Minute No. 385
Report - Standing Policy Committee on Property and Development – April 3, 2007

Item No. 4 **Rezoning – 948 Sargent Avenue**
File DAZ 248/2006

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development that the application for rezoning under File DAZ 248/2006 not be proceeded with.

Report - Standing Policy Committee on Property and Development – April 3, 2007

DECISION MAKING HISTORY:

Moved by Councillor Swandel,
That the recommendation of the Standing Policy Committee on Property and Development, that the application for rezoning under File DAZ 248/2006 not be proceeded with, be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 18, 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 April 3, 2007, the Standing Policy Committee on Property and Development concurred in the recommendation from the City Centre Community Committee and recommended to Council that the application for rezoning under File DAZ 248/2006 not be proceeded with.

COMMUNITY COMMITTEE RECOMMENDATION:

On February 27, 2007, the City Centre Community Committee concurred in the supplementary administrative recommendation dated February 21, 2007, and recommended to the Standing Policy Committee on Property and Development that the application for rezoning under File DAZ 248/2006 not be proceeded with.

On January 30, 2007, the City Centre Community Committee adjourned the public hearing to its meeting on February 27, 2007.

RE: **Rezoning – 948 Sargent Avenue**
File DAZ 248/2006 [c/r DAV 161308/2006D]

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

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

Report date: **March 2, 2007**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 27, 2007, the City Centre Community Committee concurred in the supplementary administrative recommendation dated February 21, 2007 and recommends to the Standing Policy Committee on Property and Development that the application for rezoning under File DAZ 248/2006 [c/r DAV 161308/2006D] not be proceeded with.

The City Centre Community Committee provided the following supporting reasons for its recommendation:

1. Consultation with the community has not taken place.

2. An exclusive leasing arrangement guarantee has not been obtained.

3. No immediate neighbours are in support of the application; the only support comes from those residing outside the area.

4. A rooming house is not an appropriate use for the property.

PUBLIC HEARING SUMMARY

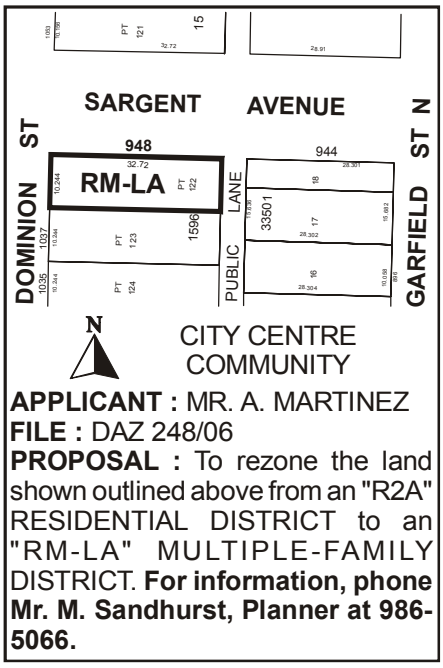
File: DAZ 248/2006 [c/r DAV 161308/2006D]

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

Public Hearing: February 27, 2007
January 30, 2007
North Committee Room
Council Building, 510 Main Street

Applicant: Angel Martinez

Subject:



Premises Affected: 948 Sargent Avenue

Exhibits Filed:

1. Application dated December 15, 2006
2. Notification of Public Hearing dated December 15, 2006
3. Manitoba Status of Title 2044749
4. Letter of authorization dated December 1, 2006 from Zenaida Ortilla Martinez

5. Surveyor's Building Location Certificate and sketch dated March 31, 1987
6. Plans (4 pages)
7. Report from the Planning and Land Use Division dated January 22, 2007
8. Inspection Report
9. Revised Report from the Planning and Land Use Division dated January 26, 2007
10. Supplementary Report from the Planning and Land Use Division dated February 21, 2007
11. Supplementary Report from the Planning and Land Use Division dated February 27, 2007
12. Promissory agreement of intent submitted by Angel Martinez at the public hearing
13. Copy of Caveat, dated March 22, 2006, and financial activity submitted by Trudy Turner at the public hearing

REPRESENTATIONS:

In Support:
Lerida Castelo
Rene Dansereau
Virginia Guiang
Ramulo Magsino
Angel and Joanne Martinez
Don Martinez
Jennifer Martinez
Andy Nguyen
Trudy Turner

In Opposition
Joe Chan
F.G. Chance
Larry Mack
Greg Partyka
Bonni Pereira
Conrad Peters
Mike Peters
Anthony Ramos

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

January 30, 2007

Don Martinez, on behalf of the applicant, appeared in support of the application and requested an adjournment of the public hearing inasmuch as the applicant was out of the country.

Virginia Guiang appeared in support of the application. Ms Guiang stated the proposal is to provide temporary housing for new immigrant women, hired as live-in caregivers, on their days off from work. In response to committee's questions, she stated parking would not be an issue.

Ramulo Magsino appeared in support of the application and reiterated the request to adjourn the public hearing.

February 27, 2007

The applicant, Angelo Martinez, appeared in support of the application and gave a brief overview on the proposal. Mr. Martinez submitted a signed promissory of intent; filed as Exhibit 12. In response to committee's questions, he stated the room rental charge would conform to regulations.

Andy Nguyen appeared in support of the application. Mr. Nguyen stated the building had a history of vandalism and the proposed use is positive.

Lerida Castelo appeared in support of the application. Ms Castelo stated the proposal would fulfil a need in the community.

Trudy Turner appeared in support of the application. Ms Turner stated empty buildings are bad for the neighbourhood, the applicant had invested a large amount of money into the building, and the proposal is an effective approach to satisfy a need in the community. Ms Turner submitted a copy of a caveat and financial statement; filed as Exhibit 13. In response to committee's questions, she stated the Filipino Domestic Workers Association of Manitoba is supportive of the proposal. She also stated the term "rooming house" is a concern, but the proposal is unique in providing a cultural and women's support shelter.

Virginia Guiang appeared in support of the application. Ms Guiang reiterated her comments of January 30, 2007. In response to committee's questions, Ms Guiang stated there is support for the proposal from the neighbours.

Rene Dansereau appeared in support of the application. Mr. Dansereau stated his support is subject to the accompanying Conditional Use application terminating in two years.

Ramulo Magsino appeared in support of the application. Mr. Magsino reiterated his comments of January 30, 2007. In response to committee's questions, with respect to the lack of an exclusive lease agreement, he stated the applicant had submitted a promissory note of intent.

Jennifer Martinez appeared in support of the application. Ms Martinez stated the applicant had a history of working in the community and the proposal is to help the community. She also stated there is a need in the community for the proposal.

Joe Chan appeared in opposition to the application. Mr. Chan provided information on the history of the building.

Anthony Ramos appeared in opposition to the application. Mr. Ramos stated there are better uses for the building in connection with the nearby school.

Conrad Peters appeared in opposition to the application. Mr. Peters stated concerns with the proposal being inappropriate for the neighbourhood, the increase in population density, the lowering of property values, the conversion of the building making it un-sellable in the future, the community not having been consulted, and the lack of an exclusive leasing arrangement. In response to committee's questions on public notification, he stated the neighbours had not been aware of application.

Mike Peters appeared in opposition to the application. Mr. Peters reiterated the concerns of the previous speaker.

Larry Mack appeared in opposition to the application. Mr. Mack reiterated the concerns of the previous speakers.

Bonnie Pereira appeared in opposition to the application. Ms Pereira reiterated the concerns of previous speakers.

Greg Partyka appeared in opposition to the application. Mr. Partyka reiterated the concerns of the previous speakers.

In response to committee's questions, the Senior Planner stated the Filipino Domestic Workers Association of Manitoba is willing to refer people to the proponent, but there is no signed

exclusive lease agreement. He also stated the promissory note of intent submitted is not a legal contract. He further stated the Planning, Property and Development Department cannot monitor who occupies what room, but can ensure the facility is being run properly.

In rebuttal, Angelo Martinez , stated the building had been vacant for 12 years and was in terrible condition. He also stated the proposal is a good use for the property, benefiting the community and a specific group of people. He further stated all notice requirements had been met.

Exhibit "9" referred to in File DAZ 248/2006 [c/r DAV 161308/2006D]

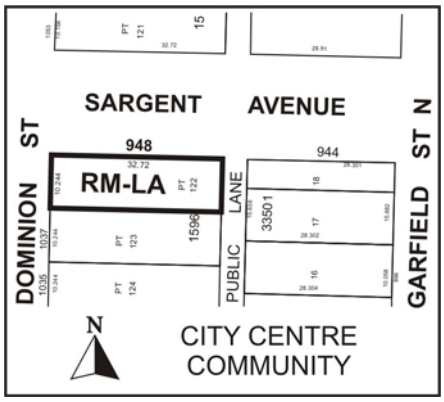
Planning, Property and Development Department Report

To City Centre Community Committee

REVISED REPORT

Date: January 26, 2007
File: **DAZ 248/06**
Related Files: DAV 06-161308/D
Subject: To rezone the land shown outlined below from an "R2A" Two-Family Transitional District to an "RM-LA" Multiple-Family District.

