Minute No. 468
Report - Standing Policy Committee on Property and Development - May 20, 2008

Item No. 4 **Subdivision and Rezoning - 2440 McGillivray Boulevard**
File DASZ 3/2008

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development that the application for subdivision and rezoning under File DASZ 3/ 2008 not be proceeded with.

Report - Standing Policy Committee on Property and Development – May 20, 2008

DECISION MAKING HISTORY:

Moved by Councillor Swandel,

That the recommendation of the Standing Policy Committee on Property and Development, that the application for subdivision and rezoning under File DASZ 3/ 2008 not be proceeded with, be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 11, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee that the application for subdivision and rezoning under File DASZ 3/ 2008, not be proceeded with, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On May 20, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee that the application for subdivision and rezoning under File DASZ 3/ 2008, not be proceeded with, and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On May 6, 2008, the Assiniboia Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development that the application for subdivision and rezoning under File DASZ 3/ 2008, not be proceeded with.

RE: **Subdivision and Rezoning - 2440 McGillivray Boulevard**
File DASZ 3/2008 [c/r DAC 2/2008 and DAV 106092/2008D]

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

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

Report date: **May 7, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 6, 2008, the Assiniboia Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development that the application for rezoning under File DASZ 3/2008 not be proceeded with.

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

1. The subject property perfectly developable lots for residential use, all we have to do is extend the lane. It doesn't have to be full service development. There are situations where full service development doesn't make sense, and this is an example of that. This application is not the right thing to do on this property.

PUBLIC HEARING SUMMARY

File: DASZ 3/2008 [c/r DAC 2/2008 and DAV 106092/2008D]

Before: Assiniboia Community Committee
Councillor Fielding, Chairperson
Councillor Clement
Councillor Nordman

Public Hearing: May 6, 2008
West Committee Room
Council Building, 510 Main Street

Applicant: M.B.1 Development (Doug McKay)

Subject:



Premises Affected: 2440 McGillivray Boulevard

Exhibits Filed:
1. Application dated February 14, 2008
2. Notification of Public Hearing dated March 20, 2008

3. Manitoba Status of Title 2249330
4. Letter of authorization dated January 8, 2008 from 5540313 Manitoba Ltd. to MB1 Development
5. Conceptual Site Plans (4 pages)
6. Plan
7. Report from the Administrative Co-ordinating Group dated March 31, 2008
8. Report from the Planning and Land Use Division dated April 24, 2008
9. Communication dated May 5, 2008 from Bonnie Kocsis in opposition to the application
10. Communication dated May 6, 2008 from Rebecca Lee in opposition to the application
11. Revised Report from the Planning and Land Use Division dated May 5, 2008
12. Inspection Report
13. Petition purporting to contain the signatures of 207 area residents in opposition to the application, submitted at the public hearing by Cynthia Trenaman
14. Audio Recording of representations of public hearing held on May 6, 2008

REPRESENTATIONS:

In Support:

Doug McKay, M.B.1 Development
Bob Somers

In Opposition:

Robert Brocklehurst
Bonnie Kocsis
Rebecca Lee
Cynthia, Dana and Joel Trenaman

For the City:

Mr. B. Buyachok, Real Property Officer, Planning, Property and Development Department
Ms S. Matile, Land Development Engineer, Planning, Property and Development Department
Mr. J. Veitch, Planner, Planning, Property and Development Department

Exhibit "11" referred to in File DASZ 3/2008

Winnipeg

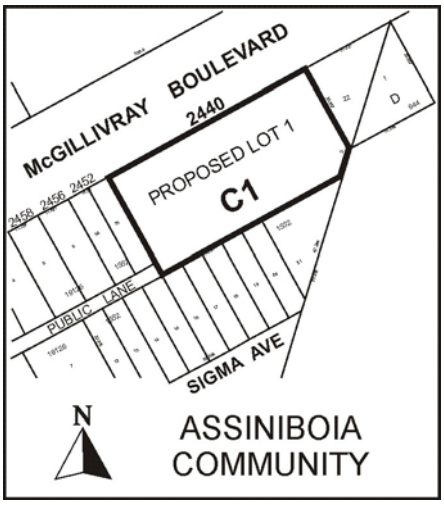
Planning, Property and Development Department Report

To the Assiniboia Community Committee

REVISED REPORT

Date: May 5, 2008
File: **DASZ 3/08**
Related Files: DAV 08-106092/D, DAC 2/2008
Subject: Plan of Subdivision and Rezoning to amalgamate all lots into one (1) lot and rezone entire lot to 'C1' Commercial

Location: 2440 McGillivray Boulevard
Legal Description: Lots 23/32, Block 10, Plan 1552



Applicant: MB1 Development, (Mr. Doug McKay)
Owner: Dr. Karen Moran du Muller

Recommendation: *Approval with Conditions*

Site Description

Existing Land Use and Zoning

The application is dealing with three separate parcels of vacant property;

A) 10,800 square foot western portion zoned 'R1-E' Single-Family Residential
B) 16,200 square foot eastern portion zoned 'C1' Commercial
C) 3,762 square foot rear lane, proposed to be closed

The parcels are designated Neighbourhood in *Plan Winnipeg 2020* and are located in the Whyte Ridge Neighbourhood of the Assiniboia Community fronting onto McGillivray Boulevard.

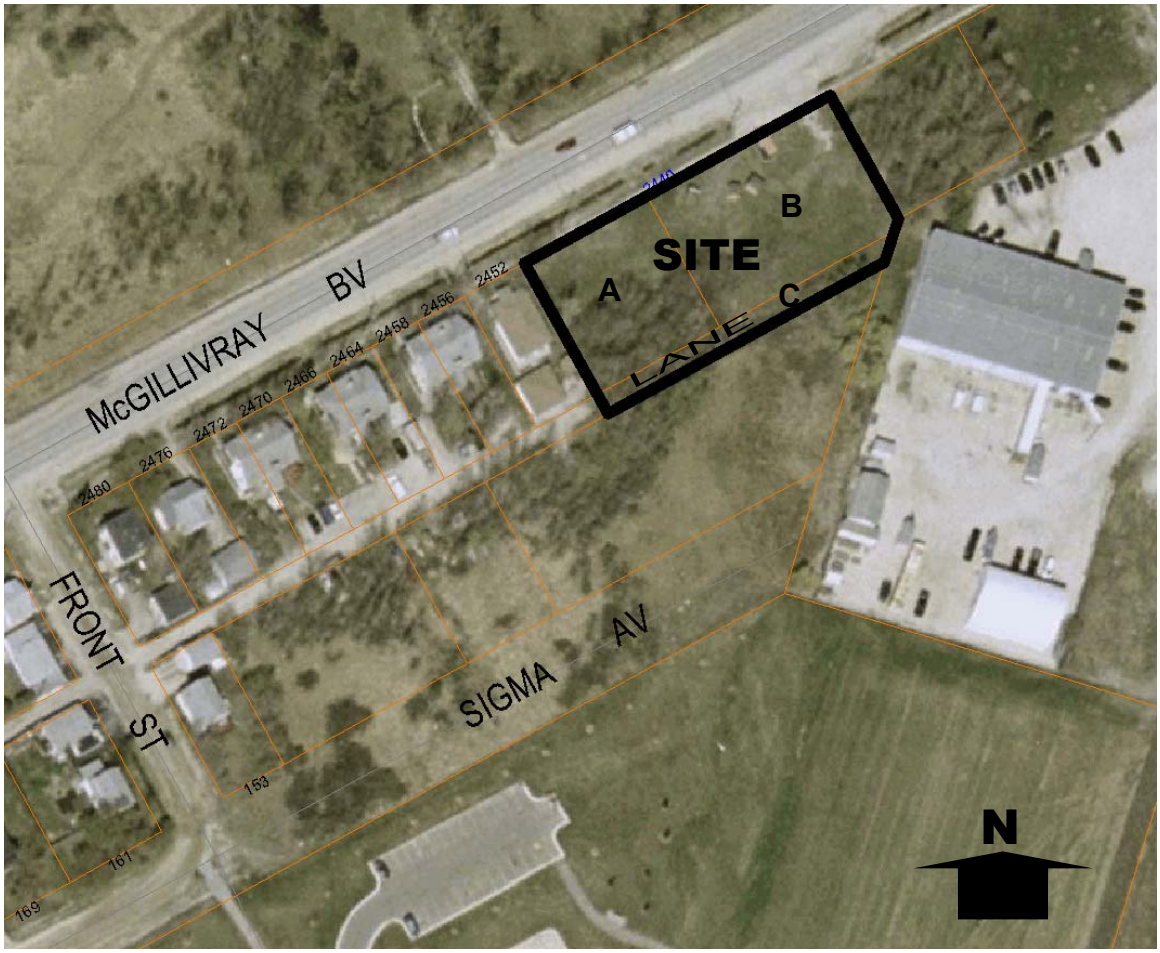


Figure 1: Subject Site including portion of lane proposed to be closed (Aerial Flown 2005)

