Agenda – Council – June 26, 2013

Report – Executive Policy Committee – June 5, 2013

Item No. 3 Zoning Agreement Amendment – 1320 Concordia Avenue East (Transcona Ward)
File ZAA 1/2013

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 5, 2013, the Executive Policy Committee concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the following to Council:

1. That the Zoning Agreement under File DASZ 50/2004 dated October 16, 2006 (By-law No. 87/06), be amended as follows:

   A. That Clause 4 be amended by deleting "BEER: SALES" and "LIQUOR: SALES" from the list of uses not permitted on the land.

   B. That Clause 11 be deleted in its entirety, namely:

      "11. The hours of operation of any business being conducted on the Owner's Land shall not fall within 11:00 p.m. and 6:00 a.m."

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 50/2004 (By-law No. 87/06) 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.

Agenda – Council – June 26, 2013

Report – Executive Policy Committee – June 5, 2013

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 5, 2013, the Executive Policy Committee concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On May 21, 2013, the East Kildonan-Transcona 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.

On April 9, 2013, the East Kildonan-Transcona Community Committee adjourned the public hearing to its meeting on May 21, 2013.

RE: **Zoning Agreement Amendment - 1320 Concordia Avenue East**
File ZAA 1/2013

For submission to: **Executive Policy Committee**

Prepared by: **Josie Marques, Senior Committee Clerk**
East Kildonan-Transcona Community Committee

Report date: **May 22, 2013**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 21, 2013 The East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That the Zoning Agreement under File DASZ 50/2004 dated October 16, 2006 (By-law No. 87/06), be amended as follows:

    A. That Clause 4 be amended by deleting "BEER: SALES" and "LIQUOR: SALES" from the list of uses not permitted on the land.

    B. That Clause 11 be deleted in its entirety, namely:

        "11. The hours of operation of any business being conducted on the Owner's Land shall not fall within 11:00 p.m. and 6:00 a.m."

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 50/2004 (By-law No. 87/06) 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 East Kildonan-Transcona Community Committee provided the following supporting reason(s) for its recommendation:

1. These are standard permitted uses for shopping malls on a regional street.

PUBLIC HEARING SUMMARY

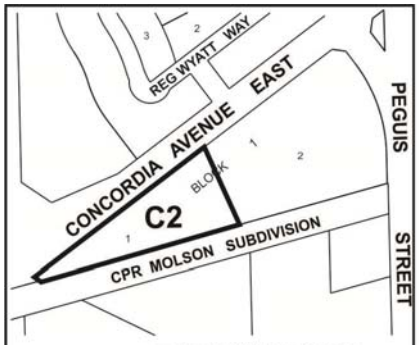
File: ZAA 1/2013

Before: East Kildonan-Transcona Community Committee
Councillor Browaty, Chairperson
Councillor Steen
Councillor Wyatt

Public Hearing: May 21, 2013
Council Building, 510 Main Street

Applicant: Gabriella Bridges

Subject:



APPLICANT : BIELECKI/BRIDGES DEVELOPMENT INC.
FILE : ZAA 1/13
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above and amend as follows; to remove "Automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts", "beer: sales", and "liquor: sales" from a list of restricted uses, to allow for a maximum height of 35 feet instead of 25 feet for free-standing use identification signs, and to remove a clause requiring that the hours of operation of any business being conducted on the site shall not fall within 11pm and 6am. **For information, phone Mr. M. Pyl, Planner at 986-5595.**

Premises Affected: 1320 Concordia Avenue East

Exhibits Filed:

1. Application dated February 5, 2013
2. Notification of Public Hearing dated March 4, 2013
3. Manitoba Status of Title 2448944/1
4. Letter of authorization dated October 15, 2012 from Bielecki/Bridges Developments Incorporated to Gabriella Bridges
5. Surveyor's Building Location Certificate and sketch dated November 12, 2012
6. Zoning Agreement DASZ 50/2004
7. Plans (1 page)
8. Report from the Planning and Land Use Division dated April 2, 2013
9. Inspection Report
10. Revised Report from the Planning and Land Use Division dated April 9, 2013
11. Audio Recording of representations
12. Notice of Adjournment dated April 12, 2013
13. Audio Recording of representations of public hearing held on May 21, 2013

REPRESENTATIONS:

In Support:

Gabriella Bridges
Greg Bielecki

In Opposition

Nil

For Information:

Helene Merrell

For the City:

Mr. M. Pyl, Planner, Planning, Property and Development Department
Mr. K. Raban, Land Development Administrator, Planning, Property and Development Department

Exhibit "10" referred to in File ZAA 1/2013

ADMINISTRATIVE REPORT

Title: ZAA 1/13 – 1320 Concordia Ave. East Public Hearing REVISED

Issue: For consideration at the Public Hearing to amend the Zoning Agreement associated with DASZ 50/2004.

Critical Path: EKT 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 DASZ 50/2004 dated October 16, 2006 (By-law No. 87/06), be amended as follows:

   A. That uses "BEER: SALES" and "LIQUOR: SALES" shall be removed from Clause 4 of the Zoning Agreement which states:

      The following uses shall NOT be permitted on the land:

      i. AUTOMOBILE, including motorcycle: RENTAL, SALES, including accessory REPAIR, SERVICE, INSTALLATION OF SUPPLIES/PARTS
      ii. AUTOMOBILE, including motorcycle: SUPPLIES/PARTS, SALES
      iii. BEER: SALES
      iv. BINGO PARLOUR
      v. BOWLING ALLEY
      vi. BUS STATION
      vii. CONTRACTORS' ESTABLISHMENT
      viii. EXTERMINATOR
      ix. FARM SUPPLIES: SALES
      x. FUEL: SALES kiosk
      xi. HOTEL, including MOTEL, limited to guest rooms
      xii. LIQUOR: SALES
      xiii. MACHINERY/HEAVY EQUIPMENT SUPPLIES and PARTS:SALES, INSTALLATION, SERVICE
      xiv. MOBILE HOME PARK
      xv. MOTORS or MACHINES, RECREATIONAL or UTILITY, including power toboggans, outboard motors, lawn mowers: RENTAL, SALE, SERVICE
      xvi. PARKING AREA, non-accessory

xvii. PAWNSHOP
xviii. TATTOO PARLOUR
xix. TERMINAL for HAULAGE, MOTOR FREIGHT STATION, excluding an intermodal terminal
xx. TERMINAL for COURIER/DELIVERY/ EXPRESS SERVICE, CLEANING SERVICE, KEY AND LOCK SERVICE, SECURITY SERVICE, TAXI, or similar service
xxi. TIRE: SALES, SERVICE

B. That Clause 11 of the Zoning Agreement which states:

The hours of operation of any business being conducted on the Owner's Land shall not fall within 11:00 p.m. and 6:00 a.m.

Be deleted.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 50/2004 (By-law No. 87/06) 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 remove clauses that restrict operations on the site in order to encourage a diversity of uses such as restaurants, a 24 hour gymnasium and convenience store. In order to do so, they must amend the existing Zoning Agreement.
- The applicant is proposing to amend clause number four (4) and seven (7) from the Zoning Agreement and to delete clause number eleven (11) from the Zoning Agreement.
- 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 as follows:

1. To remove the existing restriction on alcohol sales in the zoning agreement.
2. To reject the request to allow free standing sign height to increase from 25 feet to 35 feet.
3. To allow the request to delete clause eleven (11) which restricts hours of operation between 6:00 am and 11:00 pm.

CONSULTATION

In preparing this Report there was consultation with:

N/A

HISTORY

The subject property was rezoned to “C2” in 2004 as part of a greater subdivision and rezoning of the neighbourhood. Approval for the “C2” Community Commercial district was subject to a number of conditions meant to ensure that future commercial development is compatible with the adjacent residential neighbourhood. Relevant conditions for this application include the following:

A. Plan Approval for C2 lands

B. Several restricted commercial uses.

C. Restrictions on advertising signage, mobile signs, poster signs and A-frames, except that mobile signs shall be permitted on the site for a period of thirty (30) days in association with a new occupancy permit;

D. Restrictions that state no illuminated signage is to be erected on the east side of the building or the lot;

E. Restrictions limiting free-standing use identification signs to 25 feet in height.

F. That garbage enclosure plan approval be required prior to occupancy permits being issued.

G. That a landscaped setback of 20 feet be provided along Concordia Ave. East.

H. That the hours of operation for any business being conducted shall not fall within 11:00 pm and 6:00 am.

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by	Devin Clark
Date:	April 9, 2013
File No.	ZAA 1/13

List of Schedules and Attachments

1. Appendix A – Planning Discussion

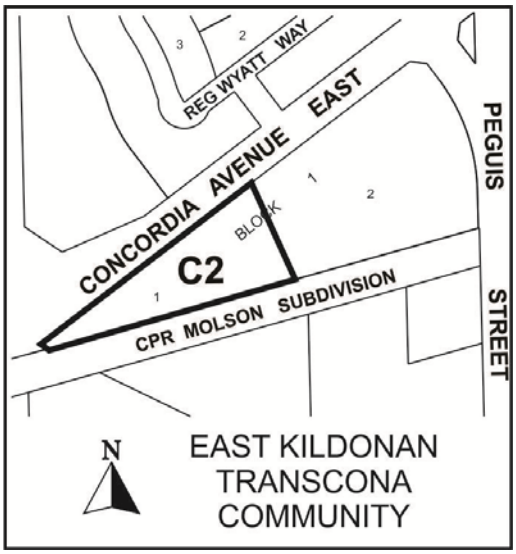
APPENDIX 'A'

DATE: April 9, 2013
FILE: ZAA 1/13
RELATED FILES: DASZ 50/04
COMMUNITY: East Kildonan - Transcona
NEIGHBOURHOOD #: 4.424 - Grassie

SUBJECT: The applicant is proposing amendments to two conditions and to delete one condition entirely from the Zoning Agreement.

LOCATION: 1320 Concordia Ave. E.

LEGAL DESCRIPTION: **LOT 1 BLOCK 1 PLAN 45670**



APPLICANT: Bielecki/Bridges Developments Inc. – Gabriella Bridges
961 Renonda Avenue
Winnipeg MB R2C 2Z2

OWNER: Bielecki/Bridges Development Inc.

RECOMMENDATION: Approval to amend clause four (4), rejection to amend clause seven (7), and approval to delete clause eleven (11).

REPORT SUMMARY:

- The applicant wishes to amend the Zoning Agreement to allow for additional uses in the "C2" zoning district, amend the permitted free standing signage height and delete a clause that restricts the hours of operation on the site.
- The subject property is zoned "C2" Community Commercial and is adjacent to multi-family and single-family residential uses.
- The Urban Planning Division recommends approval to amend clause four (4), rejection of request to amend clause seven (7), and approval to delete clause eleven (11).

SITE DESCRIPTION

- The subject site is located on the south side of Concordia Ave. E. between Lagimodiere Blvd. and Peguis St. The site is located in the Grassie Neighbourhood of the Transcona Ward.
- The lot area of the property is 2.4 acres.
- The site is located within Areas of Stability – Recent Communities as identified in the Complete Communities Direction Strategy.
- The subject site is zoned “C2” Community Commercial.

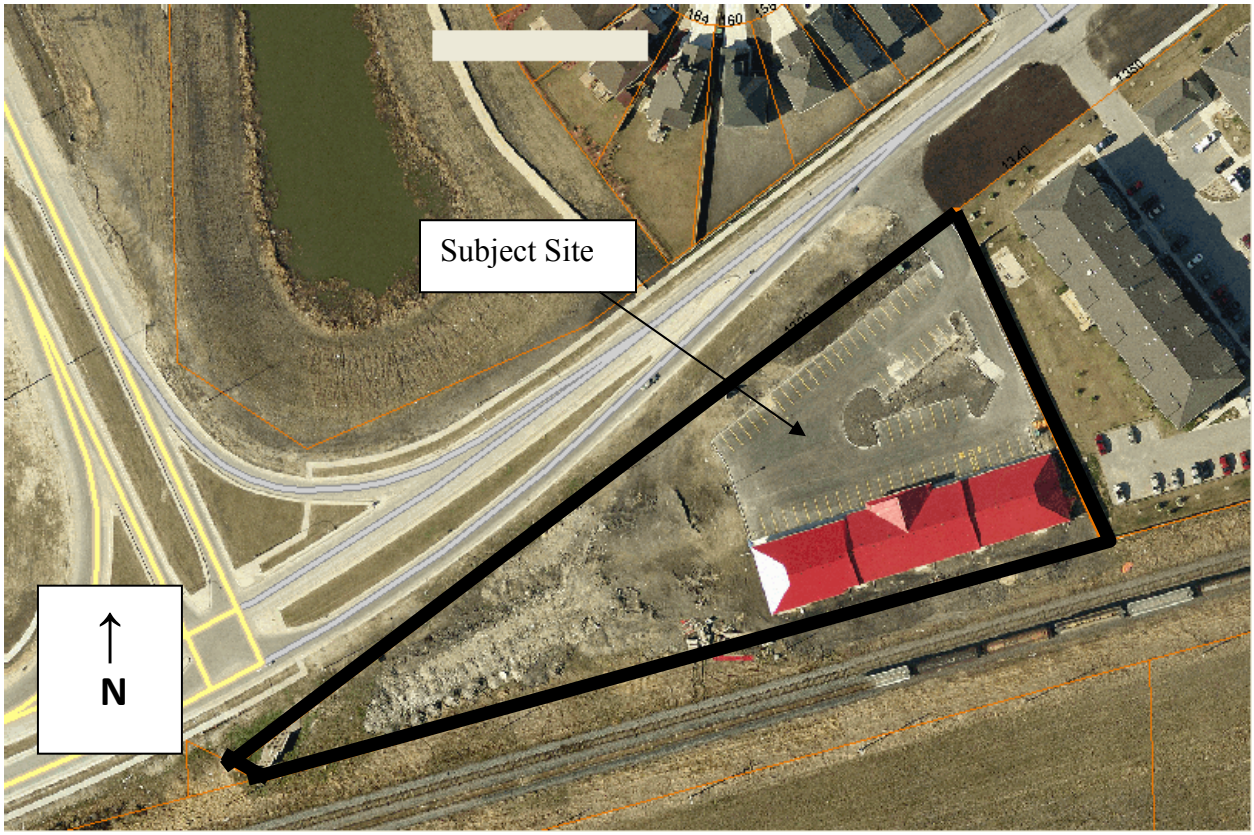


Figure 1: Subject Site and Surrounding Land Uses (Aerial Photo – flown 2012)

SURROUNDING LAND USES & ZONING

North: Single Family Dwellings zoned **“**R1-M” Residential Single Family - Medium

South: CP rail line then vacant land zoned “RR5” Rural Residential 5.

East: Multi Family Residential zoned “RMF-M” Residential Multi Family - Medium

West: Lagimodiere Blvd. and Concordia Ave. E. interchange.

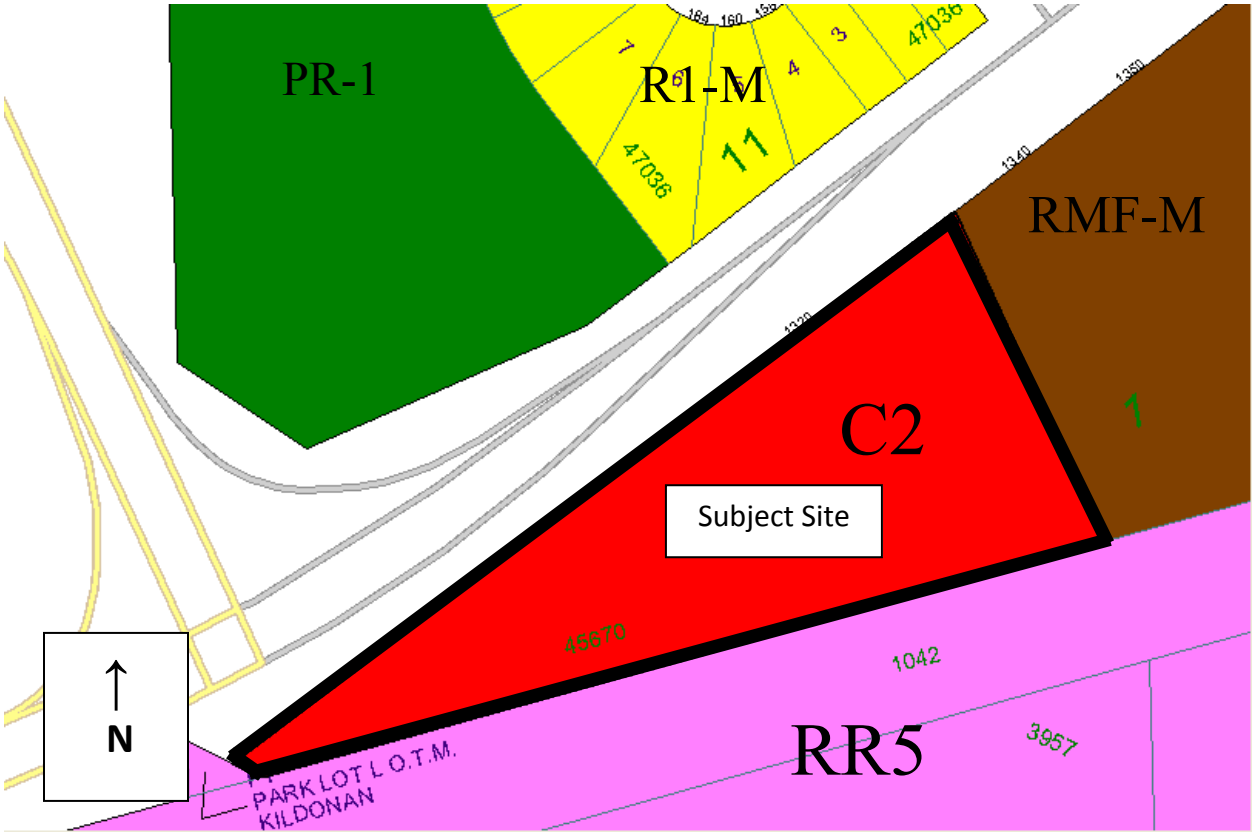


Figure 2: Zoning Map of subject property and Surrounding Context.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant wishes to amend the Zoning Agreement as follows:
    - To remove “automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts”, “beer: sales”, and “liquor: sales” from a list of restricted uses, to allow for a maximum height of 35 feet instead of 25 feet for free-standing use identification signs, and to remove a clause requiring that the hours of operation of any business being conducted on the site shall not fall within 11pm and 6 am.
- The applicant has indicated that the commercial units for this site are only 50% leased and in order to attract new retailers amending and removing clauses in the Zoning Agreement may be necessary. A few proposed tenants for the site include:
    - A 24 hour gymnasium;
    - Convenience store; and
    - Restaurant

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is within the Areas of Stability – Recent Communities policy area. Key policies guiding development within Areas of Stability include:

- Support a mix of commercial services and employment uses that serve the local community
- Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complementary to the existing scale, character and built form.
- Promote a quality public realm with a high level of accessibility to community services and amenities and opportunities for gathering and social interaction.

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)

The subject property was rezoned to “C2” in 2004 as part of a greater subdivision and rezoning of the neighbourhood. Approval for the “C2” Community Commercial district was subject to a number of conditions meant to ensure that future commercial development is compatible with the adjacent residential neighbourhood. Relevant conditions for this application include the following:

I. That for the land zoned “RM-2” Multiple Family Residential District; and the land zoned “C2” Commercial District 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 East Kildonan - Transcona 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;

J. That the commercial land be restricted as follows;

i. The following uses shall NOT be permitted on the land:

a. AUTOMOBILE, including motorcycle: RENTAL, SALES, including accessory REPAIR, SERVICE, INSTALLATION OF SUPPLIES/PARTS
b. AUTOMOBILE, including motorcycle: SUPPLIES/PARTS, SALES
c. BEER: SALES
d. BINGO PARLOUR
e. BOWLING ALLEY
f. BUS STATION
g. CONTRACTORS' ESTABLISHMENT
h. EXTERMINATOR
i. FARM SUPPLIES: SALES
j. FUEL: SALES kiosk
k. HOTEL, including MOTEL, limited to guest rooms
l. LIQUOR: SALES
m. MACHINERY/HEAVY EQUIPMENT SUPPLIES and PARTS:SALES, INSTALLATION, SERVICE
n. MOBILE HOME PARK

o. MOTORS or MACHINES, RECREATIONAL or UTILITY, including power toboggans, outboard motors, lawn mowers: RENTAL, SALE, SERVICE
p. PARKING AREA, non-accessory
q. PAWNSHOP
r. TATTOO PARLOUR
s. TERMINAL for HAULAGE, MOTOR FREIGHT STATION, excluding an intermodal terminal
t. TERMINAL for COURIER/DELIVERY/ EXPRESS SERVICE, CLEANING SERVICE, KEY AND LOCK SERVICE, SECURITY SERVICE, TAXI, or similar service
u. TIRE: SALES, SERVICE

ii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with a new occupancy permit;

iii. That no illuminated signage be erected on the east side of the building or the lot;

iv. That any free-standing use identification sign not exceed twenty-five (25) feet in height;

v. That, prior to the issuance of any occupancy permits, all garbage containers be fully enclosed by a brick/concrete, and/or wood barrier fence that is at least 6 inches above the top of the garbage container, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development;

vi. That the Applicant shall erect two, 4 feet by 8 feet signs on the vacant subject property indicating the location and zoning of the commercial property; and plans for the signs showing their location and design shall be submitted to the East Kildonan - Transcona Community Committee for approval by July 30, 2005; and the signs shall be maintained to the satisfaction of the Director of Planning, Property and Development until such time as the land is either rezoned or developed as a commercial land use;

vii. That a landscaped setback of 20 feet be provided along Concordia Avenue East;

viii. The hours of operation for any business being conducted shall not fall within 11:00 pm and 6:00 am.

COMPATABILITY WITH SURROUNDING NEIGHBOURHOOD

Clause Four (4) – Restricted uses

- Since this Zoning Agreement was written and adopted, the Zoning By-law has been updated. The restricted uses of the Zoning Agreement were written in language that comes from the previous Zoning By-law (6400/94).
- The Urban Planning Division believes a private wine sales store or MLCC would be an appropriate use on this site and has decided to recommend approval to allow the use on this site. Of note is that “beer sales” and “liquor sales” are no longer specific uses in the current zoning by-law; they now fall under the category of “retail services”.

Clause 6 – Sign Height

- The Urban Planning Division is recommending rejection for the request to permit free standing sign heights of 35 feet. Currently, under the Zoning Agreement, the site is permitted free standing signage of 25 feet.
- Changes from Zoning By-law 6400/94 to the current Zoning By-law (200/2006) resulted in reductions of permitted sign heights in all zoning districts. "C2" properties were permitted 30 feet under the previous zoning By-law and are now permitted 20 feet under the current zoning By-law.
- Regardless of whether or not the Zoning Agreement is amended to permit free standing sign height of 35 feet a variance application would still be required to permit a sign height higher than 20 feet in the "C2" zoning district.

Clause 11 – Hours of Operation

- The Urban Planning Division is recommending approval to delete the clause limiting hours of operation on the site between 6:00 am and 11:00 pm.
- The applicant has indicated that potential tenants of the site may require 24 hour operation, including a 24 hour fitness centre and convenience store. Other uses, such as a restaurant would enjoy flexible operating hours that would allow them to remain open later than 11:00 pm.
- Not knowing for certain whether or not these uses will be introduced to the site, the Urban Planning Division still believes that the clause limiting hours of operation may not be necessary provided the following of considerations:
    - The subject site is adjacent to a multi-family development on the east, a rail line and vacant land to the south, Lagimodiere Blvd. to the west and single family dwellings to the north. The distance separating the nearest residential building to the commercial buildings is approximately 315 feet.
    - As a requirement of the Zoning Agreement, plan approval is necessary before any development permits can be issued.
    - Zoning By-Law 200/2006 includes buffering requirements to help reduce incompatibilities between commercial and residential uses.

RECOMMENDATION

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

- 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 local community.
- The condition of plan approval is to remain and 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 1/13