Minutes - Executive Policy Committee – June 21, 2006

Minute No. 468
Report - Standing Policy Committee on Property and Development - June 6, 2006

Item No. 9 Rezoning - 713 Salter Street
File DAZ 207/2004

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A" for File DAZ 207/2004 dated February 25, 2004, to a "C1.5" Residential District.

   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 for the development of any building, accessory parking area or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Lord Selkirk - West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

      ii. That land usage be restricted as follows;
         a. The following uses shall not be permitted on the land:

            1. Automobile, including motorcycle: Rental, Sales, including accessory Repair, Service, Installation of Supplies/Parts
            2. Automobile, including motorcycle: Supplies/Parts, Sales
            3. Beer: Sales
            4. Bingo Parlour
            5. Bowling Alley
            6. Bus Station
            7. Cocktail Lounge
            8. Contractors' Establishment

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9. Exterminator
10. Fuel: Sales kiosk
11. Hotel, including Motel, limited to guest rooms
12. Liquor: Sales
13. Parking Area, Non-Accessory
14. Tattoo Parlour
15. Tire: Sales, Service

iii. That there shall be no free standing identification signs and there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.

iv. That no illuminated signage be erected on the north, east, or south sides of the building.

v. That prior to the issuance of any occupancy permits all garbage containers be fully enclosed by a brick/concrete and/or wood barrier fence that is at least six (6) inches above the top of the garbage container, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

vi. That building height be limited to a maximum of thirty (30) feet.

vii. That Floor Area Ratio be limited to a maximum of One (1.0).

viii. That the applicant shall install two charcoal filters in the exhaust outlet ducting, to the satisfaction of the Director of Planning, Property, and Development, to remove the odour and smoke produced during the molding process and be thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

ix. That a venturi style vent be installed on top of the venting stack used to vent the dental laboratory and be thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

x. That an encroachment agreement with the City of Winnipeg shall be entered into for the parking area in the boulevard on the east side of Salter Avenue and thereafter maintained to the satisfaction of the Director of Planning, Property, and Development .

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2. 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 this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of this time is applied for prior to the expiry of this twenty four (24) month period and the extension is subsequently approved by Council.

3. That a ten percent (10%) 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.

4. 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.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat as a first charge 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.

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

7. 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.

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Report - Standing Policy Committee on Property and Development – June 6, 2006

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,

That the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On June 6, 2006, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 25, 2006, the Lord Selkirk-West Kildonan Community Committee concurred in the revised administrative recommendation (contained in report dated April 19, 2006) and submitted its recommendation to the Standing Policy Committee on Property and Development.

On October 11, 2005, the Lord Selkirk-West Kildonan Community Committee adjourned the public hearing to its meeting to be scheduled in April 2006 to allow the following to occur, namely:

1. The applicant to install the second charcoal filter in the exhaust outlet ducting.

2. The Administration to monitor the effect of the above installation and to report back to Committee on whether it proved successful in removing the odour and smoke produced during the molding process.

On May 10, 2005, the Lord Selkirk-West Kildonan Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on October 11, 2005 to allow the applicant to:

1. Make application to the City for an encroachment agreement for the private parking in the City boulevard; and

Report - Standing Policy Committee on Property and Development - June 6, 2006

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

2. Explore methods of providing additional mitigation of smoke and odour produced during the molding process.

On April 12, 2005, the Lord Selkirk-West Kildonan Community Committee did not hear representation on the application and adjourned the public hearing to its meeting on May 10, 2005, to give the Administration the opportunity to inspect the subject property, and in consultation with the Public Works Department, investigate the parking situation.

On April 20, 2004, the Lord Selkirk-West Kildonan Community Committee adjourned the public hearing with respect to the application to its meeting to be scheduled in April of 2005.

Further, on April 20, 2004, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation, as amended, and under File DAV 111696/2004D, approved a Variance on "the land', to permit the expansion of a custom manufacturer of dental appliances use in an existing commercial building subject to the following conditions:

1. That the use permitted by the Order shall be limited to an additional 610 square feet (for a total overall area of 2310 square feet).

2. That the applicant shall install a filter in the exhaust outlet ducting, to the satisfaction of the Director of Planning, Property and Development, to remove the odour and smoke produced during the molding process.

3. That a venturi style vent be installed on top of the venting stack used to vent the dental laboratory.

4. That the Order shall expire on April 30, 2006.

On March 23, 2004, the Lord Selkirk-West Kildonan Community Committee adjourned the public hearing with respect to the application to its meeting on April 20, 2004, to allow the Planner to meet with the applicant and the residents in opposition to the application with a view to addressing the concerns raised at the public hearing relative to the emission of odours from the dental laboratory operation and the garbage enclosure.

RE: **Rezoning - 713 Salter Street**
File DAZ 207/2004

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

Prepared by: **Diane Timmins, Clerk**
Lord Selkirk-West Kildonan Community Committee

Report date: **May 1, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 25, 2006, the Lord Selkirk-West Kildonan Community Committee concurred in the revised administrative recommendation (contained in report dated April 19, 2006) and recommends to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A", for File DAZ 207/2004 dated February 25, 2004 to a "C1.5" Residential District.

    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 Act, to provide for the following:

        i. That for the development of any building, accessory parking area or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Lord Selkirk - West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development;.

        ii. That land usage be restricted as follows;
            a. The following uses shall not be permitted on the land:

                Automobile, including motorcycle: Rental, Sales, including accessory Repair, Service, Installation of Supplies/Parts
                Automobile, including motorcycle: Supplies/Parts, Sales
                Beer: Sales
                Bingo Parlour
                Bowling Alley
                Bus Station
                Cocktail Lounge

Contractors' Establishment
Exterminator
Fuel: Sales kiosk
Hotel, including Motel, limited to guest rooms
Liquor: Sales
Parking Area, Non-Accessory
Tattoo Parlour
Tire: Sales, Service

iii. That there shall be no free standing identification signs and there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.

iv. That no illuminated signage be erected on the north, east, or south sides of the building;

v. That prior to the issuance of any occupancy permits, all garbage containers be fully enclosed by a brick/concrete, and/or wood barrier fence that is at least 6 inches above the top of the garbage container, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development;

vi. That building height be limited to a maximum of 30 feet

vii. That Floor Area Ratio be limited to a maximum of 1.0

viii. That the applicant shall install two charcoal filters in the exhaust outlet ducting, to the satisfaction of the Director of Planning, Property, and Development, to remove the odour and smoke produced during the molding process and be thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

ix. That a venturi style vent be installed on top of the venting stack used to vent the dental laboratory and be thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

x. That an encroachment agreement with the City of Winnipeg shall be entered into for the parking area in the boulevard on the east side of Salter Avenue and thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

2. 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 this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an

extension of this time is applied for prior to the expiry of this twenty four (24) month period and the extension is subsequently approved by Council.

3. That a ten per cent (10%) 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.

4. 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.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat as a first charge 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.

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

7. 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.

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

1. The Lord Selkirk-West Kildonan Community Committee agreed with the administrative comments contained in the revised report from the Planning and Land Use Division dated April 19, 2006.

PUBLIC HEARING SUMMARY

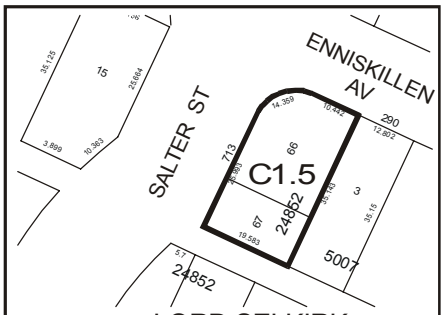
File: DAZ 207/2004

Before: Lord Selkirk-West Kildonan Community Committee
Councillor O'Shaughnessy, Chairperson
Councillor Lazarenko
Councillor Pagtakhan

Public Hearings: April 25, 2006
October 11, 2005
May 10, 2005
April 12, 2005
April 20, 2004
March 23, 2004
West Committee Room, Council Building
510 Main Street

Applicant: Pro-Com Projects Ltd. (Rick Wenaus)

Subject:



APPLICANT : PRO-COM PROJECTS LTD.
FILE : DAZ 207/04
PROPOSAL : To rezone the land shown outlined above from an "C1" COMMERCIAL DISTRICT to a "C1.5" COMMERCIAL DISTRICT to allow for commercial development.
For information, phone Mr. J. Wintrup, Planner at 986-5102.

Premises Affected: 713 Salter Street

Exhibits Filed:

1. Application dated February 17, 2004
2. Notification of Public Hearing dated February 20, 2004
3. Manitoba Status of Titles 1725161 and 1725162
4. Surveyor's Building Location Certificate and sketch dated May 19, 2000
5. Letter of authorization dated January 12, 2004 from Dean Dental Laboratories Ltd. to Pro-Com Projects Ltd.
6. Variance Orders DAV 180/2000C and DAV 23/85
7. Site Plan
8. Report from the Planning and Land Use Division dated February 25, 2004
9. Photographs (6) of the subject property submitted by the Planner
10. Inspection Report
11. Photographs (8) showing the venting on the side wall and roof of the building located at 713 Salter Street submitted by Drew Kashton at the public hearing on March 23, 2004
12. Site plan showing the area of extreme odours submitted by Drew Kashton at the public hearing on March 23, 2004
13. Petition in opposition to the application purporting to contain the signature of 45 area residents, submitted by Drew Kashton at the public hearing on March 23, 2004
14. Presentation of Rick Wenaus, Pro-Com Projects Ltd., in support of the application, submitted at the adjourned public hearing on April 20, 2004
15. Presentation of Gene Fortney, on behalf of D. Tulloch, and C. and D. Kashton, in opposition to the application, submitted at the adjourned public hearing on April 20, 2004
16. Supplementary report from the Manager of Planning and Land Use dated May 2, 2005
17. Revised report from the Planning and Land Use Division dated September 29, 2005
18. Revised report from the Planning and Land Use Division dated April 19, 2006

REPRESENTATIONS:

In Support:

Rick Wenaus, Pro-Com Projects Ltd.
Michael Dean
Angela Jureidini

In Opposition

Raelene Fortney
Drew and Cindy Kashton
Donna and Stuart Tulloch

For the City:

Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

March 23, 2004

Rick Wenaus, accompanied by Michael Dean, appeared in support of the application. Mr. Wenaus advised Committee the rezoning application was submitted because of the need for more room by Mr. Dean for the operation of his dental laboratory, and that the accompanying variance application was filed to allow Mr. Dean to proceed with the proposed expansion while the rezoning process was being finalized. Mr. Dean advised Committee that he has been operating his dental laboratory business for five (5) years and with approval of this application, is proposing to expand his dental laboratory business by 610 feet. Mr. Dean stated his dental laboratory business currently occupies one of the four (4) units in the strip mall and that he is proposing to occupy two (2) units rather than one. Committee was advised the additional space will essentially be used for office use and will not be utilized to add any more equipment to what already exists. In answer to Committee's question as to why there is residential opposition to this rezoning application, Mr. Dean responded it may stem from the odour emitted from the melting wax in the manufacture of the dental appliances, which lasts for approximately one-half hour. In an effort to address the odour concern, Mr. Dean advised Committee of the fact that he raised the height of the vent on the roof in an effort to disperse the odour further to a complaint he received from the adjacent property owner, Drew Kashton.

Drew Kashton, accompanied by his wife Cindy, Raelene Fortney and Donna Tulloch, appeared in opposition to the application. Mr. Kashton provided Committee with background information relative to the variance approval obtained by Mr. Dean on April 20, 2000 and made specific reference to the conditions of approval which have not all been complied with, particularly as same relate to the garbage enclosure on the subject property. He submitted eight (8) photographs showing the extent of venting on the side wall and roof of the building located at 713 Salter Street, marked as Exhibit 11. Mr. Kashton also submitted a site plan showing the area of extreme odours as a result of fume venting, marked as Exhibit 12, together with a petition in opposition to the application purporting to contain the signature of 45 area residents, marked as Exhibit 13. Mr. Kashton stated the following concerns with respect to the rezoning application, namely:

- The lack of a garbage enclosure on the property, which was a condition of the original variance approval
- Chemicals used in the manufacture of dentures and the emission of toxic odours and waste from the exhaust venting
- Additional "C1.5 commercial uses that could be established on the property with the higher zoning classification
- Lower property values on the surrounding residential properties with the expanded commercial activity
- Increased traffic and the accompanying need for additional parking with the expanded commercial operation.

In answer to Councillor Lazarenko's suggestion that it would be prudent for the public hearing to be adjourned for one month to allow the area residents and the applicant to meet informally to see whether any of the above concerns could be addressed, Mr. Kashton stated that he and the residents in attendance at the public hearing would be agreeable to doing so.

