Agenda – Council – November 26, 2020

Report "B" – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 16, 2020

Item No. 2 Subdivision and Rezoning – Parker Lands (Northeast corner of Hurst Way between Asquith Avenue and the CN Railway) (River Heights - Fort Garry Ward) File DASZ 12/2018

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 18, 2020, the Executive Policy Committee did not concur in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development, concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That Development Application No. DASZ 12/2018 for the subdivision and rezoning of land located northeast of Hurst Way between Asquith Avenue and the CN rail line be rejected.

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

Report "B" – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 16, 2020

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 18, 2020, the Executive Policy Committee did not concur in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development, concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 16, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development did not concur in the recommendation of the Winnipeg Pubic Service, and submitted the following to the Executive Policy Committee:

1. That the subdivision under Development Application No. DASZ 12/2018 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with the map dated November 16, 2020 and attached as Schedule "A" to this report, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office, subject to the following conditions:

    A. That the developer enter into a Development Agreement with the City pursuant to subsection 259(1) of The City of Winnipeg Charter in accordance with the report of the Administrative Coordinating Group dated October 28, 2020 and attached as Schedule "B" to this report, with the following amendments:

        i. Under General Comments, delete Recommendation 2

        ii. Under Section A – Plan Considerations, delete Condition 7 in its entirety

        ii. Under Section C – Agreement Conditions, I – Servicing Conditions:

            a. Amend Condition 8.a.) ii by deleting "on both sides" immediately after "from the property line" and adding ", in accordance with attachment 1.A." immediately after "connecting to Hurst Way"

            b. Amend Condition 21.a) be deleting "8%" and replacing with "10%"

Report "B" – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 16, 2020

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

B. That the City enter into, execute and deliver with the Developer a Development Agreement in accordance with Recommendation 1; and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

C. That authority be delegated to the City's Director of Planning, Property and Development (the "Director") to negotiate and approve the terms and conditions of the Development Agreement and any Ancillary Agreements in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land to a "TOD PDO-2 Parker Lands" – Transit Oriented Development District, as shown on the map dated November 16, 2020 and attached as Schedule "A" to this report.

3. 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.

4. 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 the By-law in accordance with the above.

5. That the subdivision section of the By-law will come into force when the Development Agreement is fully executed and/or the Plan is registered in the Winnipeg Land Titles Office.

6. That the zoning section of the By-law will come into force when the Plan is registered in the Winnipeg Land Titles Office.

Report "B" – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 16, 2020

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

7. That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan is not registered in accordance with recommendation 5 unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

8. 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.

9. The Applicant provide a rail mitigation plan protecting the proposed adjacent residential development in alignment with the FCM Guidelines or endorsed by CN.

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

PUBLIC HEARING SUMMARY

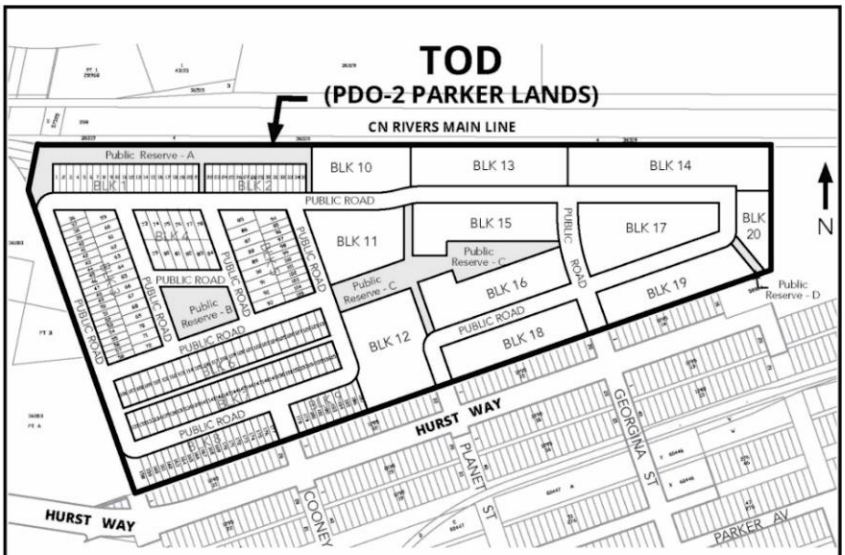
File: DASZ 12/2018

Before: Standing Policy Committee on Property and Development, Heritage and Downtown Development
Councillor Gilroy, Chairperson
Councillor Klein
Councillor Lukes
Councillor Santos

Public Hearing: November 16, 2020
Council Building, 510 Main Street

Applicant: Gem Equities Inc. (Andrew Marquess)

Subject:



APPLICANT: Gem Equities Inc.
FILE: DASZ 12/2018
PROPOSAL: An application for the approval of the plan of subdivision shown outlined above as may be determined by Council and for a proposed zoning change to By-law No. 200/2006 by rezoning the land shown outlined above from an "M2" MANUFACTURING GENERAL DISTRICT to a "TOD PDO-2 PARKER LANDS" TRANSIT ORIENTED DEVELOPMENT DISTRICT to facilitate the establishment of a new neighbourhood by the creation of a block plan with single-family, two-family, and multiple-family residential uses as well as mixed use (commercial and residential) uses, public reserve land, and public right-of-ways. **For information, phone Mr. A. Ross, Planner at 204-986-5235.**

Premises Affected: Northeast corner of Hurst Way between Asquith Avenue and CN Railway (Parker Lands)

For submission to: Executive Policy Committee

Prepared by: K. McMillan, Senior Committee Clerk
Standing Policy Committee on Property and Development, Heritage and Downtown Development

Report date: November 17, 2020

Standing Committee Recommendation:

On November 17, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development did not concur in the recommendation of the Winnipeg Public Service and recommended to the Executive Policy Committee:

1. That the subdivision under Development Application No. DASZ 12/2018 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with the map dated November 16, 2020 and attached as Schedule "A" to this report, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office, subject to the following conditions:

    A. That the developer enter into a Development Agreement with the City pursuant to subsection 259(1) of The City of Winnipeg Charter in accordance with the report of the Administrative Coordinating Group dated October 28, 2020 and attached as Schedule "B" to this report, with the following amendments:

        i. Under General Comments, delete Recommendation 2

        ii. Under Section A – Plan Considerations, delete Condition 7 in its entirety

        ii. Under Section C – Agreement Conditions, I – Servicing Conditions:

            a. Amend Condition 8.a.) ii by deleting "on both sides" immediately after "from the property line" and adding ", in accordance with attachment 1.A." immediately after "connecting to Hurst Way"

            b. Amend Condition 21.a) be deleting "8%" and replacing with "10%"

    B. That the City enter into, execute and deliver with the Developer a Development Agreement in accordance with Recommendation 1; and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

C. That authority be delegated to the City's Director of Planning, Property and Development (the "Director") to negotiate and approve the terms and conditions of the Development Agreement and any Ancillary Agreements in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land to a "TOD PDO-2 Parker Lands" – Transit Oriented Development District, as shown on the map dated November 16, 2020 and attached as Schedule "A" to this report.

3. 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.

4. 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 the By-law in accordance with the above.

5. That the subdivision section of the By-law will come into force when the Development Agreement is fully executed and/or the Plan is registered in the Winnipeg Land Titles Office.

6. That the zoning section of the By-law will come into force when the Plan is registered in the Winnipeg Land Titles Office.

7. That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan is not registered in accordance with recommendation 5 unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

8. 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.

9. The Applicant provide a rail mitigation plan protecting the proposed adjacent residential development in alignment with the FCM Guidelines or endorsed by CN.

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

The Standing Policy Committee on Property and Development, Heritage and Downtown Development provided the following supporting reasons for its recommendation:

1. I've had an opportunity to work with Mr. Nnadi over the years through the development of Waverley West and I really think he's a visionary on development and when he said TOD is relatively new concept in Winnipeg – it's a completely new concept in Winnipeg – we've invested 500 millions dollars in the rapid transit corridor, we've put the Waverley Underpass in, the Jubilee Underpass in, we've got active transportation on it, we've redone the dog park, we have a beautiful large retention pond with pathways and native habitat all around the pond.

2. The location supports density. I think this is a location that absolutely supports density. The city wants density, it needs density. We've heard all the municipal infrastructure is around there. The capacity is there.

3. It's going to increase the tax base. We've been sitting here six/seven years and we've lost six/seven lawsuits in the whole thing. I think it's time we just continue to move forward. Plan approvals will come forward and we'll have opportunities for more input there.

4. We look at our Complete Communities overview, so much of this supports infill density, on the rapid transit corridor, it's a great benefit to the city, it'll be transformative and I think we just need to move forward.

5. It's complicated. It's got a long history but at some point we have to draw the line in the sand and move forward. All the development I've seen in my six years and I look at this development, nothing is going to perfect. There's not a perfect development. We've learned from developments, we're moving forward and it's just an empty piece of land that we need to start developing and start paying for this rapid transit corridor. I'm doing my bit on Pembina Highway and I think we need to move forward on this and draw the line in the sand.

Exhibits Filed:

1. Application dated August 27, 2018
2. Notification of Public Hearing dated October 21, 2020
3. Plans (6 pages)
4. Report from the Urban Planning Division dated November 2, 2020
5. Public Engagement Report dated November 6, 2020 (including attachments A-K), submitted by the Applicant
6. Review of the Administrative Report dated November 2, 2020 (including attachments A-F), submitted by the Applicant
7. Inspection Report
8. Communication dated November 12, 2020, from Ron Loeppky in opposition to the application
9. Presentation dated November 13, 2020 from Andrew Marquess in support of the application
10. Presentation dated November 13, 2020 from John Wintrup in support of the application
11. Presentation dated November 13, 2020 from Geoff Zywina in support of the application
12. Presentation dated November 13, 2020 from Chris Hutton in support of the application
13. Presentation dated November 13, 2020 from Emeka Nnadi in support of the application
14. Presentation dated November 13, 2020 from Dave Stusek in support of the application
15. Presentation dated November 16, 2020, submitted by the Winnipeg Public Service at the hearing
16. Communication dated November 11, 2020 submitted by Rob Matthews in support of the application, *added to the public hearing summary on November 18, 2020*

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

REPRESENTATIONS:

In Support:

Andrew Marquess
Emeka Nnadi
Chris Hutton
Geoff Zywina
John Wintrup
Dave Stusek
Andres Baez Rodriguez
Rob Matthews, *added to the list of representations on November 18, 2020*

In Opposition:

Michele Kading
Ron Loeppky

For Information:

Mark Probyn
Ken Douma

For the City:

D. Jopling, Manager of Urban Planning and Design, Planning, Property and Development Department
A. Ross, Planner, Planning, Property and Development Department
G. Jasper, Land Development Administrator, Planning, Property and Development Department
M. Pitter, Manager of Real Estate and Land Development, Planning, Property and Development Department
J. Veitch, Principal Planner, Planning, Property and Development Department

Exhibit "4" referred to in File DASZ 12/2018

ADMINISTRATIVE REPORT

Title: DASZ 12/2018 Parker Lands Subdivision and Rezoning (Northeast corner of Hurst Way between Asquith Avenue and the CN Railway)

Issue: For consideration at the public hearing to rezone and subdivide the subject property to "TOD" Transit Oriented Development District for future development of single-family, two-family, and multiple-family residential uses as well as mixed use (commercial and residential) uses and park uses.

Included with the rezoning is a proposed Planned Development Overlay 2 (PDO-2 Parker Lands) – which modifies the proposed "TOD" zone

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development > Executive Policy Committee > Council

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Jopling	J. Kiernan	n/a	

RECOMMENDATIONS

1. That Development Application No. DASZ 12/2018 for the subdivision and rezoning of land located northeast of Hurst Way between Asquith Avenue and the CN rail line **be rejected.**
2. 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

- On October 5, 2020, Justice Grammond of the Manitoba Court of Queen's Bench ordered that:
    - The Standing Policy Committee on Property and Development, Heritage and Downtown Development (SPC) hear DASZ 12/2018 afresh at a public hearing, and that
    - The Winnipeg Public Service revise the administrative reports to address and take into account the following information:

a) the report provided by the Applicants to the respondents on September 19, 2018, constituting the Applicants' review of the July 31, 2018 City Administrative Report (attached to this report as Attachment 3);

b) all of the information provided by the Applicants to the respondents on October 29, 2018 (attached to this report as Attachment 1); and

c) the increased flow allowance for the land drainage release rate confirmed in emails exchanged between December 2019 and March 2020 (attached to this report as Attachment 4).

- Item a) above pertains primarily to the Secondary Plan and is therefore addressed primarily in the associated Administrative Report for the Secondary Plan (File No. SP 1/2018) although relevant issues are captured in this report as well where appropriate.
- Items b) and c) above ("the new documents") includes the items in Attachment 1: Map – Development Plan Concept, Map - Low Density Mixed Housing Residential Area, Map – Community Park Concept, Plan of Subdivision, and PDO-2 submitted by Applicant.
- Analysis pertaining to the new documents is incorporated into this report in relevant sections where appropriate.
- The Applicant is proposing to rezone the subject property from an "M2" Manufacturing General District to a "TOD" Transit Oriented Development District in order to establish a new development with single-family, two-family, and multiple-family residential uses as well as mixed use (commercial and residential) uses and park uses.
- Subdivision 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 land **will not be** subdivided and rezoned.

The Public Service wishes to make it clear that while the DASZ application is not supportable in its current form, with some changes (previously identified in detail to the Applicant) submitted as part of a new application, the Public Service would be in a position to make a supportive recommendation. These changes would include:

1. The Applicant and Public Service work together to break the site into 3 main development areas in alignment with revisions to the secondary plan. The most suitable zoning districts would likely be RMU, RMF-L, and RMF-S. Public reserve lands should be zoned PR-1.
2. Provide a pedestrian bridge connection over the CN tracks at the north boundary of the site, to connect with and provide access to the existing commercial amenities thus supporting their desired density of 1,920 dwelling units. (Or, with no provision of a pedestrian bridge, the Public Service is prepared to support a density of up to 1,600 dwelling units).
3. The Applicant work collaboratively with the Public Service on the creation of a PDO-1 replacing the currently applied-for PDO-2, providing for uses and dimensional standards

reflective of the 3 main development areas and zoning districts mentioned above in point #1.

4. The Applicant provide a rail mitigation plan protecting the proposed adjacent residential development in alignment with the FCM Guidelines and endorsed by CN.

CONSULTATION

In preparing this report there was consultation with:

- Administrative Coordinating Group (ACG)
- Legal Services (as to legal issues)

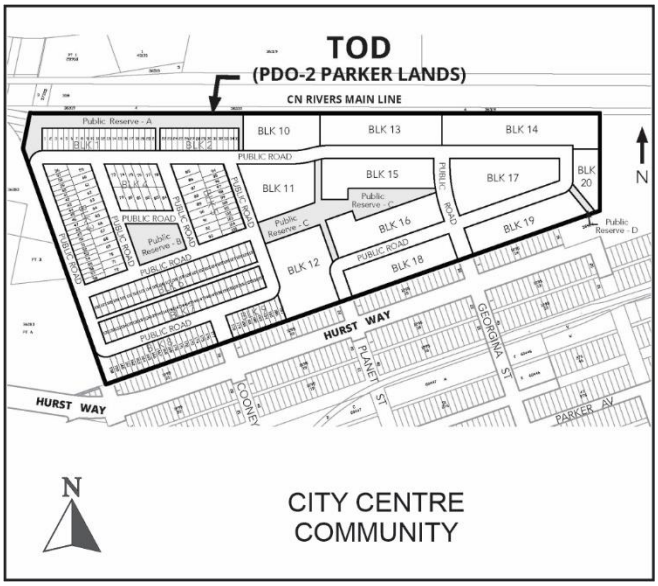
SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Date:	November 2, 2020
File No.	DASZ 12/2018

APPENDIX 'A'

DATE:	November 2, 2020
FILE:	**DASZ 12/2018**
RELATED FILES:	SP 1/2018
COMMUNITY:	City Centre Committee
NEIGHBOURHOOD #:	1.654 Parker
SUBJECT:	To rezone the subject land from "M2" Manufacturing General District to "TOD" Transit Oriented Development District to permit the establishment of a new development with single-family, two-family, and multiple-family residential uses as well as mixed use (commercial and residential) uses and park uses.
LOCATION:	Northeast corner of Hurst Way between Asquith Avenue and the CN Railway

LEGAL DESCRIPTION: See application



APPLICANT: Andrew Marquess – Gem Equities

OWNERS: 7138793 Manitoba Ltd., 6165347 Manitoba Ltd, City of Winnipeg

RECOMMENDATION: **Rejection**

LIST OF SCHEDULES:

- Schedule “A” for file DASZ 12/2018, Standing Policy Committee on Planning, Property and Development, Heritage and Downtown Development November 16, 2020.
- Schedule “B” - Report of the Administrative Co-ordinating Group – October 28, 2020
- Attachment 1 – Submission received from the Applicant on October 29, 2018
    - A. Map – Development Plan Concept
    - B. PDO-2 submitted by Applicant
    - C. Proposed Plan of Subdivision
    - D. Applicant’s Letter of Intent
- Attachment 2 - TOD Typologies as per the City of Winnipeg TOD Handbook
- Attachment 3 – Letter from Andrew Marquess dated September 19, 2018
- Attachment 4 – Emails- increased flow allowance rate, August 6, 2019-June 12, 2020
- Attachment 5 – Applicant/ Public Service dialogue October 15-26, 2020.

