Agenda - Executive Policy Committee -June 5, 2002

REPORTS

1. From the Director, Planning, Property and Development Department
Report 2002/03/01

Appeal of Rejection of Variance Application Contrary to Plan Winnipeg for Vacant Land Located at the South East Corner of Symington Road and Esselmont Avenue

File EP-1 (Vol. 20)

Recommending that the Executive Policy Committee concur that a zoning variance to establish a lot at the south-east corner of Symington Road and Esselmont Avenue is contrary to Plan Winnipeg and must be rejected in accordance with Section 630 of The City of Winnipeg Act.

Note: On March 13, 2002, Committee laid this matter over for 60 days and requested that the Chief Administrative Officer provide a report, from a planning perspective, on the overall density of the area, land servicing implications and whether or not a proposed secondary plan for this area would be advisable.

From Kirk Kirby, Pullan Kammerloch Frohlinger, Barristers and Solicitors
Communication 2002/03/15
Communication 2002/03/18

Submitting comments with respect to the zoning variance for Symington Road and Esselmont Avenue.

From the Director of Planning, Property and Development
Report 2002/05/07

Recommending that a Secondary Plan for South Transcona not be pursued at this time subject to a report to the Standing Policy Committee on Property and Development that will provide direction to the Planning, Property and Development Department as to the priorities for undertaking secondary plans.

Re: Appeal of rejection of variance application contrary to Plan Winnipeg for vacant land located at the South East corner of Symington Road and Esselmont Avenue

For submission to: **Executive Policy Committee**

Original report signed by: **Director of Planning, Property and Development**

Report date: March 1, 2002

In camera item:

Recommendation(s):

That **Executive Policy Committee** concur that a zoning variance to establish a buildable lot at the South East corner of Symington Road and Esselmont Avenue is contrary to Plan Winnipeg and must be rejected in accordance with sections 583 and 630 of the City of Winnipeg Act.

REPORT SUMMARY

KEY ISSUES:

- Subject property is zoned A Agricultural District and is located in a Rural Policy Area under Plan Winnipeg.
- Plan Winnipeg regulates land uses in Rural Policy Areas by requiring a minimum site area of 16 ha (40 acres) subject to minimal variances
- The subject lot does not constitute a "lot of record" therefore variances are required in order to establish a buildable lot.
- The administration contends that the variances required to establish this as a building lot do not constitute a minimal variance as set out in Plan Winnipeg policy and therefore must be rejected as contrary to Plan Winnipeg in accordance with sections 583 and 630 of the City of Winnipeg Act and subsection 3(3) of the Development Procedures By-Law 5893/92.

IMPLICATIONS

General implications

	None
	For the organization overall and/or for other departments
X	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment: •

Policy implications

	No (*There are no policy implications if the report is asking for a one-time decision.)*
X	Yes *(There are policy implications if the recommendation(s) is/are asking for a decision that will be used to guide decisions over time.)*

Comment:

- A decision on this matter will set a precedent for how to interpret a key Plan Winnipeg policy regarding rural residential development.

Financial implications

	Within approved current and/or capital budget
	Current and/or capital budget adjustment required
X	No financial implications

Comment:

-

REPORT

RECOMMENDATION(S):

That **Executive Policy Committee** concur that a zoning variance to establish a lot at the South East corner of Symington Road and Esselmont Avenue is contrary to Plan Winnipeg and must be rejected in accordance with section 630 of the City of Winnipeg Act.

REASON FOR THE REPORT:

Under subsection 3(6)(a) of the Development Procedures By-Law No. 5893/92 (as amended) where the Director rejects a development application under subsection (3) for non-conformance with Plan Winnipeg, the applicant may appeal the Director's decision to Executive Policy Committee.

HISTORY:

An application for a zoning variance at the South East corner of Symington Road and Esselmont Avenue has been rejected by the Director of Planning, Property and Development as contrary to Plan Winnipeg Policy 3B-08 Regulate Land Uses in Rural Areas. A record search has revealed that the property, commonly known as Lot 9, Plan 2617 does not constitute a lot of record, meaning it did not lawfully exist on the effective date of the zoning by-law or amendments thereto and does not comply with either of the district bulk regulations for lot width or lot area.
The lot is located in Rural Policy Area under Plan Winnipeg Policy 3B-08 which states:
The City shall regulate land uses within locations designated as Rural on Policy Plate A by:

i) designating as agriculture and related support functions as the principal use in rural areas through the requirement of a minimum site area of 16 ha (40 acres), subject to minimal variances.
ii) allowing the subdivision of land into parcels less than 16 ha (40 acres) only through the preparation and adoption of a secondary plan.

Consistent with its designation as a "Rural Policy Area", the property is zoned "A" Agricultural District where the minimum requirements are a lot size of 40 acres. The subject property however, is only five acres in area. Since the subject property does not have lot of record *status, a variance application is required for its establishment as a building lot. These variances are substantial and do not constitute a minimum variance as referenced in the above noted policy. Therefore, the variance application does not conform with Plan Winnipeg.*
Under section 630 of the City of Winnipeg Act an application for a development by-law or approval of a plan of subdivision that does not conform with Plan Winnipeg and any secondary plan for the area in which the land or building is located shall be rejected. Since it has been deemed by the director that the above application does not conform to Policy 3B-08 of Plan Winnipeg, the application has been rejected.

DISCUSSION:

The subject property, Lot 9, Plan 2617 at the southeast corner of Symington Road and Esselmont Avenue, is located within a Rural Policy Area as designated under Plan Winnipeg. The intent of Plan Winnipeg with respect to Rural Policy Areas is to limit the development of unserviced residential areas on the periphery of the urban area. Scattered developments of this nature make future orderly development to urban densities difficult to achieve. Continued unregulated development may also lead to issues surrounding land drainage, groundwater contamination and increased servicing costs. For this reason and in order to preserve the land in large holdings until they are required for fully serviced urban development, lot sizes in Rural Policy Areas are restricted to a minimum of 40 acres.

The subject property is located in an area that is characterized by a small amount of unserviced large lot development that was established under previous by-laws. Lots that lawfully existed prior to changes in these by-laws have lot of record *status and maintain their status as buildable lots. In some areas, Plan Winnipeg recognizes existing areas of large lot rural residential development and allows for some infilling at immediately prevailing densities; subject to a Secondary Plan. A Secondary Plan ensures that development occurs in an orderly fashion rather than on an ad hoc, lot-by-lot basis. The secondary planning process considers area-wide factors such as future street patterns, effects on land drainage, impacts on the aquifer and other area factors can be carefully considered before additional residential development occurs. The subject lot is located in an area not regulated by a secondary plan, therefore new development can only occur on lots that lawfully existed prior to changes to the by-law; that is, on* lots of record.

A *lot of record* is defined under The City of Winnipeg Zoning By-Law 6400/94 as: *any parcel of land lawfully existing on the effective date of this By-law, or amendments thereto, that does not comply with either of the district bulk regulations for lot width or lot area or both. No structure may be erected on a lot of record unless: the parcel of land was on record in the Winnipeg Land Titles Office prior to the effective date of the By-Law, or amendments thereto, and did not form part of a larger contiguous holding under the same ownership.* This means that at the time of subdivision such a lot would have complied with bulk regulations for the area or these regulations were successfully varied by development application. In such a case, because it was legally established, the lot will continue to have status as a lot of record even after the zoning regulations and development plan (Plan Winnipeg) designation of the area change. Where a lot does not have status as a lot of record, a variance is required to bring the lot into compliance with the bulk regulations before the lot can be built upon. In some cases, such a variance will be contrary to Plan Winnipeg.

Lots 9 and 10 of Plan 2617, were held in one ownership and together constituted a lot of record, *an a dwelling was constructed in 2000 on this parcel. Subsequently lot 9 was transferred to this applicant thereby eliminating the* lot of record *status for both lots 9 and 10. This also puts lot 10 in violation of the zoning by-law and Plan Winnipeg.*

In order for both lots to be developed individually, lot area variances from 40 acres to 5 acres are required for each property. In order for such applications to proceed, it must be determined that these variances constitute minimal variances contemplated under Plan Winnipeg Policy 3B-08. While there is no definition in either Plan Winnipeg or the Zoning by-law for "minimal variances", it has generally been accepted by the administration that any variance under 25% of

the minimum requirement would constitute a "minimal variance". Clearly, the variance required for these applications would be significantly more than this. For this reason, the Director of the Planning, Property and Development Department has rejected the subject application and would be forced to reject a similar application on lot 10. The City of Winnipeg Act does not allow for any exception to a Plan Winnipeg policy; if an application is deemed not to comply with the Plan, it must be rejected.

The appellants contend that the variances required to establish the subject lot should be considered minimal because a separate title already exists for this lot through a previous subdivision and the development of this lot will have a minimal impact on the adjacent area. They argue that the lot should be considered buildable regardless of its status as a lot of record*. Such a determination, however, would encourage similar applications for other lots that do not currently have* lot of record *status, allowing them to also establish. It is very difficult to predict how many other lots are in a similar situation throughout the City of Winnipeg but a few significant examples are known to the department such as: 75 lots along McConnell Road in the Wilkes South area that exist under separate title but do not have* lot of record *status.*

Through the current Plan Winnipeg and zoning by-law, as well as under former by-laws and plans, the City of Winnipeg has attempted to regulate unserviced development in Rural Areas. In so doing, the City has determined that ad hoc development on the fringe of the urban area is detrimental to future orderly growth. The regulations surrounding what constitutes a lot of record *are intended to protect lots that were lawfully in existence prior to by-law changes and prevent the continued creation of new lots that do not meet regulations. Making an interpretation that would legitimize a lot that does not meet the zoning criteria for a* lot of record *would undermine the City of Winnipeg's ability to set and enforce land use regulations in Rural Policy Areas. While an exception in this case may appear to be inconsequential, other property owners faced with a similar situation will likely come forward to also establish buildable lots. On a one-by-one basis, the establishment of these other lots may also seem inconsequential, however the cumulative effect will contribute to those same issues the regulation of development in rural areas was meant to prevent. The incremental effect will weaken the intent of Plan Winnipeg policy that currently provides for orderly development in Rural Policy Areas.*

Financial Impact Statement **Date:** 27-Feb-02

COMMENTS:

There are no financial implications to the City resulting from this report's recommendations.

Gord Courage, Manager
Support Services Division

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Zoning and Permits Branch, Planning, Property and Development Department

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Planning and Land Use
Prepared by: Dianne Johnson
PPD File #:

Document name: o:\reports directive\planning and land use\urban planning reports\symington&esselmont.doc

(b) to those portions of the interior of the structure occupied by the non-conforming use, or in connection with a change or extension of the non-conforming use permitted in accordance with subsection (7) of this section.

182(5) No structural alterations shall be made to a structure occupied by a non-conforming use except:

(a) to comply with the requirements of the law; or

(b) to accommodate a conforming use; or

(c) to conform to the applicable district regulations on performance standards; or

(d) in the course of an enlargement permitted in accordance with subsection (7) of this section.

A non-conforming use of a structure or of a parcel of land, or portion thereof, which is, or hereafter becomes, abandoned, vacant or unoccupied, and remains vacant and unoccupied for twelve consecutive months, shall not thereafter be occupied or used except for a use which conforms to the applicable district regulations. For the purpose of this **PART** the stock in trade within the structure or on the land shall not in itself constitute a use thereof, nor shall the occasion or partial operation of such equipment or the presence of any stock in trade in itself constitute a use of any structure or parcel of land.

182(7) Enlargements or extensions of a non-conforming use are permitted as follows:

(a) a two-family dwelling constructed prior to the effective date of this By-law, or amendments thereto, in a district designated "R1" by this By-law, may be enlarged or extended provided that the enlargement or extension complies with the "R1" bulk regulations of Section 620 of Part VI.

182(8) The following clauses are not subject to subsection (7) of this section:

(a) enlargements or extensions designed exclusively to comply with the performances standards; and

(b) enlargements or extensions to provide the required accessory off-street parking spaces or loading spaces.

/L 6880/96 6 09 25

184 LOT OF RECORD

184(1) A "lot of record" means any parcel of land lawfully existing prior to the effective date of the by-law, or amendments thereto that does not comply with either of the district bulk regulations for lot width or lot area, or both.

184(2) No structure may be erected on a lot of record unless:

(a) the parcel of land was on record in the Winnipeg Land Titles Office prior to the effective date of this By-law, or amendments thereto, and did not form part of a larger contiguous holding under the same ownership;

(b) the parcel of land is in separate ownership and is not part of a continuous frontage with other parcels of land of the same ownership; and

(c) the yards are provided as set forth in the bulk table of the district in which the parcel of land is located, except that where width is a factor of the non-compliance, the side

ZONING DEVELOPMENT APPROVAL

June 15, 2000

PERMIT NO.: 00 139176 000 00 HO

PROPERTY ADDRESS: 250 Symington RD

WORK BEING DONE: SFD & Att. Gar. Construct New

APPROVALS	
Subdivision Agreement (list)	
Zoning Agreement (list)	
Existing variances (list)	
Design review required e.g. Schedule "A", Board of Adjustment	
Conditional Use Required	

INFORMATION	
Zoning By-law No.	6400/94
Zoning Designation	A
Zoning Adjacent Lot	A
Existing or Previous Use	vacant
Proposed Use	Sfd & att gar

BULK REQUIREMENTS					
	Actual	Required/ Permitted		Actual	Required/ Permitted
Type of lot	interior		Projections		
Lot Width/Lot Area			Proposed Floor Area	2083 sq ft	
		100 feet	Existing Floor Area		
			Total Floor Area	2083 sq ft	
Left Side yard		25 feet	Building Height		Maximum 30 feet
Right Side Yard		25 feet	Floor Area Ratio		
		25 feet	Lot Coverage		Maximum 40%
			Number of Stories	1	

PARKING	
Location Permitted	
Existing Parking Numbers	
Number Required	1
Number of 8' x 20'	2
Number of 8' x 16'	
Surfacing	

PARKING LOT DESIGN	
Height of Fence	
Interior Landscaping	
Perimeter Landscaping	
Berm	
Planting Details	
Wheel Stops	
Aisle Width	

OTHER:

Lots 9 & 10 are a lot of record together. Secondary plan required before lots can be split and deemed separate buildable lots

PULLAN
KAMMERLOCH
FROHLINGER

October 10, 2001

City Clerk's Department
Executive Policy Committee
Counsel Building
Winnipeg, MB R3B 1B9

ATTENTION: Mr. Robert MacCallum, Committee Clerk

Dear Sir:

RE: Zoning Variance for Symington Rd. and Esselmount

I am the solicitor for Mr. and Mrs. David Hedman who are the registered owners of vacant land described as Lot 9, Plan 2617 WLTO in Lots 87 to 94 R.C.M.P. Mr. and Mrs. Hedman took title to this property earlier this year with the intention of constructing a single family dwelling on the property. This property is a corner lot at the intersection of Esselmount and Symington Road. The property was purchased this year from Mr. and Mrs. S. Wallace who had purchased both Lots 9 and 10 in 1996.

