Agenda - Council - May 28, 2003

Report - Standing Policy Committee on Property and Development - May 6, 2003

Item No. 6 Proposed Zoning Agreement Amendment - 901 Shaftesbury Boulevard
File ZAA 2/2003 [c/r DASZ 2/2002]

STANDING COMMITTEE RECOMMENDATION:

On May 21, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee, and submits the following to Council:

1. That Zoning Agreement DASZ 2/2002 be amended by replacing Clauses A, B, C and D with the following revised clauses by attaching a new Schedule "B" to the Zoning Agreement, and by adding new Clauses I, J, and K:

   A. That the site be developed to a maximum of 126 residential units.

   B. That the maximum height of buildings on the site be limited to 3 storeys and 10.7 metres (35 feet).

   C. That the minimum floor area of the residential units be restricted to 111.5 square metres (1,200 square feet), with underground parking provided at a ratio of 1 stall per residential unit.

   D. That the following minimum building set-backs to the adjacent property limits of the Foxborough Cove Condominium lands be established in general accordance with the attached Schedule "B":
      i. Building A - 27.4 metres (90 feet) to the east property line.
      ii. Building B - 61 metres (200 feet) to the east property line.
      ii. Building C - 45.7 metres (150 feet) to the north property line and 200 feet to the east property line.
      iv. Building D - 45.7 metres (150 feet) to the north property line.
      v. Building E - 30.5 metres (100 feet) to the north property line and 25 feet to the east property line.

Report - Standing Policy Committee on Property and Development - May 6, 2003

I. That the minimum height of trees planted along the property limits of the adjacent Foxborough Cove Condominium lands be as follows:
   i. 50% with a minimum height of 1.8 metres (6 feet);
   ii. 25% with a minimum height of 2.4 metres (8 feet);
   iii. 25% with a minimum height of 3.1 metres (10 feet).

J. That a new site plan be prepared immediately upon Council approval of the amendments to DASZ 2/2002.

K. That the applicant not oppose the possible future closure and fencing of the Litchfield right-of-way.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 2/2002 as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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.

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DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 21, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On May 6, 2003, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee, and submitted its recommendation to Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 22, 2003, the Assiniboia Community Committee concurred in the administrative recommendation as amended, namely:

- Amend Clause 1. B. by adding the words “and 10.7 metres (35 feet)” after the words “3 storeys”.

- Recommendation IV of Zoning Agreement DASZ 2/2002, as adopted by Council on June 19, 2002, be amended as follows:

  Delete Clause D. in its entirety and substitute with the following:

  D. That the following minimum building set-backs to the adjacent property limits of the Foxborough Cove Condominium lands be established in general accordance with the attached Schedule "B":
     i. Building A - 27.4 metres (90 feet) to the east property line.
     ii. Building B - 61 metres (200 feet) to the east property line.
     iii. Building C - 45.7 metres (150 feet) to the north property line and 200 feet to the east property line.
     iv. Building D - 45.7 metres (150 feet) to the north property line.
     v. Building E - 30.5 metres (100 feet) to the north property line and 25 feet to the east property line.

Report - Standing Policy Committee on Property and Development - May 6, 2003

DECISION MAKING HISTORY (continued):

Add the following recommendations:

I. That the minimum height of trees planted along the property limits of the adjacent Foxborough Cove Condominium lands be as follows:
   i. 50% with a minimum height of 1.8 metres (6 feet);
   ii. 25% with a minimum height of 2.4 metres (8 feet);
   iii. 25% with a minimum height of 3.1 metres (10 feet).

J. That a new site plan be prepared immediately upon Council approval of the amendments to DASZ 2/2002.

K. That the applicant not oppose the possible future closure and fencing of the Litchfield right-of-way,

and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Proposed Zoning Agreement Amendment - 901 Shaftesbury Boulevard File ZAA 2/2003 (c/r DASZ 2/2002)**

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

Prepared by: **Josie Marques, Clerk**
Assiniboia Community Committee

Report date: **April 2, 2003**

COMMUNITY COMMITTEE RECOMMENDATION:

The Assiniboia Community Committee concurred in the administrative report, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement DASZ 2/2002 be amended by replacing Clauses A, B, C ***and D*** with the following revised clauses, ***by attaching a new Schedule "B" to the Zoning Agreement, and by adding new Clauses I, J, and K***:

   A. That the site be developed to a maximum of 126 residential units.

   B. That the maximum height of buildings on the site be limited to 3 storeys and 10.7 metres (35 feet).

   C. That the minimum floor area of the residential units be restricted to 111.5 square metres (1,200 square feet), with underground parking provided at a ratio of 1 stall per residential unit.