In rebuttal, Mr. Wenaus stated that he and Mr. Dean would also agreeable to the adjournment.

April 20, 2004

Rick Wenaus, on behalf of the applicant, appeared in support of the application, submitted and read into the record his presentation filed as Exhibit 14. Mr. Wenaus provided Committee with an overview of the events which occurred since the adjourned public hearing. He commented on the following areas of concern raised by the area residents and the respective measures taken by Michael Dean to address them, namely:

- Garbage enclosure
- Chemicals used in manufacturing
- Emission of odours from wax moulds are burnt off dentures
- Toxic odour and waste
- Additional "C1.5 uses
- The need for increased parking
- Lower property values

Mr. Wenaus concluded that the higher zoning classification is required solely to allow the expansion of the dental lab by 610 square feet.

Gene Fortney, on behalf of S. and D. Tulloch, D. and C. Kashton, appeared in opposition to the application, submitted and read into the record his presentation filed as Exhibit 15. Mr. Fortney stated the following concerns:

1. The conditions of the first variance have not been fully complied with so how can the residents be assured Mr. Dean will comply with whatever conditions imposed on him this time?
2. Implications of increasing the size of the dental laboratory.
3. There is limited parking in the neighbourhood and the expanded dental laboratory will result in more traffic to the area.

If Committee was of a mind to allow the proposed expansion, Mr. Fortney requested that consideration be given to approving the rezoning for a one year period and requiring Mr. Dean to install appropriate venting and appropriate filtration systems. In so doing, Mr. Fortney stated it would provide an opportunity to see whether the systems were adequate and effective.

In rebuttal, Mr. Wenaus expressed concern that it will cost money for Mr. Dean to expand his dental laboratory and therefore requested that the rezoning be approved for longer than one year.

April 12, 2005
No representations were heard inasmuch as the Lord Selkirk-West Kildonan Community Committee adjourned the public hearing with respect to this application prior to opening representations.

May 10, 2005
No representations were heard inasmuch as the Lord Selkirk-West Kildonan Community Committee adjourned the public hearing with respect to this application prior to opening representations.

October 11, 2005
Rick Wenaus, accompanied by Michael Dean, appeared in support of the application. Mr. Wenaus indicated he read the revised administrative recommendation but questioned the amount of the ten percent (10%) dedication. In response thereto, the Planner stated the dedication would only be payable on the increased market value of the property and that, in all probability, the amount would be minimal in this instance.

Councillor Lazarenko indicated to the applicant his desire to adjourn this application to the meeting of the Lord Selkirk-West Kildonan Community Committee to be scheduled in April 2006 in order for the following to occur, namely:

1. The applicant to install the second charcoal filter in the exhaust outlet ducting; and

2. The Administration to monitor the effect of the above installation and to report back to Committee on whether it proved successful in removing the odour and smoke produced during the molding process.

In this connection, Councillor Lazarenko stated the adjournment would give the Administration sufficient time to monitor and assess the situation and ascertain whether any complaints / objections from the area residents will be received with respect to the expanded operation of the dental laboratory. Mr. Wenaus and Mr. Dean stated concurrence in the adjournment but requested the Administration to notify them of any objections received in the interim.

April 25, 2006
Rick Wenaus, accompanied by Michael Dean, appeared in support of the application. At Committee's request, the Planner, Michael Robinson, gave an update of the status of the subject property. Mr. Robinson reminded Committee that on October 11, 2005, the public hearing was

adjourned to give the applicant time to install a second charcoal filter on the subject property, and for the Administration to monitor the effects of same. Mr. Robinson stated that he personally attended at the subject premises and verified the installation of same. He also stated the second filter appears to have reduced the odour or smoke resulting from the moulding process and noted that the Planning, Property and Development Department has received no complaints since the installation of the second charcoal filter.

Mr. Wenaus stated concurrence in the recommendations outlined in the revised report of the Planning and Land Use Division dated April 19, 2006, and Councillor Lazarenko commended the applicant for all of his efforts in this matter.

Exhibit "18" referred to in File DAZ 207/2004

In reply please refer to / Référence à rappeler :

Michael Robinson, AICP
(204) 986-3213
Fax / Téléc. : (204) 986-3684

Revised
File No. DAZ 207/04
Our c/f CP 500 (.309)A

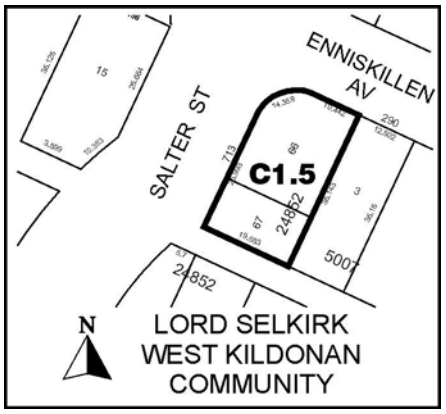
April 19, 2006

Ms. Diane Timmins, Community Clerk
Lord Selkirk - West Kildonan Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

REZONING
713 Salter Avenue
Lord Selkirk - West Kildonan Community Committee
File No. DAZ 207/04

An application has been received from Rick Wenaus, to amend By-Law No. 6400/94 by rezoning the land shown below from a "C1" Commercial District to a "C1.5" Commercial District to allow for the expansion of a dental laboratory.

RELATED FILES: DAV 180/2000C; DAV04-111696D



4120

SITE DESCRIPTION:

Site Area:
669.848 square meters (7,210.4198 square feet)

Existing Land Use and Zoning:
Multi-tenant, one storey commercial building zoned "C1".

Surrounding Land Use and Zoning:

North: Across Enniskillen, single-family dwellings zoned "R1-5".
South: Across rear public lane, single-family dwellings zoned "R1-5".
East: Single-family dwellings zoned "R1-5".
West: Across Salter Avenue, Multiple Family Dwelling, zoned "R1-4".

DEVELOPMENT DESCRIPTION:

The applicant intends to expand an existing dental lab that manufactures dental appliances from 1,700 square feet to 2,310 square feet.

PLAN WINNIPEG:

The subject parcel falls within a designated Neighbourhood Policy Area under Plan Winnipeg, which allows for a variety of residential, commercial, institutional, and mixed uses; thus, the proposed rezoning is in conformance with Plan Winnipeg 2020.

ADMINISTRATIVE COMMENTS:

Background

The dental laboratory, which has eight employees, operates from 9:00 a.m. to 5:00 p.m., Monday to Friday. The business is closed on Saturday and Sunday unless a dentist needs emergency service.

Dental laboratories are not a permitted use in "C1". However, a previous variance order granted by the Board of Adjustment allowed for the dental laboratory to initially be established in the existing building with a maximum size of 1,700 square feet.

Subsequently, a variance order by the LSWK Community Committee in April 2004 permitted an expansion of the use to 2310 square feet, with an expiry date of April 30, 2006.

A rezoning to consider the same item was reviewed at the April 20, 2004 LSWK Community Committee meeting. At that meeting, the item was adjourned until April 12, 2005. Since that time, the matter has been dealt with as follows:

- April, 12, 2005 Adjourned until May 2005
- May 10, 2005 Adjourned until October 11, 2005
- October 11, 2005 Adjourned until April 25, 2006

Administrative Comments

As mentioned above, the applicant is requesting a rezoning to allow a permanent expansion to 2310 square feet. The applicant has indicated that the expansion will provide for additional office space.

The laboratory manufactures appliances, which are used by the dental industry. As part of the manufacturing process, materials are burned and black smoke is emitted through a stack which is located on the roof of the building. At times, the smoke can be heavy and have a pungent odour. In the past, the Department has received complaints from residents about the smoke. However, no complaints have been received for some time.

Past Zoning Approvals
The subject use was established under a use variance without an expiry date, which is not permitted today. However, while the use is not particularly compatible in a residential area, it was legally established and is currently operating within the parameters of previously imposed conditions.

Under the original use variance, there was one condition addressing the emission of smoke from the property. The condition reads:

"*That the use permitted by the subject variance shall be vented through the roof*."

Upon requesting an expansion of their business in 2004, additional conditions were imposed as part of a revised use variance, which expires in April 2006. These conditions read as follows:

"*That the applicant shall install a filter in the exhaust outlet ducting, to the satisfaction of the Director of Planning, Property, and Development, to remove the odour and smoke produced during the molding process*"

"*That a venturi style vent be installed on top of the venting stack used to vent the dental laboratory*."

At such time that the current use variance expires, the property will revert back to the previous order, which included the less restrictive conditions.

Recommendation
According to discussion with the applicant and based on plans submitted, the proposed expansion will provide additional office space but will not result in more manufacturing activity, which would increase the level of smoke emissions.

Thus, while this use is not particularly desirable at its current location, a rezoning to "C1.5" Commercial is recommended for the following reasons:

1) *Improved conditions dealing with the emissions of smoke can be applied, monitored, and enforced through a zoning agreement*

After discussion with the applicant, they have agreed to add a second charcoal filter to further reduce the smell from their emissions. Coupled with the previous condition, which require a venturi vent (which helps to dissipate the smoke), these conditions provide the City with some ability to ensure that the use is operating in a manner which does not have an adverse impact on adjacent residences. Without a zoning agreement, these conditions cannot be imposed.

2) *The level of manufacturing activity is not expanding, resulting in a no measurable increase in impact on the community.*

3) *Permitted uses can be restricted in order to avoid the establishment of other incompatible uses adjacent to residences.*

4) *Signage, height, and bulk standards can be limited in order to avoid the scale and external appearance of the building appearing out of context in a residential environment.*

5) *An encroachment agreement can be included through the zoning agreement.*

The subject building has no off street parking. For some time, the City boulevard in front of the building has been paved and used as a parking area for this building. However, the owner was never required to enter into an encroachment agreement with the City, which would legalize this type of arrangement. Subsequent to the last adjournment of this item in May, the applicant was advised that he would be required to enter into an encroachment agreement if he was prepared to continue to use the City boulevard for parking.

The applicant proceeded to make an application for an encroachment agreement, which has been accepted. The applicant will be required to enter into this agreement prior to the registering of the By-law for the zoning change.

Update

On October 11, 2005, the LSWK Community Committee recommended that this application be adjourned to allow time for the following to occur:

1. The applicant to install a second charcoal filter
2. The Administration to monitor the effect of the above installation and to report back to Committee on whether the filter proved successful in removing the odour and smoke produced during the moulding process.

The Planning and Land Use Division has attended the property and verified that a second charcoal filter was installed. Likewise, the Division has verified that there have been no complaints received by the City since the last hearing in October.

RECOMMENDATION:

I. That By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 207/04, attached hereto and dated, February 25, 2004 to a "C1.5" Residential District.

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 Act, to provide for the following:

1. That, for the development of any building, accessory parking area or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Lord Selkirk - West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development;.

2. That land usage be restricted as follows;
   i. The following uses shall NOT be permitted on the land:

AUTOMOBILE, including motorcycle: RENTAL, SALES, including accessory
REPAIR, SERVICE, INSTALLATION OF SUPPLIES/PARTS
AUTOMOBILE, including motorcycle: SUPPLIES/PARTS, SALES
BEER: SALES
BINGO PARLOUR
BOWLING ALLEY
BUS STATION
COCKTAIL LOUNGE
CONTRACTORS' ESTABLISHMENT
EXTERMINATOR
FUEL: SALES kiosk
HOTEL, including MOTEL, limited to guest rooms
LIQUOR: SALES
PARKING AREA, non-accessory
TATTOO PARLOUR
TIRE: SALES, SERVICE

3. That, there shall be no free standing identification signs and there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.

4. That, no illuminated signage be erected on the north, east, or south sides of the building;

5. That, prior to the issuance of any occupancy permits, all garbage containers be fully enclosed by a brick/concrete, and/or wood barrier fence that is at least 6 inches above the top of the garbage container, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development;

6. That building height be limited to a maximum of 30 feet

7. That Floor Area Ratio be limited to a maximum of 1.0

8. That the applicant shall install **two** charcoal filters in the exhaust outlet ducting, to the satisfaction of the Director of Planning, Property, and Development, to remove the odour and smoke produced during the molding process and be thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

9. That a venturi style vent be installed on top of the venting stack used to vent the dental laboratory and be thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

10. That an encroachment agreement with the City of Winnipeg shall be entered into for the parking area in the boulevard on the east side of Salter Avenue and thereafter maintained to the satisfaction of the Director of Planning, Property, and Development .

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

III. That, a 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.

IV. That, the City Solicitor 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 as a first charge 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 be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter Act.

