Minute No. 785
Report – Standing Policy Committee on Property and Development – September 16, 2014

Item No. 8 Zoning Agreement Amendment – Lot 2/3 Plan 45753 Peguis Street (Transcona Ward)
File ZAA 11/2014

COUNCIL DECISION:

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

1. That the Zoning Agreement under File DASZ 33/2013, approved by Council on December 11, 2013, be amended as follows:

   A. That Clause 2(A)(vi) be deleted and the following substituted therefore:

      "2(A)(vi). That the maximum building height on proposed Lots 1 and 3 shall be limited to 35 feet, excluding all permitted projections through maximum height limits as permitted by the zoning by-law, where said buildings are located within 150 feet of the north property line."

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement for File DAZ 273/1979 (By-Law No. 2435/79) 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 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 – September 16, 2014

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

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

Carried

Councillors Eadie and Wyatt asked to be recorded as having voted against the item in accordance with Rule 47(7) of the Procedure By-Law 50/2007.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 17, 2014, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development with the following amendment:

- Recommendation 1A

  Delete "30" and replace with "35",

and forwarded to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 16, 2014, the Standing Policy Committee on Property and Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 15, 2014, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service be concurred in, with the following amendment:

- Recommendation 1A

  Delete "35" and replace with "30",

and forwarded to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment – Lot 2/3 Plan 45753 Peguis Street**
File ZAA 11/2014

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

Prepared by: **Josie Marques, Senior Committee Clerk**
East Kildonan-Transcona Community Committee

Report date: **July 17, 2014**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 15, 2014, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service, ***as amended***, and recommended to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement under File DASZ 33/2013, approved by Council on December 11, 2013, be amended as follows:

   A. That Clause 2(A)(vi) be deleted and the following substituted therefore:
   "2(A)(vi). That the maximum building height on proposed Lots 1 and 3 shall be limited to ~~***35***~~ ***30*** feet, excluding all permitted projections through maximum height limits as permitted by the zoning by-law, where said buildings are located within 150 feet of the north property line."

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement for File DAZ 273/1979 (By-Law No. 2435/79) 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 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.

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

The East Kildonan-Transcona Community Committee provided the following supporting reason(s) for its recommendation:

1. The amendment intends to have a balance to the needs of the existing residents.
2. It is important to live up to original decision.
3. A height of 30 feet should address the needs of most developments.

PUBLIC HEARING SUMMARY

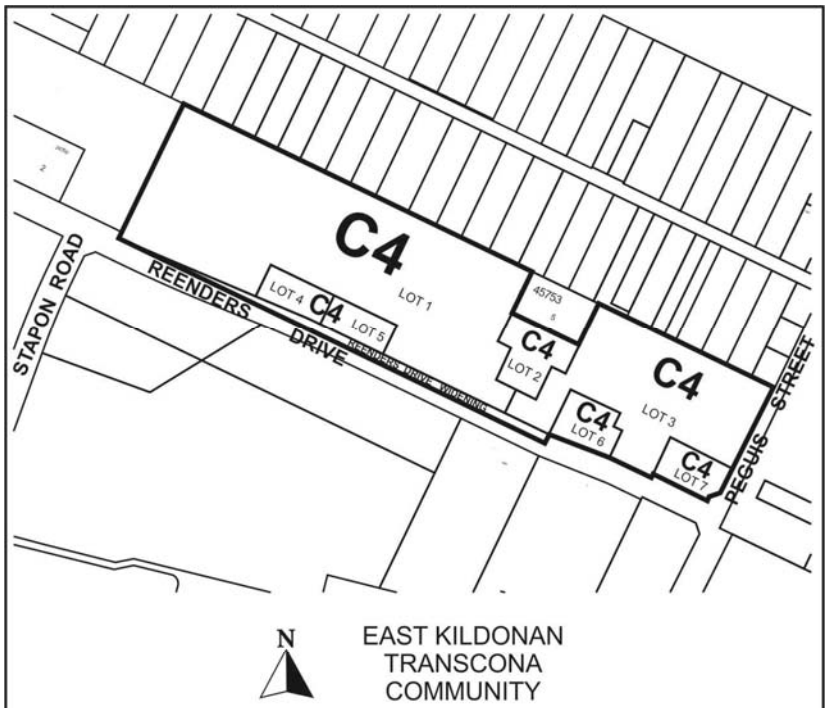
File: ZAA 11/2014

Before: East Kildonan-Transcona Community Committee
Councillor Steen, Chairperson
Councillor Browaty
Councillor Wyatt

Public Hearing: July 15, 2014
Council Building, 510 Main Street

Applicant: 2514109 Manitoba Ltd. (Justin Zarnowski)

Subject:



APPLICANT : 2514109 MANITOBA LTD.
FILE : ZAA 11/14
PROPOSAL : To amend the pending Zoning Agreement affecting the land shown outlined above (DASZ 33/2013) by amending Condition 2.A.vi. of Council's December 11, 2013 minutes to read as follows: That the maximum building height on proposed Lots 1 and 3 shall be limited to sixty-five (65) feet, excluding architectural enhancements, where said buildings are located within 150 feet of the north property line. **For information, phone Mr. M. Pyl, Planner, at 204-986-5595.**

Premises Affected: Lot 2/3 Plan 45753 Peguis Street

Exhibits Filed:

1. Application dated June 25, 2014
2. Notification of Public Hearing dated June 26, 2014
3. Manitoba Status of Title 2244011/1, 2244012/1
4. Plans (1 page)
5. Report from the Urban Planning Division dated July 8, 2014
6. Inspection Report
7. Petition (5 pages) in opposition to the application purporting to contain the signatures of area residents, submitted by David Coleman at the public hearing
8. Petition (4 pages) in opposition to the application, requesting additional notice of all future public hearings concerning property, purporting to contain the signatures of area residents, submitted by David Coleman at the public hearing
9. Audio Recording of representations

REPRESENTATIONS:

In Support:

Kaleigh Balmgart
Michael Stronger
Justin Zarnowski

In Opposition

David Coleman
Glen Cook
Christine Piotrowski

For Information:

Nil

For the City:

Mr. M. Pyl, Planner, Planning, Property and Development Department
Mr. R. Mahé, Planner, Planning, Property and Development Department

Exhibit "5" referred to in File ZAA 11/2014

ADMINISTRATIVE REPORT

Title: ZAA 11/2014 – Peguis at Reenders

Issue: For consideration at the public hearing to amend an existing zoning agreement

Critical Path: East Kildonan-Transcona Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Smith	n/a	n/a	

RECOMMENDATIONS

1. That Council's instructions for the Zoning Agreement under file DASZ 33/2013 as approved by Council on December 11, 2013, shall be amended as follows:

    A. That Clause 2(A)(vi) shall be deleted and the following substituted therefore:

    That the maximum building height on proposed Lots 1 and 3 shall be limited to 35 feet, excluding all permitted projections through maximum height limits as permitted by the zoning by-law, where said buildings are located within 150 feet of the north property line.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 273/1979 (By-Law No. 2435/79) 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 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

- On December 11, 2013, Council approved a subdivision and rezoning application on the subject property to create seven lots zoned “C4” Commercial Regional district to enable the development of a retail shopping centre.
- As a condition of approval, maximum permitted building height was limited to 25 feet within 150 feet of the north property line.
- The applicant has responded that a maximum building height of 25 feet is insufficient to accommodate their intended development and has requested an amendment to allow for 65 feet instead of 25 feet.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning Division are concurred in, Council’s instructions for the zoning agreement as per DASZ 33/13 will be amended.

CONSULTATION

In preparing this report there was consultation with:

N/A

SUBMITTED BY

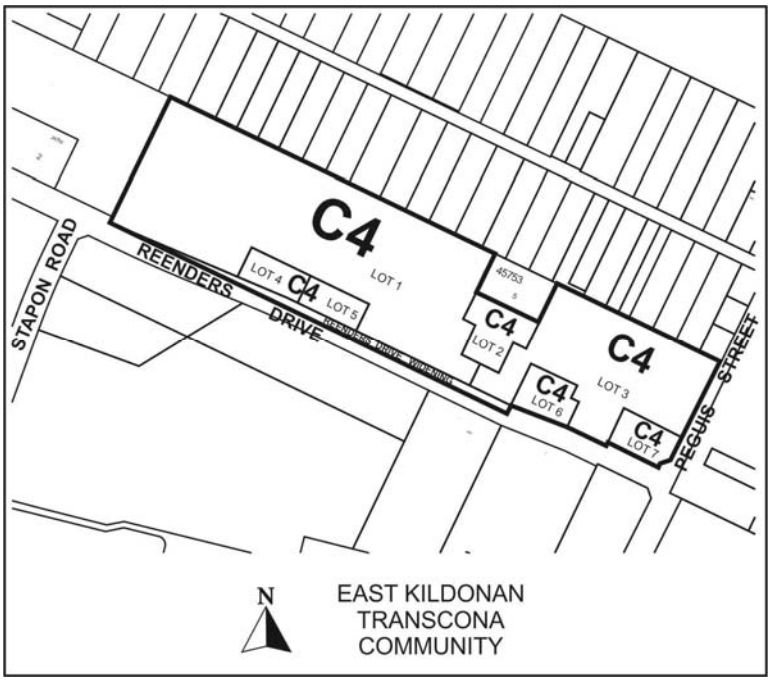
Department	Planning, Property and Development
Division	Urban Planning
Prepared by	Michael Pyl
Date:	July 8, 2014
File No.	ZAA 11/2014

APPENDIX 'A'

DATE: July 8, 2014
FILE: ZAA 11/2014
RELATED FILES: DASZ 33/13, DAZ 273/79, ZAA 6/89, ZAA 3/98, ZAA 24/04
COMMUNITY: East Kildonan-Transcona
NEIGHBOURHOOD #: 4.433

SUBJECT: To amend Council's instructions pertaining to the zoning agreement for DASZ 33/13 to allow for additional building height

LOCATION: Peguis St at Reenders Dr



APPLICANT: Justin Zarnowski
2514109 Manitoba Ltd.
200-1355 Taylor Av
Winnipeg MB R3M 3Y9

OWNER: 2514109 Manitoba Ltd.
200-1355 Taylor Av
Winnipeg MB R3M 3Y9

RECOMMENDATION: Approval

REPORT SUMMARY

- On December 11, 2013, Council approved a subdivision and rezoning application on the subject property to create seven lots zoned “C4” Commercial Regional district to enable the development of a retail shopping centre.
- As a condition of approval, maximum permitted building height was limited to 25 feet within 150 feet of the north property line.
- The applicant has responded that a maximum building height of 25 feet is insufficient to accommodate their intended development and has requested an amendment to allow for 65 feet instead of 25 feet.

