



TITLE: PROPOSAL TO SUBDIVIDE 1725 – 18th STREET NORTH (PARCEL A, PLAN 1363 BLTO EXC NLY 205 FEET) APPLICANT: MIKE PRIESTNER REAL ESTATE INC. (C/O DAVE DOERKSEN) OWNERS: ALBERT JOHN & MARIO JOHN KOKONAS		
PRESENTER: Steve McMillan	AGENDA NO:	
DEPARTMENT: City of Brandon Planning Department	DATE: December 28 th , 2007	
CLEARANCES: City of Brandon Development Services Division	ATTACHMENTS: <ol style="list-style-type: none"> 1. Report (# of pages = 1) 2. Application related documents (# of pages = 11) 3. Maps (# of pages = 1) 4. Development Agreement (# of pages = 7) 	
APPROVALS:		
 <hr/> General Manager of Development Services	<u>December 31, 2007</u> Date	 <hr/> City Manager
		<u>02/01/08</u> Date

DISCUSSION:

Mike Priestner Real Estate Inc. (c/o Dave Doerksen), applicant on behalf of the owners, Albert John and Mario John Kokonas, is applying to subdivide 1725 – 18th Street North (Parcel A, Plan 1363 BLTO Exc Nly 205 Feet) to create two commercial parcels in the CAR Commercial Arterial Zone to accommodate a Hyundai Car Dealership on proposed Parcel 1 and reserve proposed Parcel 2 for future commercial development.

The site is currently designated as “Commercial” under Map 1 (Urban Land Use) in the Brandon & Area Planning District Development Plan #78/01/04.

The zoning for the area is currently “CAR Commercial Arterial Zone” and conforms to the proposed development of a car dealership.

The Development Services Division has indicated that a development agreement is required. Special conditions within the development agreement call for the developer to build Clare Avenue from the frontage road on 18th Street east for a distance of 126.5 metres (415 ft.) or approximately ½ the depth of their lot, including sewer and water extensions and contribution towards boulevard trees. Manitoba Hydro, MTS, and Westman Communications group do not require easements; however, any removal or relocation of existing facilities will be at the expense of the owner.

Manitoba Infrastructure and Transportation have indicated that a Highway Traffic Board permit for the change in land use and all construction within the controlled area will be required before development may take place. Also required is a letter from the regional Technical Services Engineer that drainage from this development will not have any impact on the highway drainage system.

RECOMMENDATIONS:

That the application of Mike Priestner Real Estate Inc. (c/o Dave Doerksen) on behalf of the owners, Albert John and Mario John Kokonas, to subdivide 1725 – 18th Street North (Parcel A, Plan 1363 BLTO Exc Nly 205 Feet) be approved subject to the owner or successor:

- 1) entering into a development agreement with the City of Brandon as attached to the report of the General Manager of Development Services dated December 28, 2007; and
- 2) providing the Planning Department with a letter from the regional Technical Services Engineer that drainage from this development will not have any impact on the highway drainage system.



CITY OF BRANDON PLANNING DEPARTMENT

421 - 9th Street • Brandon, Manitoba • R7A 4A9
Telephone (204) 729-2110 • Fax (204) 728-2406

Application for Approval of Subdivision Under the Planning Act

Please complete this form and return to the City of Brandon Planning Department at
421 - 9th Street, Brandon, MB R7A 4A9 Telephone: 729-2110.
For information about subdividing land, please refer to "A Guide to the Subdivision Process" and the Manitoba
Subdivision Regulations. Copies are available without charge from Municipal and Planning Offices.

1. Registered owner(s)

Name(s) Albert John Kokonas / Mario John Kokonas

Mailing Address Albert: 1945 Braecrest Dr, Brandon, MB, R7C 1A3 phone: 726-5681

Mario: 64 Wilner Bay, Brandon, MB R7B 3H1 Postal Code _____

Telephone (daytime number) _____ phone: 728-1438

2. Applicant (person who is filing the application and to whom correspondence should be addressed)

Are you the registered owner? Yes, Please go to question 3.
 No, Please fill in the following:

Name Mike Prustner Real Estate Inc. * Represented by: Diana Nicholson
of Samson Engineering Inc. (127-0147)

Attention Dave Doerksen

Your File No. (if any) _____ Mailing Address 13344-97th street

Edmonton Alberta

Postal Code T5E 4C9 Telephone (daytime) 1-780-460-3118

I/we the registered owner(s) of the subject land, hereby designate the above named applicant to
prepare and submit this application on my/our behalf.

Signature of registered owner(s) [Signature] Date November 1, 2001
(if applicant is other than owner) [Signature] Date November 1, 2001

The personal information which you are providing is being collected under the authority of The Planning Act and will be used for the purpose of approving this application. Information is also being collected for the purpose of statistical reporting. It is protected by the Protection of Privacy provisions of The Freedom of Information and Protection of Privacy Act. If you have any questions about the collection and/or use of information, contact Jennifer Houlahan, FIPPA Coordinator, Brandon and Area Planning District, 421-9th Street, Brandon, MB, R7A 4A9, telephone (204) 729-2110.

