Agenda - Council - October 26, 2005

Report - Standing Policy Committee on Property and Development - October 4, 2005

Item No. 6 Subdivision and Rezoning - 2438 McGillivray Boulevard
File DASZ 34/2005 [c/r DAC 18/2005]

STANDING COMMITTEE RECOMMENDATION:

On October 19, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submits to Council that the application for subdivision and rezoning under File DASZ 34/2005 not be proceeded with.

Report - Standing Policy Committee on Property and Development - October 4, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 19, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 4, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 20, 2005, the Assiniboia Community Committee did not concur in the administrative recommendation and recommended to the Standing Policy Committee on Property and Development that the application for subdivision and rezoning under File DASZ 34/2005 not be proceeded with.

RE: **Subdivision and Rezoning – 2438 McGillivray Boulevard**
File DASZ 34/2005 [c/r DAV 140827/2005D; DAC 18/2005]

For submission to: **The Standing Policy Committee on Property and Development**

Prepared by: **Josie Marques, Clerk,**
Assiniboia Community Committee

Report date: **September 22, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 20, 2005, the Assiniboia Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development that the application for subdivision and rezoning under File DASZ 34/2005 not be proceeded with.

The Assiniboia Community Committee provided the following supporting reason(s) for its recommendation:

1. The Assiniboia Community Committee did not agree with the administrative comments contained in the report from the Manager of Planning and Land Use dated August 24, 2005 and in the report from the Administrative Coordinating Group dated August 19, 2005, inasmuch as the overall plan for the area needs to be taken into consideration.

PUBLIC HEARING SUMMARY

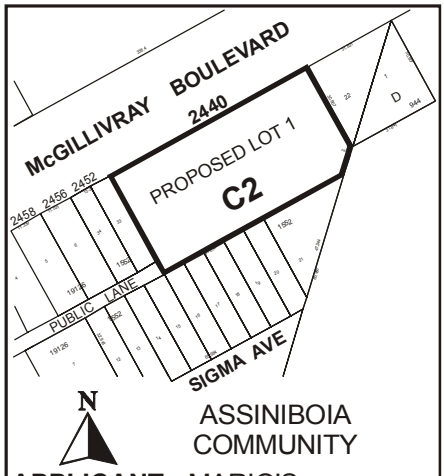
File: DASZ 34/2005 [c/r DAV 140827/2005D; DAC 18/2005]

Before: Assiniboia Community Committee
Councillor Eadie, Chairperson
Councillor Clement
Councillor De Smedt

Public Hearing: September 20, 2005
Community Committee Chamber
5006 Roblin Boulevard

Applicant: Mario's Concrete and Stucco Ltd. (Mario Costantini)

Subject:



APPLICANT : MARIO'S CONCRETE & STUCCO LTD.
FILE : DASZ 34/05
PROPOSAL : An application for the approval of the plan of subdivision shown outlined above as may be determined by Council and for a proposed zoning change to By-law No. 6400/94 by rezoning the land shown outlined above from an "R1-20" RESIDENTIAL DISTRICT and a "C1" COMMERCIAL DISTRICT to a "C2" COMMERCIAL DISTRICT. **For information, phone Mr. R. Humble, Planner at 986-2688.**

Premises Affected: 2438 McGillivray Boulevard

Exhibits Filed:

1. Application dated July 20, 2005
2. Notification of Public Hearing dated August 22, 2005
3. Manitoba Status of Title 2063869
4. Surveyor's Building Location Certificate and sketch dated October 31, 1986
5. Letter of authorization dated June 29, 2005 from Barbal Ventures Inc. to Mario's Concrete & Stucco Ltd.
6. Sketch of subject property
7. Plans (3 pages)
8. Report from the Manager of Planning and Land Use dated August 24, 2005
9. Report from the Administrative Coordinating Group dated August 19 2005
10. Inspection Report.
11. Communication dated September 19, 2005, from Gayle Douglas in opposition to the application
12. Communication dated September 19, 2005, from Lorraine Douglas in opposition to the application.
13. Petition in opposition to the application purporting to contain the signatures of 54 area residents, submitted by Dana Trenaman
14. Presentation in opposition to the application, submitted by Dana Trenaman

REPRESENTATIONS:

In Support:

Mario Costantini, Mario's Concrete and Stucco Ltd.