SITE DESCRIPTION

- The subject property is located on the north side of Reenders Av between Stapon Rd and Peguis St in the Peguis neighbourhood of the Transcona ward.
- The entire site is 25 acres in area and is zoned “RR5” Rural Residential 5 district. It is currently vacant.
- Adjacent properties include Kildonan Place Mall to the south zoned “C4” Commercial Regional district, a self-storage facility to the west zoned “C3” Commercial Corridor district, single family dwellings to the north split-zoned “RR5” and “R1-L” Residential Single Family district, and vacant land to the east across Peguis zoned “RR5”. There is also a cemetery located at the rear of the site between two existing lots. It is also zoned “RR5”.



Figure 1: Site map of subject property and surrounding neighbourhood

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- On December 11, 2013, Council approved a subdivision and rezoning application on the subject property to create seven lots zoned “C4” Commercial Regional district to enable the development of a retail shopping centre.
- As a condition of approval, Council placed a restriction on the maximum permitted building height on the property through a condition in a zoning agreement, without which maximum permitted building height would be unencumbered in this zoning district. This condition reads:

“That the maximum permitted building height on proposed Lots 1 and 3 shall be limited to 25 feet, excluding architectural enhancements, where said buildings are located within 150 feet of the north property line.”

- The applicant has responded that 25 feet does not provide them with enough building height to accommodate their intended development.
- According to the applicant, the tallest use they intend on developing would be a grocery store with a mezzanine.
- The applicant has requested that the maximum building height be increased to 65 feet.

BACKGROUND

DASZ 33/13

- On December 11, 2013, Council approved a subdivision and rezoning application on the subject property to create seven lots zoned “C4” Commercial Regional district.

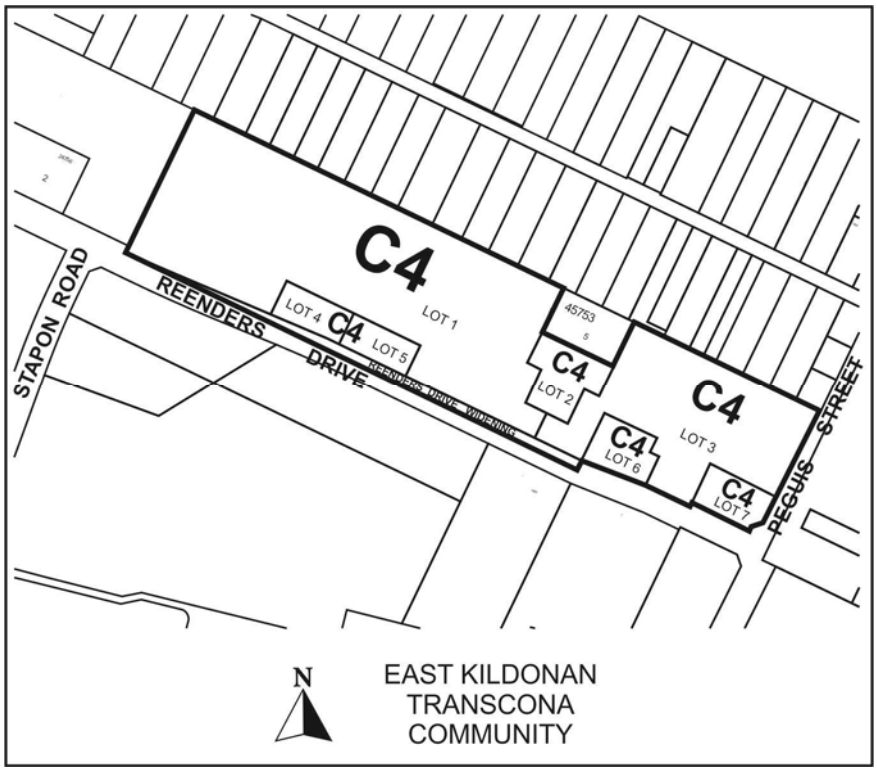


Figure 2: Advertisement schedule approved as per DASZ 33/13

- As a condition of approval, the applicant is required to enter into a zoning agreement with the City of Winnipeg requiring the following:
    - That for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, accessory parking areas, garbage enclosures, fencing, lighting, landscaping, bicycle parking, and signage to the Director of Planning, Property and Development and the East Kildonan-Transcona Community Committee for plan approval prior to the issuance