HISTORY:

- On July 13, 2009, City Council approved a land exchange with Gem Equities (the “Applicant”) for the Parker Lands, which includes the subject site. The Council motion included the following condition:

    3) “That upon the approval of recommendations 1 and 2, the City of Winnipeg Public Service be directed to ***prepare an Applicant led secondary plan*** *for the Fort Rouge lands and the* ***Parker Lands****, which secondary planning process shall incorporate appropriate public consultations.”*

- In 2013, GEM Equities began the development of a proposed secondary plan with supporting engineering studies for the Parker Lands in consultation with the Public Service.
- A number of draft versions of the Plan were produced by GEM Equities between 2013 and 2017, with ongoing feedback from the Public Service.
- The arrangement of land uses and residential densities presented in each version of the Plan evolved as new information and ideas became evident. Refinements made to the Plan over time included clarification as to which portion of the remaining high-quality forest was be protected. The subject forest has since been removed.
- GEM Equities hosted Public Open House events in February 2016 and August 2016.
- In **March 2017**, a pre-application for a DASZ for the subject property was applied for. On **May 5, 2017**, the City sent written feedback on the pre-application regarding the preservation of a forest, recommended zoning, density, back lanes, and engineering requirements.

- In **December 2017**, GEM Equities informed the Public Service of their intention to alter the Plan to allow for higher residential densities than described in previous versions of the Plan that had been submitted to the Public Service for comment and to forgo the preservation of a portion of the forest that had been included in previous versions of the Plan and presented at the Open House events.

- On **January 12, 2018**, GEM Equities submitted Development Application No. SP 1/2018 ("SP 1/2018") to have the Parker Lands Secondary Plan adopted by Council as a secondary plan by-law.

- On **January 19, 2018**, GEM Equities informed the Public Service of their intention to conduct an online public engagement exercise.

- In **February 2018**, GEM Equities initiated Development Application No. DASZ 12/2018 for the subdivision and rezoning of ~47 acres of land in the Parker Lands ("DASZ 12/2018"). The last piece of documentation required to complete this application was not received by the City until six months later on **August 24, 2018.**

- On **June 8, 2018**, the Applicant filed an Application with the Court of Queen's Bench for a writ of mandamus to compel the City to hear the Applicant's development applications.

- On **September 4, 2018**, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service to lay over consideration of the Plan indefinitely and submitted the matter to the Executive Policy Committee and Council.

- On **September 12, 2018**, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

- On **September 19, 2018**, Justice Grammond issued a decision granting the Applicant's writ of mandamus.

- On **September 20, 2018**, Council concurred in the recommendation of Executive Policy Committee and *laid over the matter indefinitely.*

- In **October 2018**, the proponent cleared the remainder of the forest on their property precluding the City from acquiring a portion of the forest in fulfilment of the 10% land dedication.

- On **October 15, 2018**, Justice Grammond issued an Order (the "Mandamus Order") which ordered the following:
    - that the City Centre Community Committee ("CC") hold a public meeting in respect of SP 1/2018 and a public hearing in respect of DASZ 12/2018; and

    - that the Public Service do all things necessary to have the required materials in relation to the applications available to CC for its consideration.

- In **November 2018**, City Centre Community Committee held a public meeting in respect of SP 1/2018 and a public hearing in respect of DASZ 12/2018 (the "November

Meeting").

- On **December 14, 2018**, the Applicant filed a motion with the Court of Queen's Bench requesting that the City be held in contempt of the Mandamus Order, alleging that the City failed to adhere to the Mandamus Order in three respects:
    - that SP 1/2018 was considered using a by-law approach as opposed to a non-statutory approach;
    - that DASZ 12/2018 was rejected on the basis that there was no secondary plan; and
    - that the Public Service failed to provide to the Community Committee all documents submitted by the Applicant.
- In **August 2019**, Justice Grammond found the City in contempt for failing to process the Applicants' secondary plan application as a non-statutory (policy) plan, but declined to find the City in contempt on the other two grounds raised by the Applicant (the "Contempt Decision"). As a result of her finding, Justice Grammond set aside the recommendations of the Community Committee on both the secondary plan and the DASZ applications and directed the City to purge its contempt by holding a new meeting on a non-statutory (policy) plan followed by the DASZ application, at Community Committee.
- In response, the City file a motion with the Court of Queen's Bench to have the finding of contempt reconsidered (the "Reconsideration Motion"), which motion was heard by Justice Grammond during the penalty phase of the contempt proceedings.
- On **December 12, 2019**, the Public Service provided the Applicant, through the Applicant's counsel, with a list of 9 significant issues (not including the approximately 200 minor issues) with SP 1/2018 and DASZ 12/2018 that would need to be addressed before the Public Service would be able to support the applications. As of the May 21, 2020 public meeting (see below), the Public Service did not receive any form of response to this correspondence.
- On **March 30, 2020**, Justice Grammond delivered her decision on the Reconsideration Motion and the penalty phase of the contempt proceedings. In the March Decision, Justice Grammond declined to reconsider her finding of contempt, but, importantly, declined to impose any penalty whatsoever on the City for the alleged contempt. Justice Grammond ordered that SP 1/2018 and DASZ 12/2018 be referred directly to SPC for consideration, and that SP 1/2018 be considered as policy only and not as a by-law.
- On **May 21, 2020,** SPC held a public meeting in respect of SP 1/2018 and concurred with the recommendation of the Public Service that the Plan not be endorsed by Council pursuant to a non-statutory (policy) approach until issues and concerns related to the Plan had been addressed. SPC also concurred with the Public Service in respect to DASZ 12/2018 and recommended that DASZ 12/2018 be rejected.
- On **May 22, 2020,** Executive Policy Committee concurred in the recommendations of SPC. Following the meeting of the Executive Policy Committee, counsel for the Applicant objected to the process followed.
- In **September, 2020**, counsel for the City and counsel for the Applicant appeared in Court seeking direction as to how SP 1/2018 and DASZ 12/2018 ought to proceed.

- On **October 5, 2020**, Justice Grammond delivered a decision which required the following:
    - that SPC hold a fresh public hearing in respect of DASZ 12/2018;
    - that SPC consider anew SP 1/2018 as a non-statutory policy;
    - that the public hearing in respect of DASZ 12/2018 and the new public meeting in respect of SP 1/2018 be held November 16, 2020;
    - that the Public Service amend the administrative reports in respect of DASZ 12/2018 and SP 1/2018 to consider and include:
        - a letter from the Applicant to the City dated September 19, 2018;
        - the additional information provided to the City by the Applicant on October 29, 2018; and
        - e-mails exchanged between the City and the Applicant in respect of land drainage between December 2019 and March 2020;
    - that the draft administrative reports be provided to the Applicant for review ahead of the SPC agenda being published and that the Applicant be provided with at least seven days to provide their comments to the City;
    - that the Public Service ensure that the Applicant's comments are provided to SPC for consideration; and
    - that no fine be levied against the City.
- On **October 15, 2020**, the Public Service provided the Applicant with initial feedback regarding the proposed DASZ, including the "new documents", and offered the opportunity for dialogue, requesting any feedback by October 23, 2020.
- On **October 26,2020**, the Applicant responded to the initial feedback regarding the DASZ.
- On **October 30, 2020**, the Public Service provided the Applicant with a copy of the new administrative report for their review and response 11 days prior to the report submission deadline for the scheduled public hearing.

It is extremely important to note that, although Justice Grammond has ordered that SP 1/2018 be considered by way of non-statutory, policy approach, but **has not** ordered that either SP 1/2018 or DASZ 12/2018 be approved. In the Contempt Decision, Justice Grammond writes *"I was not asked to direct the public service to provide particular recommendations with respect to the Applications, and I did not do so"*, and in her decision of March 30, 2020, she writes *"I agree that generally, deference is owed to municipal decision-making… I was not asked to make, and did not make, any decision relative to the substantive outcome of the Secondary Plan Application".*

It is important that SPC, EPC and Council understand that the decision to approve or reject SP 1/2018 and DASZ 12/2018 remains exclusively within Council's discretion and the Court has expressly declined to order approval or rejection of either application.

The Public Service also recognizes that consideration of SP 1/2018 and DASZ 12/2018 are no longer following standard City process or procedures. The Public Service does not intend for this novel process to set any form of precedent in the future.

SITE DESCRIPTION

The subject site is located north of Hurst Way and south of the CNR Rivers rail line, in the Parker neighbourhood of the River Heights-Fort Garry ward.

The subject site is located within the Major Redevelopment Area Policy Area in the *Complete Communities Direction Strategy*.

The subject site is 47.35 acres in area and is currently zoned “M2” Manufacturing General District

Currently, the land is undeveloped and unserviced.



Figure 1: Aerial photo of subject site and surrounding area (Flown in 2018).

SURROUNDING LAND USE AND ZONING

North: Immediately north is the CNR Rivers rail line. North of the rail line is a substantial amount of commercial/office development. This includes the 'Taylor Festival Site' which currently includes a Walmart, and the 'Grant Park Pavilions' site which includes a Sobey's grocery store. Apartment buildings, recreation facilities (i.e. Pan Am Pool, Charles A. Barbour 'Grant Park' Arena), and schools (ie. Grant Park High School and Harrow School) are located north of the commercial developments.

South: Immediately south are hydro lines and an active transportation pathway, then Hurst Way. Further to the south is the Beaumont Neighbourhood. This residential neighbourhood contains ~950 dwellings, over 90% of which are single-family detached. The neighbourhood also includes General Byng School, Fort Garry Community Centre Victoria site, several parks and play areas, a large industrial facility (CG Powers Systems Canada) and a funeral home with an accessory cemetery.

East: Calrossie water retention pond.

West: A multi-tenant strip mall, a storage locker facility and the Winnipeg Humane Society.

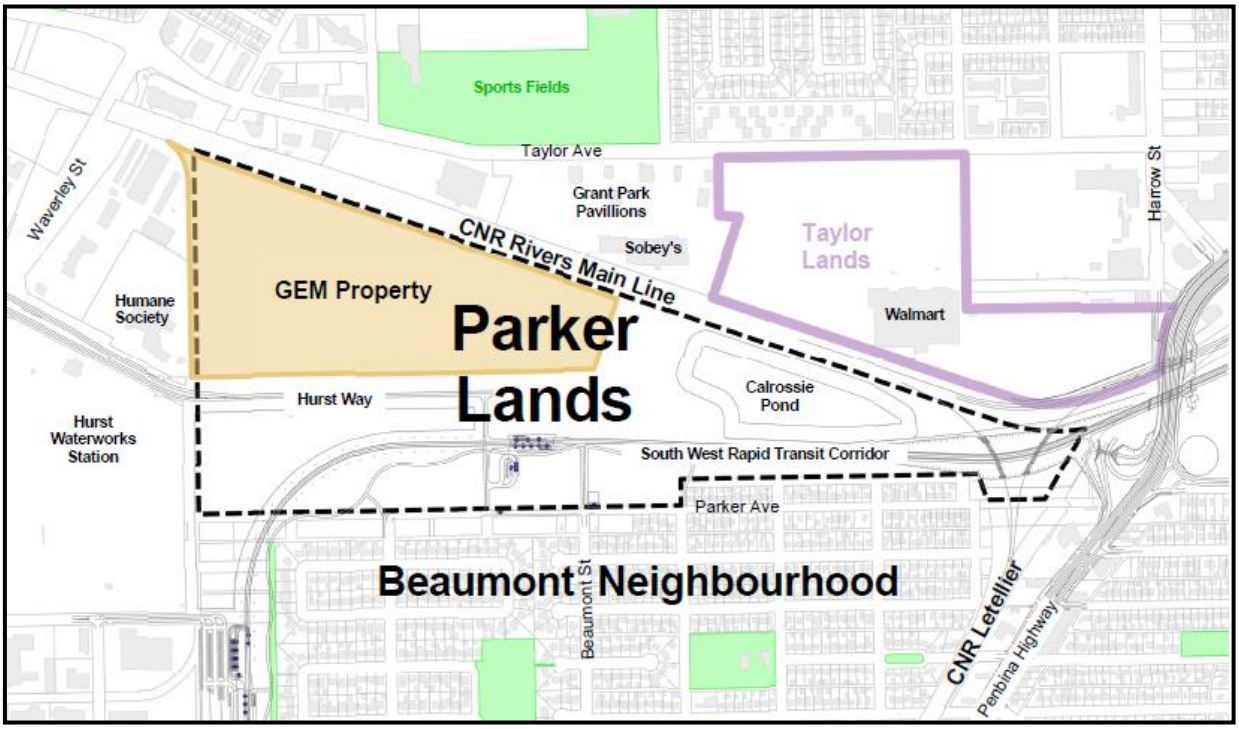


Figure 2: Map of the Parker Lands Major Redevelopment Site and surrounding uses.

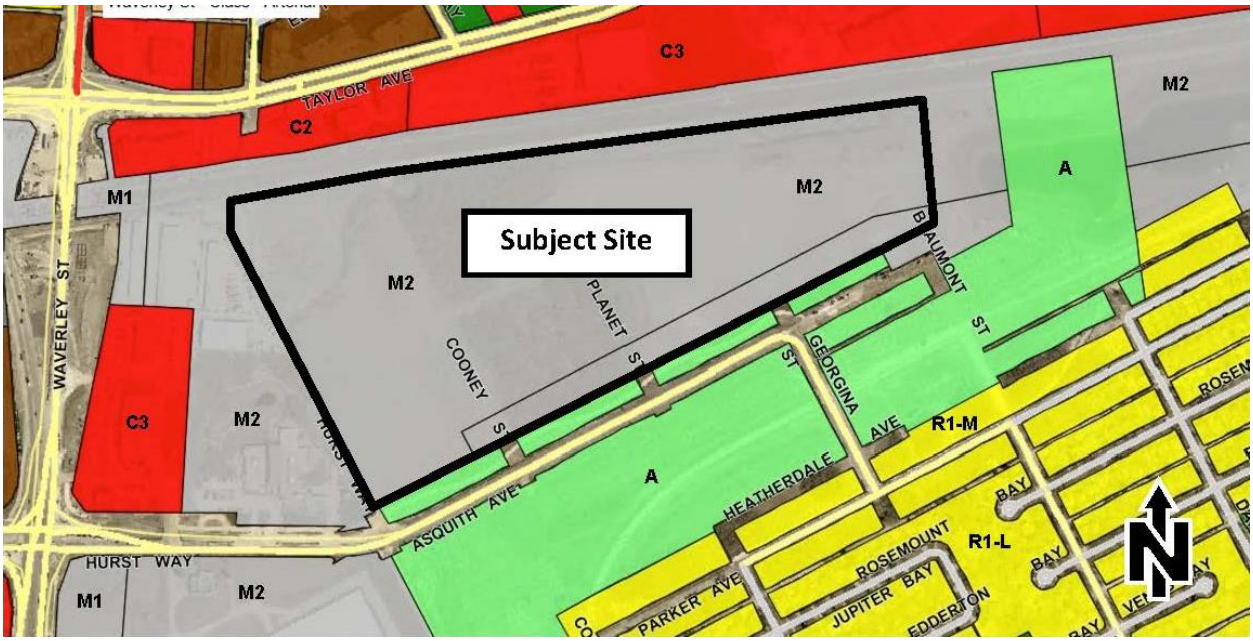


Figure 3: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The Applicant seeks approval to rezone and subdivide the subject lands. The Applicant also seeks approval for a Planned Development Overlay (PDO-2), which modifies the proposed underlying zoning district.

