Agenda - Council - September 24, 2008

Report - Standing Policy Committee on Property and Development - September 2, 2008

Item No. 3 Rezoning - 5198 Roblin Boulevard
(Charleswood - Tuxedo Ward)
File DAZ 235/2007

STANDING COMMITTEE RECOMMENDATION:

On September 17, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submits the following to Council:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 235/2007 dated May 27, 2008 to a 'C2' Commercial District subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

        i. That the following uses on the land shall be restricted to:
            a. Fuel sales
            b. Convenience store
            c. Restaurant contained fully within the convenience store

        ii. That there shall be no lighting, signage, logos, advertising banners, streamers or the like permitted on the south side of the building.

        iii. That there shall be no lighting, signage, logos, advertising banners, streamers or the like permitted on the southern face of the gas bar canopy.

        iv. That the hours of operation be limited to the hours between 7:00 a.m. to 10:00 p.m. daily.

        v. That there shall be no deliveries, (excepting fuel) to the site between the hours of 10:00 p.m. and 7:00 a.m. daily.

        vi. That the restaurant use shall not exceed 650 square feet.

        vii. That all exterior site lighting shall be shut off between the hours of 10:30 p.m. and 6:30 a.m. daily.

Report - Standing Policy Committee on Property and Development - September 2, 2008

viii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site.

ix. That for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, gas bar canopy, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, lighting, landscaping and signage to the Director of Planning, Property and Development and the Assiniboia Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

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

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

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

5. That the zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date by-law is passed.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report - Standing Policy Committee on Property and Development - September 2, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 17, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 2, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 8, 2008, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendments, namely:

- Delete recommendation 1.A.i. in its entirety and replace with the following:

    i. That the following uses on the land shall be restricted to:

        a. Fuel sales
        b. Convenience store
        c. Restaurant contained fully within the convenience store.

- Amend recommendation 1.A.6. by deleting “800 square feet” and substituting with “650 square feet”

and forwarded to the Standing Policy Committee on Property and Development.

On June 10, 2008 the Assiniboia Community Committee adjourned the public hearing to July 8, 2008 and requested the Winnipeg Public Service to report back on whether or not a rezoning of the property is necessary for the proposed development to proceed, inasmuch as the proposed use is similar to the present use of the property.

RE: **Rezoning - 5198 Roblin Boulevard**
File DAZ 235/2007 [c/r DAV 112444/2008D]

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

Prepared by: **Carlos Gameiro, Senior Committee Clerk**
Assiniboia Community Committee

Report date: **July 9, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 8, 2008, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service as amended and recommends to the Standing Policy Committee on Property and Development:

1. That the Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 235/2007 dated May 27, 2008 to a 'C2' Commercial District subject to the following:

   A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

      ~~***i. That the following uses shall not be permitted on the land:***~~

      ~~***a. Landscape or garden supplies***~~
      ~~***b. Drinking establishment***~~
      ~~***c. Auto/light truck/motorcycle, repair and service***~~
      ~~***d. Auto/light truck/motorcycle, sales and rental***~~
      ~~***e. Drive-in or drive-through***~~
      ~~***f. Contractor's establishment***~~

      i. That the following uses on the land shall be restricted to:

      a. Fuel sales
      b. Convenience store
      c. Restaurant contained fully within the convenience store.

      ii. That there shall be no lighting, signage, logos, advertising banners, streamers or the like permitted on the south side of the building.

      iii. That there shall be no lighting, signage, logos, advertising banners, streamers or the like permitted on the southern face of the gas bar canopy.

iv. That the hours of operation be limited to the hours between 7:00 a.m. to 10:00 p.m. daily.

v. That there shall be no deliveries, (excepting fuel) to the site between the hours of 10:00 p.m. and 7:00 a.m. daily.

vi. That the restaurant use shall not exceed ~~***800***~~ ***650*** square feet.

vii. That all exterior site lighting shall be shut off between the hours of 10:30 p.m. and 6:30 a.m. daily.

viii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site.

ix. That for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, gas bar canopy, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, lighting, landscaping and signage to the Director of Planning, Property and Development and the Assiniboia Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

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

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

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

5. That the zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date by-law is passed.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

The Assiniboia Community Committee provided the following supporting reasons for its recommendation:

1. There has been a fuel sales at the site for over 50 years as well as a convenience store.

2. Based on the size of the restaurant site and the ability for it to operate within the convenience area, it will not alter the existing traffic patterns.