Mr. Hedman filed a Zoning Variance Application with Planning, Property and Development which department had waived the filing fee. Mr. Thorgrimson rejected the said Application by letter dated September 27, 2001.

Mr. and Mrs. Hedman wish to appeal the rejection of the said Application for the following reasons:

1. Historically, Lot 9 was owned by Albert James Cairns by Certificate of Title No. 887605 dated May 14, 1958. Lot 10 was owned by Phyllis Kathleen Cairns under Certificate of Title No. 827665. These two properties were separate and distinct lots registered to different owners.

   On December 23, 1960, Mr. and Mrs. Malenchak became registered owners of part of Lot 10 which property consisted of frontage of 150

feet and a depth of 200 feet on Symington Road. A residence was subsequently constructed on this property.

On November 17, 1976, the Lechmans became registered owners of Lot 9 under Certificate of Title No. E41143 and Lot 10 under Certificate of Title No. E41144.

In September, 1996, Mr. and Mrs. S. Wallace became registered owners of Lot 9 under Certificate of Title No. 1463968 and Lot 10 under Certificate of Title No. 1463975;

2. Each of these titles were in existence prior to Plan Winnipeg and were created by the City of Transcona. Unfortunately, the City of Transcona land records are missing and are apparently not available in archives;

3. All other existing properties in the immediate area are similar in size and at least 90% have had building permits issued;

4. With reference to the attached City of Winnipeg's Property Ownership sheet, it is evident that two separate dwellings previously existed on Lot 9 and were separately taxed by the City of Winnipeg under Roll numbers 82640 and 82630. The City of Winnipeg Tax Department is of the opinion that both Lots 9 and 10 are "lots of record";

5. Lot 9 has been and is still serviced by Centra Gas;

6. No further services to Lot 9 are required;

7. As recently as May 29, 2000 the City of Winnipeg issued a Building Permit for the construction of single family dwelling on Lot 10 without condition as to lot size;

8. Pursuant to the Surveyor's Certificate of Andres Van De Walle dated November 30,. 2001, the City of Winnipeg issued a Zoning Memorandum in reference to Lot 10 confirming that the buildings indicated on the said Survey comply with the City of Winnipeg Zoning By-law 6400/94 and amendments thereto;

9. Mr. and Mrs. Hedman propose to build a single family dwelling situated on the property to face Esselmont which has a frontage of 681.5 feet. The existing residences of adjacent property owners also face Esselmont.

10. The proposed Variance is a "minimal variance" in terms of impact and history. It will not change what presently exists in respect to the size and use of adjacent properties. Furthermore, the adjoining properties and adjacent area will not suffer any adverse effect by the requested order.

Enclosed please find copies of the following relevant documents which support the requested order:

1. Property Ownership Sheet;
2. Parcel Plan;
3. Parcel Plan with size of acreage;
4. Diagram of Lot 9 showing 2 residences;
5. Surveyor's Certificate of part of Lot 10 prepared by Kilgour & Linklater and dated April 8, 1981;
6. Building Permit issued by the City of Winnipeg on May 29, 2000 for Lot 10;
7. Surveyor's Certificate of part of Lot 10 prepared by Andre Van De Walle and dated November 30, 2000;
8. Zoning Memorandum issued by the City of Winnipeg on December 11, 2000 for Lot 10.

It would be appreciated if you would kindly advise the writer as to the date, time and place of the hearing of the appeal which my clients will attend to make representations regarding this appeal.

Yours truly,

PULLAN KAMMERLOCH FROHLINGER
Per:



KIRK KIRBY
/kl

cc: Mr. and Mrs. D. Hedman

Mr. and Mrs. S. Wallace

CITY OF WINNIPEG

Planning, Property and Development Department
30 Fort Street Unit 100, Winnipeg, Manitoba, R3C 4X7

Customer Service/Information: (204) 986-5140
For Inspections:
Housing: (204) 986-5300
Commercial: (204) 986-5190

PERMIT NO: 00 139176 000 00 HO

BUILDING PERMIT — Construction — SEPARATE

ADDRESS: 250 Symington RD

Issued to:
Mr Allan Rogocki
Oakview Homes Ltd. & Mario Homes Ltd.
1819 Main ST
Winnipeg MB R2V 2A2
Work: (204) 339-2035

Contractor:
Mr Allan Rogocki
Oakview Homes Ltd. & Mario Homes Ltd.
1819 Main ST
Winnipeg MB R2V 2A2
Work: (204) 339-2035

Tenant:

98 AMANDA ONE STOP 1692.35
FOLDER # 139176
8935 48 00 MAY 29 1:43 PM 1

Description of Work:
Construct 1 storey, 2083 sq. ft. single family dwelling with attached 774 sq. ft. garage and 1800 sq. ft. of basement development (283 sq. ft. of basement to remain undeveloped). Your District Inspector is Don Zelinsky. Office Hours are between 8:30 AM - 9:30 AM Monday thru Friday at 986-5192

Conditions:
Submit ventilation design summary prior to rough-in inspections.

PERMIT: This certifies that the above named applicant is granted this permit to perform the work described in the above application and that payment for the said permit has been made. This permit is granted subject to the terms of the undertaking above stated and subject to the provisions of the applicable by-laws, regulations or orders and plans hereto/before mentioned and nothing permitted hereunder shall be deemed to override the provisions of any applicable by-law of The City of Winnipeg or any Federal or Provincial statues or regulations.

PLANS: The plans, specifications and/or documents, on the basis of which this PERMIT was issued, shall be kept on site until completion.

REVOCATION: This permit may be revoked if it was issued on the basis of mistaken or false information or in error.

EXPIRY: This permit shall expire unless work is commenced and reasonably continued within six months from date of issuance.

Reviewed by: Linda Hird (Zoning) Brian Bergen (Plan Examination) JKOVACS (Issued by)

Applicant's Signature : _____ Date Issued : May 29, 2000

ANDRE VAN DE WALLE
Land Surveys

#4-590 Roseberry Street
Winnipeg, Manitoba
R3H 0T1
Fax: 786-1657
Phone: 783-2007

Andre Van De Walle, M.L.S.
Res. Stonewall - - 467-2520

MEMBER

BUILDING LOCATION CERTIFICATE

TO: S. Marie Construction Ltd.
1819 Main Street
Winnipeg, MB R2V 2A2

Re: Symington Road

Date of Search: November 30, 2000
Certificate of Title No: 1463975
Registered Owner: Scott Wallace and Cheryl Wallace

Legal Description: Lot 10 Plan 2617 WLTO exc. Sly 150 feet of Ely 200 feet in Lots 87 to 94 Roman Catholic Mission Property.

ENCUMBRANCES: Instrument No. 's 2055786 and 2509027 are registered against the above mentioned Certificate of Title. Encumbrances noted herein are provided for information purposes only and have not been investigated as to their intent or extent.

As requested, measurements have been made to determine the position of a one storey stucco dwelling, numbered 250, on the West side of Symington Road, in the City of Winnipeg, Manitoba. Above ground level, this building is contained entirely within the limits described.

There are no encroachments onto the above described property above ground level by buildings from adjoining properties.

This survey was performed on the 28th day of November, 2000.

Signed and sealed this 30th day of November, 2000.

Andre Van De Walle, Manitoba Land Surveyor

NOTE: INSTALLATION OF SURVEY MONUMENTS AT PROPERTY CORNERS WAS NOT REQUESTED FOR THIS SURVEY.

Please refer to Page 2 for sketch.

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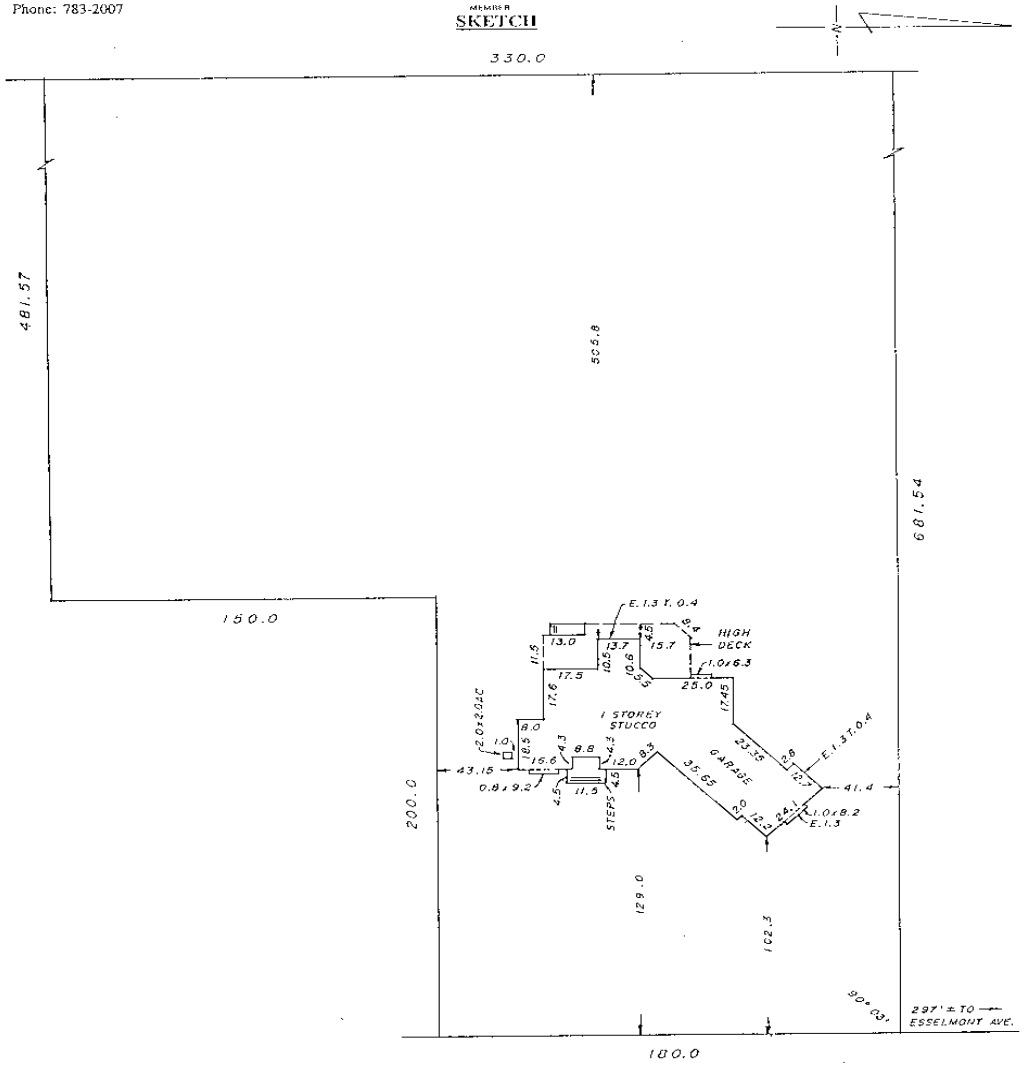
ANDRE VAN DE WALLE
Land Surveys

#4-590 Roseberry Street
Winnipeg, Manitoba
R3H 0T1
Fax: 786-1657
Phone: 783-2007

Andre Van De Walle, M.L.S.
Res. Stonewall — 467-2520

MEMBER
SKETCH



Signed and sealed this 30th day of November, 2000.

Andre Van De Walle, Manitoba Land Surveyor

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IMPERIAL

KILGOUR & LINKLATER

[illegible]

April 8, 1981

RE In the town of Transcona in the Province of Manitoba, and being the most southerly [illegible] feet in width of the most easterly 200 feet in depth of lot 10 which lot is shown on a plan of survey of part of the Roman Catholic Mission Property registered in the Winnipeg Land Titles Office as No. 2617

To,
Mr. Frank [illegible]
[illegible] 10 Symington Road
Winnipeg, Manitoba
[illegible] 223

Dear [illegible]

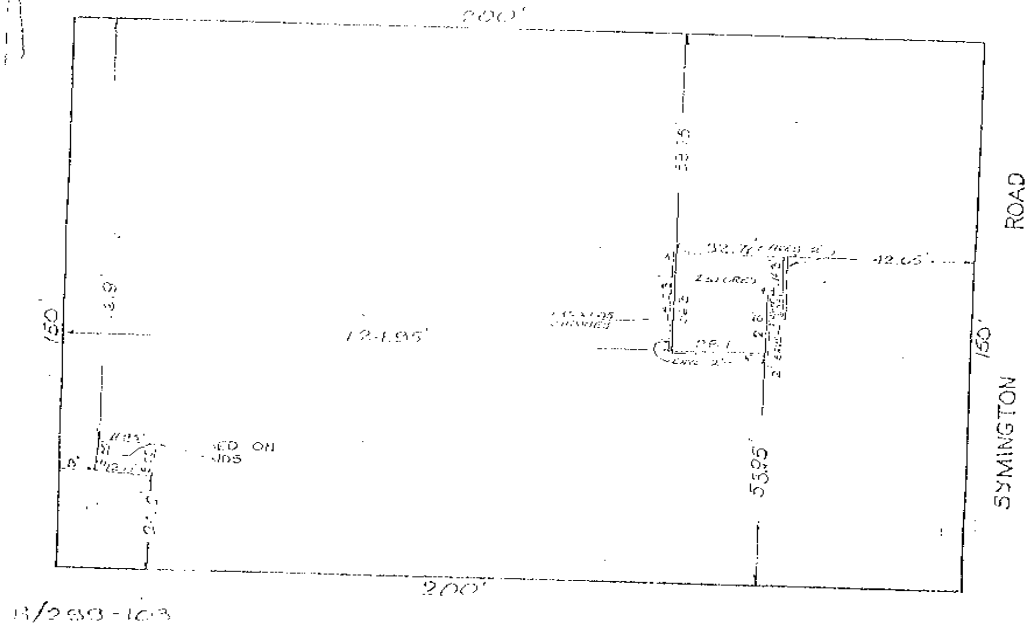
As requested, I have made the necessary measurements to determine the position of [illegible] a one storey dwelling numbered [illegible] on the West side of Symington Road in the City of Winnipeg, in Manitoba and find that the same above sidewalk level is contained entirely within the limits of the above described land. See sketch below.

