Agenda – Council - July 26, 2006

Report - Standing Policy Committee on Property and Development – July 4, 2006

Item No. 14 Subdivision and Rezoning - 2102 Ness Avenue
File DASZ 19/2006

STANDING COMMITTEE RECOMMENDATION:

On July19, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee, as amended, and submits the following to Council:

1. That the plan of subdivision proposed under File DASZ 19/2006 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 19/2006 dated May 15, 2006, for registration in the Winnipeg Land Titles Office.

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

3. That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 19/2006 dated May 15, 2006, to a "C2" Commercial District.

4. That a ten percent (10%) 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, (if applicable).

5. 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.

6. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

7. That the subdivision section of the by-law shall come into force and effect upon registration in the Winnipeg Land Titles Office.

Report - Standing Policy Committee on Property and Development – July 4, 2006

8. 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 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.

9. That 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.

10. That in the event 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.

11. 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.

Report - Standing Policy Committee on Property and Development – July 4, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 19, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee, as amended, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 4, 2006, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee with the following amendment, namely:

- That Recommendation No. 8 be amended by deleting the words "and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles office against those lands" in the second, third and fourth lines thereof,

and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 20, 2006, the Assiniboia Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning - 2102 Ness Avenue**
File DASZ 19/2006 [c/r DCU 130130/2006D and DAV 130139/2006D]

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

Prepared by: **Carlos Gameiro, Clerk,**
Assiniboia Community Committee

Report date: **June 22, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 20, 2006, the Assiniboia Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 19/2006 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 19/2006, dated May 15, 2006, for registration in the Winnipeg Land Titles Office.

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

3. That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 19/2006, dated May 15, 2006, to a "C2" Commercial District.

4. That a ten percent (10%) 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, (if applicable).

4. 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.

6. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

7. That the subdivision section of the by-law shall come into force and effect upon registration in the Winnipeg Land Titles Office.

8. 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.

9. That 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.

10. That 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.

11. 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.

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

1. The Assiniboia Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated May 15, 2006.

2. It has general support in the Community.

PUBLIC HEARING SUMMARY

File: DASZ 19/2006 [c/r DCU 130130/2006D and DAV 130139/2006D]

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

Public Hearing: June 20, 2006
Council Building, 510 Main Street

Applicant: ND Lea Engineers and Planners (Veronica Hicks)

Subject:



Premises Affected: 2102 Ness Avenue

Exhibits Filed:
1. Application dated May 8, 2006
2. Notification of Public Hearing dated May 16, 2006
3. Manitoba Statuses of Titles1691522 and 1691527
4. Letter of authorization dated May 1, 2006 from Leonard W. Carlson, Len's Auto Service to The TDL Group Corp.

5. Letter of authorisation from The TDL Group Corp. to ND Lea Consultants
6. Zoning Map of subject area
7. Revised Site Plan dated June 8, 2006
8. Report from the Planning and Land Use Division dated May 15, 2006
9. Inspection Report
10. Proposed Site Plan dated June 13, 2006, submitted at the public hearing by Veronica Hicks, ND Lea Engineers and Planners Inc.
11. Presentation in opposition to the application, submitted at the public hearing by Anthony F. Eshmade

REPRESENTATIONS:

In Support:

Veronica Hicks, ND Lea Engineers and Planners Inc.
Misty Sklar, ND Lea Engineers and Planners Inc.
Paul McNeil, ND Lea Engineers and Planners Inc.
Len Carlson
Chris Llary – Lemon
J. Thiessen

In Opposition

Anthony F. Eshmade

For the City:

Mr. J. Veitch, Planner Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Veronica Hicks, ND Lea Engineers and Planners Inc., appeared in support of the application and provided an overview of the proposal. Ms. Hicks indicated concurrence in the recommendations contained in the administrative report from the Manager of Planning and Land Use dated May 15, 2006.

In response to questions from Councillor Eadie, Ms. Hicks confirmed that all stacking of vehicles for the drive-through will be located on site and will not spilling out onto Ness Avenue.

In response to questions from Councillor Clement, Ms. Hicks indicated that there will be only one entrance to the drive-through preventing vehicles from accessing the drive-through mid-lane.

John Theisen, Silver Heights United Church, appeared in support of the proposal and indicated that the Executive of the Church supports the proposed development unanimously.

Anthony Eshmade appeared in opposition to the application and submitted a written presentation, filed as Exhibit 11.

In rebuttal, to comments made by Mr. Eshmade, Ms. Hicks stated that pedestrian access to the Church through the subject property is a matter between the two land owners and are not related to the land use application. Ms. Hicks further stated that the Church has confirmed their support for the application.

