Agenda - Council - September 28, 2005

Report - Standing Policy Committee on Property and Development - September 12, 2005

Item No. 3 Subdivision and Rezoning - 40-62 Shore Street
File DASZ 18/2005 [c/r DAC 11/2005]

STANDING COMMITTEE RECOMMENDATION:

On September 21, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee and submits the following to Council:

1. That the plan of subdivision proposed under File DASZ 18/2005 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 18/2005 dated June 14, 2005, for registration in the Winnipeg Land Titles Office subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated June 9, 2005.

2. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

3. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 18/2005 dated June 14, 2005, to an "RM-L" Multiple Family District subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following condition:

    A. That a two (2) metre high solid noise attenuation fence be constructed and maintained along the full length of the east property line of the subject property.

4. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land and the creation of additional sites (if applicable).

5. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

Report - Standing Policy Committee on Property and Development - September 12, 2005

6. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

7. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Servicing Agreement.

8. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

9. That the Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

10. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

11. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report - Standing Policy Committee on Property and Development - September 12, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 12, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 18, 2005, the Riel Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

On June 21, 2005, the Riel Community Committee further adjourned the public hearing to its meeting on July 18, 2005.

On May 17, 2005, the Riel Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on June 21, 2005.

RE: **Subdivision and Rezoning - 40 - 62 Shore Street**
File DASZ 18/2005[c/r DAV 118802/2005D]

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

Prepared by: **Marc A. Pittet, Clerk**
Riel Community Committee

Report date: **July 25, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

1. That the plan of subdivision proposed under File DASZ 18/2005 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 18/2005 dated June 14, 2005, for registration in the Winnipeg Land Titles Office, subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated June 9, 2005.

2. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

3. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 18/2005 dated June 14, 2005, to an "RM-L" Multiple Family District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter, to include the following condition:

    A. That a two (2) metre high solid noise attenuation fence be constructed and maintained along the full length of the east property line of the subject property.

4. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land and the creation of additional sites (if applicable).

5. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

6 That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

7. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Servicing Agreement.

8. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office, and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

9. That the Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

10. That in the event that the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

11. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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

1. The Riel Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated June 14, 2005 and in the report from the Administrative Coordinating Group dated June 9, 2005.

PUBLIC HEARING SUMMARY

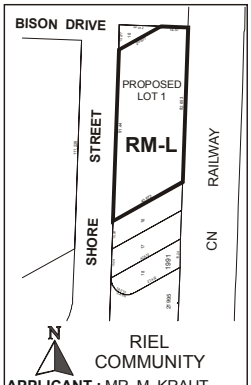
File: DASZ 18/2005[c/r DAV 118802/2005D]

Before: Riel Community Committee
Councillor Swandel, Chairperson
Councillor Magnifico
Councillor Steeves

Public Hearing: July 18, 2005
St. Norbert Community Centre, 3450 Pembina Highway
June 21, 2005
Community Committee Chamber, 604 St. Mary's Road
May 17, 2005
Community Committee Chamber, 219 Provencher Boulevard

Applicant: Myles Kraut

Subject:



APPLICANT : MR. M. KRAUT
FILE: DASZ 18/05
PROPOSAL: An application for the approval of the plan of subdivision shown outlined above as may be determined by Council and for a proposed zoning change to By-law No. 6400/94 by rezoning the land shown outlined above from an "A.5" AGRICULTURAL DISTRICT to an "RM-L" MULTIPLE-FAMILY DISTRICT. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : MYLES KRAUT
N° DE RÉFÉRENCE : DALZ 18/05
PROJET : Demande visant à faire approuver par le Conseil le plan de lotissement indiqué ci-dessus et proposition de modification du *Règlement municipal n° 6400/94* visant à faire changer le zonage des sols délinéés ci-dessus qui passeraient de la catégorie A.5 (SECTEUR AGRICOLE) à la catégorie RM-L (SECTEUR D'HABITATIONS MULTIFAMILIALES). **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 40 - 62 Shore Street

Exhibits Filed:

1. Application dated April 13, 2005
2. Revised Notification of Public Hearing dated May 13, 2005
3. Manitoba Status of Titles 1477957, 1514496
4. Letter of authorization dated March 23, 2005 from Gerry and Olive Zonneveld to Myles Kraut
5. Plans (4 pages)
6 Report from the Manager of Planning and Land Use dated June 14, 2005
7. Report from the Administrative Coordinating Group dated June 9, 2005
8. Inspection Report
9. Communication dated June 21, 2005, from Cheryl and Eric Thompson in opposition to the application
10. Communication dated June 16, 2005, from A. David Marshall on behalf of Loblaw Properties West Inc. in opposition to the application.

