Detailed Review of Planning Discussion			
Fulton Grove Subdivision (DASZ 12/2018)			
	City Statement	**APPLICANT COMMENTS**	**Public Service Response**
1	**Density**		
1	a. The applicant indicated in their letter of intent that they intend to build 1,913 dwelling units, which is consistent with an "Urban Neighbourhood" typology in the TOD Handbook. The Public Service indicated in the administrative report that based on the site characteristics, the site is more consistent with a "Neighbourhood Medium Density" type in the TOD handbook, which can accommodate between 650-1600 dwelling units.	**I. <u>APPLICANT COMMENTS</u>** Point 1. a. regarding "Neighbourhood Medium Density" indicates that the Public Service should take into account the documents listed in paragraph 71 of the October 5, 2020 decision as instructed by Justice Grammond. This paragraph states that the Public Service will revise the administrative reports to take into account the information described in paragraph 71. The Applicants September 19, 2018 report of the July 31, 2018 City Administrative Report under ***Issue #1*** points out the erroneous use of "Neighbourhood Medium Density". Further to this report, the Applicant points the Public Service to the TOD Handbook. In the TOD Handbook the following definitions are found for "Neighbourhood Medium Density" TOD and for "Urban Neighbourhood" TOD. • "Neighbourhood Medium Density" has a Transit Frequency of 15-30 minutes and a Land-Use Mix of "Limited multi-family, with the majority of residential being single family, duplexes, accessory dwelling units, and ground-related units." (see page 45 Transit-Oriented Development Handbook). • "Urban Neighbourhood" has a Transit Frequency of 5-15 minutes and a Land-Use Mix of "Mid-rise residential, condos, ground-related units, and mixed-use structures, with ground floor retail or office use required." (see page 41 Transit- Oriented Development Handbook). The Beaumont BRT Station has a Transit Frequency of 5- 15 minutes as per Winnipeg Transit. This station is on the Blue Line. Winnipeg Transit reorganized the bus routes in November 2019 to incorporate the rapid transit corridor as its hub and spoke configuration. Further details can be found on the Transit departments webpage. The Fulton Grove concept plan clearly indicates the Land-Use Mix is aligned with "Urban Neighbourhood".	In addition to the planning rationale in both reports, the City of Winnipeg Southwest Rapid Transit Stage 2 Alignment Study- Final Report identified the Parker Lands as a "Neighbourhood Medium Density TOD Zone of up to 50 units per net acre."

		The Public Service should refer to their internal documents concerning their handling of the DASZ application to ensure that the administrative report does not present a misleading picture of the Public Service's conduct and handling of these applications.	
1	b. In light of this, there is a difference of 313 dwelling units between what the applicant is proposing and what the Public Service supports.	**II. APPLICANT COMMENTS** See comments for Point 1.a above which are applicable for Point 1. b.	
1	**Density**		
1	**c. Way Forward:** i. The Public Service is of the opinion that if there was a **pedestrian/cycling connection from the site across the railroad tracks to Grant Park**, the site could accommodate 1,913 dwelling units. Where the connection would be constructed and how it would be paid for would have to be determined.	**III. APPLICANT COMMENTS** The Public Service should refer to their internal documents concerning their handling of the DASZ application to ensure that the administrative report does not present a misleading picture of the Public Service's conduct and handling of these applications. On November 13, 2018 during the Public Hearing for File DASZ 12/2018 the Public Service confirmed that the railways will not deal with Private Developers regarding rail crossings. Thus, the obligation is on the Public Service to contact CN to make such a crossing happen. (see pages 98 and 99, *Public Hearing Transcript DASZ Application*). City of Winnipeg Planner Michael Robinson confirmed at the Public Hearing on November 13, 2018 that he had no communication with CN on this matter; had made no attempts to communicate with CN on this matter; and made no commitment to any future attempts at communicating with CN on this matter. (see pages 98 and 99, *Public Hearing Transcript DASZ Application*). **Since November 2018, has the Public Service held any communication with CN regarding a pedestrian/cycling connection from the site across the railroad tracks to Grant Park?**	Council has not provided budget or directed the Public Service to pursue the crossing.
2	**Zoning**		
2a	a. The zoning that the applicant applied for (TOD District) allows for 6,970 dwelling units. The PDO-2 which they submitted reduces the residential density to 100 dwelling units per acre, but still greatly exceeds the 1,910 units that they requested in their letter of intent. The proposed zoning district and PDO-2 also have a number of other legal and logistical issues that were outlined in Appendix 5 of the administrative report.	Point 2.a. – ""The PDO-2 which they submitted reduces the residential density to 100 dwelling units per acre" indicates that the Public Service should take into account the documents listed in paragraph 71 of the October 5, 2020 decision as instructed by Justice Grammond. This paragraph states that the Public Service will revise the administrative reports to take into account the information described in paragraph 71. The new information submitted OCTOBER 29, 2018 includes a revision to the Parker Lands PDO that states: 8. The maximum residential density for the entire Planned Area of PDO-2 PARKER LANDS shall be 1920 dwelling units.	Acknowledged. The administrative report will reflect this change.

