**Agenda – Council – January 26, 2011**

**Report – Executive Policy Committee – January 12, 2011**

**Item No. 2 Rezoning – 848 Jubilee Avenue – DAZ 223/2010**
**(Fort Rouge–East Fort Garry Ward)**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 12, 2011, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submits the following to Council:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject as shown on Schedule "A", to the report of the Winnipeg Public Service dated November 29, 2010, for File DAZ 223/2010, to a "C1" Commercial Neighbourhood 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 the following uses shall not be permitted on the land:

            1. contractor's establishment.

        ii. That there shall be no advertising signs, mobile signs, poster signs, and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with a new occupancy permit.

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 Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

**Agenda – Council – January 26, 2011**

**Report – Executive Policy Committee – January 12, 2011**

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 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.

**Agenda – Council – January 26, 2011**

**Report – Executive Policy Committee – January 12, 2011**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 12, 2011, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On December 14, 2010, the City Centre 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 – 848 Jubilee Avenue**
**File DAZ 223/2010**

**For submission to:** **Executive Policy Committee**

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

**Report date:** **December 15, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On December 14, 2010, the City Centre 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. 200/06 be amended by rezoning the subject as shown on Schedule "A", to the report of the Winnipeg Public Service dated November 29, 2010, for File DAZ 223/2010, to a "C1" Commercial Neighbourhood 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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4. That the Director of Legal Services and City Solicitor 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 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 putting the zoning in alignment with how the property has been used for a long time.

**PUBLIC HEARING SUMMARY**

File: DAZ 223/2010

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

Public Hearing: December 14, 2010
North Committee Room
Council Building, 510 Main Street

Applicant: BOOM BodyShaping Studio (Cameron Makarchuk)

Subject:




Premises Affected: 848 Jubilee Avenue

Exhibits Filed:

1. Application dated September 24, 2010
2. Notification of Public Hearing dated October 18, 2010
3. Title Search 2185222,
4. Letter of authorization dated September 6, 2010 from C T Y Inc. to BOOM BodyShaping Studio
5. Building sketch
6. Plan
7. Report from the Planning and Land Use Division dated November 29, 2010
8. Inspection Report
9. Petition in support of the application purporting to contain the signatures of 33 area residents, submitted by Cameron Makarchuk
10. Audio Recording for public hearing

REPRESENTATIONS:

In Support:

Ryan Behie
Cameron Makarchuk

In Opposition:

Nil

For Information:

Nil

For the City:

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

Exhibit "7" referred to in File DAZ 223/2010

# ADMINISTRATIVE REPORT

**Title:** DAZ 223/2010 – 848 Jubilee Ave

**Issue:** For consideration at the Public Hearing for a rezoning to permit a health and wellness consulting office.

**Critical Path:** City Centre Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| P. Regan | n/a | n/a | |

## RECOMMENDATIONS

1. That the Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject as shown on Schedule "A" for File DAZ 223/2010 dated November 29, 2010, to a "C1" Commercial Neighbourhood 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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4. That the Director of Legal Services and City Solicitor 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 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.

## REASON FOR THE REPORT

- The applicant proposes to utilize the office space in the existing building as a health and wellness consulting office – BOOM BodyShaping Studio. The back portion of the building will remain residential.
- The studio will accommodate no more than three clients at a time, with one staff member working with them.
- DAV 757/77 permits professional or business office uses on the land. However, the proposed development is considered a personal service use. As a result, a rezoning to “C1” Commercial Neighbourhood district from “R1” Residential Single Family district is required.

## IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, the subject property will be rezoned.

## HISTORY

Zoning Board Order 159/56

- On April 24, 1956, the Zoning Board of the City of Winnipeg permitted the building of an addition on the dwelling located on the subject property to permit a grocery store.

DAV 101/75

- On March 19, 1975, the Fort Rouge Community Committee approved a variance to permit the conversion of the existing non-conforming grocery store to a business or professional office.
- At this time, the property was zoned “R2”.
- The variance was granted subject to the use being restricted to that of a real estate office.
- It also required that the existing fascia sign be replaced with a 12 sq. ft. sign in accordance with the zoning by-law. The applicant tried to appeal this (V 3/76) to permit the erection of a 24 sq. ft., two-sided, illuminated identification sign projecting instead of attached to and parallel with the front wall of the building, but the Committee on Environment denied the appeal on February 12, 1976.

