Agenda – Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – September 21, 2015

PUBLIC HEARINGS

Item No. 3 Appeal - Variance - 370 Hargrave Street
(Daniel McIntyre Ward)
File DAV 142245A/2015B [c/r DCU 142239A/2015B]

An appeal was received against the decision of the Director of Planning, Property and Development to reject a Variance on "the land" for the maintenance of a non-accessory off-street at-grade parking facility to permit as follows:

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

2. no drainage system;

3. no site lighting;

4. no landscaping adjacent to a public street (along Qu'appelle Ave. and Hargrave St.);

5. no accessible and van accessible parking spaces instead of 4 accessible and 2 van accessible parking spaces;

6. the maintenance of screening by a wooden fence instead of brick or decorative metal construction.

Agenda – Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – September 21, 2015

File:	DAV 142245A/2015B
Appellant:	Shelter Canadian Properties (Carol Vandal)
Applicant:	Shelter Canadian Properties (Chris Moffatt)
Premises Affected:	370 Hargrave Street
Legal Description:	100/3 4 129 1 ST J, hereinafter called "the land"
Property Zoned:	Downtown Living Sector, Multiple Use Sector
Nature of the Application:	To vary the General Provisions of Downtown Winnipeg Zoning By-Law No. 100/2004 for the maintenance of a non-accessory off-street at-grade parking facility to permit as follows: 1. gravel surfacing instead of asphalt, concrete, concrete pavers or combination; 2. no drainage system; 3. no site lighting; 4. no landscaping adjacent to a public street (along Qu'appelle Ave. and Hargrave St.); 5. no accessible and van accessible parking spaces instead of 4 accessible and 2 van accessible parking spaces; 6. the maintenance of screening by a wooden fence instead of brick or decorative metal construction.
Exhibit Filed:	1. Order DAV 142245/2015B dated July 30, 2015 2. Notice of Appeal filed by Carol Vandal, Shelter Canadian Properties, received August 12, 2015 3. Notification of Public Hearing dated September 1, 2015 4. Manitoba Status of Titles 1966707/1, 1966724/1, 1966727/1

5. Letter of authorization dated July 9, 2015 from Arni C. Thorsteinson, Carlton Call Centre Inc. to Chris Moffatt, Shelter Canadian Properties
6. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
7. Plans, Sheets 1 and 2, for File DAV 142245/2015B dated July 14 and July 27, 2015
8. Report from the Urban Planning Division dated August 21, 2015
9. Inspection Report

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

REPRESENTATIONS:

In Support of the Appeal:

In Opposition to the Appeal:

For Information on the Appeal:

For the City:

Moved by Councillor

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

Moved by Councillor

That the receipt of public representations be concluded.

Agenda – Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – September 21, 2015

Moved by Councillor

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:

Moved by Councillor

That the appeal be allowed / allowed in part / denied and Order DAV 142245/2015B be confirmed / cancelled.

Moved by Councillor

That the decision of the Director of Planning, Property and Development be / not be concurred in.

Moved by Councillor

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

Exhibit " 8 " referred to in File DAV 142245A/2015B

ADMINISTRATIVE REPORT

Title: ***DAV 15-142245/B 370 Hargrave***

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

AUTHORIZATION

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

RECOMMENDATIONS

The Winnipeg Public Service recommends that the appeal be denied and the decision of the Director of Planning, Property and Development Department, dated July 30, 2015, be upheld.

REASON FOR THE REPORT

In June of 2013, Standing Policy Committee on Downtown Development, Heritage and Riverbank Management approved this gravel parking lot for a two year period. The owner is once again applying for a variance for the maintenance of the lot in its current condition. Consideration of this variance requires approval of the associated conditional use application (DCU 15-142239/B).

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 variance applications in Downtown Winnipeg.

EXECUTIVE SUMMARY

The applicant wishes to extend the life of the non-accessory surface parking with no paving, no drainage, no accessible stalls, and inadequate fencing/screening, landscaping and lighting. The Winnipeg Public Service remains concerned about what is a realistic and acceptable timeline for the unimproved parking lot to remain in its current state.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Winnipeg Public Service are concurred in, the applicant will be required to close the parking lot pending site development.

If the conditional use is approved but the variance is not, the applicant will be required to apply for permits for the installation of paving, a drainage system, new fencing, lighting and landscaping to the satisfaction of the Director of Planning, Property and Development.

