Minute No. 266
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 2, 2018

Item No. 3 Zoning Agreement Amendment – 789 St. Mary's Road (St. Vital Ward) File ZAA 9/2017

COUNCIL DECISION:

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

1. That Zoning Agreement Caveat No. 82-53340/1 and 84-83158/1 under File DAZ 219/82 dated July 14th, 1982 and May 23rd, 1984 be discharged.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 219/82, as approved in aforesaid Recommendation 1.

3. That the applicant enter into, execute and deliver a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

   A. The Owner must submit plans showing the location and design of any and all proposed:

      i. buildings;
      ii. accessory parking areas;
      iii. private approaches;
      iv. garbage enclosures;
      v. fencing;
      vi. landscaping; and
      vii. free-standing signage

      on the Owner's Land ("Works") to the City's Director of Planning, Property and Development ("Director") and the Riel Community Committee for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 2, 2018

STANDING COMMITTEE RECOMMENDATION (continued):

B. That the following uses shall not be permitted on the land:

i. Landscape or Garden Supplies
ii. Supermarket
iii. Auction Room
iv. Pawnshop
v. X-rated store
vi. Drive-in or Drive-through
vii. Auto/light truck/motorcycle, repair and service
viii. Auto/light truck/motorcycle, sales and rental
ix. Auto parts and supplies, sales
x. Car wash
xi. Fuel sales
xii. Parking, surface
xiii. Contractor's establishment
xiv. Digital, billboard, mobile, flashing, scintillating, rotating, and inflatable signs.
xv. Outside display and sales

4. That, prior to the issuance of any permits on the land, the applicant shall, at no expense to the City, remove the existing private approach to St. Mary's Road and restore the curb, boulevard, and sidewalk all as determined by and to the satisfaction of the Director of Public Works. The Applicant shall make application to the Public Works Department to remove the private approach as per the Private Access Bylaw.

5. That, in lieu of the dedication of land, the Developer shall provide a cash payment representing ten percent (10%) of the appraised value of the Development Application, as determined by the City.

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 – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 2, 2018

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 14, 2018, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 2, 2018, the Standing Policy Committee on Property and Development, Heritage and Downtown 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 5, 2018, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

RE: **Zoning Agreement Amendment – 789 St. Mary's Road**
File ZAA 9/2017

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

Prepared by: **Kate McMillan, Senior Committee Clerk**
Riel Community Committee

Report date: **February 6, 2018**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 5, 2018, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development:

1. That Zoning Agreement Caveat No. 82-53340/1 and 84-83158/1 under File DAZ 219/82 dated July 14th, 1982 and May 23rd, 1984 be discharged.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 219/82, as approved in aforesaid Recommendation 1.

3. That the applicant enter into, execute and deliver a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

    A. The Owner must submit plans showing the location and design of any and all proposed:

        i. buildings;
        ii. accessory parking areas;
        iii. private approaches;
        iv. garbage enclosures;
        v. fencing;
        vi. landscaping; and
        vii. free-standing signage

        on the Owner's Land ("Works") to the City's Director of Planning, Property and Development ("Director") and the Riel Community Committee for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

B. That the following uses shall not be permitted on the land:

i. Landscape or Garden Supplies
ii. Supermarket
iii. Auction Room
iv. Pawnshop
v. X-rated store
vi. Drive-in or Drive-through
vii. Auto/light truck/motorcycle, repair and service
viii. Auto/light truck/motorcycle, sales and rental
ix. Auto parts and supplies, sales
x. Car wash
xi. Fuel sales
xii. Parking, surface
xiii. Contractor's establishment
xiv. Digital, billboard, mobile, flashing, scintillating, rotating, and inflatable signs.
xv. Outside display and sales

4. That, prior to the issuance of any permits on the land, the applicant shall, at no expense to the City, remove the existing private approach to St. Mary's Road and restore the curb, boulevard, and sidewalk all as determined by and to the satisfaction of the Director of Public Works. The Applicant shall make application to the Public Works Department to remove the private approach as per the Private Access Bylaw.

5. That, in lieu of the dedication of land, the Developer shall provide a cash payment representing ten percent (10%) of the appraised value of the Development Application, as determined by the City.

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. We're sort of at an early stage here where there's this rather odd 35 year old zoning amendment agreement that sort of turned it into commercial property but didn't charge the fees and then was going to revert back to residential and it's not a strip where we're trying to promote return to residential, or if we are it's the 6-plexes and those sorts of things that have been going in, so I'll support what the planners are saying here.

2. The planners have put in a fairly long list of restrictions. There are some limits to what you could commercially do at the site in terms of what the market would support and we will see what the owners come forward with.