REPRESENTATIONS:

In Support:

Myles Kraut
Robin Lee

In Opposition

Bruce Andrews
David Marshall
Cheryl and Eric Thomson

For the City:

Ernie Carriere, Land Development Engineer, Planning, Property and Development Department
Glenn Halldorson, Real Property Office, Planning, Property and Development Department
Kevin Lalor, Planner, Planning, Property and Development Department
Chris Torpey, Land Development Administrator, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

July 18, 2005
The applicant, Miles Kraut, appeared in support of the application.

June 21, 2005
The applicant, Miles Kraut, appeared in support of the application and provided an overview of the proposal.

Robin Lee appeared in support of the application. Mr. Lee stated the proposal would help alleviate a housing shortage for students.

Bruce Andrews and David Marshall appeared in opposition to the application for reasons outlined in their communication dated June 16, 2005 (filed as Exhibit 10). Mr. Andrews' and Mr. Marshall's concerns were primarily in opposition to the proposed closing of part of Shore Street.

May 17, 2005
No representations were heard inasmuch as the Riel Community Committee adjourned the Public Hearing with respect to this application prior to opening representations.

Exhibit "6" referred to in File DASZ 18/2005 [c/r DAV 118802/2005D]

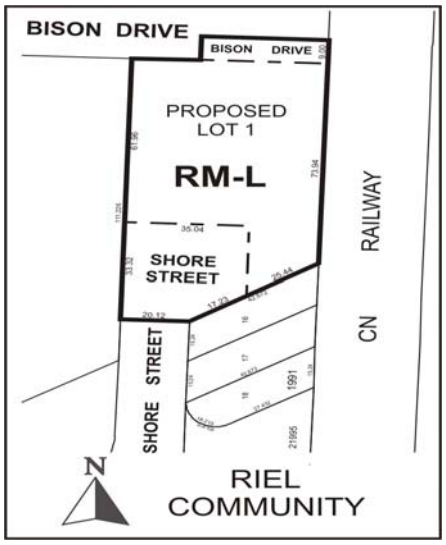
Winnipeg

Planning, Property and Development Department Report

To the Riel Community Committee

Date: June14/05
File: DASZ 18/05
Related Files: DAV 05 118802D
Subject: To consolidate five (5) adjoining lots into a single parcel and rezone the consolidated parcel from an "A" Agricultural category to an RM-L Multiple Family category for purposes of constructing a 12 unit student housing complex.

Location: 40-62 Shore Street
Legal Description: Lots 1,13,14,15 Block 6, Plan 1991 & Lot 17, Plan 21995



Applicant: Myles Kraut
Owner: Gerard and Olive Zonneveld

2040

Recommendation: (Approve with Conditions)

Site Description

The overall site area, including the closed rights-of-way, is approximately 2.12 acres. It is vacant and zoned 'A' Agricultural. The site is bounded on the north by Bison Drive, on the south by Lee Blvd., on the east by the CN Rail right-of –way and on the west by a large tract of undeveloped land owned by Westfair Foods. The Westfair site is zoned C2 Commercial. The properties to the south along Shore and Lee Blvd. are zoned R1-4 Residential Single Family and many are occupied with dwellings. The area has up until recently been unserviced . Full services, including piped water and sewer, are currently ,in the process, of being installed and should be available by the fall of 2005.

Background

The subject property has been lying vacant for many years while the property owners to the south along Lee and Fairfield were petitioning the City for a full range of underground services. Without full services, Plan Winnipeg Policy does not permit the subdivision of land. As a result, the Fairfield Park area has remained unchanged over the years with the exception of the establishment of the adjacent Superstore several years ago (which installed its own groundwater hookup and wastewater sewer connection). The installation of full underground service is, now however underway and a proposed overall plan of subdivision has been completed by the City and ratified by area residents. Because of the potential for residential development in the surrounding area and the increase in traffic that will accompany development, the Public Works Department has decided to close Shore Street at Bison Drive effectively restricting future access to the area via either Barnes Avenue or Lee Blvd.

Description of the Proposed Development

The applicants are proposing to consolidate at least five lots on the east side of Shore with a portion of Shore that is due to be closed. They will then construct a 12 unit attached housing project which may in part , at least, be associated with the University of Manitoba. In other words, some of the units, possibly all of the units may be set aside to meet student housing needs. A total of 42 parking stalls (well in excess of the by-law requirements) are indicated in the preliminary plans. The applicants will make provision for a cul-de-sac/ vehicle turn around on their property as part of their plan and at their expense. It should also be noted that a 2 metre high noise attenuation fence is to constructed and maintained along the full length of the east periphery of the property

Analysis

The subject parcel is awkwardly situated given that its proximity to both Bison Drive and the railway right-of –way does not make it particularly suitable for single family housing. In addition, the closing of the access from Shore to Bison Drive does not make commercial development viable. Therefore a low density multiple family project which does not generate

much traffic through the adjoining residential areas would appear to be the highest and best use of the land. Ultimately, both the City and the applicant benefit from an arrangement whereby the City gives up portions of an unneeded street right-of-way allowing the developer to have more buildable space and in return, the developer agrees to construct a proper turn around on the north side of Shore Street. The developer is only constructing twelve attached dwelling units but some of the units may be slated for student family housing which is badly needed and in short supply. It should be noted that there is no water and sewer service available at this time, but underground infrastructure should be accessible by the fall of 2005. At the request of the Public Works Department, there will be a clause in the zoning agreement, which requires the applicant to construct and maintain a 2 metre high solid fence along the periphery of his property. The fence is for noise attenuation purposes.

Recommendation

The Planning and Land Use Division recommends approval for the following reasons:

- The proposed housing project is of a reasonable density and suitably located on the periphery of the existing single family neighbourhood.
- There is a demonstrated need for more housing in this area, particularly student family housing.
- The subject parcel is not well suited to alternative types of uses such as commercial uses, because access to the site from Bison Drive is deemed unacceptable by the Public Works Dept.

Recommended Conditions of Approval

I. That the plan of subdivision proposed under File No. DASZ 18/05 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 18/05, attached hereto and dated June 14/05, for registration in the Winnipeg Land Titles Office, subject to the following:

A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated June 9/05;

II. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

III That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File No. DASZ 18/05, attached hereto and dated June 14/05, to an "RM-L" Multiple Family District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to, to include the following conditions:

A. That a 2 metre high solid noise attenuation fence be constructed and maintained along the full length of the east property line of the subject property.

IV. That a ten (10) percent dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land and the creation of additional sites, (if applicable).

V. That, in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

VI. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

VII. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Servicing Agreement.

VIII. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office, and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands **provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.**

IX. The Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

X. In the event that the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: (Kevin Lalor)
PPD File # (.637)

By-Law No. _____

File No. **DASZ 18/05**

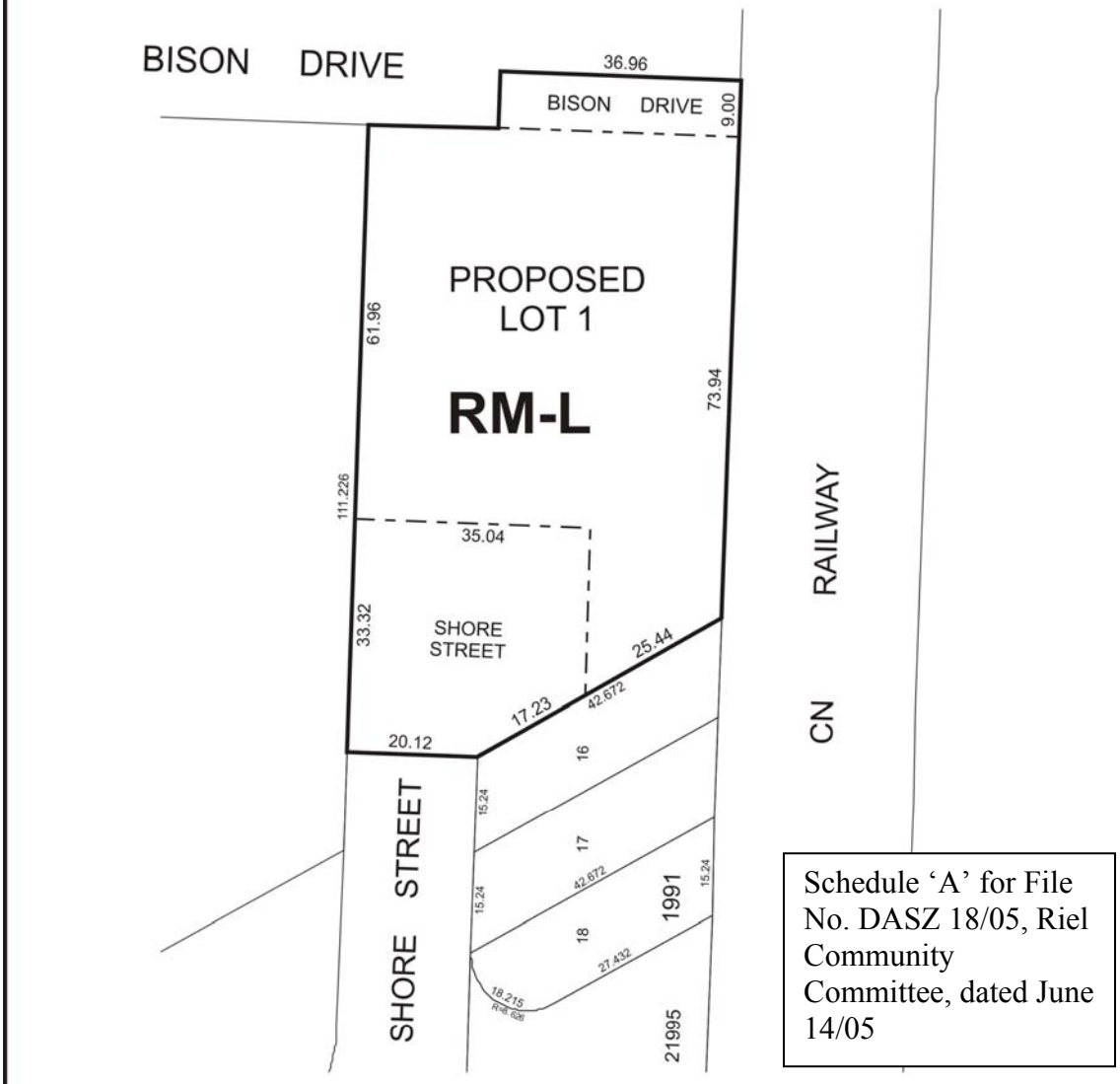
Atlas Sheet No.

N

AL23
RIEL
COMMUNITY

Explanation

An application for the approval of the plan of subdivision shown outlined below and for a proposed zoning change to By-law No. 6400/94 by rezoning the land located at 40-62 Shore Street from an "A.5" AGRICULTURAL DISTRICT to an "RM-L" MULTIPLE-FAMILY DISTRICT as shown outlined below.



Schedule 'A' for File No. DASZ 18/05, Riel Community Committee, dated June 14/05

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Exhibit “7” referred to in File DASZ 18/2005 [c/r DAV 118802/2005D]

Re: Proposed subdivision and rezoning of land located on the east side of Shore Street, north of Lee Boulevard – DASZ 18/05

An application has been submitted by Myles Kraut to subdivide and rezone land located on the east side of Shore Street, north of Lee Boulevard. The subject land is located on the north boundary of the Fairfield Park Local Improvement District and services have been planned to be installed in Shore Street north of Lee Boulevard in the fall of 2005. It had been planed to terminate Shore Street just south of the subject property and to construct a cul-de-sac turnaround off-set to the west of Shore Street. The Administrative Coordinating Group has recommended that the cul-de-sac turnaround be shifted northerly and constructed partly within the property being rezoned under DASZ 18/05. The Administrative Coordinating Group has also recommended that the new cul-de-sac be shifted an additional 11m (approximately) to accommodate the conversion of City-owned Lot 16, Block 6, Plan 1991 into a regular rectangular building lot in the future as per the attached sketch identified as Schedule "A" hereto.

