Agenda - Council - April 23, 2008

Report - Standing Policy Committee on Property and Development - March 25, 2008

Item No. 7 Subdivision and Rezoning - 755 - 763 Portage Avenue and 288 Victor Street (Daniel McIntyre Ward) File DASZ 2/2008 [c/r DAC 3/2008 and DAV 103362/2008D]

STANDING COMMITTEE RECOMMENDATION:

On April 9, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the City Centre Community Committee and submits the following to Council:

1. That the plan of subdivision proposed under File DASZ 2/2008 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 2/2008 dated March 10, 2008, for registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 2/2008 dated March 10, 2008 to a "C2" Commercial District subject to the following:

    A. That the applicant enter into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

        i. That for the development of any building and/or accessory parking area and/or signage plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development;

        ii. That, on the subject land, as shown on Schedule "A" for File DASZ 2/2008 dated March 10, 2008, the following uses shall be prohibited:

            a. amusement enterprise, outdoor,
            b. auto/light truck/motorcycle, repair and service,
            c. auto/light truck/motorcycle, sales and rental,

Report - Standing Policy Committee on Property and Development - March 25, 2008

d. bus depot,
e. car wash,
f. contractor's establishment,
g. fleet services,
h. fuel sales,
i. micro-brewery/distillery/winery,
j. protection and emergency services,
k. recycling collection centre,
l. x-rated store.

iii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with a new occupancy permit.

iv. That no illuminated signage be erected on the north or west sides of the building.

3. 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.

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

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 by-law in accordance with the above.

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

Report - Standing Policy Committee on Property and Development - March 25, 2008

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 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 - March 23, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 9, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the City Centre Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 25, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 17, 2008, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning - 755 - 763 Portage Avenue and 288 Victor Street (Daniel McIntyre Ward) File DASZ 2/2008 [c/r DAC 3/2008 and DAV 103362/2008D]**

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

Prepared by: **Josie Marques, Senior Committee Clerk City Centre Community Committee**

Report date: **March 18, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On March 17, 2008, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 2/2008 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 2/2008 dated March 10, 2008, for registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 2/2008 dated March 10, 2008 to a "C2" Commercial District subject to the following:

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        ii. That, on the subject land, as shown on Schedule "A" for File DASZ 2/2008 dated March 10, 2008, the following uses shall be prohibited:

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            b. auto/light truck/motorcycle, repair and service,
            c. auto/light truck/motorcycle, sales and rental,

d. bus depot,
e. car wash,
f. contractor's establishment,
g. fleet services,
h. fuel sales,
i. micro-brewery/distillery/winery,
j. protection and emergency services,
k. recycling collection centre,
l. x-rated store.

iii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with a new occupancy permit.

iv. That no illuminated signage be erected on the north or west sides of the building.

3. 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.

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

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 by-law in accordance with the above.

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

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 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 City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. The proposal is a new facility necessary and vital to the community.

PUBLIC HEARING SUMMARY

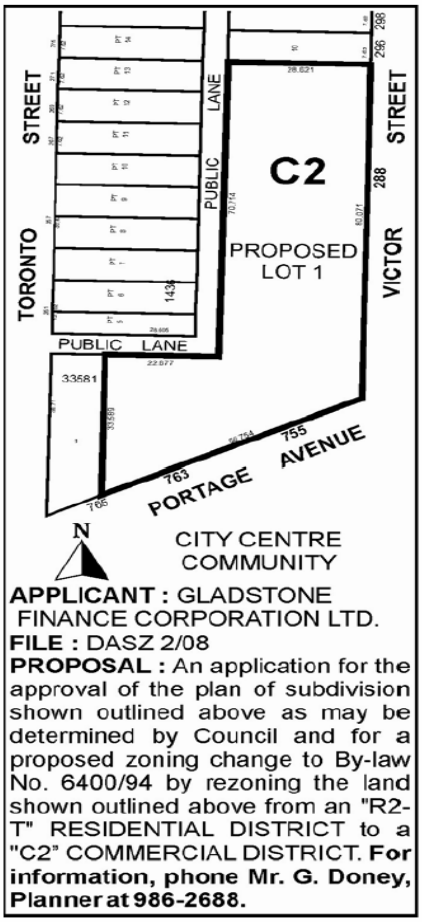
File: DASZ 2/2008 [c/r DAC 3/2008 and DAV 103362/2008D]

