**Minutes – Executive Policy Committee – January 20, 2010**

**Minute No. 120**
**Report – Standing Policy Committee on Property and Development – January 5, 2010**

**Item No. 5 Zoning Agreement Amendment – 905 Corydon Avenue (Fort Rouge- East Fort Garry Ward) File ZAA 8/2009**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the City Centre Community Committee and submits the following to Council:

1. That the Zoning Agreement under File DAZ 231/2004 (By-law No. 148/2004) dated September 29, 2004, be amended as follows:

   A. That Clause 3 of the Zoning Agreement be amended by deleting the following after the word "restaurant", namely:

      "maximum 2,700 square feet"

   B. That Clause 3 of the Zoning Agreement be amended by adding the following after the word "restaurant", namely:

      "maximum licensed dining room area of 1,950 square feet (181.2 square metres) comprised of Unit "A" and Unit "B," in accordance to the plan submitted and identified as Exhibit 10 for File ZAA 8/2009 Unit "A" shall have a maximum seating area of 1,060 square feet (98.5 square metres), and Unit "B" shall have a maximum seating area of 890 square feet (82.7 square metres)."

   C. That Clause 3 of the Zoning Agreement be amended by adding the following words, namely:

      i. "- Licensed Dinning Room (as defined by the Manitoba Liquor Control Commission)"

      ii. "- Cocktail Lounge (as defined by the Manitoba Liquor Control Commission) as an accessory use to a restaurant, with a maximum indoor area of 370 square feet (34.4 square metres), and a maximum outdoor patio area of 490 square feet (45.5 square metres)."

**Report – Standing Policy Committee on Property and Development – January 5, 2010**

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 231/04 (By-Law No. 148/2004) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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 – January 5, 2010

DECISION MAKING HISTORY:

Moved by Councillor Steeves,

That the recommendations of the Standing Policy Committee on Property and Development and the City Centre Community Committee be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On January 5, 2010, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On December 8, 2009, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded to the Standing Policy Committee on Property and Development.

**RE:** **Zoning Agreement Amendment - 905 Corydon Avenue**
**File ZAA 8/2009 [c/r DCU 152407/2009D]**

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

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

**Report date:** **December 9, 2009**

COMMUNITY COMMITTEE RECOMMENDATION:

On December 8, 2009, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement under File DAZ 231/2004 (By-law No. 148/2004) dated September 29, 2004, be amended as follows:

   A. That Clause 3 of the Zoning Agreement be amended by deleting the following after the word "restaurant", namely:

      "maximum 2,700 square feet"

   B. That Clause 3 of the Zoning Agreement be amended by adding the following after the word "restaurant", namely:

      "maximum licensed dining room area of 1,950 square feet (181.2 square metres) comprised of Unit "A" and Unit "B," in accordance to the plan submitted and identified as Exhibit 10 for File ZAA 8/2009 Unit "A" shall have a maximum seating area of 1,060 square feet (98.5 square metres), and Unit "B" shall have a maximum seating area of 890 square feet (82.7 square metres)."

   C. That Clause 3 of the Zoning Agreement be amended by adding the following words, namely:

      i. "- Licensed Dinning Room (as defined by the Manitoba Liquor Control Commission)"

      ii. "- Cocktail Lounge (as defined by the Manitoba Liquor Control Commission) as an accessory use to a restaurant, with a maximum indoor area of 370 square feet (34.4 square metres), and a maximum outdoor patio area of 490 square feet (45.5 square metres)."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 231/04 (By-Law No. 148/2004) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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 City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. The business has been an excellent addition to the area.

2. The hour restrictions provides balance for the area.

**PUBLIC HEARING SUMMARY**

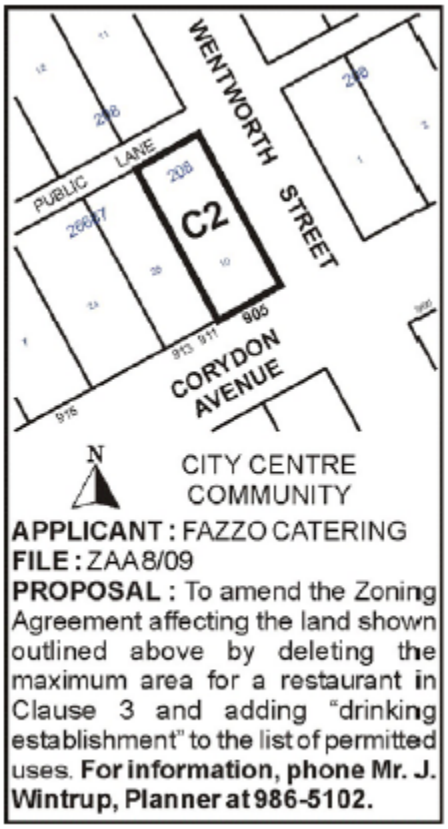
File: ZAA 8/2009 [c/r DCU 152407/2009D]