HISTORY / DISCUSSION

File: DAV 15-142245/B
Related Files: DCU 15-142239/B

Community: City Centre
Neighbourhood #: 1. 169

Subject:
To vary the General Provisions of Downtown Winnipeg Zoning By-Law No. 100/2004 for the maintenance of a non-accessory off-street at-grade parking facility to permit as follows:
1) gravel surfacing instead of asphalt, concrete, concrete pavers or combination;
2) no drainage system;
3) no site lighting;
4) no landscaping adjacent to a public street (along Qu'appelle Ave. and Hargrave St.);
5) no accessible and van accessible parking spaces instead of 4 accessible and 2 van accessible parking spaces;
6) screening by a wooden fence instead of brick or decorative metal construction.

Applicant: Chris Moffatt Shelter Canadian Properties
7 EVERGREEN PL UNIT 2600
WINNIPEG MB R3L 2T3

Owners: Carlton Call Centre Inc.
Arni C. Thorsteinson
7 EVERGREEN PL UNIT 2600
WINNIPEG MB R3L 2T3

Criteria for Approval
Pursuant to Section 247(3) of the City of Winnipeg Charter, a Variance application can be approved with condition(s) 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 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 compatible with the area in which the property to be affected is situated.

Site Description:
The subject property is in the Central Park Neighbourhood of the Downtown between Ellice Avenue and Cumberland Avenue in the Daniel McIntyre Ward. The 36,000 square foot property was historically two parts. The larger section, 370 Hargrave, comprising two thirds of the site, is zoned “DL” Downtown Living Sector and is surrounded by residential uses. The smaller section, 360 Hargrave, is zoned “M” Multiple Use and is surrounded by commercial uses. The site is currently being used for surface parking.



Figure 1: Google image of the subject property and surrounding area

Project Description:
The applicant wishes to extend the life of a non-conforming, non-accessory gravel parking lot through variance approval. This application is dependent upon approval of the associated conditional use application.

Background:

Following the demolition of the YMHA 14 years ago, the City was presented with a development concept for an apartment building for the subject site that was to break ground in 2002. In the interim, Imperial Parking was authorized to apply for a variance to permit the gravel site to be used for parking. The Winnipeg Public Service supported the request for a one year period while development plans were being finalized. At the Board of Adjustment hearing, the applicant requested that the timeline be extended to four years instead of one year. The Board approved the application with a termination date of August 31, 2005.

In 2008, the matter of the lapsed variance approval was brought to the attention of Zoning Enforcement. In 2009, the owners once again engaged Imperial Parking to reapply for approval of the gravel parking lot, this time for an indefinite period of time. The Winnipeg Public Service engaged the owner to discuss the original development concept received in 2001. After several meetings, the owner identified a new land use proposal for the site in 2010 with the African Canadian Centre as its prime tenant. An option to purchase was in place with the African Canadian Centre with a 2012 deadline. However, through subsequent meetings, it became

apparent that there was a divergence of views about what was a realistic and acceptable timeline for the unimproved parking lot to remain in its current state.

In 2011, the Director of Planning, Property and Development rejected the application for continuation of the non-accessory parking lot. Ignoring the order, the owner continued to operate the parking lot in contravention of the zoning by-law. On March 27, 2013, the owner reapplied for the conditional use to maintain the non-accessory surface parking lot. The Director of Planning, Property and Development rejected that application as well, but it was approved for a two year period by the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management through the appeal process. The applicant now requests another two year approval on the gravel parking lot.

Analysis and Issues:

The existing parking lot was originally endorsed for a one year period pending final plans for a development project. In the 14 years since then, many changes have taken place in both the surrounding area in the City's policy and regulatory framework.

- In 2004, the City adopted a new Downtown Zoning By-Law and Downtown Urban Design Guidelines, raising the standard for Downtown development.
- In 2009-2010, the three levels of government invested over $5 Million in the redevelopment of Central Park. While these improvements have had huge social benefits, they were also expected to be a catalyst for private reinvestment in surrounding properties.
- In 2011, Council formally adopted OurWinnipeg and supporting documents, Complete Communities Direction Strategy and the Downtown Parking Strategy. Together these documents express Council's intent to reduce surface parking in our Downtown.
- Also in 2011, the City entered into an agreement with Longboat Development Corporation to loan $5 Million for construction of a mixed use parkade development at Ellice and Hargrave, less than one block from 360-370 Hargrave. The purpose of the City's investment in parking structures is to facilitate a shift away from surface lots.