Surrounding Land Use and Zoning

North: McGillivray Boulevard then 'M1' Manufacturing - Light
South: 'R1-E' Single-Family Residential (vacant, City owned)
East: 'A' Agricultural (vacant) then 'M1' Manufacturing – Light
West: 'R1-E' Single-Family Residential

Background

- **DAZ 214/00** - Rezoning to 'C2' Commercial for a proposed two-storey, 14,890 square foot commercial building. Adjourned and never proceeded with.
- **DAZ 216/05 –** Rezoning to 'C2' Commercial for a proposed one-storey, 8,500 square foot commercial building. Withdrawn in April, 2005.
- **DASZ 34/05** - Rezoning to 'C2' Commercial for a proposed a one-storey, 11,456 commercial building. Denied by the Assiniboia Community Committee.

Description of the Proposed Development

As discussed above under 'Site Description', the proposed development includes three (3) currently separate parcels. The applicant, on behalf of the owner intends to consolidate and rezone the parcels to 'C1' Commercial. DAC 2/2008 is the road closing application that has been taken in conjunction with the subject rezoning application dealing with the closing of the undeveloped portion of the rear lane along the south boundary of the subject site.

The majority, (16,200 s.f.) of the project site is currently zoned 'C1' Commercial once operating as a local convenience store. The previous rezoning applications for the subject lands proposed 'C2' Commercial which is a more intensive commercial zoning with a broader range of potentially incompatible uses. In regard to this application, the Planning and Land Use Division recommended that the applicant and their client consider applying for the less intensive 'C1' Commercial Zone as the division felt it was a better fit with the context. Although not their original intention, the development team concurred with our recommendation and agreed to proceed with a 'C1' Commercial rezoning.

The proposal includes the construction a one-storey, (23' 9" ht.), 9,000 square foot building with 6 units for medical office type uses. The proposed architecture illustrates an articulated façade with details and massing that will fit well with the more residential context of this section of McGillivray Boulevard. Access to the site will be off McGillivray Boulevard, parking of 32 parking stalls will be located in front with the building set to the back of the site.

The development includes a road closing file, DAC 2/2008 as well as a variance file, DAV 08-106092/D for reductions to the rear yard, front yard and landscaping. For discussion on the proposed variances please refer to the planning report on that file.

Analysis

PLAN WINNIPEG
The subject site is designated as Neighbourhood policy area in *Plan Winnipeg 2020.* **Policy 3A-01 Promote Orderly Development** considers the Neighbourhood designation to signify areas of local identity with mutually supportive uses including a residential mix, with a variety of educational, recreational, institutional, commercial and possible industrial uses at a scale and density compatible with each other are generally supported.

'C1' Commercial is defined as Commercial Neighbourhood in the City of Winnipeg Zoning By-law 200/06. This zoning district intends to accommodate small, compact commercial uses within or surrounded by residential areas, to serve the convenience needs of the surrounding context.

This application represents a redevelopment and expansion of an existing commercial site; as such **Policy 3B-05 Promote Commercial Densification** encourages the redevelopment, infill, and expansion of existing commercial areas as the preferred method of accommodating new commercial development.

COMPATIBILITY
The proposal appears to be a very good fit with the local context. When compared to some of the previous rezoning applications proposing 'C2' Commercial, 14,000 square foot, 10 unit strip mall style buildings, the design and scale of this project is much more sensitive to the neighbouring residential. In addition, the neighbourhood commercial aspect of the 'C1' Commercial zone combines to make this one the least intensive commercial proposals for this site.

The 6 units are proposed to be 1,500 square feet each for a total floor area of 9,000 square feet for the entire development. Units of this size will tend to accommodate smaller scale practices resulting in a reduced number of people visiting and less intensive on site activity. The owner of the site is a medical doctor by trade and plans to operate her business in one of the units. Not only does this immediately establish a vested interest in the quality, character and design of the physical site and architecture but a more selective review of the potential uses and tenants that will occupy the other 5 units.

The proponents have also included a significant 40-foot building setback from the west sideyard enhancing the existing vegetation with additional trees and shrubs. The Zoning By-law would require a minimum 10 foot side yard in this case for 'C1' commercial adjacent to a residential lot.

In terms of the proposed use, typically medical offices operate on a 9 to 5 schedule and draw a lot of their clientele from the adjacent surrounding neighbourhood. Although there are only 22 residences located immediately to the west of the subject site, a significant portion of the Whyte Ridge subdivision is located to the south and east within walking distance.

