Minute No. 566
Report – Executive Policy Committee – September 23, 2015

Item No. 1 **Zoning Agreement Amendment – 1319 Main Street (Mynarski Ward)**
File ZAA 5/2015

COUNCIL DECISION:

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

1. That the Zoning Agreement Caveat 1464800/1 under File DAZ 222/91 dated September 25, 1991 (By-law 5753/91) be withdrawn.

2. That the Director of Legal Services and City Solicitor be requested to withdraw the subject Zoning Agreement to DAZ 222/91 (By-Law No. 5753/91) 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 – Executive Policy Committee – September 23, 2015

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 23, 2015, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 15, 2015, the Lord Selkirk-West Kildonan 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: **Zoning Agreement Amendment - 1319 Main Street**
File ZAA 5/2015

For submission to: **Executive Policy Committee**

Prepared by: **Inga Skundberg, Committee Clerk**
Lord Selkirk-West Kildonan Community Committee

Report date: **September 16, 2015**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 15, 2015, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That the Zoning Agreement Caveat 1464800/1 under File DAZ 222/91 dated September 25, 1991 (By-law 5753/91) be withdrawn.

2. That the Director of Legal Services and City Solicitor be requested to withdraw the subject Zoning Agreement to DAZ 222/91 (By-Law No. 5753/91) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reason for its recommendation:

1. It is appropriate to remove the restrictive caveat from the property as it limits the business on the premises to stay viable.

PUBLIC HEARING SUMMARY

File: ZAA 5/2015

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Sharma, Chairperson
Councillor Eadie
Councillor Pagtakhan

Public Hearing: September 15, 2015
Council Building, 510 Main Street

Applicant: John Tropak

Subject:



Premises Affected: 1319 Main Street

Exhibits Filed:

1. Application dated June 22, 2015
2. Notification of Public Hearing dated July 6, 2015
3. Manitoba Status of Titles 1159112/1
4. Letter of authorization dated June 11, 2015 from John Tropak, President, Series II Developments Ltd.

5. Zoning Agreement DAZ 222/91
6. Plans (2 pages)
7. Report from the Urban Planning Division dated August 24, 2015
8. Inspection Report
9. Recording of Representations

REPRESENTATIONS:

In Support:

John Tropak

In Opposition

Nil

For Information:

Len Terlinski

For the City:

Mr. N. Yauk, Senior Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 5/2015

ADMINISTRATIVE REPORT

Title: ZAA 5/2015 – 1319 Main St

Issue: For consideration at the public hearing to repeal the zoning agreement under file DAZ 222/91.

Critical Path: Lord Selkirk/ West Kildonan 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 Caveat 1464800/1 under File DAZ 222/91 dated September 25, 1991 (By-law 5753/91) be withdrawn.

2) That the Director of Legal Services and City Solicitor be requested to withdraw the subject Zoning Agreement to DAZ 222/91 (By-Law No. 5753/91) 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 repeal in its entirety the Zoning Agreement associated with DAZ 222/91.
- 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 under DAZ 222/91 will be fully discharged from the title.

HISTORY

The subject zoning agreement dates back to a rezoning in 1991 (DAZ 222/91). The conditions of the zoning agreement relegate the subject site to only be used for video sales. Clause #2 of the agreement states the following:

> *No use other than a video retail store and uses accessory thereto shall be permitted on the land.*

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Noah Yauk
Date:	August 24, 2015
File No.	ZAA 5/2015

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

DATE: August 24, 2015

FILE: ZAA 5/2015

COMMUNITY: Lord Selkirk/ West Kildonan Community
NEIGHBOURHOOD #: 3.313 (St John's Park)

SUBJECT: For consideration at the public hearing to repeal the Zoning Agreement under DAZ 222/91.

LOCATION: 1319 Main St

LEGAL DESCRIPTION: LOT 23, PLAN 24597 TOGETHER WITH A RIGHT OF WAY FOR ALL PURPOSES AND AS APPURTENANT TO SAID LOT 23 OVER OVER AND UPON SP LOT 24 AS SHOWN ON SAID PLAN IN RL 43 TO 45 PARISH OF SAINT JOHN



APPLICANT: John Tropak
255 Watt Street
Winnipeg, MB R2L 1T1

OWNER: Series II Developments Ltd.

RECOMMENDATION: Approval

SITE DESCRIPTION
The subject property, which is zoned "C2" Commercial District, is located on the south east corner of Main Street and Machray Avenue, in the St John's neighbourhood of the Mynarski Ward.

North: Machray Avenue, then a legion zoned "C2" Commercial District.
South: Residential apartments zoned "RMF-L" Residential Multi-Family (Large) District.
East: Residential apartments zoned "RMF-L" Residential Multi-Family (Large) District.
West: Main Street, then commercial uses zoned "C2" Commercial District.



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

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to repeal in its entirety the Zoning Agreement associated with DAZ 222/91. The intent is to allow for other retail uses within the existing building.

OurWinnipeg, Complete Communities

It is noted that subject site is located on Main St which is a Regional Mixed Use Corridor in *Complete Communities*. On corridors such as Main St, *Complete Communities* strives to create a pedestrian oriented environment which typically means a built form where buildings are located up to the sidewalk. A key enabling strategy of Complete Communities with respect to Regional Corridors is to:

> *Support Active uses (such as retail and services) at street level and office and housing on the upper levels of multi-storey apartments*

The proposed removal of the zoning agreement will facilitate the range of land uses appropriate to a property located on Main St. the property is zoned "C2" as are most of the other properties on Main St. However, the existing zoning agreement means that the subject property does not enjoy the same zoning rights as those other properties because of the restrictive zoning agreement. Only allowing for video sales on the subject site, as stated in the existing zoning agreement, is not consistent with Complete Communities.

ANALYSIS AND ISSUES

Zoning by-law 200/2006

- The subject site is zoned "C2" Commercial District.
- The site currently operates as a video rental and sales store.
- The zoning by-law allows for a robust set of commercial and retail land uses for properties zoned "C2" and even residential dwellings.
- The applicant wishes to cease the video rental / sales use on the subject site and use the space for general retail.
- Since a zoning agreement amendment is necessary to permit retail uses, the Urban Planning Division recommended that the applicant apply to remove the zoning district in entirety as it is too restrictive and that the base "C2" zoning is appropriate for the site's location on Main Street.

Compatibility with Existing Land Uses

- The subject site currently operates as a vendor for video sales and other retail that is accessory. Removing the zoning agreement will allow the building to be used for retail sales in general without the need to have video rental/sales. It is anticipated that the removal of the zoning agreement change the activity on site.
- Given that most of the properties on Main Street are zoned "C2" and reflect the land uses accommodated under the "C2" district, the removal of the zoning agreement will allow for the types of uses already in existence on Main Street. The subject site is surrounded by many other retail stores.

- That the existing building will continue to be in use is important to Main Street. If no other uses are allowed on the subject site except for one now virtually extinct then there is a good chance the building would sit vacant and therefore, not contribute the vitality of the neighbourhood. Removing the zoning agreement enables the property to remain in use.

RECOMMENDATION

1) That the Zoning Agreement Caveat 1464800/1 under File DAZ 222/91 dated September 25, 1991 (By-law 5753/91) be withdrawn.

2) That the Director of Legal Services and City Solicitor be requested to withdraw the subject Zoning Agreement to DAZ 222/91 (By-Law No. 5753/91) 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.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning Division
Report Prepared By: Noah Yauk
PPD File # ZAA 5/15