Agenda - Council - November 23, 2005

Report - Standing Policy Committee on Property and Development – November 1, 2005

Item No. 8 Subdivision and Rezoning - 715 St. Anne's Road
File DASZ 36/2005 [c/r DAZ 232/99 and DASSF 562/2005]

STANDING COMMITTEE RECOMMENDATION:

On November 16, 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 36/2005 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 36/2005 dated October 11, 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 under File DAZ 232/99.

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 outlined on Schedule "A" for File DASZ 11/2005 dated October 11, 2005, to a "PR-1" Parks and Recreation District and a "C2" Commercial 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 conditions:

    A. That final plans indicating building design and location, parking, landscaping, fencing, approaches and garbage enclosure locations be submitted to and approved by the Director of Planning, Property and Development and the Riel Community Committee prior to the issuance of any building permits.

    B. That the use of the land be restricted to a personal care facility and accessory buildings, parking areas and offices.

4. 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 – November 1, 2005

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

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

7. 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.

8. 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.

9. 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.

10. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

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 – November 1, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 16, 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 November 1, 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 October 18, 2005, the Riel Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning - 715 St. Anne's Road**
File DASZ 36/2005 [c/r DAZ 232/99 and DASSF 562/2005]

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

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

Report date: **October 25, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On October 18, 2005, the Riel Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 36/2005 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 36/2005 dated October 11, 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 under File DAZ 232/99.

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 outlined on Schedule "A" for File DASZ 11/2005 dated October 11, 2005, to a "PR-1" Parks and Recreation District and a "C2" Commercial 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 conditions:

    A. That final plans indicating building design and location, parking, landscaping, fencing, and approaches and garbage enclosure locations be submitted to and approved by the Director of Planning, Property and Development and the Riel Community Committee prior to the issuance of any building permits.

    B. That the use of the land be restricted to a personal care facility and accessory buildings, parking areas and offices.

4. 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.

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

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

7. 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.

8. 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.

9. 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.

10. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

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(s) 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 October 11, 2005 and in the report from the Administrative Coordinating Group dated October 5, 2005.

PUBLIC HEARING SUMMARY

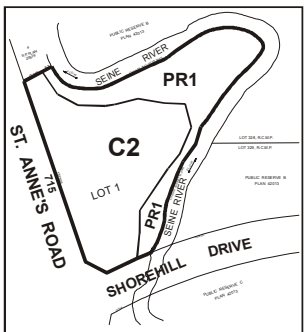
File: DASZ 36/2005 [c/r DAZ 232/99 and DASSF 562/2005]

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

Public Hearing: October 18, 2005

Applicant: MMP Architects Inc. (James McFeetors)

Subject:



APPLICANT : MMP ARCHITECTS INC.
FILE: DASZ 36/05
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 a "PR1" PARKS AND RECREATION DISTRICT and a "C2" COMMERCIAL DISTRICT. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : MMP ARCHITECTS INC.
N° DE RÉFÉRENCE : DALZ 36/05
PROJET : Demande d'approbation par le Conseil du plan de lotissement indiqué ci-dessus et proposition de modification du *Règlement municipal n° 6400/94* visant à changer le zonage des sols délinéés ci-dessus qui passeraient de la catégorie A.5 (SECTEUR AGRICOLE) à la catégorie PR1 (SECTEUR DES PARCS ET DES LOISIRS) et à la catégorie C2 (SECTEUR COMMERCIAL). **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 715 St. Anne's Road

Exhibits Filed:

1. Application dated September 16, 2005
2. Notification of Public Hearing dated September 21, 2005
3. Manitoba Status of Titles 719484, 1983106
4. Letter of authorization dated July 21, 2005 from Faith Lutheran Church to MMP Architects Inc.
5. Land Exchange Agreement No. 149-05
6. Caveat No. 3135838
7. Drawing of subject property
8. Plans (4 pages)
9. Report from the Manager of Planning and Land Use dated October 11, 2005
10. Report from the Administrative Coordinating Group dated October 5, 2005
11. Inspection Report

REPRESENTATIONS:

In Support:

Dave Danyluk, Coordinator, Save Our Seine Environment Inc.
Al Horn
Ed Law
Jules Legal, Save Our Seine Environment Inc.
Jim McFeetors
G. Pekrul
George Smith

In Opposition

Nil

For Information:

David Watson

For the City:

Kevin Lalor, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Jim McFeetors, appeared in support of the application and gave a brief overview of the proposal. Mr. McFeetors stated that they were prepared to begin construction pending approval from Manitoba Health. Mr. McFeetors also stated that the applicants would be unable to preserve Mager House due to its poor condition and the estimated $300,000.00 it would cost to refurbish it and move it, if possible, onto a new foundation. Mr. McFeetors further stated that the applicants intend to incorporate some of the elements of Mager House into the proposed development.

