

## **Agenda – Appeal Committee – January 7, 2021**

### **PUBLIC HEARINGS**

**Item No. 1                      Appeal – Variance – 198 Sherbrook Street  
Fort Rouge-East Fort Garry Ward)  
File DAV 122569A/2020D**

An appeal was received against the decision of the City Centre Community Committee to approve a Variance on “the land” as follows:

1. For the construction of a 5 storey mixed use dwelling to permit the following:
  - A. a lot area per dwelling of 439 square feet (40.78 square metres) instead of 500 square feet (46.45 square metres);
  - B. no front yard instead of 20 feet (6.10 metres);
  - C. a north side yard of 9 feet (2.74 metres) and 0 feet (0 metre) instead of 13 feet (3.96 metres) to the principal building and the canopy, respectively;
  - D. a south side yard of 5 feet (1.52 metres) instead of 13 feet (3.39 metres);
  - E. a rear yard of 10 feet (3.05 metre) instead of 25 feet (7.62 metres);
  - F. 16 stalls instead of 30 stalls;
2. For the establishment of an accessory parking area to permit the following:
  - A. no visitor parking instead of 2 visitor spaces.

Subject to the following conditions:

1. That prior to the issuance of building permits, the applicant must provide the City with the final terms associated with the provision of affordable housing units in the building, meeting or exceeding the affordability targets identified in this report, and thereafter must follow such terms to the satisfaction of the Director of Planning, Property and Development.
2. That the Owner must submit plans showing the location and design of any and all proposed:

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- A. buildings
- B. accessory parking areas
- C. fencing; and
- D. landscaping

on the Owner's Land ("Works") to the Director of Planning, Property and Development 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.

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File:	DAV 122569A/2020D
Appellant:	Jennifer Altemeyer
Applicant:	Alston Properties Ltd. (Bryce Alston)
Premises Affected:	198 Sherbrook Street
Legal Description:	EXC W 8F LOT 257/258 PLAN 49 79 ST JA, hereinafter called “the land”
Property Zoned:	“C2 PDO-1 Nbhd Main” (Commercial Community Planned Development Overlay-1 District Neighbourhood Main)
Nature of the Application:	<p>To vary the proposed “RMU PDO-1 Neighbourhood Main Streets” Dimensional Standards of the Winnipeg Zoning By-Law No. 200/2006 as follows:</p> <ol style="list-style-type: none"><li>1. for the construction of a 5 storey multi-family dwelling to permit the following:<ol style="list-style-type: none"><li>a. a lot area per dwelling of 439 square feet (40.78 square metres) instead of 500 square feet (46.45 square metres)</li><li>b. no front yard instead of 20 feet (6.10 metres);</li><li>c. a north side yard of 9 feet (2.74 metres) and 0 feet (0 metre) instead of 13 feet (3.96 metres) to the principal building and the canopy, respectively;</li><li>d. a south side yard of 5 feet (1.52 metres) instead of 13 feet (3.39 metres);</li><li>e. a rear yard of 10 feet (3.05 metre) instead of 25 feet (7.62 metres);</li><li>f. 16 stalls instead of 30 stalls</li></ol></li><li>2. for the establishment of an accessory parking area to permit no visitor parking instead of 2 visitor spaces.</li></ol>
Exhibit Filed:	<ol style="list-style-type: none"><li>1. Order DAV 122569/2020D dated November 4, 2020</li><li>2. Notice of Appeal filed by Jennifer Altemeyer, received November 23, 2020</li><li>3. Notification of Public Hearing dated December 22, 2020</li></ol>

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- Exhibit Filed (continued):
4. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
  5. Plans, Sheets 1, 3 and 4 dated September 10, 2020, and Sheets 2 and 5 to 9 inclusive dated August 25, 2020 for File DAV 122569/2020D
  6. Parking Study dated April 3, 2020
  7. Report from the Urban Planning Division dated October 19, 2020
  8. Inspection Report

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

### **REPRESENTATIONS:**

In Support of the Appeal:

In Opposition to the Appeal:

For Information on the Appeal:

For the City:

Moved by Councillor

That the report of the Winnipeg Public Service be taken as read.

Moved by Councillor

That the receipt of public representations be concluded.

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Moved by Councillor

That in accordance with Subsection 247(3) of The City of Winnipeg Charter, the Variance,

- (a) ☐ is consistent ☐ is not consistent  
with Plan Winnipeg, and any applicable secondary plan;
- (b) ☐ does not create ☐ does create  
a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) ☐ is ☐ is not  
the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) ☐ is ☐ is not  
compatible with the area in which the property to be affected is situated.

Supporting Comments:

Moved by Councillor

That the appeal be allowed / allowed in part / denied and Order DAV 122569/2020D be confirmed / cancelled.

Moved by Councillor

That the decision of the City Centre Community Committee be / not be concurred in.

Moved by Councillor

That the public hearing with respect to this appeal be concluded.

## ADMINISTRATIVE REPORT

**Title:** DAV 20-122569\D – 198 Sherbrook ST.

**Issue:** For consideration at the public hearing for a Variance to permit the construction of a 5-storey, 28-unit mixed use building.

**Critical Path:** City Centre Committee as per the Development Procedures By-law and The City of Winnipeg Charter.

## AUTHORIZATION

Author	Department Head	CFO	CAO
A. Ross, RPP	n/a	n/a	

## RECOMMENDATIONS

The Urban Planning Division recommends approval of the application to vary the proposed "RMU" "PDO-1 Neighbourhood Main Streets" dimensional standards of Zoning By-Law No. 200/2006 as follows:

1. for the construction of a 5 storey mixed use dwelling to permit the following:
  - a. a lot area per dwelling of 439 square feet (40.78 square metres) instead of 500 square feet (46.45 square metres)
  - b. no front yard instead of 20 feet (6.10 metres);
  - c. a north side yard of 9 feet (2.74 metres) and 0 feet (0 metre) instead of 13 feet (3.96 metres) to the principal building and the canopy, respectively;
  - d. a south side yard of 5 feet (1.52 metres) instead of 13 feet (3.39 metres);
  - e. a rear yard of 10 feet (3.05 metre) instead of 25 feet (7.62 metres);
  - f. 16 stalls instead of 30 stalls
2. for the establishment of an accessory parking area to permit the following:
  - a. no visitor parking instead of 2 visitor spaces.

Subject to the following condition(s):

1. That, prior to the issuance of building permits, the applicant must provide the City with the final terms associated with the provision of affordable housing units in the building, meeting or exceeding the affordability targets identified in this report, and thereafter must

follow such terms to the satisfaction of the Director of Planning, Property and Development.

2. That the Owner must submit plans showing the location and design of any and all proposed:
  - i. buildings;
  - ii. accessory parking areas;
  - iii. fencing; and
  - iv. landscaping

on the Owner's Land ("Works") to the Director of Planning, Property and Development 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.

#### REASON FOR THE REPORT

- Variance applications require a public hearing as per *The Development Procedures By-law* No. 160/2011 and *The City of Winnipeg Charter*, section 249.
- The report is being submitted for the City Centre Committee's consideration of the development application at the public hearing.
- Council approved the rezoning to "RMU" in June, 2020 (see below under "HISTORY"). Given it has been less than two years since Council approval of the rezoning, per the Development Procedures By-Law, the subject variances are classified as 'D' variances and are heard by City Centre Community Committee.

#### IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning Division are concurred in, the variance to permit the construction of a 5-storey, 28-unit mixed use building may be approved.

#### FILE/APPLICANT DETAILS

**FILE:** DAV 20-122569\D

**RELATED FILES:**

**COMMUNITY:** City Centre Committee

**NEIGHBOURHOOD #:** 1.103 – West Broadway

**SUBJECT:** To vary the proposed "RMU" "PDO-1 Neighbourhood Main Streets" dimensional standards of Zoning By-Law No. 200/2006 as follows:  
1) for the construction of a 5 storey multi-family dwelling to permit the following:

- a) a lot area per dwelling of 439 square feet (40.78 square metres) instead of 500 square feet (46.45 square metres)
- b) no front yard instead of 20 feet (6.10 metres);



- c) a north side yard of 9 feet (2.74 metres) and 0 feet (0 metre) instead of 13 feet (3.96 metres) to the principal building and the canopy, respectively;
  - d) a south side yard of 5 feet (1.52 metres) instead of 13 feet (3.39 metres);
  - e) a rear yard of 10 feet (3.05 metre) instead of 25 feet (7.62 metres);
  - f) 16 stalls instead of 30 stalls
- 2) for the establishment of an accessory parking area to permit the following:
- a) no visitor parking instead of 2 visitor spaces.

**LOCATION:** 198 Sherbrook ST  
**LEGAL DESCRIPTION:** LOT 1 DASZ 30/2014

**APPLICANT:** Bryce Alston  
 82 George AVE  
 Winnipeg, Manitoba

**OWNER:** 608 BROADWAY  
 Winnipeg, Manitoba R3C 0W8

## HISTORY

In 2014, City Centre Community Committee approved a subdivision and rezoning to the “RMU” – Residential Mixed-Use district and variances, in order to support a 4 storey, 18-unit building with commercial on the ground floor.

That project never came to fruition.

In 2019, the property owner renewed their vision for the site and began a collaborative planning process with the Urban Planning Division toward a new proposal.

The current applicant completed the 2014-initiated “RMU” rezoning process.

“RMU” zoning is now in place on the land, per approval by Council on June 26, 2020.

Given less than two years have passed since Council approval of the rezoning, in accordance with the Development Procedures By-Law the subject application is processed as a “D” variance and is subject to City Centre Community Committee approval.

## DISCUSSION

### CRITERIA FOR APPROVAL

Pursuant to Section 247(3) of *The City of Winnipeg Charter*, an application for a variance with respect to a property may be approved if the variance:

- (a) is consistent with Plan Winnipeg and any applicable secondary plan;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is compatible with the area in which the property to be affected is situated.

## SITE DESCRIPTION

The subject property is located on the west side of Sherbrook Street between Sara Street and Broadway Avenue, in the West Broadway Neighborhood of the Fort Rouge-East Fort Garry Ward.

The site has the characteristics of a Community Mixed Use Corridor under the *Complete Communities Direction Strategy*.

The property is zoned “RMU” – Residential Mixed Use, is 12,276 square feet in size, and is currently vacant.



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



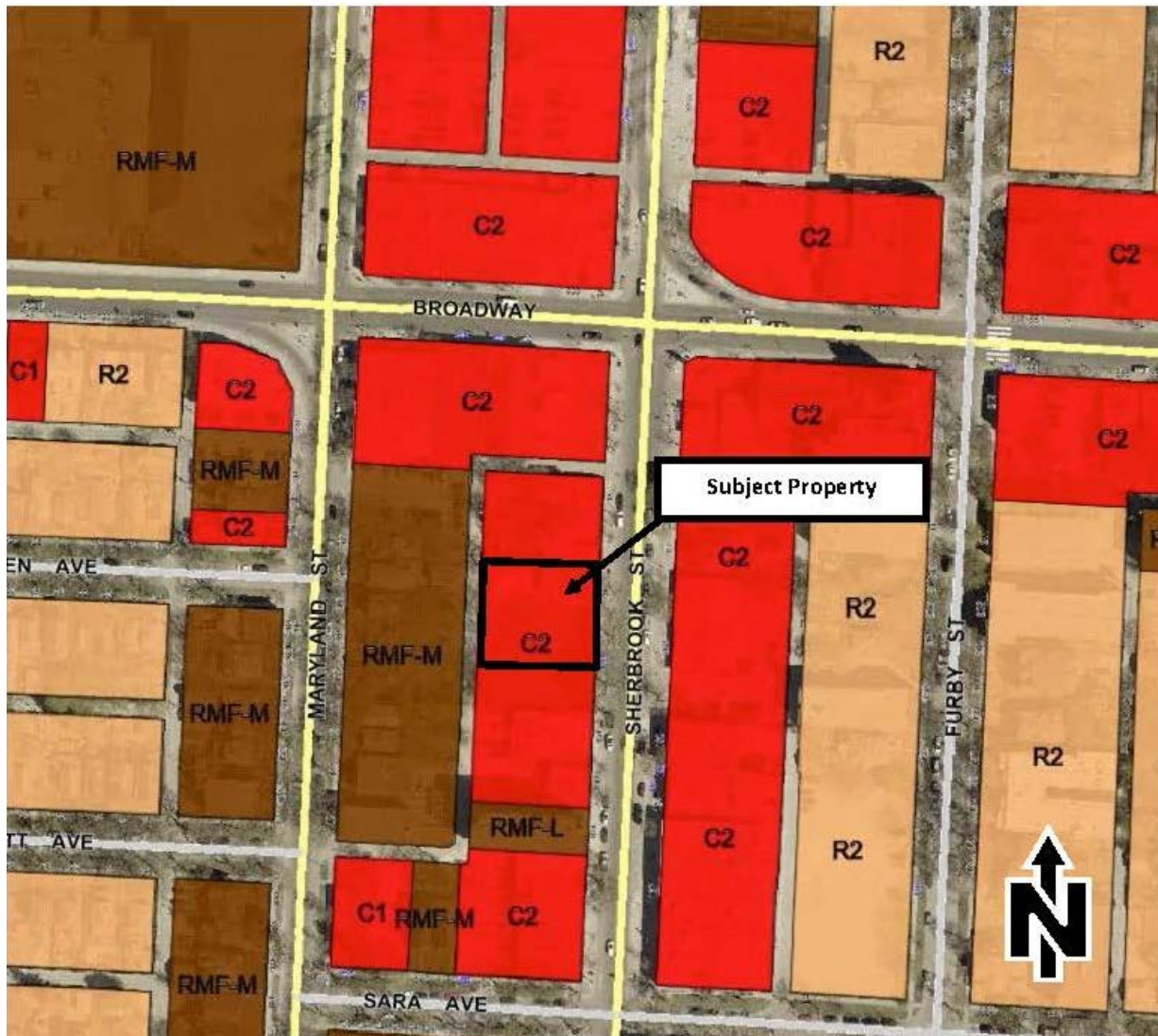
## **SURROUNDING LAND USE AND ZONING (See Figure 2)**

**North:** Commercial Uses (zoned “C2” Commercial Community).

**South:** Commercial (Office) Uses (zoned “C2” Commercial Community).

**West:** Duplex and multifamily residential Uses (zoned “RMF-M” Residential Multiple Family-Medium).

**East:** Commercial (Office) (zoned “C2” Commercial Community).



**Figure 2: Zoning of the site and surrounding area. Although Figure 2 shows the site as ‘C2’ Commercial, it has been confirmed that it was rezoned to ‘RMU’ Residential Mixed Use as of June 2020.**

## **DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The applicant seeks variances for lot area per dwelling unit, yards, and parking in order to construct a 5-storey, 28-unit mixed use dwelling on the subject property.

## **REASON FOR APPLICATION**

### **Lot area per dwelling unit**

Winnipeg Zoning By-Law 200/06 permits a maximum density of 500 sq. ft. per dwelling unit in the “RMU” zoning district. The applicant seeks a density of 439 sq. ft. of lot area per dwelling unit; therefore a variance is required.

### **Yards**

#### Front yard

Winnipeg Zoning By-Law 200/06 requires a minimum of 20 ft. of front yard in the “RMU” zoning district. The applicant proposes a front yard of zero feet, for a portion of the building. Therefore, a variance is required.

