Agenda – Council – September 24, 2008

Report - Executive Policy Committee - September 3, 2008

Item No. 7 Rezoning - 871 Redwood Avenue
(Point Douglas Ward)
File DAZ 222/2008

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 3, 2008, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 222/2008 dated July 1, 2008, to a "C1" 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 only the following uses shall be permitted on the land:
            a. Retail sales
            b. All uses permitted or conditional in the "R1-S" Residential District

        ii. That the height of all buildings be limited to 35 feet (10.668 metres)

        iii. That the following signage shall not be permitted:
            a Internally illuminated signage
            b. Freestanding signage
            c. Buntings
            d. Advertising, mobile, poster, balloon, banner, A-frame, inflatable, electronic message centre, flashing, animated, and scintillating signs

        iv. That for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

Report - Executive Policy Committee - September 3, 2008

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 zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date by-law is passed.

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 - Executive Policy Committee - September 3, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 3, 2008, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 15, 2008, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Rezoning - 871 Redwood Avenue**
(Point Douglas Ward)
File DAZ 222/2008 [c/r DAV 122874/2008D]

For submission to: **Executive Policy Committee**

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

Report date: **July 24, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 15, 2008, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

1. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 222/2008 dated July 1, 2008, to a "C1" 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 only the following uses shall be permitted on the land:
            a. Retail sales
            b. All uses permitted or Conditional in the "R1-S" Residential District

        ii. That the height of all buildings be limited to 35 feet (10.668 metres)

        iii. That the following signage shall not be permitted:
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            d. Advertising, mobile, poster, balloon, banner, A-frame, inflatable, electronic message centre, flashing, animated, and scintillating signs

        iv. That for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and

signage to the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

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 zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date by-law is passed.

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 comments contained in the report from the Planning and Land Use Division dated July 1, 2008.

PUBLIC HEARING SUMMARY

File: DAZ 222/2008 [c/r DAV 122874/2008D]

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

Public Hearing: July 15, 2008
West Committee Room
Council Building, 510 Main Street

Applicant: Scotty's Reefer Service (Scott Duheme)

Subject:



Premises Affected: 871 Redwood Avenue

Exhibits Filed:
1. Application dated June 5, 2008
2. Notification of Public Hearing dated June 6, 2008
3. Manitoba Status of Title 1345442

4. Surveyor's Building Location Certificate and sketch dated January 27, 1994
5. Photographs (12) of the subject property
6. Plans (3 pages)
7. Report from the Planning and Land Use Division dated July 1, 2008
8. Inspection Report
9. Audio Recording of representations

REPRESENTATIONS:

In Support:

Scott Duheme
Toni Harder
Bill Norton
Colleen Norton
David Rasmussen

In Opposition

Nil

For the City:

Ms S. Matile, Land Development Engineer, Planning, Property and Development Department
Mr. M. Robinson, Planner, Planning, Property and Development Department
Mr. N. Yauk, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File DAZ 222/2008 [c/r DAV 122874/2008D]

Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: July 1, 2008
File: DAZ 222/2008
Related Files: DAV 08 122874/D
Subject: Application to amend Zoning By-law 200/2006 by rezoning the subject property from an "R1-S" Single-Family District to a "C1" Commercial District
Location: 871 Redwood Avenue



Applicant: Scotty's Reefer Service (Scott Duheme
Owner: Same
Recommendation: *Approval*

Report Summary:

- The subject property functioned as a grocery store and butcher shop for many years
- The building has been vacant since 2006
- The current owner wishes to sell the property to an interest that seeks to reestablish a butcher shop

Site Description
The subject property, which is currently zoned "R1-S" Single-Family Residential, is located at the northwest corner of Redwood Avenue and Sinclair Street, in the Burrows Central neighbourhood of the Mynarski ward.

North: Residences zoned "R1-S" Single-Family Residential
South: Residences zoned "R1-S" Single-Family Residential
East: Residences zoned "R1-S" Single-Family Residential
West: Residences zoned "R1-S" Single-Family Residential

Background
The subject site was previously established as a butcher shop, for many years. The business, which ceased operation in 2006, was classified as a non-conforming use in the "R1-S" Single-Family Residential District.

Under the rules of a non-conforming use provided in Part 1, Section 27 of Zoning By-Law 200/2006, if a non-conforming use becomes abandoned, vacant, or unoccupied for twelve consecutive months, the non-conforming use does not continue. Consequently, in order to reestablish a butcher shop, a rezoning to a commercial zoning district is required.

Description of the Proposed Development
The applicant intends to sell the subject property to an interest that seeks to reestablish a butcher shop use.

The one story, 2,040 square foot building, will include a 530 square foot retail area, as well as food preparation and storage space. The basement will be utilized for equipment storage, a lunch room, and office.

Analysis
Plan Winnipeg
The subject application constitutes development within a Neighbourhood Policy Area. Neighbourhood Policy Areas are intended to include a residential mix together with a variety of educational, recreational, institutional, commercial and possibly industrial uses, at a scale and density compatible with each other.

Non conforming uses
The subject property, which is flanked by residences, and zoned "R1-S" Residential District, had been established as a butcher shop for many years. While it is not customary to encourage the survival of a non-conforming use once it closes down, each situation must be examined on a case by case basis considering the specific nature of the replacement use, the particular context of the area, development patterns in the area, and community input.

Proposed Use
As previously mentioned, a small scale grocery store/butcher shop operated a this location for many years. The applicant wishes to reestablish this use.

Compatibility with surrounding uses
Typically, small retail stores are considered to be an amenity in residential neighbourhoods, provided that the stores remain at an appropriate scale for the neighbourhood context.

Off site impacts
The proposed business will operate completely within the confines of the existing building. Given the nature of the use, it is not anticipated that significant off-site impacts, such as noise, odours, and/or vibrations will be generated by the proposed use.

However, given that there were previously complaints (2005) about the smell of rotten meat and bones in the garbage, conditions are being added to ensure that all garbage is disposed of and stored in a garbage dumpster, within a dumpster enclosure.

Parking and Traffic
The business will operate primarily during business hours and is not anticipated to generate a heavy amount of traffic. Four parking stalls will be provided in the proposed parking area in the rear.

Community Input
At the time of this writing, the Planning and Land Use Division has not been contacted by anyone in opposition to this application.

Other
The adaptive reuse of a commercial building for a non-commercial use can be extremely difficult. This is another factor that should be considered when determining whether to extend the life of a non-conforming use.

Conditions
In light of the fact that the subject block is primarily residential in nature, standard conditions are being recommended to ensure that there is minimal impact on adjacent properties.

Building
In the opinion of the Planning and Land Use Division, given the primarily residential nature of the block, it is important that any future redevelopment of this property be compatible with the surrounding community. In that vein, while the “C1” District has a maximum height allowance of 39 feet, the street, with a few exceptions, is characterized by 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 35 feet.

Use
Given the context of the area, which is exclusively residential, the Division recommends that uses be restricted to a retail store and all uses permitted or conditional in the "R1-S" Residential District. This affords additional protection to the area in the event that this property is redeveloped or retenanted in the future.

Signage
Similarly, given the residential 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:

- Typically, small retail stores are considered to be an amenity in residential neighbourhoods, provided that the stores remain at an appropriate scale for the neighbourhood context.

- Given the nature of the use, it is not anticipated that significant off-site impacts, such as noise, odours, and/or vibrations will be generated by the proposed use.

- Conditions have been added to ensure that the use is compatible with the area and will not have a substantial adverse impact on adjoining residents

Recommended Conditions of Approval

1. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 222 /2008 dated July 1, 2008, to a "C1" 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:

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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.

