Agenda - Council - July 16, 2008

Report - Standing Policy Committee on Property and Development - June 24, 2008

Item No. 3 Zoning Agreement Amendment - 1780 Taylor Avenue (River Heights-Fort Garry Ward) File ZAA 3/2008

STANDING COMMITTEE RECOMMENDATION:

On July 9, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the City Centre Community Committee and submits to Council that the application for a Zoning Agreement Amendment under File ZAA 3/2008 not be proceeded with.

Report - Standing Policy Committee on Property and Development - June 24, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 9, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the City Centre Community Committee and submits to Council that the application for a Zoning Agreement Amendment under File ZAA 3/2008 not be proceeded with.

STANDING COMMITTEE RECOMMENDATION:

On June 24, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee and recommended to the Executive Policy Committee and Council that the application for a Zoning Agreement Amendment under File ZAA 3/2008 not be proceeded with.

COMMUNITY COMMITTEE RECOMMENDATION:

On May 20, 2008, the City Centre Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development that the application for Zoning Agreement Amendment under File ZAA 3/2008 not be proceeded with.

RE: **Zoning Agreement Amendment - 1780 Taylor Avenue**
File ZAA 3/2008

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

Prepared by: **Josie Marques, Senior Committee Clerk**
City Centre Community Committee

Report date: **May 21, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 20, 2008, the City Centre Community Committee did not concur in the recommendation of the Winnipeg Public Service for zoning agreement amendment under File ZAA 3/2008 not be proceeded with.

The City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. The concerns of the area residents.
2. The previous agreement allowed 15 additional uses.
3. The lack of a site plan.
4. The traffic patterns in the area.

PUBLIC HEARING SUMMARY

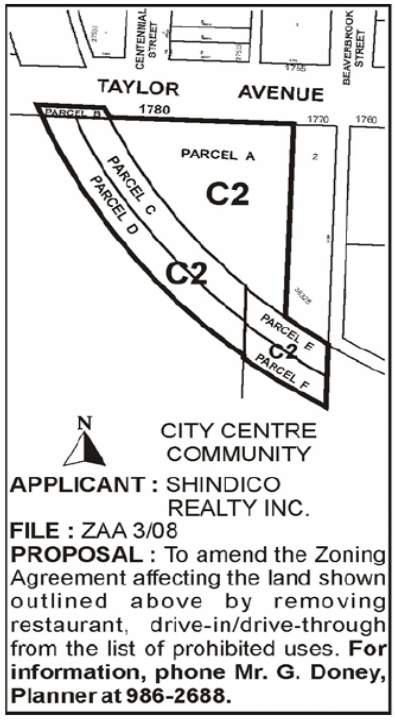
File: ZAA 3/2008

Before: City Centre Community Committee
Councillor Leipsic, Chairperson
Councillor Gerbasi
Councillor Smith

Hearing: May 20, 2008
North Committee Room
Council Building, 510 Main Street

Applicant: Shindico Realty Inc.
(Bob Downs)

Subject:



Premises Affected: 1780 Taylor Avenue

Exhibits Filed:
1. Application dated April 2, 2008
2. Notification of Public Hearing dated April 7, 2008
3. Manitoba Status of Titles 1717859, 1857405, and 1946685
4a. Letter of authorization dated March 3, 2008 from 3177751 Manitoba Ltd. to Shindico Realty Inc.

4b. Letter of authorization dated April 2, 2008 from Canadian National Railway to Shindico Realty Inc.
5. Report from the Planning and Land Use Division dated April 8, 2008
6. Communication dated May 9, 2008, from Dale Jasson in opposition to the application
7. Inspection Report
8. Presentation in opposition to the application submitted by Phyllis Doran
9. Petition in opposition to the application purporting to contain the signatures of 69 area residents, submitted by Phyllis Doran
10. Winnipeg Free Press Article in opposition to the application submitted by Diana Crane
11. Communication dated November 5, 1999, in opposition to the application, submitted by Diana Crane
12. Communication dated November 4, 1999, in opposition to the application, submitted by Diana Crane
13. Atlas Sheet AE20 and copy of definition of Part Seven Commercial Districts, in opposition to the application submitted by Diana Crane
14. Audio Recording of representations

REPRESENTATIONS:

In Support:

Bob Downs, Shindico Realty Inc.

In Opposition

A. Bryant
Diana and Larry Crane
Katrina Diglisic
Joe and Phyllis Doran
Douglas and Cathie Geddes
Don Gustafson
Dale Jasson
John Moralee
Arleigh Morris
Marsha Share

For Information:

Nil

For the City:

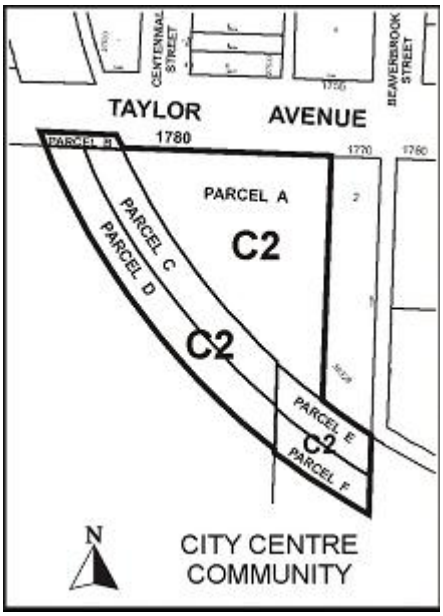
Mr. G. Doney, Senior Planner, Planning, Property and Development Department

Exhibit "5" referred to in File ZAA 3/2008

Planning, Property and Development Department Report

To the City Centre Community Committee

Date:	April 8, 2008
File:	**ZAA 3/08**
Related Files:	**DAZ 238/98 and DASZ 56/05**
Subject:	**To amend draft Zoning Agreement associated with File DASZ 56/05 by deleting "restaurant, drive-in/drive-through" from the list of prohibited uses; no development is proposed**
Location:	**1780 Taylor Avenue, Mathers Neighbourhood, River Heights – Fort Garry Ward**

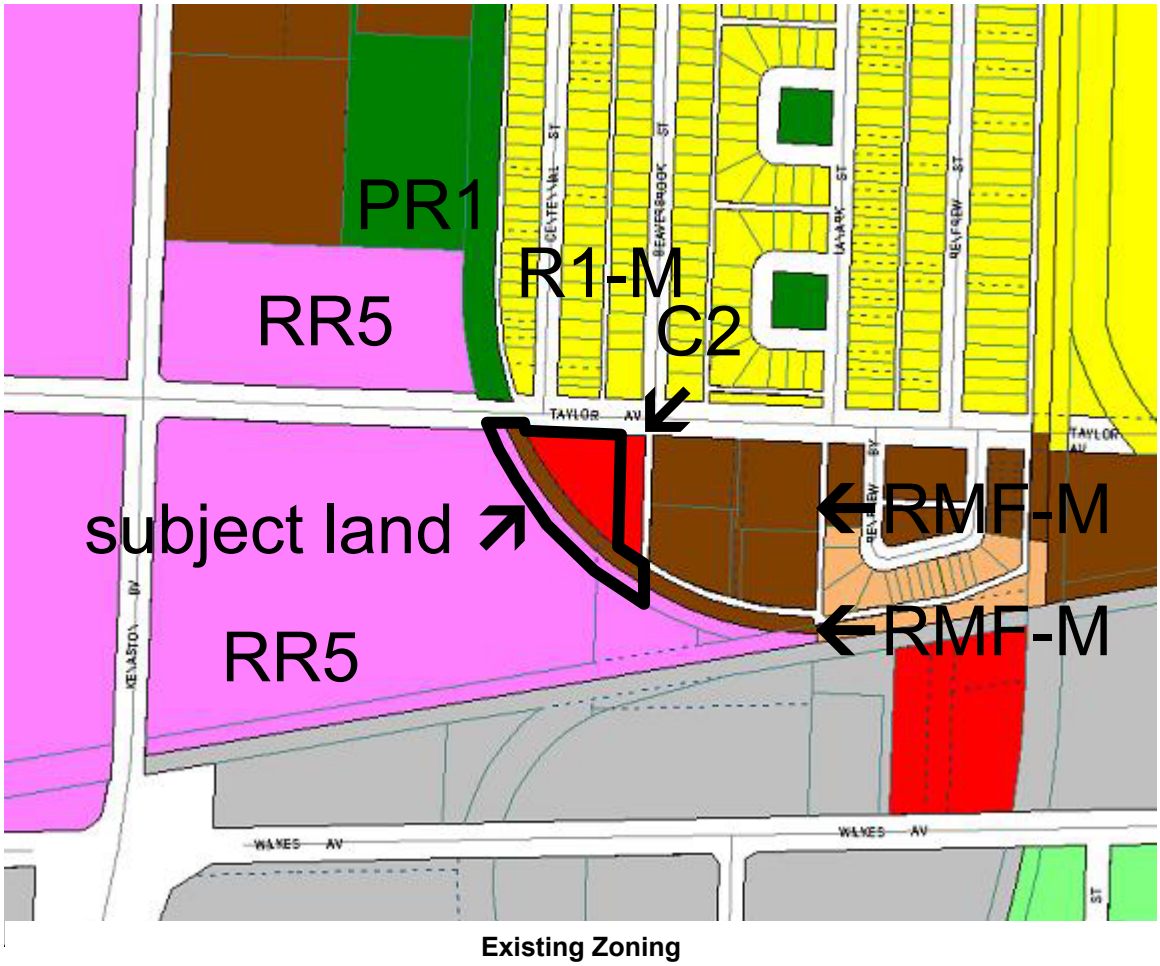


Legal Description:	Lot 1, Plan 38325 and Block 16, Plan 1538
Applicant:	Bob Downs, of Shindico Realty Inc.

Owner: 3177751 Manitoba Ltd.

Recommendation: Approve

Site Description



Existing Zoning

- The address of the subject land is 1780 Taylor Avenue. It is immediately south of Taylor Avenue and near the Taylor Avenue – Centennial Street intersection. The subject land, which is approximately 2.1 acres, is undeveloped and includes a portion of a former CNR rail line right-of-way. It is partly in a C2 *Commercial Community District*, an RMF-M *Residential Multi-Family District* and an RR5 *Rural Residential District*.

- Single-family dwellings are north and northeast of the subject land, across Taylor Avenue. They are in an R1-M *Residential Single-Family District*.

- A place of worship is also north of the subject land, across Taylor Ave. It is in an R1-M *Residential Single-Family District*

- East of the land is a commercial use in a one storey building. It is in a C2 Commer*cial Community District*.

- South and west of the subject land is the former location of a portion of Kapyong Barracks. Also, CNR land and the CNR mainline are south of the subject land.

- Immediately south and east of the subject land is a narrow RMF-M *Residential Multi-Family District*. South and east of the aforementioned RMF-M District is an RR5 *Rural Residential 5 District*.



2005 Aerial Photo

Background

- By-law 7389/99, which was passed on March 24, 1999, amended Winnipeg Zoning By-law 6400/94 by rezoning a portion of the subject land, and other land, from RM-3 *Multiple-Family District* to C2 *Commercial District*.

- A condition of the rezoning was that a Zoning Agreement be entered into, as per File DAZ 238/98.

- The Zoning Agreement listed uses that were prohibited from the land that was rezoned. However, "restaurant, drive-in/drive-through" was not one of the prohibited uses.

- Under Winnipeg Zoning By-law 6400/94, "Restaurant, drive-in/drive-through" was a conditional use in a C2 *Commercial District*.

- On January 24, 2007, Council approved amending Winnipeg Zoning By-law 6400/94 by rezoning all of the subject lands to C2 *Commercial District*.

- One of the conditions of the rezoning was that a Zoning Agreement be entered into, as per File DASZ 56/2005. A Zoning Agreement was not entered into and, therefore, the rezoning has not been done. The draft Zoning Agreement lists "restaurant, drive-in/drive-through" as a prohibited use on the subject land.

Description of the Proposed Development

- The application is to amend the draft Zoning Agreement associated with File DASZ 56/2005 by removing "restaurant, drive-in/drive-through" from the list of prohibited uses on the subject land. At this time, no development of the subject land is proposed.

Analysis

Plan Winnipeg

- The subject land is in a Neighbourhood Policy Area as per *Plan Winnipeg 2020 Vision*. Therefore, the Zoning Agreement Amendment application conforms to Plan Winnipeg.

Zoning

- The draft Zoning Agreement associated with File DASZ 56/2005 restricts types of uses that can be on the land by listing the following uses as prohibited:

  i. *advertising sign,*

  ii *amusement enterprise, outdoor,*

  iii. *automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts,*

  iv. *cabaret,*

  v. *club, including licensed premises,*

  vi. *cocktail lounge, exceeding one-half of its restaurant floor area,*

  vii. *exterminator,*

  viii. *hotel, including a beverage room,*

ix. machinery/heavy equipment supplies and parts: sales, installation, service,

x. restaurant, drive-in / drive-through,

xi. taxidermist and

xii. tire: sales and service.

Land Use By-law

- On March 1, 2008, Winnipeg Zoning By-law 200/2006 came into force and repealed Winnipeg Zoning By-law 6400/94.
- Winnipeg Zoning By-law 200/2006 identifies a "drive-in or drive-through" as a permitted use in C2 *Commercial Community Districts*, subject to use specific standards.
- One of the standards is that a "drive-in or drive-through" is separated from residential uses by an intervening building, public lane or public street. (The other use specific standards only apply to an actual development proposal.)
- The subject land meets this standard because a commercial use east of it and Taylor Avenue separate it from residential uses.

Compatibility

- Compatibility with existing uses in the vicinity, particularly the residential uses, can be improved if the subject land is developed such that:
  - it would be quite unlikely for motor-vehicle queuing to extend onto a public street;
  - pedestrians, including local residents and workers, are provided a safe route (from vehicles and potential criminal threats) to/from the main entry door of any development of the subject land;
  - on-site sound attenuation devices, such as landscaping or fencing, are provided and on-site sources of sound, such as a two-way speaker system for drive-through ordering, are directed away from residential uses; and
  - high-quality landscaping, paving, fencing, lighting, building materials and design and other elements are key components of any development of the subject land.

- Development and maintenance of the subject land such that it will be generally compatible with adjacent and nearby uses can be ensured because:
  - draft Zoning Agreement associated with DASZ 56/2005 requires approval of plans of future development of the subject land by the City Centre Community Committee and the Director of the Planning, Property and Development, prior to the issuance of any building or development permit;
  - draft Zoning Agreement associated with DASZ 56/2005 also requires for the resulting development to be maintained to the satisfaction of the Director; and

- Part 5: *Development and Design Standards* of Winnipeg Zoning By-law 200/2006 has provisions that, if adhered to, ensure that any development contains elements that improve its compatibility with adjacent and nearby developments.

- It appears that existing municipal infrastructure, such as road access and drainage, are adequate to service the subject land. However, this matter will be reviewed when a development application is made. Also, the subject land is adjacent to a Winnipeg Transit bus route.

Recommendation

- The Planning and Land Use Division recommends approval for the following reasons:
  - the subject land is an appropriate site for a "drive-in or drive-through" in terms of a use specific standard in Winnipeg Zoning By-law 200/2006;
  - development of the subject land such that it will be generally compatible with adjacent and nearby uses can be ensured because
    - the draft Zoning Agreement associated with File DASZ requires approval of plans of future development by the City Centre Community Committee and the Director of the Planning, Property and Development prior to the issuance of any building or development permit and
    - the *Development and Design Standards* of Winnipeg Zoning By-law 200/2006 provide clear direction in how to create developments that are reasonably compatibility with adjacent and nearby developments; and
  - maintenance of the resulting development must be to the satisfaction of the Director of the Planning, Property and Development Department, as per the draft Zoning Agreement associated with File DASZ.

Recommended Conditions of Approval

1. That Zoning Agreement under File DASZ 56/2005 (which has not been entered into) be amended as follows:

   A. That Clause "1.x" be deleted.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 56/2005 as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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: J. Glen Doney
PPD File ZAA 3/08