Agenda – Executive Policy Committee – March 17, 2021

REPORTS

Item No. 14 Subdivision and Rezoning – 97 Oak Forest Crescent (Charleswood–Tuxedo–Westwood Ward) File DASZ 35/2020

COMMUNITY COMMITTEE RECOMMENDATION:

On March 3, 2021, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That the subdivision under Development Application No. DASZ 35/2020 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with the map dated February 22, 2021 and attached as Schedule "A" to this report, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land to a "PR1" Parks and Recreation (Neighbourhood) District and an "R1-L" Residential Single-Family (Large) District as shown on the map February 22, 2021, 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 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 That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan is not registered in accordance with recommendation 5 unless the developer applies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.

COMMUNITY COMMITTEE RECOMMENDATION (Continued):

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

DECISION MAKING HISTORY:

COMMUNITY COMMITTEE RECOMMENDATION:

On March 3, 2021, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

PUBLIC HEARING SUMMARY

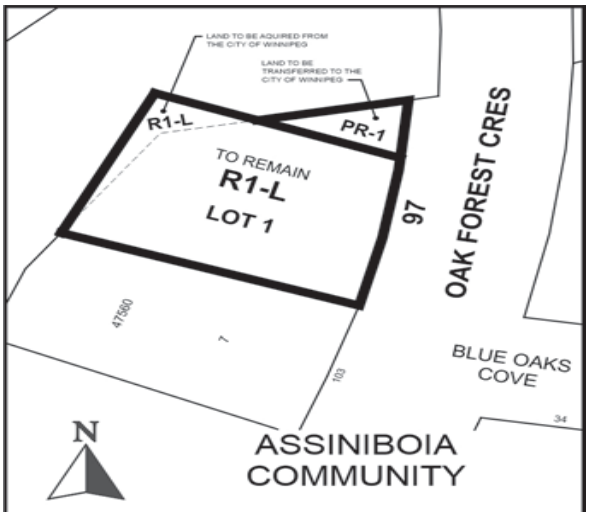
File: DASZ 35/2020

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

Public Hearing: March 3, 2021
Council Building, 510 Main Street

Applicant: Nathan Weltman (Levene Tadman Golub Law Corporation)

Subject:



APPLICANT : Levene Tadman Golub Law Corporation (Nathan Weltman)
FILE : DASZ 35/2020
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 "R1-L" RESIDENTIAL SINGLE-FAMILY (LARGE) DISTRICT and a "PR1" PARKS AND RECREATION 1 (NEIGHBOURHOOD) DISTRICT to a "R1-L" RESIDENTIAL SINGLE-FAMILY (LARGE) DISTRICT and a "PR1" PARKS AND RECREATION 1 (NEIGHBOURHOOD) DISTRICT to facilitate the reconfiguration of lot lines for the inclusion/exchange of lands with the City of Winnipeg. **For information, phone Mr. R. Galston, Planner at 204-986-8645.**

Premises Affected: 97 Oak Forest Crescent

For submission to: Executive Policy Committee

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

Report date: March 4, 2021

Community Committee Recommendation:

On March 3, 2021, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That the subdivision under Development Application No. DASZ 35/2020 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with the map dated February 22, 2021 and attached as Schedule "A" to this report, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land to a "PR1" Parks and Recreation (Neighbourhood) District and an "R1-L" Residential Single-Family (Large) District as shown on the map February 22, 2021, 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.

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

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

1. Obviously this has been a file that has been open for some time.

2. The public service has done their due diligence, the resident has done their due diligence, and it is obviously a reasonable change in the property lines, and I'm happy to see this come to a conclusion.

