Agenda - Council - November 23, 2005

Report - Standing Policy Committee on Property and Development – November 1, 2005

Item No. 2 Rezoning - 160 St. Mary's Road
File DAZ 233/2005

STANDING COMMITTEE RECOMMENDATION:

On November 16, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee and submits to Council that the application for subdivision and rezoning under File DAZ 233/2005 not be proceeded with.

Report - Standing Policy Committee on Property and Development – November 1, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 16, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 1, 2005, 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 September 13, 2005, the Riel Community Committee did not concur in the administrative recommendation and recommended to the Standing Policy Committee on Property and Development that the application for subdivision and rezoning under File DAZ 233/2005 not be proceeded with.

RE: **Rezoning - 160 St. Mary's Road**
File DAZ 233/2005 [c/r DAV 141965/2005D]

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

Prepared by: **Marc A. Pittet, Clerk,**
Riel Community Committee

Report date: **September 29, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2005, the Riel Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development that the application for subdivision and rezoning under File DAZ 233/2005 not be proceeded with.

The Riel Community Committee provided the following supporting reason for its recommendation:

1. The Riel Community Committee did not agree with the administrative comments contained in the report from the Manager of Planning and Land Use dated September 6, 2005.

PUBLIC HEARING SUMMARY

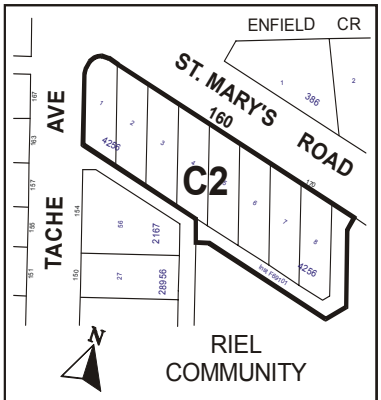
File: DAZ 233/2005 [c/r DAV 141965/2005D]

Before: Riel Community Committee
Councillor Magnifico, Chairperson
Councillor Steeves
Councillor Swandel

Public Hearing: September 13, 2005
Community Committee Chamber, 219 Provencher Boulevard

Applicant: David Goyer Architecture (Darcey Harms)

Subject:



APPLICANT: DAVID GOYER ARCHITECTURE
FILE: DAZ 233/05
PROPOSAL: To rezone the land shown outlined above from an "R1-5" RESIDENTIAL DISTRICT to a "C2" COMMERCIAL DISTRICT. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : DAVID GOYER ARCHITECTURE
N° DE RÉFÉRENCE : DAZ 233/05
PROJET : Demande de changement de zonage du bien-fonds indiqué ci-dessus en vue de le faire passer de la catégorie R1-5 (SECTEUR RÉSIDENTIEL) à la catégorie C2 (SECTEUR COMMERCIAL). **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 160 St. Mary's Road
4018

Exhibits Filed:

1. Application dated July 26, 2005
2. Notification of Public Hearing dated August 9, 2005
3. Certificate of Title No. A 14223
4. Surveyor's Building Location Certificate and sketch dated April 26, 2004
5. Letter of authorization dated July 25, 2005 from Brian Grieve on behalf of the Trustees of St. Mary's Road United Church as successors of the Trustees of Norwood Congregation of the United Church of Canada
6. Plans (4 pages)
7. Report from the Manager of Planning and Land Use dated September 6, 2005
8. Inspection Report
9. Communication dated September 6, 2005 from Leo and Bertha David in opposition to the application
10. Communication dated September 6, 2005 from Henri Caron in opposition to the application
11. Communication dated September 9, 2005 from Ernie McLean in opposition to the application
12. Communication dated September 13, 2005, from Bob Reid in support of the application
13. Presentation, overall site plan and supporting information submitted by Ross Mitchell at the Public Hearting on September 13, 2005
14. Presentation and petition in opposition to the application purporting to contain the signatures of 10 area residents submitted by Darla Rettie on September 13, 2005
15. Petition in opposition purporting to contain the signatures of 18 area residents submitted by Bruce Verry on September 13, 2005.

