Minute No. 237
Report – Standing Policy Committee on Property and Development – February 19, 2013

Item No. 7 Subdivision and Rezoning – 453 Marion Street
(St. Boniface Ward)
File DASZ 31/2012 [c/r DAV 102811/2013D]

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 under File DASZ 31/2012 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 31/2012 dated January 24, 2013 with such minor changes as may be required, and 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 January 28, 2013 which is Schedule "B" of this report.

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 31/2012 dated January 24, 2013 to an "R2" Residential Two-Family Small District.

3. That in lieu of the requirement for land dedication, a sum of money, calculated as ten percent (10%) of the increase in market value of the land and the creation of additional lots, be paid to the City for the purchase of land for the purposes of the City other than streets.

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

5. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two (2) years 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 the two (2)-year period and Council approves the extension.

Report – Standing Policy Committee on Property and Development – February 19, 2013

COUNCIL DECISION (continued):

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 execution by the City of Winnipeg of the Servicing Agreement.

8. That the zoning section of the by-law shall come into force and effect when the plan of subdivision is 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 one (1) year from the date the by-law is passed, failing which 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 the one-year period and Council approves the extension.

10. 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.

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 – February 19, 2013

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 February 22, 2013, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On February 19, 2013, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On February 4, 2013, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded to the Standing Policy Committee on Property and Development.

On January 14, 2013, the Riel Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on February 4, 2013 at 5:00 p.m. in the Council Building, 510 Main Street.

RE: **Subdivision and Rezoning – 453 Marion Street**
File DASZ 31/2012

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

Prepared by: **Visa Hutter, Senior Committee Clerk**
Riel Community Committee

Report date: **February 5, 2013**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 4, 2013, the Riel 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 31/2012 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 31/2012 dated January 24, 2013 with such minor changes as may be required, and 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 January 28, 2013 which is Schedule "B" of this report.

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 31/2012 dated January 24, 2013 to an "R2" Residential Two-Family Small District.

3. That in lieu of the requirement for land dedication, a sum of money, calculated as ten percent (10%) of the increase in market value of the land and the creation of additional lots, be paid to the City for the purchase of land for the purposes of the City other than streets.

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

5. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two (2) years 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 the two (2)-year period and Council approves the extension.

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 execution by the City of Winnipeg of the Servicing Agreement.

8. That the zoning section of the by-law shall come into force and effect when the plan of subdivision is 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 one (1) year from the date the by-law is passed, failing which 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 the one-year period and Council approves the extension.

10. 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.

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 Riel Community Committee provided the following supporting reasons for its recommendation:

1. The Riel Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated January 24, 2013.

2. This is consistent with the use of the land of the previous years.

PUBLIC HEARING SUMMARY

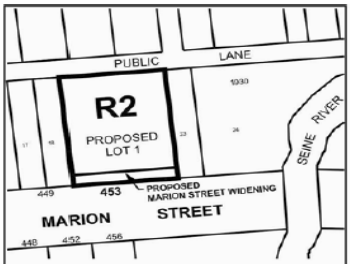
File: DASZ 31/2012

Before: Riel Community Committee
Councillor Swandel, Chairperson
Councillor Mayes

Public Hearing: February 4, 2013
Council Building, 510 Main Street

Applicant: Tacium Vincent Orlikow (Jordan Lobe)

Subject:



APPLICANT : TACIUM VINCENT ORLIKOW
FILE : DASZ 31/12
PROPOSAL: An application for the approval of the plan of subdivision shown outlined above as may be determined by Council and for a proposed zoning change to By-law No. 200/2006 by rezoning the land shown outlined above from a "PR1" PARKS AND RECREATION 1 DISTRICT to an "R2" RESIDENTIAL TWO-FAMILY DISTRICT in order to allow for the consolidation of the lands into one lot zoned for R2 uses. **For information, phone Mr. R. Kostiuk, Planner, at 204-986-7367.**
DEMANDEUR : TACIUM VINCENT ORLIKOW
N° DE RÉFÉRENCE : DALZ 31/12
PROJET : Demande d'approbation par le Conseil du plan de lotissement relatif aux sols délinéés ci-dessus et proposition de modification du Règlement municipal no 200/2006 visant à changer le zonage des sols délinéés ci-dessus qui passeraient de la catégorie PR1 (SECTEUR DES PARCS ET DES LOISIRS 1) à la catégorie R2 (SECTEUR RÉSIDENTIEL BIFAMILIAL), en vue de permettre la consolidation des bien-fonds en un lotissement zoné R2. **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 204-986-7367.**