In Opposition:

Robert Brocklehurst
Gayle Douglas
Lorraine Douglas
Jane Friesen and Shawna Poltaruk
Bill Koesis
Kali Martin
Bev Phelan
Cynthia and Dana Trenaman
Joel Trenaman

For Information:

Leigh Young

For the City:

Mr. R. Humble, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Mario Costantini, Mario's Concrete and Stucco Ltd., appeared in support of the application and gave a brief overview on the proposal. Mr. Costantini stated that the surrounding area included heavy industrial uses and the proposal would not be detrimental to the area.

Discussion ensued as to the subject site's number of parcels and their current zoning status.

In response to Committee's questions, Mr. Costantini stated the proposal included two two-way access points onto the site, but would concur with two one-way access points if the committee preferred.

Robert Brocklehurst appeared in opposition to the application. Mr. Brocklehurst stated concerns with traffic, close proximity of the site to a residential area, and affects on property values.

Bill Koesis appeared in opposition to the application. Mr. Koesis reiterated the concerns of the previous speaker.

Jane Friesen appeared in opposition to the application. Ms Friesen reiterated the concerns of the previous speakers. She also stated concerns with lack of parking, and any paving could result in increased skateboarders, loitering and crime in the area.

Shawna Poltaruk appeared in opposition to the application. Ms Poltaruk reiterated the concerns of the previous speakers. She also stated concerns with the lack of sidewalks in the area for pedestrians, resulting in trespassing.

Bev Phelan appeared in opposition to the application. Ms Phelan reiterated the concerns of the previous speakers. She also stated that the area should remain residential and that the existing park was well used.

Dana Trenaman appeared in opposition to the application and read into the record a written presentation filed as Exhibit 14.

Cynthia Trenaman appeared in opposition to the application. Ms Trenaman stated she would like the existing zoning to remain.

Joel Trenaman appeared in opposition to the application. Mr. Trenaman reiterated the concerns of the previous speakers. He also stated concerns that the planned building was too large for the site, lighting of the property, air condition units affect on neighbouring homes, and requested that any businesses on the site have limited hours of operation.

Leigh Young appeared for information. Mr. Young requested the inclusion of a proper buffer, containment for garbage enclosure, fence, and sufficient parking. He sated concerns with the existing traffic in the area.

In rebuttal, the applicant Mr. Costantini , stated the proposal was limited by the conditions in the administrative report. He also stated the current traffic was not caused by this proposal and that the development of residences or industrial uses would have a greater affect on traffic. He further stated the intent to attract businesses that would supply services to the area. He also further stated he was in concurrence with the administration's request for parking.

Exhibit "8 referred to in File DASZ 34/2005 [c/r DAV 140827/2005D]

Winnipeg

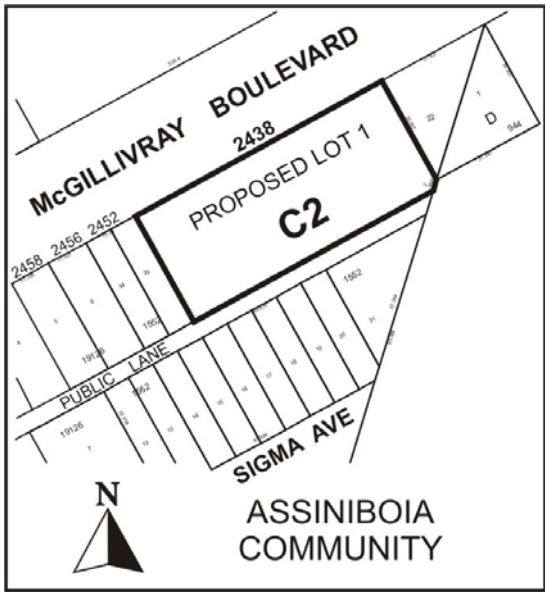
Planning, Property and Development Department Report

To the Assiniboia Community Committee

Date: August 24, 2005
File: **DASZ 34/05**
Related Files: [DAV 05-140827]
Subject: Plan of subdivision to consolidate 10 lots and proposed lane closure into proposed Lot 1. Rezone the said lots from 'R1-20' Residential District and 'C1' Commercial District to a'C2' Commercial District.

