Agenda – Executive Policy Committee – December 1, 2010

REPORTS

Item No. 4 Rezoning – 468 St. Anne's Road – DAZ 218/2010 (St. Vital Ward)

COMMUNITY COMMITTEE RECOMMENDATION:

On November 8, 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 the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 218/2010 dated October 25, 2010 to a "C2" Commercial Community 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 for the development of any building or structure, plans shall be submitted showing the location and design of proposed buildings, the location and design of accessory parking areas, garbage enclosures, fencing and landscaping 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 to be maintained to the satisfaction of the Director of Planning, Property and Development.

        ii. That the land be restricted as follows:

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

                1. Hostel
                2. Hotel or Motel
                3. Drinking Establishment
                4. Auto/Light Truck/Motorcycle, Repair & Service
                5. Auto/Light Truck/Motorcycle, Sales & Rental

6. Auto Parts and Supplies, Sales
7. Drive-In or Drive-Through
8. Fuel Sales
9. Parking, Structured
10. Recycling Collection Centre

b. The following uses shall not be permitted on the land:

1. Advertising Sign
2. Parking, Surface
3. Contractor's Establishments

ii. That free-standing use identification signs shall not be permitted;

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

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

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 Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward the 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 Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

DECISION MAKING HISTORY:

COMMUNITY COMMITTEE RECOMMENDATION:

On November 8, 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: **Rezoning – 468 St. Anne's Road**
File DAZ 218/2010 [c/r DAV 147708/2010D]

For submission to: **Executive Policy Committee**

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

Report date: **November 9, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 8, 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 the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 218/2010 dated October 25, 2010 to a "C2" Commercial Community 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 for the development of any building or structure, plans shall be submitted showing the location and design of proposed buildings, the location and design of accessory parking areas, garbage enclosures, fencing and landscaping 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 to be maintained to the satisfaction of the Director of Planning, Property and Development.

        ii. That the land be restricted as follows:

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

                1. Hostel

                2. Hotel or Motel

                3. Drinking Establishment

                4. Auto/Light Truck/Motorcycle, Repair & Service

5. Auto/Light Truck/Motorcycle, Sales & Rental

6. Auto Parts and Supplies, Sales

7. Drive-In or Drive-Through

8. Fuel Sales

9. Parking, Structured

10. Recycling Collection Centre

b. The following uses shall not be permitted on the land:

1. Advertising Sign

2. Parking, Surface

3. Contractor's Establishments

iii. That free-standing use identification signs shall not be permitted;

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

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

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

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

7. That the Director of Legal Services and City Solicitor 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 October 25, 2010 and in the report.

PUBLIC HEARING SUMMARY

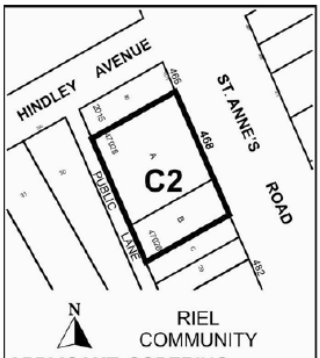
File: DAZ 218/2010 [c/r DAV 147708/2010D]

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

Public Hearing: November 8, 2010
Council Chamber
Council Building, 510 Main Street

Applicant: Sobering Investments Inc. (Joe Sobering)

Subject:



APPLICANT: SOBERING INVESTMENTS INC.
FILE: DAZ 218/10
PROPOSAL: To rezone the land shown outlined above from a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to allow for greater commercial uses as per Zoning By-Law 200/2006. **For information, phone Mr. R. Kostiuk, Planner, at 986-7367.**
DEMANDEUR : SOBERING INVESTMENTS INC.
N° DE RÉFÉRENCE : DAZ 218/10
PROJET : Rezonage des sols délinéés ci-dessus de sorte qu'ils passent de la catégorie C1 (SECTEUR COMMERCIAL DE QUARTIER) à la catégorie C2 (SECTEUR COMMERCIAL COMMUNAUTAIRE) afin de permettre de plus grandes utilisations commerciales en conformité avec le Règlement municipal sur le zonage no 200/2006. **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 986-7367.**

Premises Affected: 468 St. Anne's Road

Exhibits Filed:

1. Application dated August 9, 2010
2. Notification of Public Hearing dated August 11, 2010
3. Manitoba Status of Title 2277743
4. Surveyor's Building Location Certificate and sketch dated April 25, 2008
5. Report from the Planning and Land Use Division dated October 25, 2010
6. Audio Recording of representations

REPRESENTATIONS:

In Support:

Joe Sobering

In Opposition

Nil

For the City:

Ms. S. Matille, Land Development Engineer, Planning, Property and Development Department
Mr. J. Wintrup, Senior Planner, Planning, Property and Development Department

Exhibit "5" referred to in File DAZ 218/2010 [c/r DAV 147708/2010D]

ADMINISTRATIVE REPORT

Title: DAZ 218/2010 – 468 St. Anne's Road Public Hearing

Issue: For consideration at the Public Hearing for the rezoning of 468 St. Anne's Road from C1 to C2 to allow for a greater range of uses on the land.

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 the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 218/2010 dated October 25, 2010 to a "C2" Commercial Community 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 for the development of any building or structure, plans shall be submitted showing the location and design of proposed buildings, the location and design of accessory parking areas, garbage enclosures, fencing and landscaping 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 to be maintained to the satisfaction of the Director of Planning, Property and Development.

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b. The following uses shall not be permitted on the land:
    1. Advertising Sign
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iii. That free-standing use identification signs shall not be permitted;

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

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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 Director of Legal Services and City Solicitor 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 applicant is not proposing any new development on the site.
- The applicant explains that he would like to rezone the property to "C2" Commercial Community to attract more potential tenants to the building/site.
- The Planning and Land Use Division recommends supporting this application because:
    - The proposed rezoning to C2 is located along St. Anne's Road, which is an arterial street. As stated in the Zoning By-Law, the C2 district is intended to be "located along collector streets, at arterial/collector intersections, or along portions of arterial streets with relatively shallow lots."
    - Restricting uses, the form of future development, and signage through the zoning agreement helps to ensure that development on the site will be compatible with neighbouring properties.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Planning and Land Use Division are concurred in, the subject property will be rezoned from C1 to C2, which will allow for a greater range of uses either permitted or conditional on the subject site.

HISTORY

- On June 19, 1985 the St. Boniface – St. Vital Community Committee granted Variance Order DAV 420/85, which permitted an addition to a non-conforming building to provide a 0.6096 (2 foot) front yard instead of 6.096 metres (20 feet) as required.
- On July 13, 1989 the St. Boniface – St. Vital Community Committee granted Variance Order DAV 484/89 to permit a truck and trailer rentals area on the land.
- On December 9, 1999 the Board of Adjustment granted Variance Order DAV 920/99 to permit a catering business in an existing building as a change of use for 25 years, subject to the following conditions:

    1. That while the property is zoned C1, the maximum use occupied by the Catering Business shall be limited to 1,772.625 square feet on the Main Floor and 1,772.625 square feet in the basement as shown on the plans submitted attached hereto and identified as Sheet Nos. 1 to 5, Exhibit No. 9 for File No. DAV 920/99C, dated December 8, 1999.
    2. That, if any variance granted by this order is not established within two (2) years of the date hereof, this order, in respect of that Variance shall terminate.

- On June 18, 2001 the Board of Adjustment granted Variance Order DAV 333/2001C to permit:

1. a) no additional parking

   b) no additional loading space

2. the establishment of a baked goods sales use as a change of use for the life of the building

subject to the following conditions:

1. That the use shall be limited to take-out only, with no eat-in facilities
2. That, if any variance granted by this order is not established within two (2) years of the date hereof, this order, in respect of that Variance shall terminate.

- On October 11, 2002, the Board of Adjustment granted Variance Order DAV 884/2002C to permit a free standing sign having:

  1. a sign surface area of 96 square feet;
  2. a maximum height of 24.33 feet
  3. a 1 foot front yard

  subject to the following conditions:

  1. That mobile signs shall not be permitted on the subject property.
  2. That, if any variance granted by this order is not established within two (2) years of the date hereof, this order, in respect of that Variance shall terminate.

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:	October 25, 2010
File No.	DAZ 218/10

List of Schedules and Attachments

1. Appendix A – Planning Discussion
2. Schedule “A” for File No. DAZ 218/10

APPENDIX 'A'

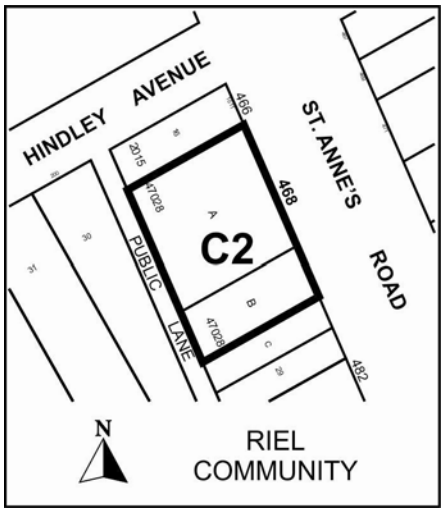
DATE: October 25, 2010
FILE: DAZ 218/10
RELATED FILES: DAV 10-147708/D (c/r), DAV 884/02, DAV 333/01, DAV 920/99, DAV 484/89, DAV 420/85

COMMUNITY: Riel Community
NEIGHBOURHOOD #: 5.517

SUBJECT: To rezone the subject property from a "C1" Commercial Neighbourhood District to a "C2" Commercial Community District to allow for a greater range of uses on the land.

LOCATION: 468 St. Anne's Road

LEGAL DESCRIPTION: PCL A, B PLAN 47028 43 ST V



APPLICANT: SOBERING INVESTMENTS INC
10 CAMBRAI COVE
WINNIPEG MB R2N 2V1

OWNER: SOBERING INVESTMENTS INC
10 CAMBRAI COVE
WINNIPEG MB R2N 2V1

RECOMMENDATION: Approval with conditions

REPORT SUMMARY

- The applicant is not proposing any new development on the site.
- The applicant explains that he would like to rezone the property to “C2” Commercial Community to attract more potential tenants to the building/site.
- The Planning and Land Use Division recommends supporting this application because:
    - The proposed rezoning to C2 is located along St. Anne’s Road, which is an arterial street. As stated in the Zoning By-Law, the C2 district is intended to be “located along collector streets, at arterial/collector intersections, or along portions of arterial streets with relatively shallow lots.”
    - Restricting uses, the form of future development, and signage through the zoning agreement helps to ensure that development on the site will be compatible with neighbouring properties.

SITE DESCRIPTION

- The subject property is located on the west side of St. Anne’s Road, just south of the St. Anne’s Road and Hindley Avenue intersection in the Worthington neighbourhood of the St. Vital Ward.
- The property is approximately **14,000 square feet in area**.
- The subject property contains a building with a footprint of approximately 4,600 square feet. This building is two-stories tall in the rear (west) portion and one storey tall in the front (east) portion.
- Vehicular access to the lot is provided from St. Anne’s Road. The subject property also has vehicular access from the back lane.
- A parking lot is located south of the existing building on the site.
- The subject property is within Plan Winnipeg’s Residential Policy area and is zoned “C1” Commercial Neighbourhood.



Figure 1: Aerial photograph showing approximate area of subject property (flown 2009)

SURROUNDING LAND USES & ZONING (See Figure 2)

North: A one storey commercial building that currently houses an insurance company (Valour Tri-West) and is zoned “C1” Commercial Neighbourhood.

South: A surface parking lot zoned “C1” Commercial Neighbourhood.

East: A restaurant (Dairy Delight) and several single-family detached homes zoned “C1” Commercial Neighbourhood.

West: Detached single-family detached homes zoned “R1-M” Residential Single-Family Medium.

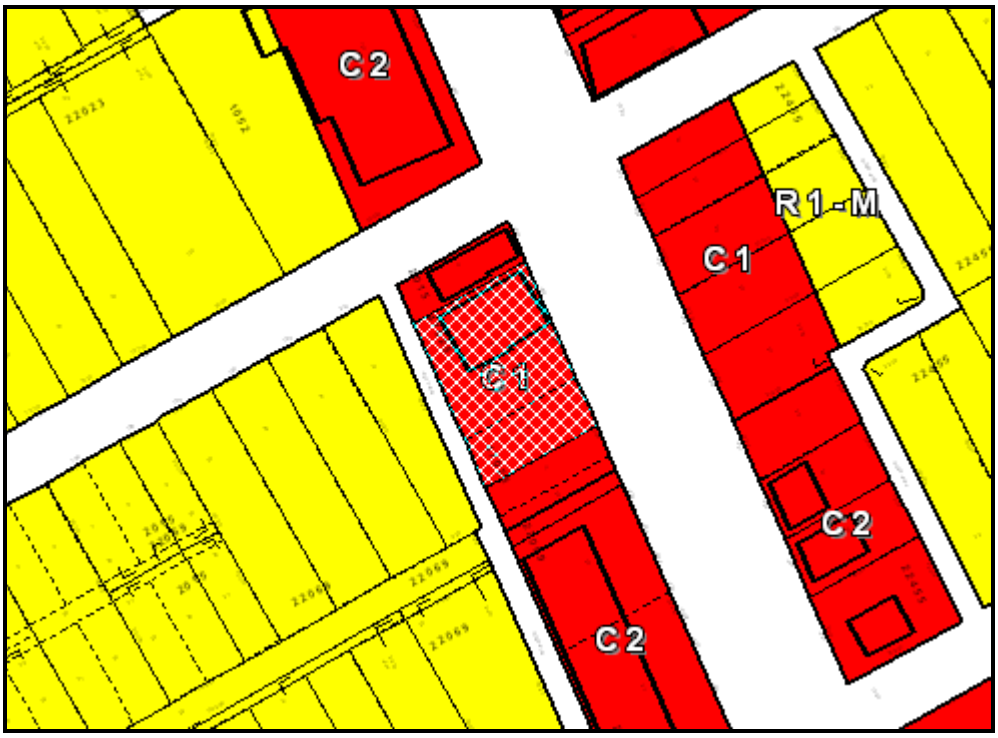


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is not proposing any new development on the site.
- The applicant explains that he would like to rezone the property to “C2” Commercial Community to attract more potential tenants to the building/site.

ANALYSIS AND ISSUES

PLAN WINNIPEG

- The proposed rezoning is within Plan Winnipeg’s Residential Policy area and complies with the Plan.

ZONING

“C1” Commercial Neighbourhood District

- The C1 district is intended to accommodate small, compact commercial uses within or surrounded by residential areas that are attractive and compatible in scale and character with surrounding residential uses, to serve the convenience needs of the surrounding neighbourhood. This district is not intended to accommodate businesses sized or designed to serve a trade area more than one-half mile from the business. C1 districts are generally located along local streets or at local/collector intersections. There are no minimum front, rear or side yards in this zone; however, there is a maximum front yard of 10 feet for properties in the Urban Infill Area. The maximum building height is 39 feet and the maximum floor area ratio is 1.0.

“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

Rezoning

- The property is currently zoned C1, but the applicant would like to have his property rezoned (upzoned) to C2 to allow for more uses on the land.

Variance

- The minimum required rear yard setback in the C2 zone is 25 feet. The existing building on the site has a 20 foot rear yard (west) setback. As such, a rear yard variance is required for the existing building.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The applicant would like to rezone the property from C1 to C2 to attract more potential tenants to the building/site.
- The proposed rezoning to C2 is located along St. Anne’s Road, which is an arterial street. As stated in the Zoning By-Law, the C2 district is intended to be “located along collector streets, at arterial/collector intersections, or along portions of arterial streets with relatively shallow lots.”
- Although there are many similarities between the types of principal uses permitted or conditional in the C1 and C2 zones, there are more uses that are either permitted or conditional within the C2 zone than those permitted or conditional in the C1 zone. These uses that are permitted or conditional in the C2 zone tend to allow for more intensive commercial development. Additionally, there are some use specific standards that allow for more intensive commercial development on C2 zoned sites versus C1 zoned sites.
- The following table provides an overview of the different uses permitted or conditional in the C1 and C2 zones. If a use is not listed in the table, it means that the use is treated the same way in both the C1 and C2 zoning districts.

Use	C1	C2	Use Specific Standard
Dwelling, single-family detached	P	C	
Dwelling, two-family	P	C	
Assisted Living Facility	C	P	
Community Recreation Centre	C	P	
Social Service Facility	C	P	
College or University		P	
Commercial School		P	
Park/Plaza/Square/Playground	P*	P	68
Hospital		C*	70
Place of Worship	C*	P*	72
Cultural Centre		C	
Gallery/Museum	P*	P	
Amusement Enterprise, Indoor		P*	74
Auditorium/Concert Hall/Theatre/Cinema		P*	75
Hall Rental		C	
Private Club, Not Licensed		C*	78
Studio, Radio/TV/Motion Picture Broadcast & Production		P	
Amusement Enterprise, Outdoor		C	
Hostel	C	P	
Hotel or Motel	C	P	
Animal Hospital or Veterinary Clinic	P*	P	81
Drinking Establishment		P*	84
Restaurant	P*	P*	92
Office	P*	P	87
Personal Services	P*	P*	89
Body Modification Establishment		C	
Cheque Cashing Facility		C*	83
Funeral Chapel or Mortuary		C	
Medical/Dental/Optical/Counselling Clinic	P*	P	86
Retail Sales	P*	P*	90
Auction Room		C	
Landscape or Garden Supplies		P	
Supermarket		P*	91
Pawnshop		C*	88
X-Rated Store		C*	93
Advertising Sign		C	
Auto/Light Truck/Motorcycle, Repair & Service		P*	94
Auto/Light Truck/Motorcycle, Sales & Rental		P*	95
Auto Parts and Supplies, Sales		P	

Use	C1	C2	Use Specific Standard
Car Wash		C	
Drive-In or Drive-Through		P*	96
Fuel Sales		P*	97
Parking, Structured		P	
Parking, Surface		C	
Bus Depot		C	
Commercial Marina		C	
Contractor's Establishment	P	P	
Fleet Services		C	
Recycling Collection Centre		P	

- Although the Planning and Land Use Division generally agrees that the C2 zoning can be appropriate along St. Anne's Road, the Division has concerns about the fact that a specific use for the rezoning has not been proposed.
- The primary concern is that the applicant could be essentially circumventing a "true" public hearing process for the rezoning by not disclosing to the community what the proposed use on the land could be. Without this information, it is more difficult for the community members to determine whether or not the use is contentious to them and whether or not they should participate in the public hearing process.
- Further, the applicant may also be circumventing a detailed analysis of the use in this particular location by the Planning and Land Use Division and by other City departments.
- Bearing these points in mind, the Division recommends supporting the rezoning to C2, but either not permitting or making certain uses conditional within the zoning agreement that could potentially be contentious or that could be built in a manner that is simply not in scale or in character with the neighbourhood.
- Making some uses conditional will allow the Planning and Land Use Division to evaluate the proposal and will trigger a public hearing process, which will allow for community input. The conditional use process is also advantageous for the applicant/developer as conditional use applications take less time to administer and process than rezonings.
- Specifically, the Division recommends that the following uses – which are permitted in the C2 zone and not permitted or conditional in the C1 zone – be made conditional for this application:
    - Hostel
    - Hotel or Motel
    - Drinking Establishment
    - Auto/Light Truck/Motorcycle, Repair & Service
    - Auto/Light Truck/Motorcycle, Sales & Rental
    - Auto Parts and Supplies, Sales

    - Drive-In or Drive-Through
    - Fuel Sales
    - Parking, Structured
    - Recycling Collection Centre

- The Division recommends that the following uses not be permitted for this application because these uses are generally not in character with the area, and will not help make a positive contribution to the urban form along major corridors such as St. Anne's Road:
    - Advertising Sign
    - Parking, Surface
    - Contractor's Establishment
- The Division also recommends that plan approval and restrictions on signage be included as conditions in the zoning agreement. These conditions will help ensure that the future form of development on the site is compatible with the neighbourhood.

LAND DEDICATION

- When a developer rezones and/or subdivides a parcel of land, they are required to put in an application with the City of Winnipeg.
- As a condition of rezoning or subdivision, a developer is required to contribute a portion of the land to be developed to the City for parks purposes.
- The amount of land is not less than 10%.
- The developer is to provide land or 'cash in lieu' as determined by the Planning, Property and Development Department.
- The City is requesting cash in lieu for this application.

RECOMMENDATION

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

- The proposed rezoning to C2 is located along St. Anne's Road, which is an arterial street. As stated in the Zoning By-Law, the C2 district is intended to be "located along collector streets, at arterial/collector intersections, or along portions of arterial streets with relatively shallow lots."
- Restricting uses, the form of future development, and signage through the zoning agreement helps to ensure that development on the site 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 # DAZ 218/10

Schedule "A" for File No. DAZ 218/2010, Riel Community Committee, dated October 25, 2010.

By-Law No. _____

File No. **DAZ 218/10**

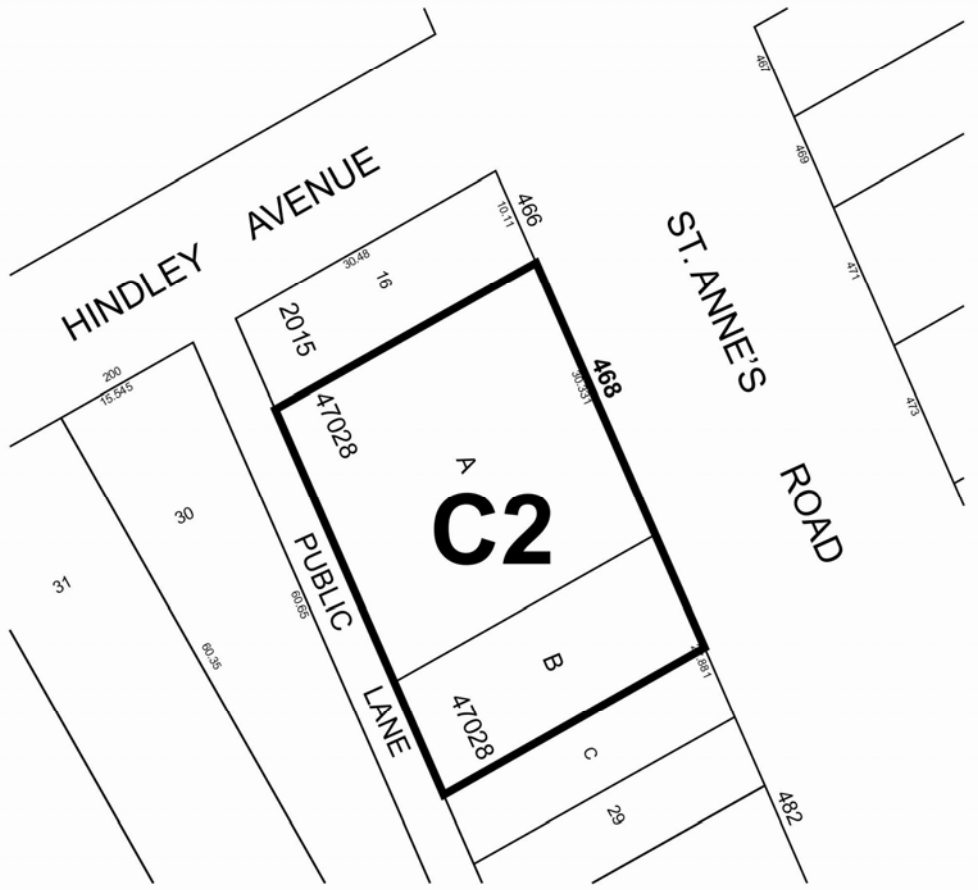
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RIEL
COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 468 St. Anne's Road from a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to allow for greater commercial uses as per Zoning By-Law 200/2006 as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____