Minutes – Executive Policy Committee – February 14, 2023

Report – Standing Policy Committee on Property and Development – February 2, 2023

Item No. 10 Subdivision and Rezoning – 20 Macbell Road & LOT 3 PLAN 18762 WLTO IN RL 97 Parish of St. Norbert (St. Norbert-Seine River Ward) File DASZ 31/2022 [c/r DAV 147702/2022D]

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, as amended, and submitted the following to Council:

1. That the subdivision under Development Application No. DASZ 31/2022 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with the map attached as Schedule "C" – Proposed Plan of Subdivision Incorporating 6 Lots, with such changes as may be required, and registration in the Winnipeg Land Titles Office.

    A. That the Developer be required to enter into a Servicing 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 August 17th, 2022 and attached as Schedule "B" to this report, with the following amendments:

        i. Under Section I – Plan Considerations, add the following new condition:

            "2) The Developer shall, at no expense to the City, amend the Plan of Subdivision to indicate a maximum of 3 lots of the east side of Macbell Road and a maximum of 3 lots on the west side of Macbell Road, for a total number of lots not to exceed 6 lots within the Planned Area, to the satisfaction of the Director of Planning, Property and Development."

        ii. Under Section III – Servicing Conditions, add the following new condition:

            "13) <u>Flood Proofing</u>

Report – Standing Policy Committee on Property and Development – February 2, 2023

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

a) Prior to release of subdivision mylars for registration in the Winnipeg Land Titles Office, the Developer shall, at no expense to the City, provide a detailed design under the seal of a qualified engineer, for the flood-protection works necessary to accommodate the proposed development, to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development.

b) The plans, specifications and supporting reports shall include:

i. Analysis and design recommendations considering seepage, consolidation, earth pressures and slope stability.

ii. The structural and/or geotechnical design of all retaining walls

iii. Final grading design for the properties, considering drainage, and including specifications for the placement and compaction of any fill materials.

iv. Design for any other landscaping, structural or geotechnical elements deemed necessary to ensure effective long-term flood protection of the proposed properties

v. Identification of areas, where future construction or development (ie. buildings, decks, pools, patios etc) should be prohibited so as to ensure that a corridor is maintained around the proposed development within which sandbags or other supplement emergency flood-protection works would be constructed when needed in the future.

vi. Identification of the flood-protected areas within the development where future buildings (ie. the proposed SFD's), would be allowed.

Report – Standing Policy Committee on Property and Development – February 2, 2023

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

c) Prior to the issuance of development permits for the single-family residential dwellings, the Developer shall, at no expense to the City, construct all elements identified in the approved flood protection design necessary for the communal protection of the Planned Area

i. Upon completion of the subject works, the Engineer is to submit to the City a letter and as-built drawings, certifying that the works have been completed to their satisfaction and in compliance with this permit.

d) The Developer shall enter into a Flood Proofing Agreement (FPA) for each individual property in which the Secondary Dyke corridor extends across. Said agreement shall be registered as a caveat against the Title of each lot, and shall carry forward to all prospective and future owners, all as determined by and to the satisfaction of the Director of Water and Waste and the Director of Legal Services."

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land to an "R1-L" Residential Single-Family (Large) District, in accordance with the Proposed By-law attached as Appendix "B" to this report, as amended in accordance with Schedule "C" – Proposed Plan of Subdivision Incorporating 6 Lots, subject to the following conditions:

A. That the Developer enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:

i. That prior to the registration of the subdivision mylars, the Developer shall, at no expense to the City, provide a detailed design under the seal of a qualified engineer, for the flood-protection works necessary to accommodate the planned development, to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development.

Report – Standing Policy Committee on Property and Development – February 2, 2023

EXECUTIVE POLICY COMMITTEE RECOMMENDATION: (continued):

ii. That prior to the issuance of the Development Permit for the single-family residential dwellings, the Developer shall, at no expense to the City, construct all elements identified in the approved flood protection design necessary for the communal protection of the proposed development area to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development.

iii. That, no buildings, accessory structures, swimming pools, decks, wells, pipe lines, conduits, or fencing/walls, other than chain link or wooden fences, shall be constructed and no trees shall be planted in the areas required for a community secondary dyke corridor as identified in the flood protection design approved by the Director of Water and Waste and the Director of Planning, Property and Development.

Said flood protection areas shall be shown in a Schedule, attached to the Zoning Agreement, and established by caveat against the title of each of the proposed lots as determined by and to the satisfaction of the Director of Planning, Property, and Development.

iv. That the principal buildings shall include fully enclosed, active living space at-grade to the satisfaction of the Director of Planning, Property, and Development.

v. That a maximum of six (6) lots shall be permitted in the Planned Area.

vi. That the Owner must submit plans showing the location and design of any and all proposed:

a. Buildings
b. Accessory parking areas
c. Private approaches
d. Garbage enclosures
e. Fencing
f. Landscaping; and
g. Retaining walls.

Report – Standing Policy Committee on Property and Development – February 2, 2023

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

On the Owner's Land ("Works") to the City's Director of Planning, Property and Development ("Director") and the Riel Community Committee for approval prior to the issuance of any building or development permit and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

3. That the City enter into, execute and deliver with the Developer:

   A. A Servicing Agreement in accordance with Recommendation 1; and

   B. A Zoning Agreement in accordance with Recommendation 2

   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").

4. That prior to issuance of Development Permits for the Planned Area, the accepted Secondary Dyke corridor, inclusive of any retaining wall(s) or other ground stabilization features, shall be added as a new Schedule to the *Secondary Dyke By-Law 7600/2000.*

5. 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 Servicing Agreement, the Zoning 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.

6. That in lieu of the dedication of land, the developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of Development Application No. DASZ 31/2022, as determined by the City's Director of Planning, Property and Development.

7. That upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor prepare a By-law in accordance with this report and bring same directly to Council for first reading at the next available Council meeting.

Report – Standing Policy Committee on Property and Development – February 2, 2023

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

8. That upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor be directed to return the By-law to Council to be given second and third reading to the By-law if a legal plan of subdivision (the "Plan"), prepared by the Manitoba Land Surveyor in accordance with recommendations 1 and 7 of this Report, and all associated ancillary fees (the "Fees") are submitted to the City within 2 years after the By-law has been given first reading

9. That the matter will be deemed to be concluded and all approvals in connection with this matter will expire if the Plan and all associated ancillary fees (the "Fees") are not submitted within 2 years after the By-law has been given first reading unless the Developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

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

11. That the zoning section of the By-law will come into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by way of caveat against the lands described therein.

12. That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan and the Zoning Agreement are not registered in accordance with recommendations 10 and 11 unless the Developer applies for an extension of time before the expiration of the 1-year period and Council approves the extension.

13. 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.

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

Report – Standing Policy Committee on Property and Development – February 2, 2023

DECISION MAKING HISTORY:

Moved by Councillor Rollins,

That the recommendation of the Standing Policy Committee on Property and Development be concurred in with the following amendments and forwarded to Council:

- In Recommendation 1, delete the words "the map dated August 8th, 2022 and attached as Schedule "A" and with the Proposed By-law attached as Appendix "B" to this report" and replace with "the map attached as Schedule "C" – Proposed Plan of Subdivision Incorporating 6 Lots"

- In Recommendation 2, delete the words "as shown on the map dated August 8th, 2022 and included within Schedule "A"" and replace with "in accordance with the Proposed By-law attached as Appendix "B" to this report, as amended in accordance with Schedule "C" – Proposed Plan of Subdivision Incorporating 6 Lots"

Yea:	Gillingham, Browaty, Lukes, Mayes, Orlikow, Rollins	6
Nay:		0

Carried

STANDING COMMITTEE RECOMMENDATION:

On February 2, 2023, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 24, 2023, the Riel Community Committee did not concur in the recommendation of the Winnipeg Public Service and submitted the following to the Standing Policy Committee on Property and Development:

1. That the subdivision under Development Application No. DASZ 31/2022 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with the map dated August 8th, 2022 and attached as Schedule "A" and with

Report – Standing Policy Committee on Property and Development – February 2, 2023

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

the Proposed By-law attached as Appendix "B" to this report, with such changes as may be required, and registration in the Winnipeg Land Titles Office.

