

COURT FILE NUMBER     643 of 2016

COURT                     QUEEN'S BENCH FOR SASKATCHEWAN  
                                 IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE        SASKATOON

APPLICANTS              101133330 SASKATCHEWAN LTD. and  
                                 101149825 SASKATCHEWAN LTD.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
RSC 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF 101133330 SASKATCHEWAN LTD. and 101149825 SASKATCHEWAN LTD.

**FOURTH SUPPLEMENTARY AFFIDAVIT OF DAVID CALYNIUK**

I, DAVID CALYNIUK, of the City of Saskatoon, in the Province of Saskatchewan, businessman, MAKE OATH AND SAY THAT:

1. I am the Chief Executive Officer of Land and Commercial Development for North Ridge Development Corporation ("**North Ridge**"), consultant to 825 and 33330, such that I have personal knowledge of the facts and matters hereinafter deposed, except where stated to be on information and belief and, where so stated, I believe the same to be true.

2. Unless otherwise defined, capitalized terms in this affidavit will have the meanings given to them in my Affidavits sworn August 12, 2016, December 16<sup>th</sup>, 2016, May 23, 2017 (the "**Third Calyniuk Affidavit**"), and December 15, 2017 (the "**Fourth Calyniuk Affidavit**"), as well as the affidavits sworn by John Orr in these proceedings.

**I. INTRODUCTION**

3. North Ridge has two roles in these proceedings:

- (a) as the Owner's Consultant for the 825 Land, North Ridge primarily acts as the owner's liaison with Dream, providing advice, direction, and work in relation to the inclusion of the 825 Land into the Willows community by way of Dream's Amended Willows Concept Plan submission to the City; and
- (b) as the Orr Centre Owner's Consultant, North Ridge provides advice, representation, and work in relation to 33330's rezoning application for the Campus, and efforts to improve the Orr Centre itself.

4. A discussion of the work completed in each of these roles since the swearing of the Fourth Calyniuk Affidavit, and the anticipated next steps with respect to the 825 Land, Campus, and Orr Centre follows.

## II. 825 LAND UPDATE

### A. Introduction and Overview

5. Since the swearing of the Third Calyniuk Affidavit, the advancement of the development plan for the 825 Land has continued under the oversight of the lead developer, Dream. To that end, Dream's efforts have focused on:

- (a) completing the "Planning Report" previously referred to in paragraphs 13 and 14 of the Third Calyniuk Affidavit (hereafter, the "**Amended Concept Plan Report**");
- (b) pre-circulating the draft sections of the Amended Concept Plan Report within the relevant departments of the City's Planning and Development Department (the "**COS PDD**") for review and comment; and
- (c) finalizing its advertising materials and press release for the final submissions.

6. The matter continues to progress, albeit at a more measured rate than projected last December. As of the swearing of this affidavit, North Ridge has been advised that the final submission of the Amended Concept Plan Report to the COS PDD is imminent. It will be recalled that the intention of Dream's front-end work corresponding with the

COS PDD and addressing the comments and feedback received on Dream's draft materials was to increase the likelihood that the final submission would expeditiously pass through the various departments of the COS PDD, which based on present circumstances Dream estimates would allow the same to be considered by City council before the end of the year. Having said this, the timing remains outside of the parties' control.

7. From North Ridge's perspective, the timing is unfortunate in the context of these proceedings, but not unusual in the context of land development. Since 2016, Dream has expended considerable time and effort advancing an overarching plan aimed not just at expanding the Willows development by way of the further residential expansion contemplated by the Amended Willows Concept Plan, but also improving the Willows' golf experience and revamping the clubhouse's restaurant in its entirety. These are significant undertakings, and Dream is a publicly traded entity that carries on business at an international level; consequently, projects have to pass through an internal review and approval process to which 825, as an outside landowner, is not privy.

**B. The Confidential Supplement**

8. The Amended Willows Concept Plan Report will become public as part of the City administration's review of the same. Until that time, the specific information contained therein remains the confidential business information of Dream. The following update will attempt to provide as much information as may be made publicly available at this stage of the process; however, in the interests of providing this Honourable Court with a more fulsome update, Dream has consented to the release of additional information only for the Court's review, which is contained in the Confidential Supplement hereto.

**C. The Amended Concept Plan Report**

9. The purpose of the Amended Concept Plan Report is to provide a high level

overview of Dream’s vision for the new neighbourhood, along with all of the technical information required by the City to assess both its viability and impact on pre-existing communities and infrastructure. More specifically, the document includes the new neighbourhood’s:

- (a) total area, projected population, densities, and uses;
- (b) relationship to the City’s existing regulatory framework (e.g., the Official Community Plan and Zoning Bylaw);
- (c) location, land ownership, existing land uses, and adjacent land uses;
- (d) design rationale, future land uses, and the neighbourhood and golf course layouts;
- (e) road network, road classifications, assessed future impacts on traffic, and pedestrian walkability;
- (f) stormwater capacity, water distribution system, sanitary capacity; and
- (g) development phasing strategy.

10. The discussion of each of these features is supplemented by tables, figures, and the technical information gleaned from, for example, the Traffic Impact Study (the “TIS”), sanitary study, Market Demand Study, and Remaining Studies. The TIS and sanitary studies themselves are also appended.

11. By way of specific information, North Ridge can report that, as expected, the 825 Land is being presented as low to medium density multi-family development capable of supporting up to 15 units per acre based on, among other considerations, the existing water, storm, and sanitary capacity. 825, for its part, has reviewed and endorsed the Amended Concept Plan Report.

**D. Cost-Sharing Agreements with Dream**

12. It bears repeating that 825 has significantly benefitted from working with Dream

to include the 825 Land within the next phase of the Willows development. As previously explained, were the 825 Land to be developed on its own, 825 would have been solely responsible for all of the front-end consulting (and other costs) necessary to:

- (a) conceptualize a standalone concept plan for the 825 Land and neighbouring properties (other than the Willows), which would have included addressing all of the technical issues referred to in paragraph 9 above;
- (b) revise the concept plan and/or supporting studies based on feedback and commentary received from the City; and
- (c) provide the 825 Land and neighbouring lands (other than the Willows) with a means to access the City's water, sewer, and storm infrastructure.

13. The agreement with Dream means that 825 does not have to undertake (or pay for) these initiatives directly in the first instance, but instead, in exchange for an agreement to share in a proportionate share of Dream's costs, the 825 Land is included within the Amended Willows Concept Plan and permitted access to Dream's pre-existing infrastructure.

14. The cost-sharing agreement has yet to be negotiated, such that, for the purposes of the Companies' cash flows, North Ridge has advised that any amounts owing pursuant to the same are unlikely to become payable within the extension period sought on this application. Once the cost-sharing agreement has been finalized, these costs will crystallize, allowing North Ridge to begin preparing a cost-benefit analysis for the stakeholders' consideration, outlining any additional anticipated costs moving forward and potential upside to investing further funds versus the range of potential sale values if the 825 Land were to be sold as is once the Amended Willows Concept Plan is approved.

### **III. ORR CENTRE UPDATE**

#### **A. Overview**

15. It is now public knowledge that 33330 was seeking to have the Campus rezoned as Designated Shopping Centre Zone (“DSC”), the intent of which designation is to:

- (a) accommodate the development of planned shopping centres characterized by, among other things, concentrated retail and service uses, one or more anchor type stores, and common parking facilities; and
- (b) provide for medium to high density residential development, thereby encouraging infill development and reducing urban sprawl.