   D. That the following minimum building set-backs to the adjacent property limits of the Foxborough Cove Condominium lands be established in general accordance with the attached Schedule "B":
   - ***i. Building A - 27.4 metres (90 feet) to the east property line.***
   - ***ii. Building B - 61 metres (200 feet) to the east property line.***
   - ***ii. Building C - 45.7 metres (150 feet) to the north property line and 200 feet to the east property line.***
   - ***iv. Building D - 45.7 metres (150 feet) to the north property line.***
   - ***v. Building E - 30.5 metres (100 feet) to the north property line and 25 feet to the east property line.***

   I. That the minimum height of trees planted along the property limits of the adjacent Foxborough Cove Condominium lands be as follows:
   - ***i. 50% with a minimum height of 1.8 metres (6 feet);***

ii. 25% with a minimum height of 2.4 metres (8 feet);
iii. 25% with a minimum height of 3.1 metres (10 feet).

J. That a new site plan be prepared immediately upon Council approval of the amendments to DASZ 2/2002.

K. That the applicant not oppose the possible future closure and fencing of the Litchfield right-of-way.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 2/2002 as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

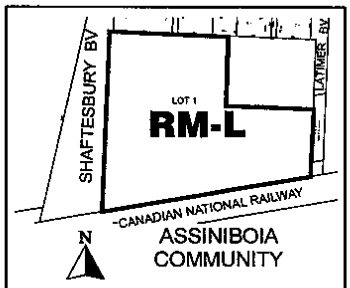
4. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Note The wording in bold and italics denotes the amendments made by Community Committee.

PUBLIC HEARING SUMMARY

File:	ZAA 2/2003 (c/r DASZ 2/2002)
Before:	Assiniboia Community Committee Councillor Clement, Chairperson Councillor De Smedt Councillor Eadie
Public Hearing:	March 18, 2003 West Committee Room, Council Building, 510 Main Street
Adjourned to:	May 22, 2003 West Committee Room, Council Building, 510 Main Street
Applicant:	Cherlee Investments Ltd. 901 Shafestbury Boulevard Winnipeg, Manitoba R3P 0M5

Subject:



APPLICANT :CHERLEE INVESTMENTS LTD.

FILE : ZAA 2/03

PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above by deleting the following clauses :
(1) That the site be developed to the maximum density of 6.0 units per gross acre (not including land set aside for public right-of-way),
(2) That the housing on the site be restricted to single-detached, bungalow condominium units with a maximum height of one (1) storey,
(3) That the minimum floor area of the residential units be restricted to 1,300 square feet and be provided with double-attached garages. **For information, phone Mr. R. Mitchell, Planner at 986-5017.**

Premises Affected: 901 Shaftesbury Boulevard

Exhibits Filed:

1. Application dated February 3, 2003
2. Advertising notice dated February 13, 2003
3. Manitoba Status of Title 1481206
4. Manitoba Certificate of Title C 18198
5. Surveyor's Building Location Certificate and Sketch undated
6. Letter of authorization dated January 29, 2002
7. Letter of Intent and conceptual plan sketch dated January 29, 2002
8. Zoning Development Information
9. Site Plan
10 Report from the Manager of Planning and Land Use dated March 12, 2003
11. Photograph(s) of the site and Inspection Notice
12. Presentation made by applicant, Harold Schamp, Cherlee Investments Ltd.,in support of the application, submitted at the public hearing
13. Presentation from Abe Friesen, in opposition of the application, submitted at the public hearing.
14. Presentation from Dan Thiesen, in opposition of the application, submitted at the public hearing.
15. Presentation made by M. L. Rosenberg, in opposition to the application, submitted at the public hearing.
16. Presentation made by applicant, Deborah Lauber, Cherlee Investments Ltd., in support of the application, submitted at the adjourned public hearing on April 22, 2003.
17. Presentation made by Curtis Steiman, in opposition to the application, submitted at the adjourned public hearing on April 22, 2003.