A. That the Developer be required to enter into a Servicing 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 August 17th, 2022 and attached as Schedule "B" to this report, with the following amendments:

i. Under Section I – Plan Considerations, add the following new condition:

"2) The Developer shall, at no expense to the City, amend the Plan of Subdivision to indicate a maximum of 3 lots of the east side of Macbell Road and a maximum of 3 lots on the west side of Macbell Road, for a total number of lots not to exceed 6 lots within the Planned Area, to the satisfaction of the Director of Planning, Property and Development."

ii. Under Section III – Servicing Conditions, add the following new condition:

"13) Flood Proofing

a) Prior to release of subdivision mylars for registration in the Winnipeg Land Titles Office, the Developer shall, at no expense to the City, provide a detailed design under the seal of a qualified engineer, for the flood-protection works necessary to accommodate the proposed development, to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development.

b) The plans, specifications and supporting reports shall include:

i. Analysis and design recommendations considering seepage, consolidation, earth pressures and slope stability.

Report – Standing Policy Committee on Property and Development – February 2, 2023

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

ii. The structural and/or geotechnical design of all retaining walls

iii. Final grading design for the properties, considering drainage, and including specifications for the placement and compaction of any fill materials.

iv. Design for any other landscaping, structural or geotechnical elements deemed necessary to ensure effective long-term flood protection of the proposed properties

v. Identification of areas, where future construction or development (ie. buildings, decks, pools, patios etc) should be prohibited so as to ensure that a corridor is maintained around the proposed development within which sandbags or other supplement emergency flood-protection works would be constructed when needed in the future.

vi. Identification of the flood-protected areas within the development where future buildings (ie. the proposed SFD's), would be allowed.

c) Prior to the issuance of development permits for the single-family residential dwellings, the Developer shall, at no expense to the City, construct all elements identified in the approved flood protection design necessary for the communal protection of the Planned Area

i. Upon completion of the subject works, the Engineer is to submit to the City a letter and as-built drawings, certifying that the works have been completed to their satisfaction and in compliance with this permit.

Report – Standing Policy Committee on Property and Development – February 2, 2023

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

d) The Developer shall enter into a Flood Proofing Agreement (FPA) for each individual property in which the Secondary Dyke corridor extends across. Said agreement shall be registered as a caveat against the Title of each lot, and shall carry forward to all prospective and future owners, all as determined by and to the satisfaction of the Director of Water and Waste and the Director of Legal Services."

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land to an "R1-L" Residential Single-Family (Large) District, as shown on the map dated August 8th, 2022 and included within Schedule "A", subject to the following conditions:

A. That the Developer enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:

i. That prior to the registration of the subdivision mylars, the Developer shall, at no expense to the City, provide a detailed design under the seal of a qualified engineer, for the flood-protection works necessary to accommodate the planned development, to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development.

ii. That prior to the issuance of the Development Permit for the single-family residential dwellings, the Developer shall, at no expense to the City, construct all elements identified in the approved flood protection design necessary for the communal protection of the proposed development area to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development.

iii. That no buildings, accessory structures, swimming pools, decks, wells, pipe lines, conduits, or fencing/walls, other than chain link or wooden fences, shall be constructed and no trees shall be planted in the areas required for a community secondary dyke corridor as identified in the flood protection design approved by the Director of Water and Waste and the Director of Planning, Property and Development. Said flood protection areas shall be shown in a Schedule, attached to the Zoning Agreement, and

Report – Standing Policy Committee on Property and Development – February 2, 2023

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

established by caveat against the title of each of the proposed lots as determined by and to the satisfaction of the Director of Planning, Property, and Development.

iv. That the principal buildings shall include fully enclosed, active living space at-grade to the satisfaction of the Director of Planning, Property, and Development.

v. That a maximum of six (6) lots shall be permitted in the Planned Area.

vi. That the Owner must submit plans showing the location and design of any and all proposed:

a. Buildings
b. Accessory parking areas
c. Private approaches
d. Garbage enclosures
e. Fencing
f. Landscaping
g. Retaining walls.

On the Owner's Land ("Works") to the City's Director of Planning, Property and Development ("Director") and the Riel Community Committee for approval prior to the issuance of any building or development permit and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

3. That the City enter into, execute and deliver with the Developer:

A. A Servicing Agreement in accordance with Recommendation 1; and

B. A Zoning Agreement in accordance with Recommendation 2

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").

Report – Standing Policy Committee on Property and Development – February 2, 2023

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

4. That prior to issuance of Development Permits for the Planned Area, the accepted Secondary Dyke corridor, inclusive of any retaining wall(s) or other ground stabilization features, shall be added as a new Schedule to the *Secondary Dyke By-Law 7600/2000.*

5. 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 Servicing Agreement, the Zoning 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.

6. That in lieu of the dedication of land, the developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of Development Application No. DASZ 31/2022, as determined by the City's Director of Planning, Property and Development.

7. That upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor prepare a By-law in accordance with this report and bring same directly to Council for first reading at the next available Council meeting.

8. That upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor be directed to return the By-law to Council to be given second and third reading to the By-law if a legal plan of subdivision (the "Plan"), prepared by the Manitoba Land Surveyor in accordance with recommendations 1 and 7 of this Report, and all associated ancillary fees (the "Fees") are submitted to the City within 2 years after the By-law has been given first reading

9. That the matter will be deemed to be concluded and all approvals in connection with this matter will expire if the Plan and all associated ancillary fees (the "Fees") are not submitted within 2 years after the By-law has been given first reading unless the Developer applies for an extension of time before the expiration of the 2-year period and Council approves the extension.

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

11. That the zoning section of the By-law will come into force when the Zoning Agreement

Report – Standing Policy Committee on Property and Development – February 2, 2023

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

is registered in the Winnipeg Land Titles Office by way of caveat against the lands described therein.

12. That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan and the Zoning Agreement are not registered in accordance with recommendations 10 and 11 unless the Developer applies for an extension of time before the expiration of the 1-year period and Council approves the extension.

13. 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.

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

On January 3, 2023, the Riel Community Committee adjourned the public hearing to its meeting on January 24, 2023 at 10:30 a.m. in the Council Building at 510 Main Street.

On November 14, 2022, the Riel Community Committee adjourned the public hearing to its meeting on January 3, 2023 at 10:30 a.m. in the Council Building at 510 Main Street.

On August 30, 2022, the Riel Community Committee adjourned the public hearing to its meeting on November 14, 2022 at 10:30 a.m. in the Council Building at 510 Main Street.

PUBLIC HEARING SUMMARY

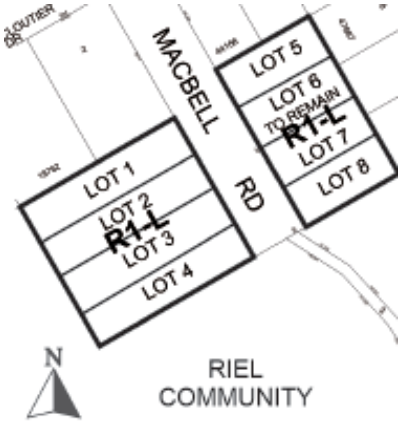
File: DASZ 31/2022

Before: Riel Community Committee
Councillor Chambers, Chairperson
Councillor Mayes

Public Hearing: January 24, 2023
January 3, 2023
November 14, 2022
August 30, 2022
Council Building, 510 Main Street

Applicant: Richard + Wintrup Planning and Development (Brody Osadick)

Subject:



APPLICANT : Richard + Wintrup Planning and Development (Brody Osadick)
FILE : DASZ 31/2022
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 "RR5" RURAL RESIDENTIAL 5 DISTRICT to an "R1-L" RESIDENTIAL SINGLE-FAMILY (LARGE) DISTRICT to facilitate the establishment of eight (8) residential building lots. **For information, phone E. Finnigan, Planner at 204-986-8602.**
DEMANDEUR : Richard + Wintrup Planning and Development (Brody Osadick)
N° DE DOSSIER : DALZ 31/2022
PROJET : Demande d'approbation par le conseil municipal du plan de lotissement indiqué ci-dessus et proposition de modification du *Zoning By-law No. 200/2006* (règlement municipal sur le zonage) visant à changer le zonage des sols délinéés ci-dessus de sorte qu'ils passent de la catégorie RR5 (secteur résidentiel en milieu rural 5) à la catégorie R1-L (secteur de grandes habitations unifamiliales) en vue de faciliter l'aménagement de huit lots à bâtir résidentiels. **Pour obtenir des renseignements, appelez E. Finnigan, urbaniste, au 204-986-8602.**

Premises Affected: 20 Macbell Road and Unaddressed Lot 3, Plan 18762

For submission to: The Standing Policy Committee on Property and Development

Prepared by: Rebecca Ford, Committee Clerk
Riel Community Committee

Report date: January 25, 2023

Community Committee Recommendation:

On January 24, 2023, the Riel Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development:

1. That the subdivision under Development Application No. DASZ 31/2022 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with the map dated August 8th, 2022 and attached as Schedule "A" and with the Proposed By-law attached as Appendix "B" to this report, with such changes as may be required, and registration in the Winnipeg Land Titles Office.