There are no encroachments above sidewalk level on the above described land, by buildings from adjoining properties.

Yours truly,

R. F. Linklater
M.L.S.

SKETCH



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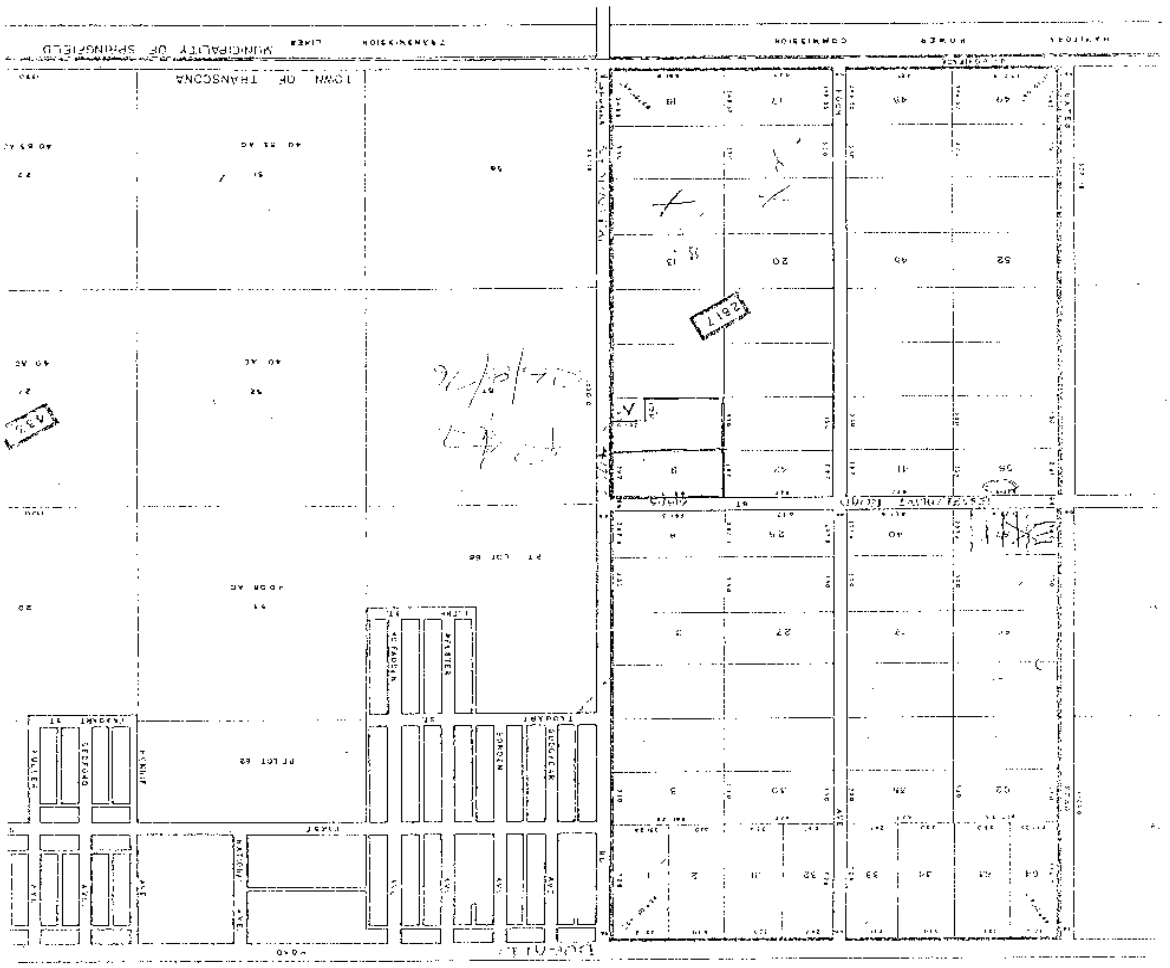


887605 Coords
827665

THE CITY OF WINNIPEG • PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT

100 – 30 Fort Street • Winnipeg, Manitoba • R3C 4X7

No. 00 172085 000 00 GR

ZONING MEMORANDUM

To:

J. David George and Associates
108 Regent AVE E
Winnipeg, MB R2C 0C1

Your Reference: **#00-319 Attn: J. David George**

RE: **250 Symington RD**

Legal Description. **Lot 10 Plan 2617 WLTO exc. Sly 150 feet of Ely 200 feet in Lots 87 to 94 Roman Catholic Mission Property**

The above mentioned land is zoned **A**

It is subject to **City of Winnipeg Zoning By-law 6400/94 and amendments thereto.**

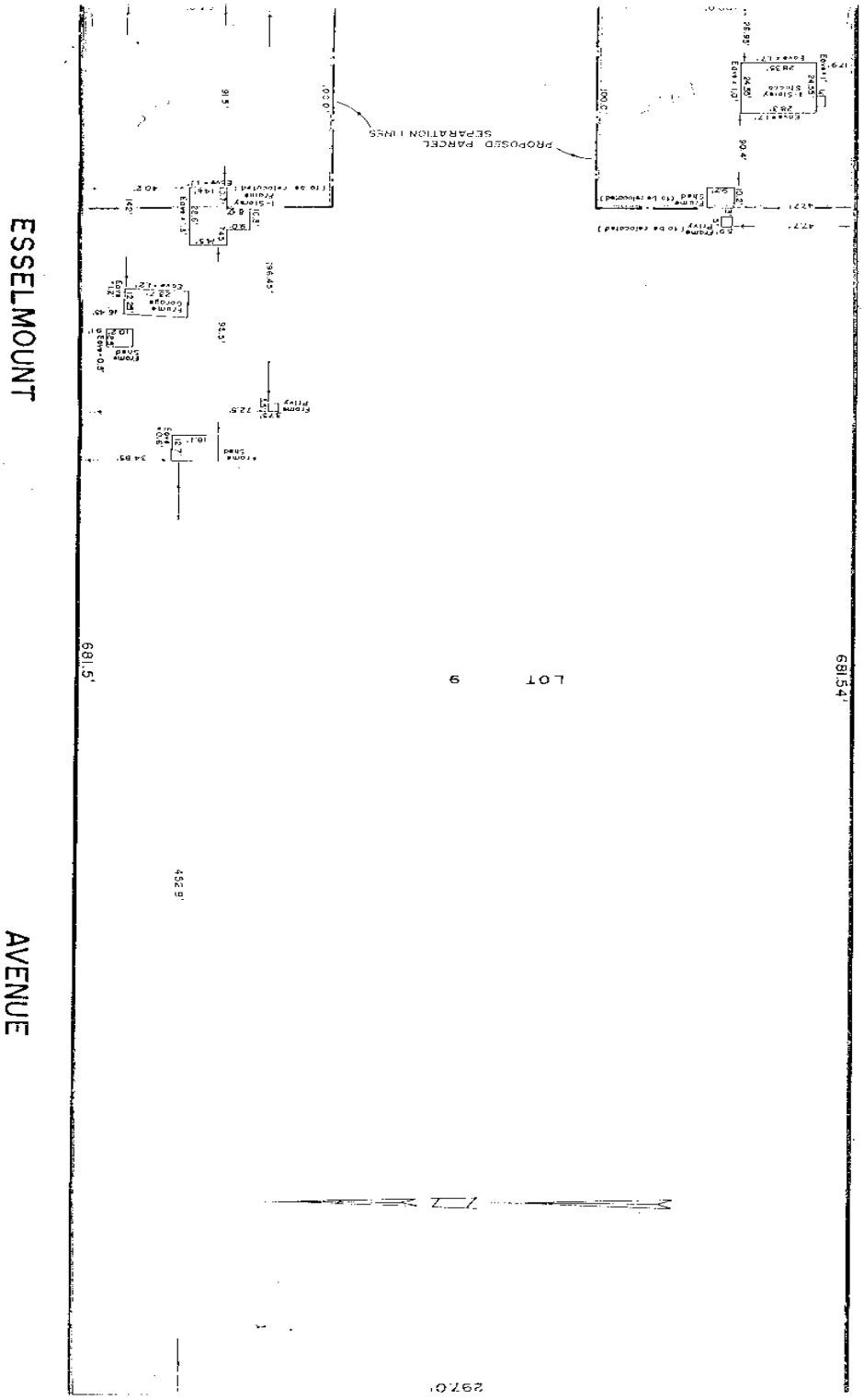
According to the Surveyor's Certificate prepared by **Andre Van De Walle Land Surveys** dated **Nov 30, 2000** submitted to me, it is my opinion that the buildings indicated thereon comply with the above By-law as to such yards and alignments.

Remarks:

Date: **December 11, 2000**

Zoning Administrator

THIS ZONING MEMORANDUM IS NOT A CONFIRMATION OF ANY PERMITED USE OF LAND. THE ONLY CONFIRMATION OF A PERMITTED USE OF LAND IS AN OCCUPANCY PERMIT ISSUED BY THE PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT.

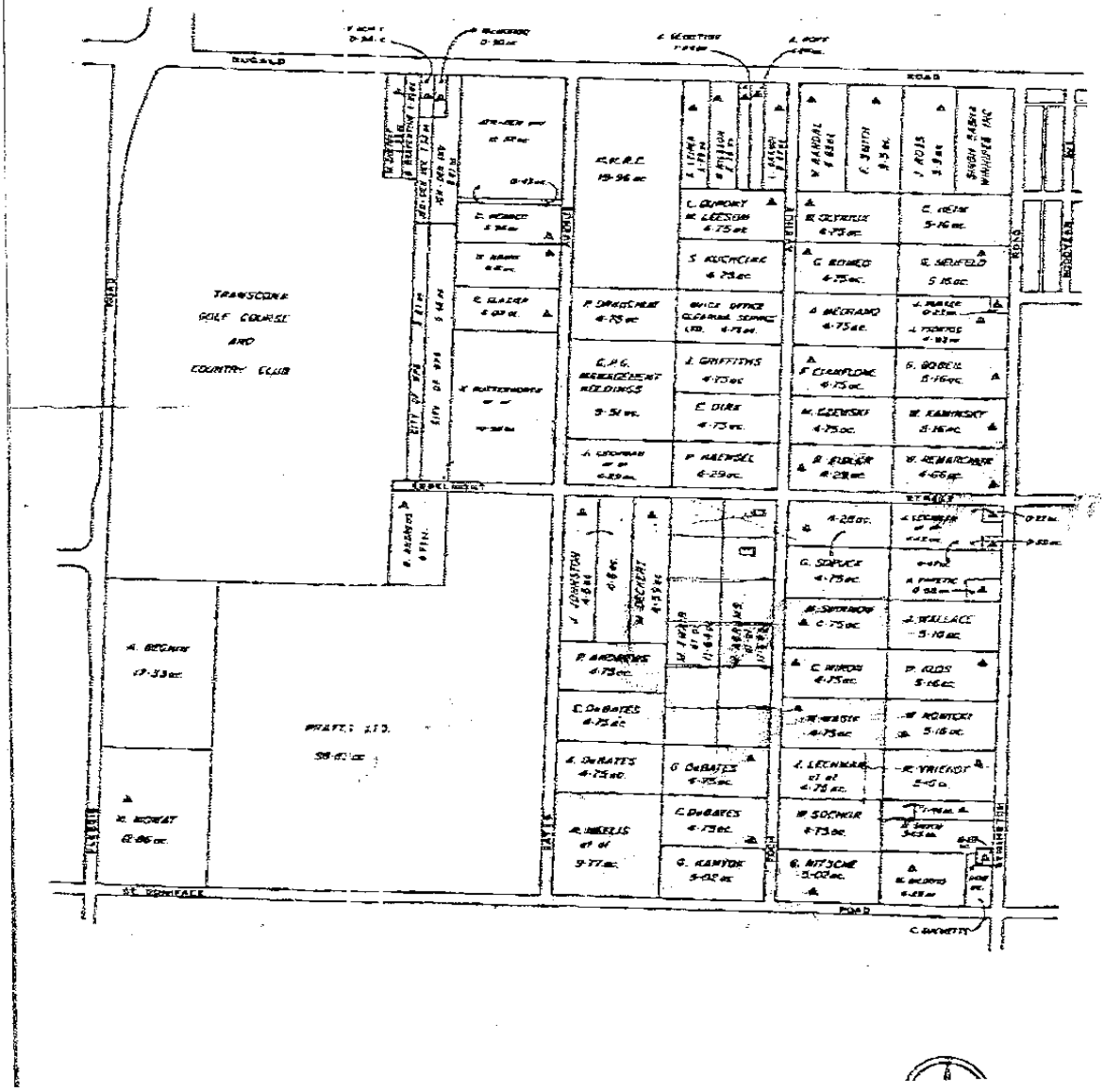

ESSELMOUNT
AVENUE
PROPOSED PARCEL SEPARATION LINES
LOT 9
681.5'
681.54'
297.0'