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

Report Prepared by: Michael Robinson, AICP
PPD File # DAZ 222/2008



Figure 1: Aerial Photo (Flown in 2005)

Schedule “A”

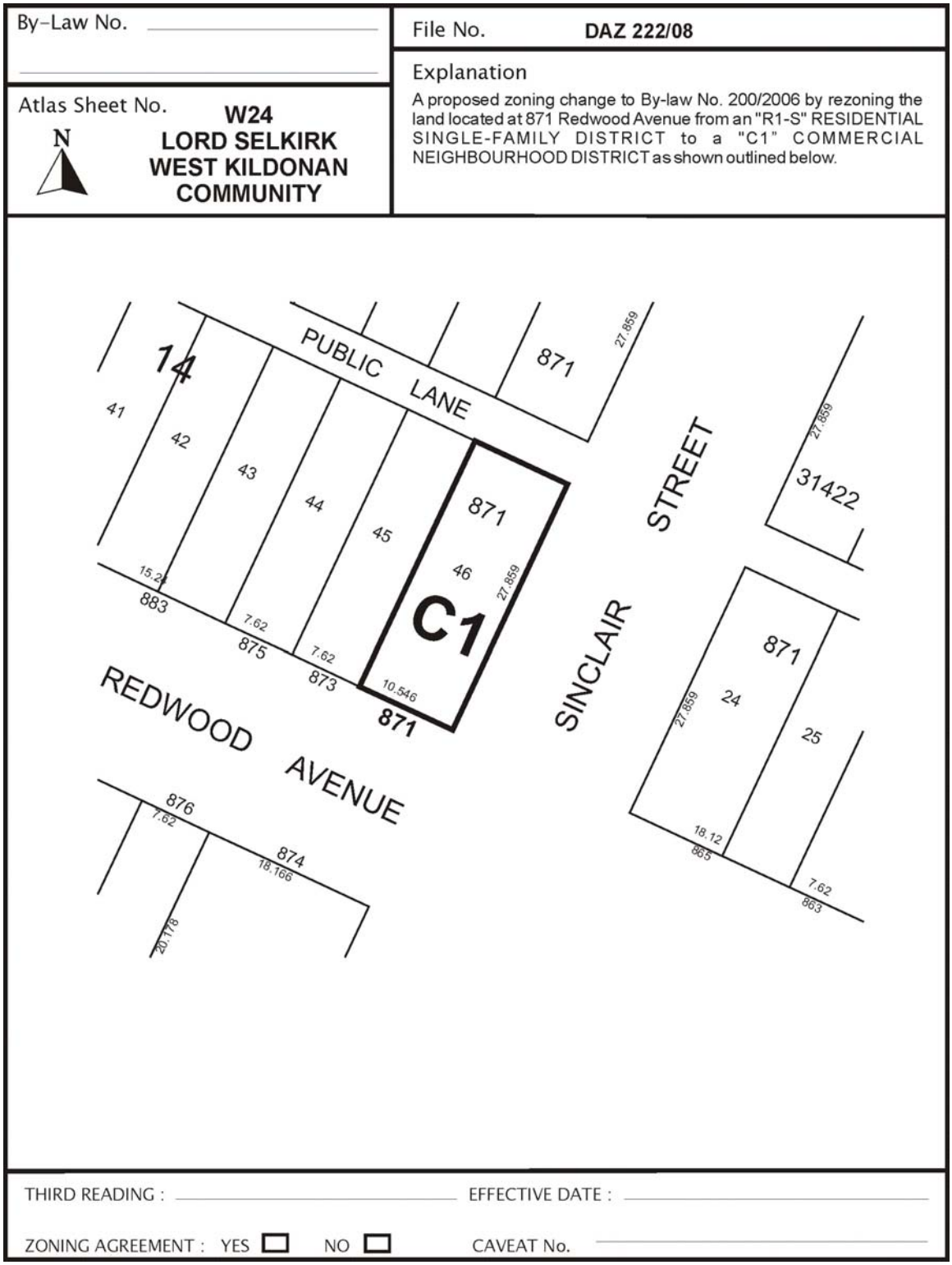


Figure 1: Schedule "A" to the report to the Lord Selkirk-West Kildonan Community Committee for File DAZ 222/2008, dated July 1, 2008.