A. That the Developer be required to enter into a Servicing 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 August 17th, 2022 and attached as Schedule "B" to this report, with the following amendments:

i. Under Section I – Plan Considerations, add the following new condition:

"2) The Developer shall, at no expense to the City, amend the Plan of Subdivision to indicate a maximum of 3 lots of the east side of Macbell Road and a maximum of 3 lots on the west side of Macbell Road, for a total number of lots not to exceed 6 lots within the Planned Area, to the satisfaction of the Director of Planning, Property and Development."

ii. Under Section III – Servicing Conditions, add the following new condition:

"13) <u>Flood Proofing</u>

a) Prior to release of subdivision mylars for registration in the Winnipeg Land Titles Office, the Developer shall, at no expense to the City, provide a detailed design under the seal of a qualified engineer, for the flood-protection works

necessary to accommodate the proposed development, to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development.

b) The plans, specifications and supporting reports shall include:

i. Analysis and design recommendations considering seepage, consolidation, earth pressures and slope stability.

ii. The structural and/or geotechnical design of all retaining walls

iii. Final grading design for the properties, considering drainage, and including specifications for the placement and compaction of any fill materials.

iv. Design for any other landscaping, structural or geotechnical elements deemed necessary to ensure effective long-term flood protection of the proposed properties

v. Identification of areas, where future construction or development (ie. buildings, decks, pools, patios etc) should be prohibited so as to ensure that a corridor is maintained around the proposed development within which sandbags or other supplement emergency flood-protection works would be constructed when needed in the future.

vi. Identification of the flood-protected areas within the development where future buildings (ie. the proposed SFD's), would be allowed.

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i. Upon completion of the subject works, the Engineer is to submit to the City a letter and as-built drawings, certifying that the works have been completed to their satisfaction and in compliance with this permit.

d) The Developer shall enter into a Flood Proofing Agreement (FPA) for each individual property in which the Secondary Dyke corridor extends across. Said agreement shall be registered as a caveat against the Title of each lot, and shall carry forward to all prospective and future owners, all as determined by and to the satisfaction of the Director of Water and Waste and the Director of Legal Services."

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land to an "R1-L" Residential Single-Family (Large) District, as shown on the map dated August 8th, 2022 and included within Schedule "A", subject to the following conditions:

A. That the Developer enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:

i. That prior to the registration of the subdivision mylars, the Developer shall, at no expense to the City, provide a detailed design under the seal of a qualified engineer, for the flood-protection works necessary to accommodate the planned development, to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development.

ii. That prior to the issuance of the Development Permit for the single-family residential dwellings, the Developer shall, at no expense to the City, construct all elements identified in the approved flood protection design necessary for the communal protection of the proposed development area to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development.

iii. That, no buildings, accessory structures, swimming pools, decks, wells, pipe lines, conduits, or fencing/walls, other than chain link or wooden fences, shall be constructed and no trees shall be planted in the areas required for a community secondary dyke corridor as identified in the flood protection design approved by the Director of Water and Waste and the Director of Planning, Property and Development. Said flood protection areas shall be shown in a Schedule, attached to the Zoning Agreement, and established by caveat against the title of each of the proposed lots as determined by and to the satisfaction of the Director of Planning, Property, and Development.

iv. That the principal buildings shall include fully enclosed, active living space at-grade to the satisfaction of the Director of Planning, Property, and Development.

v. That a maximum of six (6) lots shall be permitted in the Planned Area.

vi. That the Owner must submit plans showing the location and design of any and all proposed:

a. Buildings
b. Accessory parking areas
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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").

4. That prior to issuance of Development Permits for the Planned Area, the accepted Secondary Dyke corridor, inclusive of any retaining wall(s) or other ground stabilization features, shall be added as a new Schedule to the Secondary Dyke By-Law 7600/2000.

5. 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 Servicing Agreement, the Zoning 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.

6. That in lieu of the dedication of land, the developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of Development Application No. DASZ 31/2022, as determined by the City's Director of Planning, Property and Development.

7. That upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor prepare a By-law in accordance with this report and bring same directly to Council for first reading at the next available Council meeting.

8. That upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor be directed to return the By-law to Council to be given second and third reading to the By-law if a legal plan of subdivision (the "Plan"), prepared by the Manitoba Land Surveyor in accordance with recommendations 1 and 7 of this Report, and all associated ancillary fees (the "Fees") are submitted to the City within 2 years after the By-law has been given first reading

9. That the matter will be deemed to be concluded and all approvals in connection with this matter will expire if the Plan and all associated ancillary fees (the "Fees") are not submitted within 2 years after the By-law has been given first reading unless the Developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

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

11. That the zoning section of the By-law will come into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by way of caveat against the lands described therein.

12. That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan and the Zoning Agreement are not registered in accordance with recommendations 10 and 11 unless the Developer applies for an extension of time before the expiration of the 1-year period and Council approves the extension.

13. 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.

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

Note: The wording in bold and italics denotes amendments made by the Community Committee.

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

1. I do want to state for the record, there is a proper process established in regards to proper materials and meetings. The applicant, in my opinion, did not follow the advice of the Public Service and prior to submitting the formal application, did not provide an engineered conceptual plan to demonstrate how compliance with the intent of the DRRAR would be achieved.

2. Had this work and related discussion occurred in an open and transparent way prior to the application, the recommendation of the DASZ could have been a positive one in terms of outcome.

3. Many elements have been last-minute, including revised plans, changes just in-advance-of or during meetings and at the last minute in terms of public consultations back in November. I've stated that its created substantial confusion and delays.

4. If applications continue to proceed in this manner, it would require resources that we currently don't have to meet that demand.

5. In the end, nine months after the pre-application and following three adjournments, on January 19, the applicant did provide the Public Service with an engineered concept plan and reduced the number of lots from eight to six, which is what we are voting-on here, today.

6. With the fact that there is now an engineered plan that talks about how flood mitigation may occur… the intensification of the area is two lots less, I think it's a plan we can move forward with

Objections under the Charter:

Total number of **v**alid objections as per section 125(2) – 39

In accordance with section 236.1(1), the threshold for sufficient objection has been met.

Exhibits Filed:

1. Application dated May 26, 2022
2. Notification of Public Hearing dated July 13, 2022
3. Manitoba Status of Titles 2622028/1, 2727609/1
4. Letter of authorization dated February 24, 2022 from Howie Pham to John S. Wintrup
5. Letter of authorization dated March 11, 2022 from Fairview Custom Homes Ltd. (Paramjit Shahi) to John S. Wintrup
6. Caveats 85-15294, 3174243
7. Title Plot
8. Plans (2 pages)
9. Report from the Urban Planning Division dated August 8, 2022
10. Inspection Report
11. Communication dated August 23, 2022 from Kevin Duane Penner in opposition to the matter
12. Communication dated August 24, 2022 from Boshra Hosseini in opposition to the matter
13. Communication dated August 24, 2022 from Patricia Penner in opposition to the matter
14. Communication dated August 24, 2022 from Karl Bergmann in opposition to the matter
15. Communication dated August 24, 2022 from Rhena Bergmann in opposition to the matter
16. Communication dated August 25, 2022 from Ben McGillivary in support of the application
17. Communication dated August 26, 2022 from Belinda Lategan in opposition to the application
18. Communication dated August 26, 2022 from Doug Larcombe in opposition to the application
19. Communication dated August 29, 2022 from Salman Qureshi in opposition to the application
20. Presentation titled Macbell Road from Christopher Gibson in support of the application
21. Communication dated August 29, 2022 from Rachael Penner in opposition to the application
22. Communication dated August 29, 2022 from John Wintrup in support of the application
23. Communication dated August 29, 2022 from Richard Lukes in opposition to the application

Exhibits Filed (continued):