DAV 757/77

- On December 1, 1977, the City Centre-Fort Rouge Community Committee granted a variance to permit a change of use of the existing building from a real estate office to a building contractor’s office.
- The property was still zoned “R2” at this time.
- The application was granted, subject to the following conditions:
    - That no parking or storage of construction equipment be permitted on the site.
    - The use of the site be restricted to a professional or business office.
    - That an opaque ornamental wood fence be constructed on the north and west limits of the existing parking area, said fence to coincide with the existing building.
    - That the parking area be paved.
- A variance was later granted on September 12, 1978 (DAV 638/78), to permit the construction of the contractor’s office on a reduced lot, and to provide a rear yard of 15.35 ft. instead of 20.37 ft. It was approved subject to:
    - That the order expire in one year if not acted upon.
    - That the required 20.37 ft. rear yard be provided and the second lot be correspondingly reduced.

Other

- Other past occupancy permits for the subject property include one in 1985 issued to the Rental Association of Canada, and one in 2006 for a chiropractic office.

## CONSULTATION

### In preparing this report there was consultation with:

N/A

## SUBMITTED BY

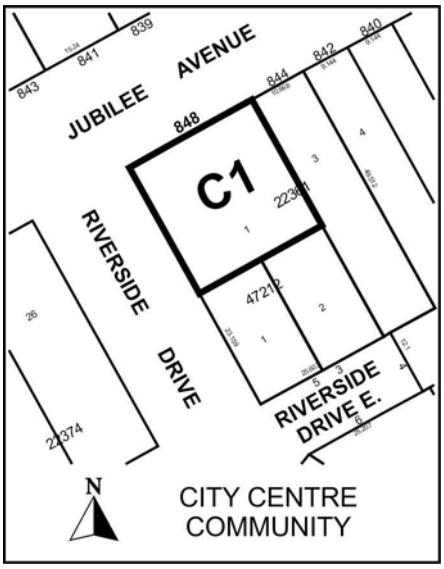
| | |
|---|---|
| Department | Planning, Property and Development |
| Division | Planning and Land Use |
| Prepared by | Michael Pyl |
| Date: | November 29, 2010 |
| File No. | DAZ 223/10 |

**APPENDIX 'A'**

**DATE:** November 29, 2010
**FILE:** DAZ 223/10
**RELATED FILES:**
**COMMUNITY:** Elmwood-East Kildonan
**NEIGHBOURHOOD #:** 4.401

**SUBJECT:** Rezoning to "C1" Commercial Neighbourhood to permit a health and wellness consulting office.

**LOCATION:** 848 Jubilee




**APPLICANT:** Cameron Makarchuk
BOOM BodyShaping Studio
848 Jubilee Ave
Winnipeg, MB R3L 1P9

**OWNER:** C T Y Inc.
11-15419 Lakeshore Dr N
Summerland, BC V0H 1Z6

**RECOMMENDATION:** Approval

**REPORT SUMMARY**

- The applicant proposes to utilize the office space in the existing building as a health and wellness consulting office – BOOM BodyShaping Studio. The back portion of the building will remain residential.
- The studio will accommodate no more than three clients at a time, with one staff member working with them.
- DAV 757/77 permits professional or business office uses on the land. However, the proposed development is considered a personal service use. As a result, a rezoning to "C1" Commercial Neighbourhood district from "R1" Residential Single Family district is required.

**SITE DESCRIPTION**

- The subject property is located at the southeast corner of Jubilee Ave and Riverside Dr in the Lord Roberts neighbourhood of the Fort Rouge-East Fort Garry ward.
- The site is 7,268 sq. ft. in area, with 84 ft. of frontage along Jubilee. It is occupied by a one storey mixed use building, where the northern portion fronting Jubilee is used for commercial purposes while the southern portion houses a residential unit with access off an existing approach. The site is zoned "R1-M" Residential Single Family district.
- Adjacent properties include single family dwellings to the north, east, and south zoned "R1-M" and a single family dwelling to the west across Riverside zoned "R2" Residential Two Family district.



**Figure 1: Site map of subject property and surrounding neighbourhood**

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant proposes to utilize the office space in the existing building as a health and wellness consulting office – BOOM BodyShaping Studio. The back portion of the building will remain residential.
- The office space was previously occupied by a chiropractic office.
- According to the applicant, the studio will be used to show clients how to live a healthy lifestyle, including exercise and nutritional strategies and techniques. Clients are often referred to the studio by doctors or physiotherapists.
- The amount of exercise equipment located on-site will be limited to little more than a few stability balls, resistance tubing, and a set of adjustable dumbbells.
- The studio will accommodate no more than three clients at a time, with one staff member working with them.
- According to the applicant, there are five off-street parking spaces to serve the studio, as well as additional on-street parking.
- DAV 757/77 permits professional or business office uses on the land. However, the proposed development is considered a personal service use. As a result, a rezoning is required.

