Minute No. 71
Report - Standing Policy Committee on Property and Development – December 6, 2010

Item No. 17 **Subdivision and Rezoning – 408 Elgin Avenue - DASZ 19/2010 [c/r SPA 1/2010, DCU 137862/2010D, DAV 137871/2010D] (Point Douglas Ward)**

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the plan of subdivision proposed under File DASZ 19/2010 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 19/ 2010 dated November 18, 2010 with such minor changes as may be required, and 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" with amendments and revisions contained therein for File DASZ 19/2010 dated November 18, 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, for the development of any building, accessory parking area, private approach, garbage enclosure, fencing, landscaping or signage, plans, showing the location and design of the proposed building, accessory parking area, private approach, garbage enclosure, fencing, landscaping and signage, must be submitted to the Ward Councillor and the Director of Planning, Property and Development for approval prior to the issuance of any building or development permit, and thereafter all to be developed in accordance with the approved plans and maintained to the satisfaction of the Director of Planning, Property and Development.

Report - Standing Policy Committee on Property and Development – December 6, 2010

COUNCIL DECISION (continued):

ii. That the following uses shall not be permitted on the land:
   a. post office/carrier depot
   b. college or university
   c. commercial school
   d. amusement enterprise, indoor
   e. auditorium/concert hall/theatre/cinema
   f. studio, radio/tv/motion picture broadcast and production
   g. hostel
   h. hotel or motel
   i. kennel
   j. landscape or garden supplies
   k. supermarket
   l. auto/light truck/motorcycle, repair and service
   m. auto/light truck/motorcycle, sales and rental
   n. auto parts and supplies, sales
   o. drive-in or drive-through
   p. fuel sales
   q. parking, structured
   r. contractor's establishment
   s. recycling collection centre

iii. That the following uses shall be deemed conditional uses on the land:
   a. Assisted living facility
   b. neighbourhood rehabilitation home
   c. single room occupancy
   d. munity/recreation centre
   e. library
   f. protection and emergency services
   g. social service facility
   h. day care centre
   i. place of worship
   j. gallery/museum
   k. animal hospital or veterinary clinic
   l. drinking establishment
   m. restaurant
   n. office
   o. personal services (unless otherwise listed in the principal use table)
   p. medical/dental/optical/ counselling clinic
   q. retail sales (unless otherwise listed in the principal use table)

Report - Standing Policy Committee on Property and Development – December 6, 2010

COUNCIL DECISION (continued):

iv. 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.

v. That no illuminated signage be erected in the planned area.

vi. That motor-vehicle access to the planned area shall only be from the abutting public lane.

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 and the creation of additional lots.

4. That Caveat 3400713 be withdrawn as it affects Lot 62, Plan 43.

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

6. 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.

7. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

8. 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.

9. That the zoning section of the by-law shall come into force and effect when the plan of subdivision is registered in the Winnipeg Land Titles Office and the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

Report - Standing Policy Committee on Property and Development – December 6, 2010

COUNCIL DECISION (continued):

10. 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.

11. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twelve (12) months after adoption of the by-law, 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 twelve (12) month period and the extension is subsequently approved by Council.

12. 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 – December 6, 2010

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 8, 2010, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk - West Kildonan Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On December 6, 2010, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk - West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 23, 2010, the Lord Selkirk - West Kildonan Community Committee concurred in recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning – 408 Elgin Avenue**
File DASZ 19/2010 [c/r SPA 1/2010, DCU 137862/2010D, DAV 137871/2010D]

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

Prepared by: **Inga Skundberg, Committee Clerk**
Lord Selkirk - West Kildonan Community Committee

