PUBLIC HEARINGS

Minute No. 603 **Variance – West side of McPhillips Street, north of Templeton Avenue**
(Old Kildonan Ward)
File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

EXECUTIVE POLICY COMMITTEE DECISION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and approved a Variance on "the land" for the establishment of three (3) parcels to permit proposed Parcel B and C having no frontage on a street, subject to the following condition:

1. That, if any variance granted by the order is not established within two (2) years of the date thereof, the order, in respect of that Variance shall terminate.

DECISION MAKING HISTORY:

The Winnipeg Public Service advised that all statutory requirements with respect to this application have been complied with.

Moved by Councillor O'Shaughnessy,
That the report from the Winnipeg Public Service be taken as read.

Carried

Moved by Councillor O'Shaughnessy,
That the receipt of public representations be concluded.

Carried

Moved by Councillor O'Shaughnessy,
That criteria (a) to (d) of Subsection 247(3) of The City of Winnipeg Charter are satisfied.

Carried

Moved by Councillor O'Shaughnessy,
That the recommendation of the Winnipeg Public Service be concurred in.

Carried

Moved by Councillor O'Shaughnessy,
That the public hearing with respect to this application be concluded.

Carried

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 17, 2007, the Executive Policy Committee did not hear any representation on the application and adjourned the public hearing to its meeting on October 31, 2007.

On September 12, 2007, the Executive Policy Committee did not hear any representation on the application and adjourned the public hearing to its meeting on October 17, 2007.

The City of Winnipeg

VARIANCE ORDER

EXECUTIVE POLICY COMMITTEE

DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

Before:	Executive Policy Committee His Worship Mayor Katz, Chairperson Deputy Mayor Leipsic Councillor Clement Councillor O'Shaughnessy Councillor Steeves Councillor Swandel Councillor Wyatt
Public Hearing:	October 31, 2007 October 17, 2007 September 12, 2007 West Committee Room Council Building, 510 Main Street
Applicant:	DKA Developments Inc. (Donovan Toews)
Premises Affected:	West side of McPhillips Street, north of Templeton Aenue
Legal Description:	Shown as Rly Plan 1906; Pt 20/23 Kild; and Pt OTM Lot 23 Kild bounded on N by line drawn S of parl with and perp dist 11 ft from N limit said Lot on S by S limit said lot on W by E limit MPTL ROW Pl 3174 and on E by E limit said lot; All those portions of OTM Lots 20, 21 and 22 Parish of Kild shown as Rly Plan 1906 WLTO, hereinafter called "the land"
Property Zoned:	"C2" Commercial District
Zoning Atlas Sheet:	R24

Nature of Application: To vary the proposed "C2" district regulations of The Winnipeg Zoning By-law No. 6400/94 for the establishment of three (3) parcels to permit proposed Parcel B and C having no frontage on a street.

It is the opinion of the Executive Policy Committee that subject to conditions listed below, if any, this Order meets the statutory criteria of The City of Winnipeg Charter in that it:

(a) is consistent with Plan Winnipeg, and any applicable secondary plan;

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(c) is the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

(d) is compatible with the area in which the property to be affected is situated.

C.W. Charter Subsection 247(3)

ORDER:

The Executive Policy Committee orders that the provisions of the proposed "C2" Commercial District regulations of The Winnipeg Zoning By-law No. 6400/94 are varied on “the land” for the establishment of three (3) parcels to permit proposed Parcel B and C having no frontage on a street, subject to the following condition, which the Executive Policy Committee considers necessary to ensure compliance with criteria (a) to (d) above, namely:

1. That, if any variance granted by this order is not established within two (2) years of the date hereof, the order, in respect of that Variance shall terminate.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

DATE OF ORDER: October 31, 2007

CERTIFIED BY:



Manager of the Decision Making Process

HOW TO APPEAL

You may appeal against either the whole of this order or part(s) of it by filing a letter of appeal.

That letter must be submitted in writing, be signed by the appellant, show the printed name of the appellant, contain the mailing address of the appellant, contain the contact telephone number of the appellant, and

(a) be addressed as set out below,

(b) be received at that office not later than 4:30 p.m. on November 19, 2007, [IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(c) refer to Variance Order No. DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007] give brief reasons for the appeal and must describe whether you appeal the whole order or only part(s) of it.

Any appeal letters not containing all of the above elements will be rejected by the City Clerk as invalid appeals and will not be heard at an appeal hearing.

You can attend the appeal hearing and speak on issues raised in someone else's appeal, but the appeal committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address:	City Clerk, City of Winnipeg c/o Appeal Committee Council Building, 510 Main Street Winnipeg, Manitoba, R3B 1B9
Fax:	947-3452
Email:	clk-appeals@winnipeg.ca

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

Ashok Dilawri
Robert Kurylko
Donovan Toews (Landmark Planning and Design Inc.), DKA Developments

In Opposition:

Richard Bahrychuk
Rick and Barb Storie

For Information:

Nil

For the City:

Ms. J. East, Manager of Planning and Land Use, Planning, Property and Development Department
Mr. K. Raban, Land Development Administrator, Planning, Property and Development Department
Ms. M. Richard, Senior Planner (Plan Winnipeg), Planning, Property and Development Department
Mr. M. Robinson, Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

1. Application dated August 27, 2007
2. Notification of Public Hearing dated August 27, 2007
3. A. Manitoba Status of Title 1858265

B. Title Search 1160080

C. Title Plot

4. A. Letter of authorization dated May 2, 2007 from Agritoba Inc. to DKA Developments Inc. and Landmark Planning

   B. Letter of authorization dated April 25, 2007 from the City of Winnipeg to Landmark Planning

   C. Letter of authorization dated August 29, 2007 from the City of Winnipeg to DKA Development Inc.

5. Impact Analysis dated May 2, 2007 by Landmark Planning and Design Inc.
6. Confirmation from the Zoning Development Administrator that the subject property may be posted in substitution for newspaper advertising
7. Plan, Sheet 1, for File DAV 147175/2007D dated August 27, 2007
8. Communication dated September 7, 2007 from Donovan Toews, DKA Developments, Applicant, requesting that the application be adjourned
9. Inspection Report
10. Notice of Adjournment dated September 12, 2007
11. Notice of Adjournment dated October 17, 2007
12. Report from the Acting Director of Planning, Property and Development dated October 18, 2007

Exhibit "1" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

Winnipeg

Planning, Property and Development Department
Service de l'urbanisme, des biens et de l'aménagement
Unit 31 – 30 Fort Street • 30, rue Fort, unité 31 • Winnipeg • Manitoba R3C 4X7

APPLICATION

ZONING VARIANCE: 07-147175/D
PREMISES AFFECTED: West side of McPhillips Street, North of Templeton Avenue
COMMUNITY: Lord Selkirk-West Kildonan (3.335)

Building By-law
The processing of a variance application does not in any way relieve the owner of a structure from the full responsibility of obtaining all necessary permits prior to the construction and/or occupancy of said structure or from complying with the requirements of all applicable building codes and by-laws.

Property located within 1 km of the city boundary? N
By-law: 6400/94 Former File Nos:
Applicant: DKA DEVELOPMENTS INC (c/o Donovan Toews)
Address: 1700 WAVERLEY ST UNIT B WINNIPEG MB R3T 5V7
Phone1: (204)791-4259 **Phone2: () -**

Plans of Development (2 sets):	Y	Certificate of Title (2 copies):	Y
Surveyor's Certificate (2 copies):	N	Owner's Authorization (2 copies):	Y

Legal Description of the Property Affected by this Application:
Shown as Rly Plan 1906; Pt 20/23 Kild; and Pt OTM Lot 23 Kild bounded on N by line drawn S of parl with and perp dist 11 ft from N limit said Lot on S by S limit said lot on W by E limit MPTL ROW Pl 3174 & on E by E limit said lot; All those portions of OTM Lots 20, 21 and 22 Parish of Kild shown as Rly Plan 1906 WLTO

Property Zoned: Proposed C2
Atlas Sheet #: R24 C.T.#:1160080, 1858265
X-Ref File No: PW 1/07, DASZ 28/07
Size of Property: Irregular
Posting Instructions: 4 posters on McPhillips Street

Applicant — Date

Zoning Development Officer — Date 07/08/24
Michele Hammerberg

Zoning Administrator — Date 07/08/27

To vary the proposed "C2" district regulations of Zoning By-Law No. 6400/94 for the establishment of three (3) parcels to permit proposed Parcel B and C having no frontage on a street.

