Agenda - Council - January 24, 2007

Report - Standing Policy Committee on Property and Development - January 9, 2007

Item No. 15 Rezoning – 482 River Avenue/98–100 Gerard Street
File DAZ 237/2006

STANDING COMMITTEE RECOMMENDATION:

On January 17, 2007, 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 237/2006 dated November 6, 2006, to a "C1.5" 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 not be permitted:

            a. "automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts"
            b. "exterminator"
            c. "fuel: sales, kiosk" and
            d. "taxidermist".

        ii. That the maximum height of any buildings shall not exceed three (3) storeys (excluding basements).

        iii. That the mixed-use development be maintained in substantial conformity with plans submitted and identified as Exhibit 9.

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 - January 9, 2007

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 - January 9, 2007

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 17, 2007, 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 January 9, 2007, 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 November 14, 2006, the City Centre Community Committee concurred in the administrative recommendation with the following amendment, namely:

- Recommendation 1.A.ii

  Delete the words “thirty (30) feet” and replace with the words “3 storeys (excluding basements)”,

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

RE: **Rezoning – 482 River Avenue / 98 – 100 Gerard Street**
File DAZ 237/2006

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

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

Report date: **November 17, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 14, 2006, the City Centre Community Committee concurred in the administrative recommendation, as amended, 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 No. DAZ 237/2006 dated November 6, 2006, to a "C1.5" 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 not be permitted:

            a. "automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts"
            b. "exterminator"
            c. "fuel: sales, kiosk" and
            d. "taxidermist";

        ii. that the maximum height of any buildings shall not exceed ~~***thirty (30) feet***~~ ***3 storeys (excluding basements)***; and

        iii. that the mixed-use development be maintained in substantial conformity with plans submitted and identified as Exhibit 9.

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.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

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

1. The proposal is in keeping with the Osborne Village Neighbourhood Plan.

2. The proposal is great mixed-use development.

3. The proposal was approved and has existed on a temporary basis for along time.

PUBLIC HEARING SUMMARY

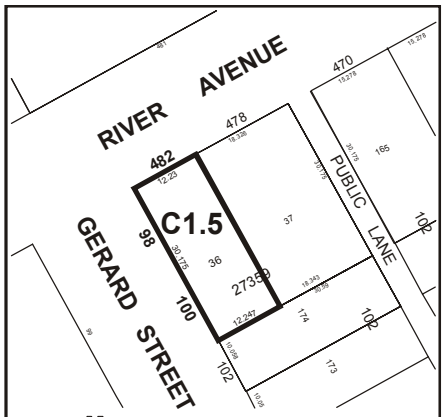
File: DAZ 237/2006

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

Public Hearing: November 14, 2006
West Committee Room
Council Building, 510 Main Street

Applicant: Village Chiropractic Centre (Greg Stokotelny)

Subject:



APPLICANT : VILLAGE CHIROPRACTIC CENTRE
FILE : DAZ 237/06
PROPOSAL : To rezone the land shown outlined above from an "R2-T" TRANSITIONAL DISTRICT to a "C1.5" COMMERCIAL DISTRICT.
For information, phone Mr. M. Sandhurst, Planner at 986-5066.

Premises Affected: 482 River Avenue / 98 – 100 Gerard Street

Exhibits Filed:
1. Application dated September 12, 2006
2. Notification of Public Hearing dated September 19, 2006
3. Manitoba Status of Title1410059
4. Letter of authorization dated June 26, 2006 from Maria DiBernardo to Greg Stokotelny

5. Surveyor's Building Location Certificate and sketch dated August 24, 2006
6. Variance Order DAV 239/96B
7. Variance Order DAV 690/96C
8. Drawing of subject property
9. Plans (2 pages)
10. Report from the Planning and Land Use Division dated November 6, 2006
11. Inspection Report

REPRESENTATIONS:

In Support:

Greg Stokotelny
Maria Dibernardo

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

The applicant, Greg Stokotelny, Village Chiropractic Centre, appeared in support of the application and requested an amendment of the height restriction recommendation to 3 storeys.

The Senior Planner stated concurrence with the request.

Exhibit "10" referred to in File DAZ 237/2006

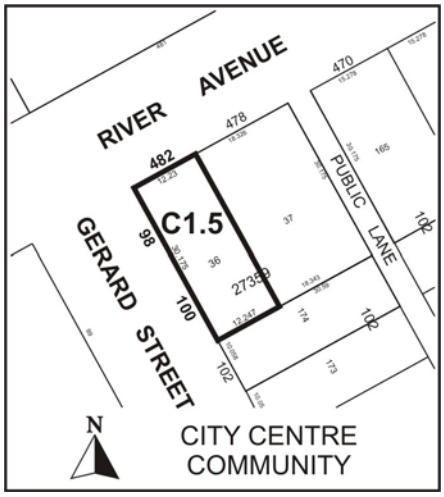
Winnipeg

Planning, Property and Development Department Report

To City Centre Community Committee

Date: November 6, 2006
File: **DAZ 237/06**
Related Files: n/a
Subject: To amend By-Law No. 6400/94 by rezoning the land shown below from an "R2-T" Two-Family District to a "C1.5" Commercial District.

Location: 482 River Avenue (98/100 Gerard Street)
Legal Description: Lot 36, Plan 27 359

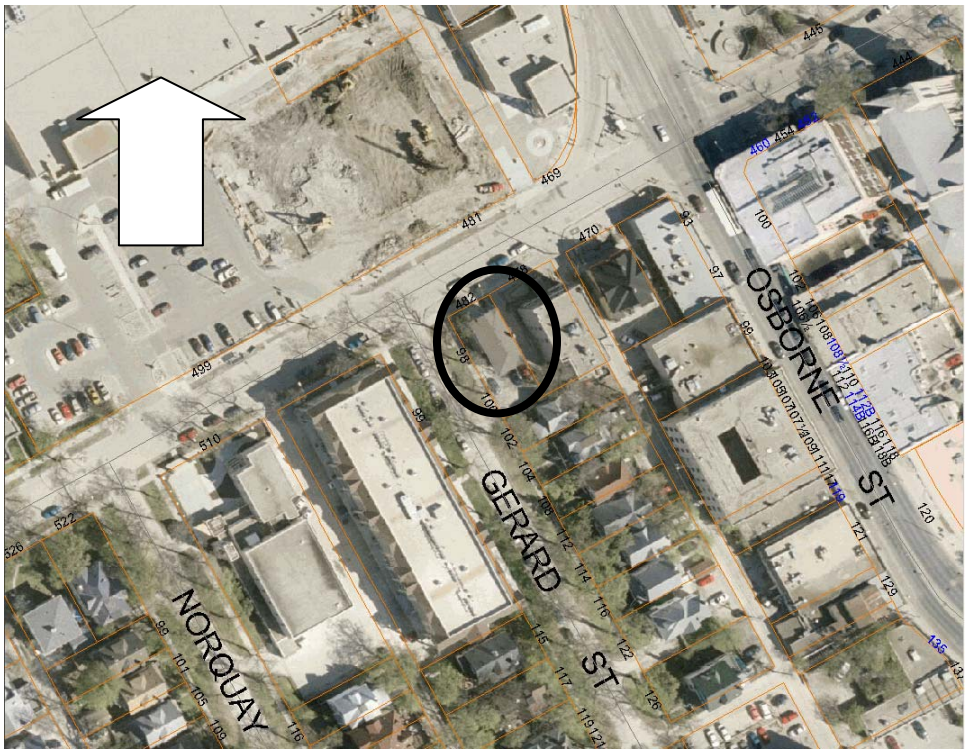


Applicant: Greg Stokotelny (Village Chiropractic Centre)
Owner: Maria Di Bernardo

Recommendation: *Approved with conditions*

Site Description

The subject site is located at the south east corner of River Avenue and Gerard Street. The site is developed with a two-storey, mixed-use building. The main floor is occupied by a chiropractic and massage therapy clinic, with a 2nd-storey residence. The site is zoned "R2-T" Two-Family Transitional District. Neighbouring properties are a mix of duplex (zoned "R2-T") and multiple-family (zoned "RM-7" Multiple-Family District) residential, personal service, retail, and office (zoned "C1" Commercial District and "C1.5" Commercial District).



Subject site: aerial photo flown 2005.

Background

The chiropractic and massage therapy uses were approved on a temporary basis in November, 1995 (DAV 804/95C).

Description of the Proposed Development

The applicant intends to continue the current mix of commercial and residential uses. In order to do so, the site must be rezoned to accommodate the commercial uses. No building additions are proposed.

Analysis

This portion of Osborne Village is designated "Neighbourhood" under *Plan Winnipeg*. This designation accommodates a range of residential densities and forms, as well as commercial, institutional, and parks & recreation uses. The proposed rezoning will accommodate current site operations on a permanent basis. The site is located along a regional street, with commercial and high-density residential uses neighbouring. The proposal is consistent with the "Village Mixed-Use Transition Policies" of the draft *Osborne Village Neighbourhood Plan* (presented to the community at open houses in June, 2006 and expected to be before City Centre Community Committee Standing Policy Committee on November 14, 2006). These draft policies encourage mixed-use developments in transition areas—such as along Gerard and Pulford streets—between commercial concentrations and historically residential areas.

Recommendation

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

- The proposal is consistent with *Plan Winnipeg*;
- The proposal is consistent with the "Village Mixed-Use Transition Policies" of the draft *Osborne Village Neighbourhood Plan*; and
- This mixed-use development has demonstrated its compatibility with neighbouring uses and the surrounding area during its 10+ years of operations.

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 237/06, attached hereto and dated November 6, 2006, to a "C1.5" 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 not be permitted:
         a) "Automobile, including motorcycle: Rental, Sales, including accessory Repair, Service, Installation of Supplies/Parts"
         b) "Exterminator"
         c) "Fuel: Sales, Kiosk" and
         d) "Taxidermist";
      2. That the maximum height of any buildings shall not exceed 30 feet; and
      3. That the mixed-use development be maintained in substantial conformity with plans submitted and identified as Exhibit ___, dated November 6, 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 237/06

Schedule "A"

By-Law No.

File No. **DAZ 237/06**

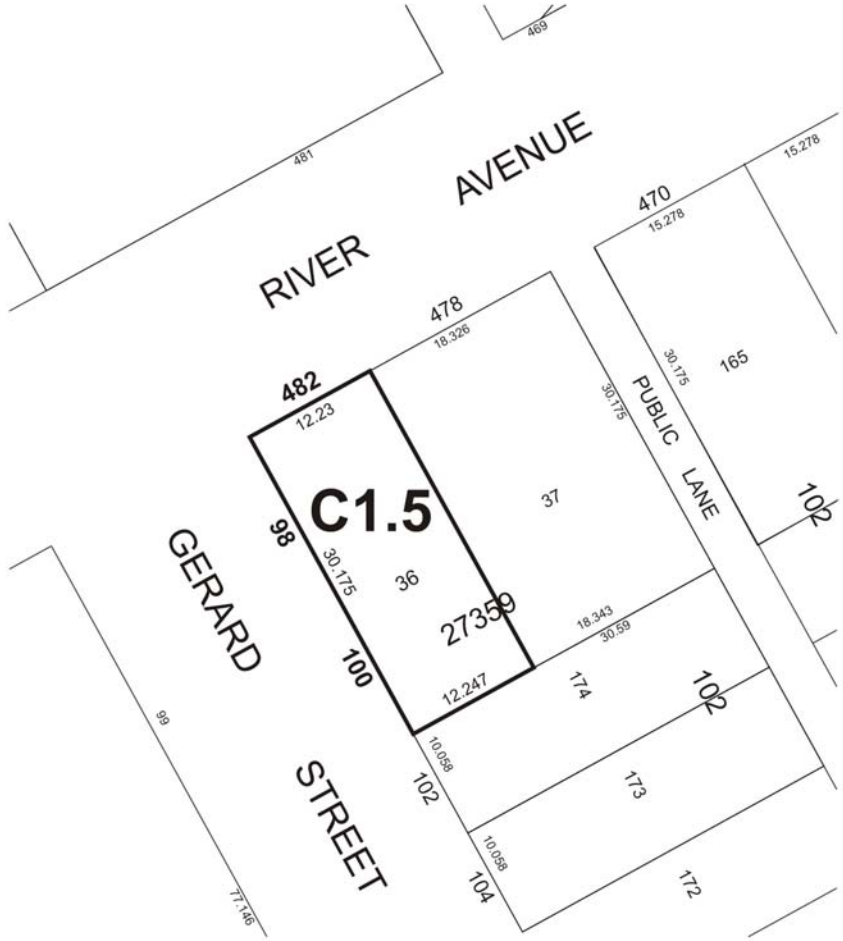
Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 482 River Avenue/98-100 Gerard street from an "R2-T" TRANSITIONAL DISTRICT to a "C1.5" COMMERCIAL DISTRICT as shown outlined below.

Atlas Sheet No.

N

AB24
CITY CENTRE
COMMUNITY



THIRD READING : EFFECTIVE DATE :

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No.

Schedule "A" to the report to City Centre Community Committee for file # DAZ 237/06 dated November 6, 2006.