Minute No. 534
Report - Standing Policy Committee on Property and Development – July 15, 2011

Item No. 11 Subdivision and Rezoning – 2325 Grant Avenue (Charleswood - Tuxedo Ward) File DASZ 16/2011 [c/r DAV 139927/2011D]

COUNCIL DECISION:

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

1. That the plan of subdivision proposed under File DASZ 16/2011 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "B" for File DASZ 16/2011 dated June 20, 2011 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 Agreement with the City satisfying all the conditions outlined in the report of the Administrative Coordinating Group dated June 27, 2011 which is Schedule "C" of the Winnipeg Public Service report.

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the planned area as shown on Schedule "B" for File DASZ 16/2011 dated June 20, 2011 to a "C1" Commercial District and a "PR2" Parks and Recreation District.

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

4. 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.

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

6. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

Report - Standing Policy Committee on Property and Development – July 15, 2011

COUNCIL DECISION (continued):

7. 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 (1) year from the date the by-law is passed.

8. 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.

9. 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.

10. 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 – July 15, 2011

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 July 15, 2011, 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 July 15, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 12, 2011, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning – 2325 Grant Avenue**
File DASZ 16/2011 [c/r DAV 139927/2011D]

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

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

Report date: **July 12, 2011**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 12, 2011, the Assiniboia 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 16/2011 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "B" for File DASZ 16/2011 dated June 20, 2011 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 Agreement with the City satisfying all the conditions outlined in the report of the Administrative Coordinating Group dated June 27, 2011 which is Schedule "C" of the Winnipeg Public Service report.

2. That the Winnipeg Zoning By-law No. 200/06 be amended by rezoning the planned area as shown on Schedule "B" for File DASZ 16/11 dated June 20, 2011 to a "C1" Commercial District and a "PR2" Parks and Recreation District.

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

4. 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.

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

6. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

7. 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 (1) year from the date the by-law is passed.

8. 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.

9. 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.

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

1. The Assiniboia Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated July 4, 2011.

PUBLIC HEARING SUMMARY

File: DASZ 16/2011

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

Public Hearing: July 12, 2011
West Committee Room
Council Building, 510 Main Street

Applicant: Planning, Property and Development Department

Subject:



Premises Affected: 2325 Grant Avenue

Exhibits Filed:

1. Application dated June 14, 2011
2. Notification of Public Hearing dated June 14, 2011
3. Certificate of Title 672382
4. Title Search 1719521
5. Drawings (3 pages) of subject property
6. Site Plans (3 pages)
7. Report from the Planning and Land Use Division dated July 4, 2011
8. Inspection Report
9. Presentation from Susanne Wherrett, submitted at the public hearing in support of the application.
10. Plan of subject property, submitted by Number Ten Architectural Group, in support of the application at the public hearing
11. Site Plan and photographs of subject property submitted by Number Ten Architectural Group, in support of the application at the public hearing
12. Audio Recording of representations of public hearing held on July 12, 2011

REPRESENTATIONS:

In Support:

Brad Erickson, Planning, Property and Development Department
Barrie Ottenbreit, Number Ten Architectural Group
Susanne Wherrett

In Opposition:

Tony Chuback

For the City:

Noah Yauk, Senior Planner, Planning, Property and Development Department

ADMINISTRATIVE REPORT

Exhibit "6" referred to in File DASZ 16/2011

Title: DASZ 16/11 – 2325 Grant Ave

Issue: For consideration at the public hearing for a subdivision and rezoning for DASZ 16/11 – 2325 Grant Ave.

Critical Path: Assiniboia Community Committee 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 16/11 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "B" for File DASZ 16/11 dated June 20, 2011 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 Agreement with the City satisfying all the conditions outlined in the report of the Administrative Coordinating Group dated June 27, 2011 which is Schedule "C" of this report.

2. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the planned area as shown on Schedule "B" for File DASZ 16/11 dated June 20, 2011 to a "C1" Commercial District and a "PR2" Parks and Recreation District.

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

4. 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.

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8. 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.

9. 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.

10. 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 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 Planning and Land Use Division are concurred in, the property will be rezoned to a "C1" Commercial District.

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	*Noah Yauk*
Date:	*July 4, 2011*
File No.	*DASZ 16/2011*

APPENDIX 'A'
DATE:
FILE: DAZ 16/11
RELATED FILES: DAV 11-139927/D
COMMUNITY: Assiniboia Community Committee
NEIGHBOURHOOD #: 2.668

SUBJECT: To rezone the subject land from a "PR2" Parks and Recreation District to a "C2" Commercial District

LOCATION: 2325 Grant Ave
LEGAL DESCRIPTION: PT R/LS 20& 21Plan 2356; PT RL 18-23 Plan 2356



Proposed Zoning District



Suggested Zoning District

APPLICANT: City of Winnipeg (Joedi Pruden)
2nd FLR, 65 Garry St
WINNIPEG MB R3C 4X5

OWNER: City of Winnipeg

RECOMMENDATION: Approval

SITE DESCRIPTION
The subject property, which is zoned "PR2" Parks & Recreation District, is located on the north side of Grant Avenue just west of Shaftesbury BV in the Tuxedo neighbourhood of the Charleswood-Tuxedo ward.

Surrounding Land Use and Zoning
North: The Tuxedo Golf centre zoned "PR2" Parks and Recreation District.
South: Grant Avenue then Assiniboine Forest zoned "PR2" Parks and Recreation District.
East: The Canadian Mennonite University Campus zoned "EI" Educational & Institutional District.
West: The Tuxedo Golf centre zoned "PR2" Parks and Recreation District.

