


<b>TITLE:</b> BY-LAW NO. 7369 TO REZONE 513, 525, 537 AND 559 – 39 <sup>TH</sup> STREET, PART OF 30 <sup>TH</sup> STREET RIGHT-OF-WAY, AND PART OF 902 – 38 <sup>TH</sup> STREET (LOTS 26/36, BLOCK 1, PLAN 269 BLTO) APPLICANT: STEVE MCMILLAN OWNER: FOWLER HOLDINGS LTD.		
<b>MEETING DATE:</b> October 18, 2023		Page 1 of 3
<b>DEPARTMENT:</b> Planning & Buildings	<b>ATTACHMENTS:</b> A. By-law No. 7369 B. Application related documents C. Map, air photo & drawings D. Development Review Group Report E. Community Engagement Report	
<b>PRESENTER:</b> Sonikile Tembo, Principal Planner	<b>MANAGER:</b> Sonikile Tembo, Principal Planner	

**RECOMMENDATIONS:**

*Rezoning*

That the Planning Commission recommend City Council approve By-law No. 7369 (Z-09-23) to rezone 513, 525, 537 and 559 – 39<sup>th</sup> Street, part of 30<sup>th</sup> Street right-of-way, and part of 902 – 38<sup>th</sup> Street from Development Reserve (DR) and Residential Single Detached (RSD) to Commercial Arterial (CAR), subject to the owner or successor entering into a Development Agreement with the City of Brandon as set out in “Attachment D” of this report, and that Administration be authorized to prepare a Development Agreement containing all conditions and requirements to protect the City’s interests in accordance with any procedures, policies, by-laws and Acts.

**BACKGROUND:**

*Request*

The applicant, Steve McMillan, on behalf of the property owner, Fowler Holdings Ltd., is applying to rezone 513, 525, 537 and 559 – 39<sup>th</sup> Street, part of 30<sup>th</sup> Street right-of-way, and part of 902 – 38<sup>th</sup> Street from Development Reserve (DR) and Residential Single Detached (RSD) to Commercial Arterial (CAR). Approval of this application will allow for the development of an automotive dealership over these lands consolidated with 530 – 38<sup>th</sup> Street.

*Development Context*

The subject site is located on the south side of Victoria Avenue between 38<sup>th</sup> and 39<sup>th</sup> Streets, and currently has a house with two dwellings built in 1951 on the portion known as 530 – 38<sup>th</sup> Street and undeveloped for the remainder of the site. Uses surrounding the site include automotive dealerships to the west and east, and low density residential to the north across Victoria Avenue and to the south.

### *History*

The City-owned lane (902 – 38<sup>th</sup> Street) is already closed, and the City is closing 39<sup>th</sup> Street between Victoria and McTavish Avenues. This part of the 39<sup>th</sup> Street right-of-way remained undeveloped due to the subject site being undeveloped. The City is selling both the closed lane and to-be-closed street segment to the owner.

### ANALYSIS:

Approval of this application will allow for the development of an automotive dealership.

### *Consistency with the Development Plan*

- The site is designated “Commercial” as indicated on Map 1: Urban Land Use in the Brandon & Area Planning District Development Plan 2013 (Development Plan), which allows for arterial commercial development on major transportation routes, that require large properties for display and/or storage of merchandise such as automobiles (Policy 3.2.4).
- The proposal is general consistent with other existing automotive businesses on Victoria Avenue

### *Consistency with the Zoning By-law*

- Proposed CAR site is consistent with the bulk and siting requirements under Table 10 Section 51 of the Zoning By-law
- A 3m treed buffer and fence will be provided between the proposed development and the low density residential abutting the east side of the site
- Boulevard trees will be provided along 38<sup>th</sup> Street, Victoria Avenue, and McTavish Avenue
- Access will be restricted to 38<sup>th</sup> street and Victoria Avenue only

### *Commenting Agencies*

All comments have been addressed or attached as conditions of approval in the Development Agreement (Attachment D).

### LEGISLATIVE REQUIREMENTS:

#### *Notification*

In accordance with Section 168 of The Planning Act, notice of the public hearing was sent to owners of property within 100 metres (328 feet) of the subject property. Notice was also posted on the subject property and advertised in the Brandon Sun on October 5 and 12, 2023.

#### *Public Outreach*

In accordance with Section 13 of the Zoning By-law, the applicant reached out to nearby property owners (Attachment E). As of the writing of this report, the Planning & Buildings Department has not received representation in favour or opposition to this application. Administration has received a few resident concerns about not being able to use what they assumed was the public lane for access and parking.