3. Location and General Description of Land to be Subdivided

Name of Municipality (and Community) RM of Cornwallis, City of Brandon

Lot or Parcel No. Parcel A Block No. _____ Plan No. 1363

Part of the ✓NW NE SW SE ^{↳ excluding the north 205 feet} 1/4 of Section 35 Township 10 Range 19

Street Address (if any) 1725-18th Street North

4. Sketch Map

Draw a sketch map of your proposed subdivision to scale. Include on your map the information and features listed below:

- a) Show all lands described in the certificate(s) of title and all proposed parcels and lots. **Clearly indicate which parcel(s) you are proposing to transfer, and show all existing and proposed dimensions and distances;**
- b) Show all existing and proposed structures and features on the lands described in the immediate vicinity, including: buildings, roads, hydro/telephone lines (including poles and towers), railways, pipelines, lakes, rivers, creeks, ditches, swamps, low areas, drainage patterns, wooded areas, ridges, gravel pits, quarries, livestock/poultry operations, air strips, waste disposal grounds, sewage lagoons, tanks, wells, septic fields, sewage ejectors, driveway connections, etc., and
- c) Indicate uses of all lands shown on your map.

If your proposal is for 3 lots or more, contact the Brandon and Area Planning District office to determine what additional information may be required.

5. Land Use (Check appropriate boxes and describe as indicated)

a) What are the lands described in the subject certificate(s) of title presently used for?

Agricultural ✓ Residential _____ Seasonal Recreational(Cottage) _____
 Commercial _____ Industrial _____ Other ✓

Describe present use in more detail The lot is currently vacant and the acre 314 is being used for the production of annual crops

b) Are there any existing buildings on the lands described in the certificate(s) of title? Yes _____ No ✓ Please indicate the general location and use of all buildings on your map

5. Land Use (continued)

c) What is the intended use of the lot(s) or parcel(s) to be subdivided?

Agricultural _____ Residential _____ Seasonal Recreational(Cottage) _____
Commercial Industrial _____ Other _____

Describe intended use in more detail we are proposing to subdivide the lot into two for commercial development.

d) What is the physical nature of the lot(s) or parcel(s) to be subdivided?

Wooded/Treed _____ Cultivated Pasture _____
Hilly _____ Level/Flat Low/Swampy _____
Adjacent to Shoreline of River/Lake/Creek _____ Other _____

Describe physical nature in more detail The east 3/4 is cultivated and the west 1/4 is mostly flat with slight undulations. There are some trees on the west 1/4.

e) Indicate if any of the following are located within 1/2 mile (805m) of the parcel(s) to be subdivided:

Livestock/Poultry Operation _____ Waste Disposal Ground(in use or abandoned) _____
Sewage Lagoon _____ Airport _____
Historic Site or Structure _____ Gravel Pit or Quarry _____

If any of these uses are within 1/2 mile, indicate direction and approximate distance, type and size of operation (if known) _____

6. Services (check appropriate boxes and describe as indicated)

a) SEWAGE DISPOSAL

Present: Municipal Sewer Holding Tank _____ Septic Field _____ Other _____
Proposed: Municipal Sewer Holding Tank _____ Septic Field _____ Other _____

b) WATER SUPPLY

Present: Piped Water Community Well _____ Individual Well _____ Other _____
Proposed: Piped Water Community Well _____ Individual Well _____ Other _____

c) ROADS

Is there an existing driveway to the proposed lot(s) or parcels(s)? Yes _____ No
Is there an existing driveway to the parcel to be retained? Yes _____ No
Indicate if you propose to build a new driveway connection onto any of the following:
Provincial Trunk Highway _____ Provincial Road _____ Municipal Road _____ City Street



SAMSON ENGINEERING INC.

162 - 10TH STREET, BRANDON, MANITOBA, R7A 4E6
PH: (204) 727 - 0747 FAX: (204) 725 - 9870

November 16, 2007

City of Brandon Planning Department
421 - 9th Street
Brandon, MB R7A 4A9

Attention: Planning Commission

Reference: Application for Approval of Subdivision - 1725 18th Street North

Subject: Letter of Intent

Dear Planning Commission,

Dave Doerkesen, of Mike Priestner Real Estate Inc. (MPRE) is intending to purchase the property located at 1725 - 18th Street North in Brandon from Albert and Mario Kokonas, pursuant to which he has secured the property with subjects and is proposing to subdivide it. We have been retained to execute the subdivision application on behalf of MPRE.

The property has the following legal description and herein will be referred to as the subject property:

Parcel A, Plan No. 1363 Brandon Land Titles Office, Excluding the North 205 Feet, North West Section 35, Township 10, Range 19, West of the Principal Meridian

The subject property is currently 7.5 acres and MPRE is proposing to subdivide the subject property into a 2.5 acre parcel fronting onto the service road adjacent to 18th Street North (herein after referred to as Parcel 1) and a 5 acre parcel to the rear (herein after referred to as Parcel 2). The intention is for Parcel 1 to be accessed from the service road adjacent to 18th Street whereas Parcel 2 will be accessed from Clare Avenue along the south property line. Parcel 1 is intended for the development of a Hyundai Dealership and Parcel 2 will remain undeveloped at this time and held for future consideration.

The proposed dealership will be approximately 8000 sq ft and is to be biased towards the north side of Parcel 1 with the intention of facilitating sight lines to Parcel 2. The proposed dealership will have normal hours of operation consistent with other automotive dealerships in Brandon and will comply with all City of Brandon By-laws. The business will consist of vehicle sales, part sales, service and repairs as a body shop is not intended at this juncture.

Please find attached the signed Offer to Purchase by MPRE, a letter from the registered owner authorizing the subdivision application and a site plan outlining the location of the subject property and the proposed subdivision. We believe that this proposal is viable and consistent with the zoning regulations of the City of Brandon. If you have any questions or concerns please feel free to contact me at the number above.

Yours very truly,
SAMSON ENGINEERING INC.