#### North side yard

In the “RMU” district, the minimum required interior side yard is 5 ft. plus 2 ft. for every storey above the first storey, for a total of 13 ft. for this development. The applicant is proposing a north side yard of 9 ft. to the building, and 0 ft. to an outdoor canopy, respectively. Therefore, a variance is required.

#### South side yard

In the “RMU” district, the minimum required interior side yard is 5 ft. plus 2 ft. for every storey above the first storey, for a total of 13 ft. for this development. The applicant is proposing a south side yard of 5 ft.; therefore, a variance is required.

#### Rear yard

The minimum required rear yard in the “RMU” district is 25 ft. The applicant proposes 10 ft.; therefore a variance is required.

### **Parking**

#### Number of stalls

The required number of parking stalls for this development located within the Urban Infill Area is 30 stalls. The applicant is proposing 16 stalls; therefore a variance is required.

#### Visitor stalls

The required number of visitor stalls for this development is 2. The applicant is proposing zero visitor stalls; therefore a variance is required.

## COLLABORATIVE PLANNING

The applicant worked with the Urban Planning Division to make some site planning and design adjustments, including:

- The applicant agreed to adjust their plans to eliminate a previous variance for substandard widths for stalls next to a fence.
- The applicant agreed to meet the Winnipeg Zoning By-Law requirement for landscaping and responded by adding trees and shrubs to the Sherbrook street edge.
- The applicant agreed to label exterior façade materials on their plans.
  - The Division communicated support for a mix of substantial materials, that EIFS / stucco comprise only a minority of the street-facing façade, and that the other three facades also have a mix of materials.
  - The Division communicated support for the brick veneer on the ground floor facades; as well as the murals which will add life to the building and streetscape.
  - The current proposed mix of materials meets the Division's expectations.

## ANALYSIS AND ISSUES

### OURWINNIPEG

**OurWinnipeg policy 01-4 Housing, states:**

*Direction 1: Support diverse housing options in each neighbourhood or neighbourhood cluster throughout the city. Relevant Enabling Strategies include:*

- *With guidance from Complete Communities, encourage the development of safe and affordable housing throughout the city.*
- *Support the creation of a range of sizes, forms and tenures of housing. Tools include applying zoning by-laws and processes for approval.*

The applicant has informed the City of an intended funding arrangement to provide affordable housing, confirmed through the following letter from Canadian Mortgage and Housing Corporation (CMHC):

*"The property review is complete and approved, they are just reviewing the profile of the borrowers. I would suspect we will get approval and a Certificate of Insurance from CMHC in the next few weeks".*

The applicant indicates that the following is the intended affordable housing program:

- The total residential income will be at least 10% less than the potential residential income for this project, as determined by an approved appraisal report.
- 6 of the proposed 28 residential units, 21% of the total, will be rented at or below 30% of the median household incomes for the West Broadway neighbourhood.

The applicant commits to maintaining these affordability criteria, through oversight of CMHC, for a minimum of 10 years from the date of first occupancy.

The City requires confirmation of the above prior to release of occupancy permits (see CONDITIONS OF APPROVAL, below, for more information).

The City's support for zoning flexibility regarding parking supply (explained below under WINNIPEG ZONING BY-LAW) provides an incentive for this development to occur, in alignment with the above-mentioned policies of OurWinnipeg.

*Direction 5: Support the integration of specialty housing within residential neighbourhoods, with a particular focus on locations near a variety of transportation options.*

The proposed development represents housing for those on lower incomes as well as those with various levels of mobility (see below under Direction 9 for more on accessibility). As such, the development meets the above-mentioned policy of OurWinnipeg.

*Direction 3: Establish partnerships with the private, not-for-profit and government sectors to provide affordable housing throughout the city, with a particular focus on locations near a variety of transportation options. Relevant Enabling strategies include:*

- *Maintain a collaborative approach to affordable housing, recognizing that the City can play a role by facilitating and providing incentives to other partners.*
- *Encourage new and infill development, as well as the redevelopment of existing properties to incorporate affordable housing that is integrated with market housing.*
- *Promote partnership with housing developers and other housing stakeholders in continually resolving issues related to affordable housing, visitable housing and land use needs.*

The City's support for a reduction in parking supply (explained below under WINNIPEG ZONING BY-LAW) helps enable the affordable housing model, in alignment with the above policies.

OurWinnipeg policy 03-1 Opportunity, states:

*Direction 9: Collaborate with developers, community organizations and other partners to foster an age-friendly and accessible urban environment. Relevant Enabling Strategies include:*

- *With guidance from Complete Communities, encourage age-friendly and accessible new development in existing neighbourhoods.*

Housing with universal accessibility provides options for those living with mobility challenges. It also allows for 'aging-in-place' – an option for residents to remain in their neighbourhood of choice as they move through different stages of life related to age and ability.

The applicant provided the following information (summarized) regarding accessibility features included in the development:

- The building will contain a grade level entrance to elevator lobby serving the apartment floors above, and grade level entries to 3 commercial units facing Sherbrook Street.
- The entrance to the apartment lobby, and entrances to commercial units, will be served by a power door operator.
- The required accessible parking space has been placed closest to the lobby entrance.

- The commercial units will be designed in accordance with Manitoba Building Code requirements for accessibility. This will include accessible washroom on the main floor.
- Doors to bathrooms in units are 36" wide to facilitate access.

The Urban Planning Division is very supportive of the incorporation of accessibility features which help meet the needs of a diverse cross section of community members.

### **COMPLETE COMMUNITIES DIRECTION STRATEGY**

Sherbrook Street has the characteristics of a Community Mixed Use Corridor in the *Complete Communities Direction Strategy*.

Key policies guiding development along Community Mixed Use Corridors include:

- *Promote the enhancement of existing Community Mixed Use Corridors through moderate intensification.*
- *Promote the conservation of traditional commercial storefronts where practical.*

The proposal represents a moderate land use intensification which aligns with the above policy, and which is suitable here given the property is located:

- Directly adjacent to regular and high frequency transit service running north/south.
- Directly adjacent to a traffic-protected bike lane along Sherbrook Street.
- Within walking distance to the University of Manitoba.

The development provides commercial storefronts addressing the sidewalk.

Per above, the proposed development complies with the intent of *Complete Communities*.

### **WINNIPEG ZONING BY-LAW 200/06**

Neighbourhood Main Streets Planned Development Overlay (PDO)-1

The Neighbourhood Main Streets PDO-1 (Schedule G of the Winnipeg Zoning By-Law) imposes limits on the types, and sizes, of particular land uses. The PDO-1 does not impose any limitations on the type or sizes of uses (residential and office) proposed for this building.

### **VARIANCES**

Lot area per dwelling unit

In cases where a property is in either the "RMF-L", "RMU", or "CMU" zoning district, the Urban Planning Division may support density variances at a level suitable within the context.

In this case, the context includes several multifamily buildings along Sherbrook and Maryland, including some recently built, higher-density buildings. Examples include:

155 Sherbrook – built 2013 - 465 sq. ft. lot area/ dwelling unit.

185 Sherbrook – built 2015 - 204 sq. ft. lot area/ dwelling unit.

267 Sherbrook – built 2018 - 260 sq. ft. lot area/ dwelling unit.

The subject proposed density of 439 sq. ft. lot area/ dwelling unit is well within the recently-approved range for multifamily and mixed-use buildings along this stretch of Sherbrook Street.

In addition, the subject requested density variance is relatively minor at 12%.

The Division supports this variance and recommends that it be approved.

## **Yards**

### Front yard

As shown on the plan, one point of the building reaches zero feet from the front property line; the rest of the building slants back providing a front yard of 25 ft. at its largest point.

This is exactly the same condition that exists for 194 Sherbrook – the building directly south of this property, as shown on page 1 1.0 of the attached plans. This condition provides ample space in the front of the building for patio seating and landscaping. The Division supports this variance and recommends that it be approved.

### North side yard

Given the Mature Community context and highly ‘urban’ local development pattern, the Division believes that the proposed north side yard of 9 ft. is suitable. In addition, the north butting abutting property is commercial – a type of use that is not as sensitive to impacts from neighbouring yard reductions. The 0 ft. component of this side yard variance applies only to an outdoor canopy which provides shelter to those entering and exiting the building. For these reasons the Division supports this variance and recommends that it be approved.

### South side yard

For the same reasons as above under “North side yard”, the Division supports the south side yard variance as proposed. Five feet provides sufficient space for a universally accessible walkway connecting the front and rear of the property; and the development immediately south is commercial. The Division supports this variance and recommends that it be approved.

### Rear yard

The rear yard is 10 ft. at its smallest point and enlarges to approximately 35 ft at its largest point by virtue of the angled building design. This results in a large portion of the rear yard being compliant with the By-Law requirement; and in turn significantly reduces any adverse impact of the variance. The Division supports this variance and recommends that it be approved.

## **Parking**

### Number of stalls

The applicant provided a parking study to assist the Division in determining support. The following are highlights of the parking study (summarized):

- 21<sup>st</sup> Century Living – the project is tailored to those interested in walking and cycling, pedestrian friendly urban environments,
- Central Location – The property is within walking distance to high demand activities like downtown, the Winnipeg Art Gallery, Misericordia Hospital, University of Winnipeg.



- Transit and AT Infrastructure Node – the property is on a major transit node as well as overlooking the cycling infrastructure on Sherbrook Street. This will reduce the need for individual car ownership
- Space Sharing – the applicant believes that some residential users may vacate their spaces during the day for the benefit/use of commercial tenants.

The Division supports parking reductions on Sherbrook Street which is a quality transit corridor and contains a traffic-protected cycling lane. Both of these measures support use of modes of travel other than personal automobile.

However, given that the requested parking reduction is steep at 16 stalls instead of (or a 0.53 ratio of stalls per dwelling unit), the Division was clear to the applicant that in order to provide support, we would require a significant amount of the onsite bike parking, as well as one of the following options:

1. A car share vehicle and dedicated stall, or
2. a ratio of affordable units (because lower income residents tend to exhibit lower rates of car ownership than the general population).

The applicant has opted for option 2 above and provided the City with a letter of confirmation from Canadian Mortgage and Housing Corporation (CMHC), as noted above under “OURWINNIPEG”

In summary, the Division supports the proposed parking variance for the following reasons:

- The development provides affordable units, which is associated with much lower rates of car ownership.
- The property is located directly on a transit quality corridor.
- The property is located directly on a corridor with a traffic-protected cycling lane.
- The property is within walking distance of the University of Winnipeg.

#### Visitor stalls

The applicant is going above and beyond on accessible parking by providing a wheelchair van-accessible parking stall that is not required based on the number of units.

In terms of visitor stalls, the Division commonly supports variances where onsite space for parking is at a premium on urban lots, and where nearby street parking exists to accommodate casual visitor parking. Visitor parking exists on both Sherbrook Street and Sara Ave. For the above reasons, the Division therefore supports this variance and recommends that it be approved.

## CONSULTATION

The Division recommended that the applicant conduct community consultation. The applicant provided the following information (summarized) regarding consultation. The applicant states that they:

- Informally discussed the project to many people in the neighbourhood.
- Received a generally enthusiastic and positive response.
- Met with the owners of the laundromat north of the site, who provided them with a supportive response.
- The applicant provided the City with a letter of support from the West Broadway BIZ. The letter states:

*“Having seen the plans, we are excited to welcome this vibrant forward-thinking development that will add (units) to our neighbourhood. It is developments like this that make West Broadway a great place to live, work, and shop.”*

## CONDITIONS OF APPROVAL

### Affordable units

Given that the Division’s support for the large parking variance hinges on a quantity of affordable units being provided, a condition of approval is included requiring the applicant to provide the City with proof of the terms of affordability for the development, prior to issuance of building permits.

### Plan approval

The Urban Planning Division recommends plan approval in order to allow the application and the Division to work collaboratively toward final building and site details.

## REASONS FOR RECOMMENDATIONS

In the context of Section 247(3), the Urban Planning Division recommends **approval with conditions** for the following reasons:

- (a) is consistent with Plan Winnipeg and any applicable secondary plan;  
*In that, the proposal focuses multifamily residential and commercial uses along a Corridor; provides affordable units, and includes accessibility features.*
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;  
*In that, the development provides a scale and form that are compatible with the context.*
- (c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and  
*In that, the parking variance is offset by suitable measures, and other variances are relatively minor and suitable within this urban, mature community location along a major Corridor.*
- (d) is compatible with the area in which the property to be affected is situated.

*In that, the parking variance is offset by suitable measures, and other variances are relatively minor and suitable within this urban, mature community location along a major Corridor.*

## CONSULTATION

In preparing this report there was internal consultation with: N/A

## OURWINNIPEG POLICY ALIGNMENT

The proposed rezoning and subdivision aligns with the Key Direction of *OurWinnipeg* that applies to the Mature Communities Policy Area, which states: “*Enhance the quality, diversity, completeness and sustainability of stable neighbourhoods and expand housing options for Winnipeg’s changing population.*”

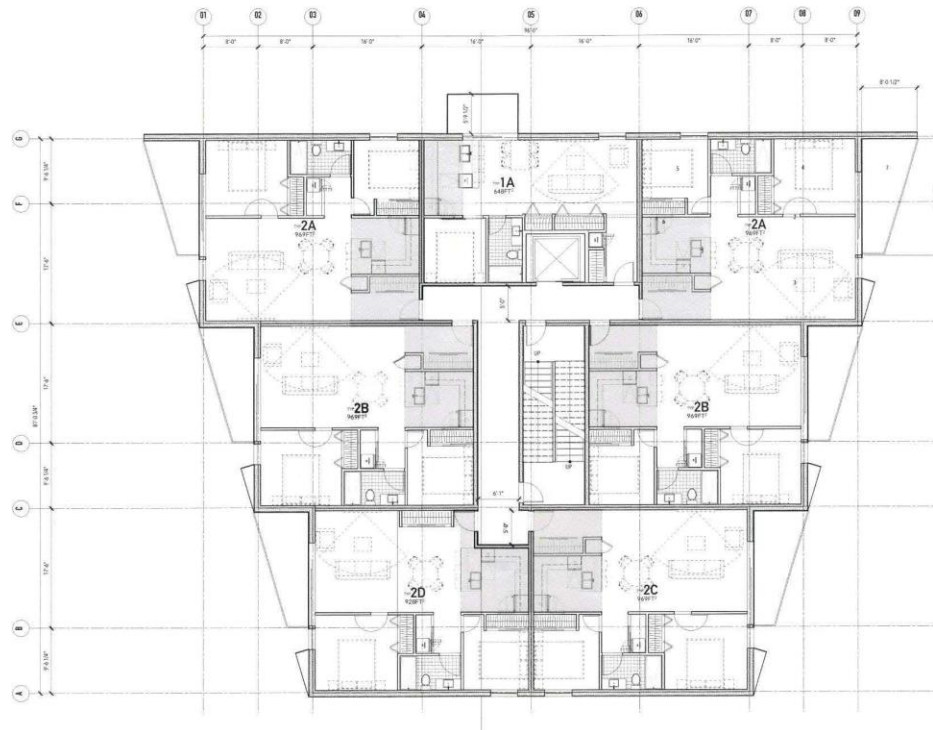
## WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

The proposed rezoning and subdivision complies with the *Winnipeg Climate Action Plan* because the proposed development would increase the residential density of an established neighbourhood.