Jules Legal, Save Our Seine Environment Inc. (SOS), appeared in support of the application. Mr. Legal stated that the proposed development would be a good fit for the community. Mr. Legal further stated that SOS would prefer if the developer could preserve Mager House for the reasons outlined in his communication, filed as Exhibit 12.

David Danyluk, Coordinator, SOS, appeared in support of the application and reiterated the request to preserve Mager House.

David Watson appeared for informational purposes and reiterated the request to preserve Mager House and indicated that he would be willing to host the house on his property.

Jim McFeetors returned in rebuttal. Mr. McFeetors stated that moving Mager House would likely not be possible as three (3) different moving companies that were approached refused to move the structure citing it could not withstand the move.

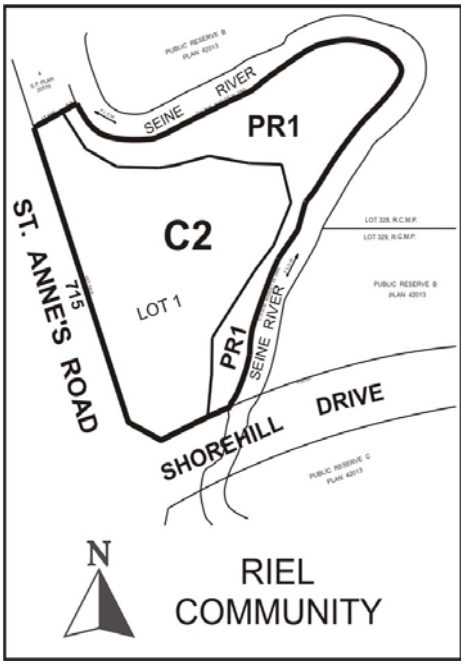
Exhibit "9" referred to in File DASZ 36/2005 [c/r DAZ 232/99 and DASSF 562/2005]

Planning, Property and Development Department Report

To the Riel Community Committee

Date: October 11/05
File: DASZ 36 /05
Related Files: DAZ 232/99 , DASSF 562/05
Subject: To subdivide and rezone the subject lands from a " A-5" Agricultural District to a " PR-1" Parks and Recreation District and a " C2" Commercial District.

Location: 715 St. Anne's Road
Legal Description: Lot 5, Plan 20,519 & Block 7,Plan 42,013



Applicant: MMP Architects
Owner: Faith Lutheran Church of St. Vital

Recommendation: Approved with Conditions

Site Description

There is approximately 157 m (520') of frontage and an equivalent level of depth on this large pie -shaped property.

Surrounding Land Use and Zoning:

North: To the north is a mix of "C2" Commercial businesses, single-family homes ("A-5" Agricultural land) and "RM-2" Multiple-Family developments.
South: Large lot single-family and multiple-family.
East: Lands east of the Seine River remain generally vacant and are zoned "A-5" Agricultural.
West: To the west is a mobile home park zoned "A-5" Agricultural and a zoned C2 multi-tenant facility currently under construction.

Background

Under a previous application, DAZ 232/99, Faith Lutheran Church made a virtually identical application which while approved at the Community Committee level, was never ratified by Council. The original application did not include a rezoning of the riverbank properties to PR-1. And the area being rezoned to Commercial at that time did not include a small parcel adjoining Shorehill Drive which it now does.