3. We're taking away some of the limitations that went with that commercial temporary zoning but we're also completing the circle by requiring the 10% in lieu.

4. This in keeping with what we're trying to do with the street and we will welcome a new business owner-operator into the BIZ zone and hopefully see something attractive and gives some options to the community.

PUBLIC HEARING SUMMARY

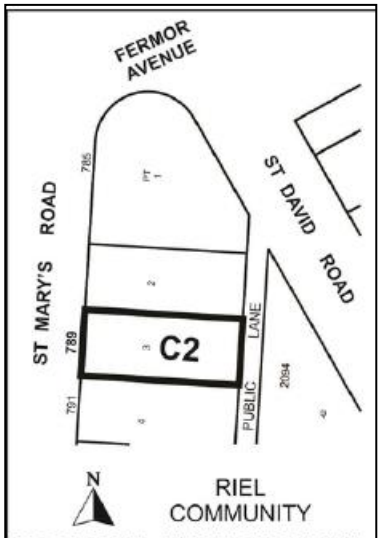
File: ZAA 9/2017

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

Public Hearing: February 5, 2018
Council Building, 510 Main Street

Applicant: Myong Lee

Subject:



APPLICANT : MYONG LEE LAW CORPORATION
FILE : ZAA 9/17
PROPOSAL : To discharge the existing Zoning Agreement DAZ 219/1982, By-law No. 3233/1982, Caveat No. 82-53340/1 and 84-83158/1 affecting the land shown outlined above to allow uses permitted under the "C2" COMMERCIAL COMMUNITY ZONING DISTRICT. **For information, phone Ms. E. Finnigan, Planner, at 204-986-8602.**
DEMANDEUR : MYONG LEE LAW CORPORATION
N° DE RÉFÉRENCE : MCZ 9/17
PROJET : Abrogation de la convention de zonage DAZ 219/1982 (règlement municipal 3233/1982), oppositions nos 82-53340/1 et 84-83158/1 touchant le bien-fonds délinéé ci-dessus en vue de permettre tous les usages autorisés dans un secteur C2 (secteur commercial communautaire) **Pour plus de renseignements, veuillez communiquer avec Mme. E.**

Premises Affected: 789 St. Mary's Road

Exhibits Filed:

1. Application dated December 13, 2017
2. Notification of Public Hearing dated January 3, 2018
3. Manitoba Status of Title 2919508/1
4. Letter of authorization dated November 15, 2017 from Youngho Kim and Jeong-sun Cho to Myong Lee Law Corporation
5. Caveats 82-53340, 84-83158
6. Report from the Urban Planning Division dated January 26, 2018
7. Inspection Report

REPRESENTATIONS:

In Support:
Myong Lee
Jeong-sun Cho
Youngho Kim

In Opposition
Russell Johnston

For Information:
Nil

For the City:
R. Mahe, Senior Planner, Planning, Property and Development Department
E. Finnigan, Planner, Planning, Property and Development Department
S. Jerez, Planner, Planning, Property and Development Department

Exhibit "6" referred to in File

ADMINISTRATIVE REPORT

Title: ZAA 9/17 – 789 St. Mary's Rd.

Issue: For consideration at the Public Hearing to discharge the existing Zoning Agreement associated with DAZ 9/1982 (By-law No. 3233/1982) including Caveat No. 82-53340/1 and 84-83158/1.

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
Elise Finnigan	B. Smith	N/A	

RECOMMENDATIONS

1. That Zoning Agreement Caveat No. 82-53340/1 and 84-83158/1 under File DAZ 219/82 dated July 14th, 1982 and May 23rd, 1984 be discharged.
2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 219/82, as approved in aforesaid Recommendation 1.
3. That the applicant enter into, execute and deliver a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

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vi. landscaping; and

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5. That, in lieu of the dedication of land, the Developer shall provide a cash payment representing ten percent (10%) of the appraised value of the Development Application, as determined by the City.

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 discharge the existing zoning agreement associated with DAZ 219/82.
- 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 existing zoning agreement associated with DAZ 219/82 will be discharged and replaced with a new zoning agreement.

HISTORY

ZAA 8/84

- In 1984, the zoning agreement included with DAZ 219/1982 was amended to permit the establishment of a Dentist's Office in addition to a Picture Gallery and Accessory uses subject to the following list of uses being deleted:

    A. Antique Shop

    B. Video Tape Rental Shop.

ZAA 9/83

- In April 1983, the zoning agreement included with DAZ 219/1982 was amended by adding the following additional uses:

    A. Video Tape Rental Shop;

    B. Picture Gallery.

DAZ 219/82

- In 1982, Council approved an application to rezone the subject property from "R2" Residential Two-Family to "C2" Commercial Community to permit the establishment of an antique shop. A zoning agreement was included as a condition of approval for the rezoning. The following conditions were included in the zoning agreement:

    1. The land and any building or structure thereon shall not be used for, and no building or structure shall be erected, placed, or enlarged on the land for any use except:

        - Antique shop; and
        - Accessory uses.

