Agenda – Council – September 27, 2006

Report - Standing Policy Committee on Property and Development – September 5, 2006

Item No. 20 Rezoning - 406 Elgin Avenue
File DAZ 228/2006

STANDING COMMITTEE RECOMMENDATION:

On September 21, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A" for File DAZ 228/2006 dated June 30, 2006, to a "C2" Commercial District subject to the following:

   A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

      i. That development be constructed in substantial conformance with plans identified as Sheets 1 to 2, Exhibit 9 for File DAZ 228/2006 dated July 17, 2006, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

      ii. That only the following use shall be permitted on the land:
         a. Non-accessory parking use.

2. That a ten per cent (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 the market value of the land.

3. 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.

4. 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.

Report - Standing Policy Committee on Property and Development – September 5, 2006

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at 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.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. 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.

Agenda – Council – September 27, 2006

Report - Standing Policy Committee on Property and Development – September 5, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 5, 2006, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 25, 2006, the Lord Selkirk-West Kildonan Community Committee did not concur in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 406 Elgin Avenue**
File DAZ 228/2006 [c/r DAV 136559/2006D]

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

Prepared by: **Diane Timmins, Clerk**
Lord Selkirk-West Kildonan Community Committee

Report date: **August 4, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 25, 2006, the Lord Selkirk-West Kildonan Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. ***That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A", for File DAZ 228/2006 dated June 30, 2006, to a "C2" Commercial District, subject to the following:***

    A. ***That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter, to provide for the following:***

        i. ***That development be constructed in substantial conformance with plans identified as Sheets 1 to 2, Exhibit 9 for File DAZ 228/2006 dated July 17, 2006; and thereafter maintained to the satisfaction of the Director of Planning, Property and Development.***

        ii. ***That only the following use shall be permitted on the land:***
            a. Non-accessory parking use.

3. ***That a ten per cent (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 the market value of the land.***

3. ***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.***

4. ***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.***

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at 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.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. 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.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reasons for its recommendation:

1. There is significant community amenity proposed in the landscaping and fencing of the subject property which will enhance and improve the current condition of the subject property.

2. The subject property is already being used as a parking lot.

PUBLIC HEARING SUMMARY

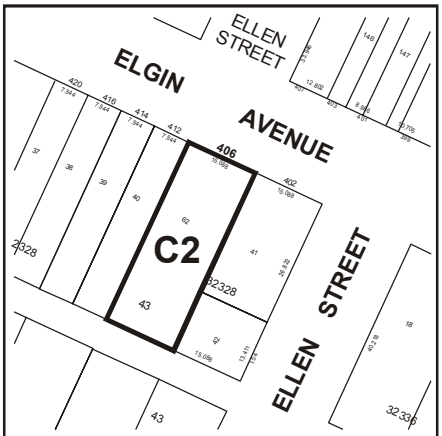
File: DAZ 228/2006 [c/r DAV 136559/2006D]

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Lazarenko, Chairperson
Councillor O'Shaughnessy
Councillor Pagtakhan

Public Hearing: July 25, 2006
West Committee Room
Council Building, 510 Main Street

Applicant: Nejmark Architects (Tat-Liang Cheam)

Subject:



Premises Affected: 406 Elgin Avenue

Exhibits Filed:
1. Application dated June 12, 2006
2. Notification of Public Hearing dated June 13, 2006
3. Manitoba Status of Title 2013945
4. Letter of authorization dated June 8, 2006 from 74579 Manitoba Ltd. to Nejmark Architect Inc.

5. Surveyor's Building Location Certificate and sketch dated September 20, 1989
6. Plans (2 pages)
7. Report from the Planning and Land Use Division dated June 30, 2006
8. Inspection Report
9. Plans, Sheets 1 to 2 inclusive, for File DAZ 228/2006 dated July 17, 2006

REPRESENTATIONS:

In Support:

Tat-Liang Cheam, Nejmark Architect
Kathy Trinh
Bao Trinh
O. Nixon

In Opposition

Catherine Collins

For the City:

Mr. K. Raban, Land Development Administrator, Planning, Property and Development Department
Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Tat-Liang Cheam, on behalf of the applicant, Nejmark Architect, appeared in support of the application and indicated non-concurrence in the recommendation contained in the report of the Planning and Land Use Division dated June 30, 2006, which recommended that the rezoning not be proceeded with. He indicated that parking is very important for the success of his client, Young's Trading which was located across the lane from the subject property and is in the process of being redeveloped as a result of a fire which occurred last year. He further indicated that inasmuch as 50% of the business comes from suburban areas, it is essential that free parking be available close to the business entrance and not located 300 feet away, as was previously the case. Mr. Cheam stated he has spoken to the adjacent neighbours and have come to an agreement in terms of buffering and landscaping that will enhance the subject property.