Report date: **November 25, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 23, 2010, the Lord Selkirk - West Kildonan 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 19/2010 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 19/ 2010 dated November 18, 2010 with such minor changes as may be required, and 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" with amendments and revisions contained therein for File DASZ 19/2010 dated November 18, 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, for the development of any building, accessory parking area, private approach, garbage enclosure, fencing, landscaping or signage, plans, showing the location and design of the proposed building, accessory parking area, private approach, garbage enclosure, fencing, landscaping and signage, must be submitted to the Ward Councillor and the Director of Planning, Property and Development for approval prior to the issuance of any building or development permit, and thereafter all to be developed in accordance with the approved plans and 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. post office/carrier depot

b. college or university
c. commercial school
d. amusement enterprise, indoor
e. auditorium/concert hall/theatre/cinema
f. studio, radio/tv/motion picture broadcast and production
g. hostel
h. hotel or motel
i. kennel
j. landscape or garden supplies
k. supermarket
l. auto/light truck/motorcycle, repair and service
m. auto/light truck/motorcycle, sales and rental
n. auto parts and supplies, sales
o. drive-in or drive-through
p. fuel sales
q. parking, structured
r. contractor's establishment
s. recycling collection centre

iii. That the following uses shall be deemed conditional uses on the land:
a. Assisted living facility
b. neighbourhood rehabilitation home
c. single room occupancy
d. munity/recreation centre
e. library
f. protection and emergency services
g. social service facility
h. day care centre
i. place of worship
j. gallery/museum
k. animal hospital or veterinary clinic
l. drinking establishment
m. restaurant
n. office
o. personal services (unless otherwise listed in the principal use table)
p. medical/dental/optical/ counselling clinic
q. retail sales (unless otherwise listed in the principal use table)

iv. 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.

v. That no illuminated signage be erected in the planned area.

vi. That motor-vehicle access to the planned area shall only be from the abutting public lane.

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 and the creation of additional lots.

4. That Caveat 3400713 be withdrawn as it affects Lot 62, Plan 43.

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

6. 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.

7. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

8. 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.

9. That the zoning section of the by-law shall come into force and effect when the plan of subdivision is registered in the Winnipeg Land Titles Office and the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

10. 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.

11. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twelve (12) months after adoption of the by-law, 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 twelve (12) month period and the extension is subsequently approved by Council.

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

1. The Lord Selkirk - West Kildonan Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated November 15, 2010.

2. The subject neighbourhood is in transition and accordingly, previous amendments to the subject secondary plan have been made.

3. The applicant on behalf of the client has made a concerted effort to consult with the neighbourhood, employs local residents, and through its business has vested a long-term interest in the neighbourhood.

PUBLIC HEARING SUMMARY

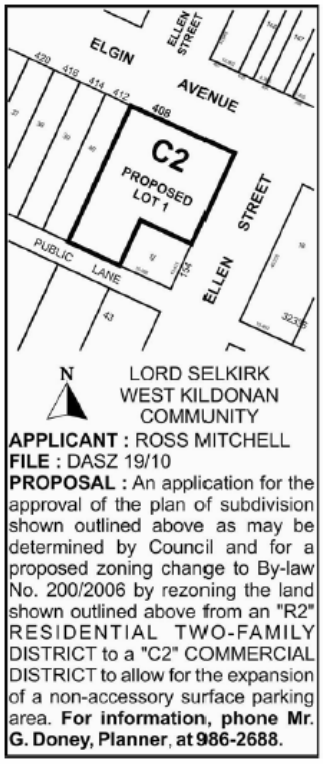
File: DASZ 19/2010 [c/r SPA 1/2010, DCU 137862/2010D, DAV 137871/2010D]

Before: Lord Selkirk - West Kildonan Community Committee
Councillor Pagtakhan, Chairperson
Councillor Eadie
Councillor Sharma

Public Hearing: November 23, 2010
West Committee Room
Council Building, 510 Main Street

Applicant: Ross Mitchell

Subject:



Premises Affected: Elgin Avenue

Exhibits Filed:
1. Application dated June 30, 2010
2. Notification of Public Hearing dated September 10, 2010

3. Manitoba Status of Titles 2013945 and 2225550
4a. Letter of authorization dated May 27, 2010 from Bao Trinh to Ross Mitchell
4b. Letter of authorization dated July 14, 2010 from 74579 Manitoba Ltd. To Ross Mitchell
5. Plans (2 pages)
6. Report from the Planning and Land Use Division dated November 15, 2010
7. Inspection Report
8. Communication from Kathy Trinh, Young's Trading, in support of the application, including photographs (3), and Plans (2), submitted at the public hearing
9. Petition in support of the application purporting to contain the signatures of 51 area residents, submitted by Kathy Trinh, Young's Trading, at the public hearing
10. Communication from Gord Dong in opposition to the application, including photographs (4), submitted at the public hearing
11. Petition in opposition to the application purporting to contain the signatures of 72 area residents, submitted by Jose Vieira at the public hearing
12. Photographs (21) submitted by Jose Vieira at the public hearing
13. Communication dated November 17, 2010 addressed to Joe Vieira from Joe Pereira, Coldwell Banker Realty, with respect to the application, submitted by Jose Vieira at the public hearing
14. Audio Recording of representations