of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

- That the Developer and all successors in title to the lots in the subdivision shall enter into, and register and maintain in perpetuity by way of caveat or master or declaratory easement against the titles to the lots, private cross-access agreements with the owners of the other lots so as to ensure access to every lot at all times, via streets or internal roads, by vehicles, including but not limited to City emergency service vehicles and transit buses. The Developer and owners must submit the agreements or easements to the City Solicitor for approval prior to execution.
- That the Developer and all successors in title to the lots in the subdivision shall enter into, and register and maintain in perpetuity by way of caveat or master or declaratory easement against the titles to the lots, a private cross-access agreement with the owner of Lot 5, Plan 45753 so as to ensure access to this lot at all times via streets or internal roads by vehicles, including but not limited to City emergency service vehicles. The Developer and owners must submit the agreement or easement to the City Solicitor for approval prior to execution. Alternatively, the Developer shall submit evidence indicating the existence of an existing agreement to the City Solicitor for approval prior to execution, to the satisfaction of the City Solicitor.
- That the most northerly 20 feet of proposed Lots 1 and 3 adjacent to a non-commercial use shall be established and maintained for a minimum 1.5 foot berm and a minimum 8 foot fence for a total height of not less than 9.5 feet and no other use.
- That one private approach shall align with the intersection of Reenders Drive and the north-south private road bisecting the Kildonan Place property, to the satisfaction of the Director of Public Works.
- That the maximum building height on proposed Lots 1 and 3 shall be limited to 25 feet, excluding architectural enhancements, where said buildings are located within 150 feet of the north property line.
- That no illuminated signage be erected on the north sides of any buildings within 80 feet of the north property line.
- That there shall be no mobile signs on the entire site.

- In concurrence with this application, the applicant had also applied to vary (DAV 13-137683D) the proposed “C4” dimensional standards of Zoning By-law No. 200/06. This variance was approved by the East Kildonan-Transcona Community Committee on October 15, 2013, as follows:
  - For the establishment of zoning lots having no frontage on an improved street.
  - On Proposed Lot 1 to permit the following:
    - A rear yard of 40 feet (9.144 metres) instead of 125 feet (38.1 metres) to a residential zoning district;
    - An east side yard of 43 feet (13.11 metres) instead of 125 feet (38.1 metres) to a residential zoning district;
  - On Proposed Lot 2 having a rear yard of 23 feet (7.01 metres) instead of 25 feet (7.62 metres);
  - On proposed Lot 3 as follows:
    - A rear yard of 40 feet (12.2 metres) instead of 125 feet (38.1 metres) to a residential zoning district;
    - An east corner side yard of 76 feet (23.2 metres) instead of 125 feet (38.1 metres) to a residential zoning district;

    - A west side yard of 57 feet (17.4 metres) instead of 125 feet (38.1 metres) to a residential zoning district;
- On Proposed Lot 4 having no rear yard instead of 25 feet (7.62 metres);
- On Proposed Lot 5 having no rear yard instead of 25 feet (7.62 metres);
- On Proposed Lot 7 having an east corner side yard of 12 feet (3.66 metres) instead of 25 feet (7.62 metres).
- 70 bicycle parking stalls instead of 109 stalls.

DASZ 35/05

- On February 22, 2006, Council approved a subdivision and rezoning application that subdivided off 123 Reenders as a "C3"-zoned parcel from the subject property. This lot, 123 Reenders, was eventually developed as a self-storage facility.
- This application was approved subject to the applicant entering into a Zoning Agreement with the City requiring the following:
    - That for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the East Kildonan-Transcona Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.
    - That the maximum height of any building on the subject property shall be limited to thirty (30) feet.
    - That free standing signs shall be permitted on the land provided that the maximum height of any free standing sign shall be thirty-five (35) feet above grade.
    - That there shall be no advertising signs, mobile signs, poster signs and A-frame signs are strictly prohibited on land or upon any building or structure including fencing, except that one mobile sign shall be permitted on the site for a period of thirty (30) days in association with a new occupancy permit.
    - That no illuminated signage be erected on the north sides of any buildings within eighty (80) feet of the north property line.
    - That prior to the issuance of any permits all garbage containers be fully enclosed by a brick/concrete and/or wood barrier fence that is at least six (6) inches above the top of the garbage containers and thereafter maintained to the satisfaction of the Director of Planning, Property and Development.
    - That vehicular access to Lagimodière Blvd and Ravelston Avenue West shall not be permitted.
    - That the most northerly twenty-five (25) feet of the proposed lots that are adjacent to a non-commercial use shall be established and maintained for a minimum three (3) foot berm and a minimum eight (8) foot fence for a total height of not less than eleven (11) feet and no other use (with the exception of the Stapon Road terminus).
    - That fencing, consisting of brick pillars with vertical style wood boards at least eight (8) feet in height, shall be constructed along the north property line of any lot abutting a non-commercial use.

- That alternating deciduous and coniferous trees be planted in pairs on both sides of the berm and fence that is parallel to the north property line and identified as the most northerly twenty-five (25) feet of all the subject lots abutting a noncommercial use.
- That any HVAC equipment shall be located a minimum of eighty (80) feet from any abutting non-commercial district boundary.
- That no exterior public announcement and ordering systems and other similar sound systems shall be permitted on the subject lots.
- That a minimum ten (10) foot wide landscaped strip shall be developed and maintained along the south limit of the property fronting onto Reenders Drive and the western limit fronting on Lagimodière Boulevard.
- That all lighting shall, upon the request of the Director of Planning, Property and Development, be equipped with whatever additional shielding, lenses, or cut-off devices as required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptual to persons on any street or abutting lot or parcel. In addition, the Director may require that the light trespass and glare be limited to a reasonable level through fixture location, height and intensity.