		This replaces the previous restrictions on dwelling units of "density to 100 dwelling units per acre" in the Parker Lands PDO. Administration Report dated October 26, 2016 for File DAZ 214/2016 - *Text Amendment – Winnipeg Zoning Bylaw 200/2006* to incorporate a new "TOD" Transit- Oriented Development zoning district in *Winnipeg Zoning By-law 200/2006* states: *The Public Service acknowledges that this scale of development* [allowed under the TOD Zone] *may not be appropriate for all transit station areas. However, **it is possible to use secondary plans, planned development overlays or zoning agreements to tailor the density down** to fit the individual context through the development application process (see page 10). [emphasis mine]* It is entirely normal for a Developer to seek and be approved for a zoning district that has inherently no restrictions on density. Also, it is common practice for the City of Winnipeg to apply regulatory tools at the time of a rezoning to ensure capacity restrictions on density are legally enforceable as suggested by the Administration Report for incorporating the new "TOD" Transit-Oriented Development zoning district into *Winnipeg Zoning By-law 200/2006*. Examples of subdivision and rezoning with restrictions on the zoning applied for; • Tuxedo Yards / Seasons of Tuxedo rezoning to C4 Commercial Regional District Zone: a zoning district with no restrictions on floor area sizes for retail. o Council at the time of the subdivision and rezoning application, restricted through enforceable agreements the total of all retail land-uses to 1.5 million square feet. • A more recent example is **PDO-2 INKSBROOK EMPLOYMENT LANDS** where the City Planners insisted on a cap on total gross floor area of retail not exceeding 15 percent of the total gross floor area of all principal uses. We are proposing the same mechanism in the Parker Lands PDO to place restrictions on the number of dwellings units.	This is within the context of TOD zoning, which is to be adjacent to rapid transit stations.
		The City routinely applies legally enforceable restrictions to cap the density on the development associated with the requested zoning district. This is such a common occurrence at the City of Winnipeg that the continued suggestion by the City Planners that the Applicant here is applying for 6,970 dwelling units without any restrictions is ***factually incorrect***. Point 2.a. – "The proposed zoning district and PDO-2 also have a number of other legal and logistical issues that were outlined in Appendix 5 of the administrative report."	Applicants should first select the closest zoning districts to the intended uses and dimensions, in order to meet Section 57(13) of the ZBL which requires PDOs to contain only relatively minor changes to the permitted and conditional uses and dimensional standards. The TOD district allows for more uses, and larger dimensions, than is appropriate for most of this plan area.

		We have a comprehensive analysis of the *Appendix/Attachment 5 Errors and Omissions* provided in the Michael Robinson/Braden Smith Administrative Report for DASZ 12/2018 that details their faulty assessment of the Parker Lands PDO. That report is attached to this document. This comprehensive assessment points out that the so called 'legal and logistical' errors in the Parker Lands PDO are also found in other PDOs (drafted by the Public Service and other private consultants) and enacted by Winnipeg Council. One example being 'verbiage around Plan Approval' being found in several other PDOs adopted by Council. The Public Service should refer to their internal documents concerning their handling of the DASZ application to ensure that the administrative report does not present a misleading picture of the Public Service's conduct and handling of these applications.	This feedback refers to the fact that there are current changes being considered for the Development Procedures By-Law that ensure this verbiage is located in the By-Law rather than located in PDOs approved from now on.
2	**Zoning**		
2a	b. Way forward		
2b	i. Divide the site into 3 areas, zoned based on the proposed density, heights, and desired form. The proposed zoning categories for these areas are RMU, RMF-M, and RMF-S; and parks PR-1	**V. APPLICANT COMMENTS** The Public Service should refer to their internal documents concerning their handling of the DASZ application to ensure that the administrative report does not present a misleading picture of the Public Service's conduct and handling of these applications. In April 2018, after the Public Service refused the DASZ 12/2018 application for subdivision and rezoning, legal counsel for the Applicants sent a letter to the Public Service stating that although it disagreed with this approach to zoning classifications that the Applicant would use conventional zoning districts of RMU, RMF, etc. in order to advance File DASZ 12/2018 to a public hearing. This offer was an attempt to get resolution to an interminable planning process to advance File DASZ 12/2018 towards a public hearing. **This offer was *not* accepted by the Public Service in May 2018.** Mr. Platt filed an affidavit in a court action in 2018 that says the Parker Lands are a good candidate site for "Transit-Oriented Development" (page 4, para 11 *Affidavit of James Platt (Mandamus)*). This admission by Mr. Platt under oath reaffirmed the criteria that the Administration had previously outlined for the TOD Zone in their Administrative Reports and in the *Winnipeg Zoning By-law 200/2006*. It is normal for a Developer to seek and receive approval for a single zoning district across a large site	The City's Legal Services responded to the applicant's Legal Counsel request to submit an application with multiple zones. No such new application was submitted to the City.

