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The Permit Issuance Process in Westmount: How to Reform It to Increase its Efficiency and Accessibility to the Constituency

Student Research Project
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Abstract

Westmount's process of acquiring construction permits has long been the subject of homeowners' complaints. This research examines the process for issuing permits in Westmount in an effort to improve its efficiency for the users and the staff of the Urban Planning department. To achieve this, interviews were conducted with administrators and politicians in other boroughs and municipalities in Montreal as well as two communities in Boston. Interviews were also conducted locally with staff, politicians, former members of the Planning Advisory Board and users of the system. Quantitative data was collected through a survey of residents, gauging their experiences with the process. A synthesis of this body of evidence produced recommendations for making the system more user-friendly.

Résumé

Le processus d'acquisition de permis de construction dans la ville de Westmount a souvent été une source de récriminations pour les propriétaires. Ce travail de recherche examine le processus employé pour l'émission des permis de construction dans la ville de Westmount, dans l'effort d'améliorer son efficacité, autant pour les usagés que pour les employés du Département de Planification Urbaine. Pour y arriver, nous avons eu des entrevues avec des administrateurs et des politiciens de différentes municipalités dans Montréal, ainsi qu'avec ceux de deux communautés de la ville de Boston. Nous avons aussi fait des entrevues au niveau local avec des employés, des politiciens, des anciens membres du Conseil Consultatif de Planification et les usagés du système. Des données quantitatives ont été recueillies à l'aide d'un sondage, effectué auprès de résidents, en évaluant leur expérience avec le processus. Une synthèse de ses données, nous a aidé à former des recommandations qui pourrait rendre le processus plus facile à employer.

Acknowledgements

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Introduction

1. Introduction

Westmount's process of acquiring construction permits has long been the subject of homeowners' complaints. They cite the process as being arduous, time-consuming and costly. More recently, homeowners' voices have been joined by architects who have publically expressed their discontent with the system and have appealed to council to review projects that have been refused. Furthermore, over the past few years Westmount has been involved in several complex, contentious and litigious cases receiving national press coverage. Some were tried in the Quebec Superior Court and one went as far as the Supreme Court of Canada. These diverse issues were the incentive to investigate and examine the possible causes behind the users' grievances, and identify recommendations to improve the efficiency of the permit issuance process to better meet the needs of both the city and its residents. To realize these objectives, this study involved discussions with many users and actors engaged in the Westmount system, as well as speaking to administrators and politicians in other municipalities concerning their permit issuance processes.

The users' main criticisms of the system have to do with the Planning Advisory Committee's (PAC) decisions seeming arbitrary, an inconsistent interpretation of city's guidelines and/ or design oriented. There is the related issue of lengthy delays in obtaining permits due to multiple resubmissions, adding to the overall cost of the project. These elements in particular have been examined as part of this report.

Despite the fact that Westmount's planning policies have been a model for several other municipalities in the past, and have preserved Westmount's architectural heritage, one of the goals of the current council is to make changes in the urban planning structure to address the above mentioned issues. Plans have been in the works for many years to make the system more user-friendly, and while very little has materialized to date, an improved system is anticipated.

For those undertaking renovation projects, permit applications are only one component of a complex inter-related plan, and delays incurred due to the process lead to lost time and unanticipated costs. Even delays involved in a simple kitchen renovation which required a permit for an exterior sliding door, ended up costing one resident lost time, additional costs and a delay of six weeks in ordering the doors. These complications jeopardized completing the project before the onset of poor weather. This occurred when the PAC initially turned down the request and then a month later, after the owner and architect persisted in obtaining a meeting on the issue, resulted in the PAC reversing its decision.

Guidelines should be reviewed regularly to ensure they respond to current concerns and issues as Mayor Trent noted, it would be timely and judicious to review the guidelines to incorporate new preoccupations such as sustainability, but the.

Justification for analyzing and studying the current permit issuance process is corroborated by key stakeholders. The intention of engaging in the exercise of examining the existing system is to produce constructive recommendations which are beneficial to the three audiences concerned; the administration, the users and the council.

1.1. Research Questions

Westmount is an established affluent community situated adjacent to the downtown core of Montreal. It is unique in terms of its historical and architectural buildings, the preservation of which has earned the city a prominent reputation. At the same time, the process for renewing or acquiring permission to renovate may be arduous, and the time required to obtain a permit can be protracted leading some people to bypass the procedure, ultimately jeopardizing the quality of the architectural heritage the city strives to preserve. This report poses the following central questions:

1. Preserving architectural heritage in Westmount: How can the permit issuance process be reformed to improve the system's efficiency while at the same time making it more accessible to the constituency?

1a. What measures can influence residents to comply with the permit issuance process?

2. What are the strengths and weaknesses of the current process?

2a. What are the underlying factors of the system's weaknesses?

3. What measures could help resolve the problems and or improve the process?

While Westmount is the focus of this research, the issue of preserving architectural heritage through the use of various types of bylaws and the requirement to follow a permit issuance process is not unique to this community. Lessons learned from this study may benefit cities with comparable heritage challenges.

1.2. Methodology

To identify which aspects of the permit application process may need modification, a number of approaches have been employed. The majority of the information obtained for this report is qualitative, based on interviews with city staff, residents, former and current members of the Architectural Commission in Westmount and local architects who use the system. Interviews conducted with other communities in Montreal and two locations in Boston help contextualize Westmount's process and point to possible solutions. (See Appendix A).

Results from a mail survey, assessing satisfaction levels of the users of the system, provide quantitative as well as qualitative information. The survey was carried out with the view to collect data from a wide sample of local residents. Initially, the method to determine who would receive the mailing survey involved selecting all permit applications from the months of April, May and June of 2009, the three peak months for

the Planning Department. However, of the three hundred and twenty-five applications from that period, not all of them were relevant to this study. Only those permits issued for exterior work are subject to approval of the Planning Advisory Committee and are pertinent. As a result, the number of relevant applications was reduced, making it necessary to retrieve applications from the same three months of 2010. The three months were also selected to maximize the number of accessible candidates as well as the range of types of construction projects.

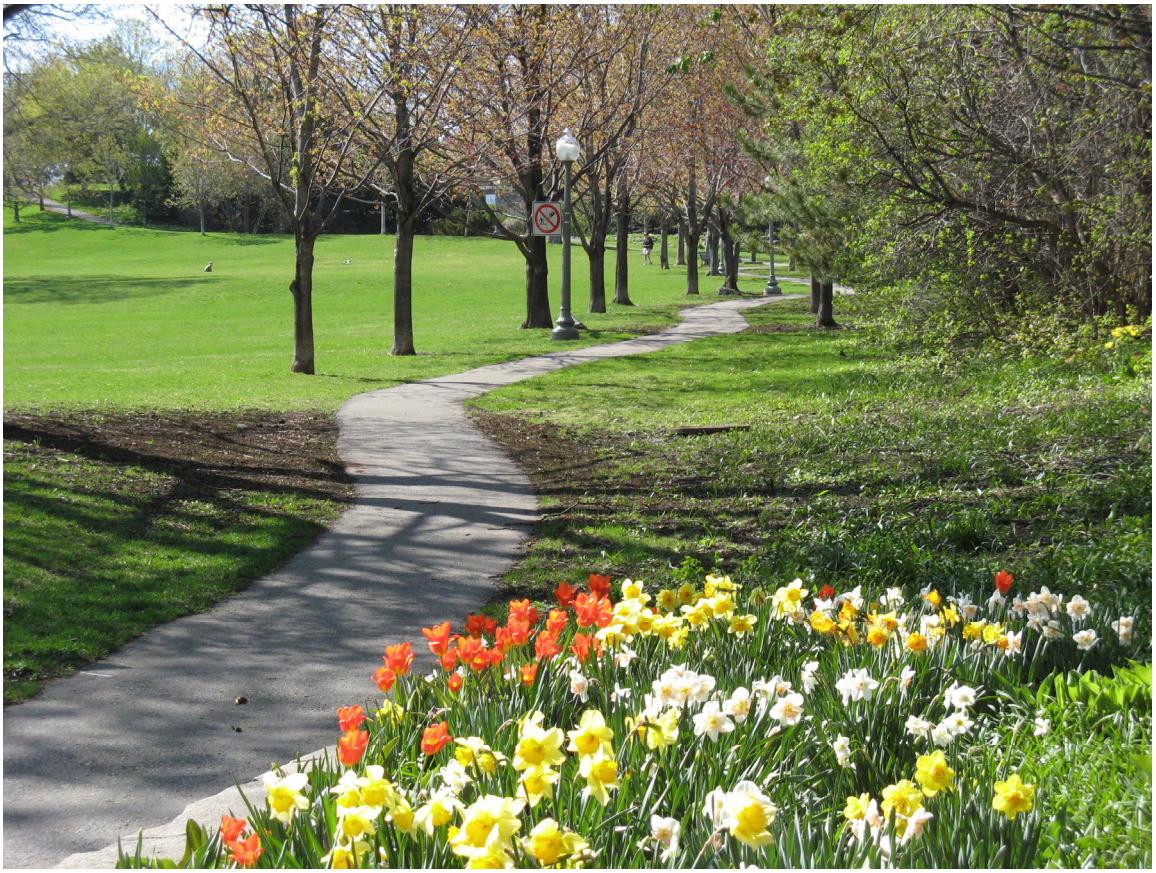
To contextualize the Westmount permit issuance process, six other community permitting processes were studied. Two Montreal communities were chosen: the borough of Outremont and the reconstituted municipality of the Town of Mount Royal (TMR). They bear the closest resemblance to Westmount in terms of their demographic profile, having been built in the same era and they resemble Westmount in their application of the site planning and architectural and integration bylaws on the entire community. The boroughs of Pierrefonds-Roxboro and Saint-Laurent were also selected because their processes are unique on the Island of Montreal in that all their PAC meetings are held in a public venue. An investigation of meetings held in public was carried out to constructively inform the Westmount process. Two non-Montreal cases were also examined to look beyond the local system and legislative framework; two communities in Massachusetts were selected. Back Bay, Boston was chosen for its close resemblance to Westmount's built environment, and Martha's Vineyard, because a former chair of Westmount's architectural commission now heads the community's planning commission and comparing his experiences in the two communities would be informative.

Problems with the permit issuance process identified by users of the system through interviews and the survey are grouped thematically and substantiated by specific cases. To protect people's privacy, no names or addresses are mentioned.

Data collected by Westmount's Urban Planning Department on permits spanning a period of eighteen years, from 1990 to August of 2009, was reviewed. However it was, difficult to draw any conclusions due to the change in Westmount's status, from a municipality, to being merged with Montreal, to being reconstituted as a municipality, and the use of various methods to record the data over the years.

This report is presented in three major sections; the first introduces the topic and compares Westmount's process with other communities; the second evaluates strengths and weaknesses of the current process; the third includes recommendations, conclusions and potential areas of future study.

Literature Review



2. Literature Review

2.1 Literature on Design Review

The literature reviewed and presented here was drawn from design review processes and enforcement strategies. The material on immigration and taxation are included given that the primary measure of their success is based on the similar need, like that of the permit issuing process, to achieve compliance through the strategic use of incentives and regulations.

The academic literature on permit issuance concentrates on the design review portion of the process, which in Westmount, is the role of the Planning Advisory Committee (PAC). Design review is a procedure used to control the aesthetics and design of public and private project development proposals. For the purposes of this report attention will be focused on the three main bodies of research which have been produced, namely in the United Kingdom, the United States and Canada. Common in all this body of literature is the discussion of aesthetic controls and how much discretionary power should be awarded to design review boards to interpret these controls. In addition, most design review boards have a complementary set of guidelines which may be interpreted as law or merely recommendations. "The typical design guidelines are massively detailed with do's and don'ts and cover a wide range of possible transgressions from misplaced signs to disallowed materials, to violations of content" (Scheer 152). The phenomena of review boards is fairly new, i.e. in Europe, 130 advisory design committees have been established since 1925, the most successful of which is the Dutch model. A survey conducted in the United States of 370 cities and towns revealed "60% of respondents had introduced design review within the last twelve years, 10% in the last decade" (Scheer 1). The unprecedented rate at which these boards are being adopted locally explains why "guidelines have no prevailing form and there is no model code of any kind" (Scheer 2). It also accounts for the limited research on the subject. The "massive adoption of design review seems like a tidal wave of approval of this method of

development control" however due to its novelty, a number of unresolved and highly controversial issues plague the design review procedure across the board such as lengthy delays, arbitrariness of review boards decisions (Scheer 2).

Britain differs from the United States and Canada in that development rights were nationalized in 1947, meaning the British planning system gives to government, both local and national, a wide range of powers to control development. Almost any form of development, even involving detailed matters, requires planning consent from the local authority. When a surge in planning applications rose by over 50% in the space of two years during the 1970's, local planning authorities were ill equipped to respond. To help expedite the process, in the 1980's the Conservative government

> advised local governments to minimize the constraints they imposed and in particular not to pay too much attention to the development plan if it was out of date. Four things were identified as critical problems in development control: delay, aesthetic control, release of land for housing and promoting new industrial development. (Booth 316)

It wasn't until the mid 1990's that "the pursuit of better design began to be recognized as a significant government objective" (Carmona 913). The 2002 Planning and Compulsory Purchase Bill endorsed and maintained support of "a more flexible approach to plan making" (929). The gap in the relationship between the plan and the "decision on individual projects has caused difficulties" and is equally apparent in other countries like the United States. In addressing this 'gap' Carmona made policy recommendations targeting all levels of government, the core of which were aimed at "articulating design objectives that are more detailed, specific and comprehensive" (930).

The debate in the United States centers on the question of the public good versus private interests as John Punter writes, "there are deep-felt concerns about suppressing the rights of self expression in architecture and limiting the creativity of the designer" (Punter 115). The common criticisms are that the design review is based on vague

guidelines and decisions are often arbitrary and inconsistent. (Punter, 2003; Sheer,1998; Lightner, 1992) Punter cites authors (Stamps, 1997; Nasar & Grannis, 1999) whose research, based on empirical studies, highlights the public's perception that architectural design is not significantly enhanced by design review boards. He also notes researchers found a sizeable disparity between a professional and layman's evaluations of the physical appearance of development (Groat, 1994), and while that may be overcome by opinion polling Nasar & Grannis, 1999) in general, the public has little input in design review (Habe 1989).

In her detailed criticisms of design review Brenda Scheer raises the level of debate by taking the universal problems of design review and "organizing them around the robust topics of power freedom, justice and aesthetics" (Scheer, 4). Her survey of over 370 cities and towns in the United States revealed that while communities' stated goals and objectives reflected admirable values "rarely does a planner, a citizen, or, especially an architect engage in the topic of design review without relating their experiences of woe with a design review process" (3). While planner respondents were in favour of design review, Architects who answered found design review "petty, meddling and useless" (3). While she hypothesized the aesthetic review would be limited to historic districts and buildings, only twelve respondents used the review process exclusively for historic buildings or districts. One quarter of the cities with design review do not have written guidelines, while 40% have guidelines that are legally binding. City agency planners and architects complained about the lack of professional members on design review boards and to their point, roughly 45% of boards reviewing projects do not have one architect serving. Her survey provided a wealth of information on the how the design review process is used nationally. Fortunately, a similar survey was conducted in Canada in 2002.

While design review has received considerable attention in the United States, the same cannot be said of Canada. The only published academic research in the area of 'urban

design regulations' (this term as defined in Kumar's paper is equivalent to 'design review' in the American literature), is by John Punter, who reviews the design experiences over the past three decades in the city of Vancouver and the way in which it "controls design and its urban structure while maintaining its compactness and cityscape" (Kumar, 242). The few other writings on urban design practices in Canada paint a bleak picture of the urban landscape.

Sandeep Kumar's survey was mailed to 95 Canadian municipalities whose populations were 25,000 or more, according to the 1996 census, of which 65% responded. Quebec had the poorest response rate in the country at 47.83%. The following are the most significant findings. Ninety-two percent of the municipalities surveyed have what Kumar has termed "urban design regulations" in place (245). To be clear, the term refers to what otherwise would be known as guidelines as the author acknowledges

> the phrase "urban design regulation" is regarded as an administrative mechanism to shape public and private urban spaces. It is usually procedurally divorced from general land use decisions… the focus here is on the external appearance of the buildings. Urban design regulation is usually enforced when a person asks the city to approve a proposal to alter or add to the existing built fabric. (241)

Heritage preservation policies and guidelines represent 58% of the respondents. Like the United States, the bulk of municipalities adopting this process happened in the preceding three decades, with close to two thirds revising their regulations in the past five years. However their enforcement is negligible. Of 62 municipalities, only 32 have developed detailed urban design plans. In terms of review committees, the majority of municipalities in B.C. and Quebec have review committees, but they advisory only. Outside of these two provinces review committees are rarely implemented such as "Edmonton and Calgary in Alberta, Niagara Falls in Ontario, Winnipeg in Manitoba and Whitehorse in the Yukon" (246). However there were other types of review bodies reported such as heritage boards in Charlottetown, Prince Edward Island, and Saint John and Fredericton, New Brunswick evaluating design quality of development proposals on

a project-by-project basis. Downtown and historic areas are the principle vicinities to have regulations.

Nearly 70% of respondents suggested that the content and latitude of their urban design regulations were principally guided by the municipal council, the historic character of the city, or both. Legislation was also an influential factor (55%) in determining how and which design-related elements could be regulated. Close to 30% rely on factors such as "market trends, development industry and residents' input to formulate their regulations" (247). In terms of design principles the author notes just under 65% indicated that historic preservation as being the most common, followed closely by the desire to create human scaled urban spaces as well as pedestrian-oriented development. Despite the endorsement of these goals, it was unclear how these objectives would be incorporated into "specific design plans, policies and guidelines" (251). In terms of content of design regulations, the greatest importance was placed on aesthetic and artistic forms however, Kumar felt key elements were missing from most of the municipalities objectives and goals such as, legibility, vitality and social justice and environment. The following statement unveils a highly relevant factor in this survey:

> a preliminary analysis of the supplied official plans and urban design document reveals that municipalities knowingly or unknowingly practice a completely different urban design theme or mix of multiple urban design themes that one might discern from their urban design goals and objective statements. (252)

When asked about who formulates the urban design regulations, 84% replied staff members with planning education took on the task and 76% hired consultants. Kumar points out that "unfortunately, the input of some critical stakeholders such as the public (39%) and developers (39%) is not actively sought" (254).

Among the conclusions Kumar notes "most municipalities embrace a rigid framework for their implementation or remain elusive about their concrete implementation" (258).

Survey results underlined that urban design regulations do not address central issues specific to the Canadian experience such as cold climate, sensitive ecology and cultural diversity. In addition, there is a "lack of provincial recognition of a strong role for urban design in planning and community development activities" (258). The author points to the disproportionate attention paid to historic preservation

> This trend may very well turn a city or town into a charming and successful tourist destination, but may fail to create a livable environment. (258)

The majority of urban design regulations mainly focus on buildings and neglect

to heed any attention to enhancing public spaces.

Kumar challenges communities to pay closer attention to local demands and needs through public consultation. The report also suggested that "Canadian cities carefully examine the role of their preservation programs and make sure they work in tandem with more broadly-based values and objectives in urban design initiatives" (259).

John Punter's paper on Urban Design Panel (UDP) in Vancouver presents several informative findings summarized below, however the successes experienced as a result of the UDP's structure and its process may be specific to Vancouver. The city of Vancouver's procedures have noteworthy features that address general shortcomings design review systems have experienced internationally. To begin with, by seeing designs at " a formative stage of their development, the validity of the whole design approach can be tested and, much abortive design work on the part of developer/designer avoided" (Punter 132). Second, detailed design negotiations proceed more smoothly and architects are far more receptive to the panel's advice. Third, "its inter-disciplinary/ inter-professional composition" provides the facility to interpret a vast range of designs and urban design issues (132). Fourth

> through its composition and rotated membership of professionally originated nominees, it maintains the confidence of the design community

> in the city's regulatory process. It respects architectural intentions and expressions by not becoming bogged down in architectural detail or being prescriptive about architectural solutions, encouraging architects to have the courage of their convictions and to pursue innovative and and imaginative solutions. (132)

The processes and procedures that have evolved over time are transparent and responsible and have received the endorsement of the development and design industries.

> This has been achieved through placing a developer representative on the panel, allowing the applicant/designer to present their schemes, making meetings open to the public and publishing full minutes on the city's planning website. (132)

Punter notes that it has become a matter of "professional pride for many developers/ designers to seek unanimous endorsement of their proposals" (132). As mentioned, there is very little Canadian literature on design review however, what does exist is enormously informative and could have applications in Westmount's permit issuance process.

There is, also an ancillary body of literature which examines the legal framework enshrining the permit system, and the various decision makers and their role in enforcing land use laws. The literature is relatively narrow in scope and generally falls into two camps: those who advocate for a firm legislative framework combined with a strict regulatory enforcement strategy and those who support an "accommodative enforcement strategy", emphasizing negotiation and cooperation (May and Burby 172).

Among those who promote strict adherence to zoning legislation, several studies are particularly relevant. Richard L. Wexler argues the necessity for strict adherence to zoning legislation, given that without it, there is the risk of abuse. He contends that

> The legal land use pattern of a city can be destroyed by laxity or indifference on three levels, that of the zoning enforcement officer, the board of appeals that grants variance permits, and the city council who may be influenced by property owners lobbying for their personal projects. (Wexler 75)

When failure occurs at any one of these levels "public confidence is shaken, violators are encouraged, and the securing of needed judicial support for the ordinance is rendered more difficult" (75).

Advocating for equally stringent control mechanisms, but from a slightly different perspective, is former Professor of City and Regional Planning at Cornell University, John W. Reps, who argues that zoning appeals boards, in many cities in the United States are far too lenient in granting permits for variances and special exceptions. While he acknowledges the fine line a board of appeal walks, acting as a "safety valve, designed to prevent some legal explosion" (Reps 281) in his opinion, the boards have been negligent in ensuring the three basic requirements necessary for granting a proper variance are met: proof of hardship, proof of unique circumstances, proof the proposed use would not alter the essential character of the neighborhood but would see a drastic reduction in the number of permits granted. Appeal boards "in many cities become a device of danger rather than safety" (282). He cites the granting of "unwarranted permits as the cause of urban blight and decay, as well as possibly preventing sound growth at the city's fringe" (282). In fact, Reps argues that since variances are only justified "under extremely rare situations, it might be wise by statute, to prohibit them altogether" (296).

Nicole Stelle expresses a divergent view with regards to regulatory frameworks:

> The order constructed by our prevailing system of land use regulation arguably deprives many urban neighborhoods of the economic and social vitality that is critical to true renewal. (Stelle 14)

Stelle cites instances where land use regulation has been rigorously enforced as a "disorder suppression" mechanism (1). She refers to the former Mayor of New York, Rudolf Giuliani's no-tolerance for panhandlers and squeegee men as part of his "quality of life" campaign, as an example of such stern enforcement (2). By way of illustrating the range of "disorder suppression devices" used to bring about conformity she highlights property inspection "sweep" campaigns, one of which took place in Tampa, Florida in 2003, where "dozens of police officers, drug and prostitute counselors and property inspectors" went through one of the city's worst neighborhoods "netting seven felony arrests and 122 code violations"(7). These campaigns take place in many crime infested neighborhoods, in cities throughout the United States. Her position is that in the arsenal of tools available to deal with non-conformity and blight, there are other means to achieve the same end without applying the law so unilaterally.

Bert Neimeijer's study looks at the Netherland's land-use and building controls, which are reputed to be unyielding and would seem to fit into the former regulatory enforcement strategy body of literature. However, a closer investigation revealed the system to be incredibly flexible. The land use and building law in the Netherlands mirrors the principle of Dutch legal system "the Rechtsstaat", which is "the idea that all forms of administrative action should be based on the rule of law" (Neimeijer 121). The law is structured so that "land use plans must be formulated in such a specific and detailed way that decisions can be derived from them without ambiguity" (126). The "impression of rigidity" applies to the whole system, including the highest levels of authority (126). Just beneath this veneer, the author describes several means by which one can circumvent the law (126). The most frequently used tool, which was originally intended for rare circumstances, is called the "anticipation procedure" wherein once council's intentions to amend land use in a specific zone are declared, it has the power to refuse all applications submitted in that zone (126). Council may only grant permits to applicants of the zone in question when the project meets the criteria of the amended plans. Despite its built-in clarity, both in its wording and application, the law grants so

many additional powers to council that the exacting tone is all but lost. A case in point: The city may grant exemptions and issue temporary permits using ambiguous language such as “acceptable, adequate, reasonable” giving the developer considerable latitude (128). Another example: Despite municipalities adopting detailed land-use plans, as long as a project is not contrary to the land-use plan, the applicant has a right to a permit. Research on the excessive use of this procedure - for example, 18,000 times in a single year -revealed that in up to 50% of all “cases there is no draft of a land-use plan, and in some cases a new ‘final’ land-use plan is never actually made” (127).

In their 1988 study May and Burby focus attention on the distinction between the known enforcement strategy and its real-life application. They analyze various types of enforcement philosophies employed by agencies to bring about compliance, and how they are put into practice. Political, bureaucratic and economic factors influence an agency’s enforcement with three prevailing types of enforcement identified: “strict enforcement, creative enforcement and accommodative enforcement”(May and Burby 172). May and Burby’s research contributes to “bridging the gap between descriptions of stylized enforcement strategies and what actually happens in practice” (176). One of their findings, which agrees with the “bureaucracy literature” (Wilson 159-181), is that “standardization of rules and procedures is a common response to greater demands and resource limitations” (May and Burby 170). The authors found agency inspectors practiced a mix of enforcement strategies, which is in keeping with other research. With most agency inspectors acting in a cooperative regulatory style, May and Burby’s distinctive contribution is their finding that deterrence and technical assistance are used as often in agencies that are rigid in their enforcement practices as in those that are not. Furthermore, these rigid agencies also include “flexibility and incentives in their enforcement repertoire in dealing with highly politicized environments such as builders, developers and contractors”(174). So while three groups of enforcement style exist, in practice the situation and the players involved determine which strategies, or combinations thereof, are applied.

Given that the related body of literature is limited in scope, it would be valuable to look to analogous bodies of literature, such as those analyzing processes administered by government, that are inherently complicated, and that entail compliance by the public in a little understood field. For the purposes of this research, the literature will be limited to two areas of government-based procedures closely simulating this project's preoccupation with improving compliance levels namely, taxation and immigration.

2.2 Similarities between Taxation, Immigration and Permit Issuance Processes

While regulations and structures related to taxation and immigration vary internationally, this research focuses on outcomes of studies looking at various combined strategies of sanctions and incentives that are used to bring about compliance, and how these findings may inform compliance levels in the permit issuance process.

While ostensibly the processes of taxation, immigration and issuing permits appear unrelated, there are, in fact, several elements linking all three systems. For example, when considering enforcement options, all three procedures measure perceived risk as a factor to gauge the impact on compliance levels. While the perception of risk varies individually, immigration assesses the risk factor based on people's fear of being apprehended and deported, taxation calculates the risk factor as a function of an individual's apprehension of being audited, fined and possibly jailed, and the permit issuance process rates people's fear of being caught, and either fined or prosecuted. A noteworthy phenomenon, common to all three processes, occurs when enforcement efforts to increase compliance of one type of behavior bring about decreased levels of compliance in another form of behavior. In other words, the emphasis of enforcement simply shifts behavioral attitudes, "action provokes reaction" (Broeders and Engbersen 1594). In the case of immigration, enforcing stringent border controls forces unauthorized entrants to adopt new behaviors to cross the border, which may take many forms such as falsified passport documentation, new modes of entry or the

proliferation of professional smuggling rings (Cornelius 12). In terms of taxation, "increased enforcement effort in a given mode increases compliance in the targeted mode, but is offset by deteriorating compliance in another mode"(Vazquez and Rider 3). In terms of the permit process, the effect of increasing inspections to ensure compliance might, for example, provoke people into arranging to have restorative work done on weekends and evenings, bypassing inspectors' business hours.

Another link is that all three structures are equipped with professional middlemen or intermediaries: lawyers mediate on behalf of immigrants, accountants on behalf of tax payers and consultants act on behalf of homeowners applying for permits. All three structures rely on 'whistleblowers' as one source of detection.

Inherent in all these processes is the subtle distinction made between 'breaking' the law and 'bending' the law; hence in each category, there appear to be degrees of defiance (Ruhs and Anderson 10). For example, in the case of immigration, a student issued a temporary visa, who has stayed beyond the time constraints and is gainfully employed in excess of the stipulated number of hours permitted, is tolerated because of the potential gain to the host country. This is interpreted as a 'bending' of the rules (Ruhs and Anderson 10). However, an unskilled laborer who, in being employed for work otherwise not acceptable to citizens, is "working in breach of the employment restrictions attached to their immigration status", and will be seen as 'breaking' the law (7). Bridget Anderson succinctly describes the uneven application of the law: "So, overstayers from wealthy countries cause less 'harm', and therefore those from poorer countries should be targeted" (Anderson 3). In taxation, 'bending' the law refers to the middle class wage earner who feels entitled to his/her hard earned money and cheats on his/her return by "understating income and exaggerating deductions" (Vazquez and Rider 15). This behavior is typically motivated by the perception of wasteful government spending or the privileged being taxed differently. In the permit process, 'bending' the rules can apply to a number of circumstances. For example, having obtained a global

permit to undertake extensive renovations, property owners may make unauthorized modifications to the project.

Finally, it is important to note that while compliance is fundamental to all these procedures, none of them expects to achieve complete acquiescence. Therefore each of these systems has to implement strategies to maximize compliance, while continually monitoring and revising these tactics due to a plethora of possible changes including legislative amendments, altered behaviors, new technologies and economic trends.

Beyond these similarities are elements unique to each field as discussed below with respect to the permitting process.

2.3 Immigration

The incentive behind stringent border controls is generally politically motivated, given that it serves as a "heavy-handed, highly visible tool that remains useful in convincing the general public that politicians have not lost control over immigration" (Cornelius 23). The equivalent tool within the urban planning process, carrying as much weight and visibility in the public eye as strict border controls, is litigation; it is in the municipality's power to bring charges against violators, the consequence of which could be stiff fines, dismantling unauthorized construction as well as unwanted publicity. Cities and municipalities employ this device circumspectly, instituting it only after having carefully assessed the probability of prevailing in court and budgeting in the legal fees associated with the procedure.

Research has found that severe border controls that come at an exorbitant cost do not deter illegal immigrants from crossing borders. In fact, they can often perpetuate the problem, by inadvertently creating a demand for "professional people smugglers" to help lessen the likelihood of detection, which can include the proliferation of organized human trafficking rings (13). The same problem exists with permit issuances; if the process is too arduous, residents may search for ways to bypass the system.

Increasing Immigration's sanctions targeted against employers who hire illegal immigrants would place the responsibility directly on the employers' shoulders. However, at least in the U.S. and Canada, there is a lack of political will and tolerance for "the economic disruptions and constituent complaints that a systematic crackdown on employers of illegal immigrants inevitably would generate" (19). Westmount's Urban Planning Department depends on residents hiring companies licensed with their respective professional associations. Unofficially, residents do report neighbors carrying out work without a permit however, this is a highly sensitive and unreliable method of bringing about compliance. As Ruhs and Anderson point out, migrants and employers function within a set of criteria created by the state, and their decisions to comply can be broken down into three categories cited from Schuck: the "'law on the book' (i.e. the law as formally enacted), the 'law in action' (i.e. the law as implemented), and the 'law in their minds' (i.e. the law as perceived by different groups and actors in society including immigrants and employers)" (Bretell and Hollifield cited in Ruhs, Anderson 3). Broeders and Engbersen draw attention to what they refer to as the "arms race", the ongoing struggle between policy aimed at deterring illegal immigration and migrants' efforts at "counterstrategies" (1594). They describe the cat-and-mouse struggle:

> Illegal aliens will attempt to frustrate government policies that aim to identify and control them by using strategies that avoid the production of knowledge about their activities by making them either unobservable or indeterminable, or, put another way, the practical production of fog. (1594)

The cat-and-mouse game may be at play in Westmount's permit issuance procedure with citizens maneuvering to conceal their construction activities.

2.4 Taxation

There is an immense body of literature on tax compliance, the majority of which originates from the United States. For the purposes of this research, the review is limited

to a small selection of academic journal articles dealing with tax compliance in the United States, the United Kingdom and Canada.

Just as is the case with immigration, in order to address noncompliance, one has to discover the motivation(s) behind the behavior before being able to assess and test what actions may be implemented to correct or modify the behavior. Equally true in both cases is the sociological component which is central to understanding what cultivates compliance, and which sanctions are likely to work.

Jonathan Feinstein's paper on tax evasion and its detection reveals what advancements in social science have brought to the topic. He fine-tunes the distinction between full compliance and noncompliance pointing out that all previous research on tax evasion detection worked on the premise that it was an either "all or none" process - that is, "if evasion occurred it was assumed that either all of it or none of it was detected" (Feinstein 15). Instead, he introduced the concept of a "fractional detection model" which realistically assumes that "an IRS examiner can detect some fraction of the evasion" (15). Within immigration and taxation processes the spectrum exists of either all compliant or not compliant, in other words, degrees of legality. "Types of illegality" in immigration have been referred to as compliant, "semi-compliant" and non-compliant. Semi-compliant is defined as "the employment of migrants who are legally resident but working in violation of the employment restrictions attached to their immigration status" (Ruhs and Anderson 7). In taxation, the legal distinction is made between tax evasion and tax fraud; evasion refers to tax avoidance wherein a filer reduces the amount of tax that is payable by means that are within the law. Tax fraud occurs when a filer willfully evades or defeats the payment of taxes due and owing.

As Feinstein points out, the two most significant economic costs from these economic crimes are "lost government revenues" and "the inequity between evaders and honest filers" (14). The same losses are likely experienced in permitting when people bypass the permit issuance system, the loss of municipal revenues due to people not reporting

work being done, and the inequity of construction work carried out by evaders and people who work within the system, which ultimately compromises a city's architectural integrity.

Within the tax compliance literature, additional findings have relevance to the permit issuance process. In analyzing people's motivations for not reporting and by examining individual tax returns, the outcomes are informative, despite the admittedly deficient data sources. Among the many reasons why people fail to report are two possibilities: how easy it may be to evade a law, versus how difficult it is to comply. Richard Gordon proposes that legislation should be designed "so as to make compliance easy and noncompliance difficult" (Gordon 19). His second essential recommendation, "legal simplification", allows taxpayers to know more easily what is expected of them. Legal simplification reduces the possibility of manipulation, thereby reducing the possibilities of tax avoidance" (20). He points out that complexity, exceptions and special regulations not only reduce compliance but can also prompt individuals to try and fit the special circumstances or, perhaps if the taxpayer's situation is intricate, avoid the special regulations altogether. Another benefit of consistently and easily-applied sanctions is that they are likely to "take fewer administrative resources and are less likely to be subject to arbitrariness" (31).

Gordon argues that "sanctions are perhaps one of the most over relied-upon, and poorly understood, tools for enhancing tax compliance" (21). Since a fundamental objective of sanctions is "deterring unwanted behavior", they should be aimed at behaviors which are "reasonably capable of being deterred" (21). The other important component is sanctions should be fairly and evenly applied. The literature suggests that increasing a sanction's financial penalty has a proportionately minimal impact on increasing the rate of compliance. In other words, the financial penalty should fit the crime as a deterrent, as exceeding this balance can potentially encourage avoidance. Gordon emphasizes that the value of a sanction is determined by "the rate of enforcement" (33).

Sanctions also serve as a vehicle to promote the settlement of disputes. Gordon cites the possibility of appointing an "impartial adjudicator" to facilitate an outcome, which might be a possible alternative for settling or appealing cases that have reached an impasse, as can happen in the permit process when the PAC and an applicant cannot reach an agreement (32). An incentive could be a reduction in the penalty if a settlement is reached swiftly. Sanctions may also be a form of punishment, "for the purpose of retribution or to indicate that society seriously disapproves of particular behaviors" (22), the implications of which can be as effective in discouraging unwanted behaviors as the sanctions themselves. Finally, he suggests that publicizing the names of those who had been caught would have a significant impact, not only in putting off filers from reoffending, but also in bringing about a broader likelihood of compliance. Similarly, publicizing stop work orders issued to property owners may prove effective in discouraging non-compliance with the system.

A slightly different approach used to bring about compliance was highlighted in a study analyzing the impact of various forms of written communication on taxpayers. The research looked at how actual reporting changed given the type of communication they received. The letters' contents ranged from an "offer of assistance" to the "threat of an audit with possible penalties" to "having been preselected for an audit" (Hasseldine, Hite et al. page 189). The results revealed that the preselected audit letter was significantly more effective for self-prepared returns than for paid-preparer returns. Despite these results, governments cannot realistically afford to audit a large percentage of returns. A similar approach is used in Westmount, where building inspectors are able to issue three sets of notices, each one increasing in severity, with the last notice accompanied with a statement of offence. While this three-tiered notification process is a courtesy to residents, it would be worth investigating if fine-tuning the escalation of each communication might bring about swifter compliance, as it did in the case of taxpayers.

The overriding lesson taken from the immigration and taxation literature is how the balance between incentives and sanctions is critical in determining compliance. These two tools, used to bring about compliance in immigration and taxation, are continually monitored and modified, as required to maintain acceptable levels of conforming behavior. These tools have the same application in the field of development control, to maximize compliance by penalizing non-permitted work and rewarding work respecting the permit's perimeters.

The literature on enforcement and design review systems was instrumental in formulating recommendations. By extrapolating the best practices from the different types of agency enforcement and the procedures used internationally on design review boards helped to structure recommendations to respond, as closely as possible, to Westmount's particular situation.

2.5 Best Practices- Partnerships

Finally, in the literature reviewed for this paper, two case studies stood out because of their exceptional approaches to partnering, and the role it played in facilitating compliance in the immigration and taxation processes. Lessons learned from these experiences could be instrumental in laying the groundwork for a better integrated relationship between residents and the community's planning department.

Eleanor Marie Brown of Harvard Law School writes about "outsourcing immigration compliance", given that "failed guest worker programs have unquestionably increased the size of the undocumented population in the United States." She says a new design for screening of these migrants is required (Brown 5). She cites a program between Jamaica and Canada, wherein the responsibility of screening guest migrant workers is the responsibility of the source labor country. The program, known as The Jamaican Seasonal Agricultural Workers Program, operates "within a tripartite institutional framework," involving the federal and provincial governments and their respective jurisdictions, as well as working within "bilateral administrative arrangements between

Canada and Jamaica" (25). The Jamaican government assumes "partial" responsibilities for screening potential laborers and "informally" assumes responsibility for tracking visa violators by reporting them to Canada (25). The way in which the program is run provides both "benefits and compromises" to all stakeholders (25). The program has been in place for four decades, and continues to expand with the "ongoing buy-in of diverse stakeholders who are very satisfied with the results and investing in its continuing success" (26).

Central to the program's success is the "flexible nature of arrangements between Jamaica and Canada" (27). Transparency, mutual respect and trust are the key ingredients that ensure the continued success and expansion of this ground-breaking project.

The other case study involves the Canada Customs and Revenue Agency (CCRA). The CCRA is the largest organization within the federal government, and is the most frequently contacted of all government agencies. Its responsibilities include revenue collection, administration of tax laws, border customs services, administration of laws on international trade and a variety of social and economic programs (CCRA page 1).

In the agency's words, it is important to maintain "credible enforcement strategies that are seen to protect honest taxpayers by making sure those who cheat are caught. It means making voluntary compliance as easy as possible" (2).

The agency states its system is based on "citizen responsibility" and voluntary compliance (3). Three core elements contribute to elevated compliance levels: communication, partnerships with different communities, and two-way dialogue. The CCRA distributes tax information via the internet and in hard copy. In order to get feedback from the public, to hear about "what is and is not working, and explore possible solutions," meetings are organized with "representative groups of their clients" (3). They have set up over thirty advisory committees such as "one for seniors, large

and small businesses, collections, international issues and electronic commerce"(4). In April, 2001 they began the *Future Directions Initiative*, to anticipate future client needs in order to improve customer service and increase compliance. They consulted as many as 3,000 "individuals, charities and business clients, as well as 2,000 employees" (4). The example shows a balance between enforcement controls, which aim to deter tax evasion, and a client-oriented system in which compliance is facilitated. Through their partnerships with business and professional organizations, the CCRA gains access to valuable information and "fosters an environment of mutual trust and respect" as stated in a report delivered to The Regional Training Workshop on International Taxation(5).

Fundamental to both of these examples of partnerships are transparency, mutual respect and trust. These are three elements that are essential components of a healthy relationship between a government body and the public. There is a great deal to take from this review of literature to improve the efficiency of the permit issuance process.

Architectural and Historical Preservation in Westmount

3 Architectural and Historical Preservation in Westmount

3.1 The History of Architectural Preservation

While analogous structures and processes yield some insight, architectural heritage also has its own best practices. The concept of preserving historically-significant architecture found its origins in Europe in the mid 19th century, beginning in France, led by "romantically minded intellectuals", and progressing to England (Bernier 17). In the United States local citizens organized to save individual buildings of historical worth. In Canada, the move to preserve historic architecture was spawned by legislation relating to heritage and the natural environment passed by the United States Congress in the mid-1960's (17).

The notion of historical preservation emerged from three predominant bodies of thought: the earliest, dominant in the 1800's "was the idea that historic preservation should seek to inspire the observer with a sense of patriotism" (Rose 479). The second stream of thought traces back to the turn of the century when the focus was placed on "culture, art and architecture", and attention was paid to "the artistic merit of buildings or groups of buildings and on the integrity of their architectural style" (480). The third approach emerged in recent years, blending elements of the two original concepts, and is rooted in "the sense of place that older structures lend to a community, giving individuals interest, orientation and a sense of familiarity in their surroundings" (480). The architectural heritage in older buildings represents a bond linking us with the past.

As the focus of historical preservation turned to architectural merit, architectural controls were put in place to protect significant buildings and, indeed, famous historical districts. Today, there are laws and regulations to protect heritage as well as a number of international charters and recommendations endorsed by the United Nations Educational, Scientific and Cultural Organization (UNESCO). The key principles put forward by UNESCO are not binding but they allow individual countries the latitude to

develop their own legal framework, as per their individual cultures and traditions (Bernier 17).

In the United States, just such a legislative framework was introduced in the early 1960's; the National Environment Policy Act and the Urban Mass Transportation Assistance Act required all plans involving federal participation to avoid "the destruction of historic and architectural heritage" (22). The National Historic Preservation Act of 1966 lays out a method for community planning, which must prioritize heritage preservation in the course of economic development.

A single national, private, nonprofit organization, The National Trust for Historic Preservation, was established to promote and encourage public participation in the preservation of heritage representing American culture and history. Finally, the National Register of Historic Places is an inventory of properties meeting nationally-established standards of heritage significance (22). Typically, all exterior alterations and demolitions must be reviewed by a community architectural board or historical commission.

In Canada, federal policies and legislation protect heritage resources, including the National Parks Act (1953), the Historic Sites and Monuments Act, (adopted in 1985), the Heritage Railway Stations Protection Act (1985), the Department of Canadian Heritage Act (1995) and the Parks Canada Agency Act (1998). Other Bodies responsible for protecting heritage include the Federal Advisory and Coordinating Committee on Heritage Conservation (FACCHC), created in the late 1970's. It has since been replaced by the Federal Heritage Building Review Process (FHBRO). The primary objective of the FHBRO is to help other federal government bodies protect heritage buildings. The Policy Framework for the Management of Assets and Acquired Services is the current operational policy that evaluates all government buildings in line with the policy framework and makes recommendations to the Minister of the Environment, who is responsible for designating federal buildings as historically significant. The FHBRO also

advises government departments regarding any interventions or changes, to ensure the heritage character in federal properties is preserved.

A set of national standards and guidelines for the conservation of historic places has been developed, based on "universally recognized conservation principles inspired by international heritage conservation charters" (Canada). The intent of the national standards is not to "provide detailed technical specifications appropriate to every situation, but instead to offer results-oriented guidance for sound decision-making when planning for, intervening and using an historic place" (Canada). The Commercial Heritage Properties Incentive Fund (CHPIF), a federal grant program, provides financial assistance for commercial heritage properties. Eligibility requirements include: that the company be a taxable Canadian corporation, that the recipient of the grant own the property, and that the property be listed in a national register of historic properties.

As in the United States, Canada has several registers of historic places, including the Canadian Inventory of Historic Buildings (CIHB) which was initiated by Parks Canada. The Historic Places Initiative is a collaboration of federal, provincial and territorial governments, and runs three programs: The Canadian Register of Historic Places, Standards and Guidelines for the Conservation of Historic Places and the Commercial Heritage Properties Incentive Fund. The Canadian Register has over 12, 318 listings, and is accessible online at www.historicplaces.ca.

Importantly, while the Canadian government possesses indexes of heritage properties, provides guidelines, outlines criteria for designations and even contributes funding, it "cannot protect these properties, as *property and civil rights* fall under provincial jurisdiction" (Bernier 23).

Heritage planning is left to the discretion of each province. In Quebec, the first step involved the classification of the two oldest districts in the province, Quebec City and Old Montreal's historic sector, as *arrondissements historiques.* A joint initiative between

the city of Montreal and the Quebec government established the *Jacques Viger Commission* in 1963 to oversee development in Old Montreal, and to advise Montreal's municipal government on historic preservation. The commission served its purpose "admirably" in Old Montreal, "blocking several plans that would have compromised the character of the district" (Lanken 10). Unfortunately, that success did not extend to the rest of the city. As Eric McLean, a member of the commission stated "We can make recommendations until we're blue in the face. But it is up to the Quebec government whether something is saved or not" (10). At the time, the only means available at the municipal level to ensure some degree of preservation was the "enforcement of restrictive zoning controls" (Bernier 39). Both the Latin Quarter and the Plateau Mont-Royal have protective zoning bylaws to protect their heritage buildings.

Over time, more tools were developed with increased flexibility such as comprehensive development plans (*plans d'aménamgement d'ensembles)* and site planning and architectural and integration controls (*règlements sur les plans d'implantation et d'intégration architecturale).* In Westmount's case, the history of protecting heritage began with the early application of zoning regulations to guide the community's development.

3.2 History of Westmount's Development and its Design Review Process

The majority of Westmount's development took place between the years of 1870-1929.

Its history saw Westmount transform from "a semi-feudal seigneurial system through industrialization to a corporate capitalist economy" (John Bryce 35). An original landscape feature which exists today is the division of land into long slim north-south lots which "set the pattern for the street network that was subsequently established a century and a half later when these lots were subdivided" (37). Subsequently, wealthy English merchants (such as fur traders Simon Clarke, William Hallowell and Alexander Mac Gillivray) began buying land from French farmers and building extraordinary

country estates on land northwest of Montreal, which would eventually become Westmount.

Industrialization "triggered profound changes in the spatial order of Montreal," which came in the form of improved transportation technologies and significant changes in the labor process from "artisanal to industrial capitalist" (39). These advancements together with unprecedented population growth, devastating fires, the "spread of epidemic diseases and desperate overcrowding were major factors in the movement of those who could afford it, away from the city centre", resettling in the 'Golden Mile' and points west (40).

While industrial production fueled the economy into the twentieth century, its organizational structure and size shifted from being predominantly family-owned and run from one location, to the merging of many competing companies, operating out of several locations in order to maintain profitability. From this transformation emerged a new stratum of middle class managers, who would become the residents of Westmount.

While the majority of Westmount's built form was in place by 1929, its development occurred in four building phases: the "1870's to 1880; from the mid-1880's to the mid-1890's; from 1905 to 1914; and from 1919 to 1929" (53). The following map shows Westmount in its present day form.

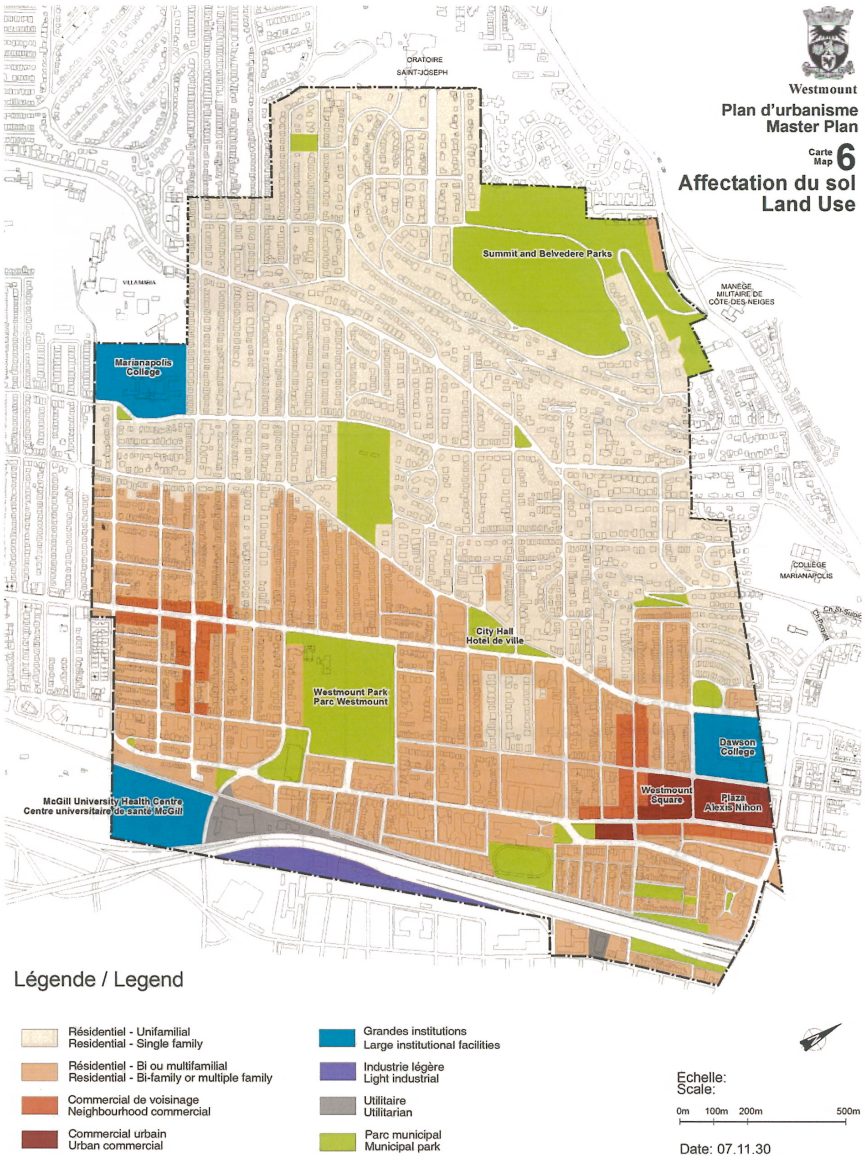


FIGURE 3-1: Land use map of the present day City of Westmount

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Table1: **Land Use**

Permitted Uses	Area Designation on map 6							
	Residential – Single-family	Residential – Duplex or multi-family	Neighborhood commercial	Urban commercial	Large institutional facilities	Light industrial	Utility	Municipal park
Residential								
Single-family homes	●	❍						
Duplexes		●	❍					
Apartments		❍	❍	❍		❍		
Commercial								
Business offices			❍	●				
Retail and services			●	●				
Restaurants			❍	●				
Hypermarkets			❍	❍		●		
Automobile			❍			●		
Industrial								
Research and development						●		
Manufacturing						●		
Warehousing and distribution						●		
Related services						●		
Institutional facilities								
Learning				❍	●			
Health				❍	●			
Culture				❍	●			
Housing		❍	❍	❍	●			
Public or parapublic uses								
Parks and greenspaces	❍	❍	❍	❍	❍	❍	❍	●
Municipal or governmental buildings	❍	❍	❍	❍	❍	❍	❍	❍
Utilitarian uses							●	

Legend
● : Prevailing use
❍ : Additional use that could be permitted by the Zoning By-law

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FIGURE 3-2: Legend for land use planning map

Even with Westmount issuing its first building permits in 1894, 14.4% of the community's dwellings had been constructed before such a system was in place. In 1879, the eastern section of the village of Notre Dame was subdivided and renamed

Cote St. Antoine, which is the present-day Westmount. By 1880 “police and fire brigades were established, a rudimentary town plan was drawn up, cadastral numbers were allotted and the first evaluation rolls were completed” (55). While the original intention was to formulate rigorous policy to regulate development, exorbitant costs prevented such an initiative from being implemented. Consequently, the early years saw a great deal of latitude granted to developers with respect to the “size, appearance of dwellings, lot sizes and street widths” (55).

The arrival of the St. Catherine Street horse-car route reached Greene avenue as an extension of the Ste Catherine street line in 1872 not only boosted land values, but also brought increased development to the southeastern end of the village. (Breslaw)

The second building boom strongly influenced the community’s future character. A debate to re-name the town of Cote St. Antoine was won by a slim majority in 1894. Council was granted permission by the Quebec legislature to make the change the following year, 1895, and the name was changed to Westmount, the name of the former Murray mansion.

By 1893 Sherbrooke Street was paved with stone from Westmount’s own quarry. Many streets in the lower streets of Westmount were macadamized using stone that had been removed in creating the roads. The electric streetcar went through the same year (1893), looping to the west to Victoria Avenue with a return route along Sherbrooke Street. Westmount’s fire brigade was established in 1892. By 1902, Westmount had the first garbage incinerator installed by a municipality, the first public library in Quebec, its own electric light plant and its own filtered water system. The development of the upper loop of the electric streetcar took place between 1910 and 1912. The route went up Cote des Neiges, along the Boulevard, down Lansdowne Avenue along Westmount Avenue to Claremont and then down Claremont to Sherbrooke. (Breslaw)

The building boom between 1905-1914 had the most significant impact on Westmount's built form not only in terms of the number of buildings constructed, but the influence those buildings would have on shaping, and eventually defining, Westmount's character. The swell in construction was so significant the town of Westmount gained the designation of 'city' in 1908. Further evidence of how considerable Westmount's growth was during this period is captured in the census data from 1911 and 1914, during which the city's population is reported to have grown from 14,579 to 18,500. In order to regulate development more efficiently, at their April council meeting in 1916, the Westmount City Council proposed a bylaw "concerning an architectural commission", which would be the first such body established in Canada (City of Westmount, 1916). The Architectural Commission was composed of the mayor, the city clerk, the building Inspector and four resident architects, who studied and approved all applications for building permits. The composition of today's PAC is somewhat different however local architects serving on the commission is still a requirement.

This surge in growth not only filled out development in the southern part of the town, it expanded north of Cote St. Antoine in the direction of the summit, which in turn, meant a second streetcar line was needed to service the Boulevard.

The level of construction was dramatically reduced due to the onset of the First World War, but even at its end, while construction recovered, it never reached pre-war levels. Interestingly, more "permits were issued for adding garages for the proliferating supply of automobiles to already existing homes than for the construction of new ones" (Bryce 70). Most new construction took the form of mansions being built on the Boulevard and above, thereby creating a "clear hierarchy of dwellings" (70).

Another important consideration contributing to Westmount's eventual architectural character is that of the builders who carried out the construction. While the early years saw construction being carried out by "predominantly small, French Canadian builders

who built one or two complexes in an artisanal manner", this was followed by a period of construction more or less driven by fourteen English Canadian builders who, together "obtained over 40 percent of all the permits issued, while the largest five accounted for almost one quarter" (76). The two largest and most noteworthy builders, Charles J. Smith and James Stewart, "provide interesting insight into how the building process changed in Westmount" (76). While Charles Smith built a number of different types of dwellings, the majority of them were either solid detached or semi-detached homes which are prevalent in Westmount. Conversely, James Stewart emigrated from Scotland in the 1890's and learned his trade as an apprentice to a stone cutter. He constructed homes which were typically of a superior quality, in either brick or stone, several examples of which may be found on Roslyn Avenue between Sherbrooke Street and Cote St. Antoine Avenue.

3.3 Historical Overview of Bylaws' Impact on the Built Environment

Westmount's architectural landscape owes its significant heritage identity to a number of factors, not the least of which is a set of rules and regulations which have guided and managed the built form, carefully fashioning, harmonizing and protecting the rapid expansion of the city.

One of the earlier bylaws dealt with morals and nuisance in order to "assure tranquility of residents from unwanted intrusions, a guarantee of public order and a proper standard of conduct" (Collin 81). In 1897, Westmount became the first city in Canada to "enact primitive zoning regulations" wherein terrace dwellings and row houses were restricted to the vicinity south of Montrose (Bryce 83). To ensure construction followed Westmount's building code, a building permit and inspection system was implemented. This system was revised and a new building code and zoning plan were adopted in 1908, the same year Westmount was designated as a city. Westmount's requirements for setbacks, frontages for detached and semi-detached buildings and minimum lot sizes

were intentionally more generous than those of Montreal to "advantageously influence the future appearance of the town, and increase the value of its property" (Lighthall 30).

Over time, as the community's vocation shifted from rural to urban, regulations dealing with ownership and housing of livestock became increasingly stringent, as was to become the case with the outlawing of "all types of manufacturing and warehousing" (Consolidation Bylaw, 1890). Following numerous requests by developers to construct apartment buildings, the city finally conceded, allowing the construction of four-storey quality apartment buildings along Sherbrooke Street, to provide sufficient affordable housing for younger people.

In conclusion, by the end of the 1920's, Westmount had:

> adopted a set of bylaws that set direct limits on the form of residential development and social conduct in keeping with the community's view of what was appropriate for an elite community. (Bryce 84)

For the next fifty years or so, every project was reviewed by the Architectural Commission, a decisional body.

3.4 Modernization of the Design Review Process

As Westmount's built form was reaching capacity in the late 1970s and early 80s, the Architectural Commission's role shifted from guiding development to preserving what had been built. The change in the commission's role brought about the need for procedural amendments. Mr. Mark London, a newly appointed member of the commission, would play a lead role in designing new tools to help preserve Westmount's heritage. Mr. London sat as a member of the commission from 1983 to 1987, and served as its chair from 1987 to1993 and from 1998 to 2001.

At the beginning of his tenure on Westmount's Architectural Commission in 1983, Mr. London said he began "in a black hole" (London). There were no guidelines or clear policies in the review process. In response to his query regarding establishing a set of

rules, he was told by veterans of the commission that every case is different and that one cannot reduce good design to a set of rules. As a novice member on the commission, Mr. London listened and took notes for some time, eventually realizing the members actually had an extremely sophisticated set of guidelines they were unknowingly applying; there was a whole jurisprudence of how they dealt with rendering decisions. He assembled his notes and submitted them to the commission for their review. They were edited and published in a booklet and distributed with detailed guidance. The original version of guidelines for renovation, produced in 1985, was "still pretty generic", but did include a fair amount of guidance (London). The same task was carried out for new construction and was completed in 1987. In 1988, the first heritage study of Westmount was carried out by the Architectural firm Beaupré Michaud. Mr. London's original guidelines, which were the first comprehensive version, were revised in 1995 and in 2001. At the same time, between 1992 and 1995, the thirty-nine character areas were established in the city.

On January 1, 2002, twenty-seven independent municipalities of Montreal, including Westmount, were merged with the City of Montreal. During the years Westmount was merged with Montreal, the review process remained the same; however the City of Montreal created a new urban plan with a section for each borough. Westmount had to make some changes to its plan to conform to Montreal's format, such as adding a tree bylaw, and mentioning archeological site protection. In general, Westmount's urban planning system was left intact. It was during the merged years that provincial legislation required council to approve permits; formerly the Architectural Commission had been a decisional body. Moreover, if the planning department wanted to pursue any infraction legally, it needed Montreal's permission as Montreal's lawyers served as Westmount's counsel.

In the spring of 2003 the Liberal Party won the provincial election, due in part to their pledge to allow any former municipalities the possibility to demerge from the City of

Montreal. On January, 11, 2006, Westmount's flag was raised, marking the first official day of the city's status as a reconstituted municipality. The major change associated with regaining municipal standing meant that in a prescribed period of time Westmount would be able to reinstate its own urban plan. Most recently, the adoption of bill 58 gave metropolitan communities the power to establish a metropolitan and land use and development plan that defines policy directions, objectives and criteria to which the agglomeration and the cities will have to conform (Quebec National Assembly, Bill 58). Westmount is, for the most part, unaffected by this bill however it will be subject to more governance by these regional committees.

The Architectural Commission and design review process were instrumental in shaping the present day Westmount, whose built form is unprecedented in Canada.

As a former thesis student at McGill Seabrook stated:

> To the vast majority of Westmounters, their city is one of the most beautiful in Canada, and some venture to include North America. It is a garden-like city, well bred and landscaped, with a high quality of building standards to which the Westmounter is proud to refer. (25-26)

Permitting in Westmount and Other Communities

4 Permitting in Westmount and Other Communities

4.1. Westmount's Current Issuance Process

Westmount is unique in that as of 2001, the Site Planning and Architectural Integration (SPAI) bylaws apply to the entire community, rendering the permit issuance process much more rigorous. Outremont and the Town of Mount Royal are the only other communities in Montreal to have enacted community-wide applications of the SPAI. It is important to have a preliminary understanding of how all applications are processed, and what work actually requires a permit. Work requiring a permit is grouped as follows, but is not limited to:

- Construction of a new building or making an exterior modification to an existing building:

- Any change to the exterior of a building including replacement of sloped roof material, modification to stairs, balconies, awnings, signs and other building elements;
- Repairs or replacement of deteriorated materials;
- Replacement of, or modification to, windows and doors;
- Fences, hedges, retaining walls, decks and resurfacing of parking aprons;
- Installation of mechanical equipment such as heat pumps and emergency generators.

The city also requires that a permit be obtained by a registered plumber for changes to plumbing.

The following table (table 4-1) outlines the steps required to obtain a permit for construction and the renewal process in the City of Westmount. This information is available on the City of Westmount's website, following the links from the Urban Planning Department.

STEP 1: Consult the Bylaws	Determine which bylaws apply to your particular situation. These include but are not limited to, zoning, subdivision, building, and demolition bylaws as well as the plumbing and fire codes.
STEP 2: Consult Guidelines	New buildings and alterations which affect the exterior of a building must also respect the Guidelines for Renovating and Building in Westmount. The introductory text outlines how to proceed and assists in determining what kind of work is suitable for your property or building
STEP 3: Prepare Proposal	Based on your needs and budget as well as what is permitted in the bylaws and guidelines, determine the scope and nature of your project and have drawings prepared.
STEP 4: Submit Application	Submit an application including the documents and information listed in the Submittal Requirement table, available for download.
STEP 5: Plans Reviewed by City	All applications for building permits are examined by the Board of Inspections to ensure compliance with the applicable bylaws. Applications submitted before the end of the day on Tuesdays will generally be reviewed at the Board's weekly meeting on Thursday morning. 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 meeting. The committee may require changes or deny approval of a project for reasons of planning and aesthetics. You can call the Urban Planning department the day following the meetings to obtain the unofficial results of your submission. Official minutes of both meetings are generally confirmed within one to two weeks and are sent to the applicant immediately thereafter. If the proposal was refused, you can make the necessary corrections and submit the revised proposal. The recommendations of the Planning Advisory Committee are finally presented to the Council meeting for approval.
STEP 6: Obtain Permit	The building permit must be placed in the window or other prominent place at the construction site. A copy of the approved plans associated with the issuance of the permit must be kept on the site. Any changes from the plan must be brought to the attention of the Urban Planning department immediately and requires review and approval in the same manner as the original application. A building permit expires after six months if no work was undertaken at all or was started and then suspended for four consecutive months. A new request must be submitted to renew an expired permit, which must comply with any new bylaws or guidelines. Work on the exterior of a building must be completed within 12 months; work on the interior within 18 months. Refer to bylaw 1300 concerning permits and certificates.
APPEALS	Officially there is no formal appeal process. However if a project is refused, or if the applicant is unhappy with the PAC's decision, he/she may ask Council to hear an appeal. City Council reviews the appeal and renders a final decision on the project.

TABLE 4-1: Steps required in obtaining a permit for construction

All applications are seen by the Board of Inspections (BOI) to ensure projects satisfy zoning bylaws and conform to code. Once a project has been approved by the BOI it may be granted a permit or, if there are any alterations the exterior of a building, it must be reviewed by the Planning Advisory Committee (PAC). Based on the type of intervention planned, various documents are required (See Appendix G). The PAC may need to review plans several times before a permit is issued. Thus, given that the process can take time, the city advises people "for their own protection to obtain a permit first, before signing any contract, ordering materials or starting work so that you are not left with supplies that cannot be used or work that must be redone" (City of Westmont, 2007) .

Projects identified as having smaller and very little impact are reviewed by one member of the PAC, rather than the full committee, saving time for all parties as well as money for the city.

Westmount's permit issuance process is outlined on the city's website. With the adoption of the SPAI bylaws the number of projects the PAC has to review has increased significantly.

4.2. The Permit Issuance Process in the Town of Mount Royal

As is the case in Westmount, the Site Planning, Architectural and Integration bylaws are applied to the whole municipality of the Town of Mount Royal. Their *Comité Consultatif d'Urbanisme (CCU)* is the French equivalent of Westmount's PAC. The communities have a similar demographic profile.

TMR's CCU has six members, three of whom are either architects or urban planners; currently there are three architects on the committee. Three members are residents of the municipality named by resolution of council, two are elected officials named by resolution of council, and at least one of the following persons from the administration must attend the committee's meetings: the director general of the city, the city engineer, or the director of Urban Planning. Architects receive a remuneration of

$200.00 a meeting, lay residents receive $175.00. The planning committee meets once every two weeks, beginning at 8:15 am, usually finishing around noon. In an interview conducted on July 2, 2010, the director of Urban Planning explained that her plan examiner attends all the CCU meetings. The plan examiner also prepares the CCU agenda and presents the requests to the CCU during the meetings. Both the director of Urban Planning and the plan examiner act as secretaries of the CCU.

As is the case in Westmount, any modification to the exterior of a building or to plumbing requires a permit. However, where Westmount has the BOI assess all applications, in TMR, on a bi-weekly basis, a plan examiner reviews and evaluates every permit application to verify compliance with code, zoning, and construction bylaws. Once final plans are submitted, the plan examiner asks for an estimated start-up construction date so as to better prioritize the files and the issuing of permits.

Both cities' websites review the application process and identify what is needed and under what circumstances a permit is necessary however, TMR does not supply a step-by-step break down of the process, instead the description provides an overview of the process. What was originally developed by the department director as an internal document, intended to help city staff and new employees verify zoning of specific properties, has now been made available to residents presenting a step-by-step procedure helping them locate their home within the zoning grid of the city, as well as providing them with site-specific information regarding allowable perimeters and property setbacks.

One significant difference between Westmount and TMR is TMR allows minor variances. The circumstances under which the town will consider a variance would only be to correct minor non-conforming conditions of a property. Minor variances go to the CCU first, followed by a public notice of motion regarding the application. A decision is made

at a public meeting of council regarding the application which, if positive, means a resolution allowing the variance is adopted at the subsequent council meeting.

The appeal process is the same in both cities, wherein, at the discretion of council, an applicant may appeal his or her project to council.

4.3. The Permit Issuance Process in Outremont

As previously mentioned, the SPAI bylaws are also applied throughout the borough of Outremont and, as is the case with TMR, Outremont's demographic profile is very similar to Westmount's. However, Outremont's permit issuance process differs slightly from that of Westmount and TMR.

To begin with, the permit application form is available online to download from the borough's website, as well as their SPAI, or *Plans d'implantation et d'intégration architecturale (PIIA)* bylaws. Outremont gives a brief description of the circumstances which require a permit.

The size of a project will determine what route an application will take in the process. Minor projects, depending on their nature, can be issued a permit the same day by the employee at the counter. However, all permit applications that need to go to the CCU are vetted by a technical committee, which consists of the director of Urban Planning, the chief urban technician and a technical agent who meet every week. They devote most of a day to ensuring projects conform to zoning bylaws and code standards. Architects submitting projects are able to meet with the technical committee to explain the work and get feedback. The technical committee presents the plans to the CCU.

Outremont's CCU is made up of eleven members, much larger than in Westmount and TMR. The members include the mayor, who is the committee's president, two vice presidents who are among the professional members of the committee, six professional members (background need not necessarily be in architecture), and four citizens. There are currently five architects and a Forestry engineer. Two members of the administration

are present, the director of Urban Planning (the current director is an architect himself), and the chief urban technician who prepare the agenda and record the minutes. The urban technician presents power point versions of the proposed projects to the committee. As in Westmount and TMR, the CCU meetings are held *in camera.* However, Outremont is unique in that its meetings are held once monthly. On average, CCU members look at twenty to twenty-five projects at each meeting. The monthly meetings begin at 6 pm, generally finishing at 9:30, rarely going beyond 10 pm. None of the professional members or citizens is paid; the positions are strictly voluntary. Outside of the mayor, no other elected officials sit on the CCU. The CCU also serves as the Demolition Committee.

The director general and the director of Urban Planning recently agreed that if a project is rejected by the CCU more than twice the architects would be permitted to make a presentation of the case to the committee. Appeals may go through the director general, who acts as a mediator between the resident and the CCU. In an interview the director general said he typically has one case a week brought to his attention. Appeals also go through the councillor responsible for the district. In a telephone interview with the director of Urban Planning, he noted that if a project is truly at an impasse he invites the architect and two or three members of the CCU to meet and work through the problem. He has found the arrangement highly successful.

As is the case in TMR, Outremont allows for minor derogations. The director general noted that one minor derogation case is presented to council every two months.

4.4. The Permit Application Process in Saint-Laurent

While the borough of Saint-Laurent bears little resemblance to Westmount, its CCU is distinct in that all its meetings are held in public.

The CCU in Saint-Laurent is composed of six members, two of whom are elected officials. The other four are nominated and are residents of the borough. These

members have professional backgrounds that contribute to the decision-making process. Currently there are two architects and two engineers. The mayor is an ex-officio member. An attending member of the staff of the Urban Planning Department takes the minutes. Borough residents receive a small stipend for serving on the committee. In an interview Alan DeSousa, the mayor of Saint-Laurent, he highlighted that every year he rotates the councillors' commissions, so that within a mandate, each councillor will have sat on the CCU twice.

The public meeting takes place the first Friday of the month at 7:30pm in the borough hall; the dates and times are publicized in the local paper, with additional meetings planned, if necessary, to accommodate all the agenda items.

The owner, the architect and/or developer are in attendance for their individual case. The architect or developer presents the project (which may include the use of PowerPoint). The members of the commission are then invited to ask questions. Any interested or affected neighbor may also attend. The question period is then opened to members of the public who address their questions to the president of the commission, who directs them appropriately. The public's concerns are either answered by the architect or the developer or taken into consideration by commission members.

Once projects have been through the public process they are examined by council in caucus about a week and a half later, where each councillor can express his/her opinion before the public council meeting. If quorum of council doesn't favor the project, or if they are of the opinion the project is not ready to be passed, it can be sent back to the architect or developer to be reworked. If there are more significant concerns on council's behalf, the project is sent back to the CCU for another evaluation, taking into account the issues raised by council.

4.5. The Permit Issuance Process in Pierrefonds-Roxboro

Pierrefonds-Roxboro, like Saint-Laurent, holds all of its CCU meetings in public, and both communities have done so for over twenty years.

When a resident or developer applies for a building permit, he or she is required to pay for the borough's analysis of the proposed plan's conformity with the SPAI bylaws. While the fee structure for the permit issuance process is steep, it is not self-financing. However, in the case of rates charged for projects of nine units or more, the process almost pays for itself. The urban planner conducts the reviews ensuring all projects comply with all the zoning and bylaw requirements. In a telephone interview, the urban planner noted that the last item checked in their process was if the project met with building code requirements.

The project is then vetted by a subcommittee of the CCU, which is an architectural committee made up of two professional architects and two members of the administration, the department chief of construction and the department chief of Urban Planning. The professional architects are paid per hour, at a rate established by the Architectural Order. The Architectural Committee (AC) meets a week before the CCU. The AC reviews all the qualitative and architectural aspects of proposed projects and makes recommendations to the CCU. In principle, the CCU accepts all the AC's recommendations. The CCU interprets the project from the perspective of the neighborhood, in terms of how well it integrates with the urban fabric. It also considers any possible concerns with the project's implementation.

City	Overall Process
Westmount	1. All applications begin with technical review to zoning, code and construction by-law adherence. 2. Permit issued for approved interior work. Approved exterior work referred to PAC. 3. PAC proposals go to Council for final approval
Outremont	1. All applications start with technical review to zoning, code and construction by-law adherence. 2. Permit issued for conforming interior work. Conforming exterior work referred to PAC. 3. PAC recommendations go to Council for final approval.
Town of Mount Royal	1. All applications begin with technical review to zoning, code and construction by-law adherence. 2. Permit issued for conforming interior work. 3. Conforming exterior work referred to PAC. 4. PAC recommendations go to council for final approval.
Saint Laurent	1. All applications begin with technical review to zoning, code and construction by-law adherence. 2. Projects submitted to the public meeting of CCU. CCU makes recommendations go to council for final approval.
Pierrefonds-Roxboro	1. All applications begin with technical review to zoning, code and construction bylaw adherence by an Urban Planner. 2. Permit issued for conforming interior work. Conforming exterior work referred to Architectural Sub-Committee (AC) then referred to PAC-recommendations go to Council for final approval.

TABLE 4-2: Overall Process of each community

The CCU in Pierrefonds-Roxboro is made up of ten people, six of whom are residents. Presently, of the six, one is an architect and another is employed as a building inspector in the borough of Montreal North. The residents are paid $100 per meeting attended. Three members of the administration sit on the board but do not vote: the director of Urban Planning, the chief of the Division of Urban Planning who takes the minutes and an urban planner. The tenth member is an elected official who chairs the commission. The CCU meets once monthly. The agenda for the public meeting is posted on the borough's website the Friday before the Monday meeting. Meetings are held the second Monday of every month, beginning at 5 pm in caucus, where the projects being presented during the public meeting are reviewed. At 7:30 pm, the public meeting begins. A short presentation is made of each project, following which members of the public are invited to ask questions of the commission. If commission members are

unable to answer a question, it is re-directed to either the property owner or the developer. If the Architectural Committee and the CCU have approved a project and the project is conforming, the CCU can decide if it is necessary for the project to be presented publically. However, council has the final say if a project is presented to the public. All projects greater than nine units, due to impact on the surrounding area, are presented to the public. If the CCU believes a project will have a sizable impact or if members have outstanding concerns regarding a proposed plan that have not been resolved, the CCU can postpone the decision. After a project passes through the public process, the CCU submits it for council approval. Once council has approved it, the decision is final. There is no appeal process. Projects are rarely rejected and instead postponed until the citizen follows through with the CCU's recommendations. An unsatisfied resident may ask that the project be put on the council's agenda; however, since council generally abides by the recommendations of the AC and the CCU, it would very likely reject the case.

The borough decided to have its CCU meetings in public for purposes of transparency. However, as the urban planner explained, while some questions are answered in the public process, when a project is controversial, the questions that are raised in the public meeting are inevitably re-visited at the public council meeting.

Every community has distinctive elements to its permit issuance process. Tables 4-2, 4-3 and 4-4 are a comparative summary of key elements and approaches of each of the five communities.

City	Duration	Technical Review Boards' Structure	Meetings	Architectural Review Boards' Structure
Westmount	Major/Controversial projects- multiple submissions	All applicants go to Board of Inspections consists of 4 building inspectors, 1 UP technician, UP director and UP Division Chief.	Once weekly, mornings, in private.	PAC: 6 members, 3 architects (paid), one councillor, 2 administrators (UP Director and second administrator)
Outremont	Small projects fast-tracked, some same day; Major/Controversial. Projects- resubmissions possible.	All applications go to Technical Committee: consists of the director of UP and the Urban Technician.	Once weekly, all day, in private	PAC: 11 members; 6 professional (currently 5 architects, one forestry engineer, no remuneration), 4 citizens, the Mayor, Urban Planning Director.
Town of Mount Royal	Small projects fast-tracked, some same day. Major/Controversial projects; minimal resubmissions	All applications are Reviewed by the Plan Examiner. .	No meetings required.	PAC: 6members; 3 professional architects or planners, (paid) (currently 3 architects), 3 citizens (paid) 2 elected officials, 1 administrator
Saint Laurent	Small projects fast-tracked. Major/Controversial projects, minimal resubmissions. 4-6 months-max.	All applications are reviewed as they come in.	No meetings required.	PAC: 6 members; 4 residents, small remuneration, (currently, 2 architects, 2 engineers), 2 elected officials, 1 administrator..
Pierrefonds-Roxboro	Small projects vetted by Construction dept. 3-4 weeks Major construction vetted by UP dept.- 30 – 60 days maximum.	All large project applications reviewed by an Urban Planner reviews.	No meetings required.	PAC: 10 members; 6 residents, remunerated (currently 1 architect and 1 building inspector), 1 elected official, 3 administrators from Urban Planning.

TABLE 4-3: Comparison of the duration, technical boards' structure, meetings and architectural review boards' structure of each community

City	PIIA Coverage	Meetings	Process	Appeals	Best Practices	Comments
Westmount	Entire territory	Bi-weekly, in camera 8:30 to noon.	Plans may be studied at several meetings before discussions with applicant or architect	On request, Council may agree to hear refused cases in private or in public	Very thorough the PAC review intended to preserve historical heritage.	BOI process cumbersome; the PAC decisions may be professionally subjective and inconsistent in interpretation of architectural guidelines.
Outremont	Entire territory	Monthly, in camera 6/9:30pm	First discussions with architect, then plans may need to be studied at more than 1 meeting	On request or due to impasse. Appeals heard by UP Director, 2 members of the PAC and architect.	Initial meeting of technical committee with architects vastly reduces need for resubmissions.	Administration's role in ensuring the PAC decisions adhere to guidelines, rather than reinterpreting design helps ensure consistency of decisions.
Town of Mount Royal	Entire territory	Bi-weekly, in camera 8:15- 12.	Plans studied at the PAC generally accepted after I submission	On request, Council may agree to hear refused cases in private.	Department's solution-driven philosophy results in minimal resubmissions and appeals	Internal cooperation ensures projects make it through the process with the least amount of trouble.
Saint Laurent	Specified Zones	Monthly, in public, 7:30pm	Plans vetted in public, studied at the PAC generally accepted after I submission	On request, Council may agree to hear refused cases- very rare.	Rotation of Commissionerships, exposes Councilors to all facets of city administration.	Continuous internal monitoring of projects facilitates progress within the process.
Pierrefonds -Roxboro	Specified Zones	Monthly, in public, 7:30pm	Plans vetted in public as per AC and Council's recommendations	There is no appeal process.	Extensive screening of projects at outset means projects rarely rejected. No resubmissions.	Structure of UP department into two sections: UP reviews with major and new construction, Construction department reviews all minor projects. Division of projects means clear division of labour and more manageable workloads.

TABLE 4-4: Comparison of the PIIA coverage, meetings, process appeals, best practices and comments of each community

4.6. The Public Model of the PAC in Boston and Martha's Vineyard: Pros and Cons

To gain insight into the impact of holding planning commission meetings in public, the state of Massachusetts was chosen as state legislation requires that all architectural commissions meet publically. Specifically, the neighborhood of Back Bay in Boston was selected as it bears a striking resemblance to Westmount, especially in terms of its housing stock, built form and architectural heritage. Martha's Vineyard was chosen for two reasons: first of all, the architect and former Westmounter, Mark London, presently heads the Heritage Commission in Martha's Vineyard, and because his perspective on the issue of commissions meeting in public was in sharp contrast with the view expressed by the senior preservation planner in Back Bay. Mr. London was interviewed by telephone. He discussed both his history with Westmount's Architectural Commission (so named in his day) and his current position. He noted that Westmount's permit issuance process and that of Martha's Vineyard are vastly different. He views the process in Martha's Vineyard as far more time-consuming; obtaining approval for simple projects can take months, mostly owing to the requirement that meetings be held in public. In contrast, Mr. London talked positively about Westmount, in that they encourage people to come in with basic drawings to get feedback and guidance before spending any money. The timeline for getting a project approved in Westmount was vastly shorter and more efficient than that of Martha's Vineyard. However, as Mr. London pointed out, it has been eight years since he served on Westmount's Architectural Commission, and he left just as newly enacted provincial legislation altered the regulatory framework of Planning Advisory Committees. He is therefore unable to comment on the status of the process in 2010.

Mr. London says that the Massachusetts legislation is restrictive and prevents proper dialogue from taking place. He described the commission, its composition and the process in Martha's Vineyard. The commission itself is democratically constituted and substantial, with seventeen members: nine are elected by the population, six are

appointed, representing each of the six towns which make up Martha's Vineyard and two are members of the administration, one of them acting as chair. Unlike Westmount, where members of the PAC, by virtue of Westmount's own regulations, must have professional backgrounds in architecture, there is no guarantee members on the commission in Martha's Vineyard will have relevant experience to bring to decisions.

Mr. London indicated that the commission is able to deal with far fewer cases because meetings take place in the public domain. The commission can only deliberate and formulate an opinion once the public hearing is closed. As chair, Mr. London mediates the discussion between the members of the commission and the applicant.

The project is then vetted by a five-member subcommittee, which analyzes the benefits and detriments of the project. Recommendations are sent back to the commission, which generally accepts the recommendations and grants the project approval. The subcommittee's work adds a week or two to the process.

Mr. Douglas Young, a senior preservation planner who sits on the Back Bay Architectural Commission in the City of Boston, was also interviewed about commissions meeting publically. The discussion with Mr. Young focused on the public process, not on the inner workings of his commission. He wholeheartedly endorses the notion of public commissions, and would like to see expanded access. Mr. Young would like audio transmissions of the hearings, to be available by clicking on a link online, as well as decisional letters published on the website thereby reaching a wider readership. He believes that so much urban legend arises around commissions reaching decisions in an unreasonable way. This misunderstanding occurs because the public does not fully understand the commission's mandate or the regulations to which they are bound to comply. He believes conducting deliberations in a public forum is beneficial to the public. It undercuts the false notion that commissions arrive at decisions unreasonably or capriciously. Mr. Young feels that caucus meetings of planning commissions are a great mistake; they "invite misunderstanding; nothing is gained by excluding the public"

(Young). To elaborate, he cited a portion of the preface to his commission's enabling statute:

> The purposes of this act are… to promote the economic, cultural, educational and general welfare of the public through high standards of design throughout the Back Bay Architectural Commission's mandate. (Young)

Mr. Young pointed out that holding planning commission meetings in public ensures the mandate and its standards are upheld. The bylaws overseeing internal governance of the commission are more formulaic in their intention. Theoretically, the Back Bay Commission should make decisions based on five criteria, the last of which states, "any other factor the commission deems appropriate" (Young). Mr. Young stressed that the commission does not ever invoke this last criteria, as it is far too vague.

In response to an inquiry concerning the City of Boston being broken down into character areas like Westmount, Mr. Young stated Back Bay had no prescribed mechanisms to distinguish between building types or areas. However there are buildings whose heritage qualities make them more significant, and this is taken into consideration with each project.

In soliciting Mr. Young's views on whether a project-reviewing commission should seek input from the project's architect and client at the beginning of the process, he said that in not soliciting their input at the outset, the design review exercise:

> becomes very insular and an exclusive enterprise; it says to laypeople that they are not sophisticated enough to understand some of the nuances involved in this process. After all the process is the stewardship of our urban environment. (Young)

Although "all materially affected abutters" must be notified within eight days of the public hearing," he was pleased to mention the administration exceeds that requirement

with “hearing agendas typically being published twelve days prior to the hearing.” (Young)

Finally, Mr. Young agreed that public participation can result in buy-in among architects, developers and the building trades. He noted that architects and contractors have often mentioned to him that having a good track record with the commission has added value to the services they are able to offer their clients. Some have even indicated that the commission and its requirements help them to both attract more interesting projects and to work to higher standards of design, materials and workmanship than the marketplace might otherwise support.

4.7. Best Practices

The processes in other municipalities and boroughs in Montreal and Boston, Massachusetts suggest a number of unique and noteworthy practices and procedures for Westmount.

To begin with, greater access to online details is available regarding circumstances for which a permit application is required. Several communities make it convenient to apply by making application forms available to download as a PDF files on their websites. Despite email being the conventional form of correspondence, only a couple of communities request email addresses on their application forms.

The amount of information required on application forms varies; some boroughs in Montreal and the municipality of Pointe Claire require fairly detailed information on their applications, and others substantially less. One would presume that a greater amount of information available at the outset of any given project would affect how quickly it would move through the process. In principle this should be the case however, as Mr. Hazan pointed out, “if no one reads the dossier, it doesn’t matter how much information is included. Its inclusion becomes irrelevant” (Hazan).

Outremont has an effective approach, where the technical committee, the equivalent to the Board of Inspections in Westmount, meets with the architect responsible for a project who explains the proposed plans. This preliminary discussion significantly diminishes the need for resubmissions as the technical committee understands the architect's thinking, and is fully versed in the borough's bylaws and SPAI/PIIA bylaws. As such, committee members are able to advise and guide the architect, in non-adversarial conditions, as to how the project might be modified; this contrasts with the procedure in Westmount where architects are only asked into the process after a project has been resubmitted a number of times.

Outremont CCU meetings take place in the evening, which accommodates the professionals and residents who serve on the board and possibly broadens the pool of potential applicants whose time availability is better in the evenings.

A practice adopted in the Town of Mount Royal is to ask applicants when they expect or need their permit. As not everyone requires a permit immediately, the answers help determine the order in which files are addressed.

Three essential elements in TMR's process facilitate the issuing of permits: the deadline requirement for projects to make the agenda, the synchronization of the CCU and city council meetings and the prompt and efficient production of minutes. For a project to make the agenda, all information must be submitted a week before the CCU meeting. This allows for sufficient time to either acquire supplementary information or request omitted documents, thereby ensuring dossiers are complete.

With CCU meetings held every second Friday, and council's the last Monday of the month, the CCU is able to formulate recommendations that are quickly adopted by council, accelerating the issuance of permits.

Minutes prepared during the course of the meeting receive verbal approval by CCU members and are typically ready by day's end. This systematic and consistent dispersing

of minutes facilitates the issuance of permits and also benefits architects who count on timely decisions.

To further facilitate the process, the current Urban Planning director in TMR will, when necessary, make overtures to the members of the CCU with difficult files, such as emailing board members asking for "comments that could help speed up the process" (Hill). This is an illustration of her role as she perceives, to be that of a mediator, and her initiatives to reach a workable solution.

While the five planning committees in this project have at least one elected official as a member, Saint-Laurent's mayor has two councillors serving on a commission and alternates commissionerships every year, so that within a mandate all councillors will have served on each commission twice.

Finally there were best practices in the appeal process. As mentioned, in cases of gridlock in Outremont, the director of Urban Planning will intercede with two members of the CCU to find a workable solution.

In TMR, the director estimated council will hear appeals for ten difficult cases annually. However, the majority of cases never make it to an appeal process with council due to the director's intervention, in an attempt to find a solution and avoid a confrontation. During the course of an interview, the director explained that with twenty-one years' experience she can detect when an individual has the intention of appealing a case to council. In such a case she deliberates with the CCU, to find a solution to satisfy the CCU's requirements and the applicant's needs. Council is made aware of the final recommendations and generally approves the proposal; however in some instances the council will make its own modifications to the project before granting approval. The majority of the time the cases are resolved without having to go through what is generally an antagonistic process.

These procedures collectively represent the exceptional components from the boroughs and municipalities studied in this report.

Survey Results

5 Survey Results

The comparative analysis of permit issuance processes in neighboring municipalities and boroughs, as well as the differing views of public planning commissions in communities in Boston, Massachusetts, generated a compilation of best practices. This analysis also puts Westmount's process into perspective, helping to shed light on where the process succeeds and where the gaps and weaknesses may be. The survey of residents who experienced the process with Westmount provides another vantage point, the results of which will further help gauge the strengths and weaknesses in the system.

The purpose of conducting the survey was to sample residents' experiences of the permit issuance process to determine if, collectively, their responses supported this project's hypothesis: that the current system is arduous, time consuming and costly. It was also intended to shed light on consistently cited shortcomings in the process for which solutions will be recommended. As mentioned in the Methodology, the prerequisite for the sampling were applications which had to go through the PAC. Submissions were taken from the three peak months in both 2009 and 2010 to ensure a sufficient number of applications to make the survey substantive and to guarantee most candidates had completed the process.

The intention of the survey was to glean personal assessments of the process from a randomly-selected group of people. The majority of the questions, eight in total, require that respondent quantify the degree to which they approve of the elements in the process. The remaining questions specifically target the scope and duration of the project and any further comments. (See Appendix C)

A total of two hundred and ten surveys were mailed; of those, sixty-six surveys were filled out and returned, and four were returned un-opened postmarked "unclaimed". The majority of the surveys were mailed on June 15, 2010, and the remainder on June 17, 2010, which was a week prior to the beginning of summer break. The response rate was 31%, which is quite high.

To begin with, the responses were grouped into two camps: those residents who were satisfied with their experience and those whose experience was unsatisfactory. The satisfied respondents consistently rated their answers very positively and had limited comments. The unsatisfied group is larger and can be subdivided into degrees of discontent. Almost without exception, these residents comment on their experience.

There was a presumption a correlation would exist between the magnitude of a proposed job and the level of satisfaction; in other words, the larger and more complicated a project, the greater the level of dissatisfaction was expected to be. A logical deduction from that was the satisfied group of respondents had all undertaken minor projects. Neither hypothesis was correct, in both groups the level of satisfaction is not linked to the size of the project and both groups undertook projects that range from changing windows and landscaping to putting on an exterior addition. Therefore, the study links the level of satisfaction with the process itself.

In order to present a truer sampling of responses to the numerically-rated survey questions, those respondents expressing a neutral position were removed. While it is impossible to determine whether an impartial vote may be aligned positively or negatively, in this survey the preponderance of supplementary statements are negative and critical. Data was also presented in pie graphs with the statistics were grouped into 'agree' and 'do not agree' categories. Again, to be consistent, the neutral data was removed.

5.1. Results of the Survey

Certain preliminary findings are unambiguous. For instance, in response to the first question, the majority of respondents strongly agreed with the statement that city staff was cooperative throughout the process as figure 5-1 illustrates:

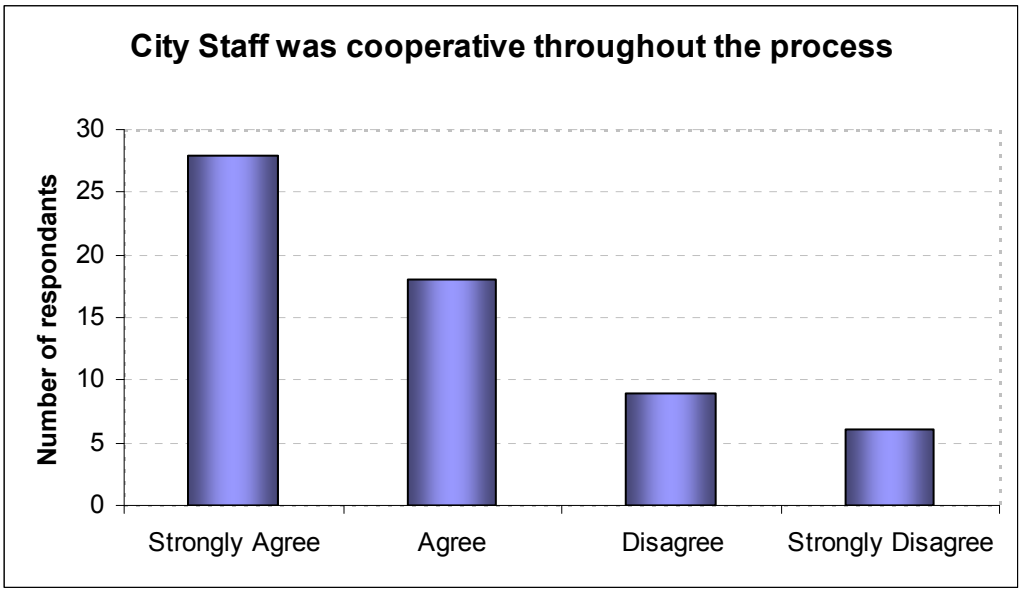

FIGURE 5-1: City Staff was cooperative throughout the process

This is a very positive reflection on the city staff, whose service to the residents is crucial.

The sixth statement, the sense of accomplishing the goals of residents' renovation projects, had the mainstream strongly agreeing as shown in figure 5-2.

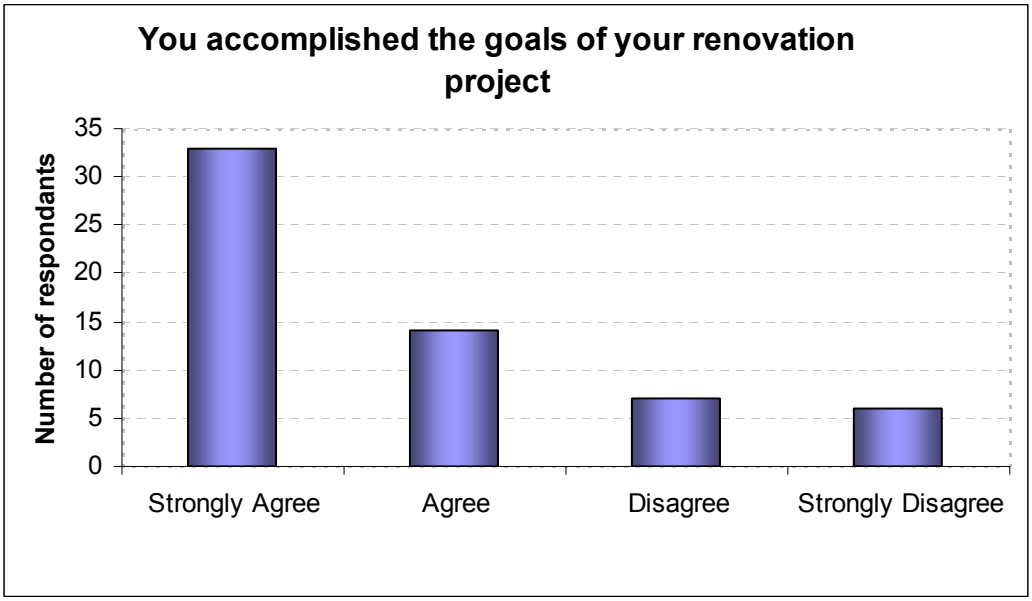

FIGURE 5-2: You accomplished the goals of your renovation project

While this result is very positive and demonstrates the vast majority of people do accomplish the original goals set out in their projects, it is important to note that the accompanying comments clearly express their frustrations with various aspects of the process (See Appendix B). As mentioned, the intention of surveying people from 2009 was to ensure they had completed the process. As the majority of respondents had finished their projects they were able to evaluate if their renovation goals had been achieved. However, respondents expressed dissatisfaction over the number of resubmissions, arbitrary rules, difficulties in reaching people and the system being very bureaucratic.

The results of the remaining numerically-rated questions were not as pronounced, but were nonetheless indicative of users' impressions of their experiences, and supportive of the hypothesis of this report: that parts of the permit issuance process need reforming to increase efficiency for administration and users.

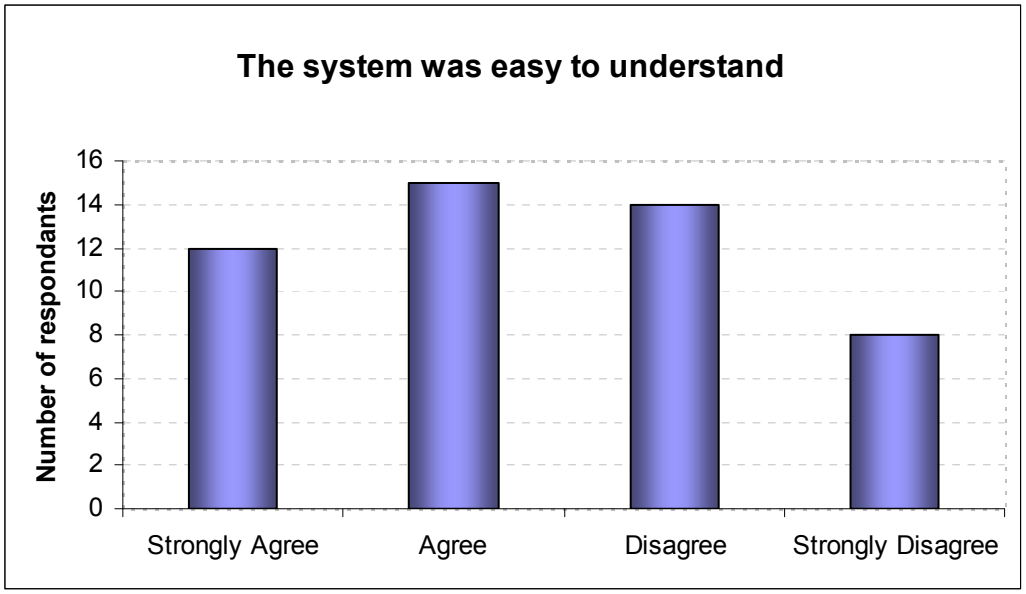

FIGURE 5-3: The system was easy to understand

The data collection for the second statement, seen in figure 5-3, relate to the system being easily understood. Results show just over half the users find the system easy to understand. However, 45% of the respondents disagree to strongly disagree.

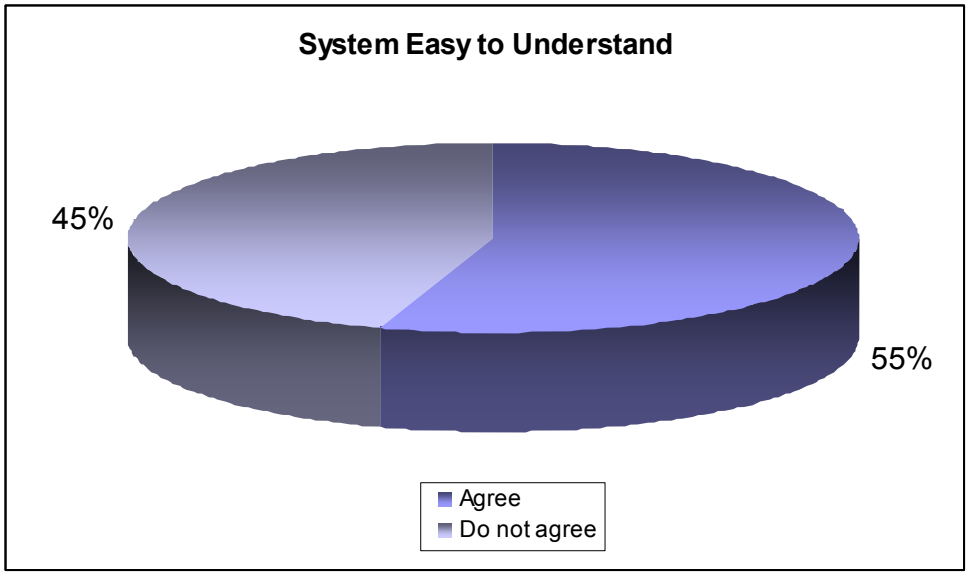

FIGURE 5-4: System Easy to Understand

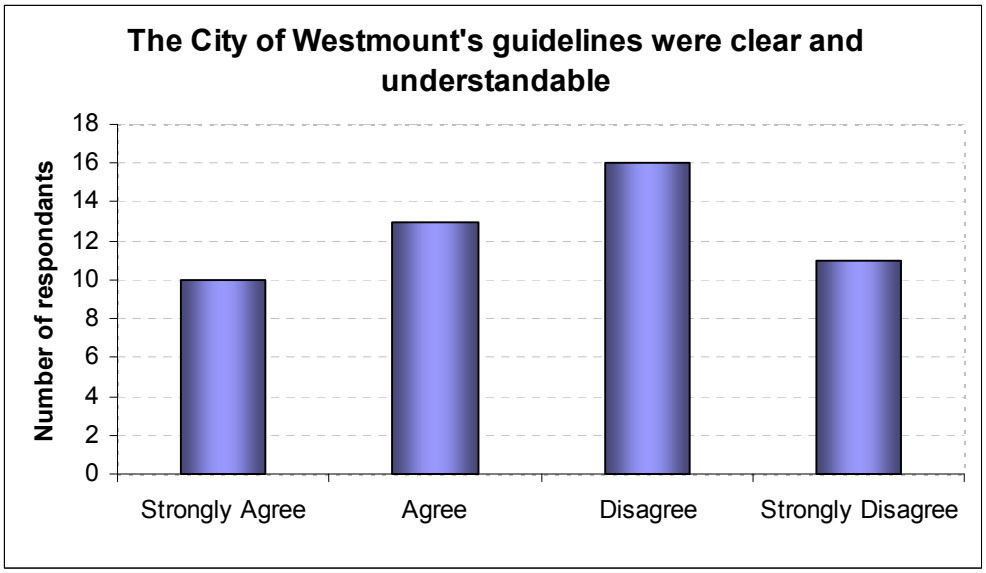

FIGURE 5-5: Answers to Questions on the Clarity of Guidelines

The data and comments reveal the majority of respondents found the guidelines were not clear. Reconfiguring the responses to be grouped into 'agree' and 'do not agree' categories in figure 5-4, the results are more compelling. Other types of study might require organizing focus groups or a round-table discussion of representatives of all the

users of the system. Findings from these discussions could be instrumental in developing a survey aimed at assessing elements within the current system.

The data in figure 5-6 are fairly compelling, illustrating how residents gauge the clarity of the guidelines, with the majority of respondents answering negatively. Many of the accompanying comments from the survey referred to the guidelines being rigid, and needing updating and to be more specific.

Again, this is only a preliminary study. It would be important to analyze what detracts from the guidelines' clarity. Is the problem they are outdated and need to be revised to be in step with current building trends and timely requirements? In order to make the guidelines clearer and more easily understood do they need to express ideas in principle? Or would making them more specific improve their clarity as, Mayor Trent suggests, making them far more prescriptive, thereby removing any degree of interpretation?

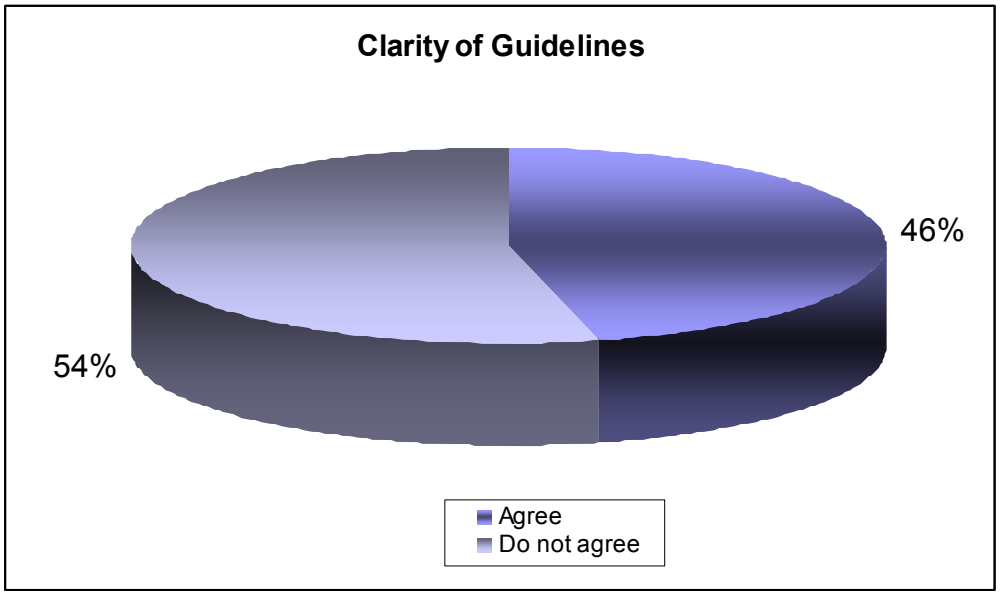

FIGURE 5-6: Clarity of Guidelines

The next issue assessed was the reasonableness of including supplementary documents as shown in figures 5-7 and 5-8.

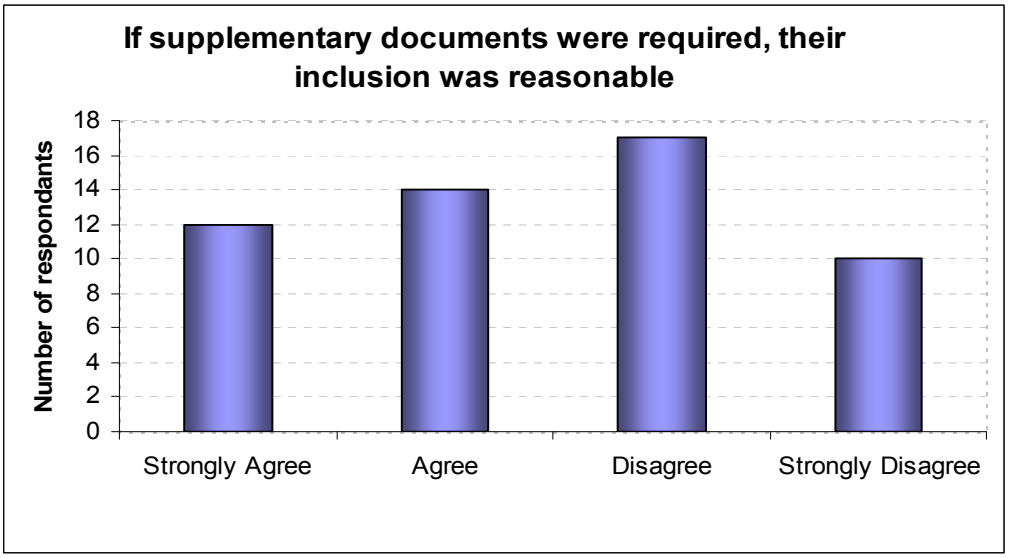

FIGURE 5-7: If supplementary documents were required, their inclusion was reasonable

The respondents were equally split in their views, as presented in the pie chart in figure 5-8. However, it should not be overlooked that proportionately, as shown in the bar graph 5-7, most replies 'disagreed' that the supplementary documents were necessary. A possible solution would be to create a list of all documents which may be required by the BOI and PAC. The list of required documents could be categorized by project type and made available online as well as at the department desk.

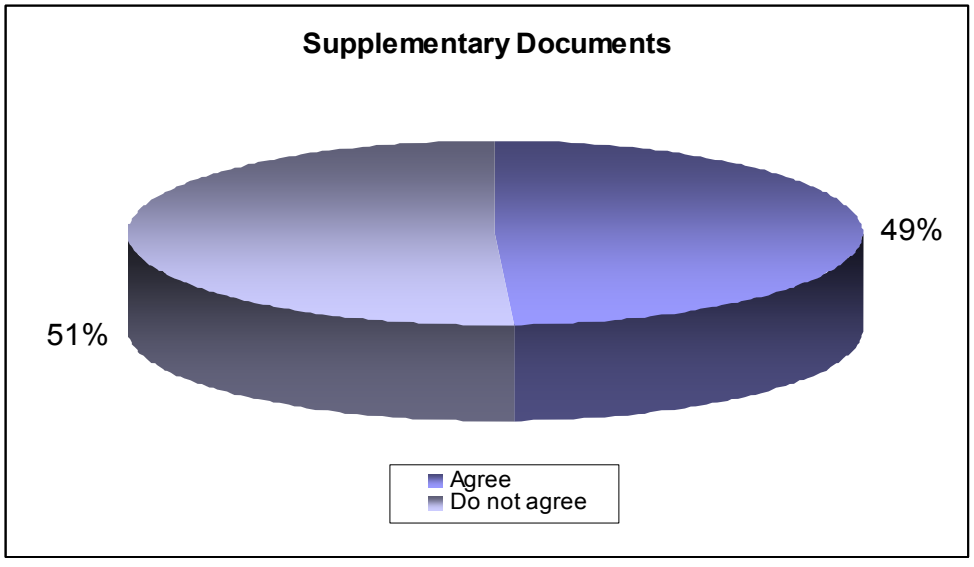

FIGURE 5-8: Supplementary Documents

Currently, a PDF document outlines information that is required versus information that may be necessary, depending on the type of intervention. However, it also stipulates the department may request additional information depending on the nature of the proposal. The existing document does not allow for distinctions in what documentation may be needed by the BOI and the PAC, and perhaps independent lists should be drafted for each committee.

The next statement had users rate whether the duration of the process was in keeping with their expectations. In this instance, both the bar graph (figure 5-9) and the pie chart (figure 5-10) clearly indicate people felt the duration of the process went well beyond their expectations.

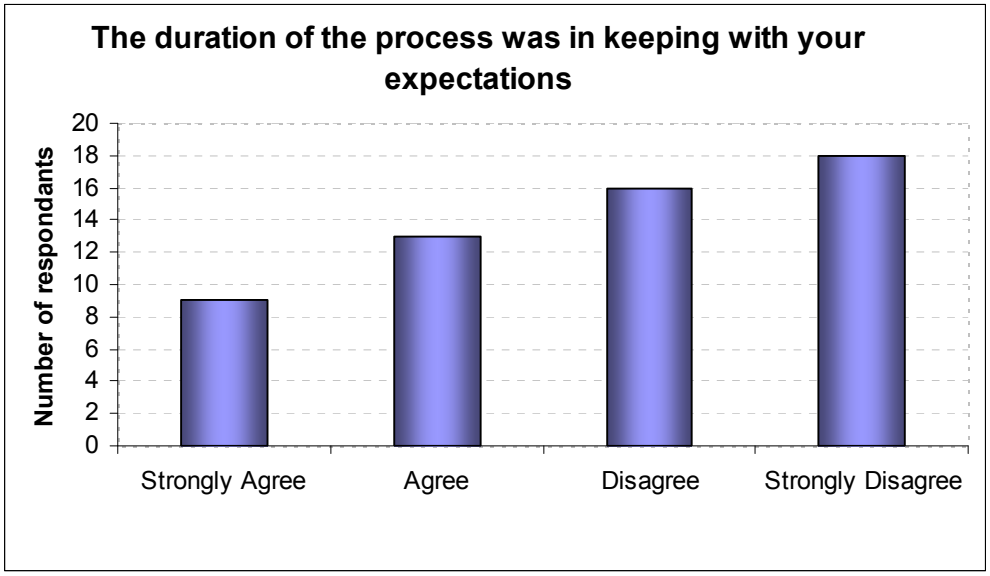

FIGURE 5-9: The duration of the process was in keeping with your expectations

It is unknown if this dissatisfaction is due to residents being uninformed or, if they are new property owners, they are unacquainted with the process. Do the problems originate with internal mechanisms which may need modifications, such as the synchronization of the BOI and the PAC meetings, or the distribution of the minutes? More in-depth analysis into the reasons behind people's dissatisfaction would elucidate how to formulate constructive solutions.

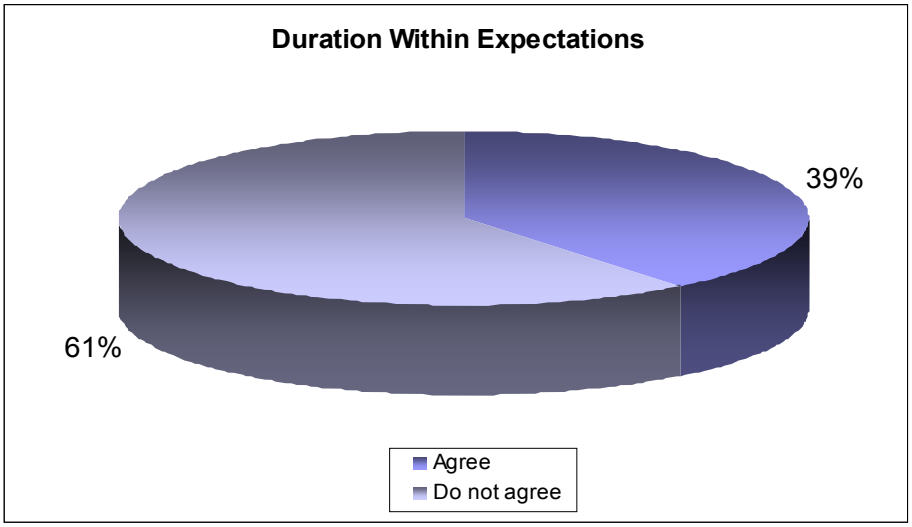

FIGURE 5-10: Duration within Expectations

The results of figure 5-11 show the range of durations of the process to obtain a permit. Of those surveyed, most candidates found the delay time fell into the category of 30-59 days. The distribution of categories of time delays shows the majority of applicants' time delays exceeded two months. It would be informative in subsequent studies to compare similar communities' delay times to those in Westmount, as it would give context to what constitutes a normative interval. Unfortunately, of the five communities participating in this report, none of them track the duration of individual projects.

Finally, the last numerically-rated question asked users to grade their overall level of satisfaction with the permit issuance process. As per figure 5-13, 56% of respondents were not satisfied with the process. Comments accompanying the surveys in Appendix B can serve as a starting point in identifying specific problems. The main components affecting residents' overall satisfaction were the length of time the process takes, how costly it is and the arbitrariness of the decisions. Ideally, further study would help clearly underpin residents' motives for being dissatisfied with the process, as well as highlighting possible solutions.

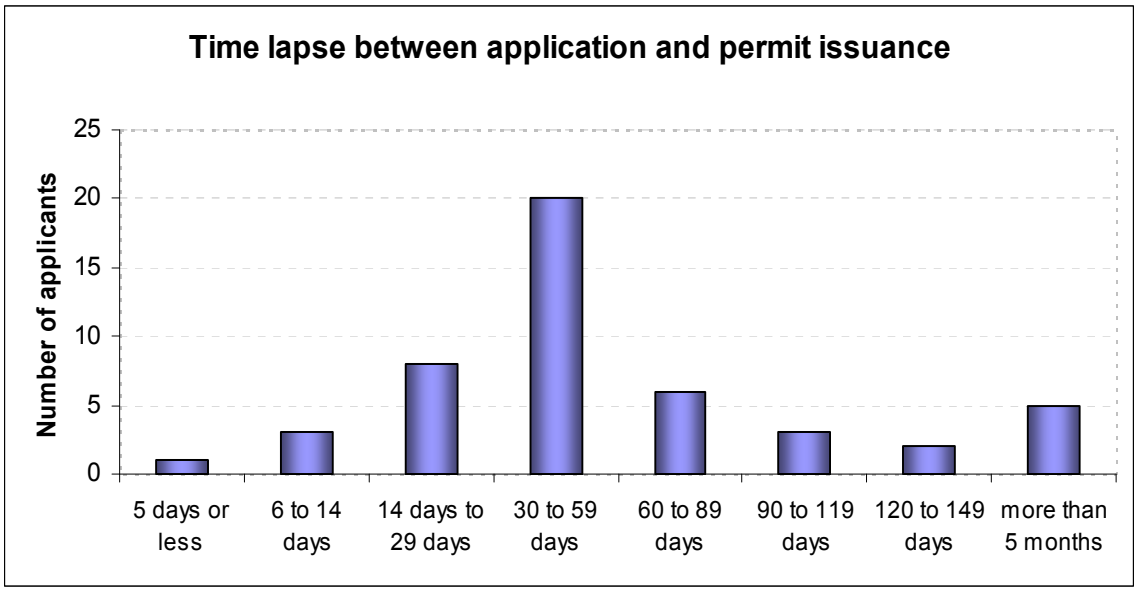

FIGURE 5-11: Time lapse between application and permit issuance

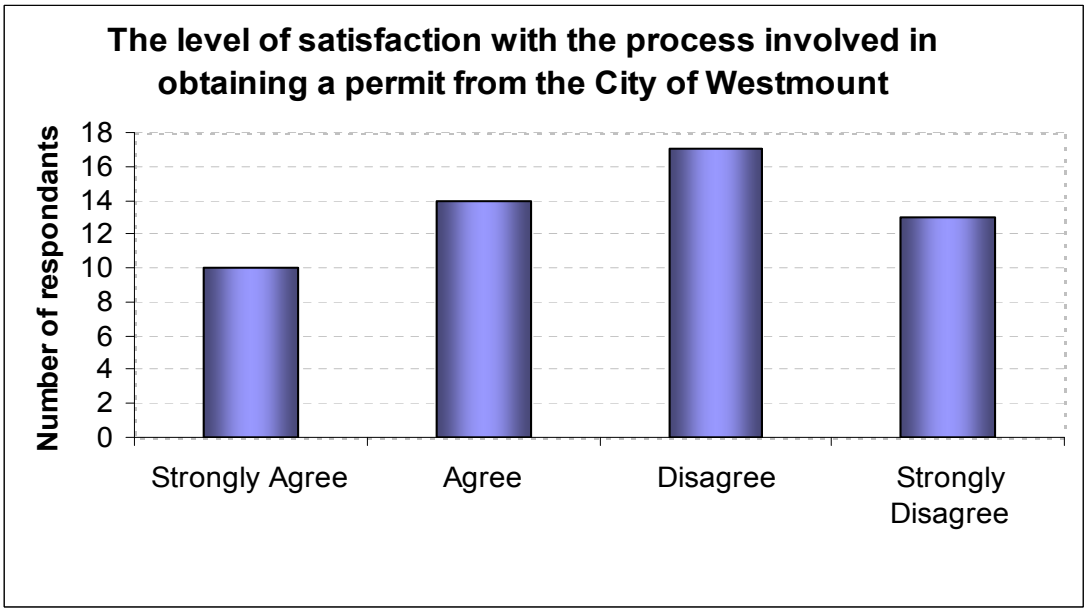

FIGURE 5-12: The level of satisfaction with the process involved in obtaining a permit from the City of Westmount

FIGURE 5-13: Overall Level of Satisfaction

The survey results suggest that there are problems with the current permit issuance system. While the majority of users are positive to very positive, concerns as evidenced in the charts above and the accompanying comments in appendix b, include: the process is too lengthy and costly and decisions seem arbitrary. The survey attempted to collect data from key areas in the process to serve as one of several sources of evidence from which to formulate recommendations.

The Strengths in the Current Process

6. The Strengths in the Current Process

Westmount's current permit application process has grown out of a regulatory process put in place well over a century ago. The community's forefathers were pioneers; regulations they implemented to govern the community's development were the first of their kind in North America.

From the outset, Westmount's zoning controls were stringent, protecting and managing the growth of the community which would eventually translate into its distinguished identity. To this day, Westmount maintains its reputation for rigorous and strict adherence to, and enforcement of, laws to safeguard its architectural heritage.

Regulations governing construction have evolved, becoming more complex to keep pace with changing trends, more sophisticated materials and increased demands on an already built environment. They are in large part the reason Westmount has been able to preserve its architectural integrity.

Among the strengths in Westmount's permit process are two relatively new tools put in place to provide guidance to homeowners and architects on suitable construction. One, as previously mentioned, is the subdivision of Westmount into thirty-nine character areas, by virtue of common distinctive architectural elements. This tool assists residents, architects, designers, members of the PAC and council in assessing what would contribute to a project's suitability to the area. The other tool is the categorization of all buildings in Westmount in terms of their architectural and heritage value.

Supplementary to this, information is available on the city's website, under the department of Urban Planning, as to when a permit is required, a step-by-step process in obtaining a permit, a description of the plan review process with an updated schedule for the current year, the guidelines, as well as an entire section devoted to the guidelines for building and renovating in Westmount. Several documents are available in PDF format to download such as, a chart outlining the circumstances under which

submittal documents are required, the city's character area map, a table of acceptable interventions and the complete and most recent version of Westmount's Planning Program.

The department has a staff of three urban planning technicians. As part of their responsibilities, they meet with property owners and professionals to provide advice on how to proceed with a project with respect to compliance and design development. Included in their responsibilities is the classification of files and zoning projects. The department's front desk is staffed by a permit clerk who takes care of all incoming applications and the department administrative assistant who takes care of all incoming calls and correspondence and filing. The Urban Planning Department also organizes public information and education sessions on specific topics. Architects interviewed for this paper endorsed this initiative, asserting that familiarity with relevant heritage issues helps demystify the permit issuance process. Unfortunately, the groups of interested residents who attend are generally not the residents who need the instruction in permissible construction and renovation projects.

Five full-time inspectors and one temporary inspector are supervised by a division chief. Together, they enforce zoning bylaws and ensure construction is in compliance with code specifications. They focus on helping building owners resolve bylaw non-compliance issues, as opposed to relying on imposing fines to settle the problem.

The department head is an architect, who has served in the position for over twenty years. She attends all the BOI and PAC meetings and is responsible for recording the minutes of the PAC. The director also sits on a number of committees with the City of Montreal including the *Comité permanent d'harmonization de la gestion de l'arrondissement historique et naturel du Mont Royal* and the *Table de concertation de centre ville ouest.* (When necessary she serves on various ad hoc committees concerning projects which touch Westmount, such as for the Montreal University Health Centre (MUHC) and Turcot developments.) The director has to accommodate four different

audiences: the residents, the architects, the PAC and council, juggling what are sometimes contrary or conflicting needs. Always conscious of adhering to her budget, one of the strengths the director brings to the department is looking for ways to maintain a balance between satisfying all legal and community needs while respecting the department's financial plan. In an interview she spoke of how the number of permit applications has risen since 1995, because more and more projects are subject to the SPAI/PIIA guidelines. This has been reflected in an overall increase in costs since 1995. While permits are issued right away for projects with negligible impact, 98% of the projects are still subject to the whole process. In an effort to reduce time and costs for all concerned, the Urban Planning Department is working on a proposal for council to amend the SPAI/PIIA bylaws to decrease the number of projects that must go through the process.

According to the director, Westmount's rules and regulations overseeing building and construction are generally respected. While people do complain about the lengthy time delays and how frustrating the process is, they appreciate the measures in place to preserve the community's architectural heritage, as was reflected in comments made in the survey.

Comments made by architects who are frequently involved in the process support the benefits to Westmount of having qualified members with professional architectural backgrounds serving on the PAC. One architect noted that in instances where a client is reluctant to heed the architect's advice, the PAC's professional judgments can be very helpful in supporting the architect's recommendations. Mrs. Gersovitz, a former chair of the commission, a professor of Architecture and a practicing architect, spoke about the importance of the members of the PAC being professionals in terms of the relationship of the PAC with council. She spoke of how historically the relationship rested on trust and the PAC's expertise. The PAC has always relied on the council supporting their recommendations. On this topic Mr. London, a former chair of the Architecture and

Planning Commission, the PAC's predecessor, added that property values were enhanced, due to the professionalism on the PAC and the rigorous process.

In summary, Westmount's guidelines and practices are widely seen as exemplary. The following section examines some of the weaknesses with the aim of identifying areas for improvement.

The Weaknesses of the Current Process

7. The Weaknesses of the Current Process

In order to make recommendations aimed at improving the existing system, it is important to be aware of the various types of problems from users' perspectives. Based on interviews with users, the Urban Planning staff, former members of the PAC and the former and current mayors of Westmount several areas of concern were identified. The key issues are that the permitting process is complicated to use, slow and costly. Factors underlying these problems are described below.

The two most significant problems concern the Planning Advisory Committee and were referenced by the majority of professionals questioned: the PAC's uneven application of the SPAI/PIIA bylaws and seemingly arbitrary recommendations; and the PAC's involvement in the design of projects. Other problem areas include:

- The costs associated with investigative work regarding the legality of specific situations having to be borne by residents;
- Communication and organizational difficulties between with the Urban Planning Department and both professionals and residents;
- Work being carried out without a permit;
- Instances where a permit is not required but the project nonetheless goes through the process; and
- The department's reluctance to approve the use of advanced building materials.

The original motivation to run for office, for both former Mayor Marks and current Mayor Peter Trent, who ran for office after an absence of eight years, was to preserve

Westmount's heritage, and to render the application process more manageable. However, as Mayor Trent, who was elected by acclamation in 2009, remarked:

> My feeling is that today, the same problems we were grappling with in the 80's are still with us. I'm worried about the creeping modernism in architecture, in that while it may be appropriate for other areas, we have a fiduciary responsibility as a Council to preserve our heritage in Westmount. (Trent)

7.1. Uneven Application of Bylaws

An example of the first issue, uneven application of the SPAI/PIIA bylaws, involves a project where a property has been subdivided and the construction of an additional building would mean converting a single family dwelling, built in 1895, into a semi-detached home. The new construction would be contemporary in nature. In comparison with the eighty homes on the street, it is one of only three of modern design, meaning 96% of the homes are traditional. Mayor Trent, having seen the proposed plans for the additional building and visited the site, investigated the guidelines confirming his presumption that the project was not in accordance with the city's guidelines. The SPAI/PIIA guideline 5.2.2 reads:

> If almost all buildings (85% or more) on a streetscape or in a character area have one or more common defining characteristics, the new building **must** conform to this and these characteristics". (Appendix K)

"This applies especially to a house to which an 'infill' is attached" (Sweeney 2010).

Mayor Trent stated council would agree to issue the project a permit "as long as it met the city bylaws" (Sweeney p. 2) Mayor Trent's reservations demonstrated the project as presented was inconsistent with the city's guidelines and that as such, new drawings would have to be submitted to the PAC.

A second example concerns a home with the highest heritage ranking, that of Category 1*, designed by a renowned architect at the turn of the century. The homeowner

wanted to add an additional storey to the home. In the process of revision the following wording describing the project appeared in the October 30, 2007 PAC minutes: The Committee has no objection in principle to the proposed increase to the height of the roof to render the attic habitable (Planning 33). The neighbor, Dr Keyserlingk inadvertently read about the project in a listing of projects provided a permit in the local paper.

> While the description did not provide the full scope of the project, it was nevertheless our only clue that about six weeks earlier the city had granted a permit to start such an undertaking in our hamlet. (Kerserlingk and Raymond p. 6)

The proposed intervention either completely obliterated or partially obscured three neighbors' views

> and is at variance from the city's own guidelines where changes to Category 1 homes should only be made in exceptional circumstances; also that modifications be made to limit impact on the area. (Sweeney 2010 p. 3)

The referenced guideline 5.3 states:

> Design new buildings or additions to minimize any negative impact of the original building and street as well as on the light, views and privacy of neighboring properties. (Appendix L)

In reference to the issue of protecting views, former Mayor Marks stated:

> Nowhere are your views protected. The only way to protect individual views would be through servitudes; each house would have to outline exactly what view needs to be protected. (Marks)

In reference to the same project, Mayor Trent commented:

> I feel that should not have been allowed. It is a Category 1 house and you blocked a view - that was wrong. The neighbors' interests should have been taken into consideration. Neighbors should see what's going up next to them before it gets built. I am driven by the philosophy that what my neighbor does to his or her house influences my property and may even influence the value of my property. (Trent)

While Mayor Trent supports neighbors' interests, he does not believe they should be able to veto a project.

In a letter to the editor describing his ordeal Dr. Keyserlingk noted:

> We were surprised when a city official reported to us that views are not protected in Westmount, and that the city apparently feels to have no obligation to consult the citizens of the immediate area for such a roof-raising project, even when involving a Category 1 house. They justify this approach by stating that a number of such projects might result in people objecting to them. (Keyserlingk and Raymond p. 6)

Other cases illustrating uneven application of the SPAI/PIIA bylaws involve applications submitted to modify garage entrances. One case involved a request for the demolition of a freestanding two-car garage situated at the back of the property, and its replacement with a new two-car garage closer to the front of the property but integrated underneath the front of a category II home. The proposal reduced the overall amount of asphalt, and increased the amount of green on the property. The 13% incline of the driveway is greater than the city legally allows, which is the principal reason why the new homeowner proposed the project due to safety concerns of backing down such a steep and narrow driveway onto a one-way street. The PAC felt the garage's prominent volume would have a negative impact on the heritage character of the category II

building and therefore have a detrimental impact on the streetscape. However, eight of the ten properties on that side of the street have garages of the same volume, fronting on the street, virtually identical to this proposed project. A defining characteristic for the area cites houses on the north side (the same side as the proposed project) of the street "generally have garages fronting the street, either as part of the main volume or attached to the building". (Appendix J) The PAC's refusal of the project based on the garage's volume negatively impacting the streetscape is at odds with the street's defining characteristics.

Another case involving a Category 1 house, proposed changing the garage as it was currently configured, entering into the basement of the home, with a new separate two-door garage building, fronting on the street next to the entrance of the home at grade. In this instance, the PAC favorably recommended this project.

7.2. Arbitrary Decisions

Another problem for users is the seemingly arbitrary nature of recommendations from the PAC. Many professional architects have experienced difficulties with the PAC's recommendations, including at times, that their project has been misunderstood or that the recommendations have little relation to the guidelines. The following cases serve as illustrative examples.

Architect Mr. James Aitken recounted an instance regarding clients who wanted to enlarge their garage which was on a lane, rendering it slightly more visible from the street. The PAC was not in favor of the project and refused it. The architect went to the street and photographed every house, all of which, with the exception of one or two houses, had larger garages. Mr. Aitken explained to the PAC that everyone else on the street had larger garages and he felt it was unreasonable that they refused the project. Finally, the project was accepted, under the condition that a window be put in the garage door. Mr. Aitken complied with the terms but could not see the connection

between putting a window in the garage as compensation for making the garages visible from the street.

In a commercial project, a new tenant wished to sell merchandise on both the main floor and in the basement. Previously, the below-grade space had been used exclusively for storage; the revised use of the basement meant the new tenant was required to create a second exit from the basement to comply with the fire code. The proposal Mr. Aitken submitted to the PAC showed the exit via a staircase, with a door opening onto the street on a diagonal and the recessed exit area shaped in a 'V'. The PAC was not in favor of the exit as presented and asked that it be rectangular in shape, to be in keeping with other openings onto the street. The drawings were resubmitted with a rectangular entrance and the door opening laterally. The PAC was not in favor of positioning the door laterally instead, they wanted it located at the back of the rectangular recess. However, placement of the door at the back of the rectangular shaped exit had larger structural implications, adding an additional $30,000 to the cost of the project. Despite having asked for the PAC an explanation for this stipulation no justification was provided. The decision seemed arbitrary to the architect; he stated he "couldn't think of an architectural principle or anything in the legislation or guidelines" (Aitken) that would require that specific configuration. Furthermore, Mr. Aitken pointed out that there are examples of both doors on the side and doors on the back of exits. "I could understand if the PAC said they had problems with the door openings on the side; perhaps there was some kind of a security issue, but there isn't any practical reason for the requirement "(Aitken).

Two projects submitted by Mr. Hazan also fall under this category. One was a new construction project in which Mr. Hazan had incorporated a glazed roof. Having understood the committee objected to the roof as presented, Mr. Hazan resubmitted with a flat roof, only to be told that PAC had no objection to the glazed roof. "We were

very confused especially after having reworked the drawings to resubmit, but we were nonetheless happy that we could proceed" (Hazan).

Another case involved changing a roof profile. Having been told the PAC did not like the original submission, Mr. Hazan resubmitted two weeks later with a new profile only to be told that the original profile had not been problematic. There had been a misunderstanding and he was to leave it as it was presented originally. As Mr. Hazan pointed out, "we had wasted a month to do something one way, to re-draw it and charge the client and to re-re-draw it to say that it was okay the first way it was presented" (Hazan).

Another example of a seemingly arbitrary decision was provided by Mr. Borowczyk. In one case a resident bought a double lot to ensure the property was large enough to allow the house to face onto the street in the same configuration as the neighboring homes. The proposal presented to the PAC conformed with the new FAR standards and respected setback requirements. He was told the PAC felt the house was too large and that he would need to increase the setback from the street, effectively putting the house in the middle of the property. Given the proposed project conformed to current regulations he queried if what the PAC was asking for was reasonable. "There are no clear rules. What is their opinion, and what is required?" (Borowczyk). Underscoring Mr. Borowczyk's point, Mayor Trent presented his views on the situation:

> It has happened a number of times where they have approved something that isn't within the guidelines. Sometimes PAC says, well they're just guidelines and sometimes they refer to them as law; it is a broad range of interpretation. (Trent)

Similarly, the same architect submitted preliminary drawings and was told that, in principle, the committee liked the proposal. After re-submitting drawings with more detail, he was told that the committee decided they did not like the front bay window and the dormers were too big, even though both elements had been present in the preliminary drawings and their dimensions remained unaltered in the second

submission. The committee did not cite which bylaws or guidelines, if any, were being contravened or that these elements represented a poor interpretation of the guidelines. As the architect noted, "There is always the possibility that someone else on the PAC will change their mind about a detail, which slows down the process again" (Borowczyk).

7.3. PAC as Re-Designers

The other major concern voiced by architects using the system is that of the PAC making recommendations that re-design the project rather than recommendations based on the guidelines.

Several architects provided anecdotes to depict scenarios where the PAC's recommendations take the form of re-designing their projects. During the course of my interview with Mr. Hazan he summarized a case in which the issuing of a permit for a project hinged on the detail of a handrail. The PAC was of the opinion that a vertical element needed to be introduced into the handrail. Mr. Hazan's reaction was:

> Why? Why do I need a vertical element? Is it because it is someone's opinion that it would look better because of a vertical element? It has nothing to do with any architectural theory. I changed the design to accommodate them. They are designing projects. (Hazan)

Mr. Borowczyk had similar experiences where the PAC re-designs his projects. Before elaborating on specific cases to illustrate the problem of re-designing, Mr. Borowczyk noted that the PAC is supposed to assess projects based on bylaws and the guidelines. The problem, he said, is:

> The guidelines are written like poetry; they are not written like bylaws and therefore it creates more trouble than solving the problem because everybody reads what they want to from them. (Borowczyk)

He summarizes the process with the following analogy:

> The bylaws are our bible. Do we read the bible ourselves? Can we read the bible on our own with the help of a preacher (i.e.: architect) and produce a design

> based on those rules, go to the PAC and show them our proposal? Or, do we have to ask our Pope (PAC) what is written in the bible? Do we have to go back and confirm that what we read is correct? Is it better to read the bible on our own and hope PAC is going to say yes, it is according to the bible? Or, do we go directly to the Pope and he is going to tell us what is written in the bible? Which system is better? Ultimately, the problem with reading the bible on our own is that the bible has to be well written. (Borowczyk)

In one case Mr. Borowczyk presented plans for a home wherein he incorporated two chimneys for purposes of symmetry. The PAC wanted to know why he needed the second chimney. Mr. Borowczyk felt this was a matter of opinion:

> They are designing. Is it really a requirement or is it their opinion that I really don't need a chimney? I can satisfy them by removing the chimney so they will give me a permit but, unfortunately, it's just the beginning; it will be something else the next time. There are no guidelines regarding chimneys, or a limit as to how many may be in a project. In the same plans, I placed a small window over the front door to emphasize the entrance. They want me to remove that. (Borowczyk)

In one particular situation Mr. Borowczyk's reasoning for designing dormers of a certain dimension was a direct result of the roof design respecting the guidelines. The height, where it starts and finishes, the angles and the proportion of flat roof were designed to be in exact compliance with the guidelines.

> Unfortunately, the guidelines were wrong, so they don't allow me to design a better-shaped roof. PAC didn't like the dormers. However the size of the dormers is due to the design of the roof respecting the guidelines. The PAC acts like they are correcting your mistake. (Borowczyk)

Mayor Trent agreed there is a discrepancy in what the PAC views as their role, and what it should be. As he noted, "They see their role as being quite experienced architects and their job is to fine-tune a project based on their wealth of experience. I can understand that, but I don't agree with it" (Trent). He elaborated further saying:

> There is a fundamental difference of views; members of the commission feel we've hired them to exercise their aesthetic judgment. We've hired them to exercise their judgment in exercising the bylaws. I trust their aesthetic judgment, but I don't see that as their role and it worries me because where does that end? They could have complete power and that would be terrible because every time you change a member of PAC, the style of architecture would change. (Trent)

7.4. Onus on Users

Paying for experts to uncover information the city should be providing has occurred to several constituents. A first instance has to do with a constituent whose neighbor had undertaken a project, the envelope of which surpassed the legal site coverage allowable on the property. The only way to gain access to the plans was to initiate legal proceedings against the neighbor, as no one at the city or the neighbors would engage in a discussion over the project. In so doing, the homeowners were finally given access to their neighbor's plans which, on the surface, appeared to respect the 30% coverage legally allowed by the city. However, after hiring surveyors at their own expense to study the project, they uncovered that the plans over-declared the surface of the land and under-declared the surface of the building, meaning the project exceeded the allowable coverage. Legal recourse gave the property owners access to information which in turn led the city to accept that the homeowners who initiated litigation were correct, and forced the neighbor to reduce the project to conform to coverage norms. Unfortunately, the homeowners assumed the cost of experts to uncover the error.

Another example involved next-door neighbors who were selling their respective properties within months of each other. Neither property conformed to current setback bylaws. This meant that securing acquired rights on their respective properties to protect the subsequent owners was important. The first homeowner approached the Urban Planning Department requesting confirmation of the acquired rights, and received a letter of tolerance for the non-conforming elements of their property. Dissatisfied that the city was only extending tolerance for the non-conforming elements and not acquired rights, they requested a meeting with the city's mayor which was granted. The

difference between tolerating the nonconformity and acquired rights is significant. The extension of tolerance means, that in the event the homeowner should undertake renovations the city will require the non-conforming element of the property be made to conform to the current zoning bylaws. It also reserves the city's right to retract the tolerance. Acquired rights are rights extended to a property which does not, for whatever reasons, adhere to current zoning bylaws. Having acquired rights means that even if major renovations are undertaken property owners do not have to amend the non-conforming element. Following the meeting with the mayor, a subsequent letter was issued to the homeowner acknowledging acquired rights for one of the two non-complying elements based on the city's research into the archives on the property in question. In the second homeowner's case, securing the acquired right was a condition attached to the sale of the house. The owners approached the director of Urban Planning asking for a letter to confirm the acquired rights on the property. They received a letter of tolerance, reserving not only the City of Westmount's right to revoke the tolerance, but the right of any interested third party to challenge it. The letter did not satisfy the buyer's conditions and thereby jeopardized the sale of the property. In an effort to clarify the difference between tolerance and acquired rights and to understand why, when they bought the property they had acquired rights and upon selling they no longer had those rights, they met again with the director of Urban Planning. Unable to get clear answers to their questions they granted permission to the buyer's notary to search the city's archives. That search uncovered a number of errors in the property records that could have had potential impacts on the value of the property. The search in the archives also established acquired rights. The work to confirm the acquired rights meant the owners were billed for a notary's services where, in the former case, the city did the research.

7.5. Work Carried Out Without a Permit

A recurring problem is that of work being carried out without a permit which exists to a greater or lesser degree in all communities. As residents interviewed explain, they

bypass the system because it is reputed to be difficult, expensive and time-consuming. Although the number of cases illustrating this problem is extensive, a few highlighted ones make the point. It should be noted that civil servants from all the communities interviewed for this project identified this as a problem and noted that municipal governments have limited resources to combat the problem. However, interviews with residents and comments made in the survey confirm that users find the Westmount process onerous, which may explain why so much work is done without a permit. One respondent writes: "As far as I'm concerned, the process encourages people to do work without a permit". (Appendix B) While the extent of the problem is difficult to quantify, architects have estimated that well over one-quarter of projects are carried out without a permit. Smaller projects can be carried out outside of inspectors' working hours, as was the case with one individual, who replaced frontal bay windows on both floors of his home on a Saturday. Although Public Security was notified and workers were issued a stop- work order, the workers recommenced the work within ten minutes of Public Security's departure and the project was completed that afternoon. Another resident replaced the railroad ties in his front garden with new railroad ties to enclose a front garden area, close to the sidewalk. The guidelines specify that "railroad ties are unacceptable in front yards when adjacent to public ways". (Appendix M) In rationalizing his actions, the resident pointed out that while he knew the city might fine him for his transgression it would not initiate legal proceedings over such a minor infraction. It was less expensive and simpler to pay the fine than to have to go through the process.

A survey respondent praised Westmount's efforts to preserve Westmount's character but had this to say with regards to work carried out without a permit: "The permit application system is very useful to help preserve Westmount's character etc. However many people do extensive renovations, build decks, do plumbing etc, with no permit" (Appendix B). A resident described an occasion where neighbors hired a company to build a new canopy over the front door. The job required scaffolding in front of the

house, which was left for over two months, long after the job was completed. Again, the work was carried out without a permit.

One resident spoke of a 'monster' deck built at the rear of a property without a permit. All the neighbors knew about it and talked about it and their perception was that while the inspectors had officially informed the owner the project is illegal, the city did nothing more about it. Effectively, the owner had gotten away with it. Another substantial project was one which took place almost entirely at the rear of the property, as witnessed by a resident from her backyard. The scope of the project involved the construction of an elaborate, multi-leveled deck, the resurfacing of a driveway and the installation of an interlocking stone patio, all done without a permit and all installed within a matter of weeks. The largest project to go undetected was one Mr. Borowczyk was aware of because, once the project was reported, the resident subsequently hired him to undertake more renovations. His client managed to build a three-storey extension onto his house before it was reported to the city. Under these circumstances, it is understandable that people are demoralized and question the need to abide by the process.

7.6. No Permit Required

A related issue concerns obtaining permits when they are not needed, as per Westmount's brochure and website. The paragraph entitled "**No Permit Required**" reads a permit is not required for: interior or exterior painting, re-pointing masonry and **minor** replacement of decayed wood or masonry within a normal building maintenance program". (Appendix F) A survey respondent provided an example of a project to replace broken cement stairs in his garden and broken patio squares in the backyard because they were hazardous. As per the brochure a permit should not have been required. The homeowner submitted his application in May and by the end of June, still hadn't received permission to go ahead with repairing the stairs. The comments reflect the frustration of going through the process: "Insane delays for replacement of broken,

unsafe and deteriorated pavers and steps in the backyard" (Appendix B). Another gentleman applied for a permit to make $175 worth of repairs to his fence. Another homeowner applied for a permit to make emergency stair repairs at a cost of just under $500.00 which again, as per the city's requirements, does not require a permit.

7.7. Miscommunication

Users, both professionals and residents, complain about many types of problems they have communicating with Urban Planning. Problems cited range from unreliable and inconsistent transmission of information to the reliance on older technologies which impede communications.

Communicating recommendations, decisions and the issuance of permits on behalf of the BOI, PAC and council is one of the main functions of the Planning Department. Due to the lack of synchronization of the BOI and the PAC meetings, the delivery of the BOI minutes leaves insufficient time for plans to be amended in order to make the next PAC agenda deadline. For projects requiring multiple submissions, the distribution of the PAC minutes does not leave enough time to prepare new drawings before the deadline for the next PAC meeting. Several architects have noted that it is the rule, and not the exception, that minutes of the PAC are received too late to incorporate recommendations in time to make the subsequent agenda, usually adding another month to the process. The time delay between the meeting of the PAC and the distribution of minutes contributes to the overall time lag before a permit is issued. Furthermore, due to the variability in when minutes are complete, time is lost by professionals and residents making multiple phone calls to the Urban Planning Department in an attempt get a response.

Architects also cite problems with storing of documents and files. When requests are made for documents related to a property, they are often difficult to find; some elements may be missing and it takes time to find the missing documents. Mr. Borowczyk referred to dropping off plans and having no idea who looks at them, or to

whom he should speak about the project. Mr. Borowczyk and Mr. Anderson noted that the staff members often have difficulty locating parts of files which, in the end, are generally found inside the original project file.

No prior notification is issued to architects and residents when their projects are placed on the council's public meeting agenda. In some circumstances, particularly for controversial or complicated projects, it would be important for those people to attend in the event they may want to make inquiries of council if necessary.

Another weakness is in notifying people that permits have been issued. During an interview a resident described an incident she witnessed at the Urban Planning counter. A woman had received notification her permit had been issued and had come to pick it up. The employees at the desk were unable to find any proof the permit had been approved, or where the project was in the process. They told the woman they couldn't help her because the director of the department was on the road and division chief was in a meeting. The woman became frustrated and annoyed that no one knew where her permit was and that staff were unable to contact a higher authority to get more information. The staff members eventually located the minutes of the PAC meeting which verified the item had been discussed. The permit was also eventually found, but the situation took 15-20 minutes to resolve.

Another example came from Mr. Anderson, who forwarded an email correspondence about which he noted "is the kind of situation we must deal with frequently" (Anderson 2010). In this particular case it was the third time a resident had been to the Urban Planning office in an effort to pick up a permit they had been told was ready. The email read: "We just spoke to an employee at the Urban Planning desk and he confirmed…the permit can be picked up at any time"(Anderson). The individual who was sent to pick up the permit replied:

> I went to the Westmount Planning Department this afternoon to find out that the permit isn't actually ready yet; apparently it still needs to clear the Inspection Review Board which is meeting on Thursday. They said they would try to have a look at it before then… but I'm not holding my breath! (Anderson)

As noted earlier, the reliance on outdated forms of correspondence hampers communications with users. In a discussion concerning the legal requirement of the Planning Department to send hard copies of decisions to applicants, Mr. Anderson noted: While it may be a requirement, I have to say that it has been poorly and inconsistently administered. Hard copy is only occasionally received, and not consistently sent to all parties, architect and client. When it is sent it is not usually sent in a timely manner, often arriving several weeks after the meeting. The whole process needs to be clarified and made more efficient. Time is money and having to wait months to get an approval is not correct. (Anderson)

A survey respondent's comments illustrate another form of miscommunication which took place subsequent to a project's completion.

> A member of the city staff called AFTER the work was approved AND completed asking for a handrail to be installed. If a handrail had been required, it should have been made clear prior to granting the permit. I pointed this out to the employee and said he should call me back if the City planned to insist. He called back several days later and backed down on the request. (Appendix B)

A resident who needed to install French drains discovered in speaking to the contractor he had a cancellation the following week. She contacted the Westmount plumbing inspector who confirmed she would need a permit. In order to take advantage of the the contractor's opening the following week it meant all documentation had to be submitted to Urban Planning by Tuesday, to be on the BOI agenda on Thursday. Upon depositing the documents to the planning department, as the plumbing inspector was also present,

she was able to have him check the paperwork. He made a couple of changes, the most significant of which was that French drains are not permitted to be connected to the city drain but must be connected to the house drain.

Upon submitting the documents with the plumbing inspector's changes, the resident inquired about the next steps in the procedure following the meeting of the BOI that Thursday. The response was the resident would get a letter in the mail in a couple of weeks. The resident explained that time was of the essence because of a time opening that week with her contractor. The employee suggested she could try and call back on Thursday afternoon following the BOI meeting. The resident went to City Hall the Thursday afternoon and spoke to the original employee who had dealt with her. He pulled out the documents, telling her that the project had been reviewed and that everything had gone well. He told her projects involving connecting a French drain to a city drain all have to be examined. The resident explained that the one point the plumbing inspector had made very clear was you could never hook up a French drain to a city drain. The employee looked confused and given the BOI had just finished went back to talk to a couple of board members who recommended that the city plumbing inspector be called on again. The city plumbing inspector verified the resident's information. She was told she could proceed with the work and would get confirmation of the board's decision in a couple of weeks. However, it left the resident wondering what the step of going through the city's Board of Inspections had added to the discussion. The input from the plumbing inspector was invaluable and the only practical input throughout the process. The resident questioned what the route through the BOI, behind closed doors, had added to the process?

Communicating with the planning department can be challenging with so many people calling for updates on their projects. As the department head noted, the majority of calls have to do with the small projects. Survey respondents' comments also underline the issue: "Difficult to reach people in charge. I had to phone repeatedly to get people to call

me back" (Appendix B). Another reply read: "It was a lot of bother for two windows and a lengthy delay and a lot of misinformation" (Appendix B). Architects echo the sentiment: "It is difficult to get answers" (Borowczyk).

7.8. New Building Materials

Westmount is averse to permitting the use of new products and materials. Instead, as the guidelines state, they insist where possible "to restore original defining features or materials" (Appendix N). It could be argued that while architects at the turn of the century used the best materials at their disposal to construct Westmount's heritage homes, they would presumably employ the finest materials available today. Some original materials may even be of inferior quality compared to what is on the market today. However, the city's reluctance to endorse improved products can be problematic for homeowners given that costs associated with replacing original materials are often prohibitive because replacements need to be tailor made. The financial burden falls disproportionately on those who live in the oldest sections of Westmount as they are the least able to incur such expensive replacements. A respondent to the survey wrote:

> There is little to no flexibility in the evaluation of the content of proposed renovation. You cannot replace obsolete materials with modern substitutes that are safer and require little to no maintenance. (Appendix B)

An example of such a material is the lead housed in windows in many Westmount homes. As no standard number of lead squares was ever established when homes were built around the turn of the century, a resident who wished to replace his windows was required to have the window customized in order to replicate the original number of lead squares. That requirement cost him $1,000 per window.

Another case involving new materials was in a building zoned for commercial use. The project was a large-scale interior renovation, part of which included installing new piping. Westmount requires that all plumbing pipes be made of copper. However in this particular instance, the corrosive properties of the substances used to develop x-ray film were so potent, the copper pipes would dissolve in a relatively short period of time and would require frequent replacement, roughly every year, and at a substantial cost, given that the price for copper has tripled over the past ten years. A corrosive resistant plastic piping (PVC), which has been available on the market for at least forty years would be resilient and long-lasting. The corrosive solution had to pass through a neutralizing tank which is never 100% effective, because the solution still dissolves the copper pipe quite quickly. The applicant wanted to use PVC pipe to connect the developer to the neutralizing tank and then from the neutralizing tank to the cast iron pipe. His request was denied. After the plumbing inspection the applicant had the copper piping removed and replaced with the PVC piping.

Table 7-1 presents an overview of the identified problems in Westmount's permit issuance process and the underlying factors specific to each problem.

PROBLEMS Cited by respondents	UNDERLYING FACTORS Subject to interpretation
UNEVEN APPLICATION OF BYLAWS	➢ PIIA bylaws too interpretive. ➢ Decisions not recorded on an ongoing basis for purposes of reference to help improve consistency of decisions.
ARBITRARY DECISIONS	➢ Mandate of the PAC members not clearly defined. ➢ Difficult to distinguish between PAC's recommendations being requirements, judgments or opinions? ➢ **Limited level of direct input from and communication with architects**
PAC AS RE-DESIGNERS	➢ Mandate of the PAC members not clearly defined. ➢ Difficult to distinguish between PAC's recommendations being requirements, judgments or opinions? ➢ Unclear where the line is drawn between the PIIA bylaws and aesthetic judgment
ONUS ON USERS	➢ City Urban Planning department has limited resources
WORK CARRIED OUT WITHOUT A PERMIT	➢ People's motivations: Process onerous, time consuming and costly. ➢ City has limited resources for discovery and enforcement.
NO PERMIT REQUIRED	➢ Residents are either uninformed and/or acting preemptively to avoid penalty.
MISCOMMUNICATION	➢ Lack of formal communications protocol. ➢ Timing, especially its regulation ➢ Disproportionate ratio of senior management to less experienced employees may contribute to weak communications management.
NEW BUILDING MATERIALS	➢ City anxious to preserve architectural heritage requiring, where possible, that original building materials be used. ➢ City reluctant to endorse use of new products and building materials; they may detract from property values.

TABLE 7-1: **Problems in permit issuance process and underlying factors as identified by respondents**

Conclusions and Recommendations

8. Conclusions and Recommendations

8.1. Synthesis of Findings

To answer the project's central research questions, various methods were employed that produced the following four groups of evidence-based information: survey results, illustrative examples, information from key informants and interviews with users. Synthesizing findings from these groups of evidence will facilitate the formulation of recommendations and future study.

8.2. Strengths and Weaknesses

Information and data collected concerning the question of the strengths of the system indicate that a rigorous process led by qualified architects as members of the PAC benefits the overall heritage character of the city, as well as ensuring property values are not only maintained, but enhanced. It was also agreed that Westmount is the leader and trendsetter in the design review process, with many communities duplicating tools Westmount has developed over the years. On the whole, comments from residents and architects indicate they are appreciative of the efforts of the PAC to render decisions that preserve their homes' heritage.

Interviews with users and key informants indicated the dominant weaknesses in the process are related to the amount of subjective latitude the guidelines afford members of the PAC in their recommendations, the arbitrariness of the PAC's decisions and poor and inconsistent communication. While comments from survey respondents agreed in principle with these findings, their main concerns were linked to the process being difficult to understand, lengthy and costly.

While survey data measuring users' experiences and levels of satisfaction hinted at underlying factors, interviews with users and key informants confirmed those factors. Major preoccupations with the PAC include uneven application of bylaws and the PAC's arbitrary decisions and re-design of projects. The collective voices felt the main causal factors lay in the PAC's role and function being undefined, lack of adherence to the

SPAI/PIIA guidelines in formulating recommendations and the ambiguous nature of the intent behind decisions, i.e.: what is obligatory and what is suggestion?

In terms of the issues of work being carried out with and without a permit, input from all four sources indicates candidates generally fall into two camps: Residents are either acting preemptively to avoid penalty, or they are unaware a permit is required. It is also generally recognized the majority of work taking place without a permit is done knowingly and that the motivation behind these actions is due to the process being arduous, time-consuming and costly.

While the informants for this report found the types of miscommunication and lack of organization varied, they agreed the fundamental cause of the problem is a lack of clearly administered protocol. Users and key informants cited the disproportionate ratio of experienced staff to relatively new employees as being a contributing factor to communication and organizational problems.

8.3. Measures to Resolve and Potentially Improve Process

Feedback from the various sources concerning measures to help resolve the problems and potentially improve the process fell into three core groups: the PIIA guidelines, the PAC's role and function, and improved communications.

Of those whose views were sought for this project, the majority called for a review of the SPAI/PIIA guidelines. For a number of reasons, including changing trends in design and sustainability issues, the necessity for such a review is pressing. On the question of whether these bylaws should be interpretive or prescriptive, the responses were less unified. However, the lion's share of key informants felt more prescriptive guidelines would be beneficial to the users, the administration and the members of the PAC. With a unique perspective, Mrs. Gersovitz, having recently stepped down as chair of the PAC, reflected on the overreaching intellectual principles that serve to guide the PAC. She spoke at length about Westmount's principles and values being the foundation of what

uphold the process and stressed the "importance of consistency, clarity and fairness" in the application of the ground rules (Gersovitz). Community standards change over time and "how do you ensure that in trying to be fair and have a process, you allow it to change to reflect the population's changes?" (Gersovitz). She noted that standards and values have to respond to the population, "even if the change is glacial, it has to happen" (Gersovitz).

Mrs. Gersovitz mentioned that the guidelines should not be inert, but evolve. She noted there was "an important philosophical difference" in the intent of the original guidelines as written by Mr. London, another former PAC chairperson as mentioned earlier, as to how elements were to be kept in perpetuity and never changed; this "is a command to the static." Nevertheless, she agrees, "Some components shouldn't be changed" (Gersovitz). She believes Westmount's values and guidelines need updating. As sustainability is "coming on board as a driver for design," she stressed the opportunity to amend the guidelines (Gersovitz). She also suggested looking at the guidelines to determine what matters and what doesn't. "A guideline can take on a life of its own and become its own self-perpetuating thing. You have to evaluate if it is insignificant, or positive. Larger things matter" (Gersovitz). Former Mayor Karin Marks expressed a completely different view on the topic suggesting that "It is in the details that architecture is preserved. When the detail is not respected, the overall heritage quality of a home is diminished" (Marks). Former Mayor marks described the dilemma of striking a balance from the administration's point of view:

> You have the building bylaws and the aesthetic bylaws. How much can you apply the aesthetic to take away people's rights that they have in the building bylaw? That has always been a balancing act. (Marks)

Mayor Trent is also of the opinion that the guidelines need revision. He feels if the "guidelines were prescriptive people would know what is permissible and what is not" (Trent). Mayor Trent noted that while architects may argue prescriptive guidelines are

not conducive to good architecture he alluded to the highly structured formulas used in Blues and Classical music, "within which you can compose fantastically intricate pieces" (Trent). As mentioned earlier, he strongly believes that discretion in the guidelines is what causes all the problems.

> The discretion is what causes all the problems. Whether it is discretion exercised by extremely creative architects who are members of the PAC or whether it is discretion exercised by members of council because they've had neighbors twist their arms, it's still discretion and I think in both cases, we need to be more prescriptive. Wisely prescriptive bylaws could be very interesting and could obviate the problem of either council members or the PAC trying to affect outcomes. (Trent)

The views expressed in interviews and the analysis of best practices in other communities, could contribute to preparing a draft document outlining the role and function of the PAC. The collective impression of contributors to this report is that in formulating their recommendations, the PAC should simply be applying the guidelines to projects. It was agreed a well drafted document outlining the PAC's role would address the issue.

Finally, the issue of communication was raised by all contributing sources. The most often cited complaint regarding communications with the Urban Planning Department was the delay or misinformation concerning the BOI and the PAC decisions. All users proposed improvements to communicating decisions in a regulated and timely fashion. The sense was that this would vastly cut down on cost, time and complications.

8.4. Recommendations, Conclusions and Future Study

The recommendations are structured to respond to the three audiences listed at the beginning of the report: the administration, the users and council. They include:

- Proposals to increase the efficiency and usability of the application process;

- Recommended changes to the BOI and the PAC to reduce waiting times and make the decision-making process more reliable and consistent; and
- Improving council's ability to make informed decisions.

Important considerations not addressed in this paper are the implications for sustainability, specifically the legislative framework to maintain heritage while keeping pace with new sustainable technologies. Sustainability suggests embracing a greener, more efficient future while heritage asks that we preserve the past by restoring properties with original materials; it will be a challenge to marry these two seemingly paradoxical ventures. Westmount City Council is currently working on modifying the guidelines to accommodate sustainable practices in renovation projects. Considerations for future study are examined later in this chapter.

8.5. Recommendations for Streamlining the Process

The first set of recommendations is aimed at restructuring and simplifying the process to make it more accessible to residents. These proposals also include using electronic technologies to expedite the process for residents, users and administration.

The website is a substantial communication vehicle for the city and it is recommended that it be modernized and made more user-friendly. Providing the permit application online, as is done in several boroughs in Montreal, would make the process more accessible to the public and save the time of having to go to City Hall. A second recommendation is to introduce email addresses for property owners, the architect/designer, contractor and any other professionals who may be involved. As professionals pointed out, communicating electronically can cut down on the time otherwise required to correspond in hard copy. In fact, Pierrefonds-Roxboro does not have hard copy applications: all applications are entered directly into a computer system, avoiding handwritten legibility issues. Once all the necessary information is entered and the fees are paid, a copy of the completed form is printed and the applicant

must sign it. It is recommended Westmount emulate this practice of entering all applications into a computer system. This would improve the accuracy of record keeping and the reliability of application completion and also address problems of illegible writing.

Instead of photocopying architectural plans, an outdated, somewhat time-consuming and costly venture, it is recommended plans be scanned at City Hall and emailed directly to architects and clients. This would eliminate the time required to reproducing several sets of plans and the cost of having specialists reproduce architectural plans. It would also be less wearing on the original drawings and reduce the risk of their being misplaced or lost. Also, plans deposited at the Urban Planning desk could be managed more efficiently, as interview respondents indicated. The person at the desk should have a checklist covering all the types of projects which may come to the department to ensure that the file is completed by the deadline for the PAC, or that a file missing documents is marked 'incomplete' and will not be put on a BOI or PAC agenda until it is completed.

Technology exists that would facilitate access to project files, eliminating the volume of phone calls generated by residents and architects regarding the status of their construction project and reduce the need for hard copy correspondence. As committee minutes are ready, they can automatically be entered into a project's file, which could in turn, be accessed by either the resident or architect at their convenience. Admittedly, there is a cost to acquiring this type of software, but as with most technologies, a range of products are available at various price points. While the initial outlay may be significant in terms of implementation and training of staff, the potential cost savings over the long term would be considerable.

It is strongly recommended that with larger more complex projects a senior city official who will eventually present the project to the PAC, sit down with the project's architect and/or the resident to engage in a dialogue on the project. The goal of the exchange is

to ensure the city official has a thorough understanding of the project and the architect is made aware of any contentious elements in the proposed plan. Although such a recommendation was put forward in November of 2006, it has gone no further. Architects interviewed on this topic indicate that while this preliminary dialogue may require a time commitment from a fairly senior staff member, the measure could substantially decrease the number of re-submissions, as has been the experience in other communities.

It is proposed that once decisions are finalized, one staff member is given the task of emailing the outcomes of the BOI and the PAC meetings to applicants and architects. It is a more environmentally friendly approach, reducing the amount of paper used. The mailing of hard copies of decisions may, however fulfill a legal requirement. It is also suggested that residents be notified in advance by email that their project is on the council's public agenda. Informing people of decisions in a timely and consistent manner is helpful and professional. This would accelerate the process, reduce the volume of incoming calls and free up staff. Release of the minutes should be standardized, allowing applicants to rely on a regularized schedule of decisions. This would ensure a more proficient delivery of service, appease both the professionals and their clients, and prevent unnecessary phone calls.

Another recommendation is to reconsider the necessity of the Board of Inspections. Its role in reviewing projects is to verify if they meet code and zoning regulations. There is no subjectivity involved in their decision-making process. Instead of convening several people, including the director of Urban Planning and the division chief, to attend a weekly meeting that lasts several hours to assess projects on the basis of clearly defined, strict regulations, it is recommended the city should appoint two inspectors and a plumbing inspector when necessary, to review all projects and ensure they comply with zoning and code regulations.

8.6. Recommendations for Improving the PAC's Deliberations

The recommendations formulated for the PAC take into account the perspectives of various stakeholders, including members of the current administration, Westmount elected officials, former commission members, civil servants and politicians in other communities, architects and residents.

To improve the PAC's deliberations, it is recommended that a data bank of decisions be established. This would serve as a form of reference for the committee. Referencing these prior decisions would help improve the consistency of the committee's recommendations while removing the perception that the PAC's decisions are arbitrary. The PAC could use this reference tool to justify and support decisions in the case of appeals.

Another proposal is to create a document outlining the mandate of the voting members of the PAC during their tenure on the committee. If members' roles are clearly articulated, the PAC's discussions will be more focused and projects will be assessed on whether or not they conform to bylaws and guidelines.

With regards to the manner in which the PAC decisions are recorded, it is proposed that the PAC's comments be organized within the following categories: "what is required, what is recommended and what is an opinion" (Borowczyk). This categorization would clarify and differentiate between revisions architects are obliged to incorporate and those that are of a non-compulsory nature but would still improve the project.

It is also recommended that meetings be held in the evenings. This would address two issues: more councillors would be available to make the considerable time commitment to the PAC and secondly, it would increase the pool from which professional candidates could be chosen, given their day jobs prevent them from serving on the committee. Broadening the scope of expertise beyond architecture and urban planning to include other experts in related fields such as landscape architects, engineers could introduce

fresh perspectives to the PAC's discussions. While it does have cost implications to have staff stay after hours, these changes might encourage a more diverse and vibrant dialogue. This, in turn, may improve the quality of recommendations and reduce the number of resubmissions and appeals. Decreasing the number of resubmissions and appeals might off-set the additional staff costs for overtime. It should also be noted that council is restricted by its own by-law to only select architects from Westmount, "which reduces the universe substantially" (Trent). To clarify, within the Act Respecting Land Use Planning and development Chapter V, (Constitution of Planning Advisory Committees), article 146 states:

> (1) establish a planning advisory committee composed of at least one member of the council and of such number of members as it shall determine, who are chosen from the persons resident in the territory of the municipality." (R.S.Q., Chapter A- 19.1.)

The enactment of this provincial legislation requires that municipalities adopt conforming by-laws that respect the intention of the law.

In an effort to amend that constraint, and draw members from outside of Westmount, Mayor Trent has asked the director general to investigate the protocol of introducing a private member's bill.

To help prevent professional egos from getting in the way, it is proposed that architects on the committee be either retired or no longer in private practice. With only a few architects in Westmount able to satisfy this requirement it would be helpful to look beyond our borders. Another proposal, endorsed by Mayor Trent, would be to increase council's presence on the PAC from one member, as is presently the case, and it would better distribute the work load. Consideration should also be given to rotating commissionerships within a council's mandate and exposing new council members to the process.

To reduce the number of projects the PAC reviews, it is recommended that the category for which a permit is not required be expanded to include small projects with minimal impact. The PAC's time may be more judiciously spent deliberating complex and controversial projects.

A recommendation that was soundly endorsed by architects is the establishment of a dialogue between the PAC and the project's architect prior to the first presentation of larger projects (the criteria of which would have to be established). Architects would welcome the chance to present and explain their projects to the PAC members, both in order to obtain clear direction for their proposals and to reduce the necessity of resubmissions. An ancillary recommendation would be to have annually (possibly every two years) scheduled round-table discussions, wherein architects could provide input on any number of issues such as amendments to bylaws, revising the guidelines or advice on new design trends or building materials.

The proposal to review and update the guidelines in the near future, and subsequently on a more regular basis, is supported by key informants, the administration and the current council. A complementary recommendation, garnering praise from a number of expert stakeholders is a review of the system of categorization of homes. Currently, there is no process to alter or correct mistakes in the categorization of homes. Noteworthy architects contend that most of the heritage is not well protected under the current classification. An ancillary recommendation would be to restructure the guidelines in order that they address the different aesthetic and architectural needs in upper Westmount (The Boulevard and above), middle Westmount (Below The Boulevard to Westmount Avenue and Côte St. Antoine) and lower Westmount (Côte St. Antoine and below).

To enhance transparency, the PAC could hold meetings in public. The proposal is supported by former Mayor Marks, several local architects and residents. The current council has also demonstrated their efforts to improve transparency by conducting two

appeals concerning large architectural projects in public; in one case it reversed its decision. Mayor Trent has stated, "Even though public meetings take up more time and are more emotional, I think so far they have proven their worth, and to make all decisions in camera is not a good idea" (Trent). Holding the PAC meetings in public would allow people to inform themselves of upcoming construction projects. Mr. Young, the Senior Preservationist from Back Bay, Boston, justifies the need for commissions meeting in public:

> The public are the direct beneficiaries of the commission's mandate and their participation ensures the accountability every regulatory body owes to the citizenry it serves. (Young)

While enforcement is not the subject of this report, it appears from interviews with city officials, architects and users that enforcement issues add to the difficulty and complication of the system because the fines levied are insufficient. It is proposed that the ceiling for financial penalties be substantially raised to ensure inspectors' issuances of stop-work orders are obeyed. The current ceiling of $500 for a property owner and $1000 for a property listed as a company does not hinder a $1-million new house construction. The additional revenues generated may bring the department closer to being self-financing, an ambition of the current Mayor Trent. If city budgets permitted it, hiring additional inspectors to improve levels of enforcement would be another suggestion.

It is also proposed that quicker turn-around time for decisions could be achieved by appointing someone, other than the director of Urban Planning, to take minutes of the meetings. Presently, due to a number of reasons, there is an uneven distribution of experienced staff in the department, with only two senior staff versus five staff in junior positions, not including building inspectors. Consequently, the workload distribution reflects that reality. Relieving the director of the task of recording the minutes might lighten her workload and possibly regulate the delivery of minutes.

8.7. Recommendations for Council

Council is ultimately responsible to legally endorse the PAC's recommendations and must therefore be as well briefed as possible on each case, particularly complicated and controversial cases. The following recommendations are aimed at improving council's ability to make informed decisions.

As previously mentioned, the mayor recommends having a second member of council serve on the PAC to prevent there "being only one mouthpiece to defend the PAC's decisions" (Trent). While members of council don't need to be familiar with every single case, it is recommended they review the PAC minutes to familiarize themselves with projects within their wards, particularly projects involving Category 1 and 1* homes and large interventions.

While it is beholden on council members to familiarize themselves with all available information on a project in order to make an informed decision, it is equally important that the planning department ensures council is furnished with all pertinent facts related to a particular dossier. A welcome initiative, recently introduced by the planning department, is alerting council to upcoming controversial or large-scale projects among the monthly list of projects council is to approve. Council members may either view the plans online or may review the plans with the director of Urban Planning.

It is also recommended that, in controversial or complicated projects, especially those involving Category 1 and 1* homes, the PAC minutes clearly describe in laymen's terms all aspects of a project in order to enhance council members' understanding of the proposed intervention and PAC's recommendations, thus improving their ability to make informed decisions.

As council is legally responsible for its endorsement of the PAC's recommendations, council should review the PAC's mandate. Council should act on the recommendation made earlier to draft a clearer mandate for the PAC members.

One of council's four priorities is streamlining the permit issuance process. In correlation with that goal, in the first year of its mandate, council has undertaken to have larger projects vetted in public. While the basic precepts are taking shape, it is recommended council develop criteria to define 'large' projects, identify impacts and circumstances under which a project might be heard in public, and fine-tune policy that describes circumstances under which a case may be brought to council for appeal.

An alternative mode of dealing with the appeal process would be to appoint an ombudsman, who would serve as an independent and objective arbitrator between the PAC, council, the applicant's architect, and the applicant.

Finally, to improve council's decision-making capacity, it is recommended that council play a role in identifying ways to enhance the quality of information members receive to ensure they are making well-informed decisions.

8.8. Conclusions and Future Study

While the basic structure of the current permit issuance process is sound, as mentioned, it has served as an example for other communities. Nevertheless, with the adoption of new SPAI/PIIA guidelines and increasing amounts of building activity, the time has come to fine-tune and update the process to answer current needs. The overreaching issues which need to be addressed in order to render the system more efficient, are: reviewing the guidelines, setting the foundation for the role and function of the PAC and improving communication to create an interactive dialogue that fosters and promotes a productive and interactive relationship between users and administration.

The findings outlined in this report are derived from a consolidation of information gathered from multiple sources, beginning with the review of literature on methods to induce compliance in the areas of taxation and immigration. Given that all three processes – tax, immigration and issuing permits – rely on compliance, research of the literature in both these fields yielded substantial ideas on parallel strategies, tactics and

policies which would have applications in the permit issuance process. The literature review of design review boards revealed that core problems experienced in Westmount are felt internationally such as lengthy delays, arbitrary decisions and the debate over whether guidelines should be prescriptive or nebulous. The literature also emphasized the novelty of design review and the unprecedented rate at which these boards are being implemented which underscores the need to monitor the impact and effect design review will have on cities and towns. As a very powerful and relatively new tool the effects it will have on the built environment, the profession of architecture and property owners' freedoms are just beginning to be clear.

Research of other communities and models helped generate an inventory of best practices that served as incentive for some recommendations. Interviews with civil servants, residents, architects and politicians as well as feedback from the surveys produced an enormous amount of information, the distillation of which helped to answer the three core questions of this research:

- How can the permit issuance process be reformed to improve the system's

  efficiency to make it more accessible to the constituency and to improve compliance?

- What are the strengths and weaknesses of the current process?

- What are the underlying factors of the system's weaknesses?

It is important to underline this is preliminary research only. Any one of the components of the process identified in this research could be pursued to fine-tune possible recommendations. There may be other parts of the process which may not have been highlighted in this paper which need investigation. However, this is a point of departure. This research document contains limitations that could be moved forward with more in-depth survey questions of Westmount and its sister communities, TMR and Outremont,

to compare and contrast duration of projects and further investigate best practices. While other models were looked at, the study of their processes was fairly cursory and could have been more elaborate. Further to this, recording the minutes of the PAC and their decisions in Westmount and several similar communities would track the committees' role in influencing design and planning practices. Analysis of this information may direct policy and improve the decision making process. Important questions raised by Brenda Scheer could help guide the planning process such as:

- How can design review take heed of the different aesthetic responses that people have?
- How about the message, the "reading" of buildings- if it contributes to our response to the building, can design review judge that as well?
- If so, how can we give the architect freedom in his or her message?

(Scheer 8)

Although work has already begun on amending the guidelines to incorporate sustainable issues, new technologies, materials and social trends that impact the built environment are advancing exponentially. Westmount will have to strive to minimize that impact while incorporating the best of what is put forward. Heritage is a community treasure, and needs to be treated as such. Future study might also involve tracking how the PAC's recommendations actually translate into development. By carrying out a detailed study of the PAC minutes and decisions that span a predetermined number of years, by character area, such an analysis could potentially guide policy recommendations and help refine guidelines. Engaging in and encouraging continuous dialogue and working in tandem with the users of the system, creates an atmosphere of trust. As former Mayor Marks summarized: "You want to have a sense in the community that these are 'our' bylaws and we want to see it maintained because it keeps up the property value of our community" (Marks). As was highlighted in 'Best Practices', trust,

transparency and mutual respect are the foundations upon which the most constructive, mutually beneficial partnerships are based. In the case of Westmount, this could translate into a much stronger, more community-supported desire to preserve the city's heritage.

Bibliography

9. Bibliography

Agency, C. C. R.. The Role and Strategies of the Taxation Administration in Developing Countries: Methods To Promote Voluntary Compliance. T. R. T. W. o. I. T. Inter-American Center of Tax Administrations. Brazil. 2002.

Anderson, B. 2008. "Illegal Immigrant": Victim or Villain? Oxford, UK: ESRC Center on Migration, Policy and Society, University of Oxford.

Bernier, M.. Heritage Planning In Westmount: Toward a Policy Concerned with the Preservation of the Distinct Character of Westmount. School of Urban Planning. Montreal, McGill. Masters of Urban Planning (1991): 131.

Booth, Philip. 2001. "A desperately slow system? The origins and nature of the current discourse on development control,"*Journal of Planning Perspectives.* 17:(4):309-323.

Booth, Philip.2002. "From Property Rights to Public Control: The Quest for Public Interest in the Control of Urban Development," *The Town Planning Review.* 73 (2) : 153-170.

Bretell, C. and J. Hollifield, Eds. 2000. Law and the Study of Migration. In Migration Theory: Talking Across Disciplines. London and New York, Routledge.

Broeders, D. and G. Engbersen. 2007. "The Fight Against Illegal Migration: Identification Policies and Immigrants." *The Journal of The American Behavioral Scientist* **50**(12) :1592-1609.

Brown, E., Marie. 2007."Outsourcing Immigration Compliance." *Fordham Law Review* **77**: 2475-2530.

Bryce, J. S. 1990. The making of Westmount, Quebec 1870-1929 : a study of landscape and community construction. Department of Geography. Montreal, University of McGill. Master of Arts in Geography: 113.

Canada. Parks Canada."The Standards and Guidelines for the Conservation of Historic Places in Canada" n.d. Web.

Carmona, Matthew. 2003. " English Design Policies: How Have They Fared?" *Journal of Environment and PlanningB: Planning and Design.*30: 911-931.

City of Westmount City (1916)*Council Meeting Minutes,* volume 12, number 68, May 2, 1916.

City of Westmount. Urban Planning. City of Westmount, Westmount, Quebec, 2007. Accessed07/17/202010.
http://www.westmount.org/page.cfm?Section_ID=6&Menu_Item_ID=50

Collin, J.P. 1984. La cité sur mesure:specialisation sociale de l'éspace et autonomie municipale dans la banlieue montréalaise, 1875-1920. *Urban History Review* 13 (1), 19-34.

Cornelius, W. A. 2004. Controlling 'Unwanted' Immigration: Lessons From the United States, 1993-2004. San Diego, University of California : 32.

Epstein, Richard, A. 1995."The Permit Power Meets the Constitution," *Iowa Law Review* 2: 407-422.

Feinstein, J. S. 1991."An Econometric Analysis of Income Tax Evasion and its Detection." *RAND Journal of Economics* **22**(1): 14-35.

Gordon, R.. 1996. Chapter 4: Law of Tax Administration and Procedure: Law Design and Drafting., International Monetary Fund. Volume 1: 17-37.

Greenbaum, R. and J. Engberg. 2000. "An Evaluation of State Enterprise Zone Policies." *Journal of Policy Study Review* **17**(2/3): 30-46.

Groat, L. 1994. Carbunkles, columns and pyramids: lay and expert evaluations of contextual strategies, in: B.C. Scheer & W.F. E.Preiser (Eds) *Design Review: Challenging Urban Aesthetic Control,*p. 156-164 (New York, Chapman & Hall)

Habe, R. Public Design Control in American Communities, 1989.*Town Planning Review,* 60 (3),p195-219. .

Hall, A.C.1997. "Dealing with incremental change:An application of urban morphology to design control,"*Journal of Urban Design* 2 (3) : 221-239.

Hasseldine, J., P. Hite, et al. 2007."Persuasive Communications: Tax Compliance Enforcement Strategies for Sole Proprietors." *Journal of Contemporary Accounting Research* **24**(1)

Keyserlingk, J., R. and M. Raym.ond. 2008 "A Vue From Sunnyside Westmount Independent. August 20.

Kumar, Sandeep. 2002. "Canadian Urban Design Practice: A Review of Urban Design Regulations," *Canadian Journal of Urban Research* 11(2) : 239-263.

Lanken, D. March 22, 1974.Viger Panel Annoyed 'That People Say We Do Nothing.'. *MontrealGazette, A1 and A10.*

Lighthall, W. D. Westmount: a municipal illustration. University of Toronto. 1907.

Lightner, B.C.1992."Design Review: a critical evaluation," *Cities: The International Journal of Urban Policy and Planning,* 9, p 280-287.

Mayor Marks, Karin, 2009. "Addressing & readdressing public input into urban planning," Westmount Independent, January 14, p. 4.

May, P., J and R. Burby, J. 1998. "Making Sense Out of Regulatory Enforcment," *Journal of Law and Policy* **20**(2): 157-182.

Nasar, J. L. & Grannis, P. 1999. "Design Review Reviewed: administrative versus discretionary methods,*Journal of the American Planning Association,* 65 (4), p 424-433.

Needham, Barrie. 2007. "Final Comment:Land-use planning and the law," *The Journal of Planning Theory* 6: 183-189.

Neimeijer, B.. 1989. "Urban Land-Use and Building Control in the Netherlands: Flexible Decisions in a Ridgid System." *Journal of Law and Policy* **11**(2): 121-151.

Punter, John. 2003. "From Design Advice to Peer Review: The Role of the Urban Design Panel in Vancouver," *Journal of Urban Design.* 8 (12): 113-135.

Quebec Superior Court. December 12, 2008. *Judgment in the Case of Mireille Raymond versus Steven Goldberg and the City of Westmount.* Quebec Superior Court, Province of Quebec, District of Montreal. N: 500-17-042963-085.

Reps, J. W. 1955."Discretionary Powers of the Board of Zoning Appeals." *Journal of Law and Contemporary Problems* **20**(2): 280-297.

Rose, C.. 1981."Preservation and Community: New Directions in the Law of Historic Preservation." *Stanford Law Review* **33**(3): 473-534.

R.S.Q., Chapter A-19.1. 1996. *An Act Respecting Land Use Planning and Development.* Chapter V. Constitution of Planning Advisory Committees, c 2, f 56.

Ruhs, M. and B. Anderson. 2009. Semi-Compliance and Illegality in Migrant Labour Markets: An Analysis of Migrants, Employers and the State in the UK. *Population, Space and Place* **10**: 1-17.

Seabrook, T. G.. 1964.The nature of attachments of residents to their neighbourhood : a study of an upper-middle class residential area.

Scheer, Brenda. 2005. "Who Made This BIg Mess?," *Journal of Urban Design* 93: 25-27.

Scheer, Brenda, C. and Wolfgang F. E. Preiser, eds. *Design Review: Challenging Urban Aesthetic Control.* International Thomson Publishing Company, 1994

Schon, Donald, A.1992. "Educating The Reflective Legal Practitioner," *Journal of Clinical Law Review* 2:231-250.

Stelle, N. G.. 2004"Ordering (and Order In) the City." *Stanford Law Review* **57**(1): 1-58.

Sweeney, L. "Permit Revisions Postponed." Westmount Independent. Aug 19-20, p, 3. 2008.

Sweeney, L. 2010. "Permit for New Lansdowne House Pulled From Council Agenda". Westmount Independent. March 9-19, p 2. 2010.

Tremblay, K. 2005."Academic Mobility and Immigration." *Journal of Studies in International Education.* **9**: 196-228.

Vazquez, J. M. and M. Rider. 2003.Multiple Modes of Tax Evasion: Theory and Evidence from the RCMP, International Studies Program Working Papers.

Wedge, D. "Consultation to be required before permits for new construction". Westmount Independent. December 9, 2009.

Wexler, R., L. 1968 "A Zoning Ordinance Is No Better Than Its Administration- Platitude Proved. The Practices and Procedures of Chicago's Zoning Board." *Journal of Practice and Procedure* 74: 74-91.

Williams, R. H.. 2010. "Zone Planning Regimes." *Journal of Environmental Planning and Management* 29(2): 87-89.

Wilson, J., Q., Ed. Bureaucracy: What Government Agencies do and Why they Do it. New York, Basic Book Inc., Publishers. 1989.

10. Appendix A

1 Aitken, J. (2010). Interview with James Aitken, Architect. Westmount.

2 Alan DeSousa (2010). Telephone Interviews with Mr. DeSousa, Executive Committee, City of Montreal, Borough Mayor Of St. Laurent.

3 Anderson, B. (2010). Interview with Bruce Anderson, Senior Architect and Former Member of the Architectural and Planning Commission. Westmount.

4 Beaudet, P. (2010). Interview with Pierre Beaudet, Director General of Outremont.

5 Caroline Breslaw. (2011). Telephone Interview with Mrs. Breslaw, V. President of Wesmount Historical Association.

6 Chapuis, P. (2010). Telephone Interview with Pierre Chapuis, Director of Urban Planning in Outremont.

7 Borowczyk, A. (2010). Interview with Adam Borowczyk, Architect. Westmount.

8 Drummond, Derek. (2010). Interview with Derek Drummond, Professor of Architecture, McGill, Former Chair of Westmount Architecture Commission.

9 Gersovitz, J. (2010). Interview with Julia Gersovitz, Architect and Professor of Architecture at McGill, Former Chair of the Architectural Commission in Westmount.

10 Hazan, P. (2010). Interview with Philip Hazan, Architect. Westmount.

11 London, Mark (2010). Interview with Mark London, Head of the Heritage Commission in Martha's Vineyard, MA, USA.

12 Hill, B. (2010). Interview with Bonnie Hill, Director of Urban Planning, Town of Mount Royal.

13 Marks, K. (2010). Interview with Former Mayor Karin Marks. Westmount

14 Poirier, M. J. (2010). Interview with Mme. Joanne Poirier, Director of Urban Planning in Westmount.

15 Quesnel, M. S. (2010). Telephone Interview with Urban Planner in the Borough of Pierrefonds-Roxboro.

16 Trent, P. (2010). Interview with Mayor Peter Trent. Westmount.

17 Young, W. (2010). Telephone Interview with William Young, Senior Preservation Planner, Back Bay Architectural Commission, Boston, MA, USA.

11. Appendix B

Comments from Survey Conducted June 2010

Comments from Very Satisfied Users

1. REPLACING WINDOWS: Pleased with work done.
2. DECK EXTENSION: The City staff were very helpful. When I was planning the Project, I took in my first sketch and they told me what would fly and what Would not fly, and why. Their help meant I could do my own sketches and Avoid wasting money on an architect for a simple project. They also helped Me to add some information between the first and second committee to show compliance rather than resubmit. They were very helpful. Their help meant I could get the permit the first time round.
3. EXTERIOR RENOVATION: Took the time we were told it would take.

Comments from Moderately Satisfied Users

1. ROOF, WINDOWS, LANDSCAPING: Too many permits for too many things.
2. WINDOWS, PLUMBING: Having never dealt with Westmount I was shocked at the amount of strict guidelines involved in getting a permit. I must admit however, that now that the process is done and I walk around the neighborhood, I appreciate the high standard.
3. LANDSCAPING: A member of the city staff called AFTER the work was approved and completed asking for a handrail to be installed. If a handrail had been required, it should have been made clear prior to granting the permit. I pointed this out to the employee and said he should call me back if the city planned to insist. He called back several days later and backed down on the request. This whole episode explains my answer to 1B (3) neutral, despite the rest of the process being straightforward.
4. DECK, WINDOWS: Process arbitrary; rules made up as they wish.
5. REPLACEMENT OF DOOR ON UPSTAIRS FRONT SMALL BALCONY; BALCONY FACING STREET: The guidelines need updating- they are somewhat vague and need to be more specific. The permit application system is very useful to help preserve Westmount's character etc. however, many people do extensive renovations , build decks, do plumbing etc. with NO permit.
6. LANDSCAPING, WATER ENTRY: The waiting period can be long (frequency of committee meeting), and the decisions can be unclear/obscure.
7. ADDITION EXTERIEURE: La sauvegarde du patrimoine à Westmount très important pour nous.
8. MAJOR EXTERIOR AND INTERIOR RENOVATION WITH EXTERIOR ADDITION: The process is sensible in general, but very long and expensive.
9. REPLACING WINDOWS A T REAR OF HOUSE: Too long.
10. WINDOWS: My renovation was reasonably simple.

Recurring Comments from Users

1. FRONT STEPS AND PORCH AREA: I appreciate the City's desire to keep the Architectural integrity of the community; however, the process appeared to be More of a tax grab- I pay an application fee to go to the committee. I then pay a feet to accept the permit, to pay someone to make renovations!
2. BASEMENT (1/2 UNDERGROUND), WINDOWS: They need photographs of the basement which delayed us. They charged $50.00 to apply, then without warning, charged $40.00 when I picked it up. They filled out about ten (10) forms with my name, address and phone number, which seemed excessive. I could not order my windows until I had my permit in hand.
3. THREE WINDOWS AT FRONT OF HOUSE: All the neighbors were okay with our window choices. City staff, in general, highly unreasonable. Permit process WAY MORE labour intensive and difficult than it needs to be. Pricing structure is a bit of a money grab. Should be a flat fee, regardless of the cost of the work to be done.
4. MAJOR REPAIR OF EXTERIOR STAIRS AND SIDEWALK TO FRONT ENTRANCE: There is little to no flexibility in the evaluation of the content of proposed renovation. You cannot replace obsolete materials (i.e. wood that requires maintenance) with modern substitutes (i.e. man-made composites that are safer and require little to no maintenance). There is no openness of the committee to consider alternatives, consequently, the process is a necessary burden and obligation.
5. DEMOLITION, REBUILDING AND ENLARGING TERRASSE: Difficult to reach people in charge. Had to phone repeatedly to get people to call back.
6. LANDSCAPING: It seems that the rules are always changing and some of them are arbitrary. For example, the city says the fence must be painted. Why? Natural wood is more attractive, more ecologically friendly and requires less maintenance. My friends who have lived longer in Westmount than I have tell me that there is always some arbitrary requirement and it changes every few years.
7. DOOR REPLACEMENT: The door was replaced in an alcove tower that previously did not have one. Denied initially because category 1 house. Took many letters to change rigid guidelines. Ultimately door enhanced building and similar to other entrances in area.
8. TWO WINDOWS REPLACED: I am extremely happy that Westmount has control Over changes to existing heritage houses, but in my case I felt I was trying to bring a more contemporary previous addition more in harmony with the older house and they suggested 'improvements' that had little to do with the existing structure. Then I was told I could go ahead and order windows if I didn't hear by mid-April. Fortunately, I called, as my design was initially refused. Eventually, after I had architects step in, it was approved. But it was a lot of bother for two windows, and a lengthy delay and a lot of misinformation.

9. LANDSCAPING: But we have undertaken huge renovation projects in additions to The one referred to in 2009. It took months to get and even though we followed the instructions- Supplementary information was required which significantly delayed our obtaining approval as there was no way to have this additional information reviewed quickly. We had to go through a second very detailed review once this additional interrelated was provided. It was a frustrating process!
10. LANDSCAPING: We had to redo the plans with our architect to satisfy the city. There is nothing to prove they are more competent than our architect and it's the client who pays the cost of modifications.
11. LANDSCAPING, FENCES and BALCONY: In my opinion, the process encourages people to undertake work without a permit.
12. REPLACEMENT OF ROOF: The extra requirements from the city's representatives forced me to document that ten other houses also had shingles on their vertical surfaces that were part of their roof. Delays etc..
13. ADDING ONE PARKING SPACE AND REMOVING THE APRON: Long process and not very pragmatic about the multitude of cars parked along the construction line. That it is a municipal rule dating back to 1998 that should have been voted on to be much more efficient.
14. LANDSCAPING, WALKWAY: Very complicated, not easy to work with.
15. DRIVEWAY AND REBUILDING DOUBLE BALCONY (FRONT OF HOUSE): The fact that My permit application had to be seen by three groups, did not make sense to me: 1st the Board of Inspections, then the PAC, then the council. Given that both projects we have recently undertaken have been very simple, the process seemed very cumbersome.

Individual Comments from Users

1. WINDOWS AND THE ROOF: The process is not that great, in that I asked the clerk At the desk what would be acceptable and he said, it doesn't work that way. I submit and then they respond. For the windows, it was last fall and it took a while. Like I said, the reason for the delay was because we did not know what Westmount wanted so we submitted samples of windows, it was refused, we resubmitted a second sample, that too was refused, then on the third submission, they finally accepted- a lot of wasted time!!
2. REPLACE BROKEN PAVERS ON PATIO IN BACKYARD; REPLACE UNSAFE/ BROKEN STEPS FROM BACK DOOR TO PATIO: Insane delays for placement of broken /unsafe/deteriorated backyard structures not visible to anyone but me!
3. APPLIED FOR A PERMIT TO BUILD A FENCE FOR PRIVACY AS OUR BACK GARDEN FACES A LANE: We abandoned the project and never built a fence because my handy-man, carpenter and builder could not deal with the requested changes. We have since planted trees.

12. Appendix C

Survey of the Permit Application Process
June, 2010

1A) Please comment on your experience in terms of the following:
(1 agree completely, 3 neutral, 5 disagree strongly)
The city staff was cooperative throughout the process.
1 2 3 4 5
The system was easy to understand.
1 2 3 4 5
The City of Westmount's guidelines were clear and understandable.
1 2 3 4 5
If supplementary documents were required, their inclusion was reasonable.
1 2 3 4 5 N/A
The duration of process was in keeping with your expectations.
1 2 3 4 5
You accomplished the goals of your renovation project.
1 2 3 4 5
The overall process made sense to you.
1 2 3 4 5

1B) what was your level of satisfaction with the process involved in obtaining a permit from the city of Westmount to carry out work?
(1 being fully satisfied, 3 neutral, 5 least satisfied)
1 2 3 4 5

2 Briefly describe the work undertaken:
(Was the project categorized as one of the following: windows or doors, roof, landscaping, major interior renovation, exterior addition or demolition?)

---

3 What date did you apply for your permit and when was it received?
_____

4 Is the work still ongoing?_____

5 Additional comments?

13. Appendix D

Monday, June 14, 2010

Dear Westmount Resident,

I am a graduate student at McGill University in the School of Urban Planning, and I am doing an independent research project on the preservation of heritage in Westmount and the strength and weaknesses of the building permit process for renovations.

I am asking you to answer five questions about your experience with the process of applying for a construction permit in Westmount. Responding is completely voluntary. All the addresses selected are a matter of public record. The City of Westmount keeps a public record of all permit applications which is how I accessed the information. I selected the months of April, May and June of 2009, which are the peak months for permit applications. In choosing to respond, be assured that all responses are anonymous and that addresses will not be linked to responses. Also, you may chose not to answer any specific questions and are welcome to add any additional comments. I would like to mention that this survey has been cleared by the Ethics Board of McGill. Once completed, a summary of the outcomes of my study will be available at the Westmount Library, and a full report will be available on request, and as with all such academic works, it will be publically available at McGill.
For further information, please contact me at my McGill email address: Kathleen.duncan@mail.mcgill.ca, or please contact the department of Urban Planning (514-398-4075) and leave me a message. Thank you in advance for taking part in this survey, I appreciate the time you have put into this.

Sincerely,

Kathleen Duncan
450 Lansdowne Avenue
Westmount, Quebec
H3Y 2V2
Project Supervisor: Professor Lisa Bornstein
Lisa.Bornstein@mcgill.ca

14. Appendix E

Research Consent Form
McGill University

Title of Research: Preserving Architectural Heritage in Westmount: Can Streamlining the Permit issuance and Renewal Process Increase Compliance?
Researcher: Kathleen Duncan, Masters Student, Urban Planning.
Contact Information: Kathleen.duncan@mail.mcgill.ca, department of Urban Planning (514-398-4075).
Research Supervisor: Professor Lisa Bornstein.
Contact Information: Lisa.bornstein@mcgill.ca

Purpose of the Research

The research project is focused on architectural heritage in Westmount, and whether streamlining the permit issuance and renewal process will increase compliance. I anticipate generating recommendations that could be incorporated into clearer guidelines and an improved procedure, thereby increasing compliance by the community, enhancing the efficiency of the system and potentially having applications beyond Westmount.

What will be Involved in Participating

I will ask you a few questions relating to your participation in and/or your involvement in the permit issuance process. The method, time and length of the interview will be at your own convenience.

I will audio-tape the interview, as well as take hand written notes for verification purposes only. The tapes will not be used in any other context, for any other research group or for any other purpose. Furthermore, the interview material will ultimately be destroyed, upon the completion of this research project.

Your participation is entirely voluntary and you can choose to decline to answer any question or even to withdraw at any point in the project. Anything you say will only be attributed to you with your permission; otherwise the information will be reported in such a way as to make direct association with yourself impossible. My pledge to confidentiality also means that no other person, other than my supervisor, will have access to the interview materials and that they will be stored in such a way as to make it impossible to identify them directly with any individual.

No harm or risk is foreseen for participants who are interviewed for this research.

No compensation will be provided to any subject.

Your signature below serves to signify that you agree to participate in this study.

Consent: I wish to be identified in the report:____ (YES) ____(NO)

I have read the above information and I agree to participate in this study.

Signature:_____ Researcher's Signature:_____

15. Appendix F

Do I need a permit?
General Guidelines

Building

A building permit is required for any new building **and** for any alteration or extension to an existing building. It is the homeowner's responsibility to ensure that a building permit is obtained when required. What projects require a building permit? These include, but are not limited to:

- Any change or major repairs to the exterior of a building including replacement of sloped roof material, modification to stairs, balconies, awnings, signs and other building elements;
- Replacement of, or modifications to windows and doors;
- Landscaping, fences, hedges, retaining walls, decks and resurfacing of parking aprons;
- Installation of mechanical equipment such as heat pumps and emergency generators.
- Pools, spas and waterfeatures

Please note: All exterior work is subject to the design approval of the Planning Advisory Committee. Depending on what your project entails, you may be requested to submit legal documents such as certificates of location & letters of authorization.

No permit required

Interior or exterior painting, repointing masonry and **minor** replacement of decayed wood or masonry within a normal building maintenance programme. Should the scope of work increase, you may be asked to obtain a permit.

Revision to the building permit : Any changes from the approved plans associated with the issuance of a building permit must be brought to the attention of the Urban Planning Department immediately and require review and approval in the same manner as the original application.

Plumbing

A plumbing permit must be obtained by a registered plumber for any changes to the plumbing system. **Please note that plastic piping is not permitted.**

Get your permit FIRST

For your protection, you should obtain your permit **BEFORE** signing any contract, ordering materials or starting work so that you are not left with supplies that cannot be used or work that must be redone. Westmount will order unapproved work to be stopped or demolished and property owners will be fined.

Highlights

The *Guidelines for Renovating and Building in Westmount* (By-law 1305) are revised on a regular basis. A few of the specific provisions are listed below as a reminder:

Building permit applications	An application for building permit must include all the required documents to ensure a timely review. Based upon the type of intervention you are planning, consult the submittal requirements found in the *Guidelines for Renovating and Building in Westmount.*
Preservation of original windows	Original windows and doors should be preserved and repaired. However, if they must be replaced, the new windows should match the original in material, details and divisions. The requirements vary according to the heritage value of your building.
Landscaping around swimming pools	The design of swimming pools and landscaping should respect the natural topography of a site. A swimming pool should only be established in the rear yard and must respect the criteria regarding enclosure and landscaping. The paving of a rear yard is limited to 40% of its total area, including a swimming pool.
Roofs	Preserve all significant, defining characteristics of an existing roof. When necessary, replace roofing materials or other features to match the original.
Spas / Water features	As per city bylaws these too must respect municipals regulations governing siting & noise

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16. *Appendix G*

Submittal requirements

Based on the type of intervention you are planning (headings to the right), read down the column to see what must be submitted (**X**) and what may be required in certain circumstances (**O**).

The Urban Planning Department may also request other additional information based on the nature of the proposal. One complete set of plans must be submitted, folded to 8-1/2" x 14". (A second set will be needed when the permit is issued.)

	New construction major additions[1]	Alterations Minor additions	Landscaping[2]	Windows and doors	Storefronts and Signs	Demolition
Application and fee: Application for plan review signed by the building owner or accompanied by a letter of authorization signed by the owner together with the application fee.	X	X	X	X	X	X
Photos: Legible photographs of all sides of the existing building. For landscaping changes, photos of site conditions.	X	X	X	X	X	X
Certificate of location: A copy of the certificate of location is required for the siting of projects.	X	X	X		O	O
Existing and proposed site plans: Plan showing property lines, setbacks, existing buildings, retaining walls, steps and major trees. For sloping sites: a topographical survey showing existing land profile.	X	O	X			
Preliminary plans: Preliminary architectural plans (floor and roof plans, elevations and sections) clearly and completely describing all proposals, including materials and colours as well as all mechanical and electrical equipment visible from the exterior. (At the preliminary approval stage.)	X	X	O			
Final plans: Complete set of architectural, structural, mechanical and landscaping drawings. Samples of proposed exterior materials and colours.	X	X	X			
Street elevations: Existing and proposed street elevations including neighbouring buildings.	X	O				
Proposed site elevations: For retaining walls, landfill, fences or building extensions near the property line: proposed elevation drawings along the property line as seen from the neighbours' sides.	O	O	O			
Model: Form model (eg. cardboard) of the building and/or site, including adjacent topography and buildings, to illustrate volumetric relationships of complex building or roof forms or of sloping sites. In some cases, axonometric or perspective drawings might suffice.	X	O	O			
Window or door brochure: Brochure from the manufacturer with a clear description of the type and colour. For custom-made windows or doors: shop drawings.	X	O		X		
Elevations: For changes to the window or door style or to the size of openings: an accurate drawing of each affected façade showing the final appearance.				X		
Signage: Scaled drawings of each proposed sign showing size, lettering, colours, materials, method of lighting and location on the building façade.					X	
Overall storefront and signage plan: In the case of multiple stores in a building, a letter from the owner indicating that the proposal conforms to the overall storefront and signage plan for the building.					X	
Replacement program: Complete set of plans for the building or landscaping proposed to replace the demolished building.						X
Building background: Documentation including age, history, evolution and architectural evaluation of the building to be demolished.						X

[1] "New construction and major additions" includes major transformations to existing buildings.
[2] "Landscaping" includes decks, fences, retaining walls, driveways and modifications to existing parking aprons.

Westmount
Urban Planning
(514) 989-5219

17. Appendix H

Table 4.2.2 **Replacement of windows and doors**

Category	Windows	Doors
Category I* Exceptional	Original windows must be preserved and maintained. If it is impossible to retain the original, their replacement must match the original in material, details and divisions. The replacement windows must be wood if the original windows were wood.	Original doors must be preserved and maintained. An original wood door facing the street or found in the principal facades must be replaced by a wood door matching the original.
Category I Important	It is recommended that original windows be preserved and maintained. It is also recommended that wood windows be replaced by wood windows. However, high quality metal-clad wood windows might be acceptable provided the profiles match the original details and divisions.	Original doors must be preserved and maintained. An original wood door facing the street or found in the principal facades must be replaced by a wood door matching the original.
Category II Significant	It is recommended that original windows be preserved and maintained. It is also recommended that wood windows be replaced by wood windows. However, high quality metal-clad wood windows might be acceptable provided the profiles match the original details and divisions. Some variations of PVC or metal windows that are true to the original in terms of form, proportions, details and size of sash, frame and mullions may be considered.	Original doors must be preserved and maintained. An original wood door facing the street or found in the principal facades must be replaced by a wood door matching the original. Doors in other locations may be replaced by either a wood or heavy gauge metal door provided the profiles are identical to the original wood details.
Category III Neutral	The replacement of the windows has to be harmonious with the style of the house.	Doors may be replaced by either a wood or heavy gauge metal.

18. *Appendix I*

Table of Acceptable Interventions

Category	Description of Categories	Acceptable Interventions
Category I* Exceptional	This category encompasses Westmount's most notable buildings. It includes: • historically significant buildings, • exceptional works by notable architects and builders, • exceptional examples of a particular style, • buildings of fine construction, detailing and materials, • buildings that make up an important architectural ensemble.	**Category I* buildings are to be kept in perpetuity. These buildings should be maintained and restored to the highest standards of these guidelines. Alterations to character-defining features and additions affecting these features are generally unacceptable.** **Demolition or modification of major defining characteristics are not permitted. Modifying minor defining characteristics are generally unacceptable.**
Category I Important	This category encompasses Westmount's notable buildings. It includes: • historically significant buildings, • important works by notable architects and builders, • important examples of a particular style, • buildings of fine construction, detailing and materials, • buildings that make up an important architectural ensemble.	**Category I buildings are to be kept in perpetuity. These buildings should be maintained and restored to the highest standards of these guidelines. Alterations to character-defining features and additions affecting these features are generally unacceptable.** **Demolition or modification of major defining characteristics are generally unacceptable. Modifying minor defining characteristics are also generally unacceptable.**
Category II Significant	This category encompasses Westmount's other significant buildings. It includes: • buildings that are notable in their own right but not at the level of category I buildings • more modest buildings that contribute to the overall character of the city due to scale, materials, and age.	**In general, Category II buildings should be preserved while maintaining the integrity of those features that define their character. Sympathetic alterations and additions may be allowed provided they do not adversely affect the essential character of the building.** **Demolition or modification of major defining characteristics are generally unacceptable. Modifying minor characteristics is also not generally acceptable but might be considered in certain circumstances in keeping with the guidelines.**
Category III Neutral	These buildings have less architectural significance than buildings in category II.	**There is no particular requirement to preserve the existing features of Category III buildings.** **Demolition is generally not acceptable but might be considered in certain circumstances. Modifications to existing buildings are acceptable provided they are visually coherent and harmonize with the streetscape.**

Definitions: *See the complete definitions of defining characteristics on page 7.*

19. Appendix J

Defining characteristics of Character Area 7
Cedar Avenue and Vicinity

The following are some of the key *defining characteristics* applying to the whole area.

Use and typology: All buildings are either detached or semi-detached, single family houses.

Siting and orientation: All buildings are sited parallel to the street. The topography plays a major role in their placement in relation to the level of the street. On the north-south streets, the buildings follow the rising slope. On the east-west streets, the buildings on the north side of the street are always sited high on an embankment, while those on the south side are always placed very close to street level (with some exceptions on The Boulevard).

Heights and frontages: Virtually all buildings are either two-and-a-half storeys (59%) or two storeys (38%) high. The average floor-to-floor height is 3.2 m for the ground and second floors and 2.6 m for the attic level which is always incorporated in the envelope of the sloping roof, thus resulting in a total height of approximately 12.0 m for 2-1/2 storey homes. The average building frontage for detached buildings is 13.7 m and for semi-detached is 7.5 m wide.

Roofs: Almost all buildings have sloped roofs (mainly pavilion or combination of sloping roof styles). The slope of the

The following are *defining characteristics* of specific *streetscapes* in addition to those of the whole character area unless otherwise noted.

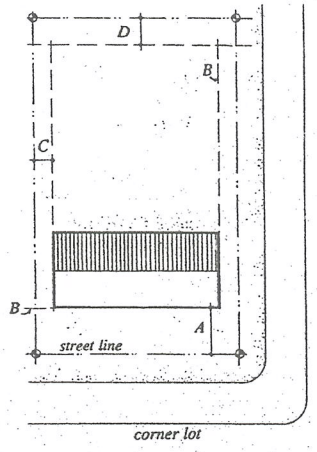
Cedar (south side): All entrances are at the front. Almost all garages are concealed from the street. Half the houses have classically symmetrical elevations with a proportion of solid to void much greater than average.

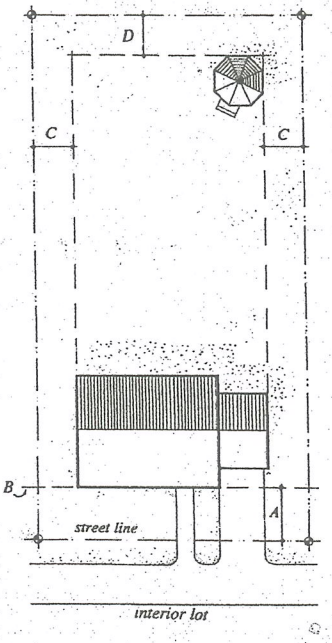
Cedar (north side): The houses here generally have garages fronting the street, either as part of the main volume or attached to the building.

Montrose (north side): All houses are in brick. Entrances are generally at the side and almost all entrances are articulated by portals or porticos.

The Boulevard (south side): The facade material is almost always brick. Almost all sloping roofs have slate as the roof material. The houses between the eastern city limits and Mount Pleasant are sited lower than street level with hedges or shrubs just behind the sidewalk.

20. Appendix K





No construction may take place in front of the building line (B) or within required side (C) and rear yards (D). The dimensions for these setbacks for any street or area are set out in the zoning and building line by-laws. The maximum area of the site covered by structures (buildings, decks, etc.) may not exceed the permissible site coverage.

5.2 Design harmony

Ensure that your project harmonizes with the character of the original building or streetscape.

5.2.1 Major Modifications and Additions

Ensure that an addition harmonizes closely with the design of the main building and, if visible from the street, with other buildings in the streetscape.

The greater the architectural and heritage value of the building, the more important it is that the design of the addition closely conforms to the existing building's defining characteristics.

5.2.2 New buildings

Ensure that a new building harmonizes with the buildings in the surrounding area, particularly on streetscapes where there is a clearly established character and considerable homogeneity. If almost all buildings (85% or more) on a streetscape or in a character area have one or more common defining characteristics, the new building **must** conform to this or these characteristics. If most (50% or more) of the buildings have one or more common characteristics, the new building **should** conform.

See the definition of defining characteristics in booklet 1.

5.2.3 General design principles

For any new building in the City, use a simple, coherent, orderly and integrated design approach with a consistent architectural vocabulary which uses the minimum number of materials, facade treatments and architectural details.

Whatever design approach is adopted, apply it coherently. Generally, all exterior walls should have the same treatment and use the same materials. However, in the case of buildings inserted between and mitoyen with buildings of similar or greater height, there might be cases where the treatment and materials of the rear facade might differ from those at the front.

Adding a vestibule or enclosing an alcove or other recessed area is not appropriate if it would change the character-defining features of a building.

In attached ensembles, ensure that the base, middle and upper portions of buildings relate to each other in terms of alignment of projections, size and location of openings, as well as use of materials.

All electrical and mechanical equipment including air conditioners, generators, geo-thermal units and wiring must be integrated within a new structure or addition. They should also be integrated in existing buildings when possible (see also section 3.4.2 and 6.7.3).

Given the overall harmony and refined order that distinguishes Westmount, the use of striking contrast is not appropriate.

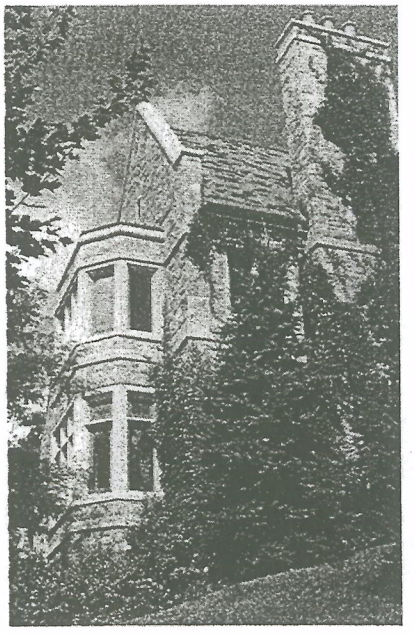
5.2.4 Siting and Orientation

Set back a new building the same distance from the sidewalk as the predominant setback of other buildings on the block. Locate additions at the rear or on an inconspicuous side of the original building; do not destroy or cover the defining features of the original building.

21. Appendix L

5.3 Impact on setting

Ensure that your proposed project respects the existing landform and landscaping on the site and in the area. Design new buildings or additions to minimize any negative impact of the original building and street as well as on the light, views and privacy of neighbouring properties.



5.3.1 Walls on or near the property line

It is preferable not to have a building located right on or near the property line unless it abuts an existing building. If it is absolutely necessary to extend beyond the existing building in order to meet the program requirements, minimize the length, height and visual impact of the wall on the adjacent property.

The zoning by-law only permits such construction when the building is attached to a building on the adjacent property and, for main buildings, only in certain districts. Reducing the visual impact of a part of the building that extends beyond the adjacent building can be done by stepping back part of the wall to reduce the perceived length or height. Surface treatments such as variations in the brick pattern (eg. recessed panels, banding in the brick pattern reflecting floor heights) can give scale to a blank wall.

5.3.2 Landform and landscaping

Buildings should be sited to allow preservation of mature trees and other significant vegetation. On sites that are not flat, the natural landform must be preserved as much as possible. The building should integrate into the natural slope. Vehicular access to the site (leading to drop-offs, driveways, parking areas and garages) must be located to minimize conflict with pedestrians and vehicular traffic (e.g. as far away from intersections as possible).

5.3.3 Impact of projections

Avoid large projections from a building or parts of a building which are not enclosed underneath. Projections such as balconies and oriel windows should have brackets or corbelling to provide "visual support".

The view of the underside of a large deck or addition that is not enclosed underneath is visually unsightly, particularly from neighbouring properties or when seen from the street. The maximum depth of a projecting part of a building (including any deck more than 2m. off the ground) should be kept to a minimum.

5.3.4 Relation to the street

In flat areas, building entrances as well as lobbies of apartment and office buildings should generally be located at or above sidewalk level. There should not be any blank walls adjacent to sidewalks.

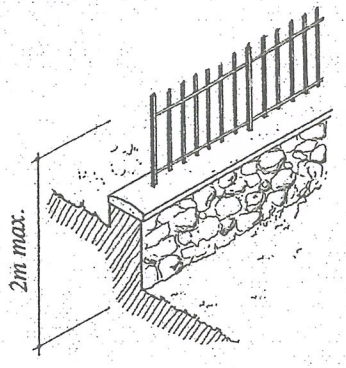
22. Appendix M

Materials

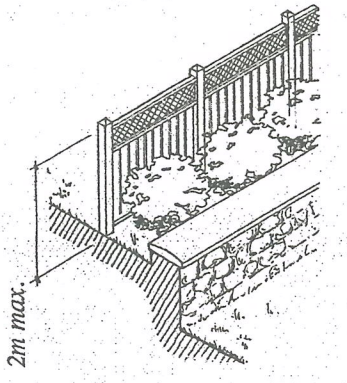
Most modest changes in grade can be achieved by moulding the surface of the earth. Where retaining walls are required, dry stone or jointed stone walls are encouraged. Untreated concrete walls are unacceptable and must be parged or faced with stone or brick. Precast concrete blocks and railroad ties are unacceptable in front yards when adjacent to public ways.

Fences on retaining walls

Retaining walls are prohibited in front of the building line unless they are the only way to deal with a sloping site.



The maximum overall height of a fence including the retaining wall is 2 meters (6'-6").



If the overall height would exceed the maximum permitted, the fence must be set back from the top of the wall to create a ledge for planting.

6.3 Grading

Maintain and enhance the natural topography and profile of the site to assure compatibility with the grades of neighbouring properties and adjacent sidewalks.

6.3.1 Protection of the building

Landscape construction proposals should be designed to avoid endangering the building.

Ground surfaces should slope away from buildings. Where building foundations rest on clay, the root systems of nearby trees can dehydrate the clay, causing ground shrinkage and building settlement. Plant trees a good distance from foundation walls. Branches of trees overhanging a roof can damage the slates or shingles and can clog gutters with leaves in the autumn.

6.3.2 Slope of the land

Ensure that slopes of paths are gentle enough to allow easy through the property. Walkways should be paved with a non-slip surface with a slight cross slope or crown to shed water. Grass lawns should have a minimum 1%-2% slope for proper drainage. Landscape berms should be sloped 1:3. Where more than three steps are required, handrails should be provided and lighting considered.

6.3.3 Retaining walls

Retaining walls should be avoided or reduced to the minimum possible height, especially in front of buildings.

If retaining walls are unavoidable on a sloping site, they shall be integrated with the landform, be of a minimum possible height and be masked by vegetation. If visible from the street or a neighbouring property, they should be stone or stone-faced with Montreal limestone (or match existing stone walls). This might also be required on walls not visible from the street, particularly with category I buildings, to maintain design consistency where there are several walls in a single landscape. Parged concrete might be acceptable for low retaining walls perpendicular and set well back from the street. The design should reduce any negative impact on the lower side, especially when it is seen from the public way or a neighbour's property.

The construction of retaining walls on City property or in front of the building line is not permitted. However, under certain exceptional circumstances, brick or stone walls up to 4'-6" high may be authorized by Council upon recommendation from the Architectural and Planning Commission and the Director of Public Works where this is required to deal with a particular site configuration. These will only be considered in cases of safety or when a design solution with a retaining wall has less negative impact on the natural topography than a design without one.

23. *Appendix N*

General Principles and Standards

1.1 Preservation

Preserve those distinctive features and materials important in defining the character of a building, a property, a streetscape or a character area.

The degree of preservation appropriate for a building is proportional to its architectural significance as specified in the table of acceptable interventions on the facing page.

1.1.1 Compatible use

Continue to use a building for its original use. If the existing use is no longer viable, choose a new one that requires minimal change to its defining characteristics.

1.1.2 Maintenance and repair

Protect and maintain distinctive features in good condition with proper maintenance. Whenever possible repair deteriorated features rather than replacing them. Do not use inappropriate repair techniques including surface cleaning methods, such as sandblasting, which cause damage to older, fragile materials.

1.1.3 Restoration and Replacement

If possible, restore original defining features or materials that were removed . Where the severity of deterioration requires replacement of a character-defining feature, the new feature shall match the old in design, colour, texture, detail and wherever possible, materials.

1.1.4 Historical accuracy

To avoid creating a false sense of historic development, base the restoration of missing elements on *exceptional* buildings in category I on historical, pictorial or physical evidence. In other cases, replacement elements with form, colour, details and materials similar to other buildings of the same style are acceptable.

1.1.5 Building evolution

Many buildings have been changed over time. Retain modifications that have acquired significance in their own right.

1.1.6 Reconstruction after a fire

If a category I or II building is damaged by fire, the exterior walls are substantially intact, and the City has determined that it is allowed to be rebuilt according to the zoning and building by-laws, the building should be rebuilt in conformity with its original design.