Agenda – Executive Policy Committee – January 6, 2010

REPORTS

Item No. 4 Rezoning – 1580 Taylor Avenue
(River Heights - Fort Garry Ward)
File DAZ 215/2009

COMMUNITY COMMITTEE RECOMMENDATION:

On December 8, 2009, the City Centre 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 215/2009, attached hereto and dated November 13, 2009, to a "C1" Commercial Neighbourhood district, subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in Schedule "B" to the report of the Winnipeg Public Service dated November 27, 2009.

    B. 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 there shall be no "dwelling, single-family detached" and "dwelling, two-family" on the subject lands.

        ii. That there shall be no advertising signs, mobile signs, poster signs, electronic message centres, and A-frame signs on the entire site.

        iii. That there shall be no free-standing signs permitted on the entire site.

        iv. That for the development of any building, accessory parking area, or free-standing sign, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping, lighting, and signage to the Director of Planning, Property, and Development for plan approval prior to the issuance of any building or development permit and thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

2. That the existing Zoning Agreement, put into place under DASZ 18/93 (By-law No. 6399/94) and registered under Caveat No. 2450596, be withdrawn.

3. 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 the market value of the land.

4. 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.

5. 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.

6. That the zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

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

DECISION MAKING HISTORY:

COMMUNITY COMMITTEE RECOMMENDATION:

On December 8, 2009, the City Centre 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 – 1580 Taylor Avenue**
File DAZ 215/2009 [c/r DCU 154993/2009D

For submission to: **Executive Policy Committee**

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

Report date: **December 9, 2009**

COMMUNITY COMMITTEE RECOMMENDATION:

On December 8, 2009, the City Centre 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 215/2009, attached hereto and dated November 13, 2009, to a "C1" Commercial Neighbourhood district, subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in Schedule "B" to the report of the Winnipeg Public Service dated November 27, 2009.

    B. 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 there shall be no "dwelling, single-family detached" and "dwelling, two-family" on the subject lands.

        ii. That there shall be no advertising signs, mobile signs, poster signs, electronic message centres, and A-frame signs on the entire site.

        iii. That there shall be no free-standing signs permitted on the entire site.

        iv. That for the development of any building, accessory parking area, or free-standing sign, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping, lighting, and signage to the Director of Planning, Property, and Development for plan approval prior to the issuance of any building or development permit and thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

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5. 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.

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

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

1. The development fits in with the neighbourhood

PUBLIC HEARING SUMMARY

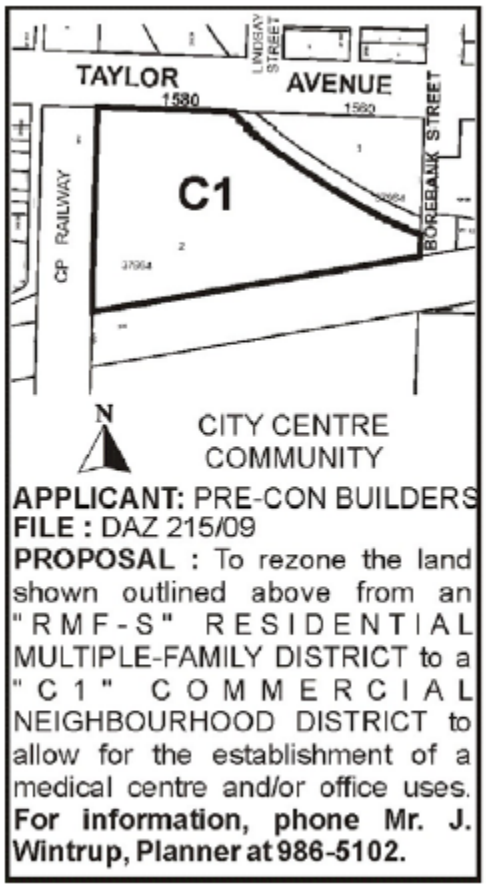
File: DAZ 215/2009 [c/r DCU 154993/2009D

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

Public Hearing: December 8, 2009
North Committee Room
Council Building, 510 Main Street

Applicant: Pre-Con Builders (Robin Lee)

Subject:



Premises Affected: 1580 Taylor Avenue

Exhibits Filed:
1. Application dated October 8, 2009
2. Notification of Public Hearing dated October 15, 2009

3. Manitoba Status of Title 1694223
4. Letter of authorization dated December 18, 2008 from Richard Morantz, President, Ethan Real Estate and Development Corporation to Pre-Con Builders
5. Caveat 1505194
6. Plans (4 pages)
7. Report from the Planning and Land Use Division dated November 27, 2009
8. Inspection Report
9. Audio Recording of representations of public hearing held on December 8, 2009

REPRESENTATIONS:

In Support:

Robin Lee, Pre-Con Builders

In Opposition

Nil

For Information:

Nil

For the City:

Mr. M. Pyl, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File DAZ 215/2009 [c/r DCU 154993/2009D]

ADMINISTRATIVE REPORT

ISSUE: DAZ 215/2009 1580 Taylor Ave Public Hearing.

Critical Path: City Centre Community Committee as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Himbeault	n/a	n/a	

RECOMMENDATIONS

1. That the Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for file DAZ 215/09, attached hereto and dated November 13, 2009, to a "C1" Commercial Neighbourhood district, subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in Schedule "B".

    B. 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 there shall be no "dwelling, single-family detached" and "dwelling, two-family" on the subject lands.

        ii. That there shall be no advertising signs, mobile signs, poster signs, electronic message centres, and A-frame signs on the entire site.

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3. 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.

4. 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.

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6. That the zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

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

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, a development permit can be issued.

CONSULTATION

In preparing this Report there was consultation with:

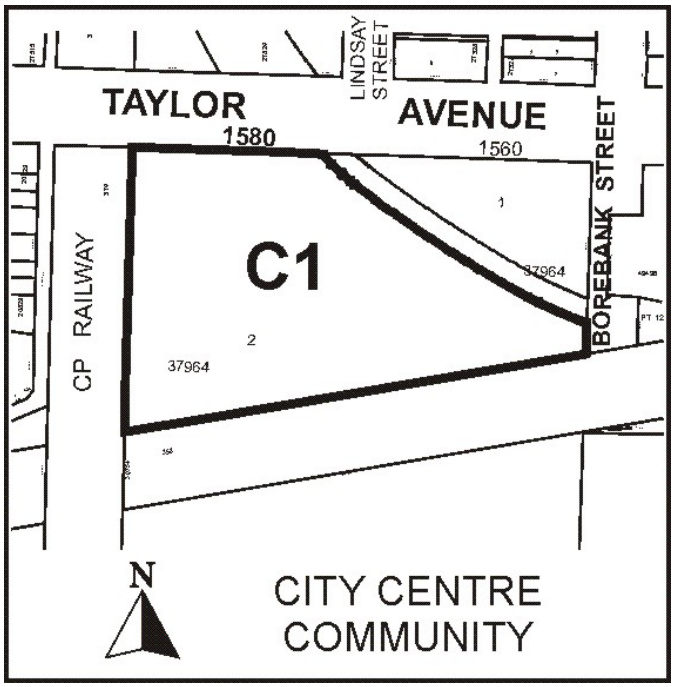
N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	Michael Pyl
Date:	November 27, 2009
File No.	DAZ 215/2009

APPENDIX 'A'

DATE:	November 27, 2009
FILE:	DAZ 215/2009
RELATED FILES:	DCU 09-154993D
SUBJECT:	Rezone property from "RMF-S" Residential Multi-Family Small district to "C1" Commercial Neighbourhood district to allow for the establishment of a medical centre use and/or offices as a conditional use.
LOCATION:	1580 Taylor Ave
LEGAL DESCRIPTION:	Lot 2, Plan 37964



APPLICANT:	Pre-Con Builders
OWNER:	Same as above
RECOMMENDATION:	Approval with conditions

REPORT SUMMARY

- The applicant intends to build a one storey, 30,700 sq. ft. multi-tenant building to house office and medical related uses on Taylor Ave. The site is irregularly shaped, and is 2.7 acres.
- The site is currently zoned “RMF-S”; it will require a rezoning to “C1”.
- The proposed development is intended to house office and medical related uses, but at this point, the applicant is unsure how many units it will contain.

SITE DESCRIPTION

- The subject property is located on the south side of Taylor Ave, between Renfrew and Lindsay Sts in the South River Heights neighbourhood of the River Heights/Fort Garry Ward. The subject property is surrounded by railway tracks on three sides, including the CNR mainline on the south side.
- The site is irregularly shaped; it is 245 feet wide fronting onto Taylor Ave, and 604 ft wide backing onto the CNR mainline. The west boundary runs in a straight line perpendicular to Taylor and is 365 feet long; the east boundary runs in a curved line parallel with the railway spur line to 40 feet north of the southeast corner of the property.
- The site is zoned “RMF-S” Residential Multi-Family Small district and is currently vacant.
- Adjacent properties include the Buggy Bath carwash to the east, residential townhouses to the west, the CNR mainline to the south, and railway-owned land to the north across Taylor.



Figure 1: Map of subject property and surrounding area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant intends to build a one storey, 30,700 sq. ft. multi-tenant building to house office and medical related uses. At this point, the applicant is unsure how many units the building will house.
- A rezoning from “RMF-S” to “C1” is necessary because neither office or medical clinics are permitted in a “RMF” district. In concurrence with this rezoning, the applicant has also applied for a conditional use (DCU 09-154993D) to permit the establishment of offices having a floor area greater than 5,000 square feet, and medical clinics having a gross floor area greater than 1,500 square feet.
- The orientation of the building will run relatively parallel with the back property line.
- The applicant is proposing to build a pedestrian walkway connecting the city sidewalk along the south side of Taylor to the front of the proposed building.
- A 6’ high wooden fence will run along the perimeter of the property, open only on the Taylor Avenue frontage.
- The vast majority of the development’s parking spaces will be located in front of the building, with one row located behind the building and along the east property line. There will be 157 parking spaces in total. The applicant has also noted a bicycle parking facility at the northwest corner of the building.

BACKGROUND

DASZ 7/92

The applicant sought to subdivide the subject site, bordered by Taylor Ave to the north, Borebank St to the east, the CNR Mainline to the south, and the CPR rail line serving St. James industrial park to the west, into two lots divided by the existing railway spur line. The site would also be rezoned from “R1-4” Single Family District to “M1” Limited Industrial District. The eastern lot had already contained the Buggy Bath car wash, and the western lot would house a rental self-storage locker compound. The Assiniboine Park-Fort Garry Community Committee rejected this application, on the grounds that other alternatives could be a more appropriate use of the site. Council upheld this decision on December 16, 1992.

Application also required the variance of “M1” district regulations of Zoning By-law No. 1800 to permit the construction of an industrial building providing no rear yard instead of 50 feet (DAV 333/92 D). This variance was rejected by the Assiniboine Park-Fort Garry Community Committee on September 21, 1992.

DASZ 18/93

The applicant sought to subdivide the site along the same specifications as in DASZ 7/92. The easternmost lot, the Buggy Bath car wash, would remain zoned “R1-4”, and the westernmost lot would be rezoned “RM-1” Multiple Family District to permit the construction of a 36 unit townhouse development.

Council approved the application; the DASZ was passed as a by-law in 1994 (B/L 6399/94). However, the townhouses were never built.

A Zoning Agreement was established as part of this application. Among other clauses, it ensures that:

- No building or structure shall be erected on the land exceeding thirty (30) feet or two and one-half (2 ½) storeys in height and not more than thirty-six (36) dwelling units may be constructed thereon.
- The Owner shall provide and maintain on the land 1.5 parking spaces for each dwelling unit established on the land.
- No building, structure or works shall be erected or located on the land and no building permit issued for construction on the land unless and until final construction plans indicating design and location of the proposed buildings, including elevations and exterior finishing materials, site access, vibration attenuation measures, garbage enclosures and signage are submitted to and approved by the Chief Administrative Officer or her designate and the City Centre Community Committee.

The planner’s report did not address the rationale behind the height restriction nor the parking specifications. In the City Centre Community Committee meeting minutes dated October 19, 1993, citizens had expressed concern about the intensity of this infill development, as well as the possibility of new residents parking vehicles on neighbouring streets. Therefore, it is assumed that the above clauses were included to mitigate these concerns.

DAZ 233/06

Council approved the applicant's request to rezone the subject property from "RM-1A" Multiple Family District to "RM-5A" Multiple-Family District under Zoning By-law No. 6400/94 to accommodate a 134-unit multiple family development in two buildings (5 storeys and 7 storeys). Ultimately however, it was not proceeded with; it was not passed as a by-law nor was a zoning agreement established. Council's ruling has since expired.

This proposal required a conditional use to permit the construction of 134 units instead of 112 units as allowed (DCU 06-146573/D). The applicant also requested that yard and parking space-per-dwelling unit ratio provisions be varied (DAV 06-146531/D). Given that neither were established within two years, both have also expired.

ANALYSIS AND ISSUES

Plan Winnipeg

- The subject property is designated Neighbourhood Policy Area, which allows for a residential mix together with a variety of educational, recreational, institutional, commercial and possibly industrial uses, at a scale and density compatible with each other.
- Policy 3A-02, Promote Compact Urban Form, encourages new development which is adjacent to, and compatible with, existing development and which is designed to minimize the spatial use of land.
- The proposed development complies with Plan Winnipeg.

Airport Vicinity Protection Area planned development overlay district

- The subject property falls just within the boundaries of the Airport Vicinity Protection Area PDO. It is designated as Area II in regards to Noise Exposure Forecast contours, which according to the Airport Vicinity Protection Area secondary plan, means the property would be exposed to an NEF level of 25; the secondary plan anticipates community response to an NEF under 30 as "sporadic complaints may occur", and that "noise may interfere occasionally with certain activities of the resident".
- There are no specific standards in the PDO that relate to commercial development.

Zoning

- The subject property is currently zoned "RMF-S" Residential Multi-Family district, which is intended to accommodate the development of multi-family units in neighbourhoods with medium to high residential densities. The proposed rezoning, "C1" Commercial Neighbourhood district, is intended to accommodate small, compact commercial uses within or surrounded by residential areas that are attractive and compatible in scale and character with surrounding residential uses, to serve the convenience needs of the surrounding neighbourhood. This district is not intended to accommodate businesses sized or designed to serve a trade area more than one-half mile from the business. C1 districts are generally located along local streets or at local/collector intersections.

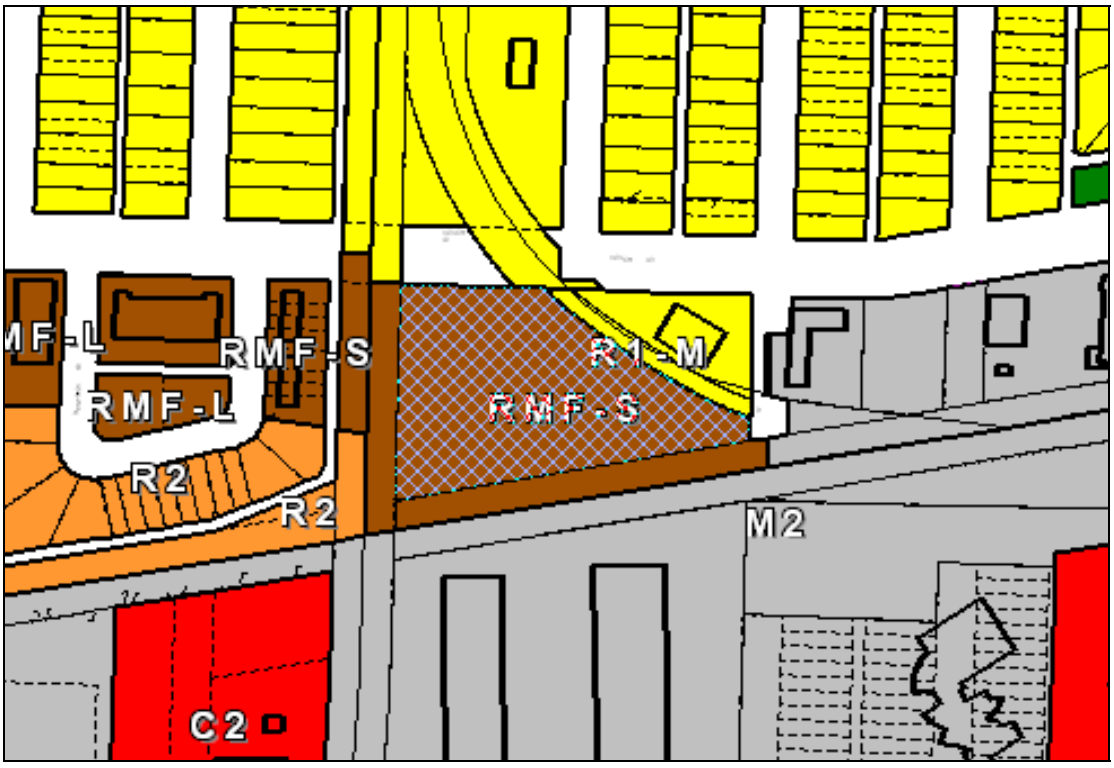


Figure 2: Zoning map of subject property and surrounding neighbourhood

- Neither office or medical clinics are permitted uses in the “RMF” district. They are permitted in the “C1” district, provided that they are limited to a maximum of 5,000 and 1,500 square feet of gross floor area respectively.
- The dimensional standards for the “C1” district are very flexible, lacking any minimum setbacks from any side of the building.

Min. front yard (ft.)	Min. rear yard (ft.)	Min. interior side yard (ft.)	Min. corner side yard (ft.)	Max. height of building (ft.)	Max. floor area ratio
0	0	0	0	39*	1.0
* - The zoning agreement of DASZ 18/93 restricts the maximum height of any building on the subject property to 30 feet or 2 ½ storeys.					

Figure 3: Dimensional standards for the “C1” district as per Zoning By-law No. 200/06

- The office use would be designated Parking Category 18 under Section 161 of the zoning by-law, requiring 1 space for each 750 square feet of floor area; the medical clinic would be designated Parking Category 20, requiring 1 space for each 250 square feet of floor area over 2,000 square feet. Currently there are no specific tenants committed to this location; as a result, when determining the total amount of parking spaces required, the calculation is

made by applying Parking Category 20 to the floor area of the entire building, the medical clinic use being the most demanding standard. In this case, 115 parking spaces are required.
- Section 161 also requires 1 lockable bicycle parking space per 10 required automobile parking spaces. In this case, 11 bicycle parking stalls are required.

Transportation and Site Access

- The City of Winnipeg Administrative Coordinating Group has requested that a 2.4m-wide asphaltic concrete multi-use pathway be constructed on the south side of Taylor Avenue from Renfrew Bay to Borebank St as an extension of the existing pathway east of the subject property.
- Taylor Ave is serviced by Winnipeg Transit route no. 95.

Site Plan Design

The applicant has submitted preliminary site plans to the Planning and Land Use Division. However, more detail will be required. It is recommended that the zoning agreement require plans indicating the "design and location of the proposed buildings, including elevations and exterior finishing materials, site access, vibration attenuation measures, garbage enclosures, lighting, and signage". Specifically, the Planning and Land Use Division would like to see greater attention given to:

- The design of both the parking fence as well as the 6' high wooden perimeter fence. Both would be strengthened by greater articulation. Breaks in the wooden fence would help open up the site.
- Ensuring the design of the building meets or exceeds the design standards for commercial buildings in Zoning By-law No. 200/06.
- A greater number of plantings, particularly coniferous trees.
- Noise and vibration attenuation from the rail lines, including a berm along on the south property line with the proposed fence on top.
- The design of the garbage enclosures.
- The location of all light fixtures.

Compatibility with the surrounding neighbourhood

- There are a number of different types of commercial development along Taylor Ave, particularly east of the subject property. These include a car wash, offices, and athletic facilities. Offices and medical clinics are not a departure from this existing condition, but rather an extension of it.
- Given concerns about vibration and noise attenuation from the CNR mainline, residential development, while having been approved in the past, can be problematic on this site. This proposed use is more ideal.
- Excess signage is a concern of the Planning and Land Use Division, given that signage on Taylor Ave west of Waverley St is limited. As a result, restrictions are being recommended.

RECOMMENDATION

The Planning and Land Use Division recommends approval of the proposed rezoning for the following reasons:

- The proposed office and medical clinic uses are compatible with the nature of the commercial development along Taylor Ave, and the larger neighbourhood.
- Given concerns over vibration and noise attenuation from the adjacent CNR mainline, the proposed development is an appropriate use for the site, as opposed to residential development.
- Restrictions on signage are recommended to ensure optimal compatibility with the surrounding neighbourhood.
- Plan approval is recommended to address the details that are lacking in the preliminary site plans and to ensure the proposed development achieves an optimal design outcome.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: Michael Pyl
PPD File # DASZ 28/09

Schedule "A" for File No. DASZ 215/09, City Centre Community Committee, dated November 27, 2009.

By-Law No. _____

File No. **DAZ 215/09**

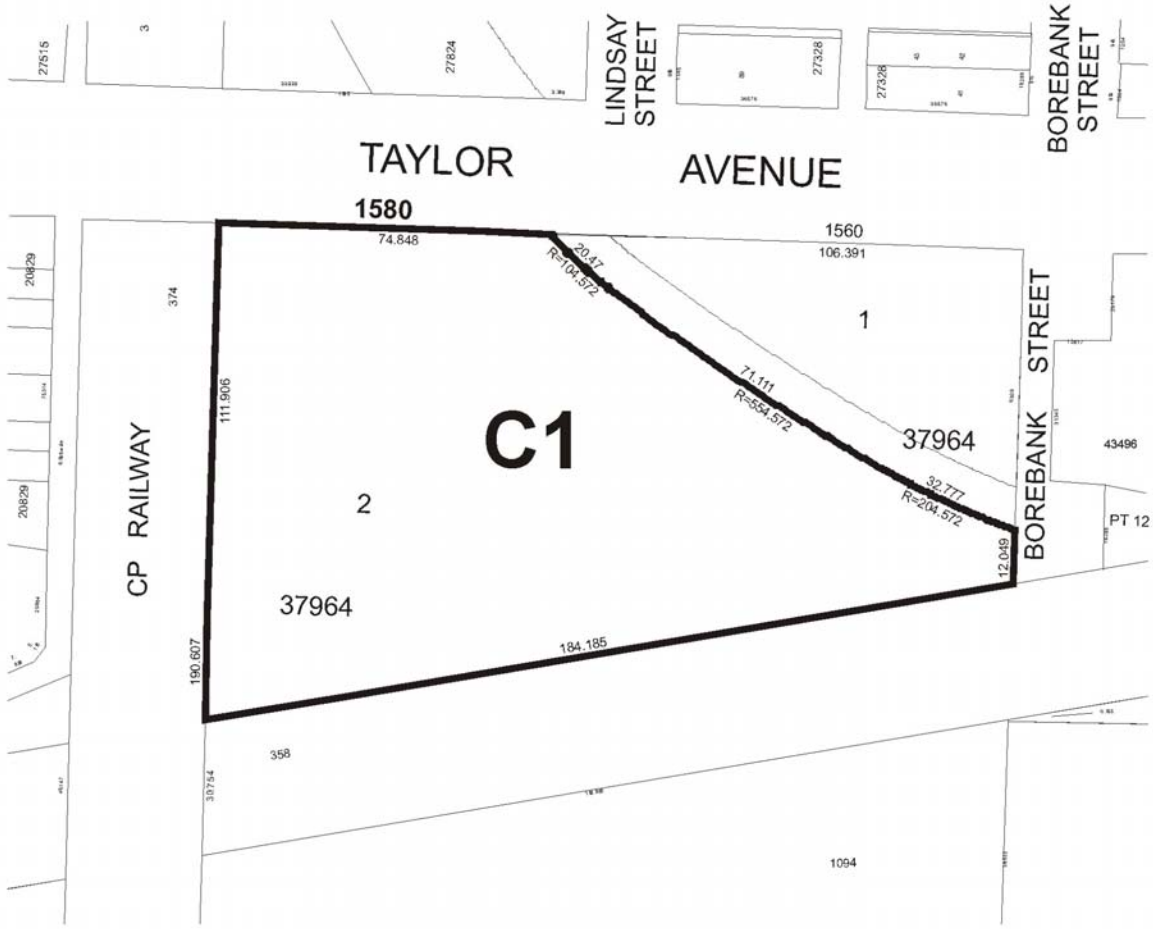
Atlas Sheet No.

N

AE21
CITY CENTRE
COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located 1580 Taylor Avenue from an "RMF-S" RESIDENTIAL MULTIPLE-FAMILY DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to allow for the establishment of a medical centre and/or office uses as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Schedule "B" – Report of the Administrative Coordinating Group

RE: PROPOSED REZONING OF LAND AT 1580 TAYLOR AVENUE - DAZ 215/09

It is recommended that the approval of DAZ 215/09 be subject to the applicant's entering into a **Servicing Agreement** with the City of Winnipeg, containing the following conditions:

1. The Developer shall provide an estimate, prepared by a qualified municipal engineer, of the wastewater flows that will be generated by the proposed development and, if required, limit or restrict development uses, based on the estimated flows.

2. The Developer shall, at no expense to the City, construct, in Taylor Avenue, from Lindsay Street to the proposed main entrance to the development, a wastewater sewer and a land drainage sewer.

3. The Developer shall restrict land-drainage run-off from the development to pre-development rates, as determined by the Director of Water & Waste.

4. To ensure that "pedestrian trespass" to railway tracks does not become a consequence of the proposed development, thereby jeopardizing existing and/or future anti-whistling regulations along the CNR Rivers Subdivision, the CPR La Riviere Subdivision, and the Burlington Northern and Santa Fe Railway railway lines, the Developer shall, at no expense to the City, construct, within the rear and/or side yard of each property abutting the CNR Rivers Subdivision, the CPR La Riviere Subdivision, and the Burlington Northern and Santa Fe Railway, a uniform fence, 2.0 m in height, to the satisfaction of the Director of Public Works. The Developer shall permit the City to file a caveat against the title of each property abutting these rail lines, requiring the owner(s) to maintain and/or repair or replace the fence as originally constructed, to the satisfaction of the Director of Public Works.

5. The Developer shall, at no expense to the City, construct a 2.4-m-wide asphaltic concrete multi-use pathway in Taylor Avenue, from its current western terminus east of Borebank Street to the east leg of Renfrew Bay, to the satisfaction of the Director of Public Works.

6. The Developer shall pay all costs associated with the provision of vehicular access to the subject property, as determined by, and to the satisfaction of, the Director of Public Works.

7. The Developer shall pay all costs associated with the installation and/or relocation of street lights and other utilities made necessary as a result of, or required to accommodate, the works to be constructed by the Developer to serve the Planned Area, as determined by, and to the satisfaction of, the Director of Public Works.

8. The Developer shall, at no expense to the City, initiate and control the regular cleanup of litter and refuse from the contractors and builders for this development, both on-site and off-site, during the installation of services and construction of buildings, until completion of all construction, as determined by, and to the satisfaction of, the Director of Public Works.

9. The Developer shall, at no expense to the City, ensure that construction traffic uses access routes determined by the Director of Public Works; maintain those access routes, at no expense to the City, in a clean, dust-free condition, free of dropped and tracked-on mud; and undertake the regular cleaning of streets – all until building construction, including landscaping, is complete, and all as determined by, and to the satisfaction of, the Director of Public Works.

10. Following completion of all major construction works, the Developer shall, at its cost, have the locations of the survey monuments within the Planned Area verified and, where the survey monuments have been disturbed, moved, covered, mutilated, or destroyed, have them replaced by a Manitoba Land Surveyor, who shall provide the Director of Planning, Property & Development with a certificate that all survey monuments within the Planned Area have been verified and/or replaced.

11. The Developer shall pay the full cost of engineering services provided by or on behalf of the City in connection with the installation of, and provision of as-built drawings within three months of substantial performance showing, the services required to serve the Planned Area.

12. The Developer shall pay to the City, prior to the release of the subdivision mylars for registration in the Land Titles Office, $1,200.00 per acre of Planned Area (minimum $1,650.00) plus GST to defray the City's administration and related costs associated with the preparation and implementation of the Servicing Agreement.

THIS REPORT SUBMITTED BY:

Administrative Co-ordinating Group
File No. DAZ 215/09
November 27, 2009

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

"original signed by R.J. Hartmann, P.Eng."
R. J. Hartmann, P. Eng.
Public Works Department, Transportation Division

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