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

PUBLIC HEARINGS

Item No. 5 **Appeal - Variance – Southwest Corner of Broadway and Garry Street (Fort Rouge-East Fort Garry Ward)**
File DAV 141416A/2014B [c/r DCU 141413A/2014B]

COMMITTEE DECISION:

The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management denied the appeal, concurred in the decision of the Director of Planning, Property and Development to approved a Variance on "the land" for the maintenance of a non-accessory off-street at grade parking use having 1 accessible parking space, gravel surfacing, no drainage system and no landscaping adjacent to a public road (Garry Street), subject to the following conditions:

1. That the pedestrian entries connecting to Broadway shall be paved with concrete, asphalt or unit pavers.

2. That trees along the western edge of the property shall be maintained to the satisfaction of Urban Design Review.

3. That this variance shall expire January 1, 2025.

Further, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management confirmed Variance Order DAV 141416/2014B.

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

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 Subsection 247(3) of The City of Winnipeg Charter, the Variance,

(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;

(c) [√] is [ ] is not
the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

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

Supporting Comments:

1. The Variance Order is allowing the maintenance of a non-accessory off-street at grade parking use, with minimal conditions.

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 and Variance Order DAV 141416/2014B be confirmed.

Carried

Moved by Councillor Gerbasi,

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

Carried

Winnipeg

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

DAV 141416A/2014B [c/r DCU 141413A/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:	To vary the Multiple Use Sector regulations of the Downtown Winnipeg Zoning By-law No. 100/2004 for the maintenance of a non-accessory off-street at grade parking use to permit the following: 1. no accessible or van accessible parking spaces instead of 3 accessible spaces, of which 1 space must be van accessible; 2. gravel surfacing instead of asphalt, concrete, concrete pavers or combination thereof;

3. no drainage system;
4. screening of parking facility with a wooden fence, said material not permitted;
5. no landscaping adjacent to a public road (Garry Street);
6. no site lightning.

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

The Director of Planning Property and Development approved a Variance, File DAV 141416/2014B, to Dorchester Developments Ltd. (Arch Honigman), for premises located at Southwest Corner of Broadway and Garry Street, for:

1. no accessible or van accessible parking spaces instead of 3 accessible spaces, of which 1 space must be van accessible;

2. gravel surfacing instead of asphalt, concrete, concrete pavers or combination thereof;

3. no drainage system;

5. no landscaping adjacent to a public road (Garry Street);

subject to the following conditions:

1. That the pedestrian entries connecting to Broadway shall be paved with concrete, asphalt or unit pavers.

2. That trees along the western edge of the property shall be maintained to the satisfaction of Urban Design Review.

3. That this variance shall expire January 1, 2025.

The Director of Planning Property and Development rejected a Variance, File DAV 141416/2014B, to Dorchester Developments Ltd. (Arch Honigman), for premises located at Southwest Corner of Broadway and Garry Street, for:

4. screening of parking facility with a wooden fence, said material not permitted;

6. no site lightning.

Pursuant to the provisions of The City of Winnipeg Charter, Dorchester Developments Ltd. (Arch Honigman), appealed Condition 3 and Parts 4 and 6 of the Variance Order DAV 141416/2014B and after Notice, the appeal was heard on April 10, 2015.

Upon consideration of the evidence adduced and submissions made, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management is of the opinion that, subject to the conditions imposed, if any, this Appeal Order does not meet the statutory criteria as outlined in Subsection 247(3) of The City of Winnipeg Charter, in that it:

(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;

(c) [ ] is [√] is not
the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

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

Supporting Comments:

1. The Variance Order is allowing the maintenance of a non-accessory off-street at grade parking use, with minimal conditions.

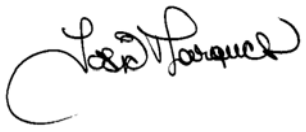
ORDER:

The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management orders that the appeal is dismissed and that Variance Order DAV 141416/2014B dated January 13, 2015, is confirmed.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

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 DAV 141416A/2014B

1. Order DAV 141416/2014B 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 DAV 141416/2014B dated July 15, 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 DAV 141416A/2014B

ADMINISTRATIVE REPORT

Title: DAV 14-141416/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. As a result, the parking lot is now subject to current design and development standards under the Downtown Winnipeg Zoning By-law.
- 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 uses and variance 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 Downtown Winnipeg Zoning By-law with regards to fencing and lighting. The applicant will also need to re-apply for approval prior to January 1, 2025 should he wish to maintain the site as a gravel 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 in part only to allow -
    - gravel surfacing instead of asphalt, concrete, concrete pavers or combination thereof;
    - no drainage system; and
    - no landscaping adjacent to a public road (Garry Street).

  subject to three conditions:

    1. That the pedestrian entries connecting to Broadway shall be paved with concrete, asphalt or unit pavers.
    2. That trees along the western edge of the property shall be maintained to the satisfaction of Urban Design Review.
    3. That this variance shall expire January 1, 2025.
- The Director of Planning, Property and Development rejected -
    - no accessible or van accessible parking spaces;
    - screening of parking facility with a wooden fence, said material not permitted; and
    - no site lighting.
- January 26, 2015, the applicant filed an appeal against the rejection of the wood fence and the lack of site lighting. The applicant also appealed the ten-year expiry.