Catherine Collins, appeared in opposition to the application and stated she is familiar with the subject property as she resides on McDermot Avenue. She indicated the subject property is surrounded by houses and a parking lot is being proposed between two residential houses. In this connection, Ms Collins noted that Young's Trading already has a parking lot area behind a house at Elgin and Ellen Streets where the whole yard is taken up with parking and questioned the need for additional parking. Ms Collins stated concern that there appears to be a movement where houses in the area are being demolished to make way for future parking lots.

In rebuttal, Mr. Cheam stated there is no demolition of an existing house in this matter given that the subject property is a vacant lot. He reiterated the importance for the success of the grocery store to have parking for its patrons, particularly those coming from suburban areas. He agreed there already is parking provided in the area but noted that approval of the application would serve to increase the existing parking situation. Mr. Cheam summarized by stating the proposed buffering and landscaping would improve the current condition of the subject property and enhance the area. In summation, Mr. Cheam requested Committee to not concur with the administration and to recommend approval of the application.

Exhibit "7" referred to in File DAZ 228/2006

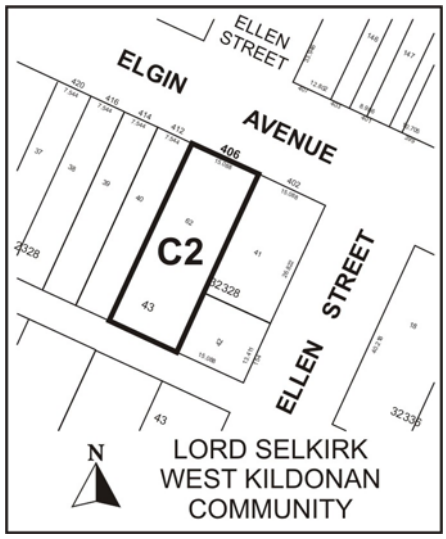
Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: **June 30, 2006**
File: **DAZ 228/06**
Related Files: **DAV 06-136559D**
Subject: **To amend By-Law No. 6400/94 by rezoning the land shown below from an "R2" Residential District to a "C2" Commercial District for the establishment of a surface parking lot**

Location: **406 Elgin Avenue**



Applicant: **Nejmark Architects (Tat-Liang Cheam)**
Owner: **Young's Trading**

Recommendation: **Denial**

Site Description

The subject property, which is zoned "R2" Residential, is located on Elgin Avenue, between Ellen and Gertie Streets, in the Centennial neighbourhood of the Point Douglas Ward.
North: Residenceszoned"R2"Two-FamilyResidential

South: Commercial uses zoned "R2" Two-Family Residential
East: Residences zoned "R2" Two-Family Residential
West: Residences zoned "R2" Two-Family Residential

Background
In November 2005, Young's Trading (397 William Avenue), which is just across the lane, burned to the ground. At this time, the owners of Young's Trading are planning to construct a new building (DAZ 227/06), and in conjunction with that project, they wish to establish a surface parking lot at the subject location.

Description of the Proposed Development
The applicant is proposing to convert a vacant residential lot into a surface parking lot in order to increase parking capacity for the proposed redevelopment of Young's Trading at 397 William Avenue. The property is currently zoned "R2" Two-Family Residential and is located between residential properties zoned the same.

In light of the fact that non-accessory parking lots are not permitted in residential areas, the applicant has applied to rezone the land to "C2" Commercial.

Analysis

Compatibility with existing neighbourhood and surrounding uses
It is atypical for surface parking lots to be located within residential areas. Further to that point, it is highly atypical for parking lots to be located between residential properties, on an exclusively residential block.