16. Excerpts from the Zoning Bylaw detailing the applicable regulations and land uses for the DSC zoning designation are attached collectively as **Exhibit “A.”**

17. Since the swearing of the Fourth Calyniuk Affidavit, North Ridge’s efforts in its role as the Orr Centre Owner’s Consultant have primarily involved:

- (a) working with the City of Regina’s Planning and Development Department (the “**COR PDD**”) to advance 33330’s rezoning application for the Campus; and
- (b) assisting 33330 in its efforts to conceptualize and outline a path forward to a formal sales process for the Campus and Orr Centre, which included, among other things, compiling the technical information that will be provided to prospective purchasers of the Campus during the bidding phase to assist in completing their due diligence.

18. A more fulsome description of the forgoing points follows below, along with the next anticipated steps in the process now that the rezoning has been granted.

#### **B. The Rezoning**

19. For ease of reference, the flow chart retrieved from the City of Regina’ online

Zoning Bylaw Amendment Application (the “**Rezoning Flow Chart**”) is again attached as **Exhibit “B.”** As of the swearing of the Fourth Calyniuk Affidavit:

- (a) 33330 had submitted its rezoning application, along with the supporting technical information, to the COR PDD;
- (b) the project had been circulated within the COR PDD and public notified of the submission;
- (c) an Open House had been held at the Orr Centre to allow the public to attend the property, review 33330’s proposal, and provide feedback; and
- (d) the COR PDD was preparing its report for consideration by the RPC, which would then make a recommendation to council based upon the same.

20. Last December, 33330 was hoping to have the matter before council in February or March of 2018. In the course of preparing its report to the RPC, however, the COR PDD raised, for the first time, issues relating to the wide array of uses available under the DSC zoning designation, and permissible building heights. North Ridge, on behalf of 33330, went back and forth with the COR PDD by email over the course of February and also met with the COR PDD directly to work towards a pragmatic solution that would serve 33330’s interests and address the administration’s concerns. Following the meeting in February, the matter was left with the COR PDD to research and consider different options to be presented to 33330 in March.

21. After reviewing the matter at length, the COR PDD responded on or about March 13, 2018. The solution proposed by the COR PDD (and agreed upon by 33330) was to recommend the Campus be zoned DSC with a “Holding Overlay Zone” (the “**Holding Designation**”) designation placed upon it. An excerpt from the City of Regina’s Overlay Zone Regulations explaining the general intent of the Holding Designation is attached as **Exhibit “C.”** With the City of Regina council having now approved this solution, the practical effect is that, although zoned DSC, the Campus will not be developable until the Holding Designation is removed, which will require a further application to the COR PDD supported by a redevelopment plan. The Holding Designation therefore ensures the

COR PDD and City council have input with respect to any proposed future development.

22. The COR PDD's May 2, 2018 report to the RPC recommending that the Campus be rezoned DSC with the Holding Designation is attached as **Exhibit "D."** The RPC concurred with the COR PDD's recommendation at a public session held on May 2, 2018, as shown in the RPC meeting minutes attached as **Exhibit "E."** As alluded to above, 33330's rezoning application was subsequently approved at a meeting of the City of Regina council on May 28, 2018.

**C. Deferral of Certain Actions**

23. As detailed above, the COR PDD's report took longer than anticipated, which in turn delayed the next steps in the rezoning process. 33330 and North Ridge held a number of conference calls with representatives of Affinity, its legal counsel, and the Monitor during this time to ensure they were fully apprised of ongoing developments and given an opportunity to ask questions.

24. In the course of these calls, North Ridge recommended, and the parties collectively agreed, to defer the demolition of the Dorms and any public steps towards the implementation of a sales process for the Campus until the outcome of 33330's rezoning application was certain. The key consideration on both fronts was avoiding costs thrown away in the event the application was not granted, which would have made it necessary to consider alternative plans.

25. With respect to the demolition in particular, the Holding Designation means that the Orr Centre now has to remain in its current state (excluding repairs), in the absence of any additional approvals from the COR PDD. An application to the COR PDD can, however, be made to approve the demolition if this is determined to be the preferable course of action now that the rezoning application has been granted.



**D. Sales Process**

**(i) Technical Data**

26. Since being retained as the Orr Centre Owner's Consultant, North Ridge has been working to compile technical data in respect of the Campus and Orr Centre to be utilized as the due diligence materials in a potential sales process for the same. The materials include, among others, the following:

- (a) the Catterall & Wright Report, which addresses the Campus' servicing capacity;
- (b) Webb Surveys':
  - (i) Real Property Report and Map, which collectively detail the location of the Campus' buildings and easements, as well as the other natural and man-made features of the Campus;
  - (ii) interior sketch plan of the Orr Centre detailing the actual square footages of the interior spaces;
- (c) the RMIS Engineering roof assessment for the Orr Centre;
- (d) Welldone Mechanical's HVAC Assessment for the Orr Centre's HVAC equipment;
- (e) North Ridge's Demolition Pro Forma for the Dorms;
- (f) Colliers':
  - (i) monthly property management reports, which contain all of the relevant tenant and financial information with respect to the operation of the Orr Centre; and
  - (ii) deficiency reports detailing the outstanding repairs for the Orr Centre.

**(ii) The RFP**

27. In terms of the sales process itself, after careful consideration, 33330 has advised

that it will likely proceed by way of a public tender process. To that end, North Ridge has worked with 33330 to develop a detailed request for proposals (the “**RFP**”), which will be distributed to local real estate brokerages. It is anticipated that, at a minimum, the successful proponent will:

- (a) distribute and collect non-disclosure agreements to bidders;
- (b) host the data room, track the bidders’ access to the same, and provide progress reports to 33330;
- (c) prepare a marketing package to be distributed to bidders;
- (d) market the property, including scheduling and facilitating site visits.

28. The draft RFP presently contemplates inviting the recipients to provide a detailed description of how the property will be marketed to bidders, as well as a summary of the proposed fees to be charged on a flat fee basis. The RFP is to be finalized and sent to local brokerages as soon as reasonably practicable following this application, with a deadline for submissions shortly thereafter. The successful proponent will be selected in July.

#### **IV. CONCLUSION OF THE OWNER’S CONSULTANT**

29. With the timelines for the 825 Land presently uncertain, North Ridge has recommended the Companies focus their efforts and resources on moving forward with the sale of the Campus.

30. The specific rationale for the 120 day stay period requested is to accommodate the potential retention of a qualified real estate brokerage. With the additional recommendations of such a firm and an estimate of the associated costs in hand, the Companies will be in a position to develop and submit an application to have this Honourable Court approve a sales process for the Campus.

31. I therefore swear this affidavit in support of the application that is presently before this Honourable Court.

SWORN (OR AFFIRMED) BEFORE ME )  
at the City of Saskatoon, in the Province of )  
Saskatchewan, this 29<sup>th</sup> day of May, 2018. )

  
A COMMISSIONER FOR OATHS for  
Saskatchewan - Being a Solicitor.