Location: 948 Sargent Avenue
Legal Description: Lot 122 Plan 1596 Exc easterly 8 feet in RL 57 and 58 Parish of St. James

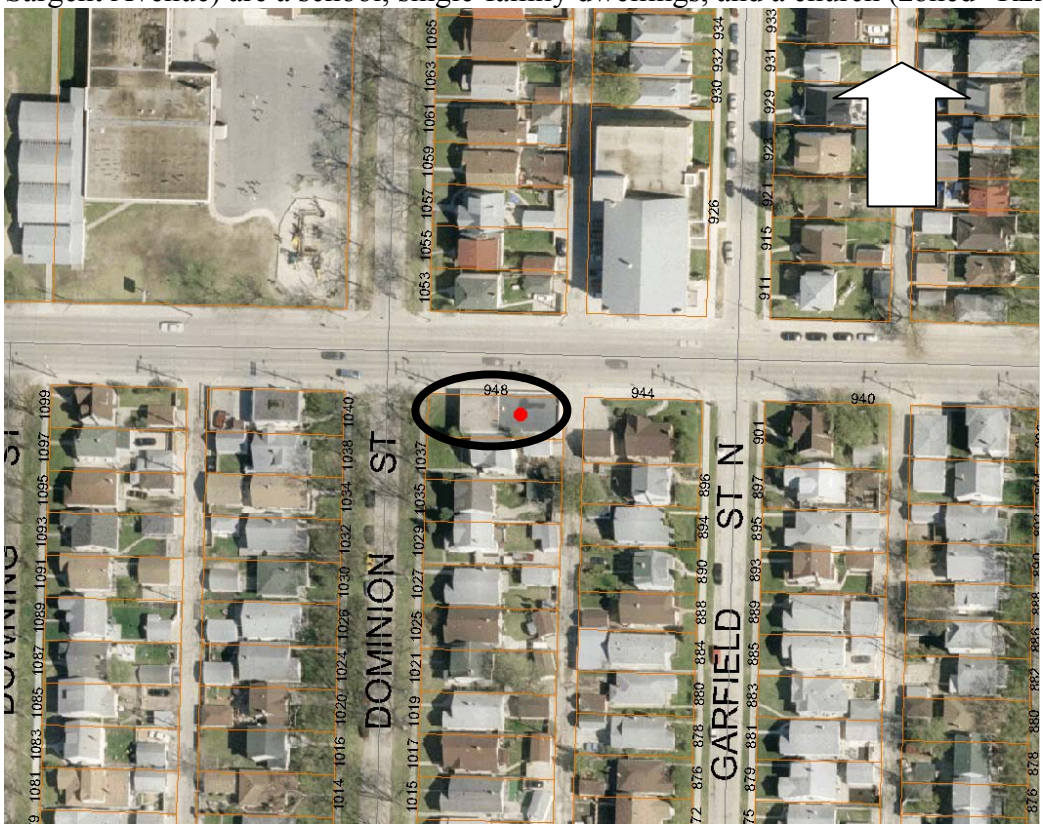


Applicant: Angel and Zenaida Martinez
Owner: Angel and Zenaida Martinez

Recommendation: *Approved with conditions*

Site Description

The subject site is located at the south east corner of Sargent Avenue and Dominion Street. The site is developed with an older commercial building. It's zoned "R2A" Two-Family Transitional District. Adjacent properties are predominantly single-family and duplex (to the south, west across Dominion Street, and east across the public lane, zoned "R2A"). To the north (across Sargent Avenue) are a school, single-family dwellings, and a church (zoned "R2A").



Subject site: aerial photo flown 2005.

Description of the Proposed Development

The applicant intends to redevelop the existing building to accommodate a boarding house, with rooms rented to domestic workers represented by the Filipino Domestic Workers Association of Manitoba. In order to establish the 9 rooms with communal kitchen and living area, the property must be rezoned to multiple-family district. The "RM-LA" Multiple-Family District is the lowest density district provided for under *Winnipeg Zoning By-Law* #6400/94.