THIS IS EXHIBIT "1" REFERRED TO
IN FILE NO. DAV 147175/2007D
DATED THIS 19 DAY OF 09 2007

CLERK

Exhibit "2" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

Winnipeg

Planning, Property and Development Department • Service de l'urbanisme, des biens et de l'aménagement

Development and Inspections Division • Division de l'aménagement et des inspections

In reply please refer to / Référence à rappeler :

Joanne Tabinski
(204) 986-5163
Fax / Téléc : (204) 986-6347

August 27, 2007

DKA DEVELOPMENTS INC
1700 WAVERLEY ST B
WINNIPEG MB R3T 5V7

Dear Sir/Madam:

RE: LAND LOCATED ON THE WEST SIDE OF MCPHILLIPS STREET NORTH OF TEMPLETON AVE.

This is to advise you that your application for Zoning Variance or Conditional Use, **FILE NO. DAV 07-147175/D,** respecting the above referenced property will be considered at a public hearing by the Lord Selkirk / West Kildonan **COMMUNITY COMMITTEE ON SEP 12, 2007 AT 9:00 A.M., COUNCIL BUILDING, 510 MAIN STREET.**

POSTERS MUST BE PLACED ON THE SUBJECT PROPERTY NOT LATER THAN AUGUST 28, 2007.

IT IS YOUR RESPONSIBILITY AS THE APPLICANT TO:

1. Erect and maintain the posters in the following manner:
   a. ON the subject property.
   b. No more than one (1) metre (3 feet) in from the property line.
   c. Facing out towards all street and lane frontages in a manner that they can easily be read by passersby on the sidewalk, street or lane.
   - Posters may be attached to any surface such as walls, fences or within windows provided the above regulations are followed, or if necessary, by using stakes driven into the ground.
   - POSTERS MUST NOT BE ATTACHED TO PUBLIC UTILITY POLES OR TREES ON PUBLIC LANDS.* ANY SUCH PLACEMENT WILL CONSTITUTE A VIOLATION OF THE POSTING REQUIREMENTS AND THE STREETS BY-LAW NO. 1481/77 AND WILL BE SO NOTED ON THE POSTING INSPECTION REPORT.
   - Posters must remain up for the required fourteen (14) days prior to the public hearing, not including the posting date or the hearing date. (* The City Forester advises you are not to attach the poster to any tree on your property to avoid long term damage to the tree through disease and insect infestations.)
2. Arrange to obtain replacement posters by calling this office at 986-5163 immediately if posters have been damaged or removed due to vandalism or adverse weather conditions.
3. Correct any irregularities in our posting or departures from the written instructions on the application form, as may be pointed out to you by the posting inspector.
4. Remove all notices from the subject property immediately after the date of the public hearing.
5. Attend or authorize some other person to represent you at the public hearing at the date, time and place outlined above. Failure to appear or be represented, or failure to adhere to the above outlined posting requirements, may result in a delay in the consideration of your application.

The subject property will be inspected during the posting period and you will be notified if the posting procedure is not being adhered to. This does not, however, preclude your own surveillance of the property or your responsibility to contact this office should you notice any irregularities. The posting inspector will present a posting inspection report at the public hearing.

Yours truly,

Zoning and Permits Administrator

M. Grady
cc: Public Hearing Clerk
Attachment

I hereby acknowledge receipt of the notice for the public hearing outlined above.

DKA DEVELOPMENTS INC

THIS IS EXHIBIT " 2 " REFERRED TO IN FILE NO. DAV 147175/2007D DATED THIS 12 DAY OF 9, 2007

CLERK

Embrace the Spirit • Vivez,

Unit 31 – 30 Fort Street • 30, rue Fort, unité 31 • Winnipeg • http://www.winnipeg.ca/ppd/

Exhibit "3A" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

DATE: 2007/02/19
TIME: 13:00

MANITOBA
STATUS OF TITLE

TITLE NO: 1858265
PAGE: 1

STATUS OF TITLE..... ACCEPTED
ORIGINATING OFFICE..... WINNIPEG
REGISTERING OFFICE..... WINNIPEG
REGISTRATION DATE..... 2002/02/20
COMPLETION DATE..... 2002/03/13

PRODUCED FOR.. FILLMORE RILEY LLP
ADDRESS..... 1700-360 MAIN ST.
WINNIPEG MB R3C 3Z3

PRODUCED BY... M.DERKSEN
LTO BOX NO.... 51

LEGAL DESCRIPTION:

AGRITOBA INCORPORATED

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES RECORDED HEREON IN THE FOLLOWING DESCRIBED LAND:

ALL THAT PORTION OF OTM LOT 23 PARISH OF KILDONAN
BOUNDED AS FOLLOWS: ON THE NORTH BY A LINE DRAWN SOUTH OF PARALLEL WITH AND PERP DISTANT 11 FEET FROM THE NORTHERN LIMIT OF SAID LOT
ON THE SOUTH BY THE SOUTHERN LIMIT OF SAID LOT
ON THE WEST BY THE EASTERN LIMIT OF THE LAND TAKEN FOR THE RIGHT-OF-WAY OF THE TRANSMISSION LINE OF THE MANITOBA POWER COMPANY LIMITED SHEWN COLOURED PINK ON PLAN NO. 3174 WLTO, AND
ON THE EAST BY THE EASTERN LIMIT OF SAID LOT

ACTIVE TITLE CHARGES:

3400956 WPG ACCEPTED	PENDING LITIGATION ORDER	REG'D:	2007/01/11
DESCRIPTION:	CI 07-01-50175		
FROM/BY:	PARKSIDE FORD LINCOLN LTD. AND		
TO:	AGRITOBA INCORPORATED		
CONSIDERATION:	NOTES:		
3412104 WPG ACCEPTED	CAVEAT	REG'D:	2007/02/12
DESCRIPTION:	AGREEMENT OF PURCHASE AND SALE		
FROM/BY:	DKA DEVELOPMENTS INC.		
TO:			
CONSIDERATION:	NOTES:		

ACCEPTED THIS 20TH DAY OF FEBRUARY, 2002
BY A.MAPES FOR THE DISTRICT REGISTRAR OF
THE LAND TITLES DISTRICT OF WINNIPEG.

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE SYSTEM ON 2007/02/19 OF TITLE NUMBER 1858265.
THIS IS NOT A DUPLICATE TITLE.

X
FOR THE DISTRICT REGISTRAR

THIS IS EXHIBIT "39" REFERRED TO IN FILE NO. DASZ 28/07
DATED THIS 12 DAY OF 09 2007

CLERK

********** END OF STATUS OF TITLE FOR TITLE 1858265 W

Exhibit “3B” referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

DATE: 2007/07/05 TITLE SEARCH PASWAND
TSTL (1 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 01
TITLE NUMBER..... 1160080 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 1990/05/09
COMPLETION DATE.... 1990/06/08 CONSOLIDATION..... NO
LEGAL DESCRIPTION
THE CITY OF WINNIPEG

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES RECORDED HEREON, IN THE FOLLOWING DESCRIBED LAND:

ALL THOSE PORTIONS OF OTM LOTS 20, 21 AND 22 PARISH OF KILDONAN SHOWN AS RLY PLAN 1906 WLTO

TX: ____
DA: _____

DATE: 2007/07/05 TITLE SEARCH PASWAND
TSEC (2 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 1
TITLE NUMBER..... 1160080 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 1990/05/09
ACTIVE CHARGES

TX: ____ _____ REGISTRATION TO DISPLAY
DA: _____ PF6-TSTC
*** NO ACTIVE CHARGES FOUND FOR THIS TITLE ***

DATE: 2007/07/05 TITLE SEARCH PASWAND
TSTS (3 OF 9) TITLE DISPLAY - WINNIPEG
TITLE NUMBER..... 1160080 TITLE STATUS..... ACCEPTED
REGISTRATION DATE..... 1990/05/09
COMPLETION DATE..... 1990/06/08 CONSOLIDATION..... NO