## SUBMITTED BY

Department: Planning, Property and Development  
Division: Urban Planning  
Prepared by: Andrew Ross, RPP, MCIP  
Date: October 19, 2020  
File No. DAV 20-122569\D






**ZONING AND PERMITS  
BRANCH**  
THIS PLAN IS SUBMITTED FOR APPROVAL  
IN CONNECTION WITH DAN (22589) 000  
SHEET# 2 OF 9  
APPLICATION (SGD.) [Signature]  
DEV EXAM. muln  
DATE Aug 25 / 2020

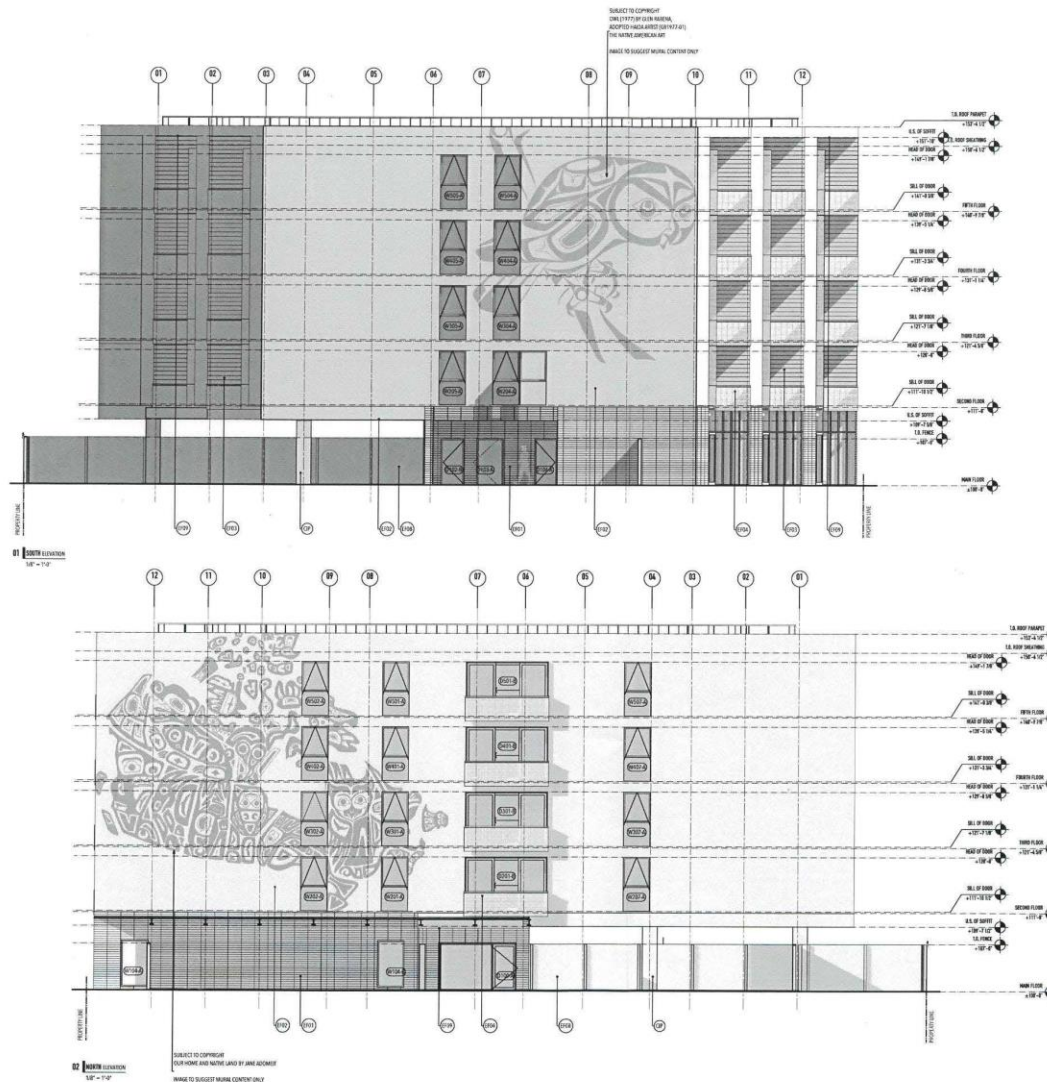
LEGEND  
1. KITCHEN  
2. BATHROOM  
3. LIVING/DINING  
4. BEDROOM  
5. HALL  
6. CLOSET  
7. BALCONY

NOT FOR CONSTRUCTION  
01 2ND FLOOR PLAN  
1/8" = 1'-0"

1819	2020/03/04
 <b>MONTEYNE</b> architecture works INCORPORATED 198 SHERBROOK COMMONS WINNIPEG, MB 198 SHERBROOK STREET 2ND FLOOR PLAN	

**A2.2**





EXTERIOR FINISH SCHEDULE

NO.	FINISH MATERIAL	NOTE
001	3" OF 2" OF BRICKWORK CONCRETE MASONRY VENEER	
002	CONCRETE MASONRY VENEER MASONRY VENEER	
003	FORM REINFORCED CONCRETE MASONRY VENEER	
004	LAKE OF POWDER COATED STEEL WALLING SYSTEM	
005	10" OF 1/2" PRECAST CONCRETE WALLING SYSTEM	
006	FORM REINFORCED CONCRETE MASONRY VENEER	ALL CONCRETE FINISHES TO BE MATCHED WITH OTHER JOINTS

**ZONING AND PERMITS  
BRANCH**

THIS PLAN IS SUBMITTED FOR APPROVAL  
IN CONNECTION WITH DAN 22504 / 2020  
SHEET# 3 OF 9  
APPLICATION (SGD) 3  
DEV EXAM. Y. M. M.  
DATE SEP 1 0 2020

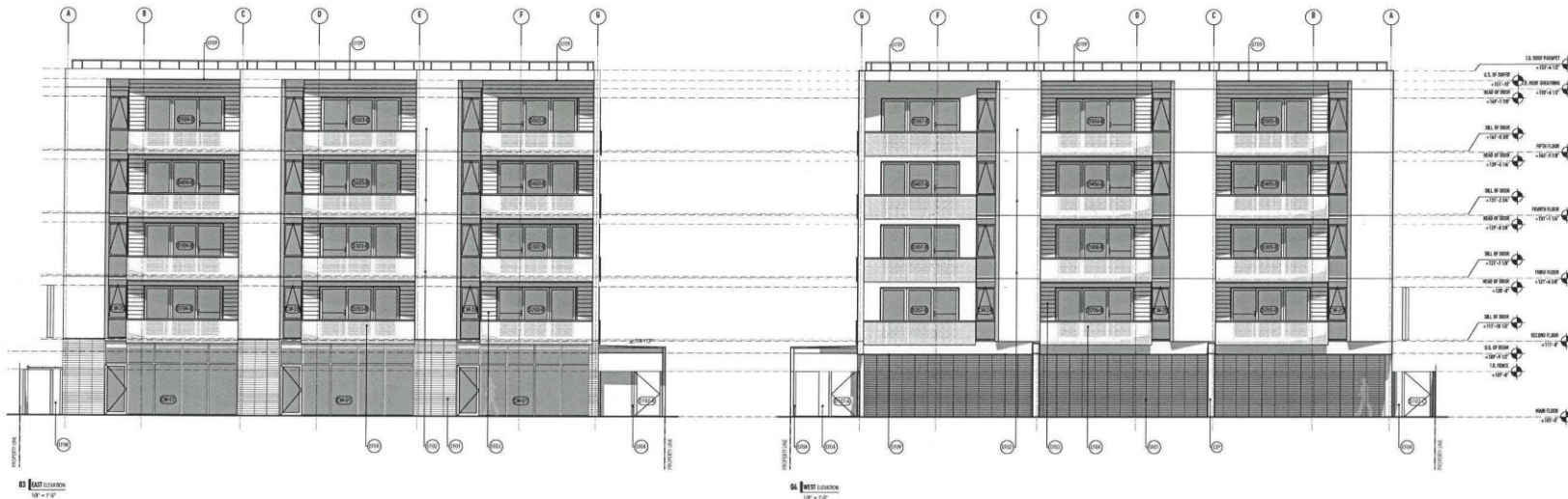
not for construction

A - ISSUED FOR REVIEW		2020/05/04
18/19	2020/05/01	

**MONTEYNE**  
architecture works  
INCORPORATED

198 SHERBROOK COMMONS  
WINNIPEG, MB  
198 SHERBROOK STREET  
SOUTH/NORTH ELEVATIONS

A3.0



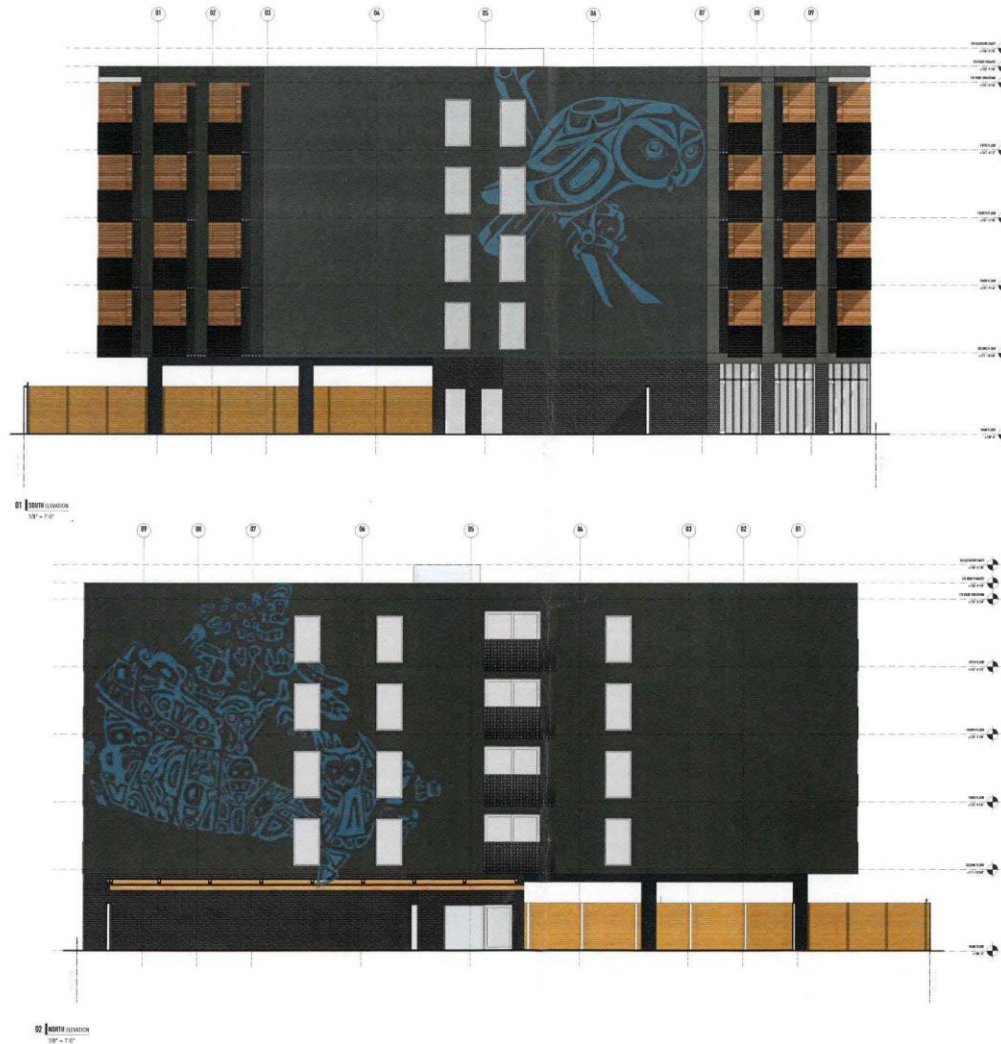
# ZONING AND PERMITS BRANCH

THIS PLAN IS SUBMITTED FOR APPROVAL  
IN CONNECTION WITH DA 122569 / 200  
SHEET# 4 OF 9  
APPLICATION (SGD) [Signature]  
DEV EXAM. [Signature]  
DATE SEP 10 2020

not for construction

A ISSUED FOR REVIEW 2020/05/04	
1819	2020/05/01
 <p><b>MONTEYNE</b> architecture works INCORPORATED</p> <p>198 SHERBROOK COMMONS WINNIPEG, MB 198 SHERBROOK STREET EAST/WEST ELEVATIONS</p>	


A3.1



# ZONING AND PERMITS BRANCH

THIS PLAN IS SUBMITTED FOR APPROVAL  
IN CONNECTION WITH DAY 122507/20  
SHEET# 5 OF 9  
APPLICATION (SGD) [Signature]  
DEV EXAM. Mulin  
DATE Aug 25/2020

not for construction

1819	2020/03/04
 <b>MONTENE</b> architecture works 198 SHERBROOK COMMONS WINNIPEG, MB 198 SHERBROOK STREET SOUTH/NORTH ELEVATIONS	


A3.0





**ZONING AND PERMITS  
BRANCH**  
THIS PLAN IS SUBMITTED FOR APPROVAL  
IN CONNECTION WITH DN 122589/20  
SHEET# 6 OF 9  
APPLICATION (SGD) [Signature]  
DEV EXAM. [Signature]  
DATE July 25, 2020

not for construction


1870	2020/03/04
 <b>MONTEYNE</b> architecture works INCORPORATED 198 SHERBROOK COMMONS WINNIPEG, MB 198 SHERBROOK STREET EAST/WEST ELEVATIONS	

**A3.1**



ZONING AND PERMITS  
 BRANCH  
 THIS PLAN IS SUBMITTED FOR APPROVAL  
 IN CONNECTION WITH DN 27569/200  
 SHEET# 2 OF 9  
 APPLICATION (SGD) [Signature]  
 DEV EXAM. [Signature]  
 DATE May 25, 2020

not for construction

1819	2020/03/04
 <b>MONTENE</b> architecture works INCORPORATED 198 SHERBROOK COMMONS WINNIPEG, MB 198 SHERBROOK STREET EAST/WEST ELEVATIONS	

A9.0





ZONING AND PERMITS  
BRANCH

THIS PLAN IS SUBMITTED FOR APPROVAL  
IN CONNECTION WITH DA 122529 MOD

SHEET# 8 OF 9

APPLICATION (SGD) 3

DEV EXAM. Mulin

DATE Aug 25/20

not for construction

1819	2020/03/04

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**MONTEYNE**  
architecture works  
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198 SHERBROOK COMMONS  
WINNIPEG, MB  
198 SHERBROOK STREET  
EAST/WEST ELEVATIONS

A9.1



ZONING AND PERMITS  
BRANCH  
THIS PLAN IS SUBMITTED FOR APPROVAL  
IN CONNECTION WITH 122564/2010  
SHEET# 9 OF 9  
APPLICATION (SGD) [Signature]  
DEV EXAM. [Signature]  
DATE Aug 25, 2010

not for construction

1819	2020/03/04
 <b>MONTEYNE</b> architecture works INCORPORATED 198 SHERBROOK COMMONS WINNIPEG, MB 198 SHERBROOK STREET EAST/WEST ELEVATIONS	

A9.2



Exhibit “2” referred to in File DAV 122569A/2020D

Letter of Appeal  
in re: Variance Use Order No. DAV 122569/2020D  
in re: Sherbrook St. Community Garden & 198 Sherbrook St.  
Prepared by Jennifer Altemeyer

City Clerk, City of Winnipeg  
c/o Appeals Committee  
Susan A. Thompson Building  
Main Floor, 510 Main St.  
Winnipeg, MB. R3B 1B9

To Whom it May Concern;

I think there are two general complaints to be described within this letter about the errors committed in regards to this Variance application. They are both relatively involved to explain.