24. Communication dated August 29, 2022 from Alex Robinson, Managing Director, Richard + Wintrup Planning & Development
25. Communication dated August 29, 2022 from Richard Olfert in opposition to the application
26. Communication dated August 28, 2022 from Gordon Martin in opposition to the application
27. Recording of representations of the adjourned public hearing held on August 30, 2022
28. Notice of Adjournment dated September 1, 2022
29. Communication dated November 6, 2022 from Mehran Fallah Rad in opposition to the application
30. Communication dated November 6, 2022 from Hoda Hosseini in opposition to the application
31. Communication dated November 6, 2022 from Donald Sullivan in opposition to the application
32. Communication dated November 6, 2022 from Connie Sullivan in opposition to the application
33. Communication dated November 7, 2022 from Kevin Duane Penner in opposition to the application
34. Communication dated November 7, 2022 from Patricia Penner in opposition to the application
35. Communication dated November 7, 2022 from McKinley Penner in opposition to the application
36. Communication dated November 7, 2022 from Maia Penner in opposition to the application
37. Communication dated November 7, 2022 from Malea Penner in opposition to the application
38. Communication dated November 8, 2022 from Ning Ning Liu in opposition to the application
39. Communication dated November 8, 2022 from James Hsieh in opposition to the application
40. Communication dated November 8, 2022 from Rick Thiessen in opposition to the application
41. Communication dated November 8, 2022 from Dolores Thiessen in opposition to the application
42. Communication dated November 8, 2022 from Doug and Linda Larcombe in opposition to the application
43. Communication dated November 8, 2022 from Karl Bergmann in opposition to the application
44. Communication dated November 8, 2022 from Rhena Bergmann in opposition to the application
45. Communication dated November 8, 2022 from Sharon Cianflone in opposition to the application
46. Communication dated November 8, 2022 from Amir Safaei in opposition to the application

Exhibits Filed (continued):

47. Communication dated November 8, 2022 from David Hsieh in opposition to the application
48. Communication dated November 8, 2022 from Boshra Hosseini in opposition to the application
49. Communication dated November 9, 2022 from Richard and Bonnie Olfert in opposition to the application
50. Communication dated November 9, 2022 from Kent Martin in opposition to the application
51. Communication dated November 9, 2022 from Christine Vorster in opposition to the application
52. Communication dated November 10, 2022 from Geoff Earle in opposition to the application
53. Communication dated November 10, 2022 from Salman Qureshi, Sarwat Qureshi, Anwar Hussain, Khadija Salman and Rubina Anwar in opposition to the application
54. Request to Withdraw Subdivision and Variance applications/Communication dated November 13, 2022, from John Wintrup in support of the application
55. Communication dated November 11, 2022 from Corne Janse van Rensburg and Belinda Lategan in opposition to the application
56. Recording of Representations
57. Notice of Adjournment dated November 18, 2022
58. Communication dated December 29, 2022 from Kent Martin in opposition to the application
59. Communication received December 29, 2022 from Rick Thiessen in opposition to the application
60. Communication and presentation dated December 29, 2022 from Boshra Hosseini in opposition to the application
61. Communication received December 29, 2022 from Amir Safaei in opposition to the application
62. Communication received December 29, 2022 from Connie Sullivan in opposition to the application
63. Communication received December 29, 2022 from Donald Sullivan in opposition to the application
64. Communication received December 29, 2022 from Mehran Fallah Rad in opposition to the application
65. Communication received December 29, 2022 from Hoda Hosseini in opposition to the application
66. Communication received December 29, 2022 from Richard and Bonnie Olfert in opposition to the application
67. Communication dated December 30, 2022 from David Hsieh in opposition to the application
68. Communication dated December 30, 2022 from James Hsieh in opposition to the application

Exhibits Filed (continued):

69. Communication dated December 30, 2022 from Ning Ning Liu in opposition to the application
70. Communication received December 30, 2022 from Kevin Duane Penner in opposition to the application
71. Communication received December 30, 2022 from McKinley Penner in opposition to the application
72. Communication received December 30, 2022 from Lloyd J. Simmons in opposition to the application
73. Communication received December 30, 2022 from Karl Bergmann in opposition to the application
74. Communication received December 30, 2022 from Rhena Bergmann in opposition to the application
75. Communication dated December 30, 2022 from Corne Janse van Rensburg and Belinda Lategan in opposition to the application
76. Communication received December 31, 2022 from William McGregor in opposition to the application
77. Communication received December 31, 2022 from Patricia Penner in opposition to the application
78 Communication received December 31, 2022 from Malea Penner in opposition to the application
79. Communication received December 31, 2022 from Maia Penner in opposition to the application
80. Communication received January 1, 2023 from Doug Larcombe in opposition to the application
81. Communication received January 1, 2023 from Christine Vorster in opposition to the application
82. Communication dated January 2, 2023 from Dolores Thiessen in opposition to the application
83. Preliminary Grading Plan from John Wintrup in support of the application
84. Notice of Adjournment dated January 6, 2023
85. Communication dated January 16, 2023 from Douglas Larcombe in opposition to the application
86. Communication dated January 22, 2023 from Boshra Hosseini in opposition to the application
87. Surveyor's Subdivision Plans from John Wintrup in support of the application
88. Communication received January 24, 2023 from Rick Thiessen in opposition to the matter
89. Recording of representations

REPRESENTATIONS:

In Support:

Chris Gibson
Ben McGillivary
Brody Osadick
Alex Robinson
Paramjit Shahi
John Wintrup

In Opposition:

Rubina Anwar
Karl Bergmann
Rhena Bergmann
Sharon Cianflone
Geoff Earle
David Hsieh
James Hsieh
Boshra Hosseini
Hoda Hosseini
Anwar Hussain
Corne Janse van Rensburg
Doug Larcombe
Linda Larcombe
Belinda Lategan
Ning Ning Liu
Richard Lukes
Gordon Martin
Kent Martin
William McGregor
Bonnie Olfert
Richard Olfert
Kevin Duane Penner
Maia Penner
Malea Penner
McKinley Penner
Patricia Penner
Rachael Penner
Salman Qureshi
Sarwat Qureshi
Mehran Fallah Rad
Amir Safaei
Khadija Salman
Lloyd Simmons
Connie Sullivan
Donald Sullivan
Dolores Thiessen
Rick Thiessen
Christine Vorster
Lorna Winterburn

For Information:

Nil

For the City:

E. Finnigan, Planner, Planning, Property and Development Department
D. Iskierski, Planner, Planning, Property and Development Department
S. Jerez, Planner, Planning, Property and Development Department
D. Trenchard, Land Development Engineer, Planning, Property and Development Department

Exhibit "9" referred to in File DASZ 31/2022

ADMINISTRATIVE REPORT

Title: DASZ 31/2022 – 20 Macbell Rd

Issue: An application for consideration at the public hearing to subdivide and rezone lands from Rural Residential 5 ('RR5') to Residential Single Family Large ('R1-L') to facilitate the creation of 8 residential lots.

Critical Path: Riel Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
E. Finnigan, MCP	n/a	n/a	

RECOMMENDATIONS

1. That Development Application No. DASZ 31/2022 for the subdivision and rezoning of land located at 20 Macbell Road 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

- The applicant is proposing to rezone Lot 3, Plan 18762 from Rural Residential 5 ('RR5') to Residential Single Family Large ('R1-L') and subdivide both properties (i.e., 20 Macbell Road and Lot 3, Plan 18762) in order to create eight (8) residential lots.
- 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 Public Service are concurred in, the subject lands will not be subdivided and rezoned as proposed.

HISTORY

DASZ 21/2000

On March 21st, 2001 Council approved the subdivision and rezoning from "RR5" Rural Residential 5 to "R1-L" Residential Single-Family Large for lands located south of Cloutier Drive and east of Macbell Road. This application included 20 Macbell Road. As a condition of approval the developer was required to enter into a Development Agreement with the City.

DASSF 562/2014

An application was received in 2014 under DASSF 562/2014 to subdivide 20 Macbell Road into three residential building lots. The application was approved subject to the developer entering into a Servicing Agreement (AG 562/2014) with the City. The Servicing Agreement, which was approved by the Standing Policy Committee on Planning, Property, and Development on September 16th, 2014, detailed a number of terms and conditions which, amongst other things, required Macbell Road to be serviced. This development application was not proceeded with.

CONSULTATION

In preparing this report there was consultation with the Administrative Coordinating Group (ACG).

OURWINNIPEG POLICY ALIGNMENT

The proposed development does **not** align with *OurWinnipeg*, **City Building**, Policy 6.16:

- Designate Established Neighbourhoods within the Urban Structure, representing lands that will accommodate additional growth in a context-sensitive manner, while promoting the efficient use of land, cost-effective municipal servicing, enhanced housing choice and affordability, and conservation of green infrastructure and heritage resources and districts, as defined in Complete Communities.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

The proposed development would **not** 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."*

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Consideration was given as to whether this report connects to any of the specific Goals and Objectives in the PRS and it was determined that the PRS is not applicable to this specific report.

