Minutes – Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – April 10, 2015

PUBLIC HEARINGS

Item No. 4 **Appeal - Conditional Use - Southwest Corner of Broadway and Garry Street**
(Fort Rouge-East Fort Garry Ward Ward)
File DCU 141413A/2014B [c/r DAV 141416A/2014B]

COMMITTEE DECISION:

Due to a tie vote, in accordance with Rule 54 of The Procedure By-law No. 50/2007, the appeal is denied.

Accordingly, the January 13, 2015 decision of the Director of Planning, Property and Development to approve a Conditional Use to permit on "the land" the maintenance of a non-accessory off-street at grade parking use, subject to the following conditions:

1. That there shall be no third-party advertising signs on the site.

2. That the street edge shall include decorative metal fencing with brick pillars and landscaping to the satisfaction of Urban Design Review.

3. That this conditional use shall expire January 1, 2025,

remains in effect.

DECISION MAKING HISTORY:

The Winnipeg Public Service advised that all statutory requirements with respect to this appeal have been complied with.

Moved by Councillor Gerbasi,

That the report of the Winnipeg Public Service be taken as read.

Carried

Moved by Councillor Gerbasi,

That the receipt of public representations be concluded.

Carried

Moved by Councillor Gerbasi,

That in accordance with Section 254 and Subsection 247(3) of The City of Winnipeg Charter, the Conditional Use,

(a) [√] is consistent [ ] is not consistent
with Plan Winnipeg, and any applicable secondary plan;

(b) [√] does not create [ ] does create
a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway; and

(d) [√] is [ ] is not
compatible with the area in which the property to be affected is situated.

Supporting Comments:

1. The order is allowing the maintenance of the non-accessory off-street at grade parking use with minimumal conditons.

Carried

DECISION MAKING HISTORY (continued):

Moved by Councillor Gerbasi,

That the appeal be denied and the decision of the Director of Planning, Property and Development be concurred in.

The motion was put and in view of a tie vote, was declared lost in accordance with Rule 54 of The Procedure By-law No. 50/2007.

Moved by Councillor Browaty,

That the appeal be allowed in part and the decision of the Director of Planning, Property and Development be concurred in with the following amendment:

- Delete Condition 1 in its entirety,

and Conditional Use Order DCU 141413/2014B be cancelled.

The motion was put and in view of a tie vote, was declared lost in accordance with Rule 54 of The Procedure By-law No. 50/2007.

Moved by Councillor Browaty,

That the public hearing with respect to this appeal be concluded.

Carried

Winnipeg

THE CITY OF WINNIPEG
CONDITIONAL USE APPEAL ORDER
STANDING POLICY COMMITTEE ON DOWNTOWN DEVELOPMENT, HERITAGE AND RIVERBANK MANAGEMENT

DCU 141413A/2014B [c/r DAV 141416A/2014B]

Before:	Standing Policy Committee on Downtown Development, Heritage and Riverbank Management Councillor Mayes, Chairperson Councillor Browaty Councillor Gerbasi Councillor Orlikow
Hearing:	April 10, 2015 Council Building 510 Main Street
Applicant:	Dorchester Developments Ltd. (Arch Honigman)
Premises Affected:	Southwest Corner of Broadway and Garry Street
Legal Description:	LOT 44 PLAN 23855 1 ST J, hereinafter called "the land"
Property Zoned:	Multiple Use Sector
Nature of Application:	For a Conditional Use under the Downtown Winnipeg Zoning By-law No. 100/2004 to permit the maintenance of a non-accessory off-street at grade parking use.

ORDER MADE BY THE DIRECTOR OF PLANNING, PROPERTY AND DEVELOPMENT:

The Director of Planning, Property and Development approved a Conditional Use, File DCU 141413/2014B, to Dorchester Developments Ltd. (Arch Honigman), for premises located at Southwest Corner of Broadway and Garry Street, to permit on "the land" for the maintenance of a non-accessory off-street at grade parking use, subject to the following conditions:

1. That there shall be no third-party advertising signs on the site.

2. That the street edge shall include decorative metal fencing with brick pillars and landscaping to the satisfaction of Urban Design Review.

3. That this conditional use shall expire January 1, 2025.

Pursuant to the provisions of The City of Winnipeg Charter, Dorchester Developments Ltd. (Arch Honigman), appealed Conditions 1, 2 and 3 of the Conditional Use Order DCU 141413/2014B and after Notice, the appeal was heard on April 10, 2015.