REPRESENTATIONS:

In Support:

Linda Eng
Ross Mitchell
Kathy Trinh, Young's Trading

In Opposition:

Chris Chapman
Catherine Collins
Jose Cruz

Fred Curry
Allison and G.L. Dong
Duane Fehr
Mamnel Gomes
Joe Pereira
Sean Teahaw
Jose, Jose and Elizabeth Vieira
Allan Wise

For Information:

Nil

For the City:

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

Exhibit "6" referred to in File DASZ 19/2010 [c/r SPA 1/2010, DAV 137871/2010D, DCU 137862/2010D]

ADMINISTRATIVE REPORT

Title: DASZ 19/2010 – 408 Elgin Avenue and lot SW of Elgin and Ellen

Issue: For consideration at the public hearing of the application for approval of a proposed plan of subdivision and to rezone in order to permit the expansion of a non-accessory parking lot.

Critical Path: Lord Selkirk – West Kildonan Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council, as per the Development Procedures By-law and *The City of Winnipeg Charter*

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	D. Joshi		

RECOMMENDATIONS

1. That the plan of subdivision proposed under File DASZ 19/2010 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 19/ 2010 dated November 18, 2010 with such minor changes as may be required, and for registration in the Winnipeg Land Titles Office.

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12. 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.

REASON FOR THE REPORT

This report is for consideration of the application for approval of a proposed plan of subdivision and to rezone in order to permit the expansion of a non-accessory parking lot.

The Winnipeg Public Service recommends approval of the application, with conditions, because it conforms to Plan Winnipeg and, if the secondary plan is amended as recommended in the planner's report for File SPA 1/10, to the secondary plan as well.

In addition to the subdivision-rezoning and secondary plan amendment applications, conditional use and variance applications must also be approved for the proposed development to proceed.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Winnipeg Public Service regarding this application and the secondary plan amendment, rezoning, conditional use and variance applications are concurred in, the proposed development would have to be modified before a development permit can be issued.

HISTORY

On July 25, 2006, the Lord Selkirk – West Kildonan Community Committee approved a variance for the construction of a non-accessory parking area at 408 Elgin Avenue (which was 406 Elgin at the time) to permit a front yard of 8.5 feet, a west side yard of 4.0 feet and an east side yard of 4.0 feet.

On September 27, 2006, Council approved an application to rezone 408 Elgin Avenue (which was 406 Elgin at the time) to a "C2" District, under zoning by-law 6400/94, to permit the establishment of a non-accessory parking lot.

On December 21, 2006 the single-room occupancy (rooming house) building that was on the undeveloped lot (which was 402 Elgin at the time) was destroyed by fire.

CONSULTATION

In preparing this report there was consultation with…

N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	J.G. Doney
Date	November 15, 2010
File	DASZ 19/2010

Attachments and Schedules

Attachment 1 - Planning Discussion
Schedule "A"
Attachment 1

DATE:	November 15, 2010
FILE:	DASZ 19/10
RELATED FILES:	SPA 19/10, DAZ 14/10, DCU 10-137862/D and DAV 10 137871
COMMUNITY:	Lord Selkirk-West Kildonan Community
NEIGHBOURHOOD #:	3.102
SUBJECT:	plan of subdivision and rezoning to permit the expansion of a non-accessory surface parking area.
LOCATION:	408 Elgin AVE and lot SW of Elgin and Ellen



LEGAL DESCRIPTION:	LOT 41 PLAN 32328 8/9 ST J
APPLICANT:	Ross Mitchell Genivar 10 PRAIRIE WAY WINNIPEG MB R2J 3J8
OWNER:	BAO TRINH 22 RIVERHAVEN GROVE WINNIPEG MB R2M 5S7
RECOMMENDATION:	Approval with conditions

