Minute No. 527
Report - Standing Policy Committee on Property and Development - May 2, 2006

Item No. 3 Rezoning – 112 Osborne Street
File DAZ 209/2006

COUNCIL DECISION:

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

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 209/2006 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 following uses shall be prohibited:
         a. "amusement enterprise, outdoor";
         b. "automobile washing";
         c. "drive-through facility";
         d. "exterminator";
         e. "fuel: sales kiosk";
         f. "mobile home park";
         g. "restaurant, drive-in or drive-through"; and
         h. "taxidermist";

      ii. That the "Cabaret" use shall not exceed 8,000 square feet of floor area.

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.

Report - Standing Policy Committee on Property and Development - May 2, 2006

COUNCIL DECISION (continued):

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 - May 2, 2006

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,
That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 17, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the City Centre Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On May 2, 2006, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 4, 2006, the City Centre Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning – 112 Osborne Street**
File DAZ 209/2006 [c/r DCU 113343/2006D and DAV 113339/2006D]

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

Prepared by: **Josie Marques, Clerk,**
City Centre Community Committee

Report date: **April 6, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 4, 2006, the City Centre 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 shown on Schedule "A", for file DAZ 209/2006, 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 following uses shall be prohibited:
            a. "amusement enterprise, outdoor";
            b. "automobile washing";
            c. "drive-through facility";
            d. "exterminator";
            e. "fuel: sales kiosk";
            f. "mobile home park";
            g. "restaurant, drive-in or drive-through"; and
            h. "taxidermist";

        ii. That the "Cabaret" use shall not exceed 8000 square feet of floor area.

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 City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. The development is in accordance with Plan Winnipeg and the neighbourhood.

PUBLIC HEARING SUMMARY

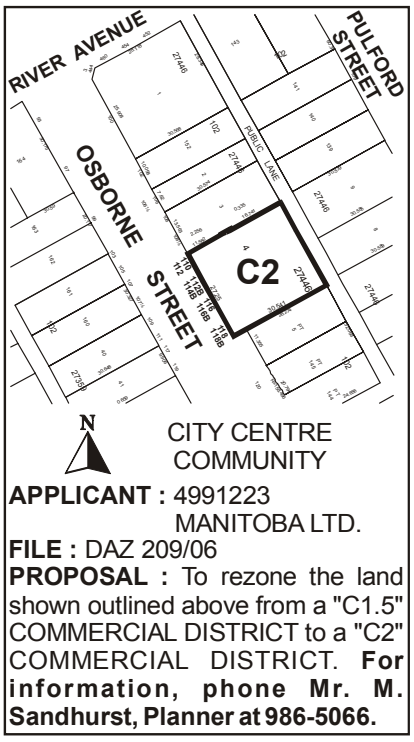
File: DAZ 209/2006 [c/r DCU 113343/2006D and DAV 113339/2006D]

Before: City Centre Community Committee
Councillor Gerbasi, Chairperson
Councillor Benham
Councillor Smith

Public Hearing: April 4, 2006
Council Chamber
Council Building, 510 Main Street

Applicant: 4991223 Manitoba Ltd. (Toad in the Hole Pub & Eatery)
(Michael Monk)

Subject:



Premises Affected: 112 Osborne Street

Exhibits Filed:
1. Application dated February 21, 2006
2. Notification of Public Hearing dated March 6, 2006
3. Manitoba Status of Title 1990983

4. Letter of authorization dated February 16, 2006 from Khanh Tran, 4786638 Manitoba Ltd., to Michael Monk, President, Toad in the Hole Pub & Eatery, 4991223 Manitoba Ltd.
5. Drawing of subject property
6. Plans (2 pages)
7. Report from the Manager of Planning and Land Use dated March 27, 2006
8. Inspection Report

REPRESENTATIONS:

In Support:
Michael Monk and Daniel Dealey

In Opposition
Nil

For Information:
Nil

For the City:
Mr. M. Sandhurst, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

No verbal representation was made at the public hearing.

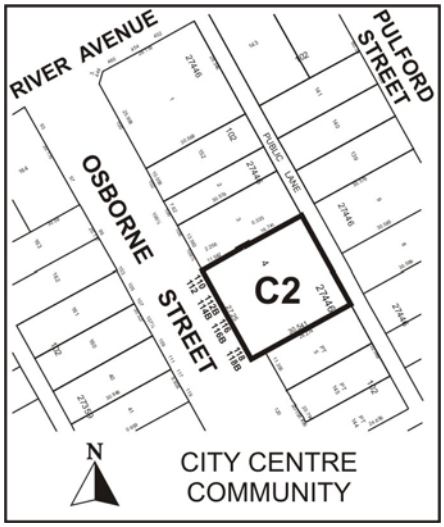
Exhibit "7" referred to in File DAZ 209/2006 [c/r DCU 113343/2006D and DAV 113339/2006D]

Winnipeg

Planning, Property and Development Department Report

To City Centre Community Committee

Date: March 27, 2006
File: **DAZ 209/06**
Related Files: DCU 06-113343/D, DAV 113339/D
Subject: To amend By-Law No. 6400/94 by rezoning the land shown below from a "C1.5" Commercial District to a "C2" Commercial District.



Location: 112 Osborne Street
Legal Description: Lot 4, Plan 27446

Applicant: 4991223 Manitoba Ltd. (Toad In the Hole) Michael Monk
Owner: 4786638 Manitoba Ltd.

Recommendation: *Approved with conditions*

Site Description
The subject site is located along the east side of Osborne Street, within the heart of Osborne Village. The multi-tenant building is zoned "C1.5" Commercial District and is distinguished by its exterior vestibule, which provides stairway access to main and lower floor tenant spaces. The applicant leases up-and-down space at the north end of the building for restaurant and cocktail lounge purposes. Adjacent uses include restaurants, boutiques, personal services, retailers, offices, and a nightclub—all zoned "C1.5" Commercial District.

Description of the Proposed Development
The applicant intends to carry on current operations, but under a cabaret liquor license. Such a license simplifies service and more accurately reflects the range of current and anticipated operations—including the recently renovated lower level, live music venue.

In addition to the rezoning, conditional use approval is also necessary in order to establish a "Cabaret" use in the "C2" Commercial District. This is the subject of Conditional Use file DCU 06-113343/D. In addition, in order to establish the cabaret prior to the rezoning being put into force and effect, use variance application has been made. This is the subject of DAV 113339/D.

Analysis
This portion of Osborne Village is designated "Neighbourhood" under *Plan Winnipeg*. This designation accommodates the mix of uses characteristic of Osborne Street and the surrounding neighbourhoods of River-Osborne, Roslyn, and McMillan. The proposed rezoning to "C2" Commercial District is necessary in order to accommodate the proposed "Cabaret" use. The property is located within the Osborne Village neighbourhood main street area, which extends from Roslyn Avenue to McMillan Avenue. Although it is unorthodox to spot-rezone a property within a "C1.5" district, Planning & Land Use Division supports this application due to forthcoming changes to the *Winnipeg Zoning By-Law* #6400/94—including elimination of the "C1.5" district.

Recommendation

The Planning and Land Use Division recommends approval for the following reasons:
- The proposal is consistent with *Plan Winnipeg*; and
- The proposed cabaret use will better accommodate a valued community institution.

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 209/06, 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. That the following uses shall be prohibited:
   a) "Amusement enterprise, outdoor";
   b) "Automobile washing";
   c) "Drive-through facility";
   d) "Exterminator";
   e) "Fuel: sales kiosk";
   f) "Mobile home park";
   g) "Restaurant, drive-in or drive-through"; and
   h) "Taxidermist";
2. That the "Cabaret" use shall not exceed 8000 square feet of floor area.

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.

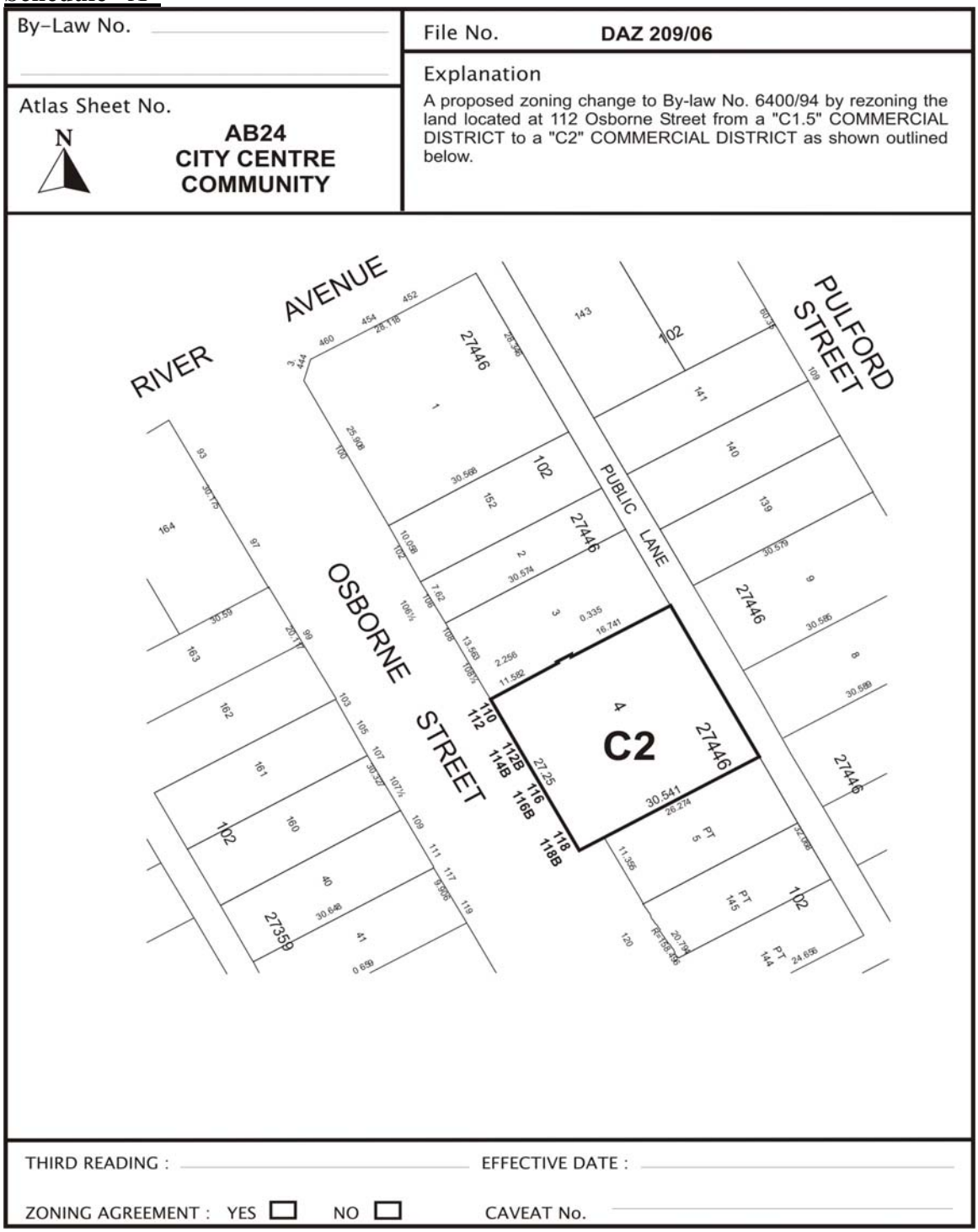
V. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by 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: planner
PPD File # DAZ 209/06

Schedule "A"



Schedule "A" to the report to City Centre Community Committee for file # DAZ 209/06 dated March 27, 2006.