Description of the Proposed Development

The Board of Faith Gardens intends to build a two story 80 bed personal care home on the subject site. The project has been approved by the Regional Health Department of the Province of Manitoba and will be tendered shortly. In the original application, the owners had indicated that they would attempt to preserve and maintain an old residence on the property. In the interim, it has been established that the subject residence is not listed as an historic building and the owners have indicated that it is in extremely poor condition and cannot be saved. In all likelihood , it will probably be demolished in the near future. There are two approaches off of St. Anne's to the property; the main approach being at the NW corner of the site. With the rezoning and consolidation of the small parcel adjoining Shorehill Drive, there should be more than adequate visitor and employee parking. Finally a significant portion of those lands adjoining the Seine River are being retained by the City and rezoned to a PR-1 Parks and Recreational category. Those lands will be developed for passive park purposes (pathways etc.) and generally fall below the 755 foot contour line.

Analysis

The applicants on behalf of the prospective owners, Faith Lutheran Church, have applied for a rezoning of the subject land in order to facilitate development of an 80 bed personal care facility. The proposed building will be at the centre of the property and will be two-storeys high. Each

floor will have 40 units, will have its own nursing station and will be linked to a dining and service area. Planned also is an activity room and a large outdoor court yard on the west side of the building. On the west side of the structure is a drop off area and the main entranceway. Two parking areas providing a total of 41 employee and visitor parking stalls. A single approach provides access to the property from St. Anne's Road. The Planning and Land Use Division has evaluated the subject proposal and is of the view that (as with the previous application) the proposed rezoning and subdivision should be approved in accordance with conditions outlined in the accompanying zoning agreement and the original servicing agreement. The proposed use is of a scale which will not be out of character with uses of a similar nature, particularly the seniors housing complexes common along the east side of St. Anne's Road. There is adequate access to the site and significant buffering between the proposed development and adjacent uses both north and south. Because many of the listed permitted uses under the "C2" Commercial zoning category are not deemed to be appropriate at the subject location, the use of the land is to be restricted in the ensuing zoning agreement.

And it should be noted that the Seine River Parkway Plan mandates the City to acquire a portion of the riverbank area – in this case, the land lying below the 755 ft. contour line. That land will eventually be developed for passive park development purposes.

It should be noted that the applicants have provided accompanying information supporting their contention that the proposed use is a non-profit organization. City policy does allow for the waiving of the ten percent cash dedication for non-profit citizen housing. It is therefore recommended that the standard cash dedication requirement be waived by your Committee.

Recommendation

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

- The proposed use is of a scale that will be compatible with adjoining developments to the south, west and north.

- As a result of the subject application, the City will acquire a sizeable portion of the adjoining Seine River Parkway for future recreational development.

Recommended Conditions of Approval

I. That the plan of subdivision proposed under File No. DASZ 36/05 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 36/05, attached hereto and dated October 11/2005, 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 under File No. DAZ 232/99.

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 11/05, attached hereto and dated October 11/05, to a "PR-1" Parks and Recreation District and a "C2" Commercial 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 final plans indicating building design and location, parking, landscaping ,fencing, and approaches and garbage enclosure locations be submitted to and approved by the Chief Administrative Officer or designate and the Riel Community Committee prior to the issuance of any building permits.

B. That the use of the land be restricted to a personal care facility and accessory buildings, parking areas and offices.

IV. 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.

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

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

VII. 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.**

VIII. 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.

IX. 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.

X. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

XI. 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.

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

Report Prepared by: (Kevin Lalor)
PPD File # (Community File Number)

Schedule "A"