Before: City Centre Community Committee
Councillor Leipsic, Chairperson
Councillor Gerbasi
Councillor Smith

Hearing: March 17, 2008
North Committee Room
Council Building, 510 Main Street

Applicant: Gladstone Finance Corporation Ltd.
(Hart Mallin)

Subject:



Premises Affected: 755 - 763 Portage Avenue and 288 Victor Street

Exhibits Filed:

1. Application dated January 25, 2008
2. Notification of Public Hearing dated February 19, 2008
3. Title Searches 1167755, 1167756, 1452368, 1452369, Certificate of Title C74755

4a. Letter of Authorization dated July 10, 2007 from Leonard Gladstone, President, Gladstone Finance Corporation Ltd., to Hart Mallin or Andrew Bickford, AGB Architects

4b. Letter of Authorization dated January 25, 2008 from the City of Winnipeg to Gladstone Finance Corporation Ltd., c/o Hart Mallin

5. Plans (11 pages)
6. Report from the Planning and Land Use Division dated March 10, 2008
7. Inspection Report
8. Audio Recording of representations

REPRESENTATIONS:

In Support:

Andrew Bickford
Hart Mallin, Gladstone Finance Corporation Ltd.

In Opposition:

Nil

For Information:

Nil

For the City:

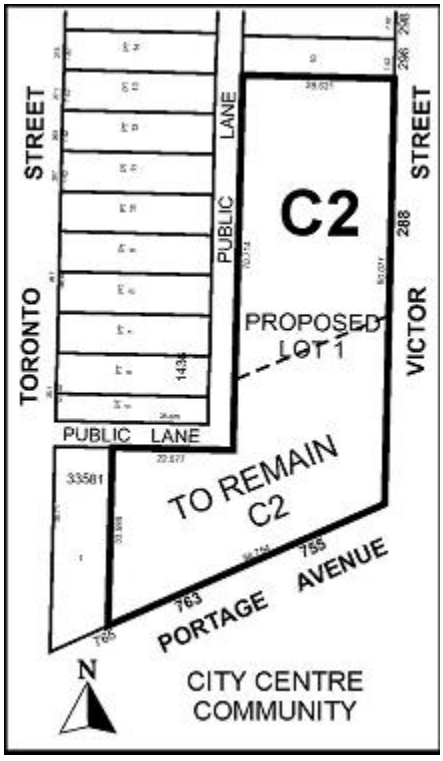
Mr. G. Doney, Senior Planner, Planning, Property and Development Department

Exhibit "6" referred to in File DASZ 2/2008 [c/r DAC 3/2008 and DAV 103362/2008D]

Planning, Property and Development Department Report

To the City Centre Community Committee

Date:	**March 10, 2008**
File:	**DASZ 2/08**
Related Files:	**DAV 08-103362D and DAC 3/2008**
Subject:	consolidation of parcels into one lot, including a parcel created by a public lane closure; and rezone to C2 Commercial District as per Zoning By-law 6400/94
Location:	755 and 763 Portage Avenue, 288 Victor Street; and Lots 8 and 9 of Plan 818 (north of 288 Victor Street)
Legal Description:	Lots 2 and 3, Plan 33581; Lots 1 to 3 and pt. of Lot 4, Plan 818; Lots 5 to 9, Plan 818; [and a parcel that is to be created by a public lane closure as per DAC 3/2008]



Applicant: **Hart Mallin – Gladstone Finance Corporation Ltd.**

Owner: **Leonard Gladstone – Gladstone Finance Corporation Ltd.**

Recommendation: **approve with conditions**

Report Summary:

- The existing buildings are to be demolished and the subject land redeveloped with a three-storey building with the principle uses being office and social service facility.
- One lot is to be created by consolidating 755 and 763 Portage Avenue, 288 Victor Street, two adjacent lots immediatley north of 288 Victor Street and a parcel that is be created by the closure of the public lane immediately south of 288 Victor Street and parallel to Portage Avenue.
- The proposed development would strengthen the pedestrian environment on Portage Avenue because the building is to front on, and provide an entrance/exit on, Portage Avenue and because the accessory parking will be behind the building.
- The design of the proposed development can be guided by Part 5 and Schedule C of Winnipeg Zoning By-law 200/2006.
- Compatibility of the proposed development with other uses can be addressed by a Zoning Agreement, registered as a caveat on the subject land.

