


TITLE: <p style="text-align: center;">BY-LAW NO. 6978 TO REZONE PROPERTY LOCATED AT 903 STICKNEY AVENUE (LOTS 1/4, BLOCK 108, PLAN 2 BLTO) FROM RLD RESIDENTIAL LOW DENSITY MULTIPLE FAMILY ZONE TO RMD RESIDENTIAL MODERATE DENSITY MULTIPLE FAMILY ZONE APPLICANT: RYAN LAMONT OWNER: 5653143 MANITOBA LTD.</p>										
PRESENTER: Steve McMillan	AGENDA NO:									
DEPARTMENT: City of Brandon Planning Department	DATE: June 9, 2010									
CLEARANCES: <i>Original Signed By:</i> S. McMillan Senior Planner	ATTACHMENTS: <ol style="list-style-type: none"> 1. Report (# of pages = 3) 2. Attachments (# of pages = 6) 3. Maps (# of pages= 6) 4. Draft By-law (# of pages = 1) 5. Objections (1) 6. Planning Commission resolution, presentation list & minutes (# of pages = 8) 7. Draft Development Agreement (# of pages = 8) 									
APPROVALS: <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; text-align: center;"> <i>Original Signed By:</i> T. E. Snure </td> <td style="width: 25%; text-align: center;"> 16/06/10 </td> <td style="width: 50%; text-align: center;"> <i>Original Signed By:</i> B. MacRae </td> <td style="width: 25%; text-align: center;"> 16/06/10 </td> </tr> <tr> <td style="text-align: center;"> <hr/> General Manager of Development Services </td> <td style="text-align: center;"> <hr/> Date </td> <td style="text-align: center;"> <hr/> City Manager </td> <td style="text-align: center;"> <hr/> Date </td> </tr> </table>			<i>Original Signed By:</i> T. E. Snure	16/06/10	<i>Original Signed By:</i> B. MacRae	16/06/10	<hr/> General Manager of Development Services	<hr/> Date	<hr/> City Manager	<hr/> Date
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<hr/> General Manager of Development Services	<hr/> Date	<hr/> City Manager	<hr/> Date							

DISCUSSION:

Ryan Lamont, the applicant on behalf of the owner, 5653143 Manitoba Ltd., is applying to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone to accommodate future residential development.

The applicant is proposing to develop three residential buildings on the property. Each building will be three storeys high; each will contain four dwelling units and each dwelling unit will have three bedrooms. All units will have single car attached garages on the main floor, living area on the second floor and three bedrooms on the third floor.

Development Plan

The property is designated “Residential” as indicated on the Urban Land Use Map One within the Brandon & Area Planning District Development Plan By-law #78/01/04. The rezoning of the property from RLD to RMD would conform to the Development Plan.

Surrounding Neighbourhood

The surrounding neighbourhood is predominately zoned RLD consisting of single family dwellings. Directly adjacent to 903 Stickney Avenue are two CG Commercial General zoned properties to the east and southeast, RLD zoned properties consisting of single family dwellings to the northeast and to the west

across the rear lane, and there is also a four-plex across the street to the south. McKenzie Seeds is located directly north of the property along with a large green space.

Parking

Under the zoning by-law, the proposal is required to have 1.5 parking spaces for every dwelling unit in a multi-family dwelling. The proposed development will consist of 12 condo units which will require 18 parking spaces in total. Each unit will provide two parking spaces (one in the garage and one in the driveway); but since under the zoning by-law you can't have a required parking space located in the front yard we can't include the six driveway parking spaces off 9th Street North in the parking calculation. If each condo unit was subdivided onto individual lots then only one parking space per dwelling unit would be required; however due to servicing issues subdivision is not possible. The proposed development as presented will require a parking reduction of 3 parking spaces. This will be dealt with through the Variation application process. Guest or overflow parking will be available along Stickney Avenue and along one side of 9th Street.

Flood Fringe Area

The entire property at 903 Stickney Avenue is located within the *Floodway Fringe* as shown on the Urban Flood Risk Area Map 9 within the Brandon & Area Planning District Development Plan. Section 15.2.2 of the Development Plan states that within the floodway fringe area development may take place provided that appropriate measures are taken to reduce the risk of flooding. The Development Plan also indicates in section 15.2.4 that the owner must provide site development plans, including lot grading and drainage plans showing final grade elevations, which will be submitted for review and approval by the General Manager of Development Services. The owner will also be required to sign a save harmless agreement with the City of Brandon.

COMMENTS:

The Engineering Department has indicated that the owner/successor is required to execute a development agreement with the City of Brandon. The owner will be required to develop the rear lanes to the north and west of the property and construct a side walk the total length of the property along the west side of 9th Street North. The owner must execute a save harmless agreement with the City of Brandon and also pay a one time financial contribution for parks & recreation/public reserve purposes.

The Brandon School Division has indicated that financial consideration in lieu of land dedication in the amount of \$2,430 is required to be paid. The Planning Department will require a written confirmation from the Brandon School Division indicating that this payment has been made. This will be included in the development agreement.

The Senior Building Inspector has indicated that permits and approvals will be required for all buildings, but at this time there isn't sufficient information to check compliance with the Manitoba Building Code.

Local Government, Community Planning Services Branch has no concerns with the application.

MTS and Westman Communication Group has no concerns with the application. Any removal or relocation of existing facilities will be at the expense of the owner.

The Planning Department had initial concerns with this development being within the floodway fringe area but these concerns have been satisfied with the developer's drawings showing that there will be no habitable rooms below the 100 yr flood line of 361 metres above sea level. The first level will only consist of the garage. The owner will also be required to sign a save harmless agreement with the City of Brandon. Drainage issues will be addressed with both rear lanes to be hardsurfaced so that water can be handled and directed away from pooling areas currently in the lane.

The main issue though, is the total amount of dwelling units on the property. Currently in the RLD zone nine (9) dwelling units could be developed on the property. The applicant has a specific building design in mind and would like to increase the amount of units from nine (9) to twelve (12).

The buildings will be close together but the surrounding neighbourhood is currently made up of many homes on 25 foot lots which are only within a couple feet from each other. The property is also not directly in the middle of a residential neighbourhood, but adjacent to two commercial developments, the 8th Street bridge across the street and McKenzie Seeds Industrial building directly to the north. Along with the infrastructure issues of providing sewer down 9th Street and the developer having to provide a private pumping station for sewer on the property; this may be the only type of development that can happen other than an apartment building. Any subdivision of the property with lots fronting on 9th Street must have their own sewer and water but this is not possible due to the grade of 9th Street.

As required under the provisions of the Planning Act, notice of the Public Hearing held at the Planning Commission on May 19th, 2010 regarding this rezoning application was sent to owners of property within 100 metres of the subject property and advertised in the Brandon Sun on May 2nd, 2010 and May 9th, 2010. There was one property owner that spoke in opposition at the public hearing towards the development which included parking & drainage concerns.

Due to the objection filed at the public hearing, council must follow clause 76(3) of the Planning Act which states: *If the board or council gives the by-law second reading it must, as soon as practicable after second reading, send a notice to every person who objected to the by-law, stating that (a) the person may file a second objection to the by-law with the board or council by the deadline specified in the notice, which must be at least 14 days after the date of the notice; and (b) if a second objection is not filed before the deadline, the by-law may be given third reading without further notice.*

The Planning Commission held a public hearing on May 19th, 2010 and in accordance with Section 36 (2) of the Planning Act, please find attached:

- a) The minutes of the hearing
- b) The record of all presentations made at the hearing;
- c) The Planning Commission recommendations to Council.

RECOMMENDATION:

That By-law No. 6978 to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family to RMD Residential Moderate Density Multiple Family be read a second time;

and further, that third reading of the by-law be held in abeyance pending the objectors to the by-law being given notice pursuant to Section 76(3)(a) of The Planning Act of their right to file a further objection and pending the owner entering into the development agreement attached to the report of the General Manager of Development Services dated June 9, 2010 pursuant to Section 150 of said Act.

BY-LAW NO. 6978

BEING A BY-LAW of the City of Brandon to amend Zoning By-law No. 6642.

WHEREAS Section 80(1) of The Planning Act provides that a zoning by-law may be amended;

NOW THEREFORE the Council of the City of Brandon, duly assembled, enacts as follows:

1. The land described as Lots 1/4, Block 108, identified on a plan of part of the City of Brandon, in Manitoba, registered in the Brandon Land Titles Office as Plan 2 BLTO, commonly known as 903 Stickney Avenue, and highlighted on the map attached hereto as Schedule "A" is hereby reclassified:

FROM: RLD Residential Low Density Multiple Family Zone

TO: RMD Residential Moderate Density Multiple Family Zone

2. District Map No. 39, being part of By-law No. 6642, is hereby amended in accordance with Section 1 of this by-law.
3. This by-law shall come into full force and take effect on the day following its passage.

DONE AND PASSED by the Council of the City of Brandon duly assembled this day of A.D. 2010.

MAYOR

CITY CLERK

Read for a first time this 12th day of April A.D. 2010

Read for a second time this day of A.D. 2010

Read for a third time this day of A.D. 2010



I, Tiffany Bartko, Secretary for the Planning Commission for the City of Brandon, DO HEREBY CERTIFY the resolution written hereunder to be a true and correct copy of a resolution of the Planning Commission of the City of Brandon passed at a meeting held on the 19th day of May A.D. 2010 of which it purports to be a copy.

Dated at the City of Brandon this 20th day of May, A.D. 2010.

Tiffany Bartko, Secretary
Planning Commission

"That the Public Hearing regarding By-law No. 6978 to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone be concluded.


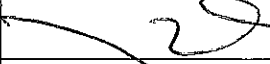


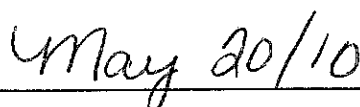
That the Planning Commission recommend City Council give By-law 6978 second reading;

And further, that third reading is held in abeyance pending the owner executing a development agreement with the City of Brandon."

PLANNING COMMISSION MEETING

WEDNESDAY, May 19, 2010

Zoning Application
903 Stickney Avenue

NAME (Please print)	SIGNATURE	ADDRESS (Important that you fill this out)	TELEPHONE NO.
STEVE McALEER		421-9 TH STREET	729-2112
Ryan Lamont		1529 9 TH ST.	570-2111
Joseph Ferguson		107 9 TH ST N	573-4340
<p>I Certify that the above individuals gave representation At the City of Brandon Planning Commission Hearing for the <i>Zoning Application of Ryan Lamont On behalf of 5653143 Manitoba Ltd. for 903 Stickney Avenue, Brandon.</i></p>			
<p></p>			
<p>Tiffany Bartko, Secretary Planning Commission</p>			
<p></p>			
<p>Date</p>			

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON MAY 19, 2010 AT 7:30 P.M. IN THE COUNCIL CHAMBERS, CIVIC ADMINISTRATION BUILDING, BRANDON, MANITOBA

1. ROLL CALL

Commissioners: Bernie Chrisp
Leo Boivin
Colleen Anderson
Kevan Sumner
Don Pryke

Administration: Ted Snure
Steve McMillan
Andrew Mok
Ryan Nickel
Tiffany Bartko

Mr. Mok said Ms. Angie Veilleux has now gone on leave and Steve McMillan has now become the acting Senior Planner. Along with that he also welcomed Ryan Nickel on board as the new Community Planner.

2. ADOPTION OF AGENDA

2010-072 Sumner-Boivin
That the Agenda for the meeting of the Planning Commission to be held on May 19th, 2010 be adopted. CARRIED.

3. CONFIRMATION OF MINUTES

2010-073 Pryke-Sumner
That the Minutes of the Regular meeting of the Planning Commission held on May 5, 2010 be taken as read and so adopted. CARRIED.

4. PUBLIC HEARINGS

c. **Zoning Application**
903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO)
Applicant: Ryan Lamont
Owner: 5653143 Manitoba Ltd.

Steve McMillan introduced the application. Ryan Lamont, the applicant on behalf of the owner, 5653143, is applying to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone to accommodate future residential development.

The applicant is proposing to develop three residential buildings on the property. Each building will be three storeys high; each will contain four dwelling units and each dwelling unit will have three bedrooms. All units will have single car attached garages on the main floor, living area on the second floor and three bedrooms on the third floor.

The property is designated "Residential" as indicated on the Urban Land Use Map One within the Brandon & Area Planning District Development Plan By-law #78/01/04. The rezoning of the property from RLD to RMD would conform to the Development Plan.

The surrounding neighbourhood is predominately zoned RLD consisting of single family dwellings. Directly adjacent to 903 Stickney Avenue are two CG Commercial General zoned properties to the east and southeast, RLD zoned properties consisting of single family dwellings to the northeast and to the west across the rear lane, and there is also a four-plex across the street to the south. McKenzie Seeds is located directly north of the property along with a large green space.

Under the zoning by-law, the proposal is required to have 1.5 parking spaces for every dwelling unit in a multi-family dwelling. The proposed development will consist of 12 condo units which will require 18 parking spaces in total. Each unit will provide two parking spaces (one in the garage and one in the driveway); but since under the zoning by-law you can't have a required parking space located in the front yard we can't include the six driveway parking spaces off of 9th Street North in the parking calculation. If each condo unit was subdivided onto individual lots then only one parking space per dwelling unit would be required; however due to servicing issues subdivision is not possible. The proposed development as presented will require a parking reduction of 3 parking spaces. This will be dealt with through the Variation application process. Guest or overflow parking will be available along Stickney Avenue and along one side of 9th Street.

The entire property at 903 Stickney Avenue is located within the *Floodway Fringe* as shown on the Urban Flood Risk Area Map 9 within the Brandon & Area Planning District Development Plan. Section 15.2.2 of the Development Plan states that within the floodway fringe area development may take place provided that appropriate measures are taken to reduce the risk of flooding. The Development Plan also indicates in section 15.2.4 that the owner must provide site development plans, including lot grading and drainage plans showing final grade elevations, which will be submitted for review and approval by the General Manager of Development Services. The owner will also be required to sign a save harmless agreement with the City of Brandon.

The Engineering Department has indicated that the owner/successor is required to execute a development agreement with the City of Brandon. The owner will be required to develop the rear lanes to the north and west of the property and construct a side walk the total length of the property along the west side of 9th Street North. The owner must execute a save harmless agreement with the City of Brandon and also pay a one time financial contribution for parks & recreation/public reserve purposes.

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Local Government, Community Planning Services Branch has no concerns with the application.

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The Planning Department's initial concerns with this development being within the floodway fringe area have been satisfied with the developers drawings showing that there will be no habitable rooms below the 100 yr flood line of 361 metres above sea level. The first level will only consist of the garage. The owner will also be required to sign a save harmless agreement with the City of Brandon. Drainage issues will be addressed with both rear lanes to be hardsurfaced so that water can be handled and directed away from pooling areas currently in the lane.

The main issue though, is the total amount of dwelling units on the property. Currently in the RLD zone nine (9) dwelling units could be developed on the property. The applicant has a specific building design in mind and would like to increase the amount of units from nine (9) to twelve (12).

The buildings will be close together but the surrounding neighbourhood is currently made up of many homes on 25 foot lots are only within a couple feet from each other. Under the Zoning By-law, it is required to have 10 foot side yards for these types of buildings if they are to be subdivided. If there are not being subdivided and the property remains one single parcel, a minimum side yards of 20 feet is required. The applicant is proposing 26 feet. The property is also not directly in the middle of a residential neighbourhood, but adjacent to a two commercial developments, the 8th Street bridge across the street and McKenzie Seeds Industrial building directly to the north. Along with the infrastructure issues of providing sewer down 9th Street and the developer having to provide a private pumping station for sewer on the property; this may be the only type of development that can happen other than an apartment building. Any subdivision of the property with lots fronting on 9th Street must have their own sewer and water but this is not possible due to the grade of 9th Street.

As required under the provisions of the Planning Act, notice of this Public Hearing regarding this rezoning application was sent to owners of property within 100 metres (328 feet) of the subject property and advertised in the Brandon Sun on Sunday May 2nd and Sunday May 9th, 2010.

After holding the hearing, the Planning Commission must provide City Council with a report on the hearing which includes:

- a) The minutes of the hearing;
- b) The record of all presentations made at the hearing; and
- c) Its recommendations on the matter considered at the hearing.

To date, the Development Services Division has received one (1) letter of objection to this application, which is included as an attachment.

The Planning Department's recommendation at the Public Hearing regarding By-law 6978 to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone be concluded.

That the Planning Commission recommend City Council give By-law 6978 second reading;

And further, that third reading is held in abeyance pending the owner executing a development agreement with the City of Brandon.

Ms. Anderson asked what a save harmless agreement was.

Mr. McMillan answered that it is an agreement that is signed so that the city does not have any liability for any flooding issues.

Mr. Chrisp asked with regards to the pumping station; if there was a tank collection type of system and then a pump to the existing city sewage system.

Mr. Snure answered that it would be something similar to that. He said City Hall was an example of that as the city has a pumping station to pump the waste water into the city sanitary sewer. He said that this is going to be three buildings and whether or not he is going to have one for each building or one for all three is yet to be determined.

Mr. McMillan said that it will all be located on the owner's property and pumped to Stickney Avenue.

The applicant, Ryan Lamont introduced himself. He said with respect to the plans, they have done as much as they can to satisfy the needs and wants of the City with respect to design and layout. He said the one big thing was the one house on 9th Street as well as the commercial property and they have decided to split the parking down the middle and by paving the back lane on the west and north side as it will help to alleviate some of the traffic that would be created by a residential development. He also noted with respect to the drainage and sewer and water that Mr. Daniel Burns from Burns Maendel is the one he is working with. He said that they are working really hard to try and figure out what would be best as it is a difficult property to develop and they really need to make sure that the liability that comes with developing in this area is rectified now before a condo corporation takes over. He said that with going from nine condos to twelve; the feasibility really comes into it especially now that Stickney Avenue has just been repaved. He said he has spoken to some people on what he is going to have to do to fix that road once he digs in his services as that is where his sewer comes from. He said from talking to his asphalt and paving crew, it has been expressed that it is going to be very expensive to repatch that just because it has been redone so it really comes down to feasibility and making it affordable enough so that it is viable for people who are moving into it.

Mr. Boivin asked that with the one house that is one 9th Street; if it has been given any thought to hook it up to his private sewer system as Mr. Boivin understood that person was on a field system.

Mr. Lamont answered that he has actually received three or four phone calls from different people from around there that have asked to jump on his sewer system. He said that if the opportunity is there to bring more people onto it; although the tough

part is that when you go to a private sewer, the responsibility is passed down onto the condo corporation so as one brings public to private it can get a little bit hairy however if the opportunity is there he would. He said it is being talked of to do a lift station as Mr. Snure made mention of. He said they are also checking their elevations and seeing if they can raise the back side of the property and actually create a gravity fed sewer system back down to Stickney.

Mr. Boivin commented that it is a very difficult property to develop as he was there and anything that would be put on there would be an improvement.

Mr. Lamont thanked Mr. Boivin and said that he developed the corner of 8th and Stickney and again the same idea, extremely difficult with respect to drainage.

Mr. Chrisp opened the floor for anyone to speak for or against this proposal.

Ms. Jennifer Fergusson introduced herself and said she owns 127 – 9th Street North which is right across from the proposed development. She said that her biggest concern is that the infrastructure just isn't in place for this type of development and what we see now especially with no sewer systems is that when a really heavy rain falls, there is a river down in front of her property. She said because there are no sewer drains with the lift station, that water is still going to pile down and now because there will be houses there and not a field, even more water will be diverted out and around it. She also said that she has a problem with the city okaying development when that neighbourhood north of Stickney Street has no sewer. She said this is something that the city really needs to examine and look at for their resident tax payers. She said new developments are great; twelve condos seems excessive especially for those four lots as it seems there is going to be a lot of people there and if you look at a two car family with hopefully enough parking space but only eighteen there; is there going to be another six cars on 9th Street North which is not as wide as a regular city street. She said she doesn't have a driveway so she has to park on the street and now if there are people parking on the other side of the street you really get into a jam there.

She said she would really encourage the Planning Commission as Commissioner Boivin did to go down and take a look at the property because there are a lot of issues there. She said that because it is on such a grade, there is such a down flow of water that even if it is built up at the back that water has to go somewhere. She suggested that maybe a ditching system could be put into place to divert that water somewhere as in the sewer system she thought. She said that luckily they have had a dry spring however when they have heavy rain, they see huge puddles of water not only at 9th Street but again at 10th Street. She pointed out that she doesn't have a back lane so therefore when 9th Street is being reconstructed or ripped up then it limits the access to her house.

Mr. Lamont commented on the issue of parking. He said they are technically "short" however they actually do have the extra parking for each spot. He said they are not allowed to call the driveway a parking space due to a technicality however it does alleviate the problem. He said that with a rental unit, it is only one and half parking spots per suite or per apartment so due to the fact they are actually going up to two should alleviate parking issues. He said another thing with bringing infrastructure in off 9th Street and ripping up the street causing chaos for Ms. Fergusson to get into her property; the thing with 9th Street is that there is only a small water line coming in so his original goal was to actually develop individual residential units down that street but because of the size of the water main coming through he was unable to. He

said that most of the servicing is therefore going to have to come off Stickney and would either directly come through his property or down the back lane which will be paved. He said that will also help control drainage as well.

2010 – 070 Anderson - Sumner

That the Public Hearing on the above noted application be concluded.

CARRIED.

2010 – 071 Anderson - Pryke

That the Public Hearing regarding By-law No. 6978 to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone be concluded.

That the Planning Commission recommend City Council give By-law 6978 second reading;

And further, that third reading is held in abeyance pending the owner executing a development agreement with the City of Brandon.

5. ADJOURNMENT

2010-074 Boivin - Anderson

That the meeting do now adjourn (9:00 p.m.).

CARRIED.

Steve McMillan
Acting Senior Planner
Planning Dept.

Bernie Chrisp
Chairperson



CITY OF BRANDON PLANNING & BUILDING DEPARTMENT

421 - 9th Street • Brandon, Manitoba • R7A 4A9
Telephone (204) 729-2110 • Fax (204) 728-2406

Application for Zoning Amendment City of Brandon Zoning By-Law 6642

Name of Property Owner: 5653143 Manitoba Ltd.

Name of Applicant: Ryan Lambert

Civic Address of Property: 903 Stickney Ave.

Legal Description of Property: Lot 1,2,3,4 Block 108 Plan 2 BCTO

Council requires that the following be supplied:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Detailed Site Plan (no larger than 11" x 17") | <input checked="" type="checkbox"/> Detailed Letter of Intent |
| <input checked="" type="checkbox"/> Certificate of Title | <input type="checkbox"/> Letter of Authorization (if applicable) |
| <input checked="" type="checkbox"/> Application Fee: \$1,500.00 | <input checked="" type="checkbox"/> Advertising Fee: \$1,000.00 |

****Application will not be processed until all of the above information has been submitted****

Applicable Documents: City of Brandon Zoning By-Law No. 6642

Proposed Changes: Change zoning from RLD to RMD to accomodate 12 condos.

Reasons in support: This development will help breath new life into the older North end, with a more affordable, but luxurious condo.

I undertake to observe and perform all provisions of The Planning Act, the Development Plan, the Zoning By-law, and the provisions of other relevant laws, by-laws or agreements.

Signature of Owner: [Signature] Date: Mar 5/2010

Address: 1529 9th St. R7A 4C9 E-Mail: rylandevelopments@gmail.com

Home Phone: _____ Cell Phone: 570-2111 Work Phone: _____

Signature of Applicant: _____ Date: _____

Address: _____ E-Mail: _____

Home Phone: _____ Cell Phone: _____ Work Phone: _____

The personal information which you are providing is being collected under the authority of The Planning Act and will be used for the purpose of approving this application. Information is also being collected for the purpose of statistical reporting. It is protected by the Protection of Privacy provisions of The Freedom of Information and Protection of Privacy Act. If you have any questions about the collection and/or use of information, contact Jennifer Houlihan, FIPPA Coordinator, City of Brandon Planning & Building Department, 421 - 9th Street, Brandon, Manitoba, R7A 4A9, Telephone (204) 729-2116.

FOR PLANNING OFFICE USE ONLY:
Community Planner: STEVE McMILLAN Date Received: Mar 5/10
Planning File No.: Z-03-10-6 Receipt No.: 45432 Amount Received: \$ 2500-
PLZBLA 2010000007 1a Brandon - Re-Zoning - Application

March 5, 2010

City of Brandon Planning Department
421 9th St.
Brandon, Mb
R7A 4A9

Dear City of Brandon Planning Department:

This letter of intent is being written in direct relation with Lot 1, 2, 3, and 4 Block 108 Plan 2 BLTO, with the civic address 903 Stickney Avenue in Brandon with the proposed rezoning to accommodate 12 condominiums.

This proposal is being submitted for the purpose of rezoning the mentioned property from RLD to RMD. The property is 200 feet by 120 feet which is a dead end road ending at the property line of the new Mckenzie Seeds building. Right now there is only one other house facing 9th st. N so this development should not cause any disruptions with respect to a good sized development.

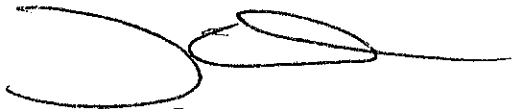
The building will conform nicely with the area, with a slight modern twist. The lots in the area are a mix of commercial, residential, and multi-family. There is tons of empty land, and a park located in close proximity to this land which will make it ideal for families.

There will be no environmental concerns or pollution issues with regard to this project.

The proposed project is 3-4 plexes measuring 40 wide by 66 ft length. Each condo will have 3 bedrooms, 1 ½ bathrooms, in suite laundry, and a garage.

If more information is required, please feel free to contact myself at 570-2111 or email me at, rylamdevelopments@gmail.com.

Regards,

A handwritten signature in black ink, appearing to read 'Ryan Lamont', with a long horizontal flourish extending to the right.

Ryan Lamont



CITY OF BRANDON PLANNING & BUILDING DEPARTMENT

421 – 9th Street • Brandon, Manitoba • R7A 4A9
Telephone (204) 729-2110 • Fax (204) 728-2406

NOTICE OF PUBLIC HEARING

of Application for Amendment of
the City of Brandon Zoning By-law No. 6642
By-law No. 6978

Proposal: To rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone.

Purpose: To accommodate future Residential development

Property: 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO)

Applicant: Ryan Lamont

Owner: 5653143 Manitoba Ltd.

Date of Hearing: May 19, 2010
Time of Hearing: 7:30PM
Location: Council Chambers, City Hall, 410-9th Street, Brandon, Manitoba

Commonly Asked Questions:

What happens at the hearing?

At the time and date noted above, the Chairperson will ask the applicant to speak about her/his application and then members of the Planning Commission may ask questions. After that, the Chairperson will ask if anyone would like to speak for or against the application. When the hearing is concluded, there are no further chances for anyone to speak to the Planning Commission.

Do I have to attend the hearing?

Your attendance at the Public Hearing is welcomed, however, you are not required to attend. The applicant is required to attend the meeting to present their proposal and answer questions.

How do I object to the by-law if I need to?

If anyone objects to the by-law at the hearing, Planning Commission advises Council of any objections. After the hearing, the City of Brandon will send the objector(s) a notice stating that they can appeal to the City of Brandon Council, who will conduct their own hearing to decide whether the by-law will proceed or not.

Why did I receive this notice? or Why is this notice posted here?

To involve the public in the planning of our community, owners of property located within 100 metres (328') of the above-mentioned property have received a copy of this notice. A notice is also posted on the property and in at least three public places to make sure that residents who are not property owners also know what is going on. This notice is also advertised in the Brandon Sun twice.

Where can I get more information?

If you would like more information on this application, please call the Planning Department at 729-2110. Copies of the by-law and supporting material are available for inspection at the City Clerk's office at City Hall, between the hours of 8:30 a.m. and 5:00 p.m.

What if I have objections?

Objections can be raised in person at the public hearing or by having written representation included in the application package as outlined below.

What if I have something to say but can not attend the hearing?

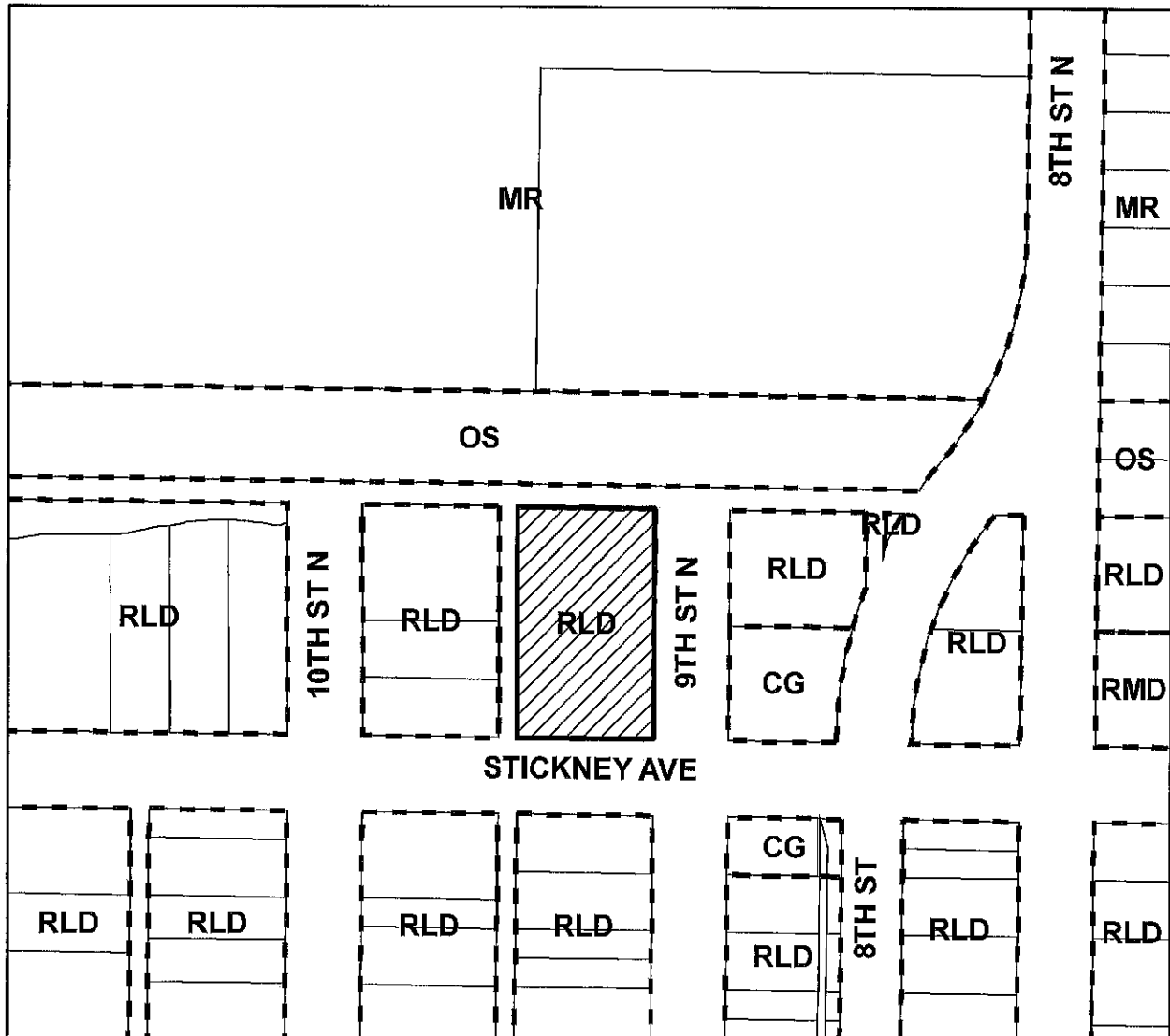
You may submit written comments to the Development Services Division at least one week before the date of the hearing. (Phone: 729-2214; Fax: 729-3235). Please be advised that all correspondence received in conjunction with, or as a result of, an application that requires council approval becomes public information, therefore personal information [such as names, addresses etc.] contained in the correspondence is released in the public domain.

City of Brandon Planning Department File #: Z-03-10-B

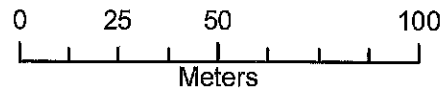
In accordance with Part II, Division 1 (Sections 163 through 171) of The Planning Act (Chapter P80)

Please visit the City of Brandon web-site at www.brandon.ca

Application to Amend Zoning By-Law



Schedule "A" By-Law No. 6978
 Amending District Map No. 39 of By-Law No. 6642
 Zoning By-Law Amendment Application No. Z-03-10-B
 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO)



LEGEND

- Proposed lots to be rezoned from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone

RLD - Residential Low Density Multiple Family Zone
 RMD - Residential Moderate Density Multiple Family Zone
 CG - Commercial General
 MR - Industrial Restricted
 OS - Open Space

City of Brandon
 Department of
 Planning & Building

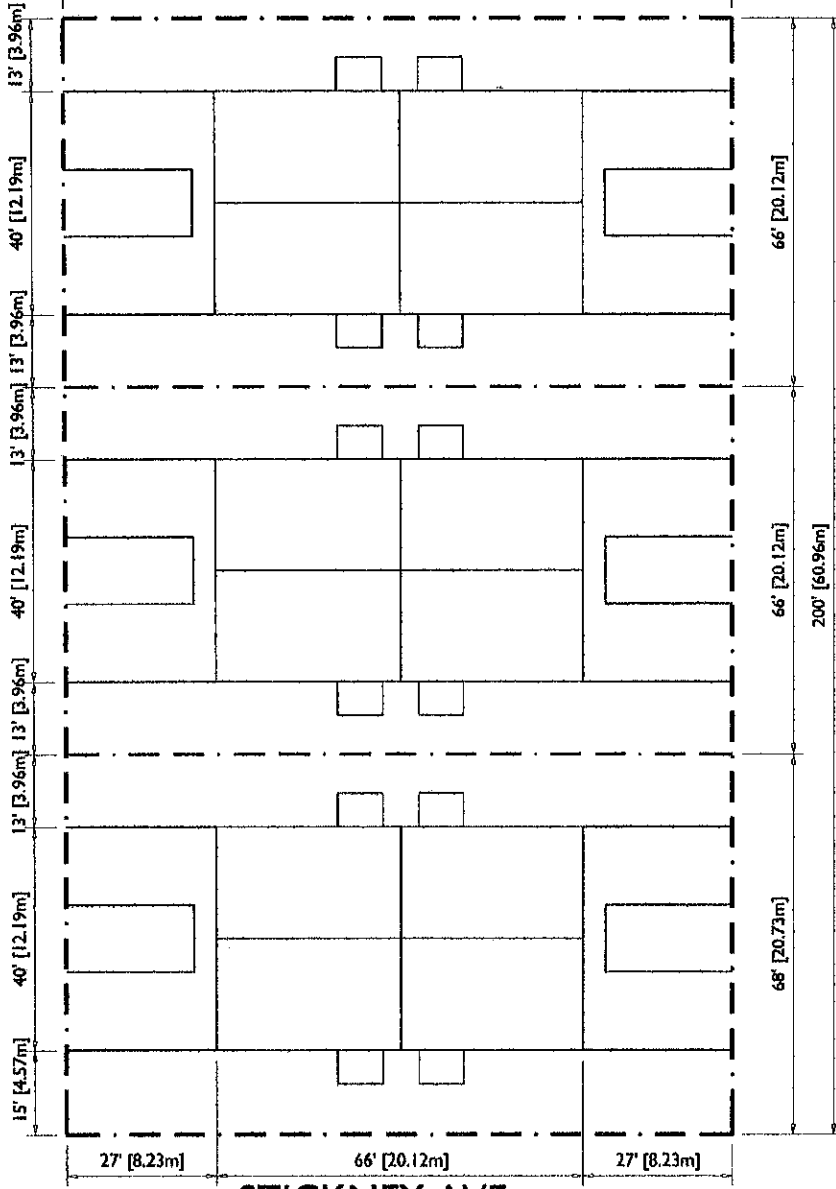


City of Brandon

Map creation date: 03/15/10

Revised:

PUBLIC LANE



PUBLIC LANE

120' [36.58m]

9TH STREET

STICKNEY AVE

NOTE:

PROJECT NAME:
RYLAM DEVELOPMENTS CONCEPT

SHEET NAME:
SITE PLAN

DATE	REVISIONS	BY
10/02/25	ISSUED FOR CLIENT REVIEW	R.B.

SHEET NUMBER:

AI

FILE NUMBER:

2009.034

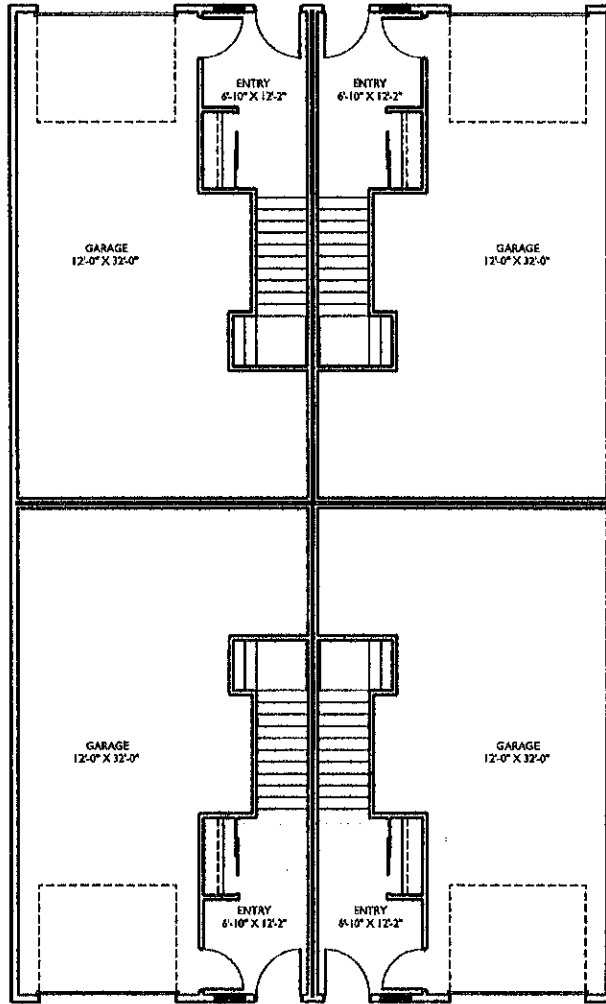
DRAWN BY:

R.B.

ENGINEER STAMP:

ARCHITECT STAMP:

ALL MEASUREMENTS TO BE FIELD VERIFIED BY GENERAL CONTRACTOR BEFORE COMMENCEMENT OF WORK. ALL DISCREPANCIES TO BE REPORTED IN WRITING TO DESIGNER.



MAIN FLOOR PLAN - 640 SQUARE FEET

ARCHITECT STAMP:

ENGINEER STAMP:

DRAWN BY:

R.B.

APPROVED BY:

ALL MEASUREMENTS TO BE FIELD VERIFIED BY GENERAL CONTRACTOR BEFORE COMMENCEMENT OF WORK. ALL DISCREPANCIES TO BE REPORTED IN WRITING TO DESIGNER.

NOTES:

PROJECT NAME:
RYLAM DEVELOPMENTS CONCEPT

SHEET NAME:
BASEMENT PLAN

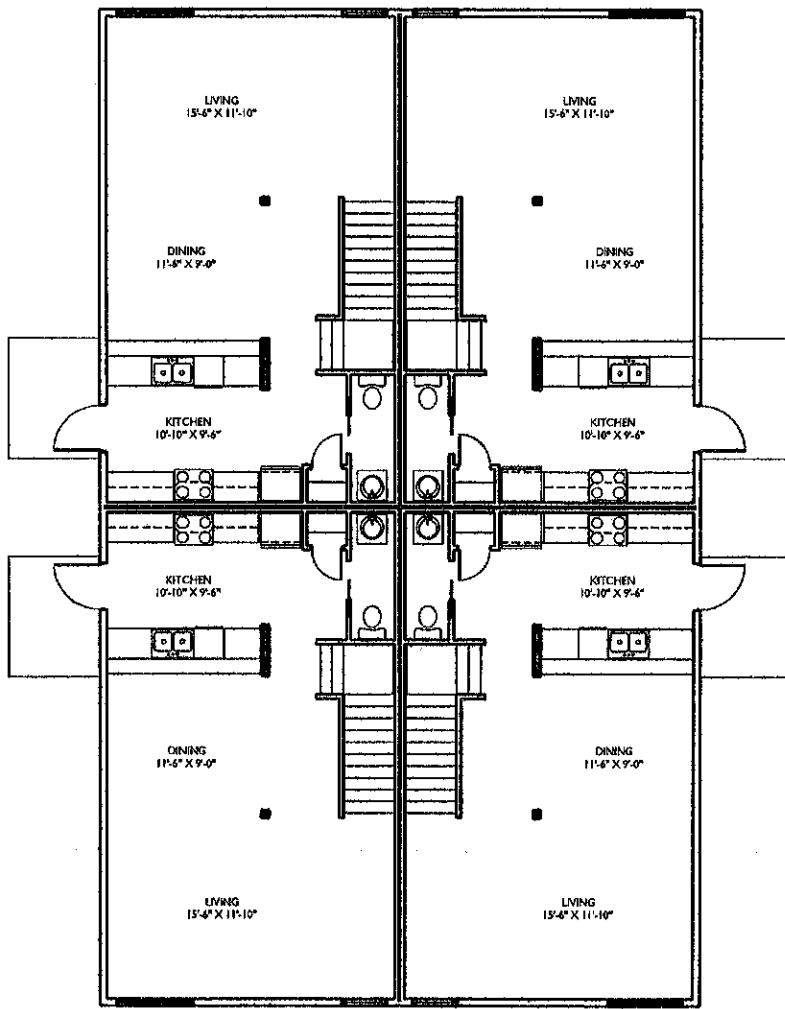
DATE	REVISIONS	BY
10.02.23	COMMENT	R.B.
	ISSUED FOR CLIENT REVIEW	

SHEET NUMBER:

A2

FILE NUMBER:

2009.034



SECOND FLOOR PLAN - 660 SQUARE FEET

ARCHITECT STAMP:

ENGINEER STAMP:

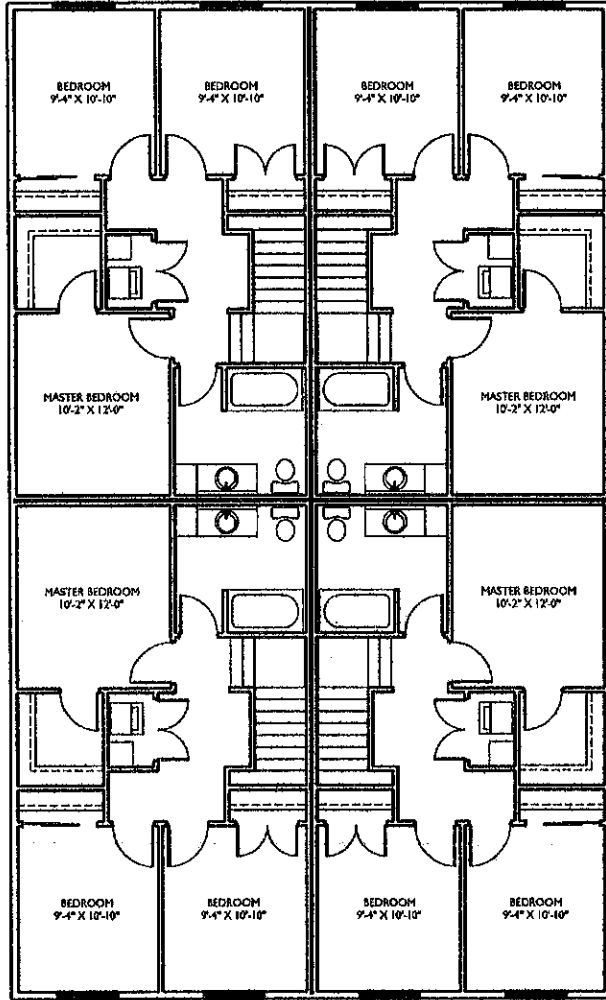
DRAWN BY:	R.B.
APPROVED BY:	
ALL MEASUREMENTS TO BE FIELD VERIFIED BY GENERAL CONTRACTOR BEFORE COMMENCEMENT OF WORK. ALL DISCREPANCIES TO BE REPORTED IN WRITING TO DESIGNER.	

NOTE:

PROJECT NAME		RYLAM DEVELOPMENTS CONCEPT	
SHEET NAME		SECOND FLOOR PLAN	
DATE	10.02.25	BY	R.B.
REVISIONS		COMMENT	ISSUED FOR CLIENT REVIEW

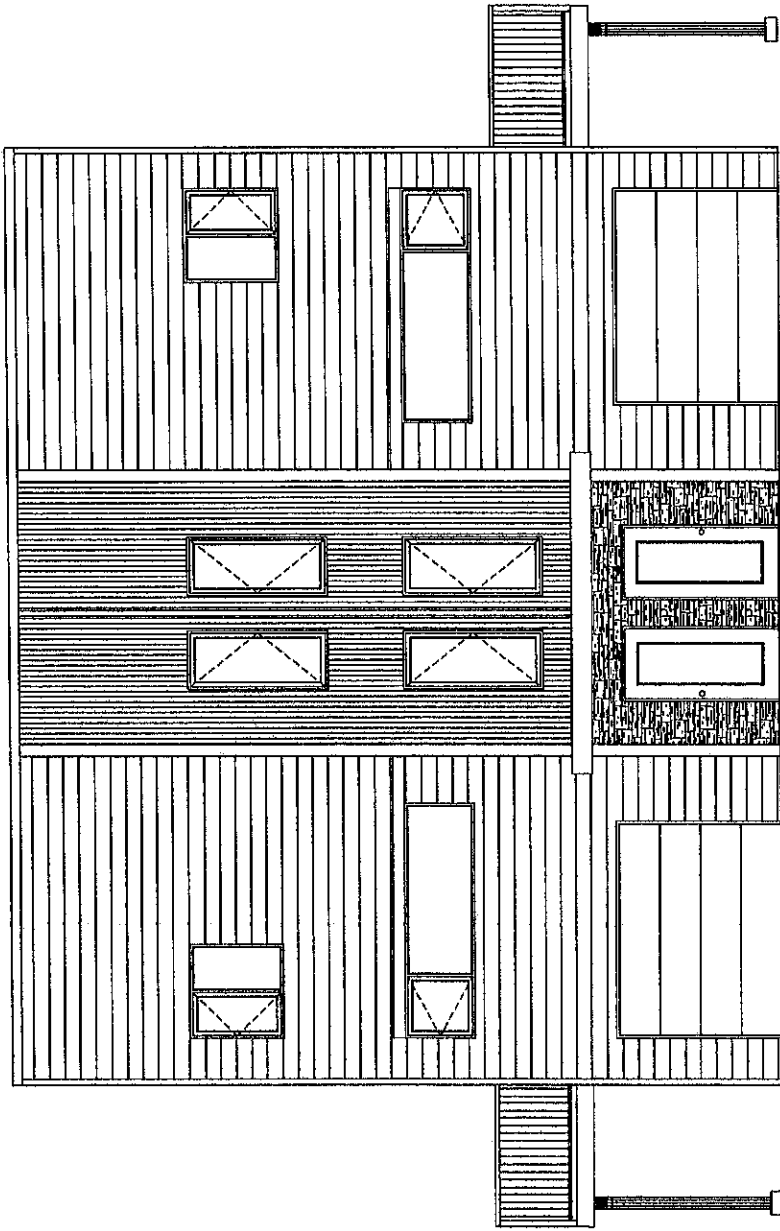
SHEET NUMBER:
A3

FILE NUMBER: 2009.034



THIRD FLOOR PLAN - 660 SQUARE FEET

	ARCHITECT STAMP:	
	ENGINEER STAMP:	
DRAWN BY:	R. B.	ALL MEASUREMENTS TO BE FIELD VERIFIED BY GENERAL CONTRACTOR BEFORE COMMENCEMENT OF WORK. ALL DISCREPANCIES TO BE REPORTED IN WRITING TO DESIGNER.
APPROVED BY:		
NOTE:		
PROJECT NAME RYLAM DEVELOPMENTS CONCEPT	SHEET NAME THIRD FLOOR PLAN	
DATE	BY	
10.02.25	R. B.	
ISSUED FOR CLIENT REVIEW		
SHEET NUMBER:		
A4		
FILE NUMBER:		2009.034



EXTERIOR ELEVATION

PROJECT NAME RYLAM DEVELOPMENTS CONCEPT		DRAWN BY: R.B.		ARCHITECT STAMP:
SHEET NAME EXTERIOR ELEVATION		APPROVED BY:		ENGINEER STAMP:
DATE 10.03.08		NOTES:		ALL MEASUREMENTS TO BE FIELD VERIFIED BY GENERAL CONTRACTOR BEFORE COMMENCEMENT OF WORK. ALL DISCREPANCIES TO BE REPORTED IN WRITING TO DESIGNER.
REVISIONS BY R.B. COMMENT ISSUED FOR CLIENT REVIEW				
SHEET NUMBER:		FILE NUMBER:		
<h1>A5</h1>		2009.034		



Patty Johnson /City of
Brandon/CA

05/06/2010 11:39 AM

To Nick Malazdrewicz/City of Brandon/CA@City of Brandon

cc

bcc

Fax to

Subject 903 Stickney - Zoning Application

Engineering Dept. comments;

The Developer shall enter into a Development Agreement with the City of Brandon.

thanks,

Patty Johnson
Development Officer
City of Brandon
ph 729-2218
cell 573-9145
fax 725-3235



Brandon School Division

"Accepting the Challenge"

File Code:

April 7, 2010

Brandon & Area Planning District
421 – 9th Street
Brandon, MB
R7A 4A9
Attention: N. Malazdrewicz, Planning Technician

Dear Mr. Malazdrewicz:

RE: Zoning By-Law Amendment Application Z-03-10-B
903 Stickney Avenue (Lots ¼, Block 108, Plan 2, BLT0)
Applicant: Ryan Lamont
Owner: 5653143 Manitoba Ltd.

This will advise that in accordance with provisions of the Planning Act and Division Policy, financial consideration in lieu of land dedication in the amount of \$2,430 is requested for the above-noted application.

Please contact me if you require further information.

Yours truly,

G.F. Barnes
Secretary-Treasurer

GFB/sb



CITY OF BRANDON
PLANNING & BUILDING DEPARTMENT

421 – 9th Street • Brandon, Manitoba • R7A 4A9
Telephone (204) 729-2110 • Fax (204) 728-2406

Memorandum

Department / Agency	Contact
City of Brandon Building Inspection	Vic Thomson
Neighbourhood Renewal Corporation	Andrew Colli
City of Brandon, Records Department	For Dom.Doc Internal List
Westman Communications Group	Operations Engineering
Manitoba Hydro	Subdivision Circulars
MTS Allstream	Engineering Control Centre
Brandon School Division #40	Gerald Barnes

FROM: Nicholas Malazdrewicz – Planning Technician (n.malazdrewicz@brandon.ca)

DATE: March 29, 2010

RE: Zoning By-law Amendment Application Z-03-10-B
903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO)
Applicant: Ryan Lamont
Owner: 5653143 Manitoba Ltd.

Ryan Lamont, applicant on behalf of the owner, 5653143, is applying to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone to accommodate future Residential development.

Please review the attached application and site plan and inform our office of any comments or requirements with respect to your facilities. If you have no comments or requirements, please respond as such. We may proceed without your comments on **April 13, 2010**. Please send all comments directly to the City of Brandon Planning Department and to my attention. Thank you.

Mar/30/10 Blding permits and approvals will be required for construction sufficient information will be required to be submitted in order to determine compliance with the M.B.C.

April 20, 2010

Jill Ferguson
127 9th St N
Brandon, MB
R7A 2R8

Development Services Division
City of Brandon
410-9th Street,
Brandon, MB
R7A 6A2

RE: Proposal to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone.

Dear Sir/Madam:

As a resident and landowner of 127 9th St N, I am writing to you to express my objections to a the proposed City of Brandon Zoning By-law No. 6642 By-law No. 8978 to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone.

Having reviewed the plans for the proposed development, I am concerned on several levels, namely the large scale of the project, the lack of infrastructure in place to support this development, and the maintenance of the character of this historic neighbourhood.

The proposed construction of twelve condominium units for 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) is alarming in its scale, especially when one considers the elimination of green space in order to pack so many units onto four small lots. This also means there is the potential for at least an additional twenty-four vehicles to be in the area at any given time, which is even more troubling when one considers the width of 9th Street N.

As it currently stands, there is only room to park on one side of 9th St N without impeding oncoming traffic. If these units with their proposed access points were to be approved, 9th St N would have to be completely restructured and widened. I would like to note 9th St N is the only access point to my property without having to travel down the donkey-path that is the back lane. It should also be mentioned that in the past five years of living at this address, I have noted it receives snow-removal on what could be charitably referred to as a sporadic basis.

Also to be considered is garbage removal. There is simply not enough room on 9th St N to have twelve garbage/recycling units placed curb-side without impeding traffic and parking.

I am also very concerned by the lack of sewer infrastructure for these lots and 9th St N. As a resident who must maintain a septic tank/field because of the absence of sewers in the area, I question what will be done to 9th St N in order to ensure these units are on city sewers and what measures will be taken to dispose of rainwater? Currently, all water in the area from 9th St N and parts of Stickney Avenue runs down the street in front of my residence and pools in a gigantic sinkhole in the back lane. If 9th St N and the back lane are to be restructured then there must be plans made to divert that water into city sewers.

Let's not forget about the character of this historic Ukrainian neighbourhood - typified by small houses with large market gardens, a neighbourhood that has deer roaming through its fields and backyards. The construction of twelve condominium units in this neighbourhood would not reflect its past or its future; rather these units would be an anomaly in an area which is characterized by single-family homes.




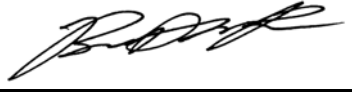
I would like to state that I am not against progress nor am I indulging in a fit of NIMBYism. But I am very concerned about the scale of this project and feel the neighbourhood and the existing infrastructure would benefit from a smaller-scale project more in tune with its surroundings. Therefore I would urge the Planning Committee to keep the zoning as Residential Low Density Multiple Family Zone.

Regards,



Jill Ferguson
127 9th St N
Brandon, MB
R7A 2R8

(204)-573-4340

TITLE: <p style="text-align: center;">BY-LAW NO. 6978 TO REZONE PROPERTY LOCATED AT 903 STICKNEY AVENUE (LOTS 1/4, BLOCK 108, PLAN 2 BLTO) FROM RLD RESIDENTIAL LOW DENSITY MULTIPLE FAMILY ZONE TO RMD RESIDENTIAL MODERATE DENSITY MULTIPLE FAMILY ZONE APPLICANT: RYAN LAMONT OWNER: 5653143 MANITOBA LTD.</p>		
PRESENTER: Steve McMillan	AGENDA NO:	
DEPARTMENT: City of Brandon Planning Department	DATE: June 9, 2010	
CLEARANCES:  Senior Planner	ATTACHMENTS: <ol style="list-style-type: none"> 1. Report (# of pages = 3) 2. Attachments (# of pages = 6) 3. Maps (# of pages= 6) 4. Draft By-law (# of pages = 1) 5. Objections (1) 6. Planning Commission resolution, presentation list & minutes (# of pages = 8) 7. Draft Development Agreement (# of pages = 8) 	
APPROVALS:  General Manager of Development Services		
<u>June 9, 2010</u> Date		 _____ City Manager
		<u>16/06/10</u> Date

DISCUSSION:

Ryan Lamont, the applicant on behalf of the owner, 5653143 Manitoba Ltd., is applying to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone to accommodate future residential development.

The applicant is proposing to develop three residential buildings on the property. Each building will be three storeys high; each will contain four dwelling units and each dwelling unit will have three bedrooms. All units will have single car attached garages on the main floor, living area on the second floor and three bedrooms on the third floor.

Development Plan

The property is designated “Residential” as indicated on the Urban Land Use Map One within the Brandon & Area Planning District Development Plan By-law #78/01/04. The rezoning of the property from RLD to RMD would conform to the Development Plan.

Surrounding Neighbourhood

The surrounding neighbourhood is predominately zoned RLD consisting of single family dwellings. Directly adjacent to 903 Stickney Avenue are two CG Commercial General zoned properties to the east and southeast, RLD zoned properties consisting of single family dwellings to the northeast and to the west across the rear lane, and there is also a four-plex across the street to the south. McKenzie Seeds is located directly north of the property along with a large green space.

Parking

Under the zoning by-law, the proposal is required to have 1.5 parking spaces for every dwelling unit in a multi-family dwelling. The proposed development will consist of 12 condo units which will require 18 parking spaces in total. Each unit will provide two parking spaces (one in the garage and one in the driveway); but since under the zoning by-law you can't have a required parking space located in the front yard we can't include the six driveway parking spaces off 9th Street North in the parking calculation. If each condo unit was subdivided onto individual lots then only one parking space per dwelling unit would be required; however due to servicing issues subdivision is not possible. The proposed development as presented will require a parking reduction of 3 parking spaces. This will be dealt with through the Variation application process. Guest or overflow parking will be available along Stickney Avenue and along one side of 9th Street.

Flood Fringe Area

The entire property at 903 Stickney Avenue is located within the *Floodway Fringe* as shown on the Urban Flood Risk Area Map 9 within the Brandon & Area Planning District Development Plan. Section 15.2.2 of the Development Plan states that within the floodway fringe area development may take place provided that appropriate measures are taken to reduce the risk of flooding. The Development Plan also indicates in section 15.2.4 that the owner must provide site development plans, including lot grading and drainage plans showing final grade elevations, which will be submitted for review and approval by the General Manager of Development Services. The owner will also be required to sign a save harmless agreement with the City of Brandon.

COMMENTS:

The Engineering Department has indicated that the owner/successor is required to execute a development agreement with the City of Brandon. The owner will be required to develop the rear lanes to the north and west of the property and construct a side walk the total length of the property along the west side of 9th Street North. The owner must execute a save harmless agreement with the City of Brandon and also pay a one time financial contribution for parks & recreation/public reserve purposes.

The Brandon School Division has indicated that financial consideration in lieu of land dedication in the amount of \$2,430 is required to be paid. The Planning Department will require a written confirmation from the Brandon School Division indicating that this payment has been made. This will be included in the development agreement.

The Senior Building Inspector has indicated that permits and approvals will be required for all buildings, but at this time there isn't sufficient information to check compliance with the Manitoba Building Code.

Local Government, Community Planning Services Branch has no concerns with the application.

MTS and Westman Communication Group has no concerns with the application. Any removal or relocation of existing facilities will be at the expense of the owner.

The Planning Department had initial concerns with this development being within the floodway fringe area but these concerns have been satisfied with the developer's drawings showing that there will be no habitable rooms below the 100 yr flood line of 361 metres above sea level. The first level will only consist of the garage. The owner will also be required to sign a save harmless agreement with the City of Brandon. Drainage issues will be addressed with both rear lanes to be hardsurfaced so that water can be handled and directed away from pooling areas currently in the lane.

The main issue though, is the total amount of dwelling units on the property. Currently in the RLD zone nine (9) dwelling units could be developed on the property. The applicant has a specific building design in mind and would like to increase the amount of units from nine (9) to twelve (12).

The buildings will be close together but the surrounding neighbourhood is currently made up of many homes on 25 foot lots which are only within a couple feet from each other. The property is also not directly in the middle of a residential neighbourhood, but adjacent to two commercial developments, the 8th Street bridge across the street and McKenzie Seeds Industrial building directly to the north. Along with the infrastructure issues of providing sewer down 9th Street and the developer having to provide a private pumping station for sewer on the property; this may be the only type of development that can happen other than an apartment building. Any subdivision of the property with lots fronting on 9th Street must have their own sewer and water but this is not possible due to the grade of 9th Street.

As required under the provisions of the Planning Act, notice of the Public Hearing held at the Planning Commission on May 19th, 2010 regarding this rezoning application was sent to owners of property within 100 metres of the subject property and advertised in the Brandon Sun on May 2nd, 2010 and May 9th, 2010. There was one property owner that spoke in opposition at the public hearing towards the development which included parking & drainage concerns.

Due to the objection filed at the public hearing, council must follow clause 76(3) of the Planning Act which states: *If the board or council gives the by-law second reading it must, as soon as practicable after second reading, send a notice to every person who objected to the by-law, stating that (a) the person may file a second objection to the by-law with the board or council by the deadline specified in the notice, which must be at least 14 days after the date of the notice; and (b) if a second objection is not filed before the deadline, the by-law may be given third reading without further notice.*

The Planning Commission held a public hearing on May 19th, 2010 and in accordance with Section 36 (2) of the Planning Act, please find attached:

- a) The minutes of the hearing
- b) The record of all presentations made at the hearing;
- c) The Planning Commission recommendations to Council.

RECOMMENDATION:

That By-law No. 6978 to rezone 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO) from RLD Residential Low Density Multiple Family to RMD Residential Moderate Density Multiple Family be read a second time;

and further, that third reading of the by-law be held in abeyance pending the objectors to the by-law being given notice pursuant to Section 76(3)(a) of The Planning Act of their right to file a further objection and pending the owner entering into the development agreement attached to the report of the General Manager of Development Services dated June 9, 2010 pursuant to Section 150 of said Act.

THIS AGREEMENT made in duplicate this _____ day of _____, A.D. 2010.

BETWEEN:

5653143 MANITOBA LTD.,
(hereinafter called the "Developer"),
OF THE FIRST PART,

- and -

THE CITY OF BRANDON,
(hereinafter called the "City"),
OF THE SECOND PART.

WHEREAS the Developer is the owner or is entitled to be the owner of property commonly known as 903 Stickney Avenue and legally described as:

**Lots 1 to 4, both inclusive, Block 108, Plan 2 BLTO
In N ½ 23-10-19 WPM**

and illustrated on the attached Schedule "A" (hereinafter called the "Lands");

AND WHEREAS the City of Brandon Planning Commission on May 5th, 2010 conducted a Public Hearing on the application for rezoning and submitted a report and recommendation to Brandon City Council;

AND WHEREAS the Council of the City of Brandon will consider the report and recommendation of the Planning Commission when considering the application for rezoning with a resolution of the Council of the City of Brandon required for a decision on the application;

NOW THEREFORE this Agreement witnesseth that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The preamble hereof and the attached Schedules shall form an integral part of this Agreement.
2. DEFINITIONS

Where the context so implies the following definitions shall apply in the singular and the plural:

- (a) "City Engineer" shall mean the Senior Engineer employed by the City of Brandon or any person delegated to act on his behalf;
- (b) "Consulting Engineer" shall mean the firm or person employed by the Developer for the designs, drawings, specifications and supervision of the works necessary to be carried out by the Developer and the City of Brandon;
- (c) "Municipal Above Ground Improvements" shall include all improvements installed by the Developer in or on existing or proposed municipal streets, lanes, easements, land or rights of way (hereinafter called "Municipal Lands") in accordance with approved plans and specifications said improvements in or on Municipal Lands to become the responsibility of the City, or others to own and maintain after acceptance by the City and shall include but not be limited to the following:

Initials

1. construction and installation of all roads, walkways, sidewalks, retention ponds, etc. as laid out in the approved construction drawings;
 2. all street lighting of roadways and lane ways;
 3. all signing including street names, and traffic control signs as directed by the City Engineer; and
 4. landscaping of all publicly owned land including the planting of trees and sodding of boulevards and ditches, parkland, and public reserve land; and
- (d) "Municipal Underground Improvements" shall include all improvements installed by the Developer in or on existing or proposed Municipal Lands in accordance with approved plans and specifications said improvements in or on Municipal Lands to become the responsibility of the City, or others to own and maintain after acceptance by the City and shall include and not be limited to a storm water drainage system with detention pond, potable water system, waste water system, below ground electrical power, telephone and natural gas distribution systems, together with all laterals, branches, manholes, service connections, fire hydrants, valves, pedestals, culverts and usual engineering appurtenances necessary to fully service the Lands, and all excavation of frost susceptible material, back fill, sub-base construction to roads and grading of right-of-ways to levels and grades acceptable to the City Engineer.

3. The Developer shall:

- a) engage a Consulting Engineer, duly licensed to practice by the Association of Professional Engineers & Geoscientists of the Province of Manitoba, for the purpose of design and project management for all aspects of construction of the Lands;
- b) provide a lot grading and drainage plan for the Lands, which plan shall be acceptable to the City Engineer prior to issuance of a building permit, and the Developer covenants and agrees that the Lands shall be graded to, conform to, and be maintained in accordance with the said lot grading and drainage plan;
- c) provide a landscape plan of the Lands, which plan shall be acceptable to the City Engineer prior to issuance of a building permit, and the Developer covenants and agrees the Lands shall be landscaped in accordance with the plan immediately upon the completion of the development;
- d) grade and level all boulevards and ditches within the subdivision including a minimum of six (6) inches of top soil and shall sod all of the said boulevards and ditches and the Developer shall plant trees of no less than five (5) years maturity on the said boulevards which trees shall be spaced and shall be of such species as shall be prescribed by the Director of Community Services but such spacing shall not be more than fifty (50) feet apart;
- e) provide all plans of ingress and egress to the Lands, which plans shall be acceptable to the City Engineer;
- f) provide all plans of Municipal Above Ground Improvements and Municipal Underground Improvements, which plans shall be acceptable to the City Engineer prior to issuance of a building permit; and

Initials

- g) obtain from the City Engineer a certificate to state that the construction of the Municipal Above Ground Improvements and Municipal Underground Improvements as required by this Agreement for the Lands has been satisfactorily completed, and this certificate must accompany application made to the Brandon & Area Planning District for a building permit.
- 4. The Developer acknowledges and agrees that once the development has commenced, the construction and servicing of the Lands must be finalized within two (2) years. Failure to do so may in the determination of the City render this Agreement null and void, and be termed a default to this Agreement. Commencement of development shall have been deemed to start on the date shown on the Approved for Construction signature block placed by the City Engineer on the Developer's Construction Plans for Municipal Above Ground Improvements and Municipal Underground Improvements. The Developer may however, by notice in writing, request an extension of time within to complete the construction and servicing. No extension of time shall be allowed unless such written request is made by the Developer and approved by the City.
- 5. From and effective on the date of written acceptance from the City Engineer for all Municipal Above Ground Improvements and Municipal Underground Improvements required pursuant to this Agreement, the Developer agrees to and shall provide a full and comprehensive warranty for all such improvements, concerning any and all defects and failures, for a period of two (2) years. The Developer agrees to be responsible for all engineering and maintenance costs during such warranty period. Failure on the part of the Developer to comply with the terms with respect to this warranty shall result in default of the agreement and shall give rise to the City exercising its rights and remedies. In addition though, and while the warranty is to be for a period of two (2) years, the Developer agrees and acknowledges that the warranty and obligations thereunder to the City shall not be released or determined satisfied until such time as a final inspection is arranged at or upon the end of the two (2) year warranty period. The onus to arrange such final inspection shall be on the Developer. The Developer shall not be released of any and all obligations pursuant to this Agreement or the warranty until such time as any defects or failures, if any, which are determined upon final inspection for completion of the warranty period, are remedied to the complete satisfaction of the City. As a result, the Developer understands and acknowledges that the warranty period can extend farther than a period of two (2) years in these circumstances, and until same is released by the City.
- 6. The Developer acknowledges and agrees:
 - a) that this Agreement be specific to the attached **Schedule "B"** and any variation from this attached concept shall require the developer to obtain approval from Brandon City Council who may request addition public input and who may also require amendment to this agreement;
 - b) to design, construct and hard surface the laneway bordering the entire length of the west and north sides of the said Lands. The laneway shall be constructed to the specifications laid out in the latest edition of the Brandon Construction Specifications and to the satisfaction of the City Engineer;
 - c) to contribute, on a one time basis, 10% of the said lands being subdivided pursuant to section 135(6)(b) and section 136(1) of The Planning Act. This contribution will be a combination of cash and land totaling 10% with a raw land value based on \$44,460.00 per

Initials

hectare or \$18,000.00 per acre as established by the "Property Division of the City's Development Services Department". For this development the contribution is as follows:

a) 0.223 hectares x 10% = b) 0.022 hectares
 Total area of land being developed Total land required for public reserve
 (see attached Schedule)

b) 0.022 hectares - c) 0 hectares
 Total land required for public reserve Land contributed to public reserve
 (see attached Schedule)

= d) 0.022 hectares
 Land owing to equal 10% contribution

d) 0.022 hectares x \$44,460.00
 Land owing to equal 10% contribution Monetary value per hectare

= **\$ 978.12**
 Monetary contribution and due upon signing of this Development Agreement.

- d) to enter into a Save Harmless Agreement with the City of Brandon as the said Lands are located within the floodway fringe area south of the Assiniboine Dyke system;
 - e) to design and construct a 1.5m concrete sidewalk for the entire length of said Lands bordering 9th Street, including ramps to the approval and satisfaction of the City Engineer; and
 - f) provide written confirmation to the City of Brandon Planning Department from the Brandon School Division that payment was received in the amount of \$2,430.00 as a cash-in-lieu contribution for school lands upon applying for a development/building permit for any site construction;
7. The Developer agrees to furnish security upon execution of this Agreement for any and all of its obligations pursuant to this Development Agreement, by means of an Irrevocable Letter of Credit for the amount of thirty thousand dollars (\$30,000.00). The issuer of the Irrevocable Letter of Credit, and the form and content thereof, shall be subject to the approval of the City. This will be a one time application and will cover the Developer for this Development Agreement entered into. City approval and building permits for the Lands will not be issued until the Irrevocable Letter of Credit is in full force and effect, the duration of which must operate continuously throughout the currency of this Development Agreement with the City, the warranty period, and until the City is agreeable to the release of this security, should there be deficiencies to remedy as a result of final inspections for purposes of the warranty. Upon final inspection and written acceptance by the City of all improvements for purposes of completing the warranty period, and once and only once any and all outstanding deficiencies as a result of inspections for the completion of the warranty period are met to the satisfaction of the City will the Irrevocable Letter of Credit be released back to the Developer and cancelled. Failure to comply with the terms of this Agreement shall result, at the discretion of the City, in action against the security as presented by the Developers.
8. The City and the Developer agree that there will be no waiver of rights on the part of the City should it not immediately enforce its rights and remedies pursuant to this Agreement.

Initials

9. The Developer shall be required to reference survey monuments prior to development, and confirm that these monuments have been replaced (if disturbed) in compliance with *The Surveys Act* when construction is completed.
10. The Developer shall obtain all necessary permits relating to the development on the Lands from the City prior to issuance of a building permit by the Brandon & Area Planning District.
11. The Developer agrees to indemnify and save harmless the City, its officers, employees and agents from and against all claims, proceedings, demands, damages, actions, judgements of any kind, including without limiting the generality of the foregoing, all damages for personal injury or death arising out of or attributable to all actions or conduct of the Developer, its employees, agents and contractors upon the development Lands including but not limited to any work or act committed or omitted by the Developer in the performance of this Agreement.
12. The City shall be entitled to register a Caveat against all of the Lands affected by this Agreement reflecting the provisions of this Agreement.
13. This Agreement shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, provided however that no assignment shall be made by the Developer unless and until such assignment has been approved in writing by the City, such approval should not or will not be unreasonably withheld.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals and/or caused their corporate seals to be affixed duly attested to by the hands of their proper signing officers in that behalf, the day and year first above written.

5653143 MANITOBA LTD.

Per:

“Authorized Signatory
I am authorized to bind the corporation.”

“Authorized Signatory
I am authorized to bind the corporation.”

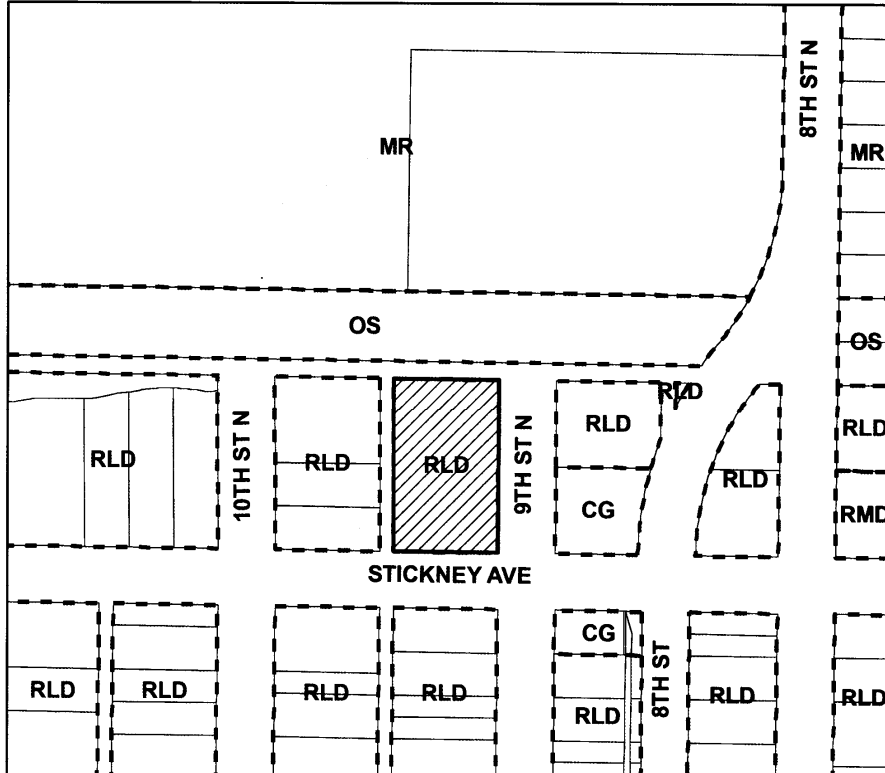
CITY OF BRANDON

Per:

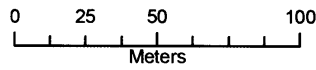
**Ted Snure, P. Eng., CITY ENGINEER
General Manager of Development
Services**

Schedule "A"


Application to Amend Zoning By-Law



Schedule "A" By-Law No. 6978
 Amending District Map No. 39 of By-Law No. 6642
 Zoning By-Law Amendment Application No. Z-03-10-B
 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO)



LEGEND

-  Proposed lots to be rezoned from RLD Residential Low Density Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone

RLD - Residential Low Density Multiple Family Zone
 RMD - Residential Moderate Density Multiple Family Zone
 CG - Commercial General
 MR - Industrial Restricted
 OS - Open Space

City of Brandon
 Department of
 Planning & Building

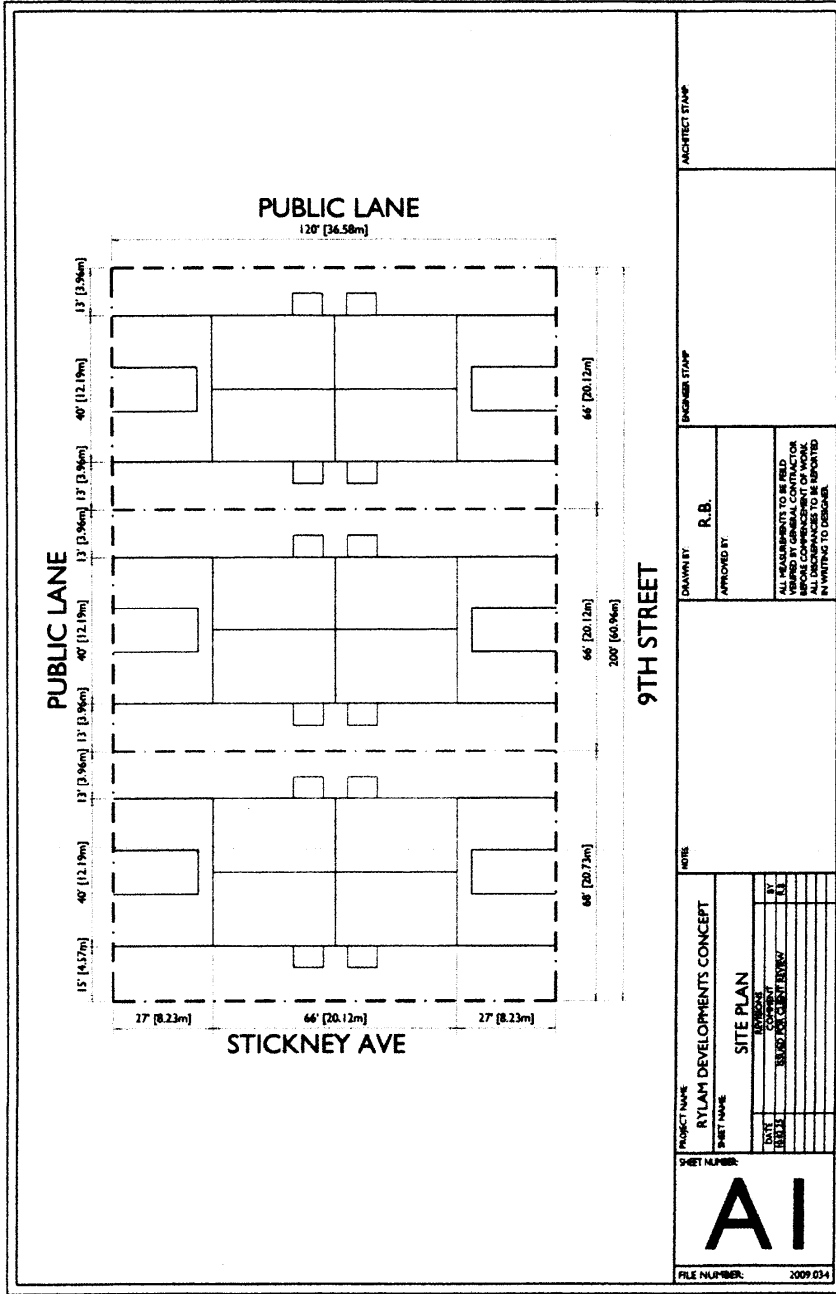


City of Brandon

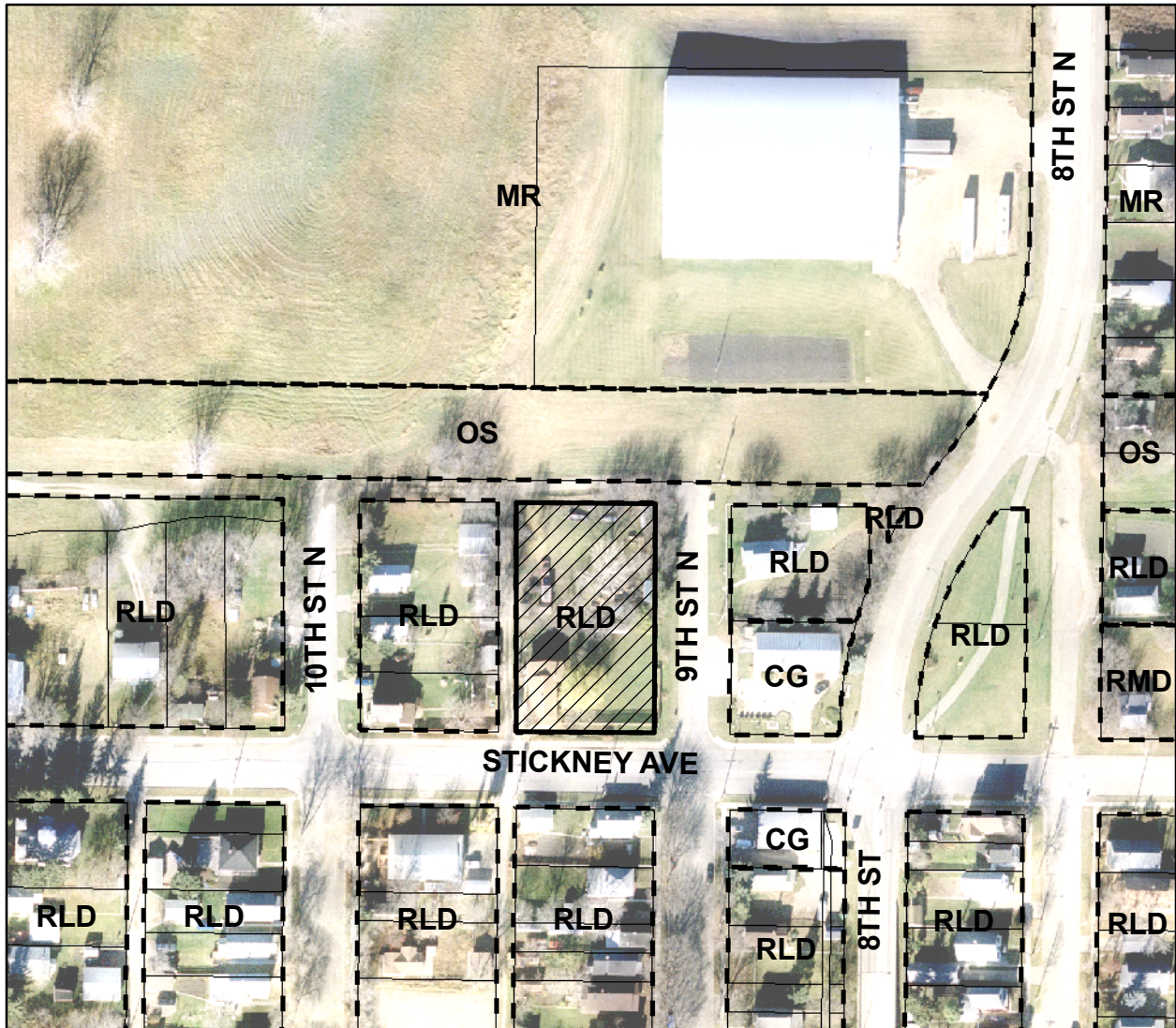
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Revised:

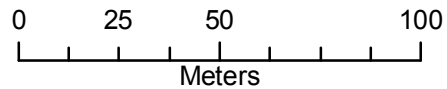
Schedule "B"



Application to Amend Zoning By-Law



Schedule "A" By-Law No. 6978
 Amending District Map No. 39 of By-Law No. 6642
 Zoning By-Law Amendment Application No. Z-03-10-B
 903 Stickney Avenue (Lots 1/4, Block 108, Plan 2 BLTO)



LEGEND

- Proposed lots to be rezoned from RLD Residential Low Density
- Multiple Family Zone to RMD Residential Moderate Density Multiple Family Zone

RLD - Residential Low Density Multiple Family Zone
 RMD - Residential Moderate Density Multiple Family Zone
 CG - Commercial General
 MR - Industrial Restricted
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City of Brandon
 Department of
 Planning & Building



City of Brandon

Map creation date: 03/15/10

Revised: