Agenda – Council – April 24, 2013

Report – Executive Policy Committee – April 3, 2013

Item No. 6 Zoning Agreement Amendment – 159 St. Anne's Road (St. Vital Ward) File ZAA 12/2012

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 3, 2013, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submits the following to Council:

1. That the Zoning Agreement under File DAZ 210/1981 dated May 6, 1981 (By-law No. 3000/81) be amended as follows:

   A. That Clause 2 of the Zoning Agreement which states:

      i. No building, structure or land shall be used and no building or structure shall be erected, altered or enlarged on the land for any use except:
         a. Clinics, medical or dental;
         b. Offices, business or professional;
         c. Accessory uses

      be deleted.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 210/1981 (By-law No. 3000/81) 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 – April 3, 2013

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 3, 2013, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 11, 2013, 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 – 159 St. Anne's Road**
File ZAA 12/2012

For submission to: **Executive Policy Committee**

Prepared by: **Visa Hutter, Senior Committee Clerk**
Riel Community Committee

Report date: **March 12, 2013**

COMMUNITY COMMITTEE RECOMMENDATION:

On March 11, 2013, 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 Zoning Agreement under File DAZ 210/1981 dated May 6, 1981 (By-law No. 3000/81) be amended as follows:

   A. That Clause 2 of the Zoning Agreement which states:
      i. No building, structure or land shall be used and no building or structure shall be erected, altered or enlarged on the land for any use except:
         a. Clinics, medical or dental;
         b. Offices, business or professional;
         c. Accessory uses

      be deleted.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 210/1981 (By-law No. 3000/81) 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 Riel Community Committee provided the following supporting reasons 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 March 4, 2013.

2. This application is in keeping with the nature of St. Anne's Road, and has elicited no opposition from the community.

PUBLIC HEARING SUMMARY

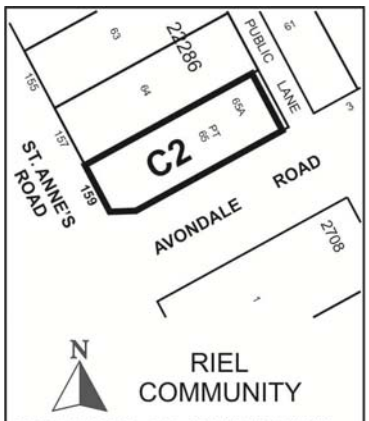
File: ZAA 12/2012

Before: Riel Community Committee
Councillor Mayes, Chairperson
Councillor Swandel

Public Hearing: March 11, 2013
Council Building, 510 Main Street

Applicant: McJannet Rich

Subject:



APPLICANT : McJANNET RICH BARRISTERS SOLICITORS
FILE : ZAA 12/12
PROPOSAL: To amend the Zoning Agreement established by DAZ 210/1981 affecting the land shown outlined above by deleting condition No. 2 in order to permit all uses within the "C2" COMMERCIAL COMMUNITY DISTRICT under Zoning By-law 200/2006. **For information, phone Mr. R. Kostiuk, Planner, at 204-986-7367.**
DEMANDEUR : McJANNET RICH BARRISTERS SOLICITORS
N° DE DOSSIER : MCZ 12/12
PROJET : Modification de la convention de zonage établie par la DAZ 210/1981 visant le bien-fonds indiqué ci-dessus par la suppression de la disposition no 2 de cette convention afin d'autoriser tous les usages permis dans un secteur C2 (SECTEUR COMMERCIAL COMMUNAUTAIRE) en vertu du Règlement municipal sur le zonage no 200/2006. **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 204-986-7367.**

Premises Affected: 159 St. Anne's Road

Exhibits Filed:

1. Application dated December 27, 2012
2. Notification of Public Hearing dated January 8, 2013
3. Manitoba Status of Titles 1435395/1 and 1435446/1
4. Letter of authorization dated December 7, 2012 from Dr. John David Peterson to 6560301 Manitoba Ltd.
5. Letter of authorization dated December 21, 2012 from 6560301 Manitoba Ltd. to Samuel D. Sarbit
6. Caveat no. 81/44840 dated May 29, 1981
7. Plans (3 pages)
8. Report from the Planning and Land Use Division dated March 4, 2013
9. Inspection Report

REPRESENTATIONS:

In Support:

Zoe Albi
Arthur Blankstein
Gavin Mills
Kristina Poturica
Verne Reimer
Sam Sarbit

In Opposition:

Nil

For Information:

Nil

For the City:

R. Kostiuk, Planner, Planning, Property and Development Department
K. Raban, Land Development Administrator, Planning, Property and Development Department
M. Pittet, Manager of Land Development, Geomatics, and Land Information Services, Planning, Property and Development Department

Exhibit "8" referred to in File ZAA 12/2012

ADMINISTRATIVE REPORT

Title: ZAA 12/12 – 159 St Anne's Road Public Hearing

Issue: For consideration at the Public Hearing to delete condition number two (2) from the Zoning Agreement for DAZ 210/1981 which restricts the uses permitted on the subject site.

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
B. Smith	N/A	N/A	

RECOMMENDATIONS

1) That the Zoning Agreement under File DAZ 210/1981 dated May 6, 1981 (By-law No. 3000/81) be amended as follows:
    A. That Clause 2 of the Zoning Agreement which states:
        i. No building, structure or land shall be used and no building or structure shall be erected, altered or enlarged on the land for any use except:
            a) Clinics, medical or dental;
            b) Offices, business or professional;
            c) Accessory uses

    be deleted.

2) That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 210/1981 (By-law No. 3000/81) 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 wishes to operate a hair salon out of the existing building on the subject property. In order to do so, they must amend the existing Zoning Agreement.

- The applicant is proposing to remove condition number two (2) from the Zoning Agreement for the subject property in order to allow conditional and permitted uses under the C2 zoning district of the current Zoning By-law 200/2006.

- 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 amended to allow conditional and permitted uses in accordance with the current "C2" zoning district regulations under By-law 200/2006 and plan approval will be maintained as a condition on the site.

CONSULTATION

In preparing this Report there was consultation with:

N/A

HISTORY

When the subject property was rezoned to "C2" in 1981 (By-law No. 3000/81), approval was subject to a Zoning Agreement. Relevant clauses to this application that limit development include:

- *2) No building, structure or land shall be used and no building or structure shall be erected, altered or enlarged on the land for any use except:*
  a) Clinics, medical or dental;
  b) Offices, business or professional;
  c) Accessory uses

- *3) No new buildings shall be erected or located on the land and no building permit issued for construction on the land unless and until plans including the design and location of the proposed new buildings, accessory parking, fencing and landscaping are submitted to and approved by the St. Boniface-St. Vital Community Committee and the Commissioner of Environment of the City and thereafter identified by the signature of that Commissioner under the designation "Schedule "A" to Zoning Agreement DAZ 210/81" and no new buildings shall be erected or located on the land except in accordance with that Schedule "A" to this agreement.*

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by	Devin Clark
Date:	March 4, 2013
File No.	ZAA 12/12

List of Schedules and Attachments

1. Appendix A – Planning Discussion

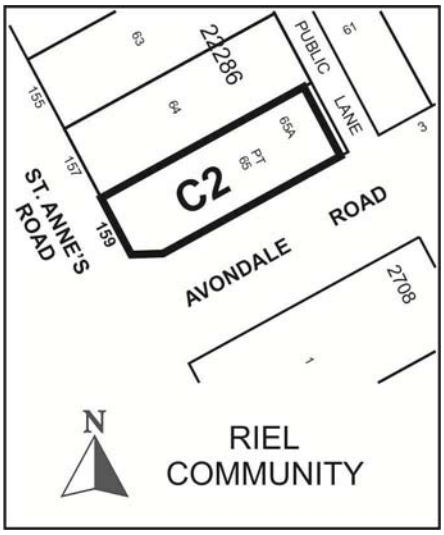
APPENDIX 'A'

DATE: March 4, 2013
FILE: ZAA 10/12
RELATED FILES: DAZ 210/81
COMMUNITY: Riel
NEIGHBOURHOOD #: 5.508 - Glenwood

SUBJECT: The applicant is proposing to delete condition number two (2) from the Zoning Agreement for DAZ 210/1981 which restricts the uses permitted on the subject site.

LOCATION: 159 St. Anne's Road

LEGAL DESCRIPTION: **EXC RD PL 24737 LOT 65 PLAN 22286 109 111/2 ST B**



APPLICANT: McJannet Rich Barristers Solicitors
1308-220 Portage Ave.
Winnipeg MB R3C 0A5

OWNER: John David Friesen

RECOMMENDATION: Approval to remove condition number two (2) from the Zoning Agreement

REPORT SUMMARY:

- The applicant's have recently purchased the subject property and intend to operate a hair salon business out of the existing building. Under the current Zoning Agreement only the following uses are permitted on the property:

- Clinics, medical or dental;
- Offices, business or professional;
- Accessory uses

In order to operate a hair salon, the zoning agreement must be amended to permit additional uses on the property.

- The subject property is zoned “C2” Community Commercial and is adjacent to single-family residential uses, and commercial uses.
- The Urban Planning Division recommends amending the zoning agreement to allow current “C2” zoning district uses under By-law 200/2006. Plan approval will remain as a condition of the zoning agreement for the subject site.

SITE DESCRIPTION

- The subject site is located on the east side of St. Anne’s Rd. between Bank Ave. and Avondale Rd. The site is located in the Glenwood Neighbourhood of the St. Vital Ward.
- The property is approximately 3,773 square feet in area.
- The site is located on a Regional Mixed Use Corridor as identified in the Complete Communities Direction Strategy.
- The subject site is zoned “C2” Community Commercial.

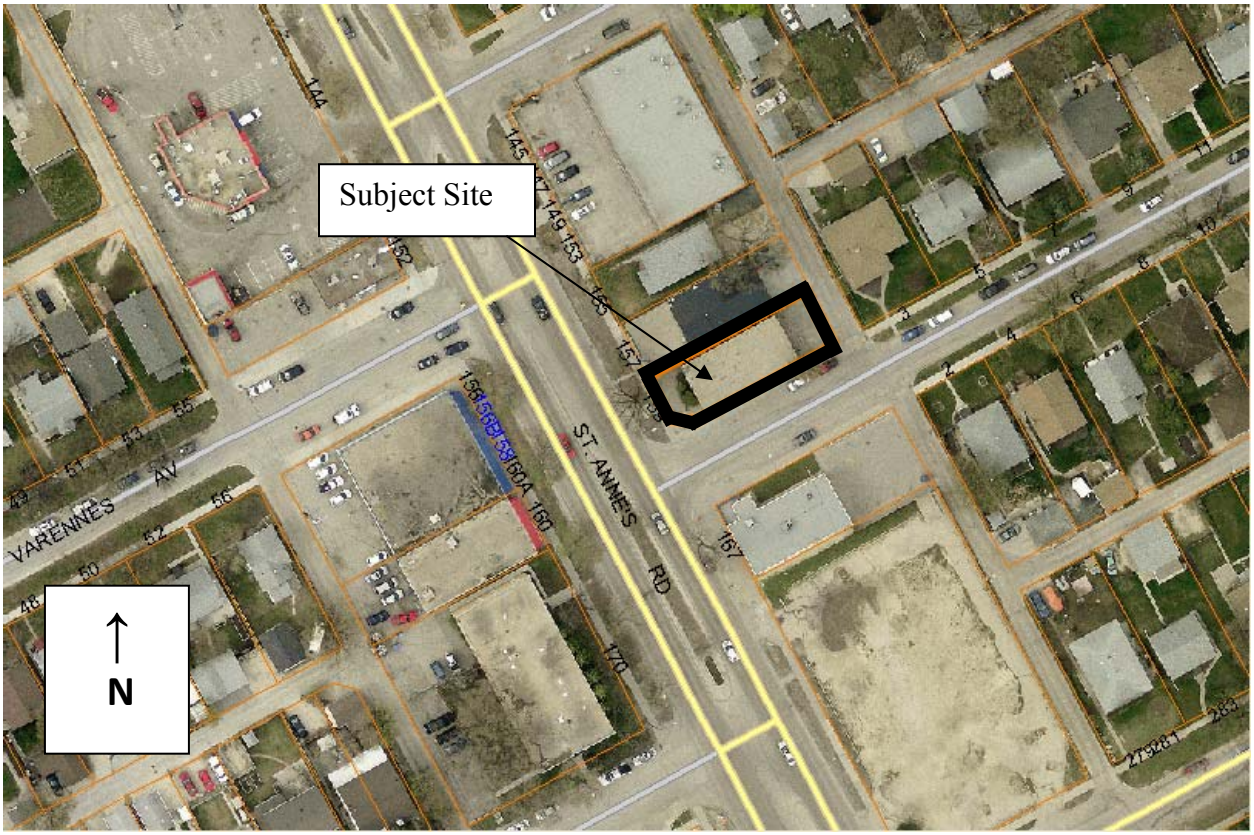


Figure 1: Subject Site and Surrounding Land Uses (Aerial Photo – flown 2012)

SURROUNDING LAND USES & ZONING

North: Commercial uses zoned “C2” Community Commercial

South: Commercial uses zoned “C2” Community Commercial

East: Single Family Dwelling zoned **“**R1-M” Residential Single Family - Medium

West: Commercial uses zoned “C2” Community Commercial and Multi Family Residential zoned “RMF-S” Residential Multi Family - Small

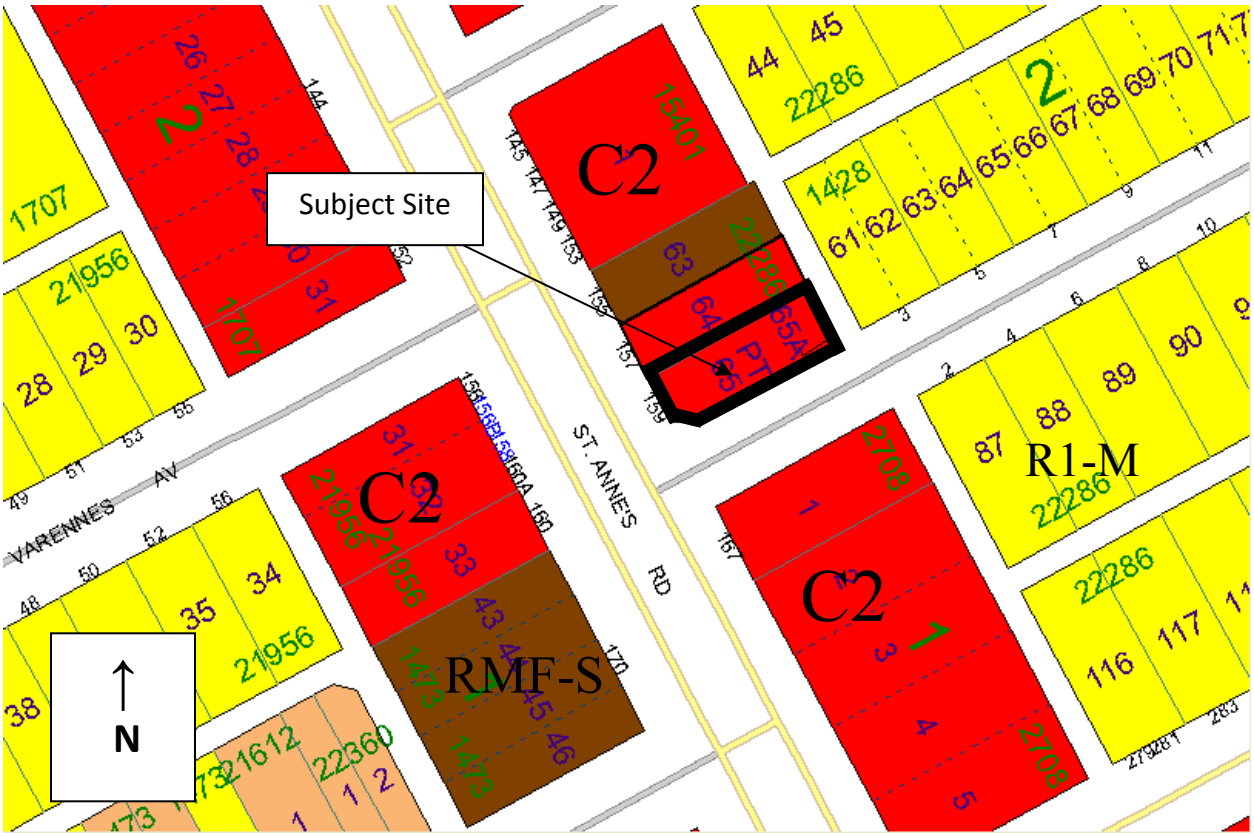


Figure 2: Zoning Map of subject property and Surrounding Context.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant has recently purchased the subject property with the intention of establishing a hair salon business in the existing building.
- Plans indicate there will be space for cutting hair, as well as pedicures and other aesthetic treatments.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES

- Under the Complete Communities Direction Strategy the proposed development is located along a Regional Mixed-Use Corridor (St. Anne's Road). Key relevant policies guiding development along Mixed Use Corridors include:
    - Provide a mix of employment, higher-density residential opportunities, retail and service uses that support the needs of and respect the context of adjacent communities.
    - Support active uses (such as retail and services) at street level and office and housing on the upper levels of multi-storey developments.
    - Promote high-quality plazas, parks and streetscapes as focal points and networks that are connected to the greater community.
    - Support development in accordance with Universal Design and Crime Prevention Through Environmental Design (CPTED) policies.

ZONING

The subject property is zoned "C2" Community Commercial District and – *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.*

ZONING (BY-LAW 200/2006)

When the subject property was rezoned to "C2" in 1981, approval was subject to a Zoning agreement that restricted the uses on the property as follows:

- *2) No building, structure or land shall be used and no building or structure shall be erected, altered or enlarged on the land for any use except:*
    a) Clinics, medical or dental;
    b) Offices, business or professional;
    c) Accessory uses

- *3) No new buildings shall be erected or located on the land and no building permit issued for construction on the land unless and until plans including the design and location of the proposed new buildings, accessory parking, fencing and landscaping are submitted to and approved by the St. Boniface-St. Vital Community Committee and the Commissioner of Environment of the City and thereafter identified by the signature of that Commissioner under the designation "Schedule "A" to Zoning Agreement DAZ 210/81" and no new buildings shall be erected or located on the land except in accordance with that Schedule "A" to this agreement.*

COMPATABILITY WITH SURROUNDING NEIGHBOURHOOD

- The proposed use for the site is consistent with the objectives of the Complete Communities direction strategy. Namely, the proposal will provide new retail opportunities that will serve the community and support active uses at street level.

- The existing building complies with current C2 dimensional standards. As such, no associated variances are required.

- This particular section of St. Anne's Road exhibits a mix of multi-family housing and small scale commercial uses that complement the adjacent low density, single family dwelling neighbourhood. The applicant is proposing a hair salon to be operated out of the existing building on the site and no significant changes are being proposed that will impact intensity of use on the property.

- Zoning By-Law 200/2006 includes buffering requirements to help reduce incompatibilities between commercial and residential uses.

- The subject site is approximately 3,773 square feet. By default a number of the permitted and conditional uses under the C2 zoning district would be difficult to accommodate. As such, the Urban Planning Division is supportive of the application to amend the Zoning Agreement associated with DAZ 210/81 in order to follow current regulations of the "C2" zoning district under Zoning By-law 200/2006.

- The Urban Planning Division would like to maintain the condition for plan approval associated with the Zoning Agreement in order to ensure any future development proposals on the land conform to the surrounding context.

RECOMMENDATION

The Urban Planning Division recommends **approval** for the following reasons:

- Policies guiding the development of Regional Mixed Use Corridors support a range of uses.

- St. Anne's Road is a high capacity arterial that can appropriately support the current permitted uses in the C2 zone.

- The size of the subject property limits several permitted or conditional uses under the C2 zone.

- Zoning By-Law 200/2006 includes buffering requirements to help reduce incompatibilities between commercial and residential uses.

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

Report Prepared by: Devin Clark
PPD File # ZAA 12/12