DISCUSSION

File: DAV 14-141416/B
Related Files: DCU 14-141413/B

Community: City Centre
Neighbourhood #: 1.165

Subject:
To vary the Multiple Use Sector regulations of Downtown Zoning By-Law No. 100/2004 for the maintenance of a non-accessory off-street at grade parking use to permit the following:
1) no accessible or van accessible parking spaces instead of 3 accessible spaces, of which 1 space must be van accessible;
2) gravel surfacing instead of asphalt, concrete, concrete pavers or combination thereof;
3) no drainage system;
4) screening of parking facility with a wooden fence, said material not permitted;
5) no landscaping adjacent to a public road (Garry Street);
6) no site lighting.

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 Variance 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;
(c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; 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.

Surfacing and Drainage

The site includes a row of mature Manitoba maples and one American elm along the western edge of the property. Forestry Branch has looked at this site and determined that the trees are in fair condition and would be considered an asset to the Downtown. In order to minimize root damage, the Winnipeg Public Service recommended against paving this site. Per condition number 1, the two pedestrian walkways that connect to Broadway (each approximately 2 metres long by 1.5 metres wide) must be paved. It is expected that, with the installation of appropriate fencing, the appearance of the gravel surfacing across the rest of the site will be minimized. With gravel surfacing, the installation of an internal storm drainage system is not practical.

Fencing, Landscaping and Lighting

The zoning by-law does not support wood fencing Downtown, because it is not compatible with the character of the area, it is not long-lasting, requires additional maintenance and is susceptible to vandalism. 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.

Lighting is an essential safety feature and must be incorporated. Support for an exemption to the landscaping requirement along Garry Street was predicated on preserving the trees on the west side of the site. The entire parking area will be shifted away from the existing trees for their protection and moved closer to the east property line, eliminating any space for landscaping on the east side.

Expiry Date

It is recommended that this variance 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:

DAV 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.	DAV 14-141416/B

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Exhibit " 8 " referred to in File DAV 141416A/2014B