TRANSPORTATION AND SITE ACCESS
Access to the site will be off McGillivray Boulevard, no access is proposed off of the neighbourhood rear lane. Garbage pick-up, staff, maintenance and service calls will all be handled off the front access.

SERVICING
The Administrative Coordinating Group has submitted a report outlining the developer's servicing obligations and is recommending that the developer be required to enter into a servicing agreement.

SITE DESIGN ISSUES
The division is very encouraged by the proposed site development and architecture submitted with the application. The design shows a strong sensitivity to the context and adjacent residential. The garbage enclosure is located on the east site of the site next to the proposed building, providing good separation and screening from the existing residences on the opposite west side. The proposed landscaping includes a 40-foot landscaped buffer between the building and the adjacent residences to the west. As well the developer has committed to providing a 6-foot high solid wood fence along the west property line. Site lighting will be handled by fixtures mounted on the building; there will be no freestanding light standards on the site. All fixtures will be full cut off, downward directed, no glare, no spill lighting.

The building architecture is proposed to be of a residential scale at approximately 23 feet in height with a varied roof line, a palette of quality materials and an articulated foot print. Highlighted by a front courtyard with seating and paving stones coupled with the site landscaping, the building will have a distinctly residential look and feel.

To the east of the subject site is the Toledo Foodservice Ltd., zoned 'M1' Manufacturing – Light operating as a warehouse and distribution centre for a variety of food products typically meats and vegetables. The proposed development of the vacant subject site will provide a substantial buffer between the residences to the west and south and the existing industrial use to the east.

PUBLIC INPUT
The applicant indicated to the Planning and Land use Division that they had spoke with adjacent residents on more than one occasion. Plans were distributed and dialogue was encouraged. The owner and applicant also held a public open house at the Whyte Ridge Community Centre on April 18, 2008 at 6:30pm. Unfortunately only the home owners from the residential property immediately adjacent to the west of the project site attended.

Recommendation
The Planning and Land Use Division recommends approval of the proposed rezoning and subdivision for the following reasons:

- The proposal is consistent with *Plan Winnipeg 2020* promoting orderly development and commercial densification at a scale compatible with the surrounding context.

- The small scale of the development, the neighbourhood focused commercial zoning and the high quality design and development will fit well with the existing context.

- The site is currently vacant and partially zoned 'C1' Commercial. The 'C1' rezoning and development of the entire site will have a positive impact on the street and provide accessible medical services for the surrounding residents.

Recommended Conditions of Approval

1. That the plan of subdivision proposed under File DASZ 3/08 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 3/08 dated April 24, 2008, for registration in the Winnipeg Land Titles Office subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated April 1, 2008.

2. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 3/08 dated April 24, 2008, to a 'C1' 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 the following uses shall not be permitted on the land:

            a. Care Home
            b. Neighbourhood Rehabilitation Home
            c. Post Office / Carrier Depot
            d. Protection and Emergency Services
            e. Day Care Centre
            f. Kennel
            g. Restaurant greater than 1,500 square feet
            h. Retail Sales greater than 1,500 square feet
            i. Contractor's Establishment

ii) That for the development of any building and/or accessory parking area and/or free-standing signage plans shall be submitted showing the location and design of the proposed buildings including elevations, the location and design of accessory parking areas, garbage enclosures, fencing, landscaping, exterior lighting and free-standing signage to the Assiniboia Community Committee and 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;

iii) That a 6.5 foot height solid wood fence be provided along the entire length of the west property line, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development;

iv) That all site and building lighting be downward directed, no spill, no glare and shall be shut off between the hours of 10:00pm and 7:00am daily;

v) That the hours of operation be limited to 7:00am to 9:00pm daily, including all loading and outside maintenance;

vi) That vehicular access to and egress from the property be prohibited from the public lane paralleling McGillivray Boulevard;

vii) That there shall be no advertising signs, mobile signs, poster signs, A-frame signs, banners, buntings and the like permitted on the entire site.

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 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.

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

6. 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.

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

8. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office.

