Minute No. 453
Report – Standing Policy Committee on Property and Development – June 11, 2013

Item No. 4 **Zoning Agreement Amendment – Van Hull Way (subdivided from 2146 St. Mary's Road under DASSF 589/2008)**
(St. Norbert Ward)
File ZAA 3/2013 [DAV 110412/2013D and DCU 108055/2013D]

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the Zoning Agreement under File DAZ 278/1988 dated April 17, 1989 (By-law No. 5195/1989), be amended as follows:

   A. That Clause 3 of the Zoning Agreement, which states:

      No building constructed or located on the land shall exceed a height of one (1) storey.

   be amended as follows:

      No residential use building constructed or located on the land shall exceed a height of (4) storeys.

      No commercial use building constructed or located on the land shall exceed a height of (1) storey.

   B. That Clause 5 of the Zoning Agreement, which states:

      An opaque fence two (2) metres in height shall be erected and maintained parallel to the northerly lot line of the land at a distance of 2.4 metres (8 feet) from that lot line, except that such fence may be 1.22 metres (4 feet) in height at all points within 25 feet of St. Mary's Road, and the northerly 2.4 metres of the land shall be landscaped to provide screening, all in accordance with the plans to be approved as Schedule "A" to this agreement.

      be deleted and replaced with the following:

Report – Standing Policy Committee on Property and Development – June 11, 2013

That, excluding permitted projections, the minimum setback for any portion of a principal building wall on the land from an R1-zoned property line shall be no less than 40 feet (12.192 metres).

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 278/1988 (By-law No. 5195/1989) 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 – Standing Policy Committee on Property and Development – June 11, 2013

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 19, 2013, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 11, 2013, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

Report – Standing Policy Committee on Property and Development – June 11, 2013

DECISION MAKING HISTORY:

COMMUNITY COMMITTEE RECOMMENDATION:

On May 6, 2013, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service with the following amendment:

- Delete Recommendation 1. A. in its entirety and replace with the following new Recommendation 1.A.:

  "1.A. That Clause 3 of the Zoning Agreement, which states:

  > No building constructed or located on the land shall exceed a height of one (1) storey.

  be amended as follows:

  > No residential use building constructed or located on the land shall exceed a height of (4) storeys.
  >
  > No commercial use building constructed or located on the land shall exceed a height of (1) storey."

and forwarded to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment – Van Hull Way (subdivided from 2146 St. Mary's Road under DASSF 589/2008)**
File ZAA 3/2013

For submission to: **The Standing Policy Committee on Property and Development**

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

Report date: **May 6, 2013**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 6, 2013, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service, as amended and recommended to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement under File DAZ 278/1988 dated April 17, 1989 (By-law No. 5195/1989), be amended as follows:

   A. That Clause 3 of the Zoning Agreement, which states:

   ~~***No building constructed or located on the land shall exceed a height of one (1) storey.***~~

   ~~***be amended as follows:***~~

   ~~***No building constructed or located on the land shall exceed a height of four (4) storeys.***~~

   No building constructed or located on the land shall exceed a height of one (1) storey.

   be amended as follows:

   No residential use building constructed or located on the land shall exceed a height of (4) storeys.

   No commercial use building constructed or located on the land shall exceed a height of (1) storey.

B. That Clause 5 of the Zoning Agreement, which states:

An opaque fence two (2) metres in height shall be erected and maintained parallel to the northerly lot line of the land at a distance of 2.4 metres (8 feet) from that lot line, except that such fence may be 1.22 metres (4 feet) in height at all points within 25 feet of St. Mary's Road, and the northerly 2.4 metres of the land shall be landscaped to provide screening, all in accordance with the plans to be approved as Schedule "A" to this agreement.

be deleted and replaced with the following:

That, excluding permitted projections, the minimum setback for any portion of a principal building wall on the land from an R1-zoned property line shall be no less than 40 feet (12.192 metres).