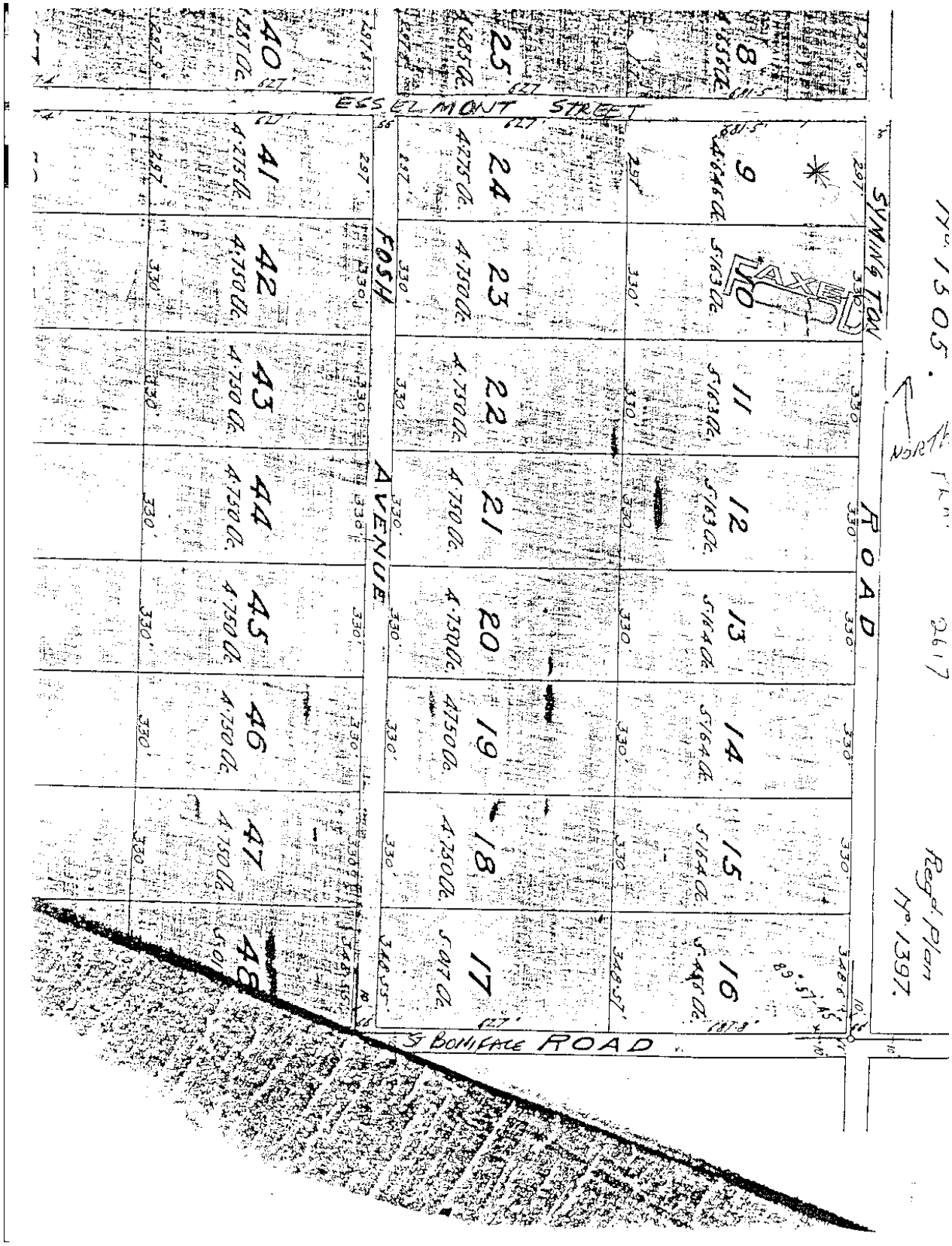
Dan Nelson

936-5065

PROPERTY OWNERSHIP

▲ - DENOTES APPROX. BLDG. LOCATIONS





ESSELMONT STREET
SYMINGTON ROAD
FOSH AVENUE
ST BONIFACE ROAD
NORTH
No. 1505.
Regd. Plan No. 1397.
2617

PULLAN
KAMMERLOCH
FROHLINGER

Please reply to: KIRK KIRBY
File No.

March 15, 2002

VIA COURIER

City Clerk's Department
Executive Policy Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

ATTENTION: Mr. Robert MacCallum, Committee Clerk

Dear Sir:

RE: Zoning Variance for Symington Rd. and Esselmont

Further to our appearance before the Executive Policy Committee on Wednesday, March 13, 2002, you will recall that at the conclusion of our presentation His Worship made available a copy of the Report Summary and extended to us the opportunity of making further verbal and written submissions upon our review of the said Summary.

It is apparent from the said Summary that if Lot 9 is a lot of record then the City of Winnipeg must issue a Building Permit.

Pursuant to the definition of a lot of record in the City of Winnipeg Zoning By-law 6400/94, Lot 9 is a lot of record for the following reasons:

1. Lot 9 is land lawfully existing and on record at the Winnipeg Land Titles Office on the effective date of the By-law as evidenced by copies of the enclosed:

    Certificate of Title No. 827665 dated July 29, 1955;
    Certificate of Title No. 887605 dated May 14, 1958;
    Certificate of Title No. E41143 dated November 17, 1976;
    Status of Title 1463968 dated September 3, 1996;
    Status of Title No. 1830419 dated October 3, 2001;

2. By the issuance of an unconditional Building Permit on May 29, 2000 and a Zoning Memorandum on December 11, 2000, the City of Winnipeg confirmed that Lot 10 is a lot of record;

Telephone: (204) 956-0490 • Fax: (204) 947-3747 • E-mail: firm@pkf-law.com • 600-330 Portage Avenue, Winnipeg, Canada R3C 0C4
Thomas G. Frohlinger Law Corporation • Paul E. Kammerloch Law Corporation • Harvey J. Slobodzian Law Corporation

3. Lot 9 does not form part of a "larger" contiguous holding under the same ownership. Lot 9 is 4.6448 acres and is larger in size than Lot 10 which is 4.47 acres;

4. Lot 9 is one of four lots remaining undeveloped in the original development of seventy-two lots as shown by the attached City of Winnipeg Property Ownership diagram.

The Zoning Development Approval document internally generated by the City of Winnipeg had 2 different versions, one dated June 15, 2000 and the other dated July 17, 2001 which copies are attached. The said documents were neither in existence nor addressed to any party on May 29, 2000 when the Building Permit for Lot 10 issued. Accordingly, the said document does not change the status of Lot 9 as a lot of record and a buildable lot.

In an attempt to exhaust all administrative appeals to secure the issuance of a Building Permit for Lot 9 and at the direction of the Planning Department, a variance application was submitted and then denied which resulted in the filing of this appeal. As Lot 9 is a lot of record, this matter is not properly before the Executive Policy Committee as the City of Winnipeg is obligated to issue the requested Building Permit in these circumstances.

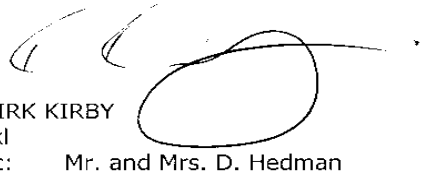
Consequently, the Executive Policy Committee is without jurisdiction to continue with these proceedings. For the Committee to continue with this matter, it would only be for the purpose of inviting the filing of a Notice of Application for an Order of Mandamus to issue the requested Building Permit with costs in favour of the owner of Lot 9. I trust that this is not the favoured approach.

It is anticipated that upon the Executive Policy Committee reconsidering this matter in light of the above, the Planning Department will be directed to issue a Building Permit for Lot 9.

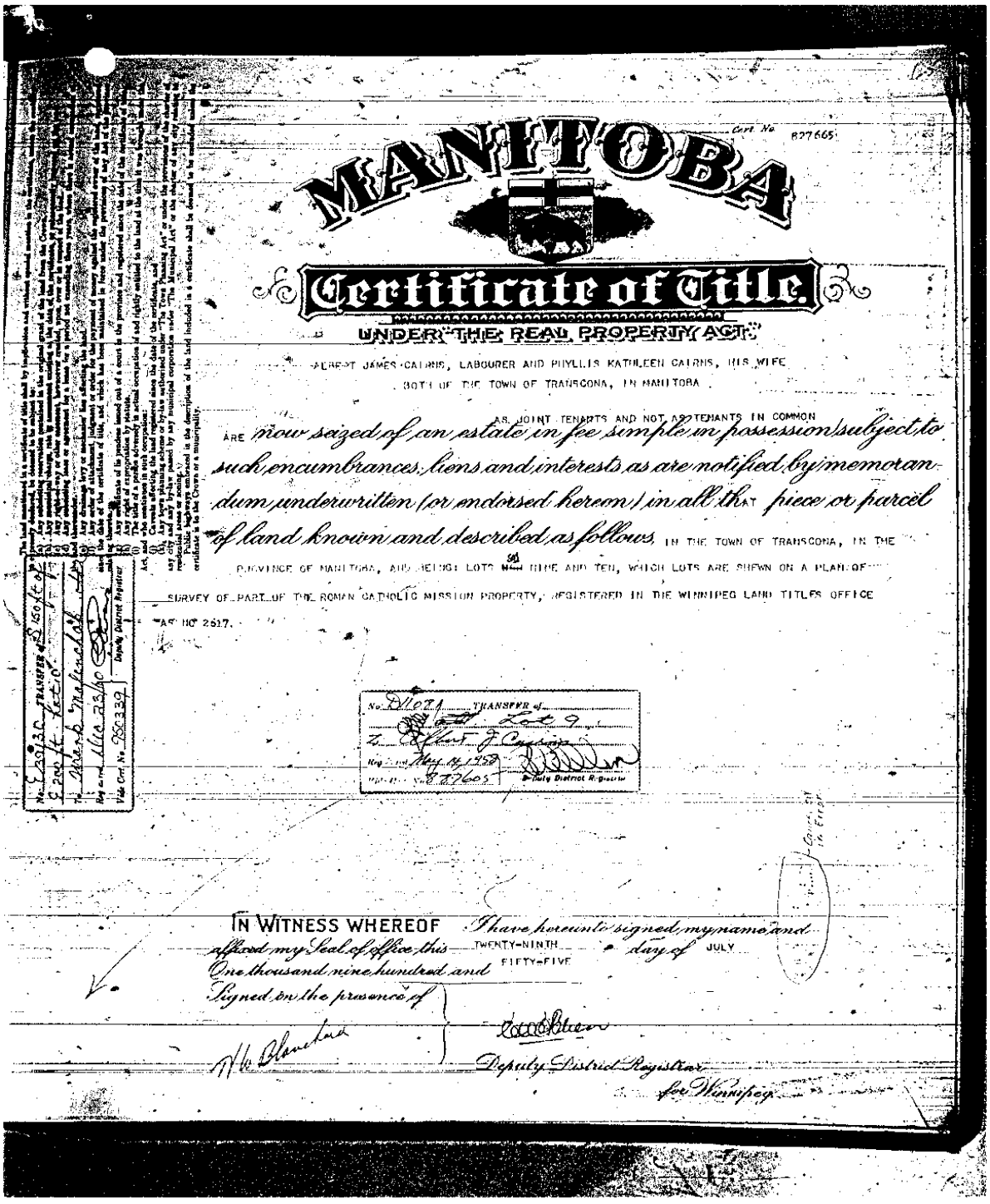
I would appreciate receiving your earliest attention and reply.

Yours truly,

PULLAN KAMMERLOCH FROHLINGER
Per:



KIRK KIRBY
/kl
cc: Mr. and Mrs. D. Hedman
Mr. and Mrs. S. Wallace



Cert. No. 827665

MANITOBA

Certificate of Title

UNDER "THE REAL PROPERTY ACT."

ALBERT JAMES CAIRNS, LABOURER AND PHYLLIS KATHLEEN CAIRNS, HIS WIFE

BOTH OF THE TOWN OF TRANSCONA, IN MANITOBA

AS JOINT TENANTS AND NOT AS TENANTS IN COMMON

ARE now seized of an estate in fee simple in possession subject to such encumbrances, liens and interests as are notified by memorandum underwritten (or endorsed hereon) in all that piece or parcel of land known and described as follows, IN THE TOWN OF TRANSCONA, IN THE PROVINCE OF MANITOBA, AND BEING: LOTS ~~NO~~ NINE AND TEN, WHICH LOTS ARE SHEWN ON A PLAN OF SURVEY OF PART OF THE ROMAN CATHOLIC MISSION PROPERTY, REGISTERED IN THE WINNIPEG LAND TITLES OFFICE AS NO. 2517.