REPRESENTATIONS:

In Support:

Barry Greenberg and Monica Newman, 141 Brock Street, Winnipeg, R3N 0Y5
Fausto Pereira and Lorna Winterburn, 508-255 Wellington Crescent, Winnipeg, R3M 3V4
Ken Rech, 1480 Wellington Crescent, Winnipeg, R3N 0B3
H. G. Schlamp and D. L. Lauber, 901 Shaftesbury Boulevard, Winnipeg, R3P 0M5
Curtis Steiman, 22 Castlebury Court, Winnipeg, R3P 1J7

In Opposition:

Abe E. Friesen, 131 Avril Lane, Winnipeg, R3R 3C8

Patrick Hamilton, Stevenson Advisors Ltd., 276 Colony Street, Winnipeg, R3C 1W3
M. L. Rosenberg, Fillmore Riley, 1700-360 Main Street, Winnipeg, R3C 3Z3
Daniel N. Thiessen, 386 Berkley Street North, Winnipeg, R3R 1J6

For Information:

John Friesen, 298 Scotswood Drive, Winnipeg, R3R 3H3

For the City:

Ross Mitchell, Senior Planner, Planning, Property and Development Department

SUMMARIZATION FO REPRESENTATIONS AND SUBMISSIONS
MADE AT PUBLIC HEARING

March 18, 2003

Mr. H. G. Schlamp appeared in support of the application, gave a brief summary on the application, and submitted a presentation filed as Exhibit 12.

Mr. Fausto Pereira appeared in support of the application and gave a brief overview on the architectural characteristics of the development. He stated that he thought the site was ideal for a unique high class development. He further stated that there was a demand in the area for this type of development.

Councillor Clement inquired as to the height of the building.

Mr. Pereira stated that the buildings would be 34 feet.

Councillor Clement stated that the layout described was not exactly as the sketch provided. He inquired as to whether or not the smaller building, on the extreme east, would have windows on all three floors and on the most northerly wall.

Mr. Pereira stated that there would be windows on all three floors and the northerly wall. He also stated that the layout of the building could be moved back and the building could be reduced to two storeys, if that were preferred.

Councillor Clement inquired as to the entryway of the condominium site.

The Senior Planner clarified where the entryway was by referring to the submitted sketch.

Mr. Pereira stated that an integral part of the development was underground parking.
Councillor Clement inquired as to the tree line on the east and north side on the submitted sketch.

Mr. Ken Rech stated that it consisted of 90 trees with 10 foot spacing, the intent was for privacy, but the design could be more open for a greater view

Councillor Clement inquired as to the zoning of the land.

The Senior Planner stated that it was within the density allowed under the "RM-L" Rural-Multiple Family District designation. Discussion ensued with regard to the number of units permitted.

Mr. Schlamp indicated that on the plans submitted there were an additional four suites, over the 122 allowed, because he had offered to purchase property from Mr. Steiman, the adjoining property owner, which would have allowed the additional units. He stated the offer had not been accepted.

Mr. Pereira stated that they would reduce the number of units by five to 121, as the applicant would combine units in one of the buildings for personal use.

Councillor Clement inquired as to the enclosures for sanitation purposes.

Mr. Pereira stated that they would be placed by the parkade, be enclosed, and hidden from view by shrubbery and fences.

Councillor Clement inquired as to trucks being able to get in and out of the development.

Mr. Pereira stated that the plans were designed to able the largest fire truck to do a turnaround.

Councillor Clement inquired as to the size and price of the units.

Mr. Pereira stated that the units would be 1,200 to 2,000 square feet and $165,000 to possibly over $300,000.

Monica Newman appeared in support of application. She stated that the development would be good for the area and would not be in competition with the condominiums at the adjoining property.

Mr. Barry Greenberg appeared in support of the application. He stated that he had sold many condominiums and the developments where Mr. Pereira had been involved with had always exceeded expectations.

Mr. Mickey Rosenberg, Fillmore Riley, representing Mr. Steiman the adjoining property owner, appeared in opposition to the application. He stated that the previous application had been filed concurrently with his client, to clean up the area and rezone the lands from an "A" Agricultural District to an "RM-L" Multiple-Family District. He stated that both applications had conditions imposed on them, by the Community Committee and Standing Policy Committee on Property

and Development, on how the development could be constructed. He stated his client had registered his plan of subdivision based on those restrictions and proceeded to build the units and invest a significant amount of money in the development. He stated that this application was asking for the removal of three of the restrictions imposed. He further stated concerns with the advertisement of the property, the traffic that would be created, the street access, there not being an Administrative Coordinating Group Report, there not being an informational meeting for the area residents, the density increasing more than three times, and the access onto Shaftesbury Boulevard not being dealt with in the administrative report.