After considering the evidence adduced and submissions made, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management voted on the question of whether the appeal of Conditions 1, 2 and 3 of the Conditional Use Order meets the statutory criteria as outlined in Section 254 and Subsection 247(3) of The City of Winnipeg Charter (listed below):

(a) is consistent with Plan Winnipeg, and any applicable secondary plan;

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway; and

(d) is compatible with the area in which the property to be affected is situated.

The result was a tie vote. Section 54 of The Procedure By-law No. 50/2007 provides that a question on which there is a tie vote is deemed to be lost. Since the resulting deemed decision was that the criteria on the appeal have not been met, the appeal of the Director of Planning, Property and Development's decision to approve the Conditional Use was denied.

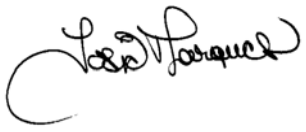
ORDER:

Due to a tie vote, in accordance with Rule 54 of The Procedure By-law No. 50/2007, the appeal was denied.

Accordingly, Conditional Use Order DCU DCU 141413/2014B dated January 13, 2015, remains in effect.

DATE OF ORDER: April 15, 2015

CERTIFIED BY:



Josie Marques
Senior Committee Clerk

THE FOLLOWING PERSONS MADE REPRESENTATIONS:

In Support of the Appeal:

Arch Honigman
Jeff Rabb

In Opposition to the Appeal:

Nil

For Information on the Appeal:

Nil

For the City:

Mr. M. Pittet, Acting Director of Planning, Property and Development
Mr. J. Veitch, Principal Planner, Planning, Property and Development Department
Mr. K. Kowalke, Senior Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DCU 141413A/2014B

1. Order DCU 141413/2014B dated January 13, 2015
2. Notice of Appeal filed by Arch Honigman, Dorchester Developments Ltd., received January 27, 2015
3. Notification of Public Hearing dated March 24, 2015
4. Manitoba Status of Title No. 2431303/1
5. Letter of Authorization dated July 15, 2014, from Arch Honigman, 5968055 Manitoba Ltd. to Winpark Dorchester Developments
6. Surveyor's Building Location Certificate and sketch dated April 1, 2010
7. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
8. Plan, Sheet 1 inclusive, for File DCU 141413/2014B dated July15, 2014
9. Report from the Urban Planning Division dated March 19, 2015
10. Inspection Report
11. Presentation., in support of the appeal, submitted by Arch Honigman, Dorchester Developments Ltd. at the Appeal Hearing
12. Communication dated January 26, 2015, in support of the Appeal, submitted by Jeff Rabb, Dorchester Developments Ltd., at the Appeal Hearing

Exhibit " 9 " referred to in File DCU 141413A/2014B

ADMINISTRATIVE REPORT

Title: DCU 14-141413/B – Broadway & Garry Street Public Hearing

Critical Path: Standing Policy Committee on Downtown Development, Heritage and Riverbank Management

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Smith	M. Pittet	N/A	M. Jack A/CAO

RECOMMENDATIONS

That the appeal be denied and the decision of the Director of Planning, Property and Development Department dated January 13, 2015, be upheld.

REASON FOR THE REPORT

- The parking lot was first developed as accessory parking for the adjacent apartment and was part of the same property. Zoning Enforcement recently discovered that the parcel had since been severed off as its own property, and turned into a non-accessory commercial parking facility. This change requires conditional use approval.
- The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management is the delegated hearing body for appeals of the Public Service's decisions on conditional use applications in Downtown Winnipeg.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Public Service are concurred in, the proponents will need to comply with the conditions of approval, including removal of the advertising signs and provision of fencing in accordance with zoning by-law standards. The applicant will also need to re-apply for approval prior to January 1, 2025 should he wish to maintain the site as a parking lot beyond that time.

HISTORY

- As a result of zoning enforcement, the owner was required to make an application for the maintenance of an illegal parking facility.
- January 13, 2015, the Director of Planning, Property and Development approved the application subject to three conditions:
    1. That there shall be no third-party advertising signs on the site.
    2. That the street edge shall include decorative metal fencing with brick pillars and landscaping to the satisfaction of Urban Design Review.
    3. That this conditional use shall expire January 1, 2025.
- January 26, 2015, the applicant filed an appeal against all three conditions.