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

Report Prepared by: Michael Robinson, AICP
PPD File # 3.309

By-Law No. _____

File No. **DAZ 207/04**

Atlas Sheet No. **V26**

N

LORD SELKIRK WEST KILDONAN COMMUNITY

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 713 Salter Avenue from a "C1" COMMERCIAL DISTRICT to a "C1.5" COMMERCIAL DISTRICT as shown outlined below.

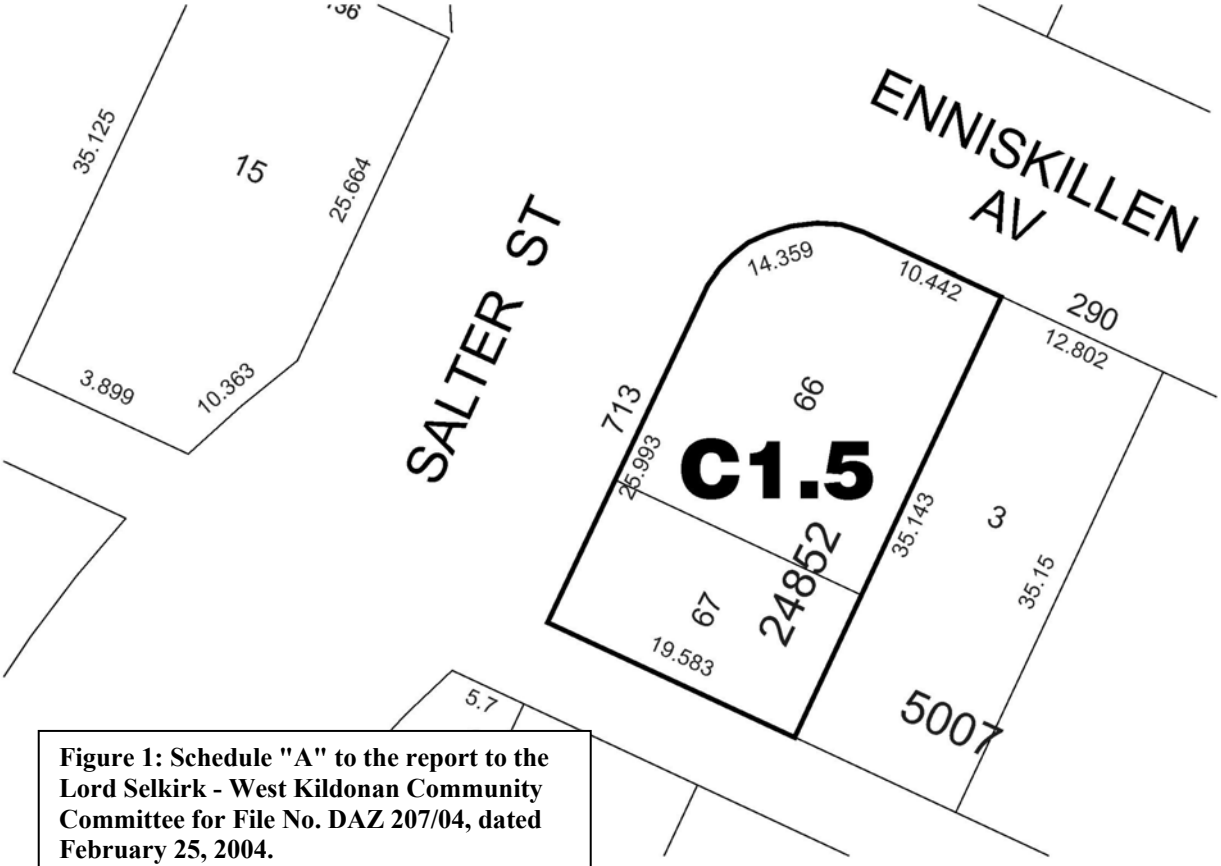


Figure 1: Schedule "A" to the report to the Lord Selkirk - West Kildonan Community Committee for File No. DAZ 207/04, dated February 25, 2004.

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____



Figure 2: Air photo of subject property.