Diana Nicholson, EIT

November 7, 2007

City of Brandon Planning Department
421 - 9th Street
Brandon, MB R7A 4A9

Reference: Application for Approval of Subdivision

Subject: Letter of Authorization

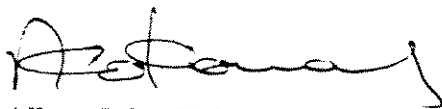
To whom it may concern,

Please be advised that I give authorization to Mike Priestner Real Estate Inc. to apply for approval to subdivide the following property:

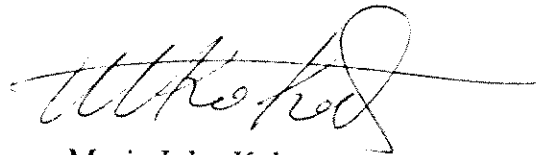
Parcel A, Plan No. 1363 Brandon Land Titles Office, Excluding the
North 205 Feet, North West Section 35, Township 10, Range 19
West of the Principal Meridian in Brandon, Manitoba

of which I am the registered owner.

Sincerely,

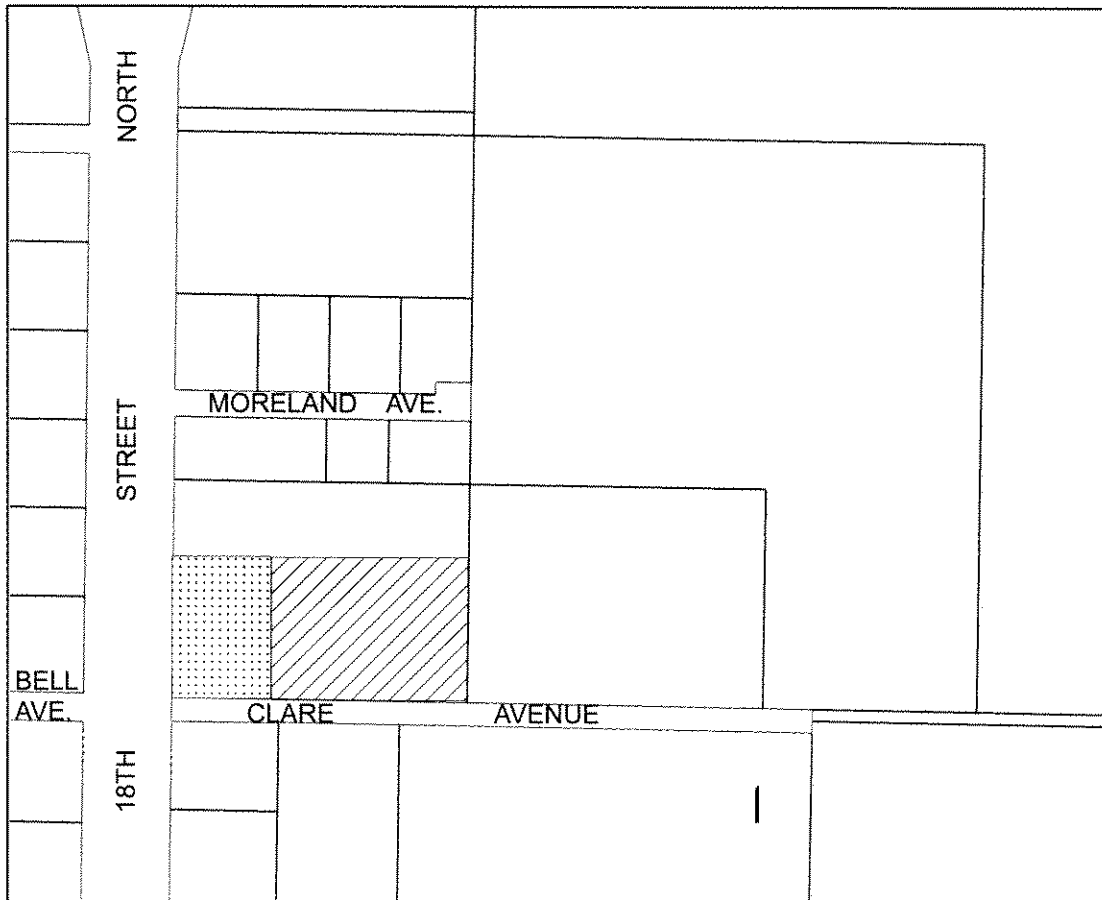


Albert John Kokonas

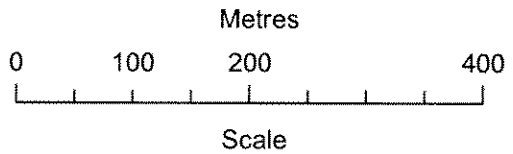


Mario John Kokonas



Application for Subdivision



Subdivision Application No. 4500-07-344
 1725 - 18th Street North
 Parcel A Plan 1363 BLTO Exc Nly 205 Feet



LEGEND

-  Parcel 1 for a proposed Car Dealership
-  Parcel 2 for future Commercial Development

