Minutes – Executive Policy Committee – April 17, 2013

Minute No. 260
Report – Standing Policy Committee on Property and Development – April 9, 2013

Item No. 2 **Rezoning – Part of Hydro Right-of-Way North of Bishop Grandin Boulevard, West of St. Anne's Road**
(St. Vital Ward)
File DAZ 209/2012 [c/r DAV 113279/2012D]

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee and submitted the following to Council:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 209/2012 dated May 24, 2012 to a "C3" Commercial Corridor District.

2. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

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

5. 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.

Minutes – Executive Policy Committee – April 17, 2013

Report – Standing Policy Committee on Property and Development – April 9, 2013

DECISION MAKING HISTORY:

Moved by Councillor Pagtakhan,

That the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On April 9, 2013, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 9, 2012, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded to the Standing Policy Committee on Property and Development.

On June 11, 2012, The Riel Community Committee adjourned the public hearing to its meeting on July 9, 2012.

RE: **Rezoning – Part of Hydro Right-of-Way North of Bishop Grandin Boulevard, West of St. Anne's Road**
File DAZ 209/2012

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

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

Report date: **July 10, 2012**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 9, 2012, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development:

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 209/2012 dated May 24, 2012 to a "C3" Commercial Corridor District.

2. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

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

5. 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.

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 report of the Planning and Land Use Division dated May 24, 2012.

PUBLIC HEARING SUMMARY

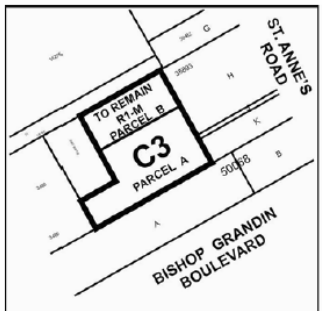
File: DAZ 209/2012

Before: Riel Community Committee
Councillor Vandal, Chairperson
Councillor Mayes

Public Hearing: July 9, 2012
June 11, 2012
Council Chamber
Council Building, 510 Main Street

Applicant: Shindico Realty Inc. (John Pearson)

Subject:



RIEL COMMUNITY

APPLICANT: SHINDICO REALTY INC.
FILE: DAZ 209/12
PROPOSAL: To rezone the land shown outlined above from an "R1-M" RESIDENTIAL SINGLE-FAMILY DISTRICT to a "C3" COMMERCIAL CORRIDOR DISTRICT to allow for the expansion of a parking lot to support the establishment of a restaurant on adjacent land. **For information, phone Mr. R. Kostiuk, Planner, at 986-7367.**
DEMANDEUR : SHINDICO REALTY INC.
N° DE RÉFÉRENCE : DAZ 209/12
PROJET : Rezoner les sols délinéés ci-dessus qui passeraient de la catégorie R1-M (secteur d'habitations unifamiliales moyennes) à la catégorie C3 (secteur de couloir commercial) afin de permettre l'agrandissement d'un terrain de stationnement aux fins de l'aménagement d'un restaurant sur un terrain adjacent. **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 986-7367.**

Premises Affected: Part of Hydro Right-of-Way, North of Bishop Grandin Boulevard, West of St. Anne's Road

Exhibits Filed:

1. Application dated March 22, 2012
2. Notification of Public Hearing dated April 18, 2012
3. Certificate of Titles 495823, 969589
   Title Search 1571682/1
   Manitoba Status of Title 2450753/1

4a. Letter of authorization dated March 9, 2012 from 69352 Manitoba Ltd. to Shindico Realty Inc. and Pre-Con Builders

4b. Letter of authorization dated March 2, 2012 from Glenn W. Gray, Manitoba Hydro Electric Board to Shindico Realty Inc. and Pre-Con Builders

4c. Letter of authorization dated March 16, 2012 from the City of Winnipeg to Shindico Realty Inc.