Site Description

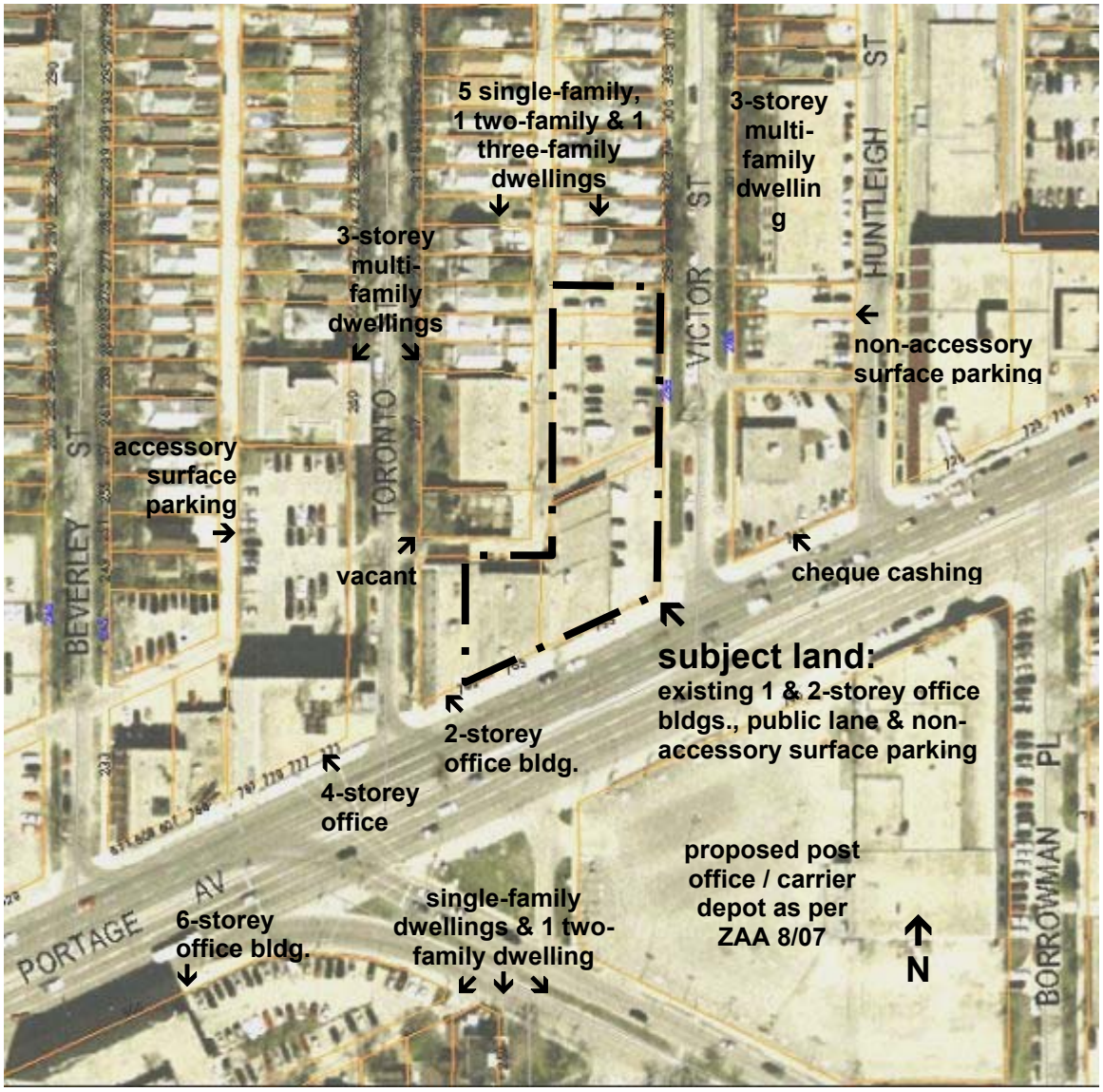


Figure 1: Existing Land Uses of Subject Land and Vicinity, 2007 aerial photography