DISCUSSION

File:	DCU 14-141413/B
Related Files:	DAV 14-141416/B
Community:	City Centre
Neighbourhood #:	1.165
Subject:	For a Conditional Use under Downtown Zoning By-Law No. 100/2004 to permit the maintenance of a non-accessory off-street at grade parking use.
Applicant:	Arch Honigman Dorchester Developments Ltd. 585 RIVER AVE WINNIPEG MB R3L 2S9
Owners:	3478557 Manitoba Ltd. 585 RIVER AVE WINNIPEG MB R3L 2S9;

Criteria for Approval
Pursuant to Section 247(3) of the City of Winnipeg Charter, a Conditional Use application can be approved if the proposed development:

(a) is consistent with Plan Winnipeg and any applicable secondary plan;
(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway; and
(d) is compatible with the area in which the property to be affected is situated.

Site Description:

- The subject property is gravel non-accessory parking lot occupying approximately 7800 square feet at the southwest corner of Garry Street and Broadway in the Fort Rouge – East Fort Garry Ward.



Figure 1: Air photo of the subject property and surrounding area (2014)

Project Description:
The applicant proposes to maintain the existing parking lot for 25 years with only minimal improvements (a new wood fence).

Analysis and Issues:

Downtown Parking Strategy

The Downtown Parking Strategy, endorsed by City Council on December 14, 2011, seeks to repurpose surface parking lots in our Downtown wherever possible for higher and better use.

- *Encourage the redevelopment of surface lots for residential, commercial or employment uses.*

Where it is impractical to repurpose a surface parking lot for development, the Downtown Parking Strategy directs the Winnipeg Public Service to uphold a higher design standard for surface parking lots as per the following policy direction:

- *Pursue parking lot design standards, as part of a citywide urban design strategy, aimed at improving safety and security, neighbourhood compatibility, contextual sensitivity, and*

environmental sustainability. New zoning standards for landscaping, screening, fencing, lighting, signage, etc. could be established that existing lots must meet within a set timeframe.

Downtown Winnipeg Zoning By-Law

On May 27, 2014, Council adopted changes to the *Downtown Winnipeg Zoning By-Law* to ensure better alignment with the Complete Communities Direction Strategy and the Downtown Parking Strategy. Those changes included:

- Where surface or structured parking is being constructed, or where an existing parking facility is being revamped, 4% of parking stalls meet universal accessibility standards and be signed accordingly. A minimum of one accessible parking space would be required for any parking area with over two spaces.
- Screening of parking facilities must be provided where parking spaces are adjacent to public road frontages (excluding lanes). Screening must be comprised of a minimum 2.5 foot high building wall, fence of brick or decorative metal construction, or a combination of fencing and landscaping.
- Surface parking areas adjacent to a public street must contain a minimum of one deciduous tree for each 20 feet of linear street frontage.
- Site lighting shall be designed and installed to maintain adequate lighting on site and provide security for people and property through the use of fixtures that are durable and energy efficient, while preventing glare beyond the property line.

Third-Party Advertising Signs

Billboard advertising signs are prohibited in the Downtown, and that restriction has been maintained through recent by-law updates in order to ensure compatibility with an increasing downtown residential population base, and to minimize visual clutter that detracts from the architectural character of the area.

While the Planning, Property and Development Department was reluctant to grant approval for this Downtown surface parking lot, two factors drove the decision.

1. The small size of the site poses challenges to accommodating higher-density mixed use development. There are several larger parking lots along Broadway that would be more suitable candidates for redevelopment. If this conditional use were not approved, there is a concern that the site would sit vacant.
2. Approving the conditional use provides an opportunity to require several site enhancements including removal of the non-conforming billboard. If the condition use were rejected, the billboard could remain in perpetuity.

Broadway is an extremely important route in Winnipeg, frequented by visitors to our city. Its character is defined by mature elms and historic architecture. A brightly lit billboard viewed from the windows of the Fort Garry Hotel does not cast our Downtown in the best light.

Fencing and Landscaping

While it is acknowledged that there was communication with the applicant early on about the possibility of wood fencing instead of brick/metal fencing, there was a significant delay in receiving a complete application package from the applicant. Since that time, the zoning by-law

has been revamped. The Planning, Property and Development Department must exercise caution with applications that may not be in line with Council's position.

Expiry Date

It is recommended that this conditional use expire after ten years to provide an opportunity to reassess this use in this location. Should Broadway undergo public or private reinvestment within that time, it may be appropriate and economically viable to seek other development options. The property would also be re-evaluated against whatever design standards may be in place at that time.

Reasons for Recommendations:

- The conditions of approval are necessary to ensure compatibility with the neighbourhood.
- A ten year expiry period provides the City with opportunity to re-assess the appropriateness of the parking lot within a reasonable timeframe, on par with similar applications elsewhere.

