Minute No. 268
Report – Standing Policy Committee on Property and Development – March 10, 2015

Item No. 7 Zoning Agreement Amendment – 3194 St. Mary's Road (St. Vital Ward) File ZAA 14/2014

COUNCIL DECISION:

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

1. That Zoning Agreement Caveat 1484833/1 under File DAZ 257/1990 dated March 27, 1991 (By-Law No. 5694/1991) be withdrawn and replaced with a new Zoning Agreement as follows:

    A. That, the following conditions shall apply to the portion of land zoned "C2" Commercial Community District:

        i. The land and any building or structure thereon shall not be used, nor any building or structure erected or altered on the land, for any use except:
            a. Office;
            b. Accessory uses.

        ii. That, the maximum gross floor area of any office use permitted pursuant to clause 1.A.i.a. of this agreement shall not exceed 5,000 square feet.

        iii. It is understood that no vehicular approach for ingress or egress to the land shall be constructed from or to Forbes Road.

        iv. The owner shall construct a fence along the north lot limit of the land commencing at the existing building on the land and ending at a distance seventy-five (75) feet to the east thereof and shall maintain that fence in good condition to the satisfaction of the Director of Planning, Property and Development, at all times.

Report - Standing Policy Committee on Property and Development – March 10, 2015

COUNCIL DECISION (continued):

v. That for the development of any building and/or accessory parking area and/or freestanding 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, lighting, bicycle parking and freestanding 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 the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 257/1990 dated March 27, 1991 (By-Law No. 5694/1991) 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 – March 10, 2015

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 18, 2015, 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 March 10, 2015, 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.

COMMUNITY COMMITTEE RECOMMENDATION:

On February 9, 2015, the Riel Community Committee concurred in the recommendation of the recommendation of the Winnipeg Public Service as amended:

- Amend recommendation 1 to add the following after (By-law No. 5694/1991):

  "be withdrawn and replaced"

- Amend recommendation 1. iv. by replacing "Commissioner of Planning and Community Services" with "Director of Planning, Property and Development"

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

RE: **Zoning Agreement Amendment – 3194 St. Mary's Road**
File ZAA 14/2014

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

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

Report date: **February 12, 2015**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 9, 2015, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement Caveat 1484833/1 under File DAZ 257/1990 dated March 27, 1991 (By-Law No. 5694/1991) ***be withdrawn and replaced*** with a new Zoning Agreement as follows:

    A. That, the following conditions shall apply to the portion of land zoned "C2" Commercial Community District:

        i. The land and any building or structure thereon shall not be used, nor any building or structure erected or altered on the land, for any use except:
            a. Office;
            b. Accessory uses.
        ii. That, the maximum gross floor area of any office use permitted pursuant to clause 1.A.(i)(a) of this agreement shall not exceed 5,000 square feet.
        iii. It is understood that no vehicular approach for ingress or egress to the land shall be constructed from or to Forbes Road.
        iv. The owner shall construct a fence along the north lot limit of the land commencing at the existing building on the land and ending at a distance seventy-five (75) feet to the east thereof and shall maintain that fence in good condition to the satisfaction of the ***~~Commissioner of Planning and Community Services~~ Director of Planning, Property and Development***, at all times.
        v. That for the development of any building and/or accessory parking area and/or freestanding 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, lighting, bicycle parking and freestanding 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 the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 257/1990 dated March 27, 1991 (By-Law No. 5694/1991) 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 proposed change will not have an adverse impact on Mountbatten Park.
2. It is in keeping with the pre-existing approval.
3. This is a positive initiative, as it is less intrusive to the aquifer.

