

ANALYSIS OF THE PERMITTING PROCESS

City of Westmount

ANONYMIZED VERSION SUBMITTED TO

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FOREWORD

The City of Westmount's Urban Planning Department processes a very large volume of permit applications and has great difficulty doing so with the human, material and information resources it currently has at its disposal and in compliance with the terms and conditions imposed on it, notably in terms of the regulatory obligation regarding file processing timeframes.

A number of residents took the opportunity of the 2017 election year to express their dissatisfaction, even frustration, with the cumbersome, complex, time-consuming and iterative nature of the permit analysis process.

The mandate of the École nationale d'administration publique's Organization Services Directorate was to conduct a detailed analysis of the permitting process at the City of Westmount, recognized as a pioneer in heritage protection.

This report first describes the methodology used to carry out the mandate and provides historical context before getting to the heart of the matter and describing the permit analysis process and day-to-day operations. We provide findings and possible solutions throughout this report. A table summarizing these findings and possible solutions can be found at the end of the report.

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LIST OF ACRONYMS

ARLUPD	Act respecting land use planning and development
BI	Board of Inspections
BL	By-laws
CTA	Cities and Towns Act
ENAP	École nationale d'administration publique
IT	Information Technology
LHC	Local Heritage Council
OSD	Organization Services Directorate
PAC	Planning Advisory Committee
RBQ	Régie du bâtiment du Québec
SCAOPI	Specific construction, alteration or occupancy proposal for an immovable
SPAIP	Site Planning and Architectural Integration Programmes
UPD	Urban Planning Department

1 METHODOLOGY

The mandate of the École nationale d'administration publique's Organization Services Directorate was to conduct a detailed analysis of the permitting process at the City of Westmount.

In order to do so, we had to familiarize ourselves with the City's regulatory framework for urban development, get an overview of the Urban Planning Department (UPD) and familiarize ourselves with the permit application processing process in operations and with the application review process used by the Planning Advisory Committee (PAC). The City's rich history of heritage protection also led us to want to examine the historical context of the committees that preceded the PAC.

Our process consisted of familiarizing ourselves with the relevant by-laws provided by the UPD, reviewing the existing information on the process, namely the new permits web page, examining the reports from the PAC and the Board of Inspections (BI) as well six examples of problematic cases provided by the UPD. All statistics on Westmount permits were also provided by the UPD.

We conducted an interview with elected officials, two focus groups with UPD employees, an interview with the UPD director and assistant director and a meeting with three PAC members.

We also conducted a review of the minutes of the City Council meetings held in 2017 and a press review of the *Westmount Independent* for the same period.¹

The findings in this report are based on the data identified in the documents listed above and on what was heard during the above-mentioned interviews and focus groups.

2 HISTORY

It should be noted that while the history below does not relate to the permit analysis process itself, it is necessary in order to understand that the current context stems in large part from a long tradition.

In 1916, the City of Westmount pioneered an Architectural Commission to protect its architectural heritage.² It consisted of the City's mayor, director general and engineer, as well as "four local architects selected by City Council. The work of the committee was to approve the plans for technical features, buildings, statues, arches, fountains and even

¹ The author would like to thank research assistant Olivier Rinfret for this review.

² City of Westmount, <https://westmount.org/en/resident-zone/urban-planning/exposition-100-ans-de-pac/>, page consulted on May 30, 2018.

fences before their construction could begin³." The Architectural Commission would later be renamed the Architectural and Urban Planning Board.

On 5 June 1995, the Council adopted the *By-law on Site Planning and Architectural Integration Programmes* (By-law 1181) which stipulated that this Commission would operate as the PAC⁴. By-law 1181 would then be repealed by the *By-law on Site Planning and Architectural Integration Programmes* (By-law 1305) in 2001.

The PAC was composed as follows: the mayor, the urban planning commissioner (elected) and three residents who must be "professional architects and (or) urban planners, on the condition that at any time, at least two (2) members of the Committee are architects⁵." It also provided for a maximum of four alternate members including the acting mayor⁶ and three residents with the same professional qualifications as permanent members.

In 2014, the City wanted to expand its pool of architects who were experienced in conservation, urban planners and heritage experts to ensure the renewal of its PAC. As explained during hearings before the Commission permanente de l'aménagement du territoire, the City had counted 48 resident architects in its territory, one-quarter of whom had previously sat on the PAC and another quarter who were very old.

This is how, on December 5, 2015, the National Assembly came to pass private bill 201 – *Act respecting Ville de Westmount*⁷ thereby authorizing the City to appoint a non-resident to the PAC (who must have special qualifications **in architecture or urban planning or have heritage expertise**⁸) and setting the term of office for PAC members to four years rather than two.

On January 19, 2015, City Council adopted the *By-law to Further Amend the By-law 1320 to Establish a Planning Advisory Committee* (By-law 1479) in order to incorporate the provision of bill 121 that "allows the City to have one member of the Planning Advisory Committee (permanent or substitute) who is a non-resident and for the term of office of members to be up to four years and renewable⁹."

³ National Assembly, 1st Session, 41st Parliament, Journal des débats de la Commission permanente de l'aménagement du territoire, vol. 44, no. 39, December 2014, p. 3.

⁴ City of Westmount, By-law 1181, a. 2.3.5.

⁵ City of Westmount, By-law 1320, a. 2.

⁶ The acting mayor would be replaced by the substitute urban planning commissioner through the *By-law to Further Amend By-law 1320 to Establish a Planning Advisory Committee* (By-law 1465), adopted by Council on June 2, 2014.

⁷ National Assembly, Bill 201 (private), *An Act respecting Ville de Westmount*, 2014.

⁸ Our highlights.

⁹ City of Westmount, Minutes of January 19, 2015, <https://westmount.org/wp-content/uploads/2015/02/2015-01-19-PROCES-VERBAL-MINUTES.pdf>

It should be pointed out that if the intent was to make sure the PAC had people with special qualifications in architecture or urban planning or with heritage experience, at the time of our analysis, the PAC had four permanent members (two architects who are residents of Westmount, a non-resident architect and a city councillor who is an architect) as well as three substitute members who are architects and a substitute city councillor who is neither an architect nor an urban planner. According to By-law 1320, the mayor is a member of the PAC but very rarely attends PAC meetings.