The subject land is in the St. Matthews Neighbourhood of the Daniel McIntyre Ward. As shown in Figure 1, it is immediately north of Portage Avenue and immediately west of Victor Street. The subject land is to consist of 755 and 763 Portage Avenue, 288 Victor Street, two adjacent lots immediately north of 288 Victor Street and a parcel that is to be created by the closure of the public lane immediately south of 288 Victor Street and parallel to Portage Avenue as per public lane closing File **DAC 3/2008**. The subject land, assuming the aforementioned public lane is closed and purchased by the applicant, is approximately **33,623 square feet**.

The present uses of the subject land are one- and two-storey office buildings at Portage Avenue, a public lane and non-accessory surface parking. Also, portions of the eastern and northern edges of the non-accessory surface parking are landscaped.

Northeast, north and northwest of the subject land are five single-family, one two-family, one three-family and two multiple-family dwellings. To the west are a vacant parcel and, adjacent to the subject land, a two-storey office building. To the southwest is a six-storey office building and accessory surface parking. To the south, south of Broadway, are single-family and one two-family dwellings. Southeast of the subject land is an unused parcel with a building on-site. A post office / carrier depot is proposed for this site as per File ZAA 8/07. East of the subject land, and east of Victor Street, are a cheque cashing facility and non-accessory surface parking.