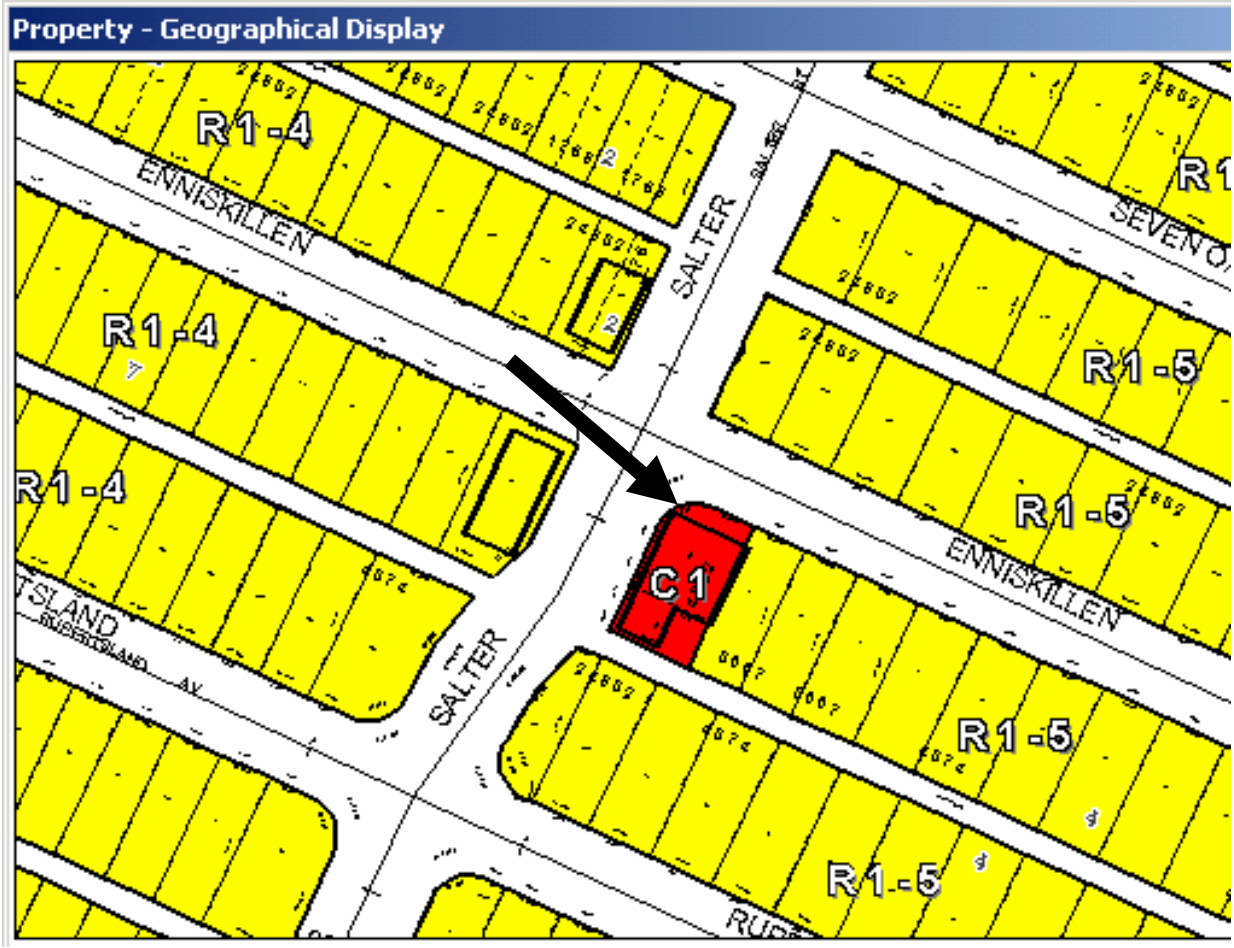


Figure 3: Zoning Map of subject property.



Figure 4: View along Salter Street looking east.



Figure 5: View behind 713 Salter Street adjacent to public lane looking northeast.

Exhibit “17” referred to in File DAZ 207/2004

In reply please refer to / Référence à rappeler :

Michael Robinson, AICP
(204) 986-3213
Fax / Téléc. : (204) 986-3684

Revised

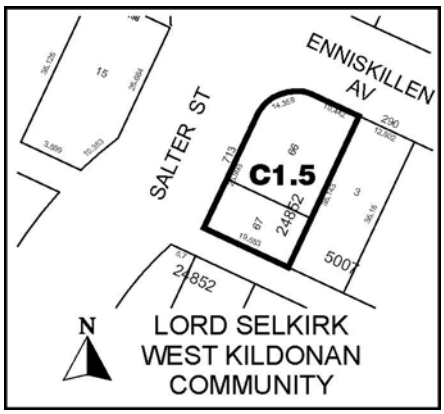
File No. DAZ 207/04 September 29, 2005
Our c/f CP 500 (.309)

Ms. Diane Timmins, Community Clerk
Lord Selkirk - West Kildonan Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

REZONING
713 Salter Avenue
Lord Selkirk - West Kildonan Community Committee
File No. DAZ 207/04

An application has been received from Rick Wenaus, to amend By-Law No. 6400/94 by rezoning the land shown below from a “C1” Commercial District to a “C1.5” Commercial District to allow for the expansion of a dental laboratory.

RELATED FILES: DAV 180/2000C; DAV04-111696D



4132

SITE DESCRIPTION:

Site Area:
669.848 square meters (7,210.4198 square feet)

Existing Land Use and Zoning:
Multi-tenant, one storey commercial building zoned "C1".

Surrounding Land Use and Zoning:

North: Across Enniskillen, single-family dwellings zoned "R1-5".
South: Across rear public lane, single-family dwellings zoned "R1-5".
East: Single-family dwellings zoned "R1-5".
West: Across Salter Avenue, Multiple Family Dwelling, zoned "R1-4".

DEVELOPMENT DESCRIPTION:

The applicant intends to expand an existing dental lab that manufactures dental appliances from 1,700 square feet to 2,310 square feet.

PLAN WINNIPEG:

The subject parcel falls within a designated Neighbourhood Policy Area under Plan Winnipeg, which allows for a variety of residential, commercial, institutional, and mixed uses; thus, the proposed rezoning is in conformance with Plan Winnipeg 2020.

ADMINISTRATIVE COMMENTS:

Background
The dental laboratory, which has eight employees, operates from 9:00 a.m. to 5:00 p.m., Monday to Friday. The business is closed on Saturday and Sunday unless a dentist needs emergency service.

Dental laboratories are not a permitted use in "C1". However, a previous variance order granted by the Board of Adjustment allowed for the dental laboratory to initially be established in the existing building with a maximum size of 1,700 square feet.

Subsequently, a variance order by the LSWK Community Committee in April 2004 permitted an expansion of the use to 2310 square feet, with an expiry date of April 30, 2006.

A rezoning to consider the same item was reviewed at the April 20, 2004 LSWK Community Committee meeting. At that meeting, the item was adjourned until April 12, 2005. Since that time, the matter has been dealt with as follows:

- April, 12, 2005 Adjourned until May 2005
- May 10, 2005 Adjourned until October 11, 2005

Administrative Comments

As mentioned above, the applicant is requesting a rezoning to allow a permanent expansion to 2310 square feet. The applicant has indicated that the expansion will provide for additional office space.

The laboratory manufactures appliances, which are used by the dental industry. As part of the manufacturing process, materials are burned and black smoke is emitted through a stack which is located on the roof of the building. At times, the smoke can be heavy and have a pungent odour. In the past, the Department has received complaints from residents about the smoke. However, no complaints have been received for some time.

Past Zoning Approvals
The subject use was established under a use variance without an expiry date, which is not permitted today. However, while the use is not particularly compatible in a residential area, it was legally established and is currently operating within the parameters of previously imposed conditions.

Under the original use variance, there was one condition addressing the emission of smoke from the property. The condition reads:

"*That the use permitted by the subject variance shall be vented through the roof*."

Upon requesting an expansion of their business in 2004, additional conditions were imposed as part of a revised use variance, which expires in April 2006. These conditions read as follows:

"*That the applicant shall install a filter in the exhaust outlet ducting, to the satisfaction of the Director of Planning, Property, and Development, to remove the odour and smoke produced during the molding process*"

"*That a venturi style vent be installed on top of the venting stack used to vent the dental laboratory*."

At such time that the current use variance expires, the property will revert back to the previous order, which included the less restrictive conditions.

Recommendation
According to discussion with the applicant and based on plans submitted, the proposed expansion will provide additional office space but will not result in more manufacturing activity, which would increase the level of smoke emissions.