Premises Affected: 453 Marion Street

Exhibits Filed:

1. Application dated October 31, 2012
2. Notification of Public Hearing dated November 20, 2012
3. Manitoba Status of Titles 2324227/1 and 2463013/1
4. Letter of authorization dated October 2, 2012 from Richard Rodney Stephanchew and Wendy Ann Stephanchew to Jordan Lobe of Tacium Vincent Orlikow
5. Letter of authorization dated June 6, 2012, from the Manager of Real Estate Division, Planning, Property and Development Department
6. Surveyor's Building Location Certificate and sketch dated September 14, 2012
7. Caveat No. 1028331 dated October 10, 2012
8. Plan
9. Report from the Planning and Land Use Division dated January 7, 2013
10. Inspection Report
11. Revised Application dated October 30, 2012
12. Notice of adjournment dated January 15, 2013
13. Report from the Planning and Land use Division dated January 24, 2013
14. Communication dated February 4, 2013, from Jules Chartier in opposition to the application
15. Audio Recording of representations of public hearing held on February 4, 2013

REPRESENTATIONS:

In Support:
Rick Stephanchew

In Opposition:
Jules Chartier

For Information:
Nil

For the City:
R. Kostiuk, Planner, Planning, Property and Development Department
K. Raban, Land Development Administrator, Planning, Property and Development Department

Exhibit "13" referred to in File DASZ 31/2012

ADMINISTRATIVE REPORT

Title: DASZ 31/2012 – 453 Marion Street Public Hearing

Issue: An application for consideration at the Public Hearing to consolidate the site into one (1) lot and rezone the PR1 portion to R2.

Critical Path: Riel 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	N/A	N/A	

RECOMMENDATIONS

1. That the plan of subdivision proposed under File DASZ 31/2012 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 31/2012 dated January 24, 2013 with such minor changes as may be required, and 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 January 28, 2013 which is Schedule "B" of this report.

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 31/2012 dated January 24, 2013 to an "R2" Residential Two-Family Small District.

3. That in lieu of the requirement for land dedication, a sum of money, calculated as ten percent (10%) of the increase in market value of the land and the creation of additional lots, be paid to the City for the purchase of land for the purposes of the City other than streets.

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

5. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two (2) years 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 the two (2)-year period and Council approves the extension.

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 execution by the City of Winnipeg of the Servicing Agreement.

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10. 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.

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.

REASON FOR THE REPORT

- The applicant is proposing to consolidate the site into one (1) lot and rezone the PR1 portion to R2. A +/- 10 foot wide opening is also being integrated into the subdivision along the frontage to support the widening of Marion Street.
- Subdivisions and rezonings require a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- The Report is being submitted for the Committee's consideration of the development application at the Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Urban Planning Division are concurred in, the subject site will be subdivided into one (1) lot and the portion zoned PR1 will be rezoned to R2. The +/-10 foot wide street opening for Marion Street will also be accommodated.

HISTORY

Declaration of Surplus Land Adjacent to 453 Marion Street

- On May 30, 2012 Council declared approximately 5,633 square feet of land adjacent to the east side of 453 Marion Street surplus to the needs of the City and sold (see Minute No. 409 of Council Minutes – May 30, 2012).
- The sale was in favour of Rick and Wendy Stephanchew, the owners of 453 Marion Street, for the purchase price of $73,145.00, subject to additional terms and conditions of the offer to purchase and as required to protect the interests of the City.
- Some notable conditions of the Offer to Purchase in consideration of the subject subdivision and rezoning application are paraphrased below:

13. The Purchaser is required to subdivide and rezone the subject property within 8 months of the date of approval, failing which the agreement resulting from the Offer to Purchase will be null and void.
14. Lot grading must meet the requirements of the City of Winnipeg Lot Grading By-law 7294/98.
15. The Purchaser is required to install a fence along the east property line within the property limits prior to the transfer of title. Maintenance of the fence is the owner's responsibility.
16. The Purchaser is required to remove the gravel and any encroachments that lie outside the subject property (to the east) to the satisfaction of the Parks Services Branch.
17. The Purchaser is to install a 2.4 metre wide crushed limestone path connecting Marion Street to the back lane. All works are to comply with City standards and must be approved by the Director of Public Works.
18. No trees shall be removed or damaged during works associated with the expansion of 453 Marion Street, unless previously approved by the City Forester.