It is therefore recommended that approval of DASZ 18/05 be subject to the Developer amending the plan by shifting the proposed cul-de-sac turnaround northerly approximately 11m to accommodate the conversion of Lot 16, Block 6, Plan 1991 into a regular rectangular building lot in the future.

It is further recommended that approval of the amended plan be subject to the Developer entering into a Servicing Agreement as follows:

1. a) The Developer shall extend or pay the cost of extending the watermain, wastewater sewer, land drainage sewer, concrete pavement and ornamental street lighting in Shore Street from the termini of each service as originally contemplated pursuant to the Fairfield Park Local Improvement District Program to serve the proposed development as determined by the Director of Public Works and the Director of Water and Waste.
   b) The City shall reimburse the Developer for the full cost of extending the services in Shore Street by approximately 11m following the completion of the exchange of land between the City and the Developer required to convert Lot 16, Block 6, Plan 1991 into a regular building lot.
2. The Developer shall grant a 6.0m wide easement for the existing watermain located within the proposed closing of Shore Street.
3. a) The Developer shall, at no expense to the City, remove the existing Shore Street connection to Bison Drive including regrading of the Bison Drive ditch in the vicinity of the removed street connection as determined by and to the satisfaction of the Director of Public Works.
   b) The Developer shall, at no expense to the City, close the existing median opening on Bison Drive at Shore Street including restoration of the curb and median landscaping as determined by and to the satisfaction of the Director of Public Works.
4. The Developer shall pay its share of the regional land drainage system as determined by the Director of Water and Waste. The 2005 rate therefor is $10,315.00/acre.

5. The Developer shall, at no expense to the City, construct abutting the CNR Letellier Subdivision, a uniform fence 2.0m in height, to the satisfaction of the Director of Public Works. The Developer shall permit the City to file a caveat against the title of the subject property requiring the owner(s) to maintain and/or repair or replace the fence as originally constructed, to the satisfaction of the Director of Public works. Said fence is intended to ensure that "pedestrian trespass" to the tracks does not become a consequence of the subject development, thereby jeopardizing existing and/or future anti-whistling regulations along the CNR Letellier Subdivision.
6. The Developer shall, at no expense to the City, construct abutting Bison Drive, a uniform noise attenuation fence 2.0m in height, to the satisfaction of the Director of Public Works. The Developer shall permit the City to file a caveat against the title of the subject property requiring the owner(s) to maintain and/or repair or replace the fence as originally constructed, to the satisfaction of the Director of Public Works.
7. The Developer shall, at no expense to the City, provide underground electrical and telephone services to serve the proposed development and will pay the full cost to convert any existing overhead services within the proposed development to underground.
8. The Developer shall pay all costs associated with the relocation of streetlights and other utilities made necessary as a result of or required to accommodate works, which are to be constructed by the Developer to serve the proposed development, as determined by and to the satisfaction of the Director of Public Works.
9. The Developer shall, at no expense to the City, be responsible to control and to initiate the clean-up of litter and refuse from the contractors and builders for this development, both on-site and off-site, during the installation of services and construction of buildings, until completion of all construction. The clean up of litter and refuse shall be done on a regular basis as determined by the Director of Public Works. This shall include initiating action and assuming all costs in remedying the situation to the satisfaction of the Director of Public Works.
10. The Developer shall, at no expense to the City, ensure that construction traffic uses routes as determined by the Director of Public Works. The Developer shall maintain, at no expense to the City, the access routes in a clean dust free condition, free of dropped and tracked-on mud, and shall undertake regular cleaning of streets until building construction, including landscaping is complete, all as determined by and to the satisfaction of the Director of Public Works.
11. There are to be no private approaches serving the proposed development off Bison Drive; all access to the site shall be off Shore Street.
12. The Developer shall pay its share of the cost of engineering services in connection with the installation of services required to serve the proposed development.
13. The Developer shall pay $1,650.00 plus 7% G.S.T. to defray the City's administration and related costs associated with the preparation and implementation of the Servicing Agreement.

THIS REPORT SUBMITTED BY:

Administrative Coordinating Group
File No. AG 18/05
June 9, 2005

"Original signed by E.L. Carrière"
Land Development Engineer

"Original signed by K.T. Raban"
Water and Waste Department

"Original signed by R.J. Hartmann"
Public Works Department
Transportation Division