    2. It is understood and agreed that no exterior alterations to any existing building shall be constructed on the land, and no building permit issued for construction on the

land until plans showing the alterations are submitted to and approved by the St. Boniface-St. Vital Community Committee and thereafter identified by the signature of the Commissioner of Environment of the City under the designation “Schedule ‘A’ to Zoning Agreement DAZ 219/82”, and no exterior alterations to any existing building shall be erected or located on the land except in accordance with that Schedule “A” to this agreement.

3. It is understood and agreed that the said rezoning by-law will be a temporary rezoning by-law under the provisions of Section 601 of the City of Winnipeg Act and upon expiry of that temporary rezoning upon the date the existing dwelling is either demolished, removed or destroyed, the zoning of the land will revert to an “R2” and the Owner will immediately terminate any use of the land and remove any structures from the land not permitted under that “R2” District.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Elise Finnigan
Date:	January 26, 2018
File No.	ZAA 9/2017

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

DATE: January 26th, 2018

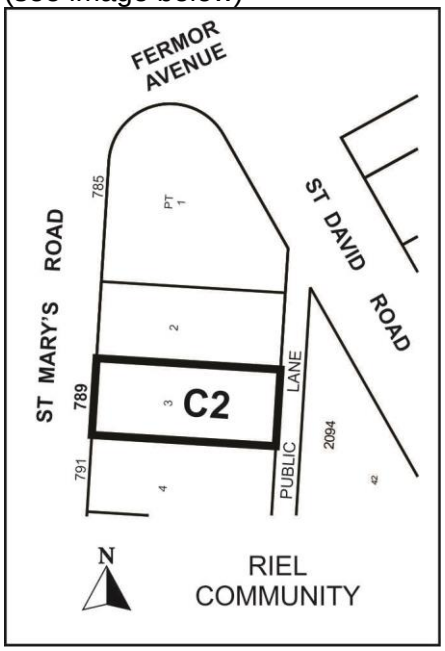
FILE: **ZAA 9/17**
RELATED FILES: DAZ 219/82, ZAA 9/83, ZAA 8/84

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.515

SUBJECT: For consideration at the Public Hearing to discharge the existing Zoning Agreement associated with DAZ 9/1982 (By-law No. 3233/1982) including Caveat No. 82-53340/1 and 84-83158/1.

LOCATION: 789 St. Mary's Road

LEGAL DESCRIPTION: (see image below)



APPLICANT: Myong Lee
Unit 102 – 1015 Wilkes Avenue
Winnipeg, Manitoba R3P 2R8

OWNER: Youngho Kim and Jeong-Sun Cho
789 St. Mary's Road
Winnipeg, Manitoba Alberta R2H 3NR

RECOMMENDATION: Approval with conditions

SITE DESCRIPTION

- The subject site is located on the east side of St. Mary's RD in the St. George neighbourhood of the St. Vital Ward.
- The site is 5,993 square feet in area and is occupied by a two-storey single family dwelling that was most recently being occupied by a dentist's office.
- The site is located on a Regional Mixed Use Corridor under *the Complete Communities Direction Strategy*. The property is zoned C2 – Commercial Community.



Figure 1: Air photo showing the approximate area of the subject property (2016)

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Restaurant use split zoned C1 (Commercial Neighbourhood) and R2 (Residential Two Family).

South: Single-family dwellings zoned R2 (Residential Two Family).

East: Single-family dwellings zoned R1-M (Residential Single-Family Medium).

West: St. Mary's Road; then a triplex and single-family dwellings zoned R2 (Residential Two Family).