No. D11071 TRANSFER of Lot 9
to Albert J. Cairns
Reg. Date May 14, 1958
Reg. No. 827605
Deputy District Registrar

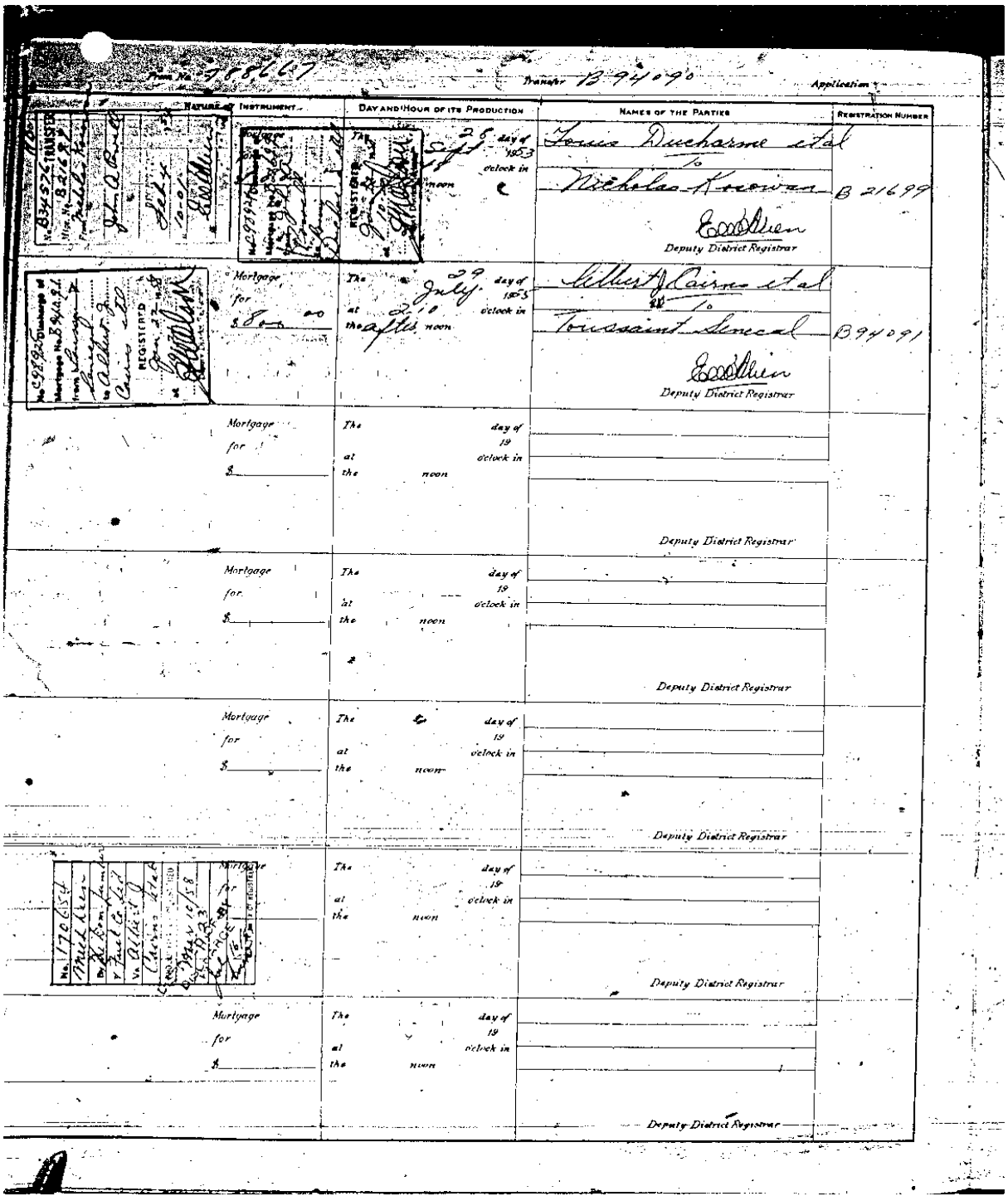
No. E39130 TRANSFER of S 150 ft of E 200 ft Lot 10
To Mark Malenchak
Reg. Date Nov 23/60
Vide Cert. No. 950339
Deputy District Registrar

IN WITNESS WHEREOF I have hereunto signed my name and affixed my Seal of office this TWENTY-NINTH day of JULY One thousand nine hundred and FIFTY-FIVE

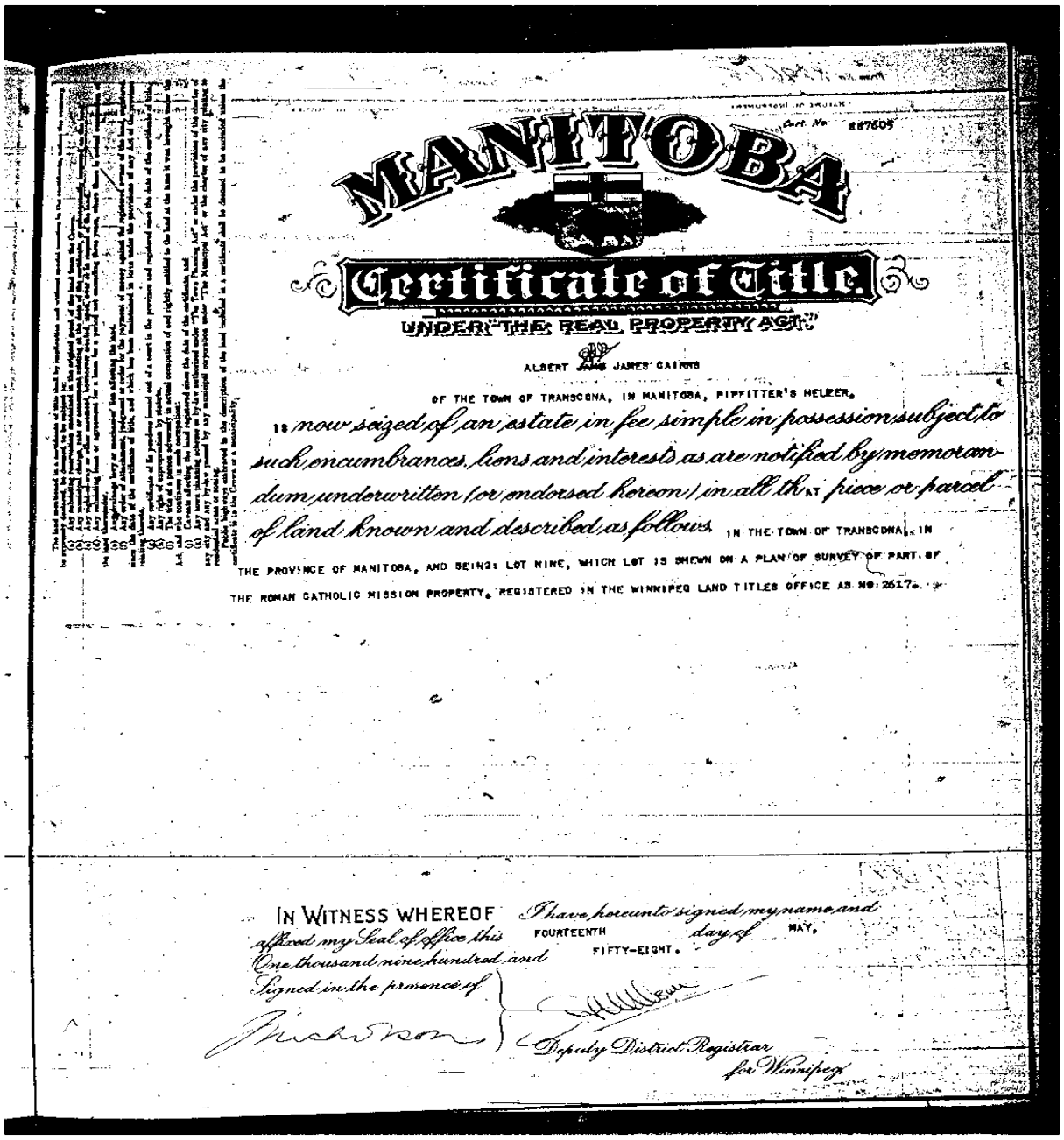
Signed in the presence of

Deputy District Registrar for Winnipeg

From No. 788667 Transfer B 94090 Application



Nature of Instrument	Day and Hour of its Production	Names of the Parties	Registration Number
Mortgage for $	The 28 day of Sept 1953 o'clock in noon	Louis Ducharme et al / to Nicholas Kosowan	B 21699
		Deputy District Registrar	
Mortgage for $ 800.00	The 29 day of July 1955 o'clock in at 2:10 the after noon	Gilbert J Cairns et al / to Toussaint Senecal	B 94091
		Deputy District Registrar	
Mortgage for $	The day of 19 at o'clock in the noon		
		Deputy District Registrar	
Mortgage for $	The day of 19 at o'clock in the noon		
		Deputy District Registrar	
Mortgage for $	The day of 19 at o'clock in the noon		
		Deputy District Registrar	
Mortgage for $	The day of 19 at o'clock in the noon		
		Deputy District Registrar	
Mortgage for $	The day of 19 at o'clock in the noon		
		Deputy District Registrar	



Cert. No. 887605

MANITOBA

Certificate of Title

UNDER "THE REAL PROPERTY ACT"

ALBERT JAMES CAIRNS

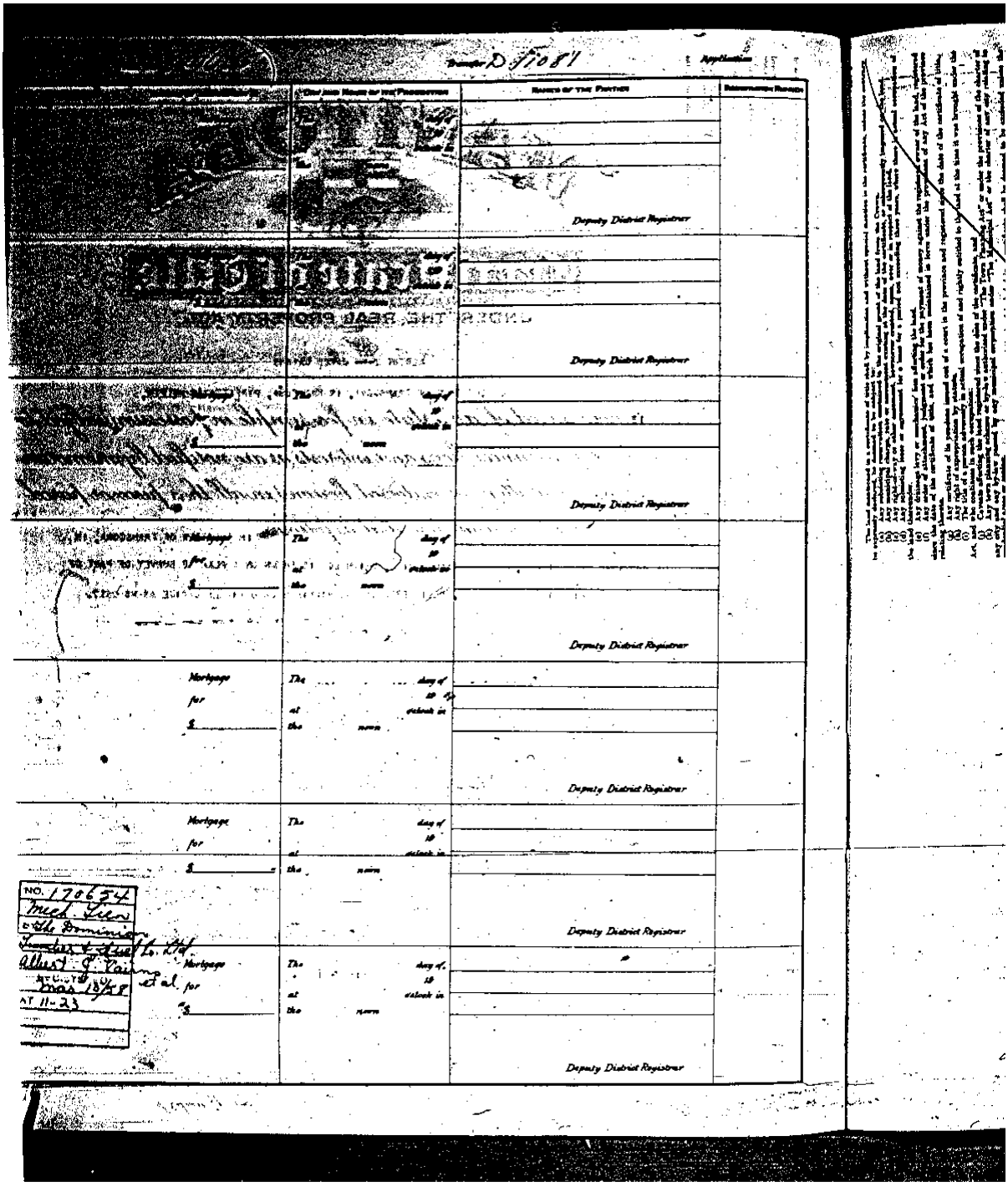
OF THE TOWN OF TRANSCONA, IN MANITOBA, PIPEFITTER'S HELPER,

is now seized of an estate in fee simple in possession subject to such encumbrances, liens and interests as are notified by memorandum underwritten (or endorsed hereon) in all that piece or parcel of land known and described as follows: IN THE TOWN OF TRANSCONA, IN THE PROVINCE OF MANITOBA, AND BEING LOT NINE, WHICH LOT IS SHEWN ON A PLAN OF SURVEY OF PART OF THE ROMAN CATHOLIC MISSION PROPERTY, REGISTERED IN THE WINNIPEG LAND TITLES OFFICE AS NO. 2617.

IN WITNESS WHEREOF I have hereunto signed my name and affixed my Seal of Office, this FOURTEENTH day of MAY, One thousand nine hundred and FIFTY-EIGHT.