  
\_\_\_\_\_  
DAVID CALYNIUK

**CONTACT INFORMATION AND ADDRESS FOR SERVICE:**

Name of firm:	McDougall Gauley LLP
Name of lawyer in charge of file:	Ian A. Sutherland / Craig Frith
Address of legal firm:	500-616 Main Street Saskatoon, SK S7H 0J6
Telephone / Fax number:	(306) 665-5417 / (306) 652-1323
Email address:	<a href="mailto:isutherland@mcdougallgauley.com">isutherland@mcdougallgauley.com</a> <a href="mailto:cfrith@mcdougallgauley.com">cfrith@mcdougallgauley.com</a>

(10) Development Permits

Applications for development permits in this zone shall be made in accordance with the provisions in Chapter 18. [1992/9250]

## 7C.9 DESIGNATED SHOPPING CENTRE ZONE (DSC)

### 9.1 INTENT

- (1) This zone is designed to accommodate the development of planned shopping centres characterized by:
- (a) unitary ownership, control or management;
  - (b) concentrated and compatible retail and service uses;
  - (c) one or more anchor type stores;
  - (d) common parking facilities; and
  - (e) design to serve the market area of one or more communities. [1997/9904]
- (2) This zone also provides for medium to high density residential development to implement the development plan objective encouraging infill development in order to reduce urban sprawl, utilize existing services and support both public transit and neighbourhood school population. [2002-6]

### 9.2 PERMITTED USES

As specified in Table 5.2 of Chapter 5. [1992/9250]

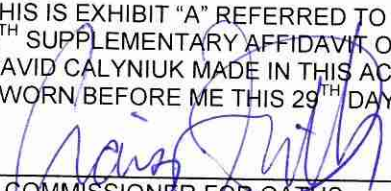
### 9.3 DISCRETIONARY USES

As specified in Table 5.2 of Chapter 5. [1992/9250]

### 9.4 DEVELOPMENT STANDARDS

- (1) As specified in Table 5.7 of Chapter 5.

THIS IS EXHIBIT "A" REFERRED TO IN THE 4<sup>TH</sup> SUPPLEMENTARY AFFIDAVIT OF DAVID CALYNIUK MADE IN THIS ACTION AND SWORN BEFORE ME THIS 29<sup>TH</sup> DAY OF MAY, 2018.

  
A COMMISSIONER FOR OATHS  
for the Province of Saskatchewan  
Being a Solicitor

- (2) Exceptions to the requirements in Table 5.7 are specified in part 7B. Refer to:
  - (a) Subpart 7B.2 for yard requirements for developments adjacent to residential zones; [1999/10113]
  - (b) Subpart 7B.3 regarding reductions to the required yard setbacks; or
  - (c) Subpart 7B.4 regarding exceptions to the required height of buildings. [1992/9250]

## 9.5 ADDITIONAL REGULATIONS

### (1) General Development Regulations

The general development regulations in Chapter 4 shall apply to developments in this zone.

### (2) Overlay Zones

The Overlay Zone regulations in Chapter 10 shall apply to any portion of this zone that lies within an overlay zone.

### (3) Accessory Uses

Accessory uses in this zone shall be subject to the provisions in Chapter 11.

### (4) Temporary Uses

Temporary uses in this zone shall be subject to the regulations in Chapter 12.

### (5) Non-conforming Uses

Non-conforming uses in this zone shall be subject to the provisions in Chapter 13.

### (6) Parking and Loading

Parking and loading facilities in this zone shall be provided in accordance with the provisions in Chapter 14.

### (7) Landscaping and Buffering

Landscaping and buffering in this zone shall be provided in accordance with the provisions in Chapter 15.

(8) Signs

The erection of signs in this zone shall be in accordance with the provisions in Chapter 16.

(9) Public Amenities

The development of public amenities in this zone in exchange for floor area bonuses shall be in accordance with the regulations in Chapter 17.

(10) Development Permits

Applications for development permits in this zone shall be made in accordance with the provisions in Chapter 18. [1992/9250]

(11) Development Standards for Residential and Mixed-Use Buildings

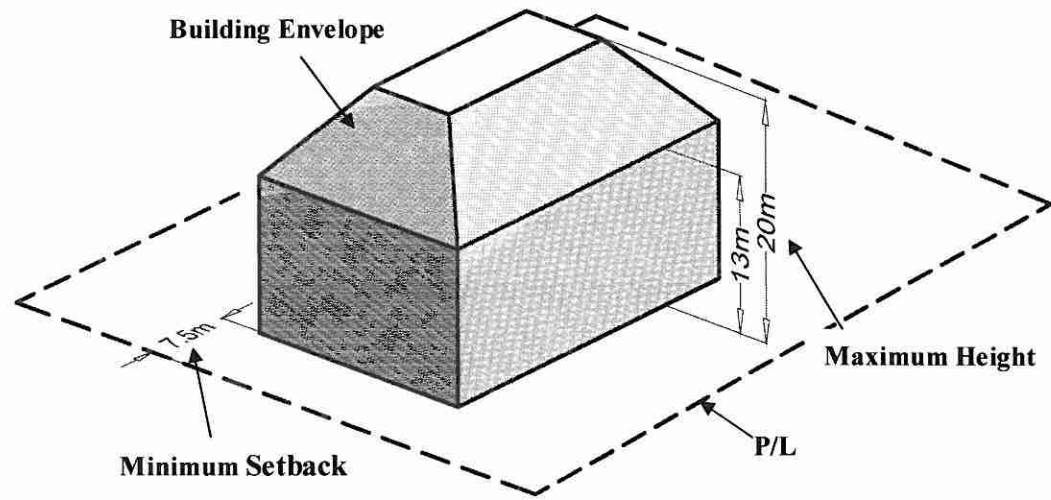
Notwithstanding the development standards for front, rear and side yard setbacks and height and floor area ratio in Table 5.7 pertaining to the DSC zone, the following development standards shall apply to residential and mixed-use building in the DSC zone:

- (a) The minimum setback from any property line for a residential building or residential portion of a mixed-use building in the DSC zone shall be 7.5 metres.
- (b) The permitted residential or mixed-use building height in metres “h” at a particular point on a specific lot in the DSC zone as shown in figure 7.1(a) is calculated as:

$$H = d + 5.5$$

Where:

- (i) “d” is the distance from the property line
- (ii) “h” shall not exceed 20 metres.
- (c) The residential component of any building in the DSC zone shall not be included in the floor area ratio calculation. The commercial component of any building in the DSC zone shall be subject to the maximum floor area ratio in table 5.7. [2002-6]



