**Agenda – Council – April 28, 2010**

**Report – Standing Policy Committee on Property and Development – April 6, 2010**

**Item No. 2 Subdivision and Rezoning – 186 Furby Street**
**(Fort Rouge-East Fort Garry Ward)**
**File DASZ 39/2009**

STANDING COMMITTEE RECOMMENDATION:

On April 21, 2010, 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 39/2009 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 39/2009 dated February 23, 2010, for registration in the Winnipeg Land Titles Office .

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 39/2009 dated February 23, 2010 to a "C2" Commercial Community 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 final detailed plans showing the location and design of the accessory parking area, private approaches, garbage enclosures, bike racks, community seating areas, fencing, exterior lighting, landscaping and signage be submitted to and approved by the Director of Planning, Property and Development and the City Centre Community Committee prior to the issuance of any development permits, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

        ii. That the following uses shall not be permitted on the land:

            a. Auto/light truck/motorcycle repair and service
            b. Auto/light truck/motorcycle sales and rental
            c. Auto parts and supplies, sales
            d. Drive–in or drive-through facilities
            e. Kennels
            f. Hostels, motels, hotels

**Report – Standing Policy Committee on Property and Development – April 6, 2010**

g. Landscape or garden supplies businesses
h. Pawnshop

iii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs permitted on the entire site.

iv. That, all lighting shall be equipped with whatever additional shielding, lenses, or cut-off devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptual to persons on any street or abutting lot or parcel. In addition, the Director may require that the light trespass and glare be limited to a reasonable level through fixture location, height and intensity.

v. That the proposed wrought iron fencing along the Furby Street and Sara Street frontages be limited to a maximum four ( 4) feet in height in accordance with the Winnipeg Zoning By-law No. 200/2006 .

vi. That nine (9) of the proposed parking stalls facing Furby Street and the eight (8) proposed stalls facing Sara Street be reduced to sixteen (16) feet in length in order to double the width of the proposed areas of landscaping along those two frontages.

vii. That at least one pedestrian access be established midway along the east boundary of the site.

viii. That the owner transfer and legally open property required for a 0.6095 meter widening of the existing north/south public lane right-of-way along that portion of the subject property abutting the north/south public lane not already 6.096 meter in width, as determined by and to the satisfaction of the Director of Public Works.

ix. That the existing vehicle approach to Furby Street be removed prior to the approval of any development permits and that any future vehicle approaches to the site be restricted to the existing lane right-of-way.

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.

**Report – Standing Policy Committee on Property and Development – April 6, 2010**

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 Director of Legal Services and City Solicitor 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 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 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 Director of Legal Services and City Solicitor 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 – April 6, 2010**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 21, 2010, 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 April 6, 2010, 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 2, 2010, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded to the Standing Policy Committee on Property and Development.

**RE:** **Subdivision and Rezoning – 186 Furby Street**
**File DASZ 39/2009 [c/r DCU 167271/2009D and DAV 167972/2009D]**

**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 3, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On March 2, 2010, 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 39/2009 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 39/2009 dated February 23, 2010, for registration in the Winnipeg Land Titles Office .

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 39/2009 dated February 23, 2010 to a "C2" Commercial Community 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 final detailed plans showing the location and design of the accessory parking area, private approaches, garbage enclosures, bike racks, community seating areas, fencing, exterior lighting, landscaping and signage be submitted to and approved by the Director of Planning, Property and Development and the City Centre Community Committee prior to the issuance of any development permits, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

        ii. That the following uses shall not be permitted on the land:

            a. Auto/light truck/motorcycle repair and service
            b. Auto/light truck/motorcycle sales and rental
            c. Auto parts and supplies, sales
            d. Drive–in or drive-through facilities
            e. Kennels

f. Hostels, motels, hotels
g. Landscape or garden supplies businesses
h. Pawnshop

iii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs permitted on the entire site.

iv. That, all lighting shall be equipped with whatever additional shielding, lenses, or cut-off devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptual to persons on any street or abutting lot or parcel. In addition, the Director may require that the light trespass and glare be limited to a reasonable level through fixture location, height and intensity.

v. That the proposed wrought iron fencing along the Furby Street and Sara Street frontages be limited to a maximum four ( 4) feet in height in accordance with the Winnipeg Zoning By-law No. 200/2006 .

vi. That nine (9) of the proposed parking stalls facing Furby Street and the eight (8) proposed stalls facing Sara Street be reduced to sixteen (16) feet in length in order to double the width of the proposed areas of landscaping along those two frontages.

vii. That at least one pedestrian access be established midway along the east boundary of the site.

viii. That the owner transfer and legally open property required for a 0.6095 meter widening of the existing north/south public lane right-of-way along that portion of the subject property abutting the north/south public lane not already 6.096 meter in width, as determined by and to the satisfaction of the Director of Public Works.

ix. That the existing vehicle approach to Furby Street be removed prior to the approval of any development permits and that any future vehicle approaches to the site be restricted to the existing lane right-of-way.

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 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 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 Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

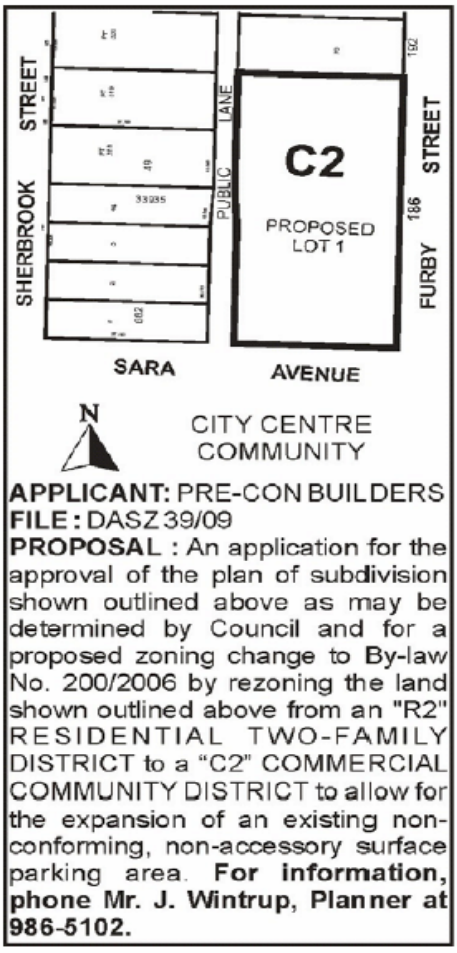
The City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. Significant opposition is not present.

2. The proposal is not the ideal development, but offers an improvement to the property.

**PUBLIC HEARING SUMMARY**

| | |
|---|---|
| File: | DASZ 39/2009 [c/r DCU 167271/2009D and DAV 167972/2009D] |
| Before: | City Centre Community Committee<br>Councillor Smith, Chairperson<br>Councillor Gerbasi<br>Councillor Orlikow |
| Public Hearing: | March 2, 2010<br>North Committee Room<br>Council Building, 510 Main Street |
| Applicant: | Pre-Con Builders (Rob Lee) |
| Subject: | |




| | |
|---|---|
| Premises Affected: | 186 Furby Street |

Exhibits Filed:

1. Application dated December 18, 2009
2. Notification of Public Hearing dated January 6, 2010
3. Manitoba Status of Title(s) 2289802,2289803, 2289804, 2289835, 2289836 and 2289839
4. Letter of authorization dated February 12, 2010 from 5025834 Manitoba Ltd. to Pre-Con Builders
5. Surveyor's Building Location Certificate and sketch dated June 27, 1986
6. Plans (5 pages)
7. Report from the Planning and Land Use Division dated February 23, 2010
8. Inspection Report
9. Audio Recording of representations of public hearing held on March 2, 2010

REPRESENTATIONS:

In Support:

Jeff Hawryluk, Pre-Con Builders

In Opposition

Brian C. Grant

For Information:

Nil

For the City:

Mr. M Robinson, Senior Planner, Planning, Property and Development Department

Exhibit "7" referred to in File DASZ 39/2009 [c/r DCU 167271/2009D and DAV 167972/2009D]

# ADMINISTRATIVE REPORT

**ISSUE:** DASZ 39/09 – 186 Furby Street – Public Hearing

**Critical Path:** City Centre Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| D. Himbeault | NA | NA | |

## RECOMMENDATIONS

1. That the plan of subdivision proposed under File DASZ 39/2009 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 39/2009 dated February 23, 2010, for registration in the Winnipeg Land Titles Office .