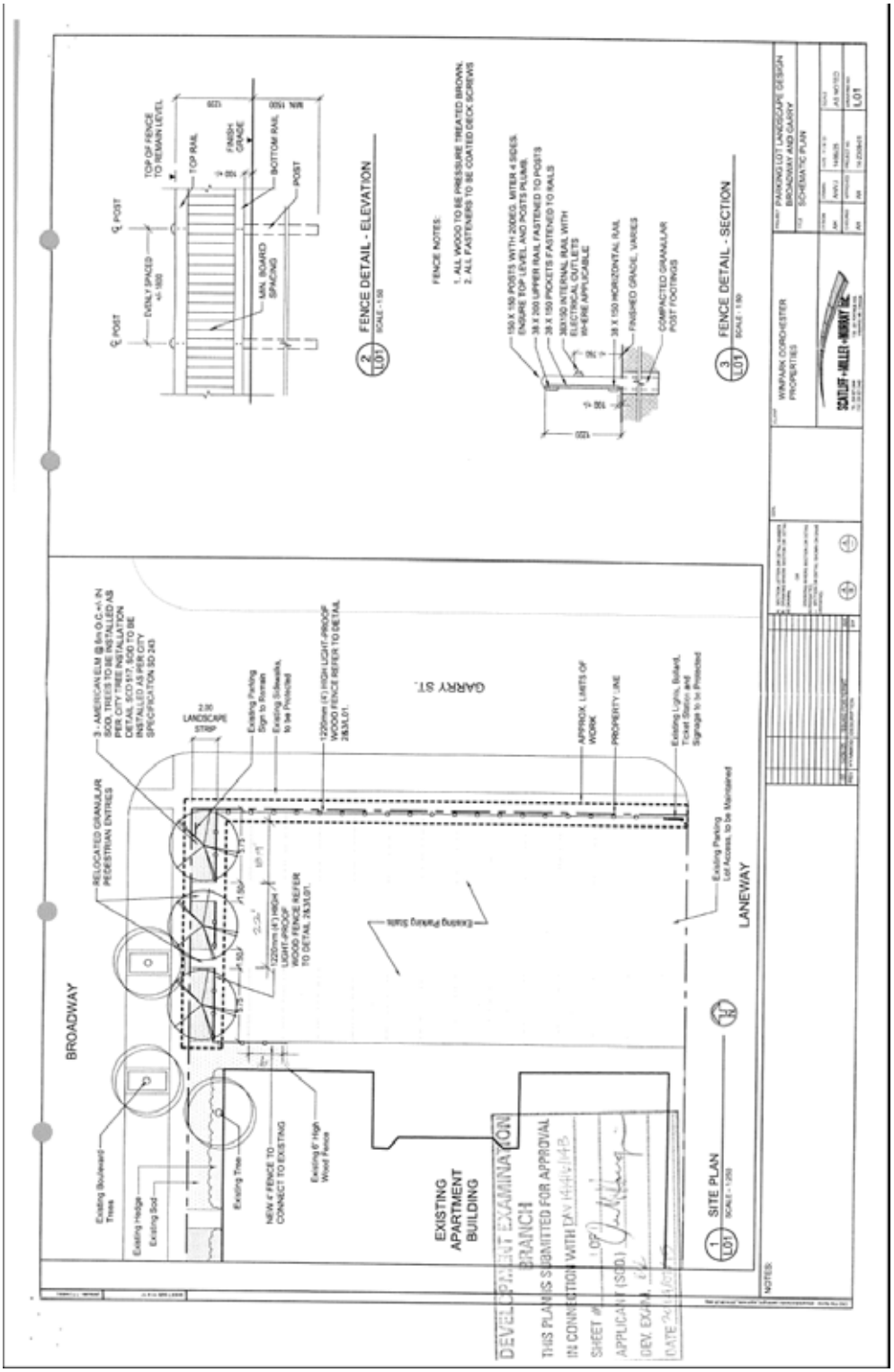

Exhibit " 2 " referred to in File DAV 141416A/2014B

WINPARK DORCHESTER
PROPERTIES
REAL ESTATE. MANAGEMENT. CONSULTING

January 26, 2015

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

Re; Variance Order DAV 14-141416/B Southwest Corner of Broadway and Garry Street

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

1 Your item number 4 screening of parking facility with a wooden fence, said material not permitted. In talking to the City of Winnipeg Urban Design Planner Lee Caldwell, she met with me on site (please see attached). She would support a wood fence as per the specs 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 Southwest corner of Broadway and Main that have wood fences recently installed.

2. Your item number 6 re site lighting. Lighting in this parking lot is not needed due to the fact that the bill board gives off ample lighting for the parking lot to facilitate an element of safety lighting. .There is also sufficient street lighting that overlaps the parking lot. We have had no complaints since we have owned the parking lot regarding the parking lot lighting.

3. Your item number 3 (bottom of the page variance order). That this variance shall expire January 1, 2025. We are proposing that this conditional use shall expire January 1, 2040.

Should you have any questions or concerns please contact me either by email
or 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 2015 in that I will be traveling the first week of March and will be unavailable.

Thank you for your help.

Arch Honigman

Encl

Exhibit " 1 " referred to in File DAV 141416A/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

VARIANCE ORDER

DAV 14-141416/B

APPLICANT: Arch Honigman Dorchester Developments Ltd.

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
ZONING ATLAS SHEET: AA25
NATURE OF APPLICATION:
To vary the Multiple Use Sector regulations of Downtown Zoning By-Law No. 100/2004 for the maintenance of a non-accessory off-street at grade parking use to permit the following:
1) no accessible or van accessible parking spaces instead of 3 accessible spaces, of which 1 space must be van accessible;
2) gravel surfacing instead of asphalt, concrete, concrete pavers or combination thereof;
3) no drainage system;
4) screening of parking facility with a wooden fence, said material not permitted;
5) no landscaping adjacent to a public road (Garry Street);
6) no site lighting.

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) In part and as modified is consistent with Plan Winnipeg and any applicable secondary plan;
(b) In part and as modified, 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;
(c) In part and as modified, is the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
(d) In part and as modified, is compatible with the area in which the property to be affected is situated.

C.W. Charter Subsection 247(3)

ORDER:
RE: Southwest Corner of Broadway and Garry Street

The Director of Planning, Property and Development Department hereby orders that the provisions of the "Multiple Use Sector" regulations of Downtown Zoning By-Law No. 100/2004 and amendments thereto are **VARIED TO PERMIT** on "the land" the maintenance of a non-accessory off-street at grade parking use having 1 accessible parking space, gravel surfacing, no drainage system and no landscaping adjacent to a public road (Garry Street), 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 the pedestrian entries connecting to Broadway shall be paved with concrete, asphalt or unit pavers.
2) That trees along the western edge of the property shall be maintained to the satisfaction of Urban Design Review.
3) That this variance shall expire January 1, 2025.

Further to ensure compliance with the Statutory Criteria of the City of Winnipeg Charter: parts "4" and "6" of the subject variance application are REJECTED.

DATE OF ORDER: January 13, 2015

CERTIFIED BY:

_____
for 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 Variance Order No. DAV 14-141416/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