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: James Veitch
PPD File # DASZ 3/08

Schedule "A"

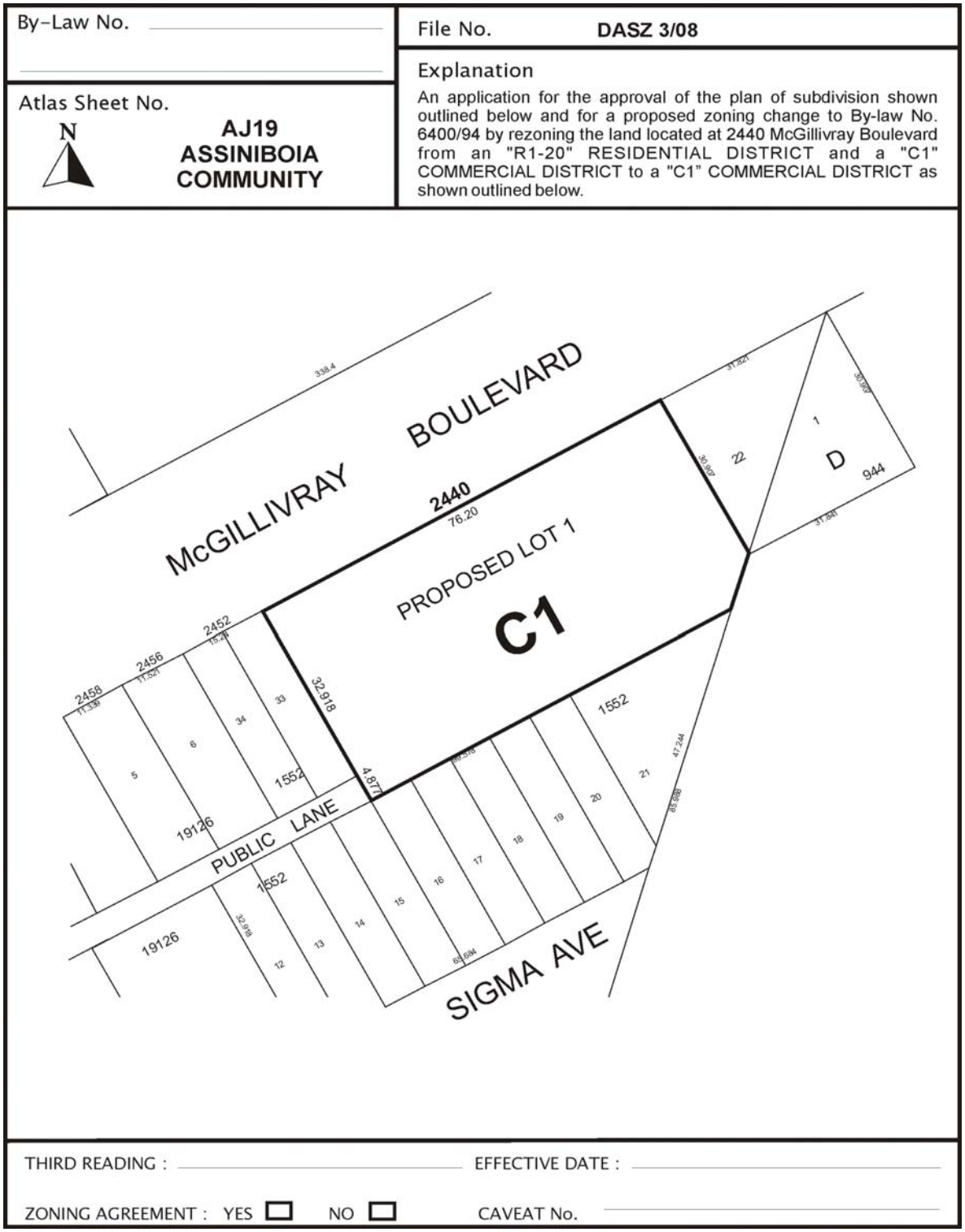


Figure 2: Schedule "A" to the report to the Assiniboia Community Committee for File DASZ 3/2008, dated April 24, 2008.

Exhibit "8" referred to in File DASZ 3/2008

Winnipeg

Planning, Property and Development Department Report

To the Assiniboia Community Committee

Date: April 24, 2008
File: **DASZ 3/08**
Related Files: DAV 08-106092/D, DAC 2/2008
Subject: Plan of Subdivision and Rezoning to amalgamate all lots into one (1) lot and rezone entire lot to 'C1' Commercial