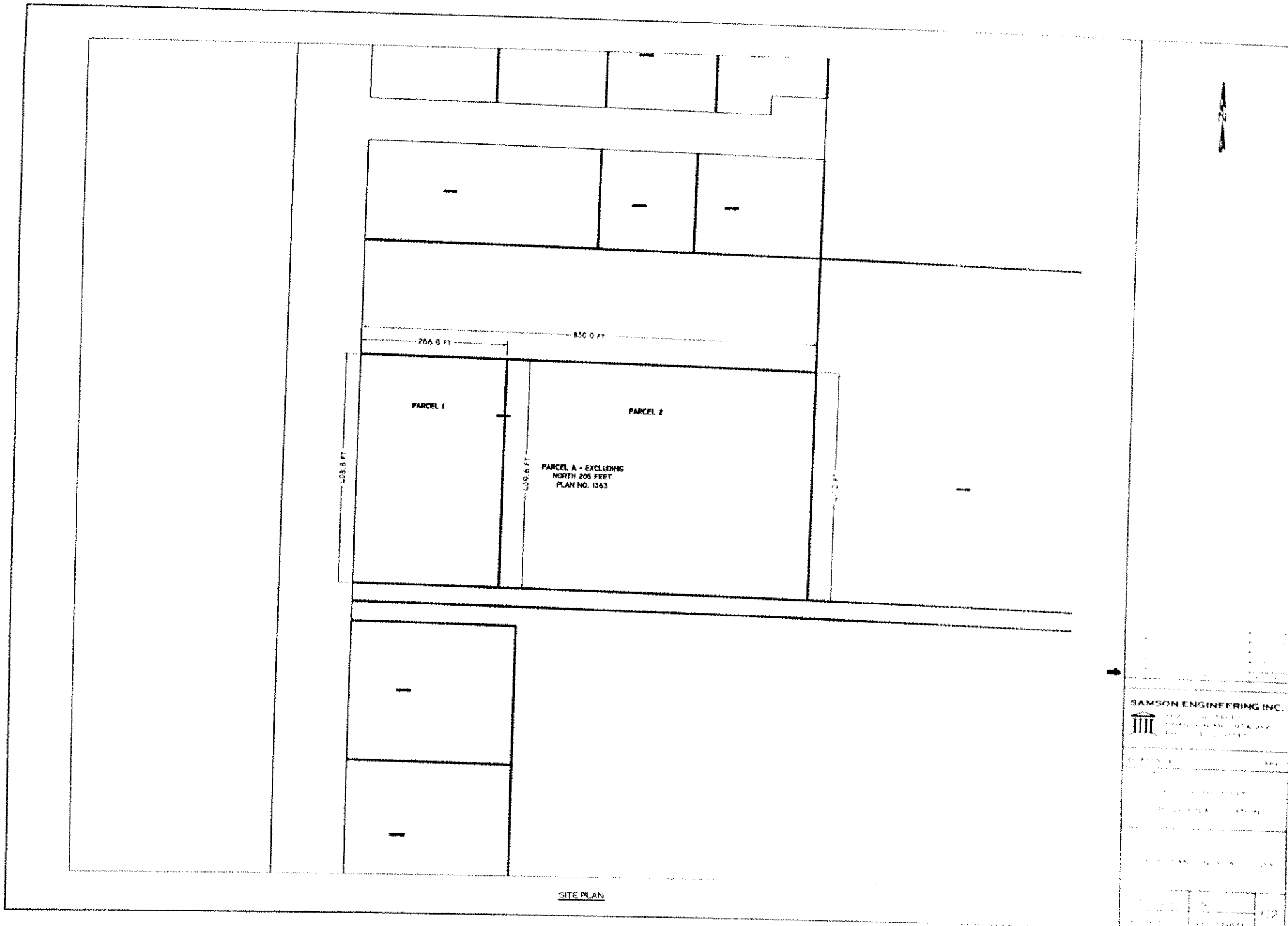
**City of Brandon
 Planning
 Department**



City of Brandon

Map creation date: 11/28/07

Revised:



SITE PLAN

SAMSON ENGINEERING INC.
 1000 W. 10TH ST. SUITE 100
 DENVER, CO 80202
 TEL: 303.733.1111

DATE	10/15/2011
PROJECT	1000 W. 10TH ST. SUITE 100
CLIENT	1000 W. 10TH ST. SUITE 100
SCALE	AS SHOWN
BY	1000 W. 10TH ST. SUITE 100
CHECKED	1000 W. 10TH ST. SUITE 100
APPROVED	1000 W. 10TH ST. SUITE 100
DATE	10/15/2011
PROJECT	1000 W. 10TH ST. SUITE 100
CLIENT	1000 W. 10TH ST. SUITE 100
SCALE	AS SHOWN
BY	1000 W. 10TH ST. SUITE 100
CHECKED	1000 W. 10TH ST. SUITE 100
APPROVED	1000 W. 10TH ST. SUITE 100



CITY OF BRANDON
PLANNING DEPARTMENT
421 – 9th Street • Brandon, Manitoba • R7A 4A9
Telephone (204) 729-2110 • Fax (204) 728-2406

Memorandum

Department / Agency	Contact	Fax No.
✓ Building Inspection	Vic Thomson	
Neighbourhood Renewal Corporation	David Taggart	
City of Brandon, Records Dept.	For Dom.Doc Internal List	

FROM: Tatenda Kwedza – Planning Technician

DATE: November 28th, 2007

RE: Subdivision Application 4500-07-376
1725 – 18th Street North (Parcel A, Plan 1363 BLTO Exc Nly 205 Feet)
Applicant: Mike Priestner Real Estate Inc. (c/o Dave Doerksen)
Owners: Albert John Kokonas and Mario John Kokonas

Mike Priestner Real Estate Inc. (c/o Dave Doerksen), applicant on behalf of the owners, Albert John and Mario John Kokonas, is applying to subdivide 1725 – 18th Street North (Parcel A, Plan 1363 BLTO Exc Nly 205 Feet) to create two commercial parcels in the CAR Commercial Arterial Zone to accommodate a Hyundai Car Dealership on proposed Parcel 1 and reserve proposed Parcel 2 for future commercial development.

Please review the attached application and site plan and inform our office of any comments or requirements with respect to your facilities. If you have no comments or requirements, please respond as such. We may proceed without your comments on **December 17th, 2007**. Please send all comments directly to the City of Brandon Planning Department and to my attention. Thank you.

12/07/28/07

No blding code concerns at this time. Normal permit process to be followed for future construction.
I'm interested in the development of Clair Ave. The when and how far the road will be developed. The access onto Clair Ave. from Monterey Estates is still yet to be completed and I'm wondering if Clair Ave. will be developed to the end of this property which may aid in getting that project also moving forward. There are temp roads only for Monterey Estates.
D.S.



**CITY OF BRANDON
PLANNING DEPARTMENT**

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Please review the attached application and site plan and inform our office of any comments or requirements with respect to your facilities. If you have no comments or requirements, please respond as such. We may proceed without your comments on **December 17th, 2007**. Please send all comments directly to the City of Brandon Planning Department and to my attention. Thank you.

*COB - Dev agmt required -
Highlights attached.*

*Dec 19/07
Patty Johnson*



Paige Kingdon/City of
Brandon/CA
12/19/2007 08:44 AM

To Patty Johnson/City of Brandon/CA@City of Brandon
cc
bcc
Fax to
Subject Re: dev agmt for hyundai ☐

Hi Patty - this Dev Agmt is with the Kokanos' brothers. I sent a draft agmt to them Dec 11 informing them that it is going to Council on Jan 7, 2008.

Here is the content of paragraph 6 in the draft Dev Agmt:

The Developer acknowledges and agrees to:

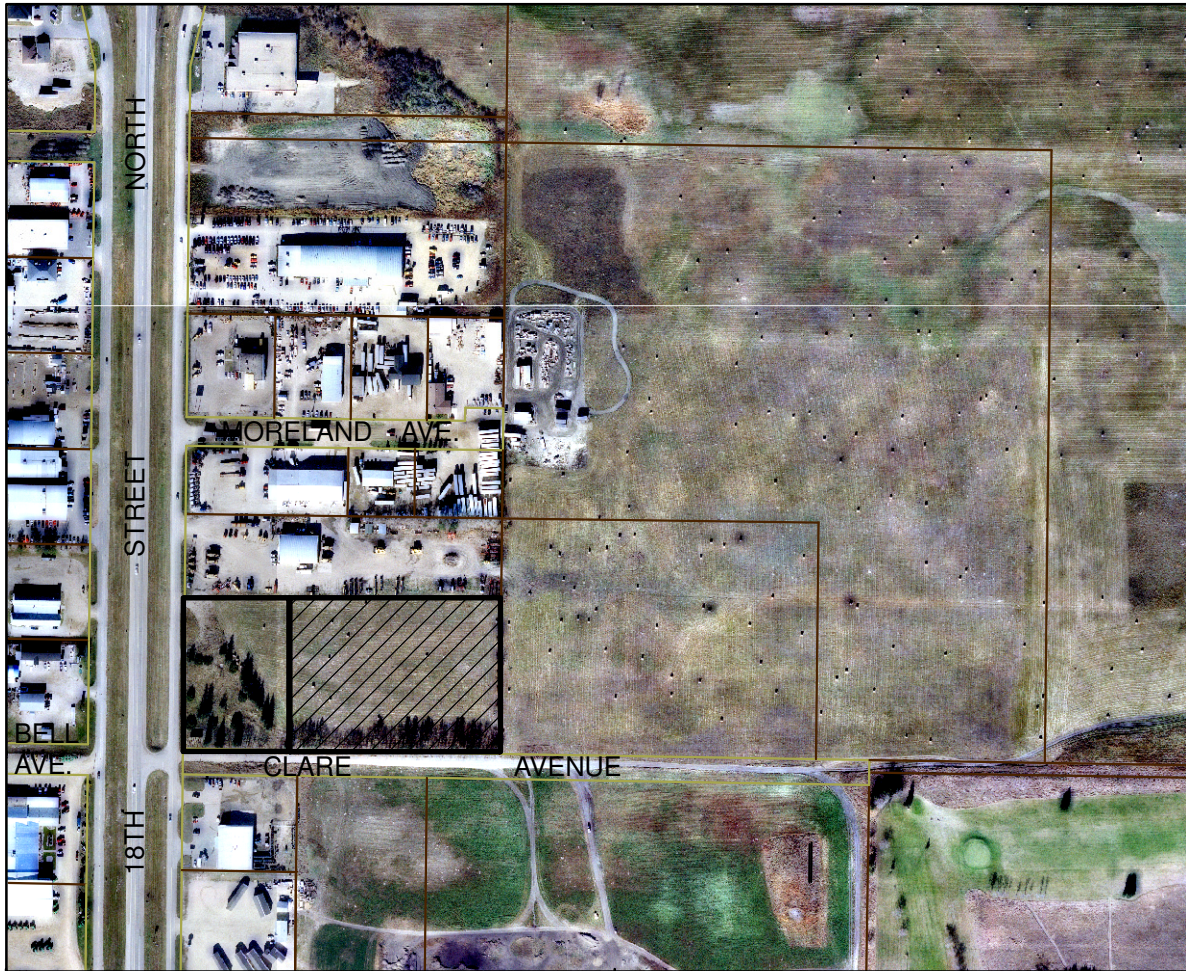
- a) contribute, on a one time basis, the amount of \$6,000.00 to the supply, installation, general maintenance, and warranty of trees required on the City's Right-of-Way within the construction of Clare Avenue. This amount is based on \$375.00 per tree with the Developer being responsible for an amount of trees as per the City's Landscaping Design Standards and in this case will be sixteen (16) trees for the development of Clare Avenue. This amount will be due upon signing of this Development Agreement and will be held in a reserve account until such time as trees are required.
- b) design and construct, to latest version of the City of Brandon Construction Specifications and to the satisfaction of the City Engineer, Clare Avenue from the 18th Street North service road east 126.5 meters (415 feet). The design will consist of, but not limited to, a 12.8 meter (42 feet) asphalt travelling surface and all other municipal above ground and municipal underground improvements. Any oversizing of water and sewer mains for future development along Clare Avenue will be contributed to by the City once completed based on the difference in actual pipe costs of the two sizes required for each water and sewer;
- c) that once the second parcel to the east, as identified in the attached Schedule "A" is developed, the City will budget and construct Clare Avenue to the previously submitted design for the remaining 126.5 meter to the easterly limits of said lands with no contributions from the Developer;
- d) Clause 11 in its entirety does not apply.