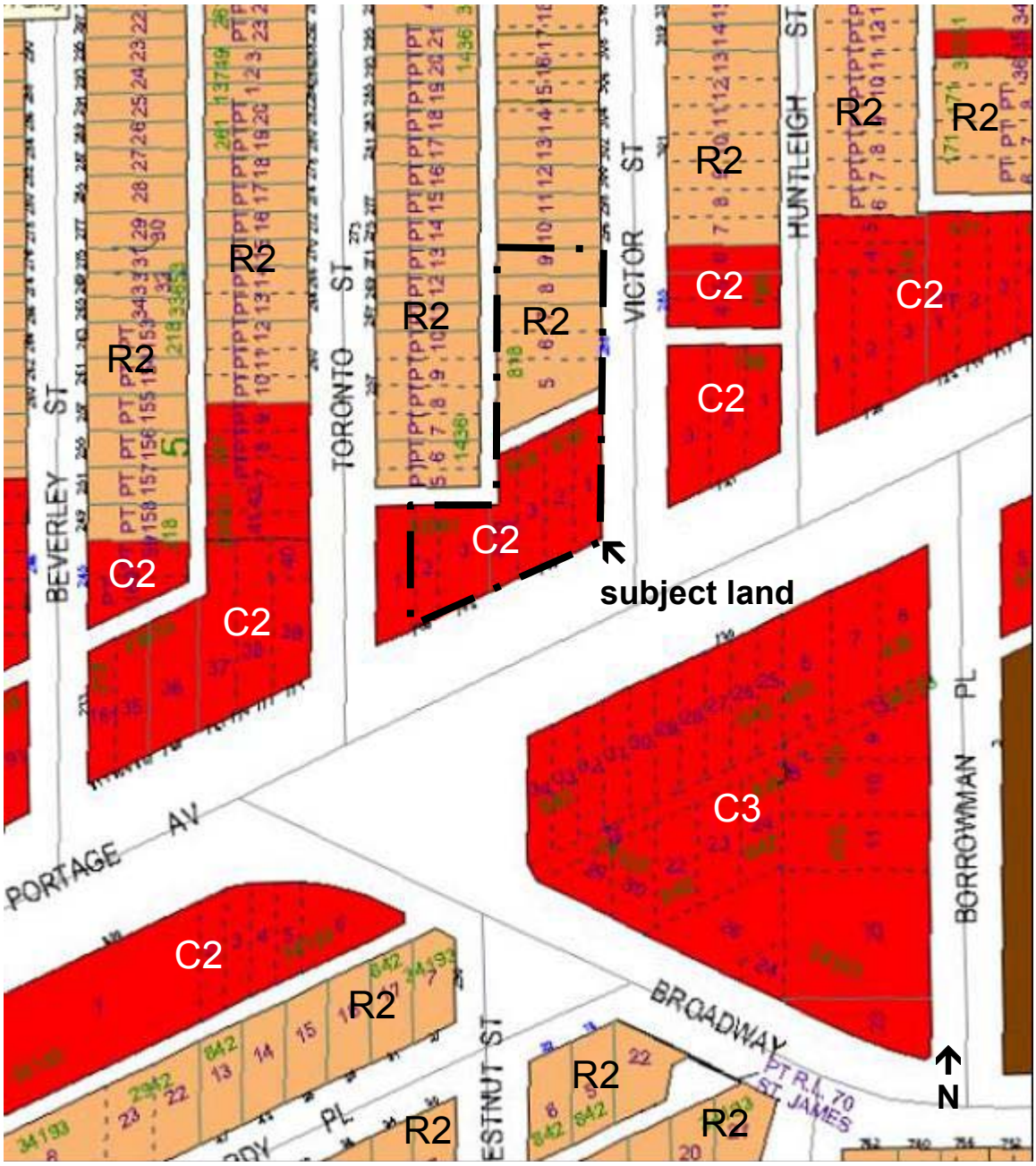


Figure 2: Existing Zoning Districts in Subject Land and Vicinity, Winnipeg Zoning By-law 200/2006 & iView

As shown in Figure 2, the subject land is partly in a C2 Community Commercial District and partly in an R2 Residential Two-Family District as per Winnipeg Zoning By-law 200/2006, which came into force on March 1st, 2008. Approximately **18,860 square feet** of the subject land, including **half** of a parcel that is to be created by the closure of the **public lane** immediately south of 288 Victor Street, are in a **C2** Community Commercial District and approximately **14,763 square feet**, including **half** of a parcel that is to be created by the closure of the **public lane** immediately south of 288 Victor Street, are in an **R2** Residential Two-Family District. Northeast, north, northwest and south of the subject land are R2 Two-Family Districts. C2 Community Commercial Districts are to the east, the west and the southwest. A C3 Commercial Corridor District is south-southeast of the subject land.

Background

Section 45 of Winnipeg Zoning By-law 200/2006 states:

> *Where a development application has been submitted for any type of approval required by the Development Procedures By-law, but no final action had been taken by the appropriate decision-making body on such application prior to the effective date of this By-law, the application shall be reviewed and considered in accordance with either the provisions of the By-law in place on the date of submittal or the provisions of this By-law, at the applicant's option.*

The applicant chose for this proposal to be reviewed and considered in accordance with the provisions of The City of Winnipeg Zoning By-law 6400/94. If the proposed rezoning is approved by Council, the land will be in a C2 Community Commercial District under Winnipeg Zoning By-law 200/2006.

Description of the Proposed Development

The existing buildings are to be demolished and the site redeveloped, as shown in Figure 3, with a three-storey building fronting Portage Avenue with parking will be to the rear, along Victor Street. The principle uses will be an office and social service facility. Winnipeg Regional Health Authority will operate a 24 hours Crisis Stabilization Unit.

The proposal includes the creation of one lot by consolidating 755 and 763 Portage Avenue, 288 Victor Street, two adjacent lots immediatley north of 288 Victor Street and a parcel that is be created by the closure of the public lane immediately south of 288 Victor Street and parallel to Portage Avenue.

The existing surface parking would become an accessory surface parking because it is to be on the same lot as the proposed building. The proposal includes modifying the existing surface parking to utilize the additional land that would be available if, indeed, the aforementioned public lane is closed and becomes part of the subject land.