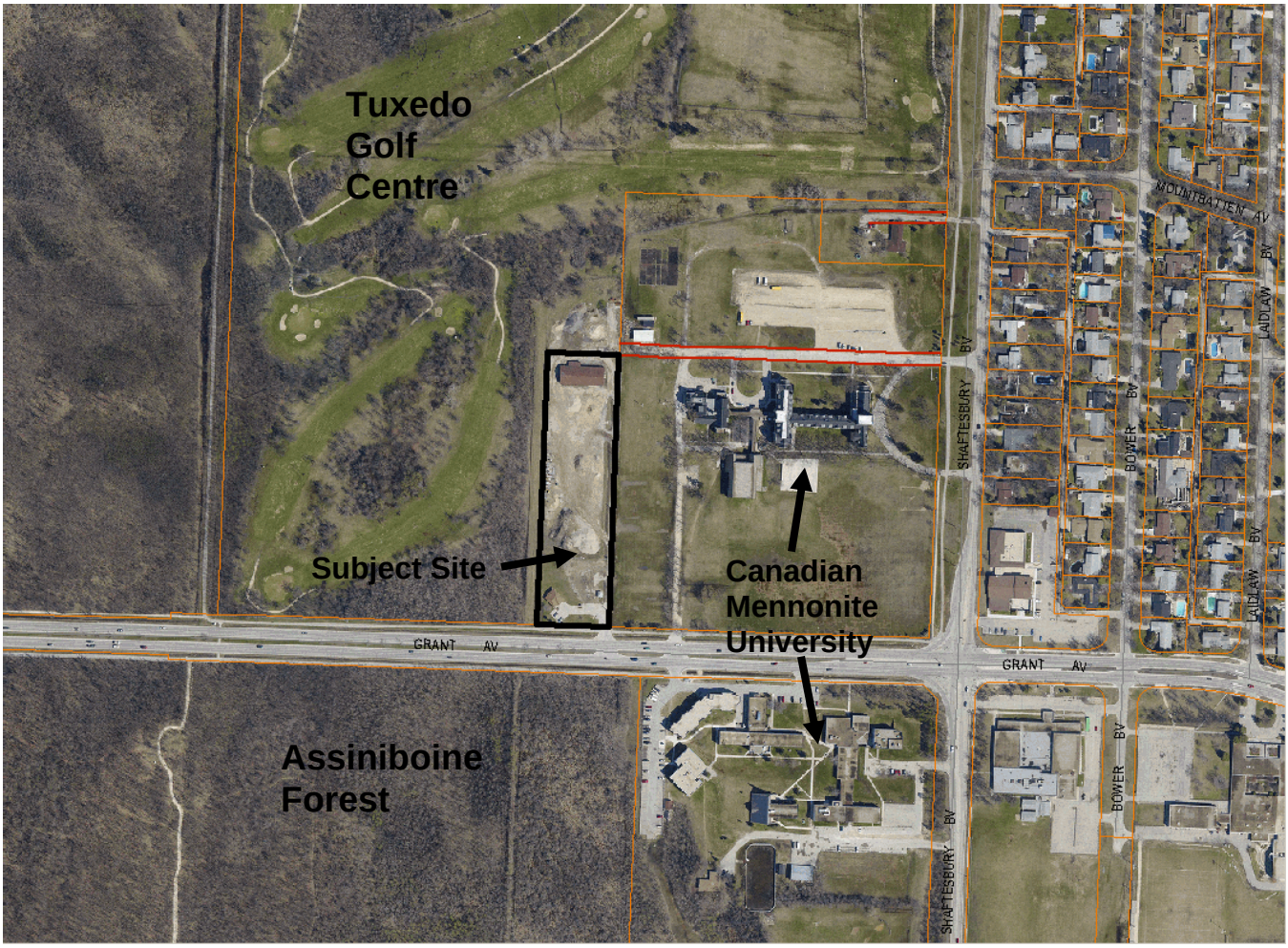


Figure 1: Aerial Photo of Subject Site and Surrounding Land Uses, Flown 2009

DESCRIPTION OF THE PROPOSED DEVELOPMENT
The nature of the subject application is a subdivision and rezoning. The subdivision part creates 2 parcels, Parcel A and Parcel B. Parcel A are the lands known as 2325 Grant Avenue and Parcel B consists of lands contiguous to 2325 Grant to the west and is part of the Tuxedo Golf Centre. Parcel B is proposed to be rezoned to a "C2" Commercial District to accommodate a protection and emergency services use. The Public Service recommends Parcel B be rezoned to "C1" District instead. Parcel A will remain zoned as "PR2" Parks and Recreation District; these lands will be used strictly as an access to the proposed accessory parking area of 2325 Grant. A concurrent variance application accompanies this application under File # 11-139927D to allow access through a separate property.

ANALYSIS AND ISSUES

Plan Winnipeg

Under Plan Winnipeg, 2325 Grant (Parcel B of the subdivision application) designated as Neighbourhood Policy Area. The site is currently zoned “PR2”, which does not accommodate the proposed protection and emergency services use. Hence a rezoning is required to a zoning district that does accommodate the use. In this case a rezoning to “C2” commercial district is proposed, which both accommodates the proposed use and is compatible with the site’s Neighbourhood Policy designation in Plan Winnipeg. Tuxedo Golf Centre is also zoned “PR2”, but is designated as Major Open Space in Plan Winnipeg. While it would be easier to amalgamate the part of Tuxedo Golf Centre proposed for an access road (Parcel A) with parcel B and zone both to a commercial district, it is not possible to do so. This is because a commercial zoning district is not compatible with the Major Open Space Policy and would therefore require these lands to be re-designated also as Neighbourhood Policy Area. Since the lands are only being proposed as an access road allows such an amendment to be avoided. As a result, the proposed use will be located entirely on Parcel B with Parcel A acting solely as an access to the parking area.

ANALYSIS AND ISSUES

Context Plan Winnipeg

A. Neighbourhood Context

The subject property is nestled between the north campus of the Canadian Mennonite University and the Tuxedo Golf Centre. The site’s location and neighbouring land uses make it suitable to the proposed use – protection and emergency services. It is noted that there are no residential dwellings adjacent to the site.

B. Plan Winnipeg

Under Plan Winnipeg, 2325 Grant (Parcel B of the subdivision application) designated as Neighbourhood Policy Area. The site is currently zoned “PR2”, which does not accommodate the proposed protection and emergency services use. Hence a rezoning is required to a zoning district that does accommodate the use. In this case a rezoning to “C2” commercial district is proposed, which both accommodates the proposed use and is compatible with the site’s Neighbourhood Policy designation in Plan Winnipeg. Tuxedo Golf Centre is also zoned “PR2”, but is designated as Major Open Space in Plan Winnipeg. While it would be easier to amalgamate the part of Tuxedo Golf Centre proposed for an access road (Parcel A) with parcel B and zone both to a commercial district, it is not possible to do so. This is because a commercial zoning district is not compatible with the Major Open Space Policy and would therefore require these lands to be re-designated also as Neighbourhood Policy Area. Since the lands are only being proposed as an access road allows such an amendment to be avoided. As a result, the proposed use will be located entirely on Parcel B with Parcel A acting solely as an access to the parking area.

C. Zoning By-Law 200/2006

The subject site is zoned "PR2" Parks and Recreation District in Zoning By-Law 200/2006. The intent is to rezone Parcel B to a "C2" Commercial Zoning District and retain Parcel A as a "PR2" Zoning District.

***The "C2"* Commercial District:**

is intended to accommodate more intensive commercial sites that do not have a local or neighbourhood orientation. The district is intended to include attractive commercial, institutional, recreational, and service facilities needed to support the surrounding neighbourhoods and the broader community. C2 districts are generally located along collector streets, at arterial/collector intersections, or along portions of arterial streets with relatively shallow lots.

It is noted that at the time the application was filed, site plans were not complete. As the "C2" zoning district is more permissive in terms of requirements (building heights, etc.) this ensured that the development could be accommodated within the district. As the proposed use can fit in a variety of commercial districts it doesn't much matter what zoning district is adopted for that use. Though the proposed use is seen as compatible with the area, the proposed zoning could potentially open up opportunities in the future for other uses whose effects cannot be fully contemplated at this time. As a result, given that the proposed use fits within the "C1" zoning district, it may serve prudent to downgrade the zoning district to a "C1" designation to better protect from the potential for incompatible uses in the future. While another common mechanism is to attach a zoning agreement to a rezoning application, it is not possible to do so in this case because the City of Winnipeg is the property owner and is not able to enter into such an agreement with itself. This also makes a case for a "C1" zoning district, which provides commercial uses at a much lower intensity than "C2".

***The "C1"* Commercial District:**

is intended to accommodate small, compact commercial uses within or surrounded by residential areas that are attractive and compatible in scale and character with surrounding residential uses, to serve the convenience needs of the surrounding neighbourhood. This district is not intended to accommodate businesses sized or designed to serve a trade area more than one-half mile from the business. C1 districts are generally located along local streets or at local/collector intersections.

The fact that the proposed use can be accommodated in the C1 zoning district further suggests the appropriateness of the use given that the C1 zoning district is the least intensive zoning district of Zoning By-Law 200/2006. This further protects from more intensive land uses being developed in the future without the benefit of any details provided.

The following Table provides a comparison between the different uses permitted or conditional in the C1 and C2 zones under Zoning By-Law 200/2006:

Use	C1	C2	Use Specific Standard
Dwelling, single-family detached	P	C	
Dwelling, two-family	P	C	
Assisted Living Facility	C	P	
Community Recreation Centre	C	P	
Social Service Facility	C	P	
College or University		P	
Commercial School		P	
Park/Plaza/Square/Playground	P*	P	68
Hospital		C*	70
Place of Worship	C*	P*	72
Cultural Centre		C	
Gallery/Museum	P*	P	
Amusement Enterprise, Indoor		P*	74
Auditorium/Concert Hall/Theatre/Cinema		P*	75
Hall Rental		C	
Private Club, Not Licensed		C*	78
Studio, Radio/TV/Motion Picture Broadcast & Production		P	
Amusement Enterprise, Outdoor		C	
Hostel	C	P	
Hotel or Motel	C	P	
Animal Hospital or Veterinary Clinic	P*	P	81
Drinking Establishment		P*	84
Restaurant	P*	P*	92
Office	P*	P	87
Personal Services	P*	P*	89
Body Modification Establishment		C	
Cheque Cashing Facility		C*	83
Funeral Chapel or Mortuary		C	
Medical/Dental/Optical/Counselling Clinic	P*	P	86
Retail Sales	P*	P*	90
Auction Room		C	
Landscape or Garden Supplies		P	
Supermarket		P*	91
Pawnshop		C*	88
X-Rated Store		C*	93
Advertising Sign		C	
Auto/Light Truck/Motorcycle, Repair & Service		P*	94

Use	C1	C2	Use Specific Standard
Auto/Light Truck/Motorcycle, Sales & Rental		P*	95
Auto Parts and Supplies, Sales		P	
Car Wash		C	
Drive-In or Drive-Through		P*	96
Fuel Sales		P*	97
Parking, Structured		P	
Parking, Surface		C	
Bus Depot		C	
Commercial Marina		C	
Contractor's Establishment	P	P	
Fleet Services		C	
Recycling Collection Centre		P	

D. 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 for this application as identified in the Report of the ACG (Section 6, Schedule C).

RECOMMENDATIONS

The Planning and Land Use Division recommends approval for the following reasons:

- The proposed rezoning and land use are compatible with existing neighbouring development.
- The site provides a good location for a protection and emergency services use.

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

Report Prepared by:
PPD File # DASZ 216/11

Schedule "A": Advertised Subdivision and Rezoning for Planned Area

By–Law No. _____

File No. **DASZ 16/11**

Atlas Sheet No.

N

AD18
ASSINIBOIA
COMMUNITY

Explanation

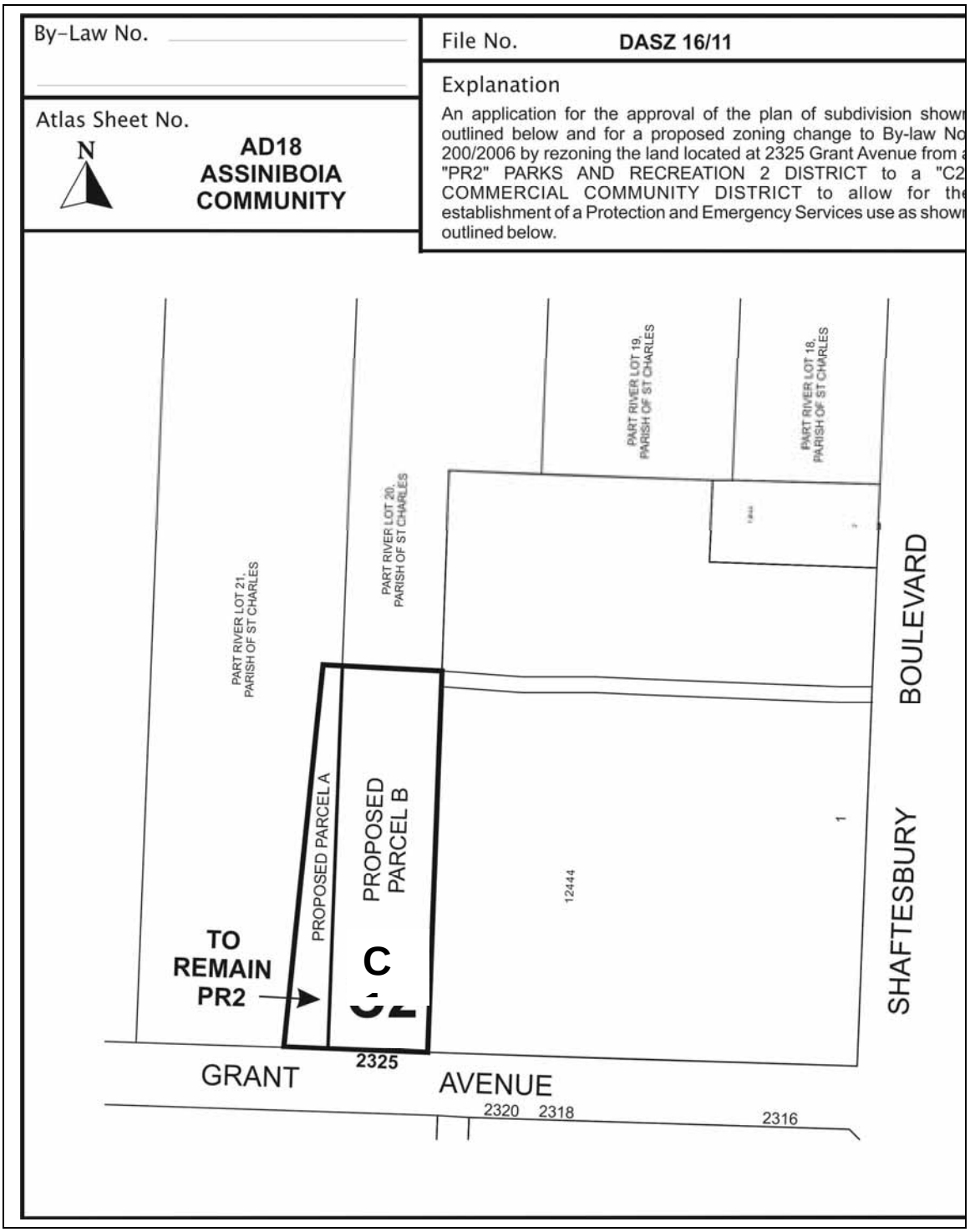
An application for the approval of the plan of subdivision shown outlined below and for a proposed zoning change to By-law No. 200/2006 by rezoning the land located at 2325 Grant Avenue from a "PR2" PARKS AND RECREATION 2 DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to allow for the establishment of a Protection and Emergency Services use as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Schedule "B" for File No. DASZ 16/2011, Assiniboia Community Committee, dated June 20, 2011



