

Agenda - Board of Adjustment - July 4, 2007**PUBLIC HEARINGS**

**Item No. 11 Conditional Use - 1890 Pembina Highway
(River Heights-Fort Garry Ward)
File DCU 134054/2007C**

ADMINISTRATIVE RECOMMENDATION:

That the application to permit:

1. the expansion of an existing restaurant use exceeding a floor area of 2500 square feet (232.25 square metres) by the construction of a seasonal patio;
2. the establishment of a cocktail lounge use in conjunction with the restaurant;

be approved subject to the following conditions:

1. That if the Conditional Use granted by the Order is not established within two (2) years of the date thereof, the Order, in respect of that Conditional Use shall terminate.
2. That the construction of the building shall be built in substantial accordance with the plan attached and identified as Sheet 1, Exhibit 8, for File DCU 134054/2007C dated June 8, 2007.
3. That the final plans showing the location and details of landscaping along Pembina Highway shall be submitted to the Director of Planning, Property and Development for approval prior to the issuing of any development or building permits; and thereafter, the applicant shall install and maintain the landscaping to the satisfaction of the Director of Planning, Property and Development.
4. That the applicant be required to provide a garbage enclosure that is at least six (6) inches above the top of the garbage container which screens the garbage bins from the parking area and from the street.

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File: DCU 134054/2007C

Applicant: Westwin Food Equipment (Steve O'Leary)

Premises Affected: 1890 Pembina Highway

Legal Description: Lots 1/6, Block 1, Plan 14467, 13/16 ST V, hereinafter called "the land"

Property Zoned: "C2" Commercial District

Zoning Atlas Sheet: AJ24 (MH)

Nature of Application: For a Conditional Use under The Winnipeg Zoning By-law No. 6400/94 to permit:

1. the expansion of an existing restaurant use exceeding a floor area of 2500 square feet (232.25 square metres) by the construction of a seasonal patio;
2. the establishment of a cocktail lounge use in conjunction with the restaurant.

Exhibits Filed:

1. Application dated June 15, 2007
2. Notification of Public Hearing dated June 15, 2007
3. Manitoba Status of Titles 1561050, 1561053, 1561055, 1561056 and 1561058
- 4a. Letter of authorization from ADMNSna Crossing Investment Corp., PBX Properties (Manitoba) Ltd. and 3346260 Manitoba Ltd. to Shindico Realty Inc. dated June 6, 2007
- 4b. Letter of authorization from Shindico Realty Inc. to Westwin Food Equipment dated May 25, 2007
5. Surveyor's Building Location Certificate and sketch dated November 10, 2000
6. Confirmation from the Zoning Development Administrator that the subject property may be posted in substitution for newspaper advertising
7. Site Plans (3 pages)
8. Plan, Sheet 1, for File DCU 134054/2007C dated June 8, 2007
9. Report from the Planning and Land Use Division dated June 18, 2007
10. Inspection Report

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The Administration to advise that all statutory requirements with respect to this application have been complied with.

Moved by

That the administrative report be taken as read.

REPRESENTATIONS:

In Support:

In Opposition:

For Information:

For the City:

Moved by

That the receipt of public representations be concluded.

Moved by

That Section 254 and criteria (a), (b) and (d) of Subsection 247(3) of The City of Winnipeg Charter, set out below, are / are not satisfied:

- (a) is consistent with Plan Winnipeg, and any applicable secondary plan;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (d) is compatible with the area in which the property to be affected is situated.

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Moved by

That the administrative recommendation be / not be concurred in.

Moved by

That the public hearing with respect to this application be concluded.

Exhibit "9" referred to in File DCU 134054/2007C

DATE: June 18, 2007
FILE: DCU 07-134054/C
RELATED FILES:
COMMUNITY: City Centre Community
NEIGHBOURHOOD #: 5.640
SUBJECT: For a Conditional Use under Zoning By-Law No. 6400/94 to permit as follows:
1) the expansion of an existing restaurant use exceeding a floor area of 2500 square feet (232.25 square metres) by the construction of a seasonal patio;
2) the establishment of a cocktail lounge use in conjunction with the restaurant.

LOCATION: 1890 Pembina HWY

LEGAL DESCRIPTION: LOT 1/6 BLOCK 1 PLAN 14467 13/16 ST V

APPLICANT: Steve O'Leary Westwin Food Equipment
288 PRINCESS ST
WINNIPEG MB R3B 1M3

OWNER:

RECOMMENDATION: Approval with conditions

CRITERIA FOR APPROVAL

Pursuant to Section 247(3) of the City of Winnipeg Charter, a Conditional Use application can be approved if the proposed development:

- (a) is consistent with Plan Winnipeg and any applicable secondary plan;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway; and
- (d) is compatible with the area in which the property to be affected is situated.

REPORT SUMMARY

- The applicant is proposing to redevelop an existing restaurant by the inclusion of a patio and a cocktail lounge.
- The proposal is consistent with the intent of the C2 zone.
- Planning Property and Development recommends approval of this conditional use application, with conditions.

SITE DESCRIPTION

Existing Land Use and Zoning

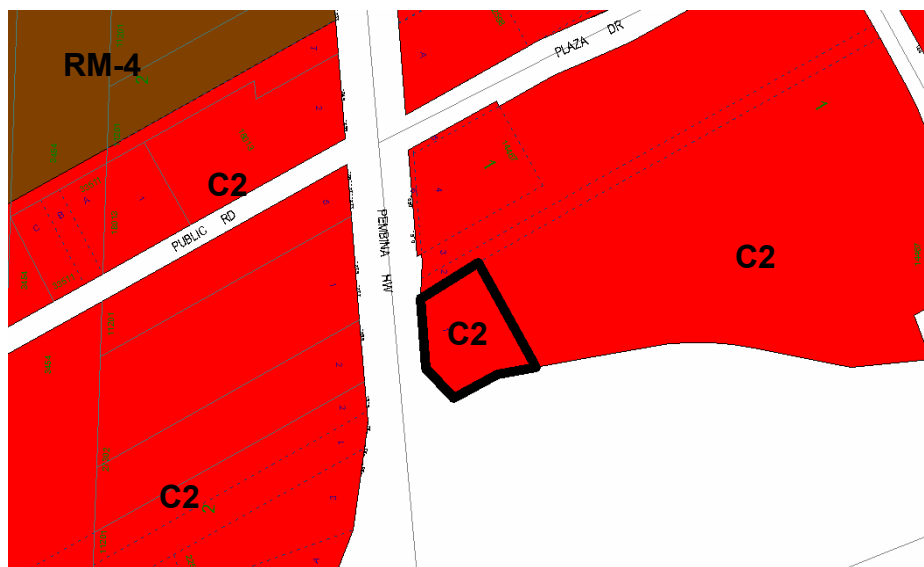


Figure 1: Excerpt from zoning map – subject building area circled.

The site is located in the C2 zone. It is known as Pembina Crossing Shopping Centre and includes a variety of retail uses surrounded by car parking. Access to the site is from Pembina Highway and Plaza Drive.

Neighbourhood Context

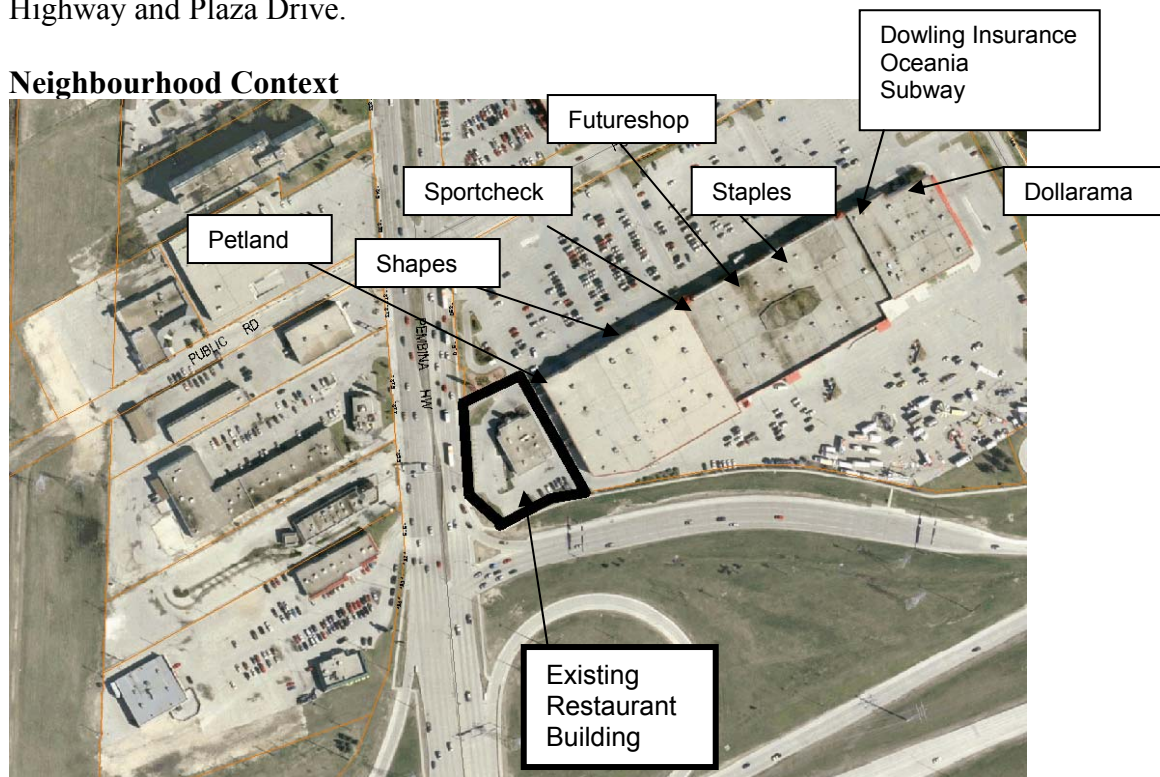


Figure 2: Aerial photography flown 2005 – subject building area circled.

BACKGROUND

The site, part of the Pembina Crossing Shopping Centre, has an existing restaurant building on it which was previously utilized by a Red Lobster restaurant.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant is proposing to redevelop the existing building as a Grapes Grill and Bar. The redevelopment will include an expansion to the building by the inclusion of a patio and establishment of a cocktail lounge. The restaurant will be over 2,500 square feet which is conditional in the C2 zone.

There are several Grapes Grill and Bars in Manitoba. It is a Winnipeg, Manitoba based restaurant chain which was established in May of 1980. The restaurants serve a full range of appetizers, all day breakfast, salads, sandwiches, pasta and full course dinners.

ANALYSIS AND ISSUES

Plan Winnipeg Compliance

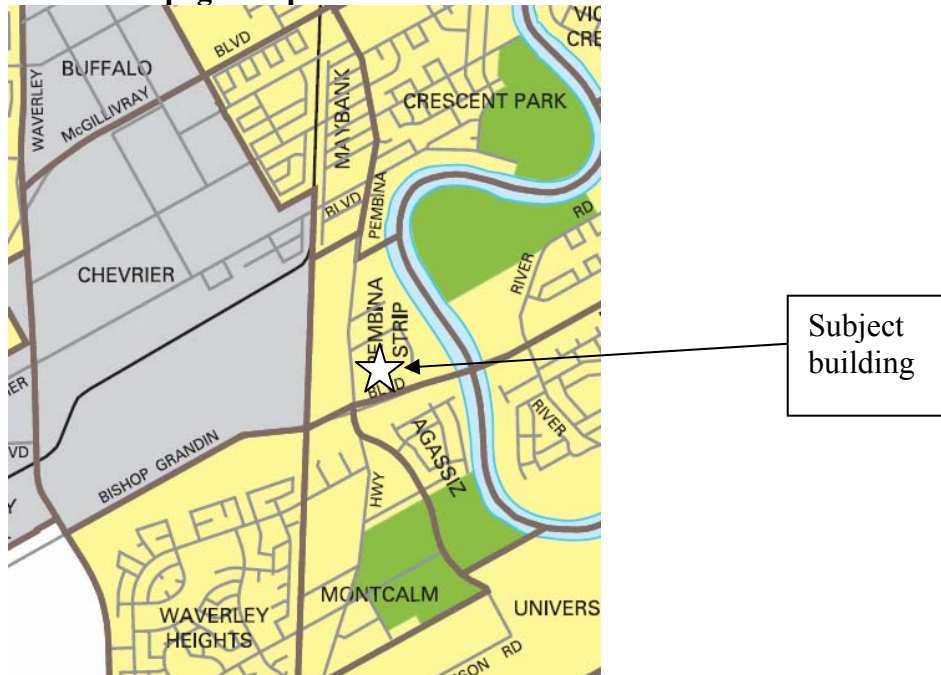


Figure 3: Excerpt from Plan Winnipeg Policy Plate A

The subject site is in the Neighbourhood Area which the plan states is to “including a residential mix together with a variety of educational, recreational, institutional, commercial and possibly industrial uses, at a scale and density compatible with each other”.

Section 3B-04 of Plan Winnipeg states that “The city shall accommodate commercial and retail development.”

The proposal complies with the provisions of Plan Winnipeg.

Compatibility with existing neighbourhood and surrounding uses

The proposal is compatible with the existing development on the subject site which is commercial (refer to Figure 2). The closest residential development is over 200m away. It is not

considered that the proposed development will have any effect on the amenity of residents given the separation distances between them.

Also, noise produced by the restaurant, such as amplified noise is restricted by the Noise Control By-Law #2480/79. The By-Law states:

Radios, television sets, musical instruments and sound producing devices in commercial district
3.2.10 No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, loudspeaker, public address system, sound amplifier or similar device in a commercial district which produces, reproduces or amplifies sound in such a manner as to create a noise nuisance at a point of reception, unless used for the purpose of advertising some patriotic or other public object and unless a permit has been issued by the Chief of Police.

As such, the proposal will be compatible with the existing neighbourhood.

Land Use Bylaw Issues

The site is in the C2 zone in the By-Law which is a commercial district intended to regulate more intensive commercial sites that do not have a local or neighbourhood orientation.

Parking

The By-Law provides calculations for required accessory off-street parking. Approximately 80 parks are required for the restaurant based on 1 park per 100 square feet gross floor area. Immediately surrounding the restaurant are 66 parks, altogether on-site there are 1,175 parks. There is ample parking for the restaurant, its extension and all the existing commercial uses. The proposal complies with parking requirements.

Landscaping

There are landscaping beds onsite, however it is not fully compliant with the requirement of the By-Law in respect to landscaping in parking areas which states;

1140 (1) The following standards shall apply to all open parking areas excepting those accessory to single-family dwellings, two-family dwellings, row-dwellings provided with individual parking spaces, and multiple-dwellings in the "R2-T" Transitional District:

(a) The parking area shall be screened along the interior limit of a required or voluntary front, side, or corner side yard by one of the following:

** (i) light-proof fencing a minimum of two and one-half (2½) feet in height, said fencing not to extend closer than three (3) feet to any intersection with a public right of-way or;*

** (ii) a landscaped setback of at least four (4) feet planted with shrubs a minimum of two and one-half (2½) feet in height or;*

(iii) a landscaped berm a minimum of two and one-half (2½) feet in height and a minimum of four (4) feet in width.

(c) When a parking area abuts a public street, two (2) trees with a minimum height of six (6) feet and a minimum calliper of two (2) inches shall be provided and maintained for every sixty-four (64) feet of frontage.

A landscaping setback exists onsite which complies with the four (4) feet requirement but the beds are not planted with shrubs as required. In addition to this non-compliance some existing landscaping on the southern part of the building will be removed by the inclusion of the patio. As such, it is recommended that additional landscaping be installed and maintained along the Pembina Highway frontage of the site directly adjacent to the restaurant. It does not seem reasonable to request the applicant install landscaping around the perimeter of the whole site.

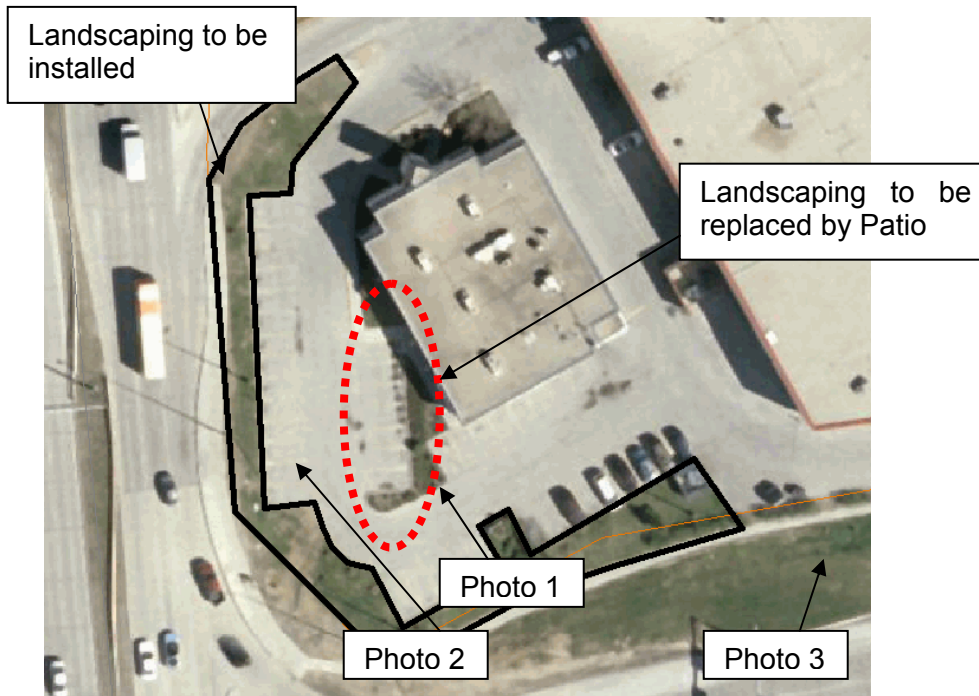


Figure 4: Changes to existing site.



Photo 2: Frontage of the site where landscaping is required



Photo 3: Part of the site bordering Petland, example of acceptable landscaping.

Garbage Enclosure

There are garbage enclosures located onsite however, on inspection there appeared to be a vehicle parked in one. It is important that areas used for storing garbage are screened from view to ensure visual amenity of patrons of the restaurant and those driving past the site along Bishop Grandin Drive.

REASONS FOR RECOMMENDATIONS

In the context of Section 247(3), the Planning and Land Use Division recommends **approval with conditions** for the following reasons:

- (a) is consistent with Plan Winnipeg and any applicable secondary plan;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway; and
- (d) is compatible with the area in which the property to be affected is situated.

RECOMMENDED CONDITIONS OF APPROVAL

1. That if the Conditional Use granted by the Order is not established within two (2) years of the date thereof, the Order, in respect of that Conditional Use shall terminate.
2. That the construction of the building shall be built in substantial accordance with the plans attached hereto and identified as Sheets 1 of 1, for file DCU 07-134054 C dated June 08, 2007.
3. That the final plans showing the location and details of landscaping along Pembina Highway shall be submitted to the Director of Planning, Property and Development for approval prior to the issuing of any development or building permits; and thereafter, the applicant shall install and maintain the landscaping to the satisfaction of the Director of Planning, Property and Development.
4. That the applicant be required to provide a garbage enclosure that is at least six (6) inches above the top of the garbage container which screens the garbage bins from the parking area and from the street.

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

Report Prepared by: Leah Sorohan
PPD File # DCU 07-134054/C

Exhibit "8" referred to in File DCU 134054/2007C