First of all, the whole process here, in regards to allowing the Variance application's proponent, Bryce Alston, to assume custody of DASZ 30/2014 has been bad. I think I made that fairly clear at the February 4, 2020 CCCC public hearing when a Request for an Extension of Time to complete DASZ 30/2014 having been made by Alston's architect/project partner for this proposed development, Tom Monteyne, was heard and approved of CCCC, with further SPC< EPC and full council treatments thereafter.

I say it is bad because if Monteyne and his developer partner do not intend to build the project which had been proposed as DASZ 30/2014, then it could not be legitimate to allow them to take over that opportunity. Why this consortium could not have made a fresh application to PPD which resulted in a fresh set of assessments, recommendations, and hearings, I fail to understand. I do not see anything in the material for this Variance application which compares the DASZ 30/2014 specifications with those of Monteyne and Alston's intended development. What we have is, in effect, the grafting of this Variance onto the framework of a design and intention that is no longer to be implemented.

I wished to state a question about that through my representations at the November 2nd, 2020 Variance hearing. It was in a hand-written document that I wrote over the weekend when I knew that printing a copy of any computer composition would be a pre-requisite for me to referring to such a document, at a time when I did not know that I would be denied a chance to make an in-person delegation on the matter, due to Code red- Covid - 19 related restrictions on public access to City Hall meetings. In part 2, or reason 2 of this letter, the

lack of participatory equality to the hearing process, more generally; 'procedural fairness' is more closely evaluated by me.

At the February 4th meeting, and again at the EPC meeting, I urged the committee's voting members to consider asking their legal department for an opinion of whether the intention and accommodation given to the intention by PPD & the urban planning division, is correct behaviour. Legitimate conduct. Proper use of authority and a lawful exercise of powers the planning department has.

I received no consideration on the record of this option, nor of any other of my submissions or concerns, at any of these meetings. I didn't just feel excluded and under-appreciated. I felt that the system is so badly askew and corrupt and truly, in a way, afraid of any sort of dissent or inspiration being even recognized, that there is no way this usage of political democratic authority can truly be in the public interest.

The money and the power are so deeply into each other, to the exclusion of all other interest groups, is what I observed here on these occasions, as on previous ones, and furthermore, those mutually desirous friends are nothing short of *hostile* towards both other forms of expertise, and towards other ways of appreciating what surrounds us, that this prevailing circumstance is both a telling condemnation of the local political scene, and profoundly impactful on the environmental conditions that are occurrent, in respect to the local urban Winnipeg environment.

Every time I am here, I say, you are cutting down too many trees to let these huge buildings 'go up'. There are a lot of reasons that mitigate these proposals, and I think we all deserve to hear at least the short version of a response to these concerns, and a promise to begin to attempt a meaningful form of accountability and a satisfactory degree of transparency about what is being done by whom so as to create such 'favourable conditions' for the destruction of the green infrastructure within our community or neighbourhoods or region.

Yes, it is *our* region, our community. To try to say it is My neighbourhood implies one doesn't have a very good sentiment to invite consideration of and empowerment towards. But it is Your power which has been wielded, in support of the developer's ambition. At this point, there is not even still a smear of melted cheese on the stiff upper lip to betray that an attempt was even made to defend the case of the eco-freak or freaks.

Yes, our good old buddy, the public interest.

You mean, like, the sidewalks and stuff

A Digression follows, then a continuation from the above 'freak or freaks'

I warned against that dispositional style as constituting a form of fascism (in my Variance hearing-filed, e-mail formatted written submission of October 29th or 30th, along with 12 colour photographs (4X6) of the garden in various phases, aspects and timeframes (approx. 2010 through 2019). Because everybody involved with true power and license to 'participate' seems determined to create a parallel terminology for the subject matter here: 'It (the subject property) Is a 'vacant lot', which previously, most definitely FORMERLY, largely by implication within the City's substantive recitals in regards to the subject property, has been 'used' as a 'community garden'.

- If you dislike the portrayal of the City's conduct as in any way tainted by the stain of so negatively valued a term as 'fascism', I can offer no more apt substitution, but I observe that even when I less dramatically accuse the City of bad faith, of pernicious insensitivity, and of erroneous, outcome-influencing malpractice, nobody wants me around anymore.

All they (WBDC hiyeddins, mainly, and a few 'volunteers' or even 'partners' here or there) otherwise need to do is swan about like they have a clear conscience, and, if anybody gives them a chance, roll their eyes in a PTSD- impatient kind of way, and if there is further opportunity provided for them to elaborate, they will probably choose next to complain about how *exhausting* it has been to even *attempt* to satisfy Ms. Altemeyer's *incessant demands* for them to, as they understand it, obey the law, honour their mandate, and both treat and, where not empowered to act, then declaratively value various things differently than they have or appear to have.

Ms. Altemeyer is probably nowhere in sight, when that interaction manifests, but if she were to hear about this at some point in the future, she would perhaps (or ideally in a "best practices" context) describe how it is the case that when she has either responded to assertions of fact made by various WBDC characters or criticized the framework upon which the hides of their policy mandates have been stretched and mounted, they - most recently in January of 2017, as I am reckoning the issue- declared that they would not be participating in the upcoming hearing in the Court of Queen's Bench because it appeared to them that the motion was primarily about Ms. Altemeyer's disputatious agenda with the Province of Manitoba.

- And, if there is further opportunity, perhaps she might mention how, when she pointed out, via her Supreme Court leave application reply materials (Circa August,

2018), that the materials on that motion which materials Ms. Altemeyer herself wrote and filed, mention WBDC over 800 times!! That's to say, not including any time WBDC (or WBCO) is mentioned in a piece of filed documentary evidence for the motion proceedings; it's the number of times WBDC was mentioned in my affidavits and motion brief.

- CF the Writer's Brief for Feb. 4, 2020 Extension Request: See of You can Guess Wut's on for Today" @ pg. 8

If *that person* (ie the hypothetical person conversing with first WBDC and then Ms. Altemeyer) went away from the latter conversation *believing* that Ms. Altemeyer must be very busy at present finalizing her material for the hearing the legal matter has been granted by the Supreme Court of Canada, in regards to her 'failed' interlocutory motion of 2016-17, that would be a case of *mistaken belief*, possibly due to Ms. Altemeyer failing to realize that her listener may be so convinced by the clarity of her rebuttal to WBDC's overt posturing about it all that surely the Supreme Court of Canada would be taking such a profound miscarriage of justice very seriously indeed.

Also possible could be that Ms. Altemeyer deliberately misled this person as to the facts, and was perhaps ashamed or even venally motivated to conceal from them the fact that her Supreme Court leave application was denied. That would be a distinct sort of wrongful conduct, in comparison to a negligent or dim-witted lack of transparency by the speaker of the deceptive information. And in regards to which there is a considerable amount of precedent and legal jurisprudence to draw from to both ascertain the merits of the case, and determine what remedies are appropriate.

What kind of a person is she, really? One might be tempted to ask. And feel a considerable degree of license to do so, to speculate, about the character, motivations or obsessions of a lone opponent. But nobody, *but nobody* wants to explore at all whether the entity of WBDC and/or its former representatives acting in various sometimes key capacities, as 'directing minds' could similarly have perpetrated this type of a fraud, a misrepresentation, a deception upon a vulnerable beneficiary through, generally speaking, their role as legal trustee for the interests in the property as at the time they purchased it.

Compare this [i.e. the pose of WBDC to have lawful authority over the dispositioning of the property and all it contains or supports] with the content of an excerpt from WBDC's own board minutes, from Sept. of 2014, which content typifies several of the wrongs they have aligned the organization to, over this land:

(filed via the August 5th, 2015 Affidavit of Jen Altemeyer, at Exhibit B pg. 11)

## **2. Strategic Review:**



**a) Respecting and Supporting West Broadway's livability and diversity**

.....

**at iv) Update on 198 Sherbrook development** Greg provided some background on the property, owned by WBCO. It was purchased by WBDC in 2001, when it was a community garden in danger of being developed as a parking lot or strip mall. Was purchased for approximately \$31,000 and was recently evaluated at \$540,000. A design charette was held in 2008, and the community participants supported mixed use development for the property...(etc re: partnership with WHS and a claim about a further consultation as of July, 2014, and two identified next steps: one is asking the City for a zoning variance and the other of which (stated first) is approaching the province for funding.)

(end digression)

We are implicitly interested in the fact you hold power. You, the City, You the proponent, and you, yes you, still, WBDC. And the Province, as provider of the \$31,000 and the contract created with WBDC about the property's present status and future prospects. You all hold Power which can and does change our environment - [though as originally drafted, this section of this letter contemplates specifically the powers and acts of the City].

These powers affect where we "live, work and play", as it were, or once were. Formerly worked. Formerly lived, Formerly played, in many instances, 'because of covid', for many of us that are not personally, directly, profoundly interested in the subject matter of the City's decisioning in regards to this subject property. But for those of us who are, we are a group of many, now represented by one delegate, who over many years has chosen to work and to play at this garden, and many others, who experience hardship and lack safe shelter options, that have found a degree of rest, recovery, or other advantages through the fact that this land is what it is, which is much more than a vacant lot, but apparently still as of yet, no kind of stakeholder.

You, the City, tell us -eventually-, within the policy documents that supposedly guide all the City's public-hearing producing decision-making processes, and the day-to-day practices of probably most departments, that the justification for the changes you are imposing (through exercise of your powers) on 'our' landscapes, 'our' social networks, 'our' physical surroundings and so forth is that it's better to make people live downtown all close together than to create incentives {of a positive or negative origin} for them to 'live' (reside, primarily) farther apart from one another, and at a more remote location from the 'urban core' because, when they drive their cars to get to work it creates alot of nasty emissions.

"Well, well, well. what impact does the 'global pandemic' have on these beliefs, as enshrined in the City's guiding policy documents??"

This is basically another question I had envisioned seeking recognition of and response to via the November 2nd hearing. This one is in one of my computer compositions for the committee members to read and consider as part of their decisioning, and those compositions were filed shortly before the start of the public hearing on November 2nd. For clarification, they are enumerated Part 1, Part 2 and Part 4, with the hand-written composition constituting Part 3.

\*

&

From this point onwards we are in Draft 2 territory. It is Sunday, Nov. 22, the appeal letter is to be filed by end of business tomorrow. I have been very greatly hindered in making time for a full and purpose-built treatment of the issues I think the appeal should focus on, as I have been seriously and vexatiously beleaguered by my landlord, since the same time as the Public Hearing Notices for this Variance application were posted.

So one approach may be to leave the above version, as forwarded to City Clerk Kate McMillan on Friday, Nov. 20th, as my statement for the time being, and then provide additional materials within the submission- filing period for the appeal.

I think it is not too early, however, to re-raise the lack of access to the City's public hearings which I was affected by at the time of the November 2nd hearing. The above stating of the first issue (above para. "I wished to state a question...") provides a sketch of the facts which doesn't describe the impacts on me of the fact that the Nov. 2nd meeting was closed to the public, nor mention that I was unaware that I was not going to have that opportunity (due to the introduction of a code red status Public Health Directive to come into affect on Nov. 2nd).

Therefore the below discussion, somewhat similar, perhaps, to what I had in mind for "Part 2" of the appeal letter when I first began writing on Nov. 10th, provides more specifics that are not literally directly pertinent to the Variances sought by the developer/proponent, but without which particulars it seems very unlikely that the City will be looking into how to alleviate the undue burden the present code red/pandemic restrictions, as implemented by City Hall, of which the writer here complains.

That I was sent an e-mail to 'let me know both this change of prospects for in-person delegations, and in Committee Clerk's view, 'my options' for other ways to participate, was not a sufficient notice for me to be duly advised, as I was not able to check the e-mails over

the weekend because the public library closed 'early', by City administrators, in advance of the Nov. 2nd code red kicking into force and effect. This was certainly prejudicial as a 'surprise' for the opposition delegate.

But it is not the only reason I bring it up.

Rather, the bigger picture here is that the City is continuing to undertake its most inclusive and democratic procedures with such a reduced level of accessibility to those processes for those citizens and stakeholders who are either or both not tech-savvy, or not tech-enabled. I am in both of these categories.

Does the City ever wonder who's voices they are not hearing from, through the already low level of supportive infrastructure to enable marginalized residents and stakeholders to speak truth to power? (Which I experienced the reality of in connection with the initial hearings about DASZ 30/2014, and sought some accommodation upon, unsuccessfully)

As the pandemic grinds on, is it not becoming increasingly apparent that what might be excuseable for a few meetings over a short period of time should not be allowed to continue with no interim measures to restore in some way the accessibility by truth to power. We, the dis-enfranchised.

It is important that the pandemic never be used as a pretext for any restrictions on civil rights or due process which are not inescapable, unavoidable, purely necessary. Many solutions may be found, but I think an obvious one is that City Hall provides delegates with a sort of on-site isolation chamber, where the perceived or actual increased risk of covid transmission can be treated with increased mitigation. Just like how the restaurants and many other retail businesses are required or encouraged to perform more intensive sanitation of high touch areas.

At the Courthouse, all people entering the building have their body temperature assessed, seemingly non-invasively. These two protocols would I think be highly effective in restoring opportunities that are quite fundamental to the City's public hearing procedures and intentions.

When I arrived to City Hall the morning of November 2nd, I went first to the Clerk's office, to try and get my files transferred from my flash drive, which was still necessary because these discussions had been 'completed' by me only as of the weekend, on my laptop and could not be printed or sent electronically by me from home. I was denied that accommodation by Kate McMillan, committee clerk.

Apparently the justification here is that the City is afraid their computer may catch a virus from my flash drive. This is ironic, given the alternative course of action Kate's refusal

necessitated I embark upon, in order to ensure that my prepared text files could at least be added to the file in time for 'consideration' by the Committee's councillors.

I knew there was a UPS store in Winnipeg Square, but I knew or suspected that having them send my files would be the most expensive way to do it. I remembered there were possibly two options in Market Square, including a copy centre along McDermot, which I found no longer exists. So I went to the UPS store. It wasn't due to open until 10 am.

The information I was initially provided by Kate upon receipt of my advisement I wished to be a delegate at this meeting was that I must file all my material before the start of the meeting. The meeting convened at 9:30 am. Kate had advised me on the morning of the day, at Clerk's office because I asked her, that I could file it anytime up to the commencement of the hearing for Item number 4. When I then replied that her e-mail indicated something else, she offered no comment, clarification, denial, or other acknowledgement of my statement on the point.

I had at that time, about a free half-hour before UPS could be of any possible use to me. I considered the fact that I was literally surrrounded by thousands of individual points of internet connectivity, here in the downtown of our thriving metropolis on a weekday morning. Surely I could find a shop or other business that would be willing to come to my aid. No luck, the point being, though, that I was being put in a position to try and accommodate the lack of accommodation by initiating numerous additional, albeit largely brief, contacts with other people on the very morning of an amplified pandemic status. How brainless, selfish etc am I??

So I had no success with any of that and was back at UPS by about 9:45. There actually was both a staffperson and a customer in the shop when I arrived, but they were clearly busy with that customer's projects, so I could only wait my turn. The outcome was fundamentally restorative, but it also was fairly expensive; printing out for myself a copy of each filed document for the Variance hearing, and forwarding the same files one of those printed out was a wrong preliminary draft but fortunately the file sent appears to be correct) cost around 20 dollars.