PUBLIC HEARING SUMMARY

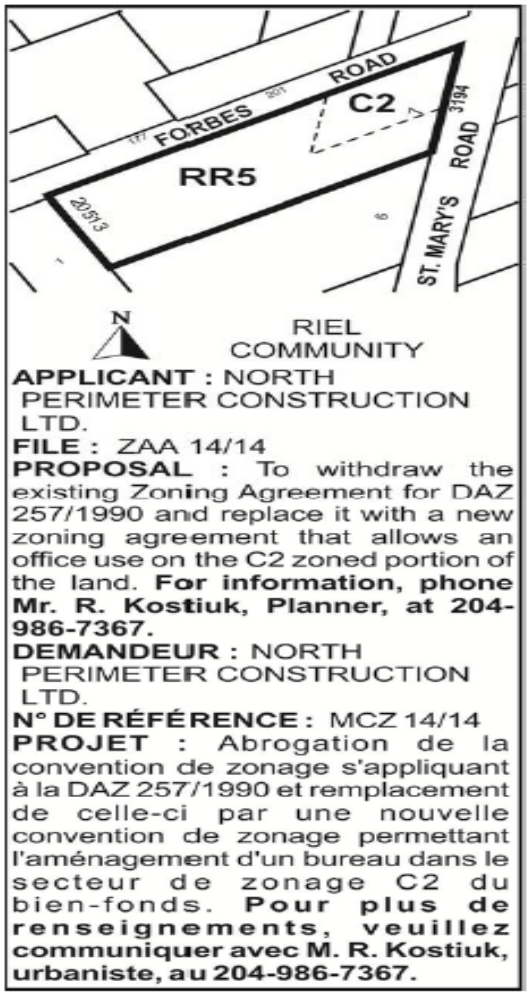
File: ZAA 14/2014

Before: Riel Community Committee
Councillor Lukes, Chairperson
Councillor Allard
Councillor Mayes

Public Hearing: February 9, 2015
Council Building, 510 Main Street

Applicant: North Perimeter Construction Ltd. (Phillip Pawluk)

Subject:



APPLICANT : NORTH PERIMETER CONSTRUCTION LTD.
FILE : ZAA 14/14
PROPOSAL : To withdraw the existing Zoning Agreement for DAZ 257/1990 and replace it with a new zoning agreement that allows an office use on the C2 zoned portion of the land. **For information, phone Mr. R. Kostiuk, Planner, at 204-986-7367.**
DEMANDEUR : NORTH PERIMETER CONSTRUCTION LTD.
N° DE RÉFÉRENCE : MCZ 14/14
PROJET : Abrogation de la convention de zonage s'appliquant à la DAZ 257/1990 et remplacement de celle-ci par une nouvelle convention de zonage permettant l'aménagement d'un bureau dans le secteur de zonage C2 du bien-fonds. **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 204-986-7367.**

Premises Affected: 3194 St. Mary's Road

Exhibits Filed:

1. Application dated December 17, 2014, 2014
2. Notification of Public Hearing dated January 8, 2014
3. Manitoba Status of Title2464879/1
4. Letter of authorization dated October 10, 2014 from XiteBio Technologies Inc.to North Perimeter Construction Ltd.
5. Surveyor's Building Location Certificate and sketch dated October 20, 2011
6. Caveat 1484833
7. Plans (4 pages)
8. Report from the Urban Planning Division dated January 28, 2015
9. Communication dated February 3, 2015, from Mr. and Mrs. R. Edwards in opposition to the application
10. Inspection Report
11. Audio Recording of representations

REPRESENTATIONS:

In Support:
Phillip Pawluk

In Opposition
Nil

For Information:
Nil

For the City:
Mr. R. Kostiuk, Planner, Planning, Property and Development Department

Exhibit "8" referred to in File ZAA 14/2014

ADMINISTRATIVE REPORT

Title: ZAA 14/2014 – 3194 St. Mary's Road Public Hearing

Issue: An application for consideration at the Public Hearing to withdraw the zoning agreement caveat no. 1484833/1 for DAZ 257/1990 to allow for the establishment of an office use on the C2 zoned portion of the land.

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 Zoning Agreement Caveat 1484833/1 under File DAZ 257/1990 dated March 27, 1991 (By-Law No. 5694/1991) with a new Zoning Agreement as follows:

   A. That, the following conditions shall apply to the portion of land zoned "C2" Commercial Community District:

      i) The land and any building or structure thereon shall not be used, nor any building or structure erected or altered on the land, for any use except:

         a. Office;

         b. Accessory uses.

      ii) That, the maximum gross floor area of any office use permitted pursuant to clause 1.A.(i)(a) of this agreement shall not exceed 5,000 square feet.

      iii) It is understood that no vehicular approach for ingress or egress to the land shall be constructed from or to Forbes Road.

      iv) The owner shall construct a fence along the north lot limit of the land commencing at the existing building on the land and ending at a distance seventy-five (75) feet to the east thereof and shall maintain that fence in good condition to the satisfaction of the Commissioner of Planning and Community Services, at all times.

v) That for the development of any building and/or accessory parking area and/or freestanding 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, lighting, bicycle parking and freestanding 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 the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 257/1990 dated March 27, 1991 (By-Law No. 5694/1991) 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 to legally establish an office use in the existing building on the C2 portion of the subject site. In order to do so, the applicant must amend the existing zoning agreement affecting the property, which restricts the uses to a restaurant, post office, and accessory uses.
- 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 zoning agreement affecting the subject site will be withdrawn and replaced with a new agreement that allows for an office use on the C2 portion of the site.

HISTORY

DAZ 257/1990 (By-law 5694/1991)

- The northeast portion of the subject site was rezoned from C1 to C2 under DAZ 257/1990. It should be noted that this original rezoning was not supported by the administration, but was ultimately approved by Council. A zoning agreement was recommended as a condition of approval with the following restrictions:

  2) The land and any building or structure thereon shall not be used, nor any building or structure erected, altered or enlarged on the land, for any use except:

     (i) Restaurant, subject to any conditional use approval required;

     (ii) Post office;

     (iii) Accessory uses

  3) It is understood and agreed that the maximum seating accommodation permitted within any restaurant allowed pursuant to clause 2(i) of this agreement shall be limited to eighty (80) seats and that any such restaurant shall not remain open for business between the hours of 12 midnight and 6:00 am.

  4) It is understood that no vehicular approach for ingress or egress to the land shall be constructed from or to Forbes Road.

  5) The owner shall construct a fence along the north lot limit of the land commencing at the existing building on the land and ending at a distance seventy-five (75) feet to the east thereof and shall maintain that fence in good condition to the satisfaction of the Commissioner of Planning and Community Services, at all times.

  6) It is understood and agreed that no new building or structure, nor any exterior alterations or additions to any existing building, shall be erected on the land and no building permit issued for construction on the land unless and until plans showing the location and design of the proposed buildings, structures, alterations or additions, parking area, fencing, landscaping and signs are submitted to and approved by the St. Boniface-St. Vital Community Committee and the Commissioner of Planning and Community Services and thereafter identified by the signature of that Commissioner under the designation “Schedule “A” to Zoning Agreement No. DAZ 257/90”, and no buildings or structures or works shall be erected or located on the land except in accordance with that Schedule “A” to this agreement.

ZAA 11/1992

- An application was received under ZAA 11/1992 to amend the existing zoning agreement affecting the land (per above) by increasing the seating capacity from 80 to 120 for the restaurant use. This zoning agreement application was not supported by the administration and was eventually withdrawn by the applicant.

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:	January 28, 2015
File No.	ZAA 14/2014

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

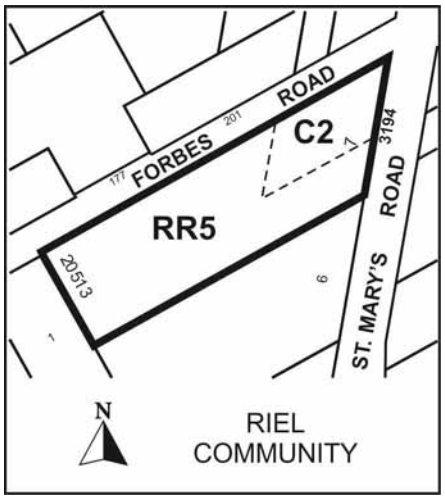
DATE: January 28, 2015

FILE: ZAA 14/2014
RELATED FILES: DAZ 257/1990; ZAA 11/1992 (withdrawn)

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.543

SUBJECT: For consideration at the Public Hearing to withdraw the zoning agreement caveat no. 1484833/1 for DAZ 257/1990 to allow for the establishment of an office use on the C2 zoned portion of the land.

LOCATION: 3194 St. Mary's Road
LEGAL DESCRIPTION: SP Lot 7 Plan 20513



APPLICANT: North Perimeter Construction Ltd.
2-178 Samborski Drive
Oak Bluff MB R4G 0B3

OWNER: Xitebio Technologies Inc.
607-386 Broadway
Winnipeg MB R3C 3R6

RECOMMENDATION: Approval

SITE DESCRIPTION

- The subject property is located on the southwest corner of the Forbes Road/St. Mary's Road intersection in the St. Vital Perimeter South neighbourhood of the St. Vital Ward.
- The site is approximately 3.9 acres in area. A restaurant and post office formerly operated out of the main building on the site.
- The site is located within the Rural and Agricultural Area under OurWinnipeg and the Complete Communities Direction Strategy. The site is also within the Medium Density Rural Residential Area of St. Vital Perimeter South Secondary Plan and is dual zoned "C2" Commercial Community and "RR5" Rural Residential 5.



Figure 1: Air photo of the subject property and surrounding area (2014)

SURROUNDING ZONING & USES (See Figure 2)

North: An auto repair and service use zoned C2 and detached single-family homes zoned RR5.

South: Vacant land zoned RR5.

East: Mountbattan Park (zoned C2 and RR5) and a detached single-family home zoned C2 and RR5.

West: Detached single-family homes zoned RR5.

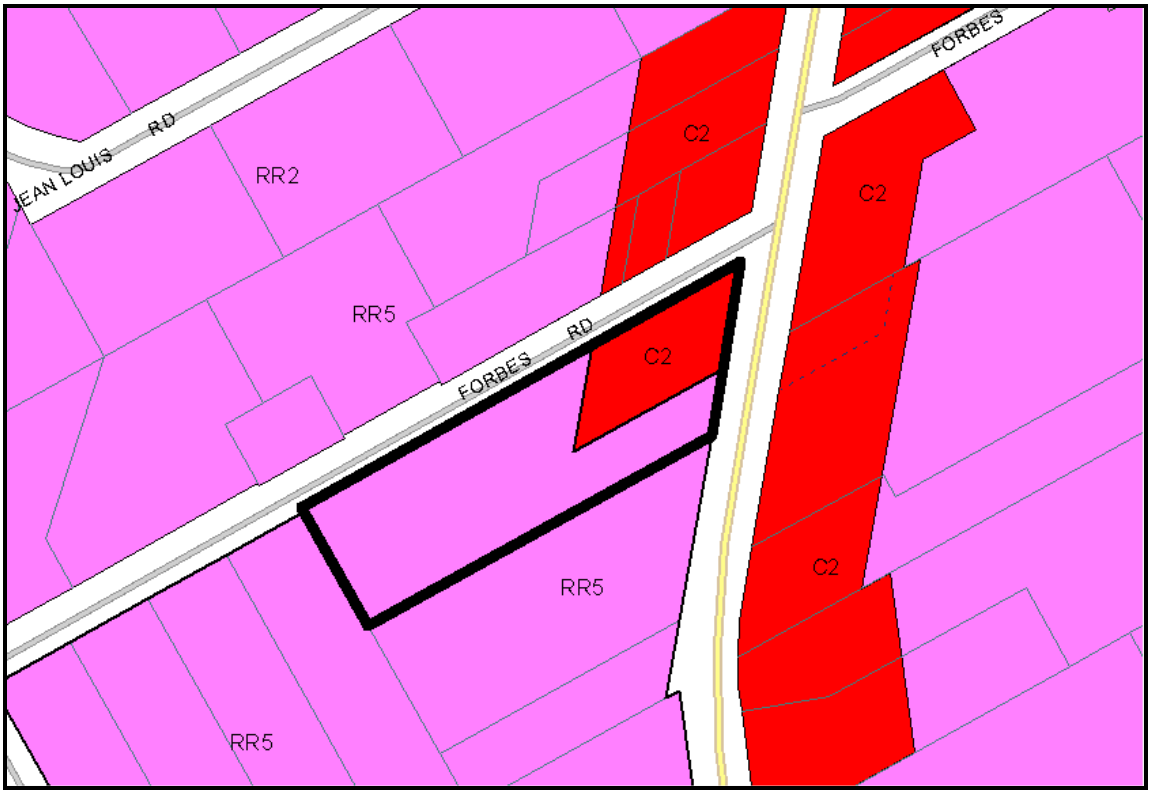


Figure 2: Zoning of the subject property and surrounding area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is to legally establish an office use in the existing building on the C2 portion of the subject site.
- The office is occupied by Xitebio Technologies Inc., which is a biotechnology company engaged in agricultural research.
- Two additions totaling approximately 800 square feet are proposed on the south side of the building, but still within the C2 zoned portion of the site. The gross floor area of the office, including the additions, is below 5,000 square feet.

ANALYSIS AND ISSUES

OURWINNIPEG

- The subject site is located in the Rural and Agricultural Policy Area under OurWinnipeg. Key directions guiding development in the Rural and Agricultural Areas include:
    - Allow the possible subdivision or conversion of land in un-serviced areas where a statutory secondary plan establishes minimum parcel sizes, and appropriate servicing criteria.
    - Manage Rural and Agricultural areas to reflect the limitations of providing a full range of municipal services to these areas.

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is located within the Rural and Agricultural policy area. The key relevant policy for this application guiding development within Rural and Agricultural areas is:
    - Support agriculture and related support functions as the principal use in the Rural/Agricultural designated areas through the requirement of a minimum site area of 16 ha (40 acres) except where an applicable statutory plan allows a smaller site or to facilitate the consolidation of land.