Location: 2438 McGillivray Boulevard

Legal Description: C/T 2063869
Lots 23 and 32, Block 10, Plan 1552, WLTO in RL 31 to 35, Parish of St. Vital



Applicant: Mario's Concrete & Stucco Ltd.
Owner: Barbal Ventures Inc.

Recommendation: Approved with Conditions

Site Description

Existing Land Use and Zoning
The application includes 10 parcels of vacant land on the south side of McGillivray Avenue, in addition to a portion of a public laneway which is situated directly to the south of the subject site. The site is 250 feet x 124 feet, comprising an area of approximately 3.0 acres. The lands are currently zoned 'R1-20A' Residential District on the east half and 'C1" Commercial district on west portion. The site is situated in the Whyte Ridge neighbourhood of the Charleswood ward. The area is primarily mixed-use industrial residential. New houses have been constructed to the south in the western part of Whyte Ridge between the CPR tracks and Brady Road. The southeast corner of the site abuts property zoned 'M1-B' and containing a food distribution operation called To-le-do Food Service. The block face to the west of the property, up to Front Street, contains houses fronting McGillivray. The public lane at the rear of the property is unimproved. The land to the south of the lane, fronting Sigma Avenue, is undeveloped. Sigma Avenue is also unimproved east of Front Street.

The 'C1' portion of the property previously contained a general store (Fort Whyte Food Mart). A substandard approach to McGillivray remains. The site has tree cover in the southwest portion. McGillivray is provided with ditch drainage in this location. Hydrants indicate the presence of a watermain. A hydro pole line runs in front of the site, as does an old sidewalk. Canada post has letterboxes located at the northeast corner of the site.

Surrounding Land Use and Zoning
North: McGillivray Boulevard followed by 'M1' Industrial (Whyte Ridge Baptist Church)
South: 'R1-20' Residential (vacant) then Sigma Avenue
East: 'A' Agricultural (vacant), followed by 'M1-B' Industrial (To-le-do Food Service)
West: 'R1-20' Residential, then Front Street



Figure 1: 2002 Air Photo of Subject Site

Description of the Proposed Development

The applicant proposes to consolidate and rezone the land from 'R1-20' Residential District and 'C1' Commercial District to 'C2' Commercial District to construct a one-storey, 11,456 square foot commercial strip development. A total of 10 commercial retail units are being proposed, with 8 of the units being approximately 1000 square feet in area and 2 units 1,700 square feet. The proposed building is set back approximately 60 feet, with a parking area in the front consisting of 40 surface stalls. The loading area and garbage enclosure is also located in the front yard area on the east side of the property. Two, 2-way approaches are located on either side of the property, off McGillivray Boulevard.

Concurrent with the rezoning application the applicant has made application to close part of the Public Lane south of McGillivray, east of Front Street so as to consolidate it with the adjoining subject property. The laneway would provide the developer an additional 16 feet of depth to his existing property. On the south side of the lane is vacant City owned property.

In conjunction with the proposed rezoning, a concurrent variance application (DAV 05-135021/D) has been made for maintenance of an existing building to permit a rear yard of 4.22 feet instead of 25 feet.