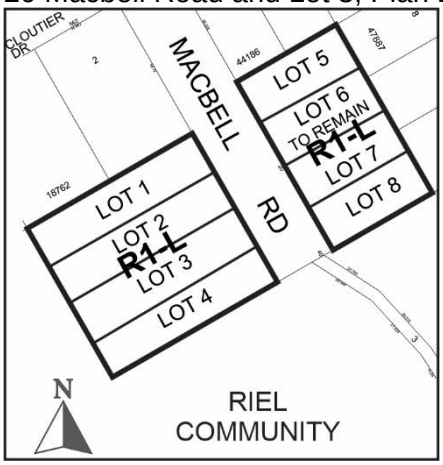
SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning and Design
Prepared by	Elise Finnigan, MA Planning
Date:	August 8th, 2022
File No.	DASZ 31/2022

1.	Appendix A	Planning Discussion
2.	Schedule “A”	File No. DASZ 31/2022 Riel Community Committee, dated August 8th, 2022.
3.	Schedule “B”	Report of the Administrative Working Group – August 17th, 2022.

APPENDIX 'A'

FILE:	**DASZ 31/2022**
RELATED FILES:	DAV 22-147702\D
COMMUNITY:	Riel Committee
NEIGHBOURHOOD #:	5.635 – Cloutier Drive neighbourhood
SUBJECT:	To subdivide and rezone lands from Rural Residential 5 ('RR5') to Residential Single Family Large ('R1-L') to facilitate the creation of 8 residential lots.
LOCATION:	20 Macbell Road and Lot 3, Plan 18762



APPLICANT:	Brody Osadick (Richard + Wintrup Planning & Development) 885 Notre Dame Ave Unit 202 Winnipeg, MB R3E 0M4
OWNER:	FAIRVIEW CUSTOM HOMES LTD. 1246 Comdale Ave Winnipeg, MB R3T 2R4

RECOMMENDATION: **Rejection**

SITE DESCRIPTION

- The subject land is located on Macbell Road in the Cloutier Drive neighbourhood of the St. Norbert – Seine River ward.
- The site is approximately **1.8 acres in area** and comprises two separate lots (i.e., 20 Macbell Road and Lot 3, Plan 18762) that are currently vacant land.
- 20 Macbell Road is zoned Residential Single-Family (Large) "R1-L" and Lot 3, Plan 18762 is zoned Rural Residential 5 "RR5".
- The subject properties are located within an "Established Neighbourhood – Recent Community" under the *Complete Communities Direction Strategy 2.0*.



Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2021)*

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Detached single-family homes on properties zoned Residential Single Family Large ('R1-L') and Rural Residential 5 ('RR5'); then Cloutier Drive and the Centennial Trail.

South: Detached single-family homes on properties zoned Rural Residential 5 ('RR5').

East: Detached single-family homes on properties zoned Residential Single Family Large ('R1-L').

West: Detached single-family homes on properties zoned Rural Residential 5 ('RR5').



Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to rezone Lot 3, Plan 18762 from Rural Residential 5 ('RR5') to Residential Single Family Large ('R1-L') and subdivide both properties (i.e., 20 Macbell Road and Lot 3, Plan 18762) in order to create eight (8) residential lots.
- Four (4) residential lots are proposed at 20 Macbell Road each with a lot width of 59.46 feet and lot depth of 140.78 feet resulting in a total lot area of 8,370 square feet for each lot.
- Four (4) residential lots are proposed at Lot 3, Plan 18762 each with a lot width of 52.56 feet and lot depth of 234 feet resulting in a total lot area of 12,299 square feet for each lot.
- The proposed development requires variances for substandard lot sizes and lot widths (see associated variance application and planner's report for DAV 22-147702\D).

COLLABORATION

With the Public Service

- The Public Service has been in communication with the applicant about the proposed development since an initial email communication in March 2022 in which we advised that a Pre-application was required for the proposal.
- Through the pre-application, the Public Service informed the applicant that the subject land is located in the Floodway Fringe Area and all construction would be required to be in accordance with the Designated Floodway Fringe Area Regulations (DFFAR) 266/91. Noting this, concern was expressed in regard to how compliance with the DFFAR would be achieved given the proposed smaller size of the lots shown in the proposed plan of subdivision. It was, therefore, recommended that if any variations to the DFFAR are needed, that prior to the submission of the formal application, an engineered concept be submitted to the *Floodway Fringe Waiver Committee* for review and, if supported, a

provisional approval of the concept be obtained and included in the formal application submission.

- In the pre-application the applicant was also informed that the Public Service would not recommend support of the proposed variances.
- Despite this communication in the pre-application, the applicant decided to proceed with the formal application without confirming how compliance with the DFFAR would be accommodated and without altering the proposal to avoid variances.
- On June 17th, 2022 the Public Service sent an email to the applicant further clarifying our concerns and strongly urged the applicant to submit an engineered concept plan demonstrating how the compliance with the intent of the DFFAR would be achieved. In this email communication the applicant was informed that the Public Service would have to recommend rejection of the application as, without an engineered concept plan, this would leave Schedule "C" as the only suitable option for the future homes in the proposed development (see Figure 3 for diagram of Schedule "C") resulting in a built form that is not consistent with the policies guiding residential development under *CCDS 2.0*.
- The Public Service did not receive a response to the June 17th, 2022 email and an engineered flood protection concept plan was not submitted.

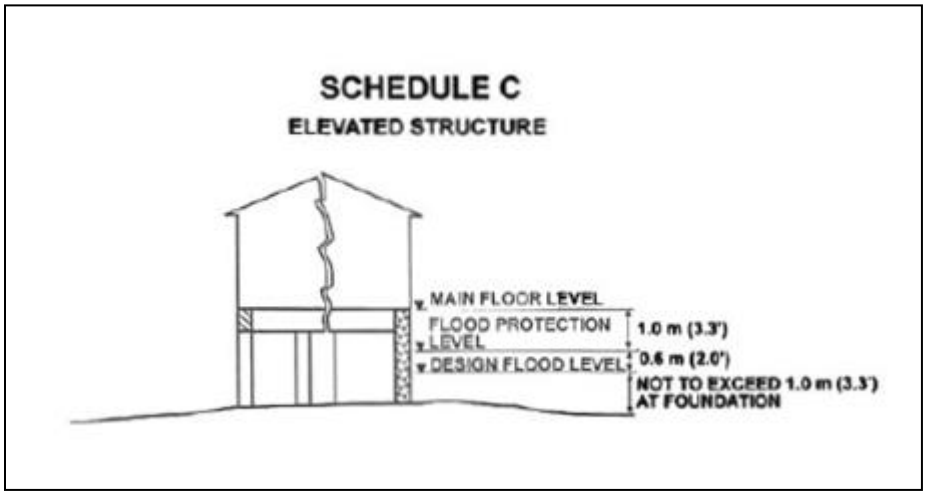


Figure 3: Diagram of Schedule "C" from the Designated Floodway Fringe Area Regulations (DFFAR) 266/91.

With the Public

The applicant did not indicate in the application submission whether any public consultation was undertaken.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY 2.0

- *The Complete Communities Direction Strategy 2.0* (CCDS 2.0) is a citywide secondary plan that guides growth, development, and land use in the city of Winnipeg.

- The subject property is located in an "Established Neighbourhood – Recent Community" in *Complete Communities'* Urban Structure map. Established Neighbourhoods will accommodate contextually sensitive growth and change to increase the diversity of housing choices, improve housing affordability, and more efficiently use land, infrastructure and services.
- With regard to this proposal, the key policies guiding the development of Established Neighbourhoods include:
    - ***Goal 1:*** *Encourage compatible residential development within Established Neighbourhoods to build more Complete Communities and align with the City's residential intensification target.*
        - *Encourage residential development that positively contributes to neighbourhood character while expanding housing options for residents in a manner that is sensitive and complementary to existing development.*
        - *The subdivision of land or the consolidation of land may occur when it is done in a context-sensitive manner, and only when in compliance with policy section 9.1 of the Strategic Infrastructure and Resources section.*
    - ***Goal 2:*** *Design new development in Established Neighbourhoods to a high standard of urban design and construction to ensure new development adds value to public and private urban spaces to create a sense of place and civic pride.*
        - *Massing and scale: New development should respect and complement the existing character of the built form of surrounding properties.*
- The policies under Goal 9 of the Strategic Infrastructure and Resources section of *CCDS 2.0* also apply to the subject proposal:
    - ***Goal 9:*** *Manage subdivisions and development along riverbanks and in areas that are known to be at risk of flooding by recognizing the value of protecting these lands and the natural limitations and risks associated with building in these areas.*
        - *Regulate subdivisions or development in areas that are known to be at risk of flooding in accordance with the City of Winnipeg Charter, by-laws, and applicable Provincial regulations.*
            - *Discourage subdivisions where it would be impractical or impossible to comply with the applicable flood fringe regulations.*
        - *Regulate development in proximity to waterways in order to protect built assets from flooding and natural riverbank processes, with consideration for building lifecycle.*

CITY OF WINNIPEG ZONING BY-LAW 200/2006

CURRENT ZONING:

"RR5" Rural Residential 5

Currently Lot 3, Plan 18762 is zoned Rural Residential 5 ('RR5'). The RR5 district is intended to provide areas for large-lot rural residential development, along with limited agricultural uses. The RR5 district requires: a minimum lot width of 300 feet, a minimum lot area of 5 acres, side yards of 25 feet, a front yard of 25 feet, and a rear yard of 25 feet. The maximum building height is 35 feet and the maximum lot coverage is 30%.

