**Agenda – Executive Policy Committee – April 13, 2016**

## REPORTS

**Item No. 2 Zoning Agreement Amendment – 1596, 1600, 1612, 1626 and 1630 Ness Avenue (St. James - Brooklands - Weston Ward) File ZAA 10/2015 [c/r DAV 175977/2015D]**

COMMUNITY COMMITTEE RECOMMENDATION:

On March 15, 2016, the Assiniboia 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 under File DAZ 201/2005 dated July 27, 2005 (By-law No. 134/2005) be amended as follows:

   A. That clause 2 be deleted.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement File DAZ 201/2005 (By-law No. 134/2005) dated July 27, 2005, 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.

DECISION MAKING HISTORY:

COMMUNITY COMMITTEE RECOMMENDATION:

On March 15, 2016, the Assiniboia 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 – 1596, 1600, 1612, 1626 and 1630 Ness Avenue**
**File ZAA 10/2015 [c/r DAV 175977/2015D]**

**For submission to:** **Executive Policy Committee**

**Prepared by:** **Destiny Watt, Senior Committee Clerk**
**Assiniboia Community Committee**

**Report date:** **March 16, 2016**

COMMUNITY COMMITTEE RECOMMENDATION:

On March 15, 2016, the Assiniboia 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 under File DAZ 201/2005 dated July 27, 2005 (By-law No. 134/2005) be amended as follows:

   A. That clause 2 be deleted.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement File DAZ 201/2005 (By-law No. 134/2005) dated July 27, 2005, 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 Assiniboia Community Committee provided the following supporting reasons for its recommendation:

1. The Assiniboia Community Committee agreed with the administrative comments contained in the report of the Urban Planning Division dated March 7, 2016.

2. It is a good fit for the area as there are similar sites nearby.

**PUBLIC HEARING SUMMARY**

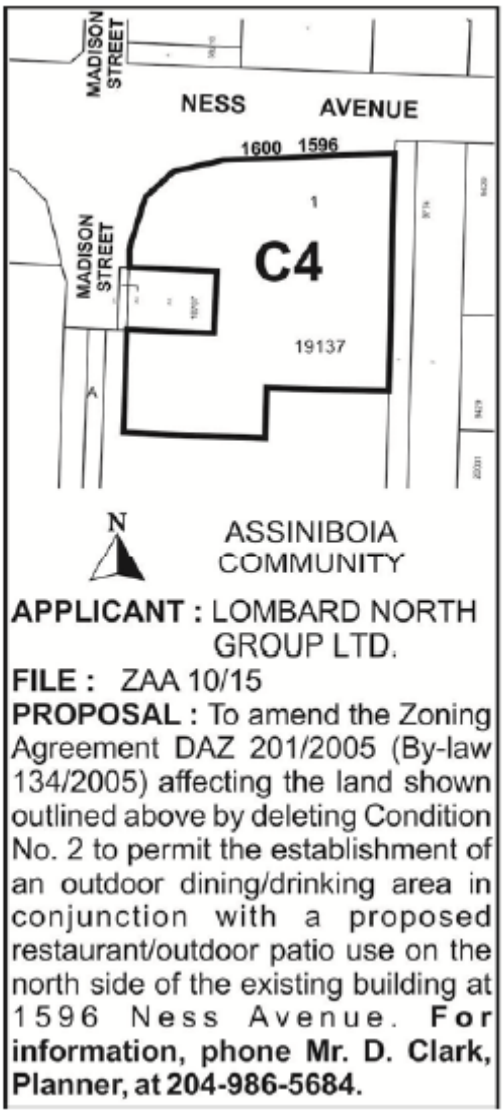
File: ZAA 10/2015

Before: Assiniboia Community Committee
Councillor Morantz, Chairperson
Councillor Dobson

Public Hearing: March 15, 2016
Council Building, 510 Main Street

Applicant: Lombard North Group Ltd.
(Jeff Pratte)

Subject:




Premises Affected: 1596, 1600, 1612, 1626, 1630 Ness Avenue

Exhibits Filed:

1. Application dated December 30, 2015
2. Notification of Public Hearing dated January 12, 2016
3. Manitoba Status of Titles 1148490/1, 1149225/1, 2259580/1, 2335334/1 and 2335338/1
4. Letter of authorization dated December 17, 2015 from 57655 Manitoba Ltd. to Lombard North Group
5. Surveyor's Building Location Certificate and sketch dated November 15, 2012
6. Caveat 3530722
7. Caveat 3703233
8. Caveat 3703234
9. Caveat 3703235
10. Caveat 3703236
11. Drawing of subject property (2 pages)
12. Plan (1 page)
13. Report from the Urban Planning Division dated March 7, 2016
14. Inspection Report

Exhibit "13" referred to in File ZAA 10/2015

# ADMINISTRATIVE REPORT

**Title:** ZAA 10/15 – 1596-1630 Ness Ave.

**Issue:** For consideration at the public hearing to delete condition number two of DAZ 201/05 in order to allow the establishment of an outdoor dining/drinking area on the north side of the existing building at 1596 Ness.

**Critical Path:** Assiniboia 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 201/05 dated July 27, 2005 (By-law No. 134/05) be amended as follows:

    A. That clause 2 be deleted.

2) That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement File DAZ 201/05 (By-law No. 134/05) dated July 27, 2005, 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 wishes to delete condition two of the Zoning Agreement in order to allow the establishment of an outdoor patio to be associated with a new restaurant and micro-brewery. Condition two is as follows:

  *No buildings or structures, including free-standing signage signs, shall be constructed, erected or placed on the land within an area of fifteen (15) feet in depth, measured parallel with the north limit of the land (described as the Madison Square Development) and that the existing landscaping that that area shall be maintained in good condition at all times to the satisfaction of the Director or his designate of the Planning, Property and Development Department.*

- Zoning Agreement Amendments 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 at the Public Hearing

## IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning Division are concurred in, the Zoning Agreement will be amended by deleting condition two in order to allow an outdoor patio to be established within the previously reserved 15 foot setback to any building or structure.

## CONSULTATION

N/A

## HISTORY

**DAZ 201/2005 – July 27, 2005**

Council approved the rezoning of land as follows:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 201/2005, dated June 6, 2005, to a "C2" Commercial 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 buildings or structure including free-standing signs shall be constructed, erected or placed on the land within an area of 15 feet in depth measured parallel with north limit of the land (described as the Madison Square Development) and that the existing landscaping in that area shall be maintained

in good condition at all times to the satisfaction of the Director of Planning, Property and Development;

ii. That no buildings, structures, parking areas or free-standing signs shall be constructed, erected or located on the land (described as the Madison Square Development) unless and until plans including the location and design of the proposed buildings and structures, parking and loading areas and freestanding signs have been submitted to and approved by the Assiniboia Community Committee;

iii. That the total gross leasable floor area of all buildings on the land (described as the Madison Square Development) shall not exceed 167,000 square feet.

**2008 - Winnipeg Zoning By-law Review**

The Winnipeg Zoning By-law review came into effect in 2008. The subject lands are re-designated as “C4” Commercial Regional from “C2” Commercial Community.

## SUBMITTED BY

| | |
|---|---|
| Department | Planning, Property and Development |
| Division | Urban Planning |
| Prepared by | Devin Clark |
| Date: | March 7, 2016 |
| File No. | ZAA 10/15 |

**List of Schedules and Attachments**

1. Appendix ‘A’ – Planning Discussion

**APPENDIX 'A'**

**DATE:** March 7, 2016
**FILE:** ZAA 10/15
**RELATED FILES:** DAZ 201/05 DAV 15-175977D
**COMMUNITY:** Assiniboia
**NEIGHBOURHOOD #:** 2.125 – Polo Park

**SUBJECT:** The applicant is proposing to delete condition number two of DAZ 201/05 to permit the establishment of an outdoor dining/drinking area on the north side of the existing building at 1596 Ness.

**LOCATION:** 1596-1630 Ness Ave.

**LEGAL DESCRIPTION:** LOT 1 PLAN 19137 40/41 ST JA




**APPLICANT:** Lombard North Group Ltd. (Jeff Pratte)
287 Tache Ave
Winnipeg MB R2H 2A1

**OWNER:** 57655 MANITOBA LTD
2 Bloor St. West Unit 1001
Toronto ON M4W 3E2

**RECOMMENDATION:** Approval to delete condition number two of DAZ 201/05 to permit the establishment of an outdoor dining/drinking area on the north side of the existing building at 1596 Ness

**SITE DESCRIPTION**

- The subject site is located on the south side of Ness Avenue in the Polo Park Neighbourhood of the St. James – Brooklands - Weston ward.
- The property is approximately 1.8 acres
- The site is located within the “Mature Communities” policy area as identified in the Complete Communities Direction Strategy.
- The subject site is zoned “C4” Commercial Regional.

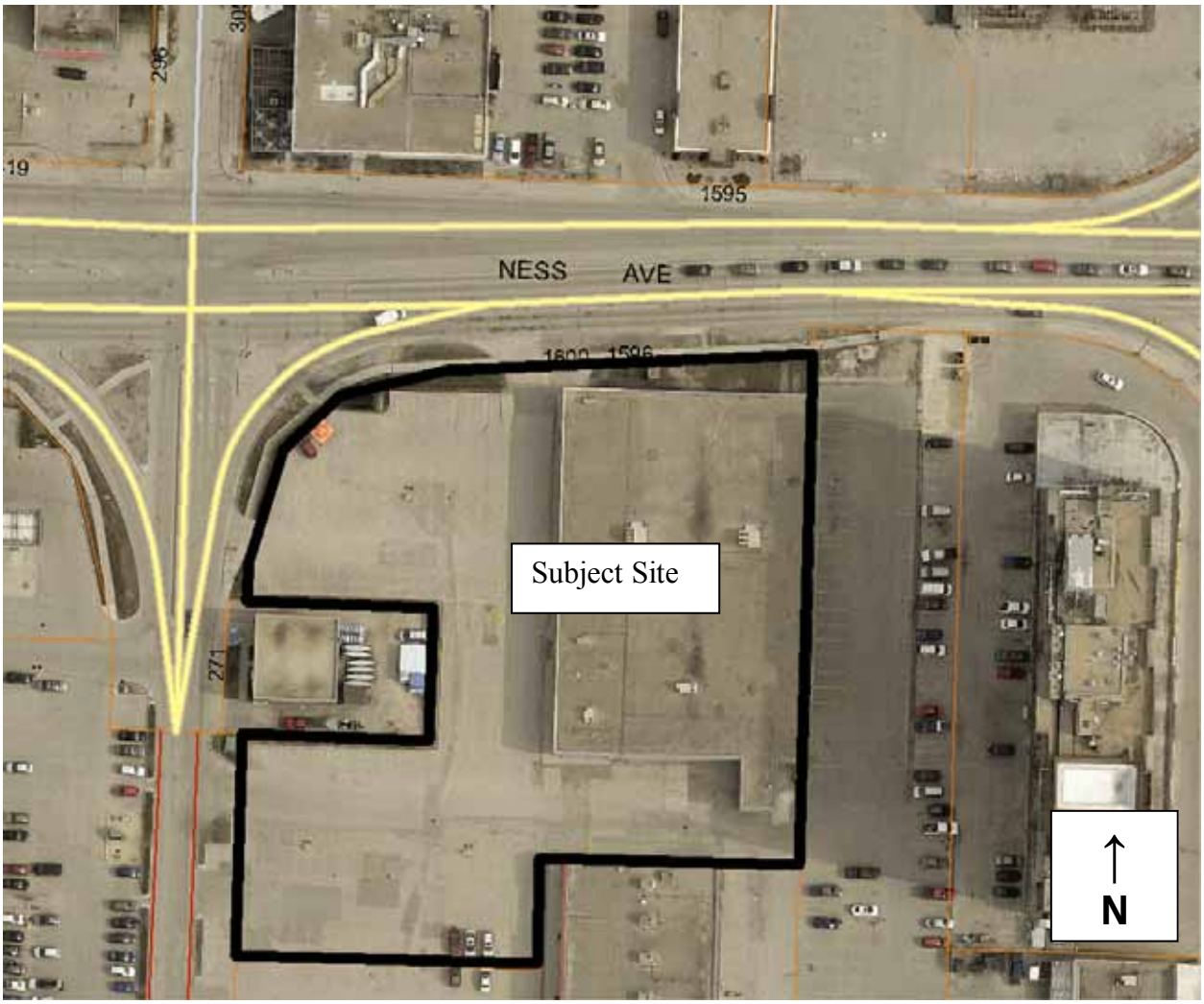



**Figure 1: Subject Site and Surrounding Land Uses (Aerial Photo – flown 2014)**

**SURROUNDING LAND USES & ZONING**

**North:** Ness Avenue then commercial uses zoned “C2” Commercial Community

**South:** Commercial uses zoned “C4” Commercial Regional

**East:** Surface parking lot zoned “C4” Commercial Regional then a mixed use commercial and residential building zoned “C2” Commercial Community.

**West:** Commercial uses zoned “C4” Commercial Regional

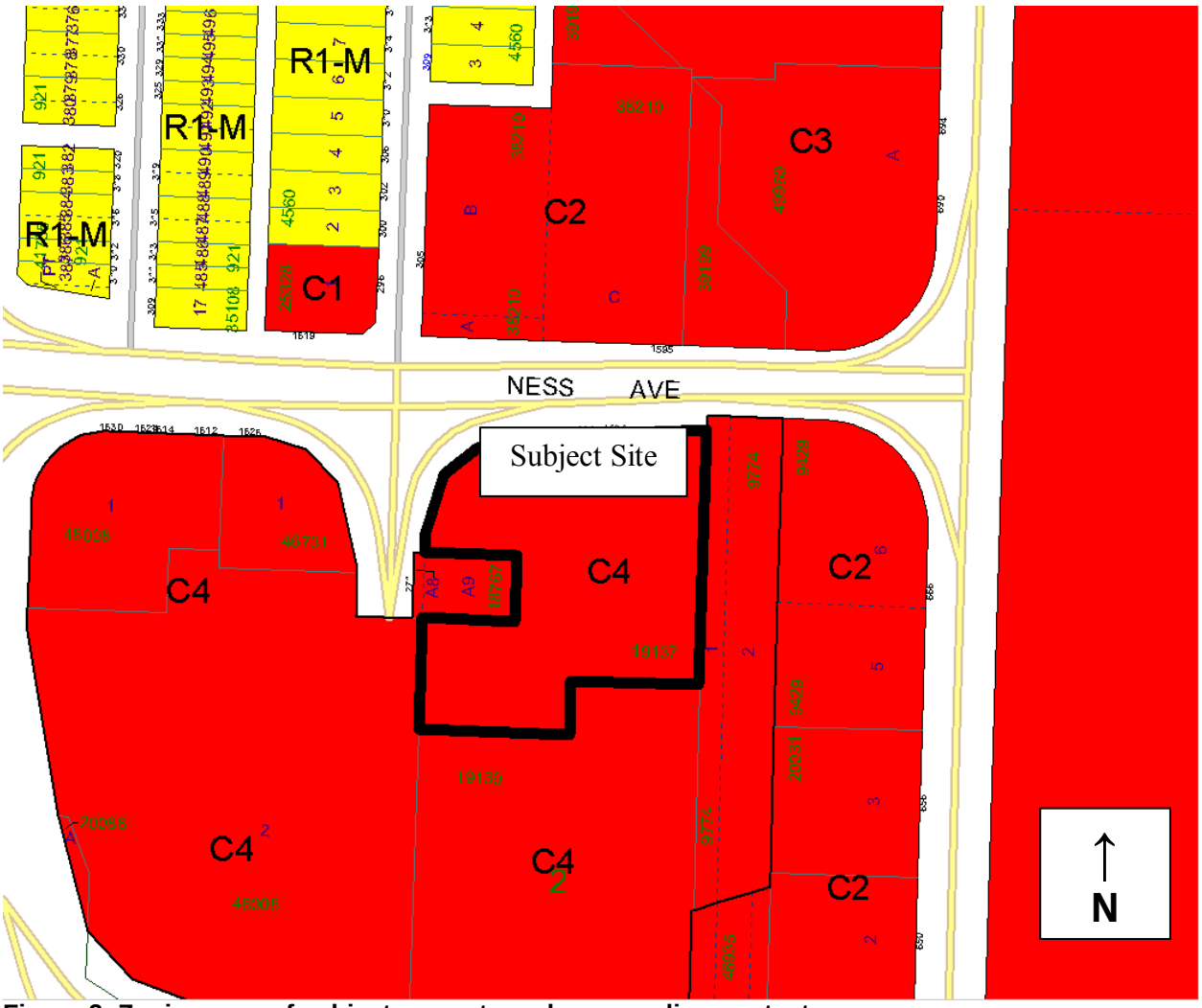



**Figure 2: Zoning map of subject property and surrounding context.**

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant intends to repeal condition number two of the existing Zoning Agreement in order to allow the establishment of an outdoor patio.
- The proposed patio would be located along the north side of the existing building. Submitted plans indicate that the patio is to be 847 square feet with seating for up to 68 patrons.
- Detailed plans have not been submitted with this application; however, plan approval is a requirement of any development on the subject land as per the Zoning Agreement.




**Figure 3: Proposed location of patio highlighted in red**

## ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY:

- Under the *Complete Communities Direction Strategy* the proposed development is within the Areas of Stability – Mature Communities policy area. With regard to this proposal, the key policies guiding the development of Areas of Stability include:
    - Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.
    - Promote a quality public realm with a high level of accessibility to community services and amenities and opportunities for gathering and social interaction.
    - Support a mix of commercial services and employment uses that serve the local community.

WINNIPEG ZONING (BY-LAW 200/2006)

*C4 – Commercial Regional*

- The Commercial Regional (C4) district is intended to accommodate the development of large-scale, distinctive and attractive regional centres containing a mix of concentrated land uses. These commercial uses are subject to frequent view by the public and visitors to Winnipeg, and they should provide an attractive appearance with landscaping, sufficient, parking, and controlled traffic movement. The centre should provide commercial, office, institutional and residential uses and structures at higher intensities than surrounding areas. The area may also contain concentrations of medium – to high-density office development, as well as a broad mix of complementary uses, which may include major civic and public facilities and parks. Development should facilitate and encourage pedestrian travel between uses. These areas are associated with Regional Mixed Use Centres.

- Dimensional Standards for the C4 district are as follows:

| Zoning District | Minimum/Maximum Front Yard (Ft.) | Minimum Rear Yard (Ft.) | Minimum Interior Side Yard (Ft.) | Minimum Corner Side Yard (Ft.) | Maximum Height of Building (Ft.) | Maximum Floor Area Ratio |
|---|---|---|---|---|---|---|
| **C4** | [note d] / NA | [note d] | [note d] | [note d] | N/A | 5.0 |

Note d – Principal buildings must be located 125 feet from the zoning district boundary of any residential zoning district, and 50 feet from any other zoning district boundary. Secondary "liner" or "pad site" buildings that are not the principal building on a site must comply with yards applicable to the C3 district. Fuel sales kiosks must be located at least 50 feet from each property boundary.

DISCUSSION OF ZONING AGREEMENT AMENDMENT

When an application was made to rezone the land in 2005 the planning report recommended approval subject to three Zoning Agreement conditions. These three conditions are discussed below:

*i. That no buildings or structure including free-standing signs shall be constructed, erected or placed on the land within an area of 15 feet in depth measured parallel with north limit of the land (described as the Madison Square Development) and that the existing landscaping in that area shall be maintained in good condition at all times to the satisfaction of the Director of Planning, Property and Development.*

From the planning report associated with the rezoning in 2005 the Planner states:

*The existing buildings do maintain a 15 foot setback from the north property line and there is a significant amount of high quality and mature landscaping in this area. Administration is of the opinion that the 15 foot setback and existing landscaping should be maintained and therefore recommend that the intent of this condition apply in a new Zoning Agreement.*

The Urban Planning Division is of the opinion that the current landscaping along the portion of the building that the patio is planned for is not all that significant (See Figure 4 below). There is minimal pedestrian activity along this space and the building façade is a blank grey wall. The addition of a patio in this place would be an improvement over the existing landscaping and may contribute to improvements in the pedestrian activity of the area as well as improvements to the building façade.




**Figure 4: Street view of landscaping in summer (From Google Streetview, June 2015)**

The Urban Planning Division has had discussions with the applicant about how landscaping might be incorporated around the perimeter of the patio. Planning would like to see some sort of landscaping or alternative design feature to enhance the aesthetics of the public realm, but also address ways to mitigate impacts of the patio on surrounding uses as well as the impacts of the surrounding environment (i.e. traffic on Ness) on those patronizing the patio. This could include, but is not limited to:

a) Providing some form of landscape screen or design feature along the east portion of the patio to limit impacts of the patio on the adjacent mixed-use multifamily building to the east.

b) Setbacks along certain portions of the patio to allow for enough space to incorporate landscaping as a means to buffer the patio from the vehicle traffic on Ness.

c) Landscaping at the west edge of the patio

d) Design features or setbacks along the north edge of the patio

Removing the condition that requires a 15 foot yard setback is reasonable given that the "C4" zoning district requires front yard setbacks of 50 feet from adjacent properties that are not zoned as commercial or manufacturing. The adjacent property to the north is zoned as "C2" Commercial Community and the setback is measured from the middle of the shared roadway of the adjacent "C2" lands to the north which is currently used as commercial pad site development.

While plans at this time are to establish a patio, by removing this condition any building or structure would be permitted within approximately 5 feet of the property line as per the Zoning By-law. With the plan approval condition in place, the Urban Planning Division believes that a five foot setback could be a reasonable fit for any future development, subject to the proposed design, which would be reviewed prior to permits being issued.

As such, the Urban Planning Division is supportive of deleting this clause of the Zoning Agreement.

ii. *That no buildings, structures, parking areas or free-standing signs shall be constructed, erected or located on the land (described as the Madison Square Development) unless and until plans including the location and design of the proposed buildings and structures, parking and loading areas and freestanding signs have been submitted to and approved by the Assiniboia Community Committee;*

The plan approval condition will remain as part of the Zoning Agreement, and as such, any development application will require plans to be submitted, including the newly applied for patio.

iii. That the total gross leasable floor area of all buildings on the land (described as the Madison Square Development) shall not exceed 167,000 square feet.

As identified in the previous planning report under file DAZ 201/05, the intent of this condition is to protect the established residential neighbourhood that is located to the north of Ness Ave. The current gross leasable floor area is approximately 155,474 square feet. As such, the application does not surpass the maximum permitted floor area, nor is the applicant seeking that this condition be removed from the Zoning Agreement. Therefore, the condition will remain as a caveat on the land.

COMPATABILITY WITH SURROUNDING NEIGHBOURHOOD

- The proposed patio is part of a redevelopment plan that will see new businesses established within a building that has been underutilized or vacant for several years. One of the proposed tenants is a micro-brewery with a restaurant and patio.
- The proposed patio is located in close proximity to a number of other restaurants and patios and is a reasonable addition to the subject building and neighbourhood as a whole.
- The patio would be established in close proximity to the Ness right-of-way and Planning has suggested that measures should be taken to landscape and buffer the proposed patio from the adjacent roadway and existing multi-family dwelling to the east, for the benefit of both area residents and patrons of the patio.

PLAN APPROVAL CONDITION

- Plan approval will remain as a condition on the land and the proposed patio will be subject to review by the Urban Planning Division and the Assiniboia Community Committee. As mentioned previously in this report, the Urban Planning Division recommends that appropriate measures be taken to mitigate impacts of the patio on the surrounding neighbourhood, but also, to design the patio in a manner that minimizes the impacts of the surrounding environment upon the patrons of the patio.
- Any future development on the site will also be subject to plan approval review.

**RECOMMENDATION**

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

- The proposed development aligns with policies in the Complete Communities Direction Strategy with regard to promoting commercial uses that serve the local community, promoting a quality public realm with accessibility to amenities and opportunities for gathering and social interaction.
- The proposed brewery and patio re-establish an active commercial use within a building that has been underutilized or vacant over the last several years.
- The existing landscaping that Condition 2 was intended to preserve is rather insignificant and a well-designed patio would contribute more to the aesthetics of the public realm.
- The design of the patio will be reviewed prior to permits being issued for its establishment.

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

Report Prepared by: Devin Clark
PPD File # ZAA 10/15