Agenda - Council - June 28, 2006

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

Item No. 10 Rezoning - 765 Dufferin Avenue
File DAZ 202/2006

STANDING COMMITTEE RECOMMENDATION:

On June 21, 2006, 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 202/2006 dated March 27, 2006, to a "C2" Commercial District subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

        i. That the rezoning be limited to the following uses:
            a. Contractor's establishment
            b. All uses permitted in the "R2-T" Two-Family Transitional District.

        ii. That the height of all buildings be limited to two (2) stories and thirty (30) feet.

        iii. That there shall be no free standing identification or advertising signs including mobile sign, poster signs and A-frames permitted on the property.

        iv. That no internally illuminated signage be erected on the property.

        v. That no outdoor storage of materials shall be permitted on the property.

        vi. That no vehicular access to the property shall occur from the rear lane.

        vii. That a minimum four (4) foot high fence shall be maintained along the rear property line.

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

viii. That final plans showing the location and details of building elevations, parking areas, landscaping, fencing, garbage enclosures and lighting shall be submitted to the Director of Planning, Property and Development for approval prior to the issuing of any development or building permits; thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

2. 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.

3. 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.

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 (3) readings.

5. 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.

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.

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

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 21, 2006, 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 submitted the matter to Council.

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 administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 765 Dufferin Avenue**
File DAZ 202/2006 [c/r DAV 112276/2006D]

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 administrative recommendation 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 202/2006 dated March 27, 2006, to a "C2" Commercial District, subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter, to provide for the following:

        i. That the rezoning be limited to the following uses:
            a. Contractor's establishment
            b. All uses permitted in the "R2-T" Two-family Transitional District.

        ii. That the height of all buildings be limited to two (2) stories and 30 feet.

        iii. That there shall be no free standing identification or advertising signs including mobile sign, poster signs, and A-frames permitted on the property.

        iv. That no internally illuminated signage be erected on the property.

        v. That no outdoor storage of materials shall be permitted on the property.

        vi. That no vehicular access to the property shall occur from the rear lane.

        vii. That a minimum 4 foot high fence shall be maintained along the rear property line.

ix. That final plans showing the location and details of building elevations, parking areas, landscaping, fencing, and garbage enclosures, and lighting shall be submitted to the Director of Planning, Property and Development for approval prior to the issuing of any development or building permits; thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

2. 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.

3. 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.

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 (3) readings.

5. 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.

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 report from the Planning and Land Use Division dated March 27, 2006.

PUBLIC HEARING SUMMARY

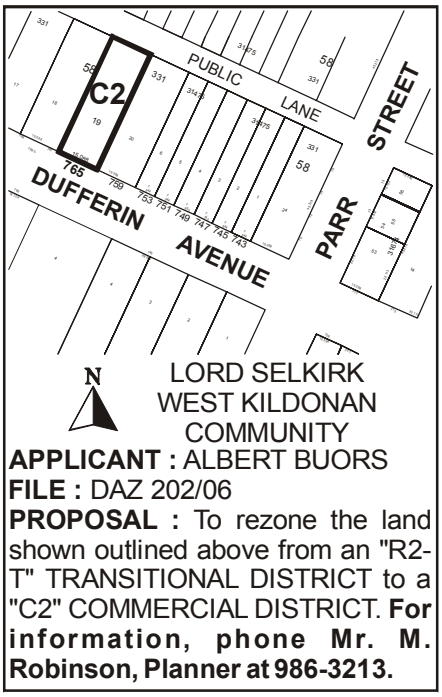
File: DAZ 202/2006 [c/r DAV 112276/2006D]

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

Public Hearing: April 25, 2006
West Committee Room, Council Building,
510 Main Street

Applicant: Albert Buors

Subject:



Premises Affected: 765 Dufferin Avenue

Exhibits Filed:
1. Application dated March 13, 2006
2. Notification of Public Hearing dated March 17, 2006
3. Certificate of Title A23233
4. Letter of authorization dated December 8, 2005 from Fedora Equipment Co. Ltd. to Albert Buors
5. Surveyor's Building Location Certificate and sketch dated January 5, 2006

6. Drawing of subject property
7. Report from the Planning and Land Use Division dated March 27, 2006
8. Inspection Report

REPRESENTATIONS:

In Support:

Albert Buors

In Opposition

Nil

For the City:

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

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Albert Buors appeared in support of the application and indicated concurrence in the recommendations outlined in the report of the Planning and Land Use Division dated March 27, 2006. Mr. Buors questioned that inasmuch as it is being recommended that there be no access from the rear lane, what would be involved in the future to which the Planner, Mr. Robinson, indicated this would necessitate a Zoning Agreement Amendment. Mr. Robinson clarified this restriction was intended to keep the residential and commercial traffic separate.

Exhibit "7" referred to in File DAZ 202/2006 [c/r DAV 112276/2006D]

Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: **March 27, 2006**
File: **DAZ 202/06**
Related Files: **DAV 06-112276/D**
Subject: **To amend By-Law No. 6400/94 by rezoning the land shown below from an "R2-T" Residential District to a "C2" Commercial District to allow for the establishment of a contractor's establishment in an existing commercial building.**

Location: **765 Dufferin Avenue**



Applicant: **Albert Buors**
Owner: **Fedora Equipment Company Ltd.**

Recommendation: **Approval**

Report Summary

- **The property was previously established as a tractor service and parts shop**
- **The applicant is proposing to establish a electrical and air conditioning repair business**
- **The proposed use is compatible with the surrounding area**
- The proposed use will not have an adverse impact on adjacent properties

- The Planning and Land Use Division is recommending approval with conditions

Site Description

The subject site, which is zoned "R2-T" Residential, is located on Dufferin Avenue between Arlington and Parr Streets, in the Dufferin neighbourhood of the Mynarski ward. **North:** Residences zoned "R2-T" Two-Family Transitional Residential
South: Industrial uses zoned "M1" Industrial
East: Residences zoned "R2-T" Two-Family Transitional Residential
West: Residences zoned "R2-T" Two-Family Transitional Residential

Background

The subject site was previously established as a tractor service and parts shop. The business, which ceased operation, was classified as a non-conforming use in the "R2-T" Two-Family Residential District.

Under the rules of a non-conforming use provided in Section 180 and 182 of Zoning By-Law 6400/94, any future owner may continue to operate it only within the exact same use type that it had prior to its closure. Any other commercial or industrial use requires a rezoning to a zoning district where the proposed use is either permitted or conditional.

Description of the Proposed Development

The applicant is proposing to establish an electrical and air conditioning repair business in an existing commercial building at 765 Dufferin Avenue. The applicant has indicated that the business will have 4 employees and the hours of operation will be from 8am-5pm, Monday through Saturday. No outdoor storage of materials will take place.

Analysis

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.

Compatibility with existing neighbourhood and surrounding uses

The subject property, which is flanked by residences, and zoned "R2-T" Residential District, has been established as a tractor service and parts business for many years. While it is not customary to encourage the survival of a non-conforming use once it closes down, each situation must be examined on a case by case basis considering the specific nature of the replacement use, the particular context of the area, development patterns in the area, and community input.

Proposed use

The previous use, which was a tractor service and parts business, was very intensive in nature and incorporated the outdoor storage of a number of vehicles and parts on the site (Figure 1). As a result of this business closing down, the lot has been cleaned up and the vehicles and parts have been removed. The reestablishment of a similar use at this location would not compatible with the surrounding area and would have a substantial adverse effect on adjacent properties. The

proposed new use, however, will be a much better fit with the surrounding area for the following reasons:

Off site impacts
The proposed business will operate completely within the confines of the existing building. Given the nature of the use, it is not anticipated that any off-site impacts, such as noise, odours, and/or vibrations will be generated by the proposed use.

Parking and Traffic
The business will operate primarily during business hours and with only four employees, is not anticipated to generate a heavy amount of traffic. Four parking stalls will be provided in the proposed parking area in the rear and access to the parking area will come directly from Dufferin Avenue, rather than the rear lane.

Site design
As previously mentioned, the site has already been cleaned up and the vehicles and parts have been removed. However, the applicant will further improve the site by paving the parking lot and driveway and installing new fencing along the east and west property lines. In the same vein, it is recommended that the applicant install landscaping wherever possible to provide buffering and improve the presentation of the property.

Context and Development Patterns
The subject property is located across from the Dufferin Industrial neighbourhood (Industrial Policy Area) and is situated in a neighbourhood that is experiencing some distress. In light of this, the probability that the subject property will be redeveloped as a residence in the near term, is relatively low. With that said, an adaptive reuse of the existing building for a compatible commercial use is the highest and best use of the property at this time.

Community Input
At the time of this writing, the Planning and Land Use Division has not been contacted by anyone in opposition to this application.

Conditions
In light of the fact that the subject block is primarily residential in nature, standard conditions are being recommended to ensure that there is minimal impact on adjacent properties.

Building
In the opinion of the Planning and Land Use Division, given the primarily residential nature of the block, it is important that any redevelopment of this property be compatible with the surrounding community. In that vein, while the "C2" District has a maximum height allowance of 45 feet, the street, with a few exceptions, is characterized by low commercial buildings and two and two ½ story residences with heights ranging from 25-35 feet. Therefore, it is recommended that in order to respect the context of the area, the maximum allowable building height be limited to 2 stories and 30 feet.

Access and fencing
In light of the fact that there is an approach from Dufferin Avenue, it is desirable to restrict access to the property from the rear, in order to avoid mixing residential and commercial traffic in the rear lane. Similarly, it is recommended that a minimum 4-foot high fence be maintained along the rear property line to ensure that vehicular access from the rear does not occur. It should be noted that this condition has already been met with a 6-foot high chain link fence in the rear.

Signage
Similarly, given the residential nature of the block, it is recommended that conditions be included to control signage by limiting glare and the visual impact on the street.

Lighting
It is important that any lighting which is provided is low and full cut off, to reduce glare.

Outdoor Storage
Outdoor storage is currently not permitted in the "C2" Commercial District. However, should the By-law change in the future, including this item in the zoning agreement will ensure that any change to permit outdoor storage will require a Zoning Amendment Agreement, which is considered by Community Committee.

Recommendation

The Planning and Land Use Division recommend approval for the following reasons:

- Proposal meets Plan Winnipeg policies which allow for a variety of uses in the Neighbourhood Policy Area;
- The proposed use will not create an adverse effect on the amenities, use, safety and convenience of the adjoining properties and adjacent area;
- Restricted commercial is the highest and best use for the property at this time.

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 202/06, attached hereto and dated March 27, 2006, 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. This rezoning to "C2" is limited to the following uses
   a) Contractor's establishment
   b) All uses permitted in the "R2-T" Two-family Transitional District
2. That the height of all buildings be limited to 2 stories and 30 feet
3. That, there shall be no free standing identification or advertising signs including mobile sign, poster signs, and A-frames permitted on the property.
4. That no internally illuminated signage be erected on the property.
5. That no outdoor storage of materials shall be permitted on the property.
6. That no vehicular access to the property shall occur from the rear lane
7. That a minimum 4 foot high fence shall be maintained along the rear property line
8. That final plans showing the location and details of **building elevations**, **parking areas**, **landscaping, fencing, and garbage enclosures, and lighting** shall be submitted to the Director of Planning, Property and Development for approval prior to the issuing of any development or building permits; thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

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 (3) 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: Michael Robinson, AICP
PPD File # DAZ 202/06

Schedule "A"

By-Law No. _____

File No. **DAZ 202/06**

Atlas Sheet No. **X23**

N

LORD SELKIRK WEST KILDONAN COMMUNITY

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 765 Dufferin Avenue from an "R2-T" TRANSITIONAL DISTRICT to a "C2" COMMERCIAL DISTRICT as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Schedule "A" to the report to the Lord Selkirk-West Kildonan Community Committee for file # DAZ 202/06 dated March 27, 2006.

4158



Figure 1: Aerial Photo (Flown in 2005)