Downtown Parking Strategy 2011

Surface parking occupies a vast amount of land in our Downtown. Approximately one fifth of Downtown real estate is occupied by surface parking lots. The quality of these parking facilities reflects on the image of our Downtown and our City. The City's recently adopted Downtown Parking Strategy sets higher expectations for the design of surface parking with the acknowledgement that most of them will continue to be part of our transportation infrastructure for many years to come. It states,

- *Pursue a strategy to sunset non-conforming zoning rights to gravel lots.*
- *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.*
- *Explore demonstration projects to promote enhancements at surface parking lots in targeted locations to showcase the positive difference they could make on the Downtown environment.*
- *Explore the possibility of a demonstration project at a former surface parking lot using temporary green space as a carbon sequestration and/or image enhancement initiative.*

This type of project would be interim in nature, only where obsolete surface parking lots are awaiting redevelopment. Seek private/non-profit partners to bring human resources and expertise to the process.

Accessibility

In support of *OurWinnipeg* section 03-1, updates to the zoning by-law "foster an age-friendly and accessible urban environment". There is an expectation that all parking facilities will accommodate accessibility.

Surfacing and Drainage

The City of Winnipeg does not permit gravel parking anywhere in the City for several reasons. Sand and dust is picked up by the wind causing nuisance to pedestrians and surrounding properties. Gravel is tracked onto the right-of-way increasing the need for street cleaning. Gravel also migrates into stormwater drains increasing the costs of system maintenance. A lack of internalized drainage results in stormwater running across the public sidewalk. In spring and fall, this can lead to ice buildup on the sidewalk.

Fencing, Landscaping and Lighting

Wood fencing does not meet Downtown standards because it is not long-lasting, requires additional on-going maintenance and is susceptible to vandalism. Surface parking areas adjacent to a public street must also contain a minimum of one deciduous tree for each 20 feet of linear street frontage. Lighting is an essential safety feature and must be provide uniform coverage at a level that ensures security for people and property.

A substandard parking lot is a poor reflection on the surrounding neighbourhood and discourages reinvestment. Central Park is a neighbourhood where safety and security have been an issue, and the presence of a dimly lit, expansive parking lot exacerbates the issue. Our Downtown is intended to be the showcase for good urban design in our City.

Reason for Recommendations:

- Universal accessibility is one of the primary tenets of *OurWinnipeg,* and the subject lot does not meet accessibility requirements.
- Sand and dust poses a substantial adverse effect on pedestrians and neighbouring properties.
- Sand and gravel migration increases road and stormwater system maintenance costs.
- Improper drainage leads to water and ice on the public sidewalk.
- Inadequate lighting is a safety concern for both users of the parking lot and for the neighbourhood at large.
- The current design and character of the lot, with its insufficient landscaping and screening, does not enhance the neighbourhood.

FINANCIAL IMPACT

Financial Impact Statement Date: August 21, 2015

Project Name:

DAV 15-142245/B 370 Hargrave

COMMENTS:

There are no financial implications associated with the recommendations contained in this report.

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

CONSULTATION

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

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg 01-1

While there will inevitably be growth and change throughout the city, there are specific areas that provide the best opportunity to do so in an environmentally, socially and economically sustainable way. The Urban Structure identifies these as Transformative Areas, starting with the Downtown.

With surface parking lots being the most obvious and plentiful opportunities for Downtown infill, bringing sites like 370 Hargrave back into active use is an important part of the city's plan to accommodate growth though infill.

Complete Communities Direction Strategy

The following enabling strategies address surface parking in the Downtown:

- *Support viable alternatives to Downtown surface parking as recommended through the city's Sustainable Transportation Direction Strategy and Downtown Parking Strategy in order to:*
  - *reduce the amount of surface parking Downtown;*
  - *accommodate projected Downtown residential, commercial and employment growth;*
  - *work with downtown agencies/stakeholders to create new opportunities for higher density mixed use development projects;*
  - *increase economic activity in and around strategically located, mixed use public parking structures;*
  - *provide a continuity of pedestrian-oriented services and amenities at street level;*
  - *integrate with other modes of Downtown transportation to enhance connectivity.*

Residential enclaves like the Central Park Neighbourhood are an important focus for infill development Downtown. Two policy directions in Complete Communities address Downtown residential neighbourhoods, like Central Park:

- *Support the evolution of existing Downtown residential neighbourhoods into sustainable, safe and complete communities.*

