Minute No. 326
Report - Executive Policy Committee – March 19, 2014

Item No. 3 **Rezoning – Archibald Street, East of Cusson Street (St. Boniface Ward) File DAZ 222/2013 [c/r DAV 178779/2013D]**

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 222/2013 dated February 19, 2014 to a "CMU" Commercial Mixed Use 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, for the development of any building, and/or accessory parking area and/or signage within the lands, 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.

        ii. That, no principal building or portion of a principal building shall be located less than 60 feet (18.288 metres) from the east property line.

        iii. That, the Developer of the land shall construct a uniform 2.0-metre high fence abutting the CPR Emerson Subdivision to the satisfaction of the Director of Public Works and shall maintain this fencing to the satisfaction of the Director of Public Works.

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.

Report - Executive Policy Committee – March 19, 2014

COUNCIL DECISION (continued):

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 – March 19, 2014

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 March 19, 2014, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 10, 2014, 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 – Archibald Street, East of Cusson Street**
File DAZ 222/2013

For submission to: **Executive Policy Committee**

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

Report date: **March 12, 2014**

COMMUNITY COMMITTEE RECOMMENDATION:

On March 10, 2014, 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 222/2013 dated February 19, 2014 to a "CMU" Commercial Mixed Use 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, for the development of any building, and/or accessory parking area and/or signage within the lands, 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.

        ii. That, no principal building or portion of a principal building shall be located less than 60 feet (18.288 metres) from the east property line.

        iii. That, the Developer of the land shall construct a uniform 2.0-metre high fence abutting the CPR Emerson Subdivision to the satisfaction of the Director of Public Works and shall maintain this fencing to the satisfaction of the Director of Public Works.

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 reason(s) for its recommendation:

1. This is an extremely positive project that is going to offer more variety of housing for the citizens of our city.

PUBLIC HEARING SUMMARY

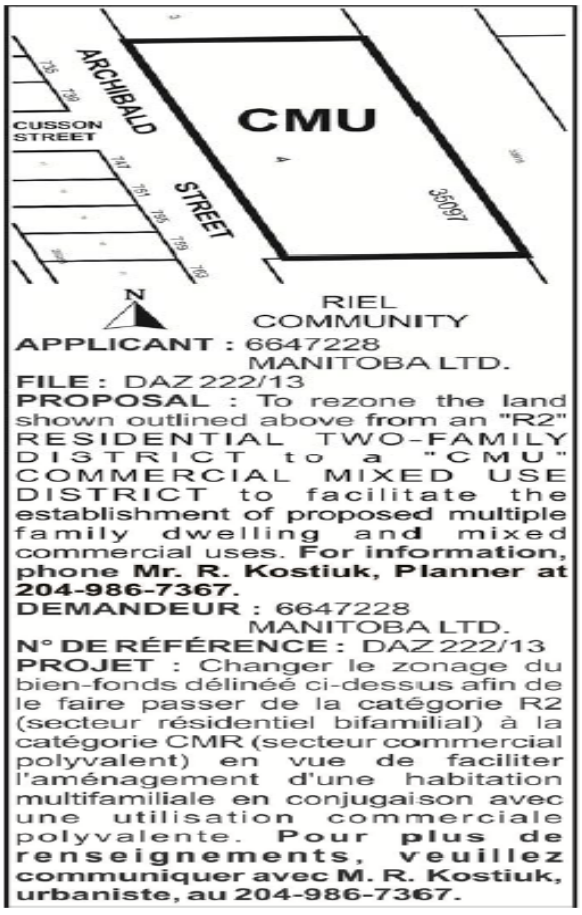
File: DAZ 222/2013

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

Public Hearing: March 10, 2014
Council Building, 510 Main Street

Applicant: 6647228 Manitoba Ltd. (Pardeep Bhullar)

Subject:



Premises Affected: East corner of Archibald Street and Cusson Street intersection

Exhibits Filed:

1. Application dated December 20, 2013
2. Notification of Public Hearing dated January17, 2014
3. Manitoba Status of Title 1526646/1
4. Letter of authorization dated July 8, 2014 from The City of Winnipeg to 6647228 Manitoba Ltd.
5. Declaration No. 2194974 dated September 16, 1997
6. Plan (1 page)
7. Report from the Urban Planning Division dated February 19, 2014
8. Inspection Report

REPRESENTATIONS:

In Support:

Pardeep Bhullar
Evan Hanson

In Opposition

Nil

For Information:

Nil

For the City:

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

Exhibit "7" referred to in File DAZ 222/2013

ADMINISTRATIVE REPORT

Title: DAZ 222/2013 – Archibald Street, East of Cusson Street Public Hearing

Issue: An application for consideration at the Public Hearing for a rezoning from R2 to CMU to allow for the development of a multi-family building with potential commercial uses.

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 222/2013 dated February 19, 2014 to a "CMU" Commercial Mixed Use 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:

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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 “R2” Residential Two-Family to “CMU” Commercial Mixed Use and develop two (2), forty (40) dwelling unit buildings for a total of eighty (80) dwelling units on the site. A main floor commercial component is also contemplated, but the exact use and size are not determined at this time.
- The property is owned by the City of Winnipeg. A letter of authorization from the City of Winnipeg Planning, Property and Development Department has been included in the application submission.
- 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 R2 to CMU with a zoning agreement further restricting the property.*

HISTORY

Sale of the City-owned property located on Archibald Street south of Marion Street (the subject site)

- On July 2, 2013, the Standing Policy Committee on Property and Development recommended approval of the sale of the property included within this application subject to conditions.

DAZ 212/2009

- On November 25, 2009, Council recommended rejection of the rezoning of the subject site to M2 for the development of an outside storage area.

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:	February 19, 2014
File No.	DAZ 222/2013

List of Schedules and Attachments

1. Appendix A – Planning Discussion
2. Schedule “A” for File No. DAZ 222/2013
3. Appendix B – Design Guidelines

APPENDIX 'A'

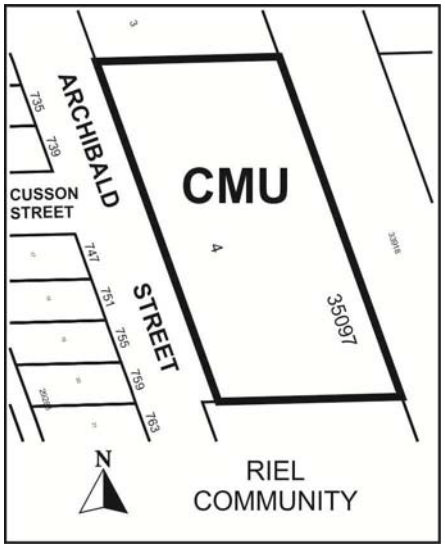
DATE: February 19, 2014

FILE: DAZ 222/2013
RELATED FILES: DAV 13-178779D (c/r)

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.539

SUBJECT: To rezone the subject land from R2 to CMU in order to develop an 80 dwelling unit mixed-use development on the site.

LOCATION: Archibald Street, east of Cusson Street
LEGAL DESCRIPTION: LOT 4 PLAN 35097 RCMP



APPLICANT: 6647228 Manitoba Ltd (Pardeep Bhullar)
80 ST ANNE'S RD
WINNIPEG MB R2M 2Y7

OWNER: City of Winnipeg

RECOMMENDATION: Approval with conditions

SITE DESCRIPTION

- The subject property is located on the east side of Archibald Street near the Cusson Street/Archibald Street intersection in the Archwood neighbourhood of the St. Boniface Ward.
- The property is vacant and is approximately 69,000 square feet in area.
- The property is owned by the City of Winnipeg. A letter of authorization from the City of Winnipeg Planning, Property and Development Department has been included in the application submission.
- The site is within the Areas of Stability – Recent Communities Policy Area under the Complete Communities Direction Strategy and is zoned "R2" Residential Two-Family.



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

SURROUNDING LAND USES & ZONING (See Figure 2)

North: A commercial development (Ken's Carpets) zoned C2.

South: The Holy Family R.C. Parish, which is zoned R2.

East: A rail line owned by CPR and lands known as the Public Markets zoned M3. The Public Markets is a Major Redevelopment site in the Complete Communities Direction Strategy.

West: Detached single-family homes zoned C1.

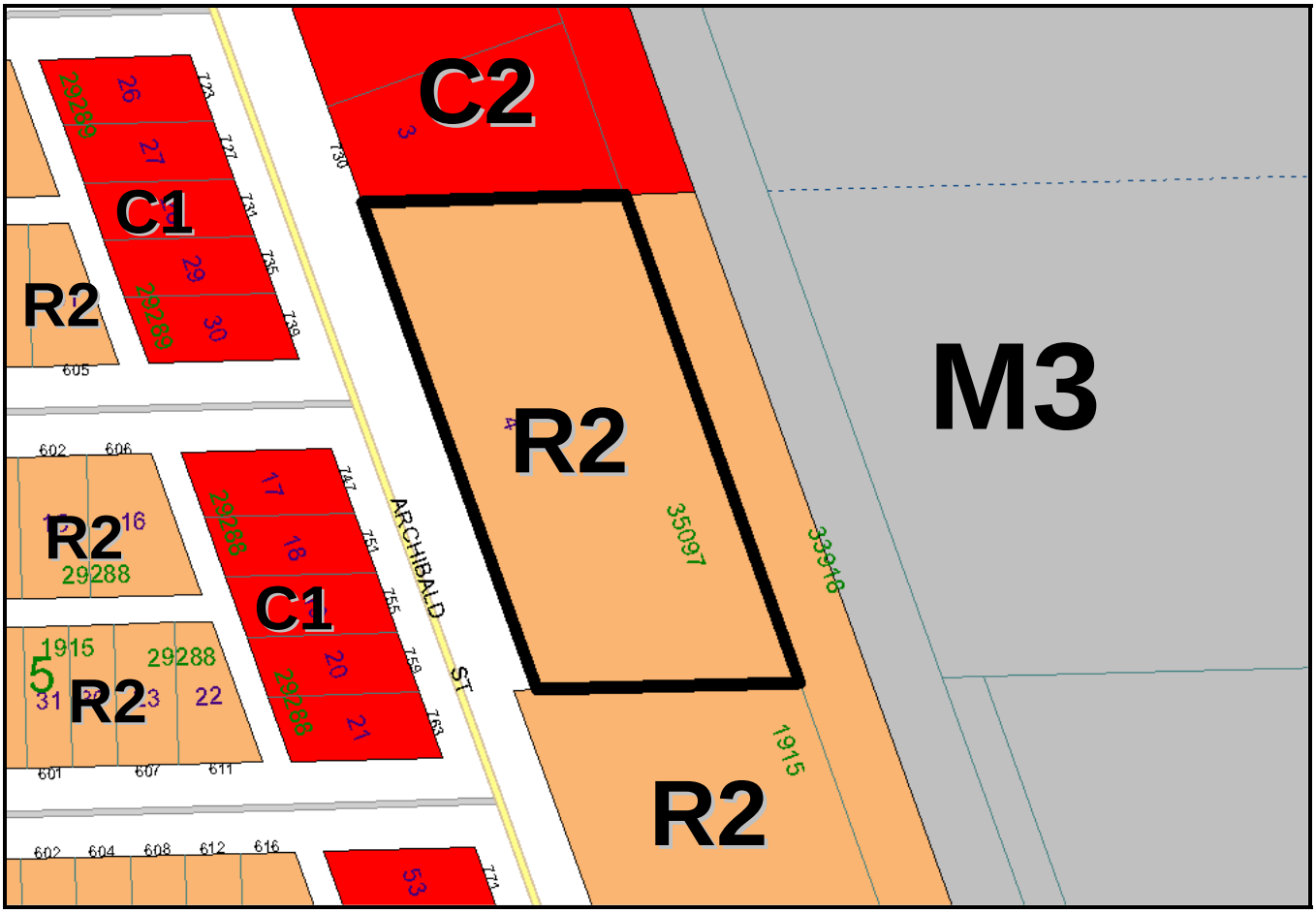


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to rezone the site from "R2" Residential Two-Family to "CMU" Commercial Mixed Use and develop two (2), forty (40) dwelling unit buildings for a total of eighty (80) dwelling units on the site. A main floor commercial component is also contemplated, but the exact use and size are not determined at this time.
- The proposed development is made up of two, four storey buildings with the majority of parking located to the rear (east side).
- Multiple variances are requested for the development under DAV 13-178779/D.

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. With regard to this proposal, the key policies guiding the development of Areas of Stability include:
  - Support a mix of uses within buildings located on commercial streets.
  - 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

"R2" Residential Two-Family Large District

- The R2 district is intended to accommodate the development of single and two-family units and where appropriate limited multi-family units in lower density neighbourhoods. The R2 district requires: a minimum lot width of 25 feet, a minimum lot area of 5,000 square feet (2,500 per dwelling unit for two-family dwellings), 4 foot side yards, a front yard of 20 feet, and a rear yard of 25 feet. The maximum building height is 35 feet.

"CMU" Commercial Mixed-Use District

- The CMU district is intended to provide for community-serving mixed use development at a higher scale than is appropriate for neighbourhood locations. The CMU district is intended for use along selected corridors and at important nodes in the city. The district is intended to include attractive commercial, institutional, recreational, and service facilities needed to support surrounding neighbourhoods and the community at-large. Although the area, site, or building should have a predominantly commercial character, multi-family housing may be incorporated within the district, and development should

facilitate pedestrian connections between residential and nonresidential uses. There is no front or side yard requirement and maximum building height is 60 feet. Multi-family residential structures in the CMU district must meet the requirements of the RMF-M zoning. The maximum floor area ratio is 3.0 and the minimum rear yard is 25 feet.

LAND USE BY-LAW

Rezoning

- The applicant is proposing to rezone the land from R2 to CMU in order to develop a mixed-use building on the site. Residential/commercial mixed use development is permitted in the CMU zoning district, but is not permitted in the R2 zone.

Variances (see DAV 13-178779/D)

- The variances requested are for the multi-family development, which need to meet the standards of the RMF-M zone. Each variance is explained below.

  1(a) The minimum required front yard in the RMF-M zone is 25 feet. The applicant is proposing a front yard of 10 feet for the multi-family building.

  (b)&(c) The minimum required interior side yard for a four storey building in the RMF-M zone is 14 feet. The applicant is proposing north and south interior side yards of 10 feet.

  2(a) The minimum required front yard in the RMF-M zone is 25 feet. The applicant is proposing to develop a parking area with a 10 foot front yard that includes 12 parking stalls for the multi-family building.

  (b) The minimum required interior side yard for an open accessory parking area in the RMF-M zone is 8 feet. The applicant is proposing north and south interior side yards of 0 feet for small portions of the parking lot along the parking lot behind the buildings.

  (c) Multi-family developments require 1.5 parking stalls per unit. The applicant is proposing an 80 unit development and is required 120 parking stalls under the zoning by-law, but is proposing a total of 95 parking stalls.

  3) The minimum rear yard is 25 feet. The applicant is proposing to place a garbage enclosure within 10 feet of the rear (east) property line.

  4) Section 190(7)(a)(ii) of the Zoning By-law requires breaks every 48 feet in fencing for buffering a commercial property from an abutting single, two-family or multi-family zoning district. The applicant is proposing continuous fencing along the south property line.

  5) Section 172(3)(b) of the Zoning By-law requires parking spaces to be 10 feet from the sill of a window to a habitable room that is located 5 feet or less from grade. The applicant is proposing to have some parking stalls closer than 10 feet from the sill of a window to a habitable room that is located 5 feet or less from grade.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The applicant is proposing to rezone the property from R2 to CMU to develop a four-storey, mixed-use development. However, at the present time, the applicant is proposing that the development will primarily be made up of residential dwelling units.

- The subject site is located along an arterial (Archibald Street) and is adjacent to a commercial use in a C2 zone to the north, and a church to the south. To the east is a rail line. Beyond the rail line is the Public Markets site, which is zoned M3 but designated as a Major Redevelopment Site under the Complete Communities Direction Strategy. Major Redevelopment Sites are identified as strategic, underutilized areas with potential for significant redevelopment. To the west are detached single-family homes zoned C1.

- The Areas of Stability policies within the Complete Communities Direction Strategy support a mix of uses that are compatible with the area and redevelopment that is complimentary to the existing scale, character and built form. Given the surrounding context, the proposed CMU zoning is consistent with these policies.

- The applicant is proposing to develop a primarily residential building at this time and could have applied to rezone the site to RMF-M. However, given the surrounding context, rezoning to CMU creates more flexibility to develop commercial on the site over the long term, which is appropriate for the area.

- Presently the property is zoned R2. As zoned today, the maximum number of dwelling units that could be applied for to be developed on the site is approximately 86 through a conditional use, which is the same number of dwelling units permitted in the CMU zone.

- There is an existing City of Winnipeg watermain easement that runs through property. Water and Waste has confirmed that they have no objections to the discharge of the easement. Any costs incurred for the discharge of the easement will be paid by the applicant.

- The subject property is not located within the focus area of the recently endorsed Mission Industrial Neighbourhood – Planning Approaches for Mitigating Conflicts Between Residential and Industrial Uses report (see Minute 246 of the October 8, 2013 Standing Policy Committee on Property and Development meeting). The site is also not located within the focus area of the Marion Functional Design Study.

- The CPR Emerson Subdivision is located immediately east of the subject site. Conditions for fencing and a setback have been included in the recommended zoning agreement and are explained below.

RECOMMENDED ZONING AGREEMENT

Plan Approval

- The Urban Planning Division is recommending that final plans be submitted to the Director of Planning, Property and Development and Riel Community Committee for review prior to the issuance of a development permit on the site. The inclusion of this clause will allow the Urban Planning Division and the Riel Community Committee to review final plans before development takes place for the proposed development and for any future developments on the site. Recommended design guidelines for approval are included in Appendix B.

Setback from Rail Line Right-Of-Way

- Since about 2008/2009, the Urban Planning Division has been recommending setbacks from rail right-of-ways that are consistent with those identified in *The Proximity Guidelines and Best Practices* (2007) report, which was prepared for the Federation of Canadian Municipalities and the Railway Association of Canada. This report has since been updated and is titled *Guidelines for New Development in Proximity to Railway Operations* (May 2013).

- The report lists measures to reduce issues and potential issues associated with rail uses that may impact neighbouring developments. Specifically, the report lists ways to try and reduce the potential impact of derailments, noise, vibration, and safety issues associated rail use predominantly through setbacks, berming, and fencing.

- Recommended setbacks are associated with the type of rail line neighbouring the development. In this case, the neighbouring CPR Emerson Subdivision is considered a main line but functions as a branch line in terms of its speed (under 50 km/h) and number of trains per day (+/- 7) through this location. The recommended setback from a branch line is 15 metres (49.2 feet) while the recommended setback from the main line is 30 metres (98.4 feet). The applicant is proposing a setback of at least 60 feet from the principal buildings on the site. Given that the main line functions more like a branch line at this location and that the applicant is proposing a minimum setback of 60 feet from a principal building, the Public Service is recommending that a 60 foot (18.288 metre) setback be applied from the rail line on the site. This recommendation does not impact the proposed development while accommodating a slightly higher setback requirement in consideration of the fact that the railway is a main line that functions more like a branch line near the subject site.

- A 2.0 metre tall berm is a recommended safety element. However, built to the desired specification of the Guidelines, the recommended berm would take up 15 metres of the site, leaving it difficult to develop. As a result, the Public Service has commonly applied the recommended setback criteria contained within the guidelines, but not the berming criteria for infill development.

- The Division is also recommending that the developer erect and maintain a uniform 2.0 metre tall barrier fence along the Emerson Subdivision, or the eastern property line of the subject property.

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

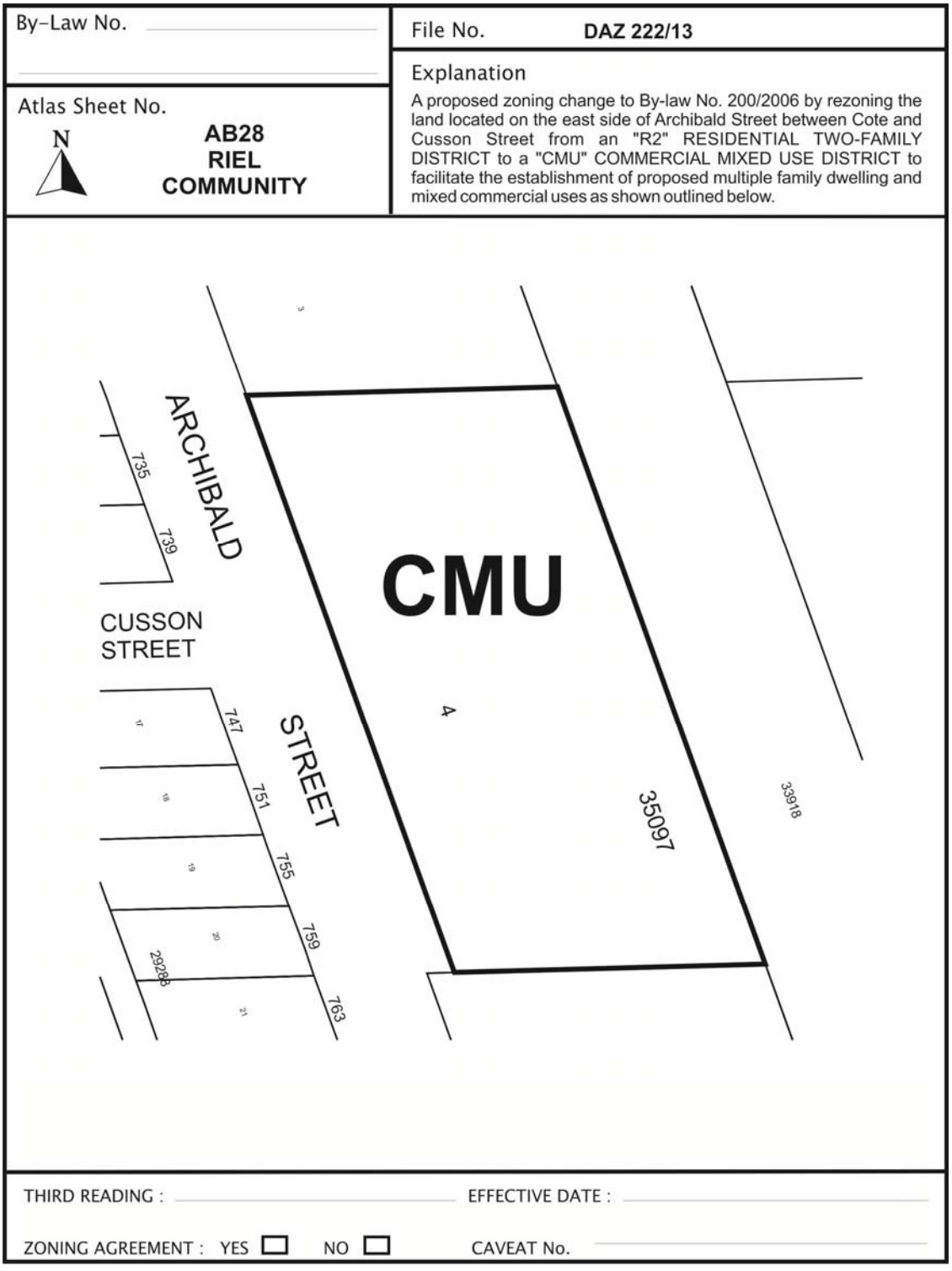
The Urban Planning Division recommends **approval** for the following reasons:

- The proposed rezoning of the site to CMU is consistent with OurWinnipeg and the Complete Communities Direction Strategy.
- The site is located along an arterial, which is well-suited for higher-intensity zoning.
- The proposed development is compatible with the neighbouring properties, which include the Public Markets Major Redevelopment Site, a church zoned R2, and a commercial building zoned C2.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # DAZ 222/2013

Schedule "A" for File No. DAZ 222/2013, Riel Community Committee, dated February 19, 2014



APPENDIX 'B' Design Guidelines

Plan Approval Design Guidelines for the DAZ 222/2013

1. Site Planning

1.1 The site layout and building orientation should ensure that the buildings relate appropriately to the street (Archibald) and surrounding developments and create a cohesive visual identity for the neighbourhood.

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 or an active development along the street-front.

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

1.5 Provide easy, universally accessible and direct access to the public sidewalk(s).

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

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 The overall design should be made up of a distinctive, quality, architectural character and style that also avoids monotonous and featureless building massing and design.

2.3 Ensure detailed design supports the identity and quality of the place through good design; quality building materials, sustainable materials; and commitment to long-term maintenance.

2.4 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.

2.5 Reduce the perception of mass and height 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 High-quality landscaping is required along the streetfront of the development and along the side and rear yards. It is preferred that existing trees be preserved as much as possible.

3.3 Existing mature trees on the site should be retained as much as possible.

4. Fencing

4.1 Any proposed fencing should be composed of high quality materials.