Analysis

Background

- The portion of the site currently zoned 'C1' Commercial was previously occupied by a neghbourhood grocery store which was demolished several years ago.
- In 2000, an application was approved to rezone the site to 'C2' Commercial for a proposed two-storey, 14,890 square foot commercial building. The developer never proceeded with the proposal. This proposal also involved several variances for accessory parking and yards.
- In early 2005 an application was made to rezone the site to 'C2' Commercial to permit the construction of a one-storey, 8,500 square foot building. The application was withdrawn in April, 2005.
- Again in 2005, an application was made to subdivide lots 29/32 ('R1-20' lands) into two 50 ft. x 108 ft. residential lots and rezone to 'R1-5' Residential. In addition, Lot 28 was to be rezoned from 'R1-20' to 'C1', with lots 23/27 to remain 'C1'. This application was withdrawn in May 2005.

Plan Winnipeg Compliance

The subject site is within the 'Neighbourhood' designation in Plan Winnipeg. Policy 3A-01 Promote Orderly Development promotes a local neighbourhood identity with a mixed use of residential, educational, commercial, etc. at a compatible scale and density. Policies 3B-01 Promote Vibrant Neighbourhoods and 3B-05 Promote Commercial Densification discuss encouraging and promoting mixed uses in residential areas and commercial densification where appropriate.

Compatibility with existing neighbourhood and surrounding uses

As previously mentioned, the fabric of the area surrounding the proposed site consists of various uses, including light industrial, institutional, single family residential and commercial. To the east of the site, the lands surrounding the intersection of McGillivray and Kenaston are being developed as a regional commercial hub. To the south of the site is the single family residential neighbourhood of Whyte Ridge. On the north side of McGillivray, the lands are zoned industrial and include the Fort Whyte Centre, a church, and light industrial uses. Given the context of the area and the fact that McGillivray is a heavy traffic corridor, Planning and Land Use Division is of the opinion that neighbourhood commercial uses would be compatible with surrounding area.

Transportation and Site Access

The subject site fronts onto McGillivray Boulevard which is considered a heavy use traffic corridor. The site plan submitted shows two approaches off McGillivray, on either side of the subject site. Both approaches are shown as two-way.

Site Design Issues

- Based upon discussions with the Planning and Land Use Division, the applicant has provided a 10 foot to 16 foot landscaped area along the front property line. It is intended

that this landscape strip would mitigate the appearance of the surface parking, garbage enclosure and loading area.

- A 2 foot high parking fence extends along length of the parking area facing McGillivray. A 4 foot high solid fence with landscaping is being proposed along the west property line that is adjacent to residential.
- A 5 foot wide sidewalk area extends along the length of the building.
- Concept elevations indicate an articulated building face, broken-up with varying materials, including acrylic stucco, masonry brick and block, metal and spandrel glass. Planning and Land Use Division is of the opinion that the overall design concept is compatible with the context of the area.

Land Use Bylaw Issues

The Planning and Land Use Division is recommending that certain land uses be excluded from the development, as noted in the proposed Zoning Agreement. The Department also has concerns related to the site layout. These concerns are outlined in the report dealing the requested zoning variances. Conditions of approval aimed at mitigating the potential negative impacts of the development are included in the following Zoning Agreement and in the "Conditions of Approval" related to the zoning variances.

Recommendation

The Planning and Land Use Division recommends approval for the following reasons:

- The site previously contained the "Fort Whyte Food Mart" and therefore has a history of commercial use;
- Retail or service commercial uses at this location would serve residents of Old Fort Whyte and the new Whyte Ridge subdivision.
- The site is located along a major arterial and is therefore unsuitable for residential development.

Recommended Conditions of Approval

I. That the plan of subdivision proposed under File No. DASZ 34/05 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 34/05, attached hereto and dated August 24, 2005, for registration in the Winnipeg Land Titles Office, subject to the following:

A. That the Developer be required to enter into a Development Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated August 19, 2005;

II. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

III That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File No. DASZ 34/05, attached hereto and dated

August 24, 2005, to a "C2" Commercial District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to, to include the following conditions:

A. That the following land uses be prohibited:
   i) Amusement parlor or enterprise;
   ii) Vehicular or motorized equipment rental, sales, repairs, cleaning;
   iii) Banquet hall, dance hall;
   iv) Billiard or bingo parlour;
   v) Boat sales or service;
   vi) Cabaret;
   vii) Contractor's establishment;
   viii) Fuel sales;
   ix) Hotel or motel;
   x) Liquor sales;
   xi) Restaurant over 2,500 square feet (excluding outdoor patio);
   xii) Storage compound;
   xiii) Tire retreading sales or service;
   xiv) Warehousing, cold storage, rental storage;

B. That a minimum 6 foot high (1.8 metre) ornamental fence be constructed along the south and west property limits and maintained for as long as the adjacent properties retain their current residential zoning.