Exhibits Filed:

1. Application dated January 5, 2021
2. Notification of Public Hearing January 29, 2021
3. Manitoba Status of Titles 2312670/1 & 2936919/1
4. Letter of authorization dated January 21, 2019 from The City of Winnipeg to Levene Tadman Golub Law Corporation
5. Letter of authorization dated December 8, 2020 from Dean Stewart and Marcey Anne Cherniak to Levene Tadman Golub Law Corporation
6. Surveyor's plan dated December 17, 2020
7. Caveat 3537503/1
8. Site plan (Misc. Plan 14084/1)
9. Maps 1 and 2 of subject property for File DASZ 35/2020
10. Report from the Urban Planning Division dated February 22, 2021
11. Inspection Report

REPRESENTATIONS:

In Support:

Dean Stewart
Nathan Weltman

In Opposition:

Nil

For Information:

Nil

For the City:

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

Exhibit "10" referred to in File DASZ 35/2020

ADMINISTRATIVE REPORT

Title: DASZ 35/2020 – 97 Oak Forest Crescent

Issue: For consideration at the public hearing for a subdivision and rezoning to subdivide and rezone the existing single family residential zoned "R1-L" portion of land to the parks "PR1" district and existing "PR1" land to the "R1-L" zoning district.

Critical Path: Assiniboia Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Galston, MCP	n/a	n/a	

RECOMMENDATIONS

1. That the subdivision under Development Application No. DASZ 35/2020 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with the map dated February 22, 2021 and attached as Schedule "A" to this report, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That the Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land to a "PR1" Parks and Recreation (Neighbourhood) District and an "R1-L" Residential Single-Family (Large) District as shown on the map February 22, 2021, and attached as Schedule "A" to this report.

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9. 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

- Subdivision and 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 Winnipeg Public Service are concurred in, the subject property may be subdivided and rezoned consistent with the map provided in Schedule "A" of this report.

CONSULTATION

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

OURWINNIPEG POLICY ALIGNMENT

The proposed development aligns with *OurWinnipeg* Section 01, Direction 3: *"Promote Compact Urban Form and Manage the Extension of Municipal Services for New Growth."*

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

The proposed development would align with the following Key Direction in the Winnipeg Climate Action Plan: *"Ensure New Areas of Growth are Designed According to the Principles of Complete Communities."*

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by	Robert Galston, MCP
Date:	February 22, 2021
File No.	DASZ 35/2020

List of Schedules and Attachments

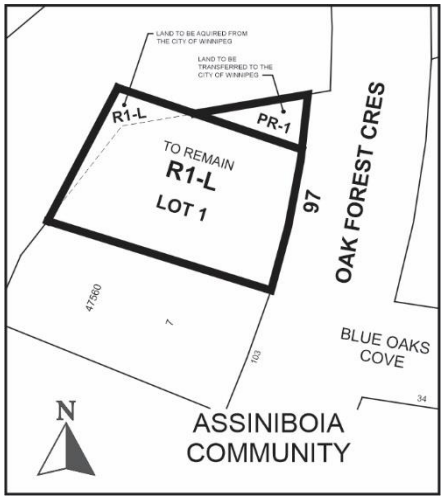
1. Appendix "A" — Planning Discussion
2. Schedule "A" — File No. DASZ 35/2020, Assiniboia Community Committee, Dated February 22, 2021

APPENDIX 'A'

DATE: February 22, 2021
FILE: **DASZ 35/2020**
RELATED FILES: n/a
COMMUNITY: Assiniboia Community
NEIGHBOURHOOD #: 2.227 (Assiniboia Downs)

SUBJECT: For consideration at the public hearing for a subdivision and rezoning to subdivide and rezone the existing single family residential zoned "R1-L" portion of land to the parks "PR1" district and existing "PR1" land to the "R1-L" zoning district.

LOCATION: 97 Oak Forest Crescent
LEGAL DESCRIPTION: LOT 8 BLOCK 2 PLAN 47560 WLTO IN RL 92 PARISH OF ST CHARLES D PUBLIC RESERVES "A", "B", "C", "D", "E", "F", "G" AND "H" PLAN 45952 WLTO EXC OUT OF PUBLIC RESERVES "A" AND "B": PLAN 47644 WLTO IN RL 89 TO 93 PARISH OF ST CHARLES



APPLICANT: Levene Tadman Golub Law Corporation (Nathan Weltman)
700-300 St. Mary Avenue
Winnipeg, Manitoba R3C 3Z5

OWNERS: Dean Stewart & Marcey Cherniak
97 Oak Forest Crescent
Winnipeg, Manitoba R3K 1M4

RECOMMENDATION: Approval

HISTORY

Sale of Public Reserve Land

- On April 29, 2015, Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

    1. *That the City owned property to the rear of 97 Oak Forest Crescent, identified as "PARCEL B" on the attached Misc. Plan No.14084 be declared surplus to the needs of the City.*
    2. *That subject to the approval of Recommendation No. 1, the proposed land exchange of "PARCEL B" as shown on Misc. Plan No.14084 for "PARCEL A" as shown on Misc. Plan No. 14084 be approved for $1.00 in accordance with such terms and conditions as deemed necessary by the Director of the Planning, Property and Development Department and the Director of Legal Services/City Solicitor to protect the interests of the City.*
    3. *That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.*

DASZ 11/2016

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

DASZ 9/2019

- On June 11, 2019, Council concurred in the recommendation of the Executive Policy Committee and approved an application to subdivide and rezone of a portion of the existing single-family residential lot from the "R1-L" to "PR1" zoning district, and the existing "PR1" land to the "R1-L" zoning district.
- This proposal was the same as the previous proposal approved by Council in 2016 under file no. DASZ 11/2016.
- While this subdivision and rezoning was approved by Council, the by-law in connection with the subdivision and rezoning expired after 12 months of approval.

DISCUSSION

SITE DESCRIPTION

- The subject land is located on the west side of Oak Forest Crescent in the Assiniboia Downs Neighbourhood of the Charleswood – Tuxedo - Westwood Ward.
- The subject residential lot is currently 11,124 square feet in area. A one-storey, 2,117 square foot single family dwelling constructed in 2009 is currently located on the property.
- The site is within the Recent Communities Policy Area under the *Complete Communities Direction Strategy* and is currently zoned "R1-L" Residential Single Family (Large) and "PR1" Parks and Recreation (Neighbourhood).



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

SURROUNDING LAND USE AND ZONING (See Figure 2)

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

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

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

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



Figure 2: Zoning of the Site and Surrounding Area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- **The applicant has communicated to the City of Winnipeg that the subject lot in its current configuration is an odd shape which limits the use and enjoyment of the back yard.**
- **The applicant is proposing to reconfigure the lot to a rectangular shape, by reducing the north side yard and increasing the rear yard. The applicant proposes to acquire from the City of Winnipeg a piece of public reserve land declared surplus by Council (please refer to the history section of this report). This surplus public reserve land is 1,040 square feet in area, and located to the northwest of the subject property. In exchange, the owner proposed to give to the City of Winnipeg a portion at the north side of the subject property**
- **The portion of land currently owned by the City is 1,040 square feet in area. The portion of the owner's land to be given to the City is 1,049 square feet in area. Please refer to Figure 3 below.**

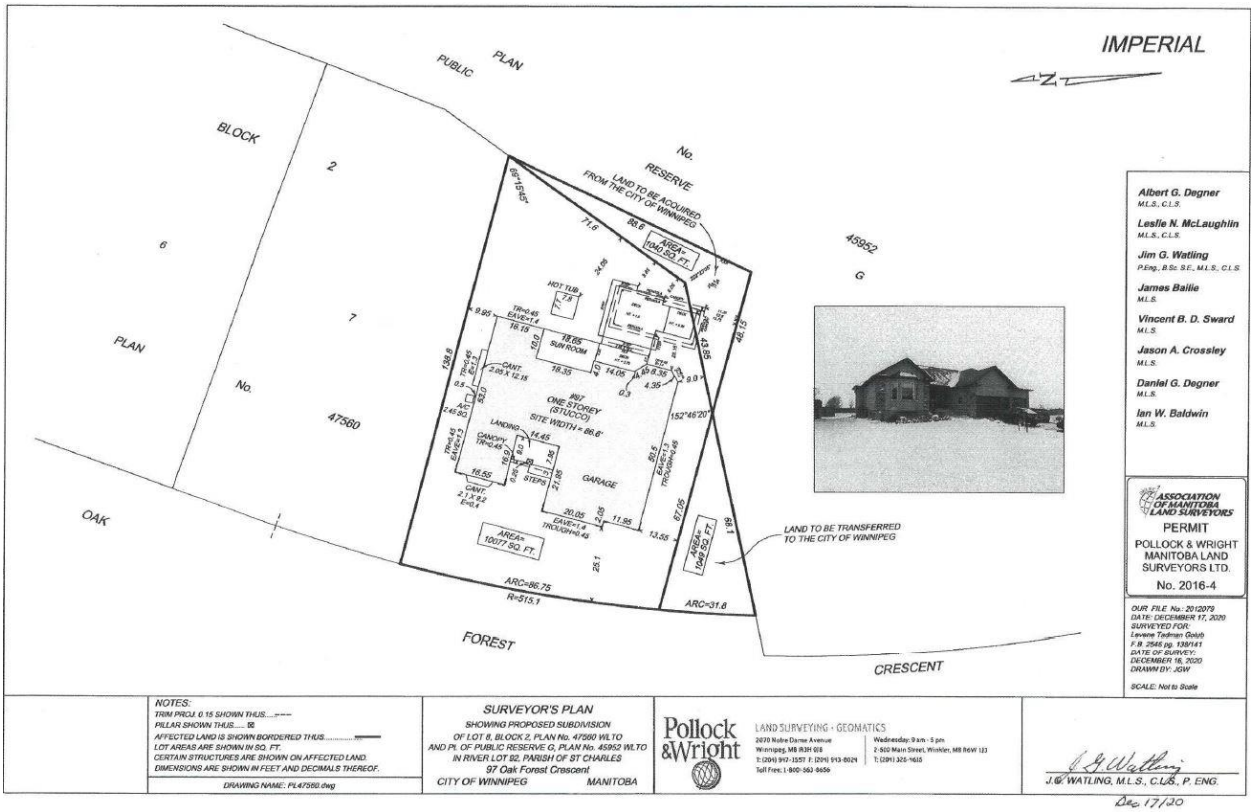


Figure 3: Proposed lot configurations

COLLABORATION AND PUBLIC CONSULTATION

- **Given that the proposal has been reviewed by the Winnipeg Public Service under previous applications, further collaboration and discussion was not considered to be warranted.**
- **Given that the nature of the proposal, which is an exchange of a piece of land approximately 1,050 square feet, which will result in no new development or substantial change to the public reserve land, public consultation was not considered to be warranted.**

ANALYSIS AND ISSUES

OURWINNIPEG AND COMPLETE COMMUNITIES DIRECTION STRATEGY

- *OurWinnipeg* is the City's long-range development plan. The Key Direction of *OurWinnipeg* regarding New Communities states:
    - *New Communities will continue to play an important role in accommodating the city's projected population growth. These New Communities will be planned as complete from the outset and will continue to achieve a high standard of sustainability in planning, design, construction and management.*
- The *Complete Communities Direction Strategy* is one of four direction strategies supporting *OurWinnipeg*, the City's long-range development plan, and has statutory authority as a secondary plan. The strategy guides land use and development in Winnipeg.