FINANCIAL IMPACT

Financial Impact Statement Date: March 16, 2015

Project Name:

DCU 14-141413/B – Broadway & Garry Street Public Hearing

COMMENTS:

There are no financial implications to the City of Winnipeg associated with this report.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this report there was consultation with:

- N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Kurtis Kowalke
Date:	March 19, 2015
File No.	DCU 14-141413/B

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Exhibit " 8 " referred to in File DCU 141413A/2014B

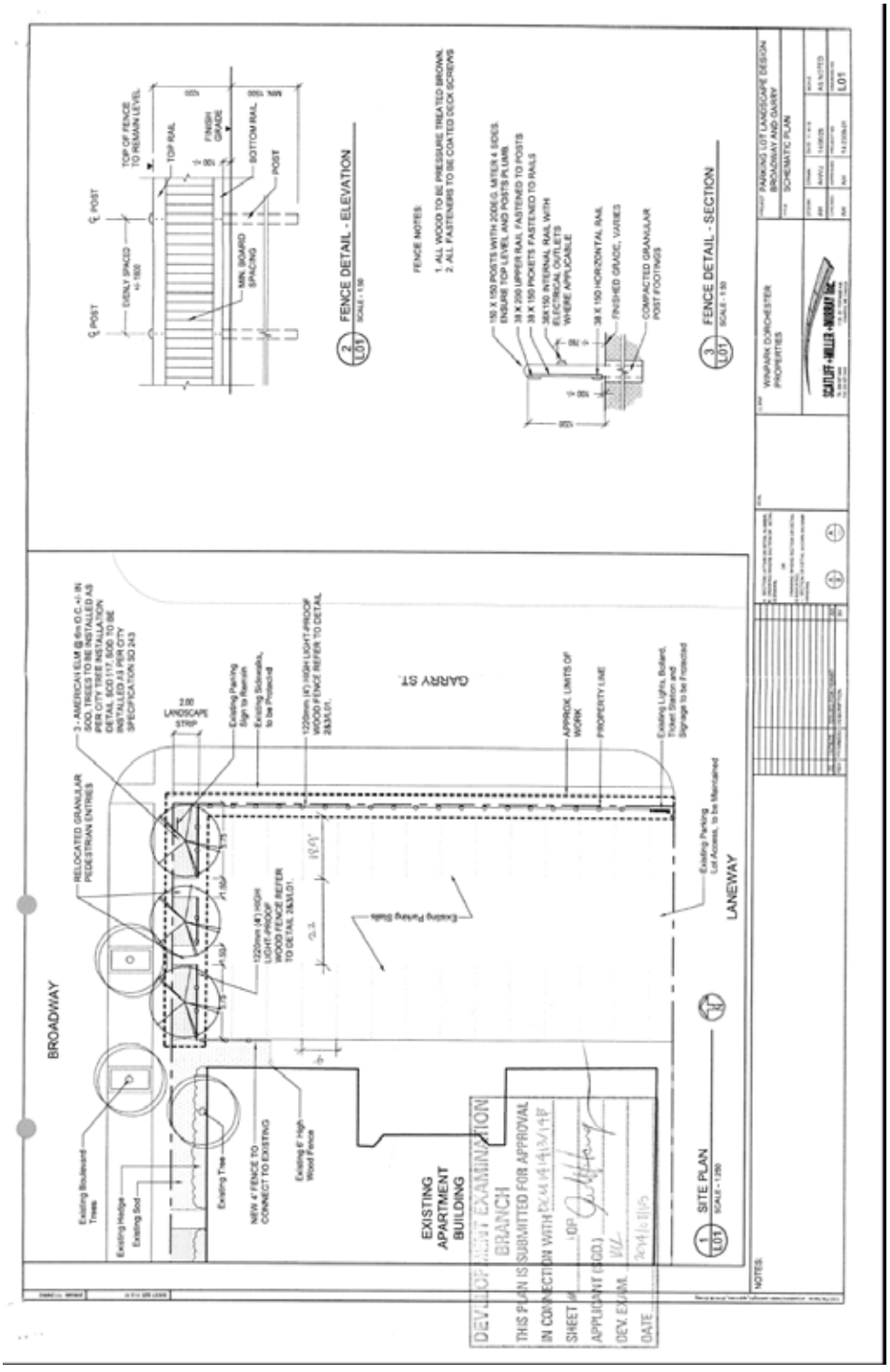

Exhibit " 2 " referred to in File DCU 141413A/2014B

WINPARK DORCHESTER
PROPERTIES
REAL ESTATE, MANAGEMENT, CONSULTING

January 26, 2015

City Clerk City of Winnipeg
C/o Standing Policy Committee on Downtown Development
Heritage and River Bank Management
510 Main Street
Winnipeg MB. R3B 1B9
Fax Number 204-947-3452
Email clk-appeals@winnipeg.ca

