within the broader municipality, the City, like other cities throughout Canada, creates, applies and enforces rules in its zoning by-laws governing the uses to which various properties may be put as well as dimensional restrictions on development taking place on properties (e.g. restrictions on the size of buildings, mandatory setbacks and building heights). In order to ensure that the construction that is a necessary part of development results in buildings that promote and maintain the safety, health and welfare of occupants, the City

enforces building codes, another type of regulation. The City also acts in other ways in order to accommodate and manage growth and development. The City engages in the planning and construction of infrastructure to support the new residents and businesses in the new developments – streets, roads, alleys, sewer and water, libraries, recreation facilities, police and fire stations, etc. – both on and off-site. This infrastructure is also necessary to create safe, orderly, viable and sustainable communities and to promote and maintain the health, safety, and welfare of the inhabitants. Together, all of these elements constitute a comprehensive regulatory regime or system to manage and accommodate growth to ensure that it is safe, orderly, viable and sustainable.

Obviously, this regulatory regime or system is expensive. Some of the costs of managing and accommodating growth are currently recovered by the City, through various permit and approval fees as well as through development and zoning agreements. For example, developers typically pay for most of the costs of infrastructure within a development and sometimes boundary roads through development agreements and zoning agreements. Fees for permits and approvals are designed to recover the costs of providing administration and enforcement of that aspect of this system.

However, as Hemson's Reports make clear, not all of the costs of this regulatory system are currently being recovered by the City from the developers, builders or residents/occupants who most directly benefit from the new growth or development. In particular, the costs of off-site infrastructure necessary to support growth are not being recovered by the City.

As noted above, the authority given to the City in its planning legislation differs from that enjoyed by other municipalities in Canada and in Manitoba. Other municipalities have the authority to impose charges, often referred to as Development Cost Charges (DCCs), as part of the development process to recover the costs of managing and accommodating growth. When Council previously requested legislative changes from the Province of Manitoba (the Province), the Province advised that the City had sufficient existing statutory authority to recover the costs of growth.

Since then, the Public Service has reviewed existing City powers – other than Development Cost Charges – that could be used to recover the costs of managing and accommodating growth to the extent that they are currently tax-supported. One such power is the City's authority to impose fees. More recent judicial interpretation of the powers of governments to impose fees has demonstrated a greater willingness to recognize the legitimacy of fees to defray the costs of comprehensive regulatory systems, broadly defined.

As a result, the Public Service has concluded the powers currently available to the City in Part 5 of Charter to impose fees, and especially sections 209 and 210, can be used to support the proposed By-law to manage and accommodate growth. This authority is separate and distinct from any power to impose Development Cost Charges through planning legislation, which would be contained in Part Six of the Charter, and it does not depend on the Province to make any legislative changes or to provide any approvals. A Fee imposed under Part 5 would allow the City to recover more of the costs of managing and accommodating growth and development incurred by the City. And it would do so without the need to resort to increased taxes on

Winnipeggers in general. In other words, the Public Service's opinion is that, if Council wants to do so, it has the legal authority to impose a regulatory fee of the kind proposed in this Report to ensure that growth more fully pays for the costs of growth.

2. impact fee

This Report recommends the introduction of an impact fee through a new by-law (draft attached as Appendix C). The specifics of the impact fee set out in the attached draft By-law are as follows:

(a) Framework of the fee

- The fee would be imposed on the basis of the gross floor area of buildings;
- A different charge per square metre would be imposed in each of five fee categories – residential, office, retail and commercial, public and institutional, and industrial;
- For the purposes of the By-law, garages, decks, porches, 3-season sun rooms, gazebos, and basements would be excluded when calculating the fee for residential development;
- The fee would be imposed on any development, including construction and/or a conversion from one of the five fee categories to another because of a change in the building's use under one of the City's two zoning by-laws.

