Agenda – Council - July 26, 2006

Report - Standing Policy Committee on Property and Development – July 4, 2006

Item No. 18 Zoning Agreement Amendment - 943 McPhillips Street
File ZAA 7/2006 [c/r DAZ 214/98]

STANDING COMMITTEE RECOMMENDATION:

On July 19, 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 Zoning Agreement under File DAZ 214/98 dated June 24, 1998 (By-law No. 7238/98), be amended as follows:

   A. That Clause 3 be deleted and substituted with the following:

   "That commercial retail/personal service operations not exceed 1,000 square feet of floor space."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 214/98 (By-law No. 7238/98) dated June 24, 1998, as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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 – July 4, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 19, 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 July 4, 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 June 20, 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: **Zoning Agreement Amendment - 943 McPhillips Street**
File ZAA 7/2006

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

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

Report date: **June 26, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 20, 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 Zoning Agreement under File DAZ 214/98 dated June 24, 1998 (By-law No. 7238/98) be amended as follows:

   A. That Clause 3 be deleted and substituted with the following:

      "That commercial retail/personal service operations not exceed 1,000 square feet of floor space."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 214/98 (By-law No. 7238/98) dated June 24, 1998 as approved in aforesaid Clause I.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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 May 31, 2006.

PUBLIC HEARING SUMMARY

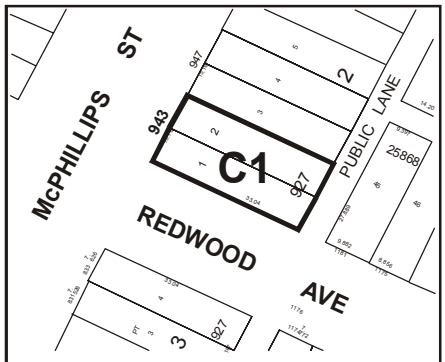
File: ZAA 7/2006

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

Public Hearing: June 20, 2006
West Committee Room, Council Building
510 Main Street

Applicant: Keith Penner

Subject:



APPLICANT : MR. K. PENNER
FILE : ZAA 7/06
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above by deleting the clause 3 which reads as follows "the commercial operation shall be restricted to a maximum floor area of 1,000 square feet". **For information, phone Mr. M. Robinson, Planner at 986-3213.**

Premises Affected: 943 McPhillips Street

Exhibits Filed:
1. Application dated May 23, 2006
2. Notification of Public Hearing dated May 24, 2006
3. Manitoba Status of Title 2091249
4. Surveyor's Sketch dated May 25, 1994
5. Plan

5236

6. Report from the Planning and Land Use Division dated May 31, 2006
7. Inspection Report

REPRESENTATIONS:

In Support:

Keith Penner

In Opposition

Nil

For the City:

Mr. E. Carriere, Land Development Engineer, Planning, Property and Development Department
Mr. J. Wintrup, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Keith Penner appeared in support of the application and indicated concurrence in the recommendations outlined in the report of the Planning and Land Use Division dated May 31, 2006.

Exhibit "6" referred to in File ZAA 7/2006

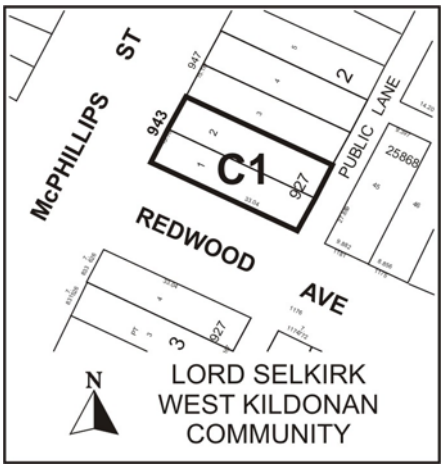
Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: **May 31, 2006**
File: **ZAA 7/06**
Related Files: **DAZ 214/98**
Subject: **Application to amend zoning agreement DAZ 214/98 (Caveat 2513060) by deleting Clause 3 which reads "The commercial operation shall be restricted to a maximum floor area of 1,000 square feet."**

Location: **943 McPhillips Street**



Applicant: **Keith Penner**
Owner: **Same**

Recommendation: **That the zoning agreement be amended**

Report Summary:

- **The Planning and Land Use Division recommends that the zoning agreement be amended**
- **The applicant wishes to establish a rental office space on the second floor of the subject property**

- **A zoning agreement on the property currently limits the total amount of commercial square footage to 1,000 square feet**
- **The proposal would increase the total amount of commercial square footage to 1,670 square feet**

Site Description

The subject property, which is zoned "C1" Commercial, is located at the northeast corner of Redwood Avenue and McPhillips Street, is located in the Burrows Central neighbourhood of the Point Douglas Ward.

North: Residences zoned "R1-4" Residential
South: Residences zoned "R2" Two-Family Residential
East: Residences zoned "R1-4" Residential
West: Commercial use zoned "C1" Commercial

Background

The subject property was rezoned (DAZ 214/98) from an "R1-4" Residential District to a "C1" Commercial District in 1998 to accommodate a small flower shop, which had been operating since 1994, under a use variance (DAV 258/94C). In 2005, the current occupant, a hair salon, was established at the premises.

In conjunction with the rezoning, a zoning agreement was placed on the property. The zoning agreement reads as follows:

1. *That the following uses not be permitted on the land*
    a) *Audio/Video Recordings: rental, sales*
    b) *Electronic Equipment: rental, sales, service*

2. *That commercial operations not exceed 1,000 square feet of floor space*

Description of the Proposed Development
The applicant, who operates a 1,000 square foot hair salon on the first floor of the subject property, wishes to convert the second floor (670 square feet) into rental office space. However, the above referenced zoning agreement on the property restricts the total commercial square footage to 1,000 square feet.

Consequently, the applicant is requesting that of the existing zoning agreement (By-Law No. 7238/98) be amended by deleting Clause No. 2, which restricts commercial operations to 1,000 square feet.

Analysis

Zoning Agreement

At the time the subject property was rezoned, the then owner of the property was intending to establish retail on the first floor and to reside on the second floor. At the same time, the subject site was atypically small for a new commercial use and consequently, the on-site parking was limited. Finally, the property is located in an area that exhibits a mix of residential and commercial uses. In light of these factors, the administration felt that the intensity should be controlled and recommended that the commercial operations be limited to 1,000 square feet.

Proposed amendment

At this time, the applicant is requesting permission to use the second floor for office space. Whereas the Planning and Land Use Division feels that it is still appropriate to limit commercial retail operations to 1,000 square feet, the Division feels that an office is an appropriate use on the second floor and would not be inconsistent with the intent of the original zoning agreement. All the required parking for the office can be accommodated on site. Additionally, it is expected that an office will have hours that are compatible with the mixed residential/commercial neighbourhood and that an office will not generate a significant amount of additional traffic on local streets. Amending the agreement to allow for an office will allow the owner to more fully utilize the building while still maintaining compatibility with the adjoining residential properties.

Recommendation

The Planning and Land Use Division recommends that the zoning amending the subject zoning agreement as summarized below:

That Clause No. 2 be amended to read:

"That commercial **retail/personal service** operations not exceed 1,000 square feet of floor space"

Recommended Conditions of Approval

I. That the Zoning Agreement under File DAZ 214/98 dated June 24, 1998 (By-law No. 7238/98) be amended as follows:

   A. That Clause 3 be deleted and substituted with the following:

      "That commercial retail/personal service operations not exceed 1,000 square feet of floor space."

II. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 214/98 (By-Law #7238/98), dated, June 24, 1998 as approved in aforesaid Clause I.

III. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

IV. 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 # 3.303



Figure 1: Aerial Photo (Flown in 2005)