SUMMARY OF TITLE DATA

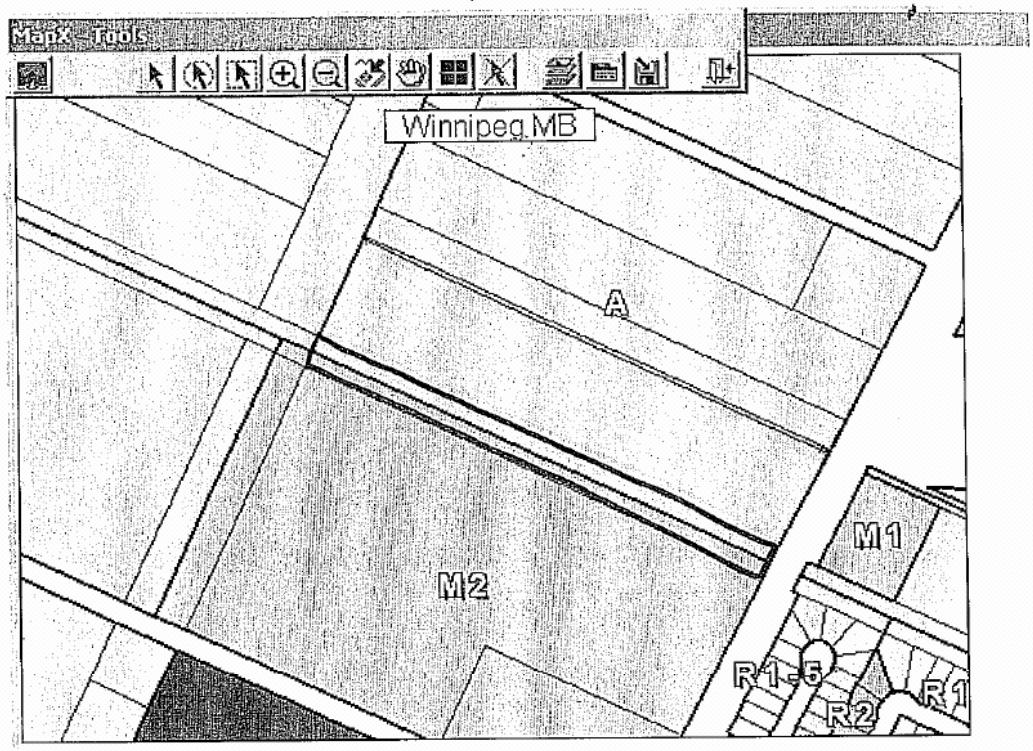
SELECT ONE OF THE FOLLOWING:
TITLE NOTES..... MORE? NO .... _
ORIGINATING REG. NUMBER.. 1292649 ..... MORE? NO .... _
FROM TITLE NUMBER..... 194719.5 TYPE.... ALL MORE? NO .... _
RPA/CROWN GRANT NUMBER... ..... MORE? NO .... _

NAME FOR SERVICE..... CITY OF WINNIPEG (LAW) MORE? NO .... _
ADDRESS..... 185 KING STREET
WPG., MB.

POSTAL CODE..... R3B1J1 EFFECT... ACTIVE
DUPLICATE PRODUCED ? .... MORE? NO .... _
ISSUED DATE.....
TX: ____ NEXT TITLE NUMBER... _____
DA: _____
NO MORE INFORMATION EXISTS REGARDING THIS SCREEN

Exhibit “3C” referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

Title Plot



Title # 1160080

Title # 1858365

THIS IS EXHIBIT "3C" REFERRED TO
IN FILE NO. DAV 147175/2007D
DATED THIS 12 DAY OF 9, 2007

CLERK

Exhibit "4A" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

LETTER OF AUTHORIZATION

Agritoba Inc. as registered owner of the lands described as:

Certificate of Title 1858265

Part lot 23, OTM Parish of Kildonan, McPhillips Street, Winnipeg

All that portion of OTM Lot 23 Parish of Kildonan bounded as follows: on the north by a line drawn south of parallel with and perp distant 11 feet from the northern limit of said lot on the south by the southern limit of said lot on the west by the eastern limit of the land taken for the right-of-way of the transmission line of the Manitoba Power Company Limited shewn coloured pink on Plan No. 3174 WLTO, and on the east by the eastern limit of said lot

hereby authorizes DKA Developments Inc. and its agent Landmark Planning and Design Inc. - Donovan Toews to facilitate any required municipal approvals for any zoning, re-zoning, subdivision, private approach applications, street closings, variances, conditional uses or other applications as may be necessary for the intended purposes of DKA Developments Inc.

Dated at Winnipeg, Manitoba this 2nd of MAY, 2007.

AGRITOBA INC.

Per: O.D. McEwen

FRDOCS_837423.1

Exhibit "4B" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

Winnipeg

Planning, Property & Development Department • Service de l'urbanisme, des biens et de l'aménagement

Real Estate Division • Division des biens immobiliers

In reply please refer to / Référence à rappeler :

Ray Klassen
(204) 986-5016
Fax / Téléc. : (204) 944-8476

April 25, 2007

Landmark Planning
Suite 200-661 Pembina Highway
Winnipeg, Manitoba
R3M 2L5

sent via fax 453-6626

Attention: Mr. Donovan Toews

RE: PROPOSED PLAN WINNIPEG AMENDMENT INCLUDING CERTAIN CITY OF WINNIPEG LANDS W. OF MCPHILLIPS STREET AT CHIEF PEGUIS TRAIL EXTENSION
FILE: 5626 (PLEASE QUOTE WHEN REPLYING)

You are hereby authorized to make application within 6 months from the date of this letter, for a Plan Winnipeg Amendment to a "Neighbourhood Designation", or a variance, rezoning or subdivision on the Subject City Property as shown as shaded on the attached Misc. Plan No 13124. You will be responsible for any and all associated costs of such application.

You should provide a copy of this letter to the Planning Department when making application.

The enactment of any approved change in Plan Winnipeg, use, variance, rezoning or subdivision is conditional upon the finalization of the sale of the Subject Property.

Should you require further clarification regarding the above, please contact Michelle Richard, Senior Planner, directly at 986-3101.

Yours truly,

Ray Klassen, Manager of Real Estate Division

c. Michelle Richard, Planning and Land Use Division

V:\barry\5626Mcphillipsswailes\authorizationltr.doc

Embrace the Spirit • Vivez l'es

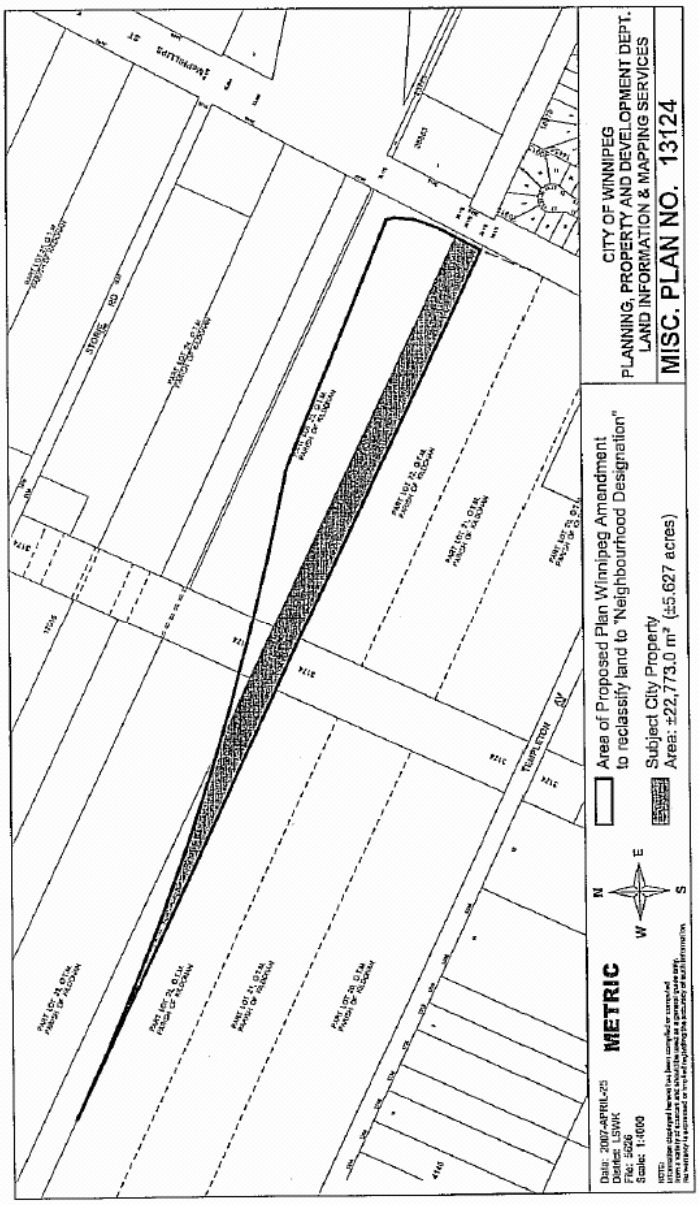

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13124
Area of Proposed Plan Winnipeg Amendment
to reclassify land to "Neighbourhood Designation"
Subject City Property
Area: ±22,773.0 m² (±5.627 acres)
METRIC
Date: 2007-APRIL-25
District: LSWK
File: 5626
Scale: 1:4000
STONE RD
TEMPLETON AV

Exhibit "4C" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

Winnipeg

Planning, Property & Development Department • Service de l'urbanisme, des biens et de l'aménagement

Real Estate Division • Division des biens immobiliers

In reply please refer to / Référence à rappeler :

Ray Klassen
(204) 986-5016
Fax / Téléc. : (204) 944-8476

August 29, 2007

DKA Development Inc.
900-1717 Waverley Street
Winnipeg, Manitoba
R3T 6A9

sent by courier

Attention: Mr. Ashok Dilawri

RE: PROPOSED PLAN WINNIPEG AMENDMENT INCLUDING CERTAIN CITY OF WINNIPEG LANDS W. OF MCPHILLIPS STREET AT CHIEF PEGUIS TRAIL EXTENSION
FILE: 5626 (PLEASE QUOTE WHEN REPLYING)

You are hereby authorized to make application within 6 months from the date of this letter, for a Plan Winnipeg Amendment to a "Neighbourhood Designation", or a variance, rezoning or subdivision on the Subject City Property as shown as shaded on the attached Misc. Plan No 13124. You will be responsible for any and all associated costs of such application.

You should provide a copy of this letter to the Planning Department when making application.

The enactment of any approved change in Plan Winnipeg, use, variance, rezoning or subdivision is conditional upon the finalization of the sale of the Subject Property.

Should you require further clarification regarding the above, please contact Michelle Richard, Senior Planner, directly at 986-3101.

Yours truly,

Ray Klassen, Manager of Real Estate Division

c. Michelle Richard, Planning and Land Use Division

V:\barry\5626Mcphillipsswailes\authorizationltraug292007.doc

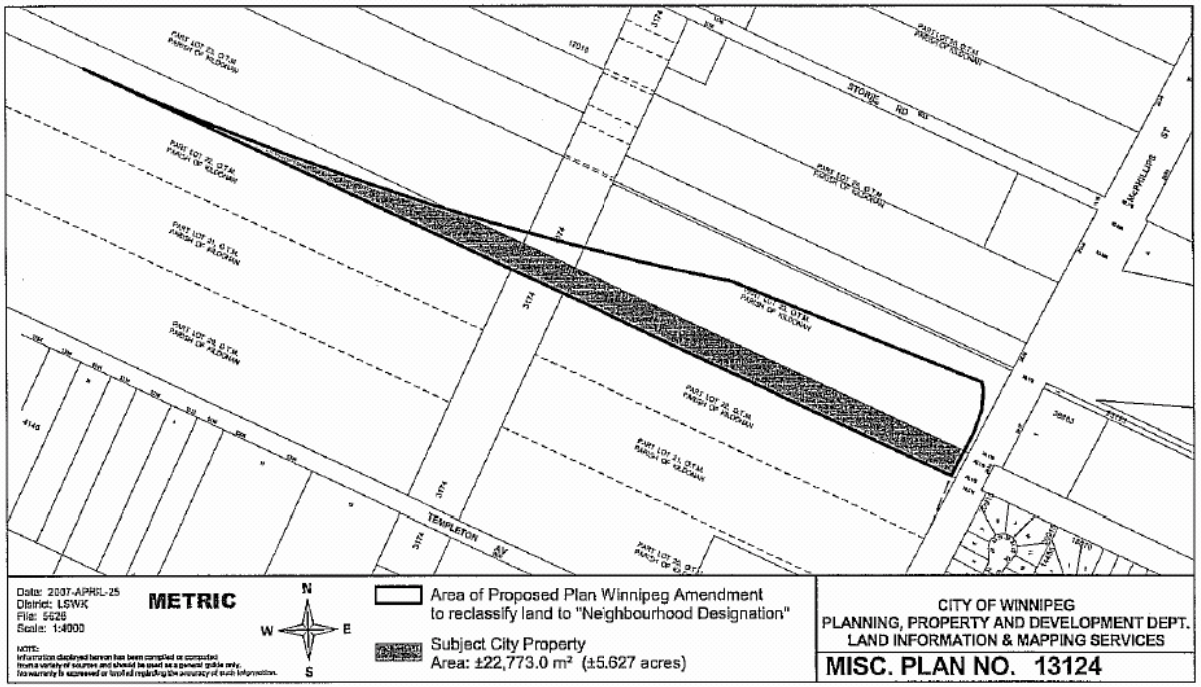

STORIE RD
TEMPLETON AV
Date: 2007-APR-25
District: LSWK
File: 5628
Scale: 1:4000
METRIC
N
W
E
S
Area of Proposed Plan Winnipeg Amendment to reclassify land to "Neighbourhood Designation"
Subject City Property
Area: ±22,773.0 m² (±5.627 acres)
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13124

Exhibit "5" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

McPhillips Street North Development Proposal

Plan Winnipeg Amendment and Rezoning Application Impact Analysis

May 2, 2007

Landmark
Planning & Design Inc.

McPhillips North Development Proposal
Plan Winnipeg Amendment and Rezoning Application
Impact Analysis

Description of the land:

The land forming a part of this application includes lands shown outlined on City of Winnipeg Misc. Plan 13124.

The land is owned by Agritoba Incorporated. DKA Development Inc (Mr. Ashok Dilawri) is the project proponent and applicant. Mr. Dilawri has retained the assistance of Landmark Planning & Design Inc. (Donovan Toews) to facilitate the municipal approval process.

Project Proposal:

The applicant proposes to develop a 10.5 acre vacant parcel of land for commercial purposes, specifically to accommodate the development of a car dealership. The site is located on north McPhillips Street to the north of Swailes Avenue and just south of the proposed Chief Peguis Trail extension as shown on Figure 1. The development of the car dealership will require approximately half of the land fronting on McPhillips Street and the balance of the land lying to the east may be developed at some time in the future.

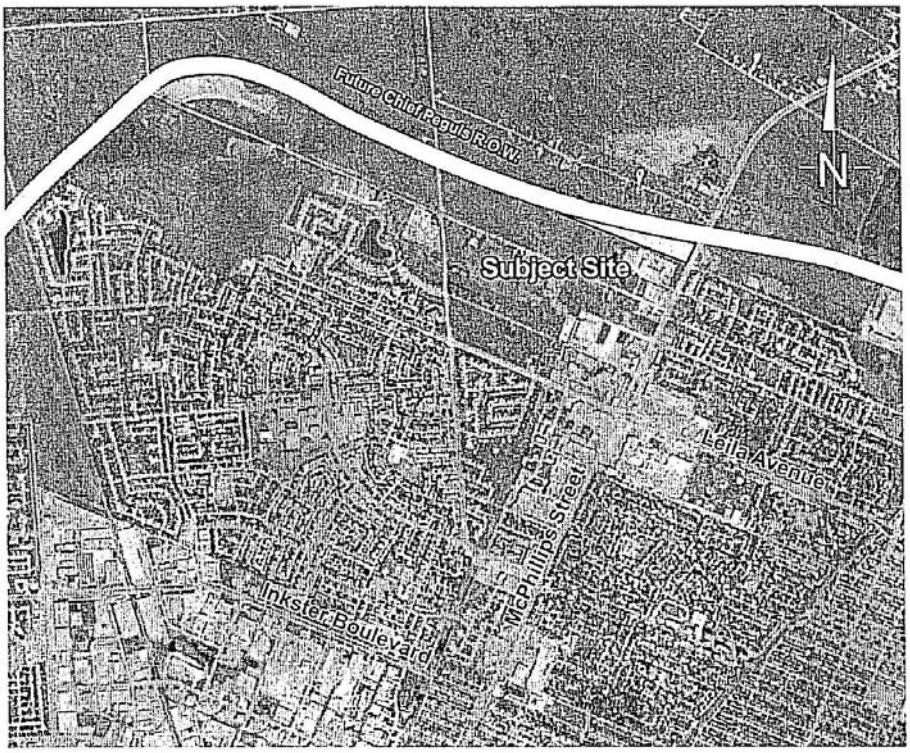
Municipal Approvals:

Development of the site will require the following municipal approvals:

- A Plan Winnipeg amendment to redesignate both City owned and privately owned lands from a *Rural* Policy Area to a *Neighbourhood* Policy Area
- A Rezoning approval to rezone the privately owned lands (after the land exchange) from *A – Agricultural* to *C2 – Commercial*
- Development and Building Permits

No conditional use or variances approvals are anticipated at this stage.

Figure 1. Proposed Plan Winnipeg Amendment – Subject Site Location



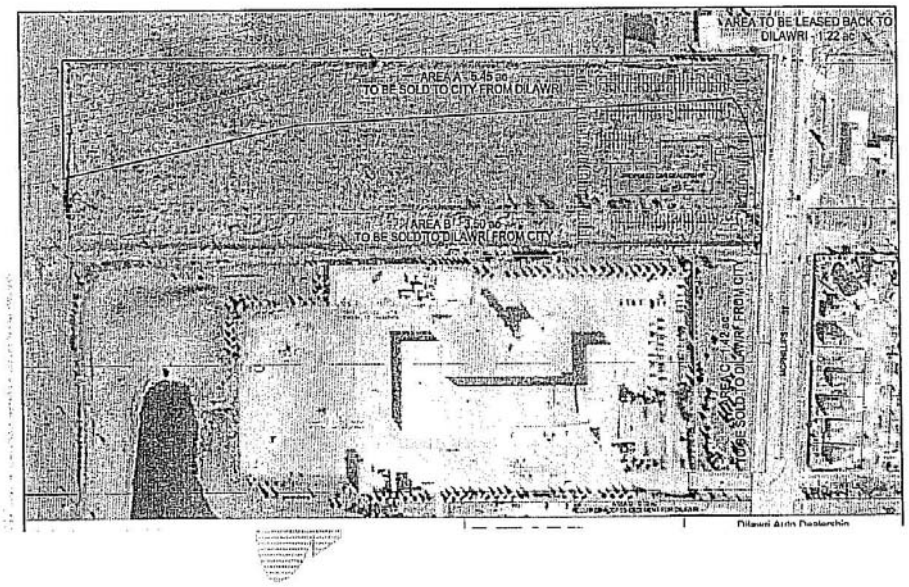
Site Development:

The site development concept is also illustrated in Figure 2; this is a conceptual site plan intended for application purposes only. It is anticipated that detailed site plans, including the building design, landscape design and parking layout, will be submitted at either the Plan Approval stage (as may be required as a condition of the Rezoning Approval) or at the building permit application stage.