Thus, while this use is not particularly desirable at its current location, a rezoning to "C1.5" Commercial is recommended for the following reasons:

6) *Improved conditions dealing with the emissions of smoke can be applied, monitored, and enforced through a zoning agreement*

After discussion with the applicant, they have agreed to add a second charcoal filter to further reduce the smell from their emissions. Coupled with the previous condition, which require a venturi vent (which helps to dissipate the smoke), these conditions provide the City with some ability to ensure that the use is operating in a manner which does not have an adverse impact on adjacent residences. Without a zoning agreement, these conditions cannot be imposed.

7) *The level of manufacturing activity is not expanding, resulting in a no measurable increase in impact on the community.*

8) *Permitted uses can be restricted in order to avoid the establishment of other incompatible uses adjacent to residences.*

9) *Signage, height, and bulk standards can be limited in order to avoid the scale and external appearance of the building appearing out of context in a residential environment.*

10) *An encroachment agreement can be included through the zoning agreement.*

The subject building has no off street parking. For some time, the City boulevard in front of the building has been paved and used as a parking area for this building. However, the owner was never required to enter into an encroachment agreement with the City, which would legalize this type of arrangement. Subsequent to the last adjournment of this item in May, the applicant was advised that he would be required to enter into an encroachment agreement if he was prepared to continue to use the City boulevard for parking.

The applicant proceeded to make an application for an encroachment agreement, which has been accepted. At this time, a contract is being prepared.

RECOMMENDATION:

I. That By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 207/04, attached hereto and dated, September 29, 2005 to a "C1.5" Residential District.

   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 Act, to provide for the following:

1. That, for the development of any building, accessory parking area or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Lord Selkirk - West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development;.

2. That land usage be restricted as follows;
   i. The following uses shall NOT be permitted on the land:

   AUTOMOBILE, including motorcycle: RENTAL, SALES, including accessory
   REPAIR, SERVICE, INSTALLATION OF SUPPLIES/PARTS
   AUTOMOBILE, including motorcycle: SUPPLIES/PARTS, SALES
   BEER: SALES
   BINGO PARLOUR
   BOWLING ALLEY
   BUS STATION
   COCKTAIL LOUNGE
   CONTRACTORS' ESTABLISHMENT
   EXTERMINATOR
   FUEL: SALES kiosk
   HOTEL, including MOTEL, limited to guest rooms
   LIQUOR: SALES
   PARKING AREA, non-accessory
   TATTOO PARLOUR
   TIRE: SALES, SERVICE

3. That, there shall be no free standing identification signs and there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.

4. That, no illuminated signage be erected on the north, east, or south sides of the building;

5. That, prior to the issuance of any occupancy permits, all garbage containers be fully enclosed by a brick/concrete, and/or wood barrier fence that is at least 6 inches above the top of the garbage container, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development;

6. That building height be limited to a maximum of 30 feet

7. That Floor Area Ratio be limited to a maximum of 1.0

8. That the applicant shall install **two** charcoal filters in the exhaust outlet ducting, to the satisfaction of the Director of Planning, Property, and

Development, to remove the odour and smoke produced during the molding process and be thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

9. That a venturi style vent be installed on top of the venting stack used to vent the dental laboratory and be thereafter maintained to the satisfaction of the Director of Planning, Property, and Development.

10. That an encroachment agreement with the City of Winnipeg shall be entered into for the parking area in the boulevard on the east side of Salter Avenue and thereafter maintained to the satisfaction of the Director of Planning, Property, and Development .

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

III. That, a 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.

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

VII. That, the City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter Act.

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

Report Prepared by: Michael Robinson, AICP
PPD File # 3.309

By-Law No. _____

File No. **DAZ 207/04**

Atlas Sheet No. **V26**

N

LORD SELKIRK WEST KILDONAN COMMUNITY

Explanation

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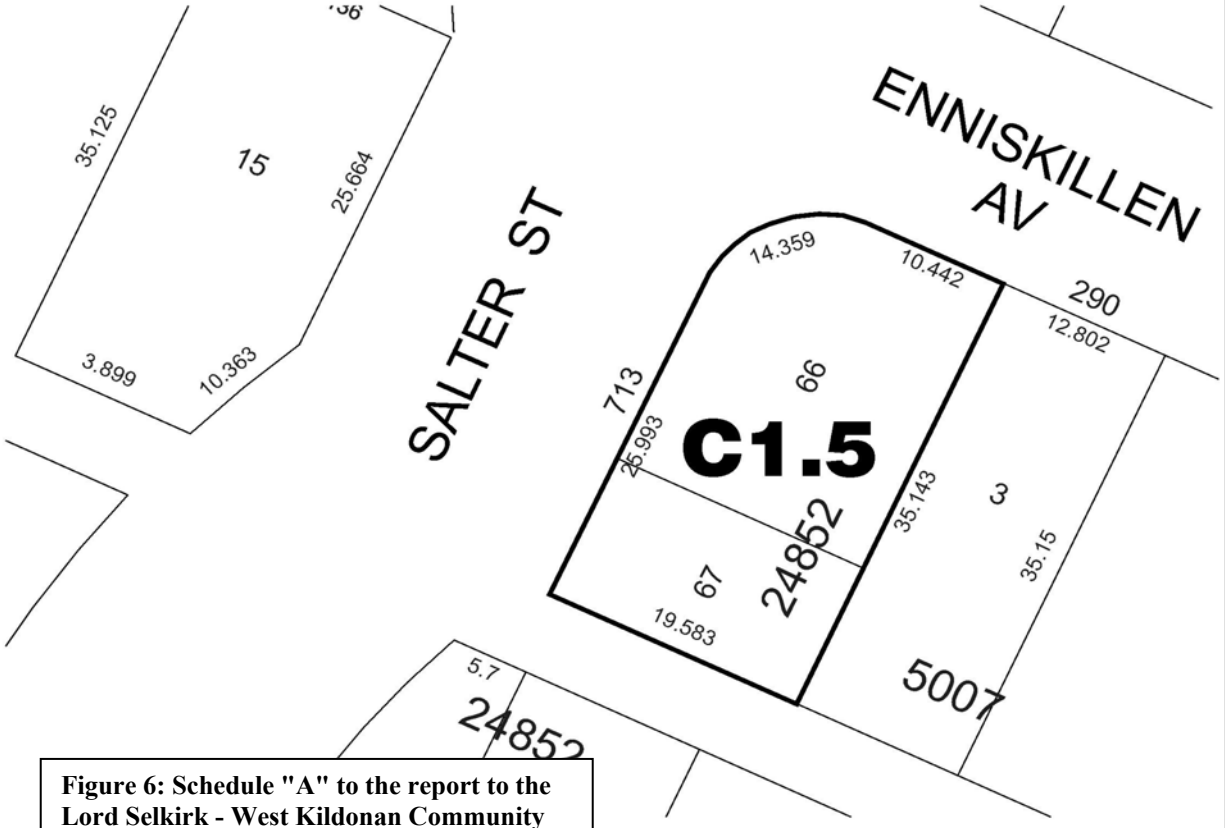


Figure 6: Schedule "A" to the report to the Lord Selkirk - West Kildonan Community Committee for File No. DAZ 207/04, dated September 29, 2005.