		instead of using several different zoning districts. An example of a single zoning district: • On May 29, 2018, Winnipeg Council approved *TAYLOR REDEVELOPMENT AREA PLANNED DEVELOPMENT OVERLAY 2 (PDO-2).* • The zoning is a "C3" Commercial Corridor District modified by a Planned Development Overlay (PDO-2). The Taylor Redevelopment Area is 46 acres with multiple lots and a variety of land-uses including residential and commercial. (see *Schedule R).*	It is better to compare to similar MRSs which are intended to accommodate residential. Bishop Grandin Crossing is a better comparison. It has zoning districts allowing higher densities closer to the rapid transit station and medium densities as you move further away from the rapid transit station.
3	**PDO**		
3	a. The Public Service had prepared a draft PDO-1 in collaboration with the applicant at an earlier stage in the process.	**VI. APPLICANT COMMENTS** The Public Service should refer to their internal documents concerning their handling of the DASZ application to ensure that the administrative report does not present a misleading picture of the Public Service's conduct and handling of these applications. The Applicants sought feedback on the Parker Lands PDO from Messrs. Robinson and Kiernan, Director of Planning. The Applicant specifically petitioned Mr. Kiernan as the Director of the Planning, Property and Development Department on April 2, 2018 to instruct his staff to collaborate with the Applicant on zoning matters including the finalizing of the Parker Lands PDO. The City of Winnipeg Planners effectively ceased communication with the Applicant regarding the PDO, the Secondary Plan and the Development when the mandamus was filed with the Court of Queen's Bench in June, 2018. This was despite Mr. James Platt communicating on April 6, 2018 that feedback would be provided in advance of the Administrative Reports being submitted to Council and the Applicants attempts on September 19, 2018 and October 29, 2018 to engage the City of Winnipeg.	The Public Service was instructed not to engage with the applicant for legal reasons.
3	b. The PDO-2 lacks key detail required to properly assess future development applications.	**VII. APPLICANT COMMENTS** Point 3. b. – "lacks key detail to properly assess future development applications" indicates that the Public Service should take into account the documents listed in paragraph 71 of the October 5, 2020 decision as instructed by Justice Grammond. This paragraph states that the Public Service will revise the administrative reports to take into account the information described in paragraph 71. The September 19, 2018 review of the July 31, 2018 City Administrative Report under ***Issue #2*** points out the erroneous claims about "lack of details to properly assess".	

		File DASZ 12/2018 has been with the Public Service since early 2018, thus is not a future development application. Please review the Michael Robinson/Braden Smith Administrative Report for DASZ 12/2018 attached to this document for a comprehensive analysis of the *Appendix/Attachment 5 Errors and Omissions document* that details their faulty assessment of the PDO and the associated DASZ.	This refers to future development applications after local area plans are established.
3	c. The proposed PDO2 allows for secondary suites in Two-family dwellings and Multi-family dwellings in contradiction with the Winnipeg Zoning By-law's definition of a secondary suite. The proposed PDO-2 also does not address or propose different regulations between an attached and detached secondary suite.	**VIII. APPLICANT COMMENTS** *Winnipeg Zoning By-law 200/2006* provides different regulations between attached and detached secondary suites. Where a PDO does not modify an underlying regulation, the Zoning By-law regulations apply. The key point here is that one of the functions of a PDO is to modify an underlying zoning district that exists in the by- law, which the Parker Lands PDO-2 does. Furthermore, the criteria for a PDO-2 under subsection 57(1) indicate that 'the development rules are to be unique' and 'not likely used in other areas of the City.'	A PDO cannot modify a provision set out in a ZBL definition.
3	d. Process surrounding plan approvals should be addressed in the Development Procedures By-law, not the PDO.	**IX. APPLICANT COMMENTS** Please review the Michael Robinson/Braden Smith Administrative Report for DASZ 12/2018 attached to this document for a comprehensive analysis of the *Appendix/Attachment 5 Errors and Omissions document* that details their faulty assessment of the PDO and the associated DASZ. This assessment points out the same key details found in the Parker Lands PDO are shared with other PDOs drafted by the Public Service and other private consultants, and enacted by Winnipeg Council including this point being continually made by City Planners. The point that "Process surrounding plan approvals should be addressed in the Development Procedures Bylaw, not the PDO" is contrary to the City of Winnipeg's own recent practices: • On September 17, 2020, Item No. 20 of the Standing Policy Committee on Property and Development, Heritage and Downtown Development received the recommendation of the East Kildonan-Transcona Community Committee regarding the ***Plan Approval*** requirements regulated in the Transcona PDO. o The Director of Planning, John Kiernan and Principal Planner James Veitch spoke about the Transcona Ward Councillor's concerns regarding the **Transcona PDO's** **requirements for Plan Approval** being considered at the Community Committee. o There was no mention that the Transcona PDO was in error or that the process surrounding Plan Approvals should be addressed in the Developments Procedures By-law, and not in the PDO. In	This feedback refers to the fact that there are current changes being considered for the Development Procedures By-Law that ensure this verbiage is located in the By-Law rather than located in PDOs approved from now on.

		fact, Mr. Veitch suggested the Transcona PDO amendment would at most be modified to change the Plan Approval being considered by the Director instead of at the Community Committee. • On August 5, 2020, City of Winnipeg Planner Dylan Harris provided an email indicating that a ***Plan Approval*** application was required to be summitted at the same time as a Development Application Subdivision and Rezoning [DASZ] for a new development project on Grosvenor Avenue, all in accordance to *Schedule W – Corydon Osborne Planned Development Overlay*. • Mr. Harris made no mention that the Corydon PDO was in error, or that the process surrounding Plan Approvals should be addressed in the Developments Procedures By-law, and instead insisted the **Plan Approval** application be **submitted to comply with the Corydon PDO**. The following are the current Planned Development Overlays (including PDO 1s and PDO 2s) in *Winnipeg Zoning By-law 200/2006* that require '**Plan Approval'** applications similar to the Parker Lands PDO: o *SCHEDULE E - BOULEVARD PROVENCHER PLANNED DEVELOPMENT OVERLAY* o *SCHEDULE L - WEST ALEXANDER & CENTENNIAL PLANNED DEVELOPMENT OVERLAY* o *SCHEDULE M - DOWNTOWN TRANSCONA PLANNED DEVELOPMENT OVERLAY* o *SCHEDULE N - ST. NORBERT NEIGHBOURHOOD MAIN STREET PLANNED DEVELOPMENT OVERLAY* o *SCHEDULE W - CORYDON OSBORNE PLANNED DEVELOPMENT OVERLAY* o *SCHEDULE X - INKSBROOK EMPLOYMENT LANDS PLANNED DEVELOPMENT OVERLAY* As the above examples show this request by the Public Service for the Parker Lands PDO does not follow regular "practice" by the Public Service. In fact, the Public Service is creating an atypical process in the case of Fulton Grove, and calling the typical practice we mirror as an 'error'.	
3	**PDO**		
3	**e. Way forward**		
	i. Substitute the former PDO-1 (with minor tweaking) for the PDO-2 submitted with the application.	**X. APPLICANT COMMENTS** **The Applicant is unsure of which PDO -1 document the Public Service is referring to 3e.i.** **Please confirm the document the Public Service wishes to tweak.** The Public Service seems to be not taking into account the criteria for a PDO-2 as provided in *Winnipeg Zoning By-law 200/2006* indicates under subsection 57. *PLANNED DEVELOPMENT OVERLAY DISTRICTS*: ***Criteria***	Response provided to applicant on October 26, 2020

