Agenda – Council – September 27, 2006

Report - Standing Policy Committee on Property and Development – September 5, 2006

Item No. 15 Rezoning - 437 Stradbrook Avenue
File DAZ 223/2006

STANDING COMMITTEE RECOMMENDATION:

On September 21, 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 submits the following to Council:

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 223/2006 dated June 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 eight thousand (8,000) square feet of floor area.

        iii. That the service area (not including kitchen preparation areas, administrative offices, washrooms, building services and the seasonal outdoor patio) shall include a clearly identified and delineated dining room area that comprises a minimum of thirty (30%) percent of the overall service 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.

Report - Standing Policy Committee on Property and Development – September 5, 2006

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 – September 5, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 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 September 5, 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 July 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 - 437 Stradbrook Avenue**
File DAZ 223/2006 [c/r DCU 134719/2006D & DAV 134721/2006D]

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

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

Report date: **July 6, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 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 223/2006, dated June 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;

      iii. that the service area (not including kitchen preparation areas, administrative offices, washrooms, building services, and the seasonal outdoor patio) shall include a clearly identified and delineated dining room area that comprises a minimum of 30% of the overall service 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 similar to what has been previously approved in the area.
2. The development will not cause any disruption to the area.
3. There was no opposition to the application.

PUBLIC HEARING SUMMARY

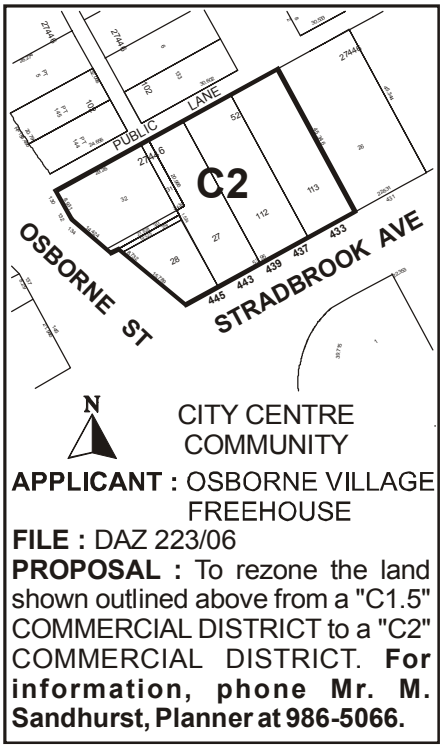
File: DAZ 223/2006 [c/r DCU 134719/2006D & DAV 134721/2006D]

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

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

Applicant: Osborne Village Freehouse (Derek Diebel)

Subject:



Premises Affected: 437 Stradbrook Avenue

Exhibits Filed:

1. Application dated June 6, 2006
2. Notification of Public Hearing dated June 9, 2006
3. Manitoba Status of Title 1449685
4. Letter of authorization dated May 18, 2006 from Roger Kangas and Jean Hart-Kangas, Spotlight Properties to Osborne Village Freehouse

5. Surveyor's Building Location Certificate and sketch dated September 22, 2004
6. Plans (2 pages)
7. Report from the Planning and Land Use Division dated June 27, 2006
8. Inspection Report

REPRESENTATIONS:

In Support:

Derek Diebel
Brent Petersen

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 223/2006 [c/r DCU 134719/2006D & DAV 134721/2006D]

Winnipeg

Planning, Property and Development Department Report

To City Centre Community Committee

Date: June 27, 2006
File: **DAZ 223/06**
Related Files: DCU 134719/D, DAV 06-134721/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: 437 Stradbrook Avenue
Legal Description: Firstly: SP Lots 27, 28, and 29 Plan 27446 WLTO together with a right-of-way for all purposes and as appurtenant to said Lots 28 and 29 over and upon Lot 30 as shown on said plan and subject to right-of-way for all purposes as appurtenant to Lots 30 and 32 as shown on said plan over an upon said Lot 29 in RL 36 and 37 Parish of St. Boniface.

Secondly: Lots 112 and 113 Plan 52 WLTO (W DIV) in RL 36 Parish of St. Boniface.



Applicant: Osborne Village Freehouse (Derek Diebel)
Owner: Spotlight Properties Ltd.

Recommendation: *Approved*

Site Description
The subject site is located at the north east corner of Stradbrook Avenue and Osborne Street, within the heart of Osborne Village. The L-shaped multi-tenant building is zoned "C1.5" Commercial District. The applicant leases a commercial rental unit for restaurant and cocktail lounge purposes. Within the same building, uses include boutiques, personal services, and offices.



Subject site: aerial photo flown 2005.

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 current and anticipated operations.

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 06-134719/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 134721/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
- Recommended conditions of approval will ensure the proposed cabaret's scale and operational characteristics remain considerate of its immediate neighbours and the village milieu.

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 223/06, attached hereto and dated June 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.
3. That the service area (not including kitchen preparation areas, administrative offices, washrooms, building services, and the seasonal outdoor patio) shall include a clearly identified and delineated dining room area that comprises a minimum of 30% of the overall service 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: M. Sandhurst
PPD File # DAZ 223/06

Schedule "A"

By-Law No. _____

File No. **DAZ 223/06**

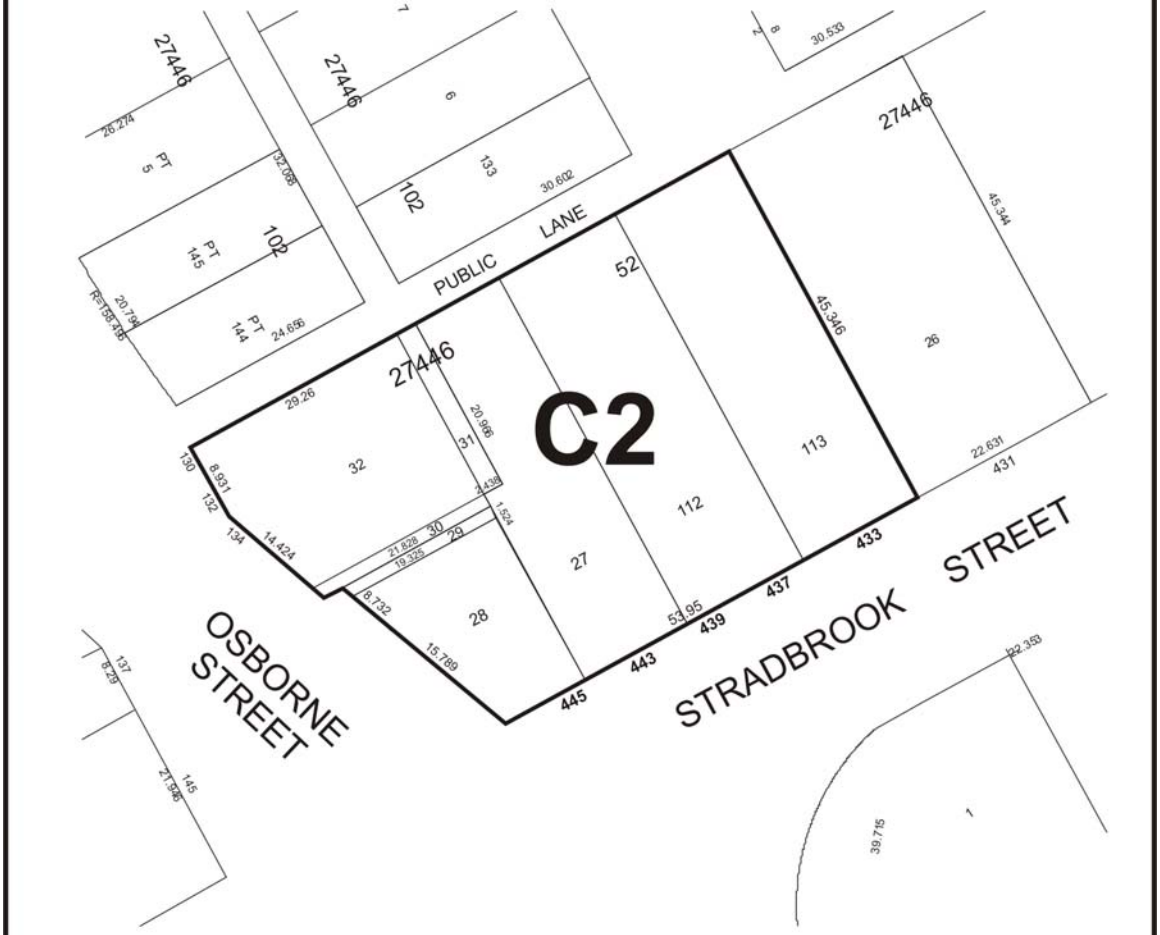
Atlas Sheet No.

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AB24
CITY CENTRE
COMMUNITY

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 437 Stradbrook Avenue from a "C1.5" COMMERCIAL 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 City Centre Community Committee for file # DAZ 223/06 dated June 27, 2006.