Minute No. 599
Report - Standing Policy Committee on Property and Development - July 13, 2007

Item No. 10 Rezoning - 733 Mountain Avenue
File DAZ 214/2007

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 shown on Schedule "A" for File DAZ 214/2007 dated June 28, 2007, to a "C1" Commercial District.

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 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 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 - July 13, 2007

DECISION MAKING HISTORY:

Moved by Council Swandel,

That the recommendation of the Standing Policy Committee on Property and Development be adopted.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 18, 2007, 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 July 13, 2007, 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 10, 2007, 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 - 733 Mountain Avenue**
File DAZ 214/2007 [c/r DAV 117277/2007D]

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

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

Report date: **July 11, 2007**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 10, 2007, 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 shown on Schedule "A" for File DAZ 214/2007 dated June 28, 2007, to a "C1" Commercial District.

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 market value of the land.

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5. 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 28, 2007.

PUBLIC HEARING SUMMARY

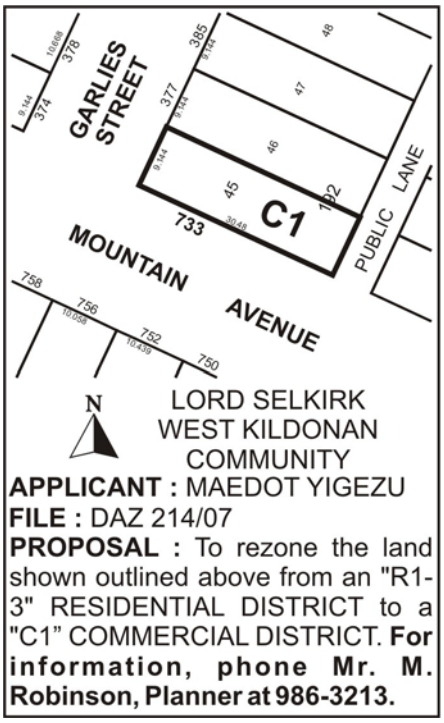
File: DAZ 214/2007 [c/r DAV 117277/2007D]

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

Public Hearing: July 10, 2007
Council Chamber
Council Building, 510 Main Street

Applicant: Maedot Yigezu

Subject:



Premises Affected: 733 Mountain Avenue

Exhibits Filed:
1. Application dated May 24, 2007
2. Notification of Public Hearing dated June 4, 2007
3. Manitoba Status of Title 2203291

4. Surveyor's Building Location Certificate and sketch dated March 25, 1998
5. Plan
6. Report from the Planning and Land Use Division dated June 28, 2007
7. Inspection Report

REPRESENTATIONS:

In Support:

Maedot Yigezu
Kadir Gobano

In Opposition

Nil

For the City:

Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Maedot Yigezu, accompanied by Kadir Gobano, appeared in support of the application and indicated concurrence in the recommendations outlined in the report of the Planning and Land Use Division dated June 28, 2007.

Exhibit "6" referred to in File DAZ 214/2007 [c/r DAV 117277/2007D]

Winnipeg

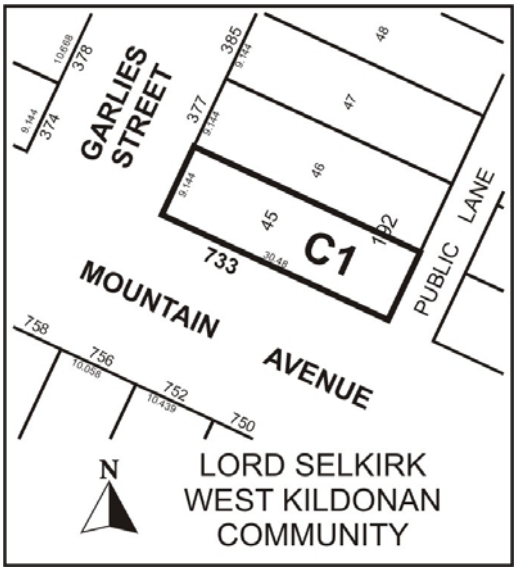
Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: June 28, 2007
File: DAZ 214/2007
Related Files: DAV 07-117277/D

Subject: Rezone the land to allow for retail sales.