Exhibit "8" referred to in File DASZ 19/2006

Winnipeg

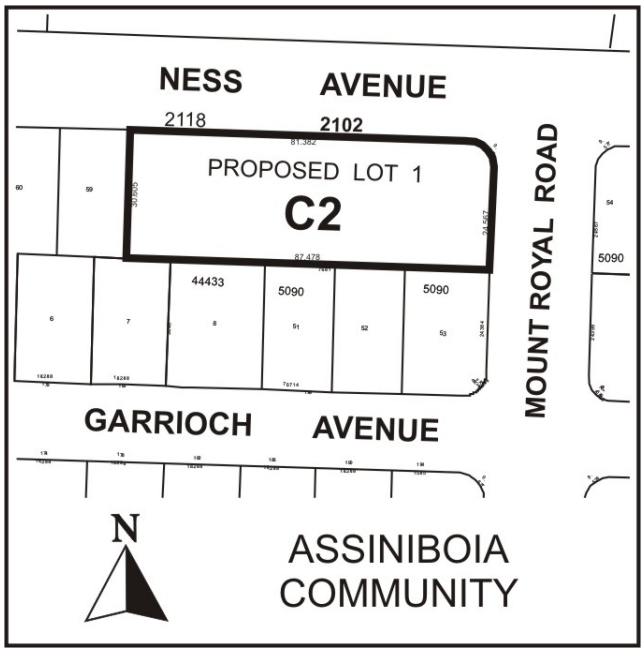
Planning, Property and Development Department Report

To the Assiniboia Community Committee

Date: May 15, 2006
File: **DASZ 19/05**

Related Files: DAV 06-130139/D, DCU 06-130130/D
Subject: To consolidate lots 54 through 58 creating 1 lot, as well as rezoning from 'C1' Commercial to 'C2' Commercial

Location: 2102 Ness Avenue
Legal Description: Lots 54/58, Block 10, Plan 5090



Applicant: Veronica Hicks, ND Lea Engineers and Planners
Owner: Leonard Carlson

Recommendation: Approval with Conditions

Site Description

Existing Land Use and Zoning
The approximately 0.65 acre subject site is located in the Silver Heights Neighbourhood of the Assiniboia Community. It is zoned 'C1' Commercial and presently occupied by an automotive repair business.



Figure 1: Subject Site (Aerial Photograph Flown 2005)

Surrounding Land Use and Zoning
North: Ness Avenue then 'M2' Industrial (athletic fields / Wpg. Int'l. Airport)
South: 'R1-5A' Single Family Residential (Church) then Garrioch Avenue
East: Mount Royal Road then 'C1' Commercial (strip mall) and 'R1-5A' Single Family Residential (church)
West: 'R1-5A' Single Family Residential (Church)

Description of the Proposed Development

The intent is to remove the existing automotive repair building and re-develop the site with a 24-hour coffee shop including a drive through. The restaurant portion of the proposed business will be approximately 2,813 square feet and have seating for 55 customers. The site development will include 27 parking stalls, pedestrian access from Mount Royal Road, a 20-foot high pylon sign and significant landscaping and ornamental wood fencing. The development requires a Conditional Use for the restaurant over 2,500 square feet and the drive through as well as Variances for the yards, fencing and uses.
5172

Analysis

Plan Winnipeg Compliance

The subject site is designated Neighbourhood in Plan Winnipeg 2020. *Policy 3A-01, Promote Orderly Development*, considers this designation to include a mutually supportive mix of uses including commercial, at a scale and density compatible with each other. This style of coffee shop and drive through typically function as neighbourhood meeting places, the size and scale of these operations appear to be compatible with neighbouring residential with appropriate site development and access to an arterial roadway.

Policy 3B-01, Promote Vibrant Neighbourhoods, speaks to encouraging a mix of low-intensity compatible uses in recognition of related traffic flows as well as higher intensity ancillary uses on sites adjacent to major traffic or transit corridors. The subject site is located at the southwest corner of the intersection of Ness Avenue and Mount Royal Road. The intersection is signalized which will provide an extra level of traffic calming and safety. Ness and Mount Royal should be able to handle any increased traffic demands created by the proposed development.

Policy 3B-05, Promote Commercial Densification, is consistent with the City's commitment to compact urban form by encouraging the redevelopment, infill and expansion of existing commercial uses as the preferred method of accommodating new commercial development. Presently an automobile repair business operates at the subject site, the proposed redevelopment to a coffee restaurant and drive through will significantly raise the aesthetics at the intersection as well as continue the neighbourhood focused commercial enterprise.