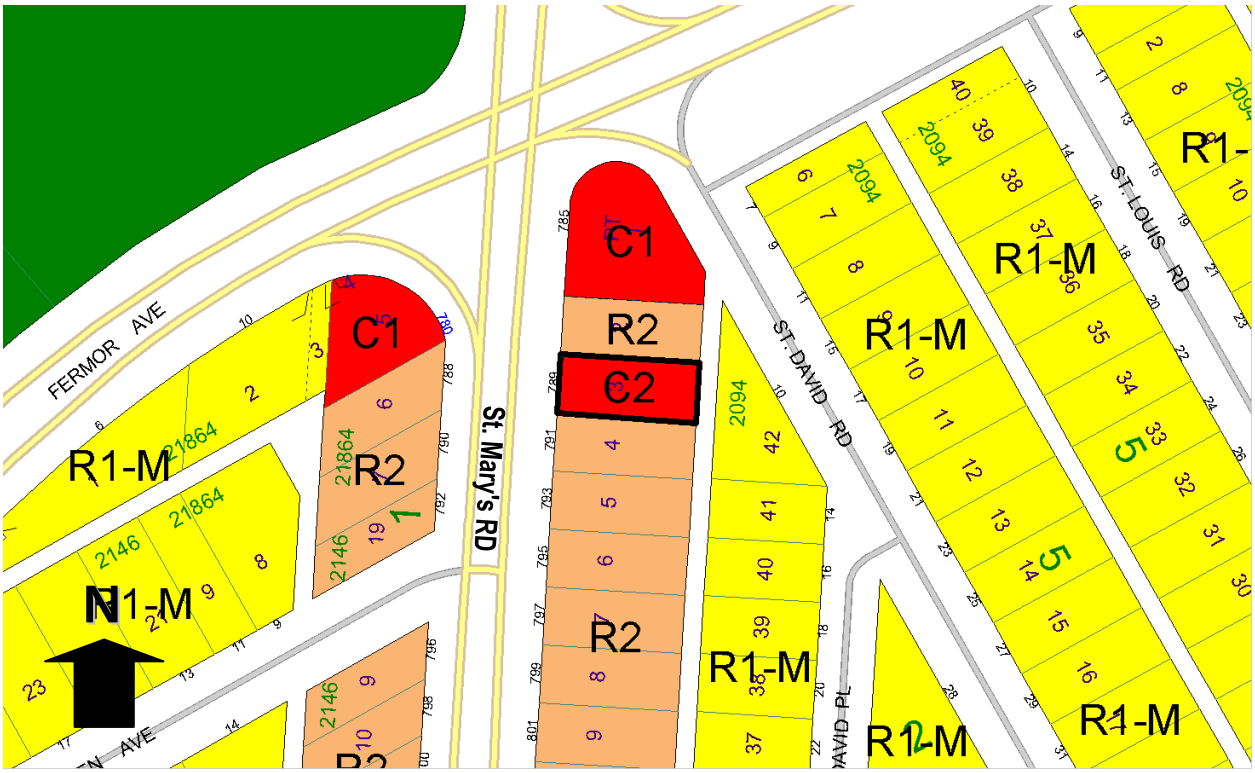


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant would like to lease the existing building to a new commercial tenant and is proposing to discharge the existing zoning agreement which only permits a dentist's office or picture gallery in order to have more flexibility in the type of future commercial tenant that can lease the space.
- The applicant would also like to secure the C2 zoning designation of the property by deleting the condition in the zoning agreement that results in the zoning reverting back to the R2 zone upon the demolition, removal, or destruction of the existing dwelling.

ANALYSIS AND ISSUES

OURWINNIPEG AND COMPLETE COMMUNITIES DIRECTION STRATEGY:

- *The Complete Communities Direction Strategy* is one of four direction strategies supporting *OurWinnipeg*, the city's long-range development plan, and has statutory authority as a secondary plan. The strategy guides land use and development in Winnipeg.
- The subject property is located along a "Regional Mixed Use Corridor" (St. Mary's Road) in the *Complete Communities'* Urban Structure map. *Complete Communities'* directs a significant share of growth to Corridors in a way that:
    - Provides compact, mixed-use, high-quality urban development.

- Concentrates people and jobs in areas well-served by the primary transit service, located close to transit stops.
- Concentrates urban development in a built form that helps to optimize existing investment, municipal infrastructure, and facilities.
- Encourages a built form that supports a pedestrian-friendly environment while incorporating climate-sensitive site and building design.

TRANSPORTATION MASTER PLAN (TMP)

- St. Mary's Road is identified as a Truck Route in the TMP and is classified as an arterial road. Arterial roads primarily provide traffic movement across the City. In this case, St. Mary's Road is the primary feeder route into the Downtown from the south end of the city. This results in approximately 34,100 vehicle trips per day at this location of St. Mary's Road (2015 Average Weekday 24hr Traffic). For context, this segment of St. Mary's Road receives more traffic than Provencher Boulevard (30,200), Corydon Avenue (27,100), Osborne Street (30,400-35,000), and St. Anne's Road (34,000). It also receives almost as much daily traffic as Marion/Goulet Streets (36,200) combined.
- St. Mary's Road is identified as a potential quality transit corridor in the City of Winnipeg's Transportation Master Plan that can become the focal points for new development and redevelopment. The Quality Corridor concept was introduced in Winnipeg between 2007-2009 and refers to high-performance and high-frequency on-street bus routes that are assisted by transit priority measures (diamond lanes, transit priority signals, queue jump lanes, etc.), and whose major stops are upgraded to include heated shelters, real-time bus departure displays, benches, posted route and schedule information, and other amenities.