With that said, parking lots, in many cases, do have an adverse impact on residential neighbourhoods. They do not support interaction among neighbours and furthermore, when placed on vacant lots, they can eliminate opportunities for strengthening the neighbourhood by way of infill housing – which brings new people into the neighbourhoods to patronize the local community clubs, schools, parks, libraries, etc and is more cost effective since City infrastructure is already in place.

Demonstrated Need
While recognizing that Young's Trading is an important business to the community and while supporting their decision to reinvest in the neighbourhood, it is important for the business to demonstrate a need for additional off-street parking and to show that it cannot be managed through other options which have less impact on the surrounding neighbourhood.

To that point, a parking survey of the area by the Planning and Land Use Division reveals the following:
On Street Parking
There are approximately 64 on-street parking spaces within 300 feet of the business (See Appendix A).

Pay Lots
There are several pay lots in the immediate vicinity which may have excess capacity. These lots have space for over 100 vehicles.
Existing Parking Stalls
The applicant has roughly 23 existing parking spaces to serve the development on the site of the store (397 William) and across the street (384-388 Elgin).

In light of the above, it appears as if there is already more than adequate parking capacity in the immediate area to serve this development, without rezoning the subject lands.

Recommendation

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

- There is no demonstrated need for additional parking
- It is not customary for land to be commercially zoned for non-accessory parking between residences on a residential block
- The proposal is not consistent with Plan Winnipeg Policy 3A-02, Sections 4 and 5, with regards to promoting compact urban form

However, should the Community Committee wish to approve the application, the following conditions should be considered:

Recommended Conditions of Approval

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 228/06, attached hereto and dated June 30, 2006, to a "C2" Commercial District, subject to the following:

A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter, to provide for the following:

1. That final plans be built in substantial accordance with plans submitted and attached hereto dated July 17, 2006 and identified as Sheets 1-2 for File No. DAZ 228/06; and thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.
2. That land usage be restricted as follows:
   i. The following uses shall be permitted on the land:
      a. Non-accessory parking use.

II. That a ten (10) per cent 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 the market value of the land.

III. 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.

IV. 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.

V. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at 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.

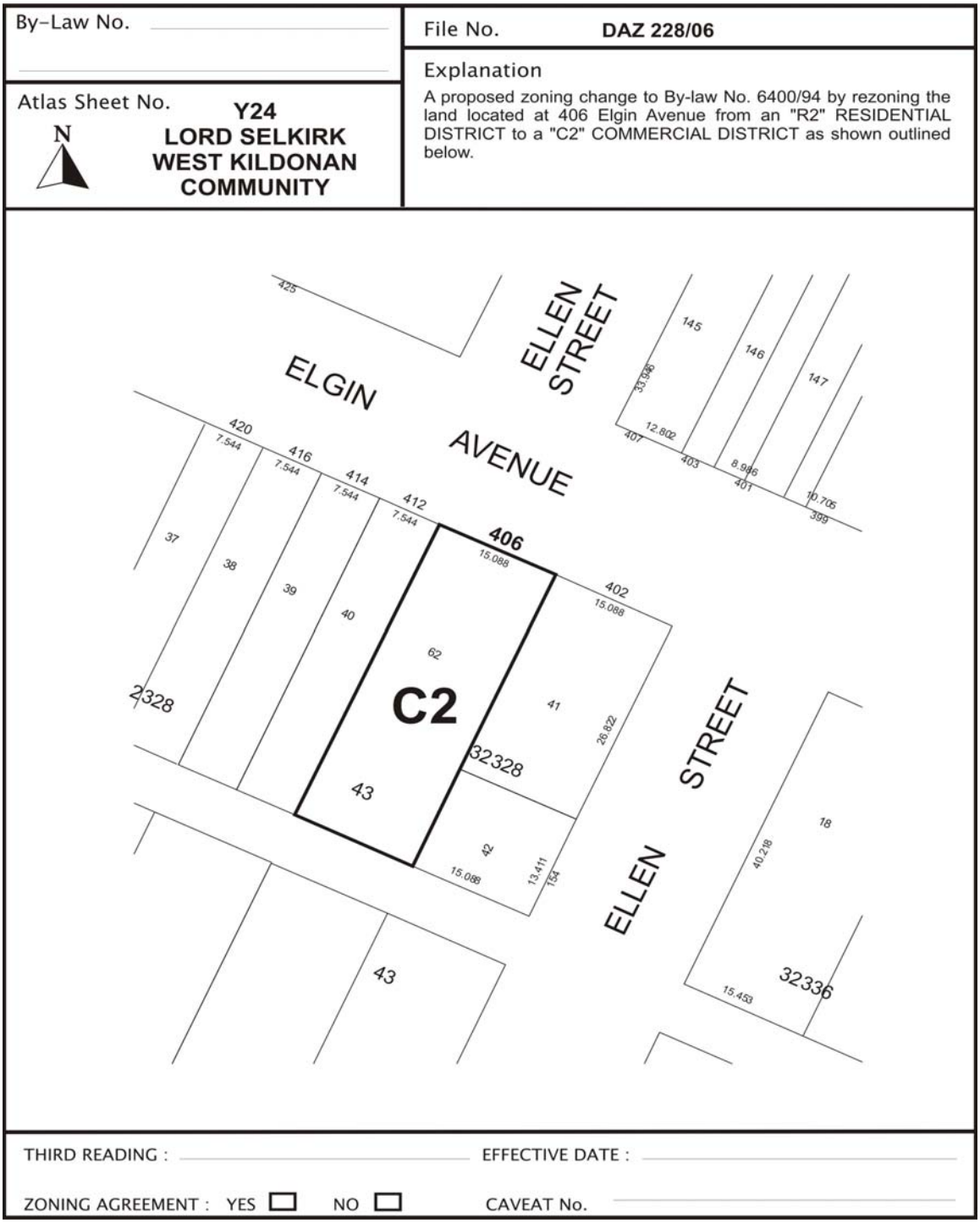
VI. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