PROPOSED ZONING:

"R1-L" Residential Single Family Large

The applicant is proposing to rezone Lot 3, Plan 18762 to Residential Single Family Large ('R1-L'). The R1-L district requires: a minimum lot width of 25 feet, a minimum lot area of 5,500 square feet, side yards of 4 feet, a front yard of 20 feet, and a rear yard of 25 feet. The maximum building height is 35 feet and the maximum lot coverage is 40%.

Reason for the Subdivision and Rezoning

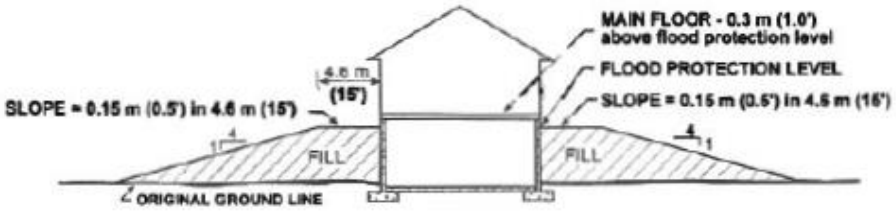
The applicant is proposing to subdivide and rezone the land to Residential Single Family Large ('R1-L') in order to create 8 residential lots.

CONSISTENCY WITH *CCDS 2.0* AND SURROUNDING NEIGHBOURHOOD

- The subject properties are located in the Designated Floodway Fringe Area where all construction is required to be in accordance with the Designated Floodway Fringe Area Regulations (DFFAR) 266/91. More specifically, under the City of Winnipeg Charter Act, all properties located within the Designated Floodway Fringe Area are required to be constructed "*on a site raised by fill or supported by piles*", with different schedules denoting the requirements (see Figure 4):

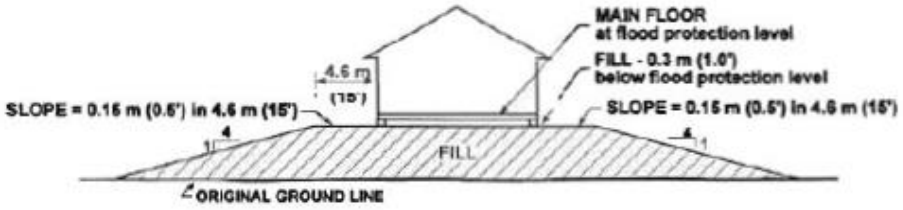
SCHEDULE A

STRUCTURE WITH A BASEMENT OR CELLAR



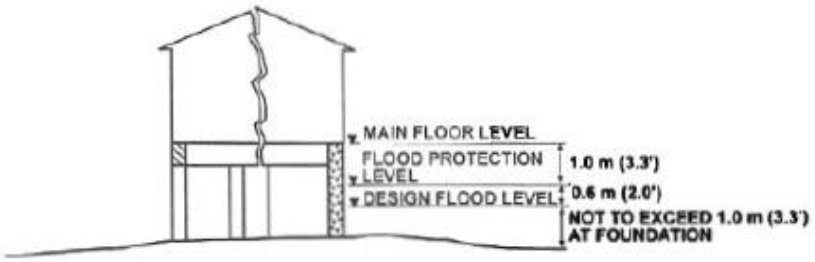
SCHEDULE B

STRUCTURE WITH NO BASEMENT OR CELLAR



SCHEDULE C

ELEVATED STRUCTURE



SCHEDULE D

DYKE CROSS-SECTION

DYKE HEIGHT (H)	SIDE SLOPE (SS)
0.3 m (1.0') TO 1.5 m (5.0')	3:1
1.5 m (5.0') TO 3.0 m (10.0')	4:1
3.0 m (10.0') OR GREATER	5:1

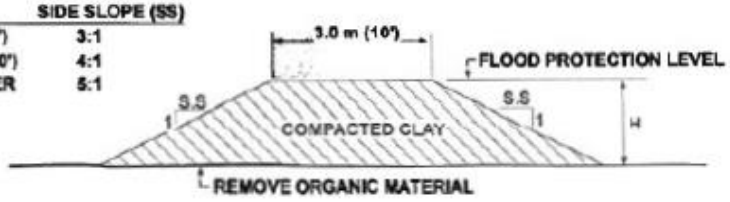


Figure 4: Diagram of Schedules from the Designated Floodway Fringe Area Regulations (DFFAR) 266/91.

- As illustrated in the schedules, the requirements for homes constructed on a site raised by fill include large building setbacks of 4.6m and 4:1 side-slopes which cannot be accommodated on the lots shown on the proposed Plan of Subdivision.
- As communicated in the pre-application feedback letter and in the email from June 17th, 2022, it was recommended that the applicant develop a concept plan that meets the intent of the DFFAR by providing effective flood protection of the future development on the proposed lots. If the flood protection concept would not outright comply with one of the Schedules of the DFFAR, it was advised that the applicant should, prior to making a formal application, obtain a provisional approval of the concept with confirmation that the *Floodway Fringe Waiver Committee* would be amenable to requested variations. For example, if the plan for the proposed lots is to raise the grades for the development area as a whole, with a designated community secondary dike corridor shared by all properties, it would require a waiver from the *Floodway Fringe Waiver Committee*, and associated conditions within a Zoning Agreement to ensure conformance with the conceptual design.

- The applicant did not seek a provisional approval of an engineered flood protection concept from the *Floodway Fringe Waiver Committee* which means that Schedule "C" is the only option available for homes in the proposed development. The Public Service has two main concerns with this proposal:

    1. Compliance with Schedule "C" will result in a built form (i.e., "homes on stilts") that is not consistent with the existing development in the neighbourhood. The *Complete Communities Direction Strategy 2.0* (*CCDS 2.0*) directs the Public Service to support residential development within Established Neighbourhoods "*that positively contributes to neighbourhood character while expanding housing options for residents in a manner that is sensitive and complementary to existing development."* The creation of eight lots each containing a "home on stilts" would not be complementary or sensitive to the existing development which is defined by one- to two-storey homes with basements.

        It should also be noted that under the Strategic Infrastructure and Resources section of the *CCDS 2.0* the Public Service is directed to "*discourage subdivisions where it would be impractical or impossible to comply with the applicable flood fringe regulations."* The implementation of Schedule "C" in the context of the subject site would be viewed as an impractical solution to compliance with the DFFAR noting the resulting built form and its potential impact on the neighbourhood.

    2. The proposal could result in the requirement to comply with the DFFAR being passed onto the future individual property owners instead of the developer. These individual property owners may purchase the lot without an awareness that Schedule "C" is the only option available for compliance as the City only has the authority to enforce the DFFAR via the building permit application.

- As detailed in the planner's report for the associated Variance application (DAV 22-147702\D), the Public Service does not support the proposed variances for lot area and lot width as the proposed lots sizes are not consistent with existing lot sizes in the surrounding area. It is also highly likely that if the developer were to seek a provisional approval of an engineered flood protection concept from the *Floodway Fringe Waiver Committee,* as recommended by the Public Service, the engineered concept would likely require larger lot sizes, and impose various other constraints on the development.
- For the reasons cited above, the Public Service is recommending rejection of the subject application.

Summary

If a new proposal/application were to be submitted including a provisional approval of an engineered flood protection concept from the *Floodway Fringe Waiver Committee* and without requiring any variances for lot area or lot width, the Public Service would be open to likely supporting the proposal subject to conditions. This was communicated in writing to the applicant in the Pre-application and in an email sent on June 17th, however, the applicant decided to move forward with their proposal as is.

