Agenda – Council – September 27, 2012

Report – Executive Policy Committee – September 5, 2012

Item No. 2 Zoning Agreement Amendment – 5905 Roblin Boulevard (Charleswood-Tuxedo Ward) File ZAA 3/2012

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 5, 2012, the Executive Policy Committee concurred in the recommendation of the Assiniboia Community Committee and submits the following to Council:

1. That the Zoning Agreement Caveat 246160 under File DAZ 221/74 dated January 22, 1975 (By-Law No. 1693/77) be withdrawn.

2. That the Director of Legal Services and City Solicitor be requested to withdraw the subject Zoning Agreement to DAZ 221/74 (By-law No. 1693/77) 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 and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report – Executive Policy Committee – September 5, 2012

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 5, 2012, the Executive Policy Committee concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 10, 2012, the Assiniboia 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 – 5905 Roblin Boulevard**
File ZAA 3/2012

For submission to: **Executive Policy Committee**

Prepared by: **Danielle Caron, Committee Clerk**
Assiniboia Community Committee

Report date: **July 11, 2012**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 10, 2012, the Assiniboia 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 That the Zoning Agreement Caveat 246160 under File DAZ 221/74 dated January 22, 1975 (By-Law No. 1693/77) be withdrawn.

2. That the Director of Legal Services and City Solicitor be requested to withdraw the subject Zoning Agreement to DAZ 221/74 (By-law No. 1693/77) 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 and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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

1. The business is a good fit for the community.

2. There is no opposition to the application.

PUBLIC HEARING SUMMARY

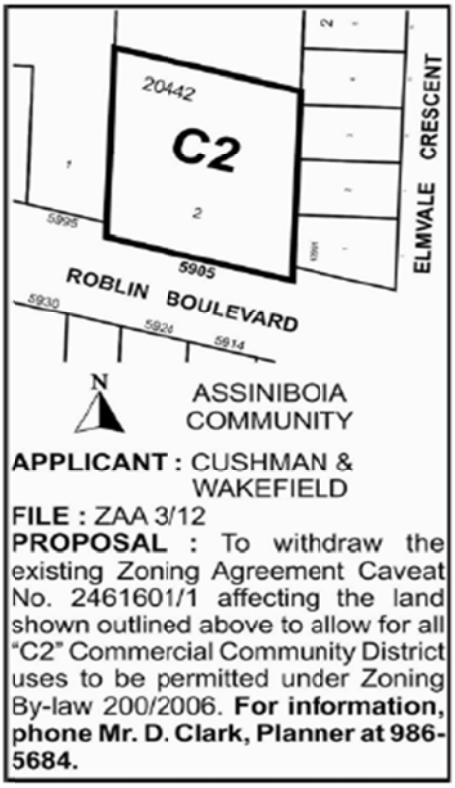
File: ZAA 3/2012

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

Public Hearing: July 10, 2012
Council Chamber
Council Building, 510 Main Street

Applicant: Cushman and Wakefield (Michelle Constant)

Subject:



Premises Affected: 5905 Roblin Boulevard

Exhibits Filed:
1. Application dated May 9, 2012
2. Notification of Public Hearing dated May 16, 2012
3. Manitoba Status of Title 2303324/1
4. Letter of authorization dated May 8, 2012 from 5683671 Manitoba Ltd. to Michelle Constant

5. Surveyor's Building Location Certificate and sketch dated May 20, 2008
6. Plan
7. Report from the Planning and Land Use Division dated June 28, 2012
8. Inspection Report
9. Audio Recording of representations of public hearing

REPRESENTATIONS:

In Support:

Michelle Constant, Cushman and Wakefield
Doug Colins
Veronica Hicks, Cushman and Wakefield

In Opposition:

Nil

For Information:

Nil

For the City:

Mr. J. Veitch, Acting Principal Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 3/2012

ADMINISTRATIVE REPORT

Title: ZAA 3/12 – 5905 Roblin BV Public Hearing

Issue: For consideration at the Public Hearing to amend the Zoning Agreement to withdraw the Zoning Agreement.

Critical Path: Assiniboia 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 Zoning Agreement Caveat 246160 under File DAZ 221/74 dated January 22, 1975 (By-Law No. 1693/77) be withdrawn.

2) That the Director of Legal Services and City Solicitor be requested to withdraw the subject Zoning Agreement to DAZ 221/74 (By-law No. 1693/77) 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 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 proposing to withdraw the Zoning Agreement from the subject property in its entirety in order to allow a pizza restaurant to locate in the existing strip mall as well as allowing potential future tenants.

- Zoning Amendment Applications require a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*

- 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 Urban Planning Division are concurred in, the Zoning Agreement will be withdrawn.

CONSULTATION

In preparing this Report there was consultation with:

N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by	Devin Clark
Date:	June 28, 2012
File No.	ZAA 3/12

List of Schedules and Attachments

1. Appendix A – Planning Discussion

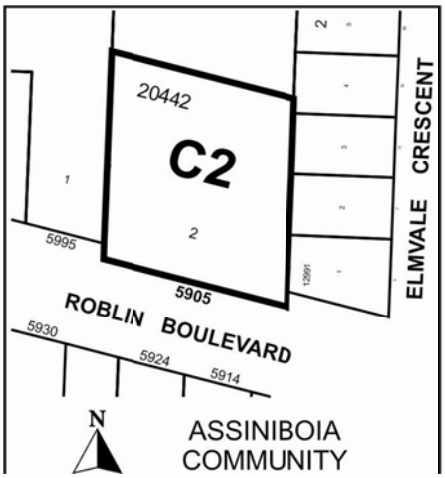
APPENDIX 'A'

DATE: June 28, 2012
FILE: ZAA 3/12
RELATED FILES: DAZ 221/74 (By-Law No. 1693/77)
COMMUNITY: Assiniboia
NEIGHBOURHOOD #: 2.624 – Roblin Park

SUBJECT: The applicant would like to withdraw the existing Zoning Agreement on the property in order to allow for establishing C2 uses in accordance with Zoning By-law 200/06.

LOCATION: 5905 Roblin BV

LEGAL DESCRIPTION: **SP LOT 2 PLAN 20442 WLTO**



APPLICANT: Michelle Constant
111 – 93 Lombard
Winnipeg MB R3B 3B1

OWNER: Doug Collins
Willem Smit

RECOMMENDATION: Withdraw Zoning Agreement

REPORT SUMMARY:

- The applicant's motivation for a zoning amendment is to remove the clauses set forth in the Zoning Agreement in order to establish a take-out pizza restaurant. The applicant has indicated there have been inquiries from pet stores and other community based commercial establishments as well.

- The subject property is zoned “C2” Commercial Community and is adjacent to single-family residential uses, an apartment block and park open space.
- Under DAZ 221/74 the property was rezoned from “R1-20” Single-Family District to “C2” General Commercial District to accommodate an automobile service station and limited other uses of the General Commercial District under By-law. 1800. As part of that approval process a Zoning Agreement was placed on the property to regulate the type of permitted uses.
- The Urban Planning Division recommends withdrawing the zoning agreement to allow the current Zoning By-law 200/06 to regulate uses on this site.

SITE DESCRIPTION

Surrounding Land Use and Zoning

The subject site is located on the north side of Roblin Blvd. two properties west of Elmvale Cres. and is zoned “C2” Commercial District. The site is located in the Southboine Neighbourhood of the Charleswood – Tuxedo Ward.

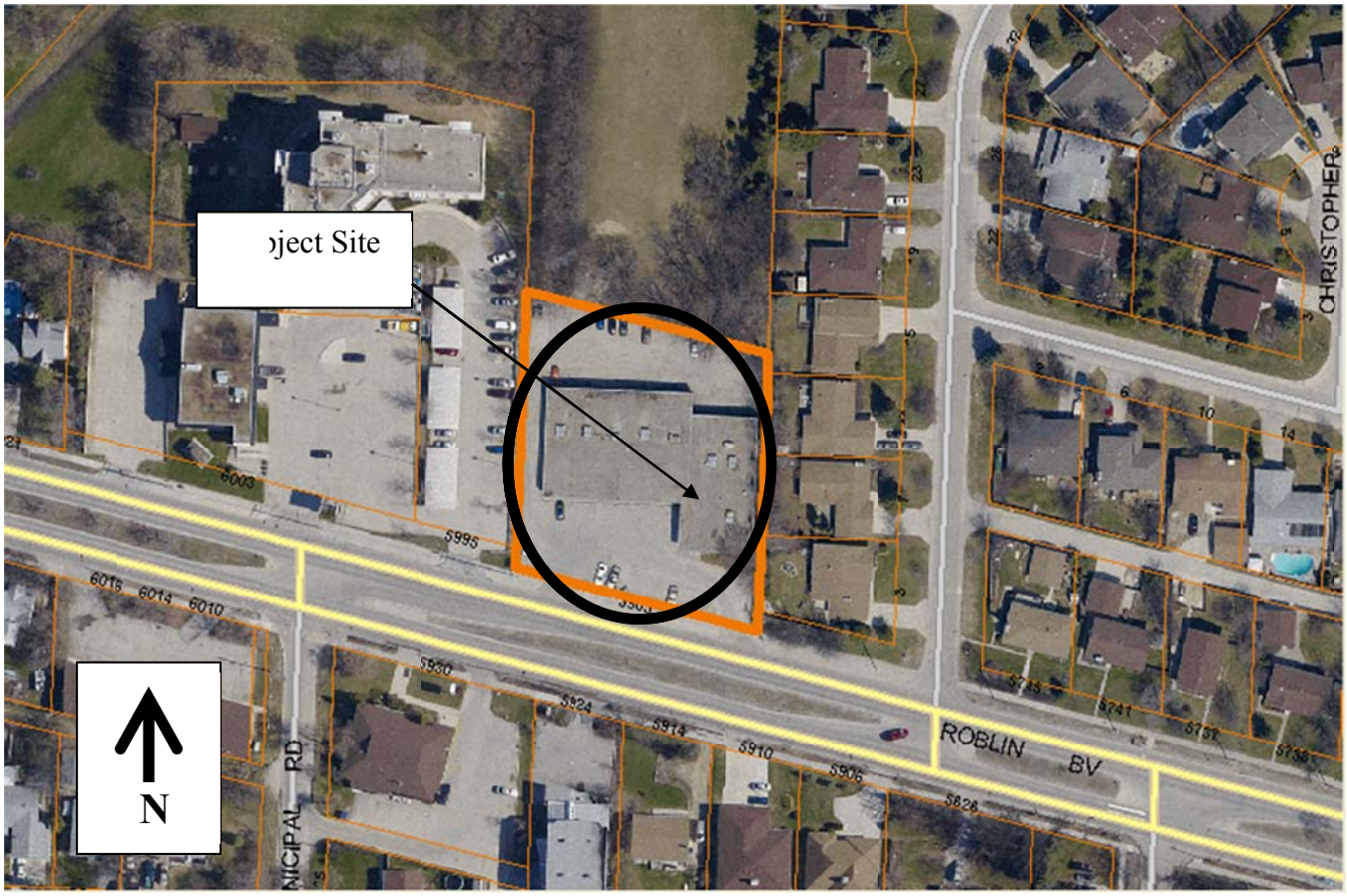


Figure 1: Subject Site and Surrounding Land Uses (Aerial Photo – flown 2009)

SURROUNDING LAND USES & ZONING

North: Open park space zoned “R1-E” Single Family Residential - Estate

South: Roblin Blvd. then ‘R1-E’ Single Family Residential - Estate

East: Single Family Dwelling zoned **"**R1-L" Single Family Residential - Large

West: Residential Apartments zoned "C2" Community Commercial

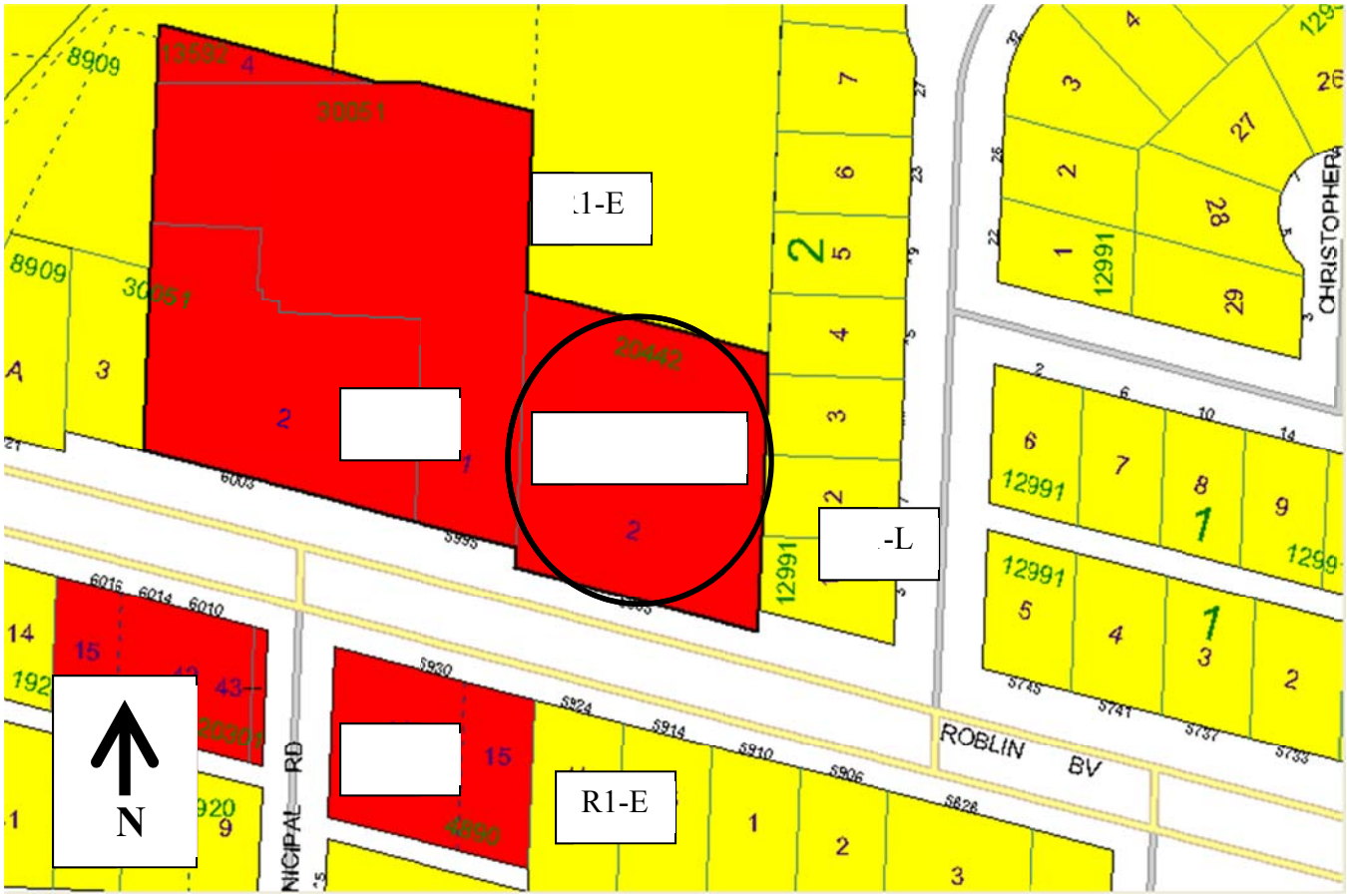


Figure 1: Zoning Map of subject property and Surrounding Context.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- In an existing commercial/retail strip mall the applicant intends to lease space to a pizza restaurant, and allow for prospective commercial uses that will fit within the existing building. The applicant indicates there has been interest from restaurants and pet stores.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* Roblin Blvd. is an example of a Community Mixed Use Corridor falling within the Areas of Stability – Recent Communities policy area. The Complete Community Strategy states; *'Community Mixed Use Corridors act as "main streets" for one or more neighbourhoods, providing strong social function.' 'Some have become regional attractions because of unique services or character, while others serve a more local population base.'*

- A key policy guiding the development of Recent Communities in Areas of Stability includes:
    - *'Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complementary to the existing scale, character and built form.'*
    - *'Support a mix of commercial services and employment uses that serve the local community.'*

ZONING

"C2" Commercial Corridor District
This 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 broader community.

ZONING (BY-LAW 200/2006)

- The initial rezoning of the property from R1-20 to C2 was supported to accommodate an automobile service station use and other permitted uses in the C2 district "from time to time" under By-law 1800. A Zoning Agreement was attached to the rezoning approval to ensure that any proposed use had to be approved by the Assiniboine Park Community Committee.

- As a result of the zoning agreement the subject property does not have the full development rights associated with the C2 zoning district. It has also never been used as an automobile service station.

- The Urban Planning Division believes that a Zoning Agreement for a use that has never been established is not necessary to maintain, especially since this use is arguably more intensive than several other uses in the C2 district. No restrictions are associated with the automobile service station (e.g. hours of operation, etc.), which does not seem compatible with the existing surrounding uses.

The proposed withdrawal of the zoning agreement would result in the application of the current C2 zoning district permitted and conditional uses under the current Zoning By-law 200/06. Presently the zoning agreement restricts use of the land to:

a) An automobile service station;
b) Any other use permitted from time to time within a "C2" General Commercial District under said By-law No.1800 approved by the Assiniboine Park Community Committee.

The Urban Planning Division believes that allowing the current zoning By-law 200/06 to apply to the site is appropriate given that an automobile service station might not be the most appropriate use on this land. Also, the application of a zoning district from an obsolete By-law does not prove to be of value when looking at the present use compatibility.

Therefore the Urban Planning Division recommends removing the existing Zoning Agreement. This will permit the owners of the subject property to allow for the sought after pizza restaurant use and other appropriate “C2” uses in the future.

RECOMMENDATION

1) That the Zoning Agreement Caveat 246160 under File DAZ 221/74 dated January 22, 1975 (By-Law No. 1693/77) be withdrawn.

2) That the Director of Legal Services and City Solicitor be requested to withdraw the subject Zoning Agreement to DAZ 221/74 (By-law No. 1693/77) 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 and City Solicitor 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
Urban Planning Division

Report Prepared by: Devin Clark
PPD File # ZAA 3/11