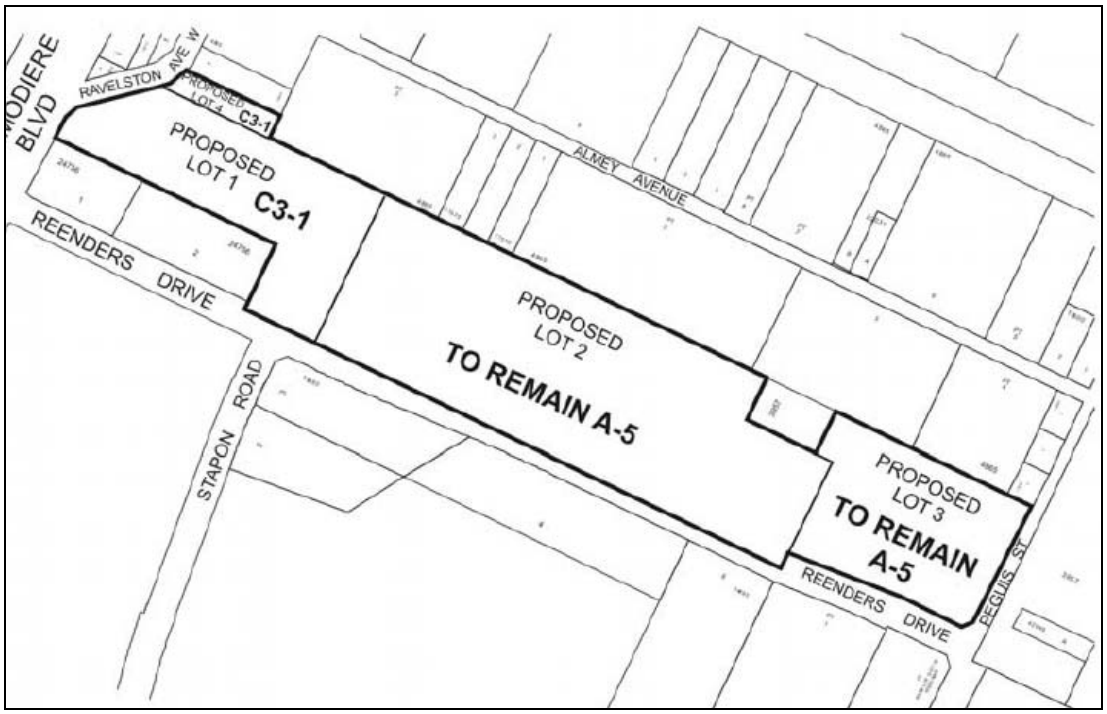


Figure 3: Advertisement schedule approved as per DASZ 35/05

DASZ 3/98

- In 1998, an application was considered to rezone 123 Reenders and the west portion of the subject property to accommodate a commercial development that would have included a Home Depot.
- This application would eventually be withdrawn due to neighbourhood opposition.