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

Public Hearing: December 8, 2009
North Committee Room
Council Building, 510 Main Street

Applicant: Fazzo Catering (Rhea Collison)

Subject:




Premises Affected: 905 Corydon Avenue

Exhibits Filed:
1. Application dated October 6, 2009
2. Notification of Public Hearing dated October 19, 2009
3. Manitoba Status of Title(s) 2197545

4. Letter of authorization dated September 16, 2009 from A. Foderaro, President, 5052289 Manitoba Ltd. to 6642117 Manitoba Ltd. o/a Fazzo Bistro (Fazzo Catering)
5. Caveats 151310, 3076673 and 3724866
6. Conditional Use Order DCU 130106/2008C
7. Conditional Use Order DCU 114495/2009C
8. Plans (10 pages)
9. Report from the Planning and Land Use Division dated November 25, 2009
10. Plan (1 page)
11. Inspection Report
12. Communication dated December 8, 2009, from Karen and James Chopp, in opposition to the application
13. Communication (undated), from Peter Sampson, in support of the application
14. Communication dated December 3, 2009, from Neil Minuk, in support of the application
15. Petition in support of the application (15 pages), submitted by Rhea Collison, Fazzo Catering
16. Audio Recording of representations of public hearing held on December 8, 2009

REPRESENTATIONS:

In Support:

Cameron Collison
Rhea Collison, Fazzo Catering
Mike Meyers
Neil Minuk
Tammie Rocke
Peter Sampson
Mary-Ann and Simon Timm and Kyle Gerbrandt

In Opposition

Karen and James Chopp

For Information:

Nil

For the City:

Mr. R. Kostiuk, Planner, Planning, Property and Development Department

Exhibit "9" referred to in File ZAA 8/2009 [c/r DCU 152407/2009D]

# ADMINISTRATIVE REPORT

**ISSUE:** ZAA 8/09 905 Corydon Avenue Public Hearing

**Critical Path:** City Centre Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee - Council as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| D. Himbeault | N/A | N/A | |

## RECOMMENDATIONS

1. That the Zoning Agreement under File DAZ 231/04 (By-Law No. 148/2004) dated September 29, 2004, be amended as follows:

   A. That Clause 3 of the Zoning Agreement be amended by deleting the following after the word "restaurant", namely:

      "maximum 2,700 square feet"

   B. That Clause 3 of the Zoning Agreement be amended by adding the following after the word "restaurant", namely:

      "maximum licensed dining room area of 1,950 square feet (181.2 square metres) comprised of Unit "A" and Unit "B" as identified on Sheet Number 10 for File No. DCU 09-152407/D dated December 1, 2009. Unit "A" shall have a maximum seating area of 1,060 square feet (98.5 square metres), and Unit "B" shall have a maximum seating area of 890 square feet (82.7 square metres)."

   C. That Clause 3 of the Zoning Agreement be amended by adding the following words, namely:

- "Licensed Dinning Room (as defined by the Manitoba Liquor Control Commission)";
- "Cocktail Lounge (as defined by the Manitoba Liquor Control Commission) as an accessory use to a restaurant, with a maximum indoor area of 370 square feet (34.4 square metres), and a maximum outdoor patio area of 490 square feet (45.5 square metres)."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 231/04 (By-Law No. 148/2004) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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.

## IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, a development permit can be issued.

## CONSULTATION

**In preparing this Report there was consultation with:**

N/A

## SUBMITTED BY

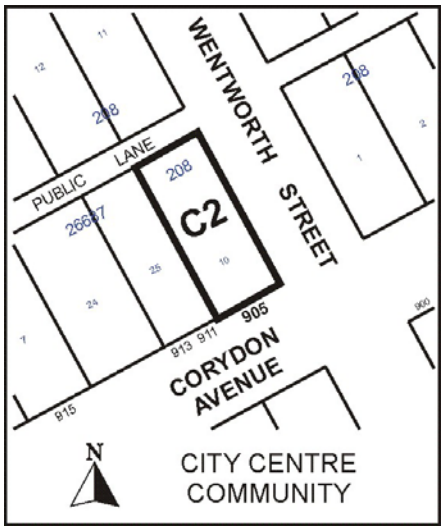
| | |
|---|---|
| Department | Planning, Property and Development |
| Division | Planning and Land Use |
| Prepared by | Robert Kostiuk |
| Date: | November 25, 2009 |
| File No. | ZAA 8/09 |
| | |
| Appendix 'A' | Administrative Report |

**APPENDIX 'A'**

**DATE:** November 25, 2009
**FILE:** ZAA 8/09
**RELATED FILES:** DCU 09-152407/D
DCU 09-114495/C; DCU 08-130106/C; ZAA 5/08; DAZ 231/04; DAV 04-133144/D
**COMMUNITY:** City Centre Community
**NEIGHBOURHOOD #:** 1.110

**SUBJECT:** The applicant would like to amend the existing Zoning Agreement on the property in order to have a 1,950 square foot indoor licensed dining room (restaurant); a 370 square foott licensed indoor cocktail lounge; and a 490 square foott licensed outdoor patio.

**LOCATION:** 905 Corydon Avenue
**LEGAL DESCRIPTION:** Lot 10, Block 66, Plan 208




**APPLICANT:** Fazzo Catering (Rhea Collison)
Unit B, 905 Corydon Avenue
Winnipeg MB R3M 0W8

**OWNER:** A. Foderaro, President
5052289 Manitoba Ltd.

**RECOMMENDATION:** Amend the zoning agreement

**REPORT SUMMARY:**

- The applicant would like to expand the existing restaurant beyond the maximum size of 2,700 gross square feet permitted in the zoning agreement, and seeks to add "drinking establishment as an accessory use to a restaurant" within the zoning agreement for a cocktail lounge permit.
- The building on the subject property is 4,555 square feet and is divided by a demising wall with a door into Units "A" and "B."
- The subject property is zoned "C2" Commercial Community and is surrounded by commercial and multi-family uses.
- Within a Neighbourhood Main Streets Planned Development Overlay 1 area, restaurants are limited to a maximum of 2,500 square feet and drinking establishments are a conditional use.
- A conditional use application is required to allow a drinking establishment and a restaurant over 2,500 square feet within the Neighbourhood Main Streets Planned Development Overlay 1 area (see DCU 09-152407/D).
- The restaurant's current **licensed area is 1,404 square feet** and will be increased to **1,950 square feet.**
- The existing outdoor patio is **490 square feet** and will change from being a licensed dining area to a licensed cocktail lounge under the MLCC permitting process.
- A new indoor licensed cocktail lounge of **370 square feet** will be created.
- The total licensed area inside the building will be **2,320 square feet** and **490 square feet** outside the building.
- Total licensed area for the subject property will be **2,810 square feet.**
- The Planning and Land Use Division recommends placing restrictions on the size of the licensed dinning area that is within the gross floor area of the restaurant, and restrictions on the size of the licensed cocktail lounge's hours of operation and size within the gross floor area of the restaurant.

**SITE DESCRIPTION**

- The subject property is approximately **6,000 square feet** and is located on the northwest corner of Corydon Avenue and Wentworth Street in the McMillan neighbourhood of the Fort Rouge - East Fort Garry Ward (see Figure 1).
- The property lies within Plan Winnipeg's Neighbourhood Policy Area, a Neighbourhood Main Streets Planned Development Overlay District, and is zoned **"C2" Commercial Community** (see Figure 2 for zoning of the subject property surrounding zoning).
- Located on the property is a **4,560 gross square feet, one storey building**, which is divided by a demising wall with a door into Units "A" and "B", with a **490 square foot outdoor patio**.
- Unit "A" is approximately **2,700 gross square feet** and currently consists of Fazzo's restaurant with access from Corydon and a take-out area with access from Wentworth (see Figure 3).

- Fazzo's restaurant currently has a Dining Room License, which under Manitoba Liquor Control Commission (MLCC) regulations permits serving alcohol with a meal. According to the MLCC, the restaurant **licensed area is 1,404 square feet.** The restaurant has seating for +/- 44 people, and a cocktail bar area that has seating for +/- 10 people.
- Alongside Corydon there is an outdoor patio that is approximately 490 square feet with seating for 30 people (see DCU 14495/2009C). The MLCC has also licensed the outdoor patio as a dining area.
- The take-out/kitchen area is approximately 485 square feet, while the bar area (not including seating), washrooms, electrical room and closets comprise the remainder of the building.
- According to the MLCC and City of Winnipeg Commercial Inspections Branch, the current occupant load is 58 people for the restaurant and 30 people for the outdoor patio.

- Unit "B" is approximately **1,855 gross square feet**, with access from Corydon Avenue.
  - Unit 'B' includes a 715 square foot kitchen (used for both the catering business and for the restaurant) and an 890 square foot soup/deli bar with seating for about 10 people (see Figure 3).
  - The remainder of the unit is comprised of a washroom and rear entrance area.
  - According to the City of Winnipeg Commercial Inspections Branch, the current occupant load for the soup/deli bar is 10 people.

**SURROUNDING LAND USES & ZONING**

**North:** A 3.5-storey apartment zoned "R2" Residential Two-Family.

**South:** A 2.5-storey apartment zoned "RMF-M" Residential Multi-Family Medium.

**East:** A commercial strip mall zoned "C2" Commercial Community.

**West:** A retail establishment zoned "C2" Commercial Community.

**BACKGROUND**

This is the fifth application put forward for this property and reviewed at public hearing by either the City Centre Community Committee or the Board of Adjustment since 2004. These applications are summarized below in chronological order.

***DAZ 231/2004***

Subject: Rezone the land from a "RM-4" Residential District to a "C1-5" Commercial District (Zoning By-Law No. 6400/94) to allow for a proposed grocery store and restaurant.

Development Description: Renovate the building for use as a small grocery store (2,700 square feet) and restaurant (1,950 square feet).

Decision: (Council)

Amend The Winnipeg Zoning By-law No. 6400/94 by rezoning the subject land to a “C1.5” Commercial District, subject to the following:

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 the following land uses be permitted:

- amusement devices, accessory
- art/antique, sales service
- art/crafts/hobby: instruction, supplies
- artisan, crafting of custom products
- bakery, baked goods
- bank, credit union, or similar
- banking/teller machines
- barber shop, beauty salon
- bicycle: rental, sale, service
- book: sales
- butcher
- clothing, alteration, repair, sales
- dressmaker, furrier, tailor
- drug store (closed midnight to 7:00 a.m.)
- dwelling units
- electronic equipment, rental, sales, service
- fabric/yarn sales
- florist
- general merchandise, retail
- grocery, confectionary
- gift store
- jeweler, watchmaker
- laundry, self-service
- luggage: rental, sale, service
- medical, dental, optical, counseling or similar
- museum, art gallery
- musical instruments: rental, sale, service, music instruction
- office, except insurance and real estate
- personal service
- pet sales, pet supplies, pet grooming
- reducing salon, health spa, steam bath, tanning salon, or similar
- post office
- restaurant, maximum 2,000 square feet
- retail sales, except beer and liquor
- second-hand store
- sporting goods
- stationery sales
- studio
- tattoo parlour
- toy sales
- building materials, hardware, home improvement supplies or equipment: sales

- medical, dental, optical or other precision instruments, prosthetics rental, sale, service
- photographic developing/printing

ii. That mobile signs be prohibited.

***DAV 133144/04D (c/r DAZ 231/2004)***

Subject: Vary the "RM-1" Multiple-Family District and the proposed "C1.5" Commercial District regulations of The Winnipeg Zoning By-law No. 6400/94.

Development Description: The property is being rezoned under DAZ 231/04 to "C1.5" to permit the commercial use of the building (see DAZ 231/2004 above).

Decision: (Community Committee) Vary the "RM-1" Multiple-Family District and the proposed "C1.5" Commercial District regulations of The Winnipeg Zoning By-law No. 6400/94 to permit as follows:

1. for a change of use for a period not to exceed five (5) years to permit the establishment of the following uses:
   A. a grocery store
   B. restaurant
   C. other permitted uses in the "C1.5" Commercial District.

2. the development of an accessory parking area to permit as follows:
   A. no additional parking spaces instead of 25 spaces;
   B. parking directly off a lane instead of an aisle;
   C. no landscaping abutting a public right-of-way (Wentworth Street);
   D. a 2.5 foot (0.76 metre) high lightproof fence abutting a residential district;

3. no loading space

***ZAA 5/2008***

Subject: To delete Zoning Agreement By-Law 148/04, DAZ 231/04 for future expansion of restaurant use.

Development Description: Establish a restaurant beyond the 2,000 square foot limit stipulated in the Zoning Agreement (see DAZ 231/2004).

Decision: (Council) Amend the Zoning Agreement under File DAZ 231/2004 dated September 29, 2004 (By-law No. 148/2004) and replace "restaurant, maximum 2,000 square feet" under Clause 3 with "restaurant, maximum 2,700 square feet" of total gross floor area.

***DCU 130106/2008C***

Subject: An application for a Conditional Use under the "C2 (PDO - Neighbourhood Main Street Areas)" of Zoning By-Law No. 200/2006 to permit the establishment of restaurant use 2,700 square feet (250.83 square metres) in floor area.

Development Description: Redevelop Unit “A” of 905 Corydon Avenue into a restaurant with a gross floor area of approximately 2,700 square feet; and Unit “B” of said address, with a gross floor area of approximately 1,855 square feet, into a retail (food) sales use with a catering component.

The submitted plans show that the existing door in the demising wall is to be retained.

The applicant submitted a parking management plan for approval by the Director of the Planning, Property and Development Department. The Plan states that the existing parking lot at 897 Corydon Avenue, which has over 20 parking spaces, is available for the restaurant’s use between 6 PM and 12 AM, daily.

Decision: (Board) Approved a Conditional Use on “the land” to permit the establishment of restaurant use 2,700 square feet (250.83 square metres) in floor area subject to the following conditions:

1. That for the development of any building, accessory parking area, landscaping, fencing, exterior lighting and exterior signage, plans shall be submitted showing the location and design of the proposed building after renovation, the location and design of the accessory parking area, private approaches, garbage enclosures, fencing, lighting of the exterior, exterior signage and landscaping to the Director of the Planning, Property and Development Department for 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 the hours of business (open to patrons) be limited to the hours between 9:00 a.m. and 2:00 a.m., Monday to Saturday, and between 11:00 a.m. and 2:00 a.m. on Sunday.

***DCU 114495/2009C***

Subject: An application for a Conditional Use under Zoning By-Law No. 200/2006 to permit the establishment of an accessory Outdoor Dining area exceeding 100 square feet (9.3 square metres).

Development Description: Establish a +/- 450 square foot seasonal patio for the existing restaurant. The patio would be located in front of the restaurant on Corydon Avenue.

Decision: (Board) Approved a Conditional Use on "the land" to permit the establishment of an accessory outdoor dining area exceeding 100 square feet (9.3 square metres) subject to the following conditions:

1. That the hours of operation of the accessory outdoor dining/drinking area are limited to 11:00 a.m. until 11:00 p.m., 7 days per week.

2. That the patio shall be limited to thirty (30) persons.

3. That no amplified music shall be permitted.

4. That the seasonal patio shall be constructed in substantial conformance with plans attached and identified as Exhibit 7, Sheets 1 to 3, for File DCU 114495/2009C and thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

- The applicant would like to create an opening in the demising wall approximately 9 feet (2.74 metres) wide between Units "A" and "B" and thereby expand the gross size of the restaurant beyond the maximum size of 2,700 square feet permitted in the zoning agreement (see Figure 4).
- The applicant explained that creating this opening would give greater flexibility for seating more people in the restaurant, and for hosting events/occasions such as holiday parties and wine tasting events.
- The applicant's intent is to expand the licensed dining room into Unit 'B' and thereby increase the licensed dining room area of the restaurant to approximately 1,950 square feet.
- Secondly, the applicant seeks to add "drinking establishment as an accessory use with a Cocktail Lounge with an indoor area of 370 square feet (34.4 square metres), and an outdoor patio area of 490 square feet (45.5 square metres).
- The current zoning agreement does not permit a drinking establishment on the property. The owners have a Dining Room License, which under MLCC regulations permits serving alcohol with a meal. However, the applicant would also like to allow for some patrons to be allowed to be served alcohol without a meal.
- The applicant is proposing to apply the Cocktail Lounge license to the bar area, comprising a total of 370 square feet (see Figure 4) and to the outdoor patio comprising a total of 490 square feet.
- Cocktail lounge licenses under MLCC regulations can be issued to operators with a dining room license. The maximum capacity of a cocktail lounge can not exceed the maximum capacity of the main licensed dining room.

SUBTOTAL SUMMARY OF PROPOSED DEVELOPMENT

- The restaurant's current **licensed area is 1,404 square feet** and will be increased to **1,950 square feet.**
- The existing outdoor patio is **490 square feet** and will change from being a licensed dinning area to a licensed cocktail lounge under the MLCC permitting process.
- A new indoor licensed cocktail lounge of **370 square feet** will be created.
- The total licensed area inside the building will be **2,320 square feet** and **490 square feet** outside the building.
- The total licensed area for the subject property will be **2,810 square feet.**

**ANALYSIS**

PLAN WINNIPEG COMPLIANCE

- The proposed rezoning complies with *Plan Winnipeg 2020.*

ZONING (BY-LAW 200/2006)

- **"C2" Commercial Community District** is intended to accommodate more intensive commercial sites that do not have a local or neighbourhood orientation. The district is intended to include attractive commercial, institutional, recreational, and service facilities needed to support the surrounding neighbourhoods and the broader community. C2 districts are generally located along collector streets, at arterial/collector intersections, or along portions of arterial streets with relatively shallow lots.

LAND USE BY-LAW ISSUES

- Within a Neighbourhood Main Streets Planned Development Overlay 1 area, restaurants are limited to a maximum of 2,500 square feet.
- Under the existing zoning agreement for the subject property restaurants are limited to a maximum of 2,700 square feet.
- The proposed development would make the existing restaurant greater than 2,700 square feet.
- Drinking establishments are a conditional use within the Neighbourhood Main Streets Planned Development Overlay 1 area.
- A drinking establishment as an accessory use to a restaurant is not permitted in the existing zoning agreement.
- The proposed zoning agreement amendment would allow drinking establishments as an accessory use to a restaurant.
- A conditional use application is required to allow a drinking establishment, and a restaurant over 2,500 square feet within the Neighbourhood Main Streets Planned Development Overlay 1 area (see DCU 09-152407/D).

LAND USE BY-LAW AND MLCC REGULATIONS

- The licensed area of a dining room as per MLCC regulations is based on usable space (i.e. seating area), therefore the total area of the existing restaurant is viewed as 1,404 square feet according to the MLCC.
- The zoning by-law looks at the use of the land and building as a whole and does not parse away "usable space." According to the zoning agreement, the current and maximum allowable size of the restaurant is 2,700 square feet, or the size of Unit "A."
- The MLCC has several different classifications for varying types of drinking establishments, including dining rooms and cocktail lounges. Cocktail lounge licenses can only be issued to an operator that holds a dining room license at the same location and the maximum capacity of the cocktail lounge can not exceed the seating capacity of the licensed dining room.[1]
- A cocktail lounge license with the MLCC permits the sale of liquor without a meal, whereas a dining room license only permits the sale of liquor with a meal.
- Within the zoning by-law, the definitions regarding liquor sales are broad. The following two definitions apply to this application:

  **"restaurant"** means an establishment primarily engaged in the preparation of food intended to be sold to the public for consumption on or off the premises. Restaurants may be licensed by the Government of Manitoba for the sale of alcohol; however, the sale of alcohol is incidental to the sale of food.

  **"drinking establishment"** means an establishment or portion of an establishment, licensed by the Government of Manitoba, where the principal purpose of the establishment or portion is the sale of alcoholic beverages to the public, for consumption on the premises.

NEIGHBOURHOOD COMPATIBILITY

- The subject property is located on a corner and is predominantly surrounded by commercial uses (east and west) and multi-family dwellings (north and south).
- The Corydon Avenue area between approximately Daly Street and Stafford Street is recognized as a Winnipeg destination for restaurants and nightlife.
- Administrative comments made for DAZ 231/2004 state that "the Department would not want to see a cabaret or cocktail lounge occupy the building."
- Residents in the Corydon Village area have raised concerns regarding the development of drinking establishments along Corydon Avenue.
- A concern with this establishment is the potential to develop the entire building into a large-scale restaurant/bar with numerous people leaving the building late at night.
- Placing restrictions on the restaurant and cocktail lounge's size provides neighbouring residents with assurance that the property will not disrupt the neighbourhood.

[1] Manitoba Liquor Control Commission. (2008). "Liquor Licenses and How to Get One." and Manitoba Liquor Control Commission (2005). "Licensee Field Manual." page 35.

**RECOMMENDATION**

The Planning and Land Use Division recommends the Zoning Agreement be amended for the following reasons:

- Permitting the expansion of the licensed dining area of the restaurant and permitting a 370 square foot indoor cocktail lounge as an accessory use does not substantially change the nature of the building as it is currently being used.
- Permitting a 490 square foot outdoor patio cocktail lounge as an accessory use with clear restrictions on its size and hours of operation (as defined in the Conditional Use Order DCU 09-114495/C), does not substantially change the nature of the existing use.
- Restricting the subject property to allow only a licensed dining room and cocktail lounge prevents the property from becoming a larger-scale drinking establishment permitted under the MLCC (such as a private club or cabaret).
- Restricting the hours of operation through the conditional use (see DCU 09-152407/D) provides neighbouring residents with assurance that the property will not disrupt the neighbourhood.

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

Report Prepared by: Robert Kostiuk
PPD File # ZAA 8/09

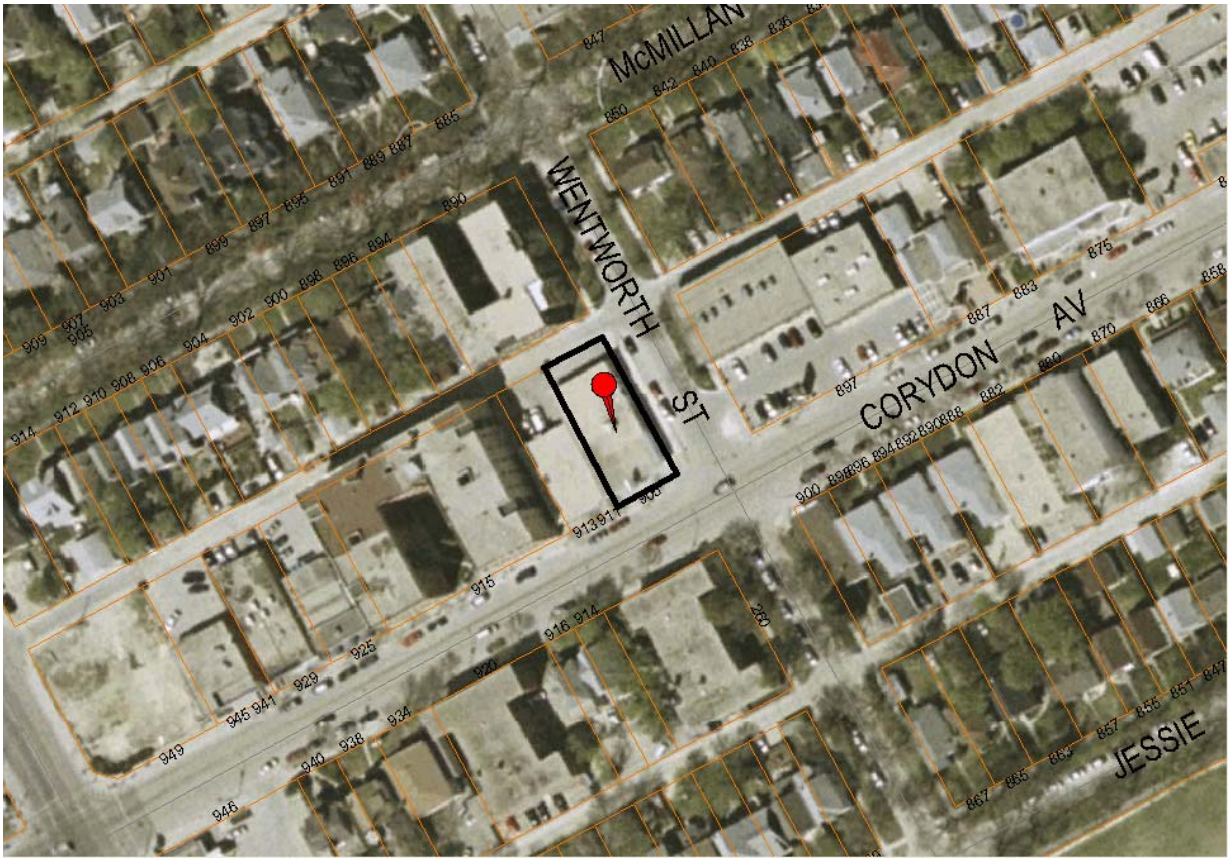


Figure 1: 2007 air photo of the subject property and surrounding area.



Figure 2: Zoning of subject property and surrounding area.

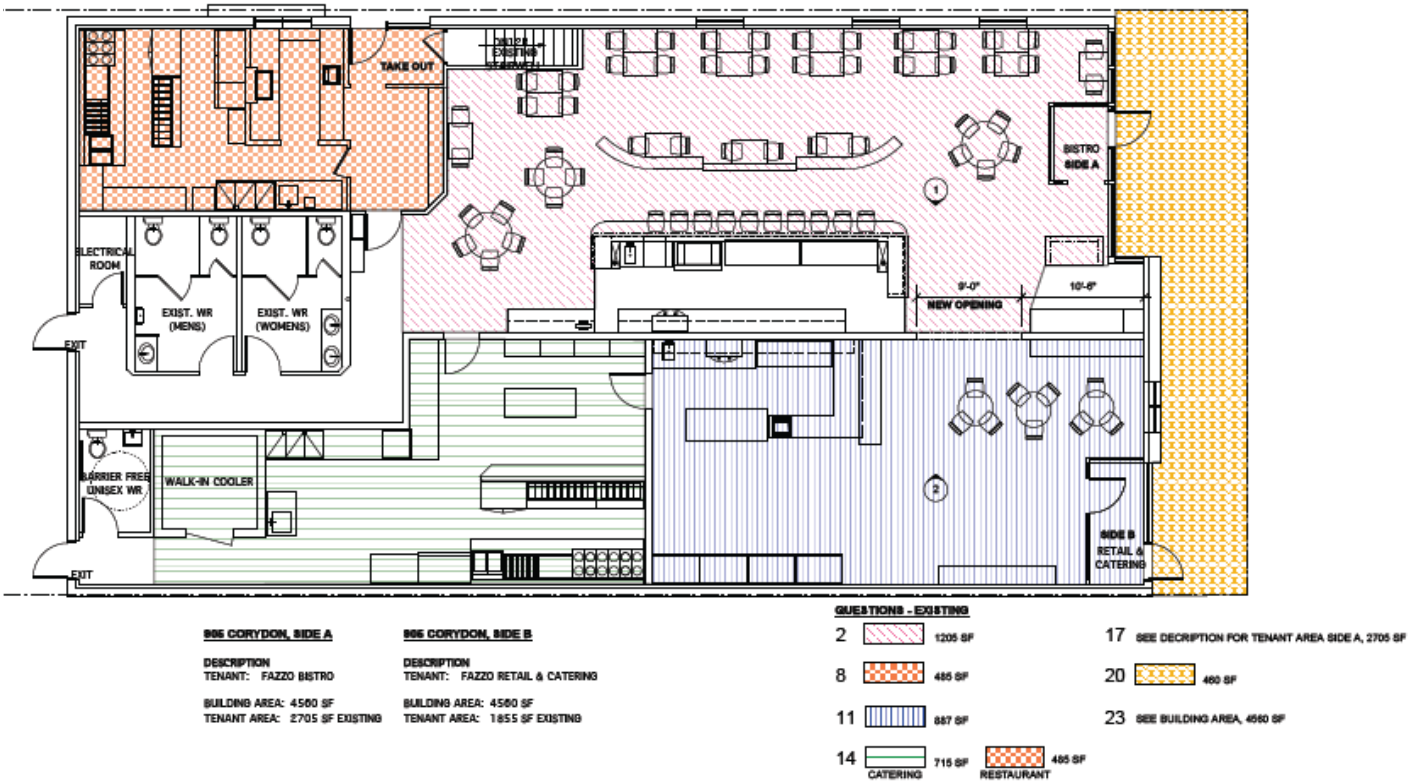



Figure 3: Fazzo's existing floor plan

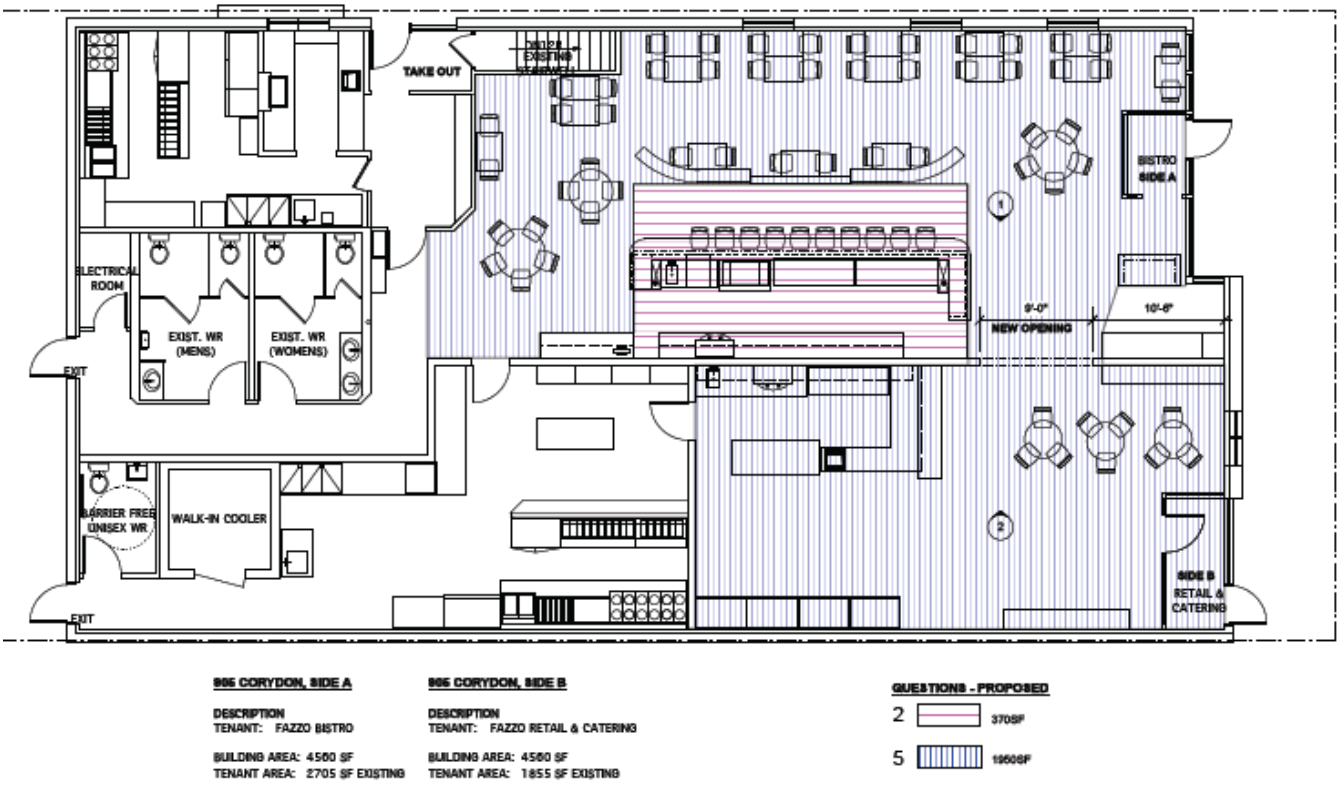



Figure 4: Fazzo's proposed expansion plan

Exhibit “10” referred to in File ZAA 8/2009 [c/r DCU 152407/2009D]

