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

PUBLIC HEARINGS

Item No. 2 Appeal - Conditional Use – 370 Hargrave Street (Daniel McIntyre Ward) File DCU 142239A/2015B [c/r DAV 142245A/2015B]

STANDING COMMITTEE DECISION:

The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management allowed the appeal in part, did not concur in the decision of the Director of Planning, Property and Development, and approved a Conditional Use to permit on "the land" the maintenance of a non-accessory off-street at-grade parking facility use, subject to the following condition:

1. That this order expire on September 21, 2016.

Further, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management cancelled Conditional Use Order DCU 142239/2015B.

DECISION MAKING HISTORY:

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

Moved by Councillor Browaty,

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

Carried

Moved by Councillor Browaty,

That the receipt of public representations be concluded.

Carried

Moved by Councillor Browaty,

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. I'm opposed to this being a surface parking lot in perpetuity, especially one that is substandard.
2. In this case it's on the cusp of all of the exciting stuff happening on Portage Avenue and in the SHED.
3. There does seem to be progress proceeding with the African community on this project.

Carried

DECISION MAKING HISTORY (continued):

Moved by Councillor Browaty,

That the appeal be allowed in part, the decision of the Director of Planning, Property and Development not be concurred in, and a Conditional Use be approved to permit on "the land" the maintenance of a non-accessory off-street at-grade parking facility use, subject to the following condition:

1. That this order expire on September 21, 2016.

and Conditional Use Order DCU 142239/2015B be cancelled.

Carried

Councillor Gerbasi asked to be recorded as having voted against the above motion, in accordance with Rule 47(7) of The Procedure By-law No. 50/2007.

Moved by Councillor Browaty,

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

Carried

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

DCU 142239A/2015B [c/r DAV 142245A/2015B]

Before:	Standing Policy Committee on Downtown Development, Heritage and Riverbank Management Councillor Mayes, Chairperson Councillor Browaty Councillor Gerbasi
Hearing:	September 21, 2015 Council Building, 510 Main Street
Applicant:	Shelter Canadian Properties (Chris Moffatt)
Premises Affected:	370 Hargrave Street
Legal Description:	100/105 BLOCK 4 PLAN 129 1 ST J, hereinafter called "the land"
Property Zoned:	Downtown Living Sector, Multiple Use Sector
Nature of Application:	For a Conditional Use under Downtown Winnipeg Zoning By-Law No. 100/2004 to permit the maintenance of a non-accessory off-street at-grade parking facility use, previously approved by DCU 116804A/2013B until June 30, 2015.

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

The Director of Planning, Property and Development rejected a Conditional Use, File DCU 142239/2015B, to Shelter Canadian Properties (Chris Moffatt), for premises located at 370 Hargrave Street, to permit on "the land" for the maintenance of a non-accessory off-street at-grade parking facility use, previously approved by DCU 116804A/2013B until June 30, 2015.

Pursuant to the provisions of The City of Winnipeg Charter, Shelter Canadian Properties (Carol Vandal), appealed the Conditional Use Order DCU 142239/2015B and after Notice, the appeal was heard on September 21, 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 condition(s) imposed, if any, this Appeal Order meets the statutory criteria as outlined in Section 254 and 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; and

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

Supporting Comments:

1. I'm opposed to this being a surface parking lot in perpetuity, especially one that is substandard.
2. In this case it's on the cusp of all of the exciting stuff happening on Portage Avenue and in the SHED.
3. There does seem to be progress proceeding with the African community on this project.

ORDER:

The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management orders:

1. That the appeal is allowed in part to permit on "the land" for the maintenance of a non-accessory off-street at-grade parking facility use, subject to the following condition necessary to ensure conformity with the statutory criteria of The City of Winnipeg Charter:

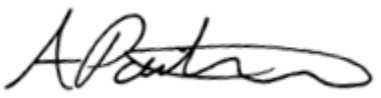
    - That this order expire on September 21, 2016.