The Senior Planner stated that the amount of traffic would not be detrimental to the operation of Shaftesbury Boulevard. He also stated that the Public Works Department opposed the access onto Shaftesbury Boulevard because they like to minimize approaches onto regional streets.

Councillor Clement stated that a number of residents had spoken up on these type of developments in regards to traffic issues. He also stated that the Public Works Department in general does not like accesses to be onto regional streets and not because of the number of units in a development. He further stated that there was no question that the access would be onto Shaftesbury Boulevard and not Litchfield Boulevard.

Mr. Rosenberg stated concerns with the drainage and sewer systems.

Councillor Clement stated that those plans were based on acreage and not number of units.

Mr. Rosenberg stated that there was a lack of architectural plans and only conceptual drawings for the development. He stated his client had concerns with regards to the casting of shadows throughout the year, the placing of windows, the aesthetics, the dimensions from conceptual plans, and the height of the trees. He also stated that the value of the units proposed was not compatible with those in the area. He further stated that his client was not against this development, but saw that there needed to be changes. He requested that the application be adjourned in order for the parties to meet and try to resolve the issues. He further stated that reducing the development to two storeys would make it more compatible with his client's development. Mr. Rosenberg submitted a presentation filed as Exhibit 15.

Mr. Patrick Hamilton appeared in opposition to the application. He stated that he initially handled Mr. Steiman's application and that he shared Mr. Rosenberg's comments. He also stated the original application involved a very planned process with a lot of research and talks with the administration and the other applicants. He further stated that there had been very little information on this application, there were issues with the advertisement, and requested an adjournment in order to have an opportunity to work out differences.

Mr. Abe E. Friesen appeared in opposition to the application and made a submission filed as Exhibit 13.

Mr. Daniel N. Thiesen appeared in opposition to the application and made a submission filed as Exhibit 14.

Mr. Pereira responded to the advertising and signage questions by stating that the city writes and inspects the notices and there had been no complaints from the city on the matter. He stated that the informational meeting for the area residents was not held because there were only two people at the previous, indicating there was not much interest. He stated that access through Litchfield Boulevard was not possible nor would they ever consider it, that at the previous meeting there were conceptual drawings and the city has final authority on the drawings, that with regards to the casting of shadows there were already three storey homes in the area. He stated that to reduce all the buildings to two storeys would mean that additional buildings would be required, the look of the development was to be like a park, and that there were examples of the price range in the area already. He further stated that the intent was to have a development that really stood out, the original proposal would not provide as much green space, and this application was a superior development.

Councillor Clement stated that there were a number of issues that had been raised. He stated he wanted to adjourn the matter to the next meeting of community committee to get answers and that he would not close public representations at this time.

April 22, 2003

Ms Deborah Lauben, Cherlee Invstments Ltd. appeared in support of the application and submitted a communication dated April 22, 2003, filed as Exhibit 16. Discussion ensued as to the revisions made in order to address the concerns of the adjacent neighbour. Ms Lauben requested a three (3) year time limit for the enactment of the by-law rather than the standard two (2) years. Ms Lauben was informed by Committee that the time to apply for an extension would be nearing the end of the two year limit and not at the present.

Mr. Patrick Hamilton appeared in opposition to the application. Mr. Hamilton inquired at to getting confirmation of the revisions made.

Councillor Clement stated the changes by referring to the revised plans submitted to the Planning, Property and Development Department.

Mr. Curtis Steinman appeared in opposition to the application and read into the record his presentation, filed as Exhibit 17.
Mr. Patrick Hamilton requested that the requirement referred to in Mr. Steinman's presentation be incorporated into the conditions of the Zoning Agreement Amendment, with the exception of point 4, the access to the Assiniboine Forest, which they did not consider to be required.

In rebuttal, Ms Lauben stated that they were willing to change the setbacks and were in agreement to points 1, 2 and 3 in Mr. Steiman's presentation, but that they did not agree with point 4 as the intent was to have a gated property and therefore could not provide access to the property.