CONSULTATION

In preparing this report there was consultation with: N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Robert Kostiuk. MCIP
Date:	January 24, 2013
File No.	DASZ 31/2012

List of Schedules and Attachments

1. Appendix A Planning Discussion
2. Schedule “A” Recommended File No. DASZ 31/2012 Riel Community Committee, dated January 24, 2013
3. Schedule “B” Report of the Administrative Coordinating Group

APPENDIX 'A'

DATE: January 24, 2013

FILE: DASZ 31/2012
RELATED FILES: DAV 13-102811/D

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.502

SUBJECT: An application to subdivide the site into one (1) lot and rezone the eastern portion of the site from PR1 to R2.

LOCATION: 453 Marion Street
LEGAL DESCRIPTION: Lots 19-22, Block 3, Plan 1930



APPLICANT: Tacium Vincent Orlikow (Jordan Lobe)
246 St. Anne's Rd
Winnipeg, MB R2M 3A4

OWNER: Richard and Wendy Stephanchew
79 Bluewater Crescent
Winnipeg, MB R2J 2X6

City of Winnipeg

RECOMMENDATION: Approval with Conditions

REPORT SUMMARY

- The applicant is proposing to consolidate the site into one (1) lot and rezone the PR1 portion to R2. A +/- 10 foot wide opening is also being integrated into the subdivision along the frontage to support the widening of Marion Street.
- The Urban Planning Division recommends supporting this application.

SITE DESCRIPTION

- The subject site is located on the north side of Marion Street, west of the Seine River in the Central St. Boniface neighbourhood of the St. Boniface Ward.
- The site is **12,281 square feet in area** and contains a two (2) storey, nine (9) unit apartment with accessory parking along the north and east sides of the building.
- The site is comprised of four (4) lots of a plan of subdivision: Lots 19-22, Block 3, Plan 1930 (see Figure 2). Lots 19 and 20 contain the existing building, while Lots 21 and 22 contain the gravel surface parking lot.
- Lots 21 and 22 are owned by the City of Winnipeg, but the City has leased this land as a parking lot to the various adjacent owners since 1956. The current owners of 453 Marion Street approached the City of Winnipeg requesting to purchase these Lots. The lands were declared surplus and conditionally sold to the owners of 453 Marion Street (see Minute No. 409 of Council Minutes – May 30, 2012). A requirement of the Offer to Purchase is that the Purchaser (the applicant) apply to subdivide and rezone the property. The City of Winnipeg Real Estate Division has provided a letter authorizing the subject subdivision and rezoning application to include Lots 21 and 22 of Block 3 Plan 1930, which are still owned by the City of Winnipeg.
- The site is located along a Community Mixed Use Corridor (Marion Street) under the Complete Communities Direction Strategy and is zoned “R2” Residential Two-Family (Lots 19 and 20 Block 3 Plan 1930) and “PR1” Parks and Recreation 1 (Lots 21 and 22 Block 3 Plan 1930).