At this point, I didn't even yet know that I wasn't going to be allowed to make an in-person delegation: Kate saved that disclosure for when I then presently returned to City Hall to await the hearing of Item # 4. I left very disenheartened, after ensuring that Kate had actually received my files from UPS which she initially advised me was not the case. Apparently they had gone into her Junk Mail file. So a good thing I was there and ready to make sure this much had at least been accomplished.

- and perhaps I should add a brief comment about my state of mind on Monday

morning: when I found UPS store not open, the thought of losing a whole half-hour of preparation time was a pressing consideration. I wanted to re-gain the time I was here already losing, (ie, since Kate had refused to upload my files from my flash drive) to finalize my materials for discussion, including re-writing the messy first draft of Part 3 once I was back at City Hall. I didn't know how long it would take to get through the agenda, and Kate, when asked, provided no estimate. Without a computer terminal I couldn't even review how many delegates on what sort of matters Items 1-3 consisted of.

- this is additionally why it mattered to me to get this sorted out and get back to City Hall: I still didn't realize that I wasn't going to be able to make in in-person appearance.
- and I note, the lack of notice effectively prevented me from making any submission along the lines of the present discussion a component or preliminary matter within my formal, filed submissions. Certainly I did not have the requisite fortitude to embark upon preparing a hand-written description of the impact this exclusion was having on my capacity to fully and meaningfully participate in the hearing. As reported above, I was seriously disheartened. In my state of nervous and mental exhaustion I could find no betetr thing to do then go home and collapse, in context of how I had an eviction proceeding scheduled for the following morning, in connection with which I was also facing major difficulties arising from participation and tech angles.

As of today, Nov. 22nd, I still have not had a chance to review what transpired at the Nov. 2nd hearing. This affects significantly what I can appreciate may be needful to do in regards to submissions on the appeal. Without the present clarification, it might appear as though I am simply reluctant to acknowledge the statements of the proponents of the Variance because I have no meaningful reply thereto. But this is not the case, and I expect I would detect plenty of further axes all ready for grinding, if and when I can obtain access to the recordings of the Nov. 2nd meeting.

My present internet access consists of taking the bus to Staples and paying 30 cents a minute for internet connectivity. I have already spent \$60.00 on Staples copy centre services, and approximately half of it on internet computer time, since November 10th. Because of the above-mentioned conflict with my landlord, which is advancing through the stages of a de novo appeal process, very little of that money has been spent preparing for the Variance appeal matter.

As in regards to finding alternative recourse on Nov. 2nd, my present dependency involves

alot more exposure to others, with less viability for contact tracing, should the need arise, then would exist if the City were providing in-house measures to facilitate, support, enable and provide residents to both assess City-produced documents, (including policies, other meetings, administrative reports, etc., and to get their views and other information before Council (or other!) decision makers.

My own troubles this past month well-illustrate that the existing access to an hour of free computer time at a public library per day is not enough to effectively prepare for a matter of this complexity and significance to the delegate. To be limited to an hour a day means that each venture involves either a long walk downtown everyday or bus fare one or two ways, or skipping a day altogether. These are not obstacles that most proponents of development schemes are similarly impacted by.

As well, arguably, my own health is adversely impacted by being placed in this position, and furthermore, the appearance that I am (or merely might be) negligently and selfishly disregarding public health orders with all this 'unnecessary' to'ing and fro'ing could adversely impact my status in less official channels of information sharing and opinion contexts.

But I explain this as a context of significance in terms of how I am hindered to fully and fairly participate in the City's public hearing processes, and ancillary information sharing resources. For example, the City Clerk's office formerly had a public access terminal where interested persons could review City informational databases, including DSIM, though I don't know if that provision ran to allowing direct access and playback of handsard recordings, because I never had that as a priority on previous occasions when I have used that terminal. It was shut down as of early March, I believe, 'because of Covid' which I know because I wished to use it in preparation for the March 10th EPC meeting.

I confess I am loathe to commit such personal details of my various troubles to a document that by its very nature will become a matter of public record. But I fail to see how else I can put these issues before the relevant authorities without including them here. There is still time, I think, for the City to better enable my fuller participation in the process than was provided and or available on Nov. 2nd. Without all the dire hassles associated with staying housed over the past month, I would probably have detected some alternative way of suggesting such a thing, but I haven't, and I really only concluded that basically I couldn't afford to not include this issue in this letter upon further consideration of ths situation this very day or so.

"Part 3 of this appeal letter"

"Variance appeal considerations - Other"

Talk about an inauspicious start to a discussion of the Variance application, proponenty and prior decision here under presumably, more directly mandated consideration by this Appeals Committee!!

And, but, a material lack of procedural fairness may vacate a decision, in the appropriate case, and is therefore best identified early so it can be given preliminary consideration, before a flawed process is further evolved or even technically concluded, with a likelihood of further appeals to follow.

Similarly, the lack of recognition of opposition data, (community garden vs. vacant lot, beneficial vs. legal owners, etc, general subject matter of above letter's part 1 components.), pointing to a fundamental disregard of a delegate or a class of delegate's inputs to the public hearing process, is not dissimilar to a charge of bias and unbalanced discretion-abusing practices by the decision makers, and is therefore also not inappropriate to treat as a preliminary concern, I believe, in a legal sense.

This may be a good point at which to start, in fact:

The City has been given plenty but plenty of information and submissions from me which I urge them to be cognizant of the legal implications of - particularly so via the judicial review proceedings, and particularly so in context of Monteyne's takeover of DASZ 30/2014, as of Feb. 4, 2020 CCCC meeting.

I begin to discern that what is fundamentally preventing the City from treating my inputs more considerately is that the City has created a whole set of rules and procedures which they apply to any given set of goals or data, in regards to which "the rule of law" is practically an extraneous consideration. They apply, rather, the 'rule of regulation', and therefore have no need of the rule of law.

Perhaps this sounds like an outrageous overstatement of a controversy, but I don't think it is, when considered in the specific and full history of the attempts made to save this garden from various competing and inconsistent goals and interests. That many other examples from the City's public hearing records exist I have no doubt of, but they are not on today's agenda.

An important aspect of what falls between these two stools, I think, is the truth. The City is content to work behind the scenes with developers and not include any other stakeholders even to 'notice' them that their interests are being threatened by those consultations and negotiations. Hence, for example:

- the land is a vacant lot.
- The developer claims to have no understanding of why the original DASZ 30/2014 proposal was never 'completed'. [more discussion in Document 51]
- Monteyne is 'the developer', suddenly, within the administrative report by A. Ross for the February 4, 2020 meeting. [Cf the writer's '..Guess Wut's on...' brief @ pg. 2, (admin report 'HISTORY' excerpt) for the date, January 16, 2020] That's a way different status then being identified as the proposed new developer, or as the proponent of this request for an Extension of Time for DASZ 30/2014.
- The proposal is reportedly 'consistent with' the Winnipeg Climate Action Plan, for crying out loud of pete's last sake, because it 'will increase residential density on a mixed-use corridor'. [Cf Ross Report for Nov. 2nd CCCC @ pg. 19]
- The proposal is deemed to be a major step forwards (for eg the Ross report for Nov. 2nd, the letter of support for the project filed for that meeting by the WB Biz, and the supporting comments of the committee members) because it intends to provide 6 units of market rate housing, which is repeatedly described as 'affordable housing', without the actual monthly cost that category of housing consists of ever being specified for the public's consideration and possible response. Sounds good, don't it?
  - CF Document 51, Part 4 of 4 in re: the supporting comments, generally.

In various filings for the judicial review I discussed how WBDC is breaching its' equitable obligations to the garden, gardeners, and garden-based stakeholders of various kinds, by trying to convert the interest in the land from having that origin or context to a totally different beneficiary; affordable housing clients. This is a case of conflict of interest, of trying to 'serve two masters', and even a case where to purport to represent such interests becomes a pathway towards other tangible or intangible gains being realized by the 'servant', advocate, trustee.

- CF: ... "Guess Wut's on.." Brief at pgs. 37-39/40, 48-52, and most specifically in regards to substituting one beneficiary for another: 53-54.
- My present plan is to attempt to electronically file the brief for this appeal, so hopefully it is convenient to access for the Reader.



But I think the same point is as apt to make of the PPD and the Urban Planning Division. It comes back to my intended Part 3 submission, still nowhere yet upon the record, that the approach taken by PPD to evaluating the suitability of various types of proposals really frequently lacks any recognition of extant green infrastructure. I perceive within the policy documents that these values are recognized and some level of 'should-ness' is declared in regards to how these assets and values are entitled to consideration, inclusion, and preservation.

- cf also 'Document 51 for more about this sort of problem, as well as the Court's version and deployment of a disregarding and omittive, 'cherry-picking' strategy circa the Guess Wut's on brief circa. appeal grounds excerpts from that decision at brief pgs. 28/29- 36.

SO the planning department has all these detailed schedules and calculations about how much density how much parking which kind of building materials, and so forth. But they haven't got hardly any similar guidelines- regulations, that correspond to the policy declarations about the urban forest, ecological assets, community greenspace etc. SO the balance is totally lacking from right out of the starting gate. Instead of "taking everything into consideration", the planning department (or UPD)selectively emphasizes and relies on development-related regulatory schemes, and that hand claps noisily away, somehow, in the void where the hand representing the incompatible intersts and assets should be, to push back with the weight of its' own recognized stakeholder interests against the ambitions of development proponents.

I think I have already identified a few key examples of this in an earlier discussion, and above, in the bullet point list I mention the climate action plan endorsement.

Another obvious one that I referred to and challenged for Feb. 4th CCCC consideration of the Monteyne takeover Request, at least on my copy of his Report, is that he advises there that consultation was "N/A" This position has been enlarged upon seemingly for the Nov. 2nd report, as what is now stated as the potential determination is whether there has or should be any 'internal consultation' (ie. with other City dept.'s), in which case Ross still thinks the answer is that it is not applicable.

- more discussion in Document 51; cf also the Guess Wut's on for Today brief at pgs. 9-10 for a copy of a pamphlet I produced in 2013, which provides 'more' details about the history of the garden then what is either provided by the PPD or proponents, and also not possible to myself do, at this point, within ten minutes of face time with committee members and others.
- Cf also an excerpt via transcript of my submissions to CCCC on dec. 9/14 within the Hey there, Pal EPC brief at pgs 4-5, which became a key point (among many) to

substantiate that the equitable fraud position was and is discernible at the City's public hearings on DASZ 30/2, when that possible limitation on my recourse to the Court's for 'a second opinion' about it ALL was proposed and largely adopted by the Court via the 2017 motion decisional product, and disregarded by the Court of Appeal in April of 2018 as a possible deficiency of thoroughness by the motion judge.

- in case the above is not clear, they said the application for judicial review did not support the relief I was now pursuing. That determination by the motion judge as to the facts lacked any reference to my submissions on that question, of which this kernel of evidence was but one available component. But I prioritized it for the appeal, including at the oral hearing of the appeal.

I think I should here identify that the obvious problem I am struggling with - to get all this information before the actual deciders of a matter in a public hearing setting-, is that the work I am asking those authorities to do should properly have been delegated to PPD, who could then explore, analyze and assimilate those inputs into the administrative report product.

•

To continually be excluded and even deliberately deceived about where a 'possibility' is 'at' is really not fair to someone who genuinely deserves to be recognized as equitably engaged in the subject matter, and a legitimate stakeholder in any land-use evaluation process.

- CF early discussion -pg. 1-of Part 1 of my filed discussions for Nov. 2nd, 2020 meeting: Title on first page is October 29 assessment of the Monteyne proposal
- CF also '...Guess Wut's on...' brief @ pgs. 55-58, also cited in Part 3 of Doc. 51
- further cit's legal doctrines of various kinds; 'ripeness' for litigation or pre-lit. action or counter action, procedural fairness, fiduciary obligations, etc. Equitable fraud, constructive trusteeship. 'Fees' and 'licenses'. etc.

So my point for this Variance appeal is simply: how can the committee believe that the process this Variance application has been 'subjected to' is a satisfactory one, given, for one thing, the myriad other benefits this land is capable of providing, has a history of providing, and which have probably only increasing importance, or 'weight', in a pandemic ecosystemic context and also in a 'commercial' real estate/ business climate?

There is nothing like it anywhere else in the City, and These Guys want to destroy it??

This is in no way the time {where have I heard that lately??} to write off one of the last significant green buffer zones in the neighbourhood. Rather, I suggest, this is time to look at

'creative' ways to re-purpose un-needed and surplus commercial buildings, including smaller scale retail business premises that are not going to survive the new pandemic economy.

- There's already a ton of vacant commercial space in the City, so let's use our heads and turn some of it into both emergency and transitional shelter accommodations.
- Yes, this will require some oversight, some co-ordination, some planning and some money. But hey, the buildings are just sitting there, already or presently vacant, and the homeless are legion, and the pandemic rages.
- 'Lots' of people in the City own a second, 'vacation' or cottage home that typically sits empty all winter. How is this the highest and best use of these lands?? More of them than the homeless, at least.

I notice that, 'during the pandemic';

- construction and renovating entities are not restricted from carrying on their businesses, and this is;
- regardless of who may be stuck at home unable to 'responsibly' evade the disruptions often attendant upon such major infrastructure initiatives or at least limited in how to do so here to embark on a solitary outdoor ramble may be unsafe in various ways. AND not so feasible here in the winter-time!! Especially for those of us without oodles of cash or credit to kit ourselves out in top quality warm winter outerwears.
- So these development and building types (new-build and reno scenes) and other heavy construction sectors of the local and broader economy are already continuing to be 'allowed' to earn money and fulfill their objectives where so many others are thwarted and left with a short term cash benefit, if they are so lucky.
- So, if we need to find a new economy for people to re-train and serve in, renovating existing buildings to serve new purposes, since the market economy is no longer well-able to fill those spaces, seems both feasible and appropriate.

&

The value of community greenspace in the new pandemic environment cannot go un-audited, although that's exactly what all the players here seem determined to do. That's a sign of the unreasonability of the treatment, in my opinion. This garden has been here for three decades, people. The world over, including the City, province and nation wide, urban greenspace and infrastructure -trees, lawns, hedges, suburban pockets of undeveloped lands, urban -adjacent agricultural lands, etc., have been in sharp decline.

Because of the largely unregulated densification of urban built areas. Huge box stores,

greatly increasing volumes of both personal vehicle traffic and heavy vehicle/shipping distribution traffic. Now, 'during the pandemic' {when's that on until??} many more purchases are being made on-line, and third-party or retailer vehicles are driving all over the place to get those products to people, to take up some of the slack the 'general slowdown' has resulted in. [Y'know wut I'm Sayin,??]

& now for the really far out stuff.

My belief is that the signs of an immanent and already in process total collapse of the earth's/global north's ecological resilience include the appearance of the Covid 19 virus, as well as the intensification of its' spread. All the talk about a solution has been focussed on the idea of a vaccine. That's dumb, in my opinion. We need to clean up the mess we have made, of our environment, including our air, because the symptomology of Covid 19 is that it is an airborne virus that most severely and permanently damages the lungs and other respiratory physiology. A vaccine in no way addresses or resolves the level of saturation within the environment of a deadly virus. Stop buying it, people!!

Another theory I have is that the dependency of Canadians and many other global north regions are going to be suddenly severely impacted by the extant and increasing gaps in the ozone layer, meaning those same gaps, ... {possibly, or perhaps different ones, occurring where nobody is officially looking for them, like over high-density human settlements of a late-anthropocene ilk} ...that are presently enjoying the reputation of significantly increasing the global mean temperature.