(b) Replacements, expansions and conversions of buildings

- If a new building replaces a building that was demolished within the previous 5 years no fee would be imposed except to the extent that the new building extends the square footage or involves a conversion to a different, higher priced fee category. Similarly, if part of a building is demolished and rebuilt within 5 years, so long as both are in the same fee category, no fee would be imposed except to the extent that the rebuilt floor space exceeds the floor space it is replacing.
- As a general rule, if a building is expanded, the fee is only payable on the floor area being added. However, the fee would not be applicable at all to an expansion of a residential building unless additional dwelling units are being added
- If all or part of a building is converted to a new fee category, the fee would only be charged to the extent that the new fee category results in a higher fee (ie. the notional fee that would be applied to the existing building or part thereof is subtracted from the fee applicable to the new build or conversion)
- Where a mixed use building is being built or converted, the floor area of the common areas will be assigned to each fee category in proportion to that fee category's share of the entire building. (e.g. if a building is 20% retail and 80% residential, the common areas will be treated as 20% retail and 80% residential.)

(c) Discounts and exemptions

- An exemption would be provided to the following organizations in respect of dwelling units that they agree to provide as affordable housing for at least 10 years.
 - Winnipeg Housing Rehabilitation Corporation;
 - The Manitoba Housing and Renewal Corporation;
 - any level of Government; or

- any organization who has been approved to receive funding from the Government of Canada or the Province of Manitoba under an affordable housing program.
- (d) Time of payment
- The fee is imposed – and must be paid – before a building permit or development permit can be issued (but not at time of application).
 - If a building or development permit is amended after it has been issued, an additional fee must be paid to reflect additional square footage or a higher fee category that the amended permit is allowing. Again, this must be paid before the permit is issued.
- (e) Refunds
- If a permit is voluntarily withdrawn by the permit holder before it expires (e.g. if the project doesn't proceed), the entire fee is refunded less an administrative fee set by Council.
- (f) Penalties for non-compliance
- A monetary penalty in the amount of the impact fee applicable to that development is imposed for a failure to pay the fee prior to beginning the development. Effectively, this means that the person then has to pay twice the fee – once for the fee and once for the monetary penalty.
 - In addition, the City could prosecute the offender for violating the By-law. The fine for proceeding with construction or conversion of a building without paying the fee is twice the amount of the applicable fee.
- (g) Reviews and Appeals
- Anyone subject to the fee can have the actions or decisions of City employees applying the By-law reviewed by the Director of PP&D upon payment of a refundable fee set by Council
 - Any appeal specified in the *Charter* would be heard by Executive Policy Committee. Again, a refundable fee set by Council would apply.

In large part, the structure of the impact fee proposed in this Report corresponds to the recommendations of the Hemson Report. In addition, the fee categories set out in the By-law and the amount of the proposed fee in each category have been determined on the basis of the data supplied in Hemson's Reports.

The recommended fees per square metre for the five fees effective January 1, 2017 are as follows:

Residential	\$109.45
Office	\$226.51
Commercial/Retail:	\$152.91
Industrial:	\$ 61.16
Institutional	\$ 94.08

These fees would rise by the rate of construction inflation, as determined by the Chief Financial Officer. This increase would take place on January 1 of each year, unless Council had established a new fee within the previous 12 months.

The proposed fees for refunds, applications for review by the Director, and appeals to Executive Policy Committee, are based on the estimated costs of administration of each of these functions.