CITY OF WINNIPEG ZONING BY-LAW 200/2006

"C2" Commercial Community

- The Commercial Community (C2) 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, limited residential and service facilities needed to support the surrounding neighbourhoods and the broader community. C2 districts are generally located in Community or Regional mixed use centres or along Community or Regional mixed use corridors.

Zoning Agreement DAZ 219/82

- The applicant is proposing to discharge the existing Zoning Agreement (Caveat No. 82-53340/1 and 84-83158/1) including the following clauses most relevant to the subject application:
  - Clause #2 restricts the use of the land to Dentist's Office; Picture Gallery; Accessory uses.
  - Clause #3 requires Plan Approval to the Director of Planning and Riel Community Committee.

- Clause #4 requires the zoning of the land to revert back to "R2" Two Family Residential upon the demolition, removal or destruction of the existing dwelling.

ZONING AGREEMENT ANALYSIS

Compatibility

- It is recognized that since the original rezoning of the property in 1982 St. Mary's Road has evolved into a major arterial street experiencing over 34,000 vehicular trips per day and warranting its classification under *OurWinnipeg* and *the Complete Communities Direction Strategy* as a Regional Mixed Use Corridor.
- With regard to this proposal, the key policies guiding the development of Regional Mixed Use Corridors include:
    - Provide a mix of employment, higher-density residential opportunities, retail and service uses that support the needs of and respect the context of adjacent communities.
    - Promote the highest levels of intensification at significant intersections. Between each centre, lower intensities of commercial, residential and mixed use development are appropriate.
    - Support active uses (such as retail and services) at street level and office and housing on the upper levels of multi-storey developments.
    - Encourage urban design and/or form-based strategies that help define the character of Centres and Corridors through clarifying the massing and height of buildings, setbacks, appropriate open space areas and appropriate parking design and locations.
- The subject property is located at a major intersection (St. Mary's Road at Fermor Avenue) which is characterized by single family, institutional and commercial land uses and serviced by a number of public transit routes including some high frequency routes (i.e., Routes #14, #16, #54). As such, the proposal to make the C2 zoning designation permanent and to allow for a wider range of commercial uses on the property is compatible with existing land uses and aligns with the policies guiding development along Regional Mixed Use Corridors in the *Complete Communities Direction Strategy.* With these considerations in mind, the Urban Planning Division is supportive of the proposal to discharge the existing zoning agreement.

CONDITIONS OF APPROVAL

- The Urban Planning Division recommends registering a new zoning agreement on the title restricting a number of car oriented commercial uses that are not compatible with the *Complete Communities* policies for Regional Mixed-Use Corridors and the context in which the property is located. The Urban Planning Division also recommends inclusion of a Plan Approval clause allowing the Urban Planning Division and the Riel Community Committee to review final plans and design details before development takes place on the property.

- *Typically, when a property is rezoned, a developer is required to contribute a portion of the land to be developed to the City for parks purposes or to provide the equivalent 'cash in lieu'. When the subject property was originally rezoned back in 1982 it was classified as a "temporary rezoning" and, therefore, the land dedication requirement was waived. Given the clause requiring the zoning of the land to revert back to "R2" Two Family Residential upon the demolition, removal or destruction of the existing dwelling will be deleted, and, as such, the "temporary" status of the C2 zoning designation, the Public Service is recommending that the 'cash in lieu' of land dedication be provided.*
- *Along Regional Mixed Use Corridors the* Complete Communities Direction Strategy *specifically encourages a built form that supports a pedestrian-friendly environment while incorporation climate-sensitive site and building design. St. Mary's Road is also designated as a multi-modal corridor in the* City of Winnipeg Pedestrian and Cycling Strategies *identified to accommodate motor vehicles, bicycles and pedestrians. In light of this direction and designation, the Public Service is recommending the existing private approach be removed.*

RECOMMENDATION

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

- The proposal is consistent with the policies guiding development along *Regional Mixed Used Corridors* in the *Complete Communities Direction Strategy* which supports a mix of employment, higher-density residential opportunities, retail and service uses that support the needs of and respect the context of adjacent communities.

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

Report Prepared By: Elise Finnigan
PPD File # ZAA 9/17