**Agenda - Council – September 22, 2010**

**Report - Standing Policy Committee on Property and Development – September 14, 2010**

**Item No. 19 Rezoning – 595 Sargent Avenue**
**(Daniel McIntyre Ward)**
**File DAZ 216/2010**

STANDING COMMITTEE RECOMMENDATION:

On September 15, 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 the application for rezoning under File DAZ 216/2010 be rejected.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

**Report - Standing Policy Committee on Property and Development – September 14, 2010**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 15, 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 September 14, 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 September 7, 2010, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development that the application for rezoning under File DAZ 216/2010 be rejected.

**RE:** **Rezoning – 595 Sargent Avenue**
**File DAZ 216/2010]**

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

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

**Report date:** **September 8, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 7, 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 that the application for rezoning under File DAZ 216/2010 be rejected.

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

1. Another pawn shop could be established.

2. The proposed facility is a nice retail space, there is a preference for more retail establishments that are needed in the area, another pawn shop in the area does not encourage that.

**PUBLIC HEARING SUMMARY**

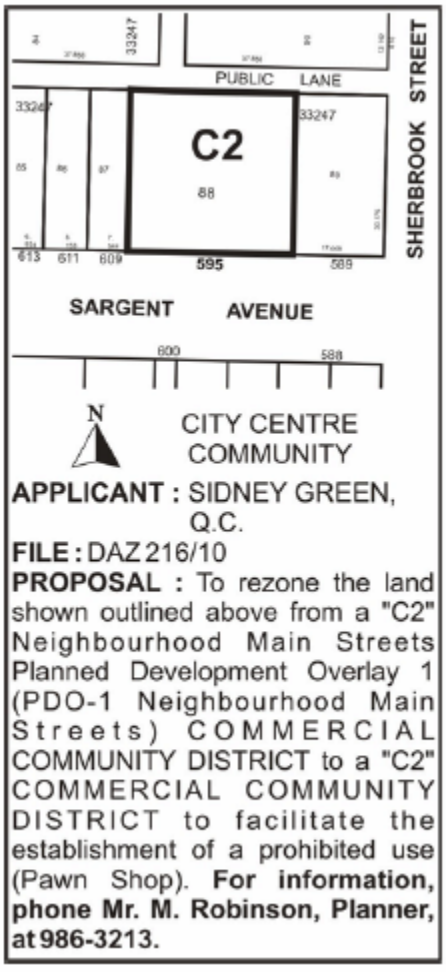
File: DAZ 216/2010

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

Public Hearing: September 7, 2010
North Committee Room
Council Building, 510 Main Street

Applicant: Sidney Green, Q.C.

Subject:




Premises Affected: 595 Sargent Avenue

Exhibits Filed:

1. Application dated June 17, 2010
2. Notification of Public Hearing dated June 29, 2010
3. Manitoba Status of Title 1894540
4. Letter of authorization dated May 31, 2010 from Michael Anthony Peter Csincsa, to Sidney Green, Q.C., on behalf of A & C Pawn Shop Limited
5. Plans (4 pages)
6. Report from the Planning and Land Use Division dated September 1, 2010
7. Communication received September 6, 2010, with respect the application, from Fred Curry
8. Inspection Report
9. Petition in support of the application (45 pages), submitted by Sidney Green.
10. Presentation in opposition to the application, submitted by Larry Gregan.
11. Audio Recording of representations of public hearing held on September 7, 2010

REPRESENTATIONS:

In Support:

John Csincsa
Sidney Green

In Opposition:

Apurba K. Deb
Maggie Friesen
Larry Gregan
Sheila Hazzard
Penny Kovacs
Mathew John Lehotsky
Sue McKenzie
Don Miedema
Susan Radstrom
Albert and Christine Richey
Lynne Somerville
Belinda Squance
Curt Wakeman

For Information:

Fred Curry
Sidney Courchene
Mike Magel

For the City:

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

Exhibit "6" referred to in File DAZ 216/2010

# ADMINISTRATIVE REPORT

**Title:** DAZ 216/2010 – 595 Sargent Avenue

**Issue:** For consideration at the public hearing for a Rezoning for DAZ 216/2010 – 595 Sargent AVE

**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 |
|---|---|---|---|
| P. Regan | n/a | n/a | |

## RECOMMENDATIONS

That the application be **rejected**

## REASON FOR THE REPORT

The Report is being submitted for the Committee's consideration of the development application at the
Public Hearing.

## IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, the subject property will not be rezoned.

## CONSULTATION

In preparing this Report there was consultation with:
N/A

**SUBMITTED BY**

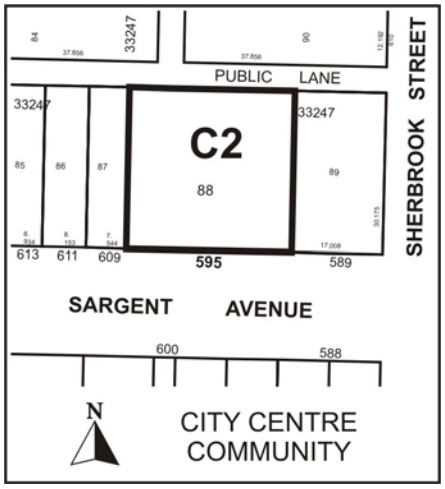
| | |
|---|---|
| *Department* | *Planning, Property and Development* |
| *Division* | *Planning and Land Use* |
| *Prepared by* | Michael Robinson, AICP |
| *Date:* | September 1, 2010 |
| *File No.* | DAZ 216/2010 |

**APPENDIX 'A'**

**DATE:** September 1, 2010
**FILE:** DAZ 216/2010
**RELATED FILES:** DAV 10-152255/C, DCU 10-152254/C
**COMMUNITY:** City Centre Community
**NEIGHBOURHOOD #:** 1.108

**SUBJECT:** To rezone the subject land from a "C2" (PDO-1 Neighbourhood Main Streets) to a "C2" Commercial District

**LOCATION:** 595 Sargent AVENUE
**LEGAL DESCRIPTION:** SP Lot 88, Plan 33247




**APPLICANT:** Sidney Green, Q.C.
147 Westgate
WINNIPEG MB R3C 2E2

**OWNER:** Michael Csinca
91 Hiddleston Crescent
WINNIPEG MB R2P OT3

**RECOMMENDATION:** Rejection

**REPORT SUMMARY:**

- The Planning and Land Use Division recommends that this application be rejected
- Pawn shops are prohibited on neighbourhood main streets

**SITE DESCRIPTION**

The subject property, which is zoned "C2" PDO-1 Neighbourhood Main Streets, is located on Sargent Avenue between Sherbrook and Maryland Streets in the Spence neighbourhood of the Daniel McIntyre ward.

**North:** Residences zoned "R2" Two-Family District
**South:** Commercial uses zoned "C2" PDO-1 Neighbourhood Main Streets
**East:** Commercial uses zoned "C2" PDO-1 Neighbourhood Main Streets

**West:** Commercial uses zoned “C2” PDO-1 Neighbourhood Main Streets

**BACKGROUND**
In 2008, City Council adopted a new Zoning By-law (200/2006), which prohibited pawn shops within the “C2 PDO-1 Neighbourhood Overlay District”. This zoning district applies to many neighbourhood main streets throughout the City, such as Sargent Avenue, Ellice Avenue, Osborne Street, Corydon Avenue, and others.

Prior to Zoning By-law 200/2006, pawn shops were not permitted within the “C1.5” zoning district, which applied to these same neighbourhood main streets.

With that said, there are still several pawn shops located on neighbourhood main streets within the City. The majority were established prior to changes in the zoning by-law and are grandfathered in – meaning that they can continue to operate but may not expand or be replaced in the event that the building is destroyed.

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**
The applicant seeks approval to establish a pawn shop at the subject location, in conjunction with the existing use, which is called River City Wholesale. This building has a floor area of 9,960 square feet.

The applicant indicates that he will be relocating his existing pawn shop business at 577 Sargent Avenue to the new location.

**ANALYSIS AND ISSUES**
*Relocation of existing pawn shop*
Since the existing pawn shop is planning to relocate, it may appear that granting this approval may result in no net increase in pawn shops. However, it should be noted that the existing location has a legal right to continue as a pawn shop, due to the rules of a non-conforming use, regardless of the applicant stating that they intend to move.

In addition, the rules governing a non-conforming use would allow a subsequent owner to reestablish a pawn shop within 1 year.

Thus, there are two avenues by which a pawn shop could continue to legally operate at 577 Sargent Avenue

*Expansion of existing pawn shop*
As previously mentioned, the proposed new location is 9,960 square feet, which is several times larger than the existing location. The applicant indicates that they intend to continue pawn shop operations in conjunction with other operations now carried out on the same premises (wholesale, retail) however, the application does not indicate the size of the space that they intend to use for the pawn shop. The City contacted the applicant as well as A&C Pawn to clarify this point but as of the time of this writing, no information has been provided.

Consequently, it is not difficult to surmise that the intent is to expand the pawn shop use beyond its current size, given the large floor plate of the subject premises.

PDO-1

The planned development overlay was designed to protect the scale and character of the pedestrian oriented, neighbourhood scale commercial areas of older areas of the city, to prevent the proliferation of certain uses that will erode the scale, character, or walkability of those areas, and to protect the surrounding neighbourhoods from adverse impacts of active commercial uses in close proximity to residential areas.

Currently, the PDO-1 applies to all commercial properties uniformly within the defined area. The subject rezoning, if approved, would lift the subject property out of the PDO and would remove all restrictions/special conditions on this property that otherwise apply to every other property within the PDO. It would create a precedent that weakens the integrity of the PDO-1 as an effective zoning tool to protect the unique qualities of certain neighbourhooods.

*Pawn shop use*
There are many viewpoints on the desirability or lack or desirability of pawn shops. Some believe that they provide a necessary service while others feel that they detract from other commercial uses in close proximity. Whatever the opinion may be, this application is not the means by which to debate that issue. By making this use prohibited within the PDO-1, City Council has already decided that this use is not appropriate at this location. By allowing pawn shops as conditional uses within other zoning districts in the City, such as “C2”, “C3”, “C4”, “MMU”, “M1” and “M2”, Council was acknowledging that there are some places where they can be accommodated.

