Agenda – Council – September 27, 2006

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

Item No. 16 Rezoning – 159 Borebank Street
File DAZ 224/2006

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 224/2006 dated June 27, 2006, to a "C1" 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 site be developed and maintained in substantial conformity with the plans submitted and identified as Exhibit 8.

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.

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

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 – 159 Borebank Street**
File DAZ 224/2006 [c/r DAV 135469/2006D]

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

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

Report date: **July 7, 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 224/2006, dated June 27, 2006, to a "C1" 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 site be developed and maintained in substantial conformity with the plans submitted and identified as Exhibit 8.

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. There are businesses already across the street.
2. This will be a locally owned and operate business
3. There is support from the Academy Road BIZ for the application.
4. The ability to walk to businesses is part of the character and amenities of the neighbourhood.
5. The applicant has offered her parking stalls for use by the neighbourhood church.
6. The traffic issues are already in existence and this development will only contribute a few more cars.

PUBLIC HEARING SUMMARY

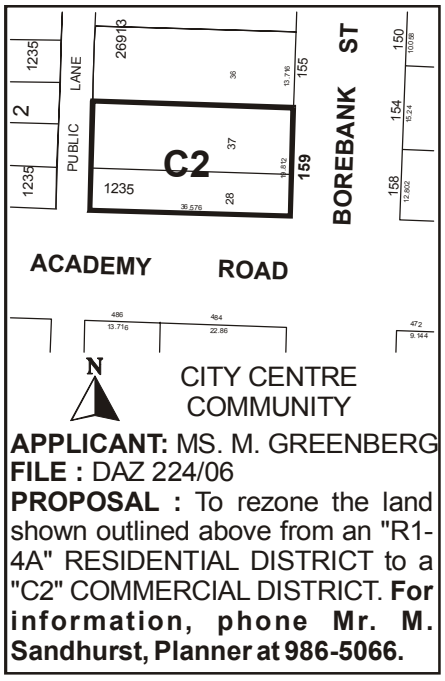
File: DAZ 224/2006 [c/r DAV 135469/2006D]

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: Mindy Greenberg

Subject:



Premises Affected: 159 Borebank Street

Exhibits Filed:

1. Application dated June 2, 2006
2. Notification of Public Hearing dated June 8, 2006
3. Manitoba Status of Title2005886
4. Letter of authorization dated May 25, 2006 from Peter Adamo and Seema Schachter to Mindy Greenberg
5. Surveyor's Building Location Certificate and sketch dated August 22, 2002
6. Drawing of subject property

7. Photographs (5) of subject property
8. Plans (3 pages)
9. Report from the Planning and Land Use Division dated June 27, 2006
10. Petition in opposition to the application purporting to contain the signatures of 47 area residents, submitted by Robert Hilliard
11. Petition in opposition to the application purporting to contain the signatures of 59 area residents, submitted by Robert Hilliard
12. Inspection Report
13. Petition in support of the application purporting to contain the signatures of 20 area business owners, submitted by Mindy Greenberg at the public hearing.
14. Petition in support of the application, purporting to contain the signatures of 41 area residents, submitted by Mindy Greenberg at the public hearing.
15. Petition in support of the application purporting to contain the signatures of 20 area business owners, submitted by Mindy Greenberg at the public hearing.
16. Photographs (13) in support of the application, submitted by Mindy Greenberg at the public hearing.
17. Communication dated June 21, 2006, from Joe Diner, President, J.J. Barnicke Winnipeg Ltd. in support of the application, submitted by Mindy Greenberg at the public hearing.
18. Communication dated June 30, 2006, from Judith Perrin, Manager, Pineridge Hollow Home in support of the application, submitted by Mindy Greenberg at the public hearing.
19. Communication dated June 20, 2006, from Seema Schachter in support of the application, submitted by Mindy Greenberg at the public hearing.
20. Communication (undated), from Barbara Filuk in support of the application, submitted by Mindy Greenberg at the public hearing.
21. Communication dated May 17, 2006, from Lindsey Steek, Lindsey Steek & Company, in support of the application, submitted by Mindy Greenberg at the public hearing.
22. Communication dated June 20, 2006, from Dave Schultz, Chairperson, Academy Road BIZ, in support of the application, submitted by Mindy Greenberg at the public hearing.

23. Communication dated June 16, 2006, from D.M. Malchy in support of the application, submitted by Mindy Greenberg at the public hearing.
24. Communication dated June 29, 2006, from Brian Wortley in support of the application, submitted by Mindy Greenberg at the public hearing.
25. Communication dated June 28, 2006, from Dr. David Newsham, Academy Chiropractic Centre, in support of the application, submitted by Mindy Greenberg at the public hearing.
26. Presentation in opposition to the application submitted by Robert Hilliard at the public hearing.

REPRESENTATIONS:

In Support:

Ruth Adelman
Doris Alarie
Joe Diner, President, J.J. Barnicke Winnipeg Ltd.
Andrew Bickford
Shashawna Braun
Davide and Rick Costantini
Harry and Mary Lynn Duckworth
Barbara Filuk
Mindy Greenberg
Murray Hill
Itzik Jordan
Michelle Lalonde
Allyson Liklater
D.M. Malchy
David Newsham, Academy Chiropractic Centre
Judith Perrin, Pineridge Hollow Home Décor Gifts Beauty
Maryann Power
Seema Schachter
Dave Schultz, Chairperson, Academy Road BIZ
Lindsay Steek, Lindsey Steek & Company
Susan Stenson
Dorothy Taylor
Brian Wortley

In Opposition

Pat Allenby
Marjorie Eckert
D. Englot, Church of Jesus Christ of Latter-day Saints
Robert Hilliard
Sonia Hosfield
Shirley Lush
Leslie Turnbull

For Information:

Fred Curry
Ron Penner

For the City:

Mr. M. Sandhurst, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Mindy Greenberg, appeared in support of the application and gave a brief overview of the proposal. Ms Greenberg stated she was a long time business operator on Academy Road and wanted to continue doing so.

Murray Hill appeared in support of the application. Mr. Hill stated the applicant was a very good long time business operator and neighbour.

Andrew Bickford appeared in support of the application and reiterated the comments of the previous speaker.

Dorothy Taylor appeared in support of the application and reiterated the comments of the previous speaker.

Itzik Jordan appeared in support of the application and reiterated the comments of the previous speakers.

Maryann Power appeared in support of the application ad reiterated the comments of the previous speakers.

Lindsay Steek appeared in support of the application and reiterated the comments of the previous speakers.

Marjorie Eckert appeared in opposition to the application. Ms Eckert stated concerns the with commerce encroaching on the residential area.

Rob Hilliard appeared in opposition of the application and read into the record a presentation filed as Exhibit 26. In response to committee's questions, Mr. Hillard stated an adequate amount of businesses existed on Acamedy Avenue.

Sonia Hosfield appeared in opposition to the application and stated concerns with traffic and parking.

Doug Englot, Church of Jesus Christ of Latter-day Saints, appeared in opposition to the application. Mr. Englot stated concerns with parking.

Leslie Turnball appeared in opposition to the application. Ms Turnball reiterated the concerns of the previous speakers. She also stated that the people most effected by the application had all signed the petitions in opposition filed as Exhibits 10 and 11.

Fred Curry appeared for information. Mr. Curry gave a brief history of the area.

In rebuttal, the applicant Mindy Greenberg, stated that her business was a high end boutique with a one-on-one client service and limited hours of operation. Ms Greenberg also stated she did not operate on Sundays and offered her parking spaces to the Church of Jesus Christ of Latter-day Saints for their use then. In response to committee's questions, Ms Greenberg stated she previously rented space and now wanted to own the location for her business and originally was told to apply for "C2" Commercial District, because of the zoning designation across the street, but concurred with the recommended "C1" Commercial District as it was all her business needed.

In response to the committee's questions, the Senior Planner explained the difference between the "C1" and "C2" Commercial District regulations.

Exhibit "9" referred to in File DAZ 224/2006 [c/r DAV 135469/2006D]

Winnipeg

Planning, Property and Development Department Report

To City Centre Community Committee

Date: June 27, 2006
File: **DAZ 224/06**
Related Files: DAV 06-135469/D
Subject: To amend By-Law No. 6400/94 by rezoning the land shown below from an "R1-4A" Single-Family District to a "C2" Commercial District.

Location: 159 Borebank Street
Legal Description: Lot 28 BL 2 PL 1235, Lot 37 PL 26913



Applicant: Mindy Greenberg
Owner: Peter Adamo & Seema Schachter

Recommendation: *Approved rezoning to "C1" Commercial District*

Site Description

The subject site is located at the north west corner of Borebank Street and Academy Road. It is currently developed with a single-family dwelling, zoned "R1-4A" Single-Family District. Surrounding properties are predominantly single-family, although there's a church to the immediate west (across the public lane) and low-intensity commercial to the south (across Academy), zoned "C2" Commercial District.



Subject site: aerial photo flown 2005.

Description of the Proposed Development
The applicant intends to establish a boutique retail store within the existing single-family building. The building entrance is to be relocated and oriented towards Academy Road. Parking for five vehicles is to be provided with direct access via the public lane.

Analysis
This portion of North River Heights is designated "Neighbourhood" under *Plan Winnipeg*. This designation accommodates a range of residential densities and forms, commercial uses, institutional uses, and parks and recreation uses. The subject site is developed with a single-family dwelling that fronts Borebank Street. The site is unusually wide—approximately 64-foot width instead of the 50-foot wide lots common to this area.

Although there are commercial and institutional uses at the Academy / Borebank intersection, this location is between the two Academy commercial clusters (to the west beginning at Renfrew Street; to the east beginning at Queenston Street). Commercial conversions of residential properties in this context must be carefully selected and designed, in order to discourage future speculative conversions at other locations and to minimize negative impacts on neighbouring properties.

Without a public lane paralleling Academy Road, there's no clear demarcation between residential and commercial properties. City Centre Community Committee should anticipate future requests to establish commercial uses at other locations along Academy Road, as well as proposals to establish low-density multiple-family dwellings. From this perspective, each proposal to establish a new commercial use at a residential location is ground-breaking and should be considered on its own merits, despite Academy's regional right-of-way status.

The applicant has operated a boutique retail store in the 400-block of Academy Road for many years. Plans indicate the existing dwelling at 159 Borebank Street will be converted to a storefront oriented towards Academy Road to accommodate this boutique. No additions are proposed. Five parking spaces can be provided, with access via the north-south public lane along the rear of the property. This use, the scale of operations proposed, and the site development plans represent a reasonable redevelopment given the immediate context. In order to ensure compatibility of use, scale, and character, Planning & Land Use Division recommends rezoning to "C1" local commercial district instead of the "C2" intensive commercial district requested, along with a Zoning Agreement.

Recommendation

The Planning and Land Use Division recommends the subject site be rezoned to "C1" Local Commercial District for the following reasons:

- The proposed redevelopment of the subject site for low-intensity commercial uses is consistent with *Plan Winnipeg*;
- Adaptive reuse of the existing building and its proposed re-orientation towards Academy Road maintains existing built form and minimizes impacts on adjacent residential properties.

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 224/06, attached hereto and dated June 27, 2006, to a "C1" 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 site be developed and maintained in substantial conformity with the plans submitted and identified as Exhibit ___, dated June 2, 2006.

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.

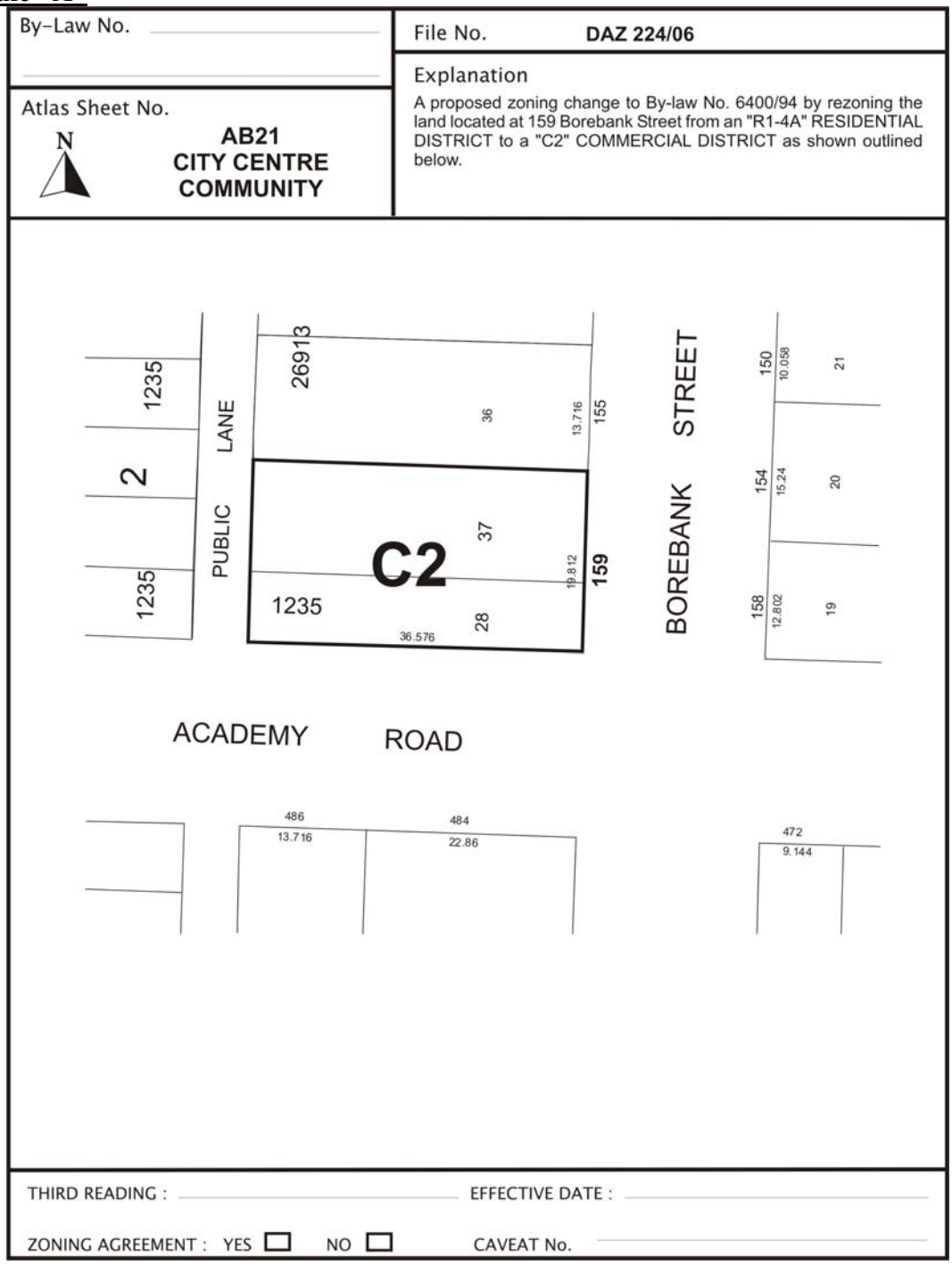
VI. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

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

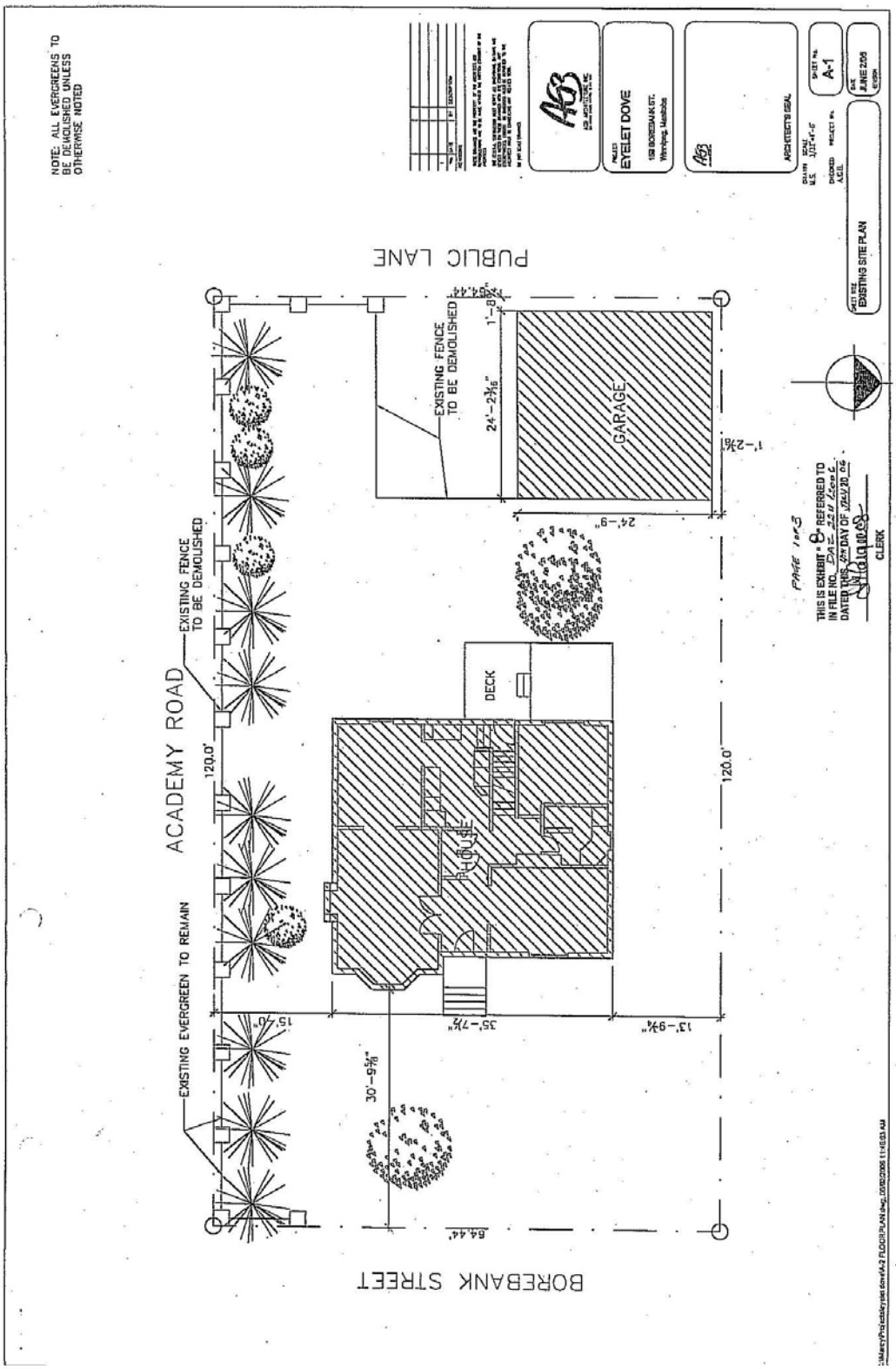
Report Prepared by: M. Sandhurst
PPD File # DAZ 224/06

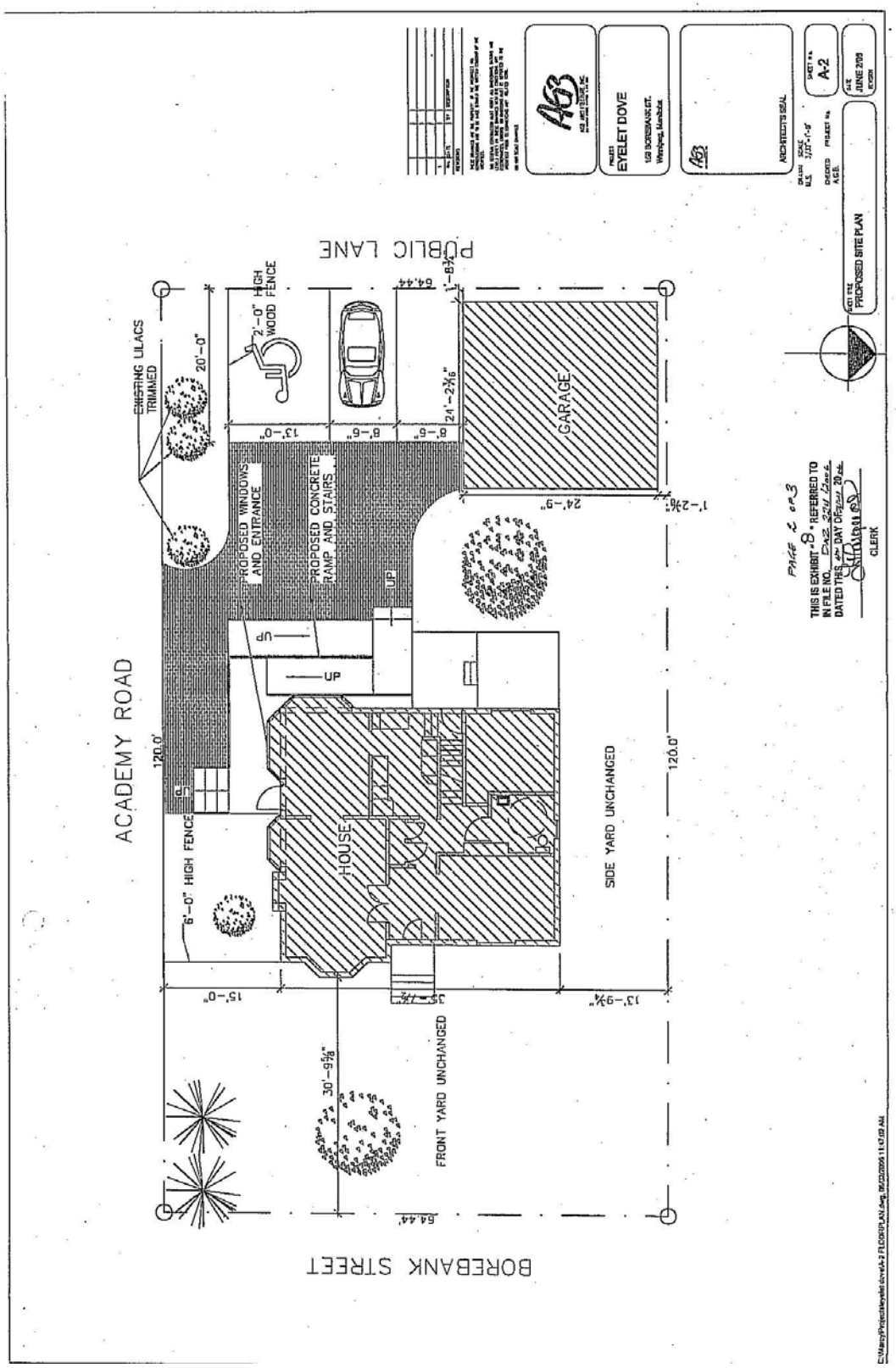
Schedule "A"

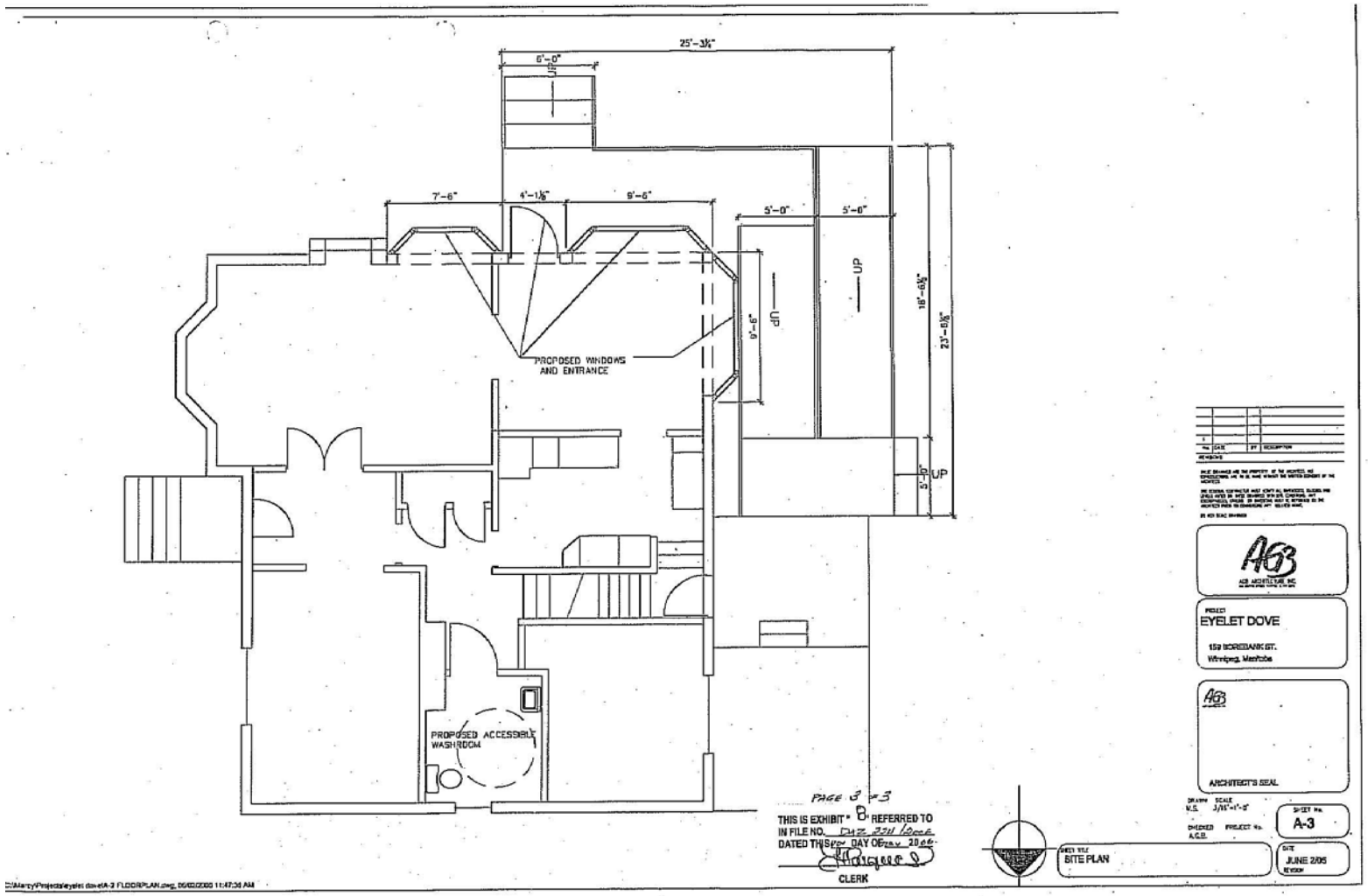


Schedule "A" to the report to City Centre Community Committee for file # DAZ 224/06 dated June 27, 2006.

Exhibit “8” referred to in File DAZ 224/2006 [c/r DAV 135469/2006D]




ACADEMY ROAD
BOREBANK STREET
PUBLIC LANE
EXISTING LILACS TRIMMED
20'-0"
2'-0" HIGH WOOD FENCE
6'-0" HIGH FENCE
PROPOSED WINDOWS AND ENTRANCE
PROPOSED CONCRETE RAMP AND STAIRS
UP
HOUSE
GARAGE
SIDE YARD UNCHANGED
FRONT YARD UNCHANGED
120.0'
64.44'
24'-9"
13'-0"
8'-6"
15'-0"
30'-9⅝"
EYELET DOVE
ARCHITECTS SEAL
A-2
JUNE 2005
PROPOSED SITE PLAN
THIS IS EXHIBIT "8" REFERRED TO IN FILE NO.
DATED THIS
CLERK


25'-3¼"
6'-0"
7'-6"
4'-1⅛"
9'-6"
5'-0"
5'-0"
UP
UP
UP
UP
9'-6"
18'-6½"
23'-8⅛"
5'-0"
PROPOSED WINDOWS AND ENTRANCE
PROPOSED ACCESSIBLE WASHROOM
PAGE 3 of 3
THIS IS EXHIBIT "B" REFERRED TO
IN FILE NO. DAZ 224/2006
DATED THIS 20th DAY OF Nov 2006
CLERK
AGB
AGB ARCHITECTURE INC.
PROJECT
EYELET DOVE
159 BOREBANK ST.
Winnipeg, Manitoba
AGB
ARCHITECT'S SEAL
DRAWN M.S.
SCALE 3/16"=1'-0"
CHECKED A.G.B.
PROJECT No.
SHEET No. A-3
SHEET TITLE SITE PLAN
DATE JUNE 2/05
REVISION
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