Compatibility with existing neighbourhood and surrounding uses

The subject site is bracketed to the west and south by churches. Across the street on the north side of Ness Avenue the land is zoned 'M2' Industrial and occupied by athletic fields. The property on the east side of Mount Royal is zoned 'C1' Commercial and is occupied by a strip mall. In terms of establishing this coffee restaurant use at this location, it appears to be ideal as the churches will provide a buffer for the existing single-family residential development to the south, southwest and southeast. The proposed restaurant and drive through will operate on a 24-hour schedule, this type of use and clientele appear to have a minimal impact on the context as long as the vehicle queuing, fencing, lighting and the speaker systems are designed appropriately.

Site Design Issues

One key issue that has come out of the public meetings conducted by the consultant is the disruption of a long-standing pedestrian route leading from the adjacent parking area to the west property line of the subject site to the neighbouring church that shares the south property line with the subject site. Some church goers have been able to park on the Seventh Day Adventist Church property to the west, walk across the parking area of the Automotive Repair business and into the back door of the United Church.

This route will no longer be accessible under the proposed development due to concerns about safety and liability as the route will now cross the proposed cueing line and parking area of the drive through and restaurant, (see Figure 2 below). During the public open houses, those affected had asked that the future tenant accommodate this route, however a solution that both sides can agree to has not been reached at this time. It appears to the Planning and Land Use Division that this is a legal issue of property rights and informal rights of ways and it is beyond the proposed land use scope of these applications.

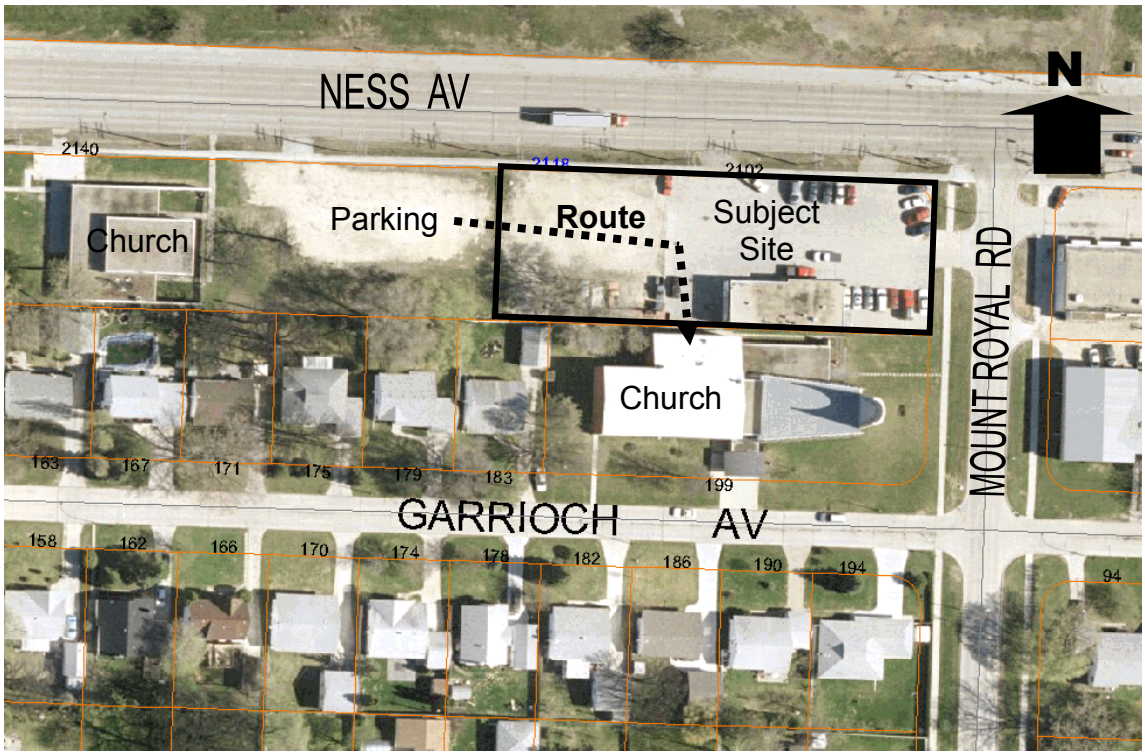


Figure 2: Approximate Location of the Existing Informal Pedestrian Route

Comments from other departments

The Public Works Department is currently monitoring traffic quantities on Mount Royal Road, the Traffic Engineer for the department has indicated to the Planning and Land Use Division that they will continue to monitor the traffic and deal with any issues that may arise due to the new development.