Signed in the presence of

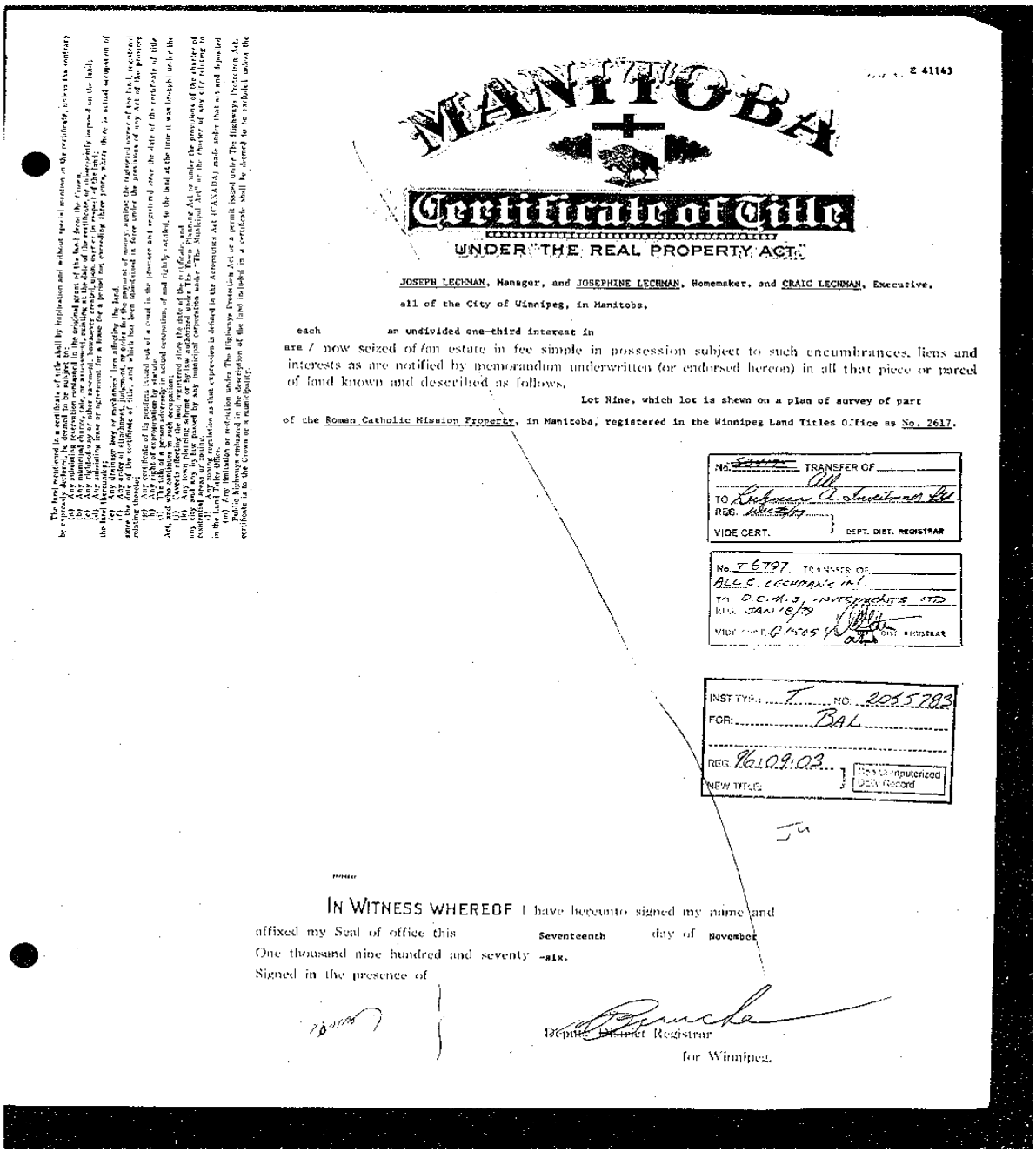
Deputy District Registrar for Winnipeg



Transfer D 11081 Application

	Day and Hour of the Production	Names of the Parties	Registration Number
		Deputy District Registrar	
		Deputy District Registrar	
Mortgage for $	The day of 19 at o'clock in the noon	Deputy District Registrar	
Mortgage for $	The day of 19 at o'clock in the noon	Deputy District Registrar	
Mortgage for $	The day of 19 at o'clock in the noon	Deputy District Registrar	
Mortgage for $	The day of 19 at o'clock in the noon	Deputy District Registrar	
Mortgage for $	The day of 19 at o'clock in the noon	Deputy District Registrar	

NO. 170654
Mech. Lien
The Dominion
Lumber & Fuel Co. Ltd.
Albert J. Vairno et al.
REGISTERED
Mar 10/58
AT 11-23



The land mentioned in a certificate of title shall be subject to such of the following encumbrances, liens, estates or interests as may appear on the certificate, unless the contrary be expressly declared:
(a) Any subsisting reservation contained in the original grant of the land from the Crown.
(b) Any municipal charge, rate, or assessment, existing at the date of the certificate, or subsequently imposed on the land.
(c) Any unpaid taxes or land purchase instalments which may be a charge on the land.
(d) Any subsisting lease or agreement for a lease for any period not exceeding three years, where there is actual occupation of the land by the lessee.
(e) Any easement, duty or mechanics' lien affecting the land.
(f) Any order of attachment, judgment, or order for the payment of money, against the registered owner of the land, registered since the date of the certificate of title, and which has been substituted in force under the provisions of any Act for the previous system of registration by caveat.
(g) Any certificate of lis pendens issued out of a court in the province and registered after the date of the certificate of title.
(h) The right of expropriation by statute.
(i) The right of a person in actual occupation, of real rights, not noted on the land at the time it was brought under the Act, and who continues in such occupation.
(j) Any right to file a caveat, or caution, or certificate of lis pendens affecting the land registered since the date of the certificate, and
(k) Any right of appeal from the decision of the Registrar to the Court of Queen's Bench.
(l) Any power of expropriation, or right of entry, conferred on the Crown or on any municipality, city and any by-law passed by any municipal corporation under The Municipal Act or the charter of any city relating to roads, streets or highways as that expression is defined in the Arterial Roads and Streets Act (CANADA) made under that act and deposited in the Land Titles Office.
(m) Any limitation or restriction under The Highways Protection Act or a permit issued under The Highways Protection Act.
(n) Such liabilities and rights as are declared in the description of the land included in a certificate shall be deemed to be excluded unless the certificate is to the Crown or a municipality.

E 41143

MANITOBA

Certificate of Title

UNDER THE REAL PROPERTY ACT

JOSEPH LECHMAN, Manager, and JOSEPHINE LECHMAN, Homemaker, and CRAIG LECHMAN, Executive, all of the City of Winnipeg, in Manitoba,

each an undivided one-third interest in

are / now seized of an estate in fee simple in possession subject to such encumbrances, liens and interests as are notified by memorandum underwritten (or endorsed hereon) in all that piece or parcel of land known and described as follows,

Lot Nine, which lot is shewn on a plan of survey of part of the Roman Catholic Mission Property, in Manitoba, registered in the Winnipeg Land Titles Office as No. 2617.

No. 54111 TRANSFER OF All
TO Lechmans Investments Ltd
REG. Nov 17/76
VIDE CERT. DEPT. DIST. REGISTRAR

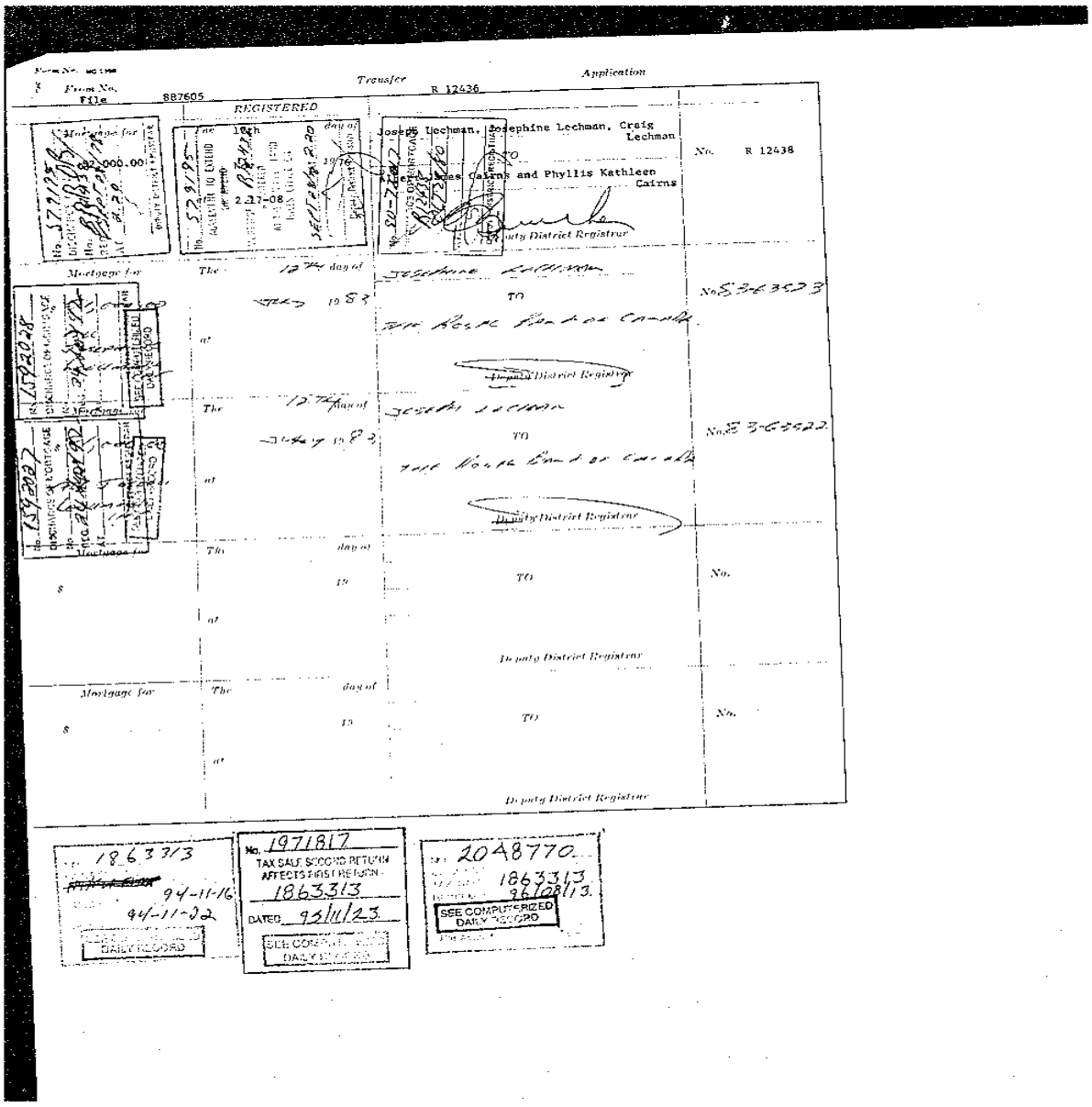
No. T 6797 TRANSFER OF ALL E. LECHMAN'S INT.
TO D.C.M.J. INVESTMENTS LTD
REG. JAN 16/79
VIDE CERT. G 17054 DEPT. DIST. REGISTRAR

INST TYP.: T NO.: 2055783
FOR: BAL
REG. 96.09.03
NEW TITLE: Issued on Computerized Data Record

IN WITNESS WHEREOF I have hereunto signed my name and affixed my Seal of office this Seventeenth day of November One thousand nine hundred and seventy-six.

Signed in the presence of

Deputy District Registrar for Winnipeg.



Form No. MC 1398

Transfer Application

From No. File 887605 R 12436

REGISTERED

Mortgage for $32,000.00	The 10th day of 1976	Joseph Lechman, Josephine Lechman, Craig Lechman TO Jerry Jones Cairns and Phyllis Kathleen Cairns	No. R 12438
		Deputy District Registrar	
Mortgage for $	The 12th day of July 1983 at	Josephine Lechman TO The Royal Bank of Canada	No. 83-63523
		Deputy District Registrar	
Mortgage for $	The 12th day of July 1983 at	Joseph Lechman TO The Royal Bank of Canada	No. 83-63522
		Deputy District Registrar	
Mortgage for $	The day of 19 at	TO	No.
		Deputy District Registrar	
Mortgage for $	The day of 19 at	TO	No.
		Deputy District Registrar	

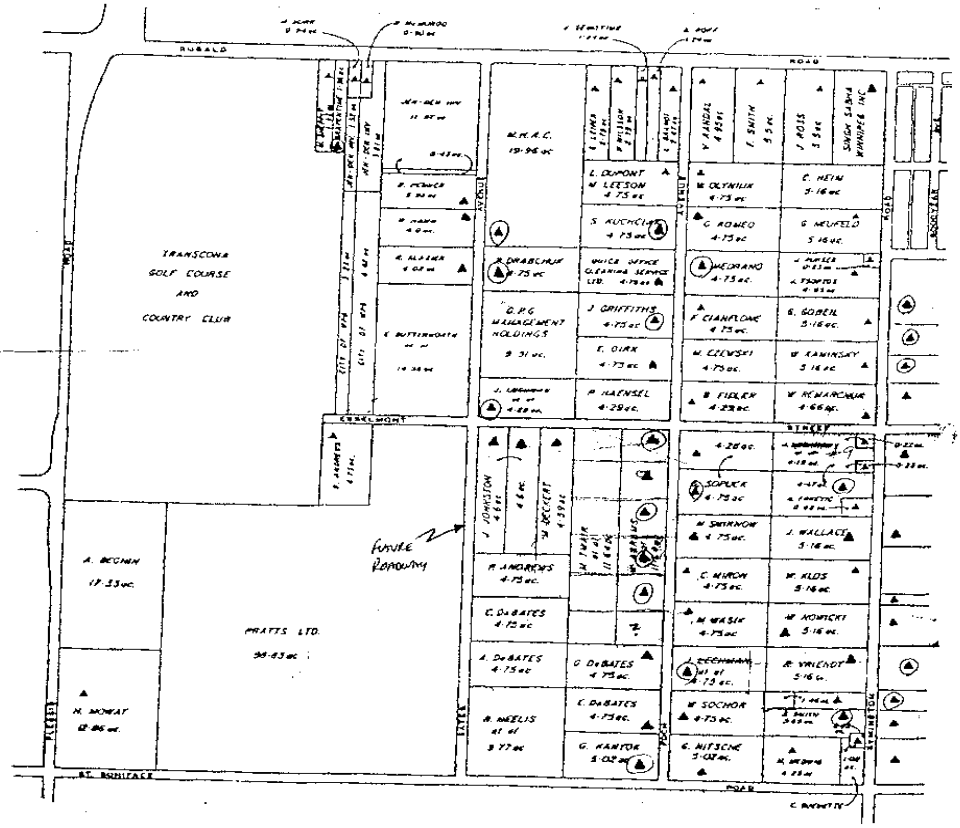
No. 1863313 94-11-16 94-11-22 DAILY RECORD

No. 1971817 TAX SALE SECOND RETURN AFFECTS FIRST RETURN 1863313 DATED 95/11/23 SEE COMPUTERIZED DAILY RECORD

No. 2048770 1863313 96/08/13 SEE COMPUTERIZED DAILY RECORD

PROPERTY OWNERSHIP

▲ - DENOTES APPROX. BLDG LOCATIONS
▲ - BUILT AFTER 1990 (21)) 76 SFD
- VACANT LOTS



DATE: 2001/01/25 MANITOBA TITLE NO: 1463968
TIME: 10:18 PAGE: 1
POST

STATUS OF TITLE

STATUS OF TITLE..... ACCEPTED PRODUCED FOR: PULLAN,KAMMERLOCK, FROHLINGER
ORIGINATING OFFICE..... WINNIPEG BY: M.DERKSEN
REGISTERING OFFICE..... WINNIPEG LTO BOX NO: 59
REGISTRATION DATE..... 1996/09/03
COMPLETION DATE..... 1996/09/17

LEGAL DESCRIPTION:

SCOTT WALLACE AND CHERYL WALLACE
BOTH OF THE CITY OF WINNIPEG IN MANITOBA

ARE REGISTERED OWNERS AS JOINT TENANTS SUBJECT TO SUCH ENTRIES
RECORDED HEREON IN THE FOLLOWING DESCRIBED LAND:

LOT 9 PLAN 2617 WLTO
IN LOTS 87 TO 94 ROMAN CATHOLIC MISSION PROPERTY

ACTIVE TITLE CHARGES:

NO ACTIVE TITLE CHARGES EXIST ON THIS TITLE

ACCEPTED THIS 3RD DAY OF SEPTEMBER, 1996
BY J.SCOTT FOR THE DISTRICT REGISTRAR OF
THE LAND TITLES DISTRICT OF WINNIPEG.