In reply please refer to / Référence à rappeler :

Ross Mitchell
(204) 986-5017
Fax / Téléc. : (204) 986-3684

File No. ZAA 2/03 March 12, 2003
Our c/f CP 500 (.645)

Ms. Josie Marques, Community Clerk
Assiniboia Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Marques:

ZONING AGREEMENT AMENDMENT
901 Shaftesbury, north of CN main line
Assiniboia Community
File No. ZAA 2/03

An application has been received from Cherlee Investments to amend the Zoning Agreement affecting the property shown below by deleting the following clauses:

(1) That the site be developed to the maximum density of 6.0 units per gross acre (not including land set aside for public right-of-way).
(2) That the housing on the site be restricted to single-detached, bungalow condominium units with a maximum height of one (1) storey.
(3) That the minimum floor area of the residential units be restricted to 1,300 square feet and be provided with double-attached garages.



SITE DESCRIPTION:

Site Area: 8.5 acres approx.

Existing Land Use and Zoning: - CT 18198 contains SFD at 901 Shaftesbury zoned "A-5"
- CT 1481206 is vacant and zoned "A-5"

Surrounding Land Use and Zoning:

North: 17 unit bungalow condo project under construction (zoned "RM-L"), SFD's at 845 & 851 Shaftesbury (DASZ31/01); existing housing zoned "R1-6"
South: CN mainline/Wilkes Avenue, CN Intermodal Yard (being relocated) zoned "M3" Heavy Industrial
East: Edward Shindleman Park, zoned "PR-1"
West: Shaftesbury Boulevard, Assiniboine Forest zoned "PR-2"

DEVELOPMENT DESCRIPTION:

The subject site is bounded on the west by Shaftesbury Boulevard, on the south by the CNR mainline, and on the east by Edward Shindleman Park. To the north, the subject development is bounded by the condominium bungalow project approved under DASZ 31/01, and by lands acquired by the Mormons for possible future church construction.

The property was rezoned from "A-5" to "RM-L" under DASZ 2/02. The application was approved with a Zoning Agreement limiting the development to detached, one-storey condominium bungalows with a minimum floor area of 1,300 square feet and double-attached garages. The Zoning Agreement also limited the development to a density of 6 units per acre, and restricted access to Shaftesbury Boulevard. The total number of units was in the order of 40.

The current application would amend the Zoning Agreement to enable construction of five (5), three-storey, condominium apartment buildings containing a total of 126 units, underground parking for 126 vehicles, and surface parking for 82 vehicles. Vehicular access would be restricted to Shaftesbury Boulevard.

PLAN WINNIPEG:

The site and area are designated Neighbourhood Policy Area under Plan Winnipeg.

ADMINISTRATIVE COMMENTS:

The Development Management Branch supports the proposed Zoning Agreement Amendment for the following reasons:

- The Branch supports the planning principle that healthy, vibrant neighbourhoods provide housing opportunities to accommodate all life-styles and life-cycle stages, such as the proposed apartment condos.

- The Branch supports the concept of "aging-in-place", or the opportunity for empty nesters to downsize to apartments located within the neighbourhoods where they raised their families.
- Plan Winnipeg supports residential infill development at higher densities in locations on the periphery of low-density neighbourhoods adjacent to major transit routes and/or Regional Streets.
- The proposed development is consistent with other apartment condominium projects in South Tuxedo located on Portsmouth Boulevard and Swindon Way.
- The proposed development complies with the zoning regulations for "RM-L" multiple-family zones, including such elements as density, parking, site coverage, and building height and property line setbacks.
- The Development Management Branch is of the opinion that the proposed development is appropriate given the location of the site, which is isolated from the traditional, single-family housing to the north.

The Development Management Branch does not believe that the bungalow condos under construction at 220 Park Place West will be devalued because they are *within sight* of the proposed apartment buildings on the subject property. In fact, in terms of site layout, the apartment proposal is an *improvement* on the previously approved bungalow project in relation to 220 Park Place West. This is because the bungalow project would have placed from 10 to 15 residential units within 25 feet from the property line at 220 Park Place West. In comparison, the building setbacks from 220 Park Place West are increased dramatically under the current apartment proposal, ranging as follows: 31 feet, 100 feet, 130 feet, 200 feet, and 230 feet. With adequate landscaping, the apartment buildings would be scarcely visible from the adjacent properties. In addition, there is no traffic impact on the South Tuxedo neighbourhood as access to the subject site is restricted to Shaftesbury Boulevard.

RECOMMENDATION:

I. That Zoning Agreement DAZ 2/02 be amended by replacing Clauses A, B and C with the following revised clauses:

   A. That the site be developed to a maximum of 126 residential condominium units.
   B. That the maximum height of buildings on the site be limited to 3 storeys.
   C. That the minimum floor area of the residential units be restricted to 1,200 square feet, with underground parking provided at a ratio of 1 stall per residential unit.