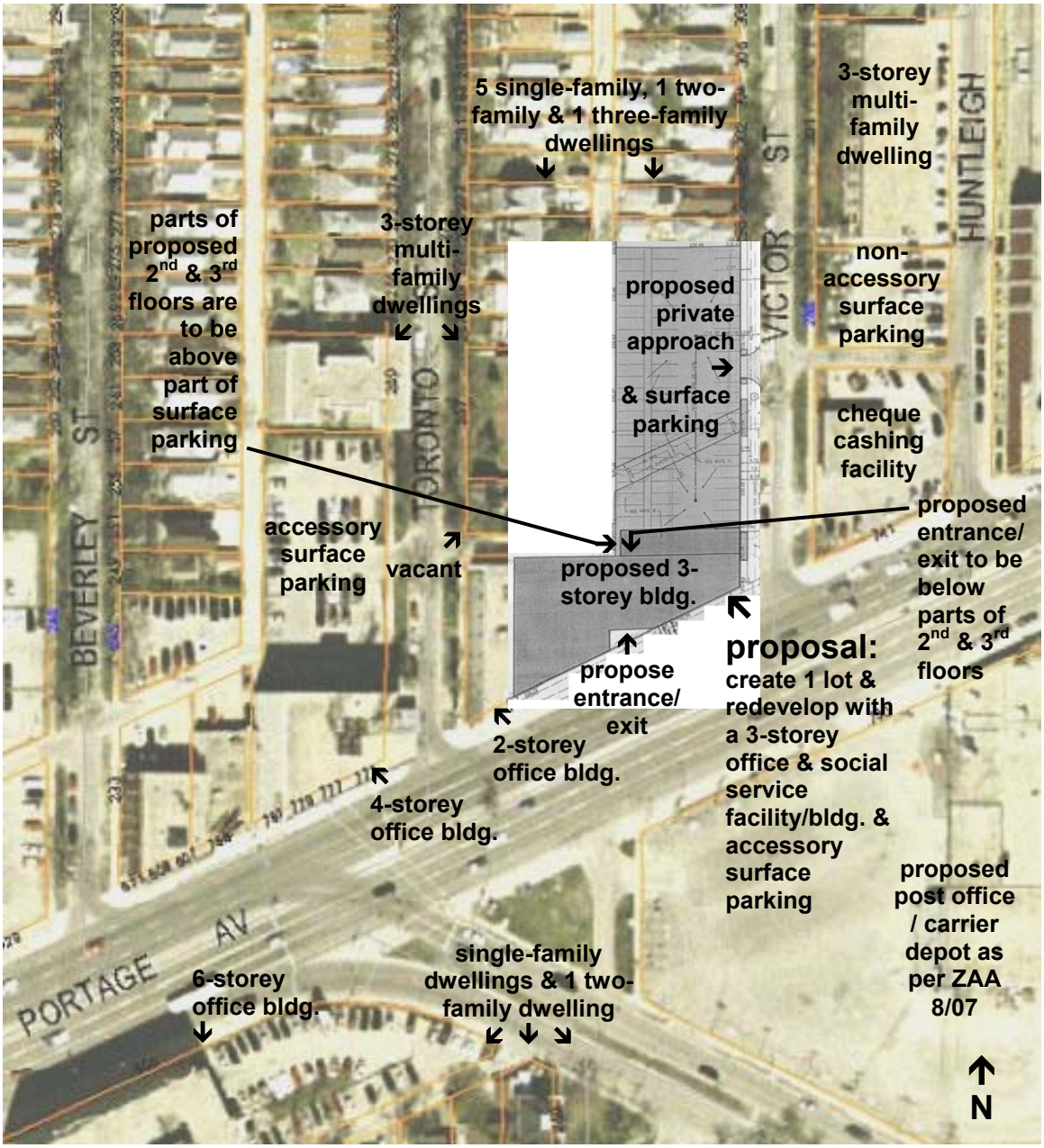


Figure 3: Proposed Land Uses of Subject Land and Existing Land Uses of Vicinity, plan from pt. of Aug./07 dwg. by KGS Group, 2007 aerial photography

Analysis

Plan Winnipeg

The proposal conforms to *Plan Winnipeg 2020 Vision* because the subject land is in a neighbourhood policy area as per "Policy Plate A, Land Use" of said document.

Compatibility with Existing Uses in the Vicinity

The existing and proposed uses and their locations are generally the same. This indicates that the proposed development is compatible with other uses to the extent that the current development is compatible with other uses.

However, by rezoning the portion of the subject land that consists of Lots 5 to 9, Plan 818 (which is all of the subject land north of the public lane being considered for closure) from R2 Residential Two-Family District to C2 Commercial Community District as per Winnipeg Zoning By-law 200/2006, uses that are presently restricted or prohibited from the aforementioned lots due to their incompatibility with residential uses will become permitted uses. This poses a concern because residential uses and residentially zoned land is west, across a public lane from the aforementioned portion of the subject land.