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA
STORAGE SYSTEM ON 2001/01/25 OF TITLE NUMBER 1463968 .
THIS IS NOT A DUPLICATE TITLE.

FOR THE DISTRICT REGISTRAR

********** END OF STATUS OF TITLE FOR TITLE 1463968 WPG **********

DATE: 2002/03/15
TIME: 10:18
POST

MANITOBA

TITLE NO: 1830419
PAGE: 1

STATUS OF TITLE

STATUS OF TITLE..... ACCEPTED
ORIGINATING OFFICE..... WINNIPEG
REGISTERING OFFICE..... WINNIPEG
REGISTRATION DATE..... 2001/10/03
COMPLETION DATE..... 2001/10/05

PRODUCED FOR: PULLAN
BY: C.DRYDEN
LTO BOX NO:

LEGAL DESCRIPTION:

DAVID HEDMAN AND LOUISE HEDMAN
BOTH OF WINNIPEG IN MANITOBA

ARE REGISTERED OWNERS AS JOINT TENANTS SUBJECT TO SUCH ENTRIES RECORDED HEREON IN THE FOLLOWING DESCRIBED LAND:

LOT 9 PLAN 2617 WLTO
EXC ESSELMONT AVENUE PLAN 39850 WLTO
IN LOTS 87 TO 94 ROMAN CATHOLIC MISSION PROPERTY

ACTIVE TITLE CHARGES:

NO ACTIVE TITLE CHARGES EXIST ON THIS TITLE

ACCEPTED THIS 3RD DAY OF OCTOBER, 2001
BY W.BROWN FOR THE DISTRICT REGISTRAR OF
THE LAND TITLES DISTRICT OF WINNIPEG.

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE SYSTEM ON 2002/03/15 OF TITLE NUMBER 1830419 .
THIS IS NOT A DUPLICATE TITLE.

X
FOR THE DISTRICT REGISTRAR

********** END OF STATUS OF TITLE FOR TITLE 1830419 WPG **********

ZONING DEVELOPMENT APPROVAL

June 15, 2000

PERMIT NO.: 00 139176 000 00 HO

PROPERTY ADDRESS: 250 Symington RD

WORK BEING DONE: SFD & Att. Gar. Construct New

APPROVALS	
Subdivision Agreement (list)	
Zoning Agreement (list)	
Existing variances (list)	
Design review required e.g. Schedule "A", Board of Adjustment	
Conditional Use Required	

INFORMATION	
Zoning By-law No.	6400/94
Zoning Designation	A
Zoning Adjacent Lot	A
Existing or Previous Use	vacant
Proposed Use	Sfd & att gar

BULK REQUIREMENTS					
	Actual	Required/ Permitted		Actual	Required/ Permitted
Type of lot	interior		Projections		
Lot Width/Lot Area			Proposed Floor Area	2083 sq ft	
Front yard		100 feet	Existing Floor Area		
Special Yard			Total Floor Area	2083 sq ft	
Left Side yard		25 feet	Building Height		Maximum 30 feet
Right Side Yard		25 feet	Floor Area Ratio		
Rear yard		25 feet	Lot Coverage		Maximum 40%
			Number of Stories	1	

PARKING	
Location Permitted	
Existing Parking Numbers	
Number Required	1
Number of 8' x 20'	2
Number of 8' x 16'	
Surfacing	

PARKING LOT DESIGN	
Height of Fence	
Interior Landscaping	
Perimeter Landscaping	
Berm	
Planting Details	
Wheel Stops	
Aisle Width	

OTHER:

Lots 9 & 10 are a lot of record together. Secondary plan required before lots can be split and deemed separate buildable lots

ZONING DEVELOPMENT APPROVAL

July 17, 2001

PERMIT NO.: 00 139176 000 00 HO

PROPERTY ADDRESS: 250 Symington RD

WORK BEING DONE: SFD & Att. Gar. Construct New

APPROVALS	
Subdivision Agreement (list)	
Zoning Agreement (list)	
Existing variances (list)	
Design review required e.g. Schedule "A", Board of Adjustment	
Conditional Use Required	

INFORMATION	
Zoning By-law No.	6400/94
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DATE: 2001/01/25 MANITOBA TITLE NO: 1463968
TIME: 10:18 PAGE: 1
POST STATUS OF TITLE

STATUS OF TITLE..... ACCEPTED PRODUCED FOR: PULLAN,KAMMERLOCK, FROHLINGER
ORIGINATING OFFICE..... WINNIPEG BY: M.DERKSEN
REGISTERING OFFICE..... WINNIPEG LTO BOX NO: 59
REGISTRATION DATE..... 1996/09/03
COMPLETION DATE..... 1996/09/17

LEGAL DESCRIPTION:

SCOTT WALLACE AND CHERYL WALLACE
BOTH OF THE CITY OF WINNIPEG IN MANITOBA

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RECORDED HEREON IN THE FOLLOWING DESCRIBED LAND:

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IN LOTS 87 TO 94 ROMAN CATHOLIC MISSION PROPERTY

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NO ACTIVE TITLE CHARGES EXIST ON THIS TITLE

ACCEPTED THIS 3RD DAY OF SEPTEMBER, 1996
BY J.SCOTT FOR THE DISTRICT REGISTRAR OF
THE LAND TITLES DISTRICT OF WINNIPEG.

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA
STORAGE SYSTEM ON 2001/01/25 OF TITLE NUMBER 1463968 .
THIS IS NOT A DUPLICATE TITLE.

X
FOR THE DISTRICT REGISTRAR

********** END OF STATUS OF TITLE FOR TITLE 1463968 WPG **********

DATE: 2002/03/15
TIME: 10:18
POST

MANITOBA

STATUS OF TITLE

TITLE NO: 1830419
PAGE: 1

STATUS OF TITLE..... ACCEPTED
ORIGINATING OFFICE..... WINNIPEG
REGISTERING OFFICE..... WINNIPEG
REGISTRATION DATE..... 2001/10/03
COMPLETION DATE..... 2001/10/05

PRODUCED FOR: PULLAN
BY: C.DRYDEN
LTO BOX NO:

LEGAL DESCRIPTION:

DAVID HEDMAN AND LOUISE HEDMAN
BOTH OF WINNIPEG IN MANITOBA

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FOR THE DISTRICT REGISTRAR

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ZONING DEVELOPMENT APPROVAL

July 17, 2001

PERMIT NO.: **00 139176 000 00 HO**

PROPERTY ADDRESS: **250 Symington RD**

WORK BEING DONE: **SFD & Att. Gar. Construct New**

APPROVALS	
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Zoning Agreement (list)	
Existing variances (list)	
Design review required e.g. Schedule "A", Board of Adjustment	
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OTHER:

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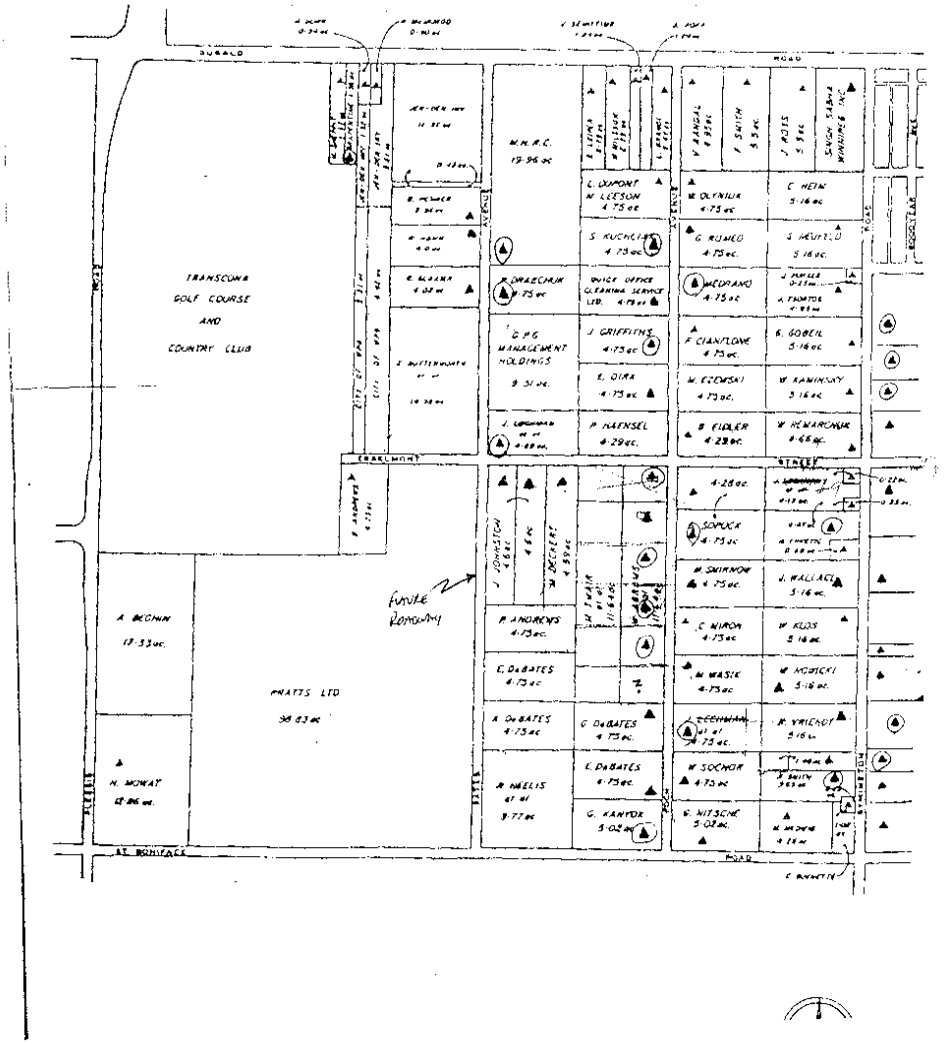
PROPERTY OWNERSHIP

▲ - DENOTES APPROX BLDG LOCATIONS
▲ - BUILT AFTER 1990 (21) } 76 SFD
- VACANT LOTS



Re: Proposed Secondary Plan for South Transcona

For submission to: **Executive Policy Committee**

Original report signed by: **Director of Planning, Property and Development**

Report date: May 7, 2002

In camera item: **No**

Recommendation(s):
It is recommended that a Secondary Plan for South Transcona not be pursued at this time subject to a report to The Standing Policy Committee on Property and Development that will provide direction to the Planning, Property and Development Department as to the priorities for undertaking secondary plans.

REPORT SUMMARY

KEY ISSUES:

- South Transcona is designated as a Rural Policy Area under Plan Winnipeg and therefore the minimum lot size requirement is 40 acres
- Parts of the South Transcona Area are characterized by Rural Residential Development
- In order for additional rural residential subdivision to occur in the area a Secondary Plan is required
- Plan Winnipeg dictates that rural residential development under a Secondary Plan be at immediately prevailing densities
- The rural residential area of South Transcona is almost entirely developed and a Secondary Plan to allow further subdivision at immediately prevailing densities would only result in the creation of a few additional lots.
- The Planning, Property and Development Department has several requests for Secondary Plans
- The Standing Policy Committee on Property and Development provides direction to the Department on the prioritization of these planning initiatives.
- The administration does not consider a South Transcona Secondary Plan as a priority at this time.

IMPLICATIONS

General implications

	None
X	For the organization overall and/or for other departments
X	For the community and/or organizations external to the City of Winnipeg

[ ] Involves a multi-year contract

Comment:

- If a Secondary Plan is undertaken other departments will be involved. The Secondary Plan process would also involve South Transcona residents affected by such a plan.

Policy implications

[ ] No (*There are no policy implications if the report is asking for a one-time decision.)*

[X] Yes *(There are policy implications if the recommendation(s) is/are asking for a decision that will be used to guide decisions over time.)*

Comment:

- A Secondary Plan represents the possibility of additional residential development in a Rural Policy Area

Financial implications

[ ] Within approved current and/or capital budget

[ ] Current and/or capital budget adjustment required

[X] No financial implications

Comment:

- If a Secondary Plan is to be developed, it would have to be inserted into the Planning and Land Use Division's project work plan

REPORT

RECOMMENDATION(S):

It is recommended that a Secondary Plan for South Transcona not be pursued at this time subject to a report to The Standing Policy Committee on Property and Development that will provide direction to the Planning, Property and Development Department as to the priorities for undertaking secondary plans.