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v) Kennels
vi) Hostels, motels, hotels
vii) Landscape or garden supplies businesses
viii) Pawnshop

iii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs permitted on the entire site.

iv. That, all lighting shall be equipped with whatever additional shielding, lenses, or cut-off devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptual to persons on any street or abutting lot or parcel. In addition, the Director may require that the light trespass and glare be limited to a reasonable level through fixture location, height and intensity.

v. That the proposed wrought iron fencing along the Furby Street and Sara Street frontages be limited to a maximum four ( 4) feet in height in accordance with By-Law 200/2006 .

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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.

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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.

## IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations in this report are implemented, a development permit can be issued for the redevelopment of the subject land, subject to the recommended conditions of approval.

## CONSULTATION

### In preparing this Report there was consultation with:

Public Works Department

## SUBMITTED BY

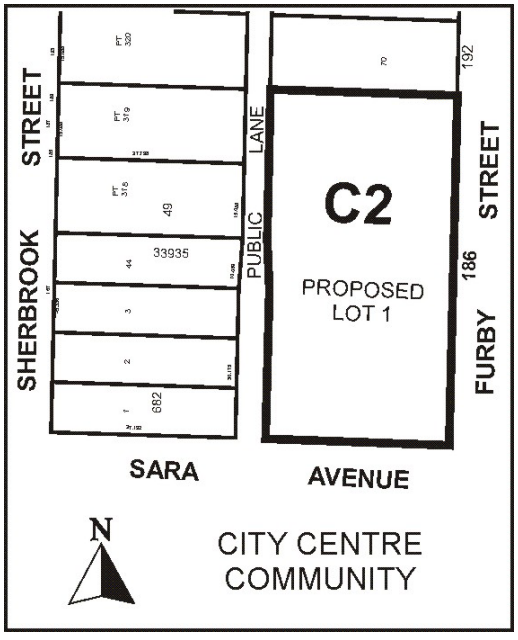
| | |
|---|---|
| **Department** | Planning, Property and Development |
| **Division** | Planning and Land Use |
| **Prepared by** | John Wintrup |
| **Date** | February 23, 2010 |
| **File** | DASZ 39/2009 |

**List of Schedules and Attachments**

1. Attachment 1 – Planning Discussion
2. Schedule “A” for File No. DASZ 39/2009, City Centre Community Committee, dated February 23, 2010

**Attachment 1 – Planning Discussion**

| | |
|---|---|
| **DATE** | February 23, 2010 |
| **FILE** | DASZ 39/2009 |
| **RELATED FILES** | DCU 09 167271/D, DAV 09 167972/D; |
| **COMMUNITY** | City Centre Community |
| **NEIGHBOURHOOD** | 1.103 |
| **SUBJECT** | To consolidate 6 separate lots into a single lot and to rezone said property from the existing "R2" Residential zoning category to a "C2" Commercial category to permit the expansion of an existing non-conforming parking lot |
| **LOCATION:** | 186 Furby Street |
| **LEGAL DESCRIPTION:** | Lots 6-8 Plan 682, SP Lots 67-69 Plan 33935 |
| **APPLICANT:** | Rob Lee Pre-Con Builders<br>1540 TAYLOR AVE<br>WINNIPEG MB R3N 1Y1 |
| **OWNER:** | 5025834 MANITOBA LTD.<br>88 SHERBROOK ST<br>WINNIPEG MB R3C 2B3 |

