

<b>TITLE:</b> <p style="text-align: center;"><b>CONDITIONAL USE  3000 RICHMOND AVENUE EAST  OWNER &amp; APPLICANT: DWAYNE FLUKER</b></p>										
<b>PRESENTER:</b> Waleed Albakry, MCP	<b>FILE NO:</b> C-03-15-B									
<b>DEPARTMENT:</b> Planning & Building Safety	<b>MEETING DATE:</b> April 1, 2015									
<b>CLEARANCES:</b> Principal Planner	<b>ATTACHMENTS:</b> A. Application related documents (Attachment A) B. Map, air photo & drawings (Attachment B) C. Development agreement (Attachment C)									
<b>APPROVALS:</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;"><i>Original signed by W. Albakry</i></td> <td style="width: 25%; text-align: center;">March 19, 2015</td> <td style="width: 50%;"><i>Original signed by R. Nickel</i></td> <td style="width: 25%; text-align: center;">March 20, 2015</td> </tr> <tr> <td style="text-align: center;"><b>Community Planner</b></td> <td style="text-align: center;"><b>Date</b></td> <td style="text-align: center;"><b>Principal Planner</b></td> <td style="text-align: center;"><b>Date</b></td> </tr> </table>			<i>Original signed by W. Albakry</i>	March 19, 2015	<i>Original signed by R. Nickel</i>	March 20, 2015	<b>Community Planner</b>	<b>Date</b>	<b>Principal Planner</b>	<b>Date</b>
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**REQUEST:**

Dwayne Fluker, applicant and owner, is applying for a conditional use to allow for an automotive service station and a storage facility for a property located at 3000 Richmond Avenue East in the MG General Industrial Zone. Approval of this application will allow for the installation of three (3) above-ground fuel tanks for the heavy equipment service shop on site.

**BACKGROUND:**

***Development Context***

Tri-Wave Construction, a construction company, is currently constructing a new building for their company on the subject site. The subject site is a former sand or gravel pit, with the topography of the site generally lower on the east side. The surface of the site is uneven, with a few trees and shrubs and a wetland in the northeast corner. Hydro lines run through the west side of the subject site. The site is surrounded by vacant land to the north and east, including a wetland, a Canadian National Railway (CNR) right-of-way, a sand or gravel pit to the south, and a storage yard to the southwest. The site can be accessed from both Richmond Avenue East and 33<sup>rd</sup> Street East.

***History***

The subject site was rezoned from DR Development Reserve to MG Industrial General in 2013. The rezoning was accompanied by a subdivision application to create two parcels. The rezoning and the subdivision allowed for the development of a building and yard for Tri-Wave Construction to the north of the Canadian National Railway (CNR) right-of-way, the gravel pit to the south of the right-of-way was proposed to remain undeveloped. A development permit was issued for the building on the subject site in July 2014 and the building is still under construction.

**ANALYSIS:**

The activities of Tri-Wave Construction involve operating a heavy equipment shop and an on-site fuel storage is required as part of the operation. The applicant is proposing to install three on-site above-ground fuel tanks. The proposed use is defined in the Zoning By-law as a ‘storage facility’ for fuel, which requires a conditional use approval prior to the issuance of any building permits. This requirement allows each

application to be reviewed on a case-by-case basis, and a development agreement will be required for the site to address future remediation, regardless of a change of ownership.

***Consistency with Part 7, Section 106(1)(b) of The Planning Act and Demonstration that the Use:***

***1. Will be compatible with the general nature of the surrounding area;***

The site is surrounded by vacant land to the north and east, there are some industrial uses within close proximity such as the storage facility to the south west, Koch Fertilizer Plant to the northwest, and Excel Design & Construction to the east. The proposed three above-ground fuel tanks are compatible with the existing industrial uses.

***2. Will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area; and***

The proposed use will likely generate noise, vibration, dust, lighting, odour or traffic at a level that is commensurate with other existing industrial uses in the surrounding area. A development agreement will be required to deal with the cleanup of the site, should the proposed above-ground fuel tanks become decommissioned in the future. The proposed setbacks of the above-ground fuel tanks exceed the minimum setback requirements as set forth in Table 13 of the Zoning By-law: Commercial Bulk and Siting Requirements. Given the location of the subject site surrounded by heavy industrial uses, the proposed conditional use will not likely generate negatively impacts on the existing surrounding uses.

***3. Is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law.***

The subject site is designated “Industrial” in Map 1: Urban Land Use of the Development Plan 2013, which supports the automotive service stations and storage facilities. The proposed site design is consistent with the setback requirements for above-ground tanks as set forth in the Zoning By-law.

***Commenting Agencies***

All comments are summarized below.

***City of Brandon***

- The existing development agreement will have to be amended to reflect the new schedules and to include the required Safe Harmless Agreement to deal with future site remediation.

***Manitoba Conservation and Water Stewardship***

- The above-ground onsite fuel storage facility must be developed and constructed in compliance with the Storage and Handling of Petroleum Products and Allied Products Regulation MR 188/2001.

***Notification***

As required under section 169 of The Planning Act, notice of this Public Hearing regarding this application was sent to owners of property within 100 metres (328 feet) of the subject property and notice posters were posted on the property.

***Public Outreach***

In accordance with section (2) (IV) of Zoning By-law Appendix D, Public Hearing requirements, additional public outreach was not required because the on-site above-ground fuel tanks will only be used by Tri-Wave Construction crews and hence installing the fuel tanks will not result in the increase of intensity on the subject site. As of the writing of this report, the Planning & Building Safety Department has not received written comments in favour of or in opposition to this application.

**RECOMMENDATION:**

That the Public Hearing for Conditional Use Application C-03-15-B at 3000 Richmond Avenue East be concluded.

That Conditional Use Application C-03-15-B to allow for an automotive service station and a storage facility in the MG General Industrial Zone be approved at 3000 Richmond Avenue East (Parcels A & B, Plan 55244 BLTO) in accordance with the intent of the application “Attachment A-1”, the attached letter of intent “Attachment A-2” and the attached site plan “Attachment B-2 & B-3”, subject to:

1. The owner or successor, prior to the issuance of a building permit, signing the amended development agreement with the City of Brandon attached to the report of the Community Planner dated April 1, 2015.