Agenda - Council - October 28, 2009

Report - Standing Policy Committee on Property and Development – October 8, 2009

Item No. 7 Zoning Agreement Amendment – 2624 Inkster Boulevard (Point Douglas Ward) File ZAA 5/2009

STANDING COMMITTEE RECOMMENDATION:

On October 21, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That Zoning Agreement under File DASZ 7/2001 dated March 24, 2004 (By-law No. 46/2004), be amended as follows:

    A. That Clause 12 be added with the following:

        i. That the following land-uses shall be exempt from Clauses 2,3, and 4 of this Zoning Agreement:
            a. Accessory Parking;
            b. Assisted living facility;
            c. Community/recreation centre;
            d. Social service facility;
            e. Place of worship;
            f. Hostel;
            g. Hotel or motel;
            h. Transit station;
            i. Library;
            j. Post office/carrier depot;
            k. Protection and emergency services;
            l. Community gardens;
            m. Park/plaza/square/playground;
            n. Day care centre;
            o. Gallery/museum;
            p. Animal hospital or veterinary clinic;
            q. Kennel;
            r. Restaurant;
            s. Office;
            t. Personal services (unless otherwise listed);
            u. Medical/dental/optical/counselling clinic;
            v. Retail sales (unless otherwise listed); and
            w. Utility facility, minor

Report - Standing Policy Committee on Property and Development – October 8, 2009

B. That Clause 13 be added to require the owner to enter into an agreement with the City granting the City an easement to maintain a pathway on the northerly five (5) metres (16.4 feet) of Parcel "C", Plan 42897 WLTO as determined by, and to the satisfaction of, the Director of Public Works; and register the agreement against the land title at the City's expense.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 7/2001 (By-law No. 46/2004) 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.

Report - Standing Policy Committee on Property and Development – October 8, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 21, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 8, 2009, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 15, 2009, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service with the following amendments, namely:

- Amend Recommendation 1.A.i.p. by adding the word “clinic” at the end thereof
- Delete Recommendation 1.A.i.q.
- Renumber Recommendations 1.A.i.r. to 1.A.i.x., to Recommendations 1.A.i.q. to 1.A.i.w.
- Add a new Recommendation 1.B. as follows:

    1.B. That Clause 13 be added to require the owner to enter into an agreement with the City granting the City an easement to maintain a pathway on the northerly five (5) metres (16.4 feet) of Parcel “C”, Plan 42897 WLTO as determined by, and to the satisfaction of, the Director of Public Works; and register the agreement against the land title at the City’s expense,

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

RE: **Zoning Agreement Amendment – 2624 Inkster Boulevard**
File ZAA 5/2009 [c/r DCU 129177/2009D]

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

Prepared by: **Inga Skundberg, Committee Clerk**
Lord Selkirk-West Kildonan Community Committee

Report date: **September 17, 2009**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 15, 2009, the Lord Selkirk-West Kildonan 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 Zoning Agreement under File DASZ 7/2001 dated March 24, 2004 (By-law 46/2004), be amended as follows:

    A. That Clause 12 be added with the following:

        ii. That the following land-uses shall be exempt from Clauses 2,3, and 4 of this Zoning Agreement:
            a. Accessory Parking;
            b. Assisted living facility;
            c. Community/recreation centre;
            d. Social service facility;
            e. Place of worship;
            f. Hostel;
            g. Hotel or motel;
            h. Transit station;
            i. Library;
            j. Post office/carrier depot;
            k. Protection and emergency services;
            l. Community gardens;
            m. Park/plaza/square/playground;
            n. Day care centre;
            o. Gallery/museum;
            p. Animal hospital or veterinary ***clinic***;
            ~~***q. clinic;***~~
            q. Kennel;
            r. Restaurant;
            s. Office;
            t. Personal services (unless otherwise listed);
            u. Medical/dental/optical/counselling clinic;
            v. Retail sales (unless otherwise listed); and

w. Utility facility, minor

B. That Clause 13 be added to require the owner to enter into an agreement with the City granting the City an easement to maintain a pathway on the northerly five (5) metres (16.4 feet) of Parcel "C", Plan 42897 WLTO as determined by, and to the satisfaction of, the Director of Public Works; and register the agreement against the land title at the City's expense.

2. That the Acting City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 7/2001 (By-law 46/2004) 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.

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

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reason for its recommendation:

1. The Lord Selkirk-West Kildonan Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated September 7 2009.

PUBLIC HEARING SUMMARY

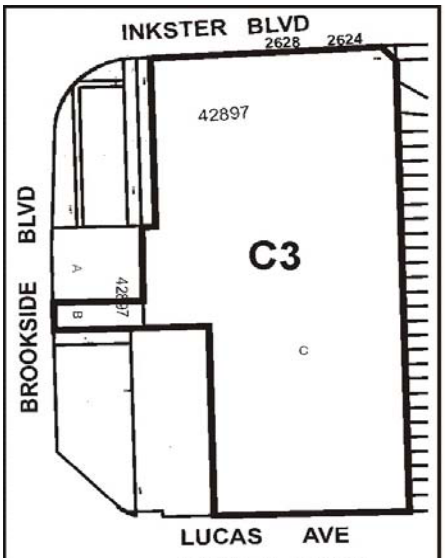
File: ZAA 5/2009 [c/r DCU 129177/2009D]

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Pagtakhan, Chairperson
Councillor Lazarenko
Councillor O'Shaughnessy

Public Hearing: September 15, 2009
West Committee Room
Council Building, 510 Main Street

Applicant: Harold Funk Architect Inc.

Subject:



APPLICANT : HAROLD FUNK ARCHITECT INC.
FILE : ZAA 5/09
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above by deleting clause 2, 3 & 4 relating to the 100 feet separation/buffer area and landscaping requirements to allow for the construction of an accessory parking area. **For information, phone Mr. G. Doney, Planner at 986-2688.**

Premises Affected: 2624 Inkster Boulevard

Exhibits Filed:

1. Application dated June 11, 2009
2. Notification of Public Hearing dated June 22, 2009
3. Manitoba Status of Titles 2212261
4a. Letter of authorization dated June 10, 2009 from Shindico Realty Inc, on behalf of 5036241 Manitoba Ltd. to Roman Catholic Parish of St. Peter, their agents, architects, consultants and related parties
4b. Letter of authorization dated September 10, 2009 from St. Peter's Church to Harold Funk Architect Inc.
5. Zoning Agreement for File DASZ 7/2001
6. Plan
7. Report from the Planning and Land Use Division dated September 7, 2009
8. Inspection Report
9. Plan submitted by the Planner, Planning and Land Use Division, Planning, Property and Development Department at the public hearing
10. Audio Recording of public hearing held on September 15, 2009

REPRESENTATIONS:

In Support:

Allen Agpalza
Henry Connon
BJ Fehr
Harold Funk, on behalf of St. Peter's Church
Steven Paulus
Mario Rosario
Luz Sachez
Dan Santiano
Gareth Simons

In Opposition

Nil

For Information:

Nil

For the City:

Ms S. Matile, Land Development Engineer, Planning, Property and Development Department
Mr. G. Doney, Senior Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 5/2009 [c/r DCU 129177/2009D]

ADMINISTRATIVE REPORT

ISSUE: ZAA 5/2009 2624 Inkster Boulevard Public Hearing

Critical Path: Lord Selkirk – West Kildonan Community Committee - Standing Policy Committee on Property and Development - Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
J.G. Doney	n/a	n/a	

RECOMMENDATIONS

2. That Zoning Agreement under File DASZ 7/2001 dated March 24, 2004 (By-law 46/2004), be amended as follows:

   A. That Clause 12 be added with the following:

      i. That the following land-uses shall be exempt from Clauses 2,3, and 4 of this Zoning Agreement:

      a. Accessory Parking;
      b. Assisted living facility;
      c. Community/recreation centre;
      d. Social service facility;
      e. Place of worship;
      f. Hostel;
      g. Hotel or motel;
      h. Transit station;
      i. Library;
      j. Post office/carrier depot;
      k. Protection and emergency services;
      l. Community gardens;
      m. Park/plaza/square/playground;
      n. Day care centre;
      o. Gallery/museum;
      p. Animal hospital or veterinary;
      q. clinic;
      r. Kennel;
      s. Restaurant;

t. Office;
u. Personal services (unless otherwise listed);
v. Medical/dental/optical/counselling clinic;
w. Retail sales (unless otherwise listed); and
x. Utility facility, minor

3. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 7/2001 (By-law 46/2004) as approved in aforesaid Recommendation 1.

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

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.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, a development permit can be issued for the construction of a one-storey place-of-worship with a gross floor area over 40,000 square feet.

CONSULTATION

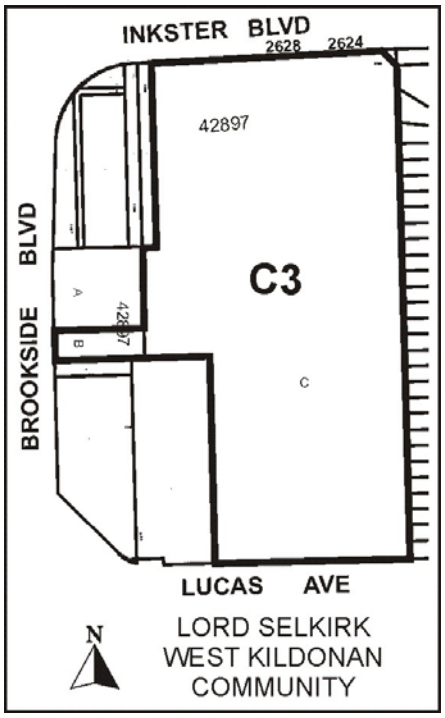
The Public Works and Water and Waste Departments were consulted in the preparation of this report.

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	J. Glen Doney
Date	September 7, 2009
File	ZAA 5/09

Appendix A

Date	September 7, 2009
File	ZAA 5/09
Related File	DCU 09-129177D
Community	Lord Selkirk-West Kildonan Community
Neighbourhood	Oak Point Highway
Subject	amend Zoning Agreement DASZ 7/01 by adding a new clause to allow accessory surface parking in the easterly 100 feet of the subject land and to permit landscaping that conforms to Zoning By-law 200/2006
Location	2624 Inkster Boulevard
Legal Description	Parcels B and C, Plan 42897, NW 23 11 2E



Applicant	Harold Funk, Harold Funk Architect Inc. 55 Donald St Unit 401 Winnipeg Mb R3c 1m4
Owners	5036241 Manitoba Ltd. 121 Girton Blvd. Winnipeg MB R3P 0A4
Recommendation	approval with conditions

SITE DESCRIPTION

The subject land is 705,000 square feet at 2624 Inkster Boulevard, immediately east of Brookside Boulevard, immediately south of Inkster Boulevard and immediately north of Lucas Avenue in the Oak Point Highway industrial area and the Point Douglas Ward. It consists of Parcels B and C of Plan 42897. The subject land is irregularly shaped, with approximately 570 feet of frontage along Inkster, 70 feet of frontage along Brookside and 470 feet of frontage along Lucas.

Figure 1 shows that the subject land is undeveloped except for a private approach from Brookside. Figure 1 also shows that the subject land is near single-family dwellings, a restaurant, undeveloped land, an auto dealership and a vehicle repair and service use. Figure 1 also shows that a private approach from Inkster Boulevard extends across two parcels and onto the subject land and that the private approach on the subject land is shared with the restaurant.

Figure 2 shows that the subject land is in a "C3" Commercial Corridor District, adjacent to an "M1" Manufacturing Light District and an "R1M" Residential Single-Family [medium lot size] District and near other "C3" Commercial Corridor Districts, an "M1" Manufacturing Light District and an "M2" Manufacturing General District.

The subject land is in an area designated Industrial and immediately west of an area designated Neighbourhood in *Plan Winnipeg 2020 Vision.*

Alongside the subject land Inkster, Brookside and Lucas have ditches for drainage and are without sidewalks.

BACKGROUND

DASZ 7/01

On March 24, 2004, Council approved. under zoning by-law 6400 , a rezoning for a portion of the subject land from "A5" Agricultural District to "C3-1" Commercial District. The Planning and Land Use Division recommended a zoning agreement to ensure any potential development was compatible to the east. The following clauses form the zoning agreement:

Clauses 2, 3 and 4 of the zoning agreement state, respectively, that:

- a 100 foot deep buffer, within which no buildings shall be built, must be established adjacent to the eastern limit of the land; and
- said buffer must not be used for parking, a display area, storage, refuse or processing.

In addition, Clause 6 requires several uses that were permitted in the "C3-1" Commercial District of By-law 6400/94 to be conditional: "C3-1" Commercial District at that time allowed several uses that considered industrial in nature, which would only be appropriate if a buffer was provided next to the adjacent residential development.

Zoning By-law 200/2006

When Zoning By-law 200/2006 came into effect, the "C3-1" Commercial District of Zoning By-law 6400/94 became the "C3" Commercial Corridor. The "C3" District of By-law 200/2006 permits more commercial uses and less industrial uses than the "C3-1" Commercial District.

As part of the one year review of Zoning By-law 200/2006, the Planning and Land Use Division recommended that the subject land, and certain other lands zoned "C3" District, be rezoned to "M1" District in order to accommodate existing trucking and other light industrial uses formerly accommodated under the "C3-1" Commercial District of Zoning By-law 6400/94. It is likely that this recommendation will be implemented in the coming months.

DESCRIPTION OF THE DEVELOPMENT

The development, shown on Figure 1, is the construction of a one-storey place-of-worship with a gross floor area of approximately 65,000 square feet, accessory surface parking with approximately 640 spaces and landscaping. The parking would be As a *future* separate application, the subject land would be subdivided as shown in Figure 1, because a large portion of said land is not included in the development proposal.

In order to obtain a development permit:

- the zoning agreement under File DASZ 7/01 must be amended by deleting Clauses 2, 3 and 4; and
- Conditional Use Application DCU 09-129177D, to allow a place of worship with a floor area over 40,000 square feet, must be approved.

As well, an agreement must be entered into to ensure that the restaurant shown on Figure 1 continues to have access from the private approach on the subject land that connects to Inkster.

ANALYSIS AND ISSUES

Plan Winnipeg

Policy 3B-06 "Accommodate New Industrial Areas" of *Plan Winnipeg 2020 Vision* states that commercial uses may be introduced into areas designated Industrial to act as a buffer between the industrial uses and adjacent uses. The proposed place of worship would act as a buffer for the single-family dwellings east of the subject land, indicating that the development conforms to this policy. Policy 3A-02 "Promote Compact Urban Form" states that the City shall promote compact urban form "by… encouraging infilling of vacant lands…." Quite clearly, the development conforms to this policy as well.

Zoning

- **C3 Commercial Corridor District** is intended primarily for uses that provide commercial goods and services to residents of the community in areas that are dependent on automobile access and exposed to heavy automobile traffic.
- These commercial uses are subject to frequent view by the public and visitors to Winnipeg, and they should provide an attractive appearance with landscaping, sufficient parking, and

controlled traffic movement. C3 districts are generally located along portions of arterial streets where lot depths are 200 feet or greater, or at arterial/arterial intersections.
- A place of worship is permitted up to 40,000 square feet.
- There is a minimum rear yard of 25 feet, a front yard 25 feet, and a building height of 49 feet.
- **M1 Manufacturing Light District** is intended to provide for light manufacturing, processing, service, storage, wholesale, and distribution operations with all operations contained within an enclosed building with some limited outside storage.
- There is a minimum front yard of 25 feet; and maximum building height of 50 feet.
- A place of worship is permitted.

Compatibility with its Vicinity

The development is generally compatible with its vicinity because, as stated in the previous subsection of this attachment, it would buffer the residential uses from future industrial development. It's compatibility with the adjacent residential development would be enhanced if the development is in accordance with the landscaping and buffering requirements of By-law 200/20006. These requirements are discussed in the subsection of this report titled "Site Design Issues."

In addition, the removal of Clauses 2, 3 and 4 of the zoning agreement under File DASZ 7/01 should only apply to uses that are generally as compatible with residential as the proposed place of worship. Given that the land is in a "C3" District that may become an "M1" District, as per the one year review of By-law 200/2006, uses in both districts must be considered. Therefore Clauses 2, 3 and 4 of the zoning agreement should ***not*** apply to the following uses listed in Table 4-1 of By-law 200/2006:

- Accessory Parking;
- Assisted living facility;
- Community/recreation centre;
- Social service facility;
- Place of worship;
- Hostel;
- Hotel or motel;
- Transit station;
- Library;
- Post office/carrier depot;
- Protection and emergency services;
- Community gardens;
- Park/plaza/square/playground;
- Day care centre;
- Gallery/museum;
- Animal hospital or veterinary;
- clinic;
- Kennel;
- Restaurant;
- Office;

- Personal services (unless otherwise listed);
- Medical/dental/optical/counselling clinic;
- Retail sales (unless otherwise listed); and
- Utility facility, minor.

Site Design Issues

The development is to adhere to the buffering requirements of Zoning By-law 200/2006, which include:

Side and Rear Site Edge Buffering
(7) A landscaped buffer must be installed along side or rear lot lines to reduce the impacts of traffic movements, light, noise, dust, and odours on adjacent properties in the following two situations:

(a) a landscaped buffer must be installed where a side or rear lot line of a lot in a commercial or institutional or manufacturing zoning district abuts a lot in a single, two-family or multi-family residential zoning district. The required buffer must comply with Option 1 or Option 2 below:

(i) Option 1: Site edge buffering must have a landscaped area with at least 1 deciduous or coniferous tree for every 35 linear feet of lot line and 3 shrubs per 20 linear feet of lot line where the abutting condition exists. A landscaped berm a minimum of 2½ feet in height with a rise-to-run ratio not exceeding 1:3 may be integrated into this option. The height of planted materials (together with any berm provided) must be at least 6 feet in height at the time of planting.

(ii) Option 2: Site edge buffering must include an opaque wall, berm, fence and/or dense vegetative screen with a minimum combined height of 6 feet. If a vegetative screen is proposed, it must be at least 6 feet in height at the time of planting. If a wall or fence is used the maximum continuous horizontal length of any section is 48 feet, at the end of which a landscaped strip of a minimum length of 16 feet, a minimum depth of 4 feet, and with shrubs a minimum height of 2½ feet must be provided.

(b) regardless of which option is chosen, required trees and shrubs within a required landscaped area may be clustered to create visual interest.
Buffering of Parking and Loading Areas

(8) A landscaped buffer must be installed when a parking or loading area accessory to any use, other than a single- or two-family residential use, is located within 20 feet of a side or rear lot line abutting or adjacent to a residential zoning district.

(9) Buffering of a parking or loading area may comply with either Option 1 or Option 2 in clause (7)(a) above, but the required minimum height of any wall, fence, berm, or combination of a wall, fence, or berm must be 4 feet rather than 6 feet.

Transportation and Site Access Issues

Public Works has stated that a new private approach from Inkster Boulevard must not be located adjacent or near the existing approach that is just west of the subject land.

Public Works also stated that they require an easement on the northerly 5 metres of the subject land for a planned public pathway.

REASONS FOR RECOMMENDATIONS

The Division is supportive of exempting a place of worship and accessory parking area from the requirements of the Zoning Agreement for buffering& setbacks adjacent to the residential dwellings. However, the Division is still maintains these requirements for mitigating potential industrial uses are needed especially as the lands are considered a candidate for a zoning rationalization to become M1 Industrial. Therefore, the Division is recommending a new clause that will exempt land-uses (including a place of worship and accessory parking area) that are compatible with residential but will still require intensive industrial / commercial uses to comply with the Zoning Agreement requirements regarding buffering and separation.

Figure 1
Land Use, 2005 aerial photography

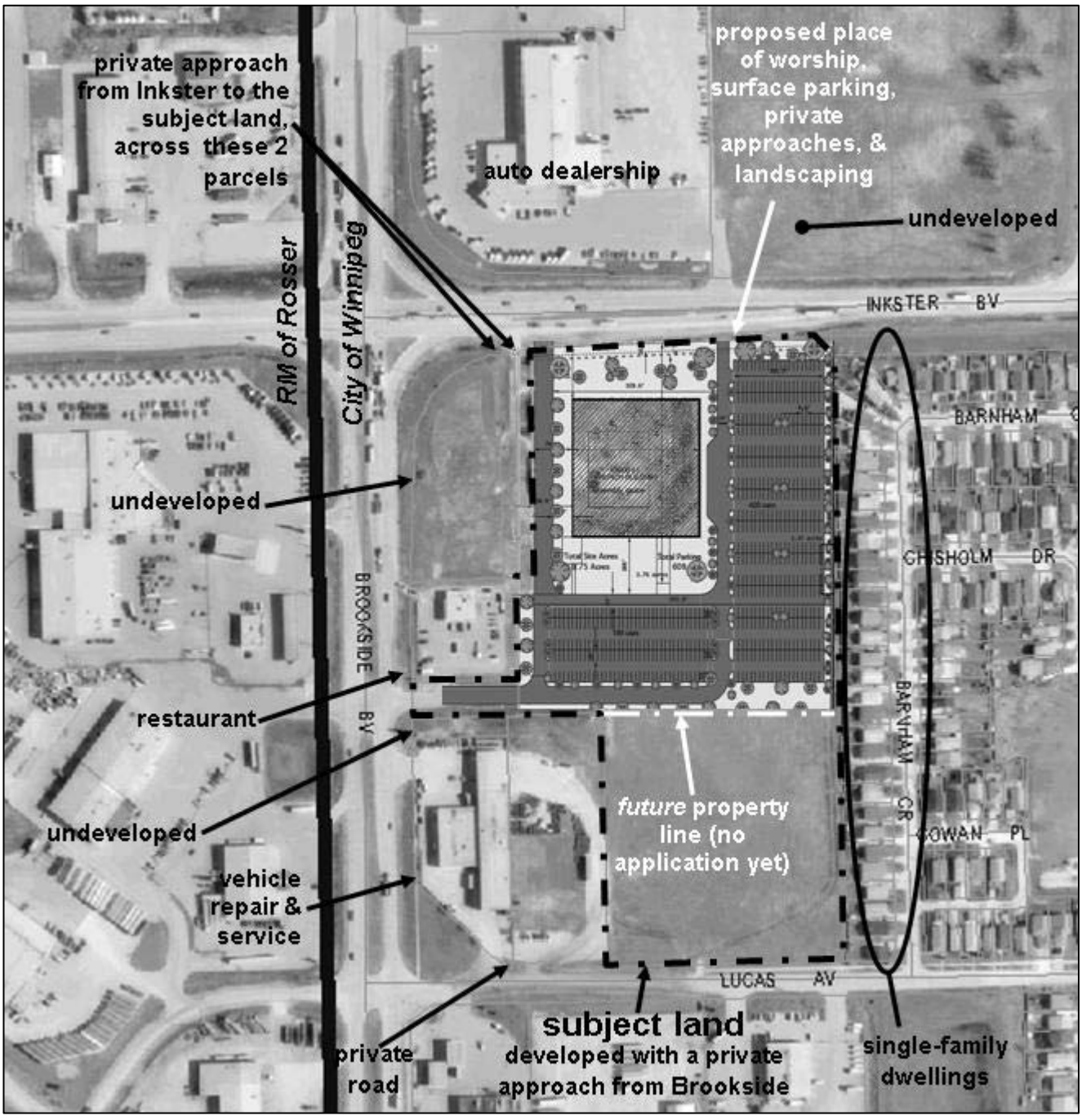


Figure 2
Zoning