REASON FOR THE REPORT:

At its meeting of March 13, 2002 while considering the Appeal of Rejection of Variance Application Contrary to Plan Winnipeg for Vacant Land Located at the South East Corner of Symington Road and Esselmont Avenue, the **Executive Policy Committee** recommended that the Chief Administrative Officer be requested to provide a report from a planning perspective, on the overall density of the area, land servicing implications, and whether or not a proposed secondary plan for this area would be advisable.

HISTORY:

An application was received by the Planning, Property and Development Department to establish a 5-acre lot by way of variance at the South East Corner of Symington Road and Esselmont Avenue. This application was rejected as being contrary to Plan Winnipeg as the subject property was located in a Rural Policy Area where the minimum lot size is required to be 40 acres, unless regulated by a Secondary Plan. The applicant appealed the rejection of his variance application to the **Executive Policy Committee**. During consideration of the matter at its meeting, the committee asked that the Chief Administrative Officer report back on the feasibility of undertaking a Secondary Plan for this area that would regulate lot sizes at less than the current 40 acre minimum requirement.

DISCUSSION:

The South Transcona Area is located south of Dugald Road and east of Plessis Road and extends to the City limits. This area developed around the original hamlet area where there are suburban densities and sewer and water services. The area outside the hamlet was mainly agricultural with sporadic rural residential development. This area was once designated for “Large Lot Residential Development” area under a former Plan Winnipeg (By law 2960/81 adopted in 1989), which allowed residential development at a minimum lot size of two acres. Therefore, much of the rural residential character of South Transcona was set prior to the adoption of a newer Plan Winnipeg in 1993, which eliminated the “Large Lot Residential Development” land use category and replaced it with the “Rural Policy Area” designation that required a 40-acre minimum lot size unless governed by a Secondary Plan.

The South Transcona Area in the past had been affected by overland flooding in the spring, which also contributed to a slow rate of development. Recent land drainage initiatives, including construction of a stormwater retention basin, have mitigated the effects of the overland flooding however, the works done to date address a long-standing historical drainage problem, but do not provide capacity for increased development density. The current land drainage system operates at little more than the current level of development, that is a density of 5 acres per lot over the entire area.

With the land drainage works completed so far, there may be increased interest in additional development in the South Transcona area. Any additional development would require either a Secondary Plan or a Plan Winnipeg Amendment or both depending on the nature of development as will be discussed below.

The South Transcona Neighbourhood can be divided into 4 distinct areas each displaying particular characteristics. These are outlined in Map 1.

Area 1: This area is commonly known as the Hamlet area, it is bordered by Dugald Road to the north, Symington Road to the West, the easterly extension of Esselmont Avenue to the South and Rennie Avenue to the East. This area is designated as a "Neighbourhood Policy Area" under Plan Winnipeg and requires a full range of municipal services for new development. The area is currently serviced with water and wastewater sewer, roads are of a type II oil surface and gravel and land drainage is by way of ditches. The existing water and wastewater services are adequate for existing development but would require major additions to accommodate any new development. Because this area is designated as a "Neighbourhood Policy Area" a Secondary Plan is not required in order to allow new fully serviced development. However, given the costs of upgrading existing infrastructure to provide a full range of municipal services, new development is not likely to be profitable at the current level of demand. Unserviced or partially serviced development in this area is impossible without a Plan Winnipeg Amendment that would redesignate portions of the area to a "Rural" designation.

Area 2: The area around the Transcona Country Club is bordered by Dugald to the North, Bates Avenue to the East, St. Boniface Road to the South and Plessis Rd to the West. This area is characterized by some larger agricultural land holdings over 5 acres, including the 18 hole golf course. There are some smaller, developed, 5-acre properties. The area is unserviced with the exception of the Dugald Road frontage, which has both water and wastewater, and the Plessis Road frontage which has water but requires a wastewater sewer extension from Dugald Road to service the land fronting on Plessis Road south of the golf course. The larger holdings and the presence of services in the vicinity make this area a likely candidate for fully serviced urban development in the future. There has been some interest in development of a large parcel on the Dugald frontage as well as similar interest in the development of a large parcel south of the golf course. On the latter parcel, an attempt was made in 1988 to amend Plan Winnipeg to allow for urban development on a portion of these lands. The Minister of Urban Affairs

at the time rejected the amendment because the evidence suggested that there was already a sufficient supply of designated land to meet anticipated demand for housing in this area for many years and the proposed additional lands were not needed. This supply and demand relationship has not significantly changed since the time of the amendment application, therefore there is not yet a need to redesignate these lands for development. However, ownership of these large holdings should be discouraged from fragmenting so that they will be more readily available for fully serviced urban development when they are finally needed.

Area 3: The Rural Residential Area is located between the two above-mentioned areas, east of Bates Avenue and West of Symington Road. This area is characterized mainly by 5-acre lots subdivided prior to the 1970's. Most of these lots are already developed with the exception of lots on the southern end of Bates Avenue, which have not been developed, as the Bates roadway remains unimproved. There are currently nine vacant lots in this area that have frontage on an existing improved right of way, seven of these lots are 5-acres in size, the remaining 2 are 10-acres. Although individual title searches were not performed, it is likely that these remaining vacant lots have "lot of record" status and could be built upon.

A Secondary Plan for this area, to allow for additional rural residential development would have to adhere to the policies of Plan Winnipeg which require that proposed developments be consistent with immediately prevailing densities. (Policy 3B-08 Regulate Land Uses in Rural Areas) The immediately prevailing density in this area is 5-acre lot sizes, therefore a Secondary Plan can only allow for subdivision to this minimum size. There are currently 4 lots within this area that are 10 acres in size or larger and may qualify for further subdivision should a Secondary Plan be enacted.

With the recent land drainage improvements in the area, there has been some increased interest in development at densities higher than 5-acres. Plan Winnipeg Policy 3B-08 would have to be amended to allow for densities higher than what is immediately prevailing, such as lot sizes of two and a half-acres. Additional land-drainage works, including stormwater retention facilities and a piped land drainage outfall would also have to be constructed, as the system was not designed for these higher densities. If densities are considered to be further increased to lot sizes smaller than two and a half-acres, then a full urban piped land drainage system would have to be constructed to replace the existing ditches. Any communication with the public in the development of a Secondary Plan for this area would have be very clear that subdivision to lot sizes smaller than the 5-acre minimum is highly unlikely.

There has also been interest from the Church located at the southeast corner of Dugald and Bates to develop a seniors' housing project. This would require a Plan Winnipeg Amendment to redesignate the site to "Neighbourhood". Such a spot redesignation would not be looked at in isolation, the entire serviced Dugald Road frontage would have to be examined and land supply/demand issues would again have to be addressed.

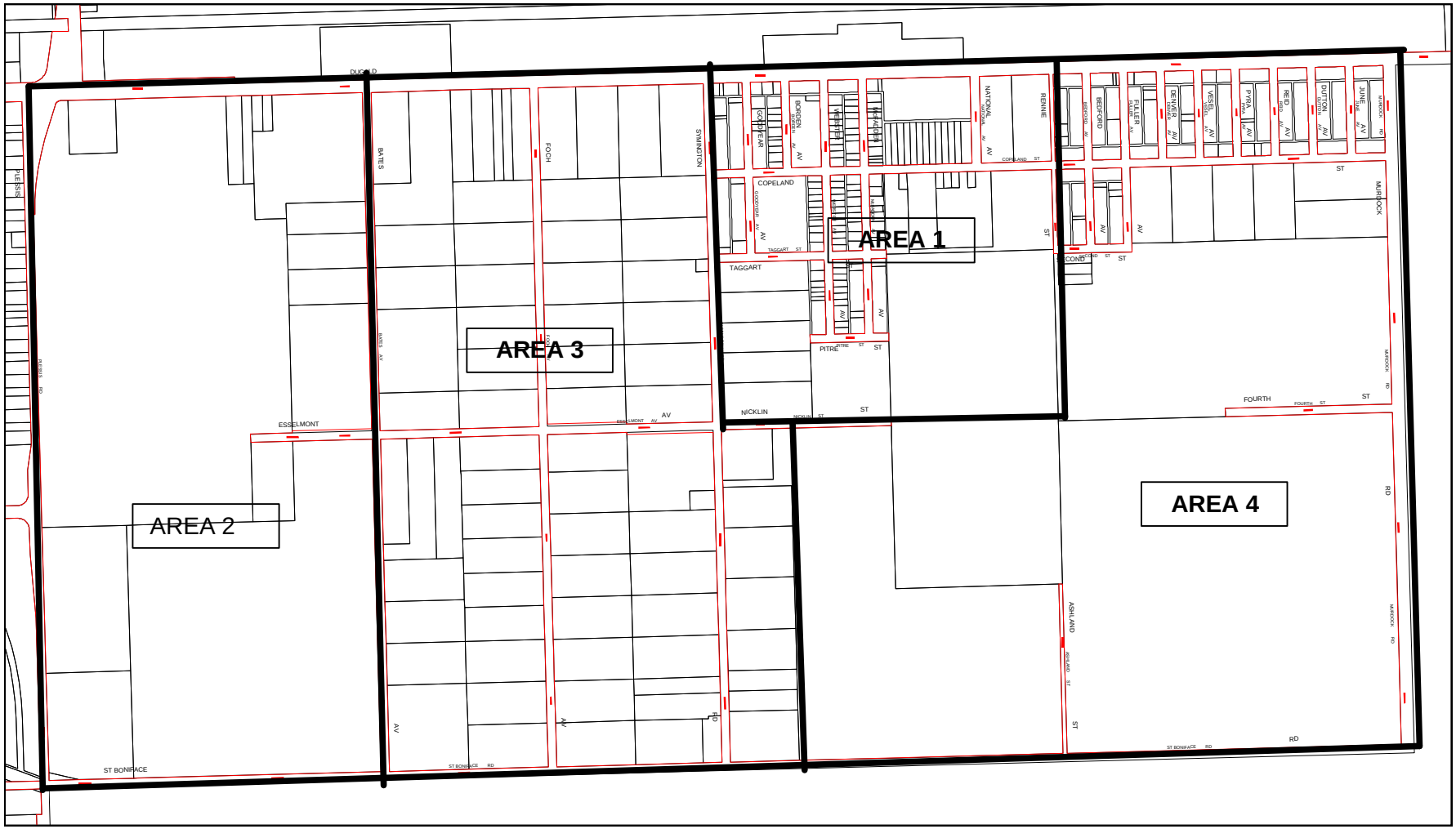
Area 4: The remaining land is held in large holdings with the exception of a few small, unserviced urban sized parcels in the northeast part of the area. These are remnants of an old plan of subdivision where a few lots were sold many years ago and the plans have since been declared obsolete. The City of Winnipeg has acquired much of the land in this area through tax sale as well as through purchase and owns approximately 300 acres. The South Transcona stormwater retention basin / waterski area was developed in the most southeasterly corner of the area on a portion of these City lands.

Immediately prevailing densities in this area are quite low and the development of a Secondary Plan could not create higher densities without a policy amendment to Plan Winnipeg. Higher densities, even at 5 acres may not even be practical for this area as the Real Estate Division investigated the possibility of developing the residual city lands for Rural Residential Development in 1998 and found that it was not economical. The large land holdings, however, could some day be developed to urban densities as an extension of the Hamlet area, therefore these lands should remain agricultural for the foreseeable future until needed to meet demand.

Overall, a Secondary Plan for Area 3 on Map 1 would recognize the existing level of development in this area by allowing subdivision to a minimum lot size of 5 acres, but would likely only allow for the creation of a few new lots. The Secondary Plan process involves public consultation and a public hearing. Given recent interest in further development, public expectations would likely be raised beyond what the Secondary Plan can reasonably accommodate. The Planning, Property and Development Department currently has several requests for Secondary Plans in both rural and neighbourhood areas and must prioritize its workload. The potential for a Secondary Plan for South Transcona should be considered in this context. Given that this Plan, in order to comply with the current policies of Plan Winnipeg, will only result in the creation of a few new lots it does not figure highly on the Department's list of priorities.

It is therefore recommended that a Secondary Plan for South Transcona not be pursued at this time. The Standing Policy Committee on Property and Development will continue to provide direction to the Planning, Property and Development Department as to the priorities for undertaking these plans.

MAP 1: South Transcona Sub-Areas



Financial Impact Statement

Date: May 2, 2002.

COMMENTS:

As the recommendations of this report relate to administrative policies and priorities only, there are no identifiable financial impacts.

Gord Courage, Manager
Support Services Division

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH:

Water and Waste Department

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Planning and Land Use
Prepared by: Dianne Johnson, Senior Planner
PPD File #: n/a

Document name: o:\reports directive\planning and land use\urban planning reports\transconasecondaryplan.doc

Appendix A:

CURRENT AREAS WITH SECONDARY PLANS IN PLACE

1. Airport Vicinity
2. Kilcona Park
3. North Henderson Highway
4. South Henderson Highway Corridor
5. North St. Boniface
6. St. Vital Perimeter South
7. Wilkes South

All of these Plans indicate that they should be reviewed periodically.

SECONDARY PLAN DEVELOPMENT AND REVIEWS CURRENTLY UNDERWAY

1. Fort Rouge Neighbourhood Management Plan/Osborne Village Development Plan
2. St. Vital Perimeter South Secondary Plan review
3. East Exchange District Management Plan
4. Airport Areas Plan
5. Kapyong Barracks Redevelopment Plan (not necessarily a Secondary Plan)
6. St. Boniface Stockyards Redevelopment Plan (not necessarily a Secondary Plan)

OUTSTANDING REQUESTS FOR SECONDARY PLANS AND SECONDARY PLAN REVIEWS

1. North St. Boniface Secondary Plan review and zoning rationalization
2. Polo Park Area Secondary Plan
3. St. Charles Ward, west of Perimeter Highway (requested November, 1993)
4. Ridgewood South Neighbourhood (requested March, 1999)
5. North Henderson Highway District Plan Review (requested January, 2000)
6. South Transcona Secondary Plan
7. Almey/Reenders Area (requested May, 1999)

The prioritization of these Secondary Plans will be subject to a separate report to the Standing Policy Committee on Property and Development.