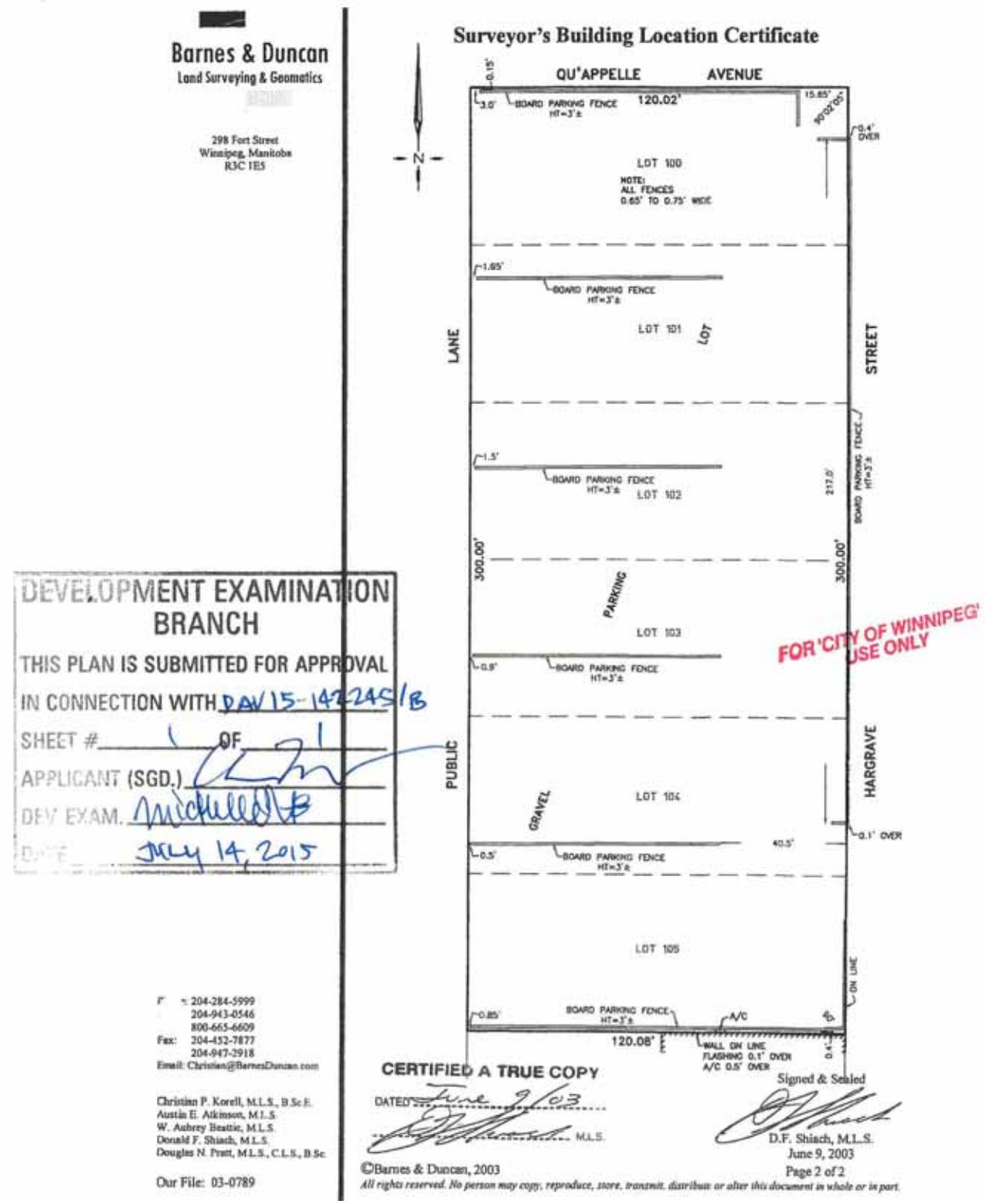
- *Promote the completeness of established Downtown neighbourhoods while supporting intensification and densification where appropriate.*