It is our understanding that the future construction of the Chief Peguis Trail interchange will eliminate direct access to the proposed development site. This future access will also require a cross-access agreement through the existing driveway and private approach for the Public Works site (Area D on Figure 2). It is not anticipated that this secondary access will be required in the

near future, since Public Works has indicated that the proposed interchange is likely will not be constructed for 30 years or more.

Figure 2. Proposed Land Exchange



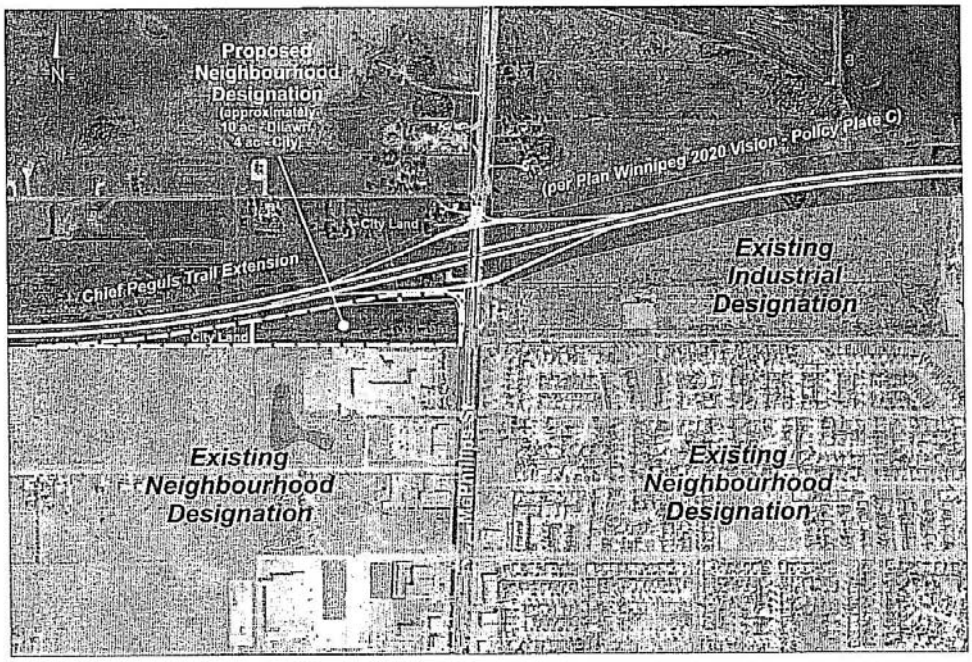
Plan Winnipeg Amendment – Basic Rationale:

The requested Plan Winnipeg amendment is minor in nature and does not, in the opinion of the applicant, represent a change in direction to any Plan Winnipeg policy. As noted earlier, Plan Winnipeg Policy Plate C illustrates the planned extension of Chief Peguis Trail. The specific alignment of the anticipated extension results in the isolation of a relatively small sliver of land lying south of the planned extension, which is the subject site (Figure 3). A portion of the area is City owned.

Figure 3 suggests that it was the City's *intent* to designate lands lying to the south of Chief Peguis Trail as *Neighbourhood* even though Plan Winnipeg currently shows the land as *Rural*. This intent becomes clear when looking at the *Industrial* designated lands lying to the east of McPhillips Street. With the *Industrial* designation, the alignment of directly follows the proposed Chief Peguis Trail alignment, veering southwards as it approach McPhillips street from the east. It is likely that had a more precise alignment of Chief Peguis been carried through further west (it may not have been available), the subject lands would have been designated

Neighbourhood and not *Rural* in Plan Winnipeg, and the current application process would not then be required.

Figure 3. Proposed Plan Winnipeg Redesignation Area



While the earlier intent of the City of Winnipeg can only be inferred, the merits of re-designating the subject site also stand on their own. The land is clearly a 'left-over' piece that should be developed in keeping with adjacent land uses both south of the site (Public Works site) and across McPhillips Street to the east (Commercial Gas Station), and also respecting the planned Chief Peguis Trail extension. This development cannot take place without the proposed Plan Winnipeg amendment.

The following section provides general supportive information as requested by the City of Winnipeg and in keeping with Plan Winnipeg requirements.

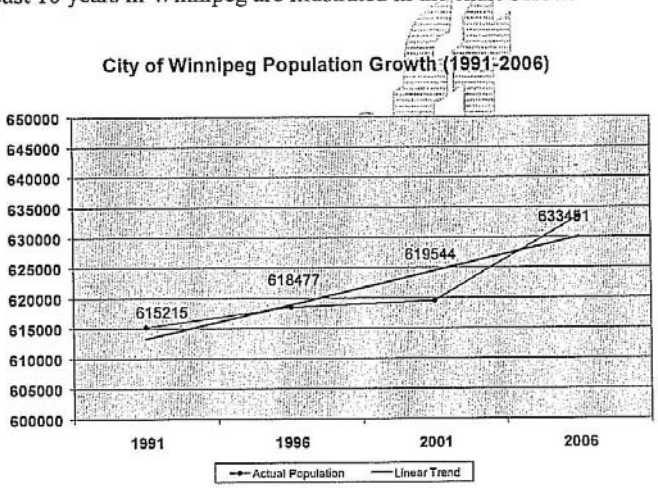
Plan Winnipeg – Supportive Information (based on an outline as provided by the City of Winnipeg):

A. Demographic Considerations

Relevant Plan Winnipeg Policies:

> **Policy 2B-03 (i)**: The City shall commit to responsive government by monitoring and responding to demographic, social, environmental and economic trends, both locally and globally.

Recent statistics confirm continued population growth in all areas of Winnipeg. The population gains over the past 10 years in Winnipeg are illustrated in the chart below:



The northeast quadrant of the City represents the primary market for the proposed car dealership. Traditionally, the northeast quadrant of the City captures its proportionate share of the population growth as is evidenced through issuance of permits for the northeast quadrant. These population increases serve as a primary indication of economic growth and therefore demand for retail products.

B. Economic Benefit

Relevant Plan Winnipeg Policies:

> **2B-03 (viii)**: The City shall commit to responsive government by evaluating …new development applications against a set of quality of life principles, including consideration of long-term economic benefits and costs.

2C-02 (ii) The City shall facilitate opportunities for business growth in Winnipeg by assisting business in meeting government requirements associated with new development and expansion…

The current demand for commercial development in the area continues to highlight Winnipeg citizens' desire to have access to these and other types of commercial land uses and products to meet the needs of day to day living and quality of life. Generally, quality of life indices include recognition that access to a range of goods and services can have a positive effect on quality of life.

The proposed project will include an estimated construction cost of $5 million (Honda Power Dealership). This investment will contribute substantially to City revenues and generate positive tertiary economic impacts. The tax contribution to the City is estimated at around $100,000 annually. The dealership will likely create in the order of 50-75 new jobs.

C. Market Commentary

Relevant Plan Winnipeg Policy:

3A-01 (ii): The City shall promote orderly development through land use designations on Policy Plate A by considering the Neighbourhood designations to signify areas of local identity with mutually supportive uses generally including a residential mix together with a variety of educational, recreational, institutional, commercial and possibly industrial uses, at a scale and density compatible with each other.

3A-02 (i): The City shall promote compact urban form in support of sustainability by approving new…commercial subdivisions only where there is a reasonable relationship between the supply of land and the projected demand and when a full range of municipal infrastructure can be provided in an environmentally sound, economical and timely manner.

3B-04 (ii): The City shall accommodate commercial and retail development by supporting the maintenance and development of neighbourhood main streets that provide a wide range of local services, that enhance community character, and that provide for the incremental expansion of commercial uses consistent with the general character of the adjacent neighbourhood.