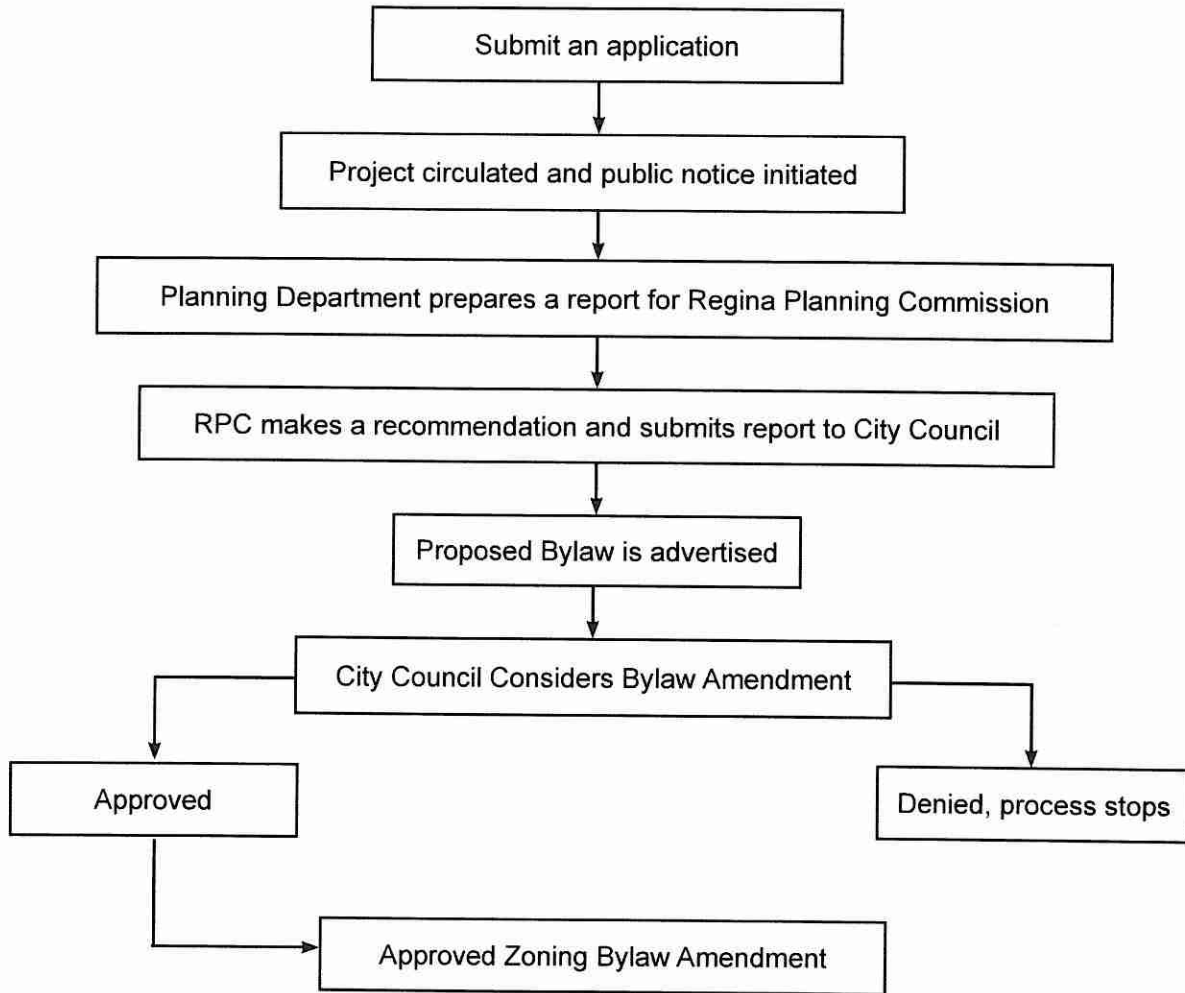
**Figure 7.1(a): Application of Setback and Height Requirements [2002-46]**

#### **7C.10 DOWNTOWN ZONE (D) [2012-67]**

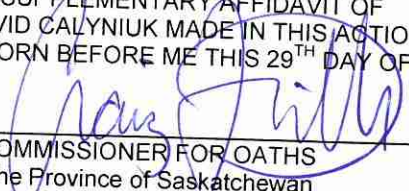
##### **10.1 INTENT**

- (1) This zone is intended to strengthen Downtown Regina as the economic and cultural hub of the City by making it an attractive place to work, shop, visit, and live consistent with the vision of the Part G – Regina Downtown Neighbourhood Plan of *Regina Development Plan, Bylaw No. 7877* (Official Community Plan).
- (2) The zone provides regulations, development standards, urban design standards, and development incentives to facilitate and encourage developments that contain ground floor and pedestrian-oriented streets containing clusters of retailing, personal services, entertainment, eating and drinking establishments and an active 24/7 urban environment.
- (3) The zone contains urban design and development standards that shape buildings in terms of height, scale, and character to create a comfortable, safe, active, attractive and dynamic urban environment.

# Zoning Bylaw Amendment Procedure



THIS IS EXHIBIT "B" REFERRED TO IN THE  
4<sup>TH</sup> SUPPLEMENTARY AFFIDAVIT OF  
DAVID CALYNIUK MADE IN THIS ACTION AND  
SWORN BEFORE ME THIS 29<sup>TH</sup> DAY OF MAY, 2018.

  
A COMMISSIONER FOR OATHS  
for the Province of Saskatchewan  
Being a Solicitor



**10C.5 HERITAGE CONSERVATION OVERLAY ZONE (HCO) [1999/10113]**

This space is reserved pending legislative authority under *The Planning and Development Act, 2007*. [2013-64]

**10C.6 HOLDING OVERLAY ZONE ((H))****6.1 INTENT**

- (1) This zone is designed to retain lands or buildings for specific future uses.
- (2) It is intended to be applied after the adoption or approval of a relevant:
  - (a) planning study;
  - (b) concept plan; or
  - (c) subdivision plan.
- (3) Unlike the Urban Holding Zone mentioned in Subpart 9C.9, the planned use of lands in this zone is determined at the time the zone is designated.
- (4) This zone will be one of the mechanisms for implementing the Development Plan's policy to permit future development only in serviced areas, or areas where the economic extension of infrastructure is feasible. [1992/9250]

**6.2 APPLICATION**

- (1) Where a Holding Overlay Zone is established, the status of the land or the use to which the land may be put after the holding symbol is removed is represented by the use of the symbol "**(H)**" on the Zoning Maps in conjunction with any use designation. For illustrative purposes, the symbol **R8.(H)** on the Zoning Map would indicate that the R8 zoning would become effective only after the holding symbol is removed by an amendment to this Bylaw.
- (2) Section 71 of *The Act* shall apply for the purpose of removing the holding symbol, or appealing the decision of Council concerning an application to remove the holding symbol. [2013-64]

**6.3 PERMITTED USES**

All permitted uses in the underlying zone are also permitted in this zone. [1992/9250]

City of Regina  
Office Consolidation

THIS IS EXHIBIT C" REFERRED TO IN THE  
4<sup>TH</sup> SUPPLEMENTARY AFFIDAVIT OF  
DAVID CALYNIUK MADE IN THIS ACTION AND  
SWORN BEFORE ME THIS 29<sup>TH</sup> DAY OF MAY, 2018.

Zoning Bylaw No. 9250

A COMMISSIONER FOR OATHS  
for the Province of Saskatchewan  
Being a Solicitor

**6.4 DISCRETIONARY USES**

All discretionary uses in the underlying zone are also discretionary in this zone. [1992/9250]

**6.5 DEVELOPMENT REGULATIONS**

As provided for the applicable underlying zone in Tables 5.6, 5.7, 5.8 and 5.9. [1992/9250]

**10C.7 INNISMORE INDUSTRIAL TRANSITIONAL OVERLAY ZONE (IIT)****7.1 INTENT**

- (1) The Innismore Industrial Transitional Overlay Zone is intended to implement the planned change to industrial uses for the Innismore area in a manner that is sensitive to the remaining existing homes.
- (2) Towards this change, new industrial developments will be encouraged to provide landscaping and building features that are compatible with the homes which will be legally nonconforming in the zone. [2003-1]
- (3) In order to encourage sensitive and compatible development during the transition, the permit review procedure is modified to require the opinion of the Development Officer in certain cases. [1992/9250]

**7.2 ZONE BOUNDARIES**

The boundaries of the Innismore Industrial Transitional Overlay Zone shall be shown in Figure 10.2. [1992/9250]

**7.3 PERMITTED USES**

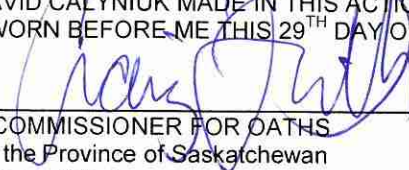
All permitted uses in the underlying IT - Industrial Tuxedo Park zone are also permitted in this zone.