PUBLIC HEARING SUMMARY

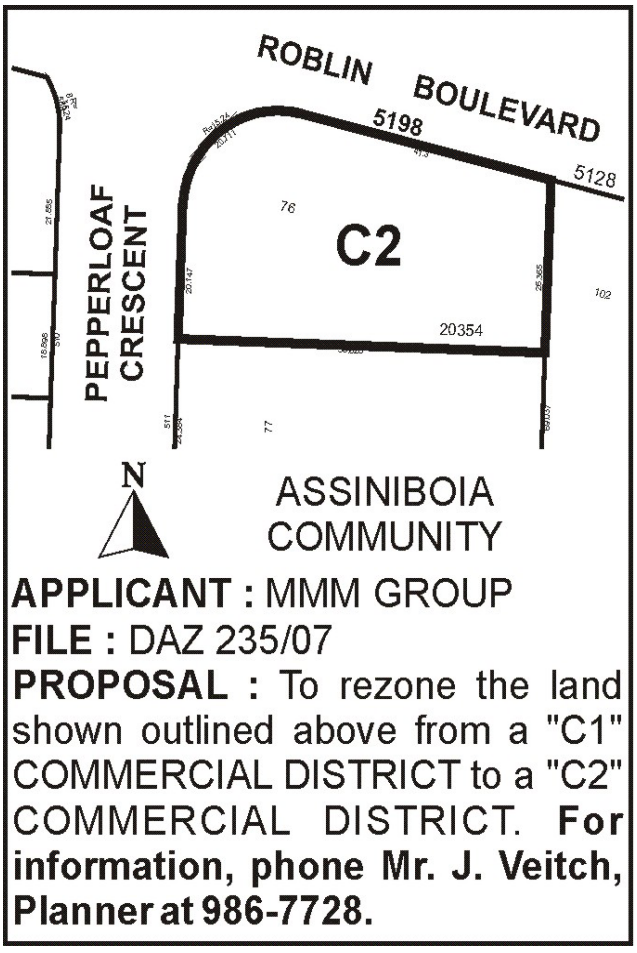
File: DAZ 235/2007 [c/r DAV 112444/2008D]

Before: Assiniboia Community Committee
Councillor Fielding, Chairperson
Councillor Clement
Councillor Nordman

Public Hearing: July 8, 2008
West Committee Room
Council Building, 510 Main Street

Applicant: MMM Group (Misty Sklar)

Subject:



Premises Affected: 5198 Roblin Boulevard

Exhibits Filed:

1. Application dated December 18, 2007
2. Notification of Public Hearing dated April 22, 2008
3. Manitoba Certificate of Title 898383
4a. Letter of authorization dated July 6, 2007 from Imperial Oil Limited to Pioneer Petroleums Management Inc.
4b. Letter of authorization dated August 22, 2007 from Pioneer Petroleums Management Inc. to MMM Group
5. Plans of Topographic Survey (2 pages)
6. Plans (7 pages)
7. Report from the Planning and Land Use Division dated May 29, 2008
8. Inspection Report
9. Presentation in support of the application, submitted at the public hearing on June 9, 2008, by Cara Mruss, MMM Group
10. Presentation in opposition to the application, submitted at the public hearing on June 10, 2008, by Larry Bielus
11. Petition in opposition to the application purporting to contain the signatures of 27 area residents, submitted at the public hearing on June 10, 2008, by Larry Bielus
12. Communication dated June 10, 2008 from the Community Traffic Engineer, Public Works Department to Larry Bielus, submitted at the public hearing on June 10, 2008, by Larry Bielus
13. Audio Recording of representations of public hearing held on June 10, 2008
14. Notice of Adjournment dated June 12, 2008
15. Report from the Zoning and Permits Administrator, Planning and Land Use Division dated July 3, 2008
16. Drawing of the proposed development, submitted at the public hearing on July 8, 2008 by Bob Reid, Pioneer Petroleums
17. Audio Recording of representations of public hearing held on July 8, 2008

REPRESENTATIONS:

In Support:

Kerra Mruss, MMM Group
Bob Reid, Pioneer Petroleums
Misty Sklar, MMM Group

In Opposition

Kathy and Larry Bielus
Peter Brett
Jeff Brett
Bonnie Hutcheson
Stone Kunika
Carla and Eric Wenger

For the City:

Mr. M. Pasieczka, Planner, Planning, Property and Development Department

Exhibit "15" referred to in File DAZ 235/2007

INTER-OFFICE MEMORANDUM

Planning, Property and Development Department

Development and Inspections Division
Unit 31- 30 Fort Street

Winnipeg

Date: July 3, 2008

To: Martin Pasieczka

City Centre Community Committee

From: Martin Grady

Zoning & Permits Administrator

RE: **5198 ROBLIN BOULEVARD - ADJOURNMENT**

FILE DAZ 235/2007 [C/R DAV 112444/2008D]

At its meeting of June 10, 2008, the Assiniboia Community Committee made the following recommendation:

> **Minute No. 109** **Rezoning - 5198 Roblin Boulevard**
> **(Charleswood - Tuxedo Ward)**
>
> COMMUNITY COMMITTEE RECOMMENDATION:
>
> The Assiniboia Community Committee adjourned the public hearing to July 8, 2008 and requested the Winnipeg Public Service to report back on whether or not a rezoning of the property is necessary for the proposed development to proceed, inasmuch as the proposed use is similar to the present use of the property.

The subject property is currently zoned C1 - Commercial Neighbourhood District under the Zoning By-Law. This zoning district does not permit automobile fuel sales or repair, consequently a re-zoning to C2 - Commercial Community District is required.

The existing gas station has remained and operated as a "Non – Conforming Use" under the Zoning By-Law since it was lawfully established previously under older Zoning By-Laws. As a non – conforming use, the building and site cannot be altered or expanded in any way pursuant to Section 26 of the Zoning By-Law 200/2006 and it must remain in its current state and configuration.

Since the applicant wishes to re-develop the site and construct a new building, the pre-existing non – conforming right to the gas station use will be lost. A re-zoning is the only option available should the Community Committee wish to facilitate the re-development of the subject property.

Martin Grady
Zoning and Permits Administrator

Exhibit "7" referred to in File DAZ 235/2007

Winnipeg

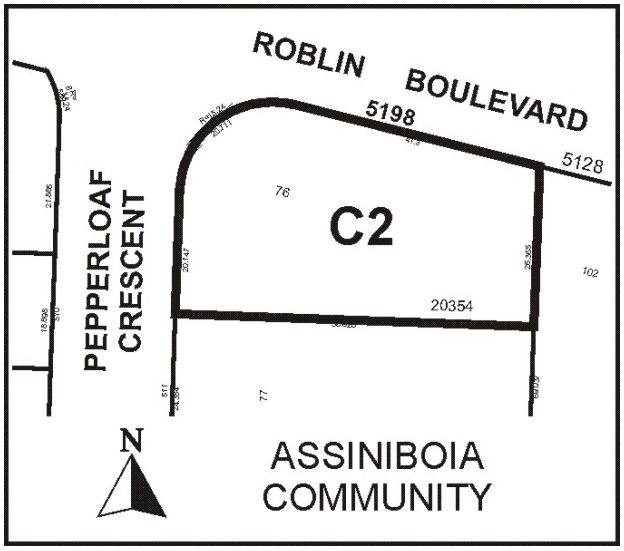
Planning, Property and Development Department Report

To the Assiniboia Community Committee

Date: May 29, 2008
File: **DAZ 235/2007**
Related Files: DAV 08-112444/D

Subject: To rezone the Subject Site from 'C1' Commercial District to a 'C2' Commercial District to allow for the re-development of an existing use, (Fuel Sales, Convenience Store)

Location: 5198 Roblin Boulevard
Legal Description: Lot 76 Plan 20354



Applicant: MMM Group (Ms. Misty Sklar)
Owner: Imperial Oil Ltd.

Recommendation: *Approved with Conditions*

Site Description

Existing Land Use and Zoning

The approximately 19,150 square foot subject site is currently zoned 'C1' Commercial, occupied by an Esso gas station and convenience store. The site is within the Neighbourhood Designation of *Plan Winnipeg 2020*. The site is located in the Roblin Park Neighbourhood of the Assiniboia Community.

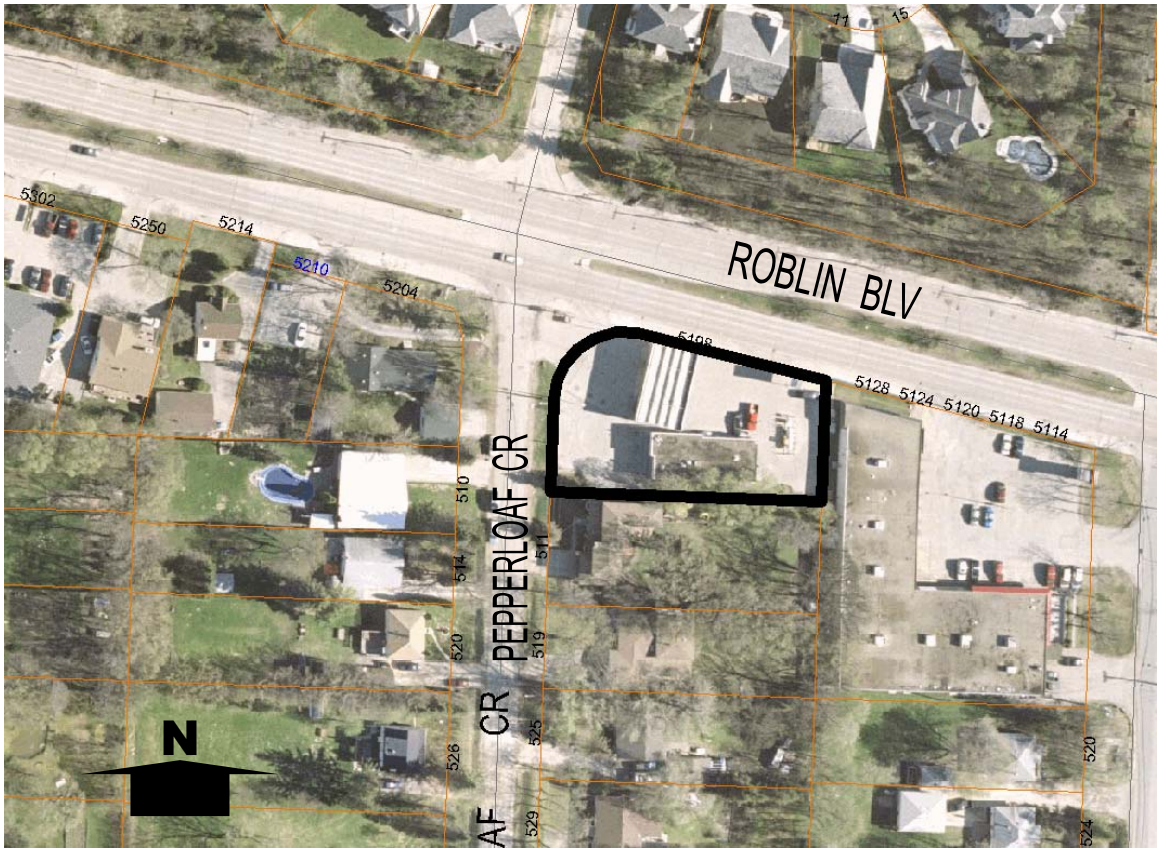


Figure 1: Subject Site (Aerial Flown 2005)

Surrounding Land Use and Zoning

North: Roblin Boulevard then 'PR1' Parks (35 foot wide buffer) and 'R1-L' Single Family Residential
South: 'R1-L' Single Family Residential
East: 'C2' Commercial
West: Pepperloaf Crescent then 'C1' Commercial

Background

- 1969 - established as a Conditional Use in 'C1' Commercial under By-law 1800
- 1986 - Conditional Use DCU 174/86 redevelopment of the site
- 1995 - DAV 398/95, DAV 883/95 front yard variances for gas bar canopy

Description of the Proposed Development
The owner's intend to redevelop the entire site currently operating as an Esso gas station and convenience store. The renovation will include the demolition of the existing 2,180 square foot building, the removal of the propane gas filling area and the removal of the existing gas pumps and canopy.

A new 2,400 square foot convenience store and restaurant will be built in generally the same location as the existing building on the site. New gas pumps and canopy will be installed parallel with the proposed building. The site redevelopment will include landscaping along portions of the north, south, east, and west property lines. A new freestanding sign will be installed at the same location as the existing, the northeast corner of the site.

The proposed redevelopment requires a rezoning from 'C1' Commercial (as the fuel sales use is no longer permitted in Zoning By-law 200/2006) to 'C2' Commercial where the fuel sales use is listed as permitted. A variance application, (DAV 08-112444/D) has been taken in conjunction with the rezoning to allow for a 10-foot rear yard instead of the required 25-feet.

Analysis
The Planning and Land Use Division is supportive of the rezoning and associated variance, (DAV 08-112444/D) for the following reasons:

PLAN WINNIPEG
The subject site is designated Neighbourhood in *Plan Winnipeg* 2020. Neighbourhood policies support commercial uses at a scale and density compatible with the surrounding context. *Plan Winnipeg* emphasizes that the preferred method of accommodating commercial development is encouraging redevelopment, infill and expansion of existing commercial areas.

The site is currently zoned 'C1' Commercial, a gas station has operated at this location since the late 60's established as a permitted use under Zoning By-law 1800. The proposed rezoning and redevelopment will allow significant site and operational improvements without significantly increasing the intensity of the use.

COMPATIBILITY
Roblin Boulevard is a 4 lane divided arterial street where commercial development is typically appropriate and desirable. This is exemplified by the steady transformation of a considerable portion of Roblin Boulevard to a variety of commercial / retail uses over the past decades. What most of these uses have in common is that they are of a local / neighbourhood scale and focus, meaning they tend to predominantly serve the surrounding community and are of a size that is sympathetic to the adjacent residential uses.

The existing gas station has an 8-position gas bar and a 2100 square foot building. The gas bar is being rebuilt and re-aligned on the site and the new building is being located in approximately the same position on site while seeing an expansion of 300 square feet. The redevelopment includes a small restaurant use allowing seating for 14 people with a soup and sandwich style fare. The division does not anticipate any detrimental impacts on the surrounding context by this proposed redevelopment.

TRANSPORTATION AND SITE ACCESS

In terms of access, the redevelopment proposes a modification to the existing approach located off the northwest corner of the site at the intersection of Pepperloaf Crescent and Roblin Boulevard. Currently access at this location of the site is wide open with little in the way of visual cues to guide ingress and egress to and from the site. Public Works has indicated that this approach geometry is most likely nonconforming. This existing layout certainly causes some motorist confusion resulting in unsafe traffic circulation with potential conflict between patrons accessing the site, drive by traffic as well as local pedestrians and cyclists.

As confirmed by Public Works, the proposed modifications will improve this situation providing a well defined 'right in' access off of Roblin Avenue and a clear ingress / egress approach onto Pepperloaf Crescent opposite the commercial property on the west side of the street. The third access at the east end of the site onto Roblin Boulevard will not undergo any significant changes.

SITE DESIGN ISSUES

Apart from the design issues regarding access discussed above, the key site design issue is the redevelopments impact on the adjacent properties, in particular the single-family residence immediately adjacent to the south.

Currently the subject site operates as a gas bar / convenience store with an 8 position gas bar with canopy, propane sales and a 2,176 square foot 1-storey concrete block building. The existing building is located 4.48 metres, (14.7 feet) away from the south property line. The existing landscaping is limited to three coniferous trees in the southwest corner of the site.

The proposed redevelopment includes the construction of a new 2,400 square foot convenience store located 3.05 metres, (10 feet) from the rear property line. It should be noted that the initial redevelopment plan had the proposed building located parallel to the east property line. However based on public input at two separate open houses the owners were encouraged to rebuild at the existing location as the building serves as a buffer between the subject site and the adjacent residence to the south.

The drawings submitted with the application show a more contemporary design aesthetic of a compatible neighbourhood style. The roofs are articulated with varying peaks and the front entrance consists of considerable glazing. The proposed building is a considerable improvement from the existing flat roofed, cinder block edifice on the site.

The proposed landscape plan indicates 10 new trees and 111 shrubs will be installed, as well as decorative boulders, unit paving accent strips, sod and a bike rack. The proposed refuse container will be located near the north east corner of the site and screened with a fenced enclosure.

The exterior lighting on commercial sites is a general concern with the Planning, Property and Development Division, particularly when dealing with parking areas, gas bars and vehicle display. Typically these areas are over lit, causing a detrimental impact to the surrounding properties, adjacent rights of ways and the night sky. The problem being not just orientation but the overall intensity as well is so prevalent in many communities that local governments have been passing new more restrictive policies to control light pollution. During the Plan Approval process we will require the owner to submit a lighting plan, on that plan we will expect to see a maximum light level of 0.1 foot candles at the south property line.

Although Roblin Boulevard is a major arterial, the adjacent development is more of a local, neighbourhood scale. Single-family residential uses exist to the north across Roblin and immediately to the south of the subject site. The commercial uses are typically restricted to the south side of the street and are generally smaller in scale with limited business hours. The Planning and Land Use Division will be recommending several conditions in the Zoning Agreement that will attempt to mitigate this lighting issue. The new City of Winnipeg Zoning By-law also has detailed development standards on exterior lighting design.

COMMENTS FROM OTHER DEPARTMENTS

As discussed above, Public Works reviewed the proposed changes to the approaches off Roblin Boulevard and Pepperloaf Crescent. In their opinion these changes will improve ingress and egress to the site resulting in safer traffic circulation.

PUBLIC INPUT

The Owner enlisted the services of MMM Group Limited as their lead consultant on this redevelopment project. MMM Group held two separate open houses to elicit neighbourhood input. Based on some of the concerns brought forth at the initial open house the owners re-designed the development of the site. Some of the key changes include rebuilding the Convenience store in same location on the site where it sits now and moving the garbage enclosure to the north side of the property.

Recommendation

The Planning and Land Use Division recommend approval for the following reasons:

- The commercial use of the site is supported by several *Plan Winnipeg 2020* policies, for example; 3B-01 Promote Vibrant Neighbourhoods ii) and 3B-05 Promote Commercial Densification i),
- Roblin Boulevard is an arterial street where commercial development at a scale and density compatible with the context is appropriate,
- The site has operated as a gas bar and convenience store for over 30 years and is an established area amenity,
- The proposed redevelopment will improve the appearance and operation of the site while not significantly increasing the intensity,
- The changes to the approaches off Roblin and Pepperloaf will improve the circulation and safety of the site and immediate context.

Recommended Conditions of Approval

2. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 235/2007 dated May 27, 2008 to a 'C2' Commercial District subject to the following:

   A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

      i. That the following uses shall not be permitted on the land:

         g. Landscape or garden supplies
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         i. Auto/light truck/motorcycle, repair and service
         j. Auto/light truck/motorcycle, sales and rental
         k. Drive-in or drive-through
         l. Contractor's establishment

      ii. That there shall be no lighting, signage, logos, advertising banners, streamers or the like permitted on the south side of the building,

      iii. That there shall be no lighting, signage, logos, advertising banners, streamers or the like permitted on the southern face of the gas bar canopy,

      iv. That the hours of operation be limited to the hours between 7:00 am to 10:00 pm daily,

      v. That there shall be no deliveries, (excepting fuel) to the site between the hours of 10:00 pm and 7:00 am daily,

vi. That the restaurant use shall not exceed 800 square feet,

vii. That all exterior site lighting shall be shut off between the hours of 10:30 pm and 6:30 am daily,

viii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site,

ix. That for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, gas bar canopy, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, lighting, landscaping and signage to the Director of Planning, Property and Development and the Assiniboia Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

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6. That the zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date by-law is passed.

7. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

8. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division
Report Prepared by: James Veitch PPD File # DAZ 235/2007

Schedule "A"

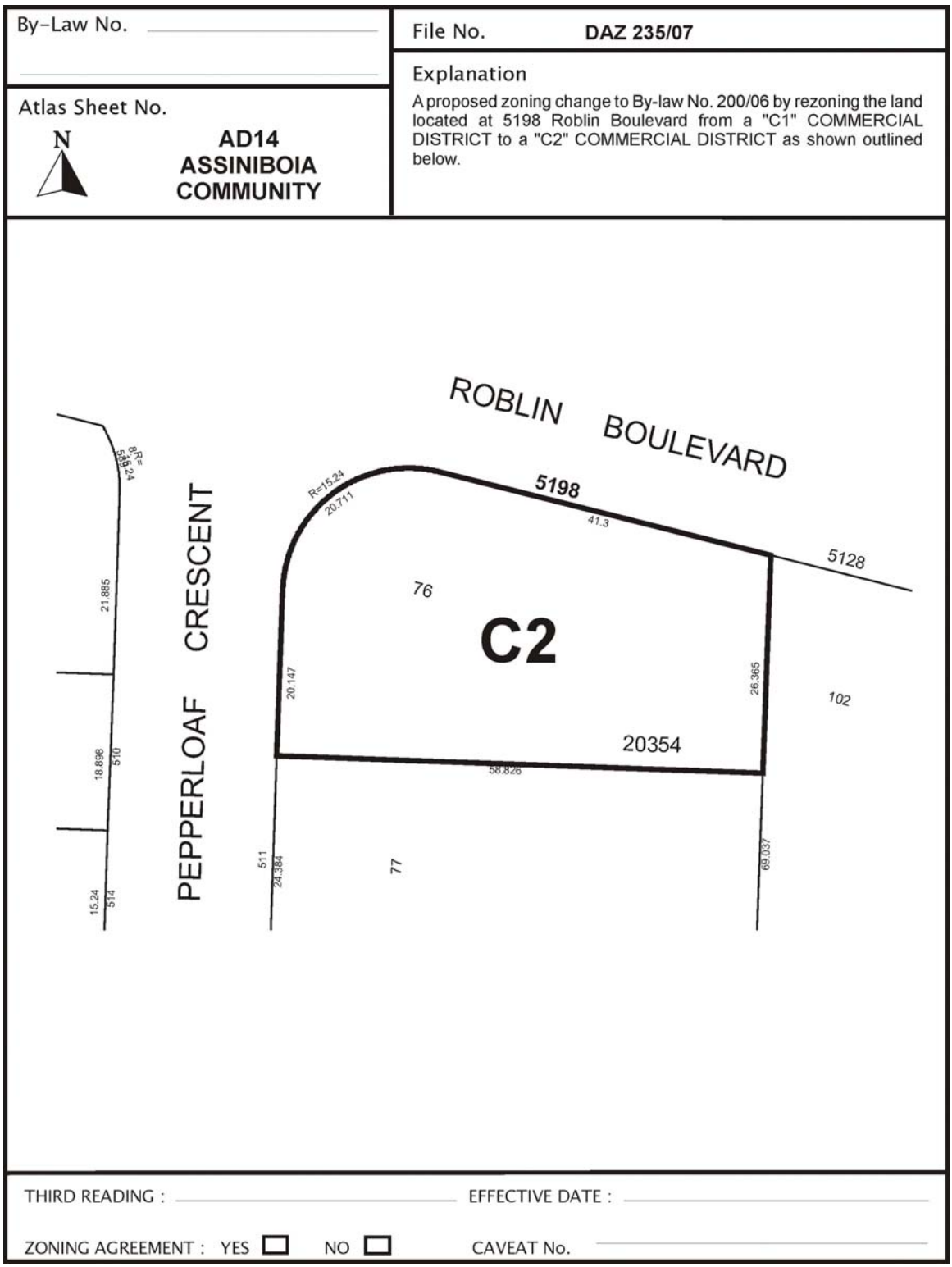

Figure 2: Schedule "A" to the report to the Assiniboia Community Committee for File DAZ 235/2007, dated May 27, 2008.