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____



Figure 7: Air photo of subject property.

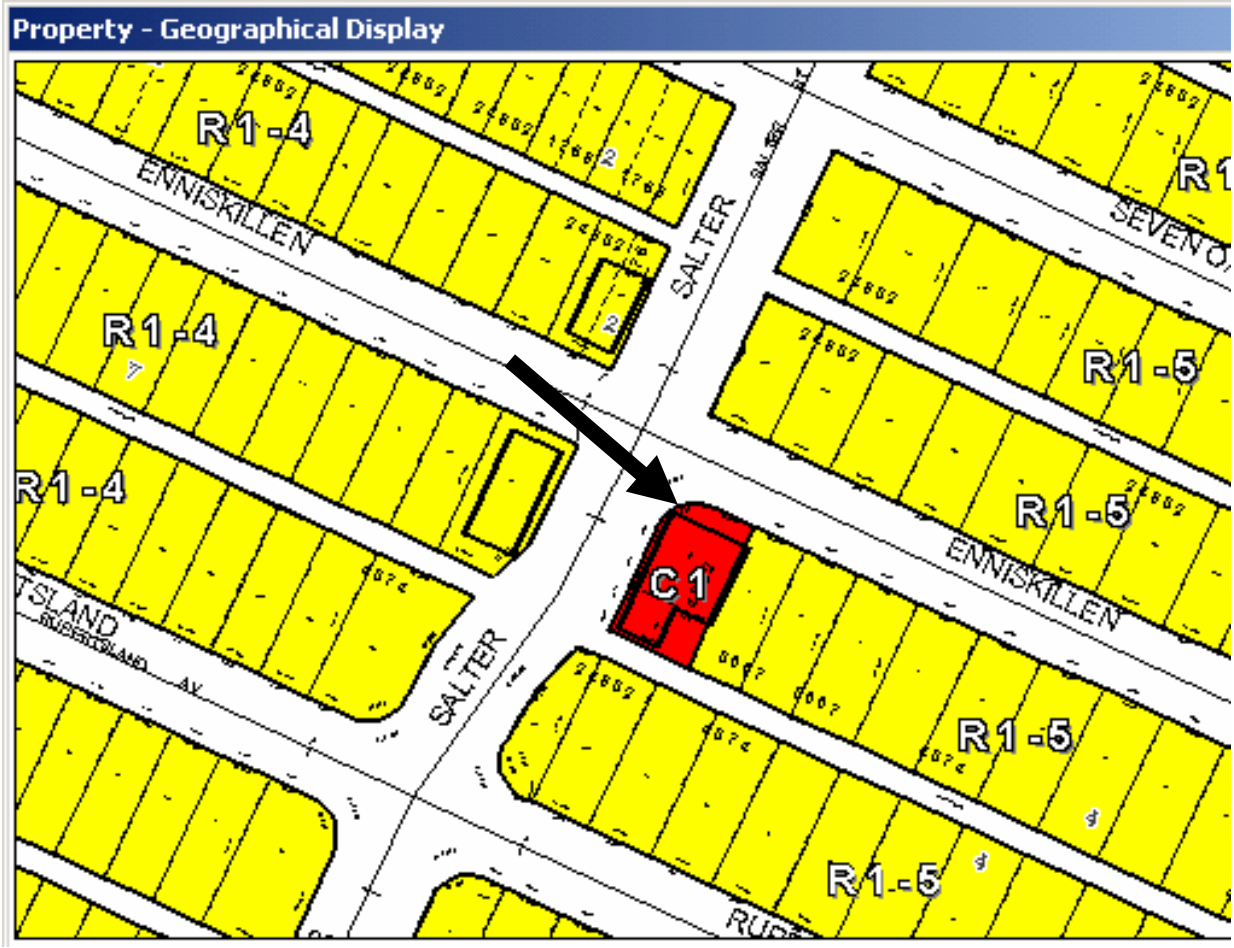


Figure 8: Zoning Map of subject property.



Figure 9: View along Salter Street looking east.



Figure 10: View behind 713 Salter Street adjacent to public lane looking northeast.

Exhibit "16" referred to in File DAZ 207/2004

In reply please refer to / Référence à rappeler : **Michael Robinson**
(204) 986-3213
Fax / Téléc. : (204) 986-3684

File No. DAZ 207/04 **May 2, 2005**
Community: Lord Selkirk-West Kildonan

PROPERTY: 713 SALTER STREET
SUBJECT: REZONING

The Planning and Land Use Division recommends that the above referenced matter be adjourned until the Lord Selkirk – West Kildonan Community Committee hearing scheduled for October 11, 2005 for the following reasons:

- The applicant does not currently have an encroachment agreement with the City to allow for private parking in the City boulevard. The Division recommends that a decision not be rendered until the applicant enters into an encroachment agreement with the City – a process which can take up to 3 months to complete.

- The Public Works Department has indicated that 45 degree-angled parking spaces should be striped to improve ingress and egress. The Division recommends that this striping be done by the applicant - pending approval of the encroachment agreement -.prior to a decision on the rezoning being rendered.

- Upon inspecting the property, the District Planner identified that noxious smoke was being vented from the roof vent of the subject property. A condition of approval for DAV 111696/2004D, which granted a use variance to allow a floor area expansion, was as follows:

  That the applicant shall install a filter in the exhaust outlet ducting, to the satisfaction of the Director of Planning, Property, and Development, to remove the odour and smoke produced during the molding process.

The applicant has been informed that he did not meet this condition on at least one occasion and has agreed to explore methods of providing additional mitigation of smoke and odour. The applicant has indicated that he would need some time to look into this further.

Yours truly,

C. Knoll
Manager of Planning and Land Use

_____

Per: Michael Robinson, AICP
Planner
Planning and Land Use Division
986-3213