Under DAV 06-161308/D, the applicant seeks relief from bulk and parking provisions. As well, in order to establish the boarding house prior to the rezoning coming into force and effect, use variance approval is sought.

Analysis
This portion of the Daniel McIntyre neighbourhood is designated "Neighbourhood" under *Plan Winnipeg*. This designation accommodates a range of residential densities, along with commercial, institutional, and parks & recreation uses. The rezoning to "RM-LA" accommodates low-density multiple-family development and provides opportunity to establish the proposed 9-unit boarding house. Given the site's location along a regional street, the building's current configuration, and the mix of uses in the immediate vicinity, Planning & Land Use Division recommends approval of the rezoning, subject to conditions intended to ensure that the boarding house is established and maintained consistent with the proposal submitted by the applicant on behalf of the domestic workers association.

Because the zoning by-law definition of "Boarding house" does not adequately distinguish the proposed development from "Rooming house", and because the division is concerned with the impacts of rooming house establishments generally, conditions of the Zoning Agreement tie the zoning approval to the life of the existing building and to ensuring the proposed boarding house continues to operate as planned, with routine opportunities for community review. Should the building be demolished or destroyed the subject site's zoning would revert to "R2A" Two-Family Transitional District. In order to ensure there are opportunities for review on a regular basis, the division recommends the boarding house be limited to a conditional use once the rezoning is in force and effect under DAZ 248/06. In this way, following initial establishment under the use variance (one component of DAV 06-161308/D), the proponent would be required to apply for a conditional use application within a specified period of time (typically within two years) in order to continue operations. Subsequent Conditional Use Orders would also be recommended for a specified period of time—typically every two years. Without these conditions, the division and area residents are concerned subsequent use of the property could have a substantial adverse effect on the amenities, use, safety, and convenience of the adjoining and adjacent properties.

Recommendation
The division recommends the subject site be rezoned to "RM-LA" Multiple-Family District for a number of related reasons, principally:

- the proposal to rezone to multiple-family district is consistent with *Plan Winnipeg*;
- the site, with its location along a regional street and its immediate context, represents a good location for modest multiple-family infill development; and
- the proposed boarding house, subject to recommended conditions, will have a positive impact on neighbouring properties.

Recommended Conditions of Approval

I 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 248/06, attached hereto and dated December 5, 2006, to an "RM-LA" Multiple-Family 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 total number of residents shall not exceed 9;
2. that the Boarding House development be established in substantial conformity with plans submitted and identified as Exhibit ___, dated December 14, 2006;
3. that the zoning shall revert to "R2A" if the existing building is demolished or destroyed; and
4. that uses shall be restricted to the following:
   a) Boarders or Roomers, accessory to a dwelling unit, limited to two persons living in the dwelling unit – permitted use;
   b) Boarding or Rooming house, for not more than 12 persons – **conditional use**;
   c) Daycare centre – conditional use;
   d) Care home – permitted use;
   e) Care home, neighbourhood – permitted use;
   f) Dwelling, multiple-family – permitted use;
   g) Dwelling, single-family – permitted use;
   h) Dwelling, two-family – permitted use;
   i) Library, Museum, Art Gallery – conditional use;
   j) Park – conditional use;
   k) Rehabilitation home, neighbourhood – conditional;
   l) Retail sales / Personal service, listed as being permitted or conditional in "C1" Commercial District, contained within a multiple-family building – conditional use; and
   m) School – conditional use.

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 248/06

Schedule "A"

By-Law No.