The subject parcel is 47.35 acres in size and is proposed to be subdivided into 20 developable blocks and 4 lots for public reserve. The 9 blocks in the Lower Density Mixed Housing Residential Area are divided into 187 lots. Some of the blocks in the High-Density Multifamily Residential Area will be further subdivided into smaller lots at a later stage.

The rezoning and subdivision is intended to accommodate a variety of uses including single-family, two-family, and multiple-family residential uses (triplexes, fourplexes, townhomes, and apartment buildings), mixed use buildings with commercial and residential uses, and public reserve land.

As the subject lands are designated as a Major Redevelopment Site in the *Complete Communities Direction Strategy*, "*a proactive and collaborative planning process is required*" to guide the development of these lands. (Direction 1, Major Redevelopment Sites). As such, the Applicant has submitted an associated Parker Lands Secondary Plan (the "Plan", see the associated planner's report for SP 1/2018), which provides the Applicant's vision and objectives for the site and policies for the Plan area. The Plan guides the DASZ application and provides the policy framework that the City will use to evaluate future development proposals for the Plan area.

Also, Part 3, Section 54 (9) of the Winnipeg Zoning By-law states the following regarding the TOD zoning district:

The Transit Oriented Development (TOD) district is intended to facilitate mixed use development at a scale and density exceeding all other districts. These sites are intended to be adjacent to rapid transit stations ***with a Council endorsed local area plan in place to guide development.*** *Site design should fulfill the objectives of the Transit Oriented Development Handbook.*

For these reasons, it is the Public Service's position that an approved Secondary Plan must be in place for this subdivision and rezoning application to proceed.

A. Development concept

The conceptual site development plan provided by the Applicant indicates that the development will consist of a High-Density Multifamily Residential Area on the eastern half of the site and a Lower Density Mixed Housing Residential Area on the western half of the site.

High-Density Multifamily Residential Area

The images provided by the Applicant for the eastern portion of the site indicate that there will be 21 apartment style buildings within this area. The heights will range from 4 storeys to 13 storeys.

Six of the buildings, which flank a new north/south commercial street that will provide access to this area, will be mixed use, with commercial uses on the ground floor and residential above.

In the images submitted as part of the application, parking is primarily located below grade, with the ground level consisting of green space. In addition, a 1.86-acre Community Park is proposed, which would contain an east/west pathway connecting the eastern and western portions of the development.

The Applicant's rendering of the proposal for the Community Park is provided in Attachment 1: Submission received from the Applicant on October 29, 2018. See Attachment 1.

Lower Density Mixed Housing Residential Area

The images provided by the Applicant for the western portion of the site indicate that there will be a mix of townhomes, fourplexes, triplexes, duplexes, and single-family homes. The heights will not exceed 3 storeys.

The townhomes will include a combination of underground and surface parking. The triplexes, duplexes, and single-family homes contain a mix of back lane and front drive access.

Two public reserves are shown. One public reserve, which is 1.87 acres, is located at the north edge of this area just south of the railroad tracks and contains a dry-pond/ ditch. A second public reserve, identified as a Neighbourhood Park, is 0.8 acres, and is proposed in the centre of this area.

The Applicant's rendering of the proposal for the Lower Density Mixed Housing residential area is provided in Attachment 1: Submission received from the Applicant on October 29, 2018. See Attachment 1.

Urban Design and Streetscaping

Design renderings and a letter of intent submitted by the Applicant in February 2018 indicate that the development will provide a high-quality design of both private and public spaces and that the design will support and encourage pedestrian and bicycle connections to the AT paths and the future bus rapid transit station.

Guidelines for residential development in proximity to railway operations

The figure below, taken from the Federation of Canadian Municipalities (FCM) proximity guidelines, is a standard model for mitigating safety, noise and vibration issues associated with residential development adjacent to rail lines.

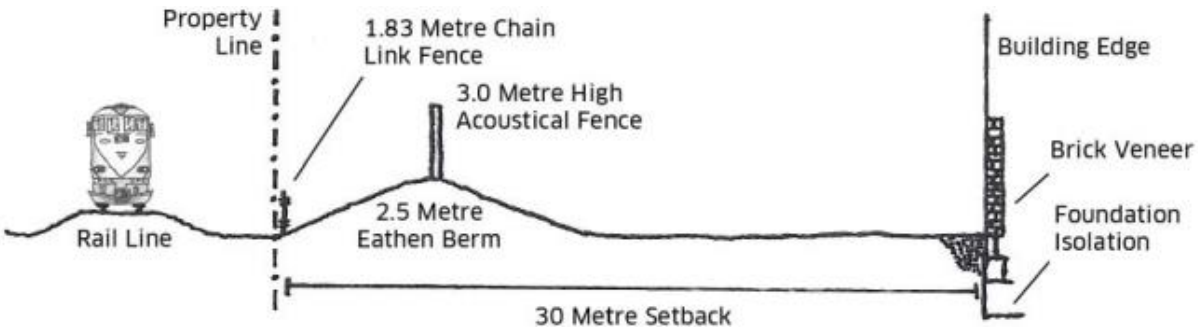


Figure 4: Standard model for rail line mitigation

These guidelines represent a standard that was developed by the FCM in consultation with the rail companies and municipalities, and has been applied by the City of Winnipeg to new development along rail lines, as part of zoning approvals, for several years.

The guidelines state that alternative design measures may also be considered in order to achieve the goals of safety and sound attenuation.

In this specific case, the Applicant is proposing an alternative design being a crash wall for the buildings in the High-Density Multifamily Residential Area, a berm/sound fence combination for the buildings in the Townhomes Area, and a ditch and noise attenuation fence in the Low-Density Mixed Housing Area.

In the previous plans, the Applicant proposed a berm/noise attenuation fence combination for the buildings in the Low-Density Mixed Housing Area.

It is unclear whether their alternative design and the replacement of the berm and fence in this location with a ditch and fence meets the FCM Rail Proximity Guidelines. The Public Service has asked CN to review and provide feedback to the Applicant and City.

B. Zoning

The Applicant has applied to rezone the entire 47.35 acre site to the "TOD" Transit Oriented Development District. The subject application also includes a PDO-2 Planned Development Overlay District, prepared by the Applicant, which permits the proposed underlying zoning to be modified.

Some of the key modifications to the underlying zoning district include:

- The principal and accessory use tables are expanded to allow for a broader range of uses.
- Reduction in the setback requirements for buildings.
- A minimum setback to habitable rooms or spaces of 80 feet (24.4 metres) to the CNR Rivers rail line.
- A Parking and Bicycle Parking Management Plan, which must be approved by the Director of Planning, Property, and Development, which replaces the parking and bicycle parking requirements in the Winnipeg Zoning By-law. The vehicle parking is reduced to .75 stalls per unit for multiple-family residential and to 75% of the By-law minimum for commercial uses.
- A requirement for Community Committee plan approval for residential development (excluding single-family dwellings, semi-detached dwellings, duplexes, secondary suites and home occupations).
- A minimum and maximum dwelling unit density for the entire site.

The Applicant's proposed PDO-2 is included in Attachment 1: Submission received from the Applicant on October 29, 2018.

C. Streets

Connections to the Subject Site

Planned vehicular site access to Hurst Way is provided from three points:

1. A north/south road intersecting with Hurst Way and servicing primarily the Lower density Mixed Housing residential area. This road is located approximately 500 feet from the western boundary of the site.

2. A north/south road intersecting with Hurst Way and servicing both the Lower Density and High-Density Area. This road is roughly halfway between the eastern and western boundaries of the site.

3. A north/south road intersecting with Hurst Way and Georgina Street and servicing primarily the High-Density Area. This road would also serve as the commercial street for the development. This road is just north and slightly west of the Beaumont Rapid Transit Station.

Internal roads

The proposed internal public road system includes several local roads. Images provided by the Applicant of the proposed road network are shown in Attachment 1: Submission received from the Applicant on October 29, 2018.

On October 29, 2018, the Applicant submitted new information to the City (Attachment 1) with some changes to the internal network. including:

- Removal of an internal N/S road (previous location shown red and identified as “1” on Figure 5 below)
- Replacement of the internal Y shaped intersection in favour of a T shaped intersection (previous location shown in red and identified as “2” on Figure 5 below).
- An approximately220 ft. reduction in length of the westerly vehicular entrance to the site. (previous location shown in red and identified as “3” on Figure 5 below).

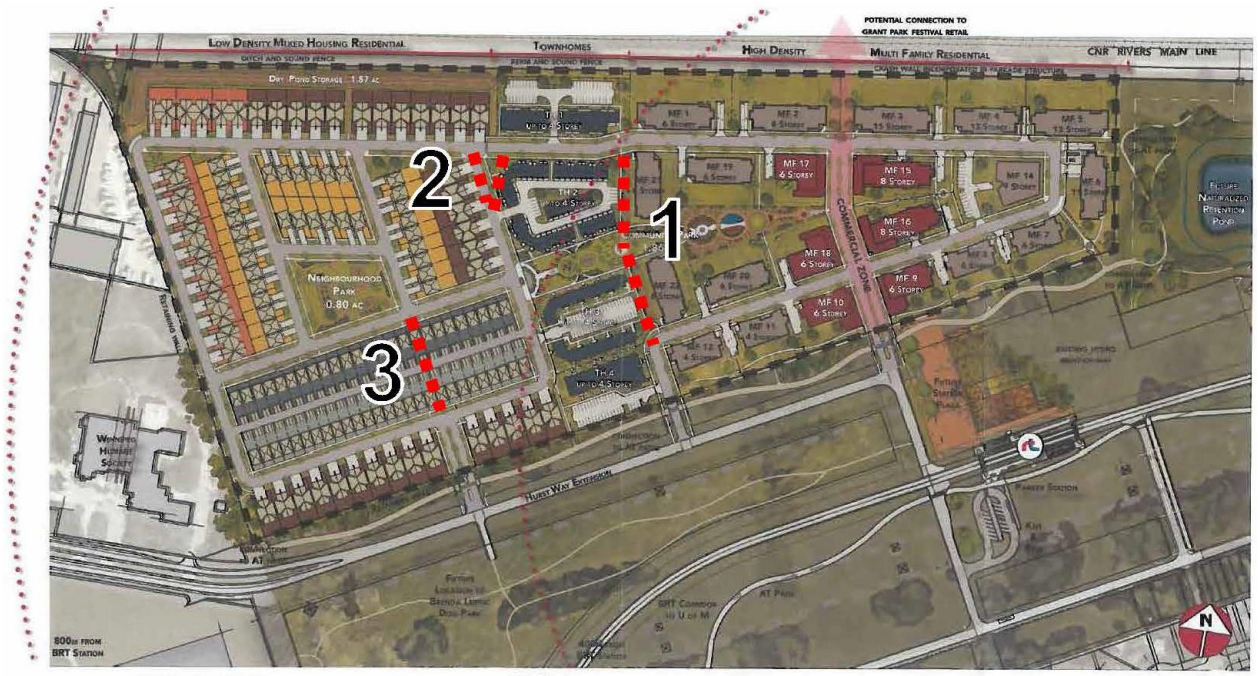


FIGURE 5: DASZ Plan showing 3 key changes to the proposed internal road network submitted by the Applicant October 29, 2018.

Back lanes

The Applicant is proposing that one block within the Low-Density Mixed Housing Area will have back lanes. The rest of the development is proposed to have access via front approaches.

Hurst Way

Hurst Way is currently a two-lane roadway with ditches. The traffic study submitted by the Applicant proposes modifications to Hurst Way at the proposed new intersections in conjunction with this application.

Pedestrian and Cycling Network

The development includes a pedestrian and cycling network.

Key highlights of the pedestrian network include:

- Sidewalks on both sides of most streets. The previous Plan included sidewalks on all streets – except the west side of the street that forms the boundary with the Humane Society. However, per Attachment 1: Submission received from the Applicant on October 29, 2018, there are now six fewer blocks with sidewalks in the Low-Density Mixed Housing Area.
- Recreation pathway from the Lower density Mixed Housing residential area to the High-Density Multifamily Residential Area.
- Linkages to the AT path (located on Hydro land to the south), the future dog park, and the Beaumont Rapid Transit Station which are not part of the subject site and this development proposal under consideration.

D. Underground services

The subject development, based on City of Winnipeg servicing policies, is required to be serviced to an urban standard with land drainage, water, and wastewater sewer. More information is included in Schedule ‘B” – Report of the Administrative Coordinating Group.

E. Transit

The site will have access to the Beaumont Rapid Transit Station.

F. Open Space

The City of Winnipeg was seeking to protect forest habitat on this site through land dedication. The City had communicated this position to the Applicant for the past several years prior to 2018. In October 2018, the Applicant removed the remaining forest habitat onsite and is instead proposing the following public reserves:

High-Density Multifamily Residential Area

A 1.86 -acre Community Park, containing an east/west pathway connecting the eastern and western portions of the development.

Lower density Mixed Housing residential area

- A 0.8-acre Neighbourhood Park in the centre of the Low-Density Mixed Housing Area.
- A 1.87 acre ‘dry pond’/ ditch site north of the lower density Mixed Housing residential area, immediately south of the CN Railway tracks (see Attachment 1: Submission received from the Applicant on October 29, 2018).

G. Public Consultation

The public consultation process run by the Applicant consisted of two public open houses as well as an online engagement process. As part of the previously-submitted DASZ application, the Applicant submitted a public consultation summary report. Although not part of the "new documents", the Applicant also submitted a more recent public consultation summary, which the Public Service received and has summarized in bullet #5 under the "Online engagement" heading below.

Public Open House #1

A public open house was held on February 10, 2016. According to the Applicant, approximately 80-100 people were in attendance, with another 10-15 from various media outlets. A total of 69 people filled in questionnaires to voice their opinions.

Public Open House #2

A second public open house was held on August 22, 2016. According to the Applicant, approximately 70 people were in attendance. A total of 29 people responded to the questionnaire.

Online engagement

According to the Applicant, this process was intended to solicit online feedback from a website (www.fultongrove.ca) advertised through the following:

- Mail-outs distributed to around 1100 homes in the Beaumont region on before January 24th, 2018.
- Flyers distributed at a TOD Event held by the Applicant at the University of Manitoba on January 23rd, 2018.
- Newspaper ads on January 24th, 2018 with additional ads every 2 to 3 weeks to keep driving traffic to the website.
- Twitter account updates.
- At the time of the writing of this report, the Applicant indicated that, to accommodate a COVID-19 environment, they were also planning a series of live, on-line web events via Zoom with presentation and a Q & A on October 28 & 29; and November 1, 2020. Registration was planned via the Fulton Grove website with notification going out to the public via neighbourhood flyer drops, and ads in the two largest newspapers plus the Sou-Wester, and social media. The website was planned to be updated as well.

REASON FOR APPLICATION

The subject site is currently zoned "M2" Manufacturing General District, which enables primarily industrial type development. The proposed mix of land uses requires a rezoning to accommodate residential and mixed uses.

In addition, the Applicant wishes to subdivide the property and establish developable lots, public rights-of-way and public reserve land throughout the site. This requires subdivision of the land.

ANALYSIS AND ISSUES

A. Policies

OURWINNIPEG/ COMPLETE COMMUNITIES

The subject property is identified as a Major Redevelopment Site in the City's *Complete Communities Direction Strategy*, the City's blueprint for development. *Complete Communities* describes the characteristics of Major Redevelopment Sites as follows:

- Large, functionally obsolete or under-utilized lands, such as former industrial areas.
- Located within the existing urban framework, often along rail lines, major corridors or rapid transit.
- Often serviced by some level of existing infrastructure.
- Present opportunities for transformative and strategic mixed-use infill and intensification.
- May present challenges to redevelopment, such as inadequate infrastructure capacity and contamination.
- Site area typically 15 acres or more.