REPORT SUMMARY

- The planned area is in the Centennial Neighbourhood and the Point Douglas Ward and consists of two lots with a combined area of approximately 11,000 square feet and a combined width of nearly 100 feet.
- The planned area encompasses non-accessory surface parking and undeveloped land.
- The planned area is in a Medium Density Residential policy area of the secondary plan and a Neighbourhood policy area of Plan Winnipeg.
- The proposal is to expand the existing, 15 space, paved, surface parking area into the undeveloped land by seven spaces and to landscape the north and east yards of the planned area.
- The proposed development and subdivision-rezoning application generally conform to Plan Winnipeg and several broader policies of the secondary plan.
- The proposed rezoning would allow non-accessory surface parking in the planned area only if it would be compatible with the surrounding residential land uses.

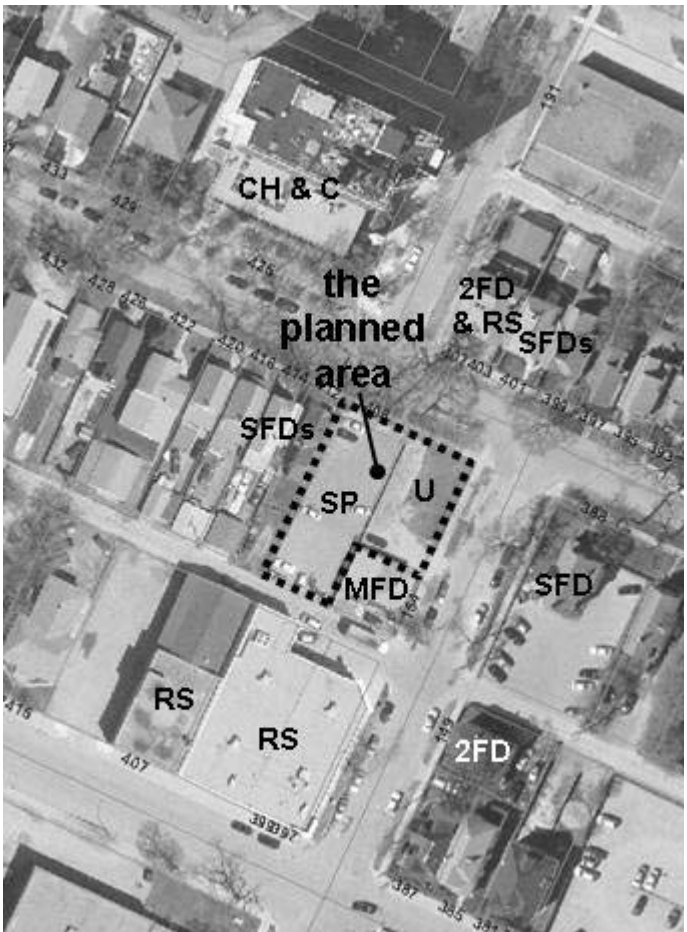
THE PLANNED AREA (THE SITE)

The planned area is in the Centennial Neighbourhood and the Point Douglas Ward. It is two lots with a combined area of approximately 11,000 square feet and a combined width of nearly 100 feet. The planned area fronts on Elgin Avenue flanks Ellen Street.

The following image identifies existing land uses on 2009 aerial photography.

It shows that the planned area:

- consists of surface parking (SP) as a principal use at 408 Elgin and undeveloped land (U) immediately east of the surface parking;
- is abutting a lot developed with a single-family dwelling (SFD) and another developed with a small multiple-family dwelling (MFD);
- is near single- and two-family dwellings (2FDs), retail sales uses (RS), a care home (CH) a clinic (C) and what appears to be non-accessory surface parking at 388 Elgin Avenue.



The surface parking existing in the planned area is used by customers of the specialty food store "Young's Trading," which is across the public lane that is south of the planned area. The applicant's letter of intent states that this store employs 20 people.