5. Surveyor's Building Location Certificate and sketch
6. Caveat No. 2597163
7. Caveat No. 2261922
8. Caveat No. 2261920
9. Caveat No. 2261919
10. Caveat No. 229367
11. Caveat No. 229366
12. Plans (3 pages)
13. Report from the Planning and Land Use Division dated May 24, 2012
14. Inspection Report
15. Audio Recording of representations on June 11, 2012
16. Supporting Documentation in support of the application submitted by Robert Shindleman at the public hearing on June 11, 2012
17. Notice of Adjournment dated June 12, 2012
18. Presentation in support of the application submitted by John Pearson at the public hearing on July 9, 2012.
19. Audio Recording of representations on July 9, 2012

REPRESENTATIONS:

In Support:

Gord Bone
Murray Gibson
Jeff Hawryluk

Michelle Meade
Gordon Newton
John Pearson
Robert Shindleman
Justin Zarnowski

In Opposition

Bruce Garner
Teryl Wade

For the City:

Kim Raban, Land Development Administrator, Planning, Property and Development Department
Robert Kostiuk, Planner, Planning, Property and Development Department

Exhibit “13” referred to in File DAZ 209/2012

ADMINISTRATIVE REPORT

Title: DAZ 209/2012 – Proposed Parcel A, Deposit 1550-2011 (Property North of Bishop Grandin Boulevard, West of St. Anne’s Road) Public Hearing

Issue: An application for consideration at the Public Hearing for a rezoning from R1-M to C3.

Critical Path: Riel Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	N/A	N/A	

RECOMMENDATIONS

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 209/2012 dated May 24, 2012 to a “C3” Commercial Corridor District.
2. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.
3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.
4. That the Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward the same to Council for all three (3) readings.
5. 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

- The applicant is proposing to rezone the site from “R1-M” Residential Single Family Medium to “C3” Commercial Corridor to facilitate the use of the subject property as a parking lot for a proposed restaurant on the adjacent land to the south (see associated file DAV 12-113279/D).
- The subject property will accommodate approximately 47 parking stalls on the site.
- Rezoning applications require a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- The Report is being submitted for the Committee’s consideration of the development application at the Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Urban Planning Division are concurred in, the land will be rezoned from R1-M to C3.

HISTORY

DAZ 209/1996

- On July 24, 1996, under By-law 6868/96, 11.27 acres of land near the northwest intersection of Bishop Grandin Boulevard and St. Anne’s Road were rezoned from R1-5 Single Family, RM-1 and RM-2 Multi-Family Districts to a C2 Commercial to allow for the construction of a building materials store. A zoning agreement was included as a condition of approval for the rezoning. The following key conditions were included in the zoning agreement:

    2. The land and any building or structure on the land shall not be used for, and no building or structure shall be erected, placed, altered or enlarged for any use except:

        a) Building materials, hardware, home improvement supplies or equipment sales;

        b) Landscape/garden supplies: sales include outside display limited to packaged supplies, plants or trees

    3. That there will be no outdoor storage of building materials or unpackaged soil

    4. That the hours of operation for commercial use on the land shall be as follows:

Monday to Friday	7am to 10:00 pm
Saturday	7am to 8pm
Sunday	In accordance with hours permitted under local legislation

5. That, for the development of any building, and/or accessory parking area and/or signage, 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 and signage to the Director of Planning, Property and Development and the Riel Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

DAZ 220/1996

- On December 13, 2000, under By-law 7731/00, a triangular shaped piece of land located south of and contiguous to land rezoned to C2 under DAZ 209/1996 was rezoned from R1-5 Single Family to C2 Commercial. This piece of land was approximately 29,000 square feet in area. A zoning agreement was included as a condition of approval. Conditions of the zoning agreement were consistent with the conditions included in ZAA 9/1996 below.

ZAA 9/1996

- On January 29, 1997, the zoning agreement included with DAZ 209/1996 was amended by deleting Clauses 2 and 4 and replacing them with the following:

  2. The following uses shall be prohibited on the land:

     i) terminals for courier/delivery/express service, cleaning service, security service, taxi or similar service;

     ii) theatre, cinema or concert hall;

     iii) storage compounds for new automobiles; boats, mobile homes, recreational vehicles, trailers, trucks or buses;

     iv) dispatch for courier/delivery/express service, cleaning service, security service, taxi or similar service;

     v) licensed private clubs;

     vi) outdoor amusement enterprise, including outdoor driving range, outdoor range for targets or similar facility.

