Minute No. 351
Report – Executive Policy Committee – June 11, 2019

Item No. 1 Subdivision and Rezoning – 97 Oak Forest Crescent (Charleswood-Tuxedo-Westwood Ward) File DASZ 9/2019

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the subdivision under Development Application No. DASZ 9/2019 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 9/2019 dated April 25, 2019, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 9/2019 dated April 25, 2019, to a "PR-1" Parks and Recreation (Neighbourhood) zoning district and a "R1-L" Residential Single-Family (Large) zoning district.

3. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

4. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if a by-law to implement this report (the "By-law") is not enacted within 2 years after the date on which this report is approved by Council unless the developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

5. That, upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor prepare and bring it directly to Council for enactment of the By-law in accordance with the above.

6. That the subdivision section of the by-law shall come into force and effect upon registration of the Plan of Subdivision in the Winnipeg Land Titles Office.

7. That the zoning section of the by-law shall come into force and effect when the Plan is registered in the Winnipeg Land Titles Office.

Report – Executive Policy Committee – June 11, 2019

COUNCIL DECISION (continued):

8. That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan of Subdivision is not registered in accordance with recommendations 6 and 7 unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

9. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if the necessary Plan approval signatures on behalf of the City have not been secured within 1 year after the date on which the By-law is enacted unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

10. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – June 11, 2019

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 11, 2019, the Executive Policy Committee concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On May 7, 2019, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

PUBLIC HEARING SUMMARY

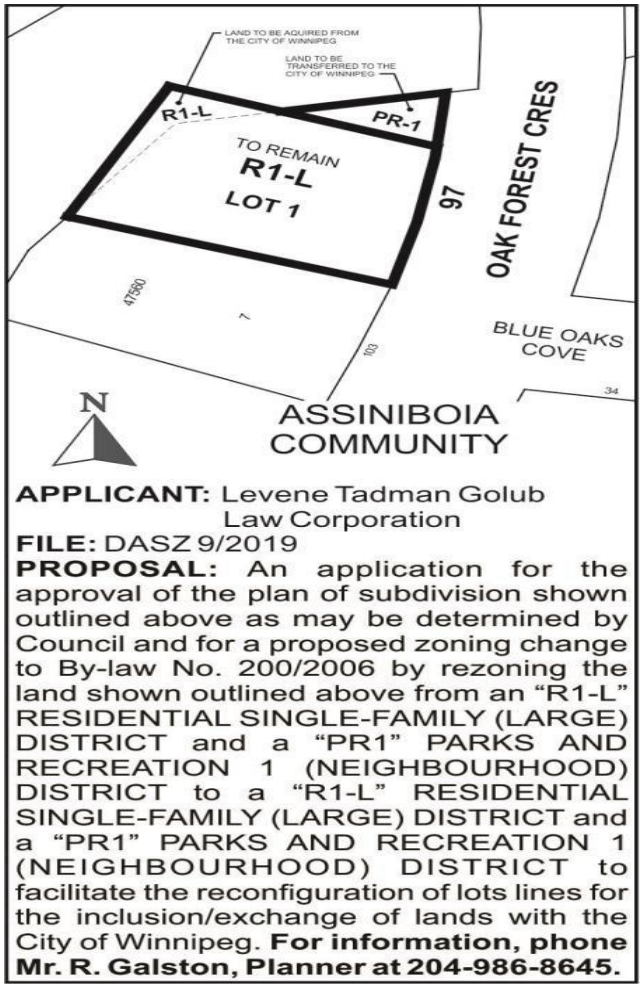
File: DASZ 9/2019

Before: Assiniboia Community Committee
Councillor Lukes, Chairperson
Councillor Gillingham
Councillor Klein

Public Hearing: May 7, 2019
Council Building, 510 Main Street

Applicant: Levene Tadman Golub Law Corporation
(Nathan Weltman)

Subject:



Premises Affected: 97 Oak Forest Crescent

For submission to: Executive Policy Committee

Prepared by: L. Cowan, Senior Committee Clerk
Assiniboia Community Committee

Report date: May 8, 2019

Community Committee Recommendation:

On May 7, 2019, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That the subdivision under Development Application No. DASZ 9/2019 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 9/2019 dated April 25, 2019, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 9/2019 dated April 25, 2019, to a "PR-1" Parks and Recreation (Neighbourhood) zoning district and a "R1-L" Residential Single-Family (Large) zoning district.

3. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

4. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if a by-law to implement this report (the "By-law") is not enacted within 2 years after the date on which this report is approved by Council unless the developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

5. That, upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor prepare and bring it directly to Council for enactment of the By-law in accordance with the above.