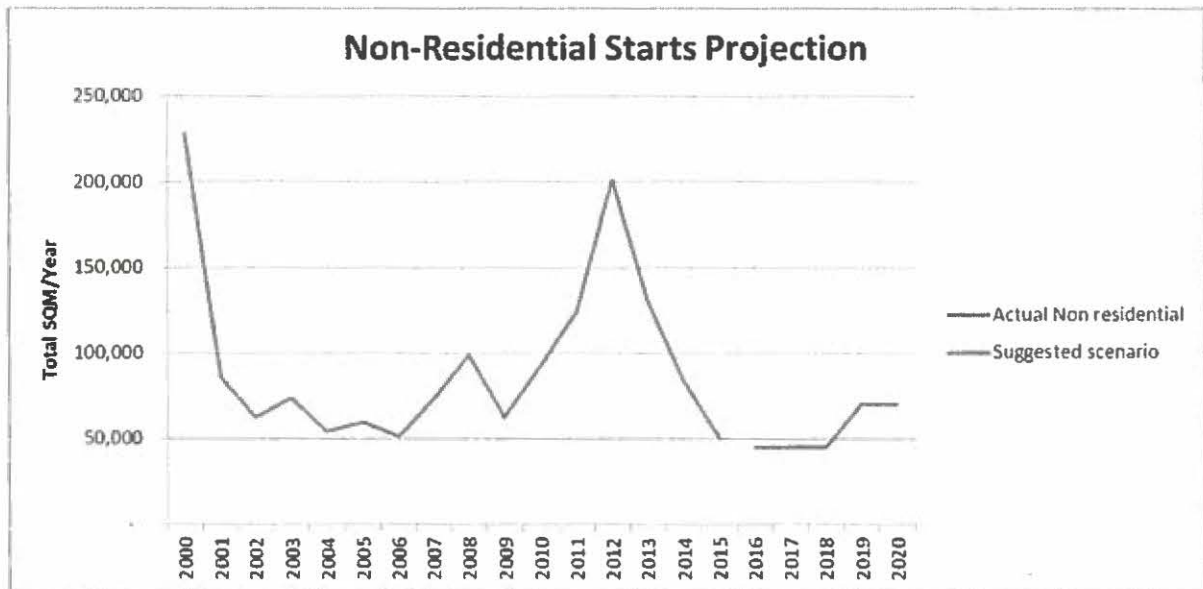
Financial Implications

As noted above, the Public Service recommends adopting the above impact fees to be charged commencing on January 1, 2017. Projected revenue is a function of expected development and the charge per unit. Proceeds will vary year by year depending on development activity.

Revenue Assumptions



- Based on the above chart setting out past and projected residential starts, on a conservative basis the Public Service estimates it will collect \$30.7m of residential fee revenue in 2017. Based on 2015 actual results, residential fee revenue would have been \$49.7m.



- The above chart sets out past and projected non-residential starts. On a conservative basis the Public Service estimates it will collect \$4.4m of fee revenue in 2017. Using 2015 actual results, fee revenue on non-residential starts would have been \$4.9m.

Using the estimates above total residential and non-residential revenue on a conservative basis may be in the range of \$35.1m. Of this total, \$6.8m would relate to Utility capital and the balance or approximately \$28.3m would apply to tax-supported capital.

impact fee Reserve

This Report recommends that all funds generated through the impact fee should be deposited into the proposed impact fee Reserve Fund. The purpose of this reserve fund is twofold:

- to fund capital projects to the extent that they are determined by the Chief Financial Officer to be growth-related and
- to pay the costs of administering the impact fee By-law and reserve fund.

It is also recommended that the Chief Financial Officer be appointed as manager of the reserve fund.

The primary purpose of the reserve fund is to pay all costs of eligible capital works, including financing charges. As manager of the reserve fund, the Chief Financial Officer would determine which, and to what extent, capital works were eligible for funding. Infrastructure would be eligible only to the extent that the work is determined by the Chief Financial Officer to be growth-related (e.g. aligned with the management and accommodation of growth and development). There are well-developed formulae and analysis tools for making this determination.

Funds from the Reserve Fund would also be used to pay the costs of administration of the impact fee By-law and the impact fee Reserve Fund, including the funding required for new full-time equivalent positions.

It should be noted that the establishment of a reserve fund for funds generated by the impact fee is not required by law, as it is for development cost charges in some other Canadian cities and municipalities. It is being proposed in this Report to provide transparency as to the use of funds generated by the impact fee.

This recommendation differs from the recommendations of the Hemson Reports in that it proposes the creation of a single reserve fund rather than the creation of individual reserve funds for each type of infrastructure. This is being done to make administration of the reserve fund more efficient, flexible and straightforward. If, at the review in 24 months' time, individual reserve funds are determined to be preferable, the change can be made at that time.

Resources

Additional staff will be required to administer the program. An estimate of FTE's required for this purpose both in Property Planning and Development and Corporate Finance will be included in deliberations concerning the 2017 budget process if this report is adopted by Council.

Other

It should be noted that exemptions or discounts added beyond those included in this report will reduce the amount of City revenue available by assessment of the Fee.

In reference to the City's debt strategy, improved Revenue will allow the City to increase its borrowing capacity for future capital projects.

Review Period

As with any new initiative, issues and problems are likely to arise which were not anticipated at the outset. A 24 month review period will give the Public Service a reasonable opportunity to observe the operation of the impact fee and to identify opportunities for improvement.