REPRESENTATIONS:

In Support:

Charles L. Chappell
Bertha Collett
Henry Cullihall
David Goyer
Brian Grieve
B. Neil Johannson
Marion E. Jones
Ada McCallum
Ross Mitchell
Bob Reid
Helen J. Reynolds
Willow Spink
Kenneth Thomas
Susan Tough
Margaret Wright

In Opposition:

Andrew Bendor-Samuel
Keith Burr
Henri Caron
Robert Crierie
Leo and Bertha David
Susanne Davis
Sonya Fawcett
Marie-Lourdes Fillion
Joseph and Jessie Henderson
Renald Johnson
Ernie McLean
David Martin
Paul McKenna
Gail Nep
Jeannette and Trevor Price
Jason Perring
Darla Rettie
Trevor Sims
Donald Toupin
Bruce Verry

For Information:

Norm Gousseau

For the City:

Kevin Lalor, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Ross Mitchell, ND Lea Engineers & Planners Inc., accompanied by Charles L. Chappell, Aikins MacAulay Thorvaldson, appeared in support of the application on behalf of the applicant and provided a summary of the proposal by way of a Power Point presentation, filed as Exhibit 13. Mr. Chappell indicated concurrence in the recommendations contained in the administrative report from the Manager of Planning and Land Use dated September 6, 2005, with the following exception:

- He requested that recommendation I.A.2. be deleted in its entirety and that the proportion of retail space of the proposed development be addressed during the plan approval process.

In response to a question from Councillor Magnifico, Kevin Lalor, Senior Planner, Planning, Property and Development, indicated that the condition to limit the retail component of the proposed development was included to mitigate concerns of area residents and had been incorporated by his colleague, Michael Robinson, as a condition of approval in the report from the Manager of Planning and Land Use dated November 15, 2004, for the previous application for the subject property under File DAZ 246/2004.

In response to a question from Councillor Magnifico, Mr. Mitchell stated that the applicants had met with Roy Hartman, Traffic Assessment Engineer, Public Works Department, who indicated that the City would not require right-out-only signage for the entrances to the proposed development. Councillor Magnifico stated that if the Community Committee recommended approval of the development, he would ensure that a condition restricting egress from the site as right-out-only would be included.

Mr. Mitchell stated that a medical clinic would generate as much traffic as a drug store. In response to questions from Councillor Steeves, Mr. Mitchell indicated that it was the applicant's intension to add a second bi-directional approach to the site and that the development would generate approximately 850 vehicles per day over a 17 hour period, a 1.4 - 1.8 percent increase in traffic on St. Mary's Road. Mr. Chappell stated that the applicant, Mr. Goyer, was representing Pharma Plus.

B. Neil Johannson appeared in support of the application. Mr. Johannson stated that he has resided in Norwood Flats for twenty-five (25) years and that the site in question would not be a desirable location for residential development. Mr. Johannson also stated that the church was not retained after the amalgamation of three (3) churches in St. Vital primarily due to a lack of parking and iterated that efforts to market the property to other churches have been unsuccessful. Mr. Johannson stated that the only other offer to purchase the site was less than that tendered by Pharma Plus and the plan for a five (5) storey residential development was not one that he thought would be considered favourably by area residents. In closing, Mr. Johannson stated the building was a financial drain on the church and that a pharmacy would be a valuable addition to the area.

Susan Tough appeared in support of the application. Ms. Tough stated that the property has been listed for sale for twenty-six (26) months and there has been little interest from potential purchasers. Ms. Tough stated that the current commercial tenants of the building are moving out one by one and the property is creating a strain on volunteers and financially.

Sonja Fawcett appeared in opposition to the application. Ms. Fawcett stated that she lives across the street from the site and was not supportive of the construction of a Pharma Plus. Ms. Fawcett further stated that she proposed hours of operation would be injurious to area residents. Ms. Fawcett also stated that she did not support the rezoning of the subject property as, should the Pharma Plus development prove unsuccessful, future tenants could be even more detrimental to the community.

David Martin appeared in opposition to the application for the following reasons:

- The nature of the proposed development would not be a fit for the unique community;
- Hours of operation;
- Approval of the application could open the door for future expansion.

Gail Nep appeared in opposition to the application for the following reasons:

- Proposed development would be an eyesore and not a good fit for the community;

- Proposed development would create more traffic and a dangerous traffic situation on St. Mary's Road.

Jeanette Price appeared in opposition to the application. Ms. Price stated that she was not opposed to this site being redeveloped but was opposed to the development of a Pharma Plus for the following reasons:

- Increase in traffic;
- Hours of Operation;
- Approval of this development could start a domino effect and contribute to the deterioration of the neighbourhood.

Trevor Price appeared in opposition to the application for the following reasons:

- A square-shaped blue and white building would not be in character with the neighbourhood;
- Does not support any commercial development on the site in question but would support residential development;
- Traffic study conducted by the applicant was based on their Portage Avenue location and the findings are not transferable to the site in question due to different accesses, the proximity of homes and a distinct configuration of area streets.