- Under the *Complete Communities Direction Strategy* the proposed development is within the Areas of Stability – Recent Communities policy area. With regard to this proposal, the key policies guiding the development of Recent Communities include:
    - *Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complementary to the existing scale, character and built form.*
    - *Ensure that existing public open spaces meet the neighbourhood's current and future requirements.*

REZONING

- **As noted above, the current zoning of the subject lands are 'R1-L' Residential Single Family (Large); and 'PR1' Parks and Recreation (Neighbourhood).**
- **The Residential Single Family (R1) district is intended to accommodate primarily single-family residential development in lower-density areas.**
- **The Parks and Recreation 1 (PR1) district is intended for sites that are generally passive neighbourhood and community parks and facilities with predominantly pedestrian and cyclist access.**

REAL ESTATE

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

PARKS

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

DISCUSSION OF PROPOSED SUBDIVISION AND REZONING

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

RECOMMENDATION

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

- The proposal land exchange was previously approved by Council and was supported by the Winnipeg Public Service.
- The subdivision and rezoning will formalize the proposed lot lines and proper Zoning District in accordance with the proposed land exchange.
- The land exchange is for approximately equal sized portions of land.
- The land exchange will not have any negative impact on the general use of the existing public reserve lands or the surrounding area generally.

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

PPD File #: DASZ 35/2020

Schedule "A" for File DASZ 35/2020, Assiniboia Community Committee, dated February 22, 2021

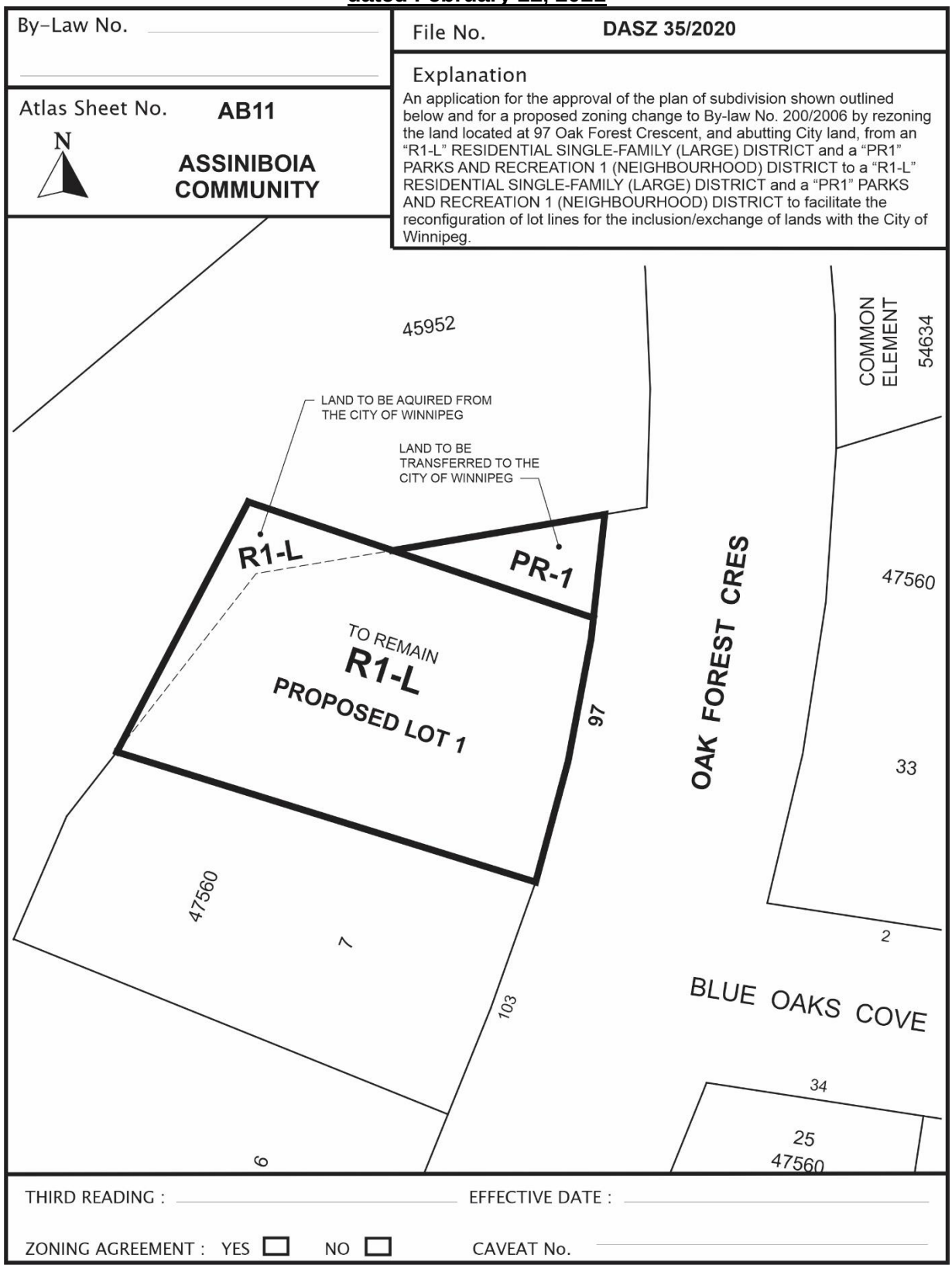
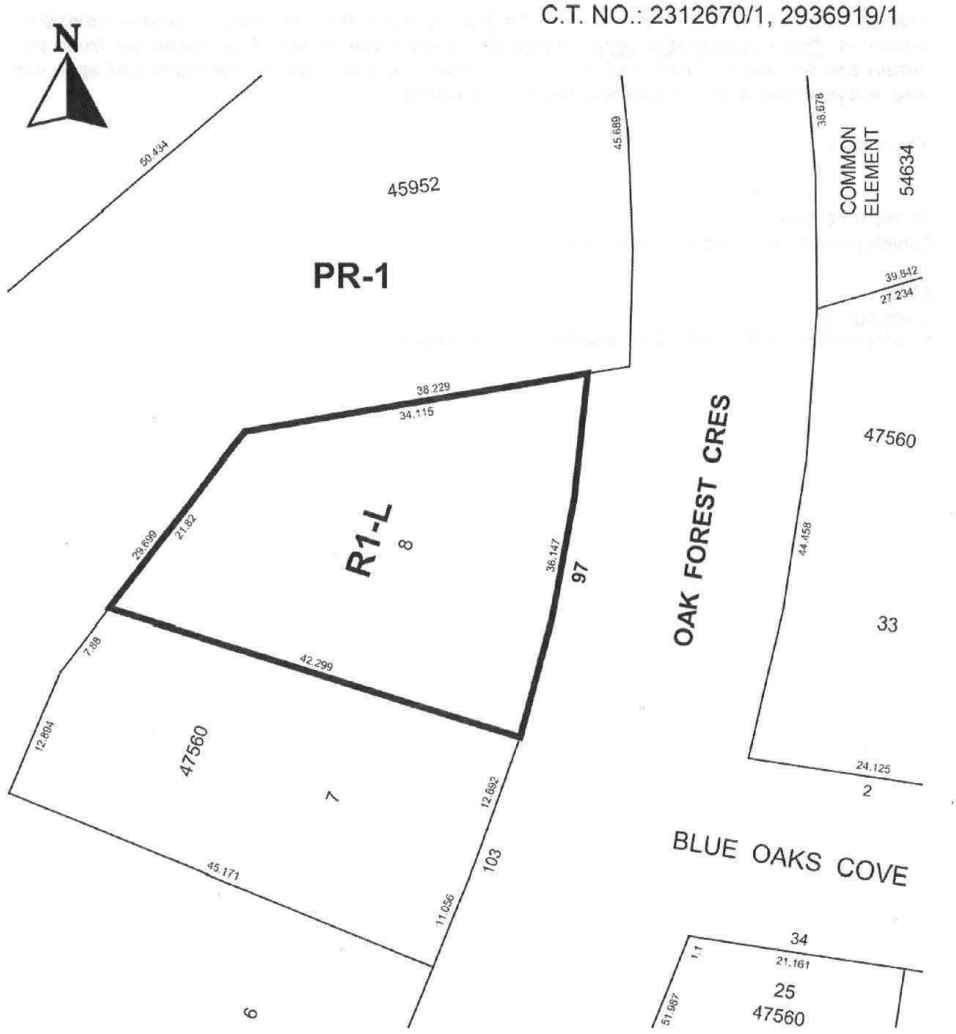


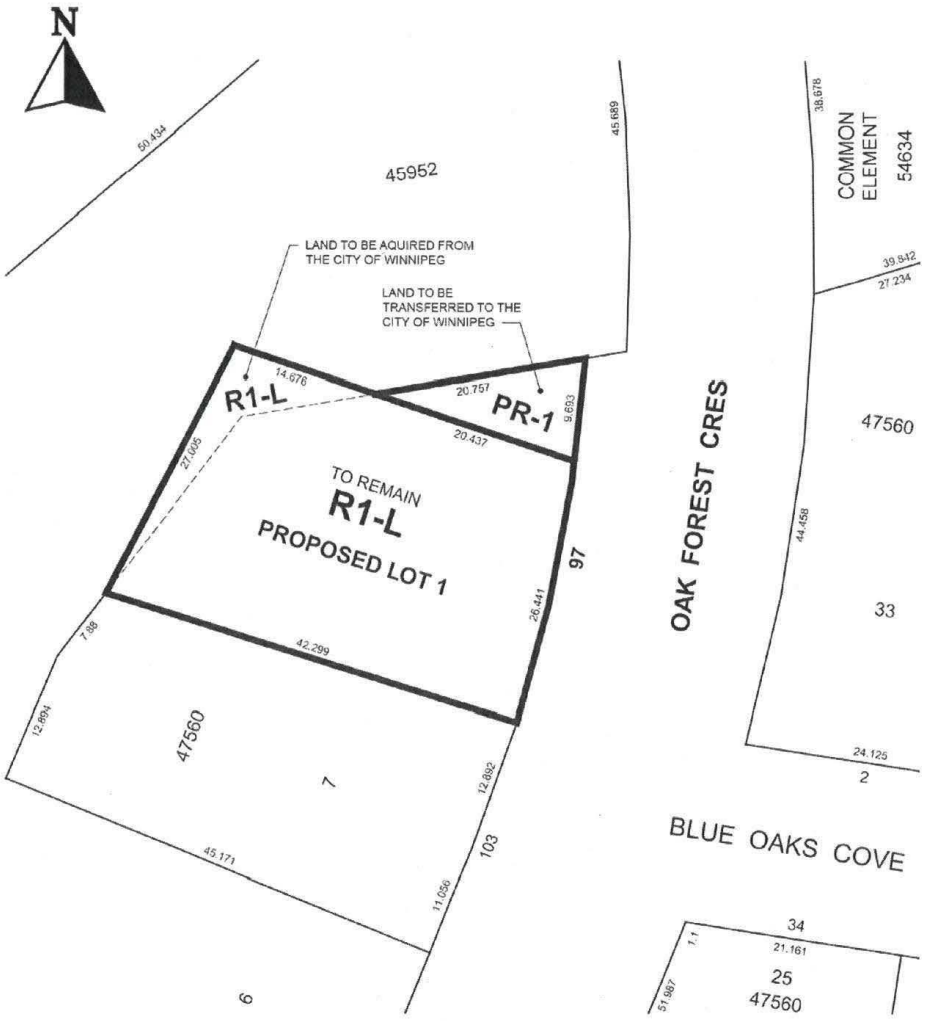
Exhibit “9” referred to in File DASZ 35/2020

C.T. NO.: 2312670/1, 2936919/1



DASZ 35/2020 MAP 1

SUBJECT PROPERTY



DASZ 35/2020 MAP 2

PROPOSED SUBDIVISION & REZONING