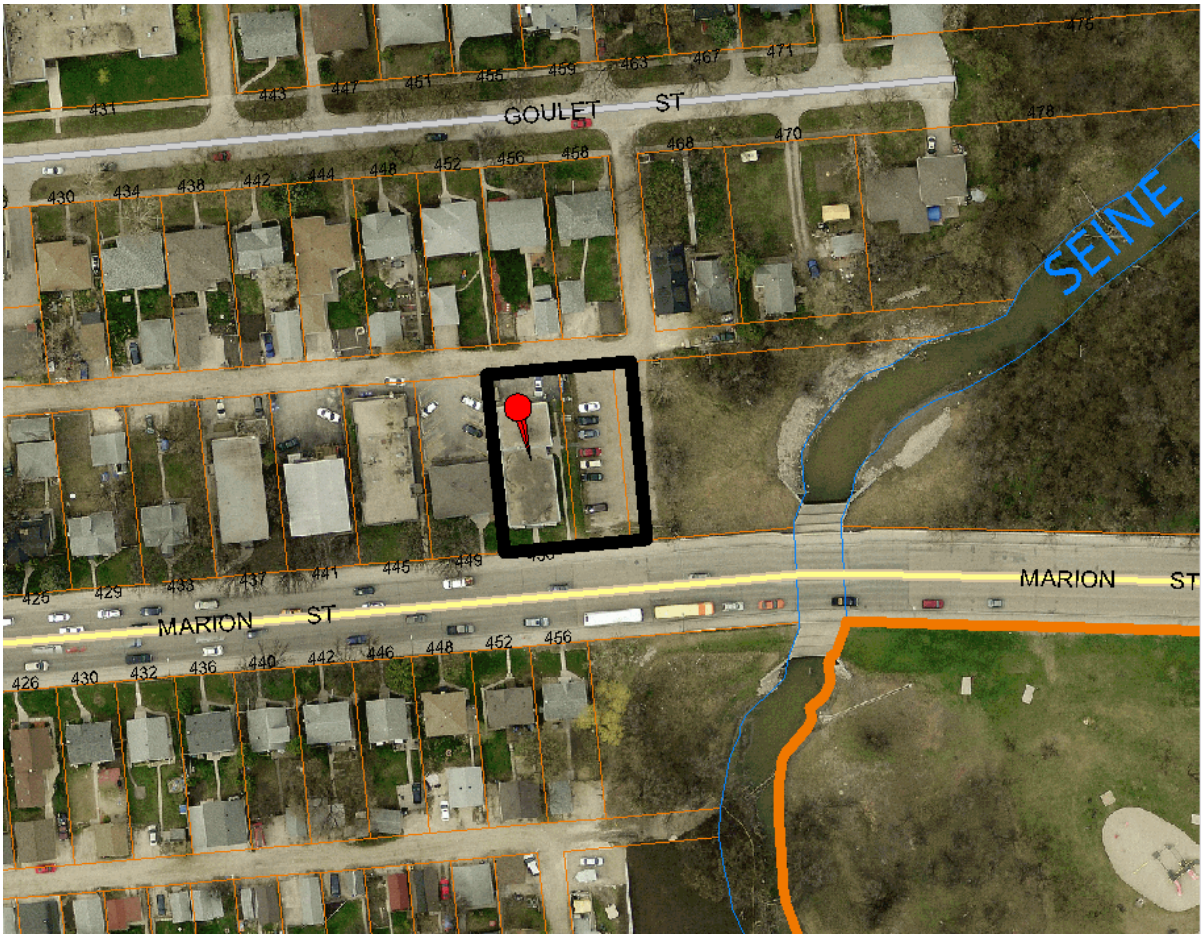


Figure 1: Aerial photograph showing approximate area of the subject site and surrounding area (2012)

SURROUNDING LAND USES AND ZONING (See Figure 2)

North: Detached single-family homes zoned R2.

South: Marion Street, detached single-family homes zoned RMF-M and parkland zoned PR1.

East: Parkland zoned PR1.

West: Duplexes and multi-family buildings zoned R2.