Councillor Steeves stated that the majority of property along St. Mary's Road and St. Anne's Road is zoned commercial and that commercial development along major arteries is desirable in the City of Winnipeg. In response to a question from Councillor Steeves, Mr. Price stated that a commercial building on this particular portion of St. Mary's Road would be detrimental to area residents.

Darla Rettie appeared in opposition to the application. In response to a question from Ms. Rettie, the Senior Planner stated that he was only aware of one other proposal for the property in question. Ms. Rettie stated that the property in question has not had a "for sale" sign posted for quite some time. Ms. Rettie further stated that the property may be priced too high. Ms. Rettie read in to the record a presentation and submitted a petition in opposition to the application purporting to contain the signatures of ten (10) area residents, both filed as Exhibit 14. In response to questions from Councillor Steeves, Ms. Rettie stated that she would support residential development, to a maximum of forty-five (45) feet in height, but would not support development of a commercial nature.

Andrew Bendor-Samuel appeared in opposition to the application. Mr. Bendor-Samuel stated that he was opposed to the application a year ago and remained opposed. Mr. Bendor-Samuel reiterated concerns regarding the marketing of the property and hours of operation.

Paul McKenna appeared in opposition to the application for the following reasons:

- Increased traffic would be dangerous for area children;
- Traffic on Taché Avenue is already at its maximum capacity and the proposed development would further exasperate the situation;

- There are limited points of ingress and egress to and from Norwood Flats and the development would put a further strain on those roadways.

Susanne Davis appeared in opposition to the application and reiterated concerns regarding traffic.

Bruce Verry appeared in opposition to the application. Mr. Verry stated that the only people appearing in support of the application are affiliated with the church. Mr. Verry also stated that the proposed development would likely not succeed and an empty retail store would eventually replace an empty church. Mr. Verry reiterated concerns regarding traffic and stated that the proposed development would adversely affect property values of neighbouring residences.

Keith Burr appeared in opposition to the application. Mr. Burr stated that he was a member of the United Church and that, should this application not be approved, it was unlikely the United Church of Canada would allow the building to become derelict. Mr. Burr also stated that, should the application be approved, the recommendation to limit the retail portion of the development to half of its square footage should remain.

Norm Gousseau appeared for informational purposes. Mr. Gousseau stated that Norwood Flats is a very unique area, much different from other parts of St. Mary's Road. Mr. Gousseau also stated that, should the application be approved, the hours of operation should be limited.

Mr. Chappell and Mr. Mitchell returned in rebuttal. Mr. Chappell stated that the proposed development conformed with Plan Winnipeg. Mr. Chappell also stated that the rezoning of the land would limit development to very specific uses and that the square footage of the retail component could be addressed when the plans returned to Community Committee for plan approval. Mr. Chappell explained that the proposal would be a good fit for the neighbourhood for the following reasons:

- Parking would be located on the south end of the lot, adjacent to the school;
- The northern portion of the development would be landscaped like parkland;
- The only accesses to the development would be from St. Mary's Road;
- The loading zone and garbage area would be buffered by a fence;
- The design of the site would not create traffic problems.

Mr. Chappell stated that the applicant was requesting standard hours of operation for a business of this kind. Mr. Chappell further stated that the property in question has been on the market for over two (2) years and that no residential developers have come forward with a viable proposal for the property. Mr. Chappell also stated that the architect has made an effort to ensure that the proposed development would be a fit for the community.

Mr. Mitchell stated:

- The development would result in less than a two (2) percent increase in traffic on St. Mary's Road;
- The proposal is in character with other developments in the City of Winnipeg located on major arteries adjacent to residential areas;

- The proposed development would not result in a decrease in the property values of area homes;
- The development would not result in cut-through traffic as people will not shop at the Pharma Save if it is not convenient for them;
- The development will not change the character of the neighbourhood as it will be well buffered and located on a major artery that carries in excess of thirty thousand (30,000) vehicles per day;
- The "for sale" sign may have come down as a good faith gesture as the owners are currently negotiating a sale with Pharma Plus;
- The safety of area children will not be threatened by the development;
- The developer had done a traffic study employing industry standards.

In response to a question from Councillor Swandel, Mr. Mitchell replied that the proposed structure would be in character with the existing neighbourhood and the architect would incorporate reclaimed brick from the church in its design.

