Minute No. 37
Report – Executive Policy Committee – November 13, 2013

Item No. 4 **Rezoning – 20 Maralbo Avenue West**
(St Vital Ward)
File DAZ 220/2013 [c/r DAV 154785/2013D]

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

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 220/2013 dated October 21, 2013 to a "C1" Commercial Neighbourhood 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, no principal building or portion of a principal building shall be constructed within four (4) feet of the west property line.

        ii. That, no principal building or portion of a principal building shall be constructed within twenty (20) feet of the north property line.

        iii. That, the land be restricted as follows:

            a. The following use shall not be permitted on the land:

                1. Contractor's establishment.

        iv. That, free-standing identification signs shall not be permitted.

        v. That, illuminated signs shall not be permitted.

        vi. That, there shall be no advertising signs, mobile signs, or inflatable signs on the entire site.

Report – Executive Policy Committee – November 13, 2013

COUNCIL DECISION (continued):

vii. That, for 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 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 all to be maintained to the satisfaction of the Director of Planning, Property and Development.

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.

Report – Executive Policy Committee – November 13, 2013

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 13, 2013, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 4, 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: **Rezoning – 20 Maralbo Avenue West**
File DAZ 220/2013 [c/r DAV 154785/2013D]

For submission to: **Executive Policy Committee**

Prepared by: **Rochelle Viray, Clerk**
Riel Community Committee

Report date: **November 6, 2013**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 4, 2013, the Riel 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 Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 220/2013 dated October 21, 2013 to a "C1" Commercial Neighbourhood 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, no principal building or portion of a principal building shall be constructed within four (4) feet of the west property line.

        ii. That, no principal building or portion of a principal building shall be constructed within twenty (20) feet of the north property line.

        iii. That, the land be restricted as follows:

            a. The following use shall not be permitted on the land:

                1. Contractor's establishment.

        iv. That, free-standing identification signs shall not be permitted.

        v. That, illuminated signs shall not be permitted.

        vi. That, there shall be no advertising signs, mobile signs, or inflatable signs on the entire site.

vii. That, for 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 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 all to be maintained to the satisfaction of the Director of Planning, Property and Development.

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.

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

1. The street has a renaissance feel to it, and it is an attractive building.
2. There is also a development on north side that will liven up the street.
3. It is a real benefit to the community.

PUBLIC HEARING SUMMARY

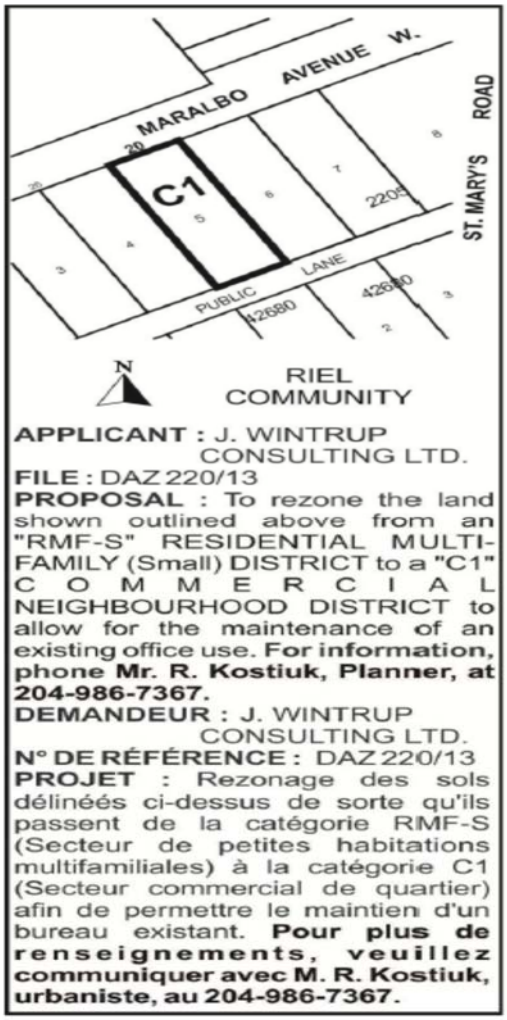
File: DAZ 220/2013

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

Public Hearing: November 4, 2013
Council Building, 510 Main Street

Applicant: J. Wintrup Consulting Ltd. (John Wintrup)

Subject:



Premises Affected: 20 Maralbo Avenue West

Exhibits Filed:

1. Application dated August 29, 2013
2. Notification of Public Hearing dated October September 23, 2013
3. Manitoba Status of Title 2202451/1
4. Letter of authorization dated July 25, 2013 from Michael Mark to John Wintrup
5. Surveyor's Building Location Certificate and sketch dated January 5, 2007
6. Plans (4 pages)
7. Report from the Urban Planning Division dated October 21, 2013
8. Inspection Report

REPRESENTATIONS:

In Support:

John Wintrup

In Opposition

Nil

For Information:

Lloyd Cohen

For the City:

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

Exhibit "7" referred to in File DAZ 220/2013

ADMINISTRATIVE REPORT

Title: DAZ 220/2013 – 20 Maralbo Avenue West Public Hearing

Issue: An application for consideration at the Public Hearing for a rezoning from RMF-S to C1 to allow for the maintenance of an existing office use.

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 Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 220/2013 dated October 21, 2013 to a "C1" Commercial Neighbourhood 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, no principal building or portion of a principal building shall be constructed within four (4) feet of the west property line.

      ii. That, no principal building or portion of a principal building shall be constructed within twenty (20) feet of the north property line.

      iii. That, the land be restricted as follows:

         a. The following use shall not be permitted on the land:

            1. Contractor's establishment.

      iv. That, free-standing identification signs shall not be permitted.

      v. That, illuminated signs shall not be permitted.

      vi. That, there shall be no advertising signs, mobile signs, or inflatable signs on the entire site.

vii. That, for 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 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 all to be maintained to the satisfaction of the Director of Planning, Property and Development.

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.

REASON FOR THE REPORT

- The applicant is proposing to rezone the site from RMF-S to C1 in order to keep the existing engineering office on the property.
- Rezoning 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 land will be rezoned from RMF-S to C1 with a zoning agreement further restricting the property.

HISTORY

- N/A

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:	October 21, 2013
File No.	DAZ 220/2013

List of Schedules and Attachments

1. Appendix A – Planning Discussion
2. Schedule “A” for File No. DAZ 220/2013

APPENDIX 'A'

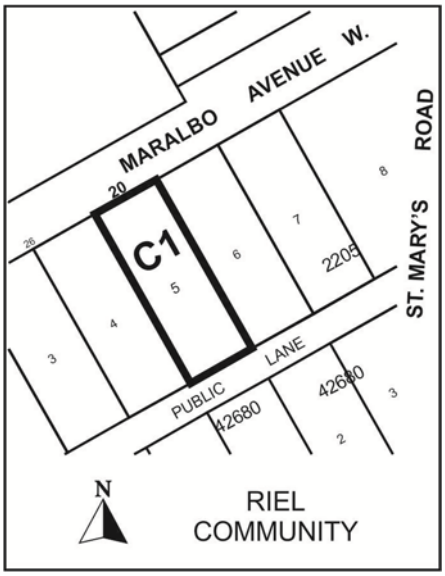
DATE: October 21, 2013

FILE: DAZ 220/2013
RELATED FILES: DAV 13-154785/D (c/r)

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.512

SUBJECT: To rezone the subject land from RMF-S to C1 in order to maintain an existing office use (engineering office) on the land.

LOCATION: 20 Maralbo Avenue West
LEGAL DESCRIPTION: LOT 5 PLAN 2205 44 ST V



APPLICANT: John Wintrup (J. Wintrup Consulting Ltd.)
139 ROSLYN RD UNIT 301
WINNIPEG MB R3L 0G7

OWNER: MICHAEL J MARK
56 TWEEDSMUIR RD
WINNIPEG MB R3P 1Z2

RECOMMENDATION: Approval with conditions

SITE DESCRIPTION

- The subject property is located on the south side of Maralbo Avenue West between St. Mary's Road and Dunkirk Drive in the Norberry neighbourhood of the St. Vital Ward.
- The lot is **3,003 square feet in area** and contains a two storey office.
- The property is located within the Areas of Stability – Recent Communities policy area under the Complete Communities Direction Strategy and is zoned "RMF-S" Residential Multi-Family Small.



Figure 1: Aerial photograph of subject property and surrounding area (2012)

SURROUNDING LAND USES & ZONING (See Figure 2)

North: Vacant land zoned RMF-S.

South: Detached single-family homes zoned RMF-S.

East: A surface parking lot zoned C1.

West: Detached single-family homes zoned RMF-S.

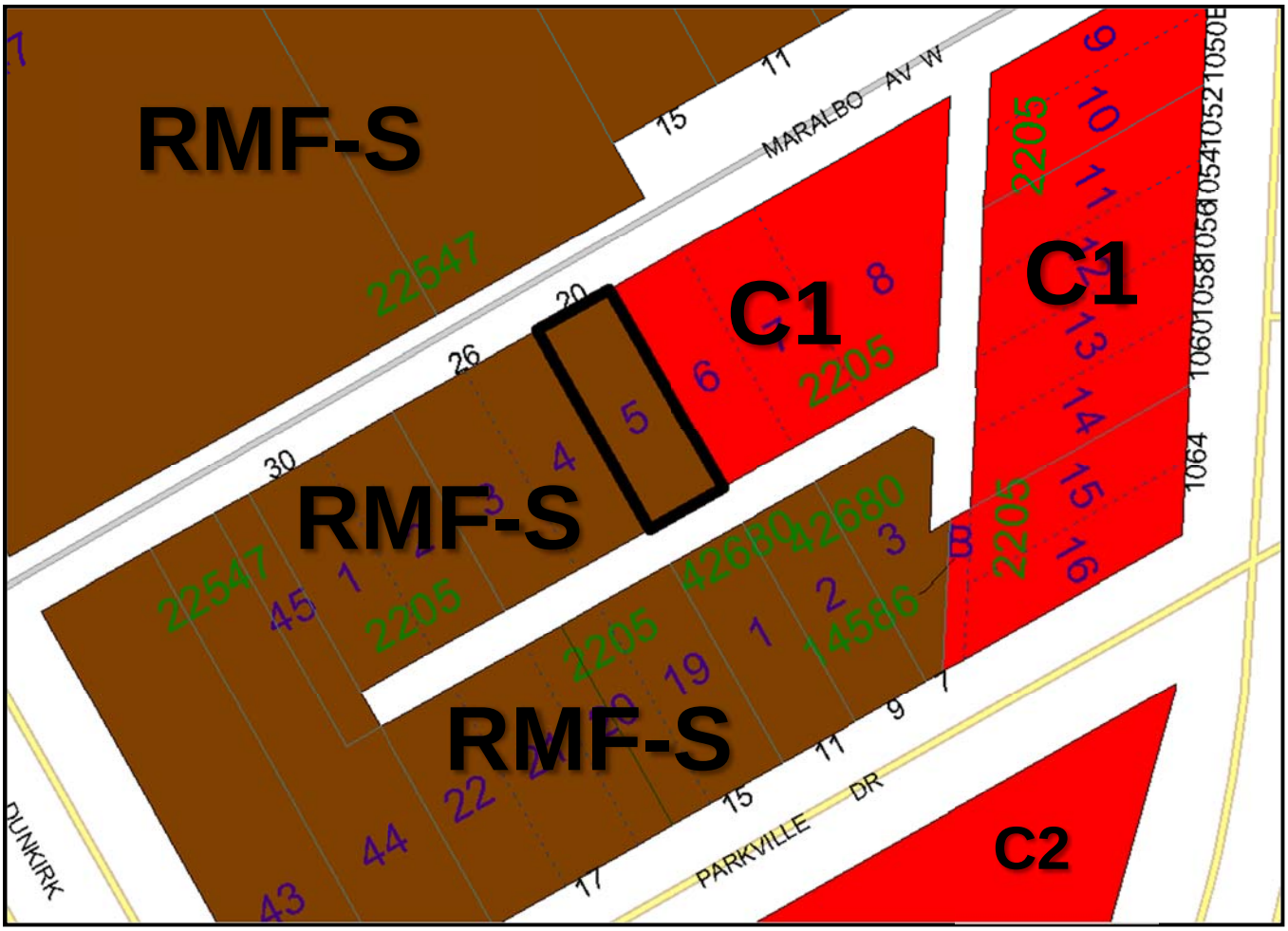


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to rezone the site from RMF-S to C1 in order to keep the existing engineering office on the property.
- The office was formerly listed as a dwelling but has not been used as a dwelling for some time. A Zoning Field Officer inspected the site and informed the owner that office use did not comply with the Zoning By-law. The owner is now applying to rezone the site to C1 in order to maintain the office use on the property.
- There is an associated variance application (DAV 13-154785/D). The variances are for a temporary change of use; parking directly off of a street or lane, and; insufficient street edge landscaping and buffering.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed rezoning is located within the Areas of Stability – Recent Communities policy area. With respect to the subject application, relevant directions and policies of the Areas of Stability – Recent Communities policy area include:
    - Within Recent Communities, intense and diverse development will be encouraged in centres and corridors.
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.
    - Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.
    - Encourage intensification to occur at centres and along corridors.
    - Support a mix of commercial services and employment uses that serve the local community.

ZONING

"RMF-S" Residential Multi-Family Small

- The RMF-S zone is intended to accommodate the development of multi-family units in neighbourhoods with medium to high residential densities. The dimensional standards for multi-family structures in the RMF-S zone are: a minimum front yard of 20 feet; a minimum rear yard of 25 feet; a minimum side yard of 4 feet and, a maximum building height of 35 feet. The minimum lot area is 9,000 square feet and the minimum lot area per dwelling unit is 1,250 square feet.

"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.

LAND USE BY-LAW

Rezoning

- The applicant is proposing to rezone the land from RMF-S to C1 to maintain the existing office use on the land. Offices are permitted in the C1 zone but are not permitted in the RMF zoning districts as principal uses.

Variances (see DAV 13-154785/D)

- The variances being applied for predominantly relate to the office as it is developed now. Each variance is explained below.
- The first variance is a use variance, which is being requested to allow the applicant to legally maintain the office on the land in advance of Council's decision to approve or reject the rezoning application.
- A minimum of 1 tree and 5 shrubs is required for street edge landscaping for the 33 foot wide lot. The applicant would like to keep the existing approach as is and therefore is requesting a variance to allow for no street edge landscaping.
- Landscaping or buffering is also required along the west property line. The applicant is requesting a variance to allow for no buffering, which reflects the existing conditions on the site.
- Under section 172(3)(a), accessory parking areas require a parking driveway. The applicant is proposing to have parking directly off of Maralbo Avenue West.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The applicant is proposing to rezone the property from RMF-S to C1 to allow for the maintenance of the existing office use on the land.
- The subject site is surrounded by other properties zoned RMF-S to the north, south, and west and a C1-zoned lot to the east. There is also a C2-zoned lot immediately east of 7 Maralbo Avenue West. This lot is currently used as a surface parking lot.
- Although zoned RMF-S, the majority of the surrounding properties are predominantly developed as single-family homes. However, there is a multi-family development at the northeast corner of Dunkirk/Maralbo Avenue West.
- The site is located approximately 125 metres north of a commercial node at the St. Mary's/Dakota Street intersection. In this general location all of the properties are zoned for commercial development.
- As stated in the Zoning By-law, 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."
- As such, the C1 zoning district is the least "intensive" commercial zoning district with respect to development rights. Of the total 107 principal uses listed in the Zoning By-law, the C1 district permits 21 uses and lists 10 uses as conditional. By comparison, the C2 district (the next commercial zoning district up from C1) permits 39 uses and has 24 conditional uses.
- The C1 district also includes many use specific standards that often restrict the size or hours of operation of uses to ensure compatibility with neighbouring properties. In fact,

14 of the 21 permitted principal uses and 2 of the 10 conditional uses in the C1 zone include use specific standards.

- In terms of dimensional standards, the maximum height permitted in the C1 zone is 39 feet and the maximum floor area ratio is 1.0, which are the most restrictive standards of the commercial zones.
- Multi-family development is a conditional use in the C1 zone. Any multi-family building in the C1 zone must be consistent with the standards of the RMF-S zoning district. The subject site is surrounded by properties zoned RMF-S.
- Although the C1 district restricts many uses and the form of development, there are some uses and aspects about the dimensional standards that the Public Service recommends further restricting on the subject site through a zoning agreement. These include restrictions on setbacks, signage, and prohibiting one use. The added conditions will help ensure compatibility with the surrounding residential uses, notably the neighbouring single-family dwelling to the west, which requires a 4 foot side yard and has a 23 foot front yard. Plan approval has also been included as a condition of the zoning agreement to allow the Urban Planning Division and the Riel Community Committee to review site plans when new development is proposed on the site. This will help the Division and Community Committee deem if the new development is compatible with the surrounding properties.

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

- The proposed rezoning of the site to C1 is consistent with the Complete Communities Direction Strategy.
- The subject site is located adjacent to a C1-zoned property to the east. There is also a C2-zoned property immediately east of 7 Maralbo Avenue West, which is approximately 55 metres from the subject site.
- Restrictions and standards of the C1 zone are intended to help ensure that development in the C1 zone is compatible with neighbouring residential uses.

- The recommended added restrictions of the zoning agreement help to ensure that any potential future development on the site is consistent with the character of the specific area.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # DAZ 220/2013

Schedule "A" for File No. DAZ 220/2013, Riel Community Committee, dated October 21, 2013

By-Law No. _____

File No. **DAZ 220/13**

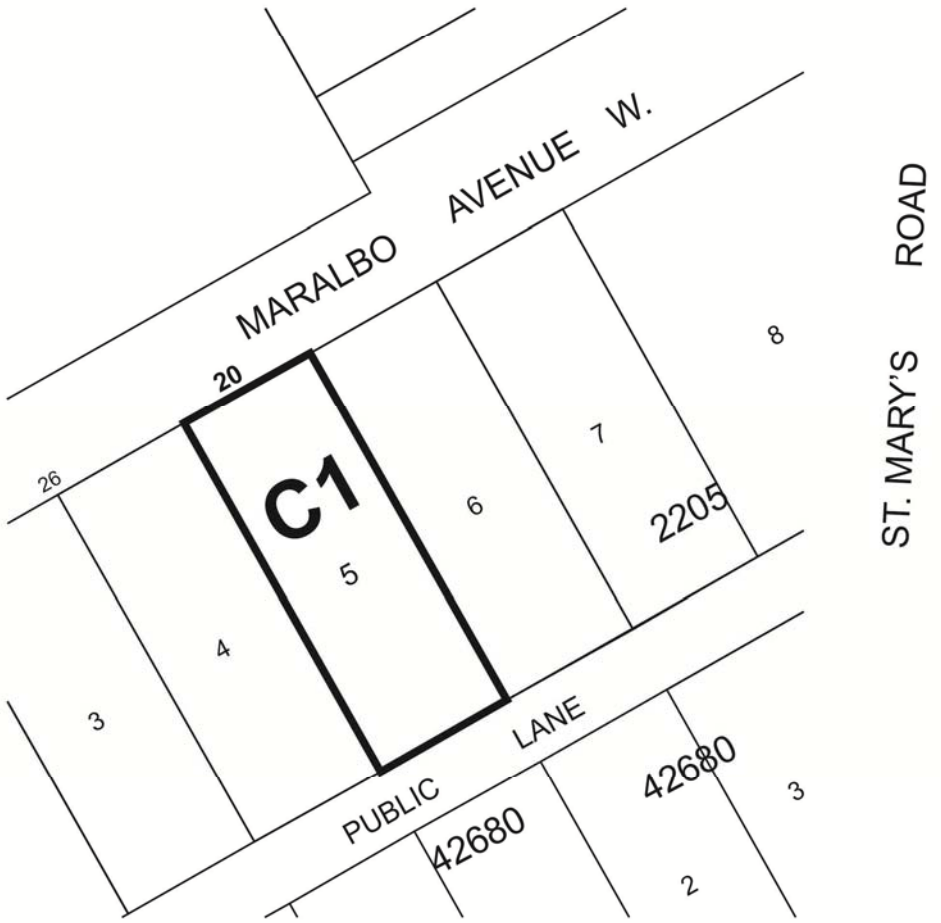
Atlas Sheet No.

N

AG26
RIEL
COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 20 Maralbo Avenue West from an "RMF-S" RESIDENTIAL MULTI-FAMILY (Small) DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to allow for the maintenance of an existing office use as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____