## BACKGROUND

Zoning Board Order 159/56

- On April 24, 1956, the Zoning Board of the City of Winnipeg permitted the building of an addition on the dwelling located on the subject property to permit a grocery store.

DAV 101/75

- On March 19, 1975, the Fort Rouge Community Committee approved a variance to permit the conversion of the existing non-conforming grocery store to a business or professional office.
- At this time, the property was zoned “R2”.
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- The application was granted, subject to the following conditions:
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    - The use of the site be restricted to a professional or business office.
    - That an opaque ornamental wood fence be constructed on the north and west limits of the existing parking area, said fence to coincide with the existing building.
    - That the parking area be paved.
- A variance was later granted on September 12, 1978 (DAV 638/78), to permit the construction of the contractor's office on a reduced lot, and to provide a rear yard of 15.35 ft. instead of 20.37 ft. It was approved subject to:
    - That the order expire in one year if not acted upon.
    - That the required 20.37 ft. rear yard be provided and the second lot be correspondingly reduced.

Other

- Other past occupancy permits for the subject property include one in 1985 issued to the Rental Association of Canada, and one in 2006 for a chiropractic office.

**ANALYSIS AND ISSUES**

Plan Winnipeg

- The subject property is designated as Neighbourhood Policy Area in Plan Winnipeg.

Zoning

- The Residential Single-Family (R1) district is intended to accommodate primarily single-family residential development in lower-density neighbourhoods.
- The Commercial Neighbourhood (C1) district is intended to accommodate small, compact commercial uses within or surrounded by residential areas that are attractive and compatible in scale and character with surrounding residential uses, to serve the convenience needs of the surrounding neighbourhood. This district is not intended to accommodate businesses sized or designed to serve a trade area more than one-half mile from the business. C1 districts are generally located along local streets or at local/collector intersections.

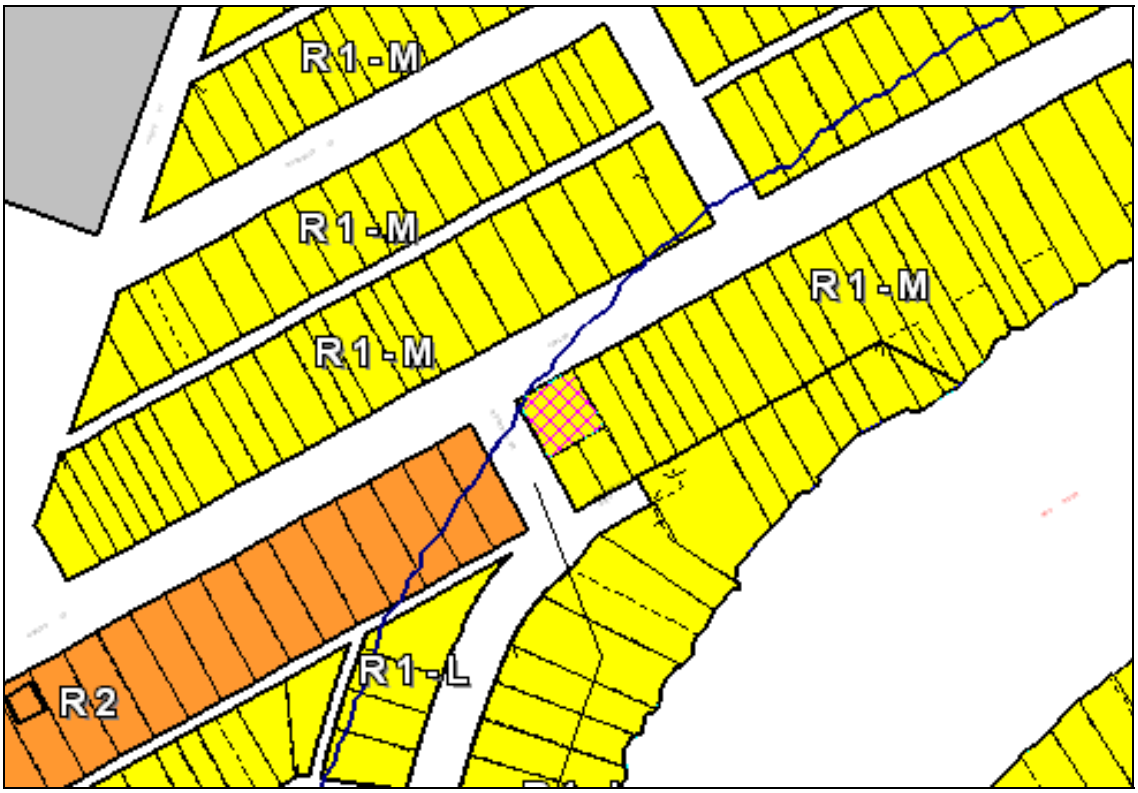



**Figure 2: Zoning map of subject property and surrounding neighbourhood**

- Section 137 of Zoning By-law No. 200/06 prescribes the following dimensional standards for principal buildings in the “R1-M” district:

| Min. Lot Area (sq. ft.) | Min. Lot Width (sq. ft.) | Min. Front Yard (ft.) | Min. Rear Yard (ft.) | Min. Side Yard (ft.) | Min. Reverse Corner Street Side Yard | Max. Height of Building (ft.) | Max. Lot Coverage (%) |
|---|---|---|---|---|---|---|---|
| 3,500 | 25 | 15 | 25 | 4 | 4 | 35 | 45 |

**Figure 3: Dimensional standards for the "R1-M" district**

- Section 148 of the zoning by-law prescribes the following dimensional standards for non-residential structures in the "C1" district:

| Min/Max Front Yard (ft.) | Min. Rear Yard (ft.) | Min. Interior Side Yard (ft.) | Min. Corner Side Yard (ft.) | Max. Height of Building (ft.) | Max. Floor Area Ratio |
|---|---|---|---|---|---|
| 0 / 10* | 0 | 0** | 0 | 39 | 1.0 |
| * - Maximum front yard in the C1 district applies only in Urban Infill Areas<br>** - Where a side or rear lot line in a commercial zoning district abuts a side or rear lot line of an R1 or R2 zoning district, a yard of 10 ft. must be provided along the side or rear lot line in the commercial zoning district. The 10 ft. side yard must be landscaped pursuant to sections 188 through 193, Landscaping and Buffering, and must not be used for parking or loading areas, storage of refuse or materials, or commercial activities of any kind. | | | | | |

**Figure 4: Dimensional standards for non-residential structures in the "CMU" district**

- Section 62 of the zoning by-law prescribes all permitted principal uses in each zoning district. The proposed development is considered a personal service use, which is permitted in the "C1" district, subject to use-specific standards as prescribed in Section 89:
    - In the "C1" district, personal service uses are limited to a maximum of 5,000 sq. ft. of gross floor area, and are limited to operate between the hours of 9:00 am and 9:00 pm.
    - Other permitted uses in the "C1" district include single-family and two-family detached dwellings, a day care centre, an animal hospital or veterinary clinic, and a contractor's establishment.
- Section 161 requires one parking space for every 250 sq. ft. of floor area over 2,000 sq. ft. (1 space minimum) for personal service uses.
    - The portion of the building that will be used for personal service use is roughly 1,000 sq. ft. As a result, it complies with the parking requirement.
- Section 190(7)(a) requires a 10 ft. landscaped buffer where a side or rear lot line in a commercial zoning district abuts a side or rear lot line of an "R1" or "R2" zoning district. The landscaped buffer must comply with one of the following two options:
    - One deciduous or coniferous tree for every 35 ft. and three shrubs per 20 ft. of lot line.
    - An opaque wall, berm, fence, and/or dense vegetative screen with a minimum combined height of six ft.
    - The building has an existing 10.65 ft. east side yard with existing landscaping. As a result, it complies with this requirement.

Compatibility with the surrounding neighbourhood

- This property has accommodated commercial uses since 1956, starting with a grocery store and, later, different offices. Despite its residential zoning, it has decidedly assumed a commercial character; the proposed development is well within this character. Ultimately, this rezoning would better reflect this reality.
- Dating back to 1999, the City has not received any complaints relating to the office/commercial use.
- When rezoning a property, it is important to acknowledge additional rights that are being granted by way of the new district, even if they may differ from what is being proposed.
    - The "C1" district is permissive of many more uses than the "R1" district. However, many of these uses are subject to use specific standards that limit them to a size that is compatible with nearby residential dwellings. For example, personal service uses are limited to a maximum of 5,000 sq. ft. and are limited to operate between 9am and 9pm; a "medical/dental/optical/counseling clinic" is limited to a maximum of 1,500 sq. ft. of gross floor area.
    - Given these use specific standards, there are few uses permitted in the "C1" district that would be inappropriate on the subject property. It is recommended that the zoning agreement prohibit the following uses: contractor's establishment, utility facility-minor.
- The Planning and Land Use Division has no concerns with the amount of parking being provided, given that they comply with the zoning by-law.
    - The applicant has stated the studio will accommodate no more than three clients at a time; the small size of the studio will, in effect, enforce this.
    - In addition to the five off-street spaces provided, there is transit service along Jubilee, as well as high frequency transit along nearby Pembina Hwy and the future southwest rapid transit corridor.

**RECOMMENDATION**

The Planning and Land Use Division is supportive of the proposed application for the following reasons:

- The subject property has been used for commercial uses since 1956. Despite its residential zoning, it has assumed a commercial character.
- The proposed use differs little from the site's previous office uses.
- Dating back to 1999, the City has not received any complaints relating to the commercial use. This illustrates its compatibility with the surrounding residential neighbourhood.
- The proposed rezoning is better reflective of the property's land use reality.

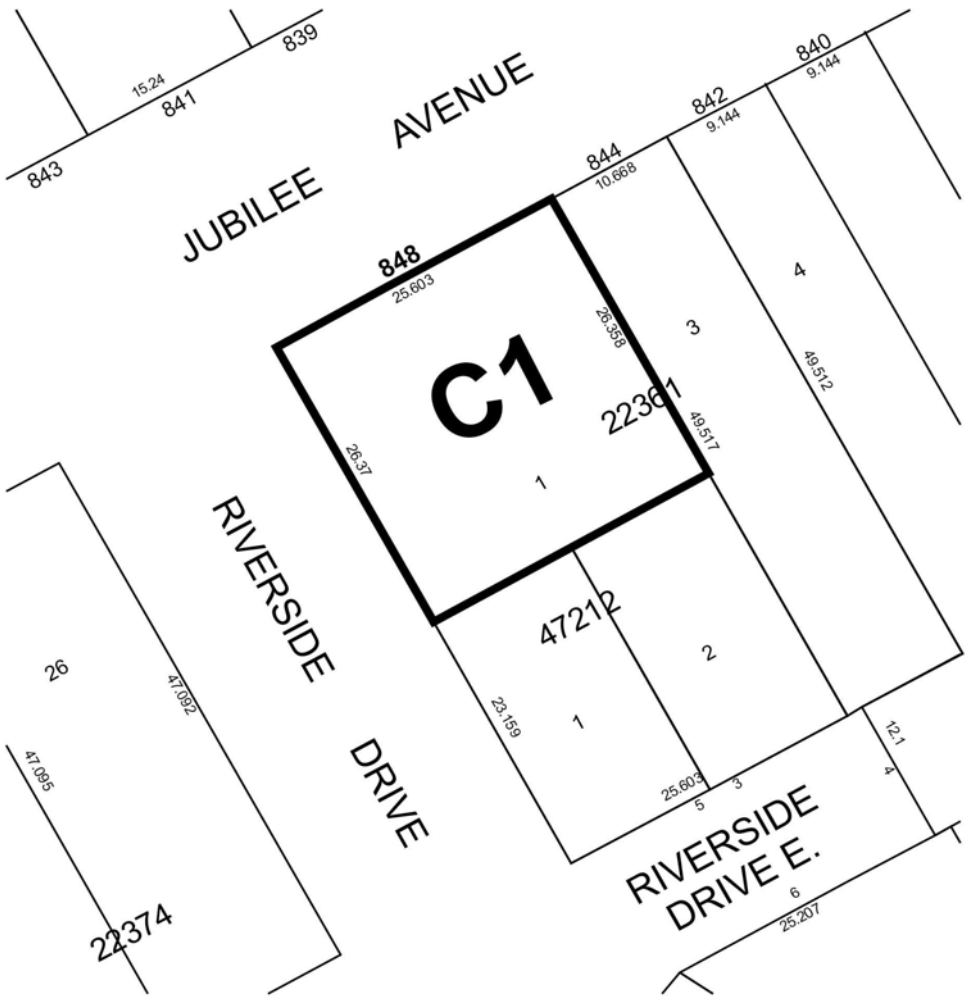
A number of use restrictions are recommended to be included in the zoning agreement to ensure the property remains compatible with the surrounding neighbourhood should uses change in the future.

This Report Submitted by: Michael Pyl
Planning, Property and Development Department
Planning and Land Use Division
Report Prepared by: PPD File # DAZ 223/10

**APPENDIX 'B'**

Schedule "A" for File No. DAZ 223/10, City Centre Community Committee, dated November 29, 2010

| By-Law No. | File No. **DAZ 223/10** |
|---|---|
| Atlas Sheet No. N **AE24 CITY CENTRE COMMUNITY** | Explanation<br>A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 848 Jubilee Avenue from an "R1-M" RESIDENTIAL SINGLE-FAMILY DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to allow for commercial uses as listed in Zoning By-law 200/2006 in particular a personal service use (personal trainer) as shown outlined below. |




THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____