It provides direction that Major Redevelopment Sites should: *Provide for Complete Communities with significant levels of mixed use, high density development, with strong urban design and attractive parks, places, and open spaces.*

Complete Communities requires that landowners and other stakeholders establish local goals and objectives for a Major Redevelopment Site while taking into account its relationship to *OurWinnipeg*, *Sustainable Transportation Direction Strategy*, Downtown, Redevelopment Areas, Corridors and other Centres. This could include minimum and maximum residential density and employment targets.

A more detailed analysis of *Our Winnipeg* and *Complete Communities* policies relating to this development is included within the associated Secondary Plan administrative report (SP 1/2018).

WINNNIPEG TOD HANDBOOK

The Winnipeg Transit Oriented Development Handbook (the "TOD" Handbook) was endorsed as Council Policy (TR-006) on February 22, 2012. Section 2A of the TOD Handbook provides the following definition of TOD:

> *'Moderate to higher density compact mixed-use development, located within an easy five to ten minute (approximately 400m to 800m) walk of a major transit stop. TOD involves high quality urban development with a mix of residential, employment and shopping opportunities, designed in a pedestrian oriented manner without excluding the automobile. TOD can be new construction or redevelopment of one or more buildings*

whose design and orientation facilitate the use of convenient and sustainable modes of transportation, including public transit and Active Transportation.'

TOD Typology

Not every TOD area is developed in the same manner. For instance, the TOD Handbook indicates that; '*the size of the TOD is dependent on the general scale or intensity of development appropriate for that station based on the function of the station and the accessibility of the TOD from the adjacent neighbourhoods.'* (TOD Handbook Section 2.B).

Section 2B of the TOD Handbook characterizes six (6) TOD Types (See Figure 6 below)

TOD Zones:

TOD TYPE	Urban Centre	Urban Neighbourhood	Town Centre	Neighbourhood Medium Density	Neighbourhood Low Density	High Frequency Transit Corridor
Land Use Mix	Office Centre Urban Entertainment Multiple Family Retail	Residential Retail Class B Commercial	Office Centre Urban Entertainment Multiple Family Retail	Residential Neighourhood Retail Local Office	Residential Neighourhood Retail	Office Centre Urban Entertainment Multiple Family Retail
Net Housing Density*	124-371 units per hectare (50-150 units per acre)	99-247 units per hectare (40-100 units per acre)	86-247 units per hectare (35-100 units per acre)	49-124 units per hectare (20-50 units per acre)	25-49 units per hectare (10-20 units per acre)	62-148 units per hectare (25-60 units per acre)
Regional Connectivity	High, Hub of regional system	Medium access to downtown, Sub regional hub	High access to downtown, Sub regional hub	Medium access to suburban centre, Access to downtown	Low	High access to downtown, Sub regional hub
Frequencies	5 - 15 minutes	5 - 15 minutes	5 - 15 minutes	15 - 30 minutes	20 - 30 minutes	5 - 15 minutes

Figure 6: TOD Types (Winnipeg TOD Handbook)

The six (6) TOD Types described by the TOD Handbook range from 'Urban Centre', with the highest density and significant mix of uses, to 'Low Density' TOD Types, which are predominantly residential with local commercial uses. Section 4.E. of the TOD Handbook provides further detail on the characteristics of each TOD Type relevant to this discussion. (see Attachment 2 - TOD Typologies as per the City of Winnipeg TOD Handbook.

The overall residential density proposed in the concept plan is 1,918 dwelling units. This calculates to an overall net density of approximately 60 units per net acre. This density is within the range of the **Urban Neighbourhood typology** (40-100 units per net acre).
As discussed in detail in the associated Secondary Plan report (SPA 1/2018 – Issue #1), the subject site does not meet the criteria for the 'Urban Neighbourhood' TOD Type development due to limited potential land use mix resulting from the isolation of the Parker lands from amenities and adjacent neighbourhoods.

Development throughout the Parker Lands is more consistent with the 'Neighbourhood – Medium Density' TOD as characterized in the TOD Handbook.

The density range for the Neighbourhood Medium Density' TOD typology is between 20-50 dwelling units per net acre. At this range, the site would accommodate approximately 650 to 1,600 dwelling units – not the 1,918 dwelling units shown in the concept plan and PDO-2.

Neighbourhood Medium Density TOD is characterized by 2-5 storey buildings. The Public Service recognizes that residential and mixed-use buildings closest to the Beaumont Rapid Transit Station should exceed 5 storeys and will have a net density higher than 50 units per acre. Such development could still be accommodated within a **Neighbourhood Medium Density** Typology by accomodating lower densities on sites further away from the Beaumont Rapid Transit Station.

B. Zoning

The Applicant has submitted a Planned Development Overlay 2 (PDO-2) (see Attachment 1: Submission received from the Applicant on October 29, 2018) that modifies the proposed underlying "TOD" zoning district. Given that PDOs form part of the City of Winnipeg Zoning By-law 200/2006, they must only be included in the By-law when necessary to address a unique or special circumstance and they must properly align with the Zoning By-law.

In addition, the zoning district(s) that are selected for the site must also have a logical relationship to what is being proposed and when there is a PDO-2, the Winnipeg Zoning By-law states that the modifications must apply to the closest conventional zoning district and must be relatively minor.

In this instance, the Applicant has drafted a PDO-2 and selected the zoning without consultation with the Winnipeg Public Service. This PDO-2 has a number of content issues, highlights of which are listed below. There are also errors which make it unsuitable for adoption as part of the Winnipeg Zoning By-law.

One such error is the permitting of Secondary Suites within duplexes or rowhouses. Secondary Suites are defined in Part 2 of the Winnipeg Zoning By-Law as only pertaining to single family detached homes. A PDO cannot modify a provision set out in a Zoning By-Law definition.

The zoning proposed is also unsuitable for the entire site, given the height and density that are is allowable being facilitated within this proposed new zone. The "TOD" District, as stated in the Winnipeg Zoning By-law, is only intended for the building sites closest to a Rapid Transit Station – not for an entire 47-acre site. Section 54(9) of the Winnipeg Zoning By-Law states:

> ***Transit-Oriented Development (TOD)***
>
> *The Transit Oriented Development (TOD) district is intended to facilitate mixed use development at a scale and density exceeding all other districts. These sites are intended to be* ***adjacent to rapid transit stations*** *with a Council endorsed local area plan in place to guide development. Site design should fulfill the objectives of the Transit Oriented Development Handbook.*

Below are some of the key issues with the PDO-2.

C. Content issues

<u>Zoning District</u>

The Applicant has applied to rezone the entire 47 acre subject site to the "TOD" Transit Oriented Development District. This District, as stated in the Winnipeg Zoning By-law, is

> "*intended to facilitate mixed use development at a scale and density exceeding all other districts. These sites are intended to be adjacent to rapid transit stations with a Council endorsed local area plan in place to guide development. Site design should fulfill objectives of the Transit Oriented Development Handbook*."

Height and Density

The "TOD" District permits a building height of 200 feet (± 20 stories) and a residential density of 218 dwelling units per acre (net density).

When applied across the entire 47 acre subject site, the "TOD" zoning district could yield a total of 6,970 dwelling units.

The PDO-2 reduces the overall residential density to a minimum of 1,300 and a maximum of 1,920 units. However, density limits set out in a PDO-2 are not 'fixed' and can be exceeded through an approved variance application; and given the proposed zoning district in this case is TOD, there is the potential for very large density variances allowing for densities on the site far exceeding the Plan's intent.

This is one of the key reasons the Public Service does not recommend the TOD district and instead recommends the Applicant 'right-size' their proposed zoning districts to reflect the Plan's intended densities and heights, based on area.

For example, 'RMU' Residential Mixed-Use, 'RMF-M' Residential Multiple Family Medium and 'RMF-S' Residential Multiple Family Small, the three Public Service recommended developable multiple family zoning districts, have dwelling density maximums roughly reflecting high, medium and low density.

If these zoning districts were applied to the site in the appropriate respective geographic areas, the City would have appropriate oversight over dwelling density limits, matching the proposed Secondary Plan. This is how density works in other Major Redevelopment Sites such as Bishop Grandin Crossing, which has zoning districts allowing higher densities closer to the transit station and medium densities as you move further away from the station.

In terms of building heights, the PDO-2 limits single family, semi-detached, row dwellings and live-work and group living uses to 35 feet.

However, in spite of the Secondary Plan's intent for 4-13 storey multifamily buildings close to the station, the PDO-2 imposes no height limits for multifamily, which means that all proposed multifamily buildings may be built as high as 20 storeys without variance.

Land Use

Commercial uses

The proposed TOD District permits a number of commercial uses. A partial list of permitted uses in their proposed "TOD" District is as follows:

Use Category/Type	TOD District
Commercial School	Permitted
Amusement enterprise/indoor	Permitted
Auditorium/concert hall/theatre/cinema	Permitted
Hotel or motel	Permitted
Drinking establishment	Permitted
Restaurant	Permitted
Call centre	Permitted
Office	Permitted
Personal services	Permitted
Retail sales	Permitted
Supermarket	Permitted
Auto/light truck/motorcycle, repair and service	Permitted

The accompanying PDO submitted by the Applicant states that commercial uses are limited to streets with a right-of-way width of 72 feet or greater. While the intent of this provision is to limit commercial uses to the commercial zone only, any provision of a PDO can be varied; effectively opening the door to commercial uses anywhere on the Parker Lands site.

Use of appropriate underlying zoning districts would help address this issue by making commercial uses prohibited in certain residential areas eliminating the potential for future land use conflicts rather than allowing the possibility of commercial uses throughout the Parker lands upon a basic variance process.

Residential uses

The Development Plan Concept (see Attachment 1: Submission received from the Applicant on October 29, 2018) indicates that the area on the east side of the site will be developed as a High-Density Multifamily Residential Area, near the Station. However, the submitted PDO-2 modifies the underlying TOD zoning district to allow single-family and two-family residential development anywhere on the site, including within the High-Density Multifamily Residential Area .

PDO-2	Permitted by Zoning	Proposed in Concept Plan
Single-Family Residential	Anywhere on the site	Only within the Lower density Mixed Housing residential area
Two-Family Residential	Anywhere on the site	Only within the Lower density Mixed Housing residential area

The City wants to see that the regulatory framework provides some assurance that higher densities will be achieved closest to the Beaumont Rapid Transit Station. The PDO goes against this objective by allowing single-family and two-family housing in that area.

Parking

The Applicant is proposing a minimum parking ratio of 0.75 per dwelling unit for multiple-family residential development and a maximum ratio of 1.125. For comparison, other Transit Oriented Developments that have been approved have the following parking ratios:

- Yards at Fort Rouge – minimum of 1.2 stalls per dwelling unit[1]
- Bishop Grandin Crossing – minimum of 0.9 stalls per dwelling unit

The Applicant has not provided rationale as to why they are proposing a lower ratio than what has been previously approved for Major Redevelopment Sites and why the subject site warrants a lower base parking requirement.

Commercial uses at grade

In the TOD District, dwelling units must not be located on the first storey of any principal building (Winnipeg Zoning By-Law No. 200/2006, Use Specific Standard 67.1). This provision exists to ensure that multiple-family buildings in the TOD District are mixed-use.

The proposed PDO-2 submitted by the Applicant is silent on this issue for multifamily buildings. This creates a situation where every multi-family building proposed on the subject site which is *not* mixed use (20 + buildings) will require a conditional use approval to permit a building without commercial on the ground floor.

Setbacks

Interior side yards

The Development Plan Concept (see Attachment 1: Submission received from the Applicant on October 29, 2018) shows large setbacks between apartment buildings with ample open space between them. However, the Applicant's PDO-2 requires a maximum interior side yard setback of 10 feet for all buildings between 1-4 storeys and a maximum setback of 20 feet for buildings over 5 storeys.

This creates a situation in which the Development Plan Concept, which visually shows what is intended to be built in terms of yards, is not reflected by the Applicant's PDO-2 which governs what may be built.

Summary

The examples noted above highlight that the proposed zoning district (TOD) does not fit the Development Plan Concept, and the proposed PDO-2 does not properly align with either the Development Plan Concept or the Winnipeg Zoning By-law.

The issues are numerous and of serious consequence to the implementation of the Development Plan Concept, the build out of the site, and for the protection of future landowners within the development.

Prior to submittal of a new application in the future, it is recommended that the Applicant work closely with the Public Service on the selection of the appropriate zoning district(s) for the site and if a PDO is required, that they work with the Public Service on its preparation.

[1] These parking ratios can be further reduced through an approved parking management plan.

The Public Service acknowledges communication from the Applicant regarding zoning districts which were received by the City on October 26, 2020 (see Attachment 5 – Applicant / Public Service Dialogue October 15-26, 2020). The Applicant indicated that in April 2018, the Applicant's legal counsel sent a letter to the Public Service stating that the Applicant was prepared to file a new application to apply conventional zoning districts to the site as requested by the Public service, rather than the unsupported TOD zoning district. However, no such new application was submitted to the City.

The Winnipeg Public Service recommended approach for zoning the site in a future application involves applying zoning districts that reflect what is being proposed (a combination of mixed use, residential and park districts) in addition likely to a PDO-1, which provides for minor modifications to the base zoning districts.

Residential Density

Over and above the inconsistency in residential density between the proposed zoning district (6,970 units) and the proposed PDO (1,920 units) is a concern about the appropriateness of either of these densities at this location because of the site's lack of connectivity to amenities north of the railway line and the adjacent neighbourhood development south of the Hydro and Southwest Rapid Transit corridors.

As previously mentioned, discussed in detail in the associated Secondary Plan report (SPA 1/2018), is how the site does not meet the criteria for '**Urban Neighbourhood**' TOD Type development due to limited potential land use mix and lack of access to other amenities as well as adjacent neigbourhoods.

Development throughout the Parker Lands should be consistent with the '**Neighbourhood – Medium Density**' TOD as characterized in the TOD Handbook.

The residential density range for this typology is between 20-50 dwelling units per net acre. At this range, the site would accommodate approximately 650 to 1,600 units.

This density would, in accordance with the TOD Handbook principles, be highest immediately adjacent to the Beaumont Rapid Transit Station and then taper down as the distance and thus accessibility from the station increases.

The density proposed by the Applicant may be supportable if the site was connected by a pedestrian/cycling bridge across the CN rail line to adjacent amenities to the north. With that said, although it is highlighted on their Development Plan Concept (see Attachment 1: Submission received from the Applicant on October 29, 2018), the Applicant has not formally proposed a connection nor provided any indication of the feasibility of this connection with this application. Such a connection would have to be investigated by the Applicant and the City in collaboration with CN for feasibility before it could be formally proposed as a solution to improve connectivity to the site.

Back lanes

As mentioned earlier, the concept plan shows one block with back lanes. The Public Service is recommending that all blocks in the Low-Density Mixed Housing Area have back lanes, with the exception of the blocks that back onto the railroad tracks on the north and Hurst Way on the south. The reason for this in threefold:

1. Snow clearing

The Public Works Department has indicated that front driveways with the proposed density (the width of the lots proportional to the number of driveways per lot) will create snow storage issues.

2. Walkability

The Public Service acknowledges receipt of feedback from the Applicant on October 26, 2020 (see see Attachment 5 – Applicant / Public Service Dialogue October 15-26, 2020) stating that if the Public Service believes that neighbourhoods with front driveways posed a risk, then the Public Service should not have recommended approval of subdivisions with front drives and provides examples of recent applications.

Front driveways accessing single family dwellings exist in a variety of neighbourhood contexts, however when combined with streets that have public sidewalks, the driveways break up the public sidewalk and are thus not ideal for pedestrian movement through a neighbourhood. Particularly in TOD Neighbourhoods, special effort should be made to promote walkability through uninterrupted sidewalks not conflicting with vehicular movements. The subject application is to develop a TOD – of which walkability is one of the core principles, per the Winnipeg TOD Handbook.

The requested parking reduction and the assumptions in the traffic study[2] speak to the expectation for a higher pedestrian mode shift. The design, however, which incorporates mostly front driveways, will fragment the sidewalk and negatively impact the quality of the pedestrian environment. This issue is heightened due to the increased number of driveways per block, and the increased number of pedestrians, because of the higher density.