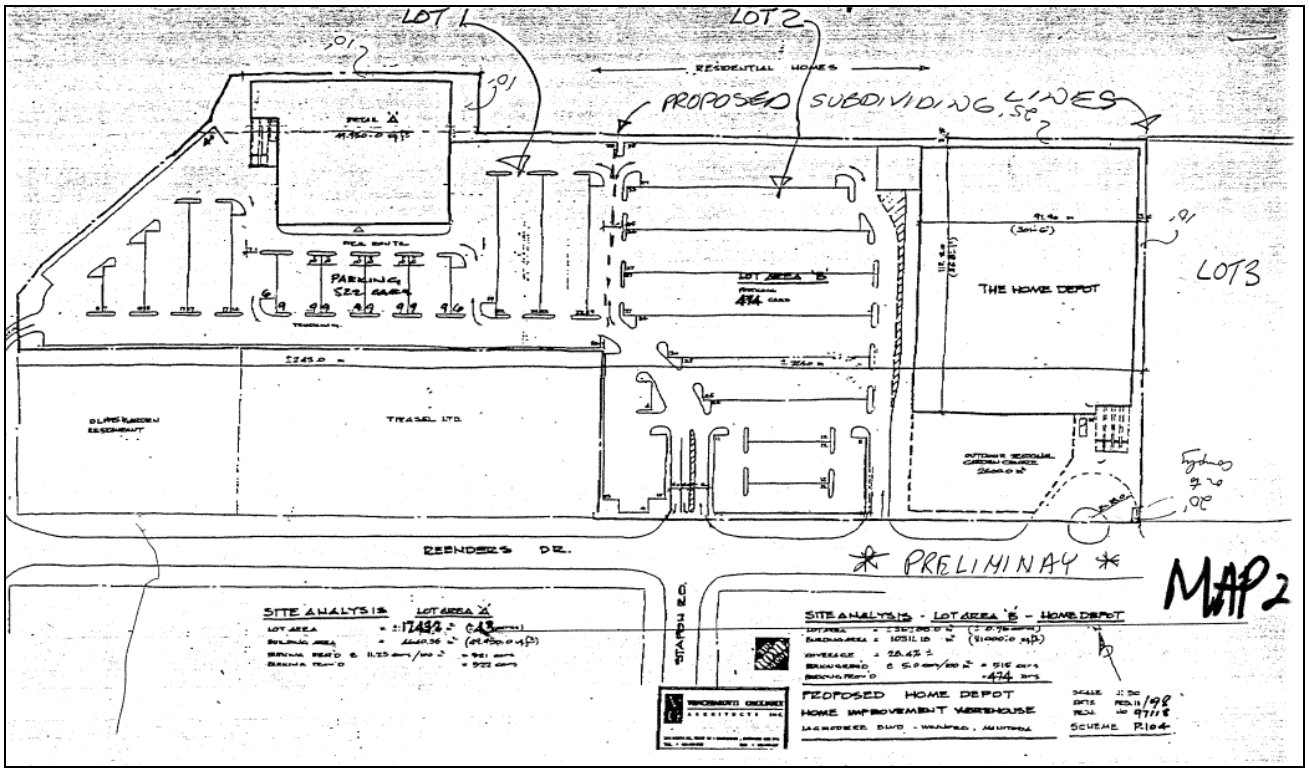


Figure 4: Proposed site plan as per DASZ 3/98

ANALYSIS AND ISSUES

OurWinnipeg and Complete Communities Direction Strategy

- The Complete Communities Direction Strategy is one of four direction strategies supporting OurWinnipeg and has statutory authority as a secondary plan. This strategy guides land use and development in Winnipeg. It received third reading at City Council on July 20, 2011, and became effective on August 17, 2011.
- The Regent and Lagimodiere area is designated as a “Regional Mixed Use Centre” in Complete Communities. Currently these type of areas contain predominantly single-use commercial development, and while these uses will continue to anchor many of these centres, the opportunity exists to introduce a mix of different uses over time. These centres have the potential to accommodate both the greatest number of people and the greatest density and mix of uses outside of Downtown. This makes it especially important that their development creates a high quality street environment and is attractive to residents and visitors alike. Supporting Direction and Enabling Strategies include:
    - Support high-frequency transit service by encouraging higher density residential and higher intensity commercial and mixed uses within the centre of the development. These will be focused on major transit stops.

- Create strong, multi-modal and transportation linkages from each Regional Mixed Use Centre to Downtown, other Centres, Corridors, Parks, and major attractions.

Transcona West Area Structure Plan

- The subject property is designated as "Proposed Commercial" in the Transcona West Area Structure Plan. The purpose of these areas is to permit and include a variety of retail, commercial, office, and institutional uses including regional commercial uses.
- Section 5.3.2(1) speaks to the composition of Commercial areas. It states that a significant use of land within Commercial Use Areas will be regional commercial, retail commercial, service commercial, and community scale commercial uses where:
    - Institutional, office, recreational, or public uses that complement and support the area may be allowed,
    - Industrial uses that are compatible with regional commercial and service commercial uses may also be allowed, and
    - Regional commercial uses that are permitted only in the area identified in Plan Winnipeg as Areas of Regional Commercial and Mixed Use Concentration.
- Regional commercial uses shall be serviced by public transit, and commercial areas shall contain convenient and well-defined pedestrian connections to public transit service.
- Subsections (3) and (4) of Section 5.3.2 speaks to the design of commercial areas. These areas should have a well-defined pedestrian-oriented component that emphasizes a highly visible and accessible location, internal pedestrian routes to buildings and amenities, and safe and accessible pedestrian connections to other uses on the site. It provides suggested criteria for commercial use area design concepts:
    - Minimize the intermixing of commercial traffic with local residential traffic on the internal roads within an adjacent residential area.
    - Contain a visually appealing site design and landscape treatment particularly when visible from roads with higher volumes of traffic.
    - Establish a thematic identity distinct to each regional commercial use, through building, site, and identification signage designs.
    - Suitably incorporate appropriate sound attenuation measures of landscaping and fencing to screen against any residential uses adjacent to the site.
    - Connect to local pedestrian trails, and be conveniently and directly accessible to alternate modes of transportations both within and adjacent to the site.
    - Ensure convenient and efficient transportation connections with the surrounding residential areas.
    - Contain parking areas that are designed to maximize direct access to adjacent uses while not visually overwhelming the landscape. Methods by which this can be implemented include, but are not limited to, the following:
        - Appropriate landscaping through earth berms, tree/shrub planting, and/or fencing, and
        - Parking areas between or behind buildings.
    - Locate identification signage that reduces the impact on the adjacent residential areas.

Zoning

- The Commercial Regional (C4) district is intended to accommodate the development of large-scale, distinctive and attractive regional centres containing a mix of concentrated land uses. These commercial uses are subject to frequent view by the public and visitors to Winnipeg, and they should provide an attractive appearance with landscaping, sufficient parking, and controlled traffic movement. The centre should provide commercial, office, institutional, and residential uses and structures at higher intensities than surrounding areas. The area may also contain concentrations of medium- to high-density office development, as well as a broad mix of complementary uses, which may include major civic and public facilities and parks. The district may contain multi-family housing, and development should facilitate and encourage pedestrian travel between residential and nonresidential uses. These areas are generally associated with the Areas of Regional Commercial and Mixed Use Concentration identified in Plan Winnipeg.

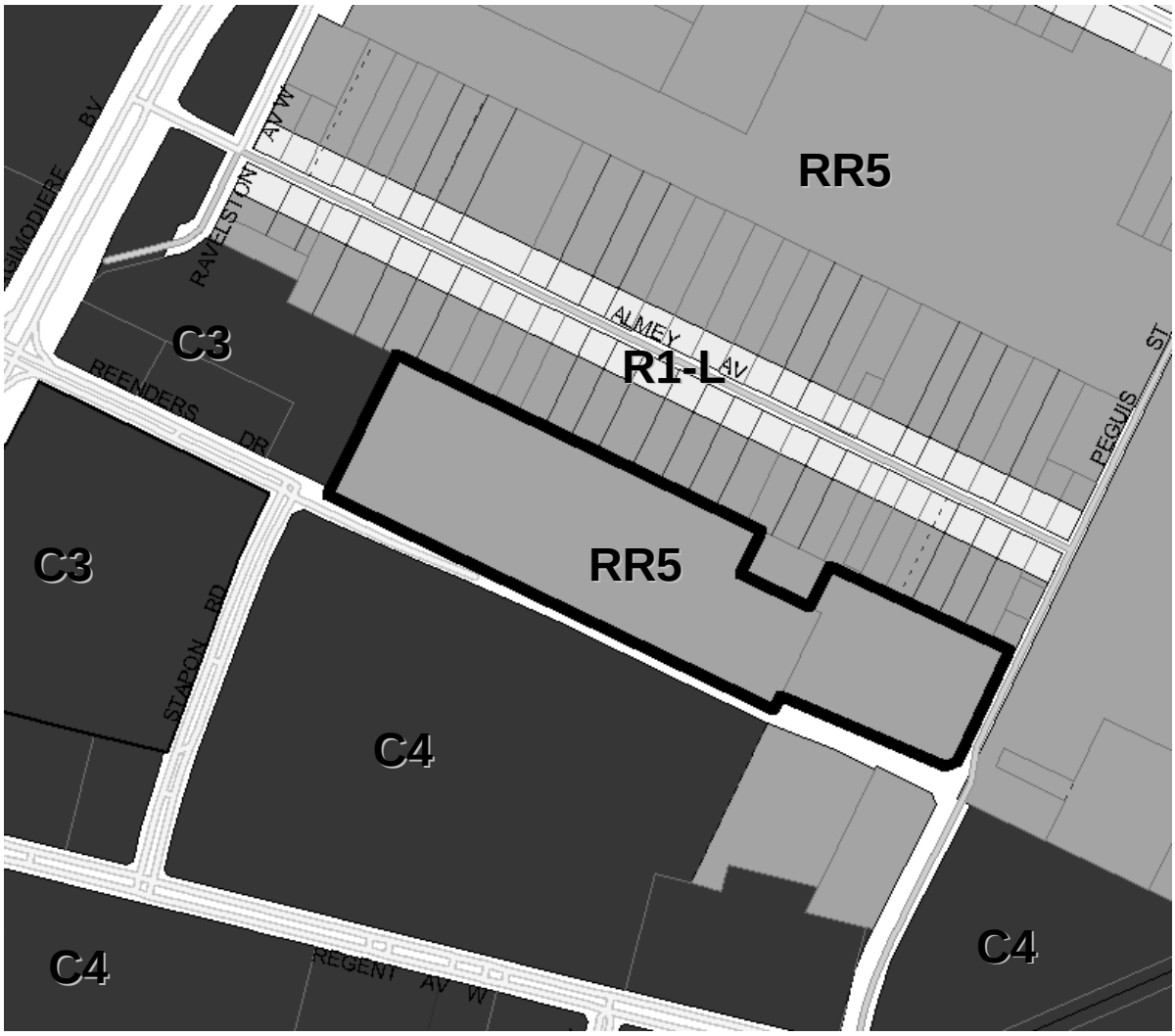


Figure 5: Zoning map of subject property and surrounding neighbourhood

- Section 62 of the zoning by-law prescribes all permitted and conditional uses in the "C4" zoning district.
    - Generally, this zoning district primarily allows for commercial uses. Multifamily residential dwellings are not permitted.
- Section 148 of the zoning by-law prescribes dimensional standards for the "C4" district.

	Min/Max Front Yard (ft.)	Min. Rear Yard (ft.)	Min. Interior Side Yard (ft.) **	Min. Corner Side Yard (ft.)	Max. Height of Building (ft.)	Max. Floor Area Ratio
C4	* / NA	50	*	*	NA	5.0

* - Principal buildings must be located 125 feet from the zoning district boundary of any residential zoning district, and 50 feet from any other zoning district boundary. Secondary "liner" or "pad site" buildings that are not the principal building on a site must comply with yards applicable to the C3 district. Fuel sales kiosks must be located at least 50 feet from each property boundary.

** - Where a side or rear lot line in a commercial or institutional zoning district abuts a side or rear lot line of an R1 or R2 zoning district, a yard of 10 feet must be provided along the side or rear lot line in the commercial or institutional zoning district. The 10 foot side yard must be landscaped pursuant to sections 188 through 193 and must not be used for parking or loading areas, storage of refuse or materials, or commercial activities of any kind.

Figure 6: Dimensional standards for the "C4" district

- Section 160 of the zoning by-law speaks to permitted projections above maximum height limits. It allows that:
    - Elevator penthouses, other non-habitable penthouses, water reservoirs, and other necessary mechanical appurtenances must not extend more than 20 feet above the supporting roof.
    - Gables, cupolas, skylights, spires, and other similar architectural features must not extend more than 10 feet above the roof.

Area rode improvements

- This development is being proposed within the context of larger, area-wide improvements to the road network. The cost of these improvements will be paid for in part through recent development applications (DASZ 11 of 2011, DASZs 10, 11, 12, 15, 33, and 39 of 2013, and ZAA 7 of 13).
- As per the approvals of the above-noted applications:
    - Peguis St from Regent Av to the CPR rail right-of-way and Ravelston Av W from Peguis to the future Ed Schreyer Parkway will be built as four-lane urban standard roadways. Devonshire Dr between Peguis and Ed Schreyer will be built as a two-lane urban standard roadway.
    - The existing Devonshire Dr will be extended across the future Edward Schreyer Parkway to connect with Peguis.
    - Ravelston Av will be built as a four-lane urban standard roadway renamed "Transcona Boulevard".

- Reenders Dr will be extended as a permanent, four-lane urban standard road to Peguis St.
- Once Reenders connects with Peguis, the Almey Av connection to Lagimodiere Blvd will be severed.
- The Edward Schreyer Parkway will eventually be constructed by the City. The City of Winnipeg Transportation Master Plan identifies its construction as a Long Term (by 2031) priority based on travel demand analysis.

Procedural issues

- While Council has approved DASZ 33/13, the zoning agreement required as a condition of approval has not been finalized and signed by both parties.
- As a result, this ZAA application will not technically amend a zoning agreement since it has not yet come into force and effect. Rather, the intent of this application is to amend Council's instructions for the zoning agreement.

Proposal analysis

- As part of their application, the applicant indicated that a height limit of 25 feet was not tall enough to accommodate their intended development.
- Subsequently, the applicant indicated that the tallest potential use that they envisioned on the site would be a grocery store with a mezzanine, indicating that they anticipate that this will be a common building typology in the grocery store industry in the coming years. They provided the Urban Planning Division with two such examples from other cities, albeit which were not dimensioned:


WHOLE FOODS



Figure 7: Examples of grocery stores with mezzanines provided by the applicant

- The applicant also cited the existing Superstore at Portage Av and School Rd in the St. Charles ward as another example of a grocery store with a mezzanine. City of Winnipeg mapping software measured the height of this building at approximately 25 ft., excluding rooftop mechanical equipment and architectural features.
- The Urban Planning Division feels a grocery store is a completely appropriate use on the subject property and would support either of the two examples provided in Figure 7 if they were submitted for approval. It is also supportive of building in some flexibility into the zoning agreement to avoid future minor amendments requesting, for example, a building height of 32 ft. instead of 30 ft. It agrees with the applicant in that the existing 25 ft. building height maximum is likely too restrictive.
- However, it is also sensitive to the reason a height restriction was applied in the first place – that is, the site's proximity to existing single family dwellings across the north property line. While it is supportive of administrative flexibility, it is felt that the applicant's request of 65 ft. provides far more than necessary, with potential deleterious effects on adjacent property owners.
- As a result, it recommends a maximum building height of 35 ft. Based on the examples provided by the applicant, this should be sufficient to accommodate the grocery stores with mezzanines they envision for the site while protecting against potentially negative adverse effects on the residents to the north. Further to this recommendation, the following should be noted:
    - The existing wording allows for exceptions to the 25 ft. maximum building height for "architectural enhancements". It is recommended that this exception be retained but expanded to allow for all permitted projections as permitted by the zoning by-law, which

allows for an additional 20 ft. for rooftop mechanical equipment and 10 ft. for architectural features.

- It is recommended that its application within 150 ft. of the north property line be retained. Taller buildings could still be permitted further south on the property either as part of this proposed development or future developments, but only where it is located away from residents and in closer proximity to the Regional Mixed Use Centre at Regent and Lagimodiere where taller buildings are encouraged as per Complete Communities.
- A maximum building height of 35 ft. is consistent with the maximum building height allowed in the residential zoning districts to the north. Since any of those dwellings could be rebuilt to such a height, it is only fair that this be allowed on the subject property.

RECOMMENDATION

In discussions with the Urban Planning Division, the applicant has indicated that the tallest building type that they envision for their future commercial development on the subject property would be a grocery store with a mezzanine, noting that they anticipate that this will be a common building typology in the grocery store industry in the coming years. They cited three such examples to inform this application's review, including an existing store in Winnipeg.

The Urban Planning Division is completely supportive of a grocery store use on the subject property and would be supportive of any of the three examples provided. It is also supportive of a certain level of built-in flexibility to avoid minor zoning agreement amendment applications in the future. However, it is felt that the applicant's request of 65 ft. provides far more flexibility than necessary, with potential deleterious effects on adjacent single family dwellings to the north.

As a result, a maximum building height of 35 ft. is recommended. Based on the examples provided by the applicant, this should be sufficient to accommodate the building form they envision while still protecting against potentially negative adverse effects affecting the residents to the north. However, it should be noted that this restriction would still allow for all permitted projections as allowed by the zoning by-law, including 20 ft. for rooftop mechanical equipment and 10 ft. for architectural features, it still recommends that this only be applied to the northernmost 150 ft. of the subject property, and that a maximum building height of 35 ft. is consistent with what is permitted in the residential zoning district to the north.

This Report Submitted by: Michael Pyl
Planning, Property and Development Department
Urban Planning Division
Report Prepared by: PPD File # ZAA 11/2014