C. That, prior to the issuance of a development permit, plans showing the site layout, access, parking, loading, fencing, landscaping, garbage enclosures, site lighting, signage, and building elevations and materials be submitted for the approval of the Assiniboia Community Committee; and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

D. That the "C1" sign provisions apply to the site.

IV. That a ten (10) percent dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land and the creation of additional sites.

V. That, in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

VI. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

VII. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

VIII. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office, and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands **provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.**

IX. The Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

X. In the event that the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

XI. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: Randy Humble, Senior Planner
PPD File # 2.647

Schedule "A"

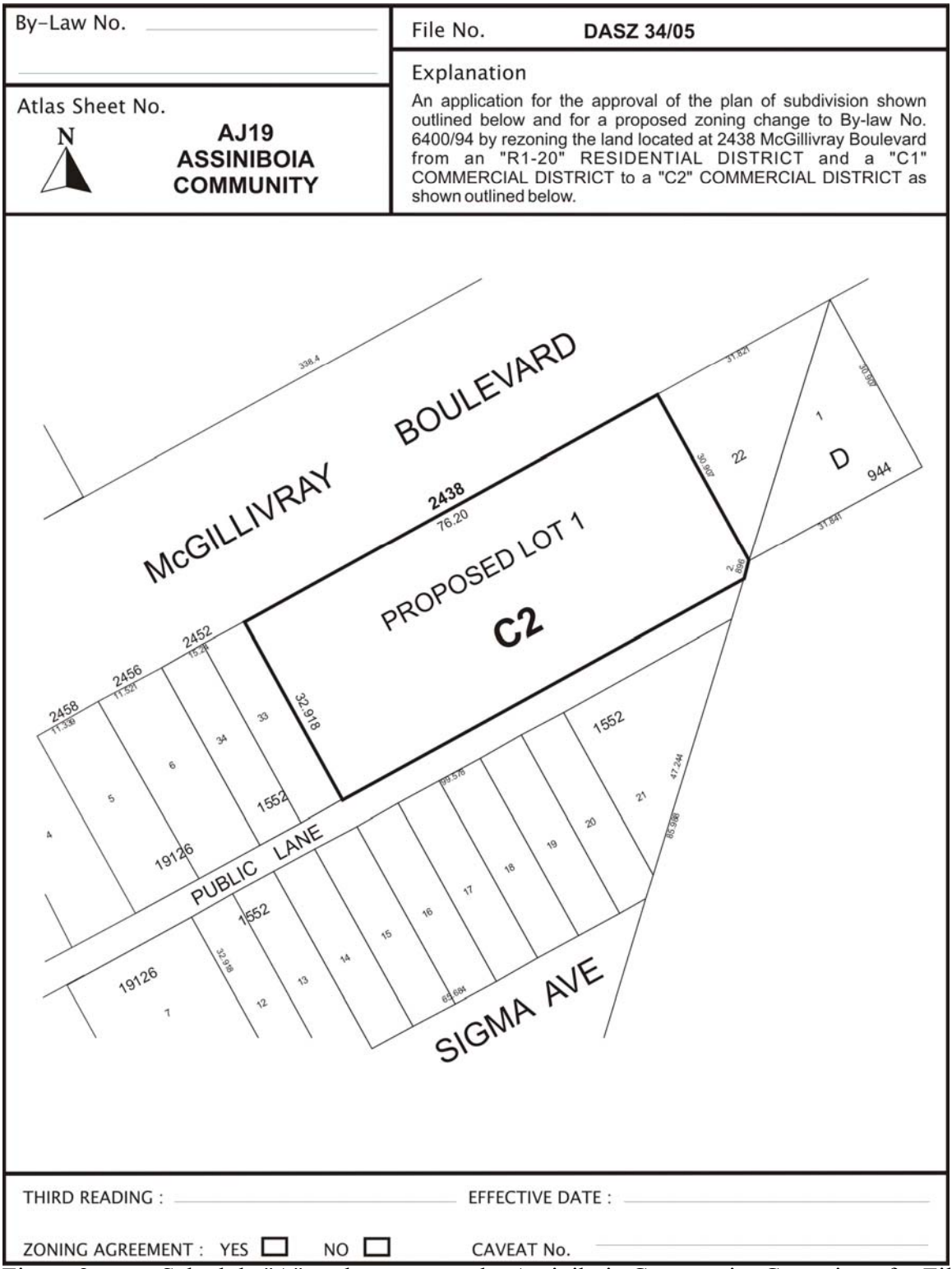


Figure 2: Schedule "A" to the report to the Assiniboia Community Committee for File No. DASZ 34/2005, dated August 24, 2005.

Exhibit "9" referred to in File DASZ 34/2005 [c/r DAV 140827/2005D]

Re: Proposed subdivision and rezoning of land located at 2440 McGillivray Boulevard – DASZ 34/05

An application has been submitted by Mario's Concrete and Stucco Ltd. to subdivide and rezone land located at 2440 McGillivray Boulevard. The Applicant proposes to close the lane at the rear of the subject property and include the closed lane within the land to be developed.

It is recommended that approval of DASZ 34/05 be subject to the Developer entering into a Servicing Agreement as follows:

1. The Developer shall pay its share of the regional land drainage system which consists of the trunk service rate (TSR), the subtrunk charge and oversizing charge. The 2005 rates are $6,479.00/acre, $8,423.00/acre and $3,732.00/acre respectively.
2. The Developer shall pay to the City in cash, on demand, its share of the cost of the following services previously installed or to be installed by the City or others in McGillivray Boulevard along the full length of the subject property currently zoned "R1-20" abutting McGillivray Boulevard:

    a) a 4.0m in width by 200mm in thickness portland cement concrete lane of pavement and related works;
    b) a 1.5m in width by 100mm in thickness portland cement concrete sidewalk in the south boulevard;
    c) street lighting in the south boulevard;
    d) landscaping in the south boulevard;

    all as determined by the Director of Public Works.

3. The Developer is to pay all costs associated with the installation and/or relocation of street lights and other utilities made necessary as a result of or required to accommodate works, which are required by the Developer to serve the proposed subdivision, as determined by and to the satisfaction of the Director of Public Works.
4. The Developer shall be responsible to control and to initiate the clean up of litter and refuse from the contractors and builders for this development, both on-site and off-site, during the installation of services and construction of buildings, until substantial completion of all construction. The clean up of litter and refuse shall be done on a regular basis as determined by the Director of Public Works. This shall include initiating action and assuming any costs in remedying the situation to the satisfaction of the Director of Public Works.
5. The Developer shall ensure that construction traffic uses access routes as determined by the Director of Public Works. The Developer shall maintain, at no expense to the City, the access routes in a clean, dust free and safe condition, free of dropped and tracked-on mud, and shall undertake regular scraping and sweeping of streets until building construction, including landscaping is complete, all as determined by and to the satisfaction of the Director of Public Works.

6. The Developer shall pay $545.00 in lieu of the City's administration and related costs associated with the preparation and implementation of the Servicing Agreement.

7. The Developer shall be responsible for the protection of survey monuments related to the proposed subdivision and shall post a letter of credit (minimum of $2,500.00) in connection therewith.

THIS REPORT SUBMITTED BY:

Administrative Coordinating Group
File No. AG 34/05
August 19, 2005

"Original signed by E.L. Carrière"
Land Development Engineer

"Original signed by K.T. Raban"
Water and Waste Department

"Original signed by R.J. Hartmann"
Public Works Department
Transportation Division

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