This finding reveals that in appointing only architects to the PAC, Council really wanted to place emphasis on architecture and heritage protection and not on the urban planning component, even though it is an urban planning advisory committee which is also responsible for issuing recommendations on issues such as urban planning, zoning, subdivision, construction and landscape architecture.

The PAC therefore focuses on reviewing Site Planning and Architecture Integration Programmes (SPAIP) files, meeting every second Tuesday to review permit applications. In 2017, according to data provided by the UPD, 459 SPAIP files were the subject of PAC recommendations. Including files that had to be submitted to the PAC several times, there were 787 iterations.

The PAC also acts "as the Local Heritage Council [LHC] and advises Council on matters related to heritage protection¹⁰." The LHC was established to obtain recognition for the Glen Arch in accordance with the *Cultural Heritage Act*. A project manager has been assigned to the LHC and is working on solutions for the conservation or conversion of 13 places of worship. There could be very interesting projects where mixed uses will be considered. However, when we talk about changes in use, we are often referring to changes in structure, which affects architecture.

Finally, it should be noted that PAC members are paid from the UPD advisory services budget without their remuneration having been formally determined by resolution or by-law.

In summary, the lack of planning expertise among PAC members and the volume of SPAIP files to be processed have resulted in the PAC focusing primarily on the review of permit applications.

3 PERMIT AND INSPECTION APPLICATIONS

It should be noted at the outset that in 2017, the UPD processed 2,075 permit applications and certificates from all categories, of which 459 SPAIP files were the subject of a recommendation (458 favourable, 1 unfavourable) by the PAC (out of the 787

¹⁰ City website, <https://westmount.org/en/call-for-candidates-planning-advisory-committee/> page consulted on April 24, 2018.

iterations mentioned in the previous section). In total, the UPD issued 1,765 permits in 2017.

3.1 COMPARISON WITH OTHER CITIES OR BOROUGHES

Table 1 provides an overview of the number of SPAIP files processed in four other cities or boroughs with a similar scope in terms of SPAIP applications as Westmount. We used the aliases City 1, City 2, City 3 and City 4 to respect the anonymity of the cities or boroughs that were willing to provide us with data.

We want to point out the limitations of this comparison given how the organization of urban planning services and the criteria for assessing permit applications and SPAIP vary from location to location. However, the figures do show that Westmount's UPD issues more than double the average number of permits and certificates issued by other cities or boroughs whose data is known. Although it is difficult to make a workforce comparison for the reason mentioned above, we have noted that the Westmount UPD has fewer employees to do the work than the average in the other cities or boroughs.

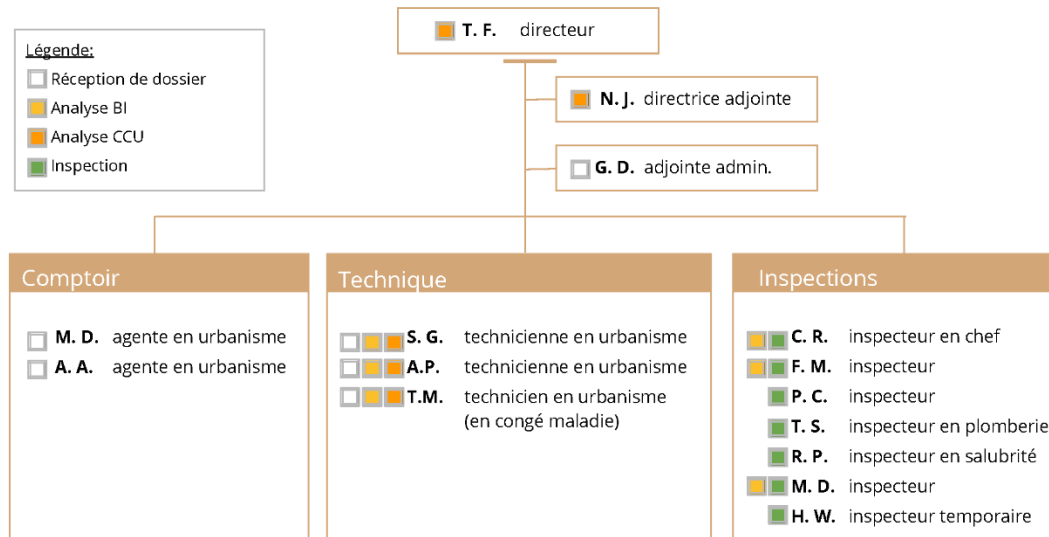
Table 1 **Comparison with cities or boroughs with a similar scope in terms of SPAIP applications as Westmount**

	Composition of the PAC	Files processed in 2017	Permits and certificates issued (all categories)	Size of the department in person-years
City 1	13 in all: – 3 or at most 4 residents – 7 professionals (urban planning or related disciplines) – 1 or 2 elected officials	202	1,418	12.4 person-years
City 2	8 in all: – 6 residents, with at least 3 for their expertise (urban planning, engineering, architecture, heritage); – 2 elected officials (PAC chair) – + possibility of 5 alternates of which 1 is elected	319	2,831	32.2 + 28 ¹¹ person-years
City 3	8 in all: – 4 residents representing the areas if possible (non-elected, non-municipal officers) – 1 consulting architect without right to vote – 3 elected officials	53	626	5 + 2 summer employees
City 4	7 in all: – 5 residents (urban planners, architects, landscape architects) of which at least 3 are architects – 1 resident (appointed) – 1 elected (PAC chair)	data not obtained	data not obtained	data not obtained
City of Westmount	9 in all: – Mayor (very rarely attends) – 3 who are permanent, including at least 2 architects – 1 elected (urban planning commissioner) – 3 alternates (residents, architects) – 1 elected alternate	459 ¹²	1,784	15 person-years

¹¹ The Urban Planning, Heritage and Corporate Services Division at City 2 has 10 employees, including 3 (2 architects and 1 planning advisor) who process SPAIP files; the Permits and Inspections Division has 28 person-years and Technical Design has 32.2; these three divisions fall under the Land Development and Technical Design Branch.

¹² Of a total of 787 project iterations, several had to be submitted to the PAC several times before being the subject of a recommendation.

The following figure, provided by the UPD, reproduces the Westmount UPD organizational chart and the involvement of team members in the processing of files.



Service de l'Aménagement urbain: implication de l'équipe au traitement des dossiers

3.2 PROCESSING PERMIT APPLICATIONS

The permit process can begin in two ways: the applicant (resident, architect or contractor) comes to the counter to apply for a permit or an inspector finds work undertaken without a permit during his/her rounds or as a result of a complaint received by the City. In the latter case, the inspector informs the persons on site (owner or contractor) of the requirement to obtain a permit and issues a ticket.

It should be pointed out that since 2001, the City of Westmount has had a delegation agreement (response and surveillance) with the Régie du bâtiment du Québec (RBQ) whereby it has the responsibility of receiving statements of work for public buildings and residential condominiums that are more than two storeys high and contain more than eight units¹³.

In 2017, 1,447 construction and plumbing permits were issued and 312 statements of work were received, more than three times the 92 statements received in 2016. It should be pointed out that large-scale projects involving new construction and major

¹³ The agreement stipulates the means of response by the City as well as the surveillance plan for the application of the Building chapter in the *Quebec Construction Code* and the *Safety Code*, in accordance with sections 132 to 139 of the *Building Act* (CQLR, c. B-1.1) for the buildings, facilities and equipment targeted by them. See <https://www.rbq.gouv.qc.ca/fileadmin/medias/pdf/acces-information/PPN-01-00.pdf>, page consulted on April 24, 2018.

expansions require an average of ten site inspections. Major projects – minor expansions and modifications – require an average of five¹⁴.

Having conducted 5,287 inspections of various types in 2017, including 4,474 for construction projects and 853 for various inspections or complaints¹⁵, building inspectors spend nearly 70% of their time on the road and 30% in the office. The inspection team consists of a chief inspector, three building inspectors, one plumbing inspector, one health inspector and one auxiliary building inspector during peak periods as shown in the figure above.

3.3 TIMEFRAMES

The “Renovating and Building in Westmount” Guidelines consist of 10 booklets and are an integral part of Annex II of By-law 1305. In the first booklet, which explains the step-by-step permit application, Step 5 states that “Applications submitted before the end of day on Tuesdays will generally be reviewed at the Board’s weekly meeting on Thursday morning.” This regulatory requirement ensures that applicants rush to submit their permit application by 4:00 p.m. on Tuesday and expect it to be submitted to the Board of Inspections for processing on Thursday morning.

The Guidelines also specify that where “the proposed changes affect the exterior of the building, the application is referred to the Planning Advisory Committee. The Committee meets every second Tuesday and applications approved by the Board of Inspections at the previous meetings will generally be reviewed at the Committee’s next meeting¹⁶.”

Regardless of the number of permit applications, the urban planning agent must prepare all files Tuesday afternoon or Wednesday morning so that the chief inspector can sort the files (new and pending business) on Wednesday morning and assign them to the right people based on the type of file. All day Wednesday is devoted to the normative assessment of files by the technicians and chief inspector (assisted by the building inspectors during the peak season). This operation monopolizes the time of the chief inspector, one or two building inspectors and two technicians.

Some files require just a little time, while others may require up to two hours of analysis. However, urban planning technical officers may have up to 30 files to analyze the same day¹⁷ due to the timelines promised in the Guidelines. Such a volume of files to be analyzed in an impossible timeframe and the absence of a checklist for each analysis comes with a risk of errors (such as incomplete files) and can result in avoidable iterations. In addition, one of the urban planning technical officers does not have an

¹⁴ Data provided by the UPD.

¹⁵ Data provided by the UPD.

¹⁶ City of Westmount, Guidelines, “Obtaining a Building Permit”, p. 3.

¹⁷ Just as an example, we were told in a focus group that during the third week of March 2018, 30 permit applications were received on Monday and 60 the next day.

office; her workspace is a table wedged in between five inspectors. Concentration is difficult when it comes to analyzing large projects. In addition to the file analysis tasks, the technical officers must also take care of customer service, especially when there is a long line-up of permit applicants at the counter.

It should be noted that with the sole exception of normative files for which only the BI can authorize the issuance of a permit, all other files, even minor ones, go through the PAC. A few specific files (e.g. windows, balcony refits and woodwork) may be approved by the UPD director with a delegation from Council to do so, if the proposal is in accordance with the Guidelines and the applicant wishes to replace with something identical or restore to original conditions.

It should be remembered that the SPAIP approach makes it possible to require that a project that is subject to a permit or certificate meet specific objectives in addition to being compliant with *Building Code* standards and urban planning by-laws in order to "ensure the quality of the implementation and the architectural integration while taking into account the particularities of each situation¹⁸." According to the Ministère des Affaires municipales et de l'Occupation du territoire (MAMOT), the purpose of using the SPAIP is not "to check the appropriateness of a project or the proposed work, but rather its appearance and architectural integration into a built-up or non-built-up environment. [This approach] also complements the powers granted under the *Cultural Heritage Act* that allow Council to establish by resolution conditions for the conservation of the heritage elements of a given building or heritage site in addition to municipal by-laws¹⁹."

It should be pointed out that the City of Westmount, known for the intimacy of its neighbourhoods and an uncommon feeling of belonging²⁰, was divided into 38 heritage sectors that share physical or historical characteristics with the adoption of By-law 1181 in 1995, with a 39th sector being added when the by-law was overhauled in 2001 (By-law 1305). A 2001 inventory made it possible to analyze and classify the buildings in the 39 sectors for which the plans, dated September 2001, comprise Annex I of the "*By-law on Site Planning and Architectural Integration* (By-law 1305)²¹", which was amended in February 2016 by the "*By-law to Further Amend By-law 1305 on Site Planning and Architectural Integration Programs – Land Use Planning and Development Plan of the Urban Agglomeration of Montreal* (By-law 1495). In the opinion of many, this plan needs to be reviewed.