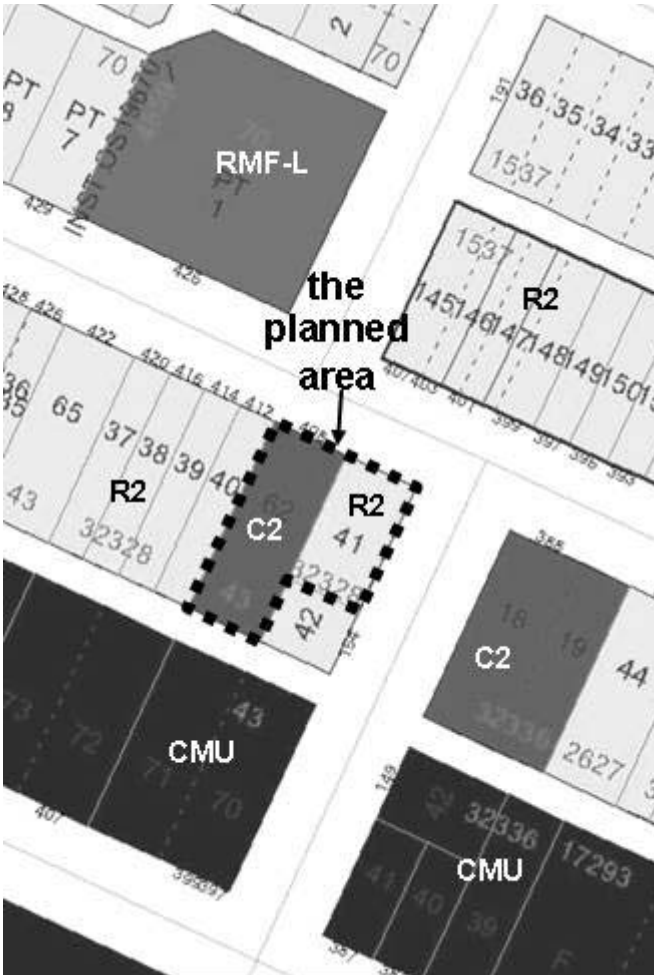
The image on the next page identifies existing zoning and shows that the planned area is partly zoned "C2" District and is partly in an "R2" District and is near other "R2" Districts, an "RMF-L" District, a "C2" District and "CMU" District.

The planned area is in a Medium-Density Residential policy area of the secondary plan and a Neighbourhood policy area of Plan Winnipeg.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposal is to expand the existing paved-surface parking into the undeveloped land and to landscape the north and east yards of the planned area. The image on the next page shows that the proposed parking area would have 22 parking spaces, which is seven more than at present, and that the landscaping would include several shrubs, trees and two benches facing Ellen Street.

Before this development can proceed, the secondary plan must be amended, a subdivision-rezoning application must be approved (which is the subject of this report), and conditional use and variance applications must be approved. The proposed subdivision would consolidate the two lots that make up the planned area into one lot.



ANALYSIS

Plan Winnipeg

The proposed development and associated subdivision-rezoning application generally conform to Plan Winnipeg and, in particular, to:

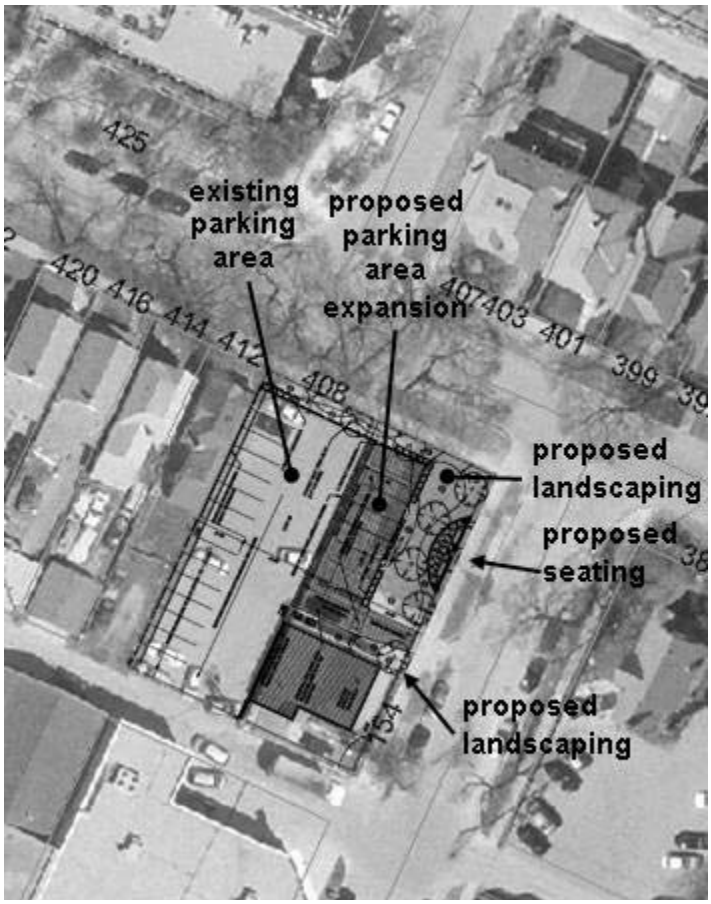
- Policy 1B-01, *Support Neighbourhood Revitalization*, which states: "The City shall support neighbourhood revitalization... by… encouraging targeted private sector investment in neighbourhoods including the provision of… local services";
- Policy 3A-01, *Promote Orderly Development*, which states: "The City shall promote orderly development… by… considering the Neighbourhood designation 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…"