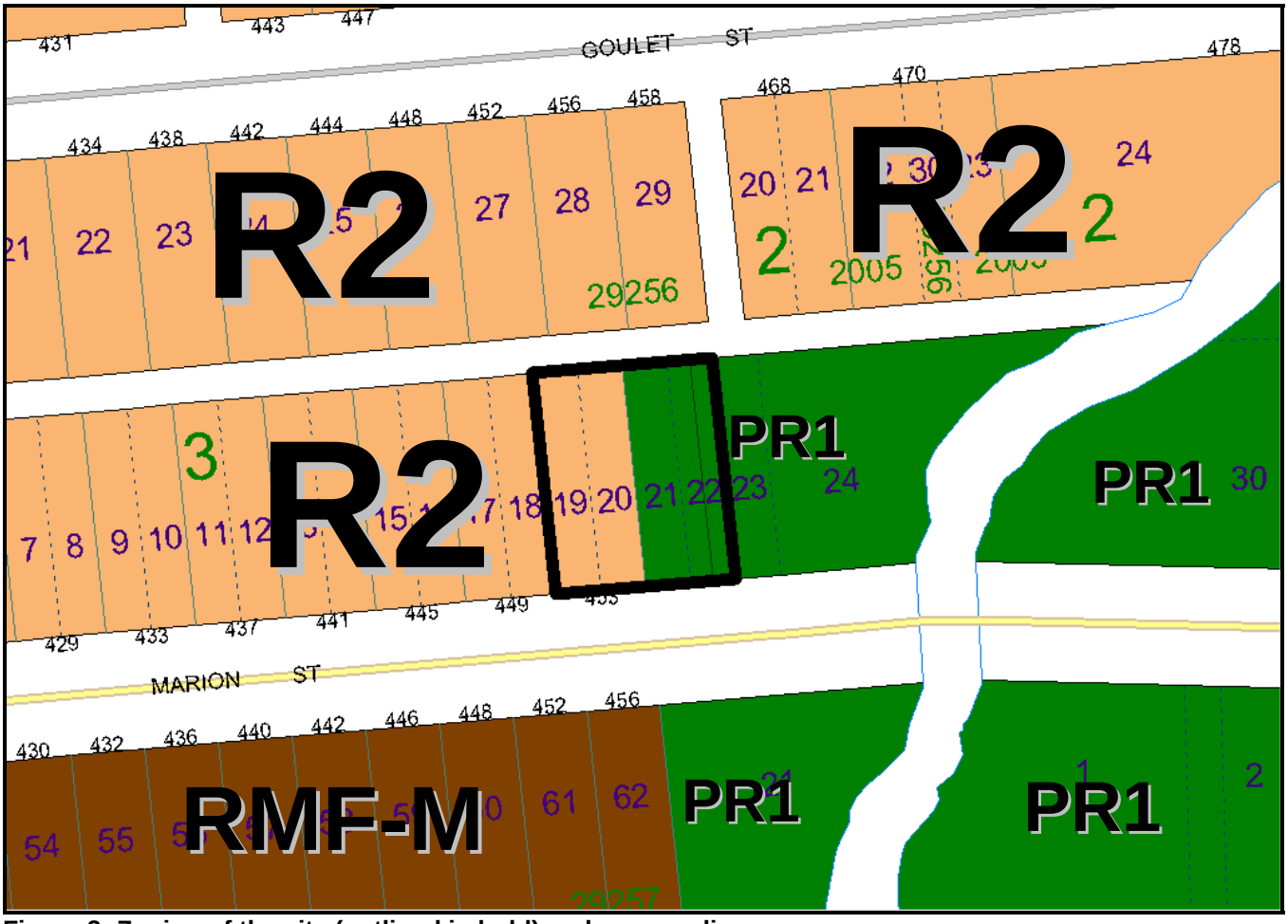


Figure 2: Zoning of the site (outlined in bold) and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to consolidate the site into one (1) lot and rezone the PR1 portion to R2. A +/- 10 foot wide opening is also being integrated into the subdivision along the frontage to support the widening of Marion Street.
- The applicant is not proposing any changes to the site, other than those required by City By-laws and within the Offer to Purchase (see History Section above and Minute No. 409 of Council Minutes – May 30, 2012).
- An associated variance is requested to reduce the front yard parking setback under DAV 13-102811/D. The variance is being applied for in order to allow the parking lot east of the building to continue to have the same front yard setback as what's currently on the land.
- It should be noted that the planner's report provided for the January 14, 2013 Riel Community Committee recommended adjournment to allow for the front yard variance and variance for gravel surfacing of the parking lot to be reviewed in conjunction with the

subject rezoning and subdivision. The applicant has since confirmed that his clients' will pave the parking lot and no longer need a variance for gravel surfacing.

ANALYSIS AND ISSUES

- Under the Complete Communities Direction Strategy the proposed development is located along a Community Mixed-Use Corridor (Marion Street). Key relevant policies guiding development along Community Mixed Use Corridors include:
    - Provide a mix of employment, higher-density residential opportunities, retail and service uses that support the needs of and respect the context of adjacent communities.
    - Support a range of housing opportunities in terms of type, tenure, unit size.
    - Promote the highest levels of intensification at significant intersections. Between each centre, lower intensities of commercial, residential and mixed use development are appropriate.
    - Promote innovative parking strategies and high intensity developments, including locating parking lots to the rear of developments, encouraging the development of underground parking or parking structures and encouraging the preservation and/or planting of trees and other types of vegetation within and around surface parking lots.

ZONING

"PR1" Parks and Recreation 1 (Neighbourhood) District

- The PR1 district is intended for sites that are generally passive neighbourhood and community parks and facilities with predominantly pedestrian and cyclist access. These sites may provide unstructured drop-in play and recreation opportunities, including play structures, passive parks, plazas and natural areas. Generally, no parking facilities are associated with these uses. These parks and open spaces typically occur in a residential neighbourhood or riverbank context and are generally accessed by residential streets.