Location: 733 Mountain Avenue
Legal Description: LOT 45 BLOCK 2 PLAN 192 43/4W ST J



Applicant: Maedot Yigezu

Owner: Maedot Yigezu

Recommendation: *Approved*

Report Summary:

- The subject property has a residential building attached to a brick commercial building.
- Commercial uses have occupied the land for several decades.
- The mixed uses of residential and commercial can be accommodated in the C1 district.

Site Description

The subject property is approximately **3,000 square feet (30 feet by 99.85 feet)** located on the northeast corner of Mountain Avenue and Garlies Street in the Inkster - Faraday neighbourhood of the Mynarski Ward. The site is zoned **"R1-3" Single Family District** and is occupied by a one storey, stucco, stone and wood residential building with an adjacent brick building. Adjacent lands include single family dwellings to the north zoned "R1-3". Surrounding uses include single family dwellings zoned "R1-3" to the east and a fraternal hall to the south zoned "C1".

Background

A pharmacy operated at this corner location from the 1950's to the late-1980's. Around the early-1990's, the commercial portion of the building was vacant until Variance 854/97C was granted to allow a Second Hand Dealer (Yesterday Toys and Collectables) to establish in a residential zone. Subsequent use variances were granted, DAV 467/2000 for a sales/service shop for computers and DAV 90/2002 for a dog groomer.

Description of the Proposed Development

The applicant intends to establish a grocery store in the brick building portion of the structure.

Analysis

PLAN WINNIPEG

The proposed concept is consistent with Plan Winnipeg in that a commercial rezoning is allowed in Neighbourhood Policy Areas.

ZONING

- A **"C1" Commercial District** has 41 Permitted Uses and 20 Conditional Uses that provide for local commercial uses typically found in neighbourhoods. There is a front yard requirement of 20 feet and the maximum building height is 30 feet.

- A **"C1" Commercial District** land-uses tend to cater to the local residents, and are usually scattered throughout Winnipeg's older neighbourhoods. They serve the local residents down the street but not necessary a community or city wide market.
- The existing single family dwelling unit would be an Accessory Use, permitted in the C1 district.
- Single Family Dwellings are 'conditional' in the C1 District.

COMPATIBILITY WITH SURROUNDING USES
Over the past 40 years, commercial uses (a pharmacy) has been at this location, which is on a Regional Street (Mountain Ave). The subject property is one of several commercial uses that are operating in residentially zoned areas in the neighbourhood. These commercial properties have existed for decades when small corner shops contained a living unit and a store. Many of these mixed structures were non-conforming uses when new zoning by-laws became effective. Subsequently neighbourhood commercial uses were then established in commercial structures with no limited time period by use variance. However, the City of Winnipeg Charter now classifies 'use variances' as temporary, with a maximum 5-year period. A re-zoning provides a more in-depth analysis of the impact of a commercial property on the neighbourhood and provides certainty for property owners of the potential use of the property.

Other commercial sites along Mountain are either existing non-conforming uses or zoned C1 to accommodate the full range of neighbourhood commercial uses: 767/769 Mountain is a nearby property that is zoned C1 with a commercial and residential portion; 773 Mountain also has mixed use of small commercial shop with residential building that is zoned "R1-3".

LAND USE BYLAW ISSUES
DAV 07-117277/D

- 'Grocery Store' and retail uses are not permitted in the **"R1" Residential District.**
- The applicant has made application for a 'use' variance to temporarily allow these uses.
- Section 247(4) of the City of Winnipeg Charter restricts the Committee from extending a variance for use beyond 5 years.
- The applicant must make an application to rezone the property to permanently permit these uses.
- The variance, if granted, will allow the applicant to begin construction of the building prior to a rezoning being approved by Council.
- The variance may be appealed to the Appeals Committee for an additional public hearing, whereas the recommendation by the Community Committee for a rezoning proceeds to Council without an additional public hearing.
- The applicant also has a number of variances for substandard yards which can be appealed.
- The Division is supporting all the variances.

Recommendation

The Planning and Land-Use Division supports the rezoning application. The zoning will reflect an existing on-ground condition of a commercial building that has housed small scale commercial uses for the last +35 years attached to a residential building. The small physical dimensions of the lot also restricts the type of uses that can be accommodated on the subject property, precluding the commercial intensification of the land.

Recommended Conditions of Approval

1. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 214/2007 dated June 28, 2007, to a "C1" Commercial District.

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This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: John S. Wintrup
PPD File # DAZ 214/2007

Schedule "A"

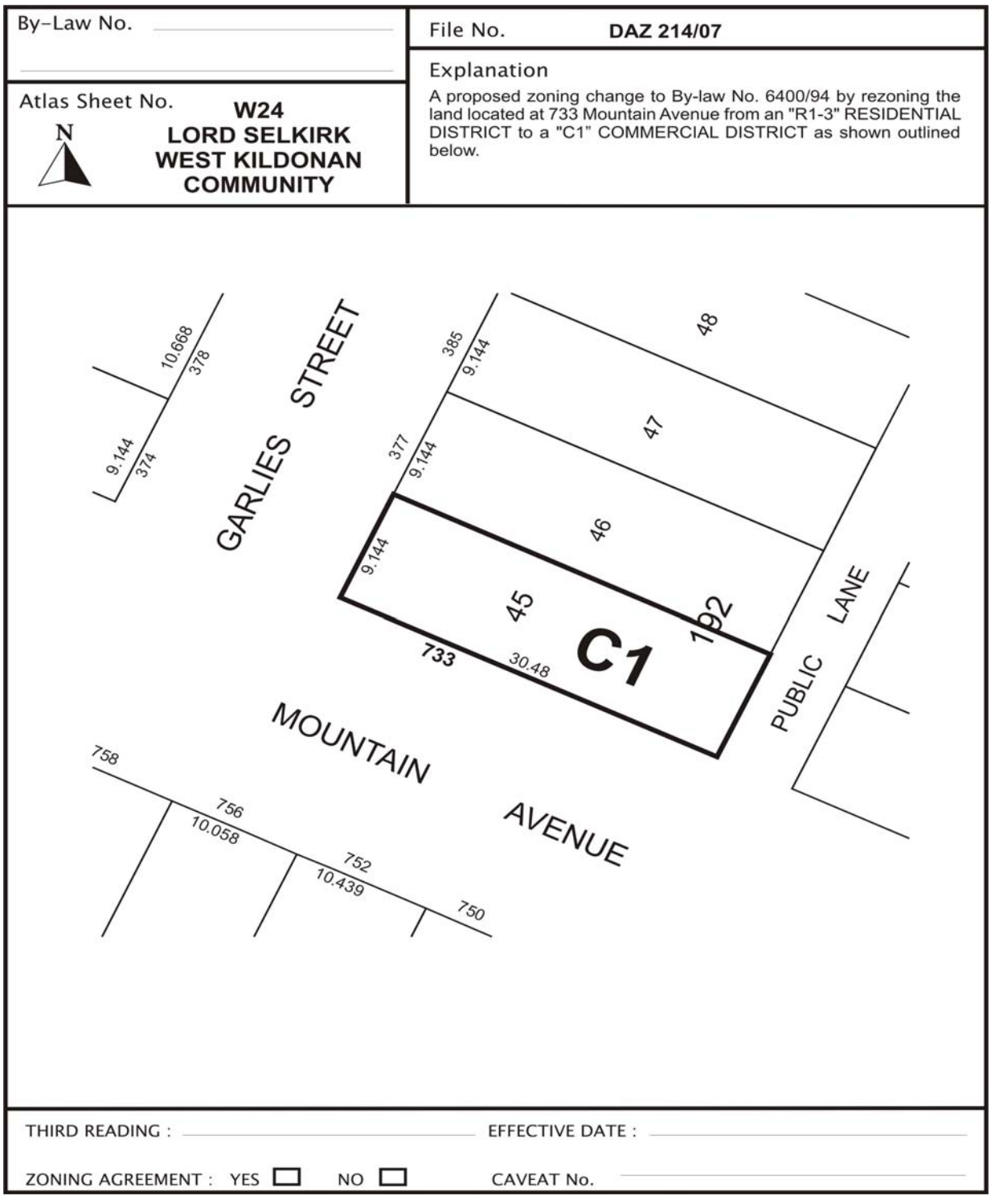


Figure 1: Schedule "A" to the report to the Lord Selkirk-West Kildonan Community Committee for File DAZ 214/2007, dated June 28, 2007