		The PDO-2 must meet criteria in subsection 57(11) and: (y) the proposed development rules are intended to apply to a contiguous area of land in single ownership or control, or under multiple ownership and control if each of the ownership units has requested to be subject to the proposed development rules; and Fulton Grove and the Parker Lands are a contiguous area of land under multiple ownership or control, each of the ownership units has requested to be subject to the proposed development rules of the Parker Lands PDO. ***(z) the proposed development rules are unique to the proposed development area, and are not likely to be used in other areas of the City without significant changes; and*** The proposed development is unique: one of the few remaining large, undeveloped contiguous land holdings within proximity of two (2) Bus Rapid Transit stations. The proposed development is not likely to be repeated in any other areas of the City as there is only one remaining large holding of land along the South West Rapid Transit Corridor that remains undeveloped [University of Manitoba Southwood Lands]. Even more so now that Winnipeg Transit recently indicated they will not be pursuing the Eastern Transit leg into Transcona instead focusing on improvements in the Downtown. ***(aa) the proposed development rules contain relatively minor changes to the permitted and conditional uses in the underlying zoning district and/or minor changes to permitted dimensional standards applicable to the underlying zoning district.*** The proposed Parker Lands PDO contains relatively minor changes to the permitted and conditional uses in the underlying zoning district, modifying three (3) principal uses and four (4) accessory uses in the permitted and conditional uses in the underlying zoning district. Whereas other approved PDO-2s modify considerably more changes to the permitted and conditional uses in the underlying zoning district: ▪ *SCHEDULE Q WESTPORT FESTIVAL PLANNED DEVELOPMENT OVERLAY 2 (PDO-2 Westport Festival)* modifies seventeen (17) principal uses and six (6) accessory uses in the permitted and conditional uses in the underlying zoning district. ▪ *SCHEDULE R - TAYLOR REDEVELOPMENT AREA PLANNED DEVELOPMENT OVERLAY 2 (PDO-2) Taylor Redevelopment Area)* modifies twelve (12) principal uses in the permitted and conditional uses in the underlying zoning district. ▪ *SCHEDULE S - PRAIRIE INDUSTRIAL PARK PLANNED DEVELOPMENT OVERLAY-2 (PDO-2 PRAIRIE*	PDO-2s are intended for "site specific control" and "do not relate to an area wide condition". PDO-1s are intended for "an area wide rather than site specific condition". Applicants should select the closest zoning districts and work form there. If RMU, RMF-M and RMF-S were selected, the required zoning changes to permitted uses and dimensional standards would be much fewer.

		INDUSTRIAL PARK) modifies fifteen (15) principal uses in the permitted and conditional uses in the underlying zoning district. ▪ *SCHEDULE X - INKSBROOK EMPLOYMENT LANDS PLANNED DEVELOPMENT OVERLAY PDO-2 (PDO-2* *INKSBROOK EMPLOYMENT LANDS)* modifies sixteen (16) principal and uses in the permitted and conditional uses in the underlying zoning district. ▪ *RED RIVER EXHIBITION DISTRICT PLANNED DEVELOPMENT OVERLAY (PDO-2)* [approved by Council but not enacted] modifies twelve (12) principal uses and twelve (12) accessory uses in the permitted and conditional uses in the underlying zoning district.	
3	**PDO**		
3e	ii. Add dimensions to front yard setbacks and minimum side and rear yards.	**XI. APPLICANT COMMENTS** Point 3.e. ii. is unclear as to the request for either a modification to the Parker Lands PDO or the submitted Concept Plan. Regardless, the Parker Lands PDO has an entire subsection entitled 'Dimensional Standards', 27-31 on front yard setbacks, and minimum side and rear yards. And point 3.e.ii confirms the concept plan submitted with the DASZ application does not indicate the yard measurements of any of the multi-family buildings. Yet, Messrs. Robinson and Smith said: **"Based on the plans submitted, it appears as if every apartment building and townhouse building will require a variance because they will not meet these setbacks."** (See page 21 Administration Report File DASZ 12/2108) Council has routinely concurred with the Public Service to approve residential subdivisions without building plans or design drawings for structures: On June 26, 2020, Council approved File DASZ 43/2019 Waverley West 'B' (Phase One) with a positive recommendation from the Planning Department to create 163 lots on 88 acres with a predominant use of land a mix of single-family, two-family, and multi-family residential dwellings. ***No building plans or design drawings were submitted with this application*** despite requirements for front yard setbacks, and minimum side and rear yards. (see page 33, *Administrative Report DASZ 43/2019 – Waverley West 'B' (Phase One)*). • **Please confirm that DASZ 12/2018 will share the same requirements as other applications with *No building plans or design drawings submitted*.**	This issue refers to the buildings as they are currently envisioned on the DASZ plan.