Exhibit "7" referred to in File DAZ 233/2005 [c/r DAV 141965/2005D]

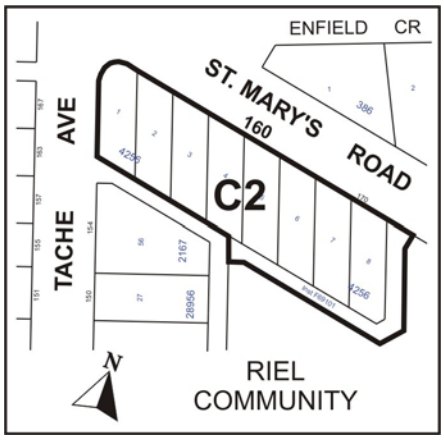
Winnipeg

Planning, Property and Development Department Report

To the Riel Community Committee

Date: September 6/05
File: DAZ 233 /05
Related Files: DAV 05 141965D
Subject: To rezone the subject property from an R1-5 residential property to a C2 commercial district to allow for the demolition of an existing church and the construction of a new pharmacy/medical clinic.

Location: 160 St. Mary's Road
Legal Description: Lots 1/8, Pl 4256 WLTO, in RL 93 TO 96 of the parish of St. Boniface



Applicant: David Goyer Architecture on behalf of Darcey Harms
Owner: Trustees of the Norwood Congregation of the United Church of Canada

Recommendation: Approved with Conditions

Site Description

The subject property is situated at the southwest corner of the intersection of Rue Tache and St. Mary's Road and is zoned "R1-5" Residential. It is adjacent to single family residential homes to the west and south, a school (Nelson McIntyre Collegiate) to the east and a park and residences to the north. The site is currently occupied by the Norwood United Church (vacant) and is approximately 40,468 sq. ft. in total area.

Background

In August of 2004, the applicant under a previous application DAZ 246/04, applied to similarly rezone the subject property to a commercial category to permit a 12,450 sq. ft. single story building with flexible space to allow for a variety of medical uses. As outlined in their letter of intent, the applicant had indicated that the nature of the new facility would be primarily a neighbourhood health centre/clinic with accessory pharmacy, office, and medical supply sales. Subsequently there were a number of resident meetings and throughout the process, efforts were made by all parties to come up with a well designed site layout and a building design which not only respected the surrounding neighbourhood but would also help anchor this highly traveled , highly visible intersection. As a result, the applicant made several significant changes to the initial plans which were in the spirit of the above mentioned goals. The Planning Division ultimately was able to support the proposal for a rezoning to C2 Commercial with a recommendation that 1) use be limited to Medical, Dental, Optical, Counselling or other health or therapeutic clinics, 2) Medical, Dental, or Optical laboratories, 3) offices, and 4) a drugstore. It was also clearly indicated that the combined square footage for all retail uses should not exceed ½ of the total building square footage. At the public hearing, there was considerable neighbourhood opposition to the proposal and the Riel Community Committee recommended that the application be denied.

Description of the Proposed Development

The current application by the same applicants proposes to rezone the land C2 Commercial, demolish the existing church and construct a pharmacy/ medical clinic. The building will be one story in height and have a gross floor area of 10,582 sq. ft. Access to the site will continue to be via St. Mary's Road and a parking area with 49 stalls will be established and maintained on the east side of the building. 10,023 sq. ft. of the overall building area is to be set aside as retail space.

Analysis

The initial application indicated that the primary use of the proposed new structure would be health centre/clinic with accessory drugstore. That, from our perspective, while still not ideal from a traffic standpoint, seemed to be an appropriate and manageable use for the site. The current application proposes a marginally smaller commercial building with a pharmacy as the apparent primary use and the potential of a medical clinic on site at some time in the future. There is no clear indication as to what the ratio of retail pharmacy space relative to health/clinic space will be (in the accompanying documentation); so, as with last years application, we are prepared to give the applicants the benefit of the doubt that the retail component will not exceed 50% of the overall floor area. The Planning and Land Use Division is therefore prepared to support what we regard as an acceptable site layout and we will attach to the following zoning agreement, as conditions of approval, essentially the same conditions outlined in DAZ 246/04.

Recommendation

The Planning and Land Use Division recommends approval for the following reason:

- Commercial development is an appropriate use at the subject location, provided that new development is of a scale which is compatible with the adjoining neighbourhood and street system. The architects have made an effort clearly to ensure that the design and layout of the proposed new building along with landscaping detail is of a high quality.