This because, as I understand the science, more sunlight and more solar radiation, possibly, are reaching the earth because the ozone layer's usual functions and sufficiency form a barrier to much of the more harmful potential impacts of as amazing a device as el Sol, are being rendered less effective as the amount of ozone layer decreases. You got that?

What I think seems as likely to happen (though I lack the scientific credentials to substantiate or support my opinion, admittedly) is that these holes in the ozone layer are opening up the planet to huge quantities of not only high intensity solar stuff, but also, "deep-space" coldness.

Imagine the impact on the global north of an inescapable hole or holes in the global window pane through which freezing cold temperatures wreak havoc the planet has never in its anthropocene history experienced? Like, wow, people. For one thing, there is going to be a major revaluing of anything real estate related in terms of 'location, location, location!!

I am not here to try and blame this person or that entity today. I am trying to stop a completely disastrous escalation of the war on Nature that Monteyne's proposal constitutes. If the topics I have covered herein do not appear to entirely or sufficiently speak to the exact Variances Monteyne has requested and the CCCC endorsed on Nov. 2nd, the reasons for that are I think generally spelled out above, or in my early submissions on this file since the start of 2020.

- A further reason for it is the content of the Supporting Comments from the November 2nd hearing and decision. This topic is covered in the last part of "Document 51"

Namely, the process has been bad, and this Variance cannot properly be grafted onto the DASZ 30/2014 proposal. Whether the present Variances are suitable ones to a different proposal with some superficial -very- appearance of 'consanguinity' with DASZ 30/2014 is not a question that should even be getting asked.

- Trees, like the ozone layer, are 'needful things' in the wway another skreeking five story RMU built by these goofs can never, ever compete with, you dig??

There has been already a ton of 'prejudice' [disadvantage, loss of opportunity, less formally] for me in 'keeping up ith those guys', in terms of even ascertaining what the status of 'the land' is, never mind, what *my* options are, etc, at various times, and this is consistent all throughout the process of WBDC's advancing of its development-directed agendas for the land. This was an issue with WBDC before during and after the DASZ 30/2014 hearings, and it was 'proofed' in context of the first interlocutory motion hearing.

- There is really nothing in the Nov. 25th, 2015 reasons for decision that even comes close to that angle of the case's actual parameters. It's one of many long and high walls. But there is the real vacant lot around these parts, I daresay.

&

The pandemic and my own lessening degree of access to needful tech to support my research, and the seed money for filing projects, have very adversely impacted my capacity to continue this fight. As a sidebar, it might be worth pointing out that those hindrances have not prevented me from continuing to invest hundreds of hours three seasons a year in directly caring for the garden and being a living presence upon the land, which has tangible impacts on community connectivity, building, safety and so forth.

So where I can't always investigate every by-way I discern, I continue to "do what I can" to the best of my ability. Rather like the PPD and the developers, but they have alot more

capacity, in the what Can we do here? department then I do, it appears.

Finally, the initial files I sent to Kate for Nov. 2nd (consisting of 12 images of the garden) should not be overlooked by the Appeals committee panel of deciding councillors. They help to show the various specific green assets this vacant lot consists of, and there are a few specific comments in the texts for those three files, to help communicate the relevancy of what the pictures evidence. Some of the images are from long enough ago -ie 2010- that what is pictured is not substantially still today in evidence. Most of those alterations are not permanent, the exception being I think mainly with regards to the stand of pinetrees at the southeast property line with Monteyne's building, which they took it upon themselves to cut down in the fall of 2014. Which historical event we will leave as a story for another day.

I finally plead in all sincerity for an absolute rejection of the findings of the CCCC on these Variances, as the result of this Appeal.

The latest information I have received on the 'status' of Monteyne's development ambitions is that the project is expected to be 'shovel-ready' in the spring of 2021. [the source is a recent WFP article]

Now they said that, more or less, in January-Feb. of 2020, as the prospect for spring-summer of 2020, and conceivably, they could go in there and cut down all the trees and thereby completely eradicate much of the land's extant ecological benefits without ever then proceeding with the construction itself.

So, 'we' really need to prevent them from getting into a dispositional position whereby they can apply for and obtain the permits from the city to permit this development/destruction to proceed. I intend to do what I can to prevent them from gaining that opportunity regardless of this committee's rulings on these matters, but I could be looking at running out of housing very soon, and I'm still out of employment and earned money to live on, so I'm not able to rate my chances at good or very good, even without reviewing the files to check what the Courts have previously determined about any of it.

So thanks for reading all this, and hopefully all the rest, and if all goes according to plan, I'll be adding some more specific submissions before the appeal hearing, for example tying all the City policy statements to my position on the issues herewith, and I was hoping to go over the Nov. 2nd Ross report with a finer toothed comb than I have yet found time for.

Yours Truly;

Jennifer Altemeyer

## RE: Scan photos of Sherbrook garden 2 of 3

**From:** Jennifer Altemeyer  
**Sent:** Friday, October 30, 2020 12:28 PM  
**To:** McMillan, Kate <KMcmillan@winnipeg.ca>  
**Cc:** Jennifer Altemeyer  
**Subject:** Fw: Scan photos of Sherbrook garden 2 of 3

**\*\* EXTERNAL EMAIL: USE CAUTION \*\***

These images confirm some of the comments sent in the first set of 4 images. You see here as well how entirely the garden occupies the land. **This is not a vacant lot.** It is absurd to permit this fiction to be relied upon to ignore the reality. By changing the land's status, and undermining advocates' and gardeners rights, there is a fraudulent and practically fascist conspiracy being implemented: a change in status is relied upon to provide an appearance of justification to wrong treatment of vulnerable groups or individuals.

The image of blooming irises is from 2014- before the destruction and removal of many valuable specimens. But they can be re-planted.  
End of notes for Part 2

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**From:** HP scans <[hpscanner@winnipeg.ca](mailto:hpscanner@winnipeg.ca)>  
**Sent:** October 30, 2020 11:23 AM  
**To:**  
**Subject:** Scan from a HP Scanner

Please open the attached document. It was scanned and sent to you using a HP Scanner  
Attachment File Type: PDF, Multi-Page  
Scanner Location: 251 Donald St 1flr. IT Device Name: CW0421  
This communication, including any attachments, is intended only for the person to whom it is addressed. It may contain legally privileged or confidential information. Any unauthorized use, disclosure, distribution, copying or dissemination of this communication or its attachments is strictly prohibited. If you have received this transmission in error, please notify the sender or the intended recipient immediately if at all possible. Please also delete or destroy this communication, including its attachments, without reading, copying or forwarding it to anyone.

Crossword Puzzle???

Sunday, Nov. 22nd. circa 4:30 pm.

This is the typed up version of the Part 3 discussion from Nov. 2nd. A first attempt anyways, at typing it up. There is no excuse for challenging the authenticity of it, I've spent the last hour resting from my previous endeavours. Get a Life, buddy.

Here's something I noticed at the last minute, or possibly a post-Nov. 2nd emendation, in black ink on the original. and red ink for further particulars. 'Original' hand-written draft To be duly filed, if you require it so.

"2012!! (I inscribed) with a reference to Ex. D of the May 15th/15 Ross affidavit. This is a reference I to the misrepresentation in the current Ross admin report (ie. for Nov. 2nd, 2020) that the 'flown' image is there stated to have been taken in 2016, or so, but in fact I thought it looked 'bad' for various reasons, and when I investigated it is exactly the same photo from the 2014 admin report, and in that document we are advised the image is from 2012.

We are starting there because this heavily annotated draft has that in the topmost and leftmost corner.

I had left some space blank at the top half of the page for additional key concepts. I found this one, and penned it in at some point before the meeting, in black ink:

"Monday Moments", a title given at the time of production I believe, early morning at home. Then: "CC ds and Our Winnipeg endorse inclusivity. But look at the contextual portrayals and priorities, as traceable in the Administrative Reports, for this land or most others, 90 % maybe of which the decision-mandating proposals for which are being sought by commercial real estate developers. (my original says 'sought by professional real estate types').

- thus it is almost always a development ambition that causes a land use decision to be made. These are therefore key processes of influence on communities, residents and competing land uses. It makes sense, but...
- ....hey look at this bunch of notes I took down (from original sources with citations at the G.L back in probably, 2016 it appears) on some legal dibbitzing over the philosopher's distinction between rational and irrational decision making processes... is it too late to mention it??

[Back to the Part 3 papers]

I then squeezed in two more comments on the issue:

"No info on social contexts, political ones, cmtty trends and histories."

- Pretty undeniably accurate, I dare say. Even where and when the 'perfect opportunity' presents itself for the tangible difference to be identified and rejoiced in, the partners manage to fail to mention that the proposed ambition, design and composition has been totally identified and



totally implemented by 'the community' after an extensive amount of consultations and networking and stuff.

Followed by this, as an example what I'm driving at, basically:

"Let's talk about Nygard, maybe?"

- not to imply that I was personally planning on hijacking the occasion to spew alot of vitriol in Nygard's general direction, but as in "Let's talk about Nygard, and how the exposure of the seedy underbelly of his business interests strongly represented in this n'hood for decades, is now becoming notorious and public knowledge,..."
- as this is not, to my knowledge,yet being overtly recognized as something momentous enough to inspire a structured community dialogue about how people feel about that, whether they ever heard about it/him until recently or not.
- Which I mention because it is entirely possible that his excesses and rapaciousness impacted actual residents in various ways. Maybe we have victims here that his more elite eschelons of predation had some kind of causal spin-off upon local populations?
- It is certainly possible that he abused and harrassed women at the Broaday avenue sewing centre, there for some many years prior to the opening of a retail shop, and his acquisition previously of adjacent smaller-scale real estate, primarily to allow his parking lot at the corner to become a new land use.
- So if he was doing it, why would he not allow others to do so as well?
- It's just speculation, I know, but it kind of fits with a lot of the other 'wierdness' a long-time community-based observer of conduct and other human behaviour such as myself tends to see the potential to evidentially explore. Which is evidently, not what anybody hereabouts is trying very hard to do. I guess that's what Facebook is for?
- For example, if there was, and I believe there was and still is, an actual hostile group who did not want the gardeners to be in the garden, after they stopped accepting that it was a vacant lot, who were they in a position to observe the activities of? Keeping in mind this was up to thirty years ago and to have 'eyes on the street' meant something quite different then than what it now does.
- etc etc.

And back to page 1, second comment of Monday Moments:

"Covid-related trends in Urban/Homegrown agriculture and gardening, more concern about (the) Environment, overall (better, broader) appreciation of the difference Our Emissions Make"

\*

&

And, next, we gotta transcribe the actual Par t 3 document as written (as I recall) later in the afternoon of Sunday, Nov. 1st. Three weeks ago.

actually, I think next we will have supper. If that's alright with y'all.

And in general, this guy is not ready for prime time, as first stated. Some bits such as the start I think I both incorporated somewhere else but then possibly took out again. Too "woe is me", possibly. So I may gloss over that at times in favour of expanding the substantiveness of other contents presently considered of increased significance or necessity.

The only new information I have, I think, (compared to on Nov. 1st or 2nd) is the supporting comments of the approving committee from Nov. 2nd, a letter of support from the Biz for the bad guys, and a recently published article in the WFP about specifically Monteyne's Monstrosity (although they fail to call it that).

Ok time for Chapter Wow I sure don't feel like doing any more on this tonight!

Bearing in mind that the point of writing this up, even minimally is to the purpose of showing that there was more stuff I wanted to have evaluated at the Nov. 2nd meeting. It's not that big a deal, except in support of the notion, however quaint, that the City's existing pandemic public hearing protocol is capable of skewing the results and partially defeating the purpose of holding public hearings. And that the level of impact is there already for lower income marginalized potential delegates, but the pandemic restrictions now affect more people already sub-literate in info-tech areas of expertise and practical personal capacity.

So if the thought of your delegation being forever captured and indefinitely/perpetually available to be uploaded and digitally re-played ad infinitum by anonymous hoards of whomever isn't itself enough of a dis-incentive to personally exerting oneself or even taking a stand on an issue of deemed importance....we now make even that opportunity far more elusive of attainment. "Go on, scram. We don't need you here, today, I think."

Sigh.

Ok. Part 3 Scene 1. reads as follows:

"In the 4-5 years since DASZ 30/2014 manifested, besides any other implications, for me, the work of maintaining the garden has become more onerous, while the actions of non-participants and non-supporting advantage takers have resulted in the benefits deriving from my endeavours dwindling. [A few examples are provided]

....For the WBDC, the treatment the case has been afforded by the Courts has made the fetters they previously acknowledged at times they were bound by (ie Schedule A on purchase agreement with NA!

back in 2002, the design charette recommendations, etc)...the Court's treatments have not restrained that entity further but emboldened them to act more egregiously, by making a substitutional disposition of the land, namely the sale to Monteyne and Friends. This treatment not only completes the fraud on the trust powers which my legal efforts identified and 'proofed' for the Court's full consideration and adjudication, but the results of that treatment and WBDC's response now raise additional matters of law, and of mixed fact and law, that the previously declared ambitions of the DASZ 30/2014 development application did not raise, declare, or as profoundly illustrate.

It makes the situation a much bigger tangle, to be sure.

#### Digression as of Nov. 22nd:

Did I mention yet that I tried several times to get a caveat registered on the land to ensure that before the land could be sold a proper legal process would be required in which these competing interests were judicially evaluated on their respective merits? The last time was after the 2017 motion got disposed of without even recognizing that these issues had been raised. The Property Registry simply refused to register the caveat, and also refused to explain why or how they concluded that the evidence and law I presented in support of my caveat registration 'did not disclose an interest in land.' This is not true, and I suggest it is not really the correct disposition of the matter, because a caveat is meant to be more easily registered as a precaution that a desire of a legal owner to dispose of real property may apply to the Court to have removed. If that caveat had been registered, certain things at least would have resulted that would bring us to a different place than we are at today.

One. Monteyne and Friends would be incapable of 'pleading' the defense of a new owner without notice of a pre-existing claim on the land. They really stand no chance of making this stick as it is, but it's more work for me and the judges to present and evaluate that defense. It's just barely visible at present, glimmering within the January, 2020 correspondence between Tom Monteyne and the PPD which constitutes the Request for an Extension of Time.

Two. Whenever somebody wanted to sell the property they would have had two choices;

1. sell it with the caveat intact, which would make the problem pass along with the title to the new owner. Might affect the deemed value of the land, but hey these guys are a not for profit entity anyhow???

2. apply to the Court on a thirty day notice that they want the caveat discharged from the Title. I would then have thirty days to prepare and file my case in relation to the caveat's claim of an interest in the land.

And I'm just mentioning this because it seems important to indicate that the exclusion this case is being treated to is pretty thorough, and almost universally 'bald' treatment: nobody is walking the talk, here. Like, nobody. Except when they are lying, which really shouldn't count, guys.

[end digression]

Rest of pg. 3 onto pg. 4 a) discusses a synopsis of the submissions I provided for the February 4th committee meeting at which the Request for an Extension of Time was first considered as a public hearing item. Directing the committee to the compendious brief I filed for that meeting. "putting the City on Notice" as it were, that I was smelling a rat about the bad process underlying Monteyne's application. In case those of you in positions of authority could somehow have overlooked that, here.

There's a margin note here about Monteyne failing to admit they have any insight about why the DASZ 30/2014 application was never completed, also.