"R2" Residential Two-Family Large District

- The R2 district is intended to accommodate the development of single and two-family units and where appropriate limited multi-family units in lower density neighbourhoods. The R2 district requires: a minimum lot width of 25 feet, a minimum lot area of 5,000 square feet (2,500 per dwelling unit for two-family dwellings), 4 foot side yards, a front yard of 20 feet, and a rear yard of 25 feet. The maximum building height is 35 feet.

LAND USE BY-LAW

Rezoning

- The applicant is applying to rezone the PR1 portion of the subject site to R2 in order to consolidate the parcel under one zoning category and allow for the continued use of the accessory parking lot to the east of the building.

Variance

- The minimum front yard setback in the R2 zone is 20 feet. The applicant is proposing to retain the existing 10 foot front yard setback for the accessory parking lot.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The proposed subdivision and rezoning is consistent with the Complete Communities Direction Strategy. The R2 zone allows for as-of-right development of duplexes and single-family homes. Multi-family dwellings are a conditional use. All of these uses would be deemed compatible with the policies guiding development along Community Mixed-Use Corridors.
- At this time, the applicant is ultimately not proposing any changes to the site other than the improvements required under the Zoning By-law or conditions of the Offer to Purchase. Again, the portion of the site that is the subject of the rezoning is the parking lot located to the east of the building, which has been used as a parking lot since 1956.
- Council has declared the City-owned portion of the site surplus to the City's needs and has conditionally approved the sale of these lands to the owner of 453 Marion Street.
- It should be noted that the conditions of 15-18 of the Offer to Purchase have been replicated in the attached recommended servicing agreement (see Schedule "B" – Report of the ACG).

LAND DEDICATION

- When a developer rezones and/or subdivides a parcel of land, they are required to put in an application with the City of Winnipeg.
- As a condition of rezoning or subdivision, a developer is required to contribute a portion of the land to be developed to the City for parks purposes.
- The amount of land is not less than 10%.
- The developer is to provide land or 'cash in lieu' as determined by the Planning, Property and Development Department.
- The City is requesting cash in lieu this application.

RECOMMENDATION

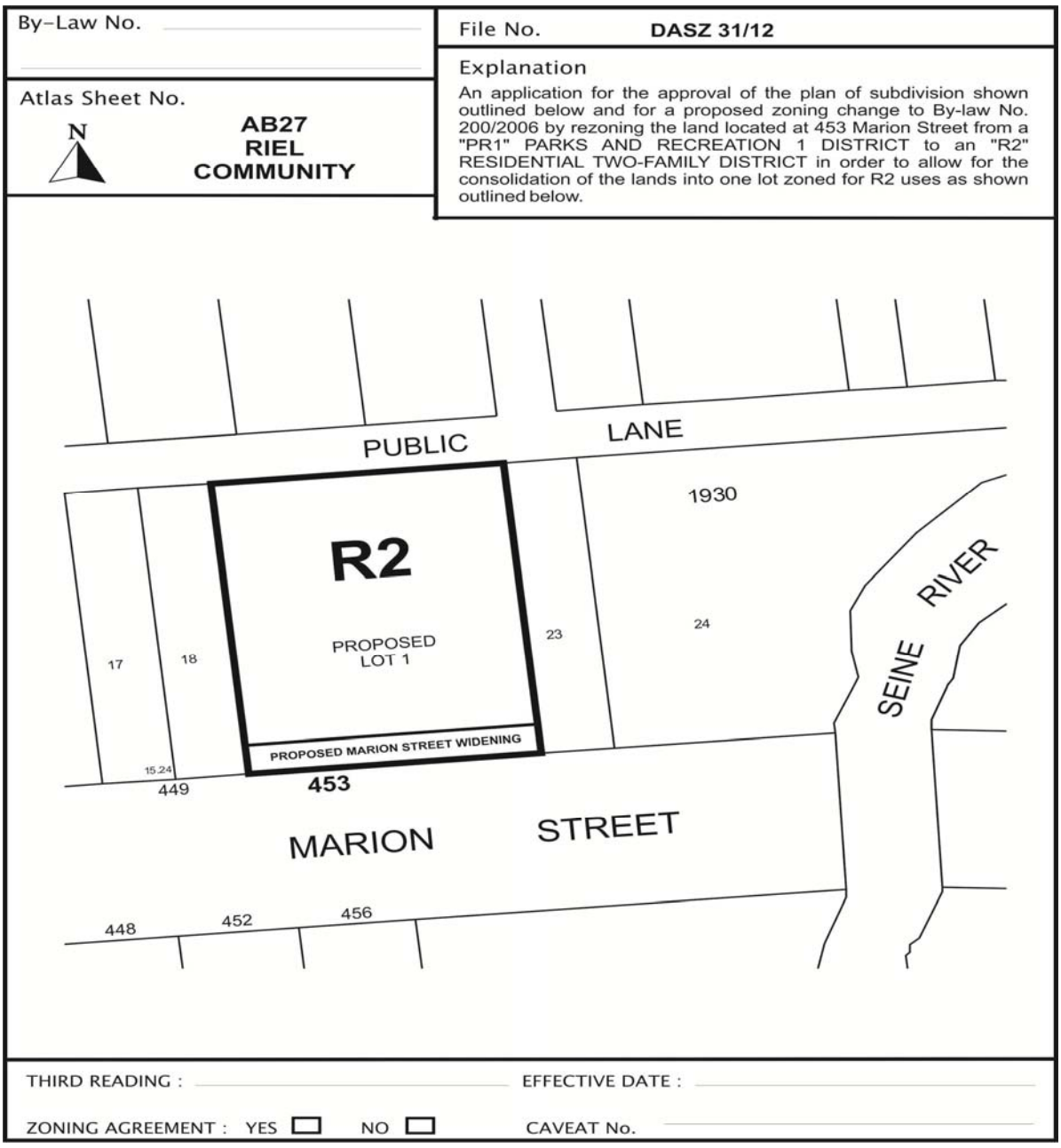
The Urban Planning Division recommends **approval** for the following reasons:

- The applicant is ultimately not proposing any changes to the site, other than the improvements required under the Zoning By-law or conditions of the Offer to Purchase.
- The portion of the site that is the subject of the rezoning has been used as a parking lot by various adjacent owners for over 65 years.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # DASZ 31/2012

Schedule "A" for File No. DASZ 31/2012, Riel Community Committee, dated January 24, 2013



SCHEDULE B

REPORT OF THE ADMINISTRATIVE CO-ORDINATING GROUP – JANUARY 28, 2013

RE: PROPOSED SUBDIVISION AND REZONING OF LAND LOCATED AT 453 MARION STREET - DASZ 31/2012

It is recommended that the approval of DASZ 31/2012, if granted, be subject to the applicant entering into a Servicing Agreement, pursuant to this application and pursuant to Council's May 30, 2012 instructions to enter into a Purchase and Sales Agreement, containing the following conditions;

1. The developer shall install a fence along the east property line within the subject property limits, prior to the transfer of title. Maintenance of the said fence shall become the sole cost and responsibility of the developer thereafter.

2. The developer shall remove the gravel and any other encroachments (including but not limited to fencing) that have been installed on the City property, and which lie beyond of the subject property. Said works shall be determined in consultation with, and to the satisfaction of, the Director of Public Works.

3. The developer shall supply and install a 2.4m wide crushed limestone path, including any associated grading and turf repairs to facilitate the path construction, connecting Marion Street to the back lane, within the City owned park land immediately east of the subject site, in accordance with City standard. The developer shall, prior to construction commencement, obtain all permits and permissions, and shall submit plans for review and approval by the Director of the Public Works Department.

4. No trees shall be removed or damaged during works associated with the expansion of 453 Marion Street including during the fencing, clean up process and path construction, unless previously approved by the City Forester. If damage does occur, then compensation shall be provided as directed by the City Forester. Tree Protection Guidelines shall be adhered to.

5. The developer shall provide a Security, prior to the release of subdivision mylars, representing the value of works, as determined by the City, outlined in Clauses 1 - 3 above. Securities shall not be released until the works have been reviewed and approved as complete, to the satisfaction of the Director of Public Works, the fulfillment of which shall be indicated by the issuance of a Final Acceptance Certificate.

THIS REPORT SUBMITTED BY:

Administrative Co-ordinating Group
File No. DASZ 31/2012
January 28, 2013

"Original signed by K.T. Raban, P.Eng."
K.T. Raban, P. Eng.
Land Development Branch

"Original signed byD. Beaton, MLArch."
D. Beaton, MLArch.
Parks, Riverbanks, & Community Initiatives Branch