

CHANGE TO THE BOUNDARY AND CHANGE IN NAME OF THE MARDA LOOP BUSINESS REVITALIZATION ZONE

EXECUTIVE SUMMARY

This report presents amendments to the Marda Loop Business Revitalization Zone Bylaw 52M84 in response to a Council direction to improve the board governance of Business Improvement Areas (formerly known as Business Revitalization Zones), and to change the name and boundary of the Marda Loop Business Revitalization Zone (BRZ).

The bylaw amendments for the Marda Loop BRZ are presented in a separate report because section 8(3) of the *BIA Regulation* requires Council to give the affected businesses the opportunity to speak to the boundary change before the bylaw receives second reading. The bylaw amendments for the remaining three BIAs are presented in CPS2017-0647. An overview of the proposed amendments for the Marda Loop BRZ can be found in Attachment 1.

ADMINISTRATION RECOMMENDATION

That the SPC on Community and Protective Services recommend that Council give three readings to the proposed Bylaw to amend the Marda Loop Business Revitalization Zone Bylaw 52M84 (Attachment 2).

PREVIOUS COUNCIL DIRECTION / POLICY

On 2016 November 28 Council adopted CPS2016-0826 'Business Revitalization Zones – Board Governance and Legislative Changes,' and passed amendments for six of the BIA bylaws to align them with provincial legislative requirements and the BIAs' practices.

On 2015 December 14 Council adopted C2015-0953 'Business Revitalization Zones - Board Appointments,' which identified a misalignment between The City of Calgary BRZ bylaws, the *Business Revitalization Zone Regulation*, AR 377/1994 (the *BRZ Regulation*) in effect at that time, and some of the BIAs' practices respecting the appointment of their board members by Council.

In response, the following motion was carried at the 2015 December 14 Meeting of Council: "MOTION ARISING, Moved by Councillor Woolley, Seconded by Councillor Chabot, with respect to Report C2015-0953, that Council direct Administration to work with the Business Revitalization Zones (BRZs) to review alignment between the BRZ Bylaws that Council has passed and the Business Revitalization Zones' governance documents."

BACKGROUND

In 1983 June the Government of Alberta amended the *Municipal Government Act* (MGA) to allow municipalities to enact bylaws to establish BIAs (formerly known as BRZs). Business owners within a defined area are required to pay an additional tax. The BIA tax enables the business owners to collectively fund activities to promote and improve the economic vitality of their area for the purposes set out in the MGA. The bylaw to establish a BIA also establishes a board to govern the BIA.

A BIA's board members are appointed by Council under the terms of The City's bylaw that established the BIA. The board operates as a non-profit corporation and is subject to provincial legislation governing BIAs. The BIAs and their boards are regulated by sections 51 and 52 of the current MGA and the *Business Improvement Area Regulation*, AR 93/2016 (the *BIA Regulation*) (Attachment 3).

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The earliest Calgary bylaw establishing a BIA was passed in 1984 and the most recent bylaw was passed in 2015. These bylaws were enacted under different versions of the MGA and, since 1995, under different Regulations. Therefore, The City bylaws establishing the BIAs are not consistent, and some do not comply with the requirements in the current MGA, the now expired *BRZ Regulation*, or the current *BIA Regulation*. This has resulted in a misalignment between The City's BIA bylaws, provincial legislation and some of the BIAs' practices regarding board appointments.

Additionally, effective 2016 July 1, the province amended the legislation to change the "business revitalization zone" designation to "business improvement area". The proposed bylaw amendment aligns the Marda Loop BRZ board's practices concerning the appointment of its board members with its City bylaw, ensures that its City bylaw is consistent with current legislative requirements, and updates the name of the Marda Loop Business Revitalization Zone to include the BIA designation.

In 2015 December City Clerk's Office identified a misalignment between The City's bylaws establishing the Business Improvement Areas (BIA), and the BIA boards' practices regarding the Council appointment of their board members. Council directed Administration to align The City's BIA bylaws, and the BIAs' current practices, with provincial legislative requirements.

Council passed bylaw amendments for six of the 11 BIAs on 2016 November 28. Four BIA boards, including the Marda Loop BRZ's board, requested additional time to consider the necessary changes. This report presents proposed bylaw amendments to improve board governance, expand the boundary of the BRZ, and change the name of the "Marda Loop Business Revitalization Zone" to the "Marda Loop Business Improvement Area".

On 2017 March 28, the board of the Marda Loop BRZ submitted a request for a boundary expansion (Attachment 4). Subsequently, on 2017 June 23, the board submitted a request to change the name of the BRZ to the "Marda Loop Business Improvement Area" (Attachment 5).

Given the number of amendments required for Bylaw 52M84, the proposed amending bylaw repeals and replaces Bylaw 52M84.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

The Marda Loop Business Revitalization Zone Bylaw, and the applicable provincial legislation regulating BIAs, were reviewed to identify the changes required for the Marda Loop BRZ's bylaw to comply with the current legislative requirements (e.g., specifying the number of board members, their terms of office, and the method of filling board vacancies). Administration consulted with the Marda Loop BRZ's board to identify its practices for board appointments, and to identify the bylaw amendments required to align its board governance practices with its City bylaw. The board was also asked whether it wished to change the BRZ's name to include the "business improvement area" designation.

In response to the board's request to expand the BIA's boundary, Administration reviewed the legislative requirements for a boundary change. Section 8 of the *BIA Regulation* (Attachment 3) requires that:

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- (a) the BIA's board consent to a proposed boundary change; and,
- (b) the taxpayers in the BIA, and the people who would be taxpayers under the change in boundaries, must be given an opportunity to make representations to Council regarding the boundary change amendment before the proposed bylaw to amend the boundary receives second reading.

The proposed expansion encompasses two properties: 3450 33 Avenue S.W. (referred to as 1931, 1935 and 1939 33 Avenue S.W. in the request) and 2107 34 Avenue S.W. (Attachment 6). The 3450 33 Avenue S.W. property includes a mixed-use commercial development which is currently under construction. The 2107 34 Avenue S.W. property is in the application phase for the development of a mixed-use commercial development.

The *BIA Regulation* contemplates boundary expansions in a developed area that contains businesses that are already established. However, the *BIA Regulation* does not prohibit a boundary expansion that would include future developments containing new businesses. At this point, there is no business data available associated with either of these properties.

The board's rationale for the boundary expansion is that: "These two adjustments match organic growth in commercial development along our boundary...The adjustments ensure that new commercial developments in the Marda Loop business district can participate in, benefit from, and contribute to the activities of the BIA on the same basis as their established neighbours" (Attachment 4).

Although the BIA Regulation only requires that the affected BIA taxpayers must be given notice of the boundary expansion, and their right to make representations about the boundary change to Council before the bylaw receives second reading, the Marda Loop BRZ's board has consulted with the developers of the sites in order to identify any future tenants, and has agreed to contact any signed commercial tenants for the projects in order to give them the notice provided to the BIA taxpayers.

Request for a Change in Boundaries and Change in Name Process Summary

The following outlines the process followed by the board and Administration regarding the name and boundary changes.

1. On 2017 March 28 the Marda Loop BRZ's board, on its own initiative, submitted a request to expand the BRZ's boundary to Administration.
2. On 2017 June 23 the board of the Marda Loop BRZ submitted a request to Administration to change its name to "Marda Loop Business Improvement Area".
3. On 2017 July 29 Administration mailed a notice to the ratepayers in the area containing the information required by section 8(3) of the *BIA Regulation* including a statement that the affected businesses can make representations concerning the proposed boundary change amendments to Council (Attachment 7).
4. On 2017 August 16 Administration sent a letter to the Marda Loop BRZ's board requesting that it continue to work to identify any future tenants of the property (who would be liable to pay the BIA tax) and forward The City's letter to any future tenants of the property that are identified (Attachment 8).

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Stakeholder Engagement, Research and Communication

The Marda Loop BRZ has conducted stakeholder engagement activities regarding its proposed boundary change. The Marda Loop BRZ's ratepayers were informed, by both email and mail, of the proposed boundary change prior to the BRZ's AGM. The boundary change was discussed at the AGM and approved unanimously by the members. Additionally, the Marda Loop BRZ's board consulted with the developers of the sites, and has committed to contacting any signed commercial tenants for the project under construction. Although not required, the board also consulted with the Marda Loop Community Association in order to foster full community involvement.