3e	iii. TOD requires minimum building heights of 30ft, so need to confirm height of all proposed buildings.	**XII. APPLICANT COMMENTS** PDO's modify the underlying Zoning By-law regulations. Sections 27 - 29 in the Parker Lands PDO indicates that two-family dwellings will follow the R2 zoning district as will triplexes and fourplexes, which allows for buildings **less than 30 feet in height**. One of the purposes of a PDO is to allow for the variance of an underlying zoning bylaw. The PDO is doing that in case. Council has routinely concurred with the Public Service to approve residential subdivisions **without building plans or design drawings for structures**: On June 26, 2020, Council approved File DASZ 43/2019 Waverley West 'B' (Phase One) with a positive recommendation from the Planning Department to create 163 lots on 88 acres with a predominant use of land a mix of single-family, two-family, and multi-family residential dwellings. ***No building plans or design drawings were submitted with this application*** despite requirements for front yard setbacks, and minimum side and rear yards. (see page 33, *Administrative Report DASZ 43/2019 – Waverley West 'B' (Phase One)*). • **Please confirm that DASZ 12/2018 will share the same requirements as other applications with *No building plans or design drawings submitted*.**	The outstanding issue is heights in the Higher Density and townhouse area to ensure buildings cannot be up to 20 storeys.
3e	iv. Clarify dimensional standards for accessory structures for single- and two-family dwellings.	**XIII. APPLICANT COMMENTS** Sections 27- 29 in the Parker PDO indicates that single and two-family dwellings will follow the R1 and R2 zoning district, as will triplexes and fourplexes, which regulates accessory structures.	
3e	v. Clarify regulations surrounding secondary suites.	This has been addressed under 3.c., **VIII. APPLICANT COMMENTS**	
3e	vi. Remove verbiage surrounding plan approvals.	This has been addressed under 3.d. **IX. APPLICANT COMMENTS.**	
4	**Back Lanes**		
4	The applicant is proposing front drives for several blocks within the Lower Density Residential Area.	On November 13, 2018 during the Public Hearing for DASZ 12/2018 at the City Centre Community Committee, Planner Michael Robinson stated: **"**The same higher proportion of driveways means that the sidewalk is more fragmented. It may have to be closer to the street, and every driveway creates a potential vehicle pedestrian pathway. **Would you feel safe with your child walking on the sidewalk by themselves?"** (see page 68, *Public Hearing Transcript DASZ Application*)	
4	b. Public Service does not support front drives – with the exception of blocks that back onto the railroad tracks to the north or Hurst Way to the south.		
4c	c. **Way Forward**		

4c	i. Replace front drives with back lanes within the Lower Density Area for all blocks not backing onto the railway or Hurst Way.	Front driveways dominate the majority of residential subdivisions in Winnipeg. If the Public Service felt that neighbourhoods with front driveways posed a risk to a child's safety, then the Public Service should not have recommended continual approval of these types of subdivisions and should have discouraged these types of building typologies in residential subdivisions. However, the Public Service has done the exact opposite. They are continuing to recommend and approve residential subdivisions without, or with limited, public back lanes: ▪ On September 2, 2020, the Riel Community Committee concurred in the recommendation of the Public Service to approve File DASZ 9/2020 Area around Warde Avenue / Robert Bockstael Drive / MB Power Transmission to create 125 residential lots for single- and two-family houses on 12.923 acres. o This development had; ▪ 24 lots [19 %] with public back lanes ▪ 101 residential lots [80%] **without public back lanes.** ▪ On July 23, 2020 Council concurred in the recommendation of the Winnipeg Public Service to approve File DASZ 7/2020 North of Transcona Boulevard and West of Edward Schreyer Parkway to create 293 residential lots for single- and two-family houses on approximately 33 acres of land. o This development had; ▪ 12 lots [4 %] with public back lanes ▪ 281 residential lots [95%] **without public back lanes** On June 26, 2020, Council concurred in the recommendation of the Winnipeg Public Service to approve File DASZ 43/2019 Waverley West 'B' (Phase One) to create 163 lots on 88 acres with a predominant use of land a mix of single-family, two- family, and multi-family residential dwellings. o This development had; ▪ 42 lots [25 %] with public back lanes ▪ 121 residential lots [75%] **without public back lanes** ▪ On February 27, 2020, Council concurred in the recommendation of the Winnipeg Public Service to approve File DAS 36/2019 Sage Creek / Robert Bockstael Drive, Stoneknife Crescent, Birdsong Lane, Lloyd McKinnon Way, Snowy Owl Crescent. o This development had; ▪ 0 lots [0 %] with public back lanes	TODs have a higher expectation for walkability because of the anticipated use of the transit.