3B-05 (ii): The City shall promote commercial densification in a manner consistent with its commitment to compact urban form by approving new locations for commercial development only where significant residential areas cannot accommodate expansion, where the long-term negative impacts on existing regional and commercial centres will be minimal, where additions to the regional street system can be demonstrated to have

long term benefits, and where a full range of municipal infrastructure can be provided in an environmentally sound, economical and timely manner.

The existing commercial land supply (i.e. Plan Winnipeg land) available to accommodate the proposed development in this area is nil. The previous vacant commercial sites at the intersection of McPhillips Street and Liela Avenue have dwindled and any remaining vacant properties do not represent a viable option for this development, as the land parcels are generally too small or are in an unsuitable configuration.

The target markets for this development are primarily the northwest quadrant in Winnipeg as well as to a lesser extent the northern part of northeast Winnipeg. The location of the site at a the intersection of a major route and a future ring road means that the target market area of the site will become larger with the construction of the Chief Peguis Trail.

The proposed development will provide commercial service to the local area and larger community and will be compatible with adjacent development, which consist of industrial and commercial uses. Existing municipal services are located adjacent to the site and the anticipated benefits to the existing transportation system are noted in Section E of this document.

D. Development Impact Analysis

Relevant Plan Winnipeg Policy:

3A-02 (v): The City shall promote compact urban form in support of sustainability by supporting new development which is adjacent to and compatible with existing development and which is designed to minimize the spatial use of land.

3A-04 (i): The City shall protect traffic flows from significant increases in volume as a result of new developments by requiring major developments to be sited in such a manner that public investment in adjacent regional transportation facilities is protected:

(These policies are also cited in subsequent sections of this report).

Any impact to other commercial operations as a result of the proposed development are likely to be positive, since additional competition typically serves as an economic driver, not an economic disincentive, as illustrated by the recent development of auto-malls.

The proposed location of the development site is likely to have little or no negative impact to adjacent properties and the larger neighbourhood, since adjacent uses are all considered compatible uses (commercial, industrial and highway corridor).

The proposed development should not have any detrimental effect on other parts of the City including central areas. Car dealerships have generally relocated to suburban areas of the City,

though a number of dealerships have established and remain successful operations in certain more central neighbourhoods, presumably capturing a niche market.

E. Transportation Impacts

Relevant Plan Winnipeg Policy:

> **3A-04 (i)**: The City shall protect traffic flows from significant increases in volume as a result of new developments by requiring major developments to be sited in such a manner that public investment in adjacent regional transportation facilities is protected:
>
> **3C-03 (iii):** T he City shall commit to traffic operations improvement to increase roadway efficiency by assessing the compatibility of new development and access controls with the intended function of the adjacent arterial street system;
>
> **3D-02 (ii)**: The City shall invest strategically in new infrastructure by recognizing that investments in arterial street system improvements and additions may be necessary in support of economic development goals and the desire to improve access an mobility;

The City of Winnipeg will benefit greatly from a transportation perspective as a result of the proposed land exchange. The land exchange will allow the City of Winnipeg to secure and protect a significant portion of the required lands to accommodate the planned Chief Peguis Trail.

Preliminary meetings with the City of Winnipeg – Public Works Department suggest that the limited scale of this development (and the nature of the proposed land use) is unlikely to have any negative impact on the existing transportation system. There is an existing median opening in McPhillips Street that will service the site for northbound ingress and southbound egress.

F. Sustainability

Relevant Plan Winnipeg Policy:

> **3A-02 (v):** The City shall promote compact urban form in support of sustainability by supporting new development which is adjacent to and compatible with existing development and which is designed to minimize the spatial use of land.
>
> **3A-02 (i):** The City shall promote compact urban form in support of sustainability by approving new…commercial subdivisions only where there is a reasonable relationship between the supply of land and the projected demand and when a full range of municipal infrastructure can be provided in an environmentally sound, economical and timely manner.

The proposed development site is both adjacent to, and compatible with, existing development.

It is the applicant's understanding that no additional City infrastructure is required to accommodate the development, as all required services have already been extended to this location. It the applicant's further understanding that any unidentified required infrastructure costs will be identified and addressed in a development agreement required as part of the rezoning/subdivision application.

The development of the proposed site represents the logical, orderly contiguous city growth which, in the applicant's opinion, represents a positive contribution to the vitality of Winnipeg and the surrounding region, as has been highlighted in previous sections.



Exhibit "6" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

Winnipeg

Planning, Property and Development Department
Service de l'urbanisme, des biens et de l'aménagement
Unit 31 – 30 Fort Street • 30, rue Fort, unité 31 • Winnipeg • Manitoba R3C 4X7

VARIANCE/CONDITIONAL USE POSTING

August 27, 2007

FILE NO: DAV 07-147175/D

I, Martin Grady of The City of Winnipeg pursuant to subsection 113(4) of The City of Winnipeg Charter and By-law No. 5893/92 of The City of Winnipeg, have determined that the subject matter of application number DAV 07-147175/D, which is subject to a public hearing, qualifies under the following:

(a) the subject matter of the application is one specific building (whether located on one or two or more building sites), or

(b) the subject matter of the application is one specific building site regardless of how many buildings are located thereon,

and therefore, shall be posted in substitution for newspaper advertising.

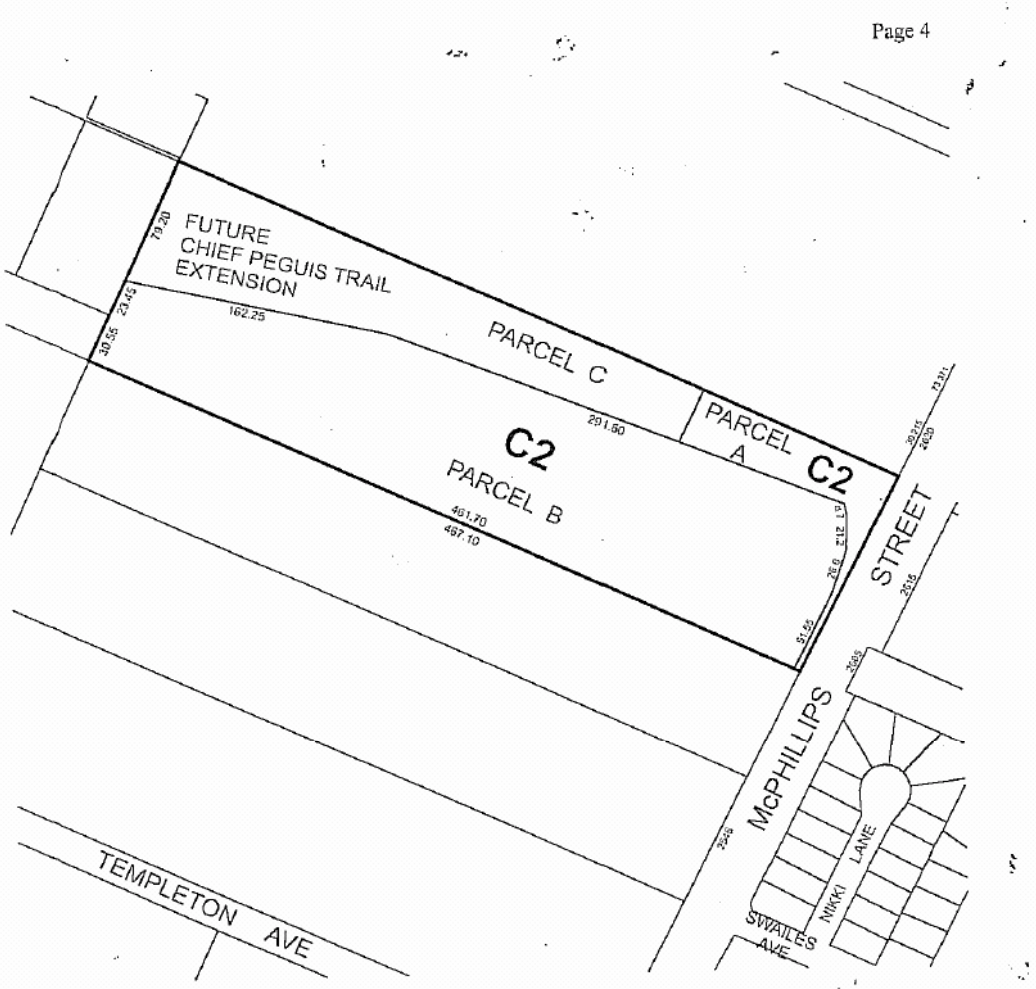
Martin Grady

Zoning & Permits Administrator

THIS IS EXHIBIT "6" REFERRED TO
IN FILE NO. DAV 147175/2007D
DATED THIS 12 DAY OF 9, 2007

CLERK

Exhibit "7" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]



DASZ 28/07 MAP 2

N

PROPOSED SUBDIVISION

DEVELOPMENT EXAMINATION BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH DAV 07-147175/D
SHEET # 1 OF 1
APPLICANT (SGD.)
DEV EXAM.
DATE 07/08/21

THIS IS EXHIBIT "7" REFERRED TO
IN FILE NO. DAV 147175/2007D
DATED THIS 12 DAY OF 9, 2007

CLERK

Embrace the Spirit • Vivez l'esprit

Exhibit “8” referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

From: Donovan Toews
Sent: September 7, 2007 11:01 AM
To: Skundberg, Inga
Cc: Ashok Dilawri
Subject: EPC Hearing Request

Inga,

Further to my voicemail, my client Mr. Ashok Dilawri, is requesting to have the public hearing associated with file DASZ 28/07 and associated Plan Winnipeg Amendment and variance, laid over for two to three weeks in order that we may complete a traffic analysis as requested by Public Works and to finalize negotiations on the proposed real estate transaction.

