Minutes - Standing Policy Committee on Downtown Development - April 30, 2007

PUBLIC HEARINGS

Minute No. 25 Appeal - Conditional Use - 304 Fort Street
File EZ-DAZ(32) [c/r DCU 114715/2007B]

STANDING COMMITTEE DECISION:

The Standing Policy Committee on Downtown Development denied the appeal and concurred in the decision of the Director of Planning, Property and Development, and approved a Conditional Use on "the land" to permit the establishment of a dating and escort service in an existing commercial building, subject to the following conditions:

1. That if any Conditional Use granted by the Order is not established within two years of the date thereof, the Order, in respect of that Conditional Use, shall terminate.

2. That there shall be no customers attending the business on-site.

Further, the Standing Policy Committee on Downtown Development confirmed Conditional Use Order DCU 114715/2007B.

DECISION MAKING HISTORY:

The Administration advised that all statutory requirements with respect to this appeal have been complied with.

Moved by Councillor Swandel,
That the administrative report be taken as read.

Carried

Moved by Councillor Swandel,
That the receipt of public representations be concluded.

Carried

Moved by Councillor Swandel,
That Section 254 and criteria (a), (b) and (d) of Subsection 247(3) of The City of Winnipeg Charter are satisfied.

Carried

Moved by Councillor Swandel,
That the Appeal be denied and Conditional Use Order DCU 114715/2007B be confirmed.

Carried

Moved by Councillor Swandel,
That the decision of the Director of Planning, Property and Development be concurred in.

Carried

Moved by Councillor Swandel,
That the public hearing with respect to this appeal be concluded.

Carried

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE DECISION:

On April 16, 2007, the City Centre Community Committee approved a Dating and Escort Service License for Carole Ross o/a Exclusively Carmela's, subject to the following condition:

1. Approval of Conditional Use Order DCU 114715/2007B.

Winnipeg

THE CITY OF WINNIPEG

CONDITIONAL USE APPEAL ORDER

STANDING POLICY COMMITTEE ON DOWNTONW DEVELOPMENT

DCU 114715A/2007B

Before:	Standing Policy Committee on Downtown Development Councillor Wyatt, Chairperson Councillor Gerbasi Councillor Swandel
Hearing:	April 30, 2007 West Committee Room, 510 Main Street
Applicant:	Carole Ross, o/a Exclusively Carmela's
Premises Affected:	304 Fort Street
Legal Description:	Lot 120, Block 3, Plan 129 1 ST J, hereinafter called "the land"
Property Zoned:	Multiple Use Sector
Nature of Application:	For a Conditional Use under Downtown Winnipeg Zoning By-Law No. 100/2004 to permit the establishment of a dating and escort service use in an existing commercial building.

ORDER MADE BY THE DIRECTOR OF PLANNING, PROPERTY AND DEVELOPMENT:

The Director of Planning, Property and Development approved a Conditional Use, File DCU 114715/2007B, to Carole Ross, o/a Exclusively Carmela's, for premises located at 304 Fort Street, to permit on "the land" the establishment of a dating and escort service use in an existing commercial building, subject to the following conditions:

1. That if any Conditional Use granted by this Order is not established within two years of the date hereof, this Order, in respect of that Conditional Use, shall terminate.

2. That there shall be no customers attending the business on-site.

Pursuant to the provisions of The City of Winnipeg Charter, Michel Fillion appealed to the Standing Policy Committee on Downtown Development against Conditional Use Order DCU 114715/2007B and after Notice, the appeal was heard on April 30, 2007.

Upon consideration of the evidence adduced and submissions made, the Standing Policy Committee on Downtown Development is of the opinion that, subject to the conditions imposed under this Appeal Order if any, Section 254 and criteria (a), (b) and (d) of Subsection 247(3) of The City of Winnipeg Charter, set out below, are satisfied:

(a) is consistent with Plan Winnipeg, and any applicable secondary plan;

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(d) is compatible with the area in which the property to be affected is situated.

ORDER:

The Standing Policy Committee on Downtown Development orders that the Appeal is denied and that Conditional Use Order DCU 114715/2007B dated March 7, 2007, is confirmed.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

DATE OF ORDER: April 30, 2007

CERTIFIED BY:



Bonnie Greschuk
Clerk of the Standing Policy Committee on Downtown Development

THE FOLLOWING PERSONS MADE REPRESENTATIONS:

In Support of the Appeal:

Michel Fillion

In Opposition to the Appeal:

Christopher A. Brock
Carole Ross

For the City:

Mr. J. Paterson, Acting Director of Planning, Property and Development
Mr. B. Thorgrimson, Acting Manager of Economic Development, Planning, Property and Development
Ms D. Himbeault, Urban Design and Downtown Planning Coordinator, Planning, Property and Development Department
Ms M. Christiuk, Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DCU 114715/2007B

1. Order DCU 114715/2007B dated March 7, 2007, issued by the Director of Planning, Property and Development Department
2. Notice of Appeal filed by Michel Fillion received March 21, 2007
3. Notification of Public Hearing dated April 16, 2007
4. Manitoba Status of Title 1842247
5. Letter of authorization from Thunderchild Investments Ltd. to Carole Ross, on behalf of Exclusively Carmelas dated March 2, 2007
6. License Order LA 115073/2007
7. Confirmation from the Zoning Development Administrator that the subject property may be posted in substitution for newspaper advertising
8. Plans, Sheets 1 to 2 inclusive for File EZ-DAZ [c/r DCU 114715/2007B] dated March 2, 2007 and March 5, 2007
9. Report from Planning and Land Use Division dated April 18, 2007
10. Inspection Report

Exhibit "9" referred to in File EZ-DAZ(32) [c/r DCU 114715/2007B]

RE: Background Report for Conditional Use Application and Appeal – DCU 07-114715/B (304 Fort Street)

FOR SUBMISSION TO: Standing Policy Committee on Downtown Development

ORIGINAL REPORT SIGNED BY: A/Director of Planning, Property and Development

REPORT DATE: April 18, 2007

RECOMMENDATION:

That the application for DCU 07-114715/B for a conditional use under the Downtown Zoning By-Law No. 100/2004 to permit the establishment of an dating and escort service be approved subject to the following conditions:

1. That if any Conditional Use granted by this Order is not established within two years of the date hereof, this Order, in respect of that Conditional Use, shall terminate.
2. That there shall be no customers attending the business on-site.

Report Summary

Key Issues:

- A conditional use should be compatible with City Policy, not cause any adverse effect on adjacent properties and be compatible with the surrounding area.

Implications of the Recommendation(s):

General Implications

( ) None

( ) For the organization overall and/or for other departments

(X) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s):

In the opinion of the Administration, the dating and escort service use should be approved as recommended.

Policy Implications

(X) No

( ) Yes

Comment(s):

Regulatory Implications

(X) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):

Report

REASON FOR THE REPORT:
The Standing Policy Committee on Downtown Development is delegated the authority to hear and decide on appeals from Administrative decisions on Conditional Use Applications in Downtown Winnipeg.

HISTORY:
Ms. Carole Ross applied for a conditional use to permit the establishment of a dating and escort service in a basement office space at 304 Fort Street. The building is used for several commercial and office uses, including the Fort Street Clinic and Barnes & Duncan Land Surveys.

This conditional use order was issued by the Director in support of the application, but the use is being appealed by an adjacent property owner.

DISCUSSION:
The Planning, Property and Development Department has reviewed the Conditional Use Application and is of the opinion that the proposed development is suitable for the subject property and will not have a detrimental impact on the surrounding neighbourhood.

Site Description:
The proposed site is located in an office building on Fort Street near the corner of Portage Avenue. It is primarily a commercial street, with smaller businesses and office buildings extending from Assiniboine to Portage Avenue. The building is located in the Multiple-Use Sector. The intent of the Multiple-Use Sector is to encourage a range of uses, sites, activities and buildings typical to a diverse and vibrant central business district. This sector demonstrates a diversity of uses, including: office, retail, services, restaurants, entertainment opportunities, public institutions, multiple family residential and offstreet parking facilities.

Surrounding Land Use and Zoning:

North: *Vendome Hotel and Bleachers Restaurant*
South: *Orpheum Billiards*
East: *The offices and shops of Winnipeg Square*
West: Garry Street parkade

Analysis and Issues:
There are currently six licensed Dating and Escort companies in the City of Winnipeg. Five of these businesses are located next door in the Vendome Hotel and the remaining licensed service is located at 300 Fort Street, in the same building as the proposed applicant.

Dating and escort services are restricted through the License By-Law No. 6551/95, which limits this type of service to the downtown:

> 14(b) New licenses may be issued to carry on the trade of a dating and escort service or massage parlour proprietor only within that part of the City regulated by The Downtown Winnipeg Zoning By-law.

In turn, the Downtown Zoning By-Law 100/2004 has further restricted their use by making them conditional and limiting them to only two sectors, the Multiple-Use and the Character Sector.

Therefore, owners of these businesses are limited to where they can operate. As office space is expensive in the downtown, and there are no employees on site, small rooms with inexpensive rents are sought after. In this case, the applicant is having space renovated in the basement of an existing office building, and will occupy only one room.

Under the old Downtown Winnipeg Zoning By-Law 4800/88, dating and escort services fell under office use; consequently no conditional use application was required. However, under the new Downtown Zoning By-Law 100/2004, a dating and escort service use was made conditional, thus requiring a conditional use application in the Multiple-Use Sector. Most of the existing dating and escort services were approved before the new by-law, although two were approved more recently in May 2006 and February 2007.

This type of business normally operates in a discrete manner; therefore it should have minimal impact on the other businesses in the vicinity. It is recommended that the dating and escort service use be approved.

Recommendation and Criteria:

In the context of Section 247(3), the Planning, Property and Development Department recommends **approval** for the following reasons:

(a) is consistent with Plan Winnipeg and any applicable secondary plan;
(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway; and
(d) is compatible with the area in which the property to be affected is situated.

Reasons for Recommendations:

- The Planning, Property and Development Department (Downtown Planning Branch) has reviewed the proposed conditional use application and is of the opinion that, subject to the stipulated conditions, the proposed dating and escort service is a compatible fit within the surrounding context.

Financial Impact Statement Date: April 10, 2007

Project Name:

Background Report for Conditional Use Application and Appeal –
DCU 07-114715/B (304 Fort Street)

COMMENTS:

The recommendation contained in this report is that the application for DCU 06-139505/B for a conditional use under the Downtown Zoning By-Law No. 100/2004 to permit the establishment of an dating and escort service be approved subject to the following conditions:

1. That if any Conditional Use granted by this Order is not established within two years of the date hereof, this Order, in respect of that Conditional Use, shall terminate.
2. That there shall be no customers attending the business on-site.

There are no financial implications associated with this recommendation.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

N/A

External Consultation With:

N/A

THIS REPORT SUBMITTED BY:

Department: Planning, Property and Development Department
Division: Planning and Land Use Division
Prepared by: Marsha Christiuk
PPD File No.: DCU 07-114715/B

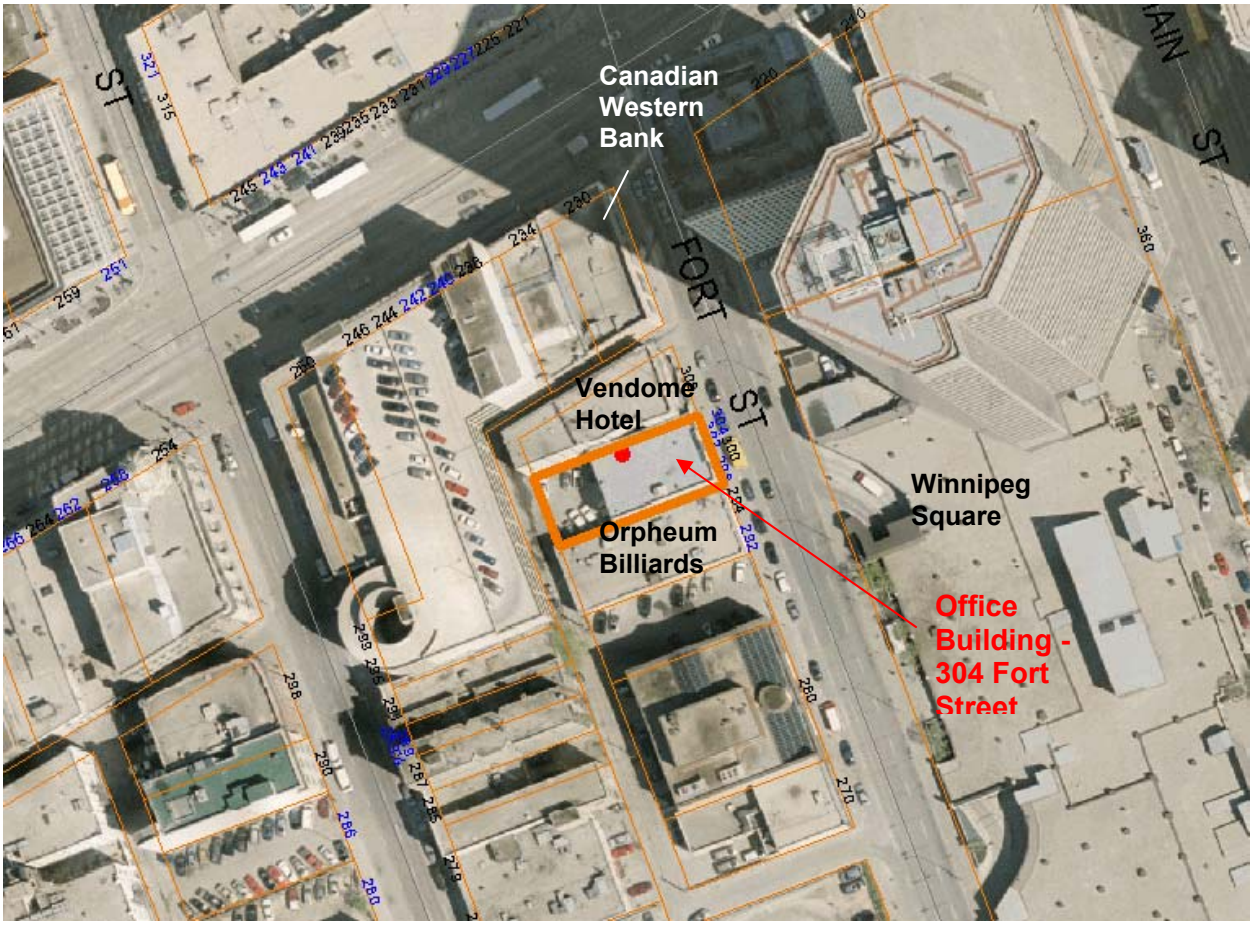

Figure 1 Aerial map showing 304 Fort Street, the location of proposed dating and escort service.



Figure 2 Streetscape showing location of proposed Dating and Escort service at 304 Fort Street.



Figure 3 Current basement office space for existing Dating and Escort Service at 304 Fort Street. If this application is approved, a similar office space will be