		▪ 151 residential lots [100%] **without public back lanes** ▪ On January 30, 2020, Council concurred in the recommendation of the Winnipeg Public Service to approve File DASZ 24/2019 – North of Murray Avenue, East of McPhillips Street to create 220 residential lots for single-family and two-family dwellings as the predominant land-use on 65 acres. of land with only 60 lots [27%] on public lanes and **155 residential lots without public lanes.** This development had; ▪ 60 lots [28 %] with public back lanes 155 residential lots [72%] **without public back lanes**	
5	**Public Reserve**		
5	a. As "Neighbourhood Medium density" TOD there is an expectation of active and passive activity capacity.	**XV. APPLICANT COMMENTS** The Applicants comments on the appropriateness of the Public Service's use of the Neighbourhood Medium Density TOD Type is detailed in section 1. a – Density. The "Urban Neighbourhood" TOD type is to have "Urban parks and open space: Programmed spaces for active and passive uses. May have recreation fields, town plazas, or neighbourhood parks". The Fulton Grove concept plan indicates urban parks and open space, programmable spaces for active and passive uses as per the *Transit-Oriented Development Handbook* guidelines on "Urban Neighbourhood": • **Neighbourhood Park** with playground of 0.86 acres. **Community Park** with Central Gathering Spaces, connected green spaces, 1.86 acres. • High-Quality Public Realm with Connected Green Spaces, Pocket Parks, Linear Parks and Gathering Spaces The parks and open spaces have been peer reviewed by a nationally recognized Planning expert. In a normal application process the Public Service would have provided details for the open spaces regarding landscaping, design and elements such as specifics on playground structures for developments such as Fulton Grove.	The public service has been consistent in its requirement for a centrally located park space that can accommodate varied park uses. This is addressed in the ACG Report. Other specific issues can be addressed in the public hearing as required.

		Instead, the Public Service effectively ceased communication with the Applicant regarding the PDO, the Secondary Plan and the Development when the mandamus was filed with the Court of Queen's Bench in June, 2018. This was despite Mr. James Platt communicating on April 6, 2018 that feedback would be provided in advance of the Administrative Reports being submitted to Council; and the Applicants attempts on September 19, 2018 and October 29, 2018 to engage the City of Winnipeg.	
5	**Public Reserve**		
5	b. The applicant has proposed a small neighbourhood park, a small linear park (labelled as Community Park), and a 'dry pond'/ ditch. The Public Service notes that their designation of Community Park does not align with Winnipeg's classifications – as that is applicable to larger active sites of 5 hectares or more.	**XVI. APPLICANT COMMENTS** The concept plan for the Fulton Grove development contains generic and common language (like many other similar types of drawings and materials generated by design teams and developers) such as: townhouse, duplex, community, neighbourhood and retention pond, instead of legal descriptions and technical terms found in municipal by-laws, and in registered plans of subdivision such as 'storm retention basin', 'semi-detached dwelling', 'row dwelling', 'public reserve', etc. The Winnipeg Zoning By-law 200/2006 does not define 'community park'. Though under the definition for Parks and Recreation 1 (PR1) (Neighbourhood) it states: "The Parks and Recreation 1 (PR1) district is intended for sites that are generally passive neighbourhood and community parks . . ." (see page 49) [emphasis mine]. Winnipeg Zoning By-law 200/2006 under TABLE 5-1: Agriculture and Park District Standards on page 104 indicates there is no minimum lot area for parks, thus there is no classification of parks in the Zoning By-law based on size. Winnipeg Zoning By-law 200/2006 classifies open greens spaces commonly called 'parks' as 'Park/plaza/square/ playground'. "Park/plaza/square/ playground' means a development of public land specifically designed or reserved for the general public for active or passive recreational use and including landscaping, facilities, playing fields, buildings, and other structures that are consistent with the general purposes of public parkland, whether or not such recreational facilities are publicly operated or operated by other organizations pursuant to arrangements with the public authority owning the park. Typical uses include tot lots, band shells, picnic grounds, pedestrian/bicycle paths and pathways, landscaped buffers, arboretums, botanical gardens, playgrounds, toboggan slides, skateboard parks, swimming pools, wading pools, and water features. 'Park/plaza/square/ playground' as a land-use are allowed as a principal use in the TOD Zone and the Parker Lands PDO, where terms such as 'community', 'park' and 'small' will not be adopted by Council.	The public service has been consistent in its requirement for a centrally located park space that can accommodate varied park uses. This is addressed in the ACG Report. Other specific issues can be addressed in the public hearing as required.

		The Proposed Plan of Subdivision – Lot Plan as submitted OCTOBER 29, 2018 for DASZ 12/2018 clearly designates the lands being provided to the City of Winnipeg as 'PUBLIC RESERVE'. Terms such as 'community', 'park' and 'small' are not adopted by Council for a plan of subdivision. Please confirm that DASZ 12/2018 will not carry a negative recommendation due to the use of non- technical terms in the concept plan such as: 'Fulton Grove'; 'Parker Lands'; 'Community', 'Neighbourhood', 'Townhouse', 'Duplex', 'Retention Pond', etc. that are typically used in the common vernacular to convey and describe concepts and locations.	
5	c. Given the distance from this development to the next available park space, the Public Service recommends a larger centrally located park site, that can accommodate multi-use capabilities, to respond to the varying interests and needs of the community.	XVII. APPLICANT COMMENTS Point 5.c. – 'centrally located park site' indicates the Public Service should take into account the documents listed in paragraph 71 of the October 5, 2020 decision as instructed by Justice Grammond. Paragraph 71 states that the Public Service will revise the administrative reports to address and take into account the information described in paragraph 71. The concept plan and subdivision plan that the Public Service was provided on October 29, 2018, clearly shows the centrally located park space enlarged over the previous plans: • Neighbourhood Park with playground of 0.86 acres. • Community Park with Central Gathering Spaces, connected green spaces, 1.86 acres. • High-Quality Public Realm with Connected Green Spaces, Pocket Parks, Linear Parks and Gathering Spaces The concept plan for Fulton Grove development of the Parker Lands indicate urban parks and open space, programmable spaces for active and passive uses as per the Transit-Oriented Development Handbook for "Urban Neighbourhood". The Public Service continually wants to treat this development as" suburban" with this comment as another example.	The public service has been consistent in its requirement for a centrally located park space that can accommodate varied park uses. This is addressed in the ACG Report. Other specific issues can be addressed in the public hearing as required.
5	**Public Reserve**		
5	c. Given the distance from this development to the next available park space . . .	XVII. APPLICANT COMMENTS . . . . CONTINUED Point 5.c. regarding the distance to the next available parks space. The distances to the next available park spaces, which have not been given in previous Administration Reports (or your most recent communication), are easy walking distances:	

		• Parker Storm Retention Basin - located abutting Fulton Grove to the east on lands expropriated by the City of Winnipeg for the Storm Retention Basin zoned industrial. According to the City of Winnipeg, Water and Waste webpage the Parker Storm Retention Basin will have the following features: Shade Canopies • Benches • Interpretive Signages Butterfly Habitat • Native Milkweed Planting • Flowering Native Perennial Granular Park Path • Elm/Aspen/Oak Tree Planting • Rolling Landform • Informal Mown Grass Path Around SRB. • Native Wetland Shoreline Planting • Native Upland Tall And Medium Grass Planting • The planting of native perennials, including milkweed will provide an improved habitat for butterflies and other pollinator species. • Brenda Leipsic Dog Park – located directly south across Hurst Way from Fulton Grove is a 6.8- hectare triangular section of grass, forest and walking trails that will have picnic tables, shelter and information signage as per the Friends of Brenda Leipsic Dog Park website. • Parker Tot Lot / Fort Garry Community Centre – Victoria Site / Beaumont Park have community gardens, playing fields, ball diamonds and outdoor hockey rinks, all within a 6 to 10-minute walk from Fulton Grove as per the City of Winnipeg Parks and Open Space webpage. • Ralph Cantafio Soccer Complex is within a 10-12- minute walk from Fulton Grove. Comparatively, Winnipeg Council has approved (in concurrence with the Public Service) much larger residential subdivisions with no centrally located park spaces within the development, and no nearby dog parks, forests, community gardens, playing fields, hockey rinks or community centres. Examples of these approvals are: ▪ On July 17, 2013 Winnipeg Council approved DASZ 11/2013 for 675 single family lots and five blocks for duplex or townhouse units on 154 acres of land between Devonshire DR, Transcona Blvd, Peguis ST and the Edward Schreyer Parkway with 1.24 acres of park land at the NW corner of Peguis St and Ravelston Av W to be zoned PR1 for passive open space, and a 0.75 acre park at the east end of the proposed retention pond, and a linear park system.	

		▪ There are no dog parks, community gardens, forest areas, ball diamonds, soccer fields or community centres within an easy walking distance [Park City Community Centre is a 20 - 30-minute walk away]. ▪ On July 23, 2020, Council concurred in the recommendation of the Winnipeg Public Service to approve File DASZ 7/2020 to modify this development, but no additional or modifications made to include a large, centrally located park space that can accommodate multiple use capabilities. Please confirm that DASZ 12/2018 will share the same requirements as other applications regarding public park sizes and locations, and the distance information on the 'next available park space' will be provided this time in the Administration Report.	
5	The Public Service recommends that the park lands be zoned PR1.	XVIII. APPLICANT COMMENTS Please refer to the Applicant comments 5.a 'Public Reserve". Winnipeg Zoning By-law 200/2006 classifies open green spaces commonly called 'parks' as 'Park/plaza/square/ playground'. 'Park/plaza/square/ playground' as a land-use are allowed as a principal use in the TOD Zone and the Parker Lands PDO, same as the PR1 zone.	
5	The Public Service reviewed the October 28, 2018 submitted park space and dry pond design and has the following comments and questions about the dry pond:		
5e	i. These pond areas are much smaller than we've experienced so we are interested in understanding how the applicant see these functioning. 1. Can the applicant provide a cross section or more details of the various dry pond areas? 2. Clarification of how frequent these areas are expected to be 'wet' and how long water is expected to be held. Some concern was expressed about these areas encircling the park where residents from adjacent buildings may want to walk through – and wonder what design treatment is envisioned to accommodate this? 3. For the areas along walkways within the linear park – what kind of treatments area expected,	XIX. APPLICANT COMMENTS Points 5. e. to 6. d., being raised regarding dry ponds indicates the Public Service is not addressing or taking into account certain documents and information, as instructed by Justice Grammond in paragraph 71 of the October 5, 2020 decision being the increased flow allowance for the land drainage release rate, confirmed in emails exchanged between December 2019 and March 2020. A letter from InfraCor confirming that the Stormwater Management for this project does not require dry ponds if increased pipe sizes are used in the underground infrastructure is attached for review by the Public Service. One item InfraCor notes is that a vegetative trap low within the site accommodating surface water for a short duration from storms greater than a 1 in 5-year event will provide cost savings in lieu of an increased diameter of underground pipes and asks that this flexibility be considered. "When the proposed minor storage area in the vegetative trap low is simulated with storms greater than the 1:5-year event, we observe drawdown times, typically, of less than one hour. There is no impediment to	This is addressed in the ACG Report.

