Minute No. 821
Report - Standing Policy Committee on Property and Development – September 5, 2006

Item No. 19 Rezoning - 397 William Avenue
File DAZ 227/2006

COUNCIL DECISION:

Council concurred in the recommendations 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 outlined on Schedule "A" for File DAZ 227/2006 dated June 30, 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 land usage be restricted as follows:
            a. The following uses shall not be permitted on the land:
                1. Automobile, including motorcycle: Rental, Sales, including accessory Repair, Service, Installation of Supplies/Parts
                2. Automobile, including motorcycle: Supplies/Parts, Sales
                3. Beer: Sales
                4. Bus Station
                5. Cabaret
                6. Cocktail Lounge
                7. Contractors' Establishment
                8. Fuel: Sales Kiosk
                9. Hotel, including Motel, limited to guest rooms
                10. Liquor: Sales
                11. Parking Area, non-accessory
                12. Tattoo Parlour
                13. Tire: Sales, Service
                14. Pawn Shop
                15. Third Party Advertising Sign

    B. That building height be limited to a maximum of 35 feet (10.668 metres).

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

COUNCIL DECISION (continued)

C. That there shall be no free standing identification signs and there shall be no mobile signs or A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.

D. That no internally illuminated signage be erected on the north, east or west sides of the building.

E. That final plans showing the location and details of building elevations, parking areas, landscaping, fencing, lighting and garbage enclosures shall be submitted to the Director of Planning, Property and Development and the Ward Councillor for approval prior to the issuing of any development or building permits and that the development shall be constructed in substantial conformance with those plans and thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

2. That a ten per cent (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.

Report - Standing Policy Committee on Property and Development – September 5, 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 September 21, 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 September 5, 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 July 25, 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: **Rezoning - 397 William Avenue**
File DAZ 227/2006 [c/r DAV 136410/2006D]

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

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

Report date: **August 4, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 25, 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 Winnipeg Zoning By-law No. 6400 /94 be amended by rezoning the subject land as outlined on Schedule "A", for File DAZ 227/06 dated June 30, 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 land usage be restricted as follows:
            a. The following uses shall not be permitted on the land:
                1. Automobile, including motorcycle: Rental, Sales, including accessory Repair, Service, Installation of Supplies/Parts
                2. Automobile, including motorcycle: Supplies/Parts, Sales
                3. Beer: Sales
                4. Bus Station
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                10. Liquor: Sales
                11. Parking Area, non-accessory
                12. Tattoo Parlour
                13. Tire: Sales, Service
                14. Pawn Shop
                15. Third Party Advertising Sign

B. That building height be limited to a maximum of 35 feet (10.668 metres).

C. That there shall be no free standing identification signs and there shall be no mobile signs or A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.

D. That no internally illuminated signage be erected on the north, east, or west sides of the building.

E. That final plans showing the location and details of building elevations, parking areas, landscaping, fencing, lighting, and garbage enclosures, shall be submitted to the Director of Planning, Property and Development and the Ward Councillor for approval prior to the issuing of any development or building permits; that the development shall be constructed in substantial conformance with those plans and thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

2. That a ten per cent (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.

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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 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 June 30, 2006.

PUBLIC HEARING SUMMARY

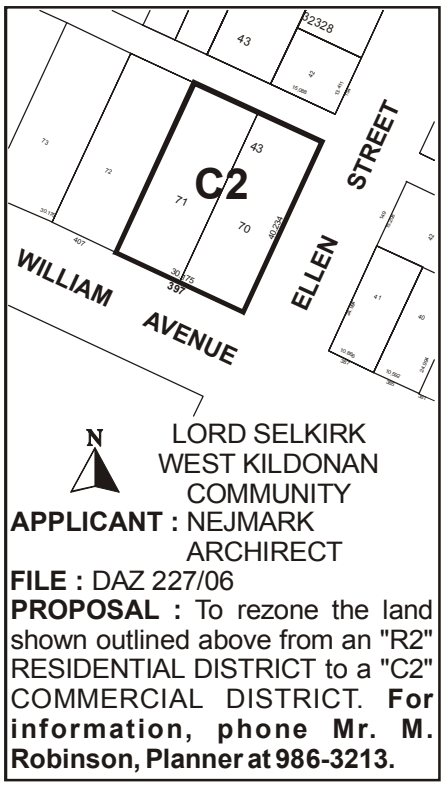
File: File DAZ 227/2006 [c/r DAV 136410/2006D]

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

Public Hearing: July 25, 2006
West Committee Room
Council Building, 510 Main Street

Applicant: Nejmark Architect (Tat-Liang Cheam)

Subject:



Premises Affected: 397 William Avenue

Exhibits Filed:
1. Application dated June 12, 2006
2. Notification of Public Hearing dated June 12, 2006
3. Manitoba Status of Title 1374304

4. Letter of authorization dated June 8, 2006 from Kathy Trinh, on behalf of Y.T.C. Enterprises Ltd. to Nejmark Architect
5. Plans (4 pages)
6. Report from the Planning and Land Use Division dated June 30, 2006
7. Inspection Report

REPRESENTATIONS:

In Support:

Tat-Liang Cheam, Nejmark Architect
Kathy Trinh
Bao Trinh
O. Nixon

In Opposition

Nil

For the City:

Mr. K. Raban, Land Development Administrator, Planning, Property and Development Department
Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING

Tat-Liang Cheam, on behalf of the applicant, Nejmark Architect, appeared in support of the application and gave an overview of the application. He indicated concurrence in the recommendations outlined in the report of the Planning and Land Use Division dated June 30, 2006.

Exhibit "6" referred to in File DAZ 227/2006

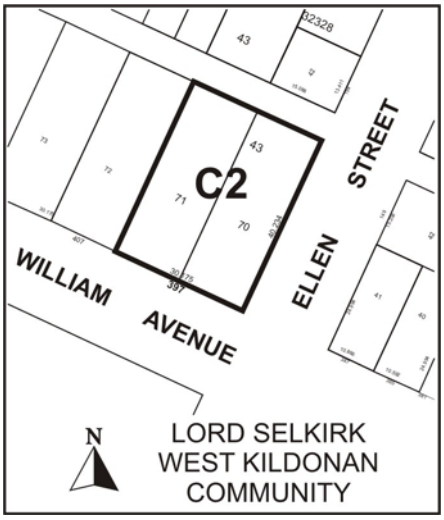
Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: **June 30, 2006**
File: **DAZ 227/06**
Related Files: **DAV 06-136410D**
Subject: To amend By-Law No. 6400/94 by rezoning the land shown below from an "R2" Residential District to a "C2" Commercial District to facilitate the establishment of an office use and the re-establishment of a grocery sales use.

Location: **397 William Avenue**



Applicant: **Nejmark Architects (Tat-Liang Cheam)**
Owner: **Young's Trading**

Recommendation: **Approval**

Report Summary:

- The landowner's grocery store business, which was a non-conforming use, burned to the ground earlier this year.
- The property is currently zoned "R2" Two-Family Residential, which does not permit commercial uses
- Proposal to rezone a site from "R2" Two-Family Residential Residential District to a "C2" Commercial District to allow for the reestablishment of a grocery store use and establishment of office uses
- Proposal meets Plan Winnipeg policies which allow for a variety of uses in the Neighbourhood Policy Area
- The proposed use is compatible with the area
- The proposed use will not have a substantial adverse impact on adjacent properties
- Commercial is the highest and best use for this property

Site Description

The subject property, which is zoned 'R2" Residential, is located at the northwest corner of William Avenue and Ellen Street, in the Centennial neighbourhood of the Point Douglas Ward.

North: Residences zoned "R2" Two-Family Residential
South: A school zoned "R2-T" Two-Family Transitional Residential
East: Residences zoned "R2" Two-Family Residential
West: Commercial use, then residences zoned "R2" Residential

Background

In November 2005, the subject property owner's grocery store business burned to the ground. At this time, they wish to construct a new building and reestablish the use on the land.

However, the grocery store is classified as a non-conforming use under By-Law 6400/94, because it is located in an "R2" Two-Family Residential District. Under Section 188(4) of By-Law 6400/94, a non-conforming use cannot be reestablished if the structure is damaged, in any manner whatsoever, to the extent that the cost of repairing such damage exceeds 100% of the structure's assessed value on the last revised assessment role.

Therefore, in order to construct a new building and reestablish the grocery store operation, a rezoning is required.

Description of the Proposed Development

As previously mentioned, the applicant is proposing to rebuild a grocery store which was destroyed by fire in November 2005. Whereas the original building was one story, reconstruction plans call for a second story to be added. This would increase the total square footage of the building from the original 9,400 square feet to 17,250 square feet.

The new building will be constructed on the original foundation, which extends to the limit of the east, west, and south property lines. In the rear (north), provision has been made for a loading and garbage area as well as a small parking area. The balance of the required parking will be accommodated off-site and on adjacent streets.

Analysis

Plan Winnipeg Compliance

The subject parcel falls within a designated Neighbourhood Policy Area under Plan Winnipeg, which allows for a variety of residential, commercial, institutional, and mixed uses; thus, the proposed rezoning is in conformance with Plan Winnipeg 2020.

Compatibility with existing neighbourhood and surrounding uses

The subject property fronts onto William Avenue, which has a variety of commercial, institutional, and residential properties. The street, which is designated as a regional street, carries a large amount of vehicular and pedestrian traffic. In light of this, it is well suited for commercial uses along its frontage.

It should also be noted that this business had been situated at the subject location for some time and with very few grocery stores located near downtown, it provided an important service to the community.

For these reasons, the highest and best use for the subject land is commercial. However, it is important to recognize that the block is transitional and still includes a substantial number of residences. In light of this, conditions are being recommended which will limit the impact of a "C2" Commercial use on adjacent properties. Also, final plan approval is being recommended to ensure that the design is compatible with the neighbourhood.

Site Design Issues

In the opinion of the Planning and Land Use Division, given the mixed commercial/residential nature of the block, it is important that the building design be compatible with the surrounding community and compliment, rather than detract from the street. The following are suggestions on ways to enhance the project's overall compatibility.

Facade Colour

Neutral colours (tan, light grey) would blend in well with surrounding buildings like the Carnegie Library, which has a tyndal stone exterior. Also, reversing the colour scheme so that yellow is an accent and not the predominant colour may improve overall compatibility with the street.

Massing

The adjoining block has a fine grained texture - in that it is made up of smaller residential and commercial buildings. Breaking up the front facade of the building horizontally would reduce the mass of the building.

Also, vertical articulation or other detailing to define a clear base, middle, and top of the building would be beneficial.

Materials

Using various accent materials such as masonry, or split-faced block may also help add some visual interest to the facade and bring in some character elements from the street.

Pedestrian

The Division recommends transparent glass in the front of the building. Transparent glass enhances pedestrian comfort, activates the public realm, and provides eyes on the street - which contributes to a safer neighbourhood.

Also, elements which bring the scale of the pedestrian realm down in the front of the building– such as a canopy or some other form of architectural feature – can sometimes be beneficial.

Height

Similarly, while the "C2" District has a maximum height allowance of 45 feet, the street, with a few exceptions, is characterized by low commercial buildings and two and two ½ story residences with heights ranging from 25-35 feet. Therefore, it is recommended that in order to respect the context of the area, the maximum allowable building height be limited to 2 stories and 35 feet.

Signage

Similarly, given the mixed-use nature of the block, it is recommended that conditions be included to control signage by limiting glare and the visual impact on the street.

Lighting

It is important that any lighting which is provided is low and full cut off, to reduce glare.

Recommendation

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

- Proposal meets Plan Winnipeg policies which allow for a variety of uses in the Neighbourhood Policy Area
- The proposed use will not create an adverse effect on the amenities, use, safety and convenience of the adjoining properties and adjacent area;
- Commercial is the highest and best use for this property
- The proposed use provides an important service to the community

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 227/06, attached hereto and dated June 30, 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 land usage be restricted as follows;
   i. The following uses shall NOT be permitted on the land:

AUTOMOBILE, including motorcycle: RENTAL, SALES, including accessory
REPAIR, SERVICE, INSTALLATION OF SUPPLIES/PARTS
AUTOMOBILE, including motorcycle: SUPPLIES/PARTS, SALES
BEER: SALES
BUS STATION
CABARET
COCKTAIL LOUNGE
CONTRACTORS' ESTABLISHMENT
FUEL: SALES kiosk
HOTEL, including MOTEL, limited to guest rooms
LIQUOR: SALES
PARKING AREA, non-accessory
TATTOO PARLOUR
TIRE: SALES, SERVICE
PAWN SHOP
THIRD PARTY ADVERTISING SIGN

2. That building height be limited to a maximum of 35 feet
3. That, there shall be no free standing identification signs and there shall be no mobile signs or A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.
4. That, no internally illuminated signage be erected on the north, east, or west sides of the building;
5. That final plans showing the location and details of **building elevations**, **parking areas**, **landscaping, fencing, lighting, and garbage enclosures,** shall be submitted to the Director of Planning, Property and Development and the Ward Councillor for approval prior to the issuing of any development or building permits; that the development shall be constructed in substantial conformance with those plans and thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

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: Michael Robinson, AICP
PPD File # DAZ 227/06

Schedule "A"

Schedule "A" to the report to the Lord Selkirk-West Kildonan Community Committee for File No DAZ 227/2006 dated June 30, 2006.

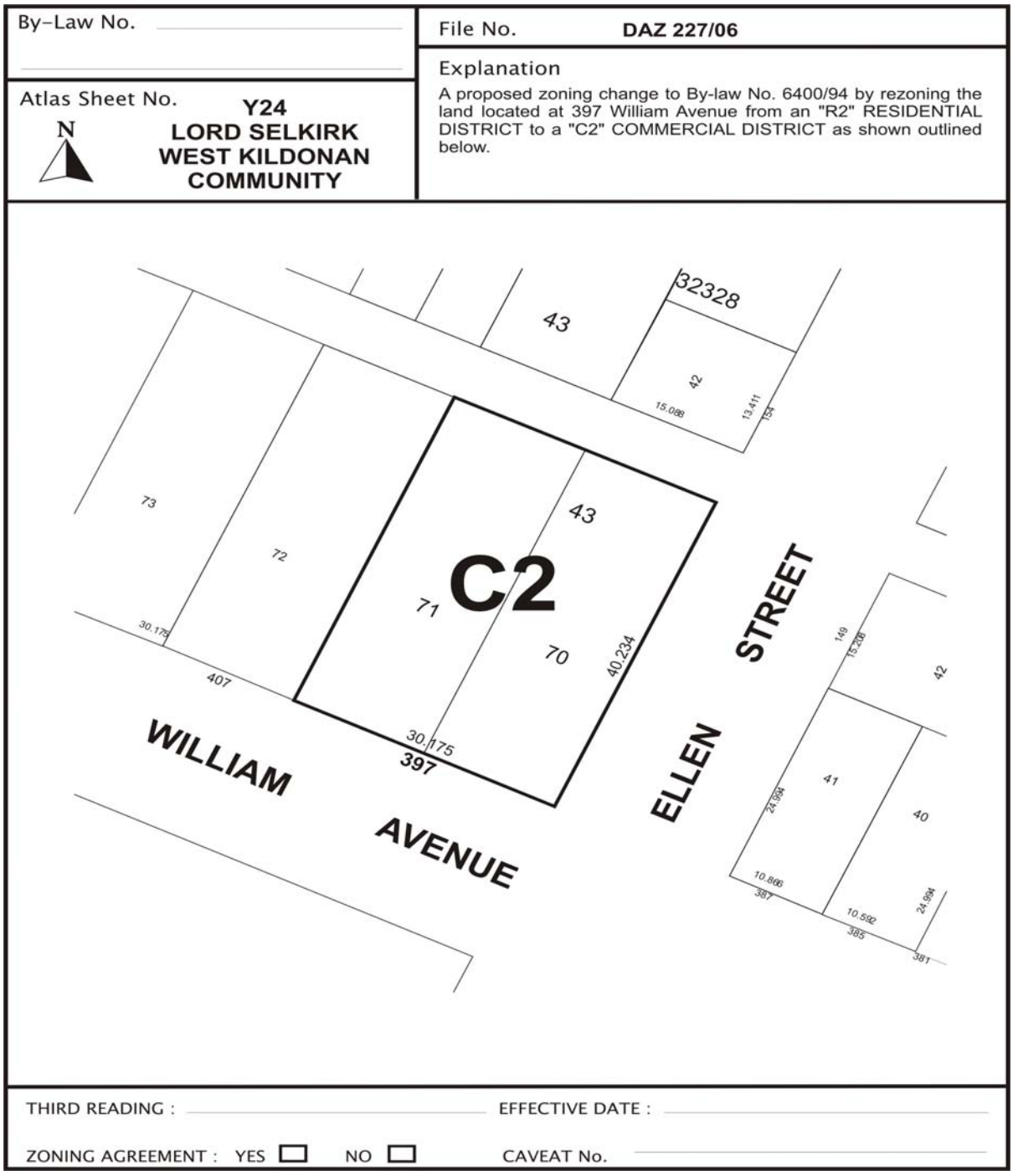




Figure 1: Aerial Photo (Flown in 2005)