**7.4 DISCRETIONARY USES**

All discretionary uses in the underlying IT - Industrial Tuxedo Park zone are also discretionary in this zone. [1992/9250]

**7.5 DEVELOPMENT STANDARDS**

Notwithstanding the requirements of the underlying IT - Industrial Tuxedo Park zone, as specified in Table 5.8, the development regulations for this zone shall be those listed in Table 10.7:

  
A COMMISSIONER FOR OATHS  
for the Province of Saskatchewan  
Being a Solicitor

May 2, 2018

To: Members,  
Regina Planning Commission

Re: Zoning Bylaw Amendment (17-Z-16) I – Institutional Zone to DSC (H) – Designated  
Shopping Centre Zone (Holding Overlay Zone)  
Rosemont Mount Royal, 4400 4th Avenue

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### RECOMMENDATION

1. That the application to rezone Block A, Plan 75R32425; Block E, Plan 75R32425; Lot 7, Block 28, Plan 59R20949; and Lot 9, Block 28, Plan 101889344; located at 4400 4<sup>th</sup> Avenue, within the Rosemont Mount Royal Neighbourhood from I - Institutional Zone to DSC (H) - Designated Shopping Centre (Holding Overlay Zone), be approved.
2. That the City Solicitor be directed to prepare the necessary bylaw to authorize the respective *Regina Zoning Bylaw No. 9250* amendment.
3. That this report be forwarded to the May 28, 2018 meeting of City Council for approval, which will allow sufficient time for advertising the required public notices for the respective bylaws.

### CONCLUSION

The applicant has submitted an application to rezone the property at 4400 4<sup>th</sup> Avenue (Orr Centre) from I – Institutional Zone to DSC - Designated Shopping Centre. The proposed amendment to the *Regina Zoning Bylaw No. 9250* (Zoning Bylaw) is intended to facilitate preparation of the land for sale and subsequent future redevelopment. As there are no immediate plans for development of the subject property at this time, the Administration is recommending that an (H) - Holding Overlay Zone be applied in addition to the DSC Zone.

When development plans are known, the Administration will assess the design and distribution of land uses and engage the community in the planning process. The Holding Overlay Zone would enable the Administration to exercise control over design of the site and further subdivision. Prior to any new development occurring on the site, a comprehensive redevelopment plan will be required to be submitted and approved by the City of Regina (City).

The proposal complies with the policies contained in *Design Regina: Official Community Plan Bylaw No. 2013-48* (OCP) and with the provisions within the Zoning Bylaw pertaining to the use of the Holding Overlay Zone. Accordingly, the Administration recommends approval.

### BACKGROUND

An application has been received to rezone the subject property located at 4400 4<sup>th</sup> Avenue (Orr Centre). The subject property which is currently zoned I – Institutional is proposed to be rezoned to DSC – Designated Shopping Centre Zone with an (H) – Holding Overlay Zone. The proposed zoning amendment is intended to facilitate future redevelopment of the site.

The Orr Centre contains a broad range of land uses including a vocational school (University of Saskatchewan Nursing Program), various office users, a child day care centre, auditorium space

and some residential apartment dwelling units at the rear of the property. The site was originally developed as a traditional institutional use and was home to the Western Canadian Bible College. In 2003 the Western Canadian Bible College ceased operation in Regina and moved to Calgary, Alberta. Since that time, the spaces traditionally used as education spaces have been converted to the current uses.

The subject property is located within the Rosemont Mount Royal Neighbourhood. The surrounding land uses are primarily low density residential dwellings to the west, south and north, and Lewvan Drive is directly to the east. The Allan Blakeney Adult Campus (former Wascana School) is on the east side of Lewvan Drive.

## DISCUSSION

### Land Use and Zoning Details

Many of the current land uses are permitted uses in the proposed DSC (H) – Designated Shopping Centre (Holding Overlay) Zone, except the auditorium which would become a legal non-conforming land use. All land uses could continue to operate in their current capacity on the property if rezoning to DSC (H) – Designated Shopping Centre (Holding Overlay) Zone is approved. However, any subsequent changes in land use to the site would require review by the Administration.

The land use and zoning related details of this proposal are summarized in the following table:

<b>Land Use Details</b>	<b>Existing</b>	<b>Proposed</b>
Zoning	I – Institutional Zone	DSC – Designated Shopping Centre Zone
Minimum Lot Area (m <sup>2</sup> )	750 m <sup>2</sup>	41,080 m <sup>2</sup>
Minimum Lot Frontage (m)	25 m	180.4 m
Maximum Height (m)	13 m	N/A

The original application submitted to the City did not include the (H) – Holding Overlay Zone. DSC – Designated Shopping Centre Zone is somewhat exceptional in an established neighbourhood as the DSC Zone has commonly been applied in developing suburban areas where their locations are planned through the concept plan approval process. However, the recent trend has been that this zone is being used more often as it includes the option for mixed-use as it includes option for residential development.

### Recommended Zoning Approach

Given the context of the subject property, and in considering the range of development options in the DSC - Designated Shopping Centre zone, the Administration determined that a zoning tool was needed to ensure that the future development of the site would be compatible and integrate well with the established community. The Administration explored options with the applicant to support and facilitate future redevelopment and renewal of the site. This process included striking a balance between applying a zoning designation that would facilitate redevelopment with the need to ensure that redevelopment occurs in a compatible manner. To achieve this balance the Administration recommends the application of a (H) – Holding Overlay Zone along with the rezoning of the subject property to DSC – Designated Shopping Centre zone.

The Holding Overlay Zone will be placed on the property until such time that the owner can provide a redevelopment option that meets City regulation and policy; and, integrates with the existing land uses in the area plan. The use of the Holding Overlay Zone ensures that comprehensive redevelopment will not occur until a plan is approved and that in the community will have participated in the planning process. Until the designation is removed, the only permitted use of the property would be that which exists on the date that the amendment to include the Holding Overlay Zone is applied. This means that existing land use on the Orr Centre site could continue to exist.

Prior to any new development occurring on the site, a comprehensive redevelopment plan will be required to be submitted and approved by the City. The redevelopment plan will need to include a complete site plan which proposes land uses and includes any requested studies, such as traffic or servicing studies. The comprehensive redevelopment plan would need to address staging, phasing, servicing, transportation, proposed land uses and land use compatibility with the surrounding neighbourhood. When development plans are known for the site, the Administration will engage the community to collect input and feedback through the planning process.

The recommended zoning amendment is consistent with the intent of Holding Overlay Zone, as described in the Zoning Bylaw as follows:

- (1) This zone is designed to retain lands or buildings for specific future uses.
- (2) It is intended to be applied after the adoption or approval of a relevant:
  - a. Planning Study
  - b. Concept Plan
  - c. Subdivision Plan

The removal of a Holding Overlay Zone requires City Council approval.

## RECOMMENDATION IMPLICATIONS

### Financial Implications

The subject properties receive a full range of municipal services, including water, sewer and storm drainage. The applicant will be responsible for the cost of any additional or changes to existing infrastructure that may be required to directly or indirectly support the development, in accordance with City standards and applicable legal requirements.

### Environmental Implications

None with respect to this report.

### Policy/Strategic Implications

The proposal is consistent with the policies contained within Part A of the OCP with respect to:

Section D5: Land Use and Built Environment

Goal 1 – Complete Neighbourhoods: Enable the development of complete neighborhoods

- 7.1 Require that new neighbourhoods, new mixed-use neighbourhoods, intensification areas and built or approved neighbourhoods are planned and developed to include the following:
  - 7.1.4 Opportunities for daily lifestyle needs, such as services, convenience shopping, and recreation.
- 7.5 Encourage appropriate mixed-use development within neighbourhoods, as well as the retention of existing local and neighbourhood commercial spaces.

Goal 4 – Employment Areas: Provide appropriate locations and development opportunities for a full range of industrial, commercial and institutional activities.

- 7.16 Encourage local commercial within residential areas.

The OCP encourages commercial and service related land uses within residential areas, as well as, opportunities for intensification. By implementing the Holding Overlay Zone, the City can exercise control over future development on site to ensure that issues pertaining to design and interface with the surrounding community are addressed. In addition, local commercial amenities will contribute to a complete neighbourhood.

Other Implications

None with respect to this report.