	can the space still accommodate some tree planting for buffering? 4. Does the applicant have any case study examples of how this has been implemented in other centres? ii. The dry pond/ditch at the NW limit is not deemed to be Park space given that is does not provide effective park function: its purpose is for land drainage; it is isolated and lacks site lines into the space for passive surveillance; and does not enhance connectivity. This parcel would not receive dedication credit. It would be more suited to be under W+W jurisdiction, however as configured, it doesn't appear to comply with 2001 Stormwater Criteria for alternative proposals so should not be considered an accepted solution. iii. Based on standard new development procedures, land drainage infrastructure would not count toward dedication, but per the city's Stormwater Criteria 2001 for, this would be addressed on a case by case basis for those areas that we consider park space. f. **Way Forward** i. Applicant and Public Service work together to identify a mutual agreeable location for the public reserve land. The Public Service is interested in the dry pond notion and would like to explore other opportunities to better integrate it into the park space.	planting of grass, trees, and shrubs in these areas, but the landscape designer would need to be aware that the areas is be subject to brief, periodic flooding during major rain events." From the InfraCor report. We are open to dialogue on this subject prior to the public hearing.	
6	**Stormwater Retention**		
6	a. The October 28, 2018 received plan was based on previous drainage release rate which has since been increased to a discharge rate up to 3.5m3/s. The change in discharge will change the stormwater land use extents.		This is addressed in the ACG Report

	b. The proposed dry pond in the northwest-most portion of the October 28, 2018 received plan does not align well with the criteria set out in the 2001 Council approved criteria for alternative stormwater management schemes. Aside from the land drainage criteria from earlier correspondence, criteria that need to be satisfied include meeting safety requirements, compatibility with adjacent and nearby land uses, multi-use amenity preference over single use, and consideration of operation and maintenance costs. The criteria are outlined in more detail in Appendix A of the 2001 Council approval.		
6b	i. Link to criteria: https://winnipeg.ca/waterandwaste/pdfs/drainageFlooding/stormwaterManagementCriteriaFeb2001.pdf		
6	c. Conflict between land drainage facilities and water mains have negative maintenance or repair operations impacts and need to be avoided or mitigated with appropriate design		
6	**d. Way forward**		
6d	i. Submit supporting information, such as a landscaping plan or other details, for the proposed stormwater management area in public reserves based on the 2001 Council approved criteria, for review and acceptance by various affected City departments. ii. Submit an updated servicing report based on the allowable drainage discharge up to 3.5 m3/s.		
7	**Road Network**		
7	a. The Public Service is prepared to support the removal of the internal N/S road, assuming that the feedback noted above in #5 and #6 is addressed. As additional vehicular traffic will be re-routed to adjacent nearby streets, the Public Service recommends the existing proposed local road	XX. APPLICANT COMMENTS The subdivision plan that the Public Service was provided on October 29, 2018 does not change the external connections of Fulton Grove to Hurst Way, and does not change the traffic volumes.	This is addressed in the ACG Report

	between Hurst Way (the middle access) and proposed north-south Collector is constructed as a residential Collector including providing the associated rights-of-way.	The internal road network has been changed by eliminating ~220 ft of straight road to mitigate the negative effects of vehicle traffic volume peaks reaching Hurst Way at the same time; and to slow down internal vehicle traffic by implementing a circuitous route with short blocks and 90 degree turns.	
7	b. The Public Service is prepared to support the replacement of the internal Y shaped intersection in favour of a T shaped intersection. c. The Public Service does not support the ~220 ft.		
7	shortening of the westerly vehicular entrance to the site because of its effect on neighbourhood connectivity and increased vehicular traffic on adjacent vehicular local streets with front approaches.		
7	**d. Way forward**		
	i. Restore the westerly vehicular entrance to the site to its previous length, connecting from Hurst to the northerly E/W road just south of the railroad tracks.		
8	**Active Transportation**		
8	a. The Public Service recommends a multi-use path connection from the existing AT path south of the development northward to the central park (on the road west of the red commercial road). The proposed removal of this road makes this corridor more a central AT spine that connects to the main greenspace of the development as well as east/west through the development.	XXI. APPLICANT COMMENTS Point 8.a. being raised here regarding AT Pathways indicates the Public Service should take into account the documents listed in paragraph 71 of the October 5, 2020 decision as instructed by Justice Grammond. This paragraph states that the Public Service will revise the administrative reports to take into account the information described in paragraph 71. The concept plan that the Public Service was provided on October 29, 2018 clearly shows ten (10) pathway connections to the AT path south of the development including two (2) on all the roads west of the red commercial road, and two (2) on the red commercial road. The type [AT vs. sidewalk] and the construction specifics [width, surface type] of these pathway connections are not indicated on this Concept Plan. Will the Public Service identify the type [AT vs. sidewalk] for all the pathway connections?	This is addressed in the ACG Report
9	Rail Mitigation		
9	a. It is unclear whether the replacement of the northwest linear berm and fence along the railroad tracks with a ditch and fence meets the FCM Rail	XXII. APPLICANT COMMENTS	The Public Service has asked CN to review and provide feedback to the Applicant and City.

	Proximity Guidelines. CN needs to review and provide feedback to both your group and the City.	Normally, the Public Service circulates proposals such as File DASZ 12/2018 to the rail companies for feedback. Since 2018, has the Public Service circulated File DASZ 12/2018 to CN? And, if so, received any communication from CN regarding the proposed development?	