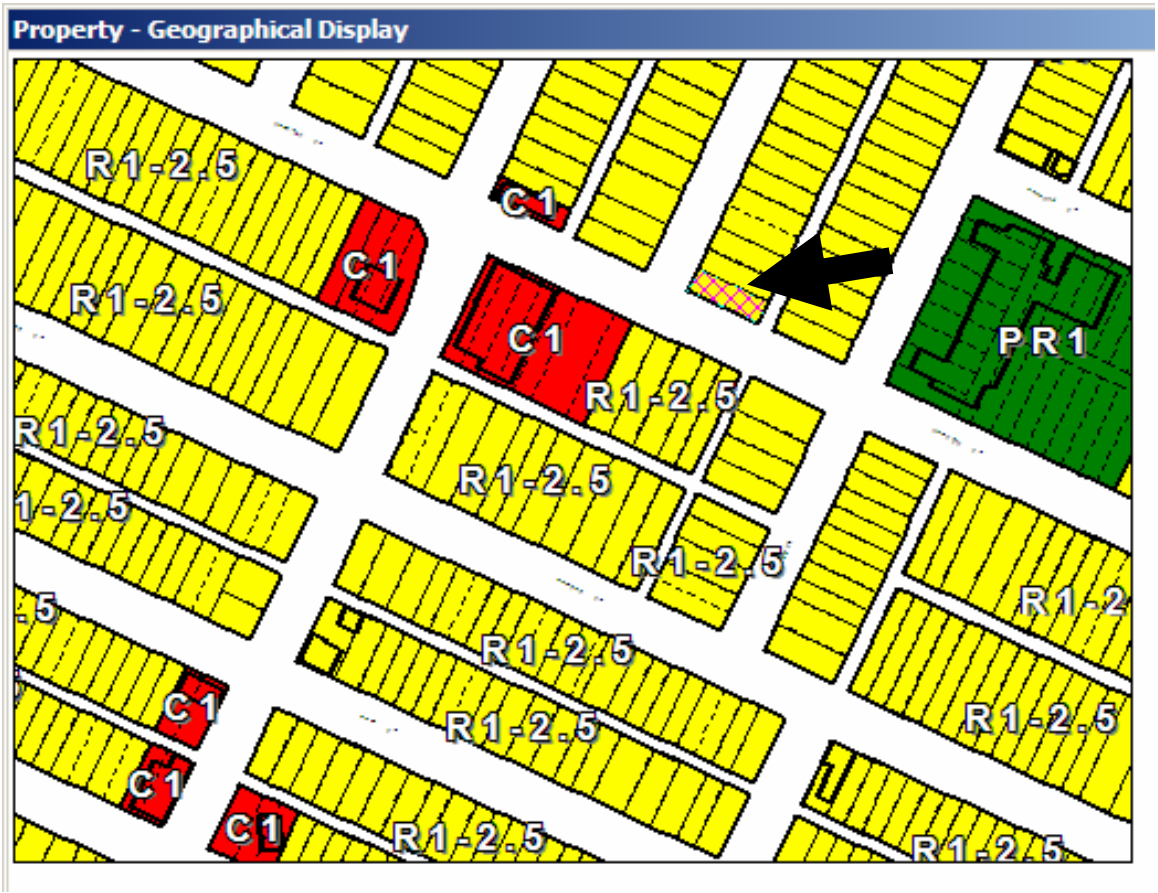


Figure 2: Existing Zoning for subject property and Surrounding Area.



Figure 3: Existing Land-Uses for subject property and Surrounding Area.