They conform to Policy 1B-01 because, as previously stated, the proposed expansion is of a non-accessory parking area that is intended for customers of the food store, which can be considered to provide a local service.

They conform to Policy 3A-01 because, as previously stated, after the proposed expansion, the parking area would have 22 parking spaces, which is at a scale that is compatible with the neighbourhood. Furthermore, the development would replace an undeveloped lot with surface parking and landscaping and would add landscaping to the existing surface parking.

In terms of Plan Winnipeg, the proposed development and subdivision-rezoning application are reasonable because they conform to Plan Winnipeg.

The Secondary Plan



The proposed development and subdivision-rezoning application are consistent with:

- the goal of the secondary plan for a "healthier, more sustainable community that will… create and reinforce a well designed, liveable… community" (from Chapter 1) because the proposed landscaping would be of a relatively high quality;
- the general intent for the residential policy areas of the secondary plan, which includes the encouragement of "more housing in locations with convenient access to employment opportunities and a broad range of community and commercial facilities" (from Chapter 2) because the proposed development is for customers of a food store that employs several people and provides a service to the neighbourhood;
- a secondary purpose of the secondary plan, which is to encourage compatibility of built form between the types of housing, to provide a consistent scale, and to maintain the interesting qualities and characteristics of the streetscape (from Chapter 2) because, as previously stated, the proposed landscaping would be of a relatively high quality;
- the following transportation policies of the secondary plan (from Chapter 6):

  "3. Require the design of parking structures and areas to be well-integrated with the neighbourhood, as well as the building(s) they serve;"

"6. Prohibit gravel surface parking lots except for duplex or single family homes;"

"8. Encourage parking structures and parking areas to be developed to a high standard of site design and enhancement;" and

"9. Encourage proper edge treatments for parking areas that include the use of landscaping, as well as a fence or building wall. Materials should be compatible with the neighbouring buildings;"

because, as previously stated, the proposed landscaping would be of a relatively high quality and because the existing parking area is, and the proposed expansion would be, paved.

In terms of the secondary plan, the proposed development and subdivision-rezoning application are reasonable because:

- they conform to several broader policies of the secondary plan;
- non-accessory surface parking would only be allowed if it will be compatible with the surrounding residential land uses; and
- they are specific to the planned area, part of which is in use as a non-accessory parking area (that was lawfully established) and part of which is undeveloped, thereby not resulting in the demolition of any building.

Compatibility with the Neighbourhood

The proposed development would be relatively compatible with the neighbourhod if:

- landscaping and a light-proof fence are along all edges of the parking lot;
- the yards are of a depth that is adequate to accommodate landscaping and buffer the parking area from abutting and nearby land uses and public streets; and
- the private approach from Ellen Street is not used.