¹⁸ MAMOT, <https://www.mamrot.gouv.qc.ca/amenagement-du-territorial/guide-la-prise-de-decision-en-urbanisme/reglementation/reglement-sur-les-plans-dimplantation-et-dintegration-architecturale/>, page consulted on April 4, 2018.

¹⁹ *Ibid.*

²⁰ City of Westmount, *Renovating and Building Westmount*, Annex II, Section 1, p. 1.

²¹ City of Westmount, By-law 1305, c. 1, a. 1.2.

Table 2 summarizes the UPD team's use of time for permit applications. It should be pointed out, however, that the tasks listed in the table are in addition to follow-ups with applicants, correspondence, the issuing of permits and certificates, counter service, complaint management, inspections during work, inspections following complaints from neighbours, and so on.

Table 2 Use of Time by the Team in Application Processing

WHAT	WHEN	WHO
Opening files at the counter and ensuring all necessary documents are included		Urban planning agent
First sorting of documents received before 4:00 pm on Tuesday		Clerk / urban planning agent
Analysis of simple/minor cases for PAC	Monday morning	Urban planning technician
Meeting with a member of the PAC to process simple files	Monday afternoon	Urban planning technician
PAC session	Every second Tuesday	Urban planning technician, UPD director and assistant director
Preparation of files for Wednesday	Tuesday or Wednesday	Urban planning agent
Sorting new and pending business and assigning of files (minor vs. major) between 3 or 4 people ²²	Wednesday morning	Chief inspector, urban planning technician and inspectors
Analysis of plans	Wednesday	Urban planning technician and building inspectors
BI meeting and preparation of the minutes	Thursday ²³	Chief inspector, building inspector(s), urban planning technicians, UPD director or assistant director
Analysis of applications received before 4:00 pm on Thursday for processing by the PAC on the following Tuesday	Thursday PM, Friday and Monday	Urban planning technicians, UPD director and assistant director
Stamping of files and plans	Two afternoons per week	An inspector
Draft of PAC minutes	Tuesday PM to Thursday	Urban planning technician, assistant director

²² If information is missing, the applicant or BI must be called to discuss and conclude.

²³ The BI meeting can last all day since the sorting of files can take time.

4 FINDINGS REGARDING THE PROCESSING OF APPLICATIONS

The findings below are based on the literature review, the current by-laws, an analysis of certain permit applications and what was heard during interviews and focus groups. These are summarized in Table 3.

4.1 PROCESSING TIMEFRAME

Queries with other municipalities show that no other city with a similar scope as Westmount in terms of SPAIP is committed to timeframes that are as short as those in Westmount.

In one city, the by-law on SPAIP stipulates a timeframe of fifteen days between the time the SPAIP approval application is received and the time it is submitted to the PAC technical committee; there is then another 15-day period after the application review to allow the technical committee to submit its advice to Council.

In another city, the approximate processing time varies from 5 to 10 business days, depending on the type of permit. In addition, this city can receive online applications for permits for tree removal, ash cutting, landscaping, pesticide application, auxiliary buildings, fences, hedges, pools/spas, interior home renovations/repairs, roofing/doors and windows. This city's website also allows residents to follow the progress of their permit application.

In yet another city, the permit and certificate by-laws stipulate maximum timeframes of 30 and 60 days, after submission of all the documents required under the city's by-laws or by the person responsible for issuing or rejecting subdivision or construction permits or occupancy certificates or other authorization certificates. Its by-law on SPAIP stipulates that the director must forward an SPAIP approval request to the PAC as soon as the application is complete. No other timeframe is specified.

In Westmount, a change in processing timeframe depending on the type of permit, the time of year and the volume could reduce the pressure on staff while promoting thoroughness in file analysis. A rule that no files are opened until all required documents are provided might also avoid certain iterations²⁴.

²⁴ We learned that such a rule was implemented on May 1.

4.2 ITERATIONS

In addition to iterations resulting from incomplete files, problematic files, including those we have consulted, may pass before the BI and PAC more than ten times before receiving a favourable recommendation.

It is not uncommon, based on the files consulted and the comments gathered during the meetings, that the revisions requested by the PAC result in new non-compliances, which add up in a back-and-forth process that can easily last a year or more.

In the six problematic cases we examined in our work, we found that some files went before the PAC 8 to 15 times before being finally accepted with or without additional conditions. However, it seems surprising to us that a file could drag on and on, going back before the PAC several times. It might be appropriate to impose a maximum number of times a project can pass before the PAC, with an automatic unfavourable recommendation after a given number of times. Also, to avoid all the back and forth due to non-compliances, there may be a need for the PAC to issue cautions by formulating its requirements regarding the requested changes.

It was reported that PAC members do not provide specific solutions to applicants, feeling that they are not mandated to do so and that they should avoid incurring liability. In this regard, it may be appropriate to obtain a legal opinion to determine the latitude PAC members have in giving applicants a minimum amount of clear information without incurring liability as professional architects, subject to the provisions of the *Code of Ethics of Architects*²⁵.

4.3 DOCUMENTATION AND BY-LAWS

The standardization of all documentation and by-laws, in a consolidated and simplified format for residents, would help in receiving complete files the first time, even if additional documents may be required following an initial review. An interesting example of this is one of the city's website where residents can click on the type of permit wanted in order to display the means of paying for the permit, the processing time, the regulatory provisions applicable to the type of permit and the list of required documents.

Another city posts a checklist, the first part of which contains the list of basic documents to be provided regardless of the nature of the work, followed by a table with the required documents depending on the nature of the work. This tool has the benefit of

²⁵ Section 66 of the *Code of Ethics of Architects* by the Ordre des architectes du Québec states that "Nothing in this Code should be interpreted as restricting the right of architects to express critical judgment on a building."

being clear to applicants and facilitating the file review by the employee responsible for verifying its completeness prior to even opening it as it can be used as a checklist²⁶.

4.4 AMBIGUITY BETWEEN NORMATIVE AND DISCRETIONARY

We detected a significant grey area between what is normative in the by-laws and what is discretionary as exercised by the PAC.

According to what was said, the by-laws are open to interpretation and contain grey areas and inconsistencies. For example, the *Zoning By-law* (By-law 1303) authorizes the use of four types of materials for a retaining wall, i.e. dry stone, masoned stone, masoned brick, parged concrete or a combination of these materials subject to approval under the By-law on Site Planning and Architectural Integration Programmes (SPAIP)²⁷. However, Guideline 6 "Landscape Design", which is an integral part of By-law 1305, recommends "dry stone or jointed stone walls", while specifying that concrete walls "must be parged or faced with stone or brick²⁸." The same directive goes on to say that if the retaining walls are "visible from the street or a neighbouring property, they should be stone or stone-faced with Montreal limestone (or match existing stone walls)²⁹."

As a result of this grey area, a project deemed compliant under By-law 1303 by an inspector may be refused by the PAC because the materials selected are not materials recommended in the SPAIP Guidelines or preferred by the PAC.

The inspectors are therefore faced with two choices: 1) submitting a compliant file knowing the PAC may not accept it, which could compel them to sometimes tell the applicant that the PAC will probably not accept the project because it did not accept that type of material recently or 2) saying nothing because the file is compliant and it is not their responsibility to anticipate the PAC's response, thereby creating expectations in the resident who could be disappointed and have to start the process over without knowing what solution to choose because the PAC did not indicate any clear solutions.

It is difficult for the City to guide the applicants due to the inconsistent nature of certain PAC decisions, which may be more or less permissive depending on its composition, according to what was said. However, a perception of different treatments could result in a sense of unfair treatment among residents, which may partly explain the frustration and dissatisfaction of applicants in their interactions with the City.

A collaborative tool to maintain systematic jurisprudence in PAC decisions (and BI decisions in normative cases) could improve decision consistency and serve as a reference for employees to use in their interactions with applicants. Such a tool would

²⁶ See note 25.

²⁷ City of Westmount, *Zoning By-law*, s. 6.2.8.

²⁸ City of Westmount, Guideline 6 "Landscape Design", Materials, p. 4.

²⁹ Ibid., 6.3.3, p. 4.

help better explain or justify the reasoning behind specific requirements for a given project, such as the example that was related to us regarding the obligation to keep a balcony as a distinctive characteristic in a given area when most houses in that area do not have a balcony. Improved decision consistency would also avoid the feeling of unfair treatment mentioned above. If such a tool were to include cases where fines were issued for work completed without a permit or for non-compliances with a permit, it would also make it easier to show that a non-compliant material used at a particular address was not authorized. The applicant who is being denied the use of the same material would see that the use of the same material was never authorized for his/her neighbour.

An overhaul of the urban planning by-laws and the harmonization of all by-laws and guidelines would eliminate inconsistencies and regulatory wording leading to interpretation and provide clearer objective criteria. This would make it easier to determine whether or not a given objective is being met, to understand what needs to be done to meet it, and to know on what basis a project is being rejected.

Such a harmonization exercise could also provide an opportunity to clearly separate the powers and tasks between the UPD, BI and PAC. The latter would also benefit from having more comprehensive internal management. Based on what we have heard, we see that the UPD is not a true urban planning department, but rather an inspection service that is subordinate to the PAC. UPD employees and management are effectively a conduit between the PAC and residents.

4.5 MUNICIPAL COURT CASES

In 2017, the City initiated legal action in 25 cases before municipal court, more than half of which (14) pertained to work completed without a valid permit, 6 for failure to comply with an order or notice issued by a competent authority, 4 for having deviated from the plans or specifications of the authorized work and 4 for having deviated from the plans and specifications of the building permit. According to what we heard, some residents prefer to carry out the work as they see fit and pay the fine later because it is faster and cheaper than all the iterations of the process of going before the PAC to get a permit. The failures within the process as it exists are therefore counterproductive and lead to behaviour that is harmful to the protection of the heritage that is so dear to the City of Westmount.

Once the case is sent to the court, it takes at least two months to get a date and it can take from a year and a half to two years to get a hearing before the judge. Furthermore, the municipal government does not have enough resources to properly prepare these court cases and often loses due to procedural details, according to what was said.

4.6 ANEMIC PLANNING VISION

The culture of urgency due to the volume of applications to be processed and the promised processing time requires any project other than a permit application or inspection to be set aside or put on hold.

On the one hand, the UPD director and assistant director are constantly busy with file analyses, complaint management and meetings – often unforeseen – with applicants who insist on speaking with the department's management. Neither one has the time to devote to UPD management and its organization, and have even less time for urban planning projects such as the Dorchester-Southeast Sector Revitalization, urban zoning, the systematic review of the by-laws and the overhaul of the planning programme with public consultations.

On the other hand, based on our understanding of what was said to us, the PAC operates as an architecture committee in that it comments on and critiques architecture projects in the spirit of preserving heritage and searching for design excellence, but basing itself on variable objectives that are not always clear to the applicants who are not themselves experts on architecture within a heritage context.

Land planning is not a big part of the PAC's work due to the volume of applications and the absence of voting urban planners and landscape architects on the PAC. It cannot be expected that architects, as competent as they may be, will have an urban vision regarding the protocols for urban planning, landscape design and architecture, even if the use and structure are necessarily linked.

It is important to remember that the PAC is there "to guide, orient and support [City Council action] in urban planning³⁰." The future of buildings and institutional entities, for example, is handled by the LHC project manager, while reflection should be associated with urban planning work.

The PAC should appoint urban planners and landscape architects in order to vary the skills and expertise of the PAC and to enable it to play its full role under the *Act respecting land use planning and development* (ARLUPD). Within this perspective, two sub-committees could be created within the PAC: one sub-committee consisting mainly of urban planners whose mandate would primarily be to examine files pertaining to issues of urban planning, zoning, subdivision, construction and landscape architecture; and another sub-committee consisting mainly of architects who would for the most part study heritage preservation files. It should be noted, however, that all recommendations, both favourable and unfavourable, on both architectural and planning issues, would be

³⁰ MAMOT website, <https://www.mamot.gouv.qc.ca/amenagement-du-territorial/guide-la-prisede--decision-en-urbanisme/acteurs-et-processus/comite-consultatif-durbanisme/>, page consulted on May 2, 2018

made by the entire PAC and not by the individual subcommittees. In addition, the PAC chair could be an elected official.

An open reflection on the roles and responsibilities of the UPD and PAC, taking into account the priorities of elected officials and residents, would first of all make it possible to confirm and modernize the rules and secondly to determine the relevance of maintaining or modifying the file processing procedure.

Different pathways could be considered depending on the scope of the work to be done. Some permit applications for minor work could be analyzed, processed and authorized (or denied) by the City to expedite the process while respecting established or updated rules. In this regard, an online permit application system that would allow applicants to avoid having to go to city hall to submit their application, pay for the permit, and track their application as appropriate could be implemented, as is the case in other cities.

Zoning and the planning programme should be projects under the responsibility of the UPD. At a minimum, the development of an urban planning and landscape vision should involve urban planners and landscape architects and be led by the UPD.

The participation and consultation of residents on issues such as zoning and urban planning would be quite appropriate since we have found in what people have told us is that there is a generational split between the by-laws that go back 30 years, the priorities of the PAC that are inherent in architectural preservation and design excellence, the repeated demands by residents to modernize certain by-laws (namely those regarding the use of maintenance-free materials) and the dissatisfaction expressed by residents to elected officers during the election campaign in the fall of 2017 and during City Council meetings³¹.

4.7 COMMUNICATING WITH RESIDENTS

There was consensus from elected officials, employees and PAC members on the need to “better educate our public”. Applicants have no idea how much work is being done by the City and the PAC and they do not understand why the counter employee cannot answer all of their questions or review their plans.

The public consultations discussed in the previous section and the publication of dynamic statistics and frequently updated monthly permit data could lead to better communication with residents and help manage change and expectations.

³¹ A review of the minutes of the 2017 City Council meetings revealed that of 69 interventions during question period, 50 were related to SPAIP, PAC, permits or SCAOPI.

4.8 UPSTREAM ADVICE

The requirements and complexity of the rules most often require residents to hire an architect. On page 3 of the booklet "[Obtaining a Building Permit](#)", it states that "The City encourages owners to obtain the advice of an architect, even for small projects and particularly when a project requires design judgements, by-law interpretation and construction knowledge."

In the case of major projects such as new buildings, additions or replacements, the drawings are sometimes very advanced at the time of analysis, whereas major problems could have been detected upstream. A new process, with a better distribution of resources working under better conditions and with less ambiguity, could include an appointment system to provide systematic upstream guidance to applicants instead of an intervention at an advanced stage of project planning.

5 FINDINGS REGARDING DAILY OPERATIONS

The findings below are based on what was heard during interviews with elected officials, focus groups with employees and meetings with UPD management and the PAC. These findings are also summarized in Table 3.

5.1 OVERALL TIME DISTRIBUTION

The permit issuing process takes up almost all of the work time of the majority of UPD employees, including the director and assistant director. The chief inspector – the fifth person to hold the position in 13 years – dedicates all of his time to assigning and analyzing files, with the assistance of two or three technical officers. He assigns all inspections to his inspectors and only intervenes if there is a problem.

There was general agreement that the volume of permit applications means there is more work than can be done in a day by the team.

5.2 EXPECTATION MANAGEMENT

The expectations of residents should be better managed by no longer promising unrealistic processing times for all types of permits given the annual volume.

5.3 COMPLAINT MANAGEMENT

UPD management and staff also spend a significant amount of time managing complaints related to the issuing of permits. The urban planning agent estimates that 90% of the calls she receives are from residents who want to know if a neighbour has a permit for work in progress, requests for updates and requests for zoning information to avoid having to search the website. When residents submit their complaints directly to

elected officials, they are instructed to forward them to the director general, who in turn distributes them to the right places within the municipal apparatus.

It would certainly be pertinent to look at the possibility of creating a general complaint management system and prepare a database with question-answer sheets with varying degrees of detail so that employees assigned to responding to complaints online, over the telephone or at the counter can provide standardized and consistent information.

5.4 PHYSICAL LOCATIONS

Deficient Signage

The lack of signage to direct residents means that they all wait in the same queue when they need different services. Residents who arrive at the counter after two hours of waiting just to find out that they are not in the right place to pay their tax bill, for example, are unhappy and go away frustrated.

Lack of Space

The layout of the UPD offices is not adequate. There is no meeting room for private discussions with residents. The people who are in line hear the whole conversation between the applicant and the employee at the counter. There is also not enough room to look at plans. It would be a good idea to redevelop the space to accommodate these needs. The LHC project manager does not have a permanent office. She often works in the UPD assistant director's office or elsewhere with a laptop. She does not have a phone line, just a cell phone.

Counter

Permit application management (opening of files, payment, etc.) is done by the urban planning agent at the service counter. Responsibility for technical support is evenly distributed among two or three technicians. No one likes to work at the counter because the people who come to the counter are most often dissatisfied, impatient because of the queue, frustrated by iterations in their files or by the inability of employees to answer certain questions when technicians are busy analyzing files. It is also difficult for employees who get yelled at, insulted and threatened. In fact, two people have resigned as urban planning agents recently.

Counter Tools

The counter is equipped with a telephone, but employees are rarely able to take calls since they respond first to people at the counter and there is little or no respite throughout the day.

A computer was recently ordered for residents to view the by-laws and checklists on the new website that went online March 1, 2018. However, although the intention is good, an employee will have to be available to show them how to use the site. The employee who is called upon to help a resident will not be able to answer those who are in line at the same time.

Inadequate Telephone System

The main number for the UPD goes to the clerk's desk, but when she takes over at the counter or makes photocopies for access to information requests, her calls bounce back to the counter, where the employees are already very busy with applicants. When no one answers, there is a "ping-pong" effect between the telephones. People who are anxious to get an answer call back four or five times or go to the counter. Some write to elected officials, who forward the complaints to the director general, who then sends them back down to the UPD. Also, when employees do pick up a handset, they do not always know who to transfer the call to because they do not necessarily know the roles of the employees in other departments.

Some employees said they have recently noticed problems with their voicemail, which causes them to miss a lot of calls with messages not always reaching them immediately (it can take up to a week before the message reaches their voicemail). It would appear that IT is responsible for the IP system but not for repairs to the telephone system.

The first step would be to repair the telephone and voicemail systems. Second, consideration could be given to creating a dedicated voicemail for complaints or enquiries related to permits. One person should be responsible for responding to questions left on the voicemail or, if that person is unable to answer the questions, forwarding the call to someone on the team who can. That person would also follow up with residents so they know their message has been received and that someone will call them back, and would also conduct a follow-up within the team to make sure the calls have been returned.

The City's website states: "At any time, you can reach the Urban Planning Department at 514 989-5219 to answer your questions."

6 SUMMARY OF THE FINDINGS AND POSSIBLE SOLUTIONS

In our meetings with the various stakeholders, we felt a desire in them to improve the process while preserving heritage. Despite the difficult situations experienced with disgruntled applicants and working conditions that are always at an emergency level, the staff and management of the UPD aim to provide quality service to the residents of Westmount and they help each other in trying to achieve this.

We have summarized our findings in Table 3 and have put forward possible solutions for each of the findings. We feel the need to once again insist on the fact that UPD

management, i.e. the director and assistant director, must withdraw from operations to have the time to plan the actions to be taken over the short term to reduce the pressure on their staff, to undertake what is possible over the medium term to optimize the department and to plan projects over the longer term in order to play its actual role of an urban planning department rather than an auxiliary permit department for the PAC as is currently the case.

In order to free up UPD management while continuing with operations will require additional resources to process permit applications.

Finally, it should be noted that the proposed solutions are not necessarily exhaustive and can be analyzed by UPD management based on their feasibility. The order of presentation in the table does not correspond to priorities. It is up to the UPD to prioritize what actions should be taken.

Table 3 **Summary of the Findings and Possible Solutions**

FINDINGS	POSSIBLE SOLUTIONS
<ul style="list-style-type: none"> – UPD management monopolized by operations and complaint management 	<ul style="list-style-type: none"> ⇒ Add the resources needed to free up the UPD director and assistant director and allow them to manage and optimize their department as well as to develop a short-, medium- and long-term improvement plan.
<ul style="list-style-type: none"> – Lack of clarity in the roles and responsibilities of the UPD and PAC 	<ul style="list-style-type: none"> ⇒ Have an open discussion on the roles and responsibilities of the UPD and PAC. ⇒ Confirm or modernize the rules. ⇒ Decide whether to maintain or modify the current file flow process. ⇒ Clearly delineate the roles and responsibilities of the UPD and PAC.
<ul style="list-style-type: none"> – Volume of SPAIP files 	<ul style="list-style-type: none"> ⇒ Consider different pathways for files depending on the scope of work. ⇒ Consider implementing an online permit application and payment system.
<ul style="list-style-type: none"> – Anemic urban planning vision – Current role of the UPD is limited to being a conduit between the PAC and residents due to lack of time and resources 	<ul style="list-style-type: none"> ⇒ Appoint urban planners to the PAC. ⇒ Clearly delineate the powers and duties of the UPD, BI and PAC. ⇒ Conduct zoning and urban planning projects – projects to be led by the UPD to develop an urban planning and landscape vision.
<ul style="list-style-type: none"> – Generational split between by-laws adopted 30 years ago, PAC priorities (architectural preservation and design excellence) 	<ul style="list-style-type: none"> ⇒ Include a resident engagement component in discussions on projects (zoning and planning programme) and whether or not certain rules (such as maintenance-free materials) should be modernized.
<ul style="list-style-type: none"> – More work than can be done in a day by the UPD team – Double the average number of permits and certificates issued by other cities or boroughs whose scope in terms of SPAIP is similar to that of Westmount 	<ul style="list-style-type: none"> ⇒ Assess material and information resources to better equip employees and speed up the process. ⇒ Assess the staffing of the UPD based on the volume of work to be done. ⇒ Add the necessary resources.
<ul style="list-style-type: none"> – Fewer employees than other cities or boroughs whose scope in terms of SPAIP is similar to that of Westmount 	<ul style="list-style-type: none"> ⇒ Assess the staffing of the UPD based on the resources available to employees. ⇒ Add the necessary resources.
<ul style="list-style-type: none"> – Regulatory requirement (via the Guidelines) to submit all permit applications received before 4:00 p.m. on Tuesday morning to the Thursday morning BI 	<ul style="list-style-type: none"> ⇒ Amend the regulatory processing time to avoid creating unrealistic expectations for applicants and undue pressure on staff. ⇒ Modulate processing times by permit type, time of year and volume (as other cities or boroughs do) to allow for thorough file analysis.

