Report - Standing Policy Committee on Property and Development - January 6, 2009

Item No. 6 Zoning Agreement Amendment - Unaddressed land on south side of Fermor Avenue between Royal Mint Drive and Plessis Road (St. Boniface Ward) File ZAA 21/2008

STANDING COMMITTEE RECOMMENDATION:

On January 21, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee, as amended, and submits the following to Council:

1. That the Zoning Agreement Caveat 229158 under File DAZ 58/1973 dated November 28, 1973, be withdrawn and replaced with a new Zoning Agreement as follows:

    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 plans indicating the building locations and detail of approaches , parking areas, landscaping/fencing, location of garbage enclosures, exterior lighting and signage be submitted to and approved by the Planning and Land Use Division and the Riel Community Committee and reviewed by appointed representatives of the Southland Residents Association prior to the issuance of any building permits.

        ii. That a six (6) foot solid wood fence be constructed and maintained along the entire length of the south property line within four months of the date of issuance of new building permits.

        iii. That no future access to the site be permitted via Dawson Road.

        iv. That no permanent structures of any kind including buildings, sheds, signs fencing be permitted on the property required for the widening of Fermor Avenue as shown in the attached sketch PR08-13 dated November 14, 2008 known as Lot 1, Plan 12012.

    B. 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 November 28, 2008, with the following amendments:

Report - Standing Policy Committee on Property and Development - January 6, 2009

i. Delete Recommendation 1 under A. Planning Considerations in its entirety and replace with the following:

"1. That, upon demand by the City, the Owner shall transfer to the City, for $1.00, property required for the widening of Fermor Avenue as shown in the attached sketch PR08-13 dated November 14, 2008 known as Lot 1 Plan 12012."

ii. Add the following Recommendation 7 under B. Servicing Agreement:

"7. That Development Acreage Charges shall apply to net developable acreage, excluding lands required for street widening purposes. In the event that the City does not exercise the option to purchase the property required for the widening of Fermor Avenue as shown in the attached sketch PR08-13 dated November 14, 2008, known as Lot 1, Plan 12012, acreage charges will be applied at that time at the then prevailing rates."

2. That the Acting City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 58/1973 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 Acting 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 - January 6, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 21, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee as amended, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 6, 2009, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee with the following amendment, namely:

- Add the following recommendation after recommendation 1.A.iii.

    "iv. That no permanent structures of any kind including buildings, sheds, signs fencing be permitted on the property required for the widening of Fermor Avenue as shown in the attached sketch PR08-13 dated November 14, 2008 known as Lot 1, Plan 12012"

and forwarded to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On December 8, 2008, the Riel Community Committee concurred in the recommendation contained in the revised report from the Planning and Land Use Division dated December 5, 2008, with the following amendments:

Report from the Planning and Land Use Division
That the revised report from the Planning and Land Use Division dated December 5, 2008 be amended as follows:

- Delete the words "(exclusive of any permitted access points)" in Recommendation 1.A.ii.

- Add the following Recommendation 1.A.iii.

    "1.A.iii. That no future access to the site be permitted via Dawson Road."

Report - Standing Policy Committee on Property and Development - January 6, 2009

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

Report from the Administrative Coordinating Group
That the report from the Administrative Coordinating Group dated November 28, 2008, be amended as follows:

- Delete Recommendation 1 under A. Planning Considerations in its entirety and replace with the following:
  "1. That, upon demand by the City, the Owner shall transfer to the City, for $1.00, property required for the widening of Fermor Avenue as shown in the attached sketch PR08-13 dated November 14, 2008 known as Lot 1 Plan 12012."

- Add the following Recommendation 7 under B. Servicing Agreement:

  "7. That Development Acreage Charges shall apply to net developable acreage, excluding lands required for street widening purposes. In the event that the City does not exercise the option to purchase the property required for the widening of Fermor Avenue as shown in the attached sketch PR08-13 dated November 14, 2008, known as Lot 1, Plan 12012, acreage charges will be applied at that time at the then prevailing rates."

and forwarded to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment - Unaddressed land on south side of Fermor Avenue between Royal Mint Drive and Plessis Road**
File ZAA 21/2008

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

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

Report date: **December 10, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On December 8, 2008, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement Caveat 229158 under File No. DAZ 58/1973 dated November 28, 1973, be withdrawn and replaced with a new Zoning Agreement as follows:

    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 plans indicating the building locations and detail of approaches , parking areas, landscaping/fencing, location of garbage enclosures, exterior lighting and signage be submitted to and approved by the Planning and Land Use Division and the Riel Community Committee and reviewed by appointed representatives of the Southland Residents Association prior to the issuance of any building permits.

        ii. That a six (6) foot solid wood fence be constructed and maintained along the entire length of the south property line ~~***(exclusive of any permitted access points)***~~ within four months of the date of issuance of new building permits.

        iii. That no future access to the site be permitted via Dawson Road

    B. 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 November 28, 2008***, with the following amendments:***

        i. Delete Recommendation 1 under A. Planning Considerations in its entirety and replace with the following:

"1. That, upon demand by the City, the Owner shall transfer to the City, for $1.00, property required for the widening of Fermor Avenue as shown in the attached sketch PR08-13 dated November 14, 2008 known as Lot 1 Plan 12012."

ii. Add the following Recommendation 7 under B. Servicing Agreement:

"7. That Development Acreage Charges shall apply to net developable acreage, excluding lands required for street widening purposes. In the event that the City does not exercise the option to purchase the property required for the widening of Fermor Avenue as shown in the attached sketch PR08-13 dated November 14, 2008, known as Lot 1, Plan 12012, acreage charges will be applied at that time at the then prevailing rates."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 58/1973 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.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

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 revised report from the Planning and Land Use Division dated December 5, 2008 and in the report from the Administrative Coordinating Group dated November 28, 2008.

PUBLIC HEARING SUMMARY

File: ZAA 21/2008

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

Public Hearing: December 8, 2008
Council Chamber, Council Building, 510 Main Street

Applicant: MMM Group (Frieder Aldinger)

Subject:



Premises Affected: Unaddressed land on South side of Fermor Avenue between Royal Mint Drive and Plessis Road

Exhibits Filed:

1. Application dated October 10, 2008
2. Notification of Public Hearing dated October 21, 2008
3. Manitoba Status of Title 1053343
4. Letter of authorization dated September 22, 2008 from Petro-Canada Inc. to MMM Group Limited
5. Caveat No. 229158 dated January 10, 1074
6. Plan
7. Report from the Planning and Land Use Division dated December 1, 2008
8. Report from the Administrative Coordinating Group dated November 28, 2008
9. Inspection Report
10. Revised Report from the Planning and Land Use Division dated December 5, 2008
11. Supporting Documentation submitted by Paul McNeil at the Public Hearing
12. Audio Recording of Representations

REPRESENTATIONS:

In Support:

Frieder Aldinger, MMM Group Ltd
Paul McNeil, MMM Group Ltd

In Opposition

Nil

For Information:

Glenn Clark, President, Southland Park Resident's Association
Norman and Margaret Healey

For the City:

Mr. K. Raban, Land Development Engineer, Planning, Property and Development Department
Mr. K. Lalor, Senior Planner, Planning, Property and Development Department

Exhibit "10" referred to in File ZAA 21/2008

Winnipeg

Planning, Property and Development Department Report

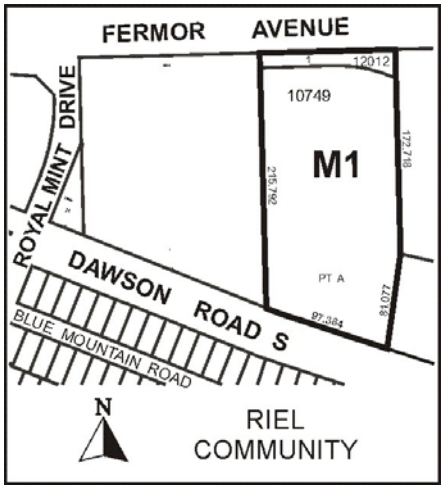
To the Riel Community Committee

Date: December 5/08 **REVISED**
File: ZAA 21 /2008
Related Files: DAZ 58/73

Subject: The purpose of the subject application is to delete the original thirty five year old zoning agreement related to the site in question and replace it with a new and more relevant zoning agreement.