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 278/1988 (By-law No. 5195/1989) 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.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

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 April 16, 2013.

2. The 1 Storey Clause was in place prior to any residential development being completed.

PUBLIC HEARING SUMMARY

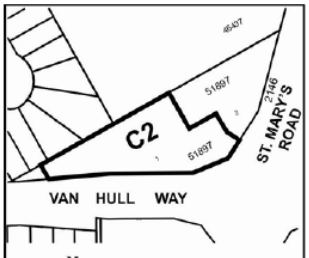
File: ZAA 3/2013

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

Public Hearing: May 6, 2013
Council Building, 510 Main Street

Applicant: K & M Global Developments Inc.
(Azim Kabani and Eugene Heimrichs)

Subject:



APPLICANT : K & M GLOBAL DEVELOPMENTS INC.
FILE : ZAA 3/13
PROPOSAL: To amend the Zoning Agreement DAZ 278/88 affecting the land shown outlined above by amending Condition No. 3 to allow for the construction of a multi-family dwelling exceeding one-storey in height and Condition No. 5 to allow for the construction of a fence closer than 2.4m (8 feet) to the northerly property line. **For information, phone Mr. R. Kostiuk, Planner, at 204-986-7367.**
DEMANDEUR : K & M GLOBAL DEVELOPMENTS INC.
N° DE RÉFÉRENCE : MCZ 3/13
PROJET : Modification des conditions n°s 3 et 5 de la convention de zonage DAZ 278/88 touchant le bien-fonds indiqué ci-dessus afin de permettre la construction d'une habitation multifamiliale de plus d'un étage de hauteur et la construction d'une clôture située en deçà de 2,4 mètres (8 pieds) de la limite de propriété nord.**Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 204-986-7367.**

Premises Affected: Van Hull Way (subdivided from 2146 St. Mary's Road under DASSF 589/2008)

Exhibits Filed:

1. Application dated March 11, 2013
2. Notification of Public Hearing dated March 15, 2013
3. Manitoba Status of Title 2553409/1
4. Letter of authorization dated February 28, 2013 from Harminder Singh Kang, 5288321 Manitoba Ltd. and Sital Kang to Azim Kasami and Eugene Heinrichs of behalf of K & M Global Developments Inc.
5. Caveat No. 1122770 dated February 13, 1989
6. Caveat No. 1201516 dated September 8, 1989
7. Surveyor's Building Location Certificate and sketch
8. Plans (6 pages)
9. Report from the Planning and Land Use Division dated April 16, 2013
10. Inspection Report
11. Petition purporting to contain 182 signatures of area residents submitted by Marnie Strath, in opposition to the application at the public hearing

REPRESENTATIONS:

In Support:

Vernon Buhr
Al Degner
Eugene Heinrichs
Azim Kabani
Nizar Mawani
Rahim Mawani
Nicki Pirani

In Opposition:

Darcy Baker
Nelson Camp
Susan Engstrom
Kyle Galbraith
Jim Kilmister
Mike Knight

Tony Kwong
D. Merriman
Ian Scatliff
Mike Scatliff
Marnie Strath

For Information:

Phil Cetkovski

For the City:

R. Kostiuk, Planner, Planning, Property and Development Department

Exhibit "9" referred to in File ZAA 3/2013

ADMINISTRATIVE REPORT

Title: ZAA 3/2013 – NW Corner of Van Hull Way and St. Mary's Road Public Hearing

Issue: An application for consideration at the Public Hearing to amend two conditions of the zoning agreement that were applied to the land under DAZ 278/1988.

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 278/1988 dated April 17, 1989 (By-law No. 5195/1989), be amended as follows:

   A. That Clause 3 of the Zoning Agreement, which states:

   No building constructed or located on the land shall exceed a height of one (1) storey.

   be amended as follows:

   No building constructed or located on the land shall exceed a height of four (4) storeys.

   B. That Clause 5 of the Zoning Agreement, which states:

   An opaque fence two (2) metres in height shall be erected and maintained parallel to the northerly lot line of the land at a distance of 2.4 metres (8 feet) from that lot line, except that such fence may be 1.22 metres (4 feet) in height at all points within 25 feet of St. Mary's Road, and the northerly 2.4 metres of the land shall be landscaped to provide screening, all in accordance with the plans to be approved as Schedule "A" to this agreement .

be deleted and replaced with the following:

That, excluding permitted projections, the minimum setback for any portion of a principal building wall on the land from an R1-zoned property line shall be no less than 40 feet (12.192 metres).

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 278/1988 (By-law No. 5195/1989) 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 develop a four-storey, multi-family building that would contain up to 52 dwelling units on the site.
- The existing zoning agreement on the land restricts the height of buildings on the property to one storey (condition 3) and requires a two metre tall fence to be constructed 2.4 metres (8 feet) away from the north property line (condition 5).
- The applicant would like to build a four-storey multi-family building on the site and develop a 6 foot tall wood fence along the north property line. As such, a zoning agreement amendment is required.
- A zoning agreement amendment requires 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 clauses of the zoning agreement will be changed as requested, with the addition of one condition.

HISTORY

DAZ 278/1988

- The subject property was rezoned under file DAZ 278/88 (By-law 5195/89). A zoning agreement caveat was placed on the land in conjunction with that rezoning. Relevant clauses restricting the land under the zoning agreement are as follows:

  2. The land and any building or structure thereon shall not be used for, and no building or structure shall be erected, placed, altered or enlarged on the land for any uses except:
     i) retail stores or businesses;
     ii) any use permitted in the C1 district of the applicable town planning scheme or zoning by-law from time to time;
     iii) uses allowed by the applicable town planning scheme or zoning by-law from time to time as conditional uses, but subject to approval pursuant to the City of Winnipeg Act and that by-law;
     iv) uses incidental and accessory to any principal use permitted on the land as provided in the applicable town planning scheme or zoning by-law from time.
  3. No building constructed or located on the land shall exceed a height of one (1) storey.
  4. No building or structure shall be erected or located on the land and no building permit issued for construction on the land unless and until plans including the location and design of the proposed buildings and structures, exterior materials and elevations thereof, accessory parking and loading areas, landscaping, fencing and garbage enclosures, and all free-standing signs are submitted to and approved by the St. Boniface-St. Vital Community Committee and the Commissioner and Community Services and thereafter identified by the signature of that Commissioner under the designation "Schedule "A" to zoning agreement DAZ 278/88," and no buildings or structures or works shall be constructed or placed on the land except in accordance with Schedule "A" to this agreement and any amendments to that schedule or this agreement.
  5. An opaque fence two (2) metres in height shall be erected and maintained parallel to the northerly lot line of the land at a distance of 2.4 metres (8 feet) from that lot line, except that such fence may be 1.22 metres (4 feet) in height at all points within twenty-five (25) feet of St. Mary's Road, and the northerly 2.4 metres of the land shall be landscaped to provide screening, all in accordance with the plans to be approved as Schedule "A" to this agreement.
  6. All fencing, landscaping and garbage enclosures shown on that Schedule "A" shall be completed within three months of occupancy, in whole or in part, of any building constructed on the land, unless an extension of that time is approved by that Community Committee and those works including that landscaping shall be maintained in good condition at all times to the satisfaction of that Commissioner.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Robert Kostiuk, MCIP
Date:	April 16, 2013
File No.	ZAA 3/2013

List of Schedules and Attachments

1. Appendix A – Planning Discussion
2. Appendix B – Plan Approval Design Guidelines for ZAA 3/2013

APPENDIX 'A'

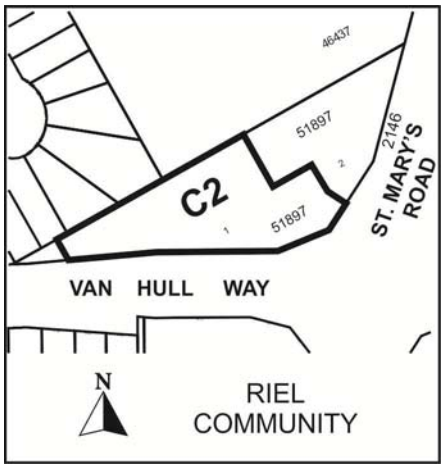
DATE: April 16, 2013

FILE: ZAA 3/2013
RELATED FILES: DCU 13-108055/C (c/r); DAV 13-110412/D; DASSF 589/08; DAZ 278/88

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.527

SUBJECT: For consideration at the Public Hearing to amend two conditions of the zoning agreement that were applied to the property under DAZ 278/1988.

LOCATION: North side of Van Hull WAY west of 2146 St. Mary's RD.
LEGAL DESCRIPTION: LOT 1 PLAN 51897 132 ST N



APPLICANT: Azim Kabani & Eugene Heinrichs (K & M Global Developments Inc.)

401 BOWER BLVD
WINNIPEG MB R3P 0L6

OWNER: 5288321 MANITOBA CORP.
246 ST ANNE'S RD
WINNIPEG MB R2M 3A4

RECOMMENDATION: Approval with modification

SITE DESCRIPTION

- The subject property is located on the northwest corner of the St. Mary's Road and Van Hull Way intersection in the Normand Park neighbourhood of the St. Norbert Ward.
- The property is vacant and approximately **1.1 acres in area**.
- The site is located along a Regional Mixed Use Corridor (St. Mary's Road) under the Complete Communities Direction Strategy and is zoned "C2" Commercial Community.



Figure 1: Air photo of the subject property and surrounding area (2012)

SURROUNDING ZONING & USES (See Figure 2)

North: Detached single-family homes zoned R1-M and a four-storey multi-family development zoned RMF-L.

South: Van Hull Way and vacant land zoned R1-M.

East: A fuel station zoned C2 and St. Mary's Road.

West: Detached single-family homes and a small park zoned R1-M.

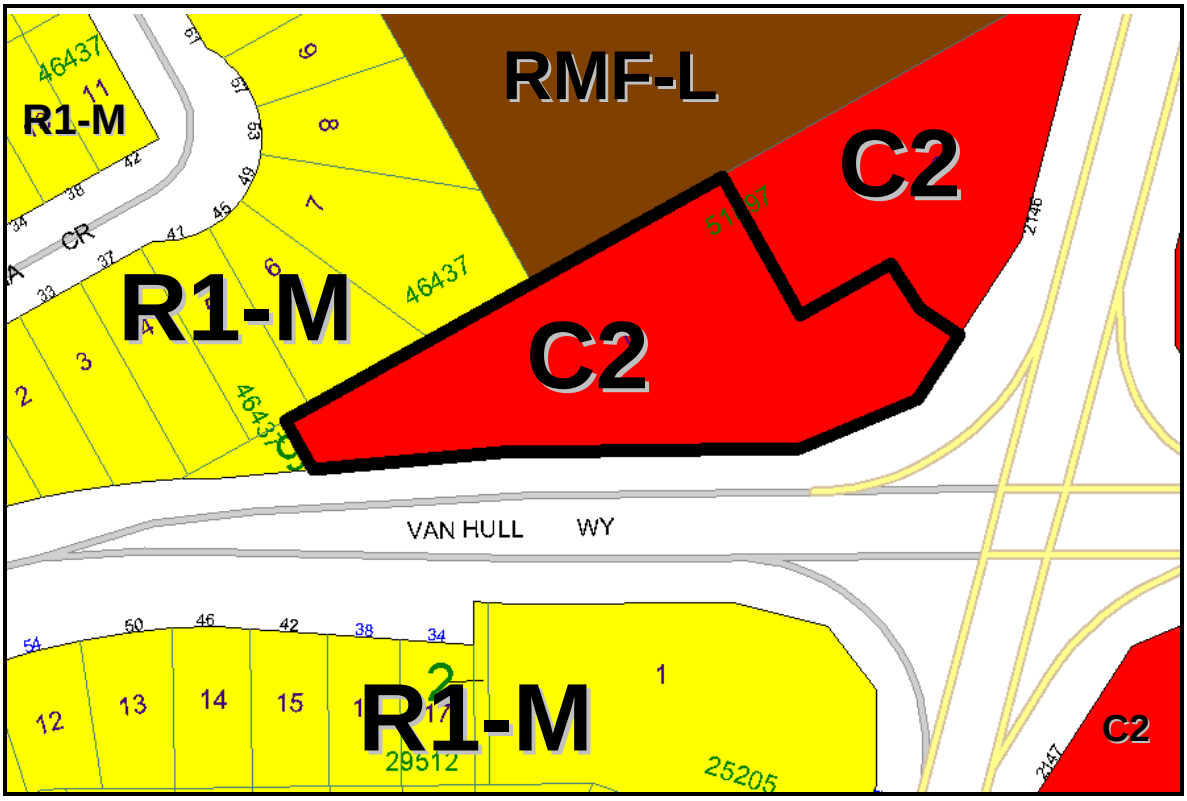


Figure 2: Zoning of the subject property and surrounding area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to develop a four-storey, multi-family building that would contain up to 52 dwelling units on the site.
- The bulk of the building will be set back from the north property line adjacent to the R1-M zoned properties by 40 feet and from the RMF-L zoned property by about 30 feet.
- The primary access to/from the site will be located along Van Hull Way. The applicant is also proposing to develop another access through the adjacent C2 property to the northeast. That access would be subject to a private cross-access agreement.
- Half of the required parking will be located underground while the other half will be located in front of the building along the eastern portion of the site.
- Variance and conditional use applications are required for the proposed development.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the Complete Communities Direction Strategy the proposed development is located along a Regional Mixed-Use Corridor (St. Mary'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 a range of housing opportunities in terms of type, tenure, unit size.
    - Promote the highest levels of intensification at significant intersections. Between each centre, lower intensities of commercial, residential and mixed use development are appropriate.
    - 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.
    - Promote innovative parking strategies and high intensity developments, including locating parking lots to the rear of developments, encouraging the development of underground parking or parking structures and encouraging the preservation and/or planting of trees and other types of vegetation within and around surface parking lots.

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. Multi-family developments in the C2 zone require a conditional use application. Any multi-family development in the C2 zone must comply with the RMF-M dimensional requirements of the zoning by-law.

LAND USE BY-LAW

Amendment to Zoning Agreement DAZ 278/1988

- The existing zoning agreement on the land restricts the height of buildings on the property to one storey (condition 3) and requires a two metre tall fence to be constructed 2.4 metres (8 feet) away from the north property line (condition 5).

- The applicant would like to build a four-storey multi-family building on the site and develop a 6 foot tall wood fence along the north property line. As such, a zoning agreement amendment application is required.
- Zoning agreement amendment applications require a public hearing and must be approved by Council.

DCU 13-108055/D

- The applicant is proposing to develop a multi-family development on the site. Multi-family developments are conditional uses in the C2 zone and therefore require a conditional use application.

DAV 13-110412/D

- The minimum front yard setback required for a multi-family dwelling in the C2 zone is 25 feet. The applicant is requesting a 10 foot front yard setback near the western portion of the site.
- Parking variances are also required for the front and side yards and for reducing the number of parking spaces to 76 instead of the required 78 spaces.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The applicant is proposing to develop a four-storey, multi-family building along St. Mary's Road, which is designated as a Regional Mixed-Use Corridor under the Complete Communities Direction Strategy. Multi-family developments are encouraged along Regional Mixed-Use Corridors.
- A four-storey, 427 unit multi-family development is under construction to the north of the site. The setback from the bulk of the four storey buildings that will be closest to the R1-zoned properties is just over 45 feet. There is also a three-storey multi-family development located at the northeast corner of St. Mary's Road & Warde Avenue and a three storey apartment under construction at the southeast corner of the same intersection.
- The applicant has stepped the building away from the adjacent R1-zoned properties to ensure a 40 foot setback, or a setback that will be approximately equivalent to the bulk height of the building.
- Fences are constructed along the rear portion of the neighbouring R1-zoned lots. The applicant is proposing to amend the zoning agreement to construct a fence along the north property line instead of creating an 8 foot wide gap between the properties.
- Plan approval is required under the original zoning agreement. The Public Services does not have concerns with the proposed design of the building, but would like to see more landscaping to buffer the single-family homes from the multi-family building. The Public Service also notes that there are large mature trees near the north property line. Every effort should be made to retain these trees in future plans for the site.

- Design guidelines for future development on the site have been included in Appendix B. These guidelines should be used to evaluate plans submitted for plan approval.
- Although supportive of the proposed amendments, the Public Service wants to help ensure that development on the site does not negatively impact the surrounding properties, most notably the R1-zoned properties. As such, the Public Service is recommending that a condition be added requiring a minimum 40 foot setback for principal buildings from any R1-zoned property line. This condition is being added to help ensure compatibility between land uses in consideration of the fact that the recommended change to the zoning agreement would allow for a four storey building to be constructed on the site instead of a one storey building.
- It is recognized that where the Public Service is recommending to add the setback condition in the zoning agreement has little to do with the original condition regarding fencing. The recommended placement of this condition is simply intended to make it easier to facilitate the change in the zoning agreement.

RECOMMENDATION

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

- The proposed multi-family development is compatible with the Complete Communities Direction Strategy and the surrounding properties in the area.
- The applicant has included an adequate setback from the north property line where there are existing R1-zone properties.
- The amendment to reduce the requirement of an 8 foot setback from the north property line to 0 feet for the construction of a fence eliminates what would otherwise become an awkward “alley” between the neighbouring properties.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # ZAA 3/2013

APPENDIX 'B' **Design Guidelines**

Plan Approval Design Guidelines for ZAA 3/2013 – NW Corner of Van Hull Way and St. Mary's Road

1. Site Planning

1.1 The site layout and building orientation should ensure that the buildings are constructed in a manner so that the buildings relate appropriately with the street surrounding context.

1.2 Site design should consider opportunities for enhancing personal security and safety by incorporating Crime Prevention Through Environmental Design (CPTED) principles.

1.3 Parking areas should be well-screened with landscaping.

1.4 Locate refuse storage areas and other building services internal to buildings or screened from view with appropriate fencing/landscaping.

1.5 Locate walkways to minimize potential conflict with vehicular and services areas.

1.6 Development on the site should include a shadow study to determine potential impact on surrounding properties.

2. Building Orientation and Design

2.1 The building façade facing the public right-of-ways should be well-articulated and should avoid featureless building massing.

2.2 Minimize blank walls – use landscaping, aesthetic characters (such as projections and offsets), change in cladding material, glass, etc. to break up tracts of continuous blank walls.

2.3 Reduce the building height in the areas located closest to the R1-zoned properties through modified rooflines.

2.4 Reduce massing through the balanced use of colour, texture and materials.

3. Landscaping

3.1 Landscaping shall be provided to enhance the overall development in key areas such as the development perimeter, corners, common areas, areas along pathways, and entryways.

3.2 A dense, vegetative buffer of least 10 feet in width should be developed along the north property line, most notably near the R1-zoned properties. This buffer should include a mix of deciduous and coniferous trees and shrubs.

3.3 All efforts should be made to retain the existing mature trees near or along the north property line.