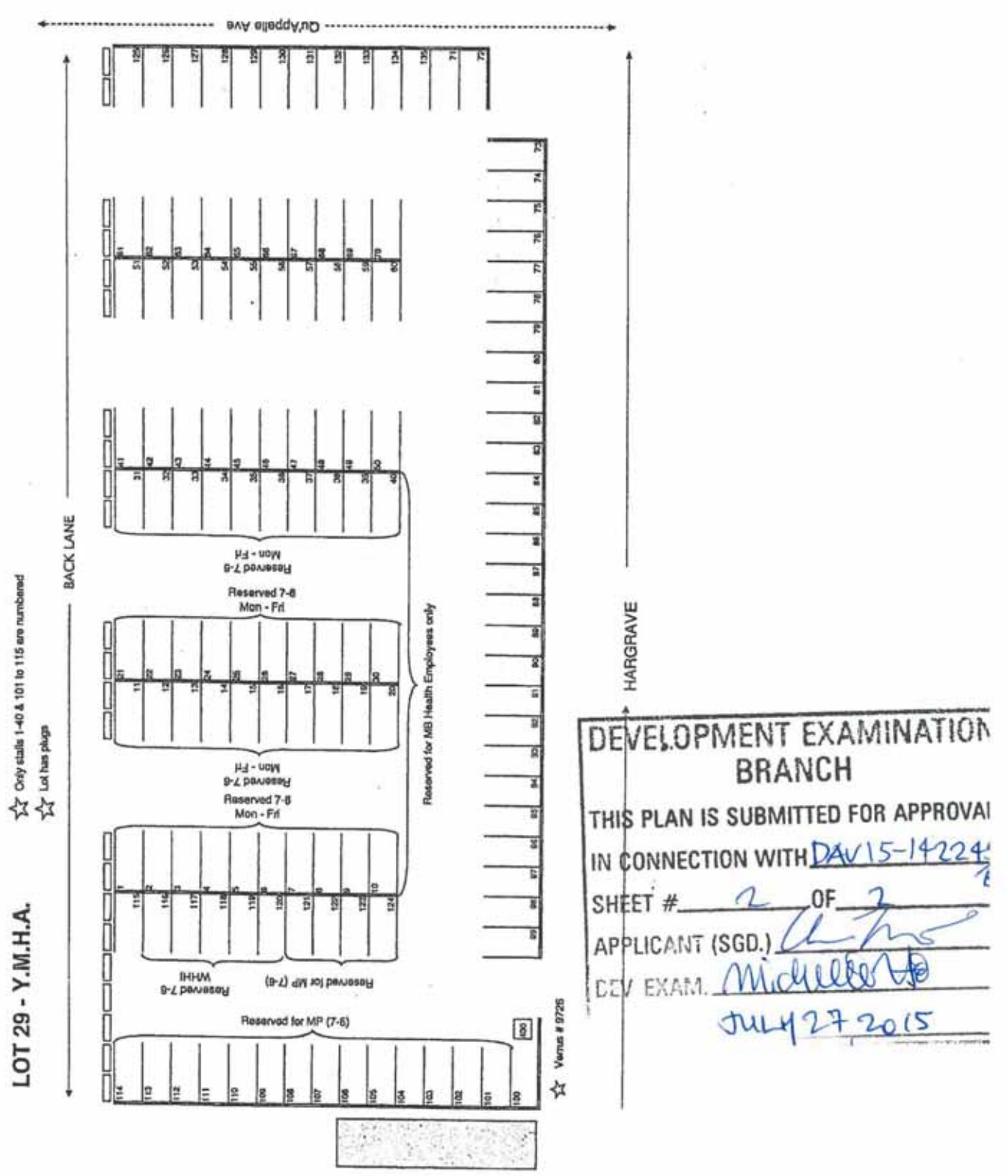
SUBMITTED BY

Department:	Planning, Property, and Development
Division:	Urban Planning
Prepared by:	Kurtis Kowalke
Date:	August 21, 2015
File No.	DAV 15-142245/B

O:\Reports Directive\Planning and Land Use\Urban Planning Reports\2015 Reports\DAV 142245 2015B - 370 Hargrave.doc

Exhibit " 7 " referred to in File DAV 142245A/2015B





DEVELOPMENT EXAMINATION BRANCH

THIS PLAN IS SUBMITTED FOR APPROVAL

IN CONNECTION WITH DAV15-14224

SHEET # 2 OF 2

APPLICANT (SGD.)