Could you please confirm receipt of this request and advise accordingly.

Thanks kindly,

Donovan Toews

Exhibit "9" referred to in File DAV 147175/2007D [c/r EP-1.1(PW 1/2007), DASZ 28/2007]

Winnipeg

Planning, Property & Development Department
Service de l'urbanisme, des biens et de l'aménagement
Main Floor, 65 Garry Street • 65, rue Garry, rez-de-chaussée
• Winnipeg • Manitoba R3C 4K4

Exhibit "A" referred to in the Affidavit of Ron Laubmann sworn before me this 11th day of September A.D. 2007
A COMMISSIONER FOR OATHS IN AND FOR THE PROVINCE OF MANITOBA. MY COMMISSION EXPIRES 09/05/24

INSPECTION REPORT

INSPECTION DECLARATION OF PUBLIC NOTICE FOR:

File Number	:	DASZ 28/07 (PW 1/07) - (c/r 07-147175/D)
Date of Public Hearing	:	Wednesday, September 12, 2007, 9:00 a.m.
Applicant - name	:	DKA Developments Inc. (Donovan Toews)
- phone	:	791-4259
Posters - to be erected	:	4 on McPhillips Street
Posters - erected by	:	Applicant X City of Winnipeg ____

Exhibit "A"

PREMISES: land located on the west side of McPhillips Street north of Templeton Ave

1. City posted premises on: /
   Number of Posters erected: /
   (delete where not applicable)
2. Premises Inspected on: Sept 11, 2007
   Number of Posters on premises: 4
3. Premises Inspected on: NIL
   Number of Posters on premises: /

I, Ron Laubmann, Development Application Inspector of the City of Winnipeg, in the Province of Manitoba, do solemnly declare that I did on the 11th day of Sept, A.D. 2007, post/inspect the posting of the public notice as stated above, and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the Canada Evidence Act.

Declared before me at Winnipeg in the Province of Manitoba this 11th day of Sept A.D. 2007.

Development Application Inspector

A COMMISSIONER FOR OATHS IN AND FOR THE PROVINCE OF MANITOBA. MY COMMISSION EXPIRES 09/05/24

THIS IS EXHIBIT "9" REFERRED TO IN FILE NO. DAV 147175/07 DATED THIS 12 DAY OF Sept 2007
CLERK

THIS IS EXHIBIT "8" REFERRED TO IN FILE NO. DASZ 28/07 DATED THIS 12 DAY OF Sept 2007
CLERK

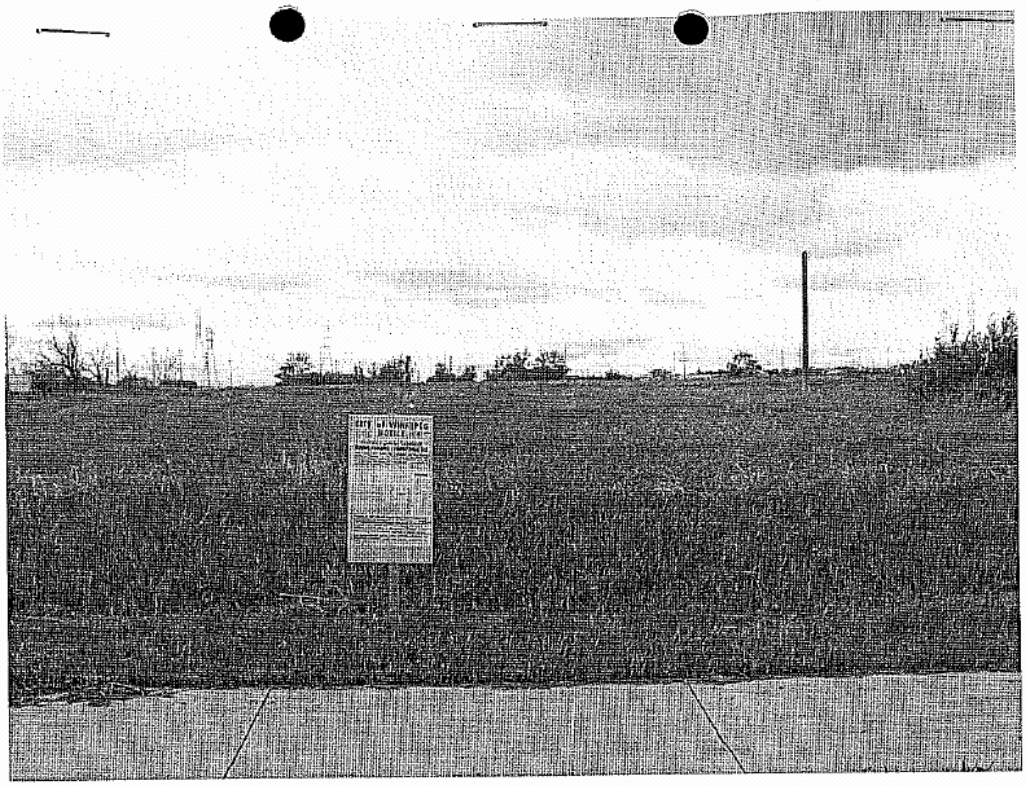




Exhibit "10" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

Winnipeg

City Clerk's Department • Bureau du greffier

September 12, 2007

Files EP-1.1 (PW 1/2007), DASZ 28/2007, and DAV 147175/2007D

TO WHOM IT MAY CONCERN

Applications for Plan Winnipeg Amendment, Subdivision and Rezoning, and Variance – West side of McPhillips Street, north of Templeton Avenue

On September 12, 2007, the Executive Policy Committee considered a request from the applicant that the subject applications be adjourned.

Accordingly, Executive Policy Committee adjourned the public hearings in the above connection to its meeting to be held on October 17, 2007, at 9:00 a.m. in the West Committee Room.

JPark

Jo-Ann Park
Manager of the Decision Making Process
Telephone 986-3732

Embrace the Spirit • Vivez l'esprit

Council Building, 510 Main Street • Immeuble du Conseil, 510, rue Main • Winnipeg • Manitoba R3B 1B9
tel/tél. (204) 986-2171 • fax/télec. (204) 947-3452 •website: winnipeg.ca

Exhibit "11" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

Winnipeg

City Clerk's Department • Bureau du greffier

October 17, 2007

Files EP-1.1 (PW 1/2007), DASZ 28/2007, and DAV 147175/2007D

TO WHOM IT MAY CONCERN

Applications for Plan Winnipeg Amendment, Subdivision and Rezoning, and Variance – West side of McPhillips Street, north of Templeton Avenue

On October 17, 2007, the Executive Policy Committee considered applications for a Plan Winnipeg Amendment, Subdivision and Rezoning, and a Variance for premises affected on the west side of McPhillips Street, north of Templeton Avenue.

The Executive Policy Committee adjourned the public hearings to its meeting on October 31, 2007, at 9:00 a.m. in the West Committee Room.

Additional information on this matter can be accessed via the City Clerk's Department Decision Making Information System at www.winnipeg.ca/CLKDMIS in Committee's Minute documents.



Jo-Ann Park
Manager of the Decision Making Process
Telephone 986-3732

Exhibit "12" referred to in File DAV 147175/2007D [c/r EP-1.1(PW1/2007), DASZ 28/2007]

RE:	**Variance - West side of McPhillips Street, north of Templeton Avenue (DAV 07-147175/D)**
FOR SUBMISSION TO:	**Executive Policy Committee**
ORIGINAL REPORT SIGNED BY:	**Director of Planning, Property, and Development**
REPORT DATE:	**October 18, 2007**

RECOMMENDATION: `

1) That, if any variance granted by this order is not established within two (2) years of the date hereof, this order, in respect of that Variance shall terminate.