For instance, on the block with fourplexes (shown in orange on Development Plan Concept Attachment 1: Submission received from the Applicant on October 29, 2018, at the western edge of the development), the Plan shows a total of 23 driveways –one driveway every 26 feet.

On the block with duplexes (shown in brown on the Development Plan Concept on the east side of the Low-Density Mixed Housing Area), the Plan shows a total of 12 driveways –one driveway every 26.66 feet.

This number of curb cuts decreases safety, reduces pedestrian comfort, and limits accessibility for all individuals to utilize the pedestrian environment as fully as possible.

3. Aesthetics

[2] The traffic study submitted by the Applicant assumes 25% less vehicular traffic for all dwelling units in the development within 400 metres of the Beaumont Rapid Transit Station and a 10% less vehicular traffic for all dwelling units within the development over 400 metres from the Beaumont Rapid Transit Station.

The streetscape is the key element in the urban design of a neighbourhood. A high-quality streetscape, which includes the street and sidewalk, boulevard trees, the façades of the houses, and utilities is an important consideration for every neighbourhood – but is an especially critical component for TOD neighbourhoods, which are intended to achieve a high quality, pedestrian oriented environment. High quality urban design is also a stated characteristic of Major Redevelopment Sites in Complete Communities.

The image below (Figure 7) was taken in Waverley West Town Centre on Park West Drive. It shows a street with front drives on one side and back lane lots on the other side.

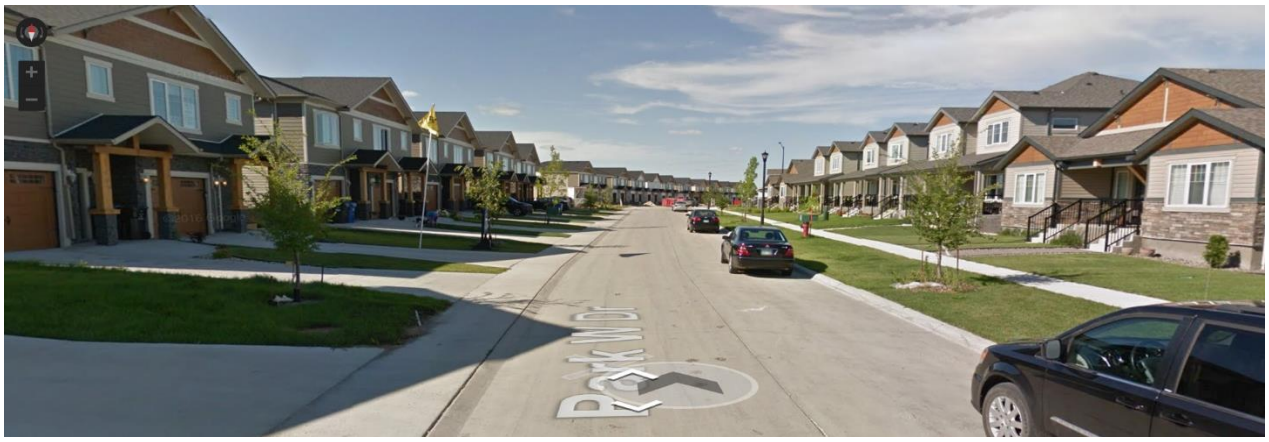


Figure 7: Park West Drive, Waverley West Town Centre

Some key differences between the two streetscapes are the boulevard and the size of the planting area for street trees, the location and fragmentation of the sidewalk, the space for boulevard snow storage, the space for on street parking, and the appearance of the building facades (garage vs. no garage).

For the above reasons, the Public Service does not support this proposal, as it does not include back lanes for blocks in the Low-Density Mixed Housing Area where it could easily be accomplished (i.e. with the exception of the blocks that back onto the railroad tracks on the north and Hurst Way on the south).

D. Road Network

Hurst Way

Public Works has indicated that Hurst Way is not required to be upgraded to a four-lane divided roadway, based upon the traffic volumes anticipated with the development. The Applicant will be responsible for upgrading intersections into the development that intersect with Hurst Way.

Internal Roads

As mentioned, on October 29, 2018, the Applicant submitted new information to the City including some changes to the internal network. These are shown on Figure 5 above. (See Attachment 1 – Submission received from the Applicant on October 29, 2018

The Public Service supports some of the changes with conditions; and does not support the proposed approximately 220 ft. reduction in length of the westerly vehicular entrance to the site, as noted in the attached Report of the Administrative Coordinating Group (Schedule “B”).

Pedestrian and Cycling Network

As a result of the changes proposed in Attachment 1 – Submission received from the Applicant on October 29, 2018which include the removal of an internal N/S road (identified as “3” on Figure 5), the Public Service recommends a multi-use path connection in that location, from the existing AT path south of the development northward to the central park.

As mentioned, the October 29, 2018 changes submitted by the Applicant also deleted six sidewalks in the Lower Density Mixed Housing Residential Area. The Public Service is not supportive of this reduction of sidewalks. These issues are addressed in the attached Report of the Administrative Coordinating Group (Schedule “B”).

E. Underground services

Wastewater sewer and Land Drainage

The Water and Waste Department has conditions of approval regarding Wastewater and Land Drainage Sewer. These are addressed in the attached Report of the Administrative Coordinating Group (Schedule “B”).

F. Open Space

The Public Service recommends a centrally located park site large enough to accommodate a range of park uses. This issue is addressed in the attached Report of the Administrative Coordinating Group (Schedule “B”).

SUMMARY

The Planning and Land Use Division recommend rejection of the subject DASZ application for the following reasons:

- As per the Council motion in 2009, the *Complete Communities Direction Strategy*, and the Winnipeg Zoning By-law, an approved Secondary Plan is needed prior to this application proceeding. The Public Service is recommending that the Secondary Plan, as submitted, should not be approved. Consequently, the DASZ application should not be approved.
- The proposed TOD zoning district does not align with the associated Development Plan Concept submitted with their DASZ application. The Public Service believes that the subject site should be divided into 3 main development areas with appropriately matched associated zoning districts, aligning with our Secondary Plan comments on the same issue.
- The Applicant's PDO needs adjustment in order to provide clarity for future development proposals coming forward for approval in the development area.
- The Low-Density Mixed Housing Area does not meet the higher expectations for walkability in a TOD development. All streets in this area should have sidewalks, and all streets, with the exception of blocks that back onto the railroad or Hurst Way, should provide back lane access.

RECOMMENDATIONS

The Urban Planning Division recommends this application be **rejected**

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

PPD File # DASZ 12/2018

Schedule "A" for file DASZ 12/2018, Standing Policy Committee on Planning, Property and Development, Heritage and Downtown Development November 16, 2020.

By-Law No. _____

File No. **DASZ 12/2018**

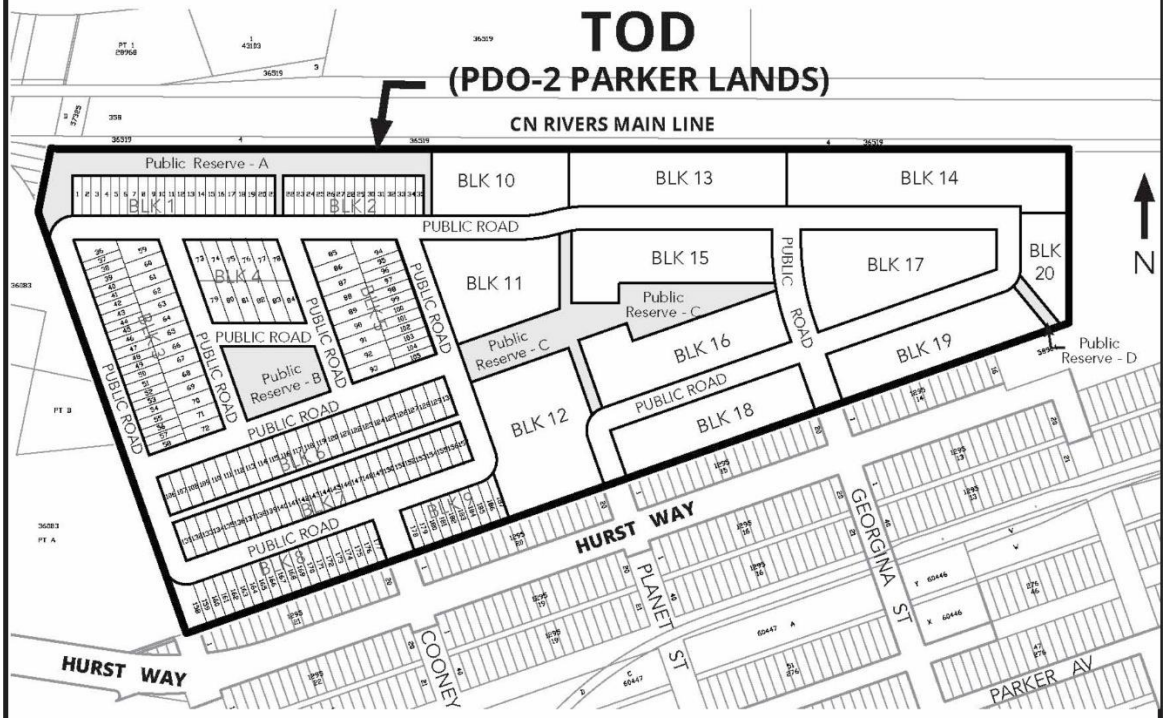
Atlas Sheet No. **AE22**

N

CITY CENTRE COMMUNITY

Explanation

An application for the approval of the plan of subdivision shown outlined below and for a proposed zoning change to By-law No. 200/2006 by rezoning the land located north of Hurst Way, south of the CNR Rivers Mainline from an "M2" MANUFACTURING GENERAL DISTRICT to a "TOD PDO-2 PARKER LANDS" TRANSIT ORIENTED DEVELOPMENT DISTRICT to facilitate the establishment of a new neighbourhood by the creation of a block plan with single-family, two-family, and multiple-family residential uses as well as mixed use (commercial and residential) uses, public reserve land, and public right-of-ways for a future development.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

SCHEDULE B

REPORT OF THE ADMINISTRATIVE CO-ORDINATING GROUP

RE: PROPOSED SUBDIVISION AND REZONING OF LAND LOCATED NORTH OF HURST WAY BETWEEN ASQUITH AVENUE AND CNR RIVERS MAINLINE – DASZ 12/2018

A meeting was held by the Administrative Co-ordinating Group (ACG) to review the servicing requirements for DASZ 12/2018. In addition, this report has been revised to address and consider the following information:

- Report provided by Applicant on September 19, 2018
- Information provided by Applicant on October 29, 2018
- Increased flow allowance provided by Water and Waste for the land drainage release rate.

It is recommended that the approval of DASZ 12/2018, if granted, be subject to the Applicant entering into a Development Agreement and addressing the following items:

General Comments

1) Location of Public Reserves (Park Space)

   The plan submitted indicates a multiple of small public reserve areas throughout the site. The Public Service does not support the park configuration as proposed as it does not meet the required dedication amount, or the needs of the community. It is recommended that the plan be revised to provide a larger centrally located park.

2) Land Drainage

   There is a controlled amount of runoff allowed from the area which requires on site stormwater management. The Applicant has proposed the use of dry ponds for this purpose. The plan should be amended to delineate the proposed location of the storage area(s). Dry ponds will not be counted as Park Dedication.

3) Placement of Fill Material

   There are high levels of fill material proposed for the site. The engineering consultant retained by Applicant estimated up to approximately 14 feet of fill material is to be added to the site (November 2017). Fill has been added to date, but it has not been reported to what extent or how the fill has been placed and compacted. It is anticipated that water mains and sewer mains will be located in the fill material. The Water and Waste Department is concerned about risk of damage to the infrastructure and its operation under changing ground conditions. As a result, the Developer will be required to provide a geotechnical report as outlined in clause 4), Engineering reports and servicing criteria in this report.

4) Upgrades to Hurst Way

According to the Traffic Study submitted by the Developer, Hurst Way can accommodate the projected traffic generation from the area and beyond, with the exception of the intersections which will require upgrading. It is recommended in this report that the Traffic Study be updated to reflect actual traffic volumes as development of the site proceeds and when requested to do so by the Director of Public Works. The Developer may be required, at no expense to the City, provide additional upgrades to Hurst Way if determined by the Director of Public Works.

5) Re-Alignment of Public Roads

The revised plan included changes to the roadway pattern which included:

a. Truncating approximately 230 meters off the western most Public Road connection to Hurst Way.

b. Eliminating the Public Road extension from the north leg of the centre Public Road connection to Hurst Way to the most northerly east-west Public Road.

Respecting clause a), the Public Service recommends extending the road north through Block 7 and 6 to the north south Public Road, as per the original plan. This will improve internal traffic circulation.

Respecting clause b), the elimination of the Public Road extension will create an increase in internal flow along the east west Public Road between Block 12/16 and Block 18. It is recommended that this section of road be upgraded to a local collector to accommodate the increased traffic flow.

A. Plan Considerations

1) The plan of subdivision shall be updated to delineate the stormwater management facilities.

2) The width of Public Reserve “D” shall be widened to 9.0m.

3) Rights-of-ways shall be widened an additional 2m in width to accommodate any large diameter land drainage sewers (larger than 525mm diameter) where required.

4) An easement is required for any city owned water mains crossing the proposed subdivision that are not relocated to a proposed right-of-way. The existing water main easement may be partially discharged when the development water distribution system has been completed.

5) The Developer shall provide a larger, centrally located Public Reserve to serve as a neighbourhood park in the vicinity of Block 12, as determined by and to the satisfaction of the Director of Public works.

6) Public Reserve “A’ shall be relocated and included into the larger Public Reserve as noted above.

7) The Developer shall, legally open property for public lanes to access lots within Block 3, Block 4 and Block 5, to the satisfaction of the Director of Public Works.

8) Public lanes are to be established with right-of-way widths of 6.25m for each public lane serving single or two-family residential development, and 7.25m for each public lane serving multi-family residential and commercial development, to the satisfaction of the Director of Public Works.

9) Rights-of-ways are to be widened, as necessary, to accommodate land drainage sewer and/or multi-use pathways, as determined by and to the satisfaction of the Director of Public Works.

10) If additional right-of-way is required along Hurst Way, the Developer shall be responsible for their share of the costs.

11) The Developer shall, at no expense to the City, legally open property for right-of-way corner cuts measuring 2.0m by 2.0m in each corner of the intersection of two streets measuring 22.0m in width or greater. Right-of-way corner cuts measuring 3.0m by 3.0m are to be provided at each corner of any intersection where the angle is less than 80°, to the satisfaction of the Director of Public Works.

12) Intersections of local streets within the Planned Area are to be designed such that the angle of intersection is no less than 70° as measured in the quadrant with the acute angle.

13) Where two local residential streets intersect with a residential collector street on opposite sides of said collector, the centerlines of the local streets are to be aligned to be coincident with one another at their intersection with the collector or be offset by a minimum of 45.0m along the collector.

14) Where local residential streets are aligned to curve within 20.0m of their intersection with a residential collector street, such curves are to have a minimum centerline radius of 60.0m.

15) The Draft Legal Plan in its entirety shall be reviewed and approved by the Public Works Department prior to submitting to Winnipeg Land Titles Office.

B. ENGINEERING REPORTS AND SERVICING CRITERIA

1) The Developer shall submit alternative stormwater management scheme proposal information, including but not limited to a landscaping plan, in accordance with 2001 Council approved criteria for alternative stormwater management schemes, to the satisfaction of the Directors of Planning, Property and Development, Public Works, and Water and Waste.

2) The Developer shall submit a comprehensive servicing report, prepared by a qualified municipal engineer, outlining the provision of underground services for the planned area and adjacent lands to the satisfaction of the Director of Water and Waste.

3) The Developer shall submit servicing criteria sheets for water, wastewater, and land drainage facilities, including plans showing the current and ultimate service areas to the satisfaction of the Director of Water and Waste.