DEV EXAM. Michelle

JULY 27 2015

Exhibit " 2 " referred to in File DAV 142245A/2015B

SHELTER CANADIAN PROPERTIES LIMITED

Commercial Property Management

August 12, 2015

Mr. Brian Mayes, Committee Chair
c/o City Clerk
City of Winnipeg
c/o Standing Policy Committee on Downtown Development
Heritage and Riverbank Management
510 Main Street
Winnipeg, Manitoba
R3B 1B9

clk-appeals@winnipeg.ca

Dear Sir or Madam:

Re: 370 Hargrave Street
Variance Order DAV 15-142245/B

In 2010, the conditional use variance expired. Applications to extend the conditional use were subsequently rejected by the City in 2010, 2011 and 2013. In the interim, a potential development use was identified. The African Canadian Foundation has been expending its efforts to raise funds to purchase the land and to develop a multi-use facility to include a much needed Community Centre for the African Community, reasonable housing for new African immigrants and covered parking. Shelter Canadian Properties Limited is very supportive of the project, provided the appropriate government funding can be confirmed. In 2013, a two-year extension was granted and expired on June 20, 2015. An application was submitted in July 2015 to extend the Variance for a further two-year term.

On July 29, 2015, the City of Winnipeg issued a rejection for a further extension of the Variance as a non-accessory off-street at-grade parking facility use.

This letter will serve as a notice of appeal by Carlton Call Centre Inc. and the African Canadian Society of the ruling to The Standing Policy Committee on Downtown Development.

We respectfully submit that the extension in the conditional use will allow the African Canadian Foundation the ability to complete its fundraising efforts. If the City of Winnipeg denies the request, the additional costs, required to install a drainage system, paving, landscaping and lighting would cost approximately $400,000. The African Canadian Foundation is concerned that the increased cost of acquiring the land to offset the improvement costs would be prohibitive.

Carlton Call Centre Inc. is willing to defer the sale and/or other development of the lot provided that it is able to continue to operate the parking lot. It should be noted that the lot is fully utilized during the day. The loss of 135 stalls to the area will cause hardship for the existing users given the on-gong development of other surface parking lots in the adjacent areas. As mentioned, a parking component is part of the proposed development of the site for the African Canadian Foundation.

If you have any further questions or concerns please contact the writer at

Yours truly,

SHELTER CANADIAN PROPERTIES LIMITED

Carol D. Vandal

CAROL D. VANDAL
Property Manager, Commercial Properties

/cv
c: Arni C. Thorsteinson, President
James Vergie, Imperial Parking

Exhibit " 1 " referred to in File DAV 142245A/2015B

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 15-142245/B

APPLICANT: Chris Moffatt Shelter Canadian Properties
7 EVERGREEN PL UNIT 2600
WINNIPEG MB R3L 2T3

PREMISES AFFECTED: 370 Hargrave ST
LEGAL DESCRIPTION: 100/3 4 129 1 ST J
hereinafter called "the land".
PROPERTY ZONED: Downtown Living Sector, Multiple Use Sector
ZONING ATLAS SHEET: Z24
NATURE OF APPLICATION:

To vary the General Provisions of Downtown Winnipeg Zoning By-Law No. 100/2004 for the maintenance of a non-accessory off-street at-grade parking facility to permit as follows:
1) gravel surfacing instead of asphalt, concrete, concrete pavers or combination;
2) no drainage system;
3) no site lighting;
4) no landscaping adjacent to a public street (along Qu'appelle Ave. and Hargrave St.);
5) no accessible and van accessible parking spaces instead of 4 accessible and 2 van accessible parking spaces;
6) the maintenance of screening by a wooden fence instead of brick or decorative metal construction.

It is the opinion of the Director of Planning, Property and Development Department that this application does not meet the statutory criteria of the City of Winnipeg Charter in that it:

(a) is not consistent with Plan Winnipeg and any applicable secondary plan;
(b) 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 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 not compatible with the area in which the property to be affected is situated.

C.W. Charter Subsection 247(3)

ORDER:
RE: 370 Hargrave ST

The Director of Planning, Property and Development Department hereby orders that the provisions of the General Provisions of Downtown Zoning By-Law No. 100/2004 and amendments thereto for the for the maintenance of a non-accessory off-street at-grade parking facility to permit as follows:
1) gravel surfacing instead of asphalt, concrete, concrete pavers or combination;
2) no drainage system;
3) no site lighting;
4) no landscaping adjacent to a public street (along Qu'appelle Ave. and Hargrave St.);
5) no accessible and van accessible parking spaces instead of 4 accessible and 2 van accessible parking spaces;
6) the maintenance of screening by a wooden fence instead of brick or decorative metal construction;
is hereby REJECTED.

DATE OF ORDER: July 30, 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 August 13, 2015, [IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(c) refer to Variance Order No. DAV 15-142245/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