Minutes - Executive Policy Committee - May 9, 2007

Minute No. 341
Report - Standing Policy Committee on Property and Development – May 1, 2007

Item No. 11 Rezoning - 690 Tache Avenue, 136 Dumoulin Street (St. Boniface Ward) File DAZ 202/2007

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

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 Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 202/2007 dated April 3, 2007, to an "RM-5" Multiple Family District subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

        i. That final site plans outlining the details of building locations and profiles, parking areas, approaches, exterior lighting/exterior building materials, landscaping, fencing, garbage enclosures, etc… shall be submitted to and approved by the Director of Planning, Property and Development or his designate and the Riel Community Committee prior to the issuance of any building permits.

        ii. That the maximum building height be limited to fifty (50) feet.

2. 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 the market value of the land.

3. 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.

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

Report - Standing Policy Committee on Property and Development – May 1, 2007

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, 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.

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

7. 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 – May 1, 2007

DECISION MAKING HISTORY:

Moved by Councillor Swandel,

That the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On May 1, 2007, the Standing Policy Committee on Property and Development concurred in the recommendation of the Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 10, 2007, the Riel Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 690 Tache Avenue, 136 Dumoulin Street**
File DAZ 202/2007 [c/r DAV 109882/2007D]

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

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

Report date: **April 19, 2007**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 10, 2007, the Riel Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 202/2007 dated April 3, 2007, to an "RM-5" Multiple Family District, subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

        i. That final site plans outlining the details of building locations and profiles, parking areas, approaches, exterior lighting/exterior building materials , landscaping, fencing, garbage enclosures, etc... shall be submitted to and approved by the Director of Planning, Property and Development or his designate and the Riel Community Committee prior to the issuance of any building permits.

        ii. That the maximum building height be limited to fifty (50) feet.

2. 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 the market value of the land.

3. 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.

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, 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.

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

7. 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 Planning and Land Use Division dated April 3, 2007.

PUBLIC HEARING SUMMARY

File: DAZ 202/2007 [c/r DAV 109882/2007D]

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

Public Hearing: April 10, 2007
Council Chamber, Council Building, 510 Main Street

Applicant: Tyrone Enterprises Ltd. (Alain Hogue)

Subject:



Premises Affected: 690 Tache Avenue, 136 Dumoulin Street

Exhibits Filed:

1. Application dated March 12, 2007
2. Notification of Public Hearing dated March 14, 2007
3. Manitoba Status of Titles 1349783, 1371069 and 1371070
4. Plans (8 pages)
5. Report from the Planning and Land Use Division dated April 3, 2007
6. Inspection Report
7. Plans submitted by Alain Hogue at the Public Hearing
8. Communication dated April 10, 2007, from Michel Audette in support of the application, submitted by Alain Hogue at the Public Hearing
9. Communication dated April 10, 2007, and supporting documentation in opposition to the application submitted by Martin Maykut at the Public Hearing
10. Petition purporting to contain the signatures of eighteen (18) area residents in opposition to the application submitted by Carol James at the Public Hearing

REPRESENTATIONS:

In Support:

Michel Audette
Alain Hogue
David Goyer
Bob Lafreniere
Tomas Landry
Mireille Lamontagne

In Opposition

Aaron J. Bowler
Karl and Susan Brosch
John Daniels
David Hill
Carol James
Norm Gousseau
Paul Gray
Francois and Marguerite Le Dorze
Helen Loewen
Boleslaw Lucki
Martin Maykut, Streetside Development Corp.
Glen Radewich and Paul Bernardin
Laurent Soret
Kevin Van

For the City:

Kim Raban, Land Development Administrator, Planning, Property and Development Department
Kevin Lalor, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Alain Hogue, accompanied by David Goyer, appeared in support of the application and gave a brief overview of the proposal. Mr. Hogue indicated concurrence in the recommendations contained in the administrative report from the Planning and Land Use Division dated April 3, 2007, with the following exception:

- Mr. Hogue asked that Condition 1.A.ii., pertaining to limiting the height of the proposed development to fifty (50) feet, be deleted.

Mr. Hogue requested that, as per the provision in the North St. Boniface Secondary Plan By-law, the Riel Community Committee recommend that the residential density maximum be exceeded to allow for the establishment of twenty-three (23) units as he has incurred significant costs to demolish the buildings on the subject property. Mr. Hogue submitted plans for the proposed development (Exhibit 7) and a communication in support of the application dated April 10, 2007, from Michel Audette (Exhibit 8)

Bob Lafreniere, President, Old St. Boniface Residents Association, appeared in support of the application. Mr. Lafreniere stated that his organization circulated pamphlets to residents in the area asking for their feedback on the proposed development. Mr. Lafreniere iterated that only two (2) area residents contacted his association in this regard; one person was concerned with the height of the proposed development and the other asked for further information. Mr. Lafreniere stated that, based on the lack of negative feedback from area residents and the need to address the decreasing population in Old St. Boniface, the Board of the Old St. Boniface Residents Association passed a motion supporting the proposed development.

Mireille Lamontagne appeared in support of the application. Ms. Lamontagne stated that she is supportive of the rights of landowners in the area to develop their properties. Ms. Lamontagne further stated that she has concerns regarding the location of exhaust fans on the proposed building. In response to a question from Councillor Vandal, Ms. Lamontagne stated that she concurred with the administrative recommendation to limit the proposed development to fifty (50) feet in height.

Martin Maykut, Streetside Development Corp., appeared in opposition to the application. Mr. Maykut summarized the concerns contained in his communication dated April 10, 2007, and provided Committee with supporting documentation, including a map denoting property owned

by Qualico Developments (Winnipeg) Ltd. in the surrounding area, all of which have been filed as Exhibit 9.

Aaron J. Bowler appeared in opposition to the application. Mr. Bowler stated that the proposed development is not suited for the site in question. Mr. Bowler stated concern with respect to the following:

- The vast majority of the development fronts onto Dumoulin Street and not Taché Avenue, despite the entrance being located on Taché Avenue, and the proposed density is the equivalent of sixty-four (64) units per acre, which is much too high for the area;
- The proposed building will "butt" up against the existing building located to the south without an allowance for a fire barrier;
- The proposed development does not meet any of the four (4) criteria that would allow for increased density under the North St. Boniface Secondary Plan By-law;
- The Developer did not contact Qualico Developments (Winnipeg) Ltd. to discuss the proposal despite the fact that Qualico Developments (Winnipeg) Ltd. owns five (5) properties in the immediate area.

In response to a question from Councillor Vandal, Mr. Bowler stated that he would be opposed to the application even if the height of the proposed development was limited to fifty (50) feet.

John Daniels, Qualico Developments (Winnipeg) Ltd., appeared in opposition to the application. Mr. Daniels stated that the proposed development would negatively impact his company's project at 131 Provencher Boulevard and those who have purchased units in said development have not been consulted. In response to a question from Councillor Vandal, Mr. Daniels responded that he would not be supportive of the proposed development even is said development was limited to fifty (50) feet in height. Mr. Daniels further stated that, without significant variances, the subject property would not be developable, despite the fact that the current zoning allows for development to a height of forty-five (45) feet. In response to a question from Councillor Steeves, Mr. Daniels stated that the site would be suitable for the development of a luxury two to three (2-3) story townhouse.

Karl Brosch appeared in opposition to the application. Mr. Brosch stated that he has resided on Notre Dame Street for twenty-seven (27) years and was opposed to the application for the following reasons:

- The building is too large and too high for the site and location;
- This development will adversely affect parking in the area;
- The proposal is not in character with an area that is already being subject to a proliferation of condo development;
- Would prefer to see a high-end town house constructed on the site, limited to two to three (2-3) stories.

Norm Gousseau, Entreprises Riel, appeared in opposition to the application. Mr. Gousseau provided a summary of two (2) housing summits hosted by Entreprises Riel which united residents and area businesses together to discuss the future of St. Boniface and the resulting housing study that was completed in 2006. Mr. Gousseau stated that the proposal, on its own, is

aesthetically a good project but not on the site proposed as it will adversely affect the surrounding area and projects currently being undertaken along Provencher Boulevard. Mr. Gousseau reiterated concerns regarding height and density.

Carol James appeared in opposition to the application. Ms. James submitted a petition purporting to contain the signatures of eighteen (18) area residents in opposition to the application and was opposed to the application for the following reasons:

- The proposed development is too high;
- The proposed development will eliminate the morning sunlight in the kitchen of Mr. Le Dorze;
- The footprint for the proposed development is too large;
- The proposed development will adversely affect parking in the area;
- The proposal will adversely affect property values and quality of life for area residents;
- Approval of the proposed development will set precedence for increased density on Dumoulin Street.

Alain Hogue and David Goyer returned in rebuttal. Mr. Hogue stated that it is his belief that the proposed development will not adversely affect parking in the area. Mr. Hogue further stated that development of any kind on this site will create shade.

Exhibit "5" referred to in File DAZ 202/2007 [c/r DAV 109882/2007D]

Winnipeg

Planning, Property and Development Department Report

To the Riel Community Committee

Date: April 3, 2007

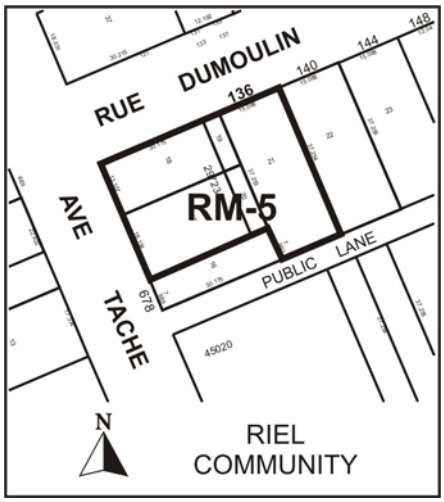
File: DAZ 202/ 07

Related Files: DAV 07 109882D

Subject: To amend By-Law No. 6400/94 by rezoning the land shown below from an " RM-4" Multiple Family District and a "R2" Residential District to an "RM-5" Multiple Family District.

Location: 136 Dumoulin/ 690 Tache

Legal Description: Lot 21, Plan 29723



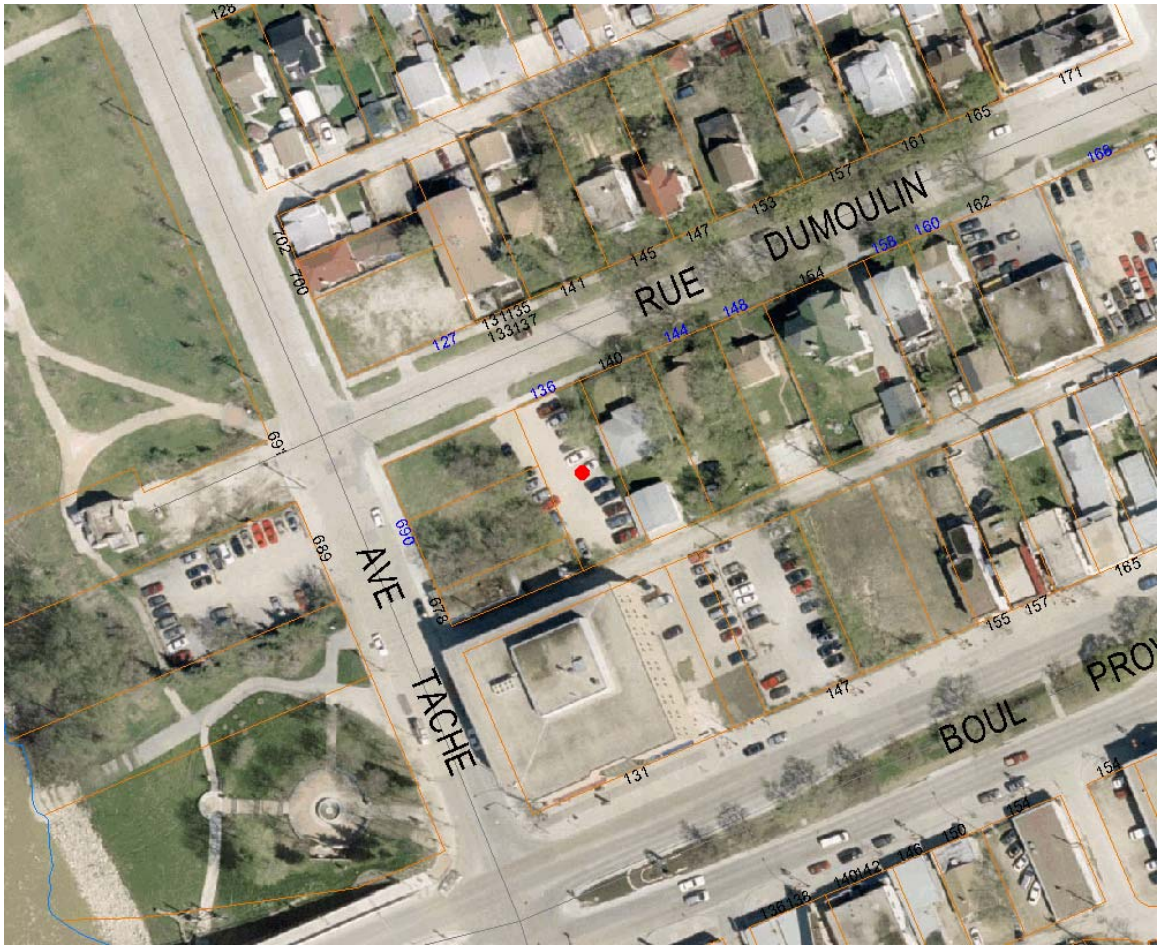
Applicant: Tyrone Enterprises

Owner: Tyrone Enterprises

Recommendation: *Approval with conditions*

2160

Site Description:



The subject parcel of land is situated at the S.E. corner of Rue Dumoulin and Tache Avenue. All of the applicant's adjoining titles , when combined, total 15, 554 sq. ft. or a little more than a third of an acre in area. Lot 21 (736 Dumoulin) is the only one of the applicants properties which is not zoned "RM-4" Multiple Family. It is still zoned "R2" Residential, thus necessitating a rezoning application. Most of the subject property is currently vacant; the most easterly portion is being utilized for parking. To the north, at the north-east corner of Dumoulin and Tache is a large vacant parcel zoned "R2" Residential (owned by Streetside Development) and an apartment complex zoned " RM- 2" Multiple Family. To the immediate east along the south side of Dumoulin is a mix of single family housing zoned "R2" and several small non accessory parking areas zoned "C2" Commercial. To the immediate south along the north side of Provencher Boulevard is a mix of office, restaurant, and new residential housing, most notably a new eight (8) story business and condominium complex built by Streetside Development. The lands along Provencher Boulevard have a special "BP" zoning classification. On the west side of Tache Avenue are open "PR" Public Reserve areas and an off street parking lot zoned "C2 " Commercial .

Background:

In January, 2005, Council put into force and effect amendments to the North St. Boniface Secondary Plan (under SPA 4/05). Among the changes was the designation of several areas (including the lands on the south side of Dumoulin Street between Tache Avenue and Langevin Street) as mixed use zones. The intent of the mixed use areas, under the Plan, is to both retain existing commercial and residential properties wherever possible while at the same time encouraging new housing projects in conjunction with locally oriented retail and service developments. In addition, there were changes adopted which were clearly intended to guide the type and intensity of development in the area roughly bounded by the Red River, Archibald Street and Provencher Boulevard by setting residential density limits. More specifically, properties abutting regional streets, collector streets and railway or transit corridors would be limited to a maximum fifty five (55) dwelling units per acre. The amended secondary plan also provides for a density bonus of up to 25% provided the developer can demonstrate specified exceptional and/or extraordinary circumstances. It should be noted that the subject application abuts Tache Avenue which is a major collector street and that in turn makes it eligible for the maximum residential density of the aforementioned fifty - five (55) dwelling units per acre.

Description of the Proposed Development:

The applicant proposes to consolidate his adjoining titles into one parcel which will constitute a total area of 15,554 sq. ft (1443 sq. m). If the subject application is approved, he intends to construct a six (6) story building, the upper five stories, of which, will be residential condos. The main floor (1610 sq. ft) is being allocated for future commercial office, retail or service space and eleven (11) parking stalls at grade. The first four floors of residential will typically have five individual units ranging in area from 1248 sq. ft (115 sq. m) to 1491 sq. ft. (138 sq. m) . The top floor will be comprised of only three (3) suites, ranging in area from 1852 sq. ft. (172 sq. m) to 2481 sq. ft (230 sq. m). The main vestibule and lobby is to be oriented towards Tache Avenue but the main approach to both the surface at grade parking and the underground parking will be via Dumoulin Street. The underground parking area will be able to accommodate twenty seven (27) parking stalls. It should be noted that under the bulk by-law regulations, a minimum of forty two (42) parking stalls are required; therefore a variance for deficiency in parking accompanies the subject application. There will also be variances required for the front yard, east, west and south side yards and a variance for deficiency in lot area.

Analysis:

Current optimum development for:

690 Tache Avenue

The existing parcel at 690 Tache is .22 acres in size and is zoned ‘RM-4’ Multiple Family. Prior to 1994, the land had been zoned ‘R4’ Multiple, but because under the new By-Law 6400/94, the ‘R4’ zoning was withdrawn as a use category on all City maps, it had to be replaced with what

was deemed to be an equivalent zoning category. Hence the replacement "RM-4" zoning. The secondary plan guidelines and the current zoning allows for an optimum density of twelve (12) dwelling units on the subject site and a maximum building height of 45 feet. If this site alone were to be rezoned to an "RM-5"Multiple Family category, sixteen (16) dwelling units could be accommodated but the additional four (4) units would be contrary to the secondary plan unless exceptional circumstances could be demonstrated. Maximum building height under the "RM-5" category is 70 feet.

136 Dumoulin

The existing lot at 136 Dumoulin Street is approximately .14 acres and is zoned "R2" Two Family Residential. That means as of right , it can accommodate up to a maximum two (2) dwelling units. Maximum building height under the R2 zoning is 30 feet. Where this land to be rezoned independently to a " RM-4" category, the site could accommodate up to eight (8) units (to a building height of 45 feet) and still be in compliance with the secondary plan guidelines. If it were to be rezoned independently to a "RM-5" zoning category, the by-law would allow for ten (10) dwelling units but the additional two (2) units would be contrary to the secondary plan unless exceptional circumstances could be demonstrated. Maximum building height under the "RM-5" category would be 70 feet.

Optimum development with consolidation of the two properties and an overall rezoning to the "RM-5" Multiple Family category:

The overall site area would total .36 acres and as previously indicated, where the two properties to be consolidated but remain "RM-4", the secondary plan and the "RM-4" zoning would both accommodate twenty (20) dwelling units. Under the requested "RM-5" zoning, the by-law allows for twenty six (26) units, but anything above and beyond the twenty outlined would be contrary to the secondary plan . Up to twenty five (25) dwelling units overall could be approved where Community Committee to endorse the additional 25% bonus and in the case of the subject application, the bonus will be required given that he has requested twenty three (23) units in total.

To summarize, the applicant is entitled to a total of **14** dwelling units overall on his two adjoining properties under their current zoning. If he is allowed to rezone to an 'RM-5' category , the by-law will allow him a total of **26** dwelling units but the secondary plan guidelines only permit a maximum of **20** unless Community Committee agrees to a 25% bonus to allow him the **23** units that he has requested. And in order to obtain the 25% bonus, the applicant must demonstrate that there are exceptional circumstances warranting the increase. (i.e. infrastructure costs, lot area reduced by road widening etc.)

From a planning perspective, the Neighbourhood Planning Branch is prepared to support a development of the subject site for residential development with a possible commercial component. That is clearly in accordance with the objectives of the secondary plan for North St. Boniface. Neither are we opposed to the consolidation of the two properties and the maximizing

of development of the site by endorsing the requested yard variances. However, we cannot , in principle support the requested building height of sixty four (64) feet). In discussions with neighbourhood residents over the last several years, we were led to believe that new multiple family development of reasonable density would be a welcomed by the community on sites both north and south of the CNR Highline. However the message we received was that building heights should, if at all possible, be limited to 50 feet. New buildings can be constructed to a 80' height along the north side of Provencher Blvd. under the BP By-Law; but we are of the view that heights of 60' and 70' north of Provencher Blvd. are excessive and out of scale with the existing residential community. These guidelines were confirmed, in recent open house meetings attended by the property owners of Rue Darveau, Rue St. Joseph, Rue Tache and Rue Messager. All of the people involved in that process explored various residential development options for the area north of the Highline and ultimately agreed upon a multiple family component, but only at designated locations and at heights not to exceed 5 stories.. We indicated that we would support an "RM-5" classification in order to allow for somewhat higher densities. This was the position that we took with respect to the recent application to rezone the Rendezvous site to an " RM-5" category in order to construct a condominium project (DASZ 46/05). However ,we also clearly indicated , at that time, that we would continue to oppose building heights of over 50' or a maximum of five stories north of Provencher Boulevard.

This Department therefore supports the proposed rezoning subject to the conditions outlined. We recognize that by restricting the height of the building in the zoning agreement, the building plans will likely have to be re-drawn but it is the view, of this department, that a scaled down building at this location is in the interests of the community at large and is certainly more clearly, in accordance, with the principles and objectives of the amended secondary plan.

Recommendation:

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

- The proposed amendment and re-designation of the site is in accordance with ongoing community initiatives in North and Central St. Boniface to provide a range of much needed housing in the area, including multiple family housing to meet the growing demand.

Recommended Conditions of Approval:

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 202/07, attached hereto and dated April 3, 2007, to an "RM-5" Multiple Family District, subject to the following:

   A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter, to provide for the following:

1. That final site plans outlining the details of building locations and profiles, parking areas, approaches, exterior lighting/ exterior building materials , landscaping, fencing, garbage enclosures etc. shall be submitted to and approved by the Director of Planning and Land Use or his designate and the Riel Community Committee prior to the issuance of any building permits.

2. That maximum building height be limited to fifty (50') feet.

II. That a ten (10) per cent 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 the market value of the land.

III. 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.

IV. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

V. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, 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.

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

VII. 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 # DAZ 202/07

By-Law No. _____

File No. **DAZ 202/07**

Atlas Sheet No.

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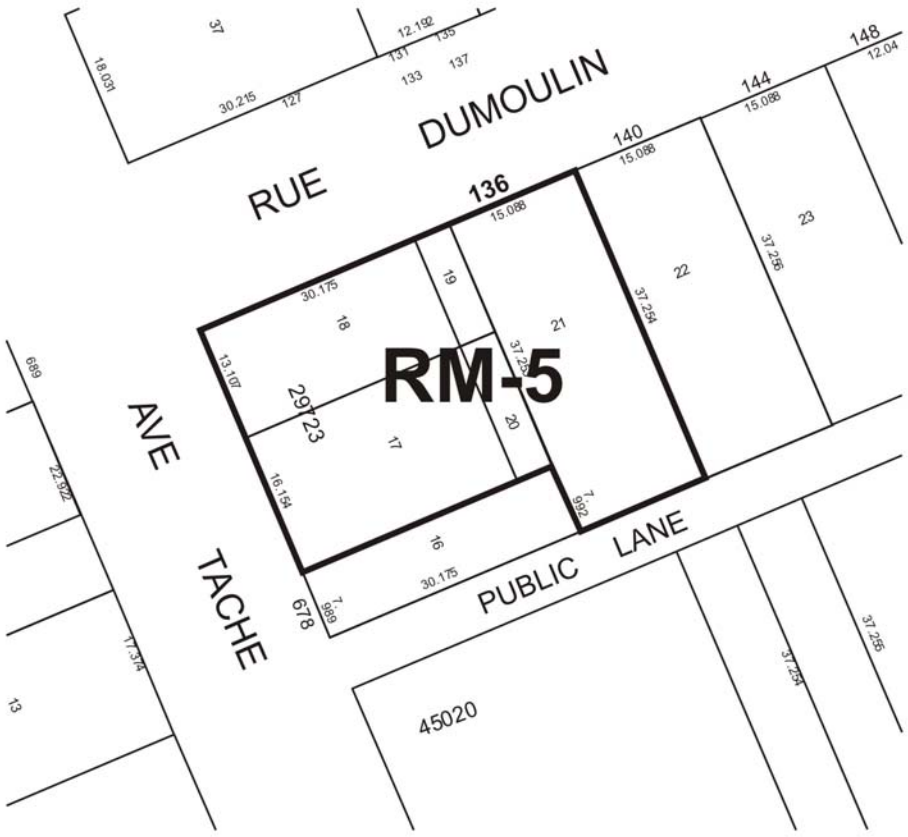
RIEL
COMMUNITY

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 136 Dumoulin Street from an "R2" RESIDENTIAL DISTRICT to an "RM-5" MULTIPLE-FAMILY DISTRICT as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Schedule "A" to the report to the Riel Community Committee for file # DAZ 202/07 dated April 3, 2007.