2. That Conditional Use Order DCU 142239/2015B dated July 30, 2015, is cancelled.

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

DATE OF ORDER: September 22, 2015

CERTIFIED BY:



Andrew Poitras
Senior Committee Clerk

THE FOLLOWING PERSONS MADE REPRESENTATIONS:

In Support of the Appeal:

Akim L Kambamba
Arni Thorsteinson
Carol Vandal

In Opposition to the Appeal:

Nil

For Information on the Appeal:

Nil

For the City:

Mr. J. Kiernan, Director of Planning, Property and Development
Mr. K. Kowalke, Senior Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DCU 142239A/2015B

1. Order DCU 142239/2015B 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. Plan, Sheet 1, for File DCU 142239/2015B dated July 14, 2015
8. Report from the Urban Planning Division dated August 21, 2015
9. Inspection Report

Exhibit " 8 " referred to in File DCU 142239A/2015B

ADMINISTRATIVE REPORT

Title: ***DCU 15-142239/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. At the end of that period, the owner was required to either re-apply to maintain the site as a parking lot or to cease using it for parking.

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.

EXECUTIVE SUMMARY

The applicant wishes to extend the life of the non-accessory surface parking through conditional use approval. Should Standing Policy Committee support the appeal, a concurrent variance application must also be dealt with to allow a parking lot 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.

HISTORY / DISCUSSION

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

Community: City Centre
Neighbourhood #: 1. 169
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 facility use, previously approved by DCU 116804A/2013B until June 30, 2015.

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 Conditional Use 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; 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.

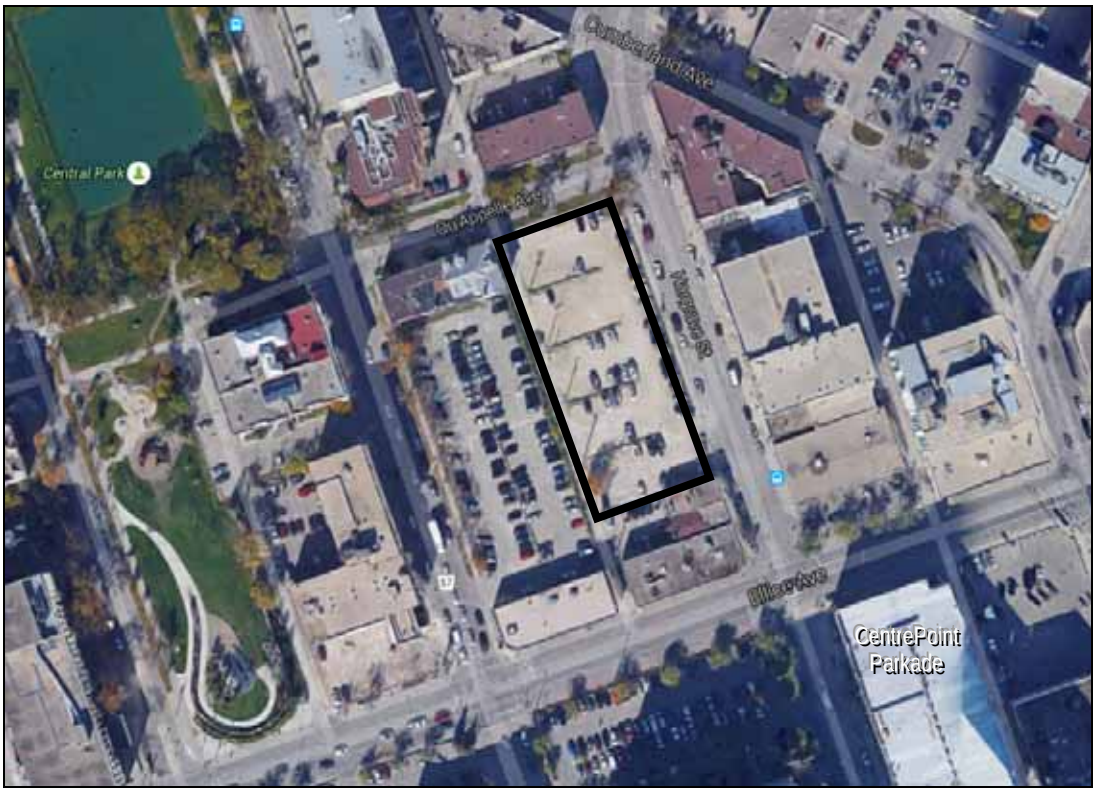


Figure 1: Google photo map of subject parcel and surrounding context

Project Description:
The applicant wishes to extend the life of the non-accessory parking through conditional use approval. Should Standing Policy Committee support the appeal, a concurrent variance application must also be dealt with to allow a parking lot with no paving, no drainage, no accessible stalls, and inadequate fencing/screening, landscaping and lighting.