File No. **DAZ 248/06**

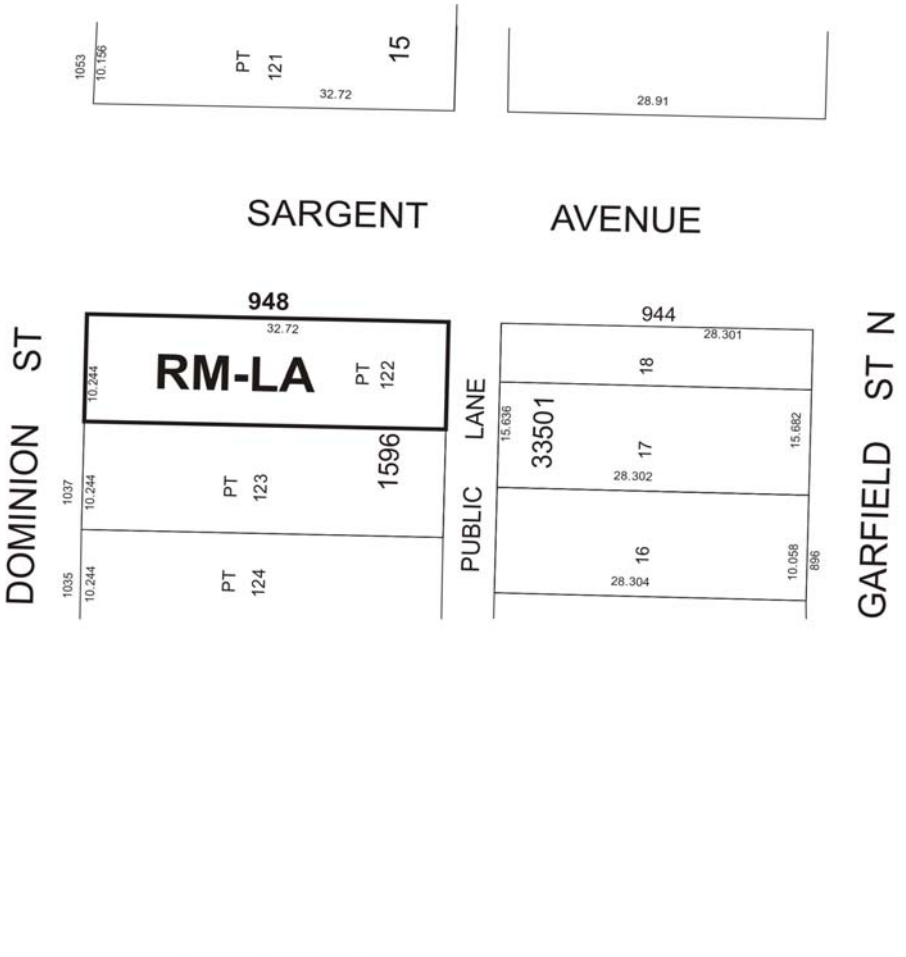
Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 948 Sargent Avenue from an "R2A" RESIDENTIAL DISTRICT to an "RM-LA" MULTIPLE-FAMILY DISTRICT as shown outlined below.

Atlas Sheet No.

N

Z22
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 248/06 dated January 22, 2007.

Exhibit "10" referred to in File DAZ 248/2006 [c/r DAV 161308/2006D]

INTER-OFFICE MEMORANDUM

Planning, Property and Development Department

Planning and Land Use Division
Unit 15, 30 Fort Street

Date: February 21, 2007

To: Josie Marques, Clerk City Centre Community Committee

From: Martin Sandhurst, Urban & Neighbourhood Planning Branch

RE: **948 SARGENT AVENUE**
FILE – DAZ 248/06 AND DAV 06-161308/D

Subsequent to City Centre Community Committee's adjournment of the rezoning and variance application for 948 Sargent Avenue, the owner of the property contacted Planning & Land Use Division. This conversation (February 14, 2007) focused on the need for the owner to demonstrate the extent of the anticipated leasing arrangement between him and the Filipino Domestic Workers Association of Manitoba. The owner indicated his intention is to lease rooms in the proposed boarding house exclusively to domestic workers association members.

Lease or other information supporting this contention have not been submitted to the division. This memorandum is to advise that without further information, there is no basis to suppose the boarding house facility will be used exclusively by domestic workers. As such, the division advises community committee to review and recommend approval or rejection on the merits of a 9-room rooming house at 948 Sargent Avenue. *Should the owner of the property not produce documentation that clearly demonstrates an exclusive leasing arrangement with the domestic workers association, the division recommends both DAZ 248/06 and DAV 06-161308/D be* ***REJECTED****.*

Further information regarding this matter may be forthcoming prior to the February 27, 2007 community committee meeting. If so, a revised or supplementary report will be submitted.

Exhibit "11" referred to in File DAV 161308/2006D [c/r DAZ 248/2006]

INTER-OFFICE MEMORANDUM

Planning, Property and Development Department

Planning and Land Use Division
Unit 15, 30 Fort Street

Winnipeg

Date:	February 27, 2007
To:	Josie Marques, Clerk of City Centre Community Committee
From:	Martin Sandhurst, Urban & Neighbourhood Planning Branch
RE:	**1530 GRANT AVENUE; 118 WILMOT PLACE; 248 SARGENT AVENUE FILES DASZ 45/06, DCU 06-158991/D, DAV 06-158998/D; DEMO 06-152963; DAZ 248/06, DAV 06-161308/D**

Further to the inter-office memoranda I sent February 21, 2007, the following includes the status of the development applications at 1530 Grant Avenue, 248 Sargent Avenue, and 118 Wilmot Place. In addition, I've provided options community committee has in proceeding with each, along with a preferred (or recommended) option.

1530 Grant Avenue
Status

- subsequent to the January 30/07 adjournment, the developer arranged a public meeting with residents held February 17/07
- modified concept plans were discussed
- based on the outcomes of the public meeting, the developer submitted revised plans to the planning department on February 27/07

Option #1 – preferred

- adjourn all applications until the next scheduled community committee meeting, so that the revised plans discussed at the February 17/07 public meeting and submitted to the planning department February 27/07 can be considered
- without an adjournment, the additional surface parking spaces, the location of the garbage enclosure, and the height of the lightproof fence along the south property line cannot be considered without a modified variance application being posted (minimum 14 days prior to the public hearing)
- this is the preferred option, since it respects the intent of the January 30/07 adjournment and the goodwill of residents and the developer in contributing towards the revised plans

Option #2

- approve the subdivision/rezoning and conditional use application with conditions, but reject the variance application
- with Zoning Agreement conditions, the revised plans can be approved—but only without reference to the additional surface parking spaces, the location of the garbage enclosure, and the height of the lightproof fence along the south property line
- these items require modifications to the variance application (and posting for a minimum 14 days prior to the public hearing)
- nothing is gained by this course of action, since the modified variance application cannot be considered until the next scheduled community committee meeting

Option #3

- approve or reject the subdivision/rezoning, conditional use, and variance applications as submitted for consideration at the January 30/07 community committee meeting
- as outlined above, the revised plans discussed at the February 17/07 public meeting cannot be approved without modifications to the variance application
- to approve the original submission would be contrary to the intent of the January 30/07 adjournment and undercut the goodwill of residents and the developer in contributing towards the revised plans
- to reject the original submission would negate the opportunity to consider the revised plans until early-2008, due to The City of Winnipeg Charter (Part 6, Section 275.2) restrictions on accepting substantially similar applications within a calendar year

118 Wilmot Place

Status

- subsequent to the January 30/07 adjournment, the owner contacted a local architect to develop designs for a possible multiple-family development on this property
- plans have not been submitted to the planning department—nor has a development application been initiated—for the anticipated multiple-family development at 118 Wilmot Place
- an application under the *Demolition Permits in Residential Areas By-Law* (#4665/87) and a decision by community committee *are only necessary in this case if the owner of the property does not intend to proceed with the multiple-family development and any necessary conditional use or variance applications*

Option #1 – preferred

- to demonstrate that there's a sincere intent to proceed with a multiple-family development at this location, the applicant or owner should withdraw the application to proceed with demolition prior to approval of a multiple-family proposal
- with this withdrawal, community committee can file the application
- there is no fee for the *Demolition Permits in Residential Areas* process

Option #2

- should the applicant or owner refuse to withdraw the application, in order to ensure the building is not demolished prior to approval of a multiple-family proposal, community committee should reject the application

Option #3

- should the applicant or owner refuse to withdraw the application and should community committee be reluctant to reject the application, the application could be adjourned to a subsequent scheduled community committee meeting
- this adjournment would only be appropriate if additional information is necessary in order for either the owner/applicant or community committee to make a confident decision

248 Sargent Avenue

Status

- subsequent to the January 30/07 adjournment, the owner of the property contacted Planning & Land Use Division
- this conversation (February 14, 2007) focused on the need for the owner to demonstrate the extent of the anticipated arrangement between him and the Filipino Domestic Workers Association of Manitoba
- no further information supporting this arrangement has been submitted to the planning department

Option #1 – preferred

- if community committee is confident that the proposed boarding house will be a positive contribution to the community, approve the rezoning and variance applications subject to the 2-year trial period condition for the conditional use
- the trial period is intended to ensure the facility operates in accordance with the application submission, including the tie-in with the domestic workers association
- without the trial period, there is no mechanism available in order to ensure the facility doesn't become a typical rooming house

Option #2

- reject the rezoning and variance applications if there's fear the facility will become a typical rooming house

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