4) The Developer shall submit a geotechnical report for use and reliance on by City, to the satisfaction of the Director of Water and Waste. The report shall outline the geotechnical investigation of the current geotechnical conditions, and provide recommendations including but not limited to:

    a) Fill locations, types and variations in material and thickness
    b) Expected settlement and rate/timeframe
    c) Compaction standards
    d) Mitigation of existing fill as needed
    e) Right-of-way requirements for municipal services (including water and wastewater sewer specifically) such as lag time before installations
    f) Foundation considerations
    g) Boundary treatment of the fill area and outlining the transition to existing elevations
    h) Third party review of the geotechnical report may be required at the Applicant's expense if geotechnical failure could result in significant harm to public safety or infrastructure or if proper review is beyond the capability of the City. The City will resolve any differences between the geotechnical report and the third party review report.

Additional conditions of development may be applicable as required by the accepted geotechnical report as determined by the Director of Water and Waste.

5) The Developer shall provide updated traffic studies as required by the Director of Public Works to evaluate the traffic volumes on Hurst Way as development progresses. The traffic studies shall be used to determine when upgrades along Hurst Way may be required.

C. AGREEMENT CONDITIONS

SECTION I – SERVICING

1. Wastewater Sewers

The Developer shall, at no expense to the City, construct and install wastewater sewers required to serve the Planned Area as indicated by the servicing report, all to the satisfaction of the Director of Water and Waste.

2. Water Mains

The Developer shall, at no expense to the City, construct and install water mains required to serve the Planned Area as indicated by the servicing report, all to the satisfaction of the Director of Water and Waste.

3. Lot Line Servicing

a) The Developer shall, at no expense to the City, construct and install wastewater and water building services from the wastewater sewer and watermain, to service all lots within the Planned Area, as determined by, and to the satisfaction of, the Director of Water and Waste.

b) The Developer shall ensure that each sewer service remains plugged from installation until the foundation excavation has been backfilled and the roof of the dwelling has been sheathed, after which the house sewer may be connected. The Developer hereby agrees to indemnify the City against all actions, claims, demands, damages, losses, and costs, including legal and court costs, suffered or incurred by the City arising out of any failure to do so.

c) The Developer shall replace or repair any water or sewer service found to be defective within one year following the date the water is turned on for domestic use, and shall pay the City any cost incurred by the City arising out of any such defect.

4. Land Drainage

a) The Developer shall, at no expense to the City, construct and install land drainage sewers and stormwater retention facilities (including a piped outfall) required to serve the Planned Area and adjacent lands, as determined by and to the satisfaction of the Director of Water and Waste.

b) The Developer shall dedicate all land and provide all easements necessary to accommodate the required stormwater retention and land drainage facilities, as determined by the Director of Water and Waste, in accordance with the City's Development Agreements Parameters.

c) The Developer shall pay its share of the cost of the regional land drainage system for the Planned Area as determined by the Director of Water and Waste.

5. Lot Grading

a) Upon registration of the approved plan of subdivision mylars in the Land Titles Office, the Developer shall, at no expense to the City, provide to the City all easements the City considers necessary with respect to the installation, construction, maintenance, and replacement of swales, catchbasins, and leads for drainage of the Planned Area.

b) Prior to the issuance of building permits, the Developer shall, at no expense to the City:

i. Submit to the City, for approval, a lot grading plan for the Planned Area, prepared by a municipal engineer; and
ii. Construct all swales, catchbasins, and leads necessitated by the approved lot grading plan

6. Pavement

a) The Developer shall, at no expense to the City, construct Portland cement concrete pavement, 7.5m, 8.0m, 10.0m wide by 150mm, 200mm thick in all streets within the Planned Area and connecting to Hurst Way, and all related works including, but not necessarily limited to ornamental street lighting, boulevard landscaping and land drainage sewer, all as determined by and to the satisfaction of the Director of Public Works.

b) The Developer shall, at no expense to the City, construct, within the proposed public lanes within the Planned Area serving single or two-family residential development, 5.0m wide by 150mm thick Portland cement concrete pavements, and, within the proposed public lanes within the Planned Area serving multi-family residential and commercial development, 6.0-m-wide by 150-mm-thick Portland cement concrete pavements, as determined by and to the satisfaction of, the Director of Public Works

7. Hurst Way intersections

The Developer shall,

a) pay to the City, in cash, on demand, all costs associated with construction of intersection treatments on Hurst Way at each proposed public street, and all related works, or

b) construct intersection treatments on Hurst Way at each proposed public street, and all related works,

as determined by and to the satisfaction of the Director of Public Works.

8. Multi-use Pathways/Sidewalks

a) The Developer shall, at no expense to the City,

i. construct a 1.8m wide by 100mm thick Portland cement concrete sidewalks, on a standard alignment 0.3m from the property line, on both sides of all streets within the East Side Block Plan and connecting to Hurst Way;
ii. construct a 1.5m wide by 100mm thick Portland cement concrete sidewalks, on a standard alignment 0.3m from the property line, on both sides of all streets within the West Side Block Plan and connecting to Hurst Way;
iii. in place of the sidewalk, construct a 3.5m wide asphalt multi-use pathway on the east side of the eastern most Public Road connecting Hurst Way between the proposed east-west multi-use pathway and the existing multi-use pathway south of the Planned Area;

iv. in place of the sidewalk, construct a 3.5m wide asphalt multi-use pathway on the west side of the center Public Road connecting Hurst Way between the existing multi-use pathway south of the Planned Area and Public Reserve C.

as determined by and to the satisfaction of the Director of Public Works.

b) In the event that the multi use pathway cannot be constructed in the locations described above, the pathways may be relocated as determined by the Director of Public Works.

c) The Developer shall, at no expense to the City, construct all sidewalks concurrently with the pavements with which they share the right-of-way.

9. Private Approaches

a) There are to be no private approaches serving single or two family residential development off rights-of-way measuring 22.0m or greater in width.

b) There shall be a minimum of 6.1 metres between the edge of the private approach flares between lots, measured at the curb, to the satisfaction of the Director of Public Works.

10. Traffic Control Signal

The Developer shall, at no expense to the City, pay to the City, in cash, on demand, their share of the costs associated with the installation of traffic control signals and all related works including, but not limited to, pedestrian and vehicular actuation and interconnection to adjacent traffic-control signals, countdown and audible pedestrian signals at the intersection of McGillivray Boulevard and Beaumont Street, as determined by and to the satisfaction of the Director of Public Works.

11. Fencing

The Developer shall, at no expense to the City, construct within the Planned Area abutting the Canadian National Railway Rivers Subdivision, a uniform 2.0m high fence determined by and to the satisfaction of the Director of Public Works. The Developer is to permit the City to file a caveat against the title of the proposed lot abutting the Canadian National Railway Rivers Subdivision requiring the owner(s) to maintain and/or repair or replace the fence as originally constructed, to the satisfaction of the Director of Public Works. Said fence is intended to ensure that “pedestrian trespass, to the tracks does not become a consequence of the subject development, thereby creating safety issues and jeopardizing existing and/or future anti-whistling regulations along the subject railway line.

12. Temporary Dead-End Streets

a) The Developer shall, at no expense to the City, construct a paved cul-de-sac-style vehicle turnaround at the terminus of each temporarily dead-ended street within the Planned Area, and provide to the City any rights-of-way or easements necessary to accommodate same, all as determined by and to the satisfaction of the Director of Public Works.

b) The Developer shall, at no expense to the City, erect and maintain barricades and signage, across the full width of any streets which are temporarily dead-ended due to phasing of development, immediately upon completion of the paving or when house construction has begun, whichever is sooner, as determined by and to the satisfaction of the Director of Public Works.

13. Street Name Signs

The Developer shall, at no expense to the City, cause to be installed standard reflectorized permanent street name signs at each new intersection within or adjacent to the Planned Area, as determined by the Director of Public Works.

14. Boulevards

The Developer shall, at no expense to the City, sod, and plant trees on, all boulevards within and fronting on the Planned Area, all in accordance with City specifications and guidelines and, where required, with concept plans prepared by the Developer and submitted to, and approved by, the Director of Public Works.

The Developer shall, at no expense to the City, maintain the sod for a period of one year and the trees for a period of two years, in accordance with specifications approved by the Director of Public Works.

15. Two Means of Vehicle Access

The Developer shall, at no expense to the City, ensure that two means of paved vehicular access are available at all times to each stage of development of the Planned Area, to the satisfaction of the Director of Public Works. This may require the construction of temporary paved roadways by the Developer and the provision of easements or rights-of-way by the Developer to the City.

16. Construction Traffic

The Developer shall ensure that construction traffic uses access routes as determined by the Director of Public Works. The Developer shall maintain, at no expense to the City, the access routes in a clean, dust free and safe condition, free of dropped and tracked-on mud, and shall undertake regular scraping and sweeping of streets until building construction, including landscaping is complete, all as determined by and to the satisfaction of the Director of Public Works.

17. Development Information Signs

Prior to construction, the Developer shall, at no expense to the City, obtain approval of and install, and subsequently maintain, at the entrances to the Community, development information signs, containing no advertising, and showing the Planned Area, zoning information, a north directional arrow, Southwest Bus Rapid Transit Corridor, Hurst Way, Waverley Street, Pembina Highway, Canadian National Railway Rivers Subdivision, all proposed arterial and collector streets, sidewalks, public walks, active transportation facilities, all proposed parks, storm water retention facilities and all proposed community mailbox sites, all with the approval of and to the satisfaction of the Director of Planning, Property and Development.

18. Utilities

a) The Developer shall, at no expense to the City, cause to be installed ornamental street lights in all streets within the Planned Area, to the satisfaction of the Director of Public Works.
b) The Developer shall, at no expense to the City, cause underground electrical and telephone services to be installed to serve the proposed subdivision and will pay the full cost to convert any existing overhead services within the proposed subdivision to underground to the satisfaction of the Director of Public Works.
c) The Developer shall pay all costs associated with the relocation of street lights and other utilities made necessary as a result of, or required to accommodate, the works to be constructed by the Developer to serve the Planned Area, as determined by and to the satisfaction of the Director of Public Works.

19. Litter and Refuse Control and Clean-Up

a) The Developer shall, at no expense to the City, and of its own volition, initiate and control the regular cleanup of litter and refuse from the contractors and builders for this development, both on-site and off-site, during the installation of services and construction of buildings, until substantial completion of all construction, as determined by and to the satisfaction of the Director of Public Works.

b) The cleanup of litter and refuse shall be done on a regular basis as determined by the Director of Public Works. This shall include initiating action and assuming any costs in remedying the situation to the satisfaction of the Director of Public Works.

20. Survey Monuments

a) Subsequent to completion of the Planned Area, as determined by the Director of Planning, Property and Development, the Developer shall pay the full costs of having all survey monuments within the Planned Area verified and/or restored by a Manitoba Land Surveyor and shall prepare a Plan of Survey Perpetuating Certain Monuments, confirming the position of all the survey monumentation within the Planned Area, for filing in The Property Registry.

b) In certain circumstances where all the survey monuments within the Planned Area have been found or restored to their original positions, upon approval by the Director of Planning, Property and Development, the requirements for Plan of Survey Perpetuating Certain Monuments may be waived.

21. Public Reserve

a) The Developer shall dedicate as Public Reserve at least 8% of the land contained within the overall development area and shall, at no expense to the City, undertake landscape improvements and pay its share of the cost of services in streets abutting the dedicated land all in accordance with plans and specifications approved by the Director of Public Works. If the Developer is unable to dedicate a full 8% of the land, the Developer shall dedicate an amount of land satisfactory to the Directors of Public Works and Property, Planning & Development, and compensate the City for any shortfalls in the amount of land, servicing and improvements not provided, at the then current values, by payment

of cash, or, by the provision of an equivalent value of additional site amenities in the Public Reserves within the Planned Area, subject to approval by the Directors of Public Works and Planning Property and Development.

b) Landscape improvements of the Public Reserve lands shall be done in accordance with plans and specifications provided by the Developer and approved, prior to the commencement of construction, by the Director of Public Works. The scope of landscaping shall include grading, sodding, land drainage, irrigation and the construction of at least one east-west path, and N-S path, as necessary to best connect the park space to the residential areas of the development and the AT path, south of the planned area. Paths shall be a min of 2.4 m and the surfacing of the path shall be as determined though the site plans approval process. If the City deems that the provision of irrigation to the public reserve is not required, the Developer shall provide compensation in the form of site amenities of pre-determined equivalent value, subject to approval by the Director of Public Works.

c) Any paths that must cross over a berm or traverse an elevated area shall be designed to ensure that the grading accommodates the path while still complying with Universal Design Standards.

d) The Developer shall, at no expense to the City, provide continuous property line delineation (fencing, bollards or alternate material as determined by the Director of Public Works) for properties abutting Public Reserve land used for park purposes. The fencing shall be located within private property and established by caveat to be the responsibility thereafter of the private property owner.

e) Park space development should be undertaken within 1 year of the first issued building permit and completed within 1 year of that date, unless an extension of time has been previously approved, in writing, by the Director of Public Works.

f) The Developer shall assume responsibility for all Public Reserve sites until they are developed, and throughout the maintenance period until Final Acceptance Certificate for Parks has been issued by the Director of Public Works.

g) The Developer shall, at no expense to the City, maintain Public Reserve improvements, in accordance with specifications approved by the Director of Public Works, for a period of two years following the issuance of a Construction Completion Certificate. The City reserves the right to impose longer maintenance terms for amenities and features, such as naturalized areas, that the Director of Public Works deems to be beyond the standard scope of public reserve improvements.

h) Securities for Public Reserve improvements may be reduced following the issuance of a Construction Completion Certificate and site inspection and approval by the City, but shall not be released in full until as-built drawings have been received and accepted as complete by the Director of Public Works and the Final Acceptance has been issued.

SECTION II – COSTS AND FEES

1. By-laws and Approvals

   The Developer shall pay all of its and the City's costs, fees, and expenses associated with the preparation and attainment of approval for registration of the Zoning By-law(s) and plan(s) of subdivision, including all Municipal Board, Land Titles Office and other fees and expenses, all survey, engineering and advertising fees and costs, and all expenses incidental to the preparation of the Agreement and the physical development of the Planned Area.

2. Professional Fees

   a) The Developer shall pay the full cost of all design services, including preliminary engineering studies, servicing reports, servicing criteria, construction drawings and specifications, and grading and landscaping plans and specifications, to be provided by Consulting Engineer(s) approved by the City, for the design of the municipal services, and associated works required to serve the Planned Area;

   b) The Developer shall pay the full cost of construction and landscaping supervision services provided by or on behalf of the City for field inspection, preparation of progress estimates, provision of as-built drawings by March 31 of the year following substantial performance of the work, and all other engineering consulting services related to the installation and acceptance of municipal services, and all associated works to serve the Planned Area.

3. Administration Fees

   The Developer shall, prior to the release of the subdivision mylars for registration in the Land Titles Office, pay to the City, $2138.00/acre of the planned area to help defray the City's administration and related costs associated with the preparation and implementation of the Development Agreement.

THIS REPORT SUBMITTED BY:

Administrative Co-ordinating Group
File No. DASZ 12/2018
Prepared October 28, 2020

"Original signed by G. Jasper, P.Eng."

G.V. Jasper P. Eng.
Land Development Branch

"Original signed by M. Gajda, P.Eng."

M. Gajda, P. Eng.
Water & Waste Department

"Original signed by C. Desjardine, P.Eng."