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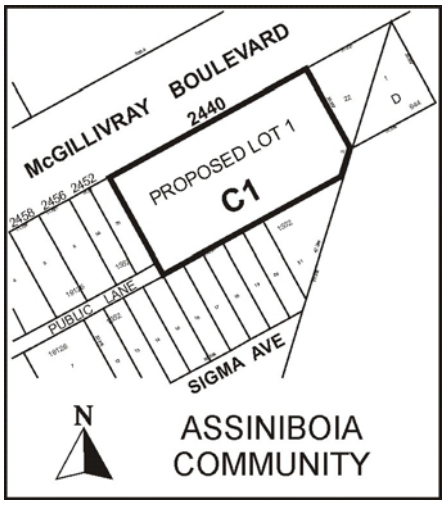

Applicant: MB1 Development, (Mr. Doug McKay)
Owner:

Recommendation: *Approval with Conditions*

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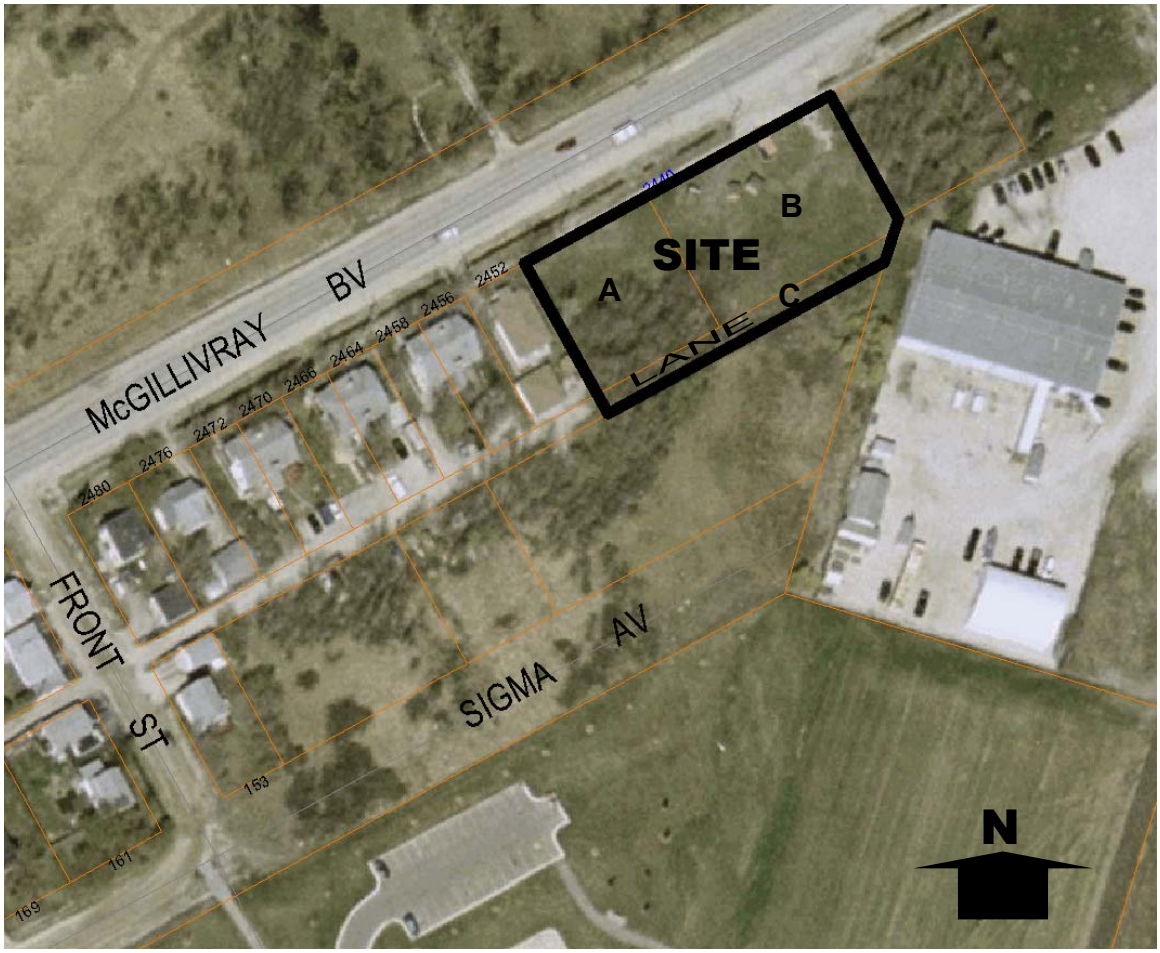

Figure 3: Subject Site including portion of lane proposed to be closed (Aerial Flown 2005)

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PUBLIC INPUT
The applicant indicated to the Planning and Land use Division that they had spoke with adjacent residents on more than one occasion. Plans were distributed and dialogue was encouraged. The owner and applicant also held a public open house at the Whyte Ridge Community Centre on April 18, 2008 at 6:30pm. Unfortunately only the home owners from the residential property immediately adjacent to the west of the project site attended.