VII. 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: Michael Robinson, AICP
PPD File # DAZ 228/06

Schedule "A"

Schedule "A" to the report to Lord Selkirk-West Kildonan Community Committee for File No. DAZ 228/2006 dated June 30, 2006.



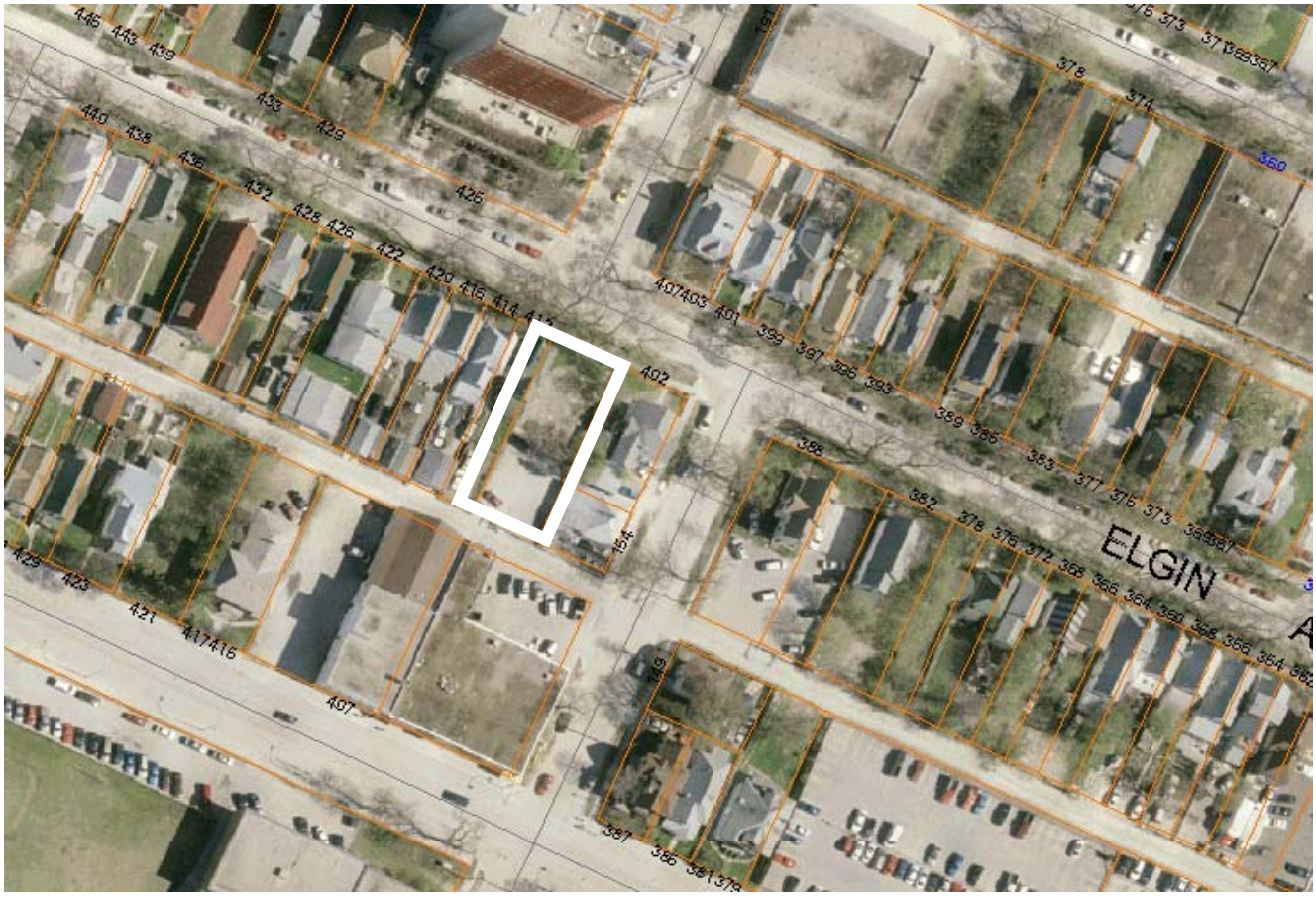
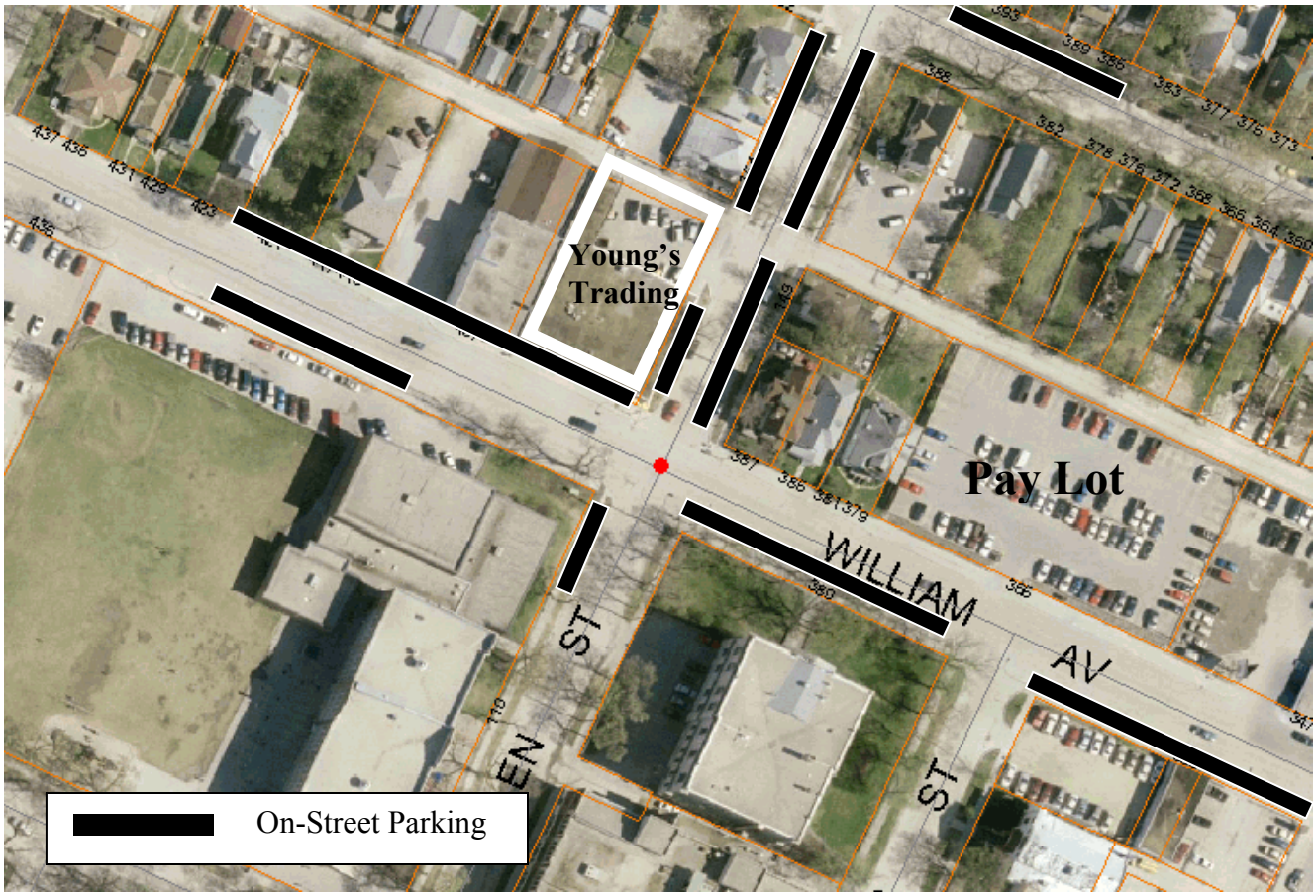
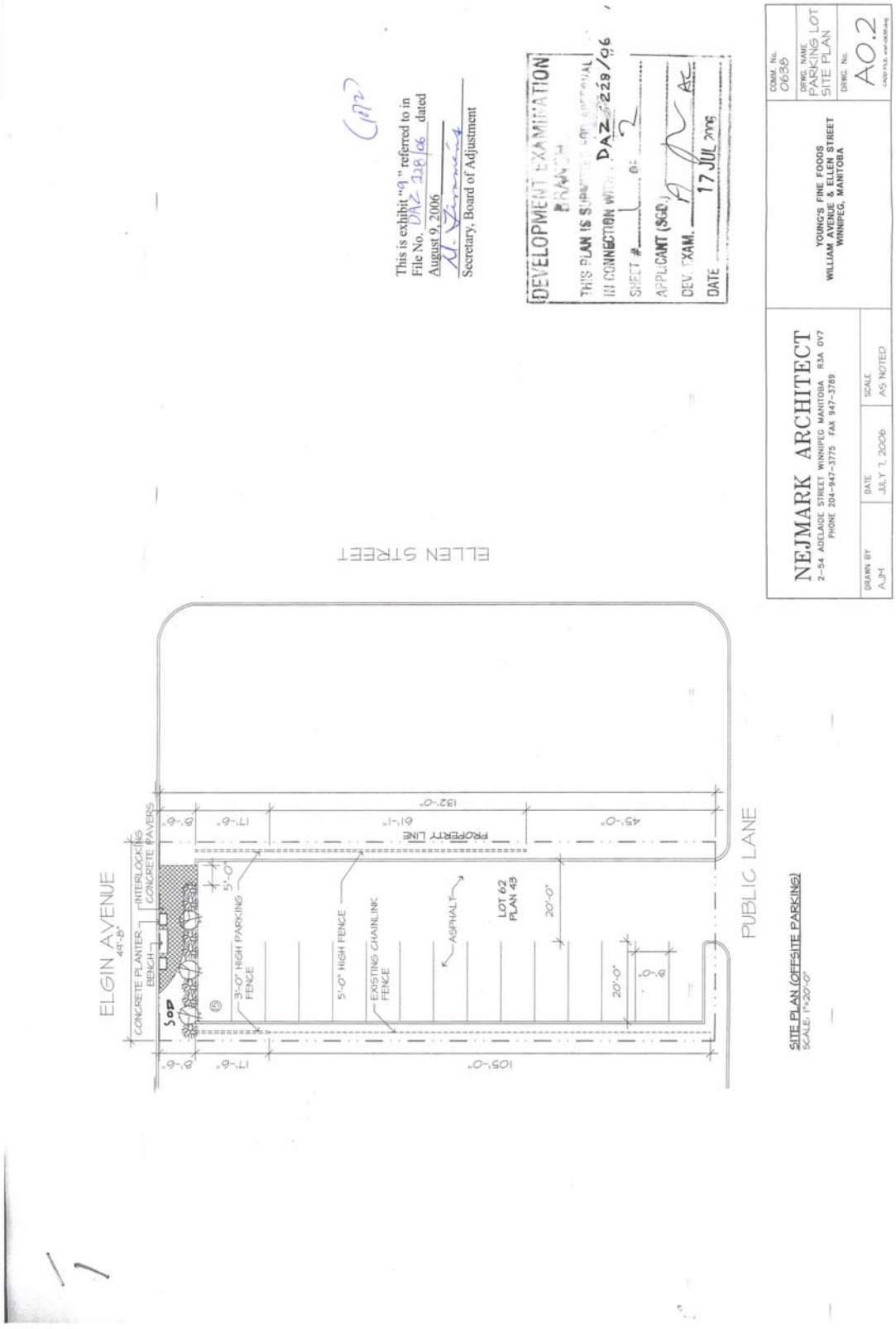