ST. VITAL PERIMETER SOUTH SECONDARY PLAN

- The subject site is within the St. Vital Perimeter South Medium Density Rural Residential Area. Section 1.1(c) of the Secondary Plan requires a minimum site area of two (2) acres and a minimum site width of 180 feet for single-family dwelling sites, subject to approved variations.
- There are also commercial development policies within the plan that are included in section 6. Notable policies include:

    (a) To facilitate the provision of adequate commercial facilities in order to properly service local residents in the designated rural residential areas.

    (b) To provide for the location of neighbourhood commercial activities only in developing areas taking into consideration the traffic generated and the area to be served.

    (d) To encourage the location of neighbourhood commercial land uses in areas already characterized by commercial development.

    (e) To ensure the location and development of each commercial site is compatible with adjacent land uses.

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.

"RR5" Rural Residential 5 District

- The RR5 District requires: minimum lot sizes of 5 acres and minimum front, side and rear yards of 25 feet. The maximum building height is 35 feet and the maximum lot coverage is 30%.

LAND USE BY-LAW

Withdraw Zoning Agreement DAZ 257/1990

- The applicant has applied to withdraw zoning agreement caveat no. 1484833/1 for DAZ 257/1990 that restricts the land as follows:

    2) The land and any building or structure thereon shall not be used, nor any building or structure erected, altered or enlarged on the land, for any use except:

        (i) Restaurant, subject to any conditional use approval required;

        (ii) Post office;

        (iii) Accessory uses

    3) It is understood and agreed that the maximum seating accommodation permitted within any restaurant allowed pursuant to clause 2(i) of this agreement shall be limited to eighty (80) seats and that any such restaurant shall not remain open for business between the hours of 12 midnight and 6:00 am.

    4) It is understood that no vehicular approach for ingress or egress to the land shall be constructed from or to Forbes Road.

    5) The owner shall construct a fence along the north lot limit of the land commencing at the existing building on the land and ending at a distance seventy-five (75) feet to the east thereof and shall maintain that fence in good condition to the satisfaction of the Commissioner of Planning and Community Services, at all times.

    6) It is understood and agreed that no new building or structure, nor any exterior alterations or additions to any existing building, shall be erected on the land and no building permit issued for construction on the land unless and until plans showing the location and design of the proposed buildings, structures, alterations or additions, parking area, fencing, landscaping and signs are submitted to and approved by the St. Boniface-St. Vital Community Committee and the Commissioner of Planning and Community Services and thereafter identified by the signature of that Commissioner under the designation "Schedule "A" to

Zoning Agreement No. DAZ 257/90", and no buildings or structures or works shall be erected or located on the land except in accordance with that Schedule "A" to this agreement.

- The applicant would like to withdraw and replace this zoning agreement with a new agreement that allows for an office use on the C2 portion of the subject site.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The St. Vital Perimeter South Secondary Plan encourages the location of neighbourhood commercial land uses in areas already characterized by commercial development. Although it can be argued that the subject office may not be classified as a "neighbourhood commercial" use, generally speaking – and as the Zoning By-law would allow – offices are deemed a neighbourhood commercial land use. Further, if a restriction of a maximum of 5,000 square feet of gross floor area is placed on the size of the office, such a restriction would help ensure that the office or future office(s) that may locate on the C2 portion of the subject site would be compatible with the neighbourhood commercial per the restrictions included in the C1 zone.
- A portion of the subject site is zoned C2 as a result of an approval under DAZ 257/90. The site is surrounded by commercially-zoned properties with some existing commercial uses, such as the garage and restaurant to the north. Considering the above, the site is located in an area already characterized by commercial development.
- With respect to servicing, the administration has confirmed that the required private servicing for the proposed office use would be less intensive than the currently permitted restaurant use. This is beneficial considering there are no piped services in the area.
- The Public Service is recommending that a new zoning agreement be placed on the C2-zoned portion of the property that restricts the use of the land to an office and accessory uses. The size of the office would also be restricted to a maximum of 5,000 square feet. Other conditions found from the original agreement are replicated in the new zoning agreement. Last, it should be noted that the original zoning agreement appeared to restrict all of the land (including the RR5 portion) to the previous uses listed (restaurant, post office and accessory uses). The new recommended zoning agreement clearly identifies that the conditions of the zoning agreement only apply to the C2 zoned portion of the land.

RECOMMENDATION

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

- The proposed office use on the site is compatible with the policies of the St. Vital Perimeter South Secondary Plan.
- The proposed use is less intensive from a servicing perspective than the permitted restaurant use.
- The recommended conditions of the zoning agreement help ensure that the permitted use on the site will remain developed at a neighbourhood scale.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # ZAA 14/2014