RECOMMENDED SERVICING AGREEMENT

In the event Council decides not to concur in the recommendation of the Public Service and approve the subject application, the Administrative Coordinating Group has prepared a report (see Schedule "B") which outlines the municipal servicing and infrastructure requirements.

RECOMMENDATION

The Public Service recommends **rejection** for the following reasons:

- The proposal is <u>not</u> consistent with the policies guiding development within *Established Neighbourhoods* in the *Complete Communities Direction Strategy 2.0* which *"encourage residential development that positively contributes to neighbourhood character while expanding housing options for residents in a manner that is sensitive and complementary to existing development."* The subject application will have an adverse effect on the neighbourhood as it will result in a built form that is not complementary or sensitive to existing development.
- The proposal is <u>not</u> consistent with the policies under the Strategic Infrastructure and Resources section of the *CCDS 2.0* which "*discourage subdivisions where it would be impractical or impossible to comply with the applicable flood fringe regulations."* The implementation of Schedule "C" in the context of the subject site would be viewed as an impractical solution to compliance with the DFFAR noting the resulting built form and its potential impact on the neighbourhood.

This Report Submitted by: Elise Finnigan, MCP
Planning, Property and Development Department
Urban Planning Division
Report Prepared by: PPD File # DASZ 31/2022

Schedule “A” for File No. DASZ 31/2022, Riel Community Committee, dated August 8th, 2022.

By-Law No. _____

File No. **DASZ 31/2022**

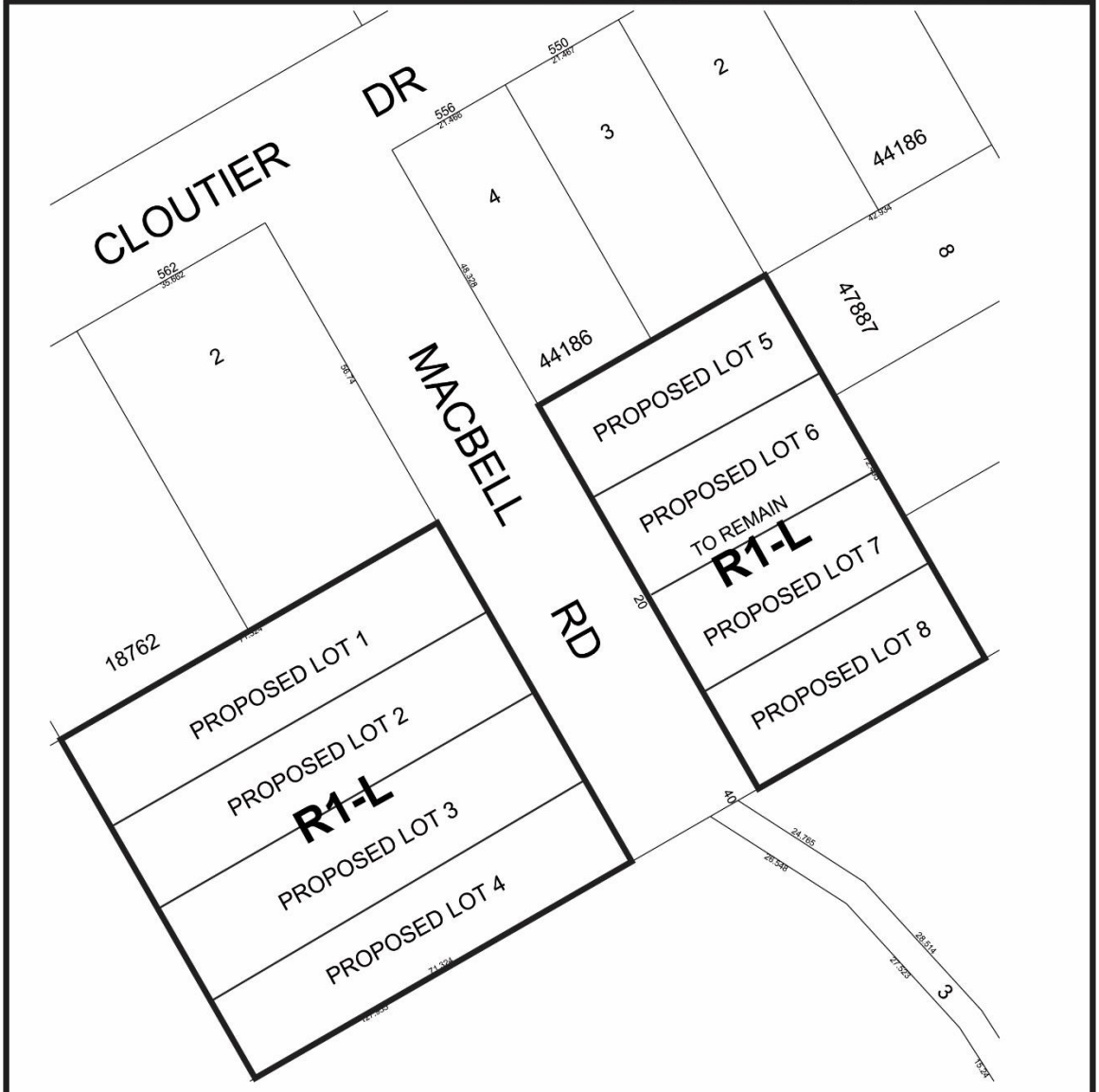
Atlas Sheet No. **AN25**

N

RIEL 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 on the east side of Macbell Road (20 Macbell Road) and the west side of Macbell Road from an “RR5” RURAL RESIDENTIAL 5 DISTRICT to an “R1-L” RESIDENTIAL SINGLE-FAMILY (LARGE) DISTRICT to facilitate the establishment of eight (8) residential building lots.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

SCHEDULE B

REPORT OF THE ADMINISTRATIVE COORDINATING GROUP

RE: PROPOSED SUBDIVISION OF LAND LOCATED ON THE EAST SIDE OF MACBELL ROAD (20 MACBELL ROAD) AND LAND LOCATED ON THE WEST SIDE OF MACBELL ROAD (LOT 3, PLAN 18762)

It is recommended that approval of DASZ 31/2022, if granted, be subject to the applicant entering into a Servicing Agreement containing the following conditions:

Section I – Plan Considerations

1) The Developer shall grant to the City, at no expense to the City, easements or right-of-way widening(s) necessary to accommodate a paved cul-de-sac vehicle turnaround at the terminus of Macbell Road, as determined by and to the satisfaction of the Director of Public Works.

Section II – Engineering Studies

2) The Developer shall, at no expense to the City, conduct geotechnical investigations in accordance with the City's "Guidelines for Site Investigation Requirements for Public Works Street Projects" and develop pavement designs, all to the satisfaction of the Director of Public Works.

3) The Developer shall provide a comprehensive servicing report, prepared by a qualified municipal engineer, which shall outline the provision of underground services required for the Planned Area and adjacent lands, as determined by and to the satisfaction of the Director of Water and Waste.

4) The Developer shall provide a technical memorandum, prepared by a qualified engineer, which shall outline the provision of private flood protection for the Planned Area, to the satisfaction of the Director of Water and Waste and the Director of Property, Planning and Development ("Flood protection plan").

Section III – Servicing Conditions

1) Water Mains

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

2) Wastewater Sewers

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

3) Land Drainage

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

4) Lot Line Connections

a) The Developer shall, at no expense to the City, construct and install wastewater and water building services from the wastewater sewers and water mains to service all single-family and two-family 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 the private sewer service for each single- family and two-family lot remains plugged from installation until the foundation excavation has been backfilled and the roof of the dwelling has been sheathed, after which the private sewer service pipe may be connected to the wastewater system, and the Developer will 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, to the satisfaction of the Director of Water and Waste, any water service pipe or private sewer service pipe determined by the Director of Water and Waste to be defective within one year following the date the water to the lot serviced by that water service pipe or private sewer service pipe is turned on by the City for domestic use, and shall pay to the City any and all costs incurred by the City associated with any such defect.

5) Lot Grading

d) The Developer shall, at no expense to the City and prior to the execution of the servicing agreement, provide a lot grading plan for the Planned Area, prepared by a municipal engineer, to the satisfaction of the Director of Water and Waste.

e) The Developer shall, at no expense to the City, construct all drainage works necessitated by the lot grading plan of record to the satisfaction of the Director of Water and Waste.

f) Upon registration of the approved subdivision mylars in the Land Titles Office, the Developer shall, at no expense whatsoever to the City, grant to the City and register easements in respect of all drainage works required for lot drainage within the Planned Area.

