


<b>TITLE:</b>  <b>BY-LAW NO. 6971 TO REZONE  PROPERTY LOCATED AT 1530-9<sup>TH</sup> STREET  (LOT 36/39, BLOCK 2, PLAN 289 BLTO)  FROM RSF RESIDENTIAL SINGLE FAMILY ZONE  TO RLD RESIDENTIAL LOW DENSITY MULTIPLE FAMILY ZONE  OWNER: DORNN CONSTRUCTION LTD.  APPLICANT: BRIAN DORNN</b>						
<b>PRESENTER:</b> Angie Clark	<b>AGENDA NO:</b>					
<b>DEPARTMENT:</b> City of Brandon Planning Department	<b>DATE:</b> March 22, 2010					
<b>CLEARANCES:</b> Senior Planner <i>Original Signed By</i> <i>A Veilleux</i>	<b>ATTACHMENTS:</b> 1. Report (# of pages = 2) 2. Related documents (# of pages = 3) 3. Maps and drawings (# of pages= 5) 4. Planning Commission minutes, record of presentations, resolution (# of pages = 6 ) 5. By-law 6971 (# of pages = 1) 6. Development Agreement (# pages = 8)					
<b>APPROVALS:</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; text-align: center; vertical-align: bottom;"> <i>Original Signed By</i>  <u>T. E. Snure</u>  General Manager of  of Development Services </td> <td style="width: 10%; text-align: center; vertical-align: bottom;"> <u>March 11, 2010</u>  Date </td> <td style="width: 50%; text-align: center; vertical-align: bottom;"> <i>Original Signed By</i>  <u>B. MacRae</u>  City Manager </td> <td style="width: 10%; text-align: center; vertical-align: bottom;"> <u>March 16, 2010</u>  Date </td> </tr> </table>			<i>Original Signed By</i> <u>T. E. Snure</u> General Manager of of Development Services	<u>March 11, 2010</u> Date	<i>Original Signed By</i> <u>B. MacRae</u> City Manager	<u>March 16, 2010</u> Date
<i>Original Signed By</i> <u>T. E. Snure</u> General Manager of of Development Services	<u>March 11, 2010</u> Date	<i>Original Signed By</i> <u>B. MacRae</u> City Manager	<u>March 16, 2010</u> Date			

**DISCUSSION:**

Brian Dornn, the applicant on behalf of the owner, Dornn Construction Ltd., is applying to rezone 1530 – 9<sup>th</sup> Street (Lots 36/39, Block 2, Plan 289 BLTO) from RSF Residential Single Family Zone to RLD Residential Low Density Multiple Family Zone to accommodate future four dwelling unit residential development. This low density multiple family development will provide a buffer between the commercial property to the north and single family residential property to the south and appears to be compatible with the surrounding neighbourhood.

The property is designated “Residential” under the Brandon & Area Planning District Development Plan By-law 78/01/04, as amended. This zoning by-law amendment would conform to the Development Plan.

As required under the provisions of the Planning Act, notice of the Public Hearing regarding this rezoning application was sent to owners of property within 100 metres of the subject property and advertised in the Brandon Sun Community News Edition on Saturday February 21 and Saturday February 28, 2010.

The Planning Commission held a public hearing on Wednesday March 3, 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.

**RECOMMENDATIONS:**

That By-law No. 6971 to rezone 1530-9<sup>th</sup> Street (Lots 36/39, Block 2, Plan 289 BLTO) from RSF Residential Single Family Zone to RLD Residential Low Density Multiple Family Zone be read a second time;

and further, that third reading of the by-law be held in abeyance pending the execution of a development agreement between the City of Brandon and the owner/successor of the property pursuant to Section 150 of The Planning Act.



**CITY OF BRANDON  
PLANNING & BUILDING DEPARTMENT**

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

**APPLICATION FOR AMENDMENT TO CITY OF BRANDON ZONING BY-LAW 6642**

Name of Property Owner: DORN CONSTRUCTION Ltd.  
 Name of Applicant: BRIAN DORN  
 Civic Address of Property: 1530 9th St.  
 Legal Description of Property: Lots 36-39 BLOCK 2, PLAN 289 BLTD

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 unless all of the above information has been submitted\*\***

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

**Proposed Changes:** To rezone from RRF to RLD

**Reasons in support:** SEE LETTER OF INTENT

*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: JAN 6/10  
 Address: SITE 50 PO BOX 39 RRS R7A 5Y5 E-Mail: BRIAN.DORN@GMAIL.COM  
 Home Phone: 725-4586 Cell Phone: 724 0584 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 - 9<sup>th</sup> Street, Brandon, Manitoba, R7A 4A9, Telephone (204) 729-2116.

