

PROVINCE OF QUEBEC
CITY OF POINTE-CLAIRE

BY-LAW NUMBER PC-2957

BY-LAW ON SPECIFIC CONSTRUCTION,
ALTERATION OR OCCUPANCY PROPOSALS FOR
AN IMMOVABLE

AT THE REGULAR MEETING OF THE COUNCIL OF THE CITY OF POINTE-CLAIRE, HELD AT
CITY HALL, 451, SAINT-JEAN BOULEVARD, POINTE-CLAIRE, QUEBEC, ON TUESDAY
FEBRUARY 7, 2023 AT 7:00 P.M.

PRESENT: Councillors C. Homan, T. Stainforth and K. Thorstad-Cullen, as well as
Councillors P. Bissonnette, B. Cowan, E. Stork and B. Tremblay forming
quorum under the chairmanship of Mayor Tim Thomas.

AMONGST OTHER BUSINESS TRANSACTED AT SAID MEETING WAS
THE FOLLOWING:

BY-LAW NUMBER: PC-2957

RESOLUTION NUMBER: 2023-050

PROPOSED BY COUNCILLOR THORSTAD-CULLEN

SECONDED BY COUNCILLOR STORK

AND RESOLVED:

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1 DECLARATORY, INTERPRETATIVE AND ADMINISTRATIVE PROVISIONS

1.1 DECLARATORY PROVISIONS

1.1.1 Title of the by-law

This by-law is entitled "By-law on Specific Construction, Alteration or Occupancy Proposals for an Immovable, number PC-2957 ».

1.1.2 References

Compliance with this by-law does not relieve the person from the obligation to comply with any federal, provincial or other applicable by-laws. If approvals are required from federal, provincial and regional authorities, the person is responsible for obtaining such approvals and the City shall not be deemed to have verified for the person that his or her obligations have been met.

References in this by-law to another by-law are open-ended, that is, they extend to an amendment that may be made to the referenced by-law after the coming into force of this by-law.

1.1.3 Scope of the by-law

The provisions of this by-law apply to natural persons as well as to legal persons under public or private law. Its purpose is to enable City Council to authorize a project that demonstrably advances the objectives of the City Planning Program even though the project may be at variance with specific sections of the City's urban planning by-laws. It facilitates land development that better integrates into the urban form without it being necessary to either modify applicable standards for the particular zone or the city as a whole, or to process a minor exemption. It allows for conditions to be incorporated into a project that are not specifically prescribed by existing regulations, such as those which might arise from sustainable development principles, in order to increase the project's social acceptability.

1.1.4 Territory subject to the by-law

This by-law applies to the entire territory of the City of Pointe-Claire, with the exception of those parts of the territory where land use is subject to special constraints for reasons of public safety.

1.1.5 Adoption by Part

Council enacts that this by-law be adopted as a whole and also chapter by chapter, section by section, article by article, paragraph by paragraph, and subparagraph by subparagraph, so that if any chapter, section, article, paragraph or subparagraph thereof is or should be declared invalid, the remaining provisions of this by-law shall continue to apply to the extent possible.

1.2 INTERPRETATIVE PROVISIONS

1.2.1 Structure of the by-law

This by-law is divided and numbered as follows:

1:	Chapter
1.1:	Section
1.1.1:	Article
Text:	Indentation
1):	Paragraph
a):	Subparagraph

1.2.2 Interpretation of the text

The interpretation, in general, respects the following rules:

- 1) The use of verbs in the present tense includes the future tense;
- 2) The use of the masculine gender includes the feminine gender, unless the context indicates otherwise;
- 3) The singular includes the plural, unless the context indicates otherwise;
- 4) A specific provision of this by-law prevails over a conflicting general provision;
- 5) In the event of a contradiction between the text and a title, table, diagram, graph, symbol or other form of expression, the text prevails;
- 6) In the event of a conflict between any provision of the English and French versions of this by-law, the provision or provisions of the French version shall prevail.

1.2.3 Units of measurement

All measurements in this by-law are given in the International System of Units (SI).

1.2.4 Terminology

Unless otherwise stated or the context indicates otherwise, words, terms and phrases defined in Zoning By-law PC-2775 shall have the meaning and application ascribed to them in this by-law. If a word or expression is not specifically defined, it shall have the common meaning as defined in the dictionary.

1.3 ADMINISTRATIVE PROVISIONS

1.3.1 Administration and Enforcement of the by-law

The administration and enforcement of this by-law shall be entrusted to the designated officer of the City of Pointe-Claire.

For the purposes of this by-law, the term "designated officer" shall mean the Director of the Planning Department or his/her designate, the Director of the Inspection and Public Security Department or his/her designate or any other employee of the City of Pointe-Claire responsible for the enforcement of this by-law.

1.3.2 Duties and Powers of Designated Officer

The designated officer, in the performance of his or her duties, shall exercise the duties and powers set out in the current Permits and Certificates By-law PC-2788 and this by-law.

1.3.3 Contraventions, Penalties, Remedies and Proceedings

The provisions relating to a contravention, penalty, remedy or prosecution with respect to this by-law are those set out in the Permits and Certificates By-law in force.

1.3.4 (Repealed)

PC-2957-1, art. 1

2 PROCEDURES FOR APPLICATIONS FOR SPECIAL PROJECTS

2.1 INFORMATION AND DOCUMENTS REQUIRED

2.1.1 Submission of an application

An application for authorization under this by-law shall be submitted to the designated officer with all required documents.

2.1.2 Required documents¹

The information and documents that must be submitted when filing an application for a special project are as follows

General Information:

- 1) The full name, mailing address, e-mail address and telephone number of the applicant and his or her agent, if any;
- 2) Power of Attorney, if applicable, establishing the authority of any person authorized to act on behalf of the owner;

¹ *It should be noted that all documents provided pursuant to this section remain the property of the City of Pointe-Claire.*

- 3) The geographic and cadastral location of the special project;
- 4) A document providing the following information:
 - a) A detailed description of the special project including the current and proposed uses of the subject site;
 - b) A description of the elements that are not in compliance with various applicable standards of the (or various) planning by-laws (use, height, residential density, Floor Space Index (F.S.I.), etc.) as well as the reasons why the project cannot be carried out in compliance with the applicable regulations;
 - c) The schedule for the realization of the special project according to the different phases of realization;
 - d) The total estimate of the costs of carrying out the special project (construction, development of the finished site with plantings, etc.);
- 5) A justification demonstrating that the special project meets the criteria of this by-law;
- 6) A certificate of location issued by a land surveyor, describing the land on which the special project is to be located (configuration, topography, geo-referenced location of trees)
- 7) A document indicating:
 - a) The total floor area of the existing and proposed structures;
 - b) A description of the massing of the existing and proposed structures, and the integration of the structures into the adjacent built environment;
 - c) The height of existing and proposed structures;
 - d) The siting ratio (or footprint ratio) of existing and proposed structures;
 - e) The F.S.I. of existing and projected constructions;
 - f) The characteristics and organization of mobility spaces within the site and with the surrounding environment;
 - g) A sign describing the spaces reserved for indoor and outdoor parking (cars, bicycles, visitors, electric vehicles, restricted mobility, delivery, etc.);
- 8) An indication of the potential for soil contamination by identifying previous occupancies of the project site;
- 9) Any other information that will allow the nature of the work to be understood and its evaluation according to the criteria prescribed in this by-law;
- 10) Any other information or additional document relating to an aspect of the project required by the Planning Department, the Planning Advisory Committee or the Municipal Council;
- 11) In the case of an application for a sign project, a plan to scale of the sign showing the dimensions, description of the materials used, the selection of colors, the lighting system and the location of the installation;
- 12) The fee set out in the Tariffs By-law for the review of such application;

For any new construction, extension, alteration or change of use requiring exterior modifications:

- 13) Plans, specifications, sketches, elevations, sections or other drawings, in color, to scale showing the construction work to be performed. These plans must be signed and sealed when required by law governing the practice of a profession, by a professional within the meaning of the Professional Code (L.R.Q., c.C-26), qualified to do so;
- 14) Recent photographs of the building or land covered by the application and of the neighbouring properties;
- 15) A site plan prepared by a land surveyor showing the existing constructions and those to be erected, as well as their insertion in the surrounding urban fabric (height, level of the lots, level of the first floors, etc.). In addition to the above, the plan must include the location of existing or projected vehicular accesses, traffic lanes, parking areas, and loading and unloading areas, as well as the location and height of existing neighbouring constructions (the properties located on either side of the boundaries of the property to which the application relates, including those located across a public street or a park);
- 16) Proposals for the integration and/or demolition of existing constructions, conservation and enhancement of original architectural elements;
- 17) Samples of the materials and colors selected for the constructions, buildings or structures;
- 18) A description of the measures that will be implemented to increase the energy efficiency of the special project (use of passive energy, measures to reduce the use of potable water, green certification of the materials used, measures to minimize mineralized spaces, environmental sustainability of the construction material management measures implemented on the site, etc.) ;
- 19) A detailed arboricultural report including a description and geo-referenced location of trees and hedges (species, diameter, health status, economic value, etc.);
- 20) The studies necessary for the evaluation of biodiversity and the characterization of natural environments (woodlands, wetlands, riparian environments, etc.) including a location with geo-referencing;
- 21) A development plan for the exterior spaces, which enhances and protects the existing plantations and green spaces;
- 22) The studies necessary to evaluate the project with respect to sunlight, wind, traffic and, if applicable, noise and emissions;
- 23) The location of existing and projected public services, such as telecommunication lines, electrical lines, water and sewer systems and related easements, if any;
- 24) The occupations of the public domain to be provided for;

In the case where the building concerned by the special project has a heritage value duly recognized by the planning by-laws in force:

- 25) An evaluation of the heritage interest, produced by an architect, for the building involved by the project, only when it has a heritage value duly recognized by the planning by-law in force. This requirement also applies to any building built before 1940;
- 26) Measures for the conservation, restoration or integration of significant elements of the existing built heritage on the site of the special project;

In the case where the building covered by the special project would have a rental occupation of the residential type:

- 27) Provide a list of tenants for the last 12 months prior to the application, rental amounts, lease expiry dates and a statement of the measures planned for the relocation and compensation of tenants in accordance with the law.

2.2 APPLICATION ASSESSMENT PROCEDURE

2.2.1 Review of the application by the designated officer

As soon as the designated officer has received all the required information and documents and the fees have been paid, he or she shall proceed with the study of the application and report to the Planning Advisory Committee at its first meeting to be held after a maximum period of 60 days following the filing of the duly completed application.

In particular, the designated officer shall ensure:

- 1) That the formalities of this by-law have been complied with,
- 2) That all required information and documents have been provided,
- 3) That the request is substantially in conformity with the provisions of the Planning Program and other applicable by-laws.

2.2.2 Study of the application by the Planning Advisory Committee

Once the Committee receives the report from the designated officer, it shall proceed diligently to study the application and report to Council.

The Committee's role includes making a recommendation to Council on the admissibility of the application in relation to the objectives and criteria of this by-law.

The Committee may, at its discretion, call the applicant or, with the applicant's permission and at the applicant's expense, a professional who has worked on the project to obtain clarification or additional information that it deems necessary for a better understanding of the application.

The Committee may recommend acceptance of the application, with or without conditions. It may also recommend that the application be rejected, with or without recommendations for changes to be made to the resubmission of the application.

2.2.3 Acceptance or rejection of the application by City Council

Following consideration of the Committee's recommendations, Council shall decide on the application by resolution at a public meeting.

Where the resolution indicates Council's refusal, the resolution shall state the reasons for the refusal.

The resolution, by which Council grants the authorization, shall include any conditions, if any, with respect to the jurisdiction of the City that must be met in order for the project to proceed.

If the application is granted, the steps set out in the Land Use Planning and Development Act (L.R.Q. c. A-19.1) must be completed prior to the resolution coming into force.

After the resolution comes into force, the clerk shall forward a certified copy to the applicant.

2.2.4 Issuance of Permit or Certificate

Upon presentation of a copy of the resolution authorizing the special project, the designated official shall issue the required permit or certificate to the applicant, ensuring that the conditions set out in the resolution are met.

2.2.5 Amendment to plans and documents

A specific construction, alteration, or occupancy proposal for an immovable of a building approved by Council binds the applicant in the same manner as a building permit, subdivision permit or certificate of authorization, as the case may be, which means that all work must be carried out strictly in accordance with the plan as approved.

After Council has approved a specific construction, alteration or occupancy proposal for an immovable of a building, any change to the project that would deviate from the objectives and criteria upon which it was previously approved shall be submitted for approval in accordance with the procedure described in this chapter.

In the event that the permit or certificate for which prior approval of a specific construction, alteration or occupancy proposal for an immovable was required becomes null and void under the provisions of the Permits and Certificates By-law, the specific construction, alteration or occupancy proposal for an immovable shall also be considered null and void.

2.2.6 Validity period

If the special project authorized by the application has not been carried out or is not in the process of being carried out within 18 months after the adoption of the resolution granting the special project, this resolution becomes null and void.

A new application for a special project for the same purpose may be made.

3 PROVISIONS RELATING TO ELIGIBLE SPECIAL PROJECTS AND EVALUATION CRITERIA

3.1 ELIGIBLE SPECIAL PROJECTS

3.1.1 Types of eligible projects

The types of projects that are eligible for a special project authorization application to deviate from the planning by-laws in effect are as follows

- 1) A special construction, alteration or occupancy proposal for an immovable among the following:
 - a) A residential project belonging to residential classes "B" or "C"
 - b) A commercial project;
 - c) An industrial project;
 - d) A Class "B" public project;
 - e) A building with a mix of at least 2 uses mentioned in this paragraph.

3.2 EVALUATION CRITERIA FOR A SPECIAL PROJECT

3.2.1 General conditions

Compliance with the objectives of the Planning Program and, when applicable, those of a Special Planning Program (SPP) are the basic general conditions that must be met for a project to be admissible and be subject to analysis.

3.2.2 General Evaluation Criteria

The special project being applied for will be evaluated using the following criteria:

- 1) The contribution of the project to the animation, the enhancement of the public domain and the enhancement of the natural and built heritage of the area where the special project is to be inserted;
- 2) The impact of the project on the capacity and performance of existing and/or planned infrastructure networks;
- 3) The optimal integration of the project, taking into account the organization of existing and/or planned mobility networks;
- 4) The compatibility and integration of the planned land uses of the special project into the insertion environment;
- 5) The mitigation measures and the impact of the project on the environment and the quality of life of the area concerned, particularly with regard to tree cutting, sunlight, wind, noise, emissions, lighting, storm-water, heat island reduction and traffic;
- 6) The benefits of the environmental, social, economic, and cultural components of the special project on the insertion environment;
- 7) The special project must meet a diversity of needs (social diversity) and promote social inclusion;

- 8) The universal accessibility of the project (for example, the difference between the height of a public street and the first floor of the building, the development of safe and lit pathways between a building and a public street, the development of parking spaces reserved for people with reduced mobility near the main accesses, etc.).

3.2.3 Criteria relating to the building's layout and architecture

The criteria relating to the building's layout and architecture are as follows:

- 1) The quality of the integration of the special project into the environment in terms of its location, massing, architecture, height, use, density, materials and exterior design;
- 2) The overall contribution of the architectural and landscape proposal to the creation of a coherent built environment within the site.

3.2.4 Criteria relating to the development of the site

The criteria for site development are as follows:

- 1) The functional organization of the special project (positioning and placement of buildings, structures and buildings, parking areas, maneuvering areas, vehicular access, etc.) contributes to the efficiency and safety of movement on and around the site;
- 2) The project respects and enhances the natural characteristics of the site (topography, hydrography, natural spaces, biodiversity, etc.);
- 3) The development of the site contributes to the integration of the project into the neighbourhood or the surrounding area, as the case may be, and to the quality of the landscape (landscaping, lighting, street furniture, etc.);
- 4) Parking areas are located and laid out in such a way as to be as little visible as possible from the public domain (e.g., location in the side or rear yard, plant screen around the perimeter, etc.).

3.2.5 Criteria related to sustainable development and the environment

The criteria relating to sustainable development and the environment are as follows:

- 1) The location of the special project near the public and/or active transportation network;
- 2) Encourage residential or multifunctional densification projects, offering a variety of housing typologies to meet the needs of a diversified clientele;
- 3) Reducing heat islands (greening the soil and planting trees, reducing impervious surfaces, implementing green roof and green wall projects, etc.);
- 4) Sustainable management of rainwater;
- 5) The landscaping is adapted to the climatic requirements and contributes to biodiversity through the proposed plant composition;
- 6) The integration of sustainable construction methods (the use of local and low carbon footprint materials, the use of construction methods that promote energy efficiency, etc.);

- 7) The provision of a vegetated buffer where a commercial or industrial use is adjacent to a residential use;
- 8) Parking areas are landscaped to reduce heat islands (plantings, trees, reflective material), integrate and encourage the use of sustainable transportation (installation of charging stations for electric vehicles, availability of car and bike sharing fleets, etc.).

4 FINAL PROVISIONS

4.1 INFRINGEMENT

Any person who proceeds with an intervention subject to this by-law as well as to the provisions of other planning by-laws in force, without first obtaining the approval of a specific project application by Council, or any person who does not respect the conditions of approval of his or her application, is guilty of an infraction.

4.2 NOTICE BY DESIGNATED OFFICER

Where any person commits an offence under this by-law, the designated officer shall issue a written or e-mail notice to the owner advising of the nature of the offence and requiring the owner to comply with the by-law and, where applicable, the conditions of approval of the application. A copy of the notice shall be filed in the property file.

4.3 COMING INTO FORCE

This by-law shall come into force in accordance with the law.

Tim Thomas, Mayor

Caroline Thibault, City Clerk