The bond amount in paragraph 7 is \$100,000.00.

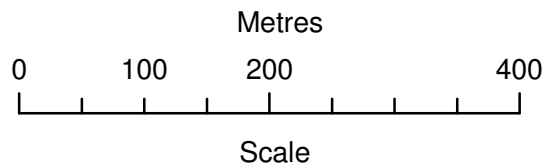
Hope this is what you want.
Paige

Patty Johnson/City of Brandon/CA



Application for Subdivision



Subdivision Application No. 4500-07-344
 1725 - 18th Street North
 Parcel A Plan 1363 BLTO Exc Nly 205 Feet



LEGEND

-  Parcel 1 for a proposed Car Dealership
-  Parcel 2 for future Commercial Development

City of Brandon
 Planning
 Department



City of Brandon

Map creation date: 11/28/07

Revised:

THIS AGREEMENT made in duplicate this _____ day of _____, A.D. 2007.

BETWEEN:

ALBERT JOHN KOKONAS and MARIO JOHN KOKONAS,
(hereinafter called the "Developer"),
OF THE FIRST PART,

- and -

THE CITY OF BRANDON,
(hereinafter called the "City"),
OF THE SECOND PART.

WHEREAS the Developer is the owner or is entitled to be the owner of properties commonly known as 1725 – 18th Street North and legally described as Parcel A Plan 1363 BLTO exc Nly 205 feet in NW ¼ 35-10-19 WPM and illustrated on the attached Schedule "A" (hereinafter called the "lands");

AND WHEREAS the Developer or its Agent has made application for subdivision of the said lands;

AND WHEREAS the Council of the City of Brandon will consider a report and recommendation from administration when considering the application for subdivision with a resolution of the Council of the City of Brandon required for a decision on the application;

AND WHEREAS the Brandon and Area Planning District will also be required to consider the subdivision application and to make a decision by resolution of the Brandon and Area Planning District Board;

NOW THEREFORE this Agreement witnesseth that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The preamble hereof and the attached Schedules shall form an integral part of this Agreement.
2. DEFINITIONS

Where the context so implies the following definitions shall apply in the singular and the plural:

- (a) "City Engineer" shall mean the Senior Engineer employed by the City of Brandon or any person delegated to act on his behalf;
- (b) "Consulting Engineer" shall mean the firm or person employed by the Developer for the designs, drawings, specifications and supervision of the works necessary to be carried out by the Developer and the City of Brandon;
- (c) "Municipal above ground improvements" shall include all improvements installed by the Developer as per approved plans and specifications which will become the responsibility of the City, or others to own and maintain after acceptance by the City and shall include but not be limited to the following:
 1. Construction and installation of all roads, walkways, sidewalks, retention ponds, etc. as laid out in the approved construction drawings;
 2. All street lighting of roadways and lane ways;

Initials

3. All signing including street names, and traffic control signs as directed by the City Engineer; and
 4. Landscaping of all publicly owned land including the sodding of boulevards and ditches, parkland, and public reserve land; and
- (d) "Municipal Underground Improvements" shall include all improvements installed by the Developer as per approved plans and specifications which will become the responsibility of the City, or others to own and maintain after acceptance by the City and shall include and not be limited to a storm water drainage system with detention pond, potable water system, waste water system, below ground electrical power, telephone and natural gas distribution systems, together with all laterals, branches, manholes, service connections, fire hydrants, valves, pedestals, culverts and usual engineering appurtenances necessary to fully service the lands, and all excavation of frost susceptible material, back fill, sub-base construction to roads and grading of right-of-ways to levels and grades acceptable to the City Engineer.

3. The Developer shall:

- a) engage a Consulting Engineer, duly licensed to practice by the Association of Professional Engineers & Geoscientists of the Province of Manitoba, for the purpose of design and project management for all aspects of construction of the lands;
- b) provide a lot grading and drainage plan for the lands, which plan shall be acceptable to the City Engineer prior to issuance of a building permit, and the Developer covenants and agrees that the lands shall be graded to, conform to, and be maintained in accordance with the said lot grading and drainage plan;
- c) provide a landscape plan of the lands, which plan shall be acceptable to the Director of Development Services prior to issuance of a building permit, and the Developer covenants and agrees the lands shall be landscaped in accordance with the plan immediately upon the completion of the development;
- d) grade and level all boulevards and ditches within the subdivision including a minimum of six inches of top soil and shall sod all of the said boulevards and ditches;
- e) provide a storm water management plan for the lands, which plan shall be acceptable to the City Engineer prior to issuance of a building permit;
- f) provide all plans of ingress and egress to the lands, which plans shall be acceptable to the City Engineer;
- g) provide all plans of above and below ground infrastructure, which plans shall be acceptable to the City Engineer prior to issuance of a building permit; and
- h) obtain from the City Engineer a certificate to state that the construction of the above and below ground improvements as required by this Agreement for the lands has been satisfactorily completed, and this certificate must accompany application made to the Brandon & Area Planning District for a building permit.