Strategic Alignment

Municipal support for BIAs aligns with *Action Plan 2015-2018* and the associated Council Priorities to create "a Prosperous City" whereby Calgary is "... a place where there is opportunity for all, and the best place in Canada to start and grow a business," and to create "a City of Inspiring Neighbourhoods" where "every Calgarian lives in a safe, mixed and just neighbourhood, and has the opportunity to participate in civic life".

Social, Environmental, Economic (External)

Social

BIAs are key partners in creating safe and appealing neighbourhoods to attract and retain visitors and residents to their zones. Businesses within BIAs provide a range of services to help create complete and inspiring neighbourhoods. They serve an important role in placemaking through the intentional design of areas that foster positive social interaction.

Environmental

In addition to beautifying and improving their areas, BIAs promote active modes of transportation within their geographic areas. Further, BIAs focus on environmental sustainability as a priority through their support of recycling at festivals and innovative community development programs.

Economic (External)

BIAs are an important avenue to promote Calgary as a great place to visit, live, meet, work, play and study. They play an important role in supporting economic activity and neighbourhood revitalization. BIAs make a significant contribution to Calgary's economic well-being by helping to nurture the growth and development of business in the city and by improving the quality of life for those living and working in the areas. In shaping a dynamic business environment, BIAs attract visitors and residents alike to their vibrant business areas.

Financial Capacity

Current and Future Operating Budget:

There are no operating budget implications associated with this report. The revenue raised as a result of the additional levies paid by ratepayers in the BIA will be transferred directly to the Marda Loop BRZ's board.

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Current and Future Capital Budget

There are no capital budget implications as a result of this report.

Risk Assessment

Amending The City's bylaw to align with the current provincial legislation, and the practices of the Marda Loop BRZ regarding the Council appointment of its board members, creates compliance with the legislative framework under which BIA boards operate. This is an important mitigation of risk; compliance with the legislative requirements ensures that the proposed bylaw amendments are validly enacted.

Section 8 of the *BIA Regulation* requires that Administration take reasonable steps to ensure that the required notice of the boundary expansion is provided to all affected businesses. The notice must include a statement that the affected businesses have the right to make representations to Council regarding the boundary change before second reading of the bylaw. Administration mailed a notice to all of the Marda Loop BRZ's taxpayers (Attachment 7).

Due to the development status of the parcels of land, that are the subject of the boundary expansion, Administration sent a letter to the Marda Loop BRZ board (Attachment 8) requesting that it identify any future tenants of the property (who would be liable to pay the BIA tax), and forward The City's letter (Attachment 7) to any future tenants of the property identified by the board. This was done as there is currently no business assessment data associated with these properties.

Prior to the proposed bylaw receiving second reading, Council must give all affected businesses the opportunity to make representations to Council regarding the boundary change. This is required by section 8(1) of the *BIA Regulation* to validly enact the bylaw amendment for the boundary change.

Future changes to the BIA legislation were considered such as the MGA amendments that have not yet been proclaimed, and the forthcoming changes to the *BIA Regulation*. They do not impact the proposed bylaw amendments.

REASON FOR RECOMMENDATION:

An amendment to the Marda Loop Business Revitalization Zone Bylaw 52M84 is required to change the name and boundary of the BRZ, to align the Bylaw with current provincial legislative requirements, and to align the board's practices regarding Council appointment of its board members with the Bylaw in order to improve board governance.

**CHANGE TO THE BOUNDARY AND CHANGE IN NAME OF THE MARDA LOOP BUSINESS
REVITALIZATION ZONE**

ATTACHMENTS

1. Overview of the Marda Loop Business Revitalization Zone Bylaw Amendments
2. Proposed Wording for a Bylaw Amending the Marda Loop Business Revitalization Zone Bylaw 52M84
3. Excerpts from the Municipal Government Act and the *Business Improvement Area Regulation*, AR 93/2016
4. Request to Change the Boundary of the Marda Loop Business Revitalization Zone
5. Request to Change the Name of the Marda Loop Business Revitalization Zone
6. Map of the Proposed Changes to the Marda Loop Business Revitalization Zone Boundary
7. Administration Notice of Request to Change the Marda Loop Business Revitalization Zone Boundary
8. Administration Letter to the Marda Loop Business Revitalization Zone Board