6. That the subdivision section of the by-law shall come into force and effect upon registration of the Plan of Subdivision in the Winnipeg Land Titles Office.

7. That the zoning section of the by-law shall come into force and effect when the Plan is registered in the Winnipeg Land Titles Office.

8. That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan of Subdivision is not registered in accordance with recommendations 6 and 7 unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

Community Committee Recommendation (continued):

9. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if the necessary Plan approval signatures on behalf of the City have not been secured within 1 year after the date on which the By-law is enacted unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

10. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

The Assiniboia Community Committee provided the following supporting reason for its recommendation:

1. This is a perfectly reasonable request.

Exhibits Filed:

1. Application dated February 6 2019
2. Notification of Public Hearing dated March 20, 2019
3. Manitoba Status of Title 2936919/1
4. Letter of authorization dated December 4, 2018 from Dean Stewart and Marcey Anne Cherniak to Levene Tadman Golub Law Corporation
5. Letter of authorization dated January 21st, 2019 from The City of Winnipeg to Levene Tadman Golub Law Corporation
6. Surveyor's Building Location Certificate and sketch dated January 8, 2019
7. Caveat 3537503
8. Report from the Urban Planning Division dated April 25, 2019
9. Inspection Report
10. Recording of Representations of public hearing held on May 7, 2019

REPRESENTATIONS:

In Support:

Dean Stewart
Nathan Weltman

In Opposition

Nil

For Information:

Nil

For the City:

D. Clark, Urban Planner, Planning, Property and Development Department
R. Galston, Urban Planner, Planning Property and Development Department

Exhibit "8" referred to in File DASZ 9/2019

ADMINISTRATIVE REPORT

Title: DASZ 9/2019 – 97 Oak Forest Crescent

Issue: An application for consideration at the Assiniboia Community Committee public hearing to subdivide and rezone the existing single family residential zoned "R1-L" portion of land to the parks "PR1" district and existing "PR1" land to the "R1-L" zoning district.

Critical Path: Assiniboia Community Committee as per the Development Procedures By-law and *The City of Winnipeg Charter.*

AUTHORIZATION

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

RECOMMENDATIONS

1. That the subdivision under Development Application No. DASZ 9/2019 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 9/2019 dated April 25, 2019, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

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9. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if the necessary Plan approval signatures on behalf of the City have not been secured within 1 year after the date on which the By-law is enacted unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

10. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

- Rezoning applications require a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- The Report is being submitted for the Committee's consideration of the development application at the Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Urban Planning Division are concurred in, the subject property may be subdivided and rezoned consistent with the map provided in Schedule "A" of this report.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by	Robert Galston, MCP
Date:	April 25, 2019
File No.	DASZ 9/2019

List of Schedules and Attachments

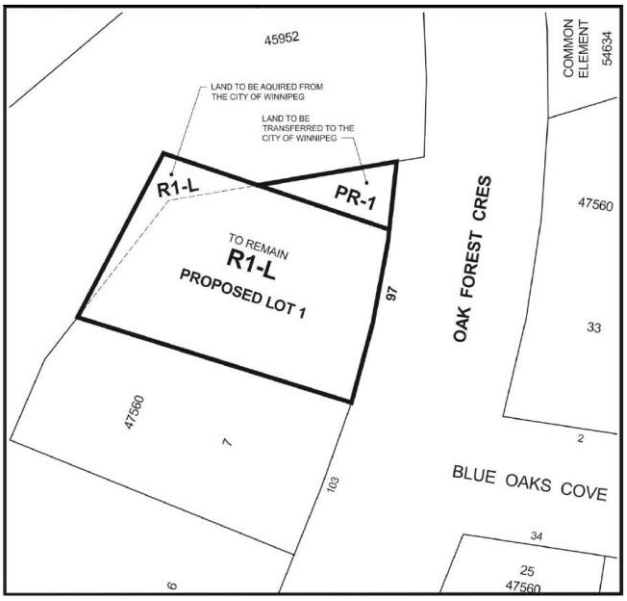
1. Appendix “A” Planning Discussion
2. Schedule “A” Recommended File No. DASZ 9/2019 dated April 25, 2019

APPENDIX 'A'

DATE: April 25, 2019
FILE: **DASZ 9/2019**
RELATED FILES:
COMMUNITY: Assiniboia Community
NEIGHBOURHOOD #: 2.227 (Assiniboia Downs)

SUBJECT: To subdivide and rezone lands in order to exchange a portion of private land with public reserve land.

LOCATION: 97 Oak Forest Crescent
LEGAL DESCRIPTION: LOT 8 BLOCK 2 PLAN 47560 89/93 ST C



APPLICANT: Dean Stewart
97 Oak Forest Cres.
Winnipeg MB R3K 1M4

OWNER: Same as Applicant
and
City of Winnipeg

RECOMMENDATION: Approval

HISTORY

DASZ 11/2016

- On July 13, 2016, Council concurred in the recommendation of the Executive Policy and approved an application to subdivide and rezone of a portion of the existing single-family residential lot from the “R1-L” to “PR1” zoning district, and the existing “PR1” land to the “R1-L” zoning district.
- This proposal came about through the owner of the property at 97 Oak Forest Crescent expressing to the City an interest in exchanging a portion of their property for a portion of the public reserve in order to square off the shape of their lot. The subject property was circulated to all City Departments and no civic need for the subject portion of public reserve land was identified.
- The proposed parcels A and B are equal in size and value, based on an internal appraisal. All costs associated with the subdivision and rezoning and transfer of the land are to be borne by the Applicant.
- While this subdivision and rezoning was approved by Council, the subdivision and rezoning under file no. DASZ 11/2016 was never registered. As such, a new subdivision and rezoning application is required.

SITE DESCRIPTION

- The subject land is located on the west side of Oak Forest Crescent in the Assiniboia Downs Neighbourhood of the Charleswood – Tuxedo - Westwood Ward.
- The subject residential lot is currently 11,124 square feet in area. A one-storey, 2,117 square foot single family dwelling constructed in 2009 is currently located on the property.
- The site is within the Recent Communities Policy Area under the *Complete Communities Direction Strategy* and is currently zoned “R1-L” – Residential Single Family (Large) and “PR-1” – Parks and Recreation (Neighbourhood).



Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2018)*

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Park uses zoned “PR1” – Parks and Recreation (Neighbourhood).

South: Single-family residential uses zoned “R1-L” – Residential Single-Family (Large).

East: Single-family residential uses zoned “R1-L” – Residential Single-Family (Large).

West: Park uses zoned “PR1” – Parks and Recreation (Neighbourhood).



Figure 2: Zoning of the Site and Surrounding Area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant has communicated to the City of Winnipeg that the subject lot in its current configuration is an odd fan shape which limits the use of the back yard.
- The applicant is proposing to reconfigure the lot to a rectangular shape, by reducing the north side yard and increasing the rear yard. The applicant proposes to acquire the area identified as Parcel B which is approximately 1,047 square feet in exchange for Parcel A which is approximately 1,048 square feet as shown in Figure 3 below.

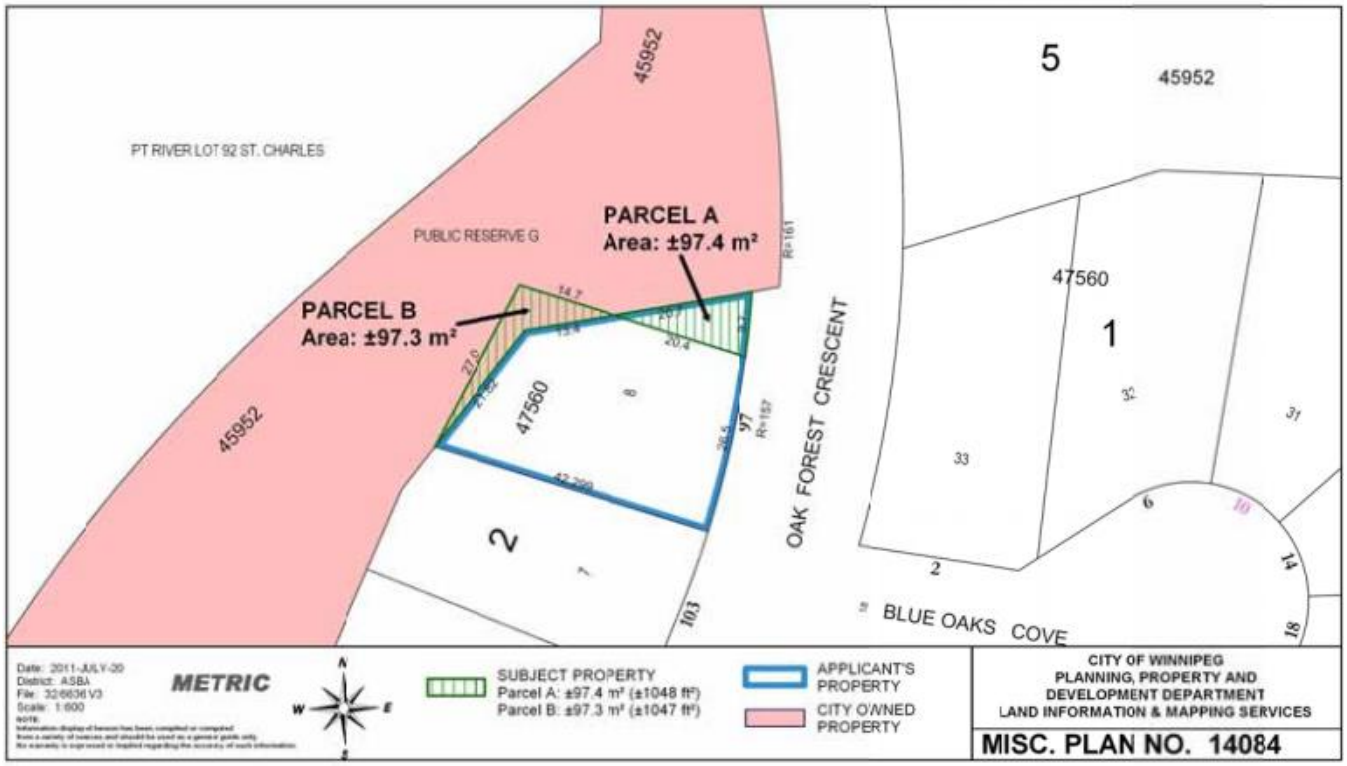


Figure 3: Proposed lot configuration

ANALYSIS AND ISSUES

OURWINNIPEG AND COMPLETE COMMUNITIES DIRECTION STRATEGY

- The *Complete Communities Direction Strategy* is one of four direction strategies supporting *OurWinnipeg*, the City's long-range development plan, and has statutory authority as a secondary plan. The strategy guides land use and development in Winnipeg.
- As noted above, the subject property is classified as an Area of Stability – Mature Community in *Complete Communities'* Urban Structure map. Key policies guiding development within Recent Communities include:
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complementary to the existing scale, character and built form.
    - Ensure that existing public open spaces meet the neighbourhood's current and future requirements.

REZONING

- The current zoning of the subject lands are 'R1-L' Residential Single Family - Large; and 'PR-1' Parks and Recreation (Neighbourhood).

- The Residential Single Family (R1) district is intended to accommodate primarily single-family residential development in lower-density areas.
- The Parks and Recreation 1 (PR1) district is intended for sites that are generally passive neighbourhood and community parks and facilities with predominantly pedestrian and cyclist access. These sites may provide unstructured drop-in play and recreation opportunities, including play structures, passive parks, plazas and natural areas. Generally, there are no parking facilities associated with these uses. These parks and open spaces typically occur in a residential neighbourhood or riverbank context and are generally accessed by residential streets.

REAL ESTATE

- The proposed land exchange was supported by the City Administration and Council confirmed approval of the exchange on April 29th, 2016. One of the conditions to satisfy the exchange was that the applicant be responsible for subdividing and rezoning the land. As such, the subject application is being made.
- The Owner is also responsible for the installation of fencing along the north and west limits of their property within a reasonable period of time following the Closing Date of the transaction at the owners expense. The intent of the fence is to properly delineate private and public land.

PARKS

- The Parks and Open Space Division of the Public Works Department was consulted at the time of the previous subdivision and rezoning application (DASZ 11/2016), and concurred with the intentions of the Real Estate Department with respect to this exchange of land.

DISCUSSION OF PROPOSED SUBDIVISION AND REZONING

- The proposed land exchange results in the creation of a lot that is more rectangular in shape and allows the current home owner a larger and more functional back yard space. In exchange the current side yard is being reduced and land is being consolidated with the existing City lands that are zoned for public reserve under the “PR1” zoning district.
- The Urban Planning Division does not have any concerns with the proposed reconfiguration of the site as the lot size remains compatible with the surrounding residential properties and there is no loss to the available park amenity space for residents in the neighbourhood.

RECOMMENDATIONS

The Urban Planning Division recommends **approval** for the following reasons:

- The proposed land exchange was previously approved by Council and was supported by the City Administration.
- The subdivision and rezoning formalizes the lot lines and proper zoning district in accordance with the land exchange.

- The land exchange is for equal sized portions of land.
- The land exchange will not have any negative impact on the general use of the existing public reserve lands.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning Division

Report Prepared by: Robert Galston, MCP
PPD File #: DASZ 9/2019

Schedule "A" for File DASZ 9/2019, Assiniboia Community Committee, dated April 25, 2019