Accessibility Implications

None with respect to this report.

COMMUNICATIONS

Communication with the public is summarized as follows:

Public notification signage posted on	October 13, 2017
Will be published in the Leader Post on	May 12 & May 19, 2018
Letter sent to immediate property owners	October 10, 2017
Public Open House held	October 26, 2017
Number of Public Comments Sheets received	34

The application for rezoning to DSC – Designated Shopping Centre without the Holding Overlay Zone was circulated to the Rosemount/Mount Royal Community Association for their comments. The Community Association responded that they feel that “without a solid proposal for redevelopment to consider, it would be premature for the City of Regina to provide approval to this zoning change. In addition, the community as a whole would not want to see any services, entertainment facilities, or development of the area that would adversely affect the immediate residents or the surrounding community.”

The application, without the Holding Overlay Zone was circulated to the West Zone Board for their comments. The Zone Board responded that “without a proposal for redevelopment in hand, it would be premature to give approval to this zoning change application at this time.” In

addition, that this would “leave an open approval for any conforming uses within the new zoning designation, which may include a full redevelopment of the entire site into retail, entertainment and services that may adversely affect the immediate four adjacent residential properties let alone the surrounding residential neighbourhood.”

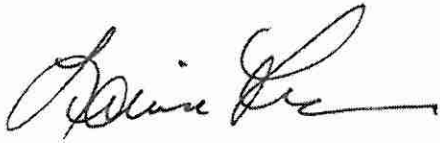
A total of 40 people attended an Open House held on October 26, 2017 to review the proposal to rezone the property to DSC – Designated Shopping Centre without the Holding Overlay Zone. The Administration received 34 public comment sheets through the circulation and open house process. A more detailed accounting of the respondents’ concerns and the Administration’s response is provided in Appendix B.

The applicant and interested parties will receive a copy of the report and notification of the meeting to appear as a delegation in addition to receiving written notification of City Council’s decision.

DELEGATED AUTHORITY

City Council’s approval is required, pursuant to *Part V of The Planning and Development Act, 2007*.

Respectfully submitted,

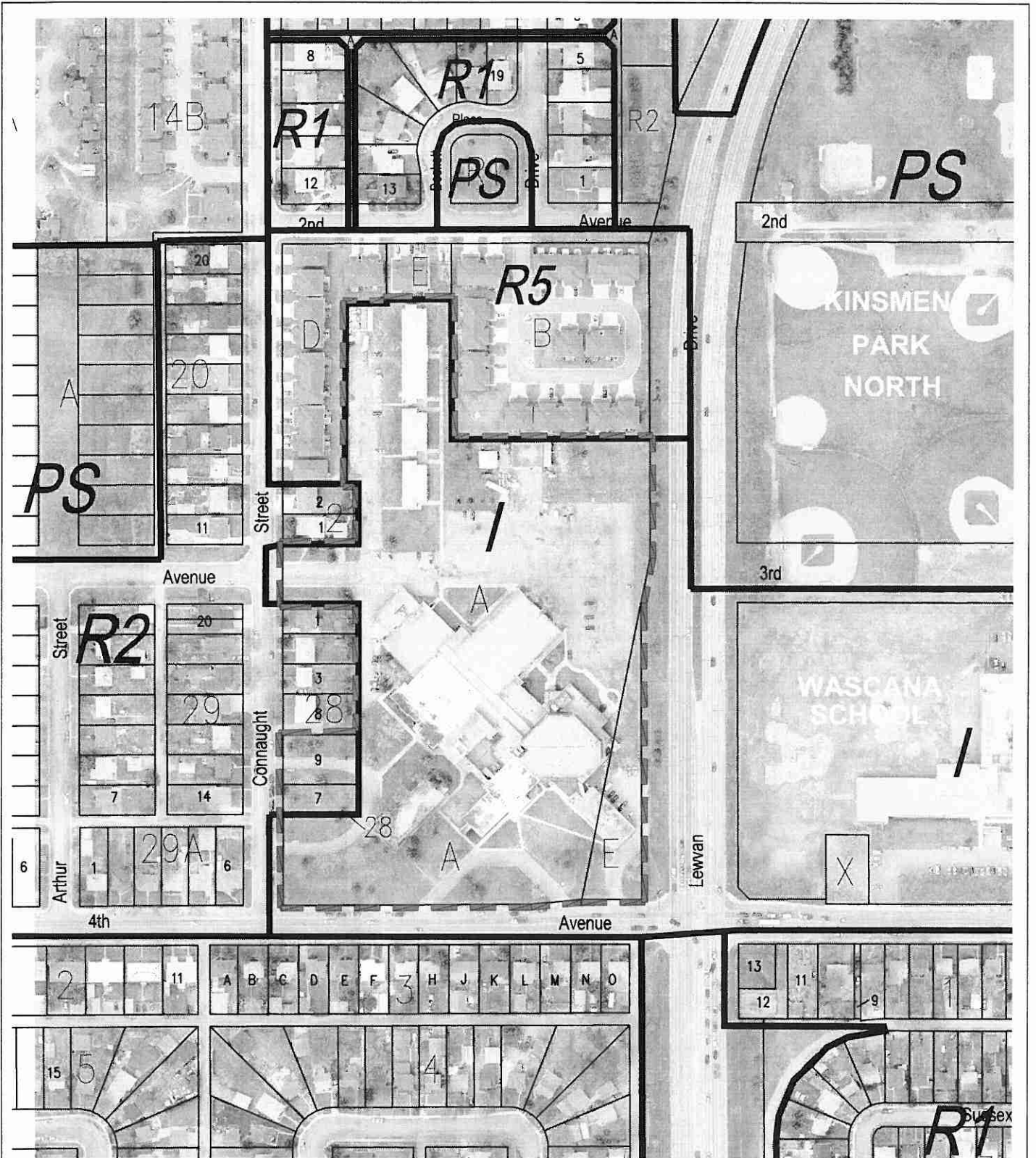


Louise Folk, Director  
Development Services

Respectfully submitted,




Diana Hawryluk, Executive Director  
City Planning & Development



Date of Photography : 2016



 Subject Property

Project 17-Z-16

Civic Address/Subdivision

4400 4th Avenue / Transcona  
 Lot 9, Block A, PPlan 75R32425, Block E, Plan 75R3245, lot 7, Block  
 28, Plan 59R20949 and Lot 9, Block 28, Plan 101889344.





Subject Property

Date of Photography: 2016



Project 17-Z-16

Civic Address/Subdivision

4400 4th Avenue / Transcona  
 Lot 9, Block A, PPlan 75R32425, Block E, Plan 75R3245, lot 7, Block  
 28, Plan 59R20949 and Lot 9, Block 28, Plan 101889344.

# Existing Site Plan Appendix A-3.1

RRR No. 18620  
Sheet 2 of 2



Public Consultation Summary

Response	Number of Responses	Issues Identified
<i>I support this proposal</i>	11	<ul style="list-style-type: none"> <li>▪ Area needs commercial development.</li> <li>▪ Is essential for residents in area.</li> </ul>
<i>Accept if one or two features were different</i>	1	<ul style="list-style-type: none"> <li>▪ Access onto 4<sup>th</sup> Avenue from Connaught Street.</li> </ul>
<i>Accept if many features were different</i>	8	<ul style="list-style-type: none"> <li>▪ Rezoning is without a proposed development.</li> <li>▪ Could accept if traffic/congestion was solved.</li> <li>▪ Parking.</li> </ul>
<i>Completely opposed</i>	14	<ul style="list-style-type: none"> <li>▪ Rezoning is without a proposed development.</li> <li>▪ Potential uses in DSC Zone (Night Clubs &amp; Liquor Stores)</li> <li>▪ Wrong location.</li> <li>▪ Property values.</li> <li>▪ Traffic/congestion.</li> <li>▪ Parking.</li> <li>▪ Access onto 4<sup>th</sup> Avenue from Connaught Street.</li> <li>▪ Noise, garbage.</li> <li>▪ Crime.</li> </ul>

A total of 40 people attended the Open House held on October 26<sup>th</sup>, 2017 and a total of 34 comment sheets were received by Administration through the circulation and open house processes.

**1. Issue: Traffic, Congestion and Access onto 4th Avenue from Connaught Street**

*Administration's Response:* It is not anticipated that the proposed Shopping Centre will cause traffic to exceed the thresholds of the transportation network as the system was designed.

The Applicant has submitted a Traffic Impact Study for the proposed rezoning and the Administration will continue to study the issue once a development proposal has been submitted for consideration to determine if traffic volumes warrant the installation of additional vehicular control devices or pedestrian crosswalks at that time.

**2. Issue: Wrong location**

*Administration's Response:* Prior to any new development occurring on the site a comprehensive redevelopment plan will be required to be submitted and approved by the City. The redevelopment plan will need to include a complete site plan which proposes land uses and includes any requested studies, such as traffic or servicing studies. The comprehensive redevelopment plan would need to address staging, phasing, servicing, transportation, proposed land uses and land use compatibility with the surrounding neighbourhood.

The Holding Overlay Zone will be placed on the property until such time as the owner can provide a suitable development option that meets City regulation and integrates with the existing land uses in the area. Until the holding designation is removed the only permitted land use of the property will be what exists on the date that the amendment to include the holding overlay is applied.

3. **Issue: Parking**

*Administration's Response:* Any proposed development would need to meet the minimum parking requirements of the Zoning Bylaw.

4. **Issue: Property Values**

*Administration's Response:* The Administration is not aware of any evidence that such a development will have a negative impact on surrounding property values. Any new development could contribute to the neighbourhood, which has the potential to reflect positively in local real estate values.

5. **Issue: Rezoning is without a proposed development**

*Administration's Response:* The Administration is recommending the use of a Holding Overlay Zone until such time as a comprehensive redevelopment plan is submitted for the property. Approval is required from City Council prior to the removal of a Holding Overlay Zone.

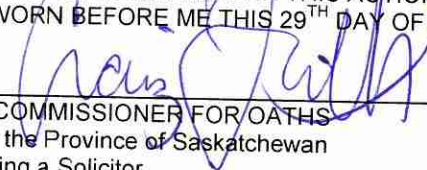
AT REGINA, SASKATCHEWAN, WEDNESDAY, MAY 2, 2018

AT A MEETING OF REGINA PLANNING COMMISSION  
HELD IN PUBLIC SESSION

AT 4:00 PM

Present: Councillor Mike O'Donnell, in the Chair  
Councillor Bob Hawkins  
Councillor Barbara Young  
David Bale  
Frank Bojkovsky  
Simon Kostic  
Andre Kroeger  
Adrienne Hagen Lyster  
Robert Porter  
Steve Tunison

THIS IS EXHIBIT E REFERRED TO IN THE  
4<sup>TH</sup> SUPPLEMENTARY AFFIDAVIT OF  
DAVID CALYNIUK MADE IN THIS ACTION AND  
SWORN BEFORE ME THIS 29<sup>TH</sup> DAY OF MAY, 2018.

  
A COMMISSIONER FOR OATHS  
for the Province of Saskatchewan  
Being a Solicitor

Also in Attendance: Council Officer, Elaine Gohlke  
Legal Counsel, Cheryl Willoughby  
Executive Director, City Planning & Development, Diana Hawryluk  
Director, Development Services, Louise Folk  
Director, Land & Real Estate Management, Rob Court  
Manager, Current Planning, Fred Searle  
Manager, Development Engineering, Dustin McCall  
Senior City Planner, Autumn Dawson  
Senior City Planner, Ben Mario

APPROVAL OF PUBLIC AGENDA

**Adrienne Hagen Lyster moved, AND IT WAS RESOLVED, that the agenda for this meeting be approved, as submitted, and that the items and delegations be heard in the order they are called by the Chairperson.**

ADMINISTRATION REPORT

RPC18-23 Civic Naming Committee Guideline Review

**Recommendation**

1. That Regina Planning Commission approve the new Civic Naming Committee Guideline as in Appendix A;

2. That the Terms of Reference for the Civic Naming Committee be amended as in Appendix B to include a representative from Roadways and Transportation to address matters pertaining to signage, road planning and construction;
3. That the City Clerk be granted delegated authority to approve a street or park name change if:
  - a. The name poses a threat to health and safety and/or wayfinding; or
  - b. The commemorative name honouring a person has been misspelled.
4. That City Council be informed of street and park name changes approved by the City Clerk under delegated authority once per year via the Civic Naming Committee annual report;
5. That the Administration prepare a report on criteria to apply when writing a report addressing the historical legacy of the namesake by December 31, 2018 and submit the report for consideration to City Council.

**Steve Tunison moved, AND IT WAS RESOLVED, that Administration return with a supplementary report to the September 5, 2018 meeting, after engaging in further consultation with Regina & Region Home Builders' Association.**

#### ADOPTION OF MINUTES

**Councillor Young moved, AND IT WAS RESOLVED, that the minutes for the meeting held on April 4, 2018 be adopted, as circulated.**

#### ADMINISTRATION REPORTS

RPC18-16 Discretionary Use Application (18-DU-05) - Proposed House-Form  
Commercial/Residential Building in TAR - Transitional Area Residential Zone  
2358 Broad Street

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#### **Recommendation**

1. That the Discretionary Use Application for a proposed House-Form Commercial/Residential Building located at 2358 Broad Street, being Lot 20, Block 463, Plan No. 101187390, Old 33 be approved, and that a Development Permit be issued subject to the following conditions:
  - a) The development shall be generally consistent with the plans attached to this report as Appendix A-3.1 to A-3.2 inclusive, prepared by Alton Tangedal Architect Ltd. and dated February 8, 2018.

- b) The development shall comply with all applicable standards and regulations in *Regina Zoning Bylaw No. 9250*.
2. That this report be forwarded to the May 28, 2018 meeting of City Council for approval.

Alton Tangedal, representing Alton Tangedal Architects Ltd., and Tamara Lomenda-Comacho, representing Perimeters Studio, addressed the Commission.

**Adrienne Hagen Lyster moved, AND IT WAS RESOLVED, that the recommendation contained in the report be concurred in.**

RPC18-17 Discretionary Use Application (18-DU-06) Nursery School – 4701 Parliament Avenue

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**Recommendation**

1. That the Discretionary Use Application for a proposed Nursery School located at 4701 Parliament Avenue, being Lot U2, Plan No. 102245228, in Harbour Landing Subdivision be approved, and that a Development Permit be issued subject to the following conditions:
  - a) The development shall be generally consistent with the plans attached to this report as Appendix A-3.1 - A-3.4 prepared by P3Architecture Partnership and dated February 7, 2018.
  - b) The development shall comply with all applicable standards and regulations in *Regina Zoning Bylaw No. 9250*.
2. That this report be forwarded to the May 28, 2018 meeting of City Council for approval.

Cari Thiele and Maegan Mason, representing Pathways Learning School, addressed the Commission.