Next I write:

"When I read the present agenda item's Admin report (at report pg. 9) HISTORY content, I noted that the Report's author deems that after taking over DASZ 30/2014, the new 'owner' of that process (ie Monteyne and Friends) 'completed' DASZ 30/2014.

I don not understand what twisted abuse of language in conventional usage can be relied upon to think that, where a particular project has been approved, but not even 'broken ground' - seen a single pile driven, a single wall raised, nor intended legal occupant come into occupancy, that process can be considered 'completed.'

I think I have a Reasonable right to an Explanation from PPD, A. Ross et al, through this public meeting, of that definition and its implications." [end of pg. 4 a)]

- So, that for sure was not a question anybody got officially asked to answer on November 2nd.

Page 4. b)

"A few affiliated filaments here are:

- the entirely bald nature of the previous two Requests for extensions of Time, &

the entirely bald nature of the treatment those requests were afforded by the PPD and Council members.

Red-ink marginal note: Pg 9.

That project never came to fruition."

More/Scene 2-ish

That the present administrative report..." [more briefly:] fails to include the filing and development of my judicial review application in re: DASZ 30/2014 et al over the intervening 4-5 years is certainly an interesting 'historical' oversight.

Continuing:

"My substantive concerns about the admin report (DASZ 30/2014) were filed via my Sept. 9, 2015 affidavit..." ...why file all that now, though?....the initial judge (hearing the initial motion) said he

thought I had made a strong arguable case against the City...

Page 5:

"My point herein being that the City had both the material, and the opinion necessary to guide them voluntarily to reform their actions, including administrative treatments by PPD/A. Ross..." [+more cit's to relevant filings].

"Ross has clearly failed to modify its approach to evaluating the suitability of dev. proposals for this parcel of land, in its specific & unique qualities and historical context.

"The garden itself was barely recognized by Ross in 2014 (Nov, 28 admin report), and by the time any further report involves any description of the land's present aspect, it is an unqualified 'vacant lot'. ...Yadda yadda..profound deception, ....actual cruelty, ....provocative and enraging."

Page 6 (Halfway there, I think this is what tomorrow morning is for...)

Sunday, Nov. 22nd. circa 4:30 pm.

This is the typed up version of the Part 3 discussion which I prepared for Nov. 2nd. It is Part 3 in context of the typed and electronically filed discussions titled Parts 1,2 & 4. A first attempt anyways, at typing it up. When I am adding new content within a section of transcribed original that information is provided by a bullet point. For further clarity, I have put most of the original content inside "quotation marks".

\*

Here's something I noticed at the last minute, or possibly a post-Nov. 2nd emendation, in black ink on the original. and red ink for further particulars. 'Original' hand-written draft To be duly filed, if you require it so.

"2012!!" (I inscribed) with a reference to Ex. D of the May 15th/15 Ross affidavit. This is a reference to the mis-representation in the current Ross admin report (ie. for Nov. 2nd, 2020, at Report page 10) that the 'flown' image is there stated to have been taken in 2018, or so, but in fact I thought it looked 'bad' for various reasons, and when I investigated, it is exactly the same photo from the 2014 admin report, and in that document we are advised the image is from 2012.

We are starting there because this heavily annotated draft has that in the topmost and leftmost corner.

- in terms of relevancy, until I can view any 2018 image which may exist, my comments are entirely speculative. I am guessing that the garden may look decidedly greener in the 2018 image, as this 2012 view looks to be very early springtime.

& (Next)

I had left some space blank at the top half of the page for additional key concepts. I found this one, and penned it in at some point before the meeting, in black ink:

"Monday Moments", a title given at the time of production I believe, early morning at home. Then: "CC ds and Our Winnipeg endorse inclusivity. But look at the contextual portrayals and priorities, as traceable in the Administrative Reports, for this land or most others, 90 % maybe of which the decision-mandating proposals for which are being sought by commercial real estate developers. (my original says 'sought by professional real estate types').

- thus it is almost always a development ambition that causes a land use decision to be made. These are therefore key processes of influence on communities, residents and competing land uses. It makes sense, but...
- ....hey look at this other bunch of notes I took down (from original sources with citations at the G.L back in probably, 2016 it appears) on some legal dibbitzing over the philosopher's distinction between rational and irrational decision making processes... is it too late to mention it??

[Back to the Part 3 papers]



I then squeezed in two more comments on the issue: (firstly:)

"No info on social contexts, political ones, cmtty trends and histories."

- Pretty undeniably accurate, I dare say. Even where and when the 'perfect opportunity' presents itself for the tangible difference between a proposal produces by and for community and one intended to plan a land use that aims to make profits, the partners manage to fail to mention in their development application that the proposed ambition, design and composition has supposedly been totally identified and totally implemented by 'the community' after an extensive amount of consultations and networking and stuff.
- that they don't declare this to be the case in their official 'ask' for a re-zoning/by-law amendment proceeding, but broadly communicate this claim at other times is my point about it here. CF dev. application of Sept. 2014, my filed statement in Opposition for the Dec. 9, 2014 CCCC meeting (page 1), etc.

Followed by this, as an example what I'm driving at, basically:

"Let's talk about Nygard, maybe?"

- not to imply that I was personally planning on hijacking the latest public hearing occasion to spew alot of vitriol in Nygard's general direction, but as in 'Let's talk about Nygard, and how the exposure of the seedy underbelly of his business interests strongly represented in this n'hood for decades, is now becoming notorious and pucblic knowledge,...'
- because this victim-driven court challenge to Nygard's alleged serial predation and conduct is not, to my knowledge,yet being overtly recognized as something momentous enough to inspire a structured community dialogue about how people feel about that, whether they ever heard about it/him until recently or not.
- Which I mention because it is entirely possible that his excesses and rapaciousness impacted actual residents in various ways. Maybe we have victims here that his more elite eschelons of predation had some kind of causal spin-off upon local populations?
- It is certainly possible that he abused and harrassed women at the Broadway avenue sewing centre, there for some many years prior to the opening of a retail shop, and his acquisition previously of adjacent smaller-scale real estate, primarily to allow his parking lot at the corner to become a new land use.
- So if he was doing it, why would he not allow others to do so as well?
- It's just speculation, I know, but it kind of fits with a lot of the other 'wierdness' a long-time community-based observer of conduct and other human behaviour such as myself tends to see the potential to 'evidentially' explore. Which is evidently, not what any 'social service agency' hereabouts is trying very hard to do. I guess that's what Facebook is for?

- For example, if there was, and I believe there was and still is, an actual hostile group who did not want the gardeners to be in the garden, after they stopped accepting that it was destined to be no more than a vacant lot, who were they in a position to observe the activities of? Keeping in mind this was up to thirty years ago and to have 'eyes on the street' meant something quite different then, than what it now does.
- etc etc.

And back to page 1, second comment of Monday Moments:

"Covid-related trends in Urban/Homegrown agriculture and gardening, more concern about (the) Environment, overall (better, broader) appreciation of the difference Our Emissions Make"

\*

&

And, next, we gotta transcribe the actual Part 3 document as written (as I recall) later in the afternoon of Sunday, Nov. 1st. Three weeks ago.

actually, I think next we will have supper. If that's alright with y'all.

And in general, this document is not ready for prime time. Some bits (such as the start) I think I both incorporated somewhere else but then possibly took out again. Too "woe is me", possibly. So I may gloss over that content at times in favour of expanding the substantiveness of other contents presently considered of increased significance or necessity.

The only new information I have, I think, (compared to on Nov. 1st or 2nd) is the supporting comments of the approving committee from Nov. 2nd, a letter of support from the Biz for the bad guys, and a recently published article in the WFP about specifically Monteyne's Monstrosity (although they fail to call it that). I plan to review the supporting comments as well, in either a separate document or after I finish transcribing Part 3.

Ok time for Chapter Wow I sure don't feel like doing any more on this tonight!

Bearing in mind that the point of writing this up, even minimally, and beyond its' direct value to exposit my position on the issues, it is to the purpose of showing that there was more stuff I wanted to have evaluated at the Nov. 2nd meeting then I was able to file electronically before the hearing started.

It's not that big a deal, except in support of the notion, however quaint, that the City's existing pandemic public hearing protocol is capable of skewing the results and partially defeating the purpose of holding public hearings. And, that the level of impact is there already for lower income marginalized potential delegates, but the pandemic restrictions now affect more people already sub-literate in info-tech areas of expertise and practical personal capacity. [These issues are covered in my appeal letter]

So if the thought of your delegation being forever captured and indefinitely/perpetually available to be uploaded and digitally re-played ad infinitum by anonymous hoards of whomever isn't itself enough of a dis-incentive to personally exerting oneself to be a delegate, ....we now make even that opportunity far more elusive of attainment. "Go on, scram. We don't need you here, today, I think."

Sigh.

Ok. Part 3 Scene 1. reads as follows:

"In the 4-5 years since DASZ 30/2014 manifested, besides any other implications, for me, the work of maintaining the garden has become more onerous, while the actions of non-participants and non-supporting advantage takers have resulted in the benefits deriving from my endeavours dwindling. [A few examples are provided in my original]

....For the WBDC, the treatment the case has been afforded by the Courts has made the fetters they previously acknowledged at times they were bound by... (ie Schedule A on purchase agreement with NA! back in 2002, the design charette recommendations, etc)...the Court's treatments have not restrained that entity further but emboldened them to act more egregiously, such as by making a substitutional disposition of the land, to that proposed in DASZ 30/2014, namely the sale to Monteyne and Friends.

- CF the "Guess Wut's on" brief circa pgs. 28-36, as one discussion of one such treatment - already cited via the Variance Appeal letter of the writer.

This substitutional disposituion, to sell the land not to WHS but to Monteyne, not only completes the fraud on the trust powers which my legal efforts identified and 'proofed' for the Court's full consideration and adjudication, but the results of that treatment and WBDC's response now raise additional matters of law, and of mixed fact and law, that the previously declared ambitions of the DASZ 30/2014 development application did not raise, declare, or as profoundly illustrate.

It makes the situation a much bigger tangle, to be sure.

Digression as of Nov. 22nd:

Did I mention yet that I tried several times to get a caveat registered on the land to ensure that before the land could be sold a proper legal process would be required in which these competing interests were judicially evaluated on their respective merits? The last time was after the 2018 appeal got disposed of without even recognizing that these issues had been raised, which was a significant point of the appeal of the motion judge's identical treatment.

The Property Registry simply refused to register the caveat, and also refused to explain why or how they concluded that the evidence and law I presented in support of my caveat registration 'did not disclose an interest in land.' This is not true, and I suggest it is not really the correct disposition of the matter, because a caveat is meant to be more easily registered as a precaution that a desire or preference of a 'legal owner' to dispose of real property may apply to the Court to have removed.

- I am going to try and file the e-mail chain of my discussions with the TPR representative with my other appeal documents, for the more curious enquirer.

If that caveat had been registered, certain things at least would have resulted that would bring us to a different place than we are at today.

One. Monteyne and Friends would be incapable of 'pleading' the defense of a new owner without notice of a pre-existing claim on the land. They really stand no chance of making this stick as it is, but it's more work for me (and the judges) to evaluate that defense. It's just barely visible at present, glimmering within the January, 2020 correspondence between Tom Monteyne and the PPD which constitutes the Request for an Extension of Time.

- the 'See of You can Guess Wut's on for Today' brief I filed for the Feb 4th proceedings before CCCC (Extension of Time Request) at pgs. 44-52 cover some of the jurisprudence and doctrine of relevance here). pg. 40 also has some application. At pg. 5 of the same brief I provide the relevant statement of Monteyne within his Letter of Intent of 16 January, 2020, though it is not underlined/annotated by me tere for this relevancy.

Two. Whenever somebody wanted to sell the property they would have had two choices;

1. sell it with the caveat intact, which would make the problem pass along with the title to the new owner. Might affect the deemed value of the land, but hey, these guys are a not for profit entity anyhow???

2. apply to the Court on what is called a 'thirty day notice' that they want the caveat discharged from the Title. I would then have thirty days to prepare and file my case in relation to the caveat's claim of an interest in the land, and in due course a hearing would occur to determine the issues.

And I'm just mentioning this because it seems important to indicate that the exclusion this case is being treated to is pretty thorough, and almost universally 'bald' treatment: nobody is walking the talk, here. Like, nobody. Except when they are lying, which really shouldn't count, guys.

[end digression]

&

Rest of pg. 3 onto pg. 4 a) discusses a synopsis of the submissions I provided for the February 4th, 2020 committee meeting at which the Request for an Extension of Time was first considered as a public hearing item. Directing the committee to the compendious brief I filed for that meeting. "putting the City on Notice" (as well as the proponents) as it were, that I was smelling a rat about the bad process underlying Monteyne's application. In case those of you in positions of authority could somehow have overlooked that, here.

There's a margin note here about Monteyne failing to admit they have any insight about why the DASZ 30/2014 application was never completed, also, which is the glimmer about a purchaser ithout notice

legal doctrine I review in the above digression.

Next I write:

"When I read the present agenda item's Admin report (at report pg. 9) HISTORY content, I noted that the Report's author deems that after taking over DASZ 30/2014, the new 'applicant' of that process (ie Monteyne and Friends) 'completed' DASZ 30/2014.

I do not understand what twisted abuse of language in conventional usage can be relied upon to think that, where a particular project has been approved, but not even 'broken ground' - seen a single pile driven, a single wall raised, nor intended legal occupant come into occupancy, that process can be considered 'completed.'

I think I have a Reasonable right to an Explanation from PPD, A. Ross et al, through this public meeting, of that definition and its implications." [end of pg. 4 a)]

- So, that for sure was not a question anybody got officially asked to answer on November 2nd.
- Secondly in looking again at page 9 of the report for Nov. 2nd, I see that it is there stated that "In 2019 the property owner renewed their vision for the site" & commenced contacts with UPD. Who was that, exactly?? [since it seems clear enough that Monteyne and Friends were not at that time, the owner]

Page 4. b)

"A few affiliated filaments here are:

- the entirely bald nature of the previous two Requests for extensions of Time, &
- the entirely bald nature of the treatment those requests were afforded by th PPD and Council c'tee members.

Red-ink marginal note:

"Pg 9. That project never came to fruition."

More/Scene 2-ish for Part 3

That the present administrative report..." [more briefly:] fails to include the filing and development of my judicial review application in re: DASZ 30/2014 et al over the intervening 4-5 years is certainly an interesting 'historical' oversight.

Continuing:

"My substantive concerns about the admin report (DASZ 30/2014) were filed via my Sept. 9, 2015 affidavit..." ...why file all that now, though?....the initial judge (hearing the initial 2015 motion) said he thought I had made a strong arguable case against the City...

Page 5:

"My point herein being that the City had both the material, and the opinion necessary to guide them voluntarily to reform their actions, including administrative treatments by PPD/A. Ross..." [+more cit's to relevant filings].

"Ross has clearly failed to modify his approach to evaluating the suitability of dev. proposals for this parcel of land, in its specific & unique qualities and historical context."

"The garden itself was barely recognized by Ross in 2014 (Nov, 28 admin ), and by the time any further report involves any description of the land's present aspect, it is an unqualified 'vacant lot'. ...Yadda yadda..profound deception, ....actual cruelty, ....provocative and enraging."

Page 6 (Halfway there, I think this is what tomorrow morning is for...)

Scene 3 launches a short review and argument based on one of the legal cases I filed a portion of within the March 10th, 2020 EPC hearing brief, namely Thorson v. Attorney-General of Canada [1975], decided by the Supreme Court of Canada (SCC) with both a majority and a dissenting opinion.