Initials

4. The Developer acknowledges and agrees that once each development stage/phase has commenced, the construction and servicing of the lands must be finalized within two (2) years. Failure to do so may in the determination of the City render said agreement null and void, and be termed a default to the agreement. The Developer may however, by notice in writing, request an extension of time within to complete the construction and servicing. No extension of time shall be allowed unless such written request is made by the Developer and approved by the City.
5. From and effective on the date of written acceptance from the City Engineer for all municipal above and below ground improvements required pursuant to this Development Agreement, the Developer agrees to and shall provide a full and comprehensive warranty for all such improvements, concerning any and all defects and failures, for a period of two (2) years. The Developer agrees to be responsible for all engineering and maintenance costs during such warranty period. Failure on the part of the Developer to comply with the terms with respect to this warranty shall result in default of the agreement and shall give rise to the City exercising its rights and remedies. In addition though, and while the warranty is to be for a period of two (2) years, the Developer agrees and acknowledges that the warranty and obligations thereunder to the City shall not be released or determined satisfied until such time as a final inspection is arranged at or upon the end of the two (2) year warranty period. The onus to arrange such final inspection shall be on the Developer. The Developer shall not be released of any and all obligations pursuant to this Development Agreement or the warranty until such time as any defects or failures, if any, which are determined upon final inspection for completion of the warranty period, are remedied to the complete satisfaction of the City. As a result, the Developer understands and acknowledges that the warranty period can extend farther than a period of two (2) years in these circumstances, and until same is released by the City.
6. The Developer acknowledges and agrees to:
 - a) contribute, on a one time basis, the amount of \$6,000.00 to the supply, installation, general maintenance, and warranty of trees required on the City's Right-of-Way within the construction of Clare Avenue. This amount is based on \$375.00 per tree with the Developer being responsible for an amount of trees as per the City's Landscaping Design Standards and in this case will be sixteen (16) trees for the development of Clare Avenue. This amount will be due upon signing of this Development Agreement and will be held in a reserve account until such time as trees are required.
 - b) design and construct, to latest version of the City of Brandon Construction Specifications and to the satisfaction of the City Engineer, Clare Avenue from the 18th Street North service road east 126.5 meters (415 feet). The design will consist of, but not limited to, a 12.8 meter (42 feet) asphalt travelling surface and all other municipal above ground and municipal underground improvements. Any oversizing of water and sewer mains for future development along Clare Avenue will be contributed to by the City once completed based on the difference in actual pipe costs of the two sizes required for each water and sewer;
 - c) that once the second parcel to the east, as identified in the attached Schedule "A" is developed, the City will budget and construct Clare Avenue to the previously submitted design for the remaining 126.5 meter to the easterly limits of said lands with no contributions from the Developer;

Initials

- d) Clause 11 in its entirety does not apply.
7. The Developer agrees to furnish security for any and all of its obligations pursuant to this Development Agreement, by means of an Irrevocable Letter of Credit for the amount of \$100,000.00 due upon signing of this Agreement. The issuer of the Irrevocable Letter of Credit, and the form and content thereof, shall be subject to the approval of the City. This will be a one time application and will cover the Developer for this Development Agreement entered into. City approval and building permits for the lands will not be issued until the Irrevocable Letter of Credit is in full force and effect, the duration of which must operate continuously throughout the currency of this Development Agreement with the City, the warranty period, and until the City is agreeable to the release of this security, should there be deficiencies to remedy as a result of final inspections for purposes of the warranty. Upon final inspection and written acceptance by the City of all improvements for purposes of completing the warranty period, and once and only once any and all outstanding deficiencies as a result of inspections for the completion of the warranty period are met to the satisfaction of the City will the Irrevocable Letter of Credit be released back to the Developer and cancelled. Failure to comply with the terms of the Development Agreement shall result, at the discretion of the City, in action against the security as presented by the Developers.
8. The City and the Developer agree that there will be no waiver of rights on the part of the City should it not immediately enforce its rights and remedies pursuant to this Agreement.
9. The Developer shall be required to reference survey monuments prior to development, and confirm that these monuments have been replaced (if disturbed) in compliance with *The Surveys Act* when construction is completed.
10. The Developer shall obtain all necessary permits relating to the development on the lands from the City prior to issuance of a building permit by the Brandon & Area Planning District.
11. The Developer is aware and agrees that if they elect to proceed with the installation of Municipal above ground improvements and Municipal Underground Improvements prior to an Order for Zoning By-law or subdivision approval, they will proceed, after submitting a written request to the General Manager of Development Services, under the following conditions:
- (a) consideration of such agreements shall only be for land to be zoned RLL Residential Large Lot, RSF Residential Single Family or RLD Residential Low Density Multiple Family (up to and including 4 family dwelling units);
 - (b) the developer being prepared to commence such installation fully at his risk and liability and assuming full financial risk and responsibility for any work required in the development agreement without receipt of approvals for re-zoning and subdivision;
 - (c) the developer acknowledging that there is a formal approval process including public hearings which may impact the Brandon Planning Commission, Brandon City Council and/or the Board of the Brandon and Area Planning District;
 - (d) City Council's approval of the development agreement shall not prejudice the Planning Commission, City Council and/or the Planning District Board or any of its members in their objective

Initials

consideration of the re-zoning and/or subdivision of the land to be developed and any representation made in respect of the re-zoning;

- (e) the developer recognizing the right of Brandon City Council to modify the development agreement prior to final approvals of re-zoning and subdivision and confirming he will not object to such modifications; and
- (f) the developer allowing the registration of the development agreement by caveat against the land to be developed prior to final approvals of re-zoning and/or subdivision.