6) Flood Proofing

a) It is hereby acknowledged that the Planned Area is within the Floodway Fringe area and accordingly any construction within the Planned Area shall be governed by the Designated Floodway Fringe Area Regulation 266/91 and the City of Winnipeg Charter.

b) The Developer shall, at no expense to the City, construct and install all private flood protection measures as indicated by the technical memorandum noted in Section II, to the satisfaction of the Director of Water and Waste and the Director of Property, Planning and Development.

c) If the flood protection plan involves any elements that provide communal benefit, the Flood Protection Plan necessary by the Director of Water and Waste shall register private easements and a joint flood protection agreement to the titles of all affected properties.

d) The Water and Waste Department does not support creation of new lots being created that require waivers to the Provincially legislated flood proofing criteria that would result in any compromises to the effectiveness or degree of flood protection for the future homes.

e) Any approval provided with respect to the proposed development of the Planned Area should not be interpreted as approval for future development of the lots, and does not mean that approval of any proposed building plans and/or building permit applications will be approved unless flood protection measures have been approved by the Director of Water and Waste and the Director of Planning, Property and Development.

7) Macbell Road

a) The Developer shall, at no expense to the City, construct Macbell Road from Cloutier Drive to the south limit of the subject property as a rural cross-section roadway, 7.5 metres wide by a thickness of hot-mixed hot-laid asphaltic concrete pavement to the satisfaction of Public Works, together with 1.5 metres in width oiled gravel shoulders on either side, to the satisfaction of the Director of Public Works. The roadway structure shall be designed and constructed to the satisfaction of the Director of Public Works.

b) The Developer shall, at no expense to the City, apply oil to the shoulders of all roads for a period of one year following the issuance of the Completion Certificate(s) therefore as determined by and to the satisfaction of the Director of Public Works.

c) The Developer shall grant easements to the City to maintain drainage ditch back slopes extending onto private property, as determined by and to the satisfaction of the Director of Public Works.

d) The Developer shall, at no expense to the City, construct a paved cul-de-sac vehicle turnaround at the terminus of Macbell Road, as determined by and to the satisfaction of the Director of Public Works.

8) Boulevard Landscaping

a) The Developer shall, at no expense to the City, seed with grass all non-surfaced areas within the road right-of-way within the Planned Area including adjacent to the Planned Area, and cut and maintain those seeded areas until the growth of grass has been well established and until the house on which the grassed area fronts has been occupied provided that after such occupation the Developer has made any repairs necessitated by inadequate growth of grass or maintenance, all to the satisfaction of the Director of Public Works.

b) The Developer, and its successors in title including the purchaser of each lot within the Planned Area, shall cut and maintain all grassed and landscaped areas within the street rights-of-way adjacent to each lot between the shoulder of the roadway and the property line to the satisfaction of the Director of Public Works, and the City may record the obligations created under this sub-clause by filing a caveat against the title of each lot in the Land Titles Office.

9) Utilities

a) The Developer shall, at no expense to the City, cause to be installed ornamental street lights in Macbell Road, 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 Planned Area and will pay the full cost to convert any existing overhead services within the Planned Area 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.

10) 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.

11) 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.

12) 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 Winnipeg Land Titles Office.

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.

Section IV – 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 this 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, parklands, parkways 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 pay to the City, prior to the release of the subdivision mylars for registration in the Land Titles Office, an administration fee plus applicable GST to help defray the City's administration and related costs associated with the preparation and implementation of the Development Agreement.

THIS REPORT SUBMITTED BY:

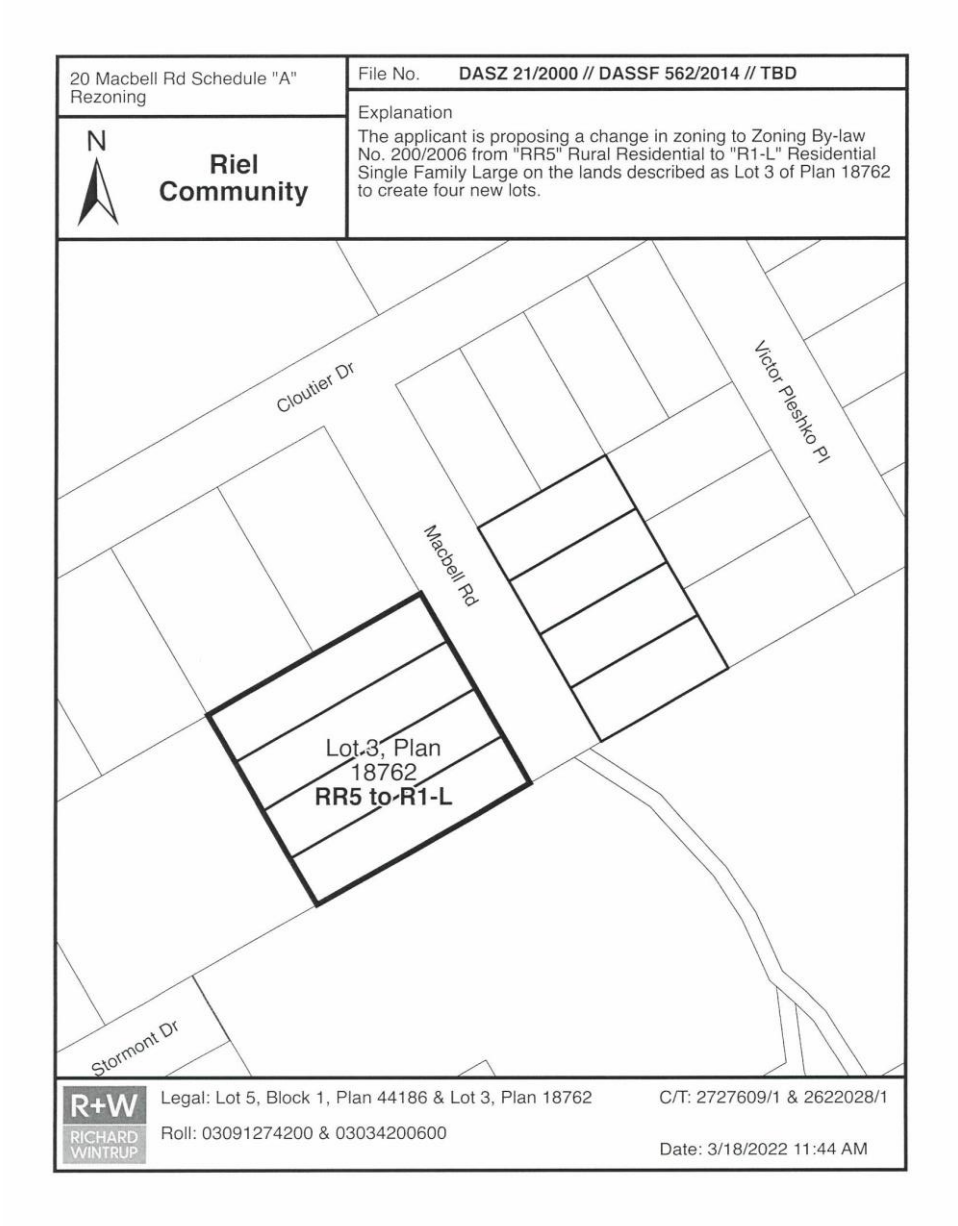
Administrative Co-ordinating Group
File No. DASZ 31/2022
August 17, 2022

"*Original Signed by D. Trenchard"*
D. Trenchard, P. Eng.
Land Development Branch
Planning, Property and Development Department

"*Original Signed by M. Gajda"*
M. Gajda, P. Eng.
Engineering Division
Water and Waste Department

"*Original Signed by C. Desjardine"*
C. Desjardine, M. Sc., P. Eng.
Transportation Division
Public Works Department

Exhibit “8” referred to in File DASZ 31/2022



20 Macbell Rd Subdivision

File No. **DASZ 21/2000 // DASSF 562/2014 // TBD**

N

Riel Community

Explanation

The applicant is proposing a subdivision on the land located at 20 Macbell Road and the lands described as Lot 3 of Plan 18762 to create eight new lots.



R+W RICHARD WINTRUP

Legal: Lot 5, Block 1, Plan 44186 & Lot 3, Plan 18762

C/T:

Roll: 03091274200 & 03034200600

Date: 3/10/2022 10:19 PM