By-Law No. _____

File No. **DASZ 36/05**

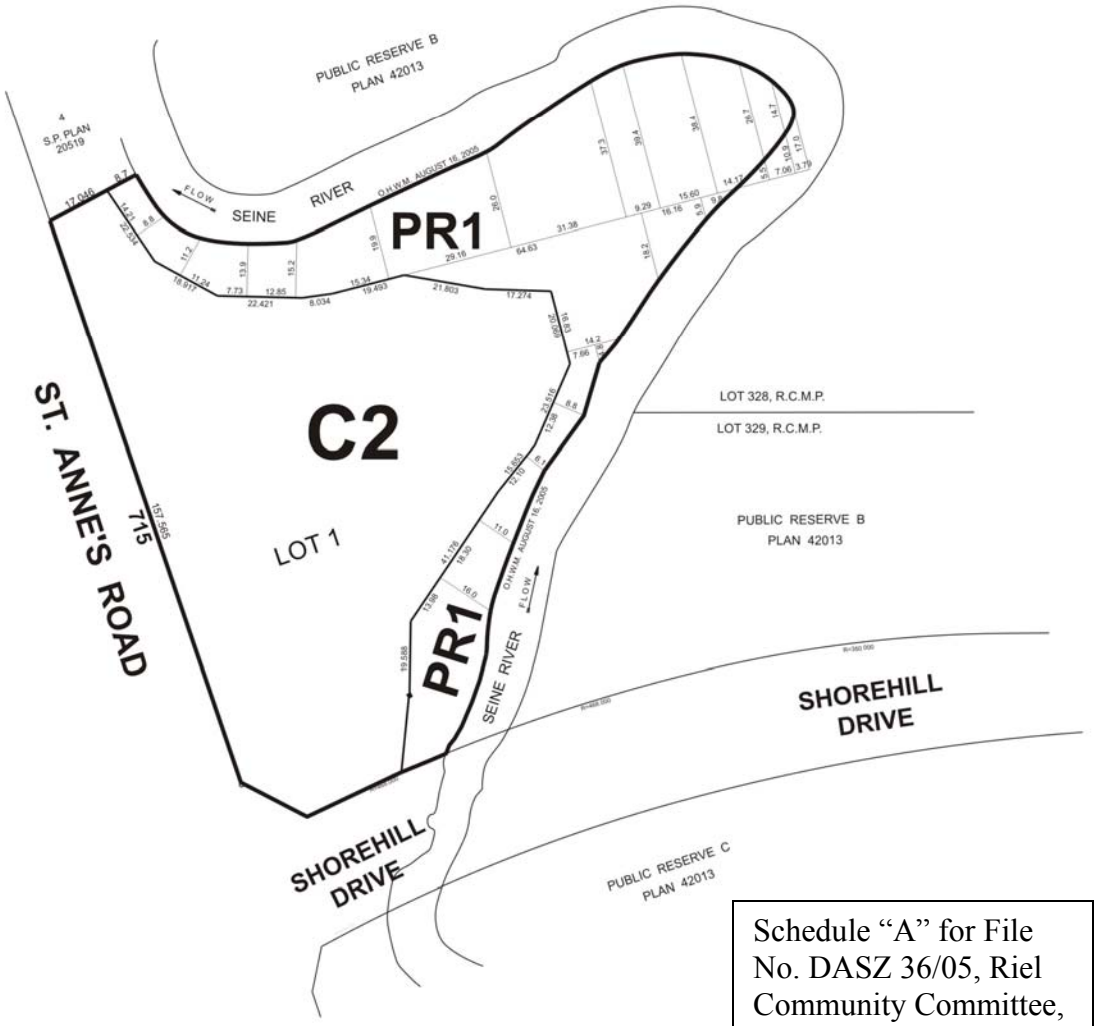
Atlas Sheet No.

N

AH29
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 715 St. Anne's Road from an "A.5" AGRICULTURAL DISTRICT to a "PR1" PARKS AND RECREATION DISTRICT and a "C2" COMMERCIAL DISTRICT as shown outlined below.



Schedule "A" for File No. DASZ 36/05, Riel Community Committee, dated October 11/05

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Exhibit "10" referred to in File DASZ 36/2005 [c/r DAZ 232/99 and DASSF 562/2005]

Re: Proposed subdivision and rezoning of land located at 715 St. Anne's Road – DASZ 36/05

An application has been submitted by MMP Architects on behalf of Faith Lutheran Church for the subdivision and rezoning of land located at 715 St. Anne's Road. On February 23, 2000 Council approved DAZ 232/99 being the rezoning of the property at 715 St. Anne's Road, commonly known as Mager House, to C2 Commercial to accommodate a personal care home. Recently Faith Lutheran Church purchased a portion of Block 7, Plan 42013 adjacent to Shorehill Boulevard from the City and the Church wishes to rezone the newly acquired land and consolidate the site. A secondary purpose of DASZ 36//05 is to rezone the Seine River Waterway lands to PR1 Parks and Recreation.

It is therefore recommended that approval of DASZ 36/05 be subject to the Church entering into a Servicing Agreement containing the same conditions approved for DAZ 232/99 by Council on February 23, 2000 as amended on June 20, 2001.

THIS REPORT SUBMITTED BY:

Administrative Coordinating Group
File No. AG 36/05
October 5, 2005

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RIEL COMMUNITY COMMITTEE
October 5, 2005
AG 36/05

"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