In addition, a 24 month period will give the public, Council and the Public Service an opportunity to consider how to integrate policy priorities into the By-law.

Summary

Adoption of the impact fee will be transformative and will provide a significant opportunity to ensure that growth does pay for growth without affecting existing property owners. It recognizes the principal that growth creates the need for new infrastructure throughout Winnipeg.

FINANCIAL IMPACT**Financial Impact Statement****Date: September 2, 2016****Project Name: Implementation of an impact fee****COMMENTS:**

Collection of the impact fees will be accounted for through the impact fee Reserve. Expenditures from the reserve will be identified by Corporate Finance and publicly disclosed on an annual basis. Additional staff will be required to administer this program and these FTE's will be identified in the 2017 budget process.

(Original signed by R. Hodges)

Ramona Hodges
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

Consultation with:

- a) Legal Services (as to legal issues)
- b) Property Planning and Development
- c) Hemson Consulting Ltd,
- d) Fire/Ambulance
- e) Community Services
- f) Public Works
- g) Water and Waste
- h) Corporate Finance

OURWINNIPEG POLICY ALIGNMENT

The impact fee program is rooted in the City's existing policy framework, advancing policy directions in *OurWinnipeg* (By-Law 67/2010) and its four direction strategies (*Complete Communities* [By-Law 68/2010], *A Sustainable Winnipeg*, *Sustainable Water and Waste*, and *Sustainable Transportation*) along with the *Transportation Master Plan*. *OurWinnipeg* policy directions are reflected through some of the impact fee program's key principles:

Fairness and equity – *OurWinnipeg* commits to providing equitable access to municipal programs, services and facilities. One way to achieve this is for everyone to pay their "fair share" of the costs of new infrastructure and services (03-1, p.74).

City Building – To build "A City that works", *OurWinnipeg* commits to growth management objectives, ensuring "land use, transportation and infrastructure planning efforts are aligned to identify where growth will be accommodated and how it will be serviced" (*OurWinnipeg* p.27). Other key directions for the entire city involve sustainable asset management, integrating transportation with land use, developing more complete communities, and providing sustainable wastewater management.

Sustainability – Direction related to the three sustainability pillars (social, economic and environmental) are found throughout *OurWinnipeg* and its direction strategies. *OurWinnipeg* also provides specific direction to develop and implement tools to support sustainability (02-1, p. 67).

Diversification – *OurWinnipeg* notes that the City must re-think regulation and taxation from the viewpoint of fostering economic growth (01-3, p.50). The 'basics' matter; public safety, water quality, wastewater and transportation infrastructure and public amenities are essential, but attractiveness and better-than-average services are integral to achieving a high quality of life and attracting economic development at a global scale. Diversification of City income streams is

an important way to increase quality of services and add to the general attractiveness of the City.

In its section on prosperity, *OurWinnipeg* calls the City to provide efficient and focused civic administration and governance (Direction 1), and demonstrate visionary civic leadership and commitment to sustainable long-term planning (Direction 5). Policy decisions, programs and services, budget allocation and development activity must all be monitored and evaluated from a long-term sustainability perspective (01-3, p.51). The proposed program responds to this call for visionary leadership that considers current realities but plans for a prosperous future.

SUBMITTED BY

Department:
Division:
Prepared by: Tyler Markowsky
Date: September 1, 2016
File No.

Attachments:
Appendix A - Review of Municipal Growth Financing Mechanisms
Appendix B - Regulatory Fee to Finance Growth – Background Study
Appendix C - Impact Fee By-Law



Appendix A

-Comparative Practica



Appendix B - Hemson

- Winnipeg Regulator



Appendix C - Impact

Fee By-law - 2016 09

This is **Exhibit "G"** referred to in the
Affidavit of Valdene Lawson sworn
before me this 14th day of March, 2019.

 Vivian Li

A Barrister and Solicitor in and for the Province of
Manitoba.