As per the use categories in "Table 4-1: Principle Use Table" of Winnipeg Zoning By-law 200/2006, uses that are allowed in C2 Commercial Community Districts that are prohibited in R2 Residential Two-Family Districts include:

- some public and institutional uses;
- all cultural and entertainment uses;
- all commercial sales and service uses;
- all private motor-vehicle related uses;
- most transportation, utility and communications uses; and
- all industrial uses.

Also, the closure of the public lane would allow uses in this land that are allowed in C2 Commercial Community Districts.

Land Use By-Law Issues

The applicant has chosen for this proposal to be reviewed and considered in accordance with the provisions of The City of Winnipeg Zoning By-law 6400/94. Under said by-law, parking spaces with direct access to a public lane instead of a driveway or an aisle are not allowed. Therefore, a variance is required to allow this configuration in the redeveloped surface parking. This is being done under File **DAV 08-103362D**. The variance may be appealed to the Appeals Committee for an additional public hearing, whereas the recommendation by the Community Committee for a rezoning proceeds to Council without an additional public hearing.

Transportation and Site Access

Access to approximately 45 parking spaces is to be from Victor Street and access to approximately 22 parking spaces is to be from the public lane that is north and west of the subject land. These parking areas are connected, thereby enabling motor vehicles to drive from the public lane to Victor Street (and, of course, vice versa).

Site Design Issues

A preliminary site plan of the building and parking area has been submitted. The proposed building is to front Portage Avenue and the accessory parking is to be behind the proposed building. One of the building's entrance/exit will be on Portage Avenue, establishing a strong urban edge and increasing the vitality of Portage Avenue. If the development is modified to include a relatively shallow front yard, an opportunity for providing amenities such as seating or landscaping is created. This would soften the edge alongside Portage Avenue and enhance the streetscape.

If this proposal proceeds to plan approval, a detailed site plan will have to be submitted for plan approval before a development permit can be issued. The site plan will have to contain the design elements that are to integrate the structure and function of the proposed land use into the community.

- *The final site plan will need to include detailed designs for the fencing, vegetation and buildings.*
- *Deciduous and coniferous trees should be used in combination to screen the parking areas and enhance the site.*
- *Sidewalk locations on the lot should orient and allow pedestrians easy and as-direct-as-possible access to public sidewalks.*
- *The front entrance to the building should be distinct by means such as using higher quality building materials, canopies, porticos, windows, lighting and other means.*
- *Outside garbage containers should be fully enclosed and screened with fencing and/or vegetation; and located away from public rights-of-way and adjacent residential dwellings.*
- *Parking areas will need to be screened with fencing and/or vegetation and provide adequate, safe pedestrian walkways to access building entrances and sidewalks.*

"Part 5: Development and Design Standards" and "Schedule C" of Winnipeg Zoning By-law 200/2006 are useful guidelines for assisting in the design of this proposed development.

Recommendation

The Planning and Land Use Division recommends approval of the proposed rezoning and subdivision because:

- the existing and proposed uses and their locations are generally the same, indicating that the proposed development would be as compatible with other uses as is the current development on the subject land; and

- the proposed development would strengthen the pedestrian environment on Portage Avenue because the accessory parking is to be behind the proposed building and the building is to front directly on Portage Avenue.

The Division is furthering recommending that a Zoning Agreement be registered as a caveat on the subject land that can address outstanding issues:

- Land uses that are generally incompatible with residential uses along Victor and Toronto Streets should be restricted.

- A final site plan should be reviewed to ensure the landscaping, fencing, building and other elements address the concerns of the adjacent neighbours.

- The quality of the proposed development should be reviewed to ensure:
  - the parking area is screened with fencing and/or vegetation and provides adequate, safe pedestrian walkways to access building entrances and sidewalks; and
  - the front entrance of the building is distinguished by including higher quality building materials, canopies, porticos, windows, lighting or other means.

Recommended Conditions of Approval

1. That the plan of subdivision proposed under File DASZ 2/2008 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 2/2008 dated March 10, 2008, for registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 2/2008 dated March 10, 2008 to a "C2" Commercial District subject to the following:

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ii. That, on the subject land, as shown on Schedule "A" for File DASZ 2/2008 dated March 10, 2008, the following uses shall be prohibited:

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

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

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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.

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

Report Prepared by: J. Glen Doney
PPD File DASZ 2/08

Schedule "A"

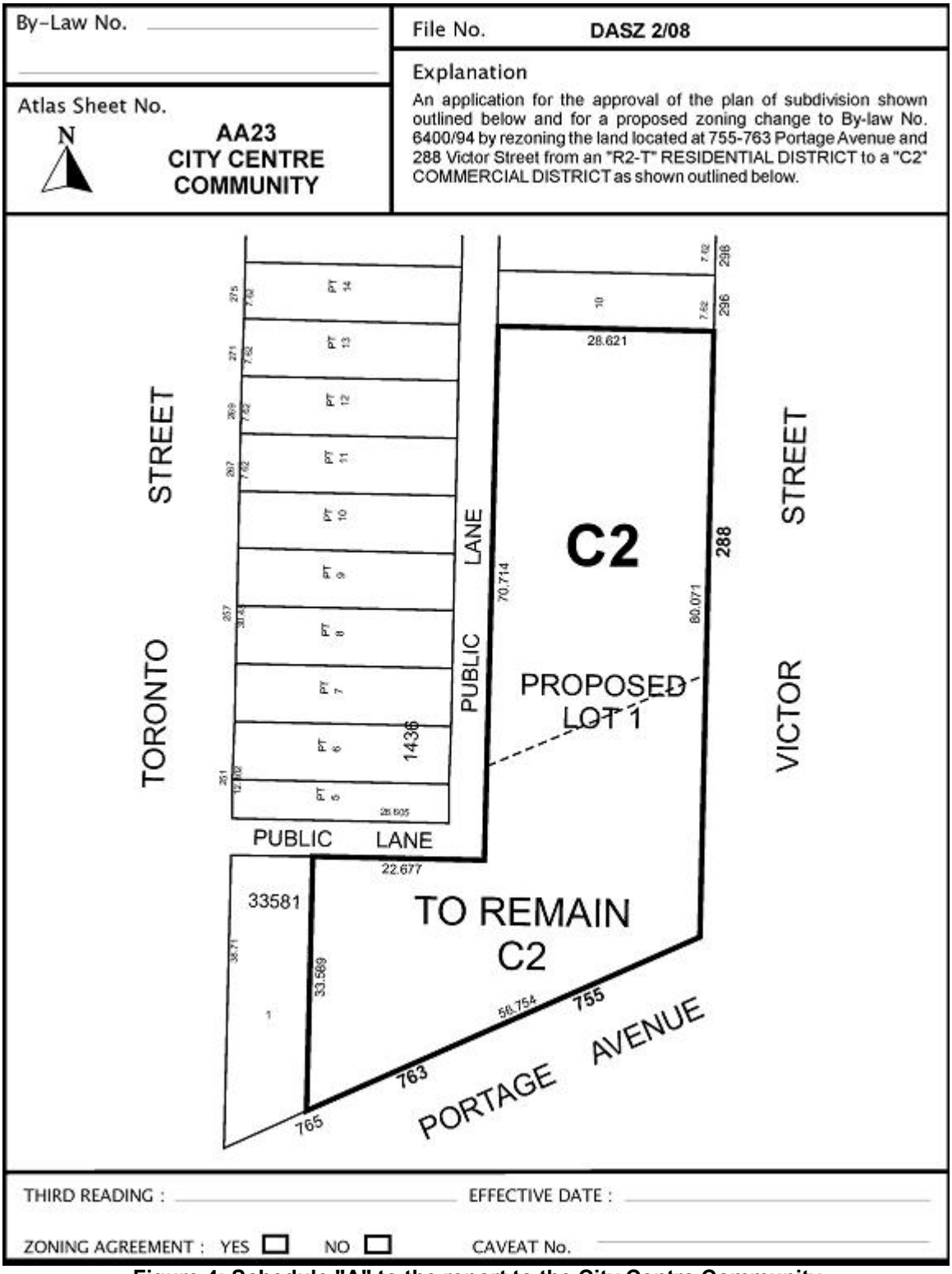

Figure 4: Schedule "A" to the report to the City Centre Community Committee for File DASZ 2/2008, dated March 10, 2008