  4. It is understood and agreed that the hours of operation for the following uses:

     a) building materials, hardware home improvement supplies or equipment sales;

     b) landscape/garden supplies; sales including outside display limited to package supplies, plants or trees

     on the land shall be as follows:

     Monday to Saturday 7am to 10:00 pm

     Sunday as per local ordinances

DAV 767/96D

- On December 16, 1996, the Riel Community Committee granted Variance Order DAV 767/96D. This Order was requested to vary the C2 regulations of Zoning By-law No. 6400/94 for the construction of a building material sales store as follows:

  1. To permit a north side yard of 20 feet instead of 25 feet;

  2 To permit two roof signs having a total sign area in conjunction with a free-standing sign of 1,524 square feet;

  3. A free-standing identification sign having a height of 40 feet,

  Subject to the following condition:

  1) That, if any variance granted by this order is not established within two (2) years of the date of approval by Council of DAZ 209/96, this order, in respect of that variance, shall terminate.

DAV 07-131584/C

- On June 22, 2007, the Board of Adjustment granted Variance Order DAV 131584/2007C, permitting the construction of a multi-tenant commercial building with the following variance to the C2 regulations of Zoning By-law 6400/94:

  1) no rear yard instead of 25 feet;

  2) no parking spaces on site instead of 59 spaces;

  3) a loading zone not having access to a street or lane (access is across neighbouring property)

  Subject to the following conditions:

  1. That if any Variance granted by the Order is not established within two (2) years of the date thereof, the Order, in respect of that Variance shall terminate.

  2. That the building square footage be limited to a maximum of 5100 square feet.

  3. That final plans showing the building square footage and location be submitted to and approved by the Director of Planning, Property and Development prior to the issuance of any development or building permits.

  4. That a shared parking agreement be submitted to the satisfaction of the Director of Planning, Property and Development prior to the issuance of any development or building permits.

- It should be noted that the Planning and Land Use Division's report for this variance recommended that the application be rejected. The Planner's report provided the following commentary supporting the Division's recommendation to reject the application:

  The proposed development is not appropriate for the size and dimensions of the property. A rear yard of zero (0) feet instead of 25 is not the minimum modification of the Zoning By-law. In addition, because the applicant is proposing that the vast majority of the site be built upon, no available space is provided for the 59 parking stalls that are required for this development.

  The applicant is proposing that all parking would be located to the north of the subject site, adjacent to existing multiple family dwellings, which is not ideal. In addition, this

property is owned by a number of parties and is comprised of both "R1-5" and "RM2" Residential District zoning, which does not permit parking. In order to provide parking in this area, the Planning and Land Use Division recommends that the property should first be rezoned and consolidated and that no variances be approved for the subject site until this is completed.

Appeal – DAV 07-131584/C

- Variance Order DAV 07-131584/C was appealed. On September 6, 2007, the Appeal Committee allowed the appeal, which overturned and cancelled the Board of Adjustment's decision to approve DAV 07-131584/C.

CONSULTATION

- In preparing this report there was consultation with: N/A

SUBMITTED BY

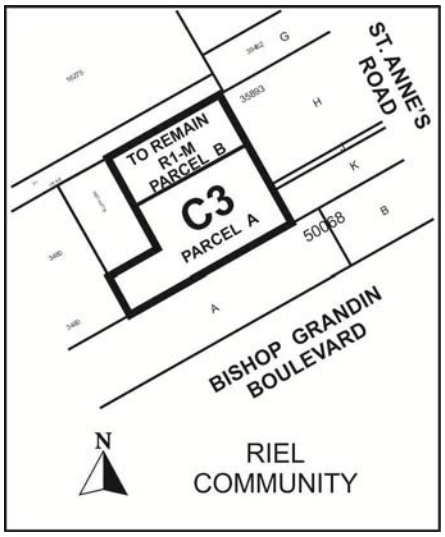
Department	Planning, Property and Development
Division	Urban Planning
Prepared By:	Robert Kostiuk, MCIP
Date:	May 24, 2012
File No.	DAZ 209/2012

List of Schedules and Attachments

1. Appendix A – Planning Discussion
2. Schedule "A" for File No. DAZ 209/2012

APPENDIX 'A'

DATE:	May 24, 2012
FILE:	DAZ 209/12
RELATED FILES:	DAV 12-113279/D (c/r), DAV 07-131584/C, DAV 767/96D, DAZ 209/96, DAZ 220/96, ZAA 9/96
COMMUNITY:	Riel Community
NEIGHBOURHOOD #:	5.517
SUBJECT:	To rezone the subject land from "R1-M" Residential Single-Family Medium to "C3" Commercial Corridor to facilitate the development of a surface parking lot use.
LOCATION:	2029 Bishop Grandin BLVD
LEGAL DESCRIPTION:	Proposed Parcel A, Deposit 1550-2011



APPLICANT:	Shindico Realty Inc. (John Pearson) 1355 TAYLOR AVE SUITE 200 WINNIPEG MB R3M 3Y9
OWNER:	Manitoba Hydro Electric Board (Glenn Gray) 820 TAYLOR AVE WINNIPEG MB R3M 3T1
RECOMMENDATION:	Approval with conditions

REPORT SUMMARY

- The applicant is proposing to rezone the site from “R1-M” Residential Single Family Medium to “C3” Commercial Corridor to facilitate the use of the subject property as a parking lot for a proposed restaurant on the adjacent land to the south (see associated file DAV 12-113279/D).
- The subject property will accommodate approximately 47 parking stalls on the site.
- The Urban Planning Division recommends supporting this application.

SITE DESCRIPTION

- The subject property is located north of Bishop Grandin Boulevard and west of St. Anne’s Road in the Worthington neighbourhood of the St. Vital Ward.
- The site is predominantly vacant (less some Manitoba Hydro transmission towers) and approximately **20,343 square feet in area.**
- The property is in the process of subdivided under Deposit No. 1550-2011. Through the new parcel plan the subject site will become Parcel A and the land to the north will become Parcel B.
- Under the Complete Communities Direction Strategy, the site is within the Areas of Stability – Mature Communities Policy Area and is located near a Regional Mixed Use Corridor (St. Anne’s Road). The property is zoned “R1-M” Residential Single-Family Medium.



Figure 1: Aerial photograph showing approximate area of subject property and surrounding area (2009)

SURROUNDING LAND USES & ZONING (See Figure 2)

North: Vacant land zoned R1-M and three storey apartment complexes zoned RMF-S.

South: Vacant land zoned C3 and Bishop Grandin Boulevard.

East: A large commercial development (Home Depot) zoned C3.

West: Predominantly vacant land zoned RMF-S and R1-M.

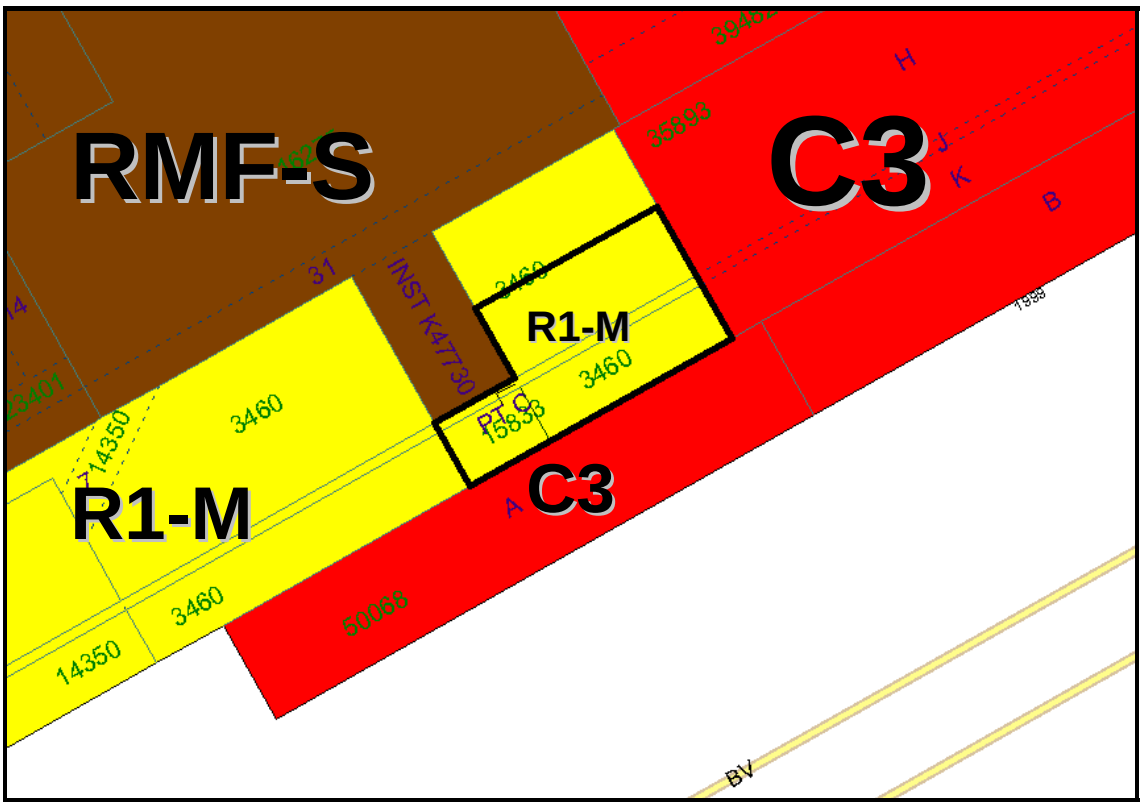


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to rezone the site from “R1-M” Residential Single Family Medium to “C3” Commercial Corridor to facilitate the use of the subject property as a parking lot for a proposed restaurant on the adjacent land to the south (see associated file DAV 12-113279/D).
- The subject property will accommodate approximately 47 parking stalls on the site.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the Complete Communities Direction Strategy the proposed development is within the Areas of Stability – Mature Communities policy area. With regard to this proposal, the key policies guiding the development of Areas of Stability include:
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.
    - Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.
    - In order to meet the full life-cycle of housing needs within the community, promote a mix of housing type and tenure, such as duplexes, low rise apartments, secondary suites, semi-detached homes, townhouses.
    - Support a mix of commercial services and employment uses that serve the local community.
- It should be noted that the site is also located near a Regional Mixed Use Corridor (St. Anne's Road) and would be considered a Community Mixed Use Centre under the Complete Communities Direction Strategy. Key relevant policies for development of these sites include:
    - Provide a mix of employment, higher-density residential opportunities, retail and service uses that support the needs of and respect the context of adjacent communities.
    - Mitigate the potential impacts of new development on neighbouring streets, parks and properties.
    - Encourage environmentally friendly design and construction.
    - Encourage the transition of development towards the outer edges of each Centre and Corridor that is sensitive to the scale, massing, height, form and character of the surrounding area.
    - Promote innovative parking strategies and high intensity developments, including locating parking lots to the rear of developments, encouraging the development of underground parking or parking structures and encouraging the preservation and/or planting of trees and other types of vegetation within and around surface parking lots.

ZONING

"R1-M" Residential Single-Family Medium District

- The R1-M district requires: a minimum lot width of 25 feet, a minimum lot area of 3,500 square feet, side yards of 4 feet, a front yard of 15 feet, and a rear yard of 25 feet. The maximum building height is 35 feet and the maximum lot coverage is 45%.

"C3" Commercial Corridor District

- Commercial Corridor districts are 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. The minimum front and rear yard requirements are 25 feet; the maximum building height is 49 feet; and, the maximum floor area ratio is 1.5.

LAND USE BY-LAW

Rezoning

- The applicant is proposing to rezone the land from R1-M to C3 to facilitate the use of the subject property as a parking lot for a proposed restaurant on the adjacent land to the south. Surface parking lots are not a permitted principal use in the R1-M zone, but are a permitted principal use in the C3 zone.

Variances

- Two variances have been applied for in conjunction with the rezoning under DAV 12-113279/D. One of the variances is a use variance, which is being requested to allow the applicant to establish the parking lot on the land in advance of Council approval of the rezoning. The second variance is only needed in conjunction with the use variance and it is for no east or west side yards instead of 4 feet under the R1-M zone.
- Other variances included in application DAV 12-113279 are specific to the proposed restaurant to the south on Parcel A of Plan 50068 and are not required for the subject rezoning.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The subject site forms part of a Manitoba Hydro transmission corridor and has limited potential for development, any of which, would be subject to Hydro's approval.
- The applicant has arranged an agreement with Manitoba Hydro to lease the lands in order to provide parking for the proposed restaurant that is located on the property immediately south of the site.
- The parking area will be approximately 100 feet away from the nearest residential property that is not part of the commercial complex, which is the three-storey apartment located north of the site.
- The proposed C3 zoning is contiguous to the C3-zoned land to the east and south of the site.
- Among the issues raised in the Planner's report for DAV 07-131584/C, was that the land should be rezoned prior to any variances being approved. The applicant is now proposing to rezone the property to allow parking to be a permitted use of the site.

LAND DEDICATION

- When a developer rezones and/or subdivides a parcel of land, they are required to put in an application with the City of Winnipeg.

- As a condition of rezoning or subdivision, a developer is required to contribute a portion of the land to be developed to the City for parks purposes.
- The amount of land is not less than 10%.
- The developer is to provide land or 'cash in lieu' as determined by the Planning, Property and Development Department.
- The City is requesting cash in lieu for this application.

RECOMMENDATION

The Urban Planning Division recommends **approval** for the following reasons:

- The proposed C3 zoning is contiguous to the C3-zoned land to the east and south of the site.
- The subject site forms part of a Manitoba Hydro transmission corridor and has limited potential for development, any of which, would be subject to Hydro's approval.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # DAZ 209/2012

Schedule "A" for File No. DAZ 209/2012, Riel Community Committee, dated May 24, 2012

By-Law No. _____

File No. **DAZ 209/12**

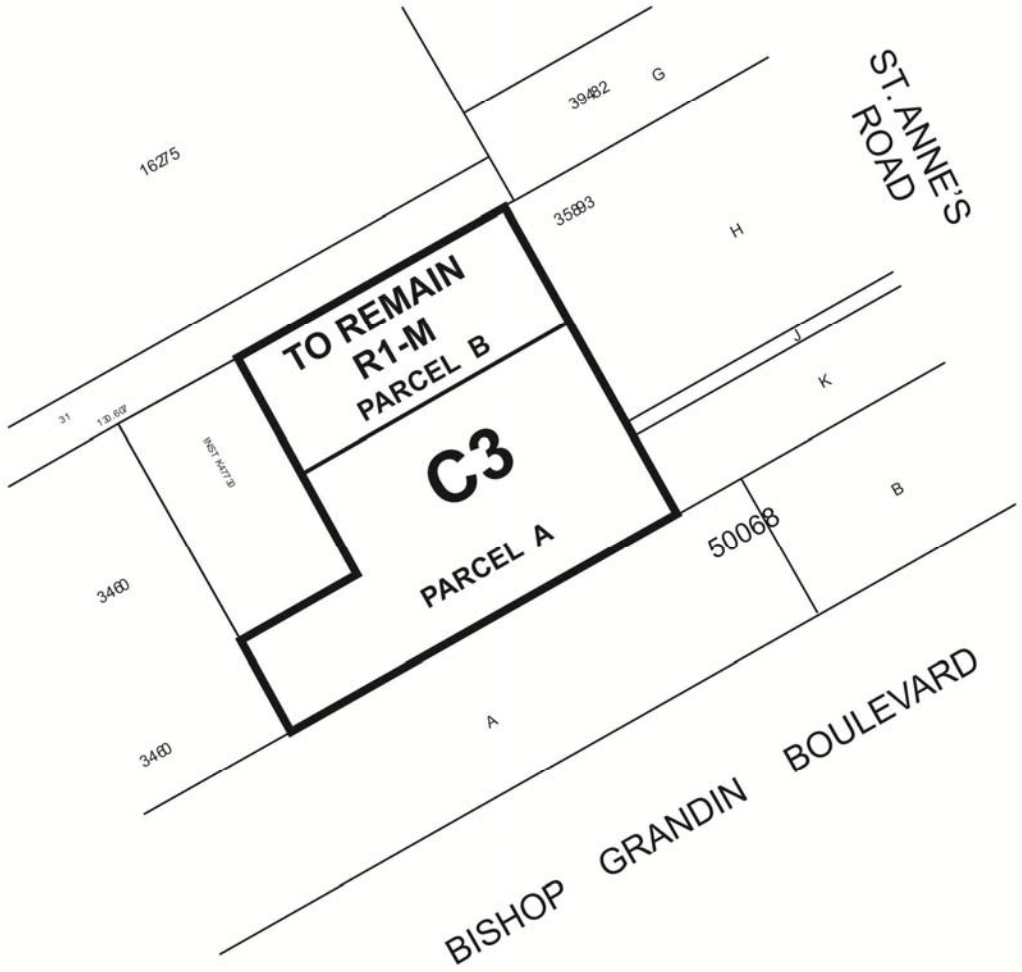
Atlas Sheet No.

N

AG28
RIEL
COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 2029 Bishop Grandin Boulevard & Proposed Parcel A from an "R1-M" RESIDENTIAL SINGLE-FAMILY DISTRICT to a "C3" COMMERCIAL CORRIDOR DISTRICT to allow for the expansion of a parking lot to support the establishment of a restaurant on adjacent land as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____