Agenda - Executive Policy Committee – July 13, 2011

Report - Standing Policy Committee on Property and Development – July 5, 2011

Item No. 2 Rezoning – 801 Inkster Boulevard
(Point Douglas Ward)
File DAZ 207/2011 [c/r DAV 117931/2011D]

STANDING COMMITTEE RECOMMENDATION:

On July 5, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the planned area as shown on Schedule "A" for File DAZ 207/2011 dated May 26, 2011, to an "RMF-S" Residential Multiple-Family District subject to the following:

    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 the following uses shall be conditional uses in the planned area:
            a. assisted living facility;
            b. single-room occupancy; and
            c. protection and emergency services.

        ii. That there shall be no illuminated signs, advertising signs, mobile signs, poster signs or A-frame signs in the planned area, except that a mobile sign shall be permitted in the planned area for a period of no more than thirty (30) days in association with a new occupancy permit.

        iii. That, for the development of any building, accessory parking area, private approach, garbage enclosure, landscaping, fencing or signage, plans, showing the locations and designs of any proposed building, accessory parking area, private approach, garbage enclosure, landscaping, fencing or signage, must be submitted to the Director of Planning, Property and Development and the Lord Selkirk-West Kildonan Community Committee for approval prior to the issuance of any development or building permit, and thereafter all to be developed in accordance with the approved plans and maintained to the satisfaction of the Director of Planning, Property and Development.

iv. That there shall be no more than four dwelling units in the planned area.

v. That no habitable room or space, bathroom, water closet compartment, or recreation room or space shall be less than 29.2 feet (8.9 metres) from the western limit of the planned area.

vi. That the Developer shall erect a uniform fence, abutting the entire western limit of the planned area, with a height of 6.5 feet to the satisfaction of the Director of Planning, Property and Development, and maintain this fencing to the satisfaction of the Director of Planning, Property and Development."

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 Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

5. 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 planned area, provided that the said effective date occurs within one year of the date by-law is passed.

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

7. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Agenda - Executive Policy Committee – July 13, 2011

Report - Standing Policy Committee on Property and Development – July 5, 2011

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On July 5, 2011, 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 June 7, 2011, 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.iii. by adding the words "landscaping," after all words "garbage enclosure" and before all words "fencing or signage", and by adding the words "and the Lord Selkirk-West Kildonan Community Committee" after the words "Director of Planning, Property and Development" and before the words "for approval prior to".

- Delete Recommendation 1.A.vi. in its entirety and replace with the following:
  "1.A.vi. That the Developer shall erect a uniform fence, abutting the entire western limit of the planned area, with a height of 6.5 feet to the satisfaction of the Director of Planning, Property and Development, and maintain this fencing to the satisfaction of the Director of Planning, Property and Development"

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

RE: **Rezoning – 801 Inkster Boulevard**
File DAZ 207/2011 [c/r DAV 117931/2011D]

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: **June 8, 2011**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 7, 2011, 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 The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the planned area as shown on Schedule "A" for File DAZ 207/2011 dated May 26, 2011, to an "RMF-S" Residential Multiple-Family District subject to the following:

    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 the following uses shall be conditional uses in the planned area:
            a. assisted living facility;
            b. single-room occupancy; and
            c. protection and emergency services.
        ii. That there shall be no illuminated signs, advertising signs, mobile signs, poster signs or A-frame signs in the planned area, except that a mobile sign shall be permitted in the planned area for a period of no more than thirty (30) days in association with a new occupancy permit.
        iii. That, for the development of any building, accessory parking area, private approach, garbage enclosure, ***landscaping***, fencing or signage, plans, showing the locations and designs of any proposed building, accessory parking area, private approach, garbage enclosure, ***landscaping***, fencing or signage, must be submitted to the Director of Planning, Property and Development ***and the Lord Selkirk-West Kildonan Community Committee*** for approval prior to the issuance of any development or building permit, and thereafter all to be developed in accordance with the approved plans and maintained to the satisfaction of the Director of Planning, Property and Development.
        iv. That there shall be no more than four dwelling units in the planned area.
        v. That no habitable room or space, bathroom, water closet compartment, or recreation room or space shall be less than 29.2 feet (8.9 metres) from the western limit of the planned area.

~~***vi. That a fence, without potential hand- or foot-holds on its east side, be built along the western limit of the planned area to a height that is the maximum height allowed in the zoning by-law.***~~

vi. That the Developer shall erect a uniform fence, abutting the entire western limit of the planned area, with a height of 6.5 feet to the satisfaction of the Director of Planning, Property and Development, and maintain this fencing to the satisfaction of the Director of Planning, Property and Development."

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 Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

5. 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 planned area, provided that the said effective date occurs within one year of the date by-law is passed.

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

7. That the Director of Legal Services and City Solicitor 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 reasons for its recommendation:

1. The proposal is a good project that provides infill development that is an enhancement to a changing neighbourhood.

2. There is sufficient parking, and subsequent plan approval will be required by the Lord Selkirk - West Kildonan Community Committee.

PUBLIC HEARING SUMMARY

File: DAZ 207/2011

Before: Lord Selkirk - West Kildonan Community Committee
Councillor Eadie, Chairperson
Councillor Pagtakhan
Councillor Sharma

Public Hearing: June 7, 2011
North Committee Room
Council Building, 510 Main Street

Applicant: Fairview Custom Homes (Paramjit Shahi)

Subject:



Premises Affected: 801 Inkster Boulevard

Exhibits Filed:

1. Application dated March 30, 2011
2. Notification of Public Hearing dated April 13, 2011
3. Manitoba Status of Title 2480289
4. Caveat 3735655
5. Plan
6. Report from the Planning and Land Use Division dated May 26, 2011
7. Inspection Report
8. Plan dated May 30, 2011 submitted by Glen Doney, Senior Planner, Planning, Property and Development Department at the public hearing
9. Audio Recording of representations of public hearing held on June 7, 2011

Minutes - Lord Selkirk - West Kildonan Community Committee – June 7, 2011

REPRESENTATIONS:

In Support:

Brian Mansky
Paramjit Shahi

In Opposition:

Mario Bednarski
Mr. & Mrs. W. Clarke
Karen Clarke
Marnie Krawec-Verma

For Information:

W.J. Kowaluk

For the City:

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

Exhibit "6" referred to in File DAZ 207/2011

ADMINISTRATIVE REPORT

Title: Rezoning Application File DAZ 207/2011, 801 Inkster Boulevard

Issue: proposed rezoning of the planned area (the site) from "R1-M" Residential Single-Family [medium scale] District to "RMF-S" Residential Multiple-Family [smaller scale] District to accommodate a proposed four unit multiple-family dwelling

Critical Path: Lord Selkirk – West Kildonan Community Committee → Standing Policy Committee on Property and Development (only if opposition or if Community Committee's recommendations differ from the recommendations in this report) → Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
Patti Regan	n/a	n/a	n/a

RECOMMENDATIONS

1. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the planned area as shown on Schedule "A" for File DAZ 207/2011 dated May 26, 2011, to an "RMF-S" Residential Multiple-Family District subject to the following:

   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 the following uses shall be conditional uses in the planned area:

         a. assisted living facility;

         b. single-room occupancy; and

         c. protection and emergency services.

      ii. That there shall be no illuminated signs, advertising signs, mobile signs, poster signs or A-frame signs in the planned area, except that a mobile sign shall be permitted in the planned area for a period of no more than thirty (30) days in association with a new occupancy permit.

      iii. That, for the development of any building, accessory parking area, private approach, garbage enclosure, fencing or signage, plans, showing the

locations and designs of any proposed building, accessory parking area, private approach, garbage enclosure, fencing or signage, must be submitted to the Director of Planning, Property and Development for approval prior to the issuance of any development or building permit, and thereafter all to be developed in accordance with the approved plans and maintained to the satisfaction of the Director of Planning, Property and Development.

iv. That there shall be no more than four dwelling units in the planned area.

v. That no habitable room or space, bathroom, water closet compartment, or recreation room or space shall be less than 29.2 feet (8.9 metres) from the western limit of the planned area.

vi. That a fence, without potential hand- or foot-holds on its east side, be built along the western limit of the planned area to a height that is the maximum height allowed in the zoning by-law.

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 Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

5. 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 planned area, provided that the said effective date occurs within one year of the date by-law is passed.

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

7. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

REASON FOR THE REPORT

This report is required because the planned area must be rezoned to accommodate the proposed four unit multiple-family dwelling.

The Winnipeg Public Service recommends approval of the application with conditions because, with conditions, the application conforms to *Plan Winnipeg 2020 Vision* and the proposed development would be compatible with the neighbourhood.

The planned area is:

- in the Robertson Neighbourhood and the Point Douglas Ward;
- approximately 200 feet west of Arlington Street;
- approximately 9000 square feet and is to be reduced in size by a proposed public lane widening under File DAO 3/2010, which is consistent with a City caveat on the land, that will remove a triangular piece at the northwest corner of the planned area that is three metres on the two sides coincident with the public lanes;
- undeveloped;
- near several single- and two-family dwellings, typically on lots around 4000 or 5000 square feet, a place of worship and a rail line (which is a branch line in a right-of-way that is 20 feet west of the planned area);
- on a block where the average depth of the existing front yards of most of the principal buildings is 23 feet;
- in an "R1-M" District and is near other "R1-M" Districts and "R1-S" Residential Single-Family [smaller scale] Districts; and
- in a Neighbourhood policy area of *Plan Winnipeg 2020 Vision*.

The proposal is:

- the construction of a two-storey, four unit townhouse (a type of multiple-family dwelling) with accessory parking for six vehicles accessible from the public lane immediately north of the planned area; and
- to include a front yard depth of 18 feet, an east-side yard depth of four feet; a rear yard depth of 34.1 feet and, at the northwest corner of the proposed building, a west side-yard depth of 25.1 feet.

If the proposed rezoning is approved with the recommended conditions, it and the proposed development would be:

- in accordance with *Plan Winnipeg 2020 Vision;*
- compatible with the neighbourhood; and
- consistent with the intent of the report *Proximity Guidelines and Best Practices,* which is a 2006 research report that recommends "best practices" for protecting dwellings from train derailments or other rail incidents and reducing the amount of noise and vibration from trains affecting dwellings.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations in this report, and in the report under File DAV 11-117931D, are implemented, a development permit can be issued.

CONSULTATION

Consultation with City Departments was not warranted to prepare this report.

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	J. G. Doney
Date	May 26, 2011
File	DAZ 207/2011

Attachments and Schedules

1. Attachment 1 – Planning Discussion
2. Attachment 2 – Plans of the Proposed Development dated May 30, 2011
3. Schedule “A”

Attachment 1 – Planning Discussion

DATE: May 26, 2011

FILE: DAZ 207/2011

RELATED FILE: DAV 11-117931D

COMMUNITY: Lord Selkirk – West Kildonan

SUBJECT: proposed rezoning of the planned area (the site) from "R1-M" Residential Single-Family [medium scale] District to "RMF-S" Residential Multiple-Family [smaller scale] District to accommodate a proposed four unit multiple-family dwelling



LOCATION: 801 Inkster Boulevard

LEGAL DESCRIPTION: Lots 49, 50 and 51, Block 15, Plan 1262, except the southerly 4.572 metres

APPLICANT: Paramjit Shahi, Fairview Custom Homes
18 Blackbird Place
Winnipeg, MB
R3T 5X4

OWNERS: Fairview Custom Homes Limited

RECOMMENDATION: Approval with conditions

THE PLANNED AREA (THE SITE)

The planned area is:

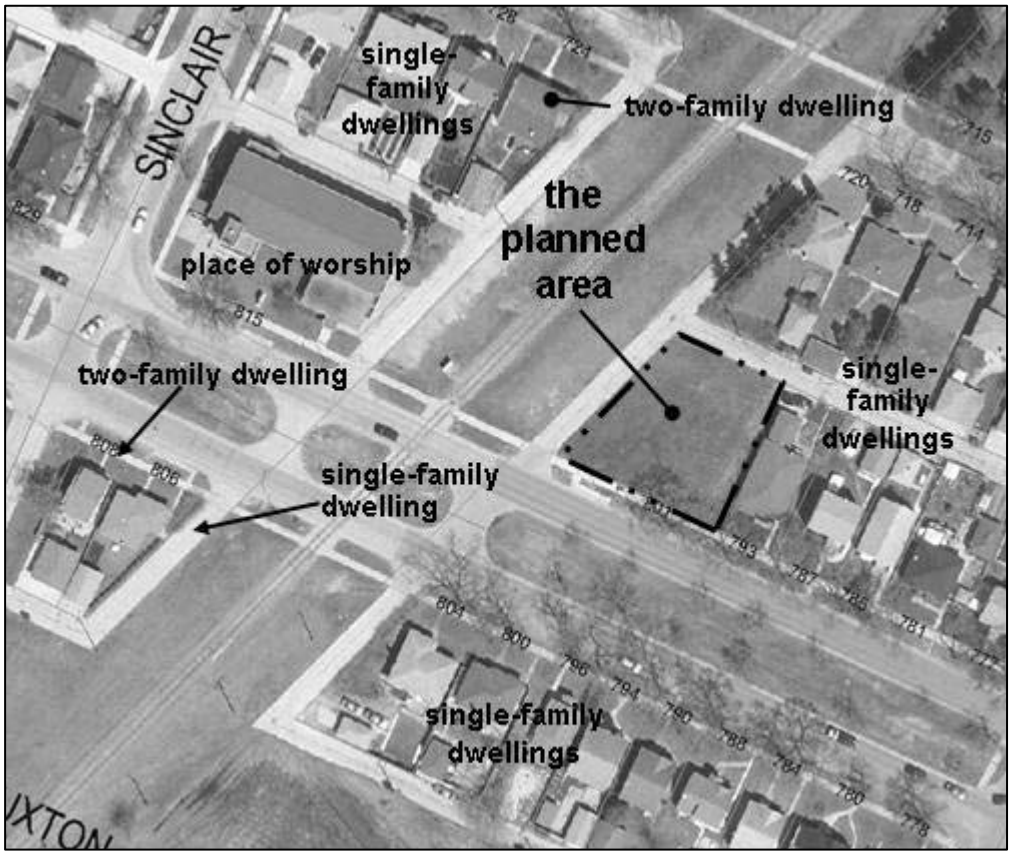
- in the Robertson Neighbourhood and the Point Douglas Ward;
- approximately 200 feet west of Arlington Street;
- on a block where the average depth of the existing front yards of most of the principal buildings is 23 feet;
- one parcel of land that is approximately 9000 square feet; and

- to be reduced in size by a proposed public lane widening under File DAO 3/2010, which is consistent with a City caveat on the land, that will remove a triangular piece at the northwest corner of the planned area that is three metres on the two sides coincident with two public lanes.

Land Use and Zoning

The image to the right is of 2009 aerial photography on which existing land uses are identified. It shows that the planned area is:

- undeveloped; and
- near several single- and two two-family dwellings, typically on lots around 4000 or 5000 square feet, a place of worship and a rail line (which is a branch line in a right-of-way that is 20 feet west of the planned area).



The planned area is in an "R1-M" District and is near other "R1-M" Districts and "R1-S" Residential Single-Family [smaller scale] Districts.

Multiple-family dwellings are prohibited in "R1" Districts. The minimum interior side yard and maximum principle building height requirements of this district are four feet and 35 feet, respectively.

The table below shows uses that are regulated differently in the "R1" District than in the "RMF" District and how they are regulated in the "R2" District.

C = conditional, P = permitted, * = use specific standard, = uses not allowed in R1 but permitted in RMF

use	R1	R2	RMF	* use specific standard
dwelling, live-work		C*	C*	max. dwelling size, max. business floor area & some uses prohibited
dwelling, mutli-family		C	P	
dwelling, two-family		P	P	
assisted living facility			P	
dormitory			C	
single room occupancy			P*	max. 12 beds
protection & emergency serv.			P	
college or university			C	
boat dock, public access			C	
park/plaza/square/playground	P*	P*	P	max. size/quantity of some uses & swimming pools prohibited

It is of note that:

- the "RMF-S" District requires a minimum site area per dwelling unit of 1250 square feet while the "R2" District allows a much higher density of 800 square feet per dwelling unit;
- the "RMF-S" District's maximum principal building height and minimum interior side-yard requirements are the same as those of the "R1-M" District;
- the "RMF-S" District's maximum fence height requirement is four feet for a fence in a front yard and 6.5 feet for a fence in a side or rear yard (which is the same for the "R1-M" District); and
- assisted living facility, single room occupancy, and protection and emergency services are permitted principal uses in the "RMF-S" District but are not allowed in the "R1-M" District.

Plan Winnipeg 2020 Vision

The planned area is in a Neighbourhood policy area of *Plan Winnipeg 2020 Vision.*

Policy 3A-01, Promote Orderly Development, states that the Neighbourhood designation signifies "areas of local identity with mutually supportive uses generally including a residential mix… at a scale and density compatible with each other."

Policy 3A-02, Promote Compact Urban Form, states "the City shall promote compact urban form… by… encouraging infilling of vacant lands and the revitalization of existing neighbourhoods to maximize the use of existing infrastructure…"

Transportation and Access

The planned area abuts two public lanes (and one public street – Inkster Boulevard). A Winnipeg Transit provides public transit on Inkster Boulevard, immediately south of the planned area. Inkster Boulevard is a regional street, so too is Arlington Street where it is south of Inkster Boulevard.

Proximity to the Branch Rail Line Right-of-Way

That a right-of-way, within which is a branch rail line, is only 20 feet from the planned area is a significant concern in terms of safety, noise and vibration.

Proximity Guidelines and Best Practices is a 2006 research report prepared for The Railway Association of Canada and The Federation of Canadian Municipalities. This research report recommends "best practices" for: protecting dwellings from train derailments or other rail incidents; and reducing the amount of noise and vibration from trains affecting dwellings.

The report recommends for:

- dwellings to be setback 15 metres (49.2 feet) from a branch line right-of-way (which is the type of rail line alongside the planned area);
- a two metre (6.6 foot) high berm, with a side slope no more than a rise of one and a run of 2.5, be built alongside the rail line right-of-way; and
- a 1.38-metre (4.5 feet) high chain link fence be built at the edge of the right-of-way and a three-metre high acoustical fence be built on the top of the berm.

THE PROPOSED DEVELOPMENT

As shown in Attachment 2, the proposal is the construction of a two-storey, four unit townhouse (a type of multiple-family dwelling) with accessory parking for six vehicles accessible from the public lane immediately north of the planned area.

The drawings in Attachment 2 are different from those that were submitted with the rezoning application and are the most recent, dated May 30, 2011. Therefore, this report analyses the proposal based on these drawings.

The proposed townhouse would be 18 feet from the front (south) property line, four feet from the east property line, 34.1 feet from the rear (north) property line and, at the northwest corner, 25.1 feet from the west property line. A four-vehicle garage may be built in a future phase. Private walkways, on both sides of the proposed townhouse, would connect the front and rear yards. The proposed development would use City recycling and garbage containers.

In addition, it is of note that approximately 20 square feet of two bedrooms proposed to be at the northwest corner of the building would be less than 15 metres (49.2 feet) from the rail line right-of-way and that that corner would be 13.7 metres (45.1 feet) from the right-of-way.

For the proposed development to proceed:

- the planned area must be rezoned to "RMF-S" District or "R2" District, the application of which is the subject of this report; and
- the zoning by-law's front yard requirement must be varied, application of which was made under File DAV 11-117931D.

ANALYSIS AND ISSUES

Plan Winnipeg 2020 Vision Compliance

With only four dwelling units in a two-storey building on a site that is approximately twice the size of typical nearby lots, the proposed development would be at a scale and density that is compatible with existing developments. In addition, the proposed development would, indeed, be infill development. Therefore, the proposed rezoning and development conform to *Plan Winnipeg 2020 Vision*.

However, because the minimum site area per dwelling is 1250 square feet in the "RMF-S" District, seven dwellings would be allowed in the planned area, which may not be compatible with the neighbourhood.

Compatibility with the Neighbourhood

The proposed development would be compatible with the neighbourhood, given that the it would be at a scale and density that is compatible with existing developments. As stated above, however, the proposed rezoning may not be compatible.

The Rail Line: Addressing Safety, Noise and Vibration

To provide applicants with some flexibility with the15 metre (49.2 foot) setback guideline, instead of it applying to entire dwellings, it could, instead, apply only to habitable rooms or spaces, bathrooms, water closet compartments and recreation rooms or spaces. Areas such as laundries, pantries, foyers, closets and storage rooms, could be less than 49.2 feet from a branch line right-of-way. So, the proposed building could be modified such that the portion of the bedroom that would be less than 49.2 feet from the right-of-way could be a closet or similar feature.

There is only enough space between the western limit of the planned area and the proposed sidewalk west of the townhouse to build a berm, with the maximum recommended side slope of 1:2.5 (rise-to-run), to a height of approximately 2 ½ feet.

A fence without hand- or foot-holds on its east side should be built between alongside the entire length of the west property line to reduce the opportunities for people to wander toward the rail line and to reduce the sound of passing trains as heard in the planned area.

REASONS FOR THE RECOMMENDATIONS

The Winnipeg Public Service recommends approval of the application with certain conditions because, with those conditions, the proposed rezoning to "RMF-S" and the proposed development would be in accordance with *Plan Winnipeg 2020 Vision* and would be compatible with the neighbourhood. The "R2" District is considered less compatible because it allows a relatively high density of residential development and is not as accommodating of the proposed development because multiple-family dwellings are a conditional use in "R2."

To ensure that the rezoning complies with Plan Winnipeg, and to enhance the compatibility of the rezoning and any resulting development with the neighbourhood, the Winnipeg Public Service recommends that:

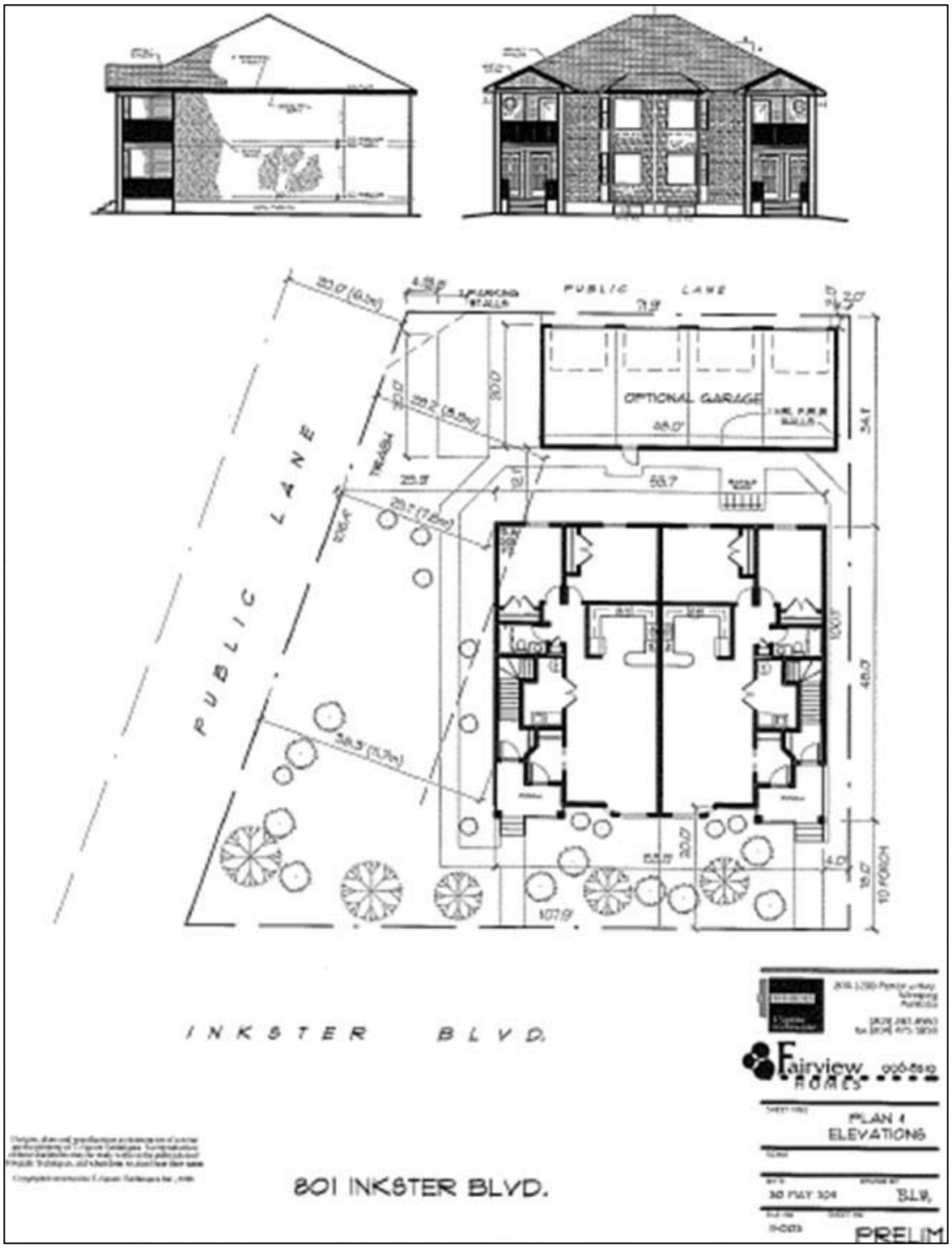
- signage be restricted;
- the design and development of any building, accessory parking area, private approach, garbage enclosure, fencing or signage be subject to the Director of Planning, Property and Development's approval; and
- no more than four dwelling units be allowed in the planned area.

To address potential safety, noise and vibration concerns due to the proximity of the rail line, the Winnipeg Public Service recommends that:

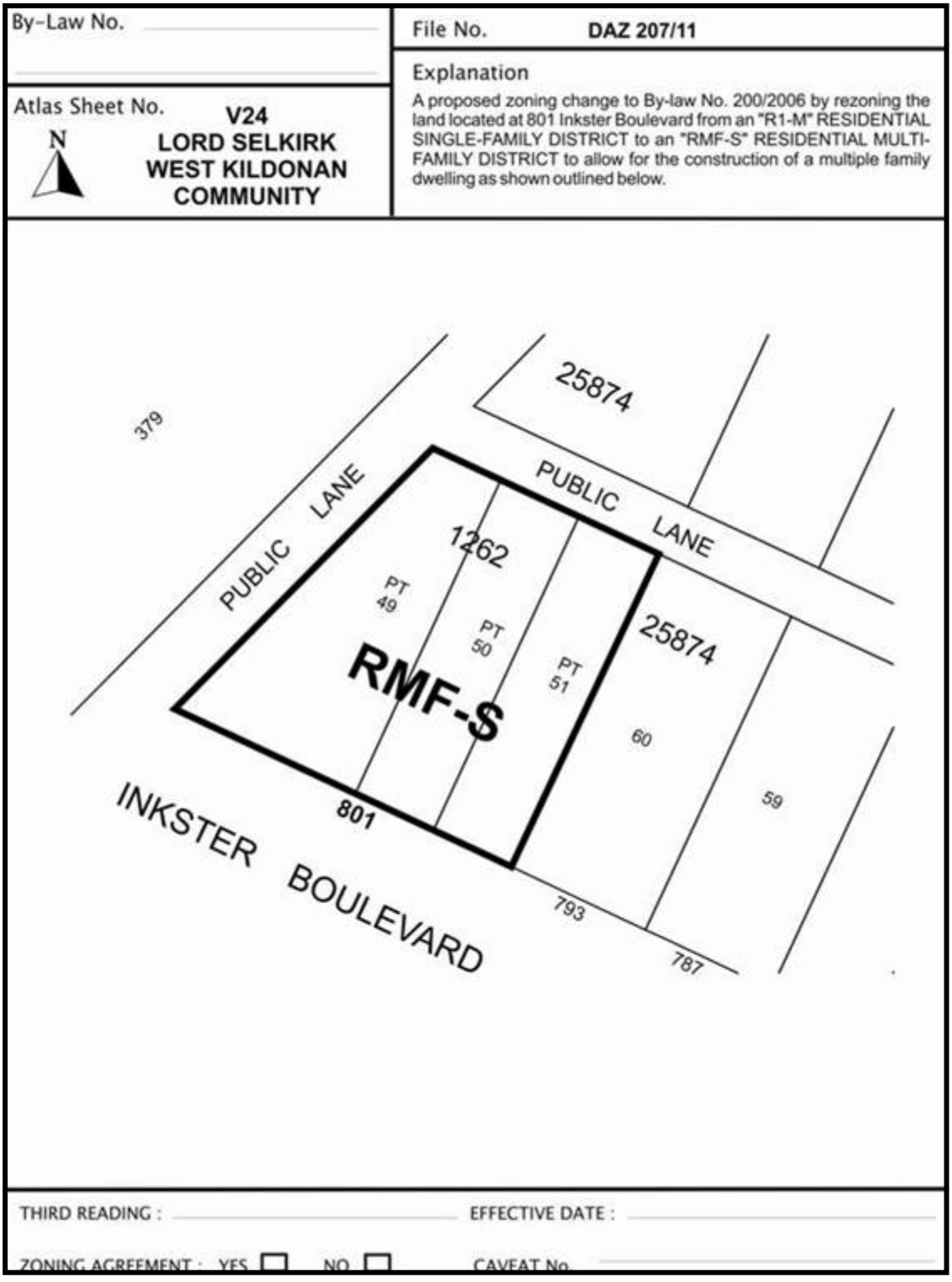
- no habitable room or space, bathroom, water closet compartment, or recreation room or space shall be less than 29.2 feet (8.9 metres) from the western limit of the planned area;
- a fence, without potential hand- or foot-holds on its east side, be built along the western limit of the planned area to a height that is the maximum height allowed in the zoning by-law; and
- the developer investigate the feasibility of building a berm along the entire western limit of the planned area and, if feasible, construct it.

This Report Submitted by:
Planning, Property and Development Department, Planning and Land Use Division
Report Prepared by: J. Glen Doney
PPD File DAZ 207/2011

Attachment 2 – Plans of the Proposed Development dated May 30, 2011



Schedule "A"



Schedule "A" to the report to the Lord Selkirk – West Kildonan Community Committee for File DAZ 207/2011, dated May 26, 2011