Recommendation

The Planning and Land Use Division recommends approval of the proposed rezoning and subdivision for the following reasons:

- The proposal is consistent with *Plan Winnipeg 2020* promoting orderly development and commercial densification at a scale compatible with the surrounding context.

- The small scale of the development, the neighbourhood focused commercial zoning and the high quality design and development will fit well with the existing context.

- The site is currently vacant and partially zoned 'C1' Commercial. The 'C1' rezoning and development of the entire site will have a positive impact on the street and provide accessible medical services for the surrounding residents.

Recommended Conditions of Approval

1. That the plan of subdivision proposed under File DASZ 3/08 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 3/08 dated April 24, 2008, for registration in the Winnipeg Land Titles Office subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated April 1, 2008.

2. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 3/08 dated April 24, 2008, to a 'C1' Commercial District.

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 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.

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

6. 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.

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

8. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office.

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: James Veitch
PPD File # DASZ 3/08

Schedule "A"

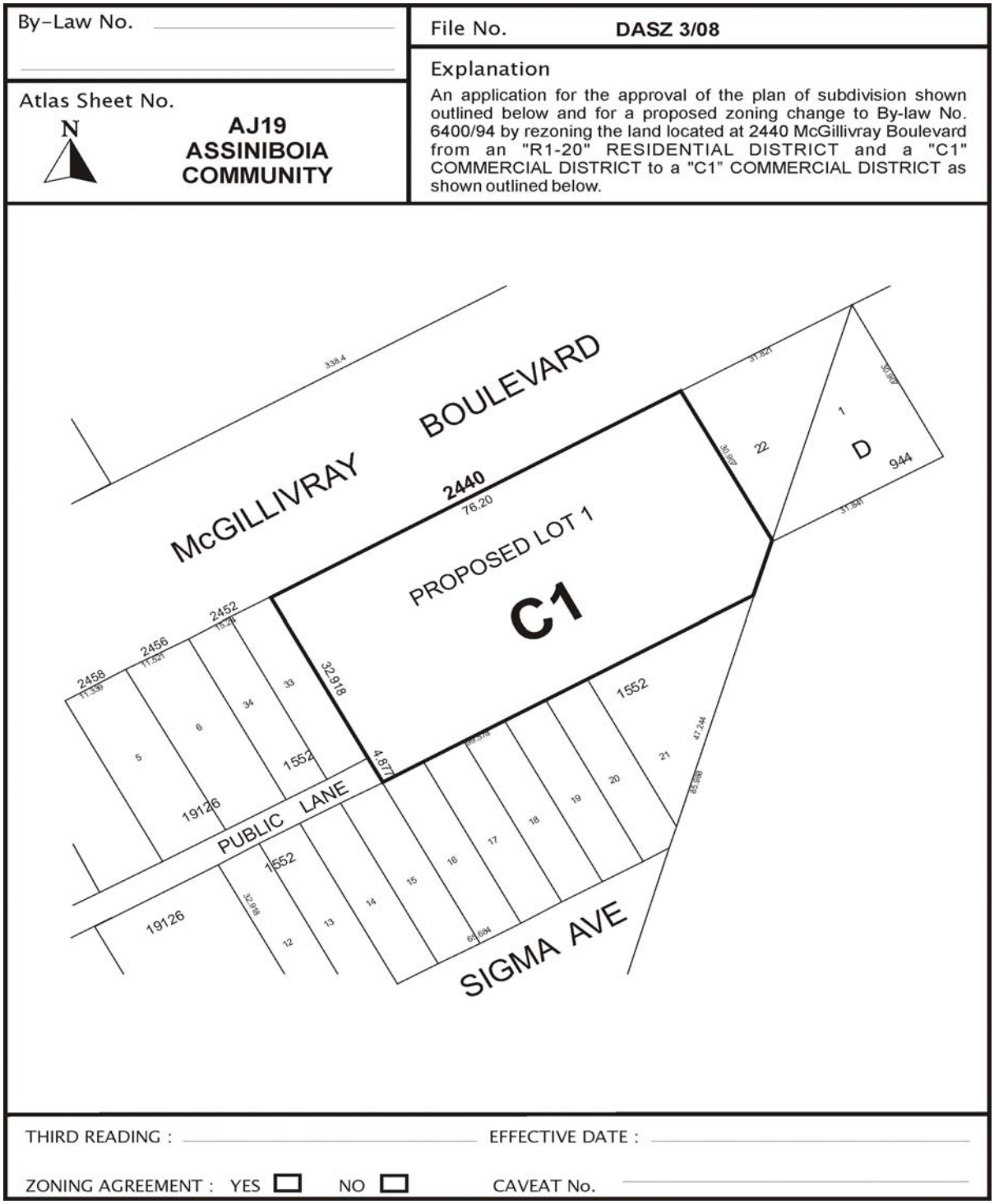

Figure 4: Schedule "A" to the report to the Assiniboia Community Committee for File DASZ 3/2008, dated April 24, 2008.

Exhibit "7" referred to in File DASZ 3/2008

INTER-OFFICE MEMORANDUM

Planning, Property and Development Department

Development and Inspections Division, Land Development Branch
Main Floor, 65 Garry Street

Winnipeg

RE: PROPOSED SUBDIVSION AND REZONING OF LAND LOCATED AT 2440 McGILLIVRAY BOULEVARD – DASZ 3/08

FOR SUBMISSION TO THE CHAIR AND MEMBERS OF THE ASSINIBOIA COMMUNITY COMMITTEE

S.M. Matile, P. Eng.
Chair
Administrative Co-ordinating Group

March 31, 2008

RE: PROPOSED SUBDIVISION AND REZONING OF LAND LOCATED AT 2440 McGILLIVRAY BOULEVARD – DASZ 3/08

An application has been submitted by MBI Development to consolidate and rezone the land at 2440 McGillivray Boulevard. This application was previously circulated under Files DAZ 214/00 and DASZ 34/05.

It is recommended that approval of this application be subject to the applicant entering into a Servicing Agreement containing the following:

1. The Developer shall, at no expense to the City, construct land drainage sewers, from the intersection of Front Street and Sigma Avenue, to serve the proposed subdivision, all as determined by and to the satisfaction of the Director of Water & Waste.

