Minute No. 485
Report - Executive Policy Committee - June 30, 2010

Item No. 3 **Zoning Agreement Amendment - 629 St. Mary's Road (St. Vital Ward) File ZAA 4/2010**

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That Zoning Agreement Caveats 241993 and 1434619 under File DAZ 231/76 dated July 21, 1976 (By-law No. 1426/76) be withdrawn and replaced with a new Zoning Agreement as follows:

   A. 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, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the Riel 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.

   B. That the land be restricted as follows:

      i. The following shall not be permitted as a principal use on the land:

         a. Kennels
         b. Landscape or garden supplies
         c. Auto/light truck/motorcycle, repair and service
         d. Auto/light truck/motorcycle, sales and rental
         e. Fuel sales
         f. Parking, structured
         g. Parking, surface
         h. Contractor's establishment
         i. Recycling collection centre

Report - Executive Policy Committee - June 30, 2010

COUNCIL DECISION (continued):

ii. The following uses shall be conditional on the land:

a. Hostels
b. Hotel or motels
c. Drinking establishments
d. Auto parts and supplies, sales

C. That the maximum gross floor area for any commercial development shall not exceed 5,000 square feet;

D. That the maximum height of any building shall be no greater than 35 feet;

E. That the minimum corner side yard (south side) setback shall be no less than 5 feet;

F. That in the event that the existing building is demolished or destroyed and future development is proposed, said development shall not have an interior side yard (north side) setback of less than 5 feet;

G. That the minimum front yard setback shall be no less than 20 feet for any building and no less than 5 feet for any sign;

H. That all parking areas shall be located behind the building and shall not front onto St. Mary's Road.

I. That any free-standing use identification sign shall not exceed eight (8) feet above grade in height;

J. That flashing, animated, or scintillating signs, rotating signs or beacons and electronic message boards shall not be permitted;

K. That no illuminated signage be erected on the north and/or east sides of the building or the lot;

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

Report - Executive Policy Committee - June 30, 2010

COUNCIL DECISION (continued):

2. That the Director of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 231/76 (By-law No. 1426/76) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the Director of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report - Executive Policy Committee - June 30, 2010

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 30, 2010, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 15, 2010, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Zoning Agreement Amendment – 629 St. Mary's Road**
File ZAA 4/2010

For submission to: **Executive Policy Committee**

Prepared by: **Marc Pittet, Senior Committee Clerk**
Riel Community Committee

Report date: **June 16, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 15, 2010, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

1. That Zoning Agreement Caveats 241993 and 1434619 under File DAZ 231/76 dated July 21, 1976 (By-law No. 1426/76) be withdrawn and replaced with a new Zoning Agreement as follows:

    A. 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, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the Riel 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.

    B. That the land be restricted as follows:

        i. The following shall not be permitted as a principal use on the land:

            a. Kennels
            b. Landscape or garden supplies
            c. Auto/light truck/motorcycle, repair and service
            d. Auto/light truck/motorcycle, sales and rental
            e. Fuel sales
            f. Parking, structured
            g. Parking, surface
            h. Contractor's establishment
            i. Recycling collection centre

ii. The following uses shall be conditional on the land:

a. Hostels
b. Hotel or motels
c. Drinking establishments
d. Auto parts and supplies, sales

C. That the maximum gross floor area for any commercial development shall not exceed 5,000 square feet;

D. That the maximum height of any building shall be no greater than 35 feet;

E. That the minimum corner side yard (south side) setback shall be no less than 5 feet;

F. That in the event that the existing building is demolished or destroyed and future development is proposed, said development shall not have an interior side yard (north side) setback of less than 5 feet;

G. That the minimum front yard setback shall be no less than 20 feet for any building and no less than 5 feet for any sign;

H. That all parking areas shall be located behind the building and shall not front onto St. Mary's Road.

I. That any free-standing use identification sign shall not exceed eight (8) feet above grade in height;

J. That flashing, animated, or scintillating signs, rotating signs or beacons and electronic message boards shall not be permitted;

K. That no illuminated signage be erected on the north and/or east sides of the building or the lot;

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

2. That the Director of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 231/76 (By-Law No. 1426/76) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the Director of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

The Riel Community Committee provided the following supporting reason for its recommendation:

1. The Riel Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated May 7, 2010.

PUBLIC HEARING SUMMARY

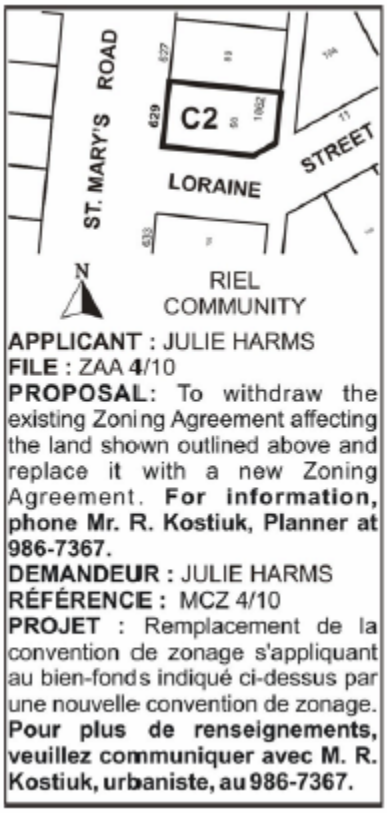
File: ZAA 4/2010

Before: Riel Community Committee
Councillor Vandal, Chairperson
Councillor Steeves
Councillor Swandel

Public Hearing: June 15, 2010
Council Chamber
Council Building, 510 Main Street

Applicant: Julie Harms

Subject:



Premises Affected: 629 St. Mary's Road

Exhibits Filed:
1. Application dated April 19, 2010
2. Notification of Public Hearing dated April 28, 2009
3. Manitoba Status of Title 2271888

4. Letter of authorization dated April 16, 2010 from Brad Wirth, President, Wirth Investing Inc. to Julie Harms
5. Surveyor's Building Location Certificate and sketch dated November 13, 2007
6. Zoning Agreement dated July 21, 1976
7. Plans (2 pages)
8. Report from the Planning and Land Use Division dated May 7, 2010
9. Inspection Report
10. Audio Recording of representations

REPRESENTATIONS:

In Support:

Jaret and Julie Harms

In Opposition

Nil

For the City:

Ms. S. Matile, Land Development Engineer, Planning, Property and Development Department
Mr. R. Kostiuk, Planner, Planning, Property and Development Department

Exhibit "8" referred to in File ZAA 4/2010

ADMINISTRATIVE REPORT

Title: ZAA 4/10 – 629 St. Mary's Road

Issue: For consideration at the Public Hearing to withdraw the existing Zoning Agreement affecting 629 St. Mary's Road and replace it with a new Zoning Agreement.

Critical Path: Riel Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee - Council as per the *Development Procedures By-Law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	N/A	N/A	

RECOMMENDATIONS

1. That Zoning Agreement Caveats 241993 and 1434619 under File DAZ 231/76 dated July 21, 1976 (By-Law No. 1426/76) be withdrawn and replaced with a new Zoning Agreement as follows:

   A. That, 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, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the Riel 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.

   B. That the land be restricted as follows:

      i. The following shall not be permitted as a principal use on the land:

         a) Kennels

         b) Landscape or garden supplies

         c) Auto/light truck/motorcycle, repair and service

d) Auto/light truck/motorcycle, sales and rental

e) Fuel sales

f) Parking, structured

g) Parking, surface

h) Contractor's establishment

i) Recycling collection centre

ii. The following uses shall be conditional on the land:

a) Hostels

b) Hotel or motels

c) Drinking establishments

d) Auto parts and supplies, sales

C. That the maximum gross floor area for any commercial development shall not exceed 5,000 square feet;

D. That the maximum height of any building shall be no greater than 35 feet;

E. That the minimum corner side yard (south side) setback shall be no less than 5 feet;

F. That in the event that the existing building is demolished or destroyed and future development is proposed, said development shall not have an interior side yard (north side) setback of less than 5 feet;

G. That the minimum front yard setback shall be no less than 20 feet for any building and no less than 5 feet for any sign;

H. That all parking areas shall be located behind the building and shall not front onto St. Mary's Road.

I. That any free-standing use identification sign shall not exceed eight (8) feet above grade in height;

J. That flashing, animated, or scintillating signs, rotating signs or beacons and electronic message boards shall not be permitted;

K. That no illuminated signage be erected on the north and/or east sides of the building or the lot;

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

2. That the Director of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 231/76 (By-Law No. 1426/76) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the Director of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

REASON FOR THE REPORT

The Report is being submitted for the Committee's consideration of the development application at the Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, personal services, such as a hair and body boutique, and most "C2" Commercial Community uses will be permitted on the site. If these uses are permitted, a development permit can be issued.

HISTORY

DAZ 231/76

- Under file DAZ 231/76, the subject property was rezoned from an "R3" Multiple Family District to a "C2" Commercial District under the St. Vital Planning Scheme (1951). This application allowed for the establishment of a dental office on the site. A zoning agreement was placed on the property. Key restrictions in the zoning agreement include the following:

  2. The land and any building or structure thereon shall not be used for and no building or structure shall be erected, altered, enlarged on the land except a dental laboratory and accessory uses having a minimum of four (4) parking spaces provided on the land surfaced with asphalt.

  3. No building or structure shall be erected on the land except in accordance with plans including the design of the accessory parking area and landscaping to the satisfaction of the Commissioner of Environment of the City approved by his signature and thereafter attached to the agreement as Schedule "A" under the designation DAZ 231/76.

  4. The design and location of all signs to be erected on the site shall be subject to the approval of the said Commissioner prior to the issuance of any building permit thereafter.

  5. The said parking spaces and landscaping required to the satisfaction of the said Commissioner shall be completed within six (6) months after issuance of an

occupancy permit for any building on the land unless an extension of that time is approved by the St. Vital Community Committee.

6. The said landscaping shall be maintained in good condition to the satisfaction of the said Commissioner.

9. It is understood and agreed that the restrictions on use of the land imposed by this agreement shall be subject to change by any variance granted pursuant to the provisions of the City of Winnipeg Act.

ZAA 2/91

- On April 17, 1991, Council approved ZAA 2/91, which amended the zoning agreement for DAZ 231/76 as follows:

  2. That Zoning Agreement DAZ 231/76 is amended by deleting Clause 2 and substituting the following new Clause 2:

     "2(a) The land and any building or structure thereon shall not be used for and no building or structure shall be erected, altered or enlarged on the land for any use except:

     (i) Business or professional offices,

     (ii) Medical or dental clinics;

     (iii) Medical or dental laboratory;

     (iv) Uses incidental and accessory to any of the above uses.

     (b) Parking spaces shall be provided and maintained on the land at a minimum ratio of one (1) space for each five hundred (500) square feet of floor area within a building on the land; but in no case less than four (4) parking spaces on the land."

  3. Clause 9 of Zoning Agreement DAZ 231/76 is deleted and substituted by the following new Clause 9:

     "9. No building shall be erected or located on the land exceeding one (1) storey in height."

CONSULTATION

In preparing this Report there was consultation with: N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	Robert Kostiuk
Date:	May 7, 2010
File No.	ZAA 4/10

Appendix A	Administrative Report

APPENDIX 'A'

DATE:	May 7, 2010
FILE:	ZAA 4/10
RELATED FILES:	DAZ 231/76 & ZAA 2/91
COMMUNITY:	Riel Community
NEIGHBOURHOOD #:	5.516
SUBJECT:	The applicant would like to withdraw the existing Zoning Agreement for 629 St. Mary's Road and replace it with a new Zoning Agreement that would, at minimum, allow for personal services (such as a hair and body boutique) uses to be permitted on the subject property.
LOCATION:	629 ST. MARY'S ROAD
LEGAL DESCRIPTION:	LOT 90 PLAN 1862
APPLICANT:	Julie Harms 22 Goldthorpe Crescent WINNIPEG MB R2N 1V8
OWNER:	WIRTH INVESTING
RECOMMENDATION:	Approval with Conditions

REPORT SUMMARY:

- The applicant would like to establish a hair and body boutique (Jewel Hair and Body Boutique) on the subject property.
- The services will be provided on the main floor of the existing building that has footprint of approximately 1,000 square feet, while the basement will be used for storage and a seating or break area for employees. Minor interior renovations such as removing and adding some interior walls are proposed to accommodate the hair and body boutique. Exterior renovations are not proposed.
- The property is located along a major arterial street. Arterial streets are suitable locations for local commercial services, such as the proposed hair and body boutique.
- Although the property is an appropriate location for most "C2" Commercial Community uses, the property is subject to an overly restrictive and outdated zoning agreement that does not permit personal services, such as a hair and body boutique, on the site.
- The Planning and Land Use Division supports this application because:
    - The property is located along a major arterial street. Arterial streets are suitable locations for local commercial services, such as the proposed hair and body boutique.

- The subject property is a favourable location for most C2 commercial development, as it is located on a corner site along a major arterial that is predominantly zoned for commercial and higher density residential developments.
- Restricting the height of any building on the site to 35 feet and form of development through the new zoning agreement helps to ensure that future development will be compatible with neighbouring properties.

SITE DESCRIPTION

- The subject property is located on the northeast corner of St. Mary's Road and Loraine Street in the Varennes neighbourhood of the St. Boniface Ward.
- The property is approximately **5,700 square feet (529.5 square metres) in area.** A detached single-family style building with a footprint of approximately 1,000 square feet is located on the property. This building has functioned as a dental clinic and later an office for over 30 years as a result of a rezoning that occurred in 1976 (see Background – DAZ 231/76).
- The property is within Plan Winnipeg 2020's Neighbourhood Policy Area and is zoned "C2" Commercial Community.

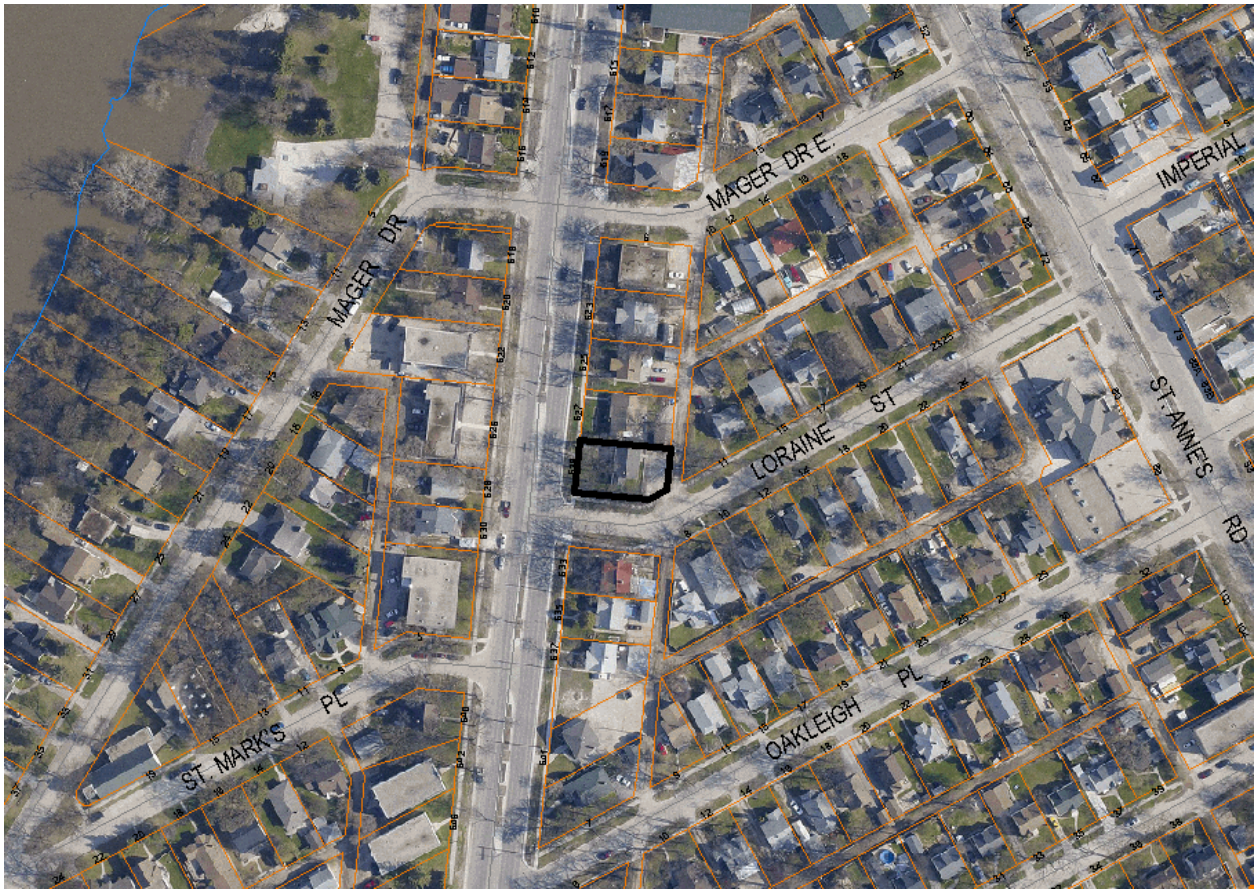


Figure 1: Air photo of the subject property and surrounding area (2009 air photo).

SURROUNDING LAND USES & ZONING (See Figure 2)

North: Three single-family homes zoned "RMF-S" Residential Multi-Family Small. A three-storey multi-family development zoned "RMF-S" is located north of these three single family homes at the corner of St. Mary's Road and Mager Drive.

South: A duplex zoned "RMF-S" Residential Multi-Family Small.

East: Single-family homes zoned "R1-M" Residential Single-Family Medium.

West: Single-family homes zoned "R1-M" Residential Single-Family Medium and a three-storey multi-family development zoned "RMF-M" Residential Multi-Family Medium.

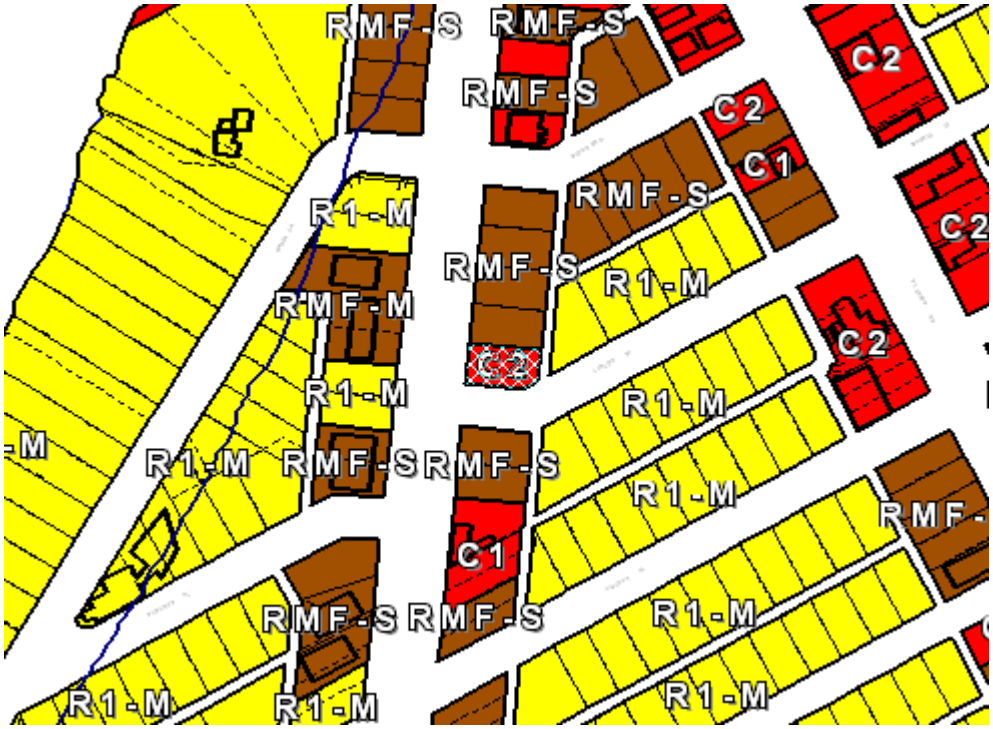


Figure 2: Existing zoning of the subject property and surrounding area.

BACKGROUND

DAZ 231/76

- Under file DAZ 231/76, the subject property was rezoned from an "R3" Multiple Family District to a "C2" Commercial District under the St. Vital Planning Scheme (1951). This application allowed for the establishment of a dental office on the site. A zoning agreement was placed on the property. Key restrictions in the zoning agreement include the following:

  2. The land and any building or structure thereon shall not be used for and no building or structure shall be erected, altered, enlarged on the land except a dental laboratory and accessory uses having a minimum of four (4) parking spaces provided on the land surfaced with asphalt.

  3. No building or structure shall be erected on the land except in accordance with plans including the design of the accessory parking area and landscaping to the satisfaction of the Commissioner of Environment of the City approved by his signature and thereafter attached to the agreement as Schedule "A" under the designation DAZ 231/76.

  4. The design and location of all signs to be erected on the site shall be subject to the approval of the said Commissioner prior to the issuance of any building permit thereafter.

5. The said parking spaces and landscaping required to the satisfaction of the said Commissioner shall be completed within six (6) months after issuance of an occupancy permit for any building on the land unless an extension of that time is approved by the St. Vital Community Committee.

6. The said landscaping shall be maintained in good condition to the satisfaction of the said Commissioner.

9. It is understood and agreed that the restrictions on use of the land imposed by this agreement shall be subject to change by any variance granted pursuant to the provisions of the City of Winnipeg Act.

ZAA 2/91

- On April 17, 1991, Council approved ZAA 2/91, which amended the zoning agreement for DAZ 231/76 as follows:

  2. That Zoning Agreement DAZ 231/76 is amended by deleting Clause 2 and substituting the following new Clause 2:

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     (i) Business or professional offices,

     (ii) Medical or dental clinics;

     (v) Medical or dental laboratory;

     (vi) Uses incidental and accessory to any of the above uses.

     (b) Parking spaces shall be provided and maintained on the land at a minimum ratio of one (1) space for each five hundred (500) square feet of floor area within a building on the land; but in no case less than four (4) parking spaces on the land."

  3. Clause 9 of Zoning Agreement DAZ 231/76 is deleted and substituted by the following new Clause 9:

     "9. No building shall be erected or located on the land exceeding one (1) storey in height."

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant would like to establish a hair and body boutique (Jewel Hair and Body Boutique) on the subject property, which would include the following services:
    - Hair cutting, colouring, and styling
    - Manicures and pedicures
    - Waxing and facials
    - Massage and ion cleanses
- These services will be provided on the main floor of the existing building; the basement will be used for storage and a seating or break area for employees. Minor interior renovations such as removing and adding some interior walls are proposed to accommodate the hair and body boutique. Exterior renovations are not proposed.
- The hours of operation will be Monday to Saturday from 9:00 am to 9:00 pm.
- In total, there will be a maximum of eight (8) employees on site at a given time, including: three (3) hair stylists, three (3) estheticians, a receptionist, and a massage therapist who will only work 1-2 days per week.
- There is a parking lot located at the rear of the building that has six (6) parking stalls. Access to the parking lot is from the back lane.

ANALYSIS

PLAN WINNIPEG COMPLIANCE

- The proposed development complies with *Plan Winnipeg 2020.*

ZONING (BY-LAW 200/2006)

"C2" Commercial Community District

- The C2 zoning district is intended to accommodate more intensive commercial sites that do not have a local or neighbourhood orientation. The district is intended to include attractive commercial, institutional, recreational, and service facilities needed to support the surrounding neighbourhoods and the broader community. C2 districts are generally located along collector streets, at arterial/collector intersections, or along portions of arterial streets with relatively shallow lots. Non-residential structures in the C2 zone, require the following dimensional standards: a minimum front, side and corner side yard of 0 feet, and a rear yard of 25 feet. The maximum building height is 49 feet and the maximum Floor Area Ratio is 3.0.

LAND USE BY-LAW

- The applicant would like to develop a personal service (hair and body boutique) on the subject property; however, personal services are not permitted within the existing zoning agreement.

COMPATIBILITY WITH THE EXISTING NEIGHBOURHOOD

- The property is located along a major arterial street. Arterial streets are suitable locations for local commercial services, such as the proposed hair and body boutique.
- The subject property has allowed for some level of commercial development, such as a dental clinic or office, for over 30 years.
- In a review of the history of the subject property, the Planning and Land Use Division did not find any major concerns regarding the commercial uses:
    - At the first public hearing for the rezoning of the subject property on June 7th, 1976, one person appeared in opposition to the proposed rezoning. At the time, this person's primary concern was parking. No one appeared in opposition at the public hearing for the zoning agreement amendment application, which was held on February 26th, 1991.
    - The City of Winnipeg has been keeping digital records on properties that include a record of complaints since approximately 1998. A review of these records on the subject property reveals that a complaint has not been raised regarding the property over this twelve-year period.
- The form of the existing building is in character with the neighbourhood.
- St. Mary's Road between Marion Street and the Perimeter Highway is predominantly a commercial and higher density residential street. Although there are stretches along St. Mary's Road that include single-family detached homes or buildings, in many instances, these single-family detached buildings are zoned to allow for more intense development (like the subject property). For example, there are three detached single-family homes north of the subject property that are zoned "RMF-S" Residential Multi-Family Small, which would allow for future multi-family development. South of the subject property (between Lorraine Street and Oakleigh Place), the same situation exists as there are mid-block properties zoned "C1" Commercial Neighbourhood that are neighboured to the north and south by properties zoned "RMF-S" Residential Multi-Family Small. Single-family detached homes are the principal use on one of the two C1 properties and two of the four RMF-S properties in this block. It should be noted that older zoning agreements that limit the uses are placed on the land for the commercial properties (see By-Laws 1668/1977 and 3935/1985).

ZONING AGREEMENT REVIEW

- The Planning and Land Use Division has received a number of applications to amend or withdraw and replace older zoning agreements (i.e. 20 or more years old) on commercial properties that were overly-restrictive and typically only permitted the use or an

associated use applied for at the time of rezoning or amendment to the existing zoning agreement.

- Last year (2009) the Planning and Land Use Division received a total of nine (9) zoning agreement amendment applications. Of these, five (5) applications were to allow for more uses on commercially-zoned properties with older zoning agreements. In all five applications, the Planning and Land Use Division recommended approval to allow for more uses. Each respective Committee and Council concurred with the recommendations to allow for more uses, and in some instances, even added uses beyond what was recommended by the Planning and Land Use Division. Further, in four (4) of these applications, the zoning agreement was amended to allow for substantially more uses or more intense uses than previously permitted on the properties:
    - ZAA 2/2009 (484 Stradbrook Avenue, zoned C2) resulted in the clause pertaining to prohibited uses being deleted in its entirety.
    - ZAA 6/2009 (1437 Arlington Street, zoned C1) resulted in only a contractor's establishment and a neighbourhood rehabilitation home being restricted on the land from the land previously being restricted to 18 uses.
    - ZAA 7/2009 (20 De La Seigneurie, zoned C2) resulted in prohibiting the following uses in the C2 zone: auto/light truck/motorcycle repair and service; auto/light truck/motorcycle sales and rental; auto parts and supplies, sales; drinking establishments; hostels, motels, hotels; landscape or garden supplies businesses, and; pawnshops. The previous zoning agreement only permitted C1 uses on this property.
    - ZAA 10/2009 (878 Ellice Avenue, zoned C2) resulted in prohibiting the following uses in the C2 zone: auto/light truck/motorcycle repair and service; auto/light truck/motorcycle sales and rental; auto parts and supplies, sales; drive-in or drive through facilities; kennels; hostels, motels, hotels; landscape or garden supplies businesses, and; pawnshops. The previous zoning agreement only allowed for a private club, restaurant, and an amusement enterprise restricted to four amusement devices.
- The Planning and Land Use Division's position to allow for more uses in recent zoning agreements or zoning agreement amendments than in previous years results from a number of factors, including: evolving priorities in the overall Development Plan (Plan Winnipeg) that encourage commercial infill and expansion (see policy 3B-05 (i)), and that the most recent Zoning By-Law more effectively protects neighbouring properties from potentially disruptive uses by either listing these uses as Conditional or Not Permitted.
- The existing zoning agreement for the subject property is an example of an agreement that overly restricts uses on the property. This property is a favourable location for C2 commercial development as it is located on a corner site along a major arterial that is predominantly zoned for commercial and higher density residential developments.
- There are some aspects of the previous zoning agreement that should be included in the new zoning agreement for the subject property to ensure that the form of development is

consistent with the neighbourhood. These aspects include a provision for plan approval, restrictions on height, and restrictions on signage.

- There are also some uses permitted in the C2 zone that can be considered disruptive and should either be conditional (to allow for further evaluation of a proposed development), or not permitted on this particular site. These uses include:

  Conditional Uses

  - Hostels
  - Hotel or motels
  - Drinking establishments
  - Auto parts and supplies, sales

  Not Permitted

  - Kennels
  - Landscape or garden supplies
  - Auto/light truck/motorcycle, repair and service
  - Auto/light truck/motorcycle, sales and rental
  - Fuel sales
  - Parking, structured
  - Parking, surface
  - Contractor's establishment
  - Recycling collection centre

- Other uses that are potentially disruptive and permitted in the C2 zone could also be excluded, but are unrealistic for development on the site as this site is too small or otherwise constrained by the maximum permitted gross floor area of 5,000 square feet (as recommended in the new zoning agreement). These uses include: post office/carrier depots, commercial schools, auditorium/concert halls, a drive-in or drive through, and supermarkets (large-format).
- The recommended conditions in the new zoning agreement focus on restricting the form of development to help ensure compatibility with the neighbourhood. These conditions include restrictions on the front and side yard setbacks (20 feet and 5 feet respectively) and a restriction on height (35 feet).
- Parking for the site can be adequately addressed by the Zoning By-Law; however, parking should remain located at the rear of the building to remain consistent with the dominant form of development in the area.
- New signage restrictions have been added to the new zoning agreement to reduce the potential for future signage to disrupt neighbouring properties.

RECOMMENDATION

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

- The property is located along a major arterial street. Arterial streets are suitable locations for local commercial services, such as the proposed hair and body boutique.
- The subject property is a favourable location for most C2 commercial development, as it is located on a corner site along a major arterial that is predominantly zoned for commercial and higher density residential developments.
- Restricting the height of any building on the site to 35 feet and form of development through the new zoning agreement helps to ensure that future development will be compatible with neighbouring properties.

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

Report Prepared by: Robert Kostiuk
PPD File # ZAA 4/10