Location: East of Royal Mint Drive, between Dawson Road and Fermor Avenue

Legal Description: Parcel A, Plan 10749



Applicant: MMM Group

Owner: PETRO -CANADA Inc.

Recommendation: Approval with conditions

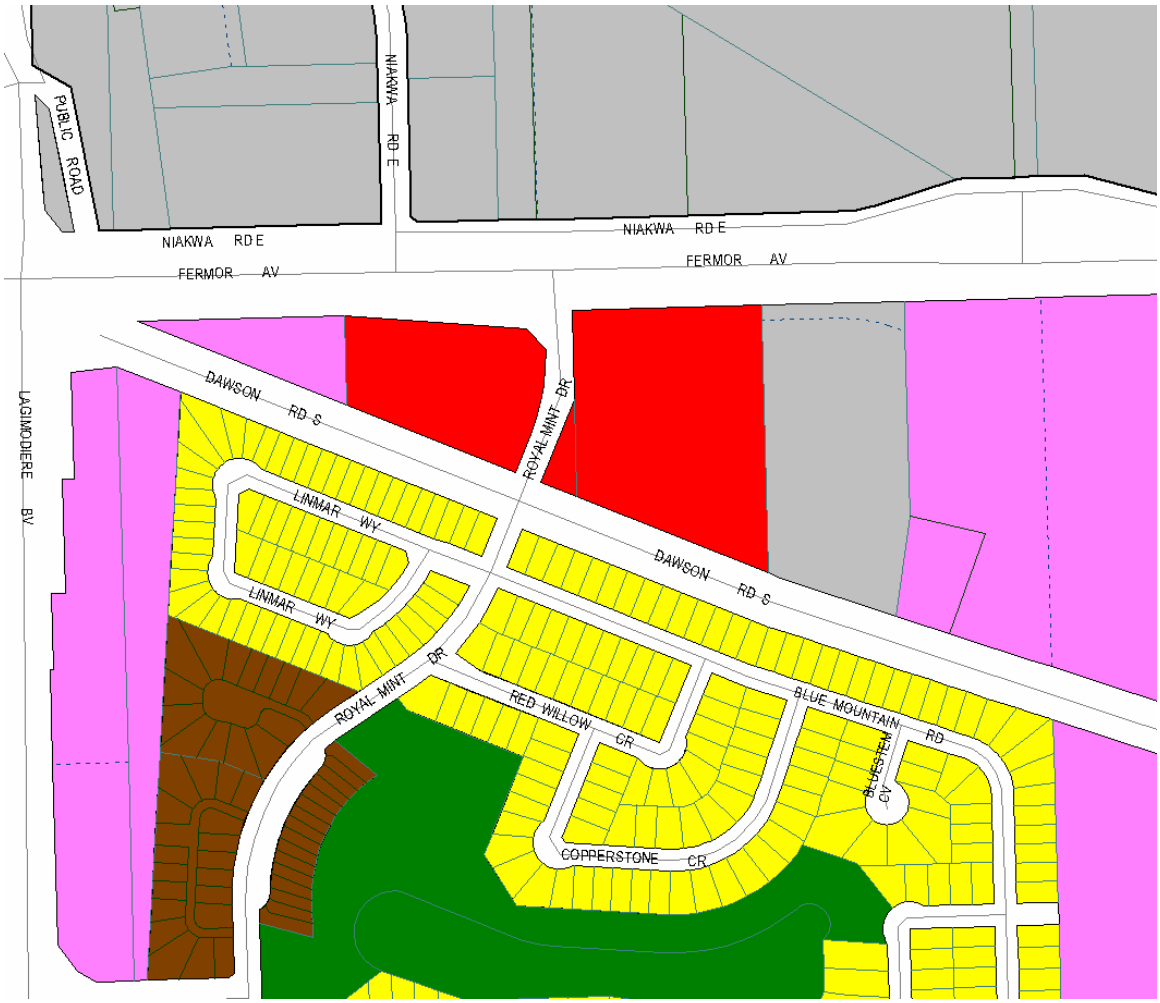
Site Description:

The subject 6.5 acre vacant parcel of land lies on the south side of Fermor Avenue approximately one half mile east of Lagimodiere Boulevard. It has frontage on both Dawson Road and Fermor Avenue. A highway commercial operation (Imperial Oil restaurant, gas outlet and truck stop) once occupied the property immediately adjacent to the west. It currently lies unused.