Figure 1: Aerial Photo (Flown in 2005)

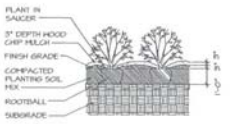


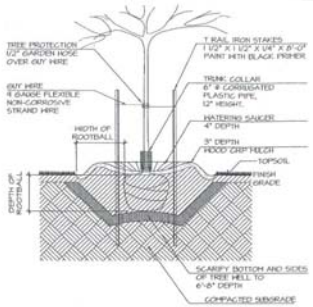
Appendix A: Public parking in the vicinity of Young's Trading

Exhibit "9" referred to in File DAZ 228/2006



6262

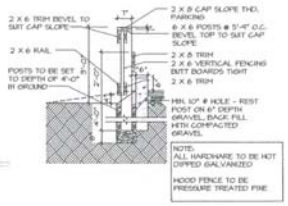




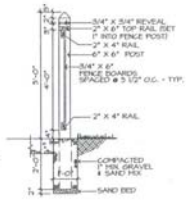
PLANT LIST

QUANTITY	COMMON NAME/BOTANICAL NAME	SIZE AND REMARKS
5	FALLGOLD BLACK ASH/FRAXINUS NIGRA 'FALLGOLD'	75mm CALIPER MIN, 3000mm DIA. ROOTBALL, 2500mm HT, MIN, STRAIGHT TRUNK, BALANCED HEAD, ONE STAKE PER TREE, N/A SIDE.
10	SIBERIAN "PEARLS" DOGWOOD/CORNUS ALBA "SIBERIAN PEARLS"	150mm H.T., MIN, 5 BASAL STEMS MIN, FULL & BUSHY, 2 GALLON CONTAINER.

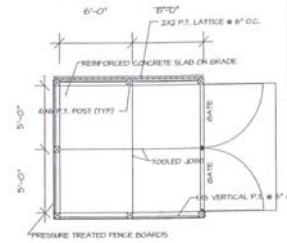
TYP. TREE PLANTING DETAIL
SCALE: N.T.S.



PARKING FENCE DETAIL
SCALE: N.T.S.

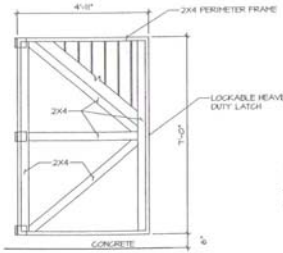


HIGH FENCE DETAIL
SCALE: N.T.S.



GARBAGE ENCLOSURE DETAIL
SCALE: N.T.S.

DEVELOPMENT EXAMINATION BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH DAZ 228/06
SHEET # 2 OF 2
APPLICANT (SUB.)
DEV. EXAM.
DATE 17 JUL 2006



GARBAGE ENCLOSURE GATE DETAIL
SCALE: N.T.S.

(242)

This is exhibit "9" referred to in File No. DAZ 228/06 dated August 9, 2006

Secretary, Board of Adjustment

NEJMARK ARCHITECT 2-54 ADELAIDE STREET WINNIPEG MANITOBA R3A 0V7 PHONE 204-947-3775 FAX 947-3789			YOUNG'S FINE FOODS WILLIAM AVENUE & ELLEN STREET WINNIPEG, MANITOBA	COMM. No. 0638 DRWG. NAME SITE PLAN DETAILS DRWG. No. A0.1
DRAWN BY A.JM	DATE JULY 7, 2006	SCALE AS NOTED		CADD FILE: arch-0638.dwg