REASONS FOR THE RECOMMENDATIONS

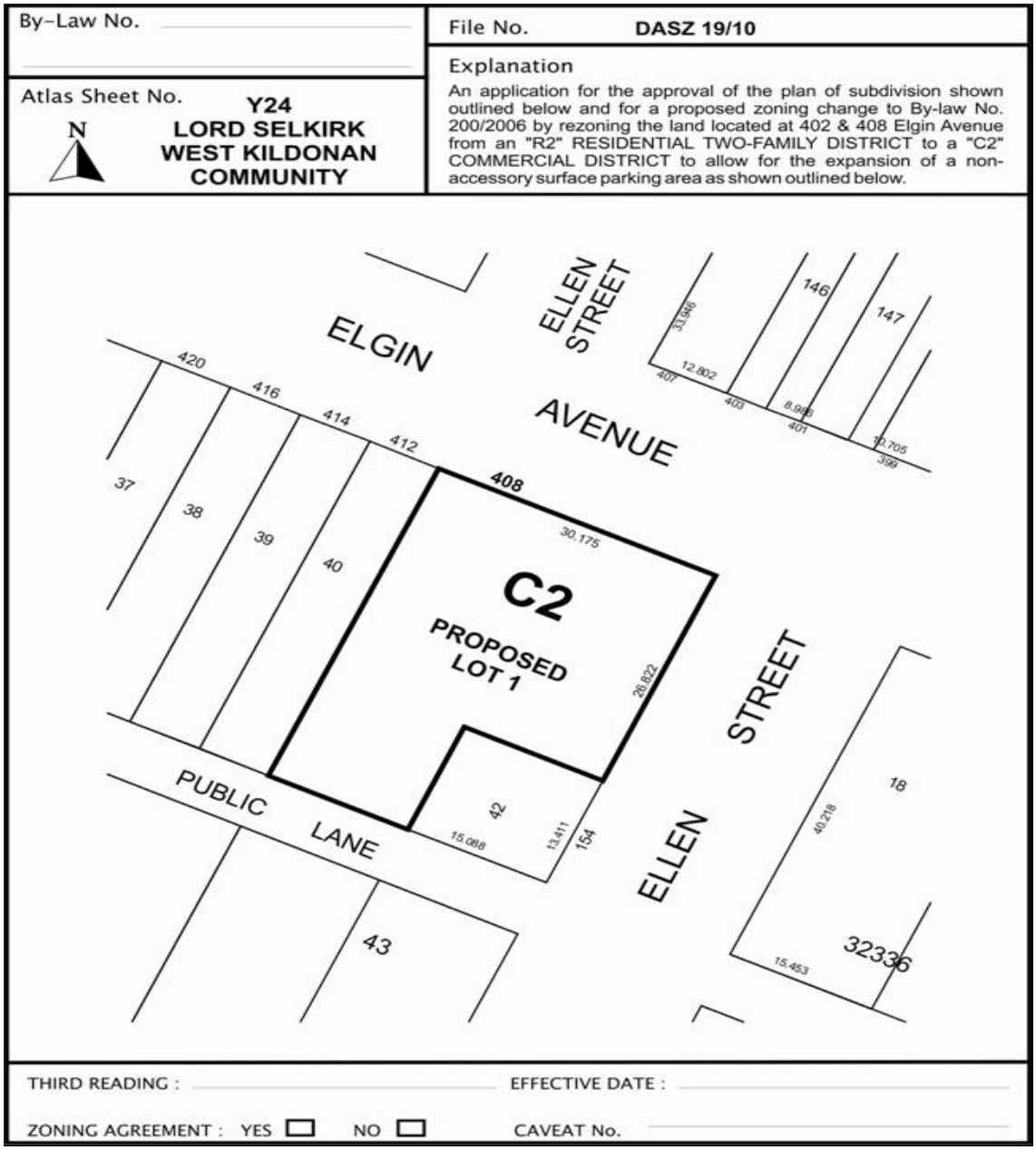
The Winnipeg Public Service recommends that the proposed plan of subdivision and rezoning be approved because they conform to Plan Winnipeg and, with conditions, to the secondary plan.

The recommended condition that a zoning agreement: requiring plan approval by the Ward Councillor and the Director of Planning, Property and Development; and restricting signage, motor-vehicle access and land uses; is to ensure the proposed development is quite compatible with the neighbourhood.

It is expected that the issue of compatibility would be addressed through the plan approval process.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division
Report Prepared by J. Glen Doney
PPD File SPA 1/2010

Schedule "A"



Schedule "A" to the report to the Lord Selkirk – West Kildonan Community Committee for File DASZ 19/2010, dated November 18, 2010