**Councillor Hawkins moved, AND IT WAS RESOLVED, that the recommendation contained in the report be concurred in.**

RPC18-21 Zoning Bylaw Amendment (17-Z-16) I – Institutional Zone to DSC (H) – Designated Shopping Centre Zone (Holding Overlay Zone) Rosemont Mount Royal, 4400 4th Avenue

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**Recommendation**

1. That the application to rezone Block A, Plan 75R32425; Block E, Plan 75R32425; Lot 7, Block 28, Plan 59R20949; and Lot 9, Block 28, Plan 101889344; located at 4400 4<sup>th</sup> Avenue, within the Rosemont Mount Royal

Neighbourhood from I - Institutional Zone to DSC (H) - Designated Shopping Centre (Holding Overlay Zone), be approved.

2. That the City Solicitor be directed to prepare the necessary bylaw to authorize the respective *Regina Zoning Bylaw No. 9250* amendment.
3. That this report be forwarded to the May 28, 2018 meeting of City Council for approval, which will allow sufficient time for advertising the required public notices for the respective bylaws.

David Calyniuk, representing North Ridge Development Corporation, addressed the Commission.

**Steve Tunison moved, AND IT WAS RESOLVED, that the recommendation contained in the report be concurred in.**

RPC18-18 Heritage Designation Application (18-H-02) Regina Cartage Building - 2220 Dewdney Avenue

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**Recommendation**

1. That the designation of the Regina Cartage Building (also known as Canada Customs Warehouse) located at 2220 Dewdney Avenue, being Lot 46, Block 204, Plan No. 101192600 Ext. 13 and Lot 20, Block 294 Plan No. Old 33, as Municipal Heritage Property, be approved.
2. That the City Solicitor be instructed to prepare the necessary bylaw to:
  - a. Designate the property as Municipal Heritage Property.
  - b. Identify the reasons for designation and character-defining elements as stated in Appendix A-4 to this report.
  - c. Provide that any subsequent alterations to the property be consistent with the “Standards and Guidelines for the Conservation of Historic Places in Canada.”
3. That the City Solicitor be instructed to prepare the necessary bylaw to amend Schedule A of the *Bylaw of the City of Regina to Deny a Permit for the Alteration or Demolition of Properties that the Council of the City of Regina may wish to Designate as Municipal Heritage Properties No. 8912* (Heritage Holding Bylaw) to remove the property listed as Item 8.12 Canada Customs Warehouse, 2220 Dewdney Avenue, upon designation.
4. That this report be forwarded to the May 28, 2018 meeting of City Council for approval, to allow sufficient time for service of the required notice of intention to pass the necessary bylaw and for advertising the required public notice for the respective bylaw.



**Councillor Young moved, AND IT WAS RESOLVED, that the recommendation contained in the report be concurred in.**

RPC18-19 Zoning Bylaw Amendment and Closure Applications (18-Z-02/18-CL-01)  
Rezoning of Portion of Dewdney Avenue Right-of-Way from RR-Railway Zone to IA-Light Industrial Zone - 1250 Dewdney Avenue

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**Recommendation**

1. That the application for the closure and sale of a portion of Dewdney Avenue right-of-way as described on the attached plan of proposed subdivision (Appendix A-3.1) prepared by Richard Adam Kraszlany, S.L.S. of Midwest Surveys, dated December 6, 2017, and legally described as P# St/L 456- Plan Old 33 Ext 0, be approved.
2. That the application to rezone the portion of Dewdney Avenue right-of-way as shown on the attached plan of proposed subdivision (Appendix A-3.1), from RR - Railway Zone to IA - Light Industrial Zone, be approved.
3. That the City Solicitor be directed to prepare the necessary bylaws to authorize the respective street closure and *Regina Zoning Bylaw No. 9250* amendment.
4. That this report be forwarded to the May 28, 2018 meeting of City Council for approval, which will allow sufficient time for advertising of the required public notices for the respective bylaws.

**Adrienne Hagen Lyster moved, AND IT WAS RESOLVED, that the recommendation contained in the report be concurred in.**

RPC18-20 Zoning Bylaw Amendment Application (18-Z-01) Rezoning from PS - Public Service Zone to IB -Medium Industrial Zone 1205 2nd Avenue

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(Frank Bojkovsky declared a conflict of interest on this item, citing his employment with Brandt Industries Ltd., abstained from discussion and voting, and temporarily left the meeting.)

**Recommendation**

1. That the application to rezone the most easterly 3.05m of Lot A, Block 21, Plan No.66R00804 located in the Industrial Park subdivision at 1205 2<sup>nd</sup> Avenue from PS - Public Service Zone to IB - Medium Industrial Zone, be approved.
2. That the application to rezone is contingent on subdivision approval of proposed Lot E and subsequent title creation and the parcel tie of proposed Lot E, B and C as shown on Appendix B.

3. That the City Solicitor be directed to prepare the necessary bylaw to authorize the respective *Regina Zoning Bylaw No. 9250* amendment.
4. That this report be forwarded to the May 28, 2018 meeting of City Council for approval, which will allow sufficient time for advertising of the required public notices for the respective bylaw.

Rob Court, Director of Land & Real Estate Management, addressed the Commission.

**Adrienne Hagen Lyster moved, AND IT WAS RESOLVED, that the recommendation contained in the report be concurred in.**

(Frank Bojkovsky returned to the meeting.)

(Simon Kostic left the meeting.)

**RECESS**

**Councillor Hawkins moved, AND IT WAS RESOLVED, that the Commission recess to 6:00 p.m.**

The Commission recessed at 5:27 p.m.

The Commission reconvened at 6:00 p.m.

RPC18-22 Zoning Bylaw Amendment (18-Z-09) Cannabis Zoning Regulations

**Recommendation**

1. That the amendments proposed to *Regina Zoning Bylaw No. 9250* in relation to Cannabis Retail Stores as detailed in Appendix B to this report be approved.
2. That the City Solicitor be directed to prepare the necessary bylaw to authorize the respective Zoning Bylaw amendment.
3. That this report be forwarded to the May 28, 2018 meeting of City Council for approval, which will allow sufficient time for advertising of the required public notices for the respective bylaw.

Fred Searle, Manager of Current Planning, made a presentation to the Commission.

Atta Anwar, representing BTA Group, addressed the Commission.

**Councillor Hawkins moved that the recommendation contained in the report be concurred in.**

**Councillor Hawkins moved, in amendment, that with respect to Appendix B, 7.D.5 Cannabis Retail Store, section 5.2, Separation Distance, the ‘separation distance’ be doubled from the recommended zone of 182.88 metres to 365.76 metres.**

**The motion was put and declared LOST.**

**Councillor Hawkins moved, in amendment, that the exclusionary words in s. 5.2(1), “other than the D-Downtown Zone,” be eliminated such that the ‘separation distance’ would apply without exception in all applicable zones including the Downtown Zone.**

**The motion was put and declared LOST.**

**Councillor Hawkins moved, in amendment, that where there is a development application to establish a public school, private school, public park and open space, child day care centre, enclosed rink, public library or public community centre, that the buffer zone around those places be preserved.**

**The motion was put and declared LOST.**

**Andre Kroeger moved, in amendment, AND IT WAS RESOLVED, that the Downtown Zone include Cannabis Retail Stores as a discretionary use.**

**Councillor Young moved, in amendment, AND IT WAS RESOLVED, that Recommendation 1 be amended to read:**

- 1. That the amendments proposed to Regina Zoning Bylaw No. 9250 in relation to Cannabis Retail Stores as detailed in Appendix B, with the amendment that Cannabis Retail Stores be added as a permitted use in MAC and DSC Zones and as a discretionary use in the Downtown Zone, be approved.**

**The main motion, as amended, was put and declared CARRIED.**

ADJOURNMENT

**Adrienne Hagen Lyster moved, AND IT WAS RESOLVED, that the meeting adjourn.**

The meeting adjourned at 8:08 p.m.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary