PART 8

APPLICATION PROCEDURES
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801 Application for a Predominant Use

801-1 PLANS REQUIRED

All applications for approval to a predominant use shall be accompanied by the following plans and information:

(a) Where the work concerned is a proposed use of land,
   (i) a legal description of the property concerned, including its street number;
   (ii) a site plan of the property (accurately drawn to a scale of not less than one-sixteenth inch to a foot) showing the boundaries of the site, the site area, the location of the proposed use and the location and use of all buildings on the site, including accessory buildings;
   (iii) a plan (accurately drawn to a scale of not less than one-sixteenth inch to a foot) showing the position and dimensions of every required parking and loading space and the proposed access and manoeuvring areas, including the location of footpath crossings necessary to serve such spaces. Provided that, where it is possible to do so without unduly reducing the clarity of the plans, the parking plan may form part of the site plan.

(b) Where the work concerned includes the construction of a proposed building, or a reconstruction, alteration or addition to an existing building, or a proposed use of an existing building,
   (i) a legal description of the property concerned, including its street number;
   (ii) a site plan of the property (accurately drawn to a scale of not less than one-sixteenth inch to a foot) showing boundaries, site area, the location (or proposed location) of the building or proposed building for which Town Planning approval is requested and the location and use of all other existing buildings and accessory buildings, or proposed buildings and accessory buildings for which Town Planning approval has been granted. Where the bulk and location requirements of the zone prescribe that the building shall allow a prescribed standard of daylight penetration to adjoining sites, sufficient levels shall be given around the boundaries of the site to enable an accurate assessment;
   (iii) a plan of each floor of the building or proposed building and of any other existing building, or proposed building for which Town Planning approval has been granted, accurately drawn to a scale of not less than one-eighth inch to a foot, with the use to which each part is to be put, clearly noted thereon;
   (iv) sufficient elevations of the building or proposed building, accurately drawn to a scale of not less than one-eighth inch to a foot, so as to show clearly the external appearance of the building, its fenestration, number of floors and height relative to ground level;
   (v) a plan (accurately drawn to a scale of not less than one-sixteenth inch to a foot) showing the position of every required parking and loading space and the proposed access and manoeuvring areas, including the location of footpath crossings necessary to serve such spaces. Provided that, where it is possible to do so without unduly reducing the clarity of the plans, the parking plan may form part of the site plan.

801-2 APPROVAL OF A PREDOMINANT USE

The use of any land or building specified as a predominant use, and the construction or reconstruction of, alteration or addition to any building which is used or intended to be used for a predominant use, in any zone in which the land or building is situated, will be permitted without further consent of the Council under this Code, provided that;
(a) They are in accordance with
   (i) all the ordinances applicable to the work and the particular zone;
   (ii) the relevant bulk and location requirements as set out in this Code
        for the zone in which the site is situated or as modified in pursuance
        of Ordinance 901-2;
   (iii) the relevant requirements for off-street parking and loading set out
        in this Code for the zone in which the site is situated or as
        modified in pursuance of Ordinance 901-3.

(b) The land is not affected by any of the provisions contained in Part 2 of
    this Code.

801-3 SPECIAL PROCEDURE FOR APPLICATIONS FOR SIGNS AND FOR REQUIREMENTS FOR THE
REMOVAL OF EXISTING SIGNS

The procedure referred to in this ordinance shall be followed in cases where
the Council
(a) refuses permission for the erection, construction or display of a sign, or
(b) gives its consent to the erection, construction or display of a sign on
   terms unacceptable to the applicant, or
(c) prohibits the display or requires the removal of an existing sign

upon the grounds that the sign would or (in the case of an existing sign) does,
in its opinion, conflict with the requirements of the ordinances relating to
traffic safety and amenities.

In any of such cases the applicant or the owner of an existing sign shall, on
having been informed in writing of such decision and of the reasons therefor,
have the right to refer the decision to the Council or to a committee thereof
constituted for the purpose and to state a case seeking a reversal or alteration
of that decision.

802 Application for a Conditional Use

The use of any land or building and the construction, reconstruction,
alteration or addition to any building specified as a conditional use in any
zone in which such land or building is situated (or as deemed to be a
conditional use as provided by Ordinances 201, 202, 303-7, 304-7, 305-7, 306-7,
307-7, 308-7, 701-7 and 803-2) is permitted subject in each case to consent by
resolution of the Council. Provided that such use or construction,
reconstruction, alteration or addition is in accordance with such conditions,
restrictions and prohibitions as the Council shall by resolution impose.

802-1 PLANS REQUIRED

All applications for approval to a conditional use shall be accompanied by
such plans and information as are required for applications for a predominant
use under Ordinance 801.
PROCEDURE FOR APPLICATIONS

The procedure for dealing with applications shall be as laid down by the Act and Regulations. The following quotations from the Act and Regulations are included for information only.

(a) Section 28C of the Act states:

Conditional Uses

(1) Application to the Council for its consent to a conditional use shall be made in accordance with regulations made under this Act notwithstanding anything to the contrary regarding procedure in the operative district scheme.

(2) The Minister and every person who or body which claims to be affected by the application shall have the right to object to the Council against the application being granted, and to be heard by the Council when it considers the application.

(3) After the application and all objections have been considered, the Council may allow or refuse the application; and in allowing the application may impose such conditions, restrictions and prohibitions as it thinks fit.

(4) Any consent given under this section shall lapse after the expiration of a period of two years from the date when the consent was given, unless the applicant, within that period, has established the use of the land or buildings to which the consent relates for the purpose for which the consent was given, or, in the opinion of the Council, is continuing to make substantial progress towards establishing that use.

(b) Regulation 32 states:

Applications for consent to change of use, specified departures and conditional uses

(1) Form of applications: Applications for consent to change of use under section 38A of the Act, applications for consent to a specified departure under section 35 of the Act, and applications for consent to a conditional use under section 28C of the Act shall be in form N set out in the First Schedule hereto or to the like effect.

(2) Service of application: The Council or any committee or authorised officer thereof shall, within seven days of receipt of the application, direct the applicant to serve copies of the application, together with such plans as the Council or any committee or authorised officer thereof may consider necessary to explain the application, and the proposed public notice on such persons and bodies as the Council, committee, or officer considers to have a greater interest in the application than the community generally has.

(3) Particulars to be publicly notified: After lodging the application with the Council, the applicant shall publicly notify full particulars thereof, including any special conditions, restrictions, and provisions proposed. The public notification shall be in form O set out in the First Schedule hereto or to the like effect.

(4) Period for objections: The public notification shall require the Minister and any person or body objecting to the application to submit his objection to the Council by a date to be specified in the public notification, which date shall be not less than 21 days after the date of the completion of the public notification.

(4a) Service of copies of objections: As soon as possible after submitting the objection to the Council, the objector shall serve on the applicant a copy of the objection.

(5) Distribution of copies of application: The applicant shall, not later than the date of the completion of the public notification, serve a copy of the public notice on the Council and a copy of the notice and of the application on the Commissioner of Works, the District Commissioner of Works, the Regional Planning Authority (if any), and on the persons and bodies directed to be served pursuant to sub-clause (2) of this regulation.

(6) Statutory declaration required: Before the application is considered by the Council the applicant shall, within three months of the date of the completion of the public notification, submit to the Council a statutory declaration to the effect that the provisions of sub-clauses (3) and (5)
of this regulation have been complied with, and setting out such details as to service of the public notice and of the application as the Council may require.

(7) Consideration by Council: The Council shall, as soon as conveniently may be after receiving the statutory declaration required by sub-clause (6) of this regulation, consider the application.

(8) Procedure for hearing: The provisions of regulations 21 and 22 hereof, relating to the hearing of objections and to witnesses, shall apply to the hearing of objections to any application under this regulation; and the Council shall advise the applicant of the time and place of the hearing. The Council shall give the applicant and each objector not less than 7 days notice of the hearing of the objections. The Council or any committee appointed by the Council shall at the hearing of any objection under this regulation, have power to summon witnesses and to hear evidence on oath.

(9) Distribution of decision: As soon as the Council has considered the application and any objections thereto it shall serve notice of its decision on the applicant, the owner, the occupier, the District Commissioner of Works, the Regional Planning Authority (if any), and each objector: Provided that, where any person or body has been represented in respect of the application by a solicitor or agent, notice of the decision may be served on that solicitor or agent alone.

(10) Time of decision: The application shall be deemed to be granted or refused, as the case may be, for the purpose of an appeal by any person when notice of the decision is served on or sent to that person.

(11) Costs: The reasonable costs of or incidental to any application under this regulation, and to the public notification and distribution of the consent and copies thereof, shall be payable by the applicant.

If any further information is required regarding this procedure, reference must be made to the Act.

803 Application for a Use Not Expressly Provided For

803-1 INFORMATION REQUIRED

All applications for the Council's determination of any use that is not expressly provided for by this Code in any of the zones herein, shall be accompanied by a full and accurate description of the proposed use.

803-2 DETERMINATION BY THE COUNCIL

In respect of any use that is not expressly provided for by this Code in any of the zones herein, the Council shall determine in which zone or zones (if any) it may be permitted and in respect of that zone or each of those zones, whether it shall be a predominant use or a conditional use or in what circumstances predominant and in what circumstances conditional and (where it is predominant) what the bulk and location requirements shall be, and (where it is conditional) subject to the provisions of Ordinance 802 hereof, what the bulk and location requirements shall be.
804 Application with Respect to Designated Land

Note: This ordinance should be read in conjunction with Ordinance 202 hereof and Section 33A of the Act.

804-1 APPLICATION IN RESPECT OF LAND DESIGNATED FOR AN EXISTING PUBLIC WORK

Where it is proposed to erect a building or reconstruct, alter or add to any existing building or to change the use of any land or building where such land or the site of such building is designated for an existing Public Work and where such work or use is for a purpose other than that for which the land is designated, the following shall apply:

(a) Where the erection, reconstruction, alteration or addition or change of use is a predominant use in the zone in which the land is situated, the provisions of Ordinance 801 shall apply.

(b) Where the erection, reconstruction, alteration or addition or change of use is a conditional use in the zone in which the land is situated, the provisions of Ordinance 802 shall apply.

(c) Where the erection, reconstruction, alteration or addition or change of use is not expressly provided for by this Code in any zone herein, the provisions of Ordinance 803 shall apply.

804-2 APPLICATION IN RESPECT OF LAND DESIGNATED FOR A PROPOSED PUBLIC WORK

Where it is proposed to erect a building or reconstruct, alter or add to any existing building, or to change the use of any land or building, or to subdivide any land, where such land is designated for a proposed Public Work and where the Council is satisfied that such erection, reconstruction, alteration or addition or change of use or subdivision has been consented to by the Minister, local authority or Council having financial responsibility for the proposed Public Work, the following shall apply:

(a) Where the erection, reconstruction, alteration or addition or change of use is a predominant use in the zone in which the land is situated, the provisions of Ordinance 801 shall apply.

(b) Where the erection, reconstruction, alteration or addition or change of use is a conditional use in the zone in which the land is situated, the provisions of Ordinance 802 shall apply.

(c) Where the erection, reconstruction, alteration or addition or change of use is not expressly provided for by this Code in any zone herein, the provisions of Ordinance 803 shall apply.

(d) Where it is proposed to subdivide the land the provisions of Ordinance 805 shall apply.

804-3 APPLICATION IN RESPECT OF LAND DESIGNATED FOR ANY PURPOSE OTHER THAN A PUBLIC WORK

(a) Where it is proposed to erect a building or reconstruct, alter or add to any existing building on any land designated for any purpose other than a Public Work, and where such erection, reconstruction, alteration or addition is consistent with the designated purpose, the Council shall determine whether such erection, reconstruction alteration or addition shall be deemed to be
a predominant or a conditional use and if predominant what bulk and location requirements shall apply. Where such work is deemed to be a conditional use the provisions of Ordinance 802 shall apply.

(b) Where it is proposed to erect a building or reconstruct, alter or add to an existing building or change the use of any land or building or subdivide any land, where such land or the site of any such building is designated for a purpose other than a Public Work and where such erection, reconstruction, alteration or addition, or use, or subdivision is inconsistent with the designated purpose, the following shall apply:

(i) Where the erection, reconstruction, alteration or addition or use or subdivision is permitted as a predominant use within the zone in which the land is situated, the Council shall determine whether such work or use or subdivision shall be a predominant use or a conditional use and if predominant what bulk and location requirements shall apply. Where such work or use or subdivision is deemed to be a conditional use, the provisions of Ordinance 802 shall apply.

(ii) Where the work or use is a conditional use in the zone in which the land is situated, the provisions of Ordinance 802 shall apply.

(iii) Where the work or use is not expressly provided for by this Code in any zone herein, the provisions of Ordinance 803 shall apply.

805 Application for a Subdivision

The following is supplied for information only and does not form part of this Code.

805-1 PLANS & INFORMATION

All applications for a subdivision shall be accompanied by the following plans and information:

(a) One plan to be suitably endorsed for execution in terms of Section 351 of the Municipal Corporations Act 1954 and its Amendments, and Section 33 (4) of the Town and Country Planning Act.

(b) Two plans for the Council's official records; one to be on tracing linen or a black on white mounted print, and one to be a paper print.

(c) One further plan if the middle line of narrow streets is not intended to be shown on the Land Transfer Plan.

(d) These plans are to be on 20" x 20" or 30" x 30" sized paper, or alternatively on International A1, A2, A3 or A4 sized paper.

(e) A coloured photostat of the Land Transfer Plan, which if reduced in size, must have a true scale insert thereon.

The following details shall be shown on Scheme Plans:

(1) Plan to be drawn to scale with contours and north point or bearings shown. Reference to A.C.C. Datum may be obtained from the City Drainage plans available for inspection on the 6th floor of the City Administration Building.

(2) Each separate lot to be edged green, have a number, area, boundary distances and, in the case of rear lots, the net area as well as the total lot area.

(3) The whole of the land held in physical contiguity by the subdividing owner to be shown on the plan. When the residue area is too large to be shown it can be indicated by a diagram to a smaller scale.
(4) Existing buildings to be shown in their correct position, and use and type of material indicated. Existing shops to be marked as lock-up or residential. Distances from existing buildings to all new boundaries, and the greatest height of the building facing the new boundary must be shown.

(5) Sufficient evidence shall be supplied to show whether it is practicable for all building sites to gravitate to sanitary and stormwater sewers.

(6) The position of existing buchan traps must be indicated.

(7) It is normal for Council to require easements to be created over all private drains crossing land which they do not serve. These private drains must be accurately shown on the plan.

Note: Approval of subdivision applications will be greatly facilitated if the position of all existing private drains, both sanitary and stormwater, are shown on the plan. Private drains are recorded on plans filed on the 7th floor of the Administration Building.

(8) The nature and location of vegetation (trees, bush and shrubs that may be worth preserving, particularly in R Special zones), stream pattern, the extent of swamps and low lying areas.

(9) Where any rear lot has an entrance of greater length than 200 feet, the position of the nearest Fire Hydrant must be shown on the plan. It should be remembered that 200 feet is normally the maximum length accepted for entrance to rear lots.

(10) Private ways to be created shall be coloured alternately yellow and blue and marked right-of-way. Conditional rights-of-way shall be set out in a memorandum of easements on the face of the plan. Existing rights-of-way affecting the land being subdivided must also be shown.

(11) Existing public streets are to be coloured burnt sienna, with the name and width shown. Proposed streets are to be coloured red with the street width indicated and the centre line shown if they are less than 66 ft. wide.

(12) A schedule of areas shall be endorsed on the face of the plan showing Lot numbers, and areas comprised in different zones, new streets, reserves, accessways, service lanes and the total area of the subdivision.

(13) All abutments to be shown with lot and plan numbers. Underlying lots to be indicated in broken lines along with underlying title references.

(14) Legal description, scale, title references, Surveyor's name and date of preparation to be shown in title block. If the plan shows a subdivision into more than two lots, a Registered Surveyor must sign the face of the plan.

(15) The owner's name is to be printed near the bottom right-hand corner of the plan and not included in the title heading.

(16) A blank space of not less than one inch is to be left across the bottom of the plan. All plans must have a border drawn ½ inch from the edge of the sheet.

(17) When a Scheme Plan does not clearly show the position of the subdivision a small scale locality plan shall be drawn on the plan.

The plan is to be accompanied by a report covering the reasons for Scheme Plan design.

Any further information concerning disposal of stormwater and sewage should also be given along with some indication as to the stability of the land being subdivided. The report should also give the reasons for any design which does not fully comply with the provisions of the Code of Ordinances. Where private drains are shown on the scheme plan, the report should quote the number of the relevant Council drainage plan.