SCHEDULE C

REPORT OF THE ADMINISTRATIVE CO-ORDINATING GROUP – JUNE 27, 2011

RE: PROPOSED SUBDIVISION AND REZONING OF LAND AT 2325 GRANT AVENUE – DASZ16/11

It is recommended that the approval of DASZ 16/11 be subject to the Applicant:

1. Providing, to the satisfaction of the Director of Water and Waste, a comprehensive servicing report, prepared by a qualified municipal engineer, outlining the provision of water, wastewater, and land drainage services for the Planned Area.

2. Installing all services identified in the approved servicing report, and entering into all agreements necessary to effect those installations, all to the satisfaction of the Director of Water and Waste.

3. Seeking the City Naturalist's evaluation of the Natural Area within the Planned Area and accommodating any resultant requirements of the City Naturalist.

4. Limiting access to the Planned Area to a single median opening on Grant Avenue.

5. Relocating the proposed median opening, if required, to the satisfaction of the Director of Public Works.

6. Paying to the City 10% cash in lieu of the dedication of Public Open Space.

7. Paying the full cost of engineering services provided by or on behalf of the City in connection with the installation of, and provision of as-built drawings by March 31 of the year following substantial performance showing, the services required to serve the Planned Area.

8. Paying to the City, prior to the release of the subdivision mylars for registration in the Land Titles Office, $1,200.00 plus GST per acre of the Planned Area (minimum $1,650.00), to defray the City's administration and related costs associated with the conditions identified above

THIS REPORT SUBMITTED BY:

Administrative Co-ordinating Group
File No. DASZ 16/11
June 27, 2011

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

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

"original signed by F.C. Mazur, P. Eng."
F.C. Mazur, P. Eng.
Water & Waste Department

"original signed by D. Beaton, MLArch."
D. Beaton, MLArch.
Parks, Riverbanks, & Community Initiatives Branch

/sm