04 AREAS OF STABILITY

This section will be supported by the following documents:

- Sustainable Transportation
- Sustainable Water & Waste

And by the development of additional implementation documents including:

- Active Transportation Action Plan
- Ecologically Significant Natural Lands Policy
- Heritage Conservation Management Plan
- Infill Development Guidelines for Multiple-Family Developments in Low Density Neighbourhoods
- Local Area Planning Handbook
- Parks, Places and Open Spaces Management Plan
- Transit Oriented Development Handbook

KEY DIRECTION

ENHANCE THE QUALITY, DIVERSITY, COMPLETENESS AND SUSTAINABILITY OF STABLE NEIGHBOURHOODS AND EXPAND HOUSING OPTIONS FOR WINNIPEG'S CHANGING POPULATION.

Areas of Stability are primarily understood as the residential areas where the majority of Winnipeggers currently live. Unlike Transformative Areas that will experience significant change over the coming years, Areas of Stability will accommodate low to moderate density infill development to support more efficient use of land, infrastructure and services as well as enhance housing choice and affordability. Infill in areas of stability will be supported with the intent of creating more complete communities.

When new development occurs in Areas of Stability, it should be contextually suitable and enhance and celebrate what makes them unique. To that point, intensification should be accommodated within existing communities in a sensitive manner which recognizes the existing form and the character of its location.

Areas of Stability can be grouped into two types of communities based on their characteristics:

- Mature Communities
- Recent Communities

Each community type will have inherently different opportunities for redevelopment, partly based upon its characteristics and the stage of its life cycle.(see figure 04a)

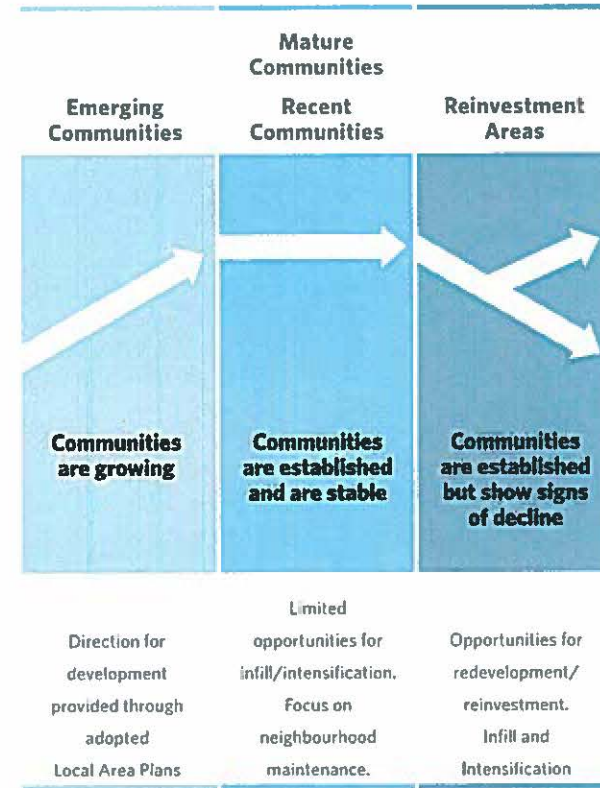


figure 04a

04-2a EMERGING COMMUNITIES

Emerging communities—a subset of Recent Communities—are primarily residential areas that have been very recently planned and are still under development. Typically, they are characterized as relatively low-density residential neighbourhoods containing single-family housing, smaller pockets of multi-family and locally oriented retail. The road network is curvilinear, including major collectors that circulate through a community with local cul-de-sacs and bays feeding off of them. Some deviations from this pattern, where, for example, back lanes are provided, occur in some areas, such as Bridgewater Forest (Waverley West). Transit service in most areas is provided from the major collector streets. Generally, in the residential areas, land drainage is accommodated through storm water retention ponds, and more recently through innovative land drainage systems, such as managed wet lands.

CHARACTERISTICS OF EMERGING COMMUNITIES

- > Curvilinear local road pattern with cul-de-sacs
- > They are planned and are still under development
- > Primarily low density residential with some multi-family and retail

It is noted that development of these areas typically reflects the principles of Complete Communities, such as a focus on compact development, a mix of uses, a diversity of housing types, the promotion of public transit, the encouragement of active transportation and community connectivity. As such, their future build-out is expected to be in conformance with the components of **Complete Communities**. There may be opportunities to modify future development in these areas where it is identified that the goals and objectives of Complete Communities can be maximized.