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. (See Figure 2 below.) 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. (See Figure 3 below.)

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.

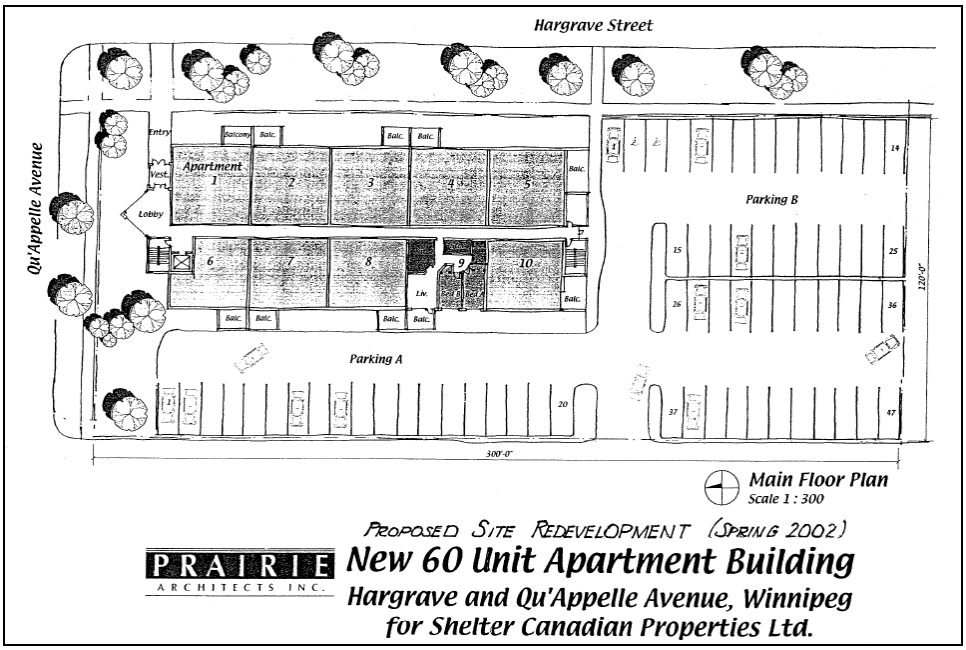


Figure 2: development concept presented in 2001



Figure 3: development sign posted on the site in 2011

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.

Surface parking occupies a vast amount of land in our Downtown. Approximately one fifth of Downtown real estate is occupied by surface parking lots. These lots not only degrade the image of our Downtown, they also create challenges for safety and deter legitimate pedestrian movement.

Experience in Downtown Winnipeg has demonstrated time and again that the revenue that can be generated from an unimproved parking lot is a significant disincentive to redevelopment. The long and drawn out history of this "temporary" parking lot is a testament to that fact. By contrast, vacant land, where parking has *not* been permitted, has been relatively quick to redevelop even in marginal locations like Logan Avenue (e.g. site of the recent Peace Tower development).

Reason for Recommendations:

- Continuation of commercial parking is disincentive to redevelopment.
- The size of this site provides maximum options for development.
- Qu'Appelle Avenue is a viable residential street with direct access through Central Park.
- The City helped fund a 420 stall public parkade less than a block away.

FINANCIAL IMPACT

Financial Impact Statement Date: August 21, 2015

Project Name:

DCU 15-142239/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. DCU 15-142239/B

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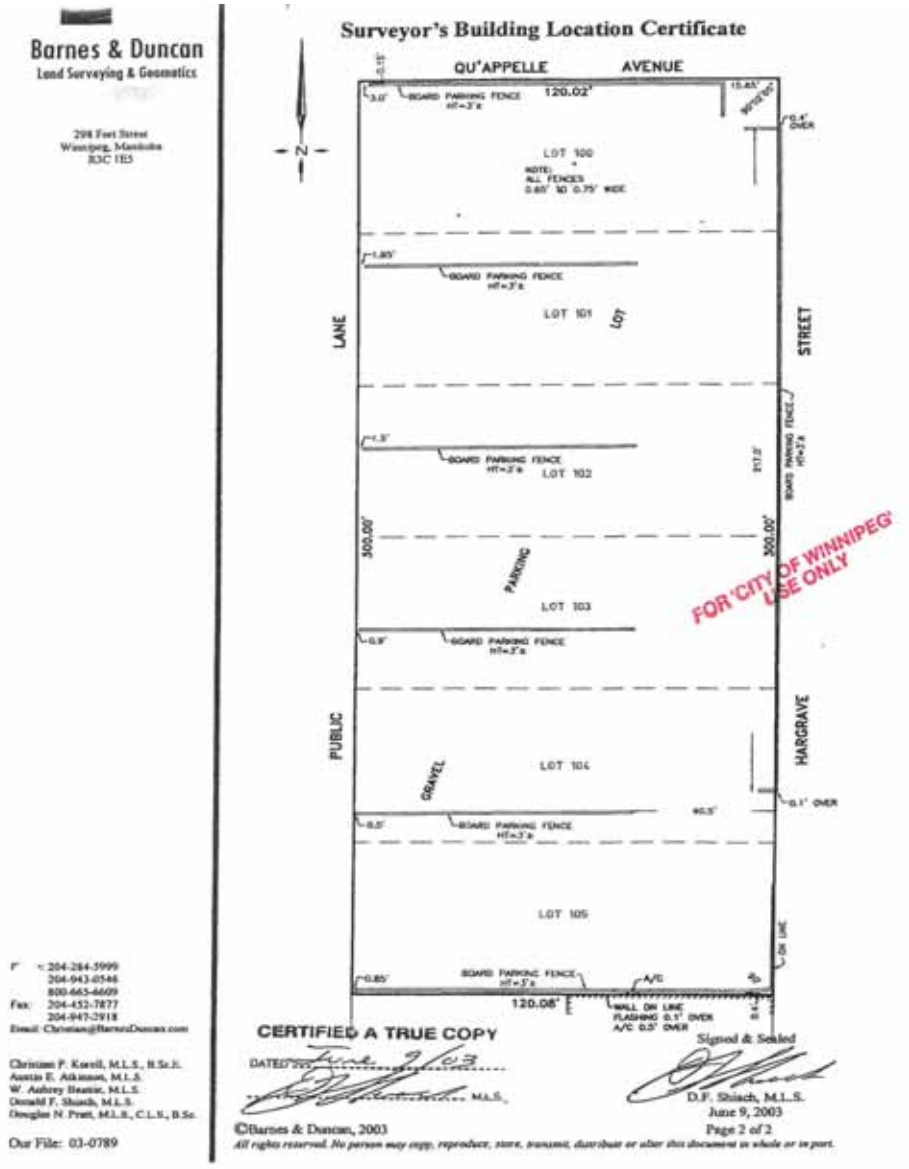
Exhibit " 7 " referred to in File DCU 142239A/2015B



DEVELOPMENT EXAMINATION BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH DCU 15-142239/B
SHEET # 1 OF 1
APPLICANT (SGD.)
DEV EXAM. Michael Orth
DATE July 14, 2015

Exhibit " 2 " referred to in File DCU 142239A/2015B

SHELTER CANADIAN PROPERTIES LIMITED

Commercial Property Management

August 12, 2015

Mr. Brian Mayes, Committee Chair
c/o City Clerk
City of Winnipeg
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
Conditional Use Order 15-142239/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 Conditional Use for a further two-year term.

On July 29, 2015, the City of Winnipeg issued a rejection for a further extension of the Conditional Use 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

Enclosures

Exhibit " 1 " referred to in File DCU 142239A/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

CONDITIONAL USE ORDER

DCU 15-142239/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:

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 facility use, previously approved by DCU 116804A/2013B until June 30, 2015.

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; and
(d) is not compatible with the area in which the property to be affected is situated.

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

ORDER:
RE: 370 Hargrave ST

The Director of Planning, Property and Development Department hereby orders that the maintenance of a non-accessory off-street at-grade parking facility use, previously approved by DCU 116804A/2013B **is hereby REJECTED.**

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

(c) refer to Conditional Use Order DCU 15-142239/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