	⇒ Avoid opening a file before all required documentation is provided.
– Customer service obligation for urban planning technical officers	⇒ Assess UPD staffing based on customer service needs, both at the counter and over the telephone, to ensure that there is sufficient staff to analyze files and respond to applicants in a timely manner.
– Complaint management that requires significant team time	⇒ Explore the possibility of a comprehensive complaint management system. ⇒ Develop a database with Q&A sheets to provide standardized and consistent information to complainants.
– Volume of files processed at the PAC – Limited delegation to the UPD director	⇒ Reflect on existing guidance and orientations wanted in terms of delegation of authority to the UPD.
– Iterations at the PAC due to incomplete files	⇒ Avoid opening incomplete files. ⇒ Use a checklist to ensure a file is complete before opening it. ⇒ Have sufficient time per file to make sure it is complete.
– Numerous iterations before the PAC due to new non-compliances resulting from changes requested by the PAC	⇒ Ensure the clarity of requirements when a change request is made by the PAC. ⇒ Whenever possible, anticipate non-compliances that may result from requirements by issuing warnings. ⇒ Limit the number of times a project can be submitted to the PAC by introducing an automatic unfavourable recommendation mechanism after x times.
– No specific solution provided by PAC when requesting changes to a project to avoid liability	⇒ Obtain legal advice on the flexibility of PAC members to provide a minimum of clear information to applicants, to avoid the creation of new non-compliances and to limit iterations to the PAC.
– Complexity of the process for residents	⇒ Standardize all documentation and regulations in a consolidated and simplified format for residents. ⇒ Use the same document as a reminder for the resident and a checklist for staff to ensure everything is provided. ⇒ Take inspiration from other cities.

<ul style="list-style-type: none"> - By-laws open to interpretation, grey areas and inconsistencies - Regulatory wording leading to interpretation - A project deemed to be compliant under By-law 1303 by an inspector may be refused by the PAC due to the selection of a material permitted under the By-law but not in the Guidelines 	<ul style="list-style-type: none"> ⇒ Standardize the by-laws and Guidelines. ⇒ Make sure the by-laws and Guidelines are worded clearly. ⇒ Consolidate and standardize all documentation to avoid having some of the information in one place and another part elsewhere. ⇒ Create a checklist that allows residents to see both the requirements and all the documents to be provided.
<ul style="list-style-type: none"> - Difficulty for the administration to provide guidance to applicants due to inconsistency in some PAC decisions that are more or less permissive - Risk for residents to perceive different treatment as unfair causing frustration and dissatisfaction 	<ul style="list-style-type: none"> ⇒ Create and maintain a collaborative tool on PAC jurisprudence (and BI in normative cases) to serve as a reference and improve decision consistency. ⇒ Record cases that have been the subject of fines in order to explain to residents that work that was perceived to have been authorized was done without a permit, for example. ⇒ Create a systematic analysis grid to be used by the PAC to determine whether or not a project is meeting its objectives.
<ul style="list-style-type: none"> - Work completed without a permit (behaviour having a negative impact on heritage) - 25 court cases initiated in 2017 - Lack of time to properly prepare court cases 	<ul style="list-style-type: none"> ⇒ Implement a strategy developed by the UPD that can draw on the solutions outlined herein to simplify the process and avoid this type of behaviour. ⇒ Implement the necessary resources to process files.
<ul style="list-style-type: none"> - Major projects that are too advanced 	<ul style="list-style-type: none"> ⇒ Consider a specific solution for large projects, with an appointment system for upstream advice, to avoid presenting a very advanced but unacceptable project to the PAC.
<ul style="list-style-type: none"> - PAC functioning as an architecture committee that comments and critiques each project based on variable and not always clear objectives for non-expert applicants 	<ul style="list-style-type: none"> ⇒ Rethink how projects are analyzed by the PAC in light of the known and clarified objectives that each project must meet. ⇒ Review the internal governance of the PAC.
<ul style="list-style-type: none"> - Little land planning in PAC work due to lack of urban planning and landscape architecture expertise 	<ul style="list-style-type: none"> ⇒ Vary the skills and expertise at the PAC by appointing urban planners and landscape architects with the right to vote. ⇒ Look into the possibility of creating within the PAC a sub-committee consisting mostly of urban planners to primarily examine

	<p>urban planning issues and a sub-committee consisting mostly of architects to primarily examine heritage preservation files; both committees would vote on all favourable and unfavourable recommendations for architectural and urban planning issues.</p> <p>⇒ Consider appointing an elected member to chair the PAC.</p> <p>⇒ Connect the reflection on the future of buildings and institutional structures to the work to be done on the planning programme.</p>
<ul style="list-style-type: none"> - The remuneration of PAC members not included in a resolution or by-law 	<p>⇒ Provide a framework for PAC member remuneration through a resolution or by-law.</p>
<ul style="list-style-type: none"> - Need for "better educating the public" 	<p>⇒ Plan public consultations.</p> <p>⇒ Publish up-to-date dynamic statistics on permits issued.</p> <p>⇒ Establish a system that allows residents to track their application online.</p>
<ul style="list-style-type: none"> - Inadequate physical locations - Deficient signage - Insufficient number of workspaces - There is no private meeting room 	<p>⇒ Rethink and redesign the physical spaces of the UPD.</p> <p>⇒ Install proper signage to direct residents to the right place.</p> <p>⇒ Have adequate work space for each employee.</p> <p>⇒ Have a meeting room for private discussions with an applicant.</p>
<ul style="list-style-type: none"> - Difficult working conditions at the counter due to dissatisfied and impatient residents having to wait a long time (two recent resignations) - New computer set up at the counter for residents - Difficulty responding to telephone calls when priority needs to be given to people at the counter 	<p>⇒ Implement the necessary resources to be able to respond correctly to residents who come to the counter</p> <p>⇒ Consider an online registration system to avoid long lineups.</p> <p>⇒ Consider adopting and displaying a zero-tolerance policy for offensive behaviour or language towards employees.</p> <p>⇒ Have an employee available to help residents use the website on the counter computer and to answer telephone calls while others analyze files or respond to residents at the counter.</p>
<ul style="list-style-type: none"> - Inadequate telephone system - Problems with messages that sometimes take a week to get to 	<p>⇒ Repair the telephone system.</p> <p>⇒ Have a dedicated voicemail for resident calls regarding permit applications instead of</p>

voicemail	<p>sending everything to the clerk's workstation, who is rarely close to the phone.</p> <p>⇒ Assign a person the task of answering calls left on the voicemail or distributing them to those able to answer them.</p>
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