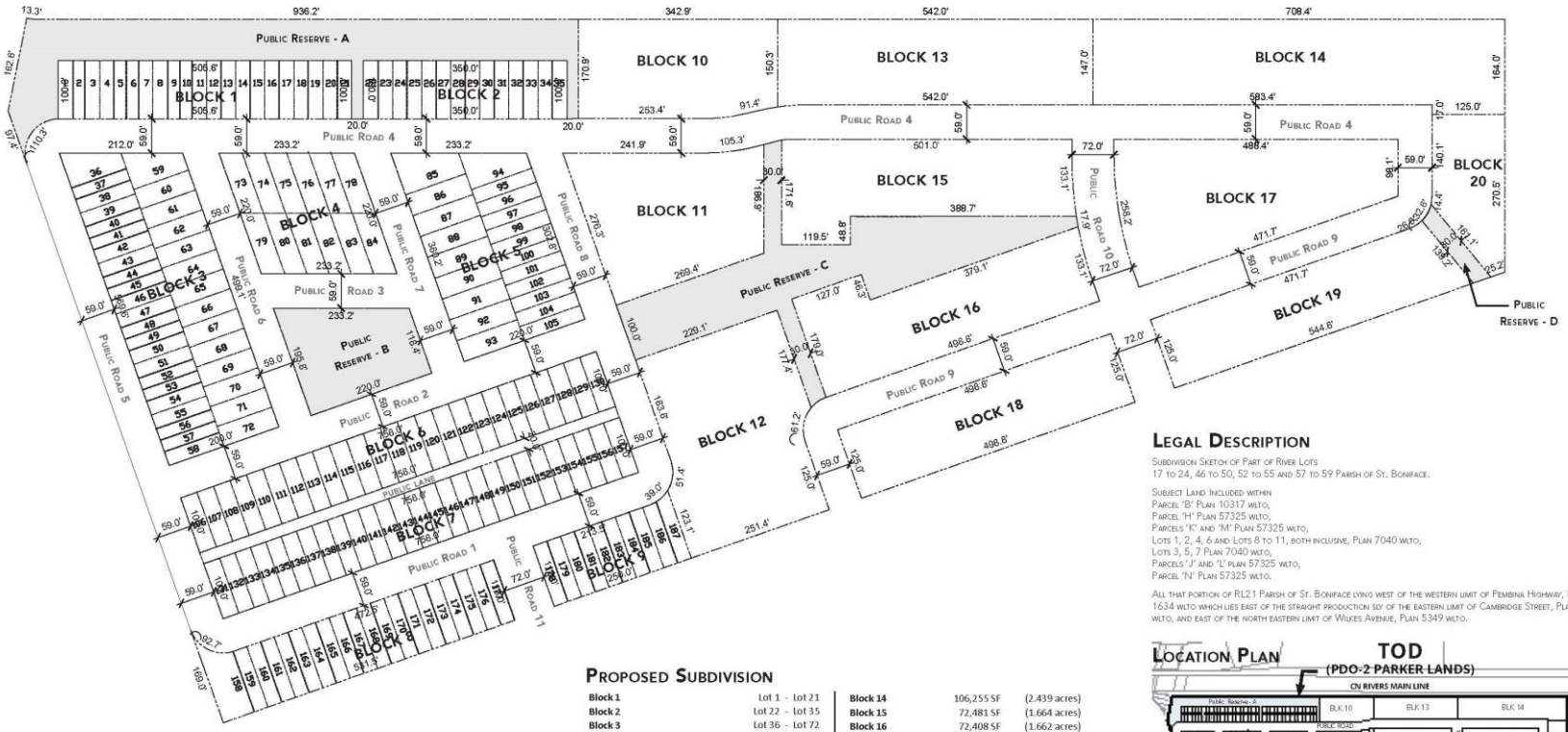
C.J. Desjardine P. Eng.
Public Works Department, Transportation Division

"Original signed by D. Beaton M.L.Arch"

D. Beaton M.L.Arch
Parks and Urban Design, Property and Planning

GJ/gj

Exhibit “3” referred to in File DASZ 12/2018



LEGAL DESCRIPTION

SUBDIVISION SKETCH OF PART OF RIVER LOTS
17 TO 24, 46 TO 50, 52 TO 55 AND 57 TO 59 PARISH OF ST. BONIFACE.

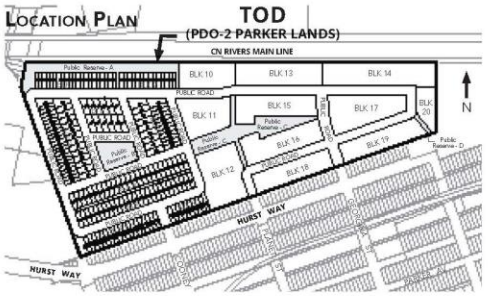
SUBJECT LAND INCLUDED WITHIN
PARCEL 'B' PLAN 10317 WLTO,
PARCEL 'H' PLAN 57325 WLTO,
PARCELS 'K' AND 'M' PLAN 57325 WLTO,
LOTS 1, 2, 4, 6 AND LOTS 8 TO 11, BOTH INCLUSIVE, PLAN 7040 WLTO,
LOTS 3, 5, 7 PLAN 7040 WLTO,
PARCELS 'J' AND 'L' PLAN 57325 WLTO,
PARCEL 'N' PLAN 57325 WLTO.

ALL THAT PORTION OF RL21 PARISH OF ST. BONIFACE LYING WEST OF THE WESTERN LIMIT OF PEMBINA HIGHWAY, PLAN 1634 WLTO WHICH LIES EAST OF THE STRAIGHT PRODUCTION SLY OF THE EASTERN LIMIT OF CAMBRIDGE STREET, PLAN 307 WLTO, AND EAST OF THE NORTH EASTERN LIMIT OF WILKES AVENUE, PLAN 5349 WLTO.

PROPOSED SUBDIVISION

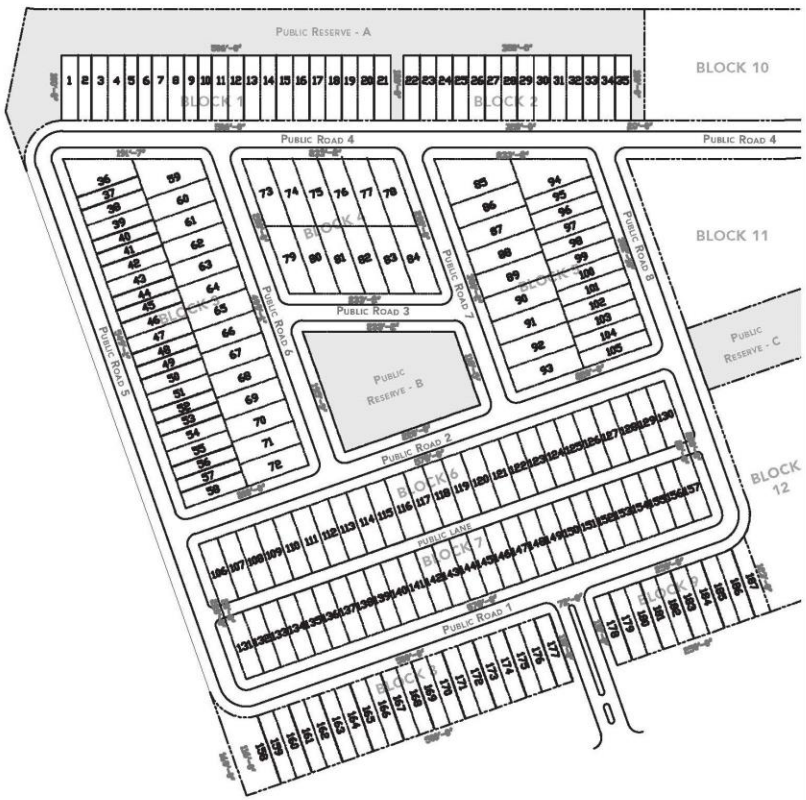
Block 1	Lot 1 - Lot 21	
Block 2	Lot 22 - Lot 35	
Block 3	Lot 36 - Lot 72	
Block 4	Lot 73 - Lot 84	
Block 5	Lot 85 - Lot 105	
Block 6	Lot 106 - Lot 130	
Block 7	Lot 131 - Lot 157	
Block 8	Lot 158 - Lot 177	
Block 9	Lot 178 - Lot 187	
Block 10	57,564 SF	(1.321 acres)
Block 11	67,666 SF	(1.553 acres)
Block 12	89,517 SF	(2.055 acres)
Block 13	79,728 SF	(1.830 acres)
Block 14	106,255 SF	(2.439 acres)
Block 15	72,481 SF	(1.664 acres)
Block 16	72,408 SF	(1.662 acres)
Block 17	86,207 SF	(1.979 acres)
Block 18	62,352 SF	(1.431 acres)
Block 19	65,292 SF	(1.499 acres)
Block 20	28,552 SF	(0.655 acres)
Public Reserve - A	81,306 SF	(1.867 acres)
Public Reserve - B	34,566 SF	(0.794 acres)
Public Reserve - C	81,136 SF	(1.863 acres)
Public Reserve - D	4,467 SF	(0.103 acres)
Total	1,543,920 SF	(35.443 acres)

LOCATION PLAN



Fulton Grove

PROPOSED PLAN OF SUBDIVISION



LOT DIMENSIONS

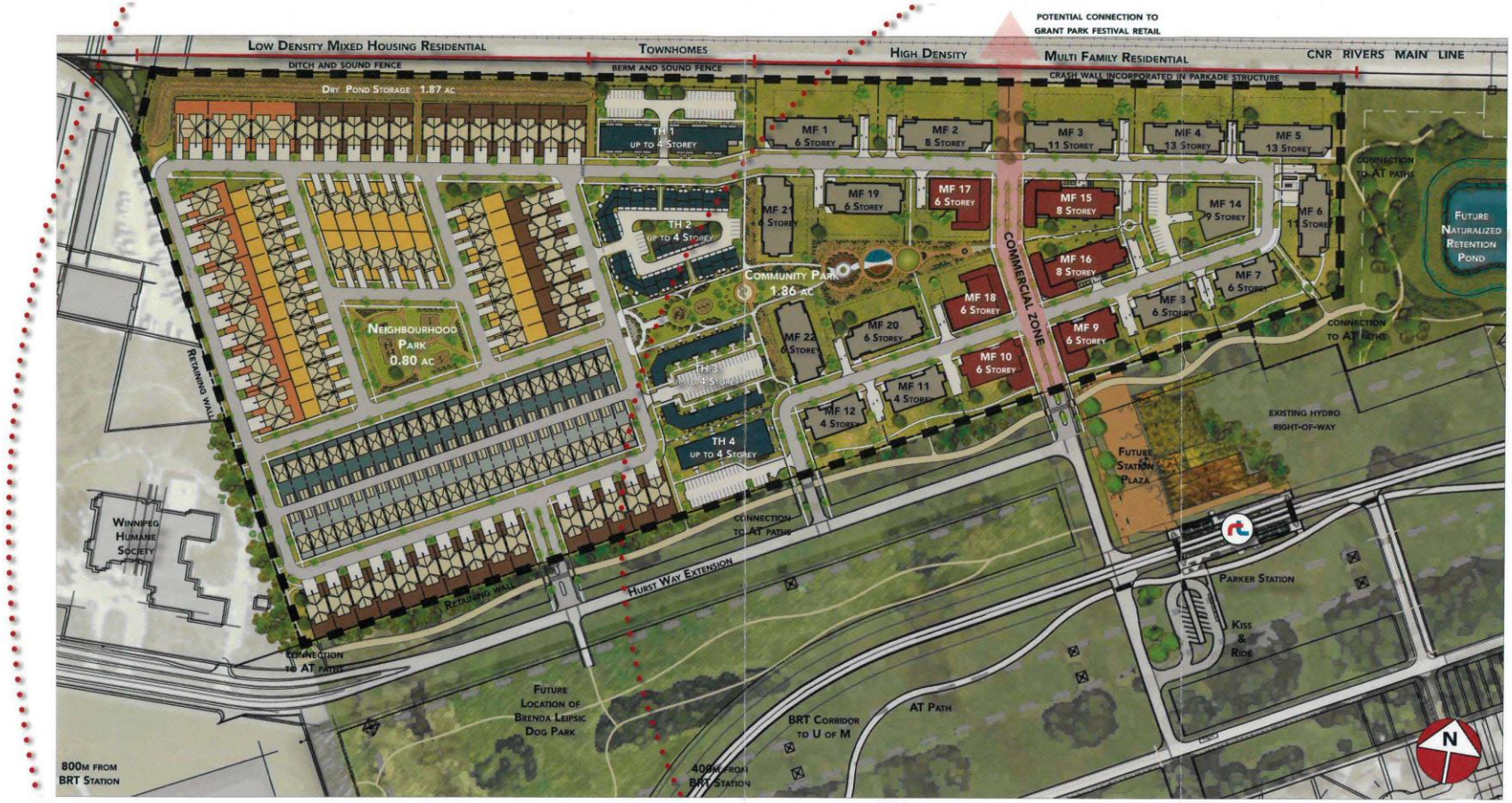
	LENGTH (ft)	WIDTH (ft)	AREA (sq ft)	AREA (acres)
Block 1			**50,500**	1.16
Lot 1	100	25	2,500	
Lot 2	100	21	2,100	
Lot 3	100	25	2,500	
Lot 4	100	25	2,500	
Lot 5	100	21	2,100	
Lot 6	100	21	2,100	
Lot 7	100	25	2,500	
Lot 8	100	25	2,500	
Lot 9	100	21	2,100	
Lot 10	100	21	2,100	
Lot 11	100	25	2,500	
Lot 12	100	25	2,500	
Lot 13	100	25	2,500	
Lot 14	100	25	2,500	
Lot 15	100	25	2,500	
Lot 16	100	25	2,500	
Lot 17	100	25	2,500	
Lot 18	100	25	2,500	
Lot 19	100	25	2,500	
Lot 20	100	25	2,500	
Lot 21	100	25	2,500	
Block 2			**35,000**	0.80
Lot 22	100	25	2,500	
Lot 23	100	25	2,500	
Lot 24	100	25	2,500	
Lot 25	100	25	2,500	
Lot 26	100	25	2,500	
Lot 27	100	25	2,500	
Lot 28	100	25	2,500	
Lot 29	100	25	2,500	
Lot 30	100	25	2,500	
Lot 31	100	25	2,500	
Lot 32	100	25	2,500	
Lot 33	100	25	2,500	
Lot 34	100	25	2,500	
Lot 35	100	25	2,500	
Block 3			**106,773**	2.45
Lot 36	100	56.5	4,498	
Lot 37	100	21	2,100	
Lot 38	100	25	2,500	
Lot 39	100	25	2,500	
Lot 40	100	21	2,100	
Lot 41	100	21	2,100	
Lot 42	100	25	2,500	
Lot 43	100	25	2,500	
Lot 44	100	21	2,100	
Lot 45	100	21	2,100	
Lot 46	100	25	2,500	
Lot 47	100	25	2,500	
Lot 48	100	21	2,100	
Lot 49	100	21	2,100	
Lot 50	100	25	2,500	
Lot 51	100	25	2,500	
Lot 52	100	21	2,100	
Lot 53	100	21	2,100	
Lot 54	100	25	2,500	
Lot 55	100	25	2,500	
Lot 56	100	21	2,100	
Lot 57	100	21	2,100	
Lot 58	100	25	2,500	
Lot 59	100	31	4,875	
Lot 60	100	36	3,600	
Lot 61	100	36	3,600	
Lot 62	100	36	3,600	
Lot 63	100	36	3,600	
Lot 64	100	36	3,600	
Lot 65	100	36	3,600	
Lot 66	100	36	3,600	
Lot 67	100	36	3,600	
Lot 68	100	36	3,600	
Lot 69	100	36	3,600	
Lot 70	100	36	3,600	
Lot 71	100	36	3,600	
Lot 72	100	36	3,600	

	LENGTH (ft)	WIDTH (ft)	AREA (sq ft)	AREA (acres)
Block 4			**48,400**	1.11
Lot 73	110	38	4,180	
Lot 74	110	36	3,960	
Lot 75	110	36	3,960	
Lot 76	110	36	3,960	
Lot 77	110	36	3,960	
Lot 78	110	38	4,180	
Lot 79	110	38	4,180	
Lot 80	110	36	3,960	
Lot 81	110	36	3,960	
Lot 82	110	36	3,960	
Lot 83	110	36	3,960	
Lot 84	110	38	4,180	
Block 5			**75,123**	1.72
Lot 85	110	69	6,250	
Lot 86	110	38	4,180	
Lot 87	110	38	4,180	
Lot 88	110	38	4,180	
Lot 89	110	38	4,180	
Lot 90	110	38	4,180	
Lot 91	110	38	4,180	
Lot 92	110	38	4,180	
Lot 93	110	38	4,180	
Lot 94	110	28	5,183	
Lot 95	110	25	2,750	
Lot 96	110	25	2,750	
Lot 97	110	25	2,750	
Lot 98	110	25	2,750	
Lot 99	110	25	2,750	
Lot100	110	25	2,750	
Lot 101	110	25	2,750	
Lot 102	110	25	2,750	
Lot 103	110	25	2,750	
Lot 104	110	25	2,750	
Lot 105	110	25	2,750	
Block 6			**75,800**	1.74
Lot 106	100	30	3,000	
Lot 107	100	30	3,000	
Lot 108	100	30	3,000	
Lot 109	100	30	3,000	
Lot 110	100	30	3,000	
Lot 111	100	30	3,000	
Lot 112	100	30	3,000	
Lot 113	100	30	3,000	
Lot 114	100	31	3,100	
Lot 115	100	31	3,100	
Lot 116	100	31	3,100	
Lot 117	100	31	3,100	
Lot 118	100	31	3,100	
Lot 119	100	31	3,100	
Lot 120	100	31	3,100	
Lot 121	100	31	3,100	
Lot 122	100	30	3,000	
Lot 123	100	30	3,000	
Lot 124	100	30	3,000	
Lot 125	100	30	3,000	
Lot 126	100	30	3,000	
Lot 127	100	30	3,000	
Lot 128	100	30	3,000	
Lot 129	100	30	3,000	
Lot 130	100	30	3,000	