- 12. The Developer agrees to indemnify and save harmless the City, its officers, employees and agents from and against all claims, proceedings, demands, damages, actions, judgements of any kind, including without limiting the generality of the foregoing, all damages for personal injury or death arising out of or attributable to all actions or conduct of the Developer, their employees, agents and contractors upon the development lands including but not limited to any work or act committed or omitted by the Developer in the performance of the agreement.
- 13. The City shall be entitled to register a Caveat against all of the lands affected by this Agreement reflecting the provisions of this Agreement.
- 14. This Agreement shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, provided however that no assignment shall be made by the Developer unless and until such assignment has been approved in writing by the City, such approval should not or will not be unreasonably withheld.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals and/or caused their corporate seals to be affixed duly attested to by the hands of their proper signing officers in that behalf, the day and year first above written.

Witness Signature

ALBERT JOHN KOKONAS

Witness Name

Witness Address

Witness
Witness Signature

MARIO JOHN KOKONAS

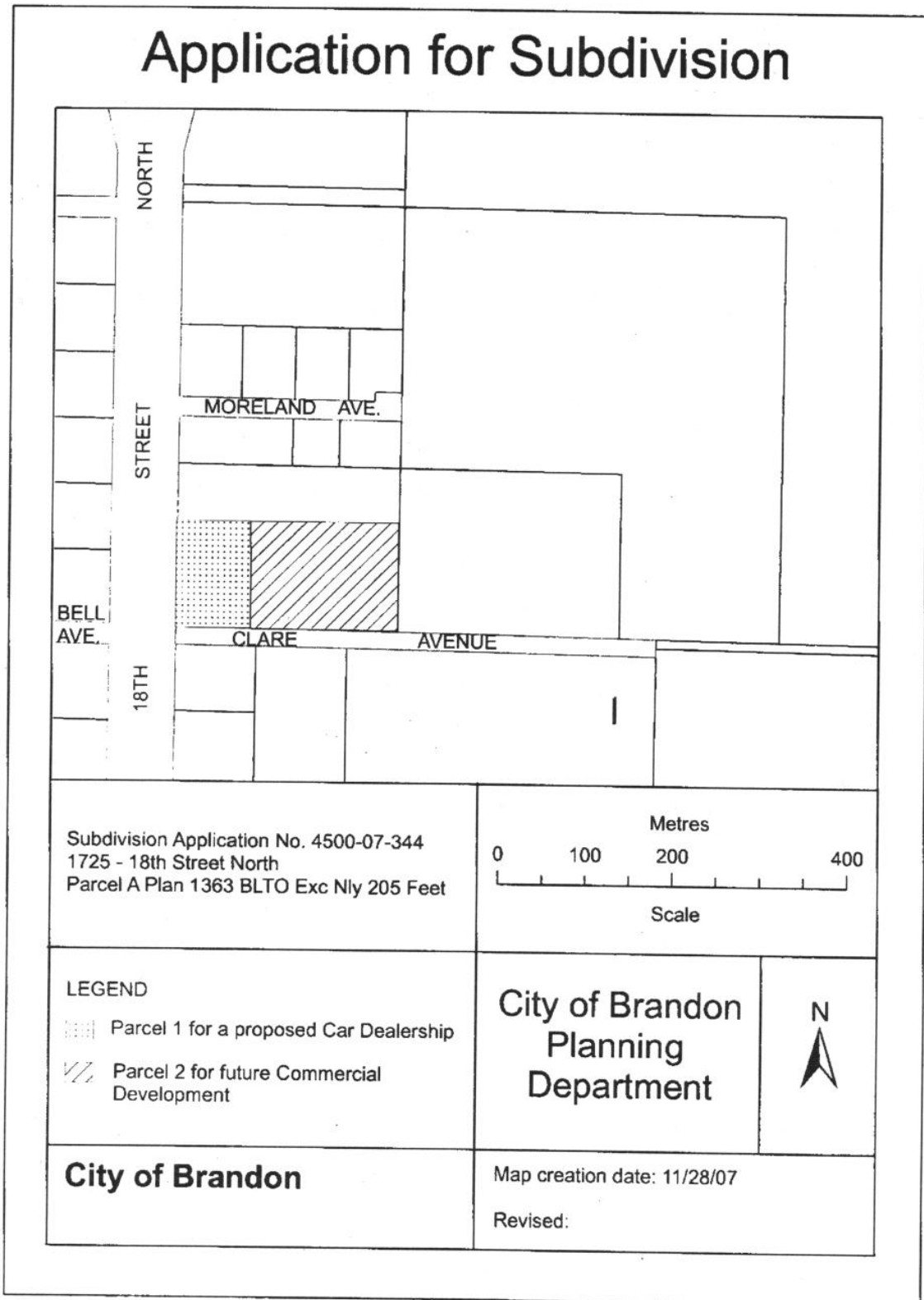
Witness Name

Witness Address

CITY OF BRANDON

Ted Snure, P. Eng., CITY ENGINEER

Schedule "A"



THIS AGREEMENT made in duplicate
this day of , A.D. 2007.

BETWEEN:

**ALBERT JOHN KOKONAS and MARIO
JOHN KOKONAS,**

(hereinafter called the "Developer"),
OF THE FIRST PART,

-- and --

THE CITY OF BRANDON,

(hereinafter called the "City"),
OF THE SECOND PART.

DEVELOPMENT AGREEMENT

GK/pk

DATE: December 11, 2007

The City of Brandon
Engineering & Operations Department
410 - 9th Street
Brandon, Manitoba
R7A 6A2

T. E. Snure, P. Eng.
CITY ENGINEER

Telephone: 729-2214
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File No.: 4500-07-376