II. That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 2/02 as approved in aforesaid Clause I.

III. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

IV. That the City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

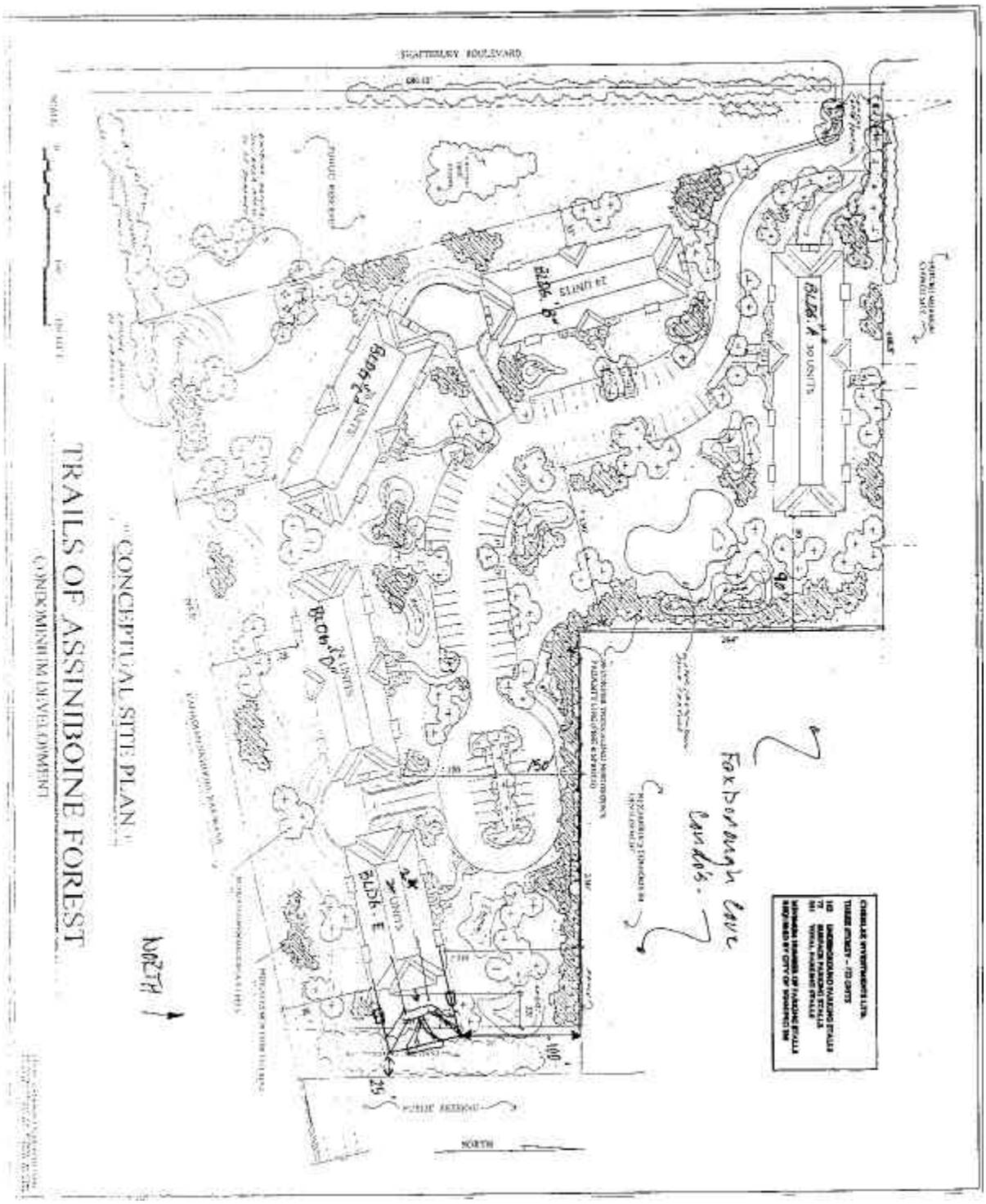
Yours truly,

V. Buckley
Manager of Planning and Land Use

_____

Per: Ross Mitchell, Senior Planner
Assiniboia Community)
986-5017

/jc



Schedule "B" to the Zoning Agreement for DAZ 2/02, dated April 22, 2003.