	LENGTH (ft)	WIDTH (ft)	AREA (sq ft)	AREA (acres)
Block 7			**75,800**	1.74
Lot 131	100	29	2,900	
Lot 132	100	28	2,800	
Lot 133	100	28	2,800	
Lot 134	100	28	2,800	
Lot 135	100	28	2,800	
Lot 136	100	28	2,800	
Lot 137	100	28	2,800	
Lot 138	100	28	2,800	
Lot 139	100	28	2,800	
Lot 140	100	28	2,800	
Lot 141	100	28	2,800	
Lot 142	100	28	2,800	
Lot 143	100	28	2,800	
Lot 144	100	28	2,800	
Lot 145	100	28	2,800	
Lot 146	100	28	2,800	
Lot 147	100	28	2,800	
Lot 148	100	28	2,800	
Lot 149	100	28	2,800	
Lot 150	100	28	2,800	
Lot 151	100	28	2,800	
Lot 152	100	28	2,800	
Lot 153	100	28	2,800	
Lot 154	100	28	2,800	
Lot 155	100	28	2,800	
Lot 156	100	28	2,800	
Lot 157	100	29	2,900	
Block 8			**59,210**	1.36
Lot 158	169	56	6,960	
Lot 159	110	25	2,750	
Lot 160	110	25	2,750	
Lot 161	110	25	2,750	
Lot 162	110	25	2,750	
Lot 163	110	25	2,750	
Lot 164	110	25	2,750	
Lot 165	110	25	2,750	
Lot 166	110	25	2,750	
Lot 167	110	25	2,750	
Lot 168	110	25	2,750	
Lot 169	110	25	2,750	
Lot 170	110	25	2,750	
Lot 171	110	25	2,750	
Lot 172	110	25	2,750	
Lot 173	110	25	2,750	
Lot 174	110	25	2,750	
Lot 175	110	25	2,750	
Lot 176	110	25	2,750	
Lot 177	110	25	2,750	
Block 9			**27,662**	0.64
Lot 178	110	25	2,750	
Lot 179	110	25	2,750	
Lot 180	110	25	2,750	
Lot 181	110	25	2,750	
Lot 182	110	25	2,750	
Lot 183	110	25	2,750	
Lot 184	110	25	2,750	
Lot 185	110	25	2,750	
Lot 186	110	25	2,752	
Lot 187	110	25	2,910	

Fulton Grove

PROPOSED PLAN OF SUBDIVISION - DETAIL



DEVELOPMENT SUMMARY

Low Density Mixed Housing	187 units	12.73 acres
Townhomes Area	161 units	4.93 acres
High Density Multi-Family	1570 units	13.16 acres
Public Reserve Area		4.63 acres
City Right of Way		11.90 acres
Totals	**1918 units**	**47.35 acres**

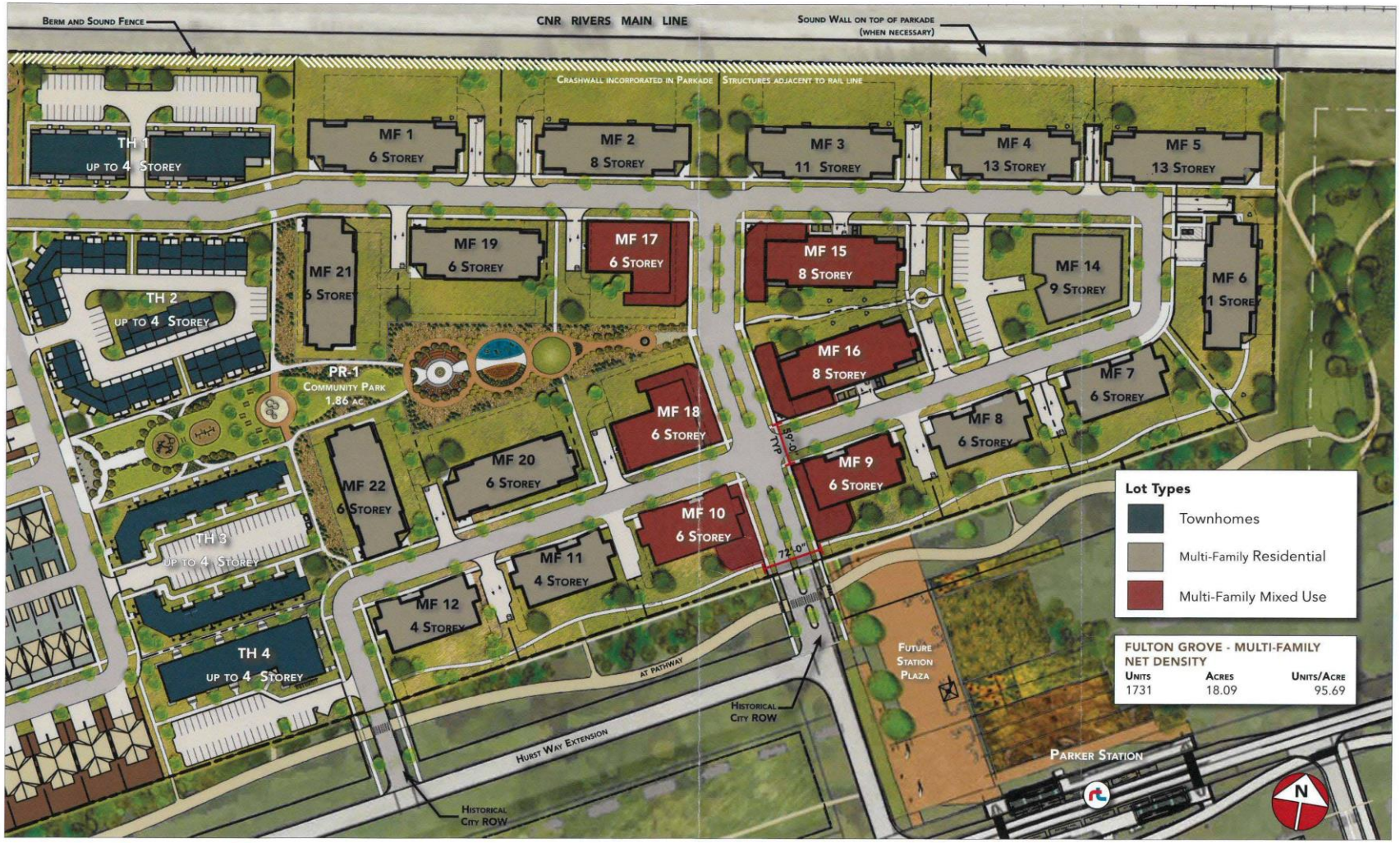
Lot Types

- 28ft - Single-Family (Backlane)
- 30ft - Single-Family (Backlane)
- 36ft - Single-Family (Front Garage)
- Duplex
- Triplex / Quadplex
- Townhomes
- Multi-Family Residential
- Multi-Family Mixed Use
- Development Property Line

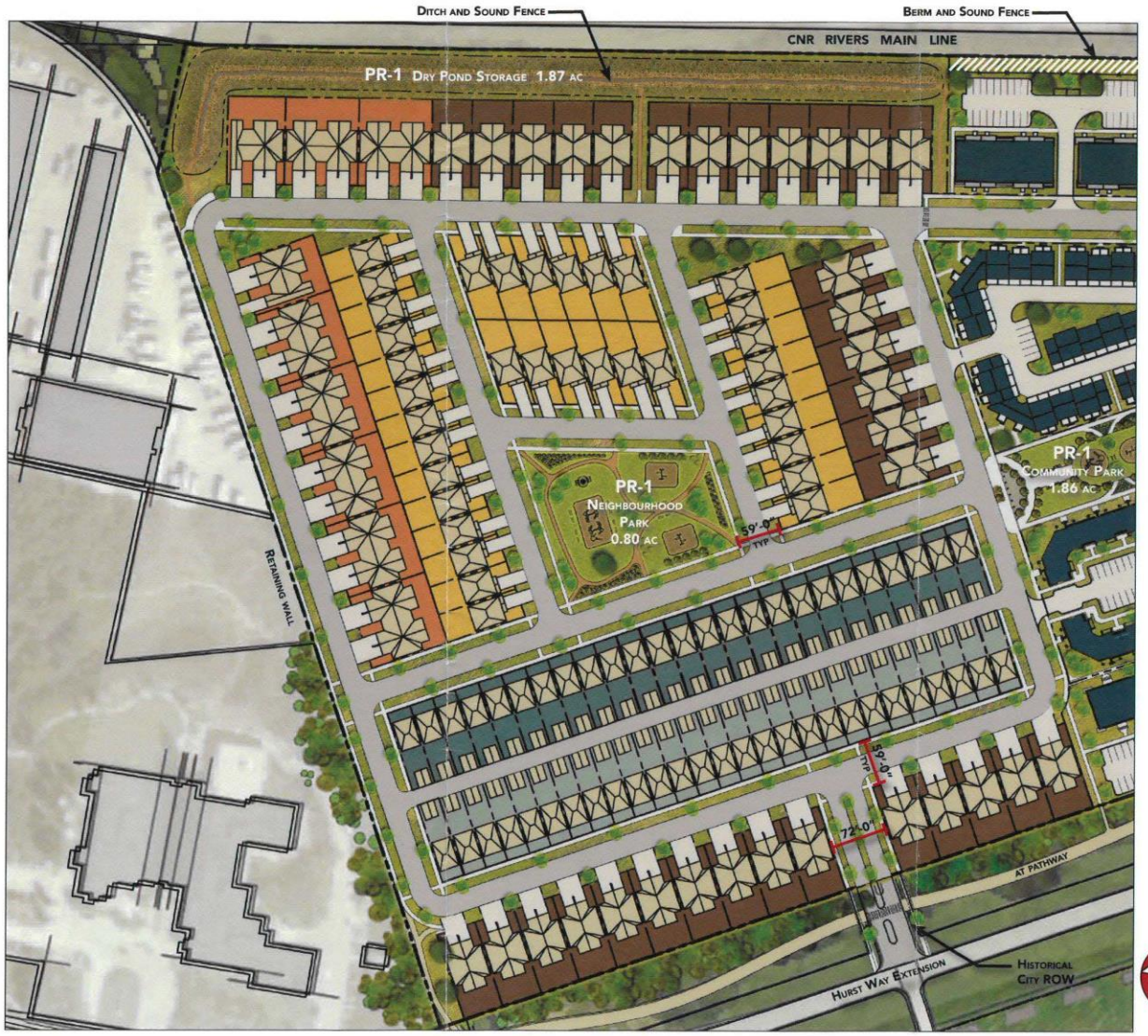
Fulton Grove

DEVELOPMENT PLAN CONCEPT

SEPTEMBER 2018
(REV)



Fulton Grove **MULTI-FAMILY AREA** SEPTEMBER 2018 (REV)



UNIT TYPES

- 28ft - Single-Family (Backlane)
- 30ft - Single-Family (Backlane)
- 36ft - Single-Family (Front Garage)
- Duplex
- Triplex or Quadplex

FULTON GROVE - LOT INFORMATION

Type	# Lots	# Units
Back Lane (28ft)	27	27
Back Lane (30ft)	25	25
Front Load (36ft)	35	35
Duplexes	33	66
Triplexes	2	6
Quadplexes	7	28
Total		**187**

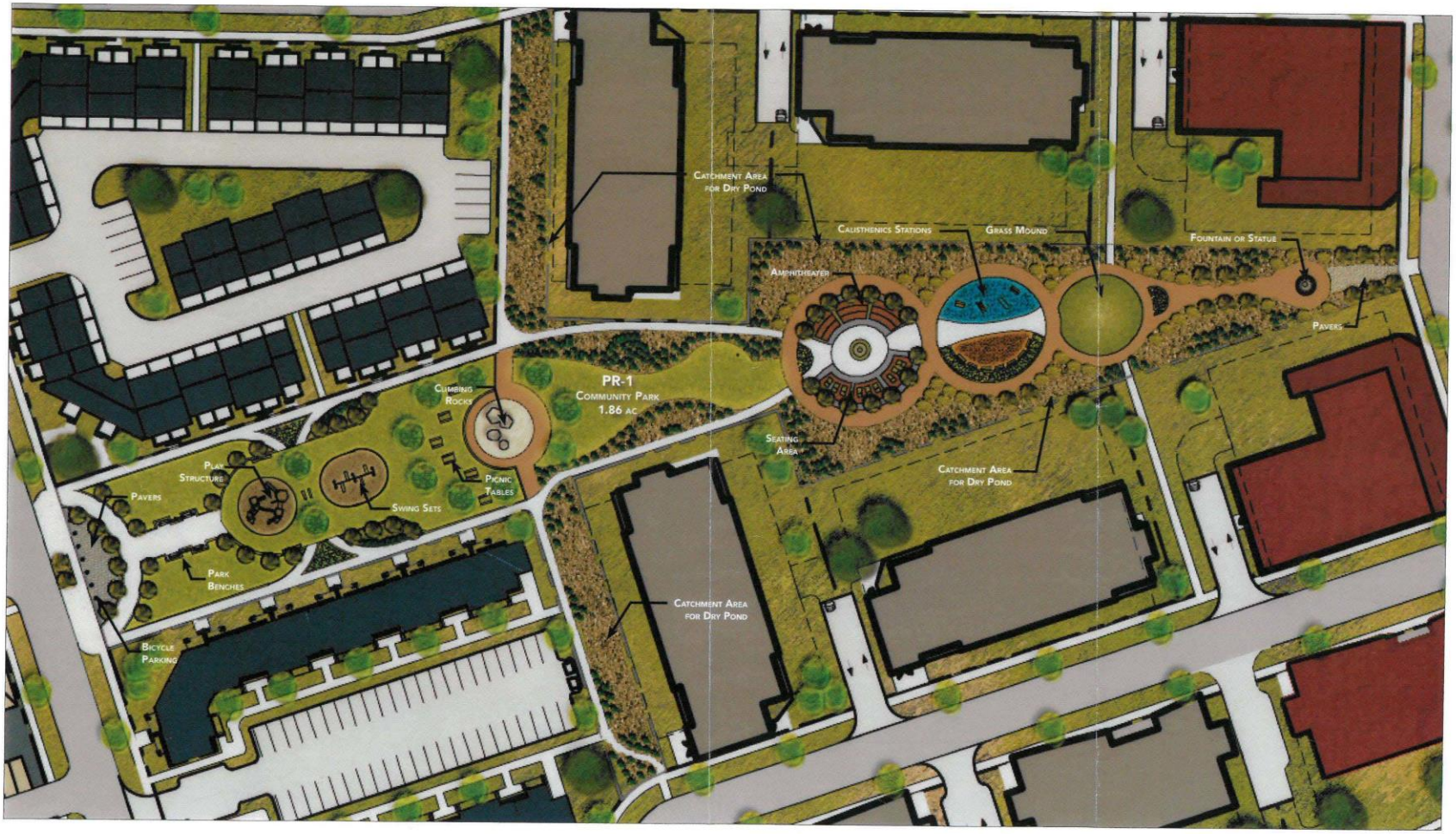
FULTON GROVE - MIXED HOUSING NET DENSITY

Units	Acres	Units/Acre
187	12.73	14.69

Fulton Grove

MIXED HOUSING AREA

SEPTEMBER 2018
(REV)



Fulton Grove

COMMUNITY PARK CONCEPT

SEPTEMBER 2018
(REV)