2. The Developer shall pay its share of the following regional land-drainage features:

    i) TSR ($8,706.00 per acre plus GST)
    ii) Sub-trunk charge ($11,301.00 per acre plus GST)
    iii) Land-Drainage-Sewer Oversizing ($5,007.00 per acre plus GST)

3. The Developer shall pay its share of the cost of the following surface improvements installed or to be installed by the City in McGillivray Boulevard, as determined by the Director of Public Works:

    i) Pavement (rural cross-section) ($377.00/ft plus GST)
    ii) Sidewalk ($41.80/ft plus GST)
    iii) Ornamental Lighting ($43.70/ft plus GST)
    v) Landscaping ($32.05/ft plus GST)

    The Developer's share shall be applicable only to the land being re-zoned from R-20 Residential to Commercial (i.e. to 125 ft).

4. The Developer shall pay all costs associated with the installation and/or relocation of street lights and other utilities made necessary as a result of, or required to accommodate, works required by the Developer to serve the proposed subdivision, as determined by, and to the satisfaction of, the Director of Public Works.

5. The Developer shall initiate, control, and assume all costs associated with the clean-up of litter and refuse generated by the contractors and builders for this development, both on-site and off-site, during the installation of services and construction of buildings, until substantial completion of all construction. The clean-up of litter and refuse shall be done on a regular basis, as determined by, and to the satisfaction of, the Director of Public Works.

6. The Developer shall ensure that construction traffic uses access routes specified by the Director of Public Works. The Developer shall maintain, at no expense to the City, the access routes in a clean, dust-free, and safe condition, free of dropped and tracked-on mud, and shall undertake regular scraping and sweeping until building construction, including landscaping, is complete, all as determined by, and to the satisfaction of, the Director or Public Works.

7. The Developer shall pay the full cost of the engineering services provided by or on behalf of the City in connection with the installation of services required to serve the proposed subdivision.

8. The Developer shall pay $1,650.00 plus GST to defray the City's administration and related costs associated with the preparation and implementation of the Servicing Agreement.

THIS REPORT SUBMITTED BY:

Administrative Co-ordinating Group
File No. DASZ 3/08
March 31, 2008

"original signed by S.M. Matile"
S. M. Matile, P. Eng., Chair
Land Development Branch

"original signed by R.J. Hartmann"
R. J. Hartmann, P. Eng.
Public Works Department, Transportation Division

"original signed by T.S. Josephson"
T. S. Josephson, P. Eng.
Water & Waste Department