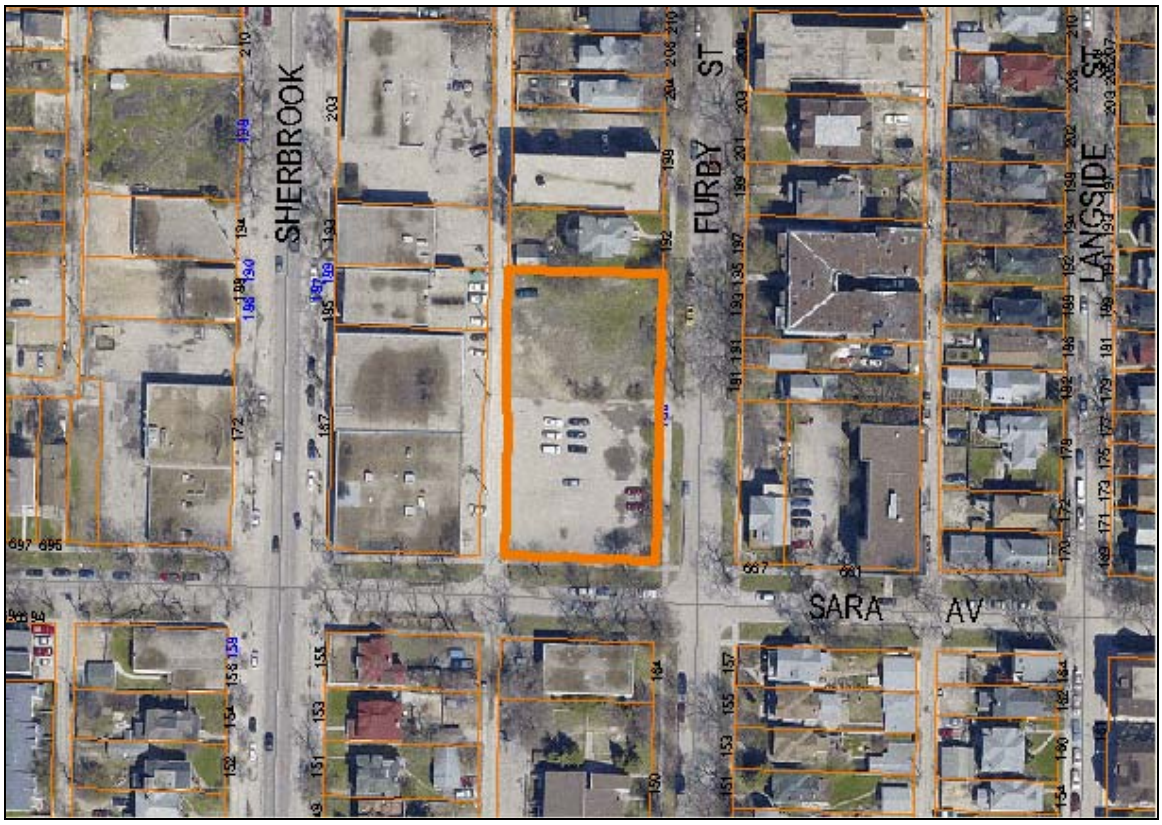



| | |
|---|---|
| **RECOMMENDATION** | Approve with conditions |

**REPORT SUMMARY**

- The new owners of 167 Sherbrook St. have made application to consolidate the six lots that comprise their overall property at 186 Furby Street into one parcel.
- They currently have a non-conforming right to operate a parking lot on a portion of the subject parcel but their ultimate goal is to redevelop and expand the parking area. To do so, procedurally, requires a rezoning of the site from its current "R2" Residential classification to a "C2" Commercial category.
- There is also a conditional use application required for a non accessory parking area and variances for 1) a reduction in the size of many of the parking stalls and 2) a six (6) foot high fence along the Furby Street frontage. The Planning Department supports the proposed conditional use and the variance for reduced parking stall sizes; the Department does **not** support the proposed variance for a six foot high fence along Furby Street.
- The Planning and Land Use Division supports the proposed consolidation and rezoning to a restricted commercial classification because it provides an opportunity to completely upgrade the existing parcel of land (including the derelict portion on the north half of the property). In addition to a hard surfaced parking area which will accommodate 109 vehicles, the owners will add new fencing and landscaping around the periphery of the property. Also community benches and bike racks will be added at several selected locations along Sara Avenue. The existing approach off of Furby Street will be removed and relocated to the existing lane right-of-way.
- Commercial uses which are deemed to be inappropriate for the subject location will be identified and listed as restricted uses under the accompanying zoning agreement.

**SITE DESCRIPTION**




Existing Land Use & Zoning:

The subject parcel is situated at the northwest corner of Sara Avenue and Furby Street. It has an overall area of approximately 28,140 sq. ft. and covers six essentially vacant separate lots, all of which are zoned " R2" Two Family Residential. The owners of the property, who also own the building at 167 Sherbrook, have a non conforming right to operate a surface parking lot on the most southerly of the four lots that make up the site. Access to that parking area is via Furby Street. The remainder of the lot (the most northerly two lots remain unused).

Surrounding Land Use & Zoning:

North : To the north along the west side of Furby Street is a mix of multiple family, two family and single family housing, all zoned "R2" Two Family Residential.

East: To the east is an older established neighborhood with a mix of single family housing and low to medium density multiple family housing. The entire area to the east as far as Balmoral Street is zoned "R2" Two Family Residential.

South: Properties to the south are predominantly occupied with single and two family dwellings ( with the occasional multiple family building ) all zoned "R2" Two Family Residential.

West: To the west, the majority of properties along Sherbrook Street are occupied

with a mix of commercial businesses/offices, i.e. Otis Elevators, Canadian Cancer Society etc. All of the properties along both sides of Sherbrook St. are zoned "C2" Commercial.

**BACKGROUND**

The former owners of the parcel in question (Winnipeg Tool & Fastener), had, for years, been using a portion of it as a non- accessory parking area. The new owners (a computer business) have the same non-conforming right to use the most southerly part of the site (lots 6, 7, 8 & 67) for parking. However, they the new owners, wish to consolidate all six lots (6, 7, 8, 67, 68, & 69) into a single parcel and then upgrade the entire site to ultimately provide for 109 new stalls with peripheral fencing and landscaping. Procedurally, in order to expand the existing parking area, a rezoning application to a 'C2' Commercial classification is required. In addition, a conditional use application is required to permit the expansion of a non accessory parking area.

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The applicants, on behalf of the new owners, are proposing to consolidate all six of the lots along Furby Street and expand and redevelop the current parking area. In order to do so, the entire ¾ acre site must be rezoned to a "C2" Commercial category. Plans call for the existing approach to Furby Street to be closed and a new approach to the site established off of the existing lane right-of-way. Plans also indicate that a 6 foot high wrought iron fence is to be installed on three sides of the lot, in addition to heavy landscaping (specifically 85 green ash and cedar shrubs). The lot itself is to be asphalted and will make provision for a total of 109 parking stalls. A community seating area is to be sited at the S.E. corner of the lot and accommodation is also being made for a designated bike rack area. The heaviest area of landscaping and the widest buffer area will occur along the north property line which adjoins an existing residential dwelling at 192 Furby Street. It should further be noted that in addition to work on the new proposed parking lot, the owners will be proceeding with a new facade upgrade of the existing building at 167 Sherbrook Street.

**ANALYSIS AND ISSUES**

The new owners of the building at 167 Sherbrook Street, a large computer firm, are planning to both upgrade the façade of the existing structure and make wholesale improvements to their rear parking area at 186 Furby Street. Currently, they have a non-conforming right to utilize only a portion of the lot in question for parking purposes. So, procedurally, in order to expand and improve the parking lot, they require a rezoning to a "C2" Commercial category and an accompanying conditional use application. The Planning and Land Use Division, after careful consideration, has made the decision to support a consolidation of the subject lots and a rezoning of the entire property to a "C2" Commercial category with conditions. The recommendation to endorse the application was made for the following reasons: i) first of all, it must be recognized that slightly more than half of the subject parcel can and will continue to be used as a parking area, while the remainder of the site will remain derelict and undeveloped. The proposed rezoning to a commercial category – with restrictions- provides an opportunity to have installed a properly designed, lighted and landscaped parking area which will hopefully make it a much more acceptable and compatible feature in the neighborhood. ii) Secondly, the accompanying zoning agreement will specify that the current vehicle approach to Furby Street has to be removed and replaced with a proper approach off of the lane right-of-way. This will reduce, to some degree, traffic levels on Furby which is clearly a residential street. Most uses, deemed to be inappropriate in the "C2" Commercial Zoning District are listed as conditional under By-Law 200/2006. However, some are not, and it is suggested that they be identified and

listed as prohibited uses under the new zoning agreement. It is further noted that in accordance with a recommendation from the Transportation Division, Public Works Department, a clause has been inserted in the aforementioned zoning agreement, which requires the owner to transfer a small portion of land along the west boundary of the subject site, to the City of Winnipeg, for future lane widening purposes. Only approximately a half of the existing right-of-way between the owners building and his parking area complies with the standard minimum lane width of 6.096 meters. The City has also recommended that a small number of the proposed parking stalls abutting Sara Street and Furby Street be reduced in length to 16 feet in order to increase the level of landscaping along those two frontages.

**RECOMMENDATION**

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

- The subject application to rezone provides an opportunity to upgrade the site, establish a community seating area and generally obtain a higher level of fencing/landscaping etc. that will otherwise not happen if the status quo is maintained.
- Providing more and better parking, albeit non accessory parking, also directly attracts more business along the Sherbrook business corridor.
- Important also is the fact that some vehicle traffic will be reduced along Furby Street by moving the current parking lot approach to the existing lane right-of way.

Schedule “A” for File No. DASZ 39/09, City Centre Community Committee, dated February 23, 2010.