Recommended Conditions of Approval

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 233 /04, attached hereto and dated September 6/05, 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:

1. That the rezoning to " C2 " Commercial be limited to the following uses, a) Medical, Dental, Optical, Counselling or other health or therapeutic clinics b) Medical, Dental, Optical or other precision instruments, prosthetics; sales rental or service c) Laboratory; Medical, Dental or Optical d) Office, e) Drug Store

2. The combined square footage of all retail uses shall not exceed ½ of the total building square footage.

3. Hours of operation shall be limited to 7:00 AM until 12:00 PM, 7 days a week.

4. No signage, including temporary signage, shall be permitted anywhere along the Tache frontage.

5. The final plans indicating building locations, building profile details, approaches, signage, parking stalls, landscaping, fencing, exterior lighting details, garbage enclosure locations etc. shall be submitted to and approved by the Riel Community Committee, and the Director of Planning and Land Use prior to the issuance of any building permits.

II. That a ten (10) per cent dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

III. That, in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

IV. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

V. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

VI. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

VII. That the City Solicitor/Manager of Legal Services 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
Planning and Land Use Division

Report Prepared by: (Kevin Lalor)
PPD File # (514)

Schedule "A"

By-Law No. _____

File No. **DAZ 233/05**

Atlas Sheet No.

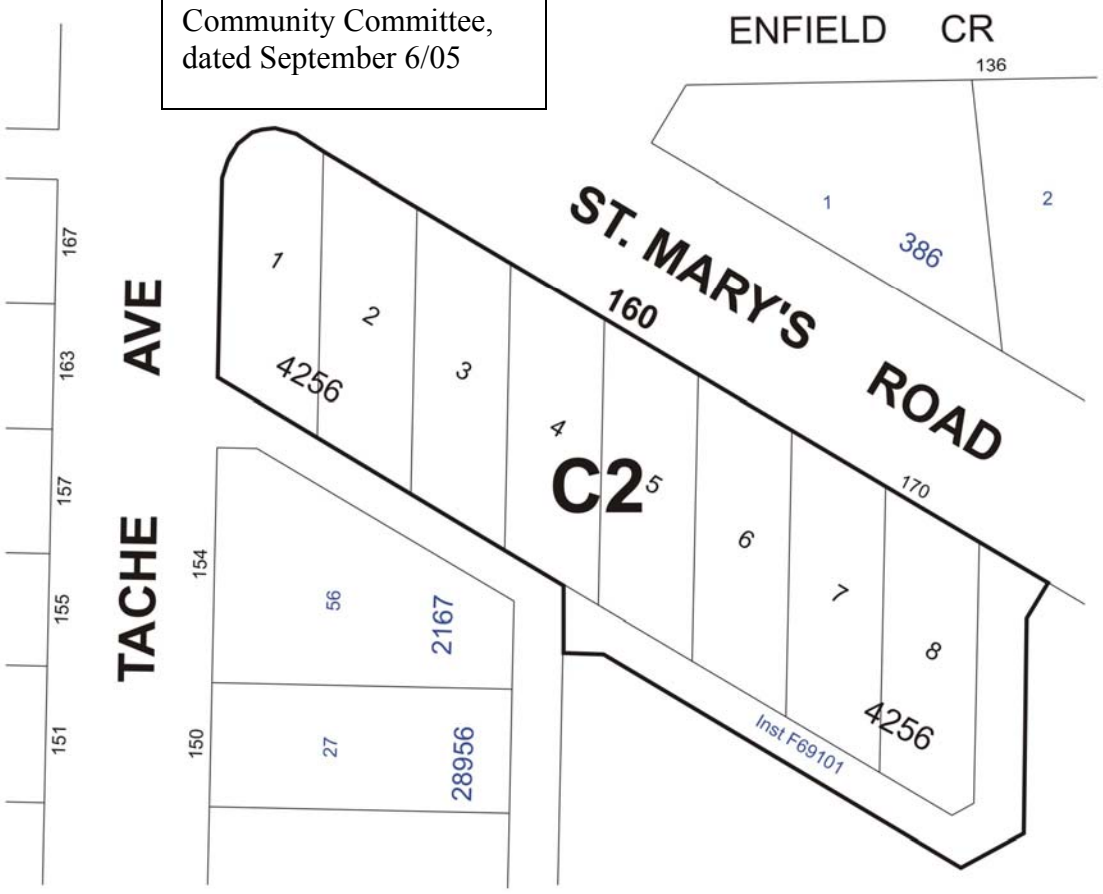
N

AB26
RIEL
COMMUNITY

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 160 St. Mary's Road from an "R1-5" RESIDENTIAL DISTRICT to a "C2" COMMERCIAL DISTRICT as shown outlined below.

Schedule "A" for File No. DAZ 233/05, Riel Community Committee, dated September 6/05



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____