Re: Appeal of Conditional Use Order DCU14-141413/B

Please accept this letter as an official appeal to the above order. We object to the following points:

1. That there shall be no third party advertising on the site. The reasons that we object is that the outdoor bill board has been on the property since 1965,and is not inconsistent with any other Downtown signage and we currently have a lease with CBS. The conditional use application is about the parking lot, **not** signage. It is an economic must for that sign to continue in order to support the debt of the apartment block and parking lot, this sign rights have significant fair market value. Also the sign gives off a lot of lighting for the parking area, and is a safety feature. There are a number of bill board signs in the area and this sign has not created any issues or problems since we have owned the property. The signage should not be considered inconsistent planning use based on the number of signs in the Downtown area.
2. That the street edge shall include decorative metal fencing with brick pillars and landscaping to the satisfaction of the Urban Design Review. In talking to the City of Winnipeg Urban Designer Lee Caldwell, she met with me on site, (please see attached). She would support a wood fence per the spec provided by Ana Hodych from the landscaping firm Scatliff and Miller. Just for your information there is newly created parking lots on the southeast corner of Garry and Broadway as well the Southeast corner of Broadway and Main that have wood fences recently installed.
3. That this conditional use shall expire January 1, 2025. We are proposing that this conditional use shall expire January 1, 2040. This is necessary to conform with our lenders finance requirements. Elimination of this sign would show undue bias.

Should you have any questions or concerns please contact me either by email
or call my direct line or my cell

In talking to Kurtis Kowalke, it was agreed that the appeal meeting be held the first week of April in 2015 in that I will be travelling the first week of March and will be unavailable.

Thank you for your help.

Arch Honigman Encl.

Exhibit " 1 " referred to in File DCU 141413A/2014B

Winnipeg

Planning, Property and Development Department
Service de l'urbanisme, des biens et de l'aménagement
Unit 31 – 30 Fort Street • 30, rue Fort, unité 31 • Winnipeg • Manitoba R3C 4X7

CONDITIONAL USE ORDER

DCU 14-141413/B

APPLICANT: Arch Honigman Dorchester Developments Ltd.

PREMISES AFFECTED: Southwest Corner of Broadway and Garry Street
LEGAL DESCRIPTION: 44 23855 1 ST J
hereinafter called "the land".
PROPERTY ZONED: Multiple Use Sector
ZONING ATLAS SHEET: AA25
NATURE OF APPLICATION:

For a Conditional Use under Downtown Zoning By-Law No. 100/2004 to permit the maintenance of a non-accessory off-street at grade parking use.

It is the opinion of the Director of Planning, Property and Development Department that subject to conditions listed below, if any, this order meets the statutory criteria of the City of Winnipeg Charter in that it:

(a) is consistent with Plan Winnipeg and any applicable secondary plan;
(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway; and
(d) is compatible with the area in which the property to be affected is situated.

C.W. Charter Section 254 and Subsection 247(3)

ORDER:
RE: Southwest Corner of Broadway and Garry Street

The Director of Planning, Property and Development Department hereby orders that the maintenance of a non-accessory off-street at grade parking use is **APPROVED** on "the land", subject to the following condition(s) which the Director of Planning, Property and Development Department considers necessary to ensure compliance with criteria (a) to (d) above, namely:

1. That there shall be no third-party advertising signs on the site.
2. That the street edge shall include decorative metal fencing with brick pillars and landscaping to the satisfaction of Urban Design Review.
3. That this conditional use shall expire January 1, 2025.

DATE OF ORDER: January 13, 2015

CERTIFIED BY:

_____
for the Director Planning, Property and Development Department

HOW TO APPEAL

You must appeal against either the whole of this order or part(s) of it by filing a letter of appeal. This appeal will be heard by the Appeals Committee. That letter must:

(a) be addressed as set out below,

(b) be received at that office not later than 4:30 p.m. on January 27, 2015, [IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(c) refer to Conditional Use Order DCU 14-141413/B, give brief reasons and describe whether you appeal the whole order or only part(s) of it.

You can attend the appeal hearing and speak on issues raised in someone else's appeal; but the Appeals Committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address: City Clerk, City of Winnipeg
c/o Standing Policy Committee on Downtown Development,
Heritage and Riverbank Management
510 Main Street
Winnipeg, MB, R3B 1B9
Fax 947-3452
Email: clk-appeals@winnipeg.ca