Report Summary

Key Issues:

- The applicant proposes to rezone and subdivide the subject lands in order to establish an automotive sales business and future right-of-way. This is being considered in a related application (DASZ 28/07).
- A portion of the subdivided lands (Parcel C) will be transferred to the City and designated as future right-of-way for the Chief Peguis Trail Extension (Phase III-not currently planned section).
- By-Law 6400/94 requires that all parcels have frontage on a public street.
- Due to the fact that Parcel C has no frontage on a public street, it is considered landlocked. In light of this, a variance is required under By-Law 6400/94 in order to legally create this parcel.
- Parcel B also lacks frontage on a public street due to the fact that Parcel A – which includes all the option lands that the City of Winnipeg will need for the future Chief Peguis Trail Extension – extends across the entire frontage of Parcel B. Similarly, a variance is needed to legally create this parcel.

Implications of the Recommendation(s):

General Implications

(X) None
( ) For the organization overall and/or for other departments
( ) For the community and/or organizations external to the City
( ) Involves a multi-year contract

Comment(s):

Policy Implications

(X) No
( ) Yes
Comment(s):

Regulatory Implications

(X) None
( ) Eliminates or reduces regulatory impact
( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(X) No
( ) Yes
Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):

Report

REASON FOR THE REPORT:
Pursuant to the City of Winnipeg Charter, Executive Policy Committee is the designated hearing body responsible for Plan Winnipeg.

Sections 227 and 278 of the City of Winnipeg Charter provide that hearings required in respect to an amendment to Plan Winnipeg may be combined with another hearing. Since the proposed amendment (By-law 149/2007) is running concurrently with an application for rezoning and subdivision (DASZ 28/07) and variance (DAV 07-147175/D), Executive Policy Committee will consider the Plan Winnipeg amendment and associated applications together, at the September 12, 2007 public hearing.

DISCUSSION:

Description of the Proposed Development
The applicant wishes to subdivide and rezone currently vacant land to accommodate the development of a car dealership. The applicant has indicated that the dealership will only require the easternmost half of the land being rezoned at this time and that the balance of the land may be developed at some time in the future.

Additionally, a portion of the subdivided lands will be transferred to the City and designated as future right-of-way for the Chief Peguis Trail Extension (Phase III-not currently planned section).

Zoning By-law 6400/94 requires that all parcels have frontage on a public street. Since both Parcels B and C lack frontage on a public street, variances are required to legally create these parcels.

Neighbourhood Context

Existing land use and zoning
The subject property, which is situated on the west side of McPhillips Street, north of Swailes Avenue and south of the proposed Chief Peguis Trail extension, is currently within Rural Policy Area and zoned “A” Agricultural. It is located in the Rosser-Old Kildonan neighborhood of the Old Kildonan Ward.

Surrounding land use and zoning
North: Residence zoned “A” Agricultural
South: City-owned property zoned “M2” Industrial
East: Commercial use zoned “M1” Industrial
West: Undeveloped land zoned “A” Agricultural

Development Analysis and Issues

Parcel C
As previously discussed, Parcel C is being transferred to the City and will be opened as a right-of-way for the Chief Peguis Trail Extension at some point in the future. Given that this land will be under City ownership and designated as future right-of-way, the Planning and Land Use Division has no concerns with this variance.

Parcel B
This parcel will lack frontage on a public street due to the fact that Parcel A – which includes all the option lands that the City of Winnipeg will need for the future Chief Peguis Trail Extension – extends across the entire frontage of Parcel B. The Planning and Land Use Division supports this variance for the following reasons:

- Parcel A and B are held under the same ownership
- It is not anticipated that Parcel A and B will ever be separated, until Parcel A is needed for the future Chief Peguis Trail
- Parcel B will have access to a public street, through Parcel A
- It is a unique situation necessitated by the desire to reserve land for the future Chief Peguis Trail Extension
- The variance will not have an adverse impact on surrounding properties

However, it should be noted that this is an exceptional circumstance and should in no way be seen as opening the door to subdivision of the back lands of this property, without access to McPhillips Street or as a general acceptance of the creation of new lots without access to a public street.

Recommendation
The Planning and Land Use Division recommends approval of the subject variances for the following reasons:

Parcel C
- The land will be under City ownership and designated for future right-of-way

Parcel B

- Parcel A and B are held under the same ownership
- It is not anticipated that Parcel A and B will ever be separated, until Parcel A is needed for the future Chief Peguis Trail
- Parcel B will have access to a public street, through Parcel A
- It is a unique situation necessitated by the desire to reserve land for the future Chief Peguis Trail Extension
- The variance will not have an adverse impact on surrounding properties

Financial Impact Statement Date: August 30, 2007

Project Name:

Variance - West side of McPhillips Street, north of Templeton Avenue (DAV 07-147175/D)

COMMENTS:

There are no financial implications associated with this recommendation.

Manager of Finance & Administration

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
Water and Waste Department
Public Works Department

External Consultation With:
N/A

THIS REPORT SUBMITTED BY:

Planning, Property, and Development Department
Planning and Land Use Division
Prepared by: Michael Robinson, AICP
PPD File No. DAV 07-147175/D

O:\Reports Directive\Planning and Land Use\Urban Planning Reports\2007 Reports\McPhillips DAV 07 147175.doc

Figure 1: Schedule "A" to the report to the Executive Policy Committee for File DASZ 28/2007, dated September 1, 2007.

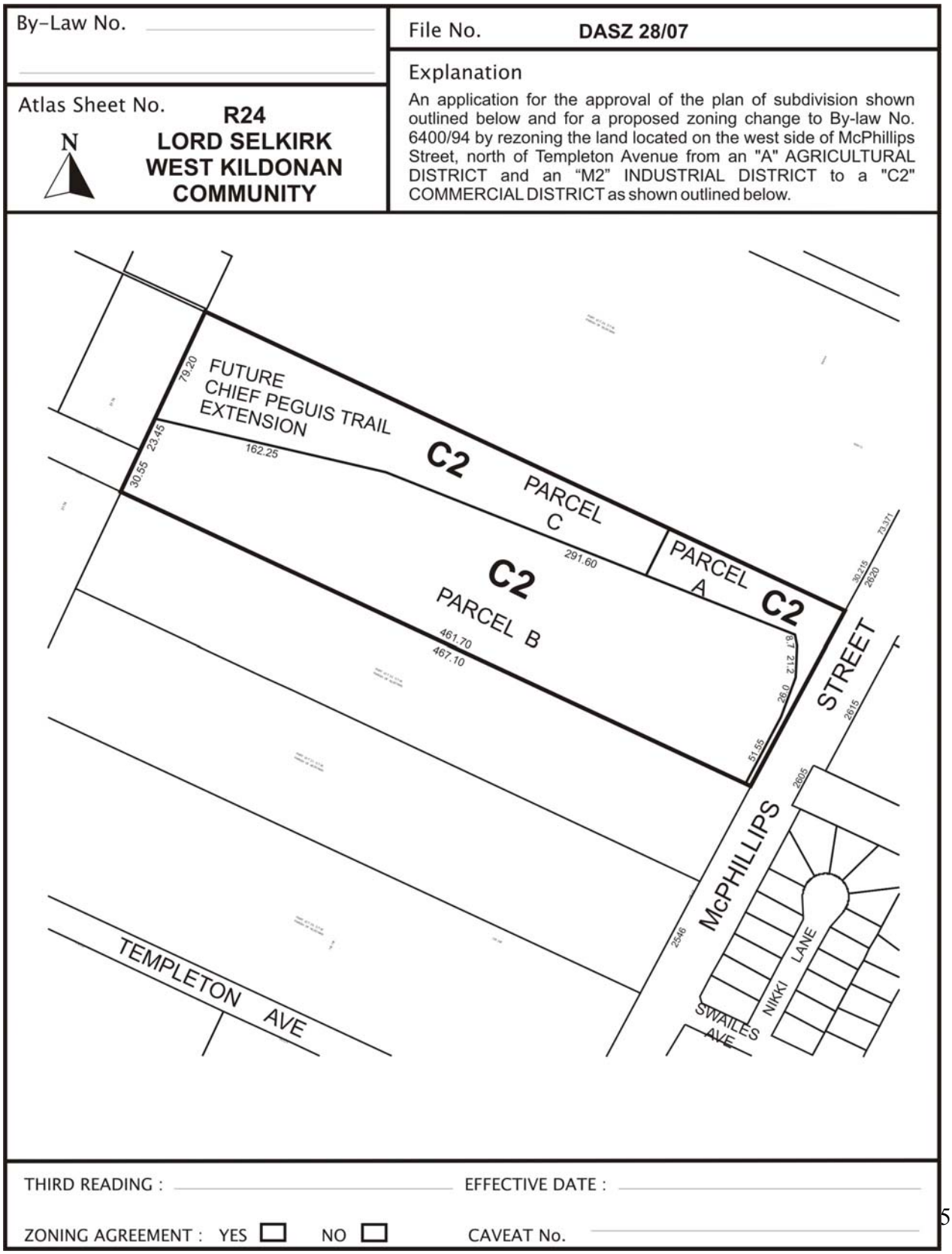




Figure 2: Aerial Photo