**FOR PLANNING OFFICE USE ONLY:**  
 Community Planner: [Signature] Date Received: Jan 5/10  
 Planning File No.: Z-01-10-8 Receipt No.: 45296 Amount Received: \$ 2,500.00  
 In Brandon - Re-Zoning - Application

Brian Dornn  
Dornn Construction Ltd.  
Site 50, Box 39, RR5  
Brandon, MB  
R7A 5Y5

January 5, 2010

City of Brandon  
Planning & Building Department  
421-9<sup>th</sup> Street  
Brandon, MB  
R7A 4A9

Dear ,

This letter of intent is in regard to the lot located at 1530-9<sup>th</sup> Street, Lots 36 to 39, Block 2, Plan 289 BLTO. The reason for this letter is to request a change of zoning from RSF to RLD to accommodate a single storey, 4 unit building.

On this property there is commercial zoning to the north, RSF zoning to the south, and a mixture of RSF and RMD to the front and back of it. It is a 100'x120' lot with a derelict house on it that is beyond repair. We would like to propose putting a single storey 4 unit building in its place. We feel that this property could provide a buffer from the commercial strip mall to the residential street feel. There are a number of multilevel apartments directly behind and to the north of this location. We do not want to propose a tall multi storey building on this lot as we feel a single storey would do a better job of blending in to the single family homes to the south.

The property will be landscaped appropriately with shrubs and trees to fit aesthetically into the neighborhood. We believe that this building would be a valuable asset to the community as it would maintain the standard of housing that is expected for this area. This is a very nice street with nearby shopping and amenities. We want to put a nice building here that would blend into the area, and not decrease property values for the people already living there.

Thank you  
Brian Dornn



**CITY OF BRANDON**  
**PLANNING & BUILDING DEPARTMENT**

421 – 9<sup>th</sup> 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. 6971

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**Proposal:** To rezone 1530 – 9<sup>th</sup> Street (Lots 36/39, Block 2, Plan 289 BLTO) from RSF Residential Single Family Zone to RLD Residential Low Density Multiple Family Zone

**Purpose:** To accommodate future residential development

**Property:** 1530 – 9<sup>th</sup> Street (Lots 36/39, Block 2, Plan 289 BLTO)

**Applicant:** Brian Dornn

**Owner:** Dornn Construction Ltd.

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**Date of Hearing:** **March 3, 2010**  
**Time of Hearing:** **7:30PM**  
**Location:** **Council Chambers, City Hall, 410-9th Street, Brandon**

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**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?**

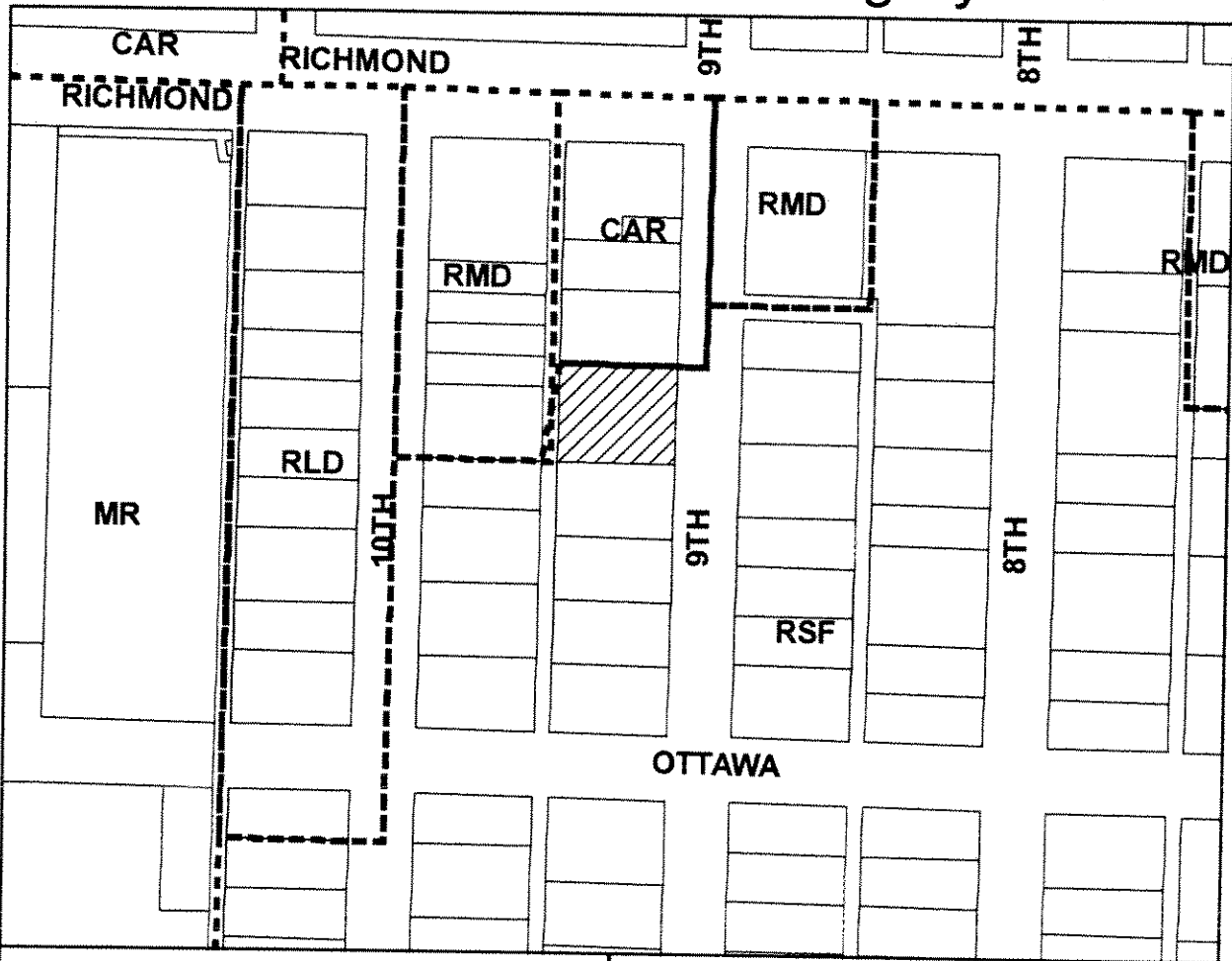
You may submit written comments to the Development Services Division at least one week before the date of the hearing. (Phone: 729-2214; Fax: 729-3235). Please be advised that all correspondence received in conjunction with, or as a result of, an application that requires council approval becomes public 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 No: Z-01-10-B

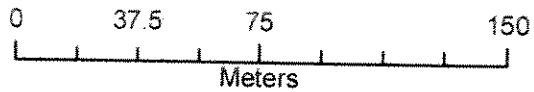
In accordance with Part II, Division I (Sections 163 through 171) of The Planning Act (Chapter P80).

Please visit the City of Brandon web-site at [www.brandon.ca](http://www.brandon.ca)


# Application to Amend Zoning By-Law



Schedule "A" By-Law No. XXXX  
 Amending District Map No. 57 of By-Law No. 6642  
 Zoning By-Law Amendment Application No. Z-01-10-B  
 1530 - 9th Street (Lots 36/39, Block 2, Plan 289 BLTO)



## LEGEND

-  Proposed lots to be rezoned from RSF Residential Single Family Zone to RLD Residential Low Density Multiple Family Zone

RSF - Residential Single Family Zone  
 RLD - Residential Low Density Multiple Family Zone  
 RMD - Residential Medium Density Multiple Family Zone  
 CAR - Commercial Arterial Zone  
 MR - Industrial Restricted Zone

City of Brandon  
 Department of  
 Planning & Building



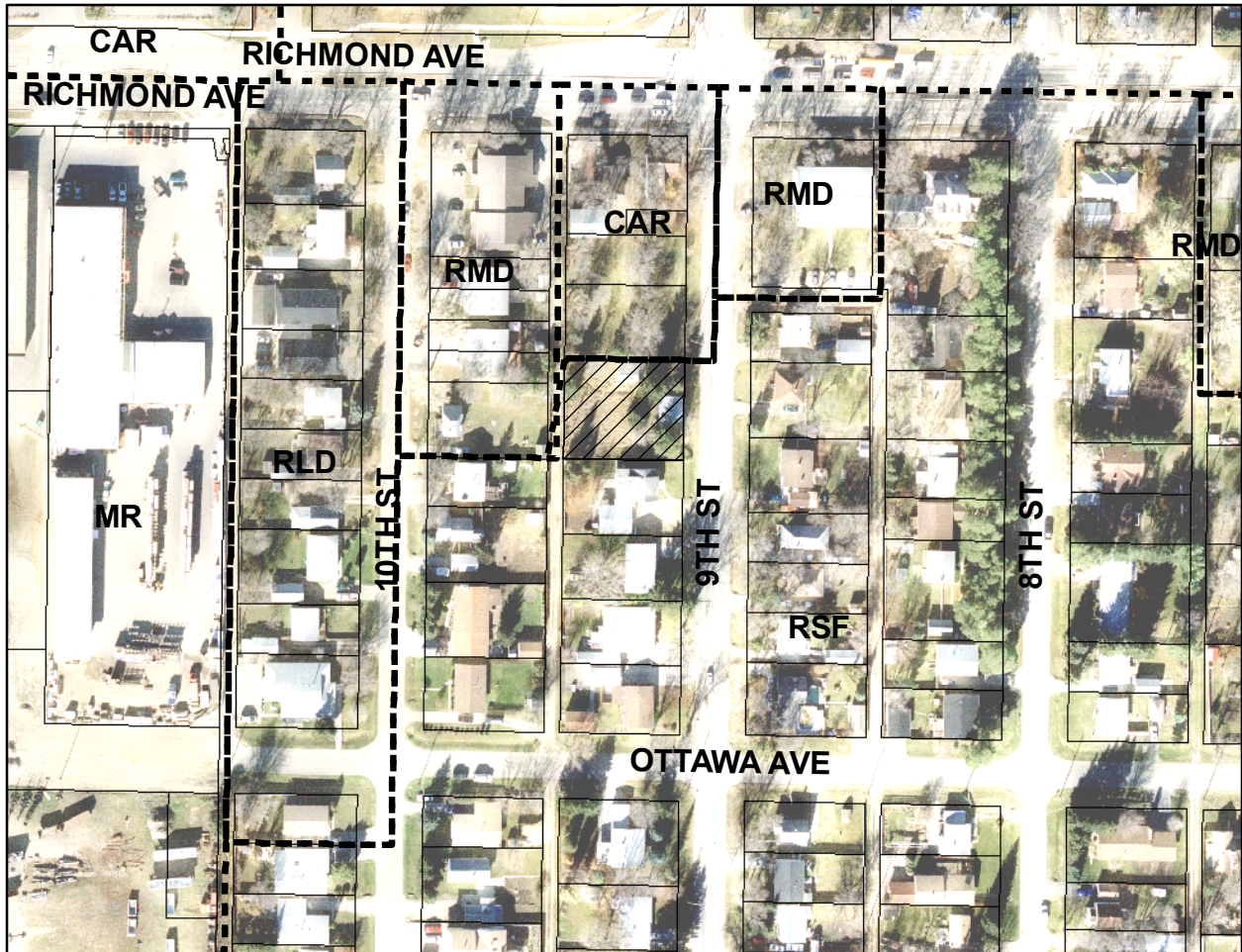
City of Brandon

Map creation date: 01/06/10

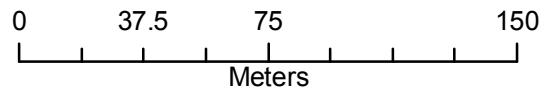
Revised:




# Application to Amend Zoning By-Law



Schedule "A" By-Law No. 6971  
 Amending District Map No. 57 of By-Law No. 6642  
 Zoning By-Law Amendment Application No. Z-01-10-B  
 1530 - 9th Street (Lots 36/39, Block 2, Plan 289 BLTO)



## LEGEND

-  Proposed lots to be rezoned from RSF Residential Single Family Zone to RLD Residential Low Density Multiple Family Zone

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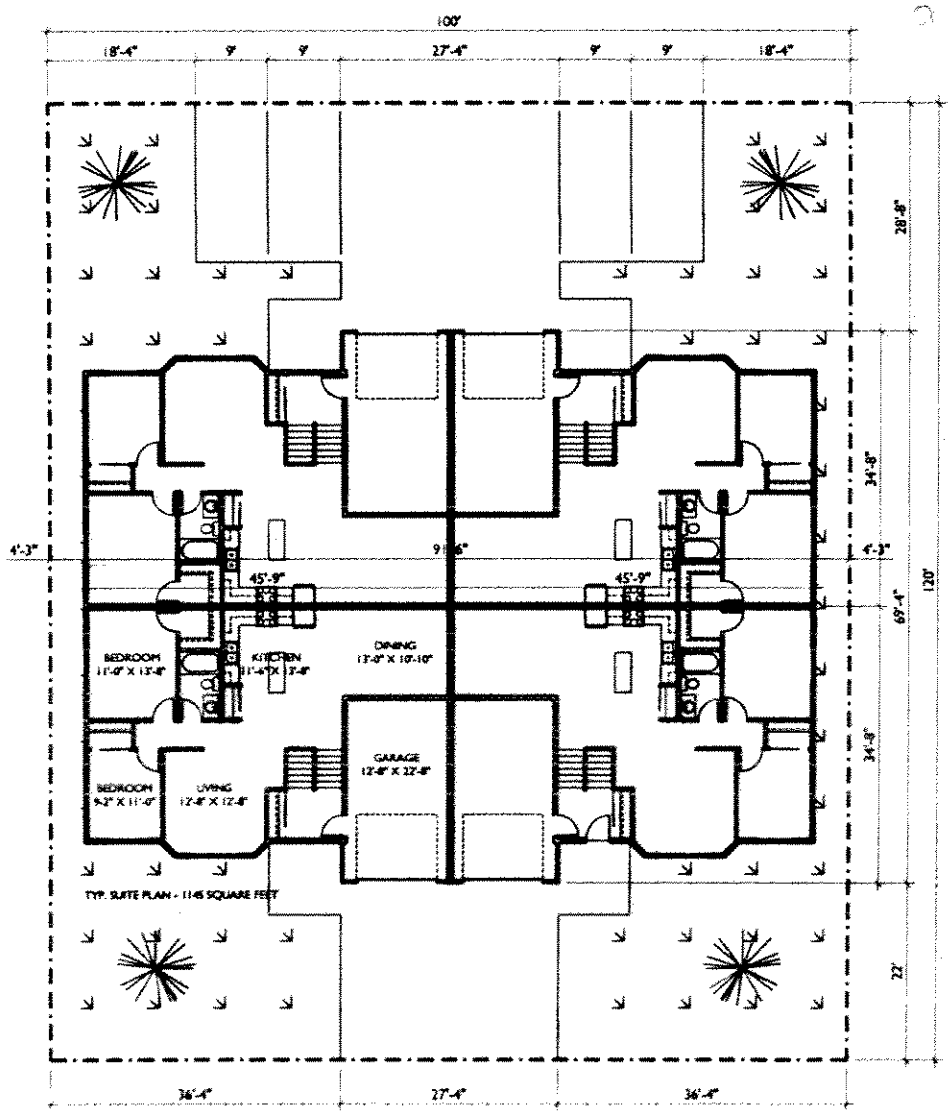
City of Brandon  
 Department of  
 Planning & Building



City of Brandon

Map creation date: 01/06/10

Revised:



TYP. SLATE PLAN - 1146 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: <b>DORNIN MULTIPLEX</b>	
SHEET NAME: <b>SITE PLAN</b>	
DATE	REVISIONS
10/01/07	COMMENT
	ISSUED FOR CLIENT REVIEW
	BY
	R.B.

SHEET NUMBER:  
**AI**

FILE NUMBER: 2010.010









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 3rd day of March A.D. 2010 of which it purports to be a copy.

Dated at the City of Brandon this 4<sup>th</sup> day of March, A.D. 2010.

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Tiffany Bartko, Secretary  
Planning Commission

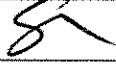



*"That the Planning Commission recommend that City Council give second reading to By-law No. 6971 to rezone 1530-9<sup>th</sup> Street (Lots 36/39, both inclusive, Block 2, Plan 289 BLTO) from RSF Residential Single Family Zone to RLD Residential Low Density Multiple Family Zone;*

*And further, that Brandon City Council hold third reading in abeyance pending the execution of a development agreement between the City of Brandon and the owner/successor pursuant to Section 150 of the Planning Act. "*

# PLANNING COMMISSION MEETING

WEDNESDAY, March 3, 2010

Rezoning Application  
1530 - 9<sup>th</sup> Street

NAME (Please print)	SIGNATURE	ADDRESS (Important that you fill this out)	TELEPHONE NO.
STEVE McMILLAN		421-9 <sup>th</sup> STREET	9-2112
BRIAN DORN		S.K 50 PO Box 39 RAS	4-6504
Terry Dorn		435-22nd St	728-7841
<p>I Certify that the above individuals gave representation At the City of Brandon Planning Commission Hearing for the <i>Rezoning Application of Brian Dorn</i> on <i>behalf of Dorn Construction for 1530 - 9<sup>th</sup> Avenue,</i> <i>Brandon.</i></p>			
<p> Tiffany Bartko, Secretary Planning Commission</p>			
<p>March 4 / 10 Date</p>			

**MINUTES OF THE PLANNING COMMISSION MEETING HELD ON MARCH 3, 2010 AT 7:30 P.M. IN THE COUNCIL CHAMBERS, CIVIC ADMINISTRATION BUILDING, BRANDON, MANITOBA**

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**1. ROLL CALL**

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

Administration: Angie Veilleux  
Steve McMillan  
Tiffany Bartko

**2. ADOPTION OF AGENDA**

2010-037 Anderson - Sumner  
That the Agenda for the meeting of the Planning Commission to be held on March 3, 2010 be adopted. **CARRIED.**

**3. CONFIRMATION OF MINUTES**

2010-038 Boivin - Pryke  
That the Minutes of the Regular meeting of the Planning Commission held on February 17, 2010 be taken as read and so adopted. **CARRIED.**

**4. PUBLIC HEARINGS**

**b. Rezoning Application**  
1530 – 9<sup>th</sup> Street (Lots 36/39, Block 2 Plan 289 BLTO)  
Applicant: Brian Dornn  
Owner: Dornn Construction

Steve McMillan introduced the application. Brian Dornn, the applicant on behalf of the owner, Dornn Construction Ltd., is applying to rezone 1530 – 9<sup>th</sup> Street (Lots 36/39, Block 2, Plan 289 BLTO) from RSF Residential Single Family Zone to RLD Residential Low Density Multiple Family Zone to accommodate the construction of a four dwelling unit multiple family dwelling.

The property at 1530-9<sup>th</sup> Street is bordered by "CAR" Commercial Arterial zoned property to the north that consists of a three unit commercial building; "RMD" Residential Moderate Density Multiple Family zoned property to the west across the rear lane that consists of apartment buildings and multiple family dwellings. Also "RMD" Residential Moderate Density property on the southeast corner of 9<sup>th</sup> and

Richmond for a 12 unit apartment building as well as "RSF" Residential Single Family zoned property to the south and east consisting of single family detached homes.

The property is designated "Residential" under the Brandon & Area Planning District Development Plan By-law 78/01/04, as amended. This zoning by-law amendment would conform to the Development Plan.

The dimensions of the property are 100 feet by 120 feet and under the City of Brandon Zoning By-law 6642, as amended; a four dwelling unit condominium would be a permitted use. The property is required to have a minimum of six parking spaces but the developer will be providing 8 parking spaces instead. Each unit will have its own single car attached garage along with 4 visitor parking spaces off the lane. The property will be using normal residential City of Brandon garbage pick up.

The Senior Building Inspector for the City of Brandon indicated that the normal permit process will be required for the construction of the building. Also that parking may be an issue after snow storms with people trying to park on 9<sup>th</sup> street until the lane is cleared however the snow is a responsibility of the owner of the building or if it was turned into a condominium; the condo corporation has that responsibility.

The City of Brandon Engineering Department indicated that the owner is required to execute a development agreement with the City of Brandon. The agreement will include, but not limited to, upgrading/paving of the rear lane and/or contribution to that affect, land drainage issues as well as contributions to the upgrading of 9<sup>th</sup> street.

MTS has no concerns with the zoning amendment but indicate that any removal or relocation of existing facilities will be at the expense of the developer and/or customer.

The Council of the Rural Municipality of Cornwallis indicated that no objections were brought forward at their meeting on February 16<sup>th</sup>, 2010.

Westman Communications had no concerns with the rezoning of the property.

Manitoba Hydro had no concerns with the rezoning of Z-01-10-B. Comments were: "We would also appreciate it if all applicants are providing with the following information: Any removal or relocation of Manitoba Hydro and/or Centra Gas Manitoba Inc. existing facilities as a result of the proposed rezoning will be at the expense of the developer and/or customer. As a result of this application, a survey or plan may be required. This will be the responsibility and at the expense of the land or applicant. Should you require any future electrical and/or gas service, it can be obtained from the local Manitoba Hydro district office."

CPS Regional Manager of the Local Government, Terry Pearce commented that the proposed Brandon Zoning Amendment No. 6971 was circulated to the Interdepartmental Planning Board of the province and no objections to the proposed amendment were received.

The City of Brandon Planning Department believes that the rezoning of this property to Residential Low Density Multiple Family for the development of four unit multiple family dwelling will provide four new dwelling units that the City of Brandon is in need of. With the new building being only a single storey it will fit in more with the current neighbourhood than a two storey building with exterior stairways to the second floor

units. It will also provide a sort of buffer between the commercial property to the north and the residential single family properties to the south.

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 February 21<sup>st</sup> and Sunday February 28<sup>th</sup>.

To date, the City of Brandon Planning Department has not received representation in favor of or in opposition to this application.

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.

In closing the Planning Department's recommendation is to approve the zoning amendment and give it second reading and further that the City of Brandon Council hold third reading in abeyance pending the execution of a Development Agreement between the City of Brandon and the owner/successor pursuant to Section 150 of the Planning Act.

Brian Dornn introduced himself by stating his name. He started by saying that he purchased this property and talked to Steve about the property and in which he was advised that the Planning Department is in favor of a single storey building versus a two storey building. He said that he is well in favor of that also. He said that they were looking at proposing a building that was a single storey building and to provide parking in the rear and parking in the front. He said that he sent out pictures of the building. He said that he was initially looking at building a bi-level but he was hoping to have some leeway with whether they do a bi-level or a slab style home and at this point they are still getting their costs in on what that will be. He said that they are trying to do something that blends in with the neighbourhood and looks good in the neighbourhood. He said they are looking to provide enough parking in the rear and that they are not going to park besides the building so that there is parking beside people's houses. He said that the only objection he has seen to address so far has been a snow removal objection. The commercial property off a Richmond has parking in the back lane so if it was a rental building or a condo unit and people couldn't get back there, it would be in his best interest to get it cleared out and it would be in the best interest of the commercial property to get it cleared out. He said that the business has been there for a year and they have always been able to get around it as well because they have parking in that back lane as well.

Mr. Boivin asked if the units were rentals units or condos to be sold?

Mr. Dornn answered that they were not sure at this point.

Mr. Boivin asked with regards to the extra parking spaces that they have there for the units on the opposite side; if the tenants would have rights to the parking spaces in the lane.

Mr. Dornn clarified that Mr. Boivin was speaking of the parking spots on his property?



Mr. Boivin said he was speaking of the four other parking spaces at the back.

Mr. Dornn said that yes, the two parking spots would obviously be to the two units to the rear and then perhaps they could make a commonality element there.

Mr. Terry DeRoo introduced himself and explained that his mother lives south of the property. He said that just wanted assurances that there will not be a parking lot adjacent to her property. He said that the way it is proposed the parking will be in the front and the back and he said that was totally agreeable however he wanted it stated on record that the parking will not be on the side.

Mr. McMillan answered that along with the zoning application, the applicant has site plans so anything that would be approved for the rezoning would be subject to the plan that was submitted and any changes to that would have to come back to the commission. As it is shown right now, there are four individual parking spots for each unit and then the four guest parking spots off the rear lane therefore there would be nothing coming up the side of the building. He also said that he believed that there was only a four or four and half foot setback anyways.

2010-033

Sumner - Anderson

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

CARRIED.

2010-034

Sumner - Pryke

That the Planning Commission recommend that City Council give second reading to By-law No. 6971 to rezone 1530-9<sup>th</sup> Street (Lots 36/39, both inclusive, Block 2, Plan 289 BLTO) from RSF Residential Single Family Zone to RLD Residential Low Density Multiple Family Zone;

And further, that Brandon City Council hold third reading in abeyance pending the execution of a development agreement between the City of Brandon and the owner/successor pursuant to Section 150 of the Planning Act. CARRIED.

**BY-LAW NO. 6971**

**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 36/39, Block 2, identified on a plan of part of the City of Brandon, in Manitoba, registered in the Brandon Land Titles Office as Plan 289 BLTO, commonly known as 1530 – 9<sup>th</sup> Street, and highlighted on the map attached hereto as Schedule “A” is hereby reclassified:  
  
FROM: RSF Residential Single Family Zone  
TO: RLD Residential Low Density Multiple Family Zone**
- 2. District Map No. 57, 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     1st   day of   February   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**

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

BETWEEN:

**DORNN CONSTRUCTION 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 1530 – 9<sup>th</sup> Street and legally described as:

**Lots 36 to 39, both inclusive, Block 2, Plan 289 BLTO  
Exc all mines and minerals as reserved in the Grant from the Crown  
In N ½ 11-10-19 WPM**

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

AND WHEREAS the City of Brandon Planning Commission on March 3<sup>rd</sup>, 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

Initials
_____
_____
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maintain after acceptance by the City and shall include but not be limited to the following:

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

- 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 to:
  - 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) design, construct and hard surface the laneway bordering the entire length of the west side 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) 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

Initials
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land totaling 10% with a raw land value based on \$44,460.00 per 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) 0.0111 hectares x 10% = b) 0.0111 hectares  
Total area of land being developed Total land required for public reserve  
(see attached Schedule)

b) 0.0111 hectares - c) 0 hectares  
Total land required for public reserve Land contributed to public reserve  
(see attached Schedule)

= d) 0.0111 hectares  
Land owing to equal 10% contribution

d) 0.0111 hectares x \$44,460.00  
Land owing to equal 10% contribution Monetary value per hectare

= \$ 493.51  
Monetary contribution and due upon signing of this Development Agreement.

d) contribute, on a one time basis, the estimated cost to construct one half of 9<sup>th</sup> Street (12.8m asphalt top) for the entire length of the Lands bordering the said street in the amount of **\$22,375.36** (GST included), payable to the City and due upon signing of this Development Agreement. Said payment will be held in a dedicated reserve for this purpose until required by the City.

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 seven thousand five hundred dollars (\$7,500.00). 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  
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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.

**DORNN CONSTRUCTION LTD.**

**Per:**

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

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

**CITY OF BRANDON**

**Per:**

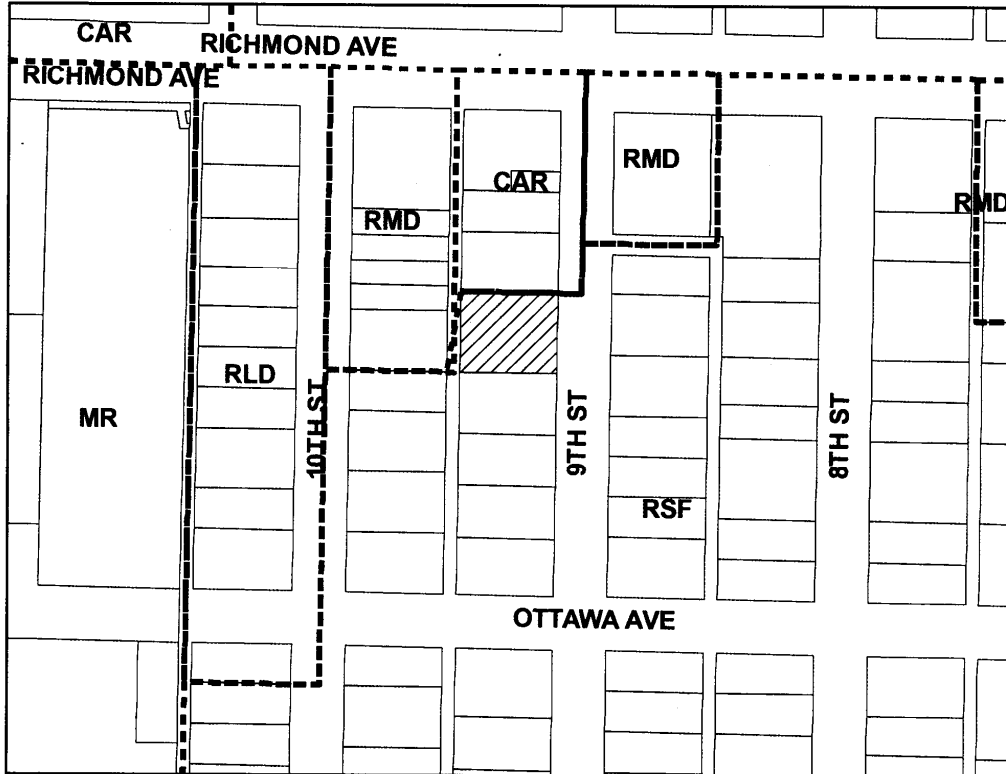
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**Ted Snure, P. Eng., CITY ENGINEER  
General Manager of Development  
Services**

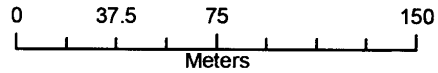


Schedule "A"


Application to Amend Zoning By-Law



Schedule "A" By-Law No. 6971  
 Amending District Map No. 57 of By-Law No. 6642  
 Zoning By-Law Amendment Application No. Z-01-10-B  
 1530 - 9th Street (Lots 36/39, Block 2, Plan 289 BLTO)



LEGEND

Proposed lots to be rezoned from  
 RSF Residential Single Family Zone  
 to RLD Residential Low Density  
 Multiple Family Zone

RSF - Residential Single Family Zone  
 RLD - Residential Low Density Multiple Family Zone  
 RMD - Residential Medium Density Multiple Family Zone  
 CAR - Commercial Arterial Zone  
 MR - Industrial Restricted Zone

City of Brandon  
 Department of  
 Planning & Building



City of Brandon

Map creation date: 01/06/10

Revised:

# Schedule "B"

