**Minute No. 215**
**Report – Executive Policy Committee – February 16, 2022**

**Item No. 4** **Zoning Agreement Amendment – 766 Arlington Street (Daniel McIntyre Ward) File ZAA 6/2021**

COUNCIL DECISION:

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

1. That the Zoning Agreement under File DASZ 279/78, dated November 1, 1978, be amended as follows:

   A. That Clause 2 be deleted.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with Recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

**Report – Executive Policy Committee – February 16, 2022**

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 February 16, 2022, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On February 1, 2022, the City Centre 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.

On January 11, 2022, the City Centre Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on February 1, 2022 at 10:30 a.m. in the Council Building at 510 Main Street.

## PUBLIC HEARING SUMMARY

**File:** ZAA 6/2021

**Before:** City Centre Community Committee
Councillor Gilroy, Chairperson
Councillor Orlikow
Councillor Rollins

**Public Hearing:** February 1, 2022
January 11, 2022
Council Building, 510 Main Street

**Applicant:** Wilson Capiendo Fallorin and Gigi Maricar Estepa Fallorin

**Subject:**




**Premises Affected:** 766 Arlington Street

**For submission to:** Executive Policy Committee

**Prepared by:** Kate McMillan, Senior Committee Clerk
City Centre Community Committee

**Report date:** February 1, 2022

**Community Committee Recommendation:**

On February 1, 2022, the City Centre 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 DASZ 279/78, dated November 1, 1978, be amended as follows:

   A. That Clause 2 be deleted.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with Recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

The City Centre Community Committee provided the following supporting reasons for its recommendation:

1. I think this is a really great location for something like a massage therapy clinic. There's a big huge community there, it's a walkable district, its on a corner street and these are the types we'd like to see along these corridors so I'm very much in support of it.

2. This is a nice business opportunity with housing on top so these are the types of things we'd like to see.

Exhibits Filed:

1. Application dated October 19, 2021
2. Notification of Public Hearing dated October 29, 2021
3. Manitoba Status of Title 1415519/1
4. Letter of authorization dated September 2, 2021 from Manuel Armando Castro, Administrator for the Estate of Vasco De Castro to Wilson Capiendo Fallorin and Gigi Maricar Estepa Fallorin
5. Caveat 2632387
6. Plans (2 pages)
7. Report from the Urban Planning Division dated November 19, 2021
8. Inspection Report
9. Communication dated January 10, 2022, from Wilson Fallorin in support of the application
10. Communication dated January 10, 2022, from Gigi Fallorin in support of the application
11. Communication dated January 11, 2022, from Hermie Angeles requesting adjournment of the public hearing
12. Notice of Adjournment dated January 14, 2022
13. Communication dated January 31, 2022, from Wilson Fallorin in support of the application
14. Recording of Representations

REPRESENTATIONS:

In Support:

Hermie Angeles
Gigi Fallorin
Wilson Fallorin

In Opposition:

Nil

For Information:

Nil

For the City:

A. Ross, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 6/2021

# ADMINISTRATIVE REPORT

**Title:** ZAA 6/2021 – 766 Arlington Street.

**Issue:** For consideration at the Public Hearing to amend a Zoning Agreement under File DASZ 279/78, by deleting Clause 2 to allow for the establishment of a Personal Service use.

**Critical Path:** City Centre Community Committee – Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee - Council

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| A. Ross, RPP | N/A | N/A | |

## RECOMMENDATIONS

1. That the Zoning Agreement under File DASZ 279/78, dated November 1, 1978, be amended as follows:

    A. That Clause 2 be deleted.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with Recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

4. That, the proper officers of the City be authorized to do all things necessary to implement the intent of the forgoing.

## REASON FOR THE REPORT

- The applicant is proposing to modify the existing Zoning Agreement (which restricts uses on the subject property to photography and residential), in order to establish a Personal Service (massage therapy clinic) use.
- Modification of caveats on a Land Title requires a Zoning Agreement Amendment application.
- Approval of a Zoning Agreement Amendment application 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 subject Zoning Agreement will be amended and the caveat will be modified.