By-Law No. _____

File No. **DASZ 39/09**

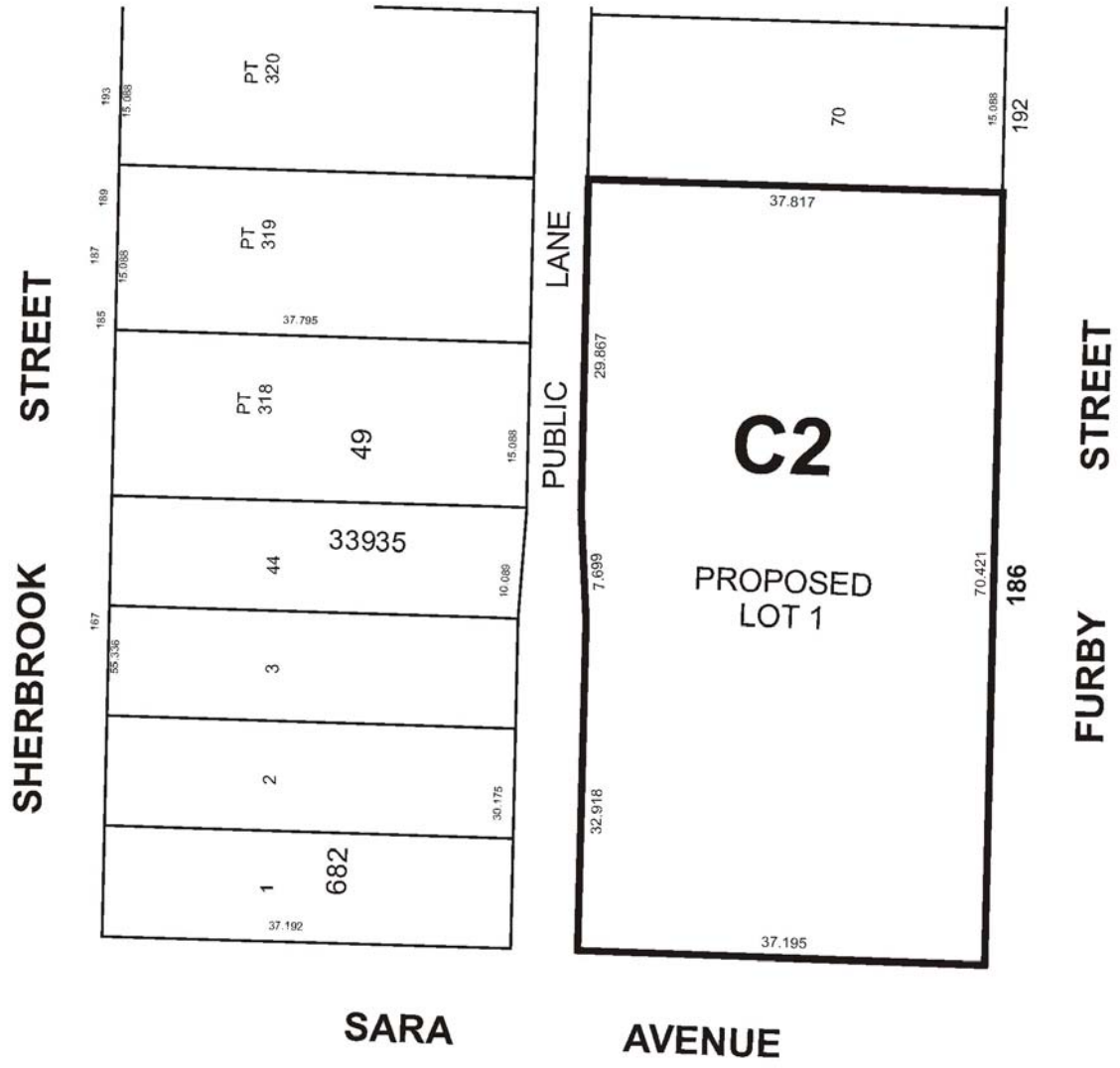
Atlas Sheet No.

N

**AA23**
**CITY CENTRE**
**COMMUNITY**

Explanation

An application for the approval of the plan of subdivision shown outlined below and for a proposed zoning change to By-law No. 200/2006 by rezoning the land located at 186 Furby Street from an "R2" RESIDENTIAL TWO-FAMILY DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to allow for the expansion of an existing non-conforming, non-accessory surface parking area as shown outlined below.




THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____