Public Input

The project consultants, NDLea Engineers and Planners held two public open houses to introduce the proposal and garner feedback form the neighbouring residents. The consultant took minutes of the meetings, submitting copies to the City of Winnipeg.

Recommendation

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

- The proposal is supported by Plan Winnipeg 2020 as the site is within Neighbourhood designation, which encourages mixed-use development, commercial infill and higher intensity ancillary uses next to major traffic corridors,
- The site was previously zoned commercial and is adjacent to additional commercial uses,
- The proposed use fronts onto Ness Avenue, an arterial roadway and is buffered from the surrounding single family residential by three existing churches to the west, south and east,
- The proposed development will refurbish the existing site with a new building, significant landscaping and fencing.

Recommended Conditions of Approval

I. That the plan of subdivision proposed under File No. DASZ 19/06 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 19/06, attached hereto and dated May 15, 2006, for registration in the Winnipeg Land Titles Office.

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 19/06, attached hereto and dated May 15, 2006, to a "C2" Commercial District.

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, (if applicable).

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 rezoning by-law and forward same to Council for all three (3) readings.

VII. That the subdivision section of the by-law shall come into force and effect upon registration in the Winnipeg Land Titles Office.

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: James Veitch
PPD File # DASZ 19/2006

Schedule "A"

By-Law No. _____

File No. **DASZ 19/06**

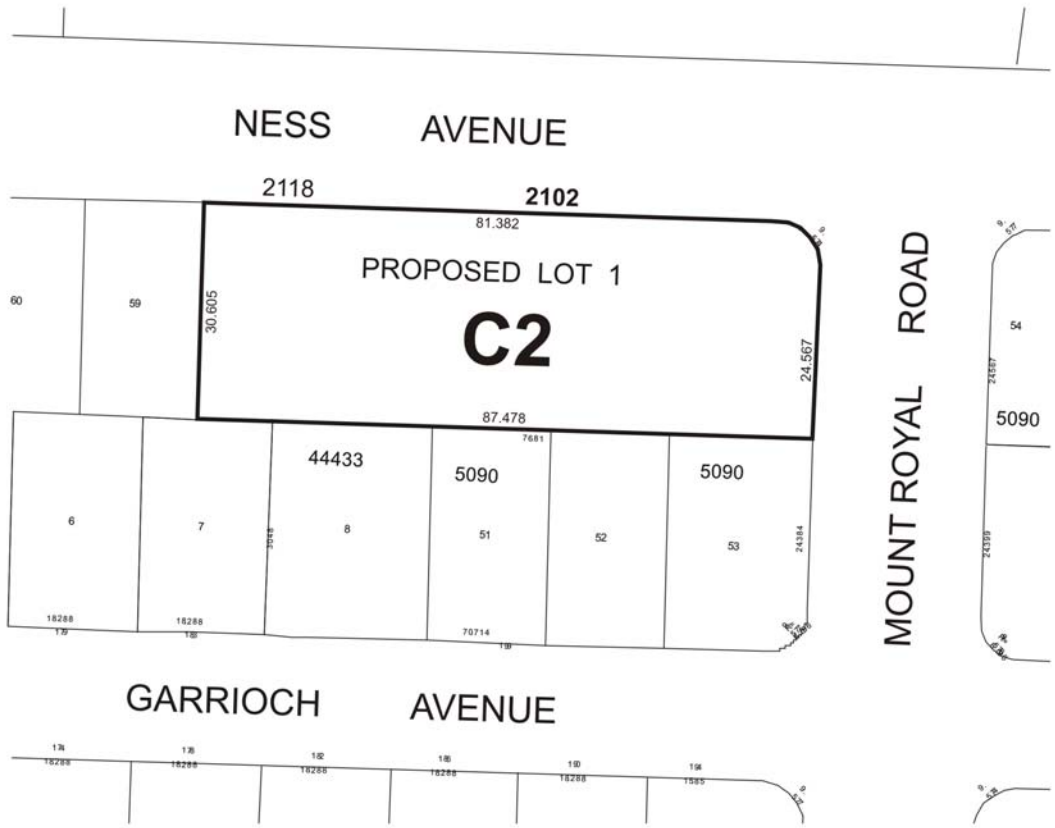
Explanation

An application for the approval of the plan of subdivision shown outlined below and for a proposed zoning change to By-law No. 6400/94 by rezoning the land located at 2102 Ness Avenue from a "C1" COMMERCIAL DISTRICT to a "C2" COMMERCIAL DISTRICT as shown outlined below.

Atlas Sheet No.

N

AA17 ASSINIBOIA COMMUNITY



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Schedule "A" to the report to Assiniboia Community Committee for file # DASZ 19/06 dated May 15, 2006.