## HISTORY

- On November 1, 1978, a Zoning Agreement came into effect as part of a Council-adopted rezoning of the property to the "C1" – Commercial District (DAZ 279/78). The Zoning Agreement was caveated to the Title on June 6, 1979.
- The caveat restricts any land use other than photography studio and residential uses under "R2" zoning regulations.
- The property contained a photography studio and an occupied dwelling from that time until 2017, when the owner passed away.
- The building has been vacant since 2017.

## CONSULTATION

In preparing this report there was consultation with:

- N/A

## OUR WINNIPEG POLICY ALIGNMENT

- The proposal aligns with the Key Direction of *OurWinnipeg* that applies to the Mature Communities Policy Area, which states: "*Enhance the quality, diversity, completeness and sustainability of stable neighbourhoods and expand housing options for Winnipeg's changing population."*

## WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

- The subject proposal helps to ensure that locally appropriate services can be accessed within the local neighborhood. This supports walking, cycling, transit and associated reduced greenhouse gas emissions.

## SUBMITTED BY

| | |
|---|---|
| Department | Planning, Property and Development |
| Division | Urban Planning |
| Prepared by: | A.Ross, RPP, MCIP |
| Date: | November 19, 2021 |
| File No. | ZAA 6/2021 |

**List of Schedules and Attachments**

1. Appendix A – Planning Discussion

**APPENDIX 'A'**

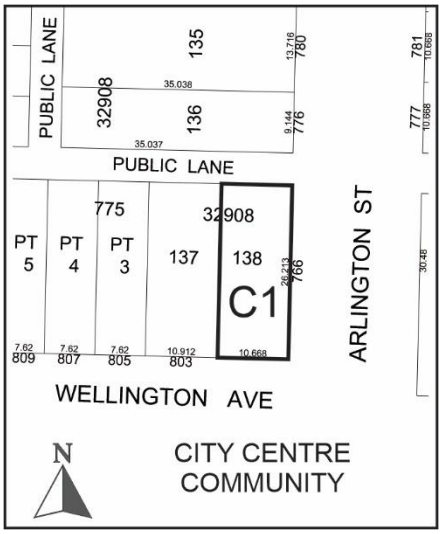
**DATE:** November 19, 2021

**FILE:** **ZAA 6/2021**
**RELATED FILES:**
**COMMUNITY:** City Centre
**NEIGHBOURHOOD #:** 108 - Daniel McIntyre

**SUBJECT:** For consideration at the Public Hearing to amend a Zoning Agreement under File DASZ 279/78, by deleting Clause 2 to allow for the establishment of a Personal Service use.

**LOCATION:** 766 Arlington Street

**LEGAL DESCRIPTION:** LOT 138 PLAN 32908 63/65 ST JA




**APPLICANT:** Wilson and Gigi Fallorin
39 Danube Drive
Winnipeg, Manitoba R2P 2Y9

**OWNER:** The Estate of Vasco DeCastro
(Manuel Armando Castro – Administrator for the Estate)
766 Arlington Street
Winnipeg, Manitoba R3E 2E2

**RECOMMENDATION:** Approval

**SITE DESCRIPTION**

- The subject property is located at the northwest corner of Wellington Avenue and Arlington Street, in the Daniel McIntyre neighbourhood of the Daniel McIntyre ward.
- The site is 3,010 sq. ft in area and contains a two-storey mixed use building with one dwelling unit and a vacant photography studio.
- The site is located within the 'Areas of Stability – Recent Community' policy area under the *Complete Communities Direction Strategy*, and is zoned "C1" – Commercial Neighbourhood.




**Figure 1: Aerial Photo of Subject Site and Surrounding Uses (flown 2018)**

**SURROUNDING LAND USE AND ZONING (See Figure 2)**

**North:** Rear lane, then single family residential uses zoned "R2" - Residential Two-Family.

**South:** Wellington Ave., then single family residential uses zoned "R2" - Residential Two Family.

**East:** Arlington St., then single family residential uses zoned "R2" - Residential Two-Family.

**West:** Single family residential uses zoned "R2" - Residential Two-Family.




**Figure 2: Zoning of the Site and Surrounding Area**

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to establish a Personal Service use (massage therapy clinic) on the property.
- The existing building will be maintained. The clinic will be located on the main floor and the upper floor will retain its existing, approved (1) residential unit.

## ANALYSIS AND ISSUES

### Complete Communities Direction Strategy

Per the *Complete Communities Direction Strategy,* the property is located within an Area of Stability. Key relevant policies for Areas of Stability are as follows:

- *Support a mix of commercial services and employment uses that serve the local community.*
- *Encourage intensification to occur at centres and along corridors.*
- *Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character, and built form.*

The proposed development meets *Complete Communities* policies for the following reasons:

- The proposal will enhance the mix of commercial/employment uses in the neighbourhood, along a corridor, in a manner that does not substantially alter the character of the corridor.
- The property is located at an intersection of a collector street (Wellington Avenue) and an arterial street (Arlington Street).
- The application supports a new use for the property within the existing building and as such, does not change the character of development in this Mature Community.

**Winnipeg Zoning By-Law 200/2006**

Clause 2 of the Zoning Agreement states the following:

> *That the land and any building or structure thereon shall not be used for, and no building or structure erected, altered or enlarged on the land for any use except:*
>
> *(a) Photographer;*
>
> *(b) Dwelling unit pursuant to the "R2" regulations of By-Law No.16501.*

The deletion of the above Clause of the Zoning Agreement will allow any uses permitted in the "C1" – Commercial Neighbourhood District to operate on the property.

The Urban Planning Division considered whether to continue to restrict uses and only allow the subject proposed use (massage therapy). Upon discussion, it was determined that any uses permitted in the "C1" district are suitable and supportable in this location because:

- The property is located at an intersection of a collector street (Wellington Avenue) and an arterial street (Arlington Street). The property has good access via all transportation modes.
- The property is situated on a corner. Corner properties have traditionally accommodated small scale commercial uses enbedded within local neighbourhoods – especially those on higher-order streets (see point above).
- "C1" uses are the smallest scale of commercial uses and introduce the least adverse impact on surrounding properties.
- The property has, for many decades, been home to a commercial use and as such has been understood/recognized in the community as a commercial property.
- The application supports a new use for the property within the existing building and as such, does not significantly alter the character of development in this Mature Community.

The remaining Clause on the Zoning Agreement, which prohibits free standing signage on the property and Director Plan Approval for facia signage, is proposed to remain.

**RECOMMENDATION**

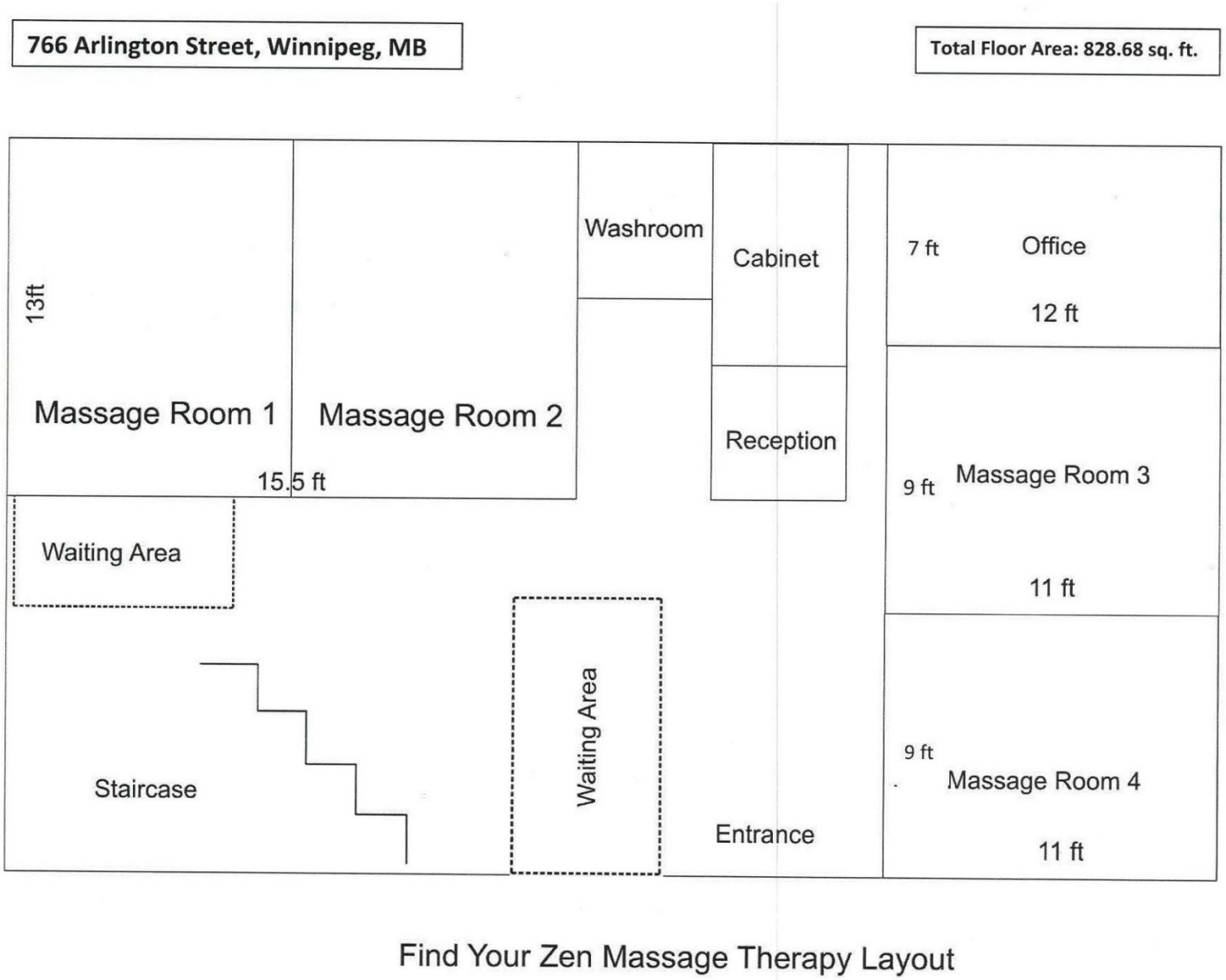
The Urban Planning Division recommends **approval** for the following reasons:

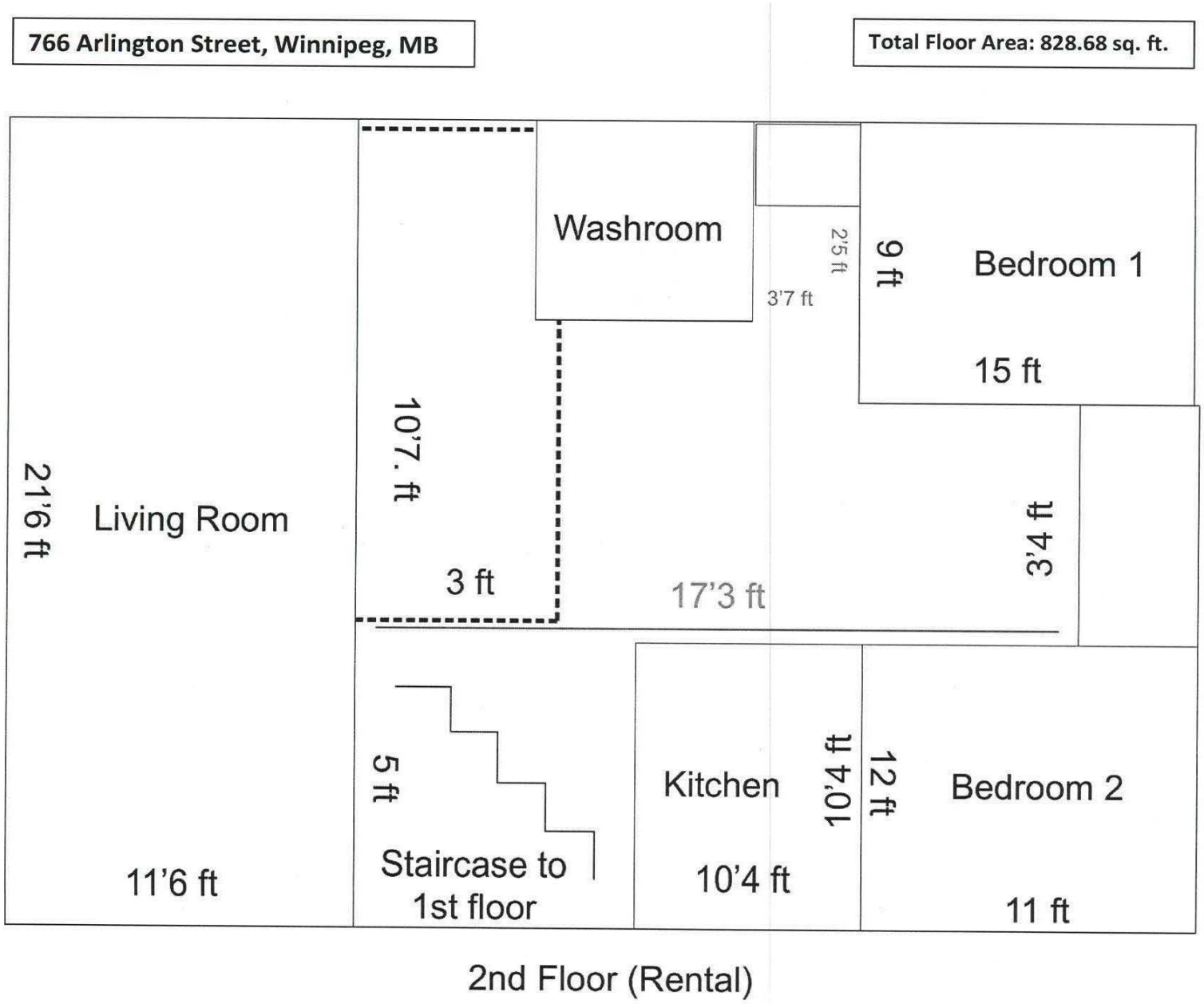
- The proposal will enhance the mix of commercial/employment uses in the neighbourhood, along a corridor, in a manner that does not substantially alter the character of the corridor.
- The property is located with good access at an intersection of a collector street (Wellington Avenue) and an arterial street (Arlington Street).
- Corner properties have traditionally accommodated small scale commercial uses enbedded within local neighbourhoods – especially those on higher-order streets (see point above).
- "C1" uses are the smallest scale of commercial uses and intoduce the least adverse impact on surrounding properties.
- The property has, for many decades, been home to a commercial use and as such has been understood/recognized in the community as a commercial property.

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

Report Prepared By: A. Ross, RPP, MCIP
PPD File # ZAA 6/2021

Exhibit "6" referred to in File ZAA 6/2021




766 Arlington Street, Winnipeg, MB
Total Floor Area: 828.68 sq. ft.
Washroom
2'5 ft
3'7 ft
9 ft
Bedroom 1
15 ft
10'7. ft
21'6 ft
Living Room
3 ft
17'3 ft
3'4 ft
5 ft
Staircase to
1st floor
Kitchen
10'4 ft
10'4 ft
12 ft
Bedroom 2
11'6 ft
11 ft
2nd Floor (Rental)