Minute No. 270
Report – Standing Policy Committee on Property and Development – March 2, 2010

Item No. 2 Zoning Agreement Amendment – 878 Ellice Avenue (Daniel McIntyre Ward) File ZAA 10/2009

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the Zoning Agreement under File DAZ 239/1978 dated August 16, 1978, be amended as follows:

   A. That Clause 2 be deleted and the following substituted therefore:

      That under the existing "C2" Community Commercial zoning, the following uses under By-law 200/2006, shall be deemed to be prohibited uses:

      i. Auto/light truck/motorcycle repair and service
      ii. Auto/light truck/motorcycle sales and rental
      iii. Auto parts and supplies, sales
      iv. Drive –in or drive through facilities
      v. Kennels
      vi. Hostels, motels, hotels
      vii. Landscape or garden supplies businesses
      viii. Pawnshop

2. That the Acting City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 239/78 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 – March 2, 2010

DECISION MAKING HISTORY:

Moved by Councillor Steeves,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 17, 2010, 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 March 2, 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 February 2, 2010, 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 – 878 Ellice Avenue (formerly 630 Banning Street)**
File ZAA 10/2009 [c/r DCU 163717/2009D]

For submission to: **Executive Policy Committee**

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

Report date: **February 3, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 2, 2010, 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 Zoning Agreement under File DAZ 239/1978 dated August 16, 1978, be amended as follows:

    A. That Clause 2 be deleted and the following substituted therefore:

    That under the existing "C2" Community Commercial zoning, the following uses under By-law 200/2006, shall be deemed to be prohibited uses:

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    v. Kennels
    vi. Hostels, motels, hotels
    vii. Landscape or garden supplies businesses
    vii. Pawnshop

2. That the Acting City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 239/78 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 Acting 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 reasons for its recommendation:

1. There are no reasons why a tattoo parlour should not be in existence at the location.

2. Opinions on tattoos have changed over the years.

3. Traffic will not be an issue.

PUBLIC HEARING SUMMARY

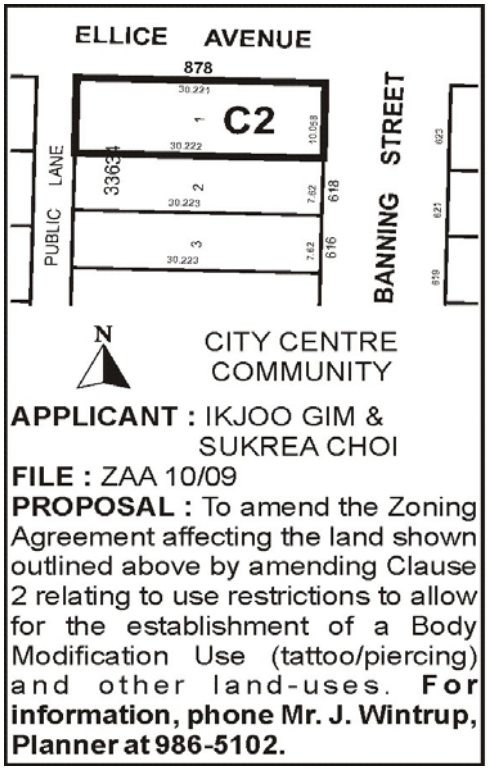
File: ZAA 10/2009 [c/r DCU 163717/2009D]

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

Public Hearing: February 2, 2010
North Committee Room
Council Building, 510 Main Street

Applicant: IkJoo Gim and Sukrea Choi
(Aikin Beaudette - GT Powell Realty Leasing)

Subject:



Premises Affected: 878 Ellice Avenue

Exhibits Filed:
1. Application dated November 23, 2009
2. Notification of Public Hearing dated December 2, 2009

3. Manitoba Status of Title 2375934
4a. Caveat 257667
4b. Caveat 266600
5. Plans (2 pages)
6. Report from the Planning and Land Use Division dated September 28, 2009
7. Inspection Report
8. Audio Recording of representations of public hearing held on February 2, 2010

REPRESENTATIONS:

In Support:

Ikjoo, Leonga Gim
Fidel Romero Ferrer and Bridgette Romero

In Opposition:

Jean-Paul Chabauty

For Information:

Nil

For the City:

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

Exhibit "6" referred to in File ZAA 10/2009] [c/r DCU 163717/2009D]

ADMINISTRATIVE REPORT

ISSUE: ZAA 10/2009 878 Ellice Avenue Public Hearing

Critical Path: City Centre Community Committee 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 Zoning Agreement under File DAZ 239/1978 dated August 16, 1978, be amended as follows:

   A. That Clause 2 be deleted and the following substituted therefore:

   That under the existing "C2"Community Commercial zoning, the following uses under By-Law 200/2006, shall be deemed to be prohibited uses;
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   iii) Auto parts and supplies, sales
   iv) Drive –in or drive through facilities
   v) Kennels
   vi) Hostels, motels, hotels
   vii) Landscape or garden supplies businesses
   viii) *Pawnshop*

2. That the Acting City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 239/1978 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 Acting 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 in this report are implemented, a development permit can be issued for the redevelopment of the subject land, subject to the recommended conditions of approval.

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	Kevin Lalor
Date:	September 28, 2009
File No.	ZAA 10/2009

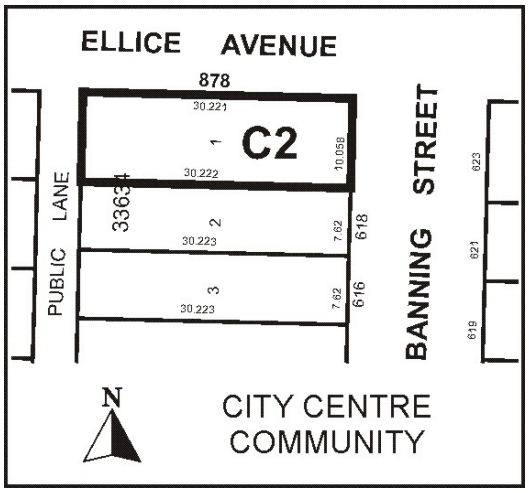
APPENDIX 'A'

Date: January 25/2010
File: ZAA 10 /2009
Related Files: DCU 09 163717/D

Subject: The applicants are requesting that the original 1978 Zoning Agreement be amended in order to expand on the limited number of permitted uses currently allowed on the site. Specifically, there are plans to establish a small " body modification" business in the most easterly half of the building.

Location: 878 Ellice Avenue

Legal Description: SP Lot 1, Plan 33,364



Applicant: Ikjoo Gim & Sukrea Choi
Owner: Same as above

Recommendation: Approval

Report Summary:

- When the land was rezoned to a " C2" Commercial category in 1978, the zoning agreement , at the time , was highly restrictive permitting essentially only two uses, a private club and restaurant.
- In the intervening years, a clinic, a restaurant and a private club have occupied the site, Currently, a restaurant still operates out of the west half of the building.
- The applicant wishes to amend the original agreement and obtain approval of a conditional use for the establishment of a body modification business in the most easterly half of the building.
- The City Planning Department supports revisions to the original agreement in order to make it more flexible and the Department also supports the proposed conditional use ,

which would specifically allow for a body modification business. It is not felt that the proposed use will have any detrimental effect on the surrounding neighborhood.

Site Description:



Background:

In 1979, the subject property was successfully rezoned from a “R2” Two Family classification to a “ C2” Commercial category to permit a small private club and adjoining restaurant. The zoning agreement, at the time , was very restrictive allowing only the above noted uses and four amusement devices. Over the years, the first restaurant, on the site, Mama Anna’s, was replaced by the current Tropikis Restaurant. And in 1988, a Medical Office somehow obtained a permit to establish in the east half of the building (without benefit of a zoning agreement amendment). The owners are now requesting that the original agreement be amended in order to permit the establishment of a ‘ body modification’ business in that part of the building previously used as a medical office.

Description of the Proposed Development:

The overall floor area of the entire building totals 1982 sq. ft., approximately 840 sq. ft. of which was occupied by the previous medical office (see A on air photo). The remainder of the building (B on photo) is where Tropikis Restaurant is currently located. The Romeros, the prospective purchasers of the ‘A ‘ section of the building wish to amend the original 1978 zoning agreement,

in order to permit them to establish a 'body modification' business. (*** By-Law 200/ 2006 defines** '**body modification business' as a commercial establishment that provides physical body adornment by body piercing or tattooing including scarification and the insertion of implants but excluding piercing of the ear.)** Mr. And Mrs. Romero, in their letter of intent, have indicated that they wish to have a small tattooing and body piercing studio (Maya Tattoo) with some sale of tattoo related clothing (i.e. t-shirts etc.) They will offer bilingual services in both English and Spanish and may hire two part time body modification artists and a receptionist to assist him. The projected hours of operation will be Monday-Saturday 11:00 a.m.– 8:00 p.m.; the office to be closed on Sunday. Some major renovation will be required order to convert the existing floor space into a) a tattoo room, a tattoo and body piercing room & a sterilization room b) a washroom and c) a reception area.

Analysis:

The Planning Department has reviewed the application to amend the original agreement and discussed the proposed changes with the local Community Development Coordinator, Kemlin Nembhard. She did not appear to be any concerns relative to amending the original Zoning Agreement in order to allow for the aforementioned 'Body Modification' use. Mr. Romero, in his letter of intent, has endeavored to reassure the City of Winnipeg and the local community that he has all the necessary licences and certification to operate a credible business at 878 Ellice Avenue. He is cognizant of the fact that he will be operating in relative proximity to a high school but is of the view, that because of his operating policies, there will not be any adverse effect on the youth in the neighborhood. He maintains that he has a strict **no minors** policy meaning that you must be 18 years of age to receive his services and you cannot enter the premises (under 18) unless accompanied by a parent or guardian. Mandatory ID checks are required, in accordance with City By-Law # 40/2005. The City supports the applicants request to establish the proposed conditional use and we also support changes to the original and highly restrictive 1978 agreement, by simply listing those uses which should be prohibited in the revised agreement. The most recent City By-Laws more effectively protect the community's rights by classifying all potentially 'problem' uses (i.e. pawn shop) as Conditional , allowing for a review and approval process. This was not the case in the late 1970's.

Recommendation:

The Planning and Land Use Division recommend approval for the following reason:

- An amended Zoning Agreement allows for more flexibility with respect to the use of the building/property while still protecting the rights of the adjoining neighborhood by requiring a public review process for certain types of uses.
- The proposed use is a legitimate business operated by a businessman with the proper credentials and many years of experience.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division
Report Prepared by: Kevin Lalor
PPD File # ZAA 10/09