Agenda – Council – January 28, 2009

Report - Executive Policy Committee - January 8, 2009

Item No. 1 Rezoning - 130 Midland Street
(St. James - Brooklands Ward)
File DAZ 232/2008

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 8, 2009, The Executive Policy Committee concurred in the recommendation of the Assiniboia Community Committee and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 232/2008 dated November 25, 2008, to an 'M2' Industrial District.

2. 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.

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 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 - Executive Policy Committee - January 8, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 8, 2009, the Executive Policy Committee concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On December 9, 2008, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Rezoning - 130 Midland Street**
File DAZ 232/2008 [c/r DAV 144287/2008D]

For submission to: **The Executive Policy Committee**

Prepared by: **Carlos Gameiro, Senior Committee Clerk**
Assiniboia Community Committee

Report date: **December 10, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On December 9, 2008, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

1. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 232/2008 dated November 25, 2008, to an 'M2' Industrial District.

2. 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.

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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 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 Assiniboia Community Committee provided the following supporting reasons for its recommendation:

1. The Assiniboia Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated November 25, 2008.

PUBLIC HEARING SUMMARY

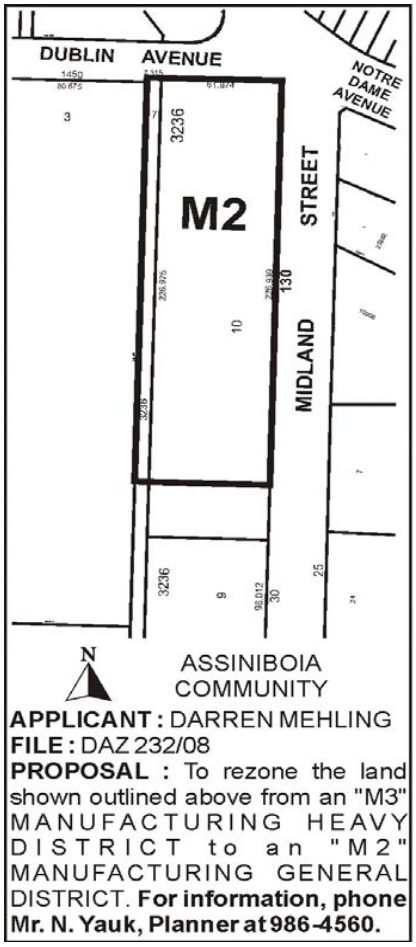
File: DAZ 232/2008 [c/r DAV 144287/2008D]

Before: Assiniboia Community Committee
Councillor Fielding, Chairperson
Councillor Nordman

Public Hearing: December 9, 2008
West Committee Room
Council Building, 510 Main Street

Applicant: Darren Mehling

Subject:



Premises Affected: 130 Midland Street

Exhibits Filed:

1. Application dated September 30, 2008
2. Notification of Public Hearing dated October 20, 2008
3a. Manitoba Status of Titles 2212274, 2212282 and 2212287
3b. Title Search 2212290
4. Letter of authorization dated September 22, 2008 from Sun-X Properties (Midland) Ltd. to Darren Mehling
5. Surveyor's Building Location Certificate and sketch dated February 3, 2008
6. Drawing of subject property
7. Plans (3 pages)
8. Report from the Planning and Land Use Division dated November 25, 2008
9. Inspection Report
10. Audio Recording of representations of public hearing held on December 9, 2008

REPRESENTATIONS:

In Support:

Darren Mehling

In Opposition

Nil

For the City:

N. Yauk, Planner, Planning, Property and Development Department

Exhibit "8" referred to in File DAZ 232/2008 [c/r DAV 144287/2008D]

Winnipeg

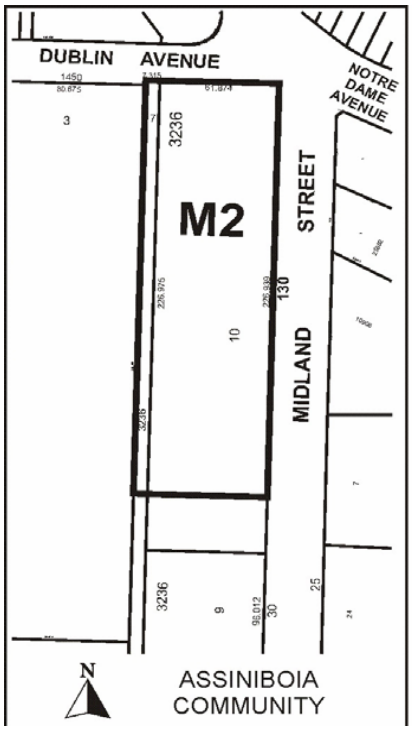
Planning, Property and Development Department Report

To the Assiniboia Community Committee

Date: November 25, 2008
File: DAZ 232/2008
Related Files:

Subject: **Application to rezone said land from an "M3" Industrial District to an "M2" Industrial District to permit the establishment of an Amusement Centre (Indoor) (Fitness Centre)**

Location: **130 Midland Avenue**



Applicant: **Darren Mehling**
Owner: **Sun-X Properties (Midland) Ltd**

REPORT SUMMARY
The Planning and Land Use Division recommends ***approval*** with conditions for the following reasons:

- The proposed development is consistent with Plan Winnipeg
- The proposed development is compatible with existing neighbouring uses.

SITE DESCRIPTION
The subject property, which is zoned "M3" Industrial District, is located on the west side Midland Street between Dublin and Saskatchewan Avenues, in the St James Industrial neighbourhood of the St. James - Brooklands ward.



Figure 1: Aerial Photo of Subject Site and Surrounding Land Uses (flown 2007)

Surrounding Land Use and Zoning
North: Dublin Avenue, then Industrial Uses Zoned "M3" District.
South: Industrial Uses Zoned "M3" Industrial District.
East: Midland Street, then an industrial strip mall, then the Canadiana Hotel zoned "M3" Industrial District.
West: Industrial Uses Zoned "M3" Industrial District.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant wishes to rezone the subject site to accommodate a fitness centre use. The proposed use is to be accommodated within an existing multi-tenant building. The applicant requires rezoning as the intended use is not permitted in 'M3", but is in "M2". It is noted that the applicant is applying concurrently for a Use Variance in order to establish the use prior to the rezoning process being finalized.

ANALYSIS AND ISSUES

Plan Winnipeg Compliance

The proposed development is compatible with Plan Winnipeg given its location in an Industrial Policy Area. The rezoning from one industrial zone to another (a less intensive one) doesn't have any Plan Winnipeg Policy implications. It is noted that the property is located at the edge of an Industrial Policy Area. Across Notre Dame to the north is a Neighbourhood Policy Area with residential dwelling units fronting Notre Dame. Less intensive land uses at the fringe of the Industrial Policy Area provides a smooth transition between these two very different Policy Areas of Plan Winnipeg. It is also noted that the surrounding industrial land uses are more "M1" and "M2" in nature than "M3". Typical uses found within this Industrial Policy Area are wholesale, warehouse, office and distribution uses.

Zoning

Zoning By-Law 200/2006 does not provide for the proposed use within the "M3" Industrial District. The use however, is provided for within the "M2" Industrial District as a permitted use. It is noted, that the application at hand historically would have not required a rezoning to accommodate an "M2" use in an "M3" Zoning District. This is because, most of Winnipeg's previous zoning by-laws were set up in such a way that allowed Industrial uses on a 'cascading' basis. This meant that the more inclusive Industrial District provided for the uses in the more restrictive (less intensive) Industrial District as permitted uses. The rationale for this was that such uses would be appropriate given that they would be less intensive than those already provided for within that higher level zoning district. It is noted that the existing uses within the multi-tenant building are provided for within both the "M2" and "M3" zoning districts. The Fitness Centre use, however, is provided for in the "M2", but not "M3".

Compatibility with existing neighbourhood and surrounding uses

Proximity to residential uses, commercial uses and light industrial uses ensure that the proposed rezoning will not create land uses out of character with existing uses. Recent development activity in the area also suggests that the rezoning would be compatible with existing land uses.

For example, directly east of the subject site is the Canadiana Hotel. It is noted that a similar rezoning and Use Variance application was approved for this hotel in 2007 to change the zoning from "M3" to "M1". The purpose of the rezoning was to accommodate the addition of an indoor pool and waterslide. Given the context of surrounding land uses, this use and the existing hotel use (that was non-conforming at the time) were seen to be appropriate. Pressures for less intensive industrial uses may signal that demand for heavy industrial uses is diminishing within this Industrial Policy Area.

Traffic
The size and use of the subject site will not generate significant traffic activity. In fact, given the nature of the proposed use, highest periods of use are expected to occur during non-peak traffic times (early mornings and evenings). It is noted that the Public Works Department has no concerns with this proposal.

REASONS FOR RECOMMENDATIONS
In the context of Section 247(3), the Planning and Land Use Division recommends **approval** with conditions for the following reasons:

(a) is consistent with Plan Winnipeg and any applicable secondary plan;
(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
(c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
(d) is compatible with the area in which the property to be affected is situated.

- The proposed development is consistent with Plan Winnipeg
- The proposed development is compatible with existing neighbouring uses.

RECOMMENDED CONDITIONS OF APPROVAL
1. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 232/2008 dated November 25, 2008, to an 'M2' Industrial District.
2. 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.
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5. 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: Noah Yauk
PPD File # DAZ 232/2008

Schedule "A"

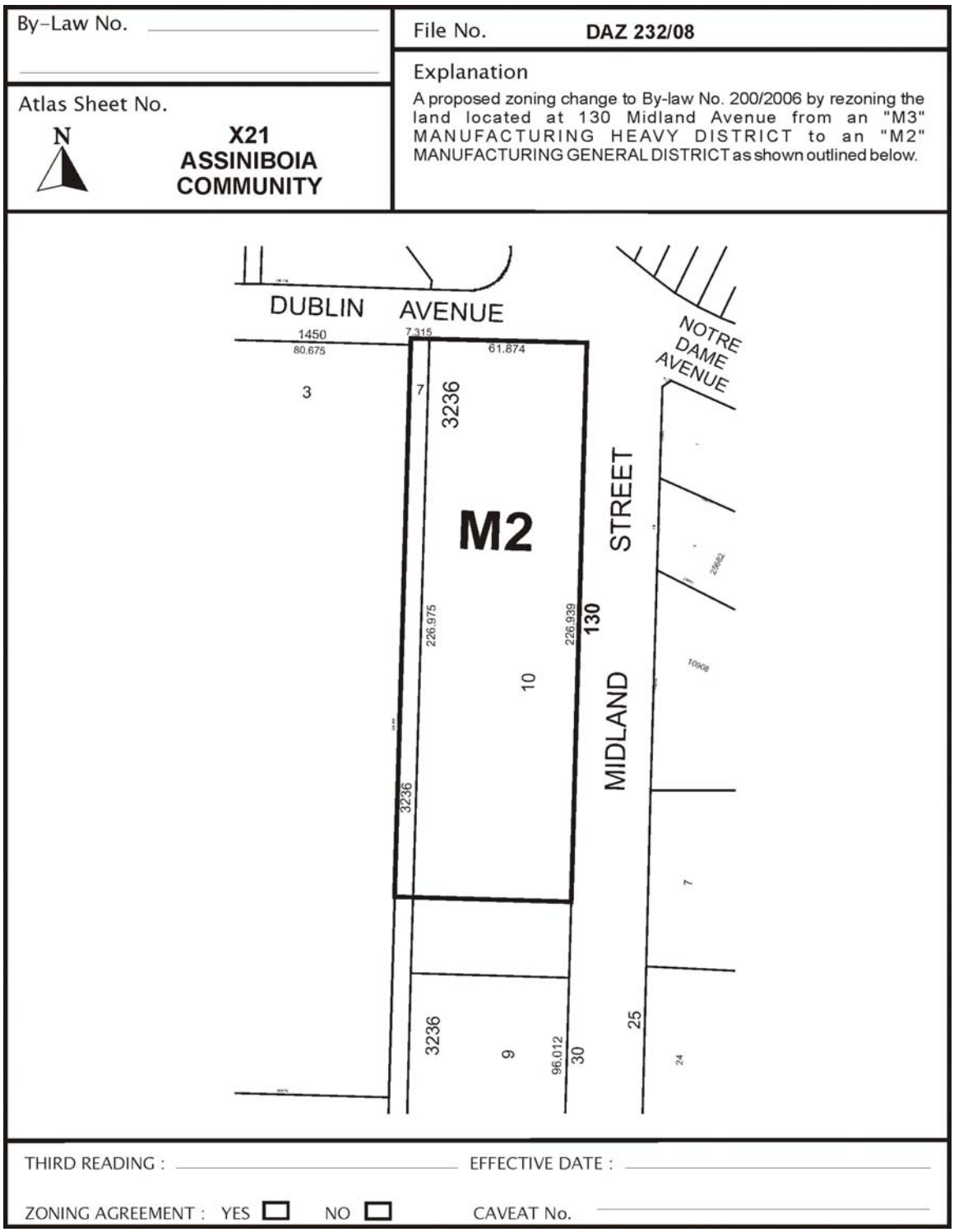

Figure 1: Schedule "A" to the report to the Assiniboia Community Committee for File DAZ 232/2008, dated November 25, 2008