"2 main points there-in with direct applicability to the present item are apparent to me & I will attempt to briefly state them.

1. The 6-judge majority opinion summary, starting at the bottom of pg. 11 of the "Hey there Pal" EPC brief advises that a "question of alleged excess of legislative power is a justiciable one ... (etc to pg. 12) ...It is not the alleged waste of public funds [or other public assets, purchased using public funds, -such as the subject property when acquired by WBDC,- I suggest, is a parallel category to public funds] alone, but the right of citizenry to constitutional behaviour that will support standing."

Page 7 of my Part 3 original:

Where I situate this legal opinion in the present context concerns the power of the PPD to varyingly apply certain aspects of Our Winnipeg, CC ds., and development procedure by-law stuff while neglecting other competing interest groups, such as the following: poor tenants vs. wealthy ones, ecological resources and diversity vs. human-oriented infrastructure - roads, buildings, at the municipal level, more broadly, dams, reservoirs, fossil fuel extraction vs. natural resource conservation and habitat preservation interests.

Metaphorically, the messaging around intent via Our Wpg and CC ds is a comprehensive, holistic balancing of priorities and objectives. Picture these forces as meeting, prayerlike, each bringing power or force sourced in different philosophies or objectives. Substitute even, a wing, or a paw, where appropriate, for one of these hands, to better reflect the ecological interest holders, whose survival mankind also has an interest in the viability, survival and thrivory of. [Page 8..] There continues to be no balancing of the environmental, ecological, social, and conservation interests this project proposal engages."



- My appeal filings for the February 26, 2015 City appeal of the CCCC Variance decision in regards to DASZ 30/2014 included a close review of these two policy documents. A goal for this appeal is to re-file and update my citations to suit the present situation. This will be relatively difficult for me without regular access to free computer resources, as all I think I have presently is my original paper copy of that filing, and the materials from DMIS will be 'read-only'.
- I made a bare start on this within the final pages of the 'Guess Wut's on' brief, at pgs. 60-62.
- though perhaps I could cite this content elsewhere more relevantly, [ie the Variance appeal letter] I can direct the more curious reader to the '...Guess Wut's on...' brief at pgs. 55-58. Ironically, WBDC's former executive director, in that position prior to and following the 2008 design charette about the subject property, was a lead author on this report.

Page 8 cont.:

"So the further development or 'push-back' on my here-described platform is whether the 'state action' under consideration is in fact the exercise of 'legislative power'."

- I think it is, because the power (of PPD, and of Council members via public hearings) is wielded, (purportedly), in context of the policy documents, but it is not power that arises from the policies themselves.

And, more specifically, my position is that the interplay between an excess of power of one kind (ie the 'man-hand') vs. the negligible or heavily circumscribed power of the 'paw' shows that the behaviour is not 'constitutional'. Because the balancing effort is non-existent on the face of the reports of PPD and usually the decision-making activity of council committees.

- in the present situation, after the Variances have been approved by CCCC and we have the benefit of reviewing the supporting comments CCCC provided, we see that the stakeholders which have been identified consist primarily of the WBDC, the developer, and those who are slated to occupy the 'affordable' units the proposal has included. The WBDC's prominence within the supporting comments is particularly concerning to the writer and is reviewed below in Part 4.
- even within the report for Nov. 2nd, the criteria the writer identifies focusses on various specific considerations relatively comprehensively, but he has nothing at all to say about environmental considerations or assets that the project threatens to annihilate.
  - CF the Ross report of Oct. 19/20 circa pgs. 13-15: Our Winnipeg analysis is all about Housing, and nothing else.
  - the shorter discussion of CC ds policy alignments which follows is similarly not attending to the environmental side of things, nor the socio-political history of the development and maintenance of this land as a community garden.

- I state my objection here to the notion that Monteyne's scheme constitutes, as Ross here states, "a moderate land use intensification."
- the next section, about density variances, I think mis-describes the land where the Fountain Springs Housing [affordable inclusive] now exists, which is at 184 Sherbrook St.
- a previously stated concern by me is here again reflected, at report pgs. 15-16: the way these various newly constructed RMU's gradually, or even relatively quickly, become the 'new normal' that most any other property in the vicinity can now aspire to join the party. This is hardly a way to ensure a 'diverse' n'hood!!

"Ross further advises (in the Nov. 2nd report) that 'Internal consultation' was N/A: not applicable, I infer."

Page 9

"The second SCC opinion (dissenting component) supports not only my personal claim to standing in proceedings associated with DASZ 30/2014, and the subject property more comprehensively but, as well, draws attention to whether or not this judicial opinion is truly a reliable statement of fact, in regards to the powers of municipal corporations and councils. It is here stated that such entities 'can only perform actions which their statutes authorize.' [emphasis added].

"I don't think this is a difficult premise to undermine, to refute. Arguably, municipal corporations and councils are well able to exceed their statutory powers, in practice, without any automatic 'Act of God' or 'program over-ride' form of control or restraint. Individual greivors may attempt to limit the exercise of excess or unlawful/unlegislated powers, but they may not be able to do so effectively, inexpensively or at all.

The City's own privative clauses in regards to the scope of judicial review and appeals (City of Winnipeg Charter s. 465 and 495) is in no way a unique piece of Charter-dom, insofar as many municipal, provincial, and federal governance systems are concerned. But, these restrictions have evolved considerably since the Thorson decision was made almost 50 years ago."

Page 10

Here I have a second "Monday Moment" observation for direct submission to the CCCC deciders on Nov. 2nd:

"The Ross report describes the Monteyne proposal for a five story RMU as one bringing a 'serene quality' [to this part of the neighbourhood.]"

- ha-hah! I have just scrolled back and forth through the October 19th Ross report which I downloaded from the agenda the week before the meeting, and I no longer can find that statement anywhere. The topic of my continuing discussion at original page 10 pertains to the images for the building's exterior design found in the report at page 24.

" Apparently, either Ross or Monteyne misunderstand that not all of us are so foolish as to mistake the broken dead for the Peaceful."

"After economic appropriation (of the land itself), they so Creatively further intend to emblazon their Sick Puppy with a 'hiboux' / owl figuring mural! This cosmetic flourish alone, as acknowledged in the Ross report, is significant enough to be there mentioned." [can't find that content here, either anymore!!]

- -possibly I was thinking of the pg. 13 mention that the mural(s) "..will add life to the building and streetscape." Not a definition of 'life' that I think conventional usage of the word can endorse. It's sickening to read this, honestly.
- The graphic design itself is evocative of an indigenous artistic style, and I therefore think it constitutes cultural appropriation, particularly in context of the specific history of this land's status, usage, and debasement.

"As with my feelings in regards to the mowing activity [cf Nov 2nd Part 1 discussion of opposition delegate J. Altemeyer, I think], for many transient or otherwise touring people of indigenous ancestry, or just indigenous cultural and political sympathizers, this mural will be disturbing or even detestable to see day after day."

"Any cultural appropriation activity should be discouraged and disrupted, to my way of thinking. But, whether a 'real Indian' benefits in some way from the commissioning of such a design (or its' fuller implementation and rendering), any symbol which is not reflected in the lived values of its' commissioners, is a cultural appropriation."

Marginalia notation on the facing verso page also pertains to this element of the design and reads as follows:

""Also, this style of indigenous art, though I am no expert on such things, strongly resembles a Haida nation artistic style, so it is either non-local, and thus even less appropriate to decorate the building with, or simply done 'in the style of' a fairly recognizeable indigenous artistic style (the Haida nation form)."

It is thus even more offensive and postulatory: Imagine the following parent-child dialogue, as they drive past the subject property, post construction: "Oh look mommy, an Owl!! Mom replies, sadly, yes dear, I know. There used to be a beautiful garden here. Go figure, crazy bastards run and ruin everything, these days."

And this is the end of Part 3 of my comments for the Nov. 2nd CCCC meeting about the Monteyne consortium's Variances application. It's not all I could say, but it's something.

& next, possibly some breakfast (I started back to work on this at about 5:30 am, and it's now close to 8

o'clock, but who's counting???), then we turn to a concise critique of the supporting comments divulged by the CCCC members, via the Variance decisionry from Nov. 2nd.

Part 4: the supporting comments of CCCC as of November 2, 2020.

Ok it's now almost 10 am and I still haven't had breakfast yet. I have only until 1 pm to finish this, and I also need to marshall my eviction projects for the pending trip to Staples.







**Fw: Scan for Nov 2nd variance hearing.**

JA

Jennifer Altemeyer  
Fri 2020-10-30 12:23 PM



Cc:

• You

garden images... 198 Sherbrook St..pdf  
857 KB

Hi Kate:

Please include my e-mail text here in which I'll try to say something clear about Variance considerations.

In these photos are seen the garden at various times of years and various stages of development and destruction.

The Monteyne proposal has requested a zero front yard. I reviewed the Statement of Intent Monteyne's group filed for the Feb. 4th, 2020 extension Request. They advise that they will be seeking at least Variances to the east and west property lines, but nothing about the frontage. A zero lot line is a very severe transition which will threaten the very extensive root systems of 'our' boulevard trees. Please see the group three image of the larger of these. A truly majestic carbon capturing entity. Have some respect, people, including for your own guidelines about the City's Urban canopy.

Trees within the garden and samples of images of plots with established perennials are to be replaced by surface parking. This is again an extreme modification to something of diverse value and beauty. Stop the madness.

Trees along the westward lane fence and property line are also very important shelterbelts, noise abaters and carbon capture zones. This is a very unique and dense array of greenery in a heavily eroded community where traffic volumes are only increasing. We need the clean air more than we need this stupid building. Share the land, share the resources. Stop privatizing public assets.

[This ends set 1 images comments]

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**From:** HP scans <hpscanner@winnipeg.ca>  
**Sent:** October 30, 2020 11:21 AM







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**THE CITY OF WINNIPEG  
VARIANCE ORDER  
CITY CENTRE COMMUNITY COMMITTEE**

**DAV 122569/2020D**

Before:	City Centre Community Committee Councillor Orlikow, Chairperson Councillor Gilroy Councillor Rollins
Hearing:	November 2, 2020 Council Building, 510 Main Street
Applicant:	Alston Properties Ltd. (Bryce Alston)
Premises Affected:	198 Sherbrook Street
Legal Description:	EXC W 8F LOT 257/258 PLAN 49 79 ST JA, hereinafter called “the land”
Property Zoned:	“C2 PDO-1 Nbhd Main” (Commercial Community Planned Development Overlay-1 District Neighbourhood Main)
Nature of Application:	To vary the the proposed “RMU PDO-1 Neighbourhood Main Streets” Dimensional Standards of the Winnipeg Zoning By-Law No. 200/2006 as follows: <ol style="list-style-type: none"><li>for the construction of a 5 storey multi-family dwelling to permit the following:<ol style="list-style-type: none"><li>a lot area per dwelling of 439 square feet (40.78 square metres) instead of 500 square feet (46.45 square metres)</li><li>no front yard instead of 20 feet (6.10 metres);</li></ol></li></ol>

- c. a north side yard of 9 feet (2.74 metres) and 0 feet (0 metre) instead of 13 feet (3.96 metres) to the principal building and the canopy, respectively;
  - d. a south side yard of 5 feet (1.52 metres) instead of 13 feet (3.39 metres);
  - e. a rear yard of 10 feet (3.05 metre) instead of 25 feet (7.62 metres);
  - f. 16 stalls instead of 30 stalls
2. for the establishment of an accessory parking area to permit no visitor parking instead of 2 visitor spaces.

It is the opinion of the City Centre Community Committee that subject to conditions listed below, if any, this Variance meets the statutory criteria as outlined in Subsection 247(3) of The City of Winnipeg Charter in that it:

- (a) ☒ is consistent ☐ is not consistent  
with Plan Winnipeg, and any applicable secondary plan;
- (b) ☒ does not create ☐ does create  
a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) ☒ is ☐ is not  
the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) ☒ is ☐ is not  
compatible with the area in which the property to be affected is situated.

Supporting Comments:

- 1. The West Broadway Community Organization and the two-decade long plan that they have engaged with the community on affordable housing that this community needs. We know West Broadway has a great deal of poverty and lone parent households.
- 2. The affordability mix that is reflected in this project is one that many people have ambitions for, West Broadway Community Organization being one of them that leads in community-based consultation, and West Broadway BIZ being another.
- 3. West Broadway BIZ recently wrote me on critical issues of housing and community safety and the growing encampments in the neighbourhood that they were critically concerned about.

4. This is mixed-use and the city can be supportive with respect to affordable housing by lessening public parking allowances to allow for greater development entitlements to allow for yard and parking.
5. This design is beautiful. How you have echoed the triangles or wings from the public space and then echoed them up in each and every balcony is beautiful. That beauty on affordable housing isn't lost on me. This is an envy of affordable housing across the country and I am very excited about this 28-unit mixed use building.

ORDER:

The City Centre Community Committee orders that the provisions of the proposed "RMU PDO-1 Neighbourhood Main Streets" Dimensional Standards of the Winnipeg Zoning By-Law No. 200/2006 are varied on "the land" as follows:

1. For the construction of a 5 storey mixed use dwelling to permit the following:
  - A. a lot area per dwelling of 439 square feet (40.78 square metres)
  - B. no front yard
  - C. a north side yard of 9 feet (2.74 metres) and 0 feet (0 metre) to the principal building and the canopy, respectively
  - D. a south side yard of 5 feet (1.52 metres)
  - E. a rear yard of 10 feet (3.05 metre)
  - F. 16 stalls
2. For the establishment of an accessory parking area to permit the following:
  - A. no visitor parking.

subject to the following conditions, which the City Centre Community Committee considers necessary to ensure compliance with criteria (a) to (d) in Subsection 247(3) of The City of Winnipeg Charter, namely:

1. That prior to the issuance of building permits, the applicant must provide the City with the final terms associated with the provision of affordable housing units in the building, meeting or exceeding the affordability targets identified in this report, and thereafter must follow such terms to the satisfaction of the Director of Planning, Property and Development.

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


- A. buildings
- B. accessory parking areas
- C. fencing; and
- D. landscaping

on the Owner's Land ("Works") to the Director of Planning, Property and Development 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.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

DATE OF ORDER: November 4, 2020

CERTIFIED BY:



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Kate McMillan  
Senior Committee Clerk

#### HOW TO APPEAL

If you object to this Order, you are entitled to file a notice of appeal. Your notice of appeal must:

- (a) be in writing;
- (b) contain your name, mailing address and phone number;
- (c) be addressed as set out below;
- (d) be received at that office not later than 4:30 p.m. on November 23, 2020;

**[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]**

- (e) refer to Variance Use Order No. DAV 122569/2020D; and
- (f) provide the reason(s) for the appeal

The City Clerk may not schedule an appeal hearing until your notice of appeal meets the above requirements.

Address: City Clerk, City of Winnipeg  
c/o Appeal Committee  
Susan A. Thompson Building  
Main Floor, 510 Main Street  
Winnipeg, Manitoba, R3B 1B9  
Fax: 204-947-3452  
Email: CLK-Appeals@winnipeg.ca

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO  
APPEAL:

In Support:

Tom Monteyne

In Opposition:

Jennifer Altemeyer  
Janet Walker

For Information:

Nil

For the City:

M. Robinson, Planner, Planning, Property and Development Department  
D. Harris, Planner, Planning, Property and Development Department  
A. Ross, Planner, Planning, Property and Development Department