Agenda - Council – June 23, 2010

Report - Standing Policy Committee on Property and Development – June 8, 2010

Item No. 5 Zoning Agreement Amendment – 484 Stradbrook Avenue (Fort Rouge-East Fort Garry Ward) File ZAA 3/2010

STANDING COMMITTEE RECOMMENDATION:

On June 16, 2010, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the City Centre Community Committee and submits the following to Council:

1. That Zoning Agreement under File DAZ 227/76 dated July 21, 1976 (By-law No. 2112/78) and amended on July 16, 1981 (By-law No. 3047/81) and June 24, 2009 be further amended as follows:

   A. That Clause 2, pertaining to prohibited uses, be deleted in its entirety

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 227/1976 (By-law No.2112/78) as approved in aforesaid Recommendation 1A.

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

4. That the Director of Legal Services and City Solicitor 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 – June 8, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 16, 2010, the Executive Policy Committee concurred in the recommendation 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 June 8, 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 May 4, 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 - 484 Stradbrook Avenue**
File ZAA 3/2010 [c/r DCU 110624/2010D]

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

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

Report date: **May 5, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 4, 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 227/76 dated July 21, 1976 (By-law No. 2112/78) and amended on July 16, 1981 (By-law No. 3047/81) and June 24, 2009 be further amended as follows:

   A. That Clause 2, pertaining to prohibited uses, be deleted in its entirety

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 227/1976 (By-law No.2112/78) as approved in aforesaid Recommendation 1A.

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

4. That the Director of Legal Services and City Solicitor 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 proposal is for a small patio with only 17 seats and it will close early in the evening therefore, there is no real threat to neighbourhood in terms of peace and quiet.

2. The residents registered in opposition are in the process of moving.

PUBLIC HEARING SUMMARY

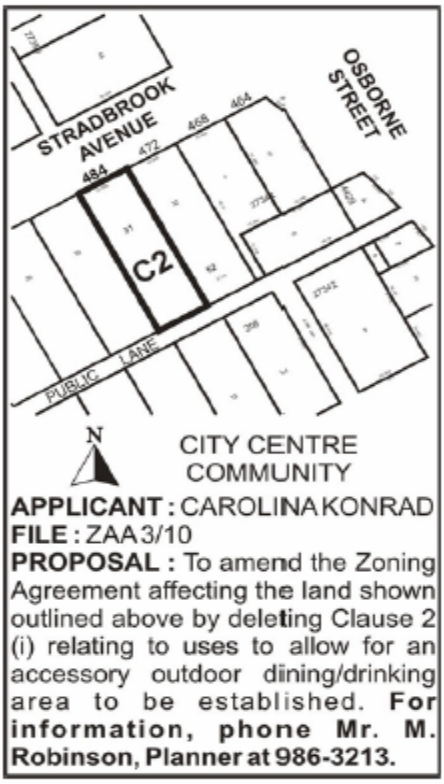
File: ZAA 3/2010 [c/r DCU 110624/2010D]

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

Public Hearing: May 4, 2010
North Committee Room
Council Building, 510 Main Street

Applicant: Carolina Konrad

Subject:



Premises Affected: 484 Stradbook Avenue

Exhibits Filed:
1. Application dated March 9, 2010
2. Notification of Public Hearing dated April 5, 201
3. Manitoba Status of Title 2335759

4. Letter of authorization dated March 5, 2010 from 5430853 Manitoba Ltd. to Carolina Konrad and Adam Donnelly (owners of Segovia Tapas Bar and Restaurant)
5. Surveyor's Building Location and sketch
6. Plan
7. Report from the Planning and Land Use Division dated April 26, 2010
8. Inspection Report
9. Communication dated May 4, 2010, from Gordon Diakow, Arndis Steele, Kathleen Painting, Alan Eger, Marie Montreul, Sally Guyda, Jeanette Dobbs and Margaret Dingle in opposition to the application
10. Audio Recording of representations of public hearing held on May 4, 2010

REPRESENTATIONS:

In Support:

Mel Dickin, Ken and Raya Konrad
Adam Donnelly
Carolina Konrad, Segovia Tapas Bar and Restaurant
Kyle Matheson
Marc Priestley

In Opposition

Alan Eger
Gordon Diakow
Margaret Dingle
Jeanette Dobbs
Sally Guyda
Arndis Steele
Kathleen Painting,
Marie Montreul

For Information:

Nil

For the City:

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

Exhibit "7" referred to in File ZAA 3/2010 [c/r DCU 110624/2010D]

ADMINISTRATIVE REPORT

Title: ZAA 3/10 - 484 Stradbrook

ISSUE: For consideration at the public hearing for a zoning amendment agreement for 484 Stradbrook – ZAA 3/10

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 Zoning Agreement under File DAZ 227/76 dated July 21, 1976 (By-law 2112/78) and amended on July 16, 1981 (By-law 3047/81) and June 24, 2009 be further amended as follows:

    A. That Clause 2, pertaining to prohibited uses, be deleted in its entirety

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 227/1976 (By-Law No.2112/78) as approved in aforesaid Recommendation 1A.

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 conditional use application for an outdoor dining and drinking establishment may be considered.

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	M. Robinson, AICP
Date:	April 26, 2010
File No.	ZAA 3/10

APPENDIX 'A'

DATE: April 26, 2010
FILE: ZAA 3/10
RELATED FILES: DCU 10-110624/D, ZAA 2/09
COMMUNITY: City Centre Community
NEIGHBOURHOOD #: 1.110

SUBJECT: The applicant would like to amend the existing Zoning Agreement on the property in order to allow for an accessory outdoor dining/drinking area use.

LOCATION: 484 Stradbrook AVENUE
LEGAL DESCRIPTION: Lot 3, Plan 52

APPLICANT: Carolina Konrad
484 Stradbrook Avenue
Winnipeg, MB R3L 039

OWNER: 5430853 Manitoba Ltd.

RECOMMENDATION: Approval

REPORT SUMMARY:
- The applicant seeks approval to amend the existing zoning agreement to remove accessory outdoor dining/drinking area as a prohibited use
- The Planning and Land Use Division recommends approval

SURROUNDING LAND USES & ZONING
The subject property is located on Stradbrook Avenue, between Osborne and Nassau Streets, in the Osborne Village neighbourhood of the Fort Rouge-East Fort Garry Ward.

North: Surface parking lot zoned "C2" PDO - Neighbourhood Main Street Commercial District
South: Residences zoned "R2" Two-Family District
East: Commercial use zoned "C2" PDO - Neighbourhood Main Street Commercial District
West: Apartment building zoned "R2" Two-Family District

BACKGROUND
ZAA 2/2009
In 2009, City Centre Community Committee amended the zoning agreement for the subject property to allow for the establishment of a restaurant with an accessory cocktail lounge (drinking establishment), in an existing building. The restaurant proposed included a dining room, with seating for 26 people, a cocktail lounge, with seating for 18 people, and an open kitchen, with seating for 4 people. The hours of operation proposed were Tuesday to Saturday from 11:30AM to 12:00AM and Sunday from 12:00PM to 9:30PM.

At the public hearing for this item, a neighbouring resident indicated that he was concerned about potential noise if an outdoor patio was added in the future.

In response to these concerns, Community Committee added a condition to the zoning agreement prohibiting the future establishment of an outdoor dining/drinking area (patio).

At this time, the applicant seeks approval to have this condition removed so that they can establish a small (16-17 seat) outdoor dining/drinking area starting this summer. (ZAA 3/10)

DESCRIPTION OF THE PROPOSED DEVELOPMENT
The applicant seeks approval to remove condition #2, in order to establish an outdoor patio. Condition #2 currently reads as follows:

Prohibited Uses
The land and building or structure thereon shall not be used for any of the following uses:
An accessory outdoor dining/drinking area

The applicant indicates that the patio would be small (16-17 seats), would not have any outdoor music, and would close by 10pm every evening.

ANALYSIS
Zoning
The Planning and Land Use Division recommends that this condition be removed, in light of the fact that an outdoor dining/drinking area is already a conditional use in the Zoning By-law.

To that point, if the Committee wishes to set conditions/restrictions on this use, it can be done through the conditional use application process.

Compatibility
The proposed patio is small (16-17 seats) and will be located on the most easterly portion of the site, on the opposite side from the adjacent apartment building.

Additionally, an attractive patio space has been constructed which will create privacy and help with noise abatement (see Figure 2).

Finally, the applicant has indicated that the patio will close by 10pm every evening.

From experience, it seems that the perception of harm from outdoor patios is much different from the reality. Case in point is the two outdoor patios that were approved on Academy Road last summer. Both of these patios were highly controversial for fear of noise, public drunkenness, and traffic. After operating for almost a year, neither patio has received one complaint.

Osborne Village Neighbourhood Plan
The Osborne Village Neighbourhood Plan, which was adopted as By-law by City Council, expresses a desire to create a dynamic, pedestrian oriented environment that respects and reinforces the character of the area. To that point, Policy 3.1.1.C.6 says:

"Encourage the development of gathering places and active areas, such as pedestrian plazas, outdoor seating areas, and patios at prominent, highly visible locations"

To that point, the proposed use meets the intent of the Plan and more closely aligns the plan vision with reality.

Conditions
Given that the zoning agreement was approved less than one year ago and given that there is some concern about this use among adjoining residents, while the Division is recommending approval of both the zoning amendment agreement and accompanying conditional use application, we are also recommending that the conditional use be approved for a one year trial. After that time, the applicant may reapply to extend approval for a longer period of time.

RECOMMENDATION

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

- The proposed use is consistent with the intent of the Osborne Village Neighbourhood Plan
- The proposed use is small and measures are being taken to mitigate any impact on adjoining properties
- The proposed use is already a conditional use in the Zoning By-law and if the Committee wishes to set conditions/restrictions on this use, it can be done through the conditional use application process.

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

Report Prepared by: M. Robinson, AICP
PPD File # ZAA 3/10



Figure 1: Aerial Photo (Flown in 2009)



Figure 2: Proposed outdoor patio