Consequently, this application is about location, rather than use. There are many locations within the City where this use can be accommodated. If the applicant seeks to relocate, the Division encourages the applicant to work within the existing By-law and find a location where pawn shops may be accommodated as a conditional use.

**RECOMMENDATIONS**
The Planning and Land Use Division recommends that this application be rejected for the following reasons:

- Pawn shops are a prohibited use within PDO-1 Neighbourhood Main Streets
- A rezoning would weaken the integrity of the PDO-1 as an effective zoning tool to protect the unique qualities of certain neighbourhooods.
- There are other locations within the City where pawn shops are not prohibited and where this use may be accommodated

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

Report Prepared by: Michael Robinson, AICP
PPD File # DAZ 216/2010

**APPENDIX "B"**

Schedule "A" for File No. DAZ 215/2010, City Centre Community Committee, dated September 1, 2010

By-Law No. _____

File No. **DAZ 216/10**

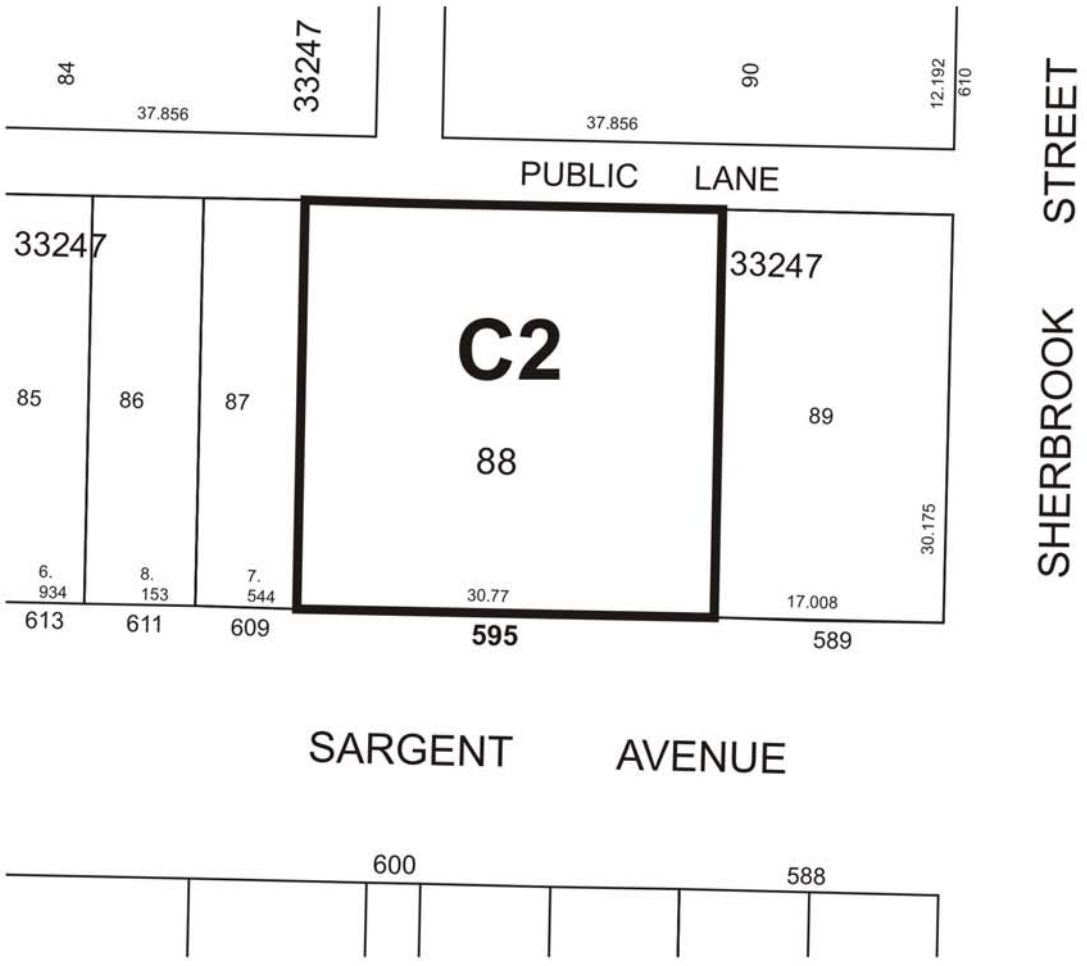
Atlas Sheet No.

N

**Z23**
**CITY CENTRE**
**COMMUNITY**

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 595 Sargent Avenue from a "C2" Neighbourhood Main Streets Planned Development Overlay 1 (PDO-1 Neighbourhood Main Streets) COMMERCIAL COMMUNITY DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to facilitate the establishment of a prohibited use (Pawn Shop) as shown outlined below.




THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____




**Figure 1: Aerial Photo (Flown in 2009)**