Zoning:

The grey areas which includes the subject property are zoned "M1" Light Industrial zones. The red areas are zoned "C3" Commercial Corridors. The yellow areas are existing single family residential lots zoned "R1-M" Residential (Southland Park). And the pink areas are designated "RR-5" large lot residential zones.



Description of the Proposed Development:

At this time, there is no indication that a specific tenant is interested in the property. No development proposal is currently in the works.

Analysis:

In 1973, the subject property was rezoned to an "M1" Light Industrial category in order to facilitate the establishment of a Farm Supply Centre to serve the neighbouring agricultural community. Oil and gasoline sales were also permitted on site. The accompanying zoning agreement restricted use of the property to the aforementioned business. The agreement also specified that no buildings or structures be allowed in the S.E. quadrant of the property ; which was in proximity to an existing residence on an adjoining parcel of land immediately to the east. The intent of the current application is to rescind the original 1973 agreement which is deemed to be outdated and replace it with a new zoning agreement which will allow for more flexibility in attracting new prospective tenants. The proposed new agreement will be less use restrictive but it is felt that the new Zoning By-Law 200/06 does protect neighbourhood interests. In fact, the majority of listed "M1" uses under the by-law such as carwashes, restaurants, fuel sales are similar, in most respects, to what are currently permitted uses under the " C3" Commercial Corridor category. Under the proposed new agreement, there will be a plan approval clause which will ensure that upon receipt of an actual development proposal, details pertaining to building location, parking, approaches, landscaping/fencing etc. will have to be submitted and endorsed by the City, Riel Community Committee and reviewed by the Southland Residents Association prior to the issuance of building permits. Plan approval was not a condition under the original agreement.

Recommendation:

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

- The original agreement was, in our opinion, to stringent and seriously curtails development of the property. There are no similar restrictions on adjoining zoned highway commercial properties.

Recommended Conditions of Approval:

5. That Zoning Agreement Caveat 229158 under File # DAZ 58/1973 dated November 28/1973 , be withdrawn and replaced with a new Zoning Agreement as follows:

   A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 591 (1) of The City of Winnipeg Act, to provide for the following:

      1. That final plans indicating the building locations and detail of approaches , parking areas, landscaping/fencing, location of garbage enclosures, exterior lighting and signage be submitted to and approved by the Planning and Land Use Division and the Riel Community Committee and reviewed by appointed representatives of the

Southland Residents Association prior to the issuance of any building permits.

2. That a six (6) foot solid wood fence be constructed and maintained along the entire length of the south property line (exclusive of any permitted access points) within four months of the date of issuance of new building permits.

B. 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 November 28, 2008.

6. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 58/1973 as approved in aforesaid Recommendation 1.

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

8. 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 & Development
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: Kevin Lalor
PPD File # 5.528

Exhibit "8" referred to in File ZAA 21/2008

INTER-OFFICE MEMORANDUM

Planning, Property and Development Department

Development and Inspections Division, Land Development Branch

Date: November 28, 2008

To: Marc Pittet, Community Clerk

From: Shirley Matile, Land Development Engineer

RE: **Removal of Zoning Agreement DAZ 58/73 - Petro Canada - South Side of Fermor Avenue, between Royal Mint Drive and Plessis Road**

FILE: ZAA 21/08 (PLEASE QUOTE WHEN REPLYING)

Enclosed, for consideration by the Riel Community Committee at its December 8, 2008 meeting, is the report of the Administrative Co-ordinating Group, dated November 28, 2008, regarding the captioned zoning agreement amendment application.

"original signed by S.M. Matile"
S. M. Matile, P.Eng.

cc: A. Savage, Subdivision Officer
D. Emerson, P.Eng., Public Works Dept.
F. Mazur, P. Eng., Water & Waste Dept.
D. Overby, Planning and Land Use
Councillor J. Swandel
K. Lalor, Planner
F. Aldinger, MMM Group

/sm
Enclosure

5128

RE: PROPOSED REMOVAL OF ZONING AGREEMENT DAZ 58/73 – PETRO CANADA - SOUTH SIDE OF FERMOR AVENUE, BETWEEN ROYAL MINT DRIVE AND PLESSIS ROAD - ZAA 21/08

FOR SUBMISSION TO THE RIEL COMMUNITY COMMITTEE

"original signed by S.M. Matile"
S.M. Matile, P. Eng.
Chair, Administrative Co-ordinating Group

November 28, 2008

RE: PROPOSED REMOVAL OF ZONING AGREEMENT DAZ 58/73 – PETRO-CANADA - SOUTH SIDE OF FERMOR AVENUE, BETWEEN ROYAL MINT DRIVE AND PLESSIS ROAD - ZAA 21/08

An application has been submitted by Frieder Aldinger, MMM Group Ltd., on behalf of Petro-Canada, to remove Zoning Agreement DAZ 58/73 from the unaddressed land south of Fermor Avenue, between Royal Mint Drive and Plessis Road (Parcel A, Plan 10749 WLTO in Lot 190 Roman Catholic Mission Property), to allow the uses permitted under the zoning by-law.

It is recommended that the approval of ZAA 21/08 be subject to the following:

A. Plan Considerations

1. That the applicant provide and legally open, at no cost to the City, property for the widening of Fermor Avenue, as shown in attached sketch PR08-13 dated November 14, 2008.

B. Servicing Agreement

It is recommended that approval of the Zoning Agreement Amendment application be subject to the applicant entering into a Servicing Agreement with the City, containing the following:

1. The applicant shall, at no expense to the City, construct a wastewater sewer and a land drainage sewer in Dawson Road south, to serve the proposed development, as determined by, and to the satisfaction of, the Director of Water & Waste.

2. The applicant shall pay its share of the cost of the regional land drainage system (2008 rate = $11,871.00/acre).

3. The applicant shall pay its share of the cost of the oversized land drainage sewers in Southland Park (2008 rate = $7,273.00/acre).

4. The applicant shall pay the Seine River Waterway Acquisition Charge ($145.00/acre).

5. The applicant shall pay its share of the cost of the existing watermain in Niakwa Road on the north side of Fermor Avenue ($80.00 per frontage foot).

6. Because the City's long-term plans for this section of Fermor Avenue include a service road on the south side, and because this section of Fermor Avenue is on Schedule "B" of City of Winnipeg Private Access By-law 49/2008, in accordance with Section 21(4) of By-law 49/2008, permanent access to the property will be from the future service road, and any private access permit issued for an approach off Fermor Avenue will be temporary, and valid only until the service road is constructed.

THIS REPORT SUBMITTED BY:

Administrative Co-ordinating Group
File No. ZAA 21/08
November 28, 2008

"original signed by S.M. Matile"
S. M. Matile, P. Eng., Chair
Land Development Branch

"original signed by D. Emerson"
D. Emerson, P. Eng.
Public Works Department, Transportation Division

"original signed by F. Mazur"
F. Mazur, P. Eng.
Water & Waste Department

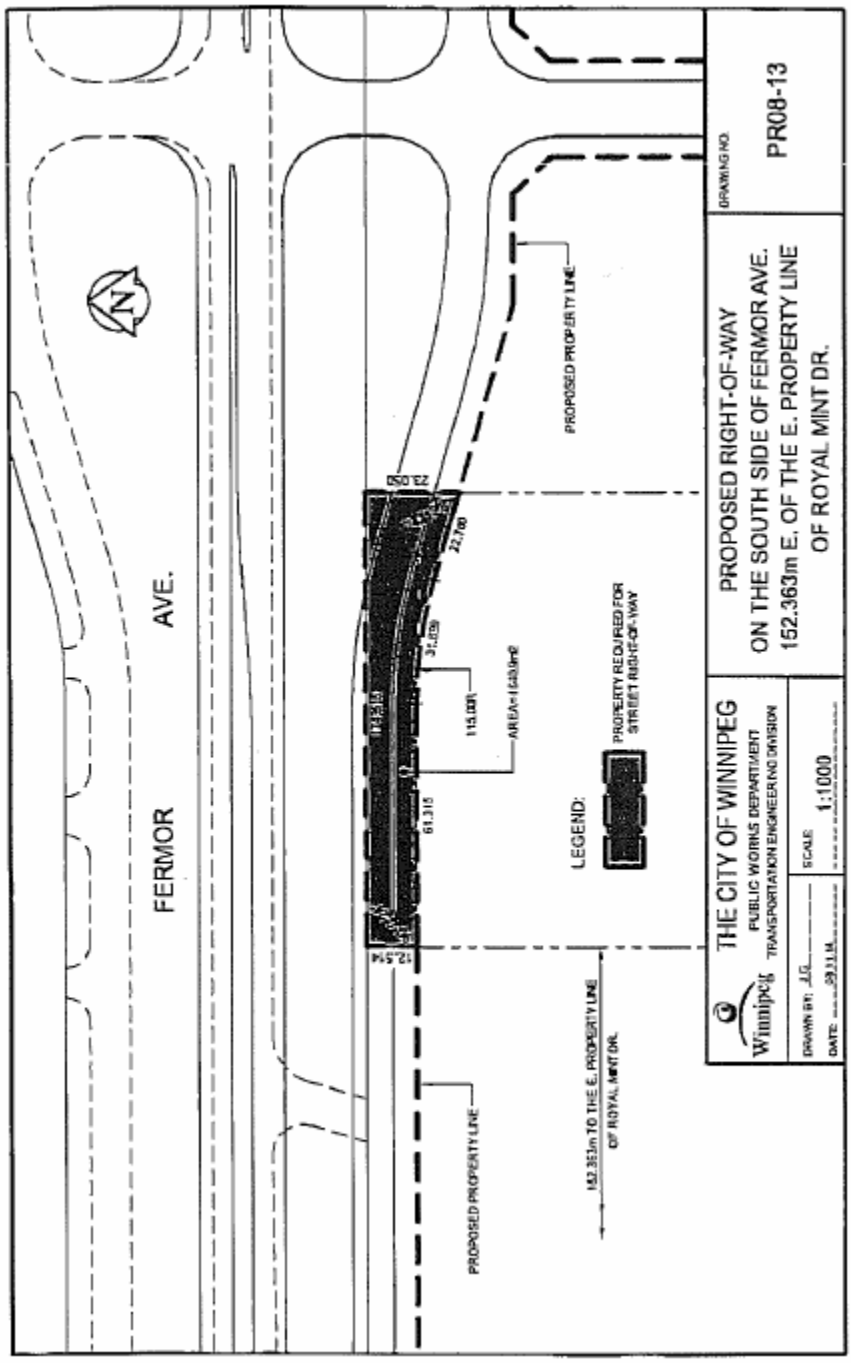

FERMOR AVE.
N
PROPOSED PROPERTY LINE
PROPOSED PROPERTY LINE
152.363m TO THE E. PROPERTY LINE OF ROYAL MINT DR.
LEGEND:
PROPERTY REQUIRED FOR STREET RIGHT-OF-WAY
23.050
22.700
31.839
115.008
AREA=1649m2
61.315
12.514
THE CITY OF WINNIPEG
PUBLIC WORKS DEPARTMENT
TRANSPORTATION ENGINEERING DIVISION
Winnipeg
DRAWN BY: JG
DATE:
SCALE: 1:1000
PROPOSED RIGHT-OF-WAY
ON THE SOUTH SIDE OF FERMOR AVE.
152.363m E. OF THE E. PROPERTY LINE
OF ROYAL MINT DR.
DRAWING NO.
PR08-13

Exhibit "7" referred to in File ZAA 21/2008

Winnipeg

Planning, Property and Development Department Report

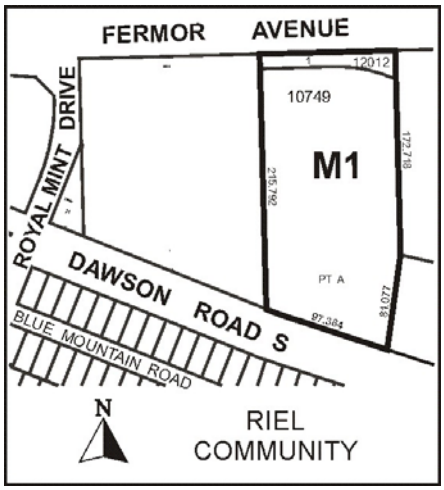
To the Riel Community Committee

Date: December 1/08
File: ZAA 21 /2008
Related Files: DAZ 58/73

Subject: The purpose of the subject application is to delete the original thirty five year old zoning agreement related to the site in question and replace it with a new and more relevant zoning agreement.

Location: East of Royal Mint Drive, between Dawson Road and Fermor Avenue

Legal Description: Parcel A, Plan 10749



Applicant: MMM Group

Owner: PETRO -CANADA Inc.

Recommendation: Approval with conditions

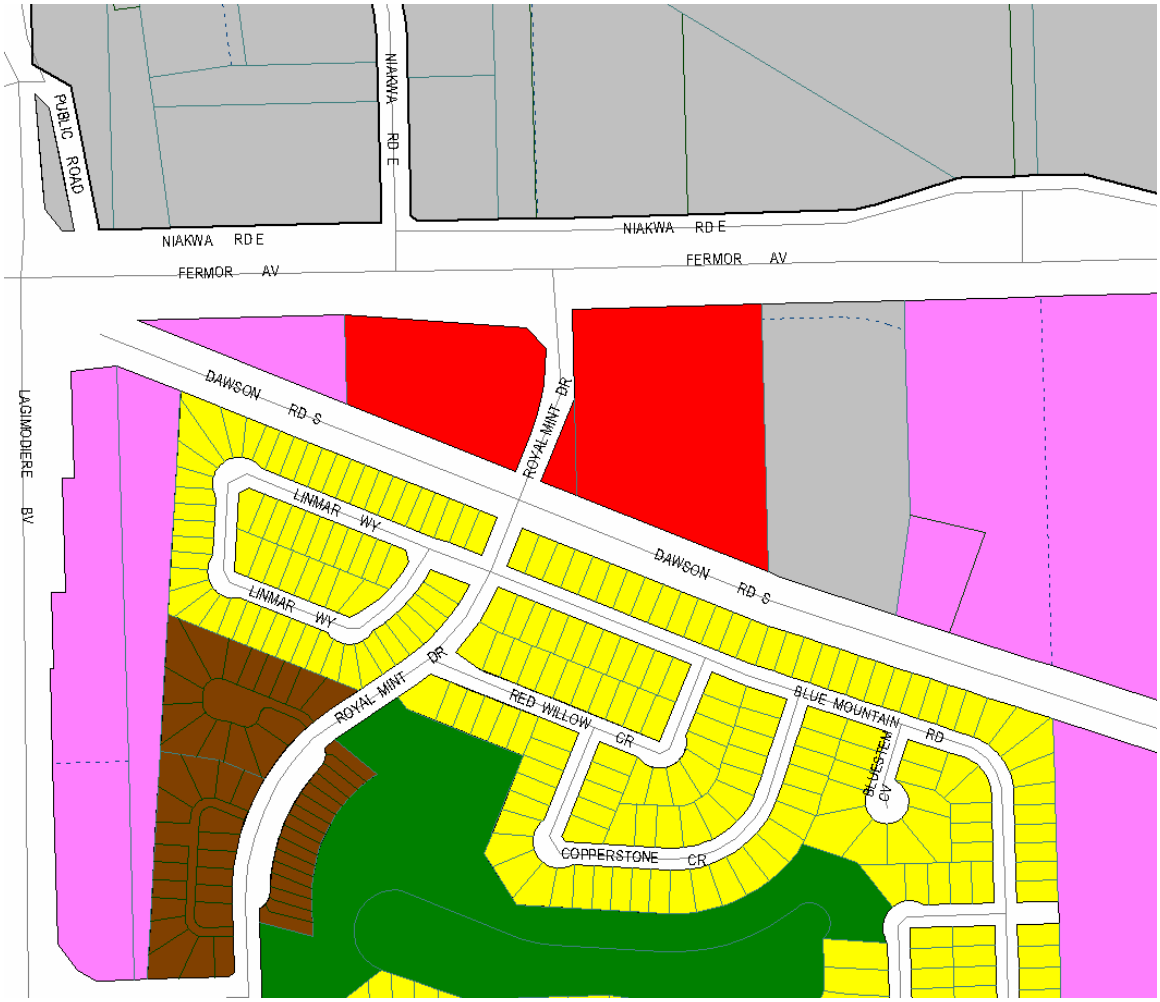
Site Description:

The subject 6.5 acre vacant parcel of land lies on the south side of Fermor Avenue approximately one half mile east of Lagimodiere Boulevard. It has frontage on both Dawson Road and Fermor Avenue. A highway commercial operation (Imperial Oil restaurant, gas outlet and truck stop) once occupied the property immediately adjacent to the west. It currently lies unused.



Zoning:

The grey areas which includes the subject property are zoned “M1” Light Industrial zones. The red areas are zoned “C3” Commercial Corridors. The yellow areas are existing single family residential lots zoned “R1-M” Residential (Southland Park) . And the pink areas are designated “RR-5” large lot residential zones.



Description of the Proposed Development:

At this time, there is no indication that a specific tenant is interested in the property. No development proposal is currently in the works.

Analysis:

In 1973, the subject property was rezoned to an " M1" Light Industrial category in order to facilitate the establishment of a Farm Supply Centre to serve the neighbouring agricultural community. Oil and gasoline sales were also permitted on site. The accompanying zoning agreement restricted use of the property to the aforementioned business. The agreement also specified that no buildings or structures be allowed in the S.E. quadrant of the property ; which was in proximity to an existing residence on an adjoining parcel of land immediately to the east. The intent of the current application is to rescind the original 1973 agreement which is deemed to be outdated and replace it with a new zoning agreement which will allow for more flexibility in attracting new prospective tenants. The proposed new agreement will be less use restrictive but it is felt that the new Zoning By-Law 200/06 does protect neighbourhood interests. In fact, the majority of listed "M1" uses under the by-law such as carwashes, restaurants, fuel sales are similar, in most respects, to what are currently permitted uses under the " C3" Commercial Corridor category. Under the proposed new agreement, there will be a plan approval clause which will ensure that upon receipt of an actual development proposal, details pertaining to building location, parking, approaches, landscaping/fencing etc. will have to be submitted and endorsed by the City, Riel Community Committee and the Southland Residents Association prior to the issuance of building permits. Plan approval was not a condition under the original agreement.

Recommendation:

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

- The original agreement was, in our opinion, to stringent and seriously curtails development of the property. There are no similar restrictions on adjoining zoned highway commercial properties.

Recommended Conditions of Approval:

1. That Zoning Agreement Caveat 229158 under File # DAZ 58/1973 dated November 28/1973 , be withdrawn and replaced with a new Zoning Agreement as follows:

   A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 591 (1) of The City of Winnipeg Act, to provide for the following:

      1. That final plans indicating the building locations and detail of approaches , parking areas, landscaping/fencing, location of garbage enclosures, exterior lighting and signage be submitted to and approved by the Planning and Land Use Division , the Riel Community Committee and appointed representatives of the Southland Residents Association prior to the issuance of any building permits.

2. That a six (6) foot solid wood fence be constructed and maintained along the entire length of the south property line (exclusive of any permitted access points) within four months of the date of issuance of